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PROCEEDINGS AND DEBATES OF THE 101st CONGRESS, SECOND SESSION

SENATE—*Tuesday, October 16, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

The PRESIDING OFFICER. This morning's prayer will be offered by the guest chaplain, Bishop John T. Cahoon, Jr., the Episcopal Vicar of the Anglican Diocese of the Mid-Atlantic States, Gettysburg, PA; and rector of St. Andrews of Scotland Anglican Church, Alexandria, VA.

PRAYER

His Excellency Bishop John T. Cahoon, Jr., the Episcopal Vicar of the Anglican Diocese of the Mid-Atlantic States, Gettysburg, PA; and rector of St. Andrews of Scotland Anglican Church, Alexandria, VA, offered the following prayer:

Let us pray:

Most gracious God, we humbly beseech Thee, as for the people of these United States in general, so especially for their Senate in Congress assembled; that Thou wouldest be pleased to direct and prosper all their consultations, to the advancement of Thy glory, the good of Thy church, the safety, honour, and welfare of Thy people; that all things may be so ordered and settled by their endeavours, upon the best and surest foundations, that peace and happiness, truth and justice, religion and piety, may be established among us for all generations. These and all other necessaries, for them, for us, and Thy whole church, we humbly beg in the name and mediation of Jesus Christ, our most blessed Lord and Saviour.

Almighty God, who hast given us this good land for our heritage; we humbly beseech Thee that we may always prove ourselves a people mindful of Thy favour and glad to do Thy will. Bless our land with honourable industry, sound learning, and pure manners. Save us from violence, discord, and confusion; from pride and arrogancy, and from every evil way. Defend our liberties, and fashion into one united people the multitudes brought hither out of many kindreds and tongues. Endure with the spirit of wisdom those to whom in Thy name we entrust the authority of government, that there may be justice and peace at home, and that, through obedience to Thy law, we may show forth Thy praise among the nations of the Earth. In the time of prosperity, fill our hearts with thankfulness, and in the day of trouble, suffer not our trust in Thee to fail; all which we ask through Jesus Christ our Lord. Amen.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the order previously entered, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 9:30 a.m., with Senators permitted to speak therein for up to 5 minutes each.

THE BUDGET

Mr. SYMMS. Mr. President, I had prepared remarks that I had intended to deliver this morning dealing with this proposed tax increase which is unnecessary, totally unnecessary, Mr. President, on the American people, in my opinion. But it was brought to my attention before I left my office that I had received a letter and then a memorandum attached to it from a Mr. William B. Corbett in Soda Springs, ID, where he requested that I read this to the U.S. Senate.

When I looked at my remarks that were prepared that we had worked on yesterday and looked at his letter, I thought maybe his letter was more appropriate. His letter certainly is very blunt, very direct, and in some ways some Senators may take it that he impugns their motives slightly.

I would only say that, disregarding those very blunt statements, I think there is a message in this letter that is filled with basic common sense. And, of course, the common sense that is in the letter, is that we do not need a tax increase. What we need to do is spend the same amount of money this year that we spent last year and freeze the budget and we would have a balanced budget in a very short period of time without putting any undue hardship on any people in the country.

So I would just like to read this letter from Mr. Corbett.

DEAR SENATOR SYMMS: The following remarks concerning the present U.S. Budget fiasco are directed to the entire U.S. Senate. I would very much appreciate your reading them before that full body.

Then his letter commences:

DEAR SENATORS: Let me begin by quoting the first paragraph from the October 6, 1990 Vol 18, No. 39 issue of the Pro Farmer newsletter published by "Professional Farmers of America Inc".

"Congress reaches a new low. We have finally reached the point where there are so few statesmen looking after the welfare of the nation as a whole, and so many back-alley politicians who care only about buying enough votes to be re-elected, that Congress has lost its ability to govern at all."

And also, please allow me to paraphrase a statement made by Abraham Lincoln.

"You can fool all of the people some of the time, and you can fool some of the people all of the time, but you cannot fool all of the people all of the time".

It appears that fooling all of the people all of the time is the goal of Congress, and has been for many many years. There are 220 million plus citizens in this nation, and perhaps you can fool 20 million of them all of the time, but the rest are wise to you. I am writing this memo on behalf of myself and the several hundred million people who, I am sure, like myself, are no longer fooled by your shenanagans.

You make such a big deal out of this budget business. I suppose that's to convince us that you are really trying to do something worthwhile; but I, and the several hundred million citizens that I am speaking for, know that this budget "crisis" can be solved very simply by freezing the new budget at the current 1990 level for five years. With this freeze, normal growth in

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

the economy will allow the income side to catch up with expenditures, and in five years, we could have a balanced budget; maybe even a surplus.

If we actually froze the expenditures, it would be much less than 5 years before we would achieve a balanced budget.

We know, senators, that the so-called cuts that you in Congress, are bandying around are not really cutbacks in present benefits, but are in reality, cuts in the 114 billion dollar proposed increase in spending for the 1991 budget year. Freezing the budget at 1990 levels is not going to create a hardship for anyone. Without reckless increases in government spending, inflation is vastly curtailed, so people will be able to get along in the future just as well as they did in 1990.

We know also senators, that your defense for not freezing the budget, will be that increases are mandated in certain entitlements. Here again, we are not fooled by such rhetoric. Congress enacted the entitlement increases, and Congress can repeal them. One short sentence will take care of it.

Figures have been published that state: in 1981, when tax rates for the highest income levels for individuals in this country were at 70%, tax collections were around 588 billion dollars; and in 1988, when tax rates for the highest income levels of individuals were 28%, tax revenues were around 915 billion dollars. So you are not fooling us with that nonsense about needed tax increases. The plain truth is, you have been remiss in your fiduciary responsibility for managing our money, and have recklessly squandered it.

So, come on, boys and girls, the days of grandstanding are over. We don't buy that kind of nonsensical rhetoric anymore. It's time to search your souls and do what you know in your hearts is right for this country. History has proven over and over again as far back as early biblical times, that governments that try to provide all things for all people have ultimately fallen. The United States of America will be no exception.

Thank you.

Sincerely,

W.B. CORBETT.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. SYMMS. I thank the Chair, and I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Connecticut [Mr. DODD] is recognized for not to exceed 15 minutes.

The Senator from Connecticut is now recognized.

MEDICAL DEVICES, CHILDHOOD IMMUNIZATIONS, PEDIATRIC OUTREACH

Mr. DODD. Mr. President, I am going to take just a few minutes this morning to discuss three of my major health initiatives that originated in the Labor and Human Resources Committee, and last Friday evening were passed by the Senate by unanimous consent. Given the late hour on Friday evening and the fact that these bills were adopted on the consent calendar, I did not have the opportunity at that point to address the Senate regarding the substance of these matters and decided to take some time this morning to discuss them.

The three matters, Mr. President, that I will be addressing this morning are the Comprehensive Medical Device Improvement Act of 1990, the Child Immunization Act of 1990, as well as the Primary Pediatric Outreach and Care for Disadvantaged Children Act of 1990, which was included under the McKinney Act. The first two of these initiatives go back some time, and the third is a rather new initiative.

The first of these is the Comprehensive Medical Devices Improvement Act of 1990 which the Senate adopted last Friday evening. I was very pleased to work with Senator KENNEDY, the chairman of the Labor and Human Resources Committee to develop this significant and important health care initiative.

I would also like to recognize the contributions of Senator COATS of Indiana, Senator DURENBERGER of Minnesota, and Senator HATCH of Utah, for their tremendous effort, and for making it possible for this legislation to be adopted unanimously not only by the Labor and Human Resources Committee but by the full Senate as well.

Each year millions of Americans use, wear, or otherwise come in contact with medical devices. Such devices run the gamut from the very simple to the very complex, from tongue depressers and thermometers to kidney dialysis machines and artificial limbs. Special devices such as heart valves and artificial hips become part of the body, making normal life possible; while appendage devices such as hearing aids, improve everyday functioning for millions of Americans.

In addition to these direct use devices, other devices such as magnetic resonance imaging and electrocardiograph machines are used to treat patients and diagnose diseases in doctors' offices, hospitals, and other health care facilities.

In short, Mr. President, we have seen in the past generation the development of a tremendous range of medical devices whose use has improved or prolonged people's lives and revolutionized medical practice.

Mr. President, the comprehensive Medical Device Improvement Act constitutes the first major reform of the Federal regulatory scheme for medical devices since the Medical Device Amendments of 1976. The 1976 amendments formally initiated the regulation of an ever-growing medical device industry. That legislation, by the way, was in no small measure the result of the work of the chairman of the Labor Committee, Senator KENNEDY.

The 1976 Medical Device Amendments were intended to protect consumers' health and safety by ensuring that marketed products are safe and effective. The amendments also were intended to ensure that health practitioners could have confidence about the medical equipment that they use or prescribe for their patients.

Finally, the Congress also intended that the regulations impede innovation in the field as little as possible.

In the last few years interest in the medical device amendments has grown because of problems that have surfaced in implementing some very key provisions and because of concerns regarding the costs of some of the provisions relative to the incremental gains of safety and effectiveness. These implementation problems appear to be the result of complexities in the law, the manner in which the FDA interpreted certain provisions of the 1976 act, and limited FDA resources.

This legislation that we have now adopted in the Senate and that will be in conference very shortly, would modify most major medical device program activities at the FDA and would promote improved actions by the FDA. The bill will streamline the approval process for bringing medical devices to market, will create improved procedures for monitoring devices that fail to work as intended, and will make it easier for dangerous devices to be recalled if shown to be defective.

The bill will also spur development of new medical technologies so that both our health care system and our medical devices industry retain their status as world leaders.

The Comprehensive Medical Device Improvement Act will improve the regulatory scheme for medical devices and will ensure continued public access to safe, effective, high quality medical devices.

The House has already passed this legislation, and I look forward to going to conference on the bill and getting this legislation signed into law by the President.

The second piece of legislation that was adopted by the Senate last Friday was the Childhood Immunization Act of 1990. This legislation was adopted as part of the Vaccine and Immunization Amendments of 1990. Our immunization and vaccine programs are among the most valuable public health programs in this Nation. Since the development of the first smallpox vaccine nearly 200 years ago, the use of vaccines to prevent infectious diseases has represented one of the major success stories of public health and preventive health programs. Use of vaccines against illnesses has prevented thousands of deaths each year in this country and around the globe, and has substantially reduced the morbidity resulting from disease.

Major achievements of immunization programs include the global eradi-

cation of smallpox, reduced incidence of polio, and a reduced incidence of cases of mortality from pertussis or whooping cough. Child immunization programs represent the largest segment of immunization programs in the United States. Our Nation has been engaged over the past 15 years in a nationwide effort to reduce morbidity and therefore mortality due to the infectious diseases of childhood through programs of universal immunization of children. The effort involves the integration of efforts of the public and private sectors on the national, State and local levels.

Sadly, however, Mr. President, millions of American children are failing to receive immunizations that can protect them against diseases that can be prevented, such as polio, measles and mumps. For example, if the trends in polio immunization rates that prevailed from 1980 to 1985 continue, nearly 1 in 5 children will not be fully protected against this crippling disease in the year 2000; a disease, Mr. President, that ought not even be heard of again because of the tremendous biomedical research successes of some three decades ago. More than 2 million preschool children will be inadequately protected against polio. That, Mr. President, is an outrage.

Moreover, the current measles epidemic is of particular concern. As many as 30,000 cases of measles could occur this year, whereas the incidence of measles was as low as 1,500 cases only 6 years ago. Last year, 40 children in this country died of measles. Think of it, Mr. President—measles, last year 40 children died. This year, we may have as many as 30,000 cases. Three times as many children could die of measles this year as a result of our failure to properly immunize our children in this country.

The percentage of 2-year-olds who have been immunized in the United States is well below the 1990 target objective of 90 percent and has shown little progress since 1980.

Moreover, Mr. President, considerable differences relating to levels of immunization persist with respect to race and geographic location. National survey data indicate that differences exist between white and nonwhite as well as urban poverty areas and suburban and rural areas.

This legislation that the Senate adopted Friday evening will augment the Federal program aimed at preventing and controlling vaccine-preventable childhood diseases. The bill will establish demonstration projects for outreach and immunization service for children up to 24 months of age who are in high-risk populations. Preschool children who are from low-income families or from some high-risk populations or geographic areas are not being immunized at acceptable levels. These infants are at added and unnecessary risk of contracting diseases which are fully preventable.

This bill provides grant funds to support the development, demonstration, and evaluation of methods for the screening, referral, and immunization of such children.

Similar legislation, Mr. President, also has been adopted by the House. This bill can and must be enacted into law this year and signed by the President.

The last piece of legislation that passed the Senate is the Primary Pediatric Outreach and Care for Disadvantaged Children Act. This legislation, which I introduced as S. 2054 earlier this year, was included in the amendments reauthorizing the Stewart B. McKinney Homeless Assistance Act which passed the Senate as well last Friday evening.

For many American children, basic health care is inaccessible. Many are homeless; others are neglected or functionally without parents. Some indigent families are intact and caring but lack health insurance and only seek medical help when a symptom or illness can no longer be ignored, usually through an emergency room of the local public hospital. The result, Mr. President, is that health care for many American children is serendipitous at best.

Too many are not being immunized, as I discussed a moment ago. Others fail to get treatment for such common conditions as ear infections. These shortcomings can result in lifelong individual complications and serious public health implications, not to mention cost.

This legislation adds a new section to the Public Health Service Act authorizing $10 million for grants to initiate health care outreach programs for disadvantaged children. The funds are to be used to provide health care to children who lack access because of homelessness or other barriers. Outpatient facilities or mobile medical units are to be used, and the care is to be preventive, comprehensive, and to include referrals and other followup.

This bill, Mr. President, is modeled on the New York children's health project. This is an exciting program that uses mobile vans to reach the most vulnerable children of the New York City area to respond to their particular needs. The principal feature of this program could be applied in other cities and rural areas and throughout the country where children are at risk. The New York model of mobile outreach is adaptable to virtually every community where children are in need and are unable to receive basic health care.

Mr. President, I would be remiss if I did not point out that one of the primary persons responsible for the New York model, which is the basis we are using for this legislation, is the artist, Paul Simon, who has dedicated substantial resources from his artistic performances to make this project possible. This is his contribution to reaching homeless children in New York, and as a result of that program, we have now been able to adopt some models nationwide.

I am confident that a small investment of Federal dollars would generate substantial private sector support. The success of such programs obviously will depend heavily upon the willingness of private enterprise to contribute money, equipment, and supplies.

Mr. President, I believe this level of Federal support will, in fact, leverage the broader resources that are so badly needed.

Mr. President, I also appreciate in this legislation the support of my colleagues, including Senator KENNEDY, the chairman of the Committee on Labor and Human Resources; Senator COATS of Indiana, the ranking minority member of the Subcommittee on Children, Family, Drugs, and Alcoholism, as well as Senator BRADLEY of New Jersey and Senator ROCKEFELLER of West Virginia, who have been particularly helpful around this issue.

I am optimistic that we will emerge from the conference with this provision, thus responding more effectively to the dire needs of many American children who are now without access to health care.

The ACTING PRESIDENT pro tempore. Under the order previously entered, the Senator from North Carolina [Mr. SANFORD] is recognized and is not to exceed 10 minutes. The Senator from North Carolina is now recognized.

PRIVILEGE OF THE FLOOR

Mr. SANFORD. Mr. President, on behalf of Senator KENNEDY, I ask unanimous consent that the privilege of the floor be granted to Emily Van Tassel during the pendency of the Civil Rights Act of 1990 today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PROMOTE THE UNITED NATIONS

Mr. SANFORD. Mr. President, 2 weeks ago the Washington Post published an article by Henry Kissinger entitled, "The Dangers of Stalemate." I have been worried by the article ever since I read it. Perhaps only a heedless man would take issue with Henry Kissinger on foreign affairs, but his advice on Saddam Hussein is dangerous—or so it seems to me. The thrust of his views is that diplomacy is not likely to work, and that a decision to fight must be made soon. He wrote, "I

would be very uneasy were it to be delayed into the new year. * * *"

Mr. Kissinger, I suggest, is wrong in his timing and his premise. If the United States makes wise decisions, the embargo against Iraq can last as long as it need last—for 6 months or 6 years, or until Iraq is reduced to an agrarian society.

The U.N. embargo against oil exports cuts off Iraqi income and destroys the Iraqi economy. The embargo against the import of industrial machinery, commercial equipment, and military materiel will dry up Iraq's military and economic strength. There is no need to prevent import of food, which is not only unworkable but also would add to the anger of ordinary Iraqi citizens and galvanize their opposition to the United States. We can strangle them without starving them.

Mr. Kissinger is correct in observing that our goals are incomplete. It is not enough to get Iraq out of Kuwait, and the hostages out of Iraq. It is the evil ambition of Saddam Hussein, and the accumulation and potential use of weapons of mass destruction that we must bring under control. We must set as a goal the elimination of Iraq's capacity for military aggression. Otherwise all of our present efforts are needless.

Many, but not Mr. Kissinger explicitly, have argued that the solution is to take out Saddam. There are two things wrong with that thinking. First, Saddam cannot be captured, except by a piece of unlikely luck, without a ground war of the intensity, if not the magnitude, of World War II. The people of the United States are not prepared to make that commitment, nor should they.

Second, the aftermath of war would bring unpredictable turmoil, perhaps revolt, in all of the Arab nations. It could strengthen fundamentalism and nationalism, and induce the rise of several more Saddams. The Middle East has no solid base for democracy and stability, such as was available even so fragilely in Europe after World War II. To seize Saddam through military action is not an easy solution, nor a quick solution. The turmoil will remain with us for a generation, perhaps generations.

To put the question directly, what should the United States do now? Mr. Kissinger properly notes that "a solution through sanctions would clearly be preferable." He seems to think sanctions will not work. I think they will.

The purpose behind our diplomacy is to avoid war in achieving our stated objectives, and I agree with Mr. Kissinger we need condone no action to appease or to save Saddam's face. We want to kick his rear and tie his hands, not save his face. But all of our goals can be better achieved without a shooting war.

"It remains for the administration to reap the benefits of its courageous efforts," Mr. Kissinger concludes. The efforts to stop Iraq's march into Saudi Arabia and to mobilize world support and U.N. action were brilliant as well as courageous. How do we reap the benefits?

Not by war. We would reap the whirlwind.

We will reap the benefits by deftly promoting the United Nations. Indeed, we will benefit considerably beyond solving the problems that Saddam Hussein has created. President Bush can resolve his dilemma in the Middle East, and establish his unique place in history. He can be the first leader of the world to make the United Nations work as it was intended.

The almost irresistible, but treacherous, tendency for a President is to remain centrally in charge, the leader of the troops, the avenger of the malefic aggression. In this situation, such a path is not wise for the President. He has shown courage. Now is the time to show wisdom.

The United Nations is no longer immobilized by the cold war. The Security Council has demonstrated alertness and alacrity. The purpose of the United Nations is to contain and punish aggression. The United Nations has laid down the terms of the embargo and defined the goals.

The United Nations is well suited to wait out the embargo. Waiting will not be a stalemate; it is strangulation. The United Nations can keep the sale of Iraqi oil cut off indefinitely. We must insist on the unconditional surrender of Iraq to the terms of the embargo.

The United Nations terms require the evacuation of Kuwait, the return of the legitimate government, and the release of hostages. However, withdrawal from Kuwait is an inadequate objective for all we have invested. The United Nations can prevent future sales of military weapons and supplies to Iraq. The United Nations must require an additional condition to the lifting of the embargo: Iraq must destroy its supplies and means of production of poison gas and biological and nuclear warfare, and agree to U.N. onsite verification. This is the key objective, and it must be included now.

U.S. planes and ships are required, along with those of other U.N. members, to enforce embargo. The United Nations can move to raise the U.N. flag over this military force, although that is not essential.

The essential shift is to move the fount of news from Washington to New York. Our Ambassador there can speak for President Bush and the United States. We do not by that action put our fate in other hands. We strengthen our own hands by picking up a stronger weapon—and a more durable one—the United Nations.

The United Nations can settle down for the long haul, if need be. We can ever so gradually return home many of our troops. President Bush will be applauded, not criticized, for such adroitness.

A side benefit of this course of action would be that we can also better protect our economy from the inflation caused by rising oil prices. I am not cynical enough to think we went to Saudi Arabia just to protect oil, but certainly we went to effectuate our long-established interest in stability in the Middle East. I think we are there because of a dangerous dictator who has an evil record, a huge army, and a capacity to create and use outlawed war weapons, and who could gain immeasurable power to further his urge to aggression by controlling so much of the world's oil. The daily threat of war in the Middle East unsettles the jittery world oil markets. A settled-in U.N. embargo would ease the tensions and permit the President to engage in creative jawboning to remind the world that there is no shortage of oil, and that increased prices are unacceptable.

I can agree with Mr. Kissinger's last sentence. "It remains to the administration to reap the benefits of its courageous efforts." I would add that the ideal comrade of courage is wisdom.

Mr. President, I thank the Chair. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

RECOGNITION OF A GREAT PUBLIC SERVANT, ANNE BARON MANVILLE

Mr. DIXON. Mr. President, I rise today to recognize and honor an extraordinary person with whom I have worked with during the last 6 years—Anne Baron Manville.

Anne, who is an outstanding public servant, left U.S. Senate employment on Friday, October 12, 1990. I would like to take a moment to share with my colleagues a little bit about her.

Before coming to our office, Anne worked for the National Presbyterian School in Washington, DC, for more than 10 years. Before that, she worked at home, caring for her four children, Jeffrey, Anna, Richard, and Nicholas.

Anne was the legislative correspondance director in our office, responsible for answering the thousands of constituent inquiries we receive every week. As with everything Anne undertakes, she served the State of Illinois with care, compassion, and dedication, and she was always willing to go the extra mile to get the job done, and to get it done well.

In and out of the office, Anne shines. Her intelligence and commitment, tempered with her kindness and gentleness, have won Anne the respect

and admiration of her friends and peers. She is, truly, a class act, and I am prooud to have worked with her and to call her my friend.

Mr. President, on behalf of my entire staff, the State of Illinois, and all of her many friends, I extend our thanks and appreciation to Anne Manville, and wish her and her husband, Bill, all the best. She will, indeed, be missed.

COMMENDING JOHN QUINCEY SOMERVILLE

Mr. HEFLIN. Mr. President, I rise today to commend one of my former staff members, John Quincey Somerville, for his exceptional performance at the University of Alabama School of Law. Last month, John began his third and final year at the university, with a shining academic record and as editor of the Alabama Law Review.

John left my office in 1987 after working for 2½ years as a legislative assistant and speech writer. As my "chief wordsmith," John's work was always of the highest quality—thorough, polished and thoughtful. If anything, John tended to labor over things too long—sometimes for hours, days or weeks—in an effort to make them perfect. This tendency usually left him working on 1 million projects at once, pacing the office till all hours of the night and sitting at his desk most weekends. No one would ever accuse John Somerville of approaching any task lightly and, for that reason, his outstanding performance in law school comes as no surprise to me or, I am sure, to anyone who knows him.

John's success in law school has certainly not surprised anyone who knows his family and the respected position which they have always held in the legal community. In fact, John comes from a long line of attorneys on both sides of his family. On his mother's side, both his grandfather and great grandfather practiced law in Georgia. On the Somerville side of the family, in addition to two Alabama Supreme Court justices, Henderson Somerville and Ormond Somerville, attorneys abound. John's father William G. Somerville, was a highly respected attorney who practiced for years in Birmingham, where John's brother currently practices and where his sister-in-law clerks for a Federal judge. I know how proud these relatives would and must be of the success which John has already found following so closely in their footsteps.

In closing, I want to wish John and his delightful wife, Holly, a gifted clinical psychologist, the best of luck in their future endeavors.

Thank you, Mr. President.

RENEWABLE ENERGY TESTIMONY FOR FOREIGN OPERATIONS SUBCOMMITTEE

Mr. HATFIELD. Mr. President, during the month of June, the Appropriations Subcommittee on Foreign Operations had scheduled a hearing at which time several representatives of the renewable energy industry associations were to testify. I was looking forward to this hearing because I believe that renewable energy sources have much to offer the developing countries of the world. In addition, dependence on imported oil is as much a problem for third world countries as it is for the United States. Unfortunately, due to scheduling conflicts, that hearing was canceled.

What we missed by not holding the hearing, was an opportunity to explore how bilateral U.S. aid and the multilateral organizations to which we belong, are helping foster projects using energy sources other than fossil fuels. I have long been concerned that we are not doing enough in this area. For example, 80 percent of all World Bank funds for power generation in the developing world go toward diesel generators and fuel. Continuing on this path fosters oil dependence today, and economic collapse tomorrow, when the supply of imported oil is interrupted or exhausted.

Imagine what a doubling of world oil prices means to countries that have no alternatives to meet their basic electrical generator needs other than diesel generators. For those countries, we are talking about more than high prices at the pump; we are talking about an inability to keep the lights on at hospitals and an ability to keep food and medical supplies refrigerated.

The consequences of this dependence are already disastrous—5 million children die every year from preventable diseases. It often is not that they do not have access to vaccines, but that there is no fuel for the kerosene and bottled gas powered refrigerators, in which the vaccines are kept. In Sierra Leone, fully 71 percent of all vaccines are lost this way: in Peru, over half and in Pakistan, a third.

Mr. President, in the absence of the hearing in June, I submitted several of my questions regarding international renewable energy programs in writing to Mike Marvin, government relations director for the American Wind Energy Association. Following my remarks today are those questions and Mr. Marvin's answers. As we move forward on the Foreign Operations Appropriations bill, I hope this information will be useful to my colleagues.

(1) How can the Agency for International Development Office of Energy help disseminate U.S. renewable energy technology and expertise?

There are many ways, but perhaps the most effective, at this early state in the development of the renewable energy industry, is in the area of education. Most developing countries have a dated and poor understanding of the competitiveness of wind and other renewable energy sources and their potential to solve energy supply problems. This leads them to overlook the opportunities for renewable energy technologies to help them expand their utility supply or to electrify rural areas. A little education goes a long way. The American Wind Energy Association (AWEA), for example, just sent several industry experts to Pakistan for lectures and discussions with the government and the AID mission. As a result of this one trip the Pakistanis are now planning a major wind resource assessment program and have begun initial planning for several wind projects.

The Office of Energy is already helping through its support of an AWEA program that brings developing country energy officials to the U.S. for training in wind power. We need to be more aggressive in this area, particularly in light of the proactive renewable energy industry support being practiced by several European countries. AWEA has developed a plan of action for the Office of Energy to expand its wind energy activities and we are working with the office to get it funded.

(2) Do you find AID missions receptive to renewable energy and its applications?

In a word, no. A great deal of education is needed within AID as well. AID missions are also at a disadvantage in adopting new energy technologies because their energy programs are often managed by non-technical people, and many AID missions have gotten out of the energy sector entirely. This is why the Office of Energy can provide an important support function in assisting in the adoption of new technolgies. As an industry we have to begin building bridges to the AID staff located in the 70 countries which could use renewable energy technology.

(3) As far as you know, does the Office of Energy have a plan for promoting the adoption of wind power?

As far as I am aware, they do not have a formal plan. As I mentioned, AWEA has suggested a limited program to them. In our view the Office of Energy needs to beef-up its expertise in wind and solar technologies and develop specific long-term programs to promote these previously neglected technologies. We think the long-standing and successful biomass energy program at the Office of Energy serves as a good example of what is possible.

NATURAL GAS IN MINNESOTA

Mr. BOSCHWITZ. Mr. President, I rise today to bring to the attention of this body the ever-increasing importance of natural gas and to salute the opening of America's largest public natural gas vehicle fueling station.

This Wednesday will mark the official opening of Minnegasco's South Lyndale natural gas vehicle fueling station, in Minneapolis, MN, which is, as I say, I earlier mentioned was the largest public natural gas vehicle fueling station in the United States.

This state-of-the-art facility was designed and constructed by Minnegasco to serve the growing needs of its natural gas-powered fleet, as well as natural gas vehicles operated by the com-

pany's commercial fleet customers. Currently, more than 100 Minnegasco vehicles and over 100 customer vehicles operate on natural gas.

The American Gas Association estimates that there are 30,000 cars, trucks, and buses running on natural gas in the United States. I would like to see that number grow.

With the current situation in the Middle East, I strongly believe America needs to reduce its dependence on foreign fuel. It is also important to note, Mr. President, that natural gas is domestically produced and is found in abundant supply right here, not across the seas in foreign countries. I'm also particularly pleased that this progressive facility is located in the Gopher State, a place I am very proud to represent in this body.

Natural gas has the added benefit of being an environmentally clean fuel. Natural gas-powered vehicles reduce air pollution as well as the emissions of the chemicals that contribute to global warming.

The future is bright for alternative fuels like natural gas and ethanol. Every day, more and more Government and community leaders are realizing the importance of modifying their fleets and taking advantage of the many benefits these fuels have to offer. The Clean Air Act that will be approved in the coming days will further increase the use of alternative fuels. I am proud to support this policy, which I understand from my friend Brian Clymer at the Urban Mass Transportation Administration is a priority in the Bush administration's transportation policy.

Mr. President, Canada currently has more than 200 public natural gas vehicle fueling stations throughout its provinces. I hope to soon see as many stations in the United States.

I was recently very proud to announce a $6.1 million grant from the Urban Mass Transportation Administration of the Department of Transportation to purchase 37 new buses for the Metropolitan Transit Commission. Of the 37 buses, 20 will be powered by compressed natural gas or ethanol. The remaining 17 have new cleaner burning diesel fuel engines.

Mr. President, the business of the Senate prohibits me from participating in the grand opening of this exciting facility, but I am pleased I have this chance to recognize its importance and to congratulate those who made it possible.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, morning business is now closed.

Mr. SANFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CIVIL RIGHTS ACT OF 1990—CONFERENCE REPORT

Mr. KENNEDY. Mr. President, I submit a report of the committee of conference on S. 2104 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferences.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 12, 1990.)

Mr. KENNEDY. Mr. President, the Civil Rights Act of 1990 ranks with the most important measures this Congress has addressed. Many Senators on both sides of the aisle have worked closely together for many months to fashion legislation to respond to an unfortunate series of recent Supreme Court decisions which have significantly undermined the Nation's civil rights laws banning job discrimination.

I believe that this conference report, reconciling the measures passed by the Senate and House of Representatives, achieves that goal, while scrupulously responding to every legitimate concern raised by the administration and the business community.

It is not yet clear whether President Bush will sign this legislation—but he should, if he shares our commitment to civil rights and to equal opportunity in employment.

Contrary to the view of some of the President's advisers, this is not a quota bill. In the course of the Senate and House debates and in the conference committee, we have adopted numerous modifications and refinements to ensure that nothing—absolutely nothing—in this legislation puts pressure on any employer to resort to quotas in hiring or promoting employees. We have prepared an antidiscrimination bill, not a quota bill.

One of the principal purposes of this legislation is to overrule the Supreme Court's decision in the Wards Cove case, in which the Court rejected the unanimous ruling by Chief Justice Burger in 1971 in the landmark case of Griggs versus Duke Power. In hundreds of antidiscrimination cases in the past two decades, the Griggs rule had been used to strike down the subtle and not-so-subtle practices that kept minorities and women from participating fully and fairly in our economy.

The Supreme Court decision in Wards Cove effectively overruled the Griggs decision. The new standard established by the Court in Wards Cove makes it far more difficult and expensive for victims of discrimination to challenge the barriers they face. The Civil Rights Act of 1990 restores the standard in Griggs, which served the country well for nearly two decades, and deserves to be reinstated.

The President's advisers persist in spreading the false charge that our response to the Wards Cove decision will lead to quotas. The conference report restores the Griggs rule; and in all the 18 years it was in effect, the Griggs rule did not force employers to resort to quotas. Raising the false hue and cry of quotas, as the Attorney General continues to do, does not make this a quota bill.

In fact, the revisions made by the conference committee remove any reasonable doubt about quotas.

The standards set forth in the bill for determining whether an employment practice is required by business necessity are virtually identical to those the administration itself indicated a willingness to accept in July.

The conference committee makes six important modifications in the legislation.

First, the bill addresses concerns about the definition of "business necessity." Where an employer's practices do not involve job performance or selection or where they concern methadone, alcohol, or tobacco use, an employer can avoid charges of discrimination by proving that the practices have a "significant relationship to a manifest business objective."

Second, the bill specifies additional types of evidence that a court may consider on this issue, including "testimony of individuals with knowledge of the practice."

Third, the bill provides expressly that nothing in the measure should be interpreted even "to encourage" employers to adopt quotas, let alone require them to do so.

Fourth, the bill requires the plaintiff to prove which specific practices are responsible for a disparate impact in all cases, except where the employer does not have the relevant records

or has concealed, destroyed or refused to make them available.

Fifth, the conference report includes the text of the amendment proposed on the Senate floor by Senator PRYOR, confirming that the mere existence of a statistical imbalance in an employer's work force on account of race, color, religion, sex, or national origins does not create a violation of title VII.

Sixth, the conference committee bill includes a proposal made by Senator BOREN to limit punitive damages against any employer under title VII to $150,000, or the amount of compensatory damages, and backpay, whichever is greater.

There is no valid objection based on quotas to this legislation. The Attorney General's charge is simply a pretext for those who reject the principle of equal job opportunity for all Americans.

Next, the bill responds to the decision in Martin versus Wilks, in which the Supreme Court held that consent decrees settling job discrimination cases may be reopened in future lawsuits, even by people who sat on their hands while the Court considered the decree. In the months since that decision, new suits challenging long-settled decrees have been filed in more than a dozen cities. These cases are having a devastating impact on employers and communities who thought they had long ago turned their backs on discrimination.

The Civil Rights Act of 1990 provides a mechanism that allows finality to be achieved in such cases. It sets up procedures to ensure that interested persons can challenge proposed decrees before they are adopted, while limiting endless litigation and ensuring that fairly settled cases stay settled. These procedures recognize the right of every individual to due process of law, and the need of businesses and communities to bring an end to litigation. At the same time, the conference committee bill will enable more people to challenge consent decrees in job discrimination cases in the future, and it strengthens the notice requirements for such decrees.

The bill also fills a serious gap in Federal law caused by the lack of effective remedies for women and religious minorities in job discrimination cases. Under title VII, there is no adequate remedy for victims of intentional sex discrimination. Employers who engage in such reprehensible discrimination can walk out of court scot-free—and even send a bill for court costs to their victims. The remedies available under current law are often completely inadequate to vindicate the right of working women to be free from sex harassment in the workplace or from discrimination in basic employment decisions such as hiring, firing, and promotion. Those who suffer from religious discrimination are under a similar disadvantage.

The Civil Rights Act of 1990 provides meaningful remedies, granting victims of intentional sex and religious discrimination the right to recover compensatory damages. In particularly flagrant cases, punitive damages of up to the greater of $150,000 or the amount of compensatory damages and backpay may be awarded.

In addition, the conference agreement includes a specific provision to make clear that the bill is not intended to overrule existing cases involving "comparable worth."

This change is intended to allay concerns that this bill will require courts to adopt the "comparable worth" theory in cases alleging pay discrimination.

Further, the bill revises the "mixed motive" provision by eliminating both compensatory and punitive damages where an employer proves that the same job action would have taken place, even in the absence of discrimination.

The bill also provides that when an unsuccessful challenge to a court order or consent decree is brought by a third party, the court will have discretion to determine how attorney's fees should be assessed.

The bill also overrules the Patterson decision, in which the Supreme Court nullified the only Federal antidiscrimination law applicable to the 11 million workers in the 3.7 million firms with fewer than 15 employees.

That decision, with its devastating impact on minority workers, must be overturned, and the Civil Rights Act of 1990 overturns it. It permits victims of race discrimination in the workplace to sue for on-the-job harassment as well as for discrimination in hiring, promotion, and firing.

In addition, the bill corrects other problems caused by the Supreme Court's recent interpretations of Federal civil rights statutes. These problems concern a variety of issues, including seniority systems, attorney fees, and statutes of limitation. These are serious concerns, affecting large numbers of minorities and women, and they need to be addressed.

We have repeatedly modified this legislation in an attempt to meet the concerns of the administration. So far, however, the Attorney General continues to recommend a veto. I hope that President Bush will take an independent look at this legislation and the many good faith efforts we have made to go the extra mile and meet every reasonable objection of the White House. If he does, I believe he will sign this legislation, because he will see that it is an antidiscrimination bill, not a quota bill.

I urge my colleagues to vote for the Civil Rights Act of 1990, and I urge President Bush to sign it.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Mr. President, I appreciate the comments of my colleague.

Some of the conversations about this bill that have arisen in recent days have come, of course, because of the negotiations which a number of us conducted to see if we could put something together.

I will preface it this way: I do not think there is anyone in this body or anywhere else who feels more deeply about civil rights than I do. Certainly, there are those who feel as deeply. But I would like to have a bill, and I would like to have worked this out.

The first opportunity I had to really negotiate this matter was a week or so ago when I received a call from the eminent attorney William Coleman, a former Secretary of Transportation, a wonderful man, a tremendous attorney, a very, very bright guy, a fellow I have a lot of respect for and can even say a friendship and love for. He approaches this bill from a very definite perspective, having suffered himself from discrimination as a young black man brought up in Philadelphia and as a young, near the top-of-the-class law school graduate from Harvard University. He was foreclosed from law firms because he was black.

He called me and said, "Orrin, will you sit down with me as a friend and see if we can do something about this?" I said, "I will be glad to," because I am always willing to sit down and negotiate.

I think we would have done a lot better if we had done it from the beginning of the bill. If when they began to file it and after filing it, they had sat down and tried to work it out, I think we probably could have worked it out.

We worked for 7 days and nights—I say they were like 12- to 18-hour days—with Mr. Coleman and, I might add, the distinguished Senator from Pennsylvania, ARLEN SPECTER. Both of them worked indefatigably to see if we could resolve this matter.

We came up with basically seven changes. From the beginning I said if you give me all the changes I want, then I do not care what the White House does. We will go and we will pass the bill; not only pass it, but I think we can defeat any veto that might arise.

(Mr. AKAKA assumed the chair.)

Mr. HATCH. But was apparent after we got into the negotiations that I could not get all that I wanted to correct this bill.

So I made it very clear during the negotiations that I would go with this bill if all three sides agreed; that is, the President of the United States, the civil rights community, and the House and the Senate—the legislative body, the civil rights community, and the

Executive of this country—if all three agreed, even though I was not totally happy with the bill, or with the language that we had, and I was not totally happy with it. Then I would go with it. I was asked if I would recommend it to the President. I said I would recommend to the President the language we came up with, but I also said that I would make it very clear I am not totally happy with it and if he rejects it, I am going to support the President.

Now we failed. We did our very best. We tried to put this together in the best possible way. We tried to resolve it in the best possible way, but there are clearly such notable differences among the three groups, and even between the civil rights leadership—Bill Coleman and others and myself—that it was apparent that we failed.

We could not put it together, and the President has taken a principled stand that this bill has so much wrong with it that he really will have to veto it as it passes both Houses of Congress, and we all know it is going to pass. So we know that if it does pass, even in this current form, with the negotiated language attached to it, the President is going to veto it.

I have to say that it was a tribute to the people negotiating and especially to Senator SPECTER and Senator KENNEDY that the conference committee was willing to take this language because, in my opinion, it does definitely improve the bill. But does it make the bill worthy of the President's support? I have to say it is a close question, but I fall on the side of the President.

It certainly helps in those areas, but it does not resolve the problem in other areas that I think are very important as well, and I think the President thinks are very important as well.

I have had conversations with the Attorney General. He feels very strongly about some of this language and feels that it must be changed in order to have a bill that really can become law. I cannot disagree with the point the Attorney General gave in his letter to certain Members of this body, listing why the compromise really was not good enough and why it really had to be vetoed and making clear that the President is going to veto this bill with that language in it.

Mr. President, I ask unanimous consent that the Attorney General's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, October 12, 1990.

Hon. ROBERT DOLE,
U.S. Senate,
Washington, DC.

DEAR MR. LEADER: You have asked for the Administration's opinion on the conference report adopted last night to S. 2104. As you know, the President has said he would veto this bill as it was passed by the Senate and by the House of Representatives. In his letter to Representative John Lafalce of August 2, 1990, the President said that, while he would like to sign a civil rights bill, S. 2104 (as amended by the House) was not legislation that he could sign. In our view, the new amendments adopted in conference do not offer substantial improvement to S. 2104; indeed, in some respects they make the bill worse. Accordingly, the President will be compelled to veto S. 2104 in its current form.

The new amendments recognize that the bill contains serious deficiencies, particularly with regard to the matters raised in connection with *Wards Cove Packing Co.* v. *Atonio* and *Martin* v. *Wilks,* among others. Unfortunately, the amendments do not make substantive changes in the bill and, therefore, do not remove any of the objections we have clearly stated in the past.

With respect to sections 3 and 4 of the bill, provisions that will induce employers to adopt quotas, the new language makes no material change. The additional amendments purport to change the definition of "business necessity" and the extent to which complainants will not be required to identify a particular business practice when they file a disparate impact suit. With respect to both, the words are different, but the meaning and effect are the same, and there is no improvement.

The definition of business necessity is essentially unchanged, and its two fundamental problems remain. First, employers are restricted to defending their selection practices (i.e., virtually all relevant practices) in terms of "a significant relationship to successful performance of the job." This prohibits them from offering other legitimate business justifications that have been recognized as permissible by the Supreme Court for many years. Second, the bill expressly overrules *Wards Cove,* not just with respect to the allocation of the burden of proof, but also with respect to the entire treatment of business necessity as a defense. This ensures that the many ambiguities in this provision will be resolved against employers. The slight changes in the latest conference report do not address or resolve these or the other problems with the definition of business necessity.

Nor is the new amendments' language with respect to the "particularity" requirement acceptable. Once more, the words are different, but the basic problems which the Administration has identified all along have not been remedied. The new version would still allow a complainant to "prove" a violation simply by pointing to a statistical disparity caused by any "group of practices" where the employer "failed to keep such records," i.e., those necessary for the plaintiff to support his claim. This is clearly unacceptable, for at least four reasons. First, the "group of practices" language means that a complainant can simply list everything the employer does and style this as the "group of practices" being challenged. Second, the proposal continues to assume that any imbalance is caused by something the employer is doing, when of course there may be any number of innocent reasons for the imbalance. Third, the proposal would place the employer in a classic no-win situation when a complainant presented such a claim without identifying any particular practice that was being challenged. The employer would either have to produce evidence showing that one of her particular practices could have been challenged, or admit that she did not have such evidence—either way, she loses. Fourth, it is unprecedented to remove the fundamental legal obligation of all civil plaintiffs to identify what particular act of the defendant is responsible for the plaintiff's claimed injury. Plaintiffs already have available to them the full panoply of civil discovery rules, and they have available to them the usual sanctions when defendants unlawfully withhold or destroy evidence. There is no reason to adopt the proposal's "guilty until proved innocent" or "if there is no evidence, you're guilty" rule against businessmen and businesswomen.

The new amendments also alter sections 5 and 6 of the bill, but here as well no substantial improvement is made. The principal substantive change made with respect to section 5 actually makes the bill worse. The word "contributing" is changed back to "motivating"; our objection to the latter as penalizing "bad thoughts" prompted one of the few changes made at our request by the bill's proponents. With respect to section 6, the language passed by the House and Senate would still apply to consent decrees already in place, and is objectionable for all the reasons we have given in the past. In short, since only unlawful consent decrees can ever be successfully challenged, we see no reason why people should be denied their day in court to mount such challenges: the bill would serve only to protect illegal quotas. For new consent decrees, the proposed amendment prescribes that a different set of rules would apply—an unprecedented bifurcation of people's constitutional rights into two categories. Finally, we note that in section 6(a)(A)(ii), the new version of the bill expressly contemplates that consent decrees in the new category might use quotas.

The amendment to section 9 would, in our view, make the bill worse. For the first time, Title VII would say that certain civil rights plaintiffs—those challenging the legality of quotas adopted under a consent decree—could be required to pay attorney fees where their action was neither frivolous nor otherwise unreasonable. The clear effect would be to discourage many challenges to illegal discrimination, and so this amendment makes the bill even more of a quota bill than it already was.

The new amendments also assert that nothing in the bill would "require or encourage an employer to adopt hiring or promotion quotas * * *." As we have repeatedly pointed out, however, the trouble with the bill is not that it explicitly "encourages" or "requires" quotas, but that it will inevitably result in quotas being adopted surreptitiously to avoid the cost and trouble of disparate impact lawsuits under the bill's new ground rules—which the bill makes much more difficult for employers to win. The assertion that the bill ought not have this effect cannot change the fact that it will.

Finally, the new amendments do nothing to address our objections to those very important and very objectionable parts of the original bill not discussed above: compensatory and punitive damages, other attorney fees provisions, retroactivity, and so forth.

Therefore, I must reiterate that the President will be compelled to veto S. 2104 in its current form.

Sincerely,

DICK THORNBURGH,
Attorney General.

Mr. HATCH. Mr. President, we failed. We did our best. I have to admit both sides are tough on this

issue because it involves a lot of tough problems.

There is one aspect of this bill everybody agrees with, as I understand it, or at least overwhelmingly would agree with and that is the overrule of the Lorance case and the overrule of the Patterson versus McLean case. We all agree on that. Those are the civil rights aspects of this bill. The rest of the bill, although peripherally involving civil rights aspect, involves employer and employee relationships and labor law. So the bill really does not deserve to be called a Civil Rights Act of 1990 because it is really not a civil rights bill.

The two things that are civil rights we all agree with. If we could split those off, we could pass it today and the President would sign in law—that is, a bill that would overrule the Lorance case and overrule the Patterson versus McLean case. In fact, it might be a good thing to do that and put two bills out here so that we can at least rectify the civil rights problems that arose in those two cases.

But having said all of that, Mr. President, I rise today to oppose the conference report on S. 2104, the Civil Rights Act of 1990, and I urge my colleagues to do the same. My opposition is coupled with both frustration and sadness, as I explained here, that we have not been able to come together on legistation that all of us could enthusiastically support.

Everyone who has tried to work out a compromise on S. 2104 has been impressed by the difficulties, the convoluted nuances, and the potential unintended consequences of any proposed language. This is complex stuff. Hours upon hours have been spent trying to come to agreement on what the law was, what the law should be, and what is meant by any language that is proposed. There have been so many explanations, so many interpretations, so many lawyers, that it is not surprising that there has been so little agreement on how this legislation will affect current employment policies.

Recently, I was approached, as I said, by the civil rights community to see whether there was a chance that a compromise could be reached among Congress, the administration, and the proponents of the bill. The better part of 7 days was spent trying to resolve some of the major problems with the bill, culminating in a 17-hour session. Regrettably, we failed, but it was not for a lack of effort on anyone's part.

I particularly pay tribute to the distinguished Senator from Pennsylvania [Mr. SPECTER], who gave an awful lot of time and effort to this matter. In fact, in my entire career in the Senate I have never seen such collective interest in trying to find a solution to this problem or at least these problems.

As this legislation has worked its way through Congress, it has become quite frustrating to witness the battles that occurred over a word here, a phrase there. I shudder to think how many hours have been spent debating the definition of "business necessity" or arguing about the plaintiff's burden in a suit alleging disparate impact discrimination. But, as complex as these debates have been, and as picky and petty as they might appear to be to any occasional observer, they have been of monumental importance.

The core issue involved in the debate over S. 2104 is whether the touchstone of title VII of the Civil Rights Act of 1964 should continue to be equality of opportunity or whether it should be premised on the discredited concept of equality of result, otherwise known as quotas. Herein lies the battle, for it takes only a few words to change the entire direction of title VII. For all of the assurances of the proponents, for all of the cleverly crafted language in the bill, S. 2104 still moves us inexorably down the path toward the proposition that a statistical imbalance can be the sole proof of discrimination.

And if we come to that, we are going to have problems in this country like never before. And that is what this bill does, regardless of what arguments we can put forth.

And, it is for this reason that every word change has been so hard fought. The proponents wish to make it far easier for plaintiffs to win lawsuits. The opponents believe that in doing so, the bill would change title VII into a statute inevitably resulting in the incorporation of quotas in the workplace.

Mr. President, it comes down to this.

Does the Senate wish to reverse a quarter of a century of law, as set forth in the Civil Rights Act of 1964?

Does the Senate wish to replace the principle of equality of opportunity for individuals with a requirement of equality of results for groups?

Does the Senate wish to lead this country down a short road to quota hiring and promotion?

Does the Senate wish to slam the courthouse door on innocent Americans who wish to assert equal protection and civil rights claims?

That is what this bill will do even in its present form, even with the changes we have made.

Does the Senate wish to convert title VII of the 1964 Civil Rights Act, the Holy Grail of that act, from a statute aimed at conciliation and settlement into a statute which will exacerbate conflict in the workplace and emphasize protracted, costly litigation? These are the very issues which are at stake in this bill.

Clearly, there are some provisions of S. 2104 which I readily support. The bill, as I have said, overturns the Lorance decision and provides that challenges to intentionally discriminatory seniority systems may be made after the seniority system actually operates to harm someone. We are willing to do that. Ironically, this same right to sue when harmed is denied to persons who seek to challenge a consent decree on an equal protection basis when the harm actually occurs.

The bill also correctly reverses the Patterson case. As a result, under section 1981, which outlaws racial discrimination in the making and enforcing of contracts, plaintiffs will also be able to bring lawsuits alleging racial discrimination in the terms and conditions of contracts. This will include an action asserting racial harassment.

And, hopefully signaling the beginning of a trend, the bill would place the Congress under title VII of the Civil Rights Act of 1964, although Members are not subject to a private right of action in Federal court. It is clearly time that we legislators begin to live under the rules we are so ready to apply to others.

Unfortunately, much in the bill remains uncorrected. There has been great debate over whether S. 2104 is a quota bill, and too often that debate has failed to focus on how quotas would arise under the legislation. The proponents have gone to great lengths to proclaim that the bill does not require an employer to use quotas.

Let me repeat that. They have gone to great lengths to explain that the bill does not require quotas or does not require that employers use quotas.

Mr. President, they are absolutely correct. Nothing in the bill specifically mandates the use of quotas.

The problem is that S. 2104 will "result in" quotas. That is the problem. The legislation drastically rewrites the rules in current law which set forth how one proves discrimination and the absence of discrimination. Under the bill, it becomes easier for a plaintiff to satisfy his or her legal requirements for claiming discrimination and even more legally arduous and financially punitive for an employer to disprove that assertion. So easy, in fact, for the plaintiff to prove his or her case that in most instances the only prudent employment policy would be to make every employment policy with an eye on the numbers, to make sure that regardless of all other considerations, one's work force always matches the appropriate outside labor force.

Now some, in the privacy of nonpublic debate, believe that proportionality—the euphemism for quotas—should in fact be our objective. They are honest about it. They assert that proportional representation or employment quotas are the only way to guarantee the absence of discrimination. In fact, however, history has repeatedly demonstrated that quotas perpetuate discrimination, and it is for

good reason that the American people overwhelmingly reject the concept.

That is why the President is against this bill. It is one of the reasons, and there are many others, and I intend to get into some of those, too.

Unfortunately, S. 2104 represents a significant and irresistible step toward quotas. Even with the changed language, we tried to make it better, we tried to reduce the force of those provisions, but we never quite got there. That is why I could not disagree with the President on this matter—because the President happens to be right.

The best evidence of this assertion was the rejection of Senator DOLE's amendment on the floor in July. That amendment read in critical part as follows:

* * * nothing in the amendments made by this act, or in any statute amended by this act, shall be construed to require, permit, or result in the adoption or implementation of hiring, promotion or termination quotas * * * on basis of race, color, religion, sex or national origin.

That amendment was rejected. Instead, the proponents accepted language in the bill which now says in critical part,

Nothing in the amendments made by this act shall be construed to require or encourage an employer to adopt hiring or promotion quotas. * * *

When one compares the two provisions, it becomes readily obvious that the critical difference between the two is the phrase "results in," which Senator Dole had in his amendment but which is not in this bill. The proponents made clear on the floor that they could not accept such a complete prohibition on quotas. Why, Mr. President? Because they recognize that S. 2104, once implemented, will leave an employer little alternative but to utilize employment quotas rather than run the risk of lengthy and costly lawsuits, which the employer will almost certainly lose. Incorporating Senator DOLE's proposal would have directly undercut the inevitable consequences of the operative portions of the legislation. The rejection of Senator DOLE's "results in" amendment is the best available evidence of the validity of the criticism that S. 2104 pushes Federal civil rights law a significant and irresistible step toward the incorporation of proportionality or quotas in the workplace.

During the negotiations I participated in these last few weeks, one of the most critical issues we addressed involved what is known as particularity or causation. The issue arises in suits involving disparate impact discrimination, where a person alleges that the employer's use of a particular practice, while neutral on its face, screens out minorities or women more than it screens out whites or males. The bill had previously required that a plaintiff would only have to show that a practice or practices contributed to the disparate impact. It also required that an employer defend all practices that contributed to the disparate impact under the bill's new, revised, and more difficult standard of business necessity.

This bill changes the law. And although the distinguished Senator from Massachusetts says all we are trying to do is get back to the Griggs decision, they are changing the Griggs language. For anyone looking at the new language will see that they must not mean Griggs, in spite of the fact they say they do. They have tougher language on business necessity now.

During the negotiations, I proposed that the bill be written to reflect current law so that the plaintiff would have to show not just that the practice or practices contributed to the disparate impact, but that such a practice or practices caused the disparate impact. I wanted the word "causation" in there.

The employers would then have to explain those practices shown by plaintiff to cause the disparate impact, if I had had my way. In the spirit of reaching a compromise, I reached out as far, and really farther, than I thought was necessary, in the hopes of resolving this problem. I actually went too far.

In my conversations with civil rights representatives, I dropped my insistence that the word "cause" be used. I agreed to statutory language which stated that—

The complaining party will be required to demonstrate which specific practices are responsible for the disparate impact.

I also agreed that in two other parts of this portion of the bill, the employer would have to defend only those practices shown to be responsible in whole or in significant part for the disparity.

Unfortunately, the joint statement of the conference committee discussing this change substantially undercuts the very purposes behind this key provision. The report interprets the phrase "in whole or in significant part" to refer only to practices which are more than a mere trivial or insubstantial contribution to the disparate impact.

Consequently, despite the language of the statute, the proponents make clear that they want plaintiffs to be able to assert that a whole raft of employment practices contributed to the disparate impact. And that has been one of the biggest problems from the beginning. Then they want to sit back and watch and see if the employer can justify every single one of his practices under the new standard of business necessity.

The problems arising under causation are a microcosm of problems we have encountered with many of the other portions of the bill. With a slight change in wording, entire provisions of existing law simply disappear. Under current law, a plaintiff must isolate and identify the practice which is responsible for the disparate impact.

The proposed language, which was incorporated in the conference report, moves away from this standard by allowing plantiff to show that a group of practices was responsible for the disparate impact, and by requiring that the employer has to demonstrate business necessity only with regard to those practices shown to be responsible "in whole or in significant part" for the disparity.

But the joint statement goes even further by interpreting the standard "in whole or significant part" to mean nothing more than a trivial or insubstantial contribution to the disparate impact.

According to the joint statement, an employer would be required to demonstrate business necessity with regard to every employment practice shown to have little more than trivial or insubstantial contribution to the disparity. Only in Congress can the phrase "in whole" or the word "significant" be interpreted to mean slightly more than trivial—only here. The interpretation in the joint statement is at best a clumsy attempt to repudiate the very improvement in the revision that I had fought for and sought. Given the importance of the issue of causation to the entire bill, it is reason enough by itself to justify opposition to the bill.

Another provision added in conference reads as follows:

The mere existence of a statistical imbalance in an employer's workforce on account of race, sex, religion, or national origin is not alone sufficient to establish a disparate impact violation.

This, too, fails to protect against a reliance on quotas to avoid liability, because it does not alter the fundamental manner in which the operative provisions of a bill permit the plaintiff to win a disparate impact case. While it does limit a statistical comparison to the job in question and the relevant labor market, the fact remains that a plaintiff satisfies his or her burden under the bill by simply pointing to a statistical imbalance and asserting that some or all of the employer's practices contributed to the disparity. That would satisfy his or her prima facie case.

Remember, according to the joint explanatory statement, the employer must justify the business necessity of every employer practice shown to have more than a trivial contribution to the disparity.

Moving to the portion of the bill which deals with the Martin versus Wilks decision, the latest version would provide better notice to employees who are not parties to the case.

Nevertheless, the bill still bars employees and many others who are adversely affected by a consent or litigated decree from challenging the decree when they are actually harmed. And the conference report still contains double standards in this regard.

For example, when the Government sues an employer on behalf of a group of persons, members of that group can still sue the employer after entry of a consent decree if the consent decree does not provide them with back pay or a job. But a different employee who is harmed by the same consent decree, denied a job because of his or her race, sex, or ethnicity, is effectively denied the chance to be heard.

Where is the justice in that? This provision represents a fundamental retreat from existing protections of the right of all Americans to have access to court and to assert an equal protection claim or a statutory civil right.

It is particularly ironic that it is in the name of civil rights for some that we are being asked to extinguish what has been considered to be an essential civil right, or what are essential civil rights of others.

During the previous debate in the Senate, several of my colleagues indicated that their support for the legislation depended in large part on inclusion of a monetary cap on the amount of damages that could be obtained under the bill, a concept that I personally disagree with.

If a person has a right to recover, he or she ought to be able to recover whatever damages there are. But to try to accommodate certain Senators on the floor, they put what they thought were effective caps in the bill.

The proponents of the bill indicated that their concerns would be addressed in conference, and many of my colleagues believed that the revised bill includes a cap on damages of $150,000. I wish to point out, however, that this is the most flexible of all caps. The $150,000 applies only to punitive damages. There is no cap whatsoever on compensatory damages. Moreover, the punitive cap only applies if compensatory and other relief totals an amount less than $150,000.

For example, if a jury were to award a plaintiff $200,000 in compensatory damages and $50,000 as a backpay award, the jury could then award punitive damages of an amount up to $250,000. So if the jury gives $250,000 in compensatory and backpay award damages, then the punitive damages can also be $250,000. So there is no cap in here.

Or the jury might just give everything in compensatory damages, and it could be millions of dollars. There is no cap on these awards.

Punitive damages are capped at $150,000 per employee or—and this is the catch—the sum of compensatory damages and equitable monetary relief, whichever is larger.

I might point out, in pattern or practice intentional discrimination cases there may be dozens and even hundreds of claimants all potentially entitled to $150,000, or the sum of their compensatory damages and back pay. Punitive damages could well amount to millions and millions of dollars in those cases.

So there is no cap there at all. It is rather bizarre that this legislation incorporates a scheme that is skewed to help higher salaried employees more than lower income employees and workers. It will be interesting to see if the advocates of this section will be as ready to apply caps, even such flexible caps, in other areas of the law, or whether they will be reluctant to cap damages in, for example, product liability cases in a manner consistent with what they are willing to do in civil rights suits.

The changes that have been made to S. 2104 have also failed to address the provisions which help the real beneficiaries of the legislation; that is, employment lawyers. In fact, it is difficult to imagine how a bill could be better crafted to preserve and perpetuate the legal profession.

For example, the bill extends the statute of limitations from 6 months to 2 years. Rather than requiring a person to bring a suit in a timely manner or to challenge a decision or policy relatively soon after its implementation, the bill now permits allegations to remain unresolved. An employer will now have to wait 2 years to know whether a specific decision will be the basis of a lawsuit.

Again, given the importance that the proponents place on finality in other areas of the bill, it is incongruous that they are willing to increase the statute of limitations by 300 percent.

The bill also would place several brand new impediments on reaching settlements. Under current law, if a plaintiff rejects a formal settlement offer and subsequently, after trial, obtains a judgment for less than the amount of the offer, he or she is not entitled to attorneys' fees incurred from the date the offer was rejected. The provision was designed to encourage people to settle cases arising under title VII, in keeping with the statute's trust toward resolution and settlement.

Under this bill, plaintiff is entitled to attorneys' fees after the offer is rejected. Naturally, it is difficult to imagine why any trial lawyer would push for a settlement.

It is in the interests of the attorney, although not necessarily in his or her client's best interests, always to go to trial. For an attorney, the risk of refusing a settlement has been eliminated.

The bill also would prevent a person sued under title VII for conditioning a lump sum settlement offer on the plaintiff's waiver of attorney's fees, leaving the attorney to work out the fee amount with his or her lawyer. Again, the person the legislation seems most concerned with protecting is not the person who feels he or she has been the victim of discrimination, but the attorney. Attorneys come off very well in this legislation. We have protected them to the nth degree. This is an attorney's bill. It is one of the reasons the President is so upset about it. He said he does not want to support a bill that would be a litigation bonanza for lawyers, and that is what this bill is.

The legislation also contains provisions which uncap expert witness fees and requires broad construction of at least 70 other civil rights statutes. With regard to the latter, the purpose seems highly unnecessary, unless its inclusion is intended to encourage Federal bureaucrats and judges to revise current interpretations of civil rights law.

When one cuts through the myriad of issues—and there are many others that I wish I could take time on today, but it really is not going to make any difference—there remains a fundamental question for this Nation, for how we answer it will affect generations of Americans to come. That is, what kind of a society do we really wish to establish? Is it a society that is free of bias; a society that guarantees equal opportunity for all; a society that penalizes those who discriminate on the basis of race, sex, ethnicity, age, or disability and a society that ensures equal opportunity so that one is free to rise or fall based on one's own experience, abilities, and merit?

Or is it a society that has created a convoluted, tortured, and often contradictory legal system which, as a practical matter, requires every job in America to match perfectly the numerical mix of the surrounding, relevant labor pool; a society in which one's right depend on the group to which he or she belongs; a society in which group membership may be more important than ability and experience; a society where every employment policy is governed by numercial quotas? Is that what we are after?

The best answer remains, of course, the first alternative—to treat every American the same, to treat every American equally, to enforce the laws so there is no discrimination, to ensure that no one is excluded or penalized because of his or her race, sex, ethnicity, age, or disability.

S. 2104, the so-called Civil Rights Act of 1990, fails this basic test. I hope my colleagues will vote against it. We do not have to eliminate some civil rights to protect others. We do not

have to overturn one Supreme Court decision after another to guarantee equal opportunity. And we do not have to jeopardize fundamental legal and constitutional principles to guarantee a discrimination-free workplace.

We are in danger of doing all of that with this bill, even with the revised language in it. The language does make it better, but I have to say it does not make it good enough. I think the President is justified in telling us he is going to veto the bill.

Having said that, I want to express my appreciation and regard for those who have worked so hard to try to resolve this matter and who are still working to try to resolve this matter. If they can, I will be pleased, but I question it.

Mr. SPECTER. Will the distinguished Senator yield for a question?

Mr. HATCH. I will be happy to yield.

Mr. SPECTER. Mr. President, I compliment my distinguished colleague, Senator HATCH—I have just come up from a conference, and I am catching a little bit of breath. One of the problems of working in the U.S. Senate is that we have many conflicting obligations. I was just in the transportation conference.

I start by congratulating my distinguished colleague from Utah for his tireless efforts on this bill. While we may have some substantive disagreements, I can attest to his around-the-clock efforts at many stages of this bill, and there have been very extensive negotiations involving many Senators.

At one stage of the negotiations, Senator HATCH; former Secretary of Transportation, William T. Coleman, Jr.; and I worked around the clock, and came to the so-called Hatch-Coleman-Specter compromise. This compromise was structured, I would say, on an understanding which the three of us, as well as many others in this body, have on the problems of discrimination. While I was on the phone talking about this bill with others, while the distinguished Senator from Utah spoke, I understand he referred to Mr. Coleman's status: first in his class at Harvard, unable to get a job as a victim of discrimination. I can personally attest to being unable to get a job, not on the basis of color, but on the basis of religion. Mr. Coleman is black: I am Jewish. I did not go to Harvard. It was only Yale. I was not first in my class. I was not too far from that, but I think, just as Bill Coleman was qualified for some jobs he sought, so was I. I was denied a job early in my career. I have been denied some later, but not on the basis of discrimination.

It is with the understanding of this sort of a problem that I make this brief introduction. I am not going to speak at length now, although I was second on the floor. I came here at 9:35 this morning right behind Senator HATCH. I am not going to speak now because it is still my hope that as we are talking there will be a compromise on this bill. Intensive discussions are still underway. We are trying to reconcile all differences, because this is a bill on which there ought to be an agreement. Civil rights is too important not to have an agreement. It is unthinkable that if it worked out to have a 65-to-35 vote in the Senate and a comparable majority in the House, that it would be vetoed and the veto would be sustained. Although we may have 67, 68, 70 Senators, we do not know what is going to happen yet on this bill.

The purpose of my asking the distinguished Senator from Utah a question is, because at the conclusion of our meeting, after Senator HATCH, Mr. Coleman and I worked around the clock a week ago Thursday and came to a conclusion of satisfaction with the bill, at that juncture—and Senator HATCH has pretty much covered this, but I want to specify it with a little more particularity—Senator HATCH said to Bill Coleman and ARLEN SPECTER, "I find this substitute acceptable; not perfect, but acceptable. I will recommend it to the President. But if the President does not agree to it, then I am going to vote with the President."

At that stage, Bill Coleman was surprised and I was a little surprised, but I said to both Senator HATCH and Mr. Coleman that although Mr. Coleman may have had some expectation beyond what Senator HATCH had said, there was no expressed commitment. But the point that I want to specify and emphasize is Senator HATCH's statement it was acceptable, not perfect, but acceptable, and that he would recommend it to the President, reserving the right as a matter of deference to the President not to vote for it.

I ask my distinguished colleague if I have accurately summarized our discussions a week ago Thursday morning at about 10:15?

Mr. HATCH. Mr. President, to a degree, the distinguished Senator has. I felt that, after all the work we had done on those sections that we had worked on, although they were not perfect, and I was not totally happy with them, if the President wanted to accept this language and not veto the bill, that would be acceptable to me, I can go with it. But there was one feeling that I had that was driving me along those lines; and that is, the current Supreme Court, I personally believe, is going to accept the language or might accept the language in the bill that says we are just trying to recodify Griggs. I am not sure of that. I have to say there were many other aspects of the bill with which I disagree, but I was willing to go with the President if he wanted to go with us.

I think it is important to state, too, that had I been able to get some of the additional changes I would have liked to have had, like the word "causes" in the business necessity part, some changes even in the particularity part, changes in Martin versus Wilks, changes in come of the pro-attorney provisions, had I been able to get all of those, I would not care what the White House did.

I would have been on this floor saying OK, we have to take a chance on the language that we came up with. Even though I know it is not perfect, and it may not solve the problem of quotas, we have to take a chance on that, and hope the Supreme Court does what is right with regard to that language.

If we had achieved the other changes I had desired, I would not have cared what the President or anybody else did; I would have come here and fought for this bill.

We did not achieve everything I had attempted to do. That is the problem. I have pointed out some of the problems today that our agreement and our work did not address.

But to answer the question again for the Senator, if the President would have taken that language that is satisfactory to him on the quota issue, then I would have supported the President and supported this bill, even though there is a lot of it I do not like, because I am hopeful that the Court will do what is right with regard to some of these issues.

I also want to point out that I am extremely concerned about the quota issues in here. I am extremely concerned about aspects of this bill which will lead to increased and costly discrimination. I am extremely concerned about some other issues. I would have taken the Martin versus Wilks language, I have to tell you that, even though I do not think it solves the problem, if the President had been willing to do so. But these other things were important to the President also and he feels he cannot take those, and neither does his attorney general, and neither do other members of his staff.

But I made it very clear that I would support the President if he did not take it, because I could go either way on this matter, because I could make compelling arguments against this bill, even with the work that we did. So that is the best way I can explain it.

Again, let me just say, one reason I was willing to, at least try that, was because of the ardent efforts of the distinguished Senator from Pennsylvania and our mutually good friend, Bill Coleman. We worked very hard with him. I wanted to please both of these men if I could. I wanted to please the President. I wanted to see if there was some way we could get this to a point where he could sign the bill because

he said he wanted to sign a bill. I think this was the first time we were really able to sit down and try to do something about it in all the battles over this bill. Unfortunately, as I look at it in retrospect, I think we failed.

Now, that is not to say, that if the distinguished Senator can, through his efforts here today, bring additional change, I will not look at it or that I will not try to resolve it, and if we can solve the President's problems, I will be happy to try and be part of that resolution.

But that is where we are, and that is the best way I can explain it at this point. I personally still feel the bill has many weaknesses and is very bad and would cause a lot of problems. But it is certainly better than it was before.

Mr. SPECTER. I thank the distinguished Senator for his comments. I understand that he feels the bill has weaknesses. I understand that he feels the bill has problems. I understand that had he been able to make other changes he would have disagreed with the President.

But the core of what I think is critical about what the distinguished Senator from Utah and I are in agreement on is that he found this compromise acceptable and that he recommended it to the President even though he reserved the right to vote against it, oppose it if the President did not go along and that I would hope—I will speak on this later, Mr. President. I do not speak at length now because we are in the midst of discussions—my colleagues will rely upon the professional judgment of the distinguished Senator from Utah in accepting it and recommending it as distinguished from the consideration of following the President.

Mr. HATCH. Mr. President, I think it is important to note that since the negotiations on these matters, I have naturally talked to many people about the language that we came up with, including people in the administration, people in the employer community, people in the employee community, and other Members of Congress.

I have to tell you that in retrospect, looking back on it, I thought maybe the language did solve some of the problems, but I am convinced that it did not. There have to be more changes in order for it to solve the problems I have raised today.

So the fact I hoped it might be something the President could accept back then, and I could recommend to the President back then, if he wanted to take it, does not negate the fact that this bill still has serious difficulties and has serious problems, and that even that language can be improved. Indeed, just as late as a few days ago, there have been efforts on the part of the proponents to see if they could work to change that language, which efforts have been rejected by members of the civil rights community.

When I went to the conference, I had some of my dear friends in the black caucus come up and say, this is terrible language, what you have done. I had others come up, who were top Republicans Senators and Representatives, who said, they could never support this language because it doesn't solve the problems, and they gave what they thought were good arguments.

I think it just goes to show that this bill is very technical, very difficult, almost impossible to resolve. And that the points I have made in my opening remarks are still true. If it stays in its current form, I think the President is right. In retrospect, I think he is right.

On balance, this bill ought to be rejected, because it is going to cause a lot of problems in our society. Just last weekend, we saw a man who was a former head of the Ku Klux Klan, who many call a racist, who appeared to be a racist, who had an overwhelming onslaught of accusations against him, serious accusations with lots of bases, and this man received 44 percent of a State's vote, almost 60 percent of the total white vote in that State, and his principal argument is what this bill is all about. The principal thing that appealed to those people was that we are not treating people equally in our society. We are preferring some people over others.

Now, whether his motivations were right or wrong, I do not choose to characterize them. I have my own feelings about it, regardless of what he is or what he said. The issues that were raised are on the minds of Americans of all races all over this country.

When we get away from the principle of equality of opportunity, and we go to a principle of equality of results, and group results at that, you are just playing into the hands of all the racists in America. We are playing into the hands of those who would cause racial division and strife in America. We are playing into the hands of making America less competitive, because what we are doing, if we adopt this language, unless the Supreme Court straightens it out—and I personally choose not to legislate on that basis—we go to a system where employers can no longer choose the person most qualified for the job under reasonable nondiscriminatory employment principles, and under laws that are really tough if there is any discrimination, to where the employer has to choose among the least qualified of those who are available for jobs.

When that happens, we are not progressing as a Nation; we are retrogressing. When that happens, our businesses are not going to take off; they are going to go down. When that happens, we are becoming like nations of Eastern Europe used to be and hope they can strike out from. When that happens, we are in danger of being like India, that has its caste system where they show preferences based upon caste and based upon differences—race if you want to.

That is what is involved. This is not a simple issue. This is not a simple set of issues. To the credit of the distinguished Senator from Pennsylvania, we have come a long way. Yes, we have tried very hard. If we do not pass this bill this year, the President does veto it, it seems to me that next year we have something that we can work on and try to resolve. But this bill involves the most intricate, difficult, complex, and important employment principles of any bill I have seen come to Congress in years. I have to say we failed on that compromise.

And I have to also say the President happens to be right. I am not just saying that to be politically loyal to the President. I admire him, I love him as a human being, I think he is a wonderful human being. He and his wife are great people. He has been a great President so far. But if I thought that there was a perfect compromise, I would not care, as much of a friend as he is, as much of a great President as he is, as much as he would not want it done—I would not care one whit. I would go ahead and pass this bill. I have stated the reasons I agree with the President, and I can tell you. They are important and significant reasons.

When you vote on this bill today, my colleagues, this is not some inconsequential thing. When you vote for this bill you are voting for a lot of things that I think are detrimental to our society, a lot of things that could hurt a lot of people in our society, and hurt the very people most who you are trying most to help. That is serious stuff. I feel deeply about these things.

That is why I tried to work so hard with the distinguished Senator, and with my good friend, Bill Coleman. They feel just as deeply on their side of these issues as I do on mine. But I do not think they can refute what we have said here today.

I think it is time for Democrats and Republicans to reject this kind of legislation. I am still open to trying to resolve it if we can, but it seems to me it will have to be resolved better than it is right now.

I have to say in retrospect it has not been resolved. In fact, I have become more keen in understanding the problems in the bill. I have spent hours since we came up with that negotiated effort trying to understand this better. I understood it pretty well to begin with.

But today I have to tell you the President happens to be right on this.

That is not going to be enough to stop the bill from passing, but I hope it will be enough to sustain the veto if he has the intestinal fortitude to veto this bill, which he should do, and which he says he will do. I expect him to. If he does, I hope we will sustain the veto.

I have taken much too much time.

My colleague from Ohio has been patient. I certainly want to turn the floor over to him.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I rise as one of the seven Senate members of the conference committee on the Civil Rights Act of 1990.

I want to say publicly that the distinguished Senator from Utah has done yeoman work in attempting to bring about a compromise in connection with this legislation. He has put his heart and his soul into it. He has made a good faith effort. Those who are more strongly procivil rights than some of the opponents of this bill have also made a good faith effort. But the fact is the President of the United States has been resolute in his opposition.

Having commended my colleague from Utah for the magnificent effort that he has put into this bill in trying to bring about a compromise, I am disappointed that now he speaks so strongly against it. I am disappointed that he tells his colleagues that they should vote against this bill because some little details in the bill are not satisfactory.

I am disappointed to know, and he tell us, that David Duke and George Bush and ORRIN HATCH are against this bill. Maybe 60 percent of the whites in Louisiana did vote for David Duke. Maybe they will not vote for this bill. But I believe the overwhelming majority of Americans would vote for this bill. I think passage of this bill is the Senate's way, the Congress' way, and, hopefully, the President's way of saying we do not agree and are not going to yield to the David Dukes of America.

This conference report embodies the will of a strong majority of the Senate. More importantly, the conference report restores basic civil rights protection for millions of Americans.

Women and minorities were victimized last year in a series of stunning Supreme Court decisions. Those decisions turned back the clock on our progress toward equal opportunity. This bill rights those terrible wrongs inflicted by the Supreme Court.

At the outset, I must commend Senator KENNEDY for his leadership in connection with this legislation. He has mastered the legal issues in the bill. He has spent hundreds of hours negotiating with the White House and educating his colleagues. Senator KENNEDY's performance was a tour de force. It is truly one of the finest legislative efforts I have witnessed in my tenure in the Senate.

He has been helped immeasurably by Senator JEFFORDS, my ranking counterpart on the Labor Subcommittee. He deserves great credit. He has been steadfast in his commitment to restoring civil rights protection for women and minorities. Many in his own party do not support that effort. But with no reservation, no lack of courage, Senator JEFFORDS has put principle above politics. And the same I might say holds true for Senator SPECTER who has worked tirelessly seeking to fashion a consensus package.

It is a fact that we thought we had worked out that package. But the White House has been determined to block a consensus. Those who have the ear of the President have consistently insisted upon the very last letter, the very last comma, every single dot over every i. So they come here today threatening a veto.

Mr. President, I do not intend to review the intricate substantive details of the conference report. By now the arguments about such issues as the burden of proof in disparate impact litigation—things that people do not understand—and the composition of a pleading alleging a discriminatory group of practices are all too familiar to those of us who deal with this type of legalese. But 240 million Americans do not understand it.

I will tell you who does understand this bill: The people who are affected by this bill, those who have been fighting for an equal share of opportunity in this country, those who have not been getting a fair share of the action, those who have suffered discrimination over a period of years in the history of our Nation. Yes, they understand it. They do not understand the wordage. But they understand the impact.

The real issues at stake here are issues of integrity, issues of justice, issues of fairness. I want to tell Members of the Senate, in particular my colleagues from Arkansas and Oklahoma, that this conference report proves again that the Senate has a sense of integrity about it. It vindicates one of the cardinal rules of the Senate, and that is a Senator is only as good as his or her word.

As we all remember last July when we enacted the Civil Rights Act of 1990, in the Senate, a number of Senators were precluded from offering amendments to the bill. The minority leader acting fully within his rights under postcloture procedure blocked any efforts to improve the bill.

But the chairman of the Labor Committee and the majority leader pledged that the conferees would fight for two particular amendments. The first amendment by Senator PRYOR would have made clear that a mere statistical imbalance in the work force is not sufficient to make out a violation of title VII. The second amendment by Senator BOREN and others would have set a cap on punitive damages at the greater of $150,000 or compensatory damages.

Let me make this clear. I personally oppose any cap on damages. I believe that the jury or the court has the right to determine for itself or themselves what that amount should be. I particularly resent a cap on damages assessed against a person who has intentionally discriminated against women and minorities.

I think it is fair to say, Mr. President, the majority of Senate conferees oppose any imposition of any cap. At the conference it became clear that a majority of the House conferees vehemently opposed any cap, as well.

Let us be realistic. What occurred was this: pledges have been made on the floor of the Senate to Senator BOREN, to Senator PRYOR, and to a group of other Senators that those amendments would be provided for in the conference report. And those of us who were on the conference committee, even though we did not agree with those particular amendments, felt that we were honor-bound to make good on those pledges. We fought hard for that cap. We argued, we pleaded, we cajoled, and, yes, it is fair to say that we twisted a few arms until we were successful. We said to the civil rights community leadership, "We made a commitment, and you are in no position to try to prevail against us, to keep us from living up to that commitment."

They were not in agreement, but the good soldiers that they are, they recognized that commitments made by those who are leading the effort on their behalf are commitments that have to be kept. I can tell you that our efforts were not popular with many advocates of this bill or with our House counterparts. They were not popular with us, ourselves. But our credibility was at stake, and I am pleased to say that we honored the pledges made to assert the will of the majority of the Senate.

The pledge made on the floor of the Senate by the majority leader and by the chairman of the Labor and Human Resources Committee was kept. I think any caps on damages are unsound policy, but the conference report includes both the Pryor and the Boren amendments. Senators PRYOR and BOREN and other Senators who were concerned about those particular issues have a right to be comfortable with this conference report.

We went the extra mile in this conference report. We agreed to have the bill recommitted to conference, after it

had come out of conference committee, in order to make seven additional changes. In fact, the package of changes we incorporated were agreed to by Senators SPECTER and HATCH. Senator HATCH indicated he could support the bill with these changes, if the administration would support the bill.

Unfortunately, the administration remained unsatisfied. I am never quite sure who the administration is. I do not really believe it is the President. It is some of those big honchos down there at the White House who first find out what the business community wants and then say, "Yes, sir, whatever you say." And they say, "No, we are not satisfied with the bill as it is." Then they go to the President and say, "You have to veto the bill because some of our heavy hitters in the business community are not satisfied with it."

So I understand the fact that my distinguished colleague from Utah, Senator HATCH, has no choice but to oppose the bill, even though the conferees accepted his suggested changes. But I sincerely believe that the specific substantive details are not the issue here. We have been negotiating for months with the administration seeking a consensus bill. We do not have a consensus, because the White House operatives simply do not want a consensus. They want to kill a civil rights bill. If the White House wanted a deal, I am confident we could work out our remaining substantive problems in short order.

But they do not want a civil rights bill. The President of all people, the President who promised so much as a candidate, is being misled by some of those who are closest to him in the White House. Make no mistake about it, this is not a substantive problem; it is pure power politics at its most cynical. It is power politics with those who gave $100,000 and more to the President in order for him to get elected. Those who have the ear of those in the White House are calling the tune. Apparently, the White House operative believe that the administration is somehow invincible. Maybe they ought to read the recent polls to indicate to them that the White House is not invincible and that the American people are losing confidence in their President. Maybe they will understand that should the President veto this bill—which I hope he will not—his position in the polls will go down even further. Oh, yes, maybe it will go up a little higher with David Duke and some of his ilk. But the overwhelming majority of Americans are not going to be happy if President Bush vetoes this bill.

Apparently, these operatives believe that a foreign crisis gives the President the license to protect the rich over the working class on tax policy, and to side with corporate lobbyists over the victims of discrimination in the area of civil rights. These operatives are consistent, but they are out of tune with the American people. They are living in their little glass-enclosed offices. They are wrong.

The American people want to do right on the issue of civil rights, and this bill does right on the issue of civil rights. This bill was good enough for Senator HATCH, until the White House made it clear that it was not good enough. It is truly unfortunate that the administration wants to play such macho games. "Do it this way, or else I will veto the tax bill, and I will close down the Government. Do it this way, or I will veto the civil rights bill. Do it this way, or I will veto this bill or that bill."

The people of America elected the President to be the President of all the people, not to be the President of just a few who have his ear in the White House. That is not what the people of America look for in their President. We are not looking to read your lips, Mr. President, or your hips, nor to listen to your quips.

Mr. President, what we really want is a President of all the people, and you have an opportunity to reassert that leadership with respect to the civil rights bill. It is reprehensible when the arrogance of those who are closest to the President is used to derail the restoration of our most cherished civil rights for millions of women and minorities. I hope that President Bush has not endorsed this approach. I am confident that we will send this bill to President Bush with overwhelming bipartisan support. When the President reviews this bill personally, which I hope he will do, he should ignore all the labels and the rhetoric. It is absurd to call this bill a quota bill. That is just not factual. That is the unfounded chant of the corporate lobbyists who are seeking to kill this bill at all costs.

Instead, I am hopeful that President Bush will focus on the purpose of this bill: To restore the dream of every American, that in this great Nation you will get a fair chance to prove yourself, regardless of your race, your creed, your gender, your national origin, or your color. That is what this bill is all about. It is a bill to provide equal opportunity for all Americans.

If the President understands that true purpose, then President Bush should sign this bill. Maybe some detail of the bill is imperfect, and I am willing to concede, without agreeing to any particular provision, that some detail of almost every bill is imperfect. But the legislative process is one of give and take, and it is up to the President to recognize that, for years, we have been waiting to pass this legislation. And if the majority of the House and Senate send it to him, an overwhelming majority in both bodies, it should be signed.

I hope my faith in the President is justified, because this will be his first real test of whether he wants to be the President of all the people. There is no secret about the fact that the President is losing that confidence out there. The polls tell us that. The polls tell us that his position with respect to protecting the wealthy against taxation and putting the burden on the middle class and poor is not working in his favor.

An overwhelming majority of Americans support him in his efforts in the Middle East and I, too, support him in his efforts in Saudi Arabia, although I disagree with him in his most recent condemnation of the State of Israel. I think he is wrong. I do not think he understands. I think he is misinformed.

Generally speaking, I support him with respect to his actions as far as Saudi Arabia and protection of Saudi Arabia and standing up to Saddam Hussein are concerned, and so do, I say, an almost unanimous group of Members of the Congress.

But his actions on this bill will tell us a great deal about the real George Bush. In his public life he has had a split personality on civil rights. I am really not sure where he stands on civil rights or what is in his heart.

On the one hand, in his 1964 unsuccessful campaign for the Senate, candidate Bush publicly opposed the landmark Civil Rights Act of 1965. On the other hand, in his 1988 campaign for the Presidency, George Bush publicly promised that civil rights would be "at the top of the agenda" of his administration, and he would "guarantee his personal involvement in civil rights."

President Bush, it is now time for you to live up to that commitment, to take a personal involvement in civil rights. Quit listening to all those honchos sitting around those fancy offices at the White House; quit listening to the business council; take a personal involvement in civil rights.

I personally believe you to be a decent man, Mr. President; I think you are a humane person and I think you have a feeling for your fellow men and women. I think it is now time, Mr. President, for you to take a stand, and your actions will speak louder than words.

The American people do not understand words about quotas and all these other little legal gimmicks that are talked about and all the various legislative language that is used by all of those who are saying this bill should not be signed.

The Civil Rights Act of 1990, simply stated, is the most important civil rights bill since the Civil Rights Act of 1964.

If you veto this bill, Mr. President, and you revert to your earlier anticivil rights position, then you will have proven that your kinder, gentler campaign rhetoric was nothing more than politics at its worst.

Mr. President, you lead the Republican Party. Your decision on the Civil Rights Act of 1990 will tell the Nation about the heart and soul of the Republican Party. Is the Republican Party truly the party of Lincoln or has it become the party of David Duke? That is what the question before us is all about.

Earlier this month I voted to confirm Judge David Souter to become the ninth member of the Supreme Court. That was not a popular vote among people I consider to be my friends and supporters. David Souter was far from a perfect nominee, and I expressed great doubt about his views. In the end, however, I supported his nomination because I believe he would be a fairminded, open jurist.

I am sure that from the administration perspective the Civil Rights Act of 1990 is far from a perfect bill. The White House has expressed grave doubt about certain provisions. For instance, supporters of this administration, particularly the business community, are clamoring for a veto.

But in the end, the President should show leadership by recognizing that this is a fair bill. It is a bill which should become the law of the land. The American people will be watching. Minorities and women are looking to their Government for help, and Congress will not deny their legitimate pleas.

Mr. President, do not duck the issue with a pocket veto. Do not wait until Congress has gone home and then make a pocket veto as if that were not the same as an outright veto. Mr. President, sign this bill into law. If you do, we can move forward together as a Nation to ensure equal opportunity for all Americans.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I want to say a few words with regard to the comment of my distinguished colleague from Ohio. As he knows, I have inestimable respect for him. He is hardworking, indefatigable, and believes in what he is doing and gets sometimes worked maybe into a little too much rhetoric.

I just want to say the Republican Party is not the party of David Duke. We repudiated David Duke. The Republican Party has a wide diversity of people in it, but I might caution to point out to the distinguished Senator from Ohio that the Republican Party is also the party of JIM JEFFORDS, ARLEN SPECTER, and my good friend, JACK DANFORTH, three of whom have been with him on the bill from the beginning, but all of whom recognize this bill needs work and all three of whom have been working consistently day in and day out to try and correct it.

I might also mention the Republican Party is the party of Abraham Lincoln.

I have been reading about the Civil War each night recently, ever since the wonderful PBS documentary. I have to say at that particular time it took a lot of guts for Abraham Lincoln to stand up and do what he did; even if he was in a quandary over how to do it.

But that is what our party represents.

I also have to say that linking President Bush with David Duke I think was hitting below the belt just a little. In fact, I would say a great big whole bit. And to throw my name in there also is highly offensive to me. If I stand for anything in this body, I stand for equality, and I believe very, very strongly in civil rights.

I might mention that many of the people who voted for David Duke down there in Louisiana were not Republicans. And many of the people who reelected my dear friend and colleague from Louisiana, as he should have been, were Republicans who voted for a Democrat because they thought he was right; they thought he would be better.

We have our differences on this bill. There is no question about it. Nobody has worked harder than I have to try and resolve those differences, but they still exist. And the President happens to be right. This bill is still a quota bill.

If this bill passes and his veto is overridden, or he does not veto it, I hope that the Supreme Court will keep the employment management laws on an even keel. I hope they will do what is right.

Mr. KENNEDY. Mr. President, will the Senator yield on that point?

Mr. HATCH. If I could finish and get my emotional statement out, too, OK; I will be happy to then yield.

Mr. KENNEDY. I missed the earlier emotional statements. Now you are getting my emotional statements again.

Mr. HATCH. I know I get to my good colleague, because he gets as emotional as I do sometimes.

I think it important here not to make accusations about the President. He is sincere and has good cause to be concerned about this bill.

The distinguished Senator from Ohio is sincere, and he has good cause to be sincere, and I tell you no one is more sincere about this than I am. I tried my best to try to put this thing together in a way that would be acceptable to everybody. I have to admit I plain-out failed, and I personally failed from my own perspective.

Maybe we could straighten this out. I do not know. But, as of right now it is not straightened out. And anyone who looks at it fairly clearly knows the President is not vetoing it because he does not want to do what is right with regard to civil rights; he is vetoing it because of all these reasons I cited in my earlier remarks.

Now, having said all of that, I hope that what we can do is keep this debate on an even keel and talk about what the law is, what the facts are, and what the language is. Use the compromise for anything you want to use it for.

I have to say it is a failed version of what I wished we could have done better on. But it was a sincere one and it certainly did move the bill forward.

I commend my colleagues for at least being willing to look at that language and to adopt it. But it was not enough. I have to confess I think we read it and studied it and reread and looked at it; it was not enough.

As much as I wanted to be with my good friend, Bill Coleman, on this issue—and I did, and I do—I have to say that the bill still does not merit this kind of support. I do not think that the problems have been resolved. I do not think the problems have been resolved on the other side of the floor either for those who had questions about this bill. I just wanted to make this clear. I give credit where credit is due.

I note the distinguished Senator from Vermont wants to speak and I am glad to yield.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, first I commend the Senator from Utah for his efforts in trying to bring us a bill that the President would sign, and I am still hopeful that the President will do so. But there is no question that the efforts he has made have brought us closer to a resolution of this problem.

Mr. President, at the beginning of this Congress, we were instructed that "America is never wholly herself unless she is engaged in high moral principle." There is no higher moral principle in a democracy than ensuring equal rights. That is the very principle that we seek to strengthen today.

I rise again in support of the Civil Rights Act of 1990. I am both hopeful and frustrated. My hope is that the conference committee, with the help and input of many others, both in and outside this body, have finally arrived at a version of this legislation which fully satisfies all legitimate concerns on the part of the President and the administration. My frustration stems from the apparent fact that no matter what we do to modify the language of the bill to address their specific concerns, it will never be enough for some

of my colleagues and the administration. In fact, we now have received a renewed veto threat issued by the Attorney General in response to this latest modification of the bill. With so much effort put in by the Senator from Utah to make it acceptable.

The differences in language between the parties—between what we are proposing and what the administration, at various times, has said it will accept—are slight. In some respects the differences are significant to be sure, but there is no wide gulf between the respective points of view.

We have again spent hours upon hours in an effort to see if we could draft language to accommodate the concerns of all parties. Senator SPECTER has most recently been a particular tower of strength in refusing to allow this measure to die. He has been tireless in pushing us onward toward resolution. Senators HATCH, KENNEDY, and DANFORTH have been there as well.

I have seen firsthand the good faith that has characterized the actions of the parties. There is not a shred of doubt in my mind that the President sincerely wants a solid civil rights bill that he can sign. I do not have that same conviction regarding the interests of some of his advisors. Nonetheless, these same advisors have devoted a tremendous amount of time and energy to discussions and negotiations on this bill.

Unfortunately, we have not been successful in finding the particular language combination which will unlock the administration's resistance. As I stated when we last addressed this bill on the floor of the Senate, I remain dedicated to working with my colleagues and the administration to bring about the desired result of an agreement on this legislation. I believe that the version of the bill that we are now presenting to the body should be accepted by the administration for it meets their stated concerns head on.

The conference committee compromise language, as well as a summary of that language, has been submitted for the RECORD. Other Members have recited the list of changes made and I do not intend to duplicate their efforts. Rather, I respectfully refer my colleagues to the underlying documents at this point for an overview of where we now stand. Six or seven major issues have been resolved with these language changes. As a result, the overall profile of this bill has been substantially modified.

I want to spend the rest of my time today discussing the issue of quotas, the single issue on which it repeatedly has been represented that this bill will be vetoed. In so doing, I wish to focus on two things: the arguments made by the Attorney General and why he is wrong.

As a short-term political matter, his letter is quite sound. Almost everyone in this country opposes quotas—wrap that label around something and it is sure to be unpopular. But as a legal matter, his opinion is quite unsound. No variation of this legislation would create quotas, and the Hatch amendments adopted by the conference committee make that even clearer than it was before.

For the benefit of my colleagues who have understandably been consumed by other issues over the past few weeks, let me try to shed some light on the issues raised by the Wards Cove case and how the bills tries to resolve them.

First, it is important to remember that there are two types of title VII discrimination suits—intentional discrimination, also called disparate treatment cases, and the so-called disparate impact cases, which involve unintentional or resultant discrimination. Nothing on the face of what they do seems to be intended toward discrimination but it results in discrimination.

In 1971, a unanimous Supreme Court joined a decision written by Chief Justice Burger in Griggs versus Duke Power Company, which has formed the basis for disparate impact employment discrimination law over the past decades. In that decision, the Court held that not only were overt or intentional acts of discrimination illegal, but practices which appeared neutral on their face but operated to exclude a class of individuals were also illegal.

In Griggs, the employer instituted high school diploma and other educational requirements that disproportionately excluded blacks. However, the Court reasoned that even with this discriminatory impact, the practices should be permitted if they were based on "business necessity." Thus, in Griggs and the cases following Griggs, an employer was obligated to show that the challenged practice was related to the job for which it was applied, or to successful performance of that job. Thus, at that point, the entire dispute centers on whether the employer will be able to continue using a practice which does, in fact, discriminate. The Duke Power Co. could not demonstrate that its diploma requirement was related to success on the jobs in question, entry level laborer's jobs. As a result, the requirement was struck down by the Court.

In Wards Cove versus Atonio the Court changed the rules regarding disparate impact discrimination by severing the nexus between "business necessity" and job performance or job relatedness. In its place the Court inserted a standard that would allow continued use of employer practices which disparately impact on minorities—created discrimination, in other words—and women so long as they "serve in a significant way the legitimate employment goals on the employer," a much, much broader standard.

The reason that this lesser standard is opposed by the civil rights community is that it could provide justification for practices which had been previously outlawed or were viewed as inherently suspect under the more stringent Griggs standard. Of particular concern in this regard is the possibility that actual, or simply perceived, business costs—the costs of doing business—would once again be raised as excuses to deny employment opportunities to women. Most of the concern here is about discrimination against women, and our colleagues should be aware of that.

Limiting business costs is inherently a legitimate employer goal. Obviously, employers want to make a profit. It is simple economics that, to the extent they are able to control or suppress the cost side of the equation, their profitability will be enhanced. The question is whether such cost control incentives could be supported under the more lenient Wards Cove standard as a basis for permitting continued use of discriminatory employment practices. Under the stricter Griggs standard, such a rationale has repeatedly been rejected. Thus, if the answer is that Wards Cove would permit such practices, and I believe that this would be the case, we indeed have taken a step backward.

In discussing this issue in the past, I have often used the example that the cost-based justifications available under Wards Cove would permit restrictions by employers on the employment of single parents, a policy which inherently would have a disparate impact on women. Because of the health plan cost savings generated by providing coverage for fewer dependents, Wards Cove very likely would permit this policy of discriminating against single parents, mostly women. The suggestion of this possibility has often been disparaged and called unrealistic. "Employers would not do those sort of things" the opponents of the bill tell me; "give us real examples."

However, I do not have to make up examples; history tells us that these things do occur. Prior to the enactment of title VII, and even after it was on the books, employers often provided medical and disability benefits to employees on a discriminatory basis. Plans frequently excluded the dependents and spouses of female workers while covering those of male employees. Plans provided coverage to female employees only if they first established themselves to be "breadwinners" or "heads of household." Still other plans extended medical insurance for pregnancy to wives of male employees but not to female employees. Employers also sought to discriminate against women in the basic em-

ployment decision by such policies as refusing to hire women with preschool age children while imposing no parallel requirement for similarly situated fathers. These were cases that occurred and these are cases we believe would now be allowed under the broad definition of Wards Cove.

Such employer practices are clear examples of disparate treatment and, for the most part, have been found to be outright violations of title VII. In many of these cases employers argued that their policies excluding or limiting the participation of hiring of women were justified by the greater cost of employing and providing benefits to women and their dependents. This defense has been expressly rejected by the EEOC in its regulations, and by the courts in the cases under title VII. It is not paranoia on the part of the civil rights community to fear a return to the days when this debate had merit. The change in disparate impact law which the Court made in the Wards Cove decision will have that result. On the other hand, this bill will take us back to the tried and true standard of Griggs that worked so well over the past 20 years.

Twenty years after Griggs, and because of the decision in Wards Cove, we are now being threatened with a veto for trying to carefully define the term "business necessity." I ask you Mr. President, is this "the Nation refreshed by freedom [that] stands ready to push on?"

Since we are now engaged in a political argument, I suppose one way to look at this issue is to view the question before us not as one of quotas, but rather as one of loopholes. How many loopholes will we allow for those who discriminate? How many loopholes can we accept as the price of this bill?

This is the real issue between the civil rights supporters and the White House. Some of these supporters think we have already gone too far. I am not among them. But, after months of trying to work with the administration; of trying to understand its position; of making concessions; I think we have gone far enough and should go no further.

Our first proposal was tied to job performance. Critics, including the administration, argued that it failed to contemplate layoffs. For example, if an employer had a plant in Vermont with mainly white workers, and one in Los Angeles with mainly Hispanic workers, and for economic reasons had to close one, would it create a disparate impact to choose the LA plant? A novel concept, there are no cases on this, but we were willing to fix it. So the bill was changed to allow an exception here. The same issue was raised by the administration in the case of bankruptcy. We said you are right, OK. We will give you a loophole there.

The White House argued that we had to incorporate yet another loophole, patterned after the Court's Beazer decision. OK, another loophole, we will give it to you. Thus, even though they may have no bearing on job performance, rules relating to tobacco, alcohol, and legal and illegal drugs were sanctioned by the bill under a much looser standard.

We had gone from a loophole the size of a Yugo to one that you could drive a dump truck through, but it still was not enough. The administration wanted to turn the bill on its head, making the Griggs standard the exception, and the loophole the rule. They wanted a loophole that any employer could drive a convoy of double-bottoms through with room to spare.

Those of us who had been involved in the discussions with the administration each had our own sense of this over the past few weeks. For me, I was not convinced until I saw the final proposal received from the administration on September 21. There, spelled out in black and white, was an incredible step backward, in terms of both the negotiations and the law.

This proposal would have sanctioned not only the loopholes we had agreed to, but some fairly outrageous ones as well—legitimate customer preference, for example. The customer is always right? Even if he does not want to deal with Jews, women, or blacks? That is all right because in order to help our bottom line we will make more sales if we discriminate.

The one I like even better is "promotional potential." Well, if Mr. Griggs was going to be President of Duke Power someday he was going to need a high school diploma, but all he wanted was to have an entry level laborers job. Good grief, we might as well repeal disparate impact altogether if we pass the bill in the way it was proposed in their last offer by the administration. At least that would be a more honest approach.

What was unspoken was just as damning. Discriminatory employer practices would be justified and allowed to continue, despite disparate impact on minorities or women, so long as the employer's "legitimate employment goals are significantly served by—even if they do not require—the challenged employment practice." Those are words from Wards Cove. What is more legitimate than controlling costs; and what costs are harder to control than health care?

In the face of that type of proposal, is it any wonder that the civil rights community fears backsliding on individual employment rights? No, Mr. President, it is not paranoia to want legislation to clarify and reaffirm the protections of title VII; rather it is simple common sense.

Mr. President, having focused on the principle area of disagreement, I think two things must be kept in mind.

First, disparate impact cases represent a small fraction of title VII cases. The best estimate I can come up with is about one-half of 1 percent of all cases before the EEOC are disparate impact cases, and that probably overstates the situation.

Second, there are in this legislation, perhaps suprisingly, substantial areas of agreement.

We agree with the administration that the Patterson case was wrongly decided. In that case the Court came to the conclusion that a Reconstruction-era statute provided protection in the formation of a contract, but not in its execution. It was an absurd result. Under the Court's ruling, you could not discriminate in hiring under the statute, but could freely engage in the most egregious conduct the next day.

We agree with the administration that women need greater protections against intentional discrimination, particularly with respect to on-the-job harassment.

We agree with the administration that the clock should toll in title VII seniority cases only when a person becomes aware of a harm, not when a potentially complex policy is implemented.

In fact, we agree with President Bush that he should not sign a quota bill or one that will create a lawyers' bonanza. This bill will not create quotas and it will not line the pockets of lawyers.

This bill will be a resounding no to the bigoted politics and employer practices which are still a part of the fabric of this country.

I hope my colleagues can show the same outrage at disrespect for equal rights that they showed for disrespect for the flag. I hope my colleagues will roundly support this legislation. I hope especially that the party of Abraham Lincoln will reaffirm its heritage.

This body and the other body will do the right thing and pass this conference report. I hope my President will do the right thing as well. We are engaged in high moral principles, and we need him to join us.

We cannot let a well-tried fabric of law protecting those principles be punched full of loopholes. This is not a quota bill; it is a question of how many loopholes should be allowed. We have been pushed to add loophole after loophole. No more loopholes. Enough is enough. The fabric of protection is punctured but sound. Let us not consent to destroy it. I urge Senators to show the President that he should sign this bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, I am pleased to join in support of this conference report. But before I talk about the Civil Rights Act, let me take 1 minute because I see our colleague from Missouri on the floor. He had an op-ed article in today's Washington Post urging certain steps be taken so that in the name of religion, violence is not used around the face of the Earth. I think it is a very significant piece. I ask unanimous consent to have that particular statement printed in the RECORD at this particular point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 16, 1990]

KILLING IN THE NAME OF GOD

(By John C. Danforth)

Where are our religious leaders when our need for them is desperate? At the very time when they should be the most vocal, they seem tongue-tied. What a change has overcome them, and at the most inopportune time imaginable.

Since Moses, religious leaders have shown no reluctance in telling politicians what to do. What is called the "prophetic ministry" has often been resented by those of us who are in government, but it has been an important counterbalance to the excesses of power politics. While governments have attended to the practical needs of military strength and factional accommodations, religious groups have insisted on the claims of peace and social justice. But, rather suddenly, it is the politicians who have championed a just and stable world order, while responsible church leaders have been mute in the midst of truly dangerous religious fanaticism.

Consider the global response to Iraq's invasion of Kuwait. George Bush and Mikhail Gorbachev have met in Helsinki to issue a joint condemnation of aggression. The United Nations Security Council, including the United States, France, Britain, the Soviet Union and the People's Republic of China, has adopted nine separate resolutions offering not only a united front against a specific aggression but the hope of a new world order based on international law. Meanwhile, the heretofore secular Saddam Hussein attempts to cast his ambitions as a religious crusade, and Iran's religious leader, the Ayatollah Ali Khamenei, calls for a holy war to free the Middle East from the Western infidel.

Indeed, in most if not all of the world's trouble spots, religious extremism is at the heart of the problem. In Israel, Moslems throw rocks at Jews and Jews shoot back at Moslems. In the chaos of Lebanon, religious factions are so numerous it is difficult to keep track of them.

In Northern Ireland, Catholic and Protestant Christians bomb each other as they have for decades. Hindu India and Moslem Pakistan face off against each other, offering the prospect of nuclear weapons if necessary to prove their points. And within India, the Hindus fight the Sikhs. In East Timor, Moslems slaughter Catholics. In Sudan, Christians, Moslems and animists kill each other.

All of this killing is done with the absolute certainty that God wants it so. If thine enemy offends thee, rub him out. Indeed, it is believed that to lose one's life in God's cause is to die a martyr's death and win a reward in heaven.

We in the West, enjoying a passable degree of religious tolerance, have tended to dismiss news accounts of holy wars as shocking occurrences in exotic places. Yet, when swastikas are painted in a Jewish school in Maryland, the distant is brought home. And, when fanatics across the world arm themselves with nuclear and chemical weapons and with the ballistic missiles to deliver them, exotic places are hours away and local upheavals become global emergencies.

The notion that God demands blood does not just pop into the head of the average person. Bloodshed is an acquired religious taste. It is acquired because it is taught by the ayatollahs of the world, by the Ian Paisleys and the Meir Kahanes. It is taught, and it can be untaught. But it cannot be untaught by silence.

Where are the voices of interfaith reconciliation in all this turmoil? For Christians, the concept of the Prince of Peace is largely a Christmas card slogan. The loudest voices are those of religious crackpots, while church councils debate who should be ordained and what should be deleted from hymnals and what resolutions should be dispatched to members of Congress.

It is well and good that religious bodies express their views on a variety of political subjects. But it is not well and good that the various faiths remain mute in the face of religiously inspired calamity. As a matter of urgent world necessity, religious leaders must speak loudly and clearly on what their faith demands and what it condemns. One would hope that the most insistent demands from all faiths would be for humility and reconciliation and love. One would hope that the strongest condemnations from all faiths would be for intolerance and hatred and holy wars.

If the Security Council can bring together the United States, the Soviet Union and the People's Republic of China for a common expression of commitment to international law, surely religious leaders can devise a forum for a common commitment to religious peace. Granted, religious councils have been dilly-dallying about ecumenism for generations without much to show for their efforts. But perhaps a few nuclear warheads in the hands of fundamentalists can spur good people into action.

Specifically, here is one suggestion that may save a lot of lives. The pope should issue an invitation to an interfaith section of widely recognized religious leaders. He should present a draft document stating that violence in the name of religion is contrary to the will of God. He should seek the active support of as many leaders as will join with him for such a document. Finally, he should call for the creation of a standing forum of religious leaders to address issues of religious violence. In short, just as the Security Council addresses political causes of international conflict, so religious causes of conflict could be addressed by a council of religious leaders.

Would such an invitation be rejected by some of its recipients? Probably. But some would surely accept, and even a small start is worth trying. Where religion is the problem, it is up to religious people to seek the answers.

Mr. SIMON. Mr. President, I want to commend Senator KENNEDY, first of all, for his leadership and the incredible amount of work he has done on this Civil Rights Act of 1990. This bill is a real tribute to his work. Senator JEFFORDS also has been a stalwart throughout on this process. Let me add two others who deserve special commendation: Senator SPECTER, who has tried to work out a compromise that would be acceptable to the President—I gather as of right now that is not achieved, but we hope there will be a reexamination in the White House—and also Senator METZENBAUM. I have been pleased to be a cosponsor of this legislation and serve on the conference committee.

Let me just add here, because, as each of us in the Senate knows, our staffs do so much work: Cheryl Smith, of my staff, has headed my employment subcommittee for some time now, and has been doing a superb job, not only on the Civil Rights Act but on a great many other things. In fact, she has been doing such a superb job that Gov. Doug Wilder has heard about her and is stealing her from the U.S. Government. I am sorry to lose Cheryl Smith, but I commend Gov. Doug Wilder for his perception and recognition of someone of real talent.

I just ran into former Secretary of Transportation Bill Coleman out in the lobby. Here is a prominent Republican who has been working on the Civil Rights Act, who says this is the direction we have to go if we are going to create opportunity in our country.

Arthur Fletcher, appointed by President Bush as Chairman of the Civil Rights Commission, says we ought to be passing this bill.

Why is it necessary? We have had six decisions by the U.S. Supreme Court that unquestionably erode basic civil rights in this country.

The Court negates what I think was clear congressional intent.

The sixth decision, Richmond versus Crosan, is not part of this bill. That case would be overturned by a separate bill and I have the honor of being the chief sponsor of it. I hope next year we can move that bill; that is, overturn the Croson decision, concerning minority business setasides. That decision has substantially eroded opportunities for minorities and women to have public contracts and to have opportunities in our society.

The most fundamental of those five decisions that the Civil Rights Act turns back is the Wards Cove versus Atonio decision that reversed key aspects of the 1971 Griggs versus Duke Power Co. decision. The decision issued last year by the Supreme Court, the Wards Cove decision, involving an Alaska cannery in that State, clearly is a major step backward. As I read both the majority decision of the Supreme Court and the dissenting opinion of the Court, it baffles me, frankly, to figure out how the Supreme Court came to its conclusions.

The issue of quotas has been raised on the floor. We have made it so clear

that there are no quotas in this bill. I do not know what else can be done. Senator PRYOR, our colleague from Arkansas, suggested that we should make it more clear, and so in conference we made it more clear. We not only made it clear there should not be quotas, but we said nothing in this bill should encourage employers to adopt quotas.

Then I read the letter from the Attorney General. I have great respect for Attorney General Dick Thornburgh, but he says that the changes made in conference "make it even more of a quota bill." How anyone can come to that conclusion I just cannot understand. I know the Attorney General cannot read all these things himself, but he ought to be hiring somebody who understands the English language very clearly. Then after it is pointed out that we say clearly no quotas are involved, the Attorney General's letter says that it might result "in quotas being adopted surreptitiously."

I do not think we are going to have any surreptitious quotas being adopted in this Nation. We did not have that under Griggs versus Duke Power. That is just not a legitimate argument, and anyone who uses the quota argument, frankly, is straining to find some excuse to kill the bill.

The arguments, as I listened to them on the floor today, have a very familiar echo. I was elected to the State legislature when I was 25 years old, a green, young State legislator from southern Illinois. As my colleague from Missouri knows, southern Illinois is very southern. My home is deep in southern Illinois, 170 miles from the Mississippi border, 300 miles from Chicago, south of Richmond, and south of Louisville.

When I was elected to the State legislature, I was the first State legislator from southern Illinois to sponsor the establishment of a civil rights organization. Then it was called the Fair Employment Practices Commission. We heard the same arguments; if we pass that, we are going to have quotas. I heard one phrase this morning that certainly harks back to those old days. It says, employers cannot choose the most capable people. There is not one word in this bill that says to employers, you cannot choose the most capable people. Obviously, they can.

What this bill does is to make opportunity for everyone in this country. I do not mean to sound partisan, I say to my colleagues on the other side of the aisle. I think we have lost some ground in the last 10 years. We were making progress in the area of civil rights and in creating opportunities for others and being sensitive to those less fortunate in our society. But, for whatever reasons, and I am not suggesting that Congress does not play some role here, but I think the national leadership under President Reagan was not sensitive to this area. At best, we reached a plateau instead of progress. I think others would analyze it as worse than simply a plateau.

A very fundamental question we face over and over again in this body and in the other body is: Are we going to provide more opportunities for Americans who face certain problems, for the minorities, for people who are disabled, for women, for others? That is really the basic question. I think we ought to come down on the side of opportunity. That is what America is all about.

We live in a society—and it is one of these things you do not see on the front page of any newspaper—where we are today more segregated on the basis of economics than at any point in our Nation's history. It is true of every community with the exception of very small communities. I do not care whether one is a staff member here or whether one is a Senator from Nebraska presiding, or the Senator from Missouri, who is here. Wherever we live today, unless we live in a very small town, the chances are those who live around us are very similar in economic status. Those who are less fortunate are no longer living at our doorstep, and we have become less and less sensitive to those who face real problems.

This is a way of saying, let us become a little more sensitive once again. Let us not listen to these same old arguments that have been used against every civil rights bill that we have ever had. I hope that my colleagues on the other side of the aisle and those in the White House who want this bill signed will stand up. If the President vetoes this bill, that is a much greater comment on the merits of the administration than it is on the merits of the legislation.

This bill says let us make opportunity available for all Americans. That is it, purely and simply. For this Congress and this administration not to stand up and say that is what America is all about, we are going to make those opportunities, that would be a sad day. I hope we do not see that sad day. I hope we agree to this conference report overwhelmingly, Mr. President.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I would like to try my hand at explaining my understanding of the most contentious issue that has been before us as we have struggled with this particular legislation. The issue is the question of so-called disparate impact cases, and especially the assertion by opponents of the legislation, various people who have wrestled with the legislation, that in order to deal with the disparate impact question, business will be forced to impose quotas because of this legislation.

First, in order to put the whole issue of disparate impact cases in perspective, it is important to recognize how infrequent these cases are.

Of all employment civil rights cases in court only one-half of 1 percent over the last 4 years has been a class action case. Almost never is a disparate impact case not a class action case. And a fraction of the class action cases are disparte impact cases. Therefore, what we are talking about is a fraction of a half a percent of civil rights cases. That is what the entire controversy is about.

I am not suggesting that it is not an important controversy, but I am suggesting that we have become very focused, tied into knots really, as we have discussed this matter over a number of cases that is very very small in the context of the sum total of employment cases relating to civil rights.

What is a disparate impact case, and what is the importance of a disparate impact case? I think that this can be understood maybe by thinking up an example. Let us suppose that an individual who is black goes to an employer and seeks a job, and the employer turns that person down. How does that person make a case that the refusal to offer him a job is based on discrimination? How is such a case made?

If a Member of the Senate were in that position or if a Member of the Senate were a lawyer retained by somebody who claimed that he was discriminated against on the basis of race, how would you go about putting together your case to prove that this was a case of discrimination as opposed to the employer saying, "Well, you just do not appear to be up to the job and you do not have the qualifications that I want?" How do you make that kind of case?

One way to make the case is to say that this employer has hired 100 people over the last year and all of the people who have been hired are white. There have been 30, 40 blacks who have gone into the office, seeking to be hired. None of them have succeeded. And everybody who goes in who is white has succeeded in getting a job. And under the law, if the potential employee can show that, and also show that certain employment practices are the cause of that, then this person has put on a prima facie case for discrimination, for violation of the law.

All right. So then what does the employer say? Does the employer say, "OK, fine, you have got me, I lose?" No. Under the law—that is, the Civil Rights Act of 1964—the employer then puts on his evidence, and the evidence is that the business practices of the employer are justified by, and the words are "business necessity."

That is the question. What constitutes a business necessity? And how can the employer show that the employer's practices are in fact justified by business necessity as opposed to simply a desire to discriminate?

Let us suppose that the employer is in the business of moving pianos in New York City. And it turns out that the employer has 100 employees, and all of them are male. A woman comes in. The employer says, "Well, look, if you are going to work for me, you have to be able to carry 300 pounds up four flights of stairs." The woman says, "Well, no women are ever hired." That is a disparate impact case. Clearly under those circumstances an employer can show business necessity; namely, that the employer's business is moving pianos. Somebody has to be able to carry the things, and therefore a strength test is reasonable, and the fact is that it is more likely than not that more men than women can carry a 300-pound piano.

On the other hand, just to take another extreme, let us say that the employer says, "All right, my business necessity is that I want my retail operation to be popular with the public. And I have found that the public would rather have white people than black people, and that if I hired black people my business would fall off." Does that constitute a business necessity? And I think that all of us would say no, that is discrimination. If the only decision that the employer makes is for the sake of race, for the sake of sex, clearly that is on the extreme side of discrimination.

So the question is where between carrying the piano up the stairs and the physical appearance of the employee, where is the line drawn in proving business necessity to justify disparate impact on various groups of people in employment? That is what the whole issue is about. And as I say, the whole issue involves a very small fraction of the total number of employment cases in civil rights.

The meaning of these words "business necessity" was formulated by the Supreme Court back in 1971 in a case called Griggs versus Duke Power Co. That definition in the Griggs case was assumed to be the law. There was very little argument with it. It was an established principle of law. Everybody cited the Griggs versus Duke Power Co. case in arguing whether or not a particular business practice met the business necessity test.

Griggs was there going along just fine until 1989. And in 1989 the Supreme Court decided a new case, and the case was Wards Cove Packing Co. versus Atonio. That case changed the definition of "business necessity."

That is what we are here about because it was widely recognized that the Wards Cove case shifted the definition of business necessity so that it was too easy for an employer to make the case for discrimination. The Wards Cove case said that "the dispositive issue is whether a challenged practice serves, in a significant way, the legitimate employment goals of the employer." Well, the legitimate employment goals of the employer might be to hire people who the public would like. So it could be argued, I suppose, that under the Wards Cove doctrine, blatant discrimination on the basis of race or on the basis of sex was permissible if business was better because of the discriminatory practice. Because of this wide open definition in Wards Cove it was believed by many, many people, including the administration, that the old understanding of the Griggs case had been gutted by the Supreme Court.

There was a wide recognition that we should restore the law to what it had been ever since 1971 under Griggs. And that is what we have been debating, exactly how should the law be restored to the days of the Griggs case.

The Supreme Court decision in the Griggs case is maybe—I do not know—10, 12, 15 pages or so in length. Obviously, in any case, it is not possible, and highly impractical to simply codify word for word the entire text of the case. So much of the battle that has been going on for the last year or so has been to find those words within the Griggs case that various people believe embody its meaning. And what we have been doing now for the past, I do not know how long, at least a half year since I have been involved in this, is to try to come up with those words out of the Griggs case, or those words which are similar to the Griggs case, which embody Griggs. And that battle has been a lawyer's paradise. Hosts of lawyers, a veritable convention of lawyers, have convened to deal with the question of the precise wording to be used to describe "business necessity." Batteries of lawyers have argued over every conceivable formulation of words.

Mr. President, I believe that it is not possible to come up with any combination of words that will please everybody. We have been back and forth. It is as though a supercomputer had been used to try to find the right combination of words to come up with the exact meaning of Griggs. That is what this whole controversy is about.

Those who are concerned about this legislation claim that if we make the wording too restrictive insofar as business is concerned, then businesses will have to put quotas in place in order to win lawsuits. All of us agree that we do not want quotas. Everybody agrees to that. Therefore, the issue that we have had to face is, how do we word this legislation so that we make it clear that it is not only not our intent to have quotas, but we do not want to have quotas inadvertently, because the statute cannot be complied with in any safe way, other than to have quotas. So we have been going back and forth with this argument as to the precise formulation of the legislation to define "business necessity."

I got involved in this last spring, and I believed at that time the bill that had been reported out of the committee was way too tough for business to comply with. The definition of "business necessity" in the original bill was that the business practice was "essential to effective job performance"; that is, if the business could not say this is essential to the performance of the job, then the business would lose.

My feeling was—and the feeling of a lot of people at that time—that this definition, "essential to effective job performance," was really impossible from the standpoint of business and was way, way too tough. Therefore, we went about the task of reformulating the definition, to have a more balanced view of "business necessity."

Last May, a number of Senators—I think there were about seven or eight of us—finally reached what we believed to be closure in the argument. We came up with what we thought was a reasonable formulation. And that formulation was that "The term required by 'business necessity' means that the challenged practice or group of priorities bears a substantial and demonstrable relationship to effective job performance."

Subsequent to that time, there were again major arguments as to exactly what the wording should be. The bill came to the floor of the Senate, cloture was invoked on the bill, and the discussions went on among the lawyers. I can remember one night sitting in the conference room in the majority leader's office until about midnight or so. Governor Sununu was there, Senator KENNEDY was there, various lawyers had gathered outside the room; and for maybe 3 hours, we were going back and forth on the question of wording. All of us agreed that we did not want a quota bill. On the other hand, all of us agreed that we did not want the language written so broadly that employers could justify any discriminatory hiring policy that popped into their head.

At one point last July, the administration came up with a formulation that they proposed to Senator KENNEDY. Senator KENNEDY accepted that formulation, and then later in the same day, having consulted with various lawyers and experts who had advised him, decided that the formulation that he thought was all right, was not after all. So that particular deal fell through.

Then last July, while this bill was on the floor of the Senate, the President asked Senator SPECTER and Senator JEFFORDS and me to come to the White

House and meet with him, Boyden Gray and John Sununu. The President said at that time, "Work it out." It was a clear mandate to us to do our best to work it out. The President, through his administration, John Sununu and Boyden Gray, came out with some additional language. We then tried that out on Senator KENNEDY. Well, the whole thing fell through.

(Mr. KOHL assumed the chair.)

Mr. DANFORTH. After this failed effort, there was no agreement involving both the White House and the civil rights community, between John Sununu and Boyden Gray and Senator KENNEDY.

In July the administration was willing to accept the following language:

(1) in the case of employment practices primarily intended to measure job performance, the practice or group of practices must bear a significant relationship to successful performance of the job. (2) in the case of other employment practices that are not primarily intended to measure job performance, the practice or group of practices must bear a significant relationship to a significant business objective of the employer.

That was what the administration was willing to accept in July.

Here is the language of the conference report that is now before us:

The term "required by business necessity" means—(A) in the case of employment practices involving selection such as tests, recruitment, evaluations, or requirements of education, experience, knowledge, skill, ability or physical characteristics, or practices primarily related to a measure of job performance, the practice or group of practices must bear a significant relationship to successful performance of the job; or (B) in the case of other employment decisions, not involving employment selection practices as covered by subparagraph (A) (such as, but not limited to, a plant closing or bankruptcy), or that involve rules relating to methadone, alcohol or tobacco use, the practice or group of practices must bear a significant relationship to a manifest business objective of the employer.

Mr. President, I know this is tedious. Believe me, if you spend 3 or 4 hours straight talking to lawyers about it, it is extremely tedious. If you spend 3 or 4 months at this, it is amazingly tedious. If you spend as long at this as Senator KENNEDY, Senator HATCH, Senator SPECTER, and others have spent at it, it is enough to drive you crazy. It is indeed a paradise for lawyers. But the point is, first of all, that there is very little to distinguish what the President agreed to in July from the language that is now before us.

In fact, I am advised by those who know the law far better than I do that the weighting of the conference report is more in the direction of the employer than what the administration agreed to in July.

But the most important point that I would make is that we are not really dealing with global differences. We are not really dealing with major philosophical changes. This truly is not, as was described by Senator METZENBAUM earlier this morning, a battle between David Duke and the rest of us for the soul of the Republican Party. It is not that at all.

It is a quibbling over words that lawyers have been involved in. They believe that the quibbling is very important. My belief is that over a period of months the differences have been so narrowed from the original committee bill that we are talking about a very, very fine point in the wording in the statute which is designed to interpret "business necessity."

Now, Mr. President, because we are talking about a very, very fine point, I would suggest that it is very, very easy to miss that fine point. When the debate is about a very narrow issue, then it is very easy to be a little bit to one side, a little bit to the other side, of that very narrow issue and engage in extreme heated debate because everybody thinks you have not quite made the point.

That is where we are now. We are in a very narrow debate on a very technical point.

I am convinced, and I have been since last May, that this is not a quota bill. I am absolutely convinced that an employer can comply with this legislation without putting quotas in place.

It may be that the precise wording of the statute would make it relatively hard or relatively easy for the employer to make his case in any given set of circumstances, but it is certainly not a quota bill. The real issue before us is that fine point on which we attempt to balance the interpretation of business necessity.

It is possible to have that fine point at a place which tilts the argument ever so slightly toward the employee who alleges discrimination. It is possible also to place that fine point in such a way that it tilts the burden, the litigation, ever so slightly in favor of the employer.

Exactly where it is placed is the argument before us, and as is true with many highly technical legal questions, there will be a difference of opinion as to where the point should be and where these particular words in fact place us.

I suppose that the argument that all of us have to put to ourselves, and satisfy ourselves about, concerns one of balance. It concerns one of balancing two interests.

When it comes down to the precise calibration of this point, where do we want the balance? If it comes to a question of balancing, on one hand, the interests of the employer to hire whoever the employer wants and, on the other hand, the interests of the country to try to overcome the problem of discrimination in the workplace, where do we put the weight?

We do not want quotas. We do not want overt discrimination. But if we have to favor employment legislation and the cause of the employment exercising reasonable business judgment, then where is that weight put?

I am a Republican. I believe in our free enterprise system. I believe that it is very important in this country to have business that can compete and that can be successful. But in the end, as a matter of national identity, national value, clearly if we are forced to make the choice, the choice must be in favor of equal opportunity for employment. If we have to make the choice between business and people, we must make the choice for people. If it imposes some additional burden on employers to be fair in employment, then our answer has to be that this is America, this is what this country is all about.

I think that we have struggled with this legislation with utmost good faith on all sides. I believe that the administration has been very conscientious. I believe that the civil rights community has been very conscientious. I believe that we have narrowed the differences and we are now down to a fine point. I believe that it is possible to make the argument that the fine point shifts the balance a little bit toward the victim of discrimination. My answer to that is, good. My hope is that the President will sign the bill. This Senator will vote to pass the legislation. This Senator will vote, if necessary, to override the President's veto.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I had hoped to engage with my friend and colleague from Utah somewhat on the progression and the history and the development of the legislation that has been included in the conference report. He spoke at some length earlier today. I wish to acknowledge the time and the effort that he and many other Members of the Senate on both sides of the aisle have spent on this issue. In my statements, I have run through the list of the Members, which includes Republicans and Democrats alike, both those on and off of the committee.

The one point that I did want to correct in the RECORD, at least at this time, is a point that the Senator did mention, that he still believed that this was a quota bill.

I think Senator DANFORTH's statement addressed that issue very adequately. I think those who have known Senator HATCH know very well

that he would not have recommended to the President that he accept a quota bill. It just does not make any sense.

The changes made in the conference basically incorporated the seven areas that had been worked out between Senator HATCH, Secretary Coleman, and Senator SPECTER. I wish Senator HATCH were here now so that he could address this question, but we will be recessing soon and hopefully we will be resuming consideration of this issue, as well as the community service conference report, this afternoon.

But I think it is very difficult for any of us to possibly believe that the Senator from Utah would have actually recommended to the President of the United States that he sign a quota bill. That just is not so. And the language which is now incorporated in the conference report is basically the language which was agreed upon by the Senator from Utah, the Senator from Pennsylvania, and Secretary Coleman.

We had a chance earlier in the discussion and presentation to outline those changes in some detail. We heard an exposition on those matters by our principal cosponsor, Senator JEFFORDS, who reviewed these matters in very considerable detail.

One point I would just mention on the whole question in Wards Cove of business necessity is that in the conference report that is before the Senate today, with regard to business necessity, we have actually taken the words that have been used by the Supreme Court and other courts under Griggs.

So rather than just use generic words that could be subject to varying interpretations and are not defined by previous court cases, we took the words that had been used by the Supreme Court, the circuit courts and the district courts—in the Dothard case, the Albermarle case, the Griggs case, and in other cases so each and every one of those definitions of what is essential business necessity actually was taken from a court opinion.

So that was really the extra effort that we went to to try and accommodate the administration in eliminating what might be considered to be somewhat vague or indefinite. Each and every one of those criteria are based upon court holdings. And they reach the issues of selection, which really is what this bill is all about.

So we have gone that extra mile, Mr. President. We want to give the assurance to the membership that we have tried to eliminate any possible degree of confusion or ambiguity, and we've avoided words that could be subject to misinterpretation.

I did not take the opportunity to go through the Attorney General's response to the latest conference report. Perhaps during the course of the afternoon, depending on what the will of the membership is, we can go through that.

But I must say, as a member of the Judiciary Committee now for 28 years, I have never seen such a disingenuous interpretation of any piece of legislation in the time that I have been here, under Republicans and Democrats alike. And we all know we have had areas of difference and areas of agreement.

But the fact is that the letter uses the word quotas, I believe, seven times. What they were basically trying to do is frighten, distort, and misrepresent this legislation.

I will take the opportunity to get into that at length during the course of the afternoon. I can appreciate the difficulties in understanding various tests, whether the word is substantial, essential, manifest, or significant. You can say that these are words of art, Mr. President. That is why we have had to take a great deal of time, because they have been used in court opinions where the outcomes have varied. So this has been a complicated and difficult negotiation.

But I must say that there has been very significant work by Members on both sides of the aisle, which has been the historic tradition in this body. All the great civil rights bills in recent times, including, for instance the fair housing legislation, the Civil Rights Restoration Act, overturning Grove City have been bipartisan efforts. And we followed that tradition here.

We will have an opportunity to get into any additional degree of description when those who want to make the case in opposition are willing to do so.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair recognizes the majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of Senators with respect to the schedule for the remainder of the day, we have now had about 3 hours of debate on the civil rights bill. I hope that we can shortly reach agreement on a time limitation on remaining debate and bring that matter to a vote as early as possible today. I believe all of the Democratic Senators who wish to speak have done so, with the exception of myself and the distinguished chairman of the committee, and our remarks will be relatively brief. So we are prepared to proceed to complete debate and vote on that important measure as soon as possible this afternoon.

It had been my hope and intention to bring up for a brief debate and a vote by now, the national service conference report. We are still attempting to get that cleared. It has been cleared on the Democratic side of the aisle. We are awaiting clearance on the Republican side of the aisle. As soon as that is obtained I hope we can proceed to a relatively brief period of debate and a vote on that early this afternoon.

As I indicated, I had expected and intended that there would have been a vote on that measure prior to this noon break. I originally thought we could get a vote on that by about 12 or 12:30 today. I apologize to my colleagues for our inability to do that. But I am hoping and anticipating we will be able to get clearance on the Republican side of the aisle and proceed to a vote on that sometime early this afternoon.

With respect to the remainder of the day, these are two important conference reports, the national service bill and the civil rights bill, and I hope we can complete action on both of those relatively promptly this afternoon and complete action before the day is out.

FINAL PASSAGE VITIATED—S. 3189

Mr. MITCHELL. Mr. President, I ask unanimous consent that the final passage of S. 3189 be vitiated, that the bill be indefinitely postponed, and that the rollcall vote on passage of the bill be considered as having occurred on final passage of the House companion, H.R. 5803, as amended by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a-1928d, as amended, appoints the following Senators as members of the Senate delegation to the North Atlantic Assembly fall meeting during the 2d session of the 101st Congress, to be held in London, England, November 25-30, 1990: the Senator from Alaska, Mr. STEVENS; the Senator from Idaho, Mr. MCCLURE; the Senator from Rhode Island, Mr. CHAFEE; the Senator from Utah, Mr. HATCH; and the Senator from Missouri, Mr. BOND.

Mr. DOLE. Mr. President, for the information of affected Members of the Senate I would like to state for the record that if a Member who is precluded from travel by the provisions of rule 39 is appointed as delegate to an official conference to be attended by

Members of the Senate, then the appointment of that individual constitutes an authorization by the Senate and the Member will not be deemed in violation of rule 39.

RECESS

The PRESIDING OFFICER. Under the previous order the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:38 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

CIVIL RIGHTS ACT OF 1990—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUBBLE IN THE TAX CODE

Mr. DOLE. Mr. President, I have been speaking the last 2 or 3 days on what some refer to as the bubble in the Tax Code, and what I consider to be gross distortions of the purpose of the bubble and what it means and what it does not mean. The fact that it is so poorly understood by many Americans I think is understandable, when the media never explains it. I do not say it is deliberate, but I think it is hard to understand for those who report.

The result is that if you tell the average taxpayer about the bubble, they have a perception that you pay a certain rate of tax until you come to the bubble, which is 33 percent, and the people within the bubble pay a higher tax than those after the bubble ends, which is about $186,000 for a couple filing jointly.

The truth of the matter is, that is not true. As you go through the bubble, depending on your income, you lose the advantage of the 15-percent rate, and you lose your personal exemption. So when you, in effect, come out of the bubble, you are paying a flat rate of 28 percent; no exemptions. You do not get any credit for the lower rate.

So some in the bubble are actually paying a 20- to 25-percent rate and those upper-income Americans are paying about 28 percent, and the average is 28 percent. I think it is regrettable.

Again, I thank the New York Times for running a piece even though it was on a Saturday when not as many people read the New York Times, but at least those who read the New York Times on Saturday were able to understand that it may well be that the bubble was put in the Tax Code because it did allow progressivity. It was, as I understand, the idea of the distinguished Senator from New Jersey [Mr. BRADLEY] known by some as the "Bradley bubble." It is also, I think, an idea of the majority leader in the House, Mr. GEPHARDT.

I note that this week Time magazine makes sort of a feeble effort to talk about the bubble. They do not do it much justice, but at least they do indicate that the bubble was created in 1986 to simplify the Tax Code. The old graduated system, in which there were as many as 15 brackets, each subject to a differing marginal rate, was replaced by a new scheme with only two rates, 15 percent for low-income taxpayers and 28 percent for everyone else. But achieving that goal required some juggling.

For most joint filers, for instance, income below $32,450 is taxed at the 15 percent rate. To ensure that those who make more kick in 28 percent on all their income, the Government puts the larger bite on the higher end of their earnings. So for some joint filers, the marginal rate jumps from 28 to 33 percent on taxable income between $78,400 and $185,760.

Then comes the odd part. It drops back to 28 percent of income above that level. Is that a break for the rich? Then they go on to explain, no, it is not a break for the rich because they lose exemptions, they lose the advantage of the 15 percent rate, and both middle-income and wealthy earners are supposed to wind up paying the same marginal rate of 28 percent on their earnings over $32,450. The truth is those in the bubble pay a little less than that rate and those outside with higher incomes pay the 28-percent rate.

So, Mr. President, in another Washington Times piece dated October 12, written by Warren Brookes, who, I think, does good work from time to time, it talks about partisan politics. I will just quote him so nobody will misconstrue it. "There is nothing new for partisan politics to engage in lying. What is troublesome is the way in which the Bush administration is lying down and taking it. President Bush's willingness to accept the notion of raising the top income"—bursting the bubble—is an implicit acceptance of the liberal Democrats' persistent argument that the Reagan tax cuts benefited only the rich while the poor and middle-class wound up paying more. Even though this argument is patently, factually false"—they have a table attached—it is being buttressed by citing the so-called tax bubble enacted in 1986 as a part of tax reform whereby those with family incomes between $70,000 and $170,000 pay a temporary 5 percent surcharge on the 28-percent top marginal rate. That creates an implicit temporary 33 percent marginal rate, which then drops back to 28 percent on the highest incomes. This looks on its face to be unfair."

You tell people they are going to be 33, then drop back to 28 for the very rich. Yes, it looks to be ludicrously unfair. Yet the whole reason for the bubble was to raise more taxes from the rich by taking away all personal exemptions and the lower threshold rate of 15 percent on the first $30,000 income from those in the highest income brackets.

The phaseout adds about $6,000 to the average tax bill of those earning more than $200,000. To avoid an abrupt income cutoff for the addition, it brackets, and to raise more money, Congress divides the 5-percent surcharge over a bubble of about $120,000 income and maybe $200,000 and $202,000 for families of four.

So the effect of this bubble transition is to cause a gradual rise in average tax rates from about 20 to 25 percent for those at the start of the bubble, to 28 percent at the end of the bubble and from then on it is 28 percent. Thus, the effect of the bubble is to increase the progressivity to make it fair, and we tried to make the Tax Code of 1986 fair.

I will be including in the RECORD statements by such outstanding leaders as Speaker O'Neil, talking about 1986, how fair it was; Chairman ROSTENKOWSKI, chairman of the Ways and Means Committee; Congressman GEPHARDT, who is now the majority leader in the House; and others, and I will include those in today's RECORD to remind them of what they were saying in 1986 when they passed the tax bill, how fair it was, how fair it was to low-income, lower-middle-income Americans, how it was progressive in that those who made more money paid more taxes. It was progressive.

I would remind those colleagues that nothing has changed. Nothing has changed except politics has changed. This near the election we find some out trying to convince voters of something that is not accurate.

I ask unanimous consent that the article by Mr. Brookes be printed in the RECORD, too, along with the inserts from the CONGRESSIONAL RECORD of 1986 that I previously referred to.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Oct. 12, 1990]

BLOWING UP THE BUBBLE OF ENVY

(By Warren Brookes)

It is nothing new for partisan politics to engage in lying. What is troublesome is the

way in which the Bush administration is lying down and taking it.

President Bush's willingness to accept the notion of raising the top income, "bursting the bubble," is an implicit acceptance of the liberal Democrats' persistent argument that the Reagan tax cuts benefitted only the rich, while the poor and the middle class wound up paying more.

Even though this argument is patently and factually false (see Table), it is being buttressed by citing the so-called "tax bubble," enacted in 1986 as part of tax reform, whereby those with family incomes between $70,000 and $170,000 pay a temporary 5 percent surcharge on the 28 percent top marginal rate.

That creates an implicit, temporary 33 percent marginal rate which then drops back to 28 percent on the highest incomes. This looks ludicrously unfair. Yet the whole reason for the bubble was to raise more taxes from the rich by taking away all personal exemptions and the lower threshold rate of 15 percent (on the first $30,000) from those in the highest income brackets.

That phaseout adds about $6,000 to the average tax bill of those earning more than $200,000. To avoid an abrupt income cutoff for that addition (and to raise more money), Congress devised the 5 percent surcharge over a "bubble" of about $120,000 in income, from $82,000 to $202,000 (for families of four).

The effect of this bubble transition is to cause a gradual rise in average tax rates from about 25 percent for those at the start of the "bubble" to 28 percent for those at the top and beyond. Thus the effect of the bubble is to increase the progressivity of the system.

The real reason for this concoction was that in 1986 tax reformers needed billions in additional revenues at the last minute and decided to soak the rich to get them. That's why there was bipartisan support for this arrangement, especially from Sen. Bill Bradley, New Jersey Democrat, a sensible liberal.

Now, the Democrats want to use this apparently "unfair" device that they helped invent as an excuse to impose an entirely new 33-36 percent rate on the rich (with no personal exemptions or income threshold), who will see their average tax rate raised a shocking 18-29 percent, wiping out all the Reagan average-rate tax cuts (less than 20 percent).

The alleged justification for this is that the rich supposely got all the benefits of the 1981 cuts, and the rest got nothing, or worse. That is a baldfaced lie, and those who repeatedly tell it know it, as do readers of this column.

Not only was the 1981-83 percentage rate cut the same for all income brackets, but the lower top rates induced a massive reduction in the exploitation of tax shelters, and that increased the taxes paid by the rich. (See Table.)

Let's go through the numbers one more time, this time in constant 1982 dollars. From 1981 to 1987 (the latest year for which we have data by income percentile) the income taxes actually paid by the top 1 percent of the taxpayers (those with incomes of more than about $130,000) rose by 49 percent in real terms. The income taxes paid by the top 5 percent rose nearly 43 percent real and those paid by the top 10 percent rose 20 percent in the same period.

By contrast, the income taxes paid by the nation as a whole rose only 4 percent real, and those of the middle class (the 50th through the 90th percentile) fell in constant dollars by 9 percent, while the bottom 50 percent paid 15 percent less.

That is to say, the real income taxes paid by 90 percent of Americans fell by 10 percent from 1981 to 1987 while the real income taxes paid by the richest 5 percent rose by nearly 43 percent.

Aha, say the liberals, but the rich got so much richer in this period while everyone else lost income ground. That's also not true. From 1981 to 1987, it's true the top 5 percent saw their median income rise in constant dollars 24.5 percent, but the middle income median also rose by 9 percent. That's less than half as much, but it rose. Yet in the same period the income taxes paid by the top 5 percent rose nearly twice as fast as their median income, while the income taxes on the middle actually fell by nearly 10 percent.

That's why the share of income taxes paid by the top 5 percent rose dramatically from 35.4 percent in 1981 to 43.3 percent in 1987. That's a 22 percent rise in tax share in a period when their share of total income rose by 10 percent.

Finally, as middle incomers listen to the Democrats trash the Reagan tax cuts, they should remember that without those 25 percent rate cuts the average middle-class family would now be paying $2,400 more than they do. Indeed, the main reason for the Democrats' vicious assault on those cuts is precisely because they so massively reduced the actual tax collections from ordinary Americans. Americans also would do well to remember that under the Democrats' "soak the rich" policies of the 1970s the average marginal tax rate on middle-income families soared from 23 to nearly 28 percent in 1981. Today that average marginal tax rate is less than 18 percent.

The real irony is that the wealthy, by and large, would love to trade a higher marginal rate for major capital-gains exemption of 40-50 percent. Their net taxes would be reduced in the right combination. The danger is that the moment we start trading higher rates for more loopholes, the whole rate structure that now so benefits the middle class would be under siege all over again, and the likely losers would be the middle class.

So, beware the green-eyed "bubble blowers."

INCOME TAX COLLECTIONS BY PERCENTILE—1981 to 1987

[Billions of 1982 dollars']

	1981	1987	Percent change
Total	$300.3	$313.0	4.3
The rich:			
Top 1 percent	$51.7	$77.1	49.1
(Percent share)	17.6	24.6	39.8
Top 5 percent	$94.6	$134.9	42.6
(Percent share)	35.1	43.1	22.8
Top 10 percent	$144.4	$173.7	20.3
(Percent share)	48.0	55.5	15.6
The rest:			
Middle 50-90	$132.9	$120.4	−9.4
(Percent share)	44.3	38.5	−13.1
Bottom 50 percent	$22.4	$19.1	−14.7
(Percent share)	7.5	6.1	−18.7

[1] Using GNP deflator.

Source: Internal Revenue Service, Statistics on Income.

[From the Congressional Record, Sept. 25, 1986]

Mr. ROSTENKOWSKI. Madam Speaker, I yield myself 2 minutes.

Madam Speaker, almost 16 months, to the day, I sat in a room off the Chamber and answered the President of the United States in his plea for tax reform. The President was looking to this Congress to right some wrongs that have been in the code for many years. I take great pride in the fact that we answered with bipartisan effort.

We asked the American people how they felt about the code, and their response was overwhelming: "Get fairness into it." As the President put it: "Let's go for it." Go for it to help the American farmer. Go for it to help the wealthy doctor. But most of all, go for it to help middle-income America and the poor.

That was not a Democratic issue and it was not a Republican issue. So we plotted and prodded and I think this afternoon we recognize that tax reform is a bipartisan issue. It was the Ronald Reagan and the Tip O'Neills, the Jim Bakers, and the Don Regans. It was all of them who worked for today. The Bob Doles, the Bob Packwoods, and the Dick Gephardts and the Bill Bradleys, it was the Jack Kemps and the Bob Kastens. It was all of us.

So here we are, trying to decide this afternoon what we are going to do about fairness and equality in the code.

We have got to answer that mandate. This afternoon we are going to let the American people know that their legislative process is working; that when they request of their leaders in Washington a change, that we respond.

Today we celebrate for that American that needs help.

I say to my colleagues, it is high time that we do it.

Madam Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. O'Neill], the Speaker of the House of Representatives.

Mr. O'NEILL. Madam Speaker, I rise in support of the tax reform conference report.

This is an historic moment in the House. We are about to vote on the final passage of the most sweeping tax reform legislation in the history of this Nation. If we approve this report today, the 99th Congress will assume a special place in the history of this country. This will be the Congress that accomplished what eluded all the 20 preceding Congresses that talked about the comprehensive tax reform but failed to enact it.

For me, this is a decision of a political lifetime. I first ran for Congress in 1952. I remember my party platform. We pledged the continual effort toward the elimination of tax loopholes. To quote from that platform: "Justice requires the elimination of tax loopholes which favor special interest." That was in 1952 when the business corporations of America paid 40 percent of the taxes of America, and yet we can see how down the line, through the ingenuity of tax experts that the corporations of America now pay between 5 and 8 percent of the tax bill, and the largest employer in my district pays no tax, but his 8,000 employees pay a tax.

It is not fair. That is what the American people have said. It is not fair.

I am talking about 1952. Each party, both sides of the aisle, in our platforms have said and promised the American public that we are going to close the loopholes.

In 1960 my close personal friend, Jack Kennedy, was the President of the United States. We still talk about the Kennedy tax bill, how it stimulated the economy of America. That tax bill was meant to be tax reform and yet the Kennedy proposal for comprehensive reform was brushed aside.

The people at that time said that tax reform is just too difficult, too hard. Reform will have to wait. Year after year, reform has had to wait.

Ever since, many people have spoken beautifully of building a fairer tax system. Of the overall objective, all have generally agreed, on both sides of the aisle, we should reduce the number of special loopholes so that we can reduce the taxes of the average American taxpayer, the person who does not have a whole division of accountants and tax attorneys helping either him or her.

My friend, the gentleman from Illinois, Dan Rostenkowski, said on national television 2 years ago that the average fellow, that average honest taxpayer, has begun to think of himself as a chump. The big boys have had all the tax loopholes, yet he, the average American taxpayer, is stuck with a big withholding taken out of his tax every week.

In all the years that I have been in Congress, the majority of us have agreed on the need to help this average American citizen, this middle class fellow. We have all agreed on the idea of tax reform, but after agreeing on the idea of tax reform, every Congress since 1952, has adjourned without doing anything about it.

The conference report is a historic departure from that pattern. It eliminates 6 million people from the tax rolls. Instead of adding burdens to those on the bottom, it reduces taxes for millions of low-income people. Just think of the poor person at the bottom. He pays an income tax and he pays a Social Security tax. He may pay $400 or $500 or $600, but if you eliminate that, it could be the difference in getting out of the rut that they have been in for so many years. Over 5 years it would cut the taxes of the lower income people by $40 billion. It gives them an incentive to work and to support themselves. It is a $40 billion program of economic relief and economic opportunity.

I have been around here for years and I have seen the fight on poverty. I have seen what we have done on poverty, but this is the best antipoverty bill that has been in this House, I would have to say, in at least half a dozen years.

It is a fair bill. It shifts the burden of taxation from the average individual taxpayer to those who have avoided taxes through the years.

It opens the windows of economic opportunity by plugging loopholes of inequality.

Now, this is not a partisan measure. It took a great deal of effort to overcome the giant barriers to reform. It took the Bill Bradleys, the Dick Gephardts, and Danny Rostenkowski, who were out there selling this gospel and all the members of the committee. It took the White House and the Treasury Department to respond to fairness, an issue raised in the arena of partisan debate, and to produce a measure that made tax reform a bipartisan matter. That is what this is, a bipartisan matter.

Most of all, it took the efforts of Members of the House. I am so proud of Dan Rostenkowski, to meet this great body's responsibility under the Constitution of the United States.

Like it or not, when you were elected to the Congress of the United States, you accepted a duty to ensure that this country has the best and the fairest Tax Code.

Now the time has come. Today, this particular Congress has devoted more time, more energy, more emotion to keeping this pledge that both parties have made for so many years. The time for debate is over, so is the time for offering refinements or modifications or amendments.

There are no multiple choice questions. The choices are down to two. You vote "aye," you set in place a new comprehensive Tax Code.

You vote "no," you add a layer of fresh cement on a tomb that will encase the foundations, and you will not talk about tax reform again for years.

My colleagues, we have come too far down the road now to waiver. We have accomplished too much to give it up. We have struggled too long to fail now.

Let us say "yes" to change. Let us say "yes" to fairness. Let us say "yes" to a brighter new day for the American taxpayers. Let us not wait another 50 years for reform. Let us move forward by voting "yes" on this bill today.

Mr. GEPHARDT. Madam Speaker, Barber Conable, an honored Member of this body who now has gone to be the head of the World Bank used to say about some pieces of legislation, "There's something in this legislation that everybody can hate."

I have not seen a piece of legislation like this one where there are so many things that people have objections to; but I understand it, because it is a big piece of legislation. There are hundreds of things in this bill that you can find that you do not like. There are things in it I do not like, that I disagree with, and I have been talking about tax reform with the gentleman from New York [Mr. Kemp] and others for a long time.

As the gentleman from New York [Mr. DOWNEY] said, "I think we have got to step back from the trees that we are looking at so closely and look at the forest, and look at the good things that are done in this bill." If you will do that, I am convinced you will vote for it, because there are some very important good things that come out of this bill.

First, fairness. It has got a minimum tax, the best minimum tax we have ever had. It makes me angry, that 250 families earned over $1 million last year and paid no taxes. It makes me angry that corporations in this country that make millions of dollars get by with paying no taxes; many of them do not even want that to be the case.

This bill makes sure that does not happen anymore. It does give a tax cut, and importantly it gives it to ordinary, average taxpayers. It does not give the lion's share to the people at the top. It helps people at the bottom; 6 million people off the tax roles, at the bottom, and an 8- or a 9-percent tax cut to people in the middle, the people that we are supposed to be worrying so much about; and much less tax cut to people at the top.

Third and most important, we would stop the trend of the last 25 or 30 years of every time we do a tax cut doing it by giving this group and this individual and that group a tax cut, a tax loophole, a tax preference, and keeping everybody's tax rate up to pay for those individual treatments.

This changes that whole trend and moves us to a fairer and simpler Tax Code.

Now we all have to make a decision; we have got to look at the good and the bad and decide which is predominant, which is the most important. I just ask you today as you make this vote to not think of all the lobbyists and all the representatives who are legitimately here who have been talking to you for the last 3 weeks, or maybe the last 3 years about this tax bill; and remember the lobbyist you have not seen here is the lobbyist for the average, ordinary taxpaying family in this country. That lobbyist is not here. you have not heard from them. You are the lobbyist for that individual, that family, and that family wants you to stand up for them today and I hope you will.

Mr. DOLE. Finally, Mr. President, since we will have more debate on this when the reconciliation bill is before us, probably tomorrow, maybe late today, and there will be a lot of jumping and shouting, I assume, by some who say, "Boy, we have got the package for you. It is called the Democratic Ways and Means package. This is going to raise taxes on the rich. We are going to burst the bubble." What I have tried to explain in the last 3 days is you already have the heaviest taxes on the rich, whoever they are; there is nobody that I know of; maybe somebody else knows of.

But I want my colleagues particularly on the Democratic side to take a good look at the Rostenkowski package. There is going to be a big temptation, "Boy, we will sock it to the rich and we will do all of these things and we will call it good politics, good tax policy, and we will make President Bush eat it."

Well, they have a little what we call the friendly family taxes in that package, just a little thing. The Democrats just cannot avoid taxing everybody. They do not want to leave anybody out. They talk about the rich while they tax the working people. There is a little $30 billion tax in that Rostenkowski Ways and Means package, a little $30 billion tax on working people. Only 1 percent of it is paid by people making more than $200,000.

In 1981, on the Senate floor, over the objection of the Reagan administration, the distinguished senior Senator from Colorado [Mr. ARMSTRONG] offered an amendment called indexing. What does it mean? It means you do not pay taxes on inflation. It is called bracket creep. If inflation goes up, you are paying taxes on inflation. It did not have any more real income. So this was the Republican idea sponsored by a Republican Senator, strongly supported by the Senator from Kansas, and we passed it over the objection of the Reagan administration—and I think at that time the Republican leadership in the Senate—by a vote of 60 some to 30 some.

So the working people of America finally got a break. They got a pay increase that was not eaten up by taxes. They got to keep the money. They did not pay taxes on inflation. But lo and behold, the Democrats, always looking for another tax, had to revive an old one that has been put to rest. They have come up now with delaying indexing for 1 year. That means if you delay it for 1 year, the taxes are going to be higher forever after that. Why

do they do it? They do it because they get $30 billion.

We have all heard this talk about fairness, how it is not fair, we have to tax the rich. They want to tax everybody, everybody. Let me give you a little idea of what this little family tax does for the average working family, or the average farmer, whatever.

There are 87 million tax returns out of 110 million that are filed that pay taxes. Their tax will go up if this Rostenkowski plan is adopted. There are 176 million personal exemptions claimed on taxable returns. Current law will raise the exemption from $2,000 to about $2,100 next year. The Democratic package wants to deny that increase. The result: Your taxes go up $15 or $28 per family member, depending on your tax bracket, 15 or 28 percent, and for a family of four your taxes go up $60 to $112. That is just for the personal exemption lost.

About 20 million tax returns are in the 28 percent bracket. Most will get hit by bracket creep, inflation—the insidious hidden tax that crushed the economy in the 1980's; in fact, between 1976 and 1980. The tax brackets are indexed under current law because of this amendment offered on this floor in 1981, and the 28 percent rate was removed from about $30,950 to about $32,500 next year.

The so-called Ways and Means Democratic package wants the 28 bracket to stay where it is now. In other words, do not index next year. If your taxable income exceeds $32,500 next year, taxes go up $201. If you add those two together, you are talking about a $313 tax increase for a family of four.

Maybe that is not much, but I think it is quite a bit. If you are a family of four making that amount of money, it seems to me that you have a problem with the Democratic package.

Thirty billion dollars from the working people. That is just one of the problems with the so-called Ways and Means package. I understand that in the Democratic Senate caucus everybody was applauding and saying, "Is this not great, we finally have something we can all vote for." Go right ahead. If you want to vote to take this one tax break the working people have, delay it for a year, then this is the opportunity you are going to have.

Mr. KERREY. Will the Senator yield for a question?

Mr. DOLE. Yes, I am happy to yield for a question.

Mr. KERREY. Mr. President, I have listened to the distinguished Republican leader's explanation of the bubble, and I find it in fact persuasive. The language about the bubble itself has often been inflated and overstated. Nonetheless, I also heard the distinguished Senator talking about the 1986 tax law and the bipartisan support that law had. I will admit I was on the sidelines during the deliberations over that tax law.

It is my understanding that one of the features of that 1986 tax law was that we were going to create neutrality between capital and wages, that there was an attempt to try to take out the incentives for people to go one way or the other. Now I hear people coming back and proposing a capital gains reduction. Am I missing something here, or was that also part of the 1986 tax law, and part of the reason that people liked that particular piece of legislation?

Mr. DOLE. Well, I do recall the act, because I was there, and I was a party to the conference report. I remember there was a great deal of discussion, and I think there was a conclusion that as long as you keep it at 28 percent, maybe we should not have a lower capital gains rate.

At that time, President Bush made the judgment—this Senator did not make that judgment—that one way to stir the economy and to create jobs—and there was some demonstrated effort of that—would be to lower the capital gains rate. That is why the President, I guess, stated it in his campaign and has made an effort since that time to have it adopted by the Congress. It has not happened. Partly, in the Democratic so-called Ways and Means package, it limited capital gains for small farmers. We would have to change that here to make it apply to more than the household and others who own their homes.

Mr. KERREY. If the Senator will yield for one additional question. I appreciate that answer. I have not read the Ways and Means Committee's package. In fact, I have not read the Finance Committee package. We have enough difficulty just wading through that without getting into the details of the House.

There is a piece of it that has appeal to me. It has a feel, from the way it impacts in the State of Nebraska, and that is—and the question is whether or not it has appeal to the distinguished Senator from Kansas, as well. That is, that part that says that we are going to simply increase that last marginal rate. I acknowledge that it is not bursting a bubble. We are generally increasing that last marginal rate and levying an attempt to set a surcharge on people who have income over a million dollars, for the purpose of eliminating the gas tax. I know Kansas must be similar to Nebraska. We have had tremendous increases already in energy costs, and we built all of our roads in Nebraska with the gas tax; we always have. We are second or first highest in the Nation on the gas tax now.

My concern with the gas tax is that not only is it going to increase the cost of doing business, 70 percent of our oil use is in transportation. We are heavily dependent upon it to move the products to market. Not only will it do that, but it seems to me that it does, in fact, fall disproportionately heavy upon those who have been paying an increasing amount, particularly with payroll taxes, in the 1980's.

So my question is whether or not that piece of it has any appeal to the distinguished Senator from Kansas?

Mr. DOLE. Obviously, it has appeal. If you are looking for a painless package, I would like to peel out everything. I would not like to, but I think you have to pay a penalty around here for being leaders.

Everybody wants to reduce the deficit, but nobody wants to contribute to the reduction. They do not want more tax; they do not want to cut any programs they are involved in, and that includes Congress and the White House and includes everybody else.

But my view is that we are over in the gulf now because of oil. I remember seeing a Time magazine poll about 6 weeks ago, asking the American people how many are willing to make the sacrifice because of the gulf crisis. It was 84 percent. We are all over there because of oil. If we used less oil and gasoline, we might not be over there.

The next question was, "Are you willing to have your gas tax increased?" Seventy-three percent answered no. People cannot have it both ways either. They want to sacrifice, as long as they do not have to make a sacrifice. We have to make a sacrifice, and we have to provide leadership. Some of our constituents will not like it. I do not like the gas tax. I do not particularly like it when it goes for deficit reduction. If it went into a highway trust fund, we could build bridges and highways, I would be happier with it.

Mr. KERREY. If the Senator will yield again, I remember earlier this year, the distinguished Senator proposed doing just that. I publicly supported it. I thought it was a terrific proposal.

Mr. DOLE. If we go back to that, I would support a gas tax increase for policy reasons, to help conserve oil, to make us less dependent on foreign sources of oil and maybe bring some of the people back from Saudi Arabia.

Second, we have a couple hundred billion dollars that we ought to be spending on infrastructure. I know the Senator shares this view, because he is on the Appropriations Committee. That is where all the money goes into the trust fund, and we have some way to get it out so it can be spent for highways and bridges, if there is a gas tax.

Mr. KERREY. If the Senator will yield further for a question. I quite agree. I think there comes a time when you have to act, and I supported

the budget resolution, and supported the earlier budget resolution. I think the deficit is an overwhelming problem and has been permitted to build up in almost obscurity. I think it is good that the President addressed the Nation. Regrettably, it was not terribly persuasive. My phone calls, as lots of others did, ran against that.

Part of what I am trying to do, is the second side of act, trying to make sure that the action is in accordance with what the people want. They will not like any part of this particular proposal. They will not like tax increases in any form, or spending reductions in any form. But what I am persuaded is that at least in my State, they do not like that aspect of the proposal that says we are going to increase gas tax, while not increasing taxes on people who earn more than $200,000 a year. And though, I quite agree, again for emphasis, that the distinguished Senator is correct, this bubble has been oversold for what it is.

Mr. DOLE. Overblown.

Mr. KERREY. I find myself persuaded that it would be better for the economy, and much fairer, to have an increase on that last marginal rate and a surcharge as well.

I understand there are disagreements on that, and some people would not like to increase that last marginal rate, would not like to have it be 33 percent. The people, on a policy basis, will come forward and say, no, 28 percent is where it ought to be. But I believe it is fair, and I believe it is good for the economy to move to 33. I believe, as well, that the surcharge that has been proposed is reasonable, too.

Again, I ask the distinguished Senator if it is his sense of where the Senate is going, now that we are attempting to work out the differences that occur between Republicans and Democrats, so as to be able in the end, to present the President with a responsible package?

Mr. DOLE. I do not know where we are headed. We have not been doing much lately. The thing the American people are wondering is what happened to some of the colleagues who have been in their States the past weekend. I was in my State for the Eisenhower celebration, but rather than to risk any outcries I stayed close to Billy Graham. He was there, and they were all applauding him. I thought, boy, he must be doing very well. We walked down the aisle together.

I know there is frustration on the part of the voters, largely because we cannot seem to get it done. Should we sock the rich some more? That is, in essence, the question. I guess that will be voted upon here.

I think what we need to get is a deficit reduction package. This started out as that, and now it is all a tax package.

I know I used more than leader time. I ask unanimous consent to proceed for a couple of minutes, and I will conclude and yield the floor to the Senators from Nebraska, California, and others.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. The point I want to make is there has been a lot of talk, and I would hope we would hear from the Senator from New Jersey [Mr. BRADLEY] in this debate, because certainly it was our hope to hear from him. I have had my colleagues on both sides of this say there ought to be one flat rate. I remember the Senator from Arizona [Mr. DECONCINI] had a great plan, I think a 15-percent rate, one 15-percent rate, no exemptions and deductions. Now the Senator from Nebraska wants to go back and have instead of one rate, he wants three rates. What we have, in effect, is a 15-percent and 28-percent flat rate. Nobody pays more than 28 percent.

We have some who want to keep that 15 percent, one flat rate. We all received hundreds and thousands of postcards saying we ought to have a flat rate tax. That was 4 or 5 years ago. Let us do not start the other way, and putting back all the deductions and loading up the code and have 15 brackets again. Let us do it one way or the other.

I will conclude by making again the point of the bubble, and I will be happy to yield the floor. I want to reread this portion of a letter I had from a lady in Charlotte, NC. The name is Mary Harding.

It said:

Senator, I am neither a Democrat nor a Republican. Nor am I a registered voter. I am one of those many who have given up on both parties and said "A Pox On Both Your Houses". This has been the result of my being convinced by the Democrats and the press that the Republicans are the party of the rich, and my own observations that the Democrats are the party of the Giveaway. I had grown convinced lately that the only hope of the country was the formation of a third party.

And this is the key paragraph:

I, like everyone else, had bought the argument that the rich were paying less taxes than everyone else, but you were so evidently telling the truth that I decided to get on my computer and find out for myself. You will not be surprised to find out you were right.

She happened to be watching on C-SPAN last week, where I was trying to explain the bubble, challenging the press to tell the truth about the bubble. So far the New York Times has responded. That is it. She went on to say:

I am a far cry from being the tax expert to which you appealed yesterday, actually I'm unemployed, but I am sending you, with this letter, an analysis I made of earnings ratio to effective tax rate based on the 1989 Employer's Tax Guide-Table 7-Page 23-Married Person. (I am sorry I don't have a 1990 guide available). I also calculated the effect on taxes if the highest rate was changed from 28% to 33%. This clearly demonstrates, as you stated, that the purpose of the 1986 tax reform act was to gradually increase the effective tax rate up to 28% at which time it becomes stable for all earnings higher.

That was the purpose. Now we find some of the architects of that famous piece of legislation—I was not one of the major architects—on the other side of the aisle, I assume to be saying we did not mean what we were saying in 1986. Let us go back and have a third rate, stick in more deduction, more exemptions for the rich.

I suggest we have a pretty good Tax Code. It is progressive and what people said they wanted around here for years.

Some wanted one rate, and we got two rates. Now we are being told we want three rates. I wish the Senator from Nebraska and others who want to talk about that rate would talk about the $30 billion tax on the working people in the Ways and Means package which is going to pass the House floor today. It is a $30 billion tax on working people taken right out of their check.

I am afraid, as I said earlier, it is a habit the Democrats cannot seem to break; they want to tax everybody; everything that moves tax it and then go around and talk about the Republicans being for the rich because you know the media is going to repeat it for you.

But the facts are facts. If you are working, and the Rostenkowski plan should pass, then you are in trouble, because you have lost indexing of your exemptions and the brackets and you are going to pay for it forever just for a measly $30 billion they are going to take out of the hide of working people. Is that fair? Talk about fairness, let us talk about fairness to the working man and woman. Who are these illusory rich somewhere that nobody seems to know?

Mr. WILSON. Mr. President, will the Republican leader yield for question?

Mr. DOLE. I am happy to yield.

Mr. WILSON. Mr. President, I was not only struck by the remarks about the bubble but if I understand the Senator correctly the House Ways and Means proposal, as he described it, would largely eliminate the benefits that we gained from indexing; is that correct?

Mr. DOLE. They delay for 1 year which has an impact of raising taxes forever, yes.

Mr. WILSON. Specifically the Senator is saying it would effect the personal exemption that most of us take?

Mr. DOLE. As well as the brackets.

Mr. WILSON. As well as the brackets. So in the case on the exemption it, in effect, prevents what otherwise would occur; the exemption is supposed to go up to $2,100?

Mr. DOLE. That is correct.

Mr. WILSON. It is now $2,000 so this 1-year delay if it is only 1 year means in the next year taxpayers would have to, depending on the bracket, pay either $15 per family member or $28 per family member more, is that correct?

Mr. DOLE. In the 15-percent bracket, 28 percent; it is called the friendly tax, yes.

Mr. WILSON. Very friendly.

Let me get the other point. If I understood the Senator, what he is saying is that the bracket, or the indexing that would otherwise occur, that would mean that whether you are in that 28-percent bracket or the 15-percent bracket, it would also not move as it is scheduled to move. Instead of going up to about $32,500, it would instead stay where it is at the present time?

Mr. DOLE. That is correct. It is called the friendly family tax.

Mr. WILSON. I did not get the number. What is the effect of that? I can pretty well guess at what it would be.

Mr. DOLE. It is going to cost, if your income exceeds $32,500, and you have a family, your tax is going up by $201. When you add that to what you lost in personal exemption it is a pretty good tax increase, say a dollar a day more tax courtesy of the House Democratic friendly family tax plan.

Mr. WILSON. Even if in the 15-percent bracket, let us say a family of four, that means with the loss of increase in the exemption you are going to pay $60 more than you otherwise would?

Mr. DOLE. That is correct.

Mr. WILSON. In addition, because of the delay in the increase up to $32,500, if you are a family of four, you are going to pay an additional probably $200 or so. So you are looking at about $260 or $300 tax increase?

Mr. DOLE. That is correct.

Mr. WILSON. Mr. President, I must say that I do not find that friendly. It is certainly not a family tax plan that is going to benefit most families who will find favor with them nor do I think it should.

As eager as everyone on the floor is to reduce the deficit, there has to be a better way. I thank the Republican leader.

Mr. DOLE. I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I ask unanimous consent that I be allowed to speak as if in morning business for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, the distinguished Senator from Kansas and distinguished Senator from California expressed a considerable amount of concern over the House Ways and Means action as regards indexing. I do not support that action. It is kind of curious, debating the House Ways and Means proposal. I came here today to talk about the Finance Committee proposal, the Senate proposal.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. KERREY. Yes.

Mr. DOLE. I understand it is going to be offered as a substitute on your side when we get in reconciliation, so we thought we would give a warning so you will not make the same mistake the House Democrats did.

Mr. KERREY. I appreciate the warning you are giving me.

I also would like to point out that in the midst of all this concern for families of America, I would like to ask where was the Republican leadership when we had an opportunity to reduce the tax on wages in America? It went up a half percentage point on January 1.

Mr. DOLE. This was a Republican amendment in 1981 indexing.

Mr. KERREY. I am talking about last week.

The PRESIDING OFFICER. I remind the Senator they must address each other through the chair.

Mr. KERREY. Last week we had a proposal before us that was based on the idea when we raised the tax on working people to pay for the Social Security trust fund that money was to be used for Social Security. But, unfortunately, for people who work in America, these working families that the Republican leader and the distinguished Senator from California expressed concern earlier, for these working families we taxed them too much. We generated more money than was needed for Social Security but we found another need, that is, deficit reduction. We found that we needed that little bit of excess. The distinguished Senator from Kansas talks about the highway trust fund. We are using that as well to reduce the deficit.

I did not hear enormous Republican outrage that American families were being overtaxed as a consequence of the increase in Social Security taxes and FICA contributions on January 1. I suspect that half-percent levy over the next 5 years will generate far more than what they are talking about over on the House side on indexing, though it is not a proposal I support.

I came to the floor, Mr. President, because I believe in the Finance Committee—though I may end up supporting that proposal—I believe in the Finance Committee proposal there is a continuation of what occurred in the 1980's. Perhaps the facts will reveal something other than what the facts revealed to me about the 1980's. But as I look at the 1980's, I think working people have taken it on the chin in all kinds of areas. Their real wages have gone down, creating all kinds of problems in our society.

We are finally going to get a child care bill passed, as I understand it, with Republican and Democratic support and it is going to be way too short and inadequate to deal with the problems that we have in America today.

In 1970, a person could graduate from high school and go out and get an hourly wage and support a family, but not in 1990. I hear this grand concern for American families. I hear more defense in fact of people who do not have a concern about their families because they are generating enough income that it is not a problem for them.

I look out in the streets of America today and I am concerned about American working families and what our tax policies, our spending policies, and our regulatory policies have done to them in the 1980's. And I think, in fact, contained in the rejection of the budget resolution after the President goes on television and tries to sell it, I heard the American people rejecting it.

Part of what I am trying to do, with respect to the distinguished Republican leader, in the debate about the Finance Committee proposal is try to respond to that concern.

Mr. DOLE. Will the Senator yield?

Mr. KERREY. I am glad to yield.

Mr. DOLE. Let me say, in reference to the Social Security tax, I joined the majority leader in opposing that, a bipartisan opposition to that plan, first of all, because we were trying to work out a bipartisan summit agreement to reduce the deficit and the so-called Moynihan proposal did not fit into that. Plus, as a member of the commission in 1983 that we think sort of rescued Social Security from the brink of disaster, many of us were concerned, not only us, but experts in the field, economists were concerned, about what the adoption of the Moynihan proposal, notwithstanding the short-term political gain, might do to the trust fund in the outyears, in the long term. And that is why I opposed it with the majority leader, Senator MITCHELL.

Mr. KERREY. Mr. President, I thank the Chair and I yield the floor.

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, I ask unanimous consent that I may proceed as if in morning business for 10 minutes or less.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEBUNKING THE MYTHS OF THE TAX SUMMIT PART III: WHEN A CUT ISN'T REALLY A CUT

Mr. BURNS. Mr. President, again we find ourselves, with the colloquies around the floor, trying to understand and trying to get the message to the American people on the budget process here in Washington. I think that is what makes it difficult, because there are not very many Americans really who understand it, I being one of those. I am new here.

I can remember my first committee meeting when they said, "Well, you have to come up with some savings and you have to save some money." So we come up with ways to save some money, but we found out it is not going to be scored as a savings—scored.

So I want to talk about two fundamental flaws in our budget process. They are flaws which can easily be corrected if we, in Congress, spoke the workingman's English.

Here in Congress the word cut, as in "spending cut," means something entirely different than it does in Montana or any other State in this country. If I went to Montana and said we are cutting Federal spending—which I would not, because we are not—people would think that Federal spending was going to be less than it was a year ago. That is not what cuts are here at all. Here in Washington, a spending cut can mean one of two things. It can mean that spending will increase, but not as much as it would have if we did not cut it, or it can mean that spending will increase just as much, but Congress will just make someone else pay.

I realize that might be confusing, so let me explain. The first meaning arises because of something called current services budgeting. When the budget is put together, it is assumed that spending will increase at a rate equal to inflation or greater. It is on this increased level that the budget debate begins.

Let me give an example of how it would work in real life, and I will boil it down to what everybody can deal with, which is situations around home. If I give my son $100 a month allowance this year—first of all, he would faint; second, under current services budgeting, though, he would expect to receive $110 a month next year. If I then decided we could not afford to pay him that additional $10 a month, but could only increase his allowance by $7 a month, I would in congressional lingo be cutting his allowance by $3 a month.

I think most people would see that as a $7 a month increase in an already generous allowance, but in Washington budget speak, we would proclaim it a $3 cut.

I sponsored legislation which would correct this problem and put these budget terms into what most people could understand; legislation that would base each year's spending on the previous year's spending. If we spent $1 million on a certain program in 1990, we would start at that level and then increase or decrease from there. It is plain common sense. I think the American people could better understand the budget process if we stuck to the ordinary meaning of words.

I am an old county commissioner. We had to deal with real dollars, dollars that come in. We could not estimate what our taxes would be. We had a mil levy; we had a certain amount of dollars that would come into the county and that was our budget. We could not go over that. State law prevented it in the first place. In another place, your phone number is in the phone book, and your taxpayers can walk into your office. That makes a big difference. If the American people think that spending is going to be less than it was a year ago, then they should be told that is not the case. And if the American people see what we are doing, they might be better able to put a stop to it.

The second meaning of the word "cut" here in Washington is my favorite. This is when cut means that Congress spends just as much, but we just make somebody else pay. To equate it with the above example that I gave awhile ago, it would be like telling my son I could give him $110 a month even if I can only afford to give him $107. And I have a daughter in college, and I charge my daughter $3 a month to drive the car each month. So I could match her $3 with my $107 to come up with my son's allowance of $110. This is exactly how the current budget process works.

Under the current budget agreement, the committees have been directed to increase revenues or cut spending to meet certain deficit reduction targets. This process is called budget reconciliation, and the amount that must be found is $258.6 billion over 5 years. We know approximately $140 billion to $150 billion will come directly from tax increases. The rest is to come from savings or cuts in spending.

Now the trick is these savings could be raised through fees. Congress saves money by making someone else—most likely the small business person or user of any Government service—pay. So far, committees have come up with most of their savings by raising fees. In fact, under the rules of the Senate, true spending cuts not only count as savings, oftentimes the only option a committee has is to raise fees.

For example, the Senate Banking Committee was instructed to save or cut spending $13 billion over 5 years. So they raised deposit insurance premiums, a cost the banks will pass on to their customers. Let us never forget that companies, corporations, do not pay taxes. People pay taxes.

The Commerce Committee was directed to save $1.3 billion over 5 years, so we increased fees on boats that use waters patrolled by the Coast Guard. And that is a cost that the private boat owners will have to bear.

I could go on and on, but I think the point is clear. I think most people would lump fee increases with tax increases and not with spending cuts. I think we should do the same here in Washington.

It is pretty clear to me, Mr. President, that the American people are being deceived. They are being told programs are being cut when in fact they are just increasing by less than assumed. They are being told Congress is going to cut spending when in fact we are just making them pay increased fees. I believe the budget process needs to be reformed to build in some type of spending control. We can do this simply by redefining our terms. Let us get rid of the current services budgeting and let us put fees in the revenues column.

If we view the budget agreement in this light, it is clear the budget is being balanced with tax increases and not spending cuts. We are asking the American people to sacrifice greatly so Congress does not have to sacrifice at all. It is just that simple. Nobody can run our farms and ranches and businesses like we are running this outfit here. I will venture to predict if the current budget agreement is enacted into law, all of the American people will be paying more to Uncle Sam than they ever have before so Congress can continue to spend.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, it is so ordered.

The Senator from North Carolina.

THE HONEST BUDGET

Mr. SANFORD. Mr. President, why do we have so much trouble with the budget? Why is there constant conflict between the White House and the majority in Congress? Why cannot we get the deficits under control? How did we pile up the greatest national debt in the history of the country?

The basic answer is that we have not been operating for the last 10 years in a framework of honesty. For 10 years we have covered up a large part of the annual deficits by slick accounting tricks. The lack of clear and honest accounting let this debt slip up on America.

This pileup of hidden debt is the legacy of the Reagan administration. That is not a political opinion. It is a statement of fact, clearly demonstrated by the budget figures. It is necessary to be candid, not political, in order to define our problem and to design our solution.

It started with a mistaken notion that supply side economics is a feasible economic theory. It is a theory, but it has not been feasible.

The Reagan administration, the nonpartisan hand of history now clearly unfolds, gambled that it could cut taxes, increase spending for defense, and grow out of the deficit. The American people bought this fantasy because they wanted to believe it, but it did not work. Deficits grew. Each year the debt grew and grew as the administration borrowed and borrowed and borrowed. At the end of the Reagan administration, the national debt had tripled to some $3 trillion. And now the current administration continues this failed policy that President Bush once called voodoo economics, and we are racing toward a $4 trillion debt. At this rate, before the end of the decade, the national debt will equal the GNP.

What is wrong with us? Why is our fiscal house crumbling around us? To repeat, the basic reason our budgets, deficits, and debt are out of control is because for the last 10 years the people have not been told the truth.

The White House, year after year, has sent over budgets in which sizable stportions of the deficits were covered up, while pretending that the deficits were being reduced. They were not being reduced. They were being covered up. The true deficits, the national debt, were climbing all the time.

And the Congress is not without equal guilt. Congress, year after year, acquiesced in the coverup and the deceit.

So, in a word, Mr. President, the missing ingredient has been and continues to be honesty.

I am convinced that the first step to fiscal rehabilitation is to insist on honest accounting in the Federal budget.

S. 101, reported out by a bipartisan Budget Committee vote of 17 to 5, is entitled, "the honest budget/balanced budget bill."

What it would do is very simple, yet the results could be profound. This bill requires honest accounting.

There has been much importance placed on a unified budget, going back to a study done by agency heads in the Government during the Johnson administration. At that time it was felt that there were too many separate budgets, that we need a unified budget. That was no doubt good advice at the time. We may need a consolidated budget now, as economists argue, so that they will see the full impact of all Government expenditures. I have no quarrel with that.

I do know from experience that the only way to identify the ingredients of catfish stew is to examine them before they are thrown together into the stewpot.

That is what S. 101 will do. It will lay the ingredients out on the counter, for the public to look at very carefully, to be sure what is that. Then the economists can mix the numbers up, unify and consolidate, any way they want to. But first we need to get a clear look at honest figures.

S. 101 initially displays the budget in three columns. Simple. But with profound results.

First, S. 101 would redefine deficit, put an accountant's definition on it, and say simply that the deficit is the annual increase in the national debt. Everybody understands that. The S. 101 deficit includes money that we spent that we did not have, and therefore had to borrow. That's the way other people keep their books. So to achieve this, we would lay out deficit, debt, and interest, and sum it all up to clearly see what the annual increase in the debt is. That is the real deficit. That is the figure we must expose, the figure we must reduce, if we are ever going to get the budget and the deficit under control.

Second, in order to accommodate this treatment of debt and deficit, a second column is used to account for all retirement funds, showing income and expenditure and reserves, and a balance at the bottom of that column. This is the way corporations are required to report their retirement funds. We in the Government, however, have mixed retirement funds with general revenue and have been using these retirement funds for Government operations. They are used to cover up the real deficits, while being misused to finance the Government. We leave IOU's in those retirement accounts to replace the retirement funds we have spent—funds that we gave—funds that will need to be replaced some day. These are IOU's backed only by the right to tax later on. This puts the Social Security future beneficiary in a program that might very well be described as "pay now, and pay again later." S. 101 would cure the deceitful reporting, and also would help cure the temptation to misappropriate these retirement funds.

Third, this leads to the remaining column of the budget, the operating budget, which consists of three large groups of expenditures: mandatory entitlements, defense, and discretionary programs. The mandatory part covers such things as veterans' benefits, the farm program, and food stamps. The discretionary part covers everything from the White House to the Coast Guard to Yellowstone National Park. Defense covers the largest single item in the budget.

The other side of the ledger in the operating budget is the income, the revenues. This includes individual income taxes, corporate income taxes, excise taxes, estate and gift taxes, customs duties, and various miscellaneous fees and taxes.

The operating budget, which includes general tax income and regular government expenditures, must be balanced year after year. S. 101 requires that. S. 101 also requires that if there is manipulation of the budget, or faulty estimates and assumptions, resulting in an operating deficit at the end of the year, the resulting deficit must be carried to the first line of the next budget. Consequently, the operating budget can be kept perpetually balanced, and that is what S. 101 requires.

Now, looking to the debt, deficit and interest column, S. 101 provides that a debt trust account will be established, into which revenues can be put, which must be absolutely and solely dedicated to the reduction of the national debt, and that these revenues would sunset when the debt has reached an appropriate percentage of the gross national product.

Honest accounting is the first step. Would the passage of this legislation ensure that we get our budget and deficit under control? Of course not. S. 101 sets the stage, it almost compels action, the problem is exposed starkly, but political courage and determination each year will be required. This legislation, S. 101, will lay it all out in the fresh air for the public to observe and to comment upon and I hope to insist upon appropriate action. The massive size of our national debt should frighten us all. What the debt and high interest are doing to our economy, to our world competitiveness, to the cost of buying a home, and the cost of running a business, is real and will have disastrous consequences. Honesty, I suggest, will force action.

In fiscal year 1991, the debt, the amount of money borrowed each year, was used mostly for interest, with 16 percent being used for debt incurred for reasons other than interest. The following year 10 percent will be for expenditures other than interest. The next year interest will become 100 percent of the amount borrowed. Reflect on that. The startling fact that we now have built up such a debt that the deficit, the annual increase in the debt, will be solely the interest on the massive debt. The deficit is the inter-

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est on the massive national debt—a startling development. It is urgent that the voters know about the cost of the debt, in order that we might do something about it.

That is what S. 101 is designed to do. It is designed to bring honesty back into the budget process. It starts the cure with a dose of honesty.

S. 101 defines deficit for what it is, the annual increase in the national debt.

S. 101 protects Social Security and other retirement funds by removing them from the operating budget, and reducing the temptation to misapply them.

S. 101 gives us a unique opportunity to have an enforceable balanced budget.

And finally, it gives us an opportunity to use the budget process without annual quarrels, about how to reach certain artificial target figures, and it commits the White House and the Congress to the purpose for which the budget is intended: to set the priorities of America. It will give us an opportunity to see clearly and focus upon our expenditures and receipts, and to relate better the budget to the hopes and aspirations of the Nation.

S. 101 is a step in the direction of more honest government. We should not miss taking this step.

Mr. President, I yield the floor.

CIVIL RIGHTS ACT OF 1990—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

PRIVILEGE OF THE FLOOR

Mr. DOLE. Mr. President, I ask unanimous consent on behalf of the Senator from Washington [Mr. GORTON] that Bill Yeomans and Roger Clegg, from the Department of Justice be granted privileges of floor during consideration of the now pending civil rights conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I am very hopeful that we can move ahead to accept the conference report. As we know we are moving down to the final few days of this session. We have another important conference report following the acceptance of the Civil Rights Act of 1990 conference report. It deals with community service and has the administration's support.

We have been out here since 9:30 this morning. We have heard a number of excellent statements from Republicans as well as Democrats, particularly those who have been most involved in the shaping of the legislation, as well as the shaping of the followup proposals that have been incorporated in the legislation. I know of no others on our side who wish to speak beyond the leader. He wishes to address the Senate. I think it is appropriate that he does prior to the time of reaching a vote on the conference report. But with the exception of the leader, I know of no further Members on our side who wish to speak. I hope and urge those who do want to speak in favor or against to do so. We can then move ahead and adopt this particular conference report at the earliest possible time.

Mr. GORTON. Mr. President, will the distinguished Senator from Massachusetts yield?

Mr. KENNEDY. Yes.

Mr. GORTON. Mr. President, it was the intention on this side through the Republican leader, Senator DOLE, to make a motion to recommit to the conference with instructions, or request the review of the Senate that it report out the Kassebaum-Wirth amendment, or something substantially similar to the amendment, which was debated at length at the time of the debate on the floor of this bill, and to have a vote on that motion of course before we voted on the conference committee report itself.

I have just spoken to the Republican leader who is prepared to make such a motion. But he was asked by the distinguished Senator from Pennsylvania [Mr. SPECTER] who as the Senator from Massachusetts knows has been working with him toward accommodation of this issue, that before any such motion was made he had an opportunity with the Attorney General and some others to discuss whether or not there is a middle ground in the office of the Senator from New Hampshire [Mr. RUDMAN]. That meeting is going on at the present time.

The Republican leader feels that he should not make the motion until he hears what the results of that meeting are, I expect with respect to the request from Senator SPECTER. So, unfortunately that will cause an additional bit of delay, but there is always the possibility that it will result in something that we can all agree on.

Mr. KENNEDY. I thank the Senator for his comments. I know this has been a long and continuing dialog with the White House, and with Republicans and Democrats alike.

I see my colleague, Senator JEFFORDS, who is our primary cosponsor on this legislation and has been very much involved in these conversations and negotiations. We tried to give as much time as possible after we completed our conference last week. It was my desire that we move to the conference report even as late as last Friday evening because it is a privileged matter. Then it was even the willingness of the Senator from Utah to move to it on Monday. Then there was the request to have it move on over to this morning.

We obviously are eager to have the President's endorsement and support. That has always been our desire. But at some time we have to reach a moment when we are going to dispose of this particular matter. We are now on Tuesday. We have heard that the majority leader desires to consider the Senate Finance Committee bill later this evening. We have other legislation on the community service program.

I would certainly not object to temporarily setting this aside for a short period of time so that we might be able to move ahead with our community service legislation, and so that we could use this time in a productive and constructive way.

The majority leader indicated this morning that these were the two items that he wanted to address today. We are prepared to move ahead on the community service program. I know of no objection to reaching a very short time limit on our side. There are two or three Members who wanted to speak very briefly on it.

So I hope that perhaps the Senator from Washington might make an inquiry of the majority leader to see if we cannot utilize this time in a way that would maximize productivity for Members of the Senate, and not just go on with continuing quorum calls.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. I thank the Senator from Massachusetts, Mr. President, for his understanding. Obviously, I have no objection to setting this bill aside so we can go on to other business.

It would seem to me at this point it might be appropriate to go into a quorum call, for the Senator from Massachusetts to seek the presence of the majority leader, and me to seek the presence of the Republican leader to see whether or not that could go forward. I will be happy to determine whether or not he would like to do exactly that.

Mr. KENNEDY. Mr. President, the request is that at the appropriate time we temporarily set the civil rights conference report aside for a brief period and then return to it. So I would suggest in just a moment the absence of a quorum. I believe I can say having talked with the majority leader that we would be authorized to move ahead in that direction. We will check with him at this time. But if the Senator would inquire, I think it would be worthwhile.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURDICK). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. I ask to proceed as in morning business for no more than 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

GRAZING FEE AMENDMENT

Mr. BURNS. Mr. President, yesterday the House of Representatives voted to include the so-called Synar grazing fee amendment to the interior appropriations package for fiscal year 1991.

Mr. President, there are several of us in the West that are having problems with this particular amendment, and I want to state a few reasons why.

The amendment would increase grazing fees on public lands, particularly in BLM, those lands under the jurisdiction of BLM, by some 500 percent over the next 4 years.

Mr. President, the effect of such an action would be devastating to the Western States, those States that have a lot of Bureau of Land Management land, and in particular, to my State of Montana. The current rate in Montana is $1.81 per animal unit per month. The Synar amendment would raise that to $4.35 in 1991, $5.80 in 1992, in 1993 to $7.25, and $8.70 per AUM, animal unit, in 1994.

This amendment was not in the Senate appropriations bill, and if it is included in the Senate version that reaches this floor, they will pass this bill over my dead body. That is just how much it hurts a State like Montana.

It has been estimated that higher grazing fees would have a huge impact on local businesses. If grazing on Federal lands were to increase to $8.70 in 1994, it would mean an increase of over $70 million outlay just on stockgrowers in the State of Montana—$70 million. Raise the fee by only $2.50 and you would cause a loss of $2.1 million to the local economy in Montana.

In Prairie County, over in eastern Montana, local officials estimate that that cost would be some $1 million out of one county alone, and that county only has 2,000 residents.

Mr. President, as a former county commissioner, I understand the economics of our rural areas. Current grazing fees are not the total cost that stockmen pay to graze on public lands. In fact, the grazing fees paid to the Federal Government for the use of that land only constitutes very little, in fact, some 15 to 20 percent of the total cost associated with moving cattle and sheep on the public lands and maintaining them there and getting them off and getting them to market. It just does not stop there. Fences are maintained by the stockgrower at no cost to the Government. Reservoirs and water development, all of these things have to be done to manage livestock on range. If you take a look at some of the country that goes in that lease, it takes about 25 acres to an animal unit just to run them.

It has been said that grazing on public lands reduces available feed for wild animals. Mr. President, I believe quite the opposite to be true. The development of those lands has been at the cost of the stockgrower. He knows where his money comes from. The better that range produces, the better it is for him. The faster the domestic animals gain and grow, the better for the wildlife around them.

Cattle help promote range conditions that enhance wild animal feed. A loss of grazing on public lands can result in poor grazing conditions on much of our public lands.

A few years ago the Northern Agriculture Network owned by Taylor Brown now, we started sponsoring Montana Days. The whole design of that program is range improvement. We are aware of what grass can do in grass country. That has been very successful. You talk to BLM and talk to anybody that knows the West, and they will tell you that the range conditions in this country today are the best they have been in the last century.

As a Member of the other body from Montana said yesterday, grazing cattle are more important to the economy of Montana than oranges are to California and wheat to Kansas. It accounts for over half of the cash receipts in my State in agriculture. It is our State's biggest industry.

I thought of a bumper sticker the other day that would say in agriculture, "Earth Day is Every Day." Each AUM contributes some $75 to the Montana economy. Currently, we have nearly 1,500 Forest Service permits and nearly 4,000 Bureau of Land Management permits. If you assume that each permittee has one allotment, only 30 percent of the livestock producers have Forest Service or BLM permits. It is key to our State.

I realize it is hard for those who come from States that have very little Federal land to realize the impact that this would have on the semiarid Western States. Of 93 million acres of the land in Montana, over 28 million are federally owned. That is some 30 percent of the land. Livestock production on Federal lands in Montana constitutes some $125 million, based on 1988 cattle prices.

Let us talk about the formula they operate under now. When that was put into place in 1986, it said if the market went up on cattle, they are going to pay more to graze them. That has worked because it went up 40-some percent in the last 3 years.

Do you not hear any complaints from the cowman? Cattle markets are good. The current grazing fee based on that formula has been tested and has been proven fair. That is the issue—fairness. Mr. SYNAR's proposed 500-percent increase on grazing fee is not fair and should not be included in the appropriations package.

Mr. President, I ask unanimous consent that an article by John Lacey and Jim Johnston titled "Livestock Grazing on Federal Lands: A Boon to Montana's Economy," be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LIVESTOCK GRAZING ON FEDERAL LANDS: A BOON TO MONTANA'S ECONOMY

(By John R. Lacey and James B. Johnson)

During the livestock industry's early years in the West, stockmen basically had almost unlimited access to huge amounts of land (Clawson 1950). During periods of intense settlement like the years 1867 to 1885, when herds of cattle were moved into the northern plains, use of the huge acreages they passed through was free. Only the presence of Indians restrained use of the land.

Some ranches eventually began to protect their grazing land from other stockmen by acquiring "key tracts" or base property. A key track usually contained the only water available to stock in the area. By preventing trespass on the land he owned, a rancher could obtain exclusive use of all the land that could be used by livestock watering on his land. Although public land adjacent to ranches was often useless for grazing because of a lack of water, the key tracts themselves were usually too small to sustain a viable livestock operation. Since stockmen lived in these areas, while the federal presence was at best a distant one, the former were able to make use of both types of land (Clawson 1950).

The first real regulation began when the federal government—through the U.S. Forest Service in 1906 and the Grazing Service in 1934—implemented formal range management policies. They began regulating the number of stock allowed on public lands, the season of use, the way livestock should be managed, etc. To control grazing, use of rangelands was reserved for specific livestock operation. The initial recipients of "right-to-graze" permits were usually established stockmen who could demonstrate historical use of the range. Even then, grazing fees were controversial, although at the time it was because of their very existence rather than their level.

Yet those fees were initially quite low. As noted by Secretary of Agriculture Henry C. Wallace in 1923:

"When the first grazing fees were established in 1906 they were designedly low, representing approximately the cost of administration rather than the intrinsic value of the forage consumed."

Early in its history, the Forest Service set monthly fees at about twelve cents per head for cattle and three cents for sheep; the Grazing Service established fees of five cents for cattle and one cent for sheep.

The land management policy that dominated those early years was expressed in a 1932 Forest Service report:

"In the administration of this vast domain, every effort is made to follow a sound national land-management policy. Ignoring passing expediences of the moment, this policy projects itself into the future; puts land management on a long-time basis. Conservation through use, rather than by "hoarding, is the very backbone of that policy. Its object is to devote every acre to the greatest public usefulness in the long run."

As a result of the process that established grazing fees and the way grazing permits on federal lands are transferred, permits acquired economic value. When a rancher sells private land that is the base property for the federal land, the grazing permit is waived back to the government. The government has the authority to reissue the permit to any qualified party but, almost without exception, reissues it to the purchaser of the base-property.

The difference between the value of the forage and the combined fee and non-fee costs of using the forage is capitalized into the value of the base property. In effect, the original owners of base properties reaped a windfall when permits were assigned to that property. In the market, grazing permit values are often calculated separately and bound and sold as assets with the ranches.

Although neither the Forest Service nor the Bureau of Land Management recognize the permits as vested rights, they are considered capital assets by ranchers, lending institutions and local governments. Permits values are reflected in the value of ranches when estates are settled and property taxes levied (McConnen 1976).

The escalating controversy surrounding livestock grazing on public lands reflects increasing public skepticism about the benefits of this particular land use. Public lands are now expected to provide everything from sustained timber harvest and high quality water sources to unspoiled opportunities for recreation. In light of the competition for public resources, some critics have singled out grazing as a particularly expensive use, one that returns benefits to a very small group of ranchers, most of whom purchased properties where the value of the permits was capitalized into the economic value of the base properties.

However, the benefits of grazing on public land go way beyond the leasees themselves. The income generated by this use of public lands, and its progress through local economies, makes a substantial contribution to the economic well-being of Western states. This article presents a brief analysis of the economic contributions of livestock grazing on federal lands in Montana, where nearly 25 million of the state's 93 million acres are managed by the U.S. Forest Service or the Bureau of Land Management. The state, like several of its Western counterparts, is quite dependent on agriculture.

Montana's livestock inventory, averaged for the 1986-88 period, included 1,317,000 beef cows and heifers that calved and 484,333 stock sheep and lambs. This inventory is equivalent to 1,413,868 AUs, which, as noted above, would require 16,966,416 AUMs annually.

Forest Service lands in Montana total 16,796,703 acres, some of which are used for grazing in addition to other uses. Of BLM land, 8,126,033 acres are managed for livestock grazing and other uses. Most of the Forest Service lands are located in the mountains of western Montana. Most of the BLM lands are in the plains and river breaks of north central and southeast Montana.

The Forest Service issues 1,499 permits and the BLM 3,939 permits to graze public lands in Montana (U.S. Forest Service 1987, Bureau of Land Management 1989). Assuming that each operator has only one permit, about 35 percent of the 13,000 farms with beef cows and the 2,600 with sheep are allowed to graze/ on federal land (U.S. Census of Agriculture 1989).

Federal lands supply 1,666,210 AUMs annually (Table 1). This represents 9.8 percent of the total forage needed by the range livestock inventory (where total forage requirements reflect forage for the grazing period plus harvested forage and other feeds during the feeding season).

The importance of forage from federal lands varied among regions in Montana. Much of the variation was directly related to distribution of federal lands. These lands supplied 17 and 14 percent, respectively, of the total forage requirements in the southeast and southwest regions. Federal lands supplied 25 percent or more of the total forage in six counties (Petroleum, Phillips, Powder River, Prairie, Siverlbow and Valley).

A representative 100-cow ranch runs one bull for every 20 cows, or a total of five bulls, which are kept in the herd for three years and then replaced. Cows are bred in June and July, and calves are born in March and April. Calves are weaned about mid-October. With the exception of heifer calves kept to replace cows in the herd, the calves are sold around November 1 at an average age of seven months. About 15 percent of the cowherd is culled annually, and the replacement heifers are bred at about 14 months, giving birth to their first calf at about 23 months.

Calf-crop percentage, expressed as the number of calves weaned in October and divided by the number of breeding cows the preceding January 1, averages 90 percent (this reflects the calf losses at birth, cows without calves and other calf deaths before weaning). Thus, 90 calves in our typical herd are weaned October 15. To simplify calculations (and because cow and bull mortality is quite low in most Montana livestock operations), we assumed zero percent cow and bull death rates. The total value of gross output generated per cow was $375.

The Forest Service appropriated $2.3 million and the BLM $2.5 million for annual range management programs in Montana. Additional funds, derived from grazing fees and invested in range improvements average $342,477 for the Forest Service and $1,747,737 for the BLM. The two agencies' expenditures for management and investments in range improvements totaled nearly $7 million annually (Bureau of Land Management 1986-88, U.S. Forest Service 1986-88).

The Forest Service and the BLM share of the total value of gross output per cow, based on the forage supplied as a percent of total forage required, was $12.38 and $24.38, respectively (0.033 × $375 and 0.065 × $375). Thus, forage from federal lands accounted for $52 million of the total value of gross output from Montana's 1,413,868 cows.

The total value of gross output attributable to livestock grazing on federal lands was $51,973,786. Forest Service and BLM expenditures and investments were $6,952,933. When the respective output multipliers were applied, the total economic activity attributable to livestock production was $111,743,639 and $12,793,507 to agency expenditures. Thus, the total economic activity attributable to livestock grazing on federal lands and to associated agency expenditures was $124.5 million.

The two agencies had similar economic impacts per AUM of grazing: $75.30 for the Forest Service and $74.46 for the BLM. According to total contribution by AUM, grazing on federal lands contributed more than $8 million to six counties (Beaverhead, Carter, Madison, Phillips, Powder River, Valley).

Obviously, grazing on public lands provides benefits that go way beyond the holders of grazing permits. To emphasize that point, it's worth reiterating the observations we've made in this article:

Federal lands supplied 1,664,210 AUMs, or 9.8 percent of the total forage required by 1,413,868 cows.

$375 in cash receipts was generated annually pet cow. Based on the federal land contribution of 9.8 percent of the total AUM requirements, the federal land share of the receipts was $36.75.

Based on a multiplier of 2.15, the total economic activity attributable to the Montana economy from grazing federal lands was $111.7 million.

The Forest Service and BLM annually invest $2.6 million and $4.3 million in their respective range management programs. Based on a multiplier of 1.84, the total economic activity attributable to the Montana economy from these expenditures and investments was $12.7 million.

On an AUM basis, the total economic activity attributable to grazing federal land and agency expenditures was $75.30 for the Forest Service and $74.46 for the BLM.

The total economic activity attributable to livestock production on federal lands in Montana and to agency expenditures on administration and investments in range improvements was $124.5 million annually.

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METHODS

The estimated total economic activity attributable to livestock grazing on federal land to Montana's economy has not been fully addressed in recent years. The analysis reported in this article required use of certain procedures and assumptions to approximate the current situation:

The number of beef cows and sheep was summarized by county (Montana Department of Agriculture 1989). By considering five sheep to be the equivalent of a cow, the mean number of cows was calculated for a three-year period (1986-88). This average was multiplied by 12 to derive AUMs. An AUM is the amount of dry forage required by one animal unit (AU) for one month, based on a forage allowance of 26 pounds per day. As AU was defined as one mature cow weighing about 1,000 pounds, either dry or with a calf up to six months old, based on a standardized amount of forage consumed.

The number AUMs of grazing supplied from Forest Service and BLM lands was summarized by county (Bureau of Land Management 1986-88, U.S. Forest Service 1986-88). An average annual number of AUMs was calculated for the three-year period.

The federal land's share of the total AUMs needed to sustain the Montana range livestock inventory was calculated by dividing the AUMs provided from federal land by the total AUMs required to sustain the livestock inventory on federal and non-federal lands.

The direct economic contribution of livestock grazing of public land to the Montana economy was estimated by assuming that all grazing was by cow-calf pairs (sheep were converted to cow units in step 1). The total value of gross output per cow—the cash receipts received by a rancher—was calculated for a 100-cow herd. Production data were derived from records at Montana State University. Sale weights for November 1988 and mean prices for the 1986-88 period (adjusted to constant dollars) were used (Montana Department of Agriculture 1989).

The federal land's share of the value of gross output per cow was calculated by multiplying the value of gross output per cow by the percent of total AUM's supplied by federal land.

Funds expended by the Forest Service and the BLM for administration of range management programs and investments in range improvements were summarized (Bureau of Land Management 1986-88; U.S. Forest Service 1986-88). These are considered additional benefits to the Montana economy associated with livestock grazing on federal lands.

Total contribution of livestock grazing on federal land in Montana to total state economic activity was estimated by using multipliers. Output multipliers were applied to the value of total gross output attributable to livestock production on federal lands and to agency expenditures and investment for range management and improvement. These multipliers trace the economic activity associated with range livestock production and Forest Service/BLM expenditures made in that sector of the economy into other affected sectors, such as business providing production materials used by livestock producers. The specific multipliers employed were the "meat animals and miscellaneous livestock" output multiplier (2.15) and the Federal Government Enterprises output multiplier (1.84) (Brester et al. 1986). This procedure accounts for the indirect and direct contribution to the state's total economic activity attributable to livestock grazing on federal lands and the two agencies' expenditures and investments.

Mr. BURNS. I reiterate that this is the heart and soul of the West, the ability of people to feed themselves. We must never forget to feed the rest of society, too. Grass is a crop. It can only be harvested by cattle or by sheep, so that it may be used for we animals called humans.

Thank you, Mr. President. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

CIVIL RIGHTS ACT OF 1990—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. DOLE. Mr. President, is the pending business the so-called Civil Rights Act of 1990?

The PRESIDING OFFICER. The conference report thereon.

Mr. DOLE. Mr. President, I have been a Member of Congress for nearly 30 years now, and I have voted for every piece of civil rights legislation that has come to the floor.

The Civil Rights Act of 1964, the Voting Rights Act of 1965, the Civil Rights Act of 1968, the Rehabilitation Act of 1973, the Voting Rights Act Extension of 1982, the Fair Housing Amendments Act of 1988, the Hate Crimes Statistics Act of 1989, and earlier this year, the Americans with Disabilities Act—I have voted for all these bills and have had some role to play in the legislation, and I have done so proudly and without hesitation.

But this year, Mr. President, the term "civil rights" has—regrettably—taken on a strange new meaning.

It is a meaning that has little to do with principles we all share as Americans—principles like fair play, and equal opportunity, and racial justice.

Instead, this bill—despite its great-sounding name and despite some of the positive changes made in conference—is still about quota justice. About protecting group rights, not individual rights. And about encouraging time-consuming and expensive litigation that will line the pockets of the plaintiff's bar and the lawyers for decades to come.

So, calling legislation the "Civil Rights Act of 1990" may be good strategy, good public relations, and it is certainly good politics. But labels are one thing. And the reality behind the label is something quite different.

The reality here is unlimited jury trials, unlimited compensatory damages, and a punitive damages provision that does little to diminish the possibility of multimillion-dollar jury verdicts but does much to transform title VII into a national tort law.

The reality here is that employers will be forced to abandon hiring by merit for a new standard—hiring by the numbers.

The reality here is that due process, the time-honored right to one's day in court, has been tossed into the legal junk heap for the sake of something called finality.

The reality is this bill does not restore title VII, as some of my colleagues have suggested. It distorts title VII and it transforms title VII into a gravy train for lawyers and for those who want an America where skin color is paramount and merit and good character are nothing more than little extras.

I commend my distinguished colleagues, Senator KASSEBAUM and Senator GORTON, for their leadership in drafting a strong, but responsible alternative civil rights bill. No doubt about it, Kassebaum-Gorton alternative has civil rights muscle and plenty of it. It overturns the Patterson versus McLean Credit Union decision by expanding the coverage of section 1981 to include racial harassment on the job. It overturns the Lorance versus AT&T decision by allowing workers to challenge discriminatory seniority plans at the time that the discrimination actually occurs, and not only at the time of the plan's adoption. It fine tunes the Martin versus Wilks decision in a way that protects court-ordered consent decrees without running roughshod over the due process rights of the citizens of this country. It expands title VII by creating for the first time in our Nation's history a strong Federal remedy, up to $100,000 in damages, that will deter sexual harassment in the workplace. Finally, the Kassebaum-Gorton alternative adopts a definition of business necessity that codifies the Griggs versus Duke Power decision, that is entirely consistent

with title VII case law, and one that is not so restrictive that employers will be forced to adopt racial and ethnic quotas in the workplace.

Mr. President, the legislation of my distinguished colleagues, Senator NANCY KASSEBAUM and the Senator from Washington, Senator SLADE GORTON, was the real civil rights bill in this debate. It is a bill that would have guaranteed a Rose Garden signing ceremony sometime later this week.

Early this morning, I received a letter from President Bush, and just received a phone call a few moments ago, expressing his hope that he could sign a civil rights bill. He wants to sign a civil rights bill. He, too, has an exemplary record in the civil rights field.

As he indicated in his letter, he would have to veto this conference report, but that he would sign the Kassebaum-Gorton alternative if it were presented to him.

I ask unanimous consent that the full text of President Bush's letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, October 16, 1990.

Hon. BOB DOLE,
Republican Leader, U.S. Senate,
Washington, DC.

DEAR BOB: I have consistently expressed my desire to sign into law a civil rights bill. I have also consistently worked with both the Senate and the House to forge a bipartisan consensus to address these issues in a constructive manner.

I understand that the Senate may soon consider the conference report on the Kennedy-Hawkins bill. The bill as amended in conference is neither sound nor practical. I am convinced it will have the effect of forcing businesses to adopt quotas in hiring and promotion. It will also foster divisiveness and litigation rather than conciliation and do more to promote legal fees than civil rights. If this bill is presented to me, I will be compelled to veto it.

I also understand that a motion may be offered to recommit to conference with instructions to adopt a substitute along the lines of the one proposed by Senators Kassebaum and Gorton last July. This approach represents a sound, practical compromise, and I will sign such a bill if it is presented to me.

I commend you, Senator Kassebaum, Senator Gorton, and all the Others who are working to produce sound civil rights legislation.

Sincerely,

GEORGE BUSH.

Mr. DOLE. Mr. President, I know there are a lot of people who deserve much credit. There have been a lot of meetings and hundreds of hours of work. I know there have been efforts to reach negotiated settlements with representatives of the NAACP and the Urban League; distinguished American leaders, black leaders; distinguished Members of the Senate; and distinguished members of the administration, the Attorney General, Boyden Gray, counsel to the President, Chief of Staff John Sununu, and others. They have told me, and I have listened to them and, as I have said, I attended some of the meetings, and there is no doubt in my mind that from the start the administration wanted a bill.

I recall discussions on the ADA bill, the American With Disabilities Act. There was a lot of suspicion around here whether the administration wanted a bill even though the President mentioned his support of the ADA in his campaign.

I recall the first time there was an effort by the White House negotiators to reach some accord, it was fluffed off: "They are not serious, they are not concerned about America's disabled," some said. A strange thing happened, though Congress and the administration compromised because there was a willingness to negotiate and to make compromises.

That bill has been signed into law and there is nothing more heartwarming than to see the 2,000 or 3,000 wheelchairs on the lawn of the White House on the day the President signed the ADA bill.

Maybe I am an eternal optimist, but I still believe there is some hope to resolve the real differences in this package, even though we have a conference report on the floor. One way to do that is to adopt my motion to recommit, which I will make in a few minutes, and bring back the Kassebaum-Gorton bill. The President will sign it immediately.

I also want to commend my Republican colleagues, Senator HATCH, Senator JEFFORDS, Senator SPECTER, and Senator DANFORTH, and my good friend, the Senator from Massachusetts, Senator KENNEDY, and others who have spent a lot of time in an effort to bring about a resolution of the major sticking points.

So far the efforts have failed. But I believe the President has given this his best shot. I believe, just as he did in the ADA bill, he has shown his real commitment to real reform of the civil rights laws. There is no doubt in my mind. The President said he wants to sign an acceptable bill. That is precisely what he means. I do not believe he should have any regrets in having to veto a bill like this.

Last August, I wrote a letter to my good friend Art Fletcher, who is now serving as Chairman of the United States Civil Rights Commission. The letter outlined some of my objections to the Civil Rights Act of 1990 in more detail, and I ask unanimous consent that the full text of the letter be printed in the RECORD immediately after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOLE. In an effort to get outside the Government, outside the Senate Chamber, I asked my staff to contact a number of practicing lawyers, people out in the real world, not in the U.S. Senate, not in the bureaucracy, not in the White House, to get their views on this legislation and the suggested changes. They are experts on title VII law.

Although the responses differed in tone and context, they all share one common theme. Even with the changes accepted by the conference committee, the Civil Rights Act of 1990 is still a quota bill, a lawyer's bill, and a bill that distorts and not restores the underlying purpose of title VII.

I ask unanimous consent that the full text of these responses be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follow:

PAUL, HASTINGS, JANOFSKY
& WALKER,
Washington, DC, October 10, 1990.

Re Civil Rights Act of 1990.

Senator ROBERT DOLE,
U.S. Senate, Office of the Republican Leader, U.S. Capitol, Washington, DC.

DEAR SENATOR DOLE: Thank you for sending me proposed alternative language on the Civil Rights Act of 1990. I have reviewed that language carefully, and it raises several serious concerns. I have addressed the most important of these below. I am troubled by other provisions and omissions in this language, and would be pleased to explore those with you or your staff at your convenience.

1. Remedies. My major concern about the Civil Rights Act of 1990 lies in its potential to spur litigation and reduce the level of settlement in Title VII cases.[1] My views are set forth in detail in the attached article from the editorial page of the Washington Post.

The proposed alternative language (like the bills as passed) does not deal meaningfully with this problem. Under the alternative language, large damage awards and jury trials would remain available, and their potential to disrupt Title VII's remedial scheme would remain undiminished. I suspect that omission of any provision on remedies in the proposal is due to the belief that the cap placed on punitive damages in the bills as passed resolves the litigation problem. That simply is not the case.

The cap placed in the bills limits recovery of punitive damages only. It does not affect the ability of plaintiffs, in every individual Title VII case, to recover compensatory (pain and suffering) damages. Thus, one of the major problems I envision in Title VII litigation—the routine introduction of psychiatric or other expert testimony attempting to quantify pain and suffering and thus support a large jury verdict—remains undiminished. Indeed, because the cap on punitive damages is $150,000 or the amount of compensatory damages plus back pay, whichever is greater, there is a premium placed on proof of compensatory damages

[1] These comments apply equally to the new Americans with Disabilities Act, which will be enforced under Title VII procedures. With 43,000,000 disabled citizens who may become potential plaintiffs in ADA litigation, enforcement issues assume even greater importance.

and the role of the psychiatrist in Title VII litigation would be highlighted.

Moreover, the cap placed on punitive damages hardly will diminish the amount of damages that can be recovered in Title VII litigation. A jury convinced that an employer committed serious wrongs easily could evade the punitive damages cap by awarding a large sum for pain and suffering, and then awarding a matching amount in punitive damages. Juries are notorious for allocating relief between compensatory and punitive damages in just such mysterious ways. The possibility for multi-million dollar liability remains undiminished under the bills as passed and under the proposed alternative language.

I am firmly convinced that the basic Title VII remedial structure—administrative conciliation, restorative relief rather than damages and bench rather than jury trials—remains appropriate for the vast majority of Title VII cases. There may be situations where some variance from this scheme is called for; for example, in harassment cases where there is no economic remedy available under current law. If Congress wishes to supplement existing remedies in these areas, it should do so specifically. It should not turn Title VII into a national tort law, at a time when tort law has shown itself so troublesome in so many areas of our society.

2. Definition of business necessity. An appropriate definition of "business necessity" is central to this legislation. An unduly strict definition of business necessity would lead employers to abandon attempts to use merit-related selection criteria, because the standards for their justification would be too stringent. There seems to be general agreement, reflected in language in the bills as passed and in the alternative proposal, that the business necessity standard initially enunciated in Griggs v. Duke Power Company, 401 U.S. 424 (1971), and developed by the federal courts during the 19 years since the Griggs decision, represents an appropriate accommodation of the competing interests involved.

Unfortunately, I do not believe either the alternative language that you sent to me, or the language in the bills as passed, effectively restores the Griggs standard. Section 3(o) of the alternative language continues to distinguish between employment practices involving selection and other employment practices, creating two different business necessity standards. I never have understood the need for two business necessity standards; the Court's decision in Griggs created only one standard. Two standards surely will lead to uncertainty and increased litigation, especially concerning what definition applies in any given case. For example, does a discharge fall within the clause for "selection practices" (Section 1(A)) or does it fall under paragraph 1(B)? Should some discharges (for example, discharges occasioned by theft) be treated differently than discharges based upon poor performance? Deciding what types of practices fall outside of the job performance criteria discussed in Section 1(A) needlessly will occupy the courts and employment lawyers for many years.

The Griggs test was clear and simple. The court held that where an employment practice is shown to have a disparate impact upon the employment opportunities of a protected group, "Congress has placed on the employer the burden of showing that any given requirement must have a manifest relationship to the employment in question." 401 U.S., at 432. That concept has been elucidated by the federal courts during the past twenty years, and until the controversy over Wards Cove Packing Co. v. Atonio, 109 S.Ct. 2115 (1989), no one (in my memory) in the civil rights community argued that Griggs was not stringent enough. A return to Griggs would embody a very simple definition of business necessity.

"1. The term 'required by business necessity' shall mean having a manifest relationship to the employment in question."

That definition is consistent with the paragraph of the proposed language, and of the bills, stating that the intent of the bill is to restore the Griggs standard and overturn Wards Cove.

Even if there was a need to create two business necessity standards, the proposed alternative language raises serious problems. For example, requiring a showing that the practice or practices "must bear a significant relationship to successful performance of the job", as in Section 1(A), could be construed to penalize employers who attempt to set their standards for "optimal" rather than "successful" performance. The Supreme Court in Griggs stated that "Congress has not commanded that the less qualified be preferred over the better qualified simply because of minority origins", 401 U.S., at 436, a proposition that remains equally vital today. Moreover, "successful job performance' does not seem to take into account concepts such as absenteeism, tardiness, accident rates or misconduct, which may not involve "job performance" but which are related directly to business needs and should be acceptable measures for employment criteria. Finally, by concentrating solely on "job performance", the proposed definition seems to exclude consideration of financial and safety concerns applied by many courts in business necessity cases. In transportation cases particularly, the courts have held that the risk to public safety justifies a somewhat less stringent approach to business necessity.

Others commenting on this language (including Division 14 of the American Psychological Association, a professional group composed of experts who deal with test validation and selection criteria for a living) having pointed out that use of the term "significant" may cause problems if it is understood to impose a requirement that employers establish the relationship between the test and the job by measures of statistical significance. This view is set forth in a recent letter from the President of Division 14, Dr. Frank Landy, to Rep. Augustus Hawkins, which I attach for your review.

I also commend to you the proposed definition of business necessity endorsed by Division 14, which states:

"The term 'required for business necessity' means shown to be (1) predictive of or significantly correlated with work behavior(s) comprising or relevant to the job or job family for which the procedure or combination of procedures is in use, or (2) representative of one or more important components of the job, or (3) otherwise manifestly and demonstrably job related."

I believe this language tracks the Griggs principle fairly closely, and embodies standards currently accepted by the professional community most familiar with this area. It also solves the difficult problem of justification of subjective employment criteria, which I believe led the Supreme Court to rule as it did in Wards Cove. I also cannot help but believe that this language would be acceptable to civil rights groups who in fact wish to see a restoration of Griggs.

The other basic problem I see with the business necessity section of the proposed compromise, and of the language contained in the bills themselves, lies in Section 2's specification of the types of evidence that a court may consider. I can recall no other statute in which Congress has attempted to instruct the federal courts on admission of evidence. In particular, I disagree with a requirement that an employer produce "demonstrable evidence" of business necessity. If Congress believes that the courts are likely to accept "unsubstantiated opinion and hearsay" as proof of business necessity (a fear that I believe has no basis under the Federal Rules of Evidence), Congress ought to say that and no more. Must an employer produce charts or other documents under the "demonstrable evidence" language? A "demonstrable evidence" requirement seems to command that a federal court to accept only a portion of the evidence that may be relevant to the issue before it, and illustrates the problems that undoubtedly will arise when Congress begins telling the federal courts what types of evidence they may receive and consider in any given case.

3. Particularity. Closely tied to the business necessity definition is the issue of proving which practice causes the disparate impact. In Wards Cove, the Supreme Court held that a plaintiff was required to demonstrate which employment practice caused the adverse impact, thus shifting the burden to the employer to validate that practice. Allowing the plaintiff to establish his or her prima facie case merely by showing that the employer's practices, taken as a whole, create an adverse impact would be a significant incentive for employers to abandon merit-based hiring and merely ensure that their work forces are racially and gender balanced.

The bills as passed seem to reflect an understanding of this problem. S. 2104 as passed requires that a plaintiff demonstrate which specific practice or practices contributed to the disparate impact if the court finds that this information can be identified from records or other information available through discovery or otherwise.

The alternative language on this issue wisely builds on this concept by requiring that the plaintiff demonstrate "which specific practice or practices are responsible for the disparate impact . . ." Further, the alternative language clearly states that plaintiffs bear this burden in all cases, a proposition that S. 2104 endorses in recondite fashion. The intent of the alternative language appears to be that this requirement holds true in all cases except where the employer has impeded access to information necessary for the plaintiff to meet this burden.

While this approach makes sense and is an improvement over the bills, I believe the proposed language is unwise in two respects. First, I am troubled by the proposition that the plaintiff may avoid his or her burden where an employer fails to keep records necessary to enable plantiff to demonstrate adverse impact. There is no existing requirement that employers keep any such records. If an employer must keep records on this issue, and the plaintiff may obtain such records through discovery, why place the burden on the plaintiff in the first place? Moreover, this language seems to assume that proof of impact can be generated only through employer records, which simply is not true. While proof of impact in the individual workplace is preferable, statistical showings of adverse impact that do not

depend upon employer records are routinely made and accept under Title VII.

Second, I believe it is unnecessary to specify particular acts of employer misconduct, as in subsection (a) (destruction, concealment or refusal to produce necessary records). Such misconduct normally warrants severe sanctions under existing law, including issue preclusion where appropriate. Rather than go into such detail, I suggest that this paragraph be rephrased to read:

(iii) the complaining party shall be required to demonstrate which specific practice or practices are responsible for the disparate impact in all cases, unless the court finds that the employer has wilfully impeded the complaining party's access to information necessary to make this showing.

4. Price Waterhouse. The proposed language is a substantial improvement over the bills in this area. The restoration of "motivating" factor language reflects the general rules applied in mixed motive cases, and is taken from the heart of the Price Waterhouse opinion itself.

My concern with this clause lies in its potential to spur reverse discrimination lawsuits. Almost by definition, employers engaged in lawful affirmative action regularly consider the race or sex of applicants or employees in their decisions. This does not mean they are engaged in quota hiring or promotion; rather, they consider race or sex as part of their decisional process. As I understand the motivating factor analysis created by the proposal, such consideration would be a violation of Title VII.

Proponents of the Civil Rights Act of 1990 have told me that they assume the courts will follow existing law and not find an employer liable for action taken pursuant to a lawful affirmative action program. I believe it is wrong to leave such an important proposition implicit in this bill. The federal government cannot in good conscience expect employers to undertake affirmative action efforts, as they must under Executive Order 11,246 and other federal laws, yet expose themselves to Title VII liability for doing so. To void this result, I would suggest that an additional sentence by added to the end of proposed section 703(1), stating:

It shall not be unlawful under this section or this title for an employer to take actions pursuant to the provisions of a lawful affirmative action plan.

As I stated above, these are not the only problems with the proposed language, or with the bills as passed. In the interest of brevity, I have addressed only the issues that seem central to me. I would be pleased to discuss these comments, or any other aspects of the bills or the proposed language, with you or your staff at your convenience.

Very truly yours,

ZACHARY D. FASMAN.

[From the Washington Post, July 23, 1990]

PRACTICAL PROBLEMS OF THE CIVIL RIGHTS ACT

(By Zachary D. Fasman)

The quota issue continues to dominate debate about the Civil Rights Act of 1990, obscuring several serious practical problems presented by the bill. Foremost among these is the propopsal to allow compensatory and punitive damages under Title VII of the Civil Rights Act of 1964. The omnibus federal employment discrimination statute, Title VII currently allows monetary relief for economic injuries alone. An employee improperly discharged because of his race can be reinstated to his job and recover lost wages and benefits; a woman wrongfully refused promotion because of her sex can obtain the lost promotion and back pay as well. Neither can recover damages for mental anguish or pain and suffering, nor can either obtain punitive damages. The Civil Rights Act of 1990 would change this, and allow their claims to be tried before a jury rather than before a judge.

This proposal to create a federal tort law system for employment discrimination cases is likely to benefit no one but lawyers. Authorizing recovery of compensatory and punitive damages will lead to a dramatic increase in Title VII litigation, with accompanying judicial delays. At present, Title VII emphasizes obtaining full economic redress quickly and without litigation. Discrimination charges must be filed promptly, the Equal Employment Opportunity Commission is supposed to investigate expeditiously and if reasonable cause exists to believe that the statute has been violated, the EEOC must attempt to conciliate prior to suit.

Early in the process, even full recompense for an employee's economic injury is relatively slight in comparison to the employer's projected litigation costs, to say nothing of the plaintiff's legal fees that the employer will incure in the event of a loss. While some cases involve matters of principle, most cases are resolved early in the process because the employer has strong economic incentives to settle rather than to litigate.

An employer's economic incentive to settle is largely destroyed if compensatory and punitive damages become available. Experience in state wrongful discharge litigation reveals that compensatory and punitive damage awards regularly average in the hundreds of thousands of dollars. Six-figure liability automatically will increase settlement costs in most individual cases beyond the employer's projected litigation costs, and thus employers will have an economic incentive to litigate rather than settle. In cases where an employer believes he has a reasonable chance of prevailing, the proverbial reasonable person would choose litigation on the basis of economics alone, contrary to the current situation.

Such an increase in litigation is not justified by the claim that Title VII remedies are inadequate. Title VII's remedial structure certainly is not unique. Congress repeatedly has concluded that employment principally is an economic relationship and that employment injuries do not require tort remedies. Almost every federal statute addressed specifically to the employment relationship—the National Labor Relations Act and ERISA spring to mind—provides relief for economic injuries alone rather than pain and suffering or punitive damages. These statutes, like Title VII, long have been regarded as successful. The multimillion-dollar Title VII class actions that have resulted in redesign of so many employment practices have not required the enhanced remedial scheme envisioned by the Civil Rights Act of 1990.

Our tort system, long renowned for its unfairness and glacial pace, has little to recommend it in employment discrimination cases. It is ironic that a majority of the Senate and at least 180 representatives apparently support creating a new federal tort system for employment discrimination cases at the same time that legislators on both the federal and state levels actively are seeking alternatives to the tort system itself in areas such as products liability and medical malpractice.

This irony is even more pronounced given the increasing congestion in the federal courts, evidenced by the recent Report of the Federal Courts Study Commission, which concluded that the "recent surge in federal criminal trials . . . is preventing federal judges in major metropolitan areas from scheduling civil trials, especially civil jury trials, of which there is a rapidly growing backlog." That report recommended arbitration rather than federal litigation of individual employment discrimination cases.

Proponents of the Civil Rights Act of 1990 argue that compensatory and punitive damages and jury trials already are available to blacks under the Civil Rights Act of 1866 and that the new law merely seeks to preserve parity among groups by making such remedies available to all victims of employment discrimination. But this argument does not address whether it makes practical sense to extend tort remedies any further. The Civil Rights Act of 1866 initially was extended to employment discrimination by a Supreme Court decision in 1976, more than a century after its passage, and there is no evidence that Congress (either in 1866 or subsequently) ever debated the wisdom of applying the statute to the workplace.

More thoughtful proponents of the bill claim that certain injuries actionable under Title VII have no economic component. In 1986, the Supreme Court held that pervasive racial or sexual harassment in the workplace was actionable under Title VII even absent an economic injury. Shouldn't there be some financial remedy for this conduct?

Perhaps so. But even assuming it is appropriate to create a greater financial remedy for harassment in the workplace, surely this limited lacuna in the law does not justify creating a federal tort system that would apply to almost every employment discrimination case.

That certainly is the purport of this legislation. Courts traditionally distinguish between disparate treatment cases—in which an individual claims to have been treated less favorably because of his race or her sex—and disparate impact cases, which generally involve systemic barriers to equality. The Civil Rights Act of 1990 would provide compensatory relief in all disparate treatment cases, not just those involving egregious intentional misconduct. Thus a run of the mill absenteeism discharge, in which a black or a woman claims that his or her absenteeism record was not as bad as that of another employee who was retained, would fall within the ambit of compensatory relief even though there was no direct evidence of race or sex animus in the workplace. So would broadly based class actions that allege that the employer engages in a "pattern or practice' of discrimination, thus inveigling juries in adjudicating sophisticated statistical issues with millions in compensatory and punitive damages hanging in the balance.

The monumental delays and the inordinate expense involved in litigating such cases before juries are daunting. Only lawyers would want to multiply this type of litigation by making settlements less likely or making it normal to introduce psychiatric testimony attempting to quantify the pain and suffering of an employee who has been discharged. The remedial provisions of the Civil Rights Act of 1990 need to be amended if the bill is to benefit anyone but members of the bar.

SOCIETY FOR INDUSTRIAL AND ORGANIZATIONAL PSYCHOLOGY, INC.,

Arlington Heights, IL, September 7, 1990.
Representative AUGUSTUS F. HAWKINS,
Chairman, Committee on Education and Labor, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE HAWKINS: As you may remember from earlier correspondence, the Society of Industrial and Organizational Psychology is a 2,400-member organization and a Division of the American Psychological Association, an association of over 90,000 psychologists. The members of our Society are centrally involved in employee selection issues. Our Society's publication entitled, "Principles for the Validation and Use of Personnel Selection Procedures" is commonly referred as a leading statement of the most current scientific thinking on personnel selection issues. They are frequently cited in Federal District Court cases on issues related to employment discrimination. In addition, our members conduct the research and practice that underlies legislative, judicial and administrative action at the local, state and federal level. Thus, we have followed with great interest the development of the Kennedy-Hawkins Civil Rights Act of 1990.

We have been monitoring the progress of the Civil Rights Act of 1990 as closely as possible during the discussions of this bill in both the House and Senate. On a number of occasions, we have suggested wording changes that would make the bill compatible with the current thinking of scientists who are expert in the area of selection testing. Unfortunately, our suggestions have not yet been implemented into the language of the bill. It appears to us that the language of H.R. 4000 exceeds the Griggs doctrine and, further, that this non-Griggs language is technically unacceptable and at odds with professional standards. Even though there are legislative disclaimers to the contrary, it is still possible that employers might choose to adopt quotas rather than challenge what might appear to be an impossible standard of proof. For that reason, I would like to urge members of the conference committee to make the appropriate changes. Any influence you might bring to bear on this issue would be greatly appreciated. Below, I have listed our concerns.

1. In H.R. 4000, the term "group of practices" is ambiguous. On many (if not most) occasions, employers use combinations of tests, or test "batteries" to make hiring decisions. It is well accepted in measurement theory that a combination is often more valid than any of its pieces. In other words, the predictive power accumulates across the different components of the combination. Our concern centers on Section 4(B), i. and ii. It is our fear that this important combination principle is lost and that employers will be required to show that each of the tests in the battery either has no adverse impact or sufficient validity to stand on its own, even though the battery combination is demonstrably job related. In this case, we have drowned the baby in the bathwater. The employer, once again, might be tempted to either eliminate a procedure that contributes to validity or to simply make sure that there is no adverse impact. It is obvious that the best way to eliminate adverse impact is through the adoption of quotas.

2. As before, we are concerned about the eventual interpretation of the term "significant" relationship. If this is interpreted as statistical significance, then it substantially alters the Griggs doctrine. Rather than lay the groundwork for later confusion, we continue to urge the use of the term "mainfest" relationship. As I indicated in an earlier letter, this battle has been fought long ago and a compromise has been reached between those representing the interests of plaintiffs and defendants in Title VII cases. The language of H.R. 4000 simply creates new chaos to replace order and understanding.

3. The use of the term successful to describe job performance creates an inappropriate dichotomy. It is a well accepted principle in our profession (a principle with wide empirical support) that performance is continuous and not dichotomous. There is no magic line that separates successful from unsuccessful performance. Rather, the generally accepted principle is that higher scores imply higher performance. This principle is clearly stated in the document that has been widely cited in Title VII litigation and published by our Society. The document to which I refer is titled "Principles for the Validation and Use of Personnel Selection Procedures" published in 1987. The following statement appears on p. 24 of that document:

"If a selection instrument measures a substantial and important part of the job reliably, and provides adequate discrimination in the score ranges involved, persons may be ranked on the basis of its results."

It is clear from this statement that ranking of candidates from the top scorer to the bottom scorer should be the rule rather than the exception. For this reason, we are concerned about the implications of the term "successful" performance in H.R. 4000. In addition, this terminology might suggest that the standard for comparison is minimal qualifications necessary to perform the job. Griggs, on the other hand, permitted employers to adopt higher standards rather than only minimal ones.

4. The term "performance on the job" also creates problems. As we have stated previously, many employers have legitimate concerns with employee behaviors such as absenteeism, tardiness, accident rate, and turnover. In fact, many of these outcomes are more closely related to employer profitability or effectiveness than more traditional measures of performance. For that reason, we fear that the term "job performance" is too restrictive and would like to see the concept expanded to include all relevant job behaviors (including those listed above).

5. Finally, one might construe the language in H.R. 4000 specifying performance on the job to imply that a new validation study must be conducted for each and every job in each and every situation. This principle has been dubbed "situational specificity" and has been clearly abandoned by our profession. The corner stone of applied prediction (and in fact, of all science) is the notion of generalizability. We conduct research in order to apply the results to similar situations. This is just as true in employee testing as it is in cancer research. In medical research, when the clinical trials are completed and the results satisfactory, the drug is presented for use in a range of situations that involve particular symptoms. One does not conduct new clinical trials in each city with reach doctor for each patient. The same is true in testing. When we have gathered sufficient evidence to demonstrate that a particular test is predictive of performance for a job title or job family, it is not necessary to "re-validate" that test for similar uses in other settings. To be sure, one would require that the test user demonstrate the similarity of the situations (e.g. through a comparison of job analysis results) but a new validation study would not be required. This principle is the cornerstone of the concept of validity transport, a concept well recognized in both professional (e.g. SIOP Principles) and administrative (e.g. Uniform Guidelines) documents. We urge that the use of the term "the" job be clarified so that there will be no argument about the concept of validity transportability, as currently addressed in the Uniform Guidelines.

ESPTEIN BECKER & GREEN, P.C.,
Washington, DC, October 10, 1990.
Hon. BOB DOLE,
Office of the Republican Leader, U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: Pursuant to your request, I have examined the proposed revisions to the Civil Rights Act of 1990 (the "Act") which purport to modify the Act's definition of "business necessity", the "particularity requirement" for plaintiffs alleging an unlawful "disparate impact" in an employer's workforce, the section of the Act overturning the Price Waterhouse decision, and add several new exceptions to the section of the Act that overturns Martin v. Wilks. In this endeavor, I was assisted by my partner, Tom Bagby, who prosecuted Title VII cases for the Justice Department from 1977 to 1981.

The proposed revisions simply fail to reduce the likelihood that employers would be forced to hire workers according to rigid racial and ethnic quotas and would lead to increased litigation since the Act, as now proposed (even with the revisions), is structured in such a way as to discourage settlement of cases prior to suit being filed. In addition, the litigation that would result from the adoption of the Act would be even more costly, complex and time-consuming due to the total reliance the Act places on the vast amounts of statistical and documentary evidence that would be necessary to justify each and every employment decision an employer makes in the normal course of business, from the number of employees needed to do the available work to the amount the employer will pay his/her employees. Logic and common sense would no longer be applicable in disparate impact cases.

The version of the Act adopted by the Conference Report, as a practical, matter would still compel employers to adopt quotas to avoid costly and time-consuming litigation. The revisions as a whole fail to restore the meaning and intent of Title VII, which is to provide equal employment opportunity (and not necessarily equal results) for the persons protected by the law. Finally, the revisions go far beyond restoring Griggs v. Duke Power Company and subsequent Supreme Court cases.

In particular the proposed defintion of "business necessity" will not eliminate the previously expressed concerns that the legislation may force employers to engage in "quota" hiring. Moreover, certain aspects of the proposed "business necessity" language may create additional concerns not previously present in earlier versions.

First, there is a strong implication, at least, that formal, detailed validation studies will be required to meet the stringent requirements of (o)(1)(A). Such validation studies simply are beyond the economic means or capabilities of most employers. Morever, the language of (o)(1)(A) arguably would preclude the use of "content" validation strategies and allow only more costly and complex "criteria-related" studies. (Historically, there has been an antipathy in the

civil rights community toward otherwise generally accepted "content" validation strategies.) The language in the proposal is sufficiently onerous that it may force the few remaining employers who use written tests to abandon their use, with the consequent significant loss of productivity associated with the use of less objective selection procedures.

Second certain portions of the proposal may contain terms of art that could result in substantial unforeseen problems for employers in defending against disparate impact claims. For example, "significant" may be interpreted to mean "statistically significant", in which case the burden on an employer of demonstrating the required relationship to successful job performance would be dramatically greater. In addition, to the extent "demonstrable" evidence is interpreted to mean "demonstrative" evidence, it may require written evidence (such as formal validation studies) in addition to otherwise the wholly acceptable and sufficient testimony from witnesses. Moreover, a single standard of businiess necessity would appear to be preferable to the current bifurcated approach.

Finally, the inclusion in (o)(1)(B) of a "plant closing or bankruptcy" as examples of employment decisions that could be challenged on a disparate impact basis is quite disturbing. Presumably, this means that a decision to close down a plant that had a largely minority workforce could be challenged on a disparate impact basis. This is a dramatic expansion of Title VII into areas which it previously has not covered and would impinge significantly on areas of employer prerogative that the courts previously have been unwilling to disturb.

From a practitioner's standpoint, perhaps the most significant aspect of the proposed legislation relates to the availability of jury trials and compensatory and punitive damages. While disparate impact cases remain important under Title VII, the vast majority of cases filed today are disparate treatment cases. All disparate treatment would be subject to jury trials and compensatory and punitive damages under the proposed amendments to title VII. The proposed cap on punitive damages is of little practical value given the availability of unlimited compensatory damages for pain and suffering, embarrassment, humiliation, and the like.

The case of Rawson v. Sears, Roebuck & Co., 615 F. Supp. 1546 (D. Colo. 1985), rev'd on other grounds, Nos. 85-1223 and 2366 (10th Cir. 1986), provides an illustration of how Title VII may be affected by the availability of such unlimited damage awards. Rawson involved a claim asserting a private right of action of age discrimination under a Colorado criminal misdemeanor age discrimination statute by an individual whose employment had been terminated. Following a jury verdict, a judgment was entered against the employer in the amount of $19,096,495.01. Of this amount, $5,000,000 ($5 million) was for pain, suffering and humiliation and $10,000,000 ($10 million) was for exemplary or punitive damages. While the verdict was overturned on appeal because the lower court improperly had approved a civil cause of action under the state criminal misdemeanor statute, the decision nonetheless demonstrates the significant potential for nearly unlimited jury verdicts under Title VII for compensatory damages in the form of pain and suffering, humiliation, embarrassment, and the like. The capping of punitive damages, of course, under the proposed amendments to Title VII would have absolutely no effect on limiting the amount of compensatory damages which could be awarded in similar EEO cases brought under Title VII.

In sum, we believe significant problems remain with the proposed legislation that tip the scales decidely against employers in defending against not only disparate impact but also disparate treatment claims. The onerous requirements for defending against claims of discrimination, when coupled with the availability of jury trials and compensatory and punitive damages, make it likely that many employers will have no alternative but to engage in "quota" hiring or selection. If you have any questions or if you would like to discuss any of these issues further, please do not hesitate to contact me.

Sincerely,

CATHIE A. SHATTUCK.

SHAW, PITTMAN, POTTS
& TROWBRIDGE,
Washington, DC, October 11, 1990.

Hon. ROBERT DOLE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOLE: Thank you for providing me with an opportunity to comment on the suggested revisions to the Civil Rights Act of 1990 ("Act"). Unfortunately, it is quite clear that these suggested revisions do nothing to eliminate the serious problems which led you to vote against the Act in July. Since you have already identified your objections to the original version of the Act, I will not attempt to rehash its deficiencies, but will simply explain why I do not believe the revisions mitigate these faults.

First, and perhaps most important, the revisions do nothing to solve the fundamental flaw in the Act's definition of "business necessity." Under the proposed revision, as under the original Act, all "employment practices involving selection" need be justified as having a "significant relationship to successful performance of the job." The only change is to impose this onerous requirement on either selection devices or "practices primarily related to a measure of job performance," but the revised version does nothing to lift or modify this requirement for selection devices. Accordingly, the revision simply does not address the fundamental objection that an employer should be permitted to take account of business objectives other than job performance when making a hiring or promotion decision. The revised Act's myopic rule would foreclose an employer from considering, for example, whether an applicant had been convicted of a felony or from considering anything else bearing on character, motivation or other intangible attributes not directly linked to the four corners of the job for which he or she is an applicant.

The only other cognizable change in the revised version is its substitution of the word "manifest" for "significant," so that nonselection devices may now be justified if they "bear a significant relationship to a manifest business objective." This does little to alleviate the difficult burden initially imposed by the Act and does much to confuse it. While "manifest" is arguably less demanding than "significant," the dictionary definition of that term is "readily perceived" or "easily understood." Thus, a literal construction of the revised standard would invalidate even important business objectives unless the objective's purpose was readily understood by outsiders—a genuinely bizarre result. This straightforward interpretation is more likely because, so far as I can discern, the phrase "manifest business objective" appears nowhere in Title VII case law and thus has no preexisting judicial meaning or gloss. Substituting the word "manifest" would thus lead only to confusion. Further, because this second category covers so little (all selection practices being judged under the first—often inapposite—standard), change here is often irrelevant in any event.

More important, even if "manifest" were arguably more palatable than "significant" when viewed in isolation, such tinkering with the law's substantive standard accomplishes precisely nothing absent deletion of the Act's directive that the "subsection is meant to codify the meaning of 'business necessity' as used in Griggs . . . and to overrule the treatment of business necessity as a defense in Wards Cove Packing Co. . . ." This plainly requires that courts create a significant distinction between Griggs' and Wards Cove's definition of business necessity, which does not exist under a proper interpretation of Griggs, and reject Wards Cove's practical application of traditional "disparate impact" doctrine. So treating Wards Cove as judicial kryptonite obviously renders its proper understanding of disparate impact a nullity and mandates that courts apply the most extreme, pro-quota understanding of Griggs that can possibly be gleaned from isolated lower court decisions. This Congressional internment of Wards Cove is particularly problematical because that decision was an avowed attempt to ensure that the disparate impact doctrine was not distorted into a standard so onerous that it effectively mandated racial preferences and quotas. This was especially important because the Watson case had vastly expanded the reach of disparate impact theory the year before. Congressional rejection of every aspect of the Wards Cove treatment of business necessity in favor of a "tougher" disparate impact theory would thus likely be taken by the courts to indicate a congressional lack of concern that this "tougher" standard will effectively mandate quotas.

Nor do the revisions make any discernible substantive change in the "particularity" requirements for plaintiffs. The bill currently states that plaintiffs need not isolate the specific employment practice allegedly causing the alleged impact if the relevant records are not "reasonably available" from the defendant. This is objectionable because it establishes the unique rule that a plaintiff is relieved of the obligation of establishing even a prima facie case solely because it cannot gather the evidence to establish that the defendant has caused the alleged injury. This places defendants in the impossible position of being required to demonstrate to the plaintiff how the plaintiff could have identified a particular employment practice in order to show that the plaintiff has not met its burden of identifying a particular practice. The newly proposed revisions to the Act do not change this circular and self-defeating state of affairs. The revised version merely identifies all the situations in which evidence would not be "reasonably available" to the plaintiff; i.e., those situations in which the relevant evidentiary records have never been kept or are no longer in existence. It does not, however, in any way change the rule that the plaintiff need not make his case if there is any difficulty with gathering the evidence necessary to make his case. Moreover, the revised version still does not require the plaintiff to

show that a particular employment practice caused any statistical disparity.

Perhaps the most indefensible, and certainly the most cynical, provision of the current Act is the section which prevents nonminority victims of reverse discrimination from even having a day in court to argue that such discrimination is illegal or unconstitutional. The revised version of the bill does virtually nothing to solve this blatant attempt to shield long-standing quotas from any judicial scrutiny. It still closes the courthouse door to persons who were complete strangers to any quota deal signed off on by an employer and the beneficiaries of the quota, so long as these two self-interested parties made "diligent and best," albeit unsuccessful, "efforts" to notify the affected nonminority employee. While "diligent and best efforts" is arguably a slight improvement over the Act's current requirement of "reasonable efforts" to notify affected employees, it still does not cure the basic flaw of denying a person the ability to sue even though that person never received the notice that is an "elementary and fundamental requirement of due process." Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950).

Even worse, the revisions, like the current Act, deny access to the courts to a person who was not even born when the quota was installed, so long as some other person "adequately represented" the nonminority plaintiff's interests. The proposed revision here is meaningless because the previous challenge that allegedly "adequately represents" the plaintiff's interest will always be "on the same legal grounds and with a similar factual situation" as the subsequent challenge.

Finally, the revised bill draws an inexplicable distinction between existing and future quota decrees: it holds that those decrees entered within 30 days of enactment are subject to challenge only under the "tougher" standards of the existing Act, while those entered after that time may be challenged under the revised standards just described. This dichotomy drains the revisions of virtually any practical significance and is unsupported by any coherent rationale.

Indeed, the only substantive change in the proposed revisions makes the bill worse. The much ballyhooed concession by the Act's sponsors to change the Price Waterhouse standard from a "motivating factor" to a "contributing factor" is now withdrawn. This, once again the Act penalizes bad thoughts even if they do not have any tangible effect on a civil rights plaintiff.

For these reasons, the various proposed revisions to the bill certainly will not, in response to your specific questions, "reduce the likelihood that employers would be forced to hire workers according to rigid racial and ethnic quotas," or "strike a fair balance between the need to protect our Nation's minorities . . . and the need to protect our Nation's employers from unnecessary litigation " or "restore the meaning of Title VII as it has been interpreted by the Supreme Court in Griggs v. Duke Power Co. and in subsequent cases." Moreover, it remains just as likely, if not more likely, that the Act will lead to "time-consuming and expensive litigation."

Either the revised or the current version of the Act will unquestionably result in a litigation bonanza that will take years to unravel. Juries and judges will be asked to decide questions such as whether an employer has carried his burden of proving [demonstrating, establishing?] that a plaintiff should have to carry its burden of demonstrating that a particular employment practice or group of practices was "responsible for" [even if it did not "cause" or, perhaps, "result in"] a disparate impact [which is nowhere defined but is not satisfied by a "mere statistical imbalance in an employer's workforce," but apparently is satisfied by a statistical imbalance resulting from an employer's practices] such that the employer is required to establish its affirmative defense (rebuttal burden?) of proving, in the case of "employment practices involving selection such as . . . requirements . . . physical characteristics[?]," as opposed to "practices primarily related to a measure of job performance" or "other employment decisions" or "rules relating to methodone [but not other narcotics], alcohol or tobacco," that the practice or group of practices is "required by" or "bears a significant [as opposed to manifest] relationship" [but is not essential] to "successful job performance" [as opposed to "significant (manifest) business objectives"] as shown by "demonstrable evidence," which includes an illustrative, but not comprehensive, list of the "types of evidence [which] is, or is not, in a particular case, sufficient to meet the standards for business necessity . . . as is appropriate under the meaning of 'business necessity' as used in Griggs v. Duke Power Co. . . .," but not under the apparently very different, albeit entirely undefined, standard of Wards Cove, or, alternatively, if the employer shows (on the basis of records that the court has already found were "destroyed" or that the employer "failed to keep") that a "specific employment practice within such group of employment practices is not responsible in whole or significant part for the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity," although perhaps only if the challenged practice was a "motivating," as opposed to a "contributing," factor, in which case an employer must "demonstrate" [as opposed to "establish"] it would have "taken the same action in the absence of any discrimination," all of which is subject to the exception "that an employment practice or group of employment practices demonstrated to be required by business necessity shall be unlawful where a complaining party demonstrates that a different employment practice or group of employment practices with less disparate impact would serve the respondent as well."

Courts must resolve these questions in light of what it thinks Congress believed was the existing state of "disparate impact" law under Griggs, but not Wards Cove, or, presumably, Beazer, although possibly some intervening cases, the state of the law concerning "existing cases involving comparable worth" and in light of Congress' directive that civil rights statutes be "broadly construed to effectuate the purpose of such laws to provide equal opportunity and provide effective remedies," but not so broadly that they would be "construed to require an employer to adopt hiring or promotion quotas" except, of course, for those quotas which are part of "court-ordered remedies, affirmative action, or conciliation agreements that are otherwise in accordance with the law." All these questions must be resolved before the court even reaches the question of remedies or damages, an area that is even more convoluted and contradictory than the rules for liability.

Since the Civil Rights Act of 1990, with or without the proposed revisions, converts Title VII into a law with almost the length, though not the clarity, of the IRS code, and simultaneously increases the potential damages available to a size at which the bar has every incentive to pursue novel legal theories, it will unquestionably lead to an explosion of expensive and drawn-out litigation for those employers foolhardy enough to attempt to defend themselves. The proposed revisions do nothing to ameliorate this problem, nor the more serious and closely related one of effectively mandating racial quotas throughout the Nation's workforce. They therefore leave in place all the concerns that led you to vote against the Act in the first instance.

I hope this has been responsive to your request. Should you need further advice, or further explanation of the foregoing, please do not hesitate to give me a call.

Sincerely,

MICHAEL CARVIN.

Mr. DOLE. Mr. President, I know there has been some very vigorous debate, spirited debate. I know at times in the heat of debate, certain things are said, or inferred, that never should have been inferred or never should have been said.

I must say, as I was in my office this morning, trying to listen to the debate and do something else, I was a little shocked when I heard the distinguished Senator from Ohio [Mr. METZENBAUM], my friend, asked the following question:

> Is the Republican Party truly the party of Lincoln? Or has it become the party of David Duke? That is what the question before us is all about.

This may sum up the debate for my colleague, Senator METZENBAUM. But that statement, in my view, is a new low in an effort to sell this particular legislation, particularly when nine of my colleagues, including this Senator, issued statements supporting a Democrat, Senator BENNETT JOHNSTON, over David Duke in the election just a few days ago.

So, if my friend from Ohio wants to play that kind of a game, he will not get many votes on this side of the aisle. We are proud to be the party of Lincoln. We are not the party of David Duke. If the Senator from Ohio wishes to make this a litmus test, and everything he calls civil rights a litmus test, he can do so. But he has not won any friends on this side of the aisle to even suggest that is the case.

There are a lot of reasons we can disagree. Many of us have different views on many different subjects and sometimes they are not partisan at all.

I must say there are lawyers in this Chamber who I admire and respect and they have much more expertise than I could ever have in determining some of the very fine points that have been discussed over the past months of this legislation. I do not pretend to be an expert.

I consider my distinguished colleague from Pennsylvania to be an expert not because he lived in Russell,

KS, my hometown, for a while; not because his brother still lives in Russell, KS; but because he is one of the most able lawyers whom I have ever known. So I respect his opinion and I respect the opinion of my friend from the State of Washington [Mr. GORTON], and many others in the Chamber who really understand the niceties and the fine points that somehow escape the Senator from Kansas.

But it seems to me in the final analysis, there has to be some way to get there. Why should those of us who have never opposed a civil rights bill since we have been in the Congress of the United States be forced to vote against a conference report because we believe there are honest differences that can be resolved? Some have suggested that my colleagues on the other side of the aisle want a political issue. They want President Bush to have a veto civil rights bill so they can go to the civil rights community and voters across America this year, in 1992, whenever, and say, "We told you that President Bush was anti-civil rights." In other words, this is a political vote to some.

I never thought there was much political gain when it came to civil rights, or disability rights, or other basic rights that ought to be accorded to every American, regardless of race, color, creed, disability, whatever. But that is where we are now.

The President has made his statement.

MOTION TO RECOMMIT

Mr. DOLE. Because he has said that he would immediately sign something along the lines of the Kassebaum-Gorton measure, I now move to recommit the conference report on the Civil Rights Act of 1990 to the committee of conference with instructions that the conferees consider the following amendment as a compromise between the disagreeing votes of the two Houses. That amendment, for information purposes, is the Kassebaum-Gorton alternative.

The motion is as follows:

Mr. DOLE moves to recommit the conference report to the committee of conference with instructions that the conferees consider the following amendment as a compromise between the disagreeing votes of the two Houses:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Act of 1990."

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—additional protections and remedies under Federal law are needed to deter unlawful discrimination.

(b) PURPOSES.—The purpose of this Act is—to strengthen existing protections and remedies available under Federal civil rights laws to provide more effective deterrence.

SEC. 3. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end thereof the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burden of production and persuasion.

"(n) The term 'justified by business necessity' means that the challenged practice has a manifest relationship to the employment practice in question or that the respondent's legitimate employment goals are significantly served by—even if they do not require—the challenged practice or group of practices.

"(o) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee, controlling apprenticeship or other training or retraining program, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof)."

SEC. 4. DISPARATE IMPACT CASES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end thereof the following new subsection:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—

"(1) An unlawful employment practice based on disparate impact is established only when—

"(A) a complaining party identifies a particular employment practice and demonstrates by statistical evidence that that particular employment practice causes a disparate impact on the basis of race, color, religion, sex, or national origin; and the respondent fails to demonstrate that such practice is justified by business necessity; or

"(B) a complaining party identifies a combination of two or more employment practices and demonstrates by statistical evidence that that combination of two or more employment practices causes a disparate impact on the basis of race, color, religion, sex, or national origin, and that each employment practice in such combination has contributed to the exclusion; and the respondent fails to demonstrate that such combination would not cause a disparate impact but for employment practices justified by business necessity.

"(2) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in Schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision under Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of the race, color, religion, sex or national origin except where permitted by 42 U.S.C. 200e-2(i)."

SEC. 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(m) DISCRIMINATORY PRACTICE NEED NOT BE SOLE CONTRIBUTING FACTOR.—Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a major contributing factor for any employment practice, even though other factors also contributed to such practice."

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: "or, in the case where a violation is esablished under section 703(1), if the respondent establishes that it would have taken the same action in the absence of discrimination.".

SEC. 6 FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by sections 4 and 5) is further amended by adding at the end thereof the following new subsection:

"(n) FINALITY OF LITIGATED OR CONSENT JUDGMENTS OR ORDERS.—

"(1) Nothwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice specifically required by a litigated or consent judgment or order resolving a claim of employment discrimination under this Title may not be challenged in a claim under the United States Constitution or Federal civil rights laws by a person who, at the time of the entry of such judgment or order, was an applicant for employment with or an employee of the entity covered by such decree, whose interests would likely be affected by the consent decree, and who had

"(A) actual notice that such judgment or order would likely affect the interests of such person and that later challenge by such person would be barred; and

"(B) a reasonable opportunity to challenge such judgment or order;

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal government; or

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction.

SEC. 7. EXPANSION OF RIGHT TO CHALLENGE DISCRIMINATORY SENIORITY SYSTEMS.

Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended by adding at the end thereof the following language—

"For purposes of this section, an alleged unlawful employment practice occurs when a seniority system is adopted, when an individual becomes subject to a seniority system, or when a person aggrieved is injured by the application of a seniority system, or provision thereof, that is alleged to have been adopted for an intentionally discriminatory purpose, in violation of this Title, whether or not that discriminatory purpose is apparent on the face of the seniority provision.".

SEC. 8. PROVIDING FOR ADDITIONAL EQUITABLE RELIEF IN CERTAIN CASES OF INTENTIONAL DISCRIMINATION.

Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: In fashioning remedies for an unlawful employment practice (other than an unlawful employment practice established in accordance with subsection 703(k)), the court may require the respondent to pay the complaining party an amount not to exceed $100,000 if the court finds that an additional equitable remedy beyond those otherwise available is needed to deter the respondent from continuing to engage in such unlawful employment practices; and (ii) that such an award is otherwise justified by the equities.

All issues in cases arising under Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e to 2000e-17) shall be heard and determined by a judge, as specified in section 706(f) of that Title (42 U.S.C. 2000e-5f).

SEC. 9. ALLOWING THE AWARD OF EXPERT FEES.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended by inserting "(including expert fees) and" after "attorney's fee,";

SEC. 10. EXPANSION OF PROTECTIONS AGAINST ALL RACIAL DISCRIMINATION IN THE PERFORMANCE OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended by adding at the end thereof the following new language:

"The rights protected by this section are protected against impairment by nongovernmental discrimination as well as against impairment under color of State law. This section affords the same protection against discrimination in the performance, breach, modification or termination of a contract, or in the setting of the terms or conditions thereof, as it does in the making or enforcement of that contract.".

SEC. 11. PROVIDING CIVIL RIGHTS PROTECTIONS TO CONGRESSIONAL EMPLOYEES.

Title VII (42 U.S.C. 2000e et seq.) is amended by adding at the end the following new section:

"SEC. 719. CONGRESSIONAL COVERAGE.

"Notwithstanding any other provision of this title, this title shall apply to the Congress of the United States. The means for enforcing this title as the title applies to each House of Congress shall be as determined by the House of Congress.".

SEC. 12. SEVERABILITY.

If any provision of the Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

EXHIBIT 1

August 8, 1990.

Mr. ARTHUR A. FLETCHER,
Chairman, U.S. Commission on Civil Rights,
Washington, DC

DEAR ART: Thank you for sending me a copy of the Commission's "Report on the Civil Rights Act of 1990."

Although I have not yet had the opportunity to review the Report, I would like to respond to two points made in your cover letter.

First, you state that "[w]e especially commend the Senate for adopting, as we call for in our report, explicit language clarifying that the bill does not require employers to adopt quotas." As you know, in a last-minute change on the Senate floor, the Kennedy bill was amended to provide that "nothing in the amendments made by this Act shall be construed to *require* an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex or national origin."

You do not need to be a lawyer to realize that this language is about as binding as a sense of the Senate resolution. Despite some of the "hype" surrounding the language, it does not in any way "prohibit" employers from adopting quotas. Nor does it address the fact that employers will be "forced" to hire-by-the-numbers simply to avoid expensive and time-consuming lawsuits, lawsuits made even more likely by the prospect of unlimited compensatory and punitive damages.

In an effort to tighten up the so-called "anti-quota" langauge in the bill, I attempted to offer an amendment that specifically *prohibited* employers and other entities covered by Title VII from adopting or implementing hiring, promotion, or termination quotas. This amendment read as follows:

"Nothing in the amendments made by this Act, or in any statute amended by this Act, shall be construed to require, *permit, or result in* the adoption or implementation of hiring, promotion, or termination quotas by an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training programs, or those federal entities subject to the provisions of Section 717 (or the heads thereof), on the basis of race, religion, sex, or national origin."

Unfortunately, Senator Kennedy rejected the amendment out-of-hand, claiming that it was unnecessary in light of the cosmetic change that he had previously made to the bill.

Second, you state that the "Senate has amended the definition of business necessity by adopting a definition that is word-for-word contained in the *Griggs* decision." As you know, the final version of the Kennedy bill provides that an employment practice is justified by "business necessity" if it "bears a significant relationship to successful performance of the job."

You are absolutely right in pointing out the phrase "significant relationship to successful performance of the job" is contained in the *Griggs* decision, specifically at 401 U.S. 426.

This phrase, however, is not part of the holding of *Griggs*. In fact, it can't even be considered judicial *dicta*, since it is simply a recitation of the question that the Supreme Court was asked to decide by the complaining party in *Griggs*.

Furthermore, to my knowledge, the phrase "significant relationship to successful performance of the job" has not once—not once—been cited in a subsequent Supreme Court decision interpreting Title VII.

If we are really interested in codifying *Griggs*, which seems to be everyone's professed aim, then we ought to codify the two definitions of "business necessity" contained in *Griggs*: a) "manifest relationship to the employment in question (401 U.S. at 432)," or b) "demonstrable relationship to successful peformance of the job (401 U.S. at 431)." Combining these two definitions would be acceptable to me, and I suspect, acceptable to most Republicans. As you probably know, the term "manifest relationship to the employment in question" is the most widely accepted definition of "business necessity," having been cited in numerous subsequent Title VII decisions, including the following Supreme Court decisions: *Albermarle Paper Co. v. Moody, Dothard v. Rawlinson, New York Transit Authority v. Beazer,* and *Connecticut v. Teal.*

Art, I hope this letter helps to clarify some of my reservations about the Civil Rights Act of 1990. I am still hopeful that a fair compromise can be achieved, but I do question the willingness of some of the bill's proponents to give up what they perceive to be a winning political issue.

Sincerely,

BOB DOLE.

Mr. KENNEDY. Mr. President, I will not take a very long time. I see my colleague, Senator JEFFORDS, is on the floor, and I know the Senator from Pennsylvania wants to speak, and perhaps others. I would like to address the substantive issue in the substitute to refresh the recollection of the Members on exactly what the issue is that is before us.

Before doing that, I want to acknowledge the very substantial work of the minority leader, Senator DOLE, in helping this institution, the Senate of the United States, to pass an extremely important and effective legislative remedy to help those who are faced with physical and mental challenge, the Americans With Disabilities Act. I think that will go down as a monumental piece of legislation that will bring some 43 million disabled individuals into the mainstream of American life.

As a member of the Judiciary Committee and Labor Committee, I know Senator DOLE has been very much involved in past pieces of civil rights legislation. I say with all sincerity we certainly would have welcomed his support for this legislation. Those of us who have been involved in a bipartisan way in fashioning the legislation believe that it is certainly consistent both with his own record on civil rights as well as that of the President.

I had stated during the course of the negotiations that in the 28 years I have been here, we have never been as close to reaching a final, successful conclusion on any major piece of legislation as we have on this one without bridging the gaps and reaching a successful conclusion. As he expresses his frustration, I want him and the other Members to know that there is a similar frustration among those of us who have worked on this legislation in a bipartisan way over a long period of time.

We take note that there were 10 Members of the Senator's own party who supported our proposal in its final form previously in the Senate. Subsequently we have made some adjustments and changes to take into consideration the recommendations of the ranking minority member of the Human Resources Committee and also a distinguished member of the Judiciary Committee, Senator HATCH. Sena-

tor HATCH is a real leader, principally in opposition to this legislation, but he thought that with a series of changes and alterations, it would no longer be a quota bill. It was not all the things he would desire, but nonetheless it moved the process sufficiently forward to the point where he felt that if the President would support it, he in good conscience, as a matter of principle, could support it as well.

I hope that those who are reviewing the total record, and the give and take of this legislation will note, for instance the early amendments and changes that were made at the request of Senator DANFORTH and others; the continued bipartisan discussions that took place during the course of the summer; the votes that were taken on the floor of the U.S. Senate on the Wilks case and other actions that were taken and important efforts that were made by our colleagues, the Senator from Arkansas [Mr. PRYOR], the Senator from Oklahoma [Mr. BOREN], and others, and a number of recommendations that were made by our colleagues on the opposite side. I would hope that such a review would produce an understanding that there was a very sincere desire by all of those who have been very much involved in the shaping and the fashioning of this legislation that we would have a bipartisan measure.

As I have stated and I think all of those who supported the measure have stated previously, it was our earnest hope that we would be able to have the President's endorsement of this measure. It was out of that consideration, as well as to respond to some of the suggestions made by Members, that we reconvened the conference and made the changes that the Senator from Utah desired.

Nonetheless, we find ourselves where we are this afternoon. We find ourselves in the final hours of this session. This has been an ongoing long and continuing journey. It is time to end discrimination against American workers, whether their skin is white or black, whether they are women or men, whether they have been discriminated against for religious or ethnic reasons—bias in the workplace is unacceptable.

We are talking about simple justice. When this Nation fought the bloody battles in the American Civil War, it was to try and free us from one form of discrimination. That was discrimination based on race. We have seen now the discrimination that exists against women in our society, in the work force in terms of sexual harassment, and in terms of other forms of discrimination. We have found discrimination against those with disabilities. We believe that the simple cause of justice in America, to try and ensure the words "equal justice under law," means we have a continuing responsibility to proceed in that torturous path leading away from the time 200 years ago when the Founding Fathers actually enshrined slavery in the Constitution. That is really what motivated this legislation.

Mr. President, I want to speak very briefly about the substance of the substitute and then to yield the floor for others who want to speak on the issue.

The substitute that has been proposed is not the civil rights bill that our country needs. It does not provide the protections against job discrimination that the working people of our country deserve.

The proposed substitute does not repair the damage which the Supreme Court did last year. In fact, in several areas, it would actually enact into law some of the devastating rules of law announced in these decisions. It would gut this important civil rights legislation.

The section of the substitute addressing Wards Cove versus Atonio actually adopts rather than overruling key elements of that decision's harmful holding that makes it far more difficult for victims of discrimination to prevail in disparate impact cases.

For 18 years, under Griggs versus Duke Power, employers had the burden of proving that practices with a discriminatory impact were justified by business necessity. More than 200 decisions over those 18 years confirmed this fundamental truth.

The substitute would adopt the weakened standards of business necessity used in the Wards Cove decision. It allows any practice—no matter how devastating the impact on women or minorities—to continue as long as it serves some "legitimate employment goals," the same standard the Court used in Wards Cove. Even well-known conservative Judge Richard Posner recognized that the Wards Cove decision diluted the Griggs standard for business necessity. We cannot allow this diluted standard to remain as a barrier to equal opportunity.

One of the most distressing portions of the substitute is the section which addresses the issue of remedies under title VII. Under current law, racial minorities, who can sue under section 1981 of the Civil Rights Act of 1866, can obtain damages for employment discrimination; women and religious minorities, who can sue only under title VII, cannot. This leaves many victims of discrimination without any remedy at all; a victim of sexual harassment may be left without recourse—and may even have to pay the court costs of her harasser.

The substitute claims to address this problem by permitting judges to award up to $100,000 as an equitable remedy in cases where backpay cannot be awarded.

Unfortunately, there are several problems. First, the section is flatly unconstitutional. Under the seventh amendment, in a case where damages may be awarded, the parties have a right to demand a jury trial. No matter what label the substitute would put on its remedy, the Supreme Court would call it damages. And if you can obtain damages in a Federal court—in any amount—you have a constitutional right to a jury trial.

The Justice Department recognized this fundamental fact; they even challenged the constitutionality of fair housing legislation in 1987 on the ground that it did not permit a jury trial in administrative proceedings where damages could be awarded. I previously inserted in the RECORD a memorandum prepared by the Office of Legal Counsel at the Justice Department to that effect.

An unconstitutional remedies provision which would be thrown out of court at its first challenge is no remedies provision at all.

The substitute also fails to address the problem created by the Supreme Court's decision in Lorance versus AT&T Technologies. In the Lorance decision, the Supreme Court unfairly limited the time in which employees could challenge a discriminatory seniority system. Although Lorance can be—and has already been—applied outside of the seniority context, the substitute deals only with seniority systems. This leaves a hole in our civil rights laws through which many workers might fall.

The substitute would also permit disruptive collateral attacks on consent decrees. It does not counteract the damage caused by the Supreme Court decision in Martin versus Wilks. In that decision, the Court laid open to infinite challenges every consent decree settling job discrimination cases. The substitute allows such attacks under virtually all of the same circumstances as Wilks; it carves out only a narrow exception to the rule that anyone who wants to can challenge a consent decree after the fact, no matter how much due process they were accorded. Because of this, it does not provide the finality that businesses need.

In short, our legislation would adopt the Griggs rule; the substitute would codify Wards Cove. Our legislation would give a meaningful remedy to women and religious minorities who suffer intentional discrimination on the job; the substitute would provide a meaningless, unconstitutional remedy. Our legislation would provide both full procedural protections and finality with respect to consent decrees; the substitute would permit endless challenges to those decrees.

Senators who wish to overrule Wards Cove, codify Griggs, and restore fundamental fairness to working men

and women should vote to table the motion to recommit.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I thank the Chair for the opportunity to speak on this point.

I oppose this last gasp effort by those who have mistaken racial and gender quotas for what ought to be true civil rights and equal opportunity. It pains me to have to say this but despite its attractive title, this bill has little to do with civil rights and equal opportunity but much to do with equal outcomes based upon group entitlement. Most assuredly, it would not end discrimination in the workplace. That can end, in this Senator's humble opinion, only when we end it in each of our hearts. The latest incarnation before us is a product of yet another of the too infrequent back room, closed-door meetings arranged by the insiders and power brokers throughout this town. Unfortunately, it seems that both Republicans and Democrats are doing very little of the public's business in public these days.

Like the budget summit deal, this back-alley deal with civil rights is mostly blue smoke, ambiguity piled upon uncertainty, piled upon legalese, with little consequence for those who expressed genuine concern when this bill was first up on the floor back in July. Instead, this bill, if enacted, would aggravate the resentment and the tensions that are growing too fast in our American society by enshrining a system of quota hiring and job promotion in virtually every workplace in America. The proponents will hasten to tell us—they have done it so many times already today—that nothing in this bill would "require or encourage an employer to adopt hiring or promotion quotas." But as we have pointed out repeatedly, the trouble with the bill is not that it explicitly "encourages" or in fact "requires" quotas. Rather, it will inevitably lead to that result as a way for employers to attempt to avoid certain litigation.

Just because the proponents say they do not want it to happen does not mean that it will not happen that way. Worse, it would ensure costly and protracted litigation over proportional representation in the workplace. At the same time, it ironically shuts the door on others denied opportunity precisely because of their race or gender.

Almost 40 years ago, we shook off the chains of "separate but equal." This bill introduces another odious concept: "unequal but benign."

Civil rights bills were not always like this. There was always a consensus in the past. That is because past laws, whether it be the 1964 Act or the Voting Rights Act of 1965 or Fair Housing Act of 1968—all of these were premised on nondiscrimination. Any selection scheme that was race or gender conscious was to be condemned and was so condemned.

But the conference report before us turns this time-honored doctrine upside down for it is entirely race conscious. It presumes that any racial, gender, religious, or ethnic imbalance or "disparity" in the workplace is unlawful. What is more, no employer can avoid liability by pointing to merit selection as a defense to the charge of disparate impact. Rather, only if the existing work force imbalance due to any employment practice or group of practice as can be shown—"substantially and demonstrably"—to be a matter of business necessity can it then legally continue. In all other circumstances, the bill insists on proportionality—on hiring and promoting by the numbers.

This turns civil rights enforcement over to the statisticians and the numbers crunchers. Not so, say the proponents: "We're just restoring the law to the way it was after the 1971 decision in Griggs, they say, and Griggs didn't lead to quotas, did it?"

The answer is we do not know. And moreover, we are asking the wrong question because the conference report does not use Griggs language. The Griggs test for business necessity is "manifest relationship to the employment in question." This language is nowhere to be seen in the conference report.

Finally, the last 18 years did not have the additional grab-bag full of goodies of the conference report.

Unlike the conference report now before us, Griggs did not demand work force parity as to race, gender, religion, and national origin, unless allowed by business necessity. Rather, it correctly recognized that while the statistical makeup of a work force may have some relevance in a title VII case, it was only one of several factors to consider. The burden of proof—as in all civil cases—is on the plaintiff.

In addition, the imbalance under Griggs must be linked to some employer misconduct before it assumes legal significance. An employer's competing evidence that the employment decision was based on merit was always—up to now—a good defense.

Thus all the incentives under Griggs point toward merit hiring and promotion. The conference report, by contrast, tells employers that merit selection is insufficient to justify numerical imbalances in the work force; such imbalances must be compelled by a so-called significant relationship to successful job performance, with the burden of proof on the employer—not by the employer's opinion, but rather by "demonstrable evidence"—a burden that cannot be met.

Thus all of the incentives move in precisely the opposite direction from Griggs—also reported to us here on the Senate floor——toward group affiliations, rather than individual character, and toward equality of results, not equal opportunity.

Let us be clear on who are the real winners under this conference report: They happen to be the lawyers of America. If this bill becomes the law, a law degree becomes a license to print money. Perhaps that is acceptable to a Chamber where two-thirds of the Members are lawyers, but it is not acceptable to this Senator.

An orgy of litigation will surely follow enactment of this bill, because it is a plaintiff lawyer's dream: Jury trials, compensatory and punitive damages, and of course, unlimited attorney's fees.

By the way, though this bill is styled as a response to a handful—I believe five or six—of Supreme Court decisions, ask the proponents to tell you what cases they are overturning with the addition of compensatory and punitive damages.

Twenty-five years of resolving complaints under a workable conciliation and negotiation process are thrown overboard, transformed into an engine of litigation—costly, protracted litigation which will toss most claimants into an inescapable judicial gridlock.

One wonders if the proponents have checked the dockets of the Federal district courts lately. These new title VII cases are not going to go to trial anytime soon, and the proponents ought to know it, because every district court in America is choked with priority criminal and drug cases.

But the lawyers—who are involved in these cases and in future cases—can worry not. Their every prayer is answered by the conference report. It is a loaded gun with which to extort favorable settlements.

Mr. President, let me get back to the low end of the food chain—the lawyers of America. The bill permits recovery of attorney's fees in title VII cases, incurred after the rejection of a settlement offer which exceeds the plaintiff's ultimate judgment, thus overturning civil procedure rule 68, and a 5-year-old decision by Justice Stevens. This is a bald incentive for plaintiffs and their lawyers to keep litigating.

The bill prohibits a party from waiving an attorney fee award in exchange for a favorable settlement in a title VII case, thus making the interests of settlement, and the victim, come secondary to the lawyer's fee.

The bill even permits the recovery of legal fees from original title VII defendants in actions by third party intervenors, overturning yet another case the proponents never mention.

Mr. President, let me illustrate this one, because this is one of the so-called improvements in the conference report.

Suppose a plaintiff sues an employer for discrimination. They settle on terms agreeable to both sides. Then later, a third party, such as a union, unsuccessfully challenges the settlement, saying it disturbed its seniority rules. Under current law, everybody pays their own lawyer—employee, union and employer. Under current law, losing intervenors like the union pay legal fees for the winner only if their action was frivolous.

The conference report changes all that, but with a particularly perverse twist. It says that the original plaintiff can recover legal fees incurred defending the settlement, not against the intervenor, like the union, who caused the suit, but against the blameless employer. Thus the employer pays the plaintiff lawyer both in the original case and potentially every time thereafter. If you are a plaintiff's lawyer, it just does not get any better than this. If you are an employer, you can never breathe easy.

But wait, there is yet another unmentioned supreme court case that the conference report overturns. The result is to uncap recovery for so-called expert witness fees in title VII cases and allow recovery of actual fees, regardless of how exorbitant they might be.

Hard to believe, Mr. President, but there is even more to this conference report: It gratuitously extends the statute of limitations in title VII cases from 6 months to 2 years. Moreover, it provides that the statute runs not from the time of the alleged illegality, but from the time of its alleged bad effect, whichever is later, thus overturning not one, but three more Supreme Court cases.

Stale claims are thus encouraged, even to the detriment of all other employees, who have been accruing seniority in the meantime.

At the same time, it would slam the courthouse door shut on those alleging that an affirmative action settlement violated their constitutional rights, even when they lacked notice of the original settlement.

Finally, it allows employers to be held liable for damages—even punitive damages—not because of anything they said or did, but simply for the thoughts that passed through their minds, even when these thoughts were not the cause of the employment action taken. This is a preemptive strike against impure thinking, and it reverses a decision by Justice Brennan in so-called mixed motive cases. Thus, I hope everybody in this body realizes that even decisions by a liberal icon get savaged, if the reasoning suggests anything less than total plaintiff victory. As our own Attorney General has pointed out, this section is now worse than it was before.

I have to mention one final irony of this conference report that offends me deeply, Mr. President. In the Senate, as you will recall, because it was a very hotly debated item, the only amendment adopted in July was one by the Senator from Kentucky that gutted my landmark amendment to the ADA, to finally, after many decades of civil rights legislation, apply the civil rights laws to the Senate, and to give Senate employees and prospective employees the same rights in court that every other American has.

Thus, this so-called civil rights bill actually takes away the hard-fought civil rights we had won for these employees in conference on the ADA. It is enough to make one ask: "What kind of a civil rights bill is this?"

The President has said he will veto this bill, despite the cosmetic surgery of the inside operators. Ironically, this may well suit some of the proponents, who may think they benefit more from a veto than a bill anyway. If the President vetoes this bill, I predict we in the Senate will sustain him. And at that time, I hope the President seizes the opportunity to set out clearly a new agenda for civil rights in the 1990's and beyond; an agenda that focuses on economic liberties for all Americans, and the right to live and prosper in a crime-free and drug-free neighborhood, the most important civil right of all.

Mr. President, let me leave you with one idea which might more accurately reflect a true restoration of civil rights. It challenges the special interests of this bill. It would require us to repeal a law passed in 1931. With this law, you do not even need to resort to disparate impact to see how harmful it is to minorities, or to guess about a bad motive. With this law, the sponsors spelled out their discriminatory intent right in the pages of the CONGRESSIONAL RECORD of 1931.

It seems that the proponents of this law, the Davis-Bacon Act, did not like the idea of black workers competing with white workers. Congressman Bacon introduced the act after an Alabama contractor won a bid to build a hospital in his district. In the debate Bacon stated:

> The bid was let to a firm from Alabama who brought some thousand non-union laborers into my congressional district.

A key supporter of the bill, Representative Allgood chimed in on the House floor:

> That contractor has cheap colored labor * * * in competition with white labor * * * this bill has merit * * * it is very important that we enact this measure.

Ever since, Davis-Bacon has, unfortunately, worked to raise the cost of Federal construction jobs, and it also shut out minority contractors from bidding on Government contracts. Do not take my word for it, Mr. President. Ask Ralph Thomas, the executive director of the National Association of Minority Contractors. As he put it:

> The law is poison to minority contractors and to minority employment in general * * * the law stifles minority contractors' efforts to not only hire as many minority workers as possible, but also hinders minority contractors' efforts to introduce new workers to the construction fields."

Let me suggest to my colleagues that we will know we are in a new age of civil rights, when we vote on bills to end this type of overt discrimination. I look forward to the day when our discussion of civil rights encompasses all of our civil rights.

I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Thank you. I listened carefully to the Senator from Iowa. I say that I disagree with many of the issues that he has stated and raised. However, the time is short, and I will be brief.

I will say that there is, obviously, considerable confusion over what this bill does. In fact, even the sponsor of the substitute for the recommit motion, which the administration has agreed to would be at odds with the Senator from Iowa. There is considerable confusion over the use of the term "quotas." I think the most obvious confusion is the reference which the Senator from Iowa alluded to in the latter part of his talk about quotas or affirmative action type programs. This has nothing to do with that. Those are contracts through the Federal Government wherein there is an affirmative action required to reduce discrimination. This has nothing to do with that.

What it does have to do with is the question of what happens when a business decides that it will have a hiring practice which is not related to the performance of the job, but which, innocently perhaps, or at least on its face innocently, results in discrimination against a group. Quotas in the term used, for instance, are illegal. You could not do as the Senator from Iowa suggested—hire according to quotas. That is a violation.

This country is based upon equal opportunity. Every person ought to have an equal opportunity to get a job. That is what the basis is here. To insist that a quota is filled without consideration of equal opportunity would be a violation of the law, a violation of title VII. That is a confusion which rings around this bill. The Hatch substitute, which was adopted in the conference committee, goes out of its way to ensure that we are not referring to quotas.

Let me just run through, very briefly, the substitute which is being offered. This was basically the same substitute which Members voted for and defeated at the time the bill was up for action.

It does have some changes, for instance, on the burden of proof issue which the Senator from Iowa alluded to. It is not as stated. The burden of proof is on the complainant in these cases. It only shifts to the employer when it appears that there is a discrimination taking place and the business necessity defense is used. There it does shift. Everyone agrees that it shifts, including the substitute here, that it shifts then to the employer.

With respect to the Price Waterhouse situation, where someone is discriminated against in promotion, there is a little difference now between the two bills, the one which is being offered as a substitute here and the one that is being offered. The old language, a major contributing fact for any employing practice, is used in the substitute from Hatch, substitute motivating factor. If there is a difference, I am not sure what it is.

The other changes also are not significant. In the Lorance case, it admits the system should be changed, but limits to the seniority system rather than broadening to all systems.

With respect to the critical question of disparate impact for women, it takes a much different tack, which would result in the minds of those who have studied this issue, constitutional solution, by saying you do not have to have a trial by jury for compensatory damages. And that is by an Attorney General opinion back when the housing bill was stated, that such a compensation without a jury trial is unconstitutional.

It is also different where it treats women differently by racial majority, by capping compensatory damages at $100,000. That is not disparate, not someone who may have suffered hundreds of thousands of dollars of damages as a result of harassment, or whatever. There is no problem, no difference between the two with respect to the Patterson case, which was alluded to which was an 1866 case. There is nothing there. Where are the differences? We are right back at the same one we have with the administration and that basically was the Wards Cove case.

As I went into some length this morning indicating the problems with that, basically it is this: If you want to go away from a hiring practice which is substantially related to the employment aspects, performance of the job, then you have to show a business necessity for it, and what is allowed is the question.

We have argued and argued and argued and agreed that some exemptions should be allowed. If it is a plant closing matter, we agreed that exemptions could be allowed. If you close one plant that has more women than men, blacks or whites, or whatever, you have created an unlawful situation as far as disparate impact conduct. We went on to say the same as bankruptcy. We agreed on another loophole. We agreed on a loophole for the question of drug usage, alcohol, and tobacco. There are some more loopholes, but that was not enough.

It is wide open after that, according to the administration proposal in that anything, including all sorts of health care cost issues and things which women are deeply concerned about, discrimination against single parents and heads of households on health cost issues, all these matters are allowed under the option suggested by the administration.

I think this is a way, and I remain eternally optimistic that we can find a solution. Yes, we have carefully delineated compensation in the proposal we have here. But it is wide open in the administration proposal.

It is possible we could look and go the other way and say let us agree on things that should not be in here. I have discussed some of these with the administration. We saw we do not want to include those. You are right, we should not allow those things to occur. It may be possible if we sit down and say OK, these are specifically allowed and these are specifically now allowed and perhaps allow some wiggle room, as the expression goes, in between.

I wanted to just say, in concluding here, that in my mind we have done as good a job as possible. You just take a look at the results of the votes in the last conference committee. Both the right and the left fell off. We just barely had a majority to get out of the conference committee. That, to me, indicates that we have reached that kind of a solution that is one that we can and should live with, where you have the middle ground, where you have neither side, the right nor the left, happy with the solution.

This is what we bring to you today. It is not perfect. We may be able to improve it. But to me it is more important at this point that we move forward to stop the discrimination which will be allowed under the present situation which we are under right now. I urge my colleagues to vote against the motion to recommit and to support the conference report.

I yield the floor.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Washington [Mr. GORTON] is recognized.

Mr. GORTON. Mr. President, Morris Abram, who is a permanent representative to the United Nations in Geneva, was Vice Chairman of the U.S. Commission on Civil Rights from 1984 to 1986. He was also one of the earliest and bravest of the fighters for civil rights in the South at a time in which that was not only a matter which was likely to cost one monetarily and within one's profession, but at a time at which it also would cause risk to life and limb.

Mr. Abram has written an essay which appeared a month or so ago in the Wall Street Journal, from which I would like to quote the initial paragraph.

> If I were still practicing law, I would love the Kennedy-Hawkins Bill—the so-called "Civil Rights Act of 1990." It may enrich contingency fee lawyers. But it will also impoverish the principle of equality of all Americans. All my life, beginning in the darkest days of segregation in my home state of Georgia, I have fought against the principle of color preference, then known as "white supremacy." This bill institutionalizes color preference under the false flag of civil rights. It is not a civil rights bill. It is a quota bill that will achieve precisely what the landmark 1984 Civil Rights Act stood foursquare against.

I will return to Mr. Abram's article a bit later in my remarks on the motion to recommit the substitute, the Kassebaum-Gorton proposal, for this one.

I should like to begin my own remarks by saying that this debate, this difference of opinion takes place on three distinct levels. The first and most philosophic of those levels is whether or not we now find in the Civil Rights Act of 1964 with its broad and sweeping requirements of equality of treatment and nondiscrimination on the basis of race, ethnicity, sex, and the like, still to state the American dream and the American goal, or whether we feel that our problems are so great that we need a series of quotas, that the primary factors and the primary characteristic of each American is another part of a hyphen rather than simply being an American.

The second level on which this proposal is being debated is what, in fact, the effect of the Kennedy-Hawkins bill as it has been amended by the committee of conference will be on the state of law in the United States.

From the very beginning of this debate, from the initial draft of Kennedy-Hawkins, it has been advertised that it simply seeks to restore the status quo of some previous time. It is sometimes stated to be the intention of the authors of the 1964 Civil Rights Act, more frequently stated to be the state of the law in the early 1970's when a decision under the title of Griggs was handed down by the Supreme Court, but clearly designed to reverse at least some aspects of a number of decisions of the Supreme Court of the United States since the early 1970's dealing with the Civil Rights Act of 1964.

These differences of opinion exist on a number of levels and they are treated in a number of different ways by this motion to recommit. But clearly, the single level of difference which is most important to the American people on which has been concentrated some 90 percent of the attention in

the public press and, for that matter, in the private sector, has been the question as to whether or not this bill as it was originally, or as it is drafted, as it appears before us now, encourages or mandates the use of quotas in hiring decisions on the part of employers across the United States.

The distinguished Senator from Massachusetts says that that issue has been laid to rest by the conference committee in adding an express section stating that nothing in this act requires quotas.

Mr. President, I submit to you that that addition is totally and completely meaningless. As far as I know, no Member of the Senate at any time, even with the very drastic and far-reaching original version of Kennedy-Hawkins, made the claim that it require quotas. Of course it does not. No one in the professional civil rights community would make an attempt to do that in so many words, given the negative attitude of the American people toward quotas.

The true question in this connection is whether or not the complex and convoluted language, either of the original bill or of the bill as it appears before us today, makes the imposition of quotas by employers nearly inevitable. In that respect, Mr. President, I submit that it did when it was introduced and that it does today.

The question revolves around two rather obscure terms, one entitled business necessity and the other the question of particularity with respect to employment practices.

Mr. President, neither of those phrases, to the best of my knowledge, appears in the Civil Rights Act of 1964. As I have already stated, that act is in broad and general terms and simply prohibits discrimination in employment. I believe that that general language was wise in 1964 and is equally wise today.

In our system, we have a series of Federal courts the duty of which it is to interpret the statutes which we write and to apply them to the myriad of specific situations and precise controversies which come before those courts. And in the course of settling those controversies, a body of law goes up which gives guidance to individuals, employers and employees, as to what the law requires. It is literally impossible here for Members of this body or of the House of Representatives to anticipate every kind of controversy which will arise out of any of our acts, and most particularly those relating to civil rights. The more we attempt to nail down every specific instance, the more we are likely to miss important points and to create unintended consequences, and most particularly to encourage endless litigation.

So it is the definition of business necessity primarily as it has been interpreted and established by the Supreme Court of the United States which this bill is designed to change. It states very explicitly in the language of the bill itself that it is meant to codify the meaning of business necessity as used in Griggs versus Duke Power Co., a Supreme Court case to which I have already referred, and overrule the treatment of business necessity as a defense in the Supreme Court case of Wards Cove Packing Co. versus Atonio.

One of the grave differences between the bill and the motion to recommit is just how much in that Wards Cove case ought to be reversed. It has been the position of the administration and of this Senator that a portion of that decision which dealt with the burden of proof shifting that burden from the employer to the employee was to a certain degree at least inequitable and could appropriately be reversed.

This bill, however, expressly proposes to reverse the decision of the Supreme Court at that time in the Wards Cove case with respect to its definition of "business necessity." Well, what is it that the Supreme Court said in that section? I have not heard it discussed, expressly or explicitly, previously during the course of this debate or on the debate of the earlier bill.

In speaking of business necessity, the Supreme Court said this:

> Though we have phrased the query differently in different cases, it is generally well established that at the justification stage of a disparate impact case the dispositive issue is whether a challenged practice serves in a significant way the legitimate employment goals of the employer.

And for that proposition it cites the very Griggs decision which this bill purportedly restores.

The Supreme Court goes on to say:

> The touchstone of this inquiry is a reasoned review of the employer's justification for his use of the challenged practice. A mere insubstantial justification in this regard will not suffice because such a low standard of review would permit discrimination to be practiced through the use of spurious, seemingly neutral, employment practices. At the same time, though, there is no requirement that the challenged practice be essential or indispensable to the employer's business for it to pass muster. This degree of scrutiny would be almost impossible for most employers to meet and would result in a host of evils we have identified above.

Mr. President, it is curious, but not accidental, that it is exactly that standard—a standard almost impossible for employers to meet—which was expressly included in the original Kennedy-Hawkins bill. The design of Kennedy-Hawkins was to create a standard employers could not meet; a standard which would result in success on the part of plaintiffs in almost every case, whether justified or not.

It is, of course, true that since the introduction of that bill, the description or definition of business necessity has grown longer, less precise, and perhaps, I would say, more subject to misinterpretation, and more encouraging of litigation.

We now have a definition of business necessity which is some 36 lines long, and which I submit, Mr. President, cannot be interpreted identically by any two lawyers who look into it, and cannot be interpreted adequately by any employer seeking to determine what it is the law requires or the law permits.

In addition, Mr. President, in almost every case which has reached the courts since the Civil Rights Act of 1964, there has been at least the allegation on the part of the employee, that a particular business practice or particularly identified business practices have resulted in a disparate impact and, therefore, in that potential employee not being hired.

Here, again, we move in the direction that Mr. Abram so eloquently denounced under the standards of this act. Here we say that once an employee, once a complaining party, has proved that the employee mix in a particular employer's plant is not reflective of the demographics of the area from which those employees are drawn, there is a disparate impact, and that disparate impact itself will require a demonstration that any of the practices which have any relation to it be justified on the difficult business necessity standard, which I have already set out.

There is one exception in this bill to that subject, and that is that the complaining party shall be required to demonstrate which specific practice or practices are responsible for the disparate impact in all cases, unless the employer has destroyed records—and that is a perfectly justified exception to the rule—or that there are not total and complete records which have ever been kept to show what those business practices were.

The net result is to remove this exception; it is to make the exception swallow up the rule in its entirety and to change the system of litigation in which, generally speaking, an identification of some practice which resulted in disparate impact had an impact on the hiring or nonhiring of the employee to simply a general allegation, which will require the employer to defend each and every one of these employment practices as being justified or required, in the terms of this statute by business necessity.

What does that mean? It means that originally employers simply would not have been able to defend the standard of essentiality, as the Kennedy-Hawkins bill has originally been written. As it has been modified, some employers clearly will be able to establish that their employment practices are required by business necessity.

Generally speaking, in such a lawsuit, they will only do so at the end of long and protracted and risky litigation, much riskier than has been the case under the Civil Rights Act of 1964, because now it is replete with jury trials and lawyers who have available to them unlimited compensatory damages and punitive damages and the like. But, clearly, some employers who are willing to carry these cases on long enough, and are willing to risk an adverse verdict from a jury, will be able to prevail.

But, Mr. President, what rational employer is going to want to take that risk or undergo that expense? Very few. The only way to protect totally and completely and safely against the risk of such litigation is, in fact, to have a body of employees which reflects or mirrors precisely the composition of the surrounding population. In other words, Mr. President, if this bill becomes law, it will not require quotas. Employers will impose quotas in order to keep from being sued, probably successfully, but in any case, expensively, in case, after case, after case.

Moreover, Mr. President, in any event, even for the employer who is careful enough in his recordkeeping to be able to state that his practices were required by business necessity, we will move drastically away from a system in which hiring decisions are based on merit because, Mr. President, under this bill, once a complaining employee—or a complaining potential employee—can show that he or she was qualified, it will not be a defense that the employer thought that the person who was hired was more qualified.

Once minimum qualification levels have been reached, an employer will, for all practical purposes, be forced to take that potential employee who lessens whatever disparate impact is, rather than to increase it. We will move sharply away from a system which is based on merit.

There are other major elements to this proposal, only a few of which I wish to cover at this point. I do want to get back, however, to the motion to recommit. The Kassebaum-Gorton bill was discussed at length during the time at which the Senate debated the passage of this bill in its original form. It did not come to a vote at that time, and it was not perfected at that time. As the President will remember, there was a major objection on this side of the aisle to the immediate attempt, after bringing up the bill, to limit debate in time and to limit amendments to those which were entirely germane.

This side of the aisle reacted by barring the modification of the original bill in ways in which its sponsors wished and they retaliated by refusing to agree to changes in the Kassebaum-Gorton proposal with which the Senator from Kansas and I agreed.

The net consequence of that is the Kassebaum-Gorton bill, which was criticized by the distinguished Senator from Massachusetts a few moments ago, was not what it is in this motion to recommit. Because our initial vote will be on Kassebaum-Gorton itself, I wish to discuss for a few minutes the precise ways in which it differs from the Kennedy-Hawkins bill, which is the subject of this conference report.

Like Kennedy-Hawkins, the Kassebaum bill would address the Supreme Court's decisions in both the Patterson and the Lorance cases. The distinguished Senator from Massachusetts said it did not address Lorance. It very clearly does. That was an oversight in the earlier draft of this proposal. It has been corrected in this one.

Those two proposals would ensure that on-the-job racial harassment is covered by section 1981 of the Civil Rights Act and that individuals who may not have been employed by a company at the time it adopted the discriminatory seniority system will still be allowed to challenge it once they do start to work there.

Both of those proposals, incidentally, for the first time, cover the Congress of the United States.

There are, however, major differences between Kassebaum-Gorton and Kennedy-Hawkins. Each would shift the burden of proof, as it was established in the Wards Cove decision, to the defendant in important elements of litigation arising out of discrimination claims. On two other points, however, the Kassebaum-Gorton proposal much more faithfully reflects established case law than does Kennedy-Hawkins, and is much less likely to drive employers to use quotas.

With respect to the definition of "business necessity," the Kassebaum-Gorton proposal codifies the standards taken from Griggs and the Beazer case in the Supreme Court in precisely the way in which those tests were formulated by the Supreme Court of the United States. I have found it curious and without adequate explanation, that during all of the months we have debated this bill, during all of the time that the proponents of Kennedy-Hawkins have said it proposes to codify Griggs, they have, nevertheless, refused to utilize the language which is the principal holding in Griggs itself. Their use of different language inevitably calls for a different result, not for the codification of Griggs but for something much more strict.

In this connection, Kassebaum-Gorton simply takes the definition of "business necessity" from the Griggs decision and places it in statute law. So if the goals originally announced for Kennedy-Hawkins are the codification of Griggs, Kassebaum-Gorton does it; Kennedy-Hawkins does not.

I have already discussed the difference with respect to the language of Wards Cove on the subject of business necessity. Wards Cove does not reverse Griggs. It cites Griggs; it builds on Griggs. In fact, in the long set of negotiations which have been unsuccessful so far involving the administration and the sponsors of Kennedy-Hawkins, the administration has even offered to take some of the language of the dissent in the Wards Cove case, which in our view, in that respect at least, is entirely consistent, both with Griggs and with the majority position in Wards Cove. That offer, too, has been turned down.

We have been told continuously, since this bill was introduced, that the Wards Cove decision, which is a relatively recent vintage, simply destroyed the Civil Rights Act of 1964, and the disparate impact cases could no longer be won by plaintiffs because the standards were so difficult.

Mr. President, even with no changes in the Wards Cove decision, even without the change or shifting of the burden of proof, which is included in Kassebaum-Gorton, there have been 27 major Federal court decisions since the Wards Cove decision came down by lower courts, who were obligated to follow the document of the Wards Cove Supreme Court decision.

So far, 12 of those cases have been won by plaintiffs, the complaining employees or their representatives; 13 by defendants; and 2 have been remanded for further action. That is roughly the same 50 percent batting average for plaintiffs which plaintiffs had before the Wards Cove decision was rendered by the Supreme Court of the United States.

Nothing could more dramatically illustrate the proposition that Wards Cove has not sounded the death knell to the enforcement of the Civil Rights Act. It has not sounded the death knell even to disparate impact cases itself. It is, in fact, an outgrowth of and totally consistent with prior decisions, including Griggs.

There are, of course, a number of other subjects which are dealt with in both versions of this bill, though they have not created as great a degree of attention as has Wards Cove and the entire question of quotas.

Both bills, for example, deal with the Supreme Court's decision in a case called Martin versus Wilks. The Kassebaum-Gorton bill, however, denies to no individual his or her day in court, his or her right to challenge a judgment or consent decree as discriminatory, unless the individual was an applicant or current employee, had actual notice, both that a practice specifically required by the judgment or decree would be likely to affect his or her interests, and that a later challenge would be precluded, or had a reasonable opportunity to challenge such a judgment or an order.

Many such people are denied any such right to challenge a decree adversely affecting them when they have no part and no opportunity to challenge it at an earlier time by the Kennedy-Hawkins proposal.

With respect to the Supreme Court's decision in Price-Waterhouse, both bills overturned that decision insofar as it would allow proven discriminators to escape litigation. The Kassebaum-Gorton proposal considers the consideration of race, ethnicity, religion, or sex to be a major contributing factor as opposed to the Kennedy-Hawkins proposal that it be a mere motivating factor to establish and require liability.

The significance of this is the Kennedy-Hawkins bill may well create liability for an employer even when discrimination did not cause the wrong about which the plaintiff is suing. The result reached in Price-Waterhouse is as favorable or more favorable to plaintiffs than what had been adopted by the vast majority of U.S. circuit courts of appeals.

Unsurprisingly, since Price-Waterhouse, all but 2 of 13 decisions have been favorable to plaintiffs. It is obviously not necessary to protect the rights of plaintiffs, that we do what the Kennedy-Hawkins bill counsels.

Finally, with respect to damages, we are dealing with a subject which represents, if anything, a more profound change in the direction of the law than do the substantive provisions.

With respect to remedies, title 7 in the 1964 Civil Rights Act depends primarily on conciliation, on the work of administrative bodies in attempting to right wrongs which have been committed.

The so-called Civil Rights Act of 1990 lurches—it does not simply turn; it lurches—dramatically in the direction of controversy and litigation. At a time when many thoughful people in our society question the adverse impact on our society of widespread litigation on product liability and on medical malpractice, this proposal provides, once again, a bonanza for trial lawyers.

It discourages settlements. It calls for attorneys fees to be awarded to successful plaintiffs, even when they have turned down a settlement which would offer them more than their eventual winning litigation offers to them. It vastly increases the risks to employers, and it vastly increases the length of time during which employees will receive an answer to their claims.

Again, the distinguished Senator from Massachusetts misstated the impact of the bill. The bill with respect to harassment, which the Senator stated granted a payment in lieu of damages only where back pay could not be awarded, simply does not state the case. That is changed.

The court may require the respondent, our proposal states, to pay the complaining party in an amount not to exceed $100,000 if the court finds that an additional equitable remedy, beyond those otherwise available, is needed to deter the respondent from continuing to engage in unlawful employment practices, and that such award is otherwise justified by the inequities.

Mr. President, there is widespread precedent of the constitutionality of such an award in equity. The distinguished Senator from Massachusetts claims it to be blatantly unconstitutional. The Attorney General of the United States believe this provision to be constitutional. With all due respect to my colleague, I believe that the Attorney General of the United States has the better part of that argument.

Let me now, Mr. President, in concluding, go back to Mr. Abrams' essay, because it seems to me that much of the argument involving lawyers' definitions of what constitutes business necessity and the degree of particularity with which employment practices must be alleged is simply lawyers' talk and very little more, as important as it may be to the outcome of litigation, which most people would seek to avoid.

The profound nature of this proposal, however, is in its general philosphy of entitlement by reason of race, and I wish now to read several paragraphs of Mr. Abrams' essay on that subject. Mr. Abrams said:

. . . The proposed standard requires the employer to demonstrate that every one of his hiring promotion criteria "bear(s) a significant relationship to successful performance of the job" by means of "demonstrable evidence." How many employers can "prove" that their hiring criteria—whether they be standardized tests, job interviews, written or oral skills, education or experience—definitively correlate with successful job performance? Could a Supreme Court justice prove by "demonstrable evidence"—whatever that means—a "significant relationship"—whatever that means—between law review experience and successful performance as a Supreme Court clerk—especially when seeking out the best is no defense? Could a college faculty show that tenure track candidates who publish articles always make better teachers or advance the cause of knowledge?

Under this test, merit and high standards go out the window, impairing not only the principle of American equality but, inevitably, American efficiency and productivity. Together, the bill's presumption of guilt and its high hurdle of proof will force employers to avoid lawsuits and potential liability by hiring and promoting by quota.

Kennedy-Hawkins wages war on objective standards at a time when this society can least afford a lesser measure of achievement. Objective criteria may not be perfect; some may mask discriminatory intent, or have little relation to the job. But Kennedy-Hawkins wields a bludgeon where a scalpel would do. Existing law already walks the fine line between protecting standards and weeding out potentially discriminatory criteria. The Supreme Court's 1989 *Ward's Cove v. Atonio* decision, the case Kennedy-Hawkins would overturn, already demands an exacting standard of business necessity; Why fix it if it's not broken?

But the social costs of a quota bill go beyond loss of productivity and efficiency. It balkanizes and tribalizes our nation by raising the color line; it stigmatizes and demoralizes those it supposedly helps, Kennedy-Hawkins may be a middle-class minority ride to preferential treatment; but it won't solve our real minority problems. It won't help fight the crack epidemic ravaging our minority youth; it won't stem the tide of unwed minority teen pregnancies; it won't stop the breakdown of our inner-city education system.

Congress and this administration have the opportunity, perhaps more than any other in recent years, to forge a new and lasting civil rights consensus. Every opinion poll confirms that the vast majority of Americans of all races share the goals of equal opportunity and color blindness and will support the vision of Martin Luther King, who urged that we judge ourselves "not by the color of our skin but by the content of our character." Let's not miss this chance by endorsing a quota bill.

Mr. President, there is a third level on which this debate takes place. It was mentioned by the distinguished Republican leader an hour or so ago during the course of making this motion, and that is the question as to whether or not we want a civil rights bill this year. I had, as did he and I think every other Senator, a letter from the President of the United States. The distinguished Republican leader asked that it be printed in the RECORD. I will read my own copy of it, which is identical to everyone else's. It is dated today, and it says:

DEAR SLADE: I have consistently expressed my desire to sign into law a civil rights bill. I have also consistently worked with both the Senate and the House to forge a bipartisan consensus to address these issues in a constructive manner.

I understand that the Senate may soon consider the conference report on the Kennedy-Hawkins bill. The bill as amended in conference is neither sound nor practical. I am convinced it will have the effect of forcing businesses to adopt quotas in hiring and promotion. It will also foster divisiveness and litigation rather than conciliation and do more to promote legal fees than civil rights. If this bill is presented to me, I will be compelled to veto it.

I also understand that a motion may be offered to recommit to conference with instructions to adopt a substitute along the lines of the one proposed by Senators Kassebaum and Gorton last July. This approach represents a sound, practical compromise, and I will sign such a bill if it is presented to me.

I commend you, Senator Kassebaum, and all the others who are working to produce sound civil rights legislation.

Sincerely,

GEORGE BUSH.

So the basic question on which we will be voting, Mr. President, at this third level as we vote on this motion to recommit, is whether or not we wish to have a civil rights bill pass in

this session. I certainly can understand some elements of criticism of some portions of the bill which the Senator from Kansas and I have sponsored. Obviously, there are many who would go further. The bill, however, goes a long way in the direction which they desire; further, I suspect, than I would have gone had I been in charge of writing such a bill on my own.

But the Kassebaum-Gorton bill does not encourage the use of quotas. It does use, in its precise language, the words of the Griggs decision and the finding of business necessity. It does solve the real problems created by a number of other Supreme Court decisions. And it can become law within a week or 10 days if this Congress should adopt it.

So for true civil rights reform, Mr. President, I strongly suggest the passage of the motion by the distinguished leader of the Republican Party and the recommittal of this bill to conference.

Mr. President, am I correct in understanding that the yeas and nays have not been ordered on the motion to recommit?

The PRESIDING OFFICER. The Senator is correct.

Mr. GORTON. I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Ohio [Mr. METZENBAUM] is recognized.

Mr. METZENBAUM. Mr. President, I rise to respond to the minority leader's remarks made a little bit earlier this afternoon. I do so because, although I have oftentimes differed with the minority leader, I have always found him to be fair, and I certainly do not want to insult him or any other Member on either side of the aisle.

I am fully aware of the fact that it was the distinguished minority leader who, on the floor of the Senate, stood up for this Senator when I was unfairly and unjustifiably smeared several years ago. So I am particularly sensitive about any suggestion that in some way I have broad-brushed all Republicans, including the minority leader, with anything that might be considered inappropriate and putting them in bed with David Duke. I can well understand his resentment in objecting to that kind of description.

Let me say how this matter came up. Senator HATCH, who is a very good friend of mine and with whom I have worked on many matters, and who is the last person in the world coming close to being a bigot or anything like that, certainly one of the most honorable Members of this body, in handling this bill on the floor raised the matter of David Duke in an effort to demonstrate the volatile climate in this country with respect to race relations and civil rights. There is no secret about that because these issues have always aroused great passions on both sides.

My own deep feeling on this matter I now see caused me to react and to make that which I believe was an unfair connection, one that was inappropriate. Any suggestion that all Republicans and even a great body of Republicans or even a small group of Republicans are identified with David Duke is not fair, whether I am speaking about the President or any other Member of the Republican Party.

I am aware of the fact that nine Republican Senators came out against David Duke. I do not know whether they went down to Louisiana or said so in a statement, but they certainly made it clear that they were not supporting him, and the Republican Party indicated that they were not supporting him. There is no argument; Republicans are not Nazis; they are not Ku Klux Klanners; they are not anti-Semites; they are not antiblacks.

We come to the floor differing about this bill, a bill that the President, according to the distinguished Senator from Washington, would veto if the bill were to come to his desk in its present form. We have a right to disagree as to the merits and whether or not there should or should not be so-called quotas. There are no quotas in this bill, but somehow the President and some of his advisers came to that conclusion. It is not a quota bill, nor is it a David Duke bill.

Therefore, I come to this floor to say this is a civil rights bill that should be enacted into law. Those who are opposed to it should not be identified unfairly, as in this case, by me or by any other person. The Republicans are not in bed with David Duke, and to put them in that category is inappropriate and improper.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SYMMS. Mr. President, I rise to support the motion that Senator DOLE has offered, largely for the reasons my good friend from the neighboring State of Washington has outlined.

I would like to put just a little different perspective on this. There is one thing that is oftentimes overlooked in this mad rush to pass legislation to try to make an effort to help certain disadvantaged groups of people. The one thing that we sometimes overlook is economic growth.

It is interesting that just before I left my office to come to the floor, I had a delegation of people in my office from the American Farm Bureau from my State who oftentimes feel that they are a minority group because of the less and less numbers of farmers that we have and the direction they see things going here in Washington with excessive regulation, more paperwork to fill out, more forms to do, more accounting procedures to fill out to the Government, their ability to use certain products, they see there are great efforts to raise their taxes, and then they have to pay taxes to support the regulatory activities of the Government, and so on and so forth.

But it was interesting that the disposition was that not only with respect to this civil rights legislation but the general argument that is going on in Washington this week between tax and tax, or else tax and reduce spending, or else do not tax but try to freeze the budget and hold the line on spending and allow people an opportunity for economic growth.

These people from the American Farm Bureau told me. They said, Senator the President was right when he had the idea of a flexible freeze and no new taxes. That is the position that we have taken at the National Farm Bureau. We, furthermore, support the efforts of the Republican leader on the floor of the Senate to try to moderate, if you will, the civil rights legislation so that there will not be so many lawsuits and litigation. I will leave that discussion and argument to some of the fine lawyers and attorneys that are here on this floor.

I had another group which gave me a news release today, the U.S. Commission on Civil Rights. It is interesting that as this debate is going on on the Senate floor about what we should do in the Congress with respect to civil rights legislation, whether we should take the extreme position that my friend from Ohio is calling for—"extreme" in my opinion—which puts us in a position of more litigation, more interference or take the more moderate position that the Senators from Washington State and Kansas, the distinguished minority leader, are taking with the motion to recommit.

I would like to read for my colleagues a statement that came out of the U.S. Commission on Civil Rights. I am told the vote was 6 in favor, 1 abstention, and 1 not present.

The U.S. Commission on Civil Rights urges the President and the Congess—

This is what they are interested in—

The U.S. Commission on Civil Rights urges the President and Congress, in their efforts to reduce the federal deficit, to be fully cognizant of the importance of continued economic growth to the advancement of civil rights in this country. In bad economic times, black and Hispanic unemployment rates rise the fastest. In good times, a tight labor market encourages employers to cast a wider net when hiring, thus breaking barriers that have traditionally prevented minorities, women and persons with disabilities from gaining better paying jobs. Civil rights laws can do little to expand opportunities for members of historically disadvantaged groups when opportunities for all Americans shrink. Strong economic growth

is important for creating a climate for effective civil rights policies.

Strong economic growth can also be a powerful force for cutting the federal deficit. A growing economy means more and better payng jobs, which expands the tax base. Policies that encourage savings and entrepreneurial initiative create a growth dividend which will reduce the deficit.

The Commission recognizes that deficit-spending can stifle economic growth, and encourages deficit-reduction efforts. However, plans for balancing the budget that would also reduce the incentives for individuals to work, save, and invest are likely to be self-defeating. This is the great danger in trying to control the deficit through new taxes.

We therefore call on the President and Congress to adopt only those deficit-reducing proposals consistent with economic growth. Specifically, we recommend freezing real total government expenditure at the fiscal 1990 level.

The Commission recommends that the President and Congress focus on developing policies that will spur both general economic growth and, in particular, growth in the depressed urban and rural areas of our nation. For those who live, work and invest in the depressed areas of our inner cities, for example, we urge cutting the capital gains tax rate to zero, establishing enterprise zones, and other social and job-creating initiatives to help restore economic prosperity to these areas. Overwhelmingly, the residents of these areas suffer the legacy of past discrimination and the limitations of current civil rights laws and policies to promote equality of opportunities. Policies to stimulate growth in depressed areas would not only foster the economic opportunities of residents of these communities, but would benefit many other Americans by helping to realize the full potential of our nation's wealth. Economic growth is not a panacea for this nation's civil rights problems, but economic stagnation will surely exacerbate them. Progress toward eliminating these problems can be accelerated by sustained economic growth and, equally important, aggressive enforcement of all civil rights laws and effective programs to provide educational and economic opportunities to those who have been denied.

In summary, we request, on behalf of America's disadvantaged, no general spending increase and no general tax increase.

Mr. President, the reason I bring that to the attention of my colleagues right now is oftentimes, I think, when we get into debates such as this, there is always an attempt made to somehow pass that one group of people who are asking for a slightly more moderate, less regulatory position, if you will—which is the position the Senator from Washington State so eloquently defined here on the floor, and the Senator from Kansas; that their position is somehow a little less humanitarian than my good friend from Ohio or Massachusetts who want a restrictive, stronger, more-quotas-assigned, more-regulatory, if you will, bigger, stronger, heavier handed Government involved to be sure that all civil rights are kept equal.

All I say to my colleagues is I think it is very interesting that the issues the U.S. Commission on Civil Rights is talking about are economic growth, jobs, opportunities for the minorities and the disadvantaged in this country. I believe that we could well serve our constituencies throughout this country by taking a moderate position on this issue which the President of the United States, in my view, is taking.

So I shall vote for the motion to recommit with instructions, for largely those reasons, and because I think it is fair. I think it will best serve the needs of the country. Then I will fight for a budget freeze and no new taxes on working minorities or any other Americans so that we can have economic growth and continued prosperity in this country; so we can get on with the job of seeing that all Americans have the opportunity, Mr. President, to come along on the train of economic growth and rise with the tide, if you will—in a rising tide of economic growth.

So I commend my colleagues on the Judiciary Committee who are much more learned in the technicalities of these laws than this Senator. But I can only say as one of the businessmen in the Senate that all of these excessive regulations that come from these well-intended laws oftentimes are detrimental to the very people we wish to help.

So I urge my colleagues to vote for the motion to recommit with instructions. If that is not successful, the other side may choose an issue so somehow they think they can paint Republicans in a corner, that somehow we Republicans are not for civil rights. They may choose to do that. I hope that will not be done.

I hope this motion to recommit will pass, and the President stated he will sign the bill. Then it would be a finished product. We would be all better served, and we would have a better position to go into the rest of the work that we have to do in the coming weeks ahead to resolve the big issues of tax and spending with relation to the working men and women of this country.

I compliment my colleague from Pennsylvania for the efforts he made, the countless hours he spent trying to resolve this issue. I am sure it is very frustrating for Senators, who would like to find a reasonable, rational solution to some of these problems, to find that the other side continues to push—and continues to push for an issue, Mr. President, rather than try to push for some reasonable workable solution that can be accommodated by the small businesses of this country that, after all, are the biggest employers in the country.

Mr. President, I will vote, as I said, for the motion to recommit.

If it is not successful, then I shall vote against this bill and hope that we can see that we can have sound economic growth, true economic opportunities for all of our people, whether they be black, white, Hispanic, disadvantaged, or whatever; that they can have economic growth and an opportunity to be given a chance that we would like to see for all our citizens; and that we can start over on this project next year to try to get a more moderate bill that the small business people in this country can live with.

Mr. President, I thank my colleague from Pennsylvania. I compliment him on all his efforts on this bill.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the hour is exactly 6 o'clock. We started on this bill this morning at 9:30, and I have been on and off the floor most of the day engaged in negotiations on this bill to see if there might be a compromise worked out, and I am still hopeful that we will work out a compromise on this bill.

But for those who may have been listening to the debate—and I do not think the few people in the gallery here at 6:10 were here at 9:30; there may be some who have listened intermittently on C-SPAN or those who may read the CONGRESSIONAL RECORD—will wonder what is the appropriate resolution of the complex issues which have been discussed.

I suggest, Mr. President, that it is not possible really for anyone to wind his or her way through all of those arguments and to come to a conclusion.

Mr. President, that is why I believe it is so important for all of the parties to reach an agreement, and the differences are very, very narrow, indeed, really focusing on only one section, what we call the "particularity section."

Mr. President, my own efforts on this bill were caused by a request by Governor Sununu, Chief of Staff, and then President Bush, who asked Senator DANFORTH, Senator JEFFORDS, and myself to try to find an answer to the complex issues. We worked for countless hours over many weeks trying to negotiate a compromise, which was not to be found, before the Senate earlier this year passed this bill by a vote of 65 to 35. It seemed to this Senator—actually 65 to 34; one Senator not voting but who would have voted against the bill.

It seemed to this Senator that it would be very unfortunate if a civil rights bill passed by 65 percent in this body, a similar percentage in the House of Representatives, and was then vetoed by the President, and we did not have a civil rights bill, because minorities and women have good reason to believe that they are not getting a fair share of the economic opportunity in this country today. And the Supreme Court of the United

States, last year, overturned long-standing precedent of some 18 years in reversing congressional intent in handing down the decision in the Wards Cove case.

I sought out Senator HATCH after Labor Day and former Secretary of Transportation William T. Coleman, Jr., thinking that those two distinguished representatives of the civil rights community—Mr. Coleman, former Secretary Coleman, and Senator HATCH, who is the ranking Republican on the key committee, Labor and Human Resources Committee—I thought that if those two men could be brought together on their views, that we would have a bill which would be accepted on all sides.

We worked around the clock, Mr. President, and finally, a week ago last Thursday, in the early morning hours, we came to terms. We agreed to a substitute on the key provisions. Senator HATCH, at the time of the agreement, said that he found the bill acceptable, not perfect. Little that we do here or elsewhere is perfect. He would recommend it to the President, but he reserved the right to vote against it if the President decided not to agree to the bill as it was finally crafted.

Senator HATCH and I had a discussion on the floor earlier today, and Senator HATCH agreed with the substance of what I have just said. It was my thought, and still is my hope, that Senators will look to what Senator HATCH has said on substance, that he has found it acceptable, because of the importance of having a civil rights bill, and will vote to support what you might caption now the Hatch-Specter substitute.

Mr. President, there is a lot of talk about Kennedy-Hawkins and about Kassebaum-Gorton, and in our body we use those shorthand expressions because they provide some characterization of where individual Senators stand on the issues. I believe that the imprimatur that Senator HATCH has placed on the key provisions of this bill does stand.

Mr. President, I had occasion to talk to President Bush over the weekend, and he stated that he was very anxious to have a bill. It is my hope to see the President tomorrow, along with other Senators, who have been working on this measure, and it is my hope that while we vote on the motion to recommit, which I think will be defeated, that we do not tonight vote on the final passage of the civil rights bill, in the hope that the very extensive negotiations that were in process most of the day today involving top ranking representatives of the President, along with Senators on the Republican side of the aisle, together with former Secretary Coleman, will continue because we are very, very close. When I put my fingers together as to how close we are, I leave virtually no room because there is only one provision which is outstanding, Mr. President, and that is the provision which relates to particularlity.

There has been a great deal of talk about whether this is or is not a quota bill, Mr. President, I submit to you that it is not a quota bill, and I cite in support of that the specifics of the bill which place the burden of proof on the complaining party to establish with particularity the specific practice or practices which have resulted in the disparate impact.

People have heard a lot of talk about disparate impact and some may wonder what it is. There are two ways to establish a violation of title VII of the Civil Rights Act. One is to show specific intent to discriminate. If that is shown, it is a violation of the law. But specific intent is very hard to prove, virtually impossible in most cases. So the Supreme Court of the United States interpreted the Civil Rights Act in a landmark decision called Griggs in 1971 and said that if there was a showing of disparate impact, that a civil rights violation could be proved.

In our pending legislation, Mr. President, we have been very careful to place the burden of proof on the complaining party, the plaintiff-employee, to show the specific practice or practices which resulted in the disparate impact. At that stage, the defendant-employer can avoid liability by proving business necessity as the reason for the practice or practices which result in that disparate impact.

Mr. President, there are some quota bills. A set-aside is a quota bill. For example, if you have a requirement that a certain percentage, say, 30 percent is set aside for minority contractors, as was the case in the Croson decision by the Supreme Court of the United States. But there is no set-aside here.

Mr. President, I for one, am totally opposed to a quota bill. When I was a younger man growing up, the quota concept was an anathema to me and other young Jewish students who were concerned about their opportunities to get into medical school or law school where there were quotas which were used to exclude minorities like Jews and others. We are all opposed to a quota bill which would exclude deserving applicants of any color, race, or national origin. What this bill does is to eliminate discrimination, whether it is established by specific intent or by this disparate impact standard.

(Mr. ROCKEFELLER assumed the chair.)

Mr. SPECTER. Mr. President, I do not think anyone could accuse Senator HATCH of being a proponent of a quota bill. The legislation which is pending before the Senate is the legislation which Senator HATCH found acceptable and which he recommended to the President under the terms which I previously have described.

When we talk about a motion to recommit for the legislation advocated by Senator KASSEBAUM and Senator GORTON, we might as well do nothing at all, because their legislation incorporates, and it was a key part, the definition of "business necessity" under Wards Cove, which is the 1989 decision.

That is the principal reason for this legislation, because in Wards Cove the Supreme Court of the United States reversed the 18-year-old precedent in Griggs. If we are going to codify Wards Cove, we may as well not bother; there is no reason to recommit, no reason to have a civil rights bill, if we are going to have the Supreme Court decision in Wards Cove and the Wards Cove definition of "business necessity" as the cornerstone of the Gorton-Kassebaum bill.

Mr. President, there are many reasons why Wards Cove ought to be repudiated. It ought to be repudiated on the merits because it is a major step backward on civil rights. But it also ought to be repudiated because it is a flagrant example of judicial usurpation where the Supreme Court has stepped into what is a legislative prerogative on legislative intent on the statute which we have passed.

Let me explain why. If you have a constitutional interpretation, the Supreme Court is the final arbiter of the Constitution. If you have a statute which is passed and you have a question as to what is the intent of the Congress, that is up to the Congress. When the Supreme Court of the United States, by a unanimous court, in an opinion written by Chief Justice Burger, who is not known to be a flaming liberal, hands down the Griggs decision and Congress lets it stand for 18 years, that establishes conclusively the congressional stamp of approval that that definition of business necessity and that definition of the Civil Rights Act is what Congress intended.

Now, what happens in 1989? Five Supreme Court Justices, by a 5-to-4 vote, come along and say "Never mind what Congress has approved. We know better; we are going to interpret the Civil Rights Act of 1964 differently from what is the conclusive congressional intent on the subject."

That decision is particularly troubling to this Senator, Mr. President, because four of those Justices, who were confirmed during the 10 years that this Senator has served on the Judiciary Committee in the Senate, placed their hand on the Bible in confirmation hearings in the past decade and swore that they would exercise judicial restraint, they would not legislate, and they would interpret the law and not make the law. And in as clear a case as could be devised, the Su-

preme Court in Wards Cove usurped the congressional function in taking over and making the law.

For that reason, and that reason alone, we ought to show the Supreme Court that we are not going to tolerate that kind of judicial usurpation. It is more than judicial activism. It is the Court taking over the function of the Congress. So when we have Kassebaum-Gorton on an alternative on this motion to recommittee, Mr. President, it does not make any sense at all.

Where Senator HATCH restructured the original provisions of the pending legislation, there were very important improvements for the business community which Senator HATCH achieved.

The Martin versus Wilks case allows anyone to challenge consent decrees. And there has been a moderation by what Senator HATCH achieved in conjunction with former Secretary Coleman and myself in allowing consent decrees to be challenged only in circumstances where the challenging party was not a member of the work force at that time or not adequately and competently represented by another person. So there is a significant achievement for the business community in what Senator HATCH, Secretary Coleman, and I crafted in that important respect.

Price Waterhouse, the so-called mixed motive case—and I am not going to go into the details—but our crafting here again was a step in the moderate direction so that there would not be damages, either compensatory or punitive, and the plaintiff's remedy is limited to declaratory relief or injunction; that is to say, do not do it again; and cost and attorneys' fees. It is a considerable step back from where this legislation had been.

Mr. President, I believe that the pending legislation is the most important bill we will have this year and perhaps the most important bill of the decade.

We are right now preoccupied with the budget, but we have this controversy on the budget year in and year out. In 1985 we passed Gramm-Rudman-Hollings and every year we have had contentions circumstances illustrated by our passing a budget on December 22 at 3 a.m. And if we could have postponed Christmas we would have. And now as we are standing here at 6:15 p.m. on October 16, some 10 days past the stated adjournment time, not knowing when we will be finished with this session, having a target date this Friday, the 19th, which may be extended to 26th, which may be extended beyond that, we have a budget crisis and we will solve it ultimately one way or another.

We have very troubled times in the world and we have had in the past decade since this Senator has been present: Grenada, Panama, and Libya for example. If you take a look at what really stands out in marked contrast to what has happened of real importance, it would be the civil rights legislation of 1964 where finally in this Chamber other Senators overcame the tradition of a filibuster and the defeat of civil rights prompted by the landmark decision by the Supreme Court in Brown versus Board of Education in 1954 to finally craft a civil rights bill.

I believe, Mr. President, that the Federal Government has a very heavy duty to see to it that minorities and women have equal opportunity and a fair chance for a livelihood. In the past decade, we have cut back very substantially on what the Federal Government does. Without getting into the merits of any of our cutbacks that has been what we have done in an effort to restrain spending and restrain growth in the Federal Government. And those programs by and large have been cut back for the national welfare.

But if we expect minorities and women to assert themselves in our society and pull themselves up by their bootstraps, they at least have to have bootstraps; they at least have to have an opportunity to get a job and an opportunity for promotion. That is what this legislation does.

When Secretary Coleman crafted this legislation and Senator HATCH commented earlier, Secretary Coleman was first in his class at Harvard Law School and was a clerk for Supreme Court Justice Frankfurter. When it came time to get a job in the early 1950's he could not get a job in Philadelphia, PA. He had to commute to New York City. Discrimination still exists in this country today, and what we are asking employers to do is to take a look at the situation they have when there is disparate impact, and what we are asking for is a fair and equitable standard. The burden of proof is on the plaintiff, so that we do not have a quota bill or a set-aside bill. If there is a disparate impact, that simple fact alone does not establish the case. The employer-defendant can avoid liability by showing business necessity. And on the issue of business necessity, Mr. President, there have been many, many definitions advanced, and the finest lawyers could not slice them apart with endless arguments over "significantly related to job performance" as opposed to a "demonstrable relationship to successful performance of the job" to the word "manifest," "demonstrable," "manifest," "significant" and the difference between what the opponents of this legislation want on business necessity are nonexistent when you talk about the so-called Kennedy-Sununu compromise. There was a significant difference there. There was a demonstrable difference there. They were talking about what was intended, and if you import intent into a civil rights bill, there is enormous difference between the results, the effects test as opposed to intention so that could not appropriately be accepted by the proponents of this bill.

We are, Mr. President, as I say, very, very close, and when this debate is brought to a close, I believe that our efforts to reach a compromise ought to be continued. This is simply too important to do anything but to bring all the parties together, because, after we have 65 percent of the Congress in favor of such legislation, and we may have 67 or 68 or maybe 70 Senators ultimately voting for this bill, we should not have a veto. I know that there are more than 70 U.S. Senators, counting the 55 Democrats who voted for it and the 10 Republicans who voted for it, and many, many other Republicans who have said to me, "Let us get this resolved. I like this bill. I want to vote for a civil rights bill. I want to see a civil rights bill signed."

I think that is the spirit we have to maintain to close the remaining very, very narrow difference on particularity and come together in this country on this very important piece of legislation.

I thank the Chair, and I yield the floor.

Mrs. KASSEBAUM. Mr. President, I rise in support of the motion to recommit S. 2104 to conference, with instructions. This motion would instruct the conference committee to amend the bill with a substitute which Senators GORTON, WILSON, MURKOWSKI, MCCAIN, SIMPSON, LUGAR, and I introduced earlier this year.

Mr. President, there is no need for extensive debate on this motion. The substitute, as well as S. 2104, has already been debated at length, not only here on the floor but in meeting after meeting, negotiation after negotiation. While refinements have been made to S. 2104, I think the only point on which the experts, in this case lawyers, can agree is that S. 2104 has become even more complex.

But the issue now before us is really quite simple. The only question we need to ask ourselves is: Do we want to enact a civil rights bill this year? The President has made himself clear. He will veto S. 2104, even with the latest changes. He would sign into law the substitute. The choice is simple: If we want a civil rights bill this year, we should adopt the substitute.

Not only will we have a bill, we will also accomplish the two basic goals I outlined when our proposal was first introduced. The first goal is to restore our civil rights laws to the same strength and clarity that existed before a series of Supreme Court decisions last year. I think many would agree that those decisions have significantly increased the difficulty of prov-

ing discrimination and, if allowed to stand, weaken our civil rights laws.

The second, equally important goal of this proposal is to maintain the balance first struck by the Civil Rights Act of 1964 and to preserve the basic philosophy of conciliation, cooperation, and equitable relief that is the foundation of all of our civil rights laws.

My concern about S. 2104 is that it has become a vehicle not merely to correct the problems created by recent Supreme Court decisions but to go far beyond that goal. Taken as a whole, S. 2104 represents a basic change in our civil rights laws and undermines the structure created in 1964 and affirmed by succeeding sessions of Congress.

If S. 2104 were to become law, our philosophy of conciliation would eventually be replaced by one of confrontation. Our goal of prompt, mediated settlements that assure certainty for both the victims and the perpetrators of discrimination would be replaced by protracted, divisive, and radically inconsistent judgments.

Mr. President, I understand the frustration that lies behind S. 2104. Many Senators believe there must be more effective and aggressive enforcement of our civil rights laws. But even with its imperfections, the current system has been remarkably successful. It is a real deterrent to discrimination. We should think long and hard before we sweep away this structure of Government-enforced settlements and move to a tort-based system of jury trials and jackpot judgments.

I believe a more appropriate balance is best struck by the compromise language we are offering and that this basic approach achieves the two goals we have set—restoring protections that existed before recent Supreme Court decisions and preserving the fundamental structure of current civil rights law. If we really want to have a civil rights bill this year, I urge my colleagues to support this motion to recommit.

Mr. BURNS. Mr. President, I rise today to voice my opposition to Senate bill 2104, the 1990 Civil Rights Act.

No one in this Congress will stand before his constituents and the Nation and announce he or she is against civil rights. Everyone believes in equal rights for all Americans regardless of race, sex, religion, or ethnicity, as required by title VII of the Civil Rights Act of 1964. I am no different.

However, I have some problems with this piece of legislation.

First and foremost, under this bill, employers who have not filled their jobs by quota would be presumed to be guilty of discrimination in every instance, and they would bear the burden of proving their innocence. The notion that a person should be judged and hired or promoted because he or she is the most qualified, regardless of sex, race, national origin, or religion, would be discarded.

Instead, employers are being told that race, sex, national origin and religion must become the paramount factor in every employment decision.

Second, this bill adds compensatory and punitive damages and jury trials for certain cases. If a person is a member of a protected class and if that person applies for an open position but is not offered a job, that person can file suit alleging an international discrimination.

Undoubtedly, the opportunity to recover damages under these circumstances will create an explosion of expensive, unnecessary litigation.

Third, this bill would eliminate the right of nonminority members to challenge court-imposed racial quotas that discriminate against them.

This bill is a quota bill. It would allow a plaintiff to win a civil rights case by simply showing that an employer is not hiring in proportion to the number of available minority workers.

This bill allows a plaintiff to prevail on the bases of statistical imbalance without requiring evidence of intentional discrimination.

For that reason, the bill creates an obvious, powerful pressure toward quota hiring.

This bill would force employers to adopt hiring and promotion quotas to avoid court fights they cannot win.

Mr. President, I believe that the Kennedy quota bill does more harm than good in its attempt to help civil rights.

If this bill passes it would place another regulation upon small businesses in America. This bill would also apply to State and local governments. The Federal Government would once again pass a law that is costly and cumbersome for local governments, placing further strain on local budgets and forcing an increase in the local tax base to enforce the Federal mandate.

Unfortunately, there is the Kassebaum-Gorton alternative that the President has said he will sign. Obviously, it is just three weeks before an election, and politicking and posturing, rather than sound public policy, have become the primary focus of the debate.

I intend to vote against this bill, and vote for the motion to recommit the conferees, and support the Kassebaum-Gorton alternative.

Thank you, Mr. President. I yield the floor.

Mr. JEFFORDS. Mr. President, I ask unanimous consent to proceed as if in morning business for not longer than 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPLACEMENT FUELS BILL

Mr. JEFFORDS. Mr. President, yesterday I introduced a bill to establish a replacement fuels program in this country. My bill would encourage the development of nonconventional domestic energy sources by requiring petroleum refiners to use a certain percentage of alternative or other domestic fuel sources in their gasoline formulas. The bill sets targets of 10 percent replacement fuel by 1998 and 30 percent by 2005.

To allow refiners flexibility in meeting these requirements, the bill establishes a system of marketable credits so each individual gallon of fuel sold need not be 10 percent replacement fuel, but rather refiners may average the requirement across their annual totals. In addition, refiners who fall short of the percentage goals can purchase credits from others who exceed the goals.

Further, the bill extends this marketable credit program to distributors of fuels that are not readily mixable gasoline, but are yet alternative fuels whose promotion is consistent with the purposes of this program.

Let me run through a couple scenarios that exemplify how this program would work.

One way refiners could meet their percentage mandate is by producing fuels from nonoil sources to be mixed during the refinery process. For example, there are existing pilot projects producing crude oil from domestic sources that is then refined for consumer use. In Colorado, oil is being manufactured from oil shale; in Alabama, oil is being manufactured from coal. Methanol is now used in reformulated gasoline produced by Arco in California. Ethanol, produced from corn, could be used as well.

The reason that these programs have not expanded is not for reasons of technology—it is because of cost. Imported oil has been much cheaper than other supply options. At today's oil price, these technologies are cost-effective, or nearly so, but without a guaranteed price, or an assured demand, the industry is unwilling to make the investments necessary to develop these domestic resources.

My bill would require the use of such fuel sources, stimulating the development of these promising resources regardless of the volatility of crude oil prices by mandating a demand.

Mr. President, I want to remind my colleagues that this country is blessed with huge reserves of mineral resources that can be converted to transportation fuels. Our current excess coal production capacity is about 125 million tons—enough to produce about 1 million barrels per day of gasoline. This is just for the excess capacity. Reserves of oil shale and tar sands are

also huge, with the only barrier to their development being a demand of the product. The Department of Energy estimates that there is a larger reserve of fuel in Colorado's oil shale than there is in Saudi Arabia's oilfields.

A second scenario envisions refiners meeting their percentage requirements by mixing refined gasoline with stocks such as ethanol, produced from domestic corn surpluses or from biomass resources.

Current ethanol production capacity in the United States is about a billion gallons per year. Although a recent GAO report found that the industry is capable of tripling domestic production to an excess of 3 billion gallons per year during the next 8 years, without adequate assurances for sales the industry may not expand. My bill assures demand.

Some experts have estimated that fuel from all domestic biomass sources, including corn, could yield up to 3 million barrels per day of hydrocarbon fuel equivalent. If this were accurate, biomass sources alone could satisfy the demands of my bill.

A third scenario envisions expansion of the development of natural gas, propane and electricity as transportation fuels. To the extent that the major oil companies are vertifically integrated with retailers as well as gasoline refineries, sales of natural gas through their gas stations into the transportation sector could count toward the percentage requirement.

The same would be true for an arrangement of independent refiners, with natural gas producers and independent retailers. Independent natural gas and propane producers would generate credits for their sales of fuel for motor vehicle use, which would then be available for refiners to use toward their percentage requirements.

Such a system is consistent with the alternative fuels provisions of the clean air bill, currently in conference with the House of Representatives. The Environmental Protection Agency has estimated that the Clean Air Act will stimulate development of the equivalent of 800,000 to 1.5 million barrels per day of alternative fuel products. This is in the ballpark for phase I of my program.

So, there are three scenarios envisioned by my bill. I note that each of these situations are currently being practiced, with varying degrees of development. Under my replacement fuels program, these programs, which have the dual benefit of promoting energy security and enhancing environmental protection, would flourish.

Mr. President, our current and increasing reliance on imported oil threatens our domestic security and is large reason why we find ourselves in such a precarious position in the Middle East.

Our national cost for imported oil accounts for about half of our national trade deficit. This cost continues to grow as consumption increases and domestic production declines.

By all accounts, it is in our national interest to promote cleaner, available domestic reserves. Indeed, most analysts agree that the sorts of fuels my bill would encourage are the very fuels that will eventually replace imported oil.

The barrier to the technological advancement of these products is the traditionally low and volatile cost of imported oil. I propose it is in the national interest to promote fuels that will replace imported oil. That will require that we get our act together so we can get out from under being hostage to the situation in the Middle East.

Mr. President, I ask unanimous consent that a copy of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPLACEMENT AND NONPETROLEUM MOTOR FUELS PROGRAM.

(a) FINDINGS.—The Congress finds and declares that—

(1) in order to have a comprehensive program to reduce pollution and reduce our dependence on foreign oil, it is important to coordinate programs relating to the production of automobiles and the production of fuels;

(2) the achievement of long-term energy security for the United States is essential to the health of the national economy, the well-being of our citizens, and the maintenance of national security;

(3) the displacement of energy derived from imported oil with alternative fuels will help to achieve energy security and improve air quality;

(4) transportation uses account for more than 60 percent of the oil consumption of the Nation; and

(5) the Nation's security, economic, and environmental interests require that the Federal Government should assist clean-burning, nonpetroleum transportation fuels to reach a threshold level of commercial application and consumer acceptability at which they can successfully compete with petroleum based fuels.

(b) PURPOSE.—The purposes of this Act are to enhance energy security and promote environmental protection through the gradual replacement of gasoline with cleaner, domestic nonpetroleum energy sources.

(c) DEFINITIONS.—For purposes of this Act—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "alcohol" means methanol, ethanol, or any other alcohol which is produced from renewable resources or coal and which is suitable for use by itself or in combination with other fuels as a motor fuel;

(3) the term "nonpetroleum motor fuel" includes any motor fuel other than a petroleum fuel, including natural gas, propane, hydrogen, and electricity;

(4) the term "replacement fuel" means alcohol or other liquid produced from coal, or other nonpetroleum substance as may be determined by the Secretary, for the purpose of mixing with gasoline to be used as a motor fuel;

(5) the term "replacement motor fuel" means any fuel described in paragraph (3) mixed with gasoline for use as a motor fuel;

(6) the term "commerce" means any trade, traffic, transportation, exchange, or other commerce—

(A) between any State and any place outside of such State; or

(B) which affects any trade, traffic, transportation, exchange, or other commerce described in subparagraph (A);

(7) the term "motor fuel" means any substance suitable as a fuel for self-propelled vehicles designed primarily for use on public streets, roads, and highways;

(8) the term "refiner" means any person engaged in the refining of crude oil to produce motor fuel, including any affiliate of such person, or any importer of gasoline for use as a motor fuel;

(9) the term "Secretary" means the Secretary of Energy;

(10) the term "United States" means such State of the several States and the District of Columbia; and

(11) the term "renewable" means any source of energy which is available in an inexhaustible supply in the foreseeable future.

(d) REPLACEMENT FUEL AND OTHER NONPETROLEUM MOTOR FUEL PROGRAM.—The Secretary shall establish, pursuant to this section, a program to promote the development and use in the United States of replacement fuels produced in the United States. Such program shall be designed to promote the replacement of gasoline to be used as a motor fuel with replacement motor fuel containing the maximum percentage of replacement fuel as is economically and technically feasible for use as a motor fuel, and to promote the use of other nonpetroleum motor fuels. Such program, shall, to the extent practicable, ensure the availability of those replacement fuels and nonpetroleum motor fuels which will have the greatest impact in improving air quality in urban areas, along transportation corridors and nationwide.

(e) DEVELOPMENT PLAN AND PRODUCTION GOALS.—Under the program established under subsection (d), the Secretary, in consultation with the Administrator, the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, and the heads of other appropriate agencies, shall review appropriate information and determine—

(1) the most suitable raw materials, other than petroleum, for the production in the United States of replacement fuels;

(2) the nature of the replacement motor fuel distribution systems, and the various production processes which use feedstock other than petroleum, necessary for the rapid development of a replacement motor fuel industry in the United States, including a proposed timetable for the development of such systems and processes;

(3) the most suitable means and methods of developing and encouraging the production, distribution, and use of other nonpetroleum motor fuels;

(4) the technical and economic feasibility of producing in the United States sufficient replacement fuels, by the calendar year

2005 in order to replace 30 percent or more, by volume, of the projected consumption of gasoline used as a motor fuel in the United States for that year.

The Secretary shall prescribe, by rule, a substitute percentage goal for purposes of paragraph (4) if he determines that 30 percent is inappropriate.

(f) RULE.—The Secretary shall, by rule, establish production goals for the optimal production of replacement fuel in the United States in each of calendar years 1996 and 1997. In establishing such goals, the Secretary shall—

(1) take into account the availability of reliable sources of replacement fuel produced from renewable resources, coal, and substances other than petroleum; and

(2) provide that the production goal for replacement fuel for calendar year 1998 and thereafter shall be not less than 10 percent by volume of the projected consumption of gasoline used as a motor fuel in the United States for each year.

(g) RELIABLE REPLACEMENT FUEL INDUSTRY.—In carrying out subsection (d), the Secretary shall—

(1) identify ways to encourage the development of a reliable replacement fuel industry in the United States, and the technical, economic, and institutional barriers to such development;

(2) include an estimation of the production capacity in the United States of replacement fuel needed to implement the provisions of this section; and

(3) identify ways to encourage the development of a reliable nonpetroleum motor fuel industry.

(h) REVIEW.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall complete his review and determinations under this section and prepare and transmit a report thereon to each House of the Congress.

(i) GASOLINE AND REPLACEMENT FUEL REQUIREMENTS.—Of the total quantity of gasoline and replacement fuel sold in commerce during any of the following years by any refiner (including sales to the Federal Government), replacement fuel produced in the United States shall constitute the minimum percentage determined in accordance with the following table:

In the calendar year:	The minimum percentage of that volume which replacement fuel constitutes, shall be—
1996, 1997	Determined by the Secretary under subsection (i) of this section.
1998, 1999, 2000, 2001, 2002, 2003, 2004.	10 percent.
2005 and each year thereafter.	The percentage determined feasible under subsection (d)(4).

(j) MINIMUM PERCENTAGE.—Not later than January 1, 1993, the Secretary shall prescribe, by rule, the minimum percentage of United States produced replacement fuel, by volume, required to be contained in the total quantity of gasoline sold each year in commerce in the United States in calendar years 1996 and 1997 by any refiner for use as a motor fuel. Such percentage shall apply to each refiner, and shall be set for each such calendar year at a level which the Secretary determines—

(1) is technically and economically feasible, and

(2) will result in steady progress toward meeting the requirements under this section for calendar year 1998.

(k) REPORT.—Each refiner shall report annually to the Secretary the percentage of United States produced replacement fuel by volume contained on the average in the total quantity of gasoline for use as a motor fuel that such refiner sold during the preceding calendar year, and the amount of nonpetroleum motor fuels, sold and distributed by such refiner during such year. Each manufacturer of nonpetroleum fuel shall report annually to the Secretary the amount of nonpetroleum fuel manufactured and sold into commerce for transportation purposes by such manufacturer during such year.

(l) SATISFACTION OF REQUIREMENTS.—The Secretary shall, not later than January 1, 1993, promulgate regulations allowing the sale and other exchange of marketable credits among—

(1) refiners;

(2) manufacturers of replacement fuels; and

(3) distributors of nonpetroleum motor fuels sold into commerce for transportation purposes;

in order to satisfy the requirements of subsection (i), and to further the purposes of this Act. In establishing such credits, the Secretary shall consider, among other things, energy content, the environmental impact, and domestic availability of such fuel sources.

(m) APPLICATION.—The Secretary may, on the application of any person, make adjustments to reduce the minimum percentage requirement as it applies to that person, but only if and to the extent that such adjustments are consistent with the purposes of this section.

(n) ENFORCEMENT BY THE SECRETARY.—(1) Any person who violates any requirement of subsection (i) is subject to a civil penalty of not more than $1 per gallon for each gallon of fuel sold that is not in compliance with subsection (i). Such penalties shall be assessed by the Secretary.

(2) Any person against whom a penalty is assessed under this paragraph may, within 60 calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States Court of Appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

(o) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this Act not to exceed $10,000,000 for each of the fiscal years 1991 through 1995.

(p) COORDINATION WITH OTHER ACTS.—This Act shall be administered and enforced in coordination with the administration and enforcement of the Energy Security Act, as amended, and the Clean Air Act, as amended.

(q) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to require retailers of gasoline fuel to have available for sale, in addition to replacement motor fuels, other nonpetroleum motor fuels, for the transportation needs of consumers.

(r) REPORT TO CONGRESS.—The Administrator shall report to Congress not later than 24 months after the date of the enactment of this Act on the environmental impact potential of developing replacement fuels and nonpetroleum motor fuels. Such report shall analyze benefits and detriments to air and water quality, the ramifications on solid and hazardous waste management, and implications for public land management.

CIVIL RIGHTS ACT OF 1990—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. I know we don't have a time agreement. I know we are ready to go right ahead and get to this, for it is such a critical issue. I need just 5 to 7 minutes to comment.

I want to sincerely and heartily commend Senator SLADE GORTON and Senator NANCY KASSEBAUM for their work. They have really put something before us which should not be rejected on any partisan basis. It is very thoughtful. I am opposed to the conference report. That is still a quota bill and we all know that. It does not matter how much new rhetoric the sponsors use in an attempt to disguise that fact. Nothing has changed the substance.

I am a lawyer. I practiced that craft for 18 years. We love that kind of legislation because it is particularly well suited to our profession. When we look at this measure, it is easy to see why. There is a lot of "legalese" mixed in with a healthy measure of impatience and a dose of ambiguity thrown in for flavor. The result is now, I think, really that only lawyers can read the thing without throwing up their arms in frustration and leaving the room. Some did just that during the negotiations.

The truth is, most lawyers feel the same frustration and disgust, but we are just too vain to admit it. I will admit it. This measure is a hodgepodge of sophistry and "staff-speak." My colleague was right on target when he said that S. 2104 is chock full of both intended and unintended results.

The results he spoke of, are quotas. Quiet, covert and coerced—quotas! We need equal opportunity, not result-based bureaucratic facades of equality.

I understand the Senator from Ohio was here earlier in the day and made a rather sincere—and I know him well—apology about the Duke situation and the Ku Klux Klan. We do not have to get into that stuff! I was saddened to hear that reference on the floor this morning. I have known the Senator far too long and know he did not mean that reference the way it sounded—I know he did not—and he said he did not, but it is unfortunate that the passion of this issue has now been couched in terms of racism and hatred. That is not what we are about here, and I am very surprised that occurred—and very saddened. The Senator from Ohio and I come at each

other like Mack trucks with six headlights, but I certainly enjoy him. He is a special friend and a delightful companion.

If we are going to get into that, then we are in the old stuff about lawyers and who they represent. If you represent a murderer, are you a murderer? If you represent some churlish boob, are you connected with him or her? That is not the issue.

I was wondering if Farrakhan is a Democrat. I think he is. Are we going to play that game? Boy, that is then the end of the Earth around this place! That is firebrand stuff, and it is not very becoming to us. None of us are racist; what the devil is this? It is unbelievable. Who is a racist in this Chamber? Nobody! I do not know any racists in this Chamber. I know compassionate people on both sides of the aisle and no racists at all!

So what in the world is this tinge that is presented to us on this? I give eager support to the minority leader's motion to recommit this to committee with instructions to consider this remarkable Kassebaum-Gorton measure. We are all for civil rights and equal employment opportunity for all Americans. That is our goal. That is our aspiration for all of us—whether we are in Wyoming or Washington or Kansas or New York or wherever we are. That is what this country stands for.

The President has indicated that he, too, is eager to sign a civil rights bill and said he will sign the Kassebaum-Gorton measure. That is the chance I think we all want. Here is our chance to enact into law a true civil rights bill that will avoid any suggestion of a quota, however subtle that quota suggestion might be. And it is more than subtle in the conference committee report. This is our chance to join as a united Senate, in a bipartisan effort, in favor of equal opportunity in the workplace. We can now let the passion, I hope, of the debate cool—I think the Senator from Ohio led us to this ending. Let us set aside the innuendo, set aside the crude suggestion that George Bush, President of these fine United States, somehow has a tinge of some kind of racism! That has been a kind of underground theme here. What kind of thing is that? How absolutely pathetic to let emotion, fear, guilt, or racism cloud the debate. People get tired of my talking and saying this, but I have been saying it for 12 years now.

There are four engines that drive legislation in this place. You use a deft blend of emotion, fear, guilt or racism. What a sad thing it is when we use that as a tool to legislate. We see that right here—racism; no, more than one: emotion, fear, guilt in there, too. They are all four here.

So, now we can set aside our fears and the innuendo and take a positive step toward achieving the goal every one of us works for. I urge my colleagues to vote favorably on this motion to recommit.

I have just one last point, Mr. President. I am as committed to civil rights as any other Member of this body. I am also convinced that S. 2104 would do serious harm to race relations and fair employment in this country in its present form. It will. If our motion to recommit is not successful I will support the President's decision to veto that bill because of what I think it will do to disrupt our society. If that does happen, I call upon my colleagues on both sides of the aisle to work together in the next session. We surely had a long time to do this and never did get anything started until recently. Some people have been working for hundreds of hours but many have been content to wait and see what they come up with. So, to them I say join with me and other Members, Democrats and Republicans alike who have risen to speak today, and work very hard to craft a true civil rights bill that we can make the first order of business in the next session.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise in support of this bill. I happen to believe that it is not a quota bill, as many have read and feel is indicated. In fact, I come from an ethnic background where we absolutely oppose quotas because quotas were never used to get us into anything. Quotas were to keep us out.

My background is that of a Roman Catholic. I am the first woman of Polish-American heritage to serve in the U.S. Congress. Those are cultural aspects that I enthusiastically am proud to embrace. But for years people with last names that ended in "ski," or an "i" or an "o" or a "y" were called the most despicable names. And I will not use those names on the Senate floor.

If we wanted to go to a good university or we wanted to be admitted to law school, or we wanted to be admitted to medical school, there were quotas; that kept us out.

And then, also, often on the basis of religion, we found that those same quotas kept us out of certain schools and educational opportunities and even jobs after we received the qualifications. Often we were told, get the qualifications, and when we did, the jobs were not there. So anyone whose last name ends in "ski," is absolutely opposed to the quota system, but anybody who has the first name of Barbara, as is mine, is absolutely for this civil rights bill.

Mr. President, all this legislation does is restore certain civil rights that were overturned by certain other legal cases. I am not going to argue the law. I am not going to argue the precedents, what it does to Griggs, what it does to Wards Cove.

What I want to talk about is what we always hear when it comes to equal opportunity in this country. We explicitly deny it in our public policy. Equal opportunity has been one in this country only under the most grudging of circumstances. It goes back to the original compromise of 1776 when we allowed the despicable practice of slavery to continue. So that we could get a Constitution, we said, "oh, give us a Constitution and we will work it out in the amendments." We got a Constitution, but it took the Civil War and, finally, the 14th amendment to extend protection under the law to African Americans and other people of color.

It took until the 1920's to get another constitutional amendment to give women the right to vote. Almost 170 years after the first compromise where they said, do not worry about it, we are going to work it out in the amendments, 170 years later women finally got the opportunity to participate in a democracy of which they themselves were citizens.

Then in the 1970's, we offered an equal rights amendment. When we were debating the equal rights amendment, they often said, "Oh, we are for the E, and we are for the R, but we are not for the A. We are for equal rights. We do not want the amendment." Let us work it out one law at a time."

Here we are now at the end of the 1980's and into the 1990's, on the brink of a whole new century, and we are still trying to work it out in the amendments.

Mr. President, I think our own American history calls us to a different attitude, a different attitude toward each other. When we talk about people of color and we talk about women, we come with these biological characteristics that God has endowed us with. But God also endowed us with the fact that we are equal in God's eyes. All we are asking is that if we are equal in God's eyes, let us be equal in the eyes of employers. Is that too much for American citizens to ask of their Government? Is that too much to ask of American citizens on the closing days of a Congress of the last decade of this century? I think not. And as we sit around and tinker and twitter over this word and this semicolon, we actually demean ourselves in terms of what this country is all about.

We find that there is discrimination in this country. Sometimes it is intended and sometimes it is unintended, but nevertheless, it does exist. What people want to do is to be able to apply for jobs and not face discrimination. We women do not want to reach glass ceilings nor close doors. That is

also true of people of color and people of a variety of religious backgrounds.

Demography tells us that with our new population, we have probably the broadest spectrum of ethnic diversity in this country than we have ever had. This means that we will need to have that protection under the law to make sure that equal opportunity is there.

All my life I have heard said to women and people of ethnic background, just get the qualifications. I have seen people get the qualifications, go through the chairs, work hard, only to be rejected because they were not one of the crowd, you know what I mean? They just were not one of the club. We find that is just intolerable anymore.

So tonight, here we are at 6:45. I am prepared to stay all night if it means lending my voice and my vote to civil rights, but let us just remember, since 1776, the Civil War, over 20 constitutional amendments, and we are still trying to work it out. If we are not going to work it out one law at a time, give us the equal rights amendment. But, for gosh sakes, do not substitute platitudes for policy. Let us get on with really fulfilling the American dream and the hope of our Founding Fathers. Mr. President, I yield the floor.

Mr. BINGAMAN. Mr. President, at the conclusion of today's debate, I am confident that the Senate will pass the conference report to S. 2104, the Civil Rights Act of 1990. In so doing, we will be taking a significant step toward restoring, and assuring forever, the fundamental right of equal opportunity in the workplace for all Americans. Unfortunately, President Bush's top aides stand ready to turn this progress around with yet another threat of a presidential veto. I hope they are wrong. I hope the President will sign this critical bill into law.

I hope that the President has the courage and wisdom to join with the Congress in sending a strong signal to the working women and men of this country, and to the Supreme Court, that we will not tolerate discrimination—we will not turn away from more than 100 years of slow progress toward equality.

I hope the President will personally examine the provisions of this bill, because I believe that if he does, he will clearly recognize that nothing in this bill will pressure businesses into adopting hiring quotas. If he examines this bill, I believe the President will realize that this bill is simply an antidiscrimination bill. It is not a quota bill. Our distinguished colleagues who worked long and hard as members of the conference committee on this bill have, I believe, responded to every legitimate objection raised against this bill. They have crafted a bill that removes any reasonable doubt about quotas. Yet, the allegations continue, and they trouble me deeply.

Allegations that this is a /quota bill do an incredible disservice to the millions of women and minorities who stand to gain the fundamental right of equality through passage of this legislation. No one—not one member of the Senate, the House, or the administration—supports quotas. I certainly do not. I firmly believe that merit, not race or sex, should determine who is hired for a job. And through the excellent efforts of Senators KENNEDY, JEFFORDS, DANFORTH, DECONCINI, and others, the bill's provisions make clear that quotas are not advocated, mandated, or intended.

Mr. President, I am pleased that the conference committee was able to effectively address two issues important to me and a number of my colleagues: the bill's provisions relating to disparate impact cases and jury awards of punitive damages. During conference, provisions identical to amendments that my colleagues from Arkansas, Senators PRYOR and BUMPERS, attempted to offer on the Senate floor were adopted and, thus, make the bill much stronger. These provisions, specifically designed to help small businesses, limit punitive damage awards and clarify that in cases involving disparate impact, "the mere existence of a statistical imbalance in an employer's work force on account of race, sex, religion, or national origin is not alone sufficient to establish a prima facia case of disparate impact violation."

Both these provisions, I believe, are worthy of our full support; and again, I am pleased that they were incorporated into the bill negotiated in Conference.

Mr. President, in closing, I want to commend Senator KENNEDY and Senator JEFFORDS, Majority Leader MITCHELL, Senator HATCH, Senator DANFORTH, Senator DECONCINI, Senator BUMPERS, Senator PRYOR, and several other colleagues for their dedicated and diligent efforts over the past several weeks and months to craft a bill that will restore our antidiscrimination laws to their full and proper strength without unduly or unfairly burdening America's business community. The degree of effort and patience that went into this bill's drafting, under the capable leadership of Senator KENNEDY, is a testimony to the type of cooperation we can achieve, which benefits all Americans, when we lay aside partisan politics.

Mr. President, the evolution of civil rights laws in this country has been slow and arduous. We have by no means reached a point where we can be complacent, as the Supreme Court's decisions in 1989 illustrate. The burden is on us, the Members of Congress and the President, to restore equality and equal justice for all Americans. That is the goal of the Civil Rights Act of 1990, and that is a goal to which we must always strive. Thank you.

REQUEST FOR GAO STUDY ON IMPLEMENTATION OF CIVIL RIGHTS ACT OF 1990

Mr. PRYOR. Mr. President, I am concerned about what effects the Civil Rights Act of 1990 will have on businesses. In order to make a judgment about these effects, we must track its implementation. Accordingly, I am today sending a letter to the Comptroller General—along with Senators BUMPERS, BAUCUS, CONRAD, EXON, BOREN, DECONCINI, and BOB KERREY—requesting that the GAO monitor implementation of the Act over a 3-year period, with regular 6-month updates, to determine what effects the Civil Rights Act of 1990 may have on the workplace. As part of this monitoring process, the GAO will measure both the burdens that may be placed upon employers and the benefits that may accrue to minorities, women, and persons with disabilities as a result of the Act. I would intend for this study to serve as a major determinant of whether the Act should be amended, and if so, how.

No one in this body desires for discrimination to take place in any American business, no one wants to deny any person who has been the target of discrimination his or her access to achieving ultimate justice. My only purpose in requesting this GAO report in periodic intervals is to make certain that fairness for both employer and employee is achieved in the Civil Rights Act of 1990.

Mr. President, I ask unanimous consent that a copy of my letter to the Comptroller appear at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, October 16, 1990.

Mr. CHARLES BOWSHER,
Comptroller General, General Accounting Office, Washington, DC.

DEAR COMPTROLLER BOWSHER: We are writing to ask the General Accounting Office to conduct a study of the effects on the work place of the Civil Rights Act of 1990, should the Act become law.

Businesses have expressed concern that the Act will encourage a great deal of litigation. We do not believe litigation, itself, is necessarily a bad thing. The purpose of this Act is to provide access to the courts so that individuals with legitimate claims of employment discrimination can seek redress. We support this aim. However, we are concerned that the Act will result in a large increase in litigation of weak and insubstantial claims of employment discrimination, and that businesses will have to implement expensive, complicated employment policies, and in some cases be forced to make unwise business decisions to avoid such litigation.

Accordingly, we would like the GAO to conduct a study which measures the quantitative and qualitative changes in litigation, equal employment opportunities, and em-

ployment practices resulting from the Civil Rights Act of 1990. Such a study should compare the amount of employment discrimination litigation undertaken before and after implementation of the Civil Rights Act of 1990, the average duration of such litigation, the average cost of initiating and defending such litigation, the average damage award granted to successful plaintiffs, and the average time elapsed between occurrence of an alleged act of discrimination and the filing of a claim of discrimination. When measuring statistics related to litigation, the study should distinguish between litigation over claims of disparate impact and claims of intentional discrimination.

The study should also compare the number of employment discrimination cases settled before and after the Act, and the average size of the settlement. One particularly important statistic that we would like the study to contain is a measure of the ratio of total cases settled or won by plaintiffs to the number of total cases brought by plaintiffs, both before and after the Act.

We believe it is particularly important for the GAO to study the effects of the Civil Rights Act of 1990 on litigation and employment practices, in view of the improvements in equal employment opportunities conferred by the Act. The study should include statistics measuring hiring of minorities, women, and persons with disabilities, career advancement of individuals in such groups, and salary figures for such individuals, both before and after enactment of the Civil Rights Act of 1990. The GAO should, to the greatest extent possible, tie changes in these statistics to the Civil Rights Act of 1990. We also encourage the GAO to develop other statistics which would measure the changes in equal employment opportunities resulting from the Act.

We would also like for the GAO to report on the effects that the 1990 Civil Rights Act would have on employment practices, personnel policies, and other business decisions. Throughout the study, we would like for the GAO to focus its study on smaller businesses.

We would like the GAO to conduct this study over a three year period, commencing on the date of implementation of the Act, with regular reports from the study provided every six months. The study should ultimately include recommendations for amendments to the Act, should undesirable consequences be discovered.

We look forward to talking further with the GAO about undertaking this study.

Sincerely,

David Pryor, Max Baucus, Dale Bumpers, Kent Conrad, Jim Exon, Dennis DeConcini, Sam Nunn, David Berin, Ed Perry.

Mr. THURMOND. Mr. President, I rise today in strong opposition to the so-called conference report compromise on S. 2104.

Following recent Supreme Court decisions in the area of employment discrimination, the proponents of the original bill claimed it was necessary to restore the basic protections under title VII. No one denies that there should be protection from discrimination in the workplace.

However, the legislation passed by the Senate and the House went far beyond their stated goals of restoration and protecting employees from discriminatory practices. It would have created a system where employers must hire by quotas or face litigation. In adopting title VII in 1964 Congress specifically rejected quota hiring and the idea that preferential treatment should be granted in employment practice based on statistics.

Unfortunately, the conference report now before us with its cosmetic changes to the Kennedy-Hawkins bill is still a quota bill and would continue to create a violation based on statistics. The report language would continue to encourage plaintiff attorneys to file discrimination suits whenever they can show a mere statistical imbalance in an employer's work force.

It is my belief that the changes to redefine "business necessity" have not adequately addressed the problems from the original bill. The current language would still put an employer at substantial risk, even when hiring is done based on legitimate business reasons, which have long been established by prior Surpeme Court decisions.

In a letter from Attorney General Thornburgh to Senator DOLE outlining the administration's strong objections to the so-called compromise, the Attorney General stated and I quote:

The definition of business necessity is essentially unchanged. (It) prohibits (employers) from offering other legitimate business justifications that have been recognized as permissible by the Supreme Court for many years.

It is clear the "business necessity" language does not address the administration's major concern that an employer be allowed to defend a challenged business practice based on the reason for adopting the challenged practice.

Mr. President, this bill would still shift the burden to employers with a statistical imbalance of workers to justify their employment practices, even where the plaintiff cannot show that any particular practice led to the disparity.

There have been some changes requiring a complainant to allege with particularity the specific practice or practices which are discriminatory. However, these changes were more in form than substance and the exception to the particularity requirement completely swallows the rule.

Under the so-called compromise, a complaining party can still prove a violation merely by showing a statistical imbalance attributed to a group of employment practices.

Also, in an effort to blunt criticism, new language has been added to assert that nothing in the bill would "require or encourage an employer to adopt hiring or promotion quotas. * * *" The Attorney General responded to this new language in his letter, which I mentioned earlier, to Senator DOLE. He stated, and I quote:

As we have repeatedly pointed out, * * * the trouble with the bill is not that it explicitly encourages or requires quotas, but that it will inevitably result in quotas being adopted * * * to avoid the cost and trouble of disparate impact lawsuits under the bill. * * *

Mr. President, I have briefly discussed some of the major problems with the conference report. Other, equally important and objectionable language, is in the conference report concerning compensatory and punitive damages, attorney fees provisions, retroactivity, and other issues.

In short, the problems with this bill have not been cured and the Attorney General stated, and I quote, "Accordingly, the President will be compelled to veto S. 2104 in its current form." End of quote.

Mr. President, the Senate is on notice that the President will not sign this bill into law. The proper course now is to return this bill to the conference committee with instructions to accept the Kassebaum/Gorton alternative which he will sign.

I yield the floor.

Mr. AKAKA. Mr. President, I rise today to join my colleagues in commending the conferees in reaching a compromise on the Civil Rights Act of 1990.

We have made great gains over the years protecting the civil liberties for the people of the United States. Everybody, regardless of race, ethnicity, religion, sex or physical handicap, deserves fair and equal treatment. This legislation before us today would restore and strengthen antidiscriminatory laws in the workplace. In addition, it enables victims of intentional discriminatory practices to be awarded up to $150,000 in punitive damages.

The intention of this body is to codify the landmark 1971 U.S. Supreme Court decision on overt or unintentional job discrimination cases as set forth in Griggs versus Duke Power. The 1989 Wards Cove interpretation challenged this 18-year-old precedent and shifted the burden of proof from the employer to the victim of discrimination.

In 1964, Congress passed the first sweeping Civil Rights bill to secure civil liberties for all Americans. This feat would not have been possible without the strong and judicious guidance of the high court. Recent rulings, however, indicate a departure from the once revered practices of the Supreme Court. Where we once turned towards the Court to safeguard our basic rights and freedoms, we must now turn to Congress.

Mr. President, civil rights must be preserved and strengthened. Some critics argue that this bill is about quotas. This is untrue because quotas were neither enforced nor mandated under the previous Griggs ruling. And, I do not foresee this happening now.

Therefore, businesses will not be unduly burdened. What this bill is about is the right of the working people of the United States to fair and equal treatment in the workplace.

I urge my colleagues to support the adoption of the conference report language on S. 2104, the Civil Rights Act of 1990.

Mr. DURENBERGER. Mr. President, I rise today to indicate my support for the conference report on the Civil Rights Act of 1990. I compliment the sponsors of the bill and the Senate and House conferees for their tireless work over the past days, weeks, and months. In particular, I commend the recent efforts of Senator SPECTER and Senator HATCH to incorporate compromise language in the conference report that addresses many of the concerns of the Bush administration and the business community.

In cases of disparate impact, the Hatch-Specter compromise language clarifies the definition of "business necessity," and requires employees filing complaints to prove the specific practice responsible for disparate impact, except where an employee does not make relevant records available. The bill is also amended to allay fears regarding the quota issue by providing that nothing in the bill should be interpreted even to encourage an employer to adopt quotas. The compromise language also removes this bill from the current debate over "comparable worth."

Some have raised the concern that this legislation will prohibit employers from hiring on the basis of ability. Unfortunately, some employers still do not look past a person's color or gender to take ability into consideration. The Civil Rights Act of 1990 ensures that race and sex are not barriers to participation in the workplace. Instead, employers will be asked to evaluate employees solely on the basis of their abilities and qualifications.

Over the past year, I have been involved with the Workforce 2000 Task Force, a working group on the Labor and Human Resources Committee that is examining ways that our Nation should respond to the changing composition of the work force, as we approach the year 2000. Between now and the end of this century, women and minorities will account for 91 percent of the net growth in America's work force. By the year 2000, 47 percent of our work force will be women and 15 percent will be nonwhite. In an era of increasing competitiveness, America's future will depend on its ability to utilize the talents and productive capability of all its citizens. Equal employment opportunity for women and racial minorities is a matter of simple justice and fairness. But it is also a matter of economic necessity, if we are to remain competitive in the world.

Mr. President, I know President Bush to be a principled man who believes in justice, fairness, and equal employment opportunities for all Americans. For this reason, I am disturbed by Attorney General Thornburgh's recent communication expressing the President's intent to veto the Civil Rights Act, even with the Hatch-Specter compromise language. I respectfully request that the President reevaluate his position on the Civil Rights Act, and sign this critical civil rights legislation into law.

Mr. ADAMS. Mr. President, I rise today in strong support of the swift passage of the conference report of the Civil Rights Act. This bill reaffirms our commitment, not just as a legislative body, but as a society, to the fundamental issues of fairness and equality in employment.

I am amazed that in 1990 we are still hearing many of the same tired arguments used to deny minorities and women the right to fight injustice, prejudice, and inequality in the work place. For over 25 years, opponents of civil rights legislation have argued that the effect of these bills will be the imposition of hiring quotas. Over and over they have made their arguments, and over and over they come up short.

As an original cosponsor of this legislation, I have, once again, witnessed the resurrection of the quota argument, and again it does not apply. This bill will not impose or encourage quotas, but it will return a sense of equality and justice to the employment arena that has been lost since the Supreme Court's decisions in Martin versus Wilks, Patterson versus McLean, and Wards Cove versus Atonio.

These rulings marked an erosion of the more than 25 years of progress made in eliminating discrimination in the workplace. I am proud that today we will reverse this trend, and again send a message to employers throughout this country that the American people will not tolerate discrimination.

The intent of Congress in previous civil rights legislation was not to allow business the loopholes and trap doors by which they might discriminate. Our intent has been, and must continue to be, to guarantee every citizen, regardless of race, color, national origin, religious affiliation, or sex, the right to seek employment based upon their abilities. I am confident that the conference report before us will maintain this commitment.

For over a year, we have struggled to develop a comprehensive, effective bill that resolves many of the concerns voiced by the business community without altering the intent of impact of this bill. To achieve this end, the bill has been modified to specifically reject the use of quotas, and redefine the process under which a discrimination case can be brought. And yet, we are told it is not enough. Well, Mr. President, it is enough.

As we watch the people of Eastern Europe tear down the totalitarian infrastructure which once judged individuals more by their political and ethnic affiliation, than their abilities, we must rededicate ourselves to the principle of full equality. For too long, our society divided itself by race and gender. We have begun to overcome this injustice, and while much remains to be done, this will at least right the wrongs of the past few years. I will vote for the conference report, and should the President choose to veto the Civil Rights Act, I will vote to override.

Mr. President, during the many months this legislation has been before the Senate, initially before the Committee on Labor and Human Resources, of which I am a member, I have had the most capable assistance of Mike Riley of my staff. Like many of the talented young individuals who serve on the staff here in the U.S. Senate, Mike has worked many long and hard hours during the 101st Congress. Mike Riley recently informed me of his decision to return to his hometown of Seattle, and will be leaving my staff when our legislative work for the year is completed. I am confident that Mike Riley's talent and dedication, witnessed so splendidly on this bill, and other legislation that came before the Labor Committee, will serve him well in the years to come. But I wanted to take this opportunity to thank him, in particular, for his work on this historically important legislation.

STATUTORY CONSTRUCTION

Mr. PRYOR. Mr. President, with respect to section 11(a) of the conference report, I share the concerns expressed by many interested persons that Federal courts in some recent cases have given civil rights laws an unfairly cramped interpretation, for example, *Patterson* v. *McLean Credit Union*, 109 S. Ct. 2363 (1989).

However, I also fear that the statutory construction provision contained in section 11 of this conference report could be misconstrued to go too far in responding to some of these recent court decisions. I am concerned this broad statutory construction provision could be misinterpreted as directing the Federal courts to give civil rights laws an unduly expansive reading inconsistent with the intent of Congress.

In my view, all laws should be interpreted consistent with their legislative intent and the applicable canons of statutory construction.

Senator KENNEDY, in light of my comments, can you further explain section 11(a) of the conference report?

Mr. KENNEDY. Subsection 11(a) represents a codification of the time-

honored principle of statutory construction that "a remedial statute should be liberally construed in order to effectuate the remedial purpose for which it was established." *Sutherland Stat. Const.*, Sec. 60.01 (4th Ed. 1986). Section 11(a) simply puts into law a canon of statutory construction that has been traditionally applied.

Therefore, when interpreting civil rights statutes, courts should be guided by Congress' clear intent of assuring equal rights and opportunity for all Americans and providing effective remedies against discrimination, and should regard section 11(a) as authority for an interpretation of the civil rights laws which effectuates that intent. On the other hand, this broad construction provision should not be construed to require an unduly expansive reading inconsistent with the intent of Congress, as reflected in the statute and the legislative history.

EVIDENTIARY RULES

Mr. PRYOR. Mr. President, I am concerned that paragraph (2) of the definition of "business necessity" contained in the conference report may result in confusion when courts interpret this important term.

Paragraph (2) provides:

In deciding whether the standards for business necessity have been met, unsubstantiated opinion and hearsay are not sufficient; demonstrable evidence is required. The defendant may offer as evidence statistical reports, validation studies, expert testimony, performance evaluations, written records or notes related to the practice or decision, testimony of individuals with knowledge of the practice or decision involved, other evidence relevant to the employment decision, prior successful experience and other evidence as permitted by the Federal Rules of Evidence, and the court shall give such weight, if any, to such evidence as is appropriate.

While I agree that title VII should explicitly provide that an employer must use demonstrable evidence in order to meet its burden with respect to business necessity, the remaining portions of this paragraph trouble me.

During consideration of this bill, I asked Mr. Steve Jones, an attorney from Little Rock who has both initiated and defended civil rights cases, to review the proposed legislation. Mr. Jones wrote me that, in his view, much of the remaining language in paragraph 2 is "unnecessary surplusage" and that "in (his) experience such unnecessary surplusage in statutes only leads to confusion and ambiguity on the part of the courts having to interpret and implement those statutes."

In particular, it could be argued that the remaining language contained in paragraph 2 may serve as authority for applying special rules regarding the admissibility of evidence that may be offered by an employer to meet its burden with respect to "business necessity."

Senator KENNEDY, in light of these concerns, can you further explain paragraph 2 of the subsection which defines "business necessity" contained in the conference report?

Mr. KENNEDY. The purpose of paragraph 2 is to state expressly that demonstrable evidence is required to prove "business necessity," and to list examples of the types of evidence that may be received by the court "as permitted by the Federal Rules of Evidence" on the issue of business necessity, making it clear that the court shall give such weight, if any, to such evidence as is appropriate. Therefore, the additional language contained in paragraph 2, to which Mr. Jones referred, is simply illustrative and should not cause confusion.

Moreover, paragraph 2 is not intended to alter the application of the Federal Rules of Evidence when evidence is offered on the issue of business necessity.

Mr. LEAHY. Mr. President, today the Senate is considering the conference report on the Civil Rights Act of 1990. I am proud to be an original cosponsor of this very important piece of legislation which would ensure fair and effective civil rights enforcement. Last year, the Surpreme Court made a sharp departure from precedent and seriously weakened civil rights in this country.

Mr. President, it is time for America to move ahead in civil rights, not backward. I hope that President Bush fulfills his responsibility to the American people by signing this bill and furthering the case of equal opportunity for all.

Mr. President, let me say I am pleased that this bill includes some coverage of congressional employees. But we still have work to do. We have all heard the news stories about the working conditions suffered here on Capitol Hill. By exempting itself—over many years—from important civil rights and labor laws, Congress has denied to the men and women who serve us every day here on Capitol Hill the rights and protections of other American workers.

I have long been an advocate of extending to the Congress the same civil rights and employment protections which are rightly applied to the rest of the country. Congressional workers deserve no less. Last year, for the sixth time, I introduced the Fair Employment in Congress Act to remedy this problem. I know that Senator GLENN and other Members of this body have also discussed ideas and proposals in this area.

The Civil Rights Act of 1990 is an important first step in changing the situation. The bill extends to Senate employees the protections of the Civil Rights Act of 1964, the Americans With Disabilities Act, the Age Discrimination in Employment Act, and the Rehabilitation Act of 1973.

My bill, the Fair Employment in Congress Act, would extend to Congress the coverage of not only these laws, but also the Fair Labor Standards Act, the Occupational Safety and Health Act and the Civil Service Reform Act. The Congress must go further and apply these laws to its own employees. Congressional employees deserve no less than a safe workplace and fair working conditions.

I am hopeful we can work together to build on the positive first steps we have taken today—so that we may bring fairness and equity to the people who serve us faithfully every day.

Mr. SPECTER. Mr. President, I have a question about section 4 of the bill, which will govern claims of disparate impact under title VII. There is a new provision, in subsection (k), which was added by the conference committee on October 12, 1990, involving comparable worth. My understanding is that the purpose of that new provision is to make clear that subsection (k) does not overrule existing precedents involving comparable worth. Therefore, this new provision does not affect precedents involving pay or wage discrimination, such as *County of Washington* v. *Gunther*, 452 U.S. 161 (1981) and *Bazemore* v. *Friday*, 478 U.S. 385 (1986). Moreover, comparable worth cases will be treated as they were before Wards Cove, and therefore this provision does not affect existing precedents involving comparable worth. Do you agree with my statement of the purpose of this provision?

Mr. KENNEDY. Yes.

Mr. BRADLEY. Mr. President, I hope that today we are nearing the end of the lengthy effort to restore the fundamental promise of fairness and equal opportunity for all Americans. The conference report on the Civil Rights Act of 1990 is the product of thoughtful negotiation among three of my colleagues with unique knowledge about these legal questions, working with the distinguished attorney and former Cabinet member, William T. Coleman, and with the administration. Most of the questions raised about the bill when it came before the Senate last summer have been resolved to the satisfaction of those who had opposed it. And yet, the White House and the Justice Department continue to tell us that the President will veto the bill.

Mr. President, it would be a sad mistake for President Bush to veto this bill, not because it would not become law. I am confident that my colleagues would override a Presidential veto. Rather, a veto by the President would just be wrong.

For minorities, women and others facing shameful discrimination, the

Supreme Court indicated several times in the last few terms that the legal protections they had counted on for 18 years or more would no longer be respected by the Court. It then became our turn to act, to write those protections clearly into law so that Americans would not be vulnerable to the ideological drift of any Supreme Court. And I'm proud that we did act so quickly to reassure all Americans that their rights would be held safe by this branch of Government. Now it is time for the President to make clear that the executive branch shares our commitment to justice and equal opportunity for all.

This bill sets our Nation forth once again on the path of continuous progress toward the open and free society envisioned in the Declaration of Independence. This is not a quota bill. It's a basic rights bill. The conference report language makes that clear. If the President vetoes this legislation he will be out of step with the overwhelming sentiment in Congress and most Americans' sense of fair play. I will vote for the Civil Rights Act of 1990 as often as it takes to make it the law of the land.

Mr. LEVIN. Mr. President, I rise to express my support for adoption of the conference report on the Civil Rights Act of 1990.

Last year the Supreme Court made a number of decisions which took us backward. The decisions narrowed the application of important civil rights laws and made it more difficult for victims of discrimination to seek judicial remedies. The Civil Rights Act of 1990 would restore and strengthen our civil rights laws in a balanced way.

For example, the Court ruled that a law that had been interpreted for over 100 years as banning all employment discrimination only applied to discrimination in hiring and not discrimination on the job. The bill before us overturns that decision and restores the prior law banning all employment discrimination.

The conference report before us includes several provisions not included in the Senate-passed legislation which re-emphasize that the legislation will promote opportunity.

The bill states explicitly that nothing in it should be construed to require or encourage hiring or promotion quotas. Still, people have asserted that this is a quota bill. They base this contention primarily on the provisions of the bill restoring the 1971 Griggs decision and extending the current right of racial minorities to recover damages for intentional employment discrimination to women, religious and ethnic minorities. I'd like to address both points.

The bill overturns last year's Supreme Court decision in Wards Cove versus Antonio and restores prior law. Since the Supreme Court's unanimous Griggs decision in 1971, the burden of showing that employment practices that have a disparate impact—that affect qualified minority applicants in a disproportionate manner—are required by business necessity has been placed on employers.

For over 18 years the Griggs rule had been the law and did not lead to hiring quotas. Instead, it increased job opportunities. It was a common sense decision that helped people to be treated on the basis of their skills and not on the color of their skin, their sex, or the sound of their last name.

The legislation before us restores Griggs. It takes the definition of business necessity word for word from the Griggs decision and states explicitly that the purpose of the definition of business necessity is to codify Griggs and overturns last year's Supreme Court decision. Given that Griggs did not result in quotas, and that the legislation quotes from Griggs and states that its purpose is to codify Griggs, arguments that this bill will result in quotas are just not credible.

Some have also criticized the provision which strengthens current law by granting women and religious and ethnic minorities the same right to recover damages for intentional employment discrimination that racial minorities currently have.

Discrimination is wrong whether it's on the basis of someone's race, sex, or ethnic or religious background. This legislation will provide people discriminated against because of their religion, ethnicity, or sex the same rights that people discriminated against on the basis of race have had for years. I see no reason to believe that extending equal rights to minorities other than racial minorities should result in a litigation bonanza or hiring quotas, as some have suggested.

Under current law, damage awards for intentional employment discrimination have been infrequent and moderate. A study of cases over the last 10 years found that in over 85 percent of the cases where damages were sought, no damages were awarded at all. Of the cases where they were granted, the average award was about $40,000, and in only three cases were the damage awards more than $200,000.

To reassure employers, the conference report caps punitive damages at $150,000 or the amount of the granted compensatory damages, whichever is greater.

The Civil Rights Act of 1990 will restore and strengthen our civil rights laws to the scope which Congress intended and which the courts had interpreted them to have until the Supreme Court's decisions last term. This legislation takes us forward. It will promote equality of opportunity. It is balanced and needed legislation and I support it.

Mr. WILSON. Mr. President, today we will take perhaps one of the most important civil rights actions since the passage of the historic Civil Rights Act of 1964.

I hope we make the right choice. Over a quarter century of civil rights progress depends upon it.

Simply put, a vote for the conference report is a vote for quota-based employment decisions.

Proponents label this assertion a red herring, just an excuse to torpedo the civil rights bill.

Mr. President, it is not an excuse. It is a legitimate concern, so much so that proponents have repeatedly modified their proposals.

Indeed, it was not too long ago that we found ourselves considering the Senate version of the Civil Rights Restoration Act on the floor. I believe it actually was the third week in July.

At that time, I argued that language under sections 3 and 4 of the bill would result in quota-based hiring by employers.

Though I have never fancied myself as much of a prophet, I must have been right that day in July when I joined 33 of my colleagues in voting against the Senate bill for that reason.

Otherwise, today I suspect we would not be considering much different, and I would add to be fair, much improved, language.

Specifically, Mr. President, I believe the conference report greatly improves upon earlier versions of the civil rights bill on the important question of particularity, the question of whether or not plaintiffs bringing forth dispariate impact cases should be required, as they had been for 18 years, to demonstrate that a specific practice or set of practices actually result in discrimination.

On page 6 of the conference report, a complaining party "shall be required to demonstrate which specific practice or practices are responsible for the dispariate impact in all cases unless the court finds after discovery: First, that a respondent has destroyed, concealed or refused to produce existing records that are necessary to make this showing; or second, that the respondent failed to keep such records."

Though questions have been raised about the phrase "such records" and what exactly the conference means by the phrase, I am certain it means those that are necessary to make the showing.

But beyond this issue, Mr. President, I think a much more important concern is the definition of business necessity contained in the conference report.

Business necessity is defined as a practice or group of practices which bear a significant relationship to successful performace of the job, or in the case of employment decisions

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which involve rules regarding methadone, alcohol, or tobacco use or plant closing, for example.

That is the standard by which employers must justify their hiring and promotion decisions.

It is not the standard utilized in Griggs despite the provision in the conference report which indicates that it is meant to codify the meaning of business necessity as used in Griggs.

It is a much higher, much more impossible standard to meet.

If it is intended to reflect Griggs, the conference report would read: bears a "manifest relationship to the employment in question" or "serves the legitimate employment goals of the employer."

That is the language utilized in the Kassebaum-Gorton substitute.

It is not the language of the conference report.

With the passage of the conference report, we will have eliminated employer's reliance upon tests or qualifications which represent sound methods of doing business and which are not intended to discriminate.

Mr. President, if we pass the conference report in its present form, we will undermine the original intent of the 1964 act by making race, gender, ethnicity, religion, and disability, predominant factors in an employer's decision-making process.

In short, we will have left otherwise law-abiding employers with no choice but to hire by criteria that relate to race or sex or creed or some classification other than merit, to avoid costly litigation.

We will condone quota-based employment practices which are not founded on merit but on membership in a particular ethnic, racial, or religious group or gender to avoid costly litigation.

This type of system—a quota system—is insulting to women and minorities who rightfully have been selected on the basis of merit. It suggests that these very talented men and women are somehow tokens instead of the high achievers that they are.

That is wrong. That is unfair. And that is why we should oppose the conference report.

I do not arrive at this position easily.

Prior to the consideration of the Civil Rights Restoration Act, I never voted against a civil rights bill in over 23 years of public service.

I am very proud of my strong civil rights record, first as a California State assemblyman—appointing the first black chief consultant to a legislative committee in the history of the State; later as mayor of San Diego—supporting a strong but fair affirmative action policy and making appointments of many highly qualified women and minorities—beyond parity in at least one case—to city boards and commissions; and now as U.S. Senator—cosponsoring the Americans With Disabilities Act and voting to override a Presidential veto of the Grove City bill.

But I will not be enticed by political expediency to support civil rights legislation which, under the guise of promoting a discrimination-free workplace, will force employers to institute a hiring and promotion process based on numerical quotas instead of individual merit.

I want an America in which individuals are judged on the basis of what they are and who they are, not the color of their skin, nor the ethnic group to which they belong nor what religion they practice or fail to practice.

Mr. President, I believe we can still pass a good civil rights bill—one which we can be proud of.

The language offered by Senator KASSEBAUM was very clear on the Griggs question.

In order to establish an unlawful employment practice in a disparate impact case, a complaining party must demonstrate by statistical evidence that a group of employment practices results in discrimination and that a particular employment practice, or each employment practice within the group, results in discrimination.

And as I have stated earlier, the Kassebaum substitute is straightforward and quite literally spells out our intent on the question of business necessity, the intent which proponents of the conference report claim is theirs when they speak of returning to the Griggs standard.

Mr. President, let's not allow good intentions to lead us in unintended bitter irony back down the road to a time when the color of one's skin or one's gender rather than merit determined an individual's lot in life.

Let's not correct old discrimination by creating new discrimination, reverse discrimination under a quota system.

The PRESIDING OFFICER. Is there further debate. If not, the yeas and nays are ordered.

Ms. MIKULSKI. Mr. President, I note an insufficient number on the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. KENNEDY. Mr. President, I ask unanimous consent that when the Senate proceeds to the consideration of the conference report, S. 1430, the national service bill, it be considered under the following time limitations, 5 minutes for Senator HATCH, 10 minutes for Senator KENNEDY, 5 minutes for Senator GRAHAM, 5 minutes for Senator DODD, 5 minutes for Senator NUNN, 5 minutes for Senator PELL 5 minutes for Senator MIKULSKI, 5 minutes for Senator DOLE, the last 5 minutes before the vote for Senator MITCHELL, that no motions to recommit the conference report be in order, and that when all time is used or yielded back the Senate proceed to vote on the conference report.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object and I shall not object, I want to make certain. Let us see on that side then you would have, what, 40 minutes is that it, and we would have 15 minutes on this side? We have no problem with that. We do not want to have to wait 10 minutes for each speaker to come over. Could we agree on a total time, at the end of that time we would vote, or just vote at, say, 7?

Mr. HATCH. Let us make it 7:30.

Mr. DOLE. That would not give them enough time.

Mr. KENNEDY. No later than 8, quarter of 8.

Mr. DOLE. 7:45.

Mr. HATCH. 7:45.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask further the vote on this be at 7:45. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. The vote will be at 7:45.

The PRESIDING OFFICER. The Republican leader is correct.

NATIONAL AND COMMUNITY SERVICE ACT—CONFERENCE REPORT

Mr. KENNEDY. Mr. President, I submit a report of the committee of conference on S. 1430 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1430) to enhance National and Community Service and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their repective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. KENNEDY. Mr. President, I yield such time as I might use.

I would like to inform the Senate about where we are on the civil rights bill. We now have a time certain to vote on the Voluntary Service Act, which is a bipartisan effort, which now has the support of the administration. We will vote on that at 7:45 with the allocation of time as previously described. It is my hope by that time we will be able to have time definite to vote on the Dole motion and also a time definite to vote on the conference report.

There is still one Senator who desires to be able to be heard on the issue. We will attempt over the period of this time and the vote to try to accommodate his particular interests so that we will be able to at the end of the vote give hopefully a precise time as to when we will vote on the minority leader's motion as well as on the conference report. We are unable to do that at this moment, but we hope to be able to do it, or have the majority leader do it later in the course of the discussion of the voluntary service bill.

Mr. President, I am pleased that the conferees have reached a bipartisan agreement on the National and Community Service Act of 1990 that has the support of the President.

This legislation is a reaffirmation of our national commitment to lend a helping hand to our fellow citizens and our communities. It is also a hopeful sign that in spite of the divided government that plagues Congress and the administration, we have not lost the ability to work together on questions that deeply affect our future.

The challenges we face today are serious. But many of these are local, and will respond to local efforts. Crime, drug abuse, homelessness, illiteracy, and pollution are problems that confront all our communities. One way to deal with these problems more effectively is by rekindling the sense of service and commitment to others that has always been the hallmark of America at its best Our greatest resource is our people, and it is time to ask them for their help.

This legislation is call to action for the Nation. It will fund programs for students from kindergarten to college to serve their communities, and for older Americans to volunteer in the schools, It will expand the Nation's network of full-time youth corps programs, which bring young people together to address environmental and human service needs. It will fund innovative programs offering educational scholarships and housing benefits for those who make a substantial commitment to service. And it will provide funding for the President's Points of Light Foundation, which will replicate and encourage the Nation's best volunteer efforts. The legislation encourages all of these streams of service at a cost of only $62 million in fiscal year 1991, $105 million in fiscal year 1992, and $120 million in fiscal year 1993.

The National and Community Service Act of 1990 is an investment that will reap benefits well beyond its modest cost. The volunteer service that it can generate will help revitalize our cities and rural areas, and provide assistance to those in society who need our help the most.

This measure will remind Americans of all ages of the responsibilities of citizenship, but its most important result may well be its effect on young citizens in the earliest grades. No age is too young to begin meeting the needs of the community. By teaching young schoolchildren to help others, we will also be establishing the values that will keep America strong for generations to come.

About a year and a half ago at the time we had the 25th anniversary of the Peace Corps, I had an opportunity to attend a luncheon with the first volunteers for the Peace Corps. I asked all of the young people at the table why they volunteered. Each of them gave essentially the same answer—it was the first time any of them had been asked to do anything for anyone else.

That ringing response, Mr. President, shows the importance of the Peace Corps, the Action programs, the Literacy Corps, and other kinds of service programs that have reached out to young people and old people in this country.

I think most of us would believe that voluntarism starts at home, and second in the church, and third in the community. One thing that has really been lacking, however, is national challenge to the young people of this country to give something back to their community and to America for all it has given to them. So I commend all of my colleagues. I know all of them will speak during the course of this brief debate. Even though the time for debate is short, the significance of this legislation will echo in our country for years to come.

I would like to acknowledge the contributions of my colleagues who made this legislation possible. First, Senator PELL, who deserves great credit for being one of the first to propose legislation in this area; Senator MIKULSKI, who has been long involved in community service, and has a very active and important role in the shaping of the legislation; Senator DODD, for the youth corps proposal; Senator NUNN, who offered a very innovative and creative program close to 3 years ago.

Senator BUMPERS, Senator GRAHAM, and Senator ROBB also contributed to the proposal, and, of course, Senator HATCH and Senator DURENBERGER were enormously important and invaluable in helping shape this whole program in our committee. Senator HATCH, in particular, worked hard to ensure that we had a bipartisan effort here on the floor of the U.S. Senate which carried overwhelmingly and was instrumental in bringing the administration aboard.

I think all of us tonight when we take action on this should take our hats off to Senator HATCH for the extraordinary effort and work that he was involved in in terms of moving the administration in support of this program.

Very briefly, Mr. President, what we have tried to do is take the half a dozen different approaches that have been suggested by the members that I have mentioned here and others. Most of those recommendations were proposed in independent pieces of legislation.

What we have tried to do in the Human Resources Committee is bring those elements together into one program, and work with the House to develop a similar program. The purpose was to try to put these programs into place, and then to do an evaluation of these programs in 3 years to find out which are the most successful, which have been able to challenge young and old people alike, and which have been able to return to the community the kind of initiative and idealism which we hope to attract.

One particular aspect of the program which I favored was a school-based program, kindergarten through college. We have an example of this in Springfield, MA. In Springfield, the first graders and kindergarten students fold napkins that are used for feeding programs for the homeless; the fourth graders adopt individuals in nursing homes, and every single day they spend 5 minutes calling the individual that they adopted, visiting that individual in the nursing home on their birthday and also on Valentine's Day; seventh graders develop pantomimes which they bring around to all of the programs for elderly people—a wide variety of different programs developed by the young people themselves.

The programs have an education component, and involve meaningful service to the community. Those are the criteria included in our legislation for the school-based program, which was originally proposed based on programs in our own State which have had extraordinary success.

It is my fundamental belief that once you begin to get individuals started in voluntarism—give them that opportunity to go through the school process—it will become part of their lives, and they will continue to help others long after they are out of the educational system.

Mr. President, I again thank our colleagues. I think this is a balanced program. It includes the elements pro-

posed by many of us who have been involved in this concept of voluntarism.

It includes the President's Points of Light Foundation. We have acknowledged the leadership that President Bush provided when he spoke about voluntarism in the course of his national campaign. We have attempted over the last year to work with President Bush and the administration in trying to develop this program. I am delighted, I think all of us are, that we have been able to gain the support of the President for this particular approach.

Mr. President, I hope we will pass this with an overwhelming vote, and I am grateful to all of those who have been a part of this innovative legislation. I reserve the remainder of my time.

Mr. HATCH. Mr. President, I am also pleased to join with Senator KENNEDY and all of these other Senators who have worked so hard on this conference report, the "National Community Services Act of 1990."

I want to compliment all of them because they have all worked on this bill to make it a strong bipartisan bill and one which the White House can accept and support.

I feel very good about that. America does have a strong history of people helping people. I salute that spirit here today. This legislation represents and promotes that spirit.

President Bush has recognized the importance of volunteers to our communities and the contributions they make every day to the quality of life we have here in America. The Thousand Points of Light is not just a cliche. Volunteers make a difference. We see the good effects of their efforts every day.

I want to commend President Bush for his support of this legislation and for his efforts to ensure a package that will allow State leaders a chance to accept the President's challenge to invigorate our State and local communities to the call of national service.

The conference report before us today includes the President's Points of Light Foundation, which will inspire individuals and institutions to engage in community service, identify successful volunteer efforts, reward and duplicate their successful programs elsewhere, and discover, develop, and encourage new leaders for volunteer and community service.

Another part of this legislation calls for more voluntarism at the State level. This State grant program represents the best structure for these volunteer programs. I am pleased that the House was willing to accept the Senate structure which will permit every State in the Union to participate in a national service program and to promote voluntarism in its own way. Flexibility is given to States to choose a volunteer program that addresses their specific needs. The selection includes community-based and school-based volunteer programs; a youth service and conservation corps; a full- or part-time volunteer corps; or the development of their own innovative programs that address their specific needs. In Utah, the legislature has passed a bill which sets up a Youth Conservation Corps. This program for high-risk youth will help perform the immense task of maintaining and improving the vast amount of urban and rural land in our State while educating our youth about the value and satisfaction of hard work at the same time. I recognize, however, that every State may not want this specific approach and would prefer to develop different programs. States should have that flexibility.

Mr. President, I want to thank my colleague, Senator KENNEDY, for all of his efforts in putting this legislation together. His commitment to this legislation has been the impetus for bringing all sides together to develop a consensus bill that now enjoys wide support. It is indeed a tribute to his brother that this new effort comes 30 years after his call for volunteer spirit through the Peace Corps and other successful national volunteer programs like VISTA and Foster Grandparents. These are legacies for all Americans. Today's efforts, I hope, will be viewed 30 years from now as a success and a tribute to the bipartisan work of President Bush and President Kennedy, and Senator KENNEDY.

I also appreciate the hard work of Representatives HAWKINS and GOODLING and all of the House and Senate conferees and their staff members. In particular, I want to thank Shirley Sagawa, Nick Littlefield, Gene Sofer, and Kathy Marshall, and, of course, Nancy Taylor of my staff. This legislation has taken a lot of effort, but will be helpful in providing another outlet for volunteers across this Nation.

Mr. President, this legislation will not by itself make America a better place to live. The Points of Light Foundation will not by itself beam light around the country. But, we can, by enacting this bill, take a position in support of volunteers. And, that, we ought to do. A vote for passage of this bill sends a supportive message to American volunteers, you matter, you are important, and you make a difference in the lives of all Americans.

Mr. President, I urge the support of all of my colleagues for passage of this conference report.

Mr. President, again, I thank my colleagues, particularly, Senator KENNEDY, Senator DURENBERGER, Senator PELL, Senator DODD, Senator MIKULSKI, and, of course, Senator DOLE who played a big role in this, Senator GRAHAM, and others; Senator MITCHELL as well; and above all, the White House who put it all together, helped us put it together, and helped us to bring this to pass.

I yield the floor, Mr. President.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Senator from Maryland is recognized.

Ms. MIKULSKI. Thank you, Mr. President.

I rise today to urge my fellow Senators to support the National and Community Service Act of 1990.

I want to thank Senators KENNEDY, NUNN, PELL, DODD, HATCH, and other people on the other side of the aisle, you, Mr. President, for helping formulate this legislation.

Mr. President, we have a very historic opportunity. We are about to pass a legislative framework that really creates a continuum of national and community service. But most of all, it cultivates the habits of the heart, from primary grades all the way through life.

And it instills the most basic value in our society of neighbor helping neighbor. The National Community Service Act brings dreams within reach.

Invest in our young people by investing in our communities. It puts full- and part-time volunteers to work in their own communities, delivering meals on wheels, weekend meals on wheels, helping the illiterate, building habitats for humanity. It turns away from Wall Street and the Wall Street values of excess that left our Nation on the verge of financial bankruptcy. It turns back to the values of Main Street.

When we talk about the habits of the heart, it does mean neighbor being concerned about neighbor.

Senator KENNEDY outlined how this bill provides this continuum. Let me focus on my part of the legislation.

Mr. President, in a time when people question the efficacy of Government programs, they have every right to question why a new program. Well, Mr. President, this does not create more government; it creates more opportunity, and it creates more earned opportunity. It gives our young people a chance, that through their own work and own sweat equity, they can earn a voucher, by doing community service that they can use to reduce either student debt, or hold as a nest egg toward home ownership, first-time home ownership.

Mr. President, what this means is that we are not talking about a giveaway program. We are not talking about another program with big, bloated bureaucracy. We are talking about a program run by the States, under efficient administration by Governors, and by which young people, in my part of the bill, would offer their services to work two weekends a

month, or other time equivalent, delivering those weekend meals on wheels, building habitats for humanity, running gifted and talented programs in inner city neighborhoods. And out of that they would earn a $2,000 voucher that they could use to reduce their student debt or hold for their first-time home ownership.

This meets certain needs within our society. When I travel around our State, my kids and their moms and dads tell me their families are either tuition poor or mortgage poor. What this does is give our kids the opportunity to deal with each one of those.

The other issue that it deals with, is that we need more volunteers, particularly on weekends, to do those services that Government cannot provide and should not provide.

Mr. President, what it does is limit the voucher program to a beneficiary to 3 years. Hopefully, at the end of 3 years of being a volunteer firefighter, or doing the services that I described, young people will want to keep on doing them all of their lives. So our kids get a break for their own future, doing important volunteer services, and at the same time learn the habits that maybe you do not learn by reading glitzy magazines, but you learn about it by reading the history of the United States.

So, Mr. President, I hope we adopt this legislation. I thank all who made it possible. I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I come here with the feeling of the Biblical story of the prodigal son. There is a good son in this bill, many good sons, that are going to make a significant contribution toward the sense of voluntary action and direct participation in our country. I take particular pride in some provisions that relate to encouraging voluntary action, particularly among older Americans, in our schools. Many States have seen the positive impact which that can have in education.

I believe that this national focus and a national clearinghouse of information on school volunteer programs and partnerships will accelerate that movement. Those are very desirable children contained in this legislation.

However, Mr. President, tucked deep in the back of a bill which is 154 pages, beginning at page 150, we come to the prodigal son. Under title VI, miscellaneous provisions, in a bill entitled National and Community Service Act of 1990, we are surprised to find section 601, which is Amtrak waste disposal. Quite a jolting—no pun intended—divergence from the focus of this legislation.

Let me give you a little background as to how this provision happens to be before us tonight, and then I would like to ask the Senator from Utah if he would enter into a brief colloquy in order to put on the RECORD some of the rationale of the provisions.

In the mid-1970's, when the Public Health Service Act, which is now 42 U.S.C. 264 was adopted, there was an exception to the law applicable to Amtrak. Specifically, it said, "shall not apply"—that is the Public Health Service Act—"to waste disposal from railroad conveyances operated in inner city rail passenger service."

It is an anomaly, Mr. President, that here we are, the Federal Government, imposing standards for buses, airplanes, for recreational vehicles, and virtually every other form of transportation known to man. Yet, the one system which is operated by the Federal Government, Amtrak inner city railroad services, is exempt.

What has happened with this exemption over the last 15-plus years? What happened, Mr. President, is a distressing series of blatant violations of State and local environmental laws and violations of the Federal law, but for the fact of this exemption.

In fact, at the present time, Mr. President, the following States either have litigation under way or have lodged complaints with Amtrak due to their practice of dumping human waste in other than approved sanitary facilities. These States include: Arkansas, California, Idaho, Louisiana, Nebraska, Nevada, New Mexico, New York, North Carolina, Oregon, Pennsylvania, South Carolina, Utah, Vermont, West Virginia, Wisconsin, and my State of Florida.

Speaking specifically to Florida, approximately 2 years ago an Amtrak train going across one of the beautiful rivers of our State, the St. Johns River in Putnam County, unloaded; unfortunately, below the train at that particular time were a group of fishermen in the St. Johns River who were unloaded upon. That led that local State's attorney to bring action against Amtrak under State and local environmental antipollution laws, and the case was won at the State level.

It was subsequently appealed by Amtrak to a Federal court, where it is now, I believe, in the form of an injunction against enforcement, until this issue of the validity of the exemption can be litigated.

It was that instance which, frankly, brought to my attention for the first time, Mr. President, that there was such an exemption for Amtrak. I was shocked, stunned, to find that we would have such a blatant exemption for a Federal facility from a Federal antipollution and health law.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island [Mr. PELL] for up to 5 minutes.

Mr. PELL. Mr. President, I am delighted that we have reached agreement on the legislation before us. It is a good bill that brings together many fine ideas on how best to renew the ethic of service among our Nation's citizens.

I am, of course, particularly pleased that my own idea of creating a full-time demonstration program with educational benefits is a part of this package. This provision would create a 3-year national service demonstration program. Individuals who volunteer for 1 or 2 years in an established community service program will be eligible to receive up to $5,000 in educational vouchers for each year of service. These may be utilized to cover costs a student may incur while enrolled in a college or career apprenticeship program.

It has always been my belief in that every citizen, rich and poor, should serve our Nation in some way—whether in a military or civilian capacity. The legislation before us makes civilian service possible for people from all walks of life.

National service should be a noble calling, and for succesful completion of that calling, there should be a just reward. Nothing, to my mind is more noble than the opportunity to expand and improve one's mind. And no pursuit is more enobling than education.

Mr. President, I look forward to seeing the wonderful benefits this program will bring to our Nation.

The PRESIDING OFFICER. Who seeks recognition?

The Chair recognizes the Senator from Connecticut [Mr. DODD] for up to 5 minutes.

Mr. DODD. Mr. President, I rise this afternoon to express my strong support for the conference report on the National and Community Service Act of 1990. The measure, as you now have heard, Mr. President, is an omnibus package of service initiatives which through joint Federal-State efforts will offer American citizens of all ages an opportunity to serve their community.

As has already been expressed, I join in my commendation for the chairman of the committee, Senator KENNEDY. A variety of service initiatives were introduced by him, but also by Senators PELL of Rhode Island, MIKULSKI, of Maryland, NUNN of Georgia and myself. We have tried to bring together here in a modified block grant program, this variety of initiatives to try and encourage broader voluntary service in this country.

The measure enjoys, as we know, strong bipartisan support and will in all likelihood enjoy the President's signature.

The bill requires no one to serve. That was a concern of many. It does, however, provide Federal assistance to States choosing to establish or expand service opportunities. A commission on

national service will have the authority to receive applications from States to establish service opportunities that range from school-aged programs, to conservation or youth service corps, to full- or part-time service opportunities for adults. Furthermore, the measure provides for in-service and postservice benefits to ensure that Americans of all ages, and from all economic levels, have the opportunity to serve in full-time programs.

These new service opportunities will help to bolster the efforts of our States and communities to tackle the myriad of unmet human and environmental needs. For 25 years Americans have joined the Peace Corps and VISTA to make a difference in communities here at home, and around the globe. However, the opportunities to serve are few in contrast with the need and the interest that exists in this country. Moreover, I strongly believe that the interest to serve would be even greater if we only asked. President Kennedy, more than a quarter of a century ago, asked Americans to serve and they responded. I believe, Mr. President, they would do so again.

Now more than ever before we need to call Americans to contribute to this country. We need to reinvigorate the service ethic for youth and for the betterment of our Nation. We need to make up the ground lost during the 1980's and restore the balance between private citizen and public responsibility. We need the young and old alike to join us in the fights against poverty, illiteracy, homelessness, drug abuse, the destruction of our environment and a variety of other problems facing our Nation.

We need young Americans to know that they can make a difference in their communities. And the opportunity to serve will do just that. The opportunity to serve will provide young people with a sense of accomplishment and pride which many of them desperately need. Where service opportunities exist, youth talk openly about their contributions and personal growth.

Today, at the State and local level, over 50,000 young people have participated in Youth and Conservation Corps programs. The young people have worked in teams with crew leaders to tackle the challenges of their communities. These programs have not only proved to be vital to their communities, they have provided the youth with invaluable training and personal experiences. The Conservation and Youth Service Corps component of S. 1430, which I first introduced on February 2, 1989, as S. 322, will enable States to use the existing model programs to provide similar service opportunities to many more young people.

The language of S. 322, the American Conservation and Youth Service Corps Act of 1989, was modified and incorporated into the omnibus national service package last year. The service opportunity would be limited to youth ranging in age from 16 to 25 for the full-time programs and 15 to 21 for the summer programs. States would be able to apply to the commission to establish or expand Conservation and Youth Corps. Participants would benefit from in-service education and training opportunities while they work full-time in the corps on conservation or human service projects. Participants would also receive vouchers for post-service education and training opportunities for each year of service.

Mr. President, the Conservation and Youth Corps provisions get to the heart of the purpose of our Federal initiatives. There are unmet societal and environmental needs that would greatly benefit from an increased commitment to service on the part of all Americans. There is a willingness by Americans to serve if the opportunities are available. There are programs already in place to serve as models for new or expanded opportunities. And there is proof that participants in service opportunities not only benefit their communities; they benefit themselves.

Mr. President, before concluding my remarks, I thank Senator KENNEDY, Senator PELL, and Senator HATCH, as well as Senator MIKULSKI, and their staff for their leadership on this initiative. National service is not a new concept, but it is one that has waned since the Presidency of John F. Kennedy and Lyndon Johnson. This measure reflects the renewed commitment on our part to inspire Americans to serve. For this reason, I urge my colleagues to join me in supporting the conference report on National and Community Service Act of 1990.

The PRESIDING OFFICER. The Senator's time has expired.

The Chair recognizes the Republican leader, Mr. DOLE.

Mr. DOLE. Mr. President, I think I will take about 1 minute, the remainder to be yielded to Senator DURENBERGER of Minnesota.

Mr. President, I rise in support of the conference report to the National and Community Service Act of 1990. We Americans have a long tradition of helping others, and this legislation represents a continuation of that tradition.

Certainly, no one has provided more leadership on the issue of community service and volunteerism than President Bush. The American public has taken to heart a thousand points of light. By enacting this legislation, we can do much to brighten those lights.

The conference report is a good agreement. It authorizes $287 million over the next 3 years for a number of programs, including the President's points of light foundation, which will recognize model community service programs and encourage individuals and institutions to identify and address their community problems.

I support the decision of the conferees to accept the Senate's structure for the administration of program funds. States will receive funds in the form of block grants, which can be used for a variety of program options. These options include school— and community-based service initiatives, youth corps, full- or part-time service programs, or innovative, individually designed projects. Community problems and needs vary all across the Nation—because of this diversity, service projects should not be determined by Washington bureaucrats, but rather, at the State and local level. This provision gives the States and communities needed flexibility and, at the same time, does not undermine volunteer service programs already underway.

I am also pleased to see that two amendments I proposed during Senate floor debate on this bill have been accepted by the conferees. The first ensures that people with disabilities are able to take part in volunteer and service programs. We all know that the disabled have been the beneficiaries of many assistance programs.

However, people with disabilities also have plenty to contribute to volunteer service—my amendment will help to unleash that energy which has for so long been underutilized.

My other amendment establishes a fellowship exchange program with the nations of Eastern Europe. These programs, which have involved over 170,000 individuals, have allowed the exchange of much needed information, but they need to be expanded. Those persons in other diverse fields, such as private business, trade associations, unions, chambers of commerce, as well as those in the local, State, and Federal Governments will be involved in these new exchanges.

This program will help in the democratization of the formerly totalitarian world.

Coming in an epochal year in post-war history, the exchanges will involve many diverse Americans in a world that has changed so much in a short time. Therefore I both thank and congratulate the conferees on this bill.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The remaining 3 minutes and 41 seconds of the Republican leader are reserved.

Who seeks recognition?

The Chair recognizes the Senator from Georgia [Mr. NUNN] for up to 5 minutes.

Mr. NUNN. Mr. President, I add my voice to those who support this conference agreement on the national service demonstration program. At a time

when we are deeply involved in a struggle over how to do more with less in this country, I think it is fitting that we are taking up this particular piece of legislation. The National and Community Service Act of 1990 recognizes a resource we often overlook, the energy and talents of our own people particularly but not limited to our young people. With a modest Federal investment, it provides a variety of ways for Americans to channel energy and talents into productive community service. Our investment, I am convinced, will be returned many times over.

I am pleased that the Chair has been occupied by the Senator from Virginia, who has been such an important part of this proposal. He and I introduced a bill called S. 3 about a year and a half ago, and although this is a much reduced version of that legislation, I think it is a very important step.

I want to thank the Presiding Officer, the Senator from Virginia. I want to thank Senator KENNEDY for his long work on this; it took an awful lot of work, a lot of negotiation. I want to thank the Senator from Maryland [Ms. MIKULSKI] who has done a tremendous job on this legislation. And I want to thank Senator HATCH and others as well as those who have offered part of this legislation, including the Senator from Florida [Mr. GRAHAM] and the Senator from Connecticut [Mr. DODD], also the chairman of the Foreign Relations Committee, who has had a longstanding and very dedicated interest in education in general and in service in particular. I thank Senator PELL for his work.

I am particularly pleased that the conference committee has included in the final bill a demonstration program based, in part, on a concept which CHUCK ROBB and I put forth last year as S. 3, the Citizenship and National Service Act.

Senator PELL and Senator MIKULSKI also played major roles in the formation of a demonstration program to test key elements of S. 3. Senator PELL has been a long-time advocate of national service and was an early proponent of a pilot program, while Senator MIKULSKI was the original proponent of the part-time approach incorporated in this bill, an approach which Senator ROBB and I always considered an essential complement to S. 3's full-time program. I appreciate their hard work in ensuring that this modest test will be conducted.

I also want to thank House Veterans' Affairs Committee Chairman SONNY MONTGOMERY for his cooperation with this effort. For many years, Congressman MONTGOMERY has worked to provide those who have served America in the Armed Forces with enhanced educational benefits. He has expressed in the last year or so very legitimate concerns about the possible effect on military recruitment of providing similar benefits to civilian volunteers through this type of national service program. We have discussed these concerns thoroughly. I have discussed them with him several times in the last few weeks. One of the issues the demonstration program we are passing, hopefully tonight, will test, is any possible effect on military recruitment.

We must place military recruitment as a very high priority. We have to continue to get quality people involved in the military service.

It should be obvious that this legislation is a first step. It is only a first step toward a national commitment to national service, but it is a very important first step.

I also think right at the top of the list of those who have been helpful in drawing up this whole concept is the preeminent military sociologist in America today, in my view, Hon. Charlie Mosher, who has worked long and hard on this whole area of national service; indeed, he has written a book on the subject.

At the conclusion of the demonstration period, we should be prepared to make a decision on the kind of permanent national service options the American people desire. That means the debate over national service must continue even as demonstration programs are developed and implemented by the States.

I want to restate my personal commitment to the kind of national service program represented by S. 3—a full-fledged Citizens Corps that would offer all Americans the opportunity to serve their country in a civilian or military capacity, and earn the kind of substantial education, training or housing benefits they need to gain a stake in the American dream. The chronic fiscal crisis we face today should convince us how urgently we need to find an alternative way to finance services that are necessary but today those services are so excessive that we have a hard time expanding them so that we can find ways to improve our human capital and our ability to compete in a global economy. The crisis of public confidence in Government that we face today should convince us even more of the urgent need to reforge the links of mutual obligation that makes for good citizens and good Government.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair would remind the Senator that it would require unanimous consent for additional time.

Mr. GRAHAM. Mr. President, I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, as indicated earlier, I would like these remarks to be a continuation of those which were interrupted earlier so that my colleagues could speak.

The consequence of this outcry by over a dozen States, the activities of Amtrak, was introduction of legislation to remove the special exemption which Amtrak has had from the Public Health Services Act. Unfortunately, that good objective was perverted in the conference discussion leading up to this bill, and in the Amtrak waste disposal a rather swarmy compromise was reached. The compromise is essentially as follows, Mr. President:

First, not only is Amtrak exempted from the Federal Public Health Services Act, it is now exempted from any other Federal, State or local laws. So Amtrak, unique among all transportation systems in America, now has an all-purpose exemption.

Second, that exemption is extended back to February 5, 1976, so that any litigation, such as that in the States that I listed, is rendered by this legislation to be a nullity. The trade for all that is a commitment by Amtrak, beginning on October 15 of this year, to build into any of its new cars appropriate facilities for the discharge of human waste only at servicing facilities and to begin a process of retrofitting its existing cars.

The difficulty with that is that this program is subject to the appropriation funds, assumedly funds for that specific purpose. My concern is, Mr. President, that we are going to get the worst of both deals; that we are going to have no protection at the Federal, State, or local level from this odious activity and we are going to have difficulty in these very tight fiscal times securing the necessary appropriations, so we will not accomplish the objective which is to have Amtrak clean up its act by retrofitting its cars.

Mr. President, I support the National Service Act and commend the conferees for their diligent work on this bill.

I am particularly grateful to the chairman of the committee for including many components of S. 382, the Business and Citizens School Volunteers Act, which I introduced on February 8, 1989. The conference report before us provides important incentives for the creation and expansion of school volunteer and partnership programs nationwide. Also, it provides the opportunity to establish a clearinghouse that will support school volunteer and partnership programs in every State.

However, I am compelled to speak against the provisions of the conference report dealing with the National Railroad Passenger Corporation [Amtrak]. For in passing this measure,

we will also be passing provisions regarding Amtrak waste disposal that are inadequate.

The provisions set up a program under which Amtrak will after 6 years complete retrofitting the waste disposal systems on trains with full retentions systems and remove from service those trains that cannot be retrofitted.

The provisions, however, do not provide any assurances that Amtrak will meet the objectives of this program. For example, if appropriations are not available for the modernizing program, then Amtrak is not obligated to move forward.

The provisions do require the Secretary of Transportation to issue regulations to mitigate the impact of the discharge of human waste from railroad passenger cars on areas which may be considered environmentally sensitive. But there is an absence of enforcement.

The people living along the St. John's River in Florida asked that Amtrak stop dumping human waste into the waters and onto the people fishing below the bridges crossing at Buffalo Bluff and over Rice Creek. Amtrak did not stop their practices and on July 10, 1989, the State Attorney for Putnam County, John Tanner, filed two counts of commerical littering. On December 1, 1989, the jury returned a verdict of guilty as charged on all four counts of commercial littering. The State has been enjoined by a Federal court and is appealing the injunction.

What is most disappointing is the Rail Passenger Service Corporation provision included in the conference report which exempts Amtrak's waste disposals practices retroactively back to 1976 from the Public Service Act and other Federal, State, and local laws.

This 14-year retroactive exemption will void the pending court cases brought against Amtrak.

This is not an issue peculiar to Florida. Officials from other States: Arkansas, California, Idaho, Louisiana, Nebraska, Nevada, New Mexico, New York, North Carolina, Oregon, Pennsylvania, South Carolina, Utah, Vermont, West Virginia, and Wisconsin, submitted comments at congressional hearings in opposition to Amtrak's waste disposal practices.

How can these States be assured that Amtrak will keep to the schedule outlined in this conference report?

Mr. President, it is my hope that Amtrak is sincere in their commitment to eliminate the discharge of human waste along the right-of-way, in our towns, and in our waters.

The practice of indiscriminate waste discharge which dates back to the mid-19th century is clearly long past the time it is acceptable as we approach the 21st century.

Rest assured that we will be watching closely to ensure Amtrak warrants the extreme display of confidence that has been placed in it by granting judicial relief and continuing for 6 years its exemption from all laws that govern the discharge of human waste.

We look forward to Amtrak completing the retrofit program well in advance of the 6 years it has been accorded.

I also, Mr. President, would like to engage in a colloquy with the ranking member of the committee, Senator HATCH, who had particular responsibility for this provision on behalf of the Senate during the conference committee.

Mr. President, I wonder if I might ask if the remainder of my time could be withheld pending the return on the Senate floor of the Senator from Utah.

The PRESIDING OFFICER. Without objection, the Senator's remaining 1 minute 37 seconds will be retained.

Mr. KENNEDY. Mr. President, I ask unanimous consent to be able to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, this was an extraordinarily complicated melding of different programs. I think all of us are grateful for the staff help and support on any piece of legislation. But those that were involved in serving the Members did an extraordinary job. I would like to mention on my own staff, Shirley Sagawa, Michael Epp, Nick Littlefield, Rusty Barbour, Terry Hartle, David Stark, Adele Robinson, Amy Lowrey and Peter Battaglia; from Senator HATCH's staff, Nancy Taylor and Carrie Hillyard; from Senator MIKULSKI's staff, Glenn Roberts; from Senator PELL's staff, Sarah Flanagan; from Senator NUNN's staff, Julie Abbot Murphy; from Senator DODD's staff, Joan Hogan-Gillman; from Senator BUMPERS' staff, Chuck Ludlam; and from legislative counsel, Bill Baird, who worked heroically to draft the legislation on many a short deadline.

All of them did an extraordinary job in bringing this together, and the Senate record should reflect their very extraordinary efforts.

In addition to the Senate staff, and the Senators I mentioned earlier, many people outside the Senate also played essential roles in the movement of this legislation. Congressman AUGUSTUS HAWKINS and his staff, Gene Sofer, were instrumental in moving this bill through the House through their dedication and excellent work on its behalf. Also in the House, Representatives BILL FORD, MATTHEW MARTINEZ, LEON PANETTA, DALE KILDEE, PAT WILLIAMS, CONNIE MORELLA, RICHARD NEAL, DAVID BONIOR, DAVE MCCURDY, and PETER SMITH all contributed to the legislation.

Many organizations have also played leadership roles in the area of national service and should be recognized for their work including People for the American Way, the National Association of Service & Conservation Corps, Youth Service America, AFSCME, AFT, Campus Compact, City Year, the Council of Chief State School Officers, the National Association of Secondary School Principals, Families, USA, the Girl Scouts, the Thomas Jefferson Forum, the Children's Defense Fund and the Child Welfare League of America.

Finally, I commend President Bush for joining in this effort. It is his Thousand Points of Light that has captured the imagination of the Nation. Our goal with this initiative is to enable them to shine more brightly.

Mr. MITCHELL. Mr. President, in January 1989, I set forth what I hoped would be the Senate's domestic and foreign policy agendas in this Congress.

On domestic policy, I said that Senate Democrats sought a national community whose members shared fairly in prosperity and freedom and who in return did their part to help build prosperity and preserve freedom.

I said the Senate would consider legislation to reestablish national service on a voluntary basis—to ask citizens to help shape this country's future by reactivating our national idealism and the traditional American commitment to giving a helping hand.

That effort reaches fulfillment today as the conference report on S. 1430, the National and Community Service Act is acted upon by the Members of the Senate.

Detractors of national service often say, "We shouldn't pay people to volunteer. The rewards of volunteer service should be of itself enough inducement."

Detractors say Government should not play a role in encouraging volunteer service. That is better left to individuals and the private sector.

But this legislation asks our young people for more than an hour or two once in a while. We are asking young people to make a consistent, dependable, rigorous commitment over a sustained period.

The fact of the matter is that this Nation has been encouraging volunteer service for decades. But to enable a broad array of young people to participate in service in their communities, we need to do more than simply encourage them. We need to recognize the constraints that keep young people from community service.

Many moderate income and low income young people today need to work so that they may attend college. Some need to work to help their families pay bills. Others are on their own and need to work simply to survive.

In order for a broad array of young people to participate in service in their communities, we need to do more than simply encourage them. We need to help overcome or remove the constraints that keep young people from community service.

S. 1430 is designed to enable young people from all walks of life to participate in community service, not merely young people from wealthy families.

The voluntary national service program, youth service corps, school-based programs, the higher education innovative projects and other provisions in S. 1430 are good ways to channel the idealism of American citizens, especially young people, while providing a broader opportunity for upward mobility to more of our citizens.

I commend all of my colleagues on this side of the aisle for their dedication and hard work in putting this legislation together.

Particularly I want to note the contributions of Senator KENNEDY, Senator NUNN, Senator PELL, Senator MIKULSKI, and Senator DODD. Without their personal involvement we would not have this conference report before us today.

And, Mr. President, although many Democrats support national service and have spoken about its virtues, I want to emphasize that support for voluntary service to one's community is not a democratic idea.

In his words and deeds, as a candidate and since his election, President Bush has shown he understands the value of community service. And it is because of the work of a number of interested Republican Senators, in particular Senator HATCH, that we are at this juncture today.

The homeless, the elderly, the poor, and the mentally handicapped are waiting for service volunteers. Communities across the country face shortages of tutors, counselors and health care assistants. Conservation work in our Nation's forests, parks recreation areas, and farmlands goes undone.

I believe the National and Community Service Act will enable young Americans to give something back to the society that has given them so much.

I recommend to my colleagues for their support, S. 1430, the National and Community Service Act, legislation that is crafted to meet the needs of this country, offers Americans from all walks of life and all ages a worthwhile and challenging opportunity to serve, and which passes the of fiscal responsibility.

Mr. DURENBERGER. Mr. President, I rise in support of the conference report on Serve America: the National Community and Service Learning Act of 1990. As I look at the things that make this country great, I note that it does not lie in the number of cars we can produce or the designer suits we wear, simply what makes this country great lies in the character of the American people and their willingness to stand up for democracy and for the good of others.

This legislation will provide those opportunities for all Americans by encouraging service early in life so that it will be sustained through one's life. There are many reasons for supporting this legislation, but I would like to point out just a few. First is the role community service can play in improving education in this country. The opportunity to gain hands-on experience can greatly enhance classroom learning. It can also provide exposure to possible future careers and give kids valuable skills needed in the workplace. This legislation will begin to establish that link by establishing what I have called experienced-based learning opportunities.

Second, is the positive effect community service can have on building future generations of American citizens. Voluntarism can lead to an increased sense of self esteem, especially for those who normally are on the receiving end of these services. Young people today need to feel wanted and appreciated. They need outlets for the positive contributions they can make to society. And they need recognition for these contributions. This legislation will provide new opportunities for all Americans to serve.

Third, community service can offer an outlet for young people to use their time in a positive manner. Today's young people face a range of temptations and have numerous competing demands on their time. Expanding service opportunities for young people is an integral part of the Nation's efforts to curb the influence of drugs, violence and other negative lures on our Nation's children.

Although initial funding levels were reduced in order to get the President's support, there are a number of important provisions in the compromise bill from Minnesota's perspective.

First, the legislation creates a new Commission on National Service to administer grants. That is very important in focusing visibility and accountability for national service programs in an agency that has a broad purpose.

Second, the legislation retains Senate language emphasizing broad-based community collaboration in designing and running service learning projects aimed at K-12 age young people.

Third, the legislation earmarks funds for up to four regional clearinghouses on youth service.

Fourth, the legislation includes funding authority for the full-range of service programs included in the original Senate bill—K-12 and postsecondary service learning, youth corps, and postsecondary demonstration

Fifth, the legislation includes funding authority for the President's Points of Light Foundation—helping to assure greater Bush administration support and interest in funding and implementing the legislation.

Sixth, the legislation authorizes funding for 3 years—giving a greater sense of permanency to this initiative. Over the 3 years, a total of $287 million is authorized.

And, seventh, and most important, the compromise legislation is now being supported by the Bush administration.

We have all seen first hand over the past few weeks what can happen when times are good. It is easy for a nation to loose sight of the individual responsibilities we have to others and the civil duty we have as part of a democracy. So I want to thank my good friend from Massachusetts for all the work he has done on this legislation to remind us of the service opportunities and responsibilities we have to this country. He has worked tirelessly to address the issues raised by the administration and put together a bipartisan package that will meet our Nation's needs and our children's needs by providing valuable opportunities for service. I would also like to thank my friend and colleague from Utah who provided the link to bring together the compromise that enabled this legislation to move forward. Finally, I would like to thank the Minnesota working group on community service who helped me on this legislation and contributed to the establishment of the four regional clearinghouses.

Thirty years ago, President John F. Kennedy called a nation to service and our Nation responded. Today, Senator KENNEDY carries on that tradition by opening new opportunities for service. I urge my colleagues to support this important legislation.

The PRESIDING OFFICER. The Senator from Florida [Mr. GRAHAM] is recognized for up to 1 minute.

Mr. GRAHAM. Mr. President, I would like to use that time to ask a few questions in colloquy with the Senator from Utah.

Why does Amtrak need to be exempt from all Federal, State, and local laws regarding the discharge of human waste?

Mr. HATCH. The reason is because Amtrak needs to have only one set of rules to play by. The Senator is aware that Amtrak is currently being sued for dumping in areas which may violate State or local ordinances. I would remind my colleague that the state of the existing waste disposal technology makes it very difficult for Amtrak to control when and where this waste is discharged. Amtrak, and our House colleagues, believe that if they continue to be subject to many layers of regulation, it is almost inevitable that

Amtrak will be forced to suspend service to some of these States. Unfortunately, when service is suspended to Florida, it makes service to other States in the Southeast much less profitable.

Mr. GRAHAM. Why is it necessary to have a retroactive exemption to these laws?

Mr. HATCH. I understand the Senator's concern with this matter. I have always been a supporter of States rights, and I would be upset if a Utah court were being required to drop a suit which the State believes is important. I want my colleague to know that I fought hard for a provision that would have allowed existing cases to be pursued. However, our House colleagues would not budge on this point. I must admit that I find their logic difficult to dispute. They argue that the States which have filed want Amtrak to stop dumping. This legislation requires Amtrak to stop dumping. Why then do the States want to pursue these cases. If existing cases are not rendered moot, we still face the possibility that a court could rule against Amtrak, and Amtrak might have to suspend service to those States.

Mr. GRAHAM. What impact will this retroactive exemption have on pending cases against Amtrak?

Mr. HATCH. I believe that pending cases will have to be dropped as a result of this exemption. However, the Federal courts should decide what this exemption provides for.

Mr. GRAHAM. The language "subject to the appropriation of funds" in section 1(b) provides Amtrak a loophole. What will ensure the States that Amtrak will meet the retrofitting schedule outlined in this bill? That is, that the retrofitting will be completed within 6 years of enactment.

Senator, I am concerned about the requirement that this be an appropriation for Amtrak to be obligated to meet the 1996 date for completion of its retrofit. Would you consider this to be a high priority, in terms of the allocation of resources for Amtrak?

Mr. HATCH. Well, Mr. President, of course the Senator is correct that we are currently facing a serious budget shortfall, and that means that the funding for this program will be hard to come by. I have traditionally been an opponent of Amtrak subsidies, but the Senator can count on my help in obtaining this funding to complete the retrofitting process.

Amtrak is doing its part. Amtrak tells me that toilets are the single largest source of customer complaints. The current systems do not work and Amtrak wants to replace them. The Senator knows that Amtrak has engaged in an aggressive research and development effort to develop a retention system that will work. Nine companies have submitted prototypes for this system and these prototypes are currently undergoing inservice testing. Amtrak has gone to the private credit markets to borrow money to replace these older cars with new cars with retention capability. They plan to borrow $500 million which is half the cost of the retrofit anti-new-acquisition program. This program of acquiring new cars is progressing.

Amtrak plans to let a contract later this month to acquire 79 new superliner cars with an option for 100 more. By the language of this measure, these cars are required to be equipped with this new retention technology. However, my understanding of the law governing Amtrak's operation is that Congress agrees to subsidize those fiscal requirements which Amtrak cannot cover at the fare box. The other half of this program is just such an expense. Amtrak must make an effort to use all of its available private resources on this project. It must be a top priority. Unfortunately, Congress will have to come up with some funds. I hate to keep harping on this, but if we force Amtrak to withdraw cars from service, when we have not provided them with funds to retrofit them then service will have to be curtailed. No one wants service to be curtailed. We just want them to stop dumping human waste on the right-of-way.

Mr. GRAHAM. During the 6-year retrofitting period, what will ensure the States that Amtrak will stop dumping human waste in their towns and waterways?

Mr. HATCH. The amendment requires the Secretary of Transportation to issue regulations governing dumping in the interim period. The Secretary is expressly charged to consult with EPA, the Public Health Service, and State and local governments, as well as Amtrak before issuing these regulations. The Secretary of Transportation is the logical choice because all of the expertise on the technology for discharging waste resides in his Department. The Secretary is also directed to issue regulations requiring Amtrak to make appropriate announcements regarding when to use toilets to passengers.

Mr. GRAHAM. What impact do you perceive the required regulations of the Secretary of Transportation to have on Amtrak's current waste discharge practices?

Mr. HATCH. The Senator is aware that the Department of Transportation has been regulating all aspects of railroad operation and safety for years. I believe that they have done a good job up till now in these areas, and I feel confident that they can regulate the discharge of human waste from trains equally well.

The Senator is aware that there are several options which are available to the Secretary now. We could order alterations of routes, order trains to travel more slowly in certain areas which should prevent the retention/dump equipment from discharging in those areas, or prescribe an interim technological fix which would give Amtrak more control over when and where waste is discharged. These are options available to the Secretary right now, there may be others that the experts at the Department of Transportation can come up with.

Mr. GRAHAM. What does environmentally sensitive mean? Does it include areas of human activity that are adversely impacted by discharge of human waste.

Mr. HATCH. Environmentally sensitive areas should include waterways, watersheds, wildlife habitats, and other natural areas. Homes, towns, and cities would also be included within the definition of this term. Of course, the Senator is aware that the language of the amendment specifically mentions several areas of human activity, including stations and railroad yards, to which the regulations promulgated by the Secretary are to apply.

Mr. GRAHAM. Mr. President, the target date for completion of this process is October 15, 1996. Would the Senator be inclined to support at an appropriate future date, an amendment which would eliminate the exemption which will now be extended from the Public Health Service Act to any other Federal, State, and local government for Amtrak effective October 15, 1996?

Mr. HATCH. I do not think I could support that. I think what it is going to take is about 6 years, from what I understand, to retrofit the appropriate number of trains to be able to handle this problem. It is a problem. There are 44 different States. That is why, because of the efforts in both Houses to try to resolve this problem, we have come this far.

But I do not think we can change that because the amendment requires the Secretary of Transportation to issue regulations governing dumping in this interim period. I think the Secretary is expressly charged to consult with EPA, Public Health Service and the State and local governments as well as Amtrak before issuing those regulations. I think that is the logical choice. So I do not think I would be willing to reduce that time, because I think that is the time that is going to be necessary, with the tremendous amount of expenditure we are going to be making, that Amtrak is already making to do the job.

Mr. GRAHAM. The Senator may not have heard my question. The date I cited is the date which is in the time statute, which is October 15, 1996.

Mr. HATCH. That is right.

Mr. ROBB. Mr. President, I rise today in strong support of the Nation-

al and Community Service Act of 1990. This day has been a long time in coming, and a great deal of credit is due to the senior Senator from Massachusetts [Mr. KENNEDY] and the junior Senator from Maryland [Ms. MIKULSKI] for their able tending of this bill in conference.

The varied programs that will be sponsored by this bill will enable us to get a sense of what kinds of things work best as we seek to instill in our young people the habit of "giving back" to the community.

In giving back, I trust that many students will find that they gain a great deal as well.

And, in these days, as we are trying to come to grips with our financial crisis, a bill like this one reminds us that we do have tremendous resources, human resources, in this country. Human resources alone cannot address our fiscal crisis. But we should take heart in the fact that Americans are a strong and generous people, and willing to make sacrifices if someone can show them why they should do so.

Accordingly, I urge my colleagues to support this conference report, to ask our young people to give something back, and to help them see that they can be part of the solution to many of our Nation's problems.

EISENHOWER EXCHANGE PROGRAM

Mr. HATCH. Mr. President, I ask the distinguished Republican leader, is his amendment on foreign exchanges related to the Eisenhower exchange proposal?

Mr. DOLE. Mr. President, this is a separate program. It is intended to promote the exchange of views between officials in government, business, labor and others between the United States and emerging democratic countries. The Eisenhower Exchange Program is targeted to students, and is in no way, related to this program.

VOLUNTARY COMMUNITY SERVICE: THE MISSING POINT OF LIGHT

Mr. BUMPERS. Mr. President, I am disappointed that the loan cancellation proposals that I sponsored have been deleted by the conference committee. The conference felt that it did not make sense to amend the Higher Education Act this year to provide for loan cancellation, because the Higher Education Act is due to be reauthorized next year.

Accordingly, I will be reintroducing my loan cancellation proposals early in the next Congress to be included in the Higher Education Act amendments of 1991. I look forward to working with Senator KENNEDY, chairman of the Senate Labor and Human Services Committee, and Senator PELL, chairman of the Subcommittee on Education, to secure their enactment. I appreciate their strong support this year, and regret that they were not able to persuade the Bush administration to accept these loan cancellation provisions in the National Service bill.

My loan cancellation proposals would move the Government out of the way, so that our young people would be able to provide voluntary service to their community and to the Nation by reducing the pressure that these young people feel from their student loan debt burden. The legislation would reduce this debt burden pressure for students when they serve their community in full-time, low-paid voluntary jobs as employees of nonprofit community service organizations. This is the type of service that epitomizes the American spirit and this is what the national service legislation is all about.

STUDENT LOAN INDEBTEDNESS

Young people are willing to devote themselves to serving these needs, but many of our college graduates believe that they are unable to do so, due to the debts they have accumulated in order to attend college. With these enormous debts they simply feel that community service is not a realistic option for them.

In fact, in several surveys the most frequently cited reason of students on why they do not perform a period of service to the community, is their loans debts.

With these debts, it is not surprising that upon graduation their first priority is to secure a high paying job, so that they can earn the money to begin to repay their loans. This focus is a function of reality, not selfishness.

We should applaud this sense of responsibility in wanting to repay their debts. We are burdened by some who don't repay their student loans. We want our students to feel responsible for repaying their loans.

The problem is that once a student takes that first high paying job, he or she has passed by a major opportunity to provide service to the community. The first few years are a perfect time for young people to take off a year or more to provide service. They are less likely to be burdened with other responsibilities, such as children, mortgages and job ladders. When they do not take this time to provide some service, it then becomes quite unlikely that they will ever perform full-time service to their community.

The legislation I have introduced says, "take this time to provide a year or more of service to the community. You may never have an opportunity to do so again."

It says, "The Government will not require you to immediately repay your student loan debts if you serve the community."

The legislation says, "The Government will even partially cancel your obligation to repay your loans if you serve the community."

The legislation says, "you will never regret serving your community." It says, "your service to the community is important to the Federal Government, as well as to the community you serve."

The legislation would permit young people to consider community service and not to worry about their debts while they serve.

The legislation would take away most commonly heard excuse about why young people are not willing to serve.

Young people may still conclude that they don't want to serve. They may have other excuses. They may place a higher priority on material possessions. They may be more interested in a fancy car than in helping their fellow citizens. They may not want to be near homeless persons or mentally retarded persons or sick persons.

But, with this legislation in place, they will have to find an excuse other than student loan debts. They will have to consider the issue on the merits and they will have real choices to make.

PEACE CORPS MODEL

The legislation I sponsored is based on the model of community service provided by the Peace Corps and VISTA.

What my proposals attempt to do is extend the Peace Corps and VISTA models of service into the private sector.

What they do, is encourage private sector non-profit organizations to set up their own Peace Corps and VISTA programs, with the Federal voluntary service programs serving as the model.

What my legislation would do is seek to create an un-peace corps or a "decentralized peace corps."

The legislation would not compete with the Peace Corps or VISTA in any way. My legislation would build on the idea that service involves some material sacrifice. It is premised on the idea that service involves commitment. It recognizes the principal reward for service should be the sense of satisfaction and accomplishment that comes with the service.

My legislation is the direct descendent of the Peace Corps and VISTA. It is the logical next step in furthering the goals of the Peace Corps and VISTA.

NON-PROFIT SECTOR

I believe that the Federal Government does not have to organize many service opportunities for young people. The Peace Corps and VISTA are excellent programs, but I do not believe that they can or should be duplicated with many other new Federal Government service programs. Fortunately, this country is blessed with a multitude of tax-exempt charitable organizations that are unique and they can and should, take the lead in organizing community service.

These tax-exempt charitable organizations provide service to those in great need. They do so efficiently and fairly. They show immense creativity and imagination in providing service.

The Government doesn't need to find placements for the students who want to serve. The opportunities for service are all around us with nonprofit community service organizations and there are volunteer clearinghouses in many communities.

The Government would probably find that additional young people are willing to serve if the Government organizes and funds the service.

What I am saying, however, is that the Government can accomplish much of its objectives simply by removing a major barrier to service, namely, the obligation students feel immediately to begin repaying their student loan debts, and encouraging young people to serve in the private sector with existing tax-exempt community service organizations.

This approach is simple, effective, inexpensive, and involves none of the controversy which may arise with some of the other national service proposals.

HISTORY OF LEGISLATION

I first introduced legislation promoting voluntary community service in 1987, S. 759 and S. 760. 133 CONGRESSIONAL RECORD at S3264-68 (March 17, 1987). I just missed the reauthorization of the Higher Education Act in 1986.

In 1987, I testified on these bills before the Subcommittee on Human Resources of the House Post Office and Civil Service Committee, Voluntary National Youth Service Act, hearings of April 29, 1987. Congressman GERRY SIKORSKI, chairman of that subcommittee, has been the leading House sponsor for the student community service legislation.

In December of 1987, I authored a directive to the Department of Education regarding implementation of the current deferment in the Department's appropriations bill. 133 CONGRESSIONAL RECORD at S 17943-44 (December 11, 1987). Unfortunately this directive was completely ignored.

In September of 1988 the Senate adopted the substance of S. 760 as an amendment to the Stafford Student Loan Default Prevention and Management Act of 1988, S. 2647. 134 CONGRESSIONAL RECORD at S12541-42 (September 15, 1988). Last year the Senate again adopted the substance of the deferment-implementation bill—this year S. 539—as an amendment to the same legislation. 135 CONGRESSIONAL RECORD at S3202 (March 17, 1989).

I reintroduced my proposals last year as S. 539, S. 540 and S. 541. 135 CONGRESSIONAL RECORD S2354 (March 8, 1989). I also testified before the Senate Labor and Human Resources Committee on March 9, 1989, when it held its hearings on the national service legislation.

When Senator KENNEDY introduced S. 1430, he included all three of my bills, and I submitted a statement for the RECORD explaining the history and terms of the provisions that I had authored. 135 CONGRESSIONAL RECORD at S9017-9021 (July 27, 1989).

The Senate Labor and Human Resources Committee included all three of my proposals in S. 1430 when it reported the bill to the full Senate. My proposals appeared as sections 141-144, 151-152 and 161-162. During the Senate debate I spoke on the bill and on an amendment changing the effective date for the loan cancellation provision (136 CONGRESSIONAL RECORD S1599-1600 (February 26, 1990) and 136 CONGRESSIONAL RECORD S1718-1719 (February 27, 1990)).

The Senate adopted S. 1430 on March 1, 1990, and sections 230-233, 240-241, and 250-251 of the Senate passed bill are taken from legislation introduced by Senator DALE BUMPERS.

The House took up the national service issue and reported its national service bill, H.R. 4330, on August 15, 1990. Two of my three proposals were included in the House bill as sections 176-177 and 181-183. During the House debate on the bill, there was an amendment to strike all of the loan cancellation provisions, but it was defeated.

POLITICAL REALITY

My proposals are effective ways to promote voluntary community service and equally important, they are politically realistic. In closing, let me summarize the key advantages of my community service proposals, and why I will be pursuing them next year with the Higher Education Act reauthorization.

With the Bumpers proposal the Government does not need to experiment with novel, controversial and expensive new Government community service programs. It can build on the proven model of service provided by the Peace Corps and VISTA and rely on the nonprofit community service organizations in the private sector to initiate, organize and manage service programs based on this model.

The Bumpers proposal is directly related to the financial needs of the young person. It is only available to young persons who have student Government loan debts. These debts are the most frequently cited reason given by young persons on why they are unable to perform a period of community service. Relieving this debt burden reduces this barrier to service.

It reduces a barrier to service for those who are already inclined to serve, rather than seeks to buy an interest in service on those not inclined to serve.

The young persons with the greatest student loan debt burdens and the greatest incentive to serve under the terms of the Bumpers bill—doctors, lawyers and other professionals—have the greatest skills to lend to non-profit community service organizations and to the communities in which they serve.

The young person is encouraged first to complete his or her college education, and graduate school education, and then to perform community service. Completion of the student's higher education should come first, and not be delayed by the need to perform community service first. Young persons, particularly those from disadvantaged backgrounds, tend not to attend college if they do not so immediately after high school.

The young person must make a major commitment to community service to qualify for the loan cancellation. The loan cancellation program requires real sacrifice. Students who are willing to serve full-time for at least a year at the minimum wage deserve a break on their student loans.

All of the community service is performed in the private sector with nonprofit community service organizations. There is no displacement of Federal, State or local government agency employees. Because it requires the young person to serve at a rate of pay that does not exceed the minimum wage, it also would not tend to displace the current employees of nonprofit community organizations or impose an unreasonable financial burden on these organizations.

Because it requires full-time service with a private sector non-profit organization, the young people who participate will develop the skills and training they need to be hired for other full-time positions upon completion of their community service. Because the decision to hire the young person is entirely that of the nonprofit organization, and because the service must be for at least a year, the employer has a strong self interest in providing training to the young person. As a full-time employee of the organization, the young person would be entitled to all fringe benefits available to other full-time employees.

It is much more efficient for community service organizations to obtain the services of a young person who will work full-time and for at least a year. This reduces the expenses for training and supervision and the young person is better able to provide effective service to the community.

No new Government agency needs to be created to implement the Bumpers loan cancellation program. The Department of Education already administers a variety of loan cancellation programs and already has sufficient staff and expertise to process the loan cancellation forms.

Hardly any bureaucracy or paperwork is involved for the young person or the Federal Government to implement the loan cancellation program. Young people must file a sworn certification that they qualify for the loan cancellation, just as Peace Corps and VISTA volunteers already do. It is easy for the Government to audit whether the young person has performed the appropriate service.

The incentive for full-time service upon graduation ties in with the existing college work study and State incentive grant programs which encourage students to perform part-time community service while attending school. The Bumpers provisions permit these students upon graduation to work full-time with the same organizations with which they volunteered on a part-time basis.

The incentive costs the Federal Government only about $3 million per year. The Congressional Budget Office assumes that not many young persons will serve under the required terms—a conclusion that Senator BUMPERS disagrees with, but he is happy to have the low CBO estimate. The proposal does not raise false expectations by authorizing large sums that will never be appropriated.

The provision will not undermine recruiting for the Peace Corps and VISTA, as the incentive provided is the same as is now provided to Peace Corps and VISTA volunteers. It is a matter of simple equity to provide this incentive to young persons who perform service with a nonprofit organization that is comparable to the service of a Peace Corps or VISTA volunteer.

The provision applies both to community service in the United States and to community service in foreign countries, as long as the organization managing the service is U.S.-based nonprofit.

The Federal Government is not responsible for placing the young persons, training them, or supervising them. It is not responsible for the activities of the private sector nonprofit organization which employs the young person. This reduces the potential for embarrassing scandals associated with the program.

Under the Bumpers proposal the Federal Government provides no stipends to the young person or grants to the private sector organization employing the young person. This minimizes the intrusion of the Federal Government into the decisions of the organizations that are managing the service program and employing the young people. There is no need for the Federal Government to issue detailed regulations about the nature and terms of the service program or to pick and choose among the organizations which are applying for grants. No organization is forced or encouraged to change its current service program in order to qualify for a grant.

In short, my proposals encourage community service in the private sector, they rely on the creativity of the private sector to create the service programs, and they involve virtually no government bureaucracy to manage it. The service that is to be performed will be motivated by altruism. And the whole program carries a very low price to the Government.

This is an American model of voluntary service. It is a bottom-up, not a top-down approach. It taps the diversity and energy of America's unique and independent non-profit sector.

I know that my proposals are sound and I will continue to work to see that they are enacted next year.

Mr. SIMON. Mr. President, I share my colleagues' belief that when Americans are asked to serve others and are given the opportunity, they come forward. But we have not been sending a strong and clear enough message from the Federal level about the importance of serving. And we have not been providing the assistance that makes it possible for Americans of all ages and walks of life to give such service. The National and Community Service Act of 1990 sends a clear message and provides those opportunities.

I commend our Labor and Human Resources chairman, Senator KENNEDY, for his efforts on this legislation. I am pleased to note in the conference report the retention of a number of amendments I recommended during the bill's consideration in the Senate. These amendments give greater attention to basic skills needs and illiteracy among both the volunteeers and program recipients, and provide testing and services to those who may have learning disabilities. I am also pleased that this conference report includes the close attention to the inclusion of individuals with disabilities in all of the programs that was intended in the Senate bill.

I support this bill and its intent to expand service opportunities to persons of all ages and all walks of life. It is needed and will benefit both communities and the volunteers themselves. I do have one major concern, however, over what I believe is an inequity for the VISTA and Peace Corps Programs as a result of the difference between postservice benefits available to these volunteers and to volunteers who serve under the programs in this bill.

I have long believed that the VISTA and Peace Corps Programs are the models on which national service programs should be based. I want to point out to my colleagues that VISTA volunteers, who must serve at least 1 year and be on call 24 hours a day, 7 days a week, currently receive a stipend at the end of their year of service of only $75 a month. That is only a $900 reward for their 1 year of service. That figure will go up to $90 a month next year and to $95 a month in the following year. At the maximum, in 1992, it will result in a stipend of only $1,140 per year. This is in comparison to the postservice benefits of up to $100 per week or $5,000 a year for participants in the Youth Corps Program and postservice benefits of $2,500 a year for full-time participants in the National and Community Service Program.

Since a large percentage of VISTA volunteers are economically disadvantaged, the national service voucher may be of far more usefulness to these volunteers than is the loan forgiveness provision that is extended to them. There is also a real possibility that this disparity in regard to VISTA volunteers, who may work side by side with national service volunteers, may negatively affect recruitment for this specifically antipoverty directed program.

I would like to make sure that VISTA volunteers who may be working side by side with national service volunteers in the same antipoverty project will not feel they are less valued by those of us who design these programs. When each VISTA literacy corps volunteer recruits and trains from 100 to 200 community volunteers in literacy each year, as they are doing in Chicago and throughout Illinois today, we should be doing all we can to let them know their magnificent efforts are recognized and appreciated. And we should be encouraging more people to sign on as VISTAs. VISTA has a 25-year record of service that few programs can match.

I also want to make sure that Peace Corps volunteers are not denigrated by being considered less valuable to their country than those who serve in communities here at home. These volunteers have postservice benefits a little more generous than VISTA's: $2,400 a year for up to 2 years of service—still not the amount that will be available to the national service volunteers.

I recogize that we are not going to solve this problem at this point, but I hope this is a situation we can remedy in the near future, particularly if there is any evidence that these programs are affecting recruitment for the VISTA or Peace Corps Programs. I believe the level of national service benefits could and should be made an option for these volunteers—not on top of their existing benefits or the new loan forgiveness benefits, but as an alternative option for these volunteers who live and work among the poorest of the poor in this country and countries around the world, and who generally have more stringent service requirements than will be required of national service volunteers.

THE TRUE MEANING OF NATIONAL SERVICE

Mr. McCAIN. Mr. President, I strongly believe in the concept of national service. I believe that every young man and woman in this country owes this Nation a debt, and I believe that freedom can only be maintained and defended, if all our Nation's citizens understand that what they receive from their country has to be won by sacrifice. I believe that we cannot simply ask what our country can do for us, and that we must ask what we can do for our country.

National service, however, does not consist of token service for educational benefits. It is not a form of welfare. It is not a way of subsidizing volunteers, or disguising the need for effective solutions to the social problems of the poor or disadvantaged ethnic groups.

National service consists of asking men and women from all walks of life, and from all classes and groups in society, to make sacrifices for their country. For some—those who make the greatest sacrifice—it means defending the freedom of their country and that of other nations throughout the world. For others, it means giving up material rewards and comfort to serve the ill, the poor, and the disadvantaged throughout the world.

I believe that the program we debate tonight misses all these points. It is a subsidy program that affects a relatively small group of Americans who lack the wealth or family support to obtain an education without some form of service. It is not a true national program, and it asks very little sacrifice. In fact, it risks being little more than tokenism.

It is also a program that ignores the kind of sacrifice that some 200,000 volunteers are making in defending freedom in Operation Desert Shield, and that rewards limited service with substantial payments at a time when our military and underpaid, earn far less than their civilian counterparts, and will receive a pay raise that does not even equal the annual rate of inflation.

Mr. President, on April 13, 1989, I introduced S. 781, the National Service Act of 1989. In this legislation, which was also introduced in the House of Representatives by my good friend from Illinois, Mr. JOHN PORTER, we attempted to draft legislation that was balanced and fair. A bill that looked into the future and tried to address the question of national service from the standpoint that we, as a nation, and those of us in the Congress, have as a primary responsibility the defense of the nation.

At the same time, we believed that the idea of national service could include certain forms of community service. The basis of our legislation was that every citizen has a responsibility of service to the Nation.

S. 781 called for the President to transmit to the Congress by February 15, 1991, a plan that would implement a comprehensive national service program. The program that the President recommended was to include a plan that had; a military service component and a part-time and full-time community service component; applied to young people between the ages of 16 and 26; included provisions to encourage national service by retired persons and was to be consistent with the following findings:

First, that the principal responsibility of the Federal Government is to provide for the defense of the United States;

Second, that an obligation of citizenship in a democracy is service to the Nation;

Third, that while most citizens of the United States view national service as membership in the Armed Forces, national service also includes community service;

Fourth, that the obligation of national service, whether military or community service, should be shared equally by the citizens of the United States regardless of race, creed, ethnic origin, or socioeconomic status;

Fifth, that the recent high quality of volunteers for the Armed Forces should not be allowed to diminish as a result of demographic declines or economic upturns; and

Sixth, that service in the active or reserve components of the Armed Forces or in full-time or part-time community service should be considered as necessary to fulfill the national service obligation.

As you can see, Mr. President, I strongly believe that a national service program is necessary, but I also strongly believe that it is imperative that we maintain a proper balance between the recognition of service in the military and the benefit of community service.

Mr. President, the differential in postservice benefit between military service and community service must be fair, it must be equitable. We must properly recognize the greater sacrifices of those who serve in the military. This legislation however, will not only affect a small number of Americans, it will make the postservice benefits no greater for national service than that for the Montgomery GI bill recipient.

Mr. President, I realize that some who favor this legislation would like to compare military service with national service. They try to show how much more compensation a military service man or woman makes than a national service volunteer. They want to somehow equate the two. Apparently, they do not understand what the country asks of our military forces.

When a person enlists in the military, they sign a binding contract for service in the defense of the Nation.

They have their background scrutinized to ensure that they are of the quality required in the military;

They are required to serve in remote tours away from their family for extended periods of time;

They are uprooted them from their home and community every 2 to 3 years, their children are pulled out of school, and sent to wherever the military wants to send them;

They perform peacekeeping duty in the Siani Desert or with the UNIFIL contingent in Lebanon.

They stand guard duty at the stark, critical outposts along the Korean DMZ;

They are deployed on board ships for 6 months at a time;

They stand midwatch on the fan tail of a destroyer in 50-knot winds and 30-foot seas;

They conduct interdiction operations against a murderous drug cartel;

They do night recovery operations on board an aircraft carrier;

They are required to be on call 24 hours a day, 7 days a week;

They are trained and ready for combat;

They wait in Saudi Arabia and they are aware that they could be in combat in a matter of hours.

Mr. President, the mothers and fathers, the wives, the husbands and the children of those who serve in the military know the sacrifices I am speaking of. They know that their son or husband, their brother or father may well be asked to give his life in the defense of our Nation.

Like Senator NUNN, I hope that this legislation may someday be a first step towards true national service. But, Mr. President, I fear that it will not be. I fear it is a prelude to ignoring the need to serve in our Nation's military forces. I fear that it is only the prelude to a new form of entitlement program, and to the shell of national service—rather than the substance.

The test will ultimately be whether we ask all the Nation to serve the Nation, or a small and less advantaged part. It will be whether we recognize that freedom is the responsibility of all Americans or only a small fraction. It will be whether we clearly distinguish the need to reward those who risk their lives more than those who do not. It will be whether we recognize that real national services consists of the courage of the men and women who serve in Desert Shield, and not simply a desire to earn the kind of higher education that other Americans expect as a matter of more fortunate birth.

Mr. WILSON. Mr. President, I rise in support of the conference report on

the National and Community Service Act and wish to commend the distinguished floor managers for their efforts on this important legislation.

Mr. President, one of the greatest attributes of the American people is their willingness to give so generously of themselves, of their time, of their resources in times of need.

Beginning back in 1787 when 55 statesmen volunteered to draft the U.S. Constitution to recent herculean volunteer efforts in the aftermath of the Loma Prieta quake in California; from the El Virita Lewis Foundation's program which brings senior citizen volunteers into our day care centers to the thousands of parents nationwide who volunteer in our Nation's schools.

All represent one of America's oldest and finest traditions, volunteerism.

Today, the Senate is taking final action on legislation which carries this tradition forward. It sends a basic message across the land: reach out and help each other. The rewards both in terms of personal satisfaction and experience gained rarely will be exceeded by any other activities one might undertake in one's lifetime.

President Bush rightfully has focused the Nation's attention on the Thousand Points of Light, an army of volunteers standing ready, willing, and able to help America. The President's words and leadership on this critical issue have served as an impetus to developing a national youth and community service policy.

S. 1430, the National and Community Service Act, builds upon the President's initiatives. Indeed, the final conference report incorporates several of the Bush administration's proposals.

It would establish the Points of Light Initiative Foundation to administer our Nation's community service programs but more important, to encourage every American and every American institution to volunteer their time, energy, and services through community service programs.

In addition, several important amendments which were passed during the Senate's consideration of S. 1430 earlier this year were included in the final conference report.

In California we have had considerable success in bringing promising honors students into the classroom to tutor younger children. Not only do these volunteers gain experience in teaching and serve as role models to their younger counterparts, they also greatly assist our Nation's teachers in providing the individual attention, caring, and guidance which can positively influence young attitudes and young lives.

Mr. President, I am pleased to report that the conferees have accepted language from the Senate bill to ensure that school volunteer programs which place tutors in the classroom to assist teachers would be eligible for Federal support.

The second concern I had which the committee has addressed is to ensure that programs which seek to bring parents into the classroom receive funding under the School and Community Based Volunteer Program.

Without the support of our Nation's parents to provide children with sufficient motivation and self-esteem to learn, the level of education funding or the number of national education goals we set will become increasingly less important.

There is no better stimulant to good learning than parental interest. Every study to date demonstrates that parents can make the real difference.

Therefore, it would seem to me that we should take every action to encourage parental involvement. The conference committee accepted language in the Senate bill will add to the list of priorities those school volunteer programs which utilize parents in the classroom.

Finally, I also would like to point out that the original Senate-passed version of S. 1430 contained specific language I authored to recognize public safety services with the U.S. border patrol as an authorized type of national service activity. Although the conferees have decided that specific references to authorized activities are unnecessary, it is my understanding that the conference agreement would not preclude public safety services such as volunteer service in the U.S. border patrol.

As I stated at the time of the Senate's first consideration of S. 1430, the border patrol has the critical task of intercepting undocumented aliens and stemming the illegal flow of drugs across our borders. All too often, however, the border patrol is called into service for search and rescue, interpreter, and other important nonlaw-enforcement tasks, tasks which could be performed by volunteers.

I also wish to indicate the proposed use of volunteers excludes the use of volunteers in law enforcement or other critical border patrol activities and should not allow authorities to displace or replace paid Federal border patrol personnel. Rather, its purpose is to enhance the effectiveness of border patrol personnel by allowing them to concentrate on their important law enforcement mission.

Mr. President, every individual who volunteers to serve our country, whether in the schools, at youth shelters, in the armed services, at child care centers, in nursing homes, deserves our applause. A national community and youth service policy will turn that applause into a standing ovation across the land.

Mr. GRASSLEY. Mr. President, while I will not stand in the way of Senate adoption of the conference report on S. 1430, the National and Community Service Act, there are several points of concern I would like to raise.

First of all, the conference committee report was not filed, and thus not available for Senators and their staffs. A copy of the bill was provided to my office just at noon today, and a copy of the managers' explanatory language was provided about an hour later.

I am frustrated that the conference did not conclude its work until so shortly before adjournment and gave Members just a few hours to analyze the bill as reported. While I appreciate the necessity of the conference committee to take sufficient time to negotiate the bill, I think the conference committee should also appreciate the importance of allowing Members who do not serve on the conference committee ample time to review the bill. This is a 150-page bill, Mr. President, one which the Senate debated at length in February and for which many amendments were considered.

As to the contents of the bill itself, I have some significant concerns about the national service concept as embodied in this legislation. I understand that the merits of the bill sprang out of the desire for greater citizen involvement in charitable activities and public service. I don't understand, however, the concept of paying people for service and for being good Samaritans.

Further, I am even more concerned about such initiatives coming from the Federal Government. It seems to me that volunteer service is a private decision between an individual and the agency he or she wishes to serve. I suspect, Mr. President, that many of the charitable organizations which rely on volunteers will realize little or no benefit from this bill. Instead, many hard working volunteers will likely look at this bill as only another Federal make work program to further drain their tax dollars.

In these final hours of the Congress, as yet another Government shutdown looms over the weekend if we cannot devise a method of meeting our own budgetary boundaries, I believe it is irresponsible to authorize further expenditures for another unnecessary Federal program.

I agree that public service should be encouraged. I agree even more heartily that volunteerism and charitable contributions of time and money should be encouraged. I disagree, however, that Federal infusions of cash and Federal layers of bureaucracy are the best way to achieve these ends.

While I have problems with the general approach of this bill, there are also several specific provisions which concern me. Participants in the conservation and youth corps will be paid

a stipend equal to 100 percent of the Federal poverty level for a family of two. It does not account for distinctions in the size of family, whether someone has three dependents or no dependents. In addition to this stipend, participants will receive a post-service benefit of $5,000.

During Senate debate of this matter 6 months ago an amendment of mine was adopted to expand the use of the vouchers provided in the national community service demonstration projects. I added the purchase of a farm or small business as an acceptable purpose for the voucher, in addition to the purchase of a house or college tuition. I regret that this provision was omitted from the final version of the bill.

The committee has made many concessions; I recognize those. Putting the service structure in the context of block grants to States is possibly the best improvement. I also support the change made by the conference committee to defer student loans, rather than forgive debt when students volunteer for a tax-exempt organization. I also appreciate the reduction in authorization levels.

Most importantly, I appreciate the goal of the committee to encourage people, young and old, to develop a broader and deeper understanding of their neighbors, rich and poor. But this attitude cannot be legislated. These activities cannot be federally regulated. and thus, I cannot vote for the bill.

CIVIL RIGHTS ACT OF 1990—CONFERENCE REPORT

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent there be 30 minutes equally divided on both the Dole motion to recommit and the conference report on S. 2104, the civil rights bill, with the time to be under the control of the two leaders; and that when all time is used or yielded back, the Senate proceed without any intervening action to vote on the motion to recommit; and if defeated, vote immediately on the conference report itself with no other motions in order.

The PRESIDING OFFICER. Is there objection?

Mr. GORTON. Reserving the right to object. The majority leader went through that very rapidly. Is he asking unanimous consent we vote on the conference report immediately after the vote on the motion to recommit?

Mr. MITCHELL. Yes, if the motion to recommit is defeated. I am advised this has been cleared.

Mr. GORTON. I regret to state I object to that motion. I wish the opportunity to speak after the motion to recommit is dealt with and before this is brought up on final passage of the conference report.

Mr. MITCHELL. May I inquire through the Chair of the Senator from Washington, how long he would like to speak?

Mr. GORTON. Mr. President, I had not even thought of that. I had assumed there would be at least a modest amount of debate on final passage before such motion was made. I am prepared to vote now on the motion—or immediately after this next vote—on the motion to recommit. I felt debate had been completed on that. But that is a different question from final passage. I am simply going to object to that unanimous-consent agreement until I determine who else may want to speak on the conference report. I am not prepared to enter into a time agreement.

Mr. MITCHELL. I had advised this had been cleared by the Republican leader and Senator SPECTER and Senator HATCH.

Mr. GORTON. They did not clear it with me.

Mr. MITCHELL. May I ask the Senator, would 1 hour equally divided, be satisfactory? I am trying to bring to this to a conclusion. I would be pleased with whatever time the Senator would like to suggest.

Mr. HATCH. Will be Senator yield?

Mr. MITCHELL. Certainly.

Mr. HATCH. We were going to have a half hour before the motion to recommit and then a half hour before the final passage of the bill. I think everbody is prepared to move right to the vote on the motion to recommit. We do not have to have anytime for that. Can we work out the time?

Mr. GORTON. That will be entirely satisfactory. I will agree to that right away and an hour will be more than enough.

Mr. HATCH. I want to be assured of an hour to our colleagues. I will be managing the time.

Mr. MITCHELL. Mr. President, I modify the request. I think I understood the exchange between the two Senators, but let me modify the request, If I misunderstood it, I am sure objection will be heard.

I modify my request to ask that following the disposition of the pending matter, that the Senate proceed to vote on the Dole motion to recommit; and that if that motion is defeated, there then be 1 hour for debate on the conference report on the civil rights bill with that time to be under the control of the two leaders and equally divided; and that when that time is used or yielded back the Senate then proceed, without any intervening action, to vote on the conference report on the bill.

The PRESIDING OFFICER. Is there objection to the modified unanimous-consent request?

Mr. GORTON. That is entirely satisfactory to this Senator.

The PRESIDING OFFICER. Without objection, that will be the order of the Senate.

Mr. MITCHELL. I thank my colleagues. Senators should be aware then we will now vote on the national service bill conference report and then vote on the Dole motion to recommit, and then there will be 1 hour of debate and a vote on final passage of the civil rights conference report. I thank the Senator from Utah for his usual constructive participation and assistance.

Mr. President, I yield the floor.

VOTE ON NATIONAL AND COMMUNITY SERVICE ACT—CONFERENCE REPORT

The PRESIDING OFFICER. All time has expired on the debate on the conference report to Senate bill 1430. The question is on agreeing to the conference report on S. 1430, the National and Community Service Act of 1990. The yeas and nays have been ordered. The clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Nebraska [Mr. EXON] and the Senator from Massachusetts [Mr. KERRY] are necessarily absent.

I further announce that if present and voting, the Senator from Massachusetts [Mr. KERRY] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] and Senator from Alabama [Mr. STEVENS] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 75, nays 21, as follows:

[Rollcall Vote No. 274 Leg.]

YEAS—75

Adams	Dodd	McConnell
Akaka	Dole	Metzenbaum
Baucus	Domenici	Mikulski
Bentsen	Durenberger	Mitchell
Biden	Ford	Moynihan
Bingaman	Fowler	Murkowski
Bond	Glenn	Nunn
Boren	Gore	Packwood
Bradley	Graham	Pell
Breaux	Harkin	Pressler
Bryan	Hatch	Pryor
Bumpers	Heflin	Reid
Burdick	Heinz	Riegle
Burns	Hollings	Robb
Byrd	Inouye	Rockefeller
Chafee	Jeffords	Sanford
Cochran	Johnston	Sarbanes
Cohen	Kasten	Sasser
Conrad	Kennedy	Shelby
Cranston	Kohl	Simon
D'Amato	Lautenberg	Simpson
Danforth	Leahy	Specter
Daschle	Levin	Warner
DeConcini	Lieberman	Wilson
Dixon	Lugar	Wirth

NAYS—21

Armstrong	Helms	McClure
Boschwitz	Humphrey	Nickles
Coats	Kassebaum	Roth
Garn	Kerrey	Rudman
Gorton	Lott	Symms
Gramm	Mack	Thurmond
Grassley	McCain	Wallop

NOT VOTING—4

Exon	Kerry
Hatfield	Stevens

So the conference report was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. HATCH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CIVIL RIGHTS ACT OF 1990—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. Under the previous order, the question now occurs on the motion to recommit with instructions, offered by the Republican leader for the conference report on S. 2104, the Civil Rights Act of 1990. The yeas and nays are ordered on the resolution. The clerk will call the roll.

Mr. KENNEDY. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nebraska [Mr. EXON] and the Senator from Massachusetts [Mr. KERRY] are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. KERRY] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from Alaska [Mr. STEVENS] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "no."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 35, nays 61, as follows:

[Rollcall Vote No. 275 Leg.]

YEAS—35

Armstrong	Grassley	Murkowski
Bond	Hatch	Nickles
Boschwitz	Helms	Pressler
Burns	Humphrey	Roth
Coats	Kassebaum	Rudman
Cochran	Kasten	Simpson
D'Amato	Lott	Symms
Dole	Lugar	Thurmond
Domenici	Mack	Wallop
Garn	McCain	Warner
Gorton	McClure	Wilson
Gramm	McConnell	

NAYS—61

Adams	Dodd	Metzenbaum
Akaka	Durenberger	Mikulski
Baucus	Ford	Mitchell
Bentsen	Fowler	Moynihan
Biden	Glenn	Nunn
Bingaman	Gore	Packwood
Boren	Graham	Pell
Bradley	Harkin	Pryor
Breaux	Heflin	Reid
Bryan	Heinz	Riegle
Bumpers	Hollings	Robb
Burdick	Inouye	Rockefeller
Byrd	Jeffords	Sanford
Chafee	Johnston	Sarbanes
Cohen	Kennedy	Sasser
Conrad	Kerrey	Shelby
Cranston	Kohl	Simon
Danforth	Lautenberg	Specter
Daschle	Leahy	Wirth
DeConcini	Levin	
Dixon	Lieberman	

NOT VOTING—4

Exon	Kerry
Hatfield	Stevens

So, the motion to recommit was rejected.

The PRESIDING OFFICER. Under the previous order, there will now be debate on the conference report, limited to 1 hour with time equally divided between the two leaders.

Mr. KENNEDY. Mr. President, on behalf of the majority leader, I ask unanimous consent that the hour designation that was agreed upon previously be reduced to one-half hour, in accord with the previous request, under the usual terms.

The PRESIDING OFFICER. Is there objection?

Without objection, the order is modified and the time allotted will be 30 minutes equally divided, controlled by the leaders.

Who yields time?

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 minutes.

Mr. KENNEDY. Mr. President, this is a bill that defines the kind of country we want. Senators now have a historic choice. You can vote to repair the fabric of our fundamental civil rights laws and assure fairness for the working men and women of this country, or you can listen to the far right's false cry of quotas and turn a deaf ear to call for justice for the 53 million women and men and 21 million black Americans and 9 million Hispanic Americans in the work force. They understand the issue; they live with it every day: discrimination, prejudice, harassment. Often they can obtain only second-class jobs.

This is a bill that defines the kind of country we want America to be. If we tolerate discrimination, we will lessen our country and America will not be America. Crying quotas is a last resort of opponents of civil rights, and that charge will not stick because it is not true. This is not a quota bill, it is an antidiscrimination bill. Congress understands the difference, and I hope the President does, too. If the President keeps an open mind, he will reject the advice of his Attorney General and he will sign this legislation when it reaches his desk. It is time to end the double standard that defines equal opportunity for women and minorities, no ifs, ands, or buts.

Civil rights is the unfinished business of America. It is always an uphill battle, and this is the lesson of all our history. We fought battles like this many times before, and will fight again and again and again, until we end discrimination in America and fill the promise of this country. It is not over until it is over.

I believe there is a good chance President Bush will sign the bill. If he vetoes it, there is a good chance the Congress will override the veto. Congress overrode a veto of Ronald Reagan, and Congress can override a civil rights veto of George Bush. The President's instinct on many different issues is to split the difference, and often that satisfies many people, but you cannot split the difference on civil rights. It is wrong to split the difference with discrimination. The President has to do more than pay lip service to civil rights, and the party of Lincoln should be the party of civil rights.

Mr. President, I hope that the Senate will vote favorably in behalf of this conference report.

The PRESIDING OFFICER. Who yields time?

The Chair recognizes the Senator from Utah.

Mr. HATCH. I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator is recognized for up to 3 minutes.

Mr. HATCH. Mr. President, there is not any question of splitting the difference here. It is a question of whether we can get this bill to not be a quota bill, a litigation bonanza for lawyers, a bill that takes away rights of certain citizens and gives preferential rights to others, a bill basically more interested in equality of results for groups than it is in equality of rights for individuals.

That is what this bill is. The definition of "business necessity" is much more burdensome than current law even before Wards Cove. This new definition will permit employers to adopt only minimum standards in the workplace.

The bill still shifts the burden of persuasion in disparate impact cases to employers, compelling them to prove their own innocence. That is not American jurisprudence. The bill still permits broad-scale and across-the-board attack on all employer practices. Plaintiffs do not have to list the specific practice or practices that caused the disparate impact; they just can allege all of them. In many cases these allegations will never be narrowed.

With regard to Martin versus Wilks, as much as we tried to change that language, while better notice is going to be given to employees not parties to the case, they and many others are barred from challenging the implementation of a consent or litigated judgment after it actually harms them. So they are not able to have their right to a day in court. In intent cases, plaintiffs may recover unlimited compensatory damages; there is no cap there. Moreover, plaintiffs can obtain up to $150,000 or a total of the amount of compensatory damages and back pay, whichever is greater, in punitive damages. So there is not a real cap that a lot of people think there is in this bill. It effectively adds jury trials to disparate impact claims when the plaintiff alleges both intentional discrimination and disparate impact discrimination.

The bill extends the statute of limitation from 6 months to 2 years, so there is no requirement to bring suits in a timely manner, and the employer may never get to know up to the end of 2 years whether any business practices he chooses is going to be contested. Moreover, rather than encourage a quick resolution of claims, they can linger and exacerbate tension in the workplace. It modifies the statute of limitations as it runs not just from the time of the alleged illegal occurrence under current law, but also from the time the alleged illegal occurrence has been applied to affect adversely the person aggrieved, whichever is later. This provision overturns at least three Supreme Court cases and opens the door to many stale claims.

It helps lawers by overturning a 1986 Supreme Court decision by Justice Stevens, Evans versus Jeff. That decision allows a defendant, such as an employer, to condition a lump sum settlement offer on the plaintiff's waver of attorney's fees, leaving the plaintiff to work out the fee with his or her lawyer. This provision of the bill will likely have a serious adverse impact on the ability of parties to settle cases.

The bill encourages lawyers to drag out cases by overturning a 1985 decision by Justice Stevens in Merritt versus Chesney, thereby making recovery of attorney fees even easier.

It preserves affirmative action defenses for minorities and women with absolutely no protection for white males, no equality there. It permits uncapped expert fee costs, which would be up from $30 per day. It requires broad construction of at least 70 other civil rights statutes. This will give bureaucrats and Federal judges carte blanche to revise current interpretations of these laws. It does overturn Lorance on seniority suits, and we agree with that. It also overturns Patterson by adding terms and conditions of contracts to coverage under section 1981, and we support this provision as well.

Mr. President, this is not a split-the-difference bill. This is a bill that still has many problems. We need a better bill, a different bill, which I hope we get next year. I hope my colleagues will vote against it.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I yield 10 minutes to the distinguished Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington, Mr. GORTON, is recognized up to 10 minutes.

Mr. GORTON. Mr. President, the distinguished Senator from Massachusetts, who was the primary sponsor of this bill, said at the beginning of his remarks that our vote on this bill defines the kind of country we want. I agree with him in that respect 100 percent. He also spoke of using this bill to repair the civil rights laws.

What is the repair which is needed to the civil rights laws according to the Senator from Massachusetts? It is a decision by the Supreme Court of the United States of a little bit more than a year ago, named Wards Cove Packing Co. versus Atonio. The holding which the Senator from Massachusetts so substantially disagrees with in that case is this, and I am quoting from the Supreme Court's opinion:

> At the justification stage of a disparate impact case the dispositive issue is whether a challenged practice serves in a significant way the legitimate employment roles of the employer. The touchstone of this inquiry is a reasoned review of the employer's justification for his use of the challenged practice. A mere insubstantial justification in this regard will not suffice. At the same time, though, there is no requirement that the challenged practice be essential or indispensable to the employer's business for it to pass muster. This degree of scrutiny would be almost impossible for most employers to meet and would result in a host of evils we have identified above; i.e., the imposition of quotas.

Mr. President, when this bill was introduced by the distinguished Senator from Massachusetts, that was precisely the test it imposed, that the business practice be essential to the employer's business. In other words, to create a test which would be impossible, in the words of Supreme Court, for most employers to meet.

The bill, of course, has been modified since then over the objections of the distinguished Senator from Massachusetts, but it remains a quota bill.

Mr. President, if this bill passes, with your vote or with the vote of any other individual here, you can and should in all honesty tell each of your constituents, "You, my constituent, are likely to be passed over for a new job or for a promotion for which you are the best qualified candidate if there is another candidate for that job or that promotion who can successfully perform the job though not as well as you could perform it if hiring you would make your employer's work force less likely in the entire community and if your rival would cause the work force to be more similar to the racial makeup of the community."

The message you will be giving to the constituent is that hard work and qualifications will mean less; race, sex, and religion will mean more. In the words of the distinguished former vice chairman of the U.S. Commission on Civil Rights, Morris Abram, this bill will vulcanize and tribalize the Nation by raising the color line. It will stigmatize and demoralize those which it supposedly helps.

Faced with the definitions in this bill, a rational employer who does not wish to be embedded in technical debates of the definition of business necessity or particularity with respect to disparate impact claims, that is to say almost any and every employer, will establish quotas in order to stay out of court. The so-called free and voluntary establishment of quotas will be the only way to escape from protracted endless and highly risky litigation.

This bill is designed to and will result in the establishment of quotas, the abandonment of merit as the principal reason for hiring and for promotions, and the abandonment of a system in America in which hard work and qualifications are the primary ground for getting ahead. The bill will properly be vetoed by the President. It should be rejected by this Senate.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. I yield 4 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first I would like to say that I do regret the rhetoric that was used by the senior Senator from Massachusetts when he started off the debate on this measure. I just do not believe it is correct to characterize the views of those who oppose his position, and indeed, it is a position that I likewise hold.

I wish to commend all who have worked on this legislation. Sure, there is a difference in views. But those views are held because of deep consideration that individuals on both sides have given to the measure.

I, personally, believe that the rulings that have come out of the Supreme Court, that were handed down in 1989, deserve our attention. I do not believe we can let cramped interpretations of our national civil right statutes go unnoticed. I believe we need a civil rights bill that clarifies exactly what we mean when we say all Americans deserve a guarantee that their civil rights will be protected.

As introduced, this measure addressed each of the decisions that had

taken place to some degree. Sections of this act faithfully restored civil rights guarantees as outlined by court precedent. Just as clearly, however, the original bill went beyond what was necessary.

In connection with that legislation, I paid careful attention to the hearings in the Labor Committee. I met with civil right groups both here and in my home State. I had meetings with Department of Justice officials and, in a meeting with the President, discussed this measure. Finally, I have had many conversations with colleagues in the Labor Committee or with others who were deeply involved with the legislation.

It seems to me that, since its introduction, it is important to note that this bill has been through several modifications, all of them significant. Changes in the mixed-motive provision, title VII damages provision, the attorneys' fees provision, the consent decrease, have all been covered.

The main debate of "business necessity"—that elusive definition—has been, in my view, resolved, and resolved quite generously. It has been changed three times. The May-Danforth language, the July/Senate language, the October/conference report language, and what we are looking at today is a far cry from "essential" language we saw in February. Not only does it separate business necessity into two categories—those practices dealing with employment selection and those that do not—but the language now uses words like "significant," "successful," "manifest," and "objective." That is a far cry from essential.

I am sorry that the negotiations that we have seen recently did not occur earlier back in January or February. Perhaps if they had occurred then, we would not be having the heated debate we have now. I regret that they did not take place earlier. But I do hope my colleagues will take a fresh look at the bill and become familiar with the report section by section because I think it is deserving of support.

I was heartened to hear my friend from Pennsylvania, who has worked so well and long on the bill, say that negotiations are still going on. The dialog on civil rights that has occurred over the past few months has been extremely productive and further dialog can only help. Perhaps it will lead to what we all want to see happen—the signing of a civil rights bill this year.

Again, I commend my colleagues on both sides of the aisle for working so hard to get us toward a compromise. I have not given up hope on further negotiations. I believe that all of us—including the President—want a civil rights bill.

The legislation before us, however, I believe is a good bill I support it. I think we should give it a chance. I want to emphasize my belief that this is a good civil rights measure.

The PRESIDING OFFICER. Who yields time?

VITIATION OF SENATE ACTION ON AMENDMENT NOS. 2963 AND 2964 TO H.R. 5257

Mr. MITCHELL. Mr. President, I ask unanimous consent that the action on amendments No. 2963 and 2964 be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I rise today to give my consent to vitiate the amendment No. 2964 adopted by unanimous consent after the third reading of H.R. 5257, which passed the Senate on Friday, October 12—subject to one condition. That condition is that I reserve the right to offer a like amendment as an amendment in disagreement to the conference report on H.R. 5257 when that is the pending business before the Senate. My understanding is that such a condition is acceptable to both sides of the aisle.

For the record, let me explain my view of what happened on Friday. I prepared an amendment in consultation with both floor managers for H.R. 5257. The final draft of the amendment was cleared by both floor managers. I consulted with the floor manager for the majority on several occasions to assess the best time for me to offer the amendment, and made clear that I would be available to do so upon his call.

Yet I was not called upon to offer the amendment prior to final passage. When I rushed over to the floor to cast my vote on final passage, I inquired as to why I did not get the opportunity to offer my amendment. It was explained that it was an oversight, and that there was a similar problem with another amendment. The problem would be rectified by a unanimous consent motion after final passage, I was told. Indeed, after final passage, the motion was made that the two amendments be adopted as though they had been adopted prior to final passage. That motion was unanimously agreed to.

But now I am asked to agree to vitiate the unanimous consent agreement by which my amendment was adopted. My amendment was drafted in consultation with the majority and minority floor managers; it was cleared by the the majority and minority floor managers; I stood ready throughout the entire debate on the pending bill to offer the amendment; I inquired immediately upon learning that the opportunity to offer the amendment had passed; and I was assured that the post-third-reading motion would correct the mistake. I did everything in my power to ensure that I would be able to exercise my right as a Senator to offer an amendment to a pending bill. Despite all this, I am now asked to give up my amendment.

For the comity of the Senate, I will do so. But I will do so with the explicit assurance that I may reserve the right to offer a like amendment as an amendment in disagreement to the conference report on H.R. 5257. And I trust that if offered, such amendment will be given due and appropriate consideration by this Senate.

Thank you, Mr. President. I yield the floor.

AGE DISCRIMINATION IN EMPLOYMENT ACT AMENDMENTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of H.R. 5759, a bill to amend the Age Discrimination in Employment Act, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection the committee is discharged.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5759) to amend the Age Discrimination in Employment Act of 1967 to clarify the application of such act to employee group health plans.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3000

(Purpose: To clarify provisions governing lawful employment practices involving group health plans)

Mr. MITCHELL. Mr. President, I send an amendment to the desk on behalf of Senator HATCH and Senator METZENBAUM.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. HATCH (for himself and Mr. METZENBAUM), proposes an amendment numbered 3000.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 2, strike lines 3 through 10 and insert the following:

(2) in subparagraph (D)—

(A) by inserting after "For purposes of this paragraph" the following: "and solely in order to make the deduction authorized under this paragraph",

(B) by striking "and" at the end of clause (i),

(C) by striking the period at the end of clause (ii) and inserting "; or", and

(D) by adding at the end the following new clause:

"(iii) the package of benefits provided by the employer is as described in clauses (i) and (ii).".

Mr. HATCH. Mr. President, this amendment is directed solely at the technical issue of what can be offset against an employee's severance payment under section 4(1)(2) of the ADEA, as added by S. 1511. This technical amendment does not affect the meaning of any other provisions of the Age Discrimination in Employment Act.

The PRESIDING OFFICER. Is there further debate. If not, the question is on agreeing to the amendment.

The amendment (No. 3000) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 5759), as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CIVIL RIGHTS ACTS OF 1990—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. MITCHELL. Mr. President, I ask unanimous consent that I be permitted to address the Senate for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, race has been the most divisive issue in American history.

Race was at the heart of our Nation's most devastating war, the Civil War. Race discrimination distorted the development of democratic systems in many States for more than a century after that war. Race discrimination deformed the lives of millions of Americans, black and white, for many decades.

Today overt racism is rare. The vast majority of Americans believe that each of us should be judged on the basis of our efforts and our abilities, not on the basis of our skin color or our ancestry.

But the legacy of our racial history remains a potent force for exploitation. And it is a sad truth that in the past decade relations between the races in our country have deteriorated.

It is also a sad truth that there have been those, black and white, who have chosen to exacerbate those tensions for their own purposes.

A decade of accumulated race-baiting on both sides has injured our society. Americans have been encouraged to blame national problems on each other, rather than to join together to search for solutions.

Today we have before us a legislative purposal that is modest in concept and scope.

It seeks to restore to the law the interpretation of job-place discrimination which was the law of the land from 1971 to 1989. It would restore explicitly to the law the understanding that a contract cannot be honored in the making and broken in the performance without contravening the law. It seeks to restore the finality of court judgments where discrimination has kept entire police forces and firefighting forces off-limits to black applicants.

The bill explicitly instructs the courts that it is not to be construed to require any form of quota.

Under the prior rulings of the Supreme Court, which were the effective law of the land from 1971 to 1989, no quotas were imposed, no unseen quotas were convertly implemented, no major additional costs to the business community accrued.

Yet today this measure, which restores the law to its prior condition, a condition where no quotas existed, is being attacked and is threatened with a veto because of the spurious claim that it would require quotas.

That is a disheartening development. It is discouraging that almost 40 years after the Supreme Court ruling in Brown versus Board of Education, a full quarter century after passage of the Voting Rights Act and the Civil Rights Act, a full quarter century since America's conscience was awakened by the use of attack dogs and fire-hoses against peacefully assembled American citizens—it is discouraging to learn that we have come so far in time but so short a distance in understanding.

The bill before us does not constitute a major shift in civil rights law. It does not grant discontented employees carte blanche to harass their employers. It requires the same stiff burdens of proof that were required before 1989 and it grants no novel relief to those who are able to meet these substantial requirements.

Yet, despite months of protracted negotiations to seek agreement with President Bush's stated goal of wanting a bill that would reverse these Supreme Court rulings, we still face the likelihood of a veto.

The reasoning for a veto is with all due respect, faulty. The bill does not require quotas. Indeed, it explicitly rejects quotas. The President himself has said that he supports the goal of the legislation—workplaces free of the practices that lead to race-based or gender-based discrimination. He has claimed he wants to sign such a bill.

With the passage of this conference report, he will have the opportunity to sign such a bill.

This legislation does not impose novel demands on corporate employment practices. This legislation does not require quotas. It will not result in quotas. This legislation explicitly rules out any such intention. It explicitly instructs the courts that no quota-style employment action is required or condoned in law.

It is, therefore, difficult to understand the source of the President's concerns about this bill.

The measure gives employers the defense of business necessity with which they have successfully defended against these suits for almost 20 years. It creates no novel causes of action against employers.

Most important of all, it restores the most fundamental American value to this area of law: Equality of opportunity.

It does not mandate equal results. It simply requires that everyone get a fair chance. That is the goal and the promise of our system: That every American is entitled to fair treatment.

It is one of the proudest boasts of our system that in America, no matter who your parents, no matter if they were rich or poor, black or white, Asian or Hispanic, you have a fair chance, an equal opportunity to compete with the most well-born, the best-connected, the most fortunate people in our society.

That fair chance was given to so many of us in past decades. We are now trying to ensure it for others in the future, those who face barriers of a different kind—barriers of race or sex or ethnic origin.

It is the most basic American promise. It is a promise we cannot deny to some Americans unless we want to see it eroded for all Americans.

If today we suggest that a certain degree of unfairness in the workplace is acceptable, if we suggest that reflexive prejudices should not necessarily be penalized, then how long will it be before we accept the claim that segregated workplaces or neighborhoods or schools reflect free choices which we should not disrupt? If we accept the idea that a little bit of discrimination does not matter much in the larger scheme of things, when that discrimination is turned against us, what will be our protection?

It has been too long since an American leader reminded the American people that we are one nation; that the laws we depend upon must serve all of us, not just the favored few; that the fair chance we seek for ourselves

must also be available to our neighbor; that our neighbor is an American deserving of the same freedoms and rights we take for granted.

It took the civil rights marches of the 1960's to remind us that the rule of law cannot endure when some are systematically denied the protection of the law which is guaranteed to us all.

Today we face no dramatic crisis such as civil war or civil disobedience. But the challenge we face today is no less real.

It is the lifelong challenge of America: To assure every American a fair chance; the equal opportunity promised by our Constitution. The legislation before us is one element of that challenge.

Yet we face a veto threat from a President who says he wants to sign a civil rights bill. We face a veto threat from a President who has agreed that the Supreme Court's rulings of the last term require correction. We face a veto threat based on vague fears, against a bill framed with very precise language.

That is unfortunate.

It is a rejection of the harsh history through which all Americans, black and white together, have come in the last quarter century.

We fought segregation by law and habit. We fought discrimination based on fears and silent hatreds. We sought to give all our people, black and white together, the economic growth and personal security that will allow them to see each other as fellow Americans, not as potential threats.

Our tragedy has been that our history is bound together and we will succeed or fail together. But that is also our great hope.

America will never be, like South Africa, two nations inhabiting the same continent.

We will always strive toward the goal of one nation, with liberty, justice, opportunity and respect for all.

We have come a far way toward that goal. But the road still stretches long before us.

The promise of our Constitution and our law is great. It is an inspiration to other nations and other societies.

Our ideals have nurtured our achievements. We have created the most widely prosperous, the most just society in the history of the world. How tragic it will be if we fall short of what we can do.

It does not reflect the President of all the people, the President whose vision of a kinder and gentler nation restored American spirits and hopes. It does not reflect the President who sees our society brightened by a thousand points of light.

We have seen stirring events abroad, as the people of Eastern Europe come to grips with the distortions communism forced upon their societies for 40 years. We are seeing the people of the Soviet Union struggle with the deformations that communism brought to their societies for seventy years.

We know that none of these societies will be able to escape their history, however unsought, however unfair. Their future goals and their current preoccupations mirror conflicts frozen in place for decades, aspirations submerged, goals delayed.

Unlike those societies, America does not have to overcome 40 or 70 years of repression. But, like them, we are not free of our own history. And in that history, the relations of the races have been a central fact.

The legacy of our national history is something none of us can escape. That legacy has left Americans of all colors with responsibilities as well as rights.

One of those responsibilities is to create the conditions in our society and in the hearts and minds of our children which will prevent for all time a recurrence of the darkest days of racial conflict in the past.

That is a responsibility for parents, teachers and leaders of all races.

Sadly, for the past decade, our leaders have not fulfilled this responsibility.

In the black community, voices that should have spoken of constructive action have instead turned to recrimination.

In the white community, leaders who should have reminded us of our moral responsibilities sought, instead, to remind us of our differences.

That is why the legislation before us today is important.

It seeks to correct several Supreme Court rulings whose effect would be to dramatically reduce the ability of employees to seek the protection of the law against workplace discrimination.

But, more important, it seeks to restore, once again, the common American understanding that ours is a Nation based on equality, on fairness, and on justice for all. This bill deserves to be supported by every Senator and it also deserves the President's prompt signature.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER addressed the Chair.

Mr. HATCH. Mr. President, although he is on the other side of the issue, I yield 5 minutes to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, earlier today I spoke at some length and will summarize now by urging my colleagues to support this conference report. Even as we move toward the vote, Mr. President, there are continuing negotiations to try to adjust one point through a concurrent resolution which would bring the President into total agreement with this bill.

Mr. President, there have been very extensive negotiations, and I, along with a number of my colleagues—Senator DANFORTH and Senator JEFFORDS—got into this matter at the request of the President to try to work out a bill.

After Labor Day, the distinguished Senator from Utah [Mr. HATCH] and former Secretary of Transportation, William Coleman and I sat down around the clock for many days and crafted a bill which is before the Senate tonight. It is not a quota bill, Mr. President, because it does not take statistics and impose that statistical or quota burden on the employer. Instead, it requires that the employee plaintiff prove with particularity the specific business practice or practices which led to the disparity in the statistics or the disparate impact. At that juncture, you come back and the employer may avoid liability by showing business necessity or good business reasons for what he has done.

There was agreement early on, Mr. President, that the decision of the Supreme Court in Wards Cove handed down last year should be changed. For days on end and weeks on end and months on end, we have been crafting the specific language which would meet that goal.

When Mr. Coleman and Senator HATCH and I finished the bill, Senator HATCH said that he found the bill acceptable, although not perfect; he would recommend it to the President, although he would side with the President if the President decided to oppose the bill.

I submit, Mr. President, that there is no one in this body who has more erudition or capability to understand the impact of a labor bill or civil rights bill than Senator HATCH who is the ranking Republican on that committee. I was a party to those negotiations, and I suggest that this is carefully crafted and it ought to be adopted. I believe that a very strong vote by the Senate tonight will be an impelling factor in working out the last minor detail which will bring this country together on a very important item. It would indeed be tragic, Mr. President, if 65 percent of the Congress were to support the civil rights bill and it were to be vetoed and we would not have a civil rights bill in this country.

The minorities and women have good reason to conclude that they are not getting a fair share of economic opportunity. And at a time when Washington has made very significant cutbacks, it is incumbent upon the Federal Government to make sure that everybody has a fair opportunity at a job and a fair opportunity at promotion; that is not a quota bill; that it be balanced, not to put an unreasonable burden on business but to provide

fairness, and this bill accomplishes those objectives.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator controls 2 minutes 12 seconds.

Mr. HATCH. Mr. President, I certainly will finish in that time and we can go to a vote.

Mr. President, the decision before us is not about restoring prior antidiscrimination law. It is about whether the Senate wishes to lead this country down a short road to quota hiring and promotion. It is about whether the Senate wants to slam the courthouse door on some Americans who wish to assert claims of a denial of their civil rights, and it is about whether we will turn title VII into a litigation bonanza for lawyers.

Mr. President, I have on prior occasions on the floor today explained my role in this matter and I draw my colleagues' attention to my own remarks on this subject, so I will not repeat it again after what the distinguished Senator from Pennsylvania has said. I commend him for working and striving so hard to try to bring everybody together. We failed but that does not mean we cannot resolve these problems in the future by sitting down and doing what needs to be done.

Mr. President, I rise today to oppose the conference report and to urge my colleagues to do the same. My opposition, Mr. President, is coupled with both frustration and sadness that the parties have not been able to come together on legislation that all of us could enthusiastically support.

The conference report, however, on which we will shortly be voting, is not such legislation. I know that better than most, since I have recently worked day and night trying to resolve problems with the current bill.

It is correct that this revised conference report includes some revisions which were the product of negotiations in which I participated. But these revisions do not even extend to many of the bill's provisions with which I have serious problems. What's more, even those provisions that have been revised have not been changed to the extent I and others thought necessary. Therefore, while I believe some limited improvements had been made, I always acknowledged that the bill still had serious flaws. The changes are clearly insufficient to meet the concerns raised with this legislation.

Mr. President, it comes down to this:

Does the Senate wish to turn the Civil Rights Act of 1964 on its head?

Does the Senate wish to reverse 25 years of title VII policy?

Does the Senate wish to replace the principle of equality of opportunity for individuals with a requirement of equality of results for groups?

Does the Senate wish to lead this country down a short road to quota hiring and promotion?

Does the Senate wish to slam the courthouse door on innocent Americans who wish to assert equal protection and civil rights claims just because it is expected that many such claimants will be white males?

Does the Senate wish to convert title VII from a statute aimed at conciliation and settlement into a statute which will exacerbate conflict in the workplace and emphasizes protracted, costly litigation?

If the Senate wishes to do these things, Mr. President, my colleagues will vote for the conference report.

The time-honored test on civil rights legislation should always be, does it help us to ensure that every American, regardless of race, ethnicity, sex, or disability, will be treated the same? When measured against this standard, Mr. President, this latest version of S. 2104 fails.

First, let us look at the issue of quotas, which the Senator from Massachusetts claims he has finally resolved. Let me quickly mention that if the proponents of this bill wanted to be certain to avoid quotas, they would have accepted Senator DOLE's amendments made by this act, or in any statute amended by this act, shall be construed to require, permit, or result in the adoption or implementation of hiring, promotion or termination quotas * * * on the basis of race, color, religion, sex, or national origin.

But, the proponents of the bill objected to that amendment. And, unfortunately, the conference version of S. 2104 does not solve the quota problem. Some claim that all we need to do is to put language in the bill that states that the legislation does not require or encourage quotas, and so the majority added such language in the bill that states that the legislation does not require or encourage quotas, and so the majority added such language in the version of S. 2104 which passed the Senate with 34 negative votes. In conference, another totally cosmetic change was made, adding the word "encourage" to this clause, but none of this language accomplishes anything.

No one on this side has ever asserted that the bill contains specific language demanding quotas. The authors of this bill are too sophisticated for that. The way we encounter quotas under S2104 is not through actual language specifically calling for quotas. Instead, the quota problem is caused by the manner in which S. 2104 drastically rewrites the rules concerning disparate impact cases. This bill leaves an employer with no real alternative but to do all it can to avoid being sued in the first place. And, the only way to avoid being sued is to guarantee that each job in one's work force is a perfect, numerical match of the work force in the relevant labor market for that job. And, the only way to accomplish this requirement is to use hiring and promotion quotas. A clause in the bill saying—"Oh, we don't really mean this to happen"—is meaningless because the operative provisions of the bill will lead to this result, as I have described.

Title VII of the 1964 Civil Rights Act already bans intentional discrimination as, for example, when an employer simply decides not to hire any minorities for a job. Title VII, as construed by the Supreme Court, also bans neutral devices that screen out a higher proportion of one group than other groups when the devices are not job-related. This is the "disparate impact" standard set forth by the Supreme Court in Griggs versus Duke Power (1971). S. 2104 completely rewrites the principles of that decision in the guise of "restoring" it.

Under current law, dating back to 1971, this is what is illegal under title VII's disparate impact theory: A neutral device which causes a disproportionate impact on a particular racial, ethnic, or gender group and is not job-related. Accordingly, it is no surprise that the burden of persuasion is on the plaintiff to prove the existence of each of these elements of wrongdoing—just as the burden is on the plaintiff to establish each element of a tort or contract claim.

Current Supreme Court case law, such as New York City Transit Authority versus Beazer, (1979), however, facilitates the plaintiff's ability in a disparate impact case to meet his or her burden of proving that illegal discrimination occurred. The plaintiff need not prove all of these elements in the initial presentation to the court. At the outset, the plaintiff merely has to identify the specific employment practice he or she is complaining about and show that it causes a disparate impact on his or her group. This constitutes the plaintiff's prima facie case. At that point in the case, the employer must come forward with a credible explanation of "business necessity," justifying the use of the employment practice—or practices—in question. In the words of Griggs, "business necessity" means that employment practices should be "related to job performance" and that "any given requirement must have a manifest relationship to the employment in question." [401 U.S. at 431, 432]. This is a burden of production of evidence, of articulating legitimate reasons for an employment practice.

Once the employer meets this burden, the case has now been sufficiently focused so that the plaintiff is then put to his or her ultimate burden of persuasion—of proving that the employer's explanation is unpersuasive,

and therefore, that the employer is guilty of discrimination. The Supreme Court made this clear in 1979, in the Beazer case. Thus, the plaintiff never has to disprove all possible justifications for an employer's practice; the plaintiff's task is simplified by forcing the employer to explain the basis for its practice. It is then—and only then—that the plaintiff must prove that the practice is not job-related and thus discriminatory. This is fully consistent with the manner in which garden variety title VII intent cases are tried. Moreover, from the outset of the case, the plaintiff has the full opportunity for discovery as to the employer's explanations and the evidence in support of those explanations.

For example, if a plaintiff shows that a fire department's employment test disproportionately denies members of a particular group a job opportunity, it is then up to the employer to articulate a justification for the test. The employer might argue that it relied on a 20-year-old study by an industrial psychologist which concluded that the test will yield qualified firefighters. The plaintiff now is on notice as to the justification for the test. The plaintiff can then attack the study's methodology, and can introduce other evidence that the study is faulty or that other tests do an equal or better job of selecting firefighters and with less impact on the group. The plaintiff need not rebut every possible justification for the test, only that which is proffered by the employer. The plaintiff, in short, must prove there is discrimination. There is nothing new or unusual about this.

S. 2104 drastically rewrites the manner in which disparate impact cases are brought under title VII in three crucial ways. In so doing, it overturns Supreme Court decisions in Griggs versus Duke Power Co. (1971), New York Transit Authority versus Beazer (1979), Wards Cove Packing Co. versus Atonio (1989), and others. I stress that the rewriting of the definition of "business necessity" is only one of at least three components that make S. 2104 a quota bill.

First, under S. 2104, a plaintiff is not required to identify the specific employer practice or practices allegedly causing the disparate impact—the imbalance—in its prima facie case. Indeed, many, if not most, disparate impact cases will never be narrowed in scope under bill. Yet every Supreme Court disparate impact has focused on particular practices. Instead, under this bill, a plaintiff need merely point to an imbalance in a job and allege that all of the employer's hiring or promotion practices cause the imbalance.

Second, at this point, S. 2104 does not shift to the employer a burden of producing evidence explaining its employment practices, with the plaintiff retaining the ultimate burden of persuasion to prove that the employer committed discrimination. Instead, S. 2104 shifts the burden of persuasion to the employer to prove that it did not commit discrimination with respect to its employment practices. This requires the employer to prove its innocence and is contrary to Supreme Court precedent. This shift in the burden of persuasion to the employer occurs even though the plaintiff has not shown, and the employer may not know, the cause of the imbalance. It is impossible for an employer to defend itself without incurring tremendous litigation costs.

These seemingly technical changes are highly significant: They make racial, ethnic, and gender imbalance alone illegal. By so doing, title VII becomes a statute whose mandate is not equal opportunity for individuals but equal outcomes for groups. This reverses 25 years of title VII policy. The plaintiff, in any number of cases, can win by merely showing that the number of employees in a job do not parallel the racial, ethnic, or gender breakdown of the labor force for that job, and alleging that all of an employer practices result in the disparity, even if there are many legitimate explanations for the difference. For example, a business with fewer minorities in a particular job may be located in a neighborhood distant from minority neighborhoods and poorly served by public transit. Under this bill, such an explanation is no defense. The easiest way to avoid a lawsuit and its great costs will be to hire and promote by quota. This is true even when the comparison is between members of a group in a job and the qualified members of that group in the actual applicant pool.

Thus, even before we come to S. 2104's rewriting of the definition of "business necessity," S. 2104 is a quota bill.

Third, S. 2104 does clearly redefine the term business necessity, which is the basis of the employer's justification. The bill clearly changes the concept of business necessity from what it was under Griggs. The proponents of this bill have floundered around with so many different definitions of this term, I have lost track of their number. One thing common to these definitions is that they do not represent the Griggs formulation. The current definition says, in relevant part, that:

> In the case of employment practices involving selection * * * or practices primarily related to a measure of job performance, [business necessity means] the practice or group of practices must bear a significant relationship to successful performance of the job or, in the case of other employment decisions, do not involve selection, the practice or group of practices must bear a significant relationship to a manifest business objective of the employer.

The first part of this definition indicates that the bill's proponents finally located the Griggs case, because for the first time they use language appearing in that decision. But, it is the wrong language. This language is from the question presented to the Court. It is not the holding of the Court. To the best of my knowledge, the particular language in the conference report does not appear in any other Supreme Court decision.

The Griggs test is "manifest relationship to the employment in question." This is the definition cited in the Supreme Court's decisions in New York City Transit Authority versus Beazer (1979), Dothard versus Rawlinson (1977), Connecticut versus Teal (1984), and Albermarle Paper Co. versus Moody (1975). Why not use the actual language?

The significant relationship language, applicable to selection practices, is different from manifest relationship and will be construed, as it is intended to be, as a much tougher standard than Griggs. Moreover, the term "successful job performance" permits the employer only to set minimum criteria. If an employer imposes requirements seeking job performance beyond the minimum standard that can be characterized as successful, those requirements will be struck down if they fall with a disproportionate impact. As Frank J. Landy, president of the Society of Industrial and Organizational Psychology, wrote on September 7, 1990, to Congressman AUGUSTUS HAWKINS:

> The use of the term "sucessful" to describe job performance creates an inappropriate dichotomy. It is a well accepted principle in our profession (a principle with wide empirical support) that performance is continuous and not dichotomous. There is no magic line that separates successful from unsuccessful performance. Rather, the generally accepted principle is that higher scores imply higher performance, if the test is job-related. If it is job related, ranking of candidates from the top scorer to the bottom scorer should be the rule rather than the exception. For this reason, we are concerned about the implications of the term "successful" performance in [S. 2104]. In addition, this terminology might suggest that the standard for comparison is minimal qualifications necessary to perform the job. Griggs, on the other hand, permitted employers to adopt higher standards rather than only minimal ones.

In a September 13, 1990, letter from Raymond D. Fowler, chief executive officer of the American Psychological Association, and Alan G. Kraut, executive director of the American Psychological Society, these two experts noted:

> The term "successful" within the definition should be eliminated since it implies that a level of minimal job performance is acceptable for all jobs. We also believe that the term "manifest relationship," which was adopted in the Griggs decision, should replace the term "significant relationship."

In other words, if an employer has been minimally satisfied to date with an employee's performance, but adds standards that require better performance, and those standards fall with a disproportionate impact, they will be struck down under this bill.

Given the way S. 2104 allows blanket challenges to employer practices, switches the burden of persuasion, imposes more stringent justifications on an employer, and eliminates the traditional defenses available to an employer in a title VII suit, there is only one effective means for avoiding liability. Never be sued in the first place. And, how does one avoid being sued? By hiring and promoting persons on the basis of race, sex, and national origin so that one's work force exactly matches the outside labor force for each particular job. Remember, under the revised disparate impact standard, the bottom line is a statistical disparity. If one eliminates that disparity, then one cannot be used. By utilizing employment practices which produce equal numerical results, better known as quotas, an employer can avoid liability.

The bill allegedly resolves some of the problems surrounding the issue of causation; that is, identifying the employment practice that causes the statistical disparity. While I believe that some limited improvement was made in the actual language of the bill on this discrete issue, even the revised language is not my preferred solution. The Supreme Court cases require the plaintiff to identify the specific practice or practices which "cause" the disparity or disparate impact.

In contrast, the revised version refers to practices "responsible in whole or in significant part" for the disparity. Further, the joint explanatory statement of conference committee takes back what I had viewed as at least some improvement in the language of the bill. It seriously waters down the requirement in the bill by explaining that the "significant part" requirement only rules out practices that make a "trivial or insubstantial contribution" to the disparate impact.

The proponents assert that if a plaintiff cannot identify through discovery and other means the practice causing the disparate impact, then why shouldn't he or she be able simply to challenge a group or all of the practices and make the employer provide the justification. The argument fails to address one practical point. If the plaintiff cannot identify the practice which causes the disparity through a discovery process which makes available every employer document and policy, then how can we expect the employer or anyone else to determine what causes the disparity?

Moreover, in 1971, and ever since, the disparate impact theory has been formulated by the Supreme Court to address specific, identifiable neutral devices causing disparate impact and which are not related to the employment in question. The disparate impact theory is not intended for use as a broad-gauged attack against an employer's practices. Congress made clear in section 703(j) of title VII that a mere imbalance in a job is not illegal. This bill, even with this language, effectively overturns this 25-year-old title VII policy.

As Justice O'Connor said in Watson:

> It is completely unrealistic to assume that unlawful discrimination is the sole cause of people failing to gravitate to jobs and employers in accord with the laws of chance. * * * It would be equally unrealistic to suppose that employers can eliminate, or discover and explain, the myriad of innocent causes that may lead to statistical imbalances in the composition of their work forces. Congress has specifically provided that employers are not required to avoid "disparate impact" as such.

Citing section 703(j), as I just did.

As Justice White said in Wards Cove:

> Just as an employer cannot escape liability under title VII by demonstrating that, "at the bottom line," his work force is racially balanced (where particular hiring practices may operate to deprive minorities of employment opportunities) a title VII plaintiff does not make out a case of disparate impact simply by showing that, at the bottom line, there is racial imbalance in the work force. As a general matter, a plaintiff must demonstrate that it is the application of a specific or particular employment practice that has created the disparate impact under attack. Such a showing is an integral part of the plaintiff's prima facie case in a disparate-impact suit under title VII.

Both Justices O'Connor and White warned that a contrary rule invites employers to utilize quotas to avoid a lawsuit.

If a plaintiff cannot identify the practice or practices causing disparate impact in a job, even with the records the EEOC requires employers to maintain, and with the help of discovery, then he or she has available the intentional discrimination theory of liability under title VII.

Kingsley R. Browne, associate professor of law at Wayne State University and a witness before the Labor Committee has written:

> Until this bill, it has always been the law that a disparate-impact plaintiff must challenge specific practices causing the disparate impact. All of the Supreme Court's disparate-impact cases have involved specific challenges to discrete employment practices such as diploma requirements or standardized tests. Attacks on an employer's overall employment processes have consistently been analyzed under a disparate-treatment analysis. Indeed, in the case most directly on point, *Furnco Construction Corp.* v. *Waters*, the Court specifically held that where plaintiffs mounted a broad-based challenge to an employer's hiring practices, the case should be analyzed as a disparate-treatment case rather than as a disparate impact case. The Court in Furnco distinguished disparate-impact cases such as Griggs and *Albemarle Paper Co.* v. *Moody* on the ground that they involved employment tests or "particularized requirements." The Ninth Circuit employed similar reasoning in rejecting a comparable-worth claim in *AFSCME* v. *State of Washington*, holding that the state's practice of reliance on the market in setting wages could not be challenged under a disparate-impact theory. The court held that "[d]isparate impact analysis is confined to cases that challenge a specific, clearly delineated employment practice applied at a single point in the job selection process," and not to judgments involving "assessment of a number of complex factors not easily ascertainable." These considered judicial judgments spanning the last two decades are now being discarded as if they had never existed.

Let me just mention one of the many consequences of allowing a plaintiff to challenge all of an employer's practices without identifying which ones cause the disparate impact: there will be an explosion of comparable worth lawsuits. This bill will resurrect the previously discredited "comparable worth" theory of pay discrimination under title VII. Under this theory, pay discrimination exists if persons in a predominantly female or minority job are paid less than persons in a different job which is predominantly male or nonminority, and some subjective job evaluation study rates the two jobs as comparable in worth. The comparable worth theory rests on the assertion that an employer's whole set of compensation practices, including reliance on market place factors, causes a disparate impact on the compensation of women and minorities. This theory has been rejected by virtually every court which has considered it under title VII. [E.g., *AFSCME* v. *State of Washington*, 770 F. 2d 1401 (9th Cir. 1985)].

Under this bill, however, the comparable worth theory will be a winner. Once a plaintiff alleges that all of an employer's pay-setting practices cause a disparity in pay between, say, a predominantly female and a predominantly male job, no employer relying on the marketplace can win that lawsuit. Here is what then-Judge Kennedy, now Justice Kennedy, said in the well-known AFSCME versus State of Washington decision:

> AFSCME's disparate impact argument is based on the contention that the State of Washington's practice of taking prevailing market rates into account in setting wages has an adverse impact on women, who, historically, have received lower wages than men in the labor market. Disparate impact analysis is confined to cases that challenge a specific, clearly delineated employment practice applied at a single point in the job selection process. * * * The instant case does not involve an employment practice that yields to disparate impact analysis. As we noted in an earlier case, the decision to base compensation on the competitive market, rather than on a theory of comparable worth, involves the assessment of a number of complex factors not easily ascertainable, an assessment too multifacted to be appropriate for disparate impact analysis. In the

case before us, the compensation system in question resulted from surveys, agency hearings, administrative recommendations, budget proposals, executive actions, and legislative enactments. A compensation system that is responsive to supply and demand and other market forces is not the type of specific, clearly delineated employment policy contemplated by Dothard and Griggs; such a compensation system, the result of a complex of market forces, does not constitute a single practice that sufficies to support a claim under disparate impact theory. *AFSCME* v. *State of Washington*, 770 F2d at 1405–06.

If we accept the language of this bill, then we overturn this case of comparable worth. The bill's language that says that if a plaintiff cannot identify the practices causing imbalance then the plaintiff can make a blanket disparate impact challenge against all of an employer's practices creates a huge loophole. In a claim of pay discrimination no one, as then-Judge Kennedy indicated, will be able to identify the specific practices responsible for a particular pay level—that is one of the geniuses of the free market. Under this bill, a plaintiff can indict the free enterprise system and overturn it in the setting of wages. Havoc will result in our economy.

I suggested a way of addressing this concern. My preferred language was not included in the conference report. The language in the conference report states: "Nothing in this subsection is intended to overrule existing cases involving comparable worth." This is very ambiguous language—it is one of the changes that I passed along to the administration, but it does not clearly solve the comparable worth concern. It can be read as nothing more than grandfathering the result in prior cases. But it does not clearly preclude the use of the comparable worth theory after enactment of the new language of this bill.

One other provision, added in conference is wrongly cited as antiquota language: "The mere existence of a statistical imbalance in an employer's work force on account of race, sex, religion, or national origin, is not alone sufficient to establish a disparate impact violation." This was added to section 4.

This language also does not solve the quota problem. As explained by its supporters, this amendment merely requires statistical comparisons between the racial composition of the jobs at issue and the racial composition of the qualified population in the relevant labor market. But, as I have argued for months, this does not avoid the quota problem. Let me use one example to explain why. Suppose a person from a specific group is rejected for a job at a plumbing company. Twenty percent of the plumbers in the relevant geographical labor market are from the group; but only 10 percent of the company's plumbers are from that group. The rejected applicant sues, alleging illegal disparate impact under this bill. All the plaintiff would have to do is show that in the relevant labor market 20 percent of the plumber are from the groups, that the employer has filled its plumber jobs at only half of that percentage, and allege that a group—or all—of the company's hiring practices cause the imbalance. The plaintiff then wins, even if the allegations are somewhat narrowed later in the case, which is not likely to happen in many cases. The only way an employer can win is if, in a reversal of traditional American jurisprudence, the employer can prove its innocence, and do so under a much stricter standard than the Supreme Court set forth in Griggs versus Duke Power.

In short, a mere imbalance in a job—regardless of the overall work force's numbers—is still the basis of a claim under this bill. Moreover, a plaintiff never alleges a mere statistical imbalance anyway; he or she always alleges that employer practices, together with the statistical imbalance, is illegal. This language does not solve the problem.

S. 2104 places in serious jeopardy a wide variety of employment standards which the courts have found to be lawful.

Suppose an employer requires extensive prior flight experience for airline pilot positions. Such a requirement has been upheld by lower courts under Griggs versus Duke Power well before the Wards Cove decision. Under S. 2104, however, it will likely be struck down. For example, in the face of a lawsuit by a plaintiff with 200 hours of flight experience, an airline must prove that a requirement of 500 hours prior flight time is significantly related to successful performance of the job. The court will not be concerned with what standard yields the most qualified employee or is more likely to gaurantee the safety of fellow employees and customers. The standard court will look to see what criteria yields a minimally qualified employee. Further, once an employer uses a particular standard, say, 500 hours of flight experience, it will be impossible for an employer to justify raising its standards to require greater competence or safety, such as 1,000 hours of prior flight experience, if it falls with a heavier impact on a group.

S. 2104's new formulations effectively eliminate an employer's ability to use traditional job standards, such as experience requirements, personnel reports, interviews, and supervisory evaluations. How can they meet a requirement that they bear a "significant relationship to successful performance of the job?" The bill's language is a new standard.

MARTIN VERSUS WILKS

The revised bill also has many other flaws. For example, it continues in section 6 to deny some Americans their equal opportunity to a day in court to assert the most fundamental rights of all: the right to equal protection of the laws and the right to be free from invidious discrimination. It insulates reverse discrimination embodied in a consent decree from effective challenge by a person never a party to the lawsuit in which the consent decree is entered. This section contains some changes from the version which passed the Senate, but does not cure the fundamental problems in this section. It does not represent my preferred suggestions. Basically, all the changes do is provide more detailed notice to employees who are not parties to a case that they are about to lose their right to a future day in court.

Under the bill, therefore, an employee, and most other persons are still denied the right to a day in court after he or she is harmed by a consent decree in a case to which he or she was not a party. Keep in mind, Mr. President, that a right to a day in court does not guarantee a party that he or she will win. All I am talking about here is allowing people to have a fair chance in court to have their say. When we considered this in July, I was only allowed to offer one amendment to ensure that day in court. The amendment would not have changed the law as to who should prevail on the merits of any case. This issue has nothing to do about whether any particular consent decree is lawful or not, it is only about the right to have a fair chance to claim that a consent decree has operated to harm someone. Still, the Senator from Massachusetts successfully offered a meaningless second degree amendment to vitiate my amendment.

Mr. President, suppose you are an employee at a fire department or any other public or private employer. Assume that your employer is being sued under title VII by members of a particular racial, ethnic, or gender group, seeking large backpay awards and numerical relief, whether labeled goals or quotas, in future hiring and promotion. You don't know how hard the employer will resist the lawsuit or for how long. You don't know whether the case will be settled. You don't know whether the remedy in that case might harm you at some point in the future. And, if you try to intervene in the case too early, you could be denied intervenor status because you are premature and will slow down and clutter up the case.

After a few years of litigation, a proposed consent decree suddenly becomes public. It includes numerical relief based on race, ethnicity, or

gender. If you seek to intervene upon learning of the proposed consent decree, you can be denied intervenor-party status as untimely. You have a chance to comment on the proposed remedy at a fairness hearing scheduled several weeks after the consent decree is announced, but that is a limited opportunity. It is not the same as being a party in the case. You have little opportunity for discovery or to prepare your arguments. You cannot even appeal an adverse decision. And, of course, it would cost a good deal of money to get into the case, and you still can't be completely certain you are going to be hurt by the consent decree.

A year after the consent decree is entered, you seek a promotion. You are ranked 6th on the promotion list but are passed over for someone else ranked 85th, because of your race or gender, in order to implement the consent decree.

When would you prefer to be able to assert your fundamental right to equal protection of the laws and the right to be free of unlawful discrimination? When the loss is adopted, or when you are actually harmed in fact by operation of the consent decree? The Supreme Court says you should be able to assert your right when you are harmed. This bill says "no."

Is there any substitute for being able to bring a case claiming concrete harm? You studied hard for the promotion test. You learned various job skills, including qualification as a paramedic. You obtained a fire science degree. You had a variety of experiences, including being a chief of a small suburban fire department and service as lead worker and acting officer. You placed sixth on the promotion list. But you were passed over by number 85 on the list, who had none of these qualifications, because of your skin color or gender in order to implement the consent decree. Is that not a more appropriate point to have your claim heard by the court?

This is the position a witness before the Labor Committee, Birmingham, AL firefighter James Henson, found himself in. In Martin v. Wilks, the Supreme Court said his lawsuit challenging actions under the consent decree could proceed. Whether he prevails is a separate issue that turns on the legality of the consent decree as applied to him; but he is entitled to be heard in his own lawsuit. This bill would bar James Henson from having this case heard. He and others like him lose the fundamental right to a day in court if this bill becomes law. Again, I stress, all the Court said in Martin v. Wilks is that you have a right to a fair day in court to be heard, it did not say anything about whether you should win or lose once you get into court.

Ironically, the bill contains several double standards. For example, the bill preserves current case law which protects the right of some Americans to challenge consent decrees, but not others. Suppose the EEOC or the Department of Justice sues an employer on behalf of minorities, asserting the employer discriminated against them in promotions. Assume further that the employer and the Federal Government propose a consent decree which only provides promotions and back pay for some of the minority employees. After the consent decree is entered, in this example, a minority employee who did not get such relief if free to sue the employer in an independent lawsuit to seek it, notwithstanding the consent decree settling the case. But, by overturning Martin versus Wilks, S. 2104 would effectively bar a nonminority employee harmed by this consent decree from ever suing to protect his or her rights when the harm occurs. Sure, that is finality—but only in one direction.

I might add, even if this section is constitutional, which I do not believe it is, we are not obligated to provide Americans only the bare constitutional minimum. For example, the Constitution only prohibits intentional racial discrimination by State and local government employers. Yet the proponents of this bill want to place in title VII rules barring unintentional conduct causing disparate impact.

The Constitution does not prohibit racial or gender discrimination by private employers, but Congress outlawed it in 1964 and gave people a right to sue in Federal court.

The Constitution does not grant compensatory or punitive damages for such discrimination, but this bill does.

The Constitution does not prohibit racial discrimination in the terms and conditions of private contracts, but we are agreed that we should do so in section 1981, and this bill does so.

The Constitution does not prohibit racial and disability discrimination in private housing, but Congress outlawed such discrimination and gave people a day in court to vindicate those rights.

Similarly, even if section 6 is constitutional, why should we grant the bare minimum required by the Constitution when it comes to equal protection of the law? Why shouldn't Jim Henson and others have a right to a day in court if they feel they are being denied that equal protection of the law? Senators do not really need constitutional experts to decide how to vote on this amendment. They just need to ask themselves—is it fair to keep out of court people who are asserting equal protection claims? They do not win their case under this amendment. They just get a chance to be heard after they are actually harmed by implementation of a consent decree.

This bill gives plenty of rights to women and minorities not required by the Constitution. Why should we not allow a right for a day in court to allow people to protect their civil rights and their right to equal protection of the laws?

Mr. President, there are some additional problems with this bill that we have not yet discussed. They help convert title VII from a statute aimed at conciliation and settlement into a statute which will foster costly, protracted litigation, and exacerbate conflict in the work force. Several important provisions of this bill have been little remarked upon, but will have a profound effect on title VII litigation, removing incentives to settle cases.

PRICE WATERHOUSE

Historically, our legal system has been premised on the notion that those who commit wrongs must recompense the injured parties for injuries caused by those wrongs. The Civil Rights Act of 1990 takes a far different approach. It provides that where an employment action is taken for both discriminatory as well as legitimate motives, the employer should be liable for injunctive relief, attorney's fees, and costs, even if the action would have been taken without the discriminatory motive. Although compensatory relief has been eliminated, this provision remains a needless spur to litigation.

A much more sensible solution, and one that would prevent unnecessary cases from further clogging already crowded courts, would be to leave intact the Price Waterhouse decision, written by Justice Brennan. Otherwise, we will be doing what Senator Case warned us against when title VII was originally enacted, writing a "thought control bill" that punishes people on the basis of what they think, even if what they do is completely legal.

In section 9, the bill overturns the Supreme Court's decision in Evans versus Jeff D. There, the court reaffirmed the right of parties to resolve all aspects of a dispute including the right to attorney fees. In other words, if the parties to a suit agree to a settlement at some during the litigation, the settlement agreement can cover attorney fees.

The bill requires that any title VII settlement presented to a court must be accompanied by a certification from the parties or their attorneys that a waiver of attorney fees by the plaintiff was not compelled as a condition of settlement. As I understand it, this provision was included to guarantee that plaintiffs and their attorneys could not be coerced into signing settlements that did not provide adequate compensation for the plaintiff's attorney. Apparently, there is a concern that attorneys who cannot get

their share of the settlement from a client will be reluctant to sue employers in the future. Again, it is interesting to see just who is the key group S. 2104 is attempting to protect.

The problem with this provision is that title VII already provides for attorney fees, so the typical settlement will cover this issue as well all other claims. The bill, however, would segregate out the issue of attorney fees and require the parties and their counsel to sign a paper certifying that attorney fees were not compelled to be waived.

Mr. President, how the parties and the lawyers get to a settlement is a matter which should be left to the parties and their lawyers. The bill would have the court review every settlement on this point and allow a disgruntled plaintiff or his or her attorney to revisit the issue after the settlement is agreed to. And, in the case of frivolous lawsuits, they will be even harder to settle.

The bill also undermines the chances for settlement of cases by its treatment of offers of judgment under title VII. This is another instance where the bill departs from the title VII's longstanding emphasis on conciliation and settlement. The Supreme Court's 1985 decision in Marek versus Chesney held that there was no reason to treat title VII cases differently from other civil litigation. Under rule 68 of the Federal Rules of Civil Procedure, up until 10 days before trial, the defendant can offer the plaintiff a dollar settlement. If the plaintiff declines the settlement and goes to trial and wins less than the settlement offer, the employer need not pay the plaintiff's costs incurred after the settlement was declined. Title VII includes attorney fees as part of costs.

This procedure induces the plaintiff to make a realistic assessment of the case and to treat settlement in a reasonable manner. But it does not force the plainiff to settle if the plaintiff thinks a greater amount can be recovered in a trial. It also forces the employer who wants to settle to come up with a settlement figure that has some chance of being accepted by the plaintiff. In this manner, lengthy and costly trials can be avoided.

S. 2104 would effectively eliminate the use of offers of judgment. It does this by taking out existing title VII language that treats attorney fees as part of costs. Thus, under this bill, if a plaintiff rejects an employer's formal settlement offer and later wins a judgment for less than the amount of the offer, the plaintiff can still obtain attorneys fees from the time he rejected the offer. An important incentive for settlement will be lost, and there will be no incentive to force the plaintiff to make a realistic assessment of the case.

Next, section 7 of the bill expands the time for filing a charge to 2 years. Presently, charging parties have up to 300 days in most jurisdictions. They have 180 days if there is no State deferral agency to handle the charge. This has proved to be ample time to file a charge. It is basically the same filing period we provided in the Age Discrimination in Employment Act. Indeed, the existing 300 days is substantially longer than the 180 days for filing a charge under the National Labor Relations Act. By expanding the title VII filing period to 2 years, S. 2104's supporters cannot point to any Supreme Court decisions that needs to be overturned. Instead of encouraging quick resolution of disputes, this bill encourages them to fester, and thus exacerbate tension and discord in the workplace.

In addition, S. 2104 would allow the plaintiff to file a charge not just from the time of the alleged illegal occurrence, as under current law, but also from the time the alleged illegal occurrence "has been applied to affect adversely the person aggrieved, whichever is later." This language overturns at least three Supreme Court decisions: *United Airlines* v. *Evans,* 431 U.S. 553 (1977); *Delaware State College* v. *Ricks,* 449 U.S. 250 (1980); and *Chardon* v. *Fernandez,* 454 U.S. 6 (1981). This opens the door to many stale claims. For example, suppose a person is laid off for intentionally discriminatory reasons in 1990 but does not bring a title VII action within 6 months—or within 2 years, if this provision is changed, per S. 2104. Under current law, this person has foregone his or her title VII claim. If the person is later rehired in 1995, under this bill the person can seek retroactive seniority lost due to the 1990 discrimination, and 2 years of backpay. Moreover, he will be able to seek uncapped compensatory damages and punitive damages of $150,000 or the total of his backpay and compensatory damages as a result of the loss of 5 years seniority and lowered earnings, pain, and suffering since 1990. Oddly, here again, civil rights plaintiffs get two bites of the apple after being harmed. But, an innocent person harmed by implementation of a consent or litigated judgment is effectively barred from bringing a constitutional or civil rights claim. Under these provisions of S. 2104, employers will be forced to defend charges years after events occurred. The existing title VII charge filing requirements are adequate and do not need to be expanded. Even if all of the quota and day-in-court problems are solved, which they are not, the impact of these provisions are profound. They are reason alone to reject this bill.

The latest version of S. 2104 is a seriously flawed bill. It stands for the following propositions:

First, hiring the most qualified applicant is no longer a defense to a charge of discrimination.

Second, employment standards will be seriously eroded.

Third, employers will be exposed to massive back pay liability if their jobs do not reflect statistical balance, that is, quotas, based on race, ethnicity, color, gender, and religion.

Fourth, employers will be required to resort to quota hiring and promotion in order to avoid future liability under the revised theory of discrimination found in this bill.

Fifth, plaintiffs are still able to challenge all of an employer's employment practices upon the mere showing of a racial, ethnic, gender, or religious imbalance in a particular job as compared to the relevant labor pool.

Sixth, upon the showing of this mere imbalance, this failure to meet the quota, the employer is guilty until it proves itself innocent.

Seventh, a far more onerous burden of justification is placed on employers than exists under the Griggs decision.

Eighth, some Americans will be denied their equal opportunity to a day in court to assert the most fundamental rights of all: The right to equal protection of the laws and the right to be free of invidious discrimination.

Ninth, title VII will become a litigation bonanza for lawyers.

Tenth, title VII will be dramatically transformed. It will no longer be a statute encouraging conciliation, settlement of claims, and quick provision of relief to victims of discrimination. It will, instead, be a statute where protracted and costly litigation will be the tool of first resort.

As I said before, the further we as a nation retreat from the principle that all Americans must be treated the same, the closer we come to the guagmire of a spoils system that has more to do with one's birth than one's qualifications. An individual's qualifications and abilities will be less important than the numerical standing of the group to which he or she belongs. And inevitably, group will be pitted against group. The unfortunate fact is that S. 2104 has little to do with the principle or promise of title VII, but it has much to do with creating a brand new era of discrimination.

I am prepared to yield back any time I have.

Mr. METZENBAUM. Mr. President, do I have time remaining?

The PRESIDING OFFICER. The Senator from Ohio controls 2 minutes 57 seconds. The Senator for Utah controls 1 minute.

Mr. CHAFEE. Mr. President I ask unanimous consent I be made a cosponsor of the measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. I yield back the remainder of my time.

Mr. HATCH. I yield back my time.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Nebraska [Mr. EXON] and the Senator from Massachusetts [Mr. KERRY] are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. KERRY] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from Alaska [Mr. STEVENS] are necessarily absent.

I further announce that if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The PRESIDING OFFICER (Mr. LAUTENBERG). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 62, nays 34, as follows:

[Rollcall Vote No. 276 Leg.]

YEAS—62

Adams	Dodd	Lieberman
Akaka	Domenici	Metzenbaum
Baucus	Durenberger	Mikulski
Bentsen	Ford	Mitchell
Biden	Fowler	Moynihan
Bingaman	Glenn	Nunn
Boren	Gore	Packwood
Bradley	Graham	Pell
Breaux	Harkin	Pryor
Bryan	Heflin	Reid
Bumpers	Heinz	Riegle
Burdick	Hollings	Robb
Byrd	Inouye	Rockefeller
Chafee	Jeffords	Sanford
Cohen	Johnston	Sarbanes
Conrad	Kennedy	Sasser
Cranston	Kerrey	Shelby
Danforth	Kohl	Simon
Daschle	Lautenberg	Specter
DeConcini	Leahy	Wirth
Dixon	Levin	

NAYS—34

Armstrong	Hatch	Nickles
Bond	Helms	Pressler
Boschwitz	Humphrey	Roth
Burns	Kassebaum	Rudman
Coats	Kasten	Simpson
Cochran	Lott	Symms
D'Amato	Lugar	Thurmond
Dole	Mack	Wallop
Garn	McCain	Warner
Gorton	McClure	Wilson
Gramm	McConnell	
Grassley	Murkowski	

NOT VOTING—4

Exon	Kerry
Hatfield	Stevens

So the conference report was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE HIGHWAY TRUST FUND FORMULA

Mr. PRESSLER. Mr. President, I have filed an amendment that I plan to offer tomorrow to the reconciliation package regarding the highway trust fund formula change. I am very concerned that the small States are having the formula changed without consideration by the Environment and Public Works Committee.

Next year, the Congress will consider the matter of the 5-year highway bill. In the last highway bill, we reached a very complicated agreement on the highway trust fund formula. It is my strongest feeling that the Committee on Finance quite appropriately can increase a tax that goes into general revenue and the highway trust fund, but the moneys that come out of the highway trust fund and any changes in the allocation formula—require action by the proper committee, the Environment and Public Works Committee.

Mr. President, I know that refunds to States range from at least 85 percent up to amounts above that. But there are many other formulas that are not so favorable to the small States.

For example, in the current savings and loan situation, we can make the argument to some of our friends from Texas that Texas gets more than other States. My State has not had any large-scale failures in savings and loans. I feel we are helping to pay for the sins of other States.

So these various formulas work out in different ways. There are housing formulas. There are some States that have more savings and loan failures than others. Some have more student loan failures. It is hard to allocate these things equally. But we reached an agreement regarding the allocation of highway trust funds in the Environment and Public Works Committee.

I feel that this is being violated in the reconciliation package, because the Finance Committee has gone the extra step of changing the allocation formula, and that is unfair to small States. I speak for a small State; I represent a small State. At the constitutional convention there was debate between the large States and the small States. They agreed to a great compromise, where there were more Members of the House for the large States and two Senators from each State to protect the rights of small States.

This highway trust fund formula is a fundamental example of the need for small State Senators to speak out on behalf of their States. So, Mr. President, I have filed an amendment and shall offer it tomorrow, or at an appropriate time, to the reconciliation package to protect the rights of small States, but also to keep the committee system intact. The Environment and Public Works Committee is supposed to set the highway trust fund formula allocations, and I shall insist that it continues to do so.

I ask unanimous consent that my amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

Beginning on page 22, line 15 of subpart B of part I of subtitle D of title VII, strike all through page 23, line 3.

Mr. PRESSLER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. LEVIN. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

AIRLINE SLOT RESTRICTION REGULATIONS

Mr. DASCHLE. I rise today to discuss my continuing concern that rural States are not sharing equitably in the benefits of our deregulated air transportation system.

It seems that all too often my colleagues and I who represent significant rural constituencies find ourselves coming to the floor of the Senate with our backs against the wall pleading for reasonable access to our national transportation network for rural America. Support for maintenance of the Essential Air Service Program is perhaps the most conspicuous case in point.

Today, however, I take the floor not to argue for additional Federal mandates to promote service to rural areas, but rather to call attention to an opportunity for the Federal Government to promote service to rural areas by easing an existing regulation.

American Airlines has indicated an interest in expanding its service to South Dakota and North Dakota. However, the present slot restrictions at Chicago's O'Hare International Airport effectively prevent the airline from initiating this service.

I understand why slot restrictions are necessary at four of our Nation's busiest airports. While it is clear that slots available for landing and take-off are constrained by congestion concerns, DOT restrictions on the use of slots for small commuter planes simply does not make sense. It prevents airlines from expanding service to small-and medium-sized communities that are still waiting for the full benefits of the deregulated industry. In the meantime, the residents of rural America, in part because of the slot restrictions, continue to pay a high premium for a national air transportation network that does not provide competitive service to them.

American Airlines has petitioned the Department of Transportation to amend the slot restrictions at O'Hare to allow stage 3 aircraft with 110 seats or less to use those slots, and that rulemaking is pending. I support American Airlines' position. If the deregulated airline industry is to work effectively, it should have the flexibility to provide service to new areas. South Dakota and North Dakota are two areas that would benefit from this proposed rulemaking.

Mr. President, the airline industry should be afforded reasonable flexibility to maximize the benefits of deregulation to the public nationwide. Regulations that once served a legitimate public purpose, like those imposing slot restrictions, should be reviewed expeditiously and amended where appropriate.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,040th day that Terry Anderson has been held captive in Beirut.

Again we are reminded of the multitude of frustrations plaguing the families of the hostages remaining in Lebanon. This past weekend an Associated Press journalist, Megan McNiff, interviewed Joseph Cicippio's son, David. Her article identifies Joseph Cicippio's freedom from captivity as his son's greatest hope and the possibility that the Government doesn't care as his greatest fear. I rise today that Mr. Cicippio might know that this body shares his hope. And that this Senator—for one—does care.

CENSORSHIP IN SINGAPORE

Mr. MOYNIHAN. Mr. President, Singapore has been a model of economic success and stability. Nonetheless, the Government of Singapore continues to exhibit a deep mistrust of its own citizens. This is clearly shown by its continued censorship, especially its censorship of foreign periodicals. Government officials apparently believe that Singaporeans cannot be left to make their own judgments. In short, the Government believes in a vigorous economic marketplace, but will not allow freedom in the marketplace of ideas.

According to the Department of State "Country Reports on Human Rights Practices for 1989" "The [Singaporean] Constitution permits official restrictions on the freedom of expression. In practice, freedom of speech and press is circumscribed * * *." This unfortunate fact was again illustrated yesterday when the Wall Street Journal announced that the Government of Signapore's harassment of its sister publication, the Asian Wall Street Journal, has become so intense that it has been forced to suspend circulation in Singapore. Moreover, today the New York Times reports that Singapore's Prime Minister, Lee Kuan Yew, has launched another attack on "the foreign press," blaming the media for the Tiananmen Square massacre. His attacks on the far Eastern Economic Review are well known, indeed infamous.

This intolerance of criticism and free speech reflects deep—and irrational—fears. Singapore is a strong and stable society. Its people are intelligent and well-educated. It has prospered as few nations have through a vigorous capitalist economy. Yet, in 1987–88 the Government arrested, rearrested, and apparently mistreated nine of its citizens for participating in an alleged "Marxist plot." The reaction to the supposed "threat" from these nine individuals was so wildly out of proportion to any conceivable threat—even assuming the Government's most extreme claims—that it defies explanation.

Worse. This type of hostility toward dissenting views and repression of speech and association run the danger of creating the very discontent that they purport to suppress. The Government cannot suppress thought. Trying to do so only invites instability.

Mr. President, during the cold war the United States embraced many nations which did not share our commitment to free speech and human rights. But the cold war is over. Anti-communism will no longer justify drawing close to nations which suppress freedom within their own borders. One wonders, therefore, about reports that the United States is negotiating with the Government of Singapore concerning the possibility of basing United States military operations in Singapore. Is this necessary? More importantly, given the Government of Singapore's distrust of its own citizens, is it wise? The Government's continued censorship and excessively paternalistic attitude toward its citizens raise very substantial doubts about the wisdom of reaching any cooperative military agreement with the Government of Singapore.

Mr. President, I ask unanimous consent that yesterday's Wall Street Journal editorial and today's New York Times article be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 15, 1990]

A MATTER OF REGRET

We'd like to express our regret, to readers of the global Wall Street Journal, that we are suspending our remaining circulation in the Republic of Singapore. We have concluded that trying to meet the conditions being imposed by the government of Singapore would degrade the integrity of the publication we offer readers throughout the world.

We take this step in a mood of sorrow rather than petulance. We have gone to great efforts to win global circulation for The Wall Street Journal, The Asian Wall Street Journal and The Wall Street Journal Europe, and are proud to count 114 nations where they circulate. We hate to lose any, let alone one with Singapore's prosperity and promise. The Asian Journal and our sister publication, the Far Eastern Economic Review, have taken the brunt of Singapore's efforts to control the foreign press; we have borne this difficulty precisely because of the esteem we hold for its people, its businessmen and their accomplishments.

When Singapore restricted the circulation of the Asian Journal from 5,000 to 400 copies in 1987, our legal counsel advised us to withdraw the remaining copies, advising that they served principally to subject us to the jurisdiction of Singaporean law. Instead, we defended ourselves vigorously in Singapore courts, with little prospect of immediate success, at great expense, and at great turmoil to our editors and executives. In the course of events, our editor and our publisher in Asia have been served with contempt-of-court charges carrying potential jail sentences, and the president of Dow Jones & Co. has been sued for libel on the basis of statements made in New York City. Yet rather than abandon Singapore, we have persisted for the sake of 400 copies.

The government of Singapore has now chosen to codify and augment its press practices in a new licensing law, requiring a license to circulate and providing a government minister with a range of peremptory powers, including the restriction of circulation, an apparently unlimited power to impose conditions on licensing, a requirement for a bond against legal judgments and so on. Its First Deputy Prime Minister has announced that offshore publications may be required to sign a statement agreeing not to claim rights under the Singapore constitution in lawsuits, apparently to spare authorities the embarrassment of defending their actions in public court hearings.

What worries us here is not any one provision. Governments in many nations can already ban us overnight. Other governments require licenses. With or without bonds, we pay valid judgments against us. What wor-

ries us is the purpose to which, five years of experience warns us, these powers will be put.

What the government of Singapore wants is for the foreign press to practice self-censorship. A facade of factual reporting will be allowed, but any statement by authorities must be taken at face value; lest it disturb either the political monopoly of the People's Action Party or the pretense of democracy, the press shall not report the opinions of critics within Singapore, let alone the defenses of those in disputes with the government. Those publications that cooperate will be rewarded with larger circulations, as Time Warner Inc.'s Asiaweek was after its recent cover story on retiring Prime Minister Lee Kuan Yew. Those that insist on independence will be hauled into court, handcuffed in defending themselves, forfeit bonds held by the minister, then post new bonds and sign new waivers for their next license.

We think our reporters, editors and publishers have already proved themselves as courageous as any, but see little to be gained by sentencing them to the labor of Sisyphus. Yet we cannot accept the Singapore government's implicit bargain and practice self-censorship. Our aim is to offer our readers around the world one thing: an independence of judgment, the assurance that whatever mistakes we make are our own, not the result of being bent to someone else's agenda. If we start to censor ourselves over 400 copies in Singapore, readers the world around will have reason to doubt our credibility. Yet we have little else to sell, and little else to contribute to a larger public purpose.

We will continue to report on Singapore as best we can from afar, as we have with other inhospitable nations in the past. We regret the inconvenience to traveling readers, and to the 5,000 whc once read us in Singapore. We hope that some future government will someday find it in the interest of Singapore to have us back, as governments of other nations also have. But we are determined that when we circulate in Singapore it will be with our credibility intact.

[From the New York Times, Oct. 16, 1990]

SINGAPOREAN CITES SIREN SONG OF TV

(By Steven Erlanger)

BANGKOK, THAILAND, October 15.—On the day that The Asian Wall Street Journal decided to stop circulation in Singapore because of press restrictions, Singapore's Prime Minister, Lee Kuan Yew, blamed television reporting for the deaths near Tiananmen Square in Beijing in June 1989.

Mr. Lee made the remark today in Hong Kong, in a speech to the Commonwealth Press Union, before leaving for China. His trip there will be his first since Singapore normalized relations with Beijing in August.

Mr. Lee said Chinese students had been seduced by television coverage of demonstrations in the Philippines and South Korea into believing that they could alter conditions in China.

Such coverage, more than any desire for freedom, he said, encouraged Chinese students to protest.

"China's students forgot that China was a very different country from either the Philippines or South Korea, two countries with close links with the United States, where the media and Congress wield immense influence."

TELEVISION IS BLAMED

Television was responsible for this amnesia, he suggested, saying, "I believe it is this contextless television experience that led to the tragedy of Tiananmen on June 4." On that day, the Chinese Army attacked demonstrators and killed at least several hundred in the streets around the square.

Mr. Lee, who was educated in Britain as well as Singapore, has often spoken of the damage done to Singapore's Asian nature by the individualism of Western values, and often praises his own understanding of Confucianism as a system of communitarian hierarchy and respect.

In a similar fashion, he criticized China's students for not understanding the need for patience and circumspection in their dealings with their aged leaders.

"They had achieved a dialogue with Government leaders," he said. "If they had been patient and circumspect, they could have contributed over 10 years to the gradual opening up of the system, which had already started."

Mr. Lee, 67 years old, is stepping down as Prime Minister in November after more than 30 years in office. A blunt and combative man, he enjoys annoying journalists and challenging their assumptions about how Asian societies function.

HONG KONG PRESS CRITICIZED

In this vein, he also criticized "the foreign press" in Hong Kong, a British colony, for trying "to foist Western values" on the citizens there. He said the Western press had "crusaded for their vision of democracy" in Hong Kong and had thus caused the Hong Kong stock market to fall after the killings in Beijing.

By the Western press, Mr. Lee seemed to have in mind The Asian Wall Street Journal and its sister publication, The Far Eastern Economic Review, both owned by Dow Jones & Company, which have been regular targets for his criticism and libel suits in Singapore.

The Journal and the Review, whose reporters are not allowed to work in Singapore, are the only regional publications in Asia that try to provide Western standards of objective journalism to the societies there. Mr. Lee has had running battles with both publications since 1987, when he restricted the Journal's circulation in Singapore from 5,000 copies to 400, contending that the paper was interfering in Singapore's internal affairs.

The Journal had published an article about Singapore's plans for its stock market but refused to publish the entire text of a 1,500-word letter the Government wrote in response. Singapore also limited the Review to 400 copies for its reporting on political opposition in Singapore and the treatment of dissidents there. In response, the Review stopped its circulation altogether, causing Singapore to alter its copyright laws to allow a local, advertisement-free reprint of the Review to be sold.

PAPER HALTS CIRCULATION

The Journal fought in the courts to restore its circulation. But after the publication of new regulations on the foreign press, approved by Singapore's Parliament on Aug. 30, the Asian Journal announced in an editorial today that it, too, was halting its circulation in Singapore.

The regulations require foreign publications to post an unspecified security deposit against legal judgments and obtain an annual permit if they distribute more than 300 copies in Singapore and carry articles on politics or current affairs in "any country in Southeast Asia," a requirement that will also apply to the Paris-based International Herald Tribune, partly owned by The New York Times and The Washington Post.

Mr. Lee's announced successor, First Deputy Prime Minister Goh Chok Tong, has also said that foreign publications may be required in the future to sign a waiver of rights under the Singaporean Constitution in lawsuits, the Journal's editorial said.

"What worries us is the purpose to which, five years of experience warns us, these powers will be put," the paper said. The Singaporean Government wants the foreign press "to practice self-censorship," it continued. "A facade of factual reporting will be allowed," it said, but nothing to disturb what the Journal called "the political monopoly of the People's Action Party or the pretense of democracy."

Tonight in Hong Kong, Mr. Lee called the Journal's decision unimportant. "Besides," he said, "anything of importance is immediately faxed to anyone who's got an interest in knowing it."

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:05 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 3091) to amend the act incorporating the American Legion so as to redefine eligibility for membership therein; without amendment.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 4238) to amend the Public Health Service Act to extend various programs with respect to vaccine-preventable diseases.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 4757) to provide permanent authority for the U.S. Supreme Court Police.

The message also announced that the House agrees to the amendments of the Senate to the joint resolution (H.J. Res. 520) granting the consent of Congress to amendments to the Washington metropolitan area transit regulation compact.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4956. An act to revise, codify, and enact without substantive change certain general and permanent laws, relating to transportation as subtitles II, III, and V-X of title 49, United States Code, "Transportation", and to make other technical improvements in the Code; and

H.R. 5769. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4956. An act to revise, codify, and enact without substantive change certain general and permanent laws, related to transportation, as subtitles II, III, and V-X of title 49, United States Code, "Transportation", and to make other technical improvements in the Code; to the Committee on the Judiciary.

H.R. 5769. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes; to the Committee on Appropriations.

The following bill, received from the House of Representatives for concurrence on October 12, 1990, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5388. An act to designate certain lands in the State of North Carolina as wilderness, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

The following bills, previously received from the House of Representatives for concurrence, were read the first and second times by unanimous consent, and referred as indicated:

H.R. 5004. An act to amend the Wild and Scenic Rivers Act to designate certain segments of the Mills River in the State of North Carolina for potential addition to the wild and scenic rivers system; to the Committee on Energy and Natural Resources.

H.R. 5497. An act to authorize the Secretary of the Interior to acquire certain lands to be added to the Fort Raleigh National Historic Site in North Carolina; to the Committee on Energy and Natural Resources.

H.R. 5507. An act regarding the Early Winters Resort; to the Committee on Energy and Natural Resources.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 16, 1990, he had presented to the President of the United States the following enrolled bills:

S. 2540. An act to authorize the Board of Regents of the Smithsonian Institution to plan, design, construct, and equip space in the East Court of the National Museum of National History building, and for other purposes.

S. 3046. An act to redesignate the Federal building located at 1 Bowling Green in New York, NY, as the "Alexander Hamilton United States Custom House."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

S. 2500. A bill to amend title 23, United States Code, to control billboard advertising adjacent to Interstate Federal-aid primary highways, and for other purposes (Rept. No. 101-532).

By Mr. REID, from the Committee on Appropriations, without amendment:

S. 3207. An original bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 1991, and for other purposes (Rept. No. 101-533).

By Mr. BYRD, from the Committee on Appropriations, with amendments:

H.R. 5769. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes (Rept. 101-534).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without recommendation without amendment:

H.R. 5170. A bill to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1991 and 1992, to improve aviation safety and capacity, to reduce the surplus in the Airport and Airway Trust Fund, to authorize the Secretary of Transportation to grant authority for the imposition of airport passenger facility charges, and for other purposes.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment:

S. 982. A bill to repeal a provision of Federal tort claim law relating to the civil liability of Government contractors for certain injuries, losses of property, and deaths and for other purposes.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 3094. A bill to authorize certain programs of the Federal Aviation Administration, to require the Secretary of Transportation to implement a National Noise Policy, to authorize airport passenger facility charges as an exception to the general prohibition of state taxation of air commerce, and to repeal certain regulations pertaining to airport operating slots.

By Mr. SASSER, from the Committee on the Budget, without amendment:

S. 3209. An original bill to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1991.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WARNER:

S. 3205. A bill to expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Virginia; to the Committee on Energy and Natural Resources.

By Mr. BURNS:

S. 3206. A bill to provide for the disposition of certain Federal lands created from the public domain in the State of Montana, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. REID, from the Committee on Appropriations:

S. 3207. An original bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 1991, and for other purposes; placed on the calendar.

By Mr. MITCHELL (for himself and Mr. COHEN):

S. 3208. A bill to amend section 11122 of title 49 United States Code, relating to freight cars; to the Committee on Commerce, Science, and Transportation.

By Mr. SASSER, from the Committee on the Budget:

S. 3209. An original bill to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1991; placed on the calendar.

By Mr. RIEGLE (for himself and Mr. GARN):

S. 3210. A bill to prevent federally insured savings banks and their affiliates from evading restrictions on risky activities and other safeguards; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WILSON (for Mr. PACKWOOD):

S. 3211. A bill to provide for agency consultation to consider the Northern Spotted Owl; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WARNER:

S. 3205. A bill to expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Virginia; to the Committee on Energy and Natural Resources.

EXPANSION OF BOUNDARIES OF FREDERICKSBURG AND SPOTSYLVANIA COUNTY BATTLEFIELDS MEMORIAL NATIONAL MILITARY PARK

● Mr. WARNER. Mr. President, I rise today to introduce legislation to include land that is historically significant to the Civil War Battle of the Wilderness within the boundaries of the Fredericksburg and Spottsylvania County Battlefields Memorial National Military Park. The same bill has been introduced by my colleague in the House of Representatives, Congressman FRENCH SLAUGHTER.

Mr. President, my colleagues in the Senate will recall that last year they approved legislation later enacted into law authorizing the National Park Service to purchase 762 acres of private land and 593 acres in scenic easements for the expansion of the Military Park. In enacting this legislation, Congress recognized the significance of the Fredericksburg-Spotsylvania area. Four important Civil War battles occurred in this area on the way to the pivotal Battle of Richmond: those of Fredericksburg, Chancellorsville, Wilderness, and Spotsylvania Court House.

The Confederate Army achieved substantial gains during both the bat-

tles of Fredericksburg, in December 1862, and Chancellorsville, in April 1863. The Confederate gain at Chancellorsville was also marred because of the loss of the famed Gen. Stonewall Jackson. During the battles of Wilderness and Spotsylvania Court House both in May 1864, General Grant succeeded in pushing Lee back closer to Richmond, despite significant losses. Although these two battles are viewed by historians as Confederate gains, they mark the beginning of a long campaign in which the Federal Army under Ulysses S. Grant ultimately gained its objectives.

The bill I am introducing is designed to foster the preservation and interpretation of Longstreet's flank attack at Wilderness Battlefield. The site is currently owned by a private developer and slated for housing construction. The landowner has now indicated that he is interested in working with the Park Service, Spotsylvania County officials, and private preservation groups to reach an agreement on the protection of this site. Secretary of the Interior Lujan, who only recently announced a plan to encourage public-private partnerships to protect battlefields, has expressed support for purchase of this land, as the first test of his plan.

At this time, discussions among interested groups have yielded a plan for a private preservation group to purchase the land from the developer and hold it until the Department of the Interior is able to purchase the land. The key to making this idea work is the adoption of the legislation I introduce today. While there is not adequate time to consider this legislation during this Congress, I plan to reintroduce the same bill next year. It is my hope that my fellow Senators will consider and approve this bill expeditiously at that time.●

By Mr. MITCHELL (for himself and Mr. COHEN):

S. 3208. A bill to amend section 11122 of title 49, United States Code, relating to freight cars; to the Committee on Commerce, Science, and Transportation.

BOXCAR INTERCHANGE PROTECTIONS FOR SMALL RAILROADS

Mr. MITCHELL. Mr. President, along with Senator COHEN, I am today introducing legislation to preserve railroad boxcar interchange protections for class II railroads.

Those protections are scheduled to expire on October 30, 1990. In recent years, the Interstate Commerce Commission [ICC] has allowed destination railroads to deduct empty mileage charges from boxcar hire charges or to store empty cars free of such charges. Railroads also are allowed to negotiate agreements governing boxer hire charges, empty movements, and storage. The ICC permanently exempted small class III railroads from this policy, while Class II railroads were provided with only a 4-year exemption which is now due to expire.

On February 27, 1990, the Bangor & Aroostook Railroad, which is a class II railroad, filed a petition to preserve indefinitely the class II exemption under the ICC's boxcar hire rules.

On October 2, 1990, the ICC denied this petition by a 3 to 1 vote. The ICC Office of Compliance and Consumer Assistance had recommended in favor of the petition. The Office of Economics opposed it.

This decision will affect the State of Maine and the Bangor & Aroostock Railroad [BAR] almost exclusively. Of the approximately 3,400 boxcars owned by class III railroads, approximately 2,500 are owned by the BAR. At the same time, the BAR shares many of the basic characteristics of a class III railroad: limited revenues, limited geographic scope, and limited market power.

The BAR also operates from a unique geographic position affecting boxcar traffic in and out of New England. Located in the Northeast tip of the United States, Maine is literally the "end of the line"— except that it is the "beginning of the line" for BAR boxcars which flow out of the State into interstate commerce. As a result, there is a lack of terminating traffic on the line. The Bar is focused on serving local Maine customers in the paper and forest products industry, who ship to larger highly competitive markets, and they require a high quality, exceptionally maintained boxcar fleet.

In the ICC's Voting Conference on October 2, ICC staff argued that the BAR's petition for a permanent exemption was based on an "unproven worst case scenario concerning its ability to adjust to the new interchange system and increase the efficiency of boxcar use" and that the BAR's claims of undue financial burden lacked "documentation or detail." Instead of directly addressing Maine's unique circumstances, the ICC apparently intends that the BAR should first suffer financial loss in order to demonstrate the need for the exemption which thus far has been in force.

The ICC acknowledged that should the BAR lose revenue and declined to class III status, it would become entitled to the permanent exemption. That would require a loss of approximately $6 million in revenue.

The ICC staff viewed the class II exemption as a "cross-subsidization" and argued that the ICC should not "subordinate interests of connecting carriers and their shippers" to those of the BAR and Maine shippers. Instead, the ICC staff recommended, special protections should be limited to class III carriers.

Here again, the ICC did not directly address Maine's special circumstances or the similarity of the BAR to class III carriers. The interests of the State of Maine themselves seem to have been subordinated to a myopic adherence to strict theory and strict revenue threshholds.

The one dessenting ICC Commissioner noted the BAR's similarity to a class III railroad, its lack of direct connection to other railroads, lack of terminating traffic, and lack of access to boxcars in traffic. When asked whether "geographical location makes any difference," the ICC staff responded that it did not—but without offering adequate explanation.

The ICC staff acknowledged that loss of the protection "will have some effect" on the BAR's revenues, but offered no detailed estimate. Furthermore, the BAR "might very well be able to negotiate with others to minimize any adverse impact." The ICC staff then noted that the BAR 4 years ago supported "what was at the time a political solution in terms of an agreement between Conrail and small class III carriers which provided, if you will, for the class II to get accustomed to life in a different environment."

The dissenting ICC Commissioner noted that the "political solution" preserving the class II exemption for 4 years probably was little more than the best, pragmatic result that could be negotiated. Nothing in terms of Maine's unique circumstances have changed since then. The dissenting Commissioner declared: They took what they could get 4 years ago and got the 4 years and they weren't going to complain * * * their geographical location certainly hasn't changed nor have the traffic patterns changed."

The ICC staff's transactional analysis seemed to argue that if the BAR "had made serious and significant attempts to negotiate arrangements for a car hire and movements of empty cars * * * that if these negotiations had been unsuccessful," then perhaps the recommendation and decision might have been different. This view—and the view that the BAR still can negotiate to "minimize" adverse impacts—ignores the lack of negotiating leverage for a small carrier in its position.

Even though the BAR by revenue is a class II carrier, its circumstances are more like those of a class III carrier. The ICC did not directly address or discuss these special circumstances other than to affirm that special protections are necessary for class III carriers.

In the voting conference, the ICC Chairman observed that "It is always unfortunate that whenever a line must be drawn there are people close to the line on both sides, but that lines must be drawn for practical purposes."

It this case, however, the line apparently was drawn less for practical purposes than theoretical ones. If agency judgment is in error in drawing such lines, Congress retains the power to correct them.

The intent of the legislation is intended to restore practicality by preserving the exemption for class II railroads. At the same time, Senator COHEN and I recognize the ICC's concern for economic efficiency. The protection of the exemption should be justified by special circumstances, and should be reasonable in relation to its purpose. Under the legislation, "special circumstances" shall be deemed to exist when, except for purely intrastate commerce, the ratio of freight cars loaded on a railroad to those unloaded is greater than 2 to 1.

This approach at least seems more appropriate than the situation now created by the ICC, where eligibility for the exemption is based entirely on a class II and class III distinction as determined by revenue.

Earlier this year, the Maine congressional delegation indicated to the ICC a desire to work with the agency in addressing such issues. That is still our intention and desire. There may be other formulations—or solutions—which can serve the purpose of this bill.

We are interested in exploring all possible solutions. One other alternative may be simply to adjust the revenue threshold for class II carriers—which also at least seems more reasonable then requiring a small carrier with special circumstances first to lose revenue in order to qualify for the exemption.

We welcome the assistance of the ICC and other carriers in reaching an appropriate balance of interests. We would prefer that legislation ultimately not be necessary. However, we also are committed to representing the interests of the State of Maine in this issue.

Mr. COHEN. Mr. President, I am pleased to join with Senator MITCHELL in sponsoring legislation which would extend to the Bangor & Aroostook Railroad in Maine the basic boxcar hire and car service exemptions which are made available to class III railroads.

In 1986, boxcar interchange protection was accorded to class III railroads on a permanent basis. Class II railroads, such as the Bangor & Aroostook serving Maine, were given 4 years of the same protection. The class II exemption expires this month.

Located in the northeast tip of the continental United States, Maine is truly "the end of the line." Small carriers like the Bangor & Aroostook are completely focused on serving local Maine customers, particularly in the paper and forest products industries, who compete in larger, highly competitive markets. Maine paper shippers require a high quality, exceptionally maintained boxcar fleet. The Bangor & Aroostook needs a dependable stream of boxcar revenue to maintain its fleet and acquire additional boxcars. Loss of the exemption would threaten this revenue stream and the ability of the Bangor & Aroostook to support Maine industries which depend on the railroad.

I believe therefore, it is entirely appropriate to extend to the Bangor & Aroostook the protection that is permanently maintained for class III carriers. The Bangor & Aroostook shares the basic characteristics of class III carriers such as limited revenues, limited geographic scope, and limited market power. It also operates from a unique geographic position affecting boxcar traffic in and out of the State.

The Interstate Commerce Commission considered such exemption in Ex Parte No. 346 (Sub-No. 19B). The entire Maine congressional delegation, Maine's railroad shippers, and the Interstate Commerce Commission's Office of Compliance and Consumer Assistance all recommended this exemption be extended to the Bangor & Aroostook. However, on a split 3 to 1 vote, the Commission decline to extend the car hire protection. It is apparently the Commission's view that the interests of northern Maine can be adequately served through a series of bilateral agreements between the Bangor & Aroostook and its connecting railroads.

I sincerely hope that it will be possible for the Bangor & Aroostook to negotiate a series of agreements which will give a measure of financial and operational predictability for their Maine boxcar fleet. However, I have continuing concern whether a small company will have adequate leverage in negotiations with multibillion-dollar mega railroads. In the event bilateral negotiations are not sufficient to protect Maine's interests, the enactment of this legislation will be both appropriate and necessary.

By Mr. RIEGLE (for himself and Mr. GARN):

S. 3210. A bill to prevent federally insured savings banks and their affiliates from evading restrictions on risky activities and other safeguards; to the Committee on Banking, Housing, and Urban Affairs.

SAVINGS BANK SAFETY AND SOUNDNESS ACT OF 1990

● Mr. RIEGLE. Mr. President, for myself and Senator GARN, I rise to introduce the Savings Bank Safety and Soundness Act of 1990, a small but important piece of legislation that is urgently needed to close a loophole in last year's thrift rescue legislation.

Last year's legislation, the Financial Institutions Reform, Recovery and Enforcement Act of 1989, imposed sharp restrictions on the powers of State-chartered thrift institutions. Those restrictions were essential. During the 1980's a number of States had vastly expanded the permissible activities of State-chartered thrifts. During its 1989 hearings on the condition of the thrift industry, the Banking Committee heard about State-chartered thrifts making all kinds of extremely risky investments—windmill farms, junk bonds, you name it—all underwritten by Federal deposit insurance.

The consequences of that situation were tragic for America's deposit insurance system and its taxpayers. Fifty-four percent of the Federal Government's savings and loan deposit insurance losses in 1987 and 70 percent of such losses in 1988 were attributable to State-chartered thrift institutions in Texas and California alone, two of the States that led the charge on expanding the permissible activities of their thrift institutions.

FIRREA put an end to such abuses by generally restricting State-chartered thrifts to activities permissible for federally chartered institutions. No more junk bonds. No more direct investments. Sharp limits on commercial real estate lending. And a sharp limit on the quantity of loans those institutions could make to a single borrower.

We should have learned an important lesson: States should not be permitted to exploit Federal deposit insurance for the benefit of the local tax base. I thought we had all learned that lesson. I wish we had all learned it. But it appears that some of the States did not.

On September 27, the Director of the Office of Thrift Supervision, Timothy Ryan, drew the Banking Committee's attention to the problem. He said:

[T]here is a movement afoot in a number of states to pass legislation creating a savings bank charter that could allow many institutions that we know today as "savings association" to escape many of the FIRREA reforms. . . . [Such legislation would give State-Chartered savings banks] broader authorities than savings associations have in key areas including the qualified thrift lender test, the scope of permissible investments, the applicable limits on junk bond holdings, and the limits on commercial real estate lending. We believe that the savings bank legislation creates a mechanism for depository institutions that were clearly within the purview of the Congress' FIRREA reforms to escape the reach of those reforms by operating under a different kind of charter.

Charter flips allow State-chartered thrifts to get out from under the restrictions of FIRREA for the simple reason that FIRREA's restrictions apply to institutions under OTS regulation. But the primary regulator of State-chartered savings banks is the FDIC. And while the FDIC has legal authority to impose comparable restrictions on the institutions it regu-

lates, it has not chosen to do so. An article in the October 5 Washington Post by Jerry Knight brought out the fact that insolvent savings banks are still operating, potentially at significant government expense. The article noted, in part, that:

> The biggest savings bank in the nation is already broke and all-but-certain to require a government rescue costing upwards of $1 billion. Six New England savings banks with more than $1 billion apiece in deposits are struggling to survive.

I commend Director Ryan for bringing the problem of charter conversions to the attention of Congress. It is clearly a legitimate issue. In the 13 months since FIRREA's enactment three States have enacted new legislation permitting State-chartered thrifts to convert to savings bank charters, and I understand that another 8 States are considering such legislation.

In the Wall Street Journal of October 16, reporter Paul Duke notes that "State regulators dispute the assertion that the savings bank charter allows thrifts to dodge federal restrictions" and he quotes Sarah Hargrove, Secretary of Banking in Pennsylvania, as saying that "[t]hat is the most specious argument they could come up with."

But it is not a specious argument. Lest there be any doubt whatever on this point, let me put in the record an August 20 memorandum summarizing the "advantages of converting" from a thrift charter to a savings bank charter. This memorandum was discussed in The Savings and Loan Reporter of October 12, 1990. The first advantage the memorandum lists is "escape from OTS regulation, supervision, and examination." The second advantage it lists is "no QTL test." The third advantage is "no loan-to-one-borrower regulation."

Simply put, this memorandum is a roadmap for evasion of the restrictions on State-chartered thrift activities that Congress enacted last year.

Congress should not permit such evasion. There is no reason why savings banks should not face the same safety and soundness regulations that other insured depository institutions face. There is no reason why they should enjoy forebearances that other insured depository institutions do not. And there is no reason at all why Congress should stand idly by and allow the ranks of such institutions to swell through charter conversions.

I recongize it is late in the session. I recognize the procedural obstacles to closing this loophole in FIRREA this year. But I encourage my colleagues, in both Houses, to take a look at the legislative language we are introducing with a mind toward closing that loophole as soon as we can. I think it does the job. It stops thrift institutions from using charter conversions to get around the activity restrictions of FIRREA.

I ask unanimous consent to place in the record the articles from the press I have mentioned; the text of the legislation we are introducing today; a brief description of its contents; and a letter from the Director of the Office of Thrift Supervision, Mr. Ryan, endorsing legislation to correct the charter converison problem. I should note that the bill we are introducing today incorporates substantially all of Mr. Ryan's suggestions for legislative reform.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Savings Bank Safety and Soundness Act of 1990".

SEC. 2. PREVENTING SAVINGS BANKS FROM EVADING RESTRICTIONS ON RISKY ACTIVITIES, LIMITS ON LOANS TO ONE BORROWER, AND OTHER SAFEGUARDS.

(a) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended—

(1) in subsection (a)(1)—

(A) by striking "(1) BANK.—The" and inserting the following:

"(1) BANK.—

"(A) Except as provided in subparagraph (B), the";

(B) by redesignating clauses (i) and (ii) of subparagraph (B) as subclauses (I) and (II), respectively;

(C) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(D) by inserting at the end the following new subparagraph:

"(B) The term 'bank' excludes a savings bank that is a Savings Association Insurance Fund member.";

(2) in subsection (a)(2), after "savings bank", by striking the comma and inserting "that is a Bank Insurance Fund member,"; and

(3) in subsection (q)(4), by inserting ", any savings bank that is a Savings Association Insurance Fund member," after "any savings association".

(b) AMENDMENT TO THE HOME OWNERS' LOAN ACT.—Section 2(4) of the Home Owners' Loan Act (12 U.S.C. 1462(4)) is amended by inserting at the end the following: "The term 'savings association' includes a 'savings bank' (as defined in section 3 of the Federal Deposit Insurance Act) that is a Savings Association Insurance Fund member."

SAVINGS BANK SAFETY AND SOUNDNESS ACT OF 1990 SECTION-BY-SECTION SUMMARY

SECTION 1. SHORT TITLE

This section designates the bill as the "Savings Bank Safety and Soundness Act of 1990".

SECTION 2. PREVENTING SAVINGS BANKS FROM EVADING RESTRICTIONS ON RISKY ACTIVITIES, LIMITS ON LOANS TO ONE BORROWER, AND OTHER SAFEGUARDS

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 prohibited federally insured thrift institutions from investing in junk bonds, limited thrifts' exposure to commercial real-estate lending, restricted risky State-authorized powers, limited the amount of money a thrift could loan to any one borrower, and imposed other safeguards on thrifts' operations. But many thrifts are now seeking to evade these safeguards by reclassifying themselves as "savings banks" rather than "savings associations."

This section makes it clear that thrift institutions insured by the Savings Association Insurance Fund cannot escape FIRREA's safeguards by becoming "savings banks."

DEPARTMENT OF THE TREASURY,
OFFICE OF THRIFT SUPERVISION,
Washington, DC, October 11, 1990.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE: I know from your comments at the Committee's hearings on September 27th that you are concerned about the growing phenomenon of savings associations attempting to circumvent the requirements of FIRREA simply by changing the form of their charter to become state "savings banks." I share your concern. In my view, these efforts to change savings bank laws are attempts to evade FIRREA's reforms by elevating the form of the charter over the substance of that statute's requirements. They are inconsistent with the general principle that thrift institutions operating with the protections afforded by federal deposit insurance under the Savings Association Insurance Fund, must submit, in return, to the safeguards provided by federal law. At the same time, I would point out that FIRREA provides thrifts with the option to convert to a bank charter, or be so regulated, while remaining SAIF-insured.

The Office of Thrift Supervision has prepared draft legislation that would make absolutely clear that such FIRREA-evasion will not succeed. The Office of Management and Budget advises that there is no objection to the submission of this draft report to Congress from the standpoint of the Administration's program. This draft would clarify that all SAIF-insured thrifts are regulated as savings associations and are therefore subject to all of the safeguards and restraints that FIRREA imposes on savings associations.

Thank you for your attention to this important issue. My staff and I stand ready to provide any further assistance you may need.

Sincerely,

TIMOTHY RYAN,
Director.

WOLF, BLOCK, SCHORR &
SOLIS-COHEN
Philadelphia, PA, August 20, 1990.

To: Our Pennsylvania Thrift Clients.
From: Alan S. Kaplinsky.
Re Conversion to a Pennsylvania State-Chartered Savings Bank.

During the past few months, we have spoken to many of our thrift clients about the significant advantages of converting from a Federal or State savings and loan association or Federal savings bank charter to a Pennsylvania state-chartered savings bank. We are sending you this memo to make sure that you have received this information.

Several Pennsylvania savings and loan associations have already announced plans to

convert to State savings banks.[1] If your institution has not yet carefully considered this option, we urge you to do so promptly since we fear that this "window of opportunity" will shortly be closed. The purpose of this memo is to provide you with a thumbnail sketch of the advantages of converting and the procedure which must be followed in order to convert. Obviously, the advice provided in this memo is general in nature. The feasibility of conversion for your institution may be determined only after analyzing your unique circumstances. We have already done such an analysis for several of our thrift clients and we would be delighted to provide you with a similar analysis on an expedited basis.

The first part of this memo will discuss the regulatory framework for savings and loan associations and federal savings bank located in Pennsylvania versus state savings banks located in Pennsylvania. The second part of this memo will discuss the advantages of converting to a state savings bank. The third part of this memo will discuss certain other factors which should be considered. The fourth part of this memo will discuss the conversion procedure.

I. REGULATORY FRAMEWORK AND BACKGROUND

A federal savings and loan association or federal savings bank is regulated, supervised and examined by the OTS and the Federal Deposit Insurance Corporation (the "FDIC"). A state savings and loan association [2] is regulated, supervised and examined by the OTS, the FDIC and the Pennsylvania Department of Banking (the "Department").

A state savings bank is regulated, supervised and examined by the Department and either the Federal Reserve Board (if it elects to become a member of the Federal Reserve System) or the FDIC (if it elects not to become a member of the Federal Reserve System). The important point is that a state savings bank is not regulated, supervised and examined by the OTS. A state savings bank's deposits would continue to be insured by the SAIF.

A federal savings and loan association or federal savings bank is governed principally by the Federal Home Owners Loan Act of 1933 (the "HOLA"). A state savings and loan association is governed principally by the HOLA and the Pennsylvania Savings Association Code of 1967. A state savings bank is governed principally by the Pennsylvania Banking Code of 1965 (the "Banking Code") (the same statute which governs state commercial banks), and either the Federal Deposit Insurance Act (if it elects not to join the Federal Reserve System) or the Federal Reserve Act (if it elects to join the Federal Reserve System).

One unfortunate by product of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA") is that it subjects all healthy OTS-regulated thrifts to very onerous regulatory shackles (e.g., loans-to-one borrower limits similar to national banks, qualified thrift lender test). These onerous FIRREA provisions do not apply to state savings banks.

There has been much discussion in recent months about the desirability of converting from a thrift to a commercial bank. This is not a practical alternative, at present, for many thrifts [3] because of the: (1) severe federal tax liability which may be triggered by the recapture of the bad debt reserve, (2) inability of a mutual thrift to convert to a commercial bank, and (3) OTS' resistance to such applications. None of these drawbacks apply to state savings banks.[4]

Until recently, only a handful of states, including Pennsylvania, provided for the separate chartering of state savings banks. Thus, the risk that OTS might lose all of their healthy thrifts was minimal. Unfortunately, thrifts located in states which did not provide for a state savings bank charter have lobbied their legislators to authorize such a charter. Quite recently, Illinois and Indiana passed state savings bank laws. Several other states, including Texas, are considering bills that would create separate state savings bank charters. If this trend continues (as we expect it will), it is possible that OTS may at some future time resist applications filed by its constituents to convert to state savings banks. In our view, it is only a question of how long it will take before this very attractive option is closed by the OTS. Thus, any delaying in filing a conversion application may result in it being considerably more difficult to obtain approval.

II. ADVANTAGES OF CONVERTING

The following is a brief summary of the significant advantages of converting into a state savings bank:

1. Escape from OTS regulation, supervision and examination and avoidance of OTS examination fees and assessments

OTS, unlike the FDIC or the Federal Reserve Board, has the authority to assess savings institutions for its working capital needs and to impose fees and assessments in connection with its supervisory activities. We believe that in most instances, even after factoring in the expenses of conversion, the "bottom line" net income of your institution will improve during the first year after conversion to a state savings bank by virtue of your avoidance of OTS assessments.

2. No OTL test

A state savings bank, unlike a thrift regulated by OTS, is not subject to the "qualified thrift lender" test which, effective July 1, 1991, will require that 70 percent (increased from 60 percent) of an institution's "portfolio assets" be invested in residential mortgage loans and related qualifying investments.

3. No loan-to-one borrower regulation

One of the most onerous provisions of FIRREA is the one which subjects OTS-regulated institutions to the same loan-to-one borrower regulation which applies to national banks. This FIRREA provision does not apply to state savings banks and there is no other state or federal law (other than general "safety and soundness" concerns) which subjects state savings bank to a loan-to-one borrower restriction.

4. Broader investment authority

Pennsylvania savings banks may invest greater amounts than OTS/regulated thrifts in service corporations and in real estate development. In fact, in light of a recent amendment to the Banking Code, Pennsylvania savings banks are authorized to invest up to 3 percent of assets (or such higher amount as is approved by the Department) in service corporations, up to 1 percent of assets in real estate and, with the approval of the Department, up to 3 percent of assets (limited to no more than 1 percent of its assets in a particular investment) in "wild card" investments (i.e., investments not otherwise authorized by the Banking Code). Also, Pennsylvania savings banks may lend unlimited amounts to service corporations. By contrast, OTS-regulated thrifts may invest up to 2 percent of assets in service corporations and may make "conforming loans" to service corporation subsidiaries up to 50 percent of capital; they may not engage directly in real estate development. In addition, state savings and loan associations may not generally engage in activities which are not permitted to a federal savings and loan association. Finally, a state savings and loan association (but not a state savings bank) now needs FDIC approval in order to organize a service corporation.

5. Broader lending authority

Pennsylvania savings banks have more authority than OTS-regulated thrifts in terms of the aggregate amount of commercial loans, commercial real estate loans and consumer loans they may make. Prior to FIRREA, it was possible for a federal or state savings and loan association or a federal savings bank to invest up to 40 percent of total assets in loans secured by nonresidential real property. As you know, FIRREA reduced this limit to only 400 percent of capital. State savings banks are not subject to any limitations with respect to the percentage of assets which may be invested in loans secured by nonresidential real property.

OTS-regulated thrift institution may only invest up to 10 percent of their assets in commercial loans not secured by real estate. State savings banks, on the other hand, are permitted to invest up to 20 percent of their assets in commercial loans not secured by real estate.

A state savings bank may make consumer loans up to 30 percent of its assets without having to include commercial paper an corporate debt securities in this "basket" (as is the case with OTS-regulated thrifts).

6. Membership in the Federal Home Loan Bank System

A state savings bank has the same membership privileges in the Federal Home Loan Bank System as an OTS-regulated thrift. Some of our clients have expressed an interest in relinquishing their membership in the Federal Home Loan Bank System and redeeming the Federal Home Loan Bank stock which they own. It is not yet clear whether an OTS-regulated thrift will be able to do so. A state savings bank, however, does not need to be a member of the Federal Home Loan Bank System. For thrift institutions that generally do not borrow from the Federal Home Loan Bank of Pittsburgh, it may, in fact, make sense to relinquish membership in the Federal Home Loan Bank System since new obligations imposed upon the Federal Home Loan Banks by FIRREA have already significantly reduced the dividends they are paying to members.

III. OTHER FACTORS TO CONSIDER

1. Capital requirements

The capital regulations that apply to different types of depository institutions are substantially similar in nature. Most OTS-Regulated institutions that are in compliance with the three aspects of the new capital regulations should also be in compliance with the capital requirements that would apply to a state savings bank.

2. Federal and Pennsylvania taxation

Converting to a state savings bank charter would have no adverse federal or state income tax consequences. Because of the Pennsylvania Mutual Thrift Institutions Tax, we have recommended to a number of our clients that they consider organizing a Delaware investment company subsidiary. Such a subsidiary may be formed by a Pennsylvania savings bank as well as an OTS-regulated thrift.[5]

3. Branching and interstate acquisitions

There are no significant differences in the ability of a state savings bank to expand geographically as opposed to an OTS-regulated thrift.

4. Corporate governance

The trustees (equivalent to directors) of a state savings bank, like the directors of a state savings and loan association, may take advantage of the reduced liability and expanded indemnification rights which are authorized by the Pennsylvania Directors Liability Act. Federal savings and loan associations and federal savings banks are unable to take advantage of the reduced liability and expanded indemnification rights.

5. Mutual holding company

If you are presently organized in mutual form and are interested in forming a mutual holding company, a bill has been introduced in the Pennsylvania legislature which would authorize mutual holding companies for state savings banks. While the authorization for OTS-regulated thrifts to establish mutual holding companies was enacted by Congress in 1987, OTS has not yet seen fit to even propose a regulation which would implement this authority.

6. Stock conversion in future

If you are a mutual institution and think that at some point in the future you may be interested in converting to stock form, it is much more preferable to convert to stock form as a state savings bank rather than as an OTS-regulated thrift. This results from the fact that, while the OTS has very stringent and detailed stock conversion regulations, the FDIC, the Federal Reserve Board and the Department have no regulations. One of the major concerns of mutual thrift management contemplating a stock conversion is that management will lose control. OTS regulations create that possibility by severely limiting the percentage of stock which may be purchased by management in a stock conversion. Management of a state savings bank may in effect purchase a controlling block of stock in connection with its conversion. As you may know, the Green family ended up owning Firstrust Savings Bank in Philadelphia after first converting its mutual federal savings and loan association to a mutual state savings bank.

7. Less regulation

While a state savings bank will be regulated by the Banking Code and certain regulations adopted by the Federal Reserve Board and the FDIC, these regulations are much less extensive and detailed than OTS' regulations. Although it is difficult to relate this regulatory burden to hard dollars, there is no doubt that there is a cost associated with this burden.

IV. PROCEDURE

In addition to obtaining approval by your board of directors and your members or stockholders, the transaction will require approval of both the Department and the OTS. If you elect to become a member of the Federal Reserve System, you will also need approval of the Federal Reserve Boards. If you elect not to become a member of the Federal Reserve System, there is no need to obtain approval from the FDIC, even though the FDIC will be your principal federal regulator.

If you would like to discuss these ideas in more detail, please feel free to give me a call (215-977-2144). As stated at the outset of this memo, we believe that the savings in OTS assessments in the first year alone will, in most instances, be greater than the cost of converting. Unfortunately, this opportunity may not last much longer if the OTS is deluged with applications by thrifts to convert to state savings banks in states that have recently enacted state savings bank laws.

FOOTNOTES

[1] We understand that at least two Pennsylvania state-chartered savings and loan associations (Home Savings, Tamaqua and Pennsylvania Savings Association) have already filed conversion applications with the Office of Thrift Supervision (the "OTS") and that Progress Federal Savings Bank has announced plans to convert.

[2] This would include a state savings and loan association which is using the words "Savings Bank, PaSA" as part of a fictitious name. Such institutions are not legally chartered as savings banks.

[3] If you are a stock thrift that is well capitalized and can absorb the impact of the recapture of the bad debt reserve, it would be worthwhile to consider converting to a national bank or state commercial bank.

[4] OTS recently approved the application of Aberdeen Federal Savings and Loan Association to convert to a state savings bank in the State of Washington.

[5] Forming a Delaware investment company might be a way to avoid liability for this state tax. This is something which you may want to consider doing even if you elect not to convert to a state savings bank.

[From the Washington Post, Oct. 5, 1990]

SAVINGS BANKS: THRIFT HYBRIDS MAY BE NEXT FOR RESCUE

(By Jerry Knight)

A little-known group of hybrid financial institutions that are part bank and part savings and loan have emerged as a new problem for federal banking regulators.

The nation's 465 savings banks are suffering from the same bad real estate loans that have infected the banking and savings and loan industries and upwards of two dozen of them—some worth more than $1 billion—are now expected to fail, government officials and private banking experts agree.

Prevalent in New England, savings banks are state-chartered institutions that nevertheless are insured by the Federal Deposit Insurance Corp.

The savings banks won exemption from the restrictions on high-risk investments such as junk bonds and real estate speculation imposed in last year's savings and loan cleanup bill by arguing that they were not suffering from the same problems that wiped out the savings and loan insurance fund.

But since then, the economy of the Northeast has slipped into a recession, and the savings banks are looking more and more like the S&Ls of the Southwest, posing a threat to the FDIC fund that protects depositors when banks fail.

Provisions for potential savings bank failures are one of the reasons FDIC Chairman L. William Seidman recently added $1 billion to his estimate of how much the fund will lose this year, raising the projected loss to $3 billion. To pay for the losses, the FDIC recently raised the insurance premium it charges banks, including savings banks.

Because of the savings banks' unusual niche in the nation's banking system, the FDIC has never included them in its regular reports on the health of the banking system, but now FDIC statisticians are preparing a special report to the FDIC's board of directors on the problems of the savings banks.

"The industry as a whole is sound, but we have some problems," said an FDIC official who asked not to be identified. "There are some that are suffering from [past-due] loans. There are some that are not going to make it."

Private analysts state the problem even more bluntly.

"There are a number of relatively large New England thrifts that will definitely not make it," said Don J. Kauth, a banking specialist with First Albany Corp., an upstate New York investment firm.

"You'll see a number of failures and government-assisted transactions" to sell savings banks, agreed Bruce Harding of Salomon Brothers Inc., the New York investment banking firm.

Data gathered from private sources and interviews with government officials and industry analysts make clear that the savings banks are in trouble. They show:

The savings bank industry as a whole is losing money. The biggest savings bank in the nation is already broke and all-but-certain to require a government rescue costing upwards of $1 billion. Six New England savings banks with more than $1 billion apiece in deposits are struggling to survive.

The General Accounting Office said three savings banks are among the 20 substantial bank failures that are expected to occur in the next few months, although that detail was not mentioned when the GAO predicted the failures last month.

Federal regulators project that as many as three dozen savings banks may fail, and private experts are no more optimistic.

Half a dozen savings banks have failed since the real estate markets in the Northeast started to slide, and more are headed in that direction, predicted James Moynihan, a Boston banking specialist with Advest Inc., a regional brokerage firm. "The entire New England scene has been deteriorating . . . since January of '87 and it isn't getting any better."

Moynihan predicted substantial FDIC losses in Massachusetts, which has the most serious real estate troubles, the most savings banks and the most failures so far.

Connecticut "has deeper problems than Massachusetts," he added. "Connecticut has always lagged Massachusetts," and its problems are just now showing up as real estate ailments spread down from Massachusetts and up from New York.

In New Hampshire and Maine—where the savings bank troubles are fast approaching a crisis—six of the seven largest institutions are struggling to survive, Kauth said. Each of them has more than $1 billion in assets, and if all six were to fail, the total cost to the FDIC could easily exceed $1 billion.

The largest savings banks and the largest potential losses to the FDIC are in New York state. Harding said several institutions began suffering when the Manhattan condominium market fell apart in response to the declining fortunes of Wall Street firms and the big banks.

As a group, the savings banks lost $426 million last year, plus another $52 million in the first three months of this year, according to the latest industry reports from W.C. Ferguson & Co., a Washington and Dallas firm that specializes in banking data.

Ferguson's statistics show the savings banks wrote off $1.3 billion in loans as uncollectable in the 12 months ended in March. Their bad loans jumped from $4 billion to $6.5 billion during that period and are still growing unchecked.

Fortunately, the savings banks were in unusually strong financial condition when their problems began to develop, because many of them took advantage of the boom

markets of the mid-'80's to sell stock and build up their capital.

"The New England thrifts had more capital to lose than the southeastern and southwestern ones," Kauth said. "The question is whether the nonperforming assets will outlast the capital."

Ironically, it was the sales of stock to build up their capital that got many savings banks into trouble. After they raised the additional capital, the banks had to put it to work, so they invested heavily in real estate.

The result was exactly what happened in Texas a few years earlier: The thrifts took advantage of laws allowing them to switch from their traditional home mortgage business into commercial real estate, made huge bets and lost.

Their strong capital has enabled most of the New England thrifts to absorb their losses so far, but analysts said the worst is yet to come.

One sign of trouble ahead is that prices of the stocks of savings bank companies are continuing to decline. "I don't see any sign of the savings bank stocks turning around. If the market is the proper tool [for making predictions], we have a way to go," Moynihan said.

Kauth said he believes "a dozen Massachusetts thrifts are immediate candidates to be taken over" and that there are big failures coming soon in Maine and New Hampshire. "New Hampshire Savings currently appears to be the most vulnerable to failure," he said, and OneBancorp., the biggest savings bank in Maine, is "unlikely to survive as an independent entity."

The biggest question mark in the savings bank business is the biggest savings bank: Goldome of Buffalo, N.Y., with $10 billion in assets. It has been insolvent for several years but is being allowed by the FDIC to continue operating.

Goldome had debts that exceeded its cash assets by $467 million as of April 1. To meet future capital standards, Goldome will have to raise an additional $300 million in capital. Coming up with nearly $800 million will be virtually impossible, the investment analysts said.

Goldome's finances are so bad that regulators could shut it down at any time. FDIC officials would not comment on why they have not moved in.

[From the Wall Street Journal, Oct. 16, 1990]

STATE LEGISLATURES MAY BE CREATING LOOPHOLE FOR S&LS

(By Paul Duke, Jr.)

WASHINGTON.—State legislatures may be opening a huge loophole that allows savings and loans to evade the regulations placed on them last year, federal regulators said.

The loophole, under which S&Ls change their charter and become savings banks, in some cases could permit thrifts to return to their risky past of junk-bond investments and aggressive real estate development, the regulators believe. The change in charters also would allow the institutions to escape one of two layers of federal regulation.

But state regulators and some trade group officials angrily denied they are trying an end-run around federal regulation. They said the thrifts are simply trying to cut costs by turning to less expensive state regulation and accused the federal regulators of engaging in a pointless turf battle.

Timothy Ryan, the director of the Office of Thrift Supervision, said he believes he can stop a stampede of thrifts through the loophole simply by declaring that the state legislatures are defying Congress's clear intention to rein in the industry. In an interview, Mr. Ryan promised to deny applications for a charter change in cases where he believes the motivation is to side-step the bailout law. But that approach is sure to be challenged in court. Meanwhile, some members of Congress may move as early as this week to pass legislation prohibiting such charter-switching.

"In my view, these efforts are blatant attempts to evade [the S&L Law's] reforms," Mr. Ryan said in the text of a speech scheduled for delivery today in Chicago. He said he wouldn't allow Congress's intent "to be circumvented by misguided and manipulated state legislatures."

Many states had savings banks before the thrift law was passed last year. Mr. Ryan said he is most concerned about the states that have passed laws allowing thrifts to become savings banks since then—Illinois, Indiana and Louisiana. Similar bills are pending in at least seven other states, including California, Texas and Florida, the scene of some of the worst thrift losses. Many of the statutes, Mr. Ryan said, allow the thrifts to hold junk bonds and other equity investments, and get into real estate development.

The switches don't affect the thrifts' federal deposit insurance.

State regulators disputed the assertion that the savings bank charter allows thrifts to dodge federal restrictions. "That is the most specious argument they could come up with," said Sarah Hargrove, secretary of banking in Pennsylvania, home of two thrifts that have switched to savings bank charters since the thrift law was passed.

Ms. Hargrove said state-chartered thrifts face three regulators—her agency, the OTS, and the Federal Deposit Insurance Corp.—and are interested in switching charters "to get rid of one of the layers."

John Seymour, the top S&L regulator for Illinois, said the OTS was driven by the "fear that healthy S&Ls will convert to savings banks and leave OTS with only unhealthy institutions to regulate." Mr. Seymour said the new Illinois law forbids savings banks from holding junk bonds and places restrictions on real estate development similar to those in federal law. However, the Illinois law does allow the savings banks to maintain a lower percentage of their assets—60 percent—in housing-related investment—than S&Ls, which must hold 70 percent.

Mr. Ryan denied that he was fighting over turf, noting that he isn't opposed to thrifts' becoming commercial banks because they are properly supervised and regulated. He conceded that some OTS fees are too high and said the agency is trying to bring down the costs.●

ADDITIONAL COSPONSORS

□ 2100

At the request of Mr. CRANSTON, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 2100, a bill to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; to amend title 38, United States Code, to improve veterans' compensation, healthcare, insurance, and housing programs, and to provide for transitional group residences for veterans recovering from substance-abuse disabilities; and for other purposes.

S. 2901

At the request of Mr. PRYOR, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 2901, a bill to amend the Internal Revenue Code of 1986 to simplify the application of the tax laws with respect to employee benefit plans, and for other purposes.

S. 2925

At the request of Mr. DIXON, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Florida [Mr. MACK], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 2925, a bill to authorize the minting and issuance of coins in commemoration of the quincentenary of the discovery of America and to authorize the payment of the proceeds of the sale of such coins to the Christopher Columbus Quincentenary Scholarship Foundation for the purpose of establishing a scholarship program, and for other purposes.

S. 2961

At the request of Ms. MIKULSKI, the names of the Senator from Nevada [Mr. BRYAN] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 2961, a bill to amend the Public Health Service Act to promote greater equity in the delivery of health care services to women through expanded research on women's health issues, improved access to health care services, and the development of disease prevention activities responsive to the needs of women, and for other purposes.

S. 3069

At the request of Mr. JEFFORDS, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 3069, a bill to provide a method of locating private and Government research on environmental issues by geographic location.

SENATE RESOLUTION 296

At the request of Mr. ROTH, the names of the Senator from Florida [Mr. GRAHAM], the Senator from Georgia [Mr. FOWLER], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of Senate Resolution 296, a resolution to express the sense of the Senate the support of Taiwan's membership in the General Agreement on Tariffs and Trade.

SENATE RESOLUTION 338

At the request of Mr. SASSER, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Resolution 338, a resolution ex-

pressing the sense of the Senate that the Department of Commerce should utilize the statistical correction methodology to achieve a fair and accurate 1990 Census.

SENATE RESOLUTION 340

At the request of Mr. BURDICK, the names of the Senator from Colorado [Mr. ARMSTRONG], the Senator from Montana [Mr. BURNS], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of Senate Resolution 340, a resolution to express the sense of the Senate that any proposal to increase the Federal-aid highway program's minimum allocation percentage from 85 to 95 percent should be addressed as part of the legislative process to reauthorize surface transportation programs in 1991.

AMENDMENTS SUBMITTED

AGE DISCRIMINATION IN EMPLOYMENT ACT AMENDMENTS

HATCH (AND METZENBAUM) AMENDMENT NO. 3000

Mr. MITCHELL (for Mr. HATCH, for himself and Mr. METZENBAUM) proposed an amendment to the bill (H.R. 5759) to amend the Age Discrimination in Employment Act of 1967 to clarify the application of such Act to employee group health plans, as follows:

On page 2, strike lines 3 through 10 and insert the following:

(2) in subparagraph (D)—

(A) by inserting after "For purposes of this paragraph" the following: "and solely in order to make the deduction authorized under this paragraph",

(B) by striking "and" at the end of clause (i),

(C) by striking the period at the end of clause (ii) and inserting "; or", and

(D) by adding at the end the following new clause:

"(iii) the package of benefits provided by the employer is as described in clauses (i) and (ii).".

RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT

HEINZ (AND KOHL) AMENDMENTS NOS. 3001 THROUGH 3005

(Ordered to lie on the table.)

Mr. HEINZ (for himself and Mr. KOHL) submitted five amendments intended to be proposed by them to the bill (H.R. 2567) entitled "Reclamation Projects Authorization and Adjustment Act of 1990," as follows:

AMENDMENT No. 3001

At the end of the bill, insert the following:

SEC. . ELIMINATION OF ABUSES OF RECLAMATION PROGRAM.

(a) SHORT TITLE.—This section shall amend and supplement the Act of October 12, 1982 (96 Stat. 1261, 1263) and Acts supplementary thereto and amendatory thereof, and may be referred to as the "Reclamation Reform Act Amendments of 1990".

(b) AMENDMENTS.—The Reclamation Reform Act of 1982 (Act of October 12, 1982, 96 Stat. 1261, 1263), as amended, is amended as follows:

(1) Section 202(4) is amended by inserting before the period ", and including minor children".

(2) Section 202(6) is amended by—

(A) striking "owned or operated under a lease" and inserting "owned, leased, or operated."; and

(B) striking the second sentence and inserting "In determining the extent of a landholding, the Secretary shall include all direct and indirect landholding of any individual or legal entity; except that the attribution of indirect landholdings shall be made in proportion to the beneficial interest held by such individual or legal entity.".

(3) Section 202(7) is amended by striking the period and inserting ": *Provided*, That all such persons are citizens of the United States or resident aliens thereof.".

(4) Section 202(9) is amended by striking the period and inserting ": *Provided*, That all such persons are citizens of the United States or resident aliens thereof.".

(5) Section 202 is amended by adding the following new paragraph and redesignating subsequent paragraphs accordingly:

"(8) The term 'operator' means the individual or entity that performs the greatest proportion of the decisionmaking or supervision for the agricultural enterprise on a given landholding or parcel of irrigation land at a given point in time. For the purpose of this definition—

"(A) if an operator is an employee, subsidiary, or otherwise part of a larger entity, the larger entity is also the operator;

"(b) equipment and labor sharing activities among neighbors or family members shall not by themselves be used as a basis for a conclusion that a joint farming operation among such neighbors exists;

"(C) performance of a specific agricultural service for a farm or farm operation, such as agricultural chemical application, pruning, or harvesting shall not by itself cause the party performing such a service to be considered the operator of the land served;

"(D) provisions of an agreement which, as quality control measures, require certain actions to be taken by a landholder with regard to the care of a crop shall not by themselves cause such an agreement to be construed to establish a farming operation;

"(E) provisions of an agreement which permit one party to take operational control over certain land parcels upon specified events shall not by themselves cause such an agreement to be construed to establish a farming operation unless and until such provisions are implemented;

"(F) This definition is not intended and shall not be interpreted to limit the size of farms or farming operations. This definition is intended to limit the delivery of federally subsidized irrigation water to farms and farm operations not larger than 960 acres.".

(6) Section 203(b) is amended by inserting after "leased", wherever it appears, the following: "or operated".

(7) Striking section 206 and inserting the following:

"SEC. 206. As a condition to the receipt of irrigation water for lands in a district which has a contract as specified in section 203, each landowner, lessee, or operator within such district shall furnish the district, in a form prescribed by the Secretary, a certificate that they are in compliance with the provisions of this title, including a statement of the number of acres leased or operated, the terms of any lease or operating agreement, and, in the case of a lessee, a certification that the rent or other fees paid reflect the reasonable value of the irrigation water to the productivity of the land. The Secretary may require any lessee or operator to submit for the Secretary's examination a complete copy of any lease or other relevant agreement executed by each of the parties thereto.".

(8) Section 214(a) is amended by striking "lands in a district which are held by an individual or corporate trustee" and inserting "individual or corporate trustees acting" and by inserting at the end of the paragraph the following: "Such ownership and pricing limitations shall, however, apply to trusts as they would to any other legal entity, and to trustees who also serve as operators.".

(9) Section 224(c) is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, the Secretary shall establish appropriate and effective penalties for failure to comply with any provision of this Act or any regulation established pursuant to this Act.".

(10) Section 224(e) is amended by inserting in the final sentence immediately before the phrase which begins ", such land may be sold," the following: "*And provided further*, That the involuntarily acquiring party is not a former owner who sold the land from excess status, or the successors or assigns thereof".

(11) Section 224(i) is amended by striking the last sentence and inserting "The interest rate applicable to underpayments shall be equal to the rate applicable to expenditures as provided in section 202(3)(C).".

(12) Section 228 is amended by inserting "operator or" immediately before "contracting entity" wherever they appear.

(13) Add the following new section 229 and redesignating succeeding sections accordingly:

"SEC. 229. The Secretary, Secretary of the Treasury, and the Secretary of Agriculture shall negotiate and execute a memorandum of understanding or other appropriate instrument to permit the Secretary access to and use of available information collected or maintained by the Department of the Treasury and Department of Agriculture which would aid enforcement of the ownership and pricing limitations of Federal reclamation law, including this Act.".

(14) Section 203 is amended by striking "230" and inserting "231".

AMENDMENT No. 3002

At the appropriate place, insert the following new section:

SEC. . MARKET PRICES IN COST-BENEFIT ANALYSIS.

Notwithstanding any other provision of law, the Secretary of the Interior shall evaluate all unstarted reclamation projects in accordance with the Statement of Procedures adopted in June 1987 by the Assistant Secretary of the Department of Agriculture, the Acting Assistant Secretary of the Department of the Army, the Washington Representative of the Tennessee Valley Authority, and the Assistant Secretary of the Department of the Interior.

AMENDMENT NO. 3003

At the appropriate place, insert the following new section:

SEC. . FAIR MARKET VALUE FOR SALES OF LAND.

(a) EFFECTIVE DATE.—Section 209(f)(2) of the Reclamation Reform Act of 1982 is amended by striking "the date of enactment of this Act," and inserting "October 12, 1982 but before the enactment of the Reclamation Reform Act Amendments of 1990".

(b) FAIR MARKET VALUE.—Section 209(f) of such Act is further amended by adding at the end the following:

"(3) In the case of disposals of excess lands, including such land not under recordable contracts, made on or after the enactment of the Reclamation Reform Act Amendments of 1990, the disposal of excess lands to nonexcess owners shall be for fair market value of the land, which shall be paid to excess owners except for the fair market value related to the delivery of irrigation water, which shall be deposited in the Treasury of the United States as miscellaneous receipts. Upon such disposal the title to these lands shall be freed of the burden of any limitations on subsequent sale values which might otherwise be imposed by the operation of section 46 of the Act entitled 'An Act to adjust water rights charges, to grant certain relief on the Federal irrigation projects, and for other purposes,' approved May 25, 1926 (43 U.S.C. 423e).".

AMENDMENT NO. 3004

At the appropriate place, insert the following new section:

SEC. . CAPITAL COST RECOVERY.

(a) Section 208(a) of the Reclamation Reform Act of 1982 (96 Stat. 1261) is amended by adding at the end thereof the following: "Such price shall be sufficient to recover an appropriate and substantial share of the fixed costs of construction of works connected with water supply and allocated to irrigation and all other appropriate charges.".

(b) Section 208(c) is amended by adding at the beginning of the sentence "The first sentence of subsection (a) and all of subsection (b) of".

AMENDMENT NO. 3005

At the appropriate place, insert the following new section:

SEC. . REPEAL OF WATER SERVICE CONTRACT RENEWALS.

Section 1(1) of Public Law 84-643 (43 U.S.C. 485h-1(1)) is amended to read as follows:

"(1) not include in any long term contract under subsection (e) a provision for renewal of such contract. If the Secretary decides, in his discretion, to negotiate and execute a renewal of a contract under subsection (e), such renewal contract shall include among other provisions, specific water conservation requirements (including implementation of all cost-effective conservation measures), and penalties for failure to compy with such requirements, and provision for annual pricing adjustments to reflect all applicable government costs, appropriate conservation incentives, and any environmental mitigation obligations;".

MAINE ACADIAN CULTURE PRESERVATION ACT

JOHNSTON AMENDMENT NO. 3006

Mr. LEVIN (for Mr. JOHNSTON) proposed an amendment to the amendment of the House to the bill (S. 1756) to provide for preservation and interpretation of sites associated with Acadian culture in the State of Maine, as follows:

On page 3, line 5, after "history," insert "historic preservation,".

On page 4, line 23, strike "1 year" and insert in lieu thereof, "6 months".

On page 4, line 24, strike "Secretary, in consultation with the Commission," and insert in lieu thereof, "Secretary".

On page 6, lines 4 and 5, strike "after completion of the study required by section 5," and insert in lieu thereof, "after consultation with the Commission,".

On page 6, line 11, strike "develop and operate" and insert in lieu thereof, "develop, operate, and maintain".

On page 6, line 12, strike "programs" and insert in lieu thereof, "to develop and operate programs".

DISTRICT OF COLUMBIA REVENUE BOND ACT

SASSER AMENDMENT NO. 3007

Mr. LEVIN (for Mr. SASSER) proposed an amendment to the bill (H.R. 5482) to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of District of Columbia revenue acts, as follows:

on page 4, line 19, after the words "except that", insert the following: "the proceeds of bonds issued under such Act shall be utilized solely for renovation and rehabilitation of a presently existing stadium and any related, necessary infrastructure improvements appurtenant to such stadium; and that".

SURVIVABILITY AND RECOVERY OF INSULAR AREAS FROM SEVERE STORMS

JOHNSTON (AND McCLURE) AMENDMENT NO. 3008

Mr. LEVIN (for Mr. JOHNSTON, for himself and Mr. McCLURE) proposed an amendment to the bill (S. 2362) to enhance the survivability and recovery of the insular areas from severe storms, as follows:

In section 3, after the word "appropriated", insert "to the Secretary"; and after the words "public health and safety", strike "or" and insert "and" in lieu thereof.

In section 6, strike the words "25 percent" and insert "10 percent" in lieu thereof; and at the end of the section strike the period and insert the following: ": *Provided*, That the President may require a 50 percent local match for assistance in excess of 10 percent of the estimated aggregate amount of grants to be made under section 406 of such Act for any disaster.".

In section 7, strike the words "Mariana lands" and insert "Mariana Islands" in lieu thereof.

At the end of the bill strike Section 8 and add the following new sections:

"SEC. 8. GUAM HOSPITAL.

There is authorized to be appropriated $2,500,000 to complete the renovation of the Guam Memorial Hospital.

"SEC. 9. DISPOSAL OF EXCESS FEDERAL LANDS ON GUAM.

(a) ESTABLISHMENT OF COMMISSION.—As a prerequisite for the transfer of excess lands under section 11, the Government of Guam must enact legislation which—

(1) establishes an excess lands commission the purpose of which shall be to dispose of lands received pursuant to this title to promote economic self-sufficiency and private sector development in Guam;

(2) provides that the Commission shall have the power—

(A) to hold all right, title, and interest in and to all real property transferred under section 11;

(B) to dispose of real properties or interests therein transferred under section 11 in accordance with the laws of Guam and the priorities set forth in the enabling legislation as required pursuant to paragraph 4 of this subsection;

(C) to resolve conclusively all issues related to lands transferred under section 11 and without appeal to any other agency or court of law except as otherwise expressly provided by the laws of Guam; and

(3) provides that the Commission shall make annual reports to the Senate Committee on Energy and Natural Resources and the Committee on Interior and Insular Affairs of the United States House of Representatives, on or before February 15 of each year, on the disposition of lands transferred pursuant to this title and on the activities and actions of the Commission during the reporting period; and

(4) establishes priorities for the distribution and disposal of the excess lands.

(b) UNITED STATES PERSON.—(1) As used in this title, the term "United States person" means—

(A) any citizen, national, or permanent resident alien of the United States,

(B) any partnership, corporation, or other entity organized under the laws of the United States, any of the several States, the District of Columbia, or any Commonwealth, territory, or possession of the United States, in which citizens, nationals, or permanent resident aliens of the United States beneficially own or control (directly or indirectly) more than 50 per centum of the outstanding voting securities or other voting interest of the partnership, corporation, or other entity, or

(C) the government of any of the several States, the District of Columbia, or any Commonwealth, territory, or possession of the United States.

(2) A partnership, corporation, or other entity described in paragraph (1)(B) shall be presumed to be controlled by individuals who are citizens, nationals, or permanent resident aliens of the United States if—

(A) such individuals are a majority of the partners of the partnership or a majority of the members of the board of directors of the corporation or other entity; or

(B) such individuals have the authority to appoint a majority of the members of the

board of directors of the corporation or other entity.

(c) OWNERSHIP OF UNITED STATES PERSONS OF LAND HELD IN TRUST.—For the purposes of this section, the term "ownership of United States persons" means, in the case of a portion of land held in trust, the legal and the beneficial interests of such trust must be held by United States persons.

SEC. 10. TRANSFER OF EXCESS FEDERAL LAND LOCATED ON GUAM.

Except for lands within the boundaries of the War in the Pacific National Historic Park, the Administrator of General Services shall transfer, without consideration and without encumbrances, all right, title and interest of the United States (together with any improvements thereon) in and to any real property on Guam which is determined to be excess under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) to the Commission to be established by the laws of Guam for disposition in accordance with section 10. Any property subject to this title shall not be subject to Public Law 100-77 (101 Stat. 482). Title to any real property conveyed pursuant to this title shall revert to the United States if the Commission attempts to convey or otherwise transfer ownership of such property other than to a United States person.

SEC. 11. REPEAL OF CERTAIN CONDITIONS ON LAND TRANSFERRED TO GUAM.

Section 818(b)(2) of Public Law 96-418 (94 Stat. 1782), as amended, is hereby repealed.

SEC. 12. TERRITORIAL ENERGY ASSISTANCE PROGRAM.

(a)(1) The Secretary of Energy, pursuant to the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (42 U.S.C. 5901, et seq.), may grant financial assistance to Insular area governments to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy measures which reduce the dependency of the insular area.

(2) Any applicant for financial assistance under this section must evidence coordination and cooperation with, and support from, the affected local energy entities in the area with necessary expertise to successfully effectuate the project, including, but not limited to, the local energy agencies, power authorities, and public works departments.

(3) In determining the amount of financial assistance to be provided for a proposed energy-efficiency or renewable energy measure, the Secretary shall consider—

(A) whether the measure will reduce the relative dependence of the Insular area on imported fuels;

(B) the ease and costs of operation and maintenance of any facilities contemplated as a part of the project;

(C) whether the project will rely on the use of conservation measures or indigenous, renewable energy resources that were identified in the 1982 Territorial Energy Assessment or are identified by the secretary as consistent with the purpose of this section;

(D) whether the measure will contribute significantly to the quality of the environment in the Insular area; and

(E) any other factors which the Secretary may determine to be relevant to a particular project or measure.

(4) The Secretary shall require at least 20 per centum of the costs of any project under this section to be provided from non-Federal sources. Such cost sharing may be in the form of in-kind services, donated equipment, or any combination thereof.

(b) for the purpose of this section, the term—

(1) "Insular area government" means the government of American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the Federal States of Micronesia, Guam, the Republic of the Marshall Islands, the Republic of Palau, or the United States Virgin Islands.

(2) "1982 Territorial Energy Assessment" means the assessment prepared by the Department of Energy pursuant to the Omnibus Territorial Act. (P.L. 96-597, 94 Stat. 3480; as amended by P.L. 99-213, 97 Stat. 1460)

(c) For each fiscal year, there is hereby authorized to be appropriated for the purposes of this section, $500,000.

BAN ON MINERAL RESOURCE ACTIVITIES IN ANTARCTICA

KERRY AMENDMENT NO. 3009

Mr. LEVIN (for Mr. KERRY) proposed an amendment to the bill (S. 2575) to urge the Secretary of State to negotiate a ban on mineral resource activities in Antarctica, and for other purposes, as follows:

In amendment , delete all after the enacting clause and insert in lieu thereof:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Antarctica Protection Act of 1990".

For the purposes of this Act—

(1) the term "Antarctica" means the area of the Antarctic convergence as defined in section 303(1) of the Antarctic Marine Living Resources Act of 1984 (16 U.S.C. 2432);

(2) the term "mineral resources" means all nonliving natural nonrenewable resources, including fossil fuels, minerals, whether metallic or non-metallic, but does not include ice, snow or water;

(3) the term "person" means any individual, corporation, partnership, trust, association, or any other private entity existing or organized under the laws of the United States, or any officer, employee, agent, department, or other instrumentality of the Federal Government or of any State or political subdivision thereof; and

(4) the term "minerals resource activity" means 1 prospecting, exploration, or development activities in Antarctica of mineral resources, but does not include scientific research within the meaning of Article III of the Antarctic Treaty, done in Washington on December 1, 1959.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the Antarctic continent and its associated and dependent ecosystems is a distinctive environment providing a habitat for many unique species and offering a natural laboratory from which to monitor critical aspects of stratospheric ozone depletion and global climate change;

(2) Antarctica is protected by a series of international agreements, including the Antarctic Treaty and associated recommendations, the Convention on the Conservation of Antarctic Seals, and the Convention on the Conservation of Antarctic Marine Living Resources which are intended to conserve the renewable natural resources of Antarctica and to recognize the importance of Antarctica for the conduct of scientific research;

(30 recurring and recent developments in Antarctica, including increased siting of scientific stations, poor waste disposal practices, oil spills, increased tourism, and the over-exploitation of marine living resources have resulted in serious questions about the adequacy and implementation of existing agreements to protect the Antarctic environment and its living marine resources;

(4) the parties to the Antarctic Treaty have recently negotiated a Convention of the Regulation of Antarctic Mineral Resource Activities which the United States has signed but not yet ratified;

(5) the Convention on the Regulation of Antarctic Mineral Resource Activities does not guarantee the preservation of the fragile environment of Antarctica and could actually stimulate movement toward commercial exploitation;

(6) the Antarctic Treaty Consultative Parties have agreed to a voluntary ban on Antarctic mineral resources activities which needs to be made legally binding;

(7) the level of scientific study, including necessary support facilities has increased, in part to justify achieving the status of a consultative party under the Antarctic Treaty, to the point that some scientific programs may be degrading the Antarctic environment; and

(8) the planned 1990 special consultative meeting of parties to the Antarctica Treaty and the imminence of the thirtieth anniversary of the Antarctica Treaty provide opportunities for the United States to exercise leadership toward protection and sound management of Antarctica.

(b) PURPOSE.—It is the purpose of the Act to—

(1) strengthen substantially overall environmental protection of Antarctica;

(2) prohibit prospecting, exploration and exploitation of Antarctic mineral resources by United States citizens and other persons or entities subject to the jurisdiction of the United States;

(3) urge other nations to joint the United States in immediately negotiating one or more international agreements to provide an indefinite ban on all minerals activities in Antarctica and comprehensive protection for Antarctica and its associated and dependent ecosystems; and

(4) urge all nations to consider a permanent ban on Antarctic mineral resource activities.

SEC. 4. PROHIBITION ON ANTARCTIC MINERAL RESOURCE ACTIVITIES.

Pending an agreement among the Antarctic Treaty Consultative Parties, in force for the United States, to which the Senate has given advice and consent or which is authorized by further legislation by the Congress, which includes an indefinite ban on Antarctic mineral resource activities, it is unlawful for any person to engage in, finance, directly or indirectly, or knowingly provide assistance to any Antarctic minerals resource activity.

SEC. 5 INTERNATIONAL AGREEMENT.

(a) It is the sense of the Congress that the Secretary of State should enter into negotiations with the consultative parties described in paragraphs (1) and (2) of Article IX of the Antarctica Treaty, done at Washington on December 1, 1959, for the purpose of concluding one or more international agreements—

(1) to seek a prohibition or indefinite ban on Antarctic mineral resource activities by all parties to the Antarctic Treaty;

(2) to grant Antarctica special protective status as land of science dedicated to wilderness protection, international cooperation and scientific research;

(3) to conserve and protect permanently the natural environment of Antarctica and its associated and dependent ecosystems;

(4) to ensure that the results of all scientific investigation relating to geological processes and structures be made openly available to the international scientific community, as required by the Antarctic Treaty; and

(5) to include other comprehensive measures for the protection of the Antarctic environment.

(b) It is the sense of the Congress that any treaty or other international agreement submitted by the President to the Senate for its advice and consent to ratification relating to mineral resources or activities in Antarctica should be consistent with the purpose and provisions of this Act.

SEC. 6. ENFORCEMENT.

A violation of this Act, any regulation promulgated under this Act, or a term or condition of a license issued under this Act shall be deemed a violation of the Antarctic Marine Living Resources Convention Act (16 U.S.C. 2431-2444) and shall be enforced under that act by the Under Secretary or another Federal official to whom the Under Secretary has delegated this responsibility.

CONSENT TO AMENDMENTS OF THE HAWAIIAN LEGISLATURE TO THE HAWAIIAN HOMES COMMISSION ACT, 1920

AKAKA AMENDMENT NO. 3010

Mr. LEVIN (for Mr. AKAKA) proposed an amendment to the joint resolution (S.J. Res. 154) to consent to certain amendments enacted by the Legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920; as follows:

On page 2, line 4, strike "Act 84".

ADDITIONAL STATEMENTS

ON THE EFFORTS OF TYLER-SEWARD-KUBISH POST 44, AMERICAN LEGION

● Mr. DODD. Mr. President, it is important that all Americans join together to salute the courage of the members of our Armed Forces presently on duty in the Middle East. As these brave men and women are putting their lives on the line in defense of peace, we should take time daily to remember them and to pray for their safe return.

In this regard, I am pleased to bring to the attention of my colleagues the important efforts of Tyler-Seward-Kubish Post 44, American Legion, of the Bantam, CT, area. The members of this post have erected a "Remember" display at the Bantam Veterans Memorial, and are adding another flag to the display each week that our troops remain in the Middle East. This display is important in reminding Americans not to forget our countrymen in the Middle East, who stand ready to combat aggression at sea, in the air, and on land.

The members of Post 44 are also working to recognize the service and the sacrifice of Americans in wars past. On the first Saturday of each month, the members of the Tyler-Seward-Kubish Post raise the burial flag of a veteran, and this flag flies proudly over the veterans memorial until the following month, when the ceremony is repeated in tribute to another veteran. The families of the deceased veterans participate in the raising and retirement ceremonies for their relatives' flag. Post 44 is also involved in an ongoing project to rebuild and beautify the Bantam War Memorial. The post is raising money to purchase individual bronze markers for each of the wars and conflicts in which Americans have fought since our Nation declared its independence. Once this effort is completed, the memorial will truly be an "All Wars Memorial."

Mr. President, when tornadoes roared through Connecticut in July 1989, they leveled the Bantam Borough Hall and destroyed Post 44's records and furnishings. As veterans, however, the members of Post 44 are used to facing adversity and overcoming it. Today, they are reminding all of us of the meaning of patriotism—the willingness to defend one's country, and, if we are not in the front lines ourselves, the duty to stand squarely behind our fellow Americans who are.

I commend the members of Post 44, and I ask that a letter from Mr. Arthur G. St. John, Post 44 Americanism chairman, along with a written description of the "All Veterans Memorial," be included in the RECORD.

The material follows:

TYLER-SEWARD-KUBISH
POST, No. 44, INC.,
Bantam, CT, October 5, 1990.

Hon. CHRISTOPHER J. DODD,
U.S. Senator, Weathersfield, CT.

DEAR SENATOR DODD: Something is going on in Bantam, Connecticut that you and the entire nation should be aware of . . . and for a change . . . its something good. The Tyler-Seward-Kubish Post 44 American Legion and the people of the Bantam area are: proud of their country; proud of their flag; proud of those in the military service, especially those serving in the Persian Gulf area; proud of the veterans of all wars.

This may sound like motherhood, baseball and apple pie, but the difference is . . . we're doing something about it . . . and here's a brief profile of what we're doing.

Proud of our Country—When we opened our Memorial Day services on May 27th 1990, we asked everyone to turn to their neighbor, shake his or her hand and say "I'm Proud to be an American". This was enthusiastically received and will now be a Bantam tradition for our future services.

Proud of our Flag—Through the generosity of several local businessmen, our American Legion Post, the Bantam Firemen and numerous other citizens, we erected a 50 foot flag pole adjacent to the existing memorial flag pole at the Bantam War Memorial . . . installed lighting and now "Old Glory" flies 24 hours a day, spot lighted at night, according to the flag code.

Proud of those in the Military, especially those serving in the Persian Gulf—We've built a "Remember" display and for each week service men and women are in the Persian Gulf, we place a 10" x 15" American Flag on the display and will continue to do so each week until our troops have returned home from the Persian Gulf and our reservists to a reserve status.

Proud of our Veterans—On the first Saturday of each month, we honor a deceased veteran and raise his or her burial flag on our community memorial flag pole, and the flag flies until the first Saturday of the following month when the flag of another deceased veteran is then flown. The families of deceased veterans appreciate the honor bestowed on their family member and are present for the flag raising and retiring ceremonies. This program was started in November of 1989 and has been conducted monthly ever since. Currently, the schedule is filled through September 1991 with many more completing the forms citing the personal and military service history of the veteran which is read at the ceremonies and published in the local press. A "Book of Honor" records this data and the month during which the veteran was honored.

Proud of our Veterans—Post 44 has undertaken a program of reconstruction and beautification of the Bantam War Memorial area and have redesignated it the "All Wars Memorial." A fund drive is currently underway and we know that the people of Bantam and surrounding areas will support this project with the same spirit that they supported other community projects in the past. The unique part of the final configuration is that it will have individual cast bronze symbols for each of the wars since the Revolution; one for the peace time conflicts such as Lebanon, Granada, Panama and the Persian Gulf; and one for those who served in peace time . . . truly as "All Wars Memorial."

I've taken the liberty of enclosing data on the above programs to further acquaint you with what is happening in Bantam. During the July 1990 tornado that devastated Bantam, the Bantam Borough Hall was completely demolished and along with it the Post meeting room, all the Post records and furnishings of Post 44. What was not destroyed is the spirit and enthusiasm for our programs of Americanism and Community Service. War finds ordinary men doing extraordinary things. What we're doing, we consider an appreciation of what we have here in the United States and we want to set an example of appreciation and honor for the younger generations to follow.

The above might appear to be insignificant when compared to the budget deficits, disarmament, trade deficits and the Persian Gulf crisis, but amid all of the turmoil, I wanted you to know that Bantam is alive and well; that we remain 100 per cent behind our President and our country; and we want the whole world to know that "We're Proud to be Americans." As our nation's leader, I thought you might find this a refreshing taste of American.

Good luck in all your endeavors, and May God Bless You and God Bless the United States of America.

Sincerely,

ARTHUR G. ST. JOHN,
Past Department Commander, Department of Connecticut, Post 44 Americanism Chairman.

ALL WARS MEMORIAL

The "All Wars Memorial" in its final form will be just that . . . a memorial paying tribute to the men and women who served their country since the Revolutionary War.

Just as there were 13 original stars and stripes in our nation's flag; and just as there were 13 original colonies; at this time in history, 1990, there are 13 symbols to represent those who served their country in times of war and in times of peace.

Revolutionary War * 1775-1776.
War of 1812 * 1812-1814.
Indian Wars * 1817-1898.
Mexican War * 1846-1848.
Civil War—Confederate * 1861-1865.
Civil War—G.A.R. Union * 1861-1865.
Spanish American War * 1898-1902.
World War I * 1917-1919.
World War II * 1941-1945.
Korean War * 1950-1955.
Vietnam War * 1959-1975.
Universal Military Conflict Service—Lebanon, Granada, Panama, Persian Gulf.
Peace Time Military Service.

Symbols commemorating each of the above in the history of the United States, will be displayed in cast bronze form, mounted on steel stanchions around the perimeter of the bluestone "Court of Honor."●

HEIFER PROJECT INTERNATIONAL

● Mr. PRYOR. Mr. President, I wish to join with President Bush and the U.S. Agency for International Development today in paying tribute to an Arkansas organization, Heifer Project International, for the work it has done in addressing our world wide hunger problem.

Heifer Project International is among 10 individuals and organizations being awarded the 1990 Presidential End Hunger Award today at ceremonies at the White House. Suitably enough, today has been designated as World Food Day which began in 1980 to mark the founding of the U.N. Food and Agriculture Organization.

These awards were first made in 1983 to increase public awareness of world hunger and to encourage American involvement in the search for solutions.

The awards are made in recognition of efforts to expand research and education in the development and provision of food supplies; to focus public attention on hunger; and for exceptional commitments shown by individuals and organizations.

Heifer Project International is a worthy recipient. The 46-year-old organization helps farmers around the world produce more protein-rich foods by providing them with high quality cows, chickens and sheep, along with extensive training in their care.

Participating farmers have been able to increase food production to where they not only feed their own families, but have enough extra to sell at local markets for added income.

To help "leverage" the program's impact, families receiving an animal from Heifer Project must agree to pass on the firstborn female animal to an approved neighbor and help that family get started in food production.

I congratulate Mr. Thomas H. Hemphill, the current executive director of Heifer Project International, as well as the many staff members, volunteers and donors who have contributed so much over the years to the success of this program.●

THE HONORABLE JENNINGS RANDOLPH AWARDED BY NATIONAL CAPTIONING INSTITUTE

● Mr. ROCKEFELLER. Mr. President, our esteemed former colleague, Jennings Randolph, of Elkins, WV, was recently honored for his "Lifetime Contributions" for the cause of the disabled. It was the first award of its kind ever given by the National Captioning Institute [NCI], which introduced, with the help of congressional support, closed captioned television to the Nation in 1980.

When we look back at the work of legislators on behalf of the disabled that set the stage for later laws, the name of Jennings Randolph tops the list. Ever since Jennings Randolph was elected first to the House of Representatives—in the "100 Days" of the Roosevelt administration in 1933—he was not only a voice of compassion, but a man with a mission. His purpose was a simple but sometimes forgotten one—the people came first, and that all individuals were entitled to equal access under the law. It was not surprising that issues relating to the disabled were to become major factors in his legislative priorities.

Legislation that became public law benefiting the blind, the deaf, and hard of hearing, and physically and mentally disabled individuals, all have the unmistakable stamp of the former Senator from West Virginia. His later work as chairman of the Subcommittee on the Handicapped, as it was then called, is legendary.

The NCI award was presented by a board member of the group and old friend of the Senator's Nanette Fabray, before an admiring group of Senator Randolph's many former friends and colleagues. His doctors would not permit him to travel to receive the award, but he was very "present and accounted for".

It was my privilege and honor to accept the award on behalf of Senator Randolph.

Mr. President, I would like my colleagues to share in the commentary of the evening as it evolved under the leadership of Nanette Fabray, the mistress of ceremonies.

Nanette Fabray: In our celebration of 10 glorious years, NCI did not want to forget a certain band of legislators who were present at the creation of social legislation that focused on the disabled—who were there when it wasn't the easiest issue to promote—who convinced other Members—often by addressing the full House and the Senate—that equal access for all citizens meant precisely that—all citizens, whatever their disability.

In researching these brilliant pioneers, we immediately came to the conclusion that one in particular who arrived as a Member of the House in the midst of the Great Depression and then who later served in the Senate with equal distinction was a gentleman with a heart as big as his beloved State of West Virginia. A legislator truly of the people whose vision inspired anyone who worked with him: Here was a man capable of moving mountains and believe me, because I had the extraordinary good fortune to follow his career, and to know him—he moved mountains. I dare to say that without his early work in both the House and the Senate, we would not have had an Americans With Disabilities Act * * * NCI is proud to give our first lifetime contributions award to the former chairman of the Senate Subcommittee of the Handicapped—as it was then called—to a great American who cannot be with us tonight because his doctors will not permit him to travel—but is loved by many in this room—including me—the Honorable Jennings Randolph.

Accepting on behalf of Senator Randolph, the Honorable JAY ROCKEFELLER of West Virginia.

(Senator ROCKEFELLER then reads a statement from Jennings Randolph.)

Remarks of Jennings Randolph: I'm overjoyed with this honor bestowed upon me by the National Captioning Institute, and deeply regret that coincidences prevent me from being with so many precious and dear friends like Nanette Fabray.

NCI shares all the goals and objectives I worked for in Congress since arriving during the "100 days" in 1933 as a Member of the House, and later in the Senate on the Subcommittee of the Handicapped where early legislation developed to assist the deaf and others with disabilities, such as the Randolph-Sheppard Act. To receive an award from an organization like NCI, that brings joy to thousands of children through "Sesame Street" and knowledge to hearing-impaired adults and others learning English, is a personal joy that brings tears to my eyes.

The fact that my dear colleague and friend, DANNY INOUYE, is receiving an NCI award for his current work for the disabled, demonstrates the powerful continuity of this just and noble cause. And nothing could please me more than the fact that the current occupant of my seat, Senator JAY ROCKEFELLER of West Virginia, another true believer, is accepting this award for me. I thank you all from the depths of my being.

Nanette Fabray: Senator ROCKEFELLER, on behalf of the National Captioning Institute, I am proud to present this decoder to be donated to an appropriate institute in West Virginia in Senator Randolph's name.

Thank you Senator, on behalf of both NCI and the extended Randolph family; I

am sure all of us will remember this evening with a special fondness.

Mr. President, I know I speak for my colleagues when I say this award was a most deserved one, and I applaud NCI for recognizing the unique career of a magnificent American legislator and friend.●

OVERT ACTS OF ANTI-SEMITISM

● Mr. BOSCHWITZ. Mr. President I call the attention of my colleagues to the recent sentencing in Moscow of an individual who engaged in overt acts of anti-Semitism. Konstantin Smirnov-Ostashvili, a member of the rightwing Pamyat Society, was prosecuted and convicted for his role in the disruption of a meeting of Jewish writers at the House of Writers in Moscow last January. Those attending the meeting were subjected to physical threats and anti-Semitic epithets.

The fact that this individual is being punished is most welcome, especially in light of the Soviet Union's past anti-Semitic policies. The prosecution of this case is another one of the many remarkable changes we have witnessed in the U.S.S.R. over the past few years, and one I applaud the Soviet Government for pursuing.

I ask that an article on this case be printed in the RECORD at the conclusion of my remarks.

The article follows:

[From the Washington Post, Oct. 13, 1990]

RUSSIAN GETS 2-YEAR TERM IN HATE TRIAL
ANTI-SEMITISM CASE STIRRED CONTROVERSY

(By Elizabeth Shogren)

Moscow, October 12.—In a court case without precedent in the Soviet Union, a militant nationalist Russian was sentenced today to two years at hard labor for stirring up ethnic hatred at a time of increasing Soviet antisemitism.

Konstantin Smirnov-Ostashvili, 54, a leader of the right-wing Pamyat Society, was convicted of leading an attack on Jewish writers. He was the first person prosecuted under a Soviet law intended to ensure racial harmony among the country's 100 or more ethnic groups.

"In making the decision on punishment, the court has taken into account that the crime committed is notable as a great danger to society," Judge Andrei Muratov said in sentencing Smirnov-Ostashvili.

The trial, sensational and often raucous, lasted for almost three months and became the focus of a struggle between Russian supremacists and political liberals as well as a demonstration of government concern over the rise in antisemitism.

As the judge read out the verdict, Smirnov-Ostashvili's supporters stood on benches in the courtroom and unfurled banners, one of which bore the message, "Court—are you serving the law or Zionism?"

Smirnov-Ostashvili, a factory worker, was on trial for organizing a group of Russian nationalists who broke up a liberal political forum at the Central House of Writers in January. The intruders roughed up the participants, shouting, "Go to Tel Aviv" and "Yids."

No one was seriously injured, and Smirnov-Ostashvili, who used a megaphone to shout down the speakers at the forum, was the only person charged after a lengthy investigation by police.

The trial, which began July 24, was nearly as chaotic as the political forum was. Smirnov-Ostashvili and his supporters interrupted the judge, screamed at witnesses, berated lawyers and used the courthouse for impromptu political rallies.●

PHILANDER SMITH COLLEGE COLLEGIATE CHOIR

● Mr. BUMPERS. Mr. President, I rise today in recognition of one of the great college choirs of Arkansas and this Nation. As Philander Smith College, a fine educational institution deep in tradition, celebrates its 113th year in existence, the Philander Smith College Collegiate Choir celebrates its centennial. For the benefit of my colleagues and readers of the RECORD, I would like to quote material published by Philander Smith College for the choir's 100-year anniversary celebration:

Available college information in the years 1890-91 suggests that a small group of singers born to ex-slaves were organized by Miss Nellie A. James to form the first singing group on the campus. Miss James, a Methodist missionary, was one of many who traveled from the North for the cause of educating Negroes in the South.

During the early years, the singers, known as the "sextet," consisted of a soprano, an alto, two tenors and two baritones. These polished and well-mannered groups often traveled for months across the country, singing to Methodist congregations to raise money for the college. Mrs Jennie B. Bats, a soloist in the traveling choir in 1917, explains, "* * * for many years the school depended heavily on the funds raised by the singers. * * *"

In 1934, the Philander Smith College Choir, as it was called, reached its greatest prominence under the direction of Miss Ruth Helen Gillum. Her structured and disciplined style of direction led the choir to national respectability and gained recognition for herself as a composer-arranger. Her published Negro folk arrangements include "There's no Hiding Place" (dedicated to the Philander Smith College Choir), "Roll, Jordan Roll" and Miss "Choric Dance." Mrs. Thelma T. Woodfolk, a soloist under Miss Gillum, described her as "a woman full of beauty and virtue, {with} great dedication. * * *" During Miss Gillum's tenure, the choir had the distinct honor of appearing on the same program with Prima Donna Marion Anderson and the famous "Wings Over Jordan" on CBS Radio.

From 1934 through 1969, the choir reached a series of performance plateaus which have been warmly referred to as "The Glory Years." With the acquisition of a bus, the choir further increased its popularity with concerts and appearances on radio and television programs throughout the state and nation.

For the final 10 years of this successful 35-year period, the choir was under the masterful baton of Carl G. Harris, Jr. (now Ph.D.). Mr. Harris expanded the rich tradition of the choir by skillfully organizing annual concert tours through cities and fine academic institutions. He was the first to conduct the college choir accompanied by a symphony orchestra.

Mr. Harris is responsible for giving the choir its present designation. His insertion of the title "Collegiate" has given the choir the sense of class and distinction it holds today. Ending an era, his choral groups compiled numerous and well-documented moments in the history of Philander Smith College. His accomplishments are still largely unequalled.

Mr. President, this is an outstanding choir and, under the current leadership of Director Stephen L. Hayes, it has maintained its most noteworthy tradition. Year after year, Mr. Hayes has done a tremendous job of molding young voices into a choir that makes Arkansas proud.

In celebration of the choir's 100th anniversary, the Philander Smith College will host a symposium and choral festival for Arkansas high schools and colleges, an organ recital by Dr. Anthony E. Williams of Fisk University, and a concert by the Collegiate Choir at Little Rock Central High School. The highlight of the year will be a choral festival featuring some of the Nation's most outstanding historically black college and university choirs.

The Philander Smith College Collegiate Choir is certainly worthy of the recognition of this great body.●

UNITED STATES-VIETNAMESE RELATIONS

● Mr. McCAIN. Mr. President, last week I addressed the Senate on the subject of United States-Vietnamese relations. The purpose of my remarks was to express my support for improved relations with Vietnam, but only if the pace and scope of those developing relations were linked to progress on several outstanding humanitarian questions and on progress toward real political reforms in Vietnam.

Of the bilateral humanitarian issues I enumerated in my statement, the most important was the full accounting of Americans missing in action in Vietnam. As public debate begins in earnest on normalized relations with Vietnam, I want to reemphasize just how central the resolution of POW/MIA questions is to progress on the question of normalization.

In short, Mr. President, there can be no progress toward normalization unless Vietnam determines that the time has arrived to finally and definitively conclude all the outstanding POW/MIA cases that it is in its power to resolve. Better relations with Vietnam, and with Cambodia and Laos, for that matter, will not occur absent their full cooperation in the fullest possible accounting for the nearly 2,300 Americans who remain missing in Southeast Asia.

I have no doubt, Mr. President, that if the Government of Vietnam wanted to resolve this issue, it could do so immediately. We must convince the Viet-

namese that it is in their best interests to do so. Our responsibility as Members of Congress is to help Hanoi understand certain facts of American political life as they pertain to our relations with Vietnam.

As President Bush has declared, and President Reagan before him, resolution of the POW/MIA issue is a national priority. This issue is an open wound in American history. As long as it remains unresolved, the last chapter of our war in Vietnam cannot be concluded. The healing of our own national divisions and our hostilities with Vietnam will never be concluded until we Americans are satisfied that all those lost Americans that can be accounted for are accounted for. There are 2,300 American families who know only that their sons, brothers, husbands, and fathers left for Southeast Asia one day, and have yet to return. They do not know why. Better relations with Vietnam are vastly less important to Americans than relieving those families from suffering this cruel uncertainty.

No serious public official will seek the approval of the American people for better relations before that great national task is accomplished. Vietnam veterans groups, rightly, would be outraged by the suggestion that Hanoi should enjoy the fruits of American friendship before the United States is assured of Vietnamese good faith in determining the fates of American missing. Few American veterans of any war would tolerate such a singular weakening of American resolve. Indeed, very few Americans, period, will acquiesce in improved relations with Vietnam until Vietnam has convinced them that this last, sad chapter in our long, troubled relationship with that country has been closed. Only then, will Americans and Vietnamese undertake a new relationship, free of the animosity and bitter memories that disturb our present relations.

Mr. President, I have been encouraged by recent improvements in Vietnamese cooperation on this matter. Due in large part to the extraordinary efforts of Gen. John Vessey, the President's special emissary to Vietnam for the POW/MIA question, numerous joint expeditions, investigations, forensic efforts, and technical meetings have taken place. The results of these activities are appreciated, but they fall far short of satisfying U.S. objectives.

For his tireless and selfless service, General Vessey deserves the gratitude of all Americans. When I spoke to him recently he expressed his encouragement by Vietnam's improved cooperation with his mission. However, there are several areas that require much greater cooperation from Hanoi. We in Congress should take every opportunity to support General Vessey's mission and stress to Vietnam that he must receive whatever cooperation he requires to complete his mission.

General Vessey identified several areas in which he believes Vietnam could greatly assist his efforts. He believes that the time is long overdue for a complete resolution of the so-called discrepancy cases involving at least 163 Americans that evidence and eyewitness accounts suggest were, at last report, whether alive or dead, under the control of the Vietnamese. We are certain that it is well within the capability of Hanoi to immediately provide the United States with evidence that will conclusively determine the fates of these missing Americans.

Although I have often heard claims that Americans are still held captive in Indochina, I have yet to see conclusive evidence. Like all Americans I would welcome and immediately act upon such evidence should it exist. In the absence of conclusive evidence, we must pursue allegations of captive Americans on the assumption that some Americans may indeed be alive and held against their will in Vietnam. The burden of proving otherwise rests squarely with the Vietnamese. They can move forward dramatically on this issue by immediately accounting for all the remaining "discrepancy cases."

General Vessey also believes that Hanoi should do more to help with planning the investigations of MIA cases; permitting far greater access to witnesses, including military witnesses, and not just civilians who have been coached to provide Government supplied responses to the general's questions; in opening all pertinent documentary files to American inspection; and in repatriating those remains that the Government of Vietnam almost certainly has in its possession.

I strongly support General Vessey's efforts to secure this expanded cooperation from Vietnam. To help him continue his humanitarian service, he seeks the establishment of a permanent U.S. office in Vietnam to pursue POW/MIA investigations. I urge Congress to support Vessey in this endeavor, and I strongly recommend to the Government of Vietnam that it provide the general with the cooperation he seeks.

Vietnam has unilaterally repatriated more MIA remains than have been recovered through joint efforts with the United States. This strongly suggests that they have the capability to quickly conclude this matter on their own, and that they are intentionally delaying that conclusion. Eager for better relations with the United States, Vietnam turned over in August the remains of 70 individuals. As many as 20 servicemen may soon be accounted for as a result of this recent action. Of course, this also confirms the suspicions of many that Vietnam is warehousing American remains to use them as instruments in their pursuit of American favors. We must insist to the Vietnamese that there is absolutely no advantage to be gained by prolonging the uncertainty surrounding POW/MIA questions.

Mr. President, I accept that some American missing, like some of those who were lost over water, may never be accounted for. Yet, there are a great many mysteries concerning these lost Americans that can and must be resolved, not tomorrow, not at some unspecified time after we have normalized our relationship with Vietnam, but now. Whatever relations we undertake with Vietnam in advance of this problem's resolution will be anything but normal.

Mr. President, I am anxious to construct a new relationship with our old adversary. But Vietnam needs to understand that no matter how many Americans share my desire for better relations, we will not arrive at that moment until we have learned the fates of all those Americans who did not return home from Vietnam. Until we take home from Vietnam the answers to these questions, we will never take our leave of the trauma attending our association with that country.

Therefore, Mr. President, let us all take the opportunity provided by our current discussions with representatives of the Government of Vietnam, and by the forthcoming visit of Foreign Minister Nguyen Co Thach, to reaffirm this principle, this just demand. Let us state frequently and without qualification that the POW/MIA issue, which animates so many American attitudes toward Vietnam, will continue to be an impediment to better relations and the impetus for American policy until it is finally and conclusively resolved.●

FOR THE LOVE OF THEIR CHILDREN

● Mr. DANFORTH. Mr. President, the September Reader's Digest contains the poignant story of three sets of parents drawn together by the most heartbreaking of circumstances, the death of their children, Ceres Horn, Christy Johnson, and T.C. Colley, in the terrible 1987 Conrail-Amtrak collision near Chase, MD.

Entitled "For Love of Their Children," the article describes how Susan and Roger Horn, Anne and Arthur Johnson, and Susan and Tom Colley discovered that one of the causes of the collision was drug use by the engineer of the Conrail train. In the midst of their grief, these courageous parents vowed to do all that they could to see that a crash like the one at Chase could never happen again.

Within a few days of the tragedy, the Horns, the Johnsons, and the Colleys began to make their presence known in Congress. They testified

before House and Senate committees responsible for transportation safety, demanding major safety reforms in the railroad industry and calling for mandatory random drug and alcohol testing of railroad and aviation workers, and commercial truck and bus drivers.

In the summer of 1988, the national grassroots organization these parents founded, Safe Travel America [STA], pushed the enactment of the most far-reaching new railroad safety laws in 20 years. By fall, the first step had been taken toward reaching another of STA's objectives: The Department of Transportation instituted mandatory random drug testing for a wide range of transportation professionals.

STA is still pushing for alcohol to be included in DOT's testing program. In addition, its members want mandatory random drug and alcohol testing written into law, so that a subsequent administration cannot undo what they have worked so hard to accomplish.

Nine times during the past two Congresses, the Senate has passed legislation which would codify DOT's drug testing rules and add alcohol testing. During the remaining days of the 101st Congress, I am optimistic that we can work with the House Energy and Commerce Committee to enact strong legislation requiring drug and alcohol testing of railroad employees.

At the same time, I am frustrated that the House Public Works Committee continues to avoid dealing with this critical safety issue. This is true in spite of a recent National Transportation Safety Board study showing that one-third of the commercial truck drivers killed in highway fatalities had been using drugs or alcohol. This is true even though the public has expressed outrage that three intoxicated Northwest pilots recently were allowed to fly a commercial jet between Fargo, ND, and Minneapolis, MN, because the Federal Aviation Administration lacked the authority to test them for alcohol use.

Mr. President, Safe Travel America and its founders can be proud of what they have accomplished "For Love of Their Children." Today, I join with them to urge my colleagues to continue to support random drug and alcohol testing legislation, and other transportation safety initiatives that will help ensure that our neighbors, our coworkers, our families, and especially our children are safe whenever they board a train or plane, or travel on our Nation's highways.

At this time, I ask that the September 1990 Reader's Digest article, "For Love of Their Children" be printed in the CONGRESSIONAL RECORD in its entirety.

The article follows:

FOR LOVE OF THEIR CHILDREN

(By Trevor Armbrister)

In January 1987, Roger and Susan Horn's world shattered forever. On the afternoon of the 4th, a Boston-bound Amtrak train named the Colonial collided with a Conrail locomotive north of Baltimore. Their daughter Ceres, a 16-year-old Princeton freshman, and 659 other passengers were on board.

Ceres's mother, brother and sister rushed to the scene but were turned back. They returned to their Hunt Valley, Md. home. At midnight, a worried Susan Horn reached her husband, a Johns Hopkins mathematics professor lecturing in Israel. "There's been a train crash. You'd better come home," she said. She made a blizzard of calls, desperately seeking word. Hours passed. Nothing.

Then she heard a scream. Racing downstairs, she found 14-year-old Corinne sobbing in front of the TV. "They've just taken the body of an unidentified teen-age girl off the train," Corinne explained. At that terrible moment, Susan Horn knew.

At about the same time, Arthur and Anne Johnson of Potomac, Md., reached the command post Amtrak and the Red Cross had set up in a motel. Their 20-year-old daughter Christy, a junior at Stanford University in California, had also been on the train. Not until two o'clock that afternoon did the Johnsons learn of her death.

When Tom and Susan Colley of Shippensburg, Pa., heard about the wreck, they weren't overly concerned. Their son, 18-year-old photographer Thomas C. (T.C.) Colley, Jr., had been aboard a train that derailed in Ohio a year and a half earlier, and had not been hurt. This time they assumed he had found other transportation and was still en route to the Rhode Island School of Design in Providence.

But when Susan Colley didn't hear from T.C., she left messages at school and called the Red Cross and Baltimore-area hospitals. The afternoon following the crash, a news conference was held. The victims' next of kin, a police official said, were being notified. Ten minutes later, the Colleys' phone rang.

A Father's plea. All told, the wreck of Amtrak's Colonial left 16 people dead and 174 injured. When tests revealed that both Conrail engineer Ricky Lynn Gates and brakeman Edward "Butch" Cromwell had been smoking marijuana before the crash, the parents' grief turned to rage.

Roger Horn set out to learn all he could about the accident. He came from a railroad family, so he knew how trains were supposed to operate. After days of study, he concluded that "accident" was the wrong term. This had been a violent crime. Ricky Gates had ignored two warning signals instructing him to slow down; his locomotives had gone through a stop sign and into the Colonial's path. He hadn't heard the screech of the cab's alerter whistle—designed to warn of possible emergencies—because someone had muffled it with duct tape. Gates' motor-vehicle license had been suspended twice, and he was awaiting trial for drunken driving.

Horn learned that on January 20 a Senate subcommittee would be holding an oversight hearing about the crash. He volunteered to testify, but was told the list of witnesses already had been approved. He prepared testimony and drove to Washington anyway.

The hearing room was mobbed. Walking down the hall, Horn spotted a room marked "Senators Only," stepped inside and left a note for his Senator, Barbara Mikulski (D., Md.). Minutes later, in the hearing room, Horn saw the lawmaker read his note. At her request, Horn was asked to testify.

First Horn had to listen to the unions blame the railroads, the railroads blame the unions and both blame the Federal Railroad Administration. "Nobody talked about how to make things better," he recalls.

Finally, it was Horn's turn. "At first it seemed that this terrible event was a random accident," he began. "But the horror has been compounded by a growing realization that it was entirely preventable." The mammoth hearing room, which minutes before had been abuzz, suddenly fell still. Horn continued, "Those of us who have suffered most directly from this tragedy hope that it may be a stimulus to the Congress to enact new legislation." He stressed the need for new safety procedures, including tamper-proof safety devices on trains and random testing for substance abuse.

"Stay Angry." The next evening, sitting in the kitchen of their small farm, Anne Johnson read in the newspaper about Horn's appearance. "We must call him," she told her husband, a 68-year-old retired civil servant who ran a consulting business.

"How can I help?" Art Johnson asked when he reached Horn. The two had no idea that their efforts would mushroom into a national movement. On February 12, Johnson wrote letters to the families of all the crash victims, urging them to contact him.

Several weeks later, Tom Colley returned home from his job teaching drama at Shippensburg University to find his wife typing furiously at the dining-room table. "I'm angry," she said, "and I want to do something." Over the next several days, she and her husband wrote letters to 153 newspapers and to every member of Congress. Some papers used the letter as the basis for editorials, but only a dozen lawmakers bothered to reply. One—their own Senator, John Heinz (R., Pa.)—finally responded to their third appeal by soliciting their views on parental-leave legislation being considered by a subcommittee. "Here we are, a middle-aged couple who have lost our only child," Tom Colley said bitterly, "and he wants to know our opinion of a child-care bill."

The three couples had now joined forces. Eventually they got the ears of some key people on the Senate Commerce Committee and pressed for legislation. By mid-March their efforts had begun to pay dividends. The committee approved a bill—sponsored by Senators Ernest Hollings (D., S.C.) and John Danforth (R., Mo.)—that called for random drug and alcohol testing of all transportation employees in "safety sensitive" jobs.

On April 28 Danforth invited Roger Horn into his private office. The Senator's youngest daughter, Jody, had been scheduled to take the Amtrak Colonial on January 4, the Senator explained. Instead, she got a ride back to Princeton with her sister. Danforth realized how close she had come to death. "What happened wasn't right," he said. "Stay angry and keep pressing."

In May the Senate Judiciary Committee took up the Hollings-Danforth bill. The Johnsons sat in the hearing room as American Civil Liberties Union attorney Allan Adler testified before the committee. "Transportation employees will be the victims of this legislation," he said. "It could cost tens of thousands their privacy, dignity, reputations and jobs."

Constitutional Right? In June and July, Tom and Susan Colley joined the Horns and Johnsons at House subcommittee hearings. When none of the subcommittee chairmen showed the slightest interest in meeting with the families, they decided they needed a name to gain access. Anne Johnson came up with Safe Travel America (STA). They would register as a lobbying group, appeal to citizens everywhere to join their crusade, then impress Congress with their support.

In October, STA won an audience with Rep. John Dingell (D., Mich.), whose Energy and Commerce Committee controls railroad bills. "It was an astounding meeting," says Roger Horn. When the subject of drug and alcohol testing came up, "he delivered a monologue against testing for most of our 20 minutes, then thanked us for sharing our views with him."

Senator Danforth addressed 600 volunteers gathered on Capitol Hill for STA's first lobby day on October 7. "A few people want to defeat this legislation," he said. "They say there's some Constitutional right involved. There is no Constitutional right to take drugs and get into the locomotive of a train."

Free Drug Bust. On February 4, 1988, the National Transportation Safety Board (NTSB) released its final report. The collision's probable cause, it confirmed, was "the failure, as a result of impairment from marijuana," of the Conrail engineeer to comply with signals that told him to stop.

Appearing before the Senate Commerce Committee, a chastened Ricky Gates, who had agreed to plead guilty, testified in support of random drug and alcohol testing. Later he would admit to having drunk "anywhere from a six-pack to two cases of beer a day" and to frequent use of marijuana with his Conrail co-workers.

The Horns, Johnsons and Colleys kept up the pressure for a substance-abuse bill, writing letters to newspapers everywhere. Cincinnati is the home of Rep. Thomas Luken (D., Ohio), chairman of the subcommittee responsible for railroads. Roger Horn flew there to appear on raido and TV shows and meet with newspaper editorial boards. In Washington on May 18, Luken, bowing to the pressure, promised to introduce a drug and alcohol testing bill.

From STA's point of view, however, the Luken bill was flawed. First, it applied only to railroad workers. Worse, it said that employees could not be fired the first time they were caught using drugs or alcohol on the job. They'd have to undergo rehabilitation at company expense. That was tantamount to offering them a free drug bust.

On June 15 Tom and Susan Colley flew to Atlanta to testify before a Department of Transportation (DOT) rule-making hearing on drugs and alcohol. One union, the Brotherhood of Railroad Signalmen, had agreed to random drug and alcohol testing but the rest of rail labor was still bitterly opposed.

Frustrating Delays. By then, the Senate had approved the Hollings-Danforth random drug and alcohol testing bill. But it was going nowhere in the House. When the 100th Congress adjourned in the fall, neither the Luken or the Hollings-Danforth bill had been adopted.

Back in Cincinnati, Luken was running for a seventh term. Tom Luken has to fight the leaders of his own party for his drug bill, his TV commercials proclaimed. The ads went on to say that the parents of the victims of the crash welcomed Luken's action and said the nation had been waiting for such a bill.

When Roger and Susan Horn heard that, they were so incensed at Luken's claim that they flew to Cincinnati to set the record straight. On October 26, they were on WCKY Radio's "Mike McMurray Show" when Congressman Luken called, questioning the Horns' credibility.

The station's operations manager offerred to put Luken on the show, but the Congressman declined.

In November, DOT Secretary Jim Burnley announced that drug-testing regulations would go into effect the following fall. The Horns, Johnsons and Colleys were elated. But they also knew the regulations could be loosened, or even scrapped, by Burnley's successors, so they continued the fight for tough drug and alcohol testing legislation.

In March 1989, by a seven-to-two vote, the U.S. Supreme Court upheld the post-accident drug testing of railroad employees. "On the present record," the majority agreed, "the compelling governmental interests served by the regulations outweigh employees' privacy concerns."

The Johnsons were in Hawaii for their first vacation in years when Attorney General Dick Thornburgh called with the news. "We're absolutely elated," Thornburgh told them. "Thanks for all you've done to make this possible."

Since September 1987, 99 air-traffic controllers have been dismissed or placed in rehabilitation for using drugs. And last March the NTSB released a report showing that one in three truckers tested after dying in highway accidents had ingested drugs or alcohol. One week later, tests showed that the three-man crew of a Northwest Airlines jet that had flown from Fargo, N.D., to Minneapolis carried high levels of alcohol in their systems.

Still, there is no random drug and alcohol testing legislation from Congress. The Horns, Johnsons and Coleys continue to stalk Congressional corridors and testify as often as they can. Their movement is larger now—over 1000 members in 35 states and three foreign countries—and they're confident they will prevail. "We're still three angry families," Art Johnson says.

On a sunny Sunday last May, Roger and Susan Horn dedicated a plaque to Ceres in a Baltimore County park. "I think she's in heaven cheering us on," Susan Horn said. "'Mother, Daddy,' she's saying, 'don't let it happen again.'"

It need not. Write to Rep. John Dingell, Chairman, House Committee on Energy and Commerce, and Rep. Glenn Anderson, Chairman, House Committee on Public Works and Transportation, Washington, D.C. 20515. Demand that they pass legislation—similar to Senate Bill 561 or House Bill 4848—that mandates random drug and alcohol testing for safety-sensitive employees in all forms of public transportation. Your life, and your children's may depend on it.●

TRADE AND AID

● Mr. DODD. Mr. President, I ask that Senator JOSEPH LIEBERMAN'S October 2 testimony before the Foreign Relations Committee be printed in the RECORD.

The testimony follows:

TESTIMONY OF SENATOR JOSEPH I. LIEBERMAN

I want to thank the Chairman and the other members of the Committee for holding this hearing today on the increasingly important topic of tied aid.

Benjamin Franklin said that no nation was ever ruined by trade. The United States may be in the process of proving him wrong. Since the mid-eighties, we have been running trade deficits well over $100 billion. America is not competing effectively in the international market place, and we are failing to deal with this problem in an effective and aggressive manner.

Our most recent trade figures for July were particularly disturbing. The monthly deficit was $9.3 billion up from the previous month deficit of $5.3 billion. That is nearly a 50% increase. What concerns me most is that these numbers do not reflect the increase that will occur as a result of the dramatic rise in the price of oil. In addition, Bill Archey of the Chamber of Commerce stated that our manufacturing exports were down some $2.8 billion. Our overall exports were down about $2.2 billion.

I come from a state that exports more per capita than any other state in the union. Seven percent of Connecticut's work force is involved in producing exports, compared with 4.5% nationally. The dollar volume of state exports grew by 18% last year. But international competition is increasing, and there is no guarantee that Connecticut's exporters will continue to remain strong.

One of our primary problems is that our exporters in Connecticut and across the country are at a competitive disadvantage because they do not have the kind of government support that their counterparts from Japan and the nations of the European Community have. They need government support to compete. Congress and the Administration must reach out to our exporting community to form a public-private partnership that will help them capture new markets. Our products are often competitive with the products of other nations, but it is our terms of trade—the packaging of a transaction—that makes life difficult for American exporters.

A primary difficulty confronting them is the issue of export financing and tied aid—the tying of economic aid to export sales. This predatory form of financing was supposed to have been put to rest with the Arrangement on Guidelines for Officially Supported Export Credits also known as the Arrangement. The Arrangement is an informal agreement among 22 of the 24 Organization for Economic Cooperation and Development (OECD) countries to set guidelines on export financing. It first came into existence in 1978, but its roots can be traced back to the 1960's. The most recent negotiations under the framework of the Arrangement, put into place in 1987, resulted in the Tied Aid Credit Agreement. The basic premise of this agreement is that a 35% minimum of concessionality—that is, the grant portion of a deal—must be reached in order to put forward a tied aid credit package.

It is important to remember that this 35% was designed to make tied aid too expensive a proposition for nations to pursue. If the threshold had been 20% or even 25%, a government might consider pursuing this kind of deal in order to help out an exporter; 35% was considered to be above that threshold or too expensive—at least in theory. The problem is that tied aid activity has increased since the 1987 version of the Arrangement was put into place because our foreign competitors have been willing to meet the 35% requirement because they are committed to the practice of using tied aid to help their exporters.

A new round of negotiations is going on at the OECD, but unless the United States has contingency plans in place to combat the tied aid practices of foreign nations then no

negotiations or agreement will help. We do not adequately fund our tied aid programs for three reasons: much emphasis has been put on the Arrangement as a solution to the problem; official government support for exporters goes against traditional American policy of not mixing development aid and support for exports; and tied aid is very expensive.

The lack of commitment by the government to an aggressive tied aid program has caused U.S. exporters to lose out to their competitors in valuable overseas markets, including such areas as computers and telecommunications. According to Ambassador Ernie Preeg, a former chief economist at AID and one of the foremost experts on this issue, the "current market for capital goods transactions . . . which is inaccessible to U.S. exporters because of other governments, is $10 to $12 billion per year, resulting in an estimated $2.4 to $4.8 billion annual loss to U.S. exports. Future U.S. export loss in high-growth developing country markets could be far greater."

Using Ambassador Preeg's thoughts on this issue as a framework for the first title of my legislation, I have developed a program that should help our exporters get back in the game of winning contracts in developing country markets. I also want to take a moment to acknowledge the leadership of Senators Byrd, Boren, and Bentsen on this issue. I believe my bill to be complementary to their efforts. Like them, in my legislation, I put special emphasis on AID as a source of funding for tied aid transactions.

While AID must play an important role in helping our exporters meet the tied aid offers of their foreign competitors, the bill also includes a $500 million authorization for the Eximbank's war chest for fiscal years 1991 and 1992 because the Eximbank remains the key agency in the tied aid battle.

I applaud the efforts already made by Exim and AID in the packages that they put together earlier this year designed to help American exporters in Indonesia, Pakistan, the Philippines, and Thailand. That program is similar to what I am trying to do with my legislation. It makes use of Eximbank war chest funding, Bank guarantees, and a portion of AID's already committed Economic Support Funds. This "tied aid" package will amount to $500 million. It will, however, only be used to fund those projects that meet AID's development criteria and country priorities. In other words, the projects will be developmentally sound and in the best interest of the country involved. That is key for both the commercial and the development success of the projects.

Title I of my bill would permanently establish this type of cooperative effort between AID, Eximbank, and the Trade and Development Program (TDP). (TDP is charged with the financing and planning of projects in developing countries which are potential export markets for U.S. goods and services.) I would do this by setting up a Capital Projects Bureau at AID that would work with the other AID bureaus in putting together capital projects that would be beneficial to our exporters. These projects would be developmentally sound and consist of a 40% grant element. The annual budget for the newly formed Capital Projects Bureau would be $500 million.

Within the Bureau, there also would be a special program for Eastern Europe. Initially the Bureau would conduct a study of the various sectors of the economies of the nations of Eastern Europe that are most in need of rebuilding. Those sectors would become eligible for assistance under the Capital Projects Bureau and cooperative programs between it, the Eximbank, and the Trade and Development Program (TDP). The Bureau would establish desk officers and in-country presence for the nations of Eastern Europe.

We have a responsibility to help the nations of Eastern Europe. For over four decades we promised these nations that we would help them if they would rise up against their communist oppressors. They have done so, beyond anyone's expectations. Now we have to live up to our end of the bargain, but we must do so within our financial means. The best way to do this is to help them develop their infrastructure, from telecommunications to the building of roads and bridges. If, however, we are putting up taxpayer dollars to help these nations, we must be certain that American companies will benefit from our nation's investment. By creating the linkage that my bill outlines, I believe that we can achieve both objectives: helping the nations of Eastern Europe rebuild and getting American firms in on the ground floor of this rebuilding process.

In order to facilitate an even better working relationship among the various government agencies involved with development and export finance, I recommend the establishment of a Capital Projects Interagency Board that would be administered by AID, Eximbank, and TDP in my legislation and would be the judge and jury over which tied aid projects should go forward.

Such a board would bring these agencies even closer together as they deliberate on tied aid projects. Presently the National Advisory Committee (NAC) decides whether or not tied aid deal will go forward. The new Interagency Board will be better suited to handle this issue since that will be its sole function, unlike the NAC which has a number of other issues with which it must contend.

The final portion of Title I puts forward guidelines for our negotiators at the OECD talks on tied aid. These guidelines are designed to be supportive of U.S. efforts to combat the practice of tied aid. The Capital Projects Bureau will strengthen the hand of our negotiators so that the other participants in the talks will know that we are serious about being ready to compete for export markets.

I will not discuss the other titles of my bill today because they are not relevant to the subject of the hearing. But I would like to add that I believe that we have to make every effort to aid American exporters whether through revising our system of export controls or through creating a more flexible financing mechanism for defense exports. The other two title of my bill deal with these questions.

There was a time in our nation's recent history when trade was considered a kind of foreign aid program for our friends and allies. After World War II, we developed a world trading system that was really designed to give foreign nations access to our market while allowing them to protect their own. This system worked—too well. Now we run trade deficits that are out of control.

In order to take control of our economic destiny, we must eliminate our trade deficit. One of the most effective ways of achieving this is to reach out to our exporters and help them compete on a level playing field. Frank Doyle, one of my constituents and a senior Vice President at General Electric, said it best, "We won't win many orders without the best products at the best quality and the best price . . . But without competitive financing, we won't win any orders at all." I believe that my bill, as well as the bill introduced by Senators Boren, Bentsen, and Byrd, will help our exporters to better compete. I am sure that if we in government don't reach out to our exporting community more consistently and effectively, then our nation's competitiveness will be at further risk. We have a choice—to act or not to act. For me, the choice is clear. We must act.●

MAINE ACADIAN CULTURE PRESERVATION ACT

Mr. LEVIN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1756.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1756) entitled "An Act to provide for the preservation and interpretation of sites associated with Acadian culture in the State of Maine", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Maine Acadian Culture Preservation Act".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) recognize an important contribution made to American culture and history by the Acadian immigrants from France who settled in Nova Scotia and, following expulsion by the British in 1755, resettled in various North American colonies, including the territory that eventually became the State of Maine;

(2) assist local and State governments and other public and private entities in the State of Maine in interpreting the story of the State's Acadian settlers and their descendants as well as preserving Acadian music; arts, crafts, and folklore; and

(3) assist in identifying, gathering, and preserving sites, historical data, artifacts, and objects associated with the Acadians in Maine for the benefit and education of the public.

SEC. 2. MAINE ACADIAN CULTURE PRESERVATION COMMISSION.

(a) ESTABLISHMENT.—There is hereby established the Maine Acadian Culture Preservation Commission (hereafter in this Act referred to as the "Commission"), which shall consist of 11 members appointed by the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") not later than 6 months after the date of enactment of this Act, as follows:

(1) One member, who shall serve as Chair, appointed from among recommendations submitted by the Governor of the State of Maine.

(2) One member appointed from among recommendations submitted by the Speaker of the House of Representatives of the State of Maine.

(3) One member appointed from among recommendations submitted by the President of the Senate of the State of Maine.

(4) One member appointed from among recommendations submitted by the Chancellor of the University of Maine System.

(5) Three members appointed from among recommendations submitted by State and local historic, cultural or historic preservation organizations.

(6) Four members who are nationally recognized experts in fields of history, anthropology, and folklore, appointed by the Secretary.

(b) TERMS.—(1) Members of the Commission shall be appointed for terms not to exceed 3 years.

(2) The Secretary may stagger the terms of initial appointments to the Commission in order to assure continuity in operation.

(3) Any member of the Commission may serve after the expiration of his or her term until a successor is appointed. A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(c) VOTING.—The Commission shall act and advise by affirmative vote of a majority of its members.

(d) COMPENSATION.—Members of the Commission shall receive no pay on account of their service on the Commission, but while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

(e) EXEMPTION FROM CHARTER RENEWAL REQUIREMENTS.—Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(f) TERMINATION.—The Commission shall terminate 10 years from the date of enactment of this Act.

(g) SUPPORT.—The Director of the National Park Service is authorized to provide such staff support and technical services as may be necessary to carry out the functions of the Commission.

SEC. 4. DUTIES OF THE COMMISSION.

The Commission shall advise the Secretary with respect to—

(1) the selection of sites for interpretation and preservation by means of cooperative agreements pursuant to section 6; and

(2) the development and implementation of an interpretive program of the Acadian culture in the State of Maine pursuant to section 7(d).

SEC. 5. STUDY.

Within 1 year after the date of enactment of this Act, the Secretary, in consultation with the Commission, shall prepare and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a comprehensive study of Acadian culture in Maine.

SEC. 6. COOPERATIVE AGREEMENTS.

(a) IN GENERAL.—In furtherance of the purposes of this Act, the Secretary is authorized, after consultation with the Commission, to enter into cooperative agreements with the owners of properties of natural, historical, or cultural significance associated with the Acadian people in the State of Maine, pursuant to which agreements the Secretary may mark, interpret, restore, and provide technical assistance for the preservation of such properties and pursuant to which the Secretary may provide assistance, including management services and program implementation.

(b) RIGHT OF ACCESS.—Each cooperative agreement shall provide that the Secretary, through the National Park Service, shall have the right of access at all reasonable times to all public portions of the property covered by the agreement for the purpose of conducting visitors through such properties and interpreting them to the public.

(c) ALTERATION OF PROPERTIES.—Each cooperative agreement shall provide that no changes or alterations shall be made in the property covered by the agreement except by mutual agreement between the Secretary and the other party to the agreement.

SEC. 7. ACADIAN CULTURAL CENTER.

(a) IN GENERAL.—The Secretary is authorized, after completion of the study required by section 5, to establish a center for the preservation and interpretation of Acadian culture within the State of Maine.

(b) ACQUISITION OF LAND.—The Secretary is authorized to acquire lands and interests therein, not to exceed 20 acres in total by donation, purchase with donated or appropriated funds, or exchange and to develop and operate facilities and programs at the center in furtherance of the purposes of this Act.

(c) OPERATION.—The Secretary may contract with public and private entities for the operation of the center in accordance with program standards approved by the Secretary.

(d) INTERPRETIVE PROGRAM.—In coordination with the Commission, the Secretary shall develop an interpretive program of the Acadian culture in the State of Maine.

(e) STATUTORY AUTHORITY.—The Secretary shall administer properties acquired and cooperative agreements entered into pursuant to this Act in accordance with the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.) and other statutory authority for the conservation and management of natural, historical, and cultural resources.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) COMMISSION.—For the purposes of carrying out the functions of the Commission, there are authorized to be appropriated such sums as may be necessary, not to exceed $250,000.

(b) OTHER PURPOSES.—(1) To carry out the other purposes of this Act, there are authorized to be appropriated such sums as may be necessary, subject to the limitations of paragraph (2).

(2) With respect to cooperative agreements entered into pursuant to section 6, and the provisions dealing with the Acadian Cultural Center in subsections 7(a) through (c), the Secretary is authorized to expend not more than 50 percent of the aggregate cost of performing those functions. The remainder of such cost shall be paid by non-Federal funds.

AMENDMENT NO. 3006

(Purpose: To amend S. 1756, as amended by the House of Representatives)

Mr. LEVIN. Mr. President, I move that the Senate concur in the amendment of the House with the following amendment which I send to the desk in behalf of Senator JOHNSTON.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] for Mr. JOHNSTON proposes an amendment numbered 3006.

Mr. LEVIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 5, after "history," insert "historic preservation,".

On page 4, line 23, strike "1 year" and insert in lieu thereof, "6 months".

On page 4, line 24, strike "Secretary, in consultation with the Commission," and insert in lieu thereof, "Secretary".

On page 6, lines 4 and 5, strike "after completion of the study required by section 5," and insert in lieu thereof, "after consultation with the Commission,".

On page 6, line 11, strike "develop and operate" and insert in lieu thereof, "develop, operate, and maintain".

On page 6, line 12, strike "programs" and insert in lieu thereof, "to develop and operate programs".

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Michigan.

The motion was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INTELLIGENCE AUTHORIZATION BILL

Mr. LEVIN. Mr. President, I ask unanimous consent that when the Senate receives a message from the House on S. 2834, the intelligence authorization bill, that the Senate disagree to the House amendment, agree to the request for a conference, and that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Without objection, it is so ordered.

When the conferees are received they will be presented to the Senate.

SENECA NATION SETTLEMENT ACT

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 975, H.R. 5367, the Seneca Nation settlement bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5367) to provide for the renegotiation of certain leases of the Seneca Nation, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MOYNIHAN. Mr. President, I introduced S. 2895 with Senator

D'AMATO on July 24 to provide compensation to the Seneca Nation of Indians for inequities resulting from past lease agreements with the city of Salamanca, NY.

The city of Salamanca is located almost entirely on land owned by the Seneca Nation of Indians. Some 3,000 property owners in Salamanca lease their land from the Senecas, under terms that will expire on February 19, 1991.

And as might come as no great surprise, the leases were authorized over the objections of the Senecas, by an act of the 51st Congress, on September 30, 1890. One hundred years and two weeks ago. As these leases contained no rent escalation provision, over their 99-year duration, some lessees have paid as little as $1 per year for the use of the land.

The Senecas and the city of Salamanca recently undertook negotiations to renew the leases, on somewhat more favorable terms for the Senecas. These negotiations have concluded, and the agreement reached also contemplates a one-time payment in restitution for the unjust terms of the last century. The sum agreed to by New York State and the Senecas is $60 million. A $35 million Federal and $25 million State contribution.

Governor Cuomo has pledged his best efforts to provide New York State's share. I hope we in Congress, who approved these leases 100 years ago, can also make this commitment.

We took advantage of the Seneca Nation, now we ought to correct this injustice. Mr. President, this bill would authorize just compensation for the Seneca Nation and clear the way for the extension of the land leases in Salamanca.

I urge its adoption.

Mr. WALSH. Mr. Speaker, I rise in support of the Seneca Nation Settlement Act of 1990 introduced by my friend and colleague, Congressman AMO HOUGHTON.

After years of negotiations by all parties, an agreeable settlement has been reached and now it is time for the Federal Government to do its part. The city of Salaomanca and the Seneca Indians have endured great economic hardships during this dispute. Businesses are closing and residents of the city are moving out because of the uncertainty of the status of their land. The Senecas are having difficulty finding jobs and the conditions on the reservation are crowded.

Congressman HOUGHTON and the Senecas are asking the Federal Government to contribute a portion to the settlement. Out of the agreed $60 million for the Senecas, the Government would contribute $35 million.

I believe that this is a fair compromise, given our current fiscal problems. I urge my colleagues to support this measure and help resolve this case.

Mr. D'AMATO. Mr. President, today the Senate is passing the Seneca Nation Settlement Act of 1990, S. 2895. I would like to take a few moments to commend the distinguished chairman of the Indian Affairs Committee, Senator INOUYE, for his expeditious treatment of this legislation. I introduced S. 2895 with Senator MOYNIHAN on July 24 of this year. Chairman INOUYE held a hearing on September 18, and here we are today on the verge of final passage. We would not be at this point today without the leadership of Senator INOUYE.

Roughly 90 percent of the city of Salamanca lies inside of the Allegany Reservation, home to the Seneca Indians. Back in 1892, the people of Salamanca entered into a 99-year lease with the Senecas. The terms of the lease required annual payments of $57,000 to the Senecas. The lease is set to expire in February 1991.

For nearly a decade, the Senecas and the city of Salamanca have been negotiating the terms for a new lease. The disagreements that have characterized the negotiations over the past 10 years have created an air of uncertainty about the city's future that has discouraged investment and depressed real estate prices. In July, the parties finally reached agreement on the terms of the new lease. S. 2895 embodies this agreement.

Under S. 2895, the Seneca Nation will offer new 40-year leases to the existing lessees with an option to renew for an additional 40 years. Unlike the existing fixed term leases, the annual rental of these leases is linked to the appraised value of the land—8 percent for residential property and 10 percent for commercial property. The annual rental income will jump from $57,000 now received by the Senecas to $800,000. S. 2895 also requires payment from the U.S. Government of $35 million as compensation to the Seneca Nation for past losses; and payment from the State of New York for similar purposes.

This legislation is important to the Seneca Nation as well as the city of Salamanca. I am pleased that the Senate is about to pass this legislation.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 5367) was ordered to a third reading, was read the third time, and passed.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate companion bill, Calendar No. 948, S. 2895, be definitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL SARCOIDOSIS AWARENESS DAY

Mr. LEVIN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 519, designating National Sarcoidosis Awareness Day and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 519) designating August 29, 1990, as "National Sarcoidosis Awareness Day."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendments. If there is no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 519) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HYDROGEN RESEARCH AND DEVELOPMENT PROGRAM

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar 708, S. 639, to establish a hydrogen research and development program.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill (S. 639) to establish a hydrogen research and development program, which had been reported from the Commission on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SEC. 101. SHORT TITLE.

This Act may be referred to as the "Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990".

SEC. 102. FINDINGS, PURPOSES, AND DEFINITION.

(a) FINDING.—Congress finds that it is in the national interest to accelerate efforts to develop a domestic capability to economically produce hydrogen in quantities that will make a significant contribution toward reducing the Nation's dependence on conventional fuels.

(b) PURPOSES.—The purposes of this Act are—

(1) to direct the Secretary to prepare a comprehensive 5-year comprehensive pro-

gram management plan that will identify and resolve critical technical issues necessary for the realization of a domestic capability to produce, distribute, and use hydrogen economically within the shortest time practicable;

(2) to direct the Secretary to develop a technology assessment and information transfer program among the Federal agencies and aerospace, transportation, energy, and other entities; and

(3) to develop renewable energy resources as a primary source of energy for the production of hydrogen.

(c) DEFINITION.—As used in this Act, the term:

(1) "critical technology" (or "critical technical issue") means a technology (or issue) that, in the opinion of the Secretary, requires understanding and development in order to take the next needed step in the development of hydrogen as an economic fuel or storage medium; and

(2) "Secretary" means the Secretary of Energy.

SEC. 103. COMPREHENSIVE MANAGEMENT PLAN.

(a) PLAN.—The Secretary shall prepare a comprehensive 5-year program management plan for research and development activities, which shall be conducted over a period of no less than 5 years and shall be consistent with the provisions of sections 104 and 105. In the preparation of such plan, the Secretary shall consult with the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, the Hydrogen Technical Advisory Panel established under section 108, and the heads of such other Federal agencies and such public and private organizations as he deems appropriate. The plan shall be structured to identify and address areas of research critical to the realization of a domestic hydrogen production capability within the shortest time practicable.

(b) CONTENTS OF PLAN.—Within 180 days after the date of the enactment of this Act, the Secretary shall transmit the comprehensive program management plan to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Subsequent plans shall be incorporated in the management plan under this section. The plan shall include—

(1) a prioritization of research areas critical to the economic use of hydrogen as a fuel and energy storage medium;

(2) the program elements, management structure, and activities, including program responsibilities of individual agencies and individual institutional elements;

(3) the program strategies including technical milestones to be achieved toward specific goals during each fiscal year for all major activities and projects;

(4) the estimated costs of individual program items, including current as well as proposed funding levels for each of the 5 years of the plan for each of the participating agencies;

(5) a description of the methodology of coordination and technology transfer; and

(6) the proposed participation by industry and academia in the planning and implementation of the program.

(c) DEMONSTRATION PLAN.—The Secretary shall, in consultation with the Secretary of Transportation, the Administrator of the National Aeronautics and Space Administration, and the Hydrogen Technical Advisory Panel established under section 108, also prepare a comprehensive large-scale hydrogen demonstration plan with respect to demonstrations carried out pursuant to section 105. Subsequent plans shall be incorporated in the management plan under this section. Such plan shall include—

(1) a description of the necessary research and development activities that must be completed before initiation of a large-scale hydrogen production and storage demonstration program;

(2) an assessment of the appropriateness of a large-scale demonstration immediately upon completion of the necessary research and development activities;

(3) an implementation schedule with associated budget and program management resource requirements; and

(4) a description of the role of the private sector in carrying out the demonstration program.

SEC. 104. RESEARCH AND DEVELOPMENT.

(a) PROGRAM.—The Secretary shall conduct a research and development program, consistent with the comprehensive 5-year program management plan under section 103, to ensure the development of a domestic hydrogen fuel production capability within the shortest time practicable consistent with market conditions.

(b) RESEARCH.—(1) Particular attention shall be given to developing an understanding and resolution of all critical technical issues preventing the introduction of hydrogen into the marketplace.

(2) The Secretary shall initiate research or accelerate existing research in critical technical issues that will contribute to the development of more economic hydrogen production and use, including, but not limited to, critical technical issues with respect to production, liquefaction, transmission, distribution, storage, and use (including use of hydrogen in surface transportation).

(c) RENEWABLE ENERGY PRIORITY.—The Secretary shall give priority to those production techniques that use renewable energy resources as their primary source of energy for hydrogen production.

(d) NEW TECHNOLOGIES.—The Secretary shall, for the purpose of performing his responsibilities pursuant to this Act, solicit proposals for and evaluate any reasonable new or improved technology that could lead or contribute to the development of economic hydrogen production storage and utilization.

(e) INFORMATION.—The Secretary shall conduct evaluations, arrange for tests and demonstrations, and disseminate to developers information, data, and materials necessary to support efforts undertaken pursuant to this section, consistent with section 106.

SEC. 105. DEMONSTRATONS.

(a) REQUIREMENT.—The Secretary shall conduct demonstrations of critical technologies, preferably in self-contained locations, so that technical and non-technical parameters can be evaluated to best determine commercial applicability of the technology.

(b) SMALL-SCALE DEMONSTRATIONS.—Concurrently with activities conducted pursuant to section 104, the Secretary shall conduct small-scale demonstrations of hydrogen technology at self-contained sites.

SEC. 106. TECHNOLOGY TRANSFER PROGRAM.

(a) PROGRAM.—The Secretary shall conduct a program designed to accelerate wider application of hydrogen production, storage, utilization, and other technologies available in near term as a result of aerospace experience as well as other research progress by transferring critical technologies to the private sector. The Secretary shall direct the program with the advice and assistance of the Hydrogen Technical Advisory Panel established under section 108. The objective in seeking this advice is to increase participation of private industry in the demonstration of near commercial applications through cooperative research and development arrangements, joint ventures or other appropriate arrangements involving the private sector.

(b) INFORMATION.—The Secretary, in carrying out the program authorized by subsection (a), shall—

(1) undertake an inventory and assessment of hydrogen technologies and their commercial capability to economically produce, store, or utilize hydrogen in aerospace, transportation, electric utilities, petrochemical, chemical, merchant hydrogen, and other industrial sectors; and

(2) develop a National Aeronautics Space Administration, Department of Energy, and industry information exchange program to improve technology transfer for—

(A) application of aerospace experience by industry;

(B) application of research progress by industry and aerospace;

(C) application of commercial capability of industry by aerospace; and

(D) expression of industrial needs to research organizations.

The information exchange program may consist of workshops, publications, conferences, and a data base for the use by the public and private sectors.

SEC. 107. COORDINATION AND CONSULTATION.

(a) SECRETARY'S RESPONSIBILITY.—The Secretary shall have overall management responsibility for carrying out programs under this Act. In carrying out such programs, the Secretary, consistent with such overall management responsibility—

(1) shall use the expertise of the National Aeronautics and Space Administration and the Department of Transportation; and

(2) may use the expertise of the National Aeronautics and Space Administration and the Department of Transportation; and

(2) may use the expertise of any other Federal agency in accordance with subsection (b) in carrying out any activities under this title, to the extent that the Secretary determines that any such agency has capabilities which would allow such agency to contribute to the purpose of this Act.

(b) ASSISTANCE.—The Secretary may, in accordance with subsection (a), obtain the assistance of any department, agency, or instrumentality of the Executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise and with the consent of such department, agency, or instrumentality. Each such request shall identify the assistance the Secretary deems necessary to carry out any duty under this Act.

(c) CONSULTATION.—The Secretary shall consult with the Administrator of the National Aeronautics and Space Administration, the Administrator of the Environmental Protection Agency, the Secretary of Transportation, and the Hydrogen Technical Advisory Panel established under section 108 in carrying out his authorities pursuant to this Act.

SEC. 108. TECHNICAL PANEL.

(b) ESTABLISHMENT.—There is hereby established the Hydrogen Technical Advisory Panel (the "technical panel"), to advise the Secretary on the programs under this Act.

(b) MEMBERSHIP.—The technical panel shall be appointed by the Secretary and shall be comprised of such representatives

from domestic industry, universities, professional societies, Government laboratories, financial, environmental, and other organizations as the Secretary deems appropriate based on his assessment of the technical and other qualifications of such representatives. Appointments to the technical panel shall be made within 90 days after the enactment of this Act. The technical panel shall have a chairman, who shall be elected by the members from among their number.

(c) COOPERATION.—The heads of the departments, agencies, and instrumentalities of the Executive branch of the Federal Government shall cooperate with the technical panel in carrying out the requirements of this section and shall furnish to the technical panel such information as the technical panel deems necessary to carry out this section.

(d) REVIEW.—The technical panel shall review and make any necessary recommendations to the Secretary of the following items—

(1) the implementation and conduct of programs under this Act;

(2) the economic, technological, and environmental consequences of the deployment of hydrogen production and use systems; and

(3) comments on and recommendations for improvements in the comprehensive 5-year program management plan required under section 103.

(e) SUPPORT.—The Secretary shall provide such staff, funds and other support as may be necessary to enable the technical panel to carry out the functions described in this section.

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated to carry out the purpose of this Act (in addition to any amounts made available for such purposes to other Acts)—

(1) $3,000,000 for the fiscal year 1992;

(2) $7,000,000 for the fiscal year 1993; and

(3) $10,000,000 for the fiscal year 1994.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time and passed.

The title was amended so as to read: "A bill to establish the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Program Act of 1990."

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. AKAKA. Mr. President, nearly 10 years ago, one of our most beloved and respected colleagues, the late Senator Spark Matsunaga, introduced the first hydrogen bill in the U.S. Senate.

There were many who doubted the feasibility of developing hydrogen as a clean and plentiful source of fuel. But Sparky believed in hydrogen's potential, he persisted, and a growing body of scientific studies supported his claims. Sparky pointed to hydrogen, the most abundant element in the universe, and its untapped potential as a clean, cheap, and plentiful source of fuel. And 2 years ago, what many people once thought was impossible—the flight of a hydrogen-powered aircraft whose only emissions would be a harmles wisp of water vapor—became a reality. The Soviet Union flew a Tupolev aircraft fueled solely by hydrogen, and once again, as Sparky pointed out on the Senate Floor, "the Soviets have stolen a technological march on us."

Mr. President, Sparky's vision of hydrogen as an alternative fuel is much closer to becoming a reality. The House recently passed its version of the Matsunaga hydrogen research and development bill. And now it is time for the Senate to adopt the measure.

This bill, which has already been approved by the House, will direct the Secretary of Energy to establish a research and development program for the development of a domestic hydrogen fuel production capability. It will require NASA to lead research and development of a domestic hydrogen-fueled aircraft capability. And it will set up advisory committees to see this project to fruition.

When I was first sworn in to the Senate this past May, I pledged that I would carry on Sparky's agenda. Near and dear to our late friend and colleague's heart was his vision and his determination to promote hydrogen as a universal power source. The current standoff in the Persian Gulf crisis demonstrates that we should have embraced his legislation long ago.

Mr. President, I strongly urged my colleagues to adopt the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act. Sparky dedicated his life to serving humanity. The time was upon us to carry out his vision. Let us turn Sparky's hope into a reality.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ANTARCTIC PROTECTION ACT OF 1990

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 839, S. 2575, a bill to urge the Secretary of State to negotiate a ban on mineral resource activities in the Antarctic.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2575) to urge the Secretary of State to negotiate a ban on mineral resource activities in Antarctica, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3009

(Purpose: To strengthen substantially overall environmental protection of Antarctica)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. KERRY, proposes an amendment numbered 3009.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In amendment, delete all after the enacting clause and insert in lieu thereof

SECTION 1. SHORT TITLE.

This Act may be cited as the "Antarctica Protection Act of 1990".

For the purposes of this Act—

(1) the term "Antarctica" means the area of the Antarctic convergence as defined in section 303(1) of the Antarctic Marine Living Resources Act of 1984 (16 U.S.C. 2432);

(2) the term "mineral resources" means all nonliving natural nonrenewable resources, including fossil fuels, minerals, whether metallic or non-metallic, but does not include ice, snow or water;

(3) the term "person" means any individual, corporation, partnership, trust, association, or any other private entity existing or organized under the laws of the United States, or any officer, employee, agent, department, or other instrumentality of the Federal Government or of any State or political subdivision thereof; and

(4) the term "minerals resource activity" means prospecting, exploration, or development activities in

Antarctica of mineral resources, but does not include scientific research within the meaning of Article III of the Antarctic Treaty, done in Washington on December 1, 1959.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the Antarctic continent and its associated and dependent ecosystems is a distinctive environment providing a habitat for many unique species and offering a natural laboratory from which to monitor critical aspects of stratospheric ozone depletion and global climate change;

(2) Antarctica is protected by a series of international agreements, including the Antarctic Treaty and associated recommendations, the Convention on the Conservation of Antarctic Seals, and the Convention on the Conservation of Antarctic Marine Living Resources which are intended to conserve the renewable natural resources of Antarctica and to recognize the importance of Antarctica for the conduct of scientific research;

(3) recurring and recent developments in Antarctica, including increased siting of scientific stations, poor waste disposal practices, oil spills, increased tourism, and the over-exploitation of marine living resources have resulted in serious questions about the adequacy and implementation of existing agreements to protect the Antarctic environment and its living marine resources;

(4) the parties to the Antarctic Treaty have recently negotiated a Convention on the Regulation of Antarctic Mineral Resource Activities which the United States has signed but not yet ratified;

(5) the Convention on the Regulation of Antarctic Mineral Resource Activities does not guarantee the preservation of the fragile environment of Antarctica and could actually stimulate movement toward commercial exploitation;

(6) The Antarctic Treaty Consultative Parties have agreed to a voluntary ban on Antarctic mineral resource activities which needs to be made legally binding;

(7) the level of scientific study, including necessary support facilities has increased, in part to justify achieving the status of a consultative party under the Antarctic Treaty, to the point that some scientific programs may be degrading the Antarctic environment; and

(8) the planned 1990 special consultative meeting to parties to the Antarctica Treaty and the imminence of the thirtieth anniversary of the Antarctica Treaty provide opportunities for the United States to exercise leadership toward protection and sound management of Antarctica.

(b) PURPOSE.—It is the purpose of the Act to—

(1) strengthen substantially overall environmental protection of Antarctica;

(2) prohibit prospecting, exploration and exploitation of Antarctic mineral resources by United States citizens and other persons or entities subject to the jurisdiction of the United States;

(3) urge other nations to join the United States in immediately negotiating one or more international agreements to provide an indefinite ban on all minerals activities in Antarctica and comprehensive protection for Antarctica and its associated and dependent ecosystems; and

(4) urge all nations to consider a permanent ban on Antarctic mineral resource activities.

SEC. 4. PROHIBITION ON ANTARCTIC MINERAL RESOURCE ACTIVITIES.

Pending an agreement among the Antarctic Treaty Consultative Parties, in force for the United States, to which the Senate has given advice and consent or which is authorized by further legislation by the Congress, which includes an indefinite ban on Antarctic mineral resource activities, it is unlawful for any person to engage in, finance, directly or indirectly, or knowingly provide assistance to any Antarctic minerals resource activity.

SEC. 5. INTERNATIONAL AGREEMENT.

(a) It is the sense of the Congress that the Secretary of State should enter into negotiations with the consultative parties described in paragraphs (1) and (2) of Article IX of the Antarctica Treaty, done at Washington on December 1, 1959, for the purpose of concluding one or more international agreements—

(1) to seek a prohibition or indefinite ban on Antarctic mineral resource activities by all parties to the Antarctica Treaty;

(2) to grant Antarctica special protective status as land of science dedicated to wilderness protection, international cooperation and scientific research;

(3) to conserve and protect permanently the natural environment of Antarctica and its associated and dependent ecosystems;

(4) to ensure that the results of all scientific investigation relating to geological processes and structures be made openly available to the international scientific community, as required by the Antarctic Treaty; and

(5) to include other comprehensive measures for the protection of the Antarctic environment.

(b) It is the sense of the Congress that any treaty or other international agreement submitted by the President to the Senate for its advice and consent to ratification relating to mineral resources or activities in Antarctica should be consistent with the purpose and provisions of this Act.

SEC. 6. ENVIRONMENT.

A violation of this Act, any regulation promulgated under this Act, or a term or condition of a license issued under this Act shall be deemed a violation of the Antarctic Marine Living Resources Convention Act (16 U.S.C. 2431-2444) and shall be enforced under that Act by the Under Secretary or another Federal official to whom the Under Secretary has delegated this responsibility.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3009) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2575

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Antarctica Protection Act of 1990".

For the purposes of this Act—

(1) the term "Antarctica" means the area of the Antarctic convergence as defined in section 303(1) of the Antarctic Marine Living Resources Act of 1984 (16 U.S.C. 2432);

(2) the term "mineral resources" means all nonliving natural nonrenewable resources, including fossil fuels, minerals, whether metallic or non-metallic, but does not include ice, snow or water;

(3) the term "person" means any individual, corporation, partnership, trust, association, or any other private entity existing or organized under the laws of the United States, or any officer, employee, agent, department, or other instrumentality of the Federal Government or of any State or political subdivision thereof; and

(4) the term "minerals resource activity" means 1 prospecting, exploration, or development activities in
Antarctica of mineral resources, but does not include scientific research within the meaning of Article III of the Antarctic Treaty, done in Washington on December 1, 1959.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the Antarctic continent and its associated and dependent ecosystems is a distinctive environment providing a habitat for many unique species and offering a natural laboratory from which to monitor critical aspects of stratospheric ozone depletion and global climate change;

(2) Antarctica is protected by a series of international agreements, including the Antarctic Treaty and associated recommendations, the Convention on the Conservation of Antarctic Seals, and the Convention on the Conservation of Antarctic Marine Living Resources which are intended to conserve the renewable natural resources of Antarctica and to recognize the importance of Antarctica for the conduct of scientific research;

(3) recurring and recent developments in Antarctica, including increased siting of scientific stations, poor waste disposal practices, oil spills, increased tourism, and the over-exploitation of marine living resources have resulted in serious questions about the adequacy and implementation of existing agreements to protect the Antarctic environment and its living marine resources;

(4) the parties to the Antarctic Treaty have recently negotiated a Convention on the Regulation of Antarctic Mineral Resource Activities which the United States has signed but not yet ratified;

(5) the Convention on the Regulation of Antarctic Mineral Resource Activities does not guarantee the preservation of the fragile environment of antarctica and could actually stimulate movement toward commercial exploitation;

(6) the Antarctic Treaty Consultative Parties have agreed to a voluntary ban on Antarctic mineral resource activities which needs to be made legally binding;

(7) the level of scientific study, including necessary support facilities has increased, in part to justify achieving the status of a consultative party under the Antarctic Treaty, to the point that some scientific programs may be degrading the Antarctic environment; and

(8) the planned 1990 special consultative meeting of parties to the Antarctica Treaty and the imminence of the thirtieth anniversay of the Antarctica Treaty provide opportunities for the United States to exercise leadership toward protection and sound management of Antarctica.

(b) PURPOSE.—It is the purpose of the Act to—

(1) strengthen substantially overall environmental protection of Antarctica

(2) prohibit prospecting, exploration and exploitation of Antarctic mineral resources by United States citizens and other persons or entities subject to the jurisdiction of the United States;

(3) urge other nations to join the United States in immediately negotiating one or more international agreements to provide an indefinite ban on all minerals activities in Antarctica and comprehensive protection for Antarctica and its associated and dependent ecosystems; and

(4) urge all nations to consider a permanent ban on Antarctic mineral resource activities.

SEC. 4. PROHIBITION ON ANTARCTIC MINERAL RESOURCE ACTIVITIES.

Pending an greement among the Antarctic Treaty Consultative Parties, in force for the United States, to which the Senate has given advice and consent or which is authorized by further legislation by the Congress, which includes an indefinite ban on Antarctic mineral resource activities, it is unlawful for any person to engage in, finance, directly or indirectly, or knowingly provide assistance to any Antarctic minerals resource activity.

SEC. 5. INTERNATIONAL AGREEMENT.

(a) It is the sense of the Congress that the Secretary of State should enter into negotiations with the consultative parties described in paragraphs (1) and (2) of Article IX of the Antarctica Treaty, done at Washington on December 1, 1959, for the purpose

of concluding one or more international agreements—

(1) to seek a prohibition or indefinite ban on Antarctic mineral resource activities by all parties to the Antarctic Treaty;

(2) to grant Antarctica special protection status as land of science dedicated to wilderness protection, international cooperation and scientific research;

(3) to conserve and protect permanently the natural environment of Antarctica and its associated and dependent ecosystems;

(4) to ensure that the results of all scientific investigation relating to geological processes and structures be made openly available to the international scientific community, as required by the Antarctic Treaty; and

(5) to include other comprehensive measures for the protection of the Antarctic environment.

(b) It is the sense of the Congress that any treaty or other international agreement submitted by the President to the Senate for its advice and consent to ratification relating to mineral resources or activities in Antarctica should be consistent with the purpose and provisions of this Act.

SEC. 6. ENFORCEMENT.

A violation of this Act, any regulation promulgated under this Act, or a term or condition of a license issued under this Act shall be deemed a violation of the Antarctic Marine Living Resources Convention Act (16 U.S.C. 2431-2444) and shall be enforced under that Act by the Under Secretary or another Federal official to whom the Under Secretary has delegated this responsibility.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, I am very pleased that the Senate has passed S. 2575 authored by Senator KERRY. This legislation is significant for several reasons. First, the bill recognizes that the Convention for the Regulation of Antarctic Mineral Resource Activities, commonly known as the Wellington Convention, is not adequate to guarantee the protection of the Antractic environment. This fact has been recognized by other nations—including France, Australia, and New Zealand—that have withdrawn their support for the Convention.

Second, the bill puts the Senate on record in favor of comprehensive environmental protection for Antarctica. This position should strengthen the hand of our negotiators at this fall's meeting of the Antarctic Treaty Consultative Parties in Santiago, Chile. It is clear that at that meeting we have the opportunity to move beyond the Wellington Convention toward a truly comprehensive regime to protect Antarctica's environment.

Third, the Kerry bill puts the Senate on record in favor of a prohibition or indefinite ban on mineral resource activities. Senator KERRY's legislation underscores the U.S. commitment to this position by establishing a prohibition on mineral resource activities by U.S. persons until an international agreement prohibiting such activities has entered into force.

Mr. President, on July 27, 1990 the Foreign Relations Committee held a hearing on S. 2575 as well as two additional measures on the Antarctic, Senate Resolution 186 and Senate Joint Resolution 206. The committee heard testimony from Senator GORE; Assistant Secretary of State Bohlen; the Director of the National Science Foundation's Division of Polar Programs, Dr. Peter Wilkniss; Mr. Bruce Manheim, an attorney with the Environmental Defense Fund; and Ms. Susan Sabella of Greenpeace.

The testimony presented to the committee made clear the urgency of protecting the Antarctic environment. I believe that this is one of the most urgent and pressing issues facing our nation in its environmental diplomacy. The Antarctic plays a critical role in the Earth's oceanic and atmospheric systems. Upsetting the Antarctic ecosystem could well have dire and unforeseen consequences for the rest of the planet.

The Antarctic is also an invaluable area for scientific research. The Antarctic ice is an index to changes in the Earth's atmospheric chemistry and climate over the past 160,000 years. This climatic history may yield information that will help us better understand the consequences of today's actions on tomorrow's climate.

In light of the Antarctic's importance, my view is that the nations of the world must work together and take extraordinary measures to preserve the continent in its current state. I have called for the Antarctic to be designated as world park, subject to the strictest possible environmental controls. I believe that this is the best way to ensure the sound management of the continent well into the future.

At this time, I would like to pay particular tribute to Senator KERRY, the author of this bill and one of the Senate's leaders on protection of the Antarctic environment. It is a tribute to his efforts in this area that the United States Government's policy on Antarctic environmental protection and the CRAMRA agreement has moved substantially toward that of the environmental community. I commend my colleague from Massachusetts for his efforts, and I look forward to working with him in the future on these and other issues.

NATIONAL HARDWOOD DAY

Mr. LEVIN. Mr. President, I now ask unanimous consent the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 350, "National Hardwood Day," and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 350) to designate October 19, 1990 as "National Hardwood Day."

The Senate proceeded to consider the joint resolution.

Mr. BYRD. Mr. President, Senate Joint Resolution 350, a joint resolution designating October 18, 1990, as "National Hardwood Day," honors one of the Nation's oldest, most productive, and responsible industries—hardwood lumber—and marks the tradition and achievements of the men and women in rural America who have built an industry from hard work and a renewable resource—our hardwood forests. The American hardwood industry can be proud of its contributions to this Nation and its record of responsible forest management, and I salute this industry as it celebrates "National Hardwood Day' on the 18th of October.

The joint resolution (S.J. Res. 350) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 350

Whereas the hardwood industry has played an enduring and vital role in the economic life of the United States, from the growing and harvesting of trees to the manufacture of wood and paper products;

Whereas the demand for hardwood products is projected to grow throughout this century and into the next century;

Whereas the hardwood industry will continue to employ numerous citizens of the United States in positions in forestry and manufacturing to meet the growing demand for hardwood products; and

Whereas hardwood is a renewable resource that will not be depleted if forests and natural resource professionals continue to find ways to manage our forests effectively: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) October 18, 1990, is designated as "National Hardwood Day"; and

(2) the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DRUG AND HOUSEHOLD SUBSTANCE MAILING

Mr. LEVIN. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of

H.R. 5209, the Drug and Household Substance Mailing Act of 1990 which has just been received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5209) to amend title 39, United States Code, to make nonmailable any unsolicited sample of a drug or other hazardous household substance which does not meet child-resistant packaging requirements, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 5209) was ordered to a third reading, was read the third time, and passed.

PONCA TRIBE OF NEBRASKA RECOGNITION ACT

Mr. LEVIN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1747.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1747) entitled "An Act to provide for the restoration of Federal recognition to the Ponca Tribe of Nebraska, and for other purposes", do pass the following amendments:

Page 3, lines 4 and 5, strike out "The Secretary shall accept any real property that is transferred to the Secretary for the benefit of the Tribe.", and insert "The Secretary shall accept not more than 1,500 acres of any real property located in Knox or Boyd Counties, Nebraska, that is transferred to the Secretary for the benefit of the Tribe.".

Page 3, line 11, after "transfer.", insert "The Secretary may accept any additional acreage in Knox or Boyd Counties pursuant to his authority under the Act of June 18, 1934 (25 U.S.C. 461 et seq.).".

Page 3, after line 21, insert:

(e) Reservation status shall not be granted any land acquired by or for the Tribe.

Page 5, line 4, after "(ii)", insert "notwithstanding the application or appeal deadline dates,".

Page 5, line 14, after "Tribe.", insert "Such determination by the Secretary shall be final.".

Page 8, line 1, after "Tribe", insert "located in Knox or Boyd Counties, Nebraska,".

Mr. LEVIN. Mr. President, I move that the Senate concur on the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

PUBLIC HEALTH SERVICE ACT AMENDMENT

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5702, a bill to amend the Public Health Service Act to provide for an improvement in the health of members of minority groups, now at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5702) to amend the Public Health Service Act to improve the health of individuals who are members of minority groups and who are from disadvantaged backgrounds, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. Are there amendments? Hearing none, the bill is deemed to have been read the third time and passed.

So the bill (H.R. 5702) was passed.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISTRICT OF COLUMBIA REVENUE BOND ACT OF 1990

Mr. LEVIN. Mr. President, I ask unanimous consent that the Government Affairs Committee be discharged from further consideration of H.R. 5482, the District of Columbia Revenue Bond Act of 1990, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5482) to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of District of Columbia revenue bonds.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to the consideration of the bill.

AMENDMENT NO. 3007

Mr. LEVIN. On behalf of Senator SASSER, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. SASSER, proposes an amendment numbered 3007.

On page 4, line 19, after the words "except that", insert the following: "the proceeds of bonds issued under such Act shall be utilized solely for renovation and rehabilitation of a presently existing stadium and any related, necessary infrastructure improvements appurtenant to such stadium; and that".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3007) was agreed to.

Mr. LEVIN. I move to reconsider the vote by which the amendment was agreed to.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are their further amendments? If not, the bill is deemed to have been read a third time and passed.

So the bill (H.R. 5482), as amended, was passed.

Mr. LEVIN. I move to reconsider the vote by which the bill, as amended, was passed.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INSULAR AREAS RECOVERY ACT

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar Order No. 684, S. 2362, a bill to enhance the survivability and recovery of the insular areas from severe storms.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2362) to enhance the survivability and recovery of the insular areas from severe storms.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 2362

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Insular Areas Recovery Act of 1990".

SEC. 2. DEFINITIONS.

As used in this Act—

(1) the term "insular areas" means the United States Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Freely Associated States;

(2) the term "disaster" means that the President has declared a **[**disaster under section 301**]** *major disaster pursuant to section 401* of the Robert T. Stafford Disaster Relief and Emergency Assistance Act **[**(42

U.S.C. 5121 et seq.)] *(42 U.S.C. 5170 et seq.) on or after September 1, 1989;* and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 3. AUTHORIZATION.

There are hereby authorized to be appropriated such sums as may be necessary to construct facilities to protect public health and safety[, and,] *or* to enhance the survivability of essential infrastructure in the event of disasters in the insular areas. Such sums shall remain available until [expended and shall be considered local funds for the purposes of Federal local matching requirements.] *expended.*

SEC. 4. USE OF CERTAIN FUNDS.

(a) For a period of two years from the date on which a disaster is declared by the President, the Governor of the affected insular area may transfer up to 100 percent of that insular area's respective allotment under section 2604(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(b)) for the fiscal year in which the disaster occurred, for use in disaster recovery or in enhancing the survivability of essential infrastructure in the event of future disasters. Such funds shall be transferred to a State Energy Conservation Program established pursuant to section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322), and such use of these transferred funds shall be deemed to be consistent with the purposes for which such program was established. The Governor of the insular area shall inform the Secretary of any such transfer of funds. Puerto Rico shall be considered to be an insular area for the purposes of this subsection.

(b) During the two-year period following a disaster in Puerto Rico, it shall be deemed to be an insular area for the purposes of section 501 of the Act entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes", approved October 18, 1977 (48 U.S.C. 149a), when in the judgment of the appropriate agency head the consolidation of grants would facilitate recovery from disaster damage.

SEC. 5. TECHNICAL ASSISTANCE.

(a) Upon the declaration by the President of a disaster in an insular area, the President shall assess, in cooperation with the Secretary and the [Governor] *Head of Government* of such insular area, the capability of the insular area government to respond to the disaster, including the capability to: assess damage; coordinate activities with other agencies, particularly the Federal Emergency Management Agency (FEMA); develop recovery plans, including recommendations for enhancing the survivability of essential infrastructure; negotiate and manage reconstruction contracts; and prevent the misuse of funds. If the President finds that the insular area government lacks these, or other capabilities essential to the recovery effort, then the President shall provide technical assistance to the insular area government which the President deems necessary for the recovery effort.

(b) One year following the declaration by the President of a disaster in an insular area, the Secretary shall report to Congress on the status of the recovery effort, including: an audit of Federal funds expended in the recovery effort; and recommendations on how to improve public health and safety, survivability of infrastructure, recovery efforts, and effective use of funds, in the event of future disasters.

SEC. 6. WAIVERS.

[(a) HAZARD MITIGATION.—The President may waive any cost contribution requirements or conditions under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) with respect to expenditures in an insular area if the President finds that such a waiver would promote reconstruction in the disaster area so as to enhance the survivability of essential infrastructure, or would enhance public health and safety, in the event of future disasters.

[(b) USE OF LOCAL FIRMS.—The President may waive the requirement of section 307 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in an insular area if the President finds that the disaster has exceeded the capability of local firms to respond to the disaster.]

Hazard Mitigation.—Upon determination by the President, the total of contributions under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 4121 et seq.) for insular areas shall not exceed 25 percent of the estimated aggregate amounts of grants to be made under sections: 403, 406, 407, 408, and 411 of such Act for any disaster.

SEC. 7. TECHNICAL AMENDMENT.

Section 102(3) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) is amended by inserting after the words "American Samoa," *wherever it appears,* the following: "Commonwealth of the North Mariana [Islands, the Trust Territory of the Pacific Islands and the Freely Associated States".] *lands".*

SEC. 8. ELECTRIFICATION LOANS.

(a) The Administrator of the Rural Electrification Administration is authorized to make loans, or provide other financial and technical assistance under the Rural Electrification Act (7 U.S.C. 901 et seq.), including sections 4, 5, 305, and 306 of such Act (7 U.S.C. 904, 905, 935, and 936) in any insular areas in which the President declares a disaster, for the purposes set forth in such Rural Electrification Act, including the financing of the construction and operation of generating plants, electric transmission and distribution lines or systems to provide electricity to any persons who are resident in such territory. [Such authority shall expire five years after the date on which the President declared the disaster.] *This authorization shall be effective only for applications submitted to the Administrator within five years after the date of the Presidential declaration.*

(b) Nothing in this section shall be deemed to affect any program of Federal financial assistance that may otherwise be available under any provision of law.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

AMENDMENT NO. 3008

Mr. LEVIN. Mr. President, on behalf of Senators JOHNSTON and MCCLURE, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. JOHNSTON (for himself and Mr. MCCLURE), proposes an amendment numbered 3008.

Mr. LEVIN. I ask unanimous consent that further reading of the amendment be dispensed with.

The amendment is as follows:

In section 3, after the word "appropriated", insert "to the Secretary"; and after the words "public health and safety", strike "or" and insert "and" in lieu thereof.

In section 6, strike the words "25 percent" and insert "10 percent" in lieu thereof; and at the end of the section strike the period and insert the following: ": *Provided,* That the President may require a 50 percent local match for assistance in excess of 10 percent of the estimated aggregate amount of grants to be made under section 406 of such Act for any disaster.".

In section 7, strike the words "Mariana lands" and insert "Mariana Islands" in lieu thereof.

At the end of the bill strike section 8 and add the following new sections:

SEC. 8. GUAM HOSPITAL.

There is authorized to be appropriated $2,500,000 to complete the renovation of the Guam Memorial Hospital.

SEC. 9. DISPOSAL OF EXCESS FEDERAL LANDS ON GUAM.

(a) ESTABLISHMENT OF COMMISSION.—As a prerequisite for the transfer of excess lands under section 11, the Government of Guam must enact legislation which—

(1) establishes an excess lands commission the purpose of which shall be to dispose of lands received pursuant to this title to promote economic self-sufficiency and private sector development in Guam;

(2) provides that the Commission shall have the power—

(A) to hold all right, title, and interest in and to all real property transferred under section 11;

(B) to dispose of real properties or interests therein transferred under section 11 in accordance with the laws of Guam and the priorities set forth in the enabling legislation as required pursuant to paragraph 4 of this subsection;

(C) to resolve conclusively all issues related to lands transferred under section 11 and without appeal to any other agency or court of law except as otherwise expressly provided by the laws of Guam; and

(3) provides that the Commission shall make annual reports to the Senate Committee on Energy and Natural Resources and the Committee on Interior and Insular Affairs of the United States House of Representatives, on or before February 15 of each year, on the disposition of lands transferred pursuant to this title and on the activities and actions of the Commission during the reporting period; and

(4) establishes priorities for the distribution and disposal of the excess lands.

(b) UNITED STATES PERSON.—(1) As used in this title, the term "United States person" means—

(A) any citizen, national, or permanent resident alien of the United States,

(B) any partnership, corporation, or other entity organized under the laws of the United States, any of the several States, the District of Columbia, or any Commonwealth, territory, or possession of the United States, in which citizens, nationals, or permanent resident aliens of the United States beneficially own or control (directly or indirectly) more than 50 per centum of the outstanding voting securities or other

voting interest of the partnership, corporation, or other entity, or

(C) the government of any of the several States, the District of Columbia, or any Commonwealth, territory, or possession of the United States.

(2) A partnership, corporation, or other entity described in paragraph (1)(B) shall be presumed to be controlled by individuals who are citizens, nationals, or permanent resident aliens of the United States if—

(A) such individuals are a majority of the partners of the partnership or a majority of the members of the board of directors of the corporation or other entity; or

(B) such individuals have the authority to appoint a majority of the members of the board of directors of the corporation or other entity.

(c) OWNERSHIP OF UNITED STATES PERSONS OF LAND HELD IN TRUST.—For the purposes of this section, the term "ownership of United States persons" means, in the case of a portion of land held in trust, the legal and the beneficial interests of such trust must be held by United States persons.

SEC. 10. TRANSFER OF EXCESS FEDERAL LAND LOCATED ON GUAM.

Except for lands within the boundaries of the War in the Pacific National Historic Park, the Administrator of General Services shall transfer, without consideration and without encumbrances, all right, title and interest of the United States (together with any improvements thereon) in and to any real property on Guam which is determined to be excess under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) to the Commission to be established by the laws of Guam for disposition in accordance with section 10. Any property subject to this title shall not be subject to Public Law 100-77 (101 Stat. 482). Title to any real property conveyed pursuant to this title shall revert to the United States if the Commission attempts to convey or otherwise transfer ownership of such property other than to a United States person.

SEC. 11. REPEAL OF CERTAIN CONDITIONS ON LAND TRANSFERRED TO GUAM.

Section 818(b)(2) of Public Law 96-418 (94 Stat. 1782), as amended, is hereby repealed.

SEC. 12. TERRITORIAL ENERGY ASSISTANCE PROGRAM.

(a)(1) The Secretary of Energy, pursuant to the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (42 U.S.C. 5901, et seq.), may grant financial assistance to Insular area governments to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy measures which reduce the dependency of the Insular area on imported fuels and improve the quality of life in the insular area.

(2) Any applicant for financial assistance under this section must evidence coordination and cooperate with, and support from, the affected local energy entities in the area with necessary expertise to successfully effectuate the project, including, but not limited to, the local energy agencies, power authorities, and public works departments.

(3) In determining the amount of financial assistance to be provided for a proposed energy-efficiency or renewable energy measure, the Secretary shall consider—

(A) whether the measure will reduce the relative dependence of the Insular area on imported fuels;

(B) the ease and costs of operation and maintenance of any facilities contemplated as a part of the project;

(C) whether the project will rely on the use of conservation measures or indigenous, renewable energy resources that were identified in the 1982 Territorial Energy Assessment or are identified by the Secretary as consistent with the purpose of this section;

(D) whether the measure will contribute significantly to the quality of the environment in the Insular area; and

(E) any other factors which the Secretary may determine to be relevant to a particular project or measure.

(4) The Secretary shall require at least 20 per centum of the costs of any project under this section to be provided from non-Federal sources. Such cost sharing may be in the form of in-kind services, donated equipment, or any combination thereof.

(b) for the purposes of this section, the term—

(1) "Insular area government" means the government of American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the Federated States of Micronesia, Guam, the Republic of the Marshall Islands, the Republic of Palau, or the United States Virgin Islands.

(2) "1982 Territorial Energy Assessment" means the assessment prepared by the Department of Energy pursuant to the Omnibus Territorial Act. (P.L. 96-597, 94 Stat. 3480; as amended by P.L. 99-213, 97 Stat. 1460)

(c) For each fiscal year, there is hereby authorized to be appropriated for the purposes of this section, $500,000.

Mr. JOHNSTON. Mr. President, I rise to support the passage of S. 2362, the Insular Areas Recovery Act, with amendments to the committee amendments by myself and my colleague from the Committee on Energy and Natural Resources, Senator MCCLURE. This legislation was initiated in response to storm damage repeatedly suffered by our island territories, including the recent devastation caused by hurricane Hugo in the Virgin Islands. Records of the Federal Emergency Management Agency show that there have been 39 disasters in the territories in the past 20 years.

These frequent severe storms have revealed a systemic problem in our national response to disasters in the islands. The islands repeatedly suffer severe damage from violent storms in large part because they are not rebuilt to withstand future storms. The Nation currently has a policy of rebuilding storm damaged areas to those conditions which existed prior to the storm. In areas of high storm frequency, such as the Caribbean and the Pacific, this has resulted in a very costly cycle of repeated destruction and reconstruction.

S. 2362 would help to break this cycle by providing the President, and the Governors of the Insular Areas, with additional options for financing hazard mitigation projects so as to harden these areas against future storms. For a complete explanation of the provisions of S. 2362, I refer my colleagues to Senate Report 101-363 which sets forth the background and recommendations of the Committee on Energy and Natural Resources regarding this legislation.

The committee reported S. 2362 on July 12, 1990. However, floor action was not initiated, at the request of representatives in the Virgin Islands. Given the lateness of the session, however, further delay in Senate passage threatens enactment of the bill and the availability of funds to the islands. Of particular concern are the authorizations for three programs contained in S. 2362 and for which appropriations are expected. Unfortunately, these funds cannot be expended without the enactment of the authorizing provisions included in S. 2362.

The proposed Johnston-McClure amendments would make several modifications to the committee amendments as requested by the administration. These modifications include limiting the scope of the authorization under section 3; limiting the expansion of hazard mitigation assistance under section 6, and providing that the president may require a matching contribution for such expanded assistance; and striking section 8 regarding loans from the Rural Electrification Administration.

The Johnston-McClure amendments to the committee amendments would also add several Senate passed legislative provisions to S. 2362. These include the provisions of S. 2841, the Omnibus Territories Act, passed by the Senate on August 3, 1990; and section 12 of S. 247, authorizing the Territorial Energy Assistance Program, passed by the Senate on January 25, 1990. For further details regarding these measures, I refer my colleagues to the appropriate floor statements and committee reports.

Each of these additions was approved unanimously by the Committee on energy and Natural Resources and unanimously by the full Senate. Because they are noncontroversial, I expect prompt action by the House of Representatives. S. 2362 as amended would address a range of issues including hospital renovations; the disposition of excess Federal lands, an issue which has been before Congress since 1984; and the authorization of a Territorial Energy Assistance Program, as requested by the island Governors to help them respond to their growing petroleum dependence. Because of the more complex jurisdictional situation in the House, I understand that the Interior Committee has worked closely with other committees to reach agreement on the enactment of these provisions. I am certain that Committee Chairman UDALL, and the chairman of the Insular Affairs Subcommittee, Mr. DE LUGO, share my interest in meeting the diverse needs of the islands which

this comprehensive bill would address. I am confident of their ability to persuade their colleagues of the need to move this bill forward.

Mr. DE LUGO, in particular, has worked tirelessly in response to the disaster in the Virgin Islands. I believe that the provisions of S. 2362 will, in time, enhance the ability of the islands to withstand future storms and will thereby save lives and reduce the costs of future recovery efforts.

Mr. President, I urge my colleagues to support passage of S. 2362 with the committee amendments and the amendments offered by myself and the ranking minority member of the committee, Mr. MCCLURE.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3008) was agreed to.

The PRESIDING OFFICER. Without objection, the bill is deemed to have been read the third time and passed.

So the bill (S. 2362), as amended, was passed; as follows:

S. 2362

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Insular Areas Recovery Act of 1990".

SEC. 2. DEFINITIONS.

As used in this Act—

(1) the term "insular areas" means the United States Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Freely Associated States;

(2) the term "disaster" means that the President has declared a major disaster pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 et seq.) on or after September 1, 1989; and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 3. AUTHORIZATION.

There are hereby authorized to be appropriated to the Secretary such sums as may be necessary to construct facilities to protect public health and safety and to enhance the survivability of essential infrastructure in the event of disasters in the insular areas. Such sums shall remain available until expended.

SEC. 4. USE OF CERTAIN FUNDS.

(a) For a period of two years from the date on which a disaster is declared by the President, the Governor of the affected insular area may transfer up to 100 percent of that insular area's respective allotment under section 2604(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(b)) for the fiscal year in which the disaster occurred, for use in disaster recovery or in enhancing the survivability of essential infrastructure in the event of future disasters. Such funds shall be transferred to a State Energy Conservation Program established pursuant to section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322), and such use of these transferred funds shall be deemed to be consistent with the purposes for which such program was established. The Governor of the insular area shall inform the Secretary of any such transfer of funds. Puerto Rico shall be considered to be an insular area for the purposes of this subsection.

(b) During the two-year period following a disaster in Puerto Rico, it shall be deemed to be an insular area for the purposes of section 501 of the Act entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes", approved October 18, 1977 (48 U.S.C. 149a), when in the judgment of the appropriate agency head the consolidation of grants would facilitate recovery from disaster damage.

SEC. 5. TECHNICAL ASSISTANCE.

(a) Upon the declaration by the President of a disaster in an insular area, the President shall assess, in cooperation with the Secretary and the Head of Government of such insular area, the capability of the insular area government to respond to the disaster, including the capability to: assess damage; coordinate activities with other agencies, particularly the Federal Emergency Management Agency (FEMA); develop recovery plans, including recommendations for enhancing the survivability of essential infrastructure; negotiate and manage reconstruction contracts; and prevent the misuse of funds. If the President finds that the insular area government lacks these, or other capabilities essential to the recovery effort, then the President shall provide technical assistance to the insular area government which the President deems necessary for the recovery effort.

(b) One year following the declaration by the President of a disaster in an insular area, the Secretary shall report to Congress on the status of the recovery effort, including: an audit of Federal funds expended in the recovery effort; and recommendations on how to improve public health and safety, survivability of infrastructure, recovery efforts, and effective use of funds, in the event of future disasters.

SEC. 6. WAIVERS.

HAZARD MITIGATION.—Upon determination by the President, the total of contributions under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 4121 et seq.) for insular areas shall not exceed 10 percent of the estimated aggregate amounts of grants to be made under sections: 403, 406, 407, 408, and 411 of such Act for any disaster: *Provided,* That the President may require a 50-percent local match for assistance in excess of 10 percent of the estimated aggregate amount of grants to be made under section 406 of such Act for any disaster.

SEC. 7. TECHNICAL AMENDMENT.

Section 102(3) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121, et seq.) is amended by inserting after the words "American Samoa," wherever it appears, the following: "Commonwealth of the Northern Mariana Islands".

SEC. 8. GUAM HOSPITAL.

There is authorized to be appropriated $2,500,000 to complete the renovation of the Guam Memorial Hospital.

SEC. 9. DISPOSAL OF EXCESS FEDERAL LANDS ON GUAM.

(a) ESTABLISHMENT OF COMMISSION.—As a prerequisite for the transfer of excess lands under section 11, the Government of Guam must enact legislation which—

(1) establishes an excess lands commission the purpose of which shall be to dispose of lands received pursuant to this title to promote economic self-sufficiency and private sector development in Guam;

(2) provide that the Commission shall have the power

(A) to hold all right, title, and interest in and to all real property transferred under section 11;

(B) to dispose of real properties or interests therein transferred under section 11 in accordance with the laws of Guam and the priorties set forth in the enabling legislation as required pursuant to paragraph 4 of this subsection;

(C) to resolve conclusively all issues related to lands transferred under section 11 and without appeal to any other agency or court of law except as otherwise expressly provided by the laws of Guam, and

(3) provides that the Commission shall make annual reports to the Senate Committee on Energy and Natural Resources and the Committee on Interior and Insular Affairs of the United States House of Representatives, on or before February 15 of each year, on the disposition of lands transferred pursuant to this title and on the activities and actions of the Commission during the reporting period; and

(4) establishes priorities for the distribution and disposal of the excess lands.

(b) United States Person.—(1) As used in this title, the term "United States person" means—

(A) any citizen, national, or permanent resident alien of the United States,

(B) any partnership, corporation, or other entity organized under the laws of the United States, any of the several States, the District of Columbia, or any Commonwealth, territory, or possession of the United States, in which citizens, nationals, or permanent resident aliens of the United States beneficially own or control (directly or indirectly) more than 50 per centum of the outstanding voting securities or other voting interest of the partnership, corporation, or other entity, or

(C) the government of any of the several States, the District of Columbia, or any Commonwealth, territory, or possession of the United States.

(2) A partnership, corporation, or other entity described in paragraph (1)(B) shall be presumed to be controlled by individuals who are citizens, nationals, or permanent resident aliens of the United States if

(A) such individuals are a majority of the partners of the partnership or a majority of the members of the board of directors of the corporation or other entity; or

(B) such individuals have the authority to appoint a majority of the members of the board of directors of the corporation of other entity.

(c) OWNERSHIP OF UNITED STATES PERSONS OF LAND HELD IN TRUST.—For the purposes of this section, the term "ownership of United States persons" means, in the case of a portion of land held in trust, the legal and the beneficial interests of such trust must be held by United States persons.

SEC. 10. TRANSFER OF EXCESS FEDERAL LAND LOCATED ON GUAM.

Except for lands within the boundaries of the War in the Pacific National Historic Park, the Administrator of General Services shall transfer, without consideration and without encumbrances, all right, title and interest of the United States (together with any improvements thereon) in and to any real property on Guam which is determined to be excess under the Federal Property and

Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) to the Commission to be established by the laws of Guam for disposition in accordance with section 10. Any property subject to this title shall not be subject to Public Law 100-77 (101 Stat. 482). Title to any real property conveyed pursuant to this title shall revert to the United States if the Commission attempts to convey or otherwise transfer ownership of such property other than to a United States person.

SEC. 11. REPEAL OF CERTAIN CONDITIONS ON LAND TRANSFERRED TO GUAM.

Section 818(b)(2) of Public Law 96-418 (94 Stat. 1782), as amended, is hereby repealed.

SEC. 12. TERRITORIAL ENERGY ASSISTANCE PROGRAM.

(a)(1) The Secretary of Energy, pursuant to the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (42 U.S.C. 5901 et seq.), may grant financial assistance to Insular area governments to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy measures which reduce the dependency of the Insular area on imported fuels and improve the quality of life in the insular area.

(2) Any applicant for financial assistance under this section must evidence coordination and cooperation with, and support with, the affected local energy entities in the area with necessary expertise to successfully effectuate the project, including, but not limited to, the local energy agencies, power authorities, and public works departments.

(3) In determining the amount of financial assistance to be provided for a proposed energy-efficiency or renewable energy measure, the Secretary shall consider—

(A) whether the measure will reduce the relative dependence of the Insular area on imported fuels;

(B) the ease and costs of operation and maintenance of any facilities contemplated as a part of the project;

(C) whether the project will rely on the use of conservation measures or indigenous, renewable energy resources that were identified in the 1982 Territorial Energy Assessment or are identified by the Secretary as consistent with the purpose of this section;

(D) whether the measure will contribute significantly to the quality of the environment in the Insular area; and

(E) any other factors which the Secretary may determine to be relevant to a particular project or measure.

(4) The Secretary shall require at least 20 per centum of the costs of any project under this section to be provided from non-Federal sources. Such cost sharing may be in the form of in-kind services, donated equipment, or any combination thereof.

(b) For the purpose of this section, the term—

(1) "Insular area government" means the government of American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the Federated States of Micronesia, Guam, the Republic of the Marshall Islands, the Republic of Palau, or the United States Virgin Islands.

(2) "1982 Territorial Energy Assessment" means the assessment prepared by the Department of Energy pursuant to the Omnibus Territorial Act (P.L. 96-597, 94 Stat. 3480; as amended by P.L. 99-213, 97 Stat. 1460).

(c) For each fiscal year, there is hereby authorized to be appropriated for the purposes of this section, $500,000.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL PLACED ON CALENDAR—S. 3211

Mr. WILSON. Mr. President, on behalf of Senator PACKWOOD, I send a bill to the desk and ask unanimous consent that it be placed on the calender.

The PRESIDING OFFICER. Without objection, it is so ordered.

MINING AND MINERAL RESOURCES RESEARCH INSTITUTE ACT AMENDMENTS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calender No. 919, H.R. 4111, a bill to amend the Mining and Mineral Resources Research Institute Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4111) to amend the Mining and Mineral Resources Research Institute Act of 1984, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BINGAMAN. Mr. President, on October 3, 1990, the Committee on Energy and Natural Resources unanimously approved H.R. 4111, legislation to establish a Strategic Resources Mineral Technology Center for the purpose of improving and developing technologies to decrease U.S. dependence on strategic and critical minerals.

I would like to clarify the committee's intention with respect to the participation of universities in this new generic center. It is the committee's understanding that the Center will be a consortium, composed of a lead university and several cooperative affiliates.

Mr. McCLURE. I would like to concur with the statement of the subcommittee chairman. It is the view of the committee that more than one university is to participate in the Strategic Resources Mineral Technology Center. The Department of the Interior testified that the degree to which a proposal for the Center brought in other qualified universities would be a factor in deciding who received the final award.

Mr. DOMENICI. It is my understanding also that the Strategic Resources Mineral Technology Center will be established along the same lines as the other generic centers. The 6 existing generic mineral technology centers are comprised of a lead institution and from 4 to 10 affiliates, depending on the center.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 4111) was ordered to a third reading, was read the third time, and passed.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSENT OF CONGRESS TO AMENDMENTS TO THE HAWAIIAN HOMES COMMISSION ACT

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 685, Senate Joint Resolution 154, regarding the Hawaiian Homes Commission Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 154) to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act of 1920.

The PRESIDING OFFICER. Is the objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S.J. RES. 154

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, as required by section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union," approved March 18, 1959 (73 Stat. 4), the United States hereby consents to the following amendments to the Hawaiian Homes Commission Act, 1920, as amended, adopted by the State of Hawaii in the manner required for State legislation: Act 16, **[**Act 75,**]** Act 84, *Act 85,* and Act 249 of the Session Laws of Hawaii, 1986 of the Session Laws of Hawaii, 1987.

AMENDMENT NO. 3010

Mr. LEVIN. Mr. President, I send an amendment to the desk on behalf of Senator AKAKA and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. AKAKA, proposes an amendment numbered 3010.

On page 2, line 4, strike "Act 84".

Mr. AKAKA. Mr. President, I rise in support of the joint resolution.

I introduced the companion bill to these amendments, House Joint Resolution 444, while a Member of the House. As a result of the unique relationship between native Hawaiian people and the United States, any amendments to the Hawaiian Homes Commission Act enacted by the Hawaii Legislature must also be approved by Congress.

On June 20, I offered an amendment which deleted act 75 from Senate Joint Resolution 154. At the same time, one additional measure, act 85, was added. I could not support act 75 in its present form because of the potential it created for alienating, or detaching, lands from the homeland trust. After further review with legal counsel, it was found that act 84 also had the potential to cause the alienation of Hawaiian Home Lands. Therefore, the amendment I offer today also withholds congressional consent from act 84 until guarantees are received that no land will be alienated from the homeland trust.

I firmly believe that the Hawaii Legislature had the best of intentions in passing acts 75 and 84. However, as I have stated in the past, if there is reason to believe that alienation of the land could occur, then Congress should withhold consent from such acts. Consent to the remaining four amendments to the Hawaiian Homes Commission Act will go forward through this resolution.

Act 16 assists the department by authorizing participation in Federal and State programs which permit the establishment of enterprise zones on Hawaiian Home Lands. Acts 85 and 24 assist DHHL administratively by allowing the department to use its loan accounts receivables as collateral for loans from financial institutions, and to reduce the number of fiscal accounts the department currently has from 15 to 7. In addition, act 36 would allow DHHL to return to an earlier method of calculating amounts due in the event of surrender or cancellation of a lease.

In conclusion, I am confident that these amendments will provide the necessary assistance DHHL and the Hawaii State Legislature need in meeting the concerns and the provisions specified in the Hawaiian Homes Commission Act. I again thank Chairman JOHNSTON and ranking Republican Senator MCCLURE, and the Energy and Natural Resources Committee for their assistance in the passage of this resolution.

Mr. President, I ask unanimous consent to print a letter from Hawaii's attorney general regarding act 84 in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF HAWAII,
DEPARTMENT OF THE ATTORNEY GENERAL,
Honolulu, HI, August 29, 1990.

Hon. DANIEL K. AKAKA,
U.S. Senator, Hart Senate Office Building, Washington, DC.

DEAR SENATOR AKAKA: This responds to your letter of June 25, 1990, to Mrs. Hoaliku Drake, Chairman of the Hawaiian Homes Commission, Department of Hawaiian Home Lands, requesting certain assurances from her. We understand from your letter that the Senate Committee on Energy and Natural Resources wants assurance that the phrase "proportionate value" contained in section 220.5(d), of the Hawaiian Homes Commission Act, enacted by Act 84, Session Laws of Hawaii of 1986, would only include the "depreciated value" of the permanent improvements at the time the underlying land is withdrawn from a project developer agreement.

Section 220.5(d) provides as follows:

(d) Any project developer agreement entered into pursuant to this section may provide for options for renewal of the term of the project development agreement; provided that the term of any one project developer agreement shall not exceed sixty-five years; and provided further that any lands disposed of under a project developer agreement shall be subject to withdrawal at any time during the term of the agreement, with reasonable notice; and provided that the rental shall be reduced in proportion to the value of the portion withdrawn and the developer shall be entitled to receive from the department the proportionate value of the developer's permanent improvements so taken in the proportion that they bear to the unexpired term of the agreement, or the developer, in the alternative, may remove and relocate the developer's improvements to the remainder of the lands occupied by the developer.

As we understand your inquiry, it seeks a determination as to whether the valuation of the developer's permanent improvements built on lands withdrawn from a project developer agreement are limited to the depreciated value of the improvements.

Based on our review of section 220.5, its legislative history, and related statutory provisions, we are of the opinion that the term "value" refers to the appraised fair market value of the land, the improvements, or both land and improvements, as of the date of withdrawal. We think the word "proportionate" in the phrase "proportionate value" was to make clear the value of the improvements must be apportioned among the parties based on their respective interests in the unexpired term of the agreement and was not intended to modify "value" to mean its "depreciated value."

Further, we think that if the legislature intended to limit valuation of the improvements to its depreciated value, it would have said so.

Finally, though we have concluded that valuation of improvements under section 220.5(d) is not limited to its "depreciated value," an appraiser may conclude under the particular circumstances of an appraisal assignment that the depreciated value is its fair market value.

As requested, transmitted herewith is the legislative history material relating to Act 84.

If we may be of further assistance, please do not hestitate to let us know.

WARREN PRICE, III,
Attorney General.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3010) was agreed to.

The PRESIDING OFFICER. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendments, as amended.

The committee amendments were agreed to.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass?

So the joint resolution (S.J. Res. 154) was passed, as follows:

S.J. RES. 154

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, as required by section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4), the United States hereby consents to the following amendments to the Hawaiian Homes Commission Act, 1920, as amended, adopted by the State of Hawaii in the manner required for State legislation: Act 16, Act 85, and Act 249 of the Session Laws of Hawaii, 1986; and Act 36 of the Session Laws of Hawaii, 1987.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the joint resolution, as amended, was passed.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR TOMORROW

Mr. LEVIN. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate recesses today, it stand in recess until 9 a.m. Wednesday, October 17; that following the prayer, the Journal of proceedings be deemed approved to date; that following the time reserved for the two leaders, there be a period for morning business not to extend beyond 9:30 a.m. with Senators permitted to speak therein for up to 5 minutes each, and that Senator HOLLINGS be recognized in morning business for up to 10 minutes; that at 9:30 a.m. the Senate proceed to the consideration of S. 3209, the reconciliation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. LEVIN. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent the Senate stand in recess under the previous order until 9 a.m. Wednesday, October 17.

There being no objection, the Senate, at 10:01 p.m., recessed until Wednesday, October 17, 1990, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 16, 1990:

SELECTIVE SERVICE SYSTEM

ROBERT WILLIAM GAMBINO, OF VIRGINIA, TO BE DIRECTOR OF SELECTIVE SERVICE, VICE SAMUEL K. LESSEY, JR., RESIGNED.

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER)

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJOR JOHN B. COOPER, xxx-xx-xxxx, 7/12/90
MAJOR JOHN DECROO, JR., xxx-xx-xxxx, 6/10/90
MAJOR MARK FREDENBURGH, xxx-xx-xxxx, 7/15/90
MAJOR MICHAEL R. GOODMAN, xxx-xx-xxxx, 6/12/90
MAJOR BRIAN K. GRIFFIN, xxx-xx-xxxx, 7/11/90
MAJOR BRUCE D. HALVORSEN, xxx-xx-xxxx, 7/8/90
MAJOR JAMES B. HAMILTON, xxx-xx-xxxx, 7/8/90
MAJOR JOSEPH M. HARDISON, xxx-xx-xxxx, 7/16/90
MAJOR LARRIE B. HARLAN, xxx-xx-xxxx, 6/12/90
MAJOR DARRELL E. HART, xxx-xx-xxxx, 6/8/90
MAJOR MARK H. JONES, xxx-xx-xxxx, 7/20/90
MAJOR SYDNEY W.C.K. KELIIPULEOLE, xxx-xx-xxxx, 7/15/90
MAJOR ROBERT T. LINCOLN, xxx-xx-xxxx, 7/8/90
MAJOR DANIEL W. REDLIN, xxx-xx-xxxx, 7/14/90
MAJOR GLEN A. WEGWORTH, xxx-xx-xxxx, 7/8/90

NURSE CORPS

To be lieutenant colonel

MAJOR SUSAN M. TOMKA, xxx-xx-xxxx, 6/9/90

JUDGE ADVOCATE GENERALS DEPARTMENT

To be lieutenant colonel

MAJOR PAUL D. BOESHART, xxx-xx-xxxx, 7/7/90
MAJOR WILLIAM M. EKADIS, II, xxx-xx-xxxx, 6/29/90
MAJOR JOHN R. HALUCK, xxx-xx-xxxx, 7/7/90

DENTAL CORPS

To be lieutenant colonel

MAJOR LAWRENCE K. RAY, xxx-xx-xxxx, 7/15/90

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTIONS 593(A) AND 3385:

ARMY PROMOTION LIST

To be colonel

MICHAEL J. DUGAN, xxx-xx-xxxx
JAMES W. LOVAS, xxx-xx-xxxx
MICHAEL J. MCCRORY, xxx-xx-xxxx
EDMOND B. NOLLEY, xxx-xx-xxxx
CLIFTON R. SAVERANCE, JR., xxx-xx-xxxx
DONALD L. SEARS, xxx-xx-xxxx
DAVID M. SHANK, xxx-xx-xxxx
BOBBY D. THOMASSON, xxx-xx-xxxx
DENNIS C. TOMCIK, xxx-xx-xxxx
DWAYNE S. TRUAX, xxx-xx-xxxx

CHAPLAIN

To be colonel

VINCENT J. DOYLE, xxx-xx-xxxx

ARMY PROMOTION LIST

To be lieutenant colonel

CHRISTOPHER P. AIKEN, xxx-xx-xxxx
ROGER L. ALLEN, xxx-xx-xxxx
KENNETH F. BROADWATER, xxx-xx-xxxx
GEORGE A. BUSKIRK, JR., xxx-xx-xxxx
DANA E. CARDEN, xxx-xx-xxxx
DAN V. CHISHOLM, xxx-xx-xxxx
DAVID D. DAHM, xxx-xx-xxxx
DANIEL D. DENSFORD, xxx-xx-xxxx
ROBERT P. FRENCH, xxx-xx-xxxx
DANIEL V. GIBSON, xxx-xx-xxxx
FRED F. HANNA, JR., xxx-xx-xxxx
ROBERT W. HART, xxx-xx-xxxx
CHARLES A. HARVEY, JR., xxx-xx-xxxx
ROBERT L. JACKSON, xxx-xx-xxxx
L. Z. JOHNSON, xxx-xx-xxxx
TIMOTHY M. KENNEDY, xxx-xx-xxxx
RICHARD J. KRIMMER, xxx-xx-xxxx
DARRELL G. LARSEN, xxx-xx-xxxx
DOUGLAS J. LUEBKE, xxx-xx-xxxx
PATRICK A. LYONS, xxx-xx-xxxx
DANIEL R. MILLER, xxx-xx-xxxx
RAYMOND A. MORRIS, JR., xxx-xx-xxxx
NEIL J. PERRY, xxx-xx-xxxx
ROBLEY S. RIGDON, xxx-xx-xxxx
WALTER L. ROARK, III, xxx-xx-xxxx
GEORGE A. ROLLINS, xxx-xx-xxxx
JAMES A. RUSSELL, JR., xxx-xx-xxxx
CRAIG SCHNEE, xxx-xx-xxxx
ARTHUR R. SOUTH, xxx-xx-xxxx
CHARLES F. STERLING, xxx-xx-xxxx
THOMAS G. TIMMERMANN, xxx-xx-xxxx
WILLIAM P. WHITNEY, JR., xxx-xx-xxxx
HOWARD L. WILLIS, JR., xxx-xx-xxxx
MICHAEL F. WILSON, xxx-xx-xxxx
JOHN L. YOUNG, III, xxx-xx-xxxx

CHAPLAIN

To be lieutenant colonel

RUDOLPH DANIELS, SR., xxx-xx-xxxx
TRAVIS R. FULTON, xxx-xx-xxxx

ARMY NURSE CORPS

To be lieutenant colonel

GARY R. COUSINS, xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

CORNELIUS E. FREEMAN, xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be lieutenant colonel

EDDIE E. HOLLOWAY, xxx-xx-xxxx
DAVID J. KLAES, xxx-xx-xxxx

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTIONS 593(A) AND 3366:

ARMY PROMOTION LIST

To be lieutenant colonel

REID AARON, xxx-xx-xxxx
JOHN F. ABATE, xxx-xx-xxxx
VIRGIL A. ABEL, xxx-xx-xxxx
ARCHIE L. ACKLEY, xxx-xx-xxxx
EDMUND O. ACOSTA, xxx-xx-xxxx
DONALD W. ADAM, xxx-xx-xxxx
JOHN C. ADAMS, xxx-xx-xxxx
MORRIS F. ADAMS, xxx-xx-xxxx
ROBERT A. ADAMS, xxx-xx-xxxx
GREGORY P. ADAMSON, xxx-xx-xxxx
SAMUEL L. ADKINS, xxx-xx-xxxx
DENNIS M. AGNELLY, xxx-xx-xxxx
CHARLES C. AGNEW, xxx-xx-xxxx
ELLIOTT P. AKANA, xxx-xx-xxxx
JAMES E. AKERS, xxx-xx-xxxx
NICHOLAS J. AKRIDGE, xxx-xx-xxxx
PAUL M. ALBRIGHT, xxx-xx-xxxx
DEXTER L. ALEXANDER, xxx-xx-xxxx
HARLAN J. ALEXANDER, xxx-xx-xxxx
TERRY M. ALFORD, xxx-xx-xxxx
DANIEL R. ALLEMEIER, xxx-xx-xxxx
TERRY D. ALLEN, xxx-xx-xxxx
JAMES M. ALLISON, xxx-xx-xxxx
ROBERT P. ALLISON, xxx-xx-xxxx
ELGIN L. ALLMOND, xxx-xx-xxxx
LARRY A. ALTERSITZ, xxx-xx-xxxx
CLYDE O. AMBURN, xxx-xx-xxxx
KESTUTIS K. AMBUTAS, xxx-xx-xxxx
FRANKLIN J. AMMONS, xxx-xx-xxxx
TERRY C. AMOS, xxx-xx-xxxx
ANDREW J. ANDERSON, xxx-xx-xxxx
ARTHUR D. ANDERSON, xxx-xx-xxxx
BRUCE W. ANDERSON, xxx-xx-xxxx
DAVID C. ANDERSON, xxx-xx-xxxx
EDMUND R. ANDERSON, xxx-xx-xxxx
JAMES F. ANDERSON, xxx-xx-xxxx
LARRY S. ANDERSON, xxx-xx-xxxx
RICHARD F. ANDERSON, xxx-xx-xxxx
RONALD A. ANDERSON, xxx-xx-xxxx
RICHARD A. ANDRE, xxx-xx-xxxx
LUIS A. ANDREU, xxx-xx-xxxx
PAUL P. ANDREWS, xxx-xx-xxxx
DAVID F. ANGELO, xxx-xx-xxxx
EDWIN C. ANKER, xxx-xx-xxxx
WAYNE E. ANTHONY, xxx-xx-xxxx
RONALD J. ANTOINE, xxx-xx-xxxx
FREDERICK C. ARMONA, xxx-xx-xxxx
WALTER E. ARMS, xxx-xx-xxxx
WILLIAM ARMSTRONG, xxx-xx-xxxx
DONALD R. ARTIS, xxx-xx-xxxx
PAUL W. ASKINS, xxx-xx-xxxx
JOSEPH ASTRAMSKAS, xxx-xx-xxxx
JOHN J. ATKINS, xxx-xx-xxxx
EDWARD AUGUSTUS, JR., xxx-xx-xxxx
GREGORY K. AUSTIN, xxx-xx-xxxx
LIN R. AVENDANO, xxx-xx-xxxx
ALBER AVILALAUSELL, xxx-xx-xxxx
FRANCIS H. AYER, xxx-xx-xxxx
DONALD R. AYERS, xxx-xx-xxxx
KENNETH R. BAARSON, xxx-xx-xxxx
ERNEST A. BACHMAN, xxx-xx-xxxx
MELVIN L. BAILEY, xxx-xx-xxxx
MICHAEL A. BAILEY, xxx-xx-xxxx
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LUTHER F. SMITH, xxx-xx-xxxx
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THOMAS Q. SMITH, xxx-xx-xxxx
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NORRIE S. SMYLIE, JR., xxx-xx-xxxx
JOHNNY L. SNAPP, xxx-xx-xxxx
STEPHEN R. SNIDER, xxx-xx-xxxx
HARRY E. SNYDER, xxx-xx-xxxx
RICHARD C. SOBANSKI, xxx-xx-xxxx
MICHAEL SOEHNER, xxx-xx-xxxx
SHELLEY M. SOLOW, xxx-xx-xxxx
MICHAEL L. SORENSON, xxx-xx-xxxx
SANTOS SOSA, xxx-xx-xxxx
JAIME SOTO, xxx-xx-xxxx
KENNETH R. SOUTH, xxx-xx-xxxx
JOSEPH A. SPALLINA, xxx-xx-xxxx
CLAYTO SPANGENBERG, xxx-xx-xxxx
MICHAEL E. SPARKMAN, xxx-xx-xxxx
SAMUEL R. SPARKS, xxx-xx-xxxx
JONATHAN SPEED, xxx-xx-xxxx
MARVIN K. SPEIGNER, xxx-xx-xxxx
LAWRENCE P. SPENCER, xxx-xx-xxxx
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PAUL K. SPRAGUE, xxx-xx-xxxx
DANNY J. SPRINGER, xxx-xx-xxxx
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PERRY D. STACY, xxx-xx-xxxx
BASEL G. STAGGS, xxx-xx-xxxx
LARRY A. STAHLMAN, xxx-xx-xxxx
ALAN R. STALNAKER, xxx-xx-xxxx
EDWIN A. STEBBINS, xxx-xx-xxxx
FRANK J. STECH, xxx-xx-xxxx
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LAURENCE E. STEINER, xxx-xx-xxxx
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HUGH M. STIRTS, xxx-xx-xxxx
PETER A. STIVEN, xxx-xx-xxxx
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ALLAN V. STRICKER, xxx-xx-xxxx
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MARION F. STRIEGEL, xxx-xx-xxxx
GARY STRINGFELLOW, xxx-xx-xxxx
WALTER STROMQUIST, xxx-xx-xxxx
FRANCIS F. STROUSE, xxx-xx-xxxx
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JOHN M. STYLES, xxx-xx-xxxx
LAURIE H. SUDA, xxx-xx-xxxx
STEVEN S. SULIK, xxx-xx-xxxx
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GREGORY T. SULZER, xxx-xx-xxxx
EDWIN W. SUMMEY, xxx-xx-xxxx
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FRANK G. SURDU, xxx-xx-xxxx
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DAVID H. SYLVIA, xxx-xx-xxxx
MICHAEL W. SYMANSKI, xxx-xx-xxxx
RUTH L. TAGGART, xxx-xx-xxxx
CHARLES L. TALLMAN, xxx-xx-xxxx
GILBERT K. TAM, xxx-xx-xxxx
STEVEN N. TARONE, xxx-xx-xxxx
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ERIC L. TERKELSEN, xxx-xx-xxxx
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FREDR THORSTEINSON, xxx-xx-xxxx
NILE D. THREAD, xxx-xx-xxxx
ROGER R. TIERNEY, xxx-xx-xxxx
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JOHN E. TILTON, xxx-xx-xxxx
ROBERT S. TOMASOVIC, xxx-xx-xxxx
TODD P. TOMLIN, xxx-xx-xxxx
LARROW B. TONDA, xxx-xx-xxxx
WELLINGTON TOPPAN, xxx-xx-xxxx
WENCE TORRESRIVERA, xxx-xx-xxxx
FRANCIS TORRINGTON, xxx-xx-xxxx
ROBERT M. TOWNE, xxx-xx-xxxx
THADDEUS J. TRAHAN, JR., xxx-xx-xxxx
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DANIEL L. TREMBLEY, xxx-xx-xxxx
FRANK L. TRIDICO, xxx-xx-xxxx
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WALTER M. TYLER, xxx-xx-xxxx
RAY E. TYNER, JR., xxx-xx-xxxx
DAVID T. ULMER, xxx-xx-xxxx
TIMOTHY UNDERWOOD, xxx-xx-xxxx
BLASE P. UR, xxx-xx-xxxx
JAMES M. USHER, xxx-xx-xxxx
MATTHEW L. VADNAL, xxx-xx-xxxx
ROBERT E. VAIL, xxx-xx-xxxx
RICHARD J. VALE, xxx-xx-xxxx
RENE A. VALENZUELA, xxx-xx-xxxx
ANTHON VALLOMBROSO, xxx-xx-xxxx
JOHN C. VANDESAND, xxx-xx-xxxx
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GILBERT VANSICKLE, xxx-xx-xxxx
FELIX C. VARGAS, xxx-xx-xxxx
LEWIS P. VASQUEZ, xxx-xx-xxxx
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KENNETH C. VIANT, xxx-xx-xxxx
MICHAEL D. VIDLAK, xxx-xx-xxxx
FREDERICK O. VIELE, xxx-xx-xxxx
ANDREW VILLASTRIGO, xxx-xx-xxxx
NICHOLAS P. VITILLO, xxx-xx-xxxx
BRENDA A. VOSBEIN, xxx-xx-xxxx
JEFFREY S. VRABEL, xxx-xx-xxxx
ROBERT R. WADE, xxx-xx-xxxx
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STANLEY D. WAGSTAFF, xxx-xx-xxxx
PAUL J. WAKEFIELD, xxx-xx-xxxx
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CHARLES W. WALLIS, xxx-xx-xxxx
ANN T. WALSH, xxx-xx-xxxx
NATHAN C. WARD, xxx-xx-xxxx
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DONALD W. WEIDNER, xxx-xx-xxxx
JOSEPH J. WEIGHTMAN, xxx-xx-xxxx
JEROLD P. WELCH, xxx-xx-xxxx
JIMMY G. WELCH, xxx-xx-xxxx
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GEORGE W. WELLS, JR., xxx-xx-xxxx
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ANNA R. WEST, xxx-xx-xxxx
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WARD A. WESTLAKE, xxx-xx-xxxx
MICHAEL WETHERBEE, xxx-xx-xxxx
BEN C. WETHINGTON, xxx-xx-xxxx
JOHN W. WETTERAU, xxx-xx-xxxx
NANCY J. WHISENANT, xxx-xx-xxxx
CORNELIUS WHITAKER, xxx-xx-xxxx
JOSEPH W. WHITAKER, xxx-xx-xxxx
BOYCE T. WHITE, xxx-xx-xxxx
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MELVIN D. WHITE, xxx-xx-xxxx
ROZANN S. WHITE, xxx-xx-xxxx
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MARK H. WHITMAN, xxx-xx-xxxx
GARY C. WHITNEY, xxx-xx-xxxx
MARVIN E. WHITTAKER, xxx-xx-xxxx
MEAD C. WHORTON, xxx-xx-xxxx
MICHAEL WIATROWSKI, xxx-xx-xxxx
ANDREW J. WICK, xxx-xx-xxxx
CHARLES H. WICK, xxx-xx-xxxx
FRANCIS J. WIDEMAN, xxx-xx-xxxx
SYLVIA S. WIELUC, xxx-xx-xxxx
WILLIAM WIESERMAN, xxx-xx-xxxx
JAMES R. WIGLEY, xxx-xx-xxxx
JAY L. WIGNALL, xxx-xx-xxxx
JOHN M. WILCYNSKI, xxx-xx-xxxx
HARRY T. WILEY, xxx-xx-xxxx
ALVIN J. WILKE, xxx-xx-xxxx
JOSEPH J. WILKERSON, xxx-xx-xxxx
DANIEL M. WILKINSON, xxx-xx-xxxx
JOHN E. WILKS, III, xxx-xx-xxxx
BOBBY F. WILLIAMS, xxx-xx-xxxx
CHARLIE J. WILLIAMS, xxx-xx-xxxx
DALE E. WILLIAMS, xxx-xx-xxxx
JACKIE L. WILLIAMS, xxx-xx-xxxx
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HAROLD WILLIAMSON, xxx-xx-xxxx
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VERNON C. WILSON, xxx-xx-xxxx
PAUL F. WIMBERLY, xxx-xx-xxxx
DANIEL J. WINARSKI, xxx-xx-xxxx
KARL H. WINGARD, JR., xxx-xx-xxxx
PATRICK D. WINN, xxx-xx-xxxx
ULYSSES R. WINN, xxx-xx-xxxx
IYLA M. WINTERFELDT, xxx-xx-xxxx
RONALD P. WISEMAN, xxx-xx-xxxx
JAMES A. WISOR, JR., xxx-xx-xxxx
DENNIS N. WITT, xxx-xx-xxxx
KENNETH F. WOHLFERT, xxx-xx-xxxx
WILLIAM S. WOJSKO, xxx-xx-xxxx
HOWARD A. WOLF, xxx-xx-xxxx
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PAUL D. WOMER, xxx-xx-xxxx
JENNINGS L. WONG, xxx-xx-xxxx
BILLY R. WOOD, xxx-xx-xxxx
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JOHN E. WOODCOOK, xxx-xx-xxxx
RALPH L. WOODS, xxx-xx-xxxx
WILLIAM F. WOODS, xxx-xx-xxxx
DAVID W. WRAUSMANN, xxx-xx-xxxx
JOHN D. WRIGHT, xxx-xx-xxxx
ARTHUR G. WROBLE, xxx-xx-xxxx
WILLIAM R. WYAND, xxx-xx-xxxx
JAMES M. WYNE, xxx-xx-xxxx
RICHARD E. WYNN, xxx-xx-xxxx
JOHN D. YACOS, xxx-xx-xxxx
GERARD YAGHMOURIAN, xxx-xx-xxxx
JAMES T. YARBROUGH, xxx-xx-xxxx
EUGENE W. YEAGER, xxx-xx-xxxx
JAMES J. YOLDA, xxx-xx-xxxx
BRUCE A. YORK, xxx-xx-xxxx
JOHN H. YOUNG, xxx-xx-xxxx
JAMES H. YOUNGQUIST, xxx-xx-xxxx
KENNETH A. YOUNKIN, xxx-xx-xxxx
LESLIE L. ZADINA, xxx-xx-xxxx
PAUL E. ZIELINSKI, xxx-xx-xxxx
EMIL C. ZIMMERMANN, xxx-xx-xxxx
DANIEL A. ZINN, xxx-xx-xxxx

HOUSE OF REPRESENTATIVES—October 16, 1990

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. MURTHA].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 16, 1990.

I hereby designate the Honorable JOHN MURTHA to act as Speaker pro tempore today.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, give us a sense of the meaning of time and our own personal responsibility to do the good work of justice on the day You have given to us. We know that for those who believe in Your Word that this day represents the time available to us to seek justice, to love mercy, and a time to walk humbly with You. We earnestly pray, O God, that we will receive strength of purpose to do those good deeds that honor You and serve people everywhere. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. WALKER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 245, nays 110, answered "present" 3, not voting 75, as follows:

[Roll No. 468]

YEAS—245

Ackerman	Hamilton	Parker
Alexander	Hansen	Patterson
Anderson	Harris	Payne (NJ)
Andrews	Hawkins	Pease
Annunzio	Hayes (IL)	Perkins
Anthony	Hayes (LA)	Petri
Applegate	Hefner	Pickle
Archer	Hertel	Poshard
Aspin	Hoagland	Price
Atkins	Hochbrueckner	Quillen
AuCoin	Horton	Rahall
Barnard	Houghton	Rangel
Bartlett	Hoyer	Ravenel
Bateman	Hubbard	Richardson
Bates	Huckaby	Rinaldo
Bellenson	Hughes	Ritter
Bennett	Hutto	Robinson
Berman	Hyde	Rose
Bevill	Jenkins	Rostenkowski
Boggs	Johnson (CT)	Roth
Bonior	Johnson (SD)	Roybal
Borski	Jones (GA)	Russo
Bosco	Jontz	Sabo
Boucher	Kanjorski	Saiki
Boxer	Kastenmeier	Sangmeister
Brooks	Kennedy	Savage
Broomfield	Kennelly	Sawyer
Browder	Kildee	Scheuer
Brown (CA)	Kleczka	Schneider
Bruce	Kolter	Schulze
Bustamante	Kostmayer	Schumer
Byron	LaFalce	Serrano
Campbell (CO)	Lancaster	Sharp
Cardin	Lantos	Shaw
Carr	Laughlin	Shumway
Clarke	Lehman (CA)	Shuster
Clement	Lehman (FL)	Sisisky
Coleman (TX)	Lent	Skaggs
Collins	Levin (MI)	Skelton
Combest	Levine (CA)	Slattery
Conte	Lewis (GA)	Slaughter (NY)
Cooper	Lipinski	Slaughter (VA)
Costello	Livingston	Smith (FL)
Coyne	Lloyd	Smith (IA)
Crockett	Long	Smith (NE)
Darden	Lowey (NY)	Solarz
Davis	Luken, Thomas	Spratt
DeFazio	Manton	Stallings
Dellums	Markey	Stark
Derrick	Matsui	Stenholm
Dicks	Mavroules	Stokes
Donnelly	Mazzoli	Studds
Dorgan (ND)	McCloskey	Swift
Downey	McCurdy	Synar
Durbin	McDermott	Tallon
Early	McEwen	Tanner
Eckart	McHugh	Tauzin
Edwards (CA)	McMillen (MD)	Taylor
Erdreich	Miller (CA)	Thomas (GA)
Espy	Mineta	Torres
Evans	Moakley	Traficant
Fascell	Mollohan	Traxler
Fazio	Montgomery	Udall
Flake	Moody	Unsoeld
Flippo	Morella	Vander Jagt
Foglietta	Morrison (WA)	Vento
Frank	Mrazek	Visclosky
Frost	Murtha	Volkmer
Gaydos	Natcher	Walgren
Gejdenson	Neal (MA)	Walsh
Gephardt	Nelson	Watkins
Geren	Nielson	Waxman
Gibbons	Nowak	Weiss
Gilman	Oakar	Wheat
Glickman	Oberstar	Whitten
Gonzalez	Obey	Wise
Gordon	Olin	Wolpe
Grant	Ortiz	Wyden
Green	Owens (UT)	Wylie
Gunderson	Packard	Yates
Hall (OH)	Pallone	Yatron
Hall (TX)	Panetta	

NAYS—110

Armey	Hammerschmidt	Rhodes
Baker	Hancock	Ridge
Ballenger	Hastert	Roberts
Barton	Hefley	Rogers
Bentley	Henry	Rohrabacher
Bilirakis	Herger	Roukema
Billey	Hiler	Saxton
Boehlert	Holloway	Schaefer
Brown (CO)	Hopkins	Schroeder
Bunning	Inhofe	Sensenbrenner
Burton	Jacobs	Shays
Callahan	James	Sikorski
Campbell (CA)	Kolbe	Skeen
Chandler	Kyl	Smith (TX)
Clinger	Lagomarsino	Smith, Denny (OR)
Coble	Leach (IA)	Smith, Robert (NH)
Coughlin	Lewis (CA)	Smith, Robert (OR)
Courter	Lightfoot	Snowe
Cox	Lowery (CA)	Solomon
Craig	Lukens, Donald	Spence
Dannemeyer	Machtley	Stearns
DeLay	Martin (IL)	Stump
DeWine	Martin (NY)	Sundquist
Dornan (CA)	McCandless	Tauke
Douglas	McDade	Thomas (WY)
Dreier	McGrath	Towns
Duncan	McMillan (NC)	Upton
Emerson	Meyers	Vucanovich
Fawell	Michel	Walker
Fields	Miller (OH)	Weber
Frenzel	Miller (WA)	Weldon
Gallegly	Molinari	Whittaker
Gallo	Moorhead	Young (AK)
Gekas	Oxley	Young (FL)
Goodling	Paxon	
Goss	Penny	
Gradison	Porter	
Grandy	Regula	

ANSWERED "PRESENT"—3

Ford (TN)	Marlenee	Pashayan

NOT VOTING—75

Bereuter	Gillmor	Owens (NY)
Bilbray	Gingrich	Parris
Brennan	Gray	Payne (VA)
Bryant	Guarini	Pelosi
Buechner	Hatcher	Pickett
Carper	Hunter	Pursell
Chapman	Ireland	Ray
Clay	Johnston	Roe
Coleman (MO)	Jones (NC)	Ros-Lehtinen
Condit	Kaptur	Rowland (CT)
Conyers	Kasich	Rowland (GA)
Crane	Leath (TX)	Sarpalius
de la Garza	Lewis (FL)	Schiff
Dickinson	Madigan	Schuette
Dingell	Martinez	Smith (NJ)
Dixon	McCollum	Smith (VT)
Dwyer	McCrery	Staggers
Dymally	McNulty	Stangeland
Dyson	Mfume	Thomas (CA)
Edwards (OK)	Mink	Torricelli
Engel	Morrison (CT)	Valentine
English	Murphy	Washington
Feighan	Myers	Williams
Fish	Nagle	Wilson
Ford (MI)	Neal (NC)	Wolf

□ 1029

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. McNULTY. Mr. Speaker, I was unavoidably detained and missed the vote on rollcall 468, to approve the Journal.

Had I been present, I would have voted in the affirmative.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from Indiana [Mr. VISCLOSKY] will please come forward and lead the House in the Pledge of Allegiance.

Mr. VISCLOSKY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

□ 1030

PARLIAMENTARY INQUIRIES

Mr. SENSENBRENNER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman will state it.

Mr. SENSENBRENNER. Mr. Speaker, pursuant to clause 6 of rule XXIV, today is the day for the call of the Private Calendar. Is the Private Calendar not going to be called today?

The SPEAKER pro tempore. The Chair will notify the gentleman from Wisconsin [Mr. SENSENBRENNER] that the Chair has complete discretion on the third Tuesday whether to call the Private Calendar.

Mr. SENSENBRENNER. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SENSENBRENNER. Mr Speaker, is the Chair aware that, should we adjourn between now and November 6, this is the last day for the call of the Private Calendar?

The SPEAKER pro tempore. The Chair understands.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will take five 1-minute speeches on each side.

SOME THINGS NEVER CHANGE

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, some things never change.

Here we are, with 4 days left. The President leaves town, and the Republican Party lets down the American people. In terms of the alternative that we are to consider today, they fall $100 billion short.

Assuming that we act responsibly today in the House, and pass the Democratic alternative, and reduce this year's deficit by $40 billion, this year's deficit will still be $254 billion.

Mr. Speaker, this is not the time to fall short. People's median incomes are falling. The income of those under the age of 35 is falling.

I am proud that the Democrats recognize that the first approach has to be to reduce spending, and more than 50 percent of the Democratic package is represented by reductions on the expenditure side. Second, the principle must be to tax fairly, and, finally, have real reductions in the deficit this year.

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

[Mr. BALLENGER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

COME BACK TO TOWN, MR. PRESIDENT

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute.)

Mr. DORGAN of North Dakota. Mr. Speaker, today we will hear another verse of the same old song. Once again the country faces a budget crisis, and once again the President's jet leaves Andrews Air Force Base for yet another campaign swing across America.

Still the wealthy are not paying their fair share of the taxes, and still the President insists he wants to give the wealthy another tax cut.

Again the President says, "We need the cuts in Medicare spending," and again the President says, "Let's forgive the $7 billion debt Egypt owes America." The President says, "We can't afford a decent farm program," but he says, "Let's continue to pay the defense bill for Japan and Western Europe."

Is it surprising that the American people wonder whatever happened to common sense?

Mr. Speaker, I say to the President, "Come back to town, Mr. President. Let's put together some policies that work, some policies that are fair, some policies that put America first again—for a change."

SHUTTING DOWN THE GOVERNMENT TO GET A TAX CUT FOR THE RICH

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, yesterday the President threatened to shut down the Federal Government this Friday. The President threatened to close the Washington Monument. The President threatened to deprive the American people of vital services they depend upon, vital services they paid for with their labor and with their taxes.

Mr. Speaker, today the American people want to know why the President wants to shut down the Government. Here are the answers:

If he cannot get a tax cut for the rich, or prevent the Congress from getting a fair share of taxes from the rich, he is going to shut the Government down. That is right, shut the Government down.

If he cannot get deep cuts in Medicare, or prevent us from softening the impact on the aged and infirm, he is going to shut the Government down.

Mr. Speaker, I say to the President, "Mr. President, you want taxation without representation. You want to give the wealthy a big tax cut. Mr. President, you want to balance the budget on the backs of the middle class and the elderly, and that's not fair."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members will be reminded that they should always address the Chair.

THIS IS NOT A DEMOCRACY

(Mr. DOUGLAS asked and was given permission to address the House and to revise and extend his remarks.)

Mr. DOUGLAS. Mr. Speaker, I say to my colleagues, "If they want to raise your taxes, you can bet it's Democrats."

The Democratic package has a $148 billion tax increase. They are going to double the beer tax. They are going to double the gasoline tax. They are going to go up 2 cents on refined oil, and we have a no-tax alternative.

But because this is not a democracy, we will not be able to vote on our no-tax alternative. They want a tax train to leave the station today. They want that $148 billion tax increase. They do not want our zero-based budgeting. They do not want our package that calls for a balanced budget amendment because the Democrats are the party of taxes.

Mr. Speaker, the line is clearly drawn, and the American people should know. The Republican alternative has been denied to us, something that in democracies around the world would be unthinkable. One of the two major parties is unable to get a vote on its budget package, and that is because the Democrats do not want their tax train derailed, but the American people will derail it in November.

□ 1040

AN ODE TO THE DEMOCRATS

(Mrs. BOXER asked and was given permission to address the House for 1

minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, sometimes a sense of humor helps get us through difficult times. In that spirit, I offer the following:

The President called a summit
And sent in the fearsome three,
Richard Darman, Sununu, and Nicholas Brady.
They had a clear and constant goal.
They did it very well.
To protect the very wealthiest
And hope their plan would sell—
But, alas, alack
They faltered on their way to fat cat heaven.
When Democrats found the rich paid 1 percent
And the poor? A mighty seven!
So, America be glad today
The Democrats are here
We're fighting for the middle class
Though we might tax your beer.
But Democrats are working
For budgets that are fair
So the Hemsleys and the Donald Trumps
At last, will pay their share!

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MURTHA). The Chair would advise the gentleman from Texas [Mr. SMITH] that if he wants to utilize a display, he may, but the sticker should be removed from the podium. The gentleman did not put it up there. If he wishes to hold it, the House could permit that.

A BUDGET SOLUTION

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, there is a way to lighten the burden of the budget. We can cut Government overhead such as travel, supplies, and printing.

For good or bad, there is already wide agreement—Democrat, Republican, House, Senate—on these common elements: defense cuts, entitlement adjustments, user fees, and debt interest savings.

If we add a 1-year, 10-percent cut in Government overhead, which now accounts for one-fifth of the Federal budget, we can get to the goal of $500 billion in deficit reduction in 5 years.

And we can reach that goal with no new taxes and without other cuts in people, programs, or benefits.

Here is how it would work.

Expected Revenue

[In billions of dollars]

Defense cuts	140
Entitlement adjustments	100
User fees	50
Debt interest savings	70
Overhead cuts	140
Total	500

Let us cast aside narrow partisanship and embrace a new idea: Cut overhead to reduce the deficit.

AMERICA SHOULD GIVE "AMERICA" MOST-FAVORED-NATION STATUS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, China is one of the most oppressive governments in the world, but today Congress wants to bestow the most-favored-nation trade status on China.

America is going bankrupt, but experts say that China is a big new market. Yeah, I have heard that song and dance. Big new market, my eye.

Mr. Speaker, here is what we've got, another revolving door. Chinese imports in, American jobs overseas.

America is going bankrupt, and Congress should be debating most-favored-nation status today for the United States of America. If we don't, remember this: if the Chinese will shoot down their own students, what do you think they will do to the American workers?

Mr. Speaker, I say no on most-favored-nation trade status to China.

SUCCESSFUL GATT TALKS WOULD BE BENEFICIAL TO AMERICA

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, as we debate the budget today, one of the key elements we have to consider is growth in the economy to provide jobs for Americans in the future. With that in mind, I would like to quote from the Wall Street Journal:

World leaders have been wringing their hands lately over the U.S. fiscal chaos and soaring oil prices. But the leaders would do well to pay more attention to the troubled trade negotiation taking place in Switzerland. Those talks may hold the key to the future of the global economy.

The stakes are huge. Even a moderately successful conclusion to the talks, being held under the auspices of the General Agreement on Tariffs and Trade, would spark a $100 billion-a-year expansion in world trade, according to Gary Hufbauer of the Institute for International Economics, a Washington think-tank. And trade representative Carla Hills says the U.S. could enjoy a $200 billion increase in exports to developing countries over the next decade.

The GATT talks are going to conclude in the next several weeks. I think it is vitally important that Members of this body should be very much aware of what is happening, and be in contact with the U.S. negotiators at the GATT negotiations. Urging strong positions to protect U.S. dumping codes and countervailing duty authority. Failure to do so will threaten American jobs and economic growth.

PARLIAMENTARY INQUIRY

Mr. CALLAHAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. CALLAHAN. Mr. Speaker, do I understand that the rules of the day and the ruling of the Chair is that I, a duly elected Congressman from the State of Alabama who has a message that I want to deliver to this House that will impact every businessman in America, giving indication——

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry. Does the gentleman have a parliamentary inquiry?

Mr. CALLAHAN. Mr. Speaker, the parliamentary inquiry is, is it the ruling of the Chair that I am going to be denied the opportunity to even request——

The SPEAKER pro tempore. The ruling of the Chair is that the Chair is trying to be fair and get to the business of the House. Both sides have been restricted to five 1-minute statements each.

Mr. CALLAHAN. Then it is a ruling of the Chair that I cannot tell the people about this horrible provision in there about OSHA?

The SPEAKER pro tempore. There is ample debate time on the rule and bill, and after the business of the day, the 1-minutes will be recognized as usual.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 647, DISAPPROVING EXTENSION OF MOST-FAVORED-NATION TREATMENT TO PEOPLE'S REPUBLIC OF CHINA

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 485 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 485

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 647) disapproving the recommendation of the President to extend nondiscriminatory treatment (most-favored-nation) to the products of the People's Republic of China, and the first reading of the joint resolution shall be dispensed with. All points of order against consideration of the joint resolution are hereby waived. After general debate, which shall be confined to the joint resolution and which shall not exceed one hour, with thirty minutes to be controlled by Representative Rostenkowski of Illinois and with thirty minutes to be

controlled by Representative Solomon of New York, the joint resolution shall be considered as having been read for amendment under the five-minute rule. Pursuant to section 152(d) of the Trade Act of 1974, no amendment to the joint resolution shall be in order, and the Committee shall rise and report the joint resolution to the House and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

SEC. 2. The provisions of sections 152 and 153 of the Trade Act of 1974, as amended, shall not apply to other joint resolutions disapproving the recommendation of the President to extend nondiscriminatory treatment to the products of the People's Republic of China for the duration of the One Hundred First Congress.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 485 is a closed rule providing for the consideration of House Joint Resolution 647, disapproving the recommendation of the President to extend nondiscriminatory treatment, most-favored-nation treatment, to the products of the People's Republic of China. The rule provides 1 hour of general debate to be controlled by Representative ROSTENKOWSKI of Illinois and Representative SOLOMON of New York.

All points of order against consideration of the resolution are waived. The rule provides that pursuant to the Trade Act of 1974, no amendment to the joint resolution shall be in order, nor shall it be in order to offer a motion to recommit.

The rule also provides that sections 152 and 153 of the Trade Act of 1974, as amended, shall not apply to other joint resolutions disapproving the recommendation of the President to extend nondiscriminatory treatment to the products of the People's Republic of China for the duration of the 101st Congress.

The Trade Act of 1974 included expedited procedures for resolutions of congressional disapproval. Those provisions were recently amended in the Customs and Trade Act of 1990, Public Law 101-382, enacted August 20, 1990. Because the Presidential waiver extending MFN status for China was made during the process of changing the method for disapproval, the act included a transition rule establishing special procedures that apply to disapproval of this one waiver.

Unless the House adopts the recommendation of the Rules Committee, the procedures in place could permit recognition of a member to offer a motion to proceed to consider House Joint Resolution 647 which would be highly privileged, unamendable, and not debatable. Upon agreement to such a motion to proceed to debate, we could be debating the resolution disapproving the President's recommendation for up to 20 hours.

Agreement on proceeding to consideration of a resolution of disapproval has not yet been reached, but the need to adopt this rule to preserve orderly consideration of this issue is clear.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this rule makes in order consideration of House Joint Resolution 647, which I introduced along with the gentleman from Pennsylvania [Mr. SCHULZE], the gentleman from North Carolina [Mr. ROSE], and the gentleman from Massachusetts [Mr. MARKEY]. If enacted, House Joint Resolution 647 would serve to revoke the most-favored-nation trade status that is presently awarded to China, at least through next June.

□ 1050

Most-favored-nation status for China is the single most important factor that has contributed to a trade surplus in China's favor that is running at $6 billion a year; and the time has come, Mr. Speaker, to ask why. Why is China getting this kind of trade and tariff treatment? That, incidentally, threatens the entire domestic textile industry in America, and Members on both sides of the aisle should think about that.

The passage of the Jackson-Vanik amendment to the Trade Act of 1974 established a direct linkage between a country's human rights record and the normalization of trade relations between that country and the United States.

Mr. Speaker, during the actual debate on this joint resolution I will have much more to say about the human rights record of the so-called People's Republic of China, the Tiananmen Square incident, and about the terrible human rights treatment of a billion Chinese people, not to mention people in Tibet. Suffice it to say right now that I believe the human rights record in China justifies the immediate termination of most-favored-nation status for that country; and under the terms of existing law most-favored-nation status for China would, in fact, be terminated 60 days after enactment of this joint resolution.

But Mr. Speaker, I will conclude by returning to a brief discussion of the rule itself. This is a rule that provides for 1 hour of debate on the joint resolution. The Ways and Means Committee report reported this joint resolution without recommendation because the price of keeping it bottled up in committee would have been 20 hours of debate here on this floor, 20 hours. I or some other Member could have given 2 days' notice at any time after October 6 and the joint resolution would have been brought to the floor as a matter of high privilege.

Frankly, 20 hours of debate is not necessary. The most-favored-nation question is a straightforward issue that I believe all Members on both sides of the aisle understand. And so I urge support of the rule, even though it is not my standard practice to support closed rules.

Mr. SCHULZE. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Pennsylvania, one of the cosponsors of this resolution.

Mr. SCHULZE. Mr. Speaker, I would just like to congratulate the gentleman from New York on his work on this issue. He has been tireless, and his dedication has been unmatched, unparalleled.

I would like to urge our colleagues to pay close attention to the debate. There will be a fair amount of obfuscation involved with this debate. But our law is relatively simple, and relatively clear on when we should extend most-favored-nation status.

I would hope that all Members will pay attention to the debate, understand where we are going, understand what Jackson-Vanik means in the law, and then make a decision based on the facts as to whether it should be extended.

I agree with the gentleman from New York that the only way we can send a clear, strong message to those in power in China is the complete elimination of most-favored-nation status, and the elimination right now. We will get into this in more detail in the debate, but I would urge my colleagues to pay very close attention to the discussions.

I thank the gentleman for yielding.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from Pennsylvania for his remarks and for being so active on this issue.

Mr. Speaker, I reserve the balance of my time.

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I support the rule.

The President wants to give nondiscriminatory treatment of most-favored-nation trade status to China. He also wants to forgive a $7 billion loan to Egypt.

I want to remind Members of this House that the Chinese Government did not even provide nondiscriminatory status for their own students in their own country trying to seek some freedom and democracy. We are supposedly the bastion for rights and freedom and democracy, but then we come around and we show our policies exactly where our priorities are, right

in the pocketbook. We are going to extend the pocketbook.

Again, some Member said obfuscation. I say, we are not sending a message today to China, we are starting a process that will send jobs and cash to China before it is all over. Let me remind these Members that American corporations some day will move to China, and they will be able to hire workers at 17 cents an hour, and their government will come in and put a gun right to their head and say, "You do that job, buster."

I am against this type of policy. This type of policy time and again has risen up to destroy the American workplace. We are in the midst of bankruptcy.

I believe we should vote for this rule. We should debate this issue. But if Congress passes this legislation today, then so help me God, we need a brain surgeon. There is something wrong.

Mr. SOLOMON. Mr. Speaker, before yielding to the distinguished gentleman from Minnesota, I would just like to call to the attention of the gentleman from Ohio, who just spoke, that if he wants to do what he said on the floor, we need a yes vote to disapprove, not a no vote against the legislation. I want Members to understand that, and I thank the gentleman.

Mr. Speaker, I yield such time as he might consume to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I do not concur with the gentleman from New York as to the recommended vote on the resolution of approval. But I do agree with his description of the rule and the idea that at this time, we do not need to do a lot of debating this concept. I think everyone understands the proposition.

I hope that by the time we are done discussing it that at least some of the Members of the House will understand that there are a number of reasons to extend MFN to China. But, that will come in the debate on the resolution, not on this particular rule.

This rule should be adopted promptly.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for his comments.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, I yield myself such time as I may consume to make it clear exactly what this rule does.

What it does, Mr. Speaker, is reduce the amount of time for consideration of most-favored-nation status for China from 20 hours to 1 hour. Whether Members are for or against the extension of the nondiscriminatory treatment, I think it is clear we can ill afford to spend 20 hours on this resolution in hopefully what are the last few days of this session.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 2961. an act for the relief of Sonanong Poonpipat (Latch);

H.R. 5144. An act to provide for the study of certain historical and cultural resources located in the city of Vancouver, Washington, and for other purposes; and

H.R. 5579. An act to amend section 28(w) of the Mineral Leasing Act, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3789. An act to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes;

H.R. 4638. An act to revise the orphan drug provisions of the Federal Food, Drug, and Cosmetic Act and the Orphan Drug Act, and for other purposes; and

H.R. 5803. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 3789) "An Act to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints from the Committee on Labor and Human Resources for matters within their jurisdiction: Mr. KENNEDY, Mr. DODD, Ms. MIKULSKI, Mr. HATCH, and Mr. DURENBERGER; from the Committee on Governmental Affairs for matters within their jurisdiction: Mr. GLENN, Mr. KOHL, Mr. LIEBERMAN, Mr. ROTH, and Mr. STEVENS; to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5803) "An Act making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. BYRD, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Mr. STEVENS, Mr. GARN, Mr. MCCLURE, Mr. KASTEN, Mr. D'AMATO, Mr. RUDMAN, Mr. COCHRAN, Mr. SPECTER, and Mr. HATFIELD, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 615. An act providing for a 14-year extension of the patent for the badge of the American Legion;

S. 616. An act providing for a 14-year extension of the patent for the badge of the American Legion Auxiliary;

S. 617. An act providing for a 14-year extension of the patent for the badge of the Sons of the American Legion;

S. 1831. An act to direct the Secretary of Agriculture to convey certain lands to the town of Taos, NM;

S. 2165. An act to expand the boundaries of the Pecos National Historical Park;

S. 2527. An act to direct the Secretary of Agriculture to conduct a study to determine the need for a National Forest Information Center and an expanded environmental education program in New Mexico;

S. 2684. An act to authorize a study of methods to protect and interpret the nationally significant fossil trackways found in the Robledo Mountains near Las Cruses, NM;

S. 2756. An act to encourage national law enforcement cooperation; and

S. 2802. An act to authorize the establishment of the Fort Totten National Historic Site.

PROVIDING FOR CONSIDERATION OF H.R. 5422, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1991

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 487 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 487

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5422) to authorize appropriations for fiscal year 1991 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence, the bill shall be considered for amendment under the five-minute rule, by titles instead of sections and each title shall be considered as having been read. The amendments recommended by the Permanent Select Committee on Intelligence and the Committee on Armed Services now printed in the bill shall be considered as having been adopted and shall

become original text for the purpose of further amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

□ 1100

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

Mr. WHEAT. Mr. Speaker, House Resolution 487 is an open rule providing for 1 hour of general debate. It waives all points of order against consideration of the bill.

The rule provides that the bill will be considered for amendment by titles instead of by sections, with each title considered as read.

It also provides that the Intelligence Committee and Armed Services Committee amendments now printed in the bill will be considered as having been adopted and will become original text.

Finally, the rule provides one motion to recommit.

Mr. Speaker, although there may be controversial issues on the intelligence bill itself, I know of no controversy in regard to the rule. It is an open rule and Members will be able to offer whatever amendments they wish—so long as they are germane.

I urge my colleagues to support House Resolution 487.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this rule, and I ask the Members to support it. As the gentleman from Michigan has indicated, this is an open rule. All germane amendments are in order for consideration under the 5-minute rule, and the rights of the minority are protected.

Mr. Speaker, the intelligence authorization bill is concerned with the very security and survival of this country of ours. I always hope that Members will keep this in mind when a bill of this type is being debated; this is not a small academic exercise we are going through here today. The future of our country, and the lives of many Americans today are at stake, based on what happens with this reauthorization bill.

Indeed, Mr. Speaker, the future of our country's role in the world is at stake. An amendment will be offered later today which, if enacted, would reduce the United States to the moral and geopolitical equivalent of San Marino and Monaco. They may be nice places to visit, and they may print beautiful postage stamps, but they do not have global responsibilities like we as world leaders do. America does have such responsibility. And if the proposed Boxer amendment is ever enacted, we can forget about ever having to fulfill an international responsibility again.

The Boxer amendment would place three crippling restrictions on the President's authority to act as Commander in Chief. With 200,000 troops in Saudi Arabia, with a man called Saddam Hussein threatening terrorism throughout the entire world against American citizens and others, we need to have the ready capability for covert activities and intelligence operations. Mr. Speaker, the Boxer amendment that will come up later today when the debate starts, will require the President to obtain prior approval by the two Select Committees on Intelligence for any and all covert activities. It would further require the President to provide the committees with 24 hours' notice whenever he is contemplating a covert activity or military action which has not been subject to prior approval. It would require termination of any such activity or action within 48 hours if the committees have not given their written approval.

Mr. Speaker, that is ridiculous. In case Members have not read their "Dear Colleague" letters which are in their offices right now, we have statements from the American Legion in opposition to the Boxer amendment. We have similar statements from the Reserve Officers Association, the Fleet Reserve Association, the Association of Former Intelligence Officers, Non-Commissioned Officers Association, Amvets, Retired Officers Association, Veterans of Foreign Wars, and every other veterans organization in America. This would be a debilitating amendment if it were attached to this piece of legislation, and it should be defeated.

Mr. Speaker, I reserve the balance of my time.

Mr. BONIOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5422—the Intelligence Authorization Act for fiscal year 1991—authorizes funds for all intelligence programs authorized by the bill are contained in a classified annex of the report.

The Intelligence Committee has indicated, however, that the overall level of funding is lower than requested by the President.

Our Nation's intelligence capability must remain the best in the world.

However, given the changes witnessed by the world in the last year, the move toward democracy, and the end of the cold war—it is appropriate that we begin to reduce our intelligence budget in the same way that we have cut back our defense spending.

In the past, too much of our Nation's foreign policy has been conducted in secret. I welcome the full debate we will have today on this bill.

I particularly want to express my support for amendments that will be offered to end or restrict covert assistance to the rebels fighting the Angolan Government.

Press reports indicate that the United States has been providing up to $50 million per year to UNITA since 1986.

Yet our policy has failed—bringing neither an end to the war or democracy to Angola.

And, as always, it is the innocent civilians who are paying the price. The United Nations estimates that between 1980 and 1988, war deaths totaled a half million people in Angola—nearly 5 percent of the population. Beginning this month, up to 2 million more risk starvation unless a cease-fire can be negotiated.

Most of these deaths are children under the age of 5—who succumb to starvation, disease, and lack of health services. Because of the war, a child is dying every 5 minutes in Angola.

The time has come to stop funding for this war. Rebel leader Savimbi's revanchist policies must end.

Under the timetable agreed to in the 1988 Angola-Namibia accord, up to two-thirds of the Cuban troops stationed in Angola have left, with the remainder to be gone by July 1991.

The cold war has ended, and the Soviet Union is removing its support for regional conflicts throughout the world.

Meanwhile, the United States has urgent needs here at home that must be addressed.

Our policy in Angola is outdated, it is expensive, and it is costing lives. It is long past time for us to end the war and to achieve a cease-fire.

I want to acknowledge the leadership that Mr. DELLUMS and Mr. WOLPE have contributed to this effort, and signal my strong support.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume just to go back to the Boxer amendment for a few minutes.

If the Boxer amendment were in place right now, in law, as the sponsor would try to do here this afternoon, the Boxer amendment would effectively terminate all of our policies in the Persian Gulf. It would also place our President in the completely untenable position of having to broadcast U.S. strategies and plans to any and all adversaries, worldwide.

Right now, we all know that in Iraq, Saddam Hussein is a very unpopular individual in his own country.

□ 1110

There are movements over there calling for a revolution within his own country. If the United States were in any way to be a part of that revolution, which would remove that man from power who threatens the freedom of the entire world and certainly the lives of our 200,000 troops over there, and if our activity was to be exposed, that would be a disaster. I hope that we are going to defeat the amendment when it does come up.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman will state it.

Mr. SOLOMON. Mr. Speaker, I propound this parliamentary inquiry because there seems to be some confusion about the rest of the calendar here today. I do not want to ask for a vote on this, but I need to ask if we are going on to the authorization of the intelligence bill right away or whether we intend to take up the rule on reconciliation, because we need to gather some Members over here for that purpose.

Could the Chair enlighten us at all on what is going to happen if I yield back my time and there is no vote here?

The SPEAKER pro tempore. The Chair is awaiting instructions from the Speaker on what will happen next.

Mr. BONIOR. Mr. Speaker, I will try to answer. I do not know that I can answer my friend, the gentleman from New York. I do not think a decision has been made yet whether to continue with the bill or to go to the rule on reconciliation. I cannot give the gentleman assurances either way on that at this point.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman.

Mr. BONIOR. Mr. Speaker, I yield 4 minutes to my colleague, the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, this is my third year on the Intelligence Committee, and one of the things you learn about being a member of this committee is that you cannot talk about it, so my remarks will be guarded. They will be brief.

Mr. Speaker, first I think the success of the committee this year is due to a very good chemistry between the chairman, the gentleman from California [Mr. BEILENSON] and the ranking minority member, the gentleman from Illinois [Mr. HYDE]. It is a good, positive working relationship that I think enhanced the ability of the committee to tackle some very difficult issues.

As the gentleman from Michigan [Mr. BONIOR] mentioned, it is not a rubberstamp budget. The Intelligence Committee has carefully scrutinized the program that our intelligence agencies have put forth.

First of all, most think that intelligence issues relate only to covert action and the CIA. There are many other ingredients that are part of this effort that, obviously, are national security oriented, cannot be openly discussed, but I think again the Intelligence Committee has done a good job of scrutinizing these programs.

I also agree that the intelligence budget should not be free of the Budget Act. Everybody should take hits. It has to be, however, dependent on our national security. As we move away from the cold war, we will also nonetheless be faced with new challenges that might not necessarily mean a less national security orientation for our intelligence community.

The decade of the nineties is going to be remembered as one of tumultuous change around the world, one which ushers in an era of new global relations, and the issues are not necessarily going to be the old cold war European issues, but they are going to be instability in the Third World, nuclear proliferation, international terrorism, illicit drug trafficking, economic competition, and environmental issues, all emerging threats to U.S. security that have exploded in importance overnight.

Indeed, the current crisis in the Persian Gulf demonstrates the impact of these nontraditional issues on American national security policy, and by extension, on the focus and direction for U.S. intelligence in the future.

Mr. Speaker, I will be offering an amendment on Cambodia that makes the program overt. I believe it has been worked out with cooperation on all sides. The amendment is intended to provide a clear expression of congressional approval for the adoption of a consistent approach by the United States in its support for the non-Communist resistance in Cambodia.

It has the further effect of establishing a mechanism within this bill by which the United States will be able to assist in the implementation of a negotiated settlement for Cambodia as soon as the four factions have concluded an agreement.

I believe U.S. policy should seek to advance the Cambodian peace process which is at a critical juncture and a negotiated solution to the civil war in Cambodia will best guarantee the ability of that country to freely determine its own destiny. That result which is the best insurance possible against the return to power of the Khmer Rouge appears to be closer at hand than at any time in memory.

I believe that this amendment creates a framework which encourages both the conclusion of a peace agreement and a smooth transition to the challenging day such an agreement will herald.

Mr. Speaker, this is an important bill. There are a lot of issues that are going to be discussed today. I will be supporting the Solarz amendment on UNITA and Angola. I have been out there. I think it is a moderate amendment that can make a big difference. It is an amendment that is basically an incentive to peace.

The decade of the 1990's will be remembered as one of tumultuous change throughout the world—one which ushered in a new era in global relations. Instability in the Third World, nuclear proliferation, international terrorism, illicit drug trafficking, economic competition, and environmental issues are all emerging threats to American security that have exploded in importance overnight. Indeed, the current crisis in the Persian Gulf demonstrates the impact of these nontraditional issues on U.S. national security policy, and, by extension, on the focus and direction of U.S. intelligence for the 1990's and beyond. A ruthless Saddam Hussein, capable of annexing oil-rich Kuwait and confiscating Saudi oil fields, deploying chemical weapons against United States forces, and launching weapons of mass destruction, poses as much, if not more, danger to United States national security and the American way of life than Nikita Khrushchev, Leonid Brezhnev, or Yuriy Andropov ever did.

Yet, there are those—including some in the Bush administration—who still cling to defending an intelligence infrastructure that supports warfighting in Europe and similar vestiges of the cold war. For the past 40 years, United States intelligence has focused primarily on countering the Soviet military threat. While we must continue to be vigilant in monitoring and verifying compliance with arms control treaties, we should spend less effort on counting tanks and observing field exercises and more on identifying and assessing changes in the Soviet economy—and, for that matter, all of our economic competitors. We need early warning on countries where debt is increasing significantly, and we need to understand the economic performance of our competitors equally as well as we understood how the Soviets would have executed their war plan against us in Central Europe. If one believes that the present Middle East crisis is a battle about oil, it is likely that future battles will be waged over critical economic resources rather than ideology.

Similarly, U.S. intelligence must place greater emphasis on understanding the societal factors—tribal, ethnic, and religious—that contribute to instability in the Third World. For example, I have been a supporter of the Mujahedin in their efforts to drive the Soviets out of Afghanistan, but I am concerned that we may not fully comprehend the cultural factors that both bind and divide them. Societal issues are often among the most difficult to understand, yet they are critical in assessing the implications of reform in the Soviet Union and the protracted war in Afghanistan. Much of this information need not be acquired clandestinely. It is outwardly visible.

Countering the scourge of illicit drugs and international terrorism have become increasingly high priorities, and rightfully so. Unfortu-

nately, counternarcotics has also become a convenient buzz word for garnering scarce resources. Fighting the war on drugs successfully demands careful scrutiny of requests for expensive technical collection systems that may not be cost effective in the long run, and assurances that intelligence sources and methods are not jeopardized by those who are more interested in capturing headlines than drug dealers. While there can be no guarantee that we will not have another airliner hijacked or cruise ship seized by international terrorists, I can assure the American public that there are more terrorist plots foiled due to the diligent work of U.S. intelligence than they will ever read about in their morning newspaper.

In my view, U.S. intelligence must make some radical shifts in the way it has done business for over four decades. For example, the intelligence community has been criticized for its overreliance on overhead collection systems at the expense of other, more traditional sources. Now is the time to reevaluate our intelligence collection, analysis, and dissemination capabilities to be certain that we have the proper mix to meet future challenges. Some have argued naively that despite the Saddam Hussein's of the world, threats to American security have decreased to the point that the CIA should be dismantled, its resources severely reduced, and its concept of operations changed. They allege that CIA is immune to scrutiny of its operations or accountability of its funds. They paint a picture of an intelligence service that lacks focus for the future, and assail its failure to predict the end of the cold war and the quality of its analysis on a variety of policy issues.

While some of these criticisms are valid, we must ensure that U.S. intelligence remains strong and unfettered by political or analytic bias. And, that it has the resources to fulfill critical requirements so that policymakers have the kind of information needed to protect our vital national security. On the other hand, we can no longer tolerate a budget driven by cold war requirements. I, for one, believe that those of us in the Congress who oversee intelligence cannot simply acquiesce to requests for additional funds. Clearly, in the constrained resource environment that lies ahead, neither the CIA nor the other elements of the intelligence community can escape the budget ax. This does not necessarily mean, however, that reductions in intelligence can or should parallel those in the overall defense budget. Similarly, we should not assume that any so-called peace dividend that may accrue in response to recent events in Eastern Europe and the warming of United States-Soviet relations will translate automatically into a savings in investment in intelligence.

As we move through this period of transition, three key ingredients will be essential to ensuring a strong, independent intelligence service—new thinking by the intelligence community, clear policy direction from the President, and vigorous, yet judicious, oversight by the Congress. Now, as never before, CIA and other intelligence agencies must resist political pressure to tell policymakers what they want to hear. And, analysts throughout the intelligence community must be prepared to rehone their skills to address the far more global issues that will dominate U.S. foreign policy well into the 21st century.

Mr. BONIOR. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. HALL], a member of the committee.

Mr. HALL of Ohio. Mr. Speaker, I appreciate the time the gentleman has yielded to me.

I am not here really to speak on the rule itself, but on a specific part of the bill that probably will come up during debate, that part has to do with the country of Angola.

Mr. Speaker, U.S. aid to UNITA has been an issue in the Congress for more than a decade. It is an issue that many of my colleagues feel very strongly about. Members have a lot to say about it.

We talk about whether we ought to support Jonas Savimbi, how much aid we ought to give him, and for how long. We talk about how many Cuban troops are fighting for the Angolan Government, whether they are pulling out, how fast they are pulling out. Now everyone is starting to talk about the possibility of a cease-fire.

I want us to begin thinking about something else whenever this House's attention turns to Angola. As the chairman of the Hunger Committee, I want to remind my colleagues of something we haven't talked too much about yet—hunger. There is a terrible hunger problem in Angola. More than 1½ million people are suffering right now. I want my colleagues to know that.

Last month this House passed a resolution that I introduced with a bipartisan group of Members. The resolution called on both sides in Angola's civil war to put humanitarian concerns above military goals to end hunger among the Angolan people. The resolution passed unanimously with the support of Members who normally oppose each other on Angola.

The resolution we passed said, "famine conditions throughout Angola will become especially severe unless food and other famine relief assistance are delivered." The resolution called on both UNITA and the Angolan Government to "work toward an ending of hostilities and conclude the ongoing negotiations aimed at bringing to an end the civil war and establishing a lasting peace in Angola."

We are very proud of this resolution, Mr. Speaker, because it showed that people who disagree on different issues can come together to fight hunger. There's a constituency against hunger in this House.

I have met with both sides on this issue—not to talk about the war, but to talk about the famine. I have met with the Angolan Ambassador to the United Nations, Ambassador Pacavira, and I met the other day with Dr. Savimbi. I told both of them that the Hunger Committee doesn't take sides. If we take sides, we lose our credibility to talk about hunger. I told both of them that what we care about is getting food to the hungry people.

And this process is beginning to work. With a lot of good work by the Agency for International Development's Office of Foreign Disaster Assistance and its Director, Andrew Natsios, the United Nations, the International Red Cross, and others, food is already getting to people in need. That is an accomplishment we should all be proud of.

I am going to vote for the Solarz and Dellums-Dymally-Hamilton amendments. It is my personal view that it is time we change our policy in Angola to one focused on bringing about a just peace.

But I want all of my colleagues to remember when we vote on this issue that there is more in Angola than civil war. There are 1½ million people in need, many of them children. They do not have guns. They do not have bombs, but because the countryside is full of land mines, many of them do not have arms or legs. These children are hungry and they are facing famine.

Is what we are doing here today, and I say this to both sides of this debate, going to help feed those children?

What we do today will have a lot to do with the fate of people and children in Angola, and if we are going to choose sides, Mr. Speaker, let us choose the side of the innocent victims.

□ 1120

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. MCEWEN].

Mr. MCEWEN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, during the consideration of the Intelligence Authorization Act this year there are going to be several amendments, one of which has been referred to as cutting off aid to the democratic forces in Angola. As you know, it is increasingly difficult for authoritarian regimes, particularly Communist regimes around the world, as democracy is being championed throughout Eastern Europe, Central America, and elsewhere, and one of the most effective vehicles used to attack support for democratic regimes and democratic forces has been the charge of violation of human rights.

Now that charge, as everyone knows, all of us are opposed to the violation of human rights. As a result, it strikes a chord with Americans and certainly with Members of the Congress.

You saw that in the waning days of the efforts to bring democracy to Central America, in the final days of the Communist rule there in Nicaragua, that those who championed the success of the left and of the Marxist

regime as opposed to the democratic forces would constantly accuse the democratic forces of human rights violations. That is very effectively used against the freedom fighters in El Salvador.

In fact, an interesting aside, I had a luncheon with the former head of the Human Rights Commission in Nicaragua some years ago. He told about that under the previous regime, the non-Marxist regime under the director, that whenever there was a human rights violation they would hold a press conference and they would talk about it and all of the media would show up and all the international attention.

But then as the dictatorship fell and the Marxists came into power, the number of human rights violations just exploded. And instead of picking people off the street and interrogating them for 5 or 6 hours and then throwing them out at the edge of town, whole families would disappear and whole units and blocks would disappear, murdered and gone.

As they would attempt to hold a press conference to explain the human rights violations, there was no international attention. In fact, even the funding was cut off.

So this head of the Human Rights Commission in Nicaragua sent an emissary to the World Council of Churches, interestingly enough, one of the founders of this Human Rights Commission, during the 1970's and said, "Why have you cut off aid to the Human Rights Commission in Nicaragua?" And they said, interesting, they said, "Now that the Communists, now that the Sandinistas the Marxists have taken over in Nicaragua, Nicaragua is no longer our concern; El Salvador is our next target."

And so the World Council of Churches refused to fund human rights efforts in Nicaragua under the Marxists, but now they moved on to the next one.

As we said, it is a very effective tool. The Communists know that they can shoot someone, throw them in the street, put them in the town square, tag them with some name of some conservative or pro-democratic organization that the 1-minutes will fill up over here, and there will be a great deal of attack on the democratic forces.

Only in recent years, interestingly, only in the last 24 or 36 months has this charge come to the fore against the democratic forces in Angola, the democratic forces of UNITA.

UNITA have called for democratic elections, as you know, since 1975. In fact, ever since the agreement was made and the Communists under the leadership of the Soviet Union refused to hold the elections and UNITA has been demanding elections ever since, and as a result there has been a strong support in the countryside to have a democratically elected government.

Now, recognizing the public support, recognizing the rightness of their goals, recognizing that their principles are correct, the only thing left upon which they can hang their hat is to concoct some sort of charges of human rights violations.

Now, you are going to hear a great deal about that. It is not new. It is the standard charge of the left when their rhetoric and when their philosophy fails, then they attempt to use our own values against our own cause.

So they make these various charges.

What happened, very simply, is this, that there is a Marxist regime that violates all human rights in Angola. It cannot stand up to the light of day. It cannot stand an election. Even though they have repeatedly said they would, they have refused to go to the ballot box.

What we need to do is to stand for freedom, stand for democracy, stand for free elections, and not abandon those who are demanding free elections. And at the point that free elections come, then we can do as we have done elsewhere in the world, allow—whether it be in Poland—the withdrawal of our opposition forces against those who are now democratic compatriots. Whatever the outcome is, whatever the result is, it is not our concern. We want free and fair elections.

To abandon them to the Marxist funding, to abandon them to the 25 years of supply, they are now stationed there, to abandon them to the forces of hard currency which comes from American oil companies, to abandon those seeking democracy in Angola, to those powerful forces, and refusing to demand democracy would be a violation of what we stand for as a people and as a nation.

I repeat, around the globe the lights are going out to the left. So you will see there are just a few places in which they can continue to champion. So you will see those same compatriots, those same fellow travelers that once were advocates of Marxist revolution in Central America, those that were advocates against democracy elsewhere in the world, now holding on to one of the last dying breed of communism, certainly in Cuba and Angola.

Mr. BONIOR. Mr. Speaker, I yield 4 minutes to the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Speaker, I rise today in support of the rule. It is an open rule.

I appreciate it remaining so.

As a member of the Committee on Intelligence, I want to commend the chairman of the committee, Mr. BEILENSON, and the ranking member, Mr. HYDE, for their diligent efforts through this fiscal year.

There is going to be a lot of debate on the intelligence bill today. Much of it will be focused on the foreign policy components of the Intelligence Committee.

There is going to be much debate on areas that deal with support to causes in different parts of the world. However, I want to speak for just a few minutes about one of the most important parts of the intelligence budget which is not often thought about or even mentioned. As chairman of the Subcommittee on Oversight and Evaluation of the Committee on Intelligence, we have spent numerous hours, countless hours looking at a number of critical elements and components of this policy. We have held hearings looking at the inspector general functions at the respective agencies, whether it is the CIA, NSA, DIA.

I believe we have made tremendous progress toward improving the inspector general's office and encouraging the agencies to take a much more active role in management and controlling some of the functions within their agencies.

We have a statutory inspector general now at the CIA. I believe once that person is confirmed, that it will be a much stronger office and function.

Also, we have had numerous hearings, and there is language in the bill in reference to the intelligence community support for weapons acquisition. Many people do not realize that that too, is an important function.

The intelligence community is charged with the responsibility of validating the threat for which weapons systems are designed to defeat. I believe there has to be much more active participation and much greater cooperation between the intelligence community and the Department of Defense to ensure that that is done properly.

We have found problems, and we will continue to raise those questions not only in this bill but in future hearings as well.

Arms control monitoring and verification, with the CFE talks ongoing, with the START talks ongoing, the questions of how we monitor these treaties, how we verify compliance with these treaties is going to be very contentious and, I think, very important.

The intelligence community is charged with that responsibility and we have to have a robust capability to perform that.

Needless to say, there are other areas of importance in this bill; counternarcotics, counterespionage, counterterrorism, looking at the organization of the intelligence community in the postcold war environment, and of course the everdeclining percentage of the budget which deals with covert action.

I support covert action. I think it is a necessary capability in Government. It, however, is not a substitute for effective foreign policy, and it does not have to be at the levels that occurred during the decade of the 1980's under the Reagan administration. However, there still are important functions that should be provided for, and I believe that this bill has addressed those appropriately. I will support the committee bill as reported. I will resist and oppose most of the amendments that will be offered today, but we will have ample opportunity to debate those as they occur.

□ 1130

Mr. SOLOMON. Mr. Speaker, I would just inform the Members, those on the floor and those not on the floor, that we have been informed that when this rule is finished, we will go to general debate on the reauthorization of the intelligence bill, for those Members who are interested, and, therefore, I would not be asking for a vote on this.

Mr. Speaker, I yield 7 minutes to the gentleman from California [Mr. DORNAN], a member of the Permanent Select Committee on Intelligence.

Mr. DORNAN of California. Mr. Speaker, I rise to support the rule of course. It is a rare beast. An open rule seldom makes it to this House floor these days.

The intelligence activities of the United States of America have been so maligned over the past generation that it staggers the mind of someone who works regularly with the Central Intelligence Agency and the Defense Intelligence Agency, as all of us on the Permanent Select Committee on Intelligence do. To think that all of the decent American men and women in our intelligence agencies, and their families, have had to suffer so many insults over the years is infuriating. And yet the bottom line, as with the Bible in the last chapter, is, "The good guys win."

Here is Gorbachev winning the Nobel Prize yesterday, the day after the death of Le Duc Tho, one of the top Communist organizers of the Communist struggle in Vietnam, which spilled over into Cambodia and Laos. Le Duc Tho turned back the Nobel Peace Prize that he was awarded together with Henry Kissinger. Henry Kissinger took the money that comes with the prize, and gave it to families of the missing in action, for their children, to ease their suffering. This was certainly a noble act on Mr. Kissinger's part. But Le Duc Tho rejected the award, and continued the Communist domination. Now we have one of the leading Communists in this country, Nguyen Co Thach, saying that his country is an absolute basket case.

So much for communism in Southeast Asia and the way we continue to flagellate ourselves over the intelligence aspects of the Vietnam war.

Can anybody in this Chamber, particularly on the left, possibly make a case against anything that this country has tried to do throughout all the cold war years when we see the abject horror of communism?

It is almost like the flip quote of St. John in the New Testament, "The eye is not seen, nor the ear heard, what God has in store for those who love Him."

Mr. Speaker, just flip that around. The eye has not seen, nor the ear heard, what was really going on in all of those countries that embraced communism or had communism thrust upon them. Now we come to the fringes of the Soviet Empire. Yes, to quote Ronald Reagan from March of 1983, "the evil empire." The head of the octopus of the evil empire, in Moscow, is dying, shriveling up. Gorbachev plays it by ear from day to day. His own countrymen scoff at his getting the Nobel Peace Prize. They disdainfully dismiss it as honors coming from abroad, where he is a success. There is no denying that this man was driven by historical events, not driving them. As one of our colleagues, the gentleman from California [Mr. Cox] said, Gorbachev is "Like a skier skiing in front of a massive avalanche."

Being from southern California, I will use a different metaphor. Gorbachev is like somebody surfboarding in front of a tsunami. Any minute, this giant tidal wave could overwhelm him.

However, Mr. Speaker, I will not begrudge him his peace prize, although it rightly belongs to Ronald Reagan. But it must be forgotten this is the man who was in charge when the massive amount of killing took place in Afghanistan, and, while we were trying to help, through covert, and which eventually became overt, aid. We were trying to counter with intelligence activities Mr. Gorbachev's massive killing, which has caused over a million casualties in Afghanistan.

Now there are other tentacles of the Communist world revolution, one of which is in Nicaragua. We look at PBS, supported with public money, and see Bill Moyers' special on "America's Secret War," which was a documentary designed to make young people hate the United States of America. In Moyers' view, it is as though we have had nothing but a government run by secret operatives hidden away in the bowels of the bureaucracy.

In Nicaragua the issue is still in doubt. The Communists are still killing, murdering, striking, and trying to drive from office the first lady President of any country in this hemisphere in all the recorded history. They are driving her to distraction and still mean to pull her down. They probably would have assassinated her, if it were not for her Venezuelan-supplied security guards.

Now we came to Angola. Here is another tentacle of the Soviet empire. In the battle of Mavinga last year, every regimental unit and up was commanded by Russian officers. There were Spetsnaz fingerprints all over the whole war. And yet there are people in this House that at the eleventh hour in Angola, on the verge of seeing another country turned to elections in a freely elected system of government, people in this Chamber, unable to cut the cord with the past that has indentified them with their left-wing foreign policy leanings, want to stop short of seeing yet another Communist Government collapse before our eyes.

As my colleagues know, on Sunday morning most people in political life, anybody who wants to be aware anyway, watches all of the Sunday morning talk shows. And there is a commercial which I think is paid for by General Electric about Hungary. It starts off with lights going on around Budapest, and a lady's voice saying, "Freedom is wonderful. Freedom is everything."

I want my colleagues to think about that. In a country that has had freedom for over 215 years, to realize that it is everything is something we should have before us like a beacon light at all times. I wish people, in this Chamber especially my Democratic colleagues, would have the common decency to stand up occasionally and say, "I was wrong, about communism."

Throughout most of my adult life communism has been so inherently a corrupting and evil force that it has killed millions. And in my view Gorbachev earned that Nobel Prize for Peace on one line only, that Stalin killed more people than Adolf Hitler did. The only problem with Gorbachev is that he should include Lenin in on that statement, that the Lenin-Stalin cabal has killed far more millions of people than Adolf Hitler, and their successors are still killing.

As we move to consider this bill I urge my colleagues to stop the killing in Angola. Leave the committee language in place. And defeat the Boxer amendment.

Mr. BONIOR. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, I thank the gentleman from Michigan [Mr. BONIOR] for yielding.

Mr. Speaker, I rise in support of this rule. It is very fair. It is an open rule. It gives us all a chance to participate in this bill.

I would like to say that for me it gives me an opportunity, and a number of Members of this body, to reflect on the lessons that were learned during the Iran-Contra scan-

dal and to try and give the Congress, through its Intelligence Committees, a check and balance on unbridled Executive branch power.

I was not going to speak at this point, but the gentleman from New York [Mr. SOLOMON] and the gentleman from California [Mr. DORNAN] made reference to the Boxer amendment.

□ 1140

Mr. Speaker, I would like to state that the draft that the gentleman from Califorina [Mr. DORNAN] related to as far as the committee being notified when the President contemplated a covert action, has been changed. I agree with the gentleman that that was not a good way to put the amendment, and we have changed it.

The President now is required to notify the committees, and in an emergency does not even have to talk to them for 48 hours. So I think we have corrected that particular problem.

The Boxer amendment has nothing to do with communism. What the Boxer amendment has to do with is this body and the Senate having the ability to check and balance the kind of scandal that we saw in the Iran-Contra days. It hs nothing to do with Operation Desert Shield, which is far from a covert operation.

Mr. Speaker, the fact of the matter is, under the Boxer amendment we can have intelligence gathering. It does not require any notification of the committees for that. We could have a hostage rescue, and it would not require any notification of the committees. So I think it is a very modest amendment, and it really goes to the very important issue of checks and balances.

In conclusion, I am not going to go into the whole debate now, because I know we will have a very spirited one at the time that I offer this amendment. But I do want to thank the Committee on Rules for allowing us to come forward with it. I think it will probably be the first time we will have the opportunity to discuss what the proper role is for the Intelligence Committees in approving, not just being notified of, but approving covert actions.

Mr. Speaker, I stand very strongly for this Congress, through the Intelligence Committees, to have a say in those very important decisions.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just point out to the gentlewoman from California [Mrs. BOXER], whom I have great respect for, that I fought for her in the Committee on Rules so that she would have the right, representing her constituents in San Francisco, to offer her amendment on this floor, even though I am 100-percent opposed to her amendment.

Mr. Speaker, let me just point out to the gentlewoman from California [Mrs. BOXER] and other Members of the House that we have just been notified again that the debate on the intelligence authorization bill has now been postponed. As soon as this debate is over on this rule, we will than take up the rule on the Reconciliation Act, and then go into the Reconciliation Act.

Mr. Speaker, that rule is one of the worst rules ever to come before this House. It waives all points of order, including, of all things, the Budget Act itself, the rule coming before us in a few mintues. It is just like 62 of the 129 rules that have come before this body in this 101st Congress. They have waived the Budget Act. That, Mr. Speaker, is the so-called enforcement mechanison in the Reconciliation Act coming before us in a few minutes.

Getting back, I just wanted the gentlewoman from California [Mrs. BOXER] to know I will always fight for her right to speak her piece on the floor of this House. I hope she will do the same for me.

Mrs. BOXER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentlewoman from California.

Mrs. BOXER. Mr. Speaker, I just want to publicly thank the gentleman from New York [Mr. SOLOMON] for his support for an open rule. I wanted to acknowledge the gentleman from California [Mr. BEILENSON] and the ranking members, the gentleman from Illinois [Mr. HYDE], because it is my understanding they always ask for an open rule. I think it is a very important point, because here the Intelligence Committee is dealing with so many secrets, and yet they are willing to hear from the Members on the floor. I am very appreciative of that.

Mr. SOLOMON. Mr. Speaker, reclaiming my time, I certainly concur in the statements of the gentlewoman from California [Mrs. BOXER] about the chairman of the Committee on Intelligence, the gentleman from California [Mr. BEILENSON], and certainly the ranking member, the gentleman from Illinois [Mr. HYDE]. Both gentleman are Solomonesque in their wisdom.

Mr. BONIOR. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am going to support this rule. It gives us an opportunity to debate this issue. But I find it amazing, and I think most Americans do, that we have satellites that can read the fine print on a pack of cigarettes from outer space. But, I don't know about you, but I heard about Iraq's invasion of Kuwait on CNN.

In fact, I will tell you how maybe we could spend some money, with all this budget problem. Maybe we should cut the CIA's budget and give it to CNN.

Really, think about it? Since they started beaming TV signals all over the world, the Berlin Wall fell over, Eastern Europeans, they revolted, the Soviet Union, they got perestroika. The Russians could not find food and canned stuffs on their storeroom shelves, so they said, enough is enough!

All of a sudden, Mr. Gorbachev got the political message, and, Mr. Speaker, he won the Nobel Peace Prize.

Now, MX missiles did not do that. Now, look, I am not here today talking about Angola, Afghanistan, or the CIA. I'm hearing all this covert talk, and I'll tell you what: I have the greatest respect for the chairmen of the respective sides of this particualr vote. But here is what I want to say:

I have a little buy-American amendment that did not get a whole lot of play. But what I am going to ask Congress to do is to approve it, and the CIA could covertly, if they want, I will not mind, covertly, not tell anybody, but buy American-made goods and products. They can keep it secret, I don't care. Just buy American.

I think the American people would like that. It was passed by this body last year. It went to conference. It was one of thsoe times when the conferees had thrown it out.

So I think if there is a problem with this covert language on the Traficant buy-American amendment, I do not care how the drafters and the heads of the conferees get together and change that language to make it acceptable, but I would encourage that they do that. I think it is good policy, and it's the type of things we should be doing.

Mr. BONIOR. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Speaker, I am somewhat intrigued by the supposition that the gentleman poses about providing CNN with the money instead of the CIA.

Is the gentleman from Ohio [Mr. TRAFICANT] suggesting to us that communism has been brought down around the world by Ted Turner and Jane Fonda?

Mr. TRAFICANT. Mr. Speaker, reclaiming my time, I will say this to the gentleman: CNN and Ted Turners' TV network that carried America's way of life and living to people all over the world that have big stomachs and have nothing to eat, finally got fed up with their Government. And it was not an American missile nor all of our taxpayers' dollars that did it! It was just the reality that they were getting screwed. And they saw freedom every hour beamed through the skies by CNN.

What I am concerned about today is that we do not turn more screws on American workers, and that's why I have my buy-American amendment before the committee.

Mr. Speaker, I yield back the balance of my time, and no offense to anybody. Jane Fonda may have made a mistake in judgment, but she and Ted Turner didn't get us into this mess.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will just say to the gentleman from Ohio [Mr. TRAFICANT] who just spoke in the well, whom I have respect for, that it was not CNN that brought down the Berlin Wall, it was not Jane Fonda who brought it down. We all know who brought it down. Ronald Reagan brought it down with peace through strength. Yea.

Mr. Speaker, I reserve the balance of my time.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, as we consider amendments restricting or terminating reported covert aid to the UNITA forces in Angola, I think it is important to reflect on what we, as Members of Congress and as Americans, agree on to help us reach a consensus on this subject. We agree that the current bloodshed should cease, that the Angolan people should be able to express their will through ballots not bullets, that free and verifiable elections should produce multiparty democracy, that the ongoing negotiations in Portugal between the Communist MPLA and UNITA should achieve success and that United States policy should promote the achievement of these objectives.

UNITA and its leader, Dr. Jonas Savimbi, share these objectives. UNITA has recognized the MPLA government as the legitimate state authority and is struggling for mutual MPLA recognition of UNITA as a legitimate and legal political force which can compete in free elections leading to the establishment of multiparty democracy. Significant elements in the MPLA share these objectives as well, providing a reasonable hope that the current negotiations will meet success and bring peace and democracy. However, major factions in the MPLA still cling to the illusion of military victory as wtinessed by the recent major offensive launched by the MPLA on Mavinga.

The question before us today is how do we encourage MPLA flexibility in negotiations—by continuing the reported current modest policy of support for UNITA, thereby demonstrating U.S. resolve and the hopelessness of any MPLA effort to achieve military victory or by abandonment of UNITA and placing our hopes in the MPLA's sense of fair play and commitment to democracy.

I believe the choice is clear. The negotiations can only succeed if the MPLA is convinced that there is no military option. Lessened U.S. support, or the possibility of lessened support, will only doom the negotiations and mean more bloodshed and less hope. Current policy works: Vote for peace, vote for democracy, vote against amendments to reverse U.S. support for UNITA.

□ 1150

Mr. SOLOMON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BONIOR. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BONIOR. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were yeas 418, nays 0, not voting 15, as follows:

[Roll No. 469]

YEAS—418

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat

Whittaker	Wolf	Yatron
Whitten	Wolpe	Young (AK)
Williams	Wyden	Young (FL)
Wilson	Wylie	
Wise	Yates	

NAYS—0

NOT VOTING—15

Bentley	Engel	Morrison (CT)
Brennan	English	Rowland (CT)
Chapman	Ford (MI)	Rowland (GA)
Crane	Hawkins	Schuette
Crockett	Leath (TX)	Thomas (CA)

□ 1212

Mr. CARR changed his vote from "present" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 5835, OMNIBUS BUDGET RECONCILIATION ACT OF 1990

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 509 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 509

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5835) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1991, and the first reading of the bill shall be dispensed with. All points of order against the bill and against its consideration are hereby waived, except that the chairman of the Committee on Ways and Means, or his designee, is authorized to raise points of order under clause 5(b), rule XXI. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget, the bill shall be considered as having been read for amendment under the five-minute rule. The amendments printed in part one of the report of the Committee on Rules accompanying this resolution shall be considered as having been adopted in the House and in the Committee of the Whole. No other amendment to the bill shall be in order in the House or in the Committee of the Whole except those printed in part two of the report of the Committee on Rules or as specified herein. It shall be in order to consider en bloc the amendments printed in the report of the Committee on Rules, if offered by Representative Rostenkowski, or his designee, and said amendments en bloc shall be considered as having been read. Said amendments en bloc shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments en bloc shall not be subject to amendment, or be subject to a demand for a division of the question in the House or in the Committee of the Whole. All points of order are hereby waived against the amendments printed in the report. It shall be in order to consider en bloc amendments offered by Representative Panetta of California, or his designee, and said amendments en bloc shall not be subject to amendment, or to a demand for a division of the question in the House or in the Committee of the Whole. Said amendments en bloc shall be considered as having been read, shall be debatable for not to exceed thirty minutes, equally divided and controlled by the proponent and a Member opposed thereto. All points of order against the amendments en bloc are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, which may not include instructions.

PARLIAMENTARY INQUIRY

Mr. MICHEL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman will state it.

Mr. MICHEL. Mr. Speaker, because the House has been in somewhat disarray and going through some commotion, did I understand the Clerk to have just read House Resolution 509?

The SPEAKER pro tempore. The gentleman is correct.

POINT OF ORDER

Mr. MICHEL. If so, Mr. Speaker, then I make a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. MICHEL. Mr. Speaker, I make a point of order against House Resolution 509 on grounds that it violates clause 4(b) of House rule XI, and ask to be heard on my point of order.

Mr. Speaker, clause 4(b) of House rule XI provides that, and I quote:

The Committee on Rules shall not report any rule or order of business which * * * would prevent the motion to recommit from being made as provided in clause 4 of rule XVI.

And clause 4 of rule XVI provides, and again I quote:

After the previous question shall have been ordered on the passage of a bill or joint resolution one motion to recommit shall be in order, and the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or joint resolution.

Mr. Speaker, those two clauses were adopted as amendments to House Rules on March 15, 1909, when the then minority party Democrats joined with a group of insurgent Republicans to guarantee greater minority rights. Prior to this rules revision, the motion to recommit was controlled by the majority party. This change was instituted for the specific purpose of giving the minority a final vote on its alternative legislative proposal through a motion to recommit with instructions. House Resolution 509, on the other hand, provides that the motion to recommit, and I quote, "may not contain instructions." It therefore is in direct violation of this rule which was purposely designed to guarantee the minority a vote on its alternative by way of instructions.

Mr. Speaker, in support of this argument I quote first from the author of clause 4(b) of rule XI on the day he offered the amendment—Representative John Fitzgerald, a Democrat from New York. In his words:

Under our present practice, if a Member desires to move to recommit with instructions, the Speaker instead of recognizing the Member desiring to submit a specific proposition by instructions, recognizes the gentleman in charge of the bill and he moves to recommit, and upon that motion demands the previous question. When the previous question is ordered, the motion to recommit is voted down. Under our practice, the motion to recommit might better be eliminated from the rules altogether.

The subsequent rulings of Speakers confirm that the whole purpose of the new rule was to permit the minority a chance to offer a final amendment in a motion to recommit with instructions.

Speaker Champ Clark ruled on May 14, 1912, and I quote:

It is not necessary to go into the history of how this particular rule came to be adopted but that it was intended that the right to make the motion to recommit should be preserved inviolate.

That is from a precedent found in volume 8 of Cannon's Precedents in section 2757. From that same volume in section 2757 is found a precedent from October 7, 1919. Former Speaker Crisp is quoted as follows:

The object of the motion to recommit is clearly to give the minority of the House * * * a chance affirmatvely to go on record as to what they think this legislation should be, and if a motion to recommit does not permit that, then the motion is futile.

And Speaker Gillett, in deciding the point of order on that occasion, said, and I quote:

* * * The fact is that a motion to recommit is intended to give the minority one chance to fully express their views so long as they are germane. * * * The whole purpose of this motion to recommit is to have a record vote on the program of the minority. That is the main purpose of the motion to recommit.

Speaker Bankhead, in a 1939 ruling found in volume 7 of Deschler's Precedents, chapter 23, section 26.1 said of this rule, and I quote:

The purpose of the motion to recommit * * * is to give Members opposed to the bill an opportunity to have an expression of opinion by the House upon their proposition.

Mr. Speaker, the whole key to this point of order and the underlying rule at issue is what is meant in clause 4(b) of rule XI when it says the Rules Committee "shall not report any rule or order of business which * * * would prevent the motion to recommit from being made as provided in clause 4 of rule XVI." It is not sufficient for the

Rules Committee to simply permit a straight motion to recommit and prohibit instructions, since it may not prevent a motion "as provided" by clause 4 of rule XVI. And the legislative history of that rule and the early rulings make clear that what was being provided was an opportunity for the minority to offer a motion to recommit of its choosing, with or without instructions.

Indeed Deschler's Precedents, in volume 7, chapter 23, section 25 makes this abundantly clear, and I quote:

There are in the rules of the House four motions to refer the ordinary motion provided for in the first sentence of clause 4, Rule XVI when a question is "under debate;" the motion to recommit with or without instructions after the previous question has been ordered on a bill or joint resolution to final passage provided in the second sentence of clause 4, Rule XVI * * *.

Mr. Speaker, that second sentence of clause 4 of rule XVI is the 1909 rule that is at issue in this point of order. And while it does not specifically mention instructions, it is clear from the legislative history behind the rule as well as this recent interpretation from Deschler's that the right of the minority to offer instructions in a motion to recommit is not only implied by the rule, but is the whole reason for the adoption of the rule in the first place.

It therefore should be obvious that if the Rules Committee is prohibited from denying the minority the right to offer a motion to recommit "as provided" by that second sentence in that 1909 rule, it may not bring in a rule such as this which denies instructions. To do so is to render rule, which protects our minority right, null and void. It is not only a violation of the spirit of the rule but of the literal content of the rule.

I therefore urge the Chair to sustain this point of order for the sake of upholding the tradition, the spirit and the letter of the rule in question.

□ 1220

Mr. SOLOMON. Mr. Speaker, will the gentleman yield on his point of order?

Mr. MICHEL. I would be happy to yield to the gentleman from New York.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman may not yield on this point of order.

Does anyone wish to be heard against the point of order?

Mr. DERRICK. Mr. Speaker, I respectfully suggest that the point of order as made by the minority leader is not correct, is not valid. Simply, as the minority leader has pointed out, there is a motion to recommit, but the motion does not have instructions. There is ample precedent in the House over a long period of time that says that a motion to recommit is in order, it is necessary that it also include the instructions.

Mr. SOLOMON. Mr. Speaker, I ask to be heard on the point of order.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] is recognized.

Mr. SOLOMON. Mr. Speaker and my colleagues, I would point out that at midnight last night, when the Rules Committee was reconvened to meet on this outrageous rule, I brought up the very point that the Republican leader is making, that this was a violation of 81 years of precedent of this House and it was countered at that time with the argument, "Well, you know, in years past we have given you Republicans a substitute to give you a bite of the apple." But I want to point out that in this rule, Mr. Speaker, and everybody here should pay attention, this rule does not even allow a Republican substitute. We made that request by letter of the Republican leader, which is in the record of the Rules Committee proceedings last night.

Never before has a Republican leader been denied his right and at the same time been denied a right of recommittal with instructions. That, Mr. Speaker, is outrageous. You should not stand for it. You have the power to prevent these things from happening and let the American people be heard from all sides of this aisle. And I hope that you sustain his point of order.

Mr. MICHEL. Mr. Speaker, may I further be heard very briefly on the point of order?

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MICHEL] is recognized.

Mr. MICHEL. In response to the distinguished gentleman from South Carolina who makes the point that it is not unique to have straight motions to recommit around here, I would admit to that. But what I am arguing here is the fact that having been denied any kind of an amendment to express our minority point of view in the normal proceeding of things, certainly then we ought to be granted, as I have outlined before, that motion to recommit with instructions, to really be meaningful. Otherwise, there is no vehicle, no opportunity for members of any minority for that matter, to express their feelings, their views on a given piece of legislation.

The SPEAKER pro tempore. Does anyone else wish to be heard on the point of order?

The Chair recognizes the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. May I be heard, Mr. Speaker?

I do not know if it exactly applies to a point of order, but I think it fits in with a statement the gentleman from New York made.

Now, the President of the United States stood in the well of this House—stood here and addressed a joint session of the Congress and stipulated that we wanted $500 billion of budget reductions in the next 5 years. People have labored long hours, weeks and months, to try to get to a $50 billion reduction package the first year and $500 million over 5 years. And it is my understanding——

Mr. WALKER. Regular order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman must confine himself to the point of order.

Mr. HEFNER. I am getting to the point of order, Mr. Speaker, if I may be allowed.

Mr. SOLOMON. Regular order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. DERRICK. Mr. Speaker, we extended the courtesy to the gentleman from New York. He was not addressing the point of order. And I suggest that we ought to extend the same courtesy here.

The SPEAKER pro tempore. Regular order has been demanded.

The gentleman from North Carolina [Mr. HEFNER] must adhere to the regular order and will address the point of order.

Mr. HEFNER. The point that I make is that the minority has not been denied in this rule process. If my information is correct, and someone can correct me if I am wrong, the minority was offered the opportunity to offer a substitute just as they have the past 10 years in this body. The minority opted not to offer a substitute that got to the $500 billion over 5 years. It did not meet the criteria that every other group has been asked to meet before they offered——

Mr. WALKER. Regular order, Mr. Speaker.

Mr. HEFNER. I think I have made my point. Mr. Speaker, I yield the time.

□ 1230

Mr. DERRICK. Mr. Speaker, I reiterate my original statement on the point of order.

The SPEAKER pro tempore (Mr. MURTHA). Does anyone else wish to be heard on the point of order? If not, the Chair will refer to a ruling by Speaker Rainey, January 11, 1934 cited on page 471 of the Manual and in Deschler's volume 6, chapter 21, section 26.11, and in volume 7, chapter 23, section 25:

The Chair will state that the Committee on Rules may, without violating this clause, recommend a special order which limits, but does not totally prohibit, a motion to recommit pending passage of a bill or joint resolution, such as precluding the motion from containing instructions relative to certain amendments.

In the only precedent directly relating to the question at issue, Speaker Rainey on January 11, 1934, ruled and was sustained on appeal. The Commit-

tee on Rules is not precluded under clause 4b, rule XI, from specifically limiting motions to recommit bills or joint resolutions pending the question of final passage to specific type of instructions.

Speaker Rainey stated on that occasion:

The Chair, therefore, holds the motion to recommit, as provided in clause 4, rule XVI, has been reserved to the minority and that, insofar as such a rule is concerned, the special rule,—

And the Chair emphasizes to the House,

does not deprive the minority of the right to make a simple motion to recommit.

This is Speaker Rainey speaking:

The Chair thinks, however, that a motion to recommit with instructions to incorporate a provision, which would be in violation of the special rule, and would not be in order.

Thus, the Committee on Rules has the authority to recommend special rules to the House which may limit, but not totally prohibit, the type of motion to recommit which may be offered, not merely with respect to the general rules of the House, but with respect to germane amendments which might otherwise be in order. Clause of Rule XVI does not guarantee that a motion to recommit a bill may always include instructions.

The Chair, therefore, overrules the point of order.

Mr. WALKER. Mr. Speaker, I respectfully appeal from the ruling of the Chair.

The SPEAKER pro tempore. The question is, Shall the decision of the Chair stand as the judgment of the House?

MOTION OFFERED BY MR. DERRICK

Mr. DERRICK. Mr. Speaker, I move to lay the appeal of the ruling of the Chair on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from South Carolina [Mr. DERRICK] to lay the appeal of the ruling of the Chair on the table.

The question was taken and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 251, nays 171, not voting 11, as follows:

[Roll No. 470]

YEAS—251

Ackerman	Anthony	Barnard
Alexander	Applegate	Bates
Anderson	Aspin	Beilenson
Andrews	Atkins	Berman
Annunzio	AuCoin	Bevill
Bilbray	Hayes (LA)	Parker
Boggs	Hefner	Patterson
Bonior	Hertel	Payne (NJ)
Borski	Hoagland	Payne (VA)
Bosco	Hochbrueckner	Pease
Boucher	Hoyer	Pelosi
Boxer	Hubbard	Penny
Brooks	Huckaby	Perkins
Browder	Hughes	Pickett
Brown (CA)	Hutto	Pickle
Bruce	Jacobs	Poshard
Bryant	Jenkins	Price
Bustamante	Johnson (SD)	Rahall
Byron	Johnston	Rangel
Campbell (CO)	Jones (GA)	Ray
Cardin	Jones (NC)	Richardson
Carper	Jontz	Roe
Carr	Kanjorski	Rose
Chapman	Kaptur	Rostenkowski
Clarke	Kastenmeier	Roybal
Clay	Kennedy	Russo
Clement	Kennelly	Sabo
Coleman (TX)	Kildee	Sangmeister
Collins	Kleczka	Sarpalius
Condit	Kolter	Sawyer
Conyers	Kostmayer	Scheuer
Cooper	LaFalce	Schroeder
Costello	Lancaster	Schumer
Coyne	Lantos	Serrano
Crockett	Laughlin	Sharp
Darden	Leath (TX)	Sikorski
de la Garza	Lehman (CA)	Sisisky
DeFazio	Lehman (FL)	Skaggs
Dellums	Levin (MI)	Skelton
Derrick	Levine (CA)	Slattery
Dicks	Lewis (GA)	Slaughter (NY)
Dingell	Lipinski	Smith (FL)
Dixon	Lloyd	Smith (IA)
Donnelly	Long	Solarz
Dorgan (ND)	Lowey (NY)	Spratt
Downey	Luken, Thomas	Staggers
Durbin	Manton	Stallings
Dwyer	Markey	Stark
Dymally	Martinez	Stenholm
Dyson	Matsui	Stokes
Early	Mavroules	Studds
Eckart	Mazzoli	Swift
Edwards (CA)	McCloskey	Synar
English	McCurdy	Tallon
Erdreich	McDermott	Tanner
Espy	McHugh	Tauzin
Evans	McMillen (MD)	Taylor
Fascell	McNulty	Thomas (GA)
Fazio	Mfume	Torres
Feighan	Miller (CA)	Torricelli
Flake	Mineta	Towns
Flippo	Mink	Traficant
Foglietta	Moakley	Traxler
Ford (MI)	Mollohan	Udall
Ford (TN)	Montgomery	Unsoeld
Frank	Moody	Valentine
Frost	Mrazek	Vento
Gaydos	Murphy	Visclosky
Gejdenson	Murtha	Volkmer
Gephardt	Nagle	Walgren
Geren	Natcher	Washington
Gibbons	Neal (MA)	Watkins
Glickman	Neal (NC)	Waxman
Gonzalez	Nelson	Weiss
Gordon	Nowak	Wheat
Gray	Oakar	Whitten
Guarini	Oberstar	Williams
Hall (OH)	Obey	Wilson
Hall (TX)	Olin	Wise
Hamilton	Ortiz	Wolpe
Harris	Owens (NY)	Wyden
Hatcher	Owens (UT)	Yates
Hawkins	Pallone	Yatron
Hayes (IL)	Panetta	

NAYS—171

Archer	Brown (CO)	Cox
Armey	Buechner	Craig
Baker	Bunning	Crane
Ballenger	Burton	Dannemeyer
Bartlett	Callahan	Davis
Barton	Campbell (CA)	DeLay
Bateman	Chandler	DeWine
Bennett	Clinger	Dickinson
Bentley	Coble	Dornan (CA)
Bereuter	Coleman (MO)	Douglas
Bilirakis	Combest	Dreier
Bliley	Conte	Duncan
Boehlert	Coughlin	Edwards (OK)
Broomfield	Courter	Emerson
Fawell	Livingston	Saiki
Fields	Lowery (CA)	Saxton
Fish	Machtley	Schaefer
Frenzel	Madigan	Schiff
Gallegly	Martin (IL)	Schneider
Gallo	Martin (NY)	Schulze
Gekas	McCandless	Sensenbrenner
Gillmor	McCollum	Shaw
Gilman	McCrery	Shays
Gingrich	McDade	Shumway
Goodling	McEwen	Shuster
Goss	McGrath	Skeen
Gradison	McMillan (NC)	Slaughter (VA)
Grandy	Meyers	Smith (NE)
Grant	Michel	Smith (NJ)
Green	Miller (OH)	Smith (TX)
Gunderson	Miller (WA)	Smith (VT)
Hammerschmidt	Molinari	Smith, Denny (OR)
Hancock	Moorhead	Smith, Robert (NH)
Hansen	Morella	Smith, Robert (OR)
Hastert	Morrison (WA)	Snowe
Hefley	Myers	Solomon
Henry	Nielson	Spence
Herger	Oxley	Stangeland
Hiler	Packard	Stearns
Holloway	Parris	Stump
Hopkins	Pashayan	Sundquist
Horton	Paxon	Tauke
Houghton	Petri	Thomas (WY)
Hunter	Porter	Upton
Hyde	Pursell	Vander Jagt
Inhofe	Quillen	Vucanovich
Ireland	Ravenel	Walker
James	Regula	Walsh
Johnson (CT)	Rhodes	Weber
Kasich	Rinaldo	Weldon
Kolbe	Ritter	Whittaker
Kyl	Roberts	Wolf
Lagomarsino	Robinson	Wylie
Leach (IA)	Rogers	Young (AK)
Lent	Rohrabacher	Young (FL)
Lewis (CA)	Ros-Lehtinen	
Lewis (FL)	Roth	
Lightfoot	Roukema	

NOT VOTING—11

Brennan	Morrison (CT)	Savage
Engel	Ridge	Schuette
Lukens, Donald	Rowland (CT)	Thomas (CA)
Marlenee	Rowland (GA)	

□ 1253

Mr. STANGELAND changed his vote from "yea" to "nay."

Mr. FORD of Michigan changed his vote from "nay" to "yea."

So the motion to lay the appeal from the ruling of the Chair on the table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore [Mr. MURTHA]. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 509 is a modified closed rule providing for 3 hours of general debate, with the time to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget. All points of order against the bill and against its consideration are waived except that the Ways and Means Committee chairman or his designee may raise points of order under clause 5(b) of rule XXI. Clause

5(b) of rule XXI provides that no bill or joint resolution carrying a tax or tariff measure shall be reported by any committee not having jurisdiction to report tax and tariff measures.

The rule provides that the amendment printed in part 1 of the House Report 101-882 to accompany the rule will be considered as having been adopted in the House and in the Committee of the Whole. The rule makes in order no other amendments in the House or in the Committee of the Whole except the amendments en bloc printed in part 2 of the report or specified in the rule. In addition, the rule makes in order consideration of the amendments in part 2 en bloc, not subject to a demand for a division of the question in the House or in the Committee of the Whole. The 1 hour of debate time is to be equally divided and controlled by the proponent and a Member opposed. The rule also waives all points of order against the amendment in the report.

Finally, Mr. Speaker, the rule makes in order amendments to be offered by Representative PANETTA en bloc. The amendments en bloc, debatable for 30 minutes, are not subject to a demand for a division of the question in the House or in the Committee of the Whole. The rule also provides for one motion to recommit which may not include instructions.

Mr. Speaker, as my colleagues are well aware, the Omnibus Budget Reconciliation Act of 1990 is the legislation implementing the deficit reduction plan agreed to at the budget summit as reflected in House Concurrent Resolution 310, the concurrent resolution on the budget for fiscal years 1991 through 1995. This bill contains submissions from 12 House committees achieving deficit reduction totaling $40 billion in fiscal 1991 and $500 billion over 5 years.

Mr. Speaker, equally vital to this deficit reduction effort are the improvements to the congressional budget process incorporated into the bill by the rule as title XIV.

Title XIV represents the culmination of countless hours of work by the members and staffs of key committees of jurisdiction, the administration, and others in interpreting the enforcement provisions of the summit agreement and drafting a comprehensible, workable package to implement that agreement. As chairman of the Subcommittee on the Legislative Process of the Committee on Rules, which shares jurisdiction over the budget process with the Committee on Government Operations, I can assure the House these reforms constitute major improvements which will impose strict budgetary discipline during the 5 years covered by the bi-partisan summit agreement.

These improvements would be accomplished in two principal ways. First, title XIV improves and tightens the Balanced Budget and Emergency Deficit Control Act of 1985, commonly known as Gramm-Rudman-Hollings, by creating three kinds of sequestrations. One sequestration enforces caps on discretionary spending; another enforces limits on entitlements and revenue floors, and another provides for an across-the-board deficit sequestration similar to the current Gramm-Rudman.

Second, the provisions make temporary revisions to the Congressional Budget Act. These revisions include requiring 5-year budget resolutions, 5-year spending allocations, and by enhancing the section 302 and 311 points of order to apply them to measures which would breach the budget-year totals and the totals for all 5 years covered by a budget resolution. In addition, if any bill loses revenue and is not fully offset by entitlement cuts in the same bill, the budget committees may report a special reconciliation concurrent resolution directing the committees to raise revenues by an amount equal to the deficit increase.

Finally, the title provides important reforms in the area of credit accounting, beginning in fiscal year 1992, which will help us budget for our contingent liabilities. The package also removes the Social Security trust funds from the budget and the deficit calculations under Gramm-Rudman, and creates a point of order prohibiting consideration of a measure which increases Social Security benefits without increasing payroll taxes, or which cuts benefits without also cutting taxes.

Mr. Speaker, I urge all Members to support these needed reforms by supporting the rule and the bill.

□ 1300

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the able gentleman from South Carolina has explained the provisions of the rule and it would be redundant for me to repeat those.

Mr. Speaker, I want the Members of this House to listen to what I have to say. This is not a fair rule. The Democrats are trying to muzzle the Republicans by disallowing them the opportunity to offer a substitute.

I think it is time that we spoke out to present a budget alternative that makes sense.

Reduction in spending without new taxes, that is the philosophy embodied in the Republican substitute. The gentleman from Ohio [Mr. KASICH] and the gentleman from Michigan [Mr. PURSELL] labored hard and long with their task force to produce this substitute, but the Committee on Rules has denied the opportunity to debate it on the floor of the House.

I think there should be a vote up or down on the Republican substitute.

I have been here 28 years, and very, very seldom, indeed, have I seen anything like this before. The Nation is at the crossroads. We are facing crisis and chaos unless something is done.

There is assurance, if the Democrat proposal is passed, that it will clear the Senate, or that it will be signed by the President of the United States. If he vetoes it, then there is no assurance that the veto will be overridden; quite the contrary, I think it will be sustained.

So here we are, just a few days before October 19 when this Government of ours will come to a screeching halt. The Federal employees will be out of work again, our parks will be closed, the Interior Department facilities downtown will be closed, and visitors will be denied the right to use facilities that they should have.

So what do we do here today? The Democrats being a proposal including higher taxes to the floor that is absolutely unacceptable to the Republican Party. I think that the Democrats made a serious mistake when they refused my amendment in the Committee on Rules very early this morning about 12:30 a.m. to provide that the Republican substitute be made in order.

I urge the Members of this body to vote down the previous question, to defeat the rule, so that the Committee on Rules can act again and bring a rule to the floor allowing the Republican substitute.

Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, my colleagues, I am submitting for the RECORD the Republican leader's letter to the gentleman from Massachusetts [Mr. MOAKLEY] asking that his substitute be made in order. That request was arrogantly denied.

Mr. Speaker, the excuse was given at the Rules Committee that a Republican substitute was not made in order because our package, our tax-free package, only added up to $410 billion in deficit reductions and spending cuts, but that is a poor excuse.

Mr. Speaker, I offered some motions to make two amendments in order. Each amendment would have been added on top of the Republican package. One amendment would have imposed a 10-percent surtax on personal income exceeding $300,000. Those people could afford to pay.

The other amendment would have imposed a 1-percent tax on the volume of business conducted in our country by foreign-owned corporations and subsidiaries of foreign-owned corporations. You know what, that amend-

ment was defeated by all nine Democrats voting no.

Both of those amendments were shot down. Mr. Speaker, those two amendments en bloc with the Republican substitute, if made in order, would have cut spending by $400 billion, which the American people want. It would have raised nobody's taxes except those making an income over $300,000 and those foreign corporations that presently pay no taxes at all.

Is that what you want? You denied it. I offered those same amendments to the Rostenkowski proposal, and all nine Democrats voted no upstairs last night at midnight. No press was there.

In other words, the Democratic leadership in this House refused to let you Democrats vote to impose a 10-percent surtax on incomes over $300,000. Your Democrat leadership refused to let you Democrats vote to impose a 1-percent tax on tax-free foreign corporations.

Vote no on this rule, Mr. Speaker, and you may get that chance.

The letter referred to follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 15, 1990.

Hon. JOHN JOSEPH MOAKLEY,
Chairman, Committee on Rules, Washington, DC.

DEAR MR. CHAIRMAN: I respectfully request that you make in order an amendment to the 1990 Reconciliation bill to be offered by either Rep. Pursell or Rep. Kasich.

The amendment reduces the deficit by approximately $400 billion over five years. It includes a multi-year freeze on domestic discretionary spending enforced by spending caps. An additional $6 billion is cut below the freeze for international affairs over the five years. Entitlement savings and fee increases are equal to the amounts submitted by the various Committees. The amendment contains minimal revenue increases primarily in the form of current law extensions.

It is in my view a tragedy, for this institution and for the country, that we were not able to agree on a compromise solution to our budget problems. Both parties share responsibility for this failure, which has shaken the faith of the people of the House.

But since such compromise is not possible in the current frenzied atmosphere, the American people should at least be given the opportunity to see the true nature of the opposing political philosophies of our parties.

It has been wisely said that taxes are what we pay for civilized society. But excessive taxes are what society pays for irresponsible government spending—and they are too high a price. No matter what differences we have on specific tactical issues, House Republicans believe that the problem with the federal budget is not that the American people are taxed too little, but that their elected leaders have been spending too much.

In the war against the deficit, the first strike, swift and hard, must be made against spending. This is where House Republicans stand and this is the message our amendment contains. It is a message that the American people deserve to hear, loud and clear, on the floor of the House tomorrow.

Sincerely,

ROBERT H. MICHEL,
Republican Leader.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from California [Mr. PANETTA], the distinguished chairman of the Committee on the Budget.

Mr. PANETTA. Mr. Speaker, I rise in support of the rule and in support of the previous question.

Obviously the main issue here is the issue of whether or not an alternative amendment ought to be provided here, and the reasons it should not be provided are basically three.

No. 1, we have been struggling for the last 6 months to try to reach targets of $40 billion the first year, $500 billion over 5 years. That was agreed to by the President. It was agreed to by the leadership on the minority side. It was agreed to in the summit. It was agreed to in a budget resolution that we passed last week reaching $500 billion in deficit reduction over 5 years.

We have just had in reconciliation 12 House committees and chairmen bleeding, bleeding to meet with their directive on reconciliation.

What does the Republican proposal do? It would cut the reconciliation number over 5 years in half, in half. Instead of $250 billion over 5 years, which is part of this reconciliation bill that we debate, all they would come up with is $125 billion.

So suddenly those who argue and have argued the strongest for deficit reduction, when it is time to put up, they come up with a mouse.

The fact is we have been working to try to reach the targets established by the President. As a matter of fact, the President himself, the President has stated in the summit agreement it is his intention that no bill suspending sequester beyond October 19 shall be signed until the following has occurred, a reconciliation conference report on a bill fully reflecting the budget summit agreement, fully reflecting the budget summit agreement.

The Republican plan is a recipe for disaster, because the President himself, under his own commitment, would have to reject this and continue sequester.

Second, it is fundamentally unfair, fundamentally unfair. What they have done is they have accepted the cuts in reconciliation that go after the elderly and after farmers and after veterans and after Government employees.

□ 1310

Then on top of that, they now add a freeze across-the-board. A freeze. A hard freeze, that goes after what? The most vulnerable in our society. The elderly, students, Head Start, WIC, nutrition, so they do a double hit on the people in the middle, and the lower income brackets. For what? to protect the most wealthy in this country because they are the ones that are not even touched by this substitute.

In the other body, the minority is working with the Democrats to come up with a credible deficit plan. Someday my hope is that the minority here will work with this side to help govern this Nation, not bring it down.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Speaker, I appreciate that the Constitution gives Congress the authority to declare war. But I did not think, until I saw this rule, that the authority extended to declaring war on the minority party in the House.

This rule shuts the minority party out of the process not because of some arbitrary standard for amendments laid down by the Budget Committee chairman at the 11th hour last night. That was all pretense and we know it. The real reason we were shutout of the process is because we had a substitute in the Kasich-Pursell approach that made real savings and came darn close to the summit targets without raising taxes. I repeat: with no new taxes.

The Democrats could not stand the thought of permitting a vote on a no tax alternative—one that clearly draws the line between the parties. Well, let it be noted that you have issued your declaration of war with this rule and you have fired the first shot.

If you want to bring down the Government with your game of chicken, let there be no mistake that the responsibility rests fully on your shoulders.

Do not lecture us about the fairness of your reconciliation package while at the same time trying to stick the minority with this outrageously unfair rule. You have destroyed the credibility of your package by the incredibility of your tactics.

And what kind of standard has the Budget Committee been held to in this process? This rule waives all points of order against the bill—all points of order. That means that every House rule and every provision of the Budget Act and Gramm-Rudman-Hollings could be violated with impunity by this bill—safe from points of order. And given the rushed consideration of this bill without proper printing and scrutiny, for all we know they are violated. One thing is for sure: This violates the 3-day layover for committee reports. Members will not have the benefit of even a day to review the report.

So let us not talk about holding the minority party to one standard when the reconciliation bill itself, by the very terms of this rule, is in violation

of every standard we have ever conceived.

Mr. Speaker, I think the way in which this measure has been rushed to the floor without proper printing or opportunity for scrutiny or analysis further bespeaks the confidence the majority party has in its package. This process has the fingerprints of Winkum, Blinkum and Nod all over it. This reconciliation bill was reported from committee on a wink; it was rushed to the floor in a blink; and it will be passed by the Democrats on the nod. And while that is all fine and dandy in nursery rhyme land, it is not going to cut it in the real world of deficit reduction land. You are back to your old tricks over there of promises, promises, smoke and mirrors. And it is all being played out in the dead of night. You know darn well this package will not withstand the light of day. You are not just dancing in the dark with this rule—you are dirty dancing.

And how do you justify this rush job? "We have to expedite it," you say; "We're under the gun." Well I would suggest you check just which end of the barrel you are on before you proceed with this dangerously suicidal rule and bill.

And what about the so-called budget enforcement provisions of this bill. Well, if you like Gramm-Rudman-Hollings, you will love Panetta-Moakley-Conyers. They give us not just one sequester but three—an appropriations sequester, an entitlement sequester and a deficit sequester. And then it turns around and exempts half the Government. This new process is so complex it makes Rube Goldberg look like a tinker toy.

And yes, we have even got more budget points of order. Is that not enough to make you quiver? What we need, Mr. Speaker, is fewer points of order—we routinely waive them anyway. What we need instead is more points of light, of common sense, and of real deficit reduction. This package fails on all counts. Vote down the rule so we can have a fair rule and a good bill.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes and 15 seconds to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, the Nation is in crisis, and the Speaker must get the phone and call our President. Here is what the Speaker must say to him. The Speaker must say, "Mr. President, phone home while you are out campaigning. Your troops are in disarray. They are trying to pass a budget that you said you must veto. Mr. President, phone home. Your House Republicans want to pass a budget that would force you, by your own words, to close the Government down."

Yes, it is true. The President, when he addressed the Congress, and that includes all Members and House Republicans, he stated on September 11,

> The Congress should, this month, enact a 5-year program to reduce the projected debt and deficits by 500 billion—that is by half a trillion dollars.

He said it twice, in case Members had not gotten it down. Then he asked Members to do one thing. He said:

> I ask both Houses of Congress to allow a straight up or down vote on a complete $500 billion deficit reduction package.

The President's own words. And we are giving Members that up or down vote.

Now, it is not just the President who called for this. The gentleman from Illinois [Mr. MICHEL] on September 26, "It must be $500 billion." The gentleman from Georgia [Mr. GINGRICH], in budget negotiations, "It must be $500 billion." The gentleman from Texas [Mr. ARCHER], let me quote him, "$500 billion, 5-year deficit reduction program that is real," and "without smoke and mirrors—is an absolute essential, a minimum essential for the future of this country."

Well, what did our House Republicans do? They submitted a budget that did not come close to that. In fact, it contained smoke and mirrors. Four percent growth, each year for the next 5 years, in an economy plunging to recession. I say, "No way."

Finally, what are the House Republicans unable to meet their own President's target after all this pious language about its importance? Let Members face it, House Republicans, they were unable to meet the President's targets because they are unwilling to tax their rich friends.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. PURSELL].

Mr. PURSELL. Mr. Speaker, over the years as an athlete and coach, I had always thought that when we go into a game, that we had the same number of players as our opponent, and we played by the same rules. Not in the House of Representatives.

We have waived the budget rules in the 101st Congress 62 times. We violated the rules that we voted for in the Budget Act. Now, we end up with four tiers of government: The authorization tier, the appropriation tier, the budget tier, and now the summit tier.

We were brought down because of the process here, not by personalities of the President or Republican or the Democratic Party. The process is what caused this disaster in this country. All I am suggesting here is that we develop a game plan and present it to the public. In the Committee on Rules last night, all we asked was to let our game plan be presented so the public can see it; not just the Committee on Rules. Let the American public see it. Let the Members vote on it.

The Democrats have a plan that calls for $148 billion in new taxes for the next 5 years. I would rather see that money stay in the private sector than bringing it to Washington. However, that is not for me to decide.

If a person is a coach, they put that game plan on the table, and they put the opponent's game plan on the table, and they run with it. Let Members give the American public a chance to look at two game plans for this Nation. We are starting today a World Series, and yes, we may lose the first game, but the final game, from the Founding Fathers' point of view, will be the elections, to elect people that can govern, that can offer a better vision of America.

□ 1320

So I say, let this fight start. Let us fight it out, but let us play by the same rules. That is all I am asking for. The Democrats have stacked the deck. The pure arrogance of one political party that has dominated the House of Representatives for 34 years is astounding.

I think the American public should be outraged, and if we cannot offer an alternative, then I think that is very unsportsmanlike. No good athlete would do that.

As I am suggesting today, we have a good alternative. Give us a chance to vote on it and let the American public decide.

Mr. KASICH. Mr. Speaker, will the gentleman yield?

Mr. PURSELL. I yield to my colleague, the gentleman from Ohio.

Mr. KASICH. Mr. Speaker, let me just make a point. Let us not be confused about this debate today.

I want to comment to the chairman of the Budget Committee, this debate is about whether we should be able to offer an alternative that does not have $150 billion in taxes, a large degree of which are levied on the American people. If you want to talk about hurting senior citizens, and Rostenkowski won, you hurt the senior citizens. You are the ones who wanted to cut the premiums and the deductible more. We are the ones who came up with a better package.

The SPEAKER pro tempore (Mr. MURTHA). The time of the gentlemen from Michigan has expired.

Mr. QUILLEN. Mr. Speaker, I yield 1 additional minute to the gentleman.

Mr. KASICH. Mr. Speaker, will the gentleman yield further?

Mr. PURSELL. I yield to the gentleman from Ohio.

Mr. KASICH. You are the ones who cut the premiums on senior citizens, and we came with a package that did not, and you fixed yours. You are the ones who levied the gasoline tax on the average American. We went without a gasoline tax, and then you fixed yours.

I mean, this is a game of tit and tat. It is like ping pong. We set the policy and you respond.

The bottom line here today is, we want to offer a plan that cuts $400 billion without taxes and you want to raise taxes to the tune of $150 billion on the American people, without any spending controls.

Your entitlement cuts, our entitlement cuts are the same. What you refuse to do is to control spending. What you want to do is have more spending and $150 billion in additional taxes on the American people. They are fed up and we are, too, and you have denied us a chance to offer our proposal, and it is not democratic. It is a tyranny of the majority, and I resent the fact that you say we are making these cuts that we do not make. We have been the salvation for the people who you are trying to cut.

The SPEAKER pro tempore. The time of the gentleman from Michigan has again expired.

Mr. QUILLEN. Mr. Speaker, I yield another 15 seconds to the gentleman.

Mr. PURSELL. It is interesting that today the Democrats are backing George Bush, but they did not back his budget back in January when he offered it. Now all of a sudden it is a new day. He introduced the budget here and the Democrats lined up to denounce it.

Mr. PANETTA. Mr. Speaker, if the gentleman will yield, the Republicans never even offered the President's budget.

Mr. PURSELL. The President offered a budget. The Democrats did not. We have an alternative. What are you afraid of, to give us a chance to offer an alternative?

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Speaker, the Chamber is awash in the crocodile tears from the Republicans whining and crying that their too late budget will not be offered here on the floor.

Remember, the President wanted $500 billion in deficit reduction and you want to rewrite the rules.

Why, if the Republican budget entered the Indy 500, it would go 400 miles and they would want the checkered flag.

If the Republican budget was returning an opening kickoff, it would go 80 yards and you would want a touchdown.

Under the Republican rules, if you hit a triple it could be counted as a home run.

The way you want to do things in today's World Series under the Republicans, you win three games and the series is yours.

Face it, guys, you cannot cut it and you cannot cut it enough.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Cox].

Mr. COX. Mr. Speaker, last night around midnight I appeared before the Rules Committee, and posited that we might consider part of the Republican package that was offered, the part of the Republican package which contains reform of the budget process.

Specifically, we asked that it should be in order to consider an amendment printed in the report of the Committee on Rules accompanying this resolution, that we amend the budget process that currently governs this House.

Right now the Congress is in violation of the law. The Congress has violated the law annually since the 1974 Budget Act was put in place.

We need a requirement that there be a budget first, before appropriations and before authorizations are considered in this Congress. We need an end to the waiver of the Budget Act; 62 times in the current Congress the Rules Committee has waived the Budget Act.

We need to enforce the deadlines in the law. The budget for this year, for fiscal year 1991, was due on April 15. April 15 is the same day that everyone's tax return is due. Everyone in America seems to manage to meet that deadline, but in the Congress we broke the law.

Reconciliation was to be completed by June 30. We are at that process now, well into fiscal year 1991.

The resolution being offered by the majority contains no real reform of the budget process. The Republicans offered real reform.

We are being told by this rule that we cannot amend the faulty offering of the Democratic Party, that we cannot participate in this debate, that we may represent half the American people, but as far as the majority party is concerned it is going to be business as usual. We are going to continue breaking the law.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, we have listened to the Republicans all year tell us about how they were prepared to make the tough choices to reduce the deficit. Now when the hour of truth has approached, they have failed to come forward. They have failed to come forward with a plan to reduce the deficit that meets the measure that their President has asked and that the Democrats have met, and that is $50 billion in reductions this year and $500 billion over the next 5 years.

This is the party whose policy has led us to a decade of deficits. Over the last 8 years they have doubled the national debt. They have increased us now to a point where we are the largest debtor nation in the world and our own national deficit starts to suffocate us as a nation, and yet when they were asked to come forward to meet the standards, to meet the test, they failed. Now they cry that it is unfair that they cannot change the rules. They want to change the rules so they will not have to cut the program.

They told us that they could eradicate the deficit. They told this Nation that they could go down to a balanced budget if only they were allowed to make the cuts. On their first attempt, they failed and they failed miserably. We ought to understand that. We ought to understand that under their proposal the deficit continues to increase over the next 5 years. We do not get to where this Nation wants to go in terms of deficit reduction under the proposal they sought.

Why not? Because they did not have the courage to pick and choose and make the difficult decisions that were necessary. The only thing they equate with courage is pain. They started out these deficit negotiations by putting on the table a $90 billion cut in Medicare. They thought it was courage to punish old people, to take away their health care, to deny them access to health care, to deny them access to hospitals. They finished up that budget summit by trying to take away social security from crippled children. They believe that is courage. That is a failure.

□ 1330

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Speaker, I will not respond to the previous comments, which were nonsense.

Mr. Speaker, what is going on in a Congress when a Member and Members who represent 87 million Americans are gagged in the most important debate of the year? House Republicans have offered a plan to cut the deficit by more than $400 billion without raising taxes, by freezing spending, by not raising taxes, and we are denied the right to debate or vote on that proposal.

Why? Does it make it too difficult for you to try to convince the American people that you are being forced to raise taxes, forced to raise cigarette taxes, forced to raise beer and wine taxes, forced to raise taxes on all Americans by not letting them hear about another plan that cuts over $400 billion without raising any taxes at all?

You are not being forced to raise taxes. It just so happens that the Democrats, who control this House, prefer to raise taxes rather than cut the bureaucracy or Federal programs or foreign aid, programs that are

draining Americans dry. That is why a Republican alternative that cuts the deficit without raising taxes is embarrassing to Democrats and that is why you will not let it be debated.

It shatters the illusion that your hands are tied and that you have no choice but to make the American people sacrifice more because you will not agree to cut spending. The Republican plan stands for $400 billion of lasting deficit reduction.

You know, the history of tax increases in the 1980's, thanks to this Congress, proves that higher taxes do not lead to lower deficits but to more spending by Congress.

The Republican budget recognizes what the American people know only too well, the deficit is not a result of low taxes but of high spending. This whole process is a sham.

There is no legitimate reason why the Republican plan is being prohibited. Let us let the American people see where their representatives stand on taxes and deficits; let us defeat this rule and bring up a rule that allows us to vote on a plan that reduces the deficit instead of raising taxes.

Give the American people a choice between a $500 billion reduction with $160 billion in taxes, and a $410 billion reduction without new taxes, and we all know which one they would choose, and so do you and that is why you will not let this plan come to the floor.

Mr. DERRICK. Mr. Speaker, for the purpose of debate only, I yield 1½ minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Does the gentleman have 1 additional minute?

Mr. QUILLEN. I will be glad to yield 1 additional minute to the gentleman from Ohio [Mr. TRAFICANT].

The SPEAKER pro tempore. The gentleman from Ohio [Mr. TRAFICANT] is recognized for 2½ minutes.

Mr. TRAFICANT. Mr. Speaker, I oppose the rule for the following reasons: Republicans should have been allowed to bring an alternative. As a Democrat, I am saying that. No. 1, the process today is so important that the rule should be fully open, not closed.

America is a Government that includes, not excludes.

No. 2, Congress should literally roll up its sleeves, stay overnight if necessary, battle it out here and come out with a budget that is good for the American people.

No. 3, in my opinion, this budget is like putting a band-aid on an open wound of a fellow who just had open heart surgery. We are going to be back here again next year, we are not going to slow any of this red ink. Let us cut that rhetoric. And when the Senate is through with this bill—your spouse will desert you? They have a computer spitting out taxes by the minute.

But more importantly, I cannot and I will not support any new taxes. No. 1, I will not support any plan that increases premiums on Medicare. Our economy should be left alone.

No. 2, I will not support any plan that fails to take 1 red cent from foreign aid but picks on mom and dad.

No. 3, I will not support any plan that continues to defend Japan and Germany and the world while we're going bankrupt.

And I say today about all these so-called taxes on the rich, for every $1 in new taxes on the rich, the rich will pass $2 down to every poor person in America; every poor person in America will eat those taxes, the rich will pass them down. You can bet on it!

I had two amendments, and they were damned good. They would have put the bankers on the foreign subsidiaries, close loopholes, raise $1 billion, save American jobs, by repealing Section 903, and changing subpart F on foreign base income, without raising taxes.

But, no, no one wants to listen. But I will tell you something, the American people are not only listening, they are watching today, and they don't like what they see! I am a Democrat and I voted for that procedural vote to uphold our party.

I am saying to you today on the House floor: If this White House Chief Executive has any anatomy left, old swivel-hips will veto any tax measure. He promised it to the American people. He should keep his promise. If he vetoes this tax bill, this Democrat is going to vote to sustain that veto of a Republican President.

I will not vote for any new tax increases.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, Member of the House, in a few short days we again face the dramatic shutdown of Government. This will be the third time in the last month that we are facing that possibility. Yet, when I went before the Rules Committee in the company of others and proposed a budget process amendment that would end that Government shutdown for all time, a commonsense amendment, the Rules Committee flattened me down and shut the door.

My amendment would simply say that when we reach the end of the fiscal year on September 30, that automatically the next day that the Congress has not passed the budget, that automatically last year's budget goes into effect for such period of time as the Congress requires to pass a new budget. That would end forever the shutdown of Government, would allow Federal employees to know that they can go to their offices without the fear of being sent home without pay, with their offices shut down. And the American public will know that their Government is in session no matter what idiotic things that the Congress does in its failure to adopt a proper budget.

You are talking about amending the budget process. Why don't we start with one that will end the shutdown of Government? Can you think of a better way to say we are going to reform the budget process, we are going to prevent the Government from ending business arbitrarily?

And if you are after the President of the United States, as every speaker on this floor seems to indicate, you will adopt this amendment and forever end what you say is his tool for forcing action, namely causing a shutdown of Government.

Take it away from him. Make it automatic that the budget will be reenacted automatically the next day, on October 1, until we reach an agreement.

I am really disappointed in the Rules Committee for giving short shrift to this amendment.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1½ minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I am excited about what we are going to do today in this House. I am excited about the Democratic budget proposal. It is a good deal for working America, and for our Nation's elderly. The Democratic proposal is going to make the rich pay their fair share and provides long-term investment in working America's future—in small business, in timber, and in homeownership.

Over the past decade the rich have gotten richer and working America has paid for it. Under the Republican agenda of the past decade, 9 out of 10 Americans pay more taxes. At the same time, the wealthiest Americans are paying $82,000 less in income taxes. Well, it is time to tell the richest 1 percent in this country that their party is over.

The American people have sent a clear message to the Bush administration and to Republicans—working families are not going to take it in the gut while, once again, the rich get away with sticking it to middle-class America.

Under the cry of "real reform" the Republicans want to continue to protect the wealthy.

The Democrats are not going to put up with this blatant favoritism for the rich. Our tax policy should no longer be a bail-out for the rich.

I am excited, this House of Representatives is going to stand up for working America today.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, there is intense disappointment on this side of the aisle that the Democrats are

afraid to let us offer a substitute. We thought they were serious when they expected us to be competitive. Now we find that cowardice prevents them from allowing us to be competitive.

I recall early in the year when the distinguished gentleman from South Carolina, who is managing this rule, chided me for not offering the President's budget. I had, of course, offered it in the committee, and the chairman of the Rules Committtee voted against it, as did every Democrat on that committee.

□ 1340

But now, of course, when we want to offer something, when we have a proposition, he is not so generous. He is not chiding me now. I am chiding him. Thanks for the gracious opportunity for us to be able to present a Republican alternative.

The reason that we cannot present it, Mr. Speaker, is that it does not make the $500 billion mark that the summit agreed on. So that everybody in the world knows this, it must be said that neither does the Democrat alternative. If we take the CBO scoring on the IRS collections, and if we take the $1 billion point of order that the chairman of the Committee on Ways and Means is going to make this afternoon, and if we reduce the $500 million of the Committee on Agriculture, we find the Democrat substitute and the committee bills both scoring below $500 billion.

Yet Republicans score under $500 billion, and they are not allowed to present their alternative.

We also find that the Rostenkowski substitute does not meet the dictates of the budget resolution. It overdoes taxes and underdoes entitlements. But it gets a free ride, too. The answer is that the only second-class citizens around here are Republicans. Republican are always suppressed.

Mr. Speaker, our friends on the Democrat side say that we have controlled tax policy over the last 20 years. We, the oppressed minority, the second class citizens, the despised Congressional underclass, have somehow created an unfair tax environment. When Democrats will not even let us make amendments on the floor of the House, how is the public going to believe that we have made any policy at all.

Mr. Speaker, the public does not believe that. It thinks that the Democrat majority are incompetent to manage fiscal policy. And yet Democrats will not give anybody else a chance even to introduce an amendment today.

Mr. Speaker, in addition the enforcement agreement of the summit has been seriously eroded in this particular package. As a matter of fact, we did not even see the enforcement section until last night. It may be worse than we suspect.

The extraneous provisions amendment, which has been made in order, has not appeared yet. By my own count I can find 116 extraneous provisions that our friends on the Committee on Rules, so far, have allowed to stay in this bill. They have let the special interests go into a feeding frenzy, and they will not let the taxpayers be heard on the Republican side.

All I have to say, Mr. Speaker, is that this is a shameful day in the history of the House, and I am embarrassed to be a witness in this process today.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, this is a very interesting debate, and, if we go back through the past 10 years, there have been two Republican budgets offered. One of them got one vote; our former colleague, Jack Kemp, voted for it. The other got some 30 votes. And on May 6, we considered a budget here, and our good friend, the gentleman from Minnesota [Mr. FRENZEL] who just spoke, who is embarrassed to be here, refused to offer the President's budget. The day that the budgets were being offered, he refused to offer it. We asked unanimous consent that it was in order by the Committee on Rules to offer this budget when we adopted our Democratic budget.

Mr. Speaker, on September 11, the President stood in this House and said, "We've got to have $500 billion budget reduction in 5 years," and let me go back some 10 years ago. All of a sudden they are the protectors of the weak, and the old, and the sick and the Medicare. Had we accepted the cuts that had been proposed from the Commission in the last 10 years, we would have had $55 billion cuts in Medicare. And one of the first proposals that was sent to this House from David Stockman was to cut the $122 minimum Social Security to the oldest and sickest people in our society.

Mr. Speaker, I am ashamed of some of the shenanigans that took place in this House in the past 10 years. How dare they say that they do not get a fair shake when they get a chance to offer a budget which has been 10 years? They were afforded the responsibility, and they did not take it.

Now, Mr. Speaker, they say, "We want to special order. We want the wimp position. We don't want to get to the big numbers. We want to get to $400 billion," and, every time anybody else suggests that we move these numbers down, the President says, "I'll veto it, and I'll close the Government down."

I ask, "Will the President support your position?" I did not hear from the White House saying that the President will support a $400 billion over 5 year reduction plan.

"Shame on you. Shame on you."

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, I do not know where democracy is today on the floor of this House when we, the Republican side, cannot offer our budget package. We are told that it is because our numbers do not get up to $500 billion. Well, their numbers do not get up to $500 billion either.

However, Mr. Speaker, let us just take one part of their numbers. They have in there $50 billion raised by increasing the upper rate to 33 percent. That flies in the face of all of the data that the IRS has for the top 1 percent, 5 percent, 10 percent, 20 percent of taxpayers in the 1980's.

Yes, when rates were reduced, the take went up. Yes, we doubled our tax take during the 1980's, and those high brackets paid, not only substantially more taxes, but substantially higher share of the total.

I say, "You're going to get less $50 billion, not more $50 billion, and you'll have a $400 billion package as well."

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I will tell my colleagues where democracy is. It is right here on this House floor, and I am very proud of the Committee on Rules. They have stood firm. They have said, "If you guys over there want in the game, you're going to play by the rules."

Mr. Speaker, do my colleagues know anyone else that will let people into a game if they do not pledge to play by the rules?

But let me mention the next part. Get this:

The rules were written by their President. So, we have got a Democratic Committee on Rules enforcing the Republican President's rules, and they are yelling, "Unfair". We are saying the same group scored both proposals, and guess what? Theirs did not make it.

Not only that, thank goodness for the CONGRESSIONAL RECORD, because I say to anybody here, "I hope you look it up." We made a proposal to allow that side to bring forward the President's budget. They never did. Many Members on this side asked for unanimous consent to bring the President's budget to the floor so this side could debate it because they realized no one on that side was going to, and guess what? It was objected to.

Mr. Speaker, I do not think we can continue on saying that the rules are unfair when it is their side that wrote them and when the President has said this Government is suffering from a cancer, and it is called debt. We are trying today to do something about that cancer.

Mr. Speaker, I am sorry that we have not seen the same concern over there, and I would hope that many of the rich people would phone the White House and say, "Look, we're willing to pay our fair share."

I have the White House number right here in case they do not have it. It is 202-456-1414.

Mr. Speaker, a lot of the rich people, I know, are embarrassed that people are saying they cannot possibly do anything about this budget because the rich would have to pay more, and it would be awful.

Look. Trickle down did not work, and this is going to work, and we must move on this debt today, and I thank the Committee on Rules for making the rules stick.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Speaker, the gentlewoman from Colorado [Mrs. SCHROEDER] has just spoken in great support of the President of the United States, and I am pleased to see the outpouring on the Democrat side in support of our President. What she and the other have not alluded to is the fact that the President also said that he would never accept the Democrat package that is before the House today.

□ 1350

Will they support the President on that position, when the President says that by increasing rates at the top, you necessarily must pull up rates on the lower and and middle income class people? I wonder whether or not their support of the President will extend to that part of his comments.

I would also say to the chairman of the Committee on the Budget that I made a very strong effort to work out an agreement with the chairman of our committee. The Senators, yes, have worked out a bipartisan package, but my chairman refused to negotiate with me on any compromise.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Speaker, today must be a rather humiliating day for my friends on the Republican side of the aisle. All credibility in deficit reduction is gone. They confess that their package is $100 billion short, 20 percent short. But it is really much more than that, because today we are dealing with reconciliation, which has to do with taxes and entitlements—the very structural changes that the Republican side of the aisle says it wants to reform. Most of their savings overall are in the discretionary spending area—in a future black box not in the structural area of entitlements and taxes.

Mr. Speaker, the reason the Republican package is really much more than 20 percent short is because their structural changes are only about half of reconciliation's assignment under the budget bill passed last week. You are only halfway there my friends on the Republican side, not 80 percent there. It is like claiming a touchdown in football after only 50 yards, not 80 yards. It's like claiming a home run on a 150-foot pop up. It's like claiming victory at the Indy after only 250 miles.

You walked away from your President and you walked away from the country. I do not see how you can come to this floor and talk about deficit reduction in the future.

The President was the umpire in this game, your President, the GOP President. He came here and said the rules are this: $500 billion, and not a penny less. And you brought a package here that is only half that in the entitlement area. Half, not 80 percent.

Mr. Speaker, I am ashamed of my friends on that side. You have let your President and the country down. You have not cut it. Not cut it enough.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee [Mr. SUNDQUIST].

Mr. SUNDQUIST. I thank the gentleman for yielding.

Mr. Speaker, I say to Members on this side of the aisle, shame on you. Shame on you. The gentleman from Minnesota [Mr. FRENZEL] said your budget does not match $500 billion. Ours may not either, but ours is in real cuts.

Mr. Speaker, who defines the rules? The Committee on Rules by a vote of 9 to 4, 9 Democrats and 4 Republicans. Is that fair? You are afraid to let this House vote on a package that would cut spending without raising taxes. You are afraid of that. Shame on you.

Mr. Speaker, let us have the American people tell the gentlewoman from Colorado [Mrs. SCHROEDER] at (202) 225-4431, let them respond to Mrs. SCHROEDER and say, "We want to cut spending and not raise taxes." 225-4431, the gentlewoman from Colorado [Mrs. SCHROEDER].

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, I rise to support this rule. I rise to support the Democratic budget. It is a vast improvement over what we were looking at a week or two ago. It is fair. It increases taxes on the wealthiest among us by 1.7 percent.

Mr. Speaker, I do not think that constitutes telling them the party is over. They are going to continue to do well. They are going to continue to contribute to the American economy, and I hope they will. It is best for all of us if they continue to prosper.

Mr. Speaker, I think we will have fulfilled a great obligation to the American people and to ourselves if we pass this budget. But that is only half the job. A major job of Members of the 102d Congress, starting next January, will be to squeeze out the waste and the foolishness and the silliness that is already in this budget that can be converted part to deficit reduction, further deficit reduction, and part to increasing domestic services that are desperately inadequate to the needs of our country in the last 10 years of this decade and going into the next millennium.

It is absolutely preposterous for us at a time when the Russians are cooperating with us in the Middle East, when the Warsaw Pact has disappeared, when there is no great Russian menace out there, it is preposterous for us to be spending money, billions and billions of dollars on star wars, on the B-2 bombers, on expensive missile systems. It is just silly, and it is dumb, and we should not be that dumb.

Mr. Speaker, there is $100 billion of waste to be squeezed out of the most incredibly inefficient, chaotic, disorganized health care system in the world. We ought to squeeze it out and apply that $100 billion of savings to providing long-term care for seniors, catastrophic for seniors, and education for our kids, who are vastly neglected.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, the Democrats will not allow our plan to come to the floor. The Democrats will not allow a bill to come to the floor that will not raise taxes.

We have a bill that will meet the targets, as we should, without raising taxes. It will reduce spending by $400 billion over the next 5 years. But they will not let it come to the floor.

Their plan will raise the top tax rate to 33 percent. It will cost Americans more across the board. It is not a tax on the rich.

Let me give you an example. A married couple with two children who make $34,000 a year will pay $313.50 more in taxes under their plan. A single person making $21,000 a year will pay 5 percent more in taxes.

They are going to tax and tax and tax us all to death. The fact of the matter is, we have a plan that will work, that will not raise taxes, and they, under the rule, will not allow the American people even to hear it. I think it is a shame.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I do not know that Members can see this, but I have here a cartoon that was recently published in the Arkan-

sas Gazette which shows the windows in the Oval Office open and chickens coming in to roost on the shoulders of the President, Mr. Bush.

On all of these chickens there are names, like S&L crisis, HUD, borrowing, national debt, deficits, energy policy, and so on. On each one of the little chickens there is a caricature of Mr. Reagan's face.

Mr. Speaker, we are here today because the chickens have come home to roost. The chickens of Reaganomics have brought us here today.

Mr. Bush is not the only head of state that has faced a crisis of confidence. Paradoxically, Mikhail Gorbachev faced a similar crisis when he came to power in the Soviet Union a few years ago. He told the Soviet people that his predecessors had lied to them about the glories of communism, that the policies of the past had failed, and that they had brought the Soviet Union to the brink of bankruptcy.

Mr. Bush has a similar opportunity, to tell the American people the truth about our fiscal crisis. I would hope that Mr. Bush would just flip back to a few years ago and pull out his speech on voodoo economics, so he could change the fiscal direction of this country.

Meanwhile, Congress must take an initiative, and the Democrats have an alternative that deals with the failures of the Reagan deficit. We need an economic policy based on truth and a tax policy based on fairness.

Mr. Speaker, I support the rule. I support the alternative that will be presented here today by the Democratic Party.

I am encouraged that more and more of the American people are coming to realize that Reaganomics was built on the quicksand of creative bookkeeping, rosy scenarios and the false promise that we could somehow have more for less.

We are left to pick through the economic wreckage wrought during the self-indulgent decade of the 1980's and the first order of business is dealing with the massive Reagan deficit.

It must be done. We all know it.

The current budget debate is not about whether to take action, but about the issue of fairness.

My litmus test for any plan to pay back the debt incurred during the 1980's is fairness—will all Americans participate or will we shove this burden on the backs of middle class working families, the elderly, farmers and students?

To be fair, the wealthiest among us must participate. We should also not restrict the pay back to our own people. We should insist that our allies do more to share the burden for their own defense and do a better job of collecting foreign debt.

And, we must pay closer attention to the job of managing the Government.

The President and Congress must follow the example of Mikhail Gorbachev. We must be willing to admit that the policies of the past have failed. And, in setting priorities for this new decade we should craft an economic policy based on truth; a tax policy based on fairness; a trade policy based on productivity; an energy policy based on self-reliance, and a national direction based on accepting the reality of a changing world in changing times.

It is vital to remember how we got to this point—so we will not repeat the mistakes of the past.

And, that must lead to a discussion of the history of Reaganomics. These policies were, frankly, irresistible to the American people because the theology of supply-side economics contained the impossible to deliver, but appealing, promise of somehow having it all, but not paying for it—a promise which could only be kept by massive borrowing.

In adopting this program, Congress reflected the strong support which Mr. Reagan and his feel good economic policies had among the people. As one who opposed that program—warning that a day of reckoning was coming—I confess that it was not the politically popular thing to do.

So, Congress must certainly accept the blame for enacting the Reagan program into law.

A decade of Reaganomics saw the national debt grow more than in all other Presidencies combined, but as this happened we did not heed the warnings.

In fact, there is a faction in both the Republican and Democratic Parties which even today ignores the lesson embodied in the failure of supply-side economics.

The gridlock we see in government today is symptomatic of a nation foundering because its policies are not working, and many of its leaders are stubbornly refusing to alter a dangerous course.

Reagan administration policies—deep slashes in revenues and huge increase in defense spending—could only be financed by using the national credit card—and use it we did, until the numbers were worn off.

Today, we face the mountain of debt created by that credit card philosophy. In fact, one of the largest increases in Government spending is interest on the debt that piled up as the result of the flawed economic policies of the past decade.

Congress has decreaed services and domestic programs in order to help meet interest payments on the debt, meaning less money to repair and maintain our infrastructure, educate and train our people and promote job growth.

There has been no other choice.

An energy policy was followed in the 1983's which saw us become more and more dependent on both foreign oil and foreign credit to buy that oil. This insane practice must stop. We must rely more on our own natural resources to, first, keep more money at home, and second, to insure that our economy is not held hostage by the likes of Saddam Hussein.

We also followed trade policies which opened this Nation to a flood of job-costing imports.

And, the free market agricultural policies of the 1980's sent both commodities and land prices skidding—leaving farmers unable to service their debt and driving many of them off the land.

Our tax policy was tilted toward the rich, but the money was horded. It did not, as supply-side proponents claimed, trickle down. It gushed up.

The atmosphere these policies created made millionaries of Wall Street speculators, but left businessmen on Main Street in pain. The buy-out mania fueled by junk bonds left many corporations so burdened with debt they could not continue to operate and we lost jobs.

Tax policies left us with an overheated real estate market and helped bring the savings and loan industry to its knees.

In Government, the policies resulted in debt and more debt. In failing to adopt a pay-as-you-go policy, our only choice in sustaining the Reagan policies was on credit. And, now the bill is due. The party's over.

Congress can adopt a fair pay back plan for the Reagan deficits. It should also spend more time on what are viewed as mundane tasks, including sound management of the bureaucracy.

The scandals in the Department of Housing and Urban Development and the savings and loan frauds are intolerable—and must serve as a clear call to restore good management to government.

And, we must tighten foreign debt collection procedures.

Frankly, both the Reagan and Bush administrations have done a lousy job of seeing to it that countries which own the U.S. money pay it back.

My feeling is those debts should be paid. Under an amendment which I sponsored in the House, known as the Alexander-Brooke amendment, foreign aid is cutoff if a country is 12 months in arrears in payment of its debt to this country.

The past two administrations, however, have been able to circumvent this requirement by rescheduling the debt which starts the clocks running again.

We can also see to it that our allies accept more of the burden for their

own defense. The United States can't guard the world alone, nor can Uncle Sam be a global Sugar Daddy any longer.

Our first priority must be to craft a deficit pay back plan which will be fair, not falling more heavily on the middle class, working families of the Nation.

I hope we would take the other actions I have outlined to ensure that the decade of the 1990's sees a government on a sounder, fairer footing.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. I thank the gentleman for yielding.

Mr. Speaker, the fact of the matter is today the Republicans have not been shut out, as they would like to make the American people believe. The fact is the President and the bipartisan congressional leadership have set the ground rules, and the ground rules are simple. We are going to achieve $40 billion in deficit reduction the first year and we are going to achieve $500 billion in deficit reduction over 5 years. Those were the ground rules, set by the President of the United States and the bipartisan congressional leadership.

□ 1400

The fact is today the other side does not have a plan available to submit to this body for a vote that achieves either of those basic objectives.

If the President of the United States wants to change the rules, and if we are going to talk about a $400 billion plan, then the Democrats can go back and come up with a whole lot less painful plan than what we are going to be talking about here today. All I am saying to my friends is let us live by the rules that were set by the summit agreement, $40 billion the first year, $500 billion over 5 years, and let us get on to the conference, and hopefully we can agree to a package that will be acceptable to the President. Only by so doing will we avoid shutting the Government down later this week.

PARLIAMENTARY INQUIRY

Mr. ARMEY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman will state his parliamentary inquiry.

Mr. ARMEY. Mr. Speaker, this is a debate on the rule, and I understood and expected this debate to be confined to a discussion of the rule by which we would consider legislation that would follow. I wonder, Mr. Speaker, is it in order for Members to continue to talk about everything but the rule and the basic fairness of the rule, or the points of order that are waived by this rule? I understand that virtually every point of order that we have in our rule book is waived on behalf of this rule.

Mr. DERRICK. Mr. Speaker, a point of order. This is not a parliamentary inquiry.

The SPEAKER pro tempore. The Chair will state that there is much latitude in discussing a rule, because obviously if the House is going to discuss whether a rule should be defeated, the merits of the bill being made in order are relevant. So the Chair recognizes on both sides that there is latitude to discuss issues inside the bill itself.

Mr. ARMEY. May I make a further point for my personal clarification.

The SPEAKER pro tempore. Does the gentleman have a further parliamentary inquiry?

Mr. ARMEY. I have a further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. ARMEY. Please forgive me, Mr. Speaker, but I have been confused. Does the President of the United States write any of the rules by which we conduct debate here, because I have heard repeatedly references to the rules written by the President?

Mr. DERRICK. Mr. Speaker, I object. The minority is using a point of order for an entirely different purpose.

Mr. ARMEY. Mr. Speaker, I have heard several Members of this debate refer to the rules written by the President.

The SPEAKER pro tempore. The gentleman from South Carolina is right in objecting to this as a parliamentary inquiry.

The Chair recognizes the gentleman from South Carolina.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I commend the Rules Committee for having done what it did in insisting that both sides play by exactly the same ground rules. For years the Republicans have wanted to compare apples to oranges, never wanting to meet the target.

And I would say to the gentleman from Minnesota [Mr. FRENZEL], who stood there and wept these crocodile tears about being shut out of the process, let me just say to him and the gentleman from Illinois [Mr. MICHEL], the minority leader, where were you when the House, the Democratic leadership, the Senate Democratic and Republican leadership were meeting just last week on the eventual budget plan that was adopted by this House and Senate? You were nowhere. You both refused to go. You do not get barred; you refuse to participate. Now when you will not participate on the rules, you want to have it your way. You cannot have it your way anymore. The United States cannot stand any more of your way after 10 years.

If rhetoric, Mr. Speaker, was fertilizer, this place would be growing 10-foot mushrooms.

Mr. DERRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I rise to express my serious concern about the rule as it affects the taxation of general aviation aircraft and the opportunity to offer an amendment to that particular provision.

Mr. Speaker, I rise to express my serious concern about this rule on H.R. 5835, the Omnibus Budget Reconciliation Act. While I commend Chairman ROSTENKOWSKI for putting together a fair and responsible package, I am troubled that such a comprehensive package with thousands of provisions can only be supported or opposed in total with no opportunity for amendment. I was not eligible to offer an amendment which would have modified the general aviation "luxury" tax included in the Rostenkowski amendment.

In particular, I am concerned about the imposition of "luxury" taxes on general aviation aircraft. It would be more accurate to refer to this tax, inappropriately called a luxury tax, as a nuisance tax because it will contribute little to total deficit reduction. In the first year of the House package, the amount raised from airplane luxury taxes would be very small, yet the damage done to the aviation industry would be enormous. Further, small airplanes are not a luxury. They are not like expensive jewelry and furs, which are items of pure choice for purchase by the wealthy.

Airplanes are bona fide depreciable business assets purchased by individuals and companies to meet their transportation needs. In this era of airline deregulation when many communities, particularly small ones, have lost significant levels of scheduled airline service, many businesses and individuals have determined it makes economic sense to purchase a small plane.

Imposing a tax on these aircraft only deters their purchase. In turn, declining sales will contribute to further job cuts in an industry already beset by product liability costs and other unfavorable changes in tax laws. Unemployed American aviation workers, including those working for component suppliers, will have lower taxable incomes and may be forced to secure unemployment benefits, causing two additional drains on our revenue system. This spiral is unnecessary. And it will particularly be a problem for my district which is the headquarters of Beech, Cessna, and Learjet.

The best option is to not impose any luxury tax on airplanes. The future of the general aviation industry may be at stake. If this tax becomes law, the winners will be foreign manufacturers and foreign workers. The losers will be the thousands of American working men and women. Hopefully this obnoxious provision can be modified or repealed in a conference with the other body.

Mr. QUILLEN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I would like to remind the Democrats that for the last 36 years they have controlled this House. They control it now. Why blame the Republicans?

The President has sent word that he would veto the Ways and Means Democratic alternative if it is presented in the form that it is now.

Try to muzzle us. Do what you can to shut us up, but you cannot. Our beliefs are the beliefs of the American people, and we will win in the end.

Mr. Speaker, I urge a no vote on the previous question, and I urge that we defeat this rule.

Mr. Speaker, I yield back the balance of my time.

Mr. BUNNING. Mr. Speaker, when you took the dies for the first time after you were elected Speaker of the House last year, you promised the Republicans—and I quote—"A spirit of cooperation and increased consultation."

Where is that spirit of cooperation and consultation now, Mr. Speaker?

The Members of the Republican Party here in the House of Representatives have unified behind an alternate budget proposal; a budget proposal which can meet the target of reducing the deficit by $500 billion over 5 years, without raising taxes.

And you will not allow the Republican Party to even bring this bill to the floor of the House for consideration.

That is not cooperation. That is not consultation.

That is not fair to the American taxpayer.

Mr. COLEMAN of Texas. Mr. Chairman, I rise in support of the reconciliation package put together by the chairman of the Ways and Means Committee. I voted for the budet resolution that failed on October 5. In voting for that resolution, I said that I did not like the budget summit package and that I would seek to change some aspects of it. As one Member who was not present at the summit negotiations, I felt that we could put together a package that was cleaner and fairer.

Eighty percent of the revenues in this package are identical to the provisions of the summit package the President urged all Americans to support. The remainder of the package simply asks those Americans who have profited so handsomely from the policies of the past 10 years to do their share to help us avoid another shutdown of the Government, another fall in the stock market, and a further erosion of confidence of the American people in their Government. Ten days after the defeat of the resolution which would have given us the summit package, we do have a better version.

It is a shame that the vote to pass this bill be a vote along party lines. I understand the frustration of many members of the Republican party because of their indecision over how to continue to shelter the incomes of the wealthiest Americans from the Tax Code. There is also uncertainty on the minority side as to which faction is running the White House on a day-to-day basis. But I cannot accept the criticism of this package when there is nothing to compare it to. Just as no one offered President George Bush's budget on the floor of the House in June, no one from the Republican Party has managed to put on the table any plan which achieves $500 billion in deficit reduction over 5 years.

This bill, like its predecessors, is far from perfect. For instance, I am not convinced that we need any capital gains exclusion, but if that is the price of compromise, fine. More importantly, this bill saves Medicare beneficiaries $20 billion over the cuts proposed by the summit agreement. That is a plain fact.

Of all the versions of the budget enforcement legislation circulating around Washington these days, this one does the most to help those who are most vulnerable in our society. It increases earned income tax credits for the working poor. This bill will protect rural hospitals as the summit plan did not. It will increase payments to rural hospitals by $240 million for each of the next 5 years. Under this plan, institutions like the hospitals in Van Horn, Kermit, Monahans, and Pecos, TX, will see the differential in their annual reimbursement rates lowered, so that they will no longer have to face the prospect of cutting back on their services to at-risk populations, or closing down altogether. If the cost of doing that is the elimination of the bubble whereby those with hundreds of thousands of dollars in income paid lower rates than the middle class, I will take that trade. If we can avoid driving a wedge between the young and the elderly, or between urban and rural Americans by imposing a surcharge on taxable income above $1 million, then I think that my constituents will accept that.

The passage of this bill does not conclude the budget process, it simply moves it forward. This allows us to move to a conference with the Senate and to make further refinements. What is the alternative—to vote "no" on everything that anyone proposes and then to try to con voters into thinking that the financial catastrophe which follows is someone else's fault? That sort of logic is what exasperates the American people—they are sick and tired of bickering and they are insulted by politicians telling them they can have it all for free.

I urge support for this package in the name of bringing back some progressivity and fairness to our tax system.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I sat on the Budget Committee in this body for 10 years. I must say that I have heard nothing this morning that I have not heard before from the minority.

I sat there for 10 years, year in and year out, and heard our party criticized, heard when we had a President, him criticized about balancing the budget, we need to cut this, we need to cut that. Yet, invariably they would never, or most of the time would never have an alternative. This is just more of the same.

The rules, as has been pointed out here this morning, were that we were going to try. The President said, the leadership in the Senate, both minority and majority, the leadership in the House, both the majority and the minority said that we were going to cut by either cutting programs or raising revenue, we were going to try to balance this budget. All Members know, Democrats and Republicans, that if this country is going to continue to survive, economically, if we are going to continue to be able to provide the standard of living that we have become accustomed to for the citizens of our country, if we are going to continue to remain the leaders of the free world, and to continue to do things like we are doing in Saudi Arabia and stand up for freedom, we are going to have to balance this budget.

The minority has been given that opportunity. Unfortunately, and I regret very much they have simply failed. They are not willing to get out front. They are not willing to exert any pain. They are not willing to say no.

We all know that there are two ways to balance a budget. We can either take in more revenue or spend less. They are not willing to make these decisions.

This is a fair rule. It is a rule that is not only you might say a rule of the Rules Committee, but it is a rule of the administration.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

Mr. WALKER. Mr. Speaker, I ask that the question be put on the previous question.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 241, nays 184, not voting 8, as follows:

[Roll No. 471]

YEAS—241

Ackerman	Boxer	Costello
Alexander	Brooks	Coyne
Anderson	Browder	Crockett
Andrews	Brown (CA)	Darden
Annunzio	Bruce	de la Garza
Anthony	Bryant	DeFazio
Aspin	Bustamante	Dellums
Atkins	Byron	Derrick
AuCoin	Campbell (CO)	Dicks
Barnard	Cardin	Dingell
Bates	Carper	Dixon
Beilenson	Carr	Donnelly
Berman	Chapman	Dorgan (ND)
Bevill	Clarke	Downey
Bilbray	Clay	Durbin
Boggs	Clement	Dwyer
Bonior	Coleman (TX)	Dymally
Borski	Collins	Dyson
Bosco	Conyers	Early
Boucher	Cooper	Eckart

Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Gray
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Hoyer
Huckaby
Hughes
Hutto
Jenkins
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mink
Moakley
Mollohan
Montgomery
Moody
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Poshard
Price
Rangel
Ray
Richardson
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Unsoeld
Vento
Visclosky
Volkmer
Walgren
Washington
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—184

Applegate
Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Condit
Conte
Coughlin
Courter
Cox
Craig
Crane
Dannemeyer
Davis
DeLay
DeWine
Dickinson
Dornan (CA)
Douglas
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Grant
Green
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hubbard
Hunter
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Jones (GA)
Kasich
Kolbe
Kyl
Lagomarsino
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lukens, Donald
Machtley
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison (WA)
Myers
Nielson
Oxley
Packard
Parris
Pashayan
Paxon
Petri
Porter
Pursell
Quillen
Rahall
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Saiki
Saxton
Schaefer
Schiff
Schneider
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stearns
Stump
Sundquist
Tauke
Taylor
Thomas (WY)
Traficant
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Whittaker
Wolf
Wylie
Young (AK)
Young (FL)

NOT VOTING—8

Brennan
Engel
Leath (TX)
Mineta
Morrison (CT)
Rowland (CT)
Schuette
Thomas (CA)

□ 1427

The Clerk announced the following pair:

On this vote:

Mr. MORRISON of Connecticut for, with Mr. THOMAS of California against.

Mr. BARTLETT changed his vote "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MINETA. Mr. Speaker, I was unavoidably detained on business and unable to cast my vote on ordering the previous question on House Resolution 509.

Mr. Speaker, I would have voted aye on ordering the previous question on House Resolution 509, had I been present.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the resolution.

The question was taken and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. DERRICK. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 231, noes 195, not voting 7, as follows:

[Roll No. 472]

AYES—231

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bates
Beilenson
Bevill
Bilbray
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brooks
Browder
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clarke
Clay
Clement
Coleman (TX)
Collins
Conyers
Costello
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Gray
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hoagland
Hochbrueckner
Hoyer
Huckaby
Hutto
Jenkins
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Poshard
Price
Rangel
Ray
Richardson
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Unsoeld
Vento
Visclosky
Volkmer
Walgren
Washington
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOES—195

Applegate
Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Condit
Conte
Cooper
Coughlin
Courter
Cox
Craig
Crane
Dannemeyer
Davis
DeLay
DeWine
Dickinson
Dornan (CA)
Douglas
Dreier
Duncan
Edwards (OK)
Emerson
English
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gillmor
Gilman
Gingrich
Glickman
Goodling
Goss
Gradison
Grandy
Grant
Green
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry

Herger	Meyers	Sharp
Hertel	Michel	Shaw
Hiler	Miller (OH)	Shays
Holloway	Miller (WA)	Shumway
Hopkins	Molinari	Shuster
Horton	Moorhead	Skeen
Houghton	Morella	Slaughter (VA)
Hubbard	Morrison (WA)	Smith (NE)
Hughes	Myers	Smith (NJ)
Hunter	Nielson	Smith (TX)
Hyde	Oxley	Smith (VT)
Inhofe	Packard	Smith, Denny (OR)
Ireland	Parker	Smith, Robert (NH)
Jacobs	Parris	Smith, Robert (OR)
James	Pashayan	Snowe
Johnson (CT)	Paxon	Solomon
Jones (GA)	Petri	Spence
Kasich	Porter	Stangeland
Kolbe	Pursell	Stearns
Kyl	Quillen	Stump
Lagomarsino	Rahall	Sundquist
Laughlin	Ravenel	Tauke
Leach (IA)	Regula	Tauzin
Lent	Rhodes	Taylor
Lewis (CA)	Ridge	Thomas (WY)
Lewis (FL)	Rinaldo	Traficant
Lightfoot	Ritter	Upton
Livingston	Roberts	Valentine
Lowery (CA)	Robinson	Vander Jagt
Lukens, Donald	Rogers	Vucanovich
Machtley	Rohrabacher	Walker
Madigan	Ros-Lehtinen	Walsh
Marlenee	Roth	Weber
Martin (IL)	Roukema	Weldon
Martin (NY)	Saiki	Whittaker
McCandless	Sarpalius	Wolf
McCollum	Saxton	Wylie
McCrery	Schaefer	Young (AK)
McDade	Schiff	Young (FL)
McEwen	Schneider	
McGrath	Schulze	
McMillan (NC)	Sensenbrenner	

NOT VOTING—7

Berman	Morrison (CT)	Thomas (CA)
Brennan	Rowland (CT)	
Engel	Schuette	

□ 1444

The Clerk announced the following pair:

On this vote:

Mr. Morrison of Connecticut for, with Mr. Thomas of California against.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent for rollcall No. 469, consideration of the rule for H.R. 5422, Intelligence Authorization Act and rollcall No. 470, table motion to appeal the ruling of the chair. Had I been here, I would have cast the following votes: "aye" and "aye."

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 5229, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. LEHMAN of Florida. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 5229) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Florida?

There was no objection.

CONFERENCE REPORT ON S. 580, STUDENT RIGHT-TO-KNOW AND CAMPUS SECURITY ACT

Mr. WILLIAMS submitted the following conference report and statement on the Senate bill (S. 580) to require institutions of higher education receiving financial assistance to provide certain information with respect to the graduation rates of student-athletes at such institutions:

CONFERENCE REPORT (H. REPT. 101-883)

The committee of conference on the disagreeing votes of the two Houses on the amendment of Senate to the amendment of the House to the bill (S. 580), to require institutions of higher education receiving Federal financial assistance to provide certain information with respect to the graduation rates of student-athletes at such institutions, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of Senate to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Student Right-To-Know and Campus Security Act".

TITLE I—STUDENT RIGHT-TO-KNOW

SEC. 101. SHORT TITLE.

This title may be cited as the "Student Right-To-Know Act".

SEC. 102. FINDINGS.

The Congress finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

(2) there is increasing concern among citizens, educators, and public officials regarding the academic performance of students at institutions of higher education;

(3) a recent study by the National Institute of Independent Colleges and Universities found that just 43 percent of students attending 4-year public colleges and universities and 54 percent of students entering private institutions graduated within 6 years of enrolling;

(4) the academic performance of student athletes, especially student athletes receiving football and basketball scholarships, has been a source of great concern in recent years;

(5) more than 10,000 athletic scholarships are provided annually by institutions of higher education;

(6) prospective students and prospective student athletes should be aware of the educational commitments of an institution of higher education; and

(7) knowledge of graduation rates would help prospective students and prospective student athletes make an informed judgment about the educational benefits available at a given institution of higher education.

SEC. 103. ADDITIONAL GENERAL DISCLOSURE REQUIREMENTS RELATING TO COMPLETION OR GRADUATION.

(a) DISCLOSURE OF COMPLETION OR GRADUATION RATES.—Section 485(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1092(a)(1)) (in this Act referred to as the "Act") is amended—

(1) by striking "and" at the end of subparagraph (J);

(2) by striking the period at the end of subparagraph (K) and inserting "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(L) the completion or graduation rate of certificate- or degree-seeking, full-time students entering such institutions.".

(b) CONSTRUCTION OF DISCLOSURE REQUIREMENTS.—Section 485(a) of such Act (42 U.S.C. 1092(a)) is further amended by inserting after paragraph (2) the following new paragraph:

"(3) In calculating the completion or graduation rate under subparagraph (L) of paragraph (1) of this subsection or under subsection (e), a student shall be counted as a completion or graduation if, within 150 percent of the normal time for completion of or graduation from the program, the student has completed or graduated from the program, or enrolled in any program of an eligible institution for which the prior program provides substantial preparation. The information required to be disclosed under such subparagraph—

"(A) shall be available beginning on July 1, 1993, and each year thereafter to current and prospective students prior to enrolling or entering into any financial obligation;

"(B) shall cover the one-year period ending on June 30 of the preceding year; and

"(C) shall be updated not less than biennially.

"(4) For purposes of this section, institutions may exclude from the information disclosed in accordance with subparagraph (L) of paragraph (1) the completion or graduation rates of students who leave school to serve in the armed services, on official church missions, or with a recognized foreign aid service of the Federal Government.".

(c) ANALYSIS OF POTENTIAL INSTITUTIONAL OUTCOMES.—(1) In conjunction with representatives of institutions of higher education, the Secretary shall analyze the feasibility and desirability of making available to students and potential students—

(A) the completion or graduation rate of individuals at an institution broken down by program or field of study;

(B) the completion or graduation rate of an institution reported by individual schools or academic divisions within the institution;

(C) the rate at which individuals who complete or graduate from the program of an institution pass applicable licensure or certification examinations required for employment in a particular vocation, trade, or professional field;

(D) the rate at which individuals who complete or graduate from an occupationally specific program and who enter the labor market following completion of or graduation from such a program obtain employment in the occupation for which they are trained; and

(E) other institutional outcomes that may be appropriate.

(2) In calculating the completion or graduation rate under paragraph (1), a student shall be counted as a completion or gradua-

tion if, within 150 percent of the normal time for completion of or graduation from the program, the student has completed or graduated from the program, or enrolled in any program of an eligible institution for which the prior program provides substantial preparation.

(d) REPORT.—The Secretary shall submit a report to the appropriate committees of Congress before August 1, 1991 on the analysis conducted pursuant to subsection (c).

SEC. 104. REPORTING REQUIREMENTS FOR INSTITUTIONS OF HIGHER EDUCATION.

(a) AMENDMENT.—Section 485 of the Act (20 U.S.C. 1092) (as amended by section 103) is further amended by adding at the end thereof the following new subsection:

"(e) DISCLOSURES REQUIRED WITH RESPECT TO ATHLETICALLY RELATED STUDENT AID.—(1) Each institution of higher education which participates in any program under this title and is attended by students receiving athletically related student aid shall annually submit a report to the Secretary which contains—

"(A) the number of students at the institution of higher education who received athletically related student aid broken down by race and sex in the following sports: basketball, football, baseball, cross country/track, and all other sports combined;

"(B) the number of students at the institution of higher education, broken down by race and sex;

"(C) the completion or graduation rate for students at the institution of higher education who received athletically related student aid broken down by race and sex in the following sports: basketball, football, baseball, cross country/track and all other sports combined;

"(D) the completion or graduation rate for students at the institution of higher education, broken down by race and sex;

"(E) the average completion or graduation rate for the 4 most recent completing or graduating classes of students at the institution of higher education who received athletically related student aid broken down by race and sex in the following categories: basketball, football, baseball, cross country/track, and all other sports combined; and

"(F) the average completion or graduation rate for the 4 most recent completing or graduating classes of students at the institution of higher education broken down by race and sex.

"(2) When an institution described in paragraph (1) of this subsection offers a potential student athlete athletically related student aid, such institution shall provide to the student and his parents, his guidance counselor, and coach the information contained in the report submitted by such institution pursuant to paragraph (1).

"(3) For purposes of this subsection, institutions may exclude from the reporting requirements under paragraphs (1) and (2) the completion or graduation rates of students and student athletes who leave school to serve in the armed services, on official church missions, or with a recognized foreign aid service of the Federal Government.

"(4) Each institution of higher education described in paragraph (1) may provide supplemental information to students and the Secretary showing the completion or graduation rate when such completion or graduation rate includes students transferring into and out of such institution.

"(5) The Secretary, using the reports submitted under this subsection, shall compile and publish a report containing the information required under paragraph (1) broken down by—

"(A) individual institutions of higher education; and

"(B) athletic conferences recognized by the National Collegiate Athletic Association and the National Association of Intercollegiate Athletics.

"(6) The Secretary shall waive the requirements of this subsection for any institution of higher education that is a member of an athletic association or athletic conference that has voluntarily published completion or graduation rate data or has agreed to publish data that, in the opinion of the Secretary, is substantially comparable to the information required under this subsection.

"(7) The Secretary, in conjunction with the National Junior College Athletic Association, shall develop and obtain data on completion or graduation rates from two-year colleges that award athletically related student aid. Such data shall, to the extent practicable, be consistent with the reporting requirements set forth in this section.

"(8) For purposes of this subsection, the term 'athletically related student aid' means any scholarship, grant, or other form of financial assistance the terms of which require the recipient to participate in a program of intercollegiate athletics at an institution of higher education in order to be eligible to receive such assistance.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect July 1, 1992, except that the first report to the Secretary of Education shall be due on July 1, 1993.

SEC. 105. ANALYSIS OF ATHLETIC ACTIVITY REVENUES.

(a) IN GENERAL.—The Secretary, in conjunction with institutions of higher education and collegiate athletic associations, shall analyze the feasibility of and make recommendations regarding a requirement that institutions of higher education compile and report on the revenues derived and expenditures made (per sport) by such institutions' athletic department and intercollegiate athletic activities.

(b) REPORTS.—The Secretary shall prepare a report on the activities described in subsection (a) and transmit such report to the appropriate committees of Congress before April 1, 1991.

TITLE II—CRIME AWARENESS AND CAMPUS SECURITY

SEC. 201. SHORT TITLE.

This title may be cited as the "Crime Awareness and Campus Security Act of 1990".

SEC. 202. FINDINGS.

The Congress finds that—

(1) the reported incidence of crime, particularly violent crime, on some college campuses has steadily risen in recent years;

(2) although annual "National Campus Violence Surveys" indicate that roughly 80 percent of campus crimes are committed by a student upon another student and that approximately 95 percent of the campus crimes that are violent are alcohol- or drug-related, there are currently no comprehensive data on campus crimes;

(3) out of 8,000 postsecondary institutions participating in Federal student aid programs, only 352 colleges and universities voluntarily provide crime statistics directly through the Uniform Crime Report of the Federal Bureau of Investigation, and other institutions report data indirectly, through local police agencies or States, in a manner that does not permit campus statistics to be separated;

(4) several State legislatures have adopted or are considering legislation to require reporting of campus crime statistics and dissemination of security practices and procedures, but the bills are not uniform in their requirements and standards;

(5) students and employees of institutions of higher education should be aware of the incidence of crime on campus and policies and procedures to prevent crime or to report occurrences of crime;

(6) applicants for enrollment at a college or university, and their parents, should have access to information about the crime statistics of that institution and its security policies and procedures; and

(7) while many institutions have established crime preventive measures to increase the safety of campuses, there is a clear need—

(A) to encourage the development on all campuses of security policies and procedures;

(B) for uniformity and consistency in the reporting of crimes on campus; and

(C) to encourage the development of policies and procedures to address sexual assaults and racial violence on college campuses.

SEC. 203. DISCLOSURE OF DISCIPLINARY PROCEEDING OUTCOMES TO CRIME VICTIMS.

Section 438(b) of the General Education Provisions Act (20 U.S.C. 1232g(b)) is amended by adding at the end thereof the following new paragraph:

"(6) Nothing in this section shall be construed to prohibit an institution of postsecondary education from disclosing, to an alleged victim of any crime of violence (as that term is defined in section 16 of title 18, United States Code), the results of any disciplinary proceeding conducted by such institution against the alleged perpetrator of such crime with respect to such crime.".

SEC. 204. DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS.

(a) DISCLOSURE REQUIREMENTS.—Section 485 of the Act (20 U.S.C. 1092) (as amended by sections 103 and 104) is further amended by adding at the end thereof the following new subsection:

"(f) DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS.—(1) Each eligible institution participating in any program under this title shall on September 1, 1991, begin to collect the following information with respect to campus crime statistics and campus security policies of that institution, and beginning September 1, 1992, and each year thereafter, prepare, publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report containing at least the following information with respect to the campus security policies and campus crime statistics of that institution:

"(A) A statement of current campus policies regarding procedures and facilities for students and others to report criminal actions or other emergencies occurring on campus and policies concerning the institution's response to such reports.

"(B) A statement of current policies concerning security and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities.

"(C) A statement of current policies concerning campus law enforcement, including—

"(i) the enforcement authority of security personnel, including their working relation-

ship with State and local police agencies; and

"(ii) policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies.

"(D) A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.

"(E) A description of programs designed to inform students and employees about the prevention of crimes.

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft.

"(G) A statement of policy concerning the monitoring and recording through local police agencies of criminal activity at off-campus student organizations which are recognized by the institution and that are engaged in by students attending the institution, including those student organizations with off-campus housing facilities.

"(H) Statistics concerning the number of arrests for the following crimes occurring on campus:

"(i) liquor law violations;

"(ii) drug abuse violations; and

"(iii) weapons possessions.

"(I) A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws and a statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws and a description of any drug or alcohol abuse education programs as required under section 1213 of this Act.

"(2) Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to campus crimes or campus security.

"(3) Each institution participating in any program under this title shall make timely reports to the campus community on crimes considered to be a threat to other students and employees described in paragraph (1)(F) that are reported to campus security or local law police agencies. Such reports shall be provided to students and employees in a manner that is timely and that will aid in the prevention of similar occurrences.

"(4) Upon the request of the Secretary, each institution participating in any program under this title shall submit to the Secretary a copy of the statistics required to be made available under paragraphs (1)(F) and (1)(H). The Secretary shall—

"(A) review such statistics and report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate on campus crime statistics by September 1, 1995; and

"(B) in coordination with representatives of institutions of higher education, identify exemplary campus security policies, procedures, and practices and disseminate information concerning those policies, procedures, and practices that have proven effective in the reduction of campus crime.

"(5)(A) For purposes of this subsection, the term 'campus' includes—

"(i) any building or property owned or controlled by the institution of higher education within the same reasonably contiguous geographic area and used by the institution in direct support of, or related to its educational purposes; or

"(ii) any building or property owned or controlled by student organizations recognized by the institution.

"(B) In cases where branch campuses of an institution of higher education, schools within an institution of higher education, or administrative divisions within an institution are not within a reasonably contiguous geographic area, such entities shall be considered separate campuses for purposes of the reporting requirements of this section.

"(6) The statistics described in paragraphs (1)(F) and (1)(H) shall be compiled in accordance with the definitions used in the uniform crime reporting system of the Department of Justice, Federal Bureau of Investigation, and the modifications in such definitions as implemented pursuant to the Hate Crime Statistics Act.".

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on September 1, 1991, except that the requirement of section 485(f)(1) (F) and (H) of the Higher Education Act of 1965 (as added by this section) shall be applied to require statistics with respect to school years preceding the date of enactment of this Act only to the extent that data concerning such years is reasonably available.

SEC. 205. PROGRAM PARTICIPATION AGREEMENT REQUIREMENTS.

Section 487(a) of the Act (20 U.S.C. 1094(a)) is amended by adding at the end thereof the following new paragraph:

"(12) The institution certifies that—

"(A) the institution has established a campus security policy; and

"(B) the institution has complied with the disclosure requirements of section 485(f).".

TITLE III—CALCULATION OF DEFAULT RATES

SEC. 301. CALCULATION OF DEFAULT RATES.

Section 435 of the Act (20 U.S.C. 1085) is amended—

(1) in subsection (l), by striking out "The term" and inserting in lieu thereof "Except as provided in subsection (m), the term"; and

(2) in subsection (m), by inserting immediately after the first sentence the following: "In determining the number of students who default before the end of such fiscal year, the Secretary shall include only loans for which the Secretary or a guaranty agency has paid claims for insurance, and, in calculating the cohort default rate, exclude any loans which, due to improper servicing or collection, would result in an inaccurate or incomplete calculation of the cohort default rate.".

TITLE IV—CONFORMING REGULATIONS

SEC. 401. CONFORMING REGULATIONS.

(a) IN GENERAL.—The Secretary is authorized to issue regulations to carry out the provisions of this Act.

(b) SUSPENSION.—Subparagraphs (c) through (f) of section 668.44 of title 34, Code of Federal Regulations, are suspended.

And the Senate agree to the same.

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PAT WILLIAMS,
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Managers on the Part of the House.

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Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the bill (S. 580) to require institutions of higher education receiving Federal financial assistance to provide certain information with respect to graduation rates of student-athletes at such institutions, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate amendment struck out all of the House amendment after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the Senate amendment and the House amendment. The differences between the House amendment, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE

The Senate bill provides that this act requires institutions of higher education receiving federal financial assistance provide certain information on graduation rates of student athletes.

The House amendment provides the same description.

House recedes with amendment modifying language that institutions of higher education to disclose graduation rates and inform students and employees of campus crime statistics and for other educational purposes.

1. Short title of title I: The Senate bill Title I is entitled "Student and Student Athlete Right-To-Know."

The House amendment is entitled "Student Athlete Right-To-Know Act."

The House recedes with an amendment entitling Title I "Student Right-To-Know."

2. Findings: The Senate bill, but not the House amendment, contains findings about the graduations rates of students and student athletes receiving football and basketball scholarships at institutions of higher education.

The amendment, but not the Senate bill, includes families among those who would be assisted by knowledge of graduation rates.

The Senate and House agreed to blend these provisions.

3. Additional general disclosure requirements: The Senate bill uses the term "graduation rate."

The House amendment uses the term "completion or graduation rate."

The Senate recedes.

(A) Graduation rates: The Senate bill requires information on graduation rates be made available starting Oct. 1, 1993.

The House amendment requires the same information be made available starting July 1, 1992.

The Senate recedes with an amendment to make the information available beginning on July 1, 1993.

(B) The Senate bill requires disclosure of graduation rates for a one-year period ending on Sept. 30 of preceding year.

The House bill also requires the disclosure of graduation rates for a one-year period ending on June 30 of the preceding year.

The Senate recedes.

4. Permissible exclusions: The Senate bill, but not the House amendment, includes a provision that the graduation or completion rate information may exclude completion rates of students who leave to serve in the military, church missions, or foreign service.

The House recedes.

5. Analysis of potential institutional outcomes: The House amendment, but not the Senate bill, requires the Secretary to establish standard definitions and methodologies for measuring institutional outcomes.

The Senate recedes with an amendment that the Secretary analyze the desirability and feasibility of making available to students this information and other institutional outcomes that may be appropriate. The Senate also includes an amendment to suspend and revise current Department of Education regulations, 34 CFR 668.44(c) through (f), and in Appendix A, as published in the Federal Register June 5, 1989. This amendment is found as Title IV in the Conference bill.

In suspending the disclosure regulations issued in June 1989, the conferees do not in any ways disagree with the intent of the regulations. In fact, the conferees applaud the Department of Education's attempt to address this important issue and agree that students who enroll in education programs whose primary mission is career training should be provided with such program's placement and graduation rates.

However, the conferees see particular problems with 34 CFR 668.44(c) through (f) and in Appendix A. This regulation, which did not go through the normal rulemaking process, has several flaws. In particular, the conferees are concerned that students who enter a career training program, successfully complete the program, and then choose to continue their education rather than seek employment would appear an a nonplacement on the disclosure form. Such students should be viewed as success stories, not failures. The conferees are aware that there are several other problems with the current disclosure forms, including the question of separating program completion rates and job placement rates, and which academic programs should or should not be covered.

The proposed study would enable the gathering of the necessary information upon which to base a more appropriate disclosure system. By exploring a variety of graduation rate disclosures, placement rates, and the rates of passage of applicable licensure or certification examinations, the conferees found merit in setting aside the regulation. The successful and timely completion of the study will allow the full consideration of these issues during the reauthorization of the Higher Education Admendments. The conferees look forward to the Department's report.

6. Report to Congress: The House amendment, but not the Senate bill, requires the Secretary to submit a report to the appropriate committees of Congress on the implementation of the standard definitions and methodologies by October 1, 1991.

The Senate recedes with an amendment that the report shall be submitted by August 1, 1991.

7. Reporting requirements: The Senate bill establishes reporting requirements for institutions of higher education to disclose the number of students receiving athletic-related student financial aid in football, basketball and all other sports combined.

The House amendment adds to the list of sports baseball, ice hockey, and cross country/track.

The Senate recedes with an amendment to delete ice hockey from the list of sports.

8. All other sports combined: The provisions are identical.

9. Graduation rates of student athletes receiving aid: The Senate bill requires the report to contain the average graduation rate, by sex and by race, of students receiving athletic-related financial aid in the four most recent graduating classes who participated in basketball and football.

The House amendment also requires the report to contain this information and adds baseball, cross/country track, ice hockey and all other sports to the list.

The Senate recedes with an amendment striking ice hockey from the list.

10. Notification: The provisions are identical.

11. Permissible exclusions: The Senate bill allows institutions of higher education to exclude graduation information from the report in special circumstances seincluding the armed services, church missions, and foreign service.

The House amendment permits exclusion of graduation information from the report in special circumstances.

The House recedes.

12. Inclusion of transfers—the graduation rate: The provisions are identical.

13. Compilation of data: Both bills require the Secretary to compile and publish a report by institutions of higher education and athletic conferences.

14. Availability of report: The House amendment, but not the Senate bill, requires the Secretary to make his report available upon request to any person or secondary school.

The House recedes. The managers intend that the Secretary shall distribute the report to the public upon request.

15. Graduation rates for two-year colleges: The Senate bill, but not the House amendment, requires the Secretary, along with the Junior College Athletic Association, to develop and obtain graduation rates from 2-year colleges and that such data shall, to the extent practicable, be consistent with reporting requirements in this section.

The House recedes with a technical amendment.

16. Definition: The House amendment, but not the Senate bill, defines the term "graduation rate".

The House recedes.

17. Effective date: The Senate bill has an effective date of October 1, 1993.

The House amendment has an effective date of July 1, 1991.

The Senate recedes with an amendment to make the effective date July 1, 1992 and that the first report to the Secretary shall be due on July 1, 1993.

18. Analysis of athletic activity revenues: The House amendment, but not the Senate bill, contains a section on Disclosure of Athletic Activity Revenues and Expenditures requiring institutions of higher education that offer athletically-related student aid to disclose its revenues derived from athletic activities and from activities as a whole. The House amendment but not the Senate bill also requires the Secretary to annually collect and compile these disclosures and make them available for public inspection.

The House recedes with an amendment that the section be called Analysis of Athletic Activity Revenues, that the Secretary shall, in conjunction with institutes of higher education, analyze the feasibility and desirability of compiling and reporting this information, and that the report shall be delivered to the appropriate committees of Congress by April 1, 1991.

In making the report, the Senate conferees are interested in receiving recommendations as to the desirability of requiring institutions of higher education to report their athletic revenues and expenditures. While neither the House of Representatives nor the Senate has held hearings on this issue. The House feels that this legislation would greatly increase public overshight of athletic programs at institutions of higher education. The Senate has not previously considered this issue and is undecided as to whether this is an appropriate federal role.

TITLE II: CRIME AWARENESS AND CAMPUS SECURITY

19. Findings: Both the House amendment and Senate bill include findings.

20. Sexual assualt and racial violence: The Senate bill, but not the House amendment, includes among its finding a need to encourage schools to develop policies and procedures addressing sexual assault and racial violence on college campuses.

The House recedes.

21. Eligibility: The Senate bill and the House amendment both require institutions receiving student aid to certify that it has a security policy and has complied with the disclosure requirements of this title.

22. Date for distribution: The Senate bill requires institutions of higher education to prepare, publish and distribute campus security policy and campus crime statistics beginning on October 1, 1993.

The House amendment requires the preparation, publication and distribution of the same information begin on July 1, 1992.

The House recedes with an amendment that the collection of data by institutions of higher education shall begin on September 1, 1991 and the publication and distribution to students and employees of this information shall begin on September 1, 1992 and each year thereafter.

23. Disclosure of campus security policy: The Senate bill requires disclosure of current campus policies for reporting crimes with a "detailed description of campus security policy and procedures." The House amendment requires the same disclosure in a "statement of policy."

The Senate recedes. The managers recognize that many institutions currently incorporate statements of policies as part of other campus publications, such as a student handbook or institution's catalogue. The managers do not intend to require institutions to develop separate documents if the

required information is provided in a publication that is made available as required by this legislation. However, the required reported information must be presented to the student collectively in a single section of such publication.

24. Security of campus facilities: The Senate bill requires a statement of current policies about security and access to campus facilities and considerations used in maintenance of the facilities and clarifies that campus residences area considered campus facilities for purposes of this section.

The House amendment also requires disclosure of this information but does not make the same clarification for campus residences.

The Senate recedes with an amendment specifying that campus facilities include campus residences.

25. Campus law enforcement: The Senate bill and the House amendment require that the security report include current policies on campus law enforcement, the working relationship between campus and local police and prompt reporting.

The House amendment, but not the Senate bill, requires a statement of policy concerning the enforcement authority of campus security personnel.

The Senate recedes. The managers intend that the statement of policy with respect to enforcement authority specifically indicate whether or not campus security personnel have the designated police authority to arrest individuals.

26. Student security responsibility: The Senate bill, but not the House amendment, requires a description of the type and frequency of programs that informs students and employees of campus security procedures and encourages them to be responsible for their own security.

The House recedes.

27. Crime prevention: The Senate bill, but not the House amendment, requires a description of programs that inform students and employees about crime prevention.

The House recedes.

28. Statistics on violent crimes: The Senate bill and the House amendment require that the report include statistics on the occurrence of violent crimes.

(a) The Senate bill, but not the House amendment, list examples of crimes to be statistically reported. The House amendment lists eight types of crimes and requires institutions of higher education to disclose statistics on off-campus crimes against students.

The Senate recedes with an amendment to delete larceny and arson from the categories of crimes.

(b) The Senate bill, but not the House amendment, requires disclosure of statistics on off-campus crimes against students.

The Senate recedes.

(c) The House amendment, but not the Senate bill, requires disclosure of crime statistics for the preceding two years.

The Senate recedes with an amendment that clarifies that statistics for the preceding two years be reported if the data is available.

29. Off-campus facilities: The House amendment, but not the Senate bill, clarifies that fraternities are among the off-campus student organizations for which a crime-prevention policy must be provided.

The Senate bill contains a general provision of off-campus housing of student organizations as recognized by the institution.

The House recedes with an amendment clarifying the language.

30. Limitation of Secretary: The provisions are identical.

31. Arrest statistics: The House amendment, but not the Senate bill, requires schools to report statistics on the number of arrests for five specified categories of crimes on campus.

The Senate recedes with an amendment striking vandalism and disorderly conduct from the categories of crimes.

32. Alcoholic beverages: The House amendment, but not the Senate bill, requires a statement of policy on the possession, use and sale of alcoholic beverages, enforcement of underage drinking laws, and a description of alcoholic beverages, enforcement of underage drinking laws, and a description of alcohol abuse education programs provided by the institution.

33. Illegal drugs: The House amendment, but not the Senate bill, requires schools to make a statement of policy on the possession, use and sale of illegal drugs, enforcement of federal and state drug laws, and a description of drug abuse education programs provided by the institution.

The Senate recedes on both 32 and 33 with an amendment combining the provisions and requiring that the information provided to students be identical to that required under 20 U.S.C. section 1145g of the Higher Education Act.

34(a). Timely reports: The House amendment, but not the Senate bill, requires institutions of higher education to make timely crime reports of certain crimes to the campus community.

The Senate recedes.

34(b). The House amendment, but not the Senate bill, specifies that such reports shall be distributed in a timely manner through publication and media to students and employees.

The Senate recedes with an amendment that the information be provided to students in a way that will protect the privacy of the individuals involved in the incident. The managers note that certain crime victims, especially victims of sexual assault, may be unwilling to report crimes if they feel their identity will be made public. The managers expect institutions of higher education to make every effort to protect the privacy rights of students who are victims of crime.

35(a). Secretary's responsibilities: The House amendment, but not the Senate bill, requires each institution submit annually to the Secretary a copy of their crime statistics.

The Senate recedes with an amendment that the institution will make the submission upon the request of the Secretary.

35(b). The House amendment, but not the Senate bill, requires the Secretary to regularly review the statistics and report to the appropriate committees of Congress by September 1, 1995.

The Senate recedes with an amendment striking the requirement that the review occur regularly but requiring the Secretary to report to the Congress. The managers intend this report include annual data on campus crime, trends reflected by changes in this data, specifically regarding patterns of crime, and patterns of reduced campus crime due to specific campus security policies.

35(c). The House amendment, but not the Senate bill, requires the Secretary to, in coordination with representatives of institutions of higher education, survey campus security policies, procedures and practices on security and distribute information on those that effectively reduce campus crime.

The Senate recedes with an amendment requiring the Secretary to identify exemplary security policies, procedures and practices.

36. Definition—Campus: The House amendment, but not the Senate bill, defines the term "campus".

The Senate recedes with an amendment clarifying that facilities or campuses at some distance from the main campus are also covered by this Act.

37. Definitions of crimes: The House amendment, but not the Senate bill, requires that the crime statistics be compiled in accordance with definitions used in the uniform crime reporting system of the Department of Justice and the Federal Bureau of Investigation.

The Senate recedes with an amendment that the Secretary develop, with the assistance of the Attorney General, information regarding the definitions written in clear and comprehensible language and to distribute this information to institutions of higher education. The managers note that the information will be essential to institutions as they implement these requirements and expect the Secretary and the Attorney General to make this information available promptly.

38. Effective date: The Senate bill has an effective date of October 1, 1992 for Title II.

The House amendment has an effective date of July 1, 1992 for Title II. The House amendment, but not the Senate bill, waives the requirements of the Act for the years preceding the Act to the extent that the data is unavailable.

The House recedes with an amendment making the effective date September 1, 1991.

TITLE III—CALCULATION OF DEFAULT RATES

39. The Senate bill, but not the House amendment, includes Title III Calculation of Default Rates. The provision changes the definition of "default" to the number of students who default before the end of the fiscal year and that the Secretary shall, in calculating the cohort default rate, exclude those loans that have undergone improper servicing or collection.

The House recedes with a technical amendment clarifying the language.

TITLE IV—CONFORMING REGULATIONS

40. The conferees agreed to add Title IV conforming regulations. This provision authorizes the Secretary to issue regulations to carry out this legislation and suspends 34 CFR 668.44 (c) through (f).

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NANCY LANDON KASSEBAUM,
STROM THURMOND,
THAD COCHRAN,
Managers on the Part of the Senate.

39-059 O-91-6 (Pt. 21)

CONFERENCE REPORT ON S. 1939, TAFT INSTITUTE REAUTHORIZATION

Mr. WILLIAMS submitted the following conference report and statement on the Senate bill (S. 1939) to extend the authorization of appropriations for the Taft Institute:

CONFERENCE REPORT (H. REPT. 101-884)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1939) to extend the authorization of appropriations for the Taft Institute, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from the disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SECTION 1. EXTENSION OF AUTHORIZATION.

Section 1373 of the Education Amendments of 1980 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1373. There are authorized to be appropriated to carry out this subpart:

"(1) $700,000 for fiscal year 1991;

"(2) $550,000 for fiscal year 1992;

"(1) $325,000 for fiscal year 1993; and

"(1) $150,000 for fiscal year 1994.

No funds are authorized to be appropriated to carry out this subpart for fiscal year 1995 or any succeeding fiscal year.".

SEC. 2. TREATMENT OF FISCAL YEAR 1990 CONTRIBUTIONS.

For purposes of complying with the matching requirements of section 1372(b) of the Education Amendments of 1980, private contributions received by the Taft Institute for fiscal year 1990 may be treated as private contributions received by the Institute for fiscal year 1991.

And the House agree to the same.

GUS HAWKINS,
WILLIAM D. FORD,
PAT WILLIAMS,
BILL GOODLING,
TOM COLEMAN,
Managers on the Part of the House.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
CHRISTOPHER J. DODD,
ORRIN HATCH,
NANCY LANDON KASSEBAUM,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1939) to extend the authorization of appropriations for the Taft Institute, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The difference between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. The Senate bill extended the authorization for the Taft Institute for four fiscal years. The House amendment extended the Taft authorization for three fiscal years. Both the Senate bill and the House amendment have specific prohibitions against future authorizations for the Taft Institute after the end of the extended authorization period.

The House recedes with an amendment providing for Taft authorizations as follows:

Fiscal year 1991, $700,000;
Fiscal year 1992, $550,000;
Fiscal year 1993, $325,000;
Fiscal year 1994, $150,000.

The amendment prohibits authorizations for the Taft Institute beyond fiscal year 1994. The amendment also permits private contributions received by the Taft Institute in fiscal year 1990 to be treated as private contributions received in fiscal year 1991 for purposes of Taft matching requirements.

2. The Senate bill, but not the House amendment, makes several changes to the School Dropout Demonstration program. The Senate recedes.

3. The Senate bill, but not the House amendment, make several changes to the Higher Education Act concerning eligibility for assistance under that Act. The Senate recedes.

4. The Senate bill, but not the House amendment, makes several changes concerning eligibility for assistance under several additional education programs. The Senate recedes.

5. The House amendment, but not the Senate bill, includes a sense of the House resolution concerning extraneous amendments. The House recedes.

GUS HAWKINS,
WILLIAM D. FORD,
PAT WILLIAMS,
BILL GOODLING,
TOM COLEMAN,
Managers on the Part of the House.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
CHRISTOPHER J. DODD,
ORRIN HATCH,
NANCY LANDON KASSEBAUM,
Managers on the Part of the Senate.

H.R. 5835, OMNIBUS BUDGET RECONCILIATION ACT OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 509 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5835.

□ 1446

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5835) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1991, with Mr. MAVROULES in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as read the first time.

Under the rule, the gentleman from California [Mr. PANETTA] will be recognized for 1 hour and 30 minutes, and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 1 hour and 30 minutes.

The Chair recognizes the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 5835, the Omnibus Budget Reconciliation Act of 1990. It is the principal implementing tool of the budget resolution that was adopted last week. It represents the work of 12 House authorizing committees pursuant to the instructions that were contained in the budget resolution, House Concurrent Resolution 310, which was adopted by both the House and the Senate.

The committees were instructed by the budget resolution to report legislation producing a total of $24.3 billion in deficit reduction for fiscal year 1991 and $246.2 billion over the 5-year period from 1991 to 1995.

In fact, the committees, in the bill that is before us, have exceeded those instructions. The committees have produced $30.4 billion for fiscal year 1991, almost $6 billion in excess of the instructions in terms of deficit reduction, and $251.6 billion over 5 years, almost $5 billion in excess of the target.

That represents a significant increase in the level of deficit reduction over that provided in the instructions. The committees have not only met the targets, they have exceeded them.

□ 1450

Mr. Chairman, this is by far the largest deficit reduction package ever to be considered by the Congress. I hope we can adopt it in the House today, move quickly to a conference with the Senate, and have a reconciliation bill on the President's desk by Friday.

The reason that we must move this legislation is obvious to all of us. We are at the present time in crisis, a crisis in government, a crisis in the economy, and a crisis in confidence in the institution of government itself. Once again, the President is threatening to shut down the Government of the United States, and it is clear that he is looking for, perhaps, any excuse to do so. If we do not act now, he shall have that excuse.

Clearly, Mr. Chairman, this is only one of many reasons to try to enact the legislation before us, but it is certainly the reason that we have to act today, not tomorrow, not the next day,

not next week, but today to complete the work that is before us.

Members are aware of why we are confronting the situation with the deficit. We are facing $300 billion annual deficits next year. They are sapping our economic strength, robbing our resources for the future, hurting us in terms of our ability to compete in the world of the next century. They continue to push up interest rates, adding to the difficult task of the Federal Reserve as it tries to face what is a likely recession in our economy, and growing inflation at the same time. What we are confronting is stagflation, the worst of all worlds, and in that atmosphere it is absolutely essential that we adopt strong deficit reduction.

Mr. Chairman, the authorizing committees are to be commended for the expeditious handling of this legislation. They received their instructions last Tuesday. By Friday of last week, 11 of the 12 committees had completed their work, and the final committee completed its work yesterday. So, we have been acting on a fast time frame, moving this legislation ahead, making very tough choices.

Mr. Chairman, these are not easy choices. Look at the elements of reconciliation. Every committee has had to make tough choices impacting on people, on farmers, on veterans, on the elderly, on students, on Government employees. We are asking Americans to help share the sacrifice of deficit reduction, and, when the Committee on Ways and Means amendment comes in, we are also going to be asking the wealthy to participate in that same sacrifice to try to reduce the deficit.

Let us be clear about what we are doing today. This is not a package of smoke and mirrors. Every element in this reconciliation package is real. Many Members like to talk about deficit reduction. But today we will find out what it really means to cast a vote for real deficit reduction, for real spending cuts and real tax increases.

Mr. Chairman, that is how to cut the deficit, whether we like it or not. The President has recognized that reality; the leadership in both the House and the Senate have recognized that reality. That is the only way we are going to get the job done.

Let me point out that this is a comprehensive package that contains $500 billion in deficit reduction from both spending and revenues over 5 years. As my colleagues will notice from this chart, entitlement programs and other spending reductions make up two-thirds, of the deficit reduction over 5 years. Revenues constitute about 30 percent of the package, and indeed over the 5 years spending reductions increase and revenue increases level off. The blue is the debt service which my colleagues see here.

So, Mr. Chairman, it is a balanced package. Some will argue that this is a tax package. Not true. This is a balanced package that involves spending reductions along with revenues.

Mr. Chairman, the targets achieved by the committees were largely the result of the budget summit agreement. Obviously, a majority, a bipartisan majority of the House, had some real concerns about the specifics of that agreement, and the House refused to adopt the agreement. And yet what we have now done is we have come back again. Based on the budget resolution we have provided flexibility to the committees, and I think it was the wisdom of the House that we have asserted priorities that we believe in the package that is before the House.

One of the most critical elements of this package, in addition to the spending restraints and revenues, is the enforcement package. Budget process reforms are now contained as the last title. These reforms grow also out of the budget summit. But they have been modified by a bipartisan leadership task force to address legitimate concerns that have been raised about future reliance on budget summits and about unfair and constitutionally doubtful infringements on the authority of the Congress.

Mr. Chairman, this package contains real, tough enforcement for all of the caps in the overall summit agreement. It is not easy, and yet it is our responsibility, not only to assert that we are going to achieve 5-year deficit reduction, but to mean it through meaningful enforcement changes.

The bottom line is: These provisions mean that the deficit reduction that the Congress and the President agree to this year is real. It is not here today and gone tomorrow, like so many deficit reduction efforts of the past. It is one more reason that those who truly believe in deficit reduction should vote for this legislation.

Mr. Chairman, the American people are watching us today. This is not an easy vote for anyone. It is a tough vote. It may be the most difficult vote that we cast in the 101st Congress.

However, Mr. Chairman, every Member should keep in mind, the impact on this institution and on our country if we fail to act today.

Most of us had the opportunity to go home this past weekend and listen to our constituents. I say to my colleagues, if yours are anything like mine, they were saying one thing:

Do what is right. Do what is fair. But above all, get it done.

We have the opportunity, as this debate goes on, to do what is right, and we will have the opportunity to decide what is fair. But above all, when the time comes for final passage, we had better get it done.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I thank the gentleman from California [Mr. PANETTA] for yielding.

Mr. Chairman, I rise simply to commend the gentleman for his leadership as chairman of the Committee on the Budget through all these long, torturous months and for providing the leadership that is essential to get something done here in this body, and to do it with good humor and clarity. As just one Member of Congress, I would like to express my personal appreciation to the gentleman from California [Mr. PANETTA] for being a distinguished legislator.

Mr. PANETTA. Mr. Chairman, I appreciate the comments of the gentleman from Florida [Mr. FASCELL].

Mr. Chairman, I reserve the balance of my time.

Mr. FRENZEL. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Michigan [Mr. PURSELL].

Mr. PURSELL. Mr. Chairman, members of the Democratic Party, members of the Republican Party, and taxpayers of America, in 1985 House Republicans wrote a budget called Group 92 which was debated on the floor. Our budget called for a freeze across the board. Democrats had a plan. Republicans had a plan. I learned my lesson then, and I learn my lesson today, that the American public are looking for two ideas to govern. This year, the Democrats have presented a plan which raises taxes by $150 billion over the next 5 years. Let them take that plan to the country, put it on the table, and let us take a good look at it.

Now we the Grand Old Party, have created a plan that reduces spending with no new taxes. Frankly, I think the people of America are entitled to see that plan, too.

Not today. The rules around here say, "Sorry, folks. In this democracy, we're only giving you one plan, the Democratic plan. We're not going to give you fair rules and allow you to see the Republican plan with no taxes and a reduction of spending."

□ 1500

That is the crisis in America. Eighty-three percent of the people of the United States want a reduction in spending, not new taxes. I do not know why we cannot get that through our heads here. That is why we are here in Washington with this long debate. The process has fallen apart.

We have been believers over the years, and frustrated here, because we have had an authorization tier, an appropriation tier, a budget tier, and now a summit tier. That is why this process has broken down.

It is not the President. It is not the Democrat or the Republican Party. We have built an empire in Washington that is self-destructing, and the

people of America have said no more. What is happening in this country?

I suggest that we get back to the basics. As the coach says, you have got to learn to field and you have got to learn to hit and you have got to learn to bunt, to play the game with rules, even rules, straight up, straight down. No more, no less. That is all we ask.

But the athlete here says that we have rules for only one party. The Democrats are in charge. Tough luck, Repubicans, no deal. No rule and no chance to offer a plan.

Mr. Chairman, all we ask here in this body, representing the people of this country, is to present a plan for the people to see. Let them take their choice which one will govern America: The Republican plan or the Democratic plan.

In my polls, 83 percent of the people in my district in Michigan want reduction in spending. I do not get many letters that say increase taxes.

I will be the first to admit, as a member of the Appropriations Committee it is very easy to spend dollars when it is someone else's money. Without looking on the revenue side of budget reconciliation, it was real easy for me to do what the appropriators are supposed to do. More projects and more spending, for every group.

People come to Washington and say give us a balanced budget, but we want our subsidy. Every group in America is saying that. But 83 percent want a reduction in spending.

In my Energy and Water Subcommittee, I walked into the conference committee in the Senate last Friday and said, "Look, I am making some new choices around here. Would you take out the River Rouge project," which is a $3 million project that I had requested. I will admit to the public and to the taxpayers that when I saw that River Rouge project, 7 miles long, I saw another river alongside that was full of red ink.

Mr. Speaker, I have three grandchildren. I have had to make some tough choices for them and I am willing to take $3 million out. It is only a little bit of money, but it tells me that CARL PURSELL is ready to make tough choices.

The gentleman from California [Mr. PANETTA], the chairman of the Committee on the Budget, said this is the day to make tough choices. I agree with him. That is what the citizens are saying. Stand up and make those tough choices. Give us a chance to offer our budget. It is better for America.

Mr. PANETTA. Mr. Chairman, I yield 4 minutes to the distinguished gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I want to thank the gentleman for yielding to me. It is such an honor to work with the gentleman from California [Mr. PANETTA]. He is showing his leadership once again today. I also want to associate myself with his remarks, which I thought really put this whole issue on the line.

Mr. Chairman, I have to say to my Republican friends, they talk about tough choices. I have their proposal. This is another black box approach—a secret spending cut plan. They take nondefense discretionary spending and they say they cut $66 billion out. They do not say where. Is it drug enforcement? Is it air traffic control? They duck the hard issues. Not to over-emphasize their plan—let it be clear that they just do not meet the deficit reduction targets that President Bush said he required. So their plan is a nonstarter.

Mr. Chairman, it is true as the country watches us debate this budget that we do not always look pretty. We do not always look composed. Our feelings show on both sides. We get angry. But I think that is OK. This is a debate about the direction of our country, and it is not just about this year, it is about the next 5 years. It is about what gets cut and by how much. It is about who pays and how much. It is a debate about the needs of our country, and it is a debate about who needs to do the most to solve the deficit crisis.

Mr. Chairman, should it be the poor? I think not. Yet in the President's summit the poor would have paid 7 percent more in taxes.

Should it be the middle class that pays? I think not. Yet in the President's summit, the middle class would pay less than the poor, but more than the super wealthy.

Imagine, the middle class and the poor would pay more than the wealthy in the President's summit plan. That is Robin Hood in reverse. It is fairness on its head. It is regressivity, not progressivity.

Mr. Chairman, I want to tell Members one story from the summit which shows the mean spiritedness and the utter bankruptcy of the President's Republican representatives there at that summit.

While they kept protecting the very rich, while President Bush was collecting millions from millionaires to help his pet House and Senate Republican candidates, while George Bush was threatening to shut down this Government if we dared to touch the super wealthy, while all that was going on, the Republicans at the summit wanted to go overturn the Zebley case in order to raise another billion dollars of deficit reduction.

Fortunately, the Democrats knew what the Zebley case was. The Zebley case protects the most vulnerable among us, the most needy among us, children with crippling diseases, crippling disabilities. That is Republicanism, protecting the wealthiest, hurting the weakest, throw the middle class a crumb, while those over $400,000 a year and up get a souffle.

Mr. Chairman, thanks to the gentleman from Illinois [Mr. ROSTENKOWSKI] we are going to have a proposal with Democratic principles, and I hope every Member in this Chamber who believes in attacking this deficit in a fair way supports this. I am very proud to be a Democrat today, because I think the people are learning the difference between the parties. It is not lost on them. The President is still campaigning. He is still getting millions from the millionaires. We are here working for the people.

Mr. FRENZEL. Mr. Chairman, I yield myself 30 seconds to remind Members that Republicans are not allowed to make amendments. We are not allowed to play under any but the Democrat rules. We are the despised underclass of this House of Representatives. We are an abused and oppressed minority, and now we are told we have made tax policy for the last 20 years.

I believe that the gentleman from Illinois [Mr. ROSTENKOWSKI], the hero of the gentlewoman from California [Mrs. BOXER], has been tax chairman in this House for about 10 years. She should take her complaints to him.

I do not know how the system comes to offend her; but certainly Republicans had little to do with controlling tax policy. We are not even allowed to make amendments.

Mr. Chairman, I yield 6 minutes to the distinguished gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Chairman, to those who are watching this debate today, I must say that you are going to be incredulous about what goes on in this Chamber. You are going to be very confused as to why it is that the Republican alternative was never permitted to be offered, and why it is that the Democrat majority is going to push through big tax increases.

If you are confused and frustrated, I urge you to write and call your Democratic Representative, because there is not a confusing debate here. I hope to outline it just very simply.

The debate today is really one on priorities. The question is, Do we raise taxes and spend the money as offered by the majority plan, or do we not raise taxes and control spending as offered by the Pursell-Kasich budget, which was not permitted to come to the floor?

Now, if you want to have a crack at not raising taxes and controlling spending, you have got to vote down this budget that the Democrats offered, that raises your taxes to the tune of about $180 billion, and does not control spending.

Mr. Chairman, it is really very simple. Let me just tell those who are

watching this debate, who think that somehow the Democratic proposal is only a whack at the wealthy, I urge lower- and middle-income taxpayers to be aware of two particular items that they are going to find when April 15 comes and it comes time to file their income tax.

No. 1, under the Democrat plan, the personal exemption is cut. That is very clear. Everybody understands what that means.

That means the amount of money you should be able to claim as a personal exemption come this April will not go up at the rate it should. Your personal exemption will be cut, and you will be paying more taxes.

□ 1510

In the area of indexing, raising the rates actually occurs in this plan on individuals and families starting at an income level of $20,000. If you look at the Democrat table, those people between $20,000 and $30,000 are going to contribute $1 billion in taxes to solving this budget, just under the area of indexing.

So here we have two significant items that are going to jack up the taxes on middle-income and lower-income Americans, and what they get in exchange for it are not cuts in spending.

That is what is so very, very hard to believe. In fact, I would like to outline quickly what the differences are between the two plans.

In the area of entitlements—entitlements, of course, are the programs that go up automatically without a vote of the Congress, and they include things like Social Security and Medicare. I have to tell Members that under the Republican plan, that has no tax increase whatsoever, that the savings that occur in the entitlement area are virtually identical to the savings that the Democrats make. So the argument that somehow Republicans would be hurting those on Medicare and Social Security, that is a bunch of bunk. Our numbers are exactly where the Democrat plan is.

In the area of defense, the Republicans cut about $100 billion and save about $170 billion over 5 years. What do the Democrats do? They save about $170 billion over 5 years. So in the area of entitlements and in the area of defense, the Republican and Democrat plans are just about the same.

Now where do they come apart? They come apart in two areas.

One is in the area of taxes, where the Democrats want to soak the American people for $180 billion in additional taxes, including significant tax increases for Middle America, for middle-income Americans. What does the Republican plan call for? It calls for extension of some existing revenues that are now currently on the books and totals about $23 billion over 5 years versus the Democrat $180 billion tax increase.

Where is the other area that it differs? It differs in the area of discretionary spending. Those are the areas that we as a Congress can control because they do not go up automatically every year.

What are the Democrats proposing? The Democrats propose increasing discretionary spending to the tune of $180 billion.

What do the Republicans say? The Republicans say we want to control the increase in discretionary spending. We increase discretionary spending over 5 years by only $84 billion.

So in other words, the Democrat plan drives up discretionary spending by $180 billion. We increase spending in discretionary by only $84 billion.

How do the Democrats pay for their $180 billion increase in discretionary spending. They soak the taxpayers by $180 billion.

The bottom line is that we can get $410 billion in deficit reduction without a tax increase. The Democrats choose to have higher spending and higher taxes, higher taxes to the tune of $180 billion, and they do not control spending.

Look, folks, the American people do not want more of tax and spend. The American people want us to control the growth in Federal spending, and to do it responsibly. We have done it. The problems are protected in this budget. There is control on the growth of Federal programs.

But with the Democrats it is business as usual, more taxes and more spending.

I tell you that the American people reject that approach, and clearly, if given an opportunity to vote, would accept the Republican alternative, and would urge the defeat of the soak-the-taxpayer scam that the Democrats offer in their budget.

Mr. HUCKABY. Mr. Chairman, I yield 4½ minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, last night some of us were in the Cloakroom watching the rerun of the biography of Richard Nixon, which had the Watergate week in Congress, Watergate time. When I thought about it, this is the most crucial week that Congress will face since that week, the most crucial week in 16 years because we have a handle on the debt problem that has bedeviled us for the last decade, to turn the slope around and have the percentage of debt to GNP actually go down over the next 3 years instead of going up as it has for the last 12. We have an opportunity for once in this body to see beyond the curve.

Yes, it is true, our constituents when we walk up to them are not saying please reduce the deficit. It is one of those abstract, around-the-corner issues that our politics does not handle very well.

But we are handling it well this week, at least so far, and that is our challenge. Savings is the key. If America has a weakness in our economy it is not that we have to restructure and become like Germany or Japan, but it is that we do not save enough. Individuals do not save enough, companies do not save enough, and their leader, the Government, does not save enough either. And this is the first time we have a message we can send, a message to America saying yes, we are willing to do it.

Once we reach that point, the logic flows inexorably in the direction of the Democratic plan. My colleagues on the Republican side of the aisle, you know it, you cannot get a handle on savings and on the deficit unless you raise taxes, period. There is not the votes on your side of the aisle for the kind of deep cuts that would have to be done in a true deficit reduction package without takes. There are not the votes with Mr. DOLE and Mr. DOMENICI, and the President himself crossed that Rubicon when he said he would no longer stick to "read my lips." He did, to his credit, put the benefit of the country ahead of a philosophy that is outdated.

Only the House Republicans cling to the discredited philosophy of the 1980's. And when they go out there on Main Street, they will find that their "no new taxes at all costs, even if it means the ruination of America" is no longer at the cutting edge. You may have been at the cutting edge in the late 1970's and the early 1980's, but you have lost it now, unlike your Senate counterparts, unlike your President.

If you are going to raise taxes, which has to be done, then the difference between the parties is clear, and that is maybe why Republicans run away from the tax issue, because our side is willing not to say that the middle class should get no taxes. They will get some. But to say that it ought to be proportionate, that it ought to be progressive, to say that the rich can pay a greater share than the middle class. It is not just the rich who will pay, but in the Republican plan they will not pay at all, and the middle class will pay, and pay and pay through the spending reductions that you wish to make, but do not outline as to how you would make them.

So our plan with the Rostenkowski amendment deals with the future and is fair.

Is there disappointment in it? Yes, I think the defense number, frankly, is outlandish. We could not get it lower. But it is not going to be a perfect plan for anybody, given the challenge, the future we face.

And I say to my colleagues on both sides of the aisle, if we want to stay No. 1 economically, if we want no longer to be afraid of the Germanys and the Japans, then we must, we must this week rise to the occasion, as our colleagues did 16 years ago, and vote for a fair deficit reduction plan that will keep America No. 1.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Georgia [Mr. GINGRICH], the Republican whip.

Mr. GINGRICH. Mr. Chairman, I thank my friend for yielding time to me.

Mr. Chairman, I want to say first of all that for 5 months the Democrats asked us to offer a budget. Today we offered a budget, and the Democrats promptly ruled it out of order. Their excuse was that the Republican budget did not fit the Democratic Party's requirements.

□ 1520

In this Congress, the Democratic Party waived the Budget Act 62 times, and 62 times the Democrats found an excuse to bring their new spending to the House floor. But the Republican budget did not increase spending. It cut spending.

So the Democrats refused to let it be voted on. Even worse, the Republican budget had no new taxes and achieved $410 billion in deficit reduction by controlling spending.

The Democrats are so committed to tax increases that they had to stop the Republicans from offering a no-tax-increase budget. Imagine how the average American must feel watching the arrogance of the leaders in some of the Democratic leadership. According to a public-opinion poll last week, the American people, by 83 percent to 12 percent, want to cut spending. The Democrats reject the 83 percent who want spending cuts and refuse to even allow the spending-cuts budget to be voted on. The Democrats sided with the 12 percent who want more spending.

In the same poll, the American people opposed tax increases by 76 percent to 21 percent. The Democrats reject the 76-percent anti-tax-increase majority and side with the 21 percent who want higher taxes.

Three weeks from today the American people can decide whether or not to give the Democrats more votes to raise spending and raise taxes or they can vote Republican for lower spending and lower taxes.

The Democratic Party's slogan is to tax the rich, but their budget today raises taxes on working Americans.

The gentleman from New Jersey [Mr. SAXTON] understands the cost of raising taxes on working Americans. In his State, Jim Florio, a Democratic Governor, has raised taxes massively, and his approval rating has dropped to 18 percent. The gentleman from New Jersey [Mr. SAXTON] calculated today that the Democratic Party budget will raise $654 on a family of four with $44,800 in taxable income. The Democratic plan raises $254 in taxes by reestablishing bracket creep on every American who pays income tax. The Democratic plan raises $135 in an anti-family cut of the real value of dependent deductions. The Democratic plan raises $145 in Medicare taxes, and the Democratic plan raises $120 on the average family in excise taxes.

Let me just say this: if you ask the average American if you have to raise taxes, would you rather raise taxes on the rich, they would probably say yes. If you asked them do they want to raise taxes at all, they almost certainly say no.

Mr. PANETTA. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Louisiana [Mr. HUCKABY].

Mr. HUCKABY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, it is time that we in the House, in the Congress, ended this budget morass. It is time we take a stand. The American people truly deserve better and expect better from us than what they have seen in the last few days, the last few weeks.

The reconciliation package before us is an OK package. It is a fair package. It is a doable package. It is an understandable package.

I think each of us would like to see some changes made, naturally, in the scope and the depth of this legislation. I regret that it does not have a true hard freeze on all domestic discretionary spending, but it does have some real cuts in entitlements. It fixes the Medicare problem. It eliminates the gasoline tax. It does raise taxes on those with an adjusted gross income in excess of $200,000. It takes the rate from 28 to 33 percent.

We are hearing a lot about the fact that this package extends indexing, which is true, but let me point out to my colleagues that before 1986 we did not even have indexing, so one could say that there was an automatic tax increase every year before 1986.

I think that the bottom line is that this is a fair package. It has greater deficit reduction than we have ever had before. Let us make it happen. Let us get on with the business of America.

Mr. FRENZEL. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH of Iowa. Mr. Chairman, with disappointment and reluctance, I rise in support of the substitute before us.

The strength of the Democratic approach is its progressivity; its weakness is the lack of discipline that has been applied to spending.

The Republican alternative which the majority disallowed from consideration this afternoon had the merit of holding down the growth of Government. Unfortunately, it reflected the weakness of ceding to the Democrats of a serious seat at the negotiating table. By voting against the original summit package and then refusing to play within the rules in crafting a congressional response, Republicans found themselves in the first instance with no alternative and in the second with an 80-percent no-show—a plan that came close, but in the final measure, failed to meet the budget resolution's call for a $500 billion deficit reduction package.

I am exasperated that the majority didn't allow a vote an this alternative and accordingly voted against the closed rule which precluded its consideration, but I must acknowledge my side knew the rules and wittingly refused to comply. We have the right to be displeased, but not outraged.

What the House now is confronted with is the pitting of the politics of envy versus the politics of indulgency. While I am disappointed at my party's avoidance of discipline, our refusal to accept the challenge to develop a $500 billion deficit alternative, it is impossible to conclude anything except that the Republican Party is entirely right about placing first priority on the need to restrain the size of Government.

On the other hand, it is clear that given $3 trillion in national debt which will rise another 10 percent this fiscal year, painful, costly decisions must be made. At issue is sacrifice, burden-sharing, and, most importantly, fairness.

This Member would have been unable to support the initial budget package except for the agreement that had been reached between the White House and congressional leadership that the frame work stood, with the priorities open to substantial change. Little, for instance, could have been more indefensible than to have allowed the distinguished senior Senator from Texas [Mr. BENTSEN] to get his way by imposing a tax on home heating fuel which would fall disproportionately on northern homeowners in exchange for substantial new tax breaks for oil producers in States such as his own.

Clearly a confrontation is in the making between the House and the Senate as well as between this body and the White House. It would appear the majority party senses political momentum and prefers the winning of a partisan vote rather than a victory on the substantitive issues at stake. It would also appear that as real as the deficit reduction package is, it is achieved at higher levels of spending than would be good for the economy.

Nevertheless, as a protest against the unfairness of the summit priorities, and as a reflection of a desire to end the bubble but not indexing, I intend to vote in favor of the Rostenkowski package.

At this stage it is imperative that budget negotiations go productively forward. A setback today would send chilling signals to the markets of the world, producing a cascading loss of confidence in the American system. Hopefully, in the face of a veto prospect, negotiations will proceed with the Senate that will produce a product with more restrained spending and optimally a reduction in capital gains.

In any regard, it should be painfully clear that cleaning up the fiscal Augean stable demands discipline from legislators and sacrifices from all Americans. It demands old-fashioned leadership, not new-fangled attention to public opinion polls.

The Rostenkowski alternative has grave warts, but at least it keeps the process moving. Perhaps that's the best that can be said at this stage in the process.

Mr. FRENZEL. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from New Jersey [Mr. SAXTON]

Mr. SAXTON. Mr. Chairman, I rise today to try to draw attention to some things that are true about this package and others that I do not believe are true, at least not wholly.

First of all, it has been claimed that this is a deficit reduction package. That may be true, but it could better be called a tax increase package.

Second, it has been claimed that this is a tax on the rich, and that is partly true, but mostly not true. Let me just explain very briefly if I may.

The gentleman from Georgia [Mr. GINGRICH] stood in this well just a few moments ago and said something about bracket creep. Bracket creep will mean an increase in taxes for the average middle-class family, a family with taxable income of $44,800, of $254 a year. That is calculated. It is indisputable, and I want everyone in this House before they cast their vote today to know that because of that one provision the taxes on middle America will be increased by $250 a year.

Second, there is something called the personal exemption which is also subject to inflationary pressures. In the current tax law, the formula calls for an increase in that personal exemption every year. This year it is $2,050. Next year it would be $2,150.

What does that mean for a family of four? It means they would have an extra $400 of exemptions next year under the current law, but not under the new law that has been proposed.

Under the new law, they would lose $400 of that exemption. At 28 percent for this family, that means an additional tax of $112 a year, so now we are talking about $254 a year, and now we are talking $112 a year.

Let us go one stop further and talk about one other thing here, the Medicare tax. The same family, and this bill raises the Medicare tax on up so that people who make $100,000 a year pay for it. This family who makes somewhere between $50,000 and $60,000 a year gross would pay an additional, I estimate, $145 a year; 254, 112, 145, and finally the excise taxes.

If we consider that all families are going to pay this excise tax, and let us say this family of four pays 35 cents a day, 35 cents a day every day of the year, $120 a year. That comes to a grand total, ladies and gentlemen, of $636 a year for the family with a taxable income of $44,800 a year.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. SAXTON. I am happy to yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding and in showing how this package does tax heavily the middle class.

I think it is important for folks who sit down at the breakfast table to work out their own taxes, if they go to their form 1040 and line 37, they have taxable income of $44,800, under the Democrat plan you lose your right to index inflation into your tax brackets.

What that means, very simply, to the average guy or the average lady making out her taxes, she is going to pay under the Democrat plan more taxes at the rate of 28 percent, and she is going to be multiplying the amount of money that is taxed less at the rate of 15 percent, meaning she is going to be paying more taxes.

Under this example that the gentleman has given of a family with $44,800 in taxable income, very simply, that family is going to be paying $254 more under the Democrat plan than under current law, and current law includes the Repubican package which had no tax increase.

Mr. PANETTA. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Chairman, I started out 3 weeks ago, and I voted no on the original proposal like many of the people in this Chamber. I wanted a budget badly, but I could not live with a bad budget.

I think that today we have before us a package that is much more equitable and much more fair. I note with interest that many of us were involved in that process on both sides of the aisle, and the issue was to cut $500 billion over 5 years through a combination of tax increases, yes, and spending cuts.

□ 1530

Yet today I hear complaints from the other side because they were not permitted to offer a rule or amendment that would have not have met that obligation, but would have only cut $410 million.

So, we are here today, trying to push forward the same kind of goals that we all were focusing on only a few weeks ago. I wish there were a video replay to play because I am listening to a lot of those, who last time were prepared to accept tax increases, suddenly become born again no-taxers. Apparently, the gas tax was OK for some Members on the other side of the aisle last time. It is not OK today. Apparently those other taxes were the most regressive, they were OK. They were not OK today. I think we need to focus on the fact that the tax package before Members today is more equitable, and particularly does ask those in the upper income brackets who are presently paying the same percentage of their income, to be paying a fairer percentage. That it does do that, that it does raise the same amount of money that President Bush signed off on just a few weeks ago, and that the Republican and Democratic leaders signed off on.

So, Mr. Chairman, as I look at this package before Members, about 90 percent of it is roughly the same. I think the American people should know that. We are talking about entitlement cuts agreed on, Medicare cuts agreed on, and the fight is over taxes. One group says we can have no taxes. I wish I could live in La-La Land. I wish it were possible to do that. However, even the President of the United States ponied up to the bar and recognized the need for new taxes. So then the question becomes, and it seems the sole question is, who pays those taxes. I believe it is time for those who have not been paying their fair share, and the tables illustrate that, to begin paying it.

Yes, the tax burden will be spread across all, but it will be spread across the upper income for the first time, much more significantly, than it ever has. Those persons paying over $200,000 a year.

I think it is also important to point out that the other side wants to focus on the domestic discretionary account, that is public investment. My senior Senator from West Virginia says that is the runt puppy of the budget for many years. Indeed, it is $326 billion below the baseline today. The defense budget, I might add, is over $560 billion above the baseline for 1980. In 1980 the public investment was 3.6 percent of the gross national product. Today it is 2 percent.

Therefore, I would urge that we pass this package today. I think it is important to the country.

Mr. FRENZEL. Mr. Chairman, I yield 4 minutes to the gentleman from Oklahoma [Mr. EDWARDS], the distin-

guished chairman of the Republican Policy Committee.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I oppose this bill. First, because it does not contain enough spending cuts. Second, because it contains higher taxes for every American.

I will say this. The Democratic plan is a fair plan. I have heard it suggested that it is not fair. It is fair. It hits everybody. It hits the rich. It hits the middle income. It hits the poor. It hits everybody across the board.

The Democratic solution to the deficit is to have the American taxpayer tighten his belt so the Federal Government can just keep spending more money. Where are the spending cuts in this bill? The American people keep insisting that we in the Congress need to do something about Federal spending. We need to bring Federal spending under control. So where are the spending cuts in this bill? The Democrats were not able to make any real cuts that did not come out of defense.

The Republican plan, I say that in quotes because the Democrats did not allow the Republican plan even to be offered on the floor today, the Republican plan would have contained $8.7 billion in nondiscretionary cuts in the first year, $66 billion over 5 years. That is money taken out of Federal programs out of the bureaucracy, out of foreign aid. Nothing. The Democrats could not find anything. We cut Defense spending by $170 billion over 5 years. We cut $10 billion in foreign aid. The Democratic package could not even cut a dime from foreign aid while they are busy raising taxes on the American people. The Republican alternative, which was not able to be offered, would have given Members the opportunity to cut almost $400 billion in Federal spending over 5 years without raising taxes. The Democrats could not find any nonentitlement programs that need cutting, except Defense.

What the Democrat bill does offer is increased taxes. Despite all these years of experience that would show that increased Federal taxes only lead to increased Federal spending, this piece of legislation is very stark proof that the Democrats in this body have not learned this lesson. The taxes in this bill are of the most regressive nature and hit the hardest those who can afford them the lease. To the Americans who drive to work, Democrats in the House offer a 100-percent gas tax increase over 2 years on top of the dramatic price increases they have already had to endure. To other Americans, they offer excise taxes. More taxes on everything. To all Americans, the Democrats offer increased income taxes by not indexing the tax brackets.

Finally, let me just say that this bill is worthy of opposition for no other reason than the restrictive nature of the debate which the Democrats imposed a gag rule. Not only can the Democrats imposed a gag rule. Not only can the Democrats not think of a way to reduce the deficit except by raising the taxes of the American people, they even prevent the presentation of an alternative so that we can reduce the deficit without taxes.

Because of the elements in this bill, because of the restrictive nature which shuts off debate in the most important part of it, cutting spending, we in the Republican Party have only two choices. We can either vote against this package or we can say to the American people that we have abandoned the plan to cut spending. We will go along with the tax increase. My friends, we are not going to do that.

Mr. PANETTA. Mr. Chairman, I yield myself 1 minute.

The gentleman continues to refer to the fact that somehow we are going to deal with the deficit crisis and not have to confront the issue of revenues. The fact is that the President himself has recognized that reality, and even the Republicans in the other body, to their credit, are willing to accept that responsibility and are sitting down now and designing a package that is made up of spending restraints and revenues. They are not running away from that challenge.

It is time that the Members on that side recognize the same responsibility and confront it. Do not run for the back doors. Stay here. Debate the issues, and make the tough choices in all of these areas.

Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, let me first of all salute my friend from California [Mr. PANETTA] on a job very well done, a courageous effort. We are proud of the gentleman. I would also like to include in this the gentleman from Minnesota [Mr. FRENZEL] who will soon be leaving this Chamber, for his good work throughout the 20 years I have served with him.

Perhaps if I had been on the Committee on Rules I would have fashioned a different rule, but the fact is we are where we are, and we have to move the process forward. We have two very distinct challenges facing Members. We have to meet the Friday night budget deadline in order to avoid a shutdown of government, but we have to avoid that shutdown in the right way. We have to pass a fair and equitable, and balanced budget.

The budget before Members today, with the Rostenkowski amendment which will be offered later today, does give Members that type of a budget. It spreads the tax load, I think, equitably and evenly across the income classes. It reduces the burden on the recipients of Medicare. It eliminates the so-called growth package which really was a euphemism for a series of loopholes that would have made the 1986 Tax Act look like swiss cheese. Finally, among other things, it creates a capital gains reduction, but it targets it for middle income people.

I therefore support the Democratic proposal, and hope the Chamber does and that the President will sign it into law.

I realize that many Americans are impatient and restless with this budget process. This is, however, more than just simply, as the coaches say, about the budgetary X's and O's. This is more than reaching the bottom line. This is a struggle for the heart and soul of our party, for the heart and soul of the Republican Party. It is a struggle to set the direction and tempo of American society into the next century.

This is not going to be decorous or pretty or tidy debate. But, I think we will look back on this as a job well worth the effort.

The CHAIRMAN. The Chair would advise that the gentleman from California [Mr. PANETTA] has 1 hour and 3½ minutes remaining, and the gentleman from Minnesota [Mr. FRENZEL] has 1 hour and 7½ minutes remaining.

□ 1540

Mr. FRENZEL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Chairman, I thank the gentleman from Minnesota for yielding me this time.

Mr. Chairman, the media is seeming to spotlight on several issues and the debate today is revolving around several issues, primarily income tax increases on the American people.

The emphasis is on who is responsible for what, whose fault is where?

But let me tell you, there are a hundred other provisions in this bill of which the American people are unaware.

Not one Member of this body has read the final package we are to vote on today. Among other things, it requires that the American businessman be placed under a bounty system, because it requires the OSHA to go out and raise $1.2 billion in new revenues and penalties. That is just an example of what we are going to be faced with if you do not give us the opportunity to introduce a substitute bill, which we know you are not going to do.

So let me encourage my colleagues to vote this measure down today, and give us the opportunity to come forth with a package that the American people can understand.

Mr. PANETTA. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, what we are seeing today is the

explosion of two economic myths perpetuated by Republican policy over the last decade.

First there was the promise of "read my lips, no new taxes."

Second, the promise of lower taxes for the wealthy through a massive capital gains tax break. When the President retreated from the first and renounced his pledge of no new taxes, he clutched to his bosom the second. Both were bad policy.

Now they are turning out to be bad politics.

Republicans are being hoisted on their own petards. They are sowing dissension in their ranks and being exposed as the champions of the rich. It is a consummation devoutly deserved.

Unfortunately, the Nation is also suffering. At a time when we should be seriously attacking the budget crisis, the Republicans are scrambling to put Humpty-Dumpty together again with a package that dodges the issues, and indeed once again repudiates the President.

The President has continually shifted his position and now the House Republicans come forth with a shifty proposal that is a fig leaf, a fig leaf that fails to mask their inability to meet the deficit reduction targets because they cannot stomach taxing the rich.

There they go again. Read their lips, they say. No new taxes. But I say, once renounced, twice clearly political propaganda.

Democrats are united because we have faced up to our responsibilities, told the American people the truth and produced a plan that is real deficit reduction and is fair.

I call on my colleagues on the other side of the aisle and the President to join us these next 3 days for the good of the country.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, the myth that the Democrats are the party of fairness, the defenders of the little guy against the depredations of the Republican rich, needs a dose of cold reality.

What is fair about delaying the indexing of tax rates? Who gets hurt? Not the wealthiest 1 million taxpayers. They lost their personal exemptions back in 1986; but as Dracula arises from the coffin at dusk, so does bracket creep rise from the dead as Democrat darkness falls on the taxpayers of America. Bracket creep, a favorite tool of the tax-and-spend school of government, was buried under President Reagan. Now it is back and it is going to drain $36 billion from low- and middle-income America.

For example, a married couple with two children with a taxable income of $34,000, hardly opulent, hardly a bloated bondholder, a malefactor of great wealth, would pay taxes in 1991 of $5,100, but that is under present law. Under the new Democrats law he would pay $5,413.50, an increase of $313.50, more than 6 percent.

Is that protecting the little guy? Is that protecting the middle-income person?

This will be a permanent tax increase, even if indexing is deferred only 1 year.

My friends, there is a tax revolt out there in America and some of us seem unwilling or unable to understand this hard reality. The Democrats are addicted to spending and taxes and they support their habit by more and more taxes.

Mr. Chairman, I hope the American people understand who is on their side and who is on the side of fraud and myth.

Let us look at another example, foreign aid. Now, the Democratic package does not touch foreign aid. The Republican package, which unfortunately will not see the light of day, freezes foreign aid. At least it is a benign cut.

Now, we are supposed to get a peace dividend because the Soviet Union is no longer our major adversary. Why does not the peace dividend transcend the defense budget and reach into foreign aid? If there ever was an unpopular program among Americans, it is foreign aid. Could we not do something in that field to save the beleaguered taxpayer? I think we could. The Democrats think we cannot.

Mr. MOODY. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, I say to my friend, the gentleman from Illinois [Mr. HYDE], I understand from staff that the numbers between the Republican package and the Democratic package on foreign aid are virtually identical. It is fun to pander on foreign aid. I do not suggest my friend is doing that.

Mr. HYDE. Did the gentleman say pander on foreign aid?

Mr. MOODY. It would be fun to do so.

Mr. HYDE. I have always supported foreign aid. I believe in foreign aid, but I think the peace dividends ought to occur there too.

Mr. MOODY. The Republican and the Democratic packages are the same on foreign aid.

Mr. PANETTA. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Chairman, I rise in support of the resolution.

Mr. Chairman, there has been a great deal of discussion, particularly about how Democrats cannot make any savings except in the defense area.

Now, I note that the Energy and Commerce Committee generated a $44 billion in savings, but I wanted to go beyond that and talk in a more specific way about finding savings in the social programs in the country.

In looking at this issue, it seems to me the question is how can you find the savings in the social programs without hurting the very poor, those who live in the shadows of our communities. This bill does that. In particular, it does it by finally taking on some of the most powerful lobbies in Washington that have basically gotten a free ride all through the 1980's. For example, all through the eighties the drug companies have taken advantage of the Medicaid Program. They have charged one price to large, private buyers like private hospitals and health maintenance organizations, they got a great price. Medicaid, however, was charged a lot more. The drug companies basically stiffed the Medicaid Program. No large buyer of medicine would pay the price that Medicaid has been paying.

In this legislation, we finally correct that. Instead of cutting once more those on a very low income or the rural hospitals or the inner-city facilities, this bill goes after the drug lobby. It is high time. The bill saves $2.1 billion by finally getting for Medicaid the best price on the medicine it buys. I think that is an example of how we ought to make savings. There has been a lot of talk about how Democrats can't make any savings in the social programs, but the RECORD shows otherwise.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding to me this time.

The gentleman from California indicated awhile ago that those who are working on a tax package that will meet our crisis are statesmen. Well, let us look at the facts.

Over the past 10 years, we have gone from $599 billion in tax revenues to $1.2 trillion, more than double. We are getting $80 billion a year right now in new tax revenues without a tax increase, but that is not enough.

Here is what they want to do. They want to raise income taxes by $93.6 billion; overall taxes, $180 billion.

Now, what does that mean to the average American families, not the rich, but average American families?

□ 1550

To a married couple with two children, it is going to increase their tax liability $313.50 per year. To a single person making only $21,000 a year, it is going to increase his tax liability or her tax liability $151.50 per year. For a family of four making $44,800, it is

going to increase their tax liability $631 a year.

But that is not the whole story, my friends. It is going to take $180 billion out of America's buying power. That means they will not buy $180 billion worth of TV sets, automobiles, refrigerators, or clothes. And when they do not buy those products, that means we are not going to produce those products, and if we do not produce those products, the people that work on the assembly lines are going to put out of work.

For each 1 percent of new employment, it costs the American taxpayer $40 billion out of the Treasury. This is a recession move the Democrats are talking about. It is a major tax increase that is going to put this country into a deep bottomless recession, and it is their fault and they are telling you it is good for America.

I tell you it is baloney.

Mr. PANETTA. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, what the gentleman failed to refer to is the $300 billion deficit, the $3.2 trillion national debt that is robbing the American people of their future. That is what counts, that is what needs to be addressed. That is what the gentleman has avoided.

Mr. Chairman, I yield 5 minutes to the chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, in our democratic system we solve the Nation's problems by shopping in a marketplace of ideas. The bigger the problem, the more ideas we generally have to pick from.

Mr. Chairman, the budget is a big problem, a very big problem. And not surprisingly the marketplace of ideas for deficit reduction is crowded and noisy.

The provision reported out of the Ways and Means Committee without recommendation as part of budget reconciliation represents a modestly improved version of the Budget summit agreement which this Chamber rejected October 5. You will recall that the chief complaint against the summit agreement was that it was unfair, placing too much of the burden of deficit reduction on the backs of those least able to bear it.

The committee reported package repairs the more glaring flaws of the summit. First, it reduces by $10 billion the harsh provisions relating to Medicare beneficiaries, without abandoning the summit objective of achieving significant cuts in spending.

The package also lowers by 1 cent the gasoline excise tax increase which was included in the summit agreement, while eliminating the tax on home heating oil entirely. And it drops a provision that would have required a 2-week waiting period before unemployed persons could receive compensation. The guiding motive behind making both of these changes was to promote equity.

Finally, the Ways and Means Committee's reported bill strips away from the summit agreement $19 billion of revenue-losing provisions. This is, after all, a plan to reduce the deficit, not to make it bigger.

The summit agreement included a collection of so-called small business growth incentives that no one liked. They were intended to promote economic growth. But the only growth these proposals would spark is growth in the tax-shelter industry.

The one revenue-losing provision from the summit which the committee retained was the expansion of the earned income tax credit. This provision is designed to ease the pain of deficit reduction on America's poorest people. Poor people did not benefit from the excesses which created the deficit. We see no reason to ask them to pay for the fiscal cleanup.

Mr. Chairman, we are fast approaching the time when we will have to make a decision on whether we are serious about reducing the deficit. The deficit debate has divided us like no other issue in recent memory. This division has yet to be resolved.

With this thought in mind, the Ways and Means Committee reported this package without recommendation. We believe that the deficit issue should not be settled either in secluded military quarters or by a select few.

Mr. Chairman, my guess is that the committee-reported provisions are everyone's second choice. Everyone seems to have a better idea. But, Mr. Chairman, it is not clear whether any of these better ideas can successfully run the gamut of the legislative process.

This will not be our last vote on a budget deficit package. Whatever the outcome of future votes, it is important that we send the message to the American people, to the markets, and to the world that we are serious about the need for significant deficit reduction. Nothing less than our own credibility—the health of our economy—the standard of living of future generations—nothing short of the national interest is at stake.

Mr. FRENZEL. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Chairman, one of the greatest tragedies of this debate that has been going on for the past several weeks is the creation of what appears to be somewhat of a victory for my colleagues on the Democratic side of the aisle. They have been winning this us-versus-them battle. The class warfare, this soak-the-rich mentality which has had a great deal of success in the media.

Well, our colleague, the gentleman from New Jersey [Mr. SAXTON], has very well outlined the fact that this is not an us-versus-them package. It is one which clearly is going to penalize greatly that middle-income wage earner.

He used in his outline his analysis of the Form 1040 with the family of four with a taxable income of $44,800. He shows that the increase will be $639 for that family of four.

I also want to point to the fact that my great friend from California, the chairman of the Committee on the Budget [Mr. PANETTA], has done a superb job of talking about the issue.

My friend from California has talked about the fact that we need to step up and address the issue of taxes. Very clearly, if we look at the past four decades, for every $1 tax increase, we increased spending by $1.58. We were supposed to have $3 in spending cuts for every $1 in tax increase in the early part of the last decade. Unfortunately, this package continues that pattern of increasing spending even greater than we increase taxes.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman and Members, I rise in opposition to the tax increase package prepared by our Democratic friends. I am just amused at the different estimates that have been made by the people on the Democratic side about the Republican package that they have not seen fit to even make in order.

But the one element that this institution lacks is a sense of discipline to restrain spending. The American public can easily determine for themselves which party is on which side. Our Democratic friends clearly believe we Americans are undertaxed.

That is nonsense. We are just spending too much.

I have a chart here that shows what would have happened to the existing deficit that this year will increase our national debt by some $364 billion, if we had just observed limiting spending increases in the decade of the 1980's to the CPI.

It shows clearly that had we followed just that simple discipline in 1987, the budget would have come into surplus. The reality is that outlay increases in 1980 over the preceding year were 17.5 percent, for instance, and in 1981 over 1980, 13.9 percent. Skipping down to 1985, 11 percent over 1984; indeed 1990 over 1989, 10.6 percent.

The CPI increase all during these years was averaging far less than half of that.

When you look at the voting records of my colleagues on the Democratic side, you will find time after time they have voted against modest reductions

in spending proposals by limiting the increase in the rate of inflation.

This is the alternative we should pursue.

Mr. PANETTA. Mr. Chairman, I yield 3 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. I thank the chairman for yielding.

Mr. Chairman, the American public has rightly become outraged with 12 years of borrow-and-spend, credit card economies, when the rich went on a spree of high living and working America paid for it.

I am excited about what we are going to do today in this House. I am excited about today's Democratic budget proposal. It is a good deal for working America, and for our Nation's elderly. The Democratic proposal finally is going to make the rich pay their fair share and provides long-term investment in working America's future—in small business, in timber, and in home ownership.

Over the past decade the rich have gotten richer and working America has paid for it. The Republican agenda for the past 10 years has been to cut investment in America's future—to cut education, law enforcement, health care, and roads and bridges while the incomes of 60 percent of working America have virtually stood still. At the same time, the wealthiest Americans now enjoy an increase in their income of 87 percent. It's time, Mr. Chairman, to tell the richest 1 percent in this country that their party is over.

The American people have sent a clear message to the Bush administration and to Republicans—working families are not going to take it in the gut to bail out the wealthy. If the President closes down Government again, it will be because he wants to protect the wealthy. The Democrats are not going to put up with this blatant favoritism for the rich.

I am excited. This House of Representatives is going to stand up for working America today!

□ 1600

Mr. FRENZEL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, the so-called compromise agreement was rejected. So, like it or not, now is the chance to offer other alternatives on deficit reduction. But the alternative that Republicans wanted to offer was not allowed to be offered. That alternative responded to the American people by saying we should get deficit reduction with a hard freeze on discretionary domestic spending. Instead, all we are asked to consider is the Democratic alternative which calls for increases in domestic discretionary spending and does it through increasing taxes, not just on the rich, but on a typical middle-class family, at a rate of $610 a year. Most of that is an increase in income tax because of the elimination of an inflation adjustment for the personal exemption and an elimination of an inflation adjustment for tax brackets.

Mr. Chairman, this package should be rejected, and we should get the opportunity to offer a deficit reduction package that emphasizes spending restraint.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New Hampshire [Mr. SMITH].

Mr. SMITH of New Hampshire. Mr. Chairman, I rise in opposition to the Florio-Dukakis tax plan.

Mr. Chairman, in framing the issue I say, "If you vote yes, you vote to raise $160 billion in taxes. If you vote no, you vote to allow us to cut spending by $410 billion without any new taxes."

I say to the American people, "Watch how your Congressman votes. Watch very carefully."

The Democrats say their plan taxes the rich. Let us see who pays these taxes.

I say to my colleagues, "If you are a married couple with two children and a taxable income of $34,000 in 1991, you will pay $313.50 more in taxes under this plan." That is really socking it to the rich.

Let us see who else is rich according to the liberal Democrats. They say, "You are rich if you take an income tax exemption for your kids, you are rich if you smoke cigarettes, if you drink beer, and if you buy an airplane ticket. You are also rich if you are single and your taxable income is $21,000. In that case your taxes will increase by 5 percent."

Then there is the upper rich, not to be confused with the rich. According to the liberal Democrats, if one files jointly and their taxable income exceeds $78,000, they are super rich.

Let us see a show of hands. How many of my super rich colleagues who are voting for the Democrat plan who will be earning $125,000 next year are willing to give their 25 percent pay raise to the super poor?

I say to my colleagues, "Come on. You are super rich. I don't see anybody raising their hand."

Mr. Chairman, I say to the American people, "Beware $160 billion tax increase on every working man and woman. Watch how your Congressman votes. You can pay them back in November."

Mr. PANETTA. Mr. Chairman, I yield myself 30 seconds.

I say, Watch how your Congressman votes, because the test will be whether that Congressman votes for a fair package, for the deficit reduction, and not one that just puts the burden on the middle class and the poor.

Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, 2 weeks ago this Chamber rejected by about 60 percent on both sides a so-called bipartisan summit package that by almost any measure was not fair. It had heavy hits on the middle class on top of 10 years of hits through the payroll taxes and other ways. It has heavy blows on Medicare patients. It hit home heating oil and imposed a 2-week delay on unemployment compensation. Meanwhile it had almost no sacrifice in that package requested of the wealthy. In fact, there were $12 billion in tax giveaways for "growth" and another $4 billion in so-called energy incentives.

However, Mr. Chairman, today we have a chance to pass a very fair package. Both the bare bones package reported out by the Committee on Ways and Means without recommendation and the Democratic substitute are far more fair than the summit package. And they are real. They meet the $500 billion requirement of the President, unlike the Republican plan which does not. The Republican plan claims to cut only $400 billion, or only 80 percent of the assignment. In fact the reconciliation portion of the Republican plan, which we are debating today, only meets its assignment by about 50 percent.

Mr. Chairman, the Democratic alternative before us today is fair. It puts a 10-percent surtax on taxable incomes over $1 million. It asks those who make over $200,000 a year to pay a flat 33 percent of tax rate at the very top rather than dropping down to 28 percent, as they now do. It softens the hit on Medicare, removes the home heating fuel hit, removes the 2-week waiting period on unemployment compensation, and removes altogether the increase in gasoline tax—a heavy part of the excise package we rejected 2 weeks ago.

The key fact, I say to my colleagues, is that the Democratic alternative of the Committee on Ways and Means is the first package of all the packages being considered, that asks the wealthy to pay a greater proportionate sacrifice than the middle class. Every other package fails that test. I hope everyone will bear in mind this critical fact.

I urge adoption of the Democratic alternative deficit reduction package.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Chairman, I thank the gentleman from Minnesota [Mr. FRENZEL], my colleague, for yielding.

Mr. Speaker, I think at the outset it is important for us to understand that we are currently today being taxed in this Nation at record, all-time-high

levels in the history of this Republic. The fact of the matter is, we are not undertaxed, we are overtaxed, and at a critical time when to add to that problem we are threatened by a fragile economy.

Back in January 1987, when our former Speaker, Jim Wright, was first elected, he was reported in the Washington Post as to a statement he made before a Democratic caucus when he was urging a major $65 billion tax increase at that time. Some of the Democrats, understandably, were dragging their feet, and they reminded him that we Republicans accused the Democrats of being the party of tax-and-spend. According to the Post article, Jim Wright says, "Well, it is true. We are the party of tax-and-spend. That is why people sent us here."

As my colleagues know, I would love to campaign against the opponent who gets out in the hustings with me, who says, "Vote for me, folks, and I will tax you, and I will spend your money."

There is some wisdom to Jim Wright's analysis, however. As my colleagues know, according to the Wright analysis, one quotes, "Tax the rich," because they are all Republicans; right? And then it is dispensed to favored groups out there, beneficiaries, to win votes in November. But the fact of the matter is, if my colleagues analyzed the components of the tax package, it taxes the rich, to be sure. They go into a fourth bracket now, 43 percent bracket, if they make $1 million a year. That is going to raise $7.6 billion. But let us look at some of the other components. The fact of the matter is, the only people who will be hit by a freeze on indexation are people defined as lower and middle income brackets. That is over a $17 billion hit there for just indexation freeze—1 year.

Who is going to suffer the most through the gas tax? Seventy-eight percent of the people in the lowest income brackets commute to work. Again, it is a hit on the people most severely in the lowest income brackets.

Beer and cigarette taxes, $15.5 billion; aviation excise tax because we know only the rich fly on airplanes, $12 billion; $10 billion from State and local employees; $5 billion on a 5-year extension of the unemployment surtax.

To be sure, we are creating a situation here where the rich may get a shot, and that can be dramatized, but it is the middle and lower income brackets that are going to take the biggest hit, and I urge Members to reject this continuation of business as usual.

Mr. PANETTA. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Chairman, we have a responsibility to act. The committee has done a good job in bringing before us a way in which we can act and act intelligently.

I feel the greatest mistake this country ever made in any one piece of legislation was the 1981 tax bill, which gave great benefits to large corporations and individuals who are very wealthy and got an undue gift from the Federal Government.

Now, lest anybody accuse me of being antirich, at one time when I was a young lawyer in my firm we represented people like Alfred I. Du Pont, Edward Bok, Charles Doering, among the most wealthy people in this country. I never met one of them that did not feel like he should pay his just taxes. So do not bash the rich. The rich are willing to make their proper contribution. At the present time they do not do so. This bill will make an effort in that direction.

Finally, before I close, I want to say to Members that all the tribulations we are having here today are not going to solve the fiscal situation of our country. There is only one way in which the fiscal situation in our country can be solved, and that is to eliminate programs.

We have a lot of programs, and I am not talking about reducing programs, I am talking about cutting out programs, even good programs. We had an excellent opportunity the other day to cut out the arts and humanities. We also have programs like community development funds, the mass transit funds, and things like that. These programs are good programs but are essentially local in nature. The people are in an antigovernment mood. They are antigovernment, and have an antitax point of view. They do not want to have big government.

We are not answering. The country is not giving the answer that it should to our constituents. The answer that our constituents want is less government. They have a right to ask for that. Thomas Jefferson, the founder of our party, said those who are governed best are governed least. That is something we ought to be hearing today in 1990.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, demagog long enough and you start believing your own demagogy. The Democrats assume that Americans are stupid. The Democrats say that we are here because Reaganomics has destroyed our economy. Mr. Chairman, Americans are not stupid. They have lived during Reaganomics. They remember that policies like the Democratic proposal we have before us today destroyed our economy under Carter. After getting only a small few of his proposals, President Reagan was responsible for lowering interest rates, arresting inflation, and creating 23 million new jobs during the longest growth period in our history.

Our deficits are created by spending, not by too little revenues. Let us reject demagogy and look at the facts.

Our revenues have gone up since 1981 by $500 billion, but our spending has gone up by over $700 billion. It is spending that is the problem, not too few revenues. Revenues have risen by 7.5 percent and spending by 9 percent over the last 10 years.

Americans are not stupid. The Democrats say the rich are not paying enough. Let us look at the IRS figures. They do not demagog. They know who owns what and what they pay.

The top 1 percent of income in this Nation pay 25 percent of the total income taxes paid in this country. The top 5 percent of income in this Nation pay 43 percent. The top 10 percent of income in this country pay over 55 percent of the income taxes collected in this country.

Indeed, the biggest target of the Democrat revenge, the 65,000 taxpayers with over $1 million in income, who represent only 6/100ths of 1 percent of all taxpayers, not only paid 11 percent of all the taxes paid, but they paid 41.3 percent of the total revenue increase in 1988. This means that the Democrats and their allies, like the Kevin Phillipses of the world, are engaged in the most astonishing and destructive, not to mention irresponsible, level of distortion on this issue. The result could be catastrophic for our economy.

The package before us is based on demagogy, and not on facts. This is a very important week for America. We can choose the failed economics of the Carter years that almost destroyed this country, or we can reject this package and come back to the real problem, spending. We can take the Republican economics of cutting spending, increasing growth and jobs, and rejecting raising taxes on middle-income America.

Mr. Chairman, this package will destroy our economy if it becomes law. Let us vote it down.

Mr. PANETTA. Mr. Chairman, I yield myself 10 seconds.

Mr. Chairman, if I might say to the gentleman from Texas [Mr. DELAY], it has been the last 10 years of Republican policies that have brought us to the point where we have to confront a record deficit. That is the problem we need to confront at this time.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the Committee on Veterans' Affairs.

Mr. MONTGOMERY. Mr. Chairman, I rise in support of the Omnibus Reconciliation Act for fiscal year 1991. I want to commend the chairman of the Budget Committee LEON PANETTA

for a job well done. Veterans have been asked to help our Nation reduce a tremendous budget deficit, and I believe they are willing to do their fair share.

Pursuant to the reconciliation instructions contained in the budget resolution, the Committee on Veterans' Affairs met on Friday and adopted a package that CBO estimates will save $627 million in fiscal year 1991 and $3,602,000,000, during the next 5 fiscal years. Our committee is in full compliance with the instructions contained in the budget resolution.

The committee faced the dilemma of weighing our budget directives against our responsibility to millions of veterans who are depending on us to preserve and protect their benefits. I believe the committee met both objectives effectively, responsibly and fairly.

We carefully studied every VA program to determine where these reductions or revenue enhancements might be implemented to cause the least strain on the VA and on veterans who use its services.

In my opinion, these savings can be absorbed without undue hardship on any one VA program or on veterans who receive benefits and use VA services. Most changes in current law would be prospective and, therefore, would protect current beneficiaries. It is a package which I believe veterans generally will understand.

A 627-million-dollar cut in entitlements and increased revenues in the current fiscal year 1991 budget is a substantial amount; however, it is better than the alternative—$1.2 billion under Gramm-Rudman sequestration. Our veterans' benefits system simply could not bear such an enormous blow to its budget.

I support the savings proposals before us, not because they cut veterans' programs. I support them because they will help avert a national disaster. That is exactly what we face unless we get control of the budget deficit. We can no longer continue down the same path of fiscal irresponsibility.

The Committee on Veterans' Affairs has complied with the mandate of the House and I believe we have done our best to come up with a proposal that will not unduly impact our Nation's veterans.

Mr. FRENZEL. Mr. Chairman, I yield 2½ minutes to the gentleman from North Carolina [Mr. McMILLAN].

Mr. McMILLAN of North Carolina. Mr. Chairman, I thank the gentleman for yielding and congratulate him on the excellent work he has done, as well as the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. Chairman, I rise in opposition to the Democratic alternative. As an original supporter of the summit agreement, it is no pleasure to point out that this Democratic proposal has predictably moved too heavily to more unfair taxes to solve the deficit. The Republican substitute, which would have achieved some $25 billion more in spending reductions, has been ruled out of the floor debate.

There were two flaws in the original summit agreement; one was Medicare, which has been corrected by all parties. Second, the possible weight of excise taxes on middle-income people.

The American people must be made aware that the Democratic proposal we are considering today would dramatically increase the tax burden on middle-income American taxpayers, while it purports to "soak the rich."

The second largest tax increase in the Democratic bill is postponing tax indexation, which raises $36 billion over 5 years, not on the rich, but on working Americans.

For the middle-income American who did not want to pay roughly $14 more per year in cigarette taxes or $29 more per year in beer excise taxes, this Democratic proposal will add on this "indexation tax" on the order of $313.50 more for a couple with two children and taxable income of $34,000 per year. So much for tax fairness.

Mr. Chairman, I supported the original budget summit because, above all of the conflicting special interests, the American people expect us to solve the deficit problem, and to do it fairly and now. Political posturing is expected and appropriate at the beginning of the budget process, or in campaigns, but the time for fun and games is over. The expectation of the American people now is for a solution.

Mr. Chairman, I am under no illusions as to what the result of this vote is going to be today. The tax raisers will get their way. But I hope that the resulting conference will act in the national interest and produce an agreement that will attract a bipartisan majority in this House with a bill that the President can sign.

Mr. PANETTA. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. COYNE].

Mr. COYNE. Mr. Chairman, I rise in support of the Democratic fairness alternative.

Mr. PANETTA. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Texas [Mr. DE LA GARZA], the chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Chairman, I appreciate very much the opportunity to speak briefly on this issue, and want to commend the gentleman from California [Mr. PANETTA], the chairman of the Committee on the Budget, who is also a distinguished member of the Committee on Agriculture, and all of the Members who have worked very, very diligently in this endeavor on both sides of the aisle.

Mr. Chairman, this year's long and difficult budget process has placed many unpleasant choices before us. Perhaps for no other committee have these choices been more difficult and painful than for the Committee on Agriculture which I chair.

The budget resolution calls for agriculture spending to be reduced by $1.022 billion in fiscal 1991 and a total of $13.627 billion over the next 5 years.

I come to the floor in support of the omnibus budget reconciliation bill and to briefly explain the agriculture title and what it contributes to the deficit reduction package and what it means for American farmers.

For 4 long days last week the members of the Committee on Agriculture struggled in our individual party caucuses, in a small bipartisan ad hoc group, and finally back to the full committee to come up with a reconciliation package.

This was the most troubling and the most painful budget debate we have ever experienced in the Agriculture Committee. You just can't reduce farm spending by 25 percent from our baseline levels without inflicting pain on somebody. We put proposals on the table, debated them, tore them apart, and put them back together again.

We argued about how to maintain equity among the commodities as we made these cuts. We had to settle on cuts that hit the corn farmers, the wool and dairy producers, the cotton farmer, the wheat producer, the tobacco farmers, and, yes, even the much-maligned honey producer in as equitable manner as possible.

But we made these cuts. We did it in an equitable and as fair a manner as possible. And most importantly, Mr. Chairman, the Committee on Agriculture developed a bipartisan reconciliation package.

Mr. Chairman, I want to take this opportunity to thank Mr. MADIGAN of Illinois, the committee's ranking Republican, for his work, his cooperation, and his willingness to have the committee work in unison. We met the reconciliation targets and we both put our names on the letter that was sent to the Budget Committee notifying Chairman PANETTA of our committee's action.

But more importantly, I want to thank the members of the Agriculture Committee for their long hours of work, their bipartisan spirit, and yes, their strength in making the tough choices we faced.

Mr. Chairman, the agriculture title of this reconciliation bill achieves spending reduction totaling $1.2 billion fiscal 1991, and $13.6 billion over the next 5 years.

How real are these cuts? Mr. Chairman, these cuts are very real. Our proposal reduces the amount acreage eli-

gible for Government income support payments. On top of that, our proposal changes the way we calculate these deficiency payments.

The net result is that we are cutting the level of Government support of farmers by 25 percent from our baseline and a 25-percent cut in our farm bill.

Mr. Chairman, no other group of Americans is giving up so much for deficit reduction.

All the program commodities are sharing in these cuts. Wheat, corn, feed grains, cotton, and rice are all taking a hit.

Dairy and honey producers are taking a hit. Even the farm programs that operate at no Government cost, but receive Government protection, are sharing in this burden too: the sugar cane and sugar beet, tobacco, and peanut farmers.

Mr. Chairman, these are real cuts. Income support for American farmers is being cut because there is nowhere else to cut to meet our deficit reduction goals.

Mr. Chairman, I will note that this reconciliation language amends the House-passed farm bill. At about 4 o'clock this morning House and Senate conferees on the farm bill reached agreement on a 5-year reauthorization of our farm commodity, agricultural research, conservation, food stamps, and agricultural trade programs.

This legislation blends with the policies agreed to in that bill and will, as called for in the budget resolution, reduce the spending in that bill 25 percent below our baseline levels.

None of the changes we make in the agricultural title of reconciliation were made easily. This $13.6 billion package comes on top of the more than $30 billion we have been required to reduce agriculture spending by since 1981.

Finally, I want to bring to my colleagues' attention a clause contained in the agriculture section. That clause states that changes called for in this reconciliation package shall cease to be effective on July 1, 1992, if legislation to implement an agricultural trade agreement resulting from the Uruguay round of GATT is not enacted by June 30, 1992.

Mr. Chairman, the Committee on Agriculture added this clause with the concurrence of the chairman of the Budget Committee, Mr. PANETTA, to send a signal to our trade competitors. That message is that we will not unilaterally disarm American agriculture in the face of unfair subsidies and trade barriers by other nations. In this budget document we are committed to altering our domestic policies to meet budget constraints, but we will not do this without the protection of an international trading agreement.

Mr. Chairman, I hope my colleagues will recognize that if you don't think that agriculture is not being treated fairly in this budget process, you will at least admit that we are bearing a disproportionate share of deficit reduction.

I remind my colleagues that if you abolish the entire Department of Agriculture—and that would include food stamps, nutrition programs, research, and extension—you would reduce the Federal budget by only 4 percent. All of the money we spend on farm price support programs—what is often characterized in the press as the "subsidy for farmers"—amounts to less than 1 percent of the total trillion-dollar-plus Federal budget.

What we seem to forget is that farm programs have enabled us to be the best-fed people in the history of the world, and for the least amount of disposable income of any major industrialized country.

In the package before us today, we have tried to meet our reconciliation instructions in a way that is as fair as possible to farmers. We have tried to do so without disrupting program objectives. But, without question, this package severely alters the structure of farm programs.

The little line that barely shows up on a chart showing farm spending as part of the Federal budget just shrunk out of sight.

□ 1620

Mr. FRENZEL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, at this time of economic anguish here in the United States, on the verge of a recession, the worst thing we can do is to raise taxes. The Democrat reconciliation package includes $93.6 billion in tax increases that will shrink credit, raise interest rates, and guarantee that recession.

With layoffs occurring everywhere in the United States, you would think this tax sacrifice asked of the American people would be supported by a decrease in the size of the Federal Government. With our troops in the field, the only cuts in the Democrat package are in defense. The rest of the Government continues to grow.

This is obviously the opposite of what the American voter wants. I hope the voters recognize this before the election and before the depths of the recession created by this Democrat package.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from Oregon [Mr. DENNY SMITH], a member of the Committee on the Budget.

Mr. DENNY SMITH. Mr. Chairman, taxpayers know that this is a recipe for disaster. This economy cannot take a tax increase as planned by the House Ways and Means Committee. We should not even be in this position.

If we had frozen the growth in spending, the budget would be balanced now. A fair and simple approach, stop the growth in the Federal bureaucracy. Even starting this year we could get substantial savings, a $77 billion increase in revenue from economic growth. That could be applied to the deficit for deficit reduction and would eliminate the deficit in 4 to 5 years.

Instead, the free spending by the Democrats continues. Even under this much ballyhooed deficit reduction package, we have a $15 billion increase in discretionary spending. We have a $50 billion increase in entitlements. It completely wipes out any advantage of increase in revenue from a productive economy.

The President may buy off on this package, but I refuse to swallow this package. This package of Democrat assumptions, Democratic provisions, and Democrat philosophies of government is about to raise taxes over $170 billion first and then ask questions later.

My opposition is not an attempt to protect any segment of our economy. No new taxes means no taxes for anyone, not the largest tax bill ever devised. The costs are passed on to the taxpayers at every opportunity, but our Government gets no smaller. This is business as usual.

Behind my no-new-taxes stance are some fundamental assumptions: Less government; not more. People should be given the opportunity and incentive to make their own decisions about their own lives. Before throwing more money at this huge bureaucracy, we must make it more responsive.

I urge my colleagues to vote no on this proposal. We need a flexible freeze on spending. Balance the budget with no new taxes.

Mr. PANETTA. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, this is an important afternoon. We vote on hundreds of matters in this Chamber afternoon after afternoon. But this vote is particularly important because it is going to affect the people of this Nation for a long time.

It is not an easy vote. When we are talking about increasing taxes and cutting programs, it is very difficult. This vote is going to make the people in our districts unhappy, people who are just trying to make ends meet and do not need any new taxes. But the process must go forward.

I went home this weekend and here is what my people told me: "Go back there. Do what you have to do. Get a budget."

Recently we watched on television, as many of our people did at home, the program on the Civil War. It was a difficult time then, but there were

people in this Chamber like there are today that made the process work. Last night they covered on television Watergate again. A difficult time, but again there were people who made the process work.

This time is no different. Deficit reduction is hard but we must do it.

Also, let me point out, Mr. Chairman, some of my constituents say pass a budget because your President, my President, the President of all of us should focus his attention on the Middle East. He should not be worrying about whether he is going to close down the Government again or whatever he is not. He should be worrying about making sure that we resolve the situation in the Middle East, diplomatically or economically, but so that we do not find ourselves in a war that he did not have his total attention on, which of course he wants to have.

The third reason I think we have to say something this afternoon why this is not so embraceable is the fact that Congress has only had a few weeks to try to put this package back together. Of course, in January we had the budget, and then we had the summit, and then we had the mini-summit, but what we have before us today is probably by far the fairest budget we can do. I really think, Mr. Chairman, we have to get a majority of the votes this day, get it into conference and get it out again, and go home.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, America has two alternatives—we are told the Republican alternative doesn't meet the President's deficit reduction challenge. So the House won't even have the chance to vote on it.

We are told the Democratic alternative is better, even though its supporters obviously don't think it can withstand head on head competition.

Mr. Chairman, contrary to what we are being told the Republican alternative lowers the level of deficit spending. The Democratic tax and spend proposal will do little work than tax us into recession, leaving us with a higher level of deficit spending.

The Republican proposal is progrowth, antirecession, and encompasses spending controls and process reform.

The Democratic plan is soak the rich rhetoric, then business as usual tax, spend, and decline. Anyone who believes this antiprogress and anti-take-home-pay scheme will actually reduce the deficit should be in the market for cheap junk bonds or a gulf-view condo in Kuwait.

The Democrat plan will push the economy over the edge and when we are in recession and the deficit mushrooms they will be pointing fingers, instead of looking in mirrors.

The Republican alternative keeps faith with the taxpayers and with the retirees, and with the young people who will be looking for meaningful employment * * * young people who will be taxed out of jobs by the Democrat tax and spend scheme.

Its time to quit trying to mobilize support for high tax programs by cultivating envy. The Republicans have a positive alternative, let's bring down the deficit by controlling spending, not raising taxes.

The American people are not fooled by all this tax the rich rhetoric. The Democrats have been in control of this House for decades. All the tax hikes and loopholes were not put in place by the Republican minority. We cannot even get our bill on the floor for an honest vote.

Finally, next year when our people are suffering recession, they will know who to blame for no jobs and increasing deficits, it will be the Democrat Party who refused even to permit an alternative from being considered, who will bare the blame. And all your talk about the wicked 1980's won't change the fact that you have taken America back to the depressing 1970's.

□ 1630

Mr. PANETTA. Mr. Chairman, I yield myself 15 seconds just to make clear that the Republicans were not denied the opportunity to offer an amendment. They were denied the opportunity to offer an amendment that did not meet the numbers.

They could have fashioned it in any way they wanted as long as they met the numbers. So this is not the issue of whether or not they had the opportunity to offer an amendment.

We wanted them to offer one that met the numbers that the President wanted us to achieve in terms of deficit reduction.

Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. MCMILLEN].

Mr. MCMILLEN of Maryland. Mr. Chairman, I rise in support of the Rostenkowski amendment and want to commend the gentleman from California.

As had been said many times today, it is not a perfect agreement. Passing it sends a signal to the world that we, in fact, can govern and that we can govern with fairness. Remember, my Republican colleagues, the outline of what the President and the Democratic leadership agreed to, $350 billion in spending cuts over 5 years and $150 billion in revenue. We must make sure that we enforce that formula.

I would like to refute a couple of arguments that have been made on the other side that spending is out of control over the last 9 years. If we look at a chart from the Congressional Budget Office, we will see that interest has grown in the last 9 years by 146 percent. This is the reason why we have a deficit. The S&L scandal, the HUD scandal are costing this Government billions of dollars, and the 1981 tax cut that eroded the revenue base of the Federal Government is costing us billions of dollars.

In fact, if we look at this chart, look at outlays minus interest, true spending, spending has grown by 59 percent, but revenues have gone up by 65 percent, so clearly spending has not been out of control. The fact is we do not have enough revenue, and that is what the President has agreed on.

We must be realistic. Let us put away our electioneering, our partisanship and move forward with a budget.

The second point I would like to make is that if we add this tax increase of $150 billion that the President has agreed on, somehow we are going to throw this country into a recession. We are talking about $19 billion in 1991, less than 2 percent of the budget of the U.S. Government, not only next year, but through the 5 years. If that throws this country into a recession, this country is in a lot worse shape than I thought it was, and it means that we ought to do something serious about the deficit today.

That is why I urge the passage of the Rostenkowski package.

Mr. FRENZEL. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, the distinguished chairman of the Committee on the Budget spoke a moment ago and said that our amendment did not conform to the summit agreement.

I must tell the Members that there is nothing that is being presented on this floor that conforms to the summit agreement. The committee bill and the Rostenkowski amendment do not conform.

I must further tell the Members that, based against the CBO baseline, there is no alternative today that exceeds $500 billion or reaches it. It is only the expanded summit baseline that makes this package before us equal to $500 billion savings.

The reason it makes $500 billion is because the majority was willing to take the baseline from the summit, and to take $500 billion from the summit, but not to take the rest of the summit agreements.

What they are telling us is, "You cannot offer an amendment unless you do the same dumb things we Democrats have done." We Republicans are unwilling to do that, and we will let the public decide whether it was fair for them not to let us offer our amendment or not. We are not going to let Democrats decide what was fair.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Indiana [Mr. HILER].

Mr. HILER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I have been in this body for 10 years, and I must say there have been very few times where the difference between the parties has been as clearly indicated as it is today.

Earlier today the Republicans tried to bring up on this floor a budget proposal which would reduce spending by nearly $410 billion over the next 5 years as our plan to try to get a handle on the deficit, no tax increases.

The Democrats, on the other hand, are bringing proposals forward which would increase taxes by nearly $170 billion. The gentleman from Maryland who spoke just a short few minutes ago, I think, clearly articulated the differences. He said the problem we have is not that our spending is out of control, it is that we do not have enough revenues. That is clearly the difference between the parties today.

The Democrats continue to believe that we have a shortage of taxes, and the Republicans continue to believe we need to strive for more spending cuts.

I believe, as the gentleman from Minnesota has said, that the American public will side with our side.

But getting beyond the tax-and-spend, and spend-and-tax aspects of this, I think it is sheer lunacy, with an economy on the ropes, with $40-a-barrel oil, to be worried about the deficit in 1995. We ought to be concerned about a recession in 1991.

There is absolutely nothing in this package that we are debating today that will help us prevent that recession in 1991. I have yet to hear of a single economist say that if we pass this deficit-reduction plan there is going to be a big dramatic decrease in interest rates.

We have heard maybe, maybe 25 basis points in short-term rates. My friends, anybody who believes a drop in interest rates of 25 basis points in short-term rates will keep us out of a recession is acting in a different world than I think the rest of us are acting in.

Vote the proposal down.

Mr. PANETTA. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, I thank my friend for yielding me this time.

Mr. Chairman, I want to compliment Mr. PANETTA for the masterful job he did in getting us to this point, and to compliment the gentleman from Illinois [Mr. ROSTENKOWSKI], chairman of the Committee on Ways and Means, for the amendment which he will be offering which I think will present the American people as well as this body with a fair budget and tax proposal.

Those who partied during the Reagan years will now be expected to pay their fair share.

But now let me ask: How is it that the Republicans all of a sudden have found a way of dealing with their crisis of not being able to get together? Up until yesterday their position was that they were not going to offer any package at all.

That would not have sounded very good, so they came up with a solution. They offered a package which could not be accepted, could not be accepted because the President has said, and here we are 3 days away from the deadline, the President has said that unless his parameters, $500 billion deficit reduction over 5 years, are met, he will veto the reconciliation package.

So what do the Republicans do? They come forward with a $410 billion package, no taxes. How do they get to that point?

Rollcall, which is the congressional newspaper, spells it out, headline, "GOP Strategists Advise Hill Republicans in Tight Races to Run Against the President." That is what they are doing at this point. They are not running against us. They are running against the President of the United States, the President of their own party.

It seems to me that if we want this process to move forward, to adopt a fairer package, to keep the Government from being shut down again, the thing to do is to adopt the Democratic package and ignore the rule-or-ruin tactic that the Republicans are trying to foist on us.

Mr. Chairman, the crux of the budget debate is this: Who pays more?

Do we reduce the budget deficit by taxing mom, dad, grandma, and grandpa, and leave the millionaires largely untouched?

Over a week ago, this House said "no."

Today, we have a chance to prove that we can reduce the budget deficit, and we can do it fairly. The thrust for a progressive budget package is unstoppable.

Let's be sure of 1 thing. There is a world of difference between this Democratic budget package and the Bush administration's. The Democratic budget raises, $16 billion in revenues for fiscal year 1991, $10 billion of which comes from the 1 percent of Americans with the highest incomes. The Bush budget sought $20 billion in revenues, but only $3.2 billion from the top 1 percent.

Apparently, the Bush administration's concept of balancing the budget is having the lower- and middle-income people pay for the tax increases, see their Medicare payments increased, and watch the tax credits fall to the wealthy.

The clock has run out on the Reagan party for the rich. While we were on Reagan's watch, the size of the Federal debt doubled, the number of millionaires doubled, and one of the most corrupt administrations in U.S. history severely damaged the Federal Government.

President Bush wanted to keep the party going with his budget package. But, in 1990, Congress will not continue to wink at the rich and famous of this country, while socking it to the middle class and the working poor. The American people must be clear on this point.

It is a colossal political blunder on the part of the Republicans to cater to the wealthy with tax cuts and to defend the tax bubble. It's time to make the wealthiest 1 percent pay their fair share and burst the tax bubble.

Let's vote for this budget package. Let's reduce the budget deficit. And let the onus be on President Bush if he insists on vetoing a budget package that is progressive and fair, and let him explain it to the American people. The ultimate question still remains: Who will pay for the Reagan revolution?

Mr. FRENZEL. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding.

Let me make a quick static comparison of the two propositions, well, the one proposition before us and the one that should have been before us, using the CBO static scoring method sanitized for the insular world of Washington politics.

The package before us, the package granted permission to be brought to the floor by the Committee on Rules controlled by the Democrat Party, ask us to vote $170 billion with increased taxes in order to achieve what is scored as $483 billion worth of reduced deficits.

□ 1640

We were denied the right to bring a Republican alternative that would have had no increase in taxes, and would have been scored to reduce the deficit by $410 billion through spending cuts alone. That means there are $97 billion more in spending in the Democrat package brought to the floor than what would have been in the Republican package that was not brought to the floor. There are $127 billion in taxes in the Democrat package brought to the floor that are not in the Republican package that was denied the right to come to the floor.

What is real is that there are real tax rate increases. There are real spending increases. These will survive when we move from Washington to the real world. However, when we get this package in implementation in the real world, should this package be passed, historical precedent tells Members that in the dynamics of the real world, the spending will go up more than what is projected. The tax receipts will go down. We will have an unrealized deficit reduction. The economy will be in a recession, and all that will have grown will have been the size of the Government and the power of the Democrat majority in Congress that has enabled it to deny the American people the right to have considered today, through a Democrat rule, not a democratic rule, to have considered today a nontax increasing real

deficit reduction package. I say, vote "no."

Mr. PANETTA. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, I rise in strong support of the package that is before Members. I think the only responsible decision we can make is to embrace this package, as well as the Rostenkowski amendment.

The deficit crisis we face is real. It is destroying our economy. Our future is being undermined. We are affecting a tremendous transfer of wealth, American wealth, overseas into foreign interests. During the eighties the United States devolved from the largest creditor nation in the world to largest debtor, and we saw our share of the top banks and corportations in the world slip. We are losing control of our economic destiny, as more and more decisions which affect American jobs are made outside the United States.

It is time now to get our economic house in order. We have to begin that process today, not tomorrow. As my colleague from Texas, Mr. STENHOLM, says, "When you're in a hole, and you want to get out, the first rule of thumb is to stop digging." I believe that it is time to stop digging a deeper hole.

The deficit reduction package that we have before Members is as real as the crisis itself. There are no easy or painless solutions. We all know that. There is no quick fix. The spending cuts and revenue increases in the package before us are both needed in order to end the crisis.

The majority of the package, indeed, is spending cuts. Three hundred billion of the $500 billion are spending cuts, and they are real. Make no mistake about it, all Americans will be asked to sacrifice in order to get our economy back on track.

This package will be accepted by the American people if we have the guts today to embrace it, because the American people understand that we have to take control of our destiny. What they insist upon, however, is that the burden of deficit reduction be spread fairly—that there is no category of the population, particularly those wealthy Americans who have benefited the most from the Reagan economic policies—that is exempt from the burden of deficit reduction.

This package is a fair package. It will insist, it will require that the very wealthiest 1 percent of our citizens—Americans who have experienced huge tax cuts in the past 10 years and have seen their income grow from an average of $313,000 to $550,000 per year, so that today they command as much wealth as the bottom 40 percent of the population—will finally have to pay their fair share.

Let Members be clear about two things. There is no way to reach the deficit reduction targets agreed to by the President, by the bipartisan leadership of the House and Senate, without a combination of both spending cuts and new revenues. Let Members be equally clear that the reality of the no tax pledges that so many of our colleagues have taken has been to lock in an unfair tax system and ensure that the very wealthiest among us will be exempt from any of the burdens of deficit reduction. It also means that the lion's share of deficit reduction will fall, again, on middle and lower income Americans—who have been squeezed enough.

We are, in this package that is before Members today, able to dramatically reduce the cuts that were originally going to be imposed upon Medicare recipients. We have been able to eliminate the provision that was calling for a 2-week delay in unemployment compensation payments. We have been able to reduce the burden upon family farmers. we have been able to do that precisely because we were willing in this package to say that the wealthy who have been the beneficiaries of the past years should now stand up and pay their bill for the party they have enjoyed for the last decade.

Let Members get beyond this immediate crisis, and get our country onto a much more positive future. Let Members enact the package today.

Mr. FRENZEL. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Chairman, time is running out on us. It is the middle of October, and still the Congress has not passed a budget. It is a shameful situation. But what is even more shameful is the fact that the Democrats in Congress continue to advocate a tax increase as the solution. They try to shroud the justification for this in talk of tax fairness and equity, but it is not true. The bottom line is that their proposals to add new taxes are being made to cover the fact that they cannot find the will to control spending.

I have heard a lot of talk about tax fairness that everyone needs to pay their fair share.

All of these things of course are true. But the cure proposed by the Democrats is wrong. If you want to eliminate the bubble, eliminate it, that's fair. But do not use that as the excuse to raise taxes on the middle class. What is not fair is the practice of increasing spending and then using class warfare as a justification for raising taxes to cover it. At a time when our economy is slowing down, we do not need higher taxes. And at a time when the fabric of our society is being strained, we do not need to be fanning the flames of hatred and jealousy by invoking class or any other differences.

The Republicans have a better solution: let us cut spending. It is the only real solution to the problem.

Mr. PANETTA. Mr. Chairman, I yield 2½ minutes to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Mr. Chairman, I rise in support of H.R. 5835, the Omnibus Budget Reconciliation Act, along with the Democratic alternative amendment which drops several revenue provisions and reduces the amount to be taken out of Medicare.

Our budget chairman, Mr. PANETTA, said earlier today that this is perhaps the toughest vote we will have to cast all year. Mr. Chairman, I am a member who feels that. Our country has taken a decade-long holiday from fiscal responsibility, and it is a painful and difficult process to turn that around. But the alternative, is the President himself has finally recognized, is fiscal ruin, further deterioration of our dangerously weakened economy. We simply must act, and act decisively. There is no other responsible choice.

That is why the attitude of our Republican colleagues is so disappointing. They have been unable to come up with a package that does the job. They know that even $500 billion over 5 years in deficit reduction would not completely solve our problem, and yet they say that is too much; they simply cannot put a plan together. So they fall back on the stale rhetoric of the past, trying to mask the fact that they do not have a genuine alternative to put on the table.

Well, the Rules Committee did the right thing in saying that the only alternatives that can be offered are those which meet the ground rules laid down by the President and leaders of both parties—namely $500 billion in defict reduction. If the Rules Committee said to us Democrats, "You can miss the target by $100 billion," then of course we could spare ourselves some political heartburn as well. But we wouldn't get the job done that the American people rightly expect us to do.

The fact is, Mr. Chairman, despite all the rhetoric about taxes, that this is a package that mainly relies on spending cuts—two-thirds of the $500 billion in savings. It is not primarily a tax package, but a package of spending cuts and enforcement measures that will send a long overdue signal that America's decade of fiscal irresponsibility is over.

This package is also fairer than many suggested it would be when the budget resolution was adopted 2 weeks ago. The Ways and Means Committee had taken full advantage of the flexibility the summit agreement and the budget resolution gave them, and the

result is a package that shares the burden of deficit reduction far more equitably. The gasoline tax increase is gone—entirely. The home-heating oil tax is eliminated. The most onerous Medical reductions have been removed. And we are finally going to ensure that the wealthiest among us—those who have benefitted most from the shifts in the tax burden over the last 10 years—will pay their fair share.

Yes, Mr. Chairman, it is a tough vote, but it is also a necessary vote. It is a vote that will separate those who simply talk about fiscal responsibility and defict reduction from those who are determined actually to do something about it. It is time to stand up for our children and grandchildren and to stop passing to them the bill for our excesses. It is time to muster the courage to pass a true deficit reduction package, so that we can get to work on the numerous challenges facing our country. I urge a "yea" vote.

□ 1650

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, it seems to me that one just cannot be responsible insofar as the majority is concerned if one is against raising taxes. In the final analysis, there is a not a finer man or a harder worker in this body than the gentleman from California [Mr. PANETTA], but what he has in his reconciliation bill is a giant tax increase and the usual promises for "out-year" spending restraints.

I have not yet seen real deficit reduction since I have been in Congress, and I am in my sixth year now. I have seen a lot of new taxes. They are for real. They come with the summit agreements which are presented to Congress from time to time. I have seen all these pledges about out years, that we will have spending constraints and so forth and so on. That has never happened. Indeed, I think the majority is absolutely incapable of real spending cuts or ever eliminating a program. The bias in this body is for spending and then taking more to cover still more spending.

As a Member of Congress, and mostly I am talking to the majority party, we have got to look in the mirror and we have to see that we, ourselves, are the overspenders. We can't blame anyone else. We, the Congress, the majority party basically, is responsible for the fact that in 1990, this "out-year" of previous summits and of Gramm-Rudman, for instance, ran up a $220 billion deficit when we were supposed to have a big fat zero! That does not count $135 billion in borrowing from trust funds. That is $355 billion of new debt in a year when we are supposed to have zero deficit—a balanced budget, for instance. And next year it is estimated that $293.7 billion of new deficits will be incurred and $145 billion more from trust fund borrowing, or a total of $438 billion will be added to our national debt. That is about $800 billion of new debt, almost a trillion dollars, in just 2 years—at a time when Federal taxes are as great as they have ever been. So the problem is not a lack of taxes! It's simply profligate overspending.

I speak to you people on the other side of the aisle. You have not balanced a budget for 20 years in a row. How do you justify that? You are in control here. And you have got a $290 billion in interest on the national debt that you have to pay out each year for nothing—to transfer to the very rich, because that is the amount of interest payments owed in 1991 to the foreign and domestic investors.

I mean, can you not once in a while look in the mirror and see that you have been prolifigate in overspending and the reason we have got to pay out $290 billion per year that buys nothing is because we have not been able to control our chronic overspending?

It is time that we looked at overspending and had some respect for the evil it represents. It is time for line-item veto power for the President, and real budget reform and, yes, elimination of low-priority programs and a prescription on new Federal spending. None of that is in your reconciliation bill and without those reforms all of your promises to control outyear spending in 1992 to 1995 mean nothing. We know that from experience.

Mr. PANETTA. Mr. Chairman, I yield myself 5 seconds to just urge the gentleman to look at the overall package, because two-thirds comes out of spending restraint and 30 percent comes out of revenue, so I think it is a pretty balanced package.

Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan [Mr. CONYERS], the chairman of the Committee on Government Operations.

Mr. CONYERS. Mr. Chairman, I rise in support of H.R. 5835. In its final form, after all the amendments are adopted, it will be a good bill given the limitations placed on the legislative branch to reach agreement with a President more intent on preserving the privileges of the wealthy than on rebuilding our economy and restoring fairness.

I had hoped to be voting today for a package that is not only fiscally responsible, but also makes major new investments in our people, realizes the full possibilities of an end to the cold war, and fully recovers from the wealthy what was stolen from the rest of the American people during the greedy days of the 1980's.

However, with the adoption of the Rostenkowski amendment on revenues and entitlements, I believe this bill represents a significant step in the right direction.

Mr. Chairman, as the chairman of the Committee on Government Operations which has principal jurisdiction over reforms to the budget process, I also am here to offer my views on title XIV of the reconciliation bill, which makes extensive revisions to the Gramm-Rudman-Hollings law and to the Congressional Budget Act.

It is not easy for me to come before this body to speak in favor of including this title into the Reconciliation Act. In a very real sense we are creating Gramm-Rudman-Hollings 3. I opposed the original Graham-Rudman-Hollings law in 1985. I opposed the revisions made in 1987. And if I could have my way today I would propose a significantly different budget process reform bill.

But this title, like the budget resolution the House passed last week, is a product of extensive negotiations with the administration at the budget summit. Budget task force meetings among relevant House committees have worked out the details of title XIV. Everyone knows the fate of the summit agreement is intimately linked with the budget process revisions and enforcement provisions of this title.

There are two important provisions in this title the American people should know about. First, the surplus in the Social Security trust fund will no longer be able to be used by this "read my lips and read my hips" President to mask the true size of the deficit. Truth in budgeting will be advanced and the elderly better protected.

Second, the administration will no longer be able to manipulate economic assumptions and overestimate tax collections, in order to trigger a sequester to reduce the deficit. As a result, Congress should no longer face the demagoguery of the White House as it tries to blame the Congress for causing a sequester which in reality is caused by unrealistic numbers from OMB.

The changes envisioned by this title will undoubtedly create a straitjacket approach to Federal budgeting. This probably will ensure that greater deficit reduction is achieved than in previous years. On the other hand, it will take a great deal of discretion away from Congress when it comes to setting spending and revenue policy.

For the next 3 years, and perhaps for the next 5 years, our hands will be tied tight. We will have little opportunity to raise new taxes to pay for our mounting social needs, to take advantage of what should be a large peace dividend, and to fund new investments needed to meet our urgent human needs and to make our work force more productive. And outside of today's vote on the Rostenkowski

amendment, we will also have little ability to recoup the huge tax breaks which the wealthy have received over the past decade from supply-side economics. Such restrictions truly make these budget process revisions a mixed blessing.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Iowa [Mr. LIGHTFOOT].

Mr. LIGHTFOOT. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, we have heard a lot of discussion this afternoon about the numbers. We have heard a lot of glowing rhetoric of why one package is good and why one package is bad. I would suggest that people who are watching this should listen to 10 percent of it, the other 90 percent of it put in the trash can where it belongs.

But for just a moment, why are we having this discussion today? I would suggest to my colleagues that it boils down to the simple fact that the Democratic leadership in the Congress does it deliberately in a premeditated plan to force us into government by crisis. When we get into a situation where we have government by crisis with the constant threats of shutting down the Government, who wins?

The answer is, the senior Democratic leadership who wishes to push through a package loaded up with all the wonderful goodies that they want, with all the wonderful taxes that they want. The bottom line of what we have done is make a shambles of representative government because people with different opinions and different ideas who were sent here to express those opinions are effectively shut out of the process.

I think what we have seen displayed here today, the sheer raw power, the sheer arrogance, the sheer push to see that only one package is brought to this floor, is the best demonstration that you can ever see of what is happening in the Congress of the United States, where quite frankly we have four or five men in senior leadership positions who are ruling this country, effectively shutting the American people out. It is time for a taxpayers' revolt. I am ready to sign up.

Mr. SLATTERY. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I have been listening to this debate in my office. It was interesting to think that this country is literally drowning on debt. It is almost like a Titanic headed for an economic iceberg. The debate here is quibbling about room service.

When, oh when, is there going to be a wake up call for everybody in this Government? Each side has something to offer in this debate.

Yes, we ought to cut spending. Of course, we ought to cut spending, and we do so in our package. You are right about that; but yes, we need more revenue. Will you not wake up? We must have more revenue as well. The goal, after all is to reduce the national debt by $500 billion—not some trifling sum.

I have been about 10 minutes on the floor and I have heard the words hatred, jealousy, class warfare. What tired foolish empty rhetoric from people who apparently have walked away from responsibility to govern.

The President sent a budget down here and not one of you on the other side offered it. We made in order a rule that said you could offer it not just that budget—you can tinker with it, you can make changes, and you did not offer it.

Now we have allowed the Republicans who went to the Rules Committee and said, "We want to offer an alternative today, but we can't come up with the $500 billion; $400 billion is our plan. We want to borrow $100 billion more and have the grandchildren pay for it.

What kind of a plan is that?

Then you stand on the floor and blame the Democrats. In ranching country we have a saying that describes that kind of a proposal. "All hat and no saddle."

Why do we not decide to get the best of that both sides have to offer? Why do we not put something together that heads this country in the right direction, that really does reduce the deficit? After all, good government is much more than good sloganeering. Let us decide today to join hands and take the best ideas from each side. The best that both have to offer and put this country back on track.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. GRANT].

Mr. GRANT. Mr. Chairman, I want my colleagues on this side of the aisle to know that I know the gentleman from California [Mr. PANETTA]. I believe that his motives are entirely good in this effort. I know him. He is a decent and honorable man. I think the issue here is that we just fundamentally disagree on how we ought to be approaching the solution to this budget issue. We at least have agreed on one thing, and that is that we need to balance our budget.

There are just four ways that we can do it. We can increase taxes. We can cut spending. We can increase productivity, or we can do some of those three.

The Democrats have said, well, let us raise some money, $150 billion or $180 billion over 5 years. Let us cut some spending and it will add up to $500 billion deficit reduction over 5 years.

Those of us who are Republicans have some problems with their specifics. In the first place, we do not think we need to raise taxes. We pretty much dislike the fixation that has been put here on the rich against the poor. The fact is, we do not want to tax anybody, rich or poor.

There is a simple fact here, too. There are just not enough rich people to go around to spread that much taxes. Instead, we think there is a better way. We can cut Government spending. We can freeze spending levels, and that is real freezes, not spending adjusted for the cost of continued programs, not the silly way, but freezing real spending.

□ 1700

We can cut foreign aid. In our program, if we were allowed to offer it, it would have cut foreign aid by $10 billion.

We could have cut defense by $170 billion. Then we could have cut some entitlement programs on which most of the Democrats and Republicans agree.

The fact of our argument today is that we just do not think we ought to stop at this point, that we are being forced to stop at this point. We would have preferred to continue the negotiations a little further or even had a vote on our proposal.

Now, I did not vote to sequester the Government. I voted for those extensions of the Government. I thought it was reasonable to do so and would have done so again.

I think what we need at this point, Mr. Chairman, is just a little more time.

Mr. PANETTA. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. I thank the chairman for yielding, and I wish to pay tribute, great tribute for the incredible amount of work and effort that the chairman has put into this.

Let us not talk to each other with our own words. Let us hear from somebody else, an interested observer, the editorial in this week's U.S. News & World Report, and I quote:

George Bush dramatically asserts that our nation may not survive the "cancer" of the deficit and solemnly advises us: "When you get a bill, the bill must be paid. When you write a check, you're supposed to have money in the bank." Well, Mr. Bush, America has been writing checks without money in the bank for the 10 years you have been Vice President and President. If deficits were so dangerous, where were you when the Deficit Decade added more than $2 trillion to the national debt? No wonder this turnaround and other flip-flops arouse such cynicism and anger.

Mr. Bush loses more credibility as a fair guardian of the Treasury by his obsession with maintaining the lowest rates that the very rich pay and reducing the capital-gains tax; even Republicans acknowledge that

such measures would increase the deficit by $19 billion over five years. His justification for lower taxes for the rich is that this would actually help middle and lower-income groups by stimulating the overall economy and creating jobs.

Remember that, trickle down? Are you all wet enough yet?

How's that? In the 1980s, when we had low marginal tax rates for the rich, growth rates for the GNP, productivity, savings and investment all went down, compared with the three previous decades when deficits were lower and tax rates were higher. Without the huge increase in second earners, mainly women, there would have been no increase at all in real family income. The truth is that the economy benefits more from lower deficits and lower interest rates than it does from lower marginal tax rates, higher deficits and higher interest rates.

That is a disinterested observer of this process.

We are here after 10 years because of profligate defense spending and two ill-advised tax cuts pushed by two Republican Presidents, supported by the bulk of the Republicans in this House.

Mr. Chairman, it is time to pay the bill. It was a mistake. Now we are trying to cure it. We have got a package of spending cuts and tax savings by virtue of putting back where it belongs the tax rate on people who can afford to pay and not have the middle class get it once again. And the reality is when it comes to step up to the plate to hit that ball, make a home run for America, the Republicans are nowhere to be found. Democrats are going to do this.

If that is what it is going to take, oh, yes, we will do it. And it is not anything that has to do with taxes, that the American people are upset about; it is that they are upset that taxes are being paid by them and not by people who can afford it more.

We are going to rectify that, whether you like it or not, whether the President likes it or not. It is going to be rectified, and the people of this country are going to have a progressive tax system that works for America.

Mr. FRENZEL. Mr. Chairman, I yield 3 minutes to the chairman of the Republican conference, the distinguished gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I would remind the gentleman from Florida that it has been the Democratic Party that has dominated this House for 40 years. The House, by our Constitution, pases appropriation bills. They have their origin here. If the deficit is the result of spending, and I think the public understands that, it clearly lies in the laps of the Democratic majority.

Mr. Chairman, the liberal Democrat leadership plan is a half baked recipe for recession. It cynically panders to the poor, while extending Democratic rhetoric to soak the rich. Twice cynical because their 10 percent tax on those who earn over $1 million raises little money and has the purpose of diverting attention from a cleverly crafted provision to increase taxes on the backs of working Americans.

Tax rates rise from 28-33 percent and hide their plan to return to bracket creep. Remember bracket creep—whereby inflation pushed working families through upper brackets because of inflation alone? That is the time bomb hidden in this political plan crafted with elections only 3 weeks away.

To the liberal Democrat leadership—it's your choice as we go to conference. Will your majority in both Houses decide to govern or will it be business and politics as usual?

Mr. PANETTA. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Montana, [Mr. WILLIAMS].

Mr. WILLIAMS. I thank the chairman for yielding.

Mr. Chairman and my colleagues, the American people have denied the Republicans the majority leadership in this Congress for a third of a century. Today we are witnessing the reason for that. The Republicans in this House do not conduct themselves as the loyal opposition. They are not a political party attempting to govern.

The Republicans in this House are a political terrorist SWAT team. They have taken their own President hostage, and they are using him as a shield against the American voter.

By failing to even develop a budget that meets the Gramm-Rudman budget summit requirements for deficit reduction, the Republicans have adopted a scorched-Earth position of opposing everything, their own President, the Senate, and the House.

These Rambos of the right, unable to govern, have no plan to offer, want no compromise, seek no consensus. They desperately intend this mindless assault of political terrorism to distract, to confuse and to frighten.

The Republicans in this House want to mine the harbors, burn the villages, take no hostages, savage their own President, lay waste to this institution and enrage the public's anger at incumbents and at this Congress.

Make no mistake, they do not want to govern, they only want to lay waste.

You do not deserve to govern, because you cannot govern.

Mr. FRENZEL. Mr. Chairman, I yield myself one-half minute to try to recover from that savage onslaught against this 40 percent of the House for having despoiled America all these years. It is a bit of a surprise that while we have served in our oppressed minority, we have made all this policy, however incendiary.

We certainly apologize to the gentleman from Montana if our 40 percent, which has never been allowed to make an amendment, has disrupted any of his service here in the House with its fierce power.

Mr. Chairman, with that, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman and my colleagues, the real damage of the Democratic budget package is in its rich-versus-poor, soak-the-rich rhetoric.

It will do harm to economic growth in this country. I think it is economic growth which produces the tax revenues. It is economic growth, stalled at the present time, which has made the deficit yawn open.

Liberal Democrats have absolutely learned nothing from the 1980's period of economic recovery. We had the longest period of economic recovery in the history of the United States of America, and we did it with a doubling of tax revenues.

Now, those tax revenues just happened to rise when the tax rates were cut.

One other assault on economic growth: The middle class is about to lose indexing. They say 1 year. Well, it is 1 year and then all the years after it, if they go back to indexing. But who sitting here believes that the taxocrat Democrat Party is going to give up this wonderful source of new revenues for new programs that they can go out and present to their constituency.

Let us face it, Democrats are elected because they provide these presents for all these people.

That is the real difference, ladies and gentlemen, between the two parties; one sees the strength of America as Federal programs provided to as big a constituency as humanly possible, and the other sees the strength at the grassroots back home in our congressional districts.

Mr. PANETTA. Mr. Chairman, I yield 1½ minutes to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. I thank the gentleman for yielding.

Mr. Chairman, in going door to door this weekend, I bumped into a gentleman who had emigrated from England, was recently naturalized, and asked if I had watched the series on the Civil War. He wanted to talk about the budget.

□ 1710

Mr. Chairman, I said, "Yes, I have," and he said, "Do you realize that 620,000 people died to provide this Nation with a strong and vital future, and people like me want you to preserve that, and to make a decision and to lead?"

Mr. Chairman, that is what we are are here today about, and that is why I support the Democratic package.

I feel constrained, not wanting to place blame, to respond to several ar-

guments made on the other side, however, the rhetoric of Dr. Feelgood, and that is in 1980 we were told can solve the budget problem by simply helping the wealthy. In 1990, we are told we can solve the budget problem by cutting the deficit less, and there is no taxes in our package.

I would simply ask, "What do you call the additional $20 billion in interest that the American people are going to have to pay because you fell short today by $100 billion?"

We must adopt the Democractic package. We must lead this country, and we must act responsibly.

Mr. FRENZEL. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Chairman, rather than calling anyone awful or terrible, just maybe we could look at the bill for a second. I am even willing to admit, although we have different roles, we would all like to cut the deficit. I really have never heard of a politician of any party saying, "Let's have a big deficit." So, let us not accuse. We may differ on how we want to get there.

As I looked at this bill, because, as one tries to make decisions, the one thing I do not think has been made clear enough to any of us is that in the particular bill we are voting on 70 percent of the bill is new revenues. Some are taxes, some are user fees, some are increased costs. But for those who talk about savings, as if perhaps there is change in a program addict, differences that would exist past this first year, I think that is disturbing even for those who might otherwise want to support the bill.

In other words, Mr. Chairman, it is the reverse of a TEFRA. This one would be $3 worth of new revenues. We get a dollar's worth of cuts.

Mr. FRENZEL. Mr. Chairman, I yield 1½ minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, at last we are at the moment of truth. After all the skirmishing of the past 2 weeks, after all the various alternatives that have been offered, after all the efforts at compromise, the true colors of the Democrats in the House are revealed this afternoon.

What are those colors? It is the red flag of spending and taxing. The trouble with Democrats is that they have never met a spending program that they didn't want to increase.

And this Democrat tax bill proves that: It says, let us tax consumers with higher taxes on beer, wine, and cigarettes; tax the poor who depend on their old autos by doubling the gas tax; and tax every American with an income above $20,000—that is how the Democrats define the rich—by not indexing their taxes for inflation. Bracket creep—it is the old Democrat shell game: Tax everyone by taking a bigger chunk of their incomes as they struggle to keep ahead of inflation. It's insidious, and it is wrong.

At the same time, the Democrats will not cut spending. Well, that is not quite right. They will cut defense, they will cut protection for our soldiers and sailors in the Middle East. But there is not a Federal bureaucrat they will cut, not a grant to an agency they will eliminate, not a dime of foreign aid they will keep here at home.

So, you say, it's easy to be negative. Where's your alternative? Well, there is an alternative, but you're not going to see it on the floor today. In the absolute height of cynicism the Democrat Rules Committee—not the House Rules Committee—but the Democrat Rules Committee, refused to allow the Republican alternative to be offered. Why? Because they are afraid to let their own Members vote on a plan that cut spending but doesn't raise taxes.

The Republican alternative would reduce the deficit by over $400 billion in the next 4 years. It would do this without making drivers pay more gas taxes, without raising the taxes of every American by freezing bracket indexing, without taxing beer and wine and cigarettes more, without adding a higher Medicare premium for every senior citizen.

How would it accomplish this? By cutting spending. It would freeze—absolutely freeze—spending on all defense and domestic spending programs for 3 of the next 5 years and allow only an inflationary increase in the other two. Simplistic? Perhaps, but the American people by a margin of 83 to 12 percent say that is what they want to do.

Isn't it sad that the American people aren't going to be given an opportunity today to vote on an alternative that would cut spending? Perhaps they'll want to send another message to this House on November 6.

Mr. PANETTA. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, in lieu of several years in purgatory, I have instead listened closely to this debate over the last 3 hours. As I have listened to this debate, I have decided it is important for me to come to the floor and issue an apology.

First, let me say this: I know how difficult it must be on the Republican side of the aisle. They could not find one Member on the Republican side of the aisle of the House to offer President Bush's budget earlier this year. Then, when the President came with his summit agreement, promised the Sun, the stars, and the Moon to the Republican side of the aisle, they could not muster the votes necessary, nor could the Democrats for that matter, to enforce President Bush's idea of how to deal with the budget deficit. So, left to their own devices and their own conference, they were asked to come up with their own plan on cutting the budget deficit, and again they fell short of the mark.

Mr. Chairman, I listened on the floor today anxious to hear how my colleagues on the Republican side of the aisle would deal with these failures, and what I heard from them in their frustration, in their desperation, in their sputtering and gasping for political breath, in their search for someone to blame, they could come out with only two words: Jimmy Carter.

Give me a break. It has been 10 years since Jimmy Carter was President. The Republicans have got to come up with a better excuse.

The fact is that the Republicans have controlled the White House for 10 years, and the fact is that we have had recordbreaking deficits and, if we add all of the overspending of Congress, from $200 to $300 billion in that 10-year period of time, we still have $2 trillion of deficits directly attributable to Republican Presidents.

Now today we face a responsible alternative, and there is only one alternative on the floor because only one met President Bush's criteria. That responsible alternative was addressed by a friend of mine, in my district, last weekend. He came up to me in the shopping center and said, "Congressman, I'm not too happy with what's going on in Washington, but, if you're there fighting so that the people who can afford to pay taxes are going to pay their fair share, keep up the fight."

Mr. Chairman, that is painful for a lot of Republicans to accept. They say that this is our soak-the-rich philosophy, but, if we look at the statistics over the last 10 years of Republican philosophy, of Reaganomics, the middle class in this country have suffered. Sure, higher taxes are being paid by the rich, but they are earning a heck of a lot of more money. That is why they are paying more, and they can pay even more at this moment.

As part of the Democratic plan, we are assessing a tax. My colleagues hear people standing on the Republican side of the aisle saying, "We believe in the economic growth theory of pampering the privileged." Give me another break. If a millionaire cannot afford a 10-percent surcharge in America, how can we impose President Bush's 12-cent-a-gallon Federal gas tax on a working family?

Mr. Chairman, ours is the fairer approach. It is an approach which gives to working families in America a tax break with a new capital gains provision aimed at helping them, not the super-rich.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. IRELAND].

Mr. IRELAND. Mr. Chairman, the Democrats are once again trying to pull the wool over the eyes of the American people with their Democratic tax plan. This new stealth taxation is called the elimination of indexing.

However, my colleagues, it does so at the expense of the real purchasing power of the American people.

This proposal will not add a penny to the taxes paid by the rich. If someone is in the highest tax bracket, when indexing is eliminated they will not be affected at all. But it will add $36 billion in taxes to the lower and middle-income tax-paying Americans. I say, "If you're now in the zero income tax bracket, you could be pushed into the 15-percent tax bracket. If you're now in the 15-percent tax bracket, you could be pushed into the 28-percent tax bracket. While inflation may indeed increase, your income, your purchasing power, stays the same. But you'll be forced into a higher tax bracket, and, lo and behold, under the tax plan of the Democrats, your take-home pay will be reduced."

So, Mr. Chairman, what our Democratic colleagues are proposing is to force taxpayers to feed Uncle Sam before they feed their families. It means less spending power for those who already earn the least. It means an arbitrary pay raise for an already bloated and ineffective Government bureaucracy.

I have a word of advice for lower and middle income Americans. The next time a Democrat says that his party is the party of the lower and middle class, look beyond his mouth. One could very well find his hand in their pocket.

□ 1720

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Chairman, I have watched with some amusement today as the Members of the majority try to paint this budget as reality. Time permits just two examples of the Democratic illusion on spending cuts.

Do you know where they found $9 billion in savings? By raising the Federal bank deposit insurance premium by a small percentage, they claim a $9 billion savings, on the theory that the premium increase will prevent several bank failures and the Government will not have to pay the cost of closing those institutions.

Do you know what happened when the Energy and Commerce Subcommittee on Health and the Environment found that they had raised $800 million more than they expected through fee increases in this budget? Did they apply it to deficit reduction? Oh, no, they created a new entitlement program which will cost $798 million out of the $800 million that they found in new fees. A new Government spending program that they call a savings.

Mr. Chairman, come on. Let us clear the smoke and smash the mirrors. It is high time for a little accountability around here. Reality is upon us, and it is finally time we recognized it.

Mr. PANETTA. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, I read somewhere that someone had written that the next thing worse than a dumb campaign promise is keeping a dumb campaign promise. Somewhere along the line an attractive phrase came up, "Read my lips." The distinguished Vice President took that and climbed his way all the way to the Presidency of the United States.

But any economist can tell you that when you take a look at your books and you find that the third largest item in your budget is just paying the interest on the money that you have borrowed over the last decade, and that you would find that the preceding administration had borrowed more money than all of the Presidents that the Republicans had since George Washington, it seems to me that it is time for the President to take off his campaign hat and put on the hat of the President of the United States and the leader of the free world.

Mr. Chairman, you have to recall it was not that long ago that the President ventured out to Andrews Air Force Base and, with Democrat and Republican leaders, mumbled something that sounded like "taxes." It has not been that long ago that some responsible Republicans have said that in order to meet our reduction in the deficit, we had to cut spending, yes, but we had to raise some money as well.

So it seems to me that if one wants to label the Democratic Party as pandering to the poor, is it asking too much that somewhere in the Nation's Capital we be concerned about the people who are homeless, the people who are jobless, and the people who are hopeless? If that is the label you want to stick on Democrats, then, thank God there is someone here that is willing to have the courage to say that you can only cut so much, and, yes, we have to raise revenue.

Mr. FRENZEL. Mr. Chairman, I yield myself 16 seconds to remind the House that within this budget resolution that the Democrats just voted for, there is a modest increase in the debt ceiling from $3.1 trillion to $5 trillion, making the increases of the past decade look minuscule.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to the omnibus tax increase bill we are considering here today. History has proven that tax increases do not work and several of my colleagues have proven that tax increases are not needed to balance the Federal budget deficit.

Unfortunately, the majority democrats in the House have chosen to prohibit debate on our alternative to this budget package which would balance the budget with responsible controls on spending growth and no new taxes. There is a very basic rule to balancing a budget that most American families understand very well. If you are spending more than you have, cut back on your spending. The Federal budget deficit will not be eliminated unless Federal Government spending is brought under control.

History clearly proves, tax increases lead to spending increases. In fact, since World War II, every $1 increase in taxes, has led to more than a $1.50 increase in Government spending. Now we are being asked to support almost $145 billion in tax increases over 5 years with no significant spending control in sight. Are we supposed to believe that everything is going to be different this time? Worse than that the package will stifle economic growth.

Members concerned about reducing the deficit can start by repealing the 33-percent pay raise that passed Congress last year. How can Congress accept such an obscene pay increase and then call for extra taxes on American taxpayers? Any reconciliation package aimed at reducing the Federal budget deficit should include a repeal of the congressional pay raise.

I urge my colleagues to reject the suggestion that increasing taxes leads to deficit reduction. Further, I urge my colleagues to reconsider the merits of the Republican plan—a balanced budget plan that allows for a strict control on annual spending growth, much needed reforms in the budget process, and progrowth initiatives for a strong American economy.

Mr. FRENZEL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Chairman, here we go again. Higher taxes for virtually all Americans, and not just for the rich. And here we go again, increased spending in virtually all categories, except defense.

That is what this package will do. And what will be the end result? Recession. Recession. It has happened before. It is a return to the Carter days of higher interest rates, higher unemployment, higher inflation, malaise. It is deja vu all over again.

Mr. Chairman, you say Americans want us to govern. Well, they do not

want us to return to the days of higher taxes and more spending. That is not governing. The American people do not care whether it is a Republican plan or a Democratic plan. They want and deserve a responsible budget.

This bill is not responsible. I think we can come up with a responsible budget somewhere between what the Republicans are recommending and what the Democrats have.

The CHAIRMAN. The Chair will notify the gentleman from California [Mr. PANETTA] that he has 14½ minutes remaining, and the gentleman from Minnesota [Mr. FRENZEL] has 15 minutes remaining.

Mr. PANETTA. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Chairman, the proposal before us represents a much fairer approach to deficit reduction than the one this House rejected last week. This proposal does not contain a regressive gas tax hike. It does not make the unemployed suffer by cruelly forcing them to wait 2 weeks for their first check. It reduces the increase in Medicare premiums and the deductible amount. It is fair to rural hospitals, many of which would have gone broke if the summit plan had been enacted.

Of course, there are new taxes. That issue was resolved when President George Bush endorsed new taxes. But what the Republicans do not like is, these taxes are fairly distributed. The very rich pay the most. After all, it was they who partied the hardest during the past 10 years. The result will be lower interest rates and a healthier economy. I suggest the rich will make more money than ever before.

The Republicans offered no alternative. They cannot meet the basic requirement set down by their own President. They cannot get to $500 billion, even with spending cuts. The President, the bipartisan leadership, and the American people asked for $500 billion, but you came up short. If you cannot meet the ante, you do not belong in the game.

Mr. PANETTA. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding. I rise in strong support of H.R. 5835 and for the Democratic alternative, and commend the gentleman from California [Mr. PANETTA] and the gentleman from Illinois [Mr. ROSTENKOWSKI] for their leadership in presenting this package today.

Mr. Chairman, I opposed the summit agreement we had before us before because it did not recognize the realities of life for young American families, and because it gave a tax break to business at the expense of our senior citizens.

The Democratic package before us today is a vast improvement for young and old alike. By eliminating the bubble and placing a surtax on those making over $1 million a year, we have lessened the tax burden on young Americans with young families. As we look to the future, we must examine how our decisions affect young families and those older Americans.

Mr. Chairman, I believe the Democratic alternative does just that. I commend the gentleman from California [Mr. PANETTA] again, and the gentleman from Illinois [Mr. ROSTENKOWSKI] for their leadership.

I would also like to say to Members on the other side of the aisle that the statute of limitations on blaming Jimmy Carter has run out, but it has not run out for Ronald Reagan.

□ 1730

Mr. FRENZEL. Mr. Chairman, I yield such time as he may consume to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Chairman, I stand in opposition to any legislation that will raise taxes and plunge this economy into a recession.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, we have had several Democrats out here today tell us that we cannot solve the deficit without raising taxes, and that is nonsense, technically. Of course we can solve the deficit if we are just willing to cut spending.

What these Democrats are saying in bold and plain terms is that they control the U.S. House of Representatives, in the majority and in every other way, as they have for 36 consecutive years, and that they, the Democrats, will not solve this deficit without raising taxes. And that they, the Democrats, will not cut spending on the domestic discretionary side. That is what they are saying. That is the only thing that is negative here.

We Republicans for years have been advocating cutting spending, at least holding to in part a hard freeze and doing something to let the growth in this economy break us out of this problem, and we have gotten nowhere because we are not in control. We are not in the majority. We are the minority, but we do speak for the majority of the American people.

The overwhelming majority say cut spending, do not increase taxes, and let us be sensible and reasonable. Let us defeat, frankly, for the American people, this abhorrent plan coming out of that side of the aisle, this ridiculous new tax and spend proposal that is not new at all. It is the same old Democrats, tax and spend, tax and spend theme that I have heard the entire time that I have been in Congress.

The American people are sick and tired of it. Let us defeat it. Let us get rid of it, and let us get on with doing what they want, which is cutting the spending on the domestic discretionary side.

Mr. PANETTA. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Chairman, what kind of people have we really become in America? The economy of the Nation is imperiled. There is a hormorrhaging debt. Our future is in doubt, and there is a burden to be borne.

Just as other nations were summoned to war, we are summoned to solve the economic and the fiscal woes of our country.

Who do the Republican minority summon to lead this fight? The elderly, children, people of modest means. And to what end? To protect middle-income people?

Mr. Chairman, the most feared words in America are, "I am a Republican and I am concerned with the middle class." Please, what we ask is a 10-percent surcharge on millionaires, a charge on people who buy yachts and airplanes. That is who we serve to protect.

We have malice for no one, but working families and middle-income people did not benefit from the tax programs of the last 10 years. Children and the elderly received no windfall, and so rightfully now we ask those who have benefited to pay the bureden and to bear the freight.

Mr. Chairman, we ask these things because America is worth it.

I do not know who it is the Republicans seek to serve here today, whether it is holding their own offices or escaping responsibility. But it is time to take leadership. This bill offers that leadership.

Mr. FRENZEL. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, $145 billion in new taxes, that is what we are talking about, and do not forget it. And in just a little while we will hear an amendment be brought to the floor. What is that going to do? It is another higher mess of taxes.

This bill that we are talking about is more disingenuous, more fraudulent than the one that we refused just a week and a half ago.

Ladies and gentlemen, this is a terrible thing we are doing to the American public. The American people are screaming for relief. They are sick and tired of being taxed to death. If Mem-

bers do not believe me, go out in the streets and ask them. Ask them in front of this Capitol, ask them in the supermarkets, ask them anywhere. They want relief.

And I am so sick and tired of hearing about we will not tax the rich, we will not do this and we will not do that. Why do we not start working together like we should? We are elected as a body, and once we are here we should act like a body. Let us bring relief to the American public. The American people need a break, and let us give them a break.

This morning after coming back to the Capitol after spending all night on a conference committee, I smelled a tremendous odor when I got outside the Capitol, and do you know what I think I smelled? The Democrats cooking up another budget. The American people deserve better.

Mr. PANETTA. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, there is something worse than not having a budget Friday and shutting down the Government, and that is a lame duck session. Talk about the voters being mad now. Wait until we go back and face the voters when there is a lame duck session and we haven't acted on the deficit.

House Republicans have their plan, and House Democrats have their plan, but where is President Bush? Where does he stand? Why is he more comfortable negotiating with Gorbachev than he is with ROSTENKOWSKI or BENTSEN? Why does he build coalitions in foreign policy and negotiate face to face, and be totally engaged with foreign leaders, and when it comes to the budget and domestic policy he is not interested. In fact, he is out campaigning for Republican candidates, playing politics?

We are stuck here in Washington. We are absorbing these painful debates with extreme difficulty, both sides, but the President is out. Where is he? We need the President to show some leadership?

The Democratic alternative is a plan that is a dramatic improvement over the budget summit agreement or any other proposal. We have attempted to reflect the strong sentiments of Democrats about tax fairness. The plan is both significant and real.

The deficit reduction issue has served to highlight philosophical differences between Democrats and Republicans. The goal of the budget summit agreement endorsed by the President and the bipartisan leadership was to reduce the deficit by $500 billion over the next 5 years. The Democratic alternative fully achieves that level of deficit reduction, but in a way that is fair to all Americans.

The budget summit agreement which the House rejected on October 4, clearly placed far too much of the deficit reduction burden on Medicare beneficiaries, as well as other low- and middle-income Americans. We have a far superior plan that requires more of a contribution to deficit reduction from individuals who are best able to afford it.

The Democratic alternative also puts an end to the false notion that only wealthy Americans are able to help the economy grow. We have greater confidence in middle-income Americans. This alternative provides savings and investment incentives to the small businessmen, farmers and small investors who are the backbone of our economy. A deficit reduction package that is both fair and real in the best stimulus for economic growth.

Enactment of the Democratic alternative will be a major step forward for our country, restoring fairness to our Tax Code and confidence abroad.

WAYS AND MEANS DEMOCRATIC ALTERNATIVE SUMMARY

1. The proposed level of increased Medicare beneficiary payments would be reduced from the $28 billion contained in the Summit Agreement to $10 billion. Total Medicare savings would be $43 billion rather than $60 billion.

2. The 2-week waiting period for unemployment benefits would be dropped. (This proposal was also dropped from the modified Summit Agreement reported to the House Budget Committee on October 10.)

3. The $2 billion of new entitlement spending, and the $19 billion of revenue losers (enterprise zones, energy incentives, extenders and the so-called "growth" package) would be dropped.

4. The following revenue provisions would be dropped entirely from the Summit Agreement: The gasoline tax and the petroleum tax; the limitation on itemized deductions; the HI tax on State and local government workers; the disallowance of interest paid on corporate tax deficiencies; and the increase in railroad tier II taxes.

5. The following provisions of the Summit would be modified: Airplanes would be added to the luxury tax; and the distilled spirits tax increase would be $1.00 rather than $1.50.

6. To deal with the progressive problem of the Summit Agreement, the Democratic Alternative would add the following provisions: the "bubble" would be eliminated and an explicit 33 percent rate bracket would be added; the rate of the individual minimum tax would be increased from 21 percent to 25 percent; the HI wage cap would be increased to $100,000 rather than $73,000 as provided in the Summit Management; indexing of the tax brackets and the personal exemption would be delayed for one year, and a 10 percent surtax would be imposed on individuals with taxable incomes above $1 million.

[From the AARP News, Oct. 15, 1990]

STATEMENT ON BUDGET RECONCILIATION PROPOSALS

"The American Association of Retired Persons (AARP) believes that it is vitally important that the Administration and the Congress work together over the next several days to enact into law a Federal budget that fairly distributes the burden of deficit reduction among all Americans," said Horace B. Deets, AARP Executive Director.

Deets added, "to meet the test of fairness, this budget should take into account the policies of the last decade which have placed a greater and greater burden on those with modest incomes. Those who are more fortunate must now be asked to pay a little more.

"We are very pleased that the Congress has begun to recognize that older Americans should not be asked to pay more than their share," he noted. "Compared to the original summit agreement, the plans put forward in the House and the Senate over the last week reduce the burden on Medicare beneficiaries by nearly one-half to two-thirds. We are also pleased that the Committees rejected more onerous proposals that would have income-related Medicare premiums or made changes in Social Security.

"This week the Congress has a tough job. Faced with proposals from the House Ways and Means and Energy and Commerce Committees and the Senate Finance Committee, the Congress must shape a Medicare policy that the President and a majority in the Congress will support.

"The Democratic Alternative offered by the House Ways and Means Committee, when combined with the new Medicaid coverage both for low-income Medicare beneficiaries and for children included in the Energy and Commerce package, constitutes a fair and effective proposal. Among its strongest elements are: A Medicare deductible that would not rise above $100; and no increase in the amount that doctors can balance bill their Medicare patients above the additional 25 percent that was permitted in last year's Physician Payment Reform legislation.

Deets noted that the Senate Finance Committee's proposal is "far less acceptable in its present form. With its doubling of both the Medicare Part B deductible and the amount some doctors can "balance bill" their Medicare patients above the Medicare-allowed rate; its very limited protections for low-income Medicare beneficiaries; and its reinstated coinsurance on laboratory services, the Finance Committee's proposal clearly places a much heavier burden on the most vulnerable—those who are sick and those who have low incomes.

"The welfare of Americans of all ages is at stake in this budget debate," Deets concluded. "The across-the-board cuts of a sequester or of a government shut-down would take a dangerous toll on our nation's economy and the millions of Americans—old and young, rich and poor—who depend on government programs and services. It's time to put aside partisan politics and find a solution to the budget crisis that will be fair, equitable and affordable for the American people."

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, listening to the floor debate in my office I was struck by the attempt to tar the Republicans in this House with favoring the rich with tax breaks as though all of the taxes proposed in the Democrat budget package are targeted at the rich.

Come on fellows—who drinks beer and smokes cigarettes and uses public fishing boats and drives the big gas-guzzling trucks—the Republican rich? Horsefeathers. This regressive bunch of taxes is aimed at the American

middle class and has nothing to do with earning power.

It has been the Republicans opposing any new taxes—who proved that no taxes are necessary to get us where we need to go and you would not even let us get it to the floor. Come on you guys. Let's not lay a bunch of fees and additional national sales taxes on the American people. My constituents whom I see every day do not want additional taxes. This is a discriminatory package and rather than creating more jobs, the OSHA provisions which will put a bounty on American industry—to raise revenue—will not do much for employees in the companies under attack.

If one is concerned about the economy, then one must remember that taxes on sales are recessionary. Increases in energy taxes are inflationary. The rhetoric coming from the other side of the aisle may sound like good politics, but Lord help us, it sure makes bad policy and worse law.

Do not lay this mess at our feet—we had no chance to change it. I like what Representative DORGAN suggested. Stop throwing arrows at each other—let us talk together.

And remember that the welfare of the country is more important than either side of this aisle.

Mr. PANETTA. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, first of all I would like to compliment my friend, the gentleman from California [Mr. PANETTA], distinguished chairman of the Budget Committee, for all of his patience and hard work. I also want to pay special tribute to the chairman of the Ways and Means Committee, the gentleman from Illinois [Mr. ROSTENKOWSKI], for attempting to do something that would indeed be much more fair to the vast majority of the American people.

The alternative Democratic budget requires that those who benefited from the Reagan years must help to pay for the Reagan years. It is that simple. It eliminates the tax bubble for the rich. It imposes a 10-percent surtax on incomes over $1 million.

□ 1740

Who can quarrel with that when the middle class has been picking up the tab for the majority of Americans for so many years?

This package is much, much more fair to older Americans. It reduces the unfair hit on Medicare beneficiaries' out-of-pocket expenses. It saves the cost-of-living adjustment not only for Social Security recipients but for Federal retirees and railroad retirees, and it drops a grossly unfair provision contained in the summit deal that would impose Medicare tax on State and local government workers that already are paying their share of retirement coverage.

In addition to that, it is sensitive to the needs of the unemployed, and it drops the 2-week waiting period for unemployment checks.

In addition, it drops the regressive gasoline tax. How can anyone quarrel when the alternative budget will drop the 9-cent gasoline tax and scales back the proposed tax on liquor?

I urge passage of the alternative Democratic substitute.

I voted against the budget summit package, because it placed an unfair portion of the burden of deficit reduction on older Americans and middle-income Americans.

Mr. Chairman, over the last 10 years, the period in our history that I refer to as the lost decade, we saw huge increases in defense spending, enormous tax breaks for the rich, and enormous cuts in programs that benefit middle-income Americans. During this period of voodoo economics our Nation's deficit tripled. Now we are asked to pay for this decade of excess and inequity. Although there are several items in this package that I don't like, no better or fairer plan, that deals responsibly with deficit reduction has been forthcoming from my colleagues on the other side of the aisle. The deficit is a cancer which threatens the future of young Americans. Medicare premiums will not be increased in the first year. I am concerned about increases in the future but I believe that in the future Americans will demand universal health coverage for all Americans. I believe health care is the No. 1 domestic issue and we must address it comprehensively. I will continue my own fight to reverse this funding trend, yet the proposal offered by Chairman ROSTENKOWSKI is much, much fairer than the $90 billion in Medicare cuts that the Republican alternative proposed.

My colleagues claim that there are no cuts in this package and that is not true. Most of the committees in this House met painful reconciliation targets. Yet, the alternative offered by my colleague from Illinois drops a dramatically unfair proposal to impose Medicare HI tax on State and local retirees who already have coverage. The alternative eliminates the regressive and untimely gasoline tax that could cripple our interstate commerce; it drops unfair increases on tier II railroad retirees. Contrary to earlier recommendations, the package keeps a pledge to our civil servants for full cost-of-living adjustments for all Federal annuitants and, still retains a 50–50 lump-sum benefit for Federal retirees age 65 or with 30 years of service. The Democratic alternative drops the absurd 2-week waiting period for unemployment checks.

To do this, our distinguished Ways and Means Committee chairman simply asks us to require that wealthy Americans pay their fair share. This package eliminates the grossly unfair tax bubble. It increases the Medicare HI wage cap from $53,000 to $100,000. It requires the Donald Trumps of this world to pay a little more tax on their yachts and private jets. No, Ms. Helmsly, taxes are not just for the little people. Those who benefited from the Reagan years must be asked to help pay for the Reagan years. I urge my colleagues to support the Rostenkowski amendment.

Mr. FRENZEL. Mr. Chairman, I yield such time as he may consume to the gentleman from New York)

Mr. LENT. Mr. Chairman, I rise in opposition to the Democratic plans.

Mr. Chairman, the farce that we are witnessing today typifies all that is wrong here on CAPITOL HILL.

America is facing a crisis of grave proportions. For months, the President sat down with Democratic and Republican leaders in Congress and together they crafted a budget package. None of us liked that program, but despite my misgivings I voted "Yes," not only to resolve our budget deficit problem but also to restore in some small measure the respect of the American people, which had been lost during the budget debate.

A majority of my colleagues voted to defeat that package. Since then, members of both parties have worked to prepare budget alternatives. The Democrat plan relies more on taxing the middle class than cutting spending. The bipartisan alternative developed by the Senate and endorsed by President Bush tackles the tough problem of spending *cuts* without resorting to overburdening the already overtaxed middle class.

But guess what? None of us will be able to choose between the two budget plans. No Member here will be able to indicate whether he favors increased taxes or cuts in Federal spending. And why will we not be able to stand up and be counted? Because the Democratic Rules Committee has dictated our choice: We must choose the Democratic tax package or nothing at all. We will not have the opportunity to support the bipartisan Senate proposal because, here in the House, the Democrats have a majority and the Republicans do not. It is as simple as that.

Public opinion polls show that the American people are fed up with "business as usual" here in Congress. They are fed up with new taxes and deals struck behind closed doors; they object to a process that shuts out choice; they are tired of the same old tax and spend policies that got us into this mess in the first place.

President Bush attempted to draw us together to pass a deficit reduction package. When that effort failed, the leadership in Congress sought to divide us along partisan lines by eliminating any element of choice from our decision. Instead of discussing and debating the relative merits of our two differing proposals, we Republicans find ourselves shut out of the process, with no alternative but to vote this package down.

And that is exactly what we should do. Vote "No".

Mr. FRENZEL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Oklahoma [Mr. INHOFE].

Mr. INHOFE. Mr. Chairman, I was not going to be speaking today until I heard the gentleman from Florida [Mr. GRANT] use a word that I think is very appropriate. He said that our country today is bloated, and when I think of our country being bloated as it is today, maybe we in the Republi-

can Party have not been doing the right thing.

We have been proposing cuts, and every time we propose a cut, the doctors from the left and the Democratic Party say no, that surgery would not work. We are not going to be able to cut this. So we proposed more cuts, and they say, on the other hand, that it is not going to work.

I think that we have to recognize the fact that we are to the point now where maybe sophisticated surgery is a little bit too late for this patient. Our patient is the country. The country is bloated.

What this country needs is a good enema. I suggest that we reject the tax-and-spend plan by the Democratic Party, send it back and invoke the freeze that the Republican Party is suggesting and give this country the enema it needs.

Mr. FRENZEL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, once I was forced to watch a movie, Mr. Chairman, called "The Attack of the Killer Tomatoes." It was supposed to be pop art and very funny, and I do not know, this debate today, with all of this yelling, reminds me of "The Attack of the Killer Taxers."

We all know there are not enough rich people to carry the burden, and no matter how much ranting and raving there is here about soaking the rich, the middle-class American taxpayer has sensed that there is a dirty little secret here, particularly in the indexing provisions.

I represent what is described in all the political almanacs as a blue-collar Democrat working district in the middle of Orange County, represented for 10 years by Mr. S&L, Jerry Patterson. It is a working blue-collar, 51-percent Democratic district with only 40 percent Republicans. They are not fooled.

Here is a line from the Wall Street Journal. You read it folks. It is today, and I will put it in the RECORD.

I will be submitting about three pages of Government grants that show we are not serious about cutting spending here, just taxing the middle class.

Mr. PANETTA. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I think we ought to ask ourselves why the public is so cynical about government. I think there are two reasons for that.

I think the No. 1 reason is that for 10 years politicians in this country have lied to the American people and simply told them that we could solve this deficit problem with no real tough choices; we did not have to have both spending cuts and revenue increases, and now, thank God, finally, the public is being leveled with.

Finally, even the President of the United States has faced up to the problem, and he is telling people what the facts are. He is telling people, "You have to have both spending reductions and revenue increases to deal with the problem."

That is what this bill does. It levels with the American people honestly today in a way that no budget has done in the last 10 years.

The second reason that people are fed up with their Government is because they think that the wealthy, they think that the high rollers have essentially had the fix in over the past 10 years, and they have been right.

Over the 1980's, the richest 1 percent increased their income after taxes by almost 80 percent. At the same time, the average working American has seen the purchasing power of his income decline about $2,000. And yet just a week ago, the President tried to push a package through this Congress which hit the middle class twice as hard as it hit the very wealthiest people in our society. The public said no. The Congress listened. They voted it down.

Today, instead, we have a much more fair package which, for the first time, says to the very wealthiest people in this country, "Boys and girls, you are going to pay your fair share. You have had the largest benefit from the party in the 1980's, and you are going to help pick up the tab."

You cannot fool the American people. They know this is going to be costly, but they want it to be fair. This tax package is. We ought to support it.

Mr. FRENZEL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Missouri [Mr. BUECHNER], a member of the Committee on the Budget.

Mr. BUECHNER. Mr. Chairman, I imagine that somewhere in the Democrat Cloakroom as they prepare all of the little speeches about fairness and the rich, there must be somebody who says, "You know, the reason communism failed was because there were not enough rich people to tax in Russia," because that is what I hear out here.

Fairness; where does fairness start? Fairness starts by doing the right thing, and the right thing is not a speech. It is not dredging up the old 1930's and 1940's political rhetoric. It is not waving the bloody shirt of class politics and strife. Fairness is, first of all, doing what the American public knows we ought to do, and that is to cut the spending that this Congress has been so profligate with.

Yes, there is an irony out there. The people have elected Republican Presidents who said, "I do not want to tax you," and yet they have given us a Democrat House that has said, "You want it, you got it."

That is not the way you can run this Nation, Mr. Chairman. Let us drop the speeches.

Mr. FRENZEL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I have been listening for a couple of hours now on the merits of this Democratic tax bill, that is right, tax. You are raising taxes to fuel more spending.

One of the reasons that I voted against the summit agreement last week was that it did not freeze Government spending, not cut, but freeze. And guess what, this bill does not freeze spending either.

In other words, spending will go up next year, and so will taxes. Eighty-three percent of the American people believe that the problem with the budget process is that spending is too high.

I worked with the gentleman from Michigan [Mr. PURSELL] and the gentleman from Ohio [Mr. KASICH] on an alternative budget, and the main plank of that budget proposal was to freeze spending. That means this year's spending levels would be the same as last year's spending levels. We saved over $200 billion.

Your argument on your side of the aisle was it did not hit the $500 billion target.

Mr. PANETTA. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I rise in support of the Democratic budget plan and the Democratic alternative.

We are here today because the bill has come due on the Reagan years. The unpleasant reality is that someone must pay for the orgy of tax cuts for the wealthy and increased defense spending we witnessed in the 1980's.

Our task is complicated by the fact that these are difficult and troubling times for our Nation.

Our Armed Forces are eyeball to eyeball with a bloodthirsty madman in the Persian Gulf.

Our economy is stuck in neutral. We have already entered into the first stages of a recession. The only question is how serious it will be.

All of the ingredients are present to make the coming recession the worst since the 1930's.

The issue we are debating here then is a simple one: Who is going to get stuck with the bill for the voodoo economics of the 1980's?

Is it going to be lower and middle income taxpayers and the elderly?

Or, is it going to be the wealthy, who benefited most from Ronald Reagan's generosity.

The budget summit plan that Congress rejected would have placed that burden squarely on the shoulders of

the poor, the elderly, and the working class in this country.

I should say parenthetically that this is not the budget I would have preferred. I would like to see Medicare benefits expanded, not taken away.

I'd like to see a windfall profits tax on big oil included in the package. Such a provision would have more than paid for the reductions in Medicare with money left over.

I would have preferred to see a Social Security tax cut for working people.

In fact, I'd like the plan better if there were no tax increases at all. But that is not realistic. The President understands that.

My Republican colleagues were unable to produce an adequate budget plan made up solely of spending cuts.

Despite its shortcomings, the Democratic alternative is a good plan.

It cuts the deficit even more than the summit agreement.

It would shift the burden to wealthy rather than middle income taxpayers. It would help ensure that the wealthy do their fair share to cut the deficit and strengthen our economy.

It is astonishing to me that the administration and its allies in Congress continue to try to make good on Leona Helmsley's admonition that "only the little people pay taxes."

I do not want to believe that the Bush administration is prepared to allow the Federal Government to come to a halt simply to protect the interests of the privileged few in this country.

How can the President justify telling the poor and the elderly that the programs on which many of them depend for their very existence must close up shop because he doesn't want wealthy taxpayers to pay their fair share of taxes.

With this resolution we say that the Democratic majority in the House has had enough with the policies which have led us to the brink of economic disaster.

We say that we want a progressive tax system. We say that we believe in fairness and equity. We say that we believe in a better America for every American and a better future for our children.

This plan moves us a long way toward those goals.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, maybe it is good that this debate comes late in the session and late in the year and is so close to an election, because this debate focuses us on a watershed choice that tells you all you need to know about the difference between the two different political philosophies, one protax, the taxers, and one no-tax.

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Now, there is a letter that came out today that tells Members the difference between the two, and who is who. This letter is from the National Taxpayers Union, and it says:

A vote for the tax plan proposed by Ways and Means Committee Democrats is a vote for a 7.4 percent income tax increase for a 2-earner couple with two children earning $35,200 of taxable income. It's a vote to make that family pay over $2,000 more of new income taxes through 1995. It's also a vote to take away $600 of tax deductions from every family of four filing a tax return.

It goes on to say, "Millions more middle class taxpayers would find themselves in the 28 percent tax rate bracket." It goes on to say, "The tax increase portion of the committee reconciliation bill also deserves rejection. It represents a larger tax increase than that proposed by the rejected budget summit agreement."

"These higher taxes, and especially higher income tax rates threaten our economy which is already in recession in much of the country." The National Taxpayers Union makes clear that the taxers are the Democrats. The no-tax people are the Republicans. Reject the big tax budget. Reject the taxers.

Look for this particular issue to come up again on election day, because I think the American people will take one look at what has happened on this floor today and throw those Members out.

Mr. PANETTA. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, I share the frustration of my constituents, and I think many people here about the fact that we missed deadlines on getting the Budget Resolution passed, but I want to congratulate the House leadership and the Democrat leadership for the package we have before the Members, and the Democrat alternative.

It shows we have the courage to deal with the deficit. If we will deal with the deficit in a real way, it means we have to increase taxes and reduce spending, and make sure that those funds are used to reduce the deficit.

If it is the leadership of the House, the Democrat leadership that can get Members on target for a 5-year program so that we can reduce the deficit by $500 billion, it is the Democrat alternative that makes sure that we do it in a fair way. In a fair way means less cost to our elderly on the Medicare system, that we can maintain a 25-percent rule that no more than 25 percent of Medicare is paid for by the premiums of the beneficiaries, and we can do it in a way that is fair, that everyone contribute to the cost. A more progressive way, so that those are best able to pay for the costs of the deficit share in the deficit reduction program.

I urge all Members to support the alternative.

Mr. PANETTA. Mr. Chairman, I yield 30 seconds to the gentleman from Florida [Mr. NELSON].

Mr. NELSON of Florida. Mr. Chairman, all this in 30 seconds. If we are going to do anything about the deficit, either we have to raise taxes or lower spending, or a combination of both. That is not very sanguinely approached by Members of Congress.

That is why we have gone to blue smoke and mirrors over the years. Now, we have run out of time, and we have to do something about it. So, that is why we come forth with a package that is real. I support the package.

Mr. FRENZEL. Mr. Chairman, I yield myself the remaining 3½ minutes.

Mr. Chairman, we are at the end of what has been a long and agonizing trial. I want to thank the chairman of the Committee on the Budget, the distinguished gentleman from California [Mr. PANETTA] for a good year's work, and for all the courtesies that he has shown to me. I only wish that together we could have done better, that our heroism would have lived up to our duty, and to the expressions that we made at the beginning of the year.

I would also like to thank the committees and their chairmen who have done better in reconciliation this year than ever before. There are a large number of them. In many cases their contributions were minor compared to the scope of the bill, and yet to the committees involved there was a fair amount of sacrifice. I congratulate the committees, and urge them to do even better in the future.

However, I do want to talk about what this whole game is about. We started with a summit agreement of $500 billion of savings. We are now down to what is a little hard to define because it is a moving target. But, certainly in terms of the CBO summer baseline, it is probably little more than $480 billion in savings. We started with a good deal of reduction of expenditure, and we are now down to more tax increases than domestic expenditure reductions.

This chart and the chart that will follow, I think will explain what I am trying to say. Here is the CBO summer baseline. Here is what this wonderful bill is doing to reduce expenditures. Here is what it is doing to domestic discretionary expenditures. In the next 5 years it will spend $180 billion over the 1990 expenditure level.

As the next tax chart comes in, we will find the tax revenues are also going over the baseline in the Rostenkowski by about $150 billion.

This companion simply means that we are going to take every nickel of taxes and we are going to spend them for additional discretionary expenditures.

How is that for a way to reduce deficits, Mr. and Mrs. America? How do citizens like paying more sales taxes, more employment taxes, and more personal taxes just to let Democrats do that extra spending?

Have we saved anything here? I guess, we saved some defense money. Was that at issue here? No, defense spending is not even before the Members today. Did we save anything else? Yes, a little Medicare, but we came way down from the summit agreement.

This process has produced an erosion of the savings of the summit, an erosion of entitlement savings, erosion of enforcement powers, a buildup of taxes under the theme of tax the rich, and a buildup of extraneous portions of the reconciliation bill.

By my count, Mr. Chairman, in the Rostenkowski Democrat tax and spend bill, a little more than a third of this savings, including the interest, will have been derived from fees and taxes. Thirty-six percent will come from discretionary expenditures, all of which are military spending, and a tiny little 17 percent will come out of mandatory expenditures.

Our goal was a bold and heroic plan, and what we have actually delivered is very, very little. Now, if Members believe that their constituents think that a third of the whole deficit reduction program is supposed to be taxes, then they will want to vote for the Democrat bill, for Rostenkowski.

If Members believe their constituents need to pay more for cigarettes, need to pay for their jobs, and need to give up indexing of their tax rates, vote for the Rostenkowski amendment. If Members believe in cutting expenditures, it is a shame Members could not vote for the Republican alternative.

Mr. Chairman, I rise in opposition to H.R. 5835, a bill reconciling congressional committees to produce deficit reduction in accordance with the terms of the Congressional Budget Resolution for fiscal year 1991, fiscal year 1992, fiscal year 1993, fiscal year 1994, and fiscal year 1995.

In the last couple of weeks, the issue of deficit reduction has generated more hot air, created more hard feelings, and alienated more of the American public—under the guise of budget policy—than it has managed to do since I first came to this body in 1971.

We have heard many accounts of the events which have led us to this moment. The Democrats have their version. The Republicans have their version. The President and the White House staff have their version. The American public watching the budget debacle no doubt has its own ideas on just what has been happening here over the past 9 months. I believe it has decided that the management of this body is incompetent to deal with fiscal policy.

As I see it, Congress was presented a budget by the President last January. It did not like the President's budget, but was unable to muster the votes within its own ranks to pass a budget resolution. So a summit agreement became the vehicle of choice—both sides could play and both sides share the blame. That summit group of White House and congressional negotiators met for over 5 months.

On the eve of the fiscal year, September 30, the summit announced details of an agreement. That agreement promised $40.1 billion in deficit reduction in fiscal year 1991 and $500 billion by 1996. It was not a perfect agreement, but it did promise to achieve significant savings. It was comprehensive and well understood. Perhaps most important, it was an enforceable agreement with enforcement measures unlike any we have ever tried before.

In the wee morning hours of October 5, the House defeated the budget resolution conference report that embodied the summit agreement. It failed because it couldn't gain a majority of votes from either party, much less a majority of the House.

Three days later, the Democrat leadership of the House pushed through a new version of that conference report. That resolution reduced savings in entitlement spending, reduced agricultural savings, further cut defense spending, and increased the amount of unreconciled—unlikely to ever be achieved—savings that would have resulted if Congress had seen fit to pass the earlier summit agreement. Nevertheless, it allowed us to move on to the next step of reconciling the savings called for in the budget resolution.

The budget resolution essentially proposes to reduce the deficit by cutting defense spending, increasing taxes and user fees, reducing entitlements, and increasing domestic discretionary spending. In this reconciliation bill, we are considering the portion of that resolution dealing with mandatory spending and new taxes. The other large piece of the budget resolution—discretionary spending for domestic, international, and military affairs—will be enacted as we consider each of the 13 appropriations conference reports still to come before this body.

This reconciliation bill will yield 77 percent of the deficit reduction called for in the budget resolution. Sixty-eight and one-half percent of the first year savings will come in the form of new fees and revenues. If this bill is passed, fees/revenues will account for 62.6 percent of the 5-year total. That's not the way the American people want to reduce the deficit.

Entitlement spending reductions account for 21 percent of first year savings and 16 percent of the 5-year package. Defense cuts, the only cuts called for in appropriated accounts under the budget resolution, comprise 25 percent of first year savings and 37 percent of the savings produced in the first 3 years covered by the resolution. After 1993, if the Democrats still control this body, we are likely to see the defense accounts contribute substantially more, and domestic discretionary spending increased.

The greatest failure of the summit, and of the Democrat-passed budget resolution is the failure to reduce by even one dollar the amount spent on domestic discretionary programs. Over the next 5 years, domestic discretionary spending will increase by a total of $170 billion in outlays over its 1990 level. This is more than would be spent if we just allowed it to grow at the rate of inflation.

Defense spending will be cut, entitlements will be cut, taxes will go up, but domestic discretionary spending will grow at a rate well above inflation. We can not do anything about discretionary spending in this bill, but as you vote for the Medicare cuts and tax increases in this package, remember some of the pain might have been avoided if domestic discretionary spending were not such a sacred cow.

Reconciliation is always the hardest part of enacting any budget resolution. It requires committees to make tough decisions by producing savings from the programs under their jurisdiction. Within certain parameters, committees can produce those savings by imposing fees or cutting or eliminating planned spending. These are the only two ways to produce real, lasting deficit reduction—raise revenues or cut spending.

This reconciliation bill lumps together the decisions of each of the 12 committees charged with producing savings under the budget resolution. It is an imperfect bill, because everything in it does not contribute to deficit reduction. Some of the committees were unable to produce the savings asked of them. A few of the provisions in the bill produce disingenuous savings.

AGRICULTURE

The Agriculture Committee was charged with producing $1,022 million in savings in the first year and $13,627 million in savings over 5 years. We are told by the CBO that the Agriculture Committee will not meet these directives. It is really hard to debate the merits of the agriculture portion, however, since we have yet to see a final version of the language or a cost estimate—even as debate on this bill is underway on the floor of the House. If legislation implementing a Gatt agreement is not passed by June 30, 1992, the committee's savings will be substantially reduced after 1993. In fact, if an ageement is reached, the savings from agriculture will fall short of the 5-year total by $17 billion.

BANKING, FINANCE AND URBAN AFFAIRS

The Banking Committee was directed to produce $1,507 million in savings in 1991 and $13,258 million over 5 years. The committee reports respective savings of $1,723 million and $13,407 million. The lion's share of the Banking Committee's reconciled savings (65 percent in 1/67 percent over 5) comes from a dubious proposal regarding the bank insurance fund. This measure requires the FDIC to do what it already has authority for under present law—Seidman has already announced an increase on the deposit insurance it requires of banks to 19 cents, with expected increases to 23 cents in the next year.

The Congressional Budget Office [CBO] is scoring this as deficit reduction because it is anticipated that the FDIC will have to raise rates to cover its liabilities. The truth here, however, is that all of the money raised by

FDIC will either go toward paying off depositors or toward raising the bank insurance fund to a safe level. The money will not be applied toward shrinking the deficit. It will only contribute to helping keep the hole from getting bigger

EDUCATION AND LABOR

The committee was directed to produce $215 million in savings in fiscal year 1991 and $3,770 million over 5 years. While it has exceeded its directive for 1991, the committee falls more than $100 million short in meeting its 5-year target. One specific concern I have with the savings reported by this committee is that 87 percent of its first year savings and 51 percent of its 5 year savings come in the form of increased fees and pension insurance premiums. Additionally, $22 million in 1991 savings and $141 million of the 5-year savings are assumed to accrue from civil penalties. No adjustments for behavior changes are included in these particular estimates so they are probably overly optimistic.

Even worse, the committee piled on extraneous and controversial measures having nothing to do with deficit reduction. Child care in the form of H.R. 3 is here. Criminal penalties under OSHA are here. A new college facility financing program is here. Over 100 extraneous provisions, money protecting special interests are hidden in this bill. This is the wrong vehicle for these items and they should be removed from the text of reconciliation and taken up separately based on their individual merits.

ENERGY AND COMMERCE

The Energy and Commerce Committee also excepted its directive for fiscal year 1991, but falls short of producing the required 5-year savings. The committee was charged with savings of $3,731 million in fiscal year 1991 and $43,721 million over 5 years. For fiscal year 1991, the committee is $186 million over target, but falls a whopping $3,157 million short of the 5-year directive. Medicare yields 93 percent of the committee's first year savings and 95 percent of its 5 year savings. Medicare provides will bear the burden of these savings—83 percent.

The medicaid portion of the committee's reconciliation submission contains $506 million in fiscal year 1991 savings and $4,942 million in 5 year savings. Unfortunately for the budget deficit, the committee did not limit itself to measures that reduce the deficit. While it produces these savings, it spends $234 million for new initiatives in fiscal year 1991 and $2,854 million over 5-years. These are no doubt important, worthwhile, and much needed provisions. But the summit agreement this bill attempts to reflect clearly limited new, pay-as-you-go initiatives to fiscal year 1992 and beyond. If an agreement is an agreement, there four provisions should be stripped from the bill and subjected to the same pay-as-you-go standard being applied to all other new entitlement legislation.

INTERIOR AND INSULAR AFFAIRS

The committee was charged with producing fiscal year 1991 savings of $343 million and 5-year savings of $2,018 million. The committee missed its first year target by $18 million, but promises to exceed its 5-year total by $371 million. Ninety-one percent of the committee's deficit reduction proposals come in the form of user fees.

JUDICIARY

The committee was directed to produce $91 million and $495 million, respectively, in fiscal year 1991 and 5-year savings. This bill would increase patent and trademark fees for the 1991-95 period, it would automatically credit these fees to the "salaries and expenses account" of the patent and trademark office, allowing them to be available without appropriation. Therefore, there will be no net savings. Unless the bill is amended to make the additional fees offsetting receipts subject to appropriations, the committee can not be scored with any deficit reduction.

MERCHANT MARINE AND FISHERIES

The good news is that the committee managed to exceed its fiscal year 1991 directive by $18 million and its 5-year directive by $34 million. The bad news is that the committee achieves these targets solely by raising fees. Additionally, the language reported by this committee contains numerous extraneous provisions, including language introducing water quality standards for recreation areas, allowing the acquisiton of real estate, and clearing the way to build another dam. Also, the committee extends veterans' benefits to merchant marines through the Merchant Mariners Fairness Act of 1990 included in this bill.

The really bad news is that a point of order will be made against $1 billion in fees. This bill will soon lose a full billion dollars in savings.

POST OFFICE AND CIVIL SERVICE

The committee exceeds both its first and 5-year directives—$2,165 million and $14,350 million—by $261 million and $110 million, respectively. The so-called reform of the civil service lump-sum retirement benefit is unfortunately not much more than a timing shift. This bill proposes to suspend for 5 years the 50/50 lump-sum benefit. Under this proposal, payments we currently make to Federal retirees who opt for the lump sum would instead be paid out more slowly during their retirement. Since much of the payout takes place outside the 5-year estimating window, eliminating the lump sum saves money in each year of the package. On a long-term actuarial basis, however, the proposal does not save anything.

PUBLIC WORKS AND TRANSPORTATION

Of the 12 committees directed to produce savings in this reconciliation bill, none was more successful in ignoring the budget resolution that the public works and transportation committee. This committee was charged with producing modest dificit reduction of $42 million in fiscal year 1991 and $254 million over the next 5 years. Instead, it succeeded in producing additional direct spending of $240 million in fiscal year 1991 and an incredible $3,204 million over the next 5 years. While the rest of this reconciliation package is at least aimed in the direction of dificit reduction, the public works committee's submission is so far in the opposite direction that it should simply be stripped from the bill as extraneous matter. Some of it will be.

SCIENCE, SPACE AND TECHNOLOGY

Laudably, the committee exceeds its reconciliation directives by $1 million in fiscal year 1991 and $8 million over the 5-year period. The entire $6 million fiscal year 1991 savings and the $33 million 5-year savings is derived from user fees. Additionally, the committee submission includes four clearly extraneous provisions: one authorizing a study to identify new, potential user fees, one establishing a mandatory radon program at EPA, one containing the complete title III language of H.R. 5170—FAA research, engineering, and development authorization act of 1990—and another containing the provisions of section 2 of H.R. 4887—catastrophic failure prevention research program. I believe we should accept with gratitude the real deficit reduction produced by the committee, but respectfully request that the extraneous matters be considered in the normal legislative process.

VETERAN'S AFFAIRS

The committee was directed to produce savings of $620 million in fiscal year 1991 and $3,350 million over 5 years. It exceeds these targets by $7 million in fiscal year 1991 and $252 million over 5 years. All but $73 million of the total veterans' package deficit reduction is achieved through program reforms, rather than increased user fees.

WAYS AND MEANS

By far the largest portion or reconciliation is achieved through language submitted by the ways and means committee. It is important to note, however, that this package contains none of the economic growth incentives envisioned when the summit was convened or reiterated with the President's repudiation of his "no new taxes pledge."

The committee achieves $22,873 million in savings in fiscal year 1991 and $198,235 million over 5 years—$5,328 million and $3,832 million more than directed in the budget resolution. Taxes account for $19.4 million of the fiscal year 1991 savings and $52.8 million of the 5-year savings.

SUMMARY

When the summit mechanism was created last spring, the order was placed for $50 billion in deficit reduction in fiscal year 1991 and $500 billion by 1995. The original summit agreement defeated by this House on October 5 offered savings of $40.1 billion in fiscal year 1991 and $500 billion by fiscal year 1995. The budget resolution agreed to on October 8 will produce an optimistic $38.8 billion in savings in fiscal year 1991 and $483 billion over the 5-year period.

This reconciliation bill will implement the largest portion of the $38.8 billion in savings called for in the budget resolution. It produces $29.9 billion in deficit reduction in fiscal year 1991 and $246.2 billion between 1991 and 1995. This reconciliation bill accounts for 77 percent of the total first year savings—defense contributes the rest—called for in the budget resolution. It comprises 51.5 percent of the 5-year total.

New revenues, not including those user fees scored as entitlement savings, account for 64 percent of this bill's first year savings and 58 percent of the 5-year total. With respect to the total budget resolution package, revenues as defined in this bill, account for 50 percent of the fiscal year 1991 deficit reduction and 30 percent of the 5-year package total.

If we consider user fees to be what they really are—new taxes, the total revenue component of this reconciliation package grows to 68.5 percent in fiscal year 1991 and 62.6 percent of the 5-year total. Compared to the total budget resolution parcel, combined user fees and revenues in this reconciliation bill total $20.5 billion—53 percent—in fiscal year 1991 and $155.7 billion—32.2 percent—over 5 years. If the Democratic alternative is passed, taxes and fees will contribute 36.7 percent of the 5-year total budget package.

I oppose this reconciliation bill on its own merits and because it is an integral part of the Democrat-designed and Democrat-passed budget resolution. Aside from its attack on defense spending, this package is short on spending cuts and long on taxes.

The only discretionary spending cuts provided for in the entire budget resolution are those in military spending. Defense cuts account for 25 percent of the real entitlement spending reforms only account for 21 percent of the fiscal year 1991 deficit reduction package and 16 percent of the 5-year promise. Outlays for domestic discretionary spending will grow $128.3 billion over 1990 levels by the end of this 5-year package.

No matter how you view it, this is a tax-heavy proposition. The deficit reduction in this Democrat-sponsored reconciliation bill and the budget resolution which begat it, squarely place the burden of deficit reduction on the shoulders of the taxpayer. Until the American public gets a little relief from the congressional pork barrel, I will not support such onerous tax increases.

Mr. PANETTA. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, when all the political dust settles here today, it is critical for Members to vote to reduce our deficit. Our Nation's economic future is clearly in jeopardy, and I am pleased that President Bush has acknowledged this.

I must admit that I am deeply worried about how our country will deal with the next recession. In every recession since the Great Depression, our Government has either cut taxes or increased spending to stimulate out of a recession, and that is exactly what Ronald Reagan did in 1981.

My colleagues, what are we going to do to stimulate out of the next recession when we go into it with a $200 billion deficit? We could easily see a $300 or $400 billion deficit, that has to be financed by foreign capital. The only way we could attract foreign capital is with high interest rates. Yet at home, the only way we could stimulate the economy is with lower interest rates. My friends, we would clearly be in a jam where we would have one foot on the economic accelerator and one foot on the economic brake.

Mr. Chairman, as we look at this package, we must not lose sight of some basic facts. This is a $500 billion 5-year deficit reduction package. It is the largest deficit reduction package that we have voted on in recent years. It contains real cuts and real revenues, with real budget process reform. Of this $500 billion total, two-thirds is from spending reductions. Yes, we are making some tough spending cuts in entitlements, in defense, and in agriculture. One-third is from revenue.

Mr. Chairman, let me point out to my colleagues that the President endorsed a revenue increase of $130 billion in the summit agreement.

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In fact, Mr. Chairman, the President went on national television to urge us to vote for this $130 billion revenue package.

Well, the American people responded. They called us and they said, "Don't vote for it," and the reason they did is because they thought it was unfair, and they were right.

This plan makes some changes. The ROSTENKOWSKI plan drops the 12-percent gasoline tax, a regressive tax that was wrong, and in its place we have a modest increase in the income tax rate for those people in this country who have an income of more than $185,000 a year.

Mr. Chairman, the easy vote today is "no." You can go home and easily justify your vote, to the applause of many special interests, but there is one special interest who will not hear you. They are too young to understand what we are doing today. They are the kids who will have to pay every dollar of every bill that we refuse to pay, and it is simply immoral for us to continue this policy of the last 10 years.

Mr. Chairman, I urge my colleagues to vote for this reconciliation package.

Mr. PANETTA. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, I also want to express my thanks to the gentleman from Minnesota [Mr. FRENZEL] for the cooperation he has shown me during this battle. My only hope was that we could have worked together on this package.

The American people expect us to face up to the challenge today, not to run from it, not to kid them, but to face up to it. They have heard a lot of excuses. The time for excuses is over. This is the time to make tough choices; $30 billion in savings the first year, $250.7 billion in savings over 5 years.

Americans want to believe in us, but to do that we have to believe in ourselves and have the courage to make the tough choices. Let us make them by voting for this package today.

Mr. KYL. Mr. Chairman, there has been a lot of talk about fairness by our colleagues on the Democratic side of the aisle. But, this tax bill fails every test of fairness.

A family of four earning $35,200 would see a tax increase of 7.4 percent under this plan. A single person making $21,000 a year will find a tax bill 5 percent higher. Tax the rich? Families earnings $35,000 a year are going to be very surprised to learn that they are now among the rich.

The truth of the matter is that the Democrats aren't talking about taxing the rich; they are talking about taxing every American.

Mr. Chairman, Federal tax collections have doubled in the last 10 years. Apparently, a mere doubling of revenues isn't enough. The Democrats now want to levy the largest tax increase in American history—not on the rich—but on all Americans, even those with modest incomes.

This bill would delay indexing of tax brackets and personal exemptions. That one provision represents $36 billion out of the pockets of all Americans over the next 5 years. The increased Medicare premium and deductible will force senior citizens to shoulder a disproportionate share of deficit reduction. It lays the foundation for a new national sales tax under the guise of luxury taxes. It taxes alcohol and tobacco.

The Democrats want the American people to pay significantly higher taxes so that Congress can continue its spending binge. Look at the spending bills the House of Representatives has passed so far. The VA–HUD appropriations bill 17.3 percent over last year's levels. The Labor-Health and Human Services-Education bill which totaled 11.3 percent over last year's levels, a $17.3 billion increase. The Agriculture appropriations bill totaled 11.5 percent more than last year. The Treasury-Postal Service appropriations bill came in at 12.3 percent more than last year.

If taxes are increased, does anyone really believe that spending will be constrained? I don't think the American people are fooled by this package. It is tax and spend all over again.

I urge my colleagues to oppose the bill.

Mr. GRADISON. Mr. Chairman, the debate over the budget and the approaching election have focused attention on the economy during the eighties. So far, the Democratic interpretation is prevailing in the media and threatens to become the conventional wisdom. Their interpretation, however, is wrong. As Alan Greenspan once said, "Everyone is entitled to their own opinions, but not their own facts."

Stripped of the rhetorical veneer, the Democrats' arguments can be seen for what they are, the politics of envy. These arguments are too important to let go unchallenged.

FAMILY INCOME

Democrats have had a field day with statistics and demonstrate little or no change in real, that is, after inflation family income since the early seventies. The cause of this is hardly Republican policies. Rather, it is two external oil shocks and the inflationary period of the Carter administration. It has taken the longest peacetime expansion in our Nation's history just to gain back lost ground.

This is also true when you look at family income by income groups, The following table shows that all groups lost ground from 1973 to 1981 and all groups gained during the eighties. The rich did not get richer at the expense of the poor; rather, everyone got richer. To complain that someone got richer faster than someone else is to engage in the politics of envy.

CHANGE IN REAL FAMILY INCOME BY QUINTILE AND RACE

[In percent]

Quintile	1973–81	1981–88
Top fifth	−5.5	20.6
2d fifth	−5.8	12.9
3d fifth	−7.9	10.2
4th fifth	−12.0	8.7
Bottom Fifth	−15.8	5.6
Whites	−7.1	15.0
Blacks	−7.4	16.5

It is also worth noting that while the income of black families fell during the seventies slightly more than white familes, since 1981, black family income has risen faster than white family income.

A NATION OF HAMBURGER FLIPPERS?

Democrats often allege that we are exporting all our good jobs overseas. The facts are otherwise. The unprecedented job growth of the eighties has been in good jobs at good wages, and has been in higher paying jobs than the jobs created during the seventies.

We are becoming a high-technology, service-oriented economy, but we are, at the same time, maintaining and expanding our manufacturing base. Manufacturing's share of GNP today is at its historical average and has been climbing since 1982 after a significant decline during the seventies.

TAXES AND THE RICH

Recently, the Democrats have been resorting to appeals to class distinctions, claiming the rich aren't paying their fair share of taxes. To rectify this injustice, the Democrats seek to raise marginal rates and impose a surtax on millionaires, a stark reversal of the goals of the Tax Reform Act of 1986.

The facts, however, indicate that the rich are paying at least their fair share of income tax. The share of Federal income taxes paid by the richest 1 percent of taxpayers climbed from nearly 7 percent in 1981 to over 13 percent in 1986—almost a doubling—and the richest 5 percent of Americans paid almost 43 percent of all Federal income taxes in 1986.

By contrast, the poorer half of Americans pay only 6.2 percent of Federal income taxes, down from 6.8 percent in 1979, and the poorest 25 percent pay less than 1 percent of all Federal income taxes. The income system is progressive.

Mr. Speaker, I would also like to make one more point. The Democratic reconciliation alternative delays indexing for 1 year. This would hit the middle class hard and would mark a temporary return to the bracket creep of the seventies. It represents over 10 percent of the tax revenue raised by their plan.

We need a budget that is based on equity and facts, not hypocrisy, cynicism, and the politics of envy.

Mr. HEFLEY. Mr. Chairman, today we are witnessing a triumph for left-wing politics in America. After having their pro-tax candidates completely defeated in the previous three Presidential elections, their strong-arm congressional leadership run out of office in disgrace, and their remaining leadership divided and weak, the Democrats have rebounded to what can only be described as one of the great come-from-behind victories of all time. This reconciliation package is the symbol of that victory.

Just what does this "victory" mean for the American taxpayer?

A record tax increase: Americans currently carry the highest peacetime tax burden in history. This plan would add to that burden a record tax increase of $144.7 billion over the next 5 years. If you include increased user fees and other expenses, this package will increase the cost of the Federal Government to Americans by $177.7 billion.

Abuse of Federal trust funds: This package abuses several of the Federal trust funds, including Social Security, by raising their respective fees and then using that money to balance the budget.

No spending cuts: With the exception of defense, there are no spending cuts included in this package. All other Federal spending areas are slated to increase over the next 5 years.

Bogus economic assumptions: The economic assumptions included in this plan predict record economic growth and interest rates that haven't been seen in the last 25 years. If these assumptions are true, then we don't need a tax increase to balance the budget; if we adopt this tax increase, there's no way these economic assumptions could possibly come true.

Mr. Speaker, the economy is slowing to a crawl, inflation is rising, and the Democrats are calling for a tax increase. Business as usual is too light a term to describe what is happening in the House today.

At the same time, Republicans have been completely shut out of the legislative process. Democrats have stated that the Republican alternative was not allowed to be considered because it fell $100 billion short of the deficit reduction targets included in the budget resolution.

Their own proposal, they claim, lives up to the $500 billion in deficit reduction required by that resolution. The truth is the Democrat plan won't cut the deficit by $1, let alone $500 billion. Here's why.

No spending restrictions: Without enforceable spending caps, Congress will continue to spend more money than it takes in. In the post-war period, Congress has spent $1.58 for every dollar it raises in taxes.

Over-priced tax increases: Congress chronically over-estimates the amount of revenue it will raise by increasing taxes. Every tax increase we passed during the 1980's failed to raise as much money as the tax committees and Congressional Budget Office claimed it would.

Phantom interest savings: The interest savings included in this package are never going to happen. These projected savings are expected from lower future deficits and lower interest rates. Since neither is going to happen, interest expenses are going to increase, not fall.

If we adopt the Democrat's budget reconciliation package today, then next year we will have a larger deficit, an economy in recession, and a Federal budget process that failed in every way since its inception in 1974.

What can we do to avoid this? Adopt the Republican alternative.

Spending cuts: The Republican alternative includes real spending cuts. Our deficit problems are the result of too much spending, not too few taxes. The Republican alternative cuts defense spending and freezes discretionary spending, entitlements, and foreign aid.

Budget reforms: Furthermore, the Republican alternative includes much-needed budget reforms that will prevent this type of last-minute budgeting from happening in the future. These reforms include eliminating the fraudulent "current services" budgeting, so in the future a spending increase is called a spending increase, not a program cut.

No tax increases: Republicans recognize that Americans are drowning under thier current tax burden. For that reason, this package does not include any new taxes, including no increased Medicare premiums.

Mr. Chairman, if giving committee chairmen the responsibility of cutting spending was the way to reduce the deficit, we would have balanced the budget 20 years ago. The Democrat proposal demonstrates that truth only too clearly. The only hope we have today of true deficit reduction is to adopt the Republican alternative and reform the budget process. Since the Democrats have prevented us from doing that today, we should kill their tax-and-spend proposal and force them to consider our alternative plan. Otherwise, the deficit will continue to grow, the economy will sink into recession, and next year House Republicans will be coming to the floor saying "I told you so." I can tell you now those words will be a hollow victory.

Mr. SYNAR. Mr. Chairman, this budget decision is a recognition by Congress that we have crossed the last bridge of easy answers. This bridge must be crossed in order to get to the solutions that have eluded us for way too long. Once this bridge is crossed, Members can begin the process of correcting the mistakes of the Reagan era which permitted the wealthier to be undertaxed; and which saw an excessive growth in defense spending leading to the present budget crisis. My support of this bill has not been an easy decision.

I voted against the budget summit agreement on October 4 and voted for the revised budget on October 7, with the expectation that a fair agreement could be devised. I believed there had to be four elements to be fair. First, it had to protect poor elderly Americans from unfairly high Medicare premiums and annual deductible amounts. There had to be provisions under Medicare that did not simply shift costs to beneficiaries who can not afford to pay. Second, the revenues raised had to recognize that working Americans and the middle class, have borne a disproportionate share of the cost of Government over the past 10 years. Third, the tax bubble had to be eliminated so that the richest Americans would not pay less of a share of taxes than middle income and working taxpayers. Fourth, the burden of deficit reduction had to be shared.

For the past week, I have participated in the process and listened to the comments and suggestions of my Oklahoma constituents. There are competing interests in this debate and I made my decision on the basis of whether the budget met my stated criteria but more importantly on the basis of whether it is fair.

There are provisions I like in the budget and there are sections for which I would not vote if these were included in separate legislation. On the plus side, the Democratic alternative clearly begins to reverse the regressive tax structure of the past decade which has allowed the richest Americans to avoid their fair share of taxes. Contrary to the Republican alternative, the agreement does not rely heavily on hidden taxes which are thinly disguised as user fees for Government services.

The bill does contain a minimal increase in Medicare premiums, however, these have been fairly distributed. In fiscal year 1991, the increase is the same as expected under present law and will mean only an increase of $1.30 per month. The deductible is raised only $25 for all 5 years to $100.

Included in the package are certain budget process reforms. Some of these are good in that the Social Security surplus can not be counted as reducing the deficit and a pay-as-you-go system is adopted for future spending. The down side is that the reforms take more responsibility for budget decisions away from Congress and thus further away from the American taxpayer.

There is actual deficit reduction in the package, not sham techniques. The actual reductions over 5 years are significantly more than that proposed by the Republicans. This is the first reduction I have seen in my tenure. I am convinced it will assist in stimulating the economy and provide for growth.

I have a responsibility to ensure that Government takes care of the needy and develops a sound infrastructure for the future. This bill begins the move toward those goals.

Mr. JONES of North Carolina. Mr. Chairman, the 1991 budget resolution included reconciliation instructions to the Committee on Merchant Marine and Fisheries asking for $222 million in fiscal 1991 with increases in the out years. Our committee reported provisions which exceed the amounts of savings which we were asked to produce.

The bulk of our savings are achieved by raising existing tonnage charges which apply to commercial vessels entering the United States from a foreign port. They are found in section 121 of title 46, United States Code. These tonnage charges date almost to the beginning of our Nation and have not been increased since 1909. This single provision will generate $190 million in additional revenues each year.

The committee has also authorized the Coast Guard to collect true user fees for services like examination and inspection of vessels and the licensing of crews. These user fees will generate about $30 million in the first year.

The committee's proposal also authorizes the Environmental Protection Agency to charge user fees which offset the cost of several environmental regulatory programs, raising an additional $22 million.

Finally, the committee has amended the Coastal Zone Management Act to require the Undersecretary of Commerce to charge fees offsetting the cost of permit appeals under that law. This amendment will achieve savings of as much as $500,000.

For legislative history of the CZMA provisions, please see pages H8068 to H8103 of the CONGRESSIONAL RECORD of September 26.

The committee also added provisions derived from H.R. 44, H.R. 188, and H.R. 4333. There is also a provision on NOAA facilities in Virginia.

Mr. Chairman, the Committee on Merchant Marine and Fisheries has complied with the spirit and the letter of its reconciliation instructions. I ask the members to support these provisions and support the passage of H.R. 5835.

Mr. RAHALL. Mr. Chairman, I am very reluctant to vote for this resolution. I will, of course, reserve judgment on the conference report. Earlier I voted No on the Rule, and I did so because it excluded consideration of the so-called Republican substitute on the budget, which would, if considered, have given those of us who are unalterably opposed to raising taxes, a chance to vote on a budget that does not raise them.

What would I do instead of raising taxes? I would probably not design a budget such as that designed by the Republicans. I certainly would not inflict the pain of deficit reduction on handicapped children, or the frail elderly who depend on Medicare and Social Security.

But I would reduce the deficit and balance the budget over 5 years, as has been stated here before by myself and others, simply by reducing defense spending, cutting NATO support, and reducing foreign and international aid.

I would do the above, and by so doing achieve what both the Democrats and the President want, without raising a single tax on anyone.

While I appreciate the work done by the Ways and Means Committee in bringing down the cost to senior citizens on Medicare, and the fact that no gasoline or petroleum taxes are being imposed under their alternative budget, and most certainly for taxing the rich, there are serious, in my opinion, cuts in veterans' pensions and health benefits, and in student loans.

The budget package, even without taxes, does grave damage to domestic programs here at home, and will cause panic and upheaval in many lives before we are through with it in 5 years time.

Mr. Chairman, there is nothing wrong with this process except that which brought us to this process in the beginning—and that is the Gramm-Rudman-Hollings Act which should, in my opinion, be repealed. No one abides by it. We waive its requirements and jurisdictions here at the drop of a hat. We use it to suit our immediate needs to get off the hook whenever that need arises.

Yet when crunch-time comes—and I blame the President directly for the 5-month delay in this reconciliation process since the May 1st adoption of a Budget Resolution by this House—everyone lets Gramm-Rudman rise up as a monster more horrifying than we could have ever conjured up as children, playing in the dark—and we let it scare us into closing down Government, and locking the doors of our Nation's historic sites to the disappointment of children, and we threaten to furlough Federal workers, cut child nutrition, and education for the handicapped, and to cut rehabilitation for the disabled, and reduce or severely curtail veterans' program benefits. That is what we have been doing in the years since enactment of Gramm-Latta I and Gramm-Latta II in Reagan's heyday, and we are now letting the successor, Gramm-Rudman-Hollings, play the monster, and give us an excuse to do just what we are doing—raising taxes in order to reduce the deficit.

The Democrats didn't create this deficit—no Democrat has served in the White House while the deficit doubled, tripled and quadrupled itself into the critical mass it has become today. Democrats tried, have tried, to keep the deficit down, by sending Presidents over the last decade annual appropriations bills that were far below the amounts requested by Presidents in the White House. And we did it at great sacrifice of domestic programs for the elderly, for educationally deprived children, for the economic welfare of our States and localities back home—all because of Mr. Reagan's voodoo economics to blithely cut taxes, while approving the most massive, peacetime defense buildup ever known to man. In order to build that nuclear, pie-in-the-sky, arsenal of planes that won't fly and Star Wars and Brilliant Pebbles, while at the same time keeping spending below the President's own request, the Congress cut education, cut spending on health care for all Americans, watched economic development opportunities go out the window—for 10 long years.

During these past 10 years, we couldn't get full funding for Head Start, or WIC for women, infants and children, or job training for displaced workers.

Increases for child care or for chapter 1 remedial education for young children? Forget it. We barely hung onto EDA and ARC funding, under a Presidential decree that these programs be zeroed out of existence.

In the past 2 years, we have failed to provide catastrophic health care fo the elderly, and under the new rules in this package, we bind the hands of appropriators and ourselves for 5 long years, during which time we will be unable to even consider the need for health care for 37 million Americans who have access to absolutely no medical care at all. And lest we forget, one out of every 5 of those 37 million Americans without heath care are children—children often conceived and reared in such dire poverty throughout these United States, not just Appalachia, that they've never had three nourishing meals a day, a decent home, decent or warm clothing, or care from a doctor or a dentist. Children don't go to the polls and vote—and they have no voice unless it is ours raised in their behalf.

For 10 years Democrats have tried to do two things. Work with Republican administrations, support the President of all the prople as often as possible, and to keep down spending as evidenced by the appropriations bills sent to the White House for signature over that decade that were less in dollar amounts than the White House demanded.

We have seen ourselves castigated, as Democrats, as incumbents, for the sins of others—namely those in charge of the White House, for too long.

Dr. Feelgood doesn't live there any more, but we do have a President who said "read my lips," and when that didn't work, made a joke of the economically perilous times we are

currently in by saying "read my hips." I don't think the people of West Virginia found it very funny.

And during these past 2 weeks, when exhaustive efforts have been made by all involved to come up with something fair—just plain, old simple fairness in terms of a budget—the President has been off campaigning for his friends, and when he isn't doing that, he apparently is sitting in the War Room contemplating foreign policy. He certainly bowled me over the other day when he admitted he preferred making foreign policy, to making domestic policy. And that policy certainly has been embraced by his Secretary of Defense who recently stated that it was delightful having the Congress out on recess when Iraq invaded Kuwait. Does this mean war? Is there a method to this madness? Do we dare finish this budget and go home, leaving Bush and Cheney in charge? Do we dare leave them in charge, if we adopt this budget package today?

It's a 5-year package, Mr. Chairman. Is that why Desert Shield, for which I gave the President my support, is separate and apart from the rest of the budget? So that no matter what happens in the next 5 years, if the President wants war in the Persian Gulf, he can unilaterally declare one all by himself, and get funding for it to boot?

I am a Democrat, and I am told by the Republican Members of this body that since we control the Congress, everything bad that has happened is our fault. Well, the President has vetoed and been sustained 14 times on major legislation during this Congress alone and I say, it's a two-way street Mr. President. Read the Constitution.

My people in West Virginia have been taxed to the absolute extent of their ability to pay. Thousands are out of work; thousands more have left their beloved State and gone elsewhere for work, for they no longer possess the dignity that goes with a paycheck and the good feeling that comes from putting a meal on the table for their children, or warm clothing on their backs.

Most of the Members speaking on the floor today have stated how difficult this decision is. But they believe, most of them, that America is watching the debate, and looking for strength in us, to bite the bullet and to reduce this runaway deficit, no matter how we have to do it. I hope they are right.

Mr. MAVROULES. Mr. Chairman, I rise today to add my voice to the budget debate and to urge my colleagues to work together to forge much needed unity behind this new plan. Throughout the country, Americans are exasperated with Government, with the administration, and with Congress. Most people do not understand the philosophical differences that have undergirded this debate. And frankly, I think it is time we set aside our differences and work to restore much needed public confidence, confidence in the budget process, confidence in Congress, and confidence in the Government as a whole.

In my judgment, the budget morass we have found ourselves in was avoidable. To critics who point the finger at Gramm-Rudman-Hollings, I want to make it clear up front; Gramm-Rudman-Hollings is not to blame for our current fiscal gridlock. Budget paralysis is a byproduct of the administration and Congress' inability to own up to the onerous task of substantially cutting spending while raising new revenues.

In my judgement, the American people want candor first and foremost. And candor is not what the administration has been providing. On January 29, Bush administration officials estimated the budget deficit would be $63 billion. Exactly 9 months later, they admit it is $293 billion. That is an increase of $230 billion. That is an increase of $1,000 for every American man, woman, and child. That is bigger than the entire economy of the country of Mexico.

The budget summit was convened to draw up a plan to pay the bill for Reaganomics. However, what the budget summit gave us was another prescription for balancing the budget on the backs of the poor, elderly, and working class. I could not support such a plan. Raising the cost of gasoline and home heating oil and ravaging Medicare accounts while granting a tax break to oil companies who have gouged the pocketbooks of average Americans did not strike me as a fair way to balance the budget. Even the distinguished minority whip, NEWT GINGRICH, took issue with the $60 billion cut in Medicare accounts.

No one doubts that we must face up to cutting the deficit. No one doubts that this is no easy task. The only doubt that exists is in how we most equitably accomplish this task.

I supported the revised budget resolution. Like the original summit agreement, the revised budget resolution mandates deficit reduction to the tune of $40 billion in fiscal year 1991 and $500 billion over 5 years. Also like the original agreement, the revised resolution derived roughly 36 percent of its cuts in discretionary spending; 21 percent in mandatory spending; 3 percent in user fees; and 33 percent in revenue increases. However, unlike the original resolution, much more latitude was granted to the committees of jurisdiction in achieving these objectives. As a result, I believe we have achieved a much more progressive, forward-looking budget.

I strongly support the Ways and Means alternative. Unlike the original summit agreement, the new blueprint does away with the gas tax, the home heating oil tax, the 2-week delay in unemployment benefits, and the $19 billion of tax loopholes—including the oil company subsidy. To the extent that there are new revenues in the Democratic alternative, they are far more progressive in nature. The bubble would be eliminated and an explicit 33-percent rate bracket would be added to the Tax Code. In addition, a 10-percent surtax would be imposed on individuals with taxable incomes above $1 million.

In short, the Ways and Means alternative shifts the increased revenue burden to those who are more able to pay. The top 1 percent of income earning families in the United States would pay 3.3 percent more of their after-tax income while the lowest quintile of income earning families would pay 0.2 percent less of their after-tax income. By comparison, the original summit agreement would have more than reversed these figures. Americans making less than $10,000 would have paid 1.7 percent more of their after-tax income while Americans making more than $200,000 would have paid 15.3 percent less—according to the Joint Committee on Taxation. In short order, the new budget resolution went from regressive to progressive.

Building a consensus for making difficult cuts and raising taxes is no easy task, either in Washington or back home. But if ever there was a time for unity building, it is now.

In the past 10 weeks, we have witnessed the stationing of some 200,000 Americans in the Persian Gulf. World financial markets have plummeted while world oil prices have skyrocketed. The fear of war, threat of oil shortages coupled with a huge and growing Federal budget deficit have led to far-reaching cries of recession.

While our budget problems are real in my judgment, the fear of oil shortages and the precipitous impact it has had on world financial markets is unfounded. Public perceptions have been shaped by political rhetoric rather than factual information. For the record, I want it to be known that we are in no imminent threat of an oil shortage. The United States, Germany, and Japan have close to 1 billion barrels of oil in their combined strategic reserves. One billion barrels of oil in reserve. Most Americans do not even know that Japan and Germany possess oil reserves at all.

I do not believe we should lend credence to unfounded fears. An oil shortage is not imminent today and it won't be imminent tomorrow.

What is imminent is our budget quagmire. I urge my colleagues to support the Ways and Means alternative, it is a progressive approach to fiscal responsibility. And fiscal responsibility—by all accounts—is long overdue.

	Proven reserves of crude oil in billions of barrels	Production in thousands of barrels/day (1989)	Contribution to Desert Shield	Strategic reserves in barrels	Consumption in millions of barrels/day
Saudi Arabia	255.0	5,260	[1] 10		
Iraq	100.0	2,825			
UAE	98.1	2,070	[1] 2.5		
Iran	92.9	2,865			
Kuwait	94.5	1,600	[1] 5		
Venezuela	58.5	1,980			
USSR	58.4	12,475			
Mexico	56.4	2,875			
USA	34.1	9,175		[2] 589	16.843
UK		1,905			1.774
PRC	24.0	2,790			
Nigeria	16.0	1,605			
Norway	1.5	1,530			
Canada	8.3	1,725			
Indonesia	8.3	1,395			
Japan			[1] 2.5	[2] 206	2.384
Germany			[2] 637	[2] 189	4.596
European Community			[1] 2		
Austria				[2] 2	
Denmark				[2] 13	
Italy				[2] 6	
Netherlands				[2] 17	
Sweden				[2] 1	
Total				[1] 1.023	

[1] Billions.
[2] Millions.

Mr. KLECZKA. Mr. Chairman, today the House considers H.R. 5835, the Omnibus Budget Reconciliation Act of 1990. This bill is the revised version of the $500 billion deficit reduction package negotiated by Congress and the President.

While it requires that we bite the bullet and put our fiscal house in order, it does so in a less harsh manner than the failed summit agreement. I voted against the summit agree-

ment October 4. This reconciliation bill is not perfect, but it is the best compromise we can hope for given the size of our task.

Specifically, the reconciliation bill addresses one of my chief concerns—the large and unfair Medicare cuts on the elderly. Under the summit agreement, these cuts would have been $60 billion, which was half of all domestic cuts.

The reconciliation bill reduces the out-of-pocket costs shouldered by the elderly by two-thirds. The deductible will increase only $100, rather than the $150 deductible contained in the failed agreement. Furthermore, the increase in the part B premium will be lower and slower than in the summit agreement.

Other inequities are corrected in this reconciliation bill. The 2-cent tax on heating oil is removed, as is the 2-week delay for receiving unemployment benefits.

This bill drops the 12-cent increase in the gasoline tax. It drops $4 billion in tax breaks for oil and gas companies provided by the summit agreement. It also drops the "growth incentives" proposed by the President—which only serve as wasteful tax shelters for the wealthy.

In reference to fairness of this budget bill and its impact on the taxpayers, H.R. 5835 makes improvements for the middle class and asks the wealthy to chip in more of their share.

The failed summit agreement would have increased taxes for those earning between $20,000 and $50,000 by 3 percent to 3.5 percent. The reconciliation bill will only increase the added tax burden by 1 percent.

As for wealthy taxpayers earning over $200,000, the summit pact would have only increased taxes by 0.3 percent. The reconciliation bill increases this to 7.4 percent. These taxpayers will pay their fair share in this budget reconciliation act.

Other budget process reforms are included in the bill. These include requirements that future revenue or spending legislation be made budget-neutral, that is, we will have pay-as-you-go procedures. In addition, the bill will remove the Social Security surplus from budget calculations. This practice has masked the true size of the Federal deficit.

Mr. Chairman, its high time we start putting our mountain of debt behind us. We owe it to the taxpayers. This 5-year, $500 billion deficit reduction measure will require sacrifices from all of us, but it is a credible plan to steer us back toward long-term economic stability. I urge my colleagues to support the budget reconciliation act.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered as read. The amendments printed in part 1 of House Report 101-882 are adopted in the Committee of the Whole and in the House.

The text of the bill, H.R. 5835, as modified, is as follows:

H.R. 5835

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1990".

SEC. 2. TABLE OF TITLES.

Title I. House Committee on Agriculture.
Title II. House Committee on Banking, Finance and Urban Affairs.
Title III. House Committee on Education and Labor.
Title IV. House Committee on Energy and Commerce.
Title V. House Committee on Interior and Insular Affairs.
Title VI. House Committee on the Judiciary.
Title VII. House Committee on Merchant Marine and Fisheries.
Title VIII. House Committee on Post Office and Civil Service.
Title IX. House Committee on Public Works and Transportation.
Title X. House Committee on Science, Space and Technology.
Title XI. House Committee on Veterans Affairs.
Title XII. House Committee on Ways and Means: Spending.
Title XIII. House Committee on Ways and Means: Revenues.

TITLE I—COMMITTEE ON AGRICULTURE

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Reconciliation Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1001. Short title; table of contents.
Subtitle A—Commodity Programs
Sec. 1101. Triple base for deficiency payments.
Sec. 1102. Calculation of deficiency payments based on 12-month average.
Sec. 1103. Acreage reduction program for 1991 crop of wheat.
Sec. 1104. Acreage reduction programs for 1992 through 1995 crops of wheat, feed grains, upland cotton, and rice.
Sec. 1105. Soybean marketing loan.
Sec. 1106. Loan origination and program service fees.
Sec. 1107. Proven yields for 1991 through 1995 crops of feed grains.
Sec. 1108. End rows to meet acreage reduction requirements.
Sec. 1109. Surface reservoir encouragement program and other savings.
Subtitle B—Other Agricultural Programs
Sec. 1201. Authorization levels for REA loans.
Sec. 1202. Authorization levels for FmHA loans.
Sec. 1203. APHIS inspection user fee on international passengers.
Sec. 1204. Market promotion program.
Sec. 1205. Integrated farm management program option.
Sec. 1206. Other rural development programs.
Subtitle C—Food Stamp and Related Provisions
Sec. 1301. Food stamp program.
Sec. 1302. Commodity distribution and supplemental food programs.
Sec. 1303. Distribution of surplus commodities to special nutrition projects; processing agreements.
Sec. 1304. TEFAP reauthorizations.
Sec. 1305. Nutrition education authorization.
Subtitle D—Agriculture Committee Oversight of Credit
Sec. 1401. Credit activities of government agencies and instrumentalities.
Sec. 1402. Report on farm credit and the issuance of related notes and the redemption thereof.
Sec. 1403. Effect of changes in government policy on farm credit, and agriculture.
Subtitle E—Contingent Termination Date
Sec. 1501. Contingent termination date.

Subtitle A—Commodity Programs

SEC. 1101. TRIPLE BASE FOR DEFICIENCY PAYMENTS.

(a) IN GENERAL.—The Secretary of Agriculture (hereafter in this title referred to as the "Secretary", unless the context otherwise requires), in making available to producers deficiency payments otherwise authorized by law for each of the 1992 through 1995 crops of wheat, feed grains, upland cotton, and rice, shall compute the amount of such payments by multiplying—

(1) the payment rate; by

(2) the payment acres for the crop (as determined under subsection (b)); by

(3) the farm program payment yield for the crop for the farm.

(b) PAYMENT ACRES.—For purposes of subsection (a)(2), payment acres for a crop shall be—

(1) the number of acres planted to the crop for harvest within the number of acres obtained by multiplying—

(A) the crop acreage base for the crop for the farm; by

(B) the base reduction percentage (as determined under subsection (c)); less

(2) the quantity of reduced acreage (as determined under subsection (d)(1)).

(c) BASE REDUCTION PERCENTAGE.—For purposes of subsection (b)(1)(B), the base reduction percentage shall be—

(1) in the case of each of the 1992 and 1993 crops, 85 percent;

(2) in the case of the 1994 crop, 80 percent; and

(3) in the case of the 1995 crop, 75 percent.

(d) REDUCED AND PERMITTED ACREAGE.—

(1) REDUCED ACREAGE.—For purposes of subsection (b)(2), the quantity of reduced acreage for a crop shall be the number of acres devoted to conservation uses that is determined by multiplying—

(A) the crop acreage base; by

(B) the percentage reduction required by the Secretary under an acreage limitation program announced by the Secretary.

(2) PERMITTED ACREAGE.—The remaining acreage is hereafter in this section referred to as "permitted acreage".

(e) PLANTING COMMODITIES ON PERMITTED ACREAGE.—The Secretary shall permit producers on a farm to plant on permitted acreage for which the producers do not receive deficiency payments—

(1) program crops (wheat, feed grains, cotton, or rice);

(2) oilseeds (soybeans, sunflower, canola, rapeseed, safflower, flaxseed, mustard seed, or any other oilseeds the Secretary may designate);

(3) sweet sorghum, popcorn, guar, sesame, castor beans, crambe, plantago ovato, triticale, rye, guayule, milkweed, mung bean, meadowfoam, jojoba, or kenaf;

(4) commodities grown for experimental purposes, as determined by the Secretary;

(5) commodities for which no substantial domestic production or market exists, as determined by the Secretary; or

(6) any experimental crop, including annual herbaceous, or short-rotation woody crops, the production of which the Secretary determines is necessary to meet demand or anticipated demand for ethanol or other biofuels production.

(f) LOAN ELIGIBILITY.—

(1) PROGRAM CROPS.—Producers on a farm who devote permitted acreage (for which the producers do not receive deficiency payments) to program crops described in subsection (e)(1) shall be eligible for loans under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) with respect to the acreage.

(2) OILSEEDS.—Producers on a farm who devoted permitted acreage (for which the producers do not receive deficiency payments) to oilseeds described in subsection (e)(2) shall not be eligible for loans under such Act with respect to the acreage.

SEC. 1102. CALCULATION OF DEFICIENCY PAYMENTS BASED ON 12-MONTH AVERAGE.

For purposes of calculating deficiency payments for each of the 1991 through 1995 crops of wheat, feed grains, and rice, the payment rate for a crop shall be the amount by which the established price for the crop exceeds—

(1) in the case of wheat and feed grains, the higher of—

(A) the lesser of—

(i) the national weighted average market price received by producers during the marketing year for the crop, as determined by the Secretary; or

(ii) the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus 10 cents per bushel; or

(B) the loan level determined for the crop; and

(2) in the case of rice, the higher of—

(A) the national average market price received by producers during the marketing year for the crop, as determined by the Secretary; or

(B) the loan level determined for the crop.

SEC. 1103. ACREAGE REDUCTION PROGRAM FOR 1991 CROP OF WHEAT.

As soon as practicable after the date of enactment of this section, the Secretary shall announce an acreage limitation program for the 1991 crop of wheat under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm for the crop reduced by 15 percent.

SEC. 1104. ACREAGE REDUCTION PROGRAMS FOR 1992 THROUGH 1995 CROPS OF WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary shall announce an acreage limitation program for each of the 1992 through 1995 crops of—

(1) wheat under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm for the crop reduced by—

(A) in the case of the 1992 crop of wheat, not less than 6 percent;

(B) in the case of the 1993 crop of wheat, not less than 5 percent;

(C) in the case of the 1994 crop of wheat, not less than 7 percent; and

(D) in the case of the 1995 crop of wheat, not less than 5 percent;

(2) corn, grain sorghum, barley, and oats under which the acreage planted to the respective feed grain for harvest on a farm would be limited to the respective feed grain crop acreage base for the farm for the crop reduced by not less than 7½ percent;

(3) upland cotton under which the acreage planted to upland cotton for harvest on a farm would be limited to the upland cotton crop acreage base for the farm for the crop reduced by—

(A) in the case of the 1992 crop of upland cotton, not less than 15 percent; and

(B) in the case of each of the 1993, 1994, and 1995 crops of upland cotton, not less than 20 percent; and

(4) rice under which the acreage planted to rice for harvest on a farm would be limited to the rice crop acreage base for the farm for the crop reduced by—

(A) in the case of the 1992 crop of rice, not less than 18½ percent;

(B) in the case of the 1993 crop of rice, not less than 15 percent;

(C) in the case of the 1994 crop of rice, not less than 14 percent; and

(D) in the case of the 1995 crop of rice, not less than 10 percent.

(b) STOCKS-TO-USE RATIO.—Notwithstanding any other provision of law, subsection (a) shall not apply to a crop if the Secretary estimates for such crop that the stocks-to-use ratio will be less than—

(1) in the case of wheat, 34 percent;

(2) in the case of corn, grain sorghum, and barley, 20 percent;

(3) in the case of upland cotton, 30 percent; and

(4) in the case of rice, 16 percent.

SEC. 1105. SOYBEAN MARKETING LOAN.

(a) IN GENERAL.—In providing loans for soybeans otherwise authorized by law, the Secretary shall support the price of soybeans in each of the 1991 through 1995 marketing years at a level of not less than $5.25 per bushel.

(b) LOAN ORIGINATION FEES.—

(1) IN GENERAL.—The Secretary shall charge a producer a loan origination fee, in connection with making a loan under subsection (a), equal to not more 7 percent of the amount of the loan.

(2) LOAN DEFICIENCY PAYMENTS.—If the Secretary charges a loan origination fee for loans made for a crop of soybeans under paragraph (1) and makes loan deficiency payments for the crop, the Secretary shall reduce the amount of any such loan deficiency payment by an amount equal to the amount of the loan origination fee.

(c) EFFECTIVE LOAN RATE.—Notwithstanding any other provision of this section, the effective loan rate for a crop of soybeans (calculated as the loan level for the crop less any loan origination fees) under this section shall not be more than $4.87 per bushel.

SEC. 1106. LOAN ORIGINATION AND PROGRAM SERVICE FEES.

(a) SUGAR, HONEY, PEANUTS, AND TOBACCO.—Effective for each of the 1991 through 1995 crops of sugarcane, sugar beets, honey, peanuts, and tobacco, the Secretary shall charge the producer a loan origination fee for a price support loan for such crops equal to not more 3 percent of the amount of the loan. The Secretary shall ensure that fees imposed for a loan for a crop of peanuts or tobacco under this subsection shall be shared equally between producers and purchasers.

(b) WOOL.—Effective for each of the 1991 through 1995 marketing years for wool and mohair, in connection with making price support available for such marketing years, the Secretary may charge producers of wool and mohair a program service fee equal to not more 1 percent of the amount of payments made under the National Wool Act of 1954 (7 U.S.C. 1781 et seq.) for wool and mohair for such marketing year.

SEC. 1107. PROVEN YIELDS FOR 1991 THROUGH 1995 CROPS OF FEED GRAINS.

Notwithstanding any other provision of law, effective for each of the 1991 through 1995 crops of feed grains, the Secretary shall not calculate farm program payment yields on the basis of actual yields of feed grains, as provided in section 505(a) of the Agricultural Act of 1949 (as amended by section 1131 of S. 2830 (as passed by the House of Representatives on August 3, 1990)).

SEC. 1108. END ROWS TO MEET ACREAGE REDUCTION REQUIREMENTS.

Notwithstanding any other provision of law, producers shall not be allowed to meet acreage limitation or set-aside requirements by idling end rows, as provided in section 1122 of S. 2830 (as passed by the House of Representatives on August 3, 1990).

SEC. 1109. SURFACE RESERVOIR ENCOURAGEMENT PROGRAM AND OTHER SAVINGS.

(a) SURFACE RESERVOIR.—The Secretary shall not establish a program to encourage surface reservoirs, as provided in subtitle C of title XI of S. 2830 (as passed by the House of Representatives on August 3, 1990).

(b) OTHER SAVINGS.—Section 201(d)(2)(B) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(B)) is amended—

(1) in clause (i), by striking "the period beginning on April 1, 1986, and ending on December 31, 1986, 40 cents" and inserting "during calendar year 1991, 5 cents"; and

(2) in clause (ii), by striking "first 9 months of 1987, 25 cents" and inserting "calendar years 1992 through 1995, 11.25 cents".

Subtitle B—Other Agricultural Programs

SEC. 1201. AUTHORIZATION LEVELS FOR REA LOANS.

(a) IN GENERAL.—Subject to the other provisions of this section and notwithstanding any other provision of law, for each of fiscal years 1991 through 1995, loans may be insured in accordance with the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) from the Rural Electrification and Telephone Revolving Fund established under section 301 of such Act (7 U.S.C. 931) in amounts equal to the following levels:

(1) For fiscal year 1991, $896,000,000.

(2) For fiscal year 1992, $932,000,000.

(3) For fiscal year 1993, $969,000,000.

(4) For fiscal year 1994, $1,008,000,000.

(5) For fiscal year 1995, $1,048,000,000.

(b) REDUCTION.—Notwithstanding any other provision of law, for each of fiscal years 1991 through 1995, the Administrator of the Rural Electrification Administration shall reduce the amounts otherwise made available for insured loans made from the Rural Electrification and Telephone Revolving Fund by—

(1) $224,000,000 for fiscal year 1991;

(2) $234,000,000 for fiscal year 1992;

(3) $244,000,000 for fiscal year 1993;

(4) $256,000,000 for fiscal year 1994; and

(5) $267,000,000 for fiscal year 1995.

(c) MANDATORY LEVELS.—Notwithstanding any other provision of law, the Administrator shall insure loans at the levels authorized by this section for each of fiscal years 1991 through 1995.

(d) GUARANTEED LOANS.—Notwithstanding any other provision of law, in carrying out the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), the Administrator shall increase the amounts otherwise made avail-

able to guarantee loans made by legally organized lending agencies. The loans shall be guaranteed at 90 percent of the principal amount of the loan.

SEC. 1202. AUTHORIZATION LEVELS FOR FmHA LOANS.

(a) IN GENERAL.—Subject to the other provisions of this section and notwithstanding any other provision of law, for each of fiscal years 1991 through 1995, real estate and operating loans may be insured, made to be sold and insured, or guaranteed in accordance with subtitles A and B, respectively, of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) from the Agricultural Credit Insurance Fund established under section 309 of such Act (7 U.S.C. 1929) in amounts equal to the following levels:

(1) For fiscal year 1991, $4,175,000,000, of which not less than $827,000,000 shall be for farm ownership loans under subtitle A of such Act.

(2) For fiscal year 1992, $4,343,000,000, of which not less than $861,000,000 shall be for farm ownership loans under subtitle A of such Act.

(3) For fiscal year 1993, $4,516,000,000, of which not less than $895,000,000 shall be for farm ownership loans under subtitle A of such Act.

(4) For fiscal year 1994, $4,697,000,000, of which not less than $931,000,000 shall be for farm ownership loans under subtitle A of such Act.

(5) For fiscal year 1995, $4,885,000,000, of which not less than $968,000,000 shall be for farm ownership loans under subtitle A of such Act.

(b) APPORTIONMENT OF INSURED AND GUARANTEED LOANS.—Subject to subsection (c), the amounts set forth in subsection (a) shall be apportioned as follows:

(1) For fiscal year 1991—

(A) $1,019,000,000 for insured loans, of which not less than $83,000,000 shall be for farm ownership loans; and

(B) $3,156,000,000 for guaranteed loans, of which not less than $744,000,000 shall be for guarantees of farm ownership loans.

(2) For fiscal year 1992—

(A) $1,060,000,000 for insured loans, of which not less than $87,000,000 shall be for farm ownership loans; and

(B) $3,283,000,000 for guaranteed loans, of which not less than $774,000,000 shall be for guarantees of farm ownership loans.

(3) For fiscal year 1993—

(A) $1,102,000,000 for insured loans, of which not less than $90,000,000 shall be for farm ownership loans; and

(B) $3,414,000,000 for guaranteed loans, of which not less than $805,000,000 shall be for guarantees of farm ownership loans.

(4) For fiscal year 1994—

(A) $1,147,000,000 for insured loans, of which not less than $94,000,000 shall be for farm ownership loans; and

(B) $3,550,000,000 for guaranteed loans, of which not less than $837,000,000 shall be for guarantees of farm ownership loans.

(5) For fiscal year 1995—

(A) $1,192,000,000 for insured loans, of which not less than $97,000,000 shall be for farm ownership loans; and

(B) $3,693,000,000 for guaranteed loans, of which not less than $871,000,000 shall be for guarantees of farm ownership loans.

(c) TRANSFER OF FUNDS FROM INSURED TO GUARANTEED LOANS.—Notwithstanding any other provision of law, for each of fiscal years 1991 through 1995, the Secretary shall—

(1) reduce the amounts otherwise made available for insured loans made from the Agricultural Credit Insurance Fund by—

(A) $432,000,000 for fiscal year 1991;

(B) $564,000,000 for fiscal year 1992;

(C) $710,000,000 for fiscal year 1993;

(D) $809,000,000 for fiscal year 1994; and

(E) $857,000,000 for fiscal year 1995; and

(2) use the funds made available from the reduction made in paragraph (1) in the available amount of insured loans in each of the fiscal years to guarantee loans made from the Fund.

(c) MANDATORY LEVELS.—Notwithstanding any other provision of law, the Secretary shall make or insure loans at the levels authorized by this section for each of fiscal years 1991 through 1995.

SEC. 1203. APHIS INSPECTION USER FEE ON INTERNATIONAL PASSENGERS.

(a) IN GENERAL.—The Secretary may prescribe and collect fees to cover the cost of providing agricultural quarantine and inspection services in connection with the arrival at a port in the customs territory of the United States, or the preclearance or preinspection at a site outside the customs territory of the United States, of an international passenger.

(b) TREASURY.—Any person who collects a fee under this section shall remit the fee to the Treasury of the United States prior to the date that is 31 days after the close of the calendar quarter in which the fee is collected.

(c) AGRICULTURAL QUARANTINE INSPECTION USER FEE ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a no-year fund, to be known as the "Agricultural Quarantine Inspection User Fee Account" (hereafter in this section referred to as the "Account"), for the use of the Secretary of Agriculture for quarantine or inspection services under this section.

(2) AMOUNTS IN ACCOUNT.—

(A) DEPOSITS.—All fees collected under this subsection shall be deposited in the Account.

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated amounts in the Fund for use by the Secretary of Agriculture for quarantine or inspection services.

(d) ADJUSTMENT IN FEE AMOUNTS.—The Secretary shall adjust the amount of the fees to be assessed under this section to reflect the cost to the Secretary in—

(1) administering this section;

(2) carrying out the activities at ports in the customs territory of the United States and preclearance and preinspection sites outside the customs territory of the United States in connection with the provision of agricultural quarantine inspection services; and

(3) maintaining a reasonable balance in the Account.

SEC. 1204. MARKET PROMOTION PROGRAM.

Notwithstanding any other provision of law, the Commodity Credit Corporation shall not make available assistance to carry out the market promotion program established under section 202 of the Agricultural Trade Act of 1978 (as amended by section 1221(a) of S. 2830 (as passed by the House of Representatives on August 3, 1990)) at a level in excess of $200,000,000 for each of the fiscal years 1991 through 1995.

SEC. 1205. INTEGRATED FARM MANAGEMENT PROGRAM OPTION.

Notwithstanding any other provision of law, the Secretary shall only make such fair and equitable adjustments as the Secretary determines are appropriate in acreage limitation or set-aside requirements applicable to producers participating in the integrated farm management program option established under section 1611 of S. 2830 (as passed by the House of Representatives on August 3, 1990).

SEC. 1206. OTHER RURAL DEVELOPMENT PROGRAMS.

(a) PROHIBITION ON IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary shall not expend any funds to implement the provisions of title XXV of S. 2830 (as passed by the House of Representatives on August 3, 1990).

(b) APPROPRIATIONS.—Notwithstanding any other provision of law, titles XIX, XX, XXI, XXII, XXIII, XXIV, XXVI, XXVII, and XXVIII of S. 2830 (as passed by the House of Representatives on August 3, 1990), and the amendments made by such titles, shall be carried out only as provided in advance in appropriations Acts.

Subtitle C—Food Stamp and Related Provisions

SEC. 1301. FOOD STAMP PROGRAM.

(a) ALLOCATION FOR JOB TRAINING PROGRAM.—Effective October 1, 1990, paragraph (1) of section 16(h) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)) is amended to read as follows:

"(1) The Secretary shall allocate among the State agencies in each fiscal year, from funds appropriated for such fiscal year under section 18(a)(1), the amount of $75,000,000 for each of the fiscal years 1991 through 1995 to carry out the employment and training program under section 6(d)(4), except as provided in paragraph (3), during the fiscal year.".

(b) EXTENSION OF PILOT PROJECTS.—Section 17(b)(1) of such Act (7 U.S.C. 2026(b)(1)) is amended by striking "1990" and inserting "1995".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 18(a)(1) of such Act (7 U.S.C. 2027(a)(1)) is amended by striking the first two sentences and inserting the following new sentence: "To carry out this Act, there are authorized to be appropriated such sums as are necessary for each of fiscal years 1991 through 1995.".

(d) BLOCK GRANT TO PUERTO RICO.—Effective October 1, 1990, section 19(a)(1)(A) of such Act (7 U.S.C. 2028(a)(1)(A)) is amended by striking "$825,000,000" and all that follows through "September 30, 1990" and inserting "$974,000,000 for fiscal year 1991, $1,013,000,000 for fiscal year 1992, $1,051,000,000 for fiscal year 1993, $1,091,000,000 for fiscal year 1994, and $1,133,000,000 for fiscal year 1995".

SEC. 1302. COMMODITY DISTRIBUTION AND SUPPLEMENTAL FOOD PROGRAMS.

Effective October 1, 1990, the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended—

(1) in section 4(a), by striking "1986, 1987, 1988, 1989, and 1990" and inserting "1991 through 1995"; and

(2) in section 5(a)(2), by striking "1986 through 1990" and inserting "1991 through 1995".

SEC. 1303. DISTRIBUTION OF SURPLUS COMMODITIES TO SPECIAL NUTRITION PROJECTS; PROCESSING AGREEMENTS.

Section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(a)(2)(A)) is amended by striking "1990" and inserting "1995".

SEC. 1304. TEFAP REAUTHORIZATIONS.

The Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended—

(1) effective October 1, 1990, in section 204—

(A) by striking subsections (a) and (b);

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively; and

(C) in subsection (a)(1) (as so redesignated), by striking "ending September 30, 1986, through September 30, 1990," and inserting "1991 through 1995"; and

(2) in section 212, by striking "1990" and inserting "1995".

SEC. 1305. NUTRITION EDUCATION AUTHORIZATION.

Section 1588(a) of the Food Security Act of 1985 (7 U.S.C. 3175e) is amended by striking "$5,000,000" and all that follows through the period at the end and inserting "$8,000,000 for each of the fiscal years 1991 through 1995.".

Subtitle D—Agriculture Committee Oversight of Credit

SEC. 1401. CREDIT ACTIVITIES OF GOVERNMENT AGENCIES AND INSTRUMENTALITIES.

(a) IN GENERAL.—Any provision of this Act and any amendment made by this Act to chapter 31 of title 31, United States Code, or any other provision of law, that would have the effect of restricting the authority of any corporation owned in whole or in part by the Federal Government (such as the Commodity Credit Corporation, the Federal Crop Insurance Corporation, or the Farm Credit System Assistance Board, or any privately owned Government-sponsored entity, such as a Farm Credit Bank, the Federal Bank for Cooperatives, or the Federal Agricultural Mortgage Corporation) from borrowing from or issuing obligations to any person other than the Secretary of the Treasury or guaranteeing any obligation issued by any person shall not take effect.

(b) CERTAIN ACTION PROHIBITED.—Notwithstanding any other provision of this Act or any amendment made by this Act to any other provision of law, no officer or employee of the United States may take any action that would have the effect of implementing any provision of, or any amendment made by, this Act that is described in subsection (a).

(c) PENALTY.—Any person violating this section shall, on conviction, be subject to a fine of not more than $10,000 or to imprisonment for not more than 1 year, or both, and (if an officer or employee of the Federal Government) shall be removed from office.

SEC. 1402. REPORT ON FARM CREDIT AND THE ISSUANCE OF RELATED NOTES AND THE REDEMPTION THEREOF.

(a) REPORT REQUIRED.—In order to assist the Committee on Agriculture of the House of Representatives in its oversight of, and legislative activities with respect to, farm credit and the issuance of related notes and the redemption thereof, and to reduce the costs associated with credit activities and the issuance and redemption of notes, the Secretary of the Treasury shall submit an annual report to the Committee on Agriculture of the House of Representatives on the credit activities of the Secretary and the policies of the Secretary with respect to the issuance and redemption of notes.

(b) CONTENTS OF REPORT.—The annual report required to be made by the Secretary of the Treasury under subsection (a) shall—

(1) describe the policies with respect to the credit activities of the Department of the Treasury and their effect on availability and affordability of farm credit;

(2) describe the policies of the Secretary and the Department with respect to the issuance and redemption of notes and the effect of such policies on the availability, and affordability and delivery of farm credit;

(3) contain a report on the amount of the costs, as determined by the Secretary, of such credit activities and the issuance and redemption of notes;

(4) identify actions taken by the Secretary to reduce costs associated with such credit activities and the issuance and redemption of notes during the period covered by such report with special emphasis on the effect of such actions on the availability and affordability of farm credit; and

(5) any recommendations for legislative action which would reduce the costs associated with the credit activities of the Department of the Treasury and the issuance and redemption of notes with special emphasis as they relate to the availability, affordability, and delivery of farm credit.

(c) ANALYSIS OF EFFECT ON PRIVATE CREDIT ACTIVITIES.—The annual report required to be made by the Secretary of the Treasury under subsection (a) shall contain an analysis of the effect of—

(1) government credit activities; and

(2) government policies with respect to the issuance and redemption of notes, on private farm credit activities.

(d) METHODOLOGY FOR REPORTING ON DETERMINATIONS OF COST.—

(1) IN GENERAL.—In determining the cost of, and in identifying methods for reducing the cost of, credit activities and the issuance and redemption of notes and their effect on farm credit, the Secretary of the Treasury shall quantify the cost associated with each type of credit activity and note.

(2) FACTORS TO BE TAKEN INTO ACCOUNT.—In quantifying the costs involved with each type of credit activity and note pursuant to paragraph (1), the Secretary of the Treasury shall determine—

(A) the volume of each type of credit activity and note; and

(B) the costs involved with each type of credit activity and the issuance and redemption of each type of note with respect to any relevant factor, including—

(i) credit cost;

(ii) interest cost;

(iii) management and operational costs; and

(iv) expenses incurred in connection with the issuance and redemption of notes.

(e) DEFINITIONS.—For purposes of this section:

(1) CREDIT ACTIVITY.—The term "credit activity" includes any borrowing or lending activity and any extension of credit by or to any person or governmental entity, including the issuance of notes in connection with such activity.

(2) NOTE.—The term "note" includes any obligation, including any bill, bond, or other instrument, issued in connection with any credit activity.

SEC. 1403. EFFECT OF CHANGES IN GOVERNMENT POLICY ON FARM CREDIT, AND AGRICULTURE.

(a) REPORTS REQUIRED.—The Comptroller General of the United States and the Secretary of the Treasury shall each submit an annual report to the Committee on Agriculture of the United States House of Representatives on the effect of changes in Federal tax and revenue laws on—

(1) the cost and availability of farm credit;

(2) agriculture generally;

(3) agricultural production and marketing and stabilization of prices of agricultural products and commodities;

(4) the financial condition of banks extending farm credit;

(5) the animal and dairy industries;

(6) the forestry industry; and

(7) rural electrification and rural development.

(b) RECOMMENDATION.—Each report required under subsection (a) shall also contain the recommendations of the Comptroller General and the Secretary of the Treasury or changes in law or government policy to reduce Federal spending with special emphasis on potential savings that may be achieved in the operation and administration of the Department of the Treasury in order to enhance the activities described in subsection (a) (1), (2), (3), (4), (5), (6), and (7), and address the effect of the changes in tax and revenue laws of the subjects described in subsection (a).

(c) EFFECT OF CHANGES IN TAX LAWS ON CREDIT FACILITIES AND ACTIVITIES.—The first reports required under subsection (a) shall contain an analysis of the effect of changes in tax law during the period 1980 to 1990 and recommendations for changes in law or government policy to address the effect of the changes in tax and revenue laws during the period from 1980 to 1990 on the subjects described in subsection (a) and each subsequent report shall analyze the effect of changes in tax and revenue law during the immediately preceding year and contain recommendations to respond to changes in tax and revenue law during the immediately preceding year.

(d) TIMING OF REPORTS.—The first reports by the Comptroller General and the Secretary of the Treasury pursuant to subsection (a) shall be submitted no later than July 1, 1991, and each subsequent report shall be submitted no later than February 1 of each subsequent year.

Subtitle E—Contingent Termination Date

SEC. 1501. CONTINGENT TERMINATION DATE.

Notwithstanding any other provision of this title, this title (other than subtitle D of this title) and the amendments made by this title shall cease to be effective on July 1, 1992, if legislation to implement an agreement of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) for international agricultural trade is not enacted on or before June 30, 1992.

TITLE II—COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

Subtitle A—Federal Deposit Insurance Premiums

SEC. 2001. ELIMINATION OF CEILINGS ON INSURANCE PREMIUMS AND ANNUAL PREMIUM INCREASES.

(a) BANK INSURANCE FUND.—Clause (iv) of section 7(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(C)) is amended by striking "and capitalization, except that—" and all that follows through the end of such clause and inserting "and capitalization; and".

(b) SAVINGS ASSOCIATION INSURANCE FUND.—Clause (v) of section 7(b)(1)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(D)) is amended by striking "and capitalization, except that—" and all that follows through the end of such clause and inserting "and capitalization; and".

SEC. 2002. FDIC AUTHORITY TO ADJUST ASSESSMENT RATES MORE FREQUENTLY THAN ANNUALLY.

(a) BANK INSURANCE FUND.—Section 7(b)(1)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(A)) is amended—

(1) by striking clause (i) and inserting the following new clause:

"(i) AUTHORITY TO ESTABLISH RATES.—The Corporation shall set assessment rates for insured depository institutions at such times as the Corporation, in the sole discretion of the Corporation, determines to be appropriate."; and

(2) by striking clause (iii) and inserting the following new clause:

"(iii) ANNOUNCEMENT OF RATE CHANGES.—If the Corporation changes the assessment rate, the Corporation shall provide public notice of such change on or before the beginning of the 60-day period ending on the date such change takes effect.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 7(b)(1)(A)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(A)(ii)) is amended by striking "annual".

(2) Section 7(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)) is amended—

(A) in subparagraph (C)(iv) (as amended by section 2001(a) of this title)—

(i) by striking "on January 1 of a calendar year" and inserting "for any period"; and

(ii) by inserting ", in the sole discretion of such board," after "rate determined by the Board of Directors"; and

(B) in subparagraph (D)(v) (as amended by section 2001(b) of this title)—

(i) by striking "on January 1 of a calendar year" and inserting "for any period"; and

(ii) by inserting ", in the sole discretion of such board," after "rate determined by the Board of Directors".

(3) Section 7(d)(1)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)(A)) is amended—

(A) by striking "By September 30 of each calendar year," and inserting "Before the beginning of the 60-day period ending on the 1st day of each semiannual period,"; and

(B) by striking "the succeeding calendar year" and inserting "such semiannual period".

(4) Section 7(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(2)) is amended—

(A) in subparagraph (A), by striking "in the coming year" and inserting "in the coming semiannual period"; and

(B) in subparagraph (B)—

(i) by striking "succeeding year" each place such term appears and inserting "succeeding semiannual period"; and

(ii) by striking "succeeding calendar year" and inserting "succeeding semiannual period".

(5) Section 7(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(3)) is amended—

(A) in subparagraph (A), by striking "in the coming year" and inserting "in the coming semiannual period"; and

(B) in subparagraph (B)—

(i) by striking "succeeding year" each place such term appears and inserting "succeeding semiannual period"; and

(ii) by striking "succeeding calendar year" and inserting "succeeding semiannual period".

Subtitle B—FHA Mortgage Insurance

SEC. 2101. INCREASE IN MORTGAGE LIMIT.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking "150 percent (185 percent until October 31, 1990) of the dollar amount specified" and inserting the following: "185 percent of the dollar amount specified".

SEC. 2102. MORTGAGOR EQUITY.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by adding at the end the following new undesignated paragraph:

"Notwithstanding any other provision of this paragraph, a mortgage may not involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 98.75 percent of the appraised value of the property (97.75 percent, in the case of a mortgage with an appraised value in excess of $50,000), plus the amount of the mortgage insurance premium paid at the time the mortgage is insured. For purposes of the preceding sentence, the term 'appraised value' means the amount set forth in the written statement required under section 226, or a similar amount determined by the Secretary if section 226 does not apply.".

SEC. 2103. MORTGAGE INSURANCE PREMIUMS.

(a) PREMIUMS.—Section 203(c) of the National Housing Act (12 U.S.C. 1709(c)) is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking the last sentence; and

(3) by adding at the end the following new paragraph:

"(2) Notwithstanding any other provision of this section, each mortgage secured by a 1- to 4-family dwelling and insured on or after October 1, 1994, shall be subject to the following requirements:

"(A) The Secretary shall establish and collect, at the time of insurance, a single premium payment in an amount equal to 2.25 percent of the amount of the original insured principal obligation of the mortgage. Upon payment in full of the principal obligation of a mortgage prior to the maturity date of the mortgage, the Secretary shall refund all of the unearned premium charges paid on the mortgage pursuant to this subparagraph.

"(B) In addition to the premium under subparagraph (A), the Secretary shall establish and collect annual premium payments in an amount equal to 0.50 percent of the remaining insured principal balance for the following periods:

"(i) For any mortgage involving an original principal obligation that is less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 11 years of the mortgage term.

"(ii) For any mortgage involving an original principal obligation that is greater than or equal to 90 percent of such value, for the first 30 years of the mortgage term; except that notwithstanding the matter preceding clause (i), for any mortgage involving an original principal obligation that is greater than 95 percent of such value, the annual premium collected during the 30-year period under this clause shall be in an amount equal to 0.55 percent of the remaining insured principal balance.".

(b) TRANSITION PROVISIONS.—Notwithstanding section 203(c) of the National Housing Act (as amended by subsection (a)), mortgage insurance premiums on mortgages insured under section 203(b) of such Act during fiscal years 1991 through 1994 shall be subject to the following requirements:

(1) 1991 AND 1992.—For mortgages insured during fiscal years 1991 and 1992 (but after the date of the effectiveness of regulations issued under subsection (c)), the Secretary shall establish and collect the following premiums:

(A) UP-FRONT.—At the time of insurance, a single premium payment in an amount equal to 3.80 percent of the amount of the original insured principal obligation of the mortgage.

(B) ANNUAL.—In addition to the premium under subparagraph (A), annual premium payments in an amount equal to 0.50 percent of the remaining insured principal balance, for any mortgage involving an original principal obligation that is—

(i) less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 5 years of the mortgage term;

(ii) greater than or equal to 90 percent of such value but equal to or less than 95 percent of such value, for the first 8 years of the mortgage term; and

(iii) greater than 95 percent of such value, for the first 10 years of the mortgage term.

(2) 1993 AND 1994.—For mortgages insured during fiscal years 1993 and 1994, the Secretary shall establish and collect the following premiums:

(A) UP-FRONT.—At the time of insurance, a single premium payment in an amount equal to 3.00 percent of the amount of the original insured principal obligation of the mortgage.

(B) ANNUAL.—In addition to the premium under subparagraph (A), annual premium payments in an amount equal to 0.50 percent of the remaining insured principal balance, for any mortgage involving an original principal obligation that is—

(i) less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 7 years of the mortgage term;

(ii) greater than or equal to 90 percent of such value but equal to or less than 95 percent of such value, for the first 12 years of the mortgage term; and

(iii) greater than 95 percent of such value, for the first 30 years of the mortgage term.

(3) REFUNDS.—With respect to any mortgage subject to premiums under this subsection, the Secretary shall refund all of the unearned premium charges paid on a mortgage pursuant to paragraph (1)(A) or (2)(A) upon payment in full of the principal obligation of the mortgage prior to the maturity date.

(c) REGULATIONS.—The Secretary shall issue regulations to carry out this section and the amendments made by this section not later than the expiration of the 90-day period beginning on the date of the enactment of this Act.

SEC. 2104. MUTUAL MORTGAGE INSURANCE FUND DISTRIBUTIONS.

Section 205 of the National Housing Act (12 U.S.C. 1711) is amended by adding at the end the following new subsection:

"(e) In determining whether there is a surplus for distribution to mortgagors under this section, the Secretary shall take into account the actuarial status of the entire Fund.".

SEC. 2105. ACTUARIAL SOUNDNESS OF MUTUAL MORTGAGE INSURANCE FUND.

Section 205 of the National Housing Act (12 U.S.C. 1711), as amended by the preceding provisions of this Act, is further amend-

ed by adding at the end the following new subsections:

"(f)(1) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 1.25 percent within 24 months after the date of the enactment of this subsection.

"(2) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 2.0 percent within 10 years after the date of the enactment of this subsection, and shall ensure that the Fund maintains at least such capital ratio at all times thereafter.

"(3) Upon the expiration of the 24-month period beginning on the date of the enactment of this subsection, the Secretary shall submit to the Congress a report describing the actions the Secretary will take to ensure that the Mutual Mortgage Insurance Fund attains the capital ratio required under paragraph (2).

"(4) For purposes of this subsection:

"(A) The term 'capital' means the economic net worth of the Mutual Mortgage Insurance Fund, as determined by the Secretary under the annual audit required under section 538.

"(B) The term 'capital ratio' means the ratio of capital to unamortized insurance-in-force.

"(C) The term 'economic net worth' means the current cash available to the Fund, plus the net present value of all future cash inflows and outflows expected to result from the outstanding mortgages in the Fund.

"(D) The term 'unamortized insurance-in-force' means the remaining obligation on outstanding mortgages which are obligations of the Mutual Mortgage Insurance Fund, as estimated by the Secretary.

"(g) The Secretary shall provide for an independent actuarial study of the Mutual Mortgage Insurance Fund to be conducted annually and shall report annually to the Congress regarding the financial status of the Fund.

"(h)(1) If, pursuant to the independent annual actuarial study of the Mutual Mortgage Insurance Fund required under subsection (g), the Secretary determines that the Mutual Mortgage Insurance Fund is not meeting the operational goals under paragraph (2), the Secretary may not issue distributions, and may, by regulation, propose and implement any adjustments to the insurance premiums under section 203(c) or section 2103(b) of the Omnibus Budget Reconciliation Act of 1990, or any other program requirements established by the Secretary necessary to achieve such goals. Upon determining that a premium or other change is appropriate under the preceding sentence, the Secretary shall immediately notify Congress of the proposed change and the reasons for the change. Any such premium change shall not take effect before the expiration of the 90-day period beginning upon such notification.

"(2) The operational goals referred to in paragraph (1) shall be—

"(A) maintaining an adequate capital ratio;

"(B) meeting the needs of homebuyers with low downpayments and first-time homebuyers by providing access to mortgage credit; and

"(C) minimizing the risk to the Fund and to homeowners from homeowner default.".

SEC. 2106. PERIODIC MORTGAGE INSURANCE SAFETY AND SOUNDNESS PREMIUM.

Section 203(c) of the National Housing Act (12 U.S.C. 1709(c)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

"(3) Notwithstanding any other provision of law, the Secretary may require payment on all mortgages that are obligations of the Mutual Mortgage Insurance Fund of an additional premium charge on a periodic basis as determined by the Secretary to be consistent with sound actuarial practice. Such determination shall be in accordance with the findings of the annual actuarial study of the Mutual Mortgage Insurance Fund required under section 205(g). The additional premium charge for each mortgage may not exceed an amount amount equal to 0.50 percent per year of the remaining insured principal balance of the mortgage.".

SEC. 2107. HOME EQUITY CONVERSION MORTGAGE INSURANCE DEMONSTRATION.

(a) TERMINATION DATE.—The first sentence of section 225(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(b) NUMBER OF MORTGAGES INSURED.—Section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is further amended by striking the second sentence and inserting the following new sentence: "The total number of mortgages insured under this section may not exceed 25,000.".

Subtitle C—Auction of Federally Insured Mortgages

SEC. 2201. AUCTION ALTERNATIVE TO ASSIGNMENT OF MORTGAGES.

(a) AUCTION.—Section 221(g)(4) of the National Housing Act (12 U.S.C. 1715*l*(g)(4)) is amended by adding at the end the following new subparagraph:

"(C)(i) In lieu of accepting assignment of the original credit instrument and the mortgage securing the credit instrument under subparagraph (A) in exchange for receipt of debentures, the Secretary may provide for the sale under this subparagraph of the beneficial interests in the mortgage loan through auction and sale of the mortgage loan, participation certificates, or other mortgage-backed obligations in a form acceptable to the Secretary, unless the mortgagee can demonstrate to the satisfaction of the Secretary that such auction and sale will be less economically advantageous to the mortgagee than the receipt of debentures. The Secretary shall provide that any beneficial interest auctioned and sold under this subparagraph are sold at a price, to be paid to the mortgagee, of par plus accrued interest to the date of sale. The sale price shall also include the right to a subsidy payment described in clause (viii). The Secretary may, when appropriate, adjust the price paid to the mortgagee to equal the net present value of the debentures that the mortgagee would have received pursuant to assignment under subparagraph (A).

"(ii) The Government National Mortgage Association (in this subparagraph referred to as the 'Association') shall conduct public auctions under this subparagraph on behalf of the Secretary to determine the lowest interest rate necessary to carry out a sale of the beneficial interests in the original credit instrument and mortgage securing the credit instrument.

"(iii) Any mortgagee who elects to assign a mortgage shall provide to the Association and persons bidding at an auction under this subparagraph a description of the characteristics of the original credit instrument and the mortgage securing the credit instrument, which shall include statements of the principal mortgage balance, the original stated interest rate, any service fees, the real estate and tenant characteristics of the property secured by the mortgage, the level and duration of any applicable Federal subsidies, the status of the property with respect to eligibility to prepay the mortgage under to the Emergency Low Income Housing Preservation Act of 1987, whether the owner has filed a notice of intent to prepay the mortgage under such Act or any other notice required under such Act, any incentives provided under such Act in lieu of prepayment, and any other information determined by the Association to be appropriate.

"(iv) Upon receipt of the information under clause (iii) regarding a mortgage, the Association shall promptly provide notice of any auction with respect to the mortgage ca and publish such information in advance of the auction. To promote administrative efficiency, the Association may conduct the auction at any time during the 6-month period beginning upon notice by the mortgagee of election to assign the mortgage. Notwithstanding the preceding sentence, the Association may not conduct any auction before the expiration of the 2-month period beginning upon notice and publication under this clause.

"(v) In any auction under this subparagraph, the Association shall accept the lowest interest rate bid for purchase by any bidder determined by the Association to be acceptable. The Association shall cause the bid to be published in the Federal Register. Settlement for the sale of the credit instrument and the mortgage securing the credit instrument shall occur not later than 30 days (not including Saturdays, Sundays, and legal public holidays) after the date of the selection of the accepted bid.

"(vi) If no bids are received or the bids that are received are not accepted by the Association, the mortgagee shall retain all rights under this paragraph to assign the mortgage loan to the Secretary. The Association may determine that a bid is unacceptable if the Association determines that the bid is at a price that would result in costs to the Federal Government exceeding the costs incurred if the mortgage were to be assigned to the Secretary under subparagraph (A).

"(vii) The holder of a mortgage, representative of the holder of a mortgage, and entities affiliated with the holder of the mortgage may not participate in the auction under this subparagraph unless the holder, representative, or affiliate is also providing secondary financing for the project secured by the mortgage for the purpose of (I) resolving the physical and financial needs of the project, or (II) enabling a purchaser to acquire a project that is eligible low income housing (as such term is defined under the Emergency Low Income Housing Preservation Act of 1987) and preserve its use as housing affordable for low- and moderate-income families.

"(viii) In carrying out an auction under this subparagraph, the Secretary shall agree to provide a monthly interest subsidy payment from the General Insurance Fund to the holder of the original credit instrument and the mortgage securing the credit instrument (and any assigns of the holder who are approved by the Secretary). The subsidy payment shall be paid on the first day of each month in an amount equal to the difference between the stated interest due on the mortgage loan (less any servicing fee) and the lowest interest rate necessary to provide for sale of the participation certificate for the remaining unpaid principal

balance plus accrued interest on the mortgage loan. Each interest subsidy payment shall be treated by the holder of the mortgage as interest paid on the mortgage. The interest subsidy payment shall be provided until the earlier of—

"(I) the maturity date of the loan;

"(II) prepayment of the mortgage loan; or

"(III) default and full payment of insurance benefits on the mortgage loan by the Secretary.

"(ix) The Secretary, or the Association on behalf of the Secretary, may require that the loans auctioned under this subparagraph be sold together with servicing rights as whole loans if the Secretary determines that the inclusion of servicing rights will further the financial interests of the Federal Government. To further maximize the interest of the Federal Government, the Secretary may also acquire the servicing rights and hold a separate auction of the rights.

"(x) This subparagraph may not be construed to alter, limit, or impair any low income use restrictions applicable to any project under the original regulatory agreement for the project, any revised agreement entered into pursuant to the Emergency Low Income Housing Preservation Act of 1987, or any other agreement for the provision of Federal assistance to the housing or its tenants. This subparagraph may not be construed to alter the affordability and low income use restrictions agreed to by owners of projects insured with mortgages under this Act.

"(xi) The provisions of this subparagraph shall not apply after September 30, 1995.".

(b) IMPLEMENTATION.—The Secretary shall implement the provisions under the amendment made by subsection (a) not later than 30 days after the date of the enactment of this Act. The provisions shall not be subject to prior issuance of regulations and notice in the Federal Register. The Secretary shall issue regulations to carry out the provisions under the amendment not later than 6 months of the date of the enactment of this Act.

(c) REPORT.—The Secretary of Housing and Urban Development shall submit a report to the Congress, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, regarding any actions taken under section 221(g)(4)(C) of the National Housing Act (as amended by this section). The report shall include information regarding the number of mortgages auctioned and sold and their value, the amount of subsidies committed under this program, the number of mortgages transferred to preferred mortgagees, the ability of the Secretary to coordinate this program with the incentives provided under the Emergency Low Income Housing Preservation Act of 1987, and the costs and benefits derived from this program for the Federal Government.

Subtitle D—Crime and Flood Insurance Programs

SEC. 2301. CRIME INSURANCE PROGRAM.

(a) EXTENSION OF GENERAL AUTHORITY.—Section 1201(b) of the National Housing Act (12 U.S.C. 1749bbb(b)) is amended by striking "September 30, 1991" in the matter preceding paragraph (1) and inserting "September 30, 1995".

(b) CONTINUATION OF EXISTING CONTRACTS.—Section 1201(b)(1) of the National Housing Act (12 U.S.C. 1749bbb(b)(1)) is amended by striking "September 30, 1992" and inserting "September 30, 1996".

(c) EXTENSION OF LIMITATION ON PREMIUMS.—Section 542(c) of the Housing and Community Development Act of 1987 (12 U.S.C. 1749bbb-10c note) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

SEC. 2302. FLOOD INSURANCE PROGRAM.

(a) EXTENSION OF GENERAL AUTHORITY.—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(b) EXTENSION OF EMERGENCY PROGRAM.—Section 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4056(a)) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(c) EXTENSION OF LIMITATION ON PREMIUMS.—Section 541(d) of the Housing and Community Development Act of 1987 (42 U.S.C. 4015 note) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(d) EXTENSION OF EROSION PROVISIONS.—Section 1306(c)(7) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(7)) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(e) INCLUSION OF COSTS IN PREMIUMS.—

(1) ESTIMATES OF PREMIUM RATES.—Section 1307(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(a)) is amended—

(A) in paragraph (1)(B)(i), by striking "and" at the end;

(B) in paragraph (1)(B)(ii), by inserting "and" after the comma at the end;

(C) in paragraph (1)(B), by inserting at the end the following new clause:

"(iii) any remaining administrative expenses incurred in carrying out the flood insurance and floodplain management programs (including the costs of mapping activities under section 1360) not included under clause (ii), which shall be recovered by a fee charged to policyholders and such fee shall not be subject to any agents' commissions, company expense allowances, or State or local premium taxes,"; and

(D) in paragraph (2), by inserting after "title" the following: ", and which, together with a fee charged to policyholders that shall not be not subject to any agents' commission, company expenses allowances, or State or local premium taxes, shall include any administrative expenses incurred in carrying out the flood insurance and floodplain management programs (including the costs of mapping activities under section 1360)".

(2) ESTABLISHMENT OF CHARGEABLE PREMIUM RATES.—Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015) is amended—

(A) in subsection (b)—

(i) by striking "and" at the end of paragraph (2);

(ii) by redesignating paragraph (3) as paragraph (4); and

(iii) by inserting after paragraph (2), the following new paragraph:

"(3) adequate, together with the fee under paragraph (1)(B)(iii) or (2) of section 1307(a), to provide for any administrative expenses of the flood insurance and floodplain management programs (including the costs of mapping activities under section 1360), and"; and

(B) by striking subsection (d) and inserting the following new subsection:

"(d) With respect to any chargeable premium rate prescribed under this section, a sum equal to the portion of the rate that covers any administrative expenses of carrying out the flood insurance and floodplain management programs which have been estimated under paragraphs (1)(B)(ii) and (1)(B)(iii) of section 1307(a) or paragraph (2) of such section (including the fees under such paragraphs), shall be paid to the Director. The Director shall deposit the sum in the National Flood Insurance Fund established under section 1310.".

(3) NATIONAL FLOOD INSURANCE FUND.—Section 1310(a)(4) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)(4)) is amended to read as follows:

"(4) to the extent approved in appropriations Acts, to pay any administrative expenses of the flood insurance and floodplain management programs (including the costs of mapping activities under section 1360); and".

(4) ADMINISTRATIVE EXPENSES.—Section 1375 of the National Flood Insurance Act of 1968 (42 U.S.C. 4126) is amended by striking "program" and all that follows and inserting the following: "and floodplain management programs authorized under this title may be paid with amounts from the National Flood Insurance Fund (as provided under section 1310(a)(4)), subject to approval in appropriations Acts.".

(5) EXCEPTION TO LIMITATION ON PREMIUM INCREASES.—Notwithstanding section 541(d) of the Housing and Community Development Act of 1987 (42 U.S.C. 4015 note) (as amended by this section), the premium rates charged for flood insurance under any program established pursuant to the National Flood Insurance Act of 1968 may be increased by more than 10 percent during fiscal year 1991, except that any increase in such rates not resulting from the inclusion in chargeable premium rates of administrative expenses of the flood insurance and floodplain management programs (pursuant to the amendments made by this subsection) may not exceed 10 percent.

Subtitle E—Banking Committee Oversight of Credit

SEC. 2401. CREDIT ACTIVITIES OF GOVERNMENT AGENCIES AND INSTRUMENTALITY.

(a) IN GENERAL.—Any provision of this Act and any amendment made by this Act to chapter 31 of title 31, United States Code, or any other provision of law, which would have the effect of restricting the authority of any corporation owned in whole or in part by the Federal Government, such as Amtrak, the Tennessee Valley Authority or the Saint Lawrence Seaway Development Corporation, or any privately owned Government-sponsored entity, such as a national bank, Federal savings association, or Federal credit union, from borrowing from or issuing obligations to any person other than the Secretary of the Treasury or guaranteeing any obligation issued by any person shall not take effect.

(b) CERTAIN ACTIONS PROHIBITED.—Notwithstanding any other provision of this Act or any amendment made by this Act to any other provision of law, no officer or employee of the United States may take any action which would have the effect of implementing any provision of, or any amendment made by, this Act which is described in subsection (a).

(c) VIOLATION TREATED AS VIOLATION OF ANTIDEFICIENCY ACT.—Any violation of subsection (b) shall be treated as a violation of section 1341(a) of title 31, United States Code.

SEC. 2402. REPORT ON CREDIT AND THE ISSUANCE OF NOTES AND THE REDEMPTION THEREOF.

(a) REPORT REQUIRED.—In order to assist the Committee on Banking, Finance and Urban Affairs of the House of Representatives in its oversight of, and legislative ac-

tivities with respect to, money and credit and the issuance of notes and the redemption thereof, and to reduce the costs associated with credit activities and the issuance and redemption of notes, the Secretary of the Treasury shall submit an annual report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives on the credit activities of the Secretary and the policies of the Secretary with respect to the issuance and redemption of notes.

(b) CONTENTS OF REPORT.—The annual report required to be made by the Secretary of the Treasury under subsection (a) shall—

(1) describe the policies with respect to the credit activities of the Department of the Treasury;

(2) describe the policies of the Secretary and the Department with respect to the issuance and redemption of notes;

(3) contain a report on the amount of the costs, as determined by the Secretary, of such credit activities and the issuance and redemption of notes;

(4) identify actions taken by the Secretary to reduce costs associated with such credit activities and the issuance and redemption of notes during the period covered by such report; and

(5) any recommendations for legislative action which would reduce the costs associated with the credit activities of the Department of the Treasury and the issuance and redemption of notes.

(c) ANALYSIS OF EFFECT ON PRIVATE CREDIT ACTIVITIES.—The annual report required to be made by the Secretary of the Treasury under subsection (a) shall contain an analysis of the effect of—

(1) government credit activities; and

(2) government policies with respect to the issuance and redemption of notes,

on private credit activities.

(d) METHODOLOGY FOR REPORTING ON DETERMINATION OF COSTS.—

(1) IN GENERAL.—In determining the cost of, and in identifying methods for reducing the cost of, credit activities and the issuance and redemption of notes, the Secretary of the Treasury shall quantify the cost associated with each type of credit activity and note.

(2) FACTORS TO BE TAKEN INTO ACCOUNT.—In quantifying the costs involved with each type of credit activity and note pursuant to paragraph (1), the Secretary of the Treasury shall determine—

(A) the volume of each type of credit activity and note; and

(B) the costs involved with each type of credit activity and the issuance and redemption of each type of note with respect to any relevant factor, including—

(i) credit cost;

(ii) interest cost;

(iii) management and operational costs; and

(iv) expenses incurred in connection with the issuance and redemption of notes.

(e) DEFINITIONS.—For purposes of this section—

(1) CREDIT ACTIVITY.—The term "credit activity" includes any borrowing or lending activity and any extension of credit by or to any person or governmental entity, including the issuance of notes in connection with any such activity.

(2) NOTE.—The term "note" includes any obligation, including any bill, bond, or other instrument, issued in connection with any credit activity.

SEC. 2403. EFFECT OF CHANGES IN GOVERNMENT POLICY ON CREDIT, HOUSING, URBAN DEVELOPMENT, BANKS AND THE BANKING INDUSTRY, AND MONETARY POLICY.

(a) REPORTS REQUIRED.—The Comptroller General of the United States and the Secretary of the Treasury shall each submit an annual report to the Committee on Banking, Finance and Urban Affairs of the United States House of Representatives on the effect of changes in Federal tax and revenue laws on—

(1) the cost and availability of credit;

(2) the cost and availability of public and private housing;

(3) the progress of urban development;

(4) the financial condition of banks and the banking industry; and

(5) the conduct of Federal monetary policy and the operation of the Federal Reserve System.

(b) RECOMMENDATION.—Each report required under subsection (a) shall also contain the recommendations of the Comptroller General and the Secretary of the Treasury for changes in law or government policy to reduce Federal spending and address the effect of the changes in tax and revenue laws on the subjects described in subsection (a).

(c) EFFECT OF CHANGES IN TAX LAWS ON CREDIT FACILITIES AND ACTIVITIES.—

(1) IN GENERAL.—The first reports required under subsection (a) shall contain an analysis of the effect of changes in tax law during the period 1980 to 1990 and recommendations for changes in law or government policy to address the effect of the changes in tax and revenue laws during the period from 1980 to 1990 on the subjects described in subsection (a) and each subsequent report shall analyze the effect of changes in tax and revenue law during the immediately preceding year and contain recommendations to respond to changes in tax and revenue law during the immediately preceding year.

(2) ANALYSIS OF EFFECT OF 1986 AND 1981 TAX ACTS ON SAVINGS AND LOAN CRISIS.—In addition to the requirement of paragraph (1) relating to the first reports required under subsection (a), such reports shall contain a detailed analysis of the extent to which the abrupt changes in the tax consequences of various kinds of investment activities as a result of the enactment of the Tax Reform Act of 1986 and the Economic Recovery Tax Act of 1981, and the effect such changes had on real property values and institutions which provide credit with respect to such investment activities and property, contributed to the rapid escalation of the crisis in the savings and loan industry in 1987 and 1988.

(d) TIMING OF REPORTS.—The first reports by the Comptroller General and the Secretary of the Treasury pursuant to subsection (a) shall be submitted no later than July 1, 1991, and each subsequent report shall be submitted no later than February 1 of each subsequent year.

TITLE III—EDUCATION AND LABOR COMMITTEE

Subtitle A—Student Loan Program Savings

SEC. 3001. SHORT TITLE.

This subtitle may be cited as the "Student Loan Default Prevention Initiative Act of 1990".

SEC. 3002. PRECLAIMS ASSISTANCE PAYMENTS.

(a) AMENDMENT.—Section 428(f)(1)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(f)(1)(A)) is amended—

(1) by striking clause (iii); and

(2) by redesignating clauses (iv) and (v) as clauses (iii) and (iv), respectively.

SEC. 3003. INITIAL DISBURSEMENT AND ENDORSEMENT REQUIREMENTS.

(a) AMENDMENT.—Section 428G(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078-7(b)(1)) is amended to read as follows:

"(1) FIRST YEAR STUDENTS.—The first installment of the proceeds of any loan made, insured, or guaranteed under this part that is made to a student borrower who is entering the first year of program of postsecondary education, and who has not previously obtained a loan under this part, shall not (regardless of the amount of such loan or the duration of the period of enrollment) be presented by the institution to the student for endorsement until 30 days after the borrower begins a course of study, but may be delivered to the eligible institution prior to the end of that 30-day period.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for loans made on or after the date of enactment of this Act to cover the cost of instruction for periods of enrollment beginning on or after January 1, 1991.

SEC. 3004. INELIGIBILITY BASED ON HIGH DEFAULT RATES AND BANKRUPTCY.

(a) IN GENERAL.—Section 435(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)) is amended by adding at the end thereof the following new paragraph:

"(3) INELIGIBILITY BASED ON HIGH DEFAULT RATES.—(A) An institution whose cohort default rate is equal to or greater than the threshold percentage specified in subparagraph (B) for each of the three most recent fiscal years for which data are available shall not be an eligible institution under this part unless, within 30 days of receiving notification from the Secretary of the loss of eligibility under this paragraph, the institution appeals the loss of its eligibility to the Secretary and—

"(i) the institution demonstrates to the satisfaction of the Secretary that the Secretary's calculation of its cohort default rate is not accurate, and that recalculation would reduce its cohort default rate for any of the three fiscal years below the threshold percentage specified in subparagraph (B); or

"(ii) there are, in the judgment of the Secretary, exceptional mitigating circumstances that would make the application of this paragraph inequitable.

During the pendency of an appeal, the Secretary shall suspend the eligibility of the institution in accordance with his authority to take emergency actions under section 487(c)(1)(E).

"(B) For purposes of determinations under subparagraph (A) for academic year 1991-1992 and any succeeding academic year, the threshold percentage is 35 percent.

"(C) This paragraph shall not apply to any institution that is—

"(i) a part B institution within the meaning of section 322(2) of this Act;

"(ii) a tribally controlled community college within the meaning of section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978; or

"(iii) a Navajo Community College under the Navajo Community College Act.".

"(4) INELIGIBILITY BASED ON BANKRUPTCY.—An institution shall cease to be an eligible institution under this part if that institution commences a voluntary case by filing a petition with a bankruptcy court under title 11, United States Code.".

(b) REFUSAL TO PROVIDE STATEMENT TO LENDER.—Section 428(a)(2)(F) of such Act

(20 U.S.C. 1078(a)(2)(F)) is amended by inserting before the period at the end thereof the following: ", except in individual cases where the institution determines that the portion of the student's expenses to be covered by the loan can be met more appropriately, either by the institution or directly by the student, from other sources".

(c) EXTENSION OF DEFAULT RATE LIMITATIONS ON SLS LOANS.—Section 2003(a)(3) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking out "October 1, 1991" and inserting "October 1, 1996".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective July 1, 1991.

SEC. 3005. SPECIAL ALLOWANCES.

(a) REDUCTION OF RATE.—Section 438(b)(2)(A)(iii) of the Higher Education Act of 1965 (20 U.S.C. 1087-1(b)(2)(A)(iii)) is amended by striking "3.25 percent" and inserting "3.0 percent".

(b) ELIMINATION OF FLOOR ON ALLOWANCE FOR LOANS FROM TAX EXEMPT FUNDS.—Section 438(b)(2)(B) of such Act (20 U.S.C. 1087-1(b)(2)(B)) is amended—

(1) by striking division (ii); and

(2) by redesignating division (iii) as division (ii).

(c) EFFECTIVE DATES.—The amendments made by this section shall apply with respect to loans made on or after the date of enactment of this Act to cover periods of instruction beginning on or after November 1, 1990.

SEC. 3006. ABILITY TO BENEFIT.

(a) IN GENERAL.—Section 484(d) of the Higher Education Act of 1965 (20 U.S.C. 1091(d)) is amended to read as follows:

"(d) ABILITY TO BENEFIT.—In order for a student who is admitted on the basis of ability to benefit from the education or training offered to be eligible for any grant, loan, or work assistance under this title, the student shall, prior to enrollment, pass an independently administered examination approved by the Secretary.".

(b) CONFORMING AMENDMENT.—Section 481(b) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) is amended in the fourth sentence by inserting ", except in accordance with section 484(d) of this Act," after "shall not".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after January 1, 1991.

SEC. 3007. MAXIMUM SLS LOAN AMOUNTS.

(a) EFFECTIVE DATE EXTENSION.—Section 2003(b)(2) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "1991" and inserting "1996".

(b) PERIOD FOR DETERMINATION OF MAXIMUM LOAN AMOUNTS.—Section 428A(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078-1(b)) is amended by striking "9 consecutive" and inserting "7 consecutive".

SEC. 3008. COLLEGE FACILITIES.

(a) COLLEGE CONSTRUCTION LOAN INSURANCE ASSOCIATION REPORT.—The College Construction Loan Insurance Association shall prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a plan for expanding the Association's operations and activities to provide direct insurance to institutions that do not have investment-grade rated debt instruments. Such plan shall also include an analysis of the impact of such expansion on the Association's ability to do business and recommendations as to the level of Federal investment that would be necessary to assist the Association with such an expansion. Such plan shall be submitted not later than August 1, 1991.

(b) ADDITIONAL AUTHORITY FOR HOUSING AND EDUCATION FACILITIES LOANS.—Section 761 of the Higher Education Act of 1965 (20 U.S.C. 1132g) is amended by adding at the end thereof the following new subsection:

"(g) ADDITIONAL AUTHORIZATION.—

"(1) In addition to the amounts authorized by subsection (f), there are authorized to be appropriated to the Secretary such sums as may be necessary to provide loans, under terms and conditions consistent with this part, to private, 4-year, nonprofit institutions of higher education that serve primarily low-income and minority students and that have been in existence for at least 80 years.

"(2) Loans from funds appropriated under this subsection may be used—

"(A) to construct, reconstruct, or renovate any classroom facility, library, laboratory facility, dormitory (including dining facilities) or other facility customarily used by institutions of higher education for instructional or research purposes or for housing students, faculty and staff;

"(B) to purchase or lease instructional equipment, research instrumentation and any capital equipment or fixture related to facilities described in subparagraph (A);

"(C) to finance any other facility, equipment, or fixture the construction, acquisition, or renovation of which is essential to the maintaining of accreditation of the member institution by a nationally recognized accrediting agency or association; and

"(D) to purchase any real property or interest therein underlying facilities described in subparagraph (A) or (C).

"(3) Section 763(a) shall not apply to funds provided in the form of loans from amounts appropriated under this subsection.".

SEC. 3009. SUNSET PROVISION.

The amendments made by this subtitle shall cease to be effective on October 1, 1996.

Subtitle B—Amendments Relating to Employee Retirement Income Security Act of 1974

PART 1—TREATMENT OF REVERSIONS OF QUALIFIED PLAN ASSETS TO EMPLOYERS

SEC. 3101. INCREASE IN REVERSION TAX.

Section 4980(a) (relating to tax on reversion of qualified plan assets to employer) is amended by striking "15 percent" and inserting "20 percent".

SEC. 3102. ADDITIONAL TAX FOR FAILURE TO ESTABLISH REPLACEMENT PLAN OR TO INCREASE BENEFITS.

(a) IN GENERAL.—Section 4980 is amended by adding at the end thereof the following new subsection:

"(d) INCREASE IN TAX FOR FAILURE TO ESTABLISH REPLACEMENT PLAN OR INCREASE BENEFITS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '50 percent' for '20 percent' with respect to any employer reversion from a qualified plan unless—

"(A) the employer establishes or maintains a qualified replacement plan, or

"(B) the plan provides benefit increases meeting the requirements of paragraph (3).

"(2) QUALIFIED REPLACEMENT PLAN.—For purposes of this subsection, the term 'qualified replacement plan' means a qualified plan established or maintained by the employer in connection with a qualified plan termination (hereinafter referred to as the 'replacement plan') with respect to which the following requirements are met:

"(A) PARTICIPATION REQUIREMENT.—Substantially all of the active participants in the terminated plan who remain as employees of the employer after the termination are active participants in the replacement plan.

"(B) ASSET TRANSFER REQUIREMENT.—

"(i) 30 PERCENT CUSHION.—A direct transfer from the terminated plan to the replacement plan is made before any employer reversion, and the transfer is in an amount equal to the excess (if any) of—

"(I) 30 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, over

"(II) the amount determined under clause (ii).

"(ii) REDUCTION FOR INCREASE IN BENEFITS.—The amount determined under this clause is an amount equal to the present value of the aggregate increases in the nonforfeitable accrued benefits under the terminated plan of any participants (including nonactive participants) pursuant to a plan amendment which—

"(I) is adopted during the 60-day period ending on the date of termination of the qualified plan, and

"(II) takes effect immediately on the termination date.

"(iii) TREATMENT OF AMOUNT TRANSFERRED.—In the case of the transfer of any amount under clause (i)—

"(I) such amount shall not be includible in the gross income of the employer,

"(II) no deduction shall be allowable with respect to such transfer, and

"(III) such transfer shall not be treated as an employer reversion for purposes of this section.

"(C) ALLOCATION REQUIREMENTS.—

"(i) IN GENERAL.—In the case of any defined contribution plan, the portion of the amount transferred to the replacement plan under subparagraph (B)(i) is—

"(I) allocated under the plan to the accounts of participants in the plan year in which the transfer occurs, or

"(II) credited to a suspense account and allocated from such account to accounts of participants no less rapidly than ratably over the 7-plan-year period beginning with the year of the transfer.

"(ii) COORDINATION WITH SECTION 415 LIMITATION.—If, by reason of any limitation under section 415, any amount credited to a suspense account under clause (i)(II) may not be allocated to a participant before the close of the 7-year period under such clause—

"(I) such amount shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants by reason of any such limitation, shall be allocated to the participant as provided in section 415.

"(iii) TREATMENT OF INCOME.—Any income on any amount credited to a suspense account under clause (i)(II) shall be allocated to accounts of participants no less rapidly than ratably over the remainder of the period determined under such clause (after application of clause (ii)).

"(iv) UNALLOCATED AMOUNTS AT TERMINATION.—If any amount credited to a suspense account under clause (i)(II) is not allocated as of the termination date of the plan—

"(I) such amount shall be allocated to the accounts of participants as of such date, except that any amount which may not be

allocated by reason of any limitation under section 415 shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants under subclause (I) by reason of such limitation, such portion shall be treated as an employer reversion to which this section applies.

"(3) PRO RATA BENEFIT INCREASES.—

"(A) IN GENERAL.—The requirements of this paragraph are met if a plan amendment to the terminated plan is adopted in connection with the termination of the plan which provides pro rata increases in the present values of the nonforfeitable accrued benefits of all participants (including nonactive participants) which—

"(i) have an aggregate present value not less than 25 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, and

"(ii) take effect immediately on the termination date.

"(B) PRO RATA INCREASE.—For purposes of subparagraph (A), a pro rata increase is an increase in the present value of the nonforfeitable accrued benefit of each participant (including nonactive participants) in an amount which bears the same ratio to the aggregate amount determined under subparagraph (A)(i) as—

"(i) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to

"(ii) the aggregate present value of nonforfeitable accrued benefits of the terminated plan (as so determined).

Notwithstanding the preceding sentence, the aggregate increases in the present values of the nonforfeitable accrued benefits of nonactive participants shall not exceed 40 percent of the aggregate amount determined under subparagraph (A)(i) by substituting 'equal to' for 'not less then'.

"(4) COORDINATION WITH OTHER PROVISIONS.—

"(A) LIMITATIONS.—A benefit may not be increased under paragraph (2)(B)(ii) or (3)(A), and an amount may not be allocated to a participant under paragraph (2)(C), if such increase or allocation would result in a failure to meet any requirement under section 401(a)(4) or 415.

"(B) TREATMENT AS EMPLOYER CONTRIBUTIONS.—Any increase in benefits under paragraph (2)(B)(ii) or (3)(A), or any allocation of any amount (or income allocable thereto) to any account under paragraph (2)(C), shall be treated as an annual benefit or annual addition for purposes of section 415.

"(C) 10-YEAR PARTICIPATION REQUIREMENT.—Except as provided by the Secretary, section 415(b)(5)(D) shall not apply to any increase in benefits by reason of this subsection to the extent that the application of this subparagraph does not discriminate in favor of highly compensated employees (as defined in section 414(q)).

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) NONACTIVE PARTICIPANT.—The term 'nonactive participant' means an individual who—

"(i) is a participant in pay status as of the termination date,

"(ii) is a beneficiary who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, or

"(iii) is a participant not described in clause (i) or (ii)—

"(I) who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, and

"(II) whose service, which was creditable under the terminated plan, terminated during the period beginning 3 years before the termination date and ending with the date on which the final distribution of assets occurs.

"(B) PRESENT VALUE.—Present value shall be determined as of the termination date and on the same basis as liabilities of the plan are determined on termination.

"(C) REALLOCATION OF INCREASE.—Except as provided in paragraph (2)(C), if any benefit increase is reduced by reason of the last sentence of paragraph (3)(A)(ii) or paragraph (4), the amount of such reduction shall be allocated to the remaining participants on the same basis as other increases (and shall be treated as meeting any allocation requirement of this subsection).

"(D) AGGREGATION OF PLANS.—The Secretary may provide that 2 or more plans may be treated as 1 plan for purposes of determining whether there is a qualified replacement plan under paragraph (2).

"(6) SUBSECTION NOT TO APPLY TO EMPLOYER IN BANKRUPTCY.—This subsection shall not apply to an employer who, as of the termination date of the qualified plan, is in bankruptcy liquidation under chapter 7 of title 11 of the United States Code or in similar proceedings under State law."

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT.—

(1) FIDUCIARY RESPONSIBILITY.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end thereof the following new subsection:

"(d)(1) If, in connection with the termination of a single-employer plan, an employer elects to establish or maintain a qualified replacement plan, or to increase benefits, as provided under section 4980(d) of the Internal Revenue Code of 1986, a fiduciary shall discharge the fiduciary's duties under this title and title IV in accordance with the following requirements:

"(A) In the case of a fiduciary of the terminated plan, any requirement—

"(i) under section 4980(d)(2)(B) of such Code with respect to the transfer of assets from the terminated plan to a qualified replacement plan, and

"(ii) under section 4980(d)(2)(B)(ii) or 4980(d)(3) of such Code with respect to any increase in benefits under the terminated plan.

"(B) In the case of a fiduciary of a qualified replacement plan, any requirement—

"(i) under section 4980(d)(2)(A) of such Code with respect to participation in the qualified replacement plan of active participants in the terminated plan,

"(ii) under section 4980(d)(2)(B) of such Code with respect to the receipt of assets from the terminated plan, and

"(iii) under section 4980(d)(2)(C) of such Code with respect to the allocation of assets to participants of the qualified replacement plan.

"(2) For purposes of this subsection—

"(A) any term used in this subsection which is also used in section 4980(d) of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section, and

"(B) any reference in this subsection to the Internal Revenue Code of 1986 shall be a reference to such Code as in effect on January 1, 1991."

(2) CONFORMING AMENDMENTS.—

(A) Section 404(a)(1)(D) of such Act (29 U.S.C. 1104(a)(1)(D)) is amended by striking "or title IV" and inserting "and title IV".

(B) Section 4044(d)(1) of such Act (29 U.S.C. 1344(d)(1)) is amended by inserting ", section 404(d) of this Act, and section 4980(d) of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "paragraph (3)".

(C) Section 3 of such Act (29 U.S.C. 1002) is amended by adding at the end the following new paragraph:

"(41) The term 'single-employer plan' means a plan which is not a multiemployer plan.".

SEC. 3103. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subpart shall apply to reversions occurring after September 30, 1990.

(b) EXCEPTION.—The amendments made by this subpart shall not apply to any reversion after September 30, 1990, if—

(1) in the case of plans subject to title IV of the Employee Retirement Income Security Act of 1974, a notice of intent to terminate under such title was provided to participants (or if no participants, to the Pension Benefit Guaranty Corporation) before October 1, 1990, or

(2) in the case of plans subject to title I (and not to title IV) of such Act, a notice of intent to reduce future accruals under section 204(h) of such Act was provided to participants in connection with the termination before October 1, 1990.

PART 2—TRANSFERS TO RETIREE HEALTH ACCOUNTS

SEC. 3111. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) IN GENERAL.—Part I of subchapter D of chapter 1 (relating to pension, profit-sharing, and stock bonus plans) is amended by adding at the end thereof the following new subpart:

"Subpart E—Treatment of Transfers to Retiree Health Accounts

"Sec. 420. Transfers of excess pension assets to retiree health accounts.

"SEC. 420. TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

"(a) GENERAL RULE.—If there is a qualified transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to a health benefits account which is part of such plan—

"(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of subsection (a) or (h) of section 401 solely by reason of such transfer (or any other action authorized under this section),

"(2) no amount shall be includible in the gross income of the employer maintaining the plan solely by reason of such transfer,

"(3) such transfer shall not be treated—

"(A) as an employer reversion for purposes of section 4980, or

"(B) as a prohibited transaction for purposes of section 4975, and

"(4) the limitations of subsection (d) shall apply to such employer.

"(b) QUALIFIED TRANSFER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer—

"(A) of excess pension assets of a defined benefit plan to a health benefits account which is part of such plan in a taxable year beginning after December 31, 1990,

"(B) which does not contravene any other provision of law, and

"(C) with respect to which the plan meets—

"(i) the use requirements of subsection (c)(1),

"(ii) the vesting requirements of subsection (c)(2), and

"(iii) the minimum benefit requirements of subsection (c)(3).

"(2) ONLY 1 TRANSFER PER YEAR.—

"(A) IN GENERAL.—No more than 1 transfer with respect to any plan during a taxable year may be treated as a qualified transfer for purposes of this section.

"(B) EXCEPTION.—A transfer described in paragraph (4) shall not be taken into account for purposes of subparagraph (A).

"(3) LIMITATION ON AMOUNT TRANSFERRED.—The amount of excess pension assets which may be transferred in a qualified transfer shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the taxable year of the transfer for qualified current retiree health liabilities.

"(4) SPECIAL RULE FOR 1990.—

"(A) IN GENERAL.—Subject to the provisions of subsection (c), a transfer shall be treated as a qualified transfer if such transfer—

"(i) is made after the close of the taxable year preceding the employer's first taxable year beginning after December 31, 1990, and before the earlier of—

"(I) the due date (including extensions) for the filing of the return of tax for such preceding taxable year, or

"(II) the date such return is filed, and

"(ii) does not exceed the expenditures of the employer for qualified current retiree health liabilities for such preceding taxable year.

"(B) REDUCTION IN DEDUCTION.—The amount of the deductions otherwise allowable under this chapter to an employer for the taxable year preceding the employer's first taxable year beginning after December 31, 1990, shall be reduced by the amount of any qualified transfer to which this paragraph applies.

"(C) COORDINATION WITH REDUCTION RULE.—Subsection (e)(1)(B) shall not apply to a transfer described in subparagraph (A).

"(5) EXPIRATION.—No transfer in any taxable year beginning after December 31, 1995, shall be treated as a qualified transfer.

"(c) REQUIREMENTS OF PLANS TRANSFERRING ASSETS.—

"(1) USE OF TRANSFERRED ASSETS.—

"(A) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) shall be used only to pay qualified current retiree health liabilities (other than liabilities of key employees not taken into account under subsection (e)(1)(D)) for the taxable year of the transfer (whether directly or through reimbursement).

"(B) AMOUNTS NOT USED TO PAY FOR HEALTH BENEFITS.—

"(i) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) which are not used as provided in subparagraph (A) shall be transferred out of the account to the transferor plan.

"(ii) TAX TREATMENT OF AMOUNTS.—Any amount transferred out of an account under clause (i)—

"(I) shall not be includible in the gross income of the employer for such taxable year, but

"(II) shall be treated as an employer reversion for purposes of section 4980 (without regard to subsection (d) thereof).

"(C) ORDERING RULE.—For purposes of this section, any amount paid out of a health benefits account shall be treated as paid first out of the assets and income described in subparagraph (A).

"(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).

"(B) SPECIAL RULE FOR 1990.—In the case of a qualified transfer described in subsection (b)(4), the requirements of this paragraph are met with respect to any participant who separated from service during the taxable year to which such transfer relates by recomputing such participant's benefits as if subparagraph (A) had applied immediately before such separation.

"(3) MINIMUM COST REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the benefit maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer.

"(B) APPLICABLE EMPLOYER COST.—For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by dividing—

"(i) the qualified current retiree health liabilities of the employer for such taxable year determined—

"(I) without regard to any reduction under subsection (e)(1)(B), and

"(II) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer at the end of the taxable year, by

"(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

"(C) ELECTION TO COMPUTE COST SEPARATELY.—An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

"(D) BENEFIT MAINTENANCE PERIOD.—For purposes of this paragraph, the term 'benefit maintenance period' means the 5 taxable year period beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more overlapping benefit maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.

"(d) LIMITATIONS ON EMPLOYER.—For purposes of this title—

"(1) DEDUCTION LIMITATIONS.—No deduction shall be allowed—

"(A) for the transfer of any amount to a health benefits account in a qualified transfer (or any retransfer to the plan under subsection (c)(1)(B)),

"(B) for qualified current retiree health liabilities paid out of the assets (and income) described in subsection (c)(1), or

"(C) for any amounts to which subparagraph (B) does not apply and which are paid for qualified current retiree health liabilities for the taxable year to the extent such amounts are not greater than the excess (if any) of—

"(i) the amount determined under subparagraph (A) (and income allocable thereto), over

"(ii) the amount determined under subparagraph (B).

"(2) NO CONTRIBUTIONS ALLOWED.—An employer may not contribute after December 31, 1990, any amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to qualified current retiree health liabilities for which transferred assets are required to be used under subsection (c)(1).

"(e) DEFINITION AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED CURRENT RETIREE HEALTH LIABILITIES.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified current retiree health liabilities' means, with respect to any taxable year, the aggregate amounts (including administrative expenses) which would have been allowable as a deduction to the employer for such taxable year with respect to applicable health benefits provided during such taxable year if—

"(i) such benefits were provided directly by the employer, and

"(ii) the employer used the cash receipts and disbursements method of accounting.

For purposes of the preceding sentence, the rule of section 419(c)(3)(B) shall apply.

"(B) REDUCTIONS FOR AMOUNTS PREVIOUSLY SET ASIDE.—The amount determined under subparagraph (A) shall be reduced by any amount previously contributed to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) to pay for the qualified current retiree health liabilities. The portion of any reserves remaining as of the close of December 31, 1990, shall be allocated on a pro rata basis to qualified current retiree health liabilities.

"(C) APPLICABLE HEALTH BENEFITS.—The term 'applicable health benefits' mean health benefits or coverage which are provided to—

"(i) retired employees who, immediately before the qualified transfer, are entitled to receive such benefits upon retirement and who are entitled to pension benefits under the plan, and

"(ii) their spouses and dependents.

"(D) KEY EMPLOYEES EXCLUDED.—If an employee is a key employee (within the meaning of section 416(i)(1)) with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing qualified current retiree health liabilities for such taxable year or in calculating applicable employer cost under subsection (c)(3)(B).

"(2) EXCESS PENSION ASSETS.—The term 'excess pension assets' means the excess (if any) of—

"(A) the amount determined under section 412(c)(7)(A)(ii), over

"(B) the greater of—

"(i) the amount determined under section 412(c)(7)(A)(i), or

"(ii) 125 percent of current liability (as defined in section 412(c)(7)(B)).

The determination under this paragraph shall be made as of the most recent valuation date of the plan preceding the qualified transfer.

"(3) HEALTH BENEFITS ACCOUNT.—The term "health benefits account" means an account established and maintained under section 401(h).

"(4) COORDINATION WITH SECTION 412.—In the case of a qualified transfer to a health benefits account—

"(A) any assets transferred in a plan year after the valuation date for such year (and any income allocable thereto) shall, for purposes of section 412(c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(B) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) for the first plan year after the plan year in which such transfer occurs in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the pension plan under subsection (c)(1)(B)), except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(b) CONFORMING AMENDMENT.—Section 401(h) is amended by inserting ", and subject to the provisions of section 420" after "Secretary".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers in taxable years beginning after December 31, 1990.

SEC. 3112. APPLICATION OF ERISA TO TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) EXCLUSIVE BENEFIT REQUIREMENT.—Section 403(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1103(c)(1)) is amended by inserting ", or under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "insured plans)".

(b) FIDUCIARY DUTIES.—Section 404(a)(1)(A) of such Act (29 U.S.C. 1104(a)(1)(A)) is amended by inserting "subject to section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)," after "(A)".

(c) EXEMPTIONS FROM PROHIBITED TRANSACTIONS.—Section 408(b) of such Act (29 U.S.C. 1108(b)) is amended by adding at the end thereof the following new paragraph:

"(13) Any transfer in a taxable year beginning before January 1, 1996, of excess pension assets from a single-employer plan which is a defined benefit plan to a retiree health account in a qualified transfer permitted under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)."

(d) FUNDING LIMITATIONS.—Section 302 of such Act (29 U.S.C. 1082) is amended by redesignating subsection (g) as subsection (h) and by adding at the end thereof the following new subsection:

"(g) QUALIFIED TRANSFERS TO HEALTH BENEFITS ACCOUNTS.—For purposes of this section, in the case of a qualified transfer (as defined in section 420 of the Internal Revenue Code of 1986)—

"(1) any assets transferred in a plan year after the valuation date for such year (and any income allocable thereto) shall, for purposes of subsection (c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(2) the plan shall be treated as having a net experience loss under subsection (b)(2)(B)(iv) for the first plan year after the plan year in which such transfer occurs in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the plan under section 420(c)(1)(B) of such Code), except that such subsection shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(e) NOTICE REQUIREMENTS.—

(1) IN GENERAL.—Section 101 of such Act (29 U.S.C. 1021) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) NOTICE OF TRANSFER OF EXCESS PENSION ASSETS TO HEALTH BENEFITS ACCOUNTS.—

"(1) NOTICE TO PARTICIPANTS.—Not later than 60 days before the date of a qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the administrator of the plan shall notify (in such manner as the Secretary may prescribe) each participant and beneficiary under the plan of such transfer. Such notice shall include information with respect to the amount of excess pension assets, the portion to be transferred, the amount of health benefits liabilities to be funded with the assets transferred, and the amount of pension benefits of the participant which will be vested immediately after the transfer.

"(2) NOTICE TO SECRETARIES, ADMINISTRATOR, AND EMPLOYEE ORGANIZATIONS.—

"(A) IN GENERAL.—Not later than 60 days before the date of any qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the employer maintaining the plan from which the transfer is made shall provide the Secretary, the Secretary of the Treasury, the administrator, and each employee organization representing participants in the plan a written notice of such transfer. A copy of any such notice shall be available for inspection in the principal office of the administrator.

"(B) INFORMATION RELATING TO TRANSFER.—Such notice shall identify the plan from which the transfer is made, the amount of the transfer, a detailed accounting of assets projected to be held by the plan immediately before and immediately after the transfer, and the current liabilities under the plan at the time of the transfer.

"(C) AUTHORITY FOR ADDITIONAL REPORTING REQUIREMENTS.—The Secretary may prescribe such additional reporting requirements as may be necessary to carry out the purposes of this section.

"(3) DEFINITIONS.—For purposes of paragraph (1), any term used in such paragraph which is also used in section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991) shall have the same meaning as when used in such section."

(2) PENALTIES.—

(A) Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by inserting "or section 101(e)(1)" after "section 606".

(B) Section 502(c)(3) of such Act (29 U.S.C. 1132(c)(3)) is amended—

(i) by inserting "or who fails to meet the requirements of section 101(e)(2) with respect to any person" after "beneficiary" the first place it appears, and

(ii) by inserting "or to such person" after "beneficiary" the second place it appears.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified transfers under section 420 of the Internal Revenue Code of 1986 made after the date of the enactment of this Act.

PART 3—PBGC PREMIUMS

SEC. 3121. INCREASE IN PREMIUM RATES.

(a) INCREASE IN BASIC PREMIUM.—

(1) IN GENERAL.—Clause (i) of section 4006(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended by striking "for plan years beginning after December 31, 1987, an amount equal to the sum of $16" and inserting "for plan years beginning after December 31, 1990, an amount equal to the sum of $19".

(2) CONFORMING AMENDMENT.—Section 4006(c)(1)(A) of such Act (29 U.S.C. 1306(c)(1)(A)) is amended—

(A) in clause (ii), by striking "and" at the end;

(B) by adjusting the margination of clause (iii) so as to conform to the margination of clauses (i) and (ii); and

(C) by adding at the end thereof the following new clause:

"(iv) with respect to each plan year beginning after December 31, 1987, and before January 1, 1991, an amount equal to $16 for each individual who was a participant in such plan during the plan year, and".

(b) INCREASE IN ADDITIONAL PREMIUM.—Section 4006(a)(3)(E) of such Act (29 U.S.C. 1306(a)(3)(E)) is amended—

(1) by striking "$6.00" in clause (ii) and inserting "$9.00", and

(2) by striking "$34" in clause (iv)(I) and inserting "$53".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1990.

Subtitle C—Labor Civil Penalties and Fines

SEC. 3201. CIVIL PENALTIES AND FINES UNDER OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970.

(a) IN GENERAL.—Section 17 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 666) is amended—

(1) in subsection (a), by striking out "$10,000 for each violation" and inserting in lieu thereof "$70,000 for each violation, but not less than $7,000 for each willful violation and not less than $1,000 for each repeated violation";

(2) in subsection (b), by striking out "$1,000 for each such violation" and inserting in lieu thereof "$7,000 for each such violation, but not less than $700 for each such violation";

(3) in subsection (c), by striking out "$1,000 for each such violation" and inserting in lieu thereof "$7,000 for each such violation, but not less than $700 for each such violation";

(4) in subsection (d), by striking out "$1,000" and inserting in lieu thereof "$7,000";

(5) in subsection (e)—

(A) by striking out "fine of not more than $10,000" and inserting in lieu thereof "fine in accordance with section 3571 of title 18, United States Code,";

(B) by striking out "six months" and inserting in lieu thereof "10 years";

(C) by striking out "fine of not more than $20,000" and inserting in lieu thereof "fine in accordance with section 3571 of title 18, United States Code,"; and

(D) by striking out "one year" and inserting in lieu thereof "20 years";

(6) in subsection (f), by striking out "fine of not more than $1,000 or by imprisonment for not more than six months," and inserting in lieu thereof "fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 2 years,";

(7) in subsection (g), by striking out "fine of not more than $10,000, or by imprisonment for not more than six months," and inserting in lieu thereof "fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 1 year,";

(8) by redesignating subsections (h) through (l) as subsections (i) through (m), respectively;

(9) by inserting in lieu thereof after subsection (g) the following new subsection:

"(h) If any employer willfully violates any standard, rule, or order promulgated pursuant to section 6 or any regulation prescribed pursuant to this Act and if that violation caused serious bodily injury to any employee but did not cause death to any employee, such employer shall, upon conviction, be punished by a fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 5 years, or by both, except that if the conviction is for a violation committed after a first conviction of such person, punishment shall be by a fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 10 years, or by both.";

(10) in subsection (j) (as redesignated), by striking out "$1,000" and inserting in lieu thereof "$7,000"; and

(11) by adding at the end the following new subsections:

"(n) If a penalty or fine is imposed on a director, officer, or agent of an employer under subsection (e), (f), (g), or (h), such penalty or fine shall not be paid out of the assets of the employer on behalf of that director, officer, or agent.

"(o) Nothing in this Act shall preclude State and local law enforcement agencies from conducting criminal prosecutions in accordance with the laws of such State or locality.".

(b) DEFINITION.—Section 3 of such Act (29 U.S.C. 652) is amended by adding at the end the following new paragraph:

"(15) The term 'serious bodily injury' means bodily injury that involves—

"(A) a substantial risk of death;

"(B) protracted unconsciousness;

"(C) protracted and obvious physical disfigurement; or

"(D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.".

SEC. 3202. CIVIL PENALTIES UNDER FEDERAL MINE SAFETY AND HEALTH ACT OF 1977.

(a) SECTION 110(a).—Section 110(a) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 820(a)) is amended by striking out "$10,000 for each such violation" and inserting in lieu thereof "$50,000 for each such violation but not less than $1,000 for each such violation".

(b) SECTION 110(b).—Section 110(b) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 820(b)) is amended—

(1) by striking out "1,000" and inserting in lieu thereof "$5,000", and

(2) by inserting before the period the following: "but not less than $1,000 for each day during which such failure or violation continues".

SEC. 3203. CIVIL PENALTIES UNDER CHILD LABOR PROVISIONS OF THE FAIR LABOR STANDARDS ACT OF 1938.

Section 16(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(e)) is amended—

(1) by striking out "not to exceed $1,000 for each such violation" and inserting in lieu thereof "not to exceed $10,000 for each employee who was the subject of such a violation but not less than $1,000 for each employee who was the subject of such a violation",

(2) by striking out "or any person who repeatedly or willfully violates section 6 or 7",

(3) by inserting after the first sentence the following: "Any person who repeatedly or willfully violates section 6 or 7 shall be subject to a civil penalty of not to exceed $1,000 for each such violation.",

(4) by striking out "such penalty" each place it occurs except after "appropriateness of" and insert in lieu thereof "any penalty under this subsection", and

(5) by striking out ", sums collected" and all that follows in such section and inserting in lieu thereof a period and "Civil penalties collected under this subsection shall be deposited in the general fund of the Treasury.".

SEC. 3205. CIVIL PENALTIES FOR CERTAIN UNFAIR LABOR PRACTICES.

(a) PENALTIES.—Section 10(b) of the National Labor Relations Act (29 U.S.C. 160(b)) is amended by inserting "(1)" after "(b)" and by adding at the end the following:

"(2)(A) If a complaint is issued under paragraph (1) stating that a person has engaged in an unfair labor practice within the meaning of section 8(a)(3) or 8(b)(2), such person shall be subject to a civil penalty of not more than $10,000 for each employee who is the subject of such unfair labor practice and not less than $1,000 for each employee who is the subject of such unfair labor practice.

"(B) If a complaint is issued under paragraph (1) stating that a person has engaged in an unfair labor practice within the meaning of section 8(a)(5) or 8(b)(3), such person shall be subject to a civil penalty of not more than $10,000 for each such unfair labor practice and not less than $1,000 for each such unfair labor practice.

"(C) The General Counsel shall assess civil penalties under subparagraphs (A) and (B). In determining the amount of a civil penalty, the General Counsel shall take into account the nature, circumstances, extent, and gravity of the unfair labor practice with respect to which the civil penalties are to be assessed and, with respect to the person who engaged in such unfair labor practice, ability to pay, effect on ability to continue to do business, any history of prior such unfair labor practices, the degree of culpability, and such other matters as justice may require.

"(D) An assessment of civil penalties under subparagraph (C) shall be reviewable in the hearing held under paragraph (1) on the complaint referred to in subparagraph (A) or (B).

"(E) Civil penalties collected under subparagraphs (A) and (B) shall be deposited in the general fund of the Treasury.".

(b) CONFORMING AMENDMENTS.—

(1) Section 3(d) of the National Labor Relations Act (29 U.S.C. 153(d)) is amended by inserting after "section 10" the following: "and the assessment of civil penalties under section 10(b)(2)".

(2) The third sentence of section 10(c) of the National Labor Relations Act (29 U.S.C. 160(c)) is amended by inserting after "such unfair labor practice" the following: ", to pay any civil penalty assessed under subsection (b)(2)".

Subtitle D—Early Childhood Education and Development

SEC. 3301. SHORT TITLE.

This subtitle may be cited as the "Early Childhood Education and Development Act of 1990".

SEC. 3302. PURPOSES.

The purposes of this subtitle are—

(1) to build on and to strengthen the role of the family by seeking to ensure that parents are not forced by lack of available programs or financial resources to place a child in an unsafe or unhealthy child care facility or arrangement;

(2) to promote the availability and diversity of quality child care services and early childhood development programs to expand child care options available to all families who need such services;

(3) to assist States and Indian tribes to work with businesses to find innovative ways to provide employee child care services through the workplace;

(4) to provide assistance to families whose financial resources are not sufficient to enable such families to pay the full cost of necessary child care services and early childhood development;

(5) to lessen the chances that children will be left to fend for themselves for significant parts of the day;

(6) to improve the productivity of parents in the labor force by lessening the stresses related to the absence of adequate child care services;

(7) to provide assistance to States and Indian tribes to improve the quality of, and coordination among, child care programs and early childhood development programs;

(8) to increase the opportunities for attracting and retaining qualified staff in the field of child care and early childhood development to provide high quality child care services to children; and

(9) to strengthen the competitiveness of the United States by providing young children with a sound early childhood development experience.

SEC. 3303. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for the purposes specified in subsection (b) $1,300,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992, 1993, 1994, and 1995.

(b) AVAILABILITY OF APPROPRIATIONS.—Of the aggregate amount appropriated under subsection (a) for a fiscal year—

(1) 47 percent shall be available to provide developmentally appropriate child care services under the Head Start Act, as amended by part 1 of this subtitle;

(2) 33 percent shall be available to carry out title VIII of the Elementary and Secondary Education Act of 1965, as added by part 2 of this subtitle; and

(3) 20 percent shall be available to carry out the Child Care Quality Improvement Act, as added by part 3 of this subtitle.

PART 1—EXPANDED HEAD START

SEC. 3311. DEFINITIONS.

Section 637 of the Head Start Act (42 U.S.C. 9832) is amended by adding at the end the following:

"(4) The term 'full calendar year' means all days of the year other than Saturdays, Sundays, and legal public holidays.

"(5) The term 'full-working-day' means at least 10 hours per day.

"(6) The term 'lower living standard income level' means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor and based on the most recent lower living family budget issued by the Secretary of Labor.

"(7) The term 'sliding fee scale' means the sliding fee scale established and revised under section 658.".

SEC. 3312. FINANCIAL ASSISTANCE FOR HEAD START PROGRAMS.

Section 638 of the Head Start Act (42 U.S.C. 9833) is amended—

(1) in subsection (a)—

(A) by striking "and (2)" and inserting "(2)"; and

(B) by inserting the following before the period at the end: "; and (3) may provide developmentally appropriate child care services in accordance with this subchapter"; and

(2) in subsection (b) by striking "subchapter E" and inserting "subchapter G".

SEC. 3313. CONFORMING AMENDMENT.

Section 639 of the Head Start Act (42 U.S.C. 9834) is amended by inserting "(other than the provisions relating to child care services referred to in section 638(a)(3))" after "subchapter".

SEC. 3314. ALLOTMENT OF FUNDS.

Section 640(a) of the Head Start Act (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (1) by inserting "and the amount made available under section 3303(b)(1) of the Early Childhood Education and Development Act of 1990" after "section 639";

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A) by inserting "under section 639" after "appropriated";

(B) in the second sentence by inserting "under section 639" after "appropriation";

(C) in the last sentence by striking "such funds appropriated under this subchapter" and inserting "such funds reserved under this paragraph";

(D) by inserting before the last sentence the following: "The Secretary shall reserve 8 percent of the amount made available under section 3303(b)(1) of the Early Childhood Education and Development Act of 1990 for any fiscal year, for use in accordance with subparagraphs (A) and (B)."; and

(3) in paragraph (3)—

(A) by striking "The Secretary" and inserting "After reserving the amounts required by paragraph (2), the Secretary"; and

(B) by striking "remaining 87 percent of the amounts appropriated" and inserting "remainder".

SEC. 3315. FEDERAL SHARE.

Section 640(b) of the Head Start Act (42 U.S.C. 9835(b)) is amended—

(1) in the first sentence by striking "Financial" and inserting "Except as provided in paragraph (2), financial";

(2) by inserting "(1)" after "(b)"; and

(3) by adding at the end the following:

"(2) Financial assistance extended under this subchapter to a Head Start agency, attributable to funds made available under section 3303(b)(1) of the Early Childhood Education and Development Act of 1990, shall be 100 percent of the approved costs of the developmentally appropriate child care services for which such assistance is provided.".

SEC. 3316. PARTICIPATION IN HEAD START PROGRAMS.

(a) CHILD CARE SERVICES AND EXPANDED HEAD START ELIGIBILITY.—Section 645(a) of the Head Start Act (42 U.S.C. 9840(a)) is amended—

(1) in the second sentence of paragraph (1) by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and

(2) by adding at the end the following:

"(3)(A) Funds allotted under section 640 that are attributable to funds made available under section 3303(b)(1) of the Early Childhood Education and Development Act of 1990 shall be expended only in accordance with this paragraph.

"(B) Funds allotted under section 640 that are attributable to funds made available under section 3303(b)(1) of the Early Childhood Education and Development Act of 1990 may be expended to enable Head Start programs to provide developmentally appropriate child care services throughout the full calendar year to children who are eligible under paragraphs (1) and (2) to participate in, and are participating in, Head Start programs so that such children receive full-working-day services if such child care services are provided to meet the needs of parents each of whom is working, or attending a job training or educational program.

"(C) Subject to subparagraph (D) and subsection (b)(2), funds allotted under section 640 that are attributable to funds made available under section 3303(b)(1) of the Early Childhood Education and Development Act of 1990 may be expended to enable Head Start programs to provide throughout the full calendar year both Head Start services (other than services specified in section 638(a)(3)) and developmentally appropriate child care services to children—

"(i) who are ineligible under paragraphs (1) and (2) to participate in Head Start programs; and

"(ii) whose family income is greater than the poverty line but less than 125 percent of the poverty line;

so that such children receive full-working-day services if such services are provided to meet the needs of parents each of whom is working, or attending a job training or educational program.

"(D)(i) For purposes of carrying out this paragraph, funds allotted under section 640 that are attributable to funds made available under section 3303(b)(1) of the Early Childhood Education and Development Act of 1990 may not be expended for a fiscal year for the purpose specified in subparagraph (C) unless developmentally appropriate child care services are provided under subparagraph (B) for such fiscal year to all children who are eligible to receive such services and whose parents request such services.

"(ii) For any fiscal year, an amount not to exceed 20 percent of the funds allotted under section 640 that are attributable to funds made available under section 3303(b)(1) of the Early Childhood Education and Development Act of 1990 may be expended for the purpose specified in subparagraph (C).".

(b) FEES.—Section 645(b) of the Head Start Act (42 U.S.C. 9840(b)) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2) Parents of children who receive Head Start services (including developmentally appropriate child care services) under the authority of subsection (a)(3)(C) shall pay a portion of the cost of such services, based on a sliding fee scale. Payments received under this paragraph shall be retained by Head Start agencies and shall be expended by such agencies only to carry out this subchapter.".

SEC. 3317. ESTABLISHMENT AND REVISION OF SLIDING FEE SCALE.

The Head Start Act (42 U.S.C. 9831-9852) is amended by adding at the end the following:

"ESTABLISHMENT AND REVISION OF SLIDING FEE SCALE

"SEC. 658. The Secretary shall establish and periodically revise, by rule, a sliding fee scale that provides for cost sharing between the Federal Government (acting indirectly through Head Start agencies) and the families that receive services for which assistance is provided under the amendments to this Act made by Early Childhood Education and Development Act of 1990. Such fee scale shall be based on the services provided to, and the income of the families (adjusted for family size and extraordinary medical expenses paid by the family as a result of a disability of a family member) of, eligible children who receive such services, except that families whose income does not exceed the poverty line (as determined under section 652) may not be required to pay a fee for such services.".

SEC. 3318. TECHNICAL AMENDMENT.

Section 652(b) of the Head Start Act (42 U.S.C. 9847(b)) is amended by inserting "For All Urban Consumers" after "Consumer Price Index".

PART 2—EARLY CHILDHOOD DEVELOPMENT AND SCHOOL-RELATED CHILD CARE

SEC. 3321. GRANTS FOR STATE AND LOCAL PROGRAMS.

The Elementary and Secondary Education Act of 1965 is amended—

(1) by redesignating title X as title IX;

(2) by redesignating sections 8001 through 8005 as sections 9001 through 9005, respectively; and

(3) by inserting before title IX (as redesignated by paragraph (1)) the following new title:

"TITLE VIII—EARLY CHILDHOOD DEVELOPMENT AND SCHOOL-RELATED CHILD CARE

"SEC. 8001. PROGRAM AUTHORIZED.

"(a) GENERAL AUTHORITY.—The Secretary shall make grants to eligible States to assist in the expansion or establishment of before- and after-school child care or early childhood development programs that offer services that—

"(1) are intended to provide an environment which enhances the educational, social, cultural, emotional, and recreational development of children; and

"(2) in the case of before- and after-school child care—

"(A) are provided Monday through Friday, including school holidays and vacation periods other than legal public holidays, to children attending half-day early childhood development programs, kindergarten, or elementary or secondary school classes during such times of the day and on such days that regular instructional services are not in session; and

"(B) are not intended to extend or replace the regular academic program.

"(b) AVAILABILITY OF APPROPRIATIONS.—Amounts shall be available to carry out this title as provided in section 3303(b)(2) of the Early Childhood Education and Development Act of 1990.

"SEC. 8002. AMOUNTS OF GRANTS.

"(a) GRANTS FOR TERRITORIES.—

"(1) The Secretary shall reserve 1 percent of the amount made available for purposes of carrying out this title in each fiscal year for payments to—

"(A) Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for grants under this title; and

"(B) the Secretary of the Interior in the amount necessary—

"(i) to make payments to local educational agencies, upon such terms as the Secretary determines will best carry out the purposes of this title with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the

Interior, in amounts determined by the Secretary in accordance with the provisions of section 1005(d)(1); and

"(ii) to meet the needs of Indian children on reservations serviced by elementary and secondary schools for Indian children operated with Federal assistance or operated by the Department of the Interior, pursuant to an agreement between the Secretary and the Secretary of the Interior made in accordance with the provisions of section 1005(d)(2).

"(2) The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Secretary determines will best carry out the purposes of this title.

"(b) GRANTS FOR LOCAL EDUCATIONAL AGENCIES AND THE COMMONWEALTH OF PUERTO RICO.—

"(1)(A) In each fiscal year, the Secretary shall determine which local educational agencies in a State are eligible to receive a grant under subparagraph (B) and the amount of the grant each such local educational agency is eligible to receive in accordance with the provisions of subsections (a) through (c) of section 1005, section 1403(b), and subparagraph (B).

"(B) Except as provided in paragraph (2), and subject to the availability of appropriations, in any fiscal year a local educational agency shall receive a grant under this subsection only if the amount of the grant which such local educational agency is eligible to receive, as determined under subsections (a) through (c) of section 1005 and section 1403(b)—

"(i) is not less than $15,000; or

"(ii) is not less than $5,000, in the case of a local educational agency which has under its jurisdiction children at least 30 percent of whom are eligible to be counted under section 1005(c).

"(2)(A) In each fiscal year, amounts remaining from amounts appropriated for the purpose of making grants under this title after carrying out subsection (a) and paragraph (1) shall be allocated to the States for the purpose of making grants to local educational agencies that did not receive a grant under paragraph (1) for such fiscal year. Each State shall receive under this paragraph an amount that bears the same relationship to such remaining amounts as the amount received by all local educational agencies in such State under chapter 1 of title I in the preceding fiscal year bears to the amount made available to carry out such chapter in such fiscal year, except that in any fiscal year no State may receive any amount under this paragraph that, when added to the amount received under paragraph (1) in such fiscal year by all local educational agencies in such State, would total more than an amount that bears the same relationship to the amount made available for purposes of carrying out this title for such fiscal year as the amount received by all local educational agencies in such State in the preceding fiscal year under chapter 1 of title I bears to the amount made available to carry out such chapter in such fiscal year.

"(B) Subject to subparagraphs (C) and (D), in each fiscal year each State shall, from amounts made available to it under this paragraph, make grants to local educational agencies that did not receive a grant under paragraph (1) for such fiscal year, for the purposes specified in section 8001.

"(C) Each State shall give priority for grants under subparagraph (B) to local educational agencies—

"(i) that have under their jurisdiction the greatest concentrations of children whose families have very low income;

"(ii) that will use amounts made available under the grant to supplement, not supplant, non-Federal funds being used before the grant is received for the purposes for which the grant is provided; and

"(iii) that are located in areas in greatest need of child care and early childhood development services, taking into consideration the needs and resources assessment conducted under section 659F of Public Law 97-35.

"(D) The State may not make a grant under this paragraph for an amount that is less than $5,000.

"(3) For purposes of determining the amount that a local educational agency in a State would be eligible to receive under this title, the Secretary shall include children aged 4 in the count conducted under section 1005(c).

"(4) For purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(c) LIMITATION.—Notwithstanding the provisions of this section, the amount paid to any State under this title for any fiscal year shall not exceed 150 percent of—

"(1) the amount received by such State under this title in the preceding fiscal year; or

"(2) an amount that bears the same relationship to the amount made available to carry out this title as the amount received by all local educational agencies in such State under chapter 1 of title I in the preceding fiscal year bears to the amount made available to carry out such chapter in such fiscal year.

"SEC. 8003. LOCAL PROGRAM REQUIREMENTS.

"(a) APPLICATION.—A local educational agency that desires to receive funds under this title shall submit an application to the State that includes a 2-year plan describing how the local educational agency will use such funds to carry out the purposes of this title.

"(b) USE OF FUNDS.—Each local educational agency that receives funds under this title shall use such funds to expand, establish, or operate an early childhood development program or before- and after-school child care program, or both, in accordance with the application and plan approved by the State. Each such program shall meet the following requirements:

"(1)(A) An early childhood development program shall be provided at the costs described in subparagraph (C) for children described in subparagraph (B).

"(B) Children described in this subparagraph are children from families—

"(i) within the area served by the local educational agency; and

"(ii) in which the parent or parents work or are in education or training programs.

"(C) The program described in subparagraph (A)—

"(i) shall be provided at no cost for 4-year-old children from families within the area served by the local educational agency with income of not more than 100 percent of the poverty level (to the extent such services are not available under the Head Start Act); and

"(ii) may be provided, from not more than 25 percent of the funds provided under this title that will be used to provide such program—

"(I) on a sliding fee scale for 4-year-old children from families within the area served by the local educational agency with income of more than 100 percent of the poverty level but not more than 160 percent of the lower living standard income level; and

"(II) on a full-fee basis for children from families within the area served by the local educational agency with income of more than 160 percent of the lower living standard income level.

"(2) At the option of the local educational agency, an early childhood development program may be provided for 3-year-old children under the terms described in paragraph (1).

"(3)(A) A before- and after-school child care program shall provide such care at the costs described in subparagraph (C) for children described in subparagraph (B). Such program shall consist of services that—

"(i) are provided during such times of the day when regular instructional services are not in session; and

"(ii) are not intended as an extension of or replacement for the regular academic program, but are intended to provide an environment that enhances the social, educational, cultural, emotional, and recreational development of school-age children.

"(B) Children described in this subparagraph are children from families within the area served by the local educational agency and in which—

"(i) the parent or parents work or are in education or training programs; and

"(ii) the children are attending early childhood development programs, kindergarten, or elementary or secondary school classes.

"(C) The care described in subparagraph (A)—

"(i) shall be provided at no cost for children from families within the area served by the local educational agency with income of not more than 100 percent of the poverty level; and

"(ii) may be provided, from not more than 25 percent of the funds provided under this title that will be used to provide such care—

"(I) on a sliding fee scale for children from families within the area served by the local educational agency with income of more than 100 percent of the poverty level but not more than 160 percent of the lower living standard income level; and

"(II) on a full-fee basis for children from families within the area served by the local educational agency with income of more than 160 percent of the lower living standard income level.

"(4)(A) Services shall be available during the full working day for 4-year-olds (and for 3-year-olds, where offered). Such services may only include an early childhood development program or before- and after-school care, or both.

"(B) Before- and after-school care shall be available for the calendar year, Monday through Friday, excluding legal public holidays.

"(5) The local educational agency shall provide for the inclusion in each program of eligible children enrolled in private early childhood development programs and in private kindergarten and elementary and secondary schools in accordance with the provisions of chapter 1 of title I relating to the participation of children enrolled in private schools.

"(6) Each early childhood development program shall be in compliance with—

"(A) applicable State regulatory standards for health and safety; and

"(B) applicable State standards for program quality.

"(7) With respect to early childhood development programs, norm-referenced and criterion-referenced standardized tests shall not be administered.

"(8) With respect to before- and after-school child care programs—

"(A) each such program provided shall be developmentally appropriate and meet the diverse recreational, social, emotional, cultural, and educational needs of school-aged children; and

"(B) each such program shall be in compliance with—

"(i) applicable State regulatory standards for health and safety; and

"(ii) applicable State standards for program quality.

"(9) A smooth transition of children shall be encouraged—

"(A) from early childhood development programs to kindergarten; and

"(B) from kindergarten to grade 1.

"(10) Services shall include—

"(A) adequate and nutritious meals and snacks;

"(B) if practicable, social services; and

"(C) in the case of early childhood development programs—

"(i) coordination of such health and nutrition services as are available from other agencies for children in such programs; and

"(ii) referrals to health and social services for which an enrolled child and the family of such child are eligible under Federal, State, or local law.

"(11) Information, programs, and activities for parents shall be provided, to the extent practicable, in a language and form the parents understand.

"(c) FEES.—Payments received by local educational agencies from parents of children who receive early childhood development services under the authority of subsection (b)(1)(C)(ii) or before- and after-school child care services under the authority of subsection (b)(3)(C)(ii) shall be retained by such agencies and shall be expended by such agencies only to carry out this title.

"(d) COORDINATION WITH EXISTING PROVIDERS.—Each local educational agency that receives funds under this title shall coordinate the program carried out with such funds with other public entities and private nonprofit community-based organizations that provide before- and after-school child care and early childhood development programs in the area served by the local educational agency, including entities and organizations that provide programs with assistance received under section 619 of the Education of the Handicapped Act.

"(e) CONTRACTING AUTHORITY.—

"(1) A local educational agency may provide a before- and after-school child care program or early childhood development program in accordance with the provisions of this title through grants to or contracts with other public entities and eligible private nonprofit community-based organizations that provide before- and after-school child care programs or early childhood development programs, as appropriate. In making a grant or entering into a contract under the authority of the preceding sentence, a local educational agency shall give priority to a program offered in a public school building, if the cost of such program is comparable to the costs of programs offered in other facilities.

"(2) To be eligible for a grant or contract under this subsection, a private nonprofit community-based organization shall provide assurances that—

"(A) the organization is able to and willing to enroll in the program, or has a history of enrolling, racially, ethnically, linguistically, and economically diverse children and children with disabilities;

"(B) the organization will ensure that the program is in compliance with section 654 of the Head Start Act; and

"(C) the organization will comply with other reasonable requirements established by the local educational agency consistent with the purposes of this title.

"(3) Title IX of the Education Amendments of 1972 shall apply to any program or activity provided with assistance under this title to the same extent and in the same manner as any program or activity included within the meaning of such term under such title IX. References in this title to section 654 of the Head Start Act shall be construed so as to be consistent with such title IX.

"SEC. 8004. STATE PROGRAM REQUIREMENTS.

"(a) STATE EDUCATIONAL AGENCY ASSURANCES.—In order for a State to participate under this title, the State shall submit to the Secretary, through its State educational agency, assurances that the State educational agency—

"(1) will meet the requirements in paragraphs (2) and (5) of section 435 of the General Education Provisions Act, relating to fiscal control and fund accounting procedures;

"(2) will establish, before the expiration of the 3-year period beginning on the date of the enactment of the Early Childhood Education and Development Act of 1990—

"(A) standards for early childhood development programs for which funds are received under this title, which shall include standards relating to—

"(i) group size limits in terms of the number of staff members and the number and ages of children;

"(ii) the maximum appropriate child-staff ratios;

"(iii) qualifications and background of staff members;

"(iv) health, nutrition, and safety requirements for children and staff members; and

"(v) parental involvement; and

"(B) standards for before- and after-school child care programs for which funds are received under this title, which shall include standards relating to—

"(i) inservice training for staff members;

"(ii) health, nutrition, and safety requirements for children and staff members; and

"(iii) parental involvement;

"(3) will ensure that its local educational agencies and State agencies receiving funds under this title comply with any applicable statutory and regulatory provisions pertaining to this title; and

"(4) will require any local educational agency that desires to receive assistance under this title to submit an application for such assistance that includes a 2-year plan describing how the local educational agency will carry out the objectives of this title.

"(b) LIMITATION ON STATE PROGRAM COSTS.—The State educational agency may, from the amounts paid to it pursuant to section 8006, use not more than 3 percent of such amounts for costs of administration related to carrying out this title.

"SEC. 8005. ESTABLISHMENT AND REVISION OF SLIDING FEE SCALE.

"The State shall establish and periodically revise, by rule, a sliding fee scale that provides for cost sharing between the Federal Government (acting indirectly through the State and local educational agencies) and the families that receive child care or early childhood development services for which assistance is provided under this title. Such fee scale shall be based on the services provided to, and the income of the families (adjusted for family size and extraordinary medical expenses paid by the family as a result of a disability of a family member) of, eligible children who receive such services, except that it shall apply only to services received by children from families with income of more than 100 percent of the poverty level but not more than 160 percent of the lower living standard income level.

"SEC. 8006. PAYMENTS TO STATES.

"The Secretary shall pay to each State on a timely basis, in advance or otherwise, the amount which it and the local educational agencies of such State are eligible to receive under this title.

"SEC. 8007. PAYMENTS TO LOCAL EDUCATIONAL AGENCIES.

"Each State educational agency shall distribute not less than 97 percent of the amounts paid to it pursuant to section 8006 to the local educational agencies of the State which are eligible to receive grants under this title and which have applications and plans approved by the State.

"SEC. 8008. DEFINITIONS.

"For purposes of this title:

"(1) The term 'community-based organization' means an organization that—

"(A) is representative of the community or significant segments of the community; and

"(B) provides child care, preschool programs, or early childhood development programs.

"(2) The term 'early childhood development program' means a program to provide educational services that are appropriate for the child's age and all areas of the individual child's development, including physical, emotional, social, cultural, cognitive, and communication, and including services appropriate to meet the needs of children with disabilities.

"(3) The term 'full working day' means at least 10 hours per day.

"(4) The term 'lower living standard income level' means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor and based on the most recent lower living family budget issued by the Secretary of Labor.

"(5) The term 'poverty level' means the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of 4 in such form as those criteria have been updated by increases in the Consumer Price Index For All Urban Consumers.

"(6) The term 'sliding fee scale' means the sliding fee scale established and revised under section 8005.".

SEC. 3322. TECHNICAL AMENDMENT.

The first sentence of section 1005(c)(2)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711(c)(2)(B)) is amended by inserting after "Consumer Price Index" the following: "For All Urban Consumers".

PART 3—CHILD CARE QUALITY IMPROVEMENT

SEC. 3331. QUALITY IMPROVEMENT.

Chapter 8 of subtitle A of title VI of Public Law 97-35 (42 U.S.C. 9871-9877) is amended—

(1) by redesignating subchapters C, D, and E, as subchapters D, E, and F, respectively; and

(2) by inserting after subchapter B the following:

"SUBCHAPTER C—CHILD CARE QUALITY IMPROVEMENT

"SEC. 658A. SHORT TITLE.

"This subchapter may be cited as the 'Child Care Quality Improvement Act'.

"SEC. 658B. AUTHORITY TO PROVIDE FINANCIAL ASSISTANCE.

"The Secretary may provide financial assistance to eligible States, and to Indian tribes and tribal organizations, to carry out this subchapter.

"SEC. 658C. AMOUNTS RESERVED; ALLOTMENTS.

"(a) AMOUNTS RESERVED.—

"(1) TERRITORIES AND POSSESSIONS.—The Secretary shall reserve not to exceed one half of 1 percent of the amount made available under section 3303(b)(3) of the Early Childhood Education and Development Act of 1990 in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau, to be allotted in accordance with their respective needs.

"(2) INDIANS.—The Secretary shall reserve an amount, not less than 1.5 percent and not more than 3 percent of the amount made available under section 3303(b)(3) of the Early Childhood Education and Development Act of 1990 in each fiscal year, to carry out subsection (c) regarding Indian children.

"(b) STATE ALLOTMENT.—

"(1) GENERAL RULE.—From the remainder of the amount made available under section 3303(b)(3) of the Early Childhood Education and Development Act of 1990 for each fiscal year, the Secretary shall allot to each State (excluding jurisdictions referred to in subsection (a)(1)) an amount equal to the sum of the following:

"(A) Fifty percent of the amount that bears the same ratio to such remainder as the product of the young child factor of the State and the allotment factor bears to the sum of the corresponding products for all States.

"(B) Fifty percent of the amount that bears the same ratio to such remainder as the product of the school lunch factor of the State and the allotment factor bears to the sum of the corresponding products for all the States.

"(2) LIMITATIONS.—If a sum determined under paragraph (1)—

"(A) exceeds 1.2, then the allotment factor of that State shall be considered to be 1.2; and

"(B) is less than 0.8, then the allotment percentage of the State shall be considered to be 0.8.

"(3) DETERMINATION OF ALLOTMENT FACTOR.—

"(A) IN GENERAL.—The allotment factor for a State means—

"(i) the per capita income of all individuals in the United States; divided by

"(ii) the per capita income of all individuals in the State.

"(B) PER CAPITA INCOME.—For purposes of subparagraph (A), per capita income shall be—

"(i) determined at 4-year intervals;

"(ii) applied for the 4-year period beginning on October 1 of the first fiscal year beginning on the date such determination is made; and

"(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

"(c) PAYMENTS FOR THE BENEFIT OF INDIAN CHILDREN.—

"(1) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—From the funds reserved under subsection (a)(2), the Secretary may, upon the application of an Indian tribe or tribal organization, enter into a contract with or make a grant to such Indian tribe or tribal organization for a period of 2 years, subject to satisfactory performance, to plan and carry out programs and activities that are consistent with this subchapter. Such contract or grant shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 655-657), that are relevant to such programs and activities.

"(2) INDIAN RESERVATIONS.—In the case of an Indian tribe in a State other than the States of Oklahoma, Alaska, and California, such programs and activities shall be carried out on the Indian reservation for the benefit of Indian children.

"(d) REALLOTMENTS.—

"(1) IN GENERAL.—Any portion of the allotment under subsection (b) to a State that the Secretary determines is not required to carry out a State plan approved under section 658E, in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

"(2) LIMITATIONS.—(A) The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out a State plan approved under section 658E.

"(B) The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this subsection.

"(3) AMOUNTS REALLOTTED.—For purposes of any other section of this subchapter, any amount reallotted to a State under this subsection shall be deemed to be part of the allotment made under subsection (b) to the State.

"(e) DEFINITION.—For the purposes of this section, the term 'State' means any of the several States, the District of Columbia, or the Commonwealth of Puerto Rico.

"SEC. 658D. LEAD AGENCY.

"The chief executive officer of a State that desires to receive funds under this subchapter shall designate, in an application submitted to the Secretary under section 658E(a), a State agency to act as the lead agency to perform administrative functions to carry out this subchapter. The State agency so designated shall be the State agency that has primary responsibility for child care in the State.

"SEC. 658E. APPLICATION AND PLAN.

"(a) APPLICATION.—To be eligible to receive funds under this subchapter, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require by rule.

"(b) PLAN.—(1) The application of a State submitted under subsection (a) shall include an assurance that the State will comply with the requirements of this subchapter and a State plan that is designed to be implemented during a 5-year period and that meets the requirements of subsection (c).

"(2) A State that receives funds for this subchapter after the expiration of the three-year period beginning on the date of enactment of this subchapter shall have in effect minimum child care standards that apply to child care services provided in the State by child care providers that receive public financial assistance and that are required to be licensed and regulated by the State. The standards shall consist of the following:

"(A) CENTER-BASED CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by center-based child care providers shall be limited to—

"(i) group size limits in terms of the number of caregivers and the number and ages of children;

"(ii) the maximum appropriate child-staff rations;

"(iii) qualifications and background of child care personnel;

"(iv) health, nutrition, and safety requirements for children and caregivers; and

"(v) parental involvement in licensed and regulated child care services.

"(B) FAMILY CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by family child care providers shall be limited to—

"(i) the maximum number of children for which child care services may be provided and the total number of infants for which child care services may be provided;

"(ii) the minimum age for caregivers; and

"(iii) health, nutrition, and safety requirements for children and caregivers.

"(C) GROUP HOME CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by group home child care providers shall be limited to the matters specified in subparagraphs (A) and (B).

"(c) REQUIREMENTS OF THE PLAN.—

"(1) LEAD AGENCY.—(A) The plan shall identify the lead agency designated in accordance with section 658D and contain assurances that—

"(i) funds received under this subchapter by the State will be administered by the lead agency; and

"(ii) the lead agency will comply with the requirements of subparagraph (B).

"(B)(i) The lead agency shall review the law applicable to, and the licensing requirements and the policies of, each licensing agency that regulates child care services and programs in the State unless the State has reviewed such law, requirements, and policies in the 3-year period ending on the date of the enactment of the Early Childhood Education and Development Act of 1990.

"(ii) Not later than 18 months after the date of the enactment of the Early Childhood Education and Development Act of 1990, the lead agency shall prepare and submit a report to the chief executive officer of the State. Such report shall contain—

"(I) a statement of the findings and recommendations that result from the review carried out under clause (i), including a description of the current status, and recommendations for improvement, of child care

licensing, regulating, monitoring, and enforcement in the State; and

"(II) recommendations regarding standards that should apply to local educational agencies that receive funds under title VIII of the Elementary and Secondary Education Act of 1965 to provide child care services.

"(2) ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.—The plan shall provide that the State shall use funds received under this subchapter to do 1 or more of the following:

"(A) Provide financial assistance to establish or expand local resource and referral programs under section 658F.

"(B) Improve the quality of child care services and early childhood development programs in the State by providing training in accordance with the requirements of section 658G.

"(C) Improve the quality of child care services by improving the monitoring of compliance with, and enforcement of, the licensing and regulatory requirements (including registration requirements) of the State.

"(D) Improve salaries and other compensation paid to full- and part-time staff who provide child care services—

"(i) for which assistance is provided under the Head Start Act or title VIII of the Elementary and Secondary Education Act of 1965; and

"(ii) to the extent practicable, in other major Federal and State child care programs, except programs conducted pursuant to part A of title IV of the Social Security Act;

to the extent that such salaries and other compensation are inadequate.

"(3) OTHER ALLOWABLE ACTIVITIES.—The plan shall provide that the State may use not more than 5 percent of the funds received under this subchapter to do 1 or more of the following:

"(i) Make low-interest loans to eligible child care providers that are nonprofit child care providers and family child care providers to make renovations and improvements in existing facilities to be used to carry out child care programs.

"(ii) Make grants or low-interest loans to child care providers to assist such providers to meet Federal, State, and local child care standards, giving priority to such providers that serve children of families that have very low income.

"(iii) Make grants to local public libraries (and elementary and secondary school libraries, as appropriate) to improve the quality of early childhood learning resources and to expand the availability of such resources to eligible child care providers (particularly family child care providers) that provide child care services to preschool children, and to the preschool children and their families served by such providers.

"(iv) If funds are not appropriated to carry out title V of the Early Childhood Education and Development Act of 1990 in a fiscal year, make grants in such fiscal year to businesses for the purpose, and under the terms and conditions, specified in such title.

Amounts (including interest) received by the State for the repayment of loans made under this paragraph shall be used by the State to carry out this subchapter.

"(4) ENFORCEMENT OF LICENSING AND OTHER REGULATORY REQUIREMENTS (INCLUDING REGISTRATION REQUIREMENTS).—The plan shall provide that the State, not later than 3 years after the date of enactment of the Early Childhood Education and Development Act of 1990, shall have in effect enforcement policies and practices that will be applicable to all licensed or regulated child care providers (including child care providers required to register) in the State, including policies and practices that—

"(A) require personnel who perform inspection functions with respect to licensed or regulated child care services to receive training in child development, health and safety, child abuse prevention and detection, the needs of children with a disability, program management, and relevant law enforcement;

"(B) impose personnel requirements to ensure that individuals who are hired as licensing inspectors are qualified to inspect and, to the maximum extent feasible, have inspection responsibility exclusively for children's services;

"(C) require—

"(i) personnel who perform inspection functions with respect to licensed or regulated child care services to make not less than 1 unannounced inspection of each center-based child care provider in the State annually;

"(ii) personnel who perform inspection functions with respect to licensed or regulated child care services to make unannounced inspections periodically, and during normal hours of operation, of licensed and regulated family child care providers in the State; and

"(D) require the ratio of licensing personnel to child care providers in the State to be maintained at a level sufficient to enable the State to conduct inspections of child care facilities and providers on a timely basis and otherwise to comply with the enforcement requirements of this section;

"(E) require licensed or regulated child care providers (including registered child care providers) in the State—

"(i) to have written policies and program goals and to make a copy of such policies and goals available to parents; and

"(ii) to provide parents with unlimited access to their children whenever children of such parents are in the care of such providers;

"(F) implement a procedure to address complaints of parents and child care providers;

"(G) prohibit the operator of a child care facility to take any action against an employee of such operator that would adversely affect the employment, or terms or conditions of employment, of such employee because such employee communicates a failure of such operator to comply with any applicable licensing or regulatory requirement;

"(H) make consumer education information available to inform parents and the general public about licensing requirements, complaint procedures, and policies and practices required by this paragraph;

"(I) require a child care provider to post, on the premises where child care services are provided, the telephone number of the appropriate licensing or regulatory agency that parents may call regarding a failure of such provider to comply with any applicable licensing or regulatory requirement; and

"(J) require the State to maintain a record of parental complaints and to make information regarding substantiated parental complaints available to the public on request.

"(5) LIMITATION ON ADMINISTRATIVE EXPENSES.—The plan shall provide that not more than 2 percent of the funds received under this subchapter will be used to pay administrative costs incurred by the lead agency to carry out this subchapter.

"(6) REPORT.—The plan shall provide that not later than December 31, 1992, and at 2-year intervals thereafter, the State will submit to the Secretary a report—

"(A) specifying—

"(i) the uses for which the State expended under paragraph (2) funds received by the State; and

"(ii) with respect to each use specified under clause (i), the amount of such funds expended;

"(B) stating the reasons supporting the selection of each such use and the amount of such funds expended for each such use;

"(C) identifying the extent to which other resources of the State were expended for each of the activities described in subparagraphs (A) through (D) of such paragraph; and

"(D) containing data designed to show—

"(i) how the child care needs of families in the State are being fulfilled, including information on—

"(I) the number of children being assisted with funds provided under this subchapter, and under other State and Federal child care programs, except programs conducted pursuant to part A of title IV of the Social Security Act;

"(II) the type and number of child care programs, child care providers, caregivers, and support personnel located in the State; and

"(III) salaries and other compensation paid to full- and part-time staff who provide child care services; and

"(ii) the extent to which the availability of child care services has increased;

during the 2-year period for which such report is required to be submitted.

"SEC. 658F. RESOURCE AND REFERRAL PROGRAMS.

"(a) RECOGNITION.—Each State that desires to provide assistance under subsection (b) shall recognize a community-based organization, a public organization, a unit of general purpose local government, or a public agency that represents a combination of units of general purpose local government as the resource and referral agency for a particular geographical area in the State.

"(b) FUNDING.—Each State that receives funds under this subchapter fr a fiscal year may provide assistance, in such fiscal year, to the organizations recognized under subsection (a) to enable such organizations to carry out resource and referral programs—

"(1) to identify existing child care services;

"(2) to provide to interested parents information and referral regarding such services;

"(3) to provide or arrange for the provision of information and training to existing and potential child care providers and to others (including businesses) concerned with the availability of child care services; and

"(4) to provide information on the demand for and supply of child care services located in a community.

"(c) REQUIREMENTS.—To be eligible for recognition as a resource and referral agency for a designated geographical area in a State, an organization shall—

"(1) have or acquire a database of information on child care services in the geographical area that the organization continually updates, including child care services provided in centers, nursery schools, and family child care settings;

"(2) have the capability to provide resource and referral services in the designated geographical area;

"(3) be able to respond in a timely fashion to requests for information or assistance;

"(4) be a public agency, or a community-based organization, located in the geographical area to be served; and

"(5) be able to provide parents with a checklist to identify quality child care services.

"(d) DUTY.—An organization recognized under subsection (a) as a resource and referral agency shall gather, update, and provide information concerning child care services available from eligible child care providers in the geographical area served by such organization.

"(e) LIMITATION ON INFORMATION.—An organization recognized under subsection (a) as a resource and referral agency shall not provide information concerning any child care program or services which are not licensed or regulated, and not exempted from licensing and regulation, by the State.

"SEC. 658G. TRAINING AND RELATED ACTIVITIES.

"(a) GRANTS AND CONTRACTS FOR TRAINING.—A State may make grants to and enter into contracts with public agencies, nonprofit organizations, and institutions of higher education to develop and carry out child care training programs under which preservice and continuing inservice training is provided to—

"(1) staff who provide child care services for which assistance is provided under the Head Start Act or title VIII of the Elementary and Secondary Education Act of 1965; and

"(2) staff of eligible child care providers and staff of resource and referral programs involved in providing child care services in the State.

"(b) TRAINING AND OTHER ACTIVITIES RELATING TO FAMILY CHILD CARE ENHANCEMENT.—

"(1) AUTHORITY TO MAKE GRANTS AND CONTRACTS.—A State may make grants to and enter into contracts with public agencies and nonprofit organizations (including resource and referral organizations, child care food program sponsors, and family child care associations) to enable such organizations to develop and carry out child care training programs under which preservice and inservice training is provided to eligible child care providers that are family child care providers.

"(2) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS.—To be eligible to receive a grant or enter into a contract under paragraph (1), a nonprofit organization shall—

"(A) recruit and train individuals to become family child care providers, including providers with the capacity to provide night-time child care services and emergency child care services at irregular hours (as well as emergency care for sick children);

"(B) provide ongoing training to individuals who are family child care providers, including specialized training in working with infants;

"(C) operate resource centers to make developmentally appropriate curriculum materials available to family child care providers;

"(D) provide grants to family child care providers for the purchase of moderate cost equipment to be used to provide child care services; and

"(E) provide such other services to family child care providers in the communities of such organization as the lead agency determines to be appropriate.

"SEC. 658H. LIMITATIONS ON USE OF FINANCIAL ASSISTANCE.

"(a) SUBSTITUTION OF FUNDS.—Funds received under—

"(1) the amendments to the Head Start Act made by the Early Childhood Education and Development Act of 1990;

"(2) title VIII of the Elementary and Secondary Education Act of 1965; or

"(3) this subchapter;

by the State may be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of the activities for which such funds are received.

"(b) EXISTING FACILITIES.—No financial assistance provided under the provisions of law specified in subsection (a) may be expended to renovate or repair any facility unless—

"(1) the child care provider that receives such financial assistance agrees—

"(A) in the case of a grant, to repay to the Secretary or the State, as the case may be, the amount that bears the same ratio to the amount of such grant as the value of the renovation or repair, as of the date such provider ceases to provide child care services in such facility in accordance with this subchapter, bears to the original value of the renovation or repair; and

"(B) in the case of a loan, to repay immediately to the Secretary or the State, as the case may be, the principal amount of such loan outstanding and any interest accrued, as of the date such provider ceases to provide child care services in such facility in accordance with this subchapter;

if such provider does not provide child care services in such facility in accordance with this subchapter throughout the useful life of the renovation or repair; and

"(2) if such provider is a sectarian agency or organization, the renovation or repair is necessary to bring such facility into compliance with health and safety requirements imposed as a result of such provisions of law.

"SEC. 658I. FEDERAL ENFORCEMENT.

"(a) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this subchapter and the plan approved under section 658E for the State.

"(b) NONCOMPLIANCE.—

"(1) IN GENERAL.—If the Secretary, after reasonable notice and opportunity for a hearing to a State, finds that—

"(A) there has been a failure by the State to comply substantially with any provision or any requirements set forth in the plan approved under section 658E for the State; or

"(B) in the operation of any program or project for which assistance is provided under this subchapter there is a failure by the State to comply substantially with any provision of this subchapter;

the Secretary shall notify the State of the finding and that no further payments may be made to such State under this subchapter (or, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected.

"(2) ADDITIONAL SANCTIONS.—In the case of a finding of noncompliance made pursuant to paragraph (1), the Secretary may, in addition to imposing the sanctions described in such paragraph, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this subchapter, and disqualification from the receipt of financial assistance under this sub- chapter.

"(3) NOTICE.—The notice required under paragraph (1) shall include a specific identification of any additional sanction being imposed under paragraph (2).

"(c) ISSUANCE OF RULES.—The Secretary shall establish by rule procedures for—

"(1) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this subchapter; and

"(2) imposing sanctions under this section.

"SEC. 658J. NATIONAL ADVISORY COMMITTEE ON RECOMMENDED CHILD CARE STANDARDS.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—In order to improve the quality of child care services, the Secretary shall establish, not later than 60 days after the date of the enactment of the Early Childhood Education and Development Act of 1990, the National Advisory Committee On Recommended Child Care Standards the members of which shall be appointed from among representatives of—

"(A) persons who carry out various types of child care programs;

"(B) persons who carry out resource and referral programs;

"(C) child care and early childhood development specialists;

"(D) early childhood education specialists and specialists in the education of children with a disability and children whose English language proficiency is limited as a result of their non-English language background;

"(E) individuals who have expertise in pediatric health care, nutrition, disabilities, and related fields;

"(F) organizations representing child care employees;

"(G) individuals who have experience in the regulation of child care services;

"(H) parents who have been actively involved in child care programs; and

"(I) States.

"(2) APPOINTMENT OF MEMBERS.—The Committee shall be composed of 21 members of which—

"(A) 7 members shall be appointed by the President;

"(B) 4 members shall be appointed by the majority leader of the Senate;

"(C) 3 members shall be appointed by the minority leader of the Senate;

"(D) 4 members shall be appointed by the Speaker of the House of Representatives; and

"(E) 3 members shall be appointed by the minority leader of the House of Representatives.

Not less than one-third of the members of the Committee shall be appointed from among individuals described in paragraph (1)(H).

"(3) CHAIRMAN.—The Committee shall appoint a chairman from among the members of the Committee.

"(4) VACANCIES.—A vacancy occurring on the Committee shall be filled in the same manner as that in which the original appointment was made.

"(b) PERSONNEL, REIMBURSEMENT, AND OVERSIGHT.—

"(1) PERSONNEL.—The Secretary shall make available to the Committee office facilities, personnel who are familiar with child development and with developing and implementing regulatory requirements, technical assistance, and funds as are neces-

sary to enable the Committee to carry out effectively its duties.

"(2) REIMBURSEMENT.—Members of the Committee who are not regular full-time employees of the United States Government, while away from their homes or regular places of business on the business of the Committee, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

"(3) OVERSIGHT.—The Secretary shall ensure that the Committee is established and operated in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

"(c) DUTIES.—The Committee shall—

"(1) review Federal policies with respect to child care services and such other data as the Committee may deem appropriate;

"(2) not later than 180 days after the date on which a majority of the members of the Committee are first appointed, submit to the Secretary proposed recommended standards described in subsection (d) for child care services, taking into account the different needs of infants, toddlers, and preschool and school-age children; and

"(3) develop and make available to lead agencies, for distribution to resource and referral agencies in the State, recommended requirements for resource and referral agencies.

"(d) RECOMMENDED CHILD CARE STANDARDS.—The proposed recommended child care standards submitted pursuant to subsection (c)(2) shall consist of only the following:

"(1) CENTER-BASED CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by center-based child care providers shall be limited to—

"(A) group size limits in terms of the number of caregivers and the number and ages of children;

"(B) the maximum appropriate child-staff ratios;

"(C) qualifications and background of child care personnel;

"(D) health, nutrition, and safety requirements for children and caregivers;

"(E) inservice training in areas appropriate to providing such child care services, including the minimum number of hours of such training; and

"(F) parental involvement in licensed and regulated child care services.

"(2) FAMILY CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by family child care providers shall be limited to—

"(A) the maximum number of children for which child care services may be provided and the total number of infants for which child care services may be provided;

"(B) the minimum age for caregivers;

"(C) health, nutrition, and safety requirements for children and caregivers; and

"(D) inservice training in areas appropriate to providing such child care services, including the minimum number of hours of such training.

"(3) GROUP HOME CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by group home child care providers shall be limited to the matters specified in paragraphs (1)(B) and (2).

"(e) CONSIDERATION AND ESTABLISHMENT OF STANDARDS.—

"(1) NOTICE OF PROPOSED RULEMAKING.—Not later than 90 days after receiving the recommendations of the Committee, the Secretary shall—

"(A) publish in the Federal Register—

"(i) a notice of proposed rulemaking concerning the recommended standards proposed under subsection (d) to the Secretary; and

"(ii) such proposed recommended standards for public comment; and

"(B) distribute such proposed recommended standards, for comment, to each lead agency.

"(2) ESTABLISHMENT OF RECOMMENDED CHILD CARE STANDARDS.—(A) The Secretary shall, in consultation with the Committee—

"(i) take into consideration any comments received by the Secretary with respect to the recommended standards proposed under subsection (d); and

"(ii) not later than 180 days after publication of such standards, shall issue rules establishing recommended child care standards for purposes of this subchapter. Compliance with such standards shall be at the option of the States. Such standards shall include nutrition requirements.

"(B) The Secretary may amend any standard first established under subparagraph (A), except that such standard may not be modified, by amendment or otherwise, to make such standard less comprehensive or less stringent than it is when first established.

"(3) ADDITIONAL COMMENTS.—The Committee may submit to the Secretary and to the Congress such additional comments on the recommended child care standards established under paragraph (2) as the Committee considers appropriate.

"(f) TERMINATION OF COMMITTEE.—The Committee shall cease to exist 90 days after the date the Secretary establishes recommended child care standards under subsection (e)(2).

"SEC. 658K. DEFINITIONS.

"As used in this subchapter:

"(1) CENTER-BASED CHILD CARE PROVIDER.—The term 'center-based child care provider' means a child care provider that provides child care services in a nonresidential facility, and may include a nonprofit institution of higher education.

"(2) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization'—

"(A) means a private nonprofit organization that—

"(i) is representative of the community or of significant segments of the community; and

"(ii) provides child care, preschool programs, or early childhood development programs; or

"(B) has the meaning given it in section 4(5) of the Job Training Partnership Act (29 U.S.C. 1503(5)).

"(3) DISABILITY.—The term 'disability' means any condition set forth in section 602(a)(1) of the Education of the Handicapped Act (20 U.S.C. 1401(a)(1)) or subparagraph (A) or (B) of section 672(1) of the Education of the Handicapped Act (20 U.S.C. 1472(1)).

"(4) EARLY CHILDHOOD LEARNING RESOURCES.—The term 'early childhood learning resources' includes books, audio and video tapes, films, educational toys and games and other materials designed principally for use by or with children who are less than 6 years of age.

"(5) ELIGIBLE CHILD CARE PROVIDER.—The term 'eligible child care provider' means—

"(A) a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

"(i) is licensed or regulated under State law; and

"(ii) satisfies—

"(I) the Federal requirements; and

"(II) the State and local requirements;

applicable to the child care services it provides; and

"(B) a child care provider who provides child care services only to an eligible child who is, by affinity or consanguinity, the grandchild of such provider if such provider satisfies the State requirements (if any) applicable to such services.

"(6) FAMILY CHILD CARE PROVIDER.—The term 'family child care provider' means 1 individual who provides child care services to any eligible child who does not reside with such individual, as the sole caregiver and in the private residence of such individual.

"(7) GROUP HOME CHILD CARE PROVIDER.—The term 'group home child care provider' means 2 or more individuals who jointly provide child care services in a private residence to any eligible child who does not reside with any of such individuals.

"(8) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given it in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

"(9) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 481(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1)), except that with respect to a tribally controlled community college such term has the meaning given it in section 2(a)(5) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(5)).

"(10) LEAD AGENCY.—The term 'lead agency' means the agency designated under section 659D.

"(11) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given that term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

"(12) PUBLIC LIBRARY.—The term 'local public library' has the meaning given that term in section 3(5) of the Library Services and Construction Act.

"(13) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' includes an Indian tribe and a tribal organization.

"(14) NON-ENGLISH LANGUAGE BACKGROUND.—The term 'non-English language background' means the experience of living in a home in which the primary language spoken is not English.

"(15) PARENT.—The term 'parent' includes a legal guardian or other person standing in loco parentis.

"(16) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(17) STAFF.—The term 'staff' means an individual who provides a service directly to an eligible child on a person-to-person basis.

"(18) STATE.—The term 'State' means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau.

"(19) TRIBAL ORGANIZATION.—The term 'tribal organization' has the meaning given it in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).

"(20) UNIT OF GENERAL PURPOSE LOCAL GOVERNMENT.—The term 'unit of general purpose local government' means a city, county,

town, parish, village, or other general purpose political subdivision of a State.".

PART 4—BUSINESS INVOLVEMENT IN MEETING EMPLOYEE CHILD CARE NEEDS

SEC. 3341. ESTABLISHMENT OF GRANT PROGRAM.

The Secretary of Health and Human Services shall establish a program to make grants to eligible businesses—

(1) to pay start-up costs incurred to provide child care services; or

(2) to provide additional child care services;

needed by the employees of such businesses.

SEC. 3342. ELIGIBLE BUSINESSES.

To be eligible to receive a grant under section 3341, a business shall submit to the Secretary an application in accordance with section 3343.

SEC. 3343. APPLICATION.

The application required by section 3342 shall be submitted by a business or consortium at such time, in such form, and containing such information as the Secretary may require by rule, except that such application shall contain—

(1) an assurance that such business shall expend, for the purpose for which such grant is made, an amount not less than 200 percent of the amount of such grant;

(2) an assurance that such business will expend such grant for the use specified in section 3341, as the case may be;

(3) an assurance that if the employees of such business do not require all the child care services for which such grant and the funds required by paragraph (1) are to be expended by such business, the excess of such child care services shall be made available to families in the community in which such business is located;

(4) an assurance that such business will employ strategies to provide such child care services at affordable rates, and on an equitable basis, to low- and moderate-income employees; and

(5) an assurance that the provider of such child care services will comply with all State and local licensing requirements applicable to such provider.

SEC. 3344. SELECTION OF GRANTEES.

For purposes of selecting eligible businesses to receive grants under this part, the Secretary shall give priority to businesses that have fewer than 100 full-time employees. To the extent practicable, the Secretary shall make grants equitably under this part to businesses located in all geographical regions of the United States.

SEC. 3345. DEFINITIONS.

As used in this part:

(1) BUSINESS.—The term "business" means a person engaged in commerce whose primary activity is not providing child care services.

(2) CHILD CARE SERVICES.—The term "child care services" means care for a child that is—

(A) provided on the site at which a parent of such child is employed or at a site nearby in the community; and

(B) subsidized at least in part by the business that employs such parent.

(3) CONSORTIUM.—The term "consortium" means 2 or more businesses acting jointly.

(4) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

SEC. 3346. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $25,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, and 1995 to carry out this part.

Subtitle E—Government-Sponsored Entities

SEC. 3401. CREDIT ACTIVITIES OF GOVERNMENT AGENCIES AND INSTRUMENTALITIES.

(a) IN GENERAL.—Any provision of this Act and any amendment made by this Act to chapter 31 of title 31, United States Code, or any other provision of law, which would have the effect of restricting the authority of any corporation owned in whole or in part by the Federal Government, or privately owned government-sponsored enterprises, such as the Student Loan Marketing Association, the College Construction Loan Insurance Association, and the Pension Benefit Guaranty Corporation, from borrowing from or issuing obligations to any person other than the Secretary of the Treasury or guaranteeing any obligation issued by any person shall not take effect.

(b) CERTAIN ACTIONS PROHIBITED.—Notwithstanding any other provision of this Act or any amendment made by this Act to any other provision of law, no officer or employee of the United States may take any action which would have the effect of implementing any provision of, or any amendment made by, this Act which is described in subsection (a).

(c) VIOLATION TREATED AS VIOLATION OF ANTIDEFICIENCY ACT.—Any violation of subsection (b) shall be treated as a violation of section 1341(a) of title 31, United States Code.

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Subtitle A—Provisions Relating to Medicare Program and Regulation of Medicare Supplemental Insurance Policies

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Subpart A—Payment for Physicians' Services

SEC. 4001. CERTAIN OVERVALUED PROCEDURES.

(a) IN GENERAL.—Section 1842(b)(14) of the Social Security Act (42 U.S.C. 1395u(b)(14)) is amended—

(1) by inserting "(i)" after "(14)(A)";

(2) by adding at the end of subparagraph (A) the following new clause:

"(ii) In determining the reasonable charge for a physicians' service specified in subparagraph (C)(i) and furnished during 1991, the prevailing charge for such service shall not exceed the prevailing charge otherwise recognized for such service for the period during 1990 beginning on April 1, reduced by 15 percent or, if less, ⅓ of the percent (if any) by which the prevailing charge otherwise recognized for the locality in that year exceeds the locally-adjusted reduced prevailing amount (as determined under subparagraph (B)(i)) for the service.";

(3) in subparagraph (B)(i)(II), by inserting "or (iv)" after "clause (iii)";

(4) in subparagraph (B)(iii), by inserting "for services furnished during the 9-month period beginning on April 1, 1990" after "locality" the first place it appears;

(5) by adding at the end of subparagraph (B) the following new clause:

"(iv) The 'adjustment factor', for a physicians' service for a locality furnished in 1991, is the sum of—

"(I) the practice component percent (referred to as practice expense ratio), divided by 100, specified in appendix A (pages 187 through 194) of the Report of the Medicare and Medicaid Health Budget Reconciliation Amendments of 1989, prepared by the Subcommittee on Health and the Environment of the Committee on Energy and Commerce, House of Representatives, (Committee Print 101-M, 101st Congress, 1st Session) for the service, multiplied by the geographic practice cost index (specified in subparagraph (C)(v)) for the locality, and

"(II) 1 minus the practice component percent, multiplied by the geographic physician work adjustment index value (specified in subparagraph (C)(vi)) for the locality.";

(6) by adding at the end of subparagraph (C)(ii), the following new sentence: "In computing the national weighted average in the previous sentence in applying this paragraph to services furnished in 1991, the prevailing charge in each locality shall first be deflated by the adjustment factor specified in subparagraph (B)(iv).."; and

(7) by adding at the end of subparagraph (C) the following new clauses:

"(v) The geographic practice cost index value specified in this clause for a locality is the Geographic Overhead Costs Index specified for the locality in table 1 of the August 1990 Supplement to the Geographic Medicare Economic Index: Alternative Approaches (prepared by the Urban Institute and the Center for Health Economics Research).

"(vi) The geographic physician work adjustment index value specified in this clause for a locality is the Geographic ¼ Work Index specified for the locality in the table 1 referred to in clause (v).".

SEC. 4002. RADIOLOGY SERVICES.

(a) REDUCTION IN FEE SCHEDULE.—Section 1834(b)(4) of the Social Security Act (42 U.S.C. 1395m(b)(4)) is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D) 1991 FEE SCHEDULES.—For radiologist services (other than portable X-ray services) furnished under this part during 1991, the conversion factors used in a locality under this subsection shall be determined as follows:

"(i) NATIONAL WEIGHTED AVERAGE CONVERSION FACTOR.—The Secretary shall estimate the national weighted average of the conversion factors used under this subsection for services furnished during 1990 beginning on April 1, using the best available data. In computing the national weighted average in the previous sentence, the conversion factor in each locality shall first be deflated by the sum specified in clause (iv).

"(ii) REDUCED NATIONAL WEIGHTED AVERAGE.—The national weighted average estimated under clause (i) shall be reduced by 11 percent.

"(iii) GEOGRAPHIC INDICES.—

"(I) 1990 LOCALITY INDEX RELATIVE TO NATIONAL AVERAGE.—The Secretary shall establish an index which reflects, for each locality, the ratio of the conversion factor used in the locality under this subsection to the national weighted average estimated under clause (i).

"(II) FEE SCHEDULE GEOGRAPHIC INDEX.—The Secretary shall establish an index value, for each locality, equal to the geographic adjustment factor which would be established for the locality under section 1848(e)(2) if—

"(a) the work, overhead, and malpractice geographic practice cost indices contained in Addendum C to the Model Fee Schedule for Physicians' Services (published on September 4, 1990, 55 Federal Register pp. 36238.-36243) were used as the geographic physician work adjustment factor value, the geographic cost-of-practice index value, and the geographic malpractice index value, respectively, and

"(b) the proportions of the total relative value for the work component, practice expense component, and the malpractice component were the work, overhead, and malpractice percents, respectively, specified for the specialty of radiology in Table 2.1 of such Model Fee Schedule (55 F.R. 36188).

"(iv) LOCAL ADJUSTMENT.—Subject to clause (v), the conversion factor to be applied in a locality is the national weighted average

conversion factor (estimated under clause (i)), reduced under clause (ii), multiplied by the sum of—

"(I) ¾ of the index value established under clause (iii)(I) for the locality, and

"(II) ¼ of the index value established under clause (iii)(II) for the locality.

"(v) MAXIMUM REDUCTION.—The conversion factor to be applied to a locality under this subparagraph shall not be less than 92 percent of the conversion factor applied in the locality under subparagraph (C).".

(b) CONTINUING PHASE-IN OF GEOGRAPHIC ADJUSTMENT.—Section 1848(e)(2) of such Act (42 U.S.C. 1395w-4(e)(2)) is amended by adding at the end the following: "In the case of radiology services described in subsection (b)(2)(A), the geographic adjustment factor for—

"(A) 1992, shall be ½ of the index value established under section 1834(b)(4)(D)(iii)(I) for the locality plus ½ of the geographic adjustment factor determined under the previous sentence, and

"(B) 1993, shall be ¼ of the index value established under section 1834(b)(4)(D)(iii)(I) for the locality plus ¾ of the geographic adjustment factor determined under the previous sentence.".

(c) NONAPPLICATION OF COMPARABILITY PROVISIONS.—Section 1834(b)(3) of such Act (42 U.S.C. 1395m(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (A),

(2) by striking the period at the end of subparagraph (B) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(C) shall not apply section 1842(b)(3)(B) insofar as it relates to requiring carriers to restrict payment to the charge applicable, for a comparable service and under comparable circumstances, to policyholders and subscribers of the carrier.".

(d) USE OF LOCALITIES.—Section 1834(b)(1)(B) of such Act (42 U.S.C. 1395m(b)(1)(B)) is amended by inserting "locality," after "statewide,".

(e) CONTINUATION OF SPECIAL RULE FOR NUCLEAR MEDICINE PHYSICIANS.—Section 6105(b) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking all that follows "Social Security Act" the second place it appears and inserting the following: "beginning April 1, 1990, and ending December 31, 1991, there shall be substituted for the fee schedule otherwise applicable a fee schedule based ⅓ on the fee schedule computed under such section (without regard to this subsection) and ⅔ on 101 percent of the 1988 prevailing charge for such services.".

(f) EXTENSION OF SPLIT BILLING RULE FOR INTERVENTIONAL RADIOLOGISTS.—Section 6105(c) of the Omnibus Budget Reconciliation Act of 1989 is amended by inserting "or 1991" after "1990" each place it appears.

(g) EFFECTIVE DATES.—

(1) Except as otherwise provided, the amendments made by this section shall apply to services furnished on or after January 1, 1991.

(2) The amendment made by subsection (d) shall apply to services performed on or after April 1, 1989.

SEC. 4003. ANESTHESIA SERVICES.

(a) REDUCTION IN FEE SCHEDULE.—Section 1842(q)(1) of the Social Security Act (42 U.S.C. 1395u(q)(1)) is amended—

(1) by inserting "(A)" after "(q)(1)", and

(2) by adding at the end the following new subparagraph:

"(B) For physician anesthesia services furnished under this part during 1991, the conversion factor used in a locality under this subsection shall be determined as follows:

"(i) The Secretary shall estimate the national weighted average of the conversion factors used under this subsection for services furnished during 1990 beginning on April 1, using the best available data. In computing the national weighted average in the previous sentence, the conversion factor in each locality shall first be deflated by the sum specified in clause (iv).

"(ii) The national weighted average estimated under clause (i) shall be reduced by 7 percent.

"(iii)(I) The Secretary shall establish an index which reflects, for each locality, the ratio of the conversion factor used in the locality under this subsection for services furnished under this part during 1990 beginning on April 1 to the national weighted average estimated under clause (i).

"(II) The Secretary shall establish an index value, for each locality, equal to the geographic adjustment factor which would be established for the locality under section 1848(e)(2) if—

"(a) the work, overhead, and malpractice geographic practice cost indices contained in Addendum C to the Model Fee Schedule for Physicians' Services (published on September 4, 1990, 55 Federal Register pp. 36238-36243) were used as the geographic physician work adjustment factor value, the geographic cost-of-practice index value, and the geographic malpractice index value, respectively, and

"(b) the proportions of the total relative value for the work component, practice expense component, and the malpractice component were 55.9 percent, 33.4 percent, and 10.7 percent, respectively.

"(iv) Subject to clause (v), the conversion factor to be applied in a locality is the national weighted average conversion factor (estimated under clause (i)) reduced under clause (ii) multiplied by the sum of—

"(I) ½ of the index value established under clause (iii)(I) for the locality, and

"(II) ½ of the index value established under clause (iii)(II).

"(v) The conversion factor to be applied to a locality under this subparagraph shall not be less than 85 percent of the conversion factor applied in the locality during 1990 beginning on April 1.".

(c) EXTENSION OF REDUCTION FOR SUPERVISION OF CONCURRENT SERVICES.—Section 1842(b)(13) of such Act (42 U.S.C. 1395u(b)(13)) is amended by striking "1991" each place it appears and inserting "1996".

SEC. 4004. PHYSICIAN PATHOLOGY SERVICES.

(a) REDUCTION IN PAYMENTS FOR PHYSICIAN PATHOLOGY SERVICES.—Subsection (f) of section 1834 of the Social Security Act (42 U.S.C. 1395m) is amended to read as follows:

"(f) REDUCTION IN PAYMENTS FOR PHYSICIAN PATHOLOGY SERVICES DURING FISCAL YEAR 1991.—For physician pathology services furnished under this part during 1991, the prevailing charges used in a locality under this part shall be 93 percent of the prevailing charges used in the locality under this part in 1990 beginning on April 1, 1990.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1833(a)(1)(J) of such Act (42 U.S.C. 1395l(a)(1)) is amended by striking "or physician pathology services" and by striking "or section 1834(f), respectively".

(2) Section 1848(a)(1) of such Act (42 U.S.C. 1395w-4(a)(1)) is amended by striking "or 1834(f)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1991.

SEC. 4005. PREVAILING CHARGES FOR MISCELLANEOUS PROCEDURES.

Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(16)(A) In determining the reasonable charge for physicians' services described in subparagraph (B) furnished during 1991, the prevailing charge otherwise recognized for a locality shall be reduced by 2 percent, or, in the case of surgical procedures which are paid for under this part on a global basis (including preoperative and postoperative services), 4 percent.

"(B) For purposes of this subparagraph, the physcians' service specified in this subparagraph are all physicians' services except the following:

"(i) Radiology, anesthesia, and physician pathology services, and physicians' services specified in clause (i) of paragraph (14)(C).

"(ii) Primary care services (specified in subsection (i)(4)), hospital inpatient medical services, consulations, preventive medicine visits, emergency care facility services, and critical care services.

"(iii) The procedure codes specified in the Joint Explanatory Statement of the Committee of Conference submitted with the Conference Report to accompany H.R. 5835 (the 'Omnibus Budget Reconciliation Act of 1990') for tendon sheath injections and small joint arthrocentesis, femoral fracture and trochanteric fracture treatments, endotracheal intubation, thoracentesis, thoracostomy, and transurerethral fulguration and resection.".

SEC. 4006. UPDATE FOR PHYSICIANS' SERVICES.

(a) PERCENTAGE INCREASE IN MEI FOR 1991 DURING 1991.—Section 1842(b)(4)(E) of the Social Security Act (42 U.S.C. 1395u(b)(4)(E)) is amended by adding at the end the following new clause:

"(v) For purposes of this part for items and services furnished in 1991, the percentage increase in the MEI is—

"(I) 0 percent for services (other than primary care services), and

"(II) such percentage increase in the MEI (as defined in subsection (i)(3)) as would be otherwise determined for primary care services (as defined in subsection (i)(4)).".

(b) INCREASE IN PREVAILING CHARGE FLOOR FOR PRIMARY CARE SERVICES.—

(1) IN GENERAL.—Section 1842(b)(4)(A)(vi) of such Act (42 U.S.C. 1395u(b)(4)(A)(vi)) is amended by striking "50 percent" and inserting "75 percent".

(2) USE IN TRANSITION TO FULL FEE SCHEDULE.—Section 1848(a)(2)(D) of such Act (42 U.S.C. 1395w-4(a)(2)(D)) is amended by adding at the end the following new clause:

"(iii) APPLICATION TO PRIMARY CHARGE FLOOR.—In the case of services described in section 1842(b)(4)(A)(vi), the adjusted historical payment basis shall be determined as if '50 percent' were substituted for '75 percent' in such section; except that in no case shall the application of this clause result in the establishment of a fee schedule amount which is less than the prevailing charge level determined under such section for services furnished in 1991."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1991.

SEC. 4007. NEW PHYSICIANS AND OTHER NEW HEALTH CARE PRACTITIONERS.

(a) IN GENERAL.—Subparagraph (F) of section 1842(b)(4) of the Social Security Act

(42 U.S.C. 1395u(b)(4)) is amended to read as follows:

"(F)(i) In the case of physicians' services and professional services of a health care practitioner (other than primary care services and other than services furnished in a rural area (as defined in section 1886(d)(2)(D)) that is designated, under section 332(a)(1)(A) of the Public Health Service Act, as a health manpower shortage area) furnished during the physician's or practitioner's first through fourth years of practice (if payment for those services is made separately under this part and on other than a cost-related basis), the prevailing charge or fee schedule amount to be applied under this part shall be 80 percent for the first year of practice, 85 percent for the second year of practice, 90 percent for the third year of practice, and 95 percent for the fourth year of practice, of the prevailing charge or fee schedule amount for that service under the other provisions of this part.

"(ii) For purposes of clause (i):

"(I) The term 'health care practitioner' means a physician assistant, certified nurse-midwife, qualified psychologist, nurse practitioner, clinical social worker, physical therapist, occupational therapist, respiratory therapist, certified registered nurse anesthetist, or any other practitioner as may be specified by the Secretary.

"(II) The term 'first year of practice' means, with respect to a physician or practitioner, the first year during the first 6 months of which the physician or practitioner furnishes professional services for which payment is made under this part, and includes any period before such year.

"(III) The terms 'second year of practice', 'third year of practice', and 'fourth year of practice' mean the second, third, and fourth years, respectively, following the first year of practice.".

(b) CONFORMING AMENDMENT.—Section 1848(a)(1)(B) of such Act (42 U.S.C. 1395w-4(a)(1)(B)) is amended by inserting "and section 1842(b)(4)(F)" after "of this section".

(c) CONFORMING ADJUSTMENT IN CONVERSION FACTOR COMPUTATION.—In computing the conversion factor under section 1848(d)(1)(B) for 1992, the Secretary of Health and Human Services shall determine the estimated aggregate amount of payments under part B for physicians' services in 1991 assuming that the amendments made by this section (notwithstanding subsection (d)) applied to all services furnished during such year.

(d) EFFECTIVE DATE.—The amendments made by this section apply to services furnished after 1990, except that—

(1) the provisions concerning the third and fourth years of practice apply only to physicians' services furnished after 1991 and 1992, respectively, and

(2) the provisions concerning the second, third, and fourth years of practice apply only to services of a health care practitioner furnished after 1991, 1992, and 1993, respectively.

SEC. 4008. TECHNICAL COMPONENTS OF CERTAIN DIAGNOSTIC TESTS.

(a) IN GENERAL.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)), as amended by sections 4005, is further amended by adding at the end the following new paragraph:

"(17) With respect to payment under this part for the technical (as distinct from professional) component of diagnostic tests (other than clinical diagnostic laboratory tests and radiology services), the reasonable charge (or other payment basis) may not exceed the national median of such charges (or payment bases) for such tests or services.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to tests and services furnished on or after January 1, 1991.

SEC. 4009. RECIPROCAL BILLING ARRANGEMENTS.

(a) IN GENERAL.—The first sentence of section 1842(b)(6) of the Social Security Act (42 U.S.C. 1395u(b)(6)) is amended—

(1) by striking "and" before "(C)", and

(2) by inserting before the period at the end the following: ", and (D) payment may be made to a physician who arranges for visit services (including emergency visits and related services) to be provided to an individual by a second physician on an occasional, reciprocal basis if (i) the first physician is unavailable to provide the visit services, (ii) the individual has arranged or seeks to receive the visit services from the first physician, (iii) the claim form submitted to the carrier includes the second physician's unique identifier (provided under the system established under subsection (r)) and indicates that the claim is for such a 'covered visit service (and related services)', and (iv) the visit services are not provided by the second physician over a continuous period of longer than 30 days".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 4010. AGGREGATION RULE FOR CLAIMS FOR SIMILAR PHYSICIANS' SERVICES.

(a) IN GENERAL.—The second sentence of section 1869(b)(2) of the Social Security Act (42 U.S.C. 1395ff(b)(2)) is amended—

(1) by inserting "for services furnished during the same 12-month period" after "two or more claims",

(2) by inserting "(i)" after "if",

(3) by striking "or involve" and inserting ", (ii) the claims involve", and

(4) by inserting before the period at the end the following: "by the same entity, or (iii) the claims involve common issues of law and fact arising from physicians' services furnished in the same fee schedule area (as defined in section 1848(j)(2)) to two or more individuals by two or more physicians and the aggregate amount in controversy is at least $1,000 (in the case of a hearing under paragraph (1)(C) or (1)(D)) or $2,500 (in the case of judicial review)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to physicians' services furnished on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 4011. PRACTICING PHYSICIANS ADVISORY COUNCIL.

Title XVIII of the Social Security Act is amended by inserting after section 1867 the following new section:

"PRACTICING PHYSICIANS ADVISORY COUNCIL

"SEC. 1868. (a) The Secretary shall appoint, based upon nominations submitted by medical organizations representing physicians, a Practicing Physicians Advisory Council (in this section referred to as the 'Council') to be composed of 15 physicians, each of whom has submitted at least 250 claims for physicians' services under this title in the previous year. At least 11 of the members of the Council shall be physicians described in section 1861(r)(1) and the members of the Council shall include both participating and nonparticipating physicians and physicians practicing in rural areas and underserved urban areas.

"(b) The Secretary shall consult with the Council concerning proposed changes in regulations and carrier manual instructions. To the extent feasible and consistent with statutory deadlines, such consultation shall occur before the publication of such proposed changes.

"(c) The Council shall meet once during each calendar quarter.

"(d) Members of the Council shall be entitled to receive reimbursement of expenses and per diem in lieu of subsistence in the same manner as other members of advisory councils appointed by the Secretary are provided such reimbursement and per diem under this title.".

SEC. 4012. RELEASE OF MEDICAL REVIEW SCREENS AND ASSOCIATED SCREENING PARAMETERS.

(a) CARRIERS.—Section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)), as amended by section [4041(a)(3)], is amended—

(1) by striking "and" at the end of subparagraph (H),

(2) by adding "and" at the end of subparagraph (I), and

(3) by inserting after subparagraph (I) the following new subparagraph:

"(J) if it makes determinations or payments with respect to physicians' services, before sending a notice of denial of payment under this part for such services by reason of section 1862(a)(1) because a service otherwise covered under this title is not reasonable and necessary under the standards described in this section, the carrier has made available to the public the medical review screens, the associated screening parameters, and the criteria upon which the denial of payment may be made;".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to notices of denial sent on or after January 1, 1991.

SEC. 4013. TECHNICAL CORRECTIONS.

(a) OVERVALUED PROCEDURES.—

(1) Section 1842(b)(14) of the Social Security Act (42 U.S.C. 1395u(b)(14)) is amended—

(A) in subparagraph (B)(iii)(I), by striking "practice expense ratio for the service (specified in table #1 in the Joint Explanatory Statement referred to in subparagraph (C)(i))" and inserting "practice component percent (referred to as practice expense ratio), divided by 100, specified in appendix A (pages 187 through 194) of the Report of the Medicare and Medicaid Health Budget Reconciliation Amendments of 1989, prepared by the Subcommittee on Health and the Environment of the Committee on Energy and Commerce, House of Representatives, (Committee Print 101-M, 101st Congress, 1st Session) for the service";

(B) in subparagraph (B)(iii)(II), by striking "practice expense ratio" and inserting "practice component percent, divided by 100";

(C) in subparagraph (C)(i), by striking "physicians' services specified in table #2 in the Joint Explanatory Statement of the Committee of Conference submitted with the Conference Report to accompany H.R. 3299 (the 'Omnibus Budget Reconciliation Act of 1989'), 101st Congress," and inserting "procedures specified (by code and description) in the Overvalued Procedures List for Finance Committee, Revised September 20,

1989, prepared by the Physician Payment Review Commission";

(D) in subparagraph (C)(iii), by striking "The 'percent change' specified in this clause, for a physicians' service specified in clause (i), is the percent change specified for the service in table #2 in the Joint Explanatory Statement" and inserting "The 'percentage change' specified in this clause, for a physicians' service specified in clause (i), is the percent difference (but expressed as a positive number) specified for the service in the list"; and

(E) in subparagraph (C)(iv), by striking "such value specified for the locality in table #3 in the Joint Explanatory Statement referred to in clause (i)" and inserting "the Geographic Overhead Costs Index specified for the locality in table 1 of the September 1989 Supplement to the Geographic Medicare Economic Index: Alternative Approaches (prepared by the Urban Institute and the Center for Health Economics Research)".

(2) Section 1842(b)(4)(E)(iv)(I) of such Act (42 U.S.C. 1395u(b)(4)(E)(iv)(I)) is amended by striking "Table #2" and all that follows through "101st Congress" and inserting "the list referred to in paragraph (14)(C)(i)".

(3) The amendments made by paragraphs (1) and (2) apply to services furnished after March 1990.

(b) MISCELLANEOUS FEE SCHEDULE CORRECTIONS.—

(1) CHANGES IN SECTION 1848.—Section 1848 of the Social Security Act (42 U.S.C. 1395w-4) is amended—

(A) in subsection (a)(2)(D)(ii), by inserting "the weighted average of (I) such weighted average prevailing charge, and (II) " after "weighted average prevailing charge";

(B) in subsection (c)(1)(B), by striking the last sentence;

(C) in subsections (c)(3)(C)(ii)(II) and (c)(3)(C)(iii)(II), by striking "by" the first place it appears in each respective subsection,

(D) in subsection (c), by redesignating the second paragraph (3), and paragraphs (4) and (5), as paragraphs (4) through (6), respectively;

(E) in subsection (c)(4), as redesignated by subparagraph (C), is amended by striking "subsection" and inserting "section";

(F) in subsection (d)(1)(A), by striking "subparagraph (C)" and inserting "paragraph (3)";

(G) in the last sentence of subsection (d)(2)(A), by striking "proportion of HMO enrollees" and inserting "proportion of individuals who are enrolled under this part who are HMO enrollees";

(H) in subsection (d)(2)(E)(i), by inserting "the" after "as set forth in";

(I) in subsection (d)(2)(E)(ii)(I), by inserting "payments for" after "under this part for";

(J) in subsection (d)(3)(B)(ii)—

(i) by inserting "more than" after "decrease of", and

(ii) in subclause (I), by striking "more than";

(I) in paragraphs (1)(D)(i) and (2)(A)(i) of subsection (f), by striking "calendar years" and inserting "portions of calendar years";

(K) in subsection (f)(2)(A)—

(i) by striking "each performance standard rate of increase" and inserting "the performance standard rate of increase, for all physicians' services and for each category of physicians' services,",

(ii) in clause (i), by striking "physicians' services (as defined in subsection (f)(5)(A)" and inserting "all physicians' services or for the category of physicians' services, respectively,",

(iii) in clause (iii), by striking "physicians' services" and inserting "all physicians' services or of the category of physicians' services, respectively,", and

(iv) in clause (iv), by striking "physicians' services (as defined in subsection (f)(5)(A))" and inserting "all physicians' services or of the category of physicians' services, respectively,";

(L) in subsection (f)(4)(A), by striking "paragraph (B)" and inserting "subparagraph (B)";

(M) in subparagraphs (A) and (B) of subsection (g)(2), by inserting "other than radiologist services subject to section 1834(b)," after "during 1991," and after "during 1992,", respectively; and

(N) in subsection (i)(1)(A), by striking "historical payment basis (as defined in subsection (a)(2)(C)(i))" and inserting "adjusted historical payment basis (as defined in subsection (a)(2)(D)(i))".

(2) MISCELLANEOUS.—

(A) Effective as if included in the Omnibus Budget Reconciliation Act of 1989, section 6102(e)(4) of such Act is amended by inserting "determined" after "prevailing charge rate".

(B) Effective January 1, 1991, section 1842(b)(3)(G) of the Social Security Act, as amended by section 6102(e)(2) of Omnibus Budget Reconciliation Act of 1989, is amended by striking "subsection (j)(1)(C)" and inserting "section 1848(g)(2)".

(C) Section 1842(b)(12)(A)(ii)(II) of the Social Security Act, as amended by section 6102(e)(4) of the Omnibus Budget Reconciliation Act of 1989, is amended by striking ", as the case may be".

(D) Section 1833(a)(1)(H) of the Social Security Act, as amended by section 6102(e)(5) of the Omnibus Budget Reconciliation Act of 1989, is amended by striking ", as the case may be".

(E) Section 6102(e)(11) of the Omnibus Budget Reconciliation Act of 1989 is amended by inserting "of Health and Human Services" after "Secretary".

(F) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989, section 922(d)(1) of the Public Health Service Act (42 U.S.C. 299c-1(d)(1)) is amended—

(i) by inserting "(other than of dissemination activities)" after "evaluations", and

(ii) by inserting "research, demonstration projects, or evaluations of" after "applications with respect to".

(c) REPEAL OF REPORTS NO LONGER REQUIRED.—

(1) Subsection (b) of section 4043 of the Omnibus Budget Reconciliation Act of 1987 is repealed.

(2) Subsection (c) of section 4048 of such Act is repealed.

(3) Section 4049(b)(1) of such Act is amended by striking ", and shall report" and all that follows up to the period at the end.

(4) Subsection (d) of section 4050 of such Act is repealed.

(5) Section 4056(a)(1) of such Act, as redesignated by section 411(f)(14) of the Medicare Catastrophic Coverage Act of 1988, is amended by striking the last sentence.

(6) Section 4056(b)(2) of such Act is amended by striking the second sentence.

(d) ADJUSTMENT OF EFFECTIVE DATES.—Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987—

(1) section 4048(b) of such Act is amended by striking "January 1, 1989" and inserting "March 1, 1989", and

(2) section 4049(b)(2) of such Act is amended by striking "January 1, 1989" and inserting "April 1, 1989".

(e) TRANSFER OF PROVISION INTO TITLE XVIII.—

(1) Section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended by adding at the end the following new subsection:

"(r) The Secretary shall establish a system which provides for a unique identifier for each physician who furnishes services for which payment may be made under this title.".

(2) Section 9202 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking subsection (g).

Subpart B—Payment for Other Items and Services

SEC. 4021. HOSPITAL OUTPATIENT SERVICES.

(a) CONTINUATION OF REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS.—Section 1861(v)(1)(S)(ii)(I) of the Social Security Act (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by inserting before the period at the end the following: ", by 10 percent for payments attributable to portions of cost reporting periods occurring during fiscal year 1991 or 1992, by 7.5 percent for payments attributable to portions of cost reporting periods occurring during fiscal year 1993 or 1994, and by 5 percent for payments attributable to portions of cost reporting periods occurring during fiscal year 1995".

(b) REDUCTION IN AMOUNT OF PAYMENTS OTHERWISE DETERMINED.—

(1) IN GENERAL.—Section 1833(a)(2)(B)(i)(I) of such Act (42 U.S.C. 1395l(a)(2)(B)(i)(I)) is amended by striking "services," and inserting "services (or, in the case of services furnished during portions of cost reporting periods beginning on or after October 1, 1990, other than services furnished by a hospital receiving an additional payment under section 1886(d)(5)(F) during such cost reporting period, 95 percent of the reasonable cost of such services),".

(2) STANDARD OVERHEAD AMOUNTS FOR AMBULATORY SURGICAL CENTERS.—Section 1833(i)(3)(B) of such Act (42 U.S.C. 1395l(i)(3)(B)) is amended by inserting after clause (ii) the following new clause:

"(iii) In determining the amount described in clause (i)(II) with respect to facility services furnished during portions of cost reporting periods beginning on or after October 1, 1990 (other than services furnished by a hospital receiving an additional payment under section 1886(d)(5)(F) during such cost reporting period), the Secretary shall reduce the standard overhead amount by 2.5 percent.".

(c) PAYMENTS FOR AMBULATORY SURGICAL PROCEDURES.—

(1) 2-YEAR FREEZE IN ALLOWANCE FOR INTRAOCULAR LENSES.—Notwithstanding section 1833(i)(2)(A)(iii) of the Social Security Act, the amount of payment determined under such section for an intraocular lens inserted during or subsequent to cataract surgery furnished to an individual in an ambulatory surgical center on or after January 1, 1991, and on or before December 31, 1992, shall be equal to $200.

(2) DETERMINATION OF FEE SCHEDULES ON BASIS OF SURVEY OF COSTS.—Section 1833(i)(2)(A)(i) of such Act (42 U.S.C. 1395l(i)(2)(A)(i)) is amended by striking the comma at the end and inserting the following: ", as determined in accordance with a survey (based upon a representative sample

of procedures) taken not later than July 1, 1992, and every 5 years thereafter, of the actual audited costs incurred by such centers in providing such services,".

(3) PROVIDING FOR REGULAR UPDATES TO FEE SCHEDULES.—Section 1833(i)(2) of such Act (42 U.S.C. 1395l(i)(2)) is amended—

(A) in the second sentence of subparagraph (A) and the second sentence of subparagraph (B), by striking "and may be adjusted by the Secretary, when appropriate,"; and

(B) by adding at the end the following new subparagraph:

"(C) Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), if the Secretary has not updated amounts established under such subparagraphs with respect to facility services furnished in a year, such amounts shall be increased by the percentage increase in the consumer price index for a'l urban consumers (U.S. city average) for the 12-month period ending with June of the preceding year.".

(4) EXPANSION OF PROCEDURES IN CONSULTATION WITH TRADE ORGANIZATIONS.—The second sentence of section 1833(i)(1) of such Act (42 U.S.C. 1395l(i)(1)) is amended by striking the period and inserting the following: ", in consultation with appropriate trade and professional organizations.".

(5) EFFECTIVE DATE.—The amendments made by paragraph (2) shall take effect July 1, 1991.

SEC. 4022. DURABLE MEDICAL EQUIPMENT.

(a) ADDITIONAL 15 PERCENT REDUCTION IN PAYMENTS FOR SEAT-LIFT CHAIRS AND TRANSCUTANEOUS ELECTRICAL NERVE STIMULATORS.—Section 1834(a)(1)(D) of the Social Security Act (42 U.S.C. 1395m(a)(1)(D)) is amended by inserting before the period at the end the following: ", and, if furnished on or after January 1, 1991, the Secretary shall further reduce such payment amount (as previously reduced) by 15 percent".

(b) DEVELOPMENT AND APPLICATION OF NATIONAL LIMITS ON FEES.—

(1) INEXPENSIVE AND ROUTINELY PURCHASED DURABLE MEDICAL EQUIPMENT AND ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—Paragraphs (2) and (3) of section 1834(a) of such Act (42 U.S.C. 1395m(a)) are each amended—

(A) in subparagraph (B)(i), by striking "or" at the end;

(B) by striking clause (ii) of subparagraph (B) and inserting the following:

"(ii) in 1991 is the sum of (I) 67 percent of the local payment amount for the item or device computed under subparagraph (C)(i)(I) for 1991, and (II) 33 percent of the national limited payment amount for the item or device computed under subparagraph (C)(ii) for 1991;

"(iii) in 1992 is the sum of (I) 33 percent of the local payment amount for the item or device computed under subparagraph (C)(i)(II) for 1992, and (II) 67 percent of the national limited payment amount for the item or device computed under subparagraph (C)(ii) for 1992; and

"(iv) in 1993 and each subsequent year is the national limited payment amount for the item or device computed under subparagraph (C)(ii) for that year."; and

(C) by adding at the end the following new subparagraph:

"(C) COMPUTATION OF LOCAL PAYMENT AMOUNT AND NATIONAL LIMITED PAYMENT AMOUNT.—For purposes of subparagraph (B)—

"(i) the local payment amount for an item or device for a year is equal to—

"(I) for 1991, the amount specified in subparagraph (B)(i) for 1990 increased by the covered item increase for 1991, and

"(II) for 1992, the amount determined under this clause for the preceding year increased by the covered item increase for 1992; and

"(ii) the national limited payment amount for an item or device for a year is equal to—

"(I) for 1991 and 1992, the local payment amount determined under clause (i) for such item or device for that year, except that the national limited payment amount may not exceed 100 percent of the weighted average of all local payment amounts determined under such clause for such item for that year and may not be less than 85 percent of the weighted average of all local payment amounts determined under such clause for such item, and

"(II) for each subsequent year, the amount determined under this clause for the preceding year increased by the covered item increase for such subsequent year.".

(2) MISCELLANEOUS ITEMS AND OTHER COVERED ITEMS.—Section 1834(a)(8) of such Act (42 U.S.C. 1395m(a)(8)) is amended—

(A) in subparagraph (A)(ii)—

(i) by striking "or" at the end of subclause (I);

(ii) in subclause (II)—

(I) by striking "1991 or", and

(II) by striking "the percentage increase" and all that follows through the period and inserting "the covered item increase for the year.";

(iii) by redesignating subclause (II) as subclause (III); and

(iv) by inserting after subclause (I) the following new subclause:

"(II) in 1991, equal to the local purchase price computed under this clause for the previous year, increased by the covered item increase for 1991, and decreased by the percentage by which the average of the purchase prices submitted exceeds the average of the reasonable charges on claims paid for the item during the 6-month period ending with December 1986; or";

(B) by amending subparagraph (B) to read as follows:

"(B) COMPUTATION OF NATIONAL LIMITED PURCHASE PRICE.—With respect to the furnishing of a particular item in a year, the Secretary shall compute a national limited purchase price—

"(i) for 1991 and 1992, equal to the local purchase price computed under subparagraph (A)(ii) for the item for the year, except that such national limited purchase price may not exceed 100 percent of the weighted average of all local purchase prices for the item computed under such subparagraph for the year, and may not be less than 85 percent of the weighted average of all local purchase prices for the item computed under such subparagraph for the year; and

"(ii) for each subsequent year, equal to the amount determined under this subparagraph for the preceding year increased by the covered item increase for such subsequent year.";

(C) in subparagraph (C)—

(i) by striking "regional purchase price" each place it appears and inserting "national limited purchase price",

(ii) by striking "and subject to subparagraph (D)",

(iii) in clause (ii)—

(I) by striking "75" and inserting "67"; and

(II) by striking "25" and inserting "33", and

(iv) in clause (iii)—

(I) in subclause (I), by striking "50" and inserting "33"; and

(II) in subclause (II), by striking "50" and inserting "67"; and

(D) by striking subparagraph (D).

(3) OXYGEN AND OXYGEN EQUIPMENT.—Section 1834(a)(9) of such Act (42 U.S.C. 1395m(a)(9)) is amended—

(A) in subparagraph (A)(ii)(II), by striking "the percentage increase" and all that follows through the period and inserting "the covered item increase for the year.";

(B) by amending subparagraph (B) to read as follows:

"(B) COMPUTATION OF NATIONAL LIMITED MONTHLY PAYMENT RATE.—With respect to the furnishing of an item in a year, the Secretary shall compute a national limited monthly payment rate equal to—

"(i) for 1991 and 1992, the local monthly payment rate computed under subparagraph (A)(ii)(II) for the item for the year, except that such national limited monthly payment rate may not exceed 100 percent of the weighted average of all local monthly payment rates computed for the item under such subparagraph for the year, and may not be less than 85 percent of the weighted average of all local monthly payment rates computed for the item under such subparagraph for the year; and

"(ii) for each subsequent year, equal to the amount determined under this subparagraph for the preceding year increased by the covered item increase for such subsequent year.";

(C) in subparagraph (C)—

(i) by striking "regional monthly payment rate" each place it appears and inserting "national limited monthly payment rate",

(ii) in clause (ii)—

(I) by striking "75" and inserting "67"; and

(II) by striking "25" and inserting "33", and

(iii) in clause (iii)—

(I) in subclause (I), by striking "50" and inserting "33"; and

(II) in subclause (II), by striking "50" and inserting "67"; and

(D) by striking subparagraph (D).

(4) DEFINITION.—Section 1834(a) of such Act (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

"(14) COVERED ITEM INCREASE.—In this subsection, the term 'covered item increase' means, with respect to a year, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.".

(5) DELAY IN ADJUSTMENTS FOR INHERENT REASONABLENESS.—Section 1834(a)(10)(B) of such Act (42 U.S.C. 1395m(a)(10)(B)) is amended by striking "1991" and inserting "1992".

(6) CONFORMING AMENDMENT.—Section 1834(a)(12) of such Act (42 U.S.C. 1395m(a)(12)) is amended by striking "defined for purposes of paragraphs (8)(B) and (9)(B)".

(c) TREATMENT OF "RENTAL CAP" ITEMS.—

(1) LIMITATION ON MONTHLY RECOGNIZED RENTAL AMOUNTS FOR MISCELLANEOUS ITEMS.—Section 1834(a)(7)(A)(i) of such Act (42 U.S.C. 1395m(a)(7)(A)(i)) is amended—

(A) by striking "for each such month" and inserting "for each of the first 3 months of such period"; and

(B) by striking the semicolon at the end and inserting the following: ", and for each

of the remaining months of such period is 7.5 percent of such purchase price;".

(2) OFFER OF OPTION TO PURCHASE FOR MISCELLANEOUS ITEMS; ESTABLISHMENT OF REASONABLE LIFETIME.—Section 1834(a)(7) of such Act (42 U.S.C. 1395m(a)(7)(A)) is amended—

(A) in subparagraph (A)(i), by striking "15 months" and inserting "15 months, or, in the case of an item for which a purchase agreement has been entered into under clause (ii), a period of continuous use of longer than 13 months";

(B) in subparagraph (A)(ii)—

(i) by striking "(ii) during the succeeding 6-month period of medical need," and inserting "(iii) in the case of an item for which a purchase agreement has not been entered into under clause (ii), during the first 6-month period of medical need that follows the period of medical need during which payment is made under clause (i),", and

(ii) by striking "and" at the end;

(C) in subparagraph (A)(iii)—

(i) by striking "(iii)" and inserting "(iv) in the case of an item for which a purchase agreement has not been entered into under clause (ii),", and

(ii) by striking the period at the end and inserting "; and";

(D) by inserting after clause (i) of subparagraph (A) the following new clause:

"(ii) during the 9th continuous month during which payment is made for the rental of an item under clause (i), the supplier of such item shall offer the individual patient the option to enter into a purchase agreement under which, if the patient notifies the supplier not later than 1 month after the supplier makes such offer that the patient agrees to accept such offer and exercise such option—

"(I) the supplier shall transfer title to the item to the individual patient on the first day that begins after the 13th continuous month during which payment is made for the rental of the item under clause (i), and

"(II) after the supplier transfers title to the item under subclause (I), maintenance and servicing payments shall be made in accordance with clause (v);";

(E) by adding at the end of subparagraph (A) the following new clause:

"(v) in the case of an item for which a purchase agreement has been entered into under clause (ii), after the expiration of the 6-month period beginning on the day the supplier transfers title to the item to the patient under clause (ii)(I), a maintenance and servicing payment may be made (for parts and labor not covered by the supplier's or manufacturer's warranty, as determined by the Secretary to be appropriate for the particular type of durable medical equipment) during the first month of each succeeding 6-month period, and the amount recognized for each such period is the amount recognized for the item for such period under clause (iv).";" and

(F) by adding at the end the following new subparagraph:

"(C) REPLACEMENT OF ITEMS.—

"(i) ESTABLISHMENT OF REASONABLE USEFUL LIFETIME.—The Secretary shall determine and establish a reasonable useful lifetime for items of durable medical equipment for which payment may be made under this paragraph.

"(ii) PAYMENT FOR REPLACEMENT ITEMS.—If the reasonable lifetime of such an item, as so established, has been reached during a continuous period of medical need, or the carrier determines that the item is lost or irreparably damaged, payment for an item serving as a replacement for such item may be made on a monthly basis for the rental of the replacement item in accordance with subparagraph (A).".

(4) TREATMENT OF POWER-DRIVEN WHEELCHAIRS AS MISCELLANEOUS ITEMS OF DURABLE MEDICAL EQUIPMENT.—

(A) IN GENERAL.—Section 1834(a)(2)(A) of such Act (42 U.S.C. 1395m(a)(2)(A)) is amended—

(i) in clause (i), by inserting "or" at the end;

(ii) in clause (ii), by striking "or" at the end; and

(iii) by striking clause (iii).

(B) OPTIONAL TREATMENT AS CUSTOMIZED ITEM.—Section 1834(a)(4) of such Act (42 U.S.C. 1395m(a)(4)) is amended by striking "patient," and inserting "patient (including a customized wheelchair classified as a customized item under this paragraph pursuant to criteria specified by the Secretary),".

(d) FREEZE IN REASONABLE CHARGES FOR PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT DURING 1991.—In determining the amount of payment under part B of title XVIII of the Social Security Act for enteral and parenteral nutrients, supplies, and equipment furnished during 1991, the charges determined to be reasonable with respect to such nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such items for 1990.

(e) REQUIRING PRIOR APPROVAL FOR POTENTIALLY OVERUSED ITEMS.—Section 1834(a) of such Act (42 U.S.C. 1395m(a)), as amended by subsection (b)(4), is amended by adding at the end the following new paragraph:

"(15) CARRIER DETERMINATIONS OF POTENTIALLY OVERUSED ITEMS IN ADVANCE.—

"(A) DEVELOPMENT OF LIST OF ITEMS BY SECRETARY.—The Secretary shall develop and periodically update a list of items for which payment may be made under this subsection that the Secretary determines, on the basis of prior payment experience, are frequently subject to unnecessary utilization, and shall include in such list seat-lift chairs, trancutaneous electrical nerve stimulators, and motorized scooters.

"(B) DETERMINATIONS OF COVERAGE IN ADVANCE.—A carrier shall determine in advance whether payment for an item included on the list developed by the Secretary under subparagraph (A) may not be made because of the application of section 1862(a)(1).".

(f) PROHIBITION AGAINST DISTRIBUTION OF MEDICAL NECESSITY FORMS BY SUPPLIERS.—

(1) IN GENERAL.—Section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)), as amended by subsections (b)(4) and (e), is further amended by adding at the end the following new paragraph:

"(16) PROHIBITION AGAINST DISTRIBUTION BY SUPPLIERS OF FORMS DOCUMENTING MEDICAL NECESSITY.—

"(A) IN GENERAL.—A supplier of a covered item under this subsection may not distribute to physicians or to individuals entitled to benefits under this part for commercial purposes any completed or partially completed forms or other documents required by the Secretary to be submitted to show that a covered item is reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.

"(B) PENALTY.—Any supplier of a covered item who knowingly and willfully distributes a form or other document in violation of subparagraph (A) is subject to a civil money penalty in an amount not to exceed $1,000 for each such form or document so distributed. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under this subparagraph in the same manner as they apply to a penalty or proceeding under section 1128A(a).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to forms and documents distributed on or after January 1, 1991.

(g) LIMITING CHARGES OF NONPARTICIPATING SUPPLIERS.—Section 1834(a) of such Act (42 U.S.C. 1395m(a)), as amended by subsections (b)(4), (e), and (f), is further amended by adding at the end the following new paragraph:

"(17) LIMITING CHARGES FOR NONPARTICIPATING SUPPLIERS.—

"(A) IN GENERAL.—In the case of covered items for which payment may be made under this subsection furnished on or after January 1, 1991, if a nonparticipating supplier furnishes the item to an individual entitled to benefits under this part, the supplier may not charge the individual more than the limiting charge (as defined in subparagraph (B)).

"(B) LIMITING CHARGE DEFINED.—In subparagraph (A), the term 'limiting charge' means, with respect to an item furnished—

"(i) in 1991, 125 percent of the payment amount specified for the item under this subsection,

"(ii) in 1992, 120 percent of the payment amount specified for the item under this subsection, and

"(iii) in a subsequent year, 115 percent of the payment amount specified for the item under this subsection.

"(C) ENFORCEMENT.—If a supplier knowingly and willfully bills in violation of subparagraph (A), the Secretary may apply sanctions against such supplier in accordance with section 1842(j)(2) in the same manner as such sanctions may apply to a physician.".

(h) RECERTIFICATION FOR CERTAIN PATIENTS RECEIVING HOME OXYGEN THERAPY SERVICES.—

(1) IN GENERAL.—Section 1834(a)(5) of such Act (42 U.S.C. 1395m(a)(5)) is amended—

(A) in subparagraph (A), by striking "(B) and (C)" and inserting "(B), (C), and (E)"; and

(B) by adding at the end the following new subparagraph:

"(E) RECERTIFICATION FOR PATIENTS RECEIVING HOME OXYGEN THERAPY.—In the case of a patient receiving home oxygen therapy services who, at the time such services are initiated, has an initial arterial blood gas value at or above a partial pressure of 55 or an arterial oxygen saturation at or above 89 percent, no payment may be made under this part for such services after the expiration of the 60-day period that begins on the date the patient first receives such services unless the patient's attending physician certifies that, on the basis of a follow-up test of the patient's arterial blood gas value or arterial oxygen saturation conducted during the final 15 days of such 60-day period, there is a medical need for the patient to continue to receive such services.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to patients who first receive home oxygen therapy services on or after January 1, 1991.

(i) STUDY OF SEPARATE FEE SCHEDULES FOR CERTAIN SUPPLIERS OF PROSTHETIC DEVICES, ORTHOTICS, AND PROSTHETICS.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study of the feasibility and desirability of establish-

ing a separate fee schedule for use in determining the amount of payments for covered items under section 1834(a) of the Social Security Act with respect to suppliers of prosthetic devices, orthotics, and prosthetics who provide professional services that would take into account the costs to such providers of providing such services.

(2) REPORT.—By not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under paragraph (1).

(j) TECHNICAL CORRECTIONS.—Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987, section 4062(e) of such Act is amended—

(1) by inserting "(other than oxygen and oxygen equipment)" after "covered items", and

(2) by inserting before the period at the end the following: "and to oxygen and oxygen equipment furnished on or after June 1, 1989".

(k) EFFECTIVE DATE.—Except as provided in subsections (f)(2), (h)(2), and (j), the amendments made by this section shall apply to items furnished on or after January 1, 1991.

SEC. 4023. CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) REDUCTION IN NATIONAL CAP ON FEE SCHEDULES.—

(1) IN GENERAL.—Section 1833(h)(4)(B) of the Social Security Act (42 U.S.C. 1395l(h)(4)(B)) is amended—

(A) in clause (ii), by striking "and" at the end;

(B) in clause (iii)—

(i) by inserting "and before January 1, 1991," after "1989,", and

(ii) by striking the period at the end and inserting ", and"; and

(C) by adding at the end the following new clause:

"(iv) after December 31, 1990, is equal to 85 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to tests furnished on or after January 1, 1991.

(b) CLARIFICATION OF MANDATORY ASSIGNMENT FOR TESTS PERFORMED BY A PHYSICIAN OFFICE LABORATORY.—

(1) IN GENERAL.—(A) Section 1833(h)(5)(C) of such Act (42 U.S.C. 1395l(h)(5)(C)) is amended by striking "performed by a laboratory other than a rural health clinic" and inserting "(other than a test performed by a rural health clinic)".

(B) Section 1833(h)(5)(A)(ii)(III) of such Act (42 U.S.C. 1395l(i)(5)(A)(iii)) is amended by striking "laboratory," and inserting "laboratory (but not including a laboratory described in subclause (II)),".

(C) Section 6111(b)(2) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "January 1, 1990" and inserting "May 1, 1990".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

(c) TECHNICAL CORRECTIONS.—

(1)(A) Section 1833(h)(5)(A)(ii) of such Act (42 U.S.C. 1395l(h)(5)(A)(ii)) is amended—

(i) in subclause (II), by striking "a wholly-owned subsidiary of" and inserting "wholly owned by"; and

(ii) in subclause (III), by striking "submits bills or requests for payment in any year" and inserting "receives requests for testing during the year in which the test is performed".

(B) The amendments made by subparagraph (A) shall take effect January 1, 1991.

(2) The heading of section 1846 of such Act is amended by striking "OF" and inserting "OR".

(3) Section 9339(b) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking paragraph (3).

SEC. 4024. COVERAGE OF NURSE PRACTITIONERS IN RURAL AREAS.

(a) IN GENERAL.—Section 1861(s)(2)(K) of the Social Security Act (42 U.S.C. 1395x(s)(2)(K)) is amended—

(1) in clause (ii), by striking "and" at the end;

(2) in clause (iii), by striking "(i) or (ii)" and inserting "(i), (ii), or (iii)";

(3) by redesignating clause (iii) as clause (iv); and

(4) by inserting after clause (ii) the following new clause:

"(iii) services which would be physicians' services if furnished by a physician (as defined in subsection (r)(1)) and which are performed by a nurse practitioner or clinical nurse specialist (as defined in subsection (aa)(3)) working in collaboration (as defined in subsection (aa)(4)) with a physician (as defined in subsection (r)(1)) in a rural area (as defined in section 1886(d)(2)(D)) which the nurse practitioner or clinical nurse specialist is authorized to perform by the State in which the services are performed, and".

(b) PAYMENT.—

(1) DIRECT PAYMENT.—Section 1832(a)(2)(B) of such Act (42 U.S.C. 1395k(a)(2)(B)) is amended—

(A) in clause (ii), by striking "and" at the end;

(B) in clause (iii), by striking the semicolon and inserting a comma; and

(C) by adding at the end the following new clause:

"(iv) services of a nurse practitioner or clinical nurse specialist provided in a rural area (as defined in section 1886(d)(2)(D)); and".

(2) AMOUNT.—Section 1833(a)(1) of such Act (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking "and" at the end of subparagraph (K); and

(B) by inserting after subparagraph (L) the following new subparagraph: "(M) with respect to services described in section 1861(s)(2)(K)(iii) (relating to nurse practitioner or clinical nurse specialist services provided in a rural area), the amounts paid shall be 80 percent of the lesser of the actual charge or the prevailing charge that would be recognized (or, for services furnished on or after January 1, 1992, the fee schedule amount provided under section 1848, as the case may be) if the services had been performed by a physician (subject to the limitation described in subsection (r)(2)), and".

(3) CAP ON PREVAILING CHARGE; BILLING ONLY ON ASSIGNMENT-RELATED BASIS.—Section 1833 of such Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(r)(1) With respect to services described in section 1861(s)(2)(K)(iii) (relating to nurse practitioner or clinical nurse specialist services provided in a rural area), payment may be made on the basis of a claim or request for payment presented by the nurse practitioner or clinical nurse specialist furnishing such services, or by a hospital, rural primary care hospital, physician, group practice, ambulatory surgical center, or rural health clinic with which the nurse practitioner or clinical nurse specialist has an employment or contractual relationship that provides for payment to be made under this part for such services to such hospital, physician, group practice, ambulatory surgical center, or rural health clinic.

"(2)(A) For purposes of subsection (a)(1)(M), the prevailing charge for services described in section 1861(s)(2)(K)(iii) may not exceed the applicable percentage (as defined in subparagraph (B)) of the prevailing charge rate determined for such services performed by physicians who are not specialists.

"(B) In subparagraph (A), the term 'applicable percentage' means—

"(i) 75 percent in the case of services performed in a hospital, and

"(ii) 85 percent in the case of other services.

"(3)(A) Payment under this part for services described in section 1861(s)(2)(K)(iii) may be made only on an assignment-related basis, and any such assignment agreed to by a nurse practitioner or clinical nurse specialist shall be binding upon any other person presenting a claim or request for payment for such services.

"(B) Except for deductible and coinsurance amounts applicable under this section, any person who knowingly and willfully presents, or causes to be presented, to an individual enrolled under this part a bill or request for payment for services described in section 1861(s)(2)(K)(iii) in violation of subparagraph (A) is subject to a civil money penalty of not to exceed $2,000 for each such bill or request. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(4) No hospital or rural primary care hospital that presents a claim or request for payment under this part for services described in section 1861(s)(2)(K)(iii) may treat any uncollected coinsurance amount imposed under this part with respect to such services as a bad debt of such hospital for purposes of this title.".

(c) CONFORMING AMENDMENT.—Section 1842(b) of such Act (42 U.S.C. 1395u(b)) is amended by striking "section 1861(s)(2)(K)" each place it appears in paragraphs (6) and (12) and inserting "clauses (i) and (ii) of section 1861(s)(2)(K)".

(d) DEFINITION.—Section 1861(aa)(3) of the Social Security Act (42 U.S.C. 1395x(aa)(3)) is amended by striking "The term" and all that follows through "who performs" and inserting the following: "The term 'physician assistant', the term 'nurse practitioner', and the term 'clinical nurse specialist' mean, for purposes of this Act, a physician assistant, nurse practitioner, or clinical nurse specialist who performs".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1991.

SEC. 4025. CLARIFYING COVERAGE OF EYEGLASSES PROVIDED WITH INTRAOCULAR LENSES FOLLOWING CATARACT SURGERY.

(a) COVERAGE AS A PROSTHETIC DEVICE.—Section 1861(s)(8) of the Social Security Act (42 U.S.C. 1395x(s)(8)) is amended by inserting before the semicolon at the end the following: "and including corrective eyeglasses provided with intraocular lenses following cataract surgery (but not including replacement for such eyeglasses)".

(b) CLARIFICATION OF EXCLUSION.—Section 1862(a)(7) of such Act (42 U.S.C.

1395y(a)(7)) is amended by inserting "(other than eyeglasses described in section 1861(s)(8))" after "eyeglasses" the first place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished before, on, or after the date of the enactment of this Act.

SEC. 4026. COVERAGE OF INJECTABLE DRUGS FOR TREATMENT OF OSTEOPOROSIS.

(a) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(1) in subsection (s)(2)—

(A) by striking "and" at the end of subparagraph (M),

(B) by inserting "and" at the end of subparagraph (N), and

(C) by inserting after subparagraph (N) the following new subparagraph:

"(O) a covered osteoporosis drug and its administration (as defined in subsection (jj)) furnished on or after January 1, 1991, and on or before December 31, 1992; and"; and

(2) by inserting after subsection (ii) the following new subsection:

"COVERED OSTEOPOROSIS DRUG

"(jj) The term 'covered osteoporosis drug' means an injectable drug approved for the treatment of a bone fracture related to postmenopausal osteoporosis provided to a patient if, in accordance with regulations promulgated by the Secretary—

"(1) the patient's attending physician certifies that the patient is unable to learn the skills needed to self-administer such drug or is otherwise physically or mentally incapable of self-administering such drug; and

"(2) the patient meets the requirements for coverage of home health services described in section 1814(a)(2)(C).".

(b) STUDY OF EFFECTS OF COVERAGE.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study analyzing the effects of coverage of osteoporosis drugs under part B of title XVIII of the Social Security Act (as amended by subsection (a)) on patient health and the utilization of inpatient hospital and extended care services.

(2) REPORT.—By not later than March 1, 1992, the Secretary shall submit a report to Congress on the study conducted under paragraph (1), and shall include in such report such recommendations regarding expansion of coverage under the medicare program of items and services for individuals with post-menopausal osteoporosis as the Secretary considers appropriate.

SEC. 4027. CONDITIONS FOR CATARACT SURGERY ALTERNATIVE PAYMENT DEMONSTRATION PROJECT.

In carrying out any demonstration project to evaluate the effectiveness of alternative methods of payment for cataract surgery under title XVIII of the Social Security Act, the Secretary of Health and Human Services—

(1) may not select providers to participate in such demonstration project solely on the basis of the number of cataract surgeries performed;

(2) shall monitor the quality of services provided under such demonstration project; and

(3) shall develop criteria for the selection of providers to participate in such demonstration project in consultation with physicians specializing in the care and treatment of conditions of the eyes.

Subpart C—Miscellaneous Provisions

SEC. 4031. MEDICARE CARRIER NOTICE TO STATE MEDICAL BOARDS.

(a) IN GENERAL.—Section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)) is amended by inserting after subparagraph (H) the following new subparagraph:

"(I) will refer cases of physician unethical or unprofessional conduct to the State medical board or boards responsible for the licensing of the physician involved;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to cases of unethical or unprofessional conduct that a carrier becomes aware of more than 60 days after the date of the enactment of this Act. The Secretary of Health and Human Services shall provide for such modification of contracts under section 1842 of the Social Security Act as may be necessary to incorporate the additional requirement imposed by the amendment made by subsection (a) on a timely basis.

SEC. 4032. TECHNICAL AND MISCELLANEOUS PROVISIONS RELATING TO PART B.

(a) Section 1833(o)(2)(D) of the Social Security Act (42 U.S.C. 1395l(o)(2)(D)) is amended by striking "one (or more, as specified by the Secretary) pairs" and inserting "one pair (or more pairs, as specified by the Secretary)".

(b) Section 1839(a)(4) of such Act (42 U.S.C. 1395r(a)(4)) is amended by striking "which" after "age 65" the second place it appears.

(c) Section 1842(b)(3) of such Act (42 U.S.C. 1395u(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (H),

(2) by inserting "and" at the end of subparagraph (I), and

(3) by redesignating subparagraph (L) as subparagraph (J).

(d) Section 1861(s)(2)(B) of such Act (42 U.S.C. 1395x(s)(2)(B)) is amended by striking "and partial hospital services incident to such services" and by inserting "and partial hospitalization services" after "hospital services".

(e) Section 1861(ii) of such Act (42 U.S.C. 1395x(ii)) is amended—

(1) by inserting "furnished by a clinical psychologist (as defined by the Secretary)" after "means such services", and

(2) by striking "his service furnished by a clinical psychologist (as defined by the Secretary)" and inserting "such services".

PART 2—PROVISIONS RELATING TO PARTS A AND B

Subpart A—Peer Review Organizations

SEC. 4101. PRO COORDINATION WITH CARRIERS.

(a) IN GENERAL.—Section 1154 of the Social Security Act (42 U.S.C. 1320c-3) is amended by adding at the end the following new subsection:

"(g) In carrying out coordinating activities under subsection (a)(10)(A) with carriers under section 1842, each organization shall provide, in a manner specified by the Secretary, for—

"(1) information exchange in accordance with specifications of the Secretary,

"(2) development of common utilization and quality review claim edits and specific medical review criteria used to identify individual claims for review, and

"(3) collaboration on the analysis of utilization trends and on the results of medical reviews and collaboration on the development of claim edit standards and review criteria.".

(b) CARRIER COORDINATION.—Section 1842(b)(3) of such Act (42 U.S.C. 1395u(b)(3)) is amended by inserting after subparagraph (H) the following new subparagraph:

"(I) will coordinate its activities with those of utilization and quality control peer review organizations, in the manner specified by the Secretary in order to carry out section 1154(g); and".

(c) REPORT.—By not later than January 1, 1992, the Secretary of Health and Human Services shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on the implementation of the amendments made by this section.

SEC. 4102. CONFIDENTIALITY OF PEER REVIEW DELIBERATIONS.

(a) IN GENERAL.—Section 1160(d) of the Social Security Act (42 U.S.C. 1320c-9(d)) is amended by adding at the end the following: "No document or other information produced by such an organization in connection with its deliberations in making determinations under section 1154(a)(1)(B) or 1156(a)(2) shall be subject to subpena or discovery in any administrative or civil proceeding; except that such an organization shall provide, upon request of a practitioner or other person adversely affected by such a determination, a summary of the organization's findings and conclusions in making the determination.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to all proceedings as of the date of the enactment of this Act.

SEC. 4103. ROLE OF PEER REVIEW ORGANIZATIONS IN REVIEW OF HOSPITAL TRANSFERS.

(a) IN GENERAL.—Section 1867(d) of the Social Security Act (42 U.S.C. 1395dd(d)) is amended by adding at the end the following new paragraph:

"(4) CONSULTATION WITH PEER REVIEW ORGANIZATIONS.—

"(A) IN GENERAL.—In considering allegations concerning violations of the requirements of this section in imposing sanctions under paragraph (1) or (2) in cases in which the concerns described in subparagraph (B) are raised, the Secretary shall request the appropriate utilization and quality control peer review organization (with a contract under part B of title XI) to review the medical condition of the individual involved and provide a report concerning its findings and professional opinions with respect to such concerns. Except in the case in which a delay would immediately jeopardize the health or safety of individuals, the Secretary shall request such a review before effecting a sanction under paragraph (1) or paragraph (2) and shall provide a period of at least 60 days for such review.

"(B) CONCERNS.—The concerns described in this subparagraph are—

"(i) whether the individual had an emergency medical condition which had not been stabilized, and

"(ii) if the individual was transferred, (I) whether, based upon the information available at the time of the transfer, the medical benefits reasonably expected from the provision of appropriate medical treatment at another medical facility outweighed the increased risks to the individual (and, in the case of labor, to the unborn child) from effecting the transfer, and (II) whether the transfer was an appropriate transfer (as defined in subsection (c)(2)).".

(b) CONFORMING AMENDMENT.—Section 1154(a) of such Act (42 U.S.C. 1320c-4(a)) is

amended by adding at the end the following new paragraph:

"(16) The organization shall provide for a review and report to the Secretary when requested by the Secretary under section 1867(d)(4)(A). The organization shall provide reasonable notice of the review to the physician and hospital involved. Within the time period permitted by the Secretary, the organization shall provide a reasonable opportunity for discussion with the physician and hospital involved, and an opportunity for the physician and hospital to submit additional information, before issuing its report to the Secretary under such section.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning more than 60 days after the date of the enactment of this Act. The amendment made by subsection (b) shall apply to contracts under part B of title XI of the Social Security Act as of the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 4104. PEER REVIEW NOTICE.

(a) REQUIREMENT.—Section 1154(a)(9) of the Social Security Act (42 U.S.C. 1320c-3(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following:

"(B) The organization shall notify the State board or boards responsible for the licensing or disciplining of any physician when the organization submits a report and recommendations to the Secretary with respect to such physician under section 1156(b)(1).".

(b) DISCLOSURE.—Section 1160(b)(1) of such Act (42 U.S.C. 1320c-9(b)(1)) is amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by adding "and" at the end of subparagraph (C), and

(3) by adding at the end the following new subparagraph:

"(D) to provide notice to the State medical board in accordance with section 1154(a)(9)(B) when the organization submits a report and recommendations to the Secretary under section 1156(b)(1) with respect to a physician whom the board is responsible for licensing;".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to notices of proposed sanctions issued more than 60 days after the date of the enactment of this Act.

SEC. 4105. NOTICE TO STATE MEDICAL BOARDS WHEN ADVERSE ACTIONS TAKEN.

(a) IN GENERAL.—Section 1156(b) of the Social Security Act (42 U.S.C. 1320c-5(b)) is amended by adding at the end the following new paragraph:

"(6) When the Secretary effects an exclusion of a physician under paragraph (2), the Secretary shall notify the State board responsible for the licensing of the physician of the exclusion.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sanctions effected more than 60 days after the date of the enactment of this Act.

SEC. 4106. TREATMENT OF OPTOMETRISTS AND PODIATRISTS.

(a) IN GENERAL.—Section 1154 of the Social Security Act (42 U.S.C. 1320c-3) is amended—

(1) in subsection (a)(7)(A)(i), by inserting ", optometry, or podiatry" after "dentistry"; and

(2) in subsection (c), by striking "or dentistry" each place it appears and inserting "dentistry, optometry, or podiatry".

(b) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to contracts entered into or renewed on or after the date of the enactment of this Act.

Subpart B—Other Provisions

SEC. 4121. EXTENSION OF SECONDARY PAYOR PROVISIONS.

(a) EXTENSION OF RENAL DISEASE PERIOD FROM 12 TO 18 MONTHS.—Section 1862(b)(1)(C) of the Social Security Act (42 U.S.C. 1395y(b)(1)(C)) is amended by striking "12-month period" each place it appears and inserting "18-month period".

(b) ELIMINATION OF SUNSET FOR TRANSFER OF DATA PROVISION.—Section 1862(b)(5)(C) of such Act (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(c) ELIMINATION OF SUNSET ON APPLICATION TO DISABLED BENEFICIARIES.—

(1) IN GENERAL.—Section 1862(b)(1)(B) of such Act (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking "(iv)(II)" and "(iv)(I)" and inserting "(iii)(II)" and "(iii)(I)", respectively,

(B) by striking clause (iii), and

(C) by redesignating clause (iv) as clause (iii).

(2) CONFORMING AMENDMENTS.—Paragraphs (1), (2), and (3)(B) of section 1837(i) of such Act (42 U.S.C. 1395p(i)) and section 1839(b) of such Act (42 U.S.C. 1395r(b)) are each amended by striking "1862(b)(1)(B)(iv)" and inserting "1862(b)(1)(B)(iii)".

(d) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to group health plans for plan years beginning on or after January 1, 1991.

(2) The amendments made by subsections (b) and (c) shall take effect on the date of the enactment.

SEC. 4122. HEALTH MAINTENANCE ORGANIZATIONS.

(a) PERMITTING RETROACTIVE ENROLLMENT OF CERTAIN RETIREES.—

(1) IN GENERAL.—Section 1876(c)(3)(B) of the Social Security Act (42 U.S.C. 1395mm(c)(3)(B)) is amended—

(A) by inserting "(i)" after "(B)", and

(B) by adding at the end the following new clauses:

"(ii) Regulations under clause (i) shall provide that, in the case of an individual who, at the time of retirement from employment, is enrolled with an eligible organization (which has a risk-sharing contract under this section) under a health benefit plan operated, sponsored, or contributed to, by the individual's employer or former employer, the enrollment may be made effective as of the first month of such retirement if such enrollment occurs not later than 3 months after the date of the retirement.

"(iii) Such regulations shall provide that, in the case of an individual who, at the time the individual's spouse retires from employment, is enrolled with an eligible organization (which has a risk-sharing contract under this section) under a health benefit plan operated, sponsored, or contributed to, by the employer or former employer of the individual's spouse, the enrollment may be made effective as of the first month of such retirement if such enrollment occurs not later than 3 months after the date of the retirement of the individual's spouse.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) PROHIBITING CERTAIN EMPLOYER MARKETING ACTIVITIES.—

(1) IN GENERAL.—Section 1862(b)(3) of such Act (42 U.S.C. 1395y(b)(3)) is amended by adding at the end the following new subparagraph:

"(C) PROHIBITION OF FINANCIAL INCENTIVES NOT TO ENROLL IN A GROUP HEALTH PLAN.—It is unlawful for an employer or other entity to offer any financial or other incentive for an individual not to enroll (or to terminate enrollment) under a group health plan which would (in the case of such enrollment) be a primary plan (as defined in paragraph (2)(A)), unless such incentive is also offered to all individuals who are eligible for coverage under the plan. Any entity that violates the previous sentence is subject to a civil money penalty of not to exceed $5,000 for each such violation. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to incentives offered on or after the date of the enactment of this Act.

(c) PATIENT'S RIGHT TO PARTICIPATE IN AND DIRECT HEALTH CARE DECISIONS.—

(1) REQUIREMENT FOR ELIGIBLE ORGANIZATIONS.—Section 1876(c) of the Social Security Act (42 U.S.C. 1395mm(c)) is amended—

(A) in subsection (c), by adding at the end the following new paragraph:

"(8) A contract under this section shall provide that the eligible organization shall meet the requirement of subsection (k) (relating to maintaining written policies and procedures respecting advance directives).", and

(B) by adding at the end the following new subsection:

"(k)(1) For purposes of subsection (c)(8), the requirement of this subsection is that an eligible organization maintain written policies and procedures with respect to all adult individuals receiving medical care by or through the organization—

"(A) to provide written information to each such individual concerning—

"(i) an individual's rights under State law (whether statutory or as recognized by the courts of the State) to make decisions concerning such medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives (as defined in paragraph (3)), and

"(ii) the written policies of the organization respecting the implementation of such rights;

"(B) to document in the individual's medical record whether or not the individual has executed an advance directive;

"(C) not to condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive;

"(D) to ensure compliance with requirements of State law respecting advance directives at facilities of the organization; and

"(E) to provide (individually or with others) for education for staff and the community on issues concerning advance directives.

Subparagraph (C) shall not be construed as requiring the provision of care which conflicts with an advance directive.

"(2) The written information described in paragraph (1)(A) shall be provided to an adult individual at the time of enrollment of the individual with the organization.

"(3) In this subsection, the term 'advance directive' means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law and relating to the provision of such care when the individual is incapacitated.".

(2) APPLICATION TO OTHER PREPAID ORGANIZATIONS.—Section 1833 of such Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(r) The Secretary may not provide for payment under subsection (a)(1)(A) with respect to an organization unless the organization provides assurances satisfactory to the Secretary that the organization meets the requirement of section 1876(k) (relating to maintaining written policies and procedures respecting advance directives).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to contracts under section 1876 of the Social Security Act and payments under section 1833(a)(1)(A) of such Act as of first day of the first month beginning more than 1 year after the date of the enactment of this Act.

SEC. 4123. DEMONSTRATION PROJECT FOR PROVIDING STAFF ASSISTANTS TO HOME DIALYSIS PATIENTS.

(a) ESTABLISHMENT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish and carry out a demonstration project to determine whether the services of a home dialysis aide providing medical assistance to a patient during hemodialysis treatment at the patient's home may be covered under the medicare program in a cost-effective manner that ensures patient safety.

(b) PAYMENTS TO PARTICIPATING PROVIDERS AND FACILITIES.—

(1) SERVICES FOR WHICH PAYMENT MAY BE MADE.—Under the demonstration project established under subsection (a), the Secretary shall make payments for 2 years under title XVIII of the Social Security Act to a provider of services (other than a skilled nursing facility) or a renal dialysis facility located in an urban area and to a provider of services (other than a skilled nursing facility) or a renal dialysis facility located in a rural area for services of a qualified home dialysis aide providing medical assistance to an individual described in subsection (c) during hemodialysis treatment at the individual's home in an amount determined under paragraph (2).

(2) AMOUNT OF PAYMENT.—(A) Subject to subparagraph (B), payment to a provider of services or renal dialysis facility participating in the demonstration project established under subsection (a) for the services described in paragraph (1) shall be equal to a rate prospectively determined by the Secretary and shall be made on a per treatment basis.

(B) The per treatment amount of payment made under the demonstration project for services provided to a patient may not exceed the amount of payment that would be made under title XVIII of the Social Security Act for ambulance service provided to the patient for transportation to and from the provider of services or renal dialysis facility.

(c) INDIVIDUALS ELIGIBLE TO RECEIVE SERVICES UNDER PROJECT.—An individual may receive services from a provider of services or renal dialysis facility participating in the demonstration project if—

(1) the individual is an end stage renal disease patient entitled to benefits under title XVIII of the Social Security Act;

(2) the individual's attending physician certifies that the individual suffers from a permanent, serious medical condition (as specified by the Secretary) that precludes travel to and from a provider of services or renal dialysis facility; and

(3) no family member or other individual is available or able to provide such assistance to the individual.

(d) QUALIFICATIONS FOR HOME DIALYSIS AIDES.—For purposes of subsection (b), a home dialysis aide is qualified if the aide—

(1) meets requirements developed by the Secretary for home dialysis aides providing medical assistance during hemodialysis treatment at an individual patient's home; or

(2) meets any applicable standards established by the State in which the aide is providing such assistance.

(e) REPORT.—Not later than 6 months after the expiration of the demonstration project established under subsection (a), the Secretary shall submit to Congress a report on the results of the project, and shall include in such report recommendations regarding appropriate eligibility criteria and cost-control mechanisms for medicare coverage of the services of a home dialysis aide providing medical assistance to a patient during hemodialysis treatment at the patient's home.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated not more than $2,000,000 to carry out the demonstration project established under subsection (a).

SEC. 4124. EXTENSION OF REPORTING DEADLINE FOR ALZHEIMER'S DISEASE DEMONSTRATION PROJECT.

Section 9342(d)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "upon completion" and inserting "not later than 1 year after completion".

SEC. 4125. MISCELLANEOUS TECHNICAL CORRECTIONS.

Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987, section 1891(a)(3)(D)(iii) of the Social Security Act (42 U.S.C. 1395bbb(a)(3)(D)(iii)) is amended—

(1) by inserting ", within the previous 2 years," after "which has been determined"; and

(2) by striking "the requirements specified in or pursuant to section 1861(o) or subsection (a) within the previous 2 years" and inserting "(I) subparagraph (A), (B), or (C), or (II) has been subject to an extended (or partial extended) survey under subsection (c)(2)(D)".

PART 3—PROVISIONS RELATING TO BENEFICIARIES

SEC. 4201. PART B PREMIUM.

(a) $1 INCREASE IN PREMIUM FOR 1991.—Notwithstanding any other provision of law, but subject to subsections (b) and (f) of section 1839 of the Social Security Act, the amount of the monthly premium under such section, applicable for individuals enrolled under part B of title XVIII of such title for 1991, shall be increased by $1 above the amount of such premium otherwise determined under section 1839(a)(3) of such Act.

(b) PREMIUM FOR YEARS 1992 THROUGH 1995.—Section 1839(e) of the Social Security Act (42 U.S.C. 1395r(e)) is amended—

(1) in paragraph (1), by inserting "and for each month after December 1991 and prior to January 1996" after "January 1991", and

(2) in paragraph (2), by striking "1991" and inserting "1996".

SEC. 4202. PART B DEDUCTIBLE.

Effective beginning with 1991, section 1833(b) of the Social Security Act (42 U.S.C. 1395l) is amended by striking "$75" and inserting "$100".

PART 4—STANDARDS FOR MEDICARE SUPPLEMENTAL INSURANCE POLICIES

SEC. 4301. SIMPLIFICATION OF MEDICARE SUPPLEMENTAL POLICIES.

(a) IN GENERAL.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended—

(1) in subsection (b)(1)(B), by striking "through (4)" and inserting "through (5)";

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (3),

(B) by striking the period at the end of paragraph (4) and inserting "; and", and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) meets the requirements of subsection (o).";

(3) by adding at the end the following new subsections:

"(o) The requirements of this subsection are as follows:

"(1)(A) Each medicare supplemental policy shall provide for coverage of a group of benefits consistent with subsection (p)(1).

"(B) If the medicare supplemental policy provides for coverage of a group of benefits other than the core group of basic benefits described in subsection (p)(2)(B), the issuer of the policy must make available to the individual a medicare supplemental policy with only such core group of basic benefits.

"(C) The issuer of the policy has provided, before the sale of the policy, a summary information sheet which describes—

"(i) the benefits and premium under the policy, and

"(ii) the average ratio of benefits provided to premiums collected for the most recent 3-year period in which the policy is in effect (or, for a policy that has not been in effect for 3 years, the average ratio of benefits provided to premiums collected that is expected during the 3rd year of the policy).

Such summary information shall be on a standard form approved by the State (in consultation with the Secretary) consistent with the subsection (d)(3)(D).

"(2)(A) Each medicare supplemental policy shall be guaranteed renewable and—

"(i) the issuer may not cancel or nonrenew the policy solely on the ground of health status of the individual; and

"(ii) the issuer shall not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation.

"(B) If the medicare supplemental policy is terminated by the group policyholder and is not replaced as provided under subparagraph (D), the issuer shall offer certificateholders an individual medicare supplemental policy which (at the option of the certificateholder)—

"(i) provides for continuation of the benefits contained in the group policy, or

"(ii) provides for such benefits as otherwise meets the requirements of this section.

"(C) If an individual is a certificateholder in a group medicare supplemental policy and the individual terminates membership in the group, the issuer shall—

"(i) offer the certificateholder the conversion opportunity described in subparagraph (B), or

"(ii) at the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

"(D) If a group medicare supplemental policy is replaced by another group medicare supplemental policy purchased by the

same policyholder, the succeeding issuer shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

"(3)(A) Each medicare supplemental policy shall provide that benefits and premiums under the policy shall be suspended for any period in which the policyholder has applied for and is determined to be entitled to medical assistance under title XIX of the Social Security Act, but only if the policyholder notifies the issuer of such policy within 90 days after the date the individual becomes entitled to such assistance. If such suspension occurs and if the policyholder loses entitlement to such medical assistance, such policy shall be automatically reinstated as of the termination of such entitlement if the policyholder provides notice of loss of such entitlement within 90 days after the date of such loss.

"(B) Nothing in this section shall be construed as affecting the authority of a State, under title XIX of the Social Security Act, to purchase a medicare supplemental policy for an individual otherwise entitled to assistance under such title.

"(p)(1)(A) If, within 9 months after the date of the enactment of this subsection, the National Association of Insurance Commissioners (in this subsection referred to as the 'Association') promulgates—

"(i) limitations on the groups or packages of benefits that may be offered under a medicare supplemental policy consistent with paragraphs (2) and (3) of this subsection,

"(ii) uniform language and definitions to be used with respect to such benefits,

"(iii) uniform format to be used in the policy with respect to such benefits, and

"(iv) transitional requirements consistent with paragraph (4),

(such limitations, language, definitions, format, and requirements referred to collectively in this subsection as 'NAIC simplification standards'), subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policyholders on and after the date specified in subparagraph (C), as if the reference to the Model Regulation adopted on June 6, 1979, included a reference to the NAIC simplification standards.

"(B) If the Association does not promulgate NAIC simplification standards within the 9-month period specified in subparagraph (A), the Secretary shall promulgate, not later than 9 months after the end of such period, limitations, language, definitions, format, and requirements described in clauses (i) through (iv) of such subparagraph (in this subsection referred to collectively as 'Federal simplification standards') and subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policyholders on and after the date specified in subparagraph (C), as if the reference to the Model Regulation adopted on June 6, 1979, included a reference to the Federal simplification standards.

"(C)(i) Subject to clause (ii), the date specified in this subparagraph for a State is the date the State adopts the NAIC simplification standards or the Federal simplification standards or 1 year after the date the Association or the Secretary first adopts such standards, whichever is earlier.

"(ii) In the case of a State which the Secretary identifies, in consultation with the Association, as—

"(I) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet the NAIC or Federal simplification standards, but

"(II) having a legislature which is not scheduled to meet in 1992 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1992. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

"(D) Notwithstanding any other provision of this section, no medicare supplemental policy may be sold, issued, or renewed in a State unless—

"(i) the State's regulatory program under subsection (b)(1) provides for the application and enforcement of the standards and requirements set forth in such subsection (including the NAIC simplification standards or the Federal simplification standards (as the case may be)) by the date specified in subparagraph (C); or

"(ii) if the State's program does not provide for the application and enforcement of such standards and requirements, the Secretary has determined that the policy meets the standards and requirements set forth in subsection (c) (including such applicable simplification standards) by such date.

Any person who issues or sells a medicare supplemental policy, after the effective date of the NAIC or Federal simplification standards with respect to the policy, in violation of this subparagraph is subject to a civil money penalty of not to exceed $25,000 for each such violation. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(E) In promulgating simplification standards under this paragraph, the Association or Secretary shall consult with a working group composed of representatives of issuers of medicare supplemental policies, consumer groups, medicare beneficiaries, and other qualified individuals. Such representatives shall be selected in a manner so as to assure balanced representation among the interested groups.

"(F) If benefits (including deductibles and coinsurance) under this title are changed and the Secretary determines, in consultation with the Association, that changes in the NAIC or Federal simplification standards are needed to reflect such changes, the preceding provisions of this paragraph shall apply to the modification of simplification standards previously established in the same manner as they applied to the original establishment of such standards.

"(2) The benefits under the NAIC or Federal simplification standards shall provide—

"(A) for such groups or packages of benefits as may be appropriate taking into account the considerations specified in paragraph (4) and the requirements of the succeeding subparagraphs;

"(B)(i) for identification of a core group of basic benefits (not including payment of any deductibles), common to all policies, and

"(ii) for identification of a group of benefits including the core group of basic benefits and common additional benefits; and

"(C) that, subject to paragraph (5), the total number of different benefit packages (counting the core group of basic benefits described in subparagraph (B)(i), the group of benefits identified in subparagraph (B)(ii), and each other combination of benefits that may be offered as a separate benefit package) that may be established in all the States and by all issuers shall not exceed 10.

"(3) The benefits under paragraph (2) shall, to the extent possible—

"(A) provide for benefits that offer consumers the ability to purchase the benefits that are available in the market as of the date of the enactment of this subsection; and

"(B) balance the objectives of (i) simplifying the market to facilitate comparisons among policies, (ii) avoiding adverse selection, (iii) providing consumer choice, (iv) providing market stability, and (v) promoting competition.

"(4) For purposes of paragraph (1)(A)(iv), the transitional requirements of this paragraph are that, in the case of a medicare supplemental policy which was issued to a policyholder before the effective date of the NAIC or Federal simplification standards and which do not meet such standards, any renewal of such policy shall be deemed to be the issuance of a policy in violation of this subsection unless the issuer offers to the policyholder, not later than 60 days before the effective date of the renewal, 2 medicare supplemental policies each of which—

"(A) complies with such standards,

"(B) waives any time periods applicable to preexisting conditions, waiting period, elimination periods and probationary periods in the policy for similar benefits to the extent such time was spent under the policy being replaced, and

"(C) provides for classification of premiums on terms that are at least as favorable to the policyholder as the premium classification terms that applied to the policyholder as of such effective date, and one of which provides for the core group of basic benefits described in paragraph (2)(B)(i) and the other of which provides benefits described in paragraph (2)(B)(ii).

"(5)(A) The Secretary may, upon application by a State, waive the requirements of this subsection to permit the issuance and sale of a medicare supplemental policy which does not comply with the respective NAIC or Federal simplification standards for a period of up to 3 years in order to demonstrate the offering of new or innovative benefits as part of the policy. Such new or innovative benefits may include managed care features.

"(B) In the case of any such waiver, the Secretary shall evaluate the appropriateness of the new or innovative benefits offered and determine if the addition of a new group of such benefits to the NAIC or Federal simplification standards previously established would further the purposes of this subsection. If such determination is made, subject to subparagraph (C), the Secretary shall request the Association to modify the NAIC simplification standards or to recommend modification of the Federal simplification standards to include such an additional group of benefits (and accompanying language, definitions, and format with respect to such benefits) as may be appropriate. If the Association fails to make such a

modification in a timely manner, the Secretary may make such a modification.

"(C) Not more than 3 additional groups of benefits may be added under subparagraph (B).

"(6)(A) Except as provided in subparagraph (B), this subsection shall not be construed as preventing a State from restricting the groups or packages of benefits (of those meeting the standards) that may be offered in medicare supplemental policies in the State.

"(B) A State may not restrict under subparagraph (A) the offering of a medicare supplemental policy in which the benefits consist only of the core group of basic benefits described in paragraph (2)(B)(i) or the group of benefits described in paragraph (2)(B)(ii).

"(C) This subsection shall not be construed as preventing an issuer of a medicare supplemental policy from providing, through an arrangement with a vendor, for discounts from that vendor to policyholder or certificateholders for the purchase of items or services not covered under its medicare supplemental policies.

"(8) The Secretary shall request the Association to establish an educational program in order to educate consumers on the simplification standards developed and applied under this subsection.

"(9) The Comptroller General shall examine the effectiveness of the medicare supplemental policy simplification program established under this subsection and the impact of the program on consumer protection, health benefit innovation, consumer choice, and health care costs. By not later than 4 years after the date of the enactment of this subsection, the Comptroller General shall submit to Congress a report on such examination and shall include in the report such recommendations on the appropriate roles of the National Association of Insurance Commissioners, States, and the Secretary in carrying out such a program as he deems appropriate.".

(b) PERIODIC REVIEW OF STATE REGULATORY PROGRAMS.—Section 1882(b) of such Act is amended—

(1) in paragraph (1), by striking "Supplemental Health Insurance Panel (established under paragraph (2))" and inserting "the Secretary",

(2) in paragraph (1), by striking "the Panel" and inserting "the Secretary",

(3) in subparagraphs (A) and (D) of paragraph (1), by inserting "and enforcement" after "application", and

(4) by amending paragraph (2) to read as follows:

"(2) The Secretary periodically shall review State regulatory programs to determine if they continue to meet the standards and requirements specified in paragraph (1). If the Secretary finds that a State regulatory program no longer meets the standards and requirements, before making a final determination, the Secretary shall provide the State an opportunity to adopt such a plan of correction as would permit the State regulatory program to continue to meet such standards and requirements. If the Secretary makes a final determination that the State regulatory program, after such an opportunity, fails to meet such standards and requirements, the program shall no longer be considered to have in operation a program meeting such standards and requirements.".

SEC. 4302. REQUIRING APPROVAL OF STATE FOR SALE IN THE STATE.

(a) IN GENERAL.—Section 1882(d)(4)(B) of the Social Security Act (42 U.S.C. 1395ss(d)(4)(B)) is amended—

(1) in the first sentence, by inserting before the period at the end the following: "(in the case of a State with an approved regulatory program) or (in the case of a State without such a program) has not been approved by the Secretary", and

(2) by amending the second sentence to read as follows: "Nothing in this section shall be construed as to affect the right of any State to regulate medicare supplemental policies which, under the provisions of this section, are considered to be issued in another State.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to policies mailed, or caused to be mailed, on and after July 1, 1991.

SEC. 4303. PREVENTING DUPLICATION.

(a) IN GENERAL.—Subsection (d)(3) of section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended—

(1) in subparagraph (A)—

(A) by striking "Whoever knowingly sells" and inserting "It is unlawful for a person to sell or issue",

(B) by striking "substantially",

(C) by striking ", shall be fined" and inserting ". Whoever violates the previous sentence shall be fined",

(D) in subparagraph (A), by inserting "or title XIX" after "other than this title",

(E) in subparagraph (A), by striking "$5,000" and inserting "$25,000", and

(F) in subparagraph (A), by adding at the end the following: "Any person aggrieved by a violation of this subsection may in a civil action recover threefold the damages such person sustained as a result of such violation, any other appropriate relief (including punitive damages), and the costs of the suit (including reasonable attorney's fees).";

(2) by amending subparagraph (B) to read as follows:

"(B)(i) It is unlawful for a person to issue or sell a medicare supplemental policy to an individual entitled to benefits under part A or enrolled under part B, whether directly, through the mail, or otherwise, unless—

"(I) the person obtains from the individual, as part of the application for the issuance or purchase and on a form described in subclause (II), a written statement signed by the individual stating, to the best of the individual's knowledge, what health insurance policies the individual has, from what source, and whether the individual is entitled to any medical assistance under title XIX, whether as a qualified medicare beneficiary or otherwise, and

"(II) the written statement is accompanied by a written acknowledgment, signed by the seller of the policy, of the request for and receipt of such statement.

"(ii) The statement required by clause (i) shall be made on a form that—

"(I) states (in a prominent manner described by the Secretary) the following: 'A medicare beneficiary does not need more than one medicare supplemental policy. If you are 65 years of age or older, you may be eligible for benefits under your State medicaid program. If you are eligible for medicaid benefits, you do not need a medicare supplemental policy. If you are enrolled with the medicaid program and have a medicare supplemental policy, you can suspend your medicare supplemental policy (including premium payments) while receiving medicaid benefits if you provide notice to the insurer within 90 days of becoming eligible for medicaid. If you lose medicaid benefits, you may resume coverage under your medicare supplemental policy by providing notice to the insurer within 90 days of the date you lost medicaid benefits.'; and

"(II) states that counseling services may be available in the State to provide advice concerning the purchase of medicare supplemental policies and enrollment under the medicaid program, and may provide the telephone number for such services.

"(iii)(I) Except as provided in subclause (II), if the statement required by clause (i) is not obtained or indicates that the individual has another medicare supplemental policy or indicates that the individual is entitled to any medical assistance under title XIX, it is unlawful to sell or issue such a policy.

"(II) Subclause (I) shall not apply in the case of an individual who has another medicare supplemental policy and who is not entitled to medicaid benefits, if the individual indicates in writing, as part of the application for purchase, that the policy being purchased replaces such other policy and indicates an intent to terminate the policy being replaced when the new policy becomes effective.

"(iv) Whoever issues or sells a medicare supplemental policy in violation of this subparagraph shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both, and, in addition to or in lieu of such a criminal penalty, is subject to a civil money penalty of not to exceed $25,000 for each such failure."; and

(3) by adding at the end the following:

"(D)(i) Anyone who sells a medicare supplemental policy to an individual shall make available for sale to the individual both a medicare supplemental policy with only the core group of basic benefits (described in subsection (p)(2)(B)(i)) and a medicare supplemental policy with the benefits described in subsection (p)(2)(B)(ii).

"(ii) Anyone who sells a medicare supplemental policy to an individual shall provide the individual, before the sale of the policy, a summary information sheet which describes the benefits under the policy. Such summary information shall be on a standard form approved by the State regulatory program or the Secretary (as the case may be) consistent with the NAIC or Federal simplification standards under subsection (p)(1).

"(iii) Whoever sells a medicare supplemental policy in violation of this subparagraph is subject to a civil money penalty of not to exceed $25,000 for each such violation.".

(b) CONFORMING AMENDMENT.—Section 1882(d)(5) of such Act is amended by inserting "(3)(B), (3)(D)," after "(3)(A),".

(c) INCREASE IN OTHER CIVIL MONEY PENALTIES.—Paragraphs (1) and (4)(A) of section 1882(d) of such Act are amended by striking "$5,000" and inserting "$25,000".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to policies issued or sold more than 1 year after the date of the enactment of this Act.

SEC. 4304. LOSS RATIOS.

(a) IN GENERAL.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended—

(1) in subsection (c), by amending paragraph (2) to read as follows:

"(2) meets the requirements of subsection (q);";

(2) by striking the last sentence of subsection (c); and

(3) by adding at the end the following new subsection:

"(q)(1) A medicare supplemental policy or health insurance policy that is an indemnity policy or a dread disease policy (as defined by the Secretary in consultation with the National Association of Insurance Commissioners) may not be issued or sold in any State unless—

"(A) the policy has returned (as determined for the most recent 3-year period ending with the year in which the policy is issued or renewed, on the basis of incurred claims experience and earned premiums for such periods and in accordance with accepted actuarial principles and practices and standards developed by the National Association of Insurance Commissioners) to policyholders in the form of aggregate benefits provided under the policy, at least 75 percent of the aggregate amount of premiums collected in the case of group medicare supplemental policies, at least 70 percent in the case of individual medicare supplemental policies, and 60 percent in the case of group and individual health insurance policies that are indemnity policies or dread disease policies;

"(B) any premium increase (or the initial establishment of the premium) is made in a manner consistent with paragraph (2); and

"(C) the issuer of the policy (i) annually submits to the State information with respect to the actual ratio of aggregate benefits provided to aggregate premiums on forms conforming to those developed by the National Association of Insurance Commissioners for such purpose, and (ii) annually provides a proportional credit, based on the premium paid and in accordance with paragraph (3), of the amount of premiums received necessary to assure that the ratio of aggregate benefits to the aggregate premiums collected (net of such credits) complies with the requirement of subparagraph (A).

"(2)(A) It is unlawful for an insurer to increase the premiums charged for a medicare supplemental policy (or to issue a policy and charge premiums) unless—

"(B) the issuer has submitted to the State (at such time as the State may specify, but not earlier than 90 days in advance of such proposed effective date) the proposed premium amounts in advance of the proposed effective date of the premiums; and

"(C) the issuer has included, as part of the submission under subparagraph (B), information, certified as accurate by an actuary, that establishes that the premium amounts are reasonable in relation to the benefits and that the resulting ratio of benefits to premiums will meet the requirement specified in paragraph (1)(A).

"(3)(A) Paragraph (1)(C) shall be applied with respect to each type of policy by policy number. Paragraph (1)(C) shall not apply to a policy with respect to the first 2 years in which it is in effect. The National Association of Insurance Commissioners is requested to submit to Congress a report containing recommendations on adjustments in the percentages under paragraph (1)(A) that may be appropriate in order to apply paragraph (1)(C) to the first 2 years in which policies are effective.

"(B) A credit required under paragraph (1)(C) shall be made to each individual who continues to be a policyholder or certificateholder not later than the first premium charged more than 6 months after the close of the year involved. The total amount of such credits shall be sufficient to meet the requirement of paragraph (1)(A).

"(C) Such a credit shall include interest from the end of the policy year involved until the date of the credit at a rate, specified by the Secretary for this purpose from time to time, that is not less than the average rate of interest for 13-week Treasury notes.

"(4) The provisions of this subsection do not preempt a State from—

"(A) requiring a higher percentage than that specified in paragraph (1)(A), or

"(B) requiring the review or approval of premiums not otherwise required to be reviewed or approved under paragraph (2) or providing additional requirements for the approval of premiums.

"(5)(A) The Comptroller General shall periodically, not less often than once every 3 years, perform audits with respect to the compliance of medicare supplemental policies with the requirements of paragraph (1) and shall report the results of such audits to the State involved and to the Secretary.

"(B) The Secretary may independently perform such compliance audits.

"(6)(A) A person who issues or sells a policy in violation of paragraph (1) is subject to a civil money penalty of not to exceed $25,000 for each such violation. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(B) Each issuer of a policy subject to the requirements of paragraph (1)(C) shall be liable to policyholders for credits required under such paragraph.".

(b) ASSURING ACCESS TO LOSS RATIO INFORMATION.—Section 1882(b)(1)(C) of such Act (42 U.S.C. 1395ss(b)(1)(C)) is amended by striking the semicolon at the end and inserting a comma and the following:

"and that a copy of each such policy, the most recent premium for each such policy, and a listing of the ratio of benefits provided to premiums collected for the most recent 3-year period for each such policy issued or sold in the State is maintained and made available to interested persons;".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to policies sold or issued more than 1 year after the date of the enactment of this Act.

SEC. 4305. LIMITATIONS ON CERTAIN SALES COMMISSIONS.

(a) IN GENERAL.—Section 1882(d) of the Social Security Act is amended—

(1) in paragraph (5)—

(A) by striking "and (4)(A)" and inserting "(4)(A), and (5)(A)", and

(B) by redesignating such paragraph as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5)(A) It is unlawful for a person who provides for a commission or other compensation to an agent or other representative with respect to the sale of a medicare supplemental policy (or certificate)—

"(i) to provide for a first year commission or other first year compensation that exceeds 200 percent of the commission or other compensation for the selling or servicing of the policy or certificate in a second or subsequent year, or

"(ii) to provide for compensation with respect to replacement of such a policy or certificate that is greater than the compensation that would apply to the renewal of the policy or certificate.

Whoever violates the previous sentence shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both, and, in addition to or in lieu of such a criminal penalty, is subject to a civil money penalty of not to exceed $25,000 for each such prohibited act.

"(B) In this paragraph the term 'compensation' includes pecuniary and nonpecuniary compensation of any kind relating to the sale or renewal of a policy or certificate and specifically includes bonuses, gifts, prizes, awards, and finders' fees.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to compensation provided on or after 1 year after the date of the enactment of this Act.

SEC. 4306. CLARIFICATION OF TREATMENT OF PLANS OFFERED BY HEALTH MAINTENANCE ORGANIZATIONS.

(a) IN GENERAL.—The first sentence of section 1882(g)(1) of the Social Security Act is amended by inserting before the period at the end the following: "and does not include a policy or plan of a health maintenance organization or other direct service organization which offers benefits under this title, including such services under a contract under section 1833 or 1876".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 4307. PROHIBITION OF CERTAIN DISCRIMINATORY PRACTICES.

(a) IN GENERAL.—Section 1882(o) of the Social Security Act, as added by section 4111(a)(2) of this Act, is amended by inserting after paragraph (4) the following new paragraph:

"(5)(A) Except as provided in this paragraph, an entity that issues medicare supplemental policies in a State shall offer any individual who is 65 years of age or older and who resides in the State, upon request of the individual made during the 6-month period beginning with the first month in which the individual has attained such age and is enrolled under part B, the opportunity of enrolling in a medicare supplemental policy which provides for a core group of basic benefits (described in subsection (p)(2)(B)(i)) and a medicare supplemental policy which offers the group of benefits described in subsection (p)(2)(B)(ii), without conditioning the issuance or effectiveness of such a policy on, and without discriminating in the price of such a policy based on, the medical or health status or the receipt of health care by the individual.

"(B)(i) Subject to clause (ii), paragraph (1) shall not be construed as preventing the exclusion of benefits under a policy, during its first 6 months, based on a pre-existing condition for which the policyholder received treatment or was otherwise diagnosed during the 6 months before it became effective.

"(ii) If a medicare supplemental policy or certificate replaces another such policy or certificate which has been in effect for 6 months or longer, the replacing policy may not provide any time period applicable to pre-existing conditions, waiting periods, elimination periods, and probationary periods in the new policy or certificate for similar benefits.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 1 year after the date of the enactment of this Act.

SEC. 4308. HEALTH INSURANCE ADVISORY SERVICE FOR MEDICARE BENEFICIARIES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall establish a health insurance advisory service program (in this section referred to as the "beneficiary as-

sistance program") to assist medicare-eligible individuals with the receipt of services under the medicare and medicaid programs and other health insurance programs.

(b) OUTREACH ELEMENTS.—The beneficiary assistance program shall provide assistance—

(1) through operation using local Federal offices that provide information on the medicare program,

(2) using community outreach programs, and

(3) using a toll-free telephone information service.

(c) ASSISTANCE PROVIDED.—The beneficiary assistance program shall provide for information, counseling, and assistance for medicare-eligible individuals with respect to at least the following:

(1) With respect to the medicare program—

(A) eligibility,

(B) benefits (both covered and not covered),

(C) the process of payment for services,

(D) rights and process for appeals of determinations,

(E) other medicare-related entities (such as peer review organizations, fiscal intermediaries, and carriers), and

(F) recent legislative and administrative changes in the medicare program.

(2) With respect to the medicaid program—

(A) eligibility, benefits, and the application process,

(B) linkages between the medicaid and medicare programs, and

(C) referral to appropriate State and local agencies involved in the medicaid program.

(3) With respect to medicare supplemental policies—

(A) the program under section 1882 of the Social Security Act and standards required under such program,

(B) how to make informed decisions on whether to purchase such policies and on what criteria to use in evaluating different policies,

(C) appropriate Federal, State, and private agencies that provide information and assistance in obtaining benefits under such policies, and

(D) other issues deemed appropriate by the Secretary.

The beneficiary assistance program also shall provide such other services as the Secretary deems appropriate to increase beneficiary understanding of, and confidence in, the medicare program and to improve the relationship between beneficiaries and the program.

(d) EDUCATIONAL MATERIAL.—The Secretary, through the Administrator of the Health Care Financing Administration, shall develop appropriate educational materials and other appropriate techniques to assist employees in carrying out this section.

(e) NOTICE TO BENEFICIARIES.—The Secretary shall take such steps as are necessary to assure that medicare-eligible beneficiaries and the general public are made aware of the beneficiary assistance program.

(f) REPORT.—The Secretary shall include, in an annual report transmitted to the Congress, a report on the beneficiary assistance program and on other health insurance informational and counseling services made available to medicare-eligible individuals. The Secretary shall include in the report recommendations for such changes as may be desirable to improve the relationship between the medicare program and medicare-eligible individuals.

SEC. 4309. ADDITIONAL ENFORCEMENT THROUGH PUBLIC HEALTH SERVICE ACT.

(a) IN GENERAL.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) by redesignating title XXVII as title XXVIII;

(2) by redesignating sections 2701 through 2714 as sections 2801 through 2814, respectively; and

(3) by inserting after title XXV the following new title:

"TITLE XXVII—ENFORCEMENT OF CERTAIN HEALTH INSURANCE STANDARDS

"SEC. 2701. ENFORCEMENT OF CERTAIN HEALTH INSURANCE STANDARDS.

"(a) ENFORCEMENT OF UNDERWRITING.—A person that fails to meet the requirements of section 1882(o)(5) of the Social Security Act (relating to discriminatory practices) is subject to a civil money penalty of not to exceed $25,000 for each such violation. The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act.

"(b) ENFORCEMENT OF LOSS-RATIO REQUIREMENTS.—A person who issues or sells a medicare supplemental policy or a health insurance policy that is an indemnity or dread disease policy (as defined by the Secretary of Health and Human Services under section 1882(q)(1) of the Social Security Act) in violation of such section is subject to a civil money penalty of not to exceed $25,000 for each such violation. The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act.

"(c) ENFORCEMENT OF LIMITATIONS ON SALES COMMISSIONS.—Whoever violates section 1882(o)(5)(A) of the Social Security Act (relating to sales commissions) shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both, and, in addition to or in lieu of such a criminal penalty, is subject to a civil money penalty of not to exceed $25,000 for each prohibited act under such section.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Public Health Service Act (42 U.S.C. 201 et seq.) is further amended—

(1) in section 406(a)(2), by striking "2701" and inserting "2801";

(2) in section 465(f), by striking "2701" and inserting "2801";

(3) in section 480(a)(2), by striking "2701" and inserting "2801";

(4) in section 485(a)(2), by striking "2701" and inserting "2801";

(5) in section 497, by striking "2701" and inserting "2801";

(6) in section 505(a)(2), by striking "2701" and inserting "2801"; and

(7) in section 926(b), by striking "2711" each place such term appears and inserting "2811".

Subtitle B—Medicaid Program

PART 1—REDUCTIONS IN SPENDING

SEC. 4401. REIMBURSEMENT FOR PRESCRIBED DRUGS.

(a) IN GENERAL.—

(1) DENIAL OF FEDERAL FINANCIAL PARTICIPATION UNLESS REBATE AGREEMENTS AND DRUG USE REVIEW IN EFFECT.—Section 1903(i) of the Social Security Act (42 U.S.C. 1396b(i)) is amended—

(A) by striking the period at the end of paragraph (9) and inserting "; or", and

(B) by inserting after paragraph (9) the following new paragraph:

"(10) with respect to covered outpatient drugs of a manufacturer dispensed in any of the 50 States or the District of Columbia unless, except as provided in section 1927(a)(3), the manufacturer complies in all such States and District with the rebate requirements of section 1927(a) with respect to the drugs so dispensed.".

(2) STATE PLAN DRUG ACCESS LIMITATIONS FOR DRUGS COVERED UNDER A REBATE AGREEMENT.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) by striking "and" at the end of paragraph (52),

(B) by striking the period at the end of paragraph (53) and inserting "; and", and

(C) by inserting after paragraph (53) the following new paragraph:

"(54)(A) provide that, in the case of a manufacturer which has entered into and complies with an agreement under section 1927(a), the plan shall permit the coverage of covered outpatient drugs of the manufacturer which are prescribed (on or after April 1, 1991) for a medically accepted indication (as defined in section 1927(f)(6)),

"(B) comply with the reporting requirements of section 1927(b)(2)(A) and the requirements of section 1927(d), and

"(C) effective January 1, 1993, provide for drug use review in accordance with section 1927(d). ".

(3) REBATE AGREEMENTS FOR COVERED OUTPATIENT DRUGS, DRUG USE REVIEW, AND RELATED PROVISIONS.—Title XIX of the Social Security Act is amended by redesignating section 1927 as section 1928 and by inserting after section 1926 the following new section:

"PAYMENT FOR PRESCRIBED DRUGS

"SEC. 1927. (a) REQUIREMENT FOR REBATE AGREEMENT.—

"(1) IN GENERAL.—In order for payment to be available under section 1903(a) for covered outpatient drugs of a manufacturer, the manufacturer must have entered into and have in effect a rebate agreement described in subsection (b) with the Secretary, on behalf of all the States. If a manufacturer has not entered into such an agreement before February 1, 1991, such an agreement, subsequently entered into, shall not be effective until the first day of the calendar quarter that begins more than 60 days after the date the agreement is entered into.

"(2) EFFECTIVE DATE.—Paragraph (1) shall first apply to drugs dispensed under this title on or after February 1, 1991, except that and any agreement entered into under this section on or before February 1, 1991, shall be effective with respect to drugs dispensed on or after January 1, 1991.

"(3) EFFECT ON EXISTING AGREEMENTS.—In the case of a rebate agreement in effect between a State and a manufacturer on October 1, 1990, such agreement may remain in effect, and shall be considered to be a rebate agreement in compliance with this section with respect to that State, if the State establishes to the satisfaction of the Secretary that the agreement can reasonably be expected to provide in any 12-month period for rebates that are at least as large as the rebates otherwise required under this section.

"(4) APPLICATION IN CERTAIN STATES AND TERRITORIES.—

"(A) APPLICATION IN STATES OPERATING UNDER DEMONSTRATION PROJECTS.—In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to meet the requirements of section 1902(a)(54) and of this section in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title.

"(B) NO APPLICATION IN COMMONWEALTHS AND TERRITORIES.—This section, and sections 1902(a)(54) and 1903(i)(10), shall only apply to a State that is one of the 50 States or the District of Columbia.

"(b) TERMS OF REBATE AGREEMENT.—

"(1) QUARTERLY REBATES.—

"(A) TIMING.—

"(i) IN GENERAL.—A rebate agreement under this subsection shall require the manufacturer to provide, to each State plan approved under this title, a rebate each calendar quarter in the amount specified in subsection (c) for covered outpatient drugs of the manufacturer dispensed under the plan during the quarter. Except as provided in clause (ii), such a rebate shall be paid to each State by the manufacturer not later than 30 days after the date of receipt of the information described in paragraph (2) for that quarter.

"(ii) SPECIAL PAYMENT RULE FOR THE CALENDAR QUARTER BEGINNING JULY 1, 1991.—With respect to the calendar quarter beginning July 1, 1991, such a rebate shall be paid to each State by the manufacturer by not later than September 30, 1991, based on the amount of the rebate payable by the manufacturer for the previous quarter. The amount of the rebate payment for the quarter beginning October 1, 1991, shall be increased or decreased to the extent that the rebate payment for the quarter beginning July 1, 1991, was less than, or exceeded, the amount of the rebate otherwise required to be made under the agreement without regard to this clause.

"(B) OFFSET AGAINST MEDICAL ASSISTANCE.—Amounts received by a State as rebates under this section in any quarter shall be considered to be a reduction in the amount expended under the State plan in the quarter for medical assistance for purposes of section 1903(a)(1).

"(2) STATE PROVISION OF INFORMATION.—

"(A) STATE RESPONSIBILITY.—Each State agency under this title shall report to the Secretary, not later than 60 days after the end of each calendar quarter and in a form consistent with a standard reporting format established by the Secretary, information on the total number of units of each dosage form and strength of each covered outpatient drug of a manufacturer dispensed under the plan during the quarter, and shall promptly transmit such information to the manufacturer.

"(B) AUDIT BY MANUFACTURERS.—A manufacturer has the right to audit only such data of the States as are reasonably necessary to verify information provided (or required to be provided) under subparagraph (A). Adjustments to rebates shall be made to the extent that information indicates that utilization was greater or less than the amount previously specified.

"(C) NOTICE TO SECRETARY.—Each State agency shall notify the Secretary within 30 days after the date each rebate is received under this section.

"(3) MANUFACTURER PROVISION OF PRICE INFORMATION.—

"(A) IN GENERAL.—Each manufacturer with an agreement in effect under this section shall report to the Secretary (and make available upon request to each State agency)—

"(i) not later than 30 days after the last day of each quarter (beginning on or after April 1, 1991), on the average manufacturer price (as defined in subsection (f)(1)) and (for single source drugs and innovator multiple source drugs) the manufacturer's best price (as defined in subsection (c)(3)(A)) for covered outpatient drugs for the quarter, and

"(ii) not later than 30 days after the date of entering into an agreement under this section on the best price (as defined in subsection (c)(3)(B)) as of September 1, 1990 for each of the manufacturer's covered outpatient drugs.

"(B) VERIFICATION SURVEYS OF AVERAGE MANUFACTURER PRICE.—The Secretary may survey wholesalers and manufacturers that directly distribute their covered outpatient drugs, when necessary to verify average manufacturer prices reported under subparagraph (A). The Secretary may impose a civil monetary penalty in an amount not to exceed $10,000 on a wholesaler, manufacturer, or direct seller, if the wholesaler, manufacturer, or direct seller of a covered outpatient drug refuses a written request for information about charges or prices by the Secretary in connection with a survey authorized under this subparagraph or knowingly provides false information in response to such a request. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(C) PENALTIES.—

"(i) FAILURE TO PROVIDE TIMELY INFORMATION.—If a manufacturer with an agreement under this section fails to provide information required under subparagraph (A) on a timely basis, the amount of the rebates next required to be paid for a calendar quarter under the agreement shall be increased by 2 percent, and, if such information is not reported within 90 days of the deadline imposed, the agreement shall be suspended for services furnished after the end of such 90-day period and until the date such information is reported (but in no case shall such suspension be for a period of less than 30 days).

"(ii) FALSE INFORMATION.—Any manufacturer with an agreement under this section that knowingly provides false information to the Secretary under this paragraph is subject to a civil money penalty in an amount not to exceed $100,000 for each item of false information. Such civil money penalties are in addition to other penalties as may be prescribed by law (including exclusion under section 1128(b)(11)). The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(D) CONFIDENTIALITY OF INFORMATION.—Information disclosed by manufacturers or wholesalers under subparagraph (A) or (B) is confidential and shall not be disclosed by the Secretary or a State agency (or contractor therewith) in a form which discloses the identity of a specific manufacturer, wholesaler, or product, except as the Secretary determines to be necessary to carry out this section and to permit the Comptroller General and the Inspector General of the Department to review the information provided.

"(4) LENGTH OF AGREEMENT.—

"(A) IN GENERAL.—A rebate agreement shall be effective for an initial period of 1 year and shall be automatically renewed for an additional 1-year period unless terminated under subparagraph (B).

"(B) TERMINATION.—

"(i) BY THE SECRETARY.—The Secretary may provide for termination of a rebate agreement for violation of the requirements of the agreement. Such termination shall not be effective earlier than 60 days after the date of notice of such termination. The Secretary shall provide, upon request, a manufacturer with a hearing concerning such a termination, but such hearing shall not delay the effective date of the termination.

"(ii) BY A MANUFACTURER.—A manufacturer may terminate a rebate agreement under this section for any reason. Any such termination shall not be effective until such period (of not more than 1 year, specified by the Secretary in regulation) after the date of the manufacturer provides notice of such termination to the Secretary.

"(iii) EFFECTIVENESS OF TERMINATION.—Any termination under this subparagraph shall not affect rebates due under the agreement before the effective date of its termination.

"(C) DELAY BEFORE REENTRY.—In the case of any rebate agreement with a manufacturer under this section which is terminated, a new such agreement with the manufacturer (or a successor manufacturer) may not be entered into until a period of 1 year has elapsed since the date of the termination, unless the Secretary finds good cause for an earlier reinstatement of such an agreement.

"(c) AMOUNT OF REBATE.—

"(1) IN GENERAL.—

"(A) SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE DRUGS.—Except as provided in this subsection and subsection (b)(3)(C)(i), the amount of the rebate to a State during a calendar quarter with respect to single source drugs and innovator multiple source drugs shall be equal to the product of—

"(i) the amount by which (I) the average manufacturer price to wholesalers during the quarter for each dosage form and strength of a covered outpatient drug, exceeds (II) the manufacturer's best price (as defined in paragraph (3)) for such form and strength; and

"(ii) the number of units of such form and strength dispensed under the plan under this title in the State in the quarter (as reported by the State under subsection (b)(2)).

"(B) OTHER DRUGS.—Except as provided in subsection (b)(3)(C)(i), the amount of the rebate to a State during a calendar quarter with respect to covered outpatient drugs (other than single source drugs and innovator multiple source drugs) shall be equal to the product of—

"(i) 10 percent of the average manufacturer price to wholesalers during the quarter for each dosage form and strength of a covered outpatient drug (after deducting customary prompt payment discounts); and

"(ii) the number of units of such form and dosage dispensed under the plan under this title in the State in the quarter (as reported by the State under subsection (b)(2).

"(2) MINIMUM AND MAXIMUM REBATE RATES FOR SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE DRUGS.—In no case shall the amount of the rebate described in paragraph (1)(A) for a manufacturer for a calendar quarter with respect to single source drugs and innovator multiple source drugs—

"(A) be less than 10 percent, or

"(B) for calendar quarters beginning before April 1, 1995, be more than—

"(i) 25 percent (for each quarter during the 8-calendar-quarter period beginning April 1, 1991), or

"(ii)) 50 percent (for each quarter during the 8-calendar-quarter period beginning April 1, 1993),

of the product of the price described in paragraph (1)(A)(i)(I) and the number of units described in paragraph (1)(A)(ii) for the quarter.

"(3) BEST PRICE DEFINED.—

"(A) IN GENERAL.—In this subsection, the term 'best price' means, for a covered outpatient drug of a manufacturer dispensed in a calendar quarter—

"(i) the lowest price available for the drug from the manufacturer to any wholesaler, retailer, provider, nonprofit entity, or governmental entity within the United States during the quarter, or

"(ii) the lowest price in effect for the drug from the manufacturer to any wholesaler, retailer, provider, nonprofit entity, or governmental entity within the United States in effect on September 1, 1990, increased (for calendar quarters beginning on or after January 1, 1991) by the percentage increase in the Consumer Price Index for All Urban Consumers (all items; U.S. city average) from September 1990 to the month before the beginning of the calendar quarter involved,

whichever is lower.

"(B) TREATMENT OF NEW DRUGS.—In the case of a covered outpatient drug approved for marketing after September 1, 1990, any reference in subparagraph (A)(ii) to 'September 1, 1990' or 'September 1990' shall be a reference to the first day of the first month, and the first month, respectively, during which the drug was marketed and any reference in subsection (b)(3)(A)(ii) to '30 days after the date of entering into an agreement under this section on the best price described in paragraph (3)(B) as of September 1, 1990' shall be a reference to '30 days after the date the drug is first marketed in the United States'.

"(C) COMPUTATION OF LOWEST PRICE.—The lowest price described in this paragraph shall be inclusive of cash discounts, free goods, volume discounts, and rebates, shall be determined without regard to special packaging, labeling, or identifiers on the dosage form or product or package, and shall not take into account prices that are merely nominal in amount.

"(d) DRUG USE REVIEW.—

"(1) IN GENERAL.—In order to meet the requirement of section 1902(a)(54)(C), a State shall provide, by not later than January 1, 1993, for a drug use review program described in paragraph (2) for covered outpatient drugs (other than psychopharmacologic drugs described in section 1919(c)(2)(D) dispensed to residents of nursing facilities) in order to assure, in accordance with any guidelines developed by the Agency for Health Care Policy and Research, that prescriptions (A) are appropriate and (B) are medically necessary.

"(2) DESCRIPTION OF PROGRAM.—Each drug use review program shall meet the following requirements for covered outpatient drugs and other prescription drugs for which payment may be made under this title:

"(A) PROSPECTIVE DRUG REVIEW.—The State plan shall provide for a review of drug therapy before each prescription is filled or delivered to the patient, typically at the point-of-sale or point-of-distribution. Each pharmacist shall use the compendia (referred to in subsection (f)(6)) as the pharmacist's source of standards for such review.

"(B) RETROSPECTIVE DRUG USE REVIEW.—The program shall provide, through its mechanized drug claims processing and information retrieval systems (approved by the Secretary under section 1903(r)) or otherwise, for the periodic examination of claims data and other records in order to identify patterns of fraud, abuse, gross overuse or underuse, or inappropriate or medically unnecessary care, among physicians, pharmacies, and patients, or associated with specific drugs or groups of drugs.

"(C) EDUCATIONAL PROGRAM.—The program shall educate physicians and pharmacists to identify and reduce the frequency of patterns of fraud, abuse, gross overuse or underuse, or inappropriate or medically unnecessary care, among physicians, pharmacies, and patients, or associated with specific drugs or groups of drugs, as well as potential and actual severe adverse reactions to drugs.

"(e) MISCELLANEOUS.—

"(1) LIMITATIONS ON COVERAGE OF OUTPATIENT DRUGS.—Nothing in section 1902(a)(54)(A) shall be construed as preventing a State from restricting the amount, duration, and scope of coverage of covered outpatient drugs consistent with section 1902(a)(30).

"(2) RELATION TO MAXIMUM ALLOWABLE COST LIMITATIONS.—This section shall not supercede or affect provisions relating to maximum allowable cost limitations for payment by States for covered outpatient drugs, and rebates under this section shall be made without regard to whether or not payment by the State for such drugs are subject to such limitations or the amount of such cost limitations.

"(3) EXCLUSION OF CERTAIN DRUG ASSOCIATED WITH EXCLUSIVE PATIENT MONITORING SERVICES.—Nothing in this title shall be construed as requiring a State to provide medical assistance for covered outpatient drugs of a manufacturer which requires, as a condition for the purchase of the drugs, that the manufacturer be paid for associated services or tests (such as patient monitoring systems) provided only by the manufacturer or its designee.

"(f) DEFINITIONS.—In this section:

"(1) AVERAGE MANUFACTURER PRICE.—The term 'average manufacturer price' means, with respect to a covered outpatient drug of a manufacturer for a calendar quarter, the average price paid (taking into account customary prompt payment discounts) to the manufacturer for the drug by retail pharmacies or by wholesalers for drugs distributed to the retail pharmacy class of trade.

"(2) COVERED OUTPATIENT DRUG.—Subject to the exceptions in paragraph (3), the term 'covered outpatient drug' means—

"(A) of those drugs which are treated as prescribed drugs for purposes of section 1905(a)(12), a drug which may be dispensed only upon prescription (except as provided in paragraph (4)), and—

"(i) which is approved as a prescription drug under sections 505 or 507 of the Federal Food, Drug, and Cosmetic Act;

"(ii)(I) which was commercially used or sold in the United States before the date of the enactment of the Federal Food, Drug, and Cosmetic Act and if at such time its labeling contained the same representations concerning its conditions of use as in its current labeling, or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under sections 301, 302(a), or 304(a) of such Act to enforce sections 502(f) or 505(a) of such Act; or

"(iii)(I) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for all conditions of use prescribed, recommended, or suggested in its labeling;

"(B) a biological product which—

"(i) may only be dispensed upon prescription,

"(ii) is licensed under section 351 of the Public Health Service Act, and

"(iii) is produced at an establishment licensed under such section to produce such product; and

"(C) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act.

"(3) LIMITING DEFINITION.—The term 'covered outpatient drug' does not include any drug, biological product, or insulin provided as part of, or as incident to, and in the same setting as, any of the following (and for which payment is made under this title as part of payment for the following and not as direct reimbursement for the drug):

"(A) Inpatient hospital services.

"(B) Hospice services.

"(C) Dental services, except that drugs for which the State plan authorizes direct reimbursement to the dispensing dentist are covered outpatient drugs.

"(D) Physician office visits.

"(E) Outpatient hospital emergency room visits.

"(F) Outpatient surgical procedures.

"(4) NONPRESCRIPTION DRUGS.—If a State plan for medical assistance under this title includes coverage of prescribed drugs as described in section 1905(a)(12) and permits coverage of drugs which may be sold without a prescription (commonly referred to as 'over-the-counter' drugs), if they are prescribed by a physician (or other person authorized to prescribe under State law), such a drug may be regarded as a covered outpatient drug.

"(5) MANUFACTURER.—The term 'manufacturer' means, with respect to a covered outpatient drug,—

"(A) the entity (if any) that both manufactures and distributes the drug, or

"(B) if no such entity exists, the entity that distributes the drug.

Such term does not include a wholesale distributor of the drug or a retail pharmacy licensed under State law.

"(6) MEDICALLY ACCEPTED INDICATION.—The term 'medically accepted indication' means any use for a covered outpatient drug which is approved under the Federal Food, Drug, and Cosmetic Act or which is accepted by one or more of the following compendia: the American Hospital Formulary Service-Drug

Information, the American Medical Association Drug Evaluations, and the United States Pharmacopeia-Drug Information.

"(7) MULTIPLE SOURCE DRUG; INNOVATOR MULTIPLE SOURCE DRUG; NONINNOVATOR MULTIPLE SOURCE DRUG; SINGLE SOURCE DRUG.—

"(A) DEFINITIONS.—

"(i) MULTIPLE SOURCE DRUG.—The term 'multiple source drug' means, with respect to a calendar quarter, a covered outpatient drug (not including any drug described in paragraph (4)) for which there are 2 or more drug products which—

"(I) are rated as therapeutically equivalent (under the Food and Drug Administration's most recent publication of 'Approved Drug Products with Therapeutic Equivalence Evaluations'),

"(II) except as provided in subparagraph (B), are pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C) and as determined by the Food and Drug Administration, and

"(III) are sold or marketed in the State during the period.

"(ii) INNOVATOR MULTIPLE SOURCE DRUG.—The term 'innovator multiple source drug' means a multiple source drug that was originally marketed under an original new drug application approved by the Food and Drug Administration.

"(iii) NONINNOVATOR MULTIPLE SOURCE DRUG.—The term 'noninnovator multiple source drug' means a multiple source drug that is not an innovator multiple source drug.

"(iv) SINGLE SOURCE DRUG.—The term 'single source drug' means a covered outpatient drug which is not a multiple source drug.

"(B) EXCEPTION.—Subparagraph (A)(i)(II) shall not apply if the Food and Drug Administration changes by regulation (after an opportunity for public comment of 90 days) the requirement that, for purposes of the publication described in subparagraph (A)(i)(I), in order for drug products to be rated as therapeutically equivalent, they must be pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C).

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) drug products are pharmaceutically equivalent if the products contain identical amounts of the same active drug ingredient in the same dosage form and meet compendial or other applicable standards of strength, quality, purity, and identity;

"(ii) drugs are bioequivalent if they do not present a known or potential bioequivalence problem, or, if they do present such a problem, they are shown to meet an appropriate standard of bioequivalence; and

"(iii) a drug product is considered to be sold or marketed in a State if it appears in a published national listing of average wholesale prices selected by the Secretary, provided that the listed product is generally available to the public through retail pharmacies in that State.

"(8) STATE AGENCY.—The term 'State agency' means the agency designated under section 1902(a)(5) to administer or supervise the administration of the State plan for medical assistance.".

(c) FUNDING.—

(1) DRUG USE REVIEW PROGRAMS.—Section 1903(a)(3) of such Act (42 U.S.C. 1396b(a)(3)) is amended—

(A) by striking "plus" at the end of subparagraph (C) and inserting "and", and

(B) by adding at the end the following new subparagraph:

"(D) 75 percent of so much of the sums expended by the State plan during a quarter in 1991, 1992, or 1993, as the Secretary determines is attributable to the statewide adoption of a drug use review program which conforms to the requirements of section 1927(e); plus".

(2) TEMPORARY INCREASE IN FEDERAL MATCH FOR ADMINISTRATIVE COSTS.—The per centum to be applied under section 1903(a)(7) of the Social Security Act for amounts expended during calendar quarters in fiscal year 1991 which are attributable to administrative activities necessary to carry out section 1927 (other than subsection (d)) of such Act shall be 75 percent, rather than 50 per centum.

SEC. 4402. REQUIRING MEDICAID PAYMENT OF PREMIUMS AND COST-SHARING FOR ENROLLMENT UNDER GROUP HEALTH PLANS WHERE COST-EFFECTIVE.

(a) IN GENERAL.—Title XIX of the Social Security Act is amended—

(1) in section 1902(a)(25) (42 U.S.C. 1396a(a)(25))—

(A) by striking "and" at the end of subparagraph (E),

(B) by adding "and" at the end of subparagraph (F), and

(C) by adding at the end the following new subparagraph:

"(G) that the State plan shall meet the requirements of section 1906 (relating to enrollment of individuals under group health plans in certain cases);"; and

(2) by inserting after section 1905 the following new section:

"ENROLLMENT OF INDIVIDUALS UNDER GROUP HEALTH PLANS

"SEC. 1906. (a) For purposes of section 1902(a)(25)(G) and subject to subsection (d), each State plan—

"(1) shall establish guidelines, consistent with subsection (b), to identify those cases in which enrollment of an individual otherwise entitled to medical assistance under this title in a group health plan (in which the individual is otherwise eligible to be enrolled) is cost-effective (as defined in subsection (e)(2));

"(2) shall require, in case of an individual so identified and as a condition of the individual being or remaining eligible for medical assistance under this title and subject to subsection (b)(2), notwithstanding any other provision of this title, that the individual (or in the case of a child, the child's parent) apply for enrollment in the group health plan; and

"(3) in the case of such enrollment, shall provide for payment of all enrollee premiums for such enrollment and all deductibles, coinsurance, and similar costs for items and services otherwise covered under the State plan under this title (exceeding the amount otherwise permitted under section 1916), and shall treat coverage under the group health plan as a third party liability (under section 1902(a)(25)).

"(b)(1) In establishing guidelines under subsection (a)(1), each State shall take into account that an individual may only be eligible to enroll in group health plans at limited times and only if other individuals (not entitled to medical assistance under the plan) are also enrolled in the plan simultaneously.

"(2) If a parent of a child fails to enroll the child in a group health plan in accordance with subsection (a)(2), such failure shall not affect the child's eligibility for benefits under this title.

"(c)(1)(A) In the case of payments of premiums, deductibles, coinsurance, and similar expenses under this section shall be considered, for purposes of section 1903(a), to be payments for medical assistance.

"(B) If all members of a family are not eligible for medical assistance under this title and enrollment of the members so eligible in a group health plan is not possible without also enrolling members not so eligible—

"(i) payment of premiums for enrollment of such other members shall be treated as payments for medical assistance for eligible individuals, if it would be cost-effective (taking into account payment of all such premiums), but

"(ii) payment of deductibles, coinsurance, and similar expenses for such other members shall not be treated as payments for medical assistance for eligible individuals.

"(2) In the case of a hospital, physician, or other provider that provides care covered under the State plan under a group health plan in which an individual entitled to medical assistance for such care is enrolled under this section, the provider is deemed to have agreed—

"(A) to accept as payment in full the payment amount recognized under the State plan (or, if greater, the payment amount provided under the plan), and

"(B) not to charge the individual or the State any amounts that would result in aggregate payment (including payments under the plan) exceeding the payment amount so recognized under the State plan.

"(3) The fact that an individual is enrolled in a group health plan under this section shall not change the individual's eligibility for benefits under the State plan, except insofar as section 1902(a)(25) provides that payment for such benefits shall first be made by such plan.

"(d)(1) Any different benefits made available, through enrollment under this section, to eligible individuals shall not, by reason of section 1902(a)(10), require such benefits be made available to other individuals.

"(2)(A) In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to meet the requirements of this section in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title.

"(B) This section, and section 1902(a)(25)(G), shall only apply to a State that is one of the 50 States or the District of Columbia.

"(e) In this section:

"(1) The term 'group health plan' has the meaning given such term in section 5000(b)(1) of the Internal Revenue Code of 1986, and includes the provision of continuation coverage by such a plan pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986, or title VI of the Employee Retirement Income Security Act of 1974.

"(2) The term 'cost-effective' means that the reduction in expenditures under this title with respect to an individual who is enrolled in a group health plan is likely to be greater than the additional expenditures for premiums and cost-sharing required under this section with respect to such enrollment.".

(b) TREATMENT OF ERRONEOUS EXCESS PAYMENTS FOR MEDICAL ASSISTANCE.—Section 1903(u)(1)(C)(iv) of such Act (42 U.S.C. 1396b(u)(1)(C)) is amended by inserting before the period at the end the following: "or with respect to payments made in violation of section 1906".

(c) OPTIONAL MINIMUM 6-MONTH ELIGIBILITY.—Section 1902(e) of such Act (42 U.S.C.

1396a(e)) is amended by adding at the end the following new subsection:

"(11)(A) In the case of an individual who is enrolled with a group health plan under section 1906 and who would (but for this paragraph) lose eligibility for benefits under this title before the end of the minimum enrollment period (defined in subparagraph (B)), the State plan may provide, notwithstanding any other provision of this title, that the individual shall be deemed to continue to be eligible for such benefits until the end of such minimum period, but only with respect to such benefits provided to the individual as an enrollee of such plan.

"(B) For purposes of subparagraph (A), the term 'minimum enrollment period' means, with respect to an individual's enrollment with a group health plan, a period established by the State, of not more than 6 months beginning on the date the individual's enrollment under the plan becomes effective.".

(d) CONFORMING AMENDMENTS.—

(1) Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended by adding at the end the following: "The payment described in the first sentence may include expenditures for medicare cost-sharing and for premiums under part B of title XVIII for individuals who are eligible for medical assistance under the plan and (A) are receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, or (B) with respect to whom there is being paid a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A), and, except in the case of individuals 65 years of age or older and disabled individuals entitled to health insurance benefits under title XVIII who are not enrolled under part B of title XVIII, other insurance premiums for medical or any other type of remedial care or the cost thereof.".

(2) Section 1903(a)(1) of such Act (42 U.S.C. 1396b(a)(1)) is amended by striking "(including expenditures for" and all that follows through "or the cost thereof)".

(e) EFFECTIVE DATE.—(1) The amendments made by this section apply (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1991, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 4403. COMPUTER MATCHING AND PRIVACY REVISIONS.

(a) VERIFICATION REQUIREMENTS.—Subsection (p) of section 552a of title 5, United States Code, is amended to read as follows:

"(p) VERIFICATION AND OPPORTUNITY TO CONTEST FINDINGS.—(1) In order to protect any individual whose records are used in a matching program, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual, as a result of information produced by such matching program, until—

"(A)(i) the agency has independently verified the information; or

"(ii) the Data Integrity Board of the agency, or in the case of a non-Federal agency the Data Integrity Board of the source agency, determines in accordance with guidance issued by the Director of the Office of Management and Budget that—

"(I) the information is limited to identification and amount of benefits paid by the source agency under a Federal benefit program; and

"(II) there is a high degree of confidence that the information provided to the recipient agency is accurate;

"(B) the individual receives a notice from the agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and

"(C)(i) the expiration of any time period established for the program by statute or regulation for the individual to respond to that notice; or

"(ii) in the case of a program for which no such period is established, the end of the 30-day period beginning on the date on which notice under subparagraph (B) is mailed or otherwise provided to the individual.

"(2) Independent verification referred to in paragraph (1) requires investigation and confirmation of specific information relating to an individual that is used as a basis for an adverse action against the individual, including where applicable investigation and confirmation of—

"(A) the amount of any asset or income involved;

"(B) whether such individual actually has or had access to such asset or income for such individual's own use; and

"(C) the period or periods when the individual actually had such asset or income.

"(3) Notwithstanding paragraph (1), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during any notice period required by such paragraph.".

(b) ISSUANCE OF GUIDANCE BY DIRECTOR OF OMB.—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall publish guidance under subsection (p)(1)(A)(ii) of section 552a of title 5, United States Code, as amended by this section.

(c) LIMITATION ON APPLICATION OF VERIFICATION REQUIREMENT.—Section 552a(p)(1)(A)(ii)(II) of title 5, United States Code, as amended by subsection (a), shall not apply to a program referred to in paragraph (1), (2), or (4) of section 1137(b) of the Social Security Act (42 U.S.C. 1320b-7), until the earlier of—

(1) the date on which the Data Integrity Board of the Federal agency which administers that program determines that there is not a high degree of confidence that information provided by that agency under Federal matching programs is accurate; or

(2) 30 days after the date of publication of guidance under subsection (b).

PART 2—PROTECTION OF LOW-INCOME MEDICARE BENEFICIARIES

SEC. 4411. EXTENDING MEDICAID PAYMENT FOR MEDICARE PREMIUMS FOR CERTAIN INDIVIDUALS WITH INCOME BELOW 125 PERCENT OF THE OFFICIAL POVERTY LINE.

(a) ENTITLEMENT.—Section 1902(a)(10)(E)(ii) of the Social Security Act (42 U.S.C. 1395b(a)(10)(E)(ii)) is amended by inserting "(I)" before "for qualified" and by inserting before the comma the following: "and (II) subject to section 1905(p)(4), for individuals who would be qualified medicare beneficiaries described in section 1905(p)(1) but for the fact that their income exceeds the income level established by the State under section 1905(p)(2) but is less than 125 percent of the official poverty line (referred to in such section) for a family of the size involved".

(b) FEDERAL PAYMENT OF FULL COSTS OF ADDITIONAL MEDICAL ASSISTANCE.—The last sentence of section 1905(b) of such Act (42 U.S.C. 1396d(b)) is amended by inserting before the period at the end the following: "and with respect to amounts expended for medicare cost-sharing described in subsection (p)(3)(A)(i) for individuals described in section 1902(a)(10)(E)(ii)(II)".

(c) APPLICATION IN CERTAIN STATES AND TERRITORIES.—Section 1905(p)(4) of such Act (42 U.S.C. 1396d(p)(4)) is amended—

(1) in subparagraph (B), by inserting "or 1902(a)(10)(E)(ii)(II)" after "subparagraph (B)", and

(2) by adding at the end the following:

"In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to meet the requirement of section 1902(a)(10)(E) in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title."

(d) CONFORMING AMENDMENT.—Section 1843(h) of such Act (42 U.S.C. 1395v(h)) is amended by adding at the end the following new paragraph:

"(3) In this subsection, the term 'qualified medicare beneficiary' also includes an individual described in section 1902(a)(10)(E)(ii)(II).".

(e) DELAY IN COUNTING SOCIAL SECURITY COLA INCREASES UNTIL NEW POVERTY GUIDELINES PUBLISHED.—

(1) IN GENERAL.—Section 1905(p) of such Act is amended—

(A) in paragraph (1)(B), by inserting ", except as provided in paragraph (2)(D)" after "supplementary social security income program", and

(B) by adding at the end of paragraph (2) the following new subparagraph:

"(D)(i) In determing under this subsection the income of an individual who is entitled to monthly insurance benefits under title II for a transition month (as defined in clause (ii)) in a year, such income shall not include any amounts attributable to an increase in the level of monthly insurance benefits payable under such title which have occurred pursuant to section 215(i) for benefits payable for months beginning with December of the previous year.

"(ii) For purposes of clause (i), the term 'transition month' means each month in a

year through the month following the month in which the annual revision of the official poverty line, referred to in subparagraph (A), is published.".

(2) CONFORMING AMENDMENTS.—Section 1902(m) of such Act (42 U.S.C. 1396a(m)) is amended—

(A) in paragraph (1)(B), by inserting ", except as provided in paragraph (2)(C)" after "supplemental security income program", and

(B) by adding at the end of paragraph (2) the following new subparagraph:

"(C) The provisions of section 1905(p)(2)(D) shall apply to determinations of income under this subsection in the same manner as they apply to determinations of income under section 1905(p).".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after January 1, 1991, without regard to whether or not regulations to implement such amendments are promulgated by such date; except that the amendments made by subsection (d) shall apply to determinations of income for months beginning with January 1991.

PART 3—IMPROVEMENTS IN CHILD HEALTH

SEC. 4421. PHASED-IN MANDATORY COVERAGE OF CHILDREN UP TO 100 PERCENT OF POVERTY LEVEL.

(a) IN GENERAL.—Section 1902 of the Social Security Act (42 U.S.C. 1396a), as amended by section 6401(a) of the Omnibus Budget Reconciliation Act of 1989, is amended—

(1) in subsection (a)(10)(A)(i)—

(A) by striking "or" at the end of subclause (V),

(B) by striking the semicolon at the end of subclause (VI) and inserting ", or", and

(C) by adding at the end the following new subclause:

"(VII) who are described in subparagraph (D) of subsection (l)(1) and whose family income does not exceed the income level the State is required to establish under subsection (l)(2)(C) for such a family;";

(2) in subsection (a)(10)(A)(ii)(IX), by striking "or clause (i)(VI)" and inserting ", clause (i)(VI), or clause (i)(VII)";

(3) in subsection (l)—

(A) by amending subparagraph (D) of paragraph (1) to read as follows:

"(D) children born after September 30, 1983, who have attained one year of age but have not attained 13 years of age,";

(B) by striking subparagraph (C) of paragraph (2) and inserting the following:

"(C) For purposes of paragraph (1) with respect to individuals described in subparagraph (D) of that paragraph, the State shall establish an income level which is equal to the 100 percent of the income official poverty line described in subparagraph (A) applicable to a family of the size involved.";

(C) in paragraph (3)—

(i) by inserting ", (a)(10)(A)(i)(VII)," after "(a)(10)(A)(i)(VI)", and

(ii) in subparagraph (E), by striking "the methodology employed" and inserting "a methodology which is no more restrictive than the methodology employed";

(D) in paragraph (4)(A), by inserting "or subsection (a)(10)(A)(i)(VII)" after "(a)(10)(A)(i)(VI)"; and

(E) in paragraph (4)(B), by striking "or (a)(10)(A)(i)(VI)" after ", (a)(10)(A)(i)(VI), or (a)(10)(A)(i)(VII)"; and

(4) in subsection (r)(2)(A), by inserting "(a)(10)(A)(i)(VII)," after "(a)(10)(A)(i)(VI),".

(b) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended—

(A) by striking "1902(a)(10)(A)(i)(IV)," and inserting "1902(a)(10)(A)(i)(III), 1902(a)(10)(A)(i)(IV), 1902(a)(10)(A)(i)(V),", and

(B) by inserting after "1902(a)(10)(A)(i)(VI)," the following: "1902(a)(10)(A)(i)(VII), 1902(a)(1)(A)(ii)(I),".

(2) Subsections (a)(3)(C) and (b)(3)(C)(i) of section 1925 of such Act (42 U.S.C. 1396r-6), as amended by section 6411(i)(3) of the Omnibus Budget Reconciliation Act of 1989, are each amended by inserting "(i)(VII)," after "(i)(VI)".

(c) EFFECTIVE DATE.—(1) The amendments made by this section apply (except as otherwise provided in this subsection) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1991, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2)(A) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(B) In the case of the State of Texas, the State plan shall not be regarded as failing to comply with the requirements of title XIX of the Social Security Act solely on the basis of its failure to meet the additional requirements imposed by the amendments made by this section before September 1, 1991.

SEC. 4422. MANDATORY CONTINUATION OF BENEFITS THROUGHOUT PREGNANCY OR FIRST YEAR OF LIFE.

(a) IN GENERAL.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) is amended—

(1) in the first sentence of paragraph (4), by inserting "(or would remain if pregnant)" after "remains"; and

(2) in paragraph (6)—

(A) by striking "At the option of a State, in" and inserting "In";

(B) by striking "the State plan may nonetheless treat the woman as being" and inserting "the woman shall be deemed to continue to be"; and

(C) by adding at the end the following new sentence: "The preceding sentence shall not apply in the case of a woman who has been provided ambulatory prenatal care pursuant to section 1920 during a presumptive eligibility period and is then, in accordance with such section, determined to be ineligible for medical assistance under the State plan.".

(b) EFFECTIVE DATE.—

(1) INFANTS.—The amendment made by subsection (a)(1) shall apply to individuals born on or after January 1, 1991, without regard to whether final regulations to carry out such amendment have been promulgated by such date.

(2) PREGNANT WOMEN.—The amendments made by subsection (a)(2) shall apply with respect to determinations to terminate the eligibility of women, based on change of income, made on or after January 1, 1991, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

SEC. 4423. MANDATORY USE OF OUTREACH LOCATIONS OTHER THAN WELFARE OFFICES.

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by section 4401(a)(2) of this title, is amended—

(1) by striking "and" at the end of paragraph (53),

(2) by striking the period at the end of paragraph (54) and inserting "; and", and

(3) by inserting after paragraph (54) the following new paragraph:

"(55) provide for receipt and initial processing of applications of individuals for medical assistance under subsections (a)(10)(A)(i)(IV), (a)(10)(A)(i)(VI), (a)(10)(A)(i)(VII), or (a)(10)(A)(ii)(IX)—

"(A) at locations which are other than those used for the receipt and processing of applications for aid under part A of title IV and which include facilities defined as disproportionate share hospitals under section 1923(a)(1)(A) and Federally-qualified health centers described in section 1905(l)(2)(B), and

"(B) using applications which are other than those used for applications for aid under such part.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1991, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 4424. PRESUMPTIVE ELIGIBILITY.

(a) EXTENSION OF PRESUMPTIVE ELIGIBILITY PERIOD.—Section 1920 of the Social Security Act (42 U.S.C. 1396r-1) is amended—

(1) in subsection (b)(1)(B)—

(A) by adding "or" at the end of clause (i),

(B) by striking clause (ii), and

(C) by amending clause (iii) to read as follows:

"(ii) in the case of a woman who does not file an application by the last day of the month following the month during which the provider makes the determination referred to in subparagraph (A), such last day; and"; and

(2) in subsections (c)(2)(B) and (c)(3), by striking "within 14 calendar days after the date on which" and inserting "by not later than the last day of the month following the month during which".

(b) FLEXIBILITY IN APPLICATION.—Section 1920(c)(3) of such Act (42 U.S.C. 1396r-1(c)(3)) is amended by inserting before the period at the end the following: ", which application may be the application used for the receipt of medical assistance by individuals described in section 1902(l)(1)(A)".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1991, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) The amendment made by subsection (b) shall be effective as if included in the enactment of section 9407(b) of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4425. ROLE IN PATERNITY DETERMINATIONS.

(a) IN GENERAL.—Section 1912(a)(1)(B) of the Social Security Act (42 U.S.C. 1396k(a)(1)(B)) is amended by inserting "the individual is described in section 1902(l)(1)(A) or" after "unless (in either case)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 4426. REPORT AND TRANSITION ON ERRORS IN ELIGIBILITY DETERMINATIONS.

(a) REPORT.—The Secretary of Health and Human Services shall report to Congress, by not later than July 1, 1991, on error rates by States in determining eligibility of individuals described in subparagraph (A) or (B) of section 1902(l)(1) of the Social Security Act for medical assistance under plans approved under title XIX of such Act. Such report may include data for medical assistance provided before July 1, 1989.

(b) ERROR RATE TRANSITION.—There shall not be taken into account, for purposes of section 1903(u) of the Social Security Act, payments and expenditures for medical assistance which—

(1) are attributable to medical assistance for individuals described in subparagraph (A) or (B) of section 1902(l)(1) of such Act, and

(2) are made on or after July 1, 1989, and before the first calendar quarter that begins more than 12 months after the date of submission of the report under subsection (a).

PART 4—NURSING HOME REFORM PROVISIONS

SEC. 4431. MEDICAID NURSING HOME REFORM.

(a) NURSE AIDE TRAINING.—

(1) NO COMPLIANCE ACTIONS BEFORE EFFECTIVE DATE OF GUIDELINES.—The Secretary of Health and Human Services shall not take (and shall not continue) any action against a State under section 1904 of the Social Security Act on the basis of the State's failure to meet the requirement of section 1919(e)(1)(A) of such Act before the effective date of guidelines, issued by the Secretary, establishing requirements under section 1919(f)(2)(A)(ii)(I) of such Act, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirement before such effective date.

(2) CLARIFICATION OF GRACE PERIOD FOR NURSE TRAINING OF INDIVIDUALS.—Section 1919(b)(5)(A) of the Social Security Act (42 U.S.C. 1396r(b)(5)(A)) is amended—

(A) by striking "for more than 4 months", and

(B) by striking the period at the end and inserting a semicolon and the following:
"except that such requirement shall not apply to an individual who has been used (on a full-time, temporary, per diem, or other basis) as a nurse aide for less than 90 days in any nursing facility.".

(3) CLARIFICATION OF NURSE AIDES NOT SUBJECT TO CHARGES.—Section 1919(f)(2)(A)(iv)(II) of such Act (42 U.S.C. 1396r(f)(2)(A)(iv)(II)) is amended by inserting after "nurse aide" the following: "who is employed by (or who has entered into an employment agreement with) a facility".

(4) MODIFICATION OF NURSING FACILITY DEFICIENCY STANDARDS.—Section 1919(f)(2)(B)(iii)(I) of such Act (42 U.S.C. 1396r(f)(2)(B)(iii)(I)) is amended to read as follows:

"(I) offered by or in a nursing facility which, within the previous 2 years, has operated under a waiver under subsection (b)(4)(C)(ii) or has been subject to an extended (or partial extended) survey under subsection (g)(2)(B)(i), or".

(5) CLARIFICATION OF STATE RESPONSIBILITY TO DETERMINE COMPETENCY.—Section 1919(f)(2)(B) of such Act (42 U.S.C. 1396r(f)(2)(B)) is amended, in the second sentence, by inserting "(through subcontract or otherwise)" after "may not delegate".

(6) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if they were included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

(b) PREADMISSION SCREENING AND ANNUAL RESIDENT REVIEW.—

(1) NO COMPLIANCE ACTIONS BEFORE EFFECTIVE DATE OF GUIDELINES.—The Secretary of Health and Human Services shall not take (and shall not continue) any action against a State under section 1904 or section 1919(e)(7)(D) of the Social Security Act on the basis of the State's failure to meet the requirement of section 1919(e)(7)(A) of such Act before the effective date of guidelines, issued by the Secretary, establishing minimum criteria under section 1919(f)(8)(A) of such Act, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirement before such effective date.

(2) CLARIFICATION WITH RESPECT TO ADMISSIONS AND READMISSION FROM A HOSPITAL.—Section 1919 of the Social Security Act (42 U.S.C. 1396r) is amended—

(A) in subsection (b)(3)(F), by striking "A nursing facility" and by inserting "Except as provided in clauses (ii) and (iii) of subsection (e)(7)(A), a nursing facility"; and

(B) in subsection (e)(7)(A)—

(i) by redesignating the first 2 sentences as clause (i) with the following heading (and appropriate indentation):

"(i) IN GENERAL.—", and

(ii) by adding at the end the following:

"(ii) CLARIFICATION WITH RESPECT TO CERTAIN READMISSIONS.—The preadmission screening program under clause (i) need not provide for determinations in the case of the readmission to a nursing facility of an individual who, after being admitted to the nursing facility, was transferred for care in a hospital.

"(iii) EXCEPTION FOR CERTAIN HOSPITAL DISCHARGES.—The preadmission screening program under clause (i) shall not apply to the admission to a nursing facility of an individual—

"(I) who is admitted to the facility directly from a hospital after receiving acute inpatient care at the hospital,

"(II) who requires nursing facility services for the condition for which the individual received care in the hospital, and

"(III) whose attending physician has certified, before admission to the facility, that the individual is likely to require less than 30 days of nursing facility services.".

(3) DELAY IN APPLICATION TO PRIVATE PAY RESIDENTS.—

(A) IN GENERAL.—Section 1919(e)(7) of such Act (42 U.S.C. 1396r(e)(7)) is amended—

(i) in subparagraph (A), as amended by paragraph (2)(B) of this subsection—

(I) in clause (i), by inserting "except as provided in clause (iv)," after "January 1, 1989,", and

(II) by adding at the end the following new clause:

"(iv) DELAY IN APPLICATION OF PREADMISSION SCREENING FOR PRIVATE PAY RESIDENTS.—In the case of an individual who, at the time of admission to a nursing facility, is not entitled to benefits under this title, the preadmission screening requirements of this subparagraph shall not apply until such time as the resident is so entitled and, in such case, the preadmission screening requirements shall apply as of the end of the day following the date on which the individual is determined to be so entitled. The previous sentence shall not be construed as prohibiting a State from imposing such a preadmission screening requirement with respect to individuals not so entitled at the time of admission."; and

(ii) in subparagraph (B)—

(I) in clauses (i) and (ii), by inserting "except as provided in clause (iv)," after "April 1, 1990," each place it appears,

(II) in clause (iii)(III), by inserting ", except as provided in clause (iv)" after "April 1, 1990", and

(III) by adding at the end the following new clause:

"(iv) DELAY IN APPLICATION OF ANNUAL RESIDENT REVIEW FOR PRIVATE PAY RESIDENTS.—In the case of an individual who, at the time of admission to a nursing facility, is not entitled to benefits under this title, the annual resident review requirements of this subparagraph shall not apply until such time as the resident is so entitled. The previous sentence shall not be construed as prohibiting a State from imposing such an annual resident review requirement with respect to individuals not so entitled at the time of admission.".

(B) NO COMPLIANCE ACTION FOR PREVIOUS NONCOMPLIANCE.—The Secretary of Health and Human Services may not impose any sanction against a State under section 1904 or section 1919(e)(7)(D) of the Social Security Act due to the State's failure to comply with the preadmission screening requirements of section 1919(e)(7)(A) of such Act insofar as such requirements applied with respect to individuals not entitled to benefits under title XIX of such Act at the time of their admission.

(4) DENIAL OF PAYMENTS FOR CERTAIN RESIDENTS NOT REQUIRING NURSING FACILITY SERVICES.—Section 1919(e)(7) of such Act (42 U.S.C. 1395r(e)(7)) is amended—

(A) in subparagraph (D)—

(i) in the heading, by striking "WHERE FAILURE TO CONDUCT PREADMISSION SCREENING",

(ii) by designating the first sentence as clause (i) with the following heading (and appropriate indentation):

"(i) FOR FAILURE TO CONDUCT PREADMISSION SCREENING OR ANNUAL REVIEW.—", and

(iii) by adding at the end the following new clause:

"(ii) FOR CERTAIN RESIDENTS NOT REQUIRING NURSING FACILITY LEVEL OF SERVICES.—No payment may be made under section 1903(a) with respect to nursing facility services furnished to an individual (other than an individual described in subparagraph (C)(i)) who does not require the level of services provided by a nursing facility."; and

(B) in subparagraph (E), by striking "the requirement of this paragraph" and inserting "the requirements of subparagraphs (A) through (C) of this paragraph".

(5) NO DELEGATION OF AUTHORITY TO CONDUCT SCREENING AND REVIEWS.—Section 1919 of such Act is further amended—

(A) in subsection (b)(3)(F), by adding at the end the following:

"A State mental health authority and a State mental retardation or developmental disability authority may not delegate (by subcontract or otherwise) their responsibilities under this subparagraph to a nursing facility (or to an entity that has a direct or indirect affiliation or relationship with such a facility).''; and

(B) in subsection (e)(7)(B), as amended by paragraph (3)(A)(ii) of this subsection, by adding at the end the following new clause:

"(v) PROHIBITION OF DELEGATION.—A State mental health authority, a State mental retardation or developmental disability authority, and a State may not delegate (by subcontract or otherwise) their responsibilities under this subparagraph to a nursing facility (or to an entity that has a direct or indirect affiliation or relationship with such a facility).".

(6) ANNUAL REPORTS.—

(A) STATE REPORTS.—Section 1919(e)(7)(C) of such Act (42 U.S.C. 1396r(e)(7)(C)) is amended by adding at the end the following new clause:

"(iv) ANNUAL REPORT.—Each State shall report to the Secretary annually concerning the number and disposition of residents described in each of clauses (ii) and (iii).".

(B) SECRETARIAL REPORT.—Section 4215 of the Omnibus Budget Reconciliation Act of 1987 is amended by adding at the end the following new sentence: "Each such report shall also include a summary of the information reported by States under section 1919(e)(7)(C)(iv) of such Act.".

(7) REVISION OF ALTERNATIVE DISPOSITION PLANS.—Section 1919(e)(7)(E) of the Social Security Act (42 U.S.C. 1396r(e)(7)(E)) is amended by adding at the end the following: "The State may revise such an agreement, subject to the approval of the Secretary, before October 1, 1991, but only if, under the revised agreement, all residents subject to the agreement who do not require the level of services of such a facility are discharged from the facility by not later than April 1, 1994.".

(8) DEFINITION OF MENTALLY ILL.—Section 1919(e)(7)(G)(i) of such Act (42 U.S.C. 1396r(e)(7)(G)(i)) is amended by striking "primary or secondary" and all that follows through "3rd edition)" and inserting "serious mental illness (as defined by the Secretary)".

(9) SUBSTITUTION OF "SPECIALIZED SERVICES" FOR "ACTIVE TREATMENT".—Sections 1919(b)(3)(F) and 1919(e)(7) of such Act (42 U.S.C. 1396r(b)(3)(F), 1396r(e)(7)) are each amended by striking "active treatment" and "ACTIVE TREATMENT" each place either appears and inserting "specialized services" and "SPECIALIZED SERVICES", respectively.

(10) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as if they were included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

(B) EXCEPTION.—The amendments made by paragraphs (3), (5), (7), and (9) shall take effect on the date of the enactment of this Act, without regard to whether or not regulations to implement such amendments have been promulgated.

(c) ENFORCEMENT PROCESS.—The Secretary of Health and Human Services shall not take (and shall not continue) any action against a State under section 1904 of the Social Security Act on the basis of the State's failure to meet the requirements of section 1919(h)(2) of such Act before the effective date of guidelines, issued by the Secretary, regarding the establishment of remedies by the State under such section, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirements before such effective date.

(d) SUPERVISION OF HEALTH CARE OF RESIDENTS OF NURSING FACILITIES BY NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS ACTING IN COLLABORATION WITH PHYSICIANS.—

(1) IN GENERAL.—Section 1919(b)(6)(A) of such Act (42 U.S.C. 1396r(b)(6)(A)) is amended by inserting "(or, at the option of a State, under the supervision of a nurse practitioner or clinical nurse specialist who is not an employee of the facility but who is working in collaboration with a physician)" after "physician".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) applies with respect to nursing facility services furnished on or after October 1, 1990, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date.

(e) OTHER AMENDMENTS.—

(1) ASSURANCE OF APPROPRIATE PAYMENT AMOUNTS.—

(A) IN GENERAL.—Section 1902(a)(13)(A) of the Social Security Act (42 U.S.C. 1396a(a)(13)(A)) is amended by inserting "(including the costs of services required to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident eligible for benefits under this title)" after "take into account the costs".

(B) DETAILS IN PLAN AMENDMENT.—Section 4211(b)(2) of the Omnibus Budget Reconciliation Act of 1987 is amended by inserting after the first sentence the following: "Each such amendment shall include a detailed description of the specific methodology to be used in determining the appropriate adjustment in payment amounts for nursing facility services.".

(2) DISCLOSURE OF INFORMATION OF QUALITY ASSESSMENT AND ASSURANCE COMMITTEES.—Section 1919(b)(1)(B) of the Social Security Act (42 U.S.C. 1396r(b)(1)(B)) is amended by adding at the end the following new sentence: "A State or the Secretary may not require disclosure of the records of such committee except insofar as such disclosure is related to the compliance of such committee with the requirements of this subparagraph.".

(3) PERIOD FOR RESIDENT ASSESSMENT.—Section 1919(b)(3)(C)(i)(I) of such Act (42 U.S.C. 1396r(b)(3)(C)(i)(I)) is amended by striking "4 days" and inserting "14 days".

(4) CLARIFICATION OF RESPONSIBILITY FOR SERVICES FOR MENTALLY ILL AND MENTALLY RETARDED RESIDENTS.—Section 1919(b)(4)(A) of such Act (42 U.S.C. 1396r(b)(4)(A)) is amended—

(A) by striking "and" at the end of clause (v),

(B) by striking the period at the end of clause (vi) and inserting "; and", and

(C) by inserting after clause (vi) the following new clause:

"(vii) treatment and services required by mentally ill and mentally retarded residents not otherwise provided or arranged for (or required to be provided or arranged for) by the State.".

(5) CLARIFICATION OF EXTENT OF STATE WAIVER AUTHORITY.—Section 1919(b)(4)(C)(ii) of such Act (42 U.S.C. 1396r(b)(4)(C)(ii)) is amended by striking "A State" and all that follows through "a facility if" and inserting "To the extent that a facility is unable to meet the requirements of clause (i), a State may waive such requirements with respect to the facility if".

(6) CLARIFICATION OF DEFINITION OF NURSE AIDE.—Section 1919(b)(5)(F)(i) of such Act (42 U.S.C. 1396r(b)(5)(F)(i)) is amended by striking "(G))," and inserting "(G)) or a registered dietician,".

(7) CLARIFICATION OF REQUIREMENTS FOR SOCIAL SERVICES STAFF.—Section 1919(b)(7) of such Act (42 U.S.C. 1396r(b)(7)) is amended by striking "one social worker" and all that follows and inserting the following: "one individual employed full-time to provide or assure the provision of social services who—

"(A) is a social worker with at least a bachelor's degree in social work or similar professional qualifications; or

"(B) is provided with on-going consultation and assistance in providing such services by a social worker (with the qualifications described in subparagraph (A)) employed by the facility.".

(8) CHARGES APPLICABLE IN CASES OF CERTAIN MEDICAID-ELIGIBLE INDIVIDUALS.—

(A) IN GENERAL.—Section 1919(c) of such Act (42 U.S.C. 1396r(c)) is amended—

(i) by redesignating paragraph (7) as paragraph (8), and

(ii) by inserting after paragraph (6) the following new paragraph:

"(7) LIMITATION ON CHARGES IN CASE OF MEDICAID-ELIGIBLE INDIVIDUALS.—

"(A) IN GENERAL.—A nursing facility may not impose charges, for certain medicaid-eligible individuals for nursing facility services covered by the State under its plan under this title, that exceed the payment amounts established by the State for such services under this title.

"(B) CERTAIN MEDICAID INDIVIDUALS DEFINED.—In subparagraph (A), the term 'certain medicaid-eligible individual' means an individual who is entitled to medical assistance for nursing facility services in the facility under this title but with respect to whom such benefits are not being paid because, in determining the amount of the individual's income to be applied monthly to payment for the costs of such services, the amount of such income exceeds the payment amounts established by the State for such services under this title.".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect on the date of the enactment of this Act, without regard to whether or not regulations to implement such amendments have been promulgated.

(9) RESIDENTS' RIGHTS TO REFUSE INTRA-FACILITY TRANSFERS TO MOVE THE RESIDENT TO A MEDICARE-QUALIFIED PORTION.—Section 1919(c)(1)(A) of such Act (42 U.S.C. 1396r(c)(1)(A)) is amended—

(A) by redesignating clause (x) as clause (xi) and by inserting after clause (ix) the following new clause:

"(x) REFUSAL OF CERTAIN TRANSFERS.—The right to refuse a transfer to another room within the facility, if a purpose of the transfer is to relocate the resident from a portion of the facility that is not a skilled nursing facility (for purposes of title XVIII) to a portion of the facility that is such a skilled nursing facility."; and

(B) by adding at the end the following: "A resident's exercise of a right to refuse transfer under clause (x) shall not affect the resident's eligibility or entitlement to medical assistance under this title or a State's entitlement to Federal medical assistance under this title with respect to services furnished to such a resident.".

(10) RESIDENTS' RIGHTS REGARDING ADVANCE DIRECTIVES.—Section 1919(c)(1) of such Act

(42 U.S.C. 1396r(c)(1)), as amended by paragraph (9), is amended—

(A) in subparagraph (A)—

(i) by redesignating clause (xi) as clause (xii), and

(ii) by inserting after clause (x) the following new clause:

"(xi) ADVANCE DIRECTIVES.—The right to compliance by the facility with the provisions of an advance directive."; and

(B) by adding at the end the following new subparagraph:

"(E) DEFINITION.—In this paragraph, the term 'advance directive' means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law and relating to the provision of such care when the individual is incapacitated.".

(11) RESIDENT ACCESS TO CLINICAL RECORDS.—Section 1919(c)(1)(A)(iv) of such Act (42 U.S.C. 1396r(c)(1)(A)(iv)) is amended by inserting before the period at the end the following: "and to access to current clinical records of the resident promptly upon request by the resident".

(12) INCLUSION OF STATE NOTICE OF RIGHTS IN FACILITY NOTICE OF RIGHTS.—Section 1919(c)(1)(B)(ii) of such Act (42 U.S.C. 1396r(c)(1)(B)(ii)) is amended by inserting "including the notice (if any) of the State developed under subsection (e)(6)" after "in such rights)".

(13) REMOVAL OF DUPLICATIVE REQUIREMENT FOR QUALIFICATIONS OF NURSING HOME ADMINISTRATORS.—Effective October 1, 1990—

(A) paragraph (29) of section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is repealed, and

(B) section 1908 of such Act (42 U.S.C. 1396g) is repealed.

(14) CLARIFICATION OF NURSE AIDE REGISTRY REQUIREMENTS.—Section 1919(e)(2) of such Act (42 U.S.C. 1396r(e)(2)) is amended—

(A) in subparagraph (A), by striking the period and inserting the following: ", or any individual described in subsection (f)(2)(B)(ii) or in subparagraph (B) or (C) of section 6901(b)(4) of the Omnibus Budget Reconciliation Act of 1989." and

(B) by adding at the end the following new subparagraph:

"(C) PROHIBITION AGAINST CHARGES.—A State may not impose any charges on a nurse aide relating to the registry established and maintained under subparagraph (A).".

(15) CLARIFICATION ON FINDINGS OF NEGLECT.—Section 1919(g)(1)(C) of such Act (42 U.S.C. 1396r(g)(1)(C)) is amended by adding at the end the following: "A State shall not make a finding that an individual has neglected a resident if the individual demonstrates that such neglect was caused by factors beyond the control of the individual.".

(16) TIMING OF PUBLIC DISCLOSURE OF SURVEY RESULTS.—Section 1919(g)(5)(A)(i) of such Act (42 U.S.C. 1396r(g)(5)(A)(i)) is amended by striking "deficiencies and plans" and inserting "deficiencies, within 14 calendar days after such information is made available to those facilities, and approved plans".

(17) DENIAL OF PAYMENT OF LEGAL FEES FOR FRIVOLOUS LITIGATION.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)), as amended by section 4401(a)(1)(B) of this title, is amended—

(A) by striking "or" at the end of paragraph (9);

(B) by striking the period at the end of paragraph (10) and inserting "; or"; and

(C) by inserting after paragraph (10) the following new paragraph:

"(11) with respect to any amount expended to reimburse (or otherwise compensate) a nursing facility for payment of legal expenses associated with any action initiated by the facility that is dismissed on the basis that no reasonable legal ground existed for the institution of such action."

(18) EFFECTIVE DATES.—The amendments made by this subsection (other than by paragraphs (8) and (13)) shall take effect as if they were included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

PART 5—MISCELLANEOUS

Subpart A—Payments

SEC. 4441. STATE MEDICAID MATCHING PAYMENTS THROUGH VOLUNTARY CONTRIBUTIONS AND STATE TAXES.

(a) VOLUNTARY CONTRIBUTIONS.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

"(s)(1)(A) Subject to subparagraphs (B) and (C), financial participation described in subsection (a)(2) may include the application of private funds donated by hospitals to, and subject to the unrestricted control of, the State.

"(B) Financial participation—

"(i) may not include donations to the extent their aggregate amount exceeds in any Federal fiscal year 10 percent of the non-Federal portion of expenditures under the plan in the year, and

"(ii) may not include donations made by, or on behalf of, or with respect to, any particular hospital, to the extent that their aggregate amount in an annual cost reporting period exceeds 10 percent of the gross revenues of the hospital (not taking into account any Federal revenues under this title or under title V or title XVIII).

"(C) For purposes of this paragraph, the fact that a hospital may receive some benefit from a transfer of funds to a State shall not prevent the transfer from being treated as the donation of funds, unless the amount of benefit to the hospital is directly related, in timing and amount, to the timing and amount of the transfer.".

(b) STATE TAX CONTRIBUTIONS.—Section 1902(s) of such Act, added by the amendment made by subsection (a), is amended by adding at the end the following new paragraph:

"(2) Nothing in this title (including sections 1903(a) and 1905(a)) shall be construed as authorizing the Secretary to deny or limit payments to a State for expenditures, for medical assistance for items or services, attributable to taxes (whether or not of general applicability) imposed with respect to the provision of such items or services.".

(c) EFFECTIVE DATES.—

(1) VOLUNTARY CONTRIBUTION.—The amendment made by subsection (a) shall apply to funds donated on or after January 1, 1991.

(2) STATE TAX CONTRIBUTION.—The amendment made by subsection (b) shall take effect on January 1, 1991.

SEC. 4442. DISPROPORTIONATE SHARE HOSPITALS: COUNTING OF INPATIENT DAYS AND TREATMENT OF CAPITAL PASS-THROUGHS.

(a) CLARIFICATION OF MEDICAID DISPROPORTIONATE SHARE ADJUSTMENT CALCULATION.—Section 1923(b)(2) of the Social Security Act (42 U.S.C. 1396r-4(b)(2)) is amended by adding at the end the following new sentence: "In this paragraph, the term 'inpatient day' includes each day in which an individual (including a newborn) is an inpatient in the hospital, whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere.".

(b) FEDERAL FINANCIAL PARTICIPATION FOR MEDICAID CAPITAL PAYMENTS.—Section 1902(h) of such Act (42 U.S.C. 1396a(h)) is amended by inserting "(including pass-through payments for capital costs)" after "payment adjustments".

(c) EFFECTIVE DATES.—

(1) CLARIFICATION OF INPATIENT DAYS.—The amendment made by subsection (a) shall take effect on July 1, 1990.

(2) FEDERAL FINANCIAL PARTICIPATION.—The amendment made by subsection (b) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1981.

SEC. 4443. DISPROPORTIONATE SHARE HOSPITALS: ALTERNATIVE STATE PAYMENT ADJUSTMENTS AND SYSTEMS.

(a) ALTERNATIVE STATE PAYMENT ADJUSTMENTS.—Section 1923(c) of the Social Security Act (42 U.S.C. 1396r-4(c)) is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by adding "or" at the end of paragraph (2); and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) provide for a minimum specified additional payment amount (or increased percentage payment) based on a formula that takes into account the characteristics of patients of categories of disproportionate share hospitals in the State and that does not take into account (and is not related in timing or amount to) the amount or timing of any voluntary contribution directly or indirectly by such a hospital;".

(b) CLARIFICATION OF SPECIAL RULE FOR STATE USING HEALTH INSURING ORGANIZATION.—Section 1923(e)(2) of such Act (42 U.S.C. 1396r-4(e)(2)) is amended by striking "during the 3-year period".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 412(a)(2) of the Omnibus Budget Reconciliation Act of 1987.

SEC. 4444. DISPROPORTIONATE SHARE HOSPITALS: MINIMUM PAYMENT ADJUSTMENT FOR CERTAIN HOSPITALS.

Section 1923 of the Social Security Act (42 U.S.C. 1396r-4) is amended—

(1) in subsection (c), by striking "In order" and inserting "Except as provided in subsection (f), in order"; and

(2) by adding at the end the following new subsection:

"(f) MINIMUM PAYMENT ADJUSTMENT FOR CERTAIN HOSPITALS.—

"(1) AMOUNT OF PAYMENT.—In the case of a hospital described in paragraph (2), the appropriate increase in the rate or amount of payments required under subsection (a)(1)(B) shall be equal to at least one-half of the amount paid under the State plan to the hospital for operating costs for inpatient hospital services (of the kind described in section 1886(a)(4)), except that the aggregate payments made to such a hospital by a State during a fiscal year under the plan may not exceed the reasonable costs to such hospital of providing inpatient and outpatient hospital services to individuals eligible for benefits under this title during the year.

"(2) DESCRIPTION OF HOSPITAL.—A hospital described in this paragraph is a hospital that—

"(A) is a nonprofit, private entity which is not a teaching hospital;

"(B) has a medicaid inpatient utilization rate (as defined in subsection (b)(2)) of at least 45 percent;

"(C) has a private pay utilization rate (as defined in paragraph (3)) of not more than 8 percent; and

"(D) is located in a health manpower shortage area (as defined in section 332 of the Public Health Service Act) in a State which had a waiver approved and in effect under section 1915(b)(4) as of the date of the enactment of this subsection.

"(3) DEFINITION.—In paragraph (2)(C), the term 'private pay utilization rate' means, for a hospital, a fraction (expressed as a percentage), the numerator of which is the hospital's number of inpatient days attributable to patients who (for such days) have private third party coverage of health benefits in a period, and the denominator of which is the total number of the hospital's inpatient days in that period.".

(b) CONFORMING AMENDMENT.—Section 1923(b)(2) of such Act (42 U.S.C. 1396r-4(b)(2)) is amended by striking "(1)(A)" and inserting "(1)(A) and subsection (f)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after January 1, 1991, and before October 1, 1993, without regard to whether or not regulations to implement such amendments have been promulgated by such date.

SEC. 4445. FEDERALLY-QUALIFIED HEALTH CENTERS.

(a) CLARIFICATION OF USE OF MEDICARE PAYMENT METHODOLOGY.—Section 1902(a)(13)(E) of the Social Security Act (42 U.S.C. 1396a(a)(13)(E)) is amended—

(1) by striking "may prescribe" the first place it appears and inserting "prescribes", and

(2) by striking "on such tests of reasonableness as the Secretary may prescribe in regulations under this subparagraph" and inserting "on the same methodology used under section 1833(a)(3)".

(b) MINIMUM PAYMENT RATES BY HEALTH MAINTENANCE ORGANIZATIONS.—Section 1903(m)(2)(A) of such Act (42 U.S.C. 1396b(m)(2)(A)) is amended—

(1) by striking "and" at the end of clause (vii),

(2) by striking the period at the end of clause (viii) and inserting ", and", and

(3) by adding at the end the following new clause:

"(ix) such contract provides, in the case of an entity that is a Federally-qualified health center or that provides for services through arrangements with such a center, that (I) rates of prepayment from the State are adjusted to reflect fully the rates of payment specified in section 1902(a)(13)(E), and (II) payments made by the entity to such a center for services described in 1905(a)(2)(C) are made at the rates of payment specified in section 1902(a)(13)(E).".

(c) CLARIFICATION IN TREATMENT OF OUTPATIENTS.—Section 1905(l)(2) of such Act (42 U.S.C. 1396d(l)(2)) is amended—

(1) in subparagraph (A), by striking "outpatient" and inserting "patient (other than an inpatient)", and

(2) in subparagraph (B), by striking "facility" and inserting "entity".

(d) TREATMENT OF INDIAN TRIBES.—The first sentence of section 1905(l)(2)(B) of such Act (42 U.S.C. 1396d(l)(2)(B)) is amended—

(1) by striking the period at the end and inserting a comma, and

(2) by adding, after and below clause (ii), the following:

"and includes an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act (Public Law 93-638).".

(e) TECHNICAL CORRECTION.—Section 6402 of the Omnibus Budget Reconciliation Act of 1989 is amended—

(1) by striking subsection (c), and

(2) by amending subsection (d) to read as follows:

"(c) EFFECTIVE DATE.—The amendments made by this section (except as otherwise provided in such amendments) shall take effect on the date of the enactment of this Act.".

(f) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

SEC. 4446. HOSPICE PAYMENTS.

(a) IN GENERAL.—Section 1905(o)(3) of the Social Security Act (42 U.S.C. 1396d(o)(3)) is amended—

(1) by striking "a State which elects" and all that follows through "with respect to" the first place it appears,

(2) by striking "skilled nursing or intermediate care facility" in subparagraphs (A) and (C) and inserting "nursing facility or intermediate care facility for the mentally retarded";

(3) by striking "the amounts allocated under the plan for room and board in the facility, in accordance with the rates established under section 1902(a)(13)," and inserting "the additional amount described in section 1902(a)(13)(D)", and

(4) by striking the last sentence.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if included in the amendments made by section 6408(c)(1) of the Omnibus Budget Reconciliation Act of 1989.

SEC. 4447. LIMITATIONS ON DISALLOWANCE OF CERTAIN INPATIENT PSYCHIATRIC HOSPITAL SERVICES.

(a) IN GENERAL.—The Secretary of Health and Human Services may not disallow or defer Federal financial participation under section 1903(a) of the Social Security Act for inpatient psychiatric hospital services for individuals under age 21 under paragraph (16) of section 1905(a) of such Act in a State in which the Inspector General of the Department of Health and Human Services has initiated or completed reviews or audits of such services (but for which services the Secretary has not issued a disallowance notice) as of October 11, 1990, on the ground that the facilities in the State did not meet the requirement of section 1905(h)(1)(B)(ii) of such Act, except as provided in subsection (b).

(b) LIMITATIONS ON DISALLOWANCE.—With respect to services described in subsection (a)—

(1) the Secretary may disallow or defer Federal financial participation only for services provided to an individual eligible under title XIX of the Social Security Act before the date the facility is able to document (through plan of care or utilization review procedures) that the services in the facility on an inpatient basis are necessary (as described in section 1905(h)(1)(B)(ii) of the Social Security Act);

(2) the Secretary may disallow or defer Federal financial participation only for services for which facilities in the State did not meet the requirement of section 1905(h)(1)(B)(ii) of such Act during the 3-year period ending on the date an audit is initiated with respect to such services; and

(3) the disallowance of Federal financial participation during the period in which the requirement of section 1905(h)(1)(B)(ii) of such Act was not met by facilities in the State with respect to such services may not exceed 25 percent of the amount of the disallowance that would otherwise be made in accordance with this section.

(c) EFFECTIVENESS.—This section shall apply to disallowance actions that are pending or for which there has not been a final judicial decision as of the date of the enactment of this Act.

SEC. 4448. TREATMENT OF INTEREST ON INDIANA DISALLOWANCE.

With respect to any disallowance of Federal financial participation under section 1903(a) of the Social Security Act for intermediate care facility services, intermediate care facility services for the mentally retarded, or skilled nursing facility services on the ground that the facilities in the State of Indiana were not certified in accordance with law during the period beginning June 1, 1982, and ending September 30, 1984, payment of such disallowance may be deferred without interest that would otherwise accrue without regard to this subsection, until every opportunity to appeal has been exhausted.

Subpart B—Eligibility and Coverage

SEC. 4451. PROVIDING FEDERAL MEDICAL ASSISTANCE FOR PAYMENTS FOR PREMIUMS FOR "COBRA" CONTINUATION COVERAGE WHERE COST EFFECTIVE.

(a) OPTIONAL PAYMENT OF COBRA PREMIUMS FOR QUALIFIED COBRA CONTINUATION BENEFICIARIES.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(10)—

(A) by striking "and" at the end of subparagraph (D),

(B) by adding "and" at the end of subparagraph (E),

(C) by inserting after subparagraph (E) the following new subparagraph:

"(F) at the option of a State, for making medical assistance available for COBRA premiums (as defined in subsection (t)(2)) for qualified COBRA continuation beneficiaries described in section 1902(t)(1);", and

(D) in the matter following subparagraph (E), by striking "and" before "(X)" and by inserting before the semicolon at the end the following: ", and (XI) the medical assistance made available to an individual described in subsection (t)(1) who is eligible for medical assistance only because of subparagraph (F) shall be limited to medical assistance for COBRA continuation premiums (as defined in subsection (t)(2))"; and

(2) by adding after the subsection added by section 4441(a) the following new subsection:

"(t)(1) Individuals described in this paragraph are individuals—

"(A) who are entitled to elect COBRA continuation coverage (as defined in paragraph (3)),

"(B) whose income (as determined under section 1612 for purposes of the supplemental security income program) does not exceed 100 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved,

"(C) whose resources (as determined under section 1613 for purposes of the supplemental security income program) do not exceed twice the maximum amount of re-

sources that an individual may have and obtain benefits under that program, and

"(D) with respect to whose enrollment for COBRA continuation coverage the State has determined that the savings in expenditures under this title resulting from such enrollment is likely to exceed the amount of payments for COBRA premiums made.

"(2) For purposes of subsection (a)(10)(F) and this subsection, the term 'COBRA premiums' means the applicable premium imposed with respect to COBRA continuation coverage.

"(3) In this subsection, the term 'COBRA continuation coverage' means coverage under a group health plan provided pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986, or title VI of the Employee Retirement Income Security Act of 1974.

"(4) Notwithstanding subsection (a)(17), for individuals described in paragraph (1) who are covered under the State plan by virtue of subsection (a)(10)(A)(ii)(XI)—

"(A) the income standard to be applied is the income standard described in paragraph (1)(B), and

"(B) except as provided in section 1612(b)(4)(B)(ii), costs incurred for medical care or for any other type of remedial care shall not be taken into account in determining income.

Any different treatment provided under this paragraph for such individuals shall not, because of subsection (a)(10)(B) or (a)(17), require or permit such treatment for other individuals.".

(b) CONFORMING AMENDMENT.—Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended—

(1) by striking "or" at the end of clause (viii),

(2) by adding "or" at the end of clause (ix), and

(3) by inserting after clause (ix) the following new clause:

"(x) individuals described in section 1902(t)(1),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance furnished on or after January 1, 1991.

SEC. 4452. PROVISIONS RELATING TO SPOUSAL IMPOVERISHMENT.

(a) CLARIFICATION OF NON-APPLICATION OF STATE COMMUNITY PROPERTY LAWS.—Section 1924(b)(2) of the Social Security Act (42 U.S.C. 1396r-5(b)(2)) is amended in the matter preceding subparagraph (A) by striking "spouse," and inserting "spouse for purposes of this section,".

(b) CLARIFICATION OF TRANSFER OF RESOURCES TO COMMUNITY SPOUSE.—Section 1924(f)(1) of such Act (42 U.S.C. 1396r-5(f)(1)) is amended by striking "section 1917" and inserting "section 1917(c)(1)".

(c) CLARIFICATION OF PERIOD OF CONTINUOUS ELIGIBILITY.—Section 1924(c)(1) of such Act (42 U.S.C. 1396r-1(c)(1)) is amended by striking "the beginning of a continuous period of institutionalization of the institutionalized spouse" each place it appears and inserting "the beginning of the first continuous period of institutionalization (beginning on or after September 30, 1989) of the institutionalized spouse".

(d) EFFECTIVE DATE.—The amendments made this section shall take effect as if included in the enactment of section 303 of the Medicare Catastrophic Coverage Act of 1988.

SEC. 4453. DISREGARDING GERMAN REPARATION PAYMENTS FROM POST-ELIGIBILITY TREATMENT OF INCOME UNDER THE MEDICAID PROGRAM.

(a) IN GENERAL.—Section 1902(r)(1) of the Social Security Act (42 U.S.C. 1396a) is amended by inserting "there shall be disregarded reparation payments made by the Federal Republic of Germany and" after "under such a waiver".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to treatment of income for months beginning more than 30 days after the date of the enactment of this Act.

SEC. 4454. AMENDMENTS RELATING TO MEDICAID TRANSITION PROVISION.

(a) REPEAL OF SUNSET.—Subsection (f) of section 1925 of the Social Security Act (42 U.S.C. 1396s) is repealed.

(b) ADDITIONAL AMENDMENTS.—Such section is further amended—

(1) in subsection (b)(2)(B)(i), by inserting at the end the following: "A State may permit such additional extended assistance under this subsection notwithstanding a failure to report under this clause if the family has established, to the satisfaction of the State, good cause for the failure to report on a timely basis.";

(2) in subsection (b)(2)(B), by adding at the end the following new clause:

"(iii) CLARIFICATION ON FREQUENCY OF REPORTING.—A State may not require that a family receiving extended assistance under this subsection or subsection (a) report more frequently than as required under clause (i) or (ii).''; and

(3) in subsection (b)(3)(B), by adding at the end the following: "No such termination shall be effective earlier than 10 days after the date of mailing of such notice.".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall be effective as if included in the enactment of the Family Support Act of 1988.

SEC. 4455. CLARIFYING EFFECT OF HOSPICE ELECTION.

Section 1905(o)(1)(A) of the Social Security Act (42 U.S.C. 1396d(o)(1)(A)) is amended by inserting "and for which payment may otherwise be made under title XVIII" after "described in section 1812(d)(2)(A)".

SEC. 4456. CLARIFICATION OF APPLICATION OF 133 PERCENT INCOME LIMIT TO MEDICALLY NEEDY.

(a) IN GENERAL.—Section 1903(f) of the Social Security Act (42 U.S.C. 1396b(f)(4)) is amended—

(1) in paragraph (1), by striking "Except as provided in paragraph (4)" and inserting "Subject to paragraph (4)", and

(2) in paragraph (4), by striking "shall not apply" and all that follows through the end and inserting "shall only apply with respect to any amount expended by a State as medical assistance for an individual who is only eligible for such assistance as an individual described in section 1902(a)(10)(C) at the time of the provision of the medical assistance giving rise to such expenditure.".

(b) CONFORMING AMENDMENTS.—Section 1902(a)(10)(A)(ii) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(1) in subclause (V), by striking "whose income does not exceed a separate income standard established by the State which is consistent with the limit established under section 1903(f)(4)(C)" and inserting "whose income does not exceed a separate income standard established by the State, which income (as determined under section 1612, but without regard to subsection (b) thereof) does not exceed 300 percent of the supplemental security income benefit rate established by section 1611(b)(1)", and

(2) in subclauses (VI) and (VII), by inserting "(applying the resource and income standards applicable under subclause (V))" after "in a medical institution".

(c) ADDITIONAL CONFORMING AMENDMENT.—Effective as if included in the enactment of section 303(e) of the Medicare Catastrophic Coverage Act of 1988, section 1902(f) of the Social Security Act (42 U.S.C. 1396a(f)) is amended by striking "subsection (e)" and inserting "subsections (e) and (r)(2)".

(d) MEDICALLY NEEDY INCOME LEVELS FOR CERTAIN 1-MEMBER FAMILIES.—

(1) IN GENERAL.—For purposes of section 1903(f)(1)(B) of the Social Security Act, for payments made before, on, or after the date of the enactment of this Act, a State described in subparagraph (B) may use, in determining the "highest amount which would ordinarily be paid to a family of the same size" (under the State's plan approved under part A of title IV of such Act) in the case of a family consisting only of one individual and without regard to whether or not such plan provides for aid to families consisting only of one individual, an amount reasonably related to the highest money payment which would ordinarily be made under such a plan to a family of two without income or resources.

(2) STATES COVERED.—Paragraph (1) shall only apply to a State the State plan of which (under title XIX of the Social Security Act) as of June 1, 1989, provided for the policy described in such paragraph. For purposes of the previous sentence, a State plan includes all the matter included in a State plan under section 2373(c)(5) of the Deficit Reduction Act of 1984 (as amended by section 9 of the Medicare and Medicaid Patient and Program Protection Act of 1987).

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4457. CODIFICATION OF COVERAGE OF REHABILITATION SERVICES.

(a) IN GENERAL.—Section 1905(a)(13) of the Social Security Act (42 U.S.C. 1396d(a)(13)) is amended by inserting before the semicolon at the end the following: ", including any medical or remedial services (provided in a facility, a home, or other setting) recommended by a physician or other licensed practitioner of the healing arts within the scope of their practice under State law, for the maximum reduction of physical or mental disability and restoration of an individual to the best possible functional level".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 4458. PERSONAL CARE SERVICES FOR MINNESOTA.

(a) CLARIFICATION OF COVERAGE.—In applying section 1905 of the Social Security Act with respect to Minnesota, medical assistance shall include payment for personal care services described in subsection (b).

(b) PERSONAL CARE SERVICES DEFINED.—For purposes of this section, the term "personal care services" means services—

(1) prescribed by a physician for an individual in accordance with a plan of treatment,

(2) provided by a person who is qualified to provide such services who is not a member of the individual's family,

(3) supervised by a registered nurse, and

(4) furnished in a home or other location;

but does not include such services furnished to an inpatient or resident of a hospital or nursing facility.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act and shall also apply to personal care services furnished before such date pursuant to regulations in effect as of July 1, 1989.

Subpart C—Health Maintenance Organizations

SEC. 4461. REQUIREMENTS FOR RISK-SHARING HEALTH MAINTENANCE ORGANIZATIONS UNDER MEDICAID.

(a) HMO MINIMUM MEMBERSHIP REQUIREMENTS.—Section 1903(m)(2)(A) of the Social Security Act (42 U.S.C. 1396b(m)(2)(A)) is amended—

(1) by striking ", and" at the end of clause (vii) and inserting a semicolon;

(2) by striking the period at the end of clause (viii) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(ix) such entity has at least 5,000 members, except that the Secretary may make payment under this title for services provided by an entity that has fewer members if the entity primarily serves members residing in a rural area.".

(b) APPLICATION OF MINIMUM ENROLLMENT, PATIENT MIX, AND FINANCIAL SOLVENCY REQUIREMENTS TO RISK-SHARING SUBCONTRACTORS.—Section 1903(m)(2)(A) of such Act (42 U.S.C. 1396b(m)(2)(A)), as amended by subsection (a), is further amended—

(1) by striking "and" at the end of clause (viii);

(2) by striking the period at the end of clause (ix) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(x) in the case of services provided by an entity that has entered into an agreement for the provision of such services with another entity (other than an entity described in subparagraph (B)) under which payment to the other entity for such services is determined under a prepaid capitation basis or under any other risk basis—

"(I) the other entity meets the requirements of clauses (ii) and (ix), and

"(II) if the other entity is not a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act), such other entity meets the requirements of paragraph (1)(A)(ii) and paragraph (4).".

(c) DELAY IN IMPLEMENTATION OF PROHIBITION AGAINST PHYSICIAN INCENTIVE PAYMENTS.—Section 1128A(b) of such Act (42 U.S.C. 1320a-7a(b)) is amended by adding at the end the following new paragraph:

"(3) With respect to an entity with a contract under section 1903(m), paragraph (1) shall apply to payments made by such an entity on or after April 1, 1992.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to contract years beginning on or after January 1, 1991.

SEC. 4462. SPECIAL RULES.

(a) WAIVER OF 75 PERCENT RULE FOR PUBLIC ENTITIES.—Section 1903(m)(2)(D) of the Social Security Act (42 U.S.C. 1396b(m)(2)(D)) is amended by striking "(i) special circumstances warrant such modification or waiver, and (ii)".

(b) EXTENDING SPECIAL TREATMENT TO MEDICARE COMPETITIVE MEDICAL PLANS.—

(1) 6-MONTH MINIMUM ENROLLMENT PERIOD OPTION.—Section 1902(e)(2)(A) of such Act (42 U.S.C. 1396a(e)(2)(A)) is amended by inserting "or with an eligible organization with a contract under section 1876" after "1903(m)(2)(A)".

(2) ENROLLMENT LOCK-IN.—Section 1903(m)(2)(F)(i) of such Act (42 U.S.C. 1396b(m)(2)(F)(i)) is amended—

(A) by striking "(G) or" and inserting "(G),", and

(B) adding at the end the following: "or with an eligible organization with a contract under section 1876 which meets the requirement of subparagraph (A)(ii), or".

(c) AUTOMATIC 1-MONTH REENROLLMENT FOR SHORT PERIODS OF INELIGIBILITY.—Section 1903(m)(2) of such Act is amended by adding at the end the following new subparagraph:

"(H) In the case of an individual who—

"(i) in a month is eligible for benefits under this title and enrolled with a health maintenance organization with a contract under this paragraph,

"(ii) in the next month (or in the next 2 months) is not eligible for such benefits, but

"(iii) in the succeeding month is again eligible for such benefits,

the State plan, subject to subparagraph (A)(vi), may enroll the individual for that succeeding month with the health maintenance organization described in clause (i) if the organization continues to have a contract under this paragraph with the State.".

(d) ELIMINATION OF PROVISIONAL QUALIFICATION FOR HMOs.—Section 1903(m) of such Act is amended—

(1) in paragraph (2)(A)(i), by striking "(or the State as authorized by paragraph (3))", and

(2) by striking paragraph (3).

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4463. EXTENSION AND EXPANSION OF MINNESOTA PREPAID MEDICAID DEMONSTRATION PROJECT.

Section 507 of the Family Support Act of 1988 is amended—

(1) by striking "1991" and inserting "1996"; and

(2) by striking the period at the end and inserting the following: ", and shall amend such waiver to permit the State to expand such demonstration project to other counties if the amount of medical assistance provided under title XIX of such Act after such expansion will not exceed the amount of medical assistance provided under such title had the project not been expanded to other counties.".

SEC. 4464. TREATMENT OF DAYTON AREA HEALTH PLAN.

Section 9517(c)(2)(C) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by adding at the end the following: "In the case of the Dayton Area Health Plan, clause (ii) of section 1903(m)(2)(A) of the Social Security Act shall not apply during the 5-year period beginning on the date the Secretary of Health and Human Services has granted the plan a waiver under section 1915(b) of such Act of certain requirements of section 1902 of such Act.".

SEC. 4465. TREATMENT OF CERTAIN COUNTY-OPERATED HEALTH INSURING ORGANIZATIONS.

Section 9517(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended—

(A) in paragraph (2)(A), by inserting "and in paragraph (3)" after "subparagraph (B)", and

(B) by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraph (C), in the case of up to 3 health insuring organizations which are described in subparagraph (B), which first become operational on or after January 1, 1986, and which are designated by the Governor, and approved by the Legislature, of California, the amendments made by paragraph (1) shall not apply.

"(B) A health insuring organization described in this subparagraph is one that—

"(i) is operated directly by a public entity established by a county government in the State of California under a State enabling statute;

"(ii) enrolls all medicaid beneficiaries residing in the county in which it operates;

"(iii) meets the requirements for health maintenance organizations under the Knox-Keene Act (Cal. Health and Safety Code, section 1340 et seq.) and the Waxman-Duffy Act (Cal. Welfare and Institutions Code, section 14450 et seq.);

"(iv) assures a reasonable choice of providers, which includes providers that have historically served medicaid beneficiaries and which does not impose any restriction which substantially impairs access to covered services of adequate quality where medically necessary;

"(v) provides for a payment adjustment for a disproportionate share hospital (as defined under State law consistent with section 1923 of the Social Security Act) in a manner consistent with the requirements of such section; and

"(vi) provides for payment, in the case of childrens' hospital services provided to medicaid beneficiaries who are under 21 years of age, who are children with special health care needs under title V of the Social Security Act, and who are receiving care coordination services under such title, at rates determined by the California Medical Assistance Commission.

"(C) Subparagraph (A) shall not apply with respect to any period for which the Secretary of Health and Human Services determines that the number of medicaid beneficiaries enrolled with health insuring organizations described in subparagraph (B) exceeds 10 percent of the number of such beneficiaries in the State of California.

"(D) In this paragraph, the term 'medicaid beneficiary' means an individual who is entitled to medical assistance under the State plan under title XIX of the Social Security Act, other than a qualified medicare beneficiary who is only entitled to such assistance because of section 1902(a)(10)(E) of such title.".

Subpart D—Demonstration Projects and Home and Community-Based Waivers

SEC. 4471. MEDICAID LONG-TERM CARE INSURANCE DEMONSTRATION PROJECT.

(a) AUTHORIZATION OF PROJECTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary"), upon application by any State may approve demonstration projects (each in this section referred to as a "project") under which covered long-term care beneficiaries (as defined in paragraph (3)(A)) who are 65 years of age or older and who have exhausted benefits under the qualified long-term care insurance policy are made eligible under the special rules specified in paragraph (2) to receive benefits with respect to long-term care services (as defined in paragraph (3)(B)) under the State medicaid plan. Expenditures with respect to such benefits shall be considered to be medical assistance for purposes of section 1903(a) of the Social Security Act.

(2) SPECIAL ELIGIBILITY PROVISIONS.—

(A) INITIAL ELIGIBILITY.—In determining the initial eligibility for medical assistance with respect to long-term care services under the State medicaid plan—

(i) the income of each covered long-term care beneficiary who is 65 years of age or older and who has exhausted benefits under the qualified long-term care insurance policy shall be disregarded, and

(ii) subject to subparagraph (D), the valuation of the assets of such beneficiary shall be reduced by the amount of protection provided under the long-term care insurance policy recognized under the project.

(B) POST-ELIGIBILITY.—The amount such a beneficiary is required to contribute toward the cost of long-term care services shall be the same as other individuals entitled to such services under the State plan, except that, subject to subparagraph (D), the valuation of the assets of the beneficiary shall be reduced by the amount of protection provided under the long-term care insurance policy recognized under the project.

(C) NONDISCRIMINATION.—Except as specified in this paragraph, a State medicaid plan may not discriminate, in the services covered or otherwise, against any individual based on whether or not the individual participates in a project under this section.

(D) MAXIMUM LEVEL OF ASSET PROTECTION.—

(i) IN GENERAL.—In no case shall the valuation of assets of a beneficiary be reduced by more than the maximum benefit level of the qualified long-term care insurance policy or the amount specified in clause (ii), whichever is less.

(ii) INDEXED LIMIT.—The amount specified in this clause is $75,000 increased by the same percentage as the percentage increase in the Consumer Price Index for All Urban Consumers (all items; U.S. city average) from December 1991 to December of the year preceding the year involved.

(3) DEFINITIONS.—In this section:

(A) The term "covered long-term care beneficiary" means an individual who at any time purchases benefits under a qualified long-term care insurance policy, and who voluntarily elects, at the time of purchase of such policy, to participate in the project.

(B) The term "long-term care services" means medical assistance for the following items and services, to the extent the State medicaid plan otherwise makes medical assistance available to individuals entitled to benefits under the plan:

(i) Nursing facility services.

(ii) Home health care services (described in section 1905(a)(7) of the Social Security Act).

(iii) Private duty nursing services.

(iv) Case management services.

(v) Homemaker/home health aide services.

(vi) Personal care services.

(vii) Adult day health services.

(viii) Respite care.

(C) The term "State medicaid plan" means the plan of medical assistance of a State approved under title XIX of the Social Security Act.

(D) The term "qualified long-term care insurance policy" means a long-term care insurance policy that meets the requirements of subsection (e).

(b) TERMS OF PROJECTS.—

(1) IN GENERAL.—The Secretary may not approve a project of a State under this section unless the Secretary finds that the project meets the following requirements:

(A) The terms of the project are disclosed to each individual before the individual is enrolled under the project.

(B) Subject to subsection (e)(8)(C), any qualified long-term care insurance policy made available in conjunction with the project cannot condition, or otherwise limit, payment under the policy in any manner because the insured is eligible for, or payment may be made, for services under any public program (including the medicare or medicaid programs).

(2) LIMIT ON NUMBER OF LIVES INSURED UNDER ALL PROJECTS.—The Secretary shall approve projects under this section in a manner that assures that there are never more than 25,000 covered long-term care beneficiaries under all the projects. The Secretary, consistent with the previous sentence, may require that a project of a State must permit enrollment of a minimum number of covered long-term care beneficiaries.

(3) WAIVER OF CERTAIN REQUIREMENTS.—The Secretary may waive the following requirements in title XIX of the Social Security Act with respect to covered long-term care beneficiaries who are 65 years of age or older and who have exhausted benefits under a qualified long-term care insurance policy to the extent required to carry out a project:

(A) Sections 1901, 1902(a)(1), 1902(a)(10) (other than subparagraph (B)), 1902(a)(17), and 1903(f), relating to required eligibility and benefits.

(B) Sections 1902(a)(14) and 1916(b), relating to premiums and cost-sharing.

(c) LIMITATION ON PAYMENTS.—Notwithstanding section 1903 of the Social Security Act, payment may not be made under such section for Federal financial participation for medical assistance with respect to long-term care services under a State medicaid plan for individuals 65 years of age or older during a year in which the project is in effect under this section in a State to the extent that such expenditures exceed the projected amount (determined by the Secretary at the time of approval of the project) that the State would have spent for such services for such individuals during such year if this section had not been in effect.

(d) STATE ASSURANCES.—The Secretary shall not approve an application of a State under this section unless the State provides assurance satisfactory to the Secretary that—

(1) aggregate expenditures under the plan for long-term care services for individuals 65 years of age or older in any fiscal year under the project will not exceed the aggregate expenditures under the plan for such services for such individuals in the fiscal year in the absence of such project;

(2) there will be no reduction or limitation of benefits to any individual eligible for medical assistance under the State medicaid plan as a result of operation of the project;

(3) the State will continue to make long-term care services available under the plan, at least to the extent such services are made available under the plan as in effect before the date of such approval and could continue to be provided consistent with law;

(4) the State will not permit the sale of any qualified long-term care insurance policy under the project unless the State has determined that the policy meets requirements specified in subsection (e) and meets standards at least as stringent as those set forth in the NAIC Long-Term Care Insurance Model Act (as of June 1989) and the NAIC regulations implementing the Act (to the extent not inconsistent with the requirements of subsection (e));

(5) in the sale of long-term care insurance policies not covered under the project, the State will require, at or before the time of sale of such a policy, that there be a disclosure of the fact that purchase of such a policy will not provide potential benefits under title XIX of the Social Security Act, unlike such policies covered under the project;

(6) the State will guarantee the payment of benefits under qualified long-term care insurance policies sold under the project;

(7) the percentage of the income official poverty line, established by the State under section 1902(l)(2)(A)(i) of the Social Security Act is 185 percent;

(8) the State is in compliance with the requirements of section 1902(a)(28);

(9) nursing facilities under the medicaid plan establish and maintain identical policies and practices regarding admission for all individuals regardless of whether or not the individuals are participating in the project;

(10) the State has actuarial guidelines regarding, and actuaries capable of evaluating, actuarial submissions of companies seeking to offer qualified long-term care insurance policies under the project; and

(11) the State has provided for a program of counseling residents of the State with respect to the purchase of long-term care insurance policies and alternative financial options for protection of assets.

No payments shall be made under section 1903(a) of the Social Security Act with respect to a State's performance of the guarantee required under paragraph (6).

(e) REQUIREMENTS FOR QUALIFIED LONG-TERM CARE INSURANCE POLICIES.—The requirements specified in this subsection (respecting qualified long-term care insurance policies offered under the project in the State) are as follows:

(1) STANDARD FORMAT AND DISCLOSURE.—

(A) POLICY AND APPLICATION.—Each such long-term care insurance policy, and application for such a policy, shall be written in simple, easily understood English in a standard format (established by the State) providing standardized terms and disclosure.

(B) MARKETING MATERIAL.—Marketing materials used with respect to such a policy shall be written or otherwise stated in simple, easily understood English.

(C) REQUIRED DISCLOSURE.—No such long-term care insurance policy may be sold (or offered for sale) unless there is disclosed in writing, no later than the time of sale of the policy—

(i) the proportion of premiums collected (and interest and other revenues derived therefrom) which will be applied to payment of benefits, and

(ii) the potential benefits under title XIX of the Social Security Act associated under the project with purchase of such a policy.

(2) MINIMUM LOSS-RATIO.—Such a policy must guarantee over time, using generally accepted actuarial standards, that at least 70 percent of the amount of the premiums (and interest and other revenues derived therefrom) will be paid on benefits under the policy.

(3) STANDARD MINIMUM BENEFITS.—Each such long-term care insurance policy shall provide at least the following benefits, up to the maximum dollar level of benefits provided under (and specified on the face of) the plan under paragraph (4):

(A) NURSING FACILITY SERVICES.—Coverage of, and payment for, nursing facility services for individuals determined (in accordance with paragraph (5)) to require an institutional level of care.

(B) HOME AND COMMUNITY-BASED SERVICES.—Personal care services (including home health aide and homemaker services), home health services, and respite care in the individual's place of residence for individuals determined to be at risk of institutionalization without such services.

The policy may not impose any limits on the duration of the period of services under the policy, other than the maximum dollar level of benefits (which shall apply uniformly to all services). The payment levels established for services under the plan shall be adjusted at least annually to reflect the percentage increase in the Consumer Price Index for All Urban Consumers (all items; U.S. city average).

(4) SPECIFICATION OF MAXIMUM DOLLAR LEVEL OF BENEFITS.—Each such long-term care insurance policy shall specify a maximum dollar level of benefits. Such maximum dollar level of benefits shall be increased, in each year after the year following the year of its issuance, by the same percentage as the percentage increase in the Consumer Price Index for All Urban Consumers (all items; U.S. city average) from December of the year before the year the year of issuance to December of the year preceding the year involved.

(5) DETERMINATION OF BENEFIT ELIGIBILITY.—

(A) CASE MANAGEMENT REQUIRED.—Each long-term care insurance policy shall use a standard formula, set by the State and based on a uniform assessment instrument specified by the State, to determine the level of care appropriate for each case. Such formula must be applied by the State or a case-management agency which is independent of the issuer of the policy.

(B) NO HIGHER LEVEL OF CARE REQUIREMENT.—A long-term care insurance policy may not condition or limit eligibility for benefits—

(i) for noninstitutional benefits to the need for or receipt of institutional services,

(ii) for home care services to the need for or receipt of nursing care, or

(iii) for any benefits on the medical necessity for such benefits.

(C) APPEAL RIGHTS.—Each long-term care insurance policy shall provide for and specify procedures (meeting reasonable standards specified by the State) for the appeal of determinations of level of care made under subparagraph (A).

(6) LIMITATION BASED ON PRE-EXISTING CONDITION.—

(A) IN GENERAL.—Except as permitted under subparagraph (B), a long-term care insurance policy may not limit or delay an individual's eligibility for benefits based on a pre-existing condition.

(B) EXCEPTION.—A long-term care insurance policy may deny payments during the first 6 months of coverage for treatment respecting any condition that existed during the 6 months before the date of purchase of the policy.

(7) NO POST-CLAIMS CONDITIONING AND GUARANTEED RENEWABLE.—After a long-term care insurance policy has been issued, the issuer may not deny claims under the policy on any grounds other than fraud or a knowing misrepresentation in the application for the policy or deny renewal of the coverage other than on such grounds or the failure to make timely payment of premiums.

(8) MEDICAL UNDERWRITING, PREMIUMS, AND COST-SHARING.—

(A) NO MEDICAL UNDERWRITING.—

(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), an individual may not be discriminated against in the offering, renewal, or benefits under such a long-term care insurance policy based on the individual's medical condition.

(ii) TREATMENT OF INDIVIDUALS RECEIVING BENEFITS.—The issuer of a long-term care insurance policy may deny initial issuance of such a policy to an individual receiving long-term care services at the time of the application for issuance of the policy.

(iii) VARYING PREMIUMS BY AGE CLASSIFICATION.—Clause (i) shall not be construed as preventing the issuer of a long-term care insurance policy from varying the premiums based on the age classification of individuals at the time of issuance of the policy.

(B) LEVEL PREMIUMS.—Each such policy shall have periodic premiums that are the same for all individuals in the same age group who purchased such a policy when they were in the same age group. The premiums rates must be guaranteed for the duration of the policy and must be suspended during any period in which benefits are payable under the policy.

(C) NONDUPLICATION OF MEDICARE BENEFITS.—Each such policy shall provide that, to the extent not required under section 1862(b) of the Social Security Act, benefits are not payable under the policy for services for which payment may be made under title XVIII of such Act.

(D) REDUCED PAID-UP PROVISION.—Each long-term care insurance policy shall have a provision under which, if the policy lapses after 5 or more years of coverage, the policy will provide, without payment of any additional premiums, benefits equal to at least 30 percent of the maximum dollar level of benefits available at term, and, after subsequent periods of coverage, the policy will provide, without payment of any additional premium, benefits equal to at least an increased percentage (established by the Secretary) of the maximum dollar level of benefits available at term.

(E) ADDITIONAL CONSUMER PROTECTIONS.—Each long-term care policy meets such standards relating to compensation arrangements, advertising, marketing, and appropriateness of purchase which the Secretary finds are equal to, or more stringent than, the requirements specified in sections 12, 15, 16, and 17 of Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Act (as adopted by the National Association of Insurance Commissioners as of December 7, 1989).

(9) ACCESS TO INFORMATION.—The issuer of the long-term care policy will make available to the State and the Secretary (upon request) information respecting the utilization of benefits (and payments) under the policy, the health status of individuals purchasing such policies, and such other information as the Secretary may require, including information on lapse rates, rescissions, application denials, payment denials, and complaints received.

(f) PROHIBITED SALES PRACTICES.—

(1) DUTY OF GOOD FAITH AND FAIR DEALING.—Each individual who is selling or offering for sale a long-term care insurance policy under the demonstration project has a duty of good faith and fair dealing to the purchaser or potential purchaser of such a policy.

(2) SPECIFIC PRACTICES.—An individual who is selling or offering for sale such a long-term care insurance policy—

(A) may not complete the medical history portion of an application;

(B) may not knowingly sell such a policy to provide benefits to an individual who is eligible for benefits under a State plan approved under title XIX of the Social Security Act (other than only because of the operation of the demonstration project); and

(C) may not sell such a policy knowing that the policy provides coverage that duplicates coverage already provided and may not sell a long-term care insurance policy for the benefit of an individual unless the individual (or a representative of the individual) provides a written statement to the effect that the coverage does not duplicate other coverage in effect.

(3) CIVIL MONEY PENALTY.—Any person who sells a long-term care insurance policy under the demonstration project in violation of requirements imposed under subsection (e) or who violates paragraph (1) or (2) of this subsection is subject to a civil money penalty of not to exceed $25,000 for each such violation. The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act.

(g) APPLICATION, DURATION, AND ELIGIBILITY.—

(1) An application to the Secretary from the State for approval of the project shall be deemed granted unless the Secretary, within 90 days after the date of its submission to the Secretary, either denies such application in writing or informs the State in writing with respect to any additional information which is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed granted unless the Secretary, within 90 days of such date, denies such application.

(2) Any termination of a project shall not affect covered long-term care beneficiaries who purchased qualified long-term care insurance policies before the termination date.

(h) ANNUAL STATE REPORTS.—The State shall annually (during the duration of such project) report to the Secretary on—

(1) the number of individuals enrolled in the demonstration project in such State;

(2) the number of enrollees actually receiving long-term care services under such demonstration project (whether through long-term care insurance or medical assistance under title XIX of the Social Security Act);

(3) the number of enrollees actually receiving long-term care in the form of medical assistance;

(4) the average income, age, and assets of each enrollee; and

(5) the number and characteristics of private insurers with policies approved by the State under the demonstration project.

(i) SECRETARY'S REPORTS.—The Secretary shall submit to Congress reports on projects under this section. The first such report shall be submitted in 1997 and subsequent reports shall be submitted each 6th year thereafter until 2021. Each such report shall summarize and analyze information reported by the State under subsection (h), and shall evaluate the cost effectiveness of the projects.

SEC. 4472. TIMELY PAYMENT UNDER WAIVERS OF FREEDOM OF CHOICE OF HOSPITAL SERVICES.

(a) IN GENERAL.—Section 1915(b)(4) of the Social Security Act (42 U.S.C. 1396n(b)(4)) is amended by inserting before the period at

the end the following: "and if providers under such restriction are paid on a timely basis in the same manner as health care practitioners must be paid under section 1902(a)(37)(A)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of the first calendar quarter beginning more than 30 days after the date of the enactment of this Act.

SEC. 4473. HOME AND COMMUNITY-BASED SERVICES WAIVERS.

(a) CLARIFYING DEFINITION OF ROOM AND BOARD.—

(1) IN GENERAL.—Subsections (c)(1) and (d)(1) of section 1915 of the Social Security Act (42 U.S.C. 1396n) are each amended by adding at the end the following: "For purposes of this subsection, the term 'room and board' shall not include the portion of costs of rent and food attributable to an unrelated personal caregiver who is residing in the same household with an individual who, but for the assistance of such caregiver, would require admission to a hospital, nursing facility, or intermediate care facility for the mentally retarded.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to services furnished on or after the date of the enactment of this Act.

(b) TREATMENT OF PERSONS WITH MENTAL RETARDATION OR A RELATED CONDITION IN A DECERTIFIED FACILITY.—

(1) IN GENERAL.—Section 1915(c)(7) of such Act (42 U.S.C. 1396n(c)(7)) is amended by adding at the end the following new subparagraph:

"(C) In making estimates under paragraph (2)(D) in the case of a waiver to the extent that it applies to individuals with mental retardation or a related condition who are resident in an intermediate care facility for the mentally retarded the participation of which under the State plan is terminated, the State may determine the average per capita expenditures that would have been made in a fiscal year for those individuals without regard to any such termination.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply as if included in the enactment of the Omnibus Budget Reconciliation Act of 1981, but shall only apply to facilities the participation of which under a State plan under title XIX of the Social Security Act is terminated on or after the date of the enactment of this Act.

(c) SCOPE OF RESPITE CARE.—

(1) IN GENERAL.—Section 1915(c)(4) of such Act is amended by adding at the end the following:

"Except as provided under paragraph (2)(D), the Secretary may not restrict the number of hours or days of respite care in any period which a State may provide under a waiver under this subsection.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply as if included in the enactment of the Omnibus Budget Reconciliation Act of 1981.

(d) PERMITTING ADJUSTMENT IN ESTIMATES TO TAKE INTO ACCOUNT PREADMISSION SCREENING REQUIREMENT.—In the case of a waiver under section 1915(c) of the Social Security Act for individuals with mental retardation or a related condition in a State, the Secretary of Health and Human Services shall permit the State to adjust the estimate of average per capita expenditures submitted under paragraph (2)(D) of such section, with respect to such expenditures made on or after January 1, 1989, to take into account increases in expenditures for, or utilization of, intermediate care facilities for the mentally retarded resulting from implementation of section 1919(e)(7)(A) of such Act.

SEC. 4474. PROVISIONS RELATING TO FRAIL ELDERLY DEMONSTRATION PROJECT WAIVERS.

(a) EXPANSION OF WAIVERS.—Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) in paragraph (1), by striking "10" and inserting "15"; and

(2) by adding at the end the following new paragraph:

"(3) In the case of an organization receiving an initial waiver under this subsection on or after October 1, 1990, the Secretary (at the request of the organization) shall not require the organization to provide services under title XVIII of the Social Security Act on a capitated or other risk basis during the first 2 years of the waiver.".

(b) APPLICATION OF SPOUSAL IMPOVERISHMENT RULES.—(1) Section 1924(a) of the Social Security Act (42 U.S.C. 1396r-5(a)) is amended by adding at the end the following new paragraph:

"(5) APPLICATION TO INDIVIDUALS RECEIVING SERVICES FROM ORGANIZATIONS RECEIVING CERTAIN WAIVERS.—This section applies to individuals receiving services from any organization receiving a frail elderly demonstration project waiver under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986.".

(2) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) Section 1924 of the Social Security Act shall apply to any individual receiving services from an organization receiving a waiver under this subsection.".

Subpart E—Miscellaneous

SEC. 4481. MEDICAID STATE PLANS ASSURING THE IMPLEMENTATION OF A PATIENT'S RIGHT TO PARTICIPATE IN AND DIRECT HEALTH CARE DECISIONS AFFECTING THE PATIENT.

(a) IN GENERAL.—Section 1902 of the Social Security Act (42 U.S.C. 1396a(a)), as amended by sections 4401(a)(2) and 4423(a) of this title, is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (54),

(B) by striking the period at the end of paragraph (55) and inserting "; and", and

(C) by inserting after paragraph (55) the following new paragraph:

"(56) provide that each hospital, nursing facility, provider of home health care or personal care services, hospice program, or health maintenance organization (as defined in section 1903(m)(1)(A)) receiving funds under the plan shall comply with the requirement of subsection (u).''; and

(2) by adding, after the subsections added by sections 4441(a) and 4451(a)(2) of this title, at the end the following new subsection:

"(u)(1) For purposes of subsection (a)(56) and sections 1903(m)(1)(A) and 1919(c)(2)(E), the requirement of this subsection is that a provider or organization (as the case may be) maintain written policies and procedures with respect to all adult individuals receiving medical care by or through the provider or organization—

"(A) to provide written information to each such individual concerning—

"(i) an individual's rights under State law (whether statutory or as recognized by the courts of the State) to make decisions concerning such medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives (as defined in paragraph (3)), and

"(ii) the provider's or organization's written policies respecting the implementation of such rights;

"(B) to document in the individual's medical record whether or not the individual has executed an advance directive;

"(C) not to condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive;

"(D) to ensure compliance with requirements of State law respecting advance directives; and

"(E) to provide (individually or with others) for education for staff and the community on issues concerning advance directives.

Subparagraph (C) shall not be construed as requiring the provision of care which conflicts with an advance directive.

"(2) The written information described in paragraph (1)(A) shall be provided to an adult individual—

"(A) in the case of a hospital, at the time of the individual's admission as an inpatient,

"(B) in the case of a nursing facility, at the time of the individual's admission as a resident,

"(C) in the case of a provider of home health care or personal care services, in advance of the individual coming under the care of the provider,

"(D) in the case of a hospice program, at the time of initial receipt of hospice care by the individual from the program, and

"(E) in the case of a health maintenance organization, at the time of enrollment of the individual with the organization.

"(3) In this subsection, the term 'advance directive' means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law and relating to the provision of such care when the individual is incapacitated.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1903(m)(1)(A) of such Act (42 U.S.C. 1396b(m)(1)(A)) is amended—

(A) by inserting "meets the requirement of section 1902(s)" after "which" the first place it appears, and

(B) by inserting "meets the requirement of section 1902(a) and" after "which" the second place it appears.

(2) Section 1919(c)(2) of such Act (42 U.S.C. 1396r(c)(2)) is amended by adding at the end the following new subparagraph:

"(E) INFORMATION RESPECTING ADVANCE DIRECTIVES.—A nursing facility must comply with the requirement of section 1902(u) (relating to maintaining written policies and procedures respecting advance directives).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished on or after the first day of the first month beginning more than 1 year after the date of the enactment of this Act.

(d) STUDY TO ASSESS IMPLEMENTATION OF A PATIENT'S RIGHT TO PARTICIPATE IN AND DIRECT HEALTH CARE DECISIONS AFFECTING THE PATIENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall (subject to paragraph (2)) enter into an agreement with the Institute of Medicine of the National Academy of Sciences to conduct a study with respect to the context in which directed

health care decisions (including advance directives) are made and carried out, including the incidence and processes of decisionmaking about life-sustaining treatment that occur with and without advance directives.

(2) ARRANGEMENTS FOR STUDY.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to submit an application to conduct the study described in paragraph (1). If the Institute submits an acceptable application, the Secretary shall enter into an appropriate arrangement with the Academy for the conduct of the study within 28 days of the date the application is received. If the Institute does not submit an acceptable application to conduct the study, the Secretary may request one or more appropriate nonprofit private entities to submit an application to conduct the study and may enter into an appropriate arrangement for the conduct of the study by the entity which submits the best acceptable application.

(3) REPORT.—The results of the study shall be reported to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate and the Secretary by not later than 4 years after the date of the enactment of this Act. Such report shall include such recommendations for legislation as may be appropriate to carry out further the purpose of this section.

(e) PUBLIC EDUCATION DEMONSTRATION PROJECT.—The Secretary of Health and Human Services, no later than 6 months after the date of the enactment of this Act, shall develop and implement a demonstration project in selected States to inform the public of the option to execute advance directives and of a patient's right to participate and direct health care decisions. The Secretary shall report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on the results of the project and on whether such project should be extended.

SEC. 4482. IMPROVEMENT IN QUALITY OF PHYSICIAN SERVICES.

(a) USE OF UNIQUE PHYSICIAN IDENTIFIERS.—

(1) ESTABLISHMENT OF SYSTEM.—

(A) IN GENERAL.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding after the subsections added by sections 4441(a), 4451(a)(2), and 4481(a)(2) of this title, the following new subsection:

"(v) The Secretary shall establish a system, for implementation by not later than July 1, 1991, which provides for a unique identifier for each physician who furnishes services for which payment may be made under a State plan approved under this title.".

(B) DEADLINE AND CONSIDERATIONS.—The system established under the amendment made by subparagraph (A) may be the same as, or different from, the system established under section 9202(g) of the Consolidated Omnibus Budget Reconciliation Act of 1985.

(2) REQUIRING INCLUSION WITH CLAIMS.—Section 1903(i) of the Social Security Act (42 U.S.C. 1396b(i)), as amended by sections 4401(a)(1)(B) and 4431(e)(17) of this title, is amended—

(A) by striking the period at the end of paragraph (11) and inserting "; or", and

(B) by inserting after paragraph (11) the following new paragraph:

"(12) with respect to any amount expended for physicians' services furnished on or after the first day of the first quarter beginning more than 60 days after the date of establishment of the physician identifier system under section 1902(v), unless the claim for the services includes the unique physician identifier provided under such system.".

(b) MAINTENANCE OF ENCOUNTER DATA BY HEALTH MAINTENANCE ORGANIZATIONS.—

(1) IN GENERAL.—Section 1903(m)(2)(A) of such Act (42 U.S.C. 1396b(m)(2)(A)), as amended by sections 4461(a) and 4461(b) of this title, is amended—

(A) by striking "and" at the end of clause (ix),

(B) by striking the period at the end of clause (x) and inserting "; and", and

(C) by adding at the end the following new clause:

"(xi) such contract provides for maintenance of sufficient patient encounter data to identify the physician who delivers services to patients.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to contract years beginning after the date of the establishment of the system described in section 1902(v) of the Social Security Act.

(c) MAINTENANCE OF LIST OF PHYSICIANS BY STATES.—

(1) IN GENERAL.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)), as amended by sections 4401(a)(2), 4423(a), and 4481(a) of this title, is amended—

(A) by striking "and" at the end of paragraph (55),

(B) by striking the period at the end of paragraph (56) and inserting "; and", and

(C) by inserting after paragraph (56) the following new paragraph:

"(57) maintain a list (updated not less often than monthly, and containing each physician's unique identifier provided under the system established under subsection (v)) of all physicians who are certified to participate under the State plan.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to medical assistance for calendar quarters beginning more than 60 days after the date of establishment of the physician identifier system under section 1902(v) of the Social Security Act.

(d) FOREIGN MEDICAL GRADUATE CERTIFICATION.—

(1) PASSAGE OF FMGEMS EXAMINATION IN ORDER TO OBTAIN IDENTIFIER.—The Secretary of Health and Human Service shall provide, in the identifier system established under section 1902(v) of the Social Security Act, that no foreign medical graduate (as defined in section 1886(h)(5)(D) of such Act) shall be issued an identifier under such system unless the individual—

(A) has passed the FMGEMS examination (as defined in section 1886(h)(5)(E) of such Act); or

(B) has previously received certification from, or has previously passed the examination of, the Educational Commission for Foreign Medical Graduates.

(2) EFFECTIVE DATE.—Paragraph (1) shall apply with respect to issuance of an identifier applicable to services furnished on or after January 1, 1992.

(e) MINIMUM QUALIFICATIONS FOR BILLING FOR PHYSICIANS' SERVICES TO CHILDREN AND PREGNANT WOMEN.—Section 1903(i) of the Social Security Act (42 U.S.C. 1396b(i)), as amended by sections 4401(a)(1)(B) and 4431(e)(17) of this title and subsection (a)(2) of this section, is further amended—

(1) by striking the period at the end of paragraph (13) and inserting "; or"; and

(2) by inserting after paragraph (13) the following new paragraph:

"(14) with respect to any amount expended for physicians' services furnished by a physician on or after January 1, 1992, to—

"(A) a child under 21 years of age, unless the physician—

"(i) is certified in family practice or pediatrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or pediatrics,

"(ii) is employed by, or affiliated with, a Federally-qualified health center (as defined in section 1905(l)(2)(B)),

"(iii) holds admitting privileges at a hospital participating in a State plan approved under this title,

"(iv) is a member of the National Health Service Corps, or

"(v) documents a current, formal, consultation and referral arrangement with a pediatrician or family practitioner who has the certification described in clause (i) for purposes of specialized treatment and admission to a hospital; or

"(B) to a pregnant woman (or during the 60 day period beginning on the date of termination of the pregnancy) unless the physician—

"(i) is certified in family practice or obstetrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or obstetrics,

"(ii) is employed by, or affiliated with, a Federally-qualified health center (as defined in section 1905(l)(2)(B)),

"(iii) holds admitting privileges at a hospital participating in a State plan approved under this title,

"(iv) is a member of the National Health Service Corps, or

"(v) documents a current, formal, consultation and referral arrangement with a obstetrician or family practitioner who has the certification described in clause (i) for purposes of specialized treatment and admission to a hospital.".

(f) REPORTING OF MISCONDUCT OR SUBSTANDARD CARE.—

(1) IN GENERAL.—Section 1921(a) of such Act (42 U.S.C. 1396r-2(a)) is amended—

(A) in paragraph (1), in the matter before subparagraph (A), by inserting "(or any peer review organization or private accreditation entity reviewing the services provided by health care practitioners)" after "health care practitioners"; and

(B) in paragraph (1), by adding at the end the following new subparagraph:

"(D) Any negative action or finding by such authority, organization, or entity regarding the practitioner or entity.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to State information reporting systems as of January 1, 1992, without regard to whether or not the Secretary of Health and Human Services has promulgated any regulations to carry out such amendments by such date.

SEC. 4483. CLARIFICATION OF AUTHORITY OF INSPECTOR GENERAL.

Section 1128A(j) of the Social Security Act (42 U.S.C. 1320a-7a(j)) is amended—

(1) by striking "(j)" and inserting "(j)(1)"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary may delegate authority granted under this section and under section 1128 to the Inspector General of the Department of Health and Human Services.".

SEC. 4184. NOTICE TO STATE MEDICAL BOARDS WHEN ADVERSE ACTIONS TAKEN.

(a) IN GENERAL.—Section 1902(a)(41) of the Social Security Act (42 U.S.C. 1396a(a)(41)) is amended by inserting "and, in the case of a physician and notwithstanding paragraph (7), the State medical licensing board" after "shall promptly notify the Secretary".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sanctions effected more than 60 days after the date of the enactment of this Act.

SEC. 4485. MISCELLANEOUS PROVISIONS.

(a) PSYCHIATRIC HOSPITALS.—

(1) CLARIFICATION OF COVERAGE OF INPATIENT PSYCHIATRIC HOSPITAL SERVICES.—

(A) IN GENERAL.—Section 1905(h)(1)(A) of the Social Security Act (42 U.S.C. 1396d(h)(1)(A)), as amended by section 2340(b) of the Deficit Reduction Act of 1984, is amended by inserting "or in another inpatient setting that the Secretary has specified in regulations" after "1861(f)".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall be effective as if included in the enactment of the Deficit Reduction Act of 1984.

(2) INTERMEDIATE SANCTIONS FOR PSYCHIATRIC HOSPITALS.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding after the subsections added by sections 4441(a), 4451(a)(2), 4481(a)(2) and 4482(a)(1), the following new subsection:

"(w)(1) In addition to any other authority under State law, where a State determines that a psychiatric hospital which is certified for participation under its plan no longer meets the requirements for a psychiatric hospital (referred to in section 1905(h)) and further finds that the hospital's deficiencies—

"(A) immediately jeopardize the health and safety of its patients, the State shall terminate the hospital's participation under the State plan; or

"(B) do not immediately jeopardize the health and safety of its patients, the State may terminate the hospital's participation under the State plan, or provide that no payment will be made under the State plan with respect to any individual admitted to such hospital after the effective date of the finding, or both.

"(2) Except as provided in paragraph (3), if a psychiatric hospital described in paragraph (1)(B) has not complied with the requirements for a psychiatric hospital under this title—

"(A) within 3 months after the date the hospital is found to be out of compliance with such requirements, the State shall provide that no payment will be made under the State plan with respect to any individual admitted to such hospital after the end of such 3-month period, or

"(B) within 6 months after the date the hospital is found to be out of compliance with such requirements, no Federal financial participation shall be provided under section 1903(a) with respect to further services provided in the hospital until the State finds that the hospital is in compliance with the requirements of this title.

"(3) The Secretary may continue payments, over a period of not longer than 6 months from the date the hospital is found to be out of compliance with such requirements, if—

"(A) the State finds that it is more appropriate to take alternative action to assure compliance of the hospital with the requirements than to terminate the certification of the hospital,

"(B) the State has submitted a plan and timetable for corrective action to the Secretary for approval and the Secretary approves the plan of corrective action, and

"(C) the State agrees to repay to the Federal Government payments received under this paragraph if the corrective action is not taken in accordance with the approved plan and timetable.".

(b) STATE UTILIZATION REVIEW SYSTEMS.—Section 9432 of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "IN GENERAL.—",

(B) by striking ", during the period" and all that follows through "Congress,", and

(C) by adding at the end the following new paragraph:

"(2) The Secretary may not, during the period beginning on the date of the enactment of the Omnibus Budget Reconciliation Act of 1990 and ending on the date that is 180 days after the date on which the report required by subsection (d) is submitted to the Congress, publish final or interim final regulations requiring a State plan approved under title XIX of the Social Security Act to include a program for ambulatory surgery, preadmission testing, or same-day surgery.";

(2) in subsection (b)(4), by inserting "and subsection (d)" after "In this subsection"; and

(3) by adding at the end the following new subsection:

"(d) REPORT.—The Secretary shall report to Congress, by not later than January 1, 1993, for each State in a representative sample of States—

"(1) an analysis of the procedures for which programs for ambulatory surgery, preadmission testing, and same-day surgery are appropriate for patients who are covered under the State medicaid plan, and

"(2) the effects of such programs on access of such patients to necessary care, quality of care, and costs of care.

In selecting such a sample of States, the Secretary shall include some States with medicaid plans that include such programs.".

(c) ADDITIONAL MISCELLANEOUS PROVISIONS.—

(1) Effective July 1, 1990—

(A) section 1902(a)(10)(C)(iv) of the Social Security Act is amended by striking "through (20)" and inserting "through (21)", and

(B) section 1902(j) of such Act is amended by striking "through (21)" and inserting "through (22)".

(2) Effective as if included in subtitle D of title VI of the Omnibus Budget Reconciliation Act of 1989, section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j) is amended by adding at the end the following: "This paragraph does not authorize the withholding of information from either House of Congress or from, to the extent of matter within its jurisdiction, any committee or subcommittee of such committee or any joint committee of Congress or any subcommittee of such joint committee.".

(3) Section 505(b) of the Social Security Act (42 U.S.C. 705(b)) is amended in the matter preceding paragraph (1) by striking "requirement" and inserting "requirements".

Subtitle C—Energy and Miscellaneous User Fees

PART 1—ENERGY

SEC. 4501. SOLAR, WIND, WASTE, AND GEOTHERMAL POWER PRODUCTION INCENTIVES.

(a) AMENDMENTS TO PURPA.—Section 210 of the Public Utility Regulatory Policies Act of 1978 is amended as follows:

(1) In subsection (a), strike out ", and to encourage geothermal small power production facilities of not more than 80 megawatts capacity,".

(2) In subsection (e)(2), insert "(other than a qualifying small power production facility which is a solar, wind, waste, or geothermal facility as defined in section 3(17)(E) of the Federal Power Act)" after "facility" where it first appears, and strike out ", or 80 megawatts for a qualifying small power production facility using geothermal energy as its primary energy source,".

(b) AMENDMENT OF FEDERAL POWER ACT.—Section 3(17) of the Federal Power Act is amended as follows:

(1) In subparagraph (A), insert "a facility which is a solar, wind, waste, or geothermal facility, or" after " 'small power production facility' means".

(2) Insert at the end thereof the following new subparagraph—

"(E) 'solar, wind, waste or geothermal facility' means a facility which produces electric energy solely by the use, as a primary energy source, of solar energy, wind energy, waste, or geothermal resources;".

(c) REGULATIONS.—Unless the Federal Energy Regulatory Commission otherwise specifies, by rule, after the enactment of this Act, any solar, wind, waste, or geothermal facility (as defined in section 3(17)(E) of the Federal Power Act as amended by this Act), which is a qualifying small power production facility (as defined in subparagraph (C) of section 3(17) of the Federal Power Act as amended by this Act)—

(1) shall be considered a qualifying small power production facility for purposes of part 292 of title 18, Code of Federal Regulations, notwithstanding any size limitations contained in such part, and

(2) shall not be subject to the size limitation contained in section 292.601(b) of such part.

SEC. 4502. NRC USER FEES AND ANNUAL CHARGES.

(a) ANNUAL ASSESSMENT.—

(1) AMOUNT.—The Nuclear Regulatory Commission (hereafter in this section referred to as the "Commission") shall annually assess and collect such fees and charges as are described in subsections (b) and (c) in an amount that approximates 100 percent of the budget authority of the Commission in the fiscal year in which such assessment is made less any amount appropriated to the Commission from the Nuclear Waste Fund in such fiscal year.

(2) FIRST ASSESSMENT.—The first such assessment shall be made not later than September 30, 1991, and shall be based on the budget authority of the Commission for fiscal year 1991.

(b) FEES FOR SERVICE OR THING OF VALUE.—Pursuant to section 9701 of title 31, United States Code, any person who receives a service or thing of value from the Commission shall pay fees to cover the Commission's costs in providing any such service or thing of value.

(c) ANNUAL CHARGES.—

(1) PERSONS SUBJECT TO CHARGE.—Any person who holds a license issued under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)) that authorizes such person to operate a utilization

facility with a rated thermal capacity in excess of 50,000,000 watts shall pay, in addition to the fees set forth in subsection (b), an annual charge.

(2) AGGREGATE AMOUNT OF CHARGES.—The aggregate amount of the annual charge collected from all persons described in paragraph (1) shall equal an amount that approximates 100 percent of the budget authority of the Commission in the fiscal year in which such charge is collected, less any amount appropriated to the Commission from the Nuclear Waste Fund and the amount of fees collected under subsection (b) in such fiscal year.

(3) AMOUNT PER LICENSEE.—The Commission shall establish, by rule, a schedule of charges fairly and equitably allocating the aggregate amount of charges described in paragraph (2) among the licensees described in paragraph (1). The charges shall have a reasonable relationship to the cost of providing regulatory services and may be based on the allocation of the Commission's resources among licensees or classes of licensees described in paragraph (1).

(d) DEFINITION.—As used in this section, "Nuclear Waste Fund" means the fund established pursuant to section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)).

(e) REPEAL.—Title VII of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272) is amended by striking subtitle G. This repeal shall become effective upon promulgation of the Nuclear Regulatory Commission's final rule implementing this section.

PART 2—RAILROAD USER FEES

SEC. 4511. AMENDMENTS TO FEDERAL RAILROAD SAFETY ACT OF 1970.

(a) USER FEES.—The Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"SEC. 216. USER FEES.

"(a)(1) The Secretary shall establish a schedule of fees to be assessed equitably to railroads, in reasonable relationship to an appropriate combination of criteria such as revenue ton-miles, track miles, passenger miles, or other relevant factors, but shall not be based on the proportion of industry revenues attributable to a railroad or class of railroads.

"(2) The Secretary shall establish procedures for the collection of such fees. The Secretary may use the services of any Federal, State, or local agency or instrumentality to collect such fees, and may reimburse such agency or instrumentality a reasonable amount for such services.

"(3) Fees established under this section shall be assessed to railroads subject to this Act and shall cover the costs of administering this Act, other than activities described in section 202(a)(2).

"(b) The Secretary shall assess and collect fees described in subsection (a) with respect to each fiscal year before the end of such fiscal year.

"(c) All fees collected under subsection (b) shall be deposited into the General Fund of the United States Treasury as offsetting receipts and shall be used, to the extent provided in advance in appropriations Acts, only to carry out activities under this Act.

"(d) Fees established under subsection (a) shall be assessed in an amount sufficient to cover activities described in subsection (c) beginning on March 1, 1991, but at no time shall the aggregate of fees received for any fiscal year under this section exceed 105 percent of the aggregate of appropriations made for such fiscal year for activities to be funded by such fees.

"(e)(1) Within 90 days after the end of each fiscal year in which fees are collected pursuant to this section, the Secretary shall report to the Congress—

"(A) the amount of fees collected during that fiscal year;

"(B) the impact of such fee collections on the financial health of the railroad industry and its competitive position relative to each competing mode of transportation; and

"(C) the total cost of Federal safety activities for each such other mode of transportation, including the portion of that total cost, if any, defrayed by Federal user fees.

"(2) With respect to any fiscal year for which the Secretary's report submitted under paragraph (1) finds—

"(A) any impact of fees collected under this section either on the financial health of the railroad industry, or on its competitive position relative to competing modes of transportation; or

"(B) any significant difference in the burden of Federal user fees borne by the railroad industry and those applicable to competing modes of transportation,

the Secretary shall, within 90 days after submission of such report, prepare and submit to the Congress specific recommendations for legislation to correct any such impact or difference.

"(f) This section shall expire on September 30, 1995.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 214(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444(a)) is amended to read as follows:

"(a) There are authorized to be appropriated to carry out this Act not to exceed $46,884,000 for fiscal year 1991.".

PART 3—TRAVEL AND TOURISM USER FEES

SEC. 4521. UNITED STATES TRAVEL AND TOURISM USER FEE.

(a) IN GENERAL.—Sections 304 and 305 of the International Travel Act of 1961 (22 U.S.C. 2126-2127) are redesignated as sections 306 and 307, respectively, and the following is inserted after section 303:

"SEC. 304. (a) To the extent not inconsistent with international treaties or agreements entered into by the United States, the Secretary shall charge a United States Travel and Tourism Administration user fee, in an amount determined under subsection (b), to every alien described in section 101(a)(15)(B) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(B)) arriving at any port within the United States aboard any commercial aircraft or cruise ship from any place outside the United States.

"(b)(1) During the period from April 1, 1991, through March 30, 1992, the fee described in subsection (a) shall be $1.

"(2) No later than December 31 of each calendar year commencing in 1991, the Secretary shall determine and publish the amount of the fee described in subsection (a) for the 12-month period commencing on April 1 of the succeeding calendar year, as follows:

"(A) The Secretary (in consultation with the Attorney General and the Secretary of State) shall estimate the number of aliens described in section 101(a)(15)(B) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(B)) expected to enter the United States during such succeeding calendar year aboard a commercial aircraft or cruise ship (other than aliens entering from a country with which the United States has entered into an international treaty or agreement barring the fee described in subsection (a)), based upon the number of such aliens who entered the United States during the previous calendar year (as reported or estimated by the Attorney General) and such other available information as the Secretary deems reliable.

"(B) The Secretary shall divide the amount appropriated to the United States Travel and Tourism Administration for the fiscal year during which such determination is made by the number of aliens described in subparagraph (A) expected by the Secretary to enter the United States during the calendar year described in such subparagraph, and shall round off the result (up or down) to the nearest quarter-dollar.

"(C) The Secretary shall publish in the Federal Register the estimate required by subparagraph (A), together with a description of the information supporting such estimate, and the amount of the fee determined under subparagraph (B) which shall be applicable during the 12-month period commencing on April 1 of the succeeding calendar year.

"(3) Neither the estimate of the Secretary under paragraph (2)(A) nor the amount determined by the Secretary under paragraph (2)(B) shall be subject to judicial review.

"(c) The fee charged to an alien under subsection (a) shall be collected on behalf of the Secretary by the commercial airline or cruise ship line on which such alien arrived in the United States. No later than 31 days after the close of the calendar quarter in which such alien arrived in the United States, the commercial airline or cruise ship line shall remit the fee collected under this subsection, in United States dollars, to the Secretary of the Treasury for deposit, as offsetting receipts, in the General Fund of the United States Treasury.

"(d) Subsections (a) through (c) shall take effect on April 1, 1991.".

(b) CIVIL PENALTIES AND ENFORCEMENT.—The International Travel Act of 1961 is amended by inserting after section 304 (as added by section 4505) the following:

"SEC. 305. (a) Any commercial airline or commercial cruise ship line which is found by the Secretary or the Secretary's designee, after notice and an opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code, to have failed to pay to the Secretary of the Treasury, by the due date, the fee charged by the Secretary under section 304(a), may be ordered by the Secretary or the Secretary's designee to pay any fee amount outstanding plus interest on any late payment and, in addition, to pay a civil penalty not to exceed $5,000 for each day payment to the Secretary of the Treasury is not made or was made late. The amount of such civil penalty shall be assessed by the Secretary or the Secretary's designee by written notice. In determining the amount of such penalty, the Secretary or the Secretary's designee shall take into account the nature, circumstances, extent, and gravity of the violation, and, with respect to the violator, the degree of culpability, and history of prior offenses, ability to pay, and such other matters as justice may require. Each day a payment to the Secretary of the Treasury required by this Act is late shall constitute a separate violation of this Act.

"(b) If any commercial airline or cruise ship line fails to pay as ordered by the Secretary or the Secretary's designee, the Attorney General may, upon request of the Secretary, bring a civil action in any appro-

priate United States district court for the recovery of the amount ordered to be paid.

"(c) Before requesting the Attorney General to bring a civil action, the Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under subsection (a).

"(d) For the purpose of conducting any hearing under subsection (a), the Secretary or the Secretary's designee may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this subsection, the United States district court for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or the Secretary's designee or to appear and produce papers, books, and documents before the Secretary or the Secretary's designee, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.".

PART 4—EPA USER FEES

SEC. 4531. RADON TESTING FEES.

For provisions of law providing for the charging by the Environmental Protection Agency of fees relating to radon testing fees, see section 305(e)(2) of the Toxic Substances Control Act.

SEC. 4532. MOTOR VEHICLE COMPLIANCE PROGRAM FEES.

For provisions providing for the charging by the Environmental Protection Agency of motor vehicle compliance program fees, see section 217 of H.R. 3030 ("Clean Air Act Amendments of 1990", As Passed the House of Representatives (101st Congress).

TITLE V—COMMITTEE ON INTERIOR AND INSULAR AFFAIRS.

Subtitle A—Nuclear Regulatory Commission User Fees

SEC. 5101. USER FEES AND ANNUAL CHARGES.

(a) AMENDMENT TO ATOMIC ENERGY ACT.—Chapter 19 of the Atomic Energy Act of 1954 (42 U.S.C. 2015 et seq.) is amended by adding at the end the following new section:

"SEC. 292. USER FEES AND ANNUAL CHARGES.

"(a) ANNUAL ASSESSMENT.—

"(1) AMOUNT.—The Nuclear Regulatory Commission (hereafter in this section referred to as the 'Commission') shall annually assess and collect such fees and charges as are described in subsections (b) and (c) in an amount that approximates 100 percent of the budget authority of the Commission in the fiscal year in which such assessment is made less any amount appropriated to the Commission from the Nuclear Waste Fund in such fiscal year.

"(2) FIRST ASSESSMENT.—The first such assessment shall be made not later than September 30, 1991, and shall be based on the budget authority of the Commission for fiscal year 1991.

"(b) FEES FOR SERVICE OR THING OF VALUE.—Pursuant to section 9701 of title 31, United States Code, any person who receives a service or thing of value from the Commission shall pay fees to cover the Commission's costs in providing any such service or thing of value.

"(c) ANNUAL CHARGES.—

"(1) PERSONS SUBJECT TO CHARGE.—Any person who holds a license issued under section 103 or 104 b. that authorizes such person to operate a utilization facility with a rated thermal capacity in excess of 50,000,000 watts shall pay, in addition to the fees set forth in subsection (b), an annual charge.

"(2) AGGREGATE AMOUNT OF CHARGES.—The aggregate amount of the annual charge collected from all persons described in paragraph (1) shall equal an amount that approximates 100 percent of the budget authority of the Commission in the fiscal year in which such charge is collected, less any amount appropriated to the Commission from the Nuclear Waste Fund and the amount of fees collected under subsection (b) in such fiscal year.

"(3) AMOUNT PER LICENSEE.—The Commission shall establish, by rule, a schedule of charges fairly and equitably allocating the aggregate amount of charges described in paragraph (2) among the licensees described in paragraph (1). The charges shall have a reasonable relationship to the cost of providing regulatory services and may be based on the allocation of the Commission's resources among licensees or classes of licensees described in paragraph (1).

"(d) DEFINITION.—As used in this section, 'Nuclear Waste Fund' means the fund established pursuant to section 302 (c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222 (c)).".

(b) REPEAL.—Title VII of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272) is amended by striking subtitle G. This repeal shall become effective upon promulgation of the Nuclear Regulatory Commission's final rule implementing section 292 of the Atomic Energy Act of 1954.

(c) TABLE OF CONTENTS.—The table of contents of the Atomic Energy Act of 1954 is amended by adding after the item relating to section 291 the following new item:

"Sec. 292. User fees and annual charges.".

Subtitle B—Tongass Timber Reform

SEC. 5201. SHORT TITLE.

This subtitle may be cited as the "Tongass Timber Reform Act".

CHAPTER 1—ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT AMENDMENTS

SEC. 5211. TO REQUIRE ANNUAL APPROPRIATIONS FOR TIMBER MANAGEMENT AND RESOURCE CONSERVATION ON THE TONGASS NATIONAL FOREST.

Section 705(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539d(a)) is repealed effective October 1, 1990.

SEC. 5212. IDENTIFICATION OF LANDS UNSUITABLE FOR TIMBER PRODUCTION.

Section 705(d) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539d(d)) is hereby repealed.

SEC. 5213. FUTURE REPORTS ON THE TONGASS NATIONAL FOREST.

(a) MONITORING.—Section 706(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539e(a)) is amended—

(1) by striking "the Committee on Interior and Insular Affairs" and inserting "the Committee on Agriculture and the Committee on Interior and Insular Affairs"; and

(2) by striking the second sentence and inserting the following new sentence: "This report shall include a complete analysis of the losses or gains sustained by the United States Government with respect to long-term, short-term and total sales of timber from the Tongass National Forest using information from the statement on revenues and expenses of the Timber Sale Program Information Reporting System and shall display total costs, unit costs (per thousand board feet of timber sold or released) and associated revenues, for the current and previous two years of operations.".

(b) STATUS.—Section 706(b) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539e(b)) is amended as follows:

(1) Strike out "and (4)" and insert in lieu thereof "(4)".

(2) Strike the period at the end of the section and insert ", (5) the impact of timber management on subsistence resources, wildlife, and fisheries habitats, and (6) the steps taken by the Secretary of Agriculture under section 5241(c) of the Tongass Timber Reform Act.".

(c) CONSULTATION.—Section 706(c) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539e(c)) is amended by striking out "and the Alaska Land Use Council" and inserting in lieu thereof "the southeast Alaska commercial fishing industry, and the Alaska Land Use Council".

SEC. 5214. ADMINISTRATION.

Section 705 (16 U.S.C. 539d) of the Alaska National Interest Lands Conservation Act is amended by adding at the end thereof the following:

"(e) FISHERIES PROTECTION.—In order to assure protection of riparian habitat, the Secretary of Agriculture shall maintain a buffer zone of a minimum of 100 feet in width within which logging shall be prohibited on each side of all anadromous fish streams in the Tongass National Forest, and their tributaries, except those tributaries with no resident fish populations which are intermittent in flow, or have flow of inadequate magnitude to directly influence downstream fish habitat.

"(f) TENAKEE SPRINGS ROAD PROHIBITION.—A vehicular access road connecting the Indian River and Game Creek roads may not be constructed, and the Secretary of Agriculture shall not engage in any further efforts to connect the city of Tenakee Springs with the logging road system on Chichagof Island.".

CHAPTER 2—TERMINATION OF LONG-TERM TIMBER SALE CONTRACTS IN ALASKA

SEC. 5221. TERMINATION.

Title V of the Alaska National Interest Lands Conservation Act is amended by adding at the end thereof the following new section:

"SEC. 508. TERMINATION OF LONG-TERM TIMBER SALE CONTRACTS IN ALASKA.

"(a) FINDING.—The Congress hereby finds and declares that it is in the national interest to assure that valuable public resources in the Tongass National Forest are protected and wisely managed. Termination of the long-term timber sale contracts is necessary because the contracts prevent proper Forest Service management, allow the holders to concentrate logging in the rare, high-volume old growth forest most valuable for fish and wildlife habitat, threaten natural resource dependent communities and industries, and undermine competition within the southeast Alaska timber industry.

"(b) TERMINATION OF LONG-TERM TIMBER SALE CONTRACTS.—Not later than 90 days after the date of enactment of this section, the Secretary of Agriculture shall terminate the long-term timber sale contracts num-

bered 12-11-010-1545 and A10fs-1042 between the United States and Alaska Pulp Corporation, and between the United States and Ketchikan Pulp Company, respectively.

"(c) SUBSTITUTION OF SHORT-TERM TIMBER SALES.—The Secretary of Agriculture is authorized to make available sufficient volumes of timber to meet actual market demand as determined pursuant to planning process specified in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 and other applicable laws. Timber sales shall be offered for competitive bid and administered consistent with standard, short-term timber sales on other national forests.".

CHAPTER 3—WILDERNESS

SEC. 5231. ADDITIONAL WILDERNESS AREAS.

(a) DESIGNATION.—Section 703 of the Alaska National Interest Lands Conservation Act is amended by adding at the end thereof the following:

"(c) DESIGNATION OF ADDITIONAL WILDERNESS ON THE TONGASS NATIONAL FOREST.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands within the Tongass National Forest in the State of Alaska are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System:

"(1) ANAN CREEK WILDERNESS.—Certain lands which comprise approximately 38,415 acres, as generally depicted on a map entitled 'Anan Creek Wilderness—Proposed' and dated May 1989, which shall be known as the Anan Creek Wilderness.

"(2) BERNERS BAY WILDERNESS.—Certain lands which comprise approximately 46,135 acres, as generally depicted on a map entitled 'Berners Bay Wilderness—Proposed' and dated May 1989, which shall be known as the Berners Bay Wilderness.

"(3) CALDER-HOLBROOK WILDERNESS.—Certain lands which comprise approximately 68,693 acres, as generally depicted on a map entitled 'Calder-Holbrook Wilderness—Proposed' and dated May 1989, which shall be known as the Calder-Holbrook Wilderness.

"(4) CHICHAGOF WILDERNESS.—Certain lands which comprise approximately 347,733 acres, as generally depicted on a map entitled 'Chichagof Wilderness—Proposed' and dated May 1989, which shall be known as the Chichagof Wilderness.

"(5) CHUCK RIVER WILDERNESS.—Certain lands which comprise approximately 124,539 acres, as generally depicted on a map entitled 'Chuck River Wilderness—Proposed' and dated May 1989, which shall be known as the Chuck River Wilderness.

"(6) KADASHAN WILDERNESS.—Certain lands which comprise approximately 34,044 acres, as generally depicted on a map entitled 'Kadashan Wilderness—Proposed' and dated May 1989, which shall be known as the Kadashan Wilderness.

"(7) KARTA RIVER WILDERNESS.—Certain lands which comprise approximately 39,886 acres, as generally depicted on a map entitled 'Karta River Wilderness—Proposed' and dated May 1989, which shall be known as the Karta River Wilderness.

"(8) KEGAN LAKE WILDERNESS.—Certain lands which comprise approximately 24,655 acres, as generally depicted on a map entitled 'Kegan Lake Wilderness—Proposed' and dated May 1989, which shall be known as the Kegan Lake Wilderness.

"(9) NAHA RIVER WILDERNESS.—Certain lands which comprise approximately 31,794 acres, as generally depicted on a map entitled 'Naha River Wilderness—Proposed' and dated May 1989, which shall be known as the Naha River Wilderness.

"(10) NUTKWA WILDERNESS.—Certain lands which comprise approximately 52,654 acres, as generally depicted on a map entitled 'Nutkwa Wilderness—Proposed' and dated May 1989, which shall be known as the Nutkwa Wilderness.

"(11) OUTSIDE ISLANDS WILDERNESS.—Certain lands which comprise approximately 98,572 acres, as generally depicted on a map entitled 'Outside Islands Wilderness—Proposed' and dated May 1989, which shall be known as the Outside Islands Wilderness.

"(12) PLEASANT-LEMESURIER-INIAN ISLANDS WILDERNESS.—Certain lands which comprise approximately 23,140 acres, as generally depicted on a map entitled 'Pleasant-Lemesurier-Inian Islands Wilderness—Proposed' and dated May 1989, which shall be known as the Pleasant-Lemesurier-Inian Islands Wilderness.

"(13) POINT ADOLPHUS-MUD BAY WILDERNESS.—Certain lands which comprise approximately 73,346 acres, as generally depicted on a map entitled 'Point Adolphus-Mud Bay Wilderness—Proposed' and dated May 1989, which shall be known as the Point Adolphus-Mud Bay Wilderness.

"(14) PORT HOUGHTON-SANBORN CANAL WILDERNESS.—Certain lands which comprise approximately 58,915 acres, as generally depicted on a map entitled 'Port Houghton-Sanborn Canal Wilderness—Proposed' and dated May 1989, which shall be known as the Port Houghton-Sanborn Canal Wilderness.

"(15) ROCKY PASS WILDERNESS.—Certain lands which comprise approximately 75,734 acres, as generally depicted on a map entitled 'Rocky Pass Wilderness—Proposed' and dated May 1989, which shall be known as the Rocky Pass Wilderness.

"(16) SARKAR LAKES WILDERNESS.—Certain lands which comprise approximately 25,650 acres, as generally depicted on a map entitled 'Sarkar Lakes Wilderness—Proposed' and dated May 1989, which shall be known as the Sarkar Lakes Wilderness.

"(17) SOUTH ETOLIN ISLAND WILDERNESS.—Certain lands which comprise approximately 83,642 acres, as generally depicted on a map entitled 'South Etolin Island Wilderness—Proposed' and dated May 1989, which shall be known as the South Etolin Island Wilderness.

"(18) SOUTH KUIU WILDERNESS.—Certain lands which comprise approximately 191,532 acres, as generally depicted on a map entitled 'South Kuiu Wilderness—Proposed' and dated May 1989, which shall be known as the South Kuiu Wilderness.

"(19) SULLIVAN ISLAND WILDERNESS.—Certain lands which comprise approximately 4,032 acres, as generally depicted on a map entitled 'Sullivan Island Wilderness—Proposed' and dated May 1989, which shall be known as the Sullivan Island Wilderness.

"(20) TRAP BAY WILDERNESS.—Certain lands which comprise approximately 6,667 acres, as generally depicted on a map entitled 'Trap Bay Wilderness—Proposed' and dated May 1989, which shall be known as the Trap Bay Wilderness.

"(21) WEST DUNCAN CANAL WILDERNESS.—Certain lands which comprise approximately 134,627 acres, as generally depicted on a map entitled 'West Duncan Canal Wilderness—Proposed' and dated May 1989, which shall be known as the West Duncan Canal Wilderness.

"(22) YAKUTAT FORELANDS WILDERNESS.—Certain lands which comprise approximately 220,268 acres, as generally depicted on a map entitled 'Yakutat Forelands Wilderness—Proposed' and dated May 1989, which shall be known as the Yakutat Forelands Wilderness.

"(23) YOUNG LAKE WILDERNESS ADDITION TO ADMIRALTY ISLAND NATIONAL MONUMENT.—Certain lands which comprise approximately 18,702 acres, as generally depicted on a map entitled 'Young Lake Wilderness—Proposed' and dated May 1989, which shall be managed as an addition to the Admiralty Island National Monument.

"(d) APPLICATION OF SECTION 1315(e).—Section 1315(e) of this Act (16 U.S.C. 3203(e)) shall not apply to the wilderness designated by subsection (c).".

(b) ADMINISTRATION.—Section 707 of the Alaska National Interest Lands Conservation Act is amended by adding the following at the end thereof: "Subject to valid existing rights, the wilderness areas designated in amendments made to section 703(c) of this Act by the Tongass Timber Reform Act shall be administered by the Secretary of Agriculture in accordance with this section, except that, in the case of such areas, any reference in the provisions of the Wilderness Act to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of enactment of the Tongass Timber Reform Act.".

CHAPTER 4—IMPROVEMENT OF THE MANAGEMENT OF THE TONGASS NATIONAL FOREST

SEC. 5241. MANAGEMENT OF THE TONGASS NATIONAL FOREST.

(a) FINDINGS.—The Congress finds that—

(1) the commercial fishing, recreation, timber, and tourism industries each make a substantial contribution to the economy of southeast Alaska and their ability to contribute in the future depends upon balanced planning and management of the Tongass National Forest; and

(2) the Secretary of Agriculture should plan and manage the Tongass National Forest in a manner that adequately protects and enhances fish, wildlife, and recreation resources, as well as timber, and should act in the long-term best interests of all natural resources dependent industries and subsistence communities in southeast Alaska.

(b) PURPOSES.—The purposes of this section are to require the Secretary of Agriculture to—

(1) assess the extent to which planning and management of the Tongass National Forest prior to the enactment of this Act has differed from planning for, and management of, other national forests; and

(2) change, in conformance with laws applicable to the National Forest System, planning and management priorities regarding the Tongass National Forest so as to assure that greater emphasis is given to the long-term best interests of the commercial fishing, recreation, and tourism industries, subsistence communities in southeast Alaska, and the national interest in the fish and wildlife and other natural resources of the Tongass National Forest.

(c) DIRECTIVE.—The Secretary of Agriculture is authorized and directed to take such steps as are necessary in current management practices and in revisions of the Tongass land management plan to achieve the purposes described in subsection (b).

(d) OLD-GROWTH FOREST MANAGEMENT.—In developing the land management plan for the Tongass National Forest pursuant to section 6 of the Forest and Rangeland Re-

newable Resources Planning Act of 1974, the Secretary shall—

(1) provide for sustained production of old-growth forest resources within the Tongass National Forest; and

(2) upon completion of the draft of such plan, which shall be completed in any event not later than one year after the date of enactment of this Act, report to the Committees on Agriculture and on Interior and Insular Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on provisions incorporated into such plan to meet the objective set forth in paragraph (1). The report shall include—

(A) the definition of the term "old-growth forest" used for purposes of such plan;

(B) the quantity and distribution of old-growth forest in the Tongass National Forest;

(C) the management objectives and guidelines incorporated into such plan to provide for sustained production of old-growth forest resources;

(D) the criteria used to determine how to integrate old-growth forest management objectives into the plan; and

(E) the relationship between old-growth forest management objectives and other resource management goals affecting timber, fish and wildlife, water quality, recreation, subsistence uses, and aesthetics.

Subtitle C—Oil Shale Claims Reform

SEC. 5301. FINDINGS.

The Congress finds that:

(1) Certain oil shale mining claims were located pursuant to the General Mining Act of May 10, 1872, before enactment of the Mineral Leasing Act of February 25, 1920, which provides for the leasing of that mineral.

(2) Section 37 of the Mineral Leasing Act permitted oil shale claims that were "maintained in compliance with the laws under which initiated" to be perfected under such laws.

(3) The holders of those oil shale claims that have not been patented have been afforded ample opportunity to apply for patents over the last 70 years but have failed to take such action.

(4) Both the Mining Act of 1872 and the Mineral Leasing Act were intended to accomplish the development of the mineral resources of the Nation, including oil shale.

(5) Almost none of the oil shale claims have been developed for their oil shale in the intervening 70 years.

(6) The continued existence of these oil shale claims restricts the lands from the development of other minerals which may exist on the claimed lands.

(7) The continued existence of these oil shale claims interferes with the effective management of Federal lands.

(8) Issuing patents at this time for claims for which a right to patent has not vested would likely result in nonmineral development contrary to the intent of the Mining Act of 1872 and the Mineral Leasing Act.

(9) The lands embraced in an unpatented claim remain subject to the disposing power of the Congress until all conditions imposed by law for issuance of a patent are fully satisfied.

(10) Either the conversion of valid oil shale claims to leases or requiring diligent work toward production on such claims, together with the cancellation of invalid claims, would promote mineral development including for oil shale.

(11) It is in the public interest for these claims to be brought to some final resolution so that Federal lands affected may be properly managed for their mineral and other values in accordance with the laws and policies of the United States.

SEC. 5302. AMENDMENT TO THE MINERAL LEASING ACT.

Section 37 of the Mineral Leasing Act (30 U.S.C. 193) is amended by inserting "(a)" before the first sentence and by adding the following new subsections at the end thereof:

"(b)(1) The Secretary of the Interior shall undertake an expedited program to determine the validity of all unpatented oil shale claims referred to in subsection (a). The expedited program shall include an examination of all unpatented oil shale claims, including those for which a patent application has not been filed. If a claim is determined to be invalid, the Secretary shall promptly declare the claim to be null and void and cancel it.

"(2) Not later than 30 days after the enactment of this subsection the Secretary shall publish proposed regulations in the Federal Register containing standards and criteria for determining the validity of all unpatented oil shale claims referred to in subsection (a). Final regulations shall be promulgated within 180 days after the date such proposed regulations are published. The Secretary shall make a determination with respect to the validity of each such claim within 2 years after the promulgation of such final regulations. In making such determinations the Secretary shall give priority to those claims which meet the requirements of paragraphs (1) and (2) of subsection (c) and subsection (f).

"(c) Except as provided in subsection (f), after January 24, 1989, no patent shall be issued by the United States for any oil shale claim referred to in subsection (a) unless the Secretary of the Interior determines that, for the claim concerned—

"(1) a patent application was filed with the Secretary on or before January 24, 1989, and

"(2) all requirements established under sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) were fully complied with by that date.

"(d)(1) The holder of each oil shale claim for which no patent may be issued by reason of subsection (c) shall make an election under paragraph (2) or paragraph (3) of this subsection. Not later than 30 days after the enactment of this subsection, the Secretary shall notify the holder of each such claim of the requirement to make such election. The holder shall make the election by certified mail within 60 days after receiving such notification. Failure to make an election within such period, shall be deemed conclusively to constitute a forfeiture of the claim and the claim shall be null and void.

"(2) The holder of a claim required to make an election under this subsection may elect to apply to the Secretary for a lease under section 21. The Secretary shall promptly provide a lease application to any claimholder who makes such election and the claimholder shall file an application for a lease within 90 days after receiving such application. Upon receiving such an application the Secretary shall issue a lease to the holder of such claim for the area covered by the claim if the claim is determined to be valid. A lease under this paragraph shall be issued in accordance with the provisions of section 21 except as follows:

"(A) The term of the lease shall be 20 years and for so long thereafter as oil shale or associated minerals are produced annually in commercial quantities from the lease.

"(B) The acreage limitations contained in section 21(a) shall not apply.

"(C) The first and second provisos of section 21(a) shall not apply.

"(D) The limitation on the number of leases to be granted to any one person, association, or corporation contained in section 21(a) shall not apply.

"(E) The phrase 'oil shale and gilsonite' in the first sentence of section 21(a) shall be construed to include oil shale and all other associated minerals.

"(3)(A) The holder of a claim making an election under this subsection may elect to maintain the claim by complying with such requirements as the Secretary shall prescribe, by rule, to assure that, during each year that oil shale or associated minerals are not being produced from the claim in commercial quantities, the holder of such claim either makes payments in lieu of diligent development under subparagraph (B) or expends an amount annually which—

"(i) represents diligent efforts toward the production of oil shale or associated minerals (or both),

"(ii) includes substantial work on the claim, and

"(iii) represents not less than $5,000 worth of expenditure on the claim.

"(B) In lieu of making the expenditure described in clauses (i), (ii), and (iii) in any year, the holder of such claim may pay the Secretary an amount equal to $5,000 for the claim for that year. Moneys received by the Secretary under this subparagraph shall be disposed of in the same manner as moneys received pursuant to section 35, except that 50 percent of such moneys shall be transferred to the States and 50 percent shall be deposited in the General Fund of the Treasury.

"(C) The Secretary shall promulgate a final rule under this paragraph within 90 days after the enactment of this subsection. The annual expenditure requirement under such rule shall take effect on the first day of the first month of September which occurs more than 90 days after the enactment of this subsection.

"(D) The Secretary shall review the expenditures made for each such claim not less frequently than annually.

"(E) In applying the provisions of section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744), the holder of a claim for which an election under this paragraph has been made shall comply with the provisions of subsection (a)(1) thereof only by filing (as provided in such provisions) an affidavit that the annual expenditure (or annual payments in lieu of diligent development) requirements of this paragraph have been met with respect to such claim or that oil shale or associated minerals are being produced from the claim in commercial quantities.

"(F) Failure to comply with the requirements of this paragraph and the requirements of such section 314(a)(1) shall be deemed conclusively to constitute a forfeiture of the claim and the claim shall be null and void. In addition, the Secretary shall declare a claim to be null and void and cancel it on the earlier of the following:

"(i) The date on which the Secretary determines that oil shale and associated minerals are exhausted.

"(ii) The date 100 years after the date of location of the claim.

On the date referred to in clause (ii), the Secretary shall make a determination under

this subparagraph and if the Secretary determines that oil shale or associated minerals are being produced in commercial quantities there shall be substituted for such date the date on which the Secretary determines that oil shale or associated minerals cease to be produced from the claim in commercial quantities.

"(G) The provisions of sections 4 and 6 of the Act of August 13, 1954 (30 U.S.C. 524 and 526), popularly known as the Multiple Minerals Development Act, and the provisions of section 4 of the Act of July 23, 1955 (30 U.S.C. 612), popularly known as the Surface Resources Act, shall apply to claims for which an election under this paragraph has been made in the same manner and to the same extent as such provisions apply to the mining claims referred to therein.

"(e) In addition to other applicable requirements, any person who holds a lease pursuant to paragraph (2) of subsection (d) or who maintains a claim pursuant to paragraph (3) of subsection (d) or pursuant to subsection (f) shall be required, by regulation, to reclaim the site subject to such lease or claim and to post a surety bond or provide other types of financial guarantee satisfactory to the Secretary before disturbance of the site to ensure such reclamation. The Secretary shall promulgate such regulations as may be necessary to implement this subsection.

"(f)(1) If a patent application was filed with the Secretary before January 24, 1989, for an oil shale claim referred to in subsection (a) but all requirements established under sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) were not fully complied with by that date, the Secretary may issue a patent under this subsection notwithstanding the failure to meet those requirements by that date if such requirements are subsequently met and the Secretary determines the claim to be valid (after review as provided in subsection (c)). The patent shall be limited to the oil shale and associated minerals on such claim. Upon compliance with such requirements, such patent may be issued upon payment to the Secretary of $2,000 per acre.

"(2) Any patent under this subsection shall be subject to an express reservation of the surface of the affected lands, and the provisions of sections 4 and 6 of the Act of August 13, 1954 (30 U.S.C. 524 and 526), popularly known as the Multiple Minerals Development Act, and of section 4 of the Act of July 23, 1955 (30 U.S.C. 612), popularly known as the Surface Resources Act, shall apply to such claim in the same manner and to the same extent as such provisions apply to the unpatented mining claims referred to in such provisions.

"(3) No claimholder having a claim described in this subsection shall be required to make an election under subsection (d).".

Subtitle D—Reclamation Fees

SEC. 5401. ABANDONED MINE RECLAMATION FUND.

(a) SOURCES OF DEPOSITS.—Section 401(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231(b)) is amended as follows:

(1) Amend paragraph (1) to read as follows:

"(1) the reclamation fees levied under section 402;".

(2) Strike "and" at the end of paragraph (3); strike the period at the end of paragraph (4) and insert "; and"; and add the following new paragraph at the end:

"(5) interest credited to the fund under subsection (e).".

(b) USE OF MONEYS.—Section 401(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231(c)) is amended as follows:

(1) In paragraph (1), strike "402(g)(2)" and insert "402(g)(1)".

(2) Amend paragraph (2) to read as follows:

"(2) for transfer on an annual basis to the Secretary of Agriculture for use under section 406;".

(3) In paragraph (6), strike "by contract" and insert "conducted in accordance with section 3501 of the Omnibus Budget Reconciliation Act of 1986" after "projects".

(4) Strike "and" at the end of paragraph (9).

(5) Strike paragraph (10) and insert the following:

"(10) for use under section 411;

"(11) for the purpose of section 507(c), except that not more than $10,000,000 shall annually be available for such purpose; and

"(12) all other necessary expenses to accomplish the purposes of this subtitle.".

(c) INTEREST.—Section 401 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) is amended by adding the following new subsection at the end:

"(e) INTEREST.—The Secretary of the Interior shall invest such portion of the fund as is not, in his judgment, required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable for the needs of such fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to, and form a part of, the fund.".

SEC. 5402. RECLAMATION FEES.

(a) RATE.—Section 402(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(a)) is amended by adding the following at the end: "The rate at which such fee is imposed shall be modified as provided in section 411(a) in the case of any State or Indian tribe certified under section 411(a).".

(b) DUE DATE.—Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking "fifteen years after the date of enactment of this Act unless extended by an Act of Congress" and inserting "ending September 30, 2007".

(c) STATEMENT.—Section 402(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(c)) is amended by adding the following at the end thereof: "Such statement shall include an identification of the permittee of the coal mining operation if different from the operator, the owner of the coal, the preparation plant, tipple, or loading point for the coal, and the person purchasing the coal from the operator. The report shall also specify the number of the permit required under section 510 and the mine safety and health identification number. Each quarterly report shall contain a notification of any changes in the information required by this subsection since the date of the preceding quarterly report. The information contained in the quarterly reports under this subsection shall be maintained by the Secretary in a computerized database.".

(d) AUDITS.—Section 402(d) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(d)) is amended by inserting "(1)" after "(d)" and by adding the following at the end thereof:

"(2) The Secretary shall conduct such audits of coal production and the payment of fees under this subtitle as may be necessary to ensure full compliance with the provisions of this subtitle. For purposes of performing such audits the Secretary (or any duly designated officer, employee, or representative of the Secretary) shall, at all reasonable times, upon request, have access to, and may copy, all books, papers, and other documents of any person subject to the provisions of this subtitle. The Secretary may at any time conduct audits of any coal mining and reclamation operation, including without limitation, tipples and preparation plants, as may be necessary in the judgment of the Secretary to ensure full and complete payment of the fees under this subtitle.".

(e) NOTICE.—Section 402(f) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(f)) is amended by adding the following at the end thereof: "Whenever the Secretary believes that any person has not paid the full amount of the fee payable under subsection (a) the Secretary shall notify the Federal agency responsible for ensuring compliance with the provisions of section 4121 of the Internal Revenue Code of 1986.".

SEC. 5403. ALLOCATION OF FUNDS.

Section 402(g) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)) is amended to read as follows:

"(g) ALLOCATION OF FUNDS.—(1) Moneys deposited into the fund shall be allocated by the Secretary to accomplish the purposes of this subtitle as follows:

"(A) 50 percent of the reclamation fees collected annually in any State (other than fees collected with respect to Indian lands) shall be allocated annually by the Secretary to the State, subject to such State having each of the following—

"(i) An approved abandoned mine reclamation program pursuant to section 405.

"(ii) Lands, waters, and facilities which are eligible pursuant to section 404 (in the case of a State not certified under section 411(a)) or pursuant to section 411(b) (in the case of a State certified under section 411(a)).

"(B) 50 percent of the reclamation fees collected annually with respect to Indian lands shall be allocated annually by the Secretary to the Indian tribe having jurisdiction over such lands, subject to such tribe having each of the following—

"(i) An approved abandoned mine reclamation program pursuant to section 405.

"(ii) Lands, waters, and facilities which are eligible pursuant to section 404 (in the case of an Indian tribe not certified under section 411(a)) or pursuant to section 411(b) (in the case of a tribe certified under section 411(a)).

"(C) The funds allocated by the Secretary under this paragraph to States and Indian tribes shall only be used for annual reclamation project construction and program administration grants.

"(D) To the extent not expended within 3 years after the date of any grant award under this paragraph, such grant shall be available for expenditure by the Secretary in any area under paragraph (2), (3), (4), or (5).

"(2) 20 percent of the amounts available in the fund in any fiscal year which are not allocated under paragraph (1) in that fiscal year (including that interest accruing as provided in section 401(e) and including funds available for reallocation pursuant to paragraph (1)(C)), shall be allocated to the

Secretary only for the purpose of making the annual transfer to the Secretary of Agriculture under section 401(c)(2).

"(3) Amounts available in the fund which are not allocated to States and Indian tribes under paragraph (1) or allocated under paragraph (2) and paragraph (5) are authorized to be expended by the Secretary for any of the following:

"(A) For the purpose of section 507(c), either directly or through grants to the States, subject to the limitation contained in section 401(c)(11).

"(B) For the purpose of section 410 (relating to emergencies).

"(C) For the purpose of meeting the objectives of the fund set forth in section 403(a) for eligible lands, waters, and facilities pursuant to section 404 in States and on Indian lands where the State or Indian tribe does not have an approved abandoned mine reclamation program pursuant to section 405.

"(D) For the administration of this subtitle by the Secretary.

"(4)(A) Amounts available in the fund which are not allocated under paragraphs (1), (2), and (5) or expended under paragraph (3) in any fiscal year are authorized to be expended by the Secretary under this paragraph for the reclamation or drainage abatement of lands and waters within unreclaimed sites which were mined for coal or which were affected by such mining, wastebanks, coal processing or other coal mining processes and left in an inadequate reclamation status.

"(B) Funds made available under this paragraph may be used for reclamation or drainage abatement at a site referred to in subparagraph (A) if the Secretary makes either of the following findings:

"(i) A finding that the coal mining operation occurred during the period beginning on August 4, 1977, and ending on or before the date on which the Secretary approved a State program pursuant to section 503 for State in which the site is located, and that any funds for reclamation or abatement which are available pursuant to a bond or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site.

"(ii) A finding that the surety of the mining operator became insolvent prior to the date of enactment of this paragraph, and as of such date, funds immediately available from proceedings relating to such insolvency, or from any financial guarantee or other source are not sufficient to provide for adequate reclamation or abatement at the site.

"(C) In determining which sites to reclaim pursuant to this paragraph, the Secretary shall follow the priorities stated in paragraphs (1) and (2) of section 403(a). The Secretary shall ensure that priority is given to those sites which are in the immediate vicinity of a residential area or which have an adverse economic impact upon a local community.

"(D) Amounts collected from the assessment of civil penalties under section 518 are authorized to be appropriated to carry out this paragraph.

"(E) Any State may expend grants made available under paragraphs (1) and (5) for reclamation and abatement of any site referred to in subparagraph (A) if the State, with the concurrence of the Secretary, makes either of the findings referred to in clause (i) or (ii) of subparagraph (B) and if the State determines that the reclamation priority of the site is the same or more urgent than the reclamation priority for eligible lands and waters pursuant to section 404 under the priorities stated in paragraphs (1) and (2) of section 403(a).

"(F) For the purposes of the certification referred to in section 411(a), sites referred to in subparagraph (A) of this paragraph shall be considered as having the same priorities as those stated in section 403(a) for eligible lands and waters pursuant to section 404. All sites referred to in subparagraph (A) of this paragraph within any State shall be reclaimed prior to such State making the certification referred to in section 411(a).

"(5) The Secretary shall allocate 40 percent of the amount in the fund after making the allocation referred to in paragraph (1) for making additional annual grants to States and Indian tribes which are not certified under section 411(a) to supplement grants received by such States and Indian tribes pursuant to paragraph (1)(C) until the priorities stated in paragraphs (1) and (2) of section 403(a) have been achieved by such State or Indian tribe. The allocation of such funds for the purpose of making such expenditures shall be through a formula based on the amount of coal historically produced in the State or from the Indian lands concerned prior to August 3, 1977. Funds allocated or expended by the Secretary under paragraph (2), (3), or (4) of this subsection for any State or Indian tribe shall not be deducted against any allocation of funds to the State or Indian tribe under paragraph (1) or under this paragraph.

"(6) Any State may receive and retain, without regard to the 3-year limitation referred to in paragraph (1)(D), up to 10 percent of the total of the grants made annually to such State under paragraphs (1) and (5) if such amounts are deposited into either—

"(A) a special trust fund established under State law pursuant to which such amounts (together with all interest earned on such amounts) are expended by the State solely to achieve the priorities stated in section 403(a) after the year 2007, or

"(B) an acid mine drainage abatement and treatment fund established under State law as provided in paragraph (7).

"(7)(A) Any State may establish under State law an acid mine drainage abatement and treatment fund from which amounts (together with all interest earned on such amounts) are expended by the State to implement, in consultation with the Soil Conservation Service, acid mine drainage abatement and treatment plans approved by the Secretary. Such plans shall provide for the comprehensive abatement of the causes and treatment of the effects of acid mine drainage within qualified hydrologic units affected by coal mining practices.

"(B) The plan shall include, but shall not be limited to, each of the following:

"(i) An identification of the qualified hydrologic unit.

"(ii) The extent to which acid mine drainage is affecting the water quality and biological resources within the hydrologic unit.

"(iii) An identification of the sources of acid mine drainage within the hydrologic unit.

"(iv) An identification of individual projects and the measures proposed to be undertaken to abate and treat the causes or effects of acid mine drainage with the hydrologic unit.

"(v) The cost of undertaking the proposed abatement and treatment measures.

"(vi) An identification of existing and proposed sources of funding for such measures.

"(vii) An analysis of the cost-effectiveness and environmental benefits of abatement and treatment measures.

"(C) The Secretary may approve any plan under this paragraph only after determining that such plan meets the requirements of this paragraph. In conducting an analysis of the items referred to in clauses (iv), (v), and (vii) the Director of the Office of Surface Mining shall obtain the comments of the Director of the Bureau of Mines. In approving plans under this paragraph, the Secretary shall give a priority to those plans which will be implemented in coordination with measures undertaken by the Secretary of Agriculture under section 406.

"(D) For purposes of this paragraph the term 'qualified hydrologic unit' means a hydrologic unit—

"(i) in which the water quality has been significantly affected by acid mine drainage from coal mining practices in a manner which adversely impacts biological resources; and

"(ii) which contains lands and waters which are—

"(I) eligible pursuant to section 404 and include any of the priorities stated in section 403(a); and

"(II) proposed to be the subject of the expenditures by the State (from amounts available from the forfeiture of bonds required under section 509 or from other State sources) to mitigate acid mine drainage.

"(8) Of the funds available for expenditure under this subsection in any fiscal year the Secretary shall allocate annually not less than $2,000,000 for expenditure in each State, and for each Indian tribe, having an approved abandoned mine reclamation program pursuant to section 405 and, eligible lands, waters, and facilities pursuant to section 404 so long as an allocation of funds to such State or such tribe is necessary to achieve the priorities stated in paragraphs (1) and (2) of section 403(a).".

SEC. 5404. FUND OBJECTIVES.

Section 403 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233) is amended as follows:

(1) Insert "(a) PRIORITIES.—" after "SEC. 403.".

(2) Strike "lands and water" and insert "lands, waters, and facilities".

(3) Insert ", except as provided for under section 411," after "title".

(4) Insert "and" after paragraph (2).

(5) Strike paragraphs (4), (5), and (6).

(6) Add at the end the following new subsections:

"(b) UTILITIES AND OTHER FACILITIES.—(1) Reclamation projects involving the protection, repair, replacement, construction or enhancement of utilities, such as those relating to water supply, roads and such other facilities serving the public adversely affected by coal mining practices shall be deemed part of the objectives set forth, and undertaken as they relate to, the priorities stated in subsection (a).

"(2) Any State or Indian tribe not certified under section 411(a) may expend up to 30 percent of the funds allocated to such State or Indian tribe in any year through the grants made available under paragraphs (1) and (5) of section 402(g) for the purpose of protecting, repairing, replacing, constructing, or enhancing facilities relating to water supply, including water distribution facilities and treatment plants, to replace water supplies adversely affected by coal mining practices.

"(3) If the adverse effect on water supplies referred to in this subsection occurred both prior to and after August 3, 1977, section 404 shall not be construed to prohibit a State or Indian tribe referred to in paragraph (2) from using funds referred to in such paragraph for the purposes of this subsection if the State or Indian tribe determines that such adverse effects occurred predominantly prior to August 3, 1977.

"(c) INVENTORY.—For the purposes of assisting in the planning and evaluation of reclamation projects pursuant to section 405, and assisting in making the certification referred to in section 411(a), the Secretary shall maintain an inventory of eligible lands and waters pursuant to section 404 which meet the priorities stated in paragraphs (1) and (2) of subsection (a). Under standardized procedures established by the Secretary, States and Indian tribes with approved reclamation programs pursuant to section 405 may offer amendments to update the inventory as it applies to eligible lands and waters under the jurisdiction of such States or tribes. The Secretary shall provide such States and tribes with the financial and technical assistance necessary for the purpose of making inventory amendments. The Secretary shall compile and maintain an inventory for States and Indian lands in the case when a State or Indian tribe does not have an approved reclamation program pursuant to section 405. On a regular basis, but not less than annually, the projects completed under this subtitle shall be so noted on the inventory under standardized procedures established by the Secretary.".

SEC. 5405. ELIGIBLE LANDS AND WATERS.

Section 404 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1234) is amended by inserting ", except as provided for under section 411" after "processes", and by adding the following at the end thereof: "For other provisions relating to lands and waters eligible for such expenditures, see section 402(g)(4), section 403(b)(2), and section 409.".

SEC. 5406. STATE RECLAMATION PROGRAMS.

Section 405 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1235) is amended by adding the following at the end thereof:

"(1) No State shall be liable under any provision of Federal law for any costs or damages as a result of action taken or omitted in the course of carrying out a State abandoned mine reclamation plan approved under this section. This subsection shall not preclude liability for cost or damages as a result of gross negligence or intentional misconduct by the State. For purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence.".

SEC. 5407. CLARIFICATION.

Section 406(d) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236(d)) is amended by striking "experimental".

SEC. 5408. VOIDS AND TUNNELS.

Section 409 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1239) is amended—

(1) in subsection (a) by striking "chairman of any tribe" and inserting in lieu thereof "the governing body of an Indian tribe";

(2) in subsection (b), by striking "or Indian reservations under the provisions of subsection 402(g)" and inserting "or Indian tribes under the provisions of paragraphs (1) and (5) of section 402(g)"; and

(3) by amending subsection (c) to read as follows:

"(c)(1) The Secretary may make expenditures and carry out the purposes of this section in such States where requests are made by the Governor or governing body of an Indian tribe for those reclamation projects which meet the priorities stated in section 403(a)(1), except that for the purposes of this section the reference to coal in section 403(a)(1) shall not apply.

"(2) The provisions of section 404 shall apply to this section, with the exception that such mined lands need not have been mined for coal.

"(3) The Secretary shall not make any expenditures for the purposes of this section in those States which have made the certification referred to in section 411(a).".

SEC. 5409. EMERGENCY PROGRAM.

Section 410 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1240) is amended as follows:

(1) In the third sentence of subsection (b), strike "such land and shall" and insert "such land to the extent necessary to".

(2) Add at the end the following new subsection:

"(c) In making expenditures from the fund to undertake reclamation projects for the purposes of this section, the Secretary shall ensure that all adverse effects of coal mining practices meeting the priorities stated in paragraphs (1) and (2) of section 403(a) which exist at such reclamation projects are abated through such expenditure.".

SEC. 5410. CERTIFICATION.

Title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 et seq.) is amended as follows:

(1) Redesignate sections 411, 412, and 413 as sections 412, 413, and 414, respectively.

(2) Insert after section 410 the following new section:

"SEC. 411. CERTIFICATION.

"(a) MODIFICATION OF FEES.—Where the Governor of a State, or the head of a governing body of an Indian tribe, with an approved abandoned mine reclamation program under section 405 certifies to the Secretary that all of the priorities stated in section 403(a) for eligible lands, waters, and facilities pursuant to section 404 have been achieved, and the Secretary, after notice in the Federal Register and opportunity for public comment, concurs with such certification, the rate at which the reclamation fees are applicable to such State or tribe under section 402(a) shall be modified. The modified fees shall be at a rate of 18 cents per ton of coal produced by surface coal mining and 8 cents per ton of coal produced by underground coal mining, or 10 percent of the value of the coal at the mine, as determined by the Secretary, whichever is less, except that the reclamation fee for lignite coal shall be at a rate of 2 percent of the value of the coal of the mine, or 5 cents per ton, whichever is less. A certification under this section may be issued by the Secretary on his own motion after consultation with the State or Indian tribe concerned and after notice in the Federal Register and opportunity for public comment. Certification under this subsection as it relates to the modified fees may not take place until after 1992. The Secretary may concur with any certification by a State or Indian tribe in any region or certify any such State or tribe on his own motion, but may not concur with the modified fees or modify such fees on his own motion if, upon a motion made by a State or Indian tribe within the same region, the Secretary determines that such modified fees would result in a significant competitive disadvantage in the production and marketing of coal for the State or Indian tribe which made such motion.

"(b) ELIGIBLE LANDS, WATERS, AND FACILITIES.—If the Secretary has concurred in a State or tribal certification under subsection (a), for purposes of determining the eligibility of lands, waters, and facilities for annual grants under section 402(g)(1), section 404 shall not apply, and eligible lands, waters, and facilities shall be those—

"(1) which were mined or processed for minerals or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status prior to August 3, 1977; and

"(2) for which there is no continuing reclamation responsibility under State or other Federal laws.

In determining the eligibility under this subsection of Federal lands, waters, and facilities under the jurisdiction of the Forest Service or Bureau of Land Management, in lieu of the August 3, 1977, date referred to in paragraph (1) the applicable date shall be August 28, 1974, and November 26, 1980, respectively.

"(c) PRIORITIES.—Expenditures of moneys for lands and waters referred to in subsection (b) shall reflect the following objectives and priorities in the order stated (in lieu of the priorities set forth in section 403):

"(1) The protection of public health, safety, general welfare, and property from extreme danger of adverse effects of mineral mining and processing practices.

"(2) The protection of public health, safety, and general welfare from adverse effects of mineral mining and processing practices.

"(3) The restoration of land and water resources and the environment previously degraded by the adverse effects of mineral mining and processing practices.

"(d) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—Sites and areas designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 and following) or which have been listed for remedial action pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 and following) shall not be eligible for expenditures from the Fund under this section.

"(e) UTILITIES AND OTHER FACILITIES.—Reclamation projects involving the protection, repair, replacement, construction, or enhancement of utilities, such as those relating to water supply, roads, and such other facilities serving the public adversely affected by mineral mining and processing practices, and the construction of public facilities in communities impacted by coal or other mineral mining and processing practices, shall be deemed part of the objectives set forth, and undertaken as they relate to, the priorities stated in subsection (c).

"(f) APPLICATION OF OTHER PROVISIONS.—The provisions of sections 407 and 408 shall apply to this section, except that for purposes of this section the references to coal in sections 407 and 408 shall not apply.".

SEC. 5411. SMALL OPERATOR ASSISTANCE.

Section 507(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257(c)) is amended by striking "100,000" and inserting "300,000".

SEC. 5412. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF CONTENTS.—The table of contents in the first section of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201) is amended as follows:

(1) Redesignate the items relating to sections 411, 412, and 413 as items 412, 413, and 414, respectively.

(2) Insert after the item relating to section 410 the following:

"Sec. 411. Certification.".

(b) REFERENCE.—Section 712(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1302(b)) is amended to read as follows:

"(b) For the implementation and funding of section 507(c), see the provisions of section 401(c)(11).".

(c) REPEAL.—Section 406(i) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236(i)) is repealed.

(d) TECHNICAL CORRECTIONS.—The following provisions of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 and following) are amended as follows:

(1) Section 405(a) is amended by striking out "perparation" and inserting "preparation".

(2) Section 405(h) is amended by striking out "Upon approved" and inserting "Upon approval".

(3) Section 406(a) is amended by striking out "including owners" and inserting "(including owners".

(4) Section 407(a)(4) is amended by striking out the period and inserting a semicolon.

(5) Section 407(a) is amended by striking out "Then" and inserting "then".

(6) Section 407(e) is amended by striking out "paragraph (1), of this subsection" and inserting "paragraph (1) of subsection (c)".

(7) Section 407(g)(2) is amended by striking out "the use of" and inserting "the use or".

SEC. 5413. SAVINGS CLAUSE.

Nothing in this subtitle shall be construed to affect the certification made by the State of Wyoming to the Secretary of the Interior prior to the date of enactment of this Act that such State has completed the reclamation of eligible abandoned coal mine lands, except that for the purposes of the amendments made by this subtitle, the State of Wyoming shall not be deemed to have made the certification as it relates to the modified fees referred to in subsection (a) of section 411, as added by this subtitle, until the date referred to in such subsection.

SEC. 5414. ABANDONED MINERALS AND MINERAL MATERIALS MINE RECLAMATION FUND.

(a) NEW SUBTITLE.—Title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) is amended by inserting

"Subtitle A—Abandoned Mine Reclamation Fund"

immediately before section 401 and by adding the following new subtitle at the end thereof:

"Subtitle B—Abandoned Minerals and Mineral Materials Mine Reclamation Fund

"SEC. 421. ABANDONED MINERALS AND MINERAL MATERIALS MINE RECLAMATION.

"(a) ESTABLISHMENT.—There is established on the books of the Treasury of the United States a trust fund to be known as the Abandoned Minerals and Mineral Materials Mine Reclamation Fund (hereinafter in this subtitle referred to as the 'Fund'). The Fund shall be administered by the Secretary of the Interior acting through the Director, Office of Surface Mining Reclamation and Enforcement.

"(b) AMOUNTS.—The following amounts shall be credited to the Fund for the purposes of this Act:

"(1) All moneys received (after the commencement of the first fiscal year beginning after the enactment of this subtitle) from the disposal of mineral materials pursuant to section 3 of the Act of July 31, 1947 (30 U.S.C. 603) to the extent such moneys are not specifically dedicated to other purposes under other authority of law.

"(2) Donations by persons, corporations, associations, and foundations for the purposes of this subtitle.

"(3) Such other amounts as may be appropriated to the Fund.

"SEC. 422. USE AND OBJECTIVES OF THE FUND.

"(a) IN GENERAL.—The Secretary is authorized to use moneys in the Fund for the reclamation and restoration of land and water resources adversely affected by past minerals and mineral materials mining, including but not limited to, any of the following:

"(1) Reclamation and restoration of abandoned surface mined areas.

"(2) Reclamation and restoration of abandoned milling and processing areas.

"(3) Sealing and filling abandoned deep mine entries.

"(4) Planting of land adversely affected by past mining to prevent erosion and sedimentation.

"(5) Prevention, abatement, treatment, and control of water pollution created by abandoned mine drainage.

"(6) Control of surface subsidence due to abandoned deep mines.

"(7) Such expenses as may be necessary to accomplish the purposes of this subtitle.

"(b) PRIORITIES.—Expenditure of moneys from the Fund shall reflect the following priorities in the order stated:

"(1) The protection of public health, safety, general welfare and property from extreme danger from the adverse effects of past minerals and mineral materials mining practices.

"(2) The protection of public health, safety, and general welfare from the adverse effects of past minerals and mineral materials mining practices.

"(3) The restoration of land and water resources previously degraded by the adverse effects of past minerals and mineral materials mining practices.

"(c) UTILITIES AND OTHER FACILITIES.—Reclamation projects involving the protection, repair, replacement, construction, or enhancement of utilities, such as those relating to water supply, roads, and such other facilities serving the public adversely affected by mineral and mineral materials mining and processing practices, and the construction of public facilities in communities impacted by mineral and mineral materials mining and processing practices, shall be deemed part of the objectives set forth, and undertaken as they relate to, the priorities stated in subsection (b).

"SEC. 423. ELIGIBLE AREAS.

"(a) ELIGIBILITY.—Lands, waters, and facilities eligible for reclamation expenditures under this Act shall be those—

"(1) which were mined or processed for minerals and mineral materials or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status prior to the date of enactment of this subtitle; and

"(2) for which there is no continuing reclamation responsibility under State or Federal laws.

In determining the eligibility under this subsection of Federal lands, waters, and facilities under the jurisdiction of the Forest Service or Bureau of Land Management in lieu of the date referred to in paragraph (1), the applicable date shall be August 28, 1974, and November 26, 1980, respectively.

"(b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—Sites and areas designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 and following) or which have been listed for remedial action pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 and following) shall not be eligible for expenditures from the Fund under this subtitle.

"SEC. 424. FUND ALLOCATION AND EXPENDITURES.

"(a) ALLOCATIONS—(1) Moneys available for expenditure from the Fund shall be allocated on an annual basis by the Secretary in the form of grants to eligible States, or in the form of expenditures under subsection (b), to accomplish the purposes of this subtitle. Such moneys may also be provided pursuant to cooperative agreements between such States and the Bureau of Land Management, the Forest Service, or the National Park Service for such purposes.

"(2) The Secretary shall distribute moneys from the Fund to eligible States and to the entities described under subsection (b) based on the greatest need for such moneys pursuant to the priorities stated in section 422(b). In determining the greatest need for the distribution of moneys from the Fund, the Secretary shall give priority to those eligible States which do not receive grants under subtitle A.

"(b) DIRECT FEDERAL EXPENDITURES.—Where a State is not eligible, or in instances where the purposes of this subtitle may best be accomplished otherwise, moneys available from the Fund may be:

"(1) Expended directly by the Secretary through the Director, Office of Surface Mining Reclamation and Enforcement.

"(2) Expended through grants made by the Secretary through the Director of the Bureau of Land Management.

"(3) Expended through grants made by the Secretary to the Chief of United States Forest Service.

"(4) Expended through grants made by the Secretary through the Director of the National Park Service.

"SEC. 425. STATE RECLAMATION PROGRAMS.

"(a) ELIGIBLE STATES.—For the purpose of section 424(a), an 'eligible State' is one which the Secretary determines to meet each of the following requirements:

"(1) Within the State there are mined lands, waters, and facilities eligible for reclamation pursuant to section 423.

"(2) The State has developed an inventory of such areas following the priorities established under section 422(b).

"(3) The State has established, and the Secretary has approved, a State abandoned minerals and mineral materials mine reclamation program for the purpose of receiving and administering grants under this subtitle. Any State with an approved abandoned mine reclamation program pursuant to section 405 shall be deemed to have met the requirements of this paragraph.

"(b) MONITORING.—The Secretary shall monitor the expenditure of State grants to

ensure they are being utilized to accomplish the purposes of this subtitle.

"(c) SUPPLEMENTAL GRANTS.—In the case of any State with an approved abandoned mine reclamation program pursuant to section 405, grants to such State made pursuant to this subtitle may be made as a supplement to grants received by such State pursuant to section 402(g)(1).

"(d) STATE PROGRAMS.—(1) The Secretary shall approve any State abandoned minerals and mineral materials mine reclamation program submitted to the Secretary by a State under this subtitle if the Secretary finds that the State has the ability and necessary State legislation to implement such program and that the program complies with the provisions of this subtitle and the regulations of the Secretary under this subtitle.

"(2) No State shall be liable under any provision of Federal law for any costs or damages as a result of action taken or omitted in the course of carrying out an approved State abandoned minerals and mineral materials mine reclamation program under this section. This paragraph shall not preclude liability for cost or damages as a result of gross negligence or intentional misconduct by the State. For purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence.

"SEC. 426. AUTHORIZATION OF APPROPRIATIONS; TERMINATION.

"(a) AUTHORIZATION OF APPROPRIATIONS.—Amounts credited to the Fund are authorized to be appropriated for the purpose of this subtitle without fiscal year limitations.

"(b) TERMINATION.—The Fund established under this subtitle and the authorities provided in this subtitle shall terminate September 30, 2007.".

(b) RULEMAKING.—The Secretary of the Interior shall promulgate such rules as may be necessary to implement the amendments made by this section within 180 days after the enactment of this Act.

(c) CONFORMING CHANGE.—All references to "this title" in sections 401 through 413 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 and following) are amended to read "this subtitle".

(d) TABLE OF CONTENTS.—The table of contents for title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 and following) is amended by inserting

"Subtitle A—Abandoned Mine Reclamation Fund"

immediately before the item relating to section 401 and by adding the following at the end thereof:

"Subtitle B—Abandoned Minerals and Mineral Materials Mine Reclamation Fund

"Sec. 421. Abandoned minerals and mineral materials mine reclamation.
"Sec. 422. Use and objectives of fund.
"Sec. 423. Eligible areas.
"Sec. 424. Fund allocation and expenditures.
"Sec. 425. State reclamation programs.
"Sec. 426. Authorization of appropriations; termination.".

SEC. 5415. ENVIRONMENTAL STANDARDS.

(a) NEW SECTION.—Title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) is amended by adding the following new section after section 414:

"SEC. 415. ENVIRONMENTAL STANDARDS.

"The Secretary shall, within one year after the enactment of this section, establish by regulation reasonable and effective environmental standards for abandoned coal mine reclamation projects funded under this subtitle, and shall develop and implement procedures to ensure that such standards are met. In promulgating the standards, the Secretary shall incorporate the standards set forth in section 515 and section 516 to the extent he deems such standards appropriate for purposes of this subtitle.".

(b) CONFORMING AMENDMENT.—The table of contents in the first section of the Surface Mining Control and Reclamation Act of 1977 is amended by adding the following new item after the item relating to section 414:

"Sec. 415. Environmental standards.".

SEC. 5416. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect at the beginning of the first fiscal year immediately following the fiscal year in which this subtitle is enacted.

Subtitle E—Bryce Canyon Coal Lease Sale

SEC. 5501. DEFINITIONS.

As used in this subtitle—

(1) The term "Alton coal leases" means the Federal coal leases in the State of Utah, serial numbered SL064507, SL058575, U0122583, U0105404, U0122675, U098774, U0140770, U0122584, U098775, U0147999, U098705, U060746, U083072, U0122579, U0101153, U060745 and U065012.

(2) The term "the Alton coal lease holder" means the lessee of record holding the Alton coal leases.

(3) The term "Manti-La Sal lands" means the following lands in the State of Utah:

R6E, T15S S.L.B.&M
Sec. 25 SE¼
R6E, T16S
Sections 1, 11, 12, 13, 14—All
Sec. 23—E½
Sec. 24—All
Sec. 25—N½
Sec. 26—N½NE¼
R7E, T15S
Sec. 30—lots 7-12
Sec. 31—NE¼, N½SE¼, SW¼SE¼, lots 1-12
R7E, T16S
Sec. 6—SW¼NE¼, S½SE¼, lots 2-8
Sections 7 and 18—All
Sec. 19—NE¼, lots 1-4
Sec. 30—lots 1-4

SEC. 5502. COMPETITIVE COAL LEASE SALE.

(a) LEASE SALE.—(1) Notwithstanding any other provision of law, not later than 120 days after the enactment of this Act the Secretary of the Interior (hereinafter in this subtitle referred to as the "Secretary") shall conduct a competitive coal lease sale pursuant to section 2(a)(1) of the Mineral Leasing Act for an area that includes, at a minimum, the Manti-La Sal lands.

(2) All bids submitted at the lease sale referred to in paragraph (1) shall be accompanied by a performance bond, filed with the Secretary, in an amount equal to the amount of the bonus bid or bids for the lease or leases offered at such sale. The performance bond shall be—

(A) released upon the payment by the successful bidder of the second installment of the bonus amount;

(B) forfeited to the United States in the event the successful bidder fails to make such bonus payments; or

(C) released, in the case of unsuccessful bidders, immediately after the lease sale.

(b) ELIGIBILITY.—Notwithstanding section 2(a)(2)(A) of the Mineral Leasing Act, the Alton coal lease holder shall be deemed eligible to bid on any coal lease offered at the sale referred to in subsection (a), and shall be eligible to receive such lease or leases if such lease holder is the highest successful bidder. This subsection applies only if such lease holder files the notice, and the Secretary makes the determination, referred to in section 5503.

SEC. 5503. CONDITIONS.

(a) NOTICE.—The Alton coal lease holder shall be eligible to receive any coal lease offered at the sale referred to in section 5502(a) only if, within 90 days after the enactment of this Act, such lease holder files with the Secretary a notice of intent to relinquish the Alton coal leases. If the Secretary determines that the notice meets the requirements of this subsection, the provisions of the notice shall be binding upon both the Alton coal lease holder and the Secretary and the Secretary shall immediately issue to such lease holder a certificate of bidding rights as provided under subsection (b). Such notice shall stipulate that if the Alton coal lease holder is the successful bidder, and is issued any coal lease at the sale referred to in section 5502(a)—

(1) the Alton coal lease holder will immediately relinquish to the Secretary (and the Secretary will promptly accept) all interests in the Alton coal leases; and

(2) after the issuance to such lease holder of any new lease offered at the sale referred to in section 5502(a) the prohibition of section 2(a)(2)(A) of the Mineral Leasing Act shall apply to such lease holder until the date coal is produced in commercial quantities from such new lease or leases or from a logical mining unit into which the new lease or leases have been consolidated.

(b) BIDDING RIGHTS.—The certificate of bidding rights referred to in subsection (a) shall—

(1) be used by the Alton coal lease holder only for the purposes of bidding on any coal lease at the sale referred to in section 5502(a);

(2) not be sold or transferred by the Alton coal lease holder to any other entity;

(3) be considered by the Secretary as a credit in lieu of a cash bonus payment, or portion of such payment, against the bonus bid submitted by the Alton coal lease holder at the coal lease sale referred to in section 5502(a); and

(4) be in an amount that is equal to the amount invested by the Alton coal lease holder in the Alton coal leases prior to the date of enactment of this Act, as determined by the Secretary and verified by the Comptroller General of the United States, except that such amount shall not exceed $5,000,000.

SEC. 5504. MISCELLANEOUS.

(a) FAIR MARKET VALUE.—No consideration shall be given by the Secretary to the amount referred to in section 5503(b)(4) in making a determination of fair market value pursuant to section 2(a)(1) of the Mineral Leasing Act for the purposes of conducting the lease sale referred to in section 5502(a).

(b) REQUIREMENT.—The Secretary shall conduct the lease sale referred to in section 5502(a) notwithstanding the requirement of section 2(a)(3)(A)(iii) of the Mineral Leasing Act.

(c) PAYMENTS.—All money received from the bonus payment, rentals and royalties from the coal lease or leases issued under this subtitle shall be treated in accordance

with section 35 of the Mineral Leasing Act, except that—

(1) amounts other than the State share of such money shall be credited to the fund established pursuant to the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 and following);

(2) the State shall receive 50 percent of the bonus bid, including that portion of such bid represented by bidding rights, as a cash payment, of which 20 percent of the amount represented by such cash payment in lieu of the State's share of the bidding rights shall be paid directly to Garfield County, Utah, and 20 percent of the amount represented by such cash payment in lieu of the State's share of the bidding rights shall be paid directly to Kane County, Utah; and

(3) in the event there is an insufficient amount of cash in the Federal share of the bonus bid to provide for the payment referred to in paragraph (2), the balance shall be paid to the State, Garfield and Kane Counties from the Federal share of production royalties collected from any coal lease issued under the Act.

(d) PERMIT.—The Secretary of Agriculture shall issue a special use permit to the successful bidder at the lease sale referred to in section 5502(a) for the purposes of accommodating more than a single entry into any underground mining operation proposed by such lease holder to produce coal from such lease or leases.

(e) WITHDRAWAL.—Upon relinquishment of the Alton coal leases the lands subject to such leases shall be withdrawn from the operation of the coal leasing provisions of the Mineral Leasing Act.

(f) MONITORING.—The Comptroller General of the United States shall monitor the Secretary's implementation of this subtitle and shall file a preliminary report with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate on the Secretary's progress in complying with this subtitle 60 days prior to the lease sale referred to in section 5502(a) and shall file a final report after the date of such sale.

Subtitle F—Bureau of Land Management

SEC. 5601. AUTHORIZATION FOR BUREAU OF LAND MANAGEMENT ACTIVITIES.

That there are hereby authorized to be appropriated such sums as may be necessary for programs, functions, and activities of the Bureau of Land Management, Department of the Interior (including amounts necessary for increases in salary, pay, retirements, and other employee benefits authorized by law, and for other nondiscretionary costs) during fiscal years beginning on October 1, 1990, and ending September 30, 1994.

SEC. 5602. DEFINITIONS.

(a) AREAS OF CRITICAL ENVIRONMENTAL CONCERN.—Section 103(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(a)) is amended to read as follows:

"(a) The term 'areas of critical environmental concern' means areas within the public lands where special management attention (which may include restrictions on or prohibition of development) is required in order—

"(1) to protect important resources and values (including environmental, ecological, historic, cultural, scenic, fish and wildlife, and scientific resources and values) located on or likely to be affected by the use of public lands (but it is not the intent of Congress that the Secretary establish protective perimeters or buffer zones around such areas);

"(2) to protect life and safety from natural hazards; or

"(3) to protect or enhance the resources and values of a conservation system unit, but it is not the intent of Congress that the Secretary establish protective perimeters or buffer zones around conservation system units.".

(b) CONSERVATION SYSTEM UNIT.—Section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702) is amended by adding at the end thereof the following new subsection:

"(q) The term 'conservation system unit' means any unit of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, or a National Conservation Area or National Forest Monument.".

SEC. 5603. MAJOR USES AND INVENTORIES.

(a) DEFINITION.—Section 103(1) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(1)) is amended—

(1) by striking "fish and wildlife development and utilization," and inserting in lieu thereof "maintenance of plant communities, maintenance of fish and wildlife populations and habitat, utilization of fish or wildlife populations,"; and

(2) by striking "and timber production" and inserting in lieu thereof "timber production, reforestation, and scientific research".

(b) INVENTORY.—Section 201(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711(a)) is amended by striking the period at the end of the first sentence and inserting in lieu thereof "and riparian areas.".

(c) MANAGEMENT DECISIONS.—Section 202(e)(2) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712(e)(2)) is amended by striking "the Congress adopts a concurrent resolution" and inserting in lieu thereof "there is enacted a joint resolution".

SEC. 5604. PLANNING REQUIREMENTS.

(a) DEADLINES.—Section 202(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712(a)) is amended—

(1) by designating section 202(a) as section 202(a)(1); and

(2) by adding at the end of section 202(a) the following new paragraphs:

"(2) Land use plans meeting the requirements of this Act shall be developed for all the public lands outside Alaska no later than January 1, 1997, and for all public lands no later than January 1, 1999.

"(3) Land use plans shall be revised from time to time when the Secretary finds that conditions have changed so as to make such revision appropriate or necessary for proper management of the public lands covered by any such plan, but in any event at least every 15 years.".

(b) CRITERIA.—(1) Section 202(c)(1) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712(c)(1)) is amended to read as follows:

"(1) use and observe the principles of multiple use and sustained yield set forth in this and other applicable law and evaluate the feasibility of measures, consistent with such principles, that would enhance the extent to which the public lands can support increases in the numbers and types of plant communities and fish and wildlife populations located on or supported by such lands;".

(2) Section 202(c)(3) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712(c)(3)) is amended to read as follows:

"(3) give priority to the designation and protection of areas of critical environmental concern and to identification, protection, and enhancement of the ecological, environmental, fish and wildlife, and other resources and values of riparian areas.".

(3) Section 202(c)(5) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712(c)(5)) is amended to read as follows:

"(5) consider present and potential uses (including recreational and other nonconsumptive uses) of the public lands;".

SEC. 5605. PROFESSIONAL QUALIFICATIONS.

Section 301(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1731(c)) is amended to read as follows:

"(c) In addition to the Director, there shall be a Deputy Director and as many Assistant Directors, State Directors, and other employees as may be necessary, appointed by the Secretary. After May 1, 1989, no person may be appointed as Deputy Director of the Bureau or as an Assistant Director or State Director who is not at the time of appointment either a career appointee (as defined in section 3132(4) of title 5, United States Code) or in the competitive service. Other employees shall be appointed subject to provisions of law applicable to appointments in the competitive service, and shall be paid in accordance with the provisions applicable to such service.".

SEC. 5606. PENALTIES.

Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) is amended by striking "no more than $1,000" and by inserting "no more than $10,000".

SEC. 5607. MANAGEMENT OF LANDS AND PUBLIC PARTICIPATION.

(a) IN GENERAL.—The last sentence of section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(b)) is amended to read as follows:

"In managing the public lands, the Secretary, by regulation or otherwise, shall take any action necessary to prevent unnecessary degradation of such lands, to minimize adverse environmental impacts on such lands and their resources resulting from use, occupancy, or development of such lands, and to prevent impairment or derogation of the resources and values of conservation system units.".

(b) ADVISORY COUNCILS.—Section 309(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739(b)) is amended—

(1) by striking the period at the end of the first sentence and inserting in lieu thereof ", including the protection of environmental quality, the management and enhancement of fish and wildlife populations and habitat, and outdoor recreation."; and

(2) by striking the period at the end of the fourth sentence and inserting in lieu thereof ", who shall provide an opportunity for interested members of the public to suggest persons for appointment.".

(c) ACEC REGULATIONS.—Section 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740) is amended by designating the existing provisions thereof as subsection (a) and adding the following new subsection:

"(b) In promulgating rules and regulations pursuant to this section with respect to the public lands, the Secretary shall provide for appropriate management of areas of critical

environmental concern in order to fulfill such of the purposes specified in section 103(a) for which particular areas of critical environmental concern are designated, and shall provide an opportunity for members of the public to propose specific areas for consideration for designation as areas of critical environmental concern pursuant to section 201 of this Act.".

SEC. 5608. FUTURE REAUTHORIZATIONS.

(a) PROCEDURE.—Section 318(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1748(b)) is amended by striking "May 15, 1977, and not later than May 15 of each second even-numbered year thereafter" and inserting in lieu thereof "January 1, 1991 and January 1 of each second odd-numbered year thereafter".

(b) RESTRICTION.—Section 318(d) of the Federal Land Policy and Management Act of 1976 is amended by adding at the end thereof a new sentence, as follows: "Notwithstanding any other provision of law, funds appropriated for purposes of land acquisition pursuant to section 205 of this Act may not be expanded for any other purpose.".

SEC. 5609. EXEMPTION FROM STRICT LIABILITY.

Section 504(h) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764(h)) is amended by adding at the end thereof the following new paragraph:

"(3) No regulation shall impose liability without fault with respect to a right-of-way granted, issued, or renewed under this Act to a nonprofit entity or an entity qualified for financing under the Rural Electrification Act of 1936, as amended, if such entity uses such right-of-way for the delivery of electricity to parties having an equity interest in such entity. However, the Secretary may condition the grant, issuance, or renewal of a right-of-way to such entity for such purpose on the provision by such entity of a bond or other appropriate security, pursuant to subsection (i) of this section.".

SEC. 5610. PROHIBITION OF SUBLEASING.

Section 402 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752) is amended by adding at the end thereof the following new subsection:

"(i) PROHIBITION OF SUBLEASING.—(1) Subleasing is hereby prohibited.

"(2) For purposes of this subsection the following terms shall have the following meanings:

"(A) 'subleasing' means the grazing on public lands or on National Forest lands covered by a grazing permit of domestic livestock which are not both owned and controlled by the holder of the grazing permit.

"(B) 'grazing permit' means a permit or lease of the type described in subsection (a) of this section which has been issued by the Secretary concerned pursuant to applicable law.

"(3) The Secretary concerned shall require each holder of a grazing permit to annually file an affidavit that such holder owns and controls all livestock which such holder is knowingly allowing to graze on public lands or National Forest lands covered by such holder's grazing permit.

"(4) A grazing permit shall terminate 30 days after the effective date of any lease, conveyance, transfer, or other action which has the effect of removing the privately owned property or part thereof with respect to which a grazing permit was issued from the control of the holder of such permit, and no grazing pursuant to such permit shall be permitted after such termination.

"(5) Any holder of a grazing permit who knowingly allows subleasing to occur on public lands or National Forest lands covered by such permit shall forfeit to the United States the dollar equivalent of any value in excess of the grazing fee paid or payable to the United States with respect to such permit, shall be disqualified from further exercise of any rights or privileges conferred by that permit or any other such permit, and shall be subject to the penalties specified in section 303 of this Act.

"(6) Any person other than the holder of a grazing permit who knowingly engages in subleasing shall be subject to the penalties specified in section 303 of this Act.".

TITLE VI—COMMITTEE ON THE JUDICIARY

SEC. 601. PATENT AND TRADEMARK OFFICE USER FEES.

(a) SURCHARGES.—There shall be a surcharge, during fiscal years 1991 through 1995, of 56 percent, rounded by standard arithematic rules, on all fees authorized by subsections (a) and (b) of section 41 of title 35, United States Code.

(b) USE OF FEES AND SURCHARGES.—Notwithstanding section 3302 of title 31, United States Code, beginning in fiscal year 1991, all fees and surcharges collected by the Patent and Trademark Office—

(1) shall be credited to the "Salaries and Expenses" account of the Patent and Trademark Office,

(2) shall be available to the Patent and Trademark Office without appropriation, for all authorized activities and operations of the office, including all direct and indirect costs of services provided by the office, and

(3) shall remain available until expended.

(c) REVISIONS.—In fiscal years 1992 through 1995, surcharges established under subsection (a) may be revised periodically by the Commissioner of Patents and Trademarks, subject to the provisions of section 553 of title 5, United States Code, in order to ensure that the following amounts, but not more than the following amounts, of patent and trademark user fees are collected:

(1) $91,000,000 in fiscal year 1991.
(2) $95,000,000 in fiscal year 1992.
(3) $99,000,000 in fiscal year 1993.
(4) $103,000,000 in fiscal year 1994.
(5) $107,000,000 in fiscal year 1995.

(D) REPEAL.—Section 105(a) of Public Law 100-703 (102 Stat. 4675) is repealed.

(e) REPORT ON FEES.—The Commissioner of Patents and Trademarks shall study the structure of all fees collected by the Patent and Trademark Office and, not later than May 1, 1991, shall submit to the Congress a report on all fees to be collected by the office in fiscal years 1992 through 1995. The report shall include a proposed schedule of fees that would distribute the surcharges provided by subsection (a) among all fees collected by the office, and recommendations for any statutory changes that may be necessary to implement the proposals contained in the report.

SEC. 602. FEDERAL AGENCY STATUS.

For the purposes of Federal law, the Patent and Trademark Office shall be considered a Federal agency. In particular, the Patent and Trademark Office shall be subject to all Federal laws pertaining to the procurement of goods and services that would apply to a Federal agency using appropriated funds, including the Federal Property and Administrative Services Act of 1949 and the Office of Federal Procurement Policy Act.

SEC. 603. EFFECT ON OTHER LAW.

Except for section 601(d), nothing in this title affects the provisions of Public Law 100-703 (102 Stat. 4674 and following).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect upon the date of the enactment of this Act and shall apply to—

(1) all educational benefits provided on or after such date of enactment, pursuant to such amendment; and

(2) all educational benefits of the type authorized by such amendment that were provided by the Commissioner of Patents and Trademarks on or after January 1, 1988.

SEC. 604. EFFECT ON OTHER LAW.

Except for section 601(d), nothing in this title affects the provisions of Public Law 100-703 (102 Stat. 4674 and following).

TITLE VII—MERCHANT MARINE AND FISHERIES COMMITTEE PROVISIONS

Subtitle A—Miscellaneous

SEC. 7101. AMOUNT OF TONNAGE CHARGES.

(a) INCREASE IN CHARGES.—Section 4219 of the Revised Statutes of the United States (46 App. U.S.C. 121) is amended in the second paragraph—

(1) by striking "2 cents per ton, not to exceed in the aggregate 10 cents per ton in any 1 year," and inserting "27 cents per ton, not to exceed in the aggregate $1.35 per ton in any 1 year,"; and

(2) by striking "6 cents per ton, not to exceed 30 cents per ton per annum," and inserting "81 cents per ton, not to exceed $4.05 per ton per annum,".

(b) TREATMENT OF INCREASED CHARGES.—Increased tonnage charges collected as a result of the amendments made by subsection (a) shall be deposited in the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.

SEC. 7102. COAST GUARD USER FEES.

(a) REPEAL OF PROHIBITION.—Section 2110 of title 46, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The analysis for chapter 21 of title 46, United States Code, is amended by striking the item relating to section 2110.

SEC. 7103. ENVIRONMENTAL PROTECTION AGENCY USER FEES.

(a) ESTABLISHMENT AND COLLECTION OF FEES.—The Administrator of the Environmental Protection Agency shall establish and collect fees for services and things of value provided by the Environmental Protection Agency with respect to—

(1) issuing permits under section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342);

(2) issuing registrations under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a);

(3) reviewing notifications under section 5, and operating a radon proficiency program under section 305, of the Toxic Substances Control Act (15 U.S.C. 2604, 2665);

(4) issuing vehicle and engine certificates of conforming under section 206 of the Clean Air Act (42 U.S.C. 7525); and

(5) testing fuel economy under section 503 and 506 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003, 2006).

(b) AMOUNT OF FEES.—Fees established and collected by the Administrator under this section shall be in such amounts as are necessary to collect not less than—

(1) $22,000,000 in fiscal year 1991; and

(2) $33,000,000 in each of fiscal years 1992, 1993, 1994, and 1995.

(c) FUNCTIONS, POWERS, RESPONSIBILITIES, AND LIABILITY OF U.S. NOT AFFECTED.—The establishment, assessment, and collection of fees under this section—

(1) shall not alter or expand the functions, powers, responsibilities, and liability of the United States for the performance of services for which such fees are established; and

(2) does not constitute an expressed or implied promise by the United States to provide any service or perform any activity in a particular manner, or at a particular time or place.

(d) RECEIPTS CREDITED TO ENVIRONMENTAL PROTECTION AGENCY.—Amounts collected by the Administrator in the form of fees under this section shall be deposited in the general fund of the Treasury as proprietary receipts ascribed to Environmental Protection Agency activities.

SEC. 7104. AUTHORITY TO ACQUIRE REAL PROPERTY AND IMPROVEMENTS IN HAMPTON ROADS, VIRGINIA.

(a) IN GENERAL.—The Under Secretary of Commerce for Oceans and Atmosphere is authorized to acquire, by exchange or lease-purchase or both, real property and improvements thereto in the area of Newport News-Norfolk, Virginia, for the purpose of consolidating facilities of the National Oceanic and Atmospheric Administration.

(b) CONDITIONS.—The authority of the Under Secretary to acquire real property or improvements under subsection (a) shall be subject to the following conditions:

(1) All actions taken by the Under Secretary to acquire such property or improvements must be in the best interests of the United States.

(2) In any case in which such acquisition is by lease-purchase—

(A) the term of the lease may not exceed 30 years;

(B) title to such property or improvements will be transferred to the United States upon expiration of such term.

(c) OBLIGATIONS OF FUNDS.—Obligations of funds to carry out a lease-purchase acquisition under subsection (a)—

(1) shall be without regard to section 1341(a)(1)(B) of title 31, United States Code, and section 3733 of the Revised Statutes of the United States (41 U.S.C. 12); and

(2) shall be treated as budget authority and outlays in a fiscal year only to the extent that expenditures will be made to carry out such acquisition in the fiscal year.

SEC. 7105. VETERANS BENEFITS FOR MERCHANT MARINERS.

(a) SHORT TITLE.—This section may be cited as the "Merchant Mariners Fairness Act of 1990".

(b) SERVICE DEEMED TO BE ACTIVE MILITARY SERVICE.—

(1) IN GENERAL.—For purposes of section 401(a)(1)(A) of the GI Bill Improvement Act of 1977 (38 U.S.C. 106 note), the Secretary of Defense is deemed to have determined that qualified service of a member of the United States merchant marine, including a vessel crewmember of the United States Army Transport Service, who served the Armed Forces during World War II constituted active military service.

(2) DETERMINATION OF DISCHARGE STATUS.—(A) The Secretary of Defense shall issue an honorable discharge under section 401(a)(1)(B) of the GI Bill Improvement Act of 1977 to each member of the United States merchant marine whose qualified service warrants an honorable discharge.

(B) Such discharge shall be issued before the end of the one-year period beginning on the date of the enactment of this Act.

(3) QUALIFIED SERVICE DEFINED.—For purposes of this section, the term "qualified service" means service of a merchant mariner during the period beginning December 7, 1941, and ending December 31, 1946, performed while such mariner was—

(A) documented by any officer or employee of the United States authorized by law to do so; and

(B) a crewmember of any vessel which at the time of such service was—

(i) documented in the United States,

(ii) operated under the flag of the United States in waters other than inland waters of the United States; and

(iii) under contract or charter to, or property of, the Government of the United States.

(c) PROHIBITION OF RETROACTIVE BENEFITS.—Benefits shall not be paid to any person as a result of the enactment of this section for any period before the effective date of this section.

(d) PROCESSING FEE.—

(1) IN GENERAL.—The Secretary of the Department in which the Coast Guard is operating shall establish, assess, and collect a fee for processing applications for benefits for qualified service in the United States merchant marine.

(2) APPLICATION.—A fee established under this subsection shall apply to any application for a benefit (including for an increase in a benefit) for qualified service in the United States merchant marine, that is received after the date of the enactment of this Act by Secretary of the Department in which the Coast Guard is operating.

(3) AMOUNT.—The amount of a fee established under this subsection shall be $100.

SEC. 7106. RELINQUISHMENT OF RIGHTS AND INTERESTS OF UNITED STATES UNDER EASEMENT.

(a) RELINQUISHMENT OF EASEMENT.—Not later than 60 days after the date described in subsection (b), the Secretary of the Interior shall take such steps as may be necessary to relinquish all rights and interests of the United States under the easement described in subsection (d).

(b) STATE SUBMITTAL OF PERMIT.—The date referred to in subsection (a) is the date, prior to January 1, 2005, on which the Texas Water Commission or appropriate agency of the State of Texas submits to the Secretary of the Interior a copy of the permit issued for the impoundment of water upon the area of the easement described in subsection (d).

(c) STUDIES NOT PROHIBITED.—The easement described in subsection (d) shall not be considered to prohibit, and shall not be used as a basis for prohibiting, the Texas Water Commission and any other State agency authorized under the statutes of the State of Texas from having access to the easement for the purpose of conducting any feasibility or environmental studies necessary for making a determination required for issuing a permit described in subsection (b).

(d) EASEMENT DESCRIBED.—The easement referred to in subsections (a), (b), and (c) is the conservation easement affecting 3,802 acres of land, more or less, in Wood County, Texas, that was conveyed to the United States by the Little Sandy Hunting and Fishing Club (a nonprofit corporation of the State of Texas) and accepted by the Director of the United States Fish and Wildlife Service on December 18, 1986. The cancellation of this easement would result in substantial savings for the United States Fish and Wildlife Service.

Subtitle B—Coastal Zone Management

SEC. 7201. SHORT TITLE.

This subtitle may be cited as the "Coastal Zone Act Reauthorization Amendments of 1990".

SEC. 7202. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) The Coastal Zone Management Act of 1972 has not been subject to comprehensive review and amendment since 1980.

(2) The pressures of population growth are steadily increasing in the coastal zone, as illustrated by the fact that—

(A) over one-half of the people of the United States live and work within coastal counties which encompass less than 10 percent of the United States land mass;

(B) the population density of coastal counties is 5 times greater than noncoastal counties nationwide; and

(C) growth around sensitive coastal ecosystems will continue;

(3) population growth in the coastal zone manifests itself in various ways, including—

(A) increased pollution of coastal waters, particularly from nonpoint sources such as parking lots, roads, and farms;

(B) loss of wetlands and other vital habitat;

(C) diminishing opportunities for public access to shorelines; and

(D) heightened vulnerability of coastal communities to natural hazards and sea level rise; and

(4) because global warming may cause a substantial rise in sea level with serious adverse affects on the coastal zone, coastal States should be encouraged and assisted in planning for such occurrences.

(b) PURPOSES.—The purposes of this subtitle are to—

(1) establish the improvement of coastal resource protection as a priority national goal under the Coastal Zone Management Act of 1972;

(2) establish improved incentives for State and local action to achieve better coastal resource protection;

(3) revitalize the Federal coastal management program by establishing a mandate for Federal leadership and technical and financial assistance in support of improved coastal zone management at the regional, State, and local levels; and

(4) encourage voluntary participation by all eligible coastal States in programs established under title II of this Act, by setting a goal of 100 percent State participation by the end of fiscal year 1995.

SEC. 7203. REAUTHORIZATION OF COASTAL ZONE MANAGEMENT ACT OF 1972.

The Coastal Zone Management Act of 1972 (16 U.S.C. 1451-1464) is amended to read as follows:

"TITLE III—MANAGEMENT OF THE COASTAL ZONE

"SEC. 301. SHORT TITLE.

"This title may be cited as the 'Coastal Zone Management Act'.

"SEC. 302. FINDINGS.

"The Congress finds the following:

"(1) It is in the national interest of the United States to manage, protect, and develop with proper environmental safeguards, the coastal zone.

"(2) The coastal zone is rich in a variety of natural, commercial, recreational, ecological, historical, cultural, industrial, and esthetic resources of importance to the United States.

"(3) The increasing and competing demands upon the lands and waters of the coastal. zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living coastal resources, have resulted in severe degradation of coastal water quality, the decline of living coastal resources and wildlife, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion.

"(4) The coastal zone, and the fish, shellfish, other living coastal resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by human alteration.

"(5) Important ecological, cultural, historic, and esthetic values of the coastal zone which are essential to the well-being of all citizens of the United States must be protected.

"(6) New and expanding demands for food, energy, minerals, defense needs, recreation, waste disposal, transportation, and industrial activities in the Great Lakes, territorial sea, Exclusive Economic Zone, and Outer Continental Shelf are damaging these areas and create the need for resolution of conflicts among competing uses and values in coastal and ocean waters.

"(7) Special natural and scenic characteristics of the coastal zone are being damaged by ill-planned development that threatens these values;

"(8) In view of competing demands and the urgent need to protect and give priority to maintaining natural systems in the coastal zone, present State and local capabilities to plan for and regulate land and water uses in these areas are inadequate.

"(9) The key to more effective protection of the land and water resources of the coastal zone is to encourage coastal States to exercise their full authority over the lands and waters in the coastal zone by assisting coastal States, in cooperation with the Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for managing land and water uses in the coastal zone, as well as uses which, although outside of the coastal zone, will affect natural resources, land uses, or water uses in the coastal zone.

"(10) Beneficial use of the land and water resources of the coastal zone requires consideration of activities which are of more than local significance.

"(11) Land use in the coastal zone, and the use of adjacent lands which drain into the coastal zone, may significantly affect the quality of coastal waters and habitat, and efforts to control coastal water pollution from land use activities must be improved.

"(12) Expeditious and environmentally sound development of offshore energy resources is best achieved through coordination of that development with State coastal zone management programs.

"(13) The attainment by the United States of a greater degree of energy self-sufficiency will be advanced by providing Federal financial assistance to meet State and local needs resulting from energy activity in or affecting the coastal zone.

"(14) Implementation of the public trust doctrine through federally-approved State coastal zone management plans will ensure that coastal States exercise their full authority over the lands, waters, and resources within their coastal zones fully and in accordance with that doctrine.

"SEC. 303. DECLARATION OF POLICY.

"The Congress declares that it is the policy of the United States—

"(1) to preserve, protect, develop with proper environmental safeguards, and where possible restore or enhance, the resources of the coastal zone for this and succeeding generations;

"(2) to encourage and assist coastal States to exercise effectively their responsibilities in the coastal zone through the development, implementation and continual improvement of management programs to achieve wise use of the air, land, water, mineral, and living resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values and to needs for economic development;

"(3) that the management programs approved under section 306 shall include provisions for—

"(A) protecting natural resources, including wetlands, floodplains, estuaries, beaches, dunes, maritime forests, barrier islands, coral reefs, and fish and wildlife and their habitat, within the coastal zone;

"(B) managing coastal development to minimize—

"(i) the loss of life and property caused by improper development in flood-prone, storm surge, geologically hazardous, and erosion-prone areas; and in areas likely to be affected by sea level rise, land subsidence, and saltwater intrusion; and

"(ii) the destruction of natural protective features, such as beaches, dunes, wetlands, maritime forests, and barrier islands;

"(C) managing coastal development to protect and restore the quality of coastal waters and to prevent the impairment of existing uses of those waters;

"(D) giving priority to water-dependent uses adjacent to coastal waters over other uses;

"(E) orderly processes for—

"(i) siting major facilities related to national defense, energy, fisheries development, recreation, ports, and transportation; and

"(ii) locating new commercial and industrial development, to the maximum extent practicable, in or adjacent to areas where such development already exists;

"(F) public access to the coasts for recreation purposes;

"(G) assisting in the redevelopment of deteriorating urban waterfronts and ports, and preservation and restoration of historic, cultural, and esthetic coastal features;

"(H) coordinating and simplifying of procedures to ensure expedited governmental decisionmaking for the management of coastal resources;

"(I) continued consultation and coordination with, and the giving of adequate consideration to, the views of affected Federal agencies;

"(J) timely and effective notification of, and opportunities for public and local government participation in, coastal management decisionmaking;

"(K) assistance to support comprehensive planning, conservation, and management for living coastal resources, including planning for the siting of pollution control and aquaculture facilities within the coastal zone, and improved coordination between State and Federal coastal zone management agencies, and State water quality and fish and wildlife agencies;

"(L) where the Under Secretary considers appropriate, the study, development and implementation of management plans to address the adverse impacts of sea level rise and Great Lakes level rise on the coastal zone, including coastal drinking water supplies, coastal infrastructure, ports and harbors, energy facilities, coastal wetlands and other critical coastal habitat, housing, and storm surge protection; and

"(M) an inventory and designation of areas that contain one or more coastal resources of national significance, including criteria and procedures for public nomination of such areas;

"(4) to encourage the preparation of special area management plans which provide for increased specificity in protecting—

"(A) significant natural resources;

"(B) reasonable water-dependent economic growth;

"(C) improved protection of life and property in hazardous areas, including specifically those areas likely to be affected by sea level rise; and

"(D) improved predictability in governmental decisionmaking; and

"(5) to encourage the participation and cooperation of the public, State and local governments, interstate and other regional agencies, and Federal agencies having programs affecting the coastal zone, in carrying out the purposes of this title.

"SEC. 304. DEFINITIONS.

"For the purposes of this title—

"(1) COASTAL RESOURCE OF NATIONAL SIGNIFICANCE.—The term 'coastal resource of national significance' means any area in the coastal zone which is determined by a coastal State to provide ecological, esthetic, recreational, historical, or natural storm protective values which are of greater than local significance.

"(2) COASTAL STATE.—The term 'coastal State' means a State in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or any of the Great Lakes, and includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the United States Trust Territory of the Pacific Islands.

"(3) COASTAL WATERS.—The term 'coastal waters' means—

"(A) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes; and

"(B) in other areas, those waters adjacent to the shoreline of any coastal State, which contain a measurable quantity or percentage of sea water, including sounds, bays, lagoons, bayous, ponds, and estuaries.

The term includes wetlands adjacent to coastal waters.

"(4) COASTAL WETLANDS.—The term 'coastal wetlands' means wetlands within the coastal zone of any coastal State. The Under Secretary shall, not later than June 1, 1991, promulgate a rule in accordance with the procedures in section 553 of title 5, United States Code, defining the term 'wetlands'. In connection with the rulemaking required by this paragraph, the Under Secretary shall—

"(A) hold not less than 4 public hearings, including one in each of the Gulf of Mexico, Atlantic, Pacific, and Great Lakes coastal areas; and

"(B) consult with the heads of other Federal agencies to ensure that the definition of the term 'wetlands' established by the rule is, to the maximum extent possible, consistent with definitions of that term applied by other Federal agencies.

"(5) COASTAL ZONE.—The term 'coastal zone' means coastal waters (including lands therein and thereunder) and adjacent lands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. The coastal zone extends, in Great Lakes waters, to the international boundary between the United States and Canada, and in other areas, seaward to the outer limit of State title and ownership under the Submerged Lands Act (43 U.S.C. 1301 et seq.), the Act of March 2, 1917 (48 U.S.C. 749), the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as approved by the Act of March 24, 1976 (48 U.S.C. 1681 note), or section 1 of the Act of November 20, 1963 (48 U.S.C. 1705), as applicable. The coastal zone extends inland from the shoreline to the extent necessary to control lands, the uses of which have a direct and significant impact on coastal waters. The coastal zone does not include lands the use of which is by law subject solely to the discretion of, or which is held in trust by, the Federal Government or its officers or agents.

"(6) CRITICAL COASTAL AREA.—The term 'critical coastal area' means an area identified on the basis of geological, hydrological, and ecological factors and proximity to sensitive coastal waters, wetlands and habitats, to be an area for which there is a significant likelihood that any new or expanded land use will have an adverse effect on coastal waters, either directly or through cumulative or secondary effects, unless appropriate land use management measures are employed.

"(7) ENFORCEABLE POLICY.—The term 'enforceable policy' means State policies which are legally binding through constitutional provisions, laws, regulations, land use plans, ordinances, or judicial or administrative decisions, by which a State exerts control over private and public land and water uses and natural resources in the coastal zone.

"(8) ESTUARINE AREA.—The term 'estuarine area' includes any part or all of an estuary, and any island, transitional area, or upland in, adjoining, or adjacent to that estuary.

"(9) ESTUARY.—The term 'estuary' means a semienclosed body of coastal water, connected to the ocean, where sea water is mixed with and measurably diluted by fresh water. The term includes estuary-type areas of the Great Lakes.

"(10) LAND USE.—The term 'land use' means a use, activity, or project conducted on lands within the coastal zone.

"(11) LOCAL GOVERNMENT.—The term 'local government' means any political subdivision of, or any special entity created by, any coastal State, which (in whole or part) is located in, or has authority over, such State's coastal zone and which—

"(A) has authority to levy taxes, or to establish and collect user fees; or

"(B) provides any public facility or public service which is financed in whole or part by taxes or user fees.

The term includes any school district, fire district, transportation authority, and any other special purpose district or authority.

"(12) MANAGEMENT PROGRAM.—The term 'management program' means a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by a coastal State in accordance with the provisions of this title, setting forth objectives, policies, and standards to guide public and private uses of natural resources, lands, and waters in the coastal zone.

"(13) PERSON.—The term 'person' means any individual; any corporation, partnership, association, or other entity organized or existing under the laws of any State; the Federal Government; any State, regional, or local government; and any entity of any Federal, State, regional, or local government.

"(14) SEA LEVEL RISE.—The term 'sea level rise' means an increase in the level of the sea relative to the level of adjacent land.

"(15) SPECIAL AREA MANAGEMENT PLAN.—The term 'special area management plan' means a comprehensive plan providing for natural resource protection and reasonable water-dependent economic growth containing a detailed and comprehensive statement of policies; standards and criteria to guide public and private uses of natural resources, lands, and waters; and mechanisms for timely implementation in specific geographic areas within the coastal zone.

"(16) UNDER SECRETARY.—The term 'Under Secretary' means the Under Secretary of Commerce for Oceans and Atmosphere.

"(17) WATER-DEPENDENT USE.—The term 'water-dependent use' means a use, activity, or project that requires direct physical siting on, or proximity or access to, an adjacent body of coastal water. The term includes industrial or commercial activities related to port and harbor operation and commercial fishing, and activities related to water recreation. A use, activity, or project shall not be considered to be a water-dependent use solely because of economic advantages that may be gained from a coastal waterfront location.

"(18) WATER USE.—The term 'water use' means a use, activity, or project conducted in or on waters within the coastal zone.

"SEC. 305. MANAGEMENT PROGRAM DEVELOPMENT GRANTS.

"(a) DEVELOPMENT GRANTS.—In fiscal years 1991, 1992, and 1993, the Under Secretary may make a grant annually to any coastal State without an approved program from sums available to the Under Secretary under section 309, if the coastal State demonstrates to the satisfaction of the Under Secretary that the grant will be used to develop a management program consistent with the requirements set forth in section 306. The amount of any such grant shall not exceed $200,000 in any fiscal year, and shall require State matching funds according to a 4-to-one ratio of Federal-to-State contributions. After an initial grant is made to a coastal State pursuant to this subsection, no subsequent grant shall be made to that coastal State pursuant to this subsection unless the Under Secretary finds that the coastal State is satisfactorily developing its management program. No coastal State is eligible to receive more than 2 grants pursuant to this subsection.

"(b) SUBMITTAL OF PROGRAM.—Any coastal State which has completed the development of its management program shall submit such program to the Under Secretary for review and approval pursuant to section 306.

"SEC. 306. ADMINISTRATIVE GRANTS.

"(a) GENERAL.—The Under Secretary may make grants to any coastal State for the purpose of administering that State's management program, if the State matches any such grant according to the following ratios of Federal-to-State contributions for the applicable fiscal year:

"(1) EXISTING PROGRAMS.—For those States for which programs were approved prior to enactment of the Coastal Zone Act Reauthorization Amendments of 1990, one to one for any fiscal year.

"(2) DEVELOPING PROGRAMS.—For States for which programs are approved after the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990, 4 to one for the first fiscal year, 2.3 to one for the second fiscal year, 1.5 to one for the third fiscal year, and one to one for each fiscal year thereafter.

"(b) GRANT CONDITIONS.—The Under Secretary may make a grant to a coastal State under subsection (a) only if the Under Secretary finds that the management program of the coastal State meets all applicable requirements of this title and has been approved in accordance with subsection (d).

"(c) GRANT ALLOCATION.—Grants under this section shall be allocated to coastal States with approved programs based on rules and regulations promulgated by the Under Secretary which shall take into account the extent and nature of the shoreline and area covered by the program, population of the area, and other relevant factors. The Under Secretary shall establish, after consulting with the coastal States, maximum and minimum grants for any fiscal year to promote equity between coastal States and effective coastal management.

"(d) PROGRAM APPROVAL REQUIREMENTS.—Before approving a management program submitted by a coastal State, the Under Secretary shall find the following:

"(1) IN GENERAL.—The State has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Under Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties and individuals, public and private, which is adequate to carry out the purposes of this title and is consistent with the policy declared in section 303.

"(2) REQUIRED PROGRAM ELEMENTS.—The management program includes each of the following:

"(A) An identification of the boundaries of the coastal zone subject to the management program.

"(B) A definition of permissible land uses and water uses within the coastal zone which have a direct and significant impact on the coastal waters.

"(C) An inventory and designation of areas of particular concern within the coastal zone.

"(D) An identification of the means by which the State proposes to exert control over the land uses and water uses referred to in subparagraph (B), including a list of relevant State constitutional provisions, laws, regulations, and judicial decisions.

"(E) Broad guidelines on priorities of uses in particular areas, including specifically those uses of lowest priority.

"(F) A description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of local, areawide, State, regional, and interstate agencies in the management process.

"(G) A definition of the term 'beach' and a planning process for the protection of, and access to, public beaches and other public

coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value.

"(H) A planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including a process for anticipating and managing the impacts from such facilities.

"(I) A planning process for assessing the effects of, and studying and evaluating ways to control, or lessen the impact of, shoreline erosion, and to restore areas adversely affected by such erosion.

"(3) REQUIRED PROCEDURES.—The State has—

"(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone—

"(i) existing on January 1 of the year in which the State's management program is submitted to the Under Secretary; and

"(ii) which have been developed by a local government, an areawide agency, a regional agency, or an interstate agency; and

"(B) established an effective mechanism for continuing consultation and coordination among the management agency designated pursuant to paragraph (6), local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of those local governments and agencies in carrying out the purposes of this title; except that the Under Secretary shall not find any mechanism to be effective for purposes of this subparagraph unless it requires that—

"(i) the management agency, before implementing any management program decision which would conflict with any local zoning ordinance, decision, or other action, shall send a notice of the management program decision to any local government whose zoning authority is affected;

"(ii) within the 30-day period commencing on the date of receipt of the notice, the local government may submit to the management agency written comments on the management program decision, and any recommendation for alternatives; and

"(iii) the management agency, if any comments are submitted to it within the 30-day period by any local government—

"(I) shall consider the comments;

"(II) may, in its discretion, hold a public hearing on the comments; and

"(III) may not take any action within the 30-day period to implement the management program decision.

"(4) PUBLIC HEARINGS.—The State has held public hearings in the development of the management program.

"(5) GUBERNATORIAL APPROVAL.—The management program and any amendment, modification, or other change thereto have been reviewed and approved by the Governor of the State.

"(6) DESIGNATION OF LEAD AGENCY.—The Governor of the State has designated a single State agency to receive and administer grants for implementing the management program.

"(7) ORGANIZATION.—The State is organized to implement the management program.

"(8) NATIONAL INTEREST.—The management program provides for adequate consideration of the national interest involved in planning for, and managing the coastal zone, including the siting of facilities such as energy facilities which are of greater than local significance. In the case of energy facilities, the Under Secretary shall find that the State has given consideration to any applicable national or interstate energy plan or program.

"(9) AREA DESIGNATIONS.—The management program includes procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, historical, or esthetic values.

"(10) AUTHORITY TO IMPLEMENT PROGRAM.—The State, acting through its chosen agency or agencies (including local governments, areawide agencies, regional agencies, or interstate agencies) has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

"(A) to administer land use and water use regulations to control development to ensure compliance with the management program, and to resolve conflicts among competing uses; and

"(B) to acquire fee simple and less than fee simple interests in land, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

"(11) CONTROL OF USES.—The management program provides for any one or a combination of the following general techniques for control of land uses and water uses within the coastal zone:

"(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement.

"(B) Direct State land and water use planning and regulation.

"(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

"(12) USES OF REGIONAL BENEFIT.—The management program contains a method of assuring that local land use and water use regulations within the coastal zone do not unreasonably restrict or exclude land uses and water uses of regional benefit.

"(13) PROTECTION OF NATIONALLY SIGNIFICANT RESOURCES.—The management program provides for—

"(A) the inventory and designation of areas that contain one or more coastal resources of national significance; and

"(B) specific and enforceable standards to protect such resources.

"(14) PUBLIC PARTICIPATION.—The management program provides for public participation in permitting processes, consistency determinations, and other similar decisions.

"(15) INTRASTATE COMPLIANCE.—The management program provides a mechanism to ensure that all State agencies will adhere to the program.

"(e) PROGRAM AMENDMENTS AND MODIFICATIONS.—

"(1) IN GENERAL.—A coastal State may amend, modify, or otherwise change its approved management program as provided in this subsection.

"(2) NOTIFICATION REQUIRED.—A coastal State shall promptly notify the Under Secretary of any proposed amendment, modification, or change in its management program and submit it to the Under Secretary for his or her approval. The Under Secretary may suspend all or part of any grant made to the State under this section pending submission of the proposed amendment, modification, or change by the State.

"(3) REVIEW AND APPROVAL BY UNDER SECRETARY.—(A) Within 30 days after the date the Under Secretary receives any amendment, modification, or other change proposed by a coastal State to its management program, the Under Secretary shall approve or disapprove the proposal, unless the Under Secretary finds it is necessary to extend the period for reviewing the proposal. Upon such a finding, the Under Secretary may extend the period for review to not later than 120 days after the date the Under Secretary received the proposal. The Under Secretary may further extend the period for review only as necessary to meet the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(B) If the Under Secretary does not approve or disapprove an amendment, modification, or other change proposed by a coastal State to its management program within 120 days after the date the proposal is received by the Under Secretary, the proposal is deemed to be approved by the Under Secretary unless the Under Secretary has extended the period for review for purposes of meeting the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(4) APPROVAL REQUIRED FOR IMPLEMENTATION.—(A) Except as provided in subparagraph (B), a coastal State may not implement any amendment, modification, or other change as part of its approved management program unless the amendment, modification, or other change is approved by the Under Secretary under this subsection.

"(B) The Under Secretary, after determining on a preliminary basis, that an amendment, modification, or other change which has been submitted for approval under this subsection is likely to meet the program approval standards in this section, may permit the State to expend funds awarded under this section to begin implementing the proposed amendment, modification, or change. This preliminary approval shall not extend for more than 6 months and may not be renewed. A proposed amendment, modification, or change which is subject to preliminary approval under this paragraph shall not be considered an enforceable policy for purposes of section 307(m).

"SEC. 306A. RESOURCE MANAGEMENT IMPROVEMENT GRANTS.

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'eligible coastal State' means a coastal State that for any fiscal year for which a grant is applied for under this section—

"(A) has a management program approved under section 306; and

"(B) in the judgment of the Under Secretary, is making continual and satisfactory progress in improving its approved coastal zone management program in compliance with section 310; and

"(2) the term 'urban waterfront and port' means any developed area that is densely populated and is being used for, or has been used for, urban residential, recreational, commercial, shipping, or industrial purpose.

"(b) GRANTS AND RESOURCE IMPROVEMENTS.—The Under Secretary may make grants to any eligible coastal State to assist that State in meeting one or more of the following objectives:

"(1) PRESERVATION OR RESTORATION.—Preserving or restoring specific areas of the coastal zone—

"(A) that are designated under the management program procedures required by section 306(d)(9) because of their conserva-

tion, recreational, ecological, historic, or esthetic value;

"(B) under a comprehensive restoration program adopted under section 310(a)(1);

"(C) that contain one or more coastal resources of national significance; or

"(D) for the purpose of restoring and enhancing shellfish production by the purchase and distribution of clutch material on publicly owned reefs and bottom lands.

"(2) REDEVELOPMENT.—Redeveloping deteriorating and underutilized urban waterfronts and ports that are designated under section 306(d)(2)(C) in the State's management program as areas of particular concern.

"(3) PUBLIC ACCESS.—Providing access to public beaches and other public coastal areas and to coastal waters in accordance with the planning process required under section 306(d)(2)(G).

"(c) GRANT RESTRICTIONS.—

"(1) TERMS AND CONDITIONS.—Each grant under this section shall be subject to any terms and conditions as may be appropriate to ensure that the grant is used for purposes consistent with this section.

"(2) ELIGIBLE USES.—Grants under this section may be used for—

"(A) acquiring fee simple and other interests in land;

"(B) low-cost construction projects determined by the Under Secretary to be consistent with the purposes of this section, including construction of paths, walkways, fences, parks, and oyster beds and the rehabilitation of historic buildings and structures, except that not more than 50 percent of any grant under this section may be used for such construction projects;

"(C) in the case of grants for objectives described in subsection (b)(2)—

"(i) the rehabilitation or acquisition of piers to provide increased public use, including compatible commercial activity;

"(ii) the establishment of shoreline stabilization measures, including the installation or rehabilitation of bulkheads for the purpose of public safety or increasing public access and use;

"(iii) the removal or replacement of pilings where such action will provide increased recreational use of urban waterfront areas, except that activities provided for under this paragraph shall not be treated as construction projects subject to the limitations in subparagraph (B);

"(D) engineering designs, specifications, and other appropriate reports; and

"(E) educational, interpretive, and management costs and such other related costs as the Under Secretary determines to be consistent with the purposes of this section.

"(d) MATCHING REQUIREMENTS.—

"(1) IN GENERAL.—The Under Secretary shall require a coastal State to match a grant under this section in a ratio of at least one to one of Federal to State contribution.

"(2) USE FOR OTHER MATCHING REQUIREMENTS.—A coastal State may use a grant under this section to pay the State's share of costs required under any other Federal program that is consistent with the purposes of this section.

"SEC. 306B. MANAGING LAND USES THAT AFFECT COASTAL WATERS.

"(a) IN GENERAL.—

"(1) PROGRAM DEVELOPMENT.—Not later than 3 years after the effective date of this section, the management agency designated pursuant to section 306(d)(6) by each coastal State for which a management program has been approved pursuant to section 306 (hereinafter in this section referred to as the 'coastal management agency'), shall prepare and submit to the Under Secretary a Coastal Water Quality Protection Program (hereinafter in this section referred to as the 'program') for approval pursuant to this section. The purpose of the program shall be to develop and implement coastal land use management measures for nonpoint source pollution, working in close conjunction with other State and local authorities. For purposes of this section, the term "land use" shall include uses of adjacent water areas as well.

"(2) PROGRAM COORDINATION.—(A) In developing and carrying out the program, the coastal management agency shall coordinate closely with State and local water quality plans and programs developed pursuant to sections 208, 303, 319, and 320 of the Federal Water Pollution Control Act (33 U.S.C. 1288, 1313, 1329, and 1330).

"(B) The program shall serve as an update and expansion of the State nonpoint source management program developed under section 319 of the Federal Water Pollution Control Act, as the program under that section relates to land and water uses affecting the coastal zone. The program shall be prepared in close consultation with the State authority responsible for implementation of the program prepared under section 319 of that Act, in order to assure full coordination in each participating State.

"(b) PROGRAM CONTENTS.—The Under Secretary in consultation with the Administrator of the Environmental Protection Agency, shall approve a program under this section if it provides for the following:

"(1) IDENTIFYING LAND USES.—The identification of, and a continuing process for identifying, land uses which, individually or cumulatively, may cause or contribute significantly to a degradation of—

"(A) those coastal waters where there is a failure to attain or maintain applicable water quality standards or protect designated uses, as determined by the State pursuant to its water quality planning processes;

"(B) those coastal waters that are threatened by reasonably foreseeable increases in pollution loadings from new or expanding sources; or

"(C) outstanding resource waters designated pursuant to paragraph (4).

"(2) IDENTIFYING CRITICAL COASTAL AREAS.—The identification of, and a continuing process for identifying, critical coastal areas within which any new land uses or substantial expansion of existing land uses will be subject to land use management measures that are determined necessary by the coastal management agency, in cooperation with the State water quality authorities and other State or local authorities, as appropriate, to protect and restore coastal water quality and designated uses.

"(3) COASTAL LAND USE MANAGEMENT MEASURES.—(A) The implementation and continuing revision from time to time of land use management measures applicable to the land uses and areas identified pursuant to paragraphs (1) and (2) that the coastal management authority, working in conjunction with the State water pollution control agency and other State and local authorities, determines are necessary to achieve applicable water quality standards and protect designated uses.

"(B) Coastal land use management measures under this paragraph may include, among other measures, the use of—

"(i) buffer strips;

"(ii) setbacks;

"(iii) density restrictions;

"(iv) techniques for identifying and protecting critical coastal areas and habitats;

"(v) soil erosion and sedimentation control; and

"(vi) siting and design criteria for water uses, including marinas.

"(4) OUTSTANDING RESOURCE WATERS.—The continuing identification and designation (after periodic nominations, notice, and public comments) of coastal waters which, because of their special ecological, recreational, or esthetic characteristics, are determined by the State to constitute outstanding resource waters. Such designations may include, but not be limited to, waters identified by the State water pollution control agency as being of special biological significance pursuant to its water quality planning processes. Outstanding resource waters may include—

"(A) areas adjacent to national or State parks or wildlife refuges;

"(B) national estuarine research reserves and national marine sanctuaries;

"(C) waters adjacent to units of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.); or

"(D) shellfish harvesting areas or fish spawning areas of particular State or local importance.

"(5) TECHNICAL ASSISTANCE.—The provision of technical and financial assistance to local governments and the public for implementing the measures referred to in paragraph (3), including assistance in developing ordinances and regulations, technical guidance, and modeling to predict and assess the effectiveness of such measures, training, financial incentives, demonstration projects, and other innovations to protect coastal water quality and designated uses.

"(6) PUBLIC PARTICIPATION.—Opportunities for public participation in all aspects of the program, including the use of public notices and opportunities for comment, nomination procedures, public hearings, technical and financial assistance, public education, and other means.

"(7) ADMINISTRATIVE COORDINATION.—The establishment of mechanisms to improve coordination among State agencies and between State and local officials responsible for land use programs and permitting, water quality permitting and enforcement, habitat protection, and public health and safety, through the use of joint project review, interagency certifications, memoranda of agreement, and other mechanisms.

"(8) STATE COASTAL ZONE BOUNDARY MODIFICATION.—Modification of the boundaries of the State coastal zone as the coastal management agency determines is necessary to manage the land uses identified pursuant to paragraph (1) and to implement, as may be required, the recommendations made pursuant to subsection (e). If the coastal management agency does not have the authority to modify such boundaries, the program shall include recommendations for such modifications to the appropriate State authority.

"(c) PROGRAM SUBMISSION AND APPROVAL.—

"(1) PROCEDURES.—The submission and approval of a proposed program shall be governed by the procedures established by section 306(e).

"(2) ELIGIBILITY FOR AND WITHDRAWING ASSISTANCE.—If the Under Secretary finds that a coastal State has failed to submit an approvable program as required by this section, the State shall not be eligible for any funds under this section or section 603 of the Coastal Defense Initiative of 1990, and the Under Secretary shall withdraw a por-

tion of grants otherwise available to the State under section 306 of this Act as follows:

"(A) 10 percent after 3 years after the date of the enactment of this section.

"(B) 15 percent after 4 years after the date of the enactment of this section.

"(C) 20 percent after 5 years after the date of the enactment of this section.

"(D) 30 percent after 6 years after the date of the enactment of this section and thereafter.

The Under Secretary shall make amounts withdrawn under this paragraph available to coastal States having programs approved under this section.

"(d) TECHNICAL ASSISTANCE.—The Under Secretary and the Administrator of the Environmental Protection Agency shall provide technical assistance to coastal States and local governments in developing and implementing programs under this section. Such assistance shall include—

"(1) methods for assessing water quality impacts associated with coastal land uses;

"(2) methods for assessing the cumulative water quality effects of coastal development;

"(3) maintaining and from time to time revising an inventory of model ordinances, and providing other assistance to coastal States and local governments in identifying, developing, and implementing pollution control measures; and

"(4) methods to predict and assess the effects of coastal land use management measures on coastal water quality and designated uses.

"(e) INLAND BOUNDARIES.—

"(1) REVIEW.—The Under Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall, within 18 months after the date of enactment of this title, review the inland coastal zone boundary of each coastal State program which has been approved or is proposed for approval under section 306 and evaluate whether the State's coastal zone boundary extends inland to the extent necessary to control the land and water uses that have a significant impact on coastal waters of the State.

"(2) RECOMMENDATION.—If the Under Secretary finds that modifications to the inland boundaries of a State's coastal zone are necessary for that State to more effectively manage land and water uses to protect coastal waters, the Under Secretary shall recommend appropriate modifications in writing to the affected State.

"(f) FINANCIAL ASSISTANCE.—With sums appropriated pursuant to section 318(a)(2), the Under Secretary shall provide grants to each coastal State to assist in fulfilling the requirements of this section if the coastal State matches any such grant according to a 4 to 1 ratio of Federal to State contribution. Funds available for implementing this section shall be allocated according to the regulations issued under section 306(c), except that the Under Secretary may use not more than 30 percent of any such funds to provide grants to assist those States which the Under Secretary finds are making exemplary progress in complying with the requirements of this section.

"(g) LONG ISLAND SOUND CONSERVANCY DEMONSTRATION.—Notwithstanding any other provision of law and within one year after the effective date of this subsection, the Under Secretary shall establish an office, to be known as the Long Island Sound Conservancy, in the immediate vicinity of Long Island Sound. The office shall provide assistance to the States of Connecticut and New York in developing and implementing the plan described in subsection (a) and in demonstrating the most effective means of coordinating the implementation of coastal zone management and water quality programs. The Conservancy shall be eligible for grants under subsection (f) without regard to the matching requirement of that subsection.

"SEC. 307. COORDINATION AND COOPERATION.

"(a) GENERAL.—In carrying out the functions and responsibilities of this title, the Under Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate these activities with other interested Federal agencies.

"(b) FEDERAL AGENCY CONSULTATION.—The Under Secretary shall not approve the management program submitted by a State pursuant to section 306, or any amendment, modification, or other change to the management program, unless the views of Federal agencies principally affected by such program or amendments have been adequately considered.

"(c) FEDERAL AGENCY ACTIVITIES.—

"(1) IN GENERAL.—Each Federal agency activity, in or outside of the coastal zone, affecting any natural resources, land uses, or water uses in the coastal zone, shall be carried out in a manner which is, to the maximum extent practicable, consistent with approved State management programs.

"(2) PRESIDENTIAL EXEMPTION.—After any final judgment, decree, or order of any Federal court that is appealable under section 1291 or 1292 of title 28, United States Code, or under any other applicable provision of Federal law, that a specific Federal agency activity is not in compliance with subsection (c)(1), and certification by the Under Secretary that mediation under subsection (h) is not likely to result in such compliance, the President may, upon written request from the Under Secretary, exempt from compliance those elements of the Federal agency activity that are found by the Federal court to be inconsistent with an approved State program, if the President determines that the activity is in the paramount interest of the United States. No such exemption shall be granted due to a lack of appropriations unless the President has specifically requested such appropriations as part of the budgetary process, and the Congress has failed to make available the requested appropriations.

"(3) CONSISTENCY DETERMINATION REQUIRED.—Each Federal agency carrying out an activity subject to paragraph (1) shall provide a consistency determination to the relevant State agency designated under section 306(d)(6) at the earliest practicable time, but in no case later than 90 days before final approval of the Federal activity unless both the Federal agency and the State agency agree to a different schedule.

"(d) FEDERALLY LICENSED OR PERMITTED ACTIVITIES.—

"(1) IN GENERAL.—Any applicant for a required Federal license or permit to conduct an activity in or outside the coastal zone, affecting any natural resources, land uses, or water uses in the coastal zone of a State, shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the State's approved program and that the activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the State or its designated agency a copy of the certification, with all necessary information and data, and with any fee which may be required pursuant to subsection (i). Each coastal State shall establish procedures for public notice in the case of all certifications and, to the extent it deems appropriate, procedures for public hearings. At the earliest practicable time, the State or its designated agency shall notify the Federal agency concerned that the State concurs with or objects to the applicant's certification. If the State or its designated agency fails to furnish the required notification within 6 months after receipt of its copy of the applicant's certification, the State's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the State or its designated agency has concurred with the applicant's certification or until, by the State's failure to act, the concurrence is conclusively presumed, unless the Under Secretary, on his or her own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the State, that the activity is consistent with (A) the requirements of this title, and (B) the findings and policies of this title or is otherwise necessary in the interest of national security.

"(2) OUTER CONTINENTAL SHELF EXPLORATION, DEVELOPMENT, OR PRODUCTION.—Any person who submits to the Secretary of the Interior any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and regulations under such Act shall, with respect to any exploration, development, or production described in such plan and affecting any natural resources, land uses, or water uses in the coastal zone of a State, attach to such plan a certification that each activity which is described in detail in such plan complies with such State's approved management program and will be carried out in a manner consistent with such program. No Federal official or agency shall grant such person any license or permit for any activity described in detail in such plan until such State or its designated agency receives a copy of such certification and plan, together with any other necessary data and information, and with any fee which may be required pursuant to subsection (i), and until—

"(A) the State or its designated agency, in accordance with the procedures required to be established by the State pursuant to paragraph (1), concurs with the certification and notifies the Under Secretary and the Secretary of the Interior of the concurrence;

"(B) concurrence by the State with such certification is conclusively presumed as provided for in paragraph (1). If the State fails to concur with or objects to the certification within 3 months after receipt of its copy of the certification and supporting information, the State shall provide the Under Secretary, the appropriate Federal agency, and the person with a written statement describing the status of review and the basis for further delay in issuing a final decision, and if the statement is not so provided, concurrence by such State with the certification shall be conclusively presumed; or

"(C) the Under Secretary finds, pursuant to paragraph (1), that each activity which is described in detail in such plan is consistent with (i) the requirements of this title, and (ii) the findings and policies of this title or is otherwise necessary in the interest of national security.

If a State concurs or is conclusively presumed to concur, or if the Under Secretary makes such a finding, the provisions of paragraph (1) do not apply to the person, the State, and any Federal license or permit which is required to conduct any activity affecting natural resources, land uses, or water uses in the coastal zone of the State which is described in detail in the plan to which the concurrence or finding applies. If the State objects to the certification and if the Under Secretary fails to make a finding under subparagraph (C) or if the person fails substantially to comply with the plan as submitted, the person shall submit an amendment to the plan, or a new plan, to the Secretary of the Interior. With respect to any amendment or new plan submitted to the Secretary of the Interior pursuant to the preceding sentence, the applicable time period for purposes of concurrence by conclusive presumption under paragraph (1) is 3 months.

"(e) FEDERAL ASSISTANCE PROGRAMS.—State and local governments submitting applications for Federal assistance under other Federal programs, for activities in or outside the coastal zone affecting any natural resources, land uses, or water uses in the coastal zone, shall include the views of the agency designated pursuant to section 306(d)(6) as to the relationship of the activities to the approved management program. The applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not provide assistance for any activity that is inconsistent with a coastal State's management program, unless the Under Secretary, on his or her own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the State, that the activity is consistent with the findings and policies of this title or is (1) the requirements of this title, and (2) otherwise necessary in the interest of national security.

"(f) RELATIONSHIP TO OTHER FEDERAL LAWS.—Nothing in this title shall be construed—

"(1) to diminish either Federal or State jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of 2 or more States or of 2 or more States and the Federal Government; nor to limit the authority of the Congress to authorize and fund projects;

"(2) as superseding, modifying, or repealing any laws applicable to the various Federal agencies; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada; the Permanent Engineering Board; the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961; or the International Boundary and Water Commission, United States and Mexico.

"(g) INCORPORATION OF AIR AND WATER STANDARDS.—Notwithstanding any other provision of this title, nothing in this title shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or the Clean Air Act (42 U.S.C. 7401 et seq.), or (2) established by the Federal Government or by any State or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this title and shall be the water pollution control and air pollution control requirements applicable to such program.

"(h) MEDIATION.—In case of serious disagreement between any Federal agency and a coastal State or between 2 or more States—

"(1) in the development or the initial implementation of a management program under section 305; or

"(2) in the administration of a management program approved under section 306;

the Under Secretary shall seek to mediate the disagreement.

"(i) STATE FEE.—Each coastal State may establish, collect, and expend, without regard to any other requirement of this title, a fee to recover the reasonable costs of administering subsection (d). Such fee may recover the full costs of administration, including the reasonable costs of required research, monitoring, and enforcement.

"(j) FEDERAL FEE.—With respect to appeals under subsection (d) which are submitted after the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990, the Under Secretary shall collect an application fee of not less than $200 for minor appeals and not less than $500 for major appeals. The Under Secretary shall collect such other fees as are necessary to recover the full costs of administering and processing such appeals under subsection (d).

"(k) WAIVING RIGHT TO APPEAL.—An applicant may waive the right to an appeal pursuant to subsection (d)(1)(B), (d)(2)(C)(i) or (e)(2) if written notification of the waiver is received by the coastal State and the Under Secretary within 60 days after the date on which the coastal State objected to the applicant's certification under that subsection.

"(l) RESTRICTION OF STATE AUTHORITY.—A coastal State may not exercise the requirements of subsection (c), (d), or (e)—

"(1) unless the coastal State's management program has been approved pursuant to section 306; or

"(2) if approval of the coastal State's management program has been withdrawn pursuant to section 312(d).

"(m) CONSISTENCY WITH ENFORCEABLE POLICIES REQUIRED.—In complying with the provisions of subsections (c), (d), and (e), activities of Federal agencies and applicants shall be carried out consistent with the enforceable policies of the State management program. Federal agencies shall give adequate consideration to program provisions which are in the nature of recommendations.

"SEC. 308. COASTAL ENERGY IMPACT PROGRAM.

"(a) IN GENERAL.—Not later than January 1, 1993, the Under Secretary shall recommend to the Congress a coastal energy impact program. These recommendations shall include provision of financial and technical assistance to meet the needs of coastal States and local governments resulting from energy facilities and related activities affecting natural resources, land uses, or water uses in the coastal zone. The program shall identify the major energy activities which are affecting natural resources, land uses, or water uses in the coastal zone and the major obstacles, if any, to effective management of such activities under this title.

"(b) OUTER CONTINENTAL SHELF STATE PARTICIPATION.—

"(1) IN GENERAL.—Beginning in fiscal year 1991, the Under Secretary shall implement a program to assist coastal States in fulfilling their responsibilities under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

"(2) PARTICIPATION GRANTS.—The Under Secretary shall make grants under this paragraph to any coastal State which the Under Secretary finds is likely to be affected by Outer Continental Shelf energy activities, if the State matches the grant according to a 4 to 1 ratio of Federal to State contribution. The grants shall be used to assist the State in carrying out its responsibilities under the Outer Continental Shelf Lands Act.

"(c) LOAN REPAYMENT OBLIGATIONS UNAFFECTED.—The obligations of any coastal State or unit of general purpose local government to repay loans made pursuant to section 308(d)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(d)(1)), as in effect before the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990, and any repayment schedule established pursuant to that Act, are not altered by any provision of this title. Such loans shall be repaid under authority of this subsection and the Under Secretary may issue regulations governing such repayment. If the Under Secretary finds that any coastal State or unit of local government is unable to meet its obligations pursuant to this subsection because the actual increases in employment and related population resulting from coastal energy activity and the facilities associated with such activity do not provide adequate revenues to enable such State or unit to meet such obligations in accordance with the appropriate repayment schedule, the Under Secretary shall, after review of the information submitted by such State or unit take any of the following actions:

"(1) Modify the terms and conditions of such loan.

"(2) Refinance the loan.

"(3) Recommend to the Congress that legislation be enacted to forgive the loan.

"(d) OFFSETTING COLLECTIONS.—Loan repayments made pursuant to subsection (c) shall be retained by the Under Secretary as offsetting collections, and shall be deposited into the Coastal Zone Management Fund established under section 309.

"SEC. 309. COASTAL ZONE MANAGEMENT FUND.

"(a) ESTABLISHMENT.—The Under Secretary shall establish and maintain a fund, to be known as the 'Coastal Zone Management Fund' (hereinafter in this section referred to as the 'Fund'), which shall consist of amounts retained and deposited into the Fund under section 308(d).

"(b) USE.—Subject to amounts provided in Appropriation Acts, amounts in the Fund shall be available to the Under Secretary for use for the following:

"(1) ADMINISTRATION.—Expenses incident to the administration of this title, in an amount not to exceed—

"(A) $5,000,000 for fiscal year 1991;

"(B) $5,225,000 for fiscal year 1992;

"(C) $5,460,125 for fiscal year 1993;

"(D) $5,705,830 for fiscal year 1994; and

"(E) $5,962,593 for fiscal year 1995.

"(2) OTHER USES.—After use under paragraph (1)—

"(A) projects to address management issues which are regional in scope, including interstate projects;

"(B) demonstration projects which have high potential for improving coastal zone management, especially at the local level;

"(C) emergency grants to State coastal zone management agencies to address unforeseen or disaster-related circumstances;

"(D) appropriate awards recognizing excellence in coastal zone management as provided in section 314;

"(E) program development grants as authorized by section 305;

"(F) State participation grants under section 308(b); and

"(G) to provide financial support to coastal States for use for investigating and applying the public trust doctrine to implement State management programs approved under section 306.

"(c) REPORT.—On December 1 of each year, the Under Secretary shall transmit to the Congress an annual report on the Fund, including the balance of the Fund and an itemization of all deposits into and disbursements from the Fund in the preceding fiscal year.

"SEC. 310. NATIONAL INTEREST IMPROVEMENTS.

"(a) IN GENERAL.—Beginning in fiscal year 1991, the Under Secretary shall implement an ongoing program to encourage each coastal State to make continual improvements in its management program in specified national interest areas. This program shall encourage and monitor improvements in one or more of the following special national interest areas:

"(1) COASTAL WETLANDS MANAGEMENT AND PROTECTION.—Coastal wetlands management and protection, consistent with the interim goal to achieve no overall net loss of the Nation's remaining wetlands base, including adoption of—

"(A) enforceable policies to manage and protect coastal wetlands; and

"(B) a comprehensive restoration program for coastal wetlands for the purpose of attaining increases in functioning wetlands communities.

"(2) NATURAL HAZARDS MANAGEMENT.—Management of development and redevelopment in hazardous areas, including enforceable policies and management strategies to—

"(A) reduce the threat to life and the destruction of property by discouraging development and redevelopment in high hazard areas;

"(B) properly manage development and redevelopment in other hazard areas including such mechanisms as setbacks, requirements that buildings be suitable for relocation and other special building code standards, and acquisition and relocation programs; and

"(C) anticipate and manage the effects of potential sea level or Great Lakes level rise and land subsidence by—

"(i) requiring consideration of sea level or Great Lakes level rise and land subsidence in the siting of new public infrastructure investments and new large-scale developments with long life expectancies, such as sewage treatment plants, industrial plants, and hazardous waste facilities;

"(ii) establishing and protecting buffer zones for wetlands which are likely to migrate landward in response to sea level or Great Lakes level rise;

"(iii) ensuring that protection of natural resources is a feature of both structural and nonstructural responses to sea level or Great Lakes level rise or land subsidence; and

"(iv) requiring building setbacks and standards that minimize the adverse effects of sea level or Great Lakes level rise or land subsidence.

"(3) PUBLIC ACCESS.—Providing public access to coastal areas, including development of a program to increase public access to coastal areas of recreational, historical, esthetic, ecological, or cultural value, based on assessments of long-term public access needs. This program shall include enforceable policies necessary to meet public needs for access, including appropriate regulatory means and programs to obtain access sites through donation, dedication, and acquisition, and shall include a process for public nomination of areas to be acquired for public access purposes.

"(4) CUMULATIVE AND SECONDARY IMPACTS.—Development and adoption of procedures to assess, consider, and control cumulative and secondary impacts of coastal growth and development, including the collective effect of various individual uses or activities on coastal resources, such as coastal wetlands, and the cumulative effect of nonpoint pollution from individual land uses or water uses.

"(5) COASTAL ENERGY DEVELOPMENT.—Adoption of procedures and enforceable policies to help facilitate the siting of energy facilities and accommodate energy-related activities which may be of greater than local significance, including—

"(A) mitigation policies and guidelines which will be applicable to energy development activities;

"(B) procedures to coordinate Federal energy policies and programs with State coastal zone management programs; and

"(C) consolidation of permitting and regulatory reviews.

"(b) NATIONAL INTEREST IMPROVEMENTS PROGRAMS.—To implement the program required under subsection (a), the Under Secretary shall assess, for each coastal State, the priority needs for improvement in each of the special national interest areas, and based on that assessment, shall seek to negotiate a National Interest Improvements Program (hereinafter in this section referred to as a 'program') for each coastal State with an approved management program. Each program shall cover a period of at least 3 years and shall include specific, measurable goals and milestones to facilitate effective oversight by the Under Secretary pursuant to subsection (e).

"(c) NOTIFICATION.—In negotiating each program, the coastal State shall notify and consult with appropriate Federal agencies, State agencies, local governments, regional organizations, port authorities, and the public, and where appropriate shall establish a citizens advisory group to assist in development and implementation of the program.

"(d) PHASED IMPLEMENTATION.—If necessary for effective administration, the Under Secretary may stagger implementation of programs required under subsection (a) such that no less than one-third of the participating coastal States are negotiating a program in any single year.

"(e) EVALUATION.—

"(1) ANNUAL REVIEW.—The Under Secretary shall continually monitor progress in implementing each program negotiated under this section and shall provide each State with an annual evaluation of progress. Unless the Under Secretary finds, for each one-year period, that the coastal State is making continual and satisfactory progress in implementing each component of the program, the Under Secretary shall notify the coastal State and the public and shall specify additional actions required to ensure satisfactory implementation.

"(2) REASSESSMENT AND SUSPENSION.—Six months after notifying a State under paragraph (1), the Under Secretary shall reassess the State's progress. Unless the Under Secretary finds that the State is making satisfactory progress in undertaking the actions required under paragraph (1), the Under Secretary shall suspend that State's eligibility for further funding under this section for at least one year.

"(3) WAIVER.—The Under Secretary may waive the requirements of this section only by finding that a lack of satisfactory progress by a State is due to factors which are beyond the control of the State and which were unforeseen at the time the plan was negotiated. The Under Secretary shall notify the Congress and the public before granting any waiver under this subsection.

"(f) FUNDING.—Beginning in fiscal year 1991, at least 10 percent, but not more than 20 percent, of the amounts appropriated under section 318(a)(1) to implement sections 306 and 306A shall be used by the Under Secretary to implement this section.

"(g) NO STATE MATCH REQUIRED.—No State match is required for activities funded under this section.

"(h) GRANT ALLOCATION.—Funds available to implement this section shall be distributed among eligible States as follows:

"(1) FORMULA GRANTS.—Fifty percent according to regulations promulgated pursuant to section 306(c).

"(2) DISCRETIONARY GRANTS.—Fifty percent for discretionary awards according to guidelines or regulations issued by the Under Secretary pursuant to section 317.

"(i) REGULATIONS.—The Under Secretary shall issue regulations under section 317 providing guidance for any program negotiated under this section.

"SEC. 311. PUBLIC HEARINGS AND MEETINGS.

"All public hearings and meetings required under this title shall be announced at least 45 days prior to the hearing or meeting date. At the time of the announcement, all materials of the agency conducting a hearing or meeting and pertinent to the hearing or meeting, including documents, studies, and other data, shall be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

"SEC. 312. REVIEW OF PERFORMANCE.

"(a) PERIODIC REVIEW OF STATE PROGRAMS.—The Under Secretary shall conduct a continuing review of the performance of coastal States with respect to coastal management. Each review shall include a written evaluation with an assessment and detailed findings concerning the extent to which each coastal State has implemented and enforced a program of the State approved by the Under Secretary under this Act (including regarding adherence by State agencies and units of local government to the program), furthered the coastal management program requirements identified in section 303(3), satisfactorily complied with any national interest improvement program under section 310, and adhered to the terms of any grant, loan, or cooperative agreement funded under this title.

"(b) PUBLIC PARTICIPATION.—For the purpose of evaluating pursuant to subsection (a) a coastal State's performance, the Under Secretary shall conduct public meetings and provide opportunity for oral and written comments by the public. Each such evaluation shall be prepared in report form, shall contain written response to all written comments received, and shall be available to the public.

"(c) PROBATIONARY PERIOD.—The Under Secretary may place a coastal State on probation for not more than 2 years if the Under Secretary, on the basis of an evaluation which has been completed pursuant to subsection (b), finds substantial evidence that the State is failing to adequately implement or enforce important components of its approved program but that such evidence or failure constitutes insufficient grounds for action pursuant to subsection (d). If the Under Secretary makes the finding authorized in this subsection—

"(1) the Under Secretary shall notify the coastal State of—

"(A) the effective date of the probation;

"(B) the portion or portions of the program to which the probation is effective; and

"(C) written recommendations for corrective actions; and

"(2) the Under Secretary shall withdraw up to 25 percent of the funds available to the State pursuant to this title for use in assisting the State in implementing the recommendations under paragraph (1)(C), and any funds withdrawn but not used to implement recommendations under paragraph (1)(C) shall be added to amounts appropriated under section 318(a)(1).

"(d) PROGRAM DISAPPROVAL.—The Under Secretary shall withdraw approval of the management program of any coastal State, and shall withdraw any financial assistance available to that State under this title as well as any unexpended portion of such assistance, if the Under Secretary determines that the State is failing to adhere to, and is not justified in deviating from—

"(1) the management program approved by the Under Secretary, or

"(2) the terms of any grant or cooperative agreement funded under this title, and refuses to remedy the deviation.

Upon the withdrawal of management program approval under this subsection, the Under Secretary shall provide the coastal State with written specifications of the actions that should be taken, or not engaged in, by the State in order that such withdrawal may be canceled by the Under Secretary.

"(e) ADVANCE NOTIFICATION REQUIRED.—Prior to taking any action required under subsection (c) or (d), the Under Secretary shall notify the coastal State and provide an opportunity for a public hearing on the proposed action.

"SEC. 313. RECORDS AND AUDIT.

"(a) RECORDS.—Each recipient of financial assistance under this title shall keep any records as the Under Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received and of the proceeds of the assistance, the portion of the total cost of any project or undertaking supplied by other sources, and other records as will facilitate an effective audit.

"(b) ACCESS TO RECORDS.—The Under Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall—

"(1) after any financial assistance is provided under this title; and

"(2) until the expiration of 3 years after—

"(A) completion of the project, program, or other undertaking for which financial assistance was made or used, or

"(B) repayment of the loan or guaranteed indebtedness for which financial assistance was provided;

have access to audit and examine any record, book, document, and paper which belongs to or is used or controlled by, any recipient of the financial assistance and which is pertinent for purposes of determining if the financial assistance is being, or was, used in accordance with this title.

"SEC. 314. WALTER B. JONES EXCELLENCE IN COASTAL MANAGEMENT AWARDS.

"(a) IN GENERAL.—The Under Secretary shall, using sums in the Coastal Zone Management Fund established under section 309, implement a program to promote excellence in coastal zone management by identifying and acknowledging outstanding accomplishments in the field.

"(b) AWARD CATEGORIES AND SELECTION.—The Under Secretary shall select annually—

"(1) one individual, other than an employee or officer of the Federal Government, whose contribution to the field of coastal zone management has been the most significant;

"(2) 5 local governments which have made the most progress in developing and implementing the coastal zone management principles embodied in this title; and

"(3) up to 10 graduate students whose academic study promises to contribute materially to development of new or improved approaches to coastal zone management.

"(c) LOCAL GOVERNMENT NOMINATIONS.—In making selections under subsection (b)(2) the Under Secretary shall solicit nominations from the coastal States, and shall consult with experts in local government planning and land use.

"(d) GRADUATE STUDENT NOMINATIONS.—In making selections under subsection (b)(3) the Under Secretary shall solicit nominations from coastal States and the National Sea Grant College Program.

"(e) WALTER B. JONES AWARDS.—Using sums in the Coastal Zone Management Fund established under section 309, the Under Secretary shall establish and execute appropriate awards, to be known as the 'Walter B. Jones Awards', including—

"(1) cash awards in an amount not to exceed $5,000 each;

"(2) research grants; and

"(3) public ceremonies to acknowledge such awards.

"SEC. 315. NATIONAL ESTUARINE RESEARCH RESERVE SYSTEM.

"(a) ESTABLISHMENT OF SYSTEM.—There is established the National Estuarine Research Reserve System (hereinafter in this section referred to as the 'System'), consisting of—

"(1) each estuarine sanctuary designated under this section as in effect before the date of the enactment of the Coastal Zone Management Reauthorization Act of 1985; and

"(2) each estuarine area designated as a national estuarine research reserve under subsection (b).

Each estuarine sanctuary referred to in paragraph (1) is hereby designated as a national estuarine research reserve.

"(b) DESIGNATION OF NATIONAL ESTUARINE RESEARCH RESERVES.—The Under Secretary may designate an estuarine area as a national estuarine research reserve if—

"(1) the area constitutes, to the extent feasible, a natural unit which can be set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationship within the area;

"(2) the Governor of the coastal State in which the area is located nominates the area for that designation; and

"(3) the Under Secretary finds that—

"(A) the area is a representative estuarine ecosystem that is suitable for long-term monitoring and research and contributes to the biogeographical and typological balance of the System;

"(B) the laws of the coastal State provide long-term protection for reserve resources to ensure a stable environment for research;

"(C) designation of the area as a reserve will serve to enhance public awareness and understanding of estuarine areas, and provide suitable opportunities for public education and interpretation; and

"(D) the coastal State in which the area is located has complied with the requirements of any regulations issued by the Under Secretary to implement this section.

"(c) ESTUARINE RESEARCH GUIDELINES.—The Under Secretary shall develop guidelines for the conduct of research within the System that shall include the following:

"(1) IDENTIFYING PRIORITIES.—A mechanism for identifying and establishing priorities among the coastal management issues that should be addressed through coordinated research within the System.

"(2) RESEARCH OBJECTIVES.—The establishment of common research principles and objectives to guide the development of research programs within the System.

"(3) COMMON METHODS.—The identification of uniform research methodologies which will ensure comparability of data, the broadest application of research results, and the maximum use of the System for research purposes.

"(4) MONITORING.—The conduct of monitoring activities within the System, including the monitoring of physical, chemical, and biological parameters and criteria associated with the estuarine ecosystem.

"(5) STANDARDS.—The establishment of performance standards by which the effectiveness of the research efforts and the value of reserves within the System may be measured in addressing and coastal management issues identified in paragraph (1).

"(6) OUTSIDE FUNDING SOURCES.—The consideration of sources of funds for estuarine research in addition to amounts authorized under this title, and strategies for encouraging the use of these funds within the System, with particular emphasis on mechanisms established under subsection (d).

In developing the guidelines under this subsection, the Under Secretary shall consult with prominent members of the estuarine research community.

"(d) PROMOTION AND COORDINATION OF ESTUARINE RESEARCH.—The Under Secretary shall take such action as is necessary to promote and coordinate the use of the System for research purposes, including the following:

"(1) DATA MANAGEMENT.—Developing a data base accessible to the public for information derived from monitoring and research activities within the System.

"(2) TECHNICAL TRANSFER.—Providing for the exchange of information and data among national estuarine research reserves and between the reserves and estuarine and coastal resource managers.

"(3) PRIORITY CONSIDERATION.—Requiring the Department of Commerce, in conducting or supporting estuarine research, to give priority consideration to research that uses the System.

"(4) PROMOTING RESEARCH.—Consulting with other Federal and State agencies to promote use by such agencies of one or more national estuarine research reserves

within the System when conducting estuarine research.

"(e) EDUCATION.—The Under Secretary shall—

"(1) develop guidelines providing for education activities in national estuarine research reserves;

"(2) promote the use of national estuarine research reserves by educational institutions and by programs of the United States Department of Education; and

"(3) establish and implement a program to exchange educational information throughout the System.

"(f) FINANCIAL ASSISTANCE.—

"(1) IN GENERAL.—The Under Secretary may, in accordance with such rules and regulations as the Under Secretary shall promulgate, make grants—

"(A) to a coastal State entity—

"(i) to acquire lands and waters, and any property interests therein, necessary to ensure the appropriate long-term management of an area as a national estuarine research reserve,

"(ii) to operate or manage a national estuarine research reserve and to construct appropriate reserve facilities, or

"(iii) for educational or interpretive activities; and

"(B) to any coastal State entity or public or private institution or person to support research and monitoring within a national estuarine research reserve that are consistent with the research guidelines developed under subsection (c).

"(2) TERMS AND CONDITIONS.—Financial assistance provided under paragraph (1) shall be subject to any terms and conditions the Under Secretary considers necessary or appropriate to protect the interests of the United States, including requiring coastal States to execute suitable title documents setting forth the property interests of the United States in any lands and waters acquired in whole or in part with financial assistance under this section.

"(3) MATCHING FUNDS.—(A) The amount of financial assistance provided under paragraph (1)(A)(i) for any one national estuarine research reserve may not exceed an amount equal to 50 percent of the costs of the lands, waters, and interests therein, or $6,000,000, whichever amount is less.

"(B) The amount of the financial assistance provided under paragraphs (1)(A) (ii) and (iii) and paragraph (1)(B) may not exceed 50 percent of the costs incurred to achieve the purposes described in those paragraphs with respect to a national estuarine research reserve.

"(C) For purposes of this section, the term 'coastal State entity' means any legal entity established by legislative or executive act or order of a coastal State's government, including State universities, colleges, commissions, consortia, boards, or other institutions established for purposes, including research, education, or resource management.

"(g) EVALUATION OF SYSTEM PERFORMANCE.—

"(1) IN GENERAL.—The Under Secretary shall periodically evaluate the operation and management of each national estuarine research reserve, including educational and interpretive activities, and the research being conducted within the reserve.

"(2) SUSPENSION OF FUNDING.—If evaluation under paragraph (1) reveals that the operations and management of national estuarine research reserve is deficient, or that the research being conducted within the reserve is not consistent with the research guidelines developed under subsection (c), the Under Secretary may suspend the eligibility of that reserve for financial assistance under subsection (f) until the deficiency or inconsistency is remedied.

"(3) WITHDRAWAL OF DESIGNATION.—The Under Secretary may withdraw the designation of an estuarine area as a national estuarine research reserve if evaluation under paragraph (1) reveals that—

"(A) the basis for any of the findings made under subsection (b)(3) no longer exists; or

"(B) a substantial portion of the research conducted within the reserve, over a period of years, has not been consistent with the research guidelines developed under subsection (c).

"(h) REPORT.—The Under Secretary shall include in the report required under section 316 information regarding—

"(1) new designations of national estuarine research reserves;

"(2) any expansion of existing national estuarine research reserves;

"(3) the status of the research program being conducted within the System; and

"(4) a summary of the evaluations made under subsection (g).

"(i) COOPERATIVE AGREEMENTS AND DONATIONS.—

"(1) COOPERATIVE AGREEMENTS.—The Under Secretary may enter into cooperative agreements with any nonprofit organization or institution of higher learning—

"(A) to aid and promote interpretive, historical, scientific, and educational activities within any national estuarine research reserve; and

"(B) for the solicitation of private donations for the support of such activities.

"(2) DONATIONS.—The Under Secretary may accept donations of funds, property, and services for use in designating and administering national estuarine research reserves under this section. Such donations shall be considered to be a gift or bequest to, or for the use of, the United States.

"SEC. 316. COASTAL ZONE MANAGEMENT REPORT.

"(a) IN GENERAL.—The Under Secretary shall transmit to the Congress reports summarizing the administration of this title during each period of 2 consecutive fiscal years. Each report shall be transmitted to the Congress not later than April 1 of the year following the close of the biennial period to which it pertains, and shall include the following:

"(1) RECENTLY APPROVED PROGRAMS.—An identification of the State programs approved pursuant to this title during the preceding fiscal year and a description of those programs.

"(2) PARTICIPATING STATES.—A list of the coastal States participating under this title and a description of the status of each State's program and its accomplishments during the preceding fiscal year.

"(3) NONPARTICIPATING STATES.—A list of the coastal States not participating under this title, a description of efforts by the Under Secretary to encourage their participation, and additional action or incentives needed to secure participation.

"(4) FUNDING SUMMARY.—An itemization of the allocation of funds to the various coastal States and a breakdown of the major projects and areas in which these funds were expended.

"(5) PROGRAM PROBATIONS AND DISAPPROVALS.—An identification of any coastal State program which has been reviewed and placed on probation or disapproved, and a statement of the reasons for that action.

"(6) EVALUATION SUMMARY.—A summary of evaluation findings prepared in accordance with section 312(a).

"(7) INCONSISTENT ACTIVITIES AND PROJECTS.—A list of all activities and projects which are not consistent with an applicable approved State management program.

"(8) REVISED REGULATIONS.—A summary of the regulations issued by the Under Secretary during the biennial period covered by the report.

"(9) PRIORITY PROBLEMS.—A summary of outstanding problems arising in the administration of this title, in order of priority.

"(10) MISCELLANEOUS.—Any other information as may foster effective oversight by the Congress.

"(11) STATE VIEWS.—Summary views and recommendations from each coastal State, including recommendations for additional legislation, necessary to achieve the objectives of this title and enhance its effective operation.

"(b) GUIDELINES.—For the purposes of paragraph (11), the Under Secretary shall issue guidelines to the coastal States which outline the format for submitting summary views and recommendations.

"SEC. 317. RULES AND REGULATIONS.

"The Under Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after issuance of notice and opportunity for full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, any rules and regulations as may be necessary to carry out the provisions of this title.

"SEC. 318. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATIONS.—There are authorized to be appropriated to the Under Secretary—

"(1) for grants under sections 306 and 306A, not to exceed $46,670,000 for fiscal year 1991, $48,770,000 for fiscal year 1992, $50,965,000 for fiscal year 1993, $53,258,000 for fiscal year 1994, and $55,655,000 for fiscal year 1995, to remain available until expended;

"(2) for grants under section 306B, not to exceed $10,000,000 for fiscal year 1991, $20,000,000 for fiscal year 1992, $30,000,000 for fiscal year 1993, $35,000,000 for fiscal year 1994, and $40,000,000 for fiscal year 1995, to remain available until expended; and

"(3) for grants under section 315, not to exceed $7,000,000 for fiscal year 1991, $7,355,000 for fiscal year 1992, $7,710,000 for fiscal year 1993, $8,065,000 for fiscal year 1994, and $8,420,000 for fiscal year 1995, to remain available until expended.

"(b) LIMITATION ON MATCHING FUNDS.—Federal funds received from other sources shall not be used to pay a coastal State's share of costs under section 306.

"(c) UNOBLIGATED GRANTS.—The amount of any grant, or portion of a grant, made to a coastal State under any section of this Act which is not obligated by the State during the fiscal year, for which it was first authorized to be obligated by the State, or during the next fiscal year, shall revert to the Under Secretary. The Under Secretary shall add the reverted amount to those funds available for grants under the section for which the reverted amount was originally made available.

"(d) PASSTHROUGH OF GRANT FUNDS.—With the approval of the Under Secretary, a coastal State may allocate to a local govern-

ment, an area-wide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of any grant made under this title. An allocation of grant funds shall not relieve a State of the responsibility for ensuring that any funds so allocated are used in conformance with applicable grant terms and conditions and to further the State's approved management program.

"SEC. 319. INTERSTATE AGREEMENTS AND COMPACTS.

"The consent of the Congress is hereby given to 2 or more coastal States to negotiate, and to enter into, agreements or compacts, which do not conflict with any law or treaty of the United States, for—

"(1) developing and administering coordinated coastal zone planning, policies, and programs pursuant to sections 305 and 306; and

"(2) establishing executive instrumentalities or agencies which such States deem desirable for the effective implementation of such agreements or compacts. Such agreements or compacts shall be binding and obligatory upon any State or party thereto without further approval by the Congress.".

SEC. 7204. DEADLINES FOR COMPLIANCE.

(a) NEW REQUIREMENTS.—Each State which submits a management program for approval under section 306 of the Coastal Zone Management Act of 1972, as amended by this Act (including a State which submitted such a program before the date of the enactment of this Act), shall demonstrate to the Under Secretary of Commerce for Oceans and Atmosphere compliance with the requirements of section 306(d)(14) and (15) of that Act by not later than 2 years after the date of the enactment of this Act.

(b) LAND USE MANAGEMENT PROGRAM GUIDELINES AND REGULATIONS.—Within 180 days after the date of the enactment of this Act, the Under Secretary of Commerce for Oceans and Atmosphere shall issue guidelines for coastal States to follow in developing a program under section 306B of the Coastal Zone Management Act of 1972, as amended by this Act. Within 18 months after that date of enactment, the Under Secretary shall promulgate regulations governing the receipt, review, and approval of programs under that section.

SEC. 7205. PACIFIC ISLAND STATE DEMONSTRATION PROJECT.

(a) AUTHORIZATION.—There is authorized to be appropriated not more than $100,000 for each of fiscal years 1991 through 1995 for use by one Pacific island coastal State to develop a draft joint Federal-State resource management plan for ocean resources lying 3 to 12 miles from the baseline from which its territorial sea is measured. Amounts appropriated under this section may not be used to develop a plan affecting fishery resources subject to management under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(b) REPORT.—At the end of fiscal year 1995, the Pacific island coastal State which develops a management plan pursuant to subsection (a) shall transmit the plan to the Congress.

SEC. 7206. REFERENCE.

A reference in any law, regulation, record, map, or paper or other document to the Coastal Zone Management Act of 1972 may be construed to be a reference to such Act, as amended by this Act.

SEC. 7207. FEDERAL AGENCY CONSISTENCY.

The consistency requirements of section 307 of the Coastal Zone Management Act (16 U.S.C. 1456) shall apply to Federal agency activities or federally permitted activities under title I of the Marine, Protection, Research, and Sanctuaries Act of 1972, if the Federal activity or permitted activity affects land uses, water uses, or natural resources of the coastal zone.

Subtitle C—Clean Beaches

SEC. 7301. SHORT TITLE.

This subtitle may be cited as the "Beaches Environmental Assessment, Closure, and Health Act of 1990".

SEC. 7302. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds that—

(1) the Nation's beaches are a valuable public resource used for recreation by millions of people annually;

(2) the beaches of coastal States are hosts to many out-of-State and international visitors;

(3) tourism in the coastal zone generates billions of dollars annually;

(4) as of the year 2000, as much as 80 percent of the Nation's population may be living within 50 miles of the coast;

(5) increased population has contributed to the decline in the environmental quality of coastal waters;

(6) pollution in coastal waters is not restricted by State and other political boundaries;

(7) each coastal State has its own method of testing the quality of its coastal recreation waters, providing varying degrees of protection to the public; and

(8) the adoption of standards by coastal States for monitoring the quality of coastal recreation waters, and the posting of signs at beaches notifying the public during periods when the standards are exceeded, would enhance public health and safety.

(b) PURPOSE.—The purpose of this subtitle is to require uniform procedures for beach testing and monitoring to protect public safety and improve the environmental quality of coastal recreation waters.

SEC. 7303. WATER QUALITY CRITERIA FOR COASTAL RECREATION WATERS.

Section 304(a) of the Federal Water Pollution Control Act (33 U.S.C. 1314(a)) is amended by adding at the end the following:

"(9) COASTAL RECREATION WATERS.—(A) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall review and revise within 1 year after the effective date of this paragraph (and from time to time thereafter) water quality criteria for coastal recreation waters. The criteria shall be based on a national goal of eliminating human health risks posed from pathogens in those waters, and until that goal is met shall ensure the protection of public health. The criteria shall include specific numeric criteria calculated to reflect public health risks from short-term increases in pathogens in coastal recreation waters resulting from rainfall, malfunctions of wastewater treatment works, and other causes.

"(B) Not later than 9 months after the date on which the Administrator publishes revised water quality criteria for coastal recreation waters under subparagraph (A), the Administrator shall publish regulations specifying methods to be used by States to test coastal recreation waters, during periods of use by the public, for compliance with standards adopted or effective under section 303(i). The regulations shall include—

"(i) requirements for the frequency of testing based on whether particular waters subject to testing are used frequently, moderately, or occasionally;

"(ii) methods for detecting short-term increases in pathogens in coastal recreation waters resulting from rainfall, malfunctions of wastewater treatment works, and other causes; and

"(iii) requirements for testing based on proximity of particular waters to pollution sources.

"(C) Not later than 9 months after the date on which the Administrator publishes revised water quality criteria for coastal recreation waters under subparagraph (A), the Administrator shall publish regulations that require States to post signs on beaches adjoining coastal recreation waters during periods when those waters do not comply with applicable water quality standards, which notify the public of that noncompliance and potential risks. A State may delegate responsibility for posting of coastal recreation waters to local government authorities.

"(D) The Administrator, after consultation with appropriate Federal and State agencies, shall develop and publish within 1 year after the effective date of this paragraph guidance on uniform assessment and monitoring procedures for floatable materials in coastal recreation waters.

"(E) For purposes of this paragraph—

"(i) the term 'coastal recreation waters' means waters in the coastal zone (as that term is defined in section 304 of the Coastal Zone Management Act of 1972) commonly used by the public for swimming, bathing, or other similar primary contact purposes; and

"(ii) the term 'floatable materials' means any matter that may float or remain suspended in the water column, and includes plastic, aluminum cans, wood, bottles, and paper products.".

SEC. 7304. WATER QUALITY STANDARDS FOR COASTAL RECREATION WATERS.

Section 303 of the Federal Water Pollution Control Act (33 U.S.C. 1313) is amended by adding at the end the following:

"(i) WATER QUALITY STANDARDS FOR COASTAL RECREATION WATERS.—

"(1) STATE WATER QUALITY STANDARDS.—Not later than 2 years after the date on which the Administrator publishes revised water quality criteria for coastal recreation waters under section 304(a)(9)(A), each State shall adopt and submit to the Administrator for approval under this section water quality standards based on those criteria for coastal recreation waters of the State.

"(2) FAILURE OF STATE TO ADOPT WATER QUALITY STANDARDS.—If a State fails to adopt water quality standards in accordance with paragraph (1), the criteria published by the Administrator under section 304(a)(9) shall take effect as water quality standards for coastal recreation waters of the State until such time as the State adopts its own water quality standards.

"(3) COASTAL RECREATION WATERS DEFINED.—For purposes of this subsection, the term 'coastal recreation waters' has the meaning that term has in section 304(a)(9).".

SEC. 7305. STUDY TO IDENTIFY INDICATORS OF HUMAN-SPECIFIC PATHOGENS IN COASTAL RECREATION WATERS.

(a) STUDY.—The Administrator of the Environmental Protection Agency, in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere, shall conduct an ongoing study to provide additional in-

formation to the current base of knowledge, for use for—

(1) developing better indicators for directly detecting in coastal recreation waters the presence of bacteria and viruses which are harmful to human health; and

(2) revising the criteria for coastal recreation waters under section 304(a)(9)(A) of the Federal Water Pollution Control Act (as amended by this Act).

(b) REPORT.—Not later than 3 years after the date of the issuance of revised criteria under section 304(a)(9) of the Federal Water Pollution Control Act (as amended by this Act), and periodically thereafter, the Administrator of the Environmental Protection Agency shall submit to the Congress a report describing the findings of the study under this section, including—

(1) recommendations for any necessary revisions to water quality criteria for coastal recreation waters;

(2) a description of the amounts and types of floatable materials in coastal waters and on coastal beaches, and of recent trends in the amounts and types of such floatable materials; and

(3) an evaluation of State efforts to implement this title.

SEC. 7306. PARTICIPATION OF STATE COASTAL ZONE MANAGEMENT PROGRAMS.

(a) TECHNICAL ASSISTANCE.—Each coastal zone management agency of a State with an approved coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 shall provide technical assistance to local governments within the State for ensuring that coastal recreation waters and beaches are as free as possible from floatable materials.

(b) CLEAN-UP OF COASTAL RECREATION WATERS AND BEACHES.—Section 306A of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455a) is amended—

(1) by adding at the end of subsection (b) the following:

"(4) REDUCTION OF FLOATABLE MATERIALS.—Reduction of floatable materials in the State's coastal recreation waters, by—

"(A) managing adjacent land uses so that floatable materials are not introduced into those waters;

"(B) encouraging public participation in reducing the amount of floatable materials that enter coastal recreation waters; and

"(C) sponsoring clean-up events at public beaches.";

(2) in subsection (c)(2)—

(A) by striking "and" after the semicolon at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(C) by adding at the end the following:

"(F) the acquisition of beach and coastal recreation water clean-up equipment."; and

(3) by adding at the end the following:

"(e) DEFINITIONS.—In this section—

"(1) the term 'coastal recreation waters' has the meaning that term has in section 304(a)(9) of the Federal Water Pollution Control Act; and

"(2) the term 'floatable materials' means any matter that may float or remain suspended in the water column, and includes plastic, aluminum cans, wood, bottles, and paper products.".

SEC. 7307. GRANTS TO STATES.

(a) GRANTS.—The Administrator of the Environmental Protection Agency is authorized to make grants to States for use in fulfilling requirements established pursuant to sections 7303 and 7304.

(b) COST SHARING.—The total amount of grants to a State under this section for a fiscal year shall not exceed 50 percent of the cost to the State of implementing requirements established pursuant to sections 7303 and 7304.

SEC. 7308. DEFINITIONS.

In this subtitle—

(1) the term "coastal recreation waters" means waters in the coastal zone (as that term is defined in section 304 of the Coastal Zone Management Act of 1972) commonly used by the public for swimming, bathing, or other similar primary contact purposes; and

(2) the term "floatable materials" means any matter that may float or remain suspended in the water column, and includes plastic, aluminum cans, wood, bottles, and paper products.

SEC. 7309. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Administrator of the Environmental Protection Agency—

(1) for use in making grants to States under section 7307 not more than $3,000,000 for each of the fiscal years 1991 and 1992; and

(2) for carrying out the other provisions of this subtitle not more than $1,000,000 for each of the fiscal years 1991 and 1992.

TITLE VIII—COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Subtitle A—Civil Service

SEC. 8001. ELIMINATION OF LUMP-SUM RETIREMENT BENEFIT.

(a) LUMP-SUM BENEFIT.—(1) Sections 8343a and 8420a of title 5, United States Code, are each amended by adding at the end the following:

"(f)(1) Notwithstanding any other provision of this section, and except as provided in paragraph (2), an alternative form of annuity under this section may not be elected if the commencement date of the annuity would be later than November 1, 1990.

"(2) Nothing in this subsection shall prevent an election from being made by an employee or Member who, at the time of retiring under this subchapter, is at least 65 years of age and has completed at least 30 years of service.

"(3) This subsection shall cease to be effective as of October 1, 1995.".

(2) Section 4005 of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239; 103 Stat. 2135) is amended—

(A) in subsection (a), by striking "October 1, 1990." and inserting "November 2, 1990."; and

(B) by adding at the end the following:

"(f) CONTINUED APPLICABILITY.—The preceding provisions of this section (disregarding the provision in subsection (a) limiting this section's applicability to annuities commencing before the date specified in such provision) shall also apply in the case of any employee or Member whose election of an alternative form of annuity would not have been allowable under section 8343a(f) or 8420a(f) of title 5, United States Code (as the case may be), but for paragraph (2) thereof.".

(C)(i) Section 6001(b)(2) of the Omnibus Budget Reconciliation Act of 1987 (5 U.S.C. 8343a note) and section 4005(b)(2) of the Omnibus Budget Reconciliation Act of 1989 (103 Stat. 2135) are each amended by striking "described in paragraph (1)." and inserting "on which the payment described in paragraph (1) is paid.".

(ii) The amendments made by clause (i) shall not apply in any case in which the first half of the lump-sum payment involved was paid before the beginning of the 11-month period which ends on the date of the enactment of this Act.

(D) Section 2 of Public Law 101-227 (103 Stat. 1943) is repealed.

(3) Section 8348(a)(1)(B) of title 5, United States Code, is amended by inserting "in administering alternative forms of annuities under sections 8343a and 8420a (and related provisions of law)," before "and in withholding".

(b) PRIOR REFUNDS.—(1) Section 8334(d) of title 5, United States Code, is amended—

(A) by striking "(d)" and inserting "(d)(1)"; and

(B) by adding at the end the following:

"(2)(A) This paragraph applies with respect to any employee or Member who—

"(i) separates before October 1, 1990, and receives (or elects, in accordance with applicable provisions of this subchapter, to receive) a refund (described in paragraph (1)) which relates to a period of service ending before October 1, 1990;

"(ii) retires on or after November 1, 1990, entitled to an annuity under this subchapter (other than a disability annuity) based on service of such employee or Member; and

"(iii) does not make the deposit (described in paragraph (1)) required in order to receive credit for the period of service with respect to which the refund relates.

"(B) Notwithstanding the second sentence of paragraph (1), the annuity to which an employee or Member under this paragraph is entitled shall (subject to adjustment under section 8340) be equal to an amount which, when taken together with the unpaid amount referred to in subparagraph (A)(iii), would result in the present value of the total being actuarially equivalent to the present value of the annuity which would otherwise be provided the employee or Member under this subchapter, as computed under subsections (a)-(i) and (n) of section 8339 (treating, for purposes of so computing the annuity which would otherwise be provided under this subchapter, the deposit referred to in subparagraph (A)(iii) as if it had been timely made).

"(C) The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out this paragraph.".

(2)(A) Section 8334 of title 5, United States Code, is amended in paragraphs (1) and (2) of subsection (e), and in subsection (h), by striking "(d)," and inserting "(d)(1),".

(B) Section 8334(f) and section 8339(i)(1) of title 5, United States Code, are amended by striking "(d)" and inserting "(d)(1)".

(C) Section 8339(e) of title 5, United States Code, is amended by striking "8334(d)" and inserting "8334(d)(1)".

(D) The second sentence of section 8342(a) of title 5, United States Code, is amended by inserting "or 8334(d)(2)" after "8343a".

(3) The amendments made by this subsection shall be effective with respect to any annuity having a commencement date later than November 1, 1990.

SEC. 8002. REFORMS IN THE HEALTH BENEFITS PROGRAM.

(a) HOSPITALIZATION-COST-CONTAINMENT MEASURES.—Section 8902 of title 5, United States Code, is amended by adding at the end the following:

"(n) A contract for a plan described by section 8903(1), (2), or (3), or section 8903a, shall require the carrier—

"(1) to implement hospitalization-cost-containment measures, including measures—

"(A) for verifying the medical necessity of any proposed treatment or surgery;

"(B) for determining the feasibility or appropriateness of providing services on an outpatient rather than on an inpatient basis;

"(C) for determining the appropriate length of stay (through concurrent review or otherwise) in cases involving inpatient care; and

"(D) involving case management, if the circumstances so warrant; and

"(2) to establish incentives to encourage compliance with measures under paragraph (1).".

(b) IMPROVED CASH MANAGEMENT.—Section 8909(a) of title 5, United States Code, is amended by adding at the end (as a flush left sentence) the following:

"Payments from the Fund to a plan participating in a letter-of-credit arrangement under this chapter shall, in connection with any payment or reimbursement to be made by such plan for a health service or supply, be made only on a checks-presented basis (as defined under regulations of the Department of the Treasury).".

(c) EXEMPTION FROM STATE PREMIUM TAXES.—Section 8909 of title 5, United States Code, is amended by adding at the end the following:

"(f)(1) No tax, fee, or other monetary payment may be imposed, directly or indirectly, on a carrier or an underwriting or plan administration subcontractor of an approved health benefits plan by any State, the District of Columbia, or the Commonwealth of Puerto Rico, or by any political subdivision or other governmental authority thereof, with respect to any payment made from the Fund.

"(2) Paragraph (1) shall not be construed to exempt any carrier or underwriting or plan administration subcontractor of an approved health benefits plan from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by such carrier or underwriting or plan administration subcontractor from business conducted under this chapter, if that tax, fee, or payment is applicable to a broad range of business activity.".

(d) IMPROVED COORDINATION WITH MEDICARE.—Section 8910 of title 5, United States Code, is amended by adding at the end the following:

"(d) The Office, in consultation with the Department of Health and Human Services, shall develop and implement a system through which the carrier for an approved health benefits plan described by section 8903 or 8903a will be able to identify those annuitants or other individuals covered by such plan who are entitled to benefits under part A or B of title XVIII of the Social Security Act in order to ensure that payments under coordination of benefits with Medicare do not exceed the statutory maximums which physicians may charge Medicare enrollees.".

(e) EFFECTIVE DATE.—The amendments made by this section shall be effective as of January 1, 1991, and shall apply with respect to contract years beginning on or after that date.

Subtitle B—Postal Service

SEC. 8101. FUNDING OF COLAS FOR POSTAL SERVICE ANNUITANTS AND SURVIVOR ANNUITANTS.

(a) EXPANDED SCOPE OF COVERAGE; CHANGE IN PRORATION RULE.—Section 8348(m) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking "October 1, 1986," each place it appears and inserting "July 1, 1971,"; and

(2) in paragraph (3), by striking "civilian service performed after June 30, 1971," and inserting "service performed as an employee of the United States Postal Service,".

(b) REPEAL OF PROVISION RELATING TO CERTAIN EARLIER COLAS.—Section 4002(b) of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239; 103 Stat. 2134) is repealed.

(c) PROVISION RELATING TO PRE-1991 COLAS.—(1) For the purpose of this subsection—

(A) the term "pre-1991 COLA" means a cost-of-living adjustment which took effect in any of the fiscal years specified in subparagraphs (A)-(N) of paragraph (3);

(B) the term "post-1990 fiscal year" means a fiscal year after fiscal year 1990; and

(C) the term "pre-1991 fiscal year" means a fiscal year before fiscal year 1991.

(2) Notwithstanding any other provision of law, an installment (equal to an amount determined by reference to paragraph (3)) shall be payable by the United States Postal Service in a post-1990 fiscal year, with respect to a pre-1991 COLA, if such fiscal year occurs within the 15-fiscal-year period which begins with the first fiscal year in which that COLA took effect, subject to section 8104.

(3) Notwithstanding any provision of section 8348(m) of title 5, United States Code, or any determination thereunder (including any made under such provision, as in effect before October 1, 1990), the estimated increase in the unfunded liability referred to in paragraph (1) of such section 8348(m) shall be payable, in accordance with this subsection, based on annual installments equal to—

(A) $6,500,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1977;

(B) $7,000,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1978;

(C) $10,400,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1979;

(D) $20,500,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1980;

(E) $26,100,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1981;

(F) $28,100,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1982;

(G) $30,600,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1983;

(H) $5,700,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1984;

(I) $19,400,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1985;

(J) $7,400,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1986;

(K) $8,400,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1987;

(L) $38,000,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1988;

(M) $36,600,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1989; and

(N) $41,900,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1990.

(4) Any installment payable under this subsection shall be paid by the Postal Service at the same time as when it pays any installments due in that same fiscal year under section 8348(m) of title 5, United States Code.

(5) An installment payable under this subsection in a fiscal year, with respect to a pre-1991 COLA, shall be in lieu of any other installment for which the Postal Service might otherwise be liable in such fiscal year, with respect to such COLA, under section 8348(m) of title 5, United States Code.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on October 1, 1990.

SEC. 8102. FUNDING OF HEALTH BENEFITS FOR POSTAL SERVICE RETIREES AND SURVIVORS OF POSTAL SERVICE EMPLOYEES OR RETIREES.

(a) EXPANDED SCOPE OF COVERAGE.—Section 8906(g)(2) of title 5, United States Code, is amended by striking "October 1, 1986," each place it appears and inserting "July 1, 1971,".

(b) CONTRIBUTIONS TO BE PRORATED.—Section 8906(g)(2) of title 5, United States Code, as amended by subsection (a), is further amended—

(1) by striking "(2)" and inserting "(2)(A)"; and

(2) by adding at the end the following:

"(B) In determining any amount for which the Postal Service is liable under this paragraph, the amount of the liability shall be prorated to reflect only that portion of total service which is attributable to service performed (by the former postal employee or by the deceased individual referred to in subparagraph (A), as the case may be) as an employee of the United States Postal Service, as estimated by the Office of Personnel Management.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1990, and shall apply with respect to amounts payable for periods beginning on or after that date.

SEC. 8103. PAYMENTS RELATING TO AMOUNTS WHICH WOULD HAVE BEEN DUE BEFORE FISCAL YEAR 1987.

(a) DEFINITION.—For the purpose of this section, the term "pre-1987 fiscal year" means a fiscal year before fiscal year 1987.

(b) FOR PAST RETIREMENT COLAS.—As payment for any amounts which would have been due in any pre-1987 fiscal year under the provisions of section 8348(m) of title 5, United States Code (as amended by section 8101) if such provisions had been in effect as of July 1, 1971, the United States Postal Service shall pay into the Civil Service Retirement and Disability Fund—

(1) $253,300,000, not later than September 30, 1991;

(2) $566,200,000, not later than September 30, 1992;

(3) $548,600,000, not later than September 30, 1993;

(4) $530,200,000, not later than September 30, 1994; and

(5) $510,900,000, not later than September 30, 1995.

(c) FOR PAST HEALTH BENEFITS.—As payment for any amounts which would, for any period ending before the start of fiscal year 1987, have been payable under the provisions of section 8906(g)(2) of title 5, United States Code (as amended by section 8102) if such provisions had been in effect as of July 1, 1971, the United States Postal Service shall pay into the Employees Health Benefits Fund—

(1) $88,900,000, not later than September 30, 1991;

(2) $198,700,000, not later than September 30, 1992;

(3) $192,600,000, not later than September 30, 1993;

(4) $186,100,000, not later than September 30, 1994; and

(5) $179,300,000, not later than September 30, 1995.

SEC. 8104. TERMINATION OF CONTRIBUTION REQUIREMENTS.

(a) RETIREMENT COLAs.—Section 8348(m) of title 5, United States Code, and section 8101(c) shall cease to be effective at the close of the fiscal year ending on September 30, 1995, and the United States Postal Service shall not be liable for any amount which would first have come due under such section 8348(m) or section 8101(c) after that date.

(b) HEALTH BENEFITS.— The provisions of section 8906(g)(2) of title 5, United States Code, shall not be effective with respect to any amount which (but for this subsection) would otherwise have been payable under such provisions for any period beginning after September 30, 1995.

SEC. 8105. TREATMENT OF CONTRIBUTION REQUIREMENTS FOR POSTAL RATEMAKING PURPOSES.

(a) DEFINITIONS.—For the purpose of this section—

(1) the term "total estimated costs" has the meaning given such term by section 3621 of title 39, United States Code;

(2) the term "pre-1992 fiscal year" means a fiscal year before fiscal year 1992; and

(3) the term "amount required to be paid by the United States Postal Service pursuant to the Omnibus Budget Reconciliation Act of 1990" means an amount payable under section 8348(m) or section 8906(g)(2) of title 5, United States Code (as amended by this title), section 8101(c), or section 8103.

(b) RULES.—(1) In making a recommended decision under section 3624 of title 39, United States Code, with respect to a request which was made under section 3622 of such title and which is pending as of the date of enactment of this Act, the Postal Rate Commission shall be governed by the following:

(A) Any amount required to be paid by the United States Postal Service pursuant to the Omnibus Budget Reconciliation Act of 1990 in fiscal year 1992—

(i) shall be treated as a separate and distinct addition to the total estimated costs for such fiscal year; and

(ii) shall not result in the diminution of any other amount which is part of the total estimated costs for such fiscal year.

(B) Any amount required to be paid by the United States Postal Service pursuant to the Omnibus Budget Reconciliation Act of 1990 in a pre-1992 fiscal year shall be taken into account to the same extent and in the same manner as any other cost (comprising part of the total estimated costs) incurred by the Postal Service in that same fiscal year.

(C) The deadline by which the Postal Rate Commission must transmit its recommended decision to the Governors shall be the same as would otherwise apply if this section had not been enacted.

(2) Any recommended decision under section 3624 of title 39, United States Code, subsequent to the one as to which paragraph (1) applies, and which relates to a request under section 3622(a) of such title, shall be made in a manner consistent with the requirements of paragraph (1).

Subtitle A—Coordination

SEC. 8201. COORDINATION.

For purposes of section 202 of the Balanced Budget and Emergency Deficit Reaffirmation Act of 1987, this title and the amendments made by this title shall be considered an exception under subsection (b) of such section.

TITLE IX—PUBLIC WORKS AND TRANSPORTATION

Subtitle A—Surface Transportation

SEC. 9001. SHORT TITLE.

This subtitle may be cited as the "Surface Transportation Reconciliation Act of 1990".

SEC. 9002. SUPPLEMENTAL ALLOCATION FOR FISCAL YEAR 1991.

(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the provisions of title 23, United States Code, there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal year 1991 an amount equal to the estimated tax payments which will be deposited into the Highway Trust Fund (other than the Mass Transit Account) in such fiscal year as a result of any increases in the motor fuel taxes through implementation of the amendments made by this Act to the Internal Revenue Code of 1986.

(b) APPLICABILITY OF CERTAIN SET-ASIDES AND DEDUCTIONS.—Funds authorized to be appropriated to carry out this section shall be subject to the set-asides and deductions referred to in sections 104(a), 104(f), and 307(d) of title 23, United States Code.

(c) ALLOCATION.—On the date of the enactment of this Act or as soon as possible thereafter, the Secretary of Transportation shall allocate the funds authorized to be appropriated by this section which are remaining after the set-asides and deductions are made pursuant to subsection (b) so that each State is allocated an amount equal to such remaining funds multiplied by the ratio of—

(1) the estimated tax payments attributable to highway users in the State which will be deposited into the Highway Trust Fund (other than the Mass Transit Account) in fiscal year 1991 as a result of any increases in the motor fuel taxes through implementation of the amendments made by this Act to the Internal Revenue Code of 1986, to

(2) the estimated tax payments attributable to highway users in all States which will be deposited into such Fund as a result of such increases.

(d) APPLICABILITY OF TITLE 23; PROJECT ELIGIBILITY.—Funds allocated under this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall be available for obligation for fiscal year 1991 and the 3 succeeding fiscal years. Such funds may be obligated only for Interstate highway substitute, primary, secondary, Interstate, urban, bridge replacement and rehabilitation, hazard elimination, and rail-highway crossing projects. Such projects shall be subject to all requirements which would apply to such projects if they were being carried out under such title.

(e) TREATMENT FOR PURPOSES OF DISTRIBUTION OF OBLIGATION AUTHORITY.—Sums allocated pursuant to this section shall not be considered to be sums allocated for purposes of section 105(c) of the Federal-Aid Highway Act of 1987 and any other provision of law distributing obligation authority for Federal-aid highways and highway safety construction.

(f) STATE DEFINED.—For purposes of this section, the term "State" has the meaning such term has under section 101 of title 23, United States Code.

(g) CONFORMING AMENDMENT.—Section 157(a)(3) of title 23, United States Code, is amended by inserting after "(except" the following: "supplemental allocations under section 9002 of the Surface Transportation Reconciliation Act of 1990 and".

SEC. 9003. SUPPLEMENTAL HIGHWAY PROGRAM FOR FISCAL YEARS 1992–1995.

(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the provisions of title 23, United States Code, there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) per fiscal year for each of fiscal years 1992, 1993, 1994, and 1995 an amount equal to the estimated tax payments which will be deposited into the Highway Trust Fund (other than the Mass Transit Account) in such fiscal year as a result of any increases in the motor fuel taxes through implementation of the amendments made by this Act to the Internal Revenue Code of 1986.

(b) REQUIREMENT OF REAUTHORIZATION OF HIGHWAY CONSTRUCTION PROGRAMS.—Funds authorized to be appropriated by this section may only be obligated and apportioned or allocated in accordance with an Act which is approved after the date of the enactment of this Act and authorizes Federal-aid highway and highway safety construction programs after September 30, 1991.

SEC. 9004. SUPPLEMENTAL MASS TRANSIT PROGRAM FOR FISCAL YEAR 1991.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 21(a) of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1617(a)) is amended by inserting after paragraph (2) the following new paragraph:

"(3) In addition to the amounts set forth in paragraph (1), there shall be available for fiscal year 1991 from the Mass Transit Account of the Highway Trust Fund only to carry out construction projects under sections 9 and 18 an amount equal to the estimated tax payments which will be deposited into such Account in fiscal year 1991 as a result of any increases in the motor fuels tax through implementation of the amendments made to the Internal Revenue Code of 1986 by the Omnibus Budget Reconciliation Act of 1990, to remain available until expended.".

(b) CONTRACT AUTHORITY.—Section 21(c)(2) of such Act is amended by inserting ", (a)(3)," after "(a)(2)".

(c) RURAL PROGRAM.—Section 21(e) of such Act is amended by inserting after "(a)(1)" the following: ", (a)(3),".

SEC. 9005. SUPPLEMENTAL MASS TRANSIT PROGRAM FOR FISCAL YEARS 1992–1995.

(a) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out the provisions of the Urban Mass Transportation Act of 1964, there is authorized to be appropriated out of the Mass Transit Account of the Highway Trust Fund per fiscal year for each of fiscal years 1992, 1993, 1994, and 1995 an amount equal to the estimated tax payments which will be deposited into such Account in such fiscal year as a result of any increases in the motor fuel taxes through implementation of the amendments made by this Act to the Internal Revenue Code of 1986.

(b) REAUTHORIZATION REQUIREMENT.—Funds authorized to be appropriated by this section may only be obligated and allocated in accordance with an Act which is approved

after the date of the enactment of this Act and authorizes the Urban Mass Transportation Act of 1964 after September 30, 1991.

(c) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of Transportation of a grant with funds authorized to be appropriated by this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project.

SEC. 9006. DISADVANTAGED BUSINESS ENTERPRISES.

Section 106(c)(1) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by inserting before "or obligated under" the following: "or the Surface Transportation Reconciliation Act of 1990".

SEC. 9007. NONAPPLICABILITY OF OBLIGATION LIMITATIONS.

Obligation limitations for Federal-aid highways and highway safety construction and urban mass transportation programs established by this Act or any Act approved before, on, or after the date of the enactment of this Act shall not apply to obligations made under this subtitle (including the amendments made by this subtitle), except where the provision of law establishing such limitation specifically amends or limits the applicability of this section.

SEC. 9008. HOLD HARMLESS BUDGETARY TREATMENT.

For fiscal years 1991, 1992, 1993, 1994, and 1995, the baselines and domestic appropriations cap shall be held harmless for the budget authority and outlays associated with spending attributable to the increase in deposits into the Highway Trust Fund (including the Mass Transit Account) as a result of any increases in the motor fuels tax through implementation of the amendments made to the Internal Revenue Code of 1986 by this Act.

Subtitle B—Aviation Safety and Capacity Expansion

SEC. 9101. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the "Aviation Safety and Capacity Expansion Act of 1990".

(b) TABLE OF CONTENTS.

Sec. 9101. Short title; table of contents.
Sec. 9102. Construction of firefighting training facilities.
Sec. 9103. Declaration of policy.
Sec. 9104. Airport improvement program.
Sec. 9105. Airway improvement program.
Sec. 9106. FAA operations.
Sec. 9107. Operation and maintenance of aviation system.
Sec. 9108. Weather service.
Sec. 9109. Military airport program.
Sec. 9110. Passenger facility charges.
Sec. 9111. Reduction in airport improvement program apportionments for large and medium hub airports imposing passenger facility charges.
Sec. 9112. Use of PFC reduced apportionment funds.
Sec. 9113. Small community air service program.
Sec. 9114. State block grant pilot program.
Sec. 9115. Auxiliary flight service station program.
Sec. 9116. Airport and airway improvements for the Virgin Islands.
Sec. 9117. Engine condition monitoring systems.
Sec. 9118. Procurement authority.
Sec. 9119. Expanded east coast plan.
Sec. 9120. Transfer of format of geodetic navigation information.
Sec. 9121. Authorizations of appropriations for fiscal years 1993, 1994, and 1995.
Sec. 9122. Sense of Congress concerning appropriation levels.
Sec. 9123. Hold harmless budgetary treatment.
Sec. 9124. Severability.
Sec. 9125. Buy America.
Sec. 9126. Prohibition against fraudulent use of "made in America" labels.
Sec. 9127. Restrictions on contract awards.

SEC. 9102. CONSTRUCTION OF FIREFIGHTING TRAINING FACILITIES.

Section 503(a)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2202(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) any acquisition of land for, or work involved to construct, a burn area training structure on or off the airport for the purpose of providing live fire drill training for aircraft rescue and firefighting personnel required to receive such training by a regulation of the Department of Transportation, including basic equipment and minimum structures to support such training in accordance with standards of the Federal Aviation Administration.".

SEC. 9103. DECLARATION OF POLICY.

Section 502(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201(a)) is amended—

(1) in paragraph (5) by inserting ", including as they may be applied between category and class of aircraft" after "discriminatory practices"; and

(2) in paragraph (13) by inserting "and should not unjustly discriminate between categories and classes of aircraft" after "attempted".

SEC. 9104. AIRPORT IMPROVEMENT PROGRAM.

Section 505 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2204) is amended—

(1) in subsection (a) by striking "'13,816,700,000" and inserting '$13,916,700,000"; and

(2) in subsection (b) by striking "September 30, 1987" and inserting "September 30, 1992".

SEC. 9105. AIRWAY IMPROVEMENT PROGRAM.

(a) RENAMING OF AIRWAY PLAN.—Section 504(b)(1) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2203(b)(1)) is amended by inserting after the second sentence the following new sentence: "For fiscal year 1991 and thereafter, the revised plan shall be known as the 'Airway Capital Investment Plan'.".

(b) AIRWAY FACILITIES AND EQUIPMENT.—The first sentence of section 506(a)(1) of such Act (49 U.S.C. App. 2205(a)(1)) is amended by striking "September 30, 1981," and all that follows through the period and inserting the following: "September 30, 1990, aggregate amounts not to exceed $2,500,000,000 for fiscal year 1991 and $5,500,000,000 for the fiscal years ending before October 1, 1992.".

SEC. 9106. FAA OPERATIONS.

Section 106 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(k) AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—There is authorized to be appropriated for operations of the Administration $4,088,000,000 for fiscal year 1991 and $4,412,600,000 for fiscal year 1992.".

SEC. 9107. OPERATION AND MAINTENANCE OF AVIATION SYSTEM.

(a) ELIMINATION OF PENALTY.—Section 506(c)(3)(B)(i) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(c)(3)(B)(i)) is amended—

(1) by inserting "and" after "1989"; and

(2) by striking "$3,770,000,000" and all that follows through "1992,".

(b) FUNDING.—Section 506(c) of such Act (49 U.S.C. App. 2205(c)) is amended by adding at the end the following new paragraph:

"(4) FISCAL YEARS 1991–1992.—The amount appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) of this subsection for each of fiscal years 1991 and 1992 may not exceed—

"(A) 75 percent of the amount of funds made available under section 505, subsections (a) and (b) of this section, and section 106(k) of title 49, United States Code, for such fiscal year; less

"(B) the amount of funds made available under section 505 and subsections (a) and (b) of this section for such fiscal year.".

SEC. 9108. WEATHER SERVICE.

The second sentence of section 506(d) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(d)) is amended—

(1) by striking "and" the first place it appears and inserting a comma; and

(2) by inserting before the period the following: ", $34,521,000 for fiscal year 389,000 for fiscal year 1992".

SEC. 9109. MILITARY AIRPORT PROGRAM.

(a) DECLARATION OF POLICY.—Section 502(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201(a)) is further amended—

(1) by striking "and" at the end of paragraph (12);

(2) by striking the period at the end of paragraph (13) and inserting "; and"; and

(3) by adding at the end the following:

"(14) special emphasis should be placed on the conversion of appropriate former military air bases to civil use and on the identification and improvement of additional joint-use facilities.".

(b) SET-ASIDE.—Section 508(d) of such Act (49 U.S.C. App. 2204(d)) is amended by striking paragraph (5) and inserting the following:

"(5) MILITARY AIRPORT SET-ASIDE.—Not less than 1.5 percent of the funds made available under section 505 in each of fiscal years 1991 and 1992 shall be distributed during such fiscal year to sponsors of current or former military airports designated by the Secretary under subsection (f) for the purpose of developing current and former military airports to improve the capacity of the national air transportation system.

"(6) REALLOCATION.—If the Secretary determines that he will not be able to distribute the amount of funds required to be distributed under paragraph (1), (2), (3), (4), or (5) of this subsection for any fiscal year because the number of qualified applications submitted in compliance with this title is insufficient to meet such amount, the portion of such amount the Secretary determines will not be distributed shall be available for obligation during such fiscal year for other airports and for other purposes authorized by section 505 of this title.".

(c) DESIGNATION OF FORMER MILITARY AIRPORTS.—Section 508 of such Act is further amended by adding at the end the following new subsection:

"(f) DESIGNATION OF CURRENT OR FORMER MILITARY AIRPORTS.—

"(1) DESIGNATION.—The Secretary shall designate not more than 8 current or former military airports for participation in the grant program established under subsection (d)(5) and this subsection. At least 2 such airports shall be designated within 6 months after the date of the enactment of this subsection and the remaining airports shall be designated for participation no later than September 30, 1992.

"(2) SURVEY.—The Secretary shall conduct a survey of current and former military airports to identify which ones have the greatest potential to improve the capacity of the national air transportation system. The survey shall also identify the capital development needs of such airports in order to make them part of the national air transportation system and shall identify which capital development needs are eligible for grants under section 505. The survey shall be completed by September 30, 1991.

"(3) LIMITATION.—In selecting airports for participation in the program established under subsection (d)(5) and this subsection and in conducting the survey under paragraph (2), the Secretary shall consider only those current or former military airports whose conversion in whole or in part to civilian commercial or reliever airports as part of the national air transportation system would enhance airport and air traffic control system capacity in major metropolitan areas and reduce current and projected flight delays.

"(4) PERIOD OF ELIGIBILITY.—An airport designated by the Secretary under this subsection shall remain eligible to participate in the program under subsection (d)(5) and this subsection for the 5 fiscal years following such designation. An airport that does not attain a level of enplaned passengers during such 5 fiscal year period which qualifies it as a small hub airport as defined as of January 1, 1990, or reliever airport may be redesignated by the Secretary for participation in the program for such additional fiscal years as may be determined by the Secretary.

"(5) ADDITIONAL FUNDING.—Notwithstanding the provisions of section 513(b), not to exceed $5,000,000 per airport of the sums to be distributed at the discretion of the Secretary under section 507(c) for any fiscal year may be used by the sponsor of a current or former military airport designated by the Secretary under this subsection for construction, improvement, or repair of terminal building facilities, including terminal gates used by aircraft for enplaning and deplaning revenue passengers. Under no circumstances shall any gates constructed, improved, or repaired with Federal funding under this paragraph be subject to long-term leases for periods exceeding 10 years or majority in interest clauses.".

SEC. 9110. PASSENGER FACILITY CHARGES.

Section 1113 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1513) is amended—

(1) in subsection (a) by inserting "except as provided in subsection (e) and" before "except that"; and

(2) by adding at the end the following new subsection:

"(e) AUTHORITY FOR IMPOSITION OF PASSENGER FACILITY CHARGES.—

"(1) IN GENERAL.—Subject to the provisions of this subsection, the Secretary may grant a public agency which controls a commercial service airport authority to impose a fee of $1.00, $2.00, or $3.00 for each paying passenger of an air carrier enplaned at such airport to finance eligible airport-related projects to be carried out in connection with such airport or any other airport which such agency controls. For purposes of this subsection, financing an eligible airport-related project includes making payments for debt service on bonds and other indebtedness incurred to carry out such project.

"(2) USE OF REVENUES AND RELATIONSHIP BETWEEN FEES AND REVENUES.—The Secretary may grant a public agency which controls a commercial service airport authority to impose a fee under this subsection to finance specific projects only if the Secretary finds, on the basis of an application submitted for such authority—

"(A) that the amount and duration of the proposed fee will result in revenues (including interest and other returns on such revenues) which do not exceed amounts necessary to finance the specific projects; and

"(B) that each of the specific projects is an eligible airport-related project which will—

"(i) preserve or enhance capacity, safety, or security of the national air transportation system,

"(ii) reduce noise resulting from an airport which is part of such system, or

"(iii) furnish opportunities for enhanced competition between or among air carriers.

"(3) LIMITATION REGARDING PASSENGERS OF AIR CARRIERS RECEIVING ESSENTIAL AIR SERVICE COMPENSATION.—If a passenger of an air carrier is being provided air service to an eligible point under section 419 for which compensation is being paid under such section, a public agency which controls any other airport may not impose a fee pursuant to this subsection for enplanement of such passenger with respect to such air service.

"(4) LIMITATION REGARDING OBLIGATIONS.—No fee may be imposed pursuant to this subsection for a project which is not approved by the Secretary under this subsection on or before September 30, 1992—

"(A) if, during fiscal years 1991 and 1992, the amount available for obligation, in the aggregate, under section 505 of Airport and Airway Improvement Act of 1982 is less than $3,700,000,000; or

"(B)(i) if, during fiscal year 1991, the amount available for obligation, in the aggregate, under section 419 is less than $26,600,000; or

"(ii) if, during fiscal year 1992, the amount available for obligation, in the aggregate, under section 419 is less than $38,600,000.

"(5) TWO ENPLANEMENTS PER TRIP LIMITATION.—Enplaned passengers on whom a fee may be imposed by a public agency pursuant to this subsection include passengers of air carriers originating or connecting at the commercial service airport which the agency controls. A fee may not be collected pursuant to this subsection from a passenger with respect to any enplanement of such passenger, on a one-way trip and on a trip in each direction of a round trip, after the second enplanement for which a fee has been collected pursuant to this subsection from such passenger.

"(6) TREATMENT OF REVENUES.—Revenues derived from collection of a fee by a public agency pursuant to this subsection shall not be treated as airport revenues for the purposes of any contract between such agency and an air carrier.

"(7) EXCLUSIVITY OF AUTHORITY.—No State or political subdivision or agency thereof which is not a public agency controlling a commercial service airport shall prohibit, limit, or regulate the imposition of fees by the public agency pursuant to this subsection, collection of such fees, or use of revenues derived therefrom. No contract between an air carrier and a public agency which controls a commercial service airport entered into before, on, or after the date of the enactment of this subsection shall affect the authority of the public agency to impose fees pursuant to this subsection and to use the revenues derived from such fees in accordance with this subsection.

"(8) NONEXCLUSIVITY OF CONTRACTUAL AGREEMENTS.—No project carried out through the use of a fee collected pursuant to this subsection may be subject to an exclusive long-term lease or use agreement of an air carrier, as defined by the Secretary by regulation. Any lease or use agreement of an air carrier with respect to a facility constructed or expanded through the use of such fee may not contain or be subject to any term or condition which restricts the public agency which controls the airport from funding, developing, or assigning new capacity at the airport.

"(9) COLLECTION AND HANDLING OF FEES BY AIR CARRIERS.—The regulations issued by the Secretary to carry out this subsection shall—

"(A) require air carriers and their agents to collect fees imposed by public agencies pursuant to this subsection;

"(B) establish procedures regarding handling and remittance of the amounts so collected;

"(C) ensure that such amounts are promptly paid to the public agency for which they are collected less a uniform amount determined by the Secretary as reflecting average necessary and reasonable expenses (net of interest accruing to the air carrier and agent after collection and prior to remittance) incurred in the collection and handling of such fees; and

"(D) require that the amount of fees collected pursuant to this subsection with respect to any air transportation be noted on the ticket for such air transportation.

"(10) APPLICATION PROCESS.—

"(A) SUBMISSION.—A public agency which controls a commercial service airport and is interested in imposing a fee pursuant to this subsection shall submit to the Secretary an application for authority to impose such fee.

"(B) CONTENT.—An application submitted under this paragraph shall contain such information and be in such form as the Secretary may require by regulation.

"(C) OPPORTUNITY FOR CONSULTATION.—Before submission of an application under this paragraph, the public agency must provide reasonable notice to, and an opportunity for consultation with, air carriers operating at the airport.

"(D) NOTICE AND OPPORTUNITY FOR COMMENT.—After receiving an application under this paragraph, the Secretary shall provide notice and an opportunity for comment by air carriers and other interested persons concerning such application.

"(E) APPROVAL.—A fee may only be imposed pursuant to this subsection if the Secretary approves an application granting authority for the imposition of such fee. Not later than 120 days after the date of receipt of such an application, the Secretary shall make a final decision regarding approval of such application.

"(11) RECORDKEEPING AND AUDITS.—

"(A) WITH RESPECT TO COLLECTION OF FEES.—The Secretary shall issue regulations requiring such recordkeeping and auditing of accounts maintained by an air carrier and

any agency thereof which is collecting a fee imposed pursuant to this subsection and by the public agency which is imposing such fee as may be necessary to ensure compliance with this subsection.

"(B) WITH RESPECT TO USE OF REVENUES.—The Secretary shall periodically audit and review the use by a public agency which controls an airport of revenues derived from a fee imposed pursuant to this subsection. Upon such review and after a public hearing, the Secretary may terminate the authority of such agency to impose such fee, in whole or in part, to the extent the Secretary determines that revenues derived therefrom are not being used in accordance with this subsection.

"(C) SET-OFF.—If the Secretary determines that a fee imposed pursuant to this subsection is excessive or that the revenues derived from such fee are not being used in accordance with this subsection, the Secretary may set off such amounts as may be necessary to ensure compliance with this subsection against amounts otherwise payable to the public agency under the Airport and Airway Improvement Act of 1982.

"(12) TERMS AND CONDITIONS.—Authority granted to impose a fee pursuant to this subsection shall be subject to such terms and conditions as the Secretary may establish to carry out the objectives of this subsection.

"(13) ISSUANCE OF REGULATIONS.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall issue such regulations as may be necessary to carry out this subsection. Such regulations may prescribe the time and form by which a fee imposed pursuant to this subsection shall take effect.

"(14) DEFINITIONS.—For purposes of this subsection, the following definitions apply:

"(A) AIR CARRIER.—The term 'air carrier' includes a foreign air carrier.

"(B) AIRPORT, COMMERCIAL SERVICE AIRPORT, AND PUBLIC AGENCY.—The terms 'airport', 'commercial service airport', and 'public agency' have the meaning such terms have under section 503 of the Airport and Airway Improvement Act of 1982.

"(C) ELIGIBLE AIRPORT-RELATED PROJECT.—The term 'eligible airport-related project' means—

"(i) a project for airport development under the Airport and Airway Improvement Act of 1982;

"(ii) a project for airport planning under such Act;

"(iii) a project for terminal development described in section 513(b) of such Act;

"(iv) a project for airport noise capability planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979;

"(v) a project to carry out noise compatibility measures which are eligible for assistance under section 104 of the Aviation Safety and Noise Abatement Act of 1979 without regard to whether or not a program has been approved for such measures under such section; and

"(vi) a project for construction of gates and related areas at which passengers are enplaned or deplaned.

"(D) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.".

SEC. 9111. REDUCTION IN AIRPORT IMPROVEMENT PROGRAM APPORTIONMENTS FOR LARGE AND MEDIUM HUB AIRPORTS IMPOSING PASSENGER FACILITY CHARGES.

Section 507(b) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2206(b)) is amended by adding at the end the following new paragraph:

"(7) REDUCTION IN APPORTIONMENTS TO CERTAIN LARGE AND MEDIUM HUBS.—

"(A) GENERAL RULE.—The amount which, but for this paragraph, would be apportioned under this section for a fiscal year to a sponsor of an airport that annually has 0.25 percent or more of the total annual enplanements in the United States and for which a fee is imposed in such fiscal year pursuant to section 1113(e) of the Federal Aviation Act of 1958 shall be reduced by an amount equal to 50 percent of the projected revenues derived from such fee in such fiscal year.

"(B) LIMITATION.—The maximum reduction in an apportionment to a sponsor of an airport as a result of this paragraph in a fiscal year shall be 50 percent of the amount which, but for this paragraph, would be apportioned to such airport under this section.".

SEC. 9112. USE OF PFC REDUCED APPORTIONMENT FUNDS.

(a) ADDITION OF FUNDS TO EXISTING DISCRETIONARY FUND.—Section 507(c)(1) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2206(c)(1)) is amended by inserting after the first sentence the following new sentence: "Twenty-five percent of the amounts which are not apportioned under this section as a result of subsection (b)(7) shall be added to such discretionary fund.".

(b) SMALL AIRPORT FUND.—Section 507 of such Act is amended by redesignating subsections (d) and (e), and any references thereto, as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) SMALL AIRPORT FUND.—

"(1) ESTABLISHMENT.—Seventy-five percent of the amounts which are not apportioned under this section as a result of subsection (b)(7) shall constitute a small airport fund to be distributed at the discretion of the Secretary.

"(2) SET-ASIDE FOR GENERAL AVIATION AIRPORTS.—One-third of the amounts in the small airport fund established by this subsection and distributed by the Secretary under this subsection in a fiscal year shall be used for making grants to sponsors of public-use airports (other than commercial service airports) for any purpose for which funds are made available under section 505.

"(3) SET-ASIDE FOR NONHUB AIRPORTS.—Two-thirds of the amounts in the small airport fund established by this subsection and distributed by the Secretary under this subsection in a fiscal year shall be used for making grants to sponsors of commercial service airports each of which annually has less than 0.05 percent of the total annual enplanements in the United States for any purpose for which funds are made available under section 505.".

(c) PROHIBITION ON REDUCED FUNDING.—It is the sense of Congress that the Secretary should not reduce funding under the discretionary fund established under section 507(c) of the Airport and Airway Improvement Act of 1982 for small commercial service and general aviation airports as a result of additional funds made available to such airports under this section, including amendments made by this section.

SEC. 9113. SMALL COMMUNITY AIR SERVICE PROGRAM.

(a) DEFINITION OF ELIGIBLE POINT.—Section 419(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1389(a)) is amended to read as follows:

"(a) ELIGIBLE POINT DEFINED.—

"(1) GENERAL RULE.—For purposes of this section, the term 'eligible point' means any point in the United States—

"(A) which was defined as an eligible point under this section as in effect before October 1, 1988;

"(B) which received scheduled air transportation at any time after January 1, 1990; and

"(C) which is not listed in the Department of Transportation Orders 89-9-37 and 89-12-52 as being a point no longer eligible for compensation under this section.

"(2) LIMITATION ON USE OF PER PASSENGER SUBSIDY.—The Secretary may not determine that a point described in paragraph (1) is not an eligible point on the basis of the per passenger subsidy at the point or on any other basis not specifically set forth in this section.".

(b) FUNDING.—

(1) IN GENERAL.—Section 419 of such Act is amended by redesignating subsection (l), and any reference thereto, as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) FUNDING.—

"(1) CONTRACT AUTHORITY.—The Secretary is authorized to enter into agreements and to incur obligations from the Airport and Airway Trust Fund for the payment of compensation under this section. Approval by the Secretary of such an agreement shall be deemed a contractual obligation of the United States for payment of the Federal share of such compensation.

"(2) AMOUNTS AVAILABLE.—There shall be available to the Secretary from the Airport and Airway Trust Fund to incur obligations under this section $38,600,000 per fiscal year for each of fiscal years 1992, 1993, 1994, 1995, 1996, 1997, and 1998. Such amounts shall remain available until expended.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect October 1, 1991.

(c) CONFORMING AMENDMENTS.—Section 333 of Public Law 100-457 and section 325(a) of Public Law 101-164 are repealed.

SEC. 9114. STATE BLOCK GRANT PILOT PROGRAM.

Section 534 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2227) is amended—

(1) in subsection (a) by striking "1991" and inserting "1992"; and

(2) in subsection (d) by striking "not later than 90 days before its scheduled termination" and inserting "not later than January 31, 1992".

SEC. 9115. AUXILIARY FLIGHT SERVICE STATION PROGRAM.

(a) GENERAL RULE.—The Secretary of Transportation shall develop and implement a system of manned auxiliary flight service stations. The auxiliary flight service stations shall supplement the services of the planned consolidation to 61 automated flight service stations under the flight service station modernization program. Auxiliary flight service stations shall be located in areas of unique weather or operational conditions which are critical to the safety of flight.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall report to Congress with the plan and schedule for implementation of this section.

SEC. 9116. AIRPORT AND AIRWAY IMPROVEMENTS FOR THE VIRGIN ISLANDS.

(a) AIR SPACE STUDY.—The Administrator of the Federal Aviation Administration

shall conduct an air space study of the Caribbean and Miami air traffic control regions for the purpose of determining methods of improving air safety and report to Congress the results of such study.

(b) OPERATIONS OF AIRPORT TOWERS FOR ST. THOMAS AND ST. CROIX.—The Administrator may not enter into contracts with private persons for operation of the airport control towers for St. Thomas and St. Croix, Virgin Islands, before the 30th day following the date on which a report is submitted to Congress under subsection (a).

(c) REPLACEMENT OF RADAR FACILITIES FOR ST. THOMAS.—The Administrator shall take such action as may be necessary to ensure that the radar facilities for the airport on St. Thomas, Virgin Islands, which were destroyed by Hurricane Hugo are replaced and operational by the 120th day following the date of the enactment of this Act.

SEC. 9117. ENGINE CONDITION MONITORING SYSTEMS.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study of the potential use of engine condition monitoring systems on aircraft. In conducting such study, the Administrator shall evaluate—

(1) the availability of technology for such systems;

(2) the capabilities of such systems in terms of enhancing safety and reducing maintenance costs associated with civil and military aircraft;

(3) the commercial viability of developing computer software to enable maintenance workers to efficiently use data gathered by such systems;

(4) the costs and benefits of using such systems as compared to engine fault detection methods which rely on the use of data relating to historical performance and statistical failure;

(5) the types of aircraft engine failures which may be prevented by using such systems; and

(6) the operational reliability of such systems.

(b) REPORT TO CONGRESS.—Not later than 12 months after the date of the enactment of this Act, the Administrator shall transmit to Congress a report containing the results of the study conducted pursuant to this section together with such legislative and administrative recommendations as the Administrator considers appropriate.

SEC. 9118. PROCUREMENT AUTHORITY.

(a) IN GENERAL.—Section 303 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1344) is amended to read as follows:

"SEC. 303. PROCUREMENT AUTHORITY.

"(a) ACQUISITION AND DISPOSAL OF PROPERTY.—Subject to subsection (b), the Administrator, on behalf of the United States, is authorized, where appropriate—

"(1) within the limits of available appropriations made by the Congress therefor, to acquire by purchase, condemnation, lease for a term not to exceed 20 years, or otherwise, personal property or services and real property or interests therein, including, in the case of air navigation facilities (including airports) owned by the United States and operated under the direction of the Administrator, easements through or other interests in airspace immediately adjacent thereto and needed in connection therewith;

"(2) for adequate compensation, by sale, lease, or otherwise, to dispose of any real or personal property or interest therein; except that, other than for airport and airway property and technical equipment used for the special purposes of the Federal Aviation Administration, such disposition shall be made in accordance with the Federal Property and Administrative Services Act of 1949; and

"(3) to construct, improve, or renovate laboratories and other test facilities and to purchase or otherwise acquire real property required therefor.

"(b) SPECIAL RULES FOR CERTAIN ACQUISITIONS.—

"(1) ACQUISITIONS BY CONDEMNATION.—Any acquisition by condemnation under subsection (a) may be made in accordance with the provision of the Act of August 1, 1888 (40 U.S.C. 257; 25 Stat. 357), the Act of February 26, 1931 (40 U.S.C. 258a-258e-1; 46 Stat. 1421), or any other applicable Act; except that, in the case of condemnations of easements through or other interests in airspace, in fixing condemnation awards, consideration may be given to the reasonable probably future use of the underlying land.

"(2) ACQUISITIONS OF PUBLIC BUILDINGS.—The Administrator may, under subsection (a) construct or acquire by purchase, condemnation, or lease a public building, or interest in a public building (as defined in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612)) only under a delegation of authority from the Administrator of General Services.

"(c) PROCUREMENT PROCEDURES.—In procuring personal property or services and real property and interests therein under subsection (a), the Administrator may use procedures other than competitive procedures in circumstances which are set forth in section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)).

"(d) SOLE SOURCE APPROVAL BY ADMINISTRATOR.—For procurements by the Federal Aviation Administration, the Administrator shall be the senior procurement executive referred to in paragraph (3) of section 16 of Office of Federal Procurement Policy Act (41 U.S.C. 414) for the purposes of approving the justification for the use of noncompetitive procedures required under section 303(f)(1)(B)(iii) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(iii)).

"(e) MULTIYEAR SERVICE CONTRACTS.—

"(1) IN GENERAL.—Notwithstanding section 1341(a)(1)(B) of title 31, United States Code, the Administrator may enter into contracts for periods of not more than 5 years for the following types of services (and items of supply related to such services) for which funds would otherwise be available for obligation only within the fiscal year for which appropriated—

"(A) operation, maintenance, and support of facilities and installations;

"(B) operation, maintenance, or modification of aircraft, vehicles, and other highly complex equipment;

"(C) specialized training necessitating high quality instructor skills (for example, pilot and aircrew members; foreign language training); and

"(D) base services (for example, ground maintenance, in-plane refueling; bus transportation; refuse collection and disposal).

"(2) FINDINGS.—The Administrator may enter into a contract described in paragraph (1) only if the Administrator finds that—

"(A) there will be a continuing 'requirement for the services consonant with current plans for the proposed contract period;

"(B) the furnishing of such services will require a substantial initial investment in plant or equipment, or the incurrence of substantial contingent liabilities for the assembly, training, or transportation of a specialized workforce; and

"(C) the use of such a contract will promote the best interests of the United States by encouraging effective competition and promoting economies in operation.

"(3) GUIDANCE PRINCIPLES.—In entering into contracts described in paragraph (1), the Administrator shall be guided by the following principles:

"(A) The portion of the cost of any plant or equipment amortized as a cost of contract performance should not exceed the ratio between the period of contract performance and the anticipated useful commercial life of such plant or equipment. Useful commercial life, for this purpose, means the commercial utility of the facilities rather than the physical life thereof, the due consideration given to such factors as location of facilities, specialized nature thereof, and obsolescence.

"(B) Consideration shall be given to the desirability of obtaining an option to renew the contract for a reasonable period not to exceed 3 years, at prices not to include charges for plant, equipment, and other nonrecurring costs, already amortized.

"(C) Consideration shall be given to the desirability of reserving in the Federal Aviation Administration the right, upon payment of the unamortized portion of the cost of the plant or equipment, to take title thereto under appropriate circumstances.

"(4) TERMINATION.—In the event funds are not made available for the continuation of a contract described in paragraph (1) into a subsequent fiscal year, the contract shall be canceled or terminated, and the costs of cancellation or termination may be paid from—

"(A) appropriations originally available for the performance of the contract concerned;

"(B) appropriations currently available for procurement of the type of services concerned, and not otherwise obligated; or

"(C) funds appropriated for those payments.

"(f) MULTIYEAR PROPERTY ACQUISITION CONTRACTS.—

"(1) IN GENERAL.—Notwithstanding section 1341(a)(1)(B) of title 31, United States Code, to the extent that funds are otherwise available for obligation, the Administrator may make multiyear contracts (other than contracts described in paragraph (6)) for the purchase of property, whenever the Administrator finds—

"(A) that the use of such a contract will promote the safety or efficiency of the National Airspace System and will result in reduced total costs under the contract;

"(B) that the minimum need for the property to be purchased is expected to remain substantially unchanged during the contemplated contract period in terms of production rate, procurement rate, and total quantities;

"(C) that there is a reasonable expectation that throughout the contemplated contract period the Administrator will request funding for the contract at the level required to avoid contract cancellation;

"(D) that there is a stable design for the property to be acquired and that the technical risks associated with such property are not excessive; and

"(E) that the estimates of both the cost of the contract and the anticipated cost avoidance through the use of a multiyear contract are realistic.

"(2) REGULATIONS.—

"(A) GENERAL RULE.—The Administrator shall issue regulations for acquisition of property under this subsection to promote the use of multiyear contracting as authorized by paragraph (1) in a manner that will allow the most efficient use of multiyear contracting.

"(B) CANCELLATION PROVISIONS.—The regulations issued under this paragraph may provide for cancellation provisions in multiyear contracts described in paragraph (1) to the extent that such provisions are necessary and in the best interests of the United States. Such cancellation provisions may include consideration of both recurring and nonrecurring costs of the contractor associated with the production of the items to be delivered under the contract.

"(C) BROADENING INDUSTRIAL BASE.—In order to broaden the aviation industrial base, the regulations issued under this paragraph shall provide that, to the extent practicable—

"(i) multiyear contracting under paragraph (1) shall be used in such a manner as to seek, retain, and promote the use under such contracts of companies that are subcontractors, vendors, or suppliers; and

"(ii) upon accrual of any payment or other benefit under such a multiyear contract to any subcontract, vendor, or supplier company participating in such contractor, such payment or benefit shall be delivered to such company in the most expeditious manner practicable.

"(D) PROTECTION OF FEDERAL INTERESTS.—The regulations issued under this paragraph shall also provide that, to the extent practicable, the administration of this subsection, and of the regulations issued under this subsection, shall not be carried out in a manner to preclude or curtail the existing ability of the Federal Aviation Administration to—

"(i) provide for competition in the production of items to be delivered under such a contract; or

"(ii) provide for termination of a prime contract the performance of which is deficient with respect to cost, quality, or schedule.

"(3) SPECIAL RULE FOR CONTRACTS WITH HIGH CANCELLATION CEILING.—Before any contract described in paragraph (1) that contains a clause setting forth a cancellation ceiling in excess of $100,000,000 may be awarded, the Administrator shall give written notification of the proposed contract and of the proposed cancellation ceiling for that contract to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives, and such contract may not then be awarded until the end of a period of 30 days beginning on the date of such notification.

"(4) ADVANCE PROCUREMENT.—Contracts made under this subsection may be used for the advance procurement of components, parts, and materials necessary to the manufacture of equipment to be used in the National Airspace System, and contracts may be made under this subsection for such advance procurement, if feasible and practicable, in order to achieve economic-lot purchases and more efficient production rates.

"(5) TERMINATION.—In the event funds are not made available for the continuation of a contract made under this subsection into a subsequent fiscal year, the contract shall be canceled or terminated, and the costs of cancellation or termination may be paid from—

"(A) appropriations originally available for the performance of the contract concerned;

"(B) appropriations currently available for procurement of the type of property concerned, and not otherwise obligated; or

"(C) funds appropriated for those payments.

"(6) LIMITATION ON APPLICABILITY.—This subsection does not apply to contracts for the construction, alteration, or major repair or improvements to real property or contracts for the purchase of property to which section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) applies.

"(7) MULTIYEAR CONTRACT DEFINED.—For the purposes of this subsection, a multiyear contract is a contract for the purchase of property or services for more than 1, but not more than 5, fiscal years. Such a contract may provide that performance under the contract during the second and subsequent years of the contract is contingent upon the appropriation of funds and (if it does so provide) may provide for a cancellation payment to be made to the contractor if such appropriations are not made.

"(8) PRICE OPTIONS.—The Administrator may incorporate into a proposed multiyear contract negotiated priced options for varying the quantities of end items to be procured over the period of the contract.".

(b) CONFORMING AMENDMENT.—The portion of the table of contents contained in the first section of such Act relating to section 303 is amended to read as follows:

"Sec. 303. Procurement authority.
"(a) Acquisition and disposal of property.
"(b) Special rules for acquisitions.
"(c) Procurement procedures.
"(d) Sole source approval by Administrator.
"(e) Multiyear service contracts.
"(f) Multiyear property acquisition contracts.".

SEC. 9119. EXPANDED EAST COAST PLAN.

(a) ENVIRONMENTAL IMPACT STATEMENT.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall issue an environmental impact statement pursuant to the National Environmental Policy Act of 1969 on the effects of changes in aircraft flight patterns over the State of New Jersey caused by implementation of the Expanded East Coast Plan.

(b) AIR SAFETY INVESTIGATION.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall conduct an investigation to determine the effects on air safety of changes in aircraft flight patterns over the State of New Jersey caused by implementation of the Expanded East Coast Plan.

(c) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall transmit to Congress a report containing the results of the environmental impact statement and investigation conducted pursuant to this section. Such report shall also contain such recommendations for modification of the Expanded East Coast Plan as the Administrator considers appropriate or an explanation of why modification of such plan is not appropriate.

(d) IMPLEMENTATION OF MODIFICATIONS.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall implement modifications to the Expanded East Coast Plan recommended under subsection (c).

SEC. 9120. TRANSFER OF FORMAT OF GEODETIC NAVIGATION INFORMATION.

Not later than 2 years after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration and the Administrator of the National Oceanic and Atmospheric Administration shall complete the transfer of geodetic coordinate navigation information from NAD-27 format to NAD-83 format.

SEC. 9121. AUTHORIZATIONS OF APPROPRIATIONS FOR FISCAL YEARS 1993, 1994, AND 1995.

For purposes of developing the safety and capacity of the national aviation system under programs established by sections 505 and 506 of the Airport and Airway Improvement Act of 1982, there are authorized to be appropriated from the Airport and Airway Trust Fund for each of fiscal years 1993, 1994, and 1995 amounts equal to deposits into the Fund in such fiscal year as a result of any increases in aviation taxes through implementation of the amendments made to the Internal Revenue Code of 1986 by this Act.

SEC. 9122. SENSE OF CONGRESS CONCERNING APPROPRIATION LEVELS.

It is the sense of Congress that amounts appropriated and otherwise made available from the Airport and Airway Trust Fund for fiscal years 1993, 1994, and 1995 shall include—

(1) the amount of deposits made into the Fund in each such year;

(2) the amount of interest earned by the Fund in each such year; and

(3) amounts sufficient to reduce the accumulated surplus in the Fund by $1,400,000,000 in fiscal year 1993, $1,000,000,000 in fiscal year 1994, and $1,100,000,000 in fiscal year 1995.

SEC. 9123. HOLD HARMLESS BUDGETARY TREATMENT.

For fiscal years 1993, 1994, and 1995, the baselines and domestic appropriations cap shall be held harmless for the budget authority and outlays associated with spending attributable to deposits into the Airport and Airway Trust Fund as a result of any increases in the aviation taxes through implementation of the amendments made to the Internal Revenue Code of 1986 by this Act.

SEC. 9124. SEVERABILITY.

If any provision of this subtitle (including an amendment made by this subtitle), or the application thereof to any person or circumstance, is held invalid, the remainder of this subtitle and the application of such provision to other persons of circumstances shall not be affected thereby.

SEC. 9125. BUY AMERICA.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate, after the date of enactment of this Act, any funds authorized to be appropriated to carry out this subtitle, section 106(k) of title 49, United States Code, or the Airport and Airway Improvement Act of 1982 (other than section 506(b)) for any project unless steel and manufactured products used in such project are produced in the United States.

(b) LIMITATIONS ON APPLICABILITY.—The provisions of subsection (a) of this section shall not apply where the Secretary finds—

(1) that their application would be inconsistent with the public interest;

(2) that such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality;

(3) in the case of the procurement of facilities and equipment under the Airport and Airway Improvement Act of 1982 that (A) the cost of components and subcomponents which are produced in the United States is more than 60 percent of the cost of all components of the facility or equipment described in this paragraph, and (B) final assembly of the facility or equipment described in this paragraph has taken place in the United States; or

(4) that inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent.

(c) CALCULATION OF COMPONENTS COSTS.—For purposes of this section, in calculating components' costs, labor costs involved in final assembly shall not be included in the calculation.

SEC. 9126. PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.

If the Secretary of Transportation determines that any person intentionally affixes a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall declare that person ineligible to receive a Federal contract or grant in conjunction with the issuance of any contract made under this subtitle for a period of not less than 3 years and not more than 5 years. The Secretary may bring action against such person to enforce this subsection in any United States district court.

SEC. 9127. RESTRICTIONS ON CONTRACT AWARDS.

No person or enterprise domiciled or operating under the laws of a foreign government may enter into a contract or subcontract made pursuant to this subtitle if that government unfairly maintains, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to section 305(g)(1)(A) of the Trade Agreements Act of 1979.

Subtitle C—Federal Aviation Administration Research, Engineering, and Development

SEC. 9201. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the "Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 9201. Short title.
Sec. 9202. Aviation research authorization of appropriations.
Sec. 9203. Weather services.
Sec. 9204. Aviation research grant and consortium program.
Sec. 9205. Study by the General Accounting Office of multiyear contracting authority.
Sec. 9206. Buy-American requirement.

SEC. 9202. AVIATION RESEARCH AUTHORIZATION OF APPROPRIATIONS.

Paragraph (2) of section 506(b) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)) is amended by striking subparagraph (A) and all that follows through the period at the end of such paragraph and inserting the following:

"(A) for fiscal year 1991—

"(i) $131,800,000 solely for air traffic control projects and activities;

"(ii) $19,100,000 solely for air traffic control advanced computer projects and activities;

"(iii) $3,400,000 solely for navigation projects and activities;

"(iv) $9,700,000 solely for aviation weather projects and activities;

"(v) $16,500,000 solely for aviation medicine projects and activities;

"(vi) $70,100,000 solely for aircraft safety projects and activities; and

"(vii) $4,400,000 solely for environmental projects and activities; and

"(B) for fiscal year 1992—

"(i) $137,800,000 solely for air traffic control projects and activities;

"(ii) $19,100,000 solely for air traffic control advanced computer projects and activities;

"(iii) $3,400,000 solely for navigation projects and activities;

"(iv) $9,700,000 solely for aviation weather projects and activities;

"(v) $16,500,000 solely for aviation medicine projects and activities;

"(vi) $76,100,000 solely for aircraft safety projects and activities; and

"(vii) $5,400,000 solely for environmental projects and activities.

Not less than 3 percent of the funds made available under this paragraph for a fiscal year shall be available to the Administrator for making grants under section 312(g) of the Federal Aviation Act of 1958.".

SEC. 9203. WEATHER SERVICES.

Section 506(d) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(d)) is amended by striking the second sentence and inserting the following: "Expenditures for the purposes of carrying out this subsection shall be limited to $34,521,000 for fiscal year 1991 and $35,389,000 for fiscal year 1992.".

SEC. 9204. AVIATION RESEARCH GRANT AND CONSORTIUM PROGRAM.

(a) IN GENERAL.—Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353) is amended by adding at the end thereof the following new subsection:

"(g) RESEARCH GRANT AND CONSORTIUM PROGRAM.—

"(1) GENERAL AUTHORITY.—The Administrator may make grants to colleges, universities, and nonprofit research organizations (A) to conduct aviation research, and (B) to establish a research consortium, consisting of regional centers of excellence for continuing research into areas deemed by the Administrator to be required for the long-term growth of civil aviation.

"(2) APPLICATIONS.—A university, college, or nonprofit organization interested in receiving a grant under this subsection may submit to the Administrator an application for such grant. Such application shall be in such form and contain such information as the Administrator may require.

"(3) SELECTION.—The Administrator shall establish a solicitation, review, and evaluation process that ensures (A) the funding under this subsection of proposals having adequate merit and relevancy to the mission of the Federal Aviation Administration, (B) an equitable geographical distribution of grant funds under this subsection, and (C) the inclusion of historically black colleges and universities and other minority institutions for funding consideration under this subsection.

"(4) RECORDS.—Each person awarded a grant under this subsection shall maintain such records as the Administrator may require as being necessary to facilitate an effective audit and evaluation of the use of grant funds.

"(5) REPORTS.—The Administrator shall make an annual report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the research grant program conducted under this subsection.".

(b) CONFORMING AMENDMENT.—That portion of the table of contents contained in the first section of such Act which appears under the heading:

"Sec. 312. Development planning."

is amended by adding at the end the following:

"(g) Research grant and consortium program.".

SEC. 9205. STUDY BY THE GENERAL ACCOUNTING OFFICE OF MULTIYEAR CONTRACTING AUTHORITY.

The Comptroller General of the United States shall conduct a study of the advisability of granting to the Administrator of the Federal Aviation Administration specific statutory authority—

(1) to lease real property or interests therein for terms not to exceed 20 years, including, in the case of air navigation facilities and airports (as such terms are defined in section 101 (8) and (9) of the Federal Aviation Act of 1958) owned by the United States and operated under the direction of the Administrator, easements through or other interests in airspace immediately adjacent thereto and in connection therewith;

(2) to procure personal property or services and real property and interests therein with procedures other than competitive procedures under section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c));

(3) to serve as the senior procurement executive under section 16 of the Office of Federal Procurement Policy Act (41 U.S.C. 414) for the purpose of approving the justification for the use of noncompetitive procedures required under section 303(f)(1)(B)(iii) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(iii));

(4) to let multiyear contracts for services, including the operation, maintenance, and support of facilities and installations; the operation, maintenance, and modification of aircraft, vehicles, and other highly complex equipment; specialized training necessitating high quality instructor skills; and base services; and

(5) to let multiyear contracts for the purchase of property.

The study also shall examine the implementation of section 2306 (g) and (h) of title 10, United States Code, by the Department of Defense, and shall assess the usefulness of granting similar authority to the Federal Aviation Administration. The Comptroller General shall submit a report on the results of the study, along with any comments of the Administrator of the Federal Aviation Administration, to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate within 6 months after the date of enactment of this Act.

SEC. 9206. BUY-AMERICAN REQUIREMENT.

(a) DETERMINATION BY ADMINISTRATOR.—If the Federal Aviation Administration, with the concurrence of the Secretary of Commerce and the United States Trade Representative, determines that the public interest so requires, the Administration is authorized to award to a domestic firm a contract made pursuant to the issuance of any grant made under this subtitle that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, the Administration shall take into account United States international obligations and trade relations.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts made related to the issuance of any grant made under this subtitle for which—

(1) amounts are authorized by this subtitle (including the amendments made by this subtitle) to be made available; and

(2) solicitations for bids are issued after the date of the enactment of this Act.

(d) REPORT TO CONGRESS.—The Administration shall report to the Congress on contracts covered under this section and entered into with foreign entities in fiscal years 1990 and 1991 and shall report to the Congress on the number of contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party. The Administration shall also report to the Congress on the number of contracts covered under this subtitle (including the amendments made by this subtitle) and awarded based upon the parameters of this section.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "Administrator" means the Administrator of the Federal Aviation Administration;

(2) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(3) the term "foreign firm" means a business entity not described in paragraph (2).

Subtitle D—Aging Aircraft Safety

SEC. 9301. SHORT TITLE.

(a) SHORT TITLE.—This subtitle may be cited as the "Aging Aircraft Safety Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 9301. Short title.
Sec. 9302. Aging aircraft rulemaking proceeding.
Sec. 9303. Aircraft maintenance safety programs.
Sec. 9304. Administrator defined.

SEC. 9302. AGING AIRCRAFT RULEMAKING PROCEEDING.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall initiate a rulemaking proceeding for the purpose of issuing a rule to assure the continuing airworthiness of aging aircraft.

(b) INSPECTIONS AND RECORD REVIEWS.—

(1) GENERAL REQUIREMENT.—The rule issued pursuant to this section shall, at a minimum, require the Administrator to make such inspections, and conduct such reviews of maintenance and other records, of each aircraft used by an air carrier to provide air transportation as may be necessary to enable the Administrator to determine that such aircraft is in safe condition and is properly maintained for operation in air transportation.

(2) PART OF HEAVY MAINTENANCE CHECKS.—The inspections and reviews required under paragraph (1) shall be carried out as part of each heavy maintenance check of the aircraft conducted on or after the first day of the 15th year in which the aircraft is in service.

(3) APPLICABILITY OF FEDERAL AVIATION ACT.—The inspections required under paragraph (1) shall be conducted as provided in section 601(a)(3)(C) of the Federal Aviation Act of 1958.

(c) DEMONSTRATION OF STRUCTURAL AND PARTS MAINTENANCE.—The rule issued pursuant to this section shall, at a minimum, require the air carrier to demonstrate to the Administrator, as part of the inspection required by the rule, that maintenance of the aircraft's structure, skin, and other age-sensitive parts and components has been adequate and timely enough to ensure the highest degree of safety.

(d) PROCEDURES.—The rule issued pursuant to this section shall establish procedures to be followed in carrying out the inspections required by the rule.

(e) AVAILABILITY OF AIRCRAFT.—The rule issued pursuant to this section shall require the air carrier to make available to the Administrator the aircraft and such inspection, maintenance, and other records pertaining to the aircraft as the Administrator may require for carrying out reviews required by the rule.

SEC. 9303. AIRCRAFT MAINTENANCE SAFETY PROGRAMS.

Not later than 180 days after the date of the enactment of this Act, the Administrator shall establish—

(1) a program to verify that air carriers are maintaining their aircraft in accordance with maintenance programs approved by the Federal Aviation Administration;

(2) a program—

(A) to provide inspectors and engineers of the Federal Aviation Administration with training necessary for conducting auditing inspections of aircraft operated by air carriers for corrosion and metal fatigue; and

(B) to enhance participation of such inspectors and engineers in such inspections; and

(3) a program to ensure that air carriers demonstrate to the Administrator their commitment and technical competence to assure the airworthiness of aircraft operated by such carriers.

SEC. 9304. ADMINISTRATOR DEFINED.

As used in this subtitle, the term "Administrator" means the Administrator of the Federal Aviation Administration.

Subtitle E—Off Budget Treatment of Transportation Trust Funds

SEC. 9401. SHORT TITLE.

This subtitle may be cited as the "Transportation Trust Funds Off Budget Act of 1990".

SEC. 9402. FINDINGS.

Congress finds that—

(1) social and economic security are the cornerstones of a stronger and more productive United States;

(2) the Highway Trust Fund and the Airport and Airway Trust Fund are self-supporting as amounts in such funds are derived through fees paid by users of the Nation's transportation systems;

(3) on-budget treatment of the Highway Trust Fund and the Airport and Airway Trust Fund—

(A) deceives the public by using surpluses in such funds to understate the real budget deficit;

(B) undermines the integrity of the budget process by understating shortfalls in general revenues;

(C) damages needed highway, transit, and aviation programs; and

(D) fosters inefficiency and waste as limitations force down obligations from such funds; and

(4) failure to provide off-budget treatment for the Highway Trust Fund and the Airport and Airway Trust Fund impairs the Nation's economic productivity and growth and ignores the Nation's infrastructure needs.

SEC. 9403. EFFECTIVE DATE.

Section 9404 of this Act (including the amendments made by such section) shall take effect on October 1, 1995.

SEC. 9404. BUDGETARY TREATMENT OF HIGHWAY TRUST FUND, AIRPORT AND AIRWAY TRUST FUND, INLAND WATERWAYS TRUST FUND, AND HARBOR MAINTENANCE TRUST FUND.

(a) TREATMENT OF TRUST FUND OPERATIONS.—

(1) IN GENERAL.—The receipts and disbursements of the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund allocable to the transportation-related operations of each such Trust Fund—

(A) shall not be included in the totals of—

(i) the budget of the United States Government as submitted by the President, or

(ii) the congressional budget (including allocations of budget authority and outlays provided therein), and

(B) shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

(2) TRANSPORTATION-RELATED OPERATIONS DEFINED.—For purposes of paragraph (1), the receipts and disbursements allocable to the transportation-related operations—

(A) of the Highway Trust Fund are the disbursements, and the receipts allocable to such disbursements, under—

(i) paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 (relating to expenditures from the Highway Trust Fund for the Federal-aid highway program); and

(ii) paragraph (3) of section 9503(e) of such Code (relating to expenditures from the Mass Transit Account); and

(B) of the Airport and Airway Trust Fund are the disbursements, and the receipts allocable to such disbursements, under paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from the Airport and Airway Trust Fund for the airport and airway program);

(C) of the Inland Waterways Trust Fund are the disbursements, and the receipts allocable to such disbursements, under section 9506(c) of the Internal Revenue Code of 1986 (relating to the expenditures from the Inland Waterways Trust Fund for navigation construction and rehabilitation projects on inland waterways); and

(D) of the Harbor Maintenance Trust Fund are the disbursements, and the re-

ceipts allocable to such disbursements, under paragraphs (1) and (2) of section 9505(c) of the Internal Revenue Code of 1986 (relating to the expenditures from the Harbor Maintenance Trust Fund for operation and maintenance of harbors and inland harbors and for payments of rebates of certain tolls and charges).

(b) ADJUSTMENTS OF AUTHORIZATIONS AND APPROPRIATIONS OUT OF TRUST FUND.—The Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201-2227) is further amended by adding at the end the following new section:

"SEC. 536. ADJUSTMENTS OF AUTHORIZATIONS AND APPORTIONMENTS.

"(a) ESTIMATES OF UNFUNDED AVIATION AUTHORIZATIONS AND NET AVIATION RECEIPTS.—Not later than March 31 of each year, the Secretary, in consultation with the Secretary of the Treasury, shall estimate—

"(1) the amount which would (but for this section) be the unfunded aviation authorizations at the close of the next fiscal year, and

"(2) the net aviation receipts for the 24-month period beginning at the close of such fiscal year.

"(b) PROCEDURE WHERE THERE IS EXCESS UNFUNDED AVIATION AUTHORIZATIONS.—If the Secretary determines for any fiscal year that the amount described in subsection (a)(1) exceeds the amount described in subsection (a)(2), the Secretary shall determine the amount of such excess.

"(c) ADJUSTMENT OF AUTHORIZATIONS WHERE UNFUNDED AUTHORIZATIONS EXCEED 2 YEARS RECEIPTS.—

"(1) DETERMINATION OF PERCENTAGE.—If the Secretary determines that there is an excess referred to in subsection (b), the Secretary shall determine the percentage which—

"(A) such excess, is of

"(B) the total of the amounts authorized to be appropriated and the amounts available for obligation from the Airport and Airway Trust Fund for the next fiscal year.

"(2) ADJUSTMENT OF AUTHORIZATIONS.—If the Secretary determines a percentage under paragraph (1), each amount authorized to be appropriated or available for obligation from the Airport and Airway Trust Fund for the next fiscal year shall be reduced by such percentage.

"(d) AVAILABILITY OF AMOUNTS PREVIOUSLY WITHHELD.—

"(1) ADJUSTMENT OF AUTHORIZATIONS.—If, after an adjustment has been made under subsection (c)(2), the Secretary determines that the amount described in subsection (a)(1) does not exceed the amount described in subsection (a)(2) or that the excess referred to in subsection (b) is less than the amount previously determined, each amount authorized to be appropriated or available for obligation that was reduced under subsection (c)(2) shall be increased, by an equal percentage, to the extent the Secretary determines that it may be so increased without causing the amount described in subsection (a)(1) to exceed the amount described in subsection (a)(2) (but not by more than the amount of the reduction).

"(2) APPORTIONMENT.—The Secretary shall apportion amounts made available for apportionment by reason of paragraph (1).

"(3) PERIOD OF AVAILABILITY.—Any funds apportioned pursuant to paragraph (2) shall remain available for the period for which they would be available if such apportionment took effect with the fiscal year in which they are apportioned pursuant to paragraph (2).

"(e) DEFINITIONS.—For purposes of this section—

"(1) UNFUNDED AVIATION AUTHORIZATIONS.—The term 'unfunded aviation authorization' means, at any time, the excess (if any) of—

"(A) the total amount authorized to be appropriated or available for obligation from the Trust Fund which has not been appropriated or obligated, over

"(B) the amount available in the Trust Fund at such time to make such appropriation or to liquidate such obligations (after all other unliquidated obligations at such time which are payable from the Trust Fund have been liquidated).

"(2) NET AVIATION RECEIPTS.—The term 'net aviation receipts' means, with respect to any period, the excess of—

"(A) the receipts (including interest) of the Trust Fund during such period, over

"(B) the amounts to be transferred during such period from the Trust Fund under section 9502(d) of the Internal Revenue Code of 1986 (other than paragraph (1) thereof).

"(f) REPORTS.—Any estimate under subsection (a) and any determination under subsection (b), (c), or (d) shall be reported by the Secretary to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Committee on Public Works and Transportation of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.".

(c) CONFORMING AMENDMENTS AND LIMITATIONS TO THE BUDGET PROCESS.—

(1) EXEMPTION FROM SEQUESTRATION ORDER.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended—

(A) by inserting after the undesignated paragraph relating to administration of territories the following new undesignated paragraph:

"Airport and Airway Trust Fund (69-8106-0-7-402; 69-8107-0-7-402; 69-8108-0-7-402; 69-8104-0-7-402);"; and

(B) by inserting after the undesignated paragraph relating to higher education facilities the following new undesignated paragraph:

"Highway Trust Fund (20-8102-0-7-401; 69-8019-0-7-401; 69-8020-0-7-401; 69-8099-0-7-401);".

(2) TREATMENT OF TRUST FUND RECEIPTS FOR DEFICIT CALCULATION PURPOSES.—Section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the second sentence the following new sentences: "In calculating the deficit for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 and in calculating the excess deficit for purposes of sections 251 and 252 of such Act of 1985 for any fiscal year, the receipts of the Highway Trust Fund (including the Mass Transit Account), the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund allocable to the transportation-related operations of each such Trust Fund for such fiscal year shall not be included in total revenues for such fiscal year, and the disbursements allocable to the transportation-related operations of each such Trust Fund for such fiscal year shall not be included in total budget outlays for such fiscal year. For purposes of the preceding sentence, the receipts and disbursements allocable to the transportation-related operations of such Trust Funds are the disbursements, and the receipts allocable to such disbursements, described in section 9404(a)(2) of the Transportation Trust Funds Off Budget Act of 1990 and paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from the Airport and Airway Trust Fund for the airport and airway program).".

(3) LIMITATIONS ON CONGRESSIONAL BUDGET PROCESS.—Section 310 of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end the following new subsection:

"(h) LIMITATION ON CHANGES TO THE HIGHWAY TRUST FUND AND THE AIRPORT AND AIRWAY TRUST FUND.—Notwithstanding any other provision of law, it shall not be in order in the Senate or the House of Representatives to consider—

"(1) any concurrent resolution on the budget for any fiscal year, or any amendment thereto or conference report thereon, that assumes or contains in the aggregate totals or functional categories provided for by section 301(a) any amount of transportation-related budget authority or transportation-related budget outlays from the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, or the Harbor Maintenance Trust Fund;

"(2) any concurrent resolution on the budget for any fiscal year, or any amendment thereto or conference report thereon, that contains reconciliation instructions with respect to transportation-related operations of the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, or the Harbor Maintenance Trust Fund, or

"(3) any reconciliation bill or reconciliation resolution reported pursuant to a concurrent resolution on the budget agreed to under section 301 or 304, or a resolution pursuant to section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, or any amendment thereto or conference report thereon, that contains recommendations with respect to transportation-related operations of the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, or the Harbor Maintenance Trust Fund.".

(4) CONFORMING ENFORCEMENT PROCEDURES.—Sections 301(c), 301(d), 302(a), 302(b), 302(c), 302(f), 303(a), 311(a), and 402 of the Congressional Budget and Impoundment Control Act of 1974 shall not apply to any bill, resolution, or amendment (including a conference report thereon) which provides budget authority, contract authority, or budget outlays from the Highway Trust Fund or the Airport and Airway Trust Fund.

SEC. 9405. SENSE OF CONGRESS THAT TRANSPORTATION TAXES SHOULD BE DEDICATED TO THE TRANSPORTATION TRUST FUNDS.

(a) FINDINGS.—Congress finds that—

(1) highway motor fuel taxes and aviation user taxes have in the past been dedicated to the Highway and Airport and Airway Trust Funds and have consequently been used exclusively for the development of the surface transportation and aviation systems;

(2) extraordinary budget pressures have led to consideration of the need for temporary, 5-year highway motor fuels taxes and aviation user taxes for deficit reduction in order to help resolve the budget crisis; and

(3) if any portion of these taxes is used for deficit reduction, this use should be temporary so that we can return as soon as possible to the dedicated user fee principle in

order to ensure fairness to the highway and aviation users and to ensure that needed infrastructure improvements are made.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Congress reaffirms the principle that all highway motor fuel taxes and aviation user taxes should be deposited in the Highway and Airport and Airway Trust Funds, respectively, and all amounts in these Trust Funds should be made available for obligation for surface transportation and aviation programs, respectively, and not for deficit reduction; and

(2) in the event that any portion of these taxes is used for deficit reduction during the 5-year period beginning with fiscal year 1991, the Congress should return to the dedicated user fee principle as soon as possible but no later than the end of fiscal year 1995.

Subtitle F—Water Resources

SEC. 9501. ENVIRONMENTAL PROTECTION AGENCY FEES.

(a) ASSESSMENT AND COLLECTION.—The Administrator of the Environmental Protection Agency shall, by regulation, assess and collect fees and charges for services and activities carried out pursuant to laws administered by the Environmental Protection Agency.

(b) AMOUNT OF FEES AND CHARGES.—Fees and charges assessed pursuant to this section shall be in such amounts as may be necessary to ensure that the aggregate amount of fees and charges collected pursuant to this section—

(1) in fiscal year 1991 is not less than $42,000,000; and

(2) in each of fiscal years 1992, 1993, 1994, and 1995 is not less than $53,000,000.

(c) LIMITATION ON FEES AND CHARGES FOR ACTIVITIES UNDER FWPCA.—The maximum aggregate amount of fees and charges which may be assessed and collected pursuant to this section in a fiscal year for services and activities carried out pursuant to the Federal Water Pollution Control Act is $10,000,000.

(d) USE OF FEES.—Fees and charges collected pursuant to this section shall be deposited into a special account for environmental services in the Treasury of the United States. Subject to appropriations Acts such funds shall be available to the Environmental Protection Agency to carry out the activities for which such fees and charges are collected. Such funds shall remain available until expended.

SEC. 9502. STUDY OF AND LIMITATION ON CERTAIN CORPS OF ENGINEERS' FEES.

(a) STUDY AND REPORT.—The Secretary of the Army shall conduct a study of fees collected in connection with the processing and issuance of permits and with any other form of approval required pursuant to section 404 of the Federal Water Pollution Control Act or section 10 of the Rivers and Harbors Appropriations Act of 1899. The Secretary shall transmit to Congress a report on the results of such study not later than 60 days after the date of the enactment of this Act.

(b) LIMITATION ON ESTABLISHMENT AND INCREASES OF CERTAIN FEES.—The Secretary of the Army shall not increase the amount of any fee described in subsection (a) or establish any new such fee except as subsequently provided by law.

TITLE X—SCIENCE, SPACE, AND TECHNOLOGY

Subtitle A—User Fees

SEC. 10001. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION USER FEES.

(a) AMENDMENTS.—Section 409 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 is amended—

(1) in subsection (a), by striking "archived by the National Environmental Satellite, Data, and Information Service of" and inserting in lieu thereof "and information and products derived therefrom collected or archived by";

(2) in subsection (b)(1)—

(A) by striking "provide data" and inserting in lieu thereof "provide materials"; and

(B) by striking "data is" and inserting in lieu thereof "materials are";

(3) in subsection (b)(2), by striking "data" both places it appears and inserting in lieu thereof "materials";

(4) in subsection (b), by inserting at the end the following new paragraph:

"(3) The Secretary may waive the assessment of fees authorized under subsection (a) as necessary to continue to provide weather warnings, watches, forecasts, and similar products and services essential to the mission of the National Oceanic Atmospheric Administration.";

(5) by amending subsection (d)(1) to read as follows:

"(1) The initial schedule of fees established by the National Environmental Satellite, Data, and Information Service before the date of enactment of the Omnibus Budget Reconciliation Act of 1990 shall remain in effect for the 3-year period beginning on the date that the fees under its schedule take effect.";

(6) in subsection (e), by striking "shall be available to the National Environmental Satellite, Data, and Information Service for expenses incurred in the operation of its data archive centers" and inserting in lieu thereof "by the National Environmental Satellite, Data, and Information Service shall be available to the National Environmental Satellite, Data, and Information Service for expenses incurred in its operation"; and

(7) in subsection (g), by inserting ", including the authority of the Secretary under section 1307 of title 44, United States Code" after "Atmospheric Administration".

(b) EFFECT OF AMENDMENTS.—(1) The increase in revenues to the United States attributable to the amendments made by subsection (a) shall not exceed—

(A) $1,000,000 for fiscal year 1991;

(B) $2,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995; and

(C) a cumulative total of $8,000,000 for fiscal years 1991 through 1995.

(2) Increases in revenues to the United States described in paragraph (1) shall be achieved by the Secretary of Commerce through equitable increases in fees for services offered by the various programs of the National Oceanic and Atmospheric Administration.

(3) The Secretary of Commerce shall notify the Congress of any changes in fee schedules under section 409 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 before such changes take effect.

SEC. 10002. NUCLEAR WASTE FUND.

Section 302(a)(1) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)(1)) is amended by adding at the end the following: "Such contracts shall also provide for payment to the Secretary of an additional amount that, in combination with the fee, reflects the fair market value of the services for which expenditures are authorized under subsection (d). The aggregate of the additional amounts required by the previous sentence shall equal at least $5,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, and 1995, but shall not exceed—

"(A) $6,000,000 for fiscal year 1992;

"(B) $7,000,000 for fiscal year 1993;

"(C) $8,000,000 for fiscal year 1994; and

"(D) $9,000,000 for fiscal year 1995.".

SEC. 10003. RADON MEASUREMENT PROFICIENCY.

(a) RESEARCH.—(1) The Administrator of the Environmental Protection Agency (hereafter in this section referred to as the "Administrator") shall, in conjunction with other Federal agencies, conduct research to develop, test, and evaluate radon and radon progeny measurement methods and protocols. The purpose of such research shall be to assess the ability of those methods and protocols to accurately assess exposure to radon progeny. Such research shall include—

(A) conducting comparisons among radon and radon progeny measurement techniques, including techniques to measure attached and unattached radon progeny and the equilibrium of radon progeny to radon;

(B) developing measurement protocols for different building types under varying operating conditions; and

(C) comparing the exposures estimated by stationary monitors and protocols to those measured by personal monitors.

(2) The Administrator shall develop and issue guidance documents that—

(A) provide information on the results of research conducted under paragraph (1); and

(B) describe model State radon measurement and mitigation programs and include an evaluation of existing State programs and State controls that are designed to provide adequate assurance to the homeowner that radon measurements are accurate.

(b) MANDATORY PROGRAM.—(1) The Administrator shall establish a mandatory program requiring that—

(A) any product offered for sale, or device used in connection with a service offered to the public, for the measurement of radon meets minimum performance criteria; and

(B) any operator of a device, or person employing a technique, used in connection with a service offered to the public for the measurement of radon meets a minimum level of proficiency.

Such program shall include procedures for ordering the recall of any product sold for the measurement of radon which does not meet minimum performance criteria under subparagraph (A), for ordering the discontinuance of any service offered to the public for the measurement of radon which does not meet minimum performance criteria under subparagraph (A), and establish adequate quality assurance requirements for each company offering radon measurement services to the public to follow.

(c) USER FEE.—The Administrator shall establish a schedule of user fees for persons seeking certification under the program established under subsection (b), with the amount of such fees designed to cover the operating and administrative costs of the Environmental Protection Agency for carrying out such program with respect to such persons.

(d) USE OF FUNDS.—Amounts received for user fees under subsection (c) shall be de-

posited in a Radon Service Account established in the Treasury of the United States for use by the Administrator, to the extent provided in appropriations Acts, in carrying out the program established under subsections (a) and (b).

(c) REPORT TO CONGRESS.—The Administrator, in consultation with other Federal agencies, shall evaluate current efforts to promote radon testing, and shall report to Congress by October 1, 1991 on ways to improve the effectiveness of alternative strategies for promoting such testing, including consideration of—

(1) grants to support development of radon testing strategies by States;

(2) financial incentives;

(3) disclosure regarding radon during real estate transactions;

(4) public education; and

(5) mandatory testing, especially for federally-related properties.

In preparing this report, the Administrator shall consult with concerned parties, including public interest groups, health officials, the radon industry, realtors, home builders, and States.

SEC. 10004. DEPARTMENT OF ENERGY USER FEE STUDY.

The Secretary of Energy shall undertake a study of the Department of Energy's user fee assessment and collection practices, and shall make recommendations on ways to—

(1) reasonably increase revenues to the United States through user fees, consistent with the mission of the Department;

(2) assess user fees—

(A) for proprietary users on the basis of fair market value principles; and

(B) for nonproprietary users on the basis of full recovery of operational costs; and

(3) improve user fee collection practices.

The Secretary of Energy shall submit a report containing such findings and recommendations to the Congress within 6 months after the date of enactment of this Act. There are authorized to be appropriated to the Secretary of Energy for carrying out this section not to exceed $500,000 for fiscal year 1991, from funds otherwise available to the Department of Energy.

SEC. 10005. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION USER FEE STUDY.

The Administrator of the National Aeronautics and Space Administration shall undertake a study of the National Aeronautics and Space Administration's user fee assessment and collection practices, and shall make recommendations on ways to—

(1) reasonably increase revenues to the United States through user fees consistent with the National Aeronautics and Space Administration's mission;

(2) assess user fees on the basis of fair market value principles; and

(3) improve user fee collection practices.

The Administrator shall submit a report containing such findings and recommendations to the Congress within 6 months after the date of enactment of this Act. There are authorized to be appropriated to the Administrator of the National Aeronautics and Space Administration for carrying out this section not to exceed $500,000 for fiscal year 1991, from funds otherwise available to the National Aeronautics and Space Administration.

SEC. 10006. DEPARTMENT OF TRANSPORTATION COMMERCIAL SPACE LAUNCH STUDY.

The Secretary of Transportation shall undertake a study of options for the assessment and collection of licensing fees under the Commercial Space Launch Act (49 U.S.C. App. 2601 et seq.) and shall make recommendations on ways to—

(1) offset outlays required by the Government to carry out the Commercial Space Launch Act;

(2) assess fees on the basis of revenues generated by activities carried out pursuant to a license issued by the Secretary under such Act; and

(3) maintain the competitiveness of the commercial space launch industry.

The Secretary shall submit a report containing such findings and recommendations to the Congress within 6 months after the date of enactment of this Act. There are authorized to be appropriated to the Secretary of Transportation for carrying out this section not to exceed $500,000 for fiscal year 1991, from funds otherwise available to the Department of Transportation.

SEC. 10007. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY USER FEE STUDY.

The Secretary of Commerce shall undertake a study of the National Institute of Standards and Technology's user fee assessment and collection practices and shall make recommendations on ways to—

(1) reasonably increase revenues to the United States through user fees, consistent with the mission of the Institute;

(2) offset outlays incurred by the Government in administering the Institute's contract and award programs;

(3) assess user fees—

(A) for proprietary users on the basis of fair market value principles; and

(B) for nonproprietary users on the basis of full recovery of operational costs; and

(4) improve user fee collection practices.

The Secretary of Commerce shall submit a report containing such findings and recommendations to the Congress within 6 months after the date of enactment of this Act. There are authorized to be appropriated to the Secretary of Commerce for carrying out this section not to exceed $500,000 for fiscal year 1991, from funds otherwise available to the National Institute of Standards and Technology.

Subtitle B—Aviation Safety and Capacity Expansion

SEC. 10101. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the "Aviation Safety and Capacity Expansion Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 10101. Short title; table of contents.
Sec. 10102. Construction of firefighting training facilities.
Sec. 10103. Declaration of policy.
Sec. 10104. Airport improvement program.
Sec. 10105. Airway improvement program.
Sec. 10106. FAA operations.
Sec. 10107. Operation and maintenance of aviation system.
Sec. 10108. Weather service.
Sec. 10109. Military airport program.
Sec. 10110. Passenger facility charges.
Sec. 10111. Reduction in airport improvement program apportionments for large and medium hub airports imposing passenger facility charges.
Sec. 10112. Use of PFC reduced apportionment funds.
Sec. 10113. Small community air service program.
Sec. 10114. State block grant pilot program.
Sec. 10115. Auxiliary flight service station program.
Sec. 10116. Airport and airway improvements for the Virgin Islands.
Sec. 10117. Engine condition monitoring systems.
Sec. 10118. Procurement authority.
Sec. 10119. Expanded east coast plan.
Sec. 10120. Transfer of format of geodetic navigation information.
Sec. 10121. Severability.
Sec. 10122. Buy America.
Sec. 10123. Prohibition against fraudulent use of "made in America" labels.
Sec. 10124. Restrictions on contract awards.

SEC. 10102. CONSTRUCTION OF FIREFIGHTING TRAINING FACILITIES.

Section 503(a)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2202(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) any acquisition of land for, or work involved to construct, a burn area training structure on or off the airport for the purpose of providing live fire drill training for aircraft rescue and firefighting personnel required to receive such training by a regulation of the Department of Transportation, including basic equipment and minimum structures to support such training in accordance with standards of the Federal Aviation Administration.".

SEC. 10103. DECLARATION OF POLICY.

Section 502(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201(a)) is amended—

(1) in paragraph (5) by inserting ", including as they may be applied between category and class of aircraft" after "discriminatory practices"; and

(2) in paragraph (13) by inserting "and should not unjustly discriminate between categories and classes of aircraft" after "attempted".

SEC. 10104. AIRPORT IMPROVEMENT PROGRAM.

Section 505 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2204) is amended—

(1) in subsection (a) by striking "'13,816,700,000" and inserting '$13,916,700,000"; and

(2) in subsection (b) by striking "September 30, 1987" and inserting "September 30, 1992".

SEC. 10105. AIRWAY IMPROVEMENT PROGRAM.

(a) RENAMING OF AIRWAY PLAN.—Section 504(b)(1) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2203(b)(1)) is amended by inserting after the second sentence the following new sentence: "For fiscal year 1991 and thereafter, the revised plan shall be known as the 'Airway Capital Investment Plan'.".

(b) AIRWAY FACILITIES AND EQUIPMENT.—The first sentence of section 506(a)(1) of such Act (49 U.S.C. App. 2205(a)(1)) is amended by striking "September 30, 1981," and all that follows through the period and inserting the following: "September 30, 1990, aggregate amounts not to exceed $2,500,000,000 for fiscal year 1991 and $5,500,000,000 for the fiscal years ending before October 1, 1992.".

SEC. 10106. FAA OPERATIONS.

Section 106 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(k) AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—There is authorized to be appropriated for operations of the Adminis-

tration $4,088,000,000 for fiscal year 1991 and $4,412,600,000 for fiscal year 1992.".

SEC. 10107. OPERATION AND MAINTENANCE OF AVIATION SYSTEM.

(a) ELIMINATION OF PENALTY.—Section 506(c)(3)(B)(i) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(c)(3)(B)(i)) is amended—

(1) by inserting "and" after "1989"; and

(2) by striking "$3,770,000,000" and all that follows through "1992,".

(b) FUNDING.—Section 506(c) of such Act (49 U.S.C. App. 2205(c)) is amended by adding at the end the following new paragraph:

"(4) FISCAL YEARS 1991-1992.—The amount appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) of this subsection for each of fiscal years 1991 and 1992 may not exceed—

"(A) 75 percent of the amount of funds made available under section 505, subsections (a) and (b) of this section, and section 106(k) of title 49, United States Code, for such fiscal year; less

"(B) the amount of funds made available under section 505 and subsections (a) and (b) of this section for such fiscal year.".

SEC. 10108. WEATHER SERVICE.

The second sentence of section 506(d) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(d)) is amended—

(1) by striking "and" the first place it appears and inserting a comma; and

(2) by inserting before the period the following: ", $34,521,000 for fiscal year 1991, and $35,389,000 for fiscal year 1992".

SEC. 10109. MILITARY AIRPORT PROGRAM.

(a) DECLARATION OF POLICY.—Section 502(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201(a)) is further amended—

(1) by striking "and" at the end of paragraph (12);

(2) by striking the period at the end of paragraph (13) and inserting "; and"; and

(3) by adding at the end the following:

"(14) special emphasis should be placed on the conversion of appropriate former military air bases to civil use and on the identification and improvement of additional joint-use facilities.".

(b) SET-ASIDE.—Section 508(d) of such Act (49 U.S.C. App. 2204(d)) is amended by striking paragraph (5) and inserting the following:

"(5) MILITARY AIRPORT SET-ASIDE.—Not less than 1.5 percent of the funds made available under section 505 in each of fiscal years 1991 and 1992 shall be distributed during such fiscal year to sponsors of current or former military airports designated by the Secretary under subsection (f) for the purpose of developing current and former military airports to improve the capacity of the national air transportation system.

"(6) REALLOCATION.—If the Secretary determines that he will not be able to distribute the amount of funds required to be distributed under paragraph (1), (2), (3), (4), or (5) of this subsection for any fiscal year because the number of qualified applications submitted in compliance with this title is insufficient to meet such amount, the portion of such amount the Secretary determines will not be distributed shall be available for obligation during such fiscal year for other airports and for other purposes authorized by section 505 of this title.".

(c) DESIGNATION OF FORMER MILITARY AIRPORTS.—Section 508 of such Act is further amended by adding at the end the following new subsection:

"(f) DESIGNATION OF CURRENT OR FORMER MILITARY AIRPORTS.—

"(1) DESIGNATION.—The Secretary shall designate not more than 8 current or former military airports for participation in the grant program established under subsection (d)(5) and this subsection. At least 2 such airports shall be designated within 6 months after the date of the enactment of this subsection and the remaining airports shall be designated for participation no later than September 30, 1992.

"(2) SURVEY.—The Secretary shall conduct a survey of current and former military airports to identify which ones have the greatest potential to improve the capacity of the national air transportation system. The survey shall also identify the capital development needs of such airports in order to make them part of the national air transportation system and shall identify which capital development needs are eligible for grants under section 505. The survey shall be completed by September 30, 1991.

"(3) LIMITATION.—In selecting airports for participation in the program established under subsection (d)(5) and this subsection and in conducting the survey under paragraph (2), the Secretary shall consider only those current or former military airports whose conversion in whole or in part to civilian commercial or reliever airport as part of the national air transportation system would enhance airport and air traffic control system capacity in major metropolitan areas and reduce current and projected flight delays.

"(4) PERIOD OF ELIGIBILITY.—An airport designated by the Secretary under this subsection shall remain eligible to participate in the program under subsection (d)(5) and this subsection for the 5 fiscal years following such designation. An airport that does not attain a level of enplaned passengers during such 5 fiscal year period which qualifies it as a small hub airport as defined as of January 1, 1990, or reliever airport may be redesignated by the Secretary for participation in the program for such additional fiscal years as may be determined by the Secretary.

"(5) ADDITIONAL FUNDING.—Notwithstanding the provisions of section 513(b), not to exceed $5,000,000 per airport of the sums to be distributed at the discretion of the Secretary under section 507(c) for any fiscal year may be used by the sponsor of a current or former military airport designated by the Secretary under this subsection for construction, improvement, or repair of terminal building facilities, including terminal gates used by aircraft for enplaning and deplaning revenue passengers. Under no circumstances shall any gates constructed, improved, or repaired with Federal funding under this paragraph be subject to long-term leases for periods exceeding 10 years or majority in interest clauses.".

SEC. 10110. PASSENGER FACILITY CHARGES.

Section 1113 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1513) is amended—

(1) in subsection (a) by inserting "except as provided in subsection (e) and" before "except that"; and

(2) by adding at the end the following new subsection:

"(e) AUTHORITY FOR IMPOSITION OF PASSENGER FACILITY CHARGES.—

"(1) IN GENERAL.—Subject to the provisions of this subsection, the Secretary may grant a public agency which controls a commercial service airport authority to impose a fee of $1.00, $2.00, or $3.00 for each paying passenger of an air carrier enplaned at such airport to finance eligible airport-related projects to be carried out in connection with such airport or any other airport which such agency controls. For purposes of this subsection, financing an eligible airport-related project includes making payments for debt service on bonds and other indebtedness incurred to carry out such project.

"(2) USE OF REVENUES AND RELATIONSHIP BETWEEN FEES AND REVENUES.—The Secretary may grant a public agency which controls a commercial service airport authority to impose a fee under this subsection to finance specific projects only if the Secretary finds, on the basis of an application submitted for such authority—

"(A) that the amount and duration of the proposed fee will result in revenues (including interest and other returns on such revenues) which do not exceed amounts necessary to finance the specific projects; and

"(B) that each of the specific projects is an eligible airport-related project which will—

"(i) preserve or enhance capacity, safety, or security of the national air transportation system,

"(ii) reduce noise resulting from an airport which is part of such system, or

"(iii) furnish opportunities for enhanced competition between or among air carriers.

"(3) LIMITATION REGARDING PASSENGERS OF AIR CARRIERS RECEIVING ESSENTIAL AIR SERVICE COMPENSATION.—If a passenger of an air carrier is being provided air service to an eligible point under section 419 for which compensation is being paid under such section, a public agency which controls any other airport may not impose a fee pursuant to this subsection for enplanement of such passenger with respect to such air service.

"(4) LIMITATION REGARDING OBLIGATIONS.—No fee may be imposed pursuant to this subsection for a project which is not approved by the Secretary under this subsection on or before September 30, 1992—

"(A) if, during fiscal years 1991 and 1992, the amount available for obligation, in the aggregate, under section 505 of Airport and Airway Improvement Act of 1982 is less than $3,700,000,000; or

"(B)(i) if, during fiscal year 1991, the amount available for obligation, in the aggregate, under section 419 is less than $26,600,000; or

"(ii) if, during fiscal year 1992, the amount available for obligation, in the aggregate, under section 419 is less than $38,600,000.

"(5) TWO ENPLANEMENTS PER TRIP LIMITATION.—Enplaned passengers on whom a fee may be imposed by a public agency pursuant to this subsection include passengers of air carriers originating or connecting at the commercial service airport which the agency controls. A fee may not be collected pursuant to this subsection from a passenger with respect to any enplanement of such passenger, on a one-way trip and on a trip in each direction of a round trip, after the second enplanement for which a fee has been collected pursuant to this subsection from such passenger.

"(6) TREATMENT OF REVENUES.—Revenues derived from collection of a fee by a public agency pursuant to this subsection shall not be treated as airport revenues for the purposes of any contract between such agency and an air carrier.

"(7) EXCLUSIVITY OF AUTHORITY.—No State or political subdivision or agency thereof which is not a public agency controlling a commercial service airport shall prohibit, limit, or regulate the imposition of fees by

the public agency pursuant to this subsection, collection of such fees, or use of revenues derived therefrom. No contract between an air carrier and a public agency which controls a commercial service airport entered into before, on, or after the date of the enactment of this subsection shall affect the authority of the public agency to impose fees pursuant to this subsection and to use the revenues derived from such fees in accordance with this subsection.

"(8) NONEXCLUSIVITY OF CONTRACTUAL AGREEMENTS.—No project carried out through the use of a fee collected pursuant to this subsection may be subject to an exclusive long-term lease or use agreement of an air carrier, as defined by the Secretary by regulation. Any lease or use agreement of an air carrier with respect to a facility constructed or expanded through the use of such fee may not contain or be subject to any term or condition which restricts the public agency which controls the airport from funding, developing, or assigning new capacity at the airport.

"(9) COLLECTION AND HANDLING OF FEES BY AIR CARRIERS.—The regulations issued by the Secretary to carry out this subsection shall—

"(A) require air carriers and their agents to collect fees imposed by public agencies pursuant to this subsection;

"(B) establish procedures regarding handling and remittance of the amounts so collected;

"(C) ensure that such amounts are promptly paid to the public agency for which they are collected less a uniform amount determined by the Secretary as reflecting average necessary and reasonable expenses (net of interest accruing to the air carrier and agent after collection and prior to remittance) incurred in the collection and handling of such fees; and

"(D) require that the amount of fees collected pursuant to this subsection with respect to any air transportation be noted on the ticket for such air transportation.

"(10) APPLICATION PROCESS.—

"(A) SUBMISSION.—A public agency which controls a commercial service airport and is interested in imposing a fee pursuant to this subsection shall submit to the Secretary an application for authority to impose such fee.

"(B) CONTENT.—An application submitted under this paragraph shall contain such information and be in such form as the Secretary may require by regulation.

"(C) OPPORTUNITY FOR CONSULTATION.—Before submission of an application under this paragraph, the public agency must provide reasonable notice to, and an opportunity for consultation with, air carriers operating at the airport.

"(D) NOTICE AND OPPORTUNITY FOR COMMENT.—After receiving an application under this paragraph, the Secretary shall provide notice and an opportunity for comment by air carriers and other interested persons concerning such application.

"(E) APPROVAL.—A fee may only be imposed pursuant to this subsection if the Secretary approves an application granting authority for the imposition of such fee. Not later than 120 days after the date of receipt of such an application, the Secretary shall make a final decision regarding approval of such application.

"(11) RECORDKEEPING AND AUDITS.—

"(A) WITH RESPECT TO COLLECTION OF FEES.—The Secretary shall issue regulations requiring such recordkeeping and auditing of accounts maintained by an air carrier and any agency thereof which is collecting a fee imposed pursuant to this subsection and by the public agency which is imposing such fee as may be necessary to ensure compliance with this subsection.

"(B) WITH RESPECT TO USE OF REVENUES.—The Secretary shall periodically audit and review the use by a public agency which controls an airport of revenues derived from a fee imposed pursuant to this subsection. Upon such review and after a public hearing, the Secretary may terminate the authority of such agency to impose such fee, in whole or in part, to the extent the Secretary determines that revenues derived therefrom are not being used in accordance with this subsection.

"(C) SET-OFF.—If the Secretary determines that a fee imposed pursuant to this subsection is excessive or that the revenues derived from such fee are not being used in accordance with this subsection, the Secretary may set off such amounts as may be necessary to ensure compliance with this subsection against amounts otherwise payable to the public agency under the Airport and Airway Improvement Act of 1982.

"(12) TERMS AND CONDITIONS.—Authority granted to impose a fee pursuant to this subsection shall be subject to such terms and conditions as the Secretary may establish to carry out the objectives of this subsection.

"(13) ISSUANCE OF REGULATIONS.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall issue such regulations as may be necessary to carry out this subsection. Such regulations may prescribe the time and form by which a fee imposed pursuant to this subsection shall take effect.

"(14) DEFINITIONS.—For purposes of this subsection, the following definitions apply:

"(A) AIR CARRIER.—The term 'air carrier' includes a foreign air carrier.

"(B) AIRPORT, COMMERCIAL SERVICE AIRPORT, AND PUBLIC AGENCY.—The terms 'airport', 'commercial service airport', and 'public agency' have the meaning such terms have under section 503 of the Airport and Airway Improvement Act of 1982.

"(C) ELIGIBLE AIRPORT-RELATED PROJECT.—The term 'eligible airport-related project' means—

"(i) a project for airport development under the Airport and Airway Improvement Act of 1982;

"(ii) a project for airport planning under such Act;

"(iii) a project for terminal development described in section 513(b) of such Act;

"(iv) a project for airport noise capability planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979;

"(v) a project to carry out noise compatibility measures which are eligible for assistance under section 104 of the Aviation Safety and Noise Abatement Act of 1979 without regard to whether or not a program has been approved for such measures under such section; and

"(vi) a project for construction of gates and related areas at which passengers are enplaned or deplaned.

"(D) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.".

SEC. 10111. REDUCTION IN AIRPORT IMPROVEMENT PROGRAM APPORTIONMENTS FOR LARGE AND MEDIUM HUB AIRPORTS IMPOSING PASSENGER FACILITY CHARGES.

Section 507(b) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2206(b)) is amended by adding at the end the following new paragraph:

"(7) REDUCTION IN APPORTIONMENTS TO CERTAIN LARGE AND MEDIUM HUBS.—

"(A) GENERAL RULE.—The amount which, but for this paragraph, would be apportioned under this section for a fiscal year to a sponsor of an airport that annually has 0.25 percent or more of the total annual enplanements in the United States and for which a fee is imposed in such fiscal year pursuant to section 1113(e) of the Federal Aviation Act of 1958 shall be reduced by an amount equal to 50 percent of the projected revenues derived from such fee in such fiscal year.

"(B) LIMITATION.—The maximum reduction in an apportionment to a sponsor of an airport as a result of this paragraph in a fiscal year shall be 50 percent of the amount which, but for this paragraph, would be apportioned to such airport under this section.".

SEC. 10112. USE OF PFC REDUCED APPORTIONMENT FUNDS.

(a) ADDITION OF FUNDS TO EXISTING DISCRETIONARY FUND.—Section 507(c)(1) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2206(c)(1)) is amended by inserting after the first sentence the following new sentence: "Twenty-five percent of the amounts which are not apportioned under this section as a result of subsection (b)(7) shall be added to such discretionary fund.".

(b) SMALL AIRPORT FUND.—Section 507 of such Act is amended by redesignating subsections (d) and (e), and any references thereto, as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) SMALL AIRPORT FUND.—

"(1) ESTABLISHMENT.—Seventy-five percent of the amounts which are not apportioned under this section as a result of subsection (b)(7) shall constitute a small airport fund to be distributed at the discretion of the Secretary.

"(2) SET-ASIDE FOR GENERAL AVIATION AIRPORTS.—One-third of the amounts in the small airport fund established by this subsection and distributed by the Secretary under this subsection in a fiscal year shall be used for making grants to sponsors of public-use airports (other than commercial service airports) for any purpose for which funds are made available under section 505.

"(3) SET-ASIDE FOR NONHUB AIRPORTS.—Two-thirds of the amounts in the small airport fund established by this subsection and distributed by the Secretary under this subsection in a fiscal year shall be used for making grants to sponsors of commercial service airports each of which annually has less than 0.05 percent of the total annual enplanements in the United States for any purpose for which funds are made available under section 505.".

(c) PROHIBITION ON REDUCED FUNDING.—It is the sense of Congress that the Secretary should not reduce funding under the discretionary fund established under section 507(c) of the Airport and Airway Improvement Act of 1982 for small commercial service and general aviation airports as a result of additional funds made available to such airports under this section, including amendments made by this section.

SEC. 10113. SMALL COMMUNITY AIR SERVICE PROGRAM.

(a) DEFINITION OF ELIGIBLE POINT.—Section 419(a) of the Federal Aviation Act of

1958 (49 U.S.C. App. 1389(a)) is amended to read as follows:

"(a) ELIGIBLE POINT DEFINED.—

"(1) GENERAL RULE.—For purposes of this section, the term 'eligible point' means any point in the United States—

"(A) which was defined as an eligible point under this section as in effect before October 1, 1988;

"(B) which received scheduled air transportation at any time after January 1, 1990; and

"(C) which is not listed in the Department of Transportation Orders 89-9-37 and 89-12-52 as being a point no longer eligible for compensation under this section.

"(2) LIMITATION ON USE OF PER PASSENGER SUBSIDY.—The Secretary may not determine that a point described in paragraph (1) is not an eligible point on the basis of the per passenger subsidy at the point or on any other basis not specifically set forth in this section.".

(b) FUNDING.—

(1) IN GENERAL.—Section 419 of such Act is amended by redesignating subsection (1), and any reference thereto, as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) FUNDING.—

"(1) CONTRACT AUTHORITY.—The Secretary is authorized to enter into agreements and to incur obligations from the Airport and Airway Trust Fund for the payment of compensation under this section. Approval by the Secretary of such an agreement shall be deemed a contractual obligation of the United States for payment of the Federal share of such compensation.

"(2) AMOUNTS AVAILABLE.—There shall be available to the Secretary from the Airport and Airway Trust Fund to incur obligations under this section $38,600,000 per fiscal year for each of fiscal years 1992, 1993, 1994, 1995, 1996, 1997, and 1998. Such amounts shall remain available until expended.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect October 1, 1991.

(c) CONFORMING AMENDMENTS.—Section 333 of Public Law 100-457 and section 325(a) of Public Law 101-164 are repealed.

SEC. 10114. STATE BLOCK GRANT PILOT PROGRAM.

Section 534 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2227) is amended—

(1) in subsection (a) by striking "1991" and inserting "1992"; and

(2) in subsection (d) by striking "not later than 90 days before its scheduled termination" and inserting "not later than January 31, 1992".

SEC. 10115. AUXILIARY FLIGHT SERVICE STATION PROGRAM.

(a) GENERAL RULE.—The Secretary of Transportation shall develop and implement a system of manned auxiliary flight service stations. The auxiliary flight service stations shall supplement the services of the planned consolidation to 61 automated flight service stations under the flight service station modernization program. Auxiliary flight service stations shall be located in areas of unique weather or operational conditions which are critical to the safety of flight.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall report to Congress with the plan and schedule for implementation of this section.

SEC. 10116. AIRPORT AND AIRWAY IMPROVEMENTS FOR THE VIRGIN ISLANDS.

(a) AIR SPACE STUDY.—The Administrator of the Federal Aviation Administration shall conduct an air space study of the Caribbean and Miami air traffic control regions for the purpose of determining methods of improving air safety and report to Congress the results of such study.

(b) OPERATIONS OF AIRPORT TOWERS FOR ST. THOMAS AND ST. CROIX.—The Administrator may not enter into contracts with private persons for operation of the airport control towers for St. Thomas and St. Croix, Virgin Islands, before the 30th day following the date on which a report is submitted to Congress under subsection (a).

(c) REPLACEMENT OF RADAR FACILITIES FOR ST. THOMAS.—The Administrator shall take such action as may be necessary to ensure that the radar facilities for the airport on St. Thomas, Virgin Islands, which were destroyed by Hurricane Hugo are replaced and operational by the 120th day following the date of the enactment of this Act.

SEC. 10117. ENGINE CONDITION MONITORING SYSTEMS.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study of the potential use of engine condition monitoring systems on aircraft. In conducting such study, the Administrator shall evaluate—

(1) the availability of technology for such systems;

(2) the capabilities of such systems in terms of enhancing safety and reducing maintenance costs associated with civil and military aircraft;

(3) the commercial viability of developing computer software to enable maintenance workers to efficiently use data gathered by such systems;

(4) the costs and benefits of using such systems as compared to engine fault detection methods which rely on the use of data relating to historical performance and statistical failure;

(5) the types of aircraft engine failures which may be prevented by using such systems; and

(6) the operational reliability of such systems.

(b) REPORT TO CONGRESS.—Not later than 12 months after the date of the enactment of this Act, the Administrator shall transmit to Congress a report containing the results of the study conducted pursuant to this section together with such legislative and administrative recommendations as the Administrator considers appropriate.

SEC. 10118. PROCUREMENT AUTHORITY.

(a) IN GENERAL.—Section 303 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1344) is amended to read as follows:

"SEC. 303. PROCUREMENT AUTHORITY.

"(a) ACQUISITION AND DISPOSAL OF PROPERTY.—Subject to subsection (b), the Administrator, on behalf of the United States, is authorized, where appropriate—

"(1) within the limits of available appropriations made by the Congress therefor, to acquire by purchase, condemnation, lease for a term not to exceed 20 years, or otherwise, personal property or services and real property or interests therein, including, in the case of air navigation facilities (including airports) owned by the United States and operated under the direction of the Administrator, easements through or other interests in airspace immediately adjacent thereto and needed in connection therewith;

"(2) for adequate compensation, by sale, lease, or otherwise, to dispose of any real or personal property or interest therein; except that, other than for airport and airway property and technical equipment used for the special purposes of the Federal Aviation Administration, such disposition shall be made in accordance with the Federal Property and Administrative Services Act of 1949; and

"(3) to construct, improve, or renovate laboratories and other test facilities and to purchase or otherwise acquire real property required therefor.

"(b) SPECIAL RULES FOR CERTAIN ACQUISITIONS.—

"(1) ACQUISITIONS BY CONDEMNATION.—Any acquisition by condemnation under subsection (a) may be made in accordance with the provision of the Act of August 1, 1988 (40 U.S.C. 257; 25 Stat. 357), the Act of February 26, 1931 (40 U.S.C. 258a-258e-1; 46 Stat. 1421), or any other applicable Act; except that, in the case of condemnations of easements through or other interests in airspace, in fixing condemnation awards, consideration may be given to the reasonable probably future use of the underlying land.

"(2) ACQUISITIONS OF PUBLIC BUILDINGS.—The Administrator may, under subsection (a) construct or acquire by purchase, condemnation, or lease a public building, or interest in a public building (as defined in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612)) only under a delegation of authority from the Administrator of General Services.

"(c) PROCUREMENT PROCEDURES.—In procuring personal property or services and real property and interests therein under subsection (a), the Administrator may use procedures other than competitive procedures in circumstances which are set forth in section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)).

"(d) SOLE SOURCE APPROVAL BY ADMINISTRATOR.—For procurements by the Federal Aviation Administration, the Administrator shall be the senior procurement executive referred to in paragraph (3) of section 16 of Office of Federal Procurement Policy Act (41 U.S.C. 414) for the purposes of approving the justification for the use of noncompetitive procedures required under section 303(f)(1)(B)(iii) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(iii)).

"(e) MULTIYEAR SERVICE CONTRACTS.—

"(1) IN GENERAL.—Notwithstanding section 1341(a)(1)(B) of title 31, United States Code, the Administrator may enter into contracts for periods of not more than 5 years for the following types of services (and items of supply related to such services) for which funds would otherwise be available for obligation only within the fiscal year for which appropriated—

"(A) operation, maintenance, and support of facilities and installations;

"(B) operation, maintenance, or modification of aircraft, vehicles, and other highly complex equipment;

"(C) specialized training necessitating high quality instructor skills (for example, pilot and aircrew members; foreign language training); and

"(D) base services (for example, ground maintenance, in-plane refueling; bus transportation; refuse collection and disposal).

"(2) FINDINGS.—The Administrator may enter into a contract described in paragraph (1) only if the Administrator finds that—

"(A) there will be a continuing requirement for the services consonant with current plans for the proposed contract period;

"(B) the furnishing of such services will require a substantial initial investment in plant or equipment, or the incurrence of substantial contingent liabilities for the assembly, training, or transportation of a specialized workforce; and

"(C) the use of such a contract will promote the best interests of the United States by encouraging effective competition and promoting economies in operation.

"(3) GUIDANCE PRINCIPLES.—In entering into contracts described in paragraph (1), the Administrator shall be guided by the following principles:

"(A) The portion of the cost of any plant or equipment amortized as a cost of contract performance should not exceed the ratio between the period of contract performance and the anticipated useful commercial life of such plant or equipment. Useful commercial life, for this purpose, means the commercial utility of the facilities rather than the physical life thereof, the due consideration given to such factors as location of facilities, specialized nature thereof, and obsolescence.

"(B) Consideration shall be given to the desirability of obtaining an option to renew the contract for a reasonable period not to exceed 3 years, at prices not to include charges for plant, equipment, and other nonrecurring costs, already amortized.

"(C) Consideration shall be given to the desirability of reserving in the Federal Aviation Administration the right, upon payment of the unamortized portion of the cost of the plant or equipment, to take title thereto under appropriate circumstances.

"(4) TERMINATION.—In the event funds are not made available for the continuation of a contract described in paragraph (1) into a subsequent fiscal year, the contract shall be canceled or terminated, and the costs of cancellation or termination may be paid from—

"(A) appropriations originally available for the performance of the contract concerned;

"(B) appropriations currently available for procurement of the type of services concerned, and not otherwise obligated; or

"(C) funds appropriated for those payments.

"(f) MULTIYEAR PROPERTY ACQUISITION CONTRACTS.—

"(1) IN GENERAL.—Notwithstanding section 1341(a)(1)(B) of title 31, United States Code, to the extent that funds are otherwise available for obligation, the Administrator may make multiyear contracts (other than contracts described in paragraph (6)) for the purchase of property, whenever the Administrator finds—

"(A) that the use of such a contract will promote the safety or efficiency of the National Airspace System and will result in reduced total costs under the contract;

"(B) that the minimum need for the property to be purchased is expected to remain substantially unchanged during the contemplated contract period in terms of production rate, procurement rate, and total quantities;

"(C) that there is a reasonable expectation that throughout the contemplated contract period the Administrator will request funding for the contract at the level required to avoid contract cancellation;

"(D) that there is a stable design for the property to be acquired and that the technical risks associated with such property are not excessive; and

"(E) that the estimates of both the cost of the contract and the anticipated cost avoidance through the use of a multiyear contract are realistic.

"(2) REGULATIONS.—

"(A) GENERAL RULE.—The Administrator shall issue regulations for acquisition of property under this subsection to promote the use of multiyear contracting as authorized by paragraph (1) in a manner that will allow the most efficient use of multiyear contracting.

"(B) CANCELLATION PROVISIONS.—The regulations issued under this paragraph may provide for cancellation provisions in multiyear contracts described in paragraph (1) to the extent that such provisions are necessary and in the best interests of the United States. Such cancellation provisions may include consideration of both recurring and nonrecurring costs of the contractor associated with the production of the items to be delivered under the contract.

"(C) BROADENING INDUSTRIAL BASE.—In order to broaden the aviation industrial base, the regulations issued under this paragraph shall provide that, to the extent practicable—

"(i) multiyear contracting under paragraph (1) shall be used in such a manner as to seek, retain, and promote the use under such contracts of companies that are subcontractors, vendors, or suppliers; and

"(ii) upon accrual of any payment or other benefit under such a multiyear contract to any subcontract, vendor, or supplier company participating in such contractor, such payment or benefit shall be delivered to such company in the most expeditious manner practicable.

"(D) PROTECTION OF FEDERAL INTERESTS.—The regulations issued under this paragraph shall also provide that, to the extent practicable, the administration of this subsection, and of the regulations issued under this subsection, shall not be carried out in a manner to preclude or curtail the existing ability of the Federal Aviation Administration to—

"(i) provide for competition in the production of items to be delivered under such a contract; or

"(ii) provide for termination of a prime contract the performance of which is deficient with respect to cost, quality, or schedule.

"(3) SPECIAL RULE FOR CONTRACTS WITH HIGH CANCELLATION CEILING.—Before any contract described in paragraph (1) that contains a clause setting forth a cancellation ceiling in excess of $100,000,000 may be awarded, the Administrator shall give written notification of the proposed contract and of the proposed cancellation ceiling for that contract to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives, and such contract may not then be awarded until the end of a period of 30 days beginning on the date of such notification.

"(4) ADVANCE PROCUREMENT.—Contracts made under this subsection may be used for the advance procurement of components, parts, and materials necessary to the manufacture of equipment to be used in the National Airspace System, and contracts may be made under this subsection for such advance procurement, if feasible and practicable, in order to achieve economic-lot purchases and more efficient production rates.

"(5) TERMINATION.—In the event funds are not made available for the continuation of a contract made under this subsection into a subsequent fiscal year, the contract shall be canceled or terminated, and the costs of cancellation or termination may be paid from—

"(A) appropriations originally available for the performance of the contract concerned;

"(B) appropriations currently available for procurement of the type of property concerned, and not otherwise obligated; or

"(C) funds appropriated for those payments.

"(6) LIMITATION ON APPLICABILITY.—This subsection does not apply to contracts for the construction, alteration, or major repair or improvements to real property or contracts for the purchase of property to which section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) applies.

"(7) MULTIYEAR CONTRACT DEFINED.—For the purposes of this subsection, a multiyear contract is a contract for the purchase of property or services for more than 1, but not more than 5, fiscal years. Such a contract may provide that performance under the contract during the second and subsequent years of the contract is contingent upon the appropriation of funds and (if it does so provide) may provide for a cancellation payment to be made to the contractor if such appropriations are not made.

"(8) PRICE OPTIONS.—The Administrator may incorporate into a proposed multiyear contract negotiated priced options for varying the quantities of end items to be procured over the period of the contract.".

(b) CONFORMING AMENDMENT.—The portion of the table of contents contained in the first section of such Act relating to section 303 is amended to read as follows:

"Sec. 303. Procurement authority.

"(a) Acquisition and disposal of property.
"(b) Special rules for acquisitions.
"(c) Procurement procedures.
"(d) Sole source approval by Administrator.
"(e) Multiyear service contracts.
"(f) Multiyear property acquisition contracts.".

SEC. 10119. EXPANDED EAST COAST PLAN.

(a) ENVIRONMENTAL IMPACT STATEMENT.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall issue an environmental impact statement pursuant to the National Environmental Policy Act of 1969 on the effects of changes in aircraft flight patterns over the State of New Jersey caused by implementation of the Expanded East Coast Plan.

(b) AIR SAFETY INVESTIGATION.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall conduct an investigation to determine the effects on air safety of changes in aircraft flight patterns over the State of New Jersey caused by implementation of the Expanded East Coast Plan.

(c) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall transmit to Congress a report containing the results of the environmental impact statement and investigation conducted pursuant to this section. Such report shall also contain such recommendations for modification of the Expanded East Coast Plan as the Administrator considers appropriate or an explanation of why modification of such plan is not appropriate.

(d) IMPLEMENTATION OF MODIFICATIONS.—Not later than 1 year after the date of the

enactment of this Act, the Administrator shall implement modifications to the Expanded East Coast Plan recommended under subsection (c).

SEC. 10120. TRANSFER OF FORMAT OF GEODETIC NAVIGATION INFORMATION.

Not later than 2 years after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration and the Administrator of the National Oceanic and Atmospheric Administration shall complete the transfer of geodetic coordinate navigation information from NAD-27 format to NAD-83 format.

SEC. 10121. SEVERABILITY.

If any provision of this subtitle (including an amendment made by this subtitle), or the application thereof to any person or circumstance, is held invalid, the remainder of this subtitle and the application of such provision to other persons of circumstances shall not be affected thereby.

SEC. 10122. BUY AMERICA.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate, after the date of enactment of this Act, any funds authorized to be appropriated to carry out this subtitle, section 106(k) of title 49, United States Code, or the Airport and Airway Improvement Act of 1982 (other than section 506(b)) for any project unless steel and manufactured products used in such project are produced in the United States.

(b) LIMITATIONS ON APPLICABILITY.—The provisions of subsection (a) of this section shall not apply where the Secretary finds—

(1) that their application would be inconsistent with the public interest;

(2) that such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality;

(3) in the case of the procurement of facilities and equipment under the Airport and Airway Improvement Act of 1982 that (A) the cost of components and subcomponents which are produced in the United States is more than 60 percent of the cost of all components of the facility or equipment described in this paragraph, and (B) final assembly of the facility or equipment described in this paragraph has taken place in the United States; or

(4) that inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent.

(c) CALCULATION OF COMPONENTS COSTS.—For purposes of this section, in calculating components' costs, labor costs involved in final assembly shall not be included in the calculation.

SEC. 10123. PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.

If the Secretary of Transportation determines that any person intentionally affixes a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall declare that person ineligible to receive a Federal contract or grant in conjunction with the issuance of any contract made under this subtitle for a period of not less than 3 years and not more than 5 years. The Secretary may bring action against such person to enforce this subsection in any United States district court.

SEC. 10124. RESTRICTIONS ON CONTRACT AWARDS.

No person or enterprise domiciled or operating under the laws of a foreign government may enter into a contract or subcontract made pursuant to this subtitle if that government unfairly maintains, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to section 305(g)(1)(A) of the Trade Agreements Act of 1979.

Subtitle C—Federal Aviation Administration Research, Engineering, and Development

SEC. 10201. SHORT TITLE.

This subtitle may be cited as the "Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1990".

SEC. 10202. AVIATION RESEARCH AUTHORIZATION OF APPROPRIATIONS.

Paragraph (2) of section 506(b) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)) is amended by striking subparagraph (A) and all that follows through the period at the end of such paragraph and inserting the following:

"(A) for fiscal year 1991—

"(i) $131,800,000 solely for air traffic control projects and activities;

"(ii) $19,100,000 solely for air traffic control advanced computer projects and activities;

"(iii) $3,400,000 solely for navigation projects and activities;

"(iv) $9,700,000 solely for aviation weather projects and activities;

"(v) $16,500,000 solely for aviation medicine projects and activities;

"(vi) $70,100,000 solely for aircraft safety projects and activities; and

"(vii) $4,400,000 solely for environmental projects and activities; and

"(B) for fiscal year 1992—

"(i) $137,800,000 solely for air traffic control projects and activities;

"(ii) $19,100,000 solely for air traffic control advanced computer projects and activities;

"(iii) $3,400,000 solely for navigation projects and activities;

"(iv) $9,700,000 solely for aviation weather projects and activities;

"(v) $16,500,000 solely for aviation medicine projects and activities;

"(vi) $76,100,000 solely for aircraft safety projects and activities; and

"(vii) $5,400,000 solely for environmental projects and activities.

Not less than 3 percent of the funds made available under this paragraph for a fiscal year shall be available to the Administrator for making grants under section 312(g) of the Federal Aviation Act of 1958.".

SEC. 10203. WEATHER SERVICES.

Section 506(d) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(d)) is amended by striking the second sentence and inserting the following: "Expenditures for the purposes of carrying out this subsection shall be limited to $34,521,000 for fiscal year 1991 and $35,389,000 for fiscal year 1992.".

SEC. 10204. AVIATION RESEARCH GRANT AND CONSORTIUM PROGRAM.

(a) IN GENERAL.—Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353) is amended by adding at the end thereof the following new subsection:

"(g) RESEARCH GRANT AND CONSORTIUM PROGRAM.—

"(1) GENERAL AUTHORITY.—The Administrator may make grants to colleges, universities, and nonprofit research organizations (A) to conduct aviation research, and (B) to establish a research consortium, consisting of regional centers of excellence for continuing research into areas deemed by the Administrator to be required for the long-term growth of civil aviation.

"(2) APPLICATIONS.—A university, college, or nonprofit organization interested in receiving a grant under this subsection may submit to the Administrator an application for such grant. Such application shall be in such form and contain such information as the Administrator may require.

"(3) SELECTION.—The Administrator shall establish a solicitation, review, and evaluation process that ensures (A) the funding under this subsection of proposals having adequate merit and relevancy to the mission of the Federal Aviation Administration, (B) an equitable geographical distribution of grant funds under this subsection, and (C) the inclusion of historically black colleges and universities and other minority institutions for funding consideration under this subsection.

"(4) RECORDS.—Each person awarded a grant under this subsection shall maintain such records as the Administrator may require as being necessary to facilitate an effective audit and evaluation of the use of grant funds.

"(5) REPORTS.—The Administrator shall make an annual report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the research grant program conducted under this subsection.".

(b) CONFORMING AMENDMENT.—That portion of the table of contents contained in the first section of such Act which appears under the heading:

"Sec. 312. Development planning."

is amended by adding at the end the following:

"(g) Research grant and consortium program.".

SEC. 10205. STUDY BY THE GENERAL ACCOUNTING OFFICE OF MULTIYEAR CONTRACTING AUTHORITY.

The Comptroller General of the United States shall conduct a study of the advisability of granting to the Administrator of the Federal Aviation Administration specific statutory authority—

(1) to lease real property or interests therein for terms not to exceed 20 years, including, in the case of air navigation facilities and airports (as such terms are defined in section 101(8) and (9) of the Federal Aviation Act of 1958) owned by the United States and operated under the direction of the Administrator, easements through or other interests in airspace immediately adjacent thereto and in connection therewith;

(2) to procure personal property or services and real property and interests therein with procedures other than competitive procedures under section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c));

(3) to serve as the senior procurement executive under section 16 of the Office of Federal Procurement Policy Act (41 U.S.C. 414) for the purpose of approving the justification for the use of noncompetitive procedures required under section 303(f)(1)(B)(iii) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(iii));

(4) to let multiyear contracts for services, including the operation, maintenance, and support of facilities and installations; the operation, maintenance, and modification of

aircraft, vehicles, and other highly complex equipment; specialized training necessitating high quality instructor skills; and base services; and

(5) to let multiyear contracts for the purchase of property.

The study also shall examine the implementation of section 2306 (g) and (h) of title 10, United States Code, by the Department of Defense, and shall assess the usefulness of granting similar authority to the Federal Aviation Administration. The Comptroller General shall submit a report on the results of the study, along with any comments of the Administrator of the Federal Aviation Administration, to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate within 6 months after the date of enactment of this Act.

SEC. 10206. BUY-AMERICAN REQUIREMENT.

(a) DETERMINATION BY ADMINISTRATOR.—If the Administrator, with the concurrence of the Secretary of Commerce and the United States Trade Representative, determines that the public interest so requires, the Administrator is authorized to award to a domestic firm a contract made pursuant to the issuance of any grant made under this subtitle that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, the Administrator shall take into account United States international obligations and trade relations.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts made related to the issuance of any grant made under this subtitle for which—

(1) amounts are authorized by this subtitle (including the amendments made by this subtitle) to be made available; and

(2) solicitations for bids are issued after the date of the enactment of this Act.

(d) REPORT TO CONGRESS.—The Administrator shall report to the Congress on contracts covered under this section and entered into with foreign entities in fiscal years 1991 and 1992 and shall report to the Congress on the number of contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party. The Administrator shall also report to the Congress on the number of contracts covered under this subtitle (including the amendments made by this subtitle) and awarded based upon the parameters of this section.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "Administrator" means the Administrator of the Federal Aviation Administration;

(2) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(3) the term "foreign firm" means a business entity not described in paragraph (2).

SEC. 10207. CATASTROPHIC FAILURE PREVENTION RESEARCH PROGRAM.

(a) GENERAL AUTHORITY.—Section 312(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353(b)) is amended by inserting after "inflight aircraft fires," the following: "to develop technologies and methods to assess the risk of and prevent defects, failures, and malfunctions of products, parts, processes, and articles manufactured for use in aircraft, aircraft engines, propellers, and appliances which could result in a catastrophic failure of an aircraft,".

(b) GRANT PROGRAM.—Section 312 of such Act is amended by adding at the end the following new subsection:

"(g) CATASTROPHIC FAILURE PREVENTION RESEARCH GRANT PROGRAM.—

"(1) GENERAL AUTHORITY.—The Administrator may make grants to colleges, universities, and nonprofit research organizations (A) to conduct aviation research relating to development of technologies and methods to assess the risk and prevent defects, failures, and malfunctions of products, parts, processes, and articles manufactured for use in aircraft, aircraft engines, propellers, and appliances which could result in a catastrophic failure of an aircraft, and (B) to establish centers of excellence for continuing such research.

"(2) SELECTION AND EVALUATION PROCESSES.—The Administrator shall establish a solicitation, application, review, and evaluation process that ensures (A) the funding under this subsection of proposals having adequate merit and relevancy to the research described in paragraph (1).".

(c) CONFORMING AMENDMENT.—That portion of the table of contents contained in the first section of such Act which appears under the heading:

"Sec. 312. Development planning."

is amended by adding at the end the following:

"(g) Catastrophic failure prevention research grant program.".

TITLE XI—COMMITTEE ON VETERANS' AFFAIRS

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Subtitle A—Compensation, DIC, and Pension

SEC. 11001. LIMITATION ON COMPENSATION BENEFITS FOR CERTAIN INCOMPETENT VETERANS.

(a) IN GENERAL.—(1) Chapter 55 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 3205. Limitation on compensation payments for certain incompetent veterans

"(a) In any case in which a veteran having neither spouse, child, nor dependent parent is rated by the Secretary in accordance with regulations as being incompetent and the value of the veteran's estate (excluding the value of the veteran's home) exceeds $25,000, further payment of compensation to which the veteran would otherwise be entitled may not be made until the value of such estate is reduced to less than $10,000.

"(b)(1) Subject to paragraph (2) of this subsection, if a veteran denied payment of compensation pursuant to subsection (a) is subsequently rated as being competent, the Secretary shall pay to the veteran a lump sum equal to the total of the compensation which was denied the veteran pursuant to such paragraph. The Secretary shall make the lump-sum payment after the end of six months following the date of the competency rating.

"(2) A lump-sum payment may not be made under paragraph (1) to a veteran who, within such six-month period, dies or is again rated by the Secretary as being incompetent.

"(c) This section expires on September 30, 1992.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3205. Limitation on compensation payments for incompetents having estates."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to payment of compensation for months after October 1990.

SEC. 11002. ELIMINATION OF PRESUMPTION OF TOTAL DISABILITY IN DETERMINATION OF PENSION FOR CERTAIN VETERANS.

(a) ELIMINATION OF PRESUMPTION.—Section 502(a) of title 38, United States Code, is amended by striking out "sixty-five years of age or older or became unemployable after age 65, or".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to claims filed after October 31, 1990.

SEC. 11003. REDUCTION IN PENSION FOR VETERANS RECEIVING MEDICAID-COVERED NURSING HOME CARE.

(a) IN GENERAL.—Section 3203 of title 38, United States Code, is amended by adding at the end the following:

"(f)(1) For the purposes of this subsection—

"(A) the term 'Medicaid plan' means a State plan for medical assistance referred to in section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)); and

"(B) the term 'nursing facility' means a nursing facility described in section 1919 of such Act (42 U.S.C. 1396r).

"(2) If a veteran having neither spouse nor child is covered by a Medicaid plan for services furnished such veteran by a nursing facility, no pension in excess of $90 per month shall be paid to or for the veteran for any period after the month of admission to such nursing facility.

"(3) No pension in excess of $90 per month may be paid to or for a veteran having neither spouse nor child for any period after the month in which such veteran is readmitted to a nursing facility for services referred to in paragraph (2) of this subsection if such veteran is readmitted within six months after the end of latest month for which the veteran's pension was reduced pursuant to such paragraph.

"(4) Notwithstanding any provision of title XIX of the Social Security Act, the amount of the payment paid a nursing facility pursuant to a Medicaid plan for services furnished a veteran may not be reduced by any amount of pension permitted to be paid such veteran under paragraph (2) or (3) of this subsection.

"(5) A veteran is not liable to the United States for any payment of pension in excess of the amount permitted under this subsection that is paid to or for the veteran before the Secretary knows that the veteran is admitted or readmitted to a nursing facility for services covered by a Medicaid plan.

"(6) The costs of administering this subsection shall be paid for from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

"(7) This section expires on September 30, 1992.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to payment of pension for months after the month in which this Act is enacted.

SEC. 11004. INELIGIBILITY OF REMARRIED SURVIVING SPOUSES OR MARRIED CHILDREN FOR REINSTATEMENT OF BENEFITS ELIGIBILITY UPON BECOMING SINGLE.

(a) IN GENERAL.—Section 103 of title 38, United States Code, is amended by striking out subsections (d) and (e).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on November 1, 1990, or the date of the enactment of this Act, whichever is later.

SEC. 11005. LIMITATIONS RELATING TO DISABILITY COMPENSATION COST-OF-LIVING INCREASES.

(a) POINT OF ORDER RELATING TO AN INCREASE IN VETERANS' DISABILITY COMPENSATION.—It shall not be in order during the One Hundred First Congress, second session, for either House of Congress to consider any bill or resolution containing a provision that increases, effective on a date during fiscal year 1991, the rates of disability compensation payable under laws administered by the Secretary of Veterans Affairs if such provision—

(1) includes authority to round the amounts of the monthly disability compensation computed under such provision in any manner other than to the next lower dollar; or

(2) does not include an effective date for such increase of January 1, 1991, or later.

(b) POINT OF ORDER RELATING TO AMENDMENTS.—It shall not be in order during the One Hundred First Congress, second session, for either House of Congress to consider any amendment to a bill or resolution that, if agreed to, would cause the bill or resolution to be subject to a point of order under subsection (a).

(c) SECTION SUBJECT TO RULEMAKING AUTHORITY.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only to a bill or resolution described in subsection (a) and an amendment described in subsection (b), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

Subtitle B—Health-Care Benefits

SEC. 11011. MEDICAL-CARE COST RECOVERY.

(a) APPLICABILITY.—Effective for the period ending on October 1, 1992, clause (D) of section 629(a)(2) of title 38, United States Code, is amended to read as follows:

"(D) that is incurred by a veteran who is entitled to care (or payment of the expenses of care) under a health-plan contract.".

(b) MAXIMUM AMOUNT RECOVERABLE.—Clause (B) of section 629(c)(2) of such title is amended by striking out "in accordance with the prevailing rates at which the third party makes payments under comparable health-plan contracts with", and inserting in lieu thereof "if provided by".

(c) ESTABLISHMENT OF MEDICAL RECOVERIES FUND.—Section 629(g) of such title is amended to read as follows:

"(g)(1) There is established in the Treasury a fund to be known as the Department of Veterans Affairs Third-Party Medical Recoveries Fund (hereafter referred to in this section as the 'Fund').

"(2) Amounts recovered or collected under this section shall be credited to the Fund.

"(3) Sums in the Fund shall be available to the Secretary for the following:

"(A) Necessary expenses for the identification, billing, and collection of the cost of care and services furnished under this chapter, including costs of equipment, computer hardware and software costs, word processing and telecommunications equipment costs, costs of supplies and furniture, personnel training and travel costs, personnel and administrative costs of attorneys with the Office of the General Counsel (and their support personnel), other personnel and administrative costs, and the costs of any contract for identification, billing, or collection services.

"(B) Payment of the Secretary for reasonable charges, as determined by the Secretary, imposed for (i) services and utilities (including light, water, and heat) furnished by the Secretary, (ii) recovery and collection activities under this section, and (iii) administration of the Fund.

"(C) Costs related to the administration and collection of copayments imposed for health care and supplies furnished under this chapter.

"(4) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts an amount equal to the unobligated balance in the Fund at the close of business on September 30 of the preceding year.".

(d) TRANSFER TO FUND.—

(1) AMOUNT TO BE TRANSFERRED.—The Secretary of the Treasury shall transfer $25,000,000 from the Department of Veterans Affairs Loan Guaranty Revolving Fund to the Department of Veterans Affairs Third-Party Medical Recoveries Fund established by section 629(g) of title 38, United States Code (as amended by subsection (c)). The amount so transferred shall be available until September 30, 1991, for the support of the equivalent of 800 full-time employees and other expenses described in paragraph (3) of such section.

(2) REIMBURSEMENT OF LOAN GUARANTY REVOLVING FUND.—Notwithstanding section 629(g) of title 38, United States Code (as amended by subsection (c)), the first $25,000,000 recovered or collected by the Department of Veterans Affairs during fiscal year 1991 as a result of third-party medical recovery activities shall be credited to the Department of Veterans Affairs Loan Guaranty Revolving Fund.

(3) THIRD-PARTY MEDICAL RECOVERY ACTIVITIES DEFINED.—For the purposes of this section, the term "third-party medical recovery activities" means recovery and collection activities carried out under section 629 of title 38, United States Code.

(e) DEFINITION OF HEALTH-PLAN CONTRACT.—Clause (A) of section 629(i)(1) of title 38, United States Code, is amended by adding at the end the following sentence: "Such term includes a Medicare supplemental insurance policy, as defined in section 1882(g) of the Social Security Act (42 U.S.C. 1395ss(g)), and with respect to such a policy, Department of Veterans Affairs medical facilities and personnel shall be deemed to be Medicare-participating providers, and medical services covered by such a policy and furnished by the Department shall be deemed to be Medicare-covered services.".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 1, 1990.

SEC. 11012. COPAYMENT FOR MEDICATION.

(a) IN GENERAL.—(1) Subchapter III of chapter 17 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 622A. Copayments for prescription drugs

"(a) The Secretary may not furnish a drug under this chapter on an outpatient basis for the treatment of a non-service-connected disability or condition of a veteran (other than a veteran with a service-connected disability rated 50 percent or more) unless the

veteran pays to the United States $2 for each 30-day supply of the drug provided to the veteran. If the initial amount supplied is less than a 30-day supply, the amount of the charge may not be reduced.

"(b) Amounts collected under this section shall be credited to the Department of Veterans Affairs Third-Party Medical Recoveries Fund.

"(c) The provisions of subsection (a) expire on September 30, 1991.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 622 the following new item:

"622A. Copayments for drugs.".

(b) EFFECTIVE DATE.—Section 622A of title 38, United States Code, as added by subsection (a), shall apply with respect to drugs furnished by the Secretary of Veterans Affairs under chapter 11 of title 38, United States Code, after October 31, 1990, or the date of the enactment of this Act, whichever is later.

SEC. 11013. MODIFICATION OF HEALTH-CARE CATEGORIES AND COPAYMENTS.

(a) INPATIENT CARE.—(1) Subsection (a) of section 610 of title 38, United States Code, is amended—

(A) in paragraph (1)(I), by striking out "622(a)(1)" and inserting in lieu thereof "622(a)"; and

(B) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) In the case of a veteran who is not described in paragraph (1) of this subsection, the Secretary may, to the extent resources and facilities are available, furnish hospital care and nursing home care to a veteran which the Secretary determines is needed for a nonservice-connected disability, subject to the provisions of subsection (f) of this section.".

(2) Subsection (f) of such section is amended—

(A) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(f)(1) The Secretary may not furnish hospital care or nursing home care under this section to a veteran who is eligible for such care under subsection (a)(2) of this section unless the veteran agrees to pay the United States the applicable amount determined under paragraph (2) of this subsection.

"(2) A veteran who is furnished hospital care or nursing home care under this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such care shall be liable to the United States for an amount equal to—

"(A) the lesser of—

"(i) the cost of furnishing such care, as determined by the Secretary, and

"(ii) the amount determined under paragraph (3) of this subsection; and

"(B) an amount equal to $10 for every day the veteran receives hospital care, and $5 for every day the veteran receives nursing home care, after that number of days considered in determining the amount the veteran is liable for under clause (i) of this subparagraph."; and

(B) in subparagraphs (A) and (B) of paragraph (3), by striking out "(2)(B)" each place it appears and inserting in lieu thereof "(2)(A)(i)(II)".

(b) OUTPATIENT CARE.—Subsection (f) of section 612 of such title is amended—

(1) in paragraph (1), by striking out "610(a)(2)(B)" and inserting in lieu thereof "610(a)(2)";

(2) by redesignating paragraphs (5) and (7) as (3) and (4), respectively; and

(3) by striking paragraphs (3), (4), and (6).

(c) INCOME THRESHOLDS.—(1) Subsection (a) of section 622 of such title is amended—

(A) in paragraph (1)—

(i) by striking out "(1)" at the beginning of the subsection;

(ii) by redesignating clauses (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(iii) by striking out "Category A threshold" in paragraph (3), as so redesignated, and inserting in lieu thereof "the amount set forth in subsection (b)";

(B) by striking out paragraph (2).

(2) Subsection (b) of such section is amended to read as follows:

"(b)(1) For purposes of subsection (a)(3), the income threshold for the calendar year beginning on January 1, 1990, is—

"(A) $17,240 in the case of a veteran with no dependents; and

"(B) $20,688 in the case of a veteran with one dependent, plus $1,150 for each additional dependent.

"(2) For a calendar year beginning after December 31, 1990, the amounts in effect for purposes of this subsection shall be the amounts in effect for the preceding calendar year as adjusted under subsection (c) of this section.".

(3) Subsection (c) of such section is amended by striking out "paragraphs (1) and (2) of".

(4) Paragraph (2) of subsection (d) of such section is amended to read as follows:

"(2) A determination described in this paragraph is a determination that for purposes of subsection (a)(3) of this section a veteran's attributable income is not greater than the amount determined under subsection (b) of this section.".

(5) Subsection (e) of such section is amended—

(A) in paragraph (1), by striking out "the Category A threshold or the Category B threshold, as appropriate" and inserting in lieu thereof "the amount determined under subsection (b) of this section"; and

(B) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) A veteran is described in this paragraph for the purposes of subsection (a) of this section if—

"(A) the veteran has an attributable income greater than the amount determined under subsection (b) of this section, and

"(B) the current projections of such veteran's income for the current year are that the veteran's income for such year will be substantially below the amount determined under subsection (b).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to hospital care and medical services received after October 31, 1990, or the date of the enactment of this Act, whichever is later.

(e) SUNSET.—The amendments made by this section expire on September 30, 1991.

Subtitle C—Education and Employment

SEC. 11021. LIMITATION OF REHABILITATION PROGRAM ENTITLEMENT TO SERVICE-DISABLED VETERANS RATED AT 20 PERCENT OR MORE.

(a) IN GENERAL.—Section 1502(1) of title 38, United States Code, is amended—

(1) in clause (A), by striking out ", or but for the receipt of retired pay would be, compensable under" and inserting in lieu thereof "rated at 20 percent or more for purposes of"; and

(2) in clause (B), by striking out "compensable under" and inserting in lieu thereof "rated at 20 percent or more for purposes of".

(b) EMPLOYMENT ASSISTANCE.—Section 1517 of such title is amended—

(1) in subsection (a)(1), by inserting "described in section 1502(1)(A) of this title" after "service-connected disability"; and

(2) in subsection (b)(1), by inserting "with a service-connected disability described in section 1502(1)(A) of this title" after "veteran" the first place it appears therein.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only to veterans and other persons originally applying for assistance under chapter 31 of title 38, United States Code, on or after November 1, 1990.

Subtitle D—Housing and Loan Guaranty Assistance

SEC. 11031. MANUFACTURED HOMES.

Section 1812(c) of title 38, United States Code, is amended—

(1) in paragraph (3), by striking out the second and third sentences; and

(2) by adding at the end the following:

"(6)(A) In the case of making a claim on a guaranty made under this section, the holder of the loan shall have the election of submitting a claim to the Secretary based upon—

"(i) the value of the property securing the loan, as determined by the Secretary, upon receiving the Secretary's valuation; or

"(ii) upon completion of a liquidation sale, the greater of the value of the property securing the loan, as determined by the Secretary, or the actual proceeds from the liquidation.

"(B) Payments of a claim on a guaranty under this section shall be made only after the filing of an accounting with the Secretary. In any such accounting the Secretary shall permit to be included therein accrued unpaid interest from the date of the first uncured default to such cutoff date as the Secretary may establish, and the Secretary shall allow the holder of the loan to charge against the liquidation or resale proceeds, accrued interest from the cutoff date established to such further date as the Secretary may determine and such costs and expenses as the Secretary determines to be reasonable and proper.".

SEC. 11032. LOAN FEE.

Section 1829 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking out "The amount" and inserting in lieu thereof "Except as provided in paragraph (6) of this subsection, the amount"; and

(B) by adding at the end the following:

"(6) With respect to each loan closed during the period beginning November 1, 1990, and ending on October 1, 1991, each amount specified in paragraph (2) of this subsection and in subsection (b) of this section shall be increased by 0.50 percent of the total loan amount."; and

(2) in subsection (b), by striking out "The amount" in the second sentence and inserting in lieu thereof "Except as provided in paragraph (6) of subsection (a), the amount".

SEC. 11033. MORTGAGE PAYMENT ASSISTANCE TO AVOID FORECLOSURE OF HOME LOANS GUARANTEED UNDER TITLE 38.

(a) IN GENERAL.—(1) Chapter 37 of title 38, United States Code, is amended by inserting after section 1814 the following new section:

"§ 1815. Loans to refinance delinquent indebtedness

"(a)(1) The Secretary may, at the Secretary's option, provide assistance to a veteran under this section for the purpose of avoiding the foreclosure of a housing loan made to that veteran and guaranteed by the Secretary under section 1810 or 1812 of this title (hereafter in this section referred to as a 'primary loan').

"(2) Assistance under this section shall be in the form of a loan to the veteran. Such assistance may be provided only if—

"(A) the dwelling that secures the primary loan is the current residence of the veteran and is occupied by the veteran as the veteran's home;

"(B) the veteran is at least six months delinquent in payments on that primary loan;

"(C) the veteran has lost employment or has had a substantial reduction in household income (as defined in regulations prescribed by the Secretary) through no fault of the veteran; and

"(D) the Secretary determines that there is a reasonable prospect that the veteran will be able to resume payment on the primary loan within six months after receiving assistance under this section.

"(3) For the purposes of this section, the term 'veteran' includes the surviving spouse of a veteran if the surviving spouse was a co-obligor of the primary loan.

"(b)(1) A loan under this section shall be advanced to the holder of the primary loan. The amount of the loan under this subsection shall first be applied to the amount delinquent on the loan guaranteed under this chapter including any amount delinquent on taxes, assessments, and hazard insurance required by the holder to be included in the veteran's monthly payment on the mortgage.

"(2) The Secretary may make more than one loan under this section to a veteran. The total amount of loans under this section to any veteran may not exceed $10,000.

"(c) A loan under this section—

"(1) shall bear no interest until the date on which payments on the primary loan (including amounts for taxes, assessments, and hazard insurance required by the holder to be included in the veteran's monthly payment on the mortgage) are current;

"(2) shall be secured by a lien on the property securing the primary loan and by such other security as the Secretary may require; and

"(3) shall be subject to such additional terms and conditions as the Secretary may require.

"(d) As a condition of receiving a loan under this section the veteran shall execute an agreement, in such form as the Secretary may prescribe, to repay the loan within a reasonable period of time, as determined by the Secretary, not to exceed 15 years from the date on which such loan is made. If the Secretary determines that the veteran has sufficient income or other resources to do so, the Secretary may require the veteran to make partial payments on the primary loan guaranteed under this chapter during the period the holder of that loan is applying the amount of the loan under this section to payments becoming due on the primary loan.

"(e) Notwithstanding any other law, the Secretary may employ attorneys to bring suit to collect any amount of a loan under this section on which the veteran to whom the loan is made is in default.

"(f) The Secretary's decisions on any question of law or fact regarding assistance under this section, including whether or not to grant such assistance and the terms and conditions under which such assistance is granted or not granted, shall be final and conclusive, and no other official or any court of the United States shall have power or jurisdiction to review any such decision by an action in the nature of mandamus or otherwise.

"(g) A loan under this section shall be made from the fund established under section 1824 or 1825 of this title that is available with respect to the primary loan in connection with which the loan is made under this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1814 the following new item:

"1815. Loans to refinance delinquent indebtedness.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect at the end of the 60-day period beginning on the date of the enactment of this Act.

SEC. 11034. ELIGIBILITY.

(a) SELECTED RESERVE.—Chapter 37 of title 38, United States Code, is amended—

(1) in section 1801(b), by adding at the end the following:

"(5)(A) The term 'veteran' also includes an individual who is not otherwise eligible for the benefits of this chapter and who has completed a total of service of at least 6 years in the Selected Reserve and, following the completion of such service, was discharged from service with an honorable discharge, was placed on the retired list, was transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service, or continues serving in the Selected Reserve.

"(B) The term 'Selected Reserve' means the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army National Guard of the United States and the Air National Guard of the United States) of the Armed Forces, as required to be maintained under section 268(b) of title 10, United States Code."; and

(2) in section 1802(a)(2), by adding at the end the following:

"(D) Each veteran described in section 1801(b)(5) of this title.".

(b) FEES.—(1) Section 1829(a)(2) of such title is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(C) by adding after subparagraph (C) the following new subparagraph:

"(D) in the case of a loan made to, or guaranteed or insured on behalf of, a veteran described in section 1801(b)(5) of this title under this chapter, the amount of such fee shall be—

"(i) two percent of the total loan amount;

"(ii) in the case of a loan for any purpose specified in section 1812 of this title, one percent of such amount; or

"(iii) in the case of a loan for a purchase (other than a purchase referred to in section 1812 of this title) or for construction with respect to which the veteran has made a downpayment of 5 percent or more of the total purchase price or construction cost—

"(I) 1.50 percent of the total loan amount if such downpayment is less than 10 percent of such price or cost; or

"(II) 1.25 percent of the total loan amount if such downpayment is 10 percent or more of such price or cost.".

(2) Subparagraphs (A) and (B) of section 1825(c)(2) of such title are amended by inserting "(other than loans described in section 1829(a)(2)(D) of this title)" after "for each loan".

Subtitle E—Burial and Grave Marker Benefits

SEC. 11041. HEADSTONE OR MARKER ALLOWANCE.

(a) IN GENERAL.—Section 906 of title 38, United States Code, is amended—

(1) by striking out subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

(b) EFFECTIVE DATE.—This section shall apply to deaths occurring on or after November 1, 1990.

SEC. 11042. PLOT ALLOWANCE ELIGIBILITY.

(a) IN GENERAL.—Section 903(b)(2) of title 38, United States Code, is amended by inserting "(other than a veteran whose eligibility for benefits under this subsection is based on being a veteran of any war)" after "(2) if such veteran".

(b) EFFECTIVE DATE.—This section shall apply to deaths occurring on or after November 1, 1990.

Subtitle F—Miscellaneous

SEC. 11051. USE OF TAX RETURN INFORMATION TO VERIFY INCOME FOR PURPOSES OF NEEDS-BASED BENEFITS AND SERVICES OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) DISCLOSURE OF TAX INFORMATION TO DVA.—(1) Subparagraph (D) of section 6103(1)(7) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended—

(A) by striking out "and" at the end of clause (vi),

(B) by striking out the period at the end of clause (vii) and inserting in lieu thereof "; and", and

(C) by adding at the end the following new clause:

"(viii)(I) any needs-based pension provided under chapter 15 of title 38, United States Code, or any other law administered by the Secretary of Veterans Affairs;

"(II) parents' dependency and indemnity compensation provided under section 415 of title 38, United States Code;

"(III) health-care services furnished under section 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B) of such title; and

"(IV) compensation pursuant to a rating of total disability awarded by reason of inability to secure or follow a substantially gainful occupation as a result of a service-connected disability, or service-connected disabilities, not rated as total (except that, in such cases, only wage and self-employment information may be disclosed).".

(2) The heading of paragraph (7) of section 6103(1) of such Code is amended by striking out "OR THE FOOD STAMP ACT OF 1977" and inserting in lieu thereof ", THE FOOD STAMP ACT OF 1977, OR TITLE 38, UNITED STATES CODE".

(b) USE OF INCOME INFORMATION FOR NEEDS-BASED PROGRAMS.—(1) Chapter 53 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 3117. Use of income information from other agencies: notice and verification

"(a) The Secretary shall notify each applicant for a benefit or service described in subsection (c) of this section that income information furnished by the applicant to the

Secretary may be compared with information obtained by the Secretary from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986.

"(b) The Secretary may not, by reason of information obtained from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986, terminate, deny, suspend, or reduce any benefit or service described in subsection (c) of this section until the Secretary takes appropriate steps to verify independently information relating to the following:

"(1) The amount of the asset or income involved.

"(2) Whether such individual actually has (or had) access to such asset or income for the individual's own use.

"(3) The period or periods when the individual actually had such asset or income.

"(c) The benefits and services described in this subsection are the following:

"(1) Needs-based pension benefits provided under chapter 15 of this title or any other law administered by the Secretary.

"(2) Parents' dependency and indemnity compensation provided under section 415 of this title.

"(3) Health-care services furnished under sections 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B) of this title.

"(4) Compensation pursuant to a rating of total disability awarded by reason of inability to secure or follow a substantially gainful occupation as a result of a service-connected disability, or service-connected disabilities, not rated as total.

"(d) In the case of compensation described in subsection (c)(4) of this section, the Secretary may independently verify or otherwise act upon wage or self-employment information referred to in subsection (b) of this section only if the Secretary finds that the amount and duration of the earnings reported in that information clearly indicate that the individual may no longer be qualified for a rating of total disability.

"(e) The Secretary shall inform the individual of the findings made by the Secretary on the basis of verified information under subsection (b) of this section, and shall give the individual an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility for the benefit or service involved.

"(f)(1) If funds appropriated to the Department of Veterans Affairs for general operating expenses for any fiscal year do not include sufficient amounts provided for the purpose of carrying out this section during that fiscal year, the Secretary shall pay the expenses of carrying out this section during that fiscal year (to the extent that such general operating expenses appropriations are insufficient for that purpose) from amounts available to the Department for the payment of compensation and pension.

"(2) For any fiscal year for which the authority provided by paragraph (1) is used, if a supplemental appropriation law is enacted to provide additional funds to the Department of Veterans Affairs for general operating expenses for that fiscal year which are to be available for the purpose of carrying out this section, such supplemental appropriations for such purpose shall (to the extent available) be used to reimburse appropriations provided for payment of compensation and pension for any expenses previously charged against such appropriations for the administration of this section.

"(g) The authority of the Secretary to obtain information from the Secretary of the Treasury or the Secretary of Health and Human Services under section 6103(1)(7)(D)(viii) of the Internal Revenue Code of 1986 expires on September 30, 1992.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3117. Use of income information from other agencies: notice and verification.".

(c) NOTICE TO CURRENT BENEFICIARIES.—(1) The Secretary of Veterans Affairs shall notify individuals who (as of the enactment of this Act) are applicants for or recipients of the benefits described in subsection (b) (other than paragraph (3)) of section 3117 of title 38, United States Code (as added by subsection (b)), that income information furnished to the Secretary by such applicants and recipients may be compared with information obtained by the Secretary from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 (as added by subsection (a)).

(2) Notification under paragraph (1) shall be made not later than 90 days after the date of the enactment of this Act.

(3) The Secretary of Veterans Affairs may not obtain information from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 (as added by subsection (a)) until such notification under paragraph (1) is made.

SEC. 11052. WILLFUL MISCONDUCT IN LINE OF DUTY.

(a) REPEAL OF RULE WITH RESPECT TO PRESUMPTION OF WILLFUL MISCONDUCT.—Section 105(a) of title 38, United States Code, is amended by striking out the last sentence.

(b) PROHIBITION OF PAYMENT OF BENEFITS BASED ON THE SECONDARY EFFECTS OF WILLFUL MISCONDUCT.—(1) Section 310 of such title is amended by inserting ", including the secondary effects," after "disability" the last place it appears.

(2) Section 331 of such title is amended by inserting ", including the secondary effects," after "disability" the last place it appears.

(3) Section 521 of such title is amended by inserting ", including the secondary effects," after "disability".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to claims filed after October 31, 1990.

SEC. 11053. MANDATORY REPORTING OF SOCIAL SECURITY NUMBERS BY BENEFITS CLAIMANTS AND USES OF DEATH INFORMATION BY THE DEPARTMENT OF VETERANS AFFAIRS.

(a) MANDATORY REPORTING OF SOCIAL SECURITY NUMBERS.—Section 3001 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) Any person who applies for or is in receipt of any compensation or pension benefit under laws administered by the Secretary shall, if requested by the Secretary, furnish the Secretary with the Social Security number of such person and the Social Security number of any dependent or beneficiary on whose behalf, or based upon whom, such person applies for or is in receipt of any such benefits. A person is not required to furnish the Secretary with a Social Security number for any person to whom a Social Security number has not been assigned.

"(2) The Secretary shall deny the application of or terminate the payment of compensation or pension to a person who fails to furnish the Secretary with a Social Security number required to be furnished pursuant to paragraph (1) of this subsection. The Secretary may thereafter reconsider the application or reinstate payment of compensation or pension, as the case may be, if such person furnishes the Secretary with such Social Security number.".

(b) REVIEW OF DEPARTMENT OF HEALTH AND HUMAN SERVICES DEATH INFORMATION TO IDENTIFY DECEASED RECIPIENTS OF COMPENSATION AND PENSION BENEFITS.—(1) Chapter 53 of title 38, United States Code, as amended by section 11051, is further amended by adding at the end the following new section:

"§ 3118. Review of Department of Health and Human Services death information

"(a) The Secretary shall periodically compare Department of Veterans Affairs information regarding persons to or for whom compensation or pension is being paid with Department of Health and Human Services death information for the purposes of—

"(1) determining whether any such persons are deceased;

"(2) ensuring that such payments to or for any such persons who are deceased are terminated in a timely manner; and

"(3) ensuring that collection of overpayments of such benefits resulting from payments after the death of such persons is initiated in a timely manner.

"(b) The Department of Health and Human Services death information referred to in subsection (a) of this section is death information available to the Secretary from or through the Secretary of Health and Human Services, including death information available to the Secretary of Health and Human Services from a State, pursuant to a memorandum of understanding entered into by such Secretaries.".

(2) The table of sections at the beginning of such chapter is further amended by adding at the end the following:

"3118. Review of Department of Health and Human Services death information.".

TITLE XII—COMMITTEE ON WAYS AND MEANS: SPENDING

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SEC. 12001. REDUCTIONS IN PAYMENTS FOR CAPITAL-RELATED COSTS OF INPATIENT HOSPITAL SERVICES FOR FISCAL YEAR 1991.

(a) IN GENERAL.—Section 1886(g)(3)(A)(v) of the Social Security Act (42 U.S.C. 1395ww(g)(3)(A)(v)) is amended by striking "September 30, 1990" and inserting "September 30, 1991".

(b) EXEMPTION FOR RURAL PRIMARY CARE HOSPITALS.—Section 1886(g)(3)(B) of such Act is amended by striking "1886(d)(5)(D)(iii))." and inserting "1886(d)(5)(D)(iii) or a rural primary care hospital (as defined in section 1861(mm)(1))."

SEC. 12002. PROSPECTIVE PAYMENT HOSPITALS.

(a) HOSPITAL PAYMENT ADJUSTMENTS.—

(1) CHANGES IN UPDATE FACTORS.—

(A) IN GENERAL.—Section 1886(b)(3)(B)(i) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(i) by striking "and" at the end of subclause (V);

(ii) in subclause (VI)—

(I) by striking "1991" and inserting "1994", and

(II) by redesignating such subclause as subclause (IX); and

(iii) by inserting after subclause (V) the following new subclauses:

"(VI) for fiscal year 1991, the market basket percentage increase minus 2.0 percentage points for hospitals in all areas,

"(VII) for fiscal year 1992, the market basket percentage increase minus 3.55 percentage points for hospitals in all areas,

"(VIII) for fiscal year 1993, the market basket percentage increase minus 1.0 percentage point for hospitals in all areas, and".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall apply to payments for discharges occurring on or after January 1, 1991.

(2) RURAL AND INNER-CITY HOSPITALS.—

(A) CHANGES IN DISPROPORTIONATE SHARE ADJUSTMENTS.—

(i) INCREASE FOR URBAN HOSPITALS WITH MORE THAN 100 BEDS.—Section 1886(d)(5)(F)(vii) of such Act (42 U.S.C. 1395ww(d)(5)(F)(vii)) is amended—

(I) in subclause (I), by striking "greater than 20.2," and all that follows and inserting the following: "greater than 20.2—

"(a) for cost reporting periods beginning on or after April 1, 1990, and ending on or before September 30, 1990, (P-20.2)(.65) + 5.62,

"(b) for cost reporting periods beginning on or after October 1, 1990, and ending on or before September 30, 1992, (P-20.2)(.8) + 5.88,

"(c) for cost reporting periods beginning on or after October 1, 1992, and ending on or before September 30, 1993, (P-20.2)(.9) + 6.14,

"(d) for cost reporting periods beginning on or after October 1, 1993, and ending on or before September 30, 1994, (P-20.2)(.95) + 6.66, and

"(e) for cost reporting periods beginning on or after October 1, 1994, (P-20.2) + 6.92; or"; and

(II) in subclause (II), by striking "hospital, (P-15)(.6) +2.5," and inserting the following: "hospital—

"(a) for cost reporting periods beginning on or after April 1, 1990, and ending on or before September 30, 1990, (P-15)(.6) + 2.5,

"(b) for cost reporting periods beginning on or after October 1, 1990, and ending on or before September 30, 1992, (P-15)(.65) + 2.5,

"(c) for cost reporting periods beginning on or after October 1, 1992, and ending on or before September 30, 1993, (P-15)(.7) + 2.5,

"(d) for cost reporting periods beginning on or after October 1, 1993, and ending on or before September 30, 1994, (P-15)(.8) + 2.5, and

"(e) for cost reporting periods beginning on or after October 1, 1994, (P-15)(.85) + 2.5,".

(ii) INCREASE FOR HOSPITALS WITH DISPROPORTIONATE INDIGENT CARE REVENUES.—Section 1886(d)(5)(F)(iii) of such Act (42 U.S.C. 1395ww(d)(5)(F)(iii)) is amended by striking "30 percent" and inserting "35 percent".

(iii) REPEAL OF SUNSET.—Section 1886(d) of such Act (42 U.S.C. 1395ww(d)) is amended by striking "and before October 1, 1995," each place it appears in paragraph (2)(C)(iv) and paragraph (5)(F)(i).

(iv) NO RESTANDARDIZING FOR RECENT ADJUSTMENTS.—

(I) ADJUSTMENTS UNDER OBRA 1989.—Section 1886(d)(2)(C)(iv) of such Act (42 U.S.C. 1395ww(d)(2)(C)(iv)) is amended by striking the period at the end and inserting the following: ", except that the Secretary shall not exclude additional payments under such paragraph made as a result of the enactment of section 6003(c) of the Omnibus Budget Reconciliation Act of 1989.".

(II) ADJUSTMENTS UNDER OBRA 1990.—Section 1886(d)(2)(C)(iv) of such Act, as amended by clause (i), is further amended by striking "1989." and inserting "1989 or the enactment of section 12002(c)(3) of the Omnibus Budget Reconciliation Act of 1990.".

(v) EFFECTIVE DATE.—The amendments made by clauses (i), (ii), (iii), and (iv)(II) shall apply to discharges occurring on or after July 1, 1991, and the amendment made by clause (iv)(I) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

(B) PHASE-OUT OF SEPARATE AVERAGE STANDARDIZED AMOUNTS.—

(i) IN GENERAL.—Section 1886(b)(3)(B)(i) of such Act (42 U.S.C. 1395ww(b)(3)(B)(i)), as amended by subsection (a)(1), is further amended—

(I) in subclause (VI), by striking "in all areas," and inserting "in a large urban or other urban area, and such percentage increase for hospitals located in a rural area as will provide for a reduction of 1/5 (compared to fiscal year 1990) in the percentage difference between the average standardized amount determined under subsection (d)(3)(A) for hospitals located in an urban area (other than a large urban area) and such average standardized amount for hospitals located in a rural area,";

(II) in subclause (VII), by striking "in all areas," and inserting "in a large urban or other urban area, and such percentage increase for hospitals located in a rural area as will provide for a reduction of 1/4 (compared to fiscal year 1991) in the percentage difference between the average standardized amount determined under subsection (d)(3)(A) for hospitals located in an urban area (other than a large urban area) and such average standardized amount for hospitals located in a rural area,";

(III) in subclause (VIII), by striking "in all areas, and" and inserting "in a large urban or other urban area, and such percentage increase for hospitals located in a rural area as will provide for a reduction of 1/3 (compared to fiscal year 1992) in the percentage difference between the average standardized amount determined under subsection (d)(3)(A) for hospitals located in an urban area (other than a large urban area) and such average standardized amount for hospitals located in a rural area,";

(IV) in subclause (IX)—

(a) by striking "1994" and inserting "1996", and

(b) by redesignating such subclause as subclause (XI); and

(V) by inserting after subclause (VIII) the following new subclauses:

"(IX) for fiscal year 1994, the market basket percentage increase for hospitals located in a large urban or other urban area, and such percentage increase for hospitals located in a rural area as will provide for a reduction of 1/2 (compared to fiscal year 1993) in the percentage difference between the average standardized amount determined under subsection (d)(3)(A) for hospitals located in an urban area (other than a large urban area) and such average standardized amount for hospitals located in a rural area,

"(X) for fiscal year 1995, the market basket percentage increase for hospitals located in a large urban or other urban area, and such percentage increase for hospitals located in a rural area as will provide for the average standardized amount determined under subsection (d)(3)(A) for hospitals located in a rural area being equal to such average standardized amount for hospitals located in an urban area (other than a large urban area), and".

(ii) CONFORMING AMENDMENTS.—Section 1886(d) of such Act (42 U.S.C. 1395ww(d)) is amended—

(I) in paragraph (1)(A)(iii), by striking "rural, large urban, or other urban area" and inserting "large urban or other area";

(II) in paragraph (3)(A)—

(a) in clause (ii), by striking "the Secretary" and inserting "and ending on or before September 30, 1995, the Secretary",

(b) by redesignating clause (iii) as clause (iv), and

(c) by inserting after clause (ii) the following new clause:

"(iii) For discharges occurring in a fiscal year beginning on or after October 1, 1995, the Secretary shall compute an average standardized amount for hospitals located in a large urban area and for hospitals located in other areas within the United States and within each region equal to the respective average standardized amount computed for the previous fiscal year under this subparagraph increased by the applicable percentage increase under subsection (b)(3)(B)(i) with respect to hospitals located in the respective areas for the fiscal year involved.";

(III) in paragraph (3)(B), by striking "in an urban area" and all that follows through "rural area" and inserting "in a large urban area and for hospitals located in an other urban area";

(IV) in paragraph (3)(D)(i)—

(a) in the matter preceding subclause (I), by striking "an urban area (or," and all that follows through "area)," and inserting "a large urban area, and

(b) in subclause (I), by striking "an urban area" and inserting "a large urban area"; and

(V) in paragraph (3)(D)(ii), by striking "a rural area" each place it appears and inserting "other areas".

(iii) EFFECTIVE DATE.—The amendments made by clause (i) shall apply to payments for discharges occurring on or after January 1, 1991, and the amendments made by clause (ii) shall take effect October 1, 1995.

(3) PHASE-IN OF AREA WAGE INDEX UPDATE FOR FISCAL YEAR 1991.—Subject to the last sentence of section 1886(d)(3)(E) of the Social Security Act, for purposes of determining the amount of payment made to a hospital under part A of title XVIII of the Social Security Act for the operating costs of inpatient hospital services, the Secretary of Health and Human Services, in adjusting such amount under such section to reflect the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage index, shall—

(A) for discharges occurring during the period beginning January 1, 1991, and ending September 30, 1991, apply a combined area wage index consisting of—

(i) 75 percent of the area wage index determined using the survey of the 1988 wages and wage-related costs of hospitals in the United States conducted under such section, and

(ii) 25 percent of the area wage index applicable to the hospital for discharges occurring during fiscal year 1990, as determined using the survey of the 1984 wages and wage-related costs of hospitals in the United States conducted under such section; and

(B) for discharges occurring during fiscal year 1992 and fiscal year 1993, apply the area wage index otherwise applicable to the hospital under such section for discharges occurring during such fiscal year.

(4) STUDY OF AREA WAGE INDEX ADJUSTMENTS BASED ON PROFESSIONAL OCCUPATIONAL COMPONENT.—

(A) COLLECTION OF DATA.—The Secretary of Health and Human Services shall collect data on employee compensation and paid hours of employment for employees of subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act) in various occupational categories, and shall provide such data to the Prospective Payment Assessment Commission.

(B) REPORT TO CONGRESS.—Not later than September 1, 1993, the Prospective Payment Assessment Commission shall, using the data provided by the Secretary under subparagraph (A), prepare and submit a report to Congress analyzing methods to adjust the area wage index applicable to a hospital under section 1886(d)(3)(E) of such Act to take into account variations in occupational categories included in such index.

(5) PERMANENT EXTENSION OF REGIONAL FLOOR ON STANDARDIZED AMOUNTS.—

(A) IN GENERAL.—Section 1886(d)(1)(A)(iii) of such Act (42 U.S.C. 1395ww(d)(1)(A)(iii)) is amended by striking "during the period" and all that follows through "1990" and inserting "on or after April 1, 1988,".

(B) EXTENSION MADE ON BUDGET-NEUTRAL BASIS.—The Secretary of Health and Human Services shall make any adjustments resulting from the amendment made by subparagraph (A) in the amount of the payments made to hospitals under section 1886(d) of the Social Security Act in a fiscal year for the operating costs of inpatient hospital services in a manner that ensures that the aggregate payments under such section are not greater or less than those that would have been made in the year without such adjustments.

(C) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to discharges occurring on or after October 1, 1990.

(6) ELIMINATION OF HOSPITAL OFF-SET FOR SERVICES OF PHYSICIAN ASSISTANTS.—

(A) IN GENERAL.—Section 9338 of the Omnibus Budget Reconciliation Act of 1986 is amended by striking subsection (d).

(B) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

(7) DETERMINATION OF REASONABLE COSTS RELATING TO SWING BEDS.—(A) Section 1883(a)(2)(B)(ii)(II) of such Act (42 U.S.C. 1395tt(a)(2)(B)(ii)(II)) is amended by striking "the previous calendar year" and all that follows through the period and inserting "the most recent year for which cost reporting data are available with respect to such services (increased in a compounded manner by the applicable increase for payments for routine service costs of skilled nursing facilities under section 1888 for subsequent cost reporting periods and up to and including such calendar year) under this title to freestanding skilled nursing facilities in the region (as defined in section 1886(d)(2)(D)) in which the facility is located.".

(B) If, as a result of the amendment made by subparagraph (A), the reasonable cost of routine services furnished by a hospital during a calendar year (as determined under section 1883 of the Social Security Act) is less than the reasonable cost of such services determined under such section for the previous calendar year, the reasonable cost of such services furnished by the hospital during the calendar year under such section shall be equal to the reasonable cost determined under such section for the previous calendar year.

(C) The amendment made by subparagraph (A) shall apply to services furnished on or after October 1, 1990.

(b) ADMINISTRATION OF HOSPITAL PAYMENT SYSTEM.—

(1) UNIFORM REPORTING REQUIREMENTS FOR CERTAIN HOSPITALS.—

(A) REQUIREMENTS.—Each hospital described in subparagraph (B) shall, in accordance with the uniform system for reporting by medicare participating hospitals developed by the Secretary of Health and Human Services under section 4007(c) of the Omnibus Budget Reconciliation Act of 1987, report the information described in paragraph (2) of such section to the Secretary.

(B) HOSPITALS SUBJECT TO REQUIREMENT.—Each of the following hospitals is subject to the requirement of subparagraph (A):

(i) A hospital receiving an additional payment under section 1886(d)(5)(F) of the Social Security Act (relating to payments to disproportionate share hospitals).

(ii) A hospital classified by the Secretary of Health and Human Services as a sole community hospital under section 1886(d)(5)(D) of such Act.

(iii) A hospital classified by the Secretary as a regional referral center under section 1886(d)(5)(C) of such Act.

(iv) A hospital classified by the Secretary as a medicare-dependent, small rural hospital under section 1886(d)(5)(G) of such Act.

(v) A hospital designated by the Secretary as an essential access community hospital under section 1820(i)(1) of such Act.

(C) EFFECTIVE DATE.—The requirement of subparagraph (A) shall apply to hospitals with respect to cost reporting periods beginning on or after October 1, 1990.

(2) RESPONSIBILITIES AND REPORTING REQUIREMENTS OF PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.—

(A) EXPANSION OF RESPONSIBILITIES.—Section 1886(e)(2) of the Social Security Act (42 U.S.C. 1395ww(e)(2)) is amended—

(i) by striking "(2)" and inserting "(2)(A)"; and

(ii) by adding at the end the following new subparagraphs:

"(B) In order to promote the efficient and effective delivery of high-quality health care services, the Commission shall, in addition to carrying out its functions under subparagraph (A), study and make recommendations for each fiscal year to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding changes in each existing reimbursement policy under this title under which payments to an institution are based upon prospectively determined rates and the development of new institutional reimbursement policies under this title, including recommendations relating to—

"(i) payments during such fiscal year under the prospective payment system established under this section for determining payments for the operating costs of inpatient hospital services, including changes in the number of diagnosis-related groups used to classify inpatient hospital discharges under subsection (d), adjustments to such groups to reflect severity of illness, and changes in the methods by which hospitals are reimbursed for capital-related costs, together with general recommendations on the effectiveness and quality of health care delivery systems in the United States and the effects on such systems of institutional reimbursements under this title;

"(ii) payments to hospitals located in large urban areas, including the appropriate treatment of bad debt and charity care and the relation between payments to hospitals under this section and payments under programs that reimburse hospitals for providing inpatient care to low-income individuals;

"(iii) payments to hospitals located in rural areas, including appropriate responses to problems relating to low hospital occupancy rates, the quality of care provided by such hospitals, and the access of individuals living in rural areas to high-quality health care services; and

"(iv) changes in the insurance program established by this title that will constrain the costs to private employers of providing health care to employees.

"(C) By not later than June 1 before the beginning of each fiscal year, the Commission shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives containing a description of its activities during the preceding fiscal year.".

(B) REPORTING REQUIREMENTS FOR COMMISSION AND SECRETARY; ELIMINATION OF OTA REPORTING REQUIREMENTS.—Section 1886 of such Act (42 U.S.C. 1395ww) is amended—

(i) by striking subparagraph (D) of subsection (d)(4);

(ii) in the second sentence of subsection (e)(2)(A), as amended by paragraph (1)(A), by striking "In addition" and all that follows through "the Commission" and inserting "The Commission";

(iii) in subsection (e)(3)(A)—

(I) by striking "the Secretary" and inserting "the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives", and

(II) by striking the period at the end and inserting the following: ", together with its general recommendations under paragraph (2)(B)(i) regarding the effectiveness and quality of health care delivery systems in the United States.";

(iv) in subsection (e)(4)—

(I) by striking "(4)" and inserting "(4)(A)", and

(II) by adding at the end the following new subparagraph:

"(B) In addition to the recommendation made under subparagraph (A), the Secretary shall, taking into consideration the recommendations of the Commission under paragraph (2)(B), recommend for each fiscal year (beginning with fiscal year 1992) other appropriate changes in each existing reimbursement policy under this title under which payments to an institution are based upon prospectively determined rates.";

(v) in subsection (e)(5)—

(I) by striking "recommendation" each place it appears and inserting "recommendations", and

(II) by adding at the end the following new sentence: "To the extent that the Secretary's recommendations under paragraph (4) differ from the Commission's recommendations for that fiscal year, the Secretary shall include in the publication referred to in subparagraph (A) an explanation of the Secretary's grounds for not following the Commission's recommendations."; and

(vi) in subsection (e)(6)(G)—

(I) by striking clause (i), and

(II) by redesignating clauses (ii) and (iii) as clauses (i) and (ii).

(C) COMPOSITION OF COMMISSION.—Section 1886(e)(6)(B) of such Act (42 U.S.C. 1395ww(e)(6)(B)) is amended—

(i) by striking "professionals" and inserting "professions"; and

(ii) by striking "including physicians" and inserting "including (but not limited to) physicians".

(D) CONFORMING AMENDMENT.—Section 1845(c)(1)(D) of such Act (42 U.S.C. 1395w-1(c)(1)(D)) is amended by striking "reports and".

(E) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect on the date of the enactment of this Act.

SEC. 12003. EXPANSION OF DRG PAYMENT WINDOW.

(a) IN GENERAL.—The first sentence of section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)) is amended by striking the period and inserting the following: ", and includes the costs of all services for which payment may be made under this title that are provided by the hospital to the patient during the 72-hour period ending on the date of the patient's admission.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1991.

SEC. 12004. PAYMENTS FOR DIRECT GRADUATE MEDICAL EDUCATION COSTS.

(a) DETERMINATION OF FULL-TIME-EQUIVALENT RESIDENTS.—

(1) TREATMENT OF PRIMARY CARE AND NONPRIMARY CARE RESIDENTS IN INITIAL RESIDENCY PERIOD.—Section 1886(h)(4)(C)(ii) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(C)(ii)) is amended by striking "is 1.00," and inserting the following: "is—

"(I) 1.1, in the case of a resident who is a primary care resident;

"(II) 1.0, in the case of a resident who is not a primary care resident and who specializes in internal medicine or pediatrics; or

"(III) .75, in the case of a resident not described in subclauses (I) or (II),".

(2) WEIGHTING FACTOR AFTER INITIAL RESIDENCY PERIOD.—Section 1886(h)(4)(C)(iv) of such Act (42 U.S.C. 1395ww(h)(4)(C)(iv)) is amended by striking ".50" and inserting ".80".

(3) DEFINITION.—Section 1886(h)(5) of such Act (42 U.S.C. 1395ww(h)(5)) is amended—

(A) by redesignating subparagraph (H) as subparagraph (I); and

(B) by inserting after subparagraph (G) the following new subparagraph:

"(H) PRIMARY CARE RESIDENT.—The term 'primary care resident' means (in accordance with criteria established by the Secretary) a resident being trained in a distinct program of family practice medicine, general internal medicine, or general pediatrics.".

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1), (2), and (3) shall apply to cost reporting periods beginning on or after October 1, 1990.

(b) CAP ON APPROVED FTE RESIDENT AMOUNTS.—Section 1886(h)(2)(D) of such Act (42 U.S.C. 1395ww(h)(2)(D)) is amended by striking the period at the end and inserting the following: ", except that the approved FTE resident amount for the hospital may not exceed—

"(i) for cost reporting periods beginning in fiscal year 1992, 200 percent of the median of all approved FTE amounts for hospitals under this paragraph for cost reporting periods beginning in such fiscal year, adjusted by the area wage index applicable to the hospital under subsection (d)(3)(E) during such cost reporting period;

"(ii) for cost reporting periods beginning in fiscal year 1993, 175 percent of the median of all approved FTE amounts for hospitals under this paragraph for cost reporting periods beginning in such fiscal year, adjusted by the area wage index applicable to the hospital under subsection (d)(3)(E) during such cost reporting period; and

"(iii) for cost reporting periods beginning in fiscal year 1994 or any subsequent fiscal year, 150 percent of the median of all approved FTE amounts for hospitals under this paragraph for cost reporting periods beginning in such fiscal year, adjusted by the area wage index applicable to the hospital under subsection (d)(3)(E) during such cost reporting period.".

SEC. 12005. PPS-EXEMPT HOSPITALS.

(a) REDUCTION IN PAYMENT FOR CAPITAL-RELATED COSTS.—Section 1886(g)(3) of the Social Security Act (42 U.S.C. 1395ww(g)(3)) is amended by adding at the end the following new subparagraph:

"(C) In determining the amount of the payments that may be made under this title with respect to the capital-related costs of inpatient hospital services of a hospital that is not described in subparagraph (A), the Secretary shall reduce the amount of such payments otherwise established under this title by 15 percent for payments attributable to portions of cost reporting periods or discharges (as the case may be) occurring during fiscal year 1991 or fiscal year 1992.".

(b) DEVELOPMENT OF NATIONAL PROSPECTIVE PAYMENT RATES FOR CURRENT NON-PPS HOSPITALS.—

(1) DEVELOPMENT OF PROPOSAL.—The Secretary of Health and Human Services shall develop a proposal to modify the current system under which hospitals that are not subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act) receive payment for the operating and capital-related costs of inpatient hospital services under part A of the medicare program or a proposal to replace such system with a system under which such payments would be made on the basis of nationally-determined average standardized amounts. In developing any proposal under this paragraph to replace the current system with a prospective payment system, the Secretary shall—

(A) take into consideration the need to provide for appropriate limits on increases in expenditures under the medicare program;

(B) provide for adjustments to prospectively determined rates to account for changes in a hospital's case mix, severity of illness of patients, volume of cases, and the development of new technologies and standards of medical practice;

(C) take into consideration the need to increase the payment otherwise made under such system in the case of services provided to patients whose length of stay or costs of treatment greatly exceed the length of stay or cost of treatment provided for under the applicable prospectively determined payment rate;

(D) take into consideration the need to increase payments under the system to hospitals that treat a disproportionate share of low-income patients, teaching hospitals, and hospitals located in geographic areas with high wages and wage-related costs; and

(E) provide for the appropriate allocation of operating and capital-related costs of hospitals not subject to the new prospective payment system and distinct units of such hospitals that would be paid under such system.

(2) REPORTS.—(A) By not later than February 1, 1991, the Secretary shall submit the proposal developed under paragraph (1) to

the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(B) By not later than May 1, 1991, the Prospective Payment Assessment Commission shall submit an analysis of and comments on the proposal developed under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(c) APPEALS OF TARGET AMOUNTS.—

(1) DEADLINES FOR REVIEW AND DECISION.—(A) Section 1816(f) of the Social Security Act (42 U.S.C. 1395h(f)) is amended—

(i) by striking "(1)" and "(2)" and inserting "(A)" and "(B)";

(ii) by striking "(f)" and inserting "(f)(1)"; and

(iii) by striking "Such standards and criteria" and all that follows and inserting the following:

"(2) The standards and criteria established under paragraph (1) shall include—

"(A) with respect to claims for services furnished under this part by any provider of services other than a hospital—

"(i) whether such agency or organization is able to process 75 percent of reconsiderations within 60 days (except in the case of fiscal year 1989, 66 percent of reconsiderations) and 90 percent of reconsiderations within 90 days, and

"(ii) the extent to which such agency or organization's determinations are reversed on appeal; and

"(B) with respect to applications for a reconsideration of the target amount applicable under section 1886(b) to a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B))—

'(i) if such agency or organization receives a completed application, whether such agency or organization is able to process such application not later than 60 days after the application is filed, and

"(ii) if such agency or organization receives an incomplete application, whether such agency or organization is able to return the application with instructions on how to complete the application not later than 60 days after the application is filed.".

(B) Section 1886(b)(4)(A) of such Act (42 U.S.C. 1395ww(b)(4)(A)) is amended by adding at the end the following new sentence: "The Secretary shall announce a decision on any request for an exemption, exception, or adjustment under this paragraph not later than 120 days after receiving a completed application for such exemption, exception, or adjustment, and shall include in such decision a detailed explanation of the grounds on which such request was approved or denied.".

(2) STANDARDS FOR ASSIGNMENT OF NEW BASE PERIOD.—Section 1886(b)(4) of such Act (42 U.S.C. 1395ww(b)(4)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) In determining under subparagraph (A) whether to assign a new base period which is more representative of the reasonable and necessary cost to a hospital of providing inpatient services, the Secretary shall take into consideration—

"(i) changes in applicable technologies, medical practices, or case mix severity that increase the hospital's costs;

"(ii) whether increases in wages and wage-related costs in the geographic area in which the hospital is located exceed the average of the increases in such costs paid by hospitals in the United States; and

"(iii) such other factors as the Secretary considers appropriate in determining increases in the hospital's costs of providing inpatient services.".

(3) GUIDANCE TO INTERMEDIARIES AND HOSPITALS.—The Administrator of the Health Care Financing Administration shall provide guidance to agencies and organizations performing functions pursuant to section 1816 of the Social Security Act and to hospitals that are not subsection (d) hospitals (as defined in section 1886(d)(1)(B) of such Act) to assist such agencies, organizations, and hospitals in filing complete applications with the Administrator for exemptions, exceptions, and adjustments under section 1886(b)(4)(A) of such Act.

(4) EFFECTIVE DATES.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act, and the amendments made by paragraph (2) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

SEC. 12006. FREEZE IN PAYMENTS UNDER PART A THROUGH DECEMBER 31.

(a) IN GENERAL.—Notwithstanding any other provision of law, for purposes of determining the amount of payment for items or services under part A of title XVIII of the Social Security Act (including payments under section 1886 of such Act attributable to or allocated under such part) during the period described in subsection (b):

(1) The market basket percentage increase (described in section 1886(b)(3)(B)(iii) of the Social Security Act shall be deemed to be 0 for discharges occurring during such period.

(2) The percentage increase or decrease in the medical care expenditure category of the consumer price index applicable under section 1814(i)(2)(B) of such Act shall be deemed to be 0.

(3) The area wage index applicable to a subsection (d) hospital under section 1886(d)(3)(E) of such Act shall be deemed to be the area wage index applicable to such hospital as of September 30, 1990.

(4) The percentage change in the consumer price index applicable under section 1886(h)(2)(D) of such Act shall be deemed to be 0.

(b) DESCRIPTION OF PERIOD.—The period referred to in subsection (a) is the period beginning on November 1, 1990, and ending on December 31, 1990.

Subtitle B—Provisions Relating to Medicare Part B

PART 1—PAYMENT FOR PHYSICIANS' SERVICES

SEC. 12101. REDUCTION IN PAYMENTS FOR OVERPRICED PROCEDURES.

(a) PREVIOUSLY IDENTIFIED PROCEDURES.—

(1) IN GENERAL.—Section 1842(b)(14) of the Social Security Act (42 U.S.C. 1395u(b)(14)) is amended—

(A) in subparagraph (A), by inserting "(i)" after "(14)(A)", and by adding at the end the following new clause:

"(ii) In determining the reasonable charge for a physicians' service specified in subparagraph (C)(i) and furnished during 1991, the prevailing charge for such service shall be the prevailing charge otherwise recognized for such service for the period during 1990 beginning on April 1, reduced by the same amount as the amount of the reduction effected under this paragraph (as amended by the Omnibus Budget Reconciliation Act of 1990) for such service during such period.";

(B) in subparagraph (B)(iii)(I), by striking "practice expense ratio for the service (specified in table #1 in the Joint Explanatory Statement referred to in subparagraph (C)(i))" and inserting "practice expense component (percent), divided by 100, specified in Appendix A (pages 187 through 194) of the Report of the Medicare and Medicaid Health Budget Reconciliation Amendments of 1989, prepared by the Subcommittee on Health and the Environment of the Committee on Energy and Commerce, House of Representatives (Committee Print 101-M, 101st Congress, 1st Session) for the service";

(C) in subparagraph (B)(iii)(II), by striking "practice expense ratio" and inserting "practice expense component (percent), divided by 100";

(D) in subparagraph (C)(i), by striking "physicians' services specified in table #2 in the Joint Explanatory Statement of the Committee of Conference submitted with the Conference Report to accompany H.R. 3299 (the 'Omnibus Budget Reconciliation Act of 1989'), 101st Congress," and inserting "procedures listed (by code and description) in the Overvalued Procedures List for Finance Committee, Revised September 20, 1989, prepared by the Physician Payment Review Commission";

(E) in subparagraph (C)(iii), by striking "The 'percent change' specified in this clause, for a physicians' service specified in clause (i), is the percent change specified for the service in table #2 in the Joint Explanatory Statement" and inserting "The 'percentage change' specified in this clause, for a physicians' service specified in clause (i), is the percent difference (but expressed as a positive number) specified for the service in the list"; and

(F) in subparagraph (C)(iv), by striking "such value specified for the locality in table #3 in the Joint Explanatory Statement referred to in clause (i)" and inserting "the Geographic Overhead Costs Index specified for the locality in table 1 of the September 1989 Supplement to the Geographic Medicare Economic Index: Alternative Approaches (prepared by the Urban Institute and the Center for Health Economics Research)".

(2) CONFORMING AMENDMENT.—Section 1842(b)(4)(E)(iv)(I) of such Act (42 U.S.C. 1395u(b)(4)(E)(iv)(I)) is amended by striking "Table #2" and all that follows through "101st Congress" and inserting "the list referred to in paragraph (14)(C)(i)".

(b) UNSURVEYED SURGICAL AND TECHNICAL PROCEDURES.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(16)(A) In determining the reasonable charge for all physicians' services other than physicians' services specified in subparagraph (B) furnished during 1991, the prevailing charge otherwise recognized for a locality shall be reduced by 5 percent.

"(B) For purposes of subparagraph (A), the physicians' services specified in this subparagraph are as follows:

"(i) Radiology, anesthesia and physician pathology services, and physicians' services specified in paragraph (14)(C)(i).

"(ii) Primary care services specified in subsection (i)(3).

"(iii) Hospital visits, consultations and second and third surgical opinions, preventive medicine visits, other visits, psychiatric services, emergency care facility services, and critical care services.

"(iv) Partial, simple and subcutaneous mastectomy; tendon sheath injections; small joint arthrocentesis; femoral fracture and trochanteric fracture treatments; endotracheal intubation; thoracentesis; thoracosto-

my; lobectomy; aneurysm repair; enterectomy; colectomy; cholecystectomy; cystourethroscopy; transurethral fulguration; transurerethral resection; sacral laminectomy; tympanoplasty with mastoidectomy; and ophthalmoscopy.".

(c) EFFECTIVE DATE.—(1) The amendments made by subsection (a)(1)(A) and (b) this Act shall apply to services furnished after December 1990.

(2) The amendments made by subsection (a) (other than by subsection (a)(1)(A)) apply to services furnished after March 1990.

SEC. 12102. PAYMENT FOR RADIOLOGY SERVICES.

(a) REDUCTION IN FEE SCHEDULE.—Section 1834(b) of the Social Security Act (42 U.S.C. 1395m(b)) is amended—

(1) in paragraph (4), by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) 1991 FEE SCHEDULES.—For radiologist services furnished under this part during 1991, the conversion factors used in a locality under this subsection shall be determined as follows:

"(i) NATIONAL WEIGHTED AVERAGE CONVERSION FACTOR.—The Secretary shall estimate the national weighted average of the conversion factors used under this subsection for services furnished during 1990 after March 31.

"(ii) REDUCED NATIONAL WEIGHTED AVERAGE.—The national weighted average estimated under clause (i) shall be reduced by 6 percent.

"(iii) LOCAL ADJUSTMENT.—Subject to clause (iv), the conversion factor to be applied to the professional or technical component of a service in a locality is the sum of—

"(I) the product of (a) the portion of the reduced national weighted average conversion factor computed under clause (ii) which is attributable to physician work and (b) the geographic work index value for the locality (specified in Addendum C to the Model Fee Schedule for Physician Services (published on September 4, 1990, 55 Federal Register pp. 36238-36243)); and

"(II) the product of (a) the remaining portion of the reduced national weighted average conversion factor computed under clause (ii), and (b) the geographic practice cost index value specified in section 1842(b)(14)(C)(iv) for the locality.

In applying this clause with respect to the professional component of a service, 80 percent of the conversion factor shall be considered to be attributable to physician work and with respect to the technical component of the service, 35 percent shall be considered to be attributable to physician work.

"(iv) MAXIMUM REDUCTION.—The conversion factor to be applied to a locality under this subparagraph to the professional or technical component of a service shall not be less than 85 percent of the conversion factor applied in the locality under subparagraph (C) to such component."; and

(2) in paragraph (1)(B), by inserting "or locality" after "service area".

(b) REDUCTION IN PREVAILING CHARGE LEVEL FOR OTHER RADIOLOGY SERVICES.—

(1) IN GENERAL.—In applying part B of title XVIII of the Social Security Act, the prevailing charge for physicians' services, furnished during 1991, which are radiology services may not exceed the fee schedule amount established under section 1834(b) of such Act with respect to such services.

(2) EXCEPTION.—Paragraph (1) shall not apply to radiology services for which payment is made on the basis of a fee schedule under section 1834(b) of the Social Security Act.

(c) REDUCTION IN RELATIVE VALUES OF TECHNICAL COMPONENTS OF CERTAIN SCANNING SERVICES.—Section 1834(b)(3) of the Social Security Act (42 U.S.C. 1395m(b)(3)) is amended by adding at the end the following:

"Under such relative value scale, the relative values established for the technical components of magnetic resonance imaging (MRI) services, and computer assisted tomography (CAT) services furnished after December 31, 1990, shall be 90 percent of the values established as of such date.".

(d) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to services furnished on or after January 1, 1991.

(2) The amendment made by subsection (a)(2) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

SEC. 12103. ANESTHESIA SERVICES.

(a) REDUCTION IN FEE SCHEDULE.—Section 1842(q)(1) of the Social Security Act (42 U.S.C. 1395u(q)(1)) is amended—

(1) by inserting "(A)" after "(q)(1)", and

(2) by adding at the end the following new subparagraph:

"(B) For physician anesthesia services furnished under this part during 1991, the conversion factor used in a locality under this subsection shall be determined as follows:

"(i) The Secretary shall estimate the national weighted average of the conversion factors used under this subsection for physician anesthesia services furnished during 1990 after March 31.

"(ii) The national weighted average estimated under clause (i) shall be reduced by 6 percent.

"(iii) Subject to clause (iv), the conversion factor to be applied in a locality is the sum of—

"(I) the product of (a) the portion of the reduced national weighted average conversion factor computed under clause (ii) which is attributable to physician work and (b) the geographic work index value for the locality (specified in Addendum C to the Model Fee Schedule for Physician Services (published on September 4, 1990, 55 Federal Register pp. 36238-36243)); and

"(II) the product of (a) the remaining portion of the reduced national weighted average conversion factor computed under clause (ii) and (b) the geographic practice cost index value specified in section 1842(b)(14)(C)(iv) for the locality.

In applying this clause, 70 percent of the conversion factor shall be considered to be attributable to physician work.

"(iv) The conversion factor to be applied to a locality under this subparagraph shall not be less than 85 percent of the conversion factor applied in the locality during 1990 after March 31.".

(b) EXTENSION OF REDUCTION FOR SUPERVISION OF CONCURRENT SERVICES.—Section 1842(b)(13) of such Act (42 U.S.C. 1395u(b)(13)) is amended—

(1) in subparagraph (A), by striking "1991" and inserting "1996", and

(2) in subparagraph (B), by striking "1991" and inserting "1996".

SEC. 12104. PATHOLOGY SERVICES.

(a) REDUCTION IN PAYMENTS FOR ANATOMIC PATHOLOGY SERVICES AND REPEAL OF FEE SCHEDULE.—Subsection (f) of section 1834 of the Social Security Act (42 U.S.C. 1395m) is amended to read as follows:

"(f) In determining the reasonable charge under this part for anatomic pathology services furnished on or after January 1, 1991, the prevailing charge for such service shall be 94 percent of the prevailing charge otherwise used under this part for services furnished during 1990 after March 31 (taking into account the amendments made by the Omnibus Budget Reconciliation Act of 1990).".

(b) CONFORMING AMENDMENTS.—

(1) Section 1833(a)(1)(J) of such Act (42 U.S.C. 1395l(a)(1)) is amended by striking "or physician pathology services" and by striking "or section 1834(f), respectively".

(2) Section 1848(a)(1) of such Act (42 U.S.C. 1395w-4(a)(1)) is amended by striking "or 1834(f)".

(3) Section 4050 of the Omnibus Budget Reconciliation Act of 1987 is repealed.

SEC. 12105. PAYMENTS FOR PHYSICIANS' SERVICES.

(a) PERCENTAGE INCREASE IN MEI FOR 1991.—

(1) Section 1842(b)(4) of the Social Security Act (42 U.S.C. 1395u(b)(4)) is amended—

(A) in subparagraph (E), by adding at the end the following new clause:

"(v) For purposes of this part for items and services furnished in 1991, the percentage increase in the MEI is—

"(I) 0 percent for services (other than primary care services), and

"(II) such percentage increase in the MEI (as defined in subsection (i)(4)) as would be otherwise determined for primary care services (as defined in subsection (i)(4)).", and

(B) in subparagraph (A)(vi), by striking "50 percent" and inserting "75 percent".

(2) Section 1845 of such Act (42 U.S.C. 1395w-1) is amended—

(A) in subsection (a)(3), by striking "include physicians" and inserting "include (but need not be limited to) physicians";

(B) by striking subsection (b)(3);

(C) in subsection (b)(2)—

(i) by striking "and" at the end of subparagraph (H),

(ii) by striking the period at the end of subparagraph (I) and inserting a semicolon,

(iii) by striking subparagraphs (A), (B), (C), and (F),

(iv) by redesignating subparagraphs (D), (E), (G), (H), and (I) as subparagraphs (A), (B), (C), (D), and (E), and

(v) by adding at the end the following new subparagraphs:

"(F) make recommendations regarding major issues in the implementation of the resource-based relative value scale established under section 1848(c);

"(G) make recommendations regarding further development of the volume performance standards established under section 1848(f), including the development of State-based programs;

"(H) consider policies to provide payment incentives to increase patient access to primary care and other physician services in large urban and rural areas, including policies regarding payments to physicians pursuant to title XIX;

"(I) review and consider the number and practice specialities of physicians in training and payments under this title for graduate medical education costs;

"(J) make recommendations regarding issues relating to utilization review and quality of care, including the effectiveness of peer review procedures and other quality assurance programs applicable to physicians and providers under this title and physician certification and licensing standards and procedures;

"(K) make recommendations regarding options to help constrain the costs of health insurance to employers, including incentives under this title; and

"(L) make recommendations regarding medical malpractice liability reform and physician certification and licensing standards and procedures."; and

(D) by striking subsection (e) and redesignating subsection (f) as subsection (e).

(b) LIMITING UPDATE IN CUSTOMARY CHARGES FOR 1991.—Section 1842(b) of such Act (42 U.S.C. 1395u(b)) is amended—

(1) in paragraph (4)(B), by adding at the end the following new clause:

"(iv) In determining the reasonable charge under paragraph (3) for physicians' services (other than primary care services, as defined in subsection (i)(4)) furnished during 1991, the customary charges shall be the same customary charges as were recognized under this section for the 9-month period beginning April 1, 1990. In a case in which subparagraph (F) applies (relating to new physicians) so as to limit the customary charges of a physician during 1990 to a percent of prevailing charges, the previous sentence shall not prevent such limit on customary charges under such subparagraph from increasing in 1991 to a higher percent of such prevailing charges."; and

(2) in paragraph (2)(A), by striking "section 1845(f)(2)" and inserting "section 1845(e)(2)".

(c) CHANGE IN PAYMENT FOR YEARS AFTER 1991.—

(1) IN GENERAL.—Section 1848 of such Act (42 U.S.C. 1395w-4) is amended—

(A) in subsection (d)(3)(A)—

(i) in clause (i), by inserting "except as provided in clause (iii)," after "subparagraph (B),", and

(ii) by adding at the end the following new clause:

"(iii) ADJUSTMENT IN PERCENTAGE INCREASE.—In applying clause (i) for services furnished in 1992 for which the appropriate update index is the index described in clause (ii)(I), the percentage increase in the appropriate update index shall be reduced by 0.4 percentage points.";

(B) in subsection (a)(2)(A)(i), by inserting before the period at the end the following: ", or, if greater in the case of primary care services for which the prevailing charge level was increased under section 1842(b)(4)(A)(vi) as a result of the amendment made by section 12105(a)(1)(A) of the Omnibus Budget Reconciliation Act of 1990, the prevailing charge level determined under section 1842(b)(4)(A)(vi) and applicable to services furnished in 1991";

(C) in subsection (a)(2)(D), by adding at the end the following new clause:

"(iii) TREATMENT OF PRIMARY CHARGE FLOOR.—The adjusted historical payment basis shall be determined as if the amendment made by section 12105(a)(1)(A) of the Omnibus Budget Reconciliation Act of 1990 had not been made.";

(D) in subsection (f), by adding at the end of paragraph (1) the following new subparagraph:

"(E) PERFORMANCE STANDARD RATES OF INCREASE FOR FISCAL YEARS 1991 THROUGH 1995.—The performance standard rate of increase, for all physicians' services and for each category of physicians' services, for fiscal years 1991 through 1995 are equal to the sum of—

"(i) the Secretary's estimate of the weighted average percentage increase in the fees for all physicians' services or for the category of physicians' services, respectively under this part for calendar years included in the fiscal year involved,

"(ii) the Secretary's estimate of the percentage increase or decrease in the average number of individuals enrolled under this part (other than HMO enrollees) from the previous fiscal year to the fiscal year involved,

"(iii) the Secretary's estimate of the average annual percentage growth in volume and intensity of all physicians' services under this part for the 5-fiscal-year period ending with the preceding fiscal year (based upon information contained in the most recent annual report made pursuant to section 1841(b)(2)), and

"(iv) the Secretary's estimate of the percentage increase of decrease in expenditures all for physicians' services or of the category of physicians' services, respectively, in the fiscal year (compared with the preceding fiscal year) which will result from changes in law or regulations and which is not taken into account in the percentage increase described in clause (i),

reduced by 1½ percentage points (for 1991) or by 2 percentage points (for subsequent years). In clause (i), the term 'fees' means, with respect to 1991, reasonable charges and, with respect to any succeeding year, fee schedule amounts.";

(E) in subsection (f)(2)(A)—

(i) by striking "1991" the first place it appears and inserting "1996",

(ii) by striking "each performance standard rate of increase" and inserting "the performance standard rate of increase, for all physicians' services and for each category of physicians' services,",

(iii) in clause (i), by striking "fees for physicians' services (as defined in subsection (f)(5)(A))" and inserting "fee schedule amounts for all physicians' services or for the category of physicians' services, respectively,",

(iv) in clause (iii), by inserting "all" before "physicians' services",

(v) in clause (iv), by striking "physicians' services (as defined in subsection (f)(5)(A))" and inserting "all physicians' services or of the category of physicians' services, respectively,", and

(vi) by striking the last sentence;

(F) in subsection (f)(2)(B), by striking all that follows "the performance standard factor" and inserting "is 2 percentage points"; and

(G) in subsection (i), by adding at the end the following new paragraph:

"(2) NO COMPARABILITY ADJUSTMENT.—For radiology and anesthesia services for which payment under this part is determined under this section—

"(A) a carrier may not make any adjustment in the payment amount under section 1842(b)(3)(B) on the basis that the payment amount is higher than the charge applicable, for a comparable services and under comparable circumstances, to the policyholders and subscribers of the carrier,

"(B) no payment adjustment may be made under section 1842(b)(8), and

"(C) section 1842(b)(9) shall not apply .".

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to services furnished on or after January 1, 1991.

(2) The amendments made by subsections (a)(2) and (b)(2) shall take effect on the date of the enactment of this Act.

SEC. 12106. TREATMENT OF NEW PHYSICIANS.

(a) EXTENSION OF CUSTOMARY CHARGE LIMIT.—

(1) Section 1842(b)(4)(F) of the Social Security Act (42 U.S.C. 1395u(b)(4)(F)) is amended by adding at the end the following: "For the second and third calendar years during which the first sentence of this subparagraph no longer applies, the Secretary shall set the customary charge at a level no higher than 90 and 95 percent, respectively, of the prevailing charge for the service.".

(2) Section 6108(a)(2) of the Omnibus Budget Reconciliation Act of 1989 is amended—

(A) by inserting "or 1991" after "1990", and

(B) by inserting "or 1990" after "1989".

(b) APPLICATION UNDER RVS.—Section 1848(a) of such Act (42 U.S.C. 1395w-4(a)) is amended by adding at the end the following new paragraph:

"(4) TREATMENT OF NEW PHYSICIANS.—In the case of physicians' services furnished by a physician before the end of the physician's first full calendar year of furnishing services for which payment may be made under this part, and during each of the 3 succeeding years, the fee schedule amount to be applied shall be 80 percent, 85 percent, 90 percent, and 95 percent, respectively, of the fee schedule amount applicable to physicians who are not subject to this paragraph. The preceding sentence shall not apply to primary care services (as defined in section 1842(i)(4)) and services furnished in a rural area (as defined in section 1886(d)(2)(D)) that is designated, under section 332(a)(1)(A) of the Public Health Service Act, as a health manpower shortage area.".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) apply to services furnished in 1991 and thereafter which were subject to the first sentence of section 1842(b)(4)(F) of the Social Security Act in 1989 or thereafter.

(2) The amendment made by subsection (b) shall apply to services furnished after 1991.

SEC. 12107. PAYMENTS FOR ASSISTANTS AT SURGERY.

(a) REDUCTION FOR INFREQUENTLY USED SERVICES.—Section 1842(b)(7) of the Social Security Act (42 U.S.C. 1395u(b)(7)) is amended—

(1) in subparagraph (D)(iii), by inserting "consistent with subparagraph (E)" after "under this part", and

(2) by adding at the end the following new subparagraph:

"(E)(i) The Secretary shall determine, based on the most recent data available, for each surgical procedure (or class of surgical procedure) the national average percentage of such procedure performed under this part which involve the use of an assistant at surgery.

"(ii) If the percentage determined under clause (i) for a procedure is less than 50 percent, but not less than 25 percent, payment under this part for assistants at surgery involved in the procedure shall be based on 75 percent of the payment basis established if this subparagraph did not apply.

"(iii) If the percentage determined under clause (i) for a procedure is less than 25 percent, but not less than 5 percent, payment under this part for assistants at surgery involved in the procedure shall be based on 75 percent of the payment basis established if this subparagraph did not apply and payment may only be made under this part if the use of the assistant at surgery were authorized, before the performance of the pro-

cedure, by the appropriate utilization and quality control peer review organization under part B of title XI.

"(iv) If the percentage determined under clause (i) for a procedure is less than 5 percent, no payment shall be made under this part for services of an assistant at surgery involved in the procedure.".

(b) CONFORMING AMENDMENT.—Section 1862(a)(15) of such Act (42 U.S.C. 1395y(a)(15)) is amended—

(1) by inserting "(A)" after "(15)",

(2) by striking "; or" at the end and inserting ", or", and

(3) by adding at the end the following new subparagraph:

"(B) which are for services of an assistant at surgery in a procedure described in section 1842(b)(7)(E)(iii), unless, before the procedure is performed, the appropriate utilization and quality control peer review organization (under part B of title XI) has approved of the use of such an assistant in the surgical procedure; or".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1991.

SEC. 12108. INTERPRETATION OF ELECTROCARDIOGRAMS.

(a) IN GENERAL.—Section 1848(b) of the Social Security Act (42 U.S.C. 1395w-4(b)) is amended by adding at the end the following new paragraph:

"(3) TREATMENT OF INTERPRETATION OF ELECTROCARDIOGRAMS.—If payment is made under this part for a visit to a physician or consultation with a physician and, as part of or in conjunction with the visit or consultation there is an electrocardiogram performed or ordered to be performed, no separate payment may be made under this part with respect to the interpretation of the electrocardiogram and no physician may bill an individual enrolled under this part separately for such an interpretation. If a physician knowingly and willfully bills one or more individuals in violation of the previous sentence, the Secretary may apply sanctions against the physician or entity in accordance with section 1842(j)(2).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1992. In applying section 1848(d)(1)(B) of the Social Security Act (in computing a hypothetical conversion factor for 1991), the Secretary shall compute such factor assuming that section 1848(b)(3) of such Act (as added by the amendment made by subsection (a)) had applied to physicians' services furnished during 1991.

PART 2—OTHER ITEMS AND SERVICES

SEC. 12111. PAYMENTS FOR HOSPITAL OUTPATIENT SERVICES.

(a) REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS.—

(1) IN GENERAL.—Section 1861(v)(1)(S)(ii)(I) of the Social Security Act (42 U.S.C. 1395(v)(1)(S)(ii)(I)) is amended by striking "fiscal year 1990" and inserting "during the period beginning on October 1, 1989, and ending December 31, 1993".

(2) EXEMPTION FOR RURAL PRIMARY CARE HOSPITALS.—Section 1861(v)(1)(S)(ii)(II) of such Act (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking "1886(d)(5)(D)(iii))." and inserting "1886(d)(5)(D)(iii) or a rural primary care hospital (as defined in section 1861(mm)(1))."

(b) REDUCTION IN REASONABLE COSTS OF HOSPITAL OUTPATIENT SERVICES.—

(1) IN GENERAL.—Section 1861(v)(1)(S)(ii) of such Act (42 U.S.C. 1395(v)(1)(S)(ii)) is amended—

(A) in subclause (II)—

(i) by striking "Subclause (I)" and inserting "Subclauses (I) and (II)", and

(ii) by striking "capital-related costs of any hospital" and inserting "costs of hospital outpatient services provided by any hospital";

(B) in subclause (III)—

(i) by striking "subclause (I)" and inserting "subclauses (I) and (II)", and

(ii) by striking "capital-related" and inserting "the";

(C) by redesignating subclauses (II) and (III) as subclauses (III) and (IV); and

(D) by inserting after subclause (I) the following new subclause:

"(II) The Secretary shall reduce the reasonable cost of outpatient hospital services (other than the capital-related costs of such services) otherwise determined pursuant to section 1833(a)(2)(B)(i)(I) by 2 percent for payments attributable to portions of cost reporting periods during the period beginning on October 1, 1990, and ending December 31, 1993.".

(2) PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT SERVICES.—

(A) DEVELOPMENT OF PROPOSAL.—The Secretary of Health and Human Services shall develop a proposal to replace the current system under which payment is made for hospital outpatient services under title XVIII of the Social Security Act with a system under which such payments would be made on the basis of prospectively determined rates. In developing any proposal under this paragraph, the Secretary shall consider—

(i) the need to provide for appropriate limits on increases in expenditures under the medicare program;

(ii) the need to adjust prospectively determined rates to account for changes in a hospital's outpatient case mix, severity of illness of patients, volume of cases, and the development of new technologies and standards of medical practice;

(iii) providing hospitals with incentives to control the costs of providing outpatient services;

(iv) the feasibility and appropriateness of including payment for outpatient services not currently paid on a cost-related basis under the medicare program (including clinical diagnostic laboratory tests and dialysis services) in the system;

(v) the need to increase payments under the system to hospitals that treat a disproportionate share of low-income patients, teaching hospitals, and hospitals located in geographic areas with high wages and wage-related costs;

(vi) the feasibility and appropriateness of bundling services into larger units, such as episodes or visits, in establishing the basic unit for making payments under the system; and

(vii) the feasibility and appropriateness of varying payments under the system on the basis of whether services are provided in a free-standing or hospital-based facility.

(B) REPORTS.—(i) By not later than January 1, 1991, the Administrator of the Health Care Financing Administration shall submit research findings relating to prospective payments for hospital outpatient services to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives.

(ii) By not later than September 1, 1991, the Secretary shall submit the proposal developed under subparagraph (A) to such Committees.

(iii) By not later than March 1, 1992, the Prospective Payment Assessment Commission shall submit an analysis of and comments on the proposal developed under subparagraph (A) to such Committees.

(c) PAYMENTS FOR AMBULATORY SURGICAL PROCEDURES AND RADIOLOGY SERVICES.—

(1) MODIFICATION OF COST AND ASC PROPORTIONS OF ASC BLEND AMOUNTS.—

(A) IN GENERAL.—Section 1833(i)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395l(i)(3)(B)(ii)) is amended—

(i) in subclause (I), by striking "and 50 percent for other cost reporting periods." and inserting "50 percent for reporting periods beginning on or after October 1, 1988, and on or before December 31, 1990, and 33 percent for cost reporting periods beginning on or after January 1, 1991."; and

(ii) in subclause (II), by striking "and 50 percent for other cost reporting periods." and inserting "50 percent for reporting periods beginning on or after October 1, 1988, and on or before December 31, 1990, and 67 percent for cost reporting periods beginning on or after January 1, 1991.".

(B) EXTENSION OF ASC BLEND AMOUNTS FOR EYE AND EYE AND EAR SPECIALTY HOSPITALS.—The last sentence of section 1833(i)(3)(B)(ii) of such Act (42 U.S.C. 1395l(i)(3)(B)(ii)) is amended by striking "in fiscal year 1989 or fiscal year 1990" and inserting "on or after October 1, 1988, and before January 1, 1995".

(2) MODIFICATION OF COST AND CHARGE PROPORTIONS FOR RADIOLOGY SERVICES.—Section 1833(n)(1)(B)(ii)(I) of such Act (42 U.S.C. 1395l(n)(1)(B)(ii)(I)) is amended by striking the period at the end and inserting ", and such term means 33 percent in the case of outpatient radiology services for portions of cost reporting periods beginning on or after January 1, 1991.".

(3) 2-YEAR FREEZE IN ALLOWANCE FOR INTRAOCULAR LENSES.—Notwithstanding section 1833(i)(2)(A)(iii) of the Social Security Act, the amount of payment determined under such section for the insertion of an intraocular lens during or subsequent to cataract surgery furnished to an individual in an ambulatory surgical center on or after the date of the enactment of this Act and on or before December 31, 1992, shall be equal to $200.

(d) PAYMENTS TO HOSPITALS FOR DIRECT GRADUATE MEDICAL EDUCATION COSTS ASSOCIATED WITH PART B SERVICES.—

(1) ESTABLISHMENT OF CURRENT CRITERIA AS SEPARATE PART B PROVISION.—

(A) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(r) PAYMENTS FOR DIRECT GRADUATE MEDICAL EDUCATION COSTS.—

"(1) SUBSTITUTION OF SPECIAL PAYMENT RULES.—Notwithstanding section 1861(v), instead of any amounts that are otherwise payable under this title with respect to the reasonable costs of hospitals for direct graduate medical education costs associated with the provision of services under this part, the Secretary shall provide for payments for such costs from the Federal Supplementary Medical Insurance Trust Fund established under this part in accordance with paragraph (3) of this subsection, and shall provide for such payments in a manner that reasonably reflects the proportion of total direct graduate medical education costs of hospitals that are associated with this part.

"(2) DETERMINATION OF HOSPITAL-SPECIFIC APPROVED FTE RESIDENT AMOUNTS.—The Secretary shall determine, for each hospital

with an approved medical residency training program, an approved FTE resident amount for each cost reporting period beginning on or after July 1, 1985, as follows:

"(A) DETERMINING ALLOWABLE AVERAGE COST PER FTE RESIDENT IN A HOSPITAL'S BASE PERIOD.—The Secretary shall determine, for the hospital's cost reporting period that began during fiscal year 1984, the average amount recognized as reasonable under this title for direct graduate medical education costs of the hospital for each full-time-equivalent resident.

"(B) UPDATING TO THE FIRST COST REPORTING PERIOD.—

"(i) IN GENERAL.—The Secretary shall update each average amount determined under subparagraph (A) by the percentage increase in the consumer price index during the 12-month cost reporting period described in such subparagraph.

"(ii) EXCEPTION.—The Secretary shall not perform an update under clause (i) in the case of a hospital if the hospital's reporting period, described in subparagraph (A), began on or after July 1, 1984, and before October 1, 1984.

"(C) AMOUNT FOR FIRST COST REPORTING PERIOD.—For the first cost reporting period of the hospital beginning on or after July 1, 1985, the approved FTE resident amount for the hospital is equal to the amount determined under subparagraph (B) increased by 1 percent.

"(D) AMOUNT FOR SUBSEQUENT COST REPORTING PERIODS.—For each subsequent cost reporting period, the approved FTE resident amount for the hospital is equal to the amount determined under this paragraph for the previous cost reporting period updated, through the midpoint of the period, by projecting the estimated percentage change in the consumer price index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous under- or over-estimations under this subparagraph in the projected percentage change in the consumer price index.

"(E) TREATMENT OF CERTAIN HOSPITALS.—In the case of a hospital that did not have an approved medical residency training program or was not participating in the program under this title for a cost reporting period beginning during fiscal year 1984, the Secretary shall, for the first such period for which it has such a residency training program and is participating under this title, provide for such approved FTE resident amount as the Secretary determines to be appropriate, based on approved FTE resident amounts for comparable programs.

"(3) HOSPITAL PAYMENT AMOUNT PER RESIDENT.—

"(A) IN GENERAL.—The payment amount, for a hospital cost reporting period beginning on or after July 1, 1985, is equal to the product of—

"(i) the aggregate approved amount (as defined in subparagraph (B)) for that period, and

"(ii) the hospital's medicare patient load (as defined in subparagraph (C)) for that period.

"(B) AGGREGATE APPROVED AMOUNT.—As used in this subparagraph (A), the term "aggregate approved amount" means, for a hospital cost reporting period, the product of—

"(i) the hospital's approved FTE resident amount (determined under paragraph (2)) for that period, and

"(ii) the weighted average number of full-time-equivalent residents (as determined under paragraph (4)) in the hospital's approved medical residency training programs in that period.

"(C) MEDICARE PATIENT LOAD.—As used in subparagraph (A), the term 'medicare patient load' means, with respect to a hospital's cost reporting period, the fraction of the total number of inpatient-bed-days (as established by the Secretary) during the period which are attributable to patients with respect to whom payment may be made under part A.

"(4) DETERMINATION OF FULL-TIME EQUIVALENT RESIDENTS.—

"(A) RULES.—The Secretary shall establish rules consistent with this paragraph for the computation of the number of full-time-equivalent residents in an approved medical residency training program.

"(B) ADJUSTMENT FOR PART-YEAR OR PART-TIME RESIDENTS.—Such rules shall take into account individuals who serve as residents for only a portion of a period with a hospital or simultaneously with more than one hospital.

"(C) WEIGHTING FACTORS FOR CERTAIN RESIDENTS.—Subject to subparagraph (D), such rules shall provide, in calculating the number of full-time-equivalent residents in an approved residency program—

"(i) before July 1, 1986, for each resident the weighting factor is 1.00,

"(ii) on or after July 1, 1986, for a resident who is in the resident's initial residency period (as defined in paragraph (5)(F)), the weighting factor is 1.00,

"(iii) on or after July 1, 1986, and before July 1, 1987, for a resident who is not in the resident's initial residency period (as defined in paragraph (5)(F)), the weighting factor is .75, and

"(iv) on or after July 1, 1987, for a resident who is not in the resident's initial residency period (as defined in paragraph (5)(F)), the weighting factor is .50.

"(D) FOREIGN MEDICAL GRADUATES REQUIRED TO PASS FMGEMS EXAMINATION.—

"(i) IN GENERAL.—Except as provided in clause (ii), such rules shall provide that, in the case of an individual who is a foreign medical graduate (as defined in paragraph (5)(D)), the individual shall not be counted as a resident on or after July 1, 1986, unless—

"(I) the individual has passed the FMGEMS examination (as defined in paragraph (5)(E)), or

"(II) the individual has previously received certification from, or has previously passed the examination of, the Educational Commission for Foreign Medical Graduates.

"(ii) TRANSITION FOR CURRENT FMGS.—On or after July 1, 1986, but before July 1, 1987, in the case of a foreign medical graduate who—

"(I) has served as a resident before July 1, 1986, and is serving as a resident after that date, but

"(II) has not passed the FMGEMS examination or a previous examination of the Educational Commission for Foreign Medical Graduates before July 1, 1986,

the individual shall be counted as a resident at a rate equal to one-half of the rate at which the individual would otherwise be counted.

"(E) COUNTING TIME SPENT IN OUTPATIENT SETTINGS.—Such rules shall provide that only time spent in activities relating to patient care shall be counted and that all the time so spent by a resident under an approved medical residency training program shall be counted toward the determination of full-time equivalency, without regard to the setting in which the activities are performed, if the hospital incurs all, or substantially all, of the costs for the training program in that setting.

"(5) DEFINITIONS AND SPECIAL RULES.—As used in this subsection:

"(A) APPROVED MEDICAL RESIDENCY TRAINING PROGRAM.—The term 'approved medical residency training program' means a residency or other postgraduate medical training program participation in which may be counted toward certification in a specialty or subspecialty and includes formal postgraduate training programs in geriatric medicine approved by the Secretary.

"(B) CONSUMER PRICE INDEX.—The term 'consumer price index' refers to the Consumer Price Index for all Urban Consumers (United States city average), as published by the Secretary of Commerce.

"(C) DIRECT GRADUATE MEDICAL EDUCATION COSTS.—The term 'direct graduate medical education costs' means direct costs of approved educational activities for approved medical residency training programs.

"(D) FOREIGN MEDICAL GRADUATE.—The term 'foreign medical graduate' means a resident who is not a graduate of—

"(i) a school of medicine accredited by the Liaison Committee on Medical Education of the American Medical Association and the Association of American Medical Colleges (or approved by such committee as meeting the standards necessary for such accreditation),

"(ii) a school osteopathy accredited by the American Osteopathic Association, or approved by such Association as meeting the standards necessary for such accreditation, or

"(iii) a school of dentistry or podiatry which is accredited (or meets the standards for accreditation) by an organization recognized by the Secretary for such purpose.

"(E) FMGEMS EXAMINATION.—The term 'FMGEMS examination' means parts I and II of the Foreign Medical Graduate Examination in the Medical Sciences recognized by the Secretary for this purpose.

"(F) INITIAL RESIDENCY PERIOD.—The term 'initial residency period' means the period of board eligibility plus one year, except that—

"(i) except as provided in clause (ii), in no case shall the initial period of residency exceed an aggregate period of formal training of more than five years for any individual, and

"(ii) a period, of not more than two years, during which an individual is in a geriatric residency or fellowship program which meets such criteria as the Secretary may establish, shall be treated as part of the initial residency period, but shall be counted against any limitation on the initial residency period.

The initial residency period shall be determined, with respect to a resident, as of the time the resident enters the residency training program.

"(G) PERIOD OF BOARD ELIGIBILITY.—

"(i) GENERAL RULE.—Subject to clauses (i) and (iii), the term 'period of board eligibility' means, for a resident, the minimum number of years of formal training necessary to satisfy the requirements for initial board eligibility in the particular specialty for which the resident is training.

"(ii) APPLICATION OF 1985-1986 DIRECTORY.—Except as provided in clause (iii), the period of board eligibility shall be such period specified in the 1985-1986 Directory of Residency Training Programs published by the Accreditation Council on Graduate Medical Education.

"(iii) CHANGES IN PERIOD OF BOARD ELIGIBILITY.—On or after July 1, 1989, if the Accreditation Council on Graduate Medical Educa-

tion, in its Directory of Residency Training Programs—

"(I) increases the minimum number of years of formal training necessary to satisfy the requirements for a specialty, above the period specified in its 1985-1986 Directory, the Secretary may increase the period of board eligibility for that specialty, but not to exceed the period of board eligibility specified in that later Directory, or

"(II) decreases the minimum number of years of formal training necessary to satisfy the requirements for a specialty, below the period specified in its 1985-1986 Directory, the Secretary may decrease the period of board eligibility for that specialty, but not below the period of board eligibility specified in that later Directory.

"(H) RESIDENT.—The term 'resident' includes an intern or other participant in an approved medical residency training program.".

(B) CONFORMING AMENDMENT.—Section 1886(h)(1) of such Act (42 U.S.C. 1395ww(h)(1)) is amended by striking "costs, the Secretary" and all that follows and inserting the following: "costs associated with the provision of services under part A, the Secretary shall provide for payments for such costs from the Federal Hospital Insurance Trust Fund in accordance with paragraph (3) of this subsection, and shall provide for such payments in a manner that reasonably reflects the proportion of total direct graduate medical education costs of hospitals that are associated with part A.".

(C) EFFECTIVE DATE.—The amendments made by subparagraphs (A) and (B) shall take effect as if included in the enactment of section 9202(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985, and section 1833(r) of the Social Security Act, as added by subparagraph (A), shall be administered, as of any date before the date of the enactment of this Act, in the same manner as section 1886(h) was administered as of such date.

(2) MODIFICATIONS IN PAYMENT RULES FOR SUBSEQUENT COST REPORTING PERIODS.—

(A) DETERMINATION OF FULL-TIME-EQUIVALENT RESIDENTS.—

(i) TREATMENT OF PRIMARY CARE AND NONPRIMARY CARE RESIDENTS IN INITIAL RESIDENCY PERIOD.—Section 1833(r)(4)(C)(ii) of such Act, as added by paragraph (1)(A), is amended by striking "is 1.00," and inserting the following: "is—

"(I) 1.1, in the case of a resident who is a primary care resident;

"(II) 1.0, in the case of a resident who is not a primary care resident and who specializes in internal medicine or pediatrics; or

"(III) .90, in the case of a resident not described in subclauses (I) or (II),".

(ii) WEIGHTING FACTOR AFTER INITIAL RESIDENCY PERIOD.—Section 1833(r)(4)(C)(iv) of such Act, as added by paragraph (1)(A), is amended by striking ".50" and inserting ".80".

(iii) DEFINITION.—Section 1833(r)(5) of such Act, as added by paragraph (1)(A), is amended—

(I) by redesignating subparagraph (H) as subparagraph (I); and

(II) by inserting after subparagraph (G) the following new subparagraph:

"(H) PRIMARY CARE RESIDENT.—The term 'primary care resident' means (in accordance with criteria established by the Secretary) a resident being trained in a distinct program of family practice medicine, general internal medicine, or general pediatrics.".

(iv) EFFECTIVE DATE.—The amendments made by clauses (i), (ii), and (iii) shall apply to portions of cost reporting periods occurring on or after October 1, 1990.

(B) CAP ON APPROVED FTE RESIDENT AMOUNTS.—Section 1833(r)(2)(D) of such Act, as added by paragraph (1)(A), is amended by striking the period at the end and inserting the following: "; except that the approved FTE resident amount for the hospital may not exceed—

"(i) for cost reporting periods beginning in fiscal year 1992, 200 percent,

"(ii) for cost reporting periods beginning in fiscal year 1993, 175 percent, or

"(iii) for cost reporting periods beginning in fiscal year 1994 or any subsequent fiscal year, 150 percent,

of the median of all approved FTE amounts for hospitals under this paragraph for cost reporting periods beginning in the fiscal year involved, adjusted by the area wage index applicable to the hospital under section 1886(d)(3)(E) during such cost reporting period.".

SEC. 12112. DURABLE MEDICAL EQUIPMENT.

(a) OVER-PRICED AND OVER-UTILIZED ITEMS AND SERVICES.—

(1) 15 h1PERCENT REDUCTION IN PAYMENTS FOR SEAT-LIFT CHAIRS AND TRANSCUTANEOUS ELECTRICAL NERVE STIMULATORS.—Section 1834(a)(1)(D) of the Social Security Act (42 U.S.C. 1395m(a)(1)(D)) is amended by inserting before the period at the end the following: ", and, if furnished on or after January 1, 1991, the Secretary shall further reduce such payment amount (as previously reduced) by 15 percent".

(2) PROHIBITION AGAINST DISTRIBUTION OF MEDICAL NECESSITY FORMS BY SUPPLIERS.—

(A) IN GENERAL.—Section 1834(a) of such Act (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

"(15) PROHIBITION AGAINST DISTRIBUTION BY SUPPLIERS OF FORMS DOCUMENTING MEDICAL NECESSITY.—

"(A) IN GENERAL.—A supplier of a covered item under this subsection may not distribute to individuals entitled to benefits under this part for commercial purposes any completed or partially completed forms or other documents required by the Secretary to be submitted to show that a covered item is reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.

"(B) PENALTY.—Any supplier of a covered item who knowingly and willfully distributes a form or other document in violation of subparagraph (A) is subject to a civil money penalty in an amount not to exceed $1,000 for each such form or document so distributed. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under this subparagraph in the same manner as they apply to a penalty or proceeding under section 1128A(a).".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to forms and documents distributed on or after January 1, 1991.

(3) CARRIER DETERMINATIONS OF COVERAGE OF CERTAIN ITEMS IN ADVANCE.—

(A) IN GENERAL.—Section 1834(a)(11) of such Act (42 U.S.C. 1395m(a)) is amended by adding at the end the following new subparagraph:

"(C) CARRIER DETERMINATIONS OF COVERAGE OF CERTAIN ITEMS IN ADVANCE.—A carrier shall determine in advance whether payment for a covered item for which payment is made under this subsection may not be made because of the application of section 1862(a)(1) if—

"(i) the item is a customized item; or

"(ii) the item is a specified covered item under subparagraph (B).".

(B) INCORPORATION OF TIMELINESS STANDARDS IN CARRIER PERFORMANCE REQUIREMENTS.—Section 1842(c) of such Act (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(4) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall require the carrier to meet criteria developed by the Secretary to measure the timeliness of carrier responses to requests for payment of items described in section 1834(a)(11)(C).".

(C) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to items furnished on or after January 1, 1991, and the amendment made by subparagraph (B) shall apply to contracts entered into on or after January 1, 1991.

(4) SPECIAL SCRUTINY FOR POTENTIALLY OVERUSED ITEMS.—Section 1834(a) of such Act (42 U.S.C. 1395m(a)), as amended by paragraph (2), is further amended by adding at the end the following new paragraph:

"(16) SPECIAL TREATMENT FOR POTENTIALLY OVERUSED ITEMS.—

"(A) DEVELOPMENT OF LIST OF ITEMS BY SECRETARY.—The Secretary shall develop and periodically update a list of items for which payment may be made under this subsection that are potentially overused, and shall include in such list seat-lift chairs, trancutaneous electrical nerve stimulators, motorized scooters, and any such other item determined by the Secretary to be potentially overused on the basis of the following criteria:

"(i) The item is marketed directly to potential patients.

"(ii) The item is marketed with an offer to potential patients to waive the costs of coinsurance associated with the item or is marketed as being available at no cost to policyholders of a medicare supplemental policy (as defined in section 1882(g)(1)).

"(iii) The item has been subject to a consistent pattern of overutilization.

"(iv) A high proportion of claims for payment for such item under this part may not be made because of the application of section 1862(a)(1).

"(B) ITEMS SUBJECT TO SPECIAL CARRIER SCRUTINY.—Payment may not be made under this part for any item contained in the list developed by the Secretary under subparagraph (A) unless the carrier has subjected the claim for payment for the item to special scrutiny.".

(b) DEVELOPMENT AND APPLICATION OF NATIONAL LIMITS ON FEES.—

(1) INEXPENSIVE AND ROUTINELY PURCHASED DURABLE MEDICAL EQUIPMENT AND ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—Paragraphs (2) and (3) of section 1834(a) of such Act (42 U.S.C. 1395m(a)) are each amended—

(A) in subparagraph (B)(i), by striking "or" at the end;

(B) by striking clause (ii) of subparagraph (B) and inserting the following:

"(ii) in 1991 is the sum of (I) 67% of the local payment amount for the item or device computed under subparagraph (C)(i)(I) for 1991, and (II) 33% of the national limited payment amount for the item or device computed under subparagraph (C)(ii) for 1991;

"(iii) in 1992 is the sum of (I) 33% of the local payment amount for the item or device computed under subparagraph (C)(i)(II) for

1992, and (II) 67% of the national limited payment amount for the item or device computed under subparagraph (C)(ii) for 1992; and

"(iv) in 1993 and each subsequent year is the national limited payment amount for the item or device computed under subparagraph (C)(ii) for that year."; and

(C) by adding at the end the following new subparagraph:

"(C) COMPUTATION OF LOCAL PAYMENT AMOUNT AND NATIONAL LIMITED PAYMENT AMOUNT.—For purposes of subparagraph (B)—

"(i) the local payment amount for an item or device for a year is equal to—

"(I) for 1991, the amount specified in subparagraph (B)(i) for 1990 adjusted by the covered item update for 1991, and

"(II) for 1992, the amount determined under this clause for the preceding year adjusted by the covered item update for 1992; and

"(ii) the national limited payment amount for an item or device for a year is equal to—

"(I) for 1991 and 1992, the local payment amount determined under clause (i) for such item or device for that year, except that the national limited payment amount may not exceed 100 percent of the weighted average of all local payment amounts determined under such clause for such item for that year and may not be less than 85 percent of the weighted average of all local payment amounts determined under such clause for such item, and

"(II) for each subsequent year, the amount determined under this clause for the preceding year adjusted by the covered item update for such subsequent year.".

(2) MISCELLANEOUS ITEMS AND OTHER COVERED ITEMS.—Section 1834(a)(8) of such Act (42 U.S.C. 1395m(a)(8)) is amended—

(A) in subparagraph (A)(ii)—

(i) by striking "or" at the end of subclause (I);

(ii) in subclause (II)—

(I) by striking "1991 or", and

(II) by striking "increased by the percentage increase" and all that follows through the period and inserting "adjusted by the covered item update for the year.";

(iii) by redesignating subclause (II) as subclause (III); and

(iv) by inserting after subclause (I) the following new subclause:

"(II) in 1991, equal to the local purchase price computed under this clause for the previous year, adjusted by the covered item update for 1991, and decreased by the percentage by which the average of the purchase prices submitted exceeds the average of the reasonable charges on claims paid for the item during the 6-month period ending with December 1986; or";

(B) by amending subparagraph (B) to read as follows:

"(B) COMPUTATION OF NATIONAL LIMITED PURCHASE PRICE.—With respect to the furnishing of a particular item in a year, the Secretary shall compute a national limited purchase price—

"(i) for 1991 and 1992, equal to the local purchase price computed under subparagraph (A)(ii) for the item for the year, except that such national limited purchase price may not exceed 100 percent of the weighted average of all local purchase prices for the item computed under such subparagraph for the year, and may not be less than 85 percent of the weighted average of all local purchase prices for the item computed under such subparagraph for the year; and

"(ii) for each subsequent year, equal to the amount determined under this subparagraph for the preceding year adjusted by the covered item update for such subsequent year.";

(C) in subparagraph (C)—

(i) by striking "regional purchase price" each place it appears and inserting "national limited purchase price",

(ii) by striking "and subject to subparagraph (D)",

(iii) in clause (ii)—

(I) by striking "75" and inserting "67"; and

(II) by striking "25" and inserting "33", and

(iv) in clause (iii)—

(I) in subclause (I), by striking "50" and inserting "33"; and

(II) in subclause (II), by striking "50" and inserting "67"; and

(D) by striking subparagraph (D).

(3) OXYGEN AND OXYGEN EQUIPMENT.—Section 1834(a)(9) of such Act (42 U.S.C. 1395m(a)(9)) is amended—

(A) in subparagraph (A)(ii)(II), by striking "increased by the percentage increase" and all that follows through the period and inserting "adjusted by the covered item update for the year.";

(B) by amending subparagraph (B) to read as follows:

"(B) COMPUTATION OF NATIONAL LIMITED MONTHLY PAYMENT RATE.—With respect to the furnishing of an item in a year, the Secretary shall compute a national limited monthly payment rate equal to—

"(i) for 1991 and 1992, the local monthly payment rate computed under subparagraph (A)(ii)(II) for the item for the year, except that such national limited monthly payment rate may not exceed 100 percent of the weighted average of all local monthly payment rates computed for the item under such subparagraph for the year, and may not be less than 85 percent of the weighted average of all local monthly payment rates computed for the item under such subparagraph for the year; and

"(ii) for each subsequent year, equal to the amount determined under this subparagraph for the preceding year adjusted by the covered item update for such subsequent year.";

(C) in subparagraph (C)—

(i) by striking "regional monthly payment rate" each place it appears and inserting "national limited monthly payment rate",

(ii) in clause (ii)—

(I) by striking "75" and inserting "67"; and

(II) by striking "25" and inserting "33", and

(iii) in clause (iii)—

(I) in subclause (I), by striking "50" and inserting "33"; and

(II) in subclause (II), by striking "50" and inserting "67"; and

(D) by striking subparagraph (D).

(4) DEFINITION.—Section 1834(a) of such Act (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (13) the following new paragraph:

"(14) COVERED ITEM UPDATE.—In this subsection, the term 'covered item update' means, with respect to a year, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.".

(5) CONFORMING AMENDMENT.—Section 1834(a)(12) of such Act (42 U.S.C. 1395m(a)(12)) is amended by striking "defined for purposes of paragraphs (8)(B) and (9)(B)".

(c) TREATMENT OF "RENTAL CAP" ITEMS.—

(1) DETERMINING PAYMENT AMOUNT ON BASIS OF CLAIMS PAID.—Section 1834(a)(8)(A)(i)(II) of such Act is amended by striking "average of the purchase prices on the claims submitted" and inserting "average of the reasonable charges on claims paid".

(2) LIMITATION ON MONTHLY RECOGNIZED RENTAL AMOUNTS FOR MISCELLANEOUS ITEMS.—Section 1834(a)(7)(A)(i) of such Act (42 U.S.C. 1395m(a)(7)(A)(i)) is amended—

(A) by striking "for each such month" and inserting "for each of the first 3 months of such period"; and

(B) by striking the semicolon at the end and inserting the following: ", and for each of the remaining months of such period is 7.5 percent of such purchase price;".

(3) OFFER OF OPTION TO PURCHASE FOR MISCELLANEOUS ITEMS; ESTABLISHMENT OF REASONABLE LIFETIME.—Section 1834(a)(7) of such Act (42 U.S.C. 1395m(a)(7)(A)) is amended—

(A) in subparagraph (A)(i), by striking "15 months" and inserting "15 months, or, in the case of an item for which a purchase agreement has been entered into under clause (ii), a period of continuous use of longer than 13 months";

(B) in subparagraph (A)(ii)—

(i) by striking "(ii) during the succeeding 6-month period of medical need," and inserting "(iii) in the case of an item for which a purchase agreement has not been entered into under clause (ii), during the first 6-month period of medical need that follows the period of medical need during which payment is made under clause (i),", and

(ii) by striking "and" at the end;

(C) in subparagraph (A)(iii)—

(i) by striking "(iii)" and inserting "(iv) in the case of an item for which a purchase agreement has not been entered into under clause (ii),", and

(ii) by striking the period at the end and inserting "; and";

(D) by inserting after clause (i) of subparagraph (A) the following new clause:

"(ii) during the 10th continuous month during which payment is made for the rental of an item under clause (i), the supplier of such item shall offer the individual patient the option to enter into a purchase agreement under which, if the patient notifies the supplier not later than 1 month after the supplier makes such offer that the patient agrees to accept such offer and exercise such option—

"(I) the supplier shall transfer title to the item to the individual patient on the first day that begins after the 13th continuous month during which payment is made for the rental of the item under clause (i),

"(II) after the supplier transfers title to the item under subclause (I), maintenance and servicing payments shall be made in accordance with clause (v);";

(E) by inserting after clause (iv) of subparagraph (A) (as amended by subparagraph (C)) the following new clause:

"(v) in the case of an item for which a purchase agreement has been entered into under clause (ii), maintenance and servicing payments may be made (for parts and labor not covered by the supplier's or manufacturer's warranty, as determined by the Secretary to be appropriate for the particular type of durable medical equipment), and such payments shall be in an amount established by the Secretary on the basis of reasonable charges in the locality for maintenance and servicing."; and

(F) by adding at the end the following new subparagraph:

"(C) REPLACEMENT OF ITEMS.—

"(i) ESTABLISHMENT OF REASONABLE USEFUL LIFETIME.—In accordance with clause (iii), the Secretary shall determine and establish a reasonable useful lifetime for items of durable medical equipment for which payment may be made under this paragraph or paragraph (3).

"(ii) PAYMENT FOR REPLACEMENT ITEMS.—If the reasonable lifetime of such an item, as so established, has been reached during a continuous period of medical need, or the carrier determines that the item is lost or irreparably damaged, the patient may elect to have payment for an item serving as a replacement for such item made—

"(I) on a monthly basis for the rental of the replacement item in accordance with subparagraph (A); or

"(II) in the case of an item for which a purchase agreement has been entered into under subparagraph (A)(ii), in a lump-sum amount for the purchase of the item.

"(iii) LENGTH OF REASONABLE USEFUL LIFETIME.—The reasonable useful lifetime of an item of durable medical equipment under this subparagraph shall be equal to 5 years, except that, if the Secretary determines that, on the basis of prior experience in making payments for such an item under this title, a reasonable useful lifetime of 5 years is not appropriate with respect to a particular item, the Secretary shall establish an alternative reasonable lifetime for such item.".

(4) APPLICATION OF REASONABLE USEFUL LIFETIME FOR ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—Section 1834(a)(3) of such Act (42 U.S.C. 1395m(a)(3)), as amended by subsection (b)(1), is further amended by adding at the end the following new subparagraph:

"(D) REPLACEMENT OF ITEMS.—If the reasonable useful lifetime of such an item, as established under paragraph (7)(C), has been reached during a continuous period of medical need, or the Secretary determines on the basis of investigation by the carrier that the item is lost or irreparably damaged, payment for an item serving as a replacement for such item shall be made on a monthly basis for the rental of the replacement item in accordance with subparagraph (A).".

(5) TREATMENT OF POWER-DRIVEN WHEELCHAIRS AS MISCELLANEOUS ITEMS OF DURABLE MEDICAL EQUIPMENT.—

(A) IN GENERAL.—Section 1834(a)(2)(A) of such Act (42 U.S.C. 1395m(a)(2)(A)) is amended—

(i) in clause (i), by inserting "or" at the end;

(ii) in clause (ii), by striking "or" at the end; and

(iii) by striking clause (iii).

(B) CRITERIA FOR TREATMENT OF WHEELCHAIR AS CUSTOMIZED ITEM.—(i) Section 1834(a)(4) of such Act (42 U.S.C. 1395m(a)(4)) is amended by adding at the end the following: "In the case of a wheelchair furnished on or after January 1, 1992, the wheelchair shall be treated as a customized item for purposes of this paragraph if the wheelchair has been measured, fitted, or adapted in consideration of the patient's body size, disability, period of need, or intended use, and has been assembled by a supplier or ordered from a manufacturer who makes available customized features, modifications, or components for wheelchairs that are intended for an individual patient's use in accordance with instructions from the patient's physician.".

(ii) The amendment made by clause (i) shall apply to items furnished on or after January 1, 1992, unless the Secretary develops specific criteria before that date for the treatment of wheelchairs as customized items for purposes of section 1834(a)(4) of the Social Security Act (in which case the amendment made by such clause shall not become effective).

(d) RECERTIFICATION FOR CERTAIN PATIENTS RECEIVING HOME OXYGEN THERAPY SERVICES.—

(1) IN GENERAL.—Section 1834(a)(5) of such Act (42 U.S.C. 1395m(a)(5)) is amended—

(A) in subparagraph (A), by striking "(B) and (C)" and inserting "(B), (C), and (E)"; and

(B) by adding at the end the following new subparagraph:

"(E) RECERTIFICATION FOR PATIENTS RECEIVING HOME OXYGEN THERAPY.—No payment may be made under this part for home oxygen therapy services provided after the expiration of the 3-month period that begins on the date the patient first receives such services unless, in accordance with criteria developed by the Secretary in consultation with suppliers of such services, the patient's attending physician certifies that, on the basis of a follow-up test of the patient's arterial blood gas value or arterial oxygen saturation conducted during the final 15 days of such 3-month period, there is a medical need for the patient to continue to receive such services. The Secretary shall permit suppliers of home oxygen therapy services to manage such follow-up testing process.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to patients who first receive home oxygen therapy services on or after January 1, 1991.

(e) UPDATES IN FEE SCHEDULES.—Section 1834(a)(14) of such Act, as added by subsection (b)(4), is amended by striking "to a year," and all that follows and inserting the following: "to a year—

"(A) for 1991 and 1992, a reduction of 1 percent; and

"(B) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.".

(f) FREEZE IN REASONABLE CHARGES FOR ENTERAL AND PARENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT DURING 1991.—In determining the amount of payment under part B of title XVIII of the Social Security Act for enteral and parenteral nutrients, supplies, and equipment furnished during 1991, the charges determined to be reasonable with respect to such nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such items for 1990.

(g) PAYMENTS FOR PROSTHETIC DEVICES AND ORTHOTICS AND PROSTHETICS.—

(1) MAINTAINING CURRENT PAYMENT METHODOLOGY.—Section 1834 of the Social Security Act (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(h) PAYMENT FOR PROSTHETIC DEVICES AND ORTHOTICS AND PROSTHETICS.—

"(1) GENERAL RULE FOR PAYMENT.—

"(A) IN GENERAL.—Payment under this subsection for prosthetic devices and orthotics and prosthetics shall be made in a lump-sum amount for the purchase of the item in an amount equal to 80 percent of the payment basis described in subparagraph (B).

"(B) PAYMENT BASIS.—Except as provided in subparagraph (C), the payment basis described in this subparagraph is the lesser of—

"(i) the actual charge for the item; or

"(ii) the amount recognized under paragraph (2) as the purchase price for the item.

"(C) EXCEPTION FOR CERTAIN PUBLIC HOME HEALTH AGENCIES.—Subparagraph (B)(i) shall not apply to an item furnished by a public home health agency (or by another home health agency which demonstrates to the satsifaction of the Secretary that a significant portion of its patients are low income) free of charge or at nominal charges to the public.

"(D) EXCLUSIVE PAYMENT RULE.—This subsection shall constitute the exclusive provision of this title for payment for prosthetic devices, orthotics, and prosthetics under this part or under part A to a home health agency.

"(2) PURCHASE PRICE RECOGNIZED.—For purposes of paragraph (1), the amount that is recognized under this paragraph as the purchase price for prosthetic devices, orthotics, and prosthetics is the amount described in subparagraph (C) of this paragraph, determined as follows:

"(A) COMPUTATION OF LOCAL PURCHASE PRICE.—Each carrier under section 1842 shall compute a base local purchase price for the item as follows:

"(i) The carrier shall compute a base local purchase price for each item equal to the average reasonable charge in the locality for the purchase of the item for the 12-month period ending with June 1987.

"(ii) The carrier shall compute a local purchase price, with respect to the furnishing of each particular item—

"(I) in 1989 and 1990, equal to the base local purchase price computed under clause (i) increased by the percentage increase in the consumer price index for all urban consumers (United States city average) for the 6-month period ending with December 1987, or

"(II) in 1991, 1992 or 1993, equal to the local purchase price computed under this clause for the previous year increased by the applicable percentage increase for the year.

"(B) COMPUTATION OF REGIONAL PURCHASE PRICE.—With respect to the furnishing of a particular item in each region (as defined by the Secretary), the Secretary shall compute a regional purchase price—

"(i) for 1992 and for 1993, equal to the average (weighted by relative volume of all claims among carriers) of the local purchase prices for the carriers in the region computed under subparagraph (A)(ii)(II) for the year, and

"(ii) for each subsequent year, equal to the regional purchase price computed under this subparagraph for the previous year increased by the applicable percentage increase for the year.

"(C) PURCHASE PRICE RECOGNIZED.—For purposes of paragraph (1) and subject to subparagraph (D), the amount that is recognized under this paragraph as the purchase price for each item furnished—

"(i) in 1989, 1990, or 1991, is 100 percent of the local purchase price computed under subparagraph (A)(ii)(I);

"(ii) in 1992, is the sum of (I) 75 percent of the local purchase price computed under subparagraph (A)(ii)(II) for 1991, and (II) 25 percent of the regional purchase price computed under subparagraph (B) for 1991;

"(iii) in 1993, is the sum of (I) 50 percent of the local purchase price computed under subparagraph (A)(ii)(II) for 1992, and (II) 50 percent of the regional purchase price

computed under subparagraph (B) for 1992; and

"(iv) in 1994 or a subsequent year, is the regional purchase price computed under subparagraph (B) for that year.

"(D) RANGE ON AMOUNT RECOGNIZED.—The amount that is recognized under subparagraph (C) as the purchase price for an item furnished—

"(i) in 1991, may not exceed 125 percent, and may not be lower than 85 percent, of the average of the purchase prices recognized under such subparagraph for all the carrier service areas in the United States in that year; and

"(ii) in a subsequent year, may not exceed 120 percent, and may not be lower than 90 percent, of the average of the purchase prices recognized under such subparagraph for all the carrier service areas in the United States in that year.

"(3) APPLICABILITY OF CERTAIN PROVISIONS RELATING TO DURABLE MEDICAL EQUIPMENT.—Subparagraphs (A) and (B) of paragraph (10) and paragraph (11) of subsection (a) shall apply to prosthetic devices, orthotics, and prosthetics in the same manner as such provisions apply to covered items under such subsection.

"(4) DEFINITIONS.—In this subsection—

"(A) the term 'applicable percentage increase' means—

"(i) for 1991, 0 percent, and

"(ii) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year;

"(B) the term 'prosthetic devices' has the meaning given such term in section 1861(s)(8), except that such term does not include parenteral and enteral nutrition nutrients, supplies, and equipment; and

"(C) the term 'orthotics and prosthetics' has the meaning given such term in section 1861(s)(9).".

(2) CONFORMING AMENDMENTS.—(A) Section 1832(a)(2) of such Act (42 U.S.C. 1395k(a)(2)) is amended—

(i) in subparagraphs (A) and (B), by striking "subparagraph (G)" each place it appears and inserting "subparagraph (G) or subparagraph (I)";

(ii) by striking "and" at the end of subparagraph (G);

(iii) by striking the period at the end of subparagraph (H) and inserting "; and"; and

(D) by adding at the end the following new subparagraph:

"(I) prosthetic devices and orthotics and prosthetics (described in section 1834(h)(4)) furnished by a provider of services or by others under arrangements with them made by a provider of services.".

(B) Section 1833(a)(1) of such Act (42 U.S.C. 1395l(a)(1) is amended—

(i) by striking ", and (L)" and inserting ", (L)"; and

(ii) by striking "subparagraph and (N)" and inserting the following: "subparagraph, (M) with respect to prosthetic devices and orthotics and prosthetics (as defined in section 1834(h)(4)), the amounts paid shall be the amounts described in section 1834(h)(1), and (N)".

(C) Section 1833(a) of such Act (42 U.S.C. 1395l(a)) is amended—

(i) in paragraph (2), in the matter before subparagraph (A), by striking "and (H)" and inserting "(H), and (I)";

(ii) by striking "and" at the end of paragraph (5);

(iii) by striking the period at the end of paragraph (6) and inserting "; and"; and

(iv) by adding at the end the following new paragraph:

"(7) in the case of prosthetic devices and orthotics and prosthetics (as described in section 1834(h)(4)), the amounts described in section 1834(h).".

(D) Section 1834(a) of such Act (42 U.S.C. 1395m(a)), is amended—

(i) in the heading, by striking ", Prosthetic Devices, Orthotics, and Prosthetics";

(ii) in paragraph (a)(2)(A), by striking "(13)(A)" and inserting "(13)"; and

(iii) in paragraph (13), by striking "means—" and all that follows and inserting the following: "means durable medical equipment (as defined in section 1861(n)), including such equipment described in section 1861(m)(5)), but does not include intraocular lenses or medical supplies (including catheters, catheter supplies, ostomy bags, and supplies related to ostomy care) furnished by a home health agency under section 1861(m)(5).".

(3) GAO STUDY OF MEDICARE PAYMENTS FOR PROSTHETIC DEVICES, ORTHOTICS, AND PROSTHETICS.—

(A) STUDY.—The Comptroller General shall conduct a study of payments for prosthetic devices, orthotics, and prosthetics under the medicare program. In conducting such study, the Comptroller General shall examine the effect of the development and implementation of the fee schedules established for such items under the program on payments for such items under the program to orthotists and prosthetists.

(B) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit a report on the study conducted under subparagraph (A) to the Committees on Energy and Commerce and Ways and Means of the House of Reresentatives and the Committee on Finance of the Senate, and shall include in such report any recommendations regarding payments for prosthetic devices, orthopedics, and prosthetics under the medicare program that the Comptroller General considers appropriate.

(h) EFFECTIVE DATE.—Except as otherwise provided in subsection (a)(2) and (a)(3), the amendments made by this section shall apply to items furnished on or after January 1, 1991.

SEC. 12113. PAYMENTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) CAP ON ANNUAL FEE SCHEDULE INCREASES.—Section 1833(h)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395l(h)(2)(A)(ii)) is amended—

(1) by striking "any other provision of this subsection" and inserting "clause (i)";

(2) by striking "and" at the end of subclause (I);

(3) by striking the period at the end of subclause (II) and inserting ", and"; and

(4) by adding at the end the following new subclause:

"(III) the Secretary shall reduce the annual adjustment in the fee schedules determined under clause (i) for each of the years 1991, 1992, and 1993 by 2 percent.".

(b) REDUCTION IN NATIONAL CAP.—

(1) IN GENERAL.—Section 1833(h)(4)(B) of such Act (42 U.S.C. 1395l(h)(4)(B)) is amended—

(A) by striking "and" at the end of clause (ii);

(B) in clause (iii), by inserting "and before January 1, 1991," after "1989,";

(C) by striking the period at the end of clause (iii) and inserting ", and"; and

(D) by adding at the end the following new clause:

"(iv) after December 31, 1990, is equal to 88 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

(2) CLARIFICATION OF ASSIGNMENT FOR TESTS PERFORMED BY A PHYSICIAN OFFICE LABORATORY.—

(A) IN GENERAL.—(i) Section 1833(h)(5)(C) of such Act (42 U.S.C. 1395l(h)(5)(C)) is amended by striking "test performed by a laboratory other than a rural health clinic" and inserting "test, including a test performed in a physician's office but excluding a test performed by a rural health clinic,".

(ii) Section 1833(h)(5)(D) of such Act (42 U.S.C. 1395l(h)(5)(D)) is amended by striking "test performed by a laboratory, other than a rural health clinic," and inserting "test, including a test performed in a physician's office but excluding a test performed by a rural health clinic,".

(B) EFFECTIVE DATES.—The amendment made by subparagraph (A)(i) shall take effect as if included in the enactment of section 9303(b)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985, and the amendment made by subparagraph (A)(ii) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

SEC. 12114. REDUCTION IN PAYMENTS UNDER PART B DURING FINAL 2 MONTHS OF 1990.

(a) IN GENERAL.—Notwithstanding any other provision of law (including any other provision of this Act, other than subsection (b)(4)), payments under part B of title XVIII of the Social Security Act for items and services furnished during the period beginning on November 1, 1990, and ending on December 31, 1990, shall be reduced by 1.4 percent, in accordance with subsection (b).

(b) SPECIAL RULES FOR APPLICATION OF REDUCTION.—

(1) PAYMENT ON THE BASIS OF COST REPORTING PERIODS.—In the case in which payment for services of a provider of services is made under part B of such title on a basis relating to the reasonable cost incurred for the services during a cost reporting period of the provider, the reduction made under subsection (a) shall be applied to payment for costs for such services incurred at any time during each cost reporting period of the provider any part of which occurs during the period described in such subsection, but only in the same proportion as the fraction of the cost reporting period that occurs during such period.

(2) NO INCREASE IN BENEFICIARY CHARGES IN ASSIGNMENT-RELATED CASES.—If a reduction in payment amounts is made under subsection (a) for items or services for which payment under part B of such title is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B), or under the procedure described in section 1870(f)(1), of the Social Security Act, the person furnishing the items or services shall be considered to have accepted payment of the reasonable charge for the items or services, less any reduction in payment amount made under subsection (a), as payment in full.

(3) NO EFFECT ON COMPUTATION OF AAPCC.—In computing the adjusted average per capita cost for purposes of section 1876(a)(4) of the Social Security Act, the Secretary of Health and Human Services shall not take into account any reductions in payment amounts which have been or may be effected under subsection (a).

(4) TREATMENT OF PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS.—Subsection (a)

shall not apply to payments under risk-sharing contracts under section 1876 of the Social Security Act or under similar contracts under section 402 of the Social Security Amendments of 1967 or section 222 of the Social Security Amendments of 1972.

Subtitle C—Provisions Relating to Medicare Parts A and B

SEC. 12201. END STAGE RENAL DISEASE SERVICES.

(a) IN GENERAL.—

(1) Section 1881(b)(11) of the Social Security Act (42 U.S.C. 1395rr(b)) is amended—

(A) by striking "(11)" and inserting "(11)(A)"; and

(B) by adding at the end the following new subparagraph:

"(B) Erythropoietin, when provided to a patient determined to have end stage renal disease, shall not be included as a dialysis service for purposes of payment under any prospective payment amount or comprehensive fee established under this section, and payment for such item shall be made separately—

"(i) in the case of erythropoietin provided by a physician, in accordance with section 1833; and

"(ii) in the case of erythropoietin provided by a provider of services, renal dialysis facility, or other supplier of home dialysis supplies and equipment—

"(I) for erythropoietin provided during 1991, in an amount not to exceed $11 per thousand units, except that the total payment for erythropoietin under this clause may not exceed $70, and

"(II) for erythropoietin provided during a subsequent year, in an amount equal to the amount determined under this clause for the previous year increased by the percentage increase (if any) in the implicit price deflator for gross national product (as published by the Department of Commerce) for the second quarter of the preceding year over the implicit price deflator for the second quarter of the second preceding year.".

(2) Section 9335(a)(1) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 6203(a)(1)(A) of the Omnibus Budget Reconciliation Act of 1989, is amended—

(A) by striking "and before October 1, 1990" and inserting "and before January 1, 1996";

(B) by striking "equal to" and inserting "not less than"; and

(C) by striking "$2.00." and inserting "$2.00 and increased by the amount of the reduction made in such rate pursuant to section 6101 of the Omnibus Budget Reconciliation Act of 1989.".

(b) EFFECTIVE DATES.—(1) The amendments made by subsection (a)(1) shall apply to erythropoietin furnished to end stage renal disease patients on or after January 1, 1991.

(2) The amendment made by subsection (a)(2) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

SEC. 12202. EXTENSION OF SECONDARY PAYOR PROVISIONS.

(a) IDENTIFICATION OF MEDICARE SECONDARY PAYOR SITUATIONS.—

(1) Section 1862(b)(5)(C)(iii) of the Social Security Act (42 U.S.C. 1395y(b)(5)(C)(iii)) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(2) Section 6103(l)(12)(F) of the Internal Revenue Code of 1986 is amended—

(A) in clause (i), by striking "September 30, 1991" and inserting "September 30, 1995";

(B) in clause (ii)(I), by striking "1990" and inserting "1994"; and

(C) in clause (ii)(II), by striking "1991" and inserting "1995".

(b) MEDICARE SECONDARY PAYOR FOR THE DISABLED.—Section 1862(b)(1)(B)(iii) of such Act (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended by striking "January 1, 1992" and inserting "October 1, 1995".

(c) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment and the amendment made by subsection (a)(2)(B) shall apply to requests made on or after such date.

Subtitle D—Provisions Relating to Medicare Part B Premium and Deductible

SEC. 12301. PART B PREMIUM.

Section 1839(e)(1) of the Social Security Act (42 U.S.C. 1395r(e)(1)) is amended—

(1) by inserting "(A)" after "(e)(1)", and

(2) by adding at the end the following new subparagraph:

"(B) Notwithstanding the provisions of subsection (a), the monthly premium for each individual enrolled under this part for each month in—

"(i) 1991 shall be $32.40,

"(ii) 1992 shall be $36.00,

"(iii) 1993 shall be $40.50,

"(iv) 1994 shall be $44.00, and

"(v) 1995 shall be $46.50.".

SEC. 12302. PART B DEDUCTIBLE.

Section 1833(b) of the Social Security Act (42 U.S.C. 1395l) is amended by inserting after "$75" the following: "for calendar years before 1991, $100 for 1991, and $125 for years after 1991".

Subtitle E—User Fees

SEC. 12401. 4-YEAR EXTENSION OF CUSTOMS USER FEES.

Paragraph (3) of section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1991" and inserting "1995".

SEC. 12402. 5-YEAR EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

Subsection (c) of section 10511 of the Revenue Act of 1987 (relating to fees for requests for ruling, determination, and similar letters) is amended by adding at the end thereof the following new sentence: "Subsection (a) shall also apply with respect to requests made after September 30, 1990, and before October 1, 1995".

SEC. 12403. INCREASE IN PBGC PREMIUM RATES.

(a) INCREASE IN BASIC PREMIUM.—

(1) IN GENERAL.—Clause (i) of section 4006(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended by striking "for plan years beginning after December 31, 1987, an amount equal to the sum of $16" and inserting "for plan years beginning after December 31, 1990, an amount equal to the sum of $19".

(2) CONFORMING AMENDMENT.—Section 4006(c)(1)(A) of such Act (29 U.S.C. 1306(c)(1)(A)) is amended by adding at the end thereof the following new clause:

"(iv) with respect to each plan year beginning after December 31, 1987, and before January 1, 1991, an amount equal to $16 for each individual who was a participant in such plan during the plan year, and".

(b) INCREASE IN ADDITIONAL PREMIUM.—Section 4006(a)(3)(E) of such Act (29 U.S.C. 1306(a)(3)(E)) is amended—

(1) by striking "$6.00" in clause (ii) and inserting "$9.00", and

(2) by striking "$34" in clause (iv)(I) and inserting "$53".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1990.

SEC. 12404. RECOVERY OF OASDI OVERPAYMENTS BY MEANS OF REDUCTION IN TAX REFUNDS.

(a) ADDITIONAL METHOD OF RECOVERY.—Section 204(a)(1)(A) of the Social Security Act (42 U.S.C. 404(a)(1)(A)) is amended by inserting after "payments to such overpaid person," the following: "or shall obtain recovery by means of reduction in tax refunds based on notice to the Secretary of the Treasury as permitted under section 3720A of title 31, United States Code,".

(b) RECOVERY BY MEANS OF REDUCTION IN TAX REFUNDS.—Section 3720A of title 31, United States Code (relating to collection of debts owed to Federal agencies) is amended—

(1) in subsection (a), by striking "OASDI overpayment and";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting the following new subsection after subsection (e):

"(f)(1) Subsection (a) shall apply with respect to an OASDI overpayment made to any individual only if such individual is not currently entitled to monthly insurance benefits under title II of the Social Security Act.

"(2)(A) The requirements of subsection (b) shall not be treated as met in the case of the recovery of an OASDI overpayment from any individual under this section unless the notification under subsection (b)(1) describes the conditions under which the Secretary of Health and Human Services is required to waive recovery of an overpayment, as provided under section 204(b) of the Social Security Act.

"(B) In any case in which an individual files for a waiver under section 204(b) within the 60-day period referred to in subsection (b)(2), the Secretary of Health and Human Services shall not certify to the Secretary of the Treasury that the debt is valid under subsection (b)(4) before rendering a decision on the waiver request under section 204(b).

"(3) In lieu of payment, pursuant to subsection (c), to the Secretary of Health and Human Services of the amount of any reduction under this subsection based on an OASDI overpayment, the Secretary of the Treasury shall deposit such amount in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever is certified to the Secretary of the Treasury as appropriate by the Secretary of Health and Human Services.".

(c) INTERNAL REVENUE CODE PROVISIONS.—

(1) IN GENERAL.—Subsection (d) of section 6402 of the Internal Revenue Code of 1986 (relating to collection of debts owed to Federal agencies) is amended—

(A) in paragraph (1), by striking "any OASDI overpayment and"; and

(B) by striking paragraph (3) and inserting the following new paragraph:

"(3) TREATMENT OF OASDI OVERPAYMENTS.—

"(A) REQUIREMENTS.—Paragraph (1) shall apply with respect to an OASDI overpayment only if the requirements of paragraphs (1) and (2) of section 3720A(f) of title 31, United States Code, are met with respect to such overpayment.

"(B) NOTICE; PROTECTION OF OTHER PERSONS FILING JOINT RETURN.—

"(i) NOTICE.—In the case of a debt consisting of an OASDI overpayment, if the Secretary determines upon receipt of the notice

referred to in paragraph (1) that the refund from which the reduction described in paragraph (1)(A) would be made is based upon a joint return, the Secretary shall—

"(I) notify each taxpayer filing such joint return that the reduction is being made from a refund based upon such return, and

"(II) include in such notification a description of the procedures to be followed, in the case of a joint return, to protect the share of the refund which may be payable to another person.

"(ii) ADJUSTMENTS BASED ON PROTECTIONS GIVEN TO OTHER TAXPAYERS ON JOINT RETURN.—If the other person filing a joint return with the person owing the OASDI overpayment takes appropriate action to secure his or her proper share of the refund subject to reduction under this subsection, the Secretary shall pay such share to such other person. The Secretary shall deduct the amount of such payment from amounts which are derived from subsequent reductions in refunds under this subsection and are payable to a trust fund referred to in subparagraph (C).

"(C) DEPOSIT OF AMOUNT OF REDUCTION INTO APPROPRIATE TRUST FUND.—In lieu of payment, pursuant to paragraph (1)(B), of the amount of any reduction under this subsection to the Secretary of Health and Human Services, the Secretary shall deposit such amount in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever is certified to the Secretary as appropriate by the Secretary of Health and Human Services.

"(D) OASDI OVERPAYMENT.—For purposes of this paragraph, the term 'OASDI overpayment' means any overpayment of benefits made to an individual under title II of the Social Security Act.".

(2) PRESERVATION OF REMEDIES.—Subsection (e) of section 6402 of such Code (relating to review of reductions) is amended in the last sentence by inserting before the period the following: "or any such action against the Secretary of Health and Human Services which is otherwise available with respect to recoveries of overpayments of benefits under section 204 of the Social Security Act".

(d) EFFECTIVE DATE.—The amendments made by this section—

(1) shall take effect January 1, 1991, and

(2) shall not apply to refunds to which the amendments made by section 2653 of the Deficit Reduction Act of 1984 (98 Stat. 1153) do not apply.

Subtitle F—Government-Sponsored Enterprises

SEC. 12501. FINANCIAL SAFETY AND SOUNDNESS OF GOVERNMENT-SPONSORED ENTERPRISES AND GOVERNMENT CORPORATIONS.

(a) IN GENERAL.—Chapter 31 of title 31, United States Code (relating to the public debt), is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—FINANCIAL SAFETY AND SOUNDNESS OF GOVERNMENT-SPONSORED ENTERPRISES AND GOVERNMENT CORPORATIONS

"§ 3141. Annual study of relationship between public debt and activities of Government-sponsored enterprises

"(a) ANNUAL STUDY.—

"(1) GENERAL REQUIREMENT.—In order to better manage the bonded indebtedness of the United States, the Secretary shall annually conduct a study to assess the financial safety and soundness of the activities of all Government-sponsored enterprises and the impact of their operations on Federal borrowing. Each such study shall include an analysis of—

"(A) the financial safety and soundness of the activities of each Government-sponsored enterprise; and

"(B) the risk of financial exposure to the Federal Government posed by each Government-sponsored enterprise.

"(2) ASSESSMENT OF RISK.—For purposes of paragraph (1)(B), the Secretary shall (to the extent practicable) quantify the risks associated with each Government-sponsored enterprise. In quantifying such risks, the Secretary shall (to the extent practicable) determine the volume and type of securities outstanding which are issued or guaranteed by each Government-sponsored enterprise, the capitalization of each Government-sponsored enterprise, and the degree of risk involved in the operations of each Government-sponsored enterprise due to factors such as credit risk, interest rate risk, management and operations risk, and business risk. The Secretary shall also report on the quality and timeliness of information currently available to the public and the Federal Government concerning the extent and nature of the activities of Government-sponsored enterprises and the financial risk associated with such activities.

"(b) ACCESS TO RELEVANT INFORMATION.—

"(1) INFORMATION FROM GSE'S.—Each Government-sponsored enterprise shall provide full and prompt access to the Secretary to its books and records, and shall promptly provide any other information requested by the Secretary.

"(2) INFORMATION FROM SUPERVISORY AGENCIES.—In conducting the studies under this section, the Secretary may request information from, or the assistance of, any Federal department or agency authorized by law to supervise the activities of any Government-sponsored enterprise.

"(3) CONFIDENTIALITY OF INFORMATION.—

"(A) IN GENERAL.—The Secretary shall determine and maintain the confidentiality of any book, record, or information made available under this subsection in a manner generally consistent with the level of confidentiality established for the material by the Government-sponsored enterprise involved.

"(B) EXEMPTION FROM PUBLIC DISCLOSURE REQUIREMENTS.—The Department of the Treasury shall be exempt from section 552 of title 5 with respect to any book, record, or information made available under this subsection and determined by the Secretary to be confidential under subparagraph (A). Such exemption shall continue to apply to any such book, record, or information provided to a nationally recognized rating organization or another Federal agency pursuant to subsection (c).

"(C) PENALTY FOR UNAUTHORIZED DISCLOSURE.—Any officer or employee of the Department of the Treasury shall be subject to the penalties set forth in section 1906 of title 18, if—

"(i) by virtue of official position or employment, such officer or employee has possession of or access to any book, record, or information made available under this subsection and determined by the Secretary to be confidential under subparagraph (A); and

"(ii) such officer or employee discloses the material in any manner other than—

"(I) to an officer or employee of the Department of the Treasury; or

"(II) pursuant to the exceptions set forth in such section 1906.

"(c) OTHER INFORMATION REGARDING GSE's.—

"(1) IN GENERAL.—The Secretary may provide any information made available to the Secretary under this section to any nationally recognized statistical rating organization and any Federal agency, in order to facilitate the preparation of any study or report by the Secretary under this section.

"(2) CONFIDENTIALITY.—If any information determined by the Secretary to be confidential under subsection (b)(3)(A) is provided to an organization or agency under this subsection, such organization or agency (and its officers and employees) shall be subject to the penalties set forth in subsection (b)(3)(C) for unauthorized disclosure of such information.

"(d) REPORTS TO CONGRESS.—The Secretary shall submit to the Congress, by March 15 of 1991 and each succeeding year, a report setting forth the results of the most recent annual study conducted under this section.

"(e) DEFINITIONS.—For purposes of this section—

"(1) GOVERNMENT-SPONSORED ENTERPRISE.—The term 'Government-sponsored enterprise' means—

"(A) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Bank System, the Farm Credit Banks, the Banks for Cooperatives, the Federal Agricultural Mortgage Corporation, the Student Loan Marketing Association, the College Construction Loan Insurance Association, and any of their affiliated or member institutions; and

"(B) any other Government-sponsored enterprise, as designated by the Secretary.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury (or the delegate of the Secretary).

"§ 3142. Limitation on obligations of certain newly established Federal entities

"(a) IN GENERAL.—Notwithstanding any other provision of law, on or after October 10, 1990, any specified Federal entity—

"(1) may not borrow any amount from the Treasury (including the Federal Financing Bank), except in amounts specifically authorized in law; and

"(2) except as permitted in paragraph (1), may not—

"(A) issue any obligation or otherwise borrow any amount;

"(B) guarantee any obligation; or

"(C) incur any direct or contingent liability to pay any amount with respect to an obligation.

"(b) SPECIFIED FEDERAL ENTITY.—For purposes of this section, the term 'specified Federal entity' means any corporation owned in whole or part by the Federal Government, or any privately owned Government-sponsored entity, which is established pursuant to any law enacted on or after October 10, 1990.

"(c) EXCEPTION.—Subsection (a) shall not apply to any authority approved in advance in appropriation Acts."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 31 of title 31, United States Code, is amended by adding at the end the following new items:

"SUBCHAPTER III—FINANCIAL SAFETY AND SOUNDNESS OF GOVERNMENT-SPONSORED ENTERPRISES AND GOVERNMENT CORPORATIONS

"3141. Annual study of relationship between public debt and activities of Government-sponsored enterprises.

"3142. Limitation on obligations of certain newly established Federal entities."

SEC. 12502. CONGRESSIONAL BUDGET OFFICE STUDY.

(a) IN GENERAL.—The Director of the Congressional Budget Office shall prepare a report setting forth—

(1) the perspective of the Director on the types of risks that each Government-sponsored enterprise assumes, ways in which the Congress can improve its understanding of such risks, and the risks to the Federal budget posed by Government-sponsored enterprises,

(2) an evaluation of the adequacy of the current supervision and regulation of Government-sponsored enterprises with respect to risk management, and

(3) proposed alternative models for oversight of Government-sponsored enterprises, with particular emphasis on the costs and benefits of each alternative to the Federal Government and to the beneficiaries of the activities of the Government-sponsored enterprises.

(b) DEADLINE.—The report required by subsection (a) shall be submitted to the Congress not later than March 15, 1991.

(c) DEFINITION.—For purposes of this section, the term "Government-sponsored enterprise" has the meaning given such term by section 3141 of title 31, United States Code.

Subtitle G—Public Debt Limit

SEC. 12601. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking the dollar limitation contained in such subsection and inserting "$4,500,000,000,000 ($5,000,000,000,000 after September 30, 1993)".

TITLE XIII—COMMITTEE ON WAYS AND MEANS: REVENUE PROVISIONS

SEC. 13001. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Revenue Reconciliation Act of 1990".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

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Sec. 13351. Overall limitation on itemized deductions.

Sec. 13352. Disallowance of deduction for interest on unpaid corporate taxes.

Subtitle A—Increase in Earned Income Tax Credit

SEC. 13101. INCREASE IN EARNED INCOME TAX CREDIT.

(a) GENERAL RULE.—Section 32 (relating to earned income tax credit) is amended—

(1) by striking "14 percent" in subsection (a) and inserting "16.5 percent", and

(2) by striking "10 percent" in subsection (b)(2) and inserting "12 percent".

(b) CONFORMING AMENDMENT.—Subparagraphs (B)(i) and (C)(i) of section 3507(c)(2) are each amended by striking "14 percent" and inserting "16.5 percent".

(c) EFFECTIVE DATE.—The amendments by this section shall apply to taxable years beginning after December 31, 1990.

Subtitle B—Excise Taxes

PART I—TAXES RELATED TO HEALTH AND THE ENVIRONMENT

SEC. 13201. INCREASE IN EXCISE TAXES ON DISTILLED SPIRITS, WINE, AND BEER.

(a) DISTILLED SPIRITS.—

(1) IN GENERAL.—Paragraphs (1) and (3) of section 5001(a) (relating to rate of tax on distilled spirits) are each amended by striking "$12.50" and inserting "$14".

(2) TECHNICAL AMENDMENT.—Paragraphs (1) and (2) of section 5010(a) (relating to credit for wine content and for flavors content) are each amended by striking "$12.50" and inserting "$14".

(b) WINE.—

(1) TAX INCREASES.—

(A) WINES CONTAINING NOT MORE THAN 14 PERCENT ALCOHOL.—Paragraph (1) of section 5041(b) (relating to rates of tax on wines) is amended by striking "17 cents" and inserting "$1.27".

(B) WINES CONTAINING MORE THAN 14 (BUT NOT MORE THAN 21) PERCENT ALCOHOL.—Paragraph (2) of section 5041(b) is amended by striking "67 cents" and inserting "$1.77".

(C) WINES CONTAINING MORE THAN 21 (BUT NOT MORE THAN 24) PERCENT ALCOHOL.—Paragraph (3) of section 5041(b) is amended by striking "$2.25" and inserting "$3.35".

(D) ARTIFICIALLY CARBONATED WINES.—Paragraph (5) of section 5041(b) is amended by striking "$2.40" and inserting "$3.50".

(2) REDUCED RATES FOR SMALL DOMESTIC PRODUCERS.—Section 5041 is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c) REDUCED RATES FOR SMALL DOMESTIC PRODUCERS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, in the case of a person who produces not more than 200,000 wine gallons of wine during the calendar year, the per wine gallon rates of the taxes imposed by this section shall be the following amounts on the 1st 100,000 wine gallons of wine (other than wine described in subsection (b)(4)) which are removed during such year for consumption or sale and which have been produced at qualified facilities in the United States:

"(A) 17 cents in the case of wines described in subsection (b)(1).

"(B) 67 cents in the case of wines described in subsection (b)(2).

"(C) $2.25 in the case of wines described in subsection (b)(3).

"(D) $3.40 in the case of wines described in subsection (b)(4).

"(E) $2.40 in the case of wines described in subsection (b)(5).

"(2) CONTROLLED GROUPS.—Rules similar to rules of section 5051(a)(2)(B) shall apply for purposes of this subsection.

"(3) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to prevent the reduced rates provided in this subsection from benefiting any person who produces more than 200,000 wine gallons of wine during a calendar year."

(3) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 5041 is amended by striking "shown in subsection (b)" and inserting "applicable under subsection (b) or (c)".

(B) Paragraph (3) of section 5061(b) is amended to read as follows:

"(3) section 5041(e),".

(c) BEER.—

(1) IN GENERAL.—Paragraph (1) of section 5051(a) (relating to imposition and rate of tax on beer) is amended by striking "$9" and inserting "$18".

(2) CHANGES IN REDUCED RATE FOR SMALL BREWERS.—Paragraph (2) of section 5051(a) is amended—

(A) by striking "60,000" each place it appears and inserting "30,000", and

(B) by striking "2,000,000" each place it appears and inserting "60,000".

(3) REGULATIONS.—Paragraph (2) of section 5051(a) is amended by adding at the end thereof the following new subparagraph:

"(C) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to prevent the reduced rates provided in this paragraph from benefiting any person who produces more than 60,000 barrels of beer during a calendar year."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

(e) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—

(A) IN GENERAL.—In the case of any tax-increased article—

(i) on which tax was determined under part I of subchapter A of chapter 51 of the Internal Revenue Code of 1986 or section 7652 of such Code before January 1, 1991, and

(ii) which is held on such date for sale by any person,

there shall be imposed a tax at the applicable rate on each such article.

(B) APPLICABLE RATE.—For purposes of subparagraph (A), the applicable rate is—

(i) $1.50 per proof gallon in the case of distilled spirits,

(ii) $1.10 per wine gallon in the case of wine described in paragraph (1), (2), (3), or (5) of section 5041(b) of such Code, and

(iii) $9 per barrel in the case of beer.

In the case of a fraction of a gallon or barrel, the tax imposed by subparagraph (A) shall be the same fraction as the amount of such tax imposed on a whole gallon or barrel.

(C) TAX-INCREASED ARTICLE.—For purposes of this subsection, the term "tax-increased article" means distilled spirits, wine described in paragraph (1), (2), (3), or (5) of section 5041(b) of such Code, and beer.

(2) EXCEPTION FOR SMALL DOMESTIC PRODUCERS.—In the case of wine held by the producer thereof on January 1, 1991, the tax imposed by paragraph (1) shall not apply to such wine if the rate of tax under section 5041 of such Code on such wine would have been determined under subsection (c) thereof (as added by this section) had the amendments made by subsection (b) applied to all wine removed during 1990. A similar rule shall apply to beer held by the producer thereof. For purposes of this paragraph, an article shall not be treated as held by the producer if title thereto had at any time been transferred to any other person.

(3) EXCEPTION FOR CERTAIN SMALL WHOLESALE OR RETAIL DEALERS.—No tax shall be imposed by paragraph (1) on tax-increased articles held on January 1, 1991, by any dealer if—

(A) the aggregate liquid volume of tax-increased articles held by such dealer on such date does not exceed 500 wine gallons, and

(B) such dealer submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(4) CREDIT AGAINST TAX.—Each dealer shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to—

(A) $360 to the extent such taxes are attributable to distilled spirits,

(B) $330 to the extent such taxes are attributable to wine, and

(C) $87 to the extent such taxes are attributable to beer.

Such credit shall not exceed the amount of taxes imposed by paragraph (1) with respect to distilled spirits, wine, or beer, as the case may be, for which the dealer is liable.

(5) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding any tax-increased article on January 1, 1991, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before June 30, 1991.

(6) CONTROLLED GROUPS.—

(A) CORPORATIONS.—In the case of a controlled group—

(i) the 500 wine gallon amount specified in paragraph (3), and

(ii) the $360, $330, and $87 amounts specified in paragraph (4),

shall be apportioned among the dealers who are component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(B) NONINCORPORATED DEALERS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of dealers under common control where 1 or more of such dealers is not a corporation.

(7) OTHER LAWS APPLICABLE.—

(A) IN GENERAL.—All provisions of law, including penalties, applicable to the comparable excise tax with respect to any tax-increased article shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by the comparable excise tax.

(B) COMPARABLE EXCISE TAX.—For purposes of subparagraph (A), the term "comparable excise tax" means—

(i) the tax imposed by section 5001 of such Code in the case of distilled spirits,

(ii) the tax imposed by section 5041 of such Code in the case of wine, and

(iii) the tax imposed by section 5051 of such Code in the case of beer.

(8) DEFINITIONS.—For purposes of this subsection—

(A) IN GENERAL.—Terms used in this subsection which are also used in subchapter A of chapter 51 of such Code shall have the respective meanings such terms have in such part.

(B) PERSON.—The term "person" includes any State or political subdivision thereof, or any agency or instrumentality of a State or political subdivision thereof.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(9) TREATMENT OF IMPORTED PERFUMES CONTAINING DISTILLED SPIRITS.—For purposes of this subsection, any article described in section 5001(a)(3) of such Code shall be treated as distilled spirits; except that the tax imposed by paragraph (1) shall be imposed on a wine gallon basis in lieu of a proof gallon basis. To the extent provided by regulations prescribed by the Secretary, the preceding sentence shall not apply to any article held on January 1, 1991, on the premises of a retail establishment.

SEC. 13202. INCREASE IN EXCISE TAXES ON TOBACCO PRODUCTS.

(a) CIGARS.—Subsection (a) of section 5701 is amended—

(1) by striking "75 cents per thousand" in paragraph (1) and inserting "$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)", and

(2) by striking "equal to" and all that follows in paragraph (2) and inserting "equal to—

"(A) 10.625 percent of the wholesale price but not more than $25 per thousand on cigars removed during 1991 or 1992, and

"(B) 12.75 percent of the wholesale price but not more than $30 per thousand on cigars removed after 1992."

(b) CIGARETTES.—Subsection (b) of section 5701 is amended—

(1) by striking "$8 per thousand" in paragraph (1) and inserting "$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)", and

(2) by striking "$16.80 per thousand" in paragraph (2) and inserting "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)".

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 is amended by striking "1/2 cent" and inserting "0.75 cent (0.625 cent on

cigarette papers removed during 1991 or 1992)".

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 is amended by striking "1 cent" and inserting "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)".

(e) SMOKELESS TOBACCO.—Subsection (e) of section 5701 is amended—

(1) by striking "24 cents" in paragraph (1) and inserting "36 cents (30 cents on snuff removed during 1991 or 1992)", and

(2) by striking "8 cents" in paragraph (2) and inserting "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)".

(f) PIPE TOBACCO.—Subsection (f) of section 5701 is amended by striking "45 cents" and inserting "67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles removed after December 31, 1990.

(h) FLOOR STOCKS TAXES ON CIGARETTES.—

(1) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before any tax-increase date and held on such date for sale by any person, there shall be imposed the following taxes:

(A) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, $2 per thousand.

(B) LARGE CIGARETTES.—On cigarettes weighing more than 3 pounds per thousand, $4.20 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(2) EXCEPTION FOR CERTAIN AMOUNTS OF CIGARETTES.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on cigarettes held on any tax-increase date by any person if—

(i) the aggregate number of cigarettes held by such person on such date does not exceed 30,000, and

(ii) such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this subparagraph.

For purposes of this subparagraph, in the case of cigarettes measuring more than 6½ inches in length, each 2¾ inches (or fraction thereof) of the length of each shall be counted as one cigarette.

(B) AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES.—To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph (1) on cigarettes held for retail sale on any tax-increase date by any person in any vending machine. If the Secretary so provides with respect to any person, the Secretary may reduce the 30,000 amount in subparagraph (A) and the $60 amount in paragraph (3) with respect to such person.

(3) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to $60. Such credit shall not exceed the amount of taxes imposed by paragraph (1) for which such person is liable.

(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigarettes on any tax-increase date to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the 1st June 30 following the tax-increase date.

(5) DEFINITIONS.—For purposes of this subsection—

(A) TAX-INCREASE DATE.—The term "tax-increase date" means January 1, 1991, and January 1, 1993.

(B) OTHER DEFINITIONS.—Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the respective meanings such terms have in such section.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(6) CONTROLLED GROUPS.—Rules similar to the rules of section 13201(e)(6) shall apply for purposes of this subsection.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701.

SEC. 13203. ADDITIONAL CHEMICALS SUBJECT TO TAX ON OZONE-DEPLETING CHEMICALS.

(a) GENERAL RULE.—

(1) The table set forth in section 4682(a)(2) (defining ozone-depleting chemical) is amended by adding at the end thereof the following new items:

"Carbon tetrachloride	
Methyl chloroform	1,1,1-trichloroethane
CFC-13	CF_3Cl
CFC-111	C_2FCl_5
CFC-112	$C_2F_2Cl_4$
CFC-211	C_3FCl_7
CFC-212	$C_3F_2Cl_6$
CFC-213	$C_3F_3Cl_5$
CFC-214	$C_3F_4Cl_4$
CFC-215	$C_3F_5Cl_3$
CFC-216	$C_3F_6Cl_2$
CFC-217	C_3F_7Cl."

(2) The table set forth in section 4682(b) is amended by adding at the end thereof the following new items:

"Carbon tetrachloride	1.1
Methyl chloroform	0.1
CFC-13	1.0
CFC-111	1.0
CFC-112	1.0
CFC-211	1.0
CFC-212	1.0
CFC-213	1.0
CFC-214	1.0
CFC-215	1.0
CFC-216	1.0
CFC-217	1.0."

(b) SEPARATE APPLICATION OF EXPORT CREDIT LIMIT FOR NEWLY LISTED CHEMICALS.—Paragraph (3) of section 4682(d) is amended by adding at the end thereof the following new subparagraph:

"(C) SEPARATE APPLICATION OF LIMIT FOR NEWLY LISTED CHEMICALS.—

"(i) IN GENERAL.—Subparagraph (B) shall be applied separately with respect to newly listed chemicals and other chemicals.

"(ii) APPLICATION TO NEWLY LISTED CHEMICALS.—In applying subparagraph (B) to newly listed chemicals—

"(I) subparagraph (B) shall be applied by substituting '1989' for '1986' each place it appears, and

"(II) clause (i)(II) thereof shall be applied by substituting for the regulations referred to therein any regulations (whether or not prescribed by the Secretary) which the Secretary determines are comparable to the regulations referred to in such clause with respect to newly listed chemicals.

"(iii) NEWLY LISTED CHEMICAL.—For purposes of this subparagraph, the term 'newly listed chemical' means any substance which appears in the table contained in subsection (a)(2) below Halon-2402."

(c) SEPARATE BASE TAX AMOUNT FOR NEWLY LISTED CHEMICALS.—Subparagraphs (B) and (C) of section 4681(b)(1) are amended to read as follows:

"(B) BASE TAX AMOUNT.—

"(i) INITIALLY LISTED CHEMICALS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1995 with respect to any ozone-depleting chemical other than a newly listed chemical (as defined in section 4682(d)(3)(C)) is the amount determined under the following table for such calendar year:

"Calendar Year	Base Tax Amount
1990 or 1991	$1.37
1992	1.67
1993 or 1994	2.65.

"(ii) NEWLY LISTED CHEMICALS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1996 with respect to any ozone-depleting chemical which is a newly listed chemical (as so defined) is the amount determined under the following table for such calendar year:

"Calendar Year	Base Tax Amount
1991 or 1992	$1.37
1993	1.67
1994	3.00
1995	3.10.

"(C) BASE TAX AMOUNT FOR LATER YEARS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use of an ozone-depleting chemical during a calendar year after the last year specified in the table under subparagraph (B) applicable to such chemical shall be the base tax amount for such last year increased by 45 cents for each year after such last year."

(d) OTHER AMENDMENTS.—

(1) The last sentence of section 4682(c)(2) is amended by inserting "(other than methyl chloroform)" after "ozone-depleting chemical".

(2) Paragraph (3) of section 4682(h) is amended by striking "April 1" and inserting "June 30".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and uses after December 31, 1990.

(f) DEPOSITS FOR 1ST QUARTER OF 1991.—No deposit of any tax imposed by subchapter D of chapter 38 of the Internal Revenue Code of 1986 on any substance treated as an ozone-depleting chemical by reason of the amendment made by subsection (a)(1) shall be required to be made before April 1, 1991.

PART II—USER-RELATED TAXES

SEC. 13211. INCREASE AND EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUND.

(a) INCREASE IN TAX ON GASOLINE.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) (relating to rate of tax) is amended—

(A) by striking "and" at the end of clause (i),

(B) by striking the period at the end of clause (ii) and inserting ", and", and

(C) by adding at the end thereof the following new clause:

"(iii) the deficit reduction rate."

(2) RATES OF TAX.—Subparagraph (B) of section 4081(a)(2) is amended—

(A) by striking "9 cents a gallon, and" and inserting "14.5 cents a gallon,",

(B) by striking the period at the end of clause (ii) and inserting ", and", and

(C) by adding at the end thereof the following new clause:

"(iii) the deficit reduction rate is 5.5 cents a gallon."

(3) TERMINATIONS.—

(A) Paragraph (1) of section 4081(d) is amended by striking "shall not apply" and inserting "shall be 1 cent per gallon".

(B) Subsection (d) of section 4081 is amended by adding at the end thereof the following new paragraph:

"(3) DEFICIT REDUCTION RATE—On and after October 1, 1995, the deficit reduction rate under subsection (a)(2) shall be 1 cent per gallon."

(4) 17-CENT LIMIT ON TAX ON GASOLINE USED IN NONCOMMERCIAL AVIATION.—

(A) RATES OF TAX AFTER NOVEMBER 30, 1990, AND BEFORE JULY 1, 1991.—

(i) Paragraph (3) of section 4041(c) is amended by striking "12 cents" and inserting "17 cents (15 cents in the case of sales and uses during December 1990)".

(ii) The amendment made by clause (i) shall take effect on December 1, 1990.

(B) REPEAL OF TAX AFTER JUNE 30, 1991.—

(i) Subsection (c) of section 4041 is amended by striking paragraphs (2) and (3) and by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

(ii) Paragraph (3) of section 4041(c), as redesignated by clause (i) is amended by striking "paragraphs (1) and (2)" and inserting "paragraph (1)".

(iii) Section 6427 is amended by striking subsections (m) and (o) and by redesignating subsections (n), (p), (q), and (r) as subsections (m), (n), (o), and (p), respectively.

(iv) Subsection (o) of section 6427 (as redesignated by clause (iii)) is amended to read as follows:

"(o) GASOLINE USED IN NONCOMMERCIAL AVIATION.—Except as provided in subsection (k), if gasoline is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(2)), the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the excess of the aggregate amount of tax paid under section 4081 on the gasoline so used over an amount equal to 17.1 cents multiplied by the number of gallons of gasoline so used."

(v) Paragraph (1) of section 6427(i) is amended by striking "or (q)" and inserting "or (o)".

(vi) Clause (i) of section 6427(i)(2)(A) is amended by striking "and (q)" and inserting "and (o)".

(vii) Paragraph (2) of section 6421(f) is amended by striking "section 4041(c)(4)" and inserting "section 4041(c)(2)".

(viii) The amendments made by this subparagraph shall take effect on July 1, 1991.

(5) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4081(c) is amended—

(i) by striking "applied by" and all that follows through "in the case" and inserting "applied by substituting rates which are 1/9th of the otherwise applicable rates in the case", and

(ii) by adding at the end thereof the following: "For purposes of this subsection, in the case of the Highway Trust Fund financing rate, the otherwise applicable rate is 8.5 cents a gallon."

(B) Paragraph (2) of section 4081(c) is amended by striking "at a rate equivalent to 3 cents" and inserting "at a Highway Trust Fund financing rate equivalent to 8.5 cents".

(C) Subparagraph (B) of section 9503(b)(4) is amended by striking "4081" and inserting "4041, 4081,".

(D) Subparagraph (A) of section 9503(c)(2) is amended by adding at the end thereof the following new sentence:

"The amounts payable from the Highway Trust Fund under this subparagraph shall be determined by taking into account only the Highway Trust Fund financing rate applicable to any fuel."

(6) RATES OF TAX FOR GASOLINE AFTER NOVEMBER 30, 1990, AND BEFORE JULY 1, 1991.—Section 4081 is amended by adding at the end thereof the following new subsection:

"(e) RATES OF TAX FOR GASOLINE AFTER NOVEMBER 30, 1990, AND BEFORE JULY 1, 1991.—

"(1) HIGHWAY TRUST FUND FINANCING RATES.—

"(A) In the case of gasoline on which tax is imposed during December 1990—

"(i) subsection (a)(2)(B)(i) shall be applied by substituting '11.5 cents' for '14.5 cents', and

"(ii) subsection (c) shall be applied by substituting '5.5 cents' for '8.5 cents' each place it appears.

"(B) In the case of gasoline on which tax is imposed after December 31, 1990, and before July 1, 1991—

"(i) subsection (a)(2)(B)(i) shall be applied by substituting '12.5 cents' for '14.5 cents', and

"(ii) subsection (c) shall be applied by substituting '6.5 cents' for '8.5 cents' each place it appears.

"(2) DEFICIT REDUCTION RATE.—

"(A) In the case of gasoline on which tax is imposed during December 1990, subsection (a)(2)(B)(iii) shall be applied by substituting '2.5 cents' for '5.5 cents'.

"(B) In the case of gasoline on which tax is imposed after December 31, 1990, and before July 1, 1991, subsection (a)(2)(B)(iii) shall be applied by substituting '3.5 cents' for '5.5 cents'."

(7) EFFECTIVE DATE.—Except as otherwise provided in this subsection, the amendments made by this subsection shall apply to gasoline removed (as defined in section 4082 of the Internal Revenue Code of 1986) after November 30, 1990.

(b) INCREASE IN OTHER TAXES.—

(1) DEFICIT REDUCTION RATE.—

(A) Clause (i) of section 4091(b)(1)(A) is amended by inserting "and the diesel fuel deficit reduction rate" after "financing rate".

(B) Subsection (b) of section 4091 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) DIESEL FUEL DEFICIT REDUCTION RATE.—For purposes of paragraph (1), the diesel fuel deficit reduction rate is 5.5 cents per gallon."

(C) Paragraph (6) of section 4091(b), as redesignated by subparagraph (A), is amended—

(i) by striking "shall not apply" in subparagraph (A) and inserting "shall be 1 cent per gallon", and

(ii) by adding at the end thereof the following new subparagraph:

"(D) The diesel fuel deficit reduction rate shall be 1 cent per gallon on and after October 1, 1995."

(2) INCREASE IN HIGHWAY TRUST FUND FINANCING RATE.—Paragraph (2) of section 4091(b) is amended by striking "15 cents" and inserting "20.5 cents".

(3) INCREASE IN TAX ON SPECIAL MOTOR FUELS.—Paragraph (2) of section 4041(a) is amended by striking "of 9 cents a gallon" and by inserting at the end thereof the following new sentence:

"The rate of the tax imposed by this paragraph shall be the sum of the Highway Trust Fund financing rate and the deficit reduction rate in effect under section 4081 at the time of such sale or use."

(4) 11-CENT TAX TO APPLY TO FUEL USED IN TRAINS.—

(A) Paragraph (2) of section 4093(c) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) 11-CENT TAX ON FUEL USED IN TRAINS.—In the case of fuel sold for use in a diesel-powered train, paragraph (1) shall apply only to the excess of the tax imposed by section 4091 over 11 cents per gallon."

(B) Subsection (l) of section 6427 is amended by adding at the end thereof the following new paragraph:

"(4) 11-CENT TAX ON FUEL USED IN TRAINS.—In the case of fuel used in a diesel-powered train, paragraph (1) shall apply only to the excess of the tax imposed by section 4091 over 11 cents per gallon."

(C) Paragraph (4) of section 9503(b) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end thereof the following new subparagraph:

"(C) there shall not be taken into account the taxes imposed by section 4091 on any diesel fuel used in a diesel-powered train."

(5) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4091(c) is amended—

(i) by striking "9 cents" and inserting "14.5 cents" and by striking "10 cents" and inserting "16.11 cents", and

(ii) by striking "1/9 cent per gallon" and inserting "and the diesel fuel deficit reduction rate shall be 1/9th of the otherwise applicable such rates".

(B) Paragraph (2) of section 4091(c) is amended by striking "9 cents" and inserting "14.5 cents".

(C)(i) Paragraph (1) of section 4041(a) is amended by striking "of 15 cents a gallon" and by inserting before the last sentence the following new sentence:

"The rate of the tax imposed by this paragraph shall be the sum of the Highway Trust Fund financing rate and the diesel fuel deficit reduction rate in effect under section 4091 at the time of such sale or use."

(ii) Subsection (a) of section 4041 is amended by striking paragraph (3).

(D) Clause (i) of section 4041(b)(2)(A) is amended by to read as follows:

"(i) the Highway Trust Fund financing rate applicable under subsection (a)(2) shall be 6 cents per gallon less than the otherwise applicable rate, and".

(E) Paragraph (1) of section 4041(k) is amended—

(i) by striking subparagraphs (A) and (B) and inserting the following new subparagraph:

"(A) the Highway Trust Fund financing rates under paragraphs (1) and (2) of subsection (a) shall be 6 cents per gallon less than the otherwise applicable rates, and", and

(ii) by redesignating subparagraph (C) as subparagraph (B).

(F) Subparagraph (A) of section 4041(m)(1) is amended to read as follows:

"(A) the Highway Trust Fund financing rate applicable under subsection (a)(2) shall be 4.5 cents per gallon less than the otherwise applicable rate, and".

(G) Subsection (d) of section 9502 is amended by adding at the end thereof the following new paragraph:

"(4) TRANSFERS FOR REFUNDS AND CREDITS NOT TO EXCEED TRUST FUND REVENUES ATTRIBUTABLE TO FUEL USED.—The amounts payable from the Airport and Airway Trust Fund under paragraph (2) or (3) shall not exceed the amounts required to be appropriated to such Trust Fund with respect to fuel so used."

(H) Subparagraph (D) of section 9503(c)(4) is amended by striking "(to the extent attributable to the Highway Trust Fund financing rate)" and by inserting before the period ", but only to the extent such taxes are attributable to the Highway Trust Fund financing rates under such sections".

(6) RATES OF TAX FOR DIESEL FUEL AFTER NOVEMBER 30, 1990, AND BEFORE JULY 1, 1991.—Section 4091 is amended by adding at the end thereof the following new subsection:

"(e) RATES OF TAX FOR DIESEL FUEL AFTER NOVEMBER 30, 1990, AND BEFORE JULY 1, 1991.—

"(1) HIGHWAY TRUST FUND FINANCING RATES.—

"(A) In the case of diesel fuel on which tax is imposed during December 1990—

"(i) subsection (b)(2) shall be applied by substituting '17.5 cents' for '20.5 cents',

"(ii) subsection (c) shall be applied by substituting—

"(I) '11.5 cents' for '14.5 cents' each place it appears, and

"(II) '12.78 cents' for '16.11 cents', and

"(iii) sections 4093(c)(2)(B) and 6427(l)(4) shall be applied by substituting '5 cents' for '11 cents'.

"(B) In the case of diesel fuel on which tax is imposed after December 31, 1990, and before July 1, 1991—

"(i) subsection (b)(2) shall be applied by substituting '18.5 cents' for '20.5 cents',

"(ii) subsection (c) shall be applied by substituting—

"(I) '12.5 cents' for '14.5 cents' each place it appears, and

"(II) '13.89 cents' for '16.11 cents', and

"(iii) sections 4093(c)(2)(B) and 6427(l)(4) shall be applied by substituting '7 cents' for '11 cents'.

"(2) DIESEL FUEL DEFICIT REDUCTION RATE.—

"(A) In the case of diesel fuel on which tax is imposed during December 1990, subsection (b)(4) shall be applied by substituting '2.5 cents' for '5.5 cents'.

"(B) In the case of diesel fuel on which tax is imposed after December 31, 1990, and before July 1, 1991, subsection (b)(4) shall be applied by substituting '3.5 cents' for '5.5 cents'."

(8) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on December 1, 1990.

(c) EXTENSION OF TAXES.—The following provisions are each amended by striking "1993" each place it appears and inserting "1995":

(1) Section 4051(c) (relating to tax on heavy trucks and trailers sold at retail).

(2) Section 4071(d) (relating to tax on tires and tread rubber).

(3) Section 4081(d)(1) (relating to gasoline tax).

(4) Section 4091(b)(6)(A) (relating to diesel fuel tax), as redesignated by section 13211(b).

(5) Sections 4481(e), 4482(c)(4), and 4482(d) (relating to highway use tax).

(d) EXTENSION OF EXEMPTIONS.—

(1) Paragraph (3) of section 4041(f) (relating to exemptions for farm use) is hereby repealed.

(2) The last sentence of section 4041(g) (relating to other exemptions) is hereby repealed.

(3) Subsection (a) of section 4221 (relating to certain tax-free sales) is amended by striking "1993" and inserting "1995".

(4) Subsection (g) of section 4483 (relating to termination of exemptions for highway use tax) is amended by striking "1993" and inserting "1995".

(5) Section 6420 (relating to gasoline used on farms) is amended by striking subsection (h) and by redesignating subsection (i) as subsection (h).

(6)(A) Section 6421 (relating to gasoline used for certain nonhighway purposes, etc.) is amended by striking subsection (i) and by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(B) Subsections (a) and (b) of section 6421 are each amended by striking "subsection (j)" and by inserting "subsection (i)".

(7) Paragraph (5) of section 6427(g) (relating to advance repayment of increased diesel fuel tax) is amended by striking "1993" and inserting "1995".

(e) EXTENSION OF REDUCED RATES OF TAX ON FUELS CONTAINING ALCOHOL.—The following provisions are each amended by striking "1993" each place it appears and inserting "1995":

(1) Section 4041(b)(2)(C) (relating to qualified methanol and ethanol fuel).

(2) Section 4041(k)(3) (relating to fuels containing alcohol).

(3) Section 4081(c)(4) (relating to gasoline mixed with alcohol).

(4) Subsections (c) and (d) of section 4091 (relating to diesel fuel and aviation fuel mixed with alcohol and aviation fuel used to produce certain alcohol fuels).

(f) OTHER PROVISIONS.—

(1) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking "1993" each place it appears and inserting "1995", and

(B) by striking "1994" each place it appears and inserting "1996".

(2) INSTALLMENT PAYMENTS OF HIGHWAY USE TAX.—Section 6156(e)(2) (relating to installment payments of tax on use of highway motor vehicles) is amended by striking "1993" and inserting "1995".

(g) EXTENSION OF DEPOSITS INTO TRUST FUND.—

(1) IN GENERAL.—Subsection (b), and paragraphs (2), (3), and (4) of subsection (c), of section 9503 (relating to the Highway Trust Fund) are each amended—

(A) by striking "1993" each place it appears and inserting "1995", and

(B) by striking "1994" each place it appears and inserting "1996".

(2) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-11) is amended—

(A) by striking "1993" and inserting "1995", and

(B) by striking "1994" each place it appears and inserting "1996".

(h) INCREASE IN TRANSFERS TO MASS TRANSIT ACCOUNT.—

(1) IN GENERAL.—Paragraph (2) of section 9503(e) is amended by striking "1 cent" and inserting "2.1 cents".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to amounts attributable to taxes imposed on or after December 1, 1990.

(3) TAXES IMPOSED BEFORE JULY 1, 1991.—

(A) In the case of taxes imposed during December 1990, paragraph (2) of section 9503(e) of the Internal Revenue Code of 1986 shall be applied by substituting "1.5 cents" for "2.1 cents".

(B) In the case of taxes imposed after December 31, 1990, and before July 1, 1991, paragraph (2) of section 9503(e) of such Code shall be applied by substituting "1.55 cents" for "2.1 cents".

(i) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—In the case of gasoline and diesel fuel on which tax was imposed under section 4081 or 4091 of such Code before any tax-increase date and which is held on such date by any person, there is hereby imposed a floor stocks tax on such gasoline and diesel fuel.

(2) RATE OF TAX.—The rate of the tax imposed by paragraph (1) shall be—

(A) 5 cents per gallon in the case of the tax imposed on December 1, 1990,

(B) 2 cents per gallon in the case of the tax imposed on January 1, 1991, and

(C) 4 cents per gallon in the case of the tax imposed on July 1, 1991.

(3) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding gasoline or diesel fuel on any tax-increase date to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before—

(i) May 31, 1991, in the case of the tax imposed on December 1, 1990,

(ii) June 30, 1991, in the case of the tax imposed on January 1, 1991, and

(iii) September 15, 1991, in the case of the tax imposed on July 1, 1991.

(4) DEFINITIONS.—For purposes of this subsection—

(A) TAX-INCREASE DATE.—The term "tax-increase date" means December 1, 1990, January 1, 1991, and July 1, 1991.

(B) HELD BY A PERSON.—Gasoline and diesel fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(C) GASOLINE.—The term "gasoline" has the meaning given such term by section 4082 of such Code.

(D) DIESEL FUEL.—The term "diesel fuel" has the meaning given such term by section 4092 of such Code.

(E) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(5) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to gasoline or diesel fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 or 4091 of such Code, as the case may be, is allowable for such use.

(6) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by paragraph (1) on gasoline or diesel fuel held in the tank of a motor vehicle or motorboat.

(7) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1)—

(i) on gasoline held on any tax-increase date by any person if the aggregate amount

of gasoline held by such person on such date does not exceed 4,000 gallons, and

(ii) on diesel fuel held on any tax-increase date by any person if the aggregate amount of diesel fuel held by such person on such date does not exceed 2,000 gallons.

The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (5) or (6).

(C) CONTROLLED GROUPS.—For purposes of this paragraph, rules similar to the rules of paragraph (6) of section 13201(e) of this Act shall apply.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code in the case of gasoline and section 4091 in the case of diesel fuel shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081 or 4091.

(8) TRANSFER OF PORTION OF FLOOR STOCKS REVENUE TO HIGHWAY TRUST FUND.—For purposes of determining the amount transferred to the Highway Trust Fund, the tax imposed by paragraph (1) shall be treated as imposed at a Highway Trust Fund financing rate to the extent of—

(A) 2.5 cents per gallon in the case of the tax imposed on December 1, 1990, and

(B) 2 cents per gallon in the case of the tax imposed on July 1, 1991.

SEC. 13212. INCREASE AND EXTENSION OF AVIATION-RELATED TAXES AND TRUST FUND; REPEAL OF REDUCTION IN RATES.

(a) INCREASE IN RATES ON TRANSPORTATION.—

(1) TRANSPORTATION OF PERSONS.—Subsections (a) and (b) of section 4261 are each amended by striking "8 percent" and inserting "10 percent".

(2) TRANSPORTATION OF PROPERTY.—Subsection (a) of section 4271 is amended by striking "5 percent" and inserting "6.25 percent".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transportation beginning after November 30, 1990, but shall not apply to amounts paid on or before such date.

(b) INCREASE IN RATES ON FUEL.—

(1) IN GENERAL.—Paragraph (3) of section 4091(b) is amended by striking "14 cents" and inserting "17.5 cents".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4041(c) is amended by striking "14 cents" and inserting "17.5 cents".

(B)(i) Subparagraph (B) of section 4041(k)(1), as redesignated by section 13211 of this Act, is amended to read as follows:

"(B) subsection (c) shall be applied by substituting '3.5 cents' for '17.5 cents'."

(ii) Subparagraph (B) of section 4041(m)(1) is amended to read as follows:

"(B) subsection (c) shall be applied by substituting '3.5 cents' for '17.5 cents'."

(C)(i) Paragraphs (1) and (2) of section 4091(d) are amended to read as follows:

"(1) IN GENERAL.—The Airport and Airway Trust Fund financing rate shall be—

"(A) 3.5 cents per gallon in the case of the sale of any mixture of aviation fuel if—

"(i) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and

"(ii) the aviation fuel in such mixture was not taxed under subparagraph (B), and

"(B) 3.89 cents per gallon in the case of the sale of aviation fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A).

In the case of a sale described in subparagraph (B), the Leaking Underground Storage Tank Trust Fund financing rate shall be 1/9 cent per gallon.

"(2) LATER SEPARATION.—If any person separates the aviation fuel from a mixture of the aviation fuel and alcohol on which tax was imposed under subsection (a) at the Airport and Airway Trust Fund financing rate equivalent to 3.5 cents per gallon by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such aviation fuel. The amount of tax imposed on any sale of such aviation fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel."

(ii) The heading for subsection (d) of section 4091 is amended by striking "EXEMPTION FROM" and inserting "REDUCED RATE OF".

(3) Subsection (f) of section 6427 is amended to read as follows:

"(f) GASOLINE, DIESEL FUEL, AND AVIATION FUEL USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

"(1) IN GENERAL.—Except as provided in subsection (k), if any gasoline, diesel fuel, or aviation fuel on which tax was imposed by section 4081 or 4091 at the regular tax rate is used by any person in producing a mixture described in section 4081(c), 4091(c)(1)(A), or 4091(d)(1)(A) (as the case may be) which is sold or used in such person's trade or business the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

"(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.

"(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any gasoline, diesel fuel, or aviation fuel with respect to which an amount is payable under subsection (d), (e), or (l) of this section or under section 6420 or 6421.

"(4) TERMINATION.—This subsection shall not apply with respect to any mixture sold or used after September 30, 1995."

(4) EFFECTIVE DATES.—The amendments made by this subsection shall take effect on December 1, 1990.

(5) FLOOR STOCKS TAXES.—

(A) IMPOSITION OF TAX.—In the case of aviation fuel on which tax was imposed under section 4091 of the Internal Revenue Code of 1986 before December 1, 1990, and which is held on such date by any person, there is hereby imposed a floor stocks tax on such fuel.

(B) RATE OF TAX.—The rate of the tax imposed by subparagraph (A) shall be 3.5 cents per gallon.

(C) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(i) LIABILITY FOR TAX.—A person holding fuel on December 1, 1990, to which the tax imposed by this paragraph applies shall be liable for such tax.

(ii) METHOD OF PAYMENT.—The tax imposed by this paragraph shall be paid in such manner as the Secretary shall prescribe.

(iii) TIME FOR PAYMENT.—The tax imposed by this paragraph shall be paid on or before May 31, 1991.

(D) DEFINITIONS.—For purposes of this paragraph—

(i) HELD BY A PERSON.—Fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(ii) AVIATION FUEL.—The term "aviation fuel" has the meaning given such term by section 4092(a) of such Code.

(iii) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(E) EXCEPTION FOR EXEMPT USES.—The tax imposed by this paragraph shall not apply to fuel held by any person exclusively for any use which is a nontaxable use (as defined in section 6427(l) of such Code).

(F) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this paragraph, apply with respect to the floor stock taxes imposed by this paragraph to the same extent as if such taxes were imposed by such section 4091.

(c) INCREASES IN TAX REVENUES BEFORE 1993 TO REMAIN IN GENERAL FUND.—Subsection (b) of section 9502 is amended by adding at the end thereof the following new sentence:

"In the case of taxes imposed before January 1, 1993, paragraphs (1), (2), and (3) shall be applied without regard to any increase in tax enacted by Revenue Reconciliation Act of 1990."

(d) EXTENSION OF TAXES AND TRUST FUND.—

(1) TRANSPORTATION TAXES.—Sections 4261(g) and 4271(d) are each amended by striking "January 1, 1991" and inserting "January 1, 1996".

(2) FUEL TAXES.—

(A) Subparagraph (B) of section 4091(b)(6) (as redesignated by section 13211(b)) is amended by striking "January 1, 1991" and inserting "January 1, 1996".

(B) Paragraph (5) of section 4041(c) is amended by striking "December 31, 1990" and inserting "December 31, 1995".

(3) DEPOSITS INTO TRUST FUND.—Subsection (b) of section 9502 (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes) is amended by striking "January 1, 1991" each place it appears and inserting "January 1, 1996".

(e) REPEAL OF REDUCTION IN RATES.—

(1) Section 4283 (relating to reduction in aviation related taxes in certain cases) is hereby repealed.

(2) The table of sections for part III of subchapter C of chapter 33 is amended by striking the item relating to section 4283.

(3) Subsection (c) of section 4041 is amended by striking paragraph (6).

SEC. 13213. INCREASE IN HARBOR MAINTENANCE TAX.

(a) IN GENERAL.—Subsection (b) of section 4461 is amended by striking "0.04 percent" and inserting "0.125 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1991.

SEC. 13214. EXTENSION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.

(a) IN GENERAL.—Paragraph (2) of section 4081(d) is amended to read as follows:

"(2) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—The Leaking Underground Storage Tank Trust Fund financing rate under subsection (a)(2) shall not apply after December 31, 1995."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 30th day after the date of the enactment of this Act.

SEC. 13215. INCREASE IN INLAND WATERWAY FUEL USE TAX.

(a) IN GENERAL.—Paragraph (1) of section 4042(b) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end thereof the following new subparagraph:

"(C) the deficit reduction rate."

(b) DEFICIT REDUCTION RATE.—Paragraph (2) of section 4042(b) is amended by adding at the end thereof the following new subparagraph:

"(C) DEFICIT REDUCTION RATE.—The deficit reduction rate is 2 cents per gallon."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

SEC. 13216. FLOOR STOCKS TAX TREATMENT OF ARTICLES IN FOREIGN TRADE ZONES.

Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) or any other provision of law, any article which is located in a foreign trade zone on the effective date of any increase in tax under the amendments made by this part, part I, or part IV shall be subject to floor stocks taxes imposed by such parts if—

(1) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(2) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

PART III—TAXES ON LUXURY ITEMS

SEC. 13221. TAXES ON LUXURY ITEMS.

(a) IN GENERAL.—Chapter 31 (relating to retail excise taxes) is amended by redesignating subchapters A and B as subchapters B and C, respectively, and by inserting before subchapter B (as so redesignated) the following new subchapter:

"SUBCHAPTER A—CERTAIN LUXURY ITEMS

"Part I. Imposition of taxes.

"Part II. Rules of general applicability.

"PART I. IMPOSITION OF TAXES

"Subpart A. Passenger vehicles, boats, and aircraft.

"Subpart B. Jewelry and furs.

"Subpart A—Passenger Vehicles, Boats, and Aircraft

"Sec. 4001. Passenger vehicles.

"Sec. 4002. Boats.

"Sec. 4003. Aircraft.

"Sec. 4004. Rules applicable to subpart A.

"SEC. 4001. PASSENGER VEHICLES.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

"(b) PASSENGER VEHICLE.—

"(1) IN GENERAL.—For purposes of subsection (a), the term 'passenger vehicle' means any 4-wheeled vehicle—

"(A) which is manufactured primarily for use on public streets, roads, and highways, and

"(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

"(2) SPECIAL RULES.—

"(A) TRUCKS AND VANS.—In the case of a truck or van, paragraph (1)(B) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'.

"(B) LIMOUSINES.—In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

"(c) EXCEPTIONS FOR TAXICABS, ETC.—The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

"SEC. 4002. BOATS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any boat a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $100,000.

"(b) EXCEPTIONS.—The tax imposed by this section shall not apply to the sale of any boat for use by the purchaser exclusively in the active conduct of—

"(1) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(2) any other trade or business unless the boat is to be used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement, or recreation.

"SEC. 4003. AIRCRAFT.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any aircraft a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $100,000.

"(b) AIRCRAFT.—For purposes of this section, the term 'aircraft' means any aircraft—

"(1) which is propelled by a motor, and

"(2) which is capable of carrying 1 or more individuals.

"(c) EXCEPTIONS.—The tax imposed by this section shall not apply to the sale of any aircraft for use by the purchaser exclusively—

"(1) in the aerial application of fertilizers or other substances,

"(2) in the case of a helicopter, in a use described in paragraph (1) or (2) of section 4261(e),

"(3) in a trade or business of providing flight training, or

"(4) in a trade or business of transporting persons or property for compensation or hire.

"SEC. 4004. RULES APPLICABLE TO SUBPART A.

"(a) EXEMPTION FOR LAW ENFORCEMENT USES, ETC.—No tax shall be imposed under this subpart on the sale of any article—

"(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or

"(2) to any person for use exclusively in providing emergency medical services.

"(b) SEPARATE PURCHASE OF ARTICLE AND PARTS AND ACCESSORIES THEREFOR.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—Except as provided in paragraph (2), if—

"(A) the owner, lessee, or operator of any article taxable under this subpart (determined without regard to price) installs (or causes to be installed) any part or accessory on such article, and

"(B) such installation is not later than the date 6 months after the date the article was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

"(2) LIMITATION.—The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

"(A) the sum of—

"(i) the price of such part or accessory and its installation,

"(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

"(iii) the price for which the passenger vehicle, boat, or aircraft was sold, over

"(B) $100,000 ($30,000 in the case of a passenger vehicle).

"(3) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory, or

"(B) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the taxable article does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

"(4) INSTALLERS SECONDARILY LIABLE FOR TAX.—The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

"(c) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF ARTICLES PURCHASED TAX-FREE.—

"(1) IN GENERAL.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any article by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such article is resold by the purchaser or such purchaser makes a substantial non-exempt use of such article,

then such sale or use of such article by such purchaser shall be treated as the 1st retail sale of such article for a price equal to its fair market value at the time of such sale or use.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means any use of an article if the 1st retail sale of such article is not taxable under this subchapter by reason of such use.

"Subpart B—Jewelry and Furs

"Sec. 4006. Jewelry.

"Sec. 4007. Furs.

"SEC. 4006. JEWELRY.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any jewelry a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $5,000.

"(b) JEWELRY.—For purposes of subsection (a), the term 'jewelry' means all articles commonly or commercially known as jewelry, whether real or imitation, including watches.

"(c) MANUFACTURE FROM CUSTOMER'S MATERIAL.—If—

"(1) a person who in the course of a trade or business produces jewelry from material furnished directly or indirectly by a customer, and

"(2) the jewelry so manufactured is for the use of, and not for resale by, such customer,

the delivery of such jewelry to such customer shall be treated as the 1st retail sale of such jewelry for a price equal to its fair market value at the time of such delivery.

"SEC. 4007. FURS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of the following articles a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $5,000:

"(1) Articles made of fur on the hide or pelt.

"(2) Articles of which such fur is a major component.

"(b) MANUFACTURE FROM CUSTOMER'S MATERIAL.—If—

"(1) a person who in the course of a trade or business produces an article of the kind described in subsection (a) from fur on the hide or pelt furnished, directly or indirectly, by a customer, and

"(2) the article is for the use of, and not for resale by, such customer,

the delivery of such article to such customer shall be treated as the 1st retail sale of such article for a price equal to its fair market value at the time of such delivery.

"PART II—RULES OF GENERAL APPLICABILITY

"Sec. 4011. Definitions and special rules.

"SEC. 4011. DEFINITIONS AND SPECIAL RULES.

"(a) 1ST RETAIL SALE.—For purposes of this subchapter, the term '1st retail sale' means the 1st sale, for a purpose other than resale, after manufacture, production, or importation.

"(b) USE TREATED AS SALE.—

"(1) IN GENERAL.—If any person uses an article taxable under this subchapter (including any use after importation) before the 1st retail sale of such article, then such person shall be liable for tax under this subchapter in the same manner as if such article were sold at retail by him.

"(2) EXEMPTION FOR FURTHER MANUFACTURE.—Paragraph (1) shall not apply to use of an article as material in the manufacture or production of, or as a component part of, another article taxable under this subchapter to be manufactured or produced by him.

"(3) COMPUTATION OF TAX.—In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) LEASES CONSIDERED AS SALES.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the lease of an article (including any renewal or any extension of a lease or any subsequent lease of such article) by any person shall be considered a sale of such article at retail.

"(2) SPECIAL RULES FOR CERTAIN LEASES OF PASSENGER VEHICLES, BOATS, AND AIRCRAFT.—

"(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE.—The sale of a passenger vehicle, boat, or aircraft to a person engaged in a leasing or rental trade or business of the article involved for leasing by such person in a qualified lease shall not be treated as the 1st retail sale of such article.

"(B) QUALIFIED LEASE.—For purposes of subparagraph (A), the term 'qualified lease' means—

"(i) any lease in the case of a boat or an aircraft, and

"(ii) any long-term lease (as defined in section 4052) in the case of any passenger vehicle.

"(C) SPECIAL RULES.—In the case of a qualified lease of an article which is treated as the 1st retail sale of such article—

"(i) DETERMINATION OF PRICE.—The tax under this chapter shall be computed on the lowest price for which the article is sold by retailers in the ordinary course of trade.

"(ii) PAYMENT OF TAX.—Rules similar to the rules of section 4217(e)(2) shall apply.

"(iii) NO TAX WHERE EXEMPT USE BY LESSEE.—No tax shall be imposed on any lease payment under a qualified lease if the lessee's use of the article under such lease is an exempt use (as defined in section 4004(c)) of such article.

"(d) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee,

"(iii) the value of any component of such article if—

"(I) such component is furnished by the 1st user of such article, and

"(II) such component has been used before such furnishing, and

"(C) the price shall be determined without regard to any trade-in.

Subparagraph (B)(iii) shall not apply for purposes of the taxes imposed by sections 4006 and 4007.

"(2) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

"(e) PARTS AND ACCESSORIES SOLD WITH TAXABLE ARTICLE.—Parts and accessories sold on, in connection with, or with the sale of any article taxable under this subchapter shall be treated as part of the article.

"(f) PARTIAL PAYMENTS, ETC.—In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2), and of section 4216(d), shall apply for purposes of this subchapter."

(b) EXEMPTION FOR EXPORTS.—

(1) The material preceding paragraph (1) of section 4221(a) is amended by striking "section 4051" and inserting "subchapter A or C of chapter 31".

(2) Subsection (a) of section 4221 is amended by adding at the end thereof the following new sentence: "In the case of taxes imposed by subchapter A of chapter 31, paragraphs (1), (3), (4), and (5) shall not apply."

(c) EXEMPTION FOR SALES TO THE UNITED STATES.—Section 4293 is amended by inserting "subchapter A of chapter 31," before "section 4041".

(d) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking "section 4053(a)(6)" and inserting "section 4001(c), 4002(b), 4003(c), 4004(a), or 4053(a)(6)".

(2) Paragraph (1) of section 4221(d) is amended by striking "the tax imposed by section 4051" and inserting "taxes imposed by subchapter A or C of chapter 31".

(3) Subsection (d) of section 4222 is amended by striking "sections 4053(a)(6)" and inserting "sections 4001(c), 4002(b), 4003(c), 4004(a), 4053(a)(6)".

(e) CLERICAL AMENDMENT.—The table of subchapters for chapter 31 is amended to read as follows:

"Subchapter A. Certain luxury items.

"Subchapter B. Special fuels.

"Subchapter C. Heavy trucks and trailers."

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

PART IV—TAX ON REFINED PETROLEUM PRODUCTS

SEC. 13231. TAX ON REFINED PETROLEUM PRODUCTS.

(a) IN GENERAL.—Chapter 36 (relating to other excise taxes) is amended by redesignating subchapters A and B as subchapters B and C, respectively, and by inserting before subchapter B (as so redesignated) the following new subchapter:

"Subchapter A—Refined Petroleum Products

"Sec. 4441. Imposition of tax.

"Sec. 4442. Exceptions.

"Sec. 4443. Definitions and special rules.

"SEC. 4441. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax of 84 cents per barrel on any taxable refined petroleum product removed (or, if earlier, sold) by the refiner or importer thereof or the terminal operator.

"(b) USE TAX.—

"(1) GENERAL RULE.—If—

"(A) any taxable refined petroleum product is used as a fuel other than in a qualified use (as defined in section 4442(b)), and

"(B) before such use, no tax was imposed by subsection (a) on such petroleum product,

then there is hereby imposed a tax of 84 cents per barrel on the use of such petroleum product.

"(2) OTHERWISE TAXABLE EVENT OCCURRING BEFORE EFFECTIVE DATE.—The tax imposed by this subsection shall not apply to any use if no tax would be imposed by this subsection on such use were this subchapter in effect for all periods before January 1, 1991.

"(c) BULK TRANSFER TO TERMINAL OPERATOR.—For purposes of subsection (a), the bulk transfer of any taxable refined petroleum product by a refiner or importer shall not be considered a removal or sale of such product by such refiner or importer.

"SEC. 4442. EXCEPTIONS.

"(a) EXPORTS.—

"(1) TAX-FREE SALES.—No tax shall be imposed by section 4441 on any taxable refined petroleum product—

"(A) which is exported from the United States by the person otherwise liable for such tax, or

"(B) which is to be sold for export from the United States by the purchaser or by any subsequent purchaser.

"(2) CREDIT OR REFUND WHERE PRIOR TAX IMPOSED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if any tax was imposed by section 4441 with respect to any taxable refined petroleum product and such product is exported by any person, credit or refund (without interest) of such tax shall be allowed or made to the person who paid such tax.

"(B) CONDITION OF ALLOWANCE.—No credit or refund shall be allowed or made under subparagraph (A) unless the person who paid the tax establishes that—

"(i) he has repaid or agreed to repay the amount of the tax to the person who exported the taxable refined petroleum product, or

"(ii) he has obtained the written consent of such exporter to the allowance of the credit or the making of the refund.

"(C) REFUNDS DIRECTLY TO EXPORTER.—Rules similar to the rules of section 4662(e)(3) shall apply to the tax imposed by section 4441.

"(b) FEEDSTOCK AND MANUFACTURING USES.—

"(1) TAX-FREE SALES.—No tax shall be imposed by section 4441 with respect to any taxable refined petroleum product—

"(A) which is to be used by the person otherwise liable for such tax in a qualified use, or

"(B) which is to be sold for a qualified use by the purchaser or by any subsequent purchaser.

"(2) CREDIT OR REFUND WHERE PRIOR TAX IMPOSED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if any tax was imposed by section 4441 with respect to any taxable refined petroleum product which is used by any person in a qualified use, credit or refund (without interest) of such tax shall be allowed or made to the person who paid such tax.

"(B) CONDITION OF ALLOWANCE.—Rules similar to the rules of subparagraphs (B) and (C) of subsection (a)(1) shall apply for purposes of subparagraph (A).

"(3) QUALIFIED USE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified use' means—

"(i) any use as a feedstock in the manufacture or production of any item other than a fuel, or

"(ii) any use as a fuel directly to operate any equipment (other than a motor vehicle or motorboat) used as an integral part of the manufacture or production of any tangible personal property.

"(B) TREATMENT OF FARM USE.—Such term includes fuel used on a farm for farming purposes (within the meaning of section 6420(c)) other than fuel used in a highway vehicle on the highways.

"(C) FUEL USED IN CONSTRUCTION EXCLUDED.—Such term shall not include any fuel used in construction.

"(c) REGISTRATION AND OTHER REQUIREMENTS.—

"(1) IN GENERAL.—To the extent provided by the Secretary, subsections (a) and (b) shall not apply to any sale unless—

"(A) both the seller and the purchaser are registered with the Secretary under such terms as the Secretary may prescribe, and

"(B) the purchaser's name and address, and the purchaser's registration number for purposes of this subchapter, are provided to the seller.

"(2) INFORMATION REPORTING.—The Secretary may require—

"(A) information reporting by each remitter of tax imposed by this subchapter, and

"(B) information reporting by, and registration of, such other persons as the Secretary deems necessary to carry out this subchapter.

"(3) CERTAIN OTHER RULES TO APPLY.—Rules similar to the rules of subsections (b) and (c) of section 4221 and section 4223(a) shall apply for purposes of this subchapter.

"SEC. 4443. DEFINITIONS AND SPECIAL RULES.

"(a) TAXABLE REFINED PETROLEUM PRODUCT.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'taxable refined petroleum product' means any petroleum product other than—

"(A) crude oil,

"(B) waxes,

"(C) lubricating oils, and

"(D) asphalt.

"(2) EXCEPTION FOR HOME HEATING OIL.—The term 'taxable refined petroleum product' does not include any fuel which the Secretary determines is destined for use as home heating oil.

"(3) EXCEPTION FOR CERTAIN FEEDSTOCKS.—The term 'taxable refined petroleum product' shall not include any product if there is in effect a determination by the Secretary that—

"(A) 90 percent of the use of the product in the United States is expected to be a use described in section 4442(b)(3)(A)(i), and

"(B) taking into account the protection of revenues to the United States from this subchapter and the ease of administration for both taxpayers and the Secretary, the tax imposed by this section should not apply.

Any such determination or revocation thereof shall be published in the Federal Register.

"(b) COORDINATION WITH OTHER FUELS TAXES.—For purposes of this subchapter—

"(1) EXCEPTION FOR LIQUIDS OTHERWISE TAXED.—The term 'taxable refined petroleum product' does not include any liquid on which tax is imposed under section 4041, 4042, 4081, or 4091 (or would be so imposed but for its use in a qualified use).

"(2) LIMITATION ON EXEMPTIONS.—Notwithstanding any other provision of this title, no exemption or credit shall be allowed (or refund made) by reason of any use of any liquid subject to tax under section 4041, 4042, 4081, or 4092 to the extent of 2 cents per gallon unless such use is a qualified use.

"(c) BARREL.—For purposes of this subchapter—

"(1) DEFINITION.—The term 'barrel' means 42 United States gallons measured at 60 degrees Fahrenheit.

"(2) FRACTIONAL PART OF BARREL.—In the case of a fraction of a barrel, the tax imposed by section 4441 shall be the same fraction of the amount of such tax imposed on a whole barrel.

"(d) DISPOSITION OF REVENUES TO PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by this subchapter.

"(e) TAX IMPOSED ONLY ONCE.—No tax shall be imposed by section 4441 with respect to any taxable refined petroleum product if the person who would (but for this subsection) be liable for such tax establishes that a prior tax has been imposed by such section (and not credited or refunded) with respect to such product."

(b) DEPOSITS FOR 1ST QUARTER OF 1991.—No deposit of any tax imposed by subchapter A of chapter 36 of the Internal Revenue Code of 1986, as added by this section, shall be required to be made before April 1, 1991.

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 9505(c)(3) is amended by striking "subchapter A" and inserting "subchapter B".

(2) The table of subchapters for chapter 36 is amended by striking the items relating to subchapters A and B and inserting the following:

"Subchapter A. Refined petroleum products.

"Subchapter B. Harbor maintenance tax.

"Subchapter C. Transportation by water."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

(e) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—There is hereby imposed a tax on any taxable refined petroleum product which on January 1, 1991, is held by any person.

(2) AMOUNT OF TAX.—The amount of the tax imposed by paragraph (1) on each barrel of a taxable refined petroleum product shall be the amount which would be imposed under section 4441 of the Internal Revenue Code of 1986 (as added by this section) on such product if such product were removed and sold by the refiner or importer on January 1, 1991.

(3) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding any taxable refined petroleum product on January 1, 1991, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before June 30, 1991.

(4) DEFINITIONS.—For purposes of this subsection—

(A) IN GENERAL.—Terms used in this subsection which are also used in subchapter A of chapter 36 of such Code shall have the same meanings as when used in such subchapter.

(B) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(5) EXCEPTION FOR FUELS HELD FOR SALE FOR EXPORT OR QUALIFIED USE.—The tax imposed by paragraph (1) shall not apply to any refined petroleum product held for sale for export or for any qualified use.

(6) EXCEPTION FOR CERTAIN AMOUNTS OF PRODUCT.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on any taxable refined petroleum product held on January 1, 1991, by any person if—

(i) the aggregate amount of such product held by such person on such date does not exceed 2,000 gallons, and

(ii) such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT PRODUCTS.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (5).

(C) CONTROLLED GROUPS.—For purposes of this paragraph, rules similar to the rules of paragraph (6) of section 20201(e) of this Act shall apply.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4441 of such Code (as added by this section) shall, insofar as applicable and not inconsistent with the provisions of this section, apply in respect of the tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section 4441.

Subtitle C—Other Revenue Increases

PART I—INSURANCE PROVISIONS

Subpart A—Provisions Related to Policy Acquisition Costs

SEC. 13301. CAPITALIZATION OF POLICY ACQUISITION EXPENSES.

(a) GENERAL RULE.—Part III of subchapter L of chapter 1 (relating to provisions of general application) is amended by adding at the end thereof the following new section:

"SEC. 848. CAPITALIZATION OF CERTAIN POLICY ACQUISITION EXPENSES.

"(a) GENERAL RULE.—In the case of an insurance company—

"(1) specified policy acquisition expenses for any taxable year shall be capitalized, and

"(2) such expenses shall be allowed as a deduction ratably over the 120-month period beginning with the first month in the second half of such taxable year.

"(b) SPECIFIED POLICY ACQUISITION EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'specified policy acquisition expenses' means, with respect to any taxable year, so much of the general deductions for such taxable year as does not exceed the sum of—

"(A) 1.4 percent of the net premiums for such taxable year on specified insurance contracts which are annuity contracts,

"(B) 1.65 percent of the net premiums for such taxable year on specified insurance contracts which are group life insurance contracts, and

"(C) 6.25 percent of the net premiums for such taxable year on specified insurance contracts not described in subparagraph (A) or (B).

"(2) GENERAL DEDUCTIONS.—The term 'general deductions' means the deductions provided in part VI of subchapter B (sec. 161 and following, relating to itemized deductions) and in part I of subchapter D (sec. 401 and following, relating to pension, profit sharing, stock bonus plans, etc.).

"(c) NET PREMIUMS.—For purposes of this section—

"(1) IN GENERAL.—The term 'net premiums' means, with respect to any category of specified insurance contracts set forth in subsection (b)(1), the excess (if any) of—

"(A) the gross amount of premiums and other consideration on such contracts, over

"(B) return premiums on such contracts and premiums and other consideration incurred for reinsurance of such contracts.

The rules of section 803(b) shall apply for purposes of the preceding sentence.

"(2) AMOUNTS DETERMINED ON ACCRUAL BASIS.—In the case of an insurance company subject to tax under part II of this subchapter, all computations entering into determinations of net premiums for any taxable year shall be made in the manner required under section 811(a) for life insurance companies.

"(3) TREATMENT OF CERTAIN POLICYHOLDER DIVIDENDS AND SIMILAR AMOUNTS.—Net premiums shall be determined without regard to section 808(e) and without regard to other similar amounts treated as paid to, and returned by, the policyholder.

"(4) SPECIAL RULE FOR CERTAIN REINSURANCE.—Premiums and other consideration incurred for reinsurance shall be taken into account under paragraph (1)(B) only to the extent such premiums and other consideration are includible in the gross income of an insurance company taxable under this subchapter or are subject to tax under this chapter by reason of subpart F of part III of subchapter N.

"(d) CLASSIFICATION OF CONTRACTS.—For purposes of this section—

"(1) SPECIFIED INSURANCE CONTRACT.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'specified insurance contract' means any life insurance, annuity, or noncancellable accident and health insurance contract (including any life insurance or annuity contract combined with noncancellable accident and health insurance).

"(B) EXCEPTIONS.—The term 'specified insurance contract' shall not include—

"(i) any pension plan contract (as defined in section 818(a)), and

"(ii) any flight insurance or similar contract.

"(2) GROUP LIFE INSURANCE CONTRACT.—The term 'group life insurance contract' means any life insurance contract—

"(A) which covers a group of individuals defined by reference to employment relationship, membership in an organization, or similar factor,

"(B) the premiums for which are determined on a group basis, and

"(C) the proceeds of which are payable to (or for the benefit of) persons other than the employer of the insured, an organization to which the insured belongs, or other similar person.

"(3) TREATMENT OF ANNUITY CONTRACTS COMBINED WITH NONCANCELLABLE ACCIDENT AND HEALTH INSURANCE.—Any annuity contract combined with noncancellable accident and health insurance shall be treated as a noncancellable accident and health insurance contract and not as an annuity contract.

"(4) TREATMENT OF GUARANTEED RENEWABLE CONTRACTS.—The rules of section 816(e) shall apply for purposes of this section.

"(5) TREATMENT OF REINSURANCE CONTRACT.—A contract which reinsures another contract shall be treated in the same manner as the reinsured contract.

"(e) SPECIAL RULE WHERE NEGATIVE NET PREMIUMS.—

"(1) IN GENERAL.—If for any taxable year there is a negative capitalization amount with respect to any category of specified insurance contracts set forth in subsection (b)(1)—

"(A) the amount otherwise required to be capitalized under this section for such taxable year with respect to any other category of specified insurance contracts shall be reduced (but not below zero) by such negative capitalization amount, and

"(B) such negative capitalization amount (to the extent not taken into account under subparagraph (A))—

"(i) shall reduce (but not below zero) the unamortized balance (as of the beginning of such taxable year) of the amounts previously capitalized under subsection (a) (beginning with the amount capitalized for the most recent taxable year), and

"(ii) to the extent taken into account as such a reduction, shall be allowed as a deduction for such taxable year.

"(2) NEGATIVE CAPITALIZATION AMOUNT.—For purposes of paragraph (1), the term 'negative capitalization amount' means, with respect to any category of specified insurance contracts, the percentage (applicable under subsection (b)(1) to such category) of the amount (if any) by which—

"(A) the amount determined under subparagraph (B) of subsection (c)(1) with respect to such category, exceeds

"(B) the amount determined under subparagraph (A) of subsection (c)(1) with respect to such category.

"(f) TREATMENT OF CERTAIN CEDING COMMISSIONS.—Nothing in any provision of law (other than this section) shall require the capitalization of any ceding commission incurred on or after September 30, 1990, under any reinsurance contract.

"(g) TRANSITIONAL RULE.—In the case of any taxable year which includes September 30, 1990, the amount taken into account as the net premiums (or negative capitalization amount) with respect to any category of specified insurance contracts shall be the amount which bears the same ratio to the amount which (but for this subsection) would be so taken into account as the number of days in such taxable year on or after September 30, 1990, bears to the total number of days in such taxable year."

(b) REPEAL OF SPECIAL TREATMENT OF ACQUISITION EXPENSES UNDER MINIMUM TAX.—Paragraph (4) of section 56(g) is amended by striking subparagraph (F) and redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter L of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 848. Capitalization of certain policy acquisition expenses."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to taxable years ending on or after September 30, 1990. Any capitalization required by reason of such amendments shall not be treated as a change in method of accounting for purposes of the Internal Revenue Code of 1986.

(2) SUBSECTION (b).—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years beginning on or after September 30, 1990.

(B) SPECIAL RULES FOR YEAR WHICH INCLUDES SEPTEMBER 30, 1990.—In the case of any taxable year which includes September 30, 1990, the amount of acquisition expenses which is required to be capitalized under section 56(g)(4)(F) of the Internal Revenue Code of 1986 (as in effect before the amendment made by subsection (b)) shall be the amount which bears the same ratio to the amount which (but for this subparagraph) would be so required to be capitalized as the number of days in such taxable year before September 30, 1990, bears to the total number of days in such taxable year. A similar reduction shall be made in the amount amortized for such taxable year under such section 56(g)(4)(F).

SEC. 13302. TREATMENT OF CERTAIN NONLIFE RESERVES OF LIFE INSURANCE COMPANIES.

(a) GENERAL RULE.—Subsection (e) of section 807 (relating to special rules for computing reserves) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR TREATMENT OF CERTAIN NONLIFE RESERVES.—

"(A) IN GENERAL.—The amount taken into account for purposes of subsection (a) and (b) as—

"(i) the opening balance of the items referred to in subparagraph (C), and

"(ii) the closing balance of such items,

shall be 80 percent of the amount which (without regard to this subparagraph) would have been taken into account as such opening or closing balance, as the case may be.

"(B) TRANSITIONAL RULE.—

"(i) IN GENERAL.—In the case of any taxable year beginning on or after September 30, 1990, and on or before September 30, 1996, there shall be included in the gross income of any life insurance company an amount equal to 31/3 percent of such company's closing balance of the items referred to in subparagraph (C) for its most recent taxable year beginning before September 30, 1990.

"(ii) TERMINATION AS LIFE INSURANCE COMPANY.—Except as provided in section 381(c)(22), if, for any taxable year beginning on or before September 30, 1996, the taxpayer ceases to be a life insurance company, the aggregate inclusions which would have been made under clause (i) for such taxable year and subsequent taxable years but for such cessation shall be taken into account for the taxable year preceding such cessation year.

"(C) DESCRIPTION OF ITEMS.—For purposes of this paragraph, the items referred to in this subparagraph are the items described in subsection (c) which consist of unearned premiums and premiums received in advance under insurance contracts not described in section 816(b)(1)(B)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning on or after September 30, 1990.

SEC. 13303. TREATMENT OF LIFE INSURANCE RESERVES OF INSURANCE COMPANIES WHICH ARE NOT LIFE INSURANCE COMPANIES.

(a) GENERAL RULE.—Paragraph (4) of section 832(b) (defining premiums earned) is amended by striking "section 807, pertaining" and all that follows down through the period at the end of the first sentence which follows subparagraph (C) and inserting "section 807.".

(b) TECHNICAL AMENDMENT.—Subparagraph (A) of section 832(b)(7) is amended—

(1) by striking "amounts included in unearned premiums under the 2nd sentence of such subparagraph" and inserting "insurance contracts described in section 816(b)(1)(B)", and

(2) by striking "such amounts into account" and inserting "such contracts into account".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after September 30, 1990.

Subpart B—Treatment of Salvage Recoverable

SEC. 13305. TREATMENT OF SALVAGE RECOVERABLE.

(a) GENERAL RULE.—Subparagraph (A) of section 832(b)(5) (defining losses incurred) is amended to read as follows:

"(A) IN GENERAL.—The term 'losses incurred' means losses incurred during the taxable year on insurance contracts computed as follows:

"(i) To losses paid during the taxable year, deduct salvage and reinsurance recovered during the taxable year.

"(ii) To the result so obtained, add all unpaid losses on life insurance contracts plus all discounted unpaid losses (as defined in section 846) outstanding at the end of the taxable year and deduct all unpaid losses on life insurance contracts plus all discounted unpaid losses outstanding at the end of the preceding taxable year.

"(iii) To the results so obtained, add estimated salvage and reinsurance recoverable as of the end of the preceding taxable year and deduct estimated salvage and reinsurance recoverable as of the end of the taxable year.

The Secretary shall by regulations provide that the amounts referred to in clause (iii) shall be determined on a discounted basis in accordance with procedures established in such regulations."

(b) CONFORMING AMENDMENT.—Subsection (g) of section 846 is amended by adding "and" at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

(2) AMENDMENTS TREATED AS CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer who is required by reason of the amendments made by this section to change his method of computing losses incurred—

(A) such change shall be treated as a change in a method of accounting,

(B) such change shall be treated as initiated by the taxpayer,

(C) such change shall be treated as having been made with the consent of the Secretary, and

(D) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1986 to be taken into account by the taxpayer shall be taken into account over a period not to exceed 8 taxable years beginning with the taxpayer's first taxable year beginning after December 31, 1989.

Subpart C—Waiver of Estimated Tax Penalties

SEC. 13307. WAIVER OF ESTIMATED TAX PENALTIES.

No addition to tax shall be made under section 6655 of the Internal Revenue Code of 1986 for any period before March 16, 1991, with respect to any underpayment to the extent such underpayment was created or increased by any provision of this part.

PART II—COMPLIANCE PROVISIONS

SEC. 13311. SUSPENSION OF STATUTE OF LIMITATIONS DURING PROCEEDINGS TO ENFORCE CERTAIN SUMMONSES.

(a) GENERAL RULE.—Section 6503 (relating to suspension of running of period of limitation) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) EXTENSION IN CASE OF CERTAIN SUMMONSES.—

"(1) IN GENERAL.—If any designated summons is issued by the Secretary with respect to any return of tax by a corporation, the running of any period of limitations provided in section 6501 on the assessment of such tax shall be suspended—

"(A) during any judicial enforcement period—

"(i) with respect to such summons, or

"(ii) with respect to any other summons which is issued during the 30-day period which begins on the date on which such designated summons is issued and which relates to the same return as such designated summons, and

"(B) if the court in any proceeding referred to in paragraph (3) requires any compliance with a summons referred to in subparagraph (A), during the 120-day period beginning with the 1st day after the close of the suspension under subparagraph (A).

If subparagraph (B) does not apply, such period shall in no event expire before the 60th day after the close of the suspension under subparagraph (A).

"(2) DESIGNATED SUMMONS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'designated summons' means any summons issued for purposes of determining the amount of any tax imposed by this title if—

"(i) such summons is issued at least 60 days before the day on which the period prescribed in section 6501 for the assessment of such tax expires (determined with regard to extensions), and

"(ii) such summons clearly states that it is a designated summons for purposes of this subsection.

"(B) LIMITATION.—A summons which relates to any return shall not be treated as a designated summons if a prior summons which relates to such return was treated as a designated summons for purposes of this subsection.

"(3) JUDICIAL ENFORCEMENT PERIOD.—For purposes of this subsection, the term 'judicial enforcement period' means, with respect to any summons, the period—

"(A) which begins on the day on which a court proceeding with respect to such summons is brought, and

"(B) which ends on the day on which there is a final resolution as to the summoned person's response to such summons."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any tax (whether imposed before, on, or after the date of the enactment of this Act) if the period prescribed by section 6501 of the Internal Revenue Code of 1986 for the assessment of such tax (determined with regard to extensions) has not expired on such date of the enactment.

SEC. 13312. ACCURACY-RELATED PENALTY TO APPLY TO SECTION 482 ADJUSTMENTS.

(a) GENERAL RULE.—Subsection (e) of section 6662 (defining substantial valuation overstatement under chapter 1) is amended to read as follows:

"(e) SUBSTANTIAL VALUATION MISSTATEMENT UNDER CHAPTER 1.—

"(1) IN GENERAL.—For purposes of this section, there is a substantial valuation misstatement under chapter 1 if—

"(A) the value of any property (or the adjusted basis of any property) claimed on any return of tax imposed by chapter 1 is 200 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be), or

"(B)(i) the price for any property or services claimed on any such return in connection with any transaction between persons described in section 482 is 200 percent or more (or 50 percent or less) of the amount determined under section 482 to be the correct amount of such price, or

"(ii) the net section 482 transfer price adjustment for the taxable year exceeds $10,000,000.

"(2) LIMITATION.—No penalty shall be imposed by reason of subsection (b)(3) unless the portion of the underpayment for the taxable year attributable to substantial valuation misstatements under chapter 1 exceeds $5,000 ($10,000 in the case of a corporation other than an S corporation or a personal holding company (as defined in section 542)).

"(3) NET SECTION 482 TRANSFER PRICE ADJUSTMENT.—For purposes of this subsection, the term 'net section 482 transfer price adjustment' means, with respect to any taxable year, the net increase in taxable income for the taxable year (determined

without regard to any amount carried to such taxable year from another taxable year) resulting from adjustments under section 482 in the transfer price for any property or services. For purposes of the preceding sentence, rules similar to the rules of the last sentence of section 55(b)(2) shall apply."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 6662(b) is amended to read as follows:

"(3) Any substantial valuation misstatement under chapter 1."

(2) Subparagraph (A) of section 6662(h)(2) is amended to read as follows:

"(A) any substantial valuation misstatement under chapter 1 as determined under subsection (e) by substituting—

"(i) '400 percent' for '200 percent' each place it appears,

"(ii) '25 percent' for '50 percent', and

"(iii) '$20,000,000' for '$10,000,000',".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 13313. TREATMENT OF PERSONS PROVIDING SERVICES.

(a) GENERAL RULE.—Subsection (n) of section 6103 (relating to certain other persons) is amended—

(1) by striking "and the programming" and inserting "the programming", and

(2) by inserting after "of equipment," the following "and the providing of other services,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 13314. APPLICATION OF AMENDMENTS MADE BY SECTION 7403 OF REVENUE RECONCILIATION ACT OF 1989 TO TAXABLE YEARS BEGINNING ON OR BEFORE JULY 10, 1989.

(a) GENERAL RULE.—The amendments made by section 7403 of the Revenue Reconciliation Act of 1989 shall apply to—

(1) any requirement to furnish information under section 6038A(a) of the Internal Revenue Code of 1986 (as amended by such section 7403) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any requirement under such section 6038A(a) to maintain records which were in existence on or after March 20, 1990,

(3) any requirement to authorize a corporation to act as a limited agent under section 6038A(e)(1) of such Code (as so amended) if the time for authorizing such action is after the date of the enactment of this Act, and

(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began. Such amendments shall also apply in any case to which they would apply without regard to this section.

(b) CONTINUATION OF OLD FAILURES.—In the case of any failure with respect to a taxable year beginning on or before July 10, 1989, which first occurs on or before the date of the enactment of this Act but which continues after such date of enactment, section 6038A(d)(2) of the Internal Revenue Code of 1986 (as amended by subsection (c) of such section 7403) shall apply for purposes of determining the amount of the penalty imposed for 30-day periods referred to in such section 6038A(d)(2) which begin after the date of the enactment of this Act.

SEC. 13315. OTHER REPORTING REQUIREMENTS.

(a) GENERAL RULE.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6038B the following new section:

"SEC. 6038C. INFORMATION WITH RESPECT TO FOREIGN CORPORATIONS ENGAGED IN U.S. BUSINESS.

"(a) REQUIREMENT.—If a foreign corporation (hereinafter in this section referred to as the 'reporting corporation') is engaged in a trade or business within the United States at any time during a taxable year—

"(1) such corporation shall furnish (at such time and in such manner as the Secretary shall by regulations prescribe) the information described in subsection (b), and

"(2) such corporation shall maintain (at the location, in the manner, and to the extent prescribed in regulations) such records as may be appropriate to determine the liability of such corporation for tax under this title as the Secretary shall by regulations prescribe (or shall cause another person to so maintain such records).

"(b) REQUIRED INFORMATION.—For purposes of subsection (a), the information described in this subsection is—

"(1) the information described in section 6038A(b), and

"(2) such other information as the Secretary may prescribe by regulations relating to any item not directly connected with a transaction for which information is required under paragraph (1).

"(c) PENALTY FOR FAILURE TO FURNISH INFORMATION OR MAINTAIN RECORDS.—The provisions of subsection (d) of section 6038A shall apply to—

"(1) any failure to furnish (within the time prescribed by regulations) any information described in subsection (b), and

"(2) any failure to maintain (or cause another to maintain) records as required by subsection (a),

in the same manner as if such failure were a failure to comply with the provisions of section 6038A.

"(d) ENFORCEMENT OF REQUESTS FOR CERTAIN RECORDS.—

"(1) AGREEMENT TO TREAT CORPORATION AS AGENT.—The rules of paragraph (3) shall apply to any transaction between the reporting corporation and any related party who is a foreign person unless such related party agrees (in such manner and at such time as the Secretary shall prescribe) to authorize the reporting corporation to act as such related party's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to any request by the Secretary to examine records or produce testimony related to any such transaction or with respect to any summons by the Secretary for such records or testimony. The appearance of persons or production of records by reason of the reporting corporation being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of any transaction between the reporting corporation and such related party.

"(2) RULES WHERE INFORMATION NOT FURNISHED.—If—

"(A) for purposes of determining the amount of the reporting corporation's liability for tax under this title, the Secretary issues a summons to such corporation to produce (either directly or as an agent for a related party who is a foreign person) any records or testimony,

"(B) such summons is not quashed in a proceeding begun under paragraph (4) of section 6038A(e) (as made applicable by paragraph (4) of this subsection) and is not determined to be invalid in a proceeding begun under section 7604(b) to enforce such summons, and

"(C) the reporting corporation does not substantially comply in a timely manner with such summons and the Secretary has sent by certified or registered mail a notice to such reporting corporation that such reporting corporation has not so substantially complied,

the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which such summons relates (whether or not the Secretary begins a proceeding to enforce such summons). If the reporting corporation fails to maintain (or cause another to maintain) records as required by subsection (a), and by reason of that failure, the summons is quashed in a proceeding described in subparagraph (B) or the reporting corporation is not able to provide the records requested in the summons, the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which the records relate.

"(3) APPLICABLE RULES.—If the rules of this paragraph apply to any transaction or item, the treatment of such transaction (or the amount and treatment of any such item) shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

"(4) JUDICIAL PROCEEDINGS.—The provisions of section 6038A(e)(4) shall apply with respect to any summons issued under paragraph (2)(A); except that subparagraph (D) of such section shall be applied by substituting 'transaction or item' for 'transaction'.

"(e) DEFINITIONS.—For purposes of this section, the terms 'related party', 'foreign person', and 'records' have the respective meanings given to such terms by section 6038A(c)."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6038A(a) is amended by striking "or is a foreign corporation engaged in trade or business within the United States".

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6038B the following new item:

"Sec. 6038C. Information with respect to foreign corporations engaged in U.S. business."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) any requirement to furnish information under section 6038C(a) of the Internal Revenue Code of 1986 (as added by this section) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any requirement under such section 6038C(a) to maintain records which were in existence on or after March 20, 1990,

(3) any requirement to authorize a corporation to act as a limited agent under section 6038C(d)(1) of such Code (as so added) if the time for authorizing such action is after the date of the enactment of this Act, and

(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began.

SEC. 13316. STUDY OF SECTION 482.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall conduct a study of the application and administration of section 482 of the Internal Revenue Code of 1986. Such study shall include examination of—

(1) the effectiveness of the amendments made by this part in increasing levels of compliance with such section 482,

(2) use of advanced determination agreements with respect to issues under such section 482,

(3) possible legislative or administrative changes to assist the Internal Revenue Service in increasing compliance with such section 482, and

(4) coordination of the administration of such section 482 with similar provisions of foreign tax laws and with domestic nontax laws.

(b) REPORT.—Not later than March 1, 1992, the Secretary of the Treasury or his delegate shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

PART III—EMPLOYER REVERSIONS

Subpart A—Treatment of Reversions of Qualified Plan Assets to Employers

SEC. 13321. INCREASE IN REVERSION TAX.

Section 4980(a) (relating to tax on reversion of qualified plan assets to employer) is amended by striking "15 percent" and inserting "20 percent".

SEC. 13322. ADDITIONAL TAX IF NO REPLACEMENT PLAN.

(a) IN GENERAL.—Section 4980 is amended by adding at the end thereof the following new subsection:

"(d) INCREASE IN TAX FOR FAILURE TO ESTABLISH REPLACEMENT PLAN OR INCREASE BENEFITS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '50 percent' for '20 percent' with respect to any employer reversion from a qualified plan unless—

"(A) the employer establishes or maintains a qualified replacement plan, or

"(B) the plan provides benefit increases meeting the requirements of paragraph (3).

"(2) QUALIFIED REPLACEMENT PLAN.—For purposes of this subsection, the term 'qualified replacement plan' means a qualified plan established or maintained by the employer in connection with a qualified plan termination (hereinafter referred to as the 'replacement plan') with respect to which the following requirements are met:

"(A) PARTICIPATION REQUIREMENT.—Substantially all of the active participants in the terminated plan who remain as employees of the employer after the termination are active participants in the replacement plan.

"(B) ASSET TRANSFER REQUIREMENT.—

"(i) 30 PERCENT CUSHION.—A direct transfer from the terminated plan to the replacement plan is made before any employer reversion, and the transfer is in an amount equal to the excess (if any) of—

"(I) 30 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, over

"(II) the amount determined under clause (ii).

"(ii) REDUCTION FOR INCREASE IN BENEFITS.—The amount determined under this clause is an amount equal to the present value of the aggregate increases in the nonforfeitable accrued benefits under the terminated plan of any participants (including nonactive participants) pursuant to a plan amendment which—

"(I) is adopted during the 60-day period ending on the date of termination of the qualified plan, and

"(II) takes effect immediately on the termination date.

"(iii) TREATMENT OF AMOUNT TRANSFERRED.—In the case of the transfer of any amount under clause (i)—

"(I) such amount shall not be includible in the gross income of the employer,

"(II) no deduction shall be allowable with respect to such transfer, and

"(III) such transfer shall not be treated as an employer reversion for purposes of this section.

"(C) ALLOCATION REQUIREMENTS.—

"(i) IN GENERAL.—In the case of any defined contribution plan, the portion of the amount transferred to the replacement plan under subparagraph (B)(i) is—

"(I) allocated under the plan to the accounts of participants in the plan year in which the transfer occurs, or

"(II) credited to a suspense account and allocated from such account to accounts of participants no less rapidly than ratably over the 7-plan-year period beginning with the year of the transfer.

"(ii) COORDINATION WITH SECTION 415 LIMITATION.—If, by reason of any limitation under section 415, any amount credited to a suspense account under clause (i)(II) may not be allocated to a participant before the close of the 7-year period under such clause—

"(I) such amount shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants by reason of any such limitation, shall be allocated to the participant as provided in section 415.

"(iii) TREATMENT OF INCOME.—Any income on any amount credited to a suspense account under clause (i)(II) shall be allocated to accounts of participants no less rapidly than ratably over the remainder of the period determined under such clause (after application of clause (ii)).

"(iv) UNALLOCATED AMOUNTS AT TERMINATION.—If any amount credited to a suspense account under clause (i)(II) is not allocated as of the termination date of the plan—

"(I) such amount shall be allocated to the accounts of participants as of such date, except that any amount which may not be allocated by reason of any limitation under section 415 shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants under subclause (I) by reason of such limitation, such portion shall be treated as an employer reversion to which this section applies.

"(3) PRO RATA BENEFIT INCREASES.—

"(A) IN GENERAL.—The requirements of this paragraph are met if a plan amendment to the terminated plan is adopted in connection with the termination of the plan which provides pro rata increases in the nonforfeitable accrued benefits of all participants (including nonactive participants) which—

"(i) have an aggregate present value not less than 25 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, and

"(ii) take effect immediately on the termination date.

"(B) PRO RATA INCREASE.—For purposes of subparagraph (A), a pro rata increase is an increase in the present value of the nonforfeitable accrued benefit of each participant (including nonactive participants) in an amount which bears the same ratio to the aggregate amount determined under subparagraph (A)(i) as—

"(i) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to

"(ii) the aggregate present value of nonforfeitable accrued benefits of the terminated plan (as so determined).

Notwithstanding the preceding sentence, the aggregate increases in the nonforfeitable accrued benefits of nonactive participants shall not exceed 40 percent of the aggregate amount determined under subparagraph (A)(i) by substituting 'equal to' for 'not less than'.

"(4) COORDINATION WITH OTHER PROVISIONS.—

"(A) LIMITATIONS.—A benefit may not be increased under paragraph (2)(B)(ii) or (3)(A), and an amount may not be allocated to a participant under paragraph (2)(C), if such increase or allocation would result in a failure to meet any requirement under section 401(a)(4) or 415.

"(B) TREATMENT AS EMPLOYER CONTRIBUTIONS.—Any increase in benefits under paragraph (2)(B)(ii) or (3)(A), or any allocation of any amount (or income allocable thereto) to any account under paragraph (2)(C), shall be treated as an annual benefit or annual addition for purposes of section 415.

"(C) 10-YEAR PARTICIPATION REQUIREMENT.—Except as provided by the Secretary, section 415(b)(5)(D) shall not apply to any increase in benefits by reason of this subsection to the extent that the application of this subparagraph does not discriminate in favor of highly compensated employees (as defined in section 414(q)).

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) NONACTIVE PARTICIPANT.—The term 'nonactive participant' means an individual who—

"(i) is a participant in pay status as of the termination date,

"(ii) is a beneficiary who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, or

"(iii) is a participant not described in clause (i) or (ii)—

"(I) who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, and

"(II) whose service, which was creditable under the terminated plan, terminated during the period beginning 3 years before the termination date and ending with the date on which the final distribution of assets occurs.

"(B) PRESENT VALUE.—Present value shall be determined as of the termination date and on the same basis as liabilities of the plan are determined on termination.

"(C) REALLOCATION OF INCREASE.—Except as provided in paragraph (2)(C), if any benefit increase is reduced by reason of the last sentence of paragraph (3)(A)(ii) or paragraph (4), the amount of such reduction shall be allocated to the remaining participants on the same basis as other increases (and shall be treated as meeting any allocation requirement of this subsection).

"(D) AGGREGATION OF PLANS.—The Secretary may provide that 2 or more plans may

be treated as 1 plan for purposes of determining whether there is a qualified replacement plan under paragraph (2).

"(6) SUBSECTION NOT TO APPLY TO EMPLOYER IN BANKRUPTCY.—This subsection shall not apply to an employer who, as of the termination date of the qualified plan, is in bankruptcy liquidation under chapter 7 of title 11 of the United States Code or in similar proceedings under State law."

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT.—

(1) FIDUCIARY RESPONSIBILITY.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end thereof the following new subsection:

"(d)(1) If, in connection with the termination of a single-employer plan, an employer elects to establish or maintain a qualified replacement plan, or to increase benefits, as provided under section 4980(d) of the Internal Revenue Code of 1986, a fiduciary shall discharge the fiduciary's duties under this title and title IV in accordance with the following requirements:

"(A) In the case of a fiduciary of the terminated plan, any requirement—

"(i) under section 4980(d)(2)(B) of such Code with respect to the transfer of assets from the terminated plan to a qualified replacement plan, and

"(ii) under section 4980(d)(2)(B)(ii) or 4980(d)(3) of such Code with respect to any increase in benefits under the terminated plan.

"(B) In the case of a fiduciary of a qualified replacement plan, any requirement—

"(i) under section 4980(d)(2)(A) of such Code with respect to participation in the qualified replacement plan of active participants in the terminated plan,

"(ii) under section 4980(d)(2)(B) of such Code with respect to the receipt of assets from the terminated plan, and

"(iii) under section 4980(d)(2)(C) of such Code with respect to the allocation of assets to participants of the qualified replacement plan.

"(2) For purposes of this subsection—

"(A) any term used in this subsection which is also used in section 4980(d) of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section, and

"(B) any reference in this subsection to the Internal Revenue Code of 1986 shall be a reference to such Code as in effect on January 1, 1991."

(2) CONFORMING AMENDMENTS.—

(A) Section 404(a)(1)(D) of such Act (29 U.S.C. 1104(a)(1)(D)) is amended by striking "or title IV" and inserting "and title IV".

(B) Section 4044(d)(1) of such Act (29 U.S.C. 1344(d)(1)) is amended by inserting ", section 404(d) of this Act, and section 4980(d) of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "paragraph (3)".

SEC. 13323. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subpart shall apply to reversions occurring after September 30, 1990.

(b) EXCEPTION.—The amendments made by this subpart shall not apply to any reversion after September 30, 1990, if—

(1) in the case of plans subject to title IV of the Employee Retirement Income Security Act of 1974, a notice of intent to terminate under such title was provided to participants (or if no participants, to the Pension Benefit Guaranty Corporation) before October 1, 1990, or

(2) in the case of plans subject to title I (and not to title IV) of such Act, a notice of intent to reduce future accruals under section 204(h) of such Act was provided to participants in connection with the termination before October 1, 1990.

Subpart B—Transfers to Retiree Health Accounts

SEC. 13325. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) IN GENERAL.—Part I of subchapter D of chapter 1 (relating to pension, profit-sharing, and stock bonus plans) is amended by adding at the end thereof the following new subpart:

"Subpart E—Treatment of Transfers to Retiree Health Accounts

"Sec. 420. Transfers of excess pension assets to retiree health accounts.

"SEC. 420. TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

"(a) GENERAL RULE.—If there is a qualified transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to a health benefits account which is part of such plan—

"(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of subsection (a) or (h) of section 401 solely by reason of such transfer (or any other action authorized under this section),

"(2) no amount shall be includible in the gross income of the employer maintaining the plan solely by reason of such transfer,

"(3) such transfer shall not be treated—

"(A) as an employer reversion for purposes of section 4980, or

"(B) as a prohibited transaction for purposes of section 4975, and

"(4) the limitations of subsection (d) shall apply to such employer.

"(b) QUALIFIED TRANSFER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer—

"(A) of excess pension assets of a defined benefit plan to a health benefits account which is part of such plan in a taxable year beginning after December 31, 1990,

"(B) which does not contravene any other provision of law, and

"(C) with respect to which the plan meets—

"(i) the use requirements of subsection (c)(1),

"(ii) the vesting requirements of subsection (c)(2), and

"(iii) the minimum benefit requirements of subsection (c)(3).

"(2) ONLY 1 TRANSFER PER YEAR.—

"(A) IN GENERAL.—No more than 1 transfer with respect to any plan during a taxable year may be treated as a qualified transfer for purposes of this section.

"(B) EXCEPTION.—A transfer described in paragraph (4) shall not be taken into account for purposes of subparagraph (A).

"(3) LIMITATION ON AMOUNT TRANSFERRED.—The amount of excess pension assets which may be transferred in a qualified transfer shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the taxable year of the transfer for qualified current retiree health liabilities.

"(4) SPECIAL RULE FOR 1990.—

"(A) IN GENERAL.—Subject to the provisions of subsection (c), a transfer shall be treated as a qualified transfer if such transfer—

"(i) is made after the close of the taxable year preceding the employer's first taxable year beginning after December 31, 1990, and before the earlier of—

"(I) the due date (including extensions) for the filing of the return of tax for such preceding taxable year, or

"(II) the date such return is filed, and

"(ii) does not exceed the expenditures of the employer for qualified current retiree health liabilities for such preceding taxable year.

"(B) REDUCTION IN DEDUCTION.—The amount of the deductions otherwise allowable under this chapter to an employer for the taxable year preceding the employer's first taxable year beginning after December 31, 1990, shall be reduced by the amount of any qualified transfer to which this paragraph applies.

"(C) COORDINATION WITH REDUCTION RULE.—Subsection (e)(1)(B) shall not apply to a transfer described in subparagraph (A).

"(5) EXPIRATION.—No transfer in any taxable year beginning after December 31, 1995, shall be treated as a qualified transfer.

"(c) REQUIREMENTS OF PLANS TRANSFERRING ASSETS.—

"(1) USE OF TRANSFERRED ASSETS.—

"(A) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) shall be used only to pay qualified current retiree health liabilities (other than liabilities of key employees not taken into account under subsection (e)(1)(D)) for the taxable year of the transfer (whether directly or through reimbursement).

"(B) AMOUNTS NOT USED TO PAY FOR HEALTH BENEFITS.—

"(i) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) which are not used as provided in subparagraph (A) shall be transferred out of the account to the transferor plan.

"(ii) TAX TREATMENT OF AMOUNTS.—Any amount transferred out of an account under clause (i)—

"(I) shall not be includible in the gross income of the employer for such taxable year, but

"(II) shall be treated as an employer reversion for purposes of section 4980 (without regard to subsection (d) thereof).

"(C) ORDERING RULE.—For purposes of this section, any amount paid out of a health benefits account shall be treated as paid first out of the assets and income described in subparagraph (A).

"(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).

"(B) SPECIAL RULE FOR 1990.—In the case of a qualified transfer described in subsection (b)(4), the requirements of this paragraph are met with respect to any participant who separated from service during the taxable year to which such transfer relates by recomputing such participant's benefits as if subparagraph (A) had applied immediately before such separation.

"(3) MINIMUM COST REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the benefit maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer.

"(B) APPLICABLE EMPLOYER COST.—For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by dividing—

"(i) the qualified current retiree health liabilities of the employer for such taxable year determined—

"(I) without regard to any reduction under subsection (e)(1)(B), and

"(II) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer at the end of the taxable year, by

"(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

"(C) ELECTION TO COMPUTE COST SEPARATELY.—An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

"(D) BENEFIT MAINTENANCE PERIOD.—For purposes of this paragraph, the term 'benefit maintenance period' means the 5 taxable year period beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more overlapping benefit maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.

"(d) LIMITATIONS ON EMPLOYER.—For purposes of this title—

"(1) DEDUCTION LIMITATIONS.—No deduction shall be allowed—

"(A) for the transfer of any amount to a health benefits account in a qualified transfer (or any retransfer to the plan under subsection (c)(1)(B)),

"(B) for qualified current retiree health liabilities paid out of the assets (and income) described in subsection (c)(1), or

"(C) for any amounts to which subparagraph (B) does not apply and which are paid for qualified current retiree health liabilities for the taxable year to the extent such amounts are not greater than the excess (if any) of—

"(i) the amount determined under subparagraph (A) (and income allocable thereto), over

"(ii) the amount determined under subparagraph (B).

"(2) NO CONTRIBUTIONS ALLOWED.—An employer may not contribute after December 31, 1990, any amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to qualified current retiree health liabilities for which transferred assets are required to be used under subsection (c)(1).

"(e) DEFINITION AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED CURRENT RETIREE HEALTH LIABILITIES.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified current retiree health liabilities' means, with respect to any taxable year, the aggregate amounts (including administrative expenses) which would have been allowable as a deduction to the employer for such taxable year with respect to applicable health benefits provided during such taxable year if—

"(i) such benefits were provided directly by the employer, and

"(ii) the employer used the cash receipts and disbursements method of accounting.

For purposes of the preceding sentence, the rule of section 419(c)(3)(B) shall apply.

"(B) REDUCTIONS FOR AMOUNTS PREVIOUSLY SET ASIDE.—The amount determined under subparagraph (A) shall be reduced by any amount previously contributed to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) to pay for the qualified current retiree health liabilities. The portion of any reserves remaining as of the close of December 31, 1990, shall be allocated on a pro rata basis to qualified current retiree health liabilities.

"(C) APPLICABLE HEALTH BENEFITS.—The term 'applicable health benefits' mean health benefits or coverage which are provided to—

"(i) retired employees who, immediately before the qualified transfer, are entitled to receive such benefits upon retirement and who are entitled to pension benefits under the plan, and

"(ii) their spouses and dependents.

"(D) KEY EMPLOYEES EXCLUDED.—If an employee is a key employee (within the meaning of section 416(i)(1)) with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing qualified current retiree health liabilities for such taxable year or in calculating applicable employer cost under subsection (c)(3)(B).

"(2) EXCESS PENSION ASSETS.—The term 'excess pension assets' means the excess (if any) of—

"(A) the amount determined under section 412(c)(7)(A)(ii), over

"(B) the greater of—

"(i) the amount determined under section 412(c)(7)(A)(i), or

"(ii) 125 percent of current liability (as defined in section 412(c)(7)(B)).

The determination under this paragraph shall be made as of the most recent valuation date of the plan preceding the qualified transfer.

"(3) HEALTH BENEFITS ACCOUNT.—The term "health benefits account" means an account established and maintained under section 401(h).

"(4) COORDINATION WITH SECTION 412.—In the case of a qualified transfer to a health benefits account—

"(A) any assets transferred in a plan year after the valuation date for such year (and any income allocable thereto) shall, for purposes of section 412(c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(B) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) for the first plan year after the plan year in which such transfer occurs in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the pension plan under subsection (c)(1)(B)), except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(b) CONFORMING AMENDMENT.—Section 401(h) is amended by inserting ", and subject to the provisions of section 420" after "Secretary".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers in taxable years beginning after December 31, 1990.

SEC. 13326. APPLICATION OF ERISA TO TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) EXCLUSIVE BENEFIT REQUIREMENT.—Section 403(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1103(c)(1)) is amended by inserting ", or under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "insured plans)".

(b) FIDUCIARY DUTIES.—Section 404(a)(1) of such Act (29 U.S.C. 1104(a)(1)) is amended by inserting "and subject to section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)," after "4044,".

(c) EXEMPTIONS FROM PROHIBITED TRANSACTIONS.—Section 408(b) of such Act (29 U.S.C. 1108(b)) is amended by adding at the end thereof the following new paragraph:

"(13) Any transfer in a taxable year beginning before January 1, 1996, of excess pension assets from a defined benefit plan to a retiree health account in a qualified transfer permitted under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)."

(d) FUNDING LIMITATIONS.—Section 302 of such Act (29 U.S.C. 1082) is amended by redesignating subsection (g) as subsection (h) and by adding at the end thereof the following new subsection:

"(g) QUALIFIED TRANSFERS TO HEALTH BENEFIT ACCOUNTS.—For purposes of this section, in the case of a qualified transfer (as defined in section 420 of the Internal Revenue Code of 1986)—

"(1) any assets transferred in a plan year after the valuation date for such year (and any income allocable thereto) shall, for purposes of subsection (c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(2) the plan shall be treated as having a net experience loss under subsection (b)(2)(B)(iv) for the first plan year after the plan year in which such transfer occurs in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the plan under section 420(c)(1)(B) of such Code), except that such subsection shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(e) NOTICE REQUIREMENTS.—

(1) IN GENERAL.—Section 101 of such Act (29 U.S.C. 1021) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) NOTICE OF TRANSFER OF EXCESS PENSION ASSETS TO HEALTH BENEFITS ACCOUNTS.—

"(1) NOTICE TO PARTICIPANTS.—Not later than 60 days before the date of a qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the administrator of the plan shall notify (in such manner as the Secretary may prescribe) each participant and beneficiary under the plan of such transfer. Such notice shall include information with respect to the amount of excess pension assets, the portion to be transferred, the amount of health benefits liabilities to be funded with the assets transferred, and the amount of pension benefits of the participant which will be vested immediately after the transfer.

"(2) NOTICE TO SECRETARIES, ADMINISTRATOR, AND EMPLOYEE ORGANIZATIONS.—

"(A) IN GENERAL.—Not later than 60 days before the date of any qualified transfer by

an employee pension benefit plan of excess pension assets to a health benefits account, the employer maintaining the plan from which the transfer is made shall provide the Secretary, the Secretary of the Treasury, the administrator, and each employee organization representing participants in the plan a written notice of such transfer. A copy of any such notice shall be available for inspection in the principal office of the administrator.

"(B) INFORMATION RELATING TO TRANSFER.—Such notice shall identify the plan from which the transfer is made, the amount of the transfer, a detailed accounting of assets projected to be held by the plan immediately before and immediately after the transfer, and the current liabilities under the plan at the time of the transfer.

"(C) AUTHORITY FOR ADDITIONAL REPORTING REQUIREMENTS.—The Secretary may prescribe such additional reporting requirements as may be necessary to carry out the purposes of this section.

"(3) DEFINITIONS.—For purposes of paragraph (1), any term used in such paragraph which is also used in section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991) shall have the same meaning as when used in such section."

(2) PENALTIES.—

(A) Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by inserting "or section 101(e)(1)" after "section 606".

(B) Section 502(c)(3) of such Act (29 U.S.C. 1132(c)(3)) is amended—

(i) by inserting "or who fails to meet the requirements of section 101(e)(2) with respect to any person" after "beneficiary" the first place it appears, and

(ii) by inserting "or to such person" after "beneficiary" the second place it appears.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified transfers under section 420 of the Internal Revenue Code of 1986 made after the date of the enactment of this Act.

PART IV—CORPORATE PROVISIONS

SEC. 13331. RECOGNITION OF GAIN BY DISTRIBUTING CORPORATION IN CERTAIN SECTION 355 TRANSACTIONS.

(a) GENERAL RULE.—Section 355 (relating to distribution of stock and securities of a controlled corporation) is amended by striking subsection (c) and inserting the following new subsections:

"(c) TAXABILITY OF CORPORATION ON DISTRIBUTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no gain or loss shall be recognized to a corporation on any distribution to which this section (or so much of section 356 as relates to this section) applies and which is not in pursuance of a plan of reorganization.

"(2) DISTRIBUTION OF APPRECIATED PROPERTY.—

"(A) IN GENERAL.—If—

"(i) in a distribution referred to in paragraph (1), the corporation distributes property other than qualified property, and

"(ii) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then gain shall be recognized to the distributing corporation as if such property were sold to the distributee at its fair market value.

"(B) QUALIFIED PROPERTY.—For purposes of subparagraph (A), the term 'qualified property' means any stock or securities in the controlled corporation.

"(C) TREATMENT OF LIABILITIES.—If any property distributed in the distribution referred to in paragraph (1) is subject to a liability or the shareholder assumes a liability of the distributing corporation in connection with the distribution, then, for purposes of subparagraph (A), the fair market value of such property shall be treated as not less than the amount of such liability.

"(3) COORDINATION WITH SECTIONS 311 AND 336(a).—Sections 311 and 336(a) shall not apply to any distribution referred to in paragraph (1).

"(d) RECOGNITION OF GAIN ON CERTAIN DISTRIBUTIONS OF STOCK OR SECURITIES IN CONTROLLED CORPORATION.—

"(1) IN GENERAL.—In the case of a disqualified distribution, any stock or securities in the controlled corporation shall not be treated as qualified property for purposes of subsection (c)(2) of this section or section 361(c)(2).

"(2) DISQUALIFIED DISTRIBUTION.—For purposes of this subsection, the term 'disqualified distribution' means any distribution to which this section (or so much of section 356 as relates to this section) applies if, immediately after the distribution—

"(A) any person holds disqualified stock in the distributing corporation which constitutes a 50-percent or greater interest in such corporation, or

"(B) any person holds disqualified stock in the controlled corporation (or, if stock of more than 1 controlled corporation is distributed, in any controlled corporation) which constitutes a 50-percent or greater interest in such corporation.

"(3) DISQUALIFIED STOCK.—For purposes of this subsection, the term 'disqualified stock' means—

"(A) any stock in the distributing corporation acquired by purchase after October 9, 1990, and during the 5-year period ending on the date of the distribution, and

"(B) any stock in any controlled corporation—

"(i) acquired by purchase after October 9, 1990, and during the 5-year period ending on the date of the distribution, or

"(ii) received in the distribution to the extent attributable to distributions on stock described in subparagraph (A).

"(4) 50-PERCENT OR GREATER INTEREST.—For purposes of this subsection, the term '50-percent or greater interest' means stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of shares of all classes of stock.

"(5) AGGREGATION RULES.—

"(A) IN GENERAL.—For purposes of this subsection, a person and all persons related to such person (within the meaning of 267(b) or 707(b)(1)) shall be treated as one person. For purposes of the preceding sentence, sections 267(b) and 707(b)(1) shall be applied by substituting '10 percent' for '50 percent' each place it appears.

"(B) PERSONS ACTING PURSUANT TO PLANS OR ARRANGEMENTS.—If two or more persons act pursuant to a plan or arrangement with respect to acquisitions of stock in the distributing corporation or controlled corporation, such persons shall be treated as one person for purposes of this subsection.

"(6) PURCHASE.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'purchase' means any acquisition but only if—

"(i) the basis of the property acquired in the hands of the acquirer is not determined (I) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or (II) under section 1014(a),

"(ii) except as provided in regulations, the property is not acquired in an exchange to which section 351, 354, 355, or 356 applies, and

"(iii) the property is not acquired in any other transaction described in regulations.

"(B) CERTAIN 351 EXCHANGES TREATED AS PURCHASES.—The term 'purchase' includes any acquisition of stock in an exchange to which section 351 applies to the extent such stock is acquired in exchange for—

"(i) any cash or cash item,

"(ii) any marketable security, or

"(iii) any debt of the transferor.

"(C) CARRYOVER BASIS TRANSACTIONS.—If—

"(i) any person acquires stock from another person who acquired such stock by purchase (as determined under this paragraph with regard to this subparagraph), and

"(ii) the adjusted basis of such stock in the hands of such acquirer is determined in whole or in part by reference to the adjusted basis of such stock in the hands of such other person,

such acquirer shall be treated as having acquired such stock by purchase on the date it was so acquired by such other person.

"(7) SPECIAL RULE WHERE SUBSTANTIAL DIMINUTION OF RISK.—

"(A) IN GENERAL.—If this paragraph applies to any stock for any period, the running of the 5-year period set forth in subparagraph (A) or (B)(i) of paragraph (3) (whichever applies) shall be suspended during such period.

"(B) STOCK TO WHICH SUSPENSION APPLIES.—This paragraph applies to any stock for any period during which the holder's risk of loss with respect to such stock is (directly or indirectly) substantially diminished by—

"(i) an option,

"(ii) a short sale,

"(iii) any special class of stock,

"(iv) any device limiting risk from any portion of the activities of the corporation, or

"(v) any other device or transaction.

"(8) ATTRIBUTION FROM ENTITIES.—

"(A) IN GENERAL.—Paragraph (2) of section 318(a) shall apply in determining whether a person holds stock in any corporation (determined by substituting '10 percent' for '50 percent' in subparagraph (C) of such paragraph (2)).

"(B) DEEMED PURCHASE RULE.—If—

"(i) any person acquires by purchase an interest in any entity, and

"(ii) such person is treated under subparagraph (A) as holding any stock by reason of holding such interest,

such stock shall be treated as acquired by purchase by such person on the date of the purchase of the interest in such entity.

"(9) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations to prevent the avoidance of the purposes of this subsection through the use of related persons, pass-thru entities, options, or other arrangements."

(b) TECHNICAL AMENDMENTS.—Subsection (c) of section 361 is amended by adding at the end thereof the following new paragraph:

"(5) CROSS REFERENCE.—

"For provision providing for recognition of gain in certain distributions, see section 355(d)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after October 9, 1990.

(2) TRANSITIONAL RULES.—For purposes of subparagraphs (A) and (B)(i) of section 355(d)(3) of the Internal Revenue Code of 1986 (as amended by subsection (a)), an acquisition shall be treated as occurring on or before October 9, 1990 if—

(A) such acquisition is pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition,

(B) such acquisition is pursuant to a tender or exchange offer filed with the Securities and Exchange Commission on or before October 9, 1990, or

(C) such acquisition is pursuant to an offer—

(i) the material terms of which were described in a written public announcement on or before October 9, 1990,

(ii) which was the subject of a prior filing with the Securities and Exchange Commission, and

(iii) which is subsequently filed with the Securities and Exchange Commission before January 1, 1991.

SEC. 13332. MODIFICATIONS TO REGULATIONS ISSUED UNDER SECTION 305(c).

(a) GENERAL RULE.—Subsection (c) of section 305 (relating to certain transactions treated as distributions) is amended by adding at the end thereof the following new sentence: "Regulations prescribed under the preceding sentence shall provide that—

"(1) where the issuer of stock is required to redeem the stock at a specified time or the holder of stock has the option to require the issuer to redeem the stock, a redemption premium resulting from such requirement or option shall be treated as reasonable only if the amount of such premium does not exceed the amount determined under the principles of section 1273(a)(3),

"(2) a redemption premium shall not fail to be treated as a distribution (or series of distributions) merely because the stock is callable, and

"(3) in any case in which a redemption premium is treated as a distribution (or series of distributions), such premium shall be taken into account under principles similar to the principles of section 1272(a)."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to stock issued after October 9, 1990.

(2) EXCEPTION.—The amendment made by subsection (a) shall not apply to any stock issued after October 9, 1990, if—

(A) such stock is issued pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such issuance, or

(B) such stock is issued pursuant to a registration or offering statement filed on or before October 9, 1990, with a Federal or State agency regulating the offering or sale of securities and such stock is issued before the date 90 days after the date of such filing.

SEC. 13333. MODIFICATIONS TO SECTION 1060.

(a) EFFECT OF ALLOCATION AGREEMENTS.—Subsection (a) of section 1060 (relating to special allocation rules for certain asset allocations) is amended by adding at the end thereof the following new sentence: "If in connection with an applicable asset acquisition, the transferee and transferor agree in writing as to the allocation of any consideration, or as to the fair market value of any of the assets, such agreement shall be binding on both the transferee and transferor unless the Secretary determines that such allocation (or fair market value) is not appropriate."

(b) INFORMATION REQUIRED IN CASE OF CERTAIN TRANSFERS OF INTEREST IN ENTITIES.—

(1) IN GENERAL.—Section 1060 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) INFORMATION REQUIRED IN CASE OF CERTAIN TRANSFERS OF INTERESTS IN ENTITIES.—

"(1) IN GENERAL.—If—

"(A) a person who is a 10-percent owner with respect to any entity transfers an interest in such entity, and

"(B) in connection with such transfer, such owner (or a related person) enters into an employment contract, covenant not to compete, royalty or lease agreement, or other agreement with the transferee,

such owner and the transferee shall, at such time and in such manner as the Secretary may prescribe, furnish such information as the Secretary may require.

"(2) 10-PERCENT OWNER.—For purposes of this subsection—

"(A) IN GENERAL.—The term '10-percent owner' means, with respect to any entity, any person who holds 10 percent or more (by value) of the interests in such entity immediately before the transfer.

"(B) CONSTRUCTIVE OWNERSHIP.—Section 318 shall apply in determining ownership of stock in a corporation. Similar principles shall apply in determining the ownership of interests in any other entity.

"(3) RELATED PERSON.—For purposes of this subsection, the term 'related person' means any person who is related (within the meaning of section 267(b) or 707(b)(1)) to the 10-percent owner."

(2) TECHNICAL AMENDMENT.—Clause (x) of section 6724(d)(1)(B) is amended by striking "section 1060(b)", and inserting "subsection (b) or (e) of section 1060".

(c) INFORMATION REQUIRED IN SECTION 338(h)(10) TRANSACTIONS.—Paragraph (10) of section 338 is amended by adding at the end thereof the following new subparagraph:

"(C) INFORMATION REQUIRED TO BE FURNISHED TO THE SECRETARY.—Under regulations, where an election is made under subparagraph (A), the purchasing corporation and the common parent of the selling consolidated group shall, at such times and in such manner as may be provided in regulations, furnish to the Secretary the following information:

"(i) The amount allocated under subsection (b)(5) to goodwill or going concern value.

"(ii) Any modification of the amount described in clause (i).

"(iii) Any other information as the Secretary deems necessary to carry out the provisions of this paragraph."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to acquisitions after October 9, 1990.

(2) BINDING CONTRACT EXCEPTION.—The amendments made by this section shall not apply to any acquisition pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition.

SEC. 13334. MODIFICATION TO CORPORATION EQUITY REDUCTION LIMITATIONS ON NET OPERATING LOSS CARRYBACKS.

(a) REPEAL OF EXCEPTION FOR ACQUISITIONS OF SUBSIDIARIES.—Clause (ii) of section 172(m)(3)(B) (relating to exceptions) is amended to read as follows:

"(ii) EXCEPTION.—The term 'major stock acquisition' does not include a qualified stock purchase (within the meaning of section 338) to which an election under section 338 applies."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to acquisitions after October 9, 1990.

(2) BINDING CONTRACT EXCEPTION.—The amendment made by subsection (a) shall not apply to any acquisition pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition.

SEC. 13335. ISSUANCE OF DEBT OR STOCK IN SATISFACTION OF INDEBTEDNESS.

(a) ISSUANCE OF DEBT INSTRUMENT.—

(1) Subsection (e) of section 108 (relating to general rules for discharge of indebtedness) is amended by adding at the end thereof the following new paragraph:

"(11) INDEBTEDNESS SATISFIED BY ISSUANCE OF DEBT INSTRUMENT.—

"(A) IN GENERAL.—For purposes of determining income of a debtor from discharge of indebtedness, if a debtor issues a debt instrument in satisfaction of indebtedness, such debtor shall be treated as having satisfied the indebtedness with an amount of money equal to the issue price of such debt instrument.

"(B) ISSUE PRICE.—For purposes of subparagraph (A), the issue price of any debt instrument shall be determined under sections 1273 and 1274. For purposes of the preceding sentence, section 1273(b)(4) shall be applied by reducing the stated redemption price of any instrument by the portion of such stated redemption price which is treated as interest for purposes of this chapter."

(2) Subsection (a) of section 1275 is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) LIMITATION ON STOCK FOR DEBT EXCEPTION.—

(1) IN GENERAL.—Subparagraph (B) of section 108(e)(10) is amended to read as follows:

"(B) EXCEPTION FOR CERTAIN STOCK IN TITLE 11 CASES AND INSOLVENT DEBTORS.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any transfer of stock of the debtor (other than disqualified stock)—

"(I) by a debtor in a title 11 case, or

"(II) by any other debtor but only to the extent such debtor is insolvent.

"(ii) DISQUALIFIED STOCK.—For purposes of clause (i), the term 'disqualified stock' means any stock with a stated redemption price if—

"(I) such stock has a fixed redemption date,

"(II) the issuer of such stock has the right to redeem such stock at one or more times, or

"(III) the holder of such stock has the right to require its redemption at one or more times."

(2) CONFORMING AMENDMENT.—Paragraph (8) of section 108(e) is amended by adding at the end thereof the following new sentence: "Any stock which is disqualified stock (as defined in paragraph (10)(B)(ii)) shall not be treated as stock for purposes of this paragraph."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by

this section shall apply to debt instruments issued, and stock transferred, after October 9, 1990, in satisfaction of any indebtedness.

(2) EXCEPTIONS.—The amendments made by this section shall not apply to any debt instrument issued, or stock transferred, in satisfaction of any indebtedness if such issuance or transfer (as the case may be)—

(A) is in a title 11 or similar case (as defined in section 368(a)(3)(A) of the Internal Revenue Code of 1986) which was filed on or before October 9, 1990,

(B) is pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such issuance or transfer,

(C) is pursuant to a tender or exchange offer filed with the Securities and Exchange Commission on or before October 9, 1990, or

(D) such acquisition is pursuant to an offer—

(i) the material terms of which were described in a written public announcement on or before October 9, 1990,

(ii) which was the subject of a prior filing with the Securities and Exchange Commission, and

(iii) which is subsequently filed with the Securities and Exchange Commission before January 1, 1991.

PART V—EMPLOYMENT TAX PROVISIONS

SEC. 13341. INCREASE IN DOLLAR LIMITATION ON AMOUNT OF WAGES SUBJECT TO HOSPITAL INSURANCE TAX.

(a) HOSPITAL INSURANCE TAX.—

(1) IN GENERAL.—Paragraph (1) of section 3121(a) is amended—

(A) by striking "contribution and benefit base (as determined under section 230 of the Social Security Act)" each place it appears and inserting "applicable contribution base (as determined under subsection (x))", and

(B) by striking "such contribution and benefit base" and inserting "such applicable contribution base".

(2) APPLICABLE CONTRIBUTION BASE.—Section 3121 is amended by adding at the end thereof the following new subsection:

"(x) APPLICABLE CONTRIBUTION BASE.—For purposes of this chapter—

"(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—For purposes of the taxes imposed by sections 3101(a) and 3111(a), the applicable contribution base for any calendar year is the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(2) HOSPITAL INSURANCE.—For purposes of the taxes imposed by section 3101(b) and 3111(b), the applicable contribution base is—

"(A) $73,000 for calendar year 1991, and

"(B) for any calendar year after 1991, $73,000 adjusted in the same manner as is used in adjusting the contribution and benefit base under section 230 of the Social Security Act."

(b) SELF-EMPLOYMENT TAX.—

(1) IN GENERAL.—Subsection (b) of section 1402 is amended by striking "the contribution and benefit base (as determined under section 230 of the Social Security Act)" and inserting "the applicable contribution base (as determined under subsection (k))".

(2) APPLICABLE CONTRIBUTION BASE.—Section 1402 is amended by adding at the end thereof the following new subsection:

"(k) APPLICABLE CONTRIBUTION BASE.—For purposes of this chapter—

"(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—For purposes of the tax imposed by section 1401(a), the applicable contribution base for any calendar year is the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(2) HOSPITAL INSURANCE.—For purposes of the tax imposed by section 1401(b), the applicable contribution base for any calendar year is the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(c) RAILROAD RETIREMENT TAX.—Clause (i) of section 3231(e)(2)(B) is amended to read as follows:

"(i) TIER 1 TAXES.—

"(I) IN GENERAL.—Except as provided in subclause (II) of this clause and in clause (ii), the term 'applicable base' means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(II) HOSPITAL INSURANCE TAXES.—For purposes of applying so much of the rate applicable under section 3201(a) or 3221(a) (as the case may be) as does not exceed the rate of tax in effect under section 3101(b), and for purposes of applying so much of the rate of tax applicable under section 3211(a)(1) as does not exceed the rate of tax in effect under section 1401(b), the term 'applicable base' means for any calendar year the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (3) of section 6413(c) is amended to read as follows:

"(3) SEPARATE APPLICATION FOR HOSPITAL INSURANCE TAXES.—In applying this subsection with respect to—

"(A) the tax imposed by section 3101(b) (or any amount equivalent to such tax), and

"(B) so much of the tax imposed by section 3201 as is determined at a rate not greater than the rate in effect under section 3101(b),

the applicable contribution base determined under section 3121(x)(2) for any calendar year shall be substituted for 'contribution and benefit base (as determined under section 230 of the Social Security Act)' each place it appears."

(2) Sections 3122 and 3125 are each amended by striking "contribution and benefit base limitation" each place it appears and inserting "applicable contribution base limitation".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to 1991 and later calendar years.

SEC. 13342. EXTENDING MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, ALL STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) IN GENERAL.—

(1) APPLICATION OF HOSPITAL INSURANCE TAX.—Section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking subparagraphs (C) and (D).

(2) COVERAGE UNDER MEDICARE.—Section 210(p) of the Social Security Act (42 U.S.C. 410(p)) is amended by striking paragraphs (3) and (4).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services performed after December 31, 1991.

(b) TRANSITION IN TAX RATES.—In applying sections 3101(b) and 3111(b) of the Internal Revenue Code to service which, but for the amendment made by subsection (a), would not constitute employment for purposes of such sections and which is performed—

(1) after December 31, 1991, and before January 1, 1993, the percentage of wages rate of tax under such sections shall be 0.8 percent (instead of 1.45 percent), and

(2) after December 31, 1992, and before January 1, 1994, the percentage of wages rate of tax under such sections shall be 1.35 percent (instead of 1.45 percent).

(c) TRANSITION IN BENEFITS FOR STATE AND LOCAL GOVERNMENT EMPLOYEES.—

(1) IN GENERAL.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual who performs service both during and before January 1992 which constitutes medicare qualified State or local government employment (as defined in paragraph (3)) only because of the amendment made by subsection (a), the individual's medicare qualified State or local government employment performed before January 1, 1992, shall be considered to be "employment" (as defined for purposes of title II of such Act), but only for purposes of providing the individual (or another person) with entitlement to hospital insurance benefits under part A of title XVIII of such Act for months beginning with January 1992.

(2) MEDICARE QUALIFIED STATE OR LOCAL GOVERNMENT EMPLOYMENT DEFINED.—In this subsection, the term "medicare qualified State or local government employment" means medicare qualified government employment described in section 210(p)(1)(B) of the Social Security Act (determined without regard to section 210(p)(3) of such Act).

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year on account of—

(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of paragraph (1),

(B) the additional administrative expenses resulting or expected to result therefrom, and

(C) any loss in interest to such Trust Fund resulting from the payment of those amounts,

in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.

(3) INFORMATION TO INDIVIDUALS WHO ARE PROSPECTIVE MEDICARE BENEFICIARIES BASED ON STATE AND LOCAL GOVERNMENT EMPLOYMENT.—Section 226(g) of the Social Security Act (42 U.S.C. 426(g)) is amended—

(A) by redesignating clauses (1) through (3) as clauses (A) through (C), respectively,

(B) by inserting "(1)" after "(g)", and

(C) by adding at the end the following new paragraph:

"(2) The Secretary, in consultation with State and local governments, shall provide procedures designed to assure that individuals who perform medicare qualified government employment by virtue of service described in section 210(a)(7) are fully informed with respect to (A) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of title XVIII, (B) the requirements for and conditions of such eligibility, and (C) the necessity of timely application as a condition of entitled under subsection (b)(2)(C), giving particular attention to individuals who apply for an annuity or retirement benefit and whose eligibility for such the annuity or retirement benefit is based on a disability.".

SEC. 13343. MANDATORY COVERAGE OF CERTAIN STATE AND LOCAL GOVERNMENT EMPLOYEES WHO ARE NOT MEMBERS OF A STATE OR LOCAL RETIREMENT SYSTEM.

(a) EMPLOYMENT UNDER OASDI.—

(1) IN GENERAL.—Paragraph (7) of section 210(a) of the Social Security Act (42 U.S.C. 410(a)(7)) is amended—

(A) by striking "or" at the end of subparagraph (D);

(B) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

(C) by adding at the end the following new subparagraph:

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system (as defined in section 218(b)(4)) of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 211(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self-employment;".

(2) CONFORMING AMENDMENT.—Paragraph (10) of section 210(a) of such Act (42 U.S.C. 410(a)(10)) is amended, in the matter following subparagraph (B), by inserting after "university" the following: "and such service is not service described in paragraph (7)(F)".

(b) EMPLOYMENT UNDER FICA.—

(1) IN GENERAL.—Paragraph (7) of section 3121(b) of the Internal Revenue Code of 1986 is amended—

(A) by striking "or" at the end of subparagraph (D);

(B) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

(C) by adding at the end the following new subparagraph:

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system (as defined in section 218(b)(4) of the Social Security Act) of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 1402(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self-employment;".

(2) CONFORMING AMENDMENT.—Paragraph (10) of section 3121(b) of such Code is amended, in the matter following subparagraph (B), by inserting after "university" the following: "and such service is not service described in paragraph (7)(F)".

(c) MANDATORY EXCLUSION OF CERTAIN EMPLOYEES FROM STATE AGREEMENTS.—Section 218(c)(6) of the Social Security Act (42 U.S.C. 418(c)(6)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

(3) by adding at the end the following new subparagraph:

"(F) service described in section 210(a)(7)(F) which is included as 'employment' under section 210(a).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after September 30, 1990.

SEC. 13344. INCREASE IN TIER 2 RAILROAD RETIREMENT TAXES.

(a) TAX ON EMPLOYEES.—Subsection (b) of section 3201 of the Internal Revenue Code of 1986 (relating to rate of tax) is amended by striking "4.90 percent" and inserting "5 percent".

(b) TAX ON EMPLOYEE REPRESENTATIVES.—Paragraph (2) of section 3211(a) of such Code (relating to rate of tax) is amended to read as follows:

"(2) TIER 2 TAX.—In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to 15.05 percent of the compensation received during any calendar year by such employee representative for services rendered by such employee representative."

(c) TAX ON EMPLOYERS.—Subsection (b) of section 3221 of such Code (relating to rate of tax) is amended by striking "16.10 percent" and inserting "16.4 percent".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to compensation received after December 31, 1990.

(2) EMPLOYER TAX.—The amendment made by subsection (c) shall apply to compensation paid after December 31, 1990.

SEC. 13345. DEPOSITS OF PAYROLL TAXES.

(a) IN GENERAL—Subsection (g) of section 6302 is amended to read as follows:

"(g) DEPOSITS OF SOCIAL SECURITY TAXES AND WITHHELD INCOME TAXES.—If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21 and 24 on the basis of eighth-month periods, such person shall make deposits of such taxes on the 1st banking day after any day on which such person has $100,000 or more of such taxes for deposit.".

(b) TECHNICAL AMENDMENT.—Paragraph (2) of section 7632(b) of the Revenue Reconciliation Act of 1989 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts required to be deposited after December 31, 1990.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 13351. OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.

(a) IN GENERAL.—Part I of subchapter B of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 68. OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.

"(a) GENERAL RULE.—In the case of an individual whose adjusted gross income exceeds the applicable amount, the amount of the itemized deductions otherwise allowable for the taxable year shall be reduced by the lesser of—

"(1) 3 percent of the excess of adjusted gross income over the applicable amount, or

"(2) 80 percent of the amount of the itemized deductions otherwise allowable for such taxable year.

"(b) APPLICABLE AMOUNT.—For purposes of this section, the term 'applicable amount' means $100,000 ($50,000 in the case of a separate return by a married individual within the meaning of section 7703).

"(c) EXCEPTION FOR CERTAIN ITEMIZED DEDUCTIONS.—For purposes of this section, the term 'itemized deductions' does not include—

"(1) the deduction under section 213 (relating to medical, etc. expenses),

"(2) any deduction for investment interest (as defined in section 163(d)), and

"(3) the deduction under section 165(a) for losses described in subsection (c)(3) or (d) of section 165.

"(d) COORDINATION WITH OTHER LIMITATIONS.—This section shall be applied after the application of any other limitation on the allowance of any itemized deduction.

"(e) EXCEPTION FOR ESTATES AND TRUSTS.—This section shall not apply to any estate or trust."

(b) COORDINATION WITH MINIMUM TAX.—Paragraph (1) of section 56(b) is amended by adding at the end thereof the following new subparagraph:

"(F) SECTION 68 NOT APPLICABLE.—Section 68 shall not apply."

(c) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 68. Overall limitation on itemized deductions."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 13352. DISALLOWANCE OF DEDUCTION FOR INTEREST ON UNPAID CORPORATE TAXES.

(a) GENERAL RULE.—Section 163 (relating to interest) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) DISALLOWANCE OF DEDUCTION FOR INTEREST ON UNPAID CORPORATE TAXES.—In the case of a corporation, no deduction shall be allowed under this subtitle for any interest paid or accrued under subtitle F on any underpayment of tax imposed by this title or on any other liability arising under this title."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to interest attributable to periods after December 31, 1990.

TITLE XIV—BUDGET PROCESS REFORM

SEC. 14001. TABLE OF CONTENTS.

TITLE XIV—BUDGET PROCESS REFORM

Sec. 14001. Short title; table of contents.

Subtitle A—Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985 and Related Amendments

PART I—AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

Sec. 14101. Sequestration.

PART II—RELATED AMENDMENTS

Sec. 14111. Temporary Amendments to the Congressional Budget Act of 1974.

Sec. 14112. Conforming amendments.

Subtitle B—Permanent Amendments to the Congressional Budget and Impoundment Control Act of 1974

Sec. 14201. Credit Accounting.

Subtitle C—Social Security

Sec. 14301. Off-budget Status of OASDI Trust Funds.

Sec. 14302. Protection of OASDI Trust Funds.

Sec. 14303. Report to the Congress by the Board of Trustees of the OASDI Trust Funds Regarding the Actuarial Balance of the Trust Funds.

Sec. 14304. Effective Date.

Subtitle D—Treatment of Fiscal Year 1991 Sequestration

Sec. 14401. Restoration of Funds Sequestered.

Subtitle E—Government-sponsored Enterprises

Sec. 14501. Financial Safety and Soundness of Government-Sponsored Enterprises.

Subtitle A—Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985 and Related Amendments

PART I—AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

SEC. 14101. SEQUESTRATION.

Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) is amended to read as follows:

"SEC. 250. TABLE OF CONTENTS; DEFINITIONS.

"(a) TABLE OF CONTENTS.—

"Sec. 250. Table of contents; definitions.
"Sec. 251. Enforcing discretionary spending limits.
"Sec. 252. Enforcing pay-as-you-go.
"Sec. 253. Enforcing deficit targets.
"Sec. 254. Reports and orders.
"Sec. 255. Exempt programs and activities.
"Sec. 256. Special rules.
"Sec. 257. The baseline.
"Sec. 258. Suspension in the event of war or low growth.
"Sec. 259. Modification of presidential order.

"(b) DEFINITIONS.—

"As used in this part:

"(1) The terms 'budget authority', 'outlays', and 'deficit' have the meanings given to such terms in section 3 of the Congressional Budget and Impoundment Control Act of 1974 (but including the treatment specified in section 257(b)(3) of the Health Insurance Trust Fund) and the terms 'maximum deficit amount' and 'discretionary spending limit' shall mean the amounts specified in section 601 of that Act as adjusted under sections 251 and 253 of this Act.

"(2) The terms 'sequester' and 'sequestration' refer to or mean the cancellation of budgetary resources provided by discretionary appropriations or direct spending law.

"(3) The term 'breach' means, for any fiscal year, the amount (if any) by which new budget authority or outlays for that year (within a category of discretionary appropriations) is above that category's discretionary spending limit for new budget authority or outlays for that year, as the case may be.

"(4) The term 'category' means:

"(A) For fiscal years 1991, 1992, and 1993, any of the following subsets of discretionary appropriations: defense, international, or domestic. Discretionary appropriations in the defense category shall be those so designated in the joint statement of managers accompanying the conference report on the Omnibus Budget Reconciliation Act of 1990. Discretionary appropriations in the international category shall be those so designated in the joint statement of managers accompanying the conference report on the Omnibus Budget Reconciliation Act of 1990. All other discretionary appropriations shall be in the domestic category. New accounts or activities shall be categorized in accordance with the procedures set forth in section 1104 of title 31, United States Code.

Contributions to the United States to offset the cost of operation desert shield are not counted within any category.

"(B) For fiscal years 1994 and 1995, all discretionary appropriations.

"(5) The term 'baseline' means the projection (described in section 257) of current-year levels of new budget authority, outlays, receipts, and the surplus or deficit into the budget year and the outyears.

"(6) The term 'budgetary resources' means—

"(A) with respect to budget year 1991, new budget authority; unobligated balances; new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; direct spending authority; and obligation limitations; or

"(B) with respect to budget year 1992, 1993, 1994, or 1995, new budget authority; unobligated balances; direct spending authority; and obligation limitations.

"(7) The term 'discretionary appropriations' means budgetary resources (except to fund direct-spending programs) provided in appropriation Acts.

"(8) The term 'direct spending' means—

"(A) budget authority provided by law other than appropriation Acts;

"(B) budget authority for mandatory appropriations; and

"(C) the food stamp program.

"(9) The term 'current' means, with respect to OMB estimates included with a budget submission under section 1105(a) of title 31, United States Code, the estimates consistent with the economic Rand technical assumptions underlying that budget and with respect to estimates made after submission of the fiscal year 1992 budget that are not included with a budget submission, estimates consistent with the economic and technical assumptions underlying the most recently submitted President's budget.

"(10) The term 'real economic growth', with respect to any fiscal year, means the growth in the gross national product during such fiscal year, adjusted for inflation, consistent with Department of Commerce definitions.

"(11) The sale of an asset means the sale to the public of—

"(A) any financial asset sold in fiscal year 1991,

"(B) any financial asset other than a loan asset sold after fiscal year 1991, or

"(C) any physical asset other than one produced on a current basis,

except any asset acquired by the Government under an insurance program or as a result of a default under a loan or loan-guarantee program.

"(12) The term 'prepayment of a loan' means payments to the United States made in advance of the slowest payment schedule allowed or set by law or contract when the financial asset is first acquired.

"(13) The term 'account' means an item for which appropriations are made in any appropriation Act and, for items not provided for in appropriation Acts, such term means an item for which there is a designated budget account identification code number in the President's budget.

"(14) The term 'budget year' means, with respect to a session of Congress, the fiscal year of the Government that starts on October 1 of the calendar year in which that session begins.

"(15) The term 'current year' means, with respect to a budget year, the fiscal year that immediately precedes that budget year.

"(16) The term 'outyear' means, with respect to a budget year, any of the fiscal years that follow the budget year through fiscal year 1995.

"(17) The term 'OMB' means the Director of the Office of Management and Budget.

"(18) The term 'CBO' means the Director of the Congressional Budget Office.

"SEC. 251. ENFORCING DISCRETIONARY SPENDING LIMITS.

"(a) Fiscal Years 1991-1995 Enforcement.—

"(1) SEQUESTRATION.—Within 15 calendar days after Congress adjourns to end a session, there shall be a sequestration to eliminate a budget-year breach, if any, within any category.

"(2) Eliminating a breach.—Each non-exempt account within a category shall be reduced by a dollar amount calculated by multiplying the enacted level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to eliminate a breach within that category; except that the health programs set forth in section 256(e) shall not be reduced by more than 2 percent and the uniform percent applicable to all other programs under this paragraph shall be increased (if necessary) to a level sufficient to eliminate that breach. If, within a category, the discretionary spending limits for both new budget authority and outlays are breached, the uniform percentage shall be calculated by—

"(A) first, calculating the uniform percentage necessary to eliminate the breach in new budget authority, and

"(B) second, if any breach in outlays remains, increasing the uniform percentage to a level sufficient to eliminate that breach.

"(3) MILITARY PERSONNEL.—If the President uses the authority to exempt any military personnel from sequestration under section 255(h), each account within subfunctional category 051 other than those military personnel accounts for which the authority provided under section 255(h), has been exercised shall be further reduced by a dollar amount calculated by multiplying the enacted level of non-exempt budgetary resources in that account at that time by the uniform percentage necessary to offset the total dollar amount by which outlays are not reduced in military personnel accounts by reason of the use of such authority.

"(4) PART-YEAR APPROPRIATIONS.—If, on the date specified in paragraph (1), there is in effect an Act making or continuing appropriations for part of a fiscal year for any non-exempt budget account, then—

"(A) the enacted amount in that account shall be deemed to be the annualized amount otherwise available by law; and

"(B) the dollar sequestration calculated for that account under paragraphs (2) and (3) shall be subtracted from—

"(i) the annualized amount otherwise available by law in that account under that or a subsequent part-year appropriation; and

"(ii) when a full-year appropriation for that account is enacted, from the amount otherwise provided by the full-year appropriation.

"(5) LOOK-BACK.—If, after the date specified in paragraph (1), an appropriation for the fiscal year in progress is enacted that causes a breach within a category for that year (after taking into account any sequestration of amounts within that category), the discretionary spending limits for that category for the next fiscal year shall be reduced by the amount or amounts of that breach.

"(6) OMB ESTIMATES.—Within 5 calendar days after the enactment of any discretionary appropriations, OMB shall publish in the Federal Register an estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by that legislation. OMB shall use those published estimates for the purposes of this subsection.

"(b) ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.—(1) When the President submits the budget under section 1105(a) of title 31, United States Code, for budget year 1992, 1993, 1994, or 1995 (except as otherwise indicated), OMB shall calculate (in the order set forth below), and the budget shall include, adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear through 1995 to reflect the following:

"(A) CHANGES IN CONCEPTS AND DEFINITIONS.—The adjustments produced by the amendments made by subtitles A and B of title XIV of the Omnibus Budget Reconciliation Act of 1990 or by any other changes in concepts and definitions shall be the baseline levels of new budget authority and outlays using current concepts and definitions minus those levels using the concepts and definitions in effect before such changes.

"(B) CHANGES IN INFLATION.—(i) For a budget submitted for budget year 1992 or 1993, the adjustments produced by changes in inflation shall be the levels of discretionary new budget authority and outlays in the baseline (calculated using current estimates) subtracted from those levels in that baseline recalculated with the baseline inflators multiplied by the inflation adjustment factor computed under clause (ii).

"(ii) For a budget year the inflation adjustment factor shall be the ratio between the level of cumulative inflation measured for the fiscal year most recently completed and the applicable estimated level for that year set forth below:

"For 1990, 130.3.

"For 1991, 137.1.

"For 1992, 142.7.

"For 1993, 147.4.

Cumulative inflation shall be measured by the index of the fiscal year average of the estimated gross national product implicit price deflator, with the calendar year 1989 index equal to 100.0.

"(C) CREDIT REESTIMATES.—For a budget submitted for budget year 1993 or 1994, the adjustments produced by reestimates to costs of Federal credit programs shall be, for any such program, a current estimate of new budget authority and outlays associated with a baseline projection of the prior year's gross loan level for that program minus the baseline projection of the prior year's new budget authority and associated outlays for that program.

(2) When OMB submits a sequestration report under section 254(e) for fiscal year 1991, 1992, 1993, 1994, or 1995 (except as otherwise indicated), OMB shall calculate (in the order set forth below), and the sequestration report and subsequent budgets submitted by the President under section 1105(a) of title 31, United States Code, shall include, adjustments to discretionary spending limits (and those limits as adjusted) for the fiscal year and each succeeding year through 1995, as follows:

"(A) IRS FUNDING.—To the extent that appropriations requested by the President are enacted that provide additional new budget authority or result in additional outlays (as compared to the summer 1990 CBO baseline) for the Internal Revenue Service compliance initiative in any fiscal year, the adjustments for that year shall be those amounts, but shall not exceed the amounts set forth below:

"For fiscal year 1991, $191,000,000 in new budget authority and $183,000,000 in outlays.

"For fiscal year 1992, $172,000,000 in new budget authority and $169,000,000 in outlays.

"For fiscal year 1993, $183,000,000 in new budget authority and $179,000,000 in outlays.

"For fiscal year 1994, $187,000,000 in new budget authority and $183,000,000 in outlays.

"For fiscal year 1995, $188,000,000 in new budget authority and $184,000,000 in outlays.

"(B) DEBT FORGIVENESS.—If in calendar year 1990 or 1991 an appropriation is enacted that provides debt relief proposed by the President and approved by the Congress, the adjustments shall be the estimated costs of that forgiveness, but shall not exceed the amounts set forth below:

"For fiscal year 1991, $157,000,000 in new budget authority and $207,000,000 in outlays.

"For fiscal year 1992, $177,000,000 in new budget authority and $294,000,000 in outlays.

"For fiscal year 1993, $205,000,000 in new budget authority and $361,000,000 in outlays.

"For fiscal year 1994, $246,000,000 in new budget authority and $446,000,000 in outlays.

"For fiscal year 1995, $300,000,000 in new budget authority and $522,000,000 in outlays.

"(C) IMF FUNDING.—If, for fiscal year 1992, 1993, 1994, or 1995, an appropriation is enacted that provides amounts for a quota increase to the International Monetary Fund, the adjustment shall be the amount provided.

"(D) EMERGENCY APPROPRIATIONS.—If, for fiscal year 1991, 1992, 1993, 1994, or 1995, appropriations are enacted that the President determines are for emergency purposes, the adjustment shall be the total of such appropriations determined to be for emergency purposes and the outlays flowing in all years from such appropriations.

"(E) SPECIAL ALLOWANCE FOR NEW BUDGET AUTHORITY.—If, for fiscal year 1991, 1992, or 1993, the amount of discretionary new budget authority provided in appropriation Acts exceeds the discretionary spending limit on new budget authority for any category for a fiscal year, the adjustment is the amount of the excess, but not to exceed 0.2 percent of the sum of the adjusted discretionary spending limits on new budget authority for all categories for that year. However, the sum of special allowance adjustments in all categories for that year shall not exceed 0.4 percent of the sum of the limits on new budget authority for all categories for that year. Adjustments that would exist but for the preceding sentence shall be reduced by the uniform percentage necessary to comply with that sentence.

"(F) SPECIAL OUTLAY ALLOWANCE.—If in any fiscal year except 1991 outlays for a category exceed the discretionary spending limit for that category but new budget authority does not exceed its limit for that category (after application of the first step of a sequestration described in subsection (a)(2), if necessary), the adjustment is the amount of the excess, but not to exceed $2,500,000,000 in the defense category, $1,500,000,000 in the international category, or $2,500,000,000 in the domestic category (as applicable) in fiscal year 1992 or 1993, and not to exceed $6,500,000,000 in fiscal year 1994 or 1995.

"(c) APPLICABILITY OF ADJUSTED LIMITS.—Discretionary spending limits as adjusted by this section shall be considered to be the applicable limits for all purposes of this Act.

"SEC. 252. ENFORCING PAY-AS-YOU-GO.

"(a) FISCAL YEARS 1992-1995 ENFORCEMENT.—The purpose of this section is to assure that any legislation (enacted after the date of enactment of this section) affecting direct spending or receipts that increases the deficit in any fiscal year covered by this Act will trigger an offsetting sequestration.

"(b) SEQUESTRATION; LOOK-BACK.—On October 15 of each fiscal year, there shall be a sequestration to offset the amount of any net deficit increase in that fiscal year and the prior fiscal year caused by all direct spending and receipts legislation enacted after the date of enactment of this section (after adjusting for any sequestration of direct spending accounts in a prior year). OMB shall calculate the amount of deficit increase, if any, in those fiscal years by adding—

"(1) all estimates of direct spending and receipts legislation published under subsection (e) applicable to those fiscal years, except that any amounts included in such estimates resulting from full funding of, and continuation of, deposit insurance law in effect on the date of enactment of this section shall not be included in the addition; and

"(2) the estimated amount of savings in direct spending programs applicable to those fiscal years resulting from the prior year's sequestration under this section or section 253, if any, as published in OMB's October 15 sequestration report for that year.

"(c) ELIMINATING A DEFICIT INCREASE.—(1) The first $5,000,000,000 required to be sequestered in a fiscal year under subsection (a) shall be obtained from non-exempt direct spending accounts. Half of any remaining amounts required to be sequestered in that fiscal year, if any, shall be obtained from such accounts and half from non-exempt discretionary appropriation accounts.

"(2) Actions to reduce direct spending accounts shall be taken in the following order:

"(A) FIRST.—All reductions in automatic spending increases specified in section 256(a) shall be made.

"(B) SECOND.—If additional reductions in direct spending accounts are required to be made, the maximum reductions permissible under sections 256(b) (guaranteed student loans) and 256(c) (foster care and adoption assistance) shall be made.

"(C) THIRD.—If additional reductions in direct spending accounts are required to be made, each remaining non-exempt direct spending account shall be reduced by the uniform percentage necessary to make the reductions in direct spending required by paragraph (1); except that the medicare programs specified in section 256(d) shall not be reduced by more than 4 percent and the uniform percentage applicable to all other direct spending programs under this paragraph shall be increased (if necessary) to a level sufficient to achieve the required reduction in direct spending.

"(3) Each non-exempt discretionary appropriation account shall be reduced by the uniform percentage necessary to make the reductions in discretionary appropriations required by paragraph (1); except that the health programs set forth in section 256(e) shall not be reduced by more than 2 percent and the uniform percent applicable to all other programs under this paragraph shall be increased (if necessary) to a level sufficient to eliminate that breach; except that adjustments shall be made if any military personnel are exempt under the procedure set forth in section 251(a)(3).

"(4) For purposes of this subsection, accounts shall be assumed to be at the level in the baseline.

"(d) PART-YEAR APPROPRIATIONS.—If, on October 15, there is in effect an Act making or continuing appropriations for part of a fiscal year for any non-exempt budget account, then the dollar sequestration calculated for that account under subsection (c) shall be subtracted from—

"(1) the annualized amount otherwise available by law in that account under that or a subsequent part-year appropriation; and

"(2) when a full-year appropriation for that account is enacted, from the amount otherwise provided by the full-year appropriation; except that the amount to be subtracted from that account shall be reduced (but not below zero) by the savings achieved by that appropriation when the enacted amount is less than the baseline for that account.

"(e) OMB ESTIMATES.—Within 15 calendar days after the enactment of any direct spending or receipts legislation enacted after the date of enactment of this section, OMB shall publish in the Federal Register an estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from that legislation. Those estimates shall be made using current economic and technical assumptions.

"SEC. 253. ENFORCING DEFICIT TARGETS.

"(a) SEQUESTRATION.—On October 15 of each fiscal year, after any sequestration required by section 252 (pay-as-you-go), there shall be a sequestration to eliminate the excess deficit (if any remains) if it exceeds the margin. The excess deficit is the amount, if any, by which the estimated deficit for the budget year exceeds the maximum deficit amount for that year minus the deposit insurance reestimate for that year, if any, calculated under subsection (h).

"(b) ESTIMATED DEFICIT; MARGIN.—

"(1) ESTIMATED DEFICIT.—The estimated deficit for the budget year is the baseline deficit for that year on the applicable snapshot date minus any reductions required to be made under section 252, except that for purposes of estimating the deficit, outlays for discretionary appropriations shall be assumed to be at the discretionary spending limits set forth in the most recent President's budget submitted under section 1105(a) of title 31, United States Code, for that year, rather than at baseline levels.

"(2) MARGIN.—The 'margin' for fiscal year 1994 or 1995 is $15,000,000,000 minus any outlay adjustments for that year under section 251(b)(2)(A)(ii).

"(c) DIVIDING THE SEQUESTRATION.—To eliminate the excess deficit in a budget year, half of the required outlay reductions shall be obtained from non-exempt defense accounts (accounts designated as function 050 in the President's fiscal year 1991 budget submission) and half from non-exempt, non-defense accounts (all other non-exempt accounts).

"(d) DEFENSE.—Each non-exempt defense account shall be reduced by a dollar amount calculated by multiplying the baseline level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to carry out subsection (c)(2), except that adjustments shall be made if any military personnel are exempt under the procedure set forth in section 251(a)(3).

"(e) NON-DEFENSE.—Actions to reduce non-defense accounts shall be taken in the following order:

"(1) FIRST.—All reductions in automatic spending increases under section 256(a) shall be made.

"(2) SECOND.—If additional reductions in non-defense accounts are required to be made, the maximum reduction permissible under sections 256(b) (guaranteed student loans) and 256(c) (foster care and adoption assistance) shall be made.

"(3) THIRD.—If additional reductions in non-defense accounts are required to be made, each remaining non-exempt, non-defense account shall be reduced by the uniform percentage necessary to make the reductions in non-defense outlays required by subsection (c)(2), except that—

"(A) the medicare program specified in section 256(d) shall not be reduced by more than 2 percent in total including any reduction of less than 2 percent made under section 252 or, if it has been reduced by 2 percent or more under section 252, it may not be further reduced under this section; and

"(B) the health programs set forth in section 256(e) shall not be reduced by more than 2 percent in total (including any reduction made under section 252),

and the uniform percent applicable to all other programs under this subsection shall be increased (if necessary) to a level sufficient to achieve the required reduction in non-defense outlays.

"(f) BASELINE ASSUMPTIONS; PART-YEAR APPROPRIATIONS.—

"(1) BUDGET ASSUMPTIONS.—For purposes of subsections (c), (d), and (e), accounts shall be assumed to be at the level in the baseline.

"(2) PART-YEAR APPROPRIATIONS.—If, on October 15, there is in effect an Act making or continuing appropriations for part of a fiscal year for any non-exempt budget account, then the dollar sequestration calculated for that account under subsection (d) or (e), as applicable, shall be subtracted from—

"(A) the annualized amount otherwise available by law in that account under that or a subsequent part-year appropriation; and

"(B) when a full-year appropriation for that account is enacted, from the amount otherwise provided by the full-year appropriation; except that the amount to be sequestered from that account shall be reduced (but not below zero) by the savings achieved by that appropriation when the enacted amount is less than the baseline for that account.

"(g) ADJUSTMENTS TO MAXIMUM DEFICIT AMOUNTS.—

"(1) ADJUSTMENTS.—

"(A) When the President submits the budget for fiscal year 1992, the maximum deficit amounts for fiscal years 1992, 1993, 1994, and 1995 shall be adjusted to reflect up-to-date reestimates of economic and technical assumptions and any changes in concepts or definitions. When the President submits the budget for fiscal year 1993, the maximum deficit amounts for fiscal years 1993, 1994, and 1995 shall be further adjusted to reflect up-to-date reestimates of economic and technical assumptions and any changes in concepts or definitions.

"(B) When submitting the budget for fiscal year 1994, the President may choose to adjust the maximum deficit amounts for fiscal years 1994 and 1995 to reflect up-to-date reestimates of economic and technical assumptions and any changes in concepts or definitions. If the President chooses to adjust the maximum deficit amount when submitting the fiscal year 1994 budget, the President may choose to invoke the same adjustment procedure when submitting the budget for fiscal year 1995. In each case, the President must choose between making no adjustment or the full adjustment described in paragraph (2). If the President chooses to make that full adjustment, then those procedures for adjusting discretionary spending limits described in sections 251(b)(1)(B), 251(b)(1)(C), and 251(b)(2)(E), otherwise applicable through fiscal year 1993 or 1994 (as the case may be), shall be deemed to apply for fiscal year 1994 (and 1995 if applicable).

Each adjustment shall be made by increasing or decreasing the maxiumum deficit amounts set forth in section 601 of the Congressional Budget Act of 1974.

"(2) CALCULATIONS OF ADJUSTMENTS.—The required increase or decrease shall be calculated as follows:

"(A) The baseline deficit or surplus shall be calculated using up-to-date economic and technical assumptions, using current concepts and definitions, and for the levels of discretionary appropriations, using the discretionary spending limits set forth in section 601 of the Congressional Budget Act of 1974 as adjusted under section 251.

"(B) The net deficit increase or decrease caused by all direct spending and receipts legislation enacted after the date of enactment of this section (after adjusting for any sequestration of direct spending accounts) shall be calculated for each fiscal year by adding—

"(i) the estimates of direct spending and receipts legislation published under section 252(e) applicable to each such fiscal year; and

"(ii) the estimated amount of savings in direct spending programs applicable to each such fiscal year resulting from the prior year's sequestration under this section or section 252 of direct spending, if any, as

published in OMB's final sequestration report for that year.

"(C) The amount calculated under subparagraph (B) shall be subtracted from the amount calculated under subparagraph (A).

"(D) The maximum deficit amount set forth in section 601 of the Congressional Budget Act of 1974 shall be subtracted from the amount calculated under subparagraph (C).

"(E) The amount calculated under subparagraph (D) shall be the amount of the adjustment required by paragraph (1).

"(h) TREATMENT OF DEPOSIT INSURANCE.—

"(1) INITIAL ESTIMATES.—The initial estimates of the net costs of federal deposit insurance (assuming full funding of, and continuation of, existing law) are as follows:

"For fiscal year 1992, $77,700,000,000.

"For fiscal year 1993, $18,800,000,000.

"For fiscal year 1994, −$54,200,000,000.

"For fiscal year 1995, −$45,300,000,000.

"(2) REESTIMATES.—For any fiscal year, the amount of the reestimate of deposit insurance costs shall be calculated by subtracting the amount set forth in paragraph (1) for that year from the current estimate of deposit insurance costs (but assuming full funding of, and continuation of, deposit insurance law in effect on the date of enactment of this section).

"SEC. 254. REPORTS AND ORDERS.

"(a) TIMETABLE.—The timetable with respect to this part for any budget year is as follows:

"On or before:	Action to be completed:
First Monday in February.	Lock in OMB estimating assumptions.
August 15	Initial snapshot.
August 20	Sequester preview report;
Latest possible date before October 15.	Final snapshot.
October 15	Pay-as-you-go and deficit sequester reports; Presidential order.
Within 15 days after end of session.	Discretionary sequester reports; Presidential order.
30 Days later	GAO compliance report.

If any date specified in this section falls on a Sunday or legal holiday, then the requirements for that date shall be considered to fall on the following day.

"(b) PAY-AS-YOU-GO AND DEFICIT SEQUESTRATION PREVIEW REPORTS.—

"(1) REPORTING REQUIREMENT.—On the date specified in subsection (a), OMB and CBO shall each issue a preview report regarding pay-as-you-go and deficit sequestration to the President and the Congress based on laws enacted through the initial snapshot date.

"(2) PAY-AS-YOU-GO SEQUESTRATION PREVIEW.—The reports referred to in paragraph (1) shall set forth, for the current year and the budget year, estimates for each of the following:

"(A) The amount of net deficit increase or decrease, if any, calculated under subsection 252(b).

"(B) A list identifying each law enacted after the date of enactment of this section included in the calculation of the amount of deficit increase and specifying the budgetary effect of each such law.

"(C) The sequestration percentage or (if the required sequestration percentage is greater than the maximum allowable percentage for medicare) percentages necessary to eliminate a deficit increase under section 252(c).

"(3) DEFICIT SEQUESTRATION PREVIEW.—The reports referred to in paragraph (1) shall set forth for the budget year estimates for each of the following:

"(A) The maximum deficit amount, the estimated deficit calculated under section 253(b), the excess deficit, and the margin.

"(B) The reductions required under section 252, the excess deficit remaining after those reductions have been made, and the reductions required from defense accounts and the reductions required from non-defense accounts.

"(C) The sequestration percentage necessary to achieve the required reduction in defense accounts under section 253(d).

"(D) The reductions required under sections 253(e)(1) and 253(e)(2).

"(E) The sequestration percentage necessary to achieve the required reduction in non-defense accounts under section 253(e)(3).

The reports shall explain the differences (if any) between OMB and CBO estimates for each item set forth in this subsection.

"(c) NOTIFICATION REGARDING MILITARY PERSONNEL.—On or before the initial snapshot date specified in subsection (a), the President shall notify the Congress if he intends to exercise flexibility with respect to military personnel accounts under section 255(h).

"(d) PAY-AS-YOU-GO AND DEFICIT SEQUESTRATION REPORT; PRESIDENTIAL ORDER.—

"(1) PAY-AS-YOU-GO AND DEFICIT SEQUESTRATION REPORT.—On the date specified in subsection (a), OMB and CBO shall each issue a pay-as-you-go and deficit sequestration report, updated to reflect laws enacted through the final snapshot date, containing all of the information required in the pay-as-you-go and deficit sequestration preview report. In addition, these reports shall contain, for the budget year, for each non-exempt account subject to sequestration, estimates of the baseline level of sequestrable budgetary resources and resulting outlays and the amount and percentage of budgetary resources to be sequestered and resulting outlay reductions. The reports shall also contain estimates of the effects on outlays of the sequestration in each outyear through 1995 for direct spending programs. The reports shall explain significant differences (if any) between OMB and CBO estimates for each such account.

"(2) PRESIDENTIAL ORDER.—On the date specified in subsection (a), if in its pay-as-you-go and deficit sequestration report OMB estimates that any sequestration is required, the President shall issue an order fully implementing without change all sequestrations required by OMB calculations set forth in that report. This order shall be effective on issuance.

"(e) DISCRETIONARY SEQUESTRATION REPORT; PRESIDENTIAL ORDER.—

"(1) DISCRETIONARY SEQUESTRATION REPORT.—Within 15 days after Congress adjourns to end a session, OMB and CBO shall each issue a discretionary sequestration report to the President and the Congress setting forth estimates for each of the following:

"(A) For the current year and each subsequent year through 1995 the applicable discretionary spending limits for each category and an explanation of any adjustments in such limits under section 251.

"(B) For the current year and the budget year the estimated new budget authority and outlays for each category and the breach, if any, in each category.

"(C) For each category for which a sequestration is required, the sequestration percentage necessary to achieve the required reduction.

"(D) For the budget year, for each non-exempt account subject to sequestration, estimates of the enacted level of sequestrable budgetary resources and resulting outlays and the amount of budgetary resources to be sequestered and resulting outlay reductions, and an explanation of significant differences, if any, between OMB and CBO estimates for each such account.

"(2) PRESIDENTIAL ORDER.—On the date specified in subsection (a), if in its discretionary sequestration report OMB estimates that any sequestration is required, the President shall issue an order fully implementing without change all sequestrations required by OMB calculations set forth in that report. This order shall be effective on issuance.

"(f) GAO COMPLIANCE REPORT.—On the date specified in subsection (a), the Comptroller General shall submit to the Congress and the President a report on—

"(1) the extent to which each order issued by the President under this section complies with all of the requirements contained in this part, either certifying that the order fully and accurately complies with such requirements or indicating the respects in which it does not; and

"(2) the extent to which each report issued by OMB or CBO under this section complies with all of the requirements contained in this part, either certifying that the report fully and accurately complies with such requirements or indicating the respects in which it does not.

"(g) LOW-GROWTH REPORT.—At any time, CBO shall notify the Congress if—

"(1) during the period consisting of the quarter during which such notification is given, the quarter preceding such notification, and the 4 quarters following such notification, CBO or OMB has determined that real economic growth is projected or estimated to be less than zero with respect to each of any 2 consecutive quarters within such period; or

"(2) the Department of Commerce advance reports of actual real economic growth (or any subsequent revision thereof) indicate that the rate of real economic growth for each of the most recently reported quarter and the immediately preceding quarter is less than one percent.

"(h) ECONOMIC AND TECHNICAL ASSUMPTIONS.—In all reports required by this section, OMB shall use the same economic and technical assumptions as used in the most recent budget submitted by the President under section 1105(a) of title 31, United States Code.

"(i) PRINTING OF REPORTS.—Each report submitted under this section shall be submitted to the Federal Register on the day that it is issued and printed on the following day.

"SEC. 255. EXEMPT PROGRAMS AND ACTIVITIES.

"(a) SOCIAL SECURITY BENEFITS AND TIER I RAILROAD RETIREMENT BENEFITS.—Benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act, or in benefits payable under section 3(a), 3(f)(3), 4(a), or 4(f) of the Railroad Retirement Act of 1974, shall be exempt from reduction under any order issued under this part.

"(b) NET INTEREST.—No reduction of payments for net interest (all of major functional category 900) shall be made under any order issued under this part.

"(c) VETERANS PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this part:

National Service Life Insurance Fund (36-8132-0-7-701);

Service-Disabled Veterans Insurance Fund (36-4012-0-3-701);

Veterans Special Life Insurance Fund (36-8455-0-8-701);

Veterans Reopened Insurance Fund (36-4010-3-701);

United States Government Life Insurance Fund (36-8150-0-7-701);

Veterans Insurance and Indemnity (36-0120-0-1-701);

Special Therapeutic and Rehabilitation Activities Fund (36-4048-0-3-703);

Veterans' Canteen Service Revolving Fund (36-401-0-3-705);

Benefits under chapter 21 of title 38, United States Code, relating to specially adapted housing and mortgage-protection life insurance for certain veterans with service-connected disabilities (36-0137-0-1-702);

Benefits under section 907 of title 38, United States Code, relating to burial benefits for veterans who die as a result of service-connected disability (36-0155-0-1-701);

Benefits under chapter 39 of title 38, United States Code, relating to automobiles and adaptive equipment for certain disabled and members of the Armed Forces (36-0137-0-1-702);

Veterans' compensation (36-0153-0-1-701); and

Veterans' pensions (36-0154-0-1-701).

"(d) EARNED INCOME TAX CREDIT.—Payments to individuals made pursuant to section 32 of the Internal Revenue Code of 1954 shall be exempt from reduction under any order issued under this part.

"(e) TREATMENT OF PAYMENTS AND ADVANCES MADE WITH RESPECT TO UNEMPLOYMENT COMPENSATION PROGRAMS.—For purposes of this part—

"(1) any amount paid as regular unemployment compensation by a State from its account in the Unemployment Trust Fund (established by section 904(a) of the Social Security Act),

"(2) any advance made to a State from the Federal unemployment account (established by section 904(g) of such Act) under title XII of such Act and any advance appropriated to the Federal unemployment account pursuant to section 1203 of such Act, and

"(3) any payment made from the Federal Employees Compensation Account (as established under section 909 of such Act) for the purpose of carrying out chapter 85 of title 5, United States Code, and funds appropriated or transferred to or otherwise deposited in such Account,

shall be exempt from reduction under any order issued under this part.

"(f) LOW-INCOME PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this part:

Aid to families with dependent children (75-0412-0-1-609);

Child nutrition (12-3539-0-1-605);

Commodity supplemental food program (12-3512-0-1-605);

Food stamp programs (12-3505-0-1-605 and 12-3550-0-1-605);

Grants to States for Medicaid (75-0512-0-1-551);

Supplemental Security Income Program (75-0406-0-1-609); and

Women, infants, and children program (12-3510-0-1-605).

"(g) NON-DEFENSE UNOBLIGATED BALANCES.—Unobligated balances of budget authority carried over from prior fiscal years, except balances in the defense category, shall be exempt from reduction under any order issued under this part.

"(h) OPTIONAL EXEMPTION OF MILITARY PERSONNEL.—

"(1) The President may, with respect to any military personnel account, exempt that account from sequestration or provide for a lower uniform percentage reduction than would otherwise apply.

"(2) The President may not use the authority provided by paragraph (1) unless he notifies the Congress of the manner in which such authority will be exercised on or before the initial snapshot date for the budget year.

"(i) OTHER PROGRAMS AND ACTIVITIES.—

"(1) The following budget accounts and activities shall be exempt from reduction under any order issued under this part:

Activities resulting from private donations, bequests, or voluntary contributions to the Government;

Administration of Territories, Northern Marianna Islands Government grants (14-0412-0-1-806);

Alaska Power Administration, Operations and maintenance (89-0304-0-1-271);

Appropriations for the District of Columbia (to the extent they are appropriations of locally raised funds);

Bonneville Power Administration fund and borrowing authority established pursuant to section 13 of Public Law 93-454 (1974), as amended (89-4045-0-3-271);

Black lung benefits (20-8144-0-7-601),

Bureau of Indian Affairs, miscellaneous payments to Indians (14-2303-0-1-452);

Bureau of Indian Affairs, miscellaneous trust funds, tribal trust funds (14-9973-0-7-999);

CIA retirement and disability system fund (56-3400-0-1-054);

Civil Service retirement and disability fund (24-8135-0-7-602);

Claims, defense (97-0102-0-1-051);

Claims, judgments, and relief acts (20-1895-0-1-806);

Coinage profit fund (20-5811-0-2-803);

Compact of Free Association, economic assistance pursuant to Public Law 99-658;

Compensation of the President (11-0001-0-1-802);

Comptroller General retirement system (05-0107-0-1-801);

Comptroller of the Currency;

Customs service permanent appropriations (20-9922-0-2-852);

Director of the Office of Thrift Supervision;

Dual benefits payments account (60-0111-0-1-601);

Eastern Indian and land claims settlement fund (14-2202-0-1-806);

Exchange stabilization fund (20-4444-0-3-155);

Farm Credit System Financial Assistance Corporation, interest payments;

Federal Deposit Insurance Corporation;

Federal Deposit Insurance Corporation, Bank Insurance Fund;

Federal Deposit Insurance Corporation, FSLIC Resolution Fund;

Federal Deposit Insurance Corporation, Savings Association Insurance Fund;

Federal Housing Finance Board;

Federal payment to the railroad retirement account (60-0113-0-1-601);

Foreign military sales trust fund (11-8242-0-7-155);

Foreign service retirement and disability fund (19-8186-0-7-602);

Health professions graduate student loan insurance fund (Health Education Assistance Loan Program) (75-4305-0-3-553);

Higher education facilities loans and insurance (91-0240-0-1-502);

Internal Revenue collections for Puerto Rico (20-5737-0-2-852);

Intragovernmental funds, including those from which the outlays are derived primarily from resources paid in from other government accounts, except to the extent such funds are augmented by direct appropriations for the fiscal year during which an order is in effect;

Judicial survivors' annuities fund (10-8110-0-7-602);

Longshoremens' and harborworkers' compensation benefits (16-9971-0-7-601);

Medical facilities guarantee and loan fund, Federal interest subsidies for medical facilities (75-4430-0-3-551);

Military retirement fund (97-8097-0-7-602);

National Credit Union Administration;

National Credit Union Administration, central liquidity facility;

National Credit Union Administration, credit union share insurance fund;

National Oceanic and Atmospheric Administration retirement (13-1450-0-1-306);

Panama Canal Commission, operating expenses and Panama Canal Commission, capital outlay (95-5190-0-2-403);

Payment of Vietnam and USS Pueblo prisoner-of-war claims (15-0104-0-1-153);

Payment to civil service retirement and disability fund (24-0200-0-1-805);

Payments to copyright owners (03-5175-0-2-376);

Payments to health care trust funds (75-0580-0-1-572);

Payments to military retirement fund (97-0040-0-1-054);

Payments to social security trust funds (75-0404-0-1-571);

Payments to the foreign service retirement and disability fund (11-1036-0-1-153 and 19-0540-0-1-153);

Payments to the United States territories; fiscal assistance;

Payments to trust funds from excise taxes or other receipts properly creditable to such trust funds;

Payments to widows and heirs of deceased Members of Congress (00-215-0-1-801);

Pensions for former Presidents (47-0105-0-1-802);

Postal service fund (18-4020-0-3-372);

Railroad retirement tier II (60-8011-0-7-601);

Resolution Funding Corporation;

Resolution Trust Corporation;

Retired pay, Coast guard (69-0241-0-1-403);

Retirement pay and medical benefits for commissioned officers, Public Health Service (75-0379-0-1-551);

Salaries of Article III judges;

Special benefit, Federal Employee's Compensation Act (16-1521-0-1-600);

Special benefits for disabled coal miners (75-0409-0-1-601);

Soldiers and Airmen's Home, payment of claims (84-8930-0-7-705);

Southeastern Power Administration, Operations and maintenance (89-0302-0-1-271);

Southwestern Power Administration, Operations and maintenance (89-0303-0-1-271);

Tax Court judges survivors annuity fund (23-8115-0-7-602);

Tennessee Valley Authority fund, except nonpower programs and activities (64-4110-0-3-999);

Thrift Savings Fund (26-8141-0-7-602);

WMATA, interest payments (46-0300-0-1-401);

Western Area Power Administration, Construction, rehabilitation, operations, and maintenance (89-5068-0-2-271); and

Western Area Power Administration, Colorado River basins power marketing fund (89-4452-0-3-271).

Western Area Power Administration, Colorado River basins power marketing fund (89-4452-0-3-271);

"(2) Prior legal obligations of the Government in the following budget accounts and activities shall be exempt from any order issued under this part:

Agency for International Development, Housing, and other credit guarantee programs (72-4340-0-3-151);

Agricultural credit insurance fund (12-4140-0-3-351);

Biomass energy development (20-0114-0-1-271);

Check forgery insurance fund (20-4109-0-3-803);

Community development grant loan guarantees (86-0162-0-1-451);

Credit union share insurance fund (25-4468-0-3-371);

Economic development revolving fund (13-4406-0-3-452);

Employees life insurance fund (24-8424-0-8-602);

Energy security reserve (Synthetic Fuels Corporation) (20-0112-0-1-271);

Export-Import Bank of the United States, Limitation of program activity (83-4027-0-3-155);

Federal Aviation Administration, Aviation insurance revolving fund (69-4120-0-3-402);

Federal Crop Insurance Corporation fund (12-4085-0-3-351);

Federal Emergency Management Agency, National flood insurance fund (58-4236-0-3-453);

Federal Emergency Management Agency, National insurance development fund (58-4235-0-3-451);

Federal Housing Administration fund (86-4070-0-3-371);

Federal ship financing fund (69-4301-0-3-403);

Federal ship financing fund, fishing vessels (13-4417-0-3-376);

Geothermal resources development fund (89-0206-0-1-271);

Government National Mortgage Association, Guarantees of mortgage-backed securities (86-4238-0-3-371);

Health education loans (75-4307-0-3-553);

Homeowners assistance fund, Defense (97-4090-0-3-051);

Indian loan guarantee and insurance fund (14-4410-0-3-452);

International Trade Administration, Operations and administration (13-1250-0-1-376);

Low-rent public housing, Loans and other expenses (86-4098-0-3-604);

Maritime Administration, War-risk insurance revolving fund (69-4302-0-3-403);

Overseas Private Investment Corporation (71-4030-0-3-151);

Pension Benefit Guaranty Corporation fund (16-4204-0-3-601);

Rail service assistance (69-0122-0-1-401);

Railroad rehabilitation and improvement financing fund (69-4411-0-3-401);

Rural development insurance fund (12-4155-0-3-452);

Rural electric and telephone revolving fund (12-4230-8-3-271);

Rural housing insurance fund (12-4141-0-3-371);

Small Business Administration, Business loan and investment fund (73-4154-0-3-376);

Small Business Administration, Lease guarantees revolving fund (73-4157-0-3-376);

Small Business Administration, Pollution control equipment contract guarantee revolving fund (73-4147-0-3-376);

Small Business Administration, Surety bond guarantees revolving fund (73-4156-0-3-376);

Veterans Administration, Loan guaranty revolving fund (36-4025-0-3-704);

Veterans Administration, Servicemen's group life insurance fund (36-4009-0-3-701).

"(j) IDENTIFICATION OF PROGRAMS.—For purposes of subsections (f) and (h), programs are identified by the designated budget account identification code numbers set forth in the Budget of the United States Government, 1986—Appendix.

"(k) TREATMENT OF FEDERAL ADMINISTRATIVE EXPENSES.—

"(1) Notwithstanding any other provision of this title, administrative expenses incurred by the departments and agencies, including independent agencies, of the Federal Government in connection with any program, project, activity, or account shall be subject to reduction pursuant to an order issued under section 255, without regard to any exemption, exception, limitation, or special rule which is otherwise applicable with respect to such program, project, activity, or account under this part.

"(2) Notwithstanding any other provision of law, administrative expenses of any program, project, activity, or account which is self-supporting and does not receive appropriations shall be subject to reduction under a sequester order, unless specifically exempted in this joint resolution.

"(3) Payments made by the Federal Government to reimburse or match administrative costs incurred by a State or political subdivision under or in connection with any program, project, activity, or account shall not be considered administrative expenses of the Federal Government for purposes of this section, and shall be subject to reduction or sequestration under this part to the extent (and only to the extent) that other payments made by the Federal Government under or in connection with that program, project, activity, or account are subject to such reduction or sequestration; except that Federal payments made to a State as reimbursement of administrative costs incurred by such State under or in connection with the unemployment compensation programs specified in subsection (h)(1) shall be subject to reduction or sequestration under this part notwithstanding the exemption otherwise granted to such programs under that subsection.

"(4) The previous provisions of this subsection shall not apply with respect to the following:

"(A) Comptroller of the Currency.

"(B) Federal Deposit Insurance Corporation.

"(C) Office of Thrift Supervision.

"(D) National Credit Union Administration.

"(E) National Credit Union Administration, central liquidity facility.

"(F) Federal Retirement Thrift Investment Board.

"(G) Resolution Funding Corporation.

"(H) Resolution Trust Corporation.

"SEC. 256. SPECIAL RULES.

"(a) AUTOMATIC SPENDING INCREASES.—Automatic spending increases are increases in outlays due to changes in indexes in the following programs:

"(1) National Wool Act;

"(2) Special milk program; and

"(3) Vocational rehabilitation.

In those programs all amounts other than the automatic spending increases shall be exempt from reduction under any order issued under this part.

"(b) EFFECT OF ORDERS ON THE GUARANTEED STUDENT LOAN PROGRAM.—"(1) Any reductions which are required to be achieved from the student loan programs operated pursuant to part B of title IV of the Higher Education Act of 1965, as a consequence of an order issued pursuant to section 254, shall be achieved only from loans described in paragraphs (2) and (3) by the application of the measures described in such paragraphs.

"(2) For any loan made during the period beginning on the date that an order issued under section 254 takes effect with respect to a fiscal year and ending at the close of such fiscal year, the rate used in computing the special allowance payment pursuant to section 438(b)(2)(A)(iii) of such Act for each of the first four special allowance payments for such loan shall be adjusted by reducing such rate by the lesser of—

"(A) 0.40 percent, or

"(B) the percentage by which the rate specified in such section exceeds 3 percent.

"(3) For any loan made during the period beginning on the date that an order issued under section 254 takes effect with respect to a fiscal year and ending at the close of such fiscal year, the origination fee which is authorized to be collected pursuant to section 438(c)(2) of such Act shall be increased by 0.50 percent.

"(c) TREATMENT OF FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS.—Any order issued by the President under section 254 shall make the reduction which is otherwise required under the foster care and adoption assistance programs (established by part E of title IV of the Social Security Act) only with respect to payments and expenditures made by States in which increases in foster care maintenance payment rates or adoption assistance payment rates (or both) are to take effect during the fiscal year involved, and only to the extent that the required reduction can be accomplished by applying a uniform percentage reduction to the Federal matching payments that each such State would otherwise receive under section 474 of that Act (for such fiscal year) for that portion of the State's payments which is attributable to the increases taking effect during that year. No State may, after the date of the enactment of this Act, make any change in the timetable for making payments under a State plan approved under part E of title IV of the Social Security Act which has the effect of changing the fiscal year in which expenditures under such part are made.

"(d) SPECIAL RULES FOR MEDICARE PROGRAM.—

"(1) MAXIMUM PERCENTAGE REDUCTION IN INDIVIDUAL PAYMENT AMOUNTS.—To achieve the total percentage reduction in those programs required by sections 252 and 253, OMB shall determine, and the applicable Presidential order under section 254 shall implement, the percentage reduction that shall apply to payments under the health insurance programs under title XVIII of the Social Security Act for services furnished in the fiscal year after the order is issued, such that the reduction made in payments under that order shall achieve the required total percentage reduction in those payments for that fiscal year as determined on a 12-month basis.

"(2) TIMING OF APPLICATION OF REDUCTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if a reduction is made in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for services furnished during the effective period of the order. For purposes of the previous sentence, in the case of inpatient services furnished for an individual, the services shall be considered to be furnished on the date of the individual's discharge from the inpatient facility.

"(B) PAYMENT ON THE BASIS OF COST REPORTING PERIODS.—In the case in which payment for services of a provider of services is made under title XVIII of the Social Security Act on a basis relating to the reasonable cost incurred for the services during a cost reporting period of the provider, if a reduction is made under paragraph (1) in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for costs for such services incurred at any time during each cost reporting period of the provider any part of which occurs during the effective period of the order, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs during the effective period of the order.

"(3) NO INCREASE IN BENEFICIARY CHARGES IN ASSIGNMENT-RELATED CASES.—If a reduction in payment amounts is made under paragraph (1) for services for which payment under part B of title XVIII of the Social Security Act is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B), or under the procedure described in section 1870(f)(1), of such Act, the person furnishing the services shall be considered to have accepted payment of the reasonable charge for the services, less any reduction in payment amount made pursuant to a sequestration order, as payment in full.

"(4) NO EFFECT ON COMPUTATION OF AAPCC.—In computing the adjusted average per capita cost for purposes of section 1876(a)(4) of the Social Security Act, the Secretary of Health and Human Services shall not take into account any reductions in payment amounts which have been or may be effected under this part.

"(e) CERTAIN HEALTH PROGRAMS.—The maximum permissible reduction in new budget authority for the following programs for any fiscal year pursuant to a sequestration under sections 251, 252, or 253 is 2 percent:

"(1) Community health centers (75-0350-0-1-550).

"(2) Migrant health centers (75-0350-0-1-550).

"(3) Indian health facilities (75-0391-0-1-551).

"(4) Indian health services (75-0390-0-1-551).

"(5) Veterans' medical care (36-0160-0-1-703).

"(f) TREATMENT OF CHILD SUPPORT ENFORCEMENT PROGRAM.—Notwithstanding any change in the display of budget accounts, any order issued by the President under section 254 shall accomplish the full amount of any required reduction in expenditures under sections 455 and 458 of the Social Security Act by reducing the Federal matching rate for State administrative costs under such program, as specified (for the fiscal year involved) in section 455(a) of such Act, to the extent necessary to reduce such expenditures by that amount.

"(g) EXTENDED UNEMPLOYMENT COMPENSATION.—(1) A State may reduce each weekly benefit payment made under the Federal-State Extended Unemployment Compensation Act of 1970 for any week of unemployment occurring during any period with respect to which payments are reduced under an order issued under section 254 by a percentage not to exceed the percentage by which the Federal payment to the State under section 204 of such Act is to be reduced for such week as a result of such order.

"(2) A reduction by a State in accordance with paragraph (1) shall not be considered as a failure to fulfill the requirements of section 3304(a)(11) of the Internal Revenue Code of 1954.

"(h) COMMODITY CREDIT CORPORATION.—

"(1) IN GENERAL.—Except as modified by existing law enacted after 1985, this subsection shall govern any sequestration of the Commodity Credit Corporation.

"(2) POWERS AND AUTHORITIES OF THE COMMODITY CREDIT CORPORATION.—This title shall not restrict the Commodity Credit Corporation in the discharge of its authority and responsibility as a corporation to buy and sell commodities in world trade, to use the proceeds as a revolving fund to meet other obligations and otherwise operate as a corporation, the purpose for which it was created.

"(3) REDUCTION IN PAYMENTS MADE UNDER CONTRACTS.—(A) Payments and loan eligibility under any contract entered into with a person by the Commodity Credit Corporation prior to the time an order has been issued under section 254 shall not be reduced by an order subsequently issued. Subject to subparagraph (B), after an order is issued under such section for a fiscal year, any cash payments made by the Commodity Credit Corporation—

"(i) under the terms of any one-year contract entered into in such fiscal year and after the issuance of the order; and

"(ii) out of an entitlement account,

to any person (including any producer, lender, or guarantee entity) shall be subject to reduction under the order.

"(B) Each contract entered into with producers or producer cooperatives with respect to a particular crop of a commodity and subject to reduction under subparagraph (A) shall be reduced in accordance with the same terms and conditions. If some, but not all, contracts applicable to a crop of a commodity have been entered into prior to the issuance of an order under section 254, the order shall provide that the necessary reduction in payments under contracts applicable to the commodity be uniformly applied to all contracts for the next succeeding crop of the commodity, under the authority provided in paragraph (4).

"(3) DELAYED REDUCTION IN OUTLAYS PERMISSIBLE.—Notwithstanding any other provision of this law, if an order under section 254 is issued with respect to a fiscal year, any reduction under the order applicable to contracts described in paragraph (2) may provide for reductions in outlays for the account involved to occur in the fiscal year following the fiscal year to which the order is issued. No other account, or other program, project, or activity, shall bear an increased reduction for the fiscal year to which the order applies as a result of the operation of the preceding sentence.

"(5) UNIFORM PERCENTAGE RATE OF REDUCTION AND OTHER LIMITATIONS.—All reductions described in paragraph (3) which are required to be made in connection with an order issued under section 254 with respect to a fiscal year—

"(A) shall be made so as to ensure that outlays for each program, project, activity, or account involved are reduced by a percentage rate that is uniform for all such programs, projects, activities, and accounts, and may not be made so as to achieve a percentage rate of reduction in any such item exceeding the rate specified in the order; and

"(B) with respect to commodity price support and income protection programs, shall be made in such manner and under such procedures as will attempt to ensure that—

"(i) uncertainty as to the scope of benefits under any such program is minimized;

"(ii) any instability in market prices for agricultural commodities resulting from the reduction is minimized; and

"(iii) normal production and marketing relationships among agricultural commodities (including both contract and non-contract commodities) are not distorted.

In meeting the criterion set out in clause (iii) of subparagraph (B) of the preceding sentence, the President shall take into consideration that reductions under an order may apply to programs for two or more agricultural commodities that use the same type of production or marketing resources or that are alternative commodities among which a producer could choose in making annual production decisions.

"(6) CERTAIN AUTHORITY NOT TO BE LIMITED.—Nothing in this joint resolution shall limit or reduce, in any way, any appropriation that provides the Commodity Credit Corporation with funds to cover the Corporation's net realized losses.

"(i) EFFECTS OF SEQUESTRATION.—The effects of sequestration shall be as follows:

"(A) Budgetary resources sequestered from any account other than a trust fund account shall permanently revert to the Treasury.

"(B) Except as otherwise provided, the same percentage sequestration shall apply to all programs, projects, and activities within a budget account (with programs, projects, and activities as delineated in the most recently enacted appropriation Act covering that account, or for accounts not included in appropriation Acts, as delineated in the most recently submitted President's budget).

"(C) Administrative regulations or similar actions implementing a sequestration shall be made within 90 days of the sequestration order. To the extent that formula allocations differ at different levels of budgetary resources within an account, program, project, or activity, the sequestration shall be interpreted as producing a lower total appropriation, with the remaining amount of the appropriation being obligated in a manner consistent with program allocation formulas in substantive law.

"(D) Except as otherwise provided, obligations in sequestered accounts shall be reduced only in the fiscal year in which a sequester occurs.

"(E) If an automatic spending increase is sequestered, the increase (in the applicable index) that was disregarded as a result of that sequestration shall not be taken into account in any fiscal year.

"(F) Except as otherwise provided, sequestration in accounts for which program obligations are indefinite shall be taken in a manner to ensure, to the greatest extent possible, that program obligations in the fiscal year of a sequestration are reduced, from the level that would actually have oc-

curred, by the applicable sequestration percentage.

"SEC. 257. THE BASELINE.

"(a) IN GENERAL.—For any budget year, the baseline refers to a projection of current-year levels of new budget authority, outlays, revenues, and the surplus or deficit into the budget year and the outyears based on laws enacted through the applicable date.

"(b) REVENUES, FEES, AND DIRECT SPENDING.—For the budget year and each outyear, the baseline shall be calculated using the following assumptions:

"(1) IN GENERAL.—Revenue laws, laws providing for fees, and laws providing or creating direct spending are assumed to operate in the manner specified in those laws for each such year and funding for spending requirements is assumed to be adequate to make all payments required by those laws.

"(2) EXCEPTIONS.—(A) No program with estimated current-year outlays greater than $50 million shall be assumed to expire in the budget year or outyears.

"(B) Agricultural price support programs administered through the Commmodity Credit Corporation are assumed to be extended under the terms, support prices, loan rates, and other rates of payment in effect the day before the expiration of the Food Security Act of 1985 or the Food and Agricultural Resources Act of 1990, as applicable.

"(C) The increase for veterans' compensation for a fiscal year is assumed to be the same as that required by law for veterans' pensions unless otherwise provided by law enacted in that session.

"(D) Excise taxes dedicated to a trust fund, if expiring, are assumed to be extended at current rates.

"(3) HEALTH INSURANCE TRUST FUND.—Notwithstanding any other provision of law, the receipts and disbursements of the Hospital Insurance Trust Fund shall be included in all calculations required by this Act.

"(c) DISCRETIONARY APPROPRIATIONS.—For the budget year and each outyear, the baseline shall be calculated using the following assumptions regarding all amounts other than those covered by subsection (b):

"(1) INFLATION OF CURRENT-YEAR APPROPRIATIONS.—Budgetary resources other than unobligated balances shall be at the level provided for the budget year in full-year appropriation Acts. If for any account a full-year appropriation has not yet been enacted, budgetary resources other than unobligated balances shall be at the level available in the current year, adjusted sequentially and cumulatively for expiring housing contracts as specified in paragraph (2), for social insurance administrative expenses as specified in paragraph (3), for pay annualization as specified in paragraph (4), for inflation as specified in paragraph (5), and to account for changes required by law in the level of agency payments for personnel benefits other than pay.

"(2) EXPIRING HOUSING CONTRACTS.—New budget authority to renew expiring multiyear subsidized housing contracts shall be adjusted to reflect the difference in the number of such contracts that are scheduled to expire in that fiscal year and the number expiring in the current year, with the per-contract renewal cost equal to the average current-year cost of renewal contracts.

"(3) SOCIAL INSURANCE ADMINISTRATIVE EXPENSES.—Budgetary resources for the administrative expenses of social insurance trust funds shall be adjusted by the percentage change in the beneficiary population from the current year to that fiscal year.

"(4) PAY ANNUALIZATION.—If current-year pay adjustments for Federal employees occur on a date other than October 1 of the current year, current-year new budget authority for such employees shall be adjusted by the percentage necessary to reflect the 12-month cost of those adjustments.

"(5) INFLATORS.—The inflator used in paragraph (1) to adjust budgetary resources relating to personnel shall be the percent by which the average of the Bureau of Labor Statistics Employment Cost Index (excluding sales) for that fiscal year differs from such index for the current year. The inflator used in paragraph (1) to adjust all other budgetary resources shall be the percent by which the average of the estimated gross national product fixed-weight price deflator for that fiscal year differs from the average of such estimated deflator for the current year.

"(6) CURRENT-YEAR APPROPRIATIONS.—If, for any account, a continuing appropriation is in effect for less than the entire current year, then the current-year amount shall be assumed to equal the amount that would be available if that continuing appropriation covered the entire fiscal year. If law permits the transfer of budget authority among budget accounts in the current year, the current-year level for an account shall reflect transfers accomplished by the submission of, or assumed for the current year in, the President's original budget for the budget year.

"(d) ASSET SALES AND LOAN PREPAYMENTS.—The proceeds of asset sales and loan prepayments shall be treated as means of financing the deficit.

"(e) UP-TO-DATE CONCEPTS.—In deriving the baseline for any budget year or outyear, current-year amounts shall be calculated using the concepts and definitions that are required for that budget year.

"SEC. 258. SUSPENSION IN THE EVENT OF WAR OR LOW GROWTH.

"(a) PROCEDURES IN THE EVENT OF A LOW GROWTH REPORT.—

"(1) TRIGGER.—Whenever CBO issues a low-growth report under section 254(g), the Majority Leader of each House shall introduce a joint resolution (in the form set forth in paragraph (2)) declaring that the conditions specified in section 254(g) are met and suspending the relevant provisions of this title, title VI of the Congressional Budget Act of 1974, and section 1103 of title 31, United States Code.

"(2) FORM OF JOINT RESOLUTION.—

"(A) The matter after the resolving clause in any joint resolution introduced pursuant to paragraph (1) shall be as follows: 'That the Congress declares that the conditions specified in section 254(g) of the Balanced Budget and Emergency Deficit Control Act of 1985 are met, and the implementation of the Congressional Budget and Impoundment Control Act of 1974, chapter 11 of title 31, United States Code, and part C of the Balanced Budget and Emergency Deficit Control Act of 1985 are modified as described in section 258(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.'.

"(B) The title of the joint resolution shall be 'Joint resolution suspending certain provisions of law pursuant to section 258(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985.'; and the joint resolution shall not contain any preamble.

"(3) COMMITTEE ACTION.—Each joint resolution introduced pursuant to paragraph (1) shall be referred to the appropriate committees of the House involved; and such Committee shall report the joint resolution to its House without amendment on or before the fifth day on which such House is in session after the date on which the joint resolution is introduced. If the Committee fails to report the joint resolution within the five-day period referred to in the preceding sentence, it shall be automatically discharged from further consideration of the joint resolution, and the joint resolution shall be placed on the appropriate calendar.

"(4) CONSIDERATION OF JOINT RESOLUTION.—

"(A) A vote on final passage of a joint resolution reported to the Senate or discharged pursuant to paragraph (3) shall be taken on or before the close of the fifth calendar day of session after the date on which the joint resolution is reported or after the Committee has been discharged from further consideration of the joint resolution. If prior to the passage by one House of a joint resolution of that House, that House receives the same joint resolution from the other House, then—

"(i) the procedure in that House shall be the same as if no such joint resolution had been received from the other House, but

"(ii) the vote on final passage shall be on the joint resolution of the other House.

When the joint resolution is agreed to, the Clerk of the House of Representatives (in the case of a House joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a Senate joint resolution agreed to in the Senate) shall cause the joint resolution to be engrossed, certified, and transmitted to the other House of the Congress as soon as practicable.

"(B)(i) A motion in the Senate to proceed to the consideration of a joint resolution under this paragraph shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(ii) Debate in the Senate on a joint resolution under this paragraph, and all debatable motions and appeals in connection therewith, shall be limited to not more than five hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(iii) Debate in the Senate on any debatable motion or appeal in connection with a joint resolution under this paragraph shall be limited to not more than one hour, to be equally divided between, and controlled by, the mover and the manager of the joint resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.

"(iv) A motion in the Senate to further limit debate on a joint resolution under this paragraph is not debatable. A motion to table or to recommit a joint resolution under this paragraph is not in order.

"(C) No amendment to a joint resolution considered under this paragraph shall be in order in the Senate.

"(b) SUSPENSION OF SEQUESTRATION PROCEDURES.—Upon the enactment of a declaration of war or a joint resolution described in subsection (a)—

"(1) the subsequent issuance of any sequestration report or any sequestration order is precluded;

"(2) titles III and VI of the Congressional Budget Act of 1974 are suspended; and

"(3) section 1103 of title 31, United States Code, is suspended.

"(c) RESTORATION OF SEQUESTRATION PROCEDURES.—

"(1) In the event of a suspension of sequestration procedures due to a declaration of war, then, effective with the first fiscal year that begins in the session after the state of war is concluded by Senate ratification of the necessary treaties, the provisions of subsection (b) triggered by that declaration of war are no longer effective.

"(2) In the event of a suspension of sequestration procedures due to the enactment of a joint resolution described in subsection (a), then, effective with regard to the first fiscal year beginning at least 9 months after the enactment of that resolution, the provisions of subsection (b) triggered by that resolution are no longer effective.

"SEC. 259. MODIFICATION OF PRESIDENTIAL ORDER.

"(a) INTRODUCTION OF JOINT RESOLUTION.—At any time after the Director of OMB issues a report under section 254(d)(1) or (e)(1) for a fiscal year, but before the close of the tenth calendar day of session in that session of Congress beginning after the date of issuance of such report, the majority leader of either House of Congress may introduce a joint resolution which contains provisions directing the President to modify the most recent order issued under section 254(d)(2) or (e)(2) for such fiscal year. After the introduction of the first such joint resolution in either House of Congress in any calendar year, then no other joint resolution introduced in such House in such calendar year shall be subject to the procedures set forth in this section.

"(b) PROCEDURES FOR CONSIDERATION OF JOINT RESOLUTIONS.—

"(1) REFERRAL TO COMMITTEE.—A joint resolution introduced in the Senate under subsection (a) shall be referred to a committee of the Senate and shall be placed on the appropriate calendar pending disposition of such joint resolution in accordance with this subsection.

"(2) CONSIDERATION IN THE SENATE.—On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution is introduced under subsection (a), notwithstanding any rule or precedent of the Senate, including Rule 22 of the Standing Rules of the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived, except for points of order under titles III, IV, or VI of the Congressional Budget Act of 1974. The motion is not in order after the eighth calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution (to which the motion applies) is introduced. The motion is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the Senate shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the Senate until disposed of.

"(3) DEBATE IN THE SENATE.—

"(A) In the Senate, debate on a joint resolution introduced under subsection (a), amendments thereto, and all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between the majority leader and the minority leader (or their designees).

"(B) A motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order, and a motion to recommit the joint resolution is not in order.

"(C)(i) No amendment that is not germane or relevant to the provisions of the joint resolution or to the order issued under section 254(d)(2) or (e)(2) shall be in order in the Senate. In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 30 minutes to be equally divided between the majority leader and the minority leader (or their designees).

"(ii) In the Senate, an amendment that is otherwise in order shall be in order notwithstanding the fact that it amends the joint resolution in more than one place or amends language previously amended. It shall not be in order in the Senate to vote on the question of agreeing to such a joint resolution or any amendment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

"(4) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a joint resolution introduced under subsection (a), a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, and the disposition of any amendments under paragraph (3), the vote on final passage of the joint resolution shall occur.

"(5) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

"(6) CONFERENCE REPORTS.—In the Senate, points of order under titles III, IV, and VI of the Congressional Budget Act of 1974 are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.

"(7) RESOLUTION FROM OTHER HOUSE.—If, before the passage by the Senate of a joint resolution of the Senate introduced under subsection (a), the Senate receives from the House of Representatives a joint resolution introduced under subsection (a), then the following procedures shall apply:

"(A) The joint resolution of the House of Representatives shall not be referred to a committee.

"(B) With respect to a joint resolution introduced under subsection (a) in the Senate—

"(i) the procedure in the Senate shall be the same as if no joint resolution had been received from the House; but

"(ii)(I) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or

"(II) if the joint resolution from the House is not identical to the joint resolution then pending for passage in the Senate and the Senate then passes it, the Senate shall be considered to have passed the joint resolution as amended by the text of the Senate joint resolution.

"(C) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

"(8) SENATE ACTION ON HOUSE RESOLUTION.—If the Senate receives from the House of Representatives a joint resolution introduced under subsection (a) after the Senate has disposed of a Senate originated resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then the Senate shall be considered to have passed the joint resolution of the House as amended by the text of the Senate joint resolution.".

PART II—RELATED AMENDMENTS

SEC. 14111. TEMPORARY AMENDMENTS TO THE CONGRESSIONAL BUDGET ACT OF 1974.

Title VI of the Congressional Budget Act of 1974 is amended to read as follows:

"TITLE VI—BUDGET AGREEMENT ENFORCEMENT PROVISIONS

"SEC. 601. DEFINITIONS.

"As used in this title and for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985:

"(1) MAXIMUM DEFICIT AMOUNT.—The term 'maximum deficit amount' means—

"(A) with respect to fiscal year 1991, $302,300,000,000;

"(B) with respect to fiscal year 1992, $276,800,000,000;

"(C) with respect to fiscal year 1993, $189,700,000,000;

"(D) with respect to fiscal year 1994, $58,100,000,000; and

"(E) with respect to fiscal year 1995, $18,700,000,000.

"(2) DISCRETIONARY SPENDING LIMIT.—The term 'discretionary spending limit' means—

"(A) with respect to fiscal year 1991—

"(i) for the defense category: $288,918,000,000 in new budget authority and $297,659,000,000 in outlays;

"(ii) for the international category: $20,100,000,000 in new budget authority and $18,600,000,000 in outlays; and

"(iii) for the domestic category: $182,700,000,000 in new budget authority and $198,100,000,000 in outlays;

"(B) with respect to fiscal year 1992—

"(i) for the defense category: $291,643,000,000 in new budget authority and $295,744,000,000 in outlays;

"(ii) for the international category: $20,500,000,000 in new budget authority and $19,100,000,000 in outlays; and

"(iii) for the domestic category: $191,300,000,000 in new budget authority and $210,100,000,000 in outlays;

"(C) with respect to fiscal year 1993—

"(i) for the defense category: $291,785,000,000 in new budget authority and $292,686,000,000 in outlays;

"(ii) for the international category: $21,400,000,000 in new budget authority and $19,600,000,000 in outlays; and

"(iii) for the domestic category: $198,300,000,000 in new budget authority and $221,700,000,000 in outlays;

"(D) with respect to fiscal year 1994, for the discretionary category: $510,800,000,000

in new budget authority and $534,800,000,000 in outlays; and

"(E) with respect to fiscal year 1995, for the discretionary category: $517,700,000,000 in new budget authority and $540,800,000,000 in outlays.

"SEC. 602. 5-YEAR BUDGET RESOLUTIONS.

"In the case of any concurrent resolution on the budget for fiscal year 1992, 1993, 1994, or 1995, that resolution shall set forth appropriate levels for the fiscal year beginning on October 1 of the calendar year in which it is reported and for each of the 4 succeeding fiscal years.

"SEC. 603. COMMITTEE ALLOCATIONS AND ENFORCEMENT.

" (a) COMMITTEE SPENDING ALLOCATIONS.—

"(1) HOUSE OF REPRESENTATIVES.—

"(A) ALLOCATION AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a budget resolution shall include allocations, consistent with the resolution recommended in the conference report, of the appropriate levels (for each fiscal year covered by that resolution and a total for all such years) of—

"(i) total new budget authority,

"(ii) total entitlement authority, and

"(iii) total outlays;

among each committee of the House of Representatives that has jurisdiction over legislation providing or creating such amounts.

"(B) NO DOUBLE COUNTING.—Any item allocated to one committee of the House of Representatives may not be allocated to another such committee.

"(C) FURTHER DIVISION OF AMOUNTS.—The amounts allocated to each committee for each fiscal year, other than the Committee on Appropriations, shall be further divided between amounts provided or required by law on the date of filing of that conference report and amounts not so provided or required. The amounts allocated to the Committee on Appropriations for each fiscal year shall be further divided between discretionary and mandatory amounts or programs, as appropriate.

"(2) SENATE ALLOCATION AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a budget resolution shall include an allocation, consistent with the resolution recommended in the conference report, of the appropriate levels of—

"(A) total new budget authority, and

"(B) total outlays;

among each committee of the Senate that has jurisdiction over legislation providing or creating such amounts.

"(3) AMOUNTS NOT ALLOCATED.—If a committee receives no allocation of new budget authority, entitlement authority, or outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority, entitlement authority, or outlays.

"(b) SUBALLOCATIONS BY THE APPROPRIATIONS COMMITTEES.—

"(1) INITIAL SUBALLOCATIONS.—As soon as practicable after a budget resolution is agreed to, the Committee on Appropriations of each House (after consulting with the Committee on Appropriations of the other House) shall suballocate each amount allocated to it for the budget year under subsection (a)(1)(C) among its subcommittees.

"(2) FILING.—Each Committee on Appropriations shall promptly report to its House suballocations made or revised under this subsection.

"(c) Application of Section 302(f) to This Section.—In fiscal years through 1995, reference in section 302(f) to the appropriate allocation made pursuant to section 302(b) for a fiscal year shall, for purposes of this section, be deemed to be a reference to any allocation made under subsection (a) or any suballocation made under subsection (b), as applicable, for the budget year or for the total of all fiscal years made by the joint explanatory statement accompanying the applicable concurrent resolution on the budget.

"(d) APPLICATION OF SUBSECTIONS (a) AND (b) TO FISCAL YEARS 1992 TO 1995.—In the case of concurrent resolutions on the budget for fiscal years 1992 through 1995, allocations shall be made under subsection (a) instead of section 302(a) and shall be made under subsection (b) instead of section 302(b). For those fiscal years, all references in section 302(c), (d), (e), and (f) to section 302(a) shall be deemed to be to subsection (a) (including revisions made under section 604) and all such references to section 302(b) shall be deemed to be to subsection (b) (including revisions made under section 604).".

"(e) PAY-AS-YOU-GO EXCEPTION.—Section 302(f)(1) shall not apply to any bill, resolution, or conference report if—

"(A) the enactment of such bill or resolution as reported;

"(B) the adoption and enactment of such amendment; or

"(C) the enactment of such bill or resolution in the form recommended in such conference report,

would not increase the deficit set forth in the most recently agreed to concurrent resolution on the budget for any fiscal year covered by that concurrent resolution.".

"SEC. 604. CONSIDERATION OF LEGISLATION BEFORE ADOPTION OF BUDGET RESOLUTION FOR THAT FISCAL YEAR.

"(a) ADJUSTING SECTION 603 ALLOCATION OF DISCRETIONARY SPENDING.—If a concurrent resolution on the budget is not adopted by April 15, the chairman of the Committee on the Budget of the House of Representatives and the chairman of the Committee on the Budget of the Senate shall submit to their respective Houses, as soon as practicable, a revised section 603(a) allocation to the Committee on Appropriations of that House consistent with the discretionary spending limits contained in the most recent budget submitted by the President under section 1105(a) of title 31, United States Code.

"(b) As soon as practicable after a revised section 603(a) allocation is submitted, the Committee on Appropriations of each House shall make revised suballocations and promptly report those revised suballocations to its House.

"SEC. 605. RECONCILIATION DIRECTIVES REGARDING PAY-AS-YOU-GO REQUIREMENTS.

"(a) INSTRUCTIONS TO EFFECTUATE PAY-AS-YOU-GO.—If legislation providing for a net reduction in revenues in any fiscal year (that, within the same measure, is not fully offset in that fiscal year by reductions in direct spending) is enacted, the Committee on the Budget of the House of Representatives or the Senate may report, within 15 legislative days during a Congress, a pay-as-you-go reconciliation directive in the form of a concurrent resolution—

"(1) specifying the total amount by which revenues sufficient to eliminate the net deficit increase resulting from that legislation in each fiscal year are to be changed; and

"(2) directing that the committees having jurisdiction determine and recommend changes in the revenue law, bills, and resolutions to accomplish a change of such total amount.

"(b) CONSIDERATION OF PAY-AS-YOU-GO RECONCILIATION DIRECTIVE.—In the Senate, section 305(b) shall apply to the reconciliation directive described in subsection (a) in the same manner as if it were a concurrent resolution on the budget.

"(c) CONSIDERATION OF PAY-AS-YOU-GO RECONCILIATION LEGISLATION.—In the House of Representatives and in the Senate, subsections (b) through (e) and (g) of section 310 shall apply in the same manner as if the reconciliation directive described in subsection (a) were a concurrent resolution on the budget.

SEC. 606. APPLICATION OF SECTION 311.

"In the application of section 311(a) to any bill, resolution, amendment, or conference report, reference in section 311 to the appropriate level of total budget authority or total budget outlays or appropriate level of total revenues set forth in the most recently agreed to concurrent resolution on the budget for a fiscal year shall be deemed to be a reference to the appropriate level for that fiscal year and to the total of the appropriate level for that year and the 4 succeeding years.

"SEC. 607. BUDGET RESOLUTIONS MUST CONFORM TO BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.

"It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget for a fiscal year under section 301 that is inconsistent with the requirements of the Balanced Budget and Emergency Deficit Control Act of 1985 that apply to that fiscal year.".

"SEC. 608. EFFECTIVE DATES.

This title shall take effect upon its date of enactment and shall apply to fiscal years 1991 to 1995.".

SEC. 14112. CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.—

(1) TABLE OF CONTENTS.—Section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended to reflect the new section numbers and headings created by this title.

(2) SECTION 3.—Section 3 of such Act is amended—

(A) by striking paragraphs (6) through (10) and by inserting the following:

"(6) The term 'deficit' means, with respect to a fiscal year, the amount by which outlays exceed receipts during that year.

"(7) The term 'surplus' means, with respect to a fiscal year, the amount by which receipts exceed outlays during that year.

(3) SECTION 202.—Section 202(a)(1) and the second sentence of 202(f)(1) of such Act are amended by striking "budget authority" and inserting "new budget authority" .

(4) SECTION 300.—Section 300 of such Act is amended by striking "First Monday after January 3" and by inserting "First Monday in February".

(5) SECTION 304.—Section 304 of such Act is amended by striking subsection (b) and by striking "(c)" and inserting "(b)".

(6) SECTION 301(i).—Section 301(i) of such Act is repealed.

(7) SECTION 311(a).—Section 311(a) of such Act is amended by striking "or, in the Senate" and all that follows thereafter through "paragraph (2) of such subsection".

(8) SECTION 904.—Section 904 of such Act is amended by striking "and" after "III", by inserting ", V, and VI (except section 601)" after "IV", and by striking "606,".

(b) CONFORMING AMENDMENT TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Subsection (b) of section 275 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(b) EXPIRATION.—Part C of this title, section 271(b) of this Act, and sections 1105(f) and 1106(c) of title 31, United States Code, shall expire September 30, 1995.".

(c) CONFORMING AMENDMENTS TO SECTION 1105 OF TITLE 31, UNITED STATES CODE.—

(1) SECTION 1105(a).—Section 1105(a) of title 31, United States Code, is amended by striking "first Monday after January 3" and by inserting "first Monday in February"

(2) SECTION 1105(f).—Section 1105(f) of title 31, United States Code, is amended to read as follows:

"(f) The budget transmitted pursuant to subsection (a) for a fiscal year shall be prepared in a manner consistent with the requirements of the Balanced Budget and Emergency Deficit Control Act of 1985 that apply to that fiscal year.".

(d) CONFORMING AMENDMENTS TO THE RULES OF THE HOUSE OF REPRESENTATIVES.—

(1) CROSS-REFERENCE.—Clause 1(e)(2) of rule X of the Rules of the House of Representatives is amended by striking "(a)(4)".

(2) CROSS-REFERENCE.—Clause 1(e)(2) of rule X of the House of Representatives is amended by striking "Act, and any resolution pursuant to section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985" and inserting "Act".

(3) ALLOCATIONS.—Clause 4(h) of rule X of the House of Representatives is amended by inserting "or section 603 (in the case of fiscal years 1991 through 1995)" after "section 302".

(4) MULTIYEAR REVENUE ESTIMATES.—Clause 7(a)(1) of rule XIII of the House of Representatives is amended by striking ", except that, in the case of measures affecting the revenues, such reports shall require only an estimate of the gain or loss in revenues for a one-year period".

(e) CONFORMING AMENDMENT TO THE STANDING RULES OF THE SENATE.—Paragraph 1(e)(1) of rule XXV of the Standing Rules of the Senate is amended by striking "(a)(4)".

Subtitle B—Permanent Amendments to the Congressional Budget and Impoundment Control Act of 1974

SEC. 14201. CREDIT ACCOUNTING.

Title V of the Congressional Budget Act of 1974 is amended to read as follows:

"TITLE V—CREDIT ACCOUNTING

"SEC. 501. COST OF LOANS.

"As used in this title, the term 'cost' or 'cost of loans' means the cost to the Government of any loan (that is, any direct loan or loan guarantee), including the cost of, and receipts from, insurance purchased by the Government, except indirect costs such as administrative costs or any effect on receipts, and shall be calculated as follows:

"(1) DIRECT LOANS.—For a direct loan to the public made by the Government, the difference between the face value of the loan and the net present value of—

"(A) the repayments of principal; and

"(B) payments of interest and other payments;

to the Government by the borrower over the life of the loan, after adjusting for estimated defaults, prepayments, fees, penalties, and any other recoveries.

"(2) LOAN GUARANTEES.—For a loan made by a non-Federal borrower that is guaranteed as to principal or interest, in whole or in part, by the Government, the net present value of (A) estimated payments by the Government to cover defaults, interest subsidies, or other costs, and (B) receipts (such as origination and other fees, penalties, and other recoveries) by the Government.

"(3) ACTIONS THAT ALTER COSTS.—Any Government action that alters estimated loan costs (except modifications within the terms of a loan contract) shall be accounted as increasing or decreasing, as the case may be, the cost to the Government of such loans.

"(4) DISCOUNT RATE.—The estimated average interest rate on new issues of Treasury securities of similar maturity to the loans being estimated shall be used as the discount to present value.

"SEC. 502. BUDGETARY ACCOUNTING.

"(a) NEW BUDGET AUTHORITY.—The authority to incur new direct loan obligations, make new loan guarantee commitments, or directly or indirectly alter the costs of outstanding loans is new budget authority in an amount equal to the cost (as defined in section 501), in the fiscal year in which definite authority becomes available or in which indefinite authority is used.

"(b) OUTLAYS.—Outlays resulting from, and equal in amount to, the amount of new budget authority referred to in subsection (a) that is obligated shall be recorded in the fiscal year in which a loan is disbursed or its cost altered.

"(c) RESIDUAL CASH FLOW.—

"(1) IN GENERAL.—All flows of cash resulting from Federal loan contracts other than the outlays recorded pursuant to subsection (b) shall be a means of financing the deficit.

"(2) REESTIMATES.—Whenever the estimate of the cost of loan obligations or commitments already made for a given program cohort differs from the estimate used when the loans were made, that reestimate shall immediately be reflected in the budget as a change in program costs and as a change in net interest.

"(3) IMPLEMENTATION.—In order to effectuate the accounting required by the previous provisions of this section, (A) the President is authorized to establish such nonbudgetary accounts as may be appropriate, and (B) the Secretary of the Treasury shall borrow from, receive from, lend to, or pay to such accounts such amounts as may be appropriate.

"SEC. 503. CONGRESSIONAL CONTROL OF LOAN COSTS.

"(a) APPROPRIATION REQUIRED.—Notwithstanding any other provision of law, new direct loan obligations may be incurred and new loan guarantee commitments may be made after September 30, 1991, only to the extent that appropriations of new budget authority to cover their costs are made, or authority is otherwise provided, in appropriation Acts enacted after January 1, 1991.

"(b) EXEMPTION FOR MANDATORY PROGAMS.—Subsection (a) shall not apply to any loan program that constitutes a spending requirement, and all existing programs funded through the Commodity Credit Corporation.

"SEC. 504. EXECUTIVE BRANCH COST ESTIMATES.

"(a) IN GENERAL.—For the executive branch, all estimates required by this title shall be made by the Director of the Office of Management and Budget after consultation with the agencies that administer loan programs (or, if such authority is delegated, by those agencies), and shall be based upon written guidelines, regulations, or criteria (consistent with the definitions in this title) established by the Director after consultation with Secretary of the Treasury and the Director of the Congressional Budget Office.

"(b) IMPROVING COST ESTIMATES.—The Office of Management and Budget and the Congressional Budget Office shall work together to develop accurate data on the historical performance of loan programs. They shall annually review loan portfolios to improve estimates of loan costs.

"(c) ACCESS TO DATA.—The Office of Management and Budget, the Treasury, and the Congressional Budget Office shall have access to all agency data that may facilitate the development or improvement of loan cost estimates.

"SEC. 505. BUDGET PRESENTATION OF COSTS.

"(a) ADMINISTRATIVE EXPENSES.—All funding for an agency's administration of a loan program shall be displayed as distinct and separately identified subaccounts within the same budget account as the program's loan cost, but appropriation Acts may transfer funding for those administrative costs to other accounts.

"(b) LOAN COSTS BEFORE FISCAL YEAR 1992.—The Office of Management and Budget shall, to the extent possible, make summary estimates of loan costs incurred in years before fiscal year 1992 and shall make such information available to supplement or adjust (as appropriate) historical data for such years.

"SEC. 506. EFFECTIVE DATES.

"(a) PRESIDENT'S BUDGET.—This title shall apply to budget estimates for loans to be obligated in fiscal year 1992 and thereafter presented in the budgets submitted by the President under section 1105(a) of title 31, United States Code, after the enactment of this title.

"(b) CONGRESSIONAL BUDGET.—This title shall apply to budget estimates for loans to be obligated in fiscal year 1992 and thereafter contained in concurrent resolutions on the budget for fiscal years 1992 and thereafter.

"(c) LOANS OBLIGATED BEFORE FISCAL YEAR 1992.—Net costs of loans obligated before fiscal year 1992 shall be shown in the budget on a cash basis. This subsection shall be deemed to provide authority to make any payments required to be made on such loan contracts.

"SEC. 507. STUDY OF FEDERAL INSURANCE ACCOUNTING.

"The Director of the Office of Management and Budget and the Director of the Congressional Budget Office shall each study whether the accounting for Federal deposit insurance programs should be on a cash basis, on the same basis as loan guarantees, or on some other basis. Each Director shall report findings and recommendations to the President and the Congress by August 31, 1991.".

Subtitle C—Social Security

SEC. 14301. OFF-BUDGET STATUS OF OASDI TRUST FUNDS.

Notwithstanding any other provision of law, the receipts (excluding interest on obligations described in section 201(d) of the Social Security Act) and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(1) the budget of the United States Government as submitted by the President,

(2) the congressional budget, or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 14302. PROTECTION OF OASDI TRUST FUNDS.

(a) IN GENERAL.—(1) It shall not be in order in the House of Representatives or the Senate to consider any bill or resolution, or any amendment thereto or conference report thereon, if—

(A) upon enactment—

(i) such legislation under consideration would provide for a net increase in OASDI benefits of at least 0.02 percent of the present value of future taxable payroll for the 75-year period utilized in the most recent annual report of the Board of Trustees provided pursuant to section 201(c)(2) of the Social Security Act, or

(ii) the net increase in OASDI benefits (for the 5-year period consisting of the fiscal year in which such legislation under consideration would be effective and the next 4 fiscal years) provided by such legislation under consideration, together with the 5-year net increases in OASDI benefits resulting from previous legislation enacted during that fiscal year or any of the previous 4 fiscal years (as estimated at the time of enactment), exceeds $250,000,000,

and such legislation under consideration does not provide at least a net increase, for the same period referred to in clause (i) or (ii), in OASDI taxes of the amount by which the net increase in such benefits exceeds the amount specified in such clause; or

(B) upon enactment—

(i) such legislation under consideration would provide for a net decrease in OASDI taxes of at least 0.02 percent of the present value of future taxable payroll for the 75-year period utilized in the most recent annual report of the Board of Trustees provided pursuant to section 201(c)(2) of the Social Security Act, or

(ii) the net decrease in OASDI taxes (for the 5-year period consisting of the fiscal year in which such legislation under consideration would be effective and the next 4 fiscal years) provided by such legislation under consideration, together with the 5-year net decrease in OASDI taxes resulting from previous legislation enacted during that fiscal year or any of the previous 4 fiscal years (as estimated at the time of enactment), exceeds $250,000,000,

and such legislation under consideration does not provide at least a net decrease, for the same period referred to in clause (i) or (ii), in OASDI benefits of the amount by which the net decrease in such taxes exceeds the amount specified in such clause.

(2) In applying subparagraph (B) of paragraph (1), any provision of any bill or resolution, or any amendment thereto, or conference report thereon, the effect of which is to provide for a net decrease for any period in taxes described in paragraph (3)(B)(i) shall be disregarded if such bill, resolution, amendment, or conference report also includes a provision the effect of which is to provide for a net increase of at least an equivalent amount for such period in medicare taxes.

(3) For purposes of this subsection:

(A) The term "OASDI benefits" means the benefits under the old-age, survivors, and disability insurance programs under title II of the Social Security Act.

(B) The term "OASDI taxes" means—

(i) the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1986, and

(ii) the taxes imposed under chapter 1 of such Code (to the extent attributable to section 86 of such Code).

(C) The term "medicare taxes" means the taxes imposed under sections 1401(b), 3101(b), and 3111(b) of the Internal Revenue Code of 1986.

(D) The term "previous legislation" shall not include legislation enacted before fiscal year 1991.

(E) No provision of any bill or resolution, or any amendment thereto or conference report thereon, involving a change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of OASDI taxes referred to in subparagraph (B)(ii) unless such provision changes the income tax treatment of OASDI benefits.

(b) EXERCISE OF RULEMAKING POWER OF THE HOUSE OF REPRESENTATIVES AND THE SENATE.—Subsection (a) is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as a part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

SEC. 14303. REPORT TO THE CONGRESS BY THE BOARD OF TRUSTEES OF THE OASDI TRUST FUNDS REGARDING THE ACTUARIAL BALANCE OF THE TRUST FUNDS.

Section 201(c) of the Social Security Act (42 U.S.C. 401(c)) is amended by inserting after the first sentence following clause (5) the following new sentence: "Such statement shall include a finding by the Board of Trustees as to whether the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, individually and collectively, are in close actuarial balance (as defined by the Board of Trustees).".

SEC. 14304. EFFECTIVE DATE.

Sections 14301 and 14302, and any amendments made by such sections, shall apply with respect to fiscal years beginning on or after October 1, 1991. Section 14303 shall be effective for annual reports of the Board of Trustees issued in or after calendar year 1991.

Subtitle D—Treatment of Fiscal Year 1991 Sequestration

SEC. 14401. RESTORATION OF FUNDS SEQUESTERED.

(a) ORDER RESCINDED.—Upon the enactment of this Act, the orders issued by the President on August 27, 1990, and October 15, 1990, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 are hereby rescinded.

(b) AMOUNTS RESTORED.—Any action taken to implement the orders referred to in subsection (a) shall be reversed, and any sequestrable resource that has been reduced or sequestered by such orders is hereby restored, revived, or released and shall be available to the same extent and for the same purpose as if the orders had not been issued.

Subtitle E—Government-sponsored Enterprises

SEC. 14501. FINANCIAL SAFETY AND SOUNDNESS OF GOVERNMENT-SPONSORED ENTERPRISES.

(a) DEFINITION.—For purposes of this section, the terms "Government-sponsored enterprise" and "GSEs" mean the Farm Credit System (including the Farm Credit Banks, Banks for Cooperatives, Federal Agricultural Mortgage Corporation, and Farm Credit Insurance Corporation), the Federal Home Loan Bank System, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, and the Student Loan Marketing Association.

(b) TREASURY DEPARTMENT STUDY AND PROPOSED LEGISLATION.—

(1) The Department of the Treasury shall prepare and submit to Congress no later than April 30, 1991, a study of GSEs and recommended legislation.

(2) The study shall include an objective assessment of the financial soundness of GSEs, the adequacy of the existing regulatory structure for GSEs, and the financial exposure of the Federal Government posed by GSEs.

(c) CONGRESSIONAL BUDGET OFFICE STUDY.—

(1) The Congressional Budget Office shall prepare and submit to Congress no later than April 30, 1991, a study of GSEs.

(2) The study shall include an analysis of the financial risks each GSE assumes, how Congress may improve its understanding of those risks, the supervision and regulation of GSEs' risk management, and the financial exposure of the Federal Government posed by GSEs. The study shall also include an analysis of alternative models for oversight of GSEs and of the costs and benefits of each alternative model to the Government and to the markets and beneficiaries served by GSEs.

(d) ACCESS TO RELEVANT INFORMATION.—

(1) For the studies required by this section, each GSE shall provide full and prompt access to the Secretary of the Treasury and the Director of the Congressional Budget Office to its books and records and other information requested by the Secretary of the Treasury or the Director of the Congressional Budget Office.

(2) In preparing the studies required by this section, the Secretary of the Treasury and the Director of the Congressional Budget Office may request information from, or the assistance of, any Federal department or agency authorized by law to supervise the activities of a GSE.

(e) CONFIDENTIALITY OF RELEVANT INFORMATION.—

(1) The Secretary of the Treasury and the Director of the Congressional Budget Office shall determine and maintain the confidentiality of any book, record, or information made available by a GSE under this section in a manner consistent with the level of confidentiality established for the material by the GSE involved.

(2) The Department of the Treasury and the Congressional Budget Office shall be exempt from section 552 of title 5, United States Code, for any book, record, or information made available under subsection (d) and determined by the Secretary of the Treasury or the Director of the Congressional Budget Office, as appropriate, to be confidential under this subsection.

(3) Any officer or employee of the Department of the Treasury or the Congressional Budget Office shall be subject to the penalties set forth in section 1906 of title 18, United States Code, if—

(A) by virtue of his or her employment or official position, he or she has possession of or access to any book, record, or information made available under and determined to be confidential under this section; and

(B) he or she discloses the material in any manner other than—

(i) to an officer or employee of the Department of the Treasury or the Congressional Budget Office; or

(ii) pursuant to the exception set forth in such section 1906.

(f) REQUIREMENT TO REPORT LEGISLATION.—The committees of jurisdiction in the House and Senate shall prepare and report to the House and Senate, respectively, no later than September 15, 1991, legislation to ensure the financial soundness of GSEs and to minimize the possibility that a GSE might require future assistance from the Government.[H16OC0-Y1]{H10264}overnment.

The CHAIRMAN. Only the following two amendments en bloc are in order to the bill:

The amendment en bloc printed in part 2 of House Report 101-882, if offered by Representative ROSTENKOWSKI, or his designee. Said amendment shall be considered as read, shall not be subject to amendment, shall be indivisible, and is debatable for up to 1 hour, equally divided and controlled by the proponent and a Member opposed.

An amendment en bloc offered by Representative PANETTA, or his designee. Said amendment shall be considered as read, shall not be subject to amendment, shall be indivisible, and is debatable for up to 30 minutes, equally divided and controlled by the proponent and a Member opposed.

AMENDMENTS EN BLOC OFFERED BY MR. ROSTENKOWSKI

Mr. ROSTENKOWSKI. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. ROSTENKOWSKI: Amend subtitle D of title XII to read as follows:

Subtitle D—Provisions Relating to Medicare Part B Premium and Deductible

SEC. 12301. PART B PREMIUM.

Section 1839(e)(1) of the Social Security Act (42 U.S.C. 13951(e)(1)) is amended—

(1) by inserting "(A)" after "(e)(1)", and

(2) by adding at the end the following new subparagraph:

"(B) Notwithstanding the provisions of subsection (a), the monthly premium for each individual enrolled under this part for each month in—

"(i) 1991 shall be $29.90,

"(ii) 1992 shall be $31.70,

"(iii) 1993 shall be $36.50,

"(iv) 1994 shall be $41.20, and

"(v) 1995 shall be $46.20.".

SEC. 12302. PART B DEDUCTIBLE.

Section 1833(b) of the Social Security Act (42 U.S.C. 13951) is amended by inserting after "$75" the following: "for calendar years before 1991 and $100 for 1991 and subsequent years".

Strike title XIII and insert the following:

TITLE XIII—COMMITTEE ON WAYS AND MEANS: REVENUE PROVISIONS

SEC. 13001. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Revenue Reconciliation Act of 1990".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 NOT TO APPLY.—Except as otherwise expressly provided in this title, no amendment made by this title shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) TABLE OF CONTENTS.—

TITLE XIII—COMMITTEE ON WAYS AND MEANS: REVENUE PROVISIONS

Sec. 13001. Short title; etc.

Subtitle A—Individual Income Tax Provisions; Luxury Excise Tax

PART I—PROVISIONS AFFECTING HIGH-INCOME INDIVIDUALS

Sec. 13101. Elimination of provision reducing marginal tax rate for high-income taxpayers.
Sec. 13102. Increase in rate of individual alternative minimum tax.
Sec. 13103. Surtax on individuals with incomes over $1,000,000.
Sec. 13104. Taxes on luxury items.
Sec. 13105. Increase in dollar limitation on amount of wages subject to hospital insurance tax.

PART II—DELAY OF INDEXING OF INCOME TAX BRACKETS AND PERSONAL EXEMPTIONS

Sec. 13111. Delay of indexing of income tax brackets and personal exemptions.

PART III—PROVISIONS RELATED TO EARNED INCOME TAX CREDIT

Sec. 13121. Increase in earned income tax credit.
Sec. 13122. Simplification of credit.

PART IV—CAPITAL GAINS PROVISIONS

Subpart A—Reduction in Capital Gains Tax for Individuals

Sec. 13131. Reduction in capital gains tax for individuals.

Subpart B—Depreciation Recapture

Sec. 13135. Recapture under section 1250 of total amount of depreciation.

Subtitle B—Excise Taxes

PART I—TAXES RELATED TO HEALTH AND THE ENVIRONMENT

Sec. 13201. Increases in excise taxes on distilled spirits, wine, and beer.
Sec. 13202. Increase in excise taxes on tobacco products.
Sec. 13203. Additional chemicals subject to tax on ozone-depleting chemicals.

PART II—USER-RELATED TAXES

Sec. 13211. Increase and extension of aviation-related taxes and trust fund; repeal of reduction in rates.
Sec. 13212. Amendments to gas guzzler tax.
Sec. 13213. Increase in harbor maintenance tax.
Sec. 13214. Extension of Leaking Underground Storage Tank Trust Fund taxes.
Sec. 13215. Floor stocks tax treatment of articles in foreign trade zones.

Subtitle C—Other Revenue Increases

PART I—INSURANCE PROVISIONS

Subpart A—Provisions Related to Policy Acquisition Costs

Sec. 13301. Capitalization of policy acquisition expenses.
Sec. 13302. Treatment of nonlife reserves of life insurance companies.
Sec. 13303. Treatment of life insurance reserves of insurance companies which are not life insurance companies.

Subpart B—Treatment of Salvage Recoverable

Sec. 13305. Treatment of salvage recoverable.

Subpart C—Waiver of Estimated Tax Penalties

Sec. 13307. Waiver of estimated tax penalties.

PART II—COMPLIANCE PROVISIONS

Sec. 13311. Suspension of statute of limitations during proceedings to enforce certain summonses.
Sec. 13312. Accuracy-related penalty to apply to section 482 adjustments.
Sec. 13313. Treatment of persons providing services.
Sec. 13314. Application of amendments made by section 7403 of Revenue Reconciliation Act of 1989 to taxable years beginning on or before July 10, 1989.
Sec. 13315. Other reporting requirements.
Sec. 13316. Study of section 482.

PART III—EMPLOYER REVERSIONS

Subpart A—Treatment of Reversions of Qualified Plan Assets to Employers

Sec. 13321. Increase in reversion tax.
Sec. 13322. Additional tax if no replacement plan.
Sec. 13323. Effective date.

SUBPART B—TRANSFERS TO RETIREE HEALTH ACCOUNTS

Sec. 13325. Transfer of excess pension assets to retiree health accounts.
Sec. 13326. Application of ERISA to transfers of excess pension assets to retiree health accounts.

PART IV—CORPORATE PROVISIONS

Sec. 13331. Recognition of gain by distributing corporation in certain section 355 transactions.
Sec. 13332. Modifications to regulations issued under section 305(c).
Sec. 13333. Modifications to section 1060.
Sec. 13334. Modification to corporation equity reduction limitations on net operating loss carrybacks.
Sec. 13335. Issuance of debt or stock in satisfaction of indebtedness.

PART V—EMPLOYMENT TAX PROVISIONS

Sec. 13341. Coverage of certain State and local employees under Social Security.
Sec. 13342. Extension of surtax on unemployment tax.
Sec. 13343. Deposits of payroll taxes.

PART VI—MISCELLANEOUS PROVISIONS

Sec. 13351. Special rules where grantor of trust is a foreign person.
Sec. 13352. Return requirement where cash received in trade or business.

Subtitle A—Individual Income Tax Provisions; Luxury Excise Tax

PART I—PROVISIONS AFFECTING HIGH-INCOME INDIVIDUALS

SEC. 13101. ELIMINATION OF PROVISION REDUCING MARGINAL TAX RATE FOR HIGH-INCOME TAXPAYERS.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)), a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $32,450	15% of taxable income.
Over $32,450 but not over $67,200.	$4,867.50, plus 28% of the excess over $32,450.
Over $78,400	$17,733.50, plus 33% of the excess over $78,400.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $26,050	15% of taxable income.
Over $26,050 but not over $67,200.	$3,907.50, plus 28% of the excess over $26,500.
Over $67,200	$15,429.50, plus 33% of the excess over $67,200.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $19,450	15% of taxable income.
Over $19,450 but not over $47,050.	$2,917.50, plus 28% of the excess over $19,450.
Over $47,050	$10,645.50, plus 33% of the excess over $47,050.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $16,225	15% of taxable income.
Over $16,225 but not over $39,200.	$2,433.75, plus 28% of the excess over $16,225.
Over $39,200	$8,866.75, plus 33% of the excess over $39,200.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $5,450	15% of taxable income.
Over $5,450 but not over $14,150.	$817.50, plus 28% of the excess over $5,450.
Over $14,150	$3,253.50, plus 33% of the excess over $14,150.

(b) REPEAL OF PHASEOUT.—

(1) IN GENERAL.—Section 1 is amended by striking subsection (g) (relating to phaseout of 15-percent rate and personal exemptions).

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 1(f)(6) (relating to adjustments for inflation) is amended by striking "subsection (g)(4),".

(c) 28 PERCENT MAXIMUM CAPITAL GAINS RATE.—Subsection (j) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(j) MAXIMUM CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the amount of the net capital gain, or

"(ii) the amount of taxable income taxed at a rate below 28 percent, plus

"(B) a tax of 28 percent of the amount of taxable income in excess of the amount determined under paragraph (1).

"(2) COORDINATION WITH SECTION 1202 DEDUCTION.—For purposes of paragraph (1), the amount of the net capital gain shall be reduced by the sum of—

"(A) the amount allowable as a deduction under section 1202(a)(1), plus

"(B) the amount of the qualified gain (as defined in section 1202(c)) for the taxable year to the extent taken into account under section 1202(c)(1) for the taxable year."

(d) TECHNICAL AMENDMENTS.—

(1)(A) Subsection (f) of section 1 is amended—

(i) by striking "1988" in paragraph (1) and inserting "1990", and

(ii) by striking "1987" in paragraph (3)(B) and inserting "1989".

(B) Subparagraph (B) of section 32(i)(1) is amended by striking "1987" and inserting "1989".

(C) Subparagraph (C) of section 41(e)(5) is amended—

(i) by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end of clause (i),

(ii) by striking "1987" in clause (ii) and inserting "1989", and

(iii) by adding at the end of clause (ii) the following new sentence: "Such substitution shall be in lieu of the substitution under clause (i).".

(D) Subparagraph (B) of section 63(c)(4) is amended by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end.

(E) Clause (ii) of section 135(b)(2)(B) is amended by striking ", determined by substituting 'calendar year 1989' for 'calendar year 1987' in subparagraph (B) thereof".

(F) Subparagraph (B) of section 151(d)(3) is amended by striking "1987" and inserting "1989".

(G) Clause (ii) of section 513(h)(2)(C) is amended by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end.

(2) Section 1 is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (g) and (h), respectively.

(3) Subsection (j) of section 59 is amended—

(A) by striking "section 1(i)" each place it appears and inserting "section 1(g)", and

(B) by striking "section 1(i)(3)(B)" in paragraph (2)(C) and inserting "section 1(g)(3)(B)".

(4) Paragraph (4) of section 691(c) is amended by striking "1(j)" and inserting "1(h)".

(5)(A) Clause (i) of section 904(b)(3)(D) is amended by striking "subsection (j)" and inserting "subsection (h)".

(B) Subclause (I) of section 904(b)(3)(E)(iii) is amended by striking "section 1(j)" and inserting "section 1(h)".

(6) Clause (iv) of section 6103(e)(1)(A) is amended by striking "section 1(j)" and inserting "section 1(g)".

(7)(A) Subparagraph (A) of section 7518(g)(6) is amended by striking "1(j)" and inserting "1(h)".

(B) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act, 1936 is amended by striking "1(j)" and inserting "1(h)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 13102. INCREASE IN RATE OF INDIVIDUAL ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subparagraph (A) of section 55(b)(1) (relating to tentative minimum tax) is amended by striking "21 percent" and inserting "25 percent".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1990.

SEC. 13103. SURTAX ON INDIVIDUALS WITH INCOME OVER $1,000,000.

(a) GENERAL RULE.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000

"Sec. 59B. Surtax on section 1 tax.
"Sec. 59C. Surtax on minimum tax.
"Sec. 59D. Special rules.

"SEC. 59B. SURTAX ON SECTION 1 TAX.

"In the case of an individual who has taxable income for the taxable in excess of $1,000,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 10 percent of the amount which bears the same ratio to the tax imposed under section 1 (determined without rgard to this section) as—

"(1) the amount by which the taxable income of such individual for such taxable year exceeds $1,000,000, bears to

"(2) the total amount of such individual's taxable income for such taxable year.

"SEC. 59C. SURTAX ON MINIMUM TAX.

"In the case of an individual who has alternative minimum taxable income for the taxable year in excess of $1,000,000, the amount of the tentative minimum tax determined under section 55 for such taxable year shall be increased by 2.5 percent of the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds $1,000,000.

"SEC. 59D. SPECIAL RULES.

"(a) SURTAX TO APPLY TO ESTATES AND TRUSTS.—For purposes of this part, the term 'individual' includes any estate or trust taxable under section 1.

"(b) TREATMENT OF MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$500,000' for '$1,000,000'.

"(c) COORDINATION WITH OTHER PROVISIONS.—The provisions of this part—

"(1) shall be applied after the application of section 1(h), but

"(2) before the application of any other provision of this title which refers to the

amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $1,000,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31 1990.

SEC. 13104. TAXES ON LUXURY ITEMS.

(a) IN GENERAL.—Chapter 31 (relating to retail excise taxes) is amended by redesignating subchapters A and B as subchapters B and C, respectively, and by inserting before subchapter B (as so redesignated) the following new subchapter:

"Subchapter A—Certain Luxury Items

"Part I. Imposition of taxes.
"Part II. Rules of general applicability.

"PART I. IMPOSITION OF TAXES

"Supbart A. Passenger vehicles, boats, and aircraft.
"Subpart B. Jewelry and furs.

"Subpart A—Passenger Vehicles, Boats, and Aircraft

"Sec. 4001. Passenger vehicles.
"Sec. 4002. Boats.
"Sec. 4003. Aircraft.
"Sec. 4004. Rules applicable to subpart A.

"SEC. 4001. PASSENGER VEHICLES.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

"(b) PASSENGER VEHICLE.—

"(1) IN GENERAL.—For purposes of subsection (a), term 'passenger vehicle' means any 4-wheeled vehicle—

"(A) which is manufactured primarily for use on public streets, roads, and highways, and

"(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

"(2) SPECIAL RULES.—

"(A) TRUCKS AND VANS.—In the case of a truck or van, paragraph (1)(B) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'.

"(B) LIMOUSINES.—In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

"(c) EXCEPTIONS FOR TAXICABS, ETC.—The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

"SEC. 4002. BOATS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any boat a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $100,000.

"(b) EXCEPTIONS.—The tax imposed by this section shall not apply to the sale of any boat for use by the purchaser exclusively in the active conduct of—

"(1) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(2) any other trade or business unless the boat is to be used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement, or recreation.

"SEC. 4003. AIRCRAFT.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any aircraft a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $100,000.

"(b) AIRCRAFT.—For purposes of this section, the term 'aircraft' means any aircraft—

"(1) which is propelled by a motor, and

"(2) which is capable of carrying 1 or more individuals.

"(c) EXCEPTIONS.—The tax imposed by this section shall not apply to the sale of any aircraft for use by the purchaser exclusively—

"(1) in the aerial application of fertilizers or other substances,

"(2) in the case of a helicopter, in a use described in paragraph (1) or (2) of section 4261(e),

"(3) in a trade or business of providing flight training, or

"(4) in a trade or business of transporting persons or property for compensation or hire.

"SEC. 4004. RULES APPLICABLE TO SUBPART A.

"(a) EXEMPTION FOR LAW ENFORCEMENT USES, ETC.—No tax shall be imposed under this subpart on the sale of any article—

"(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or

"(2) to any person for use exclusively in providing emergency medical services.

"(b) SEPARATE PURCHASE OF ARTICLE AND PARTS AND ACCESSORIES THEREFOR.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—Except as provided in paragraph (2), if—

"(A) the owner, lessee, or operator of any article taxable under this subpart (determined without regard to price) installs (or causes to be installed) any part or accessory on such article, and

"(B) such installation is not later than the date 6 months after the date the article was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

"(2) LIMITATION.—The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

"(A) the sum of—

"(i) the price of such part or accessory and its installation,

"(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

"(iii) the price for which the passenger vehicle, boat, or aircraft was sold, over

"(B) $100,000 ($30,000 in the case of a passenger vehicle).

"(3) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory, or

"(B) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the taxable article does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

"(4) INSTALLERS SECONDARILY LIABLE FOR TAX.—The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

"(c) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF ARTICLES PURCHASED TAX-FREE.—

"(1) IN GENERAL.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any article by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such article is resold by the purchaser or such purchaser makes a substantial non-exempt use of such article,

then such sale or use of such article by such purchaser shall be treated as the 1st retail sale of such article for a price equal to its fair market value at the time of such sale or use.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means any use of an article if the 1st retail sale of such article is not taxable under this subchapter by reason of such use.

"Subpart B—Jewelry and Furs

"Sec. 4006. Jewelry.
"Sec. 4007. Furs.

"SEC. 4006. JEWELRY.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any jewelry a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $5,000.

"(b) JEWELRY.—For purposes of subsection (a), the term 'jewelry' means all articles commonly or commercially known as jewelry, whether real or imitation, including watches.

"(c) MANUFACTURE FROM CUSTOMER'S MATERIAL.—If—

"(1) a person who in the course of a trade or business produces jewelry from material furnished directly or indirectly by a customer, and

"(2) the jewelry so manufactured is for the use of, and not for resale by, such customer,

the delivery of such jewelry to such customer shall be treated as the 1st retail sale of such jewelry for a price equal to its fair market value at the time of such delivery.

"SEC. 4007. FURS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of the following articles a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $10,000:

"(1) Articles made of fur on the hide or pelt.

"(2) Articles of which such fur is a major component.

"(b) MANUFACTURE FROM CUSTOMER'S MATERIAL.—If—

"(1) a person who in the course of a trade or business produces an article of the kind described in subsection (a) from fur on the hide or pelt furnished, directly or indirectly, by a customer, and

"(2) the article is for the use of, and not for resale by, such customer,

the delivery of such article to such customer shall be treated as the 1st retail sale of such article for a price equal to its fair market value at the time of such delivery.

"PART II—RULES OF GENERAL APPLICABILITY

"Sec. 4011. Definitions and special rules.

"SEC. 4011. DEFINITIONS AND SPECIAL RULES.

"(a) 1ST RETAIL SALE.—For purposes of this subchapter, the term '1st retail sale' means the 1st sale, for a purpose other than resale, after manufacture, production, or importation.

"(b) USE TREATED AS SALE.—

"(1) IN GENERAL.—If any person uses an article taxable under this subchapter (including any use after importation) before the 1st retail sale of such article, then such

person shall be liable for tax under this subchapter in the same manner as if such article were sold at retail by him.

"(2) EXEMPTION FOR FURTHER MANUFACTURE.—Paragraph (1) shall not apply to use of an article as material in the manufacture or production of, or as a component part of, another article taxable under this subchapter to be manufactured or produced by him.

"(3) COMPUTATION OF TAX.—In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) LEASES CONSIDERED AS SALES.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the lease of an article (including any renewal or any extension of a lease or any subsequent lease of such article) by any person shall be considered a sale of such article at retail.

"(2) SPECIAL RULES FOR CERTAIN LEASES OF PASSENGER VEHICLES, BOATS, AND AIRCRAFT.—

"(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE.—The sale of a passenger vehicle, boat, or aircraft to a person engaged in a leasing or rental trade or business of the article involved for leasing by such person in a qualified lease shall not be treated as the 1st retail sale of such article.

"(B) QUALIFIED LEASE.—For purposes of subparagraph (A), the term 'qualified lease' means—

"(i) any lease in the case of a boat or an aircraft, and

"(ii) any long-term lease (as defined in section 4052) in the case of any passenger vehicle.

"(C) SPECIAL RULES.—In the case of a qualified lease of an article which is treated as the 1st retail sale of such article—

"(i) DETERMINATION OF PRICE.—The tax under this chapter shall be computed on the lowest price for which the article is sold by retailers in the ordinary course of trade.

"(ii) PAYMENT OF TAX.—Rules similar to the rules of section 4217(e)(2) shall apply.

"(iii) NO TAX WHERE EXEMPT USE BY LESSEE.—No tax shall be imposed on any lease payment under a qualified lease if the lessee's use of the article under such lease is an exempt use (as defined in section 4004(c)) of such article.

"(d) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee,

"(iii) the value of any component of such article if—

"(I) such component is furnished by the 1st user of such article, and

"(II) such component has been used before such furnishing, and

"(C) the price shall be determined without regard to any trade-in.

Subparagraph (B)(iii) shall not apply for purposes of the taxes imposed by sections 4006 and 4007.

"(2) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

"(e) PARTS AND ACCESSORIES SOLD WITH TAXABLE ARTICLE.—Parts and accessories sold on, in connection with, or with the sale of any article taxable under this subchapter shall be treated as part of the article.

"(f) PARTIAL PAYMENTS, ETC.—In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2), and of section 4216(d), shall apply for purposes of this subchapter."

(b) EXEMPTION FOR EXPORTS.—

(1) The material preceding paragraph (1) of section 4221(a) is amended by striking "section 4051" and inserting "subchapter A or C of chapter 31".

(2) Subsection (a) of section 4221 is amended by adding at the end thereof the following new sentence: "In the case of taxes imposed by subchapter A of chapter 31, paragraphs (1), (3), (4), and (5) shall not apply."

(c) EXEMPTION FOR SALES TO THE UNITED STATES.—Section 4293 is amended by inserting "subchapter A of chapter 31," before "section 4041".

(d) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking "section 4053(a)(6)" and inserting "section 4001(c), 4002(b), 4003(c), 4004(a), or 4053(a)(6)".

(2) Paragraph (1) of section 4221(d) is amended by striking "the tax imposed by section 4051" and inserting "taxes imposed by subchapter A or C of chapter 31".

(3) Subsection (d) of section 4222 is amended by striking "sections 4053(a)(6)" and inserting "sections 4001(c), 4002(b), 4003(c), 4004(a), 4053(a)(6)".

(e) CLERICAL AMENDMENT.—The table of subchapters for chapter 31 is amended to read as follows:

"Subchapter A. Certain luxury items.
"Subchapter B. Special fuels.
"Subchapter C. Heavy trucks and trailers."

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

SEC. 13105. INCREASE IN DOLLAR LIMITATION ON AMOUNT OF WAGES SUBJECT TO HOSPITAL INSURANCE TAX.

(a) HOSPITAL INSURANCE TAX.—

(1) IN GENERAL.—Paragraph (1) of section 3121(a) is amended—

(A) by striking "contribution and benefit base (as determined under section 230 of the Social Security Act)" each place it appears and inserting "applicable contribution base (as determined under subsection (x))", and

(B) by striking "such contribution and benefit base" and inserting "such applicable contribution base".

(2) APPLICABLE CONTRIBUTION BASE.—Section 3121 is amended by adding at the end thereof the following new subsection:

"(x) APPLICABLE CONTRIBUTION BASE.—For purposes of this chapter—

"(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—For purposes of the taxes imposed by sections 3101(a) and 3111(a), the applicable contribution base for any calendar year is the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(2) HOSPITAL INSURANCE.—For purposes of the taxes imposed by sections 3101(b) and 3111(b), the applicable contribution base is—

"(A) $100,000 for calendar year 1991, and

"(B) for any calendar year after 1991, $100,000 adjusted in the same manner as is used in adjusting the contribution and benefit base under section 230 of the Social Security Act."

(b) SELF-EMPLOYMENT TAX.—

(1) IN GENERAL.—Subsection (b) of section 1402 is amended by striking "the contribution and benefit base (as determined under section 230 of the Social Security Act)" and inserting "the applicable contribution base (as determined under subsection (k))".

(2) APPLICABLE CONTRIBUTION BASE.—Section 1402 is amended by adding at the end thereof the following new subsection:

"(k) APPLICABLE CONTRIBUTION BASE.—For purposes of this chapter—

"(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—For purposes of the tax imposed by section 1401(a), the applicable contribution base for any calendar year is the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(2) HOSPITAL INSURANCE.—For purposes of the tax imposed by section 1401(b), the applicable contribution base for any calendar year is the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(c) RAILROAD RETIREMENT TAX.—Clause (i) of section 3231(e)(2)(B) is amended to read as follows:

"(i) TIER 1 TAXES.—

"(I) IN GENERAL.—Except as provided in subclause (II) of this clause and in clause (ii), the term 'applicable base' means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(II) HOSPITAL INSURANCE TAXES.—For purposes of applying so much of the rate applicable under section 3201(a) or 3221(a) (as the case may be) as does not exceed the rate of tax in effect under section 3101(b), and for purposes of applying so much of the rate of tax applicable under section 3211(a)(1) as does not exceed the rate of tax in effect under section 1401(b), the term 'applicable base' means for any calendar year the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (3) of section 6413(c) is amended to read as follows:

"(3) SEPARATE APPLICATION FOR HOSPITAL INSURANCE TAXES.—In applying this subsection with respect to—

"(A) the tax imposed by section 3101(b) (or any amount equivalent to such tax), and

"(B) so much of the tax imposed by section 3201 as is determined at a rate not greater than the rate in effect under section 3101(b),

the applicable contribution base determined under section 3121(x)(2) for any calendar year shall be substituted for 'contribution and benefit base (as determined under section 230 of the Social Security Act)' each place it appears."

(2) Sections 3122 and 3125 are each amended by striking "contribution and benefit base limitation" each place it appears and inserting "applicable contribution base limitation".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to 1991 and later calendar years.

PART II—DELAY OF INDEXING OF INCOME TAX BRACKETS AND PERSONAL EXEMPTIONS

SEC. 13111. DELAY OF INDEXING OF INCOME TAX BRACKETS AND PERSONAL EXEMPTIONS.

(a) INCOME TAX BRACKETS.—Subsection (f) of section 1 (as amended by section 13101) is amended—

(1) by striking "1990" in paragraph (1) and inserting "1991", and

(2) by striking "1989" in paragraph (3)(B) and inserting "1990".

(b) AMOUNT OF PERSONAL EXEMPTIONS.—

(1) IN GENERAL.—Paragraph (1) of section 151(d) (relating to allowance of deductions for personal exemptions) is amended to read as follows:

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'exemption amount' means $2,050.".

(2) INDEXING AFTER 1991.—Paragraph (3) of section 151(d) is amended—

(A) by striking "paragraph (1)(C)" and inserting "paragraph (1)",

(B) by striking "after 1989" each place it appears and inserting "after 1991", and

(C) by striking ", by substituting" in subparagraph (B) and all that follows and inserting a period.

(c) CONFORMING AMENDMENTS.—

(1) Each of the following provisions (as amended by section 13101) is amended by striking "1989" and inserting "1990":

(A) Section 32(i)(1)(B).

(B) Clauses (i) and (ii) of section 41(e)(5)(C).

(C) Section 63(c)(4)(B).

(D) Section 513(h)(2)(C)(ii).

(2) Clause (ii) of section 135(b)(2)(B) (as so amended) is amended by inserting before the period at the end thereof the following: "determined by substituting 'calendar year 1989' for 'calendar year 1990' in subparagraph (B) thereof".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

PART III—PROVISIONS RELATED TO EARNED INCOME TAX CREDIT

SEC. 13121. INCREASE IN EARNED INCOME TAX CREDIT.

(a) GENERAL RULE.—

(1) Subsection (a) of section 32 is amended by striking "14 percent" and inserting "the credit percentage".

(2) Paragraph (2) of section 32(b) is amended by striking "10 percent" and inserting "the phaseout percentage".

(3) Subsection (c) of section 32 is amended by adding at the end thereof the following new paragraph:

"(3) CREDIT PERCENTAGE AND PHASEOUT PERCENTAGE.—The credit percentage and the phaseout percentage for any taxable year shall be determined in accordance with the following table:

"If the taxable year begins during:	The credit percentage is:	The phaseout percentage is:
1991	18.5	13.0
1992 or 1993	19.0	13.5
1994 or thereafter.	20.0	14.0."

(b) CONFORMING AMENDMENT.—Subparagraphs (B)(i) and (C)(i) of section 3507(c)(2) are each amended by striking "14 percent" and inserting "the credit percentage".

(c) EFFECTIVE DATE.—The amendments by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 13122. SIMPLIFICATION OF ELIGIBILITY FOR EARNED INCOME TAX CREDIT.

(a) ELIGIBILITY.—Section 32(c)(1) (defining eligible individual) is amended to read as follows:

"(1) ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'eligible individual' means any individual who has a qualifying child for the taxable year.

"(B) QUALIFYING CHILD INELIGIBLE.—If an individual is the qualifying child of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall not be treated as an eligible individual for any taxable year of such individual beginning in such calendar year.

"(C) 2 OR MORE ELIGIBLE INDIVIDUALS.—If 2 or more individuals would (but for this subparagraph and after application of subparagraph (B)) be treated as eligible individuals with respect to the same qualifying child for taxable years beginning in the same calendar year, only the individual with the highest adjusted gross income for such taxable years shall be treated as an eligible individual with respect to such qualifying child.

"(D) EXCEPTION FOR INDIVIDUAL CLAIMING BENEFITS UNDER SECTION 911.—The term 'eligible individual' does not include any individual who claims the benefits of section 911 (relating to citizens or residents living abroad) for the taxable year.".

(b) QUALIFYING CHILD DEFINED.—Section 32(c) is amended by adding at the end thereof the following new paragraph:

"(4) QUALIFYING CHILD.—

"(A) IN GENERAL.—The term 'qualifying child' means, with respect to any taxpayer for any taxable year, an individual—

"(i) who bears a relationship to the taxpayer described in subparagraph (B),

"(ii) except as provided in subparagraph (B)(iii), who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

"(iii) who meets the age requirements of subparagraph (C), and

"(iv) with respect to whom the taxpayer meets the identification requirements of subparagraph (D).

"(B) RELATIONSHIP TEST.—

"(i) IN GENERAL.—An individual bears a relationship to the taxpayer described in this subparagraph if such individual is—

"(I) a son or daughter of the taxpayer, or a descendant of either,

"(II) a stepson or stepdaughter of the taxpayer, or

"(III) an eligible foster child of the taxpayer.

"(ii) MARRIED CHILDREN.—Clause (i) shall not apply to any individual who is married as of the close of the taxpayer's taxable year unless the taxpayer is entitled to a deduction under section 151 of such taxable year with respect to such individual (or would be so entitled but for paragraph (2) or (4) of section 152(e)).

"(iii) ELIGIBLE FOSTER CHILD.—For purposes of clause (i)(III), the term 'eligible foster child' means an individual not described in clause (i) (I) or (II) who—

"(I) the taxpayer cares for as the taxpayer's own child, and

"(II) has the same principal place of abode as the taxpayer for the taxpayer's entire taxable year.

"(iv) ADOPTION.—For purposes of this subparagraph, a child who is legally adopted, or who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer, shall be treated as a child by blood.

"(C) AGE REQUIREMENTS.—An individual meets the requirements of this subparagraph if such individual—

"(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins,

"(ii) is a student (as defined in section 151(c)(4)) who has not attained the age of 24 as of the close of such calendar year, or

"(iii) is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year.

"(D) IDENTIFICATION REQUIREMENTS.—The requirements of this subparagraph are met if the taxpayer includes the following information on the return of tax for such taxable year (or provides such information to the Secretary in such other manner as the Secretary may prescribe):

"(i) the name and age of such individual, and

"(ii) if the individual has attained the age of 1 before the close of the taxpayer's taxable year, the taxpayer identification number of such individual.

"(E) ABODE MUST BE IN THE UNITED STATES.—The requirements of subparagraphs (A)(ii) and (B)(iii)(II) shall be met only if the principal place of abode is in the United States."

(c) SEPARATE SCHEDULE REQUIRED.—The Secretary of the Treasury or his delegate shall prescribe a separate schedule to be included as part of the return of tax of any individual claiming a credit under section 32 of the Internal Revenue Code of 1986 on such return.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

PART IV—CAPITAL GAINS PROVISIONS

Subpart A—Reduction in Capital Gains Tax for Individuals

SEC. 13131. REDUCTION IN CAPITAL GAINS TAX FOR INDIVIDUALS.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end thereof the following new section:

"SEC. 1202. CAPITAL GAINS DEDUCTION FOR INDIVIDUALS.

"(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the sum of—

"(1) the annual capital gains deduction (if any) determined under subsection (b), plus

"(2) the lifetime capital gains deduction for nontradable property (if any) determined under subsection (c).

"(b) ANNUAL CAPITAL GAINS DEDUCTION.—

"(1) IN GENERAL.—For purposes of subsection (a), the annual capital gains deduction determined under this subsection is the lesser of—

"(A) the net captial gain for the taxable year, or

"(B) $1,000.

"(2) PHASE-OUT FOR INCOMES BETWEEN $100,000 AND $150,000.—The $1,000 amount specified in subparagraph (B) of paragraph (1) shall be reduced by an amount which bears the same ratio to $1,000 as—

"(A) the adjusted gross income of the taxpayer for the taxable year in excess of $100,000, bears to

"(B) $50,000.

"(3) CERTAIN INDIVIDUALS NOT ELIGIBLE.—This subsection shall not apply to—

"(A) any taxpayer whose adjusted gross income for the taxable year exceeds $150,000, or

"(B) any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(4) ANNUAL DEDUCTION NOT AVAILABLE FOR SALES TO RELATED PERSONS.—The amount of the net capital gain taken into account under paragraph (1)(A) shall not exceed the amount of the net capital gain determined by not taking into account gains and losses from sales and exchanges to any related person (as defined in section 543(f)).

"(c) LIFETIME CAPITAL GAINS DEDUCTION FOR NONTRADABLE PROPERTY.—

"(1) IN GENERAL.—For purposes of subsection (a), the lifetime capital gains deduction for nontradable property determined under this subsection for any taxable year is 50 percent of the qualified gain for such taxable year.

"(2) LIMITATION.—

"(A) IN GENERAL.—The amount of the qualified gain taken into account under paragraph (1) for any taxable year shall not exceed $200,000 reduced by the aggregate amount of the qualified gain taken into account under this subsection by the taxpayer for prior taxable years.

"(B) SPECIAL RULE FOR JOINT RETURNS.—The amount of the qualified gain taken into account under this subsection on a joint return for any taxable year shall be allocated equally between the spouses for purposes of determining the limitation under subparagraph (A) for any succeeding taxable year.

"(3) QUALIFIED GAIN.—For purposes of paragraph (1), the term 'qualified gain' means the lesser of—

"(A) the net capital gain for the taxable year reduced by the annual capital gains deduction for such taxable year, or

"(B) the net capital gain for the taxable year determined by only taking into account gains and losses from sales and exchanges on or after October 15, 1990, or qualified assets.

A taxpayer may elect for any taxable year not to take into account under this subsection all (or any portion) of the qualified gain for such taxable year. Such an election, once made, shall be irrevocable.

"(4) QUALIFIED ASSETS.—For purposes of this subsection, the terms 'qualified assets' means any property other than—

"(A) stock or securities for which there is a market on an established securities market or otherwise, and

"(B) property (other than stock or securities) of a kind regularly traded on an established market.

"(5) SUBSECTION NOT TO APPLY TO CERTAIN INDIVIDUALS.—This subsection shall not apply to any individual who has not attained age 25 before the close of the taxable year.

"(d) SECTION NOT TO APPLY TO CERTAIN TAXPAYERS.—No deduction shall be allowed under this section to—

"(1) a married individual (within the meaning of section 7703) filing a separate return for the taxable year, or

"(2) an estate or trust.

"(e) SPECIAL RULES.—

"(1) TREATMENT OF CERTAIN SALES OF INTERESTS IN PARTNERSHIPS, ETC.—For purposes of subsection (c), any gain from the sale or exchange of a qualified asset which is an interest in a partnership, S corporation, or trust shall not be treated as gain from the sale or exchange of a qualified asset to the extent such gain is attributable to unrealized appreciation in the value of property described in subparagraph (A) or (B) of subsection (c)(4) which is held by such entity. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(2) DEDUCTION AVAILABLE ONLY FOR SALES OR EXCHANGES ON OR AFTER OCTOBER 15, 1990.—The amount of the net capital gain taken into account under subsections (b)(1)(A) and (c)(3)(A) shall not exceed the amount of the net capital gain determined by only taking into account gains and losses from sales and exchanges on or after October 15, 1990.

"(3) DETERMINATION OF ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—For purposes of subsection (b), adjusted gross income shall be determined—

"(i) without regard to the deduction allowed under this section, but

"(ii) after the application of sections 86, 135, 219, and 469.

"(B) COORDINATION WITH OTHER ADJUSTED GROSS INCOME LIMITATIONS.—For purposes of sections 86, 135, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

"(4) TRANSITIONAL RULE.—If for any taxable year beginning before January 1, 1991, subsection (c)(1) shall be applied by substituting '41 percent' for '50 percent'.

"(5) SPECIAL RULE FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying this section with respect to any pass-thru entity—

"(i) the determination of when the sale or exchange occurs shall be made at the entity level, and

"(ii) any gain attributable to such entity shall in no event be treated as gain from sale or exchange of a qualified asset if interests in such entity are described in subparagraph (A) or (B) of subsection (c)(4)

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru-entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund."

(b) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTERESTS IN PARTNERSHIPS, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof)."

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles).

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(c) MINIMUM TAX.—Paragraph (1) of section 56(b) is amended by adding at the end thereof the following new subparagraph:

"(F) LIFETIME CAPITAL GAINS DEDUCTION FOR NONTRADABLE PROPERTY NOT ALLOWED.—The deduction under section 1202(a)(2) shall not be allowed."

(d) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 62 is amended by inserting after paragraph (13) the following new paragraph:

"(14) CAPITAL GAINS DEDUCTION.—The deduction allowed by section 1202."

(2) Clause (ii) of section 163(d)(4)(B) is amended by inserting ", reduced by the amount of any gain from such property" after "investment".

(3)(A) Paragraph (2) of section 172(d) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(4)(A) Section 221 (relating to cross reference is amended to read as follows:

"SEC. 221. CROSS REFERENCES.

"(1) For deduction for net capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 is amended by striking "reference" in the item relating to section 221 and inserting "references".

(5) Paragraph (4) of section 691(c) is amended by striking "1201, and 1211" and inserting "1201, 1202, and 1211".

(6) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 (relating to deduction for net capital gain) and" after "except that".

(7) Paragraph (1) of section 1402(i) is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply."

"(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1202. Capital gains deduction for individuals."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending on or after October 15, 1990.

(2) TREATMENT OF COLLECTIBLES.—The amendments made by subsection (b) shall apply to dispositions on or after October 15, 1990

Subpart B—Depreciation Recapture

SEC. 13135. RECAPTURE UNDER SECTION 1250 OF TOTAL AMOUNT OF DEPRECIATION.

(a) GENERAL RULE.—Subsections (a) and (b) of section 1250 (relating to gain from disposition of certain depreciable realty) are amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, if section 1250 property is disposed of, the lesser of—

"(1) the depreciation adjustments in respect of such property, or

"(2) the excess of—

"(A) the amount realized (or, in the case of a disposition other than a sale, exchange, or involuntary conversion, the fair market value of such property), over

"(B) the adjusted basis of such property,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(b) DEPRECIATION ADJUSTMENTS.—For purposes of this section, the term 'depreciation adjustments' means, in respect of any property, all adjustments attributable to periods after December 31, 1963, reflected in the adjusted basis of such property on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for exhaustion, wear and tear, obsolescence, or amortization (other than amortization under section 168 (as in effect before its repeal by the Tax Reform Act of 1976), 169, 185 (as in effect before its repeal by the Tax Reform Act of 1986), 188, 190, or 193). For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed as a deduction for any period was less than the amount allowable, the amount taken into account for such period shall be the amount allowed."

(b) LIMITATION IN CASE OF INSTALLMENT SALES.—Subsection (i) of section 453 is amended—

(1) by striking "1250" the first place it appears and inserting "1250 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990", and

(2) by striking "1250" the second place it appears and inserting "1250 (as so in effect)".

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 1250(d)(4) is amended—

(A) by striking "additional depreciation" and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(2) Subparagraph (B) of section 1250(d)(6) is amended to read as follows:

"(B) DEPRECIATION ADJUSTMENTS.—In respect of any property described in subparagraph (A), the amount of the depreciation adjustments attributable to periods before the distribution by the partnership shall be—

"(i) the amount of gain to which subsection (a) would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time, reduced by

"(ii) the amount of such gain to which section 751(b) applied."

(3) Subparagraph (D) of section 1250(d)(8) is amended—

(A) by striking "additional depreciation" each place it appears and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(4) Paragraph (8) of section 1250(d) is amended by striking subparagraphs (E) and (F) and inserting the following:

"(E) ALLOCATION RULES.—For purposes of this paragraph, the amount of gain attributable to the section 1250 property disposed of shall be the net amount realized with respect to such property reduced by the greater of the adjusted basis of the section 1250 property disposed of, or the cost of the section 1250 property acquired, but shall not exceed the gain recognized in the transaction."

(5) Subsection (d) of section 1250 is amended by striking paragraph (10).

(6) Section 1250 is amended by striking subsections (e), (f), and (g) and by redesignating subsections (h) and (i) as subsections (e) and (f), respectively.

(7) Paragraph (5) of section 48(q) is amended to read as follows:

"(5) RECAPTURE OF REDUCTION.—For purposes of sections 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation."

(8) Clause (i) of section 267(e)(5)(D) is amended by striking "section 1250(a)(1)(B)" and inserting "section 1250(a)(1)(B) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990".

(9)(A) Subsection (a) of section 291 is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4) respectively.

(B) Subsection (c) of section 291 is amended to read as follows:

"(c) SPECIAL RULE FOR POLLUTION CONTROL FACILITIES.—Section 168 shall apply with respect to that portion of the basis of any property not taken into account under section 169 by reason of subsection (a)(4)."

(C) Section 291 is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(D) Paragraph (2) of section 291(d) (as redesignated by subparagraph (C)) is hereby repealed.

(E) Subparagraph (A) of section 265(b)(3) is amended by striking "291(e)(1)(B)" and inserting "291(d)(1)(B)".

(F) Subsection (c) of section 1277 is amended by striking "291(e)(1)(B)(ii)" and inserting "291(d)(1)(B)(ii)".

(10) Subsection (d) of section 1017 is amended to read as follows:

"(d) RECAPTURE OF DEDUCTIONS.—For purposes of sections 1245 and 1250—

"(1) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

"(2) any reduction under this section shall be treated as a deduction allowed for depreciation."

(11) Paragraph (5) of section 7701(e) is amended by striking "(relating to low-income housing)" and inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990".

(d) EFFECITVE DATE.—The amendments made by this section shall apply to dispositions made on or after October 15, 1990, in taxable years ending on or after such date.

Subtitle B—Excise Taxes

PART I—TAXES RELATED TO HEALTH AND THE ENVIRONMENT

SEC. 13201. INCREASE IN EXCISE TAXES ON DISTILLED SPIRITS, WINE, AND BEER.

(a) DISTILLED SPIRITS.—

(1) IN GENERAL.—Paragraphs (1) and (3) of section 5001(a) (relating to rate of tax on distilled spirits) are each amended by striking "$12.50" and inserting "13.50".

(2) TECHNICAL AMENDMENT.—Paragraphs (1) and (2) of section 5010(a) (relating to credit for wine content and for flavors content) are each amended by striking "$12.50" and inserting "$13.50".

(b) WINE.—

(1) TAX INCREASES.—

(A) WINES CONTAINING NOT MORE THAN 14 PERCENT ALCOHOL.—Paragraph (1) of section 5041(b) (relating to rates of tax on wines) is amended by striking "17 cents" and inserting "$1.27".

(B) WINES CONTAINING MORE THAN 14 (BUT NOT MORE THAN 21) PERCENT ALCOHOL.—Paragraph (2) of section 5041(b) is amended by striking "67 cents" and inserting "$1.77".

(C) WINES CONTAINING MORE THAN 21 (BUT NOT MORE THAN 24) PERCENT ALCOHOL.—Paragraph (3) of section 5041(b) is amended by striking "$2.25" and inserting "$3.35".

(D) ARTIFICIALLY CARBONATED WINES.—Paragraph (5) of section 5041(b) is amended by striking "$2.40" and inserting "$3.50".

(2) REDUCED RATES FOR SMALL DOMESTIC PRODUCERS.—Section 5041 is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c) REDUCED RATES FOR SMALL DOMESTIC PRODUCERS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, in the case of a person who produces not more than 200,000 wine gallons of wine during the calendar year, the per wine gallon rates of the taxes imposed by this section shall be the following amounts on the 1st 100,000 wine gallons of wine (other than wine described in subsection (b)(4)) which are removed during such year for consumption or sale and which have been produced at qualified facilities in the United States:

"(A) 17 cents in the case of wines described in subsection (b)(1).

"(B) 67 cents in the case of wines described in subsection (b)(2).

"(C) $2.25 in the case of wines described in subsection (b)(3).

"(D) $3.40 in the case of wines described in subsection (b)(4).

"(E) $2.40 in the case of wines described in subsection (b)(5).

"(2) CONTROLLED GROUPS.—Rules similar to rules of section 5051(a)(2)(B) shall apply for purposes of this subsection.

"(3) REGULATIONS.—The Secretary may prescibe such regulations as may be necessary to prevent the reduced rates provided in this subsection from benefiting any person who produces more than 200,000 wine gallons of wine during a calendar year."

(3) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 5041 is amended by striking "shown in subsection (b)" and inserting "applicable under subsection (c)".

(B) Paragraph (3) of section 5061(b) is amended to read as follows:

"(3) section 5041(e),".

(c) BEER.—

(1) IN GENERAL.—Paragraph (1) of section 5051(a) (relating to imposition and rate of tax on beer) is amended by striking "$9" and inserting "$18".

(2) REGULATIONS.—Paragraph (2) of section 5051(a) is amended by adding at the end thereof the following new subparagraph:

"(C) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to prevent the reduced rates provided in this paragraph from benefiting any person who produces more than 2,000,000 barrels of beer during a calendar year."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

(e) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—

(A) IN GENERAL.—In the case of any tax-increased article—

(i) on which tax was determined under part I of subchapter A of chapter 51 of the Internal Revenue Code of 1986 or section 7652 of such Code before January 1, 1991, and

(ii) which is held on such date for sale by any person,

there shall be imposed a tax at the applicable rate on each such article.

(B) APPLICABLE RATE.—For purposes of subparagraph (A), the applicable rate is—

(i) $1 per proof gallon in the case of distilled spirits,

(ii) $1.10 per wine gallon in the case of wine described in paragraph (1), (2), (3), or (5) of section 5041(b) of such Code, and

(iii) $9 per barrel in the case of beer. In the case of a fraction of a gallon or barrel, the tax imposed by subparagraph (A) shall be the same fraction as the amount of such tax imposed on a whole gallon or barrel.

(C) TAX-INCREASED ARTICLE.—For purposes of this subsection, the term "tax-increased article" means distilled spirits, wine described in paragraph (1), (2), (3), or (5) of section 5041(b) of such Code, and beer.

(2) EXCEPTION FOR SMALL DOMESTIC PRODUCERS.—In the case of wine held by the producer thereof on January 1, 1991, the tax imposed by paragraph (1) shall not apply to such wine if the rate of tax under section 5041 of such Code on such wine would have been determined under subsection (c) thereof (as added by this section) had the amendments made by subsection (c) applied to all wine removed during 1990. As similar rule shall apply to beer held by the producer thereof. For purposes of this paragraph, an article shall not be treated as held by the producer if title thereto had at any time been transferred to any other person.

(3) EXCEPTION FOR CERTAIN SMALL WHOLESALE OR RETAIL DEALERS.—No tax shall be imposed by paragraph (1) on tax-increased articles held on January 1, 1991, by any dealer if—

(A) the aggregate liquid volume of tax-increased articles held by such dealer on such date does not exceed 500 wine gallons, and

(B) such dealer submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(4) CREDIT AGAINST TAX.—Each dealer shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to—

(A) $240 to the extent such taxes are attributable to distilled spirits,

(B) $330 to the extent such taxes are attributable to wine, and

(C) $87 to the extent such taxes are attributable to beer.

Such credit shall not exceed the amount of taxes imposed by paragraph (1) with respect to distilled spirits, wine, or beer, as the case may be, for which the dealer is liable.

(5) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding any tax-increased article on January 1, 1991, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before June 30, 1991.

(6) CONTROLLED GROUPS.—

(A) CORPORATIONS.—In the case of a controlled group.—

(i) the 500 wine gallon amount specified in paragraph (3), and

(ii) the $240, $330, and $87 amounts specified in paragraph (4),

shall be apportioned among the dealers who are component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(B) NONINCORPORATED DEALERS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of dealers under common control where 1 or more of such dealers is not a corporation.

(7) OTHER LAWS APPLICABLE.—

(A) IN GENERAL.—All provisions of law, including penalties, applicable to the comparable excise tax with respect to any tax-increased article shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by the comparable excise tax.

(B) COMPARABLE EXCISE TAX.—For purposes of subparagraph (A), the term "comparable excise tax" means—

(i) the tax imposed by section 5001 of such Code in the case of distilled spirits,

(ii) the tax imposed by section 5041 of such Code in the case of wine, and

(iii) the tax imposed by section 5051 of such Code in the case of beer.

(8) DEFINITIONS.—For purposes of this subsection—

(A) IN GENERAL.—Terms used in this subsection which are also used in subchapter A of chapter 51 of such Code shall have the respective meanings such terms have in such part.

(B) PERSON.—The term "person" includes any State or political subdivision thereof, or any agency or instrumentality of a State or political subdivision thereof.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(9) TREATMENT OF IMPORTED PERFUMES CONTAINING DISTILLED SPIRITS.—For purposes of this subsection, any article described in section 5001(a)(3) of such Code shall be treated as distilled spirits; except that the tax imposed by paragraph (1) shall be imposed on a wine gallon basis in lieu of a proof gallon basis. To the extent provided by regulations prescribed by the Secretary, the preceding sentence shall not apply to any article held on January 1, 1991, on the premises of a retail establishment.

SEC. 13202. INCREASE IN EXCISE TAXES ON TOBACCO PRODUCTS.

(a) CIGARS.—Subsection (a) of section 5701 is amended—

(1) by striking "75 cents per thousand" in paragraph (1) and inserting "$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)", and

(2) by striking "equal to" and all that follows in paragraph (2) and inserting "equal to—

"(A) 10.625 percent of the price for which sold but not more than $25 per thousand on cigars removed during 1991 or 1992, and

"(B) 12.75 percent of the price for which sold but not more than $30 per thousand on cigars removed after 1992."

(b) CIGARETTES.—Subsection (b) of section 5701 is amended—

(1) by striking "$8 per thousand" in paragraph (1) and inserting "$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)", and

(2) by striking "$16.80 per thousand" in paragraph (2) and inserting "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)".

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 is amended by striking "½ cent" and inserting "0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)".

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 is amended by striking "1 cent" and inserting "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)".

(e) SMOKELESS TOBACCO.—Subsection (e) of section 5701 is amended—

(1) by striking "24 cents" in paragraph (1) and inserting "36 cents (30 cents on snuff removed during 1991 or 1992)", and

(2) by striking "8 cents" in paragraph (2) and inserting "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)".

(f) PIPE TOBACCO.—Subsection (f) of section 5701 is amended by striking "45 cents" and inserting "67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles removed after December 31, 1990.

(h) FLOOR STOCKS TAXES ON CIGARETTES.—

(1) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before any tax-increase date and held on such date for sale by any person, there shall be imposed the following taxes.

(A) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, $2 per thousand.

(B) LARGE CIGARETTES.—On cigarettes weighing more than 3 pounds per thousand, $4.20 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thou-

sand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(2) EXCEPTION FOR CERTAIN AMOUNTS OF CIGARETTES.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on cigarettes held on any tax-increase date by any person if—

(i) the aggregate number of cigarettes held by such person on such date does not exceed 30,000, and

(ii) such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this subparagraph.

For purposes of this subparagraph, in the case of cigarettes measuring more than 6½ inches in length, each 2¾ inches (or fraction thereof) of the length of each shall be counted as one cigarette.

(B) AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES.—To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph (1) on cigarettes held for retail sale on any tax-increase date by any person in any vending machine. If the Secretary so provides with respect to any person, the Secretary may reduce the 30,000 amount in subparagraph (A) and the $60 amount in paragraph (3) with respect to such person.

(3) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to $60. Such credit shall not exceed the amount of taxes imposed by paragraph (1) for which such person is liable.

(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigarettes on any tax-increase date to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the 1st June 30 following the tax-increase date.

(5) DEFINITIONS.—For purposes of this subsection—

(A) TAX-INCREASE DATE.—The term "tax-increase date" means January 1, 1991, and January 1, 1993.

(B) OTHER DEFINITIONS.—Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the respective meanings such terms have in such section.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(6) CONTROLLED GROUPS.—Rules similar to the rules of section 13201(e)(5) shall apply for purposes of this subsection.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701.

SEC. 13203. ADDITIONAL CHEMICALS SUBJECT TO TAX ON OZONE-DEPLETING CHEMICALS.

(a) GENERAL RULE.—

(1) The table set forth in section 4682(a)(2) (defining ozone-depleting chemical) is amended by adding at the end thereof the following new items:

"Carbon tetrachloride	tetrachloromethane.
Methyl Chloroform	1,1,1-trichloroethane.
CFC-13	CF3C1.
CFC-111	C2FC15.
CFC-112	C2F2C14.
CFC-211	C3FC17.
CFC-212	C3F2C16.
CFC-213	C3F3C15.
CFC-214	C3F4C14.
CFC-215	C3F5C13.
CFC-216	C3F6C12.
CFC-217	C3F7C1."

(2) The table set forth in section 4682(b) is amended by adding at the end thereof the following new items:

"Carbon tetrachloride	1.1
Methyl chloroform	0.1
CFC-13	1.0
CFC-111	1.0
CFC-112	1.0
CFC-211	1.0
CFC-212	1.0
CFC-213	1.0
CFC-214	1.0
CFC-215	1.0
CFC-216	1.0
CFC-217	1.0."

(b) SEPARATE APPLICATION OF EXPORT CREDIT LIMIT FOR NEWLY LISTED CHEMICALS.—Paragraph (3) of section 4682(d) is amended by adding at the end thereof the following new subparagraph:

"(C) SEPARATE APPLICATION OF LIMIT FOR NEWLY LISTED CHEMICALS.—

"(1) IN GENERAL.—Subparagraph (B) shall be applied separately with respect to newly listed chemicals and other chemicals.

"(ii) APPLICATION TO NEWLY LISTED CHEMICALS.—In applying subparagraph (B) to newly listed chemicals—

"(I) subparagraph (B) shall be applied by substituting '1989' for '1986' each place it appears, and

"(II) clause (i)(II) thereof shall be applied by substituting for the regulations referred to therein any regulations (whether or not prescribed by the Secretary) which the Secretary determines are comparable to the regulations referred to in such clause with respect to newly listed chemicals.

"(iii) NEWLY LISTED CHEMICAL.—For purposes of this subparagraph, the term 'newly listed chemical' means any substance which appears in the table contained in subsection (a)(2) below Halon-2402."

(c) SEPARATE BASE TAX AMOUNT FOR NEWLY LISTED CHEMICALS.—Subparagraphs (B) and (C) of section 4681(b)(1) are amended to read as follows:

"(B) BASE TAX AMOUNT.—

"(i) INITIALLY LISTED CHEMICALS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1995 with respect to any ozone-depleting chemical other than a newly listed chemical (as defined in section 4682(d)(3)(C) is the amount determined under the following table for such calendar year:

"Calendar year:	*Base tax amount*
1990 or 1991	$1.37
1992	1.67
1993 or 1994	2.65.

"(ii) NEWLY LISTED CHEMICALS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1996 with respect to any ozone-depleting chemical which is a newly listed chemical (as so defined) is the amount determined under the following table for such calendar year:

"Calendar year:	*Base tax amount*
1991 or 1992	$1.37
1993	1.67
1994	3.00
1995	3.10.

"(C) BASE TAX AMOUNT FOR LATER YEARS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use of an ozone-depleting chemical during a calendar year after the last year specified in the table under subparagraph (B) applicable to such chemical shall be the base tax amount for such last year increased by 45 cents for each year after such last year."

(d) OTHER AMENDMENTS.—

(1) The last sentence of section 4682(c)(2) is amended by inserting "(other than methyl chloroform)" after "ozone-depleting chemical".

(2) Paragraph (3) of section 4682(h) is amended by striking "April 1" and inserting "June 30".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and uses after December 31, 1990.

(f) DEPOSITS FOR 1ST QUARTER OF 1991.—No deposit of any tax imposed by subchapter D of chapter 38 of the Internal Revenue Code of 1986 on any substance treated as an ozone-depleting chemical by reason of the amendment made by subsection (a)(1) shall be required to be made before April 1, 1991.

PART II—USER-RELATED TAXES

SEC. 13211. INCREASE AND EXTENSION OF AVIATION-RELATED TAXES AND TRUST FUND; REPEAL OF REDUCTION IN RATES.

(a) INCREASE IN RATES ON TRANSPORTATION.—

(1) TRANSPORTATION OF PERSONS.—Subsections (a) and (b) of section 4261 are each amended by striking "8 percent" and inserting "10 percent".

(2) TRANSPORTATION OF PROPERTY.—Subsection (a) of section 4271 is amended by striking "5 percent" and inserting "6.25 percent".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transportation beginning after November 30, 1990, but shall not apply to amounts paid on or before such date.

(b) INCREASE IN RATES ON FUEL.—

(1) IN GENERAL.—Paragraph (3) of section 4091(b) is amended by striking "14 cents" and inserting "17.5 cents".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4041(c) is amended by striking "14 cents" and inserting "17.5 cents".

(B)(i) Subparagraph (C) of section 4041(k)(1) is amended to read as follows:

"(C) subsection (c) shall be applied by substituting '3.5 cents' for '17.5 cents'."

(ii) Subparagraph (B) of section 4041(m)(1) is amended to read as follows:

"(B) subsection (c) shall be applied by substituting '3.5 cents' for '17.5 cents'."

(C)(i) Paragraphs (1) and (2) of section 4091(d) are amended to read as follows:

"(1) IN GENERAL.—The Airport and Airway Trust Fund financing rate shall be—

"(A) 3.5 cents per gallon in the case of the sale of any mixture of aviation fuel if—

"(i) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and

"(ii) the aviation fuel in such mixture was not taxed under subparagraph (B), and

"(B) 3.89 cents per gallon in the case of the sale of aviation fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A).

In the case of a sale described in subparagraph (B), the Leaking Underground Storage Tank Trust Fund financing rate shall be ⅛ cent per gallon.

"(2) LATER SEPARATION.—If any person separates the aviation fuel from a mixture of the aviation fuel and alcohol on which tax was imposed under subsection (a) at the Airport and Airway Trust Fund financing rate equivalent to 3.5 cents per gallon by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such aviation fuel. The amount of tax imposed on any sale of such aviation fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel."

(ii) The heading for subsection (d) of section 4091 is amended by striking "EXEMPTION FROM" and inserting "REDUCED RATE OF".

(3) Subsection (f) of section 6427 is amended to read as follows:

(f) GASOLINE, DIESEL FUEL, AND AVIATION FUEL USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

(1) IN GENERAL.—Except as provided in subsection (k), if any gasoline, diesel fuel, or aviation fuel on which tax was imposed by section 4081 or 4091 at the regular tax rate is used by any person in producing a mixture described in section 4081(c), 4091(c)(1)(A), or 4910(d)(1)(A) (as the case may be) which is sold or used in such person's trade or business the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

(2) DEFINITIONS.—For purposes of paragraph (1)—

(A) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

"(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.

"(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any gasoline, diesel fuel, or aviation fuel with respect to which an amount is payable under subsection (d), (e), or (1) of this section or under section 6420 or 6421.

"(4) TERMINATION.—This subsection shall not apply with respect to any mixture sold or used after September 30, 1995."

EFFECTIVE DATES.—The amendments made by this subsection shall take effect on December 1, 1990.

(5) FLOOR STOCKS TAXES.—

(A) IMPOSITION OF TAX.—In the case of aviation fuel on which tax was imposed under section 4091 of the Internal Revenue Code of 1986 before December 1, 1990, and which is held on such date by any person, there is hereby imposed a floor stocks tax on such fuel.

(B) RATE OF TAX.—The rate of tax imposed by subparagraph (A) shall be 3.5 cents per gallon.

(C) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(i) LIABILITY FOR TAX.—A person holding fuel on December 1, 1990, to which the tax imposed by this paragraph applies shall be liable for such tax.

(ii) METHOD OF PAYMENT.—The tax imposed by this paragraph shall be paid in such manner as the Secretary shall prescribe.

(iii) TIME FOR PAYMENT.—The tax imposed by this paragraph shall be paid on or before May 31, 1991.

(D) DEFINITIONS.—For purposes of this paragraph—

(i) HELD BY A PERSON.—Fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(ii) AVIATION FUEL.—The term "aviation fuel" has the meaning given such term by section 4092(a) of such Code.

(iii) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(E) EXCEPTION FOR EXEMPT USES.—The tax imposed by this paragraph shall not apply to fuel held by any person exclusively for any use which is a nontaxable use (as defined in section 6427(1) of such Code.).

(F) OTHER LAWS APPLICABLE.—All provisions of laws, including penalties, applicable with respect to the tax imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this paragraph, apply with respect to the floor stock taxes imposed by this paragraph to the same extent as if such taxes were imposed by such section 4091.

(c) INCREASES IN TAX REVENUES BEFORE 1993 TO REMAIN IN GENERAL FUND.—Subsection (b) of section 9502 is amended by adding at the end thereof the following new sentence: "In the case of taxes imposed before January 1, 1993, paragraphs (1), (2), and (3) shall be applied without regard to any increase in tax enacted by Revenue Reconciliation Act of 1990."

(d) EXTENSION OF TAXES AND TRUST FUND.—

(1) TRANSPORTATION TAXES.—Sections 4261(g) and 4271(d) are each amended by striking "January 1, 1991" and inserting "January 1, 1996".

(2) FUEL TAXES.—

(A) Subparagraph (B) of section 4091(b)(5) is amended by striking "January 1, 1991" and inserting "January 1, 1996".

(B) Paragraph (5) of section 4041(c) is amended by striking "December 31, 1990" and inserting "December 31, 1995".

(3) DEPOSITS INTO TRUST FUND.—Subsection (b) of section 9502 (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes) is amended by striking "January 1, 1991" each place it appears and inserting "January 1, 1996".

(e) REPEAL OF REDUCTION IN RATES.—

(1) Section 4283 (relating to reduction in aviation related taxes in certain cases) is hereby repealed.

(2) Table of sections for part III of subchapter C of chapter 33 is amended by striking the item relating to section 4283.

(3) Subsection (c) of section 4041 is amended by striking paragraph (6).

SEC. 13212. AMENDMENTS TO GAS GUZZLER TAX.

(a) INCREASE IN RATE OF TAX.—Subsection (a) of section 4064 (relating to gas guzzler tax) is amended to read as follows:

"(a) IMPOSITION OF TAX.—There is hereby imposed on the sale by the manufacturer of each automobile a tax determined in accordance with the following table:

If the fuel economy of the model type in which the automobile falls is:	*The tax is—*
At least 22.5	$0
At least 21.5 but less than 22.5	1,000
At least 20.5 but less than 21.5	1,300
At least 19.5 but less than 20.5	1,700
At least 18.5 but less than 19.5	2,100
At least 17.5 but less than 18.5	2,600
At least 16.5 but less than 17.5	3,000
At least 15.5 but less than 16.5	3,700
At least 14.5 but less than 15.5	4,500
At least 13.5 but less than 14.5	5,400
At least 12.5 but less than 13.5	6,400
Less than 12.5	7,700."

(b) LIMOUSINES INCLUDED WITHOUT REGARD TO WEIGHT.—Subparagraph (A) of section 4064(b)(1) is amended by adding at the end thereof the following new sentence: "In the case of a limousine, the preceding sentence shall be applied without regard to clause (ii)."

(c) REPEAL OF EXCEPTION FOR LENGTHENING EXISTING AUTOMOBILES.—Subparagraph (B) of section 4064(b)(5) (defining manufacturer) is amended to read as follows:

"(B) LENGTHENING TREATED AS MANUFACTURE.—For purposes of this section, subchapter G of this chapter, and section 6416(b)(3), the lengthening of an automobile by any person shall be treated as the manufacture of an automobile by such person."

(d) REPEAL OF SPECIAL RULES FOR SMALL MANUFACTURERS.—Section 4064 is amended by striking subsection (d).

(e) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to sales after December 31, 1990.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall take effect on January 1, 1991.

(3) SUBSECTION (d).—The amendment made by subsection (d) shall take effect on the date of the enactment of this section.

SEC. 13213. INCREASE IN HARBOR MAINTENANCE TAX.

(a) IN GENERAL.—Subsection (b) of section 4461 is amended by striking "0.04 percent" and inserting "0.125 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1991.

SEC. 13214. EXTENSION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.

(a) IN GENERAL.—Paragraph (2) of section 4081(d) is amended to read as follows:

"(2) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—The Leaking Underground Storage Tank Trust Fund fi-

nancing rate under subsection (a)(2) shall not apply after December 31, 1996."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 30th day after the date of the enactment of this Act.

SEC. 13215. FLOOR STOCKS TAX TREATMENT OF ARTICLES IN FOREIGN TRADE ZONES.

Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) or any other provision of law, any article which is located in a foreign trade zone on the effective date of any increase in tax under the amendments made by this part, part I, or part IV shall be subject to floor stocks taxes imposed by such parts if—

(1) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(2) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a)

Subtitle C—Other Revenue Increases

PART I—INSURANCE PROVISIONS

Subpart A—Provisions Related to Policy Acquisition Costs

SEC. 13301. CAPITALIZATION OF POLICY ACQUISITION EXPENSES.

(a) GENERAL RULE.—Part III of subchapter L of chapter 1 (relating to provisions of general application) is amended by adding at the end thereof the following new section:

"SEC. 848. CAPITALIZATION OF CERTAIN POLICY ACQUISITION EXPENSES.

"(a) GENERAL RULE.—In the case of an insurance company—

"(1) specified policy acquisition expenses for any taxable year shall be capitalized, and

"(2) such expenses shall be allowed as a deduction ratably over the 120-month period beginning with the first month in the second half of such taxable year.

"(b) 5-YEAR AMORTIZATION PERIOD FOR SMALL COMPANIES.—

"(1) IN GENERAL.—Paragraph (2) of subsection (a) shall be applied with respect to specified policy acquisition expenses for any taxable year of an insurance company which is a small company for such taxable year by substituting '60-month' for '120-month'.

"(2) SMALL COMPANY DEFINED.—For purposes of this subsection, the term 'small company' means any insurance company which meets the requirements of section 806(a)(3); except that—

"(A) paragraph (1)(A) of section 806(c) shall be applied by substituting 'insurance' for 'life insurance' each place it appears, and

"(B) paragraph (2) of section 806(c) shall not apply.

"(3) EXCEPTION FOR ACQUISITION EXPENSES ATTRIBUTABLE TO CERTAIN REINSURANCE CONTRACTS.—This subsection shall not apply to any specified policy acquisition expenses for any taxable year which are attributable to premiums or other consideration under any reinsurance contract with any insurance company unless each insurance company which takes into account premiums with respect to the reinsured contract is a small company.

"(c) SPECIFIED POLICY ACQUISITION EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'specified policy acquisition expenses' means, with respect to any taxable year, so much of the general deductions for such taxable year as does not exceed the sum of—

"(A) 1.5 percent of the net premiums for such taxable year on specified insurance contracts which are annuity contracts,

"(B) 1.80 percent of the net premiums for such taxable year on specified insurance contracts which are group life insurance contracts, and

"(C) 6.75 percent of the net premiums for such taxable year on specified insurance contracts not described in subparagraph (A) or (B).

"(2) GENERAL DEDUCTIONS.—The term 'general deductions' means the deductions provided in part VI of subchapter B (sec. 161 and following, relating to itemized deductions) and in part I of subchapter D (sec. 401 and following, relating to pension, profit sharing, stock bonus plans, etc.).

"(d) NET PREMIUMS.—For purposes of this section—

"(1) IN GENERAL.—The term 'net premiums' means, with respect to any category of specified insurance contracts set forth in subsection (c)(1), the excess (if any) of—

"(A) the gross amount of premiums and other consideration on such contracts, over

"(B) return premiums on such contracts and premiums and other consideration incurred for reinsurance of such contracts.

The rules of section 803(b) shall apply for purposes of the preceding sentence.

"(2) AMOUNTS DETERMINED ON ACCRUAL BASIS.—In the case of an insurance company subject to tax under part II of this subchapter, all computations entering into determinations of net premiums for any taxable year shall be made in the manner required under section 811(a) for life insurance companies.

"(3) TREATMENT OF CERTAIN POLICYHOLDER DIVIDENDS AND SIMILAR AMOUNTS.—Net premiums shall be determined without regard to section 808(e) and without regard to other similar amounts treated as paid to, and returned by, the policyholder.

"(4) SPECIAL RULE FOR CERTAIN REINSURANCE.—Premiums and other consideration incurred for reinsurance shall be taken into account under paragraph (1)(B) only to the extent such premiums and other consideration are includible in the gross income of an insurance company taxable under this subchapter or are subject to tax under this chapter by reason of subpart F of part III of subchapter N.

"(e) CLASSIFICATION OF CONTRACTS.—For purposes of this section—

"(1) SPECIFIED INSURANCE CONTRACT.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'specified insurance contract' means any life insurance, annuity, or noncancellable accident and health insurance contract (including any life insurance or annuity contract combined with noncancellable accident and health insurance).

"(B) EXCEPTIONS.—The term 'specified insurance contract' shall not include—

"(i) any pension plan contract (as defined in section 818(a)),

"(ii) any flight insurance or similar contract, and

"(iii) any qualified foreign contract (as defined in section 807(e)(4) without regard to paragraph (5) of this subsection).

"(2) GROUP LIFE INSURANCE CONTRACT.—The term 'group life insurance contract' means any life insurance contract—

"(A) which covers a group of individuals defined by reference to employment relationship, membership in an organization, or similar factor,

"(B) the premiums for which are determined on a group basis, and

"(C) the proceeds of which are payable to (or for the benefit of) persons other than the employer of the insured, an organization to which the insured belongs, or other similar person.

"(3) TREATMENT OF ANNUITY CONTRACTS COMBINED WITH NONCANCELLABLE ACCIDENT AND HEALTH INSURANCE.—Any annuity contract combined with noncancellable accident and health insurance shall be treated as a noncancellable accident and health insurance contract and not as an annuity contract.

"(4) TREATMENT OF GUARANTEED RENEWABLE CONTRACTS.—The rules of section 816(e) shall apply for purposes of this section.

"(5) TREATMENT OF REINSURANCE CONTRACT.—A contract which reinsures another contract shall be treated in the same manner as the reinsured contract.

"(f) SPECIAL RULE WHERE NEGATIVE NET PREMIUMS.—

"(1) IN GENERAL.—If for any taxable year there is a negative capitalization amount with respect to any category of specified insurance contracts set forth in subsection (c)(1)—

"(A) the amount otherwise required to be capitalized under this section for such taxable year with respect to any other category of specified insurance contracts shall be reduced (but not below zero) by such negative capitalization amount, and

"(B) such negative capitalization amount (to the extent not taken into account under subparagraph (A))—

"(i) shall reduce (but not below zero) the unamortized balance (as of the beginning of such taxable year) of the amounts previously capitalized under subsection (a) (beginning with the amount capitalized for the most recent taxable year), and

"(ii) to the extent taken into account as such a reduction, shall be allowed as a deduction for such taxable year.

"(2) NEGATIVE CAPITALIZATION AMOUNT.—For purposes of paragraph (1), the term 'negative capitalization amount' means, with respect to any category of specified insurance contracts, the percentage (applicable under subsection (c)(1) to such category) of the amount (if any) by which—

"(A) the amount determined under subparagraph (B) of subsection (d)(1) with respect to such category, exceeds

"(B) the amount determined under subparagraph (A) of subsection (d)(1) with respect to such category.

"(g) TREATMENT OF CERTAIN CEDING COMMISSIONS.—Nothing in any provision of law (other than this section) shall require the capitalization of any ceding commission incurred on or after September 30, 1990, under any reinsurance contract.

"(h) TREATMENT OF QUALIFIED FOREIGN CONTRACTS UNDER ADJUSTED CURRENT EARNINGS PREFERENCE.—For purposes of determining adjusted current earnings under section 56(g), acquisition expenses with respect to contracts described in clause (iii) of subsection (e)(1)(B) shall be capitalized and amortized in accordance with the treatment generally required under generally accepted accounting principles as if this subsection applied to such contracts for all taxable years.

"(i) TRANSITIONAL RULE.—In the case of any taxable year which includes September 30, 1990, the amount taken into account as the net premiums (or negative capitalization amount) with respect to any category of specified insurance contracts shall be the amount which bears the same ratio to the amount which (but for this subsection)

would be so taken into account as the number of days in such taxable year on or after September 30, 1990, bears to the total number of days in such taxable year."

(b) REPEAL OF SPECIAL TREATMENT OF ACQUISITION EXPENSES UNDER MINIMUM TAX.—Paragraph (4) of section 56(g) is amended by striking subparagraph (F) and redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter L of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 848. Capitalization of certain policy acquisition expenses."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to taxable years ending on or after September 30, 1990. Any capitalization required by reason of such amendments shall not be treated as a change in method of accounting for purposes of the Internal Revenue Code of 1986.

(2) SUBSECTION (b).—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years beginning on or after September 30, 1990.

(B) SPECIAL RULES FOR YEAR WHICH INCLUDES SEPTEMBER 30, 1990.—In the case of any taxable year which includes September 30, 1990, the amount of acquisition expenses which is required to be capitalized under section 56(g)(4)(F) of the Internal Revenue Code of 1986 (as in effect before the amendment made by subsection (b)) shall be the amount which bears the same ratio to the amount which (but for this subparagraph) would be so required to be capitalized as the number of days in such taxable year before September 30, 1990, bears to the total number of days in such taxable year. A similar reduction shall be made in the amount amortized for such taxable year under such section 56(g)(4)(F).

SEC. 13302. TREATMENT OF CERTAIN NONLIFE RESERVES OF LIFE INSURANCE COMPANIES.

(a) GENERAL RULE.—Subsection (e) of section 807 (relating to special rules for computing reserves) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR TREATMENT OF CERTAIN NONLIFE RESERVES.—

"(A) IN GENERAL.—The amount taken into account for purposes of subsection (a) and (b) as—

"(i) the opening balance of the items referred to in subparagraph (C), and

"(ii) the closing balance of such items,

shall be 80 percent of the amount which (without regard to this subparagraph) would have been taken into account as such opening or closing balance, as the case may be.

"(B) TRANSITIONAL RULE.—

"(i) IN GENERAL.—In the case of any taxable year beginning on or after September 30, 1990, and on or before September 30, 1996, there shall be included in the gross income of any life insurance company an amount equal to 3⅓ percent of such company's closing balance of the items referred to in subparagraph (C) for its most recent taxable year beginning before September 30, 1990.

"(ii) TERMINATION AS LIFE INSURANCE COMPANY.—Except as provided in section 381(c)(22), if, for any taxable year beginning on or before September 30, 1996, the taxpayer ceases to be a life insurance company, the aggregate inclusions which would have been made under clause (i) for such taxable year and subsequent taxable years but for such cessation shall be taken into account for the taxable year preceding such cessation year.

"(C) DESCRIPTION OF ITEMS.—For purposes of this paragraph, the items referred to in this subparagraph are the items described in subsection (c) which consist of unearned premiums and premiums received in advance under insurance contracts not described in section 816(b)(1)(B)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning on or after September 30, 1990.

SEC. 13303. TREATMENT OF LIFE INSURANCE RESERVES OF INSURANCE COMPANIES WHICH ARE NOT LIFE INSURANCE COMPANIES.

(a) GENERAL RULE.—Paragraph (4) of section 832(b) (defining premiums earned) is amended by striking "section 807, pertaining" and all that follows down through the period at the end of the first sentence which follows subparagraph (C) and inserting "section 807.".

(b) TECHNICAL AMENDMENT.—Subparagraph (A) of section 832(b)(7) is amended—

(1) by striking "amounts included in unearned premiums under the 2nd sentence of such subparagraph" and inserting "insurance contracts described in section 816(b)(1)(B)", and

(2) by striking "such amounts into account" and inserting "such contracts into account".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after September 30, 1990.

Subpart B—Treatment of Salvage Recoverable

SEC. 13305. TREATMENT OF SALVAGE RECOVERABLE.

(a) GENERAL RULE.—Subparagraph (A) of section 832(b)(5) (defining losses incurred) is amended to read as follows:

"(A) IN GENERAL.—The term 'losses incurred' means losses incurred during the taxable year on insurance contracts computed as follows:

"(i) To losses paid during the taxable year, deduct salvage and reinsurance recovered during the taxable year.

"(ii) To the result so obtained, add all unpaid losses on life insurance contracts plus all discounted unpaid losses (as defined in section 846) outstanding at the end of the taxable year and deduct all unpaid losses on life insurance contracts plus all discounted unpaid losses outstanding at the end of the preceding taxable year.

"(iii) To the results so obtained, add estimated salvage and reinsurance recoverable as of the end of the preceding taxable year and deduct estimated salvage and reinsurance recoverable as of the end of the taxable year.

The Secretary shall by regulations provide that the amounts referred to in clause (iii) shall be determined on a discounted basis in accordance with procedures established in such regulations."

(b) CONFORMING AMENDMENT.—Subsection (g) of section 846 is amended by adding "and" at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

(2) AMENDMENTS TREATED AS CHANGE IN METHOD OF ACCOUNTING.—

(A) IN GENERAL.—In the case of any taxpayer who is required by reason of the amendments made by this section to change his method of computing losses incurred—

(i) such change shall be treated as a change in a method of accounting,

(ii) such change shall be treated as initiated by the taxpayer, and

(iii) such change shall be treated as having been made with the consent of the Secretary.

(B) FRESH START.—Notwithstanding section 481 of the Internal Revenue Code of 1986, the net amount of the adjustments (otherwise required by such section 481 to be taken into account by the taxpayer) shall not be required to be taken into account for any taxable year.

(3) SPECIAL RULE FOR OVERESTIMATES.—If for any taxable year beginning after December 31, 1989—

(A) the amount of the section 481 adjustment which would have been required without regard to paragraph (2) and any discounting, exceeds

(B) the sum of the amount of salvage recovered taken into account under section 832(b)(5)(A)(i) for the taxable year and any preceding taxable year beginning after December 31, 1989, attributable to losses incurred with respect to any accident year beginning before 1990 and the undiscounted amount of estimated salvage recoverable as of the close of the taxable year on account of such losses,

such excess (adjusted by the discount rate used in determining the amount of salvage recoverable as of the close of the last taxable year of the taxpayer beginning before January 1, 1990) shall be included in gross income for such taxable year.

(4) EFFECT ON EARNINGS AND PROFITS.—The earnings and profits of any insurance company for its 1st taxable year beginning after December 31, 1989, shall be increased by the amount of the section 481 adjustment which would have been required but for paragraph (2). For purposes of applying sections 56, 902, 952(c)(1), and 960 of the Internal Revenue Code of 1986, earnings and profits of a corporation shall be determined without regard to the preceding sentence.

Subpart C—Waiver of Estimated Tax Penalties

SEC. 13307. WAIVER OF ESTIMATED TAX PENALTIES.

No addition to tax shall be made under section 6655 of the Internal Revenue Code of 1986 for any period before March 16, 1991, with respect to any underpayment to the extent such underpayment was created or increased by any provision of this part.

PART II—COMPLIANCE PROVISIONS

SEC. 13311. SUSPENSION OF STATUTE OF LIMITATIONS DURING PROCEEDINGS TO ENFORCE CERTAIN SUMMONSES.

(a) GENERAL RULE.—Section 6503 (relating to suspension of running of period of limitation) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) EXTENSION IN CASE OF CERTAIN SUMMONSES.—

"(1) IN GENERAL.—If any designated summons is issued by the Secretary with respect to any return of tax by a corporation, the running of any period of limitations provided in section 6501 on the assessment of such tax shall be suspended—

"(A) during any judicial enforcement period—

"(i) with respect to such summons, or

"(ii) with respect to any other summons which is issued during the 30-day period which begins on the date on which such designated summons is issued and which relates to the same return as such designated summons, and

"(B) if the court in any proceeding referred to in paragraph (3) requires any compliance with a summons referred to in subparagraph (A), during the 120-day period beginning with the 1st day after the close of the suspension under subparagraph (A).

If subparagraph (B) does not apply, such period shall in no event expire before the 60th day after the close of the suspension under subparagraph (A).

"(2) DESIGNATED SUMMONS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'designated summons' means any summons issued for purposes of determining the amount of any tax imposed by this title if—

"(i) such summons is issued at least 60 days before the day on which the period prescribed in section 6501 for the assessment of such tax expires (determined with regard to extensions), and

"(ii) such summons clearly states that it is a designated summons for purposes of this subsection.

"(B) LIMITATION.—A summons which relates to any return shall not be treated as a designated summons if a prior summons which relates to such return was treated as a designated summons for purposes of this subsection.

"(3) JUDICIAL ENFORCEMENT PERIOD.—For purposes of this subsection, the term 'judicial enforcement period' means, with respect to any summons, the period—

"(A) which begins on the day on which a court proceeding with respect to such summons is brought, and

"(B) which ends on the day on which there is a final resolution as to the summoned person's response to such summons."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any tax (whether imposed before, on, or after the date of the enactment of this Act) if the period prescribed by section 6501 of the Internal Revenue Code of 1986 for the assessment of such tax (determined with regard to extensions) has not expired on such date of the enactment.

SEC. 13312. ACCURACY-RELATED PENALTY TO APPLY TO SECTION 482 ADJUSTMENTS.

(a) GENERAL RULE.—Subsection (e) of section 6662 (defining substantial valuation overstatement under chapter 1) is amended to read as follows:

"(e) SUBSTANTIAL VALUATION MISSTATEMENT UNDER CHAPTER 1.—

"(1) IN GENERAL.—For purposes of this section, there is a substantial valuation misstatement under chapter 1 if—

"(A) the value of any property (or the adjusted basis of any property) claimed on any return of tax imposed by chapter 1 is 200 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be), or

"(B)(i) the price for any property or services claimed on any such return in connection with any transaction between persons described in section 482 is 200 percent or more (or 50 percent or less) of the amount determined under section 482 to be the correct amount of such price, or

"(ii) the net section 482 transfer price adjustment for the taxable year exceeds $10,000,000.

"(2) LIMITATION.—No penalty shall be imposed by reason of subsection (b)(3) unless the portion of the underpayment for the taxable year attributable to substantial valuation misstatements under chapter 1 exceeds $5,000 ($10,000 in the case of a corporation other than an S corporation or a personal holding company (as defined in section 542)).

"(3) NET SECTION 482 TRANSFER PRICE ADJUSTMENT.—For purposes of this subsection, the term 'net section 482 transfer price adjustment' means, with respect to any taxable year, the net increase in taxable income for the taxable year (determined without regard to any amount carried to such taxable year from another taxable year) resulting from adjustments under section 482 in the transfer price for any property or services. For purposes of the preceding sentence, rules similar to the rules of the last sentence of section 55(b)(2) shall apply."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 6662(b) is amended to read as follows:

"(3) Any substantial valuation misstatement under chapter 1."

(2) Subparagraph (A) of section 6662(h)(2) is amended to read as follows:

"(A) any substantial valuation misstatement under chapter 1 as determined under subsection (e) by substituting—

"(i) '400 percent' for '200 percent' each place it appears,

"(ii) '25 percent' for '50 percent', and

"(iii) '$20,000,000' for '$10,000,000',".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 13313. TREATMENT OF PERSONS PROVIDING SERVICES.

(a) GENERAL RULE.—Subsection (n) of section 6103 (relating to certain other persons) is amended—

(1) by striking "and the programming" and inserting "the programming", and

(2) by inserting after "of equipment," the following "and the providing of other services,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 13314. APPLICATION OF AMENDMENTS MADE BY SECTION 7403 OF REVENUE RECONCILIATION ACT OF 1989 TO TAXABLE YEARS BEGINNING ON OR BEFORE JULY 10, 1989.

(a) GENERAL RULE.—The amendments made by section 7403 of the Revenue Reconciliation Act of 1989 shall apply to—

(1) any requirement to furnish information under section 6038A(a) of the Internal Revenue Code of 1986 (as amended by such section 7403) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any requirement under such section 6038A(a) to maintain records which were in existence on or after March 20, 1990,

(3) any requirement to authorize a corporation to act as a limited agent under section 6038A(e)(1) of such Code (as so amended) if the time for authorizing such action is after the date of the enactment of this Act, and

(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began. Such amendments shall also apply in any case to which they would apply without regard to this section.

(b) CONTINUATION OF OLD FAILURES.—In the case of any failure with respect to a taxable year beginning on or before July 10, 1989, which first occurs on or before the date of the enactment of this Act but which continues after such date of enactment, section 6038A(d)(2) of the Internal Revenue Code of 1986 (as amended by subsection (c) of such section 7403) shall apply for purposes of determining the amount of the penalty imposed for 30-day periods referred to in such section 6038A(d)(2) which begin after the date of the enactment of this Act.

SEC. 13315. OTHER REPORTING REQUIREMENTS.

(a) GENERAL RULE.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6038B the following new section:

"SEC. 6038C. INFORMATION WITH RESPECT TO FOREIGN CORPORATIONS ENGAGED IN U.S. BUSINESS.

"(a) REQUIREMENT.—If a foreign corporation (hereinafter in this section referred to as the 'reporting corporation') is engaged in a trade or business within the United States at any time during a taxable year—

"(1) such corporation shall furnish (at such time and in such manner as the Secretary shall by regulations prescribe) the information described in subsection (b), and

"(2) such corporation shall maintain (at the location, in the manner, and to the extent prescribed in regulations) such records as may be appropriate to determine the liability of such corporation for tax under this title as the Secretary shall by regulations prescribe (or shall cause another person to so maintain such records).

"(b) REQUIRED INFORMATION.—For purposes of subsection (a), the information described in this subsection is—

"(1) the information described in section 6038A(b), and

"(2) such other information as the Secretary may prescribe by regulations relating to any item not directly connected with a transaction for which information is required under paragraph (1).

"(c) PENALTY FOR FAILURE TO FURNISH INFORMATION OR MAINTAIN RECORDS.—The provisions of subsection (d) of section 6038A shall apply to—

"(1) any failure to furnish (within the time prescribed by regulations) any information described in subsection (b), and

"(2) any failure to maintain (or cause another to maintain) records as required by subsection (a),

in the same manner as if such failure were a failure to comply with the provisions of section 6038A.

"(d) ENFORCEMENT OF REQUESTS FOR CERTAIN RECORDS.—

"(1) AGREEMENT TO TREAT CORPORATION AS AGENT.—The rules of paragraph (3) shall apply to any transaction between the reporting corporation and any related party who is a foreign person unless such related party agrees (in such manner and at such time as the Secretary shall prescribe) to authorize the reporting corporation to act as such related party's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to any request by the Secretary to examine records or produce testimony related to any such transaction or with respect to any summons by the Secretary for such records or testimony. The appearance of persons or production of

records by reason of the reporting corporation being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of any transaction between the reporting corporation and such related party.

"(2) RULES WHERE INFORMATION NOT FURNISHED.—If—

"(A) for purposes of determining the amount of the reporting corporation's liability for tax under this title, the Secretary issues a summons to such corporation to produce (either directly or as an agent for a related party who is a foreign person) any records or testimony,

"(B) such summons is not quashed in a proceeding begun under paragraph (4) of section 6038A(e) (as made applicable by paragraph (4) of this subsection) and is not determined to be invalid in a proceeding begun under section 7604(b) to enforce such summons, and

"(C) the reporting corporation does not substantially comply in a timely manner with such summons and the Secretary has sent by certified or registered mail a notice to such reporting corporation that such reporting corporation has not so substantially complied,

the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which such summons relates (whether or not the Secretary begins a proceeding to enforce such summons). If the reporting corporation fails to maintain (or cause another to maintain) records as required by subsection (a), and by reason of that failure, the summons is quashed in a proceeding described in subparagraph (B) or the reporting corporation is not able to provide the records requested in the summons, the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which the records relate.

"(3) APPLICABLE RULES.—If the rules of this paragraph apply to any transaction or item, the treatment of such transaction (or the amount and treatment of any such item) shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

"(4) JUDICIAL PROCEEDINGS.—The provisions of section 6038A(e)(4) shall apply with respect to any summons issued under paragraph (2)(A); except that subparagraph (D) of such section shall be applied by substituting 'transaction or item' for 'transaction'.

"(e) DEFINITIONS.—For purposes of this section, the terms 'related party', 'foreign person', and 'records' have the respective meanings given to such terms by section 6038A(c)."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6038A(a) is amended by striking "or is a foreign corporation engaged in trade or business within the United States".

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6038B the following new item:

"Sec. 6038C. Information with respect to foreign corporations engaged in U.S. business."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) any requirement to furnish information under section 6038C(a) of the Internal Revenue Code of 1986 (as added by this section) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any requirement under such section 6038C(a) to maintain records which were in existence on or after March 20, 1990,

(3) any requirement to authorize a corporation to act as a limited agent under section 6038C(d)(1) of such Code (as so added) if the time for authorizing such action is after the date of the enactment of this Act, and

(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began.

SEC. 13316. STUDY OF SECTION 482.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall conduct a study of the application and administration of section 482 of the Internal Revenue Code of 1986. Such study shall include examination of—

(1) the effectiveness of the amendments made by this part in increasing levels of compliance with such section 482,

(2) use of advanced determination agreements with respect to issues under such section 482,

(3) possible legislative or administrative changes to assist the Internal Revenue Service in increasing compliance with such section 482, and

(4) coordination of the administration of such section 482 with similar provisions of foreign tax laws and with domestic nontax laws.

(b) REPORT.—Not later than March 1, 1992, the Secretary of the Treasury or his delegate shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

PART III—EMPLOYER REVERSIONS

SUBPART A—TREATMENT OF REVERSIONS OF QUALIFIED PLAN ASSETS TO EMPLOYERS

SEC. 13321. INCREASE IN REVERSION TAX.

Section 4980(a) (relating to tax on reversion of qualified plan assets to employer) is amended by striking "15 percent" and inserting "20 percent".

SEC. 13322. ADDITIONAL TAX IF NO REPLACEMENT PLAN.

(a) IN GENERAL.—Section 4980 is amended by adding at the end thereof the following new subsection:

"(d) INCREASE IN TAX FOR FAILURE TO ESTABLISH REPLACEMENT PLAN OR INCREASE BENEFITS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '50 percent' for '20 percent' with respect to any employer reversion from a qualified plan unless—

"(A) the employer establishes or maintains a qualified replacement plan, or

"(B) the plan provides benefit increases meeting the requirements of paragraph (3).

"(2) QUALIFIED REPLACEMENT PLAN.—For purposes of this subsection, the term 'qualified replacement plan' means a qualified plan established or maintained by the employer in connection with a qualified plan termination (hereinafter referred to as the 'replacement plan') with respect to which the following requirements are met:

"(A) PARTICIPATION REQUIREMENT.—Substantially all of the active participants in the terminated plan who remain as employees of the employer after the termination are active participants in the replacement plan.

"(B) ASSET TRANSFER REQUIREMENT.—

"(i) 30 PERCENT CUSHION.—A direct transfer from the terminated plan to the replacement plan is made before any employer reversion, and the transfer is in an amount equal to the excess (if any) of—

"(I) 30 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, over

"(II) the amount determined under clause (ii).

"(ii) REDUCTION FOR INCREASE IN BENEFITS.—The amount determined under this clause is an amount equal to the present value of the aggregate increases in the nonforfeitable accrued benefits under the terminated plan of any participants (including nonactive participants) pursuant to a plan amendment which—

"(I) is adopted during the 60-day period ending on the date of termination of the qualified plan, and

"(II) takes effect immediately on the termination date.

"(iii) TREATMENT OF AMOUNT TRANSFERRED.—In the case of the transfer of any amount under clause (i)—

"(I) such amount shall not be includable in the gross income of the employer,

"(II) no deduction shall be allowable with respect to such transfer, and

"(III) such transfer shall not be treated as an employer reversion for purposes of this section.

"(C) ALLOCATION REQUIREMENTS.—

"(i) IN GENERAL.—In the case of any defined contribution plan, the portion of the amount transferred to the replacement plan under subparagraph (B)(i) is—

"(I) allocated under the plan to the accounts of participants in the plan year in which the transfer occurs, or

"(II) credited to a suspense account and allocated from such account to accounts of participants no less rapidly than ratably over the 7-plan-year period beginning with the year of the transfer.

"(ii) COORDINATION WITH SECTION 415 LIMITATION.—If, by reason of any limitation under section 415, any amount credited to a suspense account under clause (i)(II) may not be allocated to a participant before the close of the 7-year period under such clause—

"(I) such amount shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants by reason of any such limitation, shall be allocated to the participant as provided in section 415.

"(iii) TREATMENT OF INCOME.—Any income on any amount credited to a suspense account under clause (i)(II) shall be allocated to accounts of participants no less rapidly than ratably over the remainder of the period determined under such clause (after application of clause (ii)).

"(iv) UNALLOCATED AMOUNTS AT TERMINATION.—If any amount credited to a suspense account under clause (i)(II) is not allocated as of the termination date of the plan—

"(I) such amount shall be allocated to the accounts of participants as of such date, except that any amount which may not be allocated by reason of any limitation under section 415 shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants under subclause (I) by reason of such limitation, such portion shall be treated as an employer reversion to which this section applies.

"(3) PRO RATA BENEFIT INCREASES.—

"(A) IN GENERAL.—The requirements of this paragraph are met if a plan amendment to the terminated plan is adopted in connection with the termination of the plan which provides pro rata increases in the nonforfeitable accrued benefits of all participants (including nonactive participants) which—

"(i) have an aggregate present value not less than 25 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, and

"(ii) take effect immediately on the termination date.

"(B) PRO RATA INCREASE.—For purposes of subparagraph (A), a pro rata increase is an increase in the present value of the nonforfeitable accrued benefit of each participant (including nonactive participants) in an amount which bears the same ratio to the aggregate amount determined under subparagraph (A)(i) as—

"(i) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to

"(ii) the aggregate present value of nonforfeitable accrued benefits of the terminated plan (as so determined).

Notwithstanding the preceding sentence, the aggregate increases in the nonforfeitable accrued benefits of nonactive participants shall not exceed 40 percent of the aggregate amount determined under subparagraph (A)(i) by substituting 'equal to' for 'not less than'.

"(4) COORDINATION WITH OTHER PROVISIONS.—

"(A) LIMITATIONS.—A benefit may not be increased under paragraph (2)(B)(ii) or (3)(A), and an amount may not be allocated to a participant under paragraph (2)(C), if such increase or allocation would result in a failure to meet any requirement under section 401(a)(4) or 415.

"(B) TREATMENT AS EMPLOYER CONTRIBUTIONS.—Any increase in benefits under paragraph (2)(B)(ii) or (3)(A), or any allocation of any amount (or income allocable thereto) to any account under paragraph (2)(C), shall be treated as an annual benefit or annual addition for purposes of section 415.

"(C) 10-YEAR PARTICIPATION REQUIREMENT.—Except as provided by the Secretary, section 415(b)(5)(D) shall not apply to any increase in benefits by reason of this subsection to the extent that the application of this subparagraph does not discriminate in favor of highly compensated employees (as defined in section 414(q)).

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) NONACTIVE PARTICIPANT.—The term 'nonactive participant' means an individual who—

"(i) is a participant in pay status as of the termination date,

"(ii) is a beneficiary who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, or

"(iii) is a participant not described in clause (i) or (ii)—

"(I) who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, and

"(II) whose service, which was creditable under the terminated plan, terminated during the period beginning 3 years before the termination date and ending with the date on which the final distribution of assets occurs.

"(B) PRESENT VALUE.—Present value shall be determined as of the termination date and on the same basis as liabilities of the plan are determined on termination.

"(C) REALLOCATION OF INCREASE.—Except as provided in paragraph (2)(C), if any benefit increase is reduced by reason of the last sentence of paragraph (3)(A)(ii) or paragraph (4), the amount of such reduction shall be allocated to the remaining participants on the same basis as other increases (and shall be treated as meeting any allocation requirement of this subsection).

"(D) AGGREGATION OF PLANS.—The Secretary may provide that 2 or more plans may be treated as 1 plan for purposes of determining whether there is a qualified replacement plan under paragraph (2).

"(6) SUBSECTION NOT TO APPLY TO EMPLOYER IN BANKRUPTCY.—This subsection shall not apply to an employer who, as of the termination date of the qualified plan, is in bankruptcy liquidation under chapter 7 of title 11 of the United States Code or in similar proceedings under State law."

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT.—

(1) FIDUCIARY RESPONSIBILITY.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end thereof the following new subsection:

"(d)(1) If, in connection with the termination of a single-employer plan, an employer elects to establish or maintain a qualified replacement plan, or to increase benefits, as provided under section 4980(d) of the Internal Revenue Code of 1986, a fiduciary shall discharge the fiduciary's duties under this title and title IV in accordance with the following requirements:

"(A) In the case of a fiduciary of the terminated plan, any requirement—

"(i) under section 4980(d)(2)(B) of such Code with respect to the transfer of assets from the terminated plan to a qualified replacement plan, and

"(ii) under section 4980(d)(2)(B)(ii) or 4980(d)(3) of such Code with respect to any increase in benefits under the terminated plan.

"(B) In the case of a fiduciary of a qualified replacement plan, any requirement—

"(i) under section 4980(d)(2)(A) of such Code with respect to participation in the qualified replacement plan of active participants in the terminated plan,

"(ii) under section 4980(d)(2)(B) of such Code with respect to the receipt of assets from the terminated plan, and

"(iii) under section 4980(d)(2)(C) of such Code with respect to the allocation of assets to participants of the qualified replacement plan.

"(2) For purposes of this subsection—

"(A) any term used in this subsection which is also used in section 4980(d) of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section, and

"(B) any reference in this subsection to the Internal Revenue Code of 1986 shall be a reference to such Code as in effect on January 1, 1991."

(2) CONFORMING AMENDMENTS.—

(A) Section 404(a)(1)(D) of such Act (29 U.S.C. 1104(a)(1)(D)) is amended by striking "or title IV" and inserting "and title IV".

(B) Section 4044(d)(1) of such Act (29 U.S.C. 1344(d)(1)) is amended by inserting ", section 404(d) of this Act, and section 4980(d) of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "paragraph (3)".

SEC. 13323. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subpart shall apply to reversions occurring after September 30, 1990.

(b) EXCEPTION.—The amendments made by this subpart shall not apply to any reversion after September 30, 1990, if—

(1) in the case of plans subject to title IV of the Employee Retirement Income Security Act of 1974, a notice of intent to terminate under such title was provided to participants (or if no participants, to the Pension Benefit Guaranty Corporation) before October 1, 1990, or

(2) in the case of plans subject to title I (and not to title IV) of such Act, a notice of intent to reduce future accruals under section 204(h) of such Act was provided to participants in connection with the termination before October 1, 1990.

Subpart B—Transfers to Retiree Health Accounts

SEC. 13325. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) IN GENERAL.—Part I of subchapter D of chapter 1 (relating to pension, profit-sharing, and stock bonus plans) is amended by adding at the end thereof the following new subpart:

"Subpart E—Treatment of Transfers to Retiree Health Accounts

"Sec. 420. Transfers of excess pension assets to retiree health accounts.

"SEC. 420. TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

"(a) GENERAL RULE.—If there is a qualified transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to a health benefits account which is part of such plan—

"(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of subsection (a) or (h) of section 401 solely by reason of such transfer (or any other action authorized under this section),

"(2) no amount shall be includible in the gross income of the employer maintaining the plan solely by reason of such transfer,

"(3) such transfer shall not be treated—

"(A) as an employer reversion for purposes of section 4980, or

"(B) as a prohibited transaction for purposes of section 4975, and

"(4) the limitations of subsection (d) shall apply to such employer.

"(b) QUALIFIED TRANSFER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer—

"(A) of excess pension assets of a defined benefit plan to a health benefits account which is part of such plan in a taxable year beginning after December 31, 1990,

"(B) which does not contravene any other provision of law, and

"(C) with respect to which the plan meets—

"(i) the use requirements of subsection (c)(1),

"(ii) the vesting requirements of subsection (c)(2), and

"(iii) the minimum benefit requirements of subsection (c)(3).

"(2) ONLY 1 TRANSFER PER YEAR.—

"(A) IN GENERAL.—No more than 1 transfer with respect to any plan during a taxable year may be treated as a qualified transfer for purposes of this section.

"(B) EXCEPTION.—A transfer described in paragraph (4) shall not be taken into account for purposes of subparagraph (A).

"(3) LIMITATION ON AMOUNT TRANSFERRED.—The amount of excess pension assets which may be transferred in a qualified transfer shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the taxable year of the transfer for qualified current retiree health liabilities.

"(4) SPECIAL RULE FOR 1990.—

"(A) IN GENERAL.—Subject to the provisions of subsection (c), a transfer shall be treated as a qualified transfer if such transfer—

"(i) is made after the close of the taxable year preceding the employer's first taxable year beginning after December 31, 1990, and before the earlier of—

"(I) the due date (including extensions) for the filing of the return of tax for such preceding taxable year, or

"(II) the date such return is filed, and

"(ii) does not exceed the expenditures of the employer for qualified current retiree health liabilities for such preceding taxable year.

"(B) REDUCTION IN DEDUCTION.—The amount of the deductions otherwise allowable under this chapter to an employer for the taxable year preceding the employer's first taxable year beginning after December 31, 1990, shall be reduced by the amount of any qualified transfer to which this paragraph applies.

"(C) COORDINATION WITH REDUCTION RULE.—Subsection (e)(1)(B) shall not apply to a transfer described in subparagraph (A).

"(5) EXPIRATION.—No transfer in any taxable year beginning after December 31, 1995, shall be treated as a qualified transfer.

"(c) REQUIREMENTS OF PLANS TRANSFERRING ASSETS.—

"(1) USE OF TRANSFERRED ASSETS.—

"(A) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) shall be used only to pay qualified current retiree health liabilities (other than liabilities of key employees not taken into account under subsection (e)(1)(D)) for the taxable year of the transfer (whether directly or through reimbursement).

"(B) AMOUNTS NOT USED TO PAY FOR HEALTH BENEFITS.—

"(i) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) which are not used as provided in subparagraph (A) shall be transferred out of the account to the transferor plan.

"(ii) TAX TREATMENT OF AMOUNTS.—Any amount transferred out of an account under clause (i)—

"(I) shall not be includible in the gross income of the employer for such taxable year, but

"(II) shall be treated as an employer reversion for purposes of section 4980 (without regard to subsection (d) thereof).

"(C) ORDERING RULE.—For purposes of this section, any amount paid out of a health benefits account shall be treated as paid first out of the assets and income described in subparagraph (A).

"(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).

"(B) SPECIAL RULE FOR 1990.—In the case of a qualified transfer described in subsection (b)(4), the requirements of this paragraph are met with respect to any participant who separated from service during the taxable year to which such transfer relates by recomputing such participant's benefits as if subparagraph (A) had applied immediately before such separation.

"(3) MINIMUM COST REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the benefit maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer.

"(B) APPLICABLE EMPLOYER COST.—For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by dividing—

"(i) the qualified current retiree health liabilities of the employer for such taxable year determined—

"(I) without regard to any reduction under subsection (e)(1)(B), and

"(II) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer at the end of the taxable year, by

"(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

"(C) ELECTION TO COMPUTE COST SEPARATELY.—An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

"(D) BENEFIT MAINTENANCE PERIOD.—For purposes of this paragraph, the term 'benefit maintenance period' means the 5 taxable year period beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more overlapping benefit maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.

"(d) LIMITATIONS ON EMPLOYER.—For purposes of this title—

"(1) DEDUCTION LIMITATIONS.—No deduction shall be allowed—

"(A) for the transfer of any amount to a health benefits account in a qualified transfer (or any retransfer to the plan under subsection (c)(1)(B)),

"(B) for qualified current retiree health liabilities paid out of the assets (and income) described in subsection (c)(1), or

"(C) for any amounts to which subparagraph (B) does not apply and which are paid for qualified current retiree health liabilities for the taxable year to the extent such amounts are not greater than the excess (if any) of—

"(i) the amount determined under subparagraph (A) (and income allocable thereto), over

"(ii) the amount determined under subparagraph (B).

"(2) NO CONTRIBUTIONS ALLOWED.—An employer may not contribute after December 31, 1990, any amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to qualified current retiree health liabilities for which transferred assets are required to be used under subsection (c)(1).

"(e) DEFINITION AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED CURRENT RETIREE HEALTH LIABILITIES.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified current retiree health liabilities' means, with respect to any taxable year, the aggregate amounts (including administrative expenses) which would have been allowable as a deduction to the employer for such taxable year with respect to applicable health benefits provided during such taxable year if—

"(i) such benefits were provided directly by the employer, and

"(ii) the employer used the cash receipts and disbursements method of accounting.

For purposes of the preceding sentence, the rule of section 419(c)(3)(B) shall apply.

"(B) REDUCTIONS FOR AMOUNTS PREVIOUSLY SET ASIDE.—The amount determined under subparagraph (A) shall be reduced by any amount previously contributed to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) to pay for the qualified current retiree health liabilities. The portion of any reserves remaining as of the close of December 31, 1990, shall be allocated on a pro rata basis to qualified current retiree health liabilities.

"(C) APPLICABLE HEALTH BENEFITS.—The term 'applicable health benefits' mean health benefits or coverage which are provided to—

"(i) retired employees who, immediately before the qualified transfer, are entitled to receive such benefits upon retirement and who are entitled to pension benefits under the plan, and

"(ii) their spouses and dependents.

"(D) KEY EMPLOYEES EXCLUDED.—If an employee is a key employee (within the meaning of section 416(i)(1)) with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing qualified current retiree health liabilities for such taxable year or in calculating applicable employer cost under subsection (c)(3)(B).

"(2) EXCESS PENSION ASSETS.—The term 'excess pension assets' means the excess (if any) of—

"(A) the amount determined under section 412(c)(7)(A)(ii), over

"(B) the greater of—

"(i) the amount determined under section 412(c)(7)(A)(i), or

"(ii) 125 percent of current liability (as defined in section 412(c)(7)(B)).

The determination under this paragraph shall be made as of the most recent valuation date of the plan preceding the qualified transfer.

"(3) HEALTH BENEFITS ACCOUNT.—The term "health benefits account" means an account established and maintained under section 401(h).

"(4) COORDINATION WITH SECTION 412.—In the case of a qualified transfer to a health benefits account—

"(A) any assets transferred in a plan year after the valuation date for such year (and any income allocable thereto) shall, for purposes of section 412(c)(7), be treated as

assets in the plan as of the valuation date for the following year, and

"(B) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) for the first plan year after the plan year in which such transfer occurs in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the pension plan under subsection (c)(1)(B)), except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(b) CONFORMING AMENDMENT.—Section 401(h) is amended by inserting ", and subject to the provisions of section 420" after "Secretary".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers in taxable years beginning after December 31, 1990.

SEC. 13326. APPLICATION OF ERISA TO TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) EXCLUSIVE BENEFIT REQUIREMENT.—Section 403(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1103(c)(1)) is amended by inserting ", or under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "insured plans)".

(b) FIDUCIARY DUTIES.—Section 404(a)(1) of such Act (29 U.S.C. 1104(a)(1)) is amended by inserting "and subject to section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)," after "4044,".

(c) EXEMPTIONS FROM PROHIBITED TRANSACTIONS.—Section 408(b) of such Act (29 U.S.C. 1108(b)) is amended by adding at the end thereof the following new paragraph:

"(13) Any transfer in a taxable year beginning before January 1, 1996, of excess pension assets from a defined benefit plan to a retiree health account in a qualified transfer permitted under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)."

(d) FUNDING LIMITATIONS.—Section 302 of such Act (29 U.S.C. 1082) is amended by redesignating subsection (g) as subsection (h) and by adding at the end thereof the following new subsection:

"(g) QUALIFIED TRANSFERS TO HEALTH BENEFIT ACCOUNTS.—For purposes of this section, in the case of a qualified transfer (as defined in section 420 of the Internal Revenue Code of 1986)—

"(1) any assets transferred in a plan year after the valuation date for such year (and any income allocable thereto) shall, for purposes of subsection (c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(2) the plan shall be treated as having a net experience loss under subsection (b)(2)(B)(iv) for the first plan year after the plan year in which such transfer occurs in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the plan under section 420(c)(1)(B) of such Code), except that such subsection shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(e) NOTICE REQUIREMENTS.—

(1) IN GENERAL.—Section 101 of such Act (29 U.S.C. 1021) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) NOTICE OF TRANSFER OF EXCESS PENSION ASSETS TO HEALTH BENEFITS ACCOUNTS.—

"(1) NOTICE TO PARTICIPANTS.—Not later than 60 days before the date of a qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the administrator of the plan shall notify (in such manner as the Secretary may prescribe) each participant and beneficiary under the plan of such transfer. Such notice shall include information with respect to the amount of excess pension assets, the portion to be transferred, the amount of health benefits liabilities to be funded with the assets transferred, and the amount of pension benefits of the participant which will be vested immediately after the transfer.

"(2) NOTICE TO SECRETARIES, ADMINISTRATOR, AND EMPLOYEE ORGANIZATIONS.—

"(A) IN GENERAL.—Not later than 60 days before the date of any qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the employer maintaining the plan from which the transfer is made shall provide the Secretary, the Secretary of the Treasury, the administrator, and each employee organization representing participants in the plan a written notice of such transfer. A copy of any such notice shall be available for inspection in the principal office of the administrator.

"(B) INFORMATION RELATING TO TRANSFER.—Such notice shall identify the plan from which the transfer is made, the amount of the transfer, a detailed accounting of assets projected to be held by the plan immediately before and immediately after the transfer, and the current liabilities under the plan at the time of the transfer.

"(C) AUTHORITY FOR ADDITIONAL REPORTING REQUIREMENTS.—The Secretary may prescribe such additional reporting requirements as may be necessary to carry out the purposes of this section.

"(3) DEFINITIONS.—For purposes of paragraph (1), any term used in such paragraph which is also used in section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991) shall have the same meaning as when used in such section."

(2) PENALTIES.—

(A) Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by inserting "or section 101(e)(1)" after "section 606".

(B) Section 502(c)(3) of such Act (29 U.S.C. 1132(c)(3)) is amended—

(i) by inserting "or who fails to meet the requirements of section 101(e)(2) with respect to any person" after "beneficiary" the first place it appears, and

(ii) by inserting "or to such person" after "beneficiary" the second place it appears.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified transfers under section 420 of the Internal Revenue Code of 1986 made after the date of the enactment of this Act.

PART IV—CORPORATE PROVISIONS

SEC. 13331. RECOGNITION OF GAIN BY DISTRIBUTING CORPORATION IN CERTAIN SECTION 355 TRANSACTIONS.

(a) GENERAL RULE.—Section 355 (relating to distribution of stock and securities of a controlled corporation) is amended by striking subsection (c) and inserting the following new subsections:

"(c) TAXABILITY OF CORPORATION ON DISTRIBUTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no gain or loss shall be recognized to a corporation on any distribution to which this section (or so much of section 356 as relates to this section) applies and which is not in pursuance of a plan of reorganization.

"(2) DISTRIBUTION OF APPRECIATED PROPERTY.—

"(A) IN GENERAL.—If—

"(i) in a distribution referred to in paragraph (1), the corporation distributes property other than qualified property, and

"(ii) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then gain shall be recognized to the distributing corporation as if such property were sold to the distributee at its fair market value.

"(B) QUALIFIED PROPERTY.—For purposes of subparagraph (A), the term 'qualified property' means any stock or securities in the controlled corporation.

"(C) TREATMENT OF LIABILITIES.—If any property distributed in the distribution referred to in paragraph (1) is subject to a liability or the shareholder assumes a liability of the distributing corporation in connection with the distribution, then, for purposes of subparagraph (A), the fair market value of such property shall be treated as not less than the amount of such liability.

"(3) COORDINATION WITH SECTIONS 311 AND 336(a).—Sections 311 and 336(a) shall not apply to any distribution referred to in paragraph (1).

"(d) RECOGNITION OF GAIN ON CERTAIN DISTRIBUTIONS OF STOCK OR SECURITIES IN CONTROLLED CORPORATION.—

"(1) IN GENERAL.—In the case of a disqualified distribution, any stock or securities in the controlled corporation shall not be treated as qualified property for purposes of subsection (c)(2) of this section or section 361(c)(2).

"(2) DISQUALIFIED DISTRIBUTION.—For purposes of this subsection, the term 'disqualified distribution' means any distribution to which this section (or so much of section 356 as relates to this section) applies if, immediately after the distribution—

"(A) any person holds disqualified stock in the distributing corporation which constitutes a 50-percent or greater interest in such corporation, or

"(B) any person holds disqualified stock in the controlled corporation (or, if stock of more than 1 controlled corporation is distributed, in any controlled corporation) which constitutes a 50-percent or greater interest in such corporation.

"(3) DISQUALIFIED STOCK.—For purposes of this subsection, the term 'disqualified stock' means—

"(A) any stock in the distributing corporation acquired by purchase after October 9, 1990, and during the 5-year period ending on the date of the distribution, and

"(B) any stock in any controlled corporation—

"(i) acquired by purchase after October 9, 1990, and during the 5-year period ending on the date of the distribution, or

"(ii) received in the distribution to the extent attributable to distributions on stock described in subparagraph (A).

"(4) 50-PERCENT OR GREATER INTEREST.—For purposes of this subsection, the term '50-percent or greater interest' means stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of shares of all classes of stock.

"(5) AGGREGATION RULES.—

"(A) IN GENERAL.—For purposes of this subsection, a person and all persons related to such person (within the meaning of 267(b) or 707(b)(1)) shall be treated as one person. For purposes of the preceding sen-

tence, sections 267(b) and 707(b)(1) shall be applied by substituting '10 percent' for '50 percent' each place it appears.

"(B) PERSONS ACTING PURSUANT TO PLANS OR ARRANGEMENTS.—If two or more persons act pursuant to a plan or arrangement with respect to acquisitions of stock in the distributing corporation or controlled corporation, such persons shall be treated as one person for purposes of this subsection.

"(6) PURCHASE.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'purchase' means any acquisition but only if—

"(i) the basis of the property acquired in the hands of the acquirer is not determined (I) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or (II) under section 1014(a),

"(ii) except as provided in regulations, the property is not acquired in an exchange to which section 351, 354, 355, or 356 applies, and

"(iii) the property is not acquired in any other transaction described in regulations.

"(B) CERTAIN 351 EXCHANGES TREATED AS PURCHASES.—The term 'purchase' includes any acquisition of stock in an exchange to which section 351 applies to the extent such stock is acquired in exchange for—

"(i) any cash or cash item,

"(ii) any marketable security, or

"(iii) any debt of the transferor.

"(C) CARRYOVER BASIS TRANSACTIONS.—If—

"(i) any person acquires stock from another person who acquired such stock by purchase (as determined under this paragraph with regard to this subparagraph), and

"(ii) the adjusted basis of such stock in the hands of such acquirer is determined in whole or in part by reference to the adjusted basis of such stock in the hands of such other person,

such acquirer shall be treated as having acquired such stock by purchase on the date it was so acquired by such other person.

"(7) SPECIAL RULE WHERE SUBSTANTIAL DIMINUTION OF RISK.—

"(A) IN GENERAL.—If this paragraph applies to any stock for any period, the running of the 5-year period set forth in subparagraph (A) or (B)(i) of paragraph (3) (whichever applies) shall be suspended during such period.

"(B) STOCK TO WHICH SUSPENSION APPLIES.—This paragraph applies to any stock for any period during which the holder's risk of loss with respect to such stock is (directly or indirectly) substantially diminished by—

"(i) an option,

"(ii) a short sale,

"(iii) any special class of stock,

"(iv) any device limiting risk from any portion of the activities of the corporation, or

"(v) any other device or transaction.

"(8) ATTRIBUTION FROM ENTITIES.—

"(A) IN GENERAL.—Paragraph (2) of section 318(a) shall apply in determining whether a person holds stock in any corporation (determined by substituting '10 percent' for '50 percent' in subparagraph (C) of such paragraph (2)).

"(B) DEEMED PURCHASE RULE.—If—

"(i) any person acquires by purchase an interest in any entity, and

"(ii) such person is treated under subparagraph (A) as holding any stock by reason of holding such interest,

such stock shall be treated as acquired by purchase by such person on the date of the purchase of the interest in such entity.

"(9) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations to prevent the avoidance of the purposes of this subsection through the use of related persons, pass-thru entities, options, or other arrangements."

(b) TECHNICAL AMENDMENTS.—Subsection (c) of section 361 is amended by adding at the end thereof the following new paragraph:

"(5) CROSS REFERENCE.—

"For provision providing for recognition of gain in certain distributions, see section 355(d)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after October 9, 1990.

(2) TRANSITIONAL RULES.—For purposes of subparagraphs (A) and (B)(i) of section 355(d)(3) of the Internal Revenue Code of 1986 (as amended by subsection (a)), an acquisition shall be treated as occurring on or before October 9, 1990 if—

(A) such acquisition is pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition,

(B) such acquisition is pursuant to a tender or exchange offer filed with the Securities and Exchange Commission on or before October 9, 1990, or

(C) such acquisition is pursuant to an offer—

(i) the material terms of which were described in a written public announcement on or before October 9, 1990,

(ii) which was the subject of a prior filing with the Securities and Exchange Commission, and

(iii) which is subsequently filed with the Securities and Exchange Commission before January 1, 1991.

SEC. 13332. MODIFICATIONS TO REGULATIONS ISSUED UNDER SECTION 305(c).

(a) GENERAL RULE.—Subsection (c) of section 305 (relating to certain transactions treated as distributions) is amended by adding at the end thereof the following new sentence: "Regulations prescribed under the preceding sentence shall provide that—

"(1) where the issuer of stock is required to redeem the stock at a specified time or the holder of stock has the option to require the issuer to redeem the stock, a redemption premium resulting from such requirement or option shall be treated as reasonable only if the amount of such premium does not exceed the amount determined under the principles of section 1273(a)(3),

"(2) a redemption premium shall not fail to be treated as a distribution (or series of distributions) merely because the stock is callable, and

"(3) in any case in which a redemption premium is treated as a distribution (or series of distributions), such premium shall be taken into account under principles similar to the principles of section 1272(a)."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to stock issued after October 9, 1990.

(2) EXCEPTION.—The amendment made by subsection (a) shall not apply to any stock issued after October 9, 1990, if—

(A) such stock is issued pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such issuance, or

(B) such stock is issued pursuant to a registration or offering statement filed on or before October 9, 1990, with a Federal or State agency regulating the offering or sale of securities and such stock is issued before the date 90 days after the date of such filing.

SEC. 13333. MODIFICATIONS TO SECTION 1060.

(a) EFFECT OF ALLOCATION AGREEMENTS.—Subsection (a) of section 1060 (relating to special allocation rules for certain asset allocations) is amended by adding at the end thereof the following new sentence: "If in connection with an applicable asset acquisition, the transferee and transferor agree in writing as to the allocation of any consideration, or as to the fair market value of any of the assets, such agreement shall be binding on both the transferee and transferor unless the Secretary determines that such allocation (or fair market value) is not appropriate."

(b) INFORMATION REQUIRED IN CASE OF CERTAIN TRANSFERS OF INTEREST IN ENTITIES.—

(1) IN GENERAL.—Section 1060 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) INFORMATION REQUIRED IN CASE OF CERTAIN TRANSFERS OF INTERESTS IN ENTITIES.—

"(1) IN GENERAL.—If—

"(A) a person who is a 10-percent owner with respect to any entity transfers an interest in such entity, and

"(B) in connection with such transfer, such owner (or a related person) enters into an employment contract, covenant not to compete, royalty or lease agreement, or other agreement with the transferee,

such owner and the transferee shall, at such time and in such manner as the Secretary may prescribe, furnish such information as the Secretary may require.

"(2) 10-PERCENT OWNER.—For purposes of this subsection—

"(A) IN GENERAL.—The term '10-percent owner' means, with respect to any entity, any person who holds 10 percent or more (by value) of the interests in such entity immediately before the transfer.

"(B) CONSTRUCTIVE OWNERSHIP.—Section 318 shall apply in determining ownership of stock in a corporation. Similar principles shall apply in determining the ownership of interests in any other entity.

"(3) RELATED PERSON.—For purposes of this subsection, the term 'related person' means any person who is related (within the meaning of section 267(b) or 707(b)(1)) to the 10-percent owner."

(2) TECHNICAL AMENDMENT.—Clause (x) of section 6724(d)(1)(B) is amended by striking "section 1060(b)", and inserting "subsection (b) or (e) of section 1060".

(c) INFORMATION REQUIRED IN SECTION 338(h)(10) TRANSACTIONS.—Paragraph (10) of section 338 is amended by adding at the end thereof the following new subparagraph:

"(C) INFORMATION REQUIRED TO BE FURNISHED TO THE SECRETARY.—Under regulations, where an election is made under subparagraph (A), the purchasing corporation and the common parent of the selling consolidated group shall, at such times and in such manner as may be provided in regulations, furnish to the Secretary the following information:

"(i) The amount allocated under subsection (b)(5) to goodwill or going concern value.

"(ii) Any modification of the amount described in clause (i).

"(iii) Any other information as the Secretary deems necessary to carry out the provisions of this paragraph."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to acquisitions after October 9, 1990.

(2) BINDING CONTRACT EXCEPTION.—The amendments made by this section shall not apply to any acquisition pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition.

SEC. 13334. MODIFICATION TO CORPORATION EQUITY REDUCTION LIMITATIONS ON NET OPERATING LOSS CARRYBACKS.

(a) REPEAL OF EXCEPTION FOR ACQUISITIONS OF SUBSIDIARIES.—Clause (ii) of section 172(m)(3)(B) (relating to exceptions) is amended to read as follows:

"(ii) EXCEPTION.—The term 'major stock acquisition' does not include a qualified stock purchase (within the meaning of section 338) to which an election under section 338 applies."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to acquisitions after October 9, 1990.

(2) BINDING CONTRACT EXCEPTION.—The amendment made by subsection (a) shall not apply to any acquisition pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition.

SEC. 13335. ISSUANCE OF DEBT OR STOCK IN SATISFACTION OF INDEBTEDNESS.

(a) ISSUANCE OF DEBT INSTRUMENT.—

(1) Subsection (e) of section 108 (relating to general rules for discharge of indebtedness) is amended by adding at the end thereof the following new paragraph:

"(11) INDEBTEDNESS SATISFIED BY ISSUANCE OF DEBT INSTRUMENT.—

(A) IN GENERAL.—For purposes of determining income of a debtor from discharge of indebtedness, if a debtor issues a debt instrument in satisfaction of indebtedness, such debtor shall be treated as having satisfied the indebtedness with an amount of money equal to the issue price of such debt instrument.

(B) ISSUE PRICE.—For purposes of subparagraph (A), the issue price of any debt instrument shall be determined under sections 1273 and 1274. For purposes of the preceding sentence, section 1273(b)(4) shall be applied by reducing the stated redemption price of any instrument by the portion of such stated redemption price which is treated as interest for purposes of this chapter."

(2) Subsection (a) of section 1275 is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) LIMITATION ON STOCK FOR DEBT EXCEPTION.—

(1) IN GENERAL.—Subparagraph (B) of section 108(e)(10) is amended to read as follows:

"(B) EXCEPTION FOR CERTAIN STOCK IN TITLE 11 CASES AND INSOLVENT DEBTORS.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any transfer of stock of the debtor (other than disqualified stock)—

"(I) by a debtor in a title 11 case, or

"(II) by any other debtor but only to the extent such debtor is insolvent.

"(ii) DISQUALIFIED STOCK.—For purposes of clause (i), the term 'disqualified stock' means any stock with a stated redemption price if—

"(I) such stock has a fixed redemption date,

"(II) the issuer of such stock has the right to redeem such stock at one or more times, or

"(III) the holder of such stock has the right to require its redemption at one or more times."

(2) CONFORMING AMENDMENT.—Paragraph (8) of section 108(e) is amended by adding at the end thereof the following new sentence: "Any stock which is disqualified stock (as defined in paragraph (10)(B)(ii)) shall not be treated as stock for purposes of this paragraph."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to debt instruments issued, and stock transferred, after October 9, 1990, in satisfaction of any indebtedness.

(2) EXCEPTIONS.—The amendments made by this section shall not apply to any debt instrument issued, or stock transferred, in satisfaction of any indebtedness if such issuance or transfer (as the case may be)—

(A) is in a title 11 or similar case (as defined in section 368(a)(3)(A) of the Internal Revenue Code of 1986) which was filed on or before October 9, 1990,

(B) is pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such issuance or transfer,

(C) is pursuant to a tender or exchange offer filed with the Securities and Exchange Commission on or before October 9, 1990, or

(D) such acquisition is pursuant to an offer—

(i) the material terms of which were described in a written public announcement on or before October 9, 1990,

(ii) which was the subject of a prior filing with the Securities and Exchange Commission, and

(iii) which is subsequently filed with the Securities and Exchange Commission before January 1, 1991.

PART V—EMPLOYMENT TAX PROVISIONS

SEC. 13341. COVERAGE OF CERTAIN STATE AND LOCAL EMPLOYEES UNDER SOCIAL SECURITY.

(a) EMPLOYMENT UNDER OASDI.—Paragraph (7) of section 210(a) of the Social Security Act (42 U.S.C. 410(a)(7)) is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

(3) by adding at the end the following new subparagraph:

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system (as defined in section 218(b)(4)) of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 211(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self-employment.".

(b) EMPLOYMENT UNDER FICA.—Paragraph (7) of section 3121(b) of the Internal Revenue Code of 1986 is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

(3) by adding at the end the following new subparagraph:

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system (as defined in section 218(b)(4) of the Social Security Act) of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 1402(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self-employment.".

(c) MANDATORY EXCLUSION OF CERTAIN EMPLOYEES FROM STATE AGREEMENTS.—Section 218(c)(6) of the Social Security Act (42 U.S.C. 418(c)(6)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

(3) by adding at the end the following new subparagraph:

"(F) service described in section 210(a)(7)(F) which is included as 'employment' under section 210(a).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after December 31, 1990.

SEC. 13342. EXTENSION OF SURTAX ON UNEMPLOYMENT TAX.

(a) GENERAL RULE.—Subsection (a) of section 3301 (relating to rate of unemployment tax) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) 6.2 percent in the case of calendar years before 1996, or

"(2) 6.0 percent in the case of calendar year 1996 and each calendar thereafter,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to calendar years after 1990.

SEC. 13343. DEPOSITS OF PAYROLL TAXES.

(a) IN GENERAL.—Subsection (g) of section 6302 is amended to read as follows:

"(g) DEPOSITS OF SOCIAL SECURITY TAXES AND WITHHELD INCOME TAXES.—If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21 and 24 on the basis of eight-month periods, such person shall make deposits of such taxes on the 1st banking day after any day on which such person has $100,000 or more of such taxes for deposit.".

(b) TECHNICAL AMENDMENT.—Paragraph (2) of section 7632(b) of the Revenue Reconciliation Act of 1989 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts required to be deposited after December 31, 1990.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 13351. SPECIAL RULES WHERE GRANTOR OF TRUST IS A FOREIGN PERSON.

(a) IN GENERAL.—Section 672 (relating to definitions and rules) is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULE WHERE GRANTOR IS FOREIGN PERSON.—

"(1) IN GENERAL.—If—

"(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

"(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

"(2) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) any trust created after the date of the enactment of this Act, and

(2) any portion of a trust created on or before such date which is attributable to amounts contributed to the trust after such date.

SEC. 13352. RETURN REQUIREMENT WHERE CASH RECEIVED IN TRADE OR BUSINESS.

(a) CERTAIN MONETARY INSTRUMENTS TREATED AS CASH.—Subsection (d) of section 6050I (relating to returns relating to cash received in trade or business) is amended to read as follows:

"(d) CASH INCLUDES FOREIGN CURRENCY AND CERTAIN MONETARY INSTRUMENTS.—For purposes of this section, the term 'cash' includes—

"(1) foreign currency, and

"(2) to the extent provided in regulations prescribed by the Secretary, any monetary instrument (whether or not in bearer form) with a face amount of not more than $10,000.

Paragraph (2) shall not apply to any check drawn on the account of the writer in a financial institution referred to in subsection (c)(1)(B)."

(b) INCREASE IN PENALTY FOR INTENTIONAL DISREGARD OF REPORTING REQUIREMENT.—Paragraph (2) of section 6721(e) (relating to penalty for intentional disregard) is amended—

(1) by inserting "6050I," after "6050H," in subparagraph (A),

(2) by striking "or" at the end of subparagraph (A),

(3) by striking "and" at the end of subparagraph (B) and inserting "or", and

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C) in the case of a return required to be filed under section 6050I(a) with respect to any transaction (or related transactions), the greater of—

"(i) $25,000, or

"(ii) the amount of cash (within the meaning of section 6050I(d)) received in such transaction (or related transactions) to the extent the amount of such cash does not exceed $100,000, and".

(c) CLARIFICATION OF APPLICATION OF PROVISION PROHIBITING EVASION TECHNIQUES.—The heading of subsection (f) of section 6050I is amended to read as follows:

"(f) STRUCTURING TRANSACTIONS TO EVADE REPORTING REQUIREMENTS PROHIBITED.—".

(d) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study on the operation of section 6050I of the Internal Revenue Code of 1986. Such study shall include an examination of—

(1) the extent of compliance with the provisions of such section,

(2) the effectiveness of the penalties in ensuring compliance with the provisions of such section,

(3) methods to increase compliance with the provisions of such section and ways Form 8300 could be simplified, and

(4) appropriate methods to increase the usefulness and availability of information submitted under the provisions of such section.

Not later than March 31, 1991, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under this subsection, together with such recommendations as he may deem advisable.

(e) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall apply to amounts received after the date of the enactment of this Act.

(2) The amendment made by subsection (c) shall take effect on the date of the enactment of this Act.

(3) Not later than June 1, 1991, the Secretary of the Treasury or his delegate shall prescribe regulations under section 6050I(d)(2) of the Internal Revenue Code of 1986 (as amended by this section).

The CHAIRMAN. Under the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

The gentleman from Texas [Mr. ARCHER] will be recognized in opposition.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, for the first time in many years this Congress is being asked to do something meaningful about our Nation's budget deficit and national debt. Along with the President, we have resolved to make a $500 billion reduction in the deficit over 5 years. This measure before us tonight will accomplish that purpose. In the midst of all of the controversy surrounding these budget deliberations, this bill is a clear declaration of our firm intention to make meaningful reductions in spending as well as raise necessary revenue in order to achieve our goal.

As one of its goals, this bill intends that the burden of deficit reduction will be borne in a fair and equitable manner among taxpayers. In order to accomplish that goal and also to ensure the progressivity of the tax system, the plan contains a number of provisions aimed at allocating a larger share of deficit reduction to this Nation's wealthiest taxpayers. These include measures to burst the bubble, raise the individual minimum tax from 21 to 25 percent, and to impose a 10-percent surtax on individuals with taxable incomes over $1 million. By adopting these measures, we are ensuring those taxpayers most able to contribute in our effort to reduce the Federal budget deficit will do so.

It also should be noted that this bill does not include any increase in gasoline or petroleum taxes—even on home heating oil. This bill does not impose any limitation on itemized deductions. It does not extend the Medicare hospital insurance tax to additional State and local government workers.

Most important of all, the bill reduces the Medicare Program by only $43 billion, instead of the $60 billion cut originally proposed in the budget summit agreement. This measure will protect Medicare beneficiaries by keeping monthly premiums low and limiting the increase in the deductible. At most, the reduction in payments to providers will reduce the rate of growth in a program which is growing faster than any other portion of our Federal budget. It is not inappropriate for us to consider measures to control these costs.

It is also important to point out that this measure continues to offer special assistance for rural hospitals. Over the 5 years of this budget plan, Medicare will finally eliminate the unfair differential which causes rural hospitals to be paid less for the same services than urban hospitals. We cannot assure every rural hospital that this budget will assure its survival, but this budget gives them real hope for the future.

Mr. Speaker, I am convinced that the only way we can make a real dent in the budget deficit is to take bold steps. It won't be easy, and it will require us all to make some tough decisions, but this Nation faces no more important problem than reducing the deficit. This situation scares the administration. It scares the Congress. But we must do something to deal with it.

I strongly urge passage of this alternative and this budget package, so that we can go to conference with the other body and work out a compro-

mise that both Houses will agree to and that the President will sign.

Mr. Chairman, all America is looking at us today and the country expects action. A no vote means no budget. That is the long and the short of it.

We must do the responsible thing. America is already mad at us and they are going to be madder than an old wet hen if we do not do something today, and I think they are disgusted with what they see on television now.

Mr. Chairman, America expects us to pass a budget. We have that responsibility and we must act at this time.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment, but I would like to begin by thanking the committee chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI] and his Democrat colleagues for putting this amendment before the House today.

You see, I voted for the initial summit agreement because I felt that it was the best bipartisan budget we could hope for in this Chamber. I took a tremendous amount of criticism back home, more than on any issue in my career in the Congress; but thanks to this amendment, I feel completely vindicated. This alternative is actually far worse than anything I could ever have imagined. It is a textbook example of Democrat economic philosophy. Forget spending restraint. Just say, "yes" to taxes.

The Rostenkowski amendment calls for some $180 billion of new taxes and fees, borne mostly by middle income families, because the Democrats refuse to do what the American people want, and that is cut spending.

The Republicans were not even permitted to offer an alternative because the Democrats demanded that it include massive new taxes on the working people of America. We refused to do that.

The Democrats once again, Mr. Chairman, have been unable to curb their appetite for Government spending. What is wrong with putting the Federal Government on a spending diet that will press for reducing waste and encourage efficiency?

I believe the American people want and deserve that we as their Congressmen implement means to live within our income; but the Democrats have carefully attempted to seduce Americans into believing that the Rostenkowski proposal cuts the deficit just by taxing the rich. They masquerade behind a tax-the-rich mask, attempting to deceive the working people in America. Behind that mask, the stark reality exists that they raise tax rates, not just for the rich, but on all families with joint incomes over $19,000 a year. They cut the personal tax exemption on every person, child and adult.

Their plan is without a doubt a hit on all single and family households. I suggest that all Americans examine the table printed by the Democrats themselves to support their tax on low income and middle income working Americans. I do not call that a good deal for working Americans.

President Bush has said that if you raise the rates on the higher income people, soon they will work down to the lower income people. I do not think he realized that "soon" was "now" in the Democrat package.

Mr. Chairman, the great irony in all this is that the American people are not calling for tax increases. They want us to cut spending, and the Democrat leadership responds by refusing even to allow a vote on the Republican spending reduction alternative, with no new tax burden on working Americans.

□ 1810

Are they really that afraid to give the Members of this body a choice? As a matter of fact, I guess they should be, because the Democratic alternative actually massively increases spending over the next 5 years—$570 billion increase in entitlement spending, $180 billion increase in nondefense discretionary spending. That is a $750 billion increase in spending over the next 5 years while at the same time they increase American workers' taxes and fees by some $180 billion.

When this process started, I was truly hopeful we could achieve a bipartisan solution to the awful deficit problems plaguing this Nation. But that is not very likely at this time.

Here we go again, tax and spend. I urge a no vote.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Texas [Mr. ARCHER] has consumed 5 minutes.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, I want to thank my chairman, the gentleman from Illinois, for yielding me this time.

Make no mistake about it, a vote for this particular amendment, the vote for reconciliation is a vote whether we are serious about reducing the deficit of this country.

It is not popular to vote for new taxes, it is not popular to vote for spending cuts. But we need to do it. I first want to congratulate the chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI], for he was the one who really got us on this path with the "Rosti challenge." It was the first effort made to make us serious about reducing the deficit. The Democrats have brought forward a specific program; the Republicans have not. Ours is a specific program that incorporates many of the principles that I think the American people support.

We do not hit the Social Security recipients; we should not, we have protected that. We have taken the Social Security trust fund off the Gramm-Rudman calculation. That is where it should be.

But we really speak to the issue of fairness.

I think that is the most important part about the Democratic alternative.

We speak to the Medicare system and proper cuts. Yes, there are cuts in Medicare, some $40 billion. But we speak to the principle that the elderly should not have to pay more than 25 percent of the cost of the program.

We are able to maintain that in the Democratic alternative.

We speak to how we should pay for the deficit, that all Americans should contribute their fair share, that the wealthy should not be left off but should be paying about the same percentage as everyone else. The Democratic alternative speaks to that.

Mr. Chairman, the alternative we have before us speaks to the issue of fairness but, most importantly, speaks to the issue of dealing with the deficit of this Nation.

The American people expect action. We have the opportunity today to do that by voting for this amendment and voting for the Reconciliation Act.

Mr. ARCHER. Mr. Chairman, I yield 5 minutes to the distinguished Republican leader of the House, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman and my colleagues, I rise in strong opposition to the proposal offered by my good friend, the distinguished chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI]. The cold facts of politics put us on different sides of this issue, but my feelings of personal affection for him and my admiration for his ability remain as warm as ever.

What I have to say today is not directed at him. Instead, it is directed at a certain mood, an atmosphere that recently has been created by many of those in the majority. We cannot understand how really bad this proposal is unless we understand it in the context of that atmosphere.

In the last few weeks we have heard once again the ugly sound of economic McCarthyism. It bellows forth from the fever swamps of the left. It is the savage cry of class warfare.

To ordinary, middle-class Americans, that sound must be one of the most terrifying in the world. It is the sound of the liberals with their hands once again on the tax rates.

As the line from the horror movie goes, "Taxpayers, be afraid, be very afraid."

Let us just examine the most devastating tax increase contained in the package. The Democratic proposal reduces the tax benefits of the personal exemption by removing indexing for inflation. This will increase taxes on everyone except the wealthiest 1 million taxpayers in the country. This Democratic proposal brings back bracket creep with a vengeance, $5 billion, $6 billion, $7 billion.

Prior to the enactment fo the 1981 tax reduction bill, every taxpayer was subject to ever-increasing taxes through inflation. We stopped this in 1980, when we started indexing personal exemptions and tax brackets. By reversing this policy, Democrats would now return us to the silent rate increases for everyone.

The liberals have been telling us how much they want to sock it to the rich. It turns out their definition of rich is everyone who voted against Carter, Mondale, and Dukakis.

The policy of simply taxing the rich will not create one new job. But a policy that encourages savings and the accumulation of capital to invest in new entrepreneurial pursuits does create new jobs.

That is what we ought to be talking about here today.

And on the issue of fairness, the populists have been having a field day with their hot rhetoric, but when you cut through the well-orchestrated propaganda themes of the liberal Democrats, they are in fact simply calling for the redistribution of wealth.

Well, you cannot continually redistribute wealth if those who create it in the first place, with the sweat of their brows, are turned off from doing so because of bad tax policy.

Now, let me repeat a little bit of commonsense wisdom that all the deep thinkers in Washington appear to have forgotten:

The problem with the Federal deficit is not that the American people have been taxed too little but that those who run the Congress have been spending too much. It has been said that taxes are what we pay for civilized society. I agree. But excessive taxes are what the taxpayers pay for irresponsible congressional spending.

In the war against the deficit, the first strike, swift and hard, should be made against spending. That is the Republican way of doing things.

We tried compromise, and it failed. Both parties failed. Both leaderships failed. It is, in my view, a tragedy for this institution that the compromise could not be accepted.

So here we are with the stark contrast of party division unmistakably before us.

No Members on our side of the aisle should even consider voting for this plan. It is to budget deficit plans what Bart Simpson is to scholarship.

I would urge Members to vote down this proposition.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Mr. Chairman, this really is the toughest of issues that we face this week. There will be no greater issue that this Congress has to deal with. It is hard. You either cut spending dramatically or you raise revenues or you do some combination of both.

I do not think anybody is pleased with the choices that we are confronted with, not last week and not tonight.

The Republicans tried it this week, and they failed. They came up $100 billion short from what the President insisted upon. It is very, very difficult if you simply try to do it on the spending side or you simply try to do it on the revenue side.

This package is progressive. The minority leader is correct; it does ask more out of those at the upper end of the income scale to pay.

It is a fairer package than the one we voted on last week.

I hope that we can reach a bipartisan proposal. I hope we can keep this process moving and go to conference on this bill.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. DOWNEY].

□ 1820

Mr. DOWNEY. Mr. Chairman, the Reagan revolution is dead. May it rest in peace. The idea that we could reduce the taxes for the wealthy, increase spending for the military, that we could have it all, is over. It has come crashing down during these weeks that we have wrestled with the problems of how to cut $500 billion from the deficit that the Reagan years brought us.

What the tax proposal of the Committee on Ways and Means attempts to do is very simple and clear. It says to the people who have benefited over the last 10 years, who have seen their real income increase 94 percent and their real tax rates go down 23 percent, "We want you to sacrifice a little so that the country as a whole could benefit."

Mr. Chairman, what have our Republican friends said? "Don't tax the wealthy. Cut spending."

Of course, when one asks, "Just what type of spending? Is it Medicare spending?"

"Oh, no, no, no. Don't touch that."

"Should we cut spending for student loans?"

"Well, maybe that's a good idea."

"What about spending for WIC mothers and the poor?"

"Well, that may or may not be a good idea."

Mr. Chairman, they hide behind the cloak of spending attempting to tell the mistruth that all spending is the same. It is not. And all taxes are not the same either.

What the package of the Committee on Ways and Means attempts to do is to tax the people who should be taxed and recognizes that a small break in the form of the capital gains reduction that we have should be vested in the middle class. It is a balanced proposal.

For 10 years we have attempted to get the public's attention about the basic unfairness of the Republican package, and George Bush has finally handed it to us. He has decided that he would rather see the Government of the United States shut down than to tax the wealthy.

Mr. Chairman, we have had enough. It is time for the wealthy to pay.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to the Democratic alternative to the omnibus budget reconciliation bill. It is billed as soak the rich, but under this proposal, American taxpayers from every income level will be subject to higher taxes. What's even worse is that this proposal will raise taxes more and more every year, without Congress having to vote on the increases. The Democratic proposal heralds the return of bracket creep, the silent thief who will quietly rob more and more Americans every year by forcing them into higher tax brackets due to inflation.

Don't let yourselves be fooled. This is not a tax-the-rich package, it's a tax-everybody-again-and-again package. If you are one of the fortunate Americans who receives a cost-of-living increase in your income, you may be surprised to find yourself pushed into a higher tax bracket. This could mean a 13-percent increase in taxes for Americans in the lowest tax bracket. In fact, the only Americans left unaffected by bracket creep are the 1 million richest Americans, who had their personal exemptions taken away in 1986. This tax increase would have the greatest impact on those Americans least able to afford it.

Tax increases will not reduce the deficit. In order to control the Federal deficit, Congress must control Federal spending. In order to control Federal spending, Congress must not raise taxes, Congress must reform the budget process, and Congress must repeal the congressional pay increase.

I urge my colleagues to reject the across-the-board tax increases proposed in the Democratic alternative.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, 10 years ago our great Nation was the world's largest creditor nation. We had over 140 billion dollars' worth of

assets, and then in 1981 a new supply-side economics came into being, and we find ourselves today, just 10 years later, with some $600 billion of indebtedness, where the third largest item in our budget is just paying the interest on what we owe.

Mr. Chairman, people wonder why we still have to continue with this supply-side trickle-down theory. Is it not time that we thought about giving the American people a chance to get our homeless off the street? To supply jobs for the jobless? And give some hope for the hopeless?

It is not a question for Republicans and Democrats. It is a question as to whether this Congress is going to do what we were sent down here to do.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. DONNELLY].

Mr. DONNELLY. Mr. Chairman, the bill for the 1980's has come due. As we craft any budget package, there are two criteria that absolutely have to be met. No. 1: Are the cuts real? No. 2: Are the revenues fair?

Let me suggest to my friends that the package from the Committee on Ways and Means has real cuts. Ask any health care provider in any district. They are real cuts, and they get deeper and harder in the outyears.

Are our revenues fair? Let me suggest to my colleagues they are fairer than the present system. They are much fairer than the package that was agreed to by the summit that laid the burden on the middle class, the middle class who has seen a net reduction in income in the 1980's, an enormous increase in taxes.

Our package is crafted so that the burden is shared by all, most especially those that benefited most in the 1980's, not just the wealthy. In fact, the superrich.

It astounds me that my friends on the other side of the aisle can stand in the well hour after hour, speech after speech, saying that the rich and the superrich should not pay their fair share. Our proposal makes them pay that fair share.

Mr. ARCHER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I had truthfully hoped that this Congress could come together on a bipartisan agreement. Instead we now find ourselves with a Democrat proposal that has moved to the far left rather than toward the center. I think that is sad for the American people.

However, Mr. Chairman, the American people know which party is the party of higher taxes, and it is the Democrats.

Earlier this year, when the President entered negotiations to try to move this country ahead on a bipartisan budget effort, he extended his hand in cooperation to the majority in the Congress. It was a sincere effort on his part. But it was not long until the Democrat leadership went to the White House and threatened to withdraw from the negotiations unless there was a precondition that taxes were a part of the ultimate package. Perhaps the President should have not accepted that. But faced with the threat of a breakdown of the negotiations, he did in good faith. The President compromised in an effort to lead a split Congress. But the Democrat leadership dragged, and dragged, and dragged the negotiations until the eve of the election, where we stand today, all the while leaking information to the press for their political advantage. Now all that they have left is their clearly partisan proposal. Bipartisanship has left the table, and once again the Democrats, sadly enough, have resumed their role of the party of tax and spend.

I regret that, Mr. Chairman, but it is the reality of the debate in which we are engaged today.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. Mr. Chairman, I rise in strong support of the House Democratic alternative, and I commend Chairman ROSTENKOWSKI for his leadership.

Americans from every State, both parties, and every walk of life are increasingly aware President Bush's deficit reduction policies come down hardest on middle-class Americans and senior citizens.

As a Republican businessman told me today, "Break the Bubble. A 33 percent top rate is fine. We are asking a lot more from kids in the gulf."

Vote for fairness: for decency for Medicare recipients; for no additional delays in unemployment compensation; and for a 10-percent surtax on income over $1 million.

If the President shuts down the Government this weekend, Americans everywhere will know who he was trying to protect.

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The CHAIRMAN pro tempore (Mr. VOLKMER). The Chair would announce that the gentleman from Texas [Mr. ARCHER] has 17 minutes remaining, and the gentleman from Illinois [Mr. ROSTENKOWSKI] has 20 minutes remaining.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, it is hypocritical and irresponsible of this Congress to consider any kind of increase in taxes. In the next few minutes I am going to illustrate just how hypocritical Congress has been. We are attempting to craft a budget that avoids the reality that we have enough revenues coming in from the taxpayers to meet our needs. We forget the fact that revenues have increased 33 percent in the last 7 years. We just need to set out spending priorities, cut waste, and not increase our overall spending.

Before raising taxes, it is time that the Congress take a hard look at cutting expenditures. This novel idea is always the last considered and most quickly ignored by this body. I think this is because the decision to cut the budget would require discipline and hard choices. However, Mr. Chairman, we were elected to this Chamber to make those kind of hard choices. We were sent here by the people to manage the affairs of Government responsibly and fairly.

I would bring to my colleagues' attention a series of votes that if they had been passed would have eased the current Federal budget crisis. Both Mr. FRENZEL and Mr. PENNY, Members from both sides of the aisle, have consistently and faithfully offered amendments to appropriation bills requesting that the Congress cut some of its runaway spending. However, every single, solitary amendment of this nature offered by these two distinguished Members was defeated.

Let me outline these votes:

[Dollars in millions]

Amendments	Percent of cut	Savings
Energy/Water (H.R. 5019):		
Frenzel: Defeated: 98–314	11.4	$2,388
Penny: Defeated: 175–232	2	400
Labor/HHS/Education (H.R. 5257):		
Frenzel: Defeated: 85–333	15.2	6,622
Penny: Defeated: 160–253	2	540
Military Construction (H.R. 5313):		
Frenzel: Defeated: 180–214	.8	70
Penny: Defeated: 164–239	2	166
Rural Development/Agriculture (H.R. 5268):		
Penny: Defeated: 202–216	2	150
Treasury Postal (H.R. 5241):		
Frenzel: Defeated: 130–254	6.9	370
Penny: Defeated: 178–201	2	160
VA/HUD (H.R. 5198):		
Penny: Defeated: 172–235	2	[1] 1

[1] In billions of dollars.

My colleagues, if we can't accept even these reasonable amendments how can we really be serious about a balanced budget or at least workable one. And these amendments are just a small sample of legislation where we could have made cuts.

Mr. FRENZEL's amendments to four different appropriation bills would have saved this country over $10 billion. Right there, Mr. Chairman, would have been an overwhelming savings. And, yet with all the concern of this body regarding the budget not one of Mr. FRENZEL's amendments passed. Not one.

Mr. PENNY's amendments suffered the same fate. Again, not one of those listed were passed.

In fact, just as a matter of absurdity and outrageous commentary on the inability of Congress to cut, Mr. WALKER

offered an amendment to H.R. 5268, the Agriculture appropriations bill that would have cut 0.0000000002 percent from the bill. A savings, my colleagues, of a mere $19.90. However, this amendment was defeated 175 to 214.

These opportunities to cut expenditures, even a little, all met with overwhelming defeat. In light of this, how can we seriously approach the American people, asking them to believe us when we say we have worked hard to give them the best budget agreement possible? We've heard talk of increasing taxes. We've heard talk of raising the tax brackets. We have heard talk of more Government expansion. And yet, we almost never hear the still small voice of reason. Let us face it—the Government must curb its appetite. We must trim, cut, and do away with excessive costs. We must begin to practice the axiom that this Government must make do with what is necessary and not what is desirable. The answer, the simple solution, is to let the Republican budget plan be offered on the House floor. Our plan involves no new taxes and progrowth incentives for businesses. It involves cuts in waste and a partial freeze. Americans, the Republican Party should be allowed to present their budget package.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I rise in strong support of the Democratic alternative for deficit reduction, and want to compliment the chairman and the fine work of his staff for quickly putting a package together which we on the Ways and Means Committee, and throughout this body, can be very proud.

The Democratic alternative is far superior to the budget summit agreement, and even the agreement as modified by the committee and reported out.

It is true that the Democratic alternative asks those who are significantly better off to contribute more to deficit reduction, but frankly, I do not think this is unfair. I believe we lost something of value in 1986 when we abandoned a good deal of the progressivity that was in the tax law, and I see the Democratic alternative as a modest step to regain that virtue.

The Democratic alternative meets our instructions to raise revenues and cut spending. And it does so in a real way. Yet the alternative eases the burden on middle America. And it eases the burden on our senior citizens as well, but not so much that they do not also contribute to this crucial effort to reduce the deficit.

The Democratic alternative also contains a capital gains reduction. Now, last year I voted against a capital gains reduction. I thought it went too far. But this year I am supporting this proposal. Why? Because it is fair. It is equitable. It is aimed at stimulating savings and investment by middle America—by our small business men and women, our farmers, and our homeowners. It is a good, solid proposal which I take pride in supporting.

I believe the Democratic alternative provides the vehicle with which we will enact significant deficit reduction. This will result in a far healthier economy than that which would exist if we were to fail with this endeavor. And so, Mr. Chairman, I urge all my colleagues to support this amendment, and to support this legislation on final passage.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, I want to try to put all of this in some kind of perspective. As I listen to my constituents, they keep telling me, "I know America is in trouble. I know we have problems with our expenditures and our balance in Washington. I am ready and willing to do my part, if all of us will chip in."

Now, what we are talking about is a belt-tightening operation that will trim the Federal deficit by $500 billion over 5 years. That is what we need to keep our eye on.

There has been some discussion about this being an unbalanced budget. Let me give Members the facts, after all the figures are factored in.

For the lowest one-fifth of all our people, there is no increase in the burden that they have in their after-tax income. For the middle income, for the middle people in America, the middle one-fifth, there is only an eight-tenths of 1 percent increase in the burden after all of this is factored in. For the top one-fifth, there is only a 1.1 percent increase in their burden.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Chairman, well, here we are again, debating another budget package. Not that this package is any better. In fact, it is worse in many respects. The Democrats here are saying that their tax package will hit only the rich. Really? When I see the tax proposals being put forth on the House floor today, I see a disaster for the lower and middle income citizens of this country.

Taxing the rich? Do you call regressive excise taxes, which will hit senior citizens who live on fixed incomes, taxing the rich? Do you call the beginning of bracket creep taxing the rich? We need to be fair, but these regressive proposals are nothing but a new attack on the incomes of middle Americans.

We are looking at a slower economy, a declining trade position, and inflation. Raising taxes in the face of these trends will only make it worse. We do not need higher taxes. This Government already receives higher tax receipts than ever before. No, we need to control spending. We need to be serious about controlling this Government's appetite for more and more revenues to finance wasteful and unnecessary spending practices. Let's defeat this proposal, and get serious. Let us cut spending, and stop raising taxes on the backs of working Americans.

The CHAIRMAN pro tempore. The gentleman from Illinois [Mr. ROSTENKOWSKI] has 18 minutes remaining, and the gentleman from Texas [Mr. ARCHER] has 13 minutes remaining.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, we have heard three cries from our friends on the GOP side of the aisle this evening. The first is "class warfare." Well, most of the Members arguing for this against class warfare supported the summit 2 weeks ago. That was class warfare, except it was class warfare on the middle class. This Democratic alternative package is much more fair.

The second GOP cry is, "Don't touch the rates." Well, the people that are crying "Don't touch the rates" had no problem touching the rates when they were brought down from 70 to 50 percent and from 50 to 28. It was okay to touch the rates then, to cut them in half or more than half.

And why not raise rates? If we need revenue, raising rates is a lot more fair than raising excise taxes. And that is the choice between the Democratic alternatives and the other packages we have seen.

The third cry is, "Don't tax at all." But when Federal expenses exceed revenue, then the choice is not taxes, yes or no. It is taxing versus borrowing. Borrowing is the worse option, far worse. It puts our children in debt, whereas taxes are a decision to pay as you go.

So forget these hollow rallying cries of "class warfare," "don't touch rates," and "don't tax at all," They appeal superficially but mislead and deceive.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, as one of the 71 Republicans who cast the tough vote for the budget summit agreement that went down in flames early in the morning on October 5, 1990, I will vote for the Rostenkowski substitute.

I took to the floor early in the morning on October 5 and again on October 8 and I said, I know this budget agreement is not perfect, there are prob-

lems with home heating oil, there are problems with Medicare, there are problems with the bubble, but let the process move forward and let the committees do their work, to try to improve the package.

So now, the committees have gone to work and produced their legislation to carry out the terms of the agreement we approved on October 8.

Home heating oil is exempt. In fact, the Rostenkowski amendment removes all new gasoline and petroleum taxes.

This reconciliation bill greatly lessens the hit on beneficiaries of Medicare. Premiums will stay at 25 percent of the cost. The deductible will go to $100 and no further. Reductions affecting beneficiaries have been reduced from $30 billion in the original summit package down to $10 billion, still significant, but much less that where we started.

The Rostenkowski amendment will burst the bubble and raise the hit in taxes on those most able to withstand it, the 1 percent of American taxpayers who have the highest income.

This is not to say there are no problems remaining with this package.

The Rostenkowski amendment will delay indexing of tax brackets and exemptions for a year, and that will affect all taxpayers.

And I have never been a big fan of granting tax breaks in a deficit reduction bill, and the Rostenkowski amendment will provide a limited capital gains break.

The other problem is that apparently Merchant Marine is about to get away with not enacting a Coast Guard user fee once again. It's the same old play—they've reported a tax, the tonnage tax, that will be struck on a point of order, and no attempt will be made to try to replace it with the user fee. That bites the big one.

As I weigh the alternatives, I want everyone to understand where I am coming from. Since May 15, I have labored as part of the budget summit and as a Member of this body, to come up with a deficit reduction package that will save $500 billion over 5 years. I believe we have a responsibility to address the deficit. I believe we have a responsibility to govern.

What happened this morning, with the denial of the opportunity to Republicans to offer their alternative, was a travesty. It should not happen in this body. The temptation is so very great to walk away from this process. But if I do, and if we do not enact a deficit reduction package, I fear the consequences will be far worse on the economy and on each and every American.

So I will vote to move the process forward one more step, and reserve my vote on passage of any conference report on this bill, depending on how many of the improvements are retained and how many of the problems resolved.

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Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. SILVIO, SILVIO, our beloved bard of the House, a lonely Republican stuck up there with 10 other liberal Democrats in Massachusetts. You are going to be liberated soon to rejoin your Republican family here. There is a rap, rap, rapping at the door for a conservative Republican to go to the Senate, or a conservative Democrat or conservative Republican for the Governor's chair. All you people from Taxachusetts and all other liberal bastions around this country act like all spending in government, all spending is mother's milk for starving children. But here is just a sample list that I will run down from the 1990 budget:

A grant of $19 million to study methane from cattle as it relates to global warming. You know which end of the cow the methane gas comes out; $500,000 for timber bridge research; $1.5 million for Stuttgart, AR, fish farming experimental station; $3 million for Long Beach parking facility; $9 million for juvenile fish bypass facilities on the Columbia and Snake Rivers; $200,000 for research on fire resistant shrubs and grass; $166,000 for a mountain bike trail; $1 million for an Oregon aquarium; $250,000 for study of the pintail duck population; $300,000 for arctic goose studies; and $300,000 for joint U.S.-U.S.S.R. walrus study.

Here is some 1989 pork:

A grant of $150,000 for pea and lentil research; $942,000 for fish oil research; $700,000 to count trees, shrubs, and ornamental flowers; $3 million for leafy spurge and knapweed control; $6 million to repair tracks for a private railroad; and $41.8 million for anadromous fish studies and hatcheries.

Here is some 1988 pork:

A grant of $3 million for 3 parking garages in southwest Chicago; $6.4 million for a Bavarian-style ski resort in Idaho; $750,000 for fishing gear entanglement research; $5 million for Ted Turner's Goodwill Games. How the heck did I let that one get by me?

A grant of $3.1 million to convert a Baltimore ferry boat into a crab restaurant—beautiful; $170,000 to fund a Dunkin' Donuts store; and $11 million to construct a harbor for private pleasure boats in Cleveland. Whose district was that?

Here is some miscellaneous pork:

A grant of $84,000 for a study of why people fall in love; $2,500 to investigate the causes of rudeness, lying, and cheating on tennis courts; $46,000 to determine how long it takes to cook breakfast eggs; and $6,000 to determine the effects of marijuana smoking on scuba divers' ability to withstand cold temperatures.

Pork, pork, pork, and more pork.

Mr. Chairman, the latest tax-increase scheme from the Democrats contains a huge tax increase on the middle class that the Democrats hope to hide. This is how the Wall Street Journal described it yesterday.

Although the House Democrats are selling their alternative as one that soaks the rich, it does include one provision that would hit the middle-class hard: a one-year delay in the scheduled inflation adjustments in income-tax brackets and to the personal exemption, which exempts from taxes $2,050 of income for each member of a taxpayer's family. This hard-to-notice tax increase supplanted a much more visible—and politically touchy—tax rise on motor fuels.

No wonder the liberal Democrats want to hide this huge tax hike. It will cost a family of four earning $34,000 an additional $313 a year. And I don't know about your district, Mr. Chairman, but in my district that is not a wealthy family.

Mr. Speaker, I want the American middle class to know the dirty little secret the Democrats will not tell them. And that is there are simply not enough rich people from which to raise the type of tax revenues the liberal Democrats are talking about. That means, Mr. and Mrs. Middle Class, the Democrats are coming after you, in the cover of night. So hold onto your wallets.

If the current Democratic obsession with raising taxes—and it is an obsession—has illustrated anything it is that the liberal Democrats are more responsive to the special interests than to the average voter. That is why not one special interest or corporate welfare program termination has been included in the Democratic reconciliation package. Not one. As far as the Democrats are concerned, the Federal bureaucracy is immortal.

That means the Democrats are asking middle class Americans to pay more in taxes each year so that they can continue funding programs such as these, contained in the 1990 budget.

A grant of $19 million to study methane from cattle as it relates to global warming. Of course, you know which end of the cow produces the methane;

A grant of $500,000 for timber bridge research;

A grant of $1.5 million for a Stuttgart, AR, fishing farming experimental station;

A grant of $3 million for a Long Beach parking facility;

A grant of $9 million for juvenile fish bypass facilities on the Columbia and Snake Rivers;

A grant of $1 million for an Oregon aquarium;

A grant of $300,000 for an arctic goose studies; and

A grant of $250,000 for a study of the pintail duck population

The list goes on and on and on and on, ad navseum, Mr. Chairman. Perhaps the taxpayers should feel fortunate that they aren't still funding pea and lentil research or leafy spurge and knapweed control or providing Playboy in braille. But I don't think they will.

The fact is that this reconciliation package refuses to recognize the simple truth of the

budget process: There is no need to raise taxes to balance budget. All that is needed is to reduce the growth, the growth of Federal spending and terminate special interrest and corporate welfare programs that have either outlived their original purposes or do not provide a vital national need—such as the National Endowment of the Arts. In the case of the NEA grants the freedom to occasionally fund pornographic of blasphemous suedo-art was more important than fiscal integrity.

We have heard a lot from the class-warfare crowd on the left about how the rich have received huge tax breaks under two Republican Presidents. The class warfarists therefore propose that to solve the budget deficit the rich must start paying their fair share.

Mr. Chairman, I and several of my colleagues have tried to cut through this Democrat-induced fog to explain this simple truth to the American people. The most recent IRS statistics show that from 1979, Jimmy Carter's second to last year in office, up through 1988, Ronald Reagan's last year in office, the percentage of total taxes paid by the rich has increased while the percentage of taxes paid by average Americans has decreased. Let me repeat. From 1979 to 1988 the percentage of taxes paid by the wealthiest Americans has increased—substantially—while the percentage of taxes paid by the middle and lower classes has decreased, that is, gone down, down!

This, of course, is what supply-side economists predicted would happen when tax rates were cut. In other words, the Laffer curve, which postulated that lower tax rates would increase tax revenue, has been vindicated. Under Ronald Reagan the gross national product grew by nearly 80 percent. Uncle Sam's slice of the pie was smaller, but the pie was so much bigger that it more than made up for the difference. Again, that was what the supply-siders said would happen. The table below illustrates this clearly.

Adjusted gross income class	Percent of taxes paid		Percent change
	1979	1988	
Highest 5 percent	37.6	45.9	+8.3
Highest 10 percent	49.5	56.9	+7.4
Highest 25 percent	73.1	77.8	+4.7
Highest 50 percent	93.2	94.5	+1.3
Lowest 50 percent	6.8	5.5	−1.3
Lowest 25 percent	0.5	0.6	+0.1
Lowest 10 percent	[1]	[1]	[1]

[1] Less than 0.07 percent. Source: Tax Foundation.

The Democrats need to ask themselves, what is the purpose of tax policy? Is it to show how tough we are on the rich? Or is it to raise revenue? They know their tax increases on the rich will not raise any additional revenue. Indeed, I venture to estimate that liberals, if they have their way, will actually decrease revenues for two reasons. First, people will find ways to avoid paying the taxes—these liberals know well that all millionaires have tax lawyers and tax accountants by the corporate jet load—and second, the proposed taxes will have a negative effect on the economy, which in turn will lower revenues, repeat lower the tax intake. Liberals know this, and know it well; besides a deep recession is the only hope the liberal Democrats have of a shot at taking the White House. Sad but true.

Mr. Chairman, this Member has had enough of the class warfare, socialist rhetoric emanating from the liberal Democrats. Their reconciliation package is the product of the tax and spend socialism that has become the hallmark of modern Democratic liberalism, and by modern I mean for over 50 years. It is simply a phoney soak-the-rich scheme that is meant more to make the left feel good about itself than an honest effort to balance the budget without driving our economy into a recession. And if this package passes, Mr. Chairman, that is where we are headed—for recession. And we can surely call it the Rostenkowski recession.

Mr. Chairman, shutting the Government down would not be the worst thing to happen to this country. Indeed, I submit that there are several parts of the Government which should be shut down permanently. The tax increase proposed by the Socialist Democrats would be far worse for the country than a short Government shut down. And I just wish the Socialist Democrats had as much sympathy for the average working American as it does for the bureaucracy.

I therefore urge all my colleagues to vote "nay" on what we Republicans think of as the Democrat's Recession Promotion Act.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. JENKINS].

Mr. JENKINS. Mr. Chairman, there is never an easy package and there is a great deal of exaggeration always from partisans on both sides. Sometimes we forget how much that we have that is identical.

In this particular package of $500 billion, 75 percent to 80 percent of the package is identical from both sides of the aisle.

When the summit was started and the President insisted, as he should have done so, that there be a total of $500 billion in a combination of spending cuts and revenue increases over the next 5 years, this summit group did a good job in putting together a tremendous package with 75 percent to 80 percent of it agreed upon, and that is what Members are voting on today. There was about 20 percent that was in disagreement.

That 20 percent really is what the debate should focus upon. A majority of the Democrats, together with a majority of the Republicans, said that 12 cents a gallon in gasoline tax and 2 cents a gallon home heating oil was unacceptable. We ought to change that, and the Ways and Means Committee agreed and did change the 12 cents a gallon and eliminated it, and did agree that 2 cents on home heating oil should not be there, and did change it.

The summit package made an impact upon Medicare recipients of some $60 billion. A majority of the Republicans here in this body together with a majority of the Democrats said that that is too great an impact upon the senior citizens, and the Ways and Means Committee, taking that direction from both the Republican side and the majority, together with a majority of the Democrats decreased that so that the Medicare recipients do not have that impact.

Now obviously if you are going to take the hit from the Medicare recipients, if you are going to eliminate the 12-cents-a-gallon gasoline tax, you have to put it somewhere, and the Ways and Means Committee did that. I think it is a balanced program and we ought to support it.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, we have been told that this is a balanced bill, that the taxing provisions are good. Some of our friends on the Democrat side have said they are proud to vote for this bill, and that is a good thing. If they vote for it they ought to be proud of it.

I wonder, however, if they are aware that after we get through the roughly $70 billion that is assessed to high income earners, there is another half of the tax bill, particularly that half in the suspension of indexation, an item of $36 billion that falls very heavily on the middle income taxpayer, and even on the poor.

There are other portions as well, including some of the sales and excise taxes that we know about.

Earlier in the day I showed that over spending of discretionary spending in 1990 this reconciliation bill and budget resolution provides for $180 billion of new spending, grossly above the baseline. We can compare it with the tax portion of the bill which nets to about $160 billion.

That $160 billion figure is particularly interesting because I think it is the second largest tax increase in the history of the civilized and the uncivilized world, although I have not consulted Guinness on this subject. It is also interesting that it is a little less than necessary to pay for the increases in domestic discretionary in this very bill.

So as Members think about taxing rich people, remember, we have not even funded the extra spending that is in discretionary for the next 5 years that we have agreed to and, therefore, Members can be pretty sure that those under the highest incomes will be next. Does America want this kind of a bill? I do not think so.

I will vote no.

Mrs. LOWEY of New York. Mr. Chairman, I rise in very reluctant support of this budget reconciliation bill.

This bill is far from perfect. We should have cut waste more, cut the military budget more, protected the elderly better, and raised taxes less.

But this budget is an enormous improvement over the inequitable and unacceptable budget summit agreement, and far preferable to sequestration.

If we fail to enact a budget this week, not only will the Government shut down, but we will invite a crippling recession that will severely harm American families.

Several weeks ago, the President and congressional leaders brought to this body a different plan for reducing the deficit—a plan that placed an unfair share of the burden of deficit reduction on the backs of the middle class and the elderly. That plan was totally unacceptable, and I joined my colleagues in voting to defeat it.

Congress then instructed its committees to craft an alternative plan that would share the painful and difficult burden of deficit reduction more equitably. These committees have now worked their will, and the result is a significant improvement over the budget summit agreement.

I have long felt that it is inappropriate to increase taxes until we move aggressively to eliminate waste, fraud and abuse in Government spending. But if the President and congressional leaders insist on tax increases at this stage, then those increases must not fall unfairly on the backs of the poor and the middle class. Those increases must be fair and equitable. This budget alternative respects that fundamental principle.

This budget plan does not place an excessive new tax burden on the backs of middle-class Americans, who already pay more than their fair share of taxes. It abandons proposals for increased taxes on home heating oil, which would have dealt a devastating blow to family budgets in the Northeast. It abandons proposals for increased taxes on gasoline at a time when gasoline prices are already rising. It abandons damaging new tax loopholes that broke faith with the concept of tax reform. And it abandons a mean-hearted proposal to limit unemployment benefits.

In short, this budget proposal, though not perfect, is a dramatic improvement over the one proposed by the President and congressional leaders.

Nevertheless, we need to do more to cut waste, fraud and abuse in the Federal Government before we resort to higher taxes on any Americans. The $800 toilet seats at the Pentagon, the influence-peddling at HUD, the boondoggle of farm subsidies for wealthy agribusiness, and the shameful savings and loan debacle are proof that waste and fraud are still forcing up the cost of Government. We have not acted forcefully or quickly enough in cutting out waste and fraud, jailing criminals who abuse the taxpayers' trust, and using their seized assets to recover some of the costs of these tragic episodes.

In addition, I remain convinced that significant additional reductions can be made in our Nation's military budget without harming our national security. Such savings could be used to lessen the impact of cuts in Medicare or tax increases in this package.

In failing to cut the military budget substantially, we are abandoning an historic opportunity to reorder our Nation's priorities in light of the end of the cold war. Yesterday, Mikhail Gorbachev was awarded the Nobel Peace Prize in recognition of the dramatic changes he has brought about in East-West relations. But today, we continue massive spending as if there had not been any changes in the Soviet Union and Eastern Europe, spending on such wasteful weapons systems as star wars, the MX missile, the Trident II missile, and others.

We must remain strong, and we must be able to respond quickly and effectively to regional crisis. But now is the time to acknowledge that continued massive spending on nuclear weapons is not in our Nation's best interests. Now is the time to acknowledge that our allies must bear their fair share of the burden of defending freedom around the globe. They must anteup, or we will go belly up.

And although the Medicare cuts are significantly reduced in comparison to those proposed by the budget summit agreement, I still feel that too much of the burden of deficit redution is placed on the backs of this Nation's elderly residents. We cannot continue to pile cost upon cost for our Nation's elderly citizens, and I object strenuously to the fact that Medicare beneficiaries continue to bear an inordinate share of the deficit reduction burden.

Finally, I must express my opposition to the cuts in veterans benefits which are contained in this budget. Our Nation's veterans, who have given so much to protect our freedom, deserve fairness from the Federal Government. We should not even consider further cuts in veterans entitlements.

I would not have drafted a budget plan such as the one that was arrived at by congressional leaders and the President. And this new plan could be substantially improved as well.

But if we do not pass a budget this week, we risk catastrophic consequences for our Nation and for our economy. The result will be a second Government shutdown, followed by massive across-the-board spending cuts in most Government programs, from crime prevention and antidrug efforts to social security and medicare * * * from education to pollution control * * * from housing to air traffic control. There is no question that the consequences, even in the short-term, will be devastating.

But that will only be the prelude. For if we fail to approve a deficit reduction package, we will have committed a crime against our Nation's economy. We will have aided and abetted an economic downturn. A fragile economy will be sent into a nosedive.

There are moments in our Nation's history when issues of overriding importance arise that must be addressed if we hope to move forward as a Nation. Such is the case today with the Federal deficit. Even as we speak, the economic storm clouds are gathering. The long-feared recession is already a reality in many parts of the Nation. It has certainly hit my district in New York, where layoffs are more and more frequent, and the downturn in the local economy is an unfortunate fact of life.

Unless this Congress and this President can approve a reasonable and fair plan to reduce the deficit, we will not only risk a second shutdown of the Federal Government and the loss of essential services that our citizens take for granted, but we will invite a severe economic downturn in this Nation in the months and years ahead.

Of course this plan could be better. Of course some Americans will suffer. But the very future of our economy hangs in the balance. If we hope to revitalize our economy and restore our competitiveness as a Nation * * * if we hope to achieve a secure and prosperous future for ourselves and our children * * * then we must do what we know is right: We must act now to reduce the deficit.

Today, let us put partisan bickering aside and vote for the best product that compromise could devise. Let us get on with the business of deficit reduction, or rebuilding our economy, and of increasing opportunity for all American citizens. This is not the best budget we can produce, but it is the best yet, and we have a responsibility to approve it.

Mr. KENNEDY. Mr. Chairman, I rise in support of the alternative Democratic budget. Two weeks ago, the President asked Americans to support the budget summit agreement. It would have cut the budget deficit by $500 billion over 5 years. And how would this goal be achieved? By spending cuts that hurt those with no voice in the back rooms of the White House: the poor, the elderly, the infirm. By regressive measures that would raise the taxes of the poor by 11 percent and the middle class by 3.3 percent, but that would leave untouched the lower tax rate for the rich. And by giving a trim instead of a crew cut to defense spending.

Well, Americans are a generous people. They are willing to make personal sacrifices for the good of their country. But they are not naive. Their sense of fairness is as great as their sense of patriotic duty. And one thing they will not do is bear the burden of deficit reduction while the most privileged get off scot free. So they rejected the summit budget, and urged us in Congress to do the same. Most of us did, believing that the goal of deficit reduction does not give us the right to burden those who are already down.

The Democratic alternative reduces the deficit as much as the President wants. But it achieves the goal more fairly. Medicare cuts are reduced by $7 billion. Oil and gas excise taxes are eliminated. And income tax rates for the wealthiest Americans are modestly increased to reflect their greater ability to contribute to our country's pressing needs.

The time has come to end the borrow and spend Reaganomics that have allowed the rich to play while the rest pay. The Democratic budget puts a stop to tax giveaways for the privileged, and marks a return to tax fairness.

Two weeks ago, the President asked Americans to support his budget. Tonight they asked him to support theirs. I hope he will not let them down.

Mr. FAZIO. Mr. Chairman, I strongly support the Democratic alternative tc the Omnibus Budget Reconciliation Act.

Democrats have fought this budget battle on principles, not politics. In the face of Republican threats, delays and posturing, House Democrats have come up with a budget that stands for tax fairness, not tax relief for the rich.

The Democratic alternative achieves real deficit reduction that will get this Nation back on the road to fiscal soundness. It represents the Democrats' commitment to ensuring that no one particular group—whether it's working Americans or retirees—should have to shoulder more than his or her fair share. It still re-

quires hard choices and sacrifices from all Americans, but in a manner that is evenhanded and equitable.

The Democratic alternative also reaffirms the Democrats' commitment to achieve tax fairness. By eliminating the bubble, it corrects one of the great injustices of our tax system, whereby wealthier citizens pay a lower marginal rate than middle-income citizens. The Democratic plan asks wealthier Americans to pay their fair share, to make the same sacrifices asked of other Americans.

Attaining the level of deficit reduction contained in this budget alternative was not easy because it calls for real spending cuts and revenue increases. But it achieves this deficit reduction fairly in a way that will ultimately benefit the Nation and the American people. It means we avert the shutdown of the Government and the devastating impact of deep, across-the-board cuts brought about by sequestration.

President Bush quipped to the press that the Congress should come up with a budget. The Congress has produced one which meets his criteria of $500 billion in deficit reduction through spending cuts and tax increases. We have a budget; now it is time for the President to support the budget which he chided us to develop. We've made the tough choices and now it's time for the President to join us in supporting this balanced package.

The Democratic alternative demonstrates our resolve to reduce the deficit in a manner that will pass muster with the American people. The time for posturing is gone. We have a truly balanced budget before us which I urge all of my colleagues to support.

Mr. GEJDENSON. Mr. Chairman, I rise today to express my unequivocal support for the budget amendment offered by the distinguished chairman of the Ways and Means Committee. I have waited for this day, when we finally confront what has been simmering for a long time, the clear distinction between the Democratic Party's call for tax fairness and the Republicans obsessive ideological rigidity in preserving tax advantages for the wealthy in the name of preserving the supply side experiment.

I stood in the House well 10 years ago and joined 95 other far-sighted members in voting against the so-called Economic Recovery Tax Act of 1981. I opposed the 1981 cuts because I believed it would lead to a less equal society, and it has. In fact, this single act represents the most radical redistribution of income away from moderate income households to the wealthy in the Nation's history. We are here today, in part, to begin to correct the excesses which the 1981 tax cuts put in motion. Between 1982 and 1990, the 1981 tax cuts have cost the Federal Treasury over $1.7 trillion, and today we must wake-up every morning and borrow close to $700 million from our wealthiest competitors just to pay the interest on our outstanding debt, which has tripled since the 1981 tax cut frenzy.

The results of the Nation's economy and family budgets speak for themselves: Nine out of ten American families paid more Federal taxes; average hourly wages for working men and women fell 9.3 percent; the incomes of the richest 20 percent of American families grew eight times faster than the income growth of the remaining 80 percent; an average, two-parent family paid out 23.7 percent of their $32,000 median income in 1980 and 24.1 percent in 1990; Americans making $182,000 or more saw their Federal tax burden fall in the same time period from 28.9 percent to 25.7 percent. This has been the sad story of the 1980's on budget and tax policies.

Today, we are moving forward on a budget designed to ensure fairness in our tax system and at the same time, to achieve serious deficit reduction that is significant and real. We are facing deficit reduction head-on without burdening working Americans with regressive taxes, without draconian cuts which could throw the already sluggish economy into a recession, and in a way that still leaves a large peace dividend which can be reinvested in much-needed new public investment.

The Democratic alternative recognizes that older Americans should not be asked to pay more than their fair share by preventing substantial hikes in Medicare deductibles, premiums, and copayments. Compared to the original summit agreement, the burden on Medicare beneficiaries is reduced by nearly one-half to two-thirds.

The Democratic proposal drops gasoline excise tax increases as well as taxes on home heating oil. It deletes the administration's mean-spirited plan to have a 2-week waiting period to collect unemployment compensation.

To increase the progressivity of our Tax Code, the Ways and Means alternative eliminates the bubble by creating an explicit 33 percent tax rate bracket; increases the individual minimum tax from 21 percent to 25 percent; imposes a 10-percent surtax on individuals with taxable incomes in excess of $1 million; and finally, increases the health insurance wage cap up to $100,000 rather than the current ceiling of $53,000.

The Democractic alternative puts an end to the false notion that only wealthy Americans are able and willing to help the economy grow. I have far greater confidence in middle-income families and this proposal embodies that confidence by including savings and investment incentives to small businessmen, farmers, and small investors who truly fuel our economy.

The single most important thing that any Government official can do to restore public confidence is to put Government back on the side of average working families in this country by seeing to it that our deficit is reduced quickly and fairly. Enactment of today's Democratic alternative will be a major step forward to achieving this goal. We will be able to look the American people in the eye and say that we have governed responsibly and fairly in the Nation's interest.

Mr. FISH. Mr. Chairman, our Nation is teetering on the brink of recession. The American people ask us to act and act now to put our house in order.

The alternative to our passing a deficit reduction measure is sequestration—a larger across-the-board cut which will fall heavily on the less advantaged. For me this is far too draconian.

A $500 billion deficit reduction package is what we all want and what America needs. It should help avoid a recession. We should expect interest rates to come down which will benefit all Americans.

No $500 billion deficit reduction can be realized without sacrifice. What is important is that it be achieved fairly and equitably.

The amendment before us would help reduce the deficit by a luxury tax, a new tax rate on high income, and a surtax on the very wealthy.

It meets our objectives without touching Social Security. No change is made in taxes on gasoline or on heating oil.

The hit on Medicare beneficiaries is modest and without any loss in benefits. This proposal is worthy of us.

Mr. STUDDS. Mr. Chairman, I rise in strong support of the Democratic alternative to the budget reconciliation bill.

The Democratic plan will cut $500 billion off the deficit in 5 years. It is not painless, but it is fairer by far than any of the other proposals that have been made. The alternatives to it are inaction—which is irresponsible—or huge cuts in Medicare and Social Security—which are unconscionable.

Unlike the so-called "budget summit" proposal endorsed by the President and which I voted against, the Democratic bill does not raise the taxes of middle income people and let the wealthy off scot-free; it does not cut Medicare and let the Pentagon off scot-free; it does not tax gasoline and heating oil, and let the oil industry off scot-free.

Instead, it places the primary burden of reducing the deficit on those who received the greatest benefits from the misplaced priorities and misguided policies of the past decade. Under this plan, that primary burden is placed on those making more than $200,000 a year; under the summit proposal, that burden fell most harshly on older Americans and families making between $20,000 and $30,000 a year.

Is this a perfect proposal? Of course not. The fact is that our budget situation is so bad that there are no easy answers, no painless solutions. But if we're ever doing to dig ourselves out of the economic hole we're in, we've got to begin by cutting the deficit.

It is obvious from the events of the past few weeks that the President has neither the courage nor a plan, to reduce the deficit fairly or responsibly. Those representing the President's party in this House were offered a chance to develop their own proposal; and the majority looked deep down into their own souls and came up with nothing.

Let us not forget that the President and the Republicans entered the budget negotiations months ago with a proposal to reduce the taxes of the rich, cut Medicare and Social Security by $120 billion, and leave defense spending alone.

In other words, they have been asking us all year to respond to the mistakes of the past decade by making those mistakes all over again.

Well, I think the American people deserve better than that. Older Americans deserve more dignity and security than that. Taxpayers deserve more fairness than that. And our children deserve more backbone and vision from their leaders than that.

A vote for the Democratic proposal is a vote to end once and for all the trickle-down, voodoo economic, supply-side, Reagan-Bush-Quayle-Sununu, let-them-eat-cake, help the big guy and to heck with the little guy arrogance that has bankrupted our country and led us through a decade of self-indulgence to the brink of economic catastrophe.

A vote for the Democratic plan is a vote that says no to policies that have resulted in the largest transfer of wealth from poor and middle-income families to the rich in the history of our Nation.

A vote for the Democratic plan is a vote to end the gutless dithering and blithering both in the White House and on Capitol Hill that has transformed America from the world's largest creditor to the world's largest debtor in less than a decade.

Finally, a vote for this bill is a vote to take the first step back from economic collapse and the first step toward economic recovery.

Our vote today marks the beginning of what must be a long-term struggle to reverse the mistakes of the past 10 years; to reclaim our Nation's independence from foreign creditors; to reinvest in our Nation's future; to restore optimism to our young and peace of mind to our old; and to recreate throughout our system of government the basic sense of decency and fair play that has long characterized American democracy.

If we truly want a kinder, gentler America; not to mention a more solvent and equitable America; we must adopt the Democratic budget plan today.

Mr. KANJORSKI. Mr. Chairman, it has certainly taken a long time, and we are not out of the woods yet by any stretch of the imagination, but at last we are finally operating in a more sensible and responsible manner here today.

We have finally slammed the door on the misconceived budget summit approach to solving our deficit problems. Rather than being presented with a take-it-or-leave-it package that gouges senior citizens, the unemployed, and low and middle income working families, we have before us a proposal that individual Members of Congress have had a hand in drafting.

While we still quarrel over specific items in this new plan, and while I am sure that this plan is not exactly what any one of us would have drafted on our own, it is nevertheless a proposal developed by the Congress and not by an oligarchy of the President and congressional leadership.

No less important, Mr. Chairman, the options we have before us today offer us a much clearer choice on one of the most fundamental philosophical questions before this country. Are we going to continue the failed policies of the 1980's—the failed policies under which the wealthy have been given a free ride, the failed policies under which this Government has told the richest Americans that they have no obligation to fairly share in the burdens of addressing the needs of their fellow citizens and the nation, the failed policies under which the gap between the wealthiest and the poorest has become a yawning chasm into which middle income citizens are fast disappearing?

Or, are we instead going to finally stand up and say enough is enough? The cold, hard truth is that in the 1980's we lost sight of what this country is supported to be all about. Somehow too many people forgot some of the most important principles we are supposed to represent as a nation and as a society.

Today, however, we have the opportunity to restore some balance to the system. We have the opportunity to tell the American people that things do not have to continue on this way.

Mr. Chairman, once we put aside all of the numbers we have been debating, we ultimately come down to confronting one basic philosophical question. It is a question we have put off answering for too long, but at least it is not too late.

I know how I will answer the question. I plan to vote for the Democratic alternative to the budget. It is fair, it gets the job done, and it turns us away from the disastrous path our Nation is careening down.

Having said all that, however, I must point out to my colleagues, and particularly to the American people, that we are all living in a fool's paradise if we think thay any of these budget packages are really going to bring the deficit down as much as they suggest. They simply cannot, and they will not.

All these packages are based on fundamentally flawed economic assumptions about what is going to happen next year and over the next 5 years. They are based on unrealistically optimistic assumptions about interest rates, unemployment, and the future of our economy.

I am convinced that our economic problems are more serious than either the President or the leadership have acknowledged, and that none of the proposals which have been made will actually reduce the deficit as much as they claim.

I predict that in less than a year we will be back where we are today; considering further legislation to cut the deficit because the recession we are now entering has played havoc with our economic assumptions.

The President and the budget summiteers predict that budget cuts of this magnitude will reduce inflation from 5.2 percent in 1990 to 4.6 percent in 1991 and 2.8 percent in 1995. They further predict that the interest rate on 91-day Treasury bills will drop from 7.7 percent this year to 7.2 percent next year and 4.2 percent in 1995, and that real GNP growth will be .7 percent in 1990, 1.3 percent in 1991 and 3.5 percent in 1995.

I have a nice piece of swampland in Florida I would like to sell to anyone who believes these predictions are accurate.

One only has to look at the impact of the recent increase in energy prices to recognize that these assumptions are unrealistic. If the August inflation figures are any indicator, next year's inflation rate will sour to double digits, not go down.

Unemployment is also expected to increase as the recession deepens. This will further increase spending, decrease revenues, and increase the deficit.

The consensus of a blue chip group of private sector economists is that these economic assumptions for 1995 underestimate inflation by 40 percent, underestimate Treasury interest rates by 62 percent, and overestimate real GNP growth by 35 percent.

We are kidding ourselves and misleading the American public if we do not make it crystal clear that the economic assumptions underpinning all these proposals are what we hope will happen, but not necessarily what is likely to happen. The data of the private sector economists suggests that these wishes will not become reality.

Nonetheless, the fact that this and other budget packages are based on rosy estimates of our economic situation should not paralyze us. Our deficit problems are so great that we must start work on them today. Every day we delay acting only costs us hundreds of millions of dollars in additional interest costs. Furthermore, even for the Federal Government, $500 billion in deficit reduction is real money.

I outlined the package I would have preferred to have voted for on October 4, 1990, when we considered the first budget summit package. My package would have cut foreign aid and unnecessary subsidy programs more, and would not have cut Medicare or unemployment benefits. My package would have imposed taxes on the windfall profits of the multinational oil companies, instead of middle-class taxpayers.

The Democratic alternative package we consider today does not adopt all of the recommendations I made on October 4, 1990. But it does adopt many of these recommendations and it is a substantial improvement over the first summit package prepared by the President and the leadership.

Among the major improvements of the Democratic package over the earlier package are:

The new Democratic package eliminates the major increase in Medicare premiums contained in the President's original budget package. It also reduces by two-thirds the increase in the Medicare deductible. As a result, this package, unlike the one the President urged us to adopt a week ago, has the support of the National Committee to Preserve Social Security and Medicare, the National Council of Senior Citizens, the Seniors Coalition, and the Save Our Security Coalition. The American Association of Retired Persons calls this "a fair and effective proposal."

The new Democratic package eliminates the 2-week waiting period for unemployment benefits contained in the President's endorsed budget package. A 2-week wait would have been a cruel trick to play on the families of American workers when we are heading into a recession.

The new Democratic package eliminates the regressive 12-cent-per-gallon increases in the gas tax and the 2-cent-per-gallon tax on home heating oil contained in the President's original summit package. These tax increases would have hit low and middle income families hardest.

The new package increases taxes primarily on those who have an ability to pay, rather than on average working families. The President's original package would have turned the tax code upside down. Low and middle income taxpayers would have born the brunt

of the tax increase under the President's package, while the affluent would have escaped virtually scot-free. The following chart demonstrates how much more progressive the new Democratic alternative is than either the President's original budget package or the plan adopted by the Senate Finance Committee:

PERCENT CHANGES IN FEDERAL TAXES BY INCOME

Adjusted gross income (in thousands)	Less than 10	10 to 20	20 to 30	30 to 40	40 to 50	50 to 75	75 to 100	100 to 200	Over 200
President's summit plan	7.6	1.9	3.3	2.9	2.9	1.8	2.1	1.9	1.7
Senate Finance Committee plan	0.0	−2.3	2.7	2.8	2.8	1.9	2.5	3.5	3.7
House Democratic alternative plan	−1.3	−1.6	1.0	1.0	.8	1.4	1.5	.7	7.4

Source: Joint Committee on Taxation.

The new Democratic package eliminates a loophole in the existing Tax Code known as "the bubble" which enables taxpayers earning over $150,000 to pay a lower effective tax rate than taxpayers earning under $150,000.

The new Democratic package reduces the increase in taxes on alcoholic beverages, which are also regressive.

The new Democratic package targets capital gains tax relief to middle-income families and small businesses. Every taxpayer would be allowed a lifetime exclusion of 50 percent of the first $200,000 in capital gains on farms, homes, and small businesses. In other words, if an individual purchased a home, farm or small business for $50,000 and later sold it for $250,000—a 500-percent increase—they would pay taxes on only $100,000 of their capital gain, instead of the full $200,000 again. In addition, in order to encourage investment in our economy, taxpayers would be allowed to exclude the first $1,000 in capital gains on stock they earned each year. The President's original plan would have targeted capital gains tax relief to the richest 2 percent of Americans, the Democratic alternative targets it to average families, farmers, and small businesses.

Mr. Chairman, like most Americans, I wish it was possible to adopt a budget package which did not raise any new revenues. Unfortunately, our deficit problem is so serious today that it is simply not possible to achieve this level of deficit reduction without either revenue increases or cuts in programs like Social Security which the American people do not want.

Some of my constituents have asked me, "Why can't we cut foreign aid?" I believe we can cut foreign aid, I have voted to cut foreign aid, and I have led the effort in the Congress to eliminate the duplicative and unnecessary foreign aid bureaucracy known as the National Endowment for Democracy.

The simple fact is that the President has repeatedly asked the Congress to increase, rather than decrease, spending for foreign aid. Most recently he asked us to forgive over $7 billion in loans to Egypt. Even more importantly, however, even if we eliminated all foreign aid spending that would only reduce the deficit by about one-fifth of the amount of this alternative package. Foreign aid can and should be cut, but it is still only a drop in the bucket of what we must cut.

Mr. Chairman, the message of the last several weeks is clear. The American people are mad, they are disgusted that the Congress and the President cannot get their acts together and solve this problem, and they are losing faith in their system of government.

Frankly, they have a right to be upset. They have a right to be angry at a President who goes off campaigning when he should be here in Washington using his leadership to help forge a budget agreement.

They have a right to be angry at a President who professes to be for a balanced budget but who, along with his predecessor, failed for more than 10 straight years to actually send a balanced budget to the Congress, and who failed to send his proposed budget to the Congress on time.

They also have a right to be angry at a Congress which allowed itself to be bamboozled into turning over its constitutional responsibilities to a secret group of budget summiteers. That is why the President's budget summit failed, why its recommendations were rejected by the Congress and the public.

They have a right to be angry at a Congress which does not act on appropriations bills on time. While the House passed 10 of the 13 regular appropriations bills more than 3 months before the start of the new fiscal year, the Senate had not passed any by that date and even by the start of the fiscal year it had only passed 4 of the 13 bills.

They have a right to be angry at a President who continues to rely on "blue smoke and mirror" accounting gimmicks and who changes his position on the budget more often than he changes his clothes.

They have a right to be angry at a Congress that seems to be endlessly tied up in partisan wrangling that fails to confront our problems head on.

They have a right to be angry at a President who continues to press for tax cuts for the affluent while substantially raising taxes for working families and slashing Medicare by $60 billion.

They have a right to be angry at a President who wastes millions of dollars by ordering a foolish weekend shutdown of the Federal Government.

They have a right to be angry at House Republicans who cannot decide what they are for. They will not support the President's budget. They will not support the Democratic alternative, and they cannot agree on their own proposal to reduce the deficit by $500 billion over 5 years. They are the "Abominable No Men" who are against everything and for nothing. Even the Senate Republicans were able to draft a budget package.

But Mr. Chairman, the American people are not interested in playing, "The Blame Game." They want a budget and a deficit reduction package, and they want them now.

They deserve a budget, and they deserve it now, and that is why I will support this package. Even though it is not perfect, and even though it does not do everything I would like, it is nonetheless, vastly fairer than any of the alternatives and it deserves our support.

Mr. Chairman, we live in a democracy and the process of democracy requires compromise. Even more importantly, however, it requires that we govern.

We cannot stick our heads in the sand. We cannot ignore what others want. We cannot shirk our responsibilities. We must exercise leadership. We must make the tough choices. We must compromise, and we must govern. This is true for both the President and the Congress.

This bill makes those choices and lives up to those responsibilities. It may not be perfect but it is by far the best proposal we have seen all year.

It deserves our support so that we can put an end to the chaos which has surrounded our budget process.

Mr. GREEN of New York. Mr. Chairman, I rise today to express my deep concern that the proposed Rostenkowski II budget reconciliation package fails to do the job that we, in Congress, had hoped to do. The package does make the necessary Federal deficit cuts, but it does so at the expense of those least able to foot the bill.

To begin with, a significant yet little-noticed provision of the Rostenkowski package would drop the indexing of "brackets"—the point at which one moves from the 0-percent bracket to the 15-percent bracket, from the 15-percent bracket to the 28-percent bracket, et-cetera—for 1 year. Under indexing, the brackets are adjusted upward each year by an amount equal to the increase in the Consumer Price Index. The purpose is to prevent lower income households from being thrust by inflation into the 15-percent bracket intended for middle income taxpayers, and similarly to prevent moderate income taxpayers from being thrust into the brackets intended for higher income taxpayers.

Dropping the indexing of brackets, upon first glance, might be thought to eliminate working peoples' tax cushion against inflation only for 1 year. In fact, it does much more than that. Indeed, perhaps the most egregious element of dropping bracket indexing is its permanence. Like the suspension of a cost-of-living-adjustment [COLA] increase, the effect is everlasting. If a senior citizen, for example, failed to receive his 5 percent COLA this year, even though his living costs increased by 5 percent, next year, when the COLA was resumed, his total income still would remain below the adjusted inflationary level. Similarly even if indexing should be restored a year from now, the brackets would forever be some 5 percent below where they should be. Although the Rostenkowski plan is billed as a "soak the rich" program, its suspension of indexing of the brackets is aimed straight at low and moderate income taxpayers forever.

Once the Democratic Party starts down the primrose path of omitting indexing, the days of indexing are clearly numbered. Obviously, the Democrats would love to eliminate indexing and allow inflation to raise taxes without their having to vote for it.

Equally disconcerting to me is the Rostenkowski plan's failure to include a Federal tax increase on gasoline prices paid at the pump. For 10 years, I have supported such an increase for a variety of reasons. First, an increase in the Federal tax on gasoline would be good energy conservation policy. The current situation in the Middle East demonstrates just how important it is for the United States

to have in place an energy conservation policy. Higher gasoline prices will discourage people from taking unnecessary road trips and will encourage them instead to drive their cars prudently. Although an increase in the Federal gas tax is only a partial solution to our problem, it is a step in the right direction. Second, an increase in the Federal tax on gasoline is good environmental policy. Fewer automobiles spewing fewer pollutants into our air means cleaner air.

It is for those reasons, Mr. Chairman, that I regretfully must oppose the Rostenkowski II budget reconciliation package.

Mrs. LLOYD. Mr. Chairman, I rise in favor of the alternative offered by Chairman ROSTENKOWSKI on behalf of the Ways and Means Committee, to the Omnibus Reconciliation Act.

This legislation is necessary to implement the savings in direct spending programs and revenue increases called for by the President and congressional leaders contained in the budget resolution recently adopted by the House and Senate. The total dollar amounts for spending reductions and revenue increases have already been agreed upon—it's now our job to see that the burden of deficit reduction is distributed as fairly and equitably as possible among all Americans. I support the Rostenkowski alternative, as a substitute for the tax and Medicare provisions of the bill, because it fits this criteria.

I know this agreement is not perfect, but I feel the process should move forward. If we do not enact a responsible deficit reduction package, the consequences will be far worse for the Nation. Across-the-board spending cuts are once again looming on the horizon and will occur should a sound deficit reduction package not be put in place.

Equity and fairness are the hallmarks of the Rostenkowski alternative. It provides substantive deficit reduction, $500 billion over the next 5 years, but does so in a fair manner—particularly to middle income Americans. It provides a good stimulus for economic growth and significantly improves on the budget-summit agreement in many ways.

The Medicare deductible increase is reduced by almost two-thirds, from $28 billion to $10 billion—keeping faith with older and disabled Americans.

Several revenue provisions are dropped entirely, including the increase in the gas tax, the new tax on petroleum fuels, the extension of the Medicare payroll tax to additional State and local government employees, the limitation on itemized deductions, the increase in railroad tier II taxes and the 2 week waiting period for unemployment benefits.

Provisions are provided designed to raise revenue in a more progressive manner, including elimination of the bubble in the Tax Code, creation of a 10-percent surtax on income above $1 million, increases in the minimum tax rate and in the amount of salary subject to the Medicare payroll tax, and a 1-year delay in tax indexation.

A limited tax break for capital gains is provided, allowing taxpayers to exclude up to $100,000 in capital gains over their lifetime.

The earned income tax credit for the working poor is increased—the refundable tax credit presently available to low-income working families with dependent children.

The Rostenkowski alternative represents tax fairness and real deficit reduction and will move our Nation toward a solid, growth-oriented economic track. It is a comprehensive and responsible package which provides savings and investment incentives to the small businessmen, farmers, and small investors who are the backbone of our economy. Its enactment will be a major step forward for our Nation, restoring fairness to our Tax Code and confidence abroad.

I urge its adoption.

Mr. GUARINI. Mr. Chairman, the House Democratic budget proposal repesents a great improvement over President Bush's plan to deal with the deficit. It is not a perfect package, but it reduces Government spending by over $300 billion, is more fair to our seniors, and actually cuts taxes on people earning under $20,000 per year. It does not increase the gas tax home heating oil and rejects any limitations on deductions for State and local taxes, charitable contributions, and home mortgage payments. It is the best plan we can hope for at this time, and it will make real inroads on the deficit.

President Bush supports increased taxes. He has said so. The question now becomes who will pay them, lower and middle class people or the rich. Under the Democratic plan, those making under $20,000 per year actually receive a tax cut. Only those making over $200,000 per year are asked to pay substantially more but surely they can afford it. Contrast this with the President's plan which would raise taxes the most on those making under $10,000 per year and the least on those making over $200,000.

The Democratic plan eliminates completely the gasoline tax increase the President wants. The President would increase gas taxes by 0.12 cents per gallon. The Democratic plan zero.

The Democratic plan also rejects the obnoxious tax on home heating oil proposed in the original budget summit agreement.

Medicare cuts are reduced by over $17 billion in the House Democratic plan, and all of these savings go to beneficiaries.

The Democratic plan also eliminates the President's proposal to limit individual deductions for State and local taxes, mortgage interest payments, and charitable deductions. Such limits would damage a high-cost, high-tax State like New Jersey very much, as well as hamper the ability of charities to raise money. It would be a very dangerous precedent, and the Democratic bill quite properly fails to embrace it.

The Democratic plan is not perfect. There should be even deeper cuts in spending on defense weaponry, such as the Stealth bomber, and more emphasis should have been placed on economic growth and capital formation incentives. We cannot forget that important as it is to bring down the deficit, it is also vitally important how we go about doing so.

Despite these reservations, it is essential that we begin getting the deficit down and move the process forward. We are on the verge of fiscal implosion, and cannot just ignore this deficit any longer. The Democratic plan provides $500 billion in deficit reduction. The difference between it and the President's proposals is fairness in where the cuts are made. That is why I support it.

If Congress and the President enact such a fair and credible deficit reduction plan, it will send a strong message to the Federal Reserve to quickly move to bring interest rates down in order to keep the economy moving forward.

Mr. HUGHES. Mr. Chairman, seldom during my career in this House have I felt as frustrated as I do now. Our budget process has broken down, our political system is deadlocked as to how to proceed, and I must now vote between painful plans for solving a budget mess caused by legislation that I voted against.

Far too many of the comments I have heard about the bill before us merely confuse the issue. We must cut through this smokescreen and recognize one clear fact: the Democratic alternative budget plan is the only one produced so far that both meets the agreed upon target of $500 billion in deficit reduction over 5 years and treats middle income taxpayers fairly.

All of the plans to reduce the comprehensive plans to reduce the deficit involve raising taxes, but the Democratic alternative does it in a fair, straightforward manner. The wealthy would pay the same 33-percent rate paid by people in the upper middle class "bubble" bracket, deductions and bracket levels would not be adjusted for inflation for 1 year—a provision that affects all taxpayers—and millionaires would pay a 10-percent tax surcharge. This alternative will reduce the deficit—the most important step we can take to get our economy back on track—while limiting the tax increase on middle income Americans to roughly 1 percent.

The competing plans rely heavily on raising the gasoline excise tax—essentially nickel and diming average taxpayers to death—and limiting deductions. The limit on deductions is also unfair because it punishes citizens of States like New Jersey that have refused to compromise education, health care, and other services because of Federal spending cuts. These States have had to raise their own taxes to fill the gap, and we should not limit the deductions for State and local taxes. In addition, deduction limits diminish the incentive for taxpayers to give to charitable organizations—some of my colleagues may remember these groups as the "thousand points of light" miracle solution to the Nation's problems. It seems that the "points of light" are more popular when writing speeches than when writing tax laws.

All of the plans contain some other problems, but the Democratic alternative has them in less offensive doses. Its luxury tax provisions, provisions I oppose because they will cripple the domestic boat builders in my district who are already in an economic slump, are at least more fair. I was not surprised when lobbyists succeeded in exempting airplanes from the budget summit luxury tax. At least, however, the Democratic plan is more fair in that it subjects airplanes to the same tax as boats.

Finally, the Democratic plan is the lessor of two evils in an area that concerns me the most as chairman of the Select Aging Committee's Retirement Income Subcommittee. Few of our elderly poor can afford another penny for Medicare premiums and those premiums would be $10.80 per month higher in 1995 under the Democratic plan. Again, however, that is $8.10 per month less than what was called for in the summit agreement. Similarly, the annual Medicare deductible would rise by $25, but that is $50 less than the summit plan.

After last year's fiasco involving the proposed premium hikes for Medicare coverage of catastrophic illness, it is clear to me that Medicare cuts or premium hikes would be a last resort for anyone involved in putting together a budget plan. At the beginning of the summit negotiations, however, the Bush administration proposed much higher Medicare cuts. I seriously doubt the administration would have done so if they actually knew where cuts could be made in other areas. Nonetheless, administration officials continue to criticize Congress for spending too much, even though almost every dime was requested in the President's own budget.

Mr. Speaker, I believe the worst course is to continue the political gridlock and do nothing. Deficits drive up the interest rates and the cost of capital—whether it is capital invested in a new factory, a new home, or a new college education. Federal borrowing will sap our economic strength and diminish our economic standing. If we cannot reach the deficit reduction targets through sensible cuts, we must have the courage to raise taxes. Had taxes not been foolishly cut a decade ago, we would not be in this mess today. But we cut taxes and now we have to pay taxes, plus interest. The Democratic plan spreads this burden more fairly than any other, and while it is far from perfect, it is far better than the other options that have been presented to date.

There is no easy panacea for the deficit, including spending freezes. Across-the-board freezes are nice in the abstract, but do we freeze the war on drugs? What if there is another earthquake like the one that happened a year ago? Do we tell people, "Sorry, we froze all the emergency funds"? The freeze rhetoric is beginning to sound like the long distance telephone service commercials: A lot of people promising big savings, but no one willing to put it in writing.

Proposing a freeze so that inflation does the cutting for us also ignores the two largest nondefense costs in the general budget. Medicare costs, with a high medical inflation rate and an aging population, and the interest payment on the national debt are responsible for the vast majority of nondefense spending increases. These costs cannot be frozen. To say that they can is deceptive at best. These are just a few examples of the folly of relying on across-the-board freezes instead of making tough, sensible choices about the course of this Nation.

The middle class will truly pay if we do not reduce the deficit. Federal borrowing has produced some of the highest interest rates in the industrialized world. This fact helps the rich, as they get a higher return on the money they invest, but it cripples middle class families. High interest rates cost them every time they borrow money, whether through a mortgage, a credit card, or a student loan.

In evaluating these competing plans, we should look back at the policies that put us in the present mess. During the 1980 Presidential campaign, then candidate George Bush coined a term for the economic plan proposed by his Republican primary opponent, Ronald Reagan—"voodoo economics." This plan was based on the theory that cutting taxes for the rich; cutting Federal programs that helped local communities, such as revenue sharing; and cutting Federal aid for education would produce economic growth and miraculously balance the budget. President Reagan's election was accompanied by the election of a Republican majority in the Senate that would remain for 6 years, and together they put our economy in the hands of the ultimate voodoo doctor, David Stockman.

The first part of this Republican plan was to force through a tax cut that led not to economic growth, but a massive recession in 1982. I voted against the 1981 tax breaks for the wealthy, foreseeing the recession and future budget crisis that it would cause. As time has blurred the public memory, this recession is now often blamed on Jimmy Carter, but it was triggered by the phenomenal lack of capital in our economy after voodoo-credit card economics was put into place.

The second part of the plan was to divert the public's attention by blaming Democrats for spending too much on social programs. In fact, for every dollar in spending cuts that the Reagan and Bush administrations have asked for but not received, there has been at least a dollar in defense spending that Congress cut from Presidential budgets. If I had a dime for every time I've heard a President blame Congress for spending too much, I'd be worried about the surcharge on millionaire's taxes that is in the Democratic alternative. Despite these charges, Congress has actually approved $16 billion less in spending than was requested by Presidents Reagan and Bush in the budget proposals they have submitted to date.

Despite the deficits that were draining investment capital away from private investment, there was no move to reconsider these policies. Instead, our Government surrendered its collective courage and responsibility, and adopted the Gramm-Rudman budget ax to cure our deficit ills. Unfortunately, the Gramm-Rudman law contained perverse incentives and loopholes big enough to drive a truck through.

Rather than reducing the deficit, Gramm-Rudman has created fiscal year spending shifts, payday shifts, asset sales, bogus economic forecasts, and made robbing the Social Security and highway trust funds a regular habit—in short, voodoo two. I am proud to say that I voted against this gimmick. Congress and the President have the responsibility under the Constitution to pass laws that set our spending priorities. These decisions should not be left to an arbitrary process.

So here we are. In 10 short years since the first "voodoo" budget, these policies have resulted in tripling the national debt. George Bush and Ronald Reagan have so far added twice as much to the national debt as every President from George Washington through Jimmy Carter.

I am not saying that Democrats are blameless, but I am saying that when one party controls the White House and the Senate for 6 years, that party bears the responsibility for the policies that are enacted during that time. I am also saying that the Congress is in a deadlock. While Democrats can now push their initiatives, they have so far been unable to override a Presidential veto. In this situation, the only solution is for the President to lead, which is what the President is elected to do. Since the summit agreement collapsed, this leadership has consisted of the saying, "Read my hips!"

The summit plan was a bad one, and it was rejected by majorities of both parties. I realize it was a plan the President consented to, not one he would have designed himself. However, the President has since given confusing signals about what he wants. I hope the President will work with us, lay aside the veto threats and support this alternative plan. It is fair to the taxpayers and it is a serious deficit reduction effort.

Mr. COYNE. Mr. Chairman, today we are voting on a bill which when modified with the Ways and Means Democratic alternative will provide the American people with deficit reduction of $500 billion over the next 5 years. This proposed budget will distribute the burden of this unprecedented deficit reduction package in a more fair and equitable manner than any other proposal which has surfaced to date.

Achieving a 5-percent reduction in programs and a 2.5-percent increase in revenues should not be accomplished at the expense of the elderly, the working class and the unemployed when the deficit can largely be attributed to the nearly 200 billion dollars' worth of annual interest payments on debt of $3.2 trillion. My colleagues will recall that Federal indebtedness was only $908 billion at the end of fiscal year 1980, and will grow to $3.5 trillion in the coming year. Recall also that interest payments on the Federal debt more than doubled—going from $75.2 billion in 1980 to $170.1 billion in 1990. National defense showed a similar increase of 228 percent—going from $134 billion in 1980 to $303 billion in 1990.

Mr. Chairman, this is not a tax-and-spend Democratic budget as asserted by my colleagues on the other side of the aisle. Seventy-two percent of the deficit reduction comes from spending reductions—only 28 percent from tax increases. This mix between spending reductions and revenue increases is nearly identical to that found in the summit package which was endorsed by the President and the leadership from across the aisle.

This staggering indebtedness is the legacy from a decade of supply-side economics—"All gain, no pain" in the words of MIT's Lester C. Thurow—lack of attention to the emerging savings and loan disaster, and unprecedented defense expansion.

The burden associated with undoing this decade of spending should not be borne by lower income families. They have already paid their share through lower real incomes in the last 10 years. Income growth during this

period clearly favored the wealthiest: The average real income of the top 5 percent of the population increased from $120,253 to $148,438 while the average real income of the lowest 20 percent fell from $9,990 to $9,431.

The Ways and Means Democratic alternative is the only proposal which attempts to distribute the burden in such a manner so as to restore fundamental fairness and equity. The October summit agreement would have people with over $200,000 of annual income paying a lower proportion of their income—25.6 percent—than families earning less than half as much income. The Democratic alternative would restore equity and fairness by having the wealthiest pay proportionately more in taxes than families with lower incomes by raising the effective tax rate to 27 percent for filers with incomes in excess of $200,000.

It accomplishes this movement toward a fair and just distribution of tax burden by allocating the changes in taxes in a far more progressive manner than the summit proposal. At the lower end of the distribution, the Ways and Means Democratic alternative would offer a small decrease—1.6 percent—in the tax burden of those least able to afford a decrease in their aftertax incomes: The October summit would have families with under $10,000 incomes give up an additional 7.6 percent of their already meager incomes. The summit would require the wealthiest, that is, incomes over $200,000, to give up only 1.7 percent of their more than adequate and generous incomes, while the Democratic alternative would ask for a progressivity-restoring 7.4 percent.

I would also like to point out that the proposal does not actually increase the maximum effective rate—it is already at 33 percent; it simply extends the coverage of this rate to the wealthiest taxpayers by bursting the anomalous bubble. Changing the rate structure still will keep the maximum rates considerably below the 50-percent rate which was in effect as recently as 1986 and dramatically below the 70-percent rate which was in effect until 1980.

Mr. Chairman, I do not need to stress the importance of deficit reduction. Reducing the deficit will allow the economy to grow, free future generations of an onerous burden, and restore rationality to the budget process. We have waited too long to enact a budget, we must get on with the work our constituents sent us here to do. I urge my colleagues on both sides of the aisle to support the amended proposal, now. It is consistent with the President's deficit reduction goals, moves us toward a budget for the entire Government before Friday at midnight and represents a workable, doable, and realistic way to restore faith in the American democracy.

Mr. RANGEL. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 473]

ANSWERED "PRESENT"—404

Ackerman	Durbin	Kennelly
Alexander	Dwyer	Kildee
Anderson	Dymally	Kolbe
Andrews	Dyson	Kolter
Annunzio	Early	Kostmayer
Anthony	Eckart	Kyl
Applegate	Edwards (CA)	LaFalce
Archer	Emerson	Lagomarsino
Armey	Engel	Lancaster
Atkins	English	Lantos
AuCoin	Erdreich	Laughlin
Baker	Espy	Leach (IA)
Ballenger	Evans	Leath (TX)
Barnard	Fascell	Lehman (CA)
Bartlett	Fawell	Lehman (FL)
Barton	Fazio	Lent
Bateman	Feighan	Levin (MI)
Bates	Fields	Levine (CA)
Beilenson	Fish	Lewis (CA)
Bennett	Flake	Lewis (FL)
Bentley	Flippo	Lewis (GA)
Bereuter	Foglietta	Lightfoot
Berman	Ford (MI)	Lipinski
Bevill	Frenzel	Livingston
Bilirakis	Frost	Lloyd
Bliley	Gallegly	Long
Boehlert	Gallo	Lowery (CA)
Boggs	Gaydos	Lowey (NY)
Bonior	Gejdenson	Luken, Thomas
Borski	Gekas	Lukens, Donald
Boucher	Gephardt	Machtley
Boxer	Geren	Madigan
Brooks	Gibbons	Manton
Broomfield	Gillmor	Markey
Browder	Gilman	Marlenee
Brown (CA)	Gingrich	Martin (IL)
Brown (CO)	Glickman	Martin (NY)
Bruce	Gonzalez	Martinez
Bryant	Goodling	Matsui
Buechner	Gordon	Mavroules
Bunning	Goss	Mazzoli
Burton	Gradison	McCandless
Bustamante	Grandy	McCloskey
Byron	Grant	McCollum
Callahan	Green	McCrery
Campbell (CA)	Guarini	McCurdy
Campbell (CO)	Gunderson	McDade
Cardin	Hall (OH)	McDermott
Carper	Hall (TX)	McEwen
Carr	Hamilton	McGrath
Chandler	Hammerschmidt	McHugh
Chapman	Hancock	McMillan (NC)
Clarke	Hansen	McMillen (MD)
Clay	Harris	McNulty
Clement	Hastert	Meyers
Clinger	Hatcher	Mfume
Coble	Hawkins	Michel
Coleman (MO)	Hayes (IL)	Miller (CA)
Coleman (TX)	Hayes (LA)	Miller (OH)
Collins	Hefley	Miller (WA)
Combest	Hefner	Mineta
Condit	Henry	Mink
Conte	Herger	Molinari
Conyers	Hertel	Mollohan
Cooper	Hiler	Montgomery
Costello	Hoagland	Moody
Coughlin	Hochbrueckner	Moorhead
Courter	Holloway	Morella
Cox	Hopkins	Morrison (CT)
Coyne	Horton	Morrison (WA)
Craig	Houghton	Mrazek
Crane	Hoyer	Murtha
Crockett	Hubbard	Nagle
Dannemeyer	Huckaby	Natcher
Darden	Hughes	Neal (MA)
Davis	Hunter	Nelson
de la Garza	Hutto	Nielson
DeFazio	Hyde	Nowak
DeLay	Inhofe	Oakar
Dellums	Ireland	Oberstar
Derrick	Jacobs	Obey
DeWine	James	Olin
Dickinson	Jenkins	Ortiz
Dicks	Johnson (CT)	Owens (NY)
Dingell	Johnson (SD)	Owens (UT)
Dixon	Johnston	Packard
Donnelly	Jones (GA)	Pallone
Dorgan (ND)	Jones (NC)	Panetta
Dornan (CA)	Jontz	Parker
Douglas	Kanjorski	Parris
Downey	Kaptur	Pashayan
Dreier	Kasich	Patterson
Duncan	Kennedy	Paxon
Payne (NJ)	Saxton	Sundquist
Payne (VA)	Schaefer	Swift
Pease	Scheuer	Synar
Pelosi	Schiff	Tallon
Penny	Schneider	Tanner
Perkins	Schroeder	Tauke
Petri	Schuette	Tauzin
Pickett	Schulze	Taylor
Pickle	Schumer	Thomas (GA)
Porter	Sensenbrenner	Thomas (WY)
Poshard	Serrano	Torres
Price	Shaw	Torricelli
Pursell	Shays	Towns
Quillen	Shumway	Traficant
Rahall	Sikorski	Unsoeld
Rangel	Sisisky	Upton
Ravenel	Skaggs	Valentine
Ray	Skeen	Vander Jagt
Regula	Skelton	Vento
Rhodes	Slattery	Visclosky
Richardson	Slaughter (NY)	Volkmer
Ridge	Slaughter (VA)	Vucanovich
Rinaldo	Smith (FL)	Walgren
Ritter	Smith (IA)	Walker
Roberts	Smith (NE)	Walsh
Robinson	Smith (NJ)	Watkins
Roe	Smith (TX)	Weber
Rogers	Smith (VT)	Weldon
Rohrabacher	Smith, Denny (OR)	Wheat
Ros-Lehtinen	Smith, Robert (NH)	Whittaker
Rose	Snowe	Whitten
Rostenkowski	Solomon	Williams
Roth	Spence	Wilson
Roukema	Spratt	Wolf
Rowland (GA)	Staggers	Wolpe
Roybal	Stallings	Wyden
Russo	Stearns	Wylie
Sabo	Stenholm	Yates
Saiki	Stokes	Yatron
Sangmeister	Studds	Young (AK)
Sarpalius	Stump	Young (FL)
Savage		
Sawyer		

□ 1900

The CHAIRMAN. Four hundred four Members have answered to their names, a quorum is present, and the Committee will resume its business.

□ 1910

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri [Mr. GEPHARDT], the distinguished majority leader.

Mr. GEPHARDT. Mr. Chairman, I think today is a very important day and I think this vote is a very important vote. This is a vote on which we can begin to turn the corner on the deficit problem that has bedeviled our country in the last 10 years, and especially in the last 12 months. It is a day when we can begin to rebuild the trust of the American people that we as an institution, as Representatives, have the ability to address this problem head-on and do something about it that is solid, do something about it that is fair, do something about it that is right.

The change began 5 months ago when our President said that we needed a budget summit. I admire what he said. It took courage.

He said the problem cannot be solved by inaction.

He said we need an agreement that will erase this problem for 5 years to come, and he said that we need to work together to get rid of the problem. We are not going to grow our way out of it. It is not going to evaporate because of some supply side theory.

We have got to get together to do something about it.

Then in July, he said there have to be spending cuts, tax revenue increases, growth initiatives, and enforcement measures to make it stick. That was hard for the President to do. He had to go back on his "read my lips" statement at the Republican Convention, but he did, I am sure, because he believed it was the right thing for the country to do.

The bipartisan leadership, Republican and Democrat, said, "We agree. We ought to do all of those things to solve the deficit problem."

So the question tonight is not whether we need a plan of $500 billion, not whether there will be spending cuts and revenue increases. The question is, who will pay?

I was at home over the weekend. People were angry about the budget summit deal. One man came up to me and he said, "Here we go again. We in the middle class pay and the rich play."

Another woman came up to me and she said, "You know, we are going to have to pay the beer tax and the cigarette tax and the gasoline tax, and you are here to tell me that people who earn $200,000 a year aren't going to have a larger increase in their taxes?"

You bet people are angry. The middle class is angry, and it is not envy. It is not class warfare. In this great country, everybody has always believed that if you work hard you can get ahead, but they have also believed that everybody has got to pay their fair share.

Jack Kennedy said it right when he said, "To those to whom much is given, much is expected." The American people believe that, and the plan that Chairman ROSTENKOWSKI has given us enacts that. It says that people at the top should have the highest rate. Does that not make sense? Is that not just common sense, that people at the top should have the highest rate?

His plan says that millionaires, people who have a million dollars in taxable income after the itemized deductions are taken out and after all the adjustments, should have a 10-percent surtax. That just adds another 2½ percent to their overall rate. I think it makes sense.

So tonight, Mr. Chairman and ladies and gentlemen, we have a chance to do what is right, to do a $500 billion package, to make it a fair package that asks everybody in proportion to what they made to pay what they can and should pay.

I had a friend of mine call me the other day, in fact yesterday, one of the wealthiest people in the country. You would all know his name. He said, "DICK, I am embarrassed that you are not asking me and those like me to pay my fair share. I am ready to do it."

The Rostenkowski plan asks him to do it. He should be asked to do it, and I ask for your vote tonight for what is right and fair and solid and will put this country in the right direction.

Mr. ARCHER. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan [Mr. VANDER JAGT].

Mr. VANDER JAGT. Mr. Chairman, there is an old Biblical saying that "by their stripes you shall know them."

Well, by their budget reconciliation packages, you really get to know them. The Democrat package returns Democrats to your roots of tax and spend, with which you are comfortable.

Our Republican package returns all of us to our roots, $400 billion in deficit reduction with no new taxes. That is so appealing that the Democrat majority did not even dare let us bring it to the floor for a vote. It contains real budget reform, and there is not a person in this Chamber who looks at this mess who does not know that we need real budget reform.

By tougher enforcement through not having the Rules Committee waive the Budget Act or enhance rescission authority, we make sure that the spending cut promises are kept for the first time.

It is very interesting to note that in the 58 times the Rules Committee this year has waived the budget to increase taxes, they could not waive it once for a tax reduction.

Spending too much is what got us into the mess we are in, not insufficient tax revenues. During the decade of the 1980's, taxes paid by the American people more than doubled. Dollars spent by a Democrat Congress went up even faster than that. Except for defense, a Democrat Congress has never met a spending program it did not like.

And so a $400 billion deficit reduction program that is enforceable does you a heck of a lot more good than a $500 billion program that is not enforceable and never has been.

I congratulate you, though, for putting the label of tax on your tax-and-spend proposal, but not for creating the illusion that you can pay for your spending programs through soaking the rich.

Oh, you put a 10-percent surtax on millionaires that picks up about $1 billion a year. That is just petty cash for the big spenders over there. And as a matter of fact, the rich are paying far more in taxes and a far bigger percentage of the total tax pie than they were 10 years ago, and that is a statistical fact.

And so, the soak-the-rich is just kind of a demagogic smokescreen for the Democrats to reach their hand through and pick the pockets of middle America because that is where the money is, because there are so many more of them.

The freeze on the personal exemptions and the brackets is an income-tax increase for every American. A family of four earning $34,000, it is a 6-percent increase; for a single person earning $21,000, it is a 5-percent increase; $36 billion in income-tax increases.

And if the freeze is permanent instead of temporary—and I do not doubt but what it is going to be—and there is a little more inflation, it is a $200 billion tax wallop to the midsection of middle America by the Democrats, and the rich do not pay a penny of that because their exemptions and brackets have been phased out a long time before that.

Oh, yes, there are some corporations, say an Anheuser Busch, that has reluctantly acquiesced in a beer tax hike. Why shouldn't they? It is no skin off their back. They do not pay it; Joe Sixpack does.

And you would be interested to know that the revenues paid by corporate America are about $40 billion less a year than the revenue projections of tax reform. Individuals are paying about $40 billion more a year.

Now, if you just cannot resist raising taxes, why do you let corporate America walk away scot free and dump the load on middle America that is already paying more than its fair share?

And, boy, I congratulate you on the way you really socked it to that rich guy who wants to buy a yacht. He is going to have to resist trading up and stick with the poor little boat he has got and the only loser will be the guy who builds the boats.

I wish your compassion for the unemployed were strong enough to worry about preventing him from becoming unemployed in the first place. I am convinced that there are members of your caucus who would much rather not have a rising tide lift hundreds of rowboats if it would lift the yacht or two in the process.

Fortunately, the 1980's showed us there is a better way than taxing and spending.

More than 20 million new jobs through growth, opportunity and people working for themselves and not for the Government made America the economic envy of the world.

Recently, a Communist city councilman of Leningrad said, "What we got to do is move away from Marxism, from Leninism, through socialism and get to Reaganomics as fast as we can."

The whole world, the whole world is rushing toward the philosophy of less government and lower taxes and only House Democrats are rushing in the opposite direction.

Taxing and spending has been good for you for winning elections, but it

has been a bummer for the American people and wherever it has been tried.

Now, not before this House, because of your rules, but before America there are two starkly contrasting budgets that move America in opposite directions.

The wind is blowing hard on our ship of state from the Persian Gulf and the S&L crisis and a sluggish economy.

There is a poem that says, "One ship sails east and another west with the self-same winds that blow. 'Tis the set of the sail and not the gale that determines which way we go."

Tonight House Democrats are setting the sail of our ship of state that will determine the way we go for the next 5 years without even a vote on going the other way.

And on November 6, the American people, in a referendum, will decide which way they would have liked to go.

Do they want to go the Democratic way of tax and spend and bigger government of Jimmy Carter, Walter Mondale, and Mike Dukakis, or the Republican way of a little less spending and a lot more incentive and freedom and opportunity for all people?

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself the remaining time.

The CHAIRMAN. The gentleman from Illinois [Mr. ROSTENKOWSKI] will now close out the debate. The gentleman has 8 minutes remaining.

Mr. ROSTENKOWSKI. Mr. Chairman, it is with great pleasure that I rise in strong support of the Ways and Means Democratic alternative. In the months and years that I have been campaigning to increase revenues as part of a serious deficit reduction plan, I have stressed the need for tough decisions that would inevitably be painful for everyone concerned.

And I have acknowledged that our political system has always been very reticent about embracing policies that will impose new burdens on our constituents. Unfortunately, too many of us have believed the pollsters' warning that higher taxes are the political kiss of death. Today, we finally have an opportunity to shatter that myth and be honest with the American people—and with ourselves.

We have a chance to escape from the budget swamp and move forward.

When I unveiled the Rostenkowski challenge in March of this year, I suggested that a $500 billion deficit reduction over 5 years was an appropriate goal. Today, to both my delight and surprise, we are on the verge of achieving that goal. Today's debate is about who will pay.

When I first put forth my plan, I emphasized the need for shared sacrifice. Fairness demands that everyone who can afford to make a contribution to deficit reduction be required to do so. The wealthy, who have more, should appropriately be asked to contribute more. These time-honored principles are contained in the amendment we are presenting today.

When I outlined my priorities last March, I stressed the need to protect the structure of our tax system and avoid making any specific group a target. I warned that it would be wrong to ask specific geographic areas to be the designated scapegoats in this debate. The plan we are now debating has a national impact.

It is both credible and responsible—fully achieving the $194 billion in deficit reduction that the Committee on Ways and Means was assigned. Achieving this goal was not easy. Achieving it in a fair fashion was a major challenge. But we have met that challenge.

Last March, I suggested a reversal of the political philosophy that drove too many of our decisions during the 1980's. We borrowed excessively to finance the Government and decided to let our children pay the bills later. Our legacy to the next generation is nothing less than a multibillion-dollar IOU.

What we are doing today is getting our house in order, putting ourselves in a position where we can invest in the future rather than fighting over how to pay for the past. Our vote today is an important first step toward reordering our priorities.

I participated in the budget summit earlier this year and view it as a partial success. It set credible goals, but achieved them with such harsh policy choices that this House could not accept them. Clearly, equity was a major victim of the summit agreement. It simply asked low- and middle-income taxpayers—and Medicare beneficiaries—to pay too much.

Today, equity and fairness make a comeback. And regular order makes a comeback as well. For when we embrace this Democratic alternative, we are telling the Nation that we are again ready, however belatedly, to govern—responsibly and fairly.

We are saying to the millions of Americans who hold their Government in disrepute that we hear them, that we are ready to do our job as their elected representatives.

At last, we will reclaim our right—and responsibility—to govern. We will provide the honesty that our constituents expect and demand of us.

As both policy and procedure, the Democratic alternative stands head and shoulders above any other option. It reduces the deficit, but does so in a way that is fair, particularly to middle-income Americans.

I reluctantly supported the budget summit agreement. But I enthusiastically back this proposal. It is better in so many ways.

It eliminates the 2-week waiting period for unemployment benefits. Our need to balance the budget does not give us the right to pick on people who are already down.

Our alternative reduces the added burden on Medicare beneficiaries by $17 billion, so that they are not asked to carry an unfair share of the load.

It eliminates the gasoline and petroleum tax increases that would have been onerous to those Americans who depend on their automobiles and heat their homes with oil.

It drops the proposed limits on itemized deductions that would have imposed restrictions on millions of Americans in some States, while having no impact on those who live elsewhere.

And it provides new incentives for middle-income Americans that will encourage savings and investment.

Our alternative accomplishes all this while also making our tax system more progressive. We have returned to a basic principle of tax fairness—that people should be taxed according to their ability to pay. Simply stated, that means that high-income people should pay more than low-income people do.

Let us be absolutely clear about what has occurred. During the last decade, incomes of the rich and famous soared while those of low- and middle-income people stagnated. Government policy encouraged this trend rather than correcting it. That is not my idea of the appropriate role for a government that is supposed to serve all the people.

In developing the Democratic alternative, we have again proven that it is possible to do well while doing good. Our plan represents good policy—and good policy is good politics.

Our alternative is bold, but it is fair enough to win broad public acceptance. That is why it is so popular with the American people. And that is why it deserves support from all of us—on both sides of the aisle.

I got into politics nearly four decades ago because I wanted to help create a better America for my constituents and for the next generation. I believe that a responsible Government can be a strong positive force in our society.

Passing this amendment sends a clear message. It says that Government will be a positive force for responsible budgeting and fair taxation.

It says that we can reduce the deficit, increase fairness, and restore confidence in the international financial community.

It says that our children will inherit something more than the enormous debts of the current generation.

Approval of our alternative will be a proud moment for this House. We will be able to look the American people squarely in the eye and say that we have governed responsibly and fairly.

And to each other we can at long last say that we have done our jobs.

I urge all my colleagues to give strong support to the Democratic alternative.

□ 1930

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Illinois [Mr. ROSTENKOWSKI].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ARCHER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 238, noes 192, not voting 3, as follows:

[Roll No. 474]

AYES—238

Ackerman	Fazio	Mazzoli
Alexander	Feighan	McCloskey
Anderson	Fish	McCurdy
Andrews	Flake	McDermott
Anthony	Flippo	McGrath
Aspin	Foglietta	McHugh
Atkins	Ford (MI)	McMillen (MD)
AuCoin	Ford (TN)	McNulty
Bates	Frank	Mfume
Beilenson	Frost	Miller (CA)
Bennett	Gejdenson	Mineta
Berman	Gephardt	Mink
Bevill	Gibbons	Moakley
Boehlert	Glickman	Molinari
Boggs	Gonzalez	Mollohan
Bonior	Gordon	Montgomery
Borski	Gray	Moody
Boucher	Guarini	Morella
Boxer	Hall (OH)	Morrison (CT)
Brooks	Hamilton	Mrazek
Browder	Harris	Murphy
Brown (CA)	Hatcher	Murtha
Bruce	Hawkins	Nagle
Bryant	Hayes (IL)	Natcher
Bustamante	Hefner	Neal (MA)
Byron	Hertel	Neal (NC)
Cardin	Hoagland	Nelson
Carper	Hochbrueckner	Nowak
Carr	Horton	Oakar
Chapman	Hoyer	Oberstar
Clarke	Huckaby	Obey
Clay	Hughes	Olin
Clement	Hutto	Ortiz
Coleman (TX)	Jacobs	Owens (NY)
Collins	Jenkins	Owens (UT)
Conte	Johnson (SD)	Panetta
Conyers	Johnston	Parker
Cooper	Jones (NC)	Payne (NJ)
Costello	Jontz	Payne (VA)
Coyne	Kanjorski	Pease
Crockett	Kaptur	Pelosi
Darden	Kastenmeier	Penny
Davis	Kennedy	Perkins
de la Garza	Kennelly	Pickett
DeFazio	Kildee	Pickle
Dellums	Kleczka	Poshard
Derrick	Kostmayer	Price
Dicks	LaFalce	Rahall
Dingell	Lancaster	Rangel
Dixon	Lantos	Ray
Donnelly	Leach (IA)	Richardson
Dorgan (ND)	Lehman (CA)	Roe
Downey	Lehman (FL)	Rose
Durbin	Levin (MI)	Rostenkowski
Dwyer	Levine (CA)	Rowland (GA)
Dymally	Lewis (GA)	Roybal
Early	Lipinski	Russo
Eckart	Lloyd	Sabo
Edwards (CA)	Lowey (NY)	Sawyer
Engel	Luken, Thomas	Scheuer
English	Manton	Schroeder
Erdreich	Markey	Schumer
Espy	Martinez	Serrano
Evans	Matsui	Sharp
Fascell	Mavroules	Sikorski
Sisisky	Swift	Walgren
Skaggs	Synar	Washington
Skelton	Tallon	Watkins
Slattery	Tanner	Waxman
Slaughter (NY)	Thomas (GA)	Weiss
Smith (FL)	Torres	Wheat
Smith (IA)	Torricelli	Whitten
Smith (VT)	Towns	Williams
Solarz	Traxler	Wilson
Spratt	Udall	Wise
Staggers	Unsoeld	Wolpe
Stark	Valentine	Wyden
Stenholm	Vento	Yates
Stokes	Visclosky	
Studds	Volkmer	

NOES—192

Annunzio	Hammerschmidt	Ravenel
Applegate	Hancock	Regula
Archer	Hansen	Rhodes
Armey	Hastert	Ridge
Baker	Hayes (LA)	Rinaldo
Ballenger	Hefley	Ritter
Barnard	Henry	Roberts
Bartlett	Herger	Robinson
Barton	Hiler	Rogers
Bateman	Holloway	Rohrabacher
Bentley	Hopkins	Ros-Lehtinen
Bereuter	Houghton	Roth
Bilbray	Hubbard	Roukema
Bilirakis	Hunter	Saiki
Bliley	Hyde	Sangmeister
Bosco	Inhofe	Sarpalius
Broomfield	Ireland	Savage
Brown (CO)	James	Saxton
Buechner	Johnson (CT)	Schaefer
Bunning	Jones (GA)	Schiff
Burton	Kasich	Schneider
Callahan	Kolbe	Schuette
Campbell (CA)	Kolter	Schulze
Campbell (CO)	Kyl	Sensenbrenner
Chandler	Lagomarsino	Shaw
Clinger	Laughlin	Shays
Coble	Leath (TX)	Shumway
Coleman (MO)	Lent	Shuster
Combest	Lewis (CA)	Skeen
Condit	Lewis (FL)	Slaughter (VA)
Coughlin	Lightfoot	Smith (NE)
Courter	Livingston	Smith (NJ)
Cox	Long	Smith (TX)
Craig	Lowery (CA)	Smith, Denny (OR)
Crane	Lukens, Donald	Smith, Robert (NH)
Dannemeyer	Machtley	Smith, Robert (OR)
DeLay	Madigan	Snowe
DeWine	Marlenee	Solomon
Dickinson	Martin (IL)	Spence
Dornan (CA)	Martin (NY)	Stallings
Douglas	McCandless	Stangeland
Dreier	McCollum	Stearns
Duncan	McCrery	Stump
Dyson	McDade	Sundquist
Edwards (OK)	McEwen	Tauke
Emerson	McMillan (NC)	Tauzin
Fawell	Meyers	Taylor
Fields	Michel	Thomas (WY)
Frenzel	Miller (OH)	Traficant
Gallegly	Miller (WA)	Upton
Gallo	Moorhead	Vander Jagt
Gaydos	Morrison (WA)	Vucanovich
Gekas	Myers	Walker
Geren	Nielson	Walsh
Gillmor	Oxley	Weber
Gilman	Packard	Weldon
Gingrich	Pallone	Whittaker
Goodling	Parris	Wolf
Goss	Pashayan	Wylie
Gradison	Patterson	Yatron
Grandy	Paxon	Young (AK)
Grant	Petri	Young (FL)
Green	Porter	
Gunderson	Pursell	
Hall (TX)	Quillen	

NOT VOTING—3

Brennan	Rowland (CT)	Thomas (CA)

□ 1956

So the amendments en bloc were agreed to.

The result of the vote was announced as above recorded.

□ 2000

The CHAIRMAN. It is now in order to consider the amendments en bloc offered by the gentleman from California [Mr. PANETTA].

AMENDMENTS EN BLOC OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. PANETTA: Strike the following provisions of the bill (and redesignate accordingly):

Subtitle D of title I.
Subtitle E of title II.
Section 3008 of title III.
Section 3101, 3102(a), and 3111 of title III.
Paragraphs (5) through (11) of section 3201(a).
Subtitle D of title III.
Subtitle E of title III.
Section 4521 of title IV.
Subtitle E of title V.
Subtitle F of title V.
Section 7104 of title VII.
Section 7105 of title VII.
Section 7106 of title VII.
Subtitle C of title VII.
Subtitle A, section 9121, 9122, and 9123 of subtitle B, subtitles D and E, and section 9502 of subtitle F of title IX.
Subtitle F of title XII.
Sections 13322(b) and 13326 of title XIII.

Section 9501(b) of title IX is amended by inserting after paragraph (2) the following:

Fees and charges assessed pursuant to this section shall be in addition to any other fees and charges the Environmental Protection Agency collects but for the enactment of this section.

Title IX is amended by inserting before subtitle B the following:

Subtitle A—Sense Of The House Of Representatives

SEC. 9001. SENSE OF THE HOUSE OF REPRESENTATIVES.

It is the sense of the House of Representatives that, if any Senate amendment to H.R. 5835 provides for any increase in motor fuel excise taxes or aviation taxes that would be deposited in the Highway Trust Fund or Aviation Trust Fund, respectively, then the managers on the part of the House for the conference on the reconciliation bill should consider provisions which ensure that an amount equal to the estimated tax payments from any such increases enacted shall be made available in the fiscal year collected for highway and aviation purposes, respectively. Such provisions may include provisions similar to those included in the reconciliation submission of the Committee on Public Works and Transportation, dated October 12, 1990, to the Committee on the Budget.

At the end of the table of contents of title XII, add the following:

SUBTITLE H—HUMAN RESOURCE AMENDMENTS

Sec. 12701. Short title; amendment of Social Security Act.

PART 1—CHILD SUPPORT ENFORCEMENT

Sec. 12711. Extension of IRS intercept for non-AFDC families.
Sec. 12712. Extension of Commission on Interstate Child Support.

PART 2—UNEMPLOYMENT COMPENSATION
Sec. 12721. "Reed Act" provisions made permanent.
Sec. 12722. Prohibition against collateral estoppel.
PART 3—SUPPLEMENTAL SECURITY INCOME
Sec. 12731. Exclusion from income and resources of victims' compensation payments.
Sec. 12732. Attainment of age 65 not to serve as basis for termination of eligibility under section 1619(b).
Sec. 12733. Exclusion from income of impairment-related work expenses.
Sec. 12734. Treatment of royalties and honoraria as earned income.
Sec. 12735. Certain State relocation and assistance excluded from SSI income and resources.
Sec. 12736. Evaluation of child's disability by pediatrician or other qualified specialist.
Sec. 12737. Reimbursement for vocational rehabilitation services furnished during certain months of nonpayment of supplemental security income benefits.
PART 4—AID TO FAMILIES WITH DEPENDENT CHILDREN
Sec. 12741. Optional monthyly reporting and retrospective budgeting.
Sec. 12742. Children receiving foster care maintenance payments or adoption assistance payments not treated as member of family unit for purposes of determining eligibility for, or amount of, AFDC benefit.
Sec. 12743. Elimination of term "legal guardian".
Sec. 12744. Reporting of child abuse and neglect.
Sec. 12745. Disclosure of information about AFDC applicants and recipients authorized for purposes directly connected to State foster care and adoption assistance programs.
Sec. 12746. Repatriation.
Sec. 12747. Technical amendments to National Commission on Children.
PART 5—CHILD WELFARE AND FOSTER CARE
Sec. 12751. Accounting for administrative costs.
Sec. 12752. Section 427 triennial reviews.
Sec. 12753. Extension of services under the independent living program.
SUBTITLE I—OLD-AGE, SURVIVORS, AND DISABLITY INSURANCE
Sec. 12801. Continuation of disability benefits during appeal.
Sec. 12802. Repeal of special disability standard for widows and widowers.
Sec. 12803. Dependency requirements applicable to a child adopted by a surviving spouse.
Sec. 12804. Entitlement to benefits of deemed spouse and legal spouse.
Sec. 12805. Representative payee reforms.
Sec. 12806. Fees for representation of claimants in administrative proceedings.
Sec. 12807. Notice requirements.
Sec. 12808. Applicability of administrative res judicata; related notice requirements.
Sec. 12809. Telephone access to the Social Security Administration.
Sec. 12810. Vocational rehabilitation demonstration projects.
Sec. 12811. Exemption of certain aliens, receiving amnesty under the Immigration and Nationality Act, from prosecution for misreporting of earnings or misuse of social security account numbers of social security cards.
Sec. 12812. Reduction of amount of wages needed to earn a year of coverage applicable in determining special minimum primary insurance amount.
Sec. 12813. Elimination of eligibility for retroactive benefits for certain individuals eligible for reduced benefits.
Sec. 12814. Charging of earnings of corporate directors.
Sec. 12815. Collection of employee social security and railroad retirement taxes on taxable group-term life insurance provided to retirees.
Sec. 12816. Consolidation of old methods of computing primary insurance amounts.
Sec. 12817. Suspension of dependent's benefits when the worker is in an extended period of eligibility.
Sec. 12818. Tier 1 railroad retirement tax rates explicitly determined by reference to social security taxes.
Sec. 12819. Transfer to railroad retirement account.
Sec. 12820. Miscellaneous technical corrections.
SUBTITLE J—MISCELLANEOUS AND TECHNICAL AMENDMENTS RELATING TO THE MEDICARE PROGRAM
PART 1—NO COST PROVISIONS
Sec. 12901. Patient self-determination.
Sec. 12902. Miscellaneous and technical provisions relating to part A.
Sec. 12903. Miscellaneous and technical provisions relating to part B.
Sec. 12904. Provisions relating to health maintenance organizations.
Sec. 12905. Standards for medicare supplemental insurance.
Sec. 12906. Prevention of unnecessary prescribing of controlled substances.
Sec. 12907. Miscellaneous and technical provisions relating to part A and part B.
PART 2—MEDICARE INITIATIVES
Sec. 12911. PPS-exempt hospital adjustment.
Sec. 12912. Hospital physician education recoupment.
Sec. 12913. University-affiliated nursing education programs.
Sec. 12914. Community health centers and rural health clinics.
Sec. 12915. Payment for crnas.
Sec. 12916. Partial hospitalization services in community mental health centers.
Sec. 12917. Rural blood laboratories.
Sec. 12918. Psychology services for inpatients.
Sec. 12919. End stage renal disease rates.
Sec. 12920. Self-administration of erythropoietin (epo).
Sec. 12921. Part A premium.
Sec. 12922. Radiology services.
Sec. 12923. Expansion of hospice benefit.
Sec. 12924. Coverage of screening mammography.
PART 3—MEDICARE PROGRAM COST REDUCTIONS
Sec. 12931. Reduction in payments for physicians' services.
Sec. 12932. Interpretation of EKGs.
Sec. 12933. Coverage for seatlifts.
Sec. 12934. Reduction in payments for TENS devices.

At the end of title XII, add the following:

Subtitle H—Human Resource Amendments

SEC. 12701. SHORT TITLE; AMENDMENT OF SOCIAL SECURITY ACT.

(a) SHORT TITLE.—This subtitle may be cited as the "Human Resource Amendments of 1990".

(b) AMENDMENT OF SOCIAL SECURITY ACT.—Except as otherwise expressly provided, wherever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

PART 1—CHILD SUPPORT ENFORCEMENT

SEC. 12711. EXTENSION OF IRS INTERCEPT FOR NON-AFDC FAMILIES.

(a) AUTHORITY OF STATES TO REQUEST WITHHOLDING OF FEDERAL TAX REFUNDS FROM PERSONS OWING PAST DUE CHILD SUPPORT.—Section 464(a)(2)(B) (42 U.S.C. 664(a)(2)(B)) is amended by striking "January 1, 1991" and inserting "January 10, 1996".

(b) WITHHOLDING OF FEDERAL TAX REFUNDS AND COLLECTION OF PAST DUE CHILD SUPPORT ON BEHALF OF DISABLED CHILD OF ANY AGE, AND OF SPOUSAL SUPPORT INCLUDED IN ANY CHILD SUPPORT ORDER.—Section 464(c) (42 U.S.C. 664(c)) is amended—

(1) in paragraph (2), by striking "minor child." and inserting "qualified child (or a qualified child and the parent with whom the child is living if the same support order includes support for the child and the parent).";" and

(2) by adding at the end the following:

"(3) For purposes of paragraph (2), the term 'qualified child' means a child—

"(A) who is a minor; or

"(B)(i) who, while a minor, was determined to be disabled under title II or XVI; and

"(ii) for whom an order of support is in force.".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall take effect on January 1, 1991.

SEC. 12712. EXTENSION OF COMMISSION ON INTERSTATE CHILD SUPPORT.

(a) REAUTHORIZATION.—Section 126 of the Family Support Act of 1988 (42 U.S.C. 666 note) is amended—

(1) in subsection (d)—

(A) in paragraph (1), by striking "1990" and inserting "1991"; and

(B) in paragraph (2), by striking "1991" and inserting "1992";

(2) in subsection (e), by adding at the end the following:

"(5)(A) Individuals may be appointed to serve the Commission without regard to the provisions of title 5 that govern appointments in the competitive service, without regard to the competitive service, and without regard to the classification system in chapter 53 of title 5, United States Code. The chairman of the Commission may fix the compensation of the Executive Director at a rate that shall not exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

"(B) The Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(C) On the request of the chairman, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section without regard to section 3341 of title 5, United States Code."; and

(3) in subsection (f)(1), by striking "1991" and inserting "1992".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

PART 2—UNEMPLOYMENT COMPENSATION

SEC. 12721. AMOUNTS TRANSFERRED TO STATE UNEMPLOYMENT COMPENSATION PROGRAM ACCOUNTS.

(a) ALLOCATION OF AMOUNTS.—Paragraph (2) of section 903(a) (42 U.S.C. 1103(a)(2)) is amended to read as follows:

"(2) Each State's share of the funds to be transferred under this subsection as of any October 1—

"(A) shall be determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury before such date, and

"(B) shall bear the same ratio to the total amount to be so transferred as—

"(i) the amount of wages subject to tax under section 3301 of the Internal Revenue Code of 1986 during the preceding calendar year which are determined by the Secretary of Labor to be attributable to the State, bears to

"(ii) the total amount of wages subject to such tax during such year."

(b) USE OF TRANSFERRED AMOUNTS.—Paragraph (2) of section 903(c) (42 U.S.C. 1103(c)(2)) is amended—

(1) by striking "and" at the end of subparagraph (C), and

(2) by striking so much of such paragraph as follows subparagraph (C) and inserting the following:

"(D)(i) the appropriation law limits the total amount which may be obligated under such appropriation at any time to an amount which does not exceed, at any such time, the amount by which—

"(I) the aggregate of the amounts transferred to the account of such State pursuant to subsections (a) and (b), exceeds

"(II) the aggregate of the amounts used by the State pursuant to this subsection and charged against the amounts transferred to the account of such State, and

"(ii) for purposes of clause (i), amounts used by a State for administration shall be chargeable against transferred amounts at the exact time the obligation is entered into, and

"(E) the use of the money is accounted for in accordance with standards established by the Secretary of Labor."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning after the date of the enactment of this Act.

SEC. 12722. PROHIBITION AGAINST COLLATERAL ESTOPPEL.

(a) IN GENERAL.—Section 3304(a) of the Internal Revenue Code of 1986 is amended—

(1) by striking out "and" at the end of paragraph (17);

(2) by redesignating paragraph (18) as paragraph (19); and

(3) by inserting after paragraph (17) the following new paragraph:

"(18) no finding of fact or law, judgment, conclusion, or final order made with respect to a claim for unemployment compensation benefits pursuant to the State's unemployment compensation law may be conclusive or binding or used as evidence in any separate or subsequent action or proceeding in another forum, except proceedings under the State's unemployment compensation law, regardless of whether the prior action was between the same or related parties or involved the same facts."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on October 1, 1991.

(2) SPECIAL RULE.—In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not successive) between the date of the enactment of this Act and October 1, 1991, such amendments shall take effect 30 calendar days after the first day on which such legislature is in session on or after October 1, 1991.

PART 3—SUPPLEMENTAL SECURITY INCOME

SEC. 12731. EXCLUSION FROM INCOME AND RESOURCES OF VICTIMS' COMPENSATION PAYMENTS.

(a) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(1) by striking "and" at the end of paragraph (15);

(2) by striking the period at the end of paragraph (16) and inserting "; and"; and

(3) by adding at the end the following:

"(17) any amount received from a fund established by a State to aid victims of crime.".

(b) EXCLUSION FROM RESOURCES.—Section 1613(a) (42 U.S.C. 1382b(a)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and"; and

(3) by adding at the end the following:

"(9)(A) any amount received from a fund established by a State to aid victims of crime, to the extent that the recipient demonstrates that such amount was paid as compensation for expenses incurred or losses suffered as a result of a crime; and

"(B) any amount received from a fund described in subparagraph (A) that is not excluded by reason of subparagraph (A) and is unexpended, for the 9-month period beginning after the month in which received.".

(c) VICTIMS COMPENSATION AWARD NOT REQUIRED TO BE ACCEPTED AS CONDITION OF RECEIVING BENEFITS.—Section 1631(a) (42 U.S.C. 1383(a)) is amended by adding at the end the following:

"(9) Benefits under this title shall not be denied to any individual solely by reason of the refusal of the individual to accept an amount offered as compensation for a crime of which the individual was a victim.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect for months beginning 6 or more months after the date of the enactment of this Act.

SEC. 12732. ATTAINMENT OF AGE 65 NOT TO SERVE AS BASIS FOR TERMINATION OF ELIGIBILITY UNDER SECTION 1619(b).

(a) IN GENERAL.—Section 1619(b) (42 U.S.C. 1392h(b)) is amended by striking "under age 65".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to benefits payable for months beginning 6 or more months after the date of the enactment of this Act.

SEC. 12733. EXCLUSION FROM INCOME OF IMPAIRMENT-RELATED WORK EXPENSES.

(a) IN GENERAL.—Section 1612(b)(4)(B)(ii) (42 U.S.C. 1382a(b)(4)(B)(ii)) is amended by striking "(for purposes of determining the amount of his or her benefits under this title and of determining his or her eligibility for such benefits for consecutive months of eligibility after the initial month of such eligibility)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to benefits payable for calendar months beginning after the date of the enactment of this Act.

SEC. 12734. TREATMENT OF ROYALTIES AND HONORARIA AS EARNED INCOME.

(a) IN GENERAL.—Section 1612(a) (42 U.S.C. 1382a(a)) is amended—

(1) in paragraph (1)—

(A) by striking "and" at the end of subparagraph (C); and

(B) by adding at the end the following:

"(E) any royalty earned from self-employment in a trade or business, or by an individual in connection with any publication of the work of the individual, and that portion of any honorarium which is received for services rendered; and"; and

(2) in paragraph (2)(F), by inserting "not described in paragraph (1)(E)" before the period.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for calendar months beginning 17 or more months after the date of the enactment of this Act.

SEC. 12735. CERTAIN STATE RELOCATION ASSISTANCE EXCLUDED FROM SSI INCOME AND RESOURCES.

(a) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C. 1382a(b)), as amended by section 12731(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting a semicolon; and

(3) by inserting after paragraph (17) the following:

"(18) relocation assistance provided by a State or local government to such individual (or such spouse), comparable to assistance provided under title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 which is subject to the treatment required by section 216 of such Act.".

(b) EXCLUSION FROM RESOURCES.—Section 1613(a) (42 U.S.C. 1382b(a)), as amended by section 12731(b) of this Act, is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting a semicolon; and

(3) by inserting after paragraph (8) the following:

"(9) relocation assistance provided by a State or local government to such individual (or such spouse), comparable to assistance provided under title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 which is subject

to the treatment required by section 216 of such Act.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits payable for months beginning 6 or more calendar months after the date of the enactment of this Act.

SEC. 12736. EVALUATION OF CHILD'S DISABILITY BY PEDIATRICIAN OR OTHER QUALIFIED SPECIALIST.

(a) IN GENERAL.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)) is amended by adding at the end the following:

"(H) In making any determination under this title with respect to the disability of a child who has not attained the age of 18 years, the Secretary shall make reasonable efforts to ensure that a qualified pediatrician or other individual who specializes in a field of medicine appropriate to the disability of the child (as determined by the Secretary) evaluates the child.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to determinations made 6 or more months after the date of the enactment of this Act.

SEC. 12737. REIMBURSEMENT FOR VOCATIONAL REHABILITATION SERVICES FURNISHED DURING CERTAIN MONTHS OF NONPAYMENT OF SUPPLEMENTAL SECURITY INCOME BENEFITS.

(a) IN GENERAL.—Section 1615 (42 U.S.C. 1382d) is amended by adding at the end the following:

"(e) The Secretary may reimburse the State agency described in subsection (d) for the costs described therein incurred in the provision of rehabilitation services—

"(1) for any month for which an individual received—

"(A) benefits under section 1611;

"(B) assistance pursuant to section 1619(b); or

"(C) a federally administered State supplementary payment under section 1616; and

"(2) for any month before the 13th consecutive month for which an individual, for a reason other than cessation of disability or blindness, was ineligible for—

"(A) benefits under section 1611;

"(B) federally administered State supplementary payments under any agreement entered into under section 1616(a);

"(C) benefits under section 1619; and

"(D) federally administered State supplementary payments under any agreement entered into under section 212(b) of Public Law 93-66.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to claims for reimbursement pending on or after such date.

PART 4—AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 12741. OPTIONAL MONTHLY REPORTING AND RETROSPECTIVE BUDGETING.

(a) OPTIONAL MONTHLY REPORTING.—Section 402(a)(14) (42 U.S.C. 602(a)(14)) is amended—

(1) by striking "with respect to" and all that follows through "(A) provide" and insert "provide, at the option of the State and with respect to such category or categories as the State may select and identify in its State plan (A)";

(2) by striking "(with the prior approval of the Secretary in recent work history and earned income cases)"; and

(3) by striking "upon a determination" and all that follows through "paragraph".

(b) OPTIONAL RETROSPECTIVE BUDGETING.—Section 402(a)(13) (42 U.S.C. 602(a)(13)) is amended by striking all that precedes subparagraph (A) and inserting the following:

"(13) at the option of the State, but only with respect to any one or more categories of families required to report monthly to the State agency pursuant to paragraph (14), provide that—".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to reports pertaining to, or aid payable for, months beginning in or after October 1990.

SEC. 12742. CHILDREN RECEIVING FOSTER CARE MAINTENANCE OR ADOPTION ASSISTANCE PAYMENTS NOT TREATED AS MEMBER OF FAMILY UNIT FOR PURPOSES OF DETERMINING ELIGIBILITY FOR, OR AMOUNT OF, AFDC BENEFIT.

(a) IN GENERAL.—Part A of title IV (42 U.S.C. 601 et seq.) is amended by inserting after section 408 the following:

"SEC. 409. EXCLUSION FROM AFDC UNIT OF CHILD FOR WHOM FEDERAL, STATE, OR LOCAL FOSTER CARE MAINTENANCE OR ADOPTION ASSISTANCE PAYMENTS ARE MADE.

"Notwithstanding any other provision of this title, a child with respect to whom foster care maintenance payments or adoption assistance payments are made under part E or under State or local law shall not, for the period for which such payments are made, be regarded as a member of a family for purposes of determining the amount of benefits of the family under this part, and the income and resources of such child shall be excluded from the income and resources of a family under this part unless, in the case of a child with respect to whom adoption assistance payments are so made, such exclusion would reduce the benefits of the family under this part.".

(b) CONFORMING REPEAL.—Section 478 (42 U.S.C. 678) is hereby repealed.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and the repeal made by subsection (b) shall take effect on the first day of the 7th calendar month beginning after the date of the enactment of this Act.

SEC. 12743. ELIMINATION OF TERM "LEGAL GUARDIAN".

(a) IN GENERAL.—Section 402(a)(39) (42 U.S.C. 602(a)(39)) is amended—

(1) by striking "or legal guardian"; and

(2) by striking "or legal guardians".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 12744. REPORTING OF CHILD ABUSE AND NEGLECT.

(a) CONCERNING AFDC APPLICANTS AND RECIPIENTS.—

(1) IN GENERAL.—Section 402(a)(16) (42 U.S.C. 602(a)(16)) is amended to read as follows:

"(16) provide that the State agency will—

"(A) report to an appropriate agency or official, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving aid under this part by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is threatened thereby; and

"(B) provide such information with respect to a situation described in subparagraph (A) as the State agency may have;".

(2) CONFORMING AMENDMENTS.—Section 402(a)(9) (42 U.S.C. 602(a)(9)) is amended—

(A) in subparagraph (C), by striking "and"; and

(B) by inserting ", and (E) reporting and providing information pursuant to paragraph (16) to appropriate authorities with respect to known or suspected child abuse or neglect" before the 1st semicolon.

(b) CONCERNING RECIPIENTS OF FOSTER CARE OR ADOPTION ASSISTANCE.—

(1) IN GENERAL.—Section 471(a)(9) (42 U.S.C. 671(a)(9)) is amended to read as follows:

"(9) provides that the State agency will—

"(A) report to an appropriate agency or official, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving aid under part B or this part by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is threatened thereby; and

"(B) provide such information with respect to a situation described in subparagraph (A) as the State agency may have;".

(2) CONFORMING AMENDMENTS.—Section 402(a)(8) (42 U.S.C. 602(a)(8)) is amended—

(A) in subparagraph (C), by striking "and"; and

(B) by inserting ", and (E) reporting and providing information pursuant to paragraph (9) to appropriate authorities with respect to known or suspected child abuse or neglect" before the 1st semicolon.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 12745. DISCLOSURE OF INFORMATION ABOUT AFDC APPLICANTS AND RECIPIENTS AUTHORIZED FOR PURPOSES DIRECTLY CONNECTED TO STATE FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Section 402(a)(9)(A) (42 U.S.C. 602(a)(9)(A)) is amended by striking "or D" and inserting ", D, or E".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 12746. REPATRIATION.

(a) IN GENERAL.—Section 1113 (42 U.S.C. 1313) is amended—

(1) in subsection (d), by striking "on or after October 1, 1989" and inserting "after September 30, 1991"; and

(2) by adding at the end the following:

"(e)(1) The Secretary may accept on behalf of the United States gifts, in cash or in kind, for use in carrying out the program established under this section. Gifts in the form of cash shall be credited to the appropriation account from which this program is funded and shall remain available until expended.

"(2) Gifts accepted under paragraph (1) shall be available for obligation or other use by the United States only to the extent and in the amounts provided in appropriation Acts.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 12747. TECHNICAL AMENDMENTS TO NATIONAL COMMISSION ON CHILDREN.

Section 1139 (42 U.S.C. 1320b-9) is amended—

(1) in subsection (d)—

(A) by striking "March 31, 1991" and inserting "September 1, 1990"; and

(B) by striking "September 30, 1990" and inserting "March 31, 1991"; and

(2) in subsection (e)(4)(B), by striking "September 30, 1990" and inserting "March 31, 1991".

PART 5—CHILD WELFARE AND FOSTER CARE

SEC. 12751. ACCOUNTING FOR ADMINISTRATIVE COSTS.

(a) RECLASSIFICATION.—Section 474(a)(3) (42 U.S.C. 674) is amended by inserting "provision of child placement services and" after "proper and efficient".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 12752. SECTION 427 TRIENNIAL REVIEWS.

(a) AMENDMENTS TO SECTION 10406 OF OBRA 1989.—Section 10406 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 627 note) is amended—

(1) by striking "1991" and inserting "1992";

(2) by striking "1990" and inserting "1991"; and

(3) in the section heading, by striking "1990" and inserting "1991".

(b) CONFORMING AMENDMENT.—The item relating to section 10406 in the table of contents appearing immediately after section 10000 of such Act is amended by striking "1990" and inserting "1991".

SEC. 12753. EXTENSION OF SERVICES UNDER THE INDEPENDENT LIVING PROGRAM.

(a) AUTHORITY OF STATES TO INCREASE MAXIMUM AGE OF PARTICIPANTS IN INDEPENDENT LIVING INITIATIVES PROGRAMS TO NOT MORE THAN 21.—Section 477(a)(2)(C) (42 U.S.C. 677(a)(2)(C)) is amended by striking "end of the 6-month period beginning on the date of the discontinuance of such payments or care" and inserting "child has attained the age of 21 years".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments made under part E of title IV of the Social Security Act for fiscal years beginning with or after fiscal year 1991.

Subtitle I—Old-Age, Survivors, and Disability Insurance

SEC. 12801. CONTINUATION OF DISABILITY BENEFITS DURING APPEAL.

Subsection (g) of section 223 of the Social Security Act (42 U.S.C. 423(g)) is amended—

(1) in paragraph (1)(i), by inserting "or" after "hearing,", and by striking "pending, or (iii) June 1991." and inserting "pending."; and

(2) by striking paragraph (3).

SEC. 12802. REPEAL OF SPECIAL DISABILITY STANDARD FOR WIDOWS AND WIDOWERS.

(a) IN GENERAL.—Section 223(d)(2) of the Social Security Act (42 U.S.C. 423(d)(2)) is amended—

(1) in subparagraph (A), by striking "(except a widow, surviving divorced wife, widower, or surviving divorced husband for purposes of section 202(e) or (f))";

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) CONFORMING AMENDMENTS.—

(1) The third sentence of section 216(i)(1) of such Act (42 U.S.C. 416(i)(1)) is amended by striking "(2)(C)" and inserting "(2)(B)".

(2) Section 223(f)(1)(B) of such Act (42 U.S.C. 423(f)(1)(B)) is amended to read as follows:

"(B) the individual is now able to engage in substantial gainful activity; or".

(3) Section 223(f)(2)(A)(ii) of such Act (42 U.S.C. 423(f)(2)(A)(ii)) is amended to read as follows:

"(ii) the individual is now able to engage in substantial gainful activity, or".

(4) Section 223(f)(3) of such Act (42 U.S.C. 423(f)(3)) is amended by striking "therefore—" and all that follows and inserting "therefore the individual is able to engage in substantial gainful activity; or".

(5) Section 223(f) of such Act is further amended, in the matter following paragraph (4), by striking "(or gainful activity in the case of a widow, surviving divorced wife, widower, or surviving divorced husband)" each place it appears.

(c) TRANSITIONAL RULES RELATING TO MEDICAID AND MEDICARE ELIGIBILITY.—

(1) DETERMINATION OF MEDICAID ELIGIBILITY.—Section 1634(d) of such Act (42 U.S.C. 1383c(d)) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by striking "(d) If any person—" and inserting "(d)(1) This subsection applies with respect to any person who—";

(C) in subparagraph (A) (as redesignated), by striking "as required" and all that follows through ":but not entitled" and inserting "being then not entitled";

(D) in subparagraph (B) (as redesignated), by striking the comma at the end and inserting a period; and

(E) by striking "such person shall" and all that follows and inserting the following new paragraph:

"(2) For purposes of title XIX, each person with respect to whom this subsection applies—

"(A) shall be deemed to be a recipient of supplemental security income benefits under this title if such person received such a benefit for the month before the month in which such person began to receive a benefit described in paragraph (1)(A), and

"(B) shall be deemed to be a recipient of State supplementary payments of the type referred to in section 1616(a) of this Act (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93-66) if such person received such a payment for the month before the month in which such person began to receive a benefit described in paragraph (1)(A),

for so long as such person (i) would be eligible for such supplemental security income benefits, or such State supplementary payments, in the absence of benefits described in paragraph (1)(A), and (ii) is not entitled to hospital insurance benefits under part A of title XVIII.".

(2) INCLUSION OF MONTHS OF SSI ELIGIBILITY WITHIN 5-MONTH DISABILITY WAITING PERIOD AND 24-MONTH MEDICARE WAITING PERIOD.—

(A) WIDOW'S BENEFITS BASED ON DISABILITY.—Section 202(e)(5) of the Social Security Act (42 U.S.C. 402(e)(5)) is amended—

(i) in subparagraph (B), by striking "(i)" and "(ii)" and inserting "(I)" and "(II)", respectively;

(ii) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(iii) by inserting "(A)" after "(5)"; and

(iv) by adding at the end the following new subparagraph:

"(B) For purposes of paragraph (1)(F)(i), each month in the period commencing with the first month for which such widow or surviving divorced wife is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), shall be included as one of the months of such waiting period for which the requirements of subparagraph (A) have been met.".

(B) WIDOWER'S BENEFITS BASED ON DISABILITY.—Section 202(f)(6) of such Act (42 U.S.C. 402(f)(6)) is amended—

(i) in subparagraph (B), by striking "(i)" and "(ii)" and inserting "(I)" and "(II)", respectively;

(ii) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(iii) by inserting "(A)" after "(6)"; and

(iv) by adding at the end the following new subparagraph:

"(B) For purposes of paragraph (1)(F)(i), each month in the period commencing with the first month for which such widower or surviving divorced husband is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), shall be included as one of the months of such waiting period for which the requirements of subparagraph (A) have been met.".

(C) MEDICARE BENEFITS.—Section 226(e)(1) of such Act (42 U.S.C. 426(e)(1)) is amended—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(ii) by inserting "(A)" after "(e)(1)"; and

(iii) by adding at the end the following new subparagraph:

"(B) For purposes of subsection (b)(2)(A)(iii), each month in the period commencing with the first month for which an individual is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) of this Act (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), shall be included as one of the 24 months for which such individual must have been entitled to widow's or widower's insurance benefits on the basis of disability in order to become entitled to hospital insurance benefits on that basis.".

(d) DEEMED DISABILITY FOR PURPOSES OF ENTITLEMENT TO WIDOW'S AND WIDOWER'S INSURANCE BENEFITS FOR WIDOWS AND WIDOWERS ON SSI ROLLS.—

(1) WIDOW'S INSURANCE BENEFITS.—Section 202(e) of such Act (42 U.S.C. 402(e)) is amended by adding at the end the following new paragraph:

"(9) An individual shall be deemed to be under a disability for purposes of paragraph (1)(B)(ii) if such individual is eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), for the month for which all requirements of paragraph (1) for entitlement to benefits under this subsection (other than being under a disability) are met.".

(2) WIDOWER'S INSURANCE BENEFITS.—Section 202(f) of such Act (42 U.S.C. 402(f)) is amended by adding at the end the following new paragraph:

"(9) An individual shall be deemed to be under a disability for purposes of paragraph (1)(B)(ii) if such individual is eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93-66), for the month for which all requirements of paragraph (1) for entitlement to benefits under this subsection (other than being under a disability) are met.".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section (other than paragraphs (1) and (2)(C) of subsection (c)) shall apply with respect to monthly insurance benefits for months after December 1990 for which applications are filed on or after January 1, 1991, or are pending on such date. The amendments made by subsection (c)(1) shall apply with respect to medical assistance provided after December 1990. The amendments made by subsection (c)(2)(C) shall apply with respect to items and services furnished after December 1990.

(2) APPLICATION REQUIREMENTS FOR CERTAIN INDIVIDUALS ON BENEFIT ROLLS.—In the case of any individual who—

(A) is entitled to disability insurance benefits under section 223 of the Social Security Act for December 1990 or is eligible for supplemental security income benefits under title XVI of such Act, or State supplementary payments of the type referred to in section 1616(a) of such Act (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93-66), for January 1991,

(B) applied for widow's or widower's insurance benefits under subsection (e) or (f) of section 202 of the Social Security Act during 1990, and

(C) is not entitled to such benefits under such subsection (e) or (f) for any month on the basis of such application by reason of the definition of disability under section 223(d)(2)(B) of the Social Security Act (as in effect immediately before the date of the enactment of this Act), and would have been so entitled for such month on the basis of such application if the amendments made by this section had been applied with respect to such application,

for purposes of determining such individual's entitlement to such benefits under subsection (e) or (f) of section 202 of the Social Security Act for months after December 1990, the requirement of paragraph (1)(C)(i) of such subsection shall be deemed to have been met.

SEC. 12803. DEPENDENCY REQUIREMENTS APPLICABLE TO A CHILD ADOPTED BY A SURVIVING SPOUSE.

(a) IN GENERAL.—Section 216(e) of the Social Security Act (42 U.S.C. 416(e)) is amended in the second sentence—

(1) by striking "at the time of such individual's death living in such individual's household" and inserting "either living with or receiving at least one-half of his support from such individual at the time of such individual's death"; and

(2) by striking "; except" and all that follows and inserting a period.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits payable for months after December 1990, but only on the basis of applications filed after December 31, 1990.

SEC. 12804. ENTITLEMENT TO BENEFITS OF DEEMED SPOUSE AND LEGAL SPOUSE.

(a) CONTINUED ENTITLEMENT OF DEEMED SPOUSE DESPITE ENTITLEMENT OF LEGAL SPOUSE.—Section 216(h)(1) of the Social Security Act (42 U.S.C. 416(h)(1)) is amended—

(1) in subparagraph (A)—

(A) by inserting "(i)" after "(h)(1)(A)"; and

(B) by striking "If such courts" in the second sentence and inserting the following: "(ii) If such courts"; and

(2) in subparagraph (B)—

(A) by inserting "(i)" after "(B)";

(B) by striking "The provisions of the preceding sentence" in the second sentence and inserting the following:

"(ii) The provisions of clause (i)";

(C) by striking "(i) if another" in the second sentence and all that follows through "or (ii)";

(D) by striking "The entitlement" in the third sentence and inserting the following:

"(iii) The entitlement";

(E) by striking "subsection (b), (c), (e), (f), or (g)" in the third sentence and inserting "subsection (b) or (c)",

(F) by striking "wife, widow, husband, or widower" the first place it appears in the third sentence and inserting "wife or husband";

(G) by striking "(i) in which" in the third sentence and all that follows through "in which such applicant entered" and inserting "in which such person enters";

(H) by striking "For purposes" in the fourth sentence and inserting the following:

"(iv) For purposes";

and

(I) by striking "(i)" and "(ii)" in the fourth sentence and inserting "(I)" and "(II)", respectively.

(b) TREATMENT OF DIVORCE IN THE CONTEXT OF INVALID MARRIAGE.—Section 216(h)(1)(B)(i) of such Act (as amended by subsection (a)) is further amended—

(1) by striking "where under subsection (b), (c), (f), or (g) such applicant is not the wife, widow, husband, or widower of such individual" and inserting "where under subsection (b), (c), (d), (f), or (g) such applicant is not the wife, divorced wife, widow, surviving divorced wife, husband, divorced husband, widower, or surviving divorced husband of such individual";

(2) by striking "and such applicant" and all that follows through "files the application,";

(3) by striking "subsections (b), (c), (f), and (g)" and inserting "subsections (b), (c), (d), (f), and (g)"; and

(4) by adding at the end the following new sentences: "Notwithstanding the preceding sentence, in the case of any person who would be deemed under the preceding sentence a wife, widow, husband, or widower of the insured individual, such marriage shall not be deemed to be a valid marriage unless the applicant and the insured individual were living in the same household at the time of the death of the insured individual or (if the insured individual is living) at the time the applicant files the application. A marriage that is deemed to be a valid marriage by reason of the preceding sentence shall continue to be deemed a valid marriage if the insured individual and the person entitled to benefits as the wife or husband of the insured individual are no longer living in the same household at the time of the death of such insured individual.".

(c) TREATMENT OF MULTIPLE ENTITLEMENTS UNDER THE FAMILY MAXIMUM.—Section 203(a)(3) of such Act (42 U.S.C. 403(a)(3)) is amended by adding after subparagraph (C) the following new subparagraph:

"(D) In any case in which—

"(i) two or more individuals are entitled to monthly benefits for the same month as a spouse under subsection (b) or (c) of section 202, or as a surviving spouse under subsection (e), (f), or (g) of section 202,

"(ii) at least one of such individuals is entitled by reason of subparagraph (A)(ii) or (B) of section 216(h)(1), and

"(iii) such entitlements are based on the wages and self-employment income of the same insured individual,

the benefit of the entitled individual whose entitlement is based on a valid marriage (as determined without regard to subparagraphs (A)(ii) and (B) of section 216(h)(1)) to such insured individual shall, for such month and all months thereafter, be determined without regard to this subsection, and the benefits of all other individuals who are entitled, for such month or any month thereafter, to monthly benefits under section 202 based on the wages and self-employment income of such insured individual shall be determined as if such entitled individual were not entitled to benefits for such month.".

(d) CONFORMING AMENDMENT.—Section 203(a)(6) of such Act (42 U.S.C. 403(a)(6)) is amended by inserting "(3)(D)," after "(3)(C),".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to benefits for months after December 1990.

(2) TERMINATED BENEFICIARIES AND DIVORCED DEEMED SPOUSES.—In the case of individuals whose benefits under title II of the Social Security Act have been terminated under section 216(h)(1)(B) of such Act before January 1, 1991, or who would be entitled to benefits under such title for any month after December 1990 as a divorced spouse or surviving divorced spouse solely by reason of the amendments made by this section, the amendments made by this section shall apply only with respect to benefits for which application is filed with the Secretary of Health and Human Services after December 31, 1990.

SEC. 12805. REPRESENTATIVE PAYEE REFORMS.

(a) IMPROVEMENTS IN THE REPRESENTATIVE PAYEE SELECTION AND RECRUITMENT PROCESS.—

(1) AUTHORITY FOR CERTIFICATION OF PAYMENTS TO REPRESENTATIVE PAYEES.—

(A) TITLE II.—Section 205(j)(1) of the Social Security Act (42 U.S.C. 405(j)) is amended to read as follows:

"REPRESENTATIVE PAYEES

"(j)(1) If the Secretary determines that the interest of any individual under this title would be served thereby, certification of payment of such individual's benefit under this title may be made, regardless of the legal competency or incompetency of the individual, either for direct payment to the individual, or for his or her use and benefit, to another individual or organization with respect to whom the requirements of paragraph (2) have been met (hereinafter in this subsection referred to as the individual's 'representative payee'). If the Secretary or a court of competent jurisdiction determines that a representative payee has misused any individual's benefit paid to

such representative payee pursuant to this subsection or section 1631(a)(2), the Secretary shall promptly revoke certification for payment of benefits to such representative payee pursuant to this subsection and certify payment to an alternate representative payee or to the individual.".

(B) TITLE XVI.—

(i) IN GENERAL.—Section 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A)) is amended to read as follows:

"(2) PERSONS TO WHOM PAYMENTS MAY BE MADE.—

"(A) AUTHORITY TO MAKE PAYMENTS.—

"(i) PAYMENTS TO ELIGIBLE INDIVIDUALS.—Payments of the benefit of any individual may be made to any such individual or to the eligible spouse (if any) of such individual or partly to each.

"(ii) PAYMENTS TO REPRESENTATIVE PAYEES.—

"(I) IN GENERAL.—Upon a determination by the Secretary that the interest of such individual would be served thereby, or in the case of any individual or eligible spouse referred to in section 1611(e)(3)(A), such payments shall be made, regardless of the legal competency or incompetency of the individual or eligible spouse, to another individual who, or to a qualified organization (as defined in subparagraph (D)(ii)) which, is interested in or concerned with the welfare of such individual and with respect to whom the requirements of subparagraph (B) have been met (in this paragraph referred to as such individual's 'representative payee') for the use and benefit of the individual or eligible spouse.

"(II) MISUSE OF PAYMENTS.—If the Secretary or a court of competent jurisdiction determines that the representative payee of an individual or eligible spouse has misused any benefits which have been paid to the representative payee pursuant to subclause (I) or section 205(j)(1), the Secretary shall promptly terminate payment of benefits to the representative payee pursuant to this subparagraph, and provide for payment of benefits to the individual or eligible spouse or to an alternative representative payee of the individual or eligible spouse.".

(ii) CONFORMING AMENDMENTS.—Section 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is amended—

(I) in clause (i), by striking "a person other than the individual or spouse entitled to such payment" and inserting "representative payee of an individual or spouse";

(II) in clauses (ii), (iii), and (iv), by striking "other person to whom such payment is made" each place it appears and inserting "representative payee"; and

(III) in clause (v)—

(aa) by striking "person receiving payments on behalf of another" and inserting "representative payee"; and

(bb) by striking "person receiving such payments" and inserting "representative payee".

(2) PROCEDURE FOR SELECTING REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—

(i) TITLE II.—Section 205(j)(2) of such Act (42 U.S.C. 405(j)(2)) is amended to read as follows:

"(2)(A) Any certification made under paragraph (1) for payment of benefits to an individual's representative payee shall be made on the basis of—

"(i) an investigation by the Secretary of the person to serve as representative payee, which shall be conducted in advance of such certification and shall, to the extent practicable, include a face-to-face interview with the person to serve as representative payee, and

"(ii) adequate evidence that such certification is in the interest of such individual (as determined by the Secretary in regulations).

"(B)(i) As part of the investigation referred to in subparagraph (A)(i), the Secretary shall—

"(I) require the person being investigated to submit documented proof of the identity of such person, unless information establishing such identity has been submitted with an application for benefits under this title or title XVI,

"(II) verify such person's social security account number (or employer identification number),

"(III) determine whether such person has been convicted of a violation of section 208 or 1632, and

"(IV) determine whether certification of payment of benefits to such person has been revoked pursuant to this subsection or payment of benefits to such person has been terminated pursuant to section 1631(a)(2)(A)(ii)(II) by reason of misuse of funds paid as benefits under this title or title XVI.

"(ii) The Secretary shall establish and maintain 2 centralized files, which shall be updated periodically and which shall be in a form which renders them readily retrievable by each servicing office of the Social Security Administration. Such files shall consist of—

"(I) a list of the names and social security account numbers (or employer identification numbers) of all persons with respect to whom certification of payment of benefits has been revoked on or after January 1, 1991, pursuant to this subsection, or with respect to whom payment of benefits has been terminated on or after such date pursuant to section 1631(a)(2), by reason of misuse of funds paid as benefits under this title or title XVI, and

"(II) a list of the names and social security account numbers (or employer identification numbers) of all persons who have been convicted of a violation of section 208, 1107(a), 1128B, or 1632.

"(C)(i) Benefits of an individual may not be certified for payment to any other person pursuant to this subsection if—

"(I) such person has previously been convicted as described in subparagraph (B)(i)(III),

"(II) except as provided in clause (ii), certification of payment of benefits to such person under this subsection has previously been revoked as described in subparagraph (B)(i)(IV), or payment of benefits to such person pursuant to section 1631(a)(2)(A)(ii) has previously been terminated as described in section 1631(a)(2)(B)(ii)(I)(dd), or

"(III) except as provided in clause (iii), such person is a creditor of such individual who provides such individual with goods or services for consideration.

"(ii) The Secretary shall prescribe regulations under which the Secretary may grant exemptions to any person from the provisions of clause (i)(II) on a case-by-case basis if such exemption is in the best interest of the individual whose benefits would be paid to such person pursuant to this subsection.

"(iii) Clause (i)(III) shall not apply with respect to any person who is a creditor referred to therein if such creditor is—

"(I) a relative of such individual if such relative resides in the household of such individual,

"(II) a legal guardian or legal representative of such individual,

"(III) a facility that is licensed or certified as a care facility under the law of a State or a political subdivision of a State,

"(IV) a person who is an administrator, owner, or employee of a facility referred to in subclause (III) if such individual resides in such facility, and the certification of payment to such facility or such person is made only after good faith efforts have been made by the local servicing office of the Social Security Administration to locate an alternative representative payee to whom such certification of payment would serve the best interests of such individual, or

"(V) an individual who is determined by the Secretary, on the basis of written findings and under procedures which the Secretary shall prescribe by regulation, to be acceptable to serve as a representative payee.

"(iv) The procedures referred to in clause (iii)(V) shall require the individual who will serve as representative payee to establish, to the satisfaction of the Secretary, that—

"(I) such individual poses no risk to the beneficiary,

"(II) the financial relationship of such individual to the beneficiary poses no substantial conflict of interest, and

"(III) no other more suitable representative payee can be found.

"(D)(i) Subject to clause (ii), if the Secretary makes a determination described in the first sentence of paragraph (1) with respect to any individual's benefit and determines that direct payment of the benefit to the individual would cause substantial harm to the individual, the Secretary may defer (in the case of initial entitlement) or suspend (in the case of existing entitlement) direct payment of such benefit to the individual, until such time as the selection of a representative payee is made pursuant to this subsection.

"(ii)(I) Except as provided in subclause (II), any deferral or suspension of direct payment of a benefit pursuant to clause (i) shall be for a period of not more than 1 month.

"(II) Subclause (I) shall not apply in any case in which the individual is, as of the date of the Secretary's determination, legally incompetent or under the age of 15.

"(iii) Payment pursuant to this subsection of any benefits which are deferred or suspended pending the selection of a representative payee shall be made to the individual or the representative payee as a single sum or over such period of time as the Secretary determines is in the best interest of the individual entitled to such benefits.

"(E)(i) Any individual who is dissatisfied with a determination by the Secretary to certify payment of such individual's benefit to a representative payee under paragraph (1) or with the designation of a particular person to serve as representative payee shall be entitled to a hearing by the Secretary to the same extent as is provided in subsection (b), and to judicial review of the Secretary's final decision as is provided in subsection (g).

"(ii) In advance of the certification of payment of an individual's benefit to a representative payee under paragraph (1), the Secretary shall provide written notice of the Secretary's initial determination to certify such payment. Such notice shall be provided to such individual, except that, if such individual—

"(I) is under the age of 15,

"(II) is an unemancipated minor under the age of 18, or

"(III) is legally incompetent,

then such notice shall be provided solely to the legal guardian or legal representative of such individual.

"(iii) Any such notice shall be clearly written in language that is easily understandable to the reader, shall identify the person to be designated as such individual's representative payee, and shall explain to the reader the right under clause (i) of such individual or such individual's legal guardian or legal representative—

"(I) to appeal a determination that a representative payee is necessary for such individual,

"(II) to appeal the designation of a particular person to serve as the representative payee of such individual, and

"(III) to review the evidence upon which such designation is based and submit additional evidence.".

(ii) TITLE XVI.—Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is amended to read as follows:

"(B) SELECTION OF REPRESENTATIVE PAYEES.—

"(i) BASIS FOR SELECTION.—Any provision made under subparagraph (A) for payment of benefits to the representative payee of an individual or eligible spouse shall be made on the basis of—

"(I) an investigation by the Secretary of the person to serve as representative payee, which shall be conducted before such payment, and shall, to the extent practicable, include a face-to-face interview with the person; and

"(II) adequate evidence that such payment is in the interest of the individual or eligible spouse (as determined by the Secretary in regulations).

"(ii) ELEMENTS OF THE INVESTIGATION.—

"(I) IN GENERAL.—As part of the investigation referred to in clause (i)(I), the Secretary shall—

"(aa) require the person being investigated to submit documented proof of the identity of such person, unless information establishing such identity was submitted with an application for benefits under title II or this title;

"(bb) verify the social security account number (or employer identification number) of such person;

"(cc) determine whether such person has been convicted of a violation of section 208 or 1632; and

"(dd) determine whether payment of benefits to such person has been terminated pursuant to subparagraph (A)(ii)(II), and whether certification of payment of benefits to such person has been revoked pursuant to section 205(j), by reason of misuse of funds paid as benefits under title II or this title.

"(II) MAINTENANCE OF RECORDS.—The Secretary shall establish and maintain 2 centralized files, each of which shall be updated periodically and which shall be in a form which makes such files readily retrievable by each servicing office of the Social Security Administration, containing—

"(aa) a list of the names and social security account numbers (or employer identification numbers) of all persons with respect to whom payment of benefits has been terminated on or after January 1, 1991, pursuant to subparagraph (A)(ii)(II), or with respect to whom certification of payment of benefits has been revoked on or after such date pursuant to section 205(j), by reason of misuse of funds paid as benefits under title II or this title; and

"(bb) a list of the names and social security account numbers (or employer identification numbers) of all persons who have been convicted of a violation of section 208, 1107(a), 1128B, or 1632.

"(iii) DISQUALIFICATIONS.—Benefits of an individual may not be paid to any other person pursuant to subparagraph (A)(ii) if—

"(I) such person has previously been convicted as described in clause (ii)(I)(cc);

"(II) except as provided in clause (iv), payment of benefits to such person pursuant to subparagraph (A)(ii) has previously been terminated as described in clause (ii)(I)(dd), or certification of payment of benefits to such person under section 215(j) has previously been revoked as described in section 215(j)(2)(B)(i)(IV); or

"(III) except as provided in clause (v), such person is a creditor of the individual who provides the individual with goods or services for consideration.

"(iv) REGULATORY EXEMPTIONS.—The Secretary shall prescribe regulations under which the Secretary may grant an exemption from clause (iii)(II) to any person on a case-by-case basis if such exemption would be in the best interest of the individual or eligible spouse whose benefits under this title would be paid to such person pursuant to subparagraph (A)(ii).

"(v) EXEMPTIONS FOR CERTAIN CREDITORS.—

"(I) IN GENERAL.—Clause (iii)(III) shall not apply to any person who is a creditor of the individual if the creditor is—

"(aa) a relative of the individual if such relative resides in the household of such individual;

"(bb) a legal guardian or legal representative of the individual;

"(cc) a facility that is licensed or certified as a care facility under the law of a State or a political subdivision of a State;

"(dd) a person who is an administrator, owner, or employee of a facility referred to in clause (cc) if the individual resides in the facility, and the payment of benefits under this title to the facility or the person is made only after good faith efforts have been made by the local servicing office of the Social Security Administration to locate an alternative representative payee to whom the payment of such benefits would serve the best interests of the individual; or

"(ee) an individual who is determined by the Secretary, on the basis of written findings and under procedures which the Secretary shall prescribe by regulation, to be acceptable to serve as a representative payee.

"(II) PROCEDURES APPLICABLE TO EXEMPTION OF CERTAIN CREDITORS BY SECRETARY OF HHS.—The procedures referred to in subclause (I)(ee) shall require the individual who will serve as representative payee to establish, to the satisfaction of the Secretary, that—

"(aa) such individual poses no risk to the beneficiary;

"(bb) the financial relationship of such individual to the beneficiary poses no substantial conflict of interest; and

"(cc) no other more suitable representative payee can be found.

"(vi) DEFERRAL OF PAYMENTS IN CERTAIN CASES.—

"(I) IN GENERAL.—Subject to subclause (II), if the Secretary makes a determination described in subparagraph (A)(ii)(I) with respect to any individual's benefit and determines that direct payment of the benefit to the individual would cause substantial harm to the individual, the Secretary may defer (in the case of initial entitlement) or suspend (in the case of existing entitlement) direct payment of such benefit to the individual, until such time as the selection of a representative payee is made pursuant to this subparagraph.

"(II) MAXIMUM DEFERRAL PERIOD.—

"(aa) IN GENERAL.—Except as provided in subdivision (bb), any deferral or suspension of direct payment of a benefit pursuant to subclause (I) shall be for a period of not more than 1 month.

"(bb) EXCEPTIONS.—Subdivision (aa) shall not apply in any case in which the individual or eligible spouse is, as of the date of the Secretary's determination, legally incompetent or under the age 15 years.

"(vii) RESUMPTION OF PAYMENTS.—Payment pursuant to this subparagraph of any benefits which are deferred or suspended pending the selection of a representative payee shall be made—

"(I) to the representative payee upon such selection; and

"(II) as a single payment, or over such period as the Secretary determines is in the best interests of the individual entitled to such benefits.

"(viii) ADMINISTRATIVE AND JUDICIAL REVIEW.—

"(I) IN GENERAL.—Any individual who is dissatisfied with a determination by the Secretary under subparagraph (A)(ii) to pay such individual's benefits under this title to a representative payee, or with the selection of a particular person to be the representative payee of the individual, shall be entitled to a hearing by the Secretary, and to judicial review of the Secretary's final decision, to the same extent as is provided in subsection (c).

"(II) NOTICE TO PRECEDE FIRST PAYMENT TO REPRESENTATIVE PAYEE.—Before the first payment of an individual's benefit to a representative payee under subparagraph (A)(ii), the Secretary shall provide written notice of the Secretary's initial determination to so make the payment. Such notice shall be provided to—

"(aa) the legal guardian or legal representative of the individual, if the individual has not attained the age of 15 years, is an unemancipated minor who has not attained the age of 18 years, or is legally incompetent; or

"(bb) the individual, in any other case.

"(III) CONTENTS OF NOTICE.—Any notice referred to in subclause (II) shall be clearly written in language that is easily understandable to the reader, identify the person selected to be the representative payee of the individual, and explain to the reader the right under subclause (I) of the individual or the legal guardian or legal representative of the individual—

"(aa) to appeal a determination that a representative payee is necessary for the individual;

"(bb) to appeal the selection of a particular person to be the representative payee of the individual; and

"(cc) to review the evidence upon which the selection is based and submit additional evidence.".

(B) REPORT ON FEASIBILITY OF OBTAINING READY ACCESS TO CERTAIN CRIMINAL FRAUD RECORDS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with the Attorney General of the United States and the Secretary of the Treasury, shall study the feasibility of establishing and maintaining a current list, which would be readily available to local offices of the Social Security Administration for use in investigations undertaken pursuant to section 205(j)(2) or 1631(a)(2)(B) of the Social Security Act, of the names and

social security account numbers of individuals who have been convicted of a violation of section 495 of title 18, United States Code. The Secretary of Health and Human Services shall, not later than July 1, 1991, submit the results of such study, together with any recommendations, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(2) PROVISION FOR COMPENSATION OF QUALIFIED ORGANIZATIONS SERVING AS REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—

(i) TITLE II.—Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

"(4)(A) A qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee pursuant to this subsection if such fee does not exceed the lesser of—

"(i) 10 percent of the monthly benefit involved, or

"(ii) $25.00 per month.

Any agreement providing for a fee in excess of the amount permitted under this subparagraph shall be void and shall be treated as misuse by such organization of such individual's benefits.

"(B) For purposes of this paragraph, the term 'qualified organization' means any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee and which, in accordance with any applicable regulations of the Secretary—

"(i) regularly provides services as the representative payee, pursuant to this subsection or section 1631(a)(2), concurrently to 5 or more individuals, and

"(ii) demonstrates to the satisfaction of the Secretary that such agency is not otherwise a creditor of any such individual.

"(C) Any qualified organization which knowingly charges or collects, directly or indirectly, any fee in excess of the maximum fee prescribed under subparagraph (A) or makes any agreement, directly or indirectly, to charge or collect any fee in excess of such maximum fee, shall be fined in accordance with title 18, United States Code, or imprisoned not more than 6 months, or both.

"(D) This paragraph shall cease to be effective on January 1, 1994.".

(ii) TITLE XVI.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended—

(I) by redesignating subparagraph (D) as subparagraph (E);

(II) by moving subparagraph (C) 4 ems to the right; and

(III) by inserting after subparagraph (C) the following:

"(D) LIMITATION ON FEES OF QUALIFIED ORGANIZATIONS SERVING AS REPRESENTATIVE PAYEES.—

"(i) MAXIMUM FEES.—A qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee pursuant to subparagraph (A)(ii) if the fee does not exceed the lesser of—

"(I) 10 percent of the monthly benefit involved, or

"(II) $25.00 per month.

Any agreement providing for a fee in excess of the amount permitted under this clause shall be void and shall be treated as misuse by the organization of the individual's benefits under this title.

"(ii) QUALIFIED ORGANIZATION DEFINED.—For purposes of this subparagraph, the term 'qualified organization' means any community-based nonprofit social service agency which—

"(I) is bonded or licensed in each State in which the agency serves as a representative payee; and

"(II) in accordance with any applicable regulations of the Secretary—

"(aa) regularly provides services as a representative payee pursuant to subparagraph (A)(ii) or section 205(j)(4) concurrently to 5 or more individuals; and

"(bb) demonstrates to the satisfaction of the Secretary that such person is not otherwise a creditor of any such individual.

"(iii) PROHIBITION; PENALTY.—Any qualified organization which knowingly charges or collects, directly or indirectly, any fee in excess of the maximum fee prescribed under clause (i) or makes any agreement, directly or indirectly, to charge or collect any fee in excess of such maximum fee, shall be fined in accordance with title 18, United States Code, or imprisoned not more than 6 months, or both.

"(iv) TERMINATION.—This subparagraph shall cease to be effective on January 1, 1994.".

(B) STUDIES AND REPORTS.—

(i) REPORT BY SECRETARY OF HEALTH AND HUMAN SERVICES.—Not later than January 1, 1993, the Secretary of Health and Human Services shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the number and types of qualified organizations which have served as representative payees and have collected fees for such service pursuant to any amendment made by subparagraph (A), and

(ii) REPORT BY COMPTROLLER GENERAL.—Not later than July 1, 1992, the Comptroller General of the United States shall conduct a study of the advantages and disadvantages of allowing qualified organizations serving as representative payees to charge fees pursuant to the amendments made by subparagraph (A) and shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of such study.

(4) STUDY RELATING TO FEASIBILITY OF SCREENING OF INDIVIDUALS WITH CRIMINAL RECORDS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of the feasibility of determining the type of representative payee applicant most likely to have a felony or misdemeanor conviction, the suitability of individuals with prior convictions to serve as representative payees, and the circumstances under which such applicants could be allowed to serve as representative payees. The Secretary shall transmit the results of such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than July 1, 1992.

(5) EFFECTIVE DATES.—

(A) USE AND SELECTION OF REPRESENTATIVE PAYEES.—The amendments made by paragraphs (1) and (2) shall take effect January 1, 1991, and shall apply only with respect to—

(i) certifications of payment of benefits under title II of the Social Security Act to representative payees made on or after such date; and

(ii) provisions for payment of benefits under title XVI of such Act to representative payees made on or after such date.

(B) COMPENSATION OF REPRESENTATIVE PAYEES.—The amendments made by paragraph (3) shall take effect July 1, 1991, and the Secretary of Health and Human Services shall prescribe initial regulations necessary to carry out such amendments not later than such date.

(b) IMPROVEMENTS IN RECORDKEEPING AND AUDITING REQUIREMENTS.—

(1) IMPROVED ACCESS TO CERTAIN INFORMATION.—

(A) IN GENERAL.—Section 205(j)(3) of the Social Security Act is amended—

(i) by striking subparagraph (B);

(ii) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively;

(iii) in subparagraph (D) (as so redesignated), by striking "(A), (B), (C), and (D)" and inserting "(A), (B), and (C)"; and

(iv) by adding at the end the following new subparagraphs:

"(E) The Secretary shall maintain a centralized file, which shall be updated periodically and which shall be in a form which will be readily retrievable by each servicing office of the Social Security Administration, of—

"(i) the address and the social security account number (or employer identification number) of each representative payee who is receiving benefit payments pursuant to this subsection or section 1631(a)(2), and

"(ii) the address and social security account number of each individual for whom each representative payee is reported to be providing services as representative payee pursuant to this subsection or section 1631(a)(2).

"(F) Each servicing office of the Administration shall maintain a list, which shall be updated periodically, of public agencies and community-based nonprofit social service agencies which are qualified to serve as representative payees pursuant to this subsection or section 1631(a)(2) and which are located in the area served by such servicing office.".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect October 1, 1992, and the Secretary of Health and Human Services shall take such actions as are necessary to ensure that the requirements of section 205(j)(3)(E) of the Social Security Act (as amended by subparagraph (A) of this paragraph) are satisfied as of such date.

(2) STUDY RELATING TO MORE STRINGENT OVERSIGHT OF HIGH-RISK REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of the need for a more stringent accounting system for high-risk representative payees than is otherwise generally provided under section 205(j)(3) or 1631(a)(2)(C) of the Social Security Act, which would include such additional reporting requirements, record maintenance requirements, and other measures as the Secretary considers necessary to determine whether services are being appropriately provided by such payees in accordance with such sections 205(j) and 1631(a)(2).

(B) SPECIAL PROCEDURES.—In such study, the Secretary shall determine the appropriate means of implementing more stringent, statistically valid procedures for—

(i) reviewing reports which would be submitted to the Secretary under any system described in subparagraph (A), and

(ii) periodic, random audits of records which would be kept under such a system, in order to identify any instances in which high-risk representative payees are misusing payments made pursuant to section 205(j) or 1631(a)(2) of the Social Security Act.

(C) HIGH-RISK REPRESENTATIVE PAYEE.—For purposes of this paragraph, the term "high-risk representative payee" means a representative payee under section 205(j) or 1631(a)(2) of the Social Security Act (other than a Federal or State institution) who—

(i) regularly provides concurrent services as a representative payee under such section 205(j), such section 1631(a)(2), or both such sections, for 5 or more individuals who are unrelated to such representative payee,

(ii) is neither related to an individual on whose behalf the payee is being paid benefits nor living in the same household with such individual,

(iii) is a creditor of such individual, or

(iv) is in such other category of payees as the Secretary may determine appropriate.

(D) REPORT.—The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study, together with any recommendations, not later than July 1, 1991. Such report shall include an evaluation of the feasibility and desirability of legislation implementing stricter accounting and review procedures for high-risk representative payees in all servicing offices of the Social Security Administration (together with proposed legislative language).

(3) DEMONSTRATION PROJECTS RELATING TO PROVISION OF INFORMATION TO LOCAL AGENCIES PROVIDING CHILD AND ADULT PROTECTIVE SERVICES.—

(A) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall implement a demonstration project under this paragraph in each of not fewer than 2 States. Under each such project, the Secretary shall enter into an agreement with the State in which the project is located to make readily available, for the duration of the project, to the appropriate State agency, a listing of addresses of multiple benefit recipients.

(B) LISTING OF ADDRESSES OF MULTIPLE BENEFIT RECIPIENTS.—The list referred to in subparagraph (A) shall consist of a current list setting forth each address within the State at which benefits under title II, benefits under title XVI, or any combination of such benefits are being received by 5 or more individuals. For purposes of this subparagraph, in the case of benefits under title II, all individuals receiving benefits on the basis of the wages and self-employment income of the same individual shall be counted as 1 individual.

(C) APPROPRIATE STATE AGENCY.—The appropriate State agency referred to in subparagraph (A) is the agency of the State which the Secretary determines is primarily responsible for regulating care facilities operated in such State or providing for child and adult protective services in such State.

(D) REPORT.—The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning such demonstration projects, together with any recommendations, not later than July 1, 1992. Such report shall include an evaluation of the feasibility and desirability of legislation implementing the programs established pursuant to this paragraph on a permanent basis.

(E) STATE.—For purposes of this paragraph, the term "State" means a State, including the entities included in such term by section 210(h) of the Social Security Act (42 U.S.C. 410(h)).

(c) REPORTS TO THE CONGRESS.—

(1) IN GENERAL.—

(A) TITLE II.—Section 205(j)(5) of the Social Security Act (as so redesignated by subsection (a)(3)(A)(i) of this section) is amended to read as follows:

"(5) The Secretary shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this subsection, including the number of cases in which the representative payee was changed, the number of cases discovered where there has been a misuse of funds, how any such cases were dealt with by the Secretary, the final disposition of such cases, including any criminal penalties imposed, and such other information as the Secretary determines to be appropriate.".

(B) TITLE XVI.—Section 1631(a)(2)(E) of the Social Security Act (42 U.S.C. 1383(a)(2)(E)), as so redesignated by subsection (a)(3)(A)(ii)(I) of this section, is amended to read as follows:

"(E) INFORMATION REQUIRED TO BE INCLUDED IN SECTION 704 REPORT.—The Secretary shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this paragraph, including—

"(i) the number of cases in which the representative payee was changed;

"(ii) the number of cases discovered where there has been a misuse of funds;

"(iii) how any such cases were dealt with by the Secretary;

"(iv) the final disposition of such cases (including any criminal penalties imposed); and

"(v) such other information as the Secretary determines to be appropriate.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to annual reports issued for years after 1990.

(3) FEASIBILITY STUDY REGARDING INVOLVEMENT OF DEPARTMENT OF VETERANS AFFAIRS.—As soon as practicable after the date of the enactment of this Act, Secretary of Health and Human Services, in cooperation with the Secretary of Veterans Affairs, shall conduct a study of the feasibility of legislation designating the Department of Veterans Affairs as the lead agency for purposes of selecting, appointing, and monitoring representative payees for those individuals who recieve benefits paid under title II or XVI of the Social Security Act and benefits paid by the Department of Veterans Affairs. Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report setting forth the results of such study, together with any recommendations.

SEC. 12806. FEES FOR REPRESENTATION OF CLAIMANTS IN ADMINISTRATIVE PROCEEDINGS.

(a) IN GENERAL.—

(1) TITLE II.—Subsection (a) of section 206 of the Social Security Act (42 U.S.C. 406(a)) is amended—

(A) by inserting "(1)" after "(a)";

(B) in the fourth sentence, by striking "charged" and inserting "recovered"; and

(C) by striking the fifth sentence and all that follows through "Any person who" in the seventh sentence and inserting the following:

"(2)(A) In the case of a claim of entitlement to past-due benefits under this title, if—

"(i) an agreement between the claimant and another person regarding any fee to be recovered by such person to compensate such person for services with respect to the claim is presented in writing to the Secretary prior to the time of the Secretary's determination regarding the claim,

"(ii) the fee specified in the agreement does not exceed the lesser of—

"(I) 25 percent of the total amount of such past-due benefits (as determined before any applicable reduction under section 1127(a)), or

"(II) $4,000, and

"(iii) the determination is favorable to the claimant,

then the Secretary shall approve that agreement at the time of the favorable determination, and (subject to paragraph (3)) the fee specified in the agreement shall be the maximum fee. The Secretary may from time to time increase the dollar amount under clause (ii)(II) to the extent that the rate of increase in such amount, as determined over the period since January 1, 1991, does not at any time exceed the rate of increase in primary insurance amounts under section 215(i) since such date. The Secretary shall publish any such increased amount in the Federal Register.

"(B) For purposes of this subsection, the term 'past-due benefits' excludes any benefits with respect to which payment has been continued pursuant to section 223(g).

"(C) In the case of a claim with respect to which the Secretary has approved an agreement pursuant to subparagraph (A), the Secretary shall provide the claimant and the person representing the claimant a written notice of—

"(i) the dollar amount of the past-due benefits (as determined before any applicable reduction under section 1127(a)) and the dollar amount of the past-due benefits payable to the claimant,

"(ii) the dollar amount of the maximum fee which may be charged or recovered as determined under this paragraph, and

"(iii) a description of the procedures for review under paragraph (3).

"(3)(A) The Secretary shall provide by regulation for review of the amount which would otherwise be the maximum fee as determined under paragraph (2) if, within 15 days after receipt of the notice provided pursuant to paragraph (2)(C)—

"(i) the claimant, or the administrative law judge or other adjudicator who made the favorable determination, submits a written request to the Secretary to reduce the maximum fee, or

"(ii) the person representing the claimant submits a written request to the Secretary to increase the maximum fee.

Any such review shall be conducted after providing the claimant, the person representing the claimant, and the adjudicator with reasonable notice of such request and an opportunity to submit written information in favor of or in opposition to such request. The adjudicator may request the Secretary to reduce the maximum fee only on the basis of evidence of the failure of the person representing the claimant to repre-

sent adequately the claimant's interest or on the basis of evidence that the fee is clearly excessive for services rendered.

"(B)(i) In the case of a request for review under subparagraph (A) by the claimant or by the person representing the claimant, such review shall be conducted by the administrative law judge who made the favorable determination or, if the Secretary determines that such administrative law judge is unavailable or if the determination was not made by an administrative law judge, such review shall be conducted by another person designated by the Secretary for such purpose.

"(ii) In the case of a request by the adjudicator for review under subparagraph (A), the review shall be conducted by the Secretary or by an administrative law judge or other person (other than such adjudicator) who is designated by the Secretary.

"(C) Upon completion of the review, the administrative law judge or other person conducting the review shall affirm or modify the amount which would otherwise be the maximum fee. Any such amount so affirmed or modified shall be considered the amount of the maximum fee which may be recovered under paragraph (2). The decision of the administrative law judge or other person conducting the review shall not be subject to further review.

"(4)(A) Subject to subparagraph (B), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Secretary shall, notwithstanding section 205(i), certify for payment out of such past-due benefits (as determined before any applicable reduction under section 1127(a)) to such attorney an amount equal to the maximum fee, but not in excess of 25 percent of such past-due benefits (as determined before any applicable reduction under section 1127(a)).

"(B) The Secretary shall not in any case certify any amount for payment to the attorney pursuant to this paragraph before the expiration of the 15-day period referred to in paragraph (3)(A) or, in the case of any review conducted under paragraph (3), before the completion of such review.

"(5) Any person who".

(2) TITLE XVI.—Paragraph (2)(A) of section 1631(d) of the Social Security Act (42 U.S.C. 1383(d)(2)(A)) is amended to read as follows:

"(2)(A) The provisions of section 206(a) (other than paragraphs (2)(B) and (4) thereof) shall apply to this part to the same extent as they apply in the case of title II, and in so applying such provisions 'section 1631(g)' shall be substituted for 'section 1127(a)'.".

(b) PROTECTION OF ATTORNEY'S FEES FROM OFFSETTING SSI BENEFITS.—Subsection (a) of section 1127 of such Act is amended by adding at the end the following new sentence: "A benefit under title II shall not be reduced pursuant to the preceding sentence to the extent that any amount of such benefit would not otherwise be available for payment in full of the maximum fee which may be recovered from such benefit by an attorney pursuant to section 206(a)(4).".

(c) LIMITATATION OF TRAVEL EXPENSES FOR REPRESENTATION OF CLAIMANTS AT ADMINISTRATIVE PROCEEDINGS.—Section 201(j) (42 U.S.C. 401(j)), section 1631(h) (42 U.S.C. 1383(h)), and section 1817(i) (42 U.S.C. 1395i(i)) of such Act are each amended by adding at the end the following new sentence: "The amount available for payment under this subsection for travel by a representative to attend an administrative proceeding before an administrative law judge or other adjudicator shall not exceed the maximum amount allowable under this subsection for such travel originating within the geographic area of the office having jurisdiction over such proceeding.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to determinations made on or after January 1, 1991, and to reimbursement for travel expenses incurred on or after January 1, 1991.

SEC. 12807. NOTICE REQUIREMENTS.

(a) REQUIREMENTS.—

(1) TITLE II.—Section 205 of the Social Security Act (42 U.S.C. 405) is amended by inserting after subsection (r) the following new subsection:

"NOTICE REQUIREMENTS

"(s) The Secretary shall take such actions as are necessary to ensure that any notice to one or more individuals issued pursuant to this title by the Secretary or by a State agency—

"(1) is written in simple and clear language, and

"(2) includes the address and telephone number of the local office of the Social Security Administration which serves the recipient.

In the case of any such notice which is not generated by a local servicing office, the requirements of paragraph (2) shall be treated as satisfied if such notice includes the address of the local office of the Social Security Administration which services the recipient of the notice and a telephone number through which such office can be reached.".

(2) TITLE XVI.—Section 1631 of such Act (42 U.S.C. 1383) is amended by adding at the end the following:

"NOTICE REQUIREMENTS

"(n) The Secretary shall take such actions as are necessary to ensure that any notice to one or more individuals issued pursuant to this title by the Secretary or by a State agency—

"(1) is written in simple and clear language, and

"(2) includes the address and telephone number of the local office of the Social Security Administration which serves the recipient.

In the case of any such notice which is not generated by a local servicing office, the requirements of paragraph (2) shall be treated as satisfied if such notice includes the address of the local office of the Social Security Administration which services the recipient of the notice and a telephone number through which such office can be reached.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to notices issued on or after January 1, 1991.

SEC. 12808. APPLICABILITY OF ADMINISTRATIVE RES JUDICATA; RELATED NOTICE REQUIREMENTS.

(a) IN GENERAL.—

(1) TITLE II.—Section 205(b) of the Social Security Act (42 U.S.C 405(b)) is amended by adding at the end the following new paragraph:

"(3)(A) A failure to timely request review of an initial adverse determination with respect to an application for any benefit under this title or an adverse determination on reconsideration of such an initial determination shall not serve as a basis for denial of a subsequent application for any benefit under this title if the applicant demonstrates that the applicant, or any other individual referred to in paragraph (1), failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information, relating to the consequences of reapplying for benefits in lieu of seeking review of an adverse determination, provided by any officer or employee of the Social Security Administration or any State agency acting under section 221.

"(B) In any notice of an adverse determination with respect to which a review may be requested under paragraph (1), the Secretary shall describe in clear and specific language the effect on possible entitlement to benefits under this title of choosing to reapply in lieu of requesting review of the determination.".

(2) TITLE XVI.—Section 1631(c)(1) of such Act (42 U.S.C 1383(c)(1)) is amended—

(A) by inserting "(A)" after "(c)(1)"; and

(B) by adding at the end the following:

"(B)(A) A failure to timely request review of an initial adverse determination with respect to an application for any payment under this title or an adverse determination on reconsideration of such an initial determination shall not serve as a basis for denial of a subsequent application for any payment under this title if the applicant demonstrates that the applicant, or any other individual referred to in paragraph (1), failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information, relating to the consequences of reapplying for payments in lieu of seeking review of an adverse determination, provided by any officer or employee of the Social Security Administration.

"(B) In any notice of an adverse determination with respect to which a review may be requested under paragraph (1), the Secretary shall describe in clear and specific language the effect on possible entitlement to payments under this title of choosing to reapply in lieu of requesting review of the determination.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to adverse determinations made on or after January 1, 1991.

SEC. 12809. TELEPHONE ACCESS TO THE SOCIAL SECURITY ADMINISTRATION

(a) REQUIRED MINIMUM LEVEL OF ACCESS TO LOCAL OFFICES.—In addition to such other access by telephone to offices of the Social Security Administration as the Secretary of Health and Human Services may consider appropriate, the Secretary shall maintain access by telephone to local offices of the Social Security Administration at the level of access generally available as of September 30, 1989.

(b) TELEPHONE LISTINGS.—The Secretary shall make such requests of local telephone utilities in the United States as are necessary to ensure that the listings subsequently maintained and published by such utilities for each locality include the address and telephone number for each local office of the Social Security Administration to which direct telephone access is reestablished under subsection (a) in such locality. With respect to any toll-free number maintained by the Social Security Administration, the required listing shall include the following statement: "For general information, call——", followed by the toll-free number.

(c) REPORT BY SECRETARY.—Not later than January 1, 1993, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Com-

mittee on Finance of the Senate a report which—

(1) assesses the impact of the requirements established by this section on the Social Security Administration's allocation of resources, workload levels, and service to the public, and

(2) presents a plan for using new, innovative technologies to enhance access to the local offices of the Social Security Administration.

The plan described in paragraph (2) shall be directed at maintaining access by telephone to the offices of the Social Security Administration at a level which is at least as high as the level required under subsection (a).

(d) GAO REPORT.—Not later than 90 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate describing the level of telephone access by the public to the local offices of the Social Security Administration.

(e) EFFECTIVE DATE.—Subsections (a) and (b) shall take effect 60 days after the date of the enactment of this Act.

SEC. 12810. VOCATIONAL REHABILITATION DEMONSTRATION PROJECTS.

(a) DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Pursuant to section 505 of the Social Security Disability Amendments of 1980, the Secretary of Health and Human Services shall develop and carry out under this section demonstration projects in each of not fewer than three States. Each such demonstration project shall be designed to assess the advantages and disadvantages of permitting disabled beneficiaries (as defined in paragraph (3)) to select, from among both public and private qualified vocational rehabilitation providers, providers of vocational rehabilitation services directed at enabling such beneficiaries to engage in substantial gainful activity. Each such demonstration project shall commence as soon as practicable after the date of the enactment of this Act and shall remain in operation until the end of fiscal year 1993.

(2) SCOPE AND PARTICIPATION.—Each demonstration project shall be of sufficient scope and open to sufficient participation by disabled beneficiaries so as to permit meaningful determinations under subsection (b).

(3) DISABLED BENEFICIARY.—For purposes of this section, the term "disabled beneficiary" means an individual who is entitled to disability insurance benefits under section 223 of the Social Security Act or benefits under section 202 of such Act based on such individual's own disability.

(b) MATTERS TO BE DETERMINED.—In the course of each demonstration project conducted under this section, the Secretary shall determine the following:

(1) the extent to which disabled beneficiaries participate in the process of selecting providers of rehabilitation services, and their reasons for participating or not participating;

(2) notable characteristics of participating disabled beneficiaries (including their impairments), classified by the type of provider selected;

(3) the various needs for rehabilitation demonstrated by participating disabled beneficiaries, classified by the type of provider selected;

(4) the extent to which providers of rehabilitation services which are not agencies or instrumentalities of States accept referrals of disabled beneficiaries under procedures in effect under section 222(d) of the Social Security Act as of the date of the enactment of this Act relating to reimbursement for such services and the most effective way of reimbursing such providers in accordance with such provisions;

(5) the extent to which providers participating in the demonstration projects enter into contracts with third parties for services and the types of such services;

(6) whether, and if so the extent to which, disabled beneficiaries who select their own providers of rehabilitation services are more likely to engage in substantial gainful activity and thereby terminate their entitlement under section 202 or 223 of the Social Security Act than those who do not;

(7) the cost effectiveness of permitting disabled beneficiaries to select their providers of vocational rehabilitation services, and the comparative cost effectiveness of different types of providers; and

(8) the feasibility of establishing a permanent national program for allowing disabled beneficiaries to choose their own qualified vocational rehabilitation provider and any additional safeguards which would be necessary to assure the effectiveness of such a program.

(c) PROCEDURAL REQUIREMENTS.—

(1) SELECTION OF PARTICIPANTS.—The Secretary shall select for participation in each demonstration project under this section disabled beneficiaries for whom there is a reasonable likelihood that rehabilitation services provided to them will result in performance by them of substantial gainful activity for a continuous period of nine months prior to termination of the project.

(2) SELECTION OF PROVIDERS OF REHABILITATION SERVICES.—The Secretary shall select qualified rehabilitation agencies to serve as providers of rehabilitation services in the geographic area covered by each demonstration project conducted under this section. The Secretary shall make such selection after consultation with disabled individuals and organizations representing such individuals. With respect to each demonstration project, the Secretary may approve on a case-by-case basis additional qualified rehabilitation agencies from outside the geographic area covered by the project to serve particular disabled beneficiaries.

(3) REIMBURSEMENT OF PROVIDERS.—

(A) Except as provided in subparagraph (B), providers of rehabilitation services under each demonstration project under this section shall be reimbursed in accordance with the procedures in effect under the provisions of section 222(d) of the Social Security Act as of the date of the enactment of this Act relating to reimbursement for services provided under such section.

(B) The Secretary may contract with providers of rehabilitation services under each demonstration project under this section on a fee-for-service basis in order to—

(i) conduct vocational evaluations directed at identifying those disabled beneficiaries who have reasonable potential for engaging in substantial gainful activity and thereby terminating their entitlement to benefits under section 202 or 223 of the Social Security Act if provided with vocational rehabilitation services as participants in the project, and

(ii) develop jointly with each disabled beneficiary so identified an individualized, written rehabilitation program.

(C) Each written rehabilitation program developed pursuant to subparagraph (B)(ii) for any participant shall include among its provisions—

(i) a statement of the participant's rehabilitation goal,

(ii) a statement of the specific rehabilitation services to be provided and of the identity of the provider to furnish such services,

(iii) the projected date for the initiation of such services and their anticipated duration, and

(iv) objective criteria and an evaluation procedure and schedule for determining whether the stated rehabilitation goal is being achieved.

(d) REPORTS.—The Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate an interim written report on the progress of the demonstration projects conducted under this section not later than April 1, 1992, together with any related data and materials which the Secretary considers appropriate. The Secretary shall submit a final written report to such Committees addressing the matters to be determined under subsection (b) not later than April 1, 1994.

(e) STATE.—For purposes of this section, the term "State" means a State, including the entities included in such term by section 210(h) of the Social Security Act (42 U.S.C. 410(h)).

(f) CONTINUATION OF DEMONSTRATION AUTHORITY.—Section 505(c) of the Social Security Disability Amendments of 1980 (42 U.S.C. 1310 note) is amended to read as follows:

"(c) The Secretary shall submit to the Congress a final report with respect to all experiments and demonstration projects carried out under this section (other than demonstration projects conducted under section 12810 of the Omnibus Budget Reconciliation Act of 1990) no later than October 1, 1993.".

(g) NEW SPENDING AUTHORITY.—Any new spending authority provided by this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 12811. EXEMPTION FOR CERTAIN ALIENS, RECEIVING AMNESTY UNDER THE IMMIGRATION AND NATIONALITY ACT, FROM PROSECUTION FOR MISREPORTING OF EARNINGS OR MISUSE OF SOCIAL SECURITY ACCOUNT NUMBERS OR SOCIAL SECURITY CARDS.

(a) IN GENERAL.—Section 208 of the Social Security Act (42 U.S.C. 408) is amended by adding at the end the following:

"(d)(1) Except as provided in paragraph (2), an alien—

"(A) whose status is adjusted to that of lawful temporary resident under section 210 or 245A of the Immigration and Nationality Act or under section 902 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989,

"(B) whose status is adjusted to that of permanent resident—

"(i) under section 202 of the Immigration Reform and Control Act of 1986, or

"(ii) pursuant to section 249 of the Immigration and Nationality Act, or

"(C) who is granted special immigrant status under section 101(a)(27)(I) of the Immigration and Nationality Act,

shall not be subject to prosecution for any alleged conduct described in paragraph (6) or (7) of subsection (a) if such conduct is alleged to have occurred prior to 60 days after the date of the enactment of the Omnibus Budget Reconciliation Act of 1990.

"(2) Paragraph (1) shall not apply with respect to conduct (described in subsection (a)(7)(C)) consisting of—

"(A) selling a card that is, or purports to be, a social security card issued by the Secretary,

"(B) possessing a social security card with intent to sell it, or

"(C) counterfeiting a social security card with intent to sell it.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—So much of section 208 of such Act as precedes subsection (d) (as added by subsection (a) of this section) is amended—

(1) in subsection (a), by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) in subsection (g), by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(3) by redesignating subsections (a) through (h) as paragraphs (1) through (8), respectively;

(4) by inserting "(a)" before "Whoever";

(5) by inserting "(b)" at the beginning of the next-to-last undesignated paragraph; and

(6) by inserting "(c)" at the beginning of the last undesignated paragraph.

SEC. 12812. REDUCTION OF AMOUNT OF WAGES NEEDED TO EARN A YEAR OF COVERAGE APPLICABLE IN DETERMINING SPECIAL MINIMUM PRIMARY INSURANCE AMOUNT.

(a) IN GENERAL.—Section 215(a)(1)(C)(ii) of the Social Security Act (42 U.S.C. 415(a)(1)(C)(ii)) is amended by striking "of not less than 25 percent" the first place it appears and all that follows through "1977) if" and inserting "of not less than 25 percent (in the case of a year after 1950 and before 1978) of the maximum amount which (pursuant to subsection (e)) may be counted for such year, or 25 percent (in the case of a year after 1977 and before 1991) or 15 percent (in the case of a year after 1990) of the maximum amount which (pursuant to subsection (e)) could be counted for such year if".

(b) RETENTION OF CURRENT AMOUNT OF WAGES NEEDED TO EARN A YEAR OF COVERAGE FOR PURPOSES OF WINDFALL ELIMINATION PROVISION.—Section 215(a)(7)(D) of such Act (42 U.S.C. 415(a)(7)(D)) is amended—

(1) in the first sentence, by striking "(as defined in paragraph (1)(C)(ii))"; and

(2) by adding at the end (after the table) the following new flush sentence:

"For purposes of this subparagraph, the term 'year of coverage' shall have the meaning provided in paragraph (1)(C)(ii), except that the reference to '15 percent' therein shall be deemed to be a reference to '25 percent'.".

SEC. 12813. ELIMINATION OF ELIGIBILITY FOR RETROACTIVE BENEFITS FOR CERTAIN INDIVIDUALS ELIGIBLE FOR REDUCED BENEFITS.

(a) IN GENERAL.—Section 202(j)(4) of the Social Security Act (42 U.S.C. 402(j)(4)) is amended—

(1) in subparagraph (A), by striking "if the effect" and all that follows and inserting "if the amount of the monthly benefit to which such individual would otherwise be entitled for any such month would be subject to reduction pursuant to subsection (q).''; and

(2) in subparagraph (B), by striking clauses (i) and (iv) and by redesignating clauses (ii), (iii), and (v) as clauses (i), (ii), and (iii), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to applications for benefits filed on or after January 1, 1991.

SEC. 12814. CHARGING OF EARNINGS OF CORPORATE DIRECTORS.

(a) IN GENERAL.—

(1) Title II of the Social Security Act is amended by moving the last undesignated paragraph of section 211(a) of such title (as added by section 9022(a) of the Omnibus Budget Reconciliation Act of 1987) to the end of section 203(f)(5) of such title.

(2) The undesignated paragraph moved to section 203(f)(5) of the Social Security Act by paragraph (1) is amended—

(A) by striking "Any income of an individual which results from or is attributable to" and inserting "(E) For purposes of this section, any individual's net earnings from self-employment which result from or are attributable to",

(B) by striking "the income is actually paid" and inserting "the income, on which the computation of such net earnings from self-employment is based, is actually paid"; and

(C) by striking "unless it was" and inserting "unless such income was".

(3) The last undesignated paragraph of section 1402(a) of the Internal Revenue Code of 1986 (as added by section 9022(b) of the Omnibus Budget Reconciliation Act of 1987) is repealed.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services performed in taxable years beginning after December 31, 1990.

SEC. 12815. COLLECTION OF EMPLOYEE SOCIAL SECURITY AND RAILROAD RETIREMENT TAXES ON TAXABLE GROUP-TERM LIFE INSURANCE PROVIDED TO RETIREES.

(a) SOCIAL SECURITY TAXES.—Section 3102 of the Internal Revenue Code of 1986 (relating to deduction of tax from wages) is amended by adding at the end thereof the following new subsection:

"(d) SPECIAL RULE FOR CERTAIN TAXABLE GROUP-TERM LIFE INSURANCE BENEFITS.—

"(1) IN GENERAL.—In the case of any payment for group-term life insurance to which this subsection applies—

"(A) subsection (a) shall not apply,

"(B) the employer shall separately include on the statement required under section 6051—

"(i) the portion of the wages which consists of payments for group-term life insurance to which this subsection applies, and

"(ii) the amount of the tax imposed by section 3101 on such payments, and

"(C) the tax imposed by section 3101 on such payments shall be paid by the employee.

"(2) BENEFITS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any payment for group-term life insurance to the extent—

"(A) such payment constitutes wages, and

"(B) such payment is for coverage for periods during which an employment relationship no longer exists between the employee and the employer."

(b) RAILROAD RETIREMENT TAXES.—Section 3202 of such Code (relating to deduction of tax from compensation) is amended by adding at the end thereof the following new subsection:

"(d) SPECIAL RULE FOR CERTAIN TAXABLE GROUP-TERM LIFE INSURANCE BENEFITS.—

"(1) IN GENERAL.—In the case of any payment for group-term life insurance to which this subsection applies—

"(A) subsection (a) shall not apply,

"(B) the employer shall separately include on the statement required under section 6051—

"(i) the portion of the compensation which consists of payments for group-term life insurance to which this subsection applies, and

"(ii) the amount of the tax imposed by section 3101 on such payments, and

"(C) the tax imposed by section 3101 on such payments shall be paid by the employee.

"(2) BENEFITS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any payment for group-term life insurance to the extent—

"(A) such payment constitutes compensation, and

"(B) such payment is for coverage for periods during which an employment relationship no longer exists between the employee and the employer."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to coverage provided after December 31, 1990.

SEC. 12816. CONSOLIDATION OF OLD METHODS OF COMPUTING PRIMARY INSURANCE AMOUNTS.

(a) CONSOLIDATION OF COMPUTATION METHODS.—

(1) IN GENERAL.—Section 215(a)(5) of the Social Security Act (42 U.S.C. 415(a)(5)) is amended—

(A) by striking "For purposes of" and inserting "(A) Subject to subparagraphs (B), (C), (D) and (E), for purposes of";

(B) by striking the last sentence; and

(C) by adding at the end the following new subparagraphs:

"(B)(i) Subject to clauses (ii), (iii), and (iv), and notwithstanding any other provision of law, the primary insurance amount of any individual described in subparagraph (C) shall be, in lieu of the primary insurance amount as computed pursuant to any of the provisions referred to in subparagraph (D), the primary insurance amount computed under subsection (a) of section 215 as in effect in December 1978, without regard to subsection (b)(4) and (c) of such section as so in effect.

"(ii) The computation of a primary insurance amount under this subparagraph shall be subject to section 104(j)(2) of the Social Security Amendments of 1972 (relating to the number of elapsed years under section 215(b)).

"(iii) In computing a primary insurance amount under this subparagraph, the dollar amount specified in paragraph (3) of section 215(a) (as in effect in December 1978) shall be increased to $11.50.

"(iv) In the case of an individual to whom section 215(d) applies, the primary insurance amount of such individual shall be the greater of—

"(I) the primary insurance amount computed under the preceding clauses of this subparagraph, or

"(II) the primary insurance amount computed under section 215(d).

"(C) An individual is described in this subparagraph if—

"(i) paragraph (1) does not apply to such individual by reason of such individual's eligibility for an old-age or disability insurance benefit, or the individual's death, prior to 1979, and

"(ii) such individual's primary insurance amount computed under this section as in effect immediately before the date of the enactment of the Omnibus Budget Reconciliation Act of 1990 would have been com-

puted under the provisions described in subparagraph (D).

"(D) The provisions described in this subparagraph are—

"(i) the provisions of this subsection as in effect prior to the enactment of the Social Security Amendments of 1965, if such provisions would preclude the use of wages prior to 1951 in the computation of the primary insurance amount,

"(ii) the provisions of section 209 as in effect prior to the enactment of the Social Security Act Amendments of 1950, and

"(iii) the provisions of section 215(d) as in effect prior to the enactment of the Social Security Amendments of 1977.

"(E) For purposes of this paragraph, the table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be revised as provided by subsection (i) for each year after 1978.".

(2) COMPUTATION OF PRIMARY INSURANCE BENEFIT UNDER 1939 ACT.—

(A) DIVISION OF WAGES BY ELAPSED YEARS.—Section 215(d)(1) of such Act (42 U.S.C. 415(d)(1)) is amended—

(i) in subparagraph (A), by inserting "and subject to section 104(j)(2) of the Social Security Amendments of 1972" after "thereof"; and

(ii) by striking "(B) For purposes" in subparagraph (B) and all that follows through clause (ii) of such subparagraph and inserting the following:

"(B) For purposes of subparagraphs (B) and (C) of subsection (b)(2) (as so in effect)—

"(i) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual—

"(I) shall, in the case of an individual who attained age 21 prior to 1950, be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after the year in which the individual attained age 20, or 1936 if later, and prior to the earlier of the year of death or 1951, except that such divisor shall not include any calendar year entirely included in a period of disability, and in no case shall the divisor be less than one, and

"(II) shall, in the case of an individual who died before 1950 and before attaining age 21, be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after the second year prior to the year of death, or 1936 if later, and prior to the year of death, and in no case shall the divisor be less than one; and

"(ii) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual who either attained age 21 after 1949 or died after 1949 before attaining age 21, shall be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after 1949 and prior to 1951.".

(B) CREDITING OF WAGES TO YEARS.—Clause (iii) of section 215(d)(1)(B) of such Act (42 U.S.C. 415(d)(1)(B)(iii)) is amended to read as follows:

"(iii) if the quotient exceeds $3,000, only $3,000 shall be deemed to be the individual's wages for each of the years which were used in computing the amount of the divisor, and the remainder of the individual's total wages prior to 1951 (I) if less than $3,000, shall be deemed credited to the computation base year (as defined in subsection (b)(2) as in effect in December 1977) immediately preceding the earliest year used in computing the amount of the divisor, or (II) if $3,000 or more, shall be deemed credited, in $3,000 increments, to the computation base year (as so defined) immediately preceding the earliest year used in computing the amount of the divisor and to each of the computation base years (as so defined) consecutively preceding that year, with any remainder less than $3,000 being credited to the computation base year (as so defined) immediately preceding the earliest year to which a full $3,000 increment was credited; and".

(C) APPLICABILITY.—Section 215(d) of such Act is further amended—

(i) in paragraph (2)(B), by striking "except as provided in paragraph (3),";

(ii) by striking paragraph (2)(C) and inserting the following:

"(C)(i) who becomes entitled to benefits under section 202(a) or 223 or who dies, or

"(ii) whose primary insurance amount is required to be recomputed under paragraph (2), (6), or (7) of subsection (f) or under section 231."; and

(iii) by striking paragraphs (3) and (4).

(3) CONFORMING AMENDMENTS.—

(A) Section 215(i)(4) of such Act (42 U.S.C. 415(i)(4)) is amended in the first sentence by inserting "and as amended by section 12816 of the Omnibus Budget Reconciliation Act of 1990" after "as then in effect".

(B) Section 203(a)(8) of such Act (42 U.S.C. 403(a)(8)) is amended in the first sentence by inserting "and as amended by section 12816 of the Omnibus Budget Reconciliation Act of 1990," after "December 1978" the second place it appears.

(C) Section 215(c) of such Act (42 U.S.C. 415(c)) is amended by striking "This" and inserting "Subject to the amendments made by section 12816 of the Omnibus Budget Reconciliation Act of 1990, this".

(D) Section 215(f)(7) of such Act (42 U.S.C. 415(f)(7)) is amended by striking the period at the end of the first sentence and inserting ", including a primary insurance amount computed under any such subsection whose operation is modified as a result of the amendments made by section 12816 of the Omnibus Budget Reconciliation Act of 1990.".

(E)(i) Section 215(d) of such Act (42 U.S.C. 415(d)) is amended by redesignating paragraph (5) as paragraph (3).

(ii) Subsections (a)(7)(A), (a)(7)(C)(ii), and (f)(9)(A) of section 215 of such Act (42 U.S.C. 415) are each amended by striking "subsection (d)(5)" each place it appears and inserting "subsection (d)(3)".

"(iii) Section 215(f)(9)(B) of such Act (42 U.S.C. 415(f)(9)(B)) is amended by striking "subsection (a)(7) or (d)(5)" each place it appears and inserting "subsection (a)(7) or (d)(3)".

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply with respect to the computation of the primary insurance amount of any insured individual in any case in which a person becomes entitled to benefits under section 202 or 223 on the basis of such insured individual's wages and self-employment income for months after the 18-month period following the month in which this Act is enacted, except that such amendments shall not apply if any person is entitled to benefits based on the wages and self-employment income of such insured individual for the month preceding the initial month of such person's entitlement to such benefits under section 202 or 223.

(B) RECOMPUTATIONS.—The amendments made by this subsection shall apply with respect to any primary insurance amount upon the recomputation of such primary insurance amount if such recomputation is first effective for monthly benefits for months after the 18-month period following the month in which this Act is enacted.

(b) BENEFITS IN CASE OF VETERANS.—Section 217(b) of such Act (42 U.S.C. 417(b)) is amended—

(1) in the first sentence of paragraph (1), by striking "Any" and inserting "Subject to paragraph (3), any"; and

(2) by adding at the end the following new paragraph:

"(3)(A) The preceding provisions of this subsection shall apply for purposes of determining the entitlement to benefits under section 202, based on the primary insurance amount of the deceased World War II veteran, of any surviving individual only if such surviving individual makes application for such benefits before the end of the 18-month period after the month in wnich the Omnibus Budget Reconciliation Act of 1990 was enacted.

"(B) Subparagraph (A) shall not apply if any person is entitled to benefits under section 202 based on the primary insurance amount of such veteran for the month preceding the month in which such application is made.".

(c) APPLICABILITY OF ALTERNATIVE METHOD FOR DETERMINING QUARTERS OF COVERAGE WITH RESPECT TO WAGES IN THE PERIOD FROM 1937 TO 1950.—

(1) APPLICABILITY WITHOUT REGARD TO NUMBER OF ELAPSED YEARS.—Section 213(c) of such Act (42 U.S.C. 413(c)) is amended—

(A) by inserting "and 215(d)" after "214(a)"; and

(B) by striking "except where—" and all that follows and inserting the following: "except where such individual is not a fully insured individual on the basis of the number of quarters of coverage so derived plus the number of quarters of coverage derived from the wages and self-employment income credited to such individual for periods after 1950.".

(2) APPLICABILITY WITHOUT REGARD TO DATE OF DEATH.—Section 155(b)(2) of the Social Security Amendments of 1967 is amended by striking "after such date".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply only with respect to individuals who—

(A) make application for benefits under section 202 of the Social Security Act after the 18-month period following the month in which this Act is enacted, and

(B) are not entitled to benefits under section 227 or 228 of such Act for the month in which such application is made.

Sec. 12817. SUSPENSION OF DEPENDENT'S BENEFITS WHEN THE WORKER IS IN AN EXTENDED PERIOD OF ELIGIBILITY.

(a) IN GENERAL.—Section 223(e) of the Social Security Act is amended by—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following new paragraph:

"(2) No benefit shall be payable under section 202 on the basis of the wages and self-employment income of an individual entitled to a benefit under subsection (a)(1) of this section for any month for which the benefit of such individual under subsection (a)(1) is not payable under paragraph (1).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to benefits for months after the date of the enactment of this Act.

SEC. 12818. TIER 1 RAILROAD RETIREMENT TAX RATES EXPLICITLY DETERMINED BY REFERENCE TO SOCIAL SECURITY TAXES.

(a) TAX ON EMPLOYEES.—Subsection (a) of section 3201 of the Internal Revenue Code of 1986 (relating to rate of tax) is amended—

(1) by striking "following" and inserting "applicable", and (2) by striking "employee:" and all that follows and inserting "employee. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 for the calendar year."

(b) TAX ON EMPLOYEE REPRESENTATIVES.—Paragraph (1) of section 3211(a) of such Code (relating to rate of tax) is amended—

(1) by striking "following" and inserting "applicable", and

(2) by striking "representative:" and all that follows and inserting "representative. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 and subsections (a) and (b) of section 3111 for the calendar year."

(c) TAX ON EMPLOYERS.—Subsection (a) of section 3221 of such Code (relating to rate of tax) is amended—

(1) by striking "following" and inserting "applicable", and

(2) by striking "employer:" and all that follows and inserting "employer. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3111 for the calendar year."

SEC. 12819. TRANSFER TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "1990" and inserting "1992".

SEC. 12820. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) IN GENERAL.—

(1) AMENDMENT RELATING TO SECTION 7088 OF PUBLIC LAW 100-690.—Section 208 of the Social Security Act (42 U.S.C. 408) is amended, in the last undesignated paragraph, by striking "section 405(c)(2) of this title" and inserting "section 205(c)(2)".

(2) AMENDMENTS RELATING TO SECTION 322 OF PUBLIC LAW 98-21.—Paragraphs (1) and (2) of section 322(b) of the Social Security Amendments of 1983 (Public Law 98-21, 97 Stat. 121) are each amended by inserting "the first place it appears" before "the following".

(3) AMENDMENT RELATING TO SECTION 1011B(b)(4) OF PUBLIC LAW 100-647.—Section 211(a) of the Social Security Act (42 U.S.C. 411(a)) is amended by redesignating the second paragraph (14) as paragraph (15).

(4) AMENDMENT RELATING TO SECTION 2003(d) OF PUBLIC LAW 100-647.—Paragraph (3) of section 3509(d) of the Internal Revenue Code of 1986 (as amended by section 2003(d) of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647; 102 Stat. 3598)) is further amended by striking "subsection (d)(4)" and inserting "subsection (d)(3)".

(5) AMENDMENT RELATING TO SECTION 10208 OF PUBLIC LAW 101-239.—Section 209(a)(7)(B) of the Social Security Act (42 U.S.C. 409(a)(7)(B)) is amended by striking "subparagraph (B)" in the matter following clause (ii) and inserting "clause (ii)".

(b) EFFECTIVE DATES.—The amendments made by subsection (a) shall be effective as if included in the enactment of the provision to which it relates.

Subtitle J—Miscellaneous and Technical Amendments Relating to the Medicare Program

PART 1—NO-COST PROVISIONS

SEC. 12901. PATIENT SELF-DETERMINATION.

(a) PROVISIONS RELATING TO MEDICARE PART A.—

(1) IN GENERAL.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1) is amended—

(A) by striking "and" at the end of subparagraph (O),

(B) by striking the period at the end of subparagraph (P) and inserting a comma, and

(C) by inserting after subparagraph (P) the following new subparagraphs:

"(Q) in the case of a hospital, at the time of each adult's admission (other than emergency admission) as an inpatient, or, in the case of a hospice program, at the time of each adult's election of hospice benefits under section 1812—

"(i) to inquire whether the adult has executed an advanced directive (described in section 1878(b)(2));

"(ii) to document in the adult's medical record whether or not the individual has executed such a directive; and

"(iii) to provide the adult with the hospital's or program's written policy concerning the implementation of advanced directives (including such policies relating to transfers of individuals, consistent with State law); and

"(R) in the case of a hospital or hospice program, to educate the hospital's or program's medical staff and other appropriate personnel on State law (whether statutory or as recognized by the courts of the State) regarding patient self-determination;".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to agreements as the first day of the first month beginning more than 1 year after the date of the enactment of this Act.

(b) PROVISIONS RELATING TO PARTS A AND B.—

(1) CONDITION OF PARTICIPATION FOR HOME HEALTH AGENCIES.—Section 1866(a)(1)(Q) of the Social Security Act (42 U.S.C. 1395cc(a)(1)(Q)), as inserted by subsection (a)(1), is amended—

(A) in subparagraph (Q) before clause (i), by inserting before the dash the following: "and, in the case of a home health agency, in advance of the adult coming under the care of such agency",

(B) in clauses (ii) and (iii) of subparagraph (Q) and in subparagraph (R), by striking "or program's" and inserting ", program's, or agency's;", and

(C) in subparagraph (Q), by striking "or hospice program" and inserting ", hospice program, or home health agency".

(2) AS A CONTRACTUAL CONDITION FOR HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.—Section 1876(c) of such Act (42 U.S.C. 1395mm(c)) is amended by adding at the end the following new paragraph:

"(8) Each risk-sharing contract and reasonable cost reimbursement contract under this section and each contract with an organization to receive payment on a prepayment basis under section 1833(a)(1)(A) shall provide that—

"(A) at the time of each adult's enrollment with the organization (whether under this section or otherwise), the organization shall—

"(i) inquire as to whether the adult has executed an advanced directive (as defined in section 1868(b)(2)),

"(ii) document in the adult's medical record whether or not the individual has executed such an advanced directive, and

"(iii) provide the adult with the organization's written policy concerning the implementation of advanced directives (including such policies relating to transfers of individuals, consistent with State law); and

"(B) the organization shall educate the organization's medical staff and other appropriate personnel on State law (whether statutory or as recognized by the courts of the State) regarding patient self-determination.".

(3) PROVISION OF INFORMATION REGARDING PATIENTS' RIGHTS.—

(A) IN GENERAL.—Title XVIII of the Social Security Act is amended by inserting after section 1867 the following new section:

"PROVISION OF INFORMATION REGARDING PATIENTS' RIGHTS

"SEC. 1868. (a) REQUIRING PROVISION OF PATIENTS' RIGHTS INFORMATION.—

"(1) IN GENERAL.—Except as provided in paragraph (3), each hospital, home health agency, or hospice program with an agreement in effect under section 1866 and each eligible organization with a contract under section 1876 shall provide, at the time specified in paragraph (2), each adult patient with information described in subsection (b) regarding patient's rights.

"(2) WHEN INFORMATION PROVIDED.—The information required to be provided under paragraph (1) shall be provided—

"(A) in the case of a hospital, at the time of each adult's admission as an inpatient to the hospital (or, in the case of an emergency admission, at such later time as may be consistent with medical practice);

"(B) in the case of a hospice program, at the time of each adult's election of hospice benefits under section 1812;

"(C) in the case of a home health agency, in advance of the individual coming under the care of such agency; and

"(D) in the case of an eligible organization, at the time of each adult's enrollment with the organization.

"(3) EXEMPTION BASED ON MORAL, ETHICAL, OR RELIGIOUS BELIEFS.—Paragraph (1) shall not apply in the case of a provider of services or eligible organization that transmits a letter to the Secretary that certifies that the Board of Directors (or comparable executive body) of the provider or organization has voted not to be subject to paragraph (1) based upon moral, ethical, or religious beliefs.

"(b) PATIENTS' RIGHTS INFORMATION.—

"(1) IN GENERAL.—The information described in this subsection is information regarding the individual's rights under State law (whether statutory or as recognized by the courts of the State) to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment, and the right to formulate advanced directives (as defined in paragraph (2)).

"(2) ADVANCE DIRECTIVE DEFINED.—In this subsection and for purposes of other sections of this title, the term 'advance directive' means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law and relating to the provision of such care when the individual is incapacitated.

"(c) PROHIBITING DENIAL OF CARE BASED ON ADVANCED DIRECTIVE DECISION.—A hospital, hospice program, or home health agency with an agreement in effect under section 1866 and an eligible organization with any contract in effect under section 1876 may not deny the initial provision of care or otherwise discriminate against an individual (whether or entitled to benefits under this title) based on whether or not the individual has executed an advanced directive.

"(d) PROHIBITING CERTAIN WITNESSING OF ADVANCED DIRECTIVES.—Notwithstanding any provision of State law, an employee of a hospital may not serve as a witness to an advanced directive executed by an individual entitled to benefits under this title (or under a State plan approved under title XIX) while the individual is an inpatient in the hospital.

"(e) ENFORCEMENT.—Any hospital, hospice program, home health agency, or eligible organization that violates subsection (a) or (c), is subject to a civil money penalty in an amount not to exceed $2,000 for each such violation. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under this subsection in the same manner as they apply to a penalty or proceeding under section 1128A(a).".

(B) OBLIGATION OF PHYSICIANS TO MAKE INFORMATION AVAILABLE CONCERNING PATIENT SELF-DETERMINATION AVAILABLE.—Section 1156(a) of such Act (42 U.S.C. 1320c-5(a)) is amended by adding after and below paragraph (3) the following:

"It shall be the obligation of each physician who provides health care services for which payment may be made (in whole or in part) under this Act, to assure that written information is made available to the physician's adult patients regarding their rights under State law to make decisions concerning medical care.".

(C) ASSISTANCE IN DEVELOPMENT AND DISTRIBUTION OF PATIENT'S RIGHTS DOCUMENT.—

(i) DOCUMENT DEVELOPMENT.—The Secretary of Health and Human Services shall assist, in each State, an appropriate State agency, association, or private entity in developing a document that describes patients' rights specified in section 1868(b) of the Social Security Act in the State and that could be distributed to providers and physicians for use in complying with the requirements imposed by the amendments made by this subsection.

(ii) DOCUMENT DISTRIBUTION.—The Secretary shall assist such an agency, association, or entity in the distribution of copies of documents developed under clause (i).

(D) INCLUSION OF CERTAIN INFORMATION IN ANNUAL MEDICARE BENEFICIARY MAILING.—Section 1804 of the Social Security Act (42 U.S.C. 1395b-2) is amended—

(i) by striking "and" at the end of paragraph (2),

(ii) by striking the period at the end of paragraph (3) and inserting ", and", and

(iii) by inserting after paragraph (3) the following new paragraph:

"(4) a general description of patients' rights to make decisions regarding advance directives (described in section 1868(b)(2)) and where individuals may receive information concerning such rights in each of the States.".

(4) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) shall apply to participation agreements as of the first day of the first month beginning more than 1 year after the date of the enactment of this Act.

(B) The amendment made by paragraph (2) shall apply to contracts entered into or renewed on or after the first day of the first month beginning more than 1 year after the date of the enactment of this Act.

(C) Section 1868(a) of the Social Security Act (as inserted by paragraph (3)(A)) shall apply to adults who are admitted to a hospital, provided hospice care, first home under the care of a home health agency, or enroll with an eligible organization on or after the first day of the first month beginning more than 1 year after the date of the enactment of this Act.

(D) Section 1868(c) of the Social Security Act (as inserted by paragraph (3)(A)) shall apply to denials of care occurring on or after the first day of the first month beginning more than 1 year after the date of the enactment of this Act.

(E) Section 1868(d) of the Social Security Act (as inserted by paragraph (3)(A)) shall apply to advance directives executed on or after the first day of the first month beginning more than 1 year after the date of the enactment of this Act.

(F) The amendments made by paragraph (3)(D) shall first apply to the annual notice to be mailed in 1992.

(2) STUDY TO ASSESS IMPLEMENTATION OF A PATIENT'S RIGHT TO PARTICIPATE IN AND DIRECT HEALTH CARE DECISIONS AFFECTING THE PATIENT.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall (subject to subparagraph (B)) enter into an agreement with the Institute of Medicine of the National Academy of Sciences to conduct a study with respect to the context in which directed health care decisions (including advance directives) are made and carried out, including the incidence and processes of decision-making about life-sustaining treatment that occur with and without advance directives.

(B) ARRANGEMENTS FOR STUDY.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to submit an application to conduct the study described in subparagraph (A). If the Institute submits an acceptable application, the Secretary shall enter into an appropriate arrangement with the Academy for the conduct of the study within 28 days of the date the application is received. If the Institute does not submit an acceptable application to conduct the study, the Secretary may request one or more appropriate nonprofit private entities to submit an application to conduct the study and may enter into an appropriate arrangement for the conduct of the study by the entity which submits the best acceptable application.

(C) REPORT.—The results of the study shall be reported to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate and the Secretary by not later than 4 years after the date of the enactment of this Act. Such report shall include such recommendations for legislation as may be appropriate to carry out further the purpose of this subsection.

(5) PUBLIC EDUCATION DEMONSTRATION PROJECT.—The Secretary if Health and Human Services, no later than 6 months after the date of the enactment of this Act, shall develop and implement a demonstration project in selected States to inform the public of the option to execute advance directives and of a patient's right to participate and direct health care decisions. The Secretary shall report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on the results of the project and on whether such project should be expanded to cover all the States.

SEC. 12902. MISCELLANEOUS AND TECHNICAL PROVISIONS RELATING TO PART A.

(a) WAIVER OF LIABILITY FOR SKILLED NURSING FACILITIES AND HOSPICES.—

(1) SKILLED NURSING FACILITIES.—The second sentence of section 9126(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking "October 31, 1990" and inserting "December 31, 1995".

(2) HOSPICES.—Section 9305(f)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "November 1, 1990" and inserting "December 31, 1995".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect on the date of the enactment of this Act.

(b) HOSPITAL OBLIGATIONS WITH RESPECT TO TREATMENT OF EMERGENCY MEDICAL CONDITIONS.—

(1) CIVIL MONETARY PENALTIES.—Section 1867(d)(2)(A) of the Social Security Act (42 U.S.C. 1395dd(d)(2)(A)) is amended by striking "knowingly" and inserting "negligently".

(2) APPLICATION OF PENALTIES TO SMALL HOSPITALS.—Section 1867(d)(2)(A) of such Act (42 U.S.C. 1395dd(d)(2)(A)) is amended by inserting "(or not more than $25,000 in the case of a hospital with less than 100 beds)" after "$50,000".

(3) TERMINATION OF HOSPITAL PROVIDER AGREEMENTS.—

(A) Section 1867 of such Act (42 U.S.C. 1395dd) is further amended—

(i) by striking paragraph (1) of subsection (d),

(ii) by redesignating paragraphs (2) and (3) of subsection (d) as paragraph (1) and (2), respectively, and

(iii) in subsection (c)(2)(C), by striking "(d)(2)(C)" and inserting "(d)(1)(C)".

(B) Section 1866(a)(1)(I)(i) of such Act (42 U.S.C. 1395cc(a)(1)(I)(i)) is amended by inserting "and to meet the requirements of such section" before the comma at the end.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions occurring on or after the first day of the sixth month beginning after the date of the enactment of this Act.

(c) INSPECTOR GENERAL STUDY OF PROHIBITION ON HOSPITAL EMPLOYMENT OF PHYSICIANS.—

(1) STUDY.—The Secretary of Health and Human Services (acting through the Inspector General of the Department of Health and Human Services) shall conduct a study of the effect of State laws prohibiting the employment of physicians by hospitals on the availability and accessibility of trauma and emergency care services, and shall include in such study an analysis of the effect of such laws on the ability of hospitals to meet the requirements of section 1867 of the Social Security Act relating to the examination and treatment of individuals with an emergency medical condition and women in labor.

(2) REPORT.—By not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under paragraph (1).

(d) DESIGNATION OF RURAL PRIMARY CARE HOSPITALS.—

(1) PRIORITY DESIGNATIONS OF BORDER STATE HOSPITALS.—Section 1820(i)(2)(C) of the Social Security Act (42 U.S.C. 1395i-4(i)(2)(C)) is amended by adding at the end the following new sentence: "In designating facilities as rural primary care hospitals under this subparagraph, the Secretary shall give preference to facilities not meeting the requirements of clause (i) of subparagraph (A) that have entered into an agreement described in subsection (g)(2) with a rural health network located in a State receiving a grant under subsection (a)(1).".

(2) ELIGIBILITY OF CERTAIN CLOSED HOSPITALS.—Section 1820(f)(1)(B) of such Act (42 U.S.C. 1395i-4(f)(1)(B)) is amended by striking "hospital," and inserting the following: "hospital (or, in the case of a facility that closed during the 12-month period that ends on the date the facility applies for such designation, at the time the facility closed),".

(3) ELIGIBILITY OF URBAN HOSPITALS.—Section 1820(f)(1)(A) of such Act (42 U.S.C. 1395i-4(f)(1)(A)) is amended by striking the semicolon and inserting the following: ", or is located in a county whose geographic area is substantially larger than the average geographic area for urban counties in the United States and whose hospital service area is characteristic of service areas of hospitals located in rural areas;".

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1), (2), and (3) shall take effect on the date of the enactment of this Act.

(e) SKILLED NURSING FACILITY ROUTINE COST LIMITS.—

(1) IN GENERAL.—Section 6024 of the Omnibus Budget Reconciliation Act of 1989 is amended by adding at the end the following new sentence: "The Secretary shall update such costs under such section for cost reporting periods beginning on or after October 1, 1989, by using cost reports submitted by skilled nursing facilities for cost reporting periods ending not earlier than January 31, 1988, and not later than December 31, 1988.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

(f) CLARIFICATION OF EXTENSION OF WAIVER FOR FINGER LAKES AREA HOSPITAL CORPORATION.—

(1) IN GENERAL.—The second sentence of section 1886(c)(4) of the Social Security Act (42 U.S.C. 1395ww(c)(4)) is amended by striking "rate of increase from" and inserting "payments under the State system as compared to aggregate payments which would have been made under the national system since".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

(g) ENROLLMENT IN PART A FOR HMO MEMBERS.—

(1) Section 1818(c) of the Social Security Act (42 U.S.C. 1395i-2(c)) is amended—

(A) by striking "and" at the end of paragraph (5),

(B) by striking the period at the end of paragraph (6) and inserting a semicolon, and

(C) by adding at the end the following new paragraphs:

"(7) an individual who meets the conditions of subsection (a) may enroll under this part during a special enrollment period that includes any month during any part of which the individual is enrolled under section 1876 with an eligible organization and ending with the last day of the 8th consecutive month in which the individual is at no time so enrolled;

"(8) in the case of an individual who enrolls during a special enrollment period under paragraph (7)—

"(A) in any month of the special enrollment period in which the individual is at any time enrolled under section 1876 with an eligible organization or in the first month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

"(B) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls; and

"(9) in applying the provisions of section 1839(b), there shall not be taken into account months for which the individual can demonstrate that the individual was enrolled under section 1876 with an eligible organization.".

(2) The amendment made by paragraph (1) shall take effect on February 1, 1991.

(h) NURSING HOME REFORM AMENDMENTS.—

(1) NO COMPLIANCE ACTIONS BEFORE EFFECTIVE DATE OF GUIDELINES.—The Secretary of Health and Human Services shall not take (and shall not continue) any action against a State under section 1864(d) of the Social Security Act on the basis of the State's failure to meet the requirement of section 1819(e)(1)(A) of such Act before the effective date of guidelines, issued by the Secretary, establishing requirements under section 1819(f)(2)(A) of such Act, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirement before such effective date.

(2) DISCLOSURE OF INFORMATION OF QUALITY ASSESSMENT AND ASSURANCE COMMITTEES.—Section 1819(b)(1)(B) of the Social Security Act (42 U.S.C. 1395i-3(b)(1)(B)) is amended by adding at the end the following new sentence: "A State or the Secretary may not require disclosure of the records of such committee except insofar as such disclosure is related to the compliance of such committee with the requirements of this subparagraph.".

(3) PERIOD FOR RESIDENT ASSESSMENT.—Section 1819(b)(3)(C)(i)(I) of such Act (42 U.S.C. 1395i-3(b)(3)(C)(i)(I)) is amended by striking "4 days" and inserting "14 days".

(4) RESIDENT ACCESS TO CLINICAL RECORDS.—Section 1819(c)(1)(A)(iv) of such Act (42 U.S.C. 1396i-3(c)(1)(A)(iv)) is amended by inserting before the period at the end the following: "and to access to current clinical records of the resident promptly upon request by the resident".

(5) CLARIFICATION ON FINDINGS OF NEGLECT.—Section 1819(g)(1)(C) of such Act (42 U.S.C. 1396i-3(g)(1)(C)) is amended by adding at the end the following: "A State shall not make a finding that an individual has neglected a resident if the individual demonstrates that such neglect was caused by factors beyond the control of the individual.".

(6) TIMING OF PUBLIC DISCLOSURE OF SURVEY RESULTS.—Section 1819(g)(5)(A)(i) of such Act (42 U.S.C. 1396i-3(g)(5)(A)(i)) is amended by adding at the end the following: "within 14 calendar days after the date such information is made available to those facilities,".

(7) MISCELLANEOUS.—(A) Section 1819(c)(5)(B)(i) of such Act (42 U.S.C. 1396i-3(c)(5)(B)(i)) is amended by striking "under this title" and inserting "under title XIX".

(B) The third sentence of section 1819(c)(2)(A) of such Act (42 U.S.C. 1395i-3(c)(2)(A)) is amended by striking "clauses (iii) and (iv)" and inserting "clause (iv)".

(8) EFFECTIVE DATE.—The amendments made by this subsection shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

(i) STATE WAIVER AUTHORITY.—Section 1814(b) of the Social Security Act (42 U.S.C. 1395f(b)) is amended—

(1) in paragraph (3)(B), by striking "October 1, 1983" and inserting "January 1, 1981";

(2) in the second sentence, by striking "seventh month" and inserting "37th month"; and

(3) by adding at the end the following: "If, by the end of such 36-month period, the Secretary determines, based on evidence submitted by the Governor of the State, that neither of the conditions described in subparagraph (A) or (B) of paragraph (3) continues to apply, the Secretary shall continue without interruption payment to hospitals in the State under the State's system. If, by the end of such 36-month period, the Secretary determines, based on such evidence, that either of the conditions described in subparagraph (A) or (B) of such paragraph continues to apply, the Secretary shall (i) collect any net excess reimbursement to hospitals in the State during such 36-month period (basing such net excess reimbursement on the net difference, if any, in the rate of increase in costs per hospital inpatient admission under the State system compared to the rate of increase in such costs with respect to all hospitals in the United States over the 36-month period, as measured by including the cumulative savings under the State system based on the difference in the rate of increase in costs per hospital inpatient admission under the State system as compared to the rate of increase in such costs with respect to all hospitals in the United States between January 1, 1981, and the date of the Secretary's initial notice), and (ii) provide a reasonable period, not to exceed 2 years, for transition from the State system to the national payment system.".

(j) SWING BEDS CERTIFIED PRIOR TO MAY 1, 1987.—Notwithstanding the requirement of section 1883(b)(1) of such Act that the Secretary may not enter into an agreement under such section with a hospital that is not located in a rural area, any agreement entered into under such section on or before May 1, 1987, between the Secretary of Health and Human Services and a hospital located in an urban area shall remain in effect.

(k) PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITY SERVICES.—

(1) DEVELOPMENT OF PROPOSAL.—The Secretary of Health and Human Services shall develop a proposal to modify the current system under which skilled nursing facilities receive payment for extended care services under part A of the medicare program or a proposal to replace such system with a system under which such payments would be made on the basis of prospectively determined rates. In developing any proposal under this paragraph to replace the current system with a prospective payment system, the Secretary shall—

(A) take into consideration the need to provide for appropriate limits on increases in expenditures under the medicare pro-

gram without jeopardizing access to extended care services for individuals unable to care for themselves;

(B) provide for adjustments to prospectively determined rates to account for changes in a facility's case mix, severity of illness, volume of cases, and the development of new technologies and standards of medical practice;

(C) take into consideration the need to increase the payment otherwise made under such system in the case of services provided to patients whose length of stay or costs of treatment greatly exceed the length of stay or cost of treatment provided for under the applicable prospectively determined payment rate;

(D) take into consideration the need to increase payments under the system to facilities that treat a disproportionate share of low-income patients and facilities located in geographic areas with high wages and wage-related costs; and

(E) take into consideration the appropriateness of classifying patients and payments upon functional disability, cognitive impairment, and other patient characteristics.

(2) REPORTS.—(A) By not later than April 1, 1991, the Secretary (acting through the Administrator of the Health Care Financing Administration) shall submit any research studies to be used in developing the proposal under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(B) By not later than September 1, 1991, the Secretary shall submit the proposal developed under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(C) By not later than March 1, 1992, the Prospective Payment Assessment Commission shall submit an analysis of and comments on the proposal developed under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(l) DESIGNATION OF PEDIATRIC LIVER TRANSPLANT FACILITIES.—

(1) IN GENERAL.—Section 4009(b) of the Omnibus Budget Reconciliation Act of 1987 is amended—

(A) in the matter preceding paragraph (1)—

(i) by striking "pediatric heart" and inserting "pediatric heart or liver", and

(ii) by striking "the heart" and inserting "the";

(B) by striking "pediatric heart" each place it appears in paragraphs (1) and (3); and

(C) in the heading, by striking "Heart" and inserting "Heart or Liver".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to transplants performed on or after January 1, 1991.

(m) MISCELLANEOUS TECHNICAL CORRECTIONS.—

(1) APPLICATION OF PREENTITLEMENT PSYCHIATRIC HOSPITAL SERVICES TO LIMIT ON INPATIENT HOSPITAL SERVICES.—Effective as if included in the enactment of the Medicare Catastrophic Coverage Repeal Act of 1989, section 101(b)(1)(B) of such Act is amended by inserting "(other than the limitation under section 1812(c) of such Act)" after "limitation".

(2) PROVISIONS RELATING TO HOSPITALS.—

(A) Section 1886(d)(5)(D)(iii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(D)(iii)), as amended by section 6003(e)(1)(A)(iv) of Omnibus Budget Reconciliation Act of 1989 (in this subsection referred to as "OBRA-1989"), is amended by striking "The term" and inserting "For purposes of this title, the term".

(B) Section 1820 of such Act (42 U.S.C. 1395i-4), as added by section 6003(g)(1)(A) of the Omnibus Budget Reconciliation Act of 1989, is amended—

(i) in subsection (d)(1), by striking "demonstration";

(ii) in subsection (g)(1)(A)(ii), by striking "rural referral center" and inserting "regional referral center"; and

(iii) in subsection (j), by inserting "and part C" after "this part".

(C) Section 6003(g)(3)(C)(vii)(I) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "each place it appears".

(D) Section 1835(c) of the Social Security Act (42 U.S.C. 1395n(c)) is amended—

(i) in the first sentence, by striking "a hospital" and inserting "a hospital or a rural primary care hospital";

(ii) in the second sentence, by striking "1833(a)(2)" and inserting "1833(a)(2) (or, in the case of a rural primary care hospital, in accordance with section 1833(a)(6))"; and

(iii) by striking the third sentence.

(E) Section 1886(d)(8)(C) of such Act (42 U.S.C. 1395ww(d)(8)(C)), as amended by section 6003(h)(3) of the Omnibus Budget Reconciliation Act of 1989, is amended—

(i) in clause (i), in the matter preceding subclause (I), by striking "area—" and inserting "area, or by treating hospitals located in one urban area as being located in another urban area—";

(ii) in clause (i)(II), by striking "rural county" and inserting "county or area";

(iii) by striking clause (ii); and

(iv) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii).

(F) Section 1886(d)(10) of such Act (42 U.S.C. 1395ww(d)(10)), as added by section 6003(h)(1) of the Omnibus Budget Reconciliation Act of 1989, is amended—

(i) in subparagraph (B)(ii), by inserting "first" after "make",

(ii) in subparagraph (C)(iii)(I), by striking "the deadline referred to in clause (ii)" and inserting "the date on which the hospital submits its application"; and

(iii) in subparagraph (C)(iii)(II)—

(I) in the first sentence, by striking "unsuccessful applicant" and inserting "losing party",

(II) in the second sentence, by striking "the appeal of an applicant" and inserting "such an appeal", and

(III) by inserting "the date on which" after "after" each place it appears.

(3) TECHNICAL CORRECTIONS RELATING TO OTHER PROVIDERS OF SERVICES.—

(A) Section 1814(i)(1)(C)(i) of the Social Security Act (42 U.S.C. 1395f(i)(1)(C)(i)), as amended by section 6005(a)(2) of the Omnibus Budget Reconciliation Act of 1989, is amended by striking "during fiscal year 1990" and inserting "on or after January 1, 1990, and on or before September 30, 1990,".

(B) Section 6005(c) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "subsection (a)" and inserting "subsections (a) and (b)".

(C) Section 1818A(d)(1) of the Social Security Act (42 U.S.C. 1395i-2a(d)(1)), as inserted by section 6012(a)(2) of the Omnibus Budget Reconciliation Act of 1989, is amended—

(i) in subparagraph (A), by inserting "for enrollment under this section" after "Premiums", and

(ii) by striking subparagraph (C).

(D) Section 1818(g)(2)(B) of the Social Security Act (42 U.S.C. 1395i-2(g)(2)(B)), as added by section 6013(a) of the Omnibus Budget Reconciliation Act of 1989, is amended by striking "subsection (c)" and inserting "subsection (c)(6)".

(F) Section 1819(f)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395i-3(f)(2)(A)(ii)) is amended by striking "and" at the end.

(G) Section 1866(a)(1)(F) of such Act (42 U.S.C. 1395cc(a)(1)(F) is amended—

(i) in clause (i), by striking the comma at the end and inserting "),", and

(ii) in clause (ii), by striking "(4)(A)" and inserting "(3)(A)" and by striking the semicolon at the end and inserting a comma.

SEC. 12903. MISCELLANEOUS AND TECHNICAL PROVISIONS RELATING TO PART B.

(a) EXTENSION OF DEMONSTRATIONS.—

(1) PREVENTION DEMONSTRATIONS.—Section 9314 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended—

(A) in subsection (a), by striking "4-year" and inserting "5-year";

(B) in subsection (e)(2), by striking "Not later than five years after the date of the enactment of this Act, the Secretary shall submit a final report" and inserting "Not later than April 1, 1993, the Secretary shall submit an interim report";

(C) in subsection (e), by adding at the end the following new paragraph:

"(3) Not later than April 1, 1995, the Secretary shall submit a final report to those Committees on the demonstration program and shall include in the report a comprehensive evaluation of the long-term effects of the program.".;

(D) in subsection (f), by striking "$5,900,000" and inserting "$7,500,000"; and

(E) in subsection (f), by inserting before the period at the end the following: "and shall not exceed $3,000,000 for the comprehensive evaluation referred to in subsection (e)(3)".

(2) ALZHEIMER'S DISEASE DEMONSTRATION PROJECTS.—Section 9342 of the Omnibus Budget Reconciliation Act of 1986 is amended—

(A) in subsection (c)(1), by striking "3 years" and inserting "5 years", and

(B) in subsection (d)(1), by striking "third year" and inserting "fourth year".

(b) REVISE INFORMATION ON PART B CLAIMS FORM.—Section 1833(q)(1) of the Social Security Act (42 U.S.C. 1395l(q)(1)) is amended by striking "and indicate whether or not the referring physician is an interested investor (within the meaning of section 1877(h)(5))".

(c) EFFECTIVE DATE OF REPORTING ON PART B CLAIMS FORMS.—Effective as if included in the enactment of section 6204 of the Omnibus Budget Reconciliation Act of 1989, subsection (c)(2) of such section is amended by inserting ", and the amendment made by subsection (b)," after "of the Social Security Act".

(d) PROHIBITION OF COMPETITIVE BIDDING DEMONSTRATION FOR CATARACT SURGERY.—The Secretary of Health and Human Services may not conduct a demonstration project of competitive bidding for cataract surgery where such project relies primarily on physician marketing to direct patients to low-bidding surgeons and facilities.

(e) CONDITIONS OF PARTICIPATION FOR DURABLE MEDICAL EQUIPMENT SUPPLIERS.—Section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)), as amended by section 12112(a) of the Omnibus Budget Reconciliation Act of 1990, is amended by adding at the end the following new paragraph:

"(17) REQUIRING SUPPLIER PARTICIPATION IN MEDICAID.—If a supplier consistently engages in the systematic practice of refusing to furnish covered items to individuals eligible for medical assistance under a State plan approved under title XIX, the Secretary may exclude the supplier from participation in the programs under this Act, in accordance with the procedures of subsections (c), (f), and (g) of section 1128.".

(f) LIMITS ON EXTRA BILLING FOR DURABLE MEDICAL EQUIPMENT.—Section 1834(a) of such Act (42 U.S.C. 1395m(a)), as amended by subsection (e), is further amended by adding at the end the following new paragraph:

"(18) LIMITING CHARGES FOR NONPARTICIPATING SUPPLIERS.—

"(A) IN GENERAL.—In the case of covered items for which payment may be made under this subsection furnished on or after January 1, 1992, if a nonparticipating supplier furnishes the item to an individual entitled to benefits under this part, the supplier may not charge the individual more than the limiting charge (as defined in subparagraph (B)).

"(B) LIMITING CHARGE DEFINED.—In subparagraph (A), the term 'limiting charge' means, with respect to an item furnished—

"(i) in 1992, 120 percent of the amount specified for the item under this subsection, and

"(ii) in a subsequent year, 115 percent of the amount specified for the item under this subsection.

"(C) ENFORCEMENT.—If a supplier knowingly and willfully bills in violation of subparagraph (A), the Secretary may apply sanctions against such supplier in accordance with section 1842(j)(2) in the same manner as such sanctions may apply to a physician.".

(g) AREA ADJUSTMENT FOR DURABLE MEDICAL EQUIPMENT.—

(1) COLLECTION AND ANALYSIS OF SUPPLIER COST DATA.—The Administrator of the Health Care Financing Administration shall, in consultation with appropriate organizations, collect data on supplier costs of durable medical equipment for which payment may be made under part B of medicare program, and shall analyze such data to determine the proportions of such costs attributable to the service and product components of furnishing such equipment and the extent to which such proportions vary by type of equipment and by the geographic region in which the supplier is located.

(2) DEVELOPMENT OF GEOGRAPHIC ADJUSTMENT INDEX; REPORTS.—Not later than March 1, 1992—

(A) the Administrator shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the data collected and the analysis conducted under subparagraph (A), and shall include in such report the Administrator's recommendations for a geographic cost adjustment index for suppliers of durable medical equipment under the medicare program and an analysis of the impact of such proposed index on payments under the medicare program; and

(B) the Comptroller General shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate analyzing on a geographic basis the supplier costs of durable medical equipment under the medicare program.

(h) DISCLOSURE OF OWNERSHIP.—

(1) IN GENERAL.—Title XI of the Social Security Act is amended by inserting after section 1124 the following new section:

"DISCLOSURE REQUIREMENTS FOR OTHER PROVIDERS UNDER PART B OF MEDICARE

"Sec. 1124A. (a) DISCLOSURE REQUIRED TO RECEIVE PAYMENT.—No payment may be made under part B of title XVIII for items or services furnished by any disclosing part B provider unless such provider has provided the Secretary with full and complete information—

"(1) on the identity of each person with an ownership or control interest in the provider or in any subcontractor (as defined by the Secretary in regulations) in which the provider directly or indirectly has a 5 percent or more ownership interest; and

"(2) with respect to any person identified under paragraph (1) or any managing employee of the provider—

"(A) on the identity of any other entities providing items or services for which payment may be made under title XVIII of the Social Security Act with respect to which such person or managing employee is a person with an ownership or control interest at the time such information is supplied or at any time during the 3-year period ending on the date such information is supplied, and

"(B) as to whether any penalties, assessments, or exclusions have been assessed against such person or managing employee under section 1128, 1128A, or 1128B.

"(b) UPDATES TO INFORMATION SUPPLIED.—A disclosing part B provider shall notify the Secretary of any changes or updates to the information supplied under subsection (a) not later than 180 days after such changes or updates take effect.

"(c) DEFINITIONS.—For purposes of this section—

"(1) the term 'disclosing part B provider' means any entity receiving payment on an assignment-related basis for furnishing items or services for which payment may be made under part B of title XVIII, except that such term does not include an entity described in section 1124(a)(2);

"(2) the term 'managing employee' means, with respect to a provider, a person described in section 1126(b); and

"(3) the term 'person with an ownership or control interest' means, with respect to a provider—

"(A) a person described in section 1124(a)(3), or

"(B) a person who has one of the 5 largest direct or indirect ownership or control interests in the provider.".

(2) CRIMINAL PENALTY FOR PROVIDING FALSE INFORMATION.—Section 1128B(c) of such Act (42 U.S.C. 1320a-7b(c)) is amended by striking "health care program" and inserting "health care program, or with respect to information required to be provided under section 1124A,".

(3) FAILURE TO PROVIDE INFORMATION AS GROUNDS FOR PERMISSIVE EXCLUSION FROM PROGRAM.—Section 1128(b)(9) of such Act (42 U.S.C. 1320a-7(b)(9)) is amended by striking "1124" and inserting "1124, section 1124A,".

(4) EFFECTIVE DATE.—The amendments made by paragraph (1), (2), and (3) shall apply with respect to items or services furnished on or after—

(A) January 1, 1993, in the case of items or services furnished by a provider who, on or before the date of the enactment of this Act, has furnished items or services for which payment may be made under part B of title XVIII of the Social Security Act; or

(B) January 1, 1992, in the case of items or services furnished by any other provider.

(i) TECHNICAL AMENDMENTS RELATING TO PHSYCIAN PAYMENTS AND THE RB-RVS.—

(1) PROHIBITION OF COMPARABILITY ADJUSTMENTS.—Section 1848(i) of such Act (42 U.S.C. 1395w-4(i)) is amended by adding at the end the following new paragraph:

"(2) NO COMPARABILITY ADJUSTMENT.—For physicians' services (including radiology and anesthesia services) for which payment under this part is determined under this section—

"(A) a carrier may not make any adjustment in the payment amount under section 1842(b)(3)(B) on the basis that the payment amount is higher than the charge applicable, for a comparable services and under comparable circumstances, to the policyholders and subscribers of the carrier,

"(B) no payment adjustment may be made under section 1842(b)(8), and

"(C) section 1842(b)(9) shall not apply.".

(2) PERIODIC REVIEW AND ADJUSTMENTS.—

(A) RELATIVE VALUES.—Section 1848(c)(2)(B)(i) of such Act is amended by striking "5 years" and inserting "3 years".

(B) GEOGRAPHIC ADJUSTMENT FACTORS.—Section 1848(e)(1) of such Act is amended—

(i) in subparagraph (A), by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)", and

(ii) by adding at the end the following new subparagraph:

"(C) PERIODIC REVIEW AND ADJUSTMENTS IN GEOGRAPHIC ADJUSTMENT FACTORS.—The Secretary, not less often than every 3 years, shall review the indices established under subparagraph (A) and the geographic index values applied under this subsection for all fee schedule areas. Based on such review, the Secretary may revise such index and adjust such index values, except that, if more than 1 year has elasped since the last previous adjustment, the adjustment to be applied in the first year of the next adjustment shall be ½ of the adjustment that otherwise would be made.".

(3) MISCELLANEOUS CORRECTIONS.—

(A) CHANGES IN SECTION 1848.—Section 1848 of such Act (42 U.S.C. 1395w-4) is amended—

(i) in subsection (a)(2)(D)(ii), by inserting "the weighted average of (I) such weighted average prevailing charge, and (II) " after "weighted average prevailing charge";

(ii) in subsection (c)(1)(B), by striking the last sentence;

(iii) in subsections (c)(3)(C)(ii)(II) and (c)(3)(C)(iii)(II), by striking "by" the first place it appears in each respective subsection;

(iv) in subsection (c), by redesignating the second paragraph (3), and paragraphs (4) and (5), as paragraphs (4) through (6), respectively;

(v) in subsection (c)(4), as redesignated by subparagraph (C), is amended by striking "subsection" and inserting "section";

(vi) in subsection (d)(1)(A), by striking "subparagraph (C)" and inserting "paragraph (3)";

(vii) in the last sentence of subsection (d)(2)(A), by striking "proportion of HMO enrollees" and inserting "proportion of individuals who are enrolled under this part who are HMO enrollees";

(viii) in subsection (d)(2)(E)(i), by inserting "the" after "as set forth in";

(ix) in subsection (d)(2)(E)(ii)(I), by inserting "payments for" after "under this part for";

(x) in subsection (d)(3)(B)(ii)—

(I) by inserting "more than" after "decrease of", and

(II) in subclause (I), by striking "more than";

(xi) in paragraphs (1)(D)(i) and (2)(A)(i) of subsection (f), by striking "calendar years" and inserting "portions of calendar years";

(xii) in subsection (f)(4)(A), by striking "paragraph (B)" and inserting "subparagraph (B)";

(xiii) in subparagraphs (A) and (B) of subsection (g)(2), by inserting "other than radiologist services subject to section 1834(b)," after "during 1991," and after "during 1992,", respectively; and

(xiv) in subsection (i)(1)(A), by striking "historical payment basis (as defined in subsection (a)(2)(C)(i))" and inserting "adjusted historical payment basis (as defined in subsection (a)(2)(D)(i))".

(B) MISCELLANEOUS.—

(i) Effective as if included in the Omnibus Budget Reconciliation Act of 1989, section 6102(e)(4) of such Act is amended by inserting "determined" after "prevailing charge rate".

(ii) Effective January 1, 1991, section 1842(b)(3)(G) of the Social Security Act, as amended by section 6102(e)(2) of Omnibus Budget Reconciliation Act of 1989, is amended by striking "subsection (j)(1)(C)" and inserting "section 1848(g)(2)".

(iii) Section 1842(b)(12)(A)(ii)(II) of the Social Security Act, as amended by section 6102(e)(4) of the Omnibus Budget Reconciliation Act of 1989, is amended by striking ", as the case may be".

(iv) Section 1833(a)(1)(H) of the Social Security Act, as amended by section 6102(e)(5) of the Omnibus Budget Reconciliation Act of 1989, is amended by striking ", as the case may be".

(v) Section 6102(e)(11) of the Omnibus Budget Reconciliation Act of 1989 is amended by inserting "of Health and Human Services" after "Secretary".

(C) REPEAL OF REPORTS NO LONGER REQUIRED.—

(i) Subsection (b) of section 4043 of the Omnibus Budget Reconciliation Act of 1987 is repealed.

(ii) Subsection (c) of section 4048 of such Act is repealed.

(iii) Section 4049(b)(1) of such Act is amended by striking ", and shall report" and all that follows up to the period at the end.

(iv) Subsection (d) of section 4050 of such Act is repealed.

(v) Section 4056(a)(1) of such Act, as redesignated by section 411(f)(14) of the Medicare Catastrophic Coverage Act of 1988, is amended by striking the last sentence.

(vi) Section 4056(b)(2) of such Act is amended by striking the second sentence.

(D) ADJUSTMENT OF EFFECTIVE DATES.—Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987—

(i) section 4048(b) of such Act is amended by striking "January 1, 1989" and inserting "March 1, 1989", and

(ii) section 4049(b)(2) of such Act is amended by striking "January 1, 1989" and inserting "April 1, 1989".

(j) OTHER MINOR AND TECHNICAL AMENDMENTS.—

(1) IMMEDIATE ENROLLMENT IN PART B BY INDIVIDUALS COVERED BY AN EMPLOYMENT-BASED PLAN.—

(A) IN GENERAL.—Subparagraphs (A) and (B) of section 1837(i)(3) of the Social Security Act (42 U.S.C. 1395p(i)(3)) are each amended—

(i) by striking "beginning with the first day of the first month in which the individual is no longer enrolled" and inserting "including each month during any part of which the individual is enrolled", and

(ii) by striking "and ending seven months later" and inserting "ending with the last day of the eighth consecutive month in which the individual is at no time so enrolled".

(B) Paragraphs (1) and (2) of section 1838(e) of such Act (42 U.S.C. 1395q(e)) are amended to read as follows:

"(1) in any month of the special enrollment period in which the individual is at any time enrolled in a plan (specified in subparagraph (A) or (B), as applicable, of section 1837(i)(3)) or in the first month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

"(2) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect February 1, 1991.

(2) DEVELOPMENT OF CRITERIA REGARDING CONSULTATION WITH A PHYSICIAN AS REQUIREMENT FOR SOCIAL WORKER SERVICES.—

(A) IN GENERAL.—Section 6113(c) of the Omnibus Budget Reconciliation Act of 1989 is amended—

(i) by inserting "and clinical social worker services" after "psychologist services"; and

(ii) by striking "psychologist" the second and third place it appears and inserting "psychologist or clinical social worker".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to services furnished on or after January 1, 1991.

(3) CLARIFICATION ON TERMS OF EXTENSION OF MUNICIPAL HEALTH SERVICE PROJECT WAIVERS.—The extension of the municipal health service demonstration projects under section 9215 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as provided for in the amendments made by section 6135 of the Omnibus Budget Reconciliation Act of 1989, shall be on the same terms and conditions as were in effect as of December 18, 1989, except for the extension of the period of such projects.

SEC. 12904. PROVISIONS RELATING TO HEALTH MAINTENANCE ORGANIZATIONS.

(a) REGULATION OF INCENTIVE PAYMENTS TO PHYSICIANS.—

(1) IN GENERAL.—Section 1876(i) of the Social Security Act (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(8)(A) Each contract with an eligible organization under this section shall provide that the organization may not operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

"(i) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.

"(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

"(I) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the organization who receive services from the physician or the physician group, and

"(II) conducts periodic surveys of individuals enrolled or previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

"(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

"(B) In this paragraph, the term 'physician incentive plan' means any contractual compensation arrangement between an eligible organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization.".

(2) PENALTIES.—Section 1876(i)(6)(A)(vi) of such Act (42 U.S.C. 1395mm(i)(6)(A)(vi)) is amended by striking "(g)(6)(A);" and inserting "(g)(6)(A) or paragraph (8);".

(3) REPEAL OF PROHIBITION.—Section 1128A(b)(1) of such Act (42 U.S.C. 1320a-7a(b)(1)) is amended—

(A) by striking ", an eligible organization" and all that follows through "section 1876,",

(B) by adding "and" at the end of subparagraph (A),

(C) by striking subparagraph (B),

(D) by redesignating subparagraph (C) as subparagraph (B), and

(E) by striking "or organization".

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply with respect to contract years beginning on or after January 1, 1991, and the amendments made by paragraph (3) shall take effect on the date of the enactment of this Act.

(b) REVISIONS IN AAPCC METHODOLOGY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall revise the methodology used in making the determinations required under section 1876(a)(1)(A) of the Social Security Act for years beginning with 1992, and shall (notwithstanding the first sentence of such section) include such revised methodology in the notice provided pursuant to section 1876(a)(1)(F) of such Act for 1991.

(2) DESCRIPTION OF REVISIONS.—In revising the methodology described in paragraph (1), the Secretary shall consider—

(A) the differences in costs associated with medicare beneficiaries with differing health status and demographic characteristics;

(B) the differences in costs associated with medicare beneficiaries who are enrolled with an eligible organization with a contract under section 1876 of the Social Security Act and beneficiaries who are not enrolled with such an organization;

(C) the effects of using alternative geographic classifications on the determination of costs associated with beneficiaries residing in different areas;

(D) the timeliness of the data used to develop the national average per capita rates

and the effect of the timeliness of such data on the appropriateness of such rates; and

(E) the appropriateness of the method used to update data used in developing such per capita rates.

(c) APPLICATION OF NATIONAL COVERAGE DECISIONS.—

(1) IN GENERAL.—Section 1876(c)(2) of such Act (42 U.S.C. 1395mm(c)(2)) is amended—

(A) by redesignating clauses (i) and (ii) and subparagraphs (A) and (B) as subclauses (I) and (II) and clauses (i) and (ii), respectively;

(B) by inserting "(A)" after "(2)"; and

(C) by adding at the end the following new subparagraph:

"(B) If there is a national coverage determination made in the period beginning on the date of an announcement under subsection (a)(1)(A) and ending on the date of the next announcement under such subsection that the Secretary projects will result in a significant change in the costs to the organization of providing the benefits that are the subject of such national coverage determination and that was not incorporated in the determination of the per capita rate of payment included in the announcement made at the beginning of such period—

"(i) such determination shall not apply to risk-sharing contracts under this section until the first contract year that begins after the end of such period; and

"(ii) if such coverage determination provides for coverage of additional benefits or under additional circumstances, subsection (a)(6) shall not apply to payment for such additional benefits or benefits provided under such additional circumstances, unless otherwise required by law.".

(2) CONFORMING AMENDMENT.—Section 1876(a)(6) of such Act is amended by striking "subsection (c)(7)" and inserting "subsections (c)(2)(B)(ii) and (c)(7)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to national coverage determinations that are not incorporated in the determination of the per capita rate of payment for individuals enrolled for 1991 with an eligible organization which has entered into a risk-sharing contract under section 1876 of the Social Security Act.

(d) LIMITS ON PAYMENTS FOR OUT-OF-AREA SERVICES UNDER PART B.—

(1) IN GENERAL.—Section 1876(j) of the Social Security Act (42 U.S.C. 1395mm(j)) is amended—

(A) by striking "physicians'" each place it appears;

(B) by striking "services" each place it appears and inserting "items or services"; and

(C) in paragraph (1)—

(i) by striking "physician" each place it appears and inserting "physician, supplier, or other provider of services", and

(ii) in subparagraph (A), by striking "the participation agreement under section 1842(h)(1) is deemed to provide that the".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to items and services furnished on or after January 1, 1991.

(e) RETROACTIVE ENROLLMENT.—

(1) IN GENERAL.—Section 1876(a)(1)(E) of such Act (42 U.S.C. 1395mm(a)(1)(E)) is amended—

(A) by striking "(E)" and inserting "(E)(i)"; and

(B) by adding at the end the following new clause:

"(ii)(I) Subject to subclause (II), the Secretary may make retroactive adjustments under clause (i) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with an eligible organization (which has a risk-sharing contract under this section) under a health benefit plan operated, sponsored, or contributed to, by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the plan under this section, except that for purposes of making such retroactive adjustments under this clause, such period may not exceed 90 days.

"(II) No adjustment may be made under subclause (I) with respect to any individual who does not certify that the organization provided the individual with the explanation described in subsection (c)(3)(E) before the individual enrolled with the organization.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to individuals enrolling with an eligible organization (which has a risk-sharing contract under section 1876 of the Social Security Act) under a health benefit plan operated, sponsored, or contributed to, by the individual's employer or former employer (or the employer or former employer of the individual's spouse) on or after January 1, 1991.

(f) PUBLIC HMOs.—Section 1876(f)(1) of such Act (42 U.S.C. 1395mm(f)(1)) is amended by striking the period and inserting ", or, in the case of an eligible organization that is owned and operated by a governmental entity, an enrolled membership at least one-half of which consists of individuals who are not entitled to benefits under this title.".

SEC. 12905. STANDARDS FOR MEDICARE SUPPLEMENTAL INSURANCE.

(a) SIMPLIFICATION OF POLICIES.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (B), by striking "through (4)" and inserting "through (5)",

(B) by striking "and" at the end of subparagraph (D),

(C) by adding "and" at the end of subparagraph (E), and

(D) by inserting after subparagraph (E) the following new subparagraph:

"(F) meets the requirements in paragraph (1) of subsection (p),";

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (3),

(B) by striking the period at the end of paragraph (4) and inserting "; and", and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) meets the requirements of paragraph (1) of subsection (o)."; and

(3) by adding at the end the following new subsections:

"(o)(1) The requirements of this paragraph are follows:

"(A) Except as provided in paragraph (3), each medicare supplemental policy shall provide for coverage of 1 of 4 groups of benefits specified by the Secretary under paragraph (2), or, in the case of a State making an election under subsection (p)(1)(A), 1 of 4 groups of benefits specified under the approved State regulatory program.

"(B) An insurer may not sell a medicare supplemental policy to an individual unless the insurer has offered the individual a medicare supplemental policy that only includes the standard group of benefits described in paragraph (2)(A).

"(2) The Secretary shall specify the benefits to be provided in each of 4 different groups of benefits which may be provided under medicare supplemental policies, issued in a State without an approved State regulatory program, as follows:

"(A) One group of benefits (in this subsection referred to as the 'standard group of benefits') shall only include the following:

"(i) Payment of hospital coinsurance amounts imposed under subparagraphs (A) and (B) of section 1813(a).

"(ii) Upon exhaustion of all benefits under part A with respect to inpatient hospital services, coverage of 100 percent of all expenses for inpatient hospital services recognized under part A but not otherwise covered under such part, subject to a lifetime maximum benefit of an additional 365 additional days of inpatient hospital services.

"(iii) Payment of coinsurance amounts (other than the deductible under section 1833(b)) imposed under part B.

"(iv) Payment of the deductibles for blood under sections 1813(a)(2) and 1833(b).

"(B) The other groups of benefits shall include the benefits described in subparagraph (A) and increasingly comprehensive additional benefits.

The Secretary shall specify the uniform language to be used in specifying such benefits.

"(3) A medicare supplemental policy may offer benefits, which are in addition to those specified under paragraph (2) (or, in the case making an election under subsection (p)(1)(A), to those specified by the State) and which (A) are not available under any group specified under such paragraph or (B) are available in a different form under such a group, if the Secretary (in the case of a policy certified under subsection (a)) or the State (in the case of an approved State regulatory program) approves such benefits and if the insurer specifies the additional premium imposed to receive each such additional benefit.

"(p)(1) For purposes of subsection (b)(2)(F), the requirements of this paragraph are as follows:

"(A)(i) Each State may elect to specify the benefits to be provided in each of 4 different groups of benefits which may be provided under medicare supplemental policies issued in the State, if such specifications provide as follows:

"(I) One group of benefits shall be the standard group of benefits (specified in subsection (o)(2)(A)).

"(II) The other groups of benefits shall include the standard group of benefits and increasingly comprehensive additional benefits.

Any State making such an election shall use uniform language to be used in specifying such benefits, except that the uniform language to be used for the standard group of benefits shall be the uniform language specified for that group by the Secretary under subsection (o)(2).

"(ii) Each State which approves additional benefits under subsection (o)(3) shall report to the Secretary annually on the benefits so approved.".

(b) REQUIRING UNIFORM POLICY DESCRIPTION BEFORE PURCHASE.—Section 1882(o)(1) of such Act, as amended by subsection (a) of this section, is amended by adding at the end the following new subparagraph:

"(C) Before the issuance of any medicare supplemental policy (or, in the case of a policy issued before the effective date of regulations to carry out this subparagraph, before the first renewal of such a policy occurring after such date), there must be pro-

vided a description of the policy's benefits that uses uniform language and format (including layout and print size), specified by the Secretary, that facilitates comparison among medicare supplemental policies and comparison with medicare benefits.".

(c) PREVENTION OF DUPLICATE MEDIGAP COVERAGE.—

(1) NOTICE.—Section 1882(d) of such Act is amended—

(A) in paragraph (5), by striking "and (4)(A)" and inserting ", (4)(A), and (5)(A)" and by redesignating such paragraph as paragraph (6), and

(B) by inserting after paragraph (4) the following new paragraph:

"(5)(A) It is unlawful for an entity to issue a medicare supplemental policy to an individual unless the entity obtains from the individual, as part of the application for the issuance of the policy, a written statement signed by the individual stating, to the best of the individual's knowledge, what medicare supplemental policies (if any) the individual has and whether the individual has applied for and been determined to be entitled to any medical assistance under title XIX (whether as a qualified medicare beneficiary or otherwise). Any entity that violates the previous sentence is subject to a civil money penalty not to exceed $5,000 for each policy issued in violation of such sentence.

"(B)(i) Except as provided in clauses (ii) and (iii), if the statement required by subparagraph (A) is not obtained or indicates that the individual has another medicare supplemental policy or indicates that the individual has applied for and been determined to be entitled to any medical assistance under title XIX, the issuance of such a policy shall be considered to be a violation of subparagraph (A).

"(ii) Clause (i) shall not apply in the case of an individual who has another medicare supplemental policy, if the individual indicates in writing, as part of the application for issuance, that the policy being issued is intended to replace such other policy and indicates an intent to terminate the policy being replaced when the new policy becomes effective.

"(iii) Clause (i) also shall not apply if a State medicaid plan under title XIX pays the premiums for the policy.".

(2) SUSPENSION OF POLICIES DURING RECEIPT OF MEDICAID BENEFITS.—Section 1882(o)(1) of such Act, as added by subsection (a) and as amended by subsection (b), is amended by adding at the end the following new subparagraph:

"(D) Each medicare supplemental policy shall provide that benefits and premiums under the policy shall be suspended for the period (of up to 12 months) in which the policy or certificate holder indicates that the policy or certificat holder has applied for and been determined to be entitled to medical assistance under title XIX. If such suspension occurs and if the policy or certificate holder loses entitlement to such medical assistance within such 12 month period, coverage under such policy shall be automatically reinstituted (effective as of the date of termination of such entitlement) under terms described in subsection (n)(6)(A)(ii) if the policy or certificate holder provides notice of loss of such entitlement within 90 days after the date of such loss.".

(3) INDENTIFICATION OF DUPLICATE COVERAGE.—Section 1882(d) of such Act is amended—

(A) in paragraph (6), as amended and redesignated by paragraph (1)—

(i) by striking "and (5)(A)" and inserting "(5)(A), and (6)(C)", and

(ii) by further redesignating such paragraph as paragraph (7); and

(B) by inserting after paragraph (5) the following new paragraph:

"(6)(A) Each issuer of a medicare supplemental policy shall file with the Secretary a list of the individuals who are policyholders of such policies and, in the case of a group policy, who are certificateholders, as of October 1 of such year. Such list shall be filed not later than February 1 of each year (beginning with 1992) and in an electronic form specified by the Secretary. Each such list shall identify individuals by name, address, the individual's social security account number, and the date the policy became effective with respect to the individual.

"(B) Each employer with 100 or more employees offering retiree health benefits shall file with the Secretary (not later than February 1 of each year (beginning with 1992) and in an electronic form specified by the Secretary) a list of the individuals (identified by name, address, and social security account number) who are retirees, receiving such benefits, and are 60 years of age or older.

"(C) Each issuer or employer that fails to file information required under subparagraph (A) or (B) is subject to a civil money penalty of not to exceed $50 for each individual with respect to which the information has not been provided.

"(D) The Secretary shall provide for the matching of the lists submitted under this paragraph once each year.

"(E)(i) The Secretary shall report each year to each State with an approved State regulatory program, for each individual residing in the State who—

"(I) has coverage under two or more medicare supplemental policies (and the names of the issuers of such policies), or

"(II) has coverage under such one or more medicare supplemental policies and has applied for and been determined to be entitled to benefits under a State plan under title XIX,

the name and address of the individual, the name of the issuer of each such policy, and the date of issuance of each such policy.

"(ii) The Secretary shall submit by not later than September 1st of each year (beginning with 1992) a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the extent of duplication of coverage under Medicare supplemental policies and duplication of coverage between retiree health benefits and medicare supplemental policies.

"(F) Clauses (iii) and (vii) of section 205(c)(2)(C) shall apply with respect to social security account numbers included in any filing made pursuant to this paragraph.".

(4) USE OF SOCIAL SECURITY ACCOUNT NUMBERS IN IDENTIFICATION OF DUPLICATE COVERAGE UNDER MEDIGAP POLICIES.—Section 205(c)(2)(C) of such Act is amended—

(A) by redesignating clauses (ii), (iii), and (iv) as clauses (iv), (v), and (vi), respectively;

(B) by redesignating subclauses (I) and (II) of clause (i) as clauses (i) and (ii), respectively;

(C) by inserting after clause (ii) (as redesignated) the following new clause:

"(iii) No officer or employee of the Department of Health and Human Services shall have access to social security account numbers as contained in any list filed pursuant to paragraph (6) of section 1882(d) for any purpose other than the establishment of a system of records necessary to the effective administration of such paragraph. The Secretary shall restrict access to social security account numbers as contained in any such list only to officers and employees of the Department of Health and Human Services whose duties or responsibilities require access for the administration of such paragraph (6). The Secretary shall provide such other safeguards as the Secretary determines to be necessary or appropriate to protect the confidentiality of such social security account numbers."; and

(D) in clause (iv) (as redesignated), by striking "subclause (I) of clause (i)" and "subclause (II) of clause (i)" and inserting "clause (i)" and "clause (II)", respectively.

(5) CONFIDENTIALITY OF SOCIAL SECURITY ACCOUNT NUMBERS.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended by adding at the end the following new clause:

"(vii)(I) Social security account numbers and related records which are obtained or maintained by authorized persons pursuant to any provision of law enacted on or after October 1, 1990, shall be confidential, and no such authorized person shall disclose any such social security account number or related record.

"(II) Paragraphs (1), (2), and (3) of section 7213(a) of the Internal Revenue Code of 1986 shall apply with respect to the unauthorized willful disclosure to any person of social security account numbers and related records obtained or maintained by an authorized person pursuant to a provision of law enacted on or after October 1, 1990, in the same manner and to the same extent as such paragraphs apply with respect to unauthorized disclosures of return and return information described in such paragraphs. Paragraph (4) of section 7213(a) of such Code shall apply with respect to the willful offer of any item of material value in exchange for any such social security account number or related record in the same manner and to the same extent as such paragraph applies with respect to offers (in exchange for any return or return information) described in such paragraph.

"(III) For purposes of this clause, the term 'authorized person' means an officer or employee of the United States, an officer or employee of any State, political subdivision of a State, or agency of a State or political subdivision of a State, and any other person (or officer or employee thereof), who has or had access to social security account numbers or related records pursuant to any provision of law enacted on or after October 1, 1990. For purposes of this subclause, the term 'officer or employee' includes a former officer or employee.

"(IV) For purposes of this clause, the term 'related record' means any record, list, or compilation which indicates, directly or indirectly, the identity of any individual with respect to whom a social security account number is maintained.".

(d) LOSS RATIO REQUIREMENTS.—

(1) UNIFORM CALCULATION.—Section 1882(c)(2) of such Act is amended by striking "in accordance with accepted actuarial principles and practices" and inserting "in accordance with a uniform methodology, including uniform reporting standards, specified by the Secretary, after consultation with the National Association of Insurance Commissioners, Federal and State regulatory agencies, insurers, and organizations representing consumers and the aged".

(2) ANNUAL STATE REPORTS ON LOSS-RATIOS.—Section 1882(p)(1) of such Act, as added by subsection (a), is amended by adding at the end the following:

"(B) The State must report annually to the Secretary, on a policy-specific basis, on loss-ratios under medicare supplemental policies and the use of sanctions, such as a required rebate or credit or the disallowance of premium increases, for policies that fail to meet the requirement of subsection (c)(2).".

(3) ANNUAL SECRETARIAL REPORT ON LOSS-RATIOS.—Section 1882(f) of such Act is amended by adding at the end the following new paragraph:

"(3) The Secretary shall submit in February of each year (beginning with 1993) a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, on a policy-specific basis, on loss-ratios under medicare supplemental policies and the use of sanctions, such as a required rebate or credit or the disallowance of premium increases, for policies that fail to meet the requirement of subsection (c)(2).".

(e) PRE-EXISTING CONDITION LIMITATIONS AND LIMITATION ON MEDICAL UNDERWRITING.—Section 1882 of such Act is amended—

(1) in subsection (c), in the matter before paragraph (1), by inserting "or the requirement described in subsection (o)(1)(F)" after "paragraph (3)",

(2) in subsection (d)—

(A) in paragraph (7), as amended and redesignated by subsection (c)—

(i) by striking "and (6)(C)" and inserting "(6)(C), and (7)", and

(ii) by further redesignating such paragraph as paragraph (8); and

(B) by inserting after paragraph (6) the following new paragraph:

"(7) Any issuer for a medicare supplemental policy that fails to meet the requirements of subparagraphs (E) and (F) of subsection (o)(1) is subject to a civil money penalty of not to exceed $5,000 for each such failure."; and

(3) by adding at the end of subsection (o)(1), as added by subsection (a) and as amended by subsections (b) and (c)(2), the following new subparagraphs:

"(E) If a medicare supplemental policy replaces another medicare supplemental policy, the issuer of the replacing policy shall waive any time periods applicable to preexisting conditions, waiting period, elimination periods and probationary periods in the new medicare supplemental policy for similar benefits to the extent such time was spent under the original policy.

"(F) The issuer of a medicare supplemental policy may not deny or condition the issuance or effectiveness of a medicare supplemental policy because of health status, claims experience, or medical condition for which an application is submitted during the 6 month period beginning with the first month in which the individual (who is 65 years of age or older) first is enrolled for benefits under part B.".

(f) MINIMUM LOSS RATIOS FOR DAILY HOSPITAL INDEMNITY AND DREAD DISEASE POLICIES.—Section 1882 of such Act, as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(q)(1) Each daily hospital indemnity or dread disease policy which is issued or sold to, or renewed for, an individual entitled to benefits under part A of part B of this title must be sold, issued, or renewed in a State with a loss-ratio enforcement program approved by the Secretary under paragraph (2), or, in the case of a State without such a program, must be determined by the Secretary (upon application) to meet the loss-ratio requirements specified in paragraph (3). For purposes of this paragraph, in the case of a noncancellable daily hospital indemnity or dread disease policy issued before an individual attains 65 years of age, the policy shall be deemed to be renewed as of the date the policyholder or certificateholder attains 65 years of age.

"(2) The Secretary shall establish a procedure, similar to the procedure described in subsection (b), whereby a State may apply to the Secretary for approval of a loss-ratio enforcement program which provides for enforcement of the minimum loss-ratio requirements specified in paragraph (3) for all indemnity and dread disease policies sold or issued in the State to individuals entitled to benefits under part A or part B of this title.

"(3)(A) The minimum loss ratio requirements specified in this paragraph are as follows:

"(i) The policy shall return (in accordance with a uniform methodology, including uniform reporting standards, specified by the Secretary, after consultation with the Association, Federal and State regulatory agencies, insurers, and organizations representing consumers and the aged) to policyholders who are entitled to benefits under part A or part B of this title in the form of aggregate benefits provided under the policy, at least 60 percent (in the case of daily hospital indemnity policies) or 55 percent (in the case of dread disease policies) of the aggregate amount of premiums collected.

"(ii) The issuer of the policy must provide for the reporting to the State annually of information with respect to the actual ratio of aggregate benefits provided to aggregate premiums for such policyholders on forms conforming to standards specified by the Secretary for such purpose.

"(B) The Secretary shall establish uniform methodology for calculating loss-ratios for purposes of this subsection. Such methodology shall provide for the computation of loss-ratios on the basis of individuals covered under such policies who are entitled to benefits under part A or part B of this title.".

(g) HEALTH INSURANCE INFORMATION, COUNSELING, AND ASSISTANCE GRANTS.—

(1) GRANTS PROGRAM.—

(A) IN GENERAL.—The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall make grants to States that submit applications to the Secretary that meet the requirements of this paragraph for the purpose of providing information, counseling, and assistance relating to the procurement of adequate and appropriate health insurance coverage to individuals who are eligible to receive benefits under title XVIII of the Social Security Act (in this paragraph referred to all "eligible individuals"). The Secretary shall prescribe regulations to establish a minimum level of funding for a grant issued under this paragraph.

(B) GRANT APPLICATIONS.—(i) In submitting an application under this paragraph, a State may consolidate and coordinate an application that consists of parts prepared by more than one agency or department of such State.

(ii) As part of an application for a grant under this paragraph, a State shall submit a plan for a State-wide health insurance information, counseling, and assistance program. Such program shall—

(I) establish or improve upon a health insurance information, counseling, and assistance program that provides counseling (including direct counseling) and assistance to eligible individuals in need of health insurance information, including—

(a) information that may assist individuals in obtaining benefits and filing claims under titles XVIII and XIX of the Social Security Act;

(b) policy comparison information for medicare supplemental policies (as described in section 1882(g)(1) of the Social Security Act (42 U.S.C. 139ss(g)(1)) and information that may assist individuals in filing claims under such medicare supplemental policies;

(c) information regarding long-term care insurance; and

(d) information regarding other types of health insurance benefits that the Secretary determined to be appropriate;

(II) in conjunction with the health insurance information, counseling, and assistance program described in subclause (I), establish a system of referral to appropriate Federal or State departments or agencies for assistance with problems related to health insurance coverage (including legal problems), as determined by the Secretary;

(III) provide for sufficient number of staff positions (including volunteer positions) necessary to provide the services of the health insurance information, counseling, and assistance program;

(IV) provide assurance that staff members (including volunteer staff members) of the health insurance information, counseling, and assistance program have no conflict of interest in providing the services described in subclause (I);

(V) provide for the collection and dissemination of timely and accurate health care information to staff members (including volunteer staff members) of the health insurance information, counseling, and assistance program and regular staff meetings and continuing education programs for the purpose of informing the staff of current developments in legal and economic issues relating to the provision of health insurance;

(VI) provide for training programs for staff members (including volunteer staff members);

(VII) provide for the coordination of the exchange of health insurance information between the staff of departments and agencies of the State government and the staff of the health insurance information, counseling, and assistance program;

(VIII) make recommendations concerning consumer issues and complaints related to the provision of health care to agencies and departments of the State government and the Federal Government responsible for providing or regulating health insurance;

(IX) establish an outreach program to provide the health insurance information and counseling described in subclause (I) and the assistance described in subclause (II) to eligible individuals; and

(X) demonstrate, to the satisfaction of the Secretary, an ability to provide the counseling and assistance required under this paragraph.

(C) SPECIAL GRANTS.—(i) A State that is conducting a health insurance information, counseling, and assistance program that is substantially similar to a program described in subparagraph (B)(ii), shall, as a requirement for eligibility for a grant under this paragraph, demonstrate, to the satisfaction of the Secretary, that such State shall maintain the activities of such program at

least at the level that such activities were conducted immediately preceding the date of the issuance of any grant during the period of time covered by such grant under this section and that such activities will continue to be maintained at such level.

(ii) If the Secretary determines that the existing health insurance information, counseling, and assistance program is substantially similar to a program described in subparagraph (B)(ii), the Secretary may waive some or all of the requirements described in subparagraph (B)(ii), and issue a grant to the State for the purpose of increasing the number of services offered by the health insurance information, counseling, and assistance program, experimenting with new methods of outreach in conducting such program, or expanding such program to geographic areas of the State not previously served by the program.

(D) CRITERIA FOR ISSUING GRANTS.—In issuing a grant under this paragraph, the Secretary shall consider—

(i) the commitment of the State to carrying out the health insurance information, counseling, and assistance program described in subparagraph (B)(ii), including the level of cooperation demonstrated—

(I) by the office of the chief insurance regulator of the State, or the equivalent State entity;

(II) other officials of the State responsible for overseeing insurance plans issued by nonprofit hospital and medical service associations; and

(III) departments and agencies of such State responsible for administering funds under title XIX of the Social Security Act, and administering funds appropriated under the Older Americans Act;

(ii) the population of eligible individuals in such State as a percentage of the population of such State; and

(iii) in order to ensure the needs of rural areas in such State, the relative costs and special problems associated with addressing the special problems of providing health care information, counseling, and assistance to the rural areas of such State.

(E) ANNUAL STATE REPORT.—A State that receives a grant under subparagraph (C) or (D) shall, not later than 180 days after receiving such grant, and annually thereafter, issue an annual report to the Secretary that includes information concerning—

(i) the number of individuals served by the State-wide health insurance information, counseling and assistance program of such State;

(ii) an estimate of the amount of funds saved by the State, and by eligible individuals in the State, in the implementation of such program; and

(iii) the problems that eligible individuals in such State encounter in procuring adequate and appropriate health care coverage.

(F) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary shall issue a report to the Committee on Finance of the Senate, the Special Committee on Aging of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on Energy and Commerce of the House of Representatives, and the Select Committee on Aging of the House of Representatives that—

(i) summarizes the allocation of funds authorized for grants under this paragraph and the expenditure of such funds;

(ii) outlines the problems that eligible individuals encounter in procuring adequate and appropriate health care coverage; and

(iii) makes recommendations that the Secretary determines to be appropriate to address the problems described in clause (ii).

(G) AUTHORIZATION OF APPROPRIATIONS FOR GRANTS.—There are authorized to be appropriated, in equal parts from the Federal Hospital Insurance Trust Fund and from the Federal Medical Supplementary Insurance Trust Fund, $10,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995, and such sums as are necessary for each succeeding fiscal year, to fund the grant programs under this paragraph.

(2) NATIONAL RESOURCE CENTER.—

(A) IN GENERAL.—The Secretary shall establish a national resource center for the purposes of—

(i) creating a clearinghouse for information relating to health insurance information, including information concerning health insurance information, counseling, and assistance programs in the United States and information concerning public and private health insurance programs;

(ii) distributing the information described in clause (i) to the States; and

(iii) providing to the States technical assistance and training in disseminating such information.

(B) INFORMATION EXCHANGE.—The Secretary may request such information from the head of any Federal department or agency as the Secretary may require for the purposes of carrying out this paragraph. Each such department or agency is authorized, to the extent permitted by law, and subject to the provisions of section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), to furnish such information in a form that is accurately compiled and within a reasonable period of time.

(C) AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL RESOURCE CENTER.—There are authorized to be appropriated, in equal parts from the Federal Hospital Insurance Trust Fund and from the Federal Medical Supplementary Insurance Trust Fund, $1,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995, and such sums as are necessary for each succeeding fiscal year, to fund the national resource center described in subparagraph (A).

(h) ENFORCEMENT OF STANDARDS.—

(1) REQUIRING CONFORMITY WITH STANDARDS.—Section 1882 of such Act is amended—

(A) in the heading, by striking "VOLUNTARY"; and

(B) in subsection (a)—

(i) by inserting "(1)" after "(a)",

(ii) by adding at the end the following new paragraph:

"(2) No medicare supplemental policy may be sold or issued unless the policy either—

"(A) is sold or issued in a State with an approved regulatory program, or

"(B) has been certified by the Secretary under paragraph (1).".

(2) CERTIFICATION OF STATE REGULATORY PROGRAMS BY SECRETARY, RATHER THAN SUPPLEMENTAL HEALTH INSURANCE PANEL.—Section 1882 of such Act is further amended—

(A) in subsection (b)(1), by striking "the Supplemental Health Insurance Panel (established under paragraph (2))" and inserting "the Secretary";

(B) in subsection (b)(1), by striking "the Panel" and inserting "the Secretary";

(C) in subsection (b)(1), by adding at the end the following: "If the Secretary finds that a State regulatory program no longer meets the standards and requirements of this paragraph, before making a final determination, the Secretary shall provide the State an opportunity to adopt such a plan of correction as would permit the State to continue to meet such standards and requirements.";

(D) by striking paragraph (2) of subsection (b) and redesignating paragraph (3) of such subsection as paragraph (2); and

(E) in subsection (g)(2)(B), by striking "the Panel" and inserting "the Secretary".

(3) STATE ENFORCEMENT.—Section 1882(b)(1) of such Act, as amended by subsection (a)(1), is amended—

(A) in subparagraph (D), by inserting "and enforcement" after "application",

(B) by striking "and" at the end of subparagraph (E),

(C) by adding "and" at the end of subparagraph (F), and

(D) by inserting after subparagraph (F) the following new subparagraph:

"(G) reports annuallly to the Secretary on the adoption, implementation, and enforcement of the standards and requirements of this paragraph,".

(4) PROMULGATION OF REGULATIONS AND WAIVER OF REQUIREMENTS.—Section 1882 of such Act, as amended by subsections (a) and (f), is amended by adding at the end the following new subsection:

"(r)(1)(A) The Secretary shall promulgate proposed regulations, by June 1, 1991, to implement all the standards and requirements of this section (including the requirements and standards added by the Omnibus Budget Reconciliation Act of 1990).

"(B) If, by April 1, 1991, the National Association of Insurance Commissioners revises the NAIC Model Regulation previously promulgated for purposes of this section to incorporate all the requirements and standards of this section (as amended by the Omnibus Budget Reconciliation Act of 1990), the proposed regulations under subparagraph (A) shall reflect such revised NAIC Model Regulation, but shall not include any restriction relating to the subject matter of section 12 of such Model Regulation (as in effect on the date of the enactment of this subsection).

"(C) The Secretary shall provide for opportunity for public comment, and consult with the National Association of Insurance Commissioners, Federal and State regulatory agencies, insurers, and organizations representing consumers and the aged, respecting the proposed regulations under this paragraph.

"(D) The Secretary shall promulgate final regulations described in subparagraph (A) not later than October 1, 1991.

"(E) Such regulations shall apply in each State effective for policies issued to policyholders on and after the date specified in paragraph (2).

"(F) Regulations issued under this paragraph shall include uniform standards for the enforcement of requirements under this section, and shall specify the sanctions which shall be imposed for violations of such requirements. Such sanctions may include, in the case of a violation of loss-ratio requirements, required rebates or credits and disapproval of premium increases.

"(2)(A) Subject to subparagraph (B), the date specified in this paragraph for a State is—

"(i) the date the Secretary determines under subsection (b)(1) that the State has a regulatory program that meets the requirements of this section (as reflected in the regulations promulgated under paragraph (1)), or

"(ii) the end of the 1-year period beginning on the date of publication of such final regulations,

whichever is earlier.

"(B) In the case of a State which the Secretary identifies as—

"(i) requiring State legislation (other than legislation appropriating funds) in order to implement the regulations promulgated under paragraph (1), but

"(ii) having a legislature which is not scheduled to meet in the 1-year period described in subparagraph (A)(ii) in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins after such 1-year period. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

"(3) The Secretary may waive any of the requirements of this section, insofar as they apply to a policy in a State, if the commissioner or superintendent of insurance of the State applies to the Secretary for such waiver and provides assurances satisfactory to the Secretary that, under such waiver, the State will provide for consumer protection at least as great as the protection that would have been provided had the waiver not been granted. The Secretary shall approve or disapprove each application for waiver under this paragraph within 60 days after the date of its submittal to the Secretary.".

(5) REQUIRING APPROVAL OF POLICIES.—The second sentence of section 1882(d)(4)(B) of such Act is amended by striking all that follows "if" the first place it appears and inserting "the policy has been certified by the Secretary pursuant to subsection (c) or was issued in a State with an approved regulatory program.".

(i) GAO REPORTS AND STUDIES.—

(1) REPORT ON LOSS-RATIOS.—In February of each year (beginning with 1991), the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report specifying, on a policy-specific basis, the loss-ratios of medicare supplemental insurance policies, daily hospital indemnity policies, and dread disease policies.

(2) STUDIES.—

(A) IN GENERAL.—The Comptroller General shall conduct studies on the following:

(i) Actions taken by States in order to comply with the requirements imposed by the amendments made by this section.

(ii) The nature and scope of insurance products sold to medicare beneficiaries with benefits that are similar to, but not the same as, those provided in medicare supplemental policies.

(iii) Duplicate health benefits coverage among medicare beneficiaries with retiree health benefits.

(iv) The extent of medical underwriting in the issuance of medicare supplemental policies and the impact of such underwriting on access to such policies.

(v) The impact of the establishment by States of a minimum loss ratio for medicare supplemental policies that exceeds the minimum loss ratios required under section 1882(c)(2) of the Social Security Act.

(B) REPORT.—Not later than February 1, 1992, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the studies conducted under subparagraph (A).

(j) EXCISE TAX FOR NONCERTIFIED MEDICARE SUPPLEMENTAL POLICIES AND CERTAIN OTHER POLICIES.—

(1) IN GENERAL.—Chapter 34 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subchapter:

"Subchapter B—Noncertified Policies

"Sec. 4381. Excise tax on noncertified policies.

"SEC. 4381. EXCISE TAX ON NONCERTIFIED POLICIES.

"(a) IN GENERAL.—There is hereby imposed a tax on any noncertified policy equal to 50 percent of any premium paid on such policy.

"(b) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the entity that issues the noncertified policy.

"(c) DEFINITIONS.—For purposes of this section:

"(1) POLICY.—The term 'policy' means—

"(A) a medicare supplemental policy (as defined in section 1882(g)(1) of the Social Security Act), and

"(B) a daily hospital indemnity policy and a dread disease policy (as defined by the Secretary of Health and Human Services for purposes of section 1882(q) of such Act).

"(2) NONCERTIFIED POLICY.—The term 'noncertified policy' means—

"(A) a policy described in paragraph (1)(A) which—

"(i) is sold in a State which does not have a regulatory program approved by the Secretary of Health and Human Services under section 1882(b) of the Social Security Act, and

"(ii) has not been certified by such Secretary under section 1882(c) of such Act; or

"(B) a policy described in paragraph (1)(B) which (i) is sold in a State which does not have a loss-ratio enforcement program approved by the Secretary under section 1882(q)(2) of the Social Security Act, and (ii) is not determined by the Secretary to meet the loss-ratio requirements of section 1882(q)(3) of such Act.".

(2) CLERICAL AMENDMENT.—Chapter 34 of such Code is amended by striking the chapter heading and inserting the following:

"CHAPTER 34—CERTAIN INSURANCE POLICIES

"Subchapter A. Policies issued by foreign insurers.

"Subchapter B. Noncertified policies.

"Subchapter A—Policies Issued by Foreign Insurers".

(3) IMPLEMENTATION.—The amendments made by this subsection shall apply to the issuance of policies occurring on or after the date that is 6 months after the date of issuance of final regulations described in section 1882(r)(1) of the Social Security Act, except that such amendments (insofar as they require a policy to meet loss ratios described in section 1882(c)(2) or section 1882(q)(1) of the Social Security Act) shall apply, as of such effective date, to policies issued before such date for policy years beginning on or after such date.

(k) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c)(1), (c)(2), (d)(1), (d)(2), (e), (f), (h)(1), (h)(2), (h)(3), and (h)(5) shall be effective in a State on the date specified in section 1882(r)(2) of the Social Security Act, as added by subsection (h)(4) of this section.

(2) REPORTS, ETC.—Subsections (g) and (i) and the amendments made by subsections (c)(3), (d)(3), and (h)(4) shall take effect on the date of the enactment of this Act.

SEC. 12906. PREVENTION OF UNNECESSARY PRESCRIBING OF CONTROLLED SUBSTANCES.

(a) IN GENERAL.—Part A of title XVIII of the Social Security Act is amended by adding at the end the following new section:

"IMPLEMENTATION OF CONTROLLED SUBSTANCE ACCOUNTABLE PRESCRIPTION SYSTEMS

"SEC. 1821. (a)(1) Subject to paragraph (2), notwithstanding any other provision of this part or part C, payments under this part for inpatient hospital services and extended care services provided in a State in a month beginning with January 1992, shall be reduced by ½ percent if the State has not implemented a controlled substance accountable prescription system described in subsection (b) applicable to controlled substances dispensed as of the first day of such month.

"(2) In the case of a State which the Secretary determines requires State legislation (other than legislation authorizing and appropriating funds) in order for the State to implement a controlled substance accountable prescription system described in subsection (b), paragraph (1) shall not apply to services furnished before the first day of the first month beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this section. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

"(b) The controlled substances accountable prescription system described in this subsection must provide for the following:

"(1)(A) Under the system, except as provided in subparagraph (B) or when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance in any of schedules II through V, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, may be dispensed without a written prescription of a practitioner, made on an accountable prescription form provided by an agency (designated by the State, such an agency in this subsection referred to as the 'designated State agency') in accordance with paragraph (2) and rules made by the agency to implement this subsection.

"(B) In emergency situations, as defined by the Secretary by rule after consultation with the Attorney General, a controlled substance may be dispensed upon oral prescription in accordance with section 503(b) of the Federal Food, Drug, and Cosmetic Act.

"(2)(A) A designated State agency shall issue accountable prescription forms under this paragraph only to persons validly registered under section 303(f) of the Controlled Substances Act. Before delivering such a form to a person, the agency shall place on the form the name, address, and registration number of such person.

"(B) It shall be unlawful for any other person to use or furnish such form to any other person to procure distribution of a controlled substance except as authorized by Federal or State law.

"(C) Any person who has been issued accountable prescription forms shall ensure such forms are securely stored to prevent

theft or loss, and shall, immediately upon the discovery of the theft or loss of such forms, notify the designated State agency of the accountable number of any such missing forms.

"(3)(A) Every person who dispenses a controlled substance pursuant to an accountable prescription form under this subsection shall maintain a record of such dispensing, including—

"(i) information contained on such form, and

"(ii) its accountable number,

for a period of two years and make it available for inspection and copying by officers and employees to carry out this title, title XIX, part A of title XI, the Controlled Substances Act, or a State controlled substances act.

"(B) Any person who prescribes a controlled substance which is subject to paragraph (1) shall maintain a readily retrievable record of such prescribing, including recipient name, drug and quantity prescribed, date of the prescription, and the accountable prescription number.

"(C) Every person who dispenses a controlled substance pursuant to an accountable prescription form under paragraph (1) shall, at such times (but not less than every two months) and in such form as required by the designated State agency make periodic reports of such distribution of a controlled substance. Such reports shall contain at least the registration number assigned under the Controlled Substances Act to the person or establishment which made the distribution, the accountable prescription number, the drug and quantity dispensed, date of the dispensing, and information sufficient to identify the recipient of the controlled substance. Whenever possible, the recipient identification shall be an identification number unique to the recipient, rather than the recipient's name.

"(D) Access to information in the system which identifies individual patients shall be limited to State and Federal authorities involved in the investigation of violations of this title, title XVIII, part A of title XI, the Controlled Substances Act, or a State controlled substances act. Such information may only be used or disclosed by any recipient for the purpose of enforcing such provisions of law. Any patient identifying information which is not part of an active investigation shall be purged one year from the date it is entered into the system. Any individual who uses or reveals information in the system which identifies a patient's name (except as authorized under this subsection or to a court in a judicial proceeding) shall be subject to a fine of $5,000 for each such use or revelation.

"(4) The State agency with an agreement in effect under section 1864(a) maintains an active program to review information obtained under the system under this subsection and to investigate possible instances of fraud relating to the prescribing or dispensing of controlled substances.

"(c) The Secretary (through the Inspector General in the Department) and the Attorney General, in accordance with their respective authorities, shall maintain an active program to assist and cooperate with designated State agencies in carrying out subsection (b), to ensure the integrity of, to review, to analyze, and to investigate information reported to the States under subsection (b)(3), and to investigate potential violations of law identified through the information obtained under this section.

"(d) The Secretary, through the National Cancer Institute and the National Institute for Mental Health, shall develop a brief information brochure which describes the proper prescribing of controlled substances for cancer pain and mental illness and specifies where additional information may be obtained respecting proper prescribing practices. The Secretary shall provide for the distribution of such brochure with accountable prescription forms provided by the Attorney General under this section.

"(e) In order to promote States' use of electronic data transfer to receive information under this section, the Secretary, through the Administrator of the Health Care Financing Administration, shall issue guidelines respecting the electronic data transfer. Such guidelines shall accommodate electronic data transfer systems used by pharmacies.".

(b) FUNDING FOR OPERATION OF SYSTEM.—Section 1864(b) of such Act (42 U.S.C. 1395aa(b)) is amended by inserting "and for the reasonable costs which are attributable to the establishment and operation of the controlled substance account prescription system under section 1821(b)" after "subsection (a)".

SEC. 12907. OTHER TECHNICAL AND MISCELLANEOUS PROVISIONS RELATING TO PARTS A AND B.

(a) USE OF ADMINISTRATIVE LAW JUDGES.—Title XI of the Social Security Act is amended by inserting after section 1122 the following new section:

"ADMINISTRATIVE LAW JUDGES FOR HEALTH-RELATED CASES

"SEC. 1123. If (and when) the administration of title II is placed in an officer who is not acting under the authority or direction of the Secretary, insofar as this title, title XVIII, or Title XIX provides for a hearing before an admininistrative law judge related to a matter under title XVIII, title XIX, part B of this title or a provision of this part relating to such titles or part, notwithstanding any other provision of law, such a hearing shall be held before such a judge who is appointed by the Secretary exclusively for hearings relating to such matters and who is in a position within the Department not within the Health Care Financing Administration.".

(b) HOSPITAL AND PHYSICIAN OBLIGATIONS WITH RESPECT TO EMERGENCY MEDICAL CONDITIONS.—

(1) CIVIL MONETARY PENALTIES.—Section 1867(d)(2)(B) of the Social Security Act (42 U.S.C. 1395dd(d)(2)(B)) is amended by striking "knowingly" and inserting "negligently".

(2) EXCLUSION.—Section 1867(d)(2)(B) of such Act (42 U.S.C. 1395dd(d)(2)(B)) is amended by striking "knowing and willful or negligent" and inserting "is gross and flagrant or is repeated".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions occurring on or after the first day of the sixth month beginning after the date of the enactment of this Act.

(c) EXTENSIONS OF EXPIRING PROVISIONS.—

(1) PROHIBITION ON COST SAVINGS POLICIES BEFORE BEGINNING OF FISCAL YEAR.—Notwithstanding any other provision of law, the Secretary of Health and Human Services may not issue any proposed or final regulation, instruction, or other policy which is estimated by the Secretary to result in a net reduction in expenditures under title XVIII of the Social Security Act in a fiscal year (beginning with fiscal year 1991 and ending with fiscal year 1993, or if later, the last fiscal year for which there is a maximum deficit amount specified under section 3(7) of the Congressional Budget and Impoundment Control Act of 1974) of more than $50,000,000, except as follows:

(A) The Secretary may issue such a proposed regulation, instruction, or other policy with respect to the fiscal year before the May 15 preceding the beginning of the fiscal year.

(B) The Secretary may issue such a final regulation, instruction, or other policy with respect to the fiscal year on or after October 15 of the fiscal year.

(C) The Secretary may, at any time, issue such a proposed or final regulation, instruction, or other policy with respect to the fiscal year if required to implement specific provisions under statute.

(2) PROHIBITION OF PAYMENT CYCLE CHANGES.—Notwithstanding any other provisions of law, the Secretary of Health and Human Services is not authorized to issue, after the date of the enactment of this Act, any final regulation, instruction, or other policy change which is primarily intended to have the effect of slowing down or speeding up claims processing, or delaying payment of claims, under title XVIII of the Social Security Act.

(3) WAIVER OF LIABILITY FOR HOME HEALTH AGENCIES.—Section 9305(g)(3) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "November 1, 1990" and inserting "December 31, 1995".

(4) EXTENSION AND EXPANSION OF WAIVERS FOR SOCIAL HEALTH MAINTENANCE ORGANIZATIONS.—

(A) EXTENSION OF CURRENT WAIVERS.—Section 4018(b) of the Omnibus Budget Reconciliation Act of 1987 is amended—

(i) in paragraph (1), by striking "September 30, 1992" and inserting "December 31, 1995"; and

(ii) in paragraph (4)—

(I) by striking "final" and inserting "second interim", and

(II) by striking the period at the end and inserting the following: ", and shall submit a final report on the demonstration projects conducted under section 2355 of the Deficit Reduction Act of 1984 not later than March 31, 1996,".

(B) EXPANSION OF DEMONSTRATIONS.—Section 2355 of the Deficit Reduction Act of 1984 is amended—

(i) in subsection (a), by adding at the end of the following: "Not later than 12 months after the date of the enactment of the Omnibus Budget Reconciliation Act of 1990, the Secretary shall approve such applications or protocols for not more than 4 additional projects described in subsection (b).";

(ii) by amending paragraph (1) of subsection (b) to read as follows:

"(1) to demonstrate—

"(A) the concept of a social health maintenance organization with the organizations as described in Project No. 18-P-9 7604/1-04 of the University Health Policy Consortium of Brandeis University, or

"(B) in the case of a project conducted as a result of the amendments made by section 12907(c)(4)(A) of the Omnibus Budget Reconciliation Act of 1990, the effectiveness and feasibility of innovative approaches to refining targeting and financing methodologies and benefit design, including the effectiveness of feasibility of—

"(i) the benefits of expanded post-acute and community care case management through links between chronic care case management services and acute care providers;

"(ii) refining targeting or reimbursement methodologies;

"(iii) the establishment and operation of a rural services delivery system; or

"(iv) the effectiveness of second-generation sites in reducing the costs of the commencement and management of health care service delivery;";

(iii) in subsection (b)—

(I) by inserting "and" at the end of paragraph (3),

(II) by striking the semicolon at the end of paragraph (4) and inserting a period, and

(III) by striking paragraphs (5), (6), and (7).

(iv) in subsection (c)—

(I) by striking "and" at the end of paragraph (1),

(II) by striking the period at the end of paragraph (2) and inserting "; and ", and

(III) by adding at the end the following new paragraph:

"(3) in the case of a project conducted as a result of the amendments made by section 12907(c)(4)(A) of the Omnibus Budget Reconciliation Act of 1990, any requirements of titles XVIII or XIX of the Social Security Act that, if imposed, would prohibit such project from being conducted."; and

(v) by adding at the end the following new subsection:

"(e) There are authorized to be appropriated $3,500,000 for the costs of technical assistance and evaluation related to projects conducted as a result of the amendments made by section 12907(c)(4)(A) of the Omnibus Budget Reconciliation Act of 1990.".

(d) DEVELOPMENT OF PROSPECTIVE PAYMENT SYSTEM FOR HOME HEALTH SERVICES.—

(1) DEVELOPMENT OF PROPOSAL.—The Secretary of Health and Human Services shall develop a proposal to modify the current system under which payment is made for home health services under title XVIII of the Social Security Act or a proposal to replace such system with a system under which such payments would be made on the basis of prospectively determined rates. In developing any proposal under this paragraph to replace the current system with a prospective payment system, the Secretary shall—

(A) take into consideration the need to provide for appropriate limits on increases in expenditures under the medicare program;

(B) provide for adjustments to prospectively determined rates to account for changes in a provider's case mix, severity of illness of patients, volume of cases, and the development of new technologies and standards of medical practice;

(C) take into consideration the need to increase the payment otherwise made under such system in the case of services provided to patients whose length of treatment or costs of treatment greatly exceed the length or cost of treatment provided for under the applicable prospectively determined payment rate;

(D) take into consideration the need to increase payments under the system to providers that treat a disproportionate share of low-income patients and providers located in geographic areas with high wages and wage-related costs; and

(E) analyze the feasibility and appropriateness of establishing the episode of illness as the basic unit for making payments under the system.

(2) REPORTS.—(A) By not later than April 1, 1993, the Secretary of Health and Human Services shall submit the research findings upon which the proposal described in paragraph (1) shall be based to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(B) By not later than September 1, 1993, the Secretary shall submit the proposal developed under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(C) By not later than March 1, 1994, the Prospective Payment Assessment Commission shall submit an analysis of and comments on the proposal developed under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(e) HOME HEALTH WAGE INDEX.—

(1) IN GENERAL.—Section 1861(v)(1)(L)(iii) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended to read as follows:

"(iii) In establishing limits under this subparagraph for portions of a cost reporting period occurring during a fiscal year, the Secretary shall utilize a wage index equal to the area wage index applicable under section 1886(d)(3)(E) during the fiscal year to the nearest hospital located in the geographic area in which the home health agency is located.".

(2) TRANSITION PROVISION.—Notwithstanding section 1861(v)(1)(L)(iii) of the Social Security Act, the Secretary of Health and Human Services shall, in determining the limits of reasonable costs under title XVIII of such Act with respect to services furnished by a home health agency for portions of a cost reporting period occurring during a fiscal year, utilize a wage index equal to—

(A) for portions of cost reporting periods beginning on or after July 1, 1991, and on or before June 30, 1992, a combined area wage index consisting of—

(i) 67 percent of the area wage index applicable under section 1861(v)(1)(L)(iii) of such Act to such home health agency, determined using the survey of the 1982 wages and wage-related costs of hospitals in the United States conducted under such section, and

(ii) 33 percent of the area wage index applicable under section 1886(d)(3)(E) of such Act to hospitals located in the geographic area in which the home health agency is located for discharges occurring during the fiscal year, determined using the survey of the 1988 wages and wage-related costs of hospitals in the United States conducted under such section; and

(B) for portions of cost reporting periods beginning on or after July 1, 1992, and on or before June 30, 1992, a combined area wage index consisting of—

(i) 33 percent of the area wage index applicable under section 1861(v)(1)(L)(iii) of such Act to such home health agency, determined using the survey of the 1982 wages and wage-related costs of hospitals in the United States conducted under such section, and

(ii) 67 percent of the area wage index applicable under section 1886(d)(3)(E) of such Act to hospitals located in the geographic area in which the home health agency is located for discharges occurring during the fiscal year, determined using the survey of the 1988 wages and wage-related costs of hospitals in the United States conducted under such section.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to home health agency cost reporting periods beginning on or after July 1, 1991.

(f) CLARIFICATION OF DEFINITIONS AND REPORTING REQUIREMENTS RELATING TO PHYSICIAN OWNERSHIP AND REFERRAL.—

(1) CLARIFYING DEFINITIONS.—Section 1877(h) of the Social Security Act (42 U.S.C. 1395nn(h)) is amended—

(A) in paragraph (6)(B), by striking "in the case of another clinical laboratory service,", and

(B) by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) INVESTOR.—The term 'investor' means, with respect to an entity, a person with a financial relationship specified in subsection (a)(2) with the entity.".

(2) EXEMPTION FOR FINANCIAL RELATIONSHIP WITH HOSPITAL UNRELATED TO THE PROVISION OF CLINICAL LABORATORY SERVICES.—Section 1877(b) of such Act is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) HOSPITAL FINANCIAL RELATIONSHIP UNRELATED TO THE PROVISION OF CLINICAL LABORATORY SERVICES.—In the case of a financial relationship with a hospital if the financial relationship does not relate to the provision of clinical laboratory services.".

(3) EXCLUSION OF CERTAIN ENTITIES FROM REPORTING REQUIREMENTS.—Section 1877(f) of such Act is amended by adding at the end the following new sentence: "The requirement of this subsection shall not apply to covered items and services provided outside the United States or to entities which the Secretary determines provide services for which payment may be made under this title very infrequently. The Secretary may waive the requirements of this subsection with respect to reporting by entities in a State so long as such reporting occurs in at least 10 States, and the Secretary may waive such requirements with respect to the providers in a State required to report so long as such requirements are not waived with respect to parenteral and enteral suppliers, end stage renal disease facilities, ambulance services, hospitals, entities providing physical therapy services, and entities providing diagnostic imaging services of any type.".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall be effective as if included in the enactment of section 6204 of the Omnibus Budget Reconciliation Act of 1989.

(g) DATE OF ISSUANCE OF REGULATIONS RELATING TO PHYSICIAN OWNERSHIP OF CLINICAL LABORATORIES.—

(1) IN GENERAL.—

(A) Section 1877(f) of such Act is further amended by striking "1 year after the date of the enactment of this section" and inserting "October 1, 1990".

(B) Section 6204(d) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "October 1, 1990" and inserting "October 1, 1991".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall be effective as if included in the enactment of section 6204 of the Omnibus Budget Reconciliation Act of 1989.

(h) CLARIFICATION OF PAYMENT TO HOSPITAL-BASED NURSING SCHOOLS.—

(1) IN GENERAL.—Section 6205(a)(1)(A) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "if," and all that follows and inserting the following: "if—

"(i) before June 15, 1989, and thereafter, the hospital demonstrates that for each year—

"(I) it incurs at least 50 percent of the costs of training nursing students at such school,

"(II) the nursing school and the hospital share some common board members, and

"(III) all instruction is provided at the hospital (or, if in another building, a building on the immediate grounds of the hospital); or

"(ii) the hospital is described in section 8411(b) of the Technical and Miscellaneous Revenue Act of 1988.".

(2) PERIOD OF APPLICABILITY.—Section 6205(a)(2) of such Act is amended by striking "periods" and all that follows and inserting the following: "periods—

"(i) in the case of a hospital described in clause (i) of subparagraph (A), beginning on or after the date of the enactment of this Act and on or before the date on which the Secretary issues regulations pursuant to subsection (b)(2)(A); or

"(ii) in the case of a hospital described in subparagraph (A)(ii), beginning on or after October 1, 1985, and on or before the date on which the Secretary issues regulations pursuant to subsection (b)(2)(A).".

(3) EFFECTIVE DATE.— The amendments made by paragraphs (1) and (2) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

(i) CASE MANAGEMENT DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall resume the 3 case management demonstration projects described in paragraph (2) and approved under section 425 of the Medicare Catastrophic Coverage Act of 1988 (in this subsection referred to as "MCCA").

(2) PROJECT DESCRIPTIONS.—The demonstration projects referred to in paragraph (1) are—

(A) the project proposed to be conducted by Providence Hospital for case management of the elderly at risk for acute hospitalization as described in Project No. 18-P-99379/5-01;

(B) the project proposed to be conducted by the Iowa Foundation for Medical Care to study patients with chronic congestive conditions to reduce repeated hospitalizations of such patients as described in Project No. P-99399/4-01; and

(C) the project proposed to be conducted by Key Care Health Resources, Inc., to examine the effects of case management on 2,500 high cost medicare beneficiaries as described in Project No. 18-P-99396/5.

(3) TERMS AND CONDITIONS.—Except as provided in paragraph (4), the demonstration projects resumed pursuant to paragraph (1) shall be subject to the same terms and conditions established under section 425 of MCCA. In determining the 2-year duration period of a project resumed pursuant to paragraph (1), the Secretary may not take into account any period of time for which the project was in effect under section 425 of MCCA.

(4) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 425(g) of MCCA, there are authorized to be appropriated for administrative costs in carrying out the demonstration projects resumed pursuant to paragraph (1) $2,000,000 in each of fiscal years 1991 and 1992.

(j) PROHIBITION OF USER FEES FOR SURVEY AND CERTIFICATION.—Section 1864 of the Social Security Act (42 U.S.C. 1395aa) is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of law, the Secretary may not impose, or require a State to impose, any fee on any facility or entity subject to a determination under subsection (a), or any renal dialysis facility subject to the requirements of section 1881(b)(1), for any such determination or any survey relating to determining the compliance of such facility or entity with any requirement of this title.".

(k) ANTI-FRAUD AND ABUSE AMENDMENTS.—

(1) INDUCEMENT TO BENEFICIARIES.—Section 1128A(a)(1) of such Act (42 U.S.C. 1320a-7(a)(1)) is amended by striking "or" at the end of paragraph (2), by adding "or" at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

"(4) transfers anything for less than fair market value to (or for the benefit of) a beneficiary in order to influence the individual to receive from a particular provider, practitioner, or supplier a covered item or service for which payment may be made under title XVIII or XIX;".

(2) INDUCEMENT TO EMPLOYEES.—Section 1128A(a)(1) of such Act (42 U.S.C. 1320a-7(a)(1)), as amended by paragraph (1), is amended by striking "or" at the end of paragraph (3), by adding "or" at the end of paragraph (4), and by inserting after paragraph (4) the following new paragraph:

"(5) pays a bonus, reward or other incentive to an employee to induce the employee to encourage individuals to seek or obtain covered items or services for which payment may be made under title XVIII or XIX where the amount of the incentive is in proportion to the activities of the employee in encouraging individuals to seek or obtain covered items or services;".

(3) DELEGATION OF AUTHORITY TO INSPECTOR GENERAL.—Section 1128A(j) of such Act (42 U.S.C. 1320a-7a(j)) is amended—

(A) by striking "(j)" and inserting "(j)(1)"; and

(B) by adding at the end the following new paragraph:

"(2) The Secretary may delegate authority granted under this section and under section 1128 to the Inspector General of the Department of Health and Human Services.".

(l) PROVISIONS RELATING TO PEER REVIEW ORGANIZATIONS.—

(1) USE OF CORRECTIVE ACTION PLANS.—

(A) IN GENERAL.—Section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c-5(b)(1)) is amended—

(i) by inserting after the first sentence the following: "Before making such a determination, the organization may provide the practitioner or person with the opportunity to enter into and complete a correction action plan (which may include remedial education) and may consider in making such recommendations the completion or failure to complete such a plan."; and

(ii) in the current second sentence, by inserting "taking into account the practitioner's or person's willingness to enter into a correction action plan and completion (or failure to complete) such a plan" after "such obligations,".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall apply to initial determinations made by organizations on or after the date of the enactment of this Act.

(2) TREATMENT OF OPTOMETRISTS AND PODIATRISTS.

(A) IN GENERAL.—Section 1154 of such Act (42 U.S.C. 1320c-3) is amended—

(i) in subsection (a)(7)(A)(i), by inserting ", optometry, or podiatry" after "dentistry", and

(ii) in subsection (c), by striking "or dentistry" each place it appears and inserting "dentistry, optometry, or podiatry".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall apply to contracts entered into or renewed on or after the date of the enactment of this Act.

(3) STUDY OF COORDINATION OF PROS AND CARRIERS.—

(A) STUDY.—The Secretary of Health and Human Services shall conduct a study to develop a plan to improve the coordination of physician review activities of peer review activities and carriers. Such study shall consider—

(i) the development of common utilization and claim review criteria;

(ii) targeting of reviews by peer review organizations and carriers; and

(iii) enhanced information exchange between peer review organizations and carriers.

(B) REPORT.—Not later than January 1, 1992, the Secretary shall submit to Congress a report on the study conducted under subparagraph (A) and shall include in the report such recommendations for changes in legislation as may be appropriate.

(4) EXCHANGE OF INFORMATION WITH STATE LICENSING BOARDS.—Section 1160 of such Act (42 U.S.C. 1320c-9) is amended—

(A) in subsection (A)(3), by inserting "or (f)" after "(b)", and

(B) by adding at the end the following new subsection:

"(f)(1) Within 1 year after the date of the enactment of this subsection, the Secretary shall provide for the exchange of information between organizations with contracts under this part and State board or boards responsible for the licensing or disciplining of a provider or practitioner.

"(2) In providing for such exchange, the Secretary shall consider—

"(A) confidentiality, including appropriate restrictions on redisclosure and liability protections;

"(B) appropriate times in the process under this part in which disclosure is appropriate;

"(C) the specific information to be disclosed; and

"(D) information produced by such licensing or disciplining boards that could enhance activities under this part.

"(3) In providing for such exchange, the Secretary shall consult with organization representing State medical boards, peer review organizations, and such other organizations as the Secretary deems appropriate.".

(m) MISCELLANEOUS TECHNICAL CORRECTIONS.—

(1) The third sentence of subsections (a) and (b)(1) of section 1882 of the Social Security Act (42 U.S.C. 1395ss), as amended by section 203(a)(1)(A) of the Medicare Catastrophic Coverage Repeal Act, is amended by striking "(k)(4),".

(2) Section 1877(g)(5) of the Social Security Act, as added by section 6204(a) of OBRA-1989, is amended by adding at the end the following new sentence: "The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(3) Subsection (i) or section 1867 of the Social Security Act, as added by section 6211(f) of the Omnibus Budget Reconcilia-

tion Act of 1989, is amended to read as follows:

"(i) WHISTLEBLOWER PROTECTIONS.—A participating hospital may not penalize or take adverse action against a physician or qualified medical person described in subsection (c)(1)(A)(iii) because the physician or person refuses to authorize the transfer of an individual with an emergency medical condition that has not been stabilized or against any hospital employee because the employee reports a violation of a requirement of this section.".

(4) Section 6213(d) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "take effect" and inserting "apply to services furnished on or after".

(5) Section 6217(a) of the Omnibus Budget Reconciliation Act of 1989 is amended in the matter preceding paragraph (1) by inserting after "payments" the following: "out of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate in a year)".

(6) Section 1139 of the Social Security Act, as amended by section 6221 of Omnibus Budget Reconciliation Act of 1989, is amended by striking "interim report" and all that follows through "setting forth" and inserting the following: "interim report no later than March 31, 1990, and a final report no later than March 31, 1991, setting forth".

PART 2—MEDICARE INITIATIVES

SEC. 12911. PPS-EXEMPT HOSPITAL ADJUSTMENT.

(a) IN GENERAL.—Section 1886(b)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(1)(B)) is amended by striking "(ii) in the case of" and all that follows through the semicolon and inserting the following: "(ii) in the case of cost reporting periods beginning on or after October 1, 1991, 50 percent of the amount by which the amount of the operating costs exceeds the target amount (except that the amount determined under this clause may not exceed 20 percent of the target amount);".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to discharges or admissions (as the case may be) occurring on or after October 1, 1991.

SEC. 12912. HOSPITAL PHYSICIAN EDUCATION RECOUPMENT.

(a) IN GENERAL.—The Secretary of Health and Human Services may not, before October 1, 1991, recoup payments from (or otherwise reduce or adjust payments under title XVIII of the Social Security Act to) a hospital because of alleged overpayments to such hospital under such title due to a determination that costs which were reported by the hospital on its medicare cost reports relating to physician education programs were allowable costs and are included in the definition of "operating costs of inpatient hospital services" pursuant to section 1886(a)(4) of such Act, so that no pass-through of such costs was permitted under such section.

(b) CAP ON ANNUAL AMOUNT OF RECOUPMENT.—With respect to overpayments to a hospital described in subsection (a), the Secretary may not recoup more than 25 percent of the amount of such overpayments from the hospital during a fiscal year.

(c) EFFECTIVE DATE.—Subsections (a) and (b) shall take effect October 1, 1990.

SEC. 12913. UNIVERSITY-AFFILIATED NURSING EDUCATION PROGRAMS.

(a) IN GENERAL.—The reasonable costs incurred by a hospital (or by an educational institution related to the hospital by common ownership or control) during a cost reporting period for approved nursing and allied health education programs that are not operated by the hospital shall be allowable as reasonable costs under title XVIII of the Social Security Act and reimbursed under such title on a pass-through basis.

(b) CONDITIONS FOR REIMBURSEMENT.—The reasonable costs incurred by a hospital for an approved nursing and allied health education program during a cost reporting period shall be reimbursable pursuant to subsection (a) only if—

(1) the proportion of the costs of the program incurred by the hospital during the cost reporting period does not exceed the proportion of such costs incurred by the hospital during the cost reporting period beginning on or after October 1, 1989;

(2) the hospital receives a benefit for the support it furnishes to such program through the provision of clinical services by nursing or allied health students participating in such program; and

(3) the costs incurred by the hospital for such program do not exceed the costs that would be incurred by the hospital if it operated the program itself.

(c) PROHIBITION AGAINST RECOUPMENT OF COSTS BY SECRETARY.—

(1) IN GENERAL.—The Secretary of Health and Human Services may not recoup payments from (or otherwise reduce or adjust payments under title XVIII of the Social Security Act to) a hospital because of alleged overpayments to such hospital under such title due to a determination that costs which were reported by the hospital on its medicare cost reports for cost reporting periods beginning on or after October 1, 1983, and before October 1, 1990, relating to approved nursing and allied health education programs were allowable costs and are included in the definition of "operating costs of inpatient hospital services" pursuant to section 1886(a)(4) of such Act, so that no pass-through of such costs was permitted under such section.

(2) REFUND OF AMOUNTS RECOUPED.—If, prior to the date of the enactment of this Act, the Secretary has recouped payments from (or otherwise reduced or adjusted payments under title XVIII of the Social Security Act to) a hospital because of overpayments described in paragraph (1), the Secretary shall refund the amount recouped from the hospital.

(d) SPECIAL AUDIT TO DETERMINE COSTS.—In determining the amount of costs incurred by a hospital for purposes of this section, the Secretary shall conduct a special audit to ensure the accuracy of such costs.

(e) EFFECTIVE DATE.—The provisions of this section shall take effect October 1, 1990.

SEC. 12914. COMMUNITY HEALTH CENTERS AND RURAL HEALTH CLINICS.

(a) COMMUNITY HEALTH CENTERS.—

(1) COVERAGE.—Section 1861(s)(2)(E) of the Social Security Act (42 U.S.C. 1395x(s)(2)(E)) is amended by inserting "and Federally qualified health center services" after "rural health clinic services".

(2) SERVICES DEFINED.—Section 1861(aa) of such Act is amended—

(A) in the heading, by adding at the end the following: "and Federally Qualified Health Center Services",

(B) in paragraph (3), by striking "paragraphs (1) and (2)" and inserting "the previous provisions of this subsection" and by redesignating such paragraph and paragraph (4) as paragraph (5) and (6), respectively, and

(C) by inserting after paragraph (2) the following new paragraphs:

"(3) The term 'Federally qualified health center services' means—

"(A) services of the type described in subparagraphs (A) through (C) of paragraph (1), and

"(B) preventive primary health services that a center is required to provide under sections 329, 330, and 340 of the Public Health Service Act.

when furnished to an individual as an outpatient of a Federally qualified health center and, for this purpose, any reference to a rural health clinic or a physician described in paragraph (2)(B) is deemed a reference to a Federally qualified health center or a physician at the center, respectively.

"(4) The term 'Federally qualified health center' means an entity which—

"(A)(i) is receiving a grant under section 329, 330, or 340 of the Public Health Service Act, or

"(ii)(I) is receiving funding from such a grant under a contract with the recipient of such a grant, and (II) meets the requirements to receive a grant under section 329, 330, or 340 of such Act;

"(B) based on the recommendation of the Health Resources and Services Administration within the Public Health Service, is determined by the Secretary to meet the requirements for receiving such a grant; or

"(C) was treated by the Secretary, for purposes of part B, as a comprehensive Federally funded health center as of January 1, 1990.".

(3) PAYMENTS.—

(A) IN GENERAL.—Section 1832(a)(2)(D) of such Act (42 U.S.C. 1395k(a)(2)(D)) is amended by inserting "(i)" after "(D)" and by inserting "and (ii) Federally qualified health center services" after "rural health clinic services".

(B) DEDUCTIBLE DOES NOT APPLY.—The first sentence of section 1833(b) of such Act (42 U.S.C. 13951(b)) is amended—

(i) by striking "and" before "(4)",

(ii) by inserting before the period at the end the following: ", and (5) such deductible shall not apply to Federally qualified health center services".

(C) EXCLUSION FROM PAYMENT REMOVED.—Section 1862(a) of such Act (42 U.S.C. 1395y(a)) is amended—

(i) in paragraph (2), by inserting ", except in the case of Federally qualified health center services" before the semicolon at the end, and

(ii) in paragraph (3), by inserting ", in the case of Federally qualified health center services, as defined in section 1861(aa)(3)," after "1861(aa)(1),", and

(iii) by adding at the end the following new sentence: "Paragraph (7) shall not apply to Federally qualified health center services described in section 1861(aa)(3)(B).".

(4) WAIVER OF ANTI-KICKBACK REQUIREMENT.—Section 1128B(b)(3) of such Act (42 U.S.C. 1320a-7b(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (C),

(B) by redesignating subparagraph (D) as subparagraph (E), and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) a waiver of any coinsurance under part B of title XVIII by a Federally qualified health care center with respect to an individual who qualifies for subsidized services under a provision of the Public Health Service Act; and".

(5) CONFORMING AMENDMENTS.—Section 1861 of such Act (42 U.S.C. 1395x) is further amended—

(A) in subsections (s)(2)(H)(i) and (s)(2)(K), by striking "subsection (aa)(3)" and "subsection (aa)(4)" each place either appears inserting "subsection (aa)(5)" and subsection (aa)(6)", respectively, and

(B) in subsection (aa)(1)(B), by striking "paragraph (3)" and inserting "paragraph (5)".

(6) PRRB REVIEW OF COST REPORTS FOR FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1878 of the Social Security Act (42 U.S.C. 1395oo) is amended by adding at the end the following new subsection:

"(j) In this section, the term 'provider of services' includes a Federally qualified health center.".

(7) GAO STUDY OF HOSPITAL STAFF PRIVILEGES FOR PHYSICIANS PRACTICING IN COMMUNITY HEALTH CENTERS.—

(A) STUDY.—The Comptroller General shall conduct a study of whether physicians practicing in community and migrant health centers are able to obtain admitting privileges at local hospitals. The study shall review—

(i) how many physicians practicing in such centers are without hospital admitting privileges or have been denied admitting privileges at a local hospital, and

(i)(I) the criteria hospitals use in deciding whether to grant admitting privileges and (II) whether such criteria act as significant barriers to health center physicians obtaining hospital privileges.

(B) REPORT.—By not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit a report on the study under subparagraph (A) to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and shall include in such report such recommendations as the Comptroller General deems appropriate.

(8) EFFECTIVE DATE.—(A) Subject to subparagraphs (B) and (C), the amendments made by this section shall apply to services furnished on or after October 1, 1991.

(B) In the case of a Federally qualified health care center that has elected, as of January 1, 1990, under part B of title XVIII of the Social Security Act, to have the amount of payments for services under such part determined on a reasonable-charge basis, the amendment made by paragraph (3)(A) shall only apply on and after such date (not earlier than October 1, 1991) as the center may elect.

(C) The amendment made by paragraph (6) shall apply to cost reports for periods beginning on or after October 1, 1991.

(b) RURAL HEALTH CLINIC SERVICES.—

(1) EXPEDITED CERTIFICATION.—Section 1861(aa)(2) of the Social Security Act (42 U.S.C. 1395x(aa)(2)) is amended by adding at the end the following "If a State agency has determined under section 1864(a) that a facility is a rural health clinic and the facility has applied to the Secretary for certification as such a clinic, the Secretary shall notify the facility of the Secretary's approval or disapproval of the certification not later than 60 days after the date of the State agency determination or the application (whichever is later).".

(2) TEMPORARY WAIVER OF STAFFING REQUIREMENTS.—Section 1861(aa) of such Act, as amended by subsection (a), is further amended by adding at the end the following new paragraph:

"(7)(A) The Secretary shall waive for a 1-year period the requirements of paragraph (2) that a rural health clinic employ a physician assistant, nurse practitioner or certified nurse midwife or that such clinic require such providers to furnish services at least 50 percent of the time that the clinic operates for any facility that requests such waiver if the facility demonstrates that the facility has been unable, despite reasonable efforts, to hire a physician assistant, nurse practitioner, or certified nurse-midwife in the previous 90-day period.

"(B) The Secretary may not grant such a waiver under subparagraph (A) to a facility if the request for the waiver is made less than 6 months after the date of the expiration of any previous such waiver for the facility.

"(C) A waiver which is requested under this paragraph shall be deemed granted unless such request is denied by the Secretary within 60 days after the date such request is received.".

(3) PRODUCTIVITY SCREENS.—In employing any screening guideline in determining the productivity of physicians, physician assistants, nurse practitioners, and certified nurse-midwives in a rural health clinic, the Secretary of Health and Human Services shall provide that the guideline shall take into account the combined services of such staff (and not merely the service within each class of practitioner).

(4) PRRB REVIEW OF COST REPORTS FOR RURAL HEALTH CENTERS.—Section 1878(j) of the Social Security Act (42 U.S.C. 1395oo(j)), as added by subsection (a)(6), is amended by inserting "a rural health clinic and" after "includes".

(5) EFFECTIVE DATE.—This subsection shall take effect on October 1, 1991, except that the amendment made by paragraph (4) shall apply to cost reports for periods beginning on or after October 1, 1991.

SEC. 12915 PAYMENTS FOR CRNAS.

(a) IN GENERAL.—Section 1833(1)(1) of the Social Security Act (42 U.S.C. 1395m(1)(1)) is amended—

(1) by inserting "(A)" after "(1)(1)", and

(2) by adding at the end the following new subparagraphs:

"(B)(i) Subject to subparagraph (C), for such services furnished on or after January 1, 1992, the fee schedule shall provide for a national average conversion factor equal to the national average conversion factor established for the locality under section 1848 (without regard to paragraph (2) of section 1848(a)) for physicians' services that are anesthesia services.

"(ii) The conversion factor established for certified registered nurse anesthetists who are medically directed shall be 70 percent of the conversion factor established for such anethetists who are not medically directed.

"(C)(i) In no case shall the conversion factor established under this paragraph in a locality for nonmedically directed services exceed the conversion factor in the locality for physician anesthesia services.

"(ii) The provisions of this subsection shall not apply to certain services furnished in certain hospitals in rural areas under the provisions of section 9320(k) of the Omnibus Budget Reconciliation Act of 1986.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1992.

(c) BUDGET NEUTRAL IMPLEMENTATION.—The Secretary of Health and Human Services shall reduce the conversion factor established under section 1848(d) for 1992 by such an amount as will result in a reduction in the payments under part B of title XVIII of the Social Security Act in 1992 equivalent to the increase in payments in 1992 under such part resulting from the amendments made by subsection (a).

SEC. 12916. PARTIAL HOSPITALIZATION IN COMMUNITY MENTAL HEALTH CENTERS.

(a) IN GENERAL.—Section 1861(ff)(3) of the Social Security Act (42 U.S.C. 1395x(ff)(3)) is amended—

(1) by striking "(3)" and inserting "(3)(A)";

(2) by striking "outpatients" and inserting "outpatients or by a community mental health center (as defined in subparagraph (B))."; and

(3) by adding at the end the following new subparagraph:

"(B) For purposes of subparagraph (A), the term 'community mental health center' means an entity—

"(i) providing the services described in section 1916(c)(4) of the Public Health Service Act; and

"(ii) meeting applicable licensing or certification requirements for community mental health centers in the State in which it is located.".

(b) CONFORMING AMENDMENTS.—(1) Section 1832 (a)(2) of such Act (42 U.S.C. 1395k(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (H);

(B) by striking the period at the end of subparagraph (I) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(J) partial hospitalization services provided by a community mental health center (as described in section 1861(ff)(2)(B))".

(2) Section 1866(e) of such Act (42 U.S.C. 1395cc(e))) is amended by striking "include a clinic" and all that follows through the period and inserting the following: "include—

"(1) a clinic, rehabilitation agency, or public health agency if, in the case of a clinic or rehabilitation agency, such clinic or agency meets the requirements of section 1861(p)(4)(A) (or meets the requirements of such section through the operation of section 1861(g)), or if, in the case of a public health agency, such agency meets the requirements of section 1861(p)(4)(B) (or meets the requirements of such section through the operation of section 1861(g)), but only with respect to the furnishing of outpatient physical therapy services (as therein defined) or (through the operation of section 1861(g)) with respect to the furnishing of outpatient occupational therapy services; and

"(2) a community mental health center (as defined in section 1861(ff)(3)(B)), but only with respect to the furnishing of partial hospitalization services (as described in section 1861(ff)(1)).".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to partial hospitalization services provided on or after October 1, 1991.

SEC. 12917. RURAL BLOOD LABORATORIES.

(a) IN GENERAL.—Section 1833(h)(3) of the Social Security Act (42 U.S.C. 13951(h)(3)) is amended—

(1) in the second sentence—

(A) by striking "during the period" and all that follows through "(ii)" and inserting "by a laboratory that establishes to the satisfaction of the Secretary that", and

(B) by striking "facility, and (iii)" and inserting "facility."; and

(2) by inserting after the first sentence the following new sentence: "The previous sentence shall permit the payment of a fee

to a laboratory described in the next sentence for a second trip on a day with respect to a location if that trip is required to collect a sample for a test which the individual's physician has ordered and for which the results are required on an as-soon-as-possible basis.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to clinical diagnostic laboratory tests furnished on or after October 1, 1991.

SEC. 12918. PSYCHOLOGY SERVICES FOR INPATIENTS.

(a) IN GENERAL.—

(1) SERVICES NOT TO BE INCLUDED IN INPATIENT HOSPITAL SERVICES.—Section 1861(b) of the Social Security Act (42 U.S.C. 1395x(b)) is amended—

(A) in paragraph (3), by striking "(including clinical psychologist (as defined by the Secretary)"; and

(B) in paragraph (4)—

(i) by striking "intern and" and inserting "intern,", and

(ii) by striking "anesthetist;" and inserting "anesthetist, and qualified psychologist services (as defined in subsection (ii));".

(2) SERVICES NOT TO BE BILLED THROUGH PROVIDERS OF SERVICES.—Section 1832(a)(2)(B)(iii) of such Act (42 U.S.C. 1395k(a)(2)(B)(iii)) is amended by striking "anesthetist;" and inserting "anesthetist or qualified psychologist services;".

(3) CONFORMING AMENDMENTS.—(A) Section 1862(a)(14) of such Act (42 U.S.C. 1395y(a)(14)) is amended by striking "unless the services" and inserting "unless the services are qualified psychologist services,".

(B) Section 1866(a)(1)(H) of such Act (42 U.S.C. 1395cc(a)(1)(H)) is amended in the matter preceding clause (i) by striking "anesthetist)" and inserting "anesthetist or qualified psychologist services)".

(b) EFFECTIVE DATE.— The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1991.

SEC. 12919. END STAGE RENAL DISEASE RATES.

Section 9335(a)(1) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 12201(a)(2) of the Omnibus Budget Reconciliation Act of 1990, is amended by inserting after the first larger sentence the following: "With respect to services furnished on or after January 1, 1992, such base rate shall be equal to the respective rate in effect as of December 31, 1991, increased by $5.00.".

SEC. 12920. SELF-ADMINISTRATION OF ERYTHROPOIETIN (EPO).

(a) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (M);

(2) by adding "and" at the end of subparagraph (N); and

(3) by adding at the end of the following new subparagraph:

"(O) erythropoietin for home dialysis patients competent to use such drug without medical or other supervision with respect to the administration of such drug, subject to methods and standards established by the Secretary by regulation for the safe and effective use of such drug, and items related to the administration of such drug;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to erythropoietin furnished on or after October 1, 1991.

SEC. 12921. PART A PREMIUM.

(a) IN GENERAL.—Subsection (d) of section 1818 of the Social Security Act (42 U.S.C. 1395i-2) is amended to read as follows:

"(d)(1) The monthly premium under this part for months in 1992 shall be $165, in 1993 shall be $150, in 1994 shall be $135, in 1995 shall be $121.

"(2) The monthly premiums under this part for months in a year after 1995 shall be the monthly premium for months in the previous year changed by the same percentage as the percentage change in the inpatient hospital deductible under section 1813(b) effected in the year involved. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1 (or, if it is a multiple of 50 cents but not a multiple of $1, to the next higher multiple of $1).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to premiums for months beginning with January 1992.

SEC. 12922. RADIOLOGY SERVICES.

(a) EXEMPTION FROM REDUCTION IN CONVERSION FACTOR FOR PORTABLE RADIOLOGY SERVICES.—Section 1834(B)(4)(D) of the Social Security Act, as added by section 12102(a)(1), is amended in the matter preceding clause (i) by striking "services" and inserting "services (other than portable X-ray services)".

(b) CONTINUATION OF SPECIAL RULE FOR NUCLEAR MEDICINE PHYSICIANS.—Section 6105(b) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking all that follows "Social Security Act" the second place it appears and inserting the following: "beginning April 1, 1990, and ending December 31, 1991, there shall be substituted for the fee schedule otherwise applicable a fee schedule based ⅓ on the fee schedule computed under such section (without regard to this subsection) and ⅔ on 101 percent of the 1988 prevailing charge for such services.".

(c) EXTENSION OF SPLIT BILLING RULE FOR INTERVENTIONAL RADIOLOGISTS.—Section 6105(c) of the Omnibus Budget Reconciliation Act of 1989 is amended by inserting "or 1991" after "1990" each place it appears.

(d) EFFECTIVE DATES.—The amendments made by this section shall apply to services furnished on or after January 1, 1991.

SEC. 12923. EXPANSION OF HOSPICE BENEFIT.

(a) IN GENERAL.—Section 1812 of the Social Security Act (42 U.S.C. 1395d) is amended—

(1) in subsection (a)(4), by striking "90 days each" and all that follows through "with respect to" and inserting the following: "90 days each, a subsequent period of 30 days, and a subsequent extension period with respect to"; and

(2) in subsection (d)—

(A) in paragraph (1), by striking "90 days each" and all that follows through "lifetime" and inserting the following: "90 days each, a subsequent period of 30 days, and a subsequent extension period during the individual's lifetime", and

(B) in paragraph (2)(B), by striking "a 90- or 30-day period," and inserting "a 90- or 30-day period or a subsequent extension period,".

(b) CONFORMING AMENDMENT.—Section 1814(a)(7)(A) of such Act (42 U.S.C. 1395f(a)(7)(A)) is amended—

(1) in clause (i), by striking "and" at the end;

(2) in clause (ii), by striking the semicolon at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(iii) in a subsequent extension period, the medical director or physician described in clause (i)(II) recertifies at the beginning of the period that the individual is terminally ill;".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to care and services furnished on or after October 1, 1991.

SEC. 12924. COVERAGE OF SCREENING MAMMOGRAPHY.

(a) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(1) in subsection (s)—

(A) in paragraph (11), by striking all that follows "(bb))" and inserting a semicolon,

(B) in paragraph (12)(C), by striking all that follows "area)" and inserting "; and", and

(C) by inserting after paragraph (12) the following new paragraph:

"(13) screening mammography (as defined in subsection (jj));"; and

(2) by inserting after subsection (ii) the following new subsection:

"SCREENING MAMMOGRAPHY

"(jj) The term 'screening mammography' means a radiologic procedure provided to a woman for the purpose of early detection of breast cancer and includes a physican's interpretation of the results of the procedure.".

(b) PAYMENT AND COVERAGE.—Section 1834 of such Act 942 U.S.C. 1395m) is amended—

(1) in subsection (b)(1)(B), by inserting "and subject to subsection (c)(1)(A)" after "conversion factors", and

(2) by inserting after subsection (b) the following new subsection:

"(c) PAYMENTS AND STANDARDS FOR SCREENING MAMMOGRAPHY.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part, with respect to expenses incurred for screening mammography (as defined in section 1861(jj))—

"(A) payment may be made only for screening mammography conducted consistent with the frequency permitted under paragraph (2);

"(B) payment may be made only if the screening mammography meets the quality standards established under paragraph (3); and

"(C) the amount of the payment under this part shall, subject to the deductible established under section 1833(b), be equal to 80 percent of the least of—

"(i) the actual charge for the screening,

"(ii) the fee schedule established under subsection (b) or the fee schedule established under section 1848, whichever is applicable, with respect to both the professional and technical components of the screening mammography, or

"(iii) the limit established under paragraph (4) for the screening mammography.

"(2) FREQUENCY COVERED.—

"(A) IN GENERAL.—Subject to revision by the Secretary under subparagraph (B)—

"(i) No payment may be made under this part for screening mammography performed on a woman under 35 years of age.

"(ii) Payment may be made under this part for only 1 screening mammography performed on a woman over 34 years of age, but under 40 years of age.

"(iii) In the case of a woman over 39 years of age, but under 50 years of age, who—

"(I) is at high risk of developing breast cancer (as determined pursuant to factors identified by the Secretary), payment may not be made under this part for the 11 months of a previous screening mammography, or

"(II) is not at a high risk of developing breast cancer, payment may not be made under this part for a screening mammography performed within the 23 months after a previous screening mammography.

"(iv) In the case of a woman over 49 years of age, but under 65 years of age, payment may not be made under this part for screening mammography performed within 11 months after a previous screening mammography.

"(v) In the case of a woman over 64 years of age, payment may not be made for screening mammography performed within 23 months after a previous screening mammography.

"(B) REVISION OF FREQUENCY.—

"(i) REVIEW.—The Secretary, in consultation with the Director of the National Cancer Institute, shall review periodically the appropriate frequency for performing screening mammography, based on age and such other factors as the Secretary believes to be pertinent.

"(ii) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which screening mammography may be paid for under this subsection, but no such revision shall apply to screening mammography performed before January 1, 1992.

"(3) QUALITY STANDARDS.—The Secretary shall establish standards to assure the safety and accuracy of screening mammography performed under this part. Such standards shall include the requirements that—

"(A) the equipment used to perform the mammography must be specifically designed for mammography and must meet radiologic standards established by the Secretary for mammography;

"(B) the mammography must be performed by an individual who—

"(i) is licensed by a State to perform radiological procedures, or

"(ii) is certified as qualified to perform radiological procedures by such an appropriate organization as the Secretary specifies in regulations;

"(C) the results of the mammography must be interpreted by a physician—

"(i) who is certified as qualified to interpret radiological procedures by such an appropriate board as the Secretary specifies in regulations, or

"(ii) who is certified as qualified to interpret screening mammography procedures by such a program as the Secretary recognizes in regulation as assuring the qualifications of the individual with respect to such interpretation; and

"(D) with respect to the first screening mammography performed on a woman for which payment is made under this part, there are satisfactory assurances that the results of the mammography will be placed in permanent medical records maintained with respect to the woman.

"(4) LIMIT.—

"(A) $55, INDEXED.—Except as provided by the Secretary under subparagraph (B), the limit established under this paragraph—

"(i) for screening mammography performed in 1991, is $55, and

"(ii) for screening mammography performed in a subsequent year is the limit established under this paragraph for the preceding year increased by the increase in the conversion factor established under section 1848(d) effective for services furnished in that subsequent year.

"(B) REDUCTION OF LIMIT.—The Secretary shall review from time to time the appropriateness of the amount of the limit established under this paragraph. The Secretary may, with respect to screening mammography performed in a year after 1992, reduce the amount of such limit as it applies nationally or in any area to the amount that the Secretary estimates is required to assure that screening mammography of an appropriate quality is readily and conveniently available during the year.

"(C) APPLICATION OF LIMIT IN HOSPITAL OUTPATIENT SETTING.—The Secretary shall provide for an appropriate allocation of the limit established under this paragraph between professional and technical components in the case of hospital outpatient screening mammography (and comparable situations) where there is a claim for professional services separate from the claim for the radiologic procedure.

"(5) LIMITING CHARGES OF NONPARTICIPATING PHYSICIANS.—

"(A) IN GENERAL.—In the case of mammography screening performed on or after October 1, 1991, for which payment is made under this subsection, if a nonparticipating physician or supplier provides the screening to an individual entitled to benefits under this part, the physician or supplier may not charge the individual more than the limiting charge (as defined in subparagraph (B), or if less, as defined in subsection (b)(5)(B) or as defined in section 1848(g)(2)).

"(B) LIMITING CHARGE DEFINED.—In subparagraph (A), the term 'limiting charge' means, with respect to screening mammography performed—

"(i) in 1991, 125 percent of the limit established under paragraph (4),

"(ii) in 1992, 120 percent of the limit established under paragraph (4), or

"(iii) after 1992, 115 percent of the limit established under paragraph (4).

"(c) ENFORCEMENT.—If a physician or supplier knowing and willfully imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2)."

(c) CERTIFICATION OF SCREENING MAMMOGRAPHY QUALITY STANDARDS.—

(1) Section 1863 of such Act (42 U.S.C. 1395z) is amended by inserting "or whether screening mammography meets the standards established under section 1834(c)(3)," after "1832(a)(2)(F)(i),".

(2) The first sentence of section 1864(a) of such Act (42 U.S.C. 1395aa(a)) is amended by inserting before the period the following: ", or whether screening mammography meets the standards established under section 1834(c)(3)".

(3) Section 1865(a) of such Act (42 U.S.C. 1395bb(a)) is amended by inserting "1834(c)(3)," after "1832(a)(2)(F)(i),".

(d) CONFORMING AMENDMENTS.—

(1) Section 1833(a)(2)(E) of such Act (42 U.S.C. 13951(a)(2)(E)) is amended by inserting ", but excluding screening mammography" after "imaging services".

(2) Section 1862(a) of such Act (42 U.S.C. 1395y(a)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "subparagraph (B), (C), (D), or (E)" and inserting "a succeeding subparagraph",

(ii) in subparagraph (D), by striking "and" at the end,

(iii) in subparagraph (E), by striking the semicolon at the end and inserting ", and", and

(iv) by adding at the end the following new subparagraph:

"(F) in the case of screening mammography, which is performed more frequently that is covered under section 1834(c)(2) or which does not meet the standards established under section 1834(c)(3), and, in the case of screening pap smear, which is performed more frequently than is provided under section 1861(nn);"; and

(B) in paragraph (7), by inserting "or under paragraph (1)(F)" after "(1)(B)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to screening mammography performed on or after October 1, 1991.

PART 3—MEDICARE PROGRAM COST REDUCTIONS

SEC. 12931. REDUCTION IN PAYMENTS FOR PHYSICIANS' SERVICES.

(a) IN GENERAL.—Section 1842(b)(16)(A) of the Social Security Act (42 U.S.C. 1395u(b)), as added by section 12101(b) of the Omnibus Budget Reconciliation Act of 1990, is amended by striking "5 percent" and inserting "7.5 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1991.

SEC. 12932. INTERPRETATION OF EKGS.

Section 12108(b) of the Omnibus Budget Reconciliation Act of 1990 is amended by striking "January 1, 1992" and inserting "January 1, 1991".

SEC. 12933. COVERAGE FOR SEATLIFTS.

(a) IN GENERAL.—Section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n)) is amended by adding at the end the following: "With respect to a seat-lift chair, such term includes only the seat-lift mechanism and does not include the chair.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items furnished on or after January 1, 1991.

SEC. 12934. REDUCTION IN PAYMENTS FOR TENS DEVICES.

(a) IN GENERAL.—Section 1834(a)(1)(D) of the Social Security Act (42 U.S.C. 1395m(a)(1)(D)), as amended by section 12112(a)(1) of the Omnibus Budget Reconciliation Act of 1990, is amended by striking "15 percent" and inserting "30 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to covered items furnished on or after January 1, 1991.

PARLIAMENTARY INQUIRIES

Mr. FRENZEL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FRENZEL. Mr. Chairman, are we going to read the amendment?

The CHAIRMAN. It is designated under the rule, it will not be read. It is already designated.

Mr. FRENZEL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FRENZEL. Mr. Chairman, can the Chair explain to me how we designated something that did not exist until 10 minutes ago?

The CHAIRMAN. Under the rule, it is stated that the said amendment will be considered as read.

Mr. FRENZEL. No matter how voluminous?

Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FRENZEL. Was there a unanimous-consent request made that the Panetta amendment not be subject to points of order?

The CHAIRMAN. The rule also provides for that.

Mr. FRENZEL. Was there any unanimous-consent request made with respect to the Panetta amendment today, Mr. Chairman?

The CHAIRMAN. No. It was not necessary. The rule provides for that waiver.

Mr. FRENZEL. Thank you, Mr. Chairman.

Mr. GINGRICH. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. GINGRICH. Mr. Chairman, I just want to ask of the Chair: Are copies of the current version of the Panetta amendment available in sufficient number that all the Members get a chance to look at it? Do we have copies that we can look at of the current version?

Mr. PANETTA. Mr. Chairman, we have provided copies to the Republican side, and we have a copy at the desk. Those are the copies that are available.

Mr. FRENZEL. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FRENZEL. Mr. Chairman, can the Chair tell us how many pages are in the amendment? We are not sure what we have here.

The CHAIRMAN. If the gentleman will bear with the Chair, the Chair will get the gentleman that answer.

Mr. FRENZEL. I appreciate that, Mr. Chairman.

The CHAIRMAN. The pages do not seem to be numbered.

Mr. GINGRICH. Mr. Chairman, would the Chair have someone count them?

The CHAIRMAN. The Chair is trying to cooperate with the inquiry, if the gentleman will just be patient.

Mr. PANETTA. Mr. Chairman, is this in the context of a point of order, or is this just time taken off the amendment?

The CHAIRMAN. It is a parliamentary inquiry. The Chair will respond, and time is not coming out of debated time.

In answer to the question, it is roughly 200 pages.

Mr. FRENZEL. I thank the Chair.

Mr. GINGRICH. Would the Chair please check and let us know exactly how many pages?

Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. GINGRICH. Would the Chair explain? I just read the resolution briefly. Would the Chairman explain where in the rule points of order are waived on this amendment? It says here, "Points of order are waived on the amendments which have been printed." It says, "All points of order are hereby waived against amendments printed in the report."

The CHAIRMAN. The Chair will respond. It is on page 3, lines 11 and 12, "All points of order against the amendments en bloc are hereby waived."

The gentleman from California [Mr. PANETTA] will be recognized for 15 minutes, and a Member in opposition will be recognized for 15 minutes.

The Chair recognizes the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the amendment that we present here is an effort to strip matters that are not, we believe, related to deficit reduction or involve questionable savings that are part of the reconciliation bill. We tried to establish a precedent within the reconciliation bill of trying to eliminate those matters reported from the various committees that do not relate specifically to reconciliation.

This is obviously an effort. It is not as perfect as any of us would have hoped.

Obviously there are areas here that require discretion as to what, in fact, relates to deficit reduction and what does not, and in addition to that, there are areas, particularly in the Medicaid and Medicare areas, that relate to the summit agreement that involve efforts to try to reduce the hit that impacts on both Medicare and Medicaid. Those are areas under the jurisdiction of both the Committee on Energy and Commerce as well as the Committee on Ways and Means.

Let me cite some of the proposals that are stripped here in the amendment. With regard to the Committee on Agriculture, we eliminate the GSE provisions that they included there. This is true also for the Committee on Banking and Urban Affairs as well as for the Committee on Ways and Means.

The reason we stripped the GSE provisions is because, under the budget process reform section, we provide in conjunction with the administration a proposal that comprehensively deals with GSE's overall, and for that reason we felt that it was not appropriate for each of the committees to develop their own particular approach to dealing with GSE's.

In Education and Labor we stripped the child care bill which was included by the Committee on Education and Labor, but it is a bill that we feel should be dealt with outside of reconciliation.

We also stripped, under the Education and Labor provision, OSHA criminal penalties, again because we were concerned about questionable savings related to that provision.

In addition, in the Committee on the Interior, we stripped Bryce Canyon as well as the reauthorization of the BLM area.

Merchant Marine and Fisheries, we stripped proposals related to the Sabine River in Texas, and legislation involving World War II merchant mariners, as well as an authorization for the Department of Commerce regarding real property in Hampton Roads, VA, as well as efforts to require water quality standards for coastal recreation waters. All of those are included for stripping in this legislation.

In the Public Works and Transportation area, we stripped a number of provisions that we felt should not be included, because the gas tax is not included in the final version of the bill, and, again, on Ways and Means we stripped provisions related to GSE's.

Let me mention with regard to 2 areas, Energy and Commerce and Ways and Means, what we have included in this amendment is what the summit had included with regard to areas in both Medicaid and Medicare that would assist low-income individuals with regard to the cuts that were made. These are proposals that are contained in the Finance Committee version of the bill, and both committees felt they had to include these provisions for conference purposes, when they go to conference.

Those are the primary elements included in this amendment.

I would urge the House to adopt it because the savings, incidentally, that would result from this are about $3 billion as a result of stripping these 24 areas.

They do include additions of about $2 billion as a result of the Medicare provisions under Ways and Means, so the net savings in this proposal is about $1 billion.

The CHAIRMAN. The Chair wishes to give a correct answer to the inquiry: 260 pages.

Mr. FRENZEL. I thank the Chair very much.

Mr. Chairman, I rise in opposition to the amendment.

Mr. FRENZEL. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, this has been a very long, agonizing process for all of us, and it is very hard for us not to lose control of our emotions and our tempers as we move along.

But I must say the presentation of the Panetta amendment is the lousiest, lowest thing that this House has produced that has had anything to do with the budget process.

We were told in the Committee on Rules that the gentleman from California [Mr. PANETTA] would be promoting a resolution that was going to strip extraneous matters out of this

reconciliation bill. I presented to the gentleman from California a list of 63 Energy and Commerce extraneous provisions, 18 Ways and Means extraneous provisions, 7 others, and he himself had a list of 24 extraneous provisions.

The bill he has given us today has removed only one of the items that I asked him to remove.

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It has removed a couple of dozen of the items that he intended to remove from the beginning, and that was all right. However, what is the all-around fleecing, and I must say, it is hard for me to go on without losing control of my temper, but in that 260 pages, he has $1.9 billion in new spending that has no business being in the reconciliation bill and is not the intention of this amendment. I think it is an absolute flaunting of the budget process and of this whole procedure we have been going through for a year, the fact he did it, and your leadership let him do it.

Mr. Chairman, I reserve the balance of my time.

Mr. PANETTA. Mr. Chairman, I yield myself such time as I may consume.

I regret that the gentleman feels the way he does with regard to the elements in this amendment, because generally I would take it that the gentleman and those on the other side of the aisle feel that way about the summit agreement overall. However, the summit agreement itself provided for $4 billion to try to deal with issues related to Medicare and Medicaid. That is in the summit agreement.

I refer Members to Mr. Darman's copy on, I believe, page 11 of the agreement provided for that; $2 billion has been included in Medicaid, $2 billion has been included in Medicare. That is the summit agreement. Those are the provisions that are included as part of this amendment. They abide by what we agree to.

Mr. Chairman, I yield 3 minutes to the gentleman from California, [Mr. HAWKINS], chairman of the Committee on Education and Labor.

Mr. HAWKINS. Mr. Chairman, I find it very difficult to express my opposition to the motion. I know that the gentleman has worked hard on crafting this package.

I cannot, in good conscience, however, vote for anything that is going to strike at the very heart of our future, the children of America. I am surprised at the attempt to define what is deficit reduction. According to the same logic, we would not have defense in this package either, because that does not contribute anything to deficit reduction. Yet, we know good and well that we want strong defense.

Now, as to the so-called alleged reason for doing it, it is said that child care is going to be considered outside of reconciliation. Do not believe it. The other body has put it in this package in reconciliation, and so we have a situation in which the House is going to confer with the other body, and there is no Member in this body that is going to confer with their counterparts on the Senate side.

Now, the Senate has already crafted a child care bill. In effect, that bill eliminates Head Start expansion, it eliminates all the titles that pertain to education, titles I and II of the House-passed bill. This body has passed a child care bill twice. Once last year, again this year. What we are doing now is stripping what we have done in the field of child care from this package. Not to be considered in reconciliation, because we will not confer on it.

The Committee on Education and Labor has worked for 3 long years on trying to craft a bill and they have approved it. They have instructed Members twice on what to do in connection with it. Now, in one motion, they are asked to strike it entirely from the subject matter.

We have hurt the children of America too much already. We have deprived them of nutrition. We are depriving them of a decent education. We have cut back on the programs, WIC and the other programs, that pertain to the welfare children, and now we say we will strip them, child care, from this package. It includes the latchkey kids that leave school every day, have no home to go to because their parents are trying to work. It will place more children into poverty. It will deprive the parents who are working, for the sake of their children, of the opportunity of having a safe place to leave their children.

I think it is unmerciful, and I ask Members to consider. It is a tough vote. I am sorry that Members have been put in this catch-22 situation. Vote against the motion.

Mr. FRENZEL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Ohio, [Mr. GRADISON], a member of the Committee on Ways and Means.

Mr. GRADISON. Mr. Chairman, we have learned a lot about the gentleman from Minnesota [Mr. FRENZEL] in recent days, but one of the things we have seen in the last few minutes which may surprise Members a bit is that he is a master of understatement. Believe me, what he has said about the package which we saw for the first time as a possible addition to this bill about half an hour ago was an understatement.

Happily, based upon my reading of the vote which we took a few minutes ago, this whole thing is not going anywhere anyway, and I think we can rest secure in that fact. I think that is reasonable to address the question to the gentleman from California, the chairman of the Committee on the Budget. He has told Members that the object of this exercise through the Panetta amendment is to strike extraneous material and conform to the summit agreement. There is noting in the summit agreement about these 74 pages of additional material.

Yes, there was money set aside for additional spending, but what the Committee on Ways and Means did in carrying out its responsibility was to decide not to spend that money, not to spend this money, this compulsion to spend money as if it will burn holes in the bottom of our pockets, which is how we got into this trouble that we are in right now.

Let me talk about this package. Those members on the Committee on Ways and Means saw it for the first time yesterday. It was brought up at a markup this afternoon. It has never been marked up by the Subcommittee on Health and Safety. That is OK. It was going to be taken up directly by the Committee on Ways and Means. The chairman of the Committee on Ways and Means at 3 o'clock this afternoon assured the members of our committee that this matter would be subject to a full committee markup beginning at 9 o'clock tomorrow. That schedule stands. His only request was that we make our amendments in writing and have them in his hand this afternoon.

That is exactly what we did. Who can Members trust around here? Who can Members trust when they are told that the procedure is to work through the committee, and then we are told all of a sudden—and I learned this as I came over for this last vote—that something which our committee is supposed to mark up, and much of it is very good legislation, is going to be taken away from Members entirely?

This is not a trivial matter, and it is certainly not technical. The net increase in spending involved in this is $1.8 billion, a very interesting thing to bring in right at the time when we have had so much talk all day about cutting spending, cutting spending. This increase in spending, there is no necessity for bringing it up at this time. The committee can work its will tomorrow.

Mr. Chairman, I know the outcome of what I am about to do, but I want to make a point by doing this.

Mr. Chairman, I ask unanimous consent to strike from the Panetta amendment the Medicare provisions.

Mr. STARK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. PANETTA. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Chairman, I was not privy to the deliberations that came out with the budget summit, but

the Committee on Ways and Means is charged with apportioning $2 billion to help ease the burden on lower income and those less able to care for themselves.

The provisions in the Panetta amendment, most of which have been discussed at great length by the Subcommittee on Health under the Committee on Ways and Means are indeed good legislation.

As to whether this procedure is any different than the Gramm-Latta procedure of some years ago is a matter for each person to decide for themselves. However, there are many good features that are no-cost provisions. Patient self-determination; living will procedures; technical and miscellaneous amendments to all parts of Medicare; assistance to HMO's; Med-Gap standards, which is in the Senate bill, and the Committee on Energy and Commerce bill, our bills; controlled substances; accountable collection, which is endorsed by both the Health and Human Services and the Drug Enforcement Administration.

There is a mammography benefit which was very popular which is in here at no additional annual or monthly premium.

There are exempt hospitals that are getting assistance.

There is a provision to provide postponement of severe impacting on certain training hospitals that train both nurses and doctors.

There are rural blood labs, mental health hospitals, help for psychologists, SRD rates are increased somewhat.

There is a hospice extension.

There is radiology service.

And we saved more. The net spending is $1.849 billion. It is less than was authorized in the summit.

I would urge my colleagues, this is a fair carrying out of the responsibilities of the Medicare Program, and the Ways and Means Committee's responsibility. I urge adoption of the Panetta amendment.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I want to note that the Panetta amendment purports to remove some of the extraneous matters that are attached to this bill. Maybe it does, maybe it does not. We have not seen it. We do not know what is in it, but some of the provisions in labor law is not enough. The Panetta amendment at most, at best removes not all of the egregious labor law changes, not most of them, or not even the worst of the amendments.

In fact, we know that the Panetta amendment does not remove the OSHA minimum fines for nonserious violations.

It does not remove the tenfold increase in child labor law violations, and does not remove the National Labor Relations Act radical revolutionary restructuring of the entirety of 60 years of labor law.

The last time that we saw the reconciliation that is on the floor on labor law tonight, was 12 years ago in labor law reform in 1977 and 1978, and it was unceremoniously rejected by the House and the Senate in the Carter administration, and the next time we see it, it appears in reconciliation.

I would suggest that the Panetta amendment should be removing that extraneous labor law change. It is a straight power grab and and it should not be in here.

This language that is in the reconciliation bill tonight was included the last time in the 1977 Labor Law Reform bill, resulting in a 19-day filibuster in the Senate, six cloture votes that failed before it was finally withdrawn. Since that time, these provisions that are in reconciliation tonight that the Panetta amendment does not remove, these provisions have had no hearings, no markups, no bills introduced, no allegations that such provisions are either desirable or necessary.

At 10:15 yesterday morning the language reappeared and was put in the budget reconciliation and has not been removed by the extraneous amendments of tonight.

The House Education and Labor Committee has included in its portion of budget reconciliation, sweeping change in the National Labor Relations Act. I urge that these provisions be deleted.

The National Labor Relations Act provisions of reconciliation pose as mere remedy increases. In fact, this language was included in the 1977 labor law reform bill which resulted in a 19-day filibuster in the Senate and 6 cloture votes before it was finally withdrawn. Since that time, these provisions have not once been aired—there have been no hearings, no mark-ups, no bills introduced, no allegations that such provisions are necessary. At 10:15 a.m. yesterday morning the language reappeared and was put into budget reconciliation.

The legislation turns 60 years of labor law on its head:

First, monetary penalties. The National Labor Relations act has always been treated as a remedial statute, not a punitive law. This legislation for the first time would allow the NLRA general counsel to assess penalties of at least $1,000 to $10,000 per employee in the case of an unfair labor practice, with no dollar cap on the total fine. For 60 years the NLRA has imposed back pay, reinstatement, obligation to bargain, or double back pay—compensatory, make-whole relief, never punitive damages.

Second, personal and individual liability. For the first time, individuals rather than employers could be held personally liable for the fines. For example, each member of a negotiating team could be penalized up the maximum amount per employee. Clearly, these provisions will inhibit employers from engaging in collective bargaining at all.

Third, guilty until proven innocent. The NLRA general counsel has always acted as the prosecutor in unfair labor cases; the NLRB acts as the adjudicator of the complaint. Under this new budget reconciliation language, the general counsel would charge that an unfair labor practice has been committed and then assess the penalties, before the case is adjudicated.

Fourth, inequitable standards for assessing penalties. The standards for assessing penalties are highly inequitable. They depend, in part, on the ability to pay and "other matters as justice may require." In other words, the deeper the pocket, the bigger the penalty. While such a policy would further Congress' ability to generate new revenues, it hardly seems just. Instead of looking at the seriousness of the violation, the Government would look instead at the size of the corporate treasury.

CONCLUSION

Organized labor would undoubtedly be delighted with enactment of these new revenue raising amendments to the National Labor Relations Act. Management employees would be so intimidated by the penalties the committee proposes that organizing employees and negotiating costly labor contracts would be even easier than that proposed in the Carter administration's labor law reform package that tore Congress apart in 1978.

Mr. PANETTA. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, with regard to the provisions that were just mentioned by the gentleman from Texas, every one of those involves savings. The child labor provision provides for $45 million in savings over 5 years.

The NLRA civil penalties involve $96 million in savings over 5 years, and do the other provisions.

The gentleman may not like the provisions, but the committee reported that to the Budget Committee and responded to the reconciliation instruction to produce savings, and that is what we included in the reconciliation bill.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Missouri [Mr. GEPHARDT], the majority leader.

Mr. GEPHARDT. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I urge Members to vote for this amendment for a variety of reasons.

First, the attempt here is take out extraneous provisions, and you have heard Members who are chagrined about the taking out of extraneous provisions.

We took out the GSE proposal from the Agriculture Committee and the Banking Committee.

We took the child care bill out of Education and Labor, the OSHA criminal penalties just talked about.

We took out facilities loans for low income high minority schools, the GSE provisions of the Ways and

Means Committee, a fee from the Energy and Commerce Committee, provisions on Bryce Canyon in the Interior and Insular Affairs Committee, the reauthorization of the BLM program, removed some provisions that had to do with the National Wildlife Refuge, Sabine River and on and on, a number of provisions in the Public Works and Transportation Committee, a whole list of provisions that are there and again the provisions in Ways and Means on GSE's.

Now, the argument has been made here tonight that there have been provisions put in the bill on Medicaid and Medicare. There is a good reason for that. There are a series of cuts in Medicare and Medicaid in the budget bill, in the reconciliation bill.

In the summit, I negotiated an arrangement with Mr. Darman and the other negotiators that we would have $4 billion in this bill that would come from the reimposition of the Social Security tax on State and local employees, which brings in $11 billion, and it was said that $4 billion of that bill, the income from the bill, would be used to cushion the blow of the Medicaid and the Medicare cuts.

Because of those agreements, we asked the Energy and Commerce Committee to put in their provisions to cushion the blow of the Medicaid and the Medicare cuts, and we asked the Ways and Means Committee to do the same, and in this bill are those provisons from the Ways and Means Committee.

So this is an attempt so that we are in conference in reconciliation. We have similar provisions in Medicare and Medicaid, as the Senate does.

The other areas that we feel are extraneous, we tried to put in this bill. That is the reason we are asking that those measures be stricken.

So I would urge the Members to vote for the bill. I think it is proper. I think it will put us in the position that we need to be in the conference, and I think it is in concert with what we have tried to do in this budget summit.

Mr. FRENZEL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Colorado [Mr. BROWN].

Mr. BROWN of Colorado. Mr. Chairman, I hope this moment will not pass without this body taking notice of what has happened with this bill.

The provisions of the Social Security bill that were to be considered in the Ways and Means Committee this afternoon, were removed from that committee. They were included in this provision, and the effect of that trick has been to deny the Ways and Means Committee and this body an opportunity to eliminate or ameliorate the earnings penalty. Senior citizens age 65 to 69 have a cruel, mean-hearted tax that is imposed on them. Our ability to ameliorate that, to take that away, to lessen that tax, has been denied because of the foolish trick, I believe, of including the Social Security provisions in this bill. That is not fair. It is not right.

Occasionally things get so cute I think they deny common justice, and that is what has happened in this case.

Mr. FRENZEL. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I have to respond to the statements of the distinguished beloved and erudite majority leader, who said that this amendment was particularly appropriate. One statement be made was that these items came from the committee. They did not come from the committee. Many of them have never seen hearings in the committee. The committee did not see them. They sprang full blown from the head of Zeuss, as far as we know, and if Zeuss is Chairman ROSTENKOWSKI or subcommittee Chairman STARK or Chairman PANETTA, I do not know, and I do not care. They did not come from the committee.

Now, secondly, the distinguished majority leader said that he negotiated these things in the summit. He did not negotiate any of these things. There are dozens of no-cost items in here that are policy changes that have nothing to do with the summit. He did not negotiate those, and they were never raised in the summit.

Now, this amendment was supposed to be in the Rules Committee to remove extraneous provisions. It has become a vehicle for more wanton spending and for game playing.

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Now, I am used to being rolled around here. I have been in the minority for 20 years. I know that I cannot affect policy and that my use around here is as a steppingstone for ambitious majority Members. And I do not mind getting clobbered on policy questions. And I do not even mind getting licked by your crummy rules that you arrange so that we cannot make amendments and so that our debate is limited.

But let me tell you, I really object to this kind of duplicitous conduct where you say you are putting an amendment in to take things out and then you bring an additional $1.9 billion worth of spending, dozens of items the committee never held hearings on, much less had a chance to discuss informally.

Mr. Chairman, there is no way this amendment should pass the House, and if it does, it will wreak ultimate disgrace on the process and those who serve it.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair will note that the gentleman from California [Mr. PANETTA] does not have any time remaining. What does the gentleman from Minnesota [Mr. FRENZEL] wish to do with his time?

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, we have been interested to hear over the last few minutes about the $1.9 billion in spending that has gotten into the bill, it was there because it was assumed in the summit.

Well, there are several other things that were assumed in the summit too that did not make it in. There just happened to be $3 billion in entitlement cuts that were never reconciled to any committee and nothing was ever done about them.

In other words, when it comes to spending $1.9 billion, the majority says that is assumed in the summit and so therefore we are going to bring it to the floor in this kind of a hurry-up manner. But when it comes to cuts, when it comes to spending cuts, those did not even get assigned to any committee despite the fact that they were agreed upon by the summit.

Now, that is precisely what we have been saying here all day: When it comes to spending, the Democrats will waive any rule in the world, will lie, cheat, and steal in order to try to get the measure out here. When it comes to spending cuts, they will not take any action that necessitates making those cuts real. That is exactly what is happening here again.

Vote down this crazy amendment.

Mr. FRENZEL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, I am concerned about the government-sponsored enterprises, the GSE's such as: Fannie Mae, Freddie Mac, and Sally Mae.

The committee chairman has said his amendment would strip out language regarding GSE's in this bill. I am told there is one section left.

I want to remind the House that the activities of these government-sponsored enterprises result in both implicit and explicit liabilities for the Federal Government.

We have over $900 billion in potential liabilities as a result of the activities of GSE's. All that is left in this bill, as I see it, is a vague requirement that the committees of jurisdiction will look at this situation. You will wait till hell freezes over next year before the Committee on Agriculture, or the Committee on Education and Labor, or the Committee on Banking, Finance and Urban Affairs report anything worthwhile on GSE's.

I would hope, Mr. Chairman, that there is some arrangement whereby meaningful GSE reform will be kept in the bill. I would like for the committee to give me the assurance.

Can the gentlemen from California or Minnesota, members of the committee, give me that assurance?

PREFERENTIAL MOTION OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer a preferential motion.

The CHAIRMAN. The Clerk will report the motion.

The Clerk read as follows:

Mr. FRENZEL moves that the committee do now rise and report the bill to the House with the recommendation that the enacting clause be stricken out.

The CHAIRMAN. The gentleman from Minnesota [Mr. FRENZEL] is recognized for 5 minutes.

Mr. FRENZEL. Mr. Chariman, I yield myself 1 minute.

Mr. Chairman, I have discoursed enough on this amendment, and I think it has disrupted whatever comity at least I thought might have existed prior to the introduction of this amendment.

I supported the introduction of this amendment as it was described in the Committee on Rules, and it has been used, I think, to subvert and defile the process by adding items that were never intended by any committee of this House, never voted on by any committee of this House, added extra spending to a bill in which we are telling the taxpayers of this country that we are reducing spending, and here we are bombing some more on them.

This amendment has made an abomination out of that process.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair would notify the gentleman from Minnesota that he must use his 5 minutes.

Mr. FRENZEL. Mr. Chairman, I thank the chairman for his warning.

Mr. Chairman, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in support of the gentleman's position.

Mr. Chairman, this Nation is governed by a Constitution. That Constitution provides for three branches of Government. Our branch of Government is made up of representatives of the people and the way that whole representative process works is that we represent the needs of our people in the committee debate and through our discussion we come to an understanding of what the impact of changes in the law will be on our people, not on our process here, not on the political ambitions of individuals, but on people's lives.

Now, the provisions in these amendments have been discussed in my subcommittee, in part, in small part, but they have not been discussed for the most part.

We cannot tell even whether our urban hospitals are going to be helped or hurt by some of the things that are being done, and we cannot tell in these provisions what their impact will be specifically on our communities and the people we represent, and that is wrong, Mr. Chairman.

Mr. Chairman, I urge support for the gentleman's motion.

Mr. FRENZEL. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Texas.

Mr. ARCHER. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the gentleman from Minnesota's motion.

Mr. Chairman, it is very sad to me that here we are, having gone through months of deliberation as to how to reach a budget agreement and here at the final moment we are presented with a multipage document of which there has been no prior explanation. This is the type of thing that has gotten us into so much trouble in years gone by where voluminous documents hit the floor the last minute before we are to adjourn or before we are to do something extremely important for this country.

I think it is time for us to count to a legislative 10 and to support the gentleman's motion to rise so that we will have an opportunity to look at this and to come back in a more thoughtful way.

But certainly, adding more spending to a bill that is already too loaded with spending is not the direction to go.

Mr. FRENZEL. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. I thank the gentleman for yielding.

Mr. Chairman, like my colleague from Minnesota, I am very disturbed about what it is we are undertaking to do. It represents the worst of that which is making my constituents and the people of America very, very concerned about how this Congress operates.

I am here representing my constituents and entitled to certain things whether or not I be in the minority or the majority. If I am conscientious, if I work hard, if I want to know that which is before me and to frame my votes on their behalf intelligently, how dare you bring things that I, no one, no matter how conscientious, even knows what is included in them or what they are all about?

You do it in a context where this Government will close down at midnight Friday. We played the "break-in-the-crisis" game again, and that is a game we can ill afford to play.

Mr. FRENZEL. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I would ask unanimous consent that the additional Medicare provision from the Committee on Ways and Means be stricken from the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. GRADISON. Mr. Chairman, reserving the right to object, which matter? I want to make sure we do not get any more games played on us. Is it the entire package? Let us get down to pages and titles.

Mr. PANETTA. What I would do is move to strike everything after page 2 that includes from sections 9001 on to the end of the amendment.

Mr. GRADISON. Further reserving the right to object, does this include section 12901?

Mr. PANETTA. That is correct.

Mr. GRADISON. 12902?

Mr. PANETTA. That is correct.

Mr. GRADISON. 12903, 12904, 12905, 12906, 12907, 12911, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, as well as section 12931, 32, 33, and 34?

□ 2040

Mr. PANETTA. Mr. Chairman, the gentleman is correct. Those are the provisions from the Committee on Ways and Means.

Mr. GRADISON. Mr. Chairman, further reserving the right to object, this is precisely the unanimous-consent request that I made a few moments ago which was objected to by the gentleman from California [Mr. STARK].

Mr. Chairman, I withdraw my reservation of objection.

Mr. FRENZEL. Mr. Chairman, reserving the right to object, can the gentleman from California [Mr. PANETTA] tell us what will be left?

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, what would be left then is the base amendments which would strike the 24 items from the various committees that I indicated before and that the majority leader also indicated would be stripped from the bill.

Mr. FRENZEL. OK; so that strikes subtitle H and all that follows thereafter.

Mr. PANETTA. The gentleman from Minnesota [Mr. FRENZEL] is correct.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. Further reserving the right to object, Mr. Chairman, I yield to the gentleman from Mississippi [Mr. WHITTEN], the distinguished chairman of the Committee on Appropriations.

Mr. WHITTEN. Mr. Chairman, in view of the history that we have heard just now, what are the 24 that are left? The Members do not know, and the gentleman has not given us any information.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. PANETTA. For the Members I have explained all of the items that we have stripped from the bill. That includes the GSE, the Education and Labor area, and the Public Works area, and the Merchant Marine and Fisheries area. All of those are the areas that would then be stripped from the bill. This would be a basic amendment that would go to the extraneous issues in the bill.

Mr. FRENZEL. Mr. Chairman, further reserving the right to object, I yield to the distinguished chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I was going to reserve on my own because, is what the gentleman is asking for is to include the stricken provisions having to do with the GSE's?

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, the only thing I am asking that we would strip are the provisions that were included in the amendment of the Committee on Ways and Means related to Medicare. Everything else would remain.

Mr. FRENZEL. Mr. Chairman, I appreciate the gesture and intend to vote for the amendment.

Mr. Chairman, I withdraw my reservation of objection.

Mr. GONZALEZ. Mr. Chairman, I reserve the right to object.

Does the gentleman from California [Mr. PANETTA] mean the GSE provision will remain in the bill?

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from California.

Mr. PANETTA. No, Mr. Chairman, they will be stricken as the amendment provided for. The GSE provisions from the Committee on Ways and Means, from banking, and currency and from agriculture will be stricken under the amendment. The other provisions will be stricken as we presented and as we included in the amendment. The only thing I am asking to be stripped here is the provisions that came in on Medicare. That is all.

The CHAIRMAN. Is there objection to the request of the gentleman from California [Mr. PANETTA]?

Mr. PICKLE. Mr. Chairman, I reserve the right to object.

Mr. Chairman, I want the assurance from the gentleman because I am trying my best to understand. He says this one section, subtitle B, is still left in the measure. He has struck out the GSE with respect to the committees of jurisdiction. Essentially what this title does is simply say that the committee of jurisdiction should act by next September. We have no assurance that he can make them act. They are not going to act unless somehow between now and the time we finish this bill they have the chance to——

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, we cannot have three or four authorizing committees coming up with separate GSE language that treats GSE's differently. What we need to rely on is the GSE provisions that are contained in the budget reforms budget process, agreed to by the summit, that are contained in the base bill. That is why we have stripped out the other GSE bill.

Mr. PICKLE. Then, Mr. Chairman, if it is kept in the base bill, we still have a chance to get the proper wording in the conference on this——

Mr. PANETTA. The gentleman from Texas [Mr. PICKLE] is correct.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BATEMAN. Mr. Chairman, reserving the right to object, as I understand what has been done by agreement, certain provisions, which were extraneous and added to the bill, have been eliminated. There was also a very important function that the gentleman's motion, as I understood it, or amendment, was supposed to perform, and that was to take out of the bill extraneous things which were in it, in the agreement and all of the sections that have been eliminated. Have any of those provisions been taken out of the bill that were originally in it? Like the labor law changes that were mentioned?

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. BATEMAN. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, the same thing we were going to strip pursuant to the amendment remain in the amendment. In other words, we are going to strip all of the provisions that I indicated we would strip with the exception of the addition of the Medicare provision. That is all I am asking that we take out of the amendment.

Mr. BATEMAN. Mr. Chairman, I ask the gentleman, "Are you taking out of the bill the provision dealing with labor law and the making of policy in that area which is not a part of reconciliation?"

Mr. PANETTA. No.

Mr. BATEMAN. They remain then in the bill?

Mr. PANETTA. The gentleman from Virginia [Mr. BATEMAN] is correct because they provide savings, I might say to the gentleman.

Mr. BATEMAN. Mr. Chairman, I will not object, but I cannot let the opportunity escape to say that this is a shoddy way for our business to be transacted.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I have a unanimous-consent request pending before the House.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. GRADISON. Mr. Chairman, reserving the right to object, I am not clear with regard to a comment made by the distinguished chairman of the Budget Committee, the gentleman from California [Mr. PANETTA]

Am I correct that all of subtitle H is to be stricken? There are a number of other Ways and Means items beyond the numbers which I read already.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. GRADISON. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, the gentleman from Ohio [Mr. GRADISON] is correct. It is just the items that I referred to in the unanimous-consent request.

Mr. GRADISON. Beginning with section 12701?

Mr. PANETTA. Nothing is added to the Ways and Means title.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. HAWKINS. Mr. Chairman, reserving the right to object, would the gentleman from California [Mr. PANETTA] answer a question?

Mr. Chairman, would the gentleman be clear as to what he is stripping from his motion and not from the bill? Let us confine it to child care. What is the situation again with respect to child care? Is the gentleman stripping the bill——

Mr. PANETTA. Mr. Chairman, will the gentleman yield,

Mr. HAWKINS. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, with regard to every other element, including the stripping of the child care bill, that would remain in the amendment to do that.

Mr. HAWKINS. In the gentleman's amendment?

Mr. PANETTA. The gentleman from California [Mr. HAWKINS] is correct.

Mr. HAWKINS. So that in effect the effect of the amendment then would be to eliminate the child care bill that was submitted to the Committee on Rules. Is that the situation?

Mr. PANETTA. Mr. Chairman, if the gentleman will continue to yield, the leadership has made a commitment that there will be a child care bill. There is pending a child care conference. The only concern was having

this added to reconciliation. That was the concern, and that is why we are stripping it.

Mr. HAWKINS. Mr. Chairman, that is not my concern. My concern is that what the gentleman from California [Mr. PANETTA] is doing is stripping the Child Care Program completely from the package because he says that it is going to be handled in a separate bill. The other body has it in the reconciliation package. That is going to decide what happens to it. Now the gentleman is stripping the bill from the package, and so in effect he is eliminating the House bill which was passed in the House.

Mr. Chairman, does the gentleman from California [Mr. PANETTA] deny that that is not the situation?

Mr. PANETTA. Mr. Chairman, again we have passed on the House side the child care bill, both the bill of the gentleman from California [Mr. HAWKINS], as well as the bill of the Committee on Ways and Means. My understanding is that that is in conference, that the gentleman is conferencing those issues, and to add it now as an additional element to reconciliation we feel does not only involve no savings in terms of reconciliation, but complicates the reconciliation process.

Mr. OBEY. Mr. Chairman, I demand regular order. The questions going on have nothing to do with the request made by the gentleman from California [Mr. PANETTA].

The CHAIRMAN. Is there an objection to the modification as proposed by the gentleman from California [Mr. PANETTA]?

Mr. HAWKINS. Mr. Chairman, I object.

Mr. Chairman, will the gentleman give us an answer? Is he saying that the issue is going to be handled?

The CHAIRMAN. There has been an objection.

Mr. HAWKINS. May I ask again, please?

Mr. PANETTA. Mr. Chairman, I renew my unanimous-consent request.

The CHAIRMAN. Is there an objection to the modification?

□ 2050

The CHAIRMAN. Is there objection to the modification?

Mr. HAWKINS. Mr. Chairman, I reserve the right to object, until I get an answer.

The gentleman from California [Mr. PANETTA] is saying it is stripped from reconciliation. The gentleman says it is in conference. It was in conference. Both Houses agreed on it in conference. Yet it was not allowed on the House side in the conference report.

If we are in conference and could vote on the conference report, that would settle it. But we are not in that position. That is why we added that in the matter which we submitted to the Committee on Rules. The Committee on Rules kept it in. The motion of the gentleman from California [Mr. PANETTA] would strike it out.

If you strike it out, you have stricken it then from consideration, from House consideration completely on the issue.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from California.

Mr. SHAW. Mr. Chairman, could we have regular order? The objection has nothing to do with the unanimous-consent request.

Mr. PANETTA. Mr. Chairman, let me reply to the gentleman from California [Mr. HAWKINS], the distinguished chairman of the Committee on Education and Labor.

The gentleman is concerned that somehow his rights would be lost, if in fact, on the other side child care was to be included in the reconciliation bill.

My understanding is that there is a conference going on, and that the full rights of the gentleman from California [Mr. HAWKINS] in that conference would be protected, so that he could defend the version passed by the House, and also that the Committee on Ways and Means would also be able to defend the version passed by the Committee on Ways and Means.

Mr. Chairman, we have got conflicting issues that are in conference now. We do not feel that reconciliation is the place to fight the battle on child care.

Mr. HAWKINS. Mr. Chairman, reclaiming my time, it is not in conference. Members should understand it is not in conference. The only thing pertaining to child care is in reconciliation on the other side. We have nothing on this side with which to go to conference.

Mr. SLATTERY. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Kansas.

Mr. SLATTERY. Mr. Chairman, the point I would make is that the unanimous-consent request of the gentleman from California [Mr. PANETTA] deals only with the subject of Medicare in the Committee on Ways and Means. It does not in any way affect the concern of the gentleman from California [Mr. HAWKINS] with respect to child care. That issue is involved with the underlying amendments.

So if we allow the gentleman from California [Mr. PANETTA] his unanimous-consent request, then the question that the gentleman from California [Mr. HAWKINS] has is relevant.

Mr. HAWKINS. Reclaiming my time, it is relevant with respect to the way we are going to vote.

Mr. SLATTERY. If the gentleman will yield further, it is not relevant on the unanimous-consent request. It will be relevant with respect to the underlying amendment.

Mr. HAWKINS. Reclaiming my time, the gentleman is denying the child care issue from being in the package. If I withdraw my reservation, what assurance do I have that child care will indeed be considered as has been said?

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, my understanding from the leadership is that the full rights of the gentleman from California [Mr. HAWKINS] with regard to the provision that he has sponsored on child care will be protected by the leadership.

Mr. HAWKINS. Reclaiming my time, even to the extent that the House will be in a position to name conferees in reconciliation on this issue?

Mr. PANETTA. If the gentleman will yield further, my understanding is that the full rights of the gentleman from California [Mr. HAWKINS] with regard to the child care provision, if the Senate includes a similar provision, would be protected in conference.

Mr. HAWKINS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there further objection to the modification?

Ms. OAKAR. Mr. Chairman, reserving the right to object, I do not want to object, but I would like to ask the gentleman from California [Mr. PANETTA], on the provisions of the Committee on Ways and Means, which is one of the reasons that some Members felt strongly about supporting this bill, are you striking the Medicare no-cost provisions, which list everything from nurse-anesthesia fees to Medigap standards, and is the House going to cut for the second time the mammography coverage, which in the first year costs zero, and would save money and lives?

Mr. PANETTA. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I would be delighted to yield to the gentleman from California. I am going to object if the gentleman is.

Mr. PANETTA. Mr. Chairman, we are not striking anything in the base bill that was added by the Committee on Ways and Means relative to Medicare. We are only striking the addition that would be provided pursuant to this amendment.

Ms. OAKAR. Mr. Chairman, reclaiming my time, I want to call on the leadership to give me a commitment that when you fellows, all fellows, go into conference, because you did this before in the wee hours 2 years ago, so do not go "Oh," a lot of people are dead because we did not have coverage

which saves money and lives in terms of screening.

I want to know whether this is going to be in as part of the negotiation. Is it not time we get a little progressive and try to do something that is productive and will save money? I want to know whether the Medicare initiatives, which are excellent, and I want to commend the Committee on Ways and Means, it does not even cost a lot.

Mr. Chairman, I am not trying to give Members an undue hard time, but I will not stand for this happening again. I am just telling Members that is the way I feel about it.

Mr. GEPHARDT. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Chairman, I would say to the gentlewoman from Ohio [Ms. OAKAR] that we obviously would like to keep these in the bill. That is why we asked for $4 billion in the summit agreement for the cushioning of the blow of the Medicare cuts. It is my understanding, that some of the provisions that are provided in here, are not in conference in the Senate. I am not exactly clear on which ones are.

I would say to the gentlewoman, that we would go to conference with the Committee on Ways and Means with the effort to try to find and save as much as we could to cushion the blow of the Medicare and Medicaid cuts.

Ms. OAKAR. Mr. Chairman, reclaiming my time, I want to ask the gentleman from Missouri [Mr. GEPHARDT], as I look at some of these initiatives, some of them cost zero, including for the first year mammography coverage. I would question some of the other figures here. There are other provisions that do not cost anything.

Mr. Chairman, why do we have to cut that? Why can we not go into conference with those provisions?

Mr. PANETTA. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I will be happy to yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I think some of these provisions are going to be included on the finance side. Obviously they will be subject to full conference with regard to the Medicare provision.

Ms. OAKAR. Mr. Chairman, reclaiming my time, who will fight for the provisions I just mentioned? I am not part of that, and none of the female Members are in this body.

Mr. PANETTA. Mr. Chairman, if the gentlewoman will continue to yield, I do not think there is any question but that the leadership and certainly I, and I think the Committee on Ways and Means, will fight for the same goals that the gentlewoman from Ohio [Ms. OAKAR] has expressed.

The CHAIRMAN. Is there objection to the modification?

There was no objection.

The CHAIRMAN. Does the gentleman from Minnesota [Mr. FRENZEL] still press his preferential motion?

Mr. FRENZEL. Mr. Chairman, was the unanimous-consent request approved?

The CHAIRMAN. Yes, it has been.

Mr. FRENZEL. Mr. Chairman, I ask unanimous consent to withdraw my preferential motion.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. FRENZEL. Mr. Chairman, I yield back all time under my motion and under the Panetta amendment.

The CHAIRMAN. The question is on the amendments en bloc, as modified, offered by the gentleman from California [Mr. PANETTA].

The amendments en bloc, as modified, were agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

□ 2100

Accordingly the Committee rose; and the Speaker pro tempore [Mr. KILDEE] having assumed the chair, Mr. MAVROULES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5835) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1991, pursuant to House Resolution 509, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. PANETTA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 227, nays 203, not voting 3, as follows:

[Roll No. 475]

YEAS—227

Ackerman	Anthony	Bates
Alexander	Aspin	Beilenson
Anderson	Atkins	Bennett
Andrews	AuCoin	Berman
Boehlert	Hayes (IL)	Panetta
Boggs	Hefner	Parker
Bonior	Hoagland	Payne (NJ)
Borski	Hochbrueckner	Payne (VA)
Boucher	Horton	Pease
Boxer	Hoyer	Pelosi
Brennan	Huckaby	Penny
Brooks	Hughes	Pickle
Browder	Hutto	Poshard
Brown (CA)	Jacobs	Price
Bruce	Jenkins	Rahall
Bryant	Johnson (SD)	Rangel
Bustamante	Johnston	Ray
Byron	Kanjorski	Richardson
Cardin	Kaptur	Roe
Carper	Kastenmeier	Rose
Chapman	Kennedy	Rostenkowski
Clarke	Kennelly	Rowland (GA)
Clay	Kildee	Roybal
Clement	Kleczka	Russo
Coleman (TX)	Kostmayer	Sabo
Collins	LaFalce	Sawyer
Conte	Lancaster	Scheuer
Conyers	Lantos	Schroeder
Cooper	Leach (IA)	Schumer
Costello	Lehman (CA)	Serrano
Coyne	Lehman (FL)	Sharp
Crockett	Levin (MI)	Sikorski
Darden	Levine (CA)	Sisisky
Davis	Lewis (GA)	Skaggs
de la Garza	Lipinski	Skelton
DeFazio	Lloyd	Slattery
Dellums	Lowey (NY)	Slaughter (NY)
Derrick	Luken, Thomas	Smith (FL)
Dicks	Manton	Smith (IA)
Dingell	Markey	Smith (VT)
Dixon	Martinez	Solarz
Donnelly	Matsui	Spratt
Dorgan (ND)	Mavroules	Staggers
Downey	Mazzoli	Stark
Durbin	McCloskey	Stenholm
Dwyer	McCurdy	Stokes
Dymally	McDermott	Studds
Early	McGrath	Swift
Eckart	McHugh	Synar
Edwards (CA)	McMillen (MD)	Tallon
Engel	McNulty	Tanner
Espy	Mfume	Taylor
Evans	Miller (CA)	Thomas (GA)
Fascell	Mineta	Torres
Fazio	Mink	Torricelli
Feighan	Moakley	Towns
Fish	Molinari	Traxler
Flake	Mollohan	Udall
Flippo	Montgomery	Unsoeld
Foglietta	Moody	Valentine
Ford (MI)	Morella	Vento
Ford (TN)	Morrison (CT)	Visclosky
Frank	Mrazek	Volkmer
Frost	Murtha	Walgren
Gejdenson	Natcher	Washington
Gephardt	Neal (MA)	Watkins
Gibbons	Neal (NC)	Waxman
Glickman	Nelson	Weiss
Gonzalez	Nowak	Wheat
Gordon	Oakar	Whitten
Gray	Oberstar	Wilson
Guarini	Obey	Wise
Hall (OH)	Olin	Wolpe
Hamilton	Ortiz	Wyden
Harris	Owens (NY)	Yates
Hatcher	Owens (UT)	

NAYS—203

Annunzio	Burton	Douglas
Applegate	Callahan	Dreier
Archer	Campbell (CA)	Duncan
Armey	Campbell (CO)	Dyson
Baker	Carr	Edwards (OK)
Ballenger	Chandler	Emerson
Barnard	Clinger	English
Bartlett	Coble	Erdreich
Barton	Coleman (MO)	Fawell
Bateman	Combest	Fields
Bentley	Condit	Frenzel
Bereuter	Coughlin	Gallegly
Bevill	Courter	Gallo
Bilbray	Cox	Gaydos
Bilirakis	Craig	Gekas
Bliley	Crane	Geren
Bosco	Dannemeyer	Gillmor
Broomfield	DeLay	Gilman
Brown (CO)	DeWine	Gingrich
Buechner	Dickinson	Goodling
Bunning	Dornan (CA)	Goss

Gradison	Martin (IL)	Schaefer
Grandy	Martin (NY)	Schiff
Grant	McCandless	Schneider
Green	McCollum	Schuette
Gunderson	McCrery	Schulze
Hall (TX)	McDade	Sensenbrenner
Hammerschmidt	McEwen	Shaw
Hancock	McMillan (NC)	Shays
Hansen	Meyers	Shumway
Hastert	Miller (OH)	Shuster
Hawkins	Miller (WA)	Skeen
Hayes (LA)	Moorhead	Slaughter (VA)
Hefley	Morrison (WA)	Smith (NE)
Henry	Murphy	Smith (NJ)
Herger	Myers	Smith (TX)
Hertel	Nagle	Smith, Denny (OR)
Hiler	Nielson	
Holloway	Oxley	Smith, Robert (NH)
Hopkins	Packard	
Houghton	Pallone	Smith, Robert (OR)
Hubbard	Parris	
Hunter	Pashayan	Snowe
Hyde	Patterson	Solomon
Inhofe	Paxon	Spence
Ireland	Perkins	Stallings
James	Petri	Stangeland
Johnson (CT)	Pickett	Stearns
Jones (GA)	Porter	Stump
Jones (NC)	Pursell	Sundquist
Jontz	Quillen	Tauke
Kasich	Ravenel	Tauzin
Kolbe	Regula	Thomas (WY)
Kolter	Rhodes	Traficant
Kyl	Ridge	Upton
Lagomarsino	Rinaldo	Vander Jagt
Laughlin	Ritter	Vucanovich
Leath (TX)	Roberts	Walker
Lent	Robinson	Walsh
Lewis (CA)	Rogers	Weber
Lewis (FL)	Rohrabacher	Weldon
Lightfoot	Ros-Lehtinen	Whittaker
Livingston	Roth	Williams
Long	Roukema	Wolf
Lowery (CA)	Saiki	Wylie
Lukens, Donald	Sangmeister	Yatron
Machtley	Sarpalius	Young (AK)
Madigan	Savage	Young (FL)
Marlenee	Saxton	

NOT VOTING—3

Michel	Rowland (CT)	Thomas (CA)

□ 2118

Mr. HERGER changed his vote from "yea" to "nay."

Ms. OAKAR, Mrs. SCHROEDER, Mr. ECKART, and Mr. PAYNE of New Jersey changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5835, OMNIBUS BUDGET RECONCILIATION ACT OF 1990

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 5835, as amended, the Clerk be authorized to correct section numbers, cross-references, punctuation, and grammatical and spelling errors, to correct the title and table of contents, and to make such clerical, technical, conforming, and other changes as may be necessary to reflect the actions of the House in amending the bill.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on H.R. 5835, the bill just passed.

The SPEAKER, Is there objection to the request of the gentleman for California,

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR THE CONSIDERATION OF H.R. 5399, LEGISLATIVE BRANCH APPROPRIATION, 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-890) on the resolution (H. Res. 510) waiving certain points of order during consideration of the bill (H.R. 5399) making appropriations for the legislative branch for the fiscal year ending September 30, 1991, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR THE CONSIDERATION OF S. 2924, FEDERAL FISH INSPECTION ACT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-891) on the resolution (H. Res. 511) providing for the consideration of the Senate bill (S. 2924) to expand the meat inspection programs of the United States by establishing a comprehensive inspection program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States and for other purposes, which was referred to the House Calendar and ordered to be printed.

APPOINTMENT OF CONFEREES ON H.R. 5803, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1991

Mr. MURTHA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5803) making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania? The Chair hears none, and appoints the following conferees, and without objection, the Chair reserves the right to appoint additional conferees: Messrs. MURTHA, DICKS, WILSON, HEFNER, AUCOIN, SABO, DIXON, WHITTEN, MCDADE, YOUNG of Florida, MILLER of Ohio, LIVINGSTON, and CONTE.

There was no objection.

INTRODUCTION OF RESOLUTION CONCERNING FURLOUGHED EMPLOYEES' PAY

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I have just introduced House Joint Resolution 671. The purpose of that resolution is to ensure that those employees, who, through no fault of their own, were laid off over the Columbus Day holiday will be paid. I have introduced that bill on behalf of the gentleman from Michigan [Mr. FORD], chairman of the Committee on Post Office and Civil Service, and the gentleman from New York [Mr. GILMAN], the ranking member, as well as other Members of the House of Representatives.

I very much regret, Mr. Speaker, that I wanted to rise and ask that by unanimous consent we pass that bill last Friday. Unfortunately, Mr. Speaker, I could not get approval for that unanimous-consent request. That is unfortunate because again this week, in just 72 hours, we will come up against that brick wall again, and what will we do? We will place the morale and the sense of security of Federal employees and their families at risk. That is unfair. We ought not to do it. We should have had unanimous consent to pass that resolution.

No person in this House on either side of the aisle wants to undermine the morale and security of Federal employees. My good friend from Massachusetts [Mr. CONTE] talked to me about the resolution. I regret that we were not able to move forward. Now, some ask for an amendment on the bill that we just passed, reconciliation. It was not allowed by the Committee on Rules, as being extraneous to the bill, but asked for an amendment. All Members of the other side of the aisle who are strong supporters of the interest of Federal employees with whom I joined together, and they asked for such an amendment.

I regret, Mr. Speaker, that we were not able to pass that resolution by unanimous consent, but I want to say that I think on both sides of the aisle it is our clear intent that Federal employees, through no fault of their own who may be laid off this coming weekend, will be reimbursed, their families will be kept secure, and they will not be placed in jeopardy.

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from California.

Mr. FAZIO. Is it the gentleman's understanding that today the majority was attacked for not allowing such a resolution to proceed in a press conference that was held by some other Members of this body?

Mr. HOYER. There were some Members who had a press conference, complaining about that incident. They did not tell me about the press conference, although I talked to them about the joint resolution that I introduced, on which most of their names, perhaps save but one exception, appear.

Mr. FAZIO. I can understand the gentleman would be concerned if there were some confusion created by that press appearance, and I certainly can understand the frustration he feels, and strongly support his efforts.

Mrs. MORELLA. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to my distinguished colleague, the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I join the distinguished gentleman from my State of Maryland in supporting the resolution because, of course, there was an inequity. There is no reason why Federal employees should suffer because Congress and the administration have not appropriately acted.

With regard to the press conference today, it was three Members from this side of the aisle, purposefully done, to ask the President, to urge the President to sign, if necessary, a continuing resolution so we do not have a repeat of what the gentleman is referring to. Namely, that Federal employees suddenly find that they are going to be furloughed, and that Government comes to a stop. We feel that the services to all people would then suffer.

Mr. HOYER. Mr. Speaker, I thank the gentlewoman for her strong support of the interest of Federal employees.

(On request of Mr. DICKS and by unanimous consent, Mr. HOYER was allowed to proceed for 2 additional minutes.)

□ 2130

Mr. HOYER. Mr. Speaker, I yield to the gentleman from New York [Mr. GILMAN], the cosponsor of the resolution.

Mr. GILMAN. Mr. Speaker, I just want to briefly state that I commend the gentleman for bringing this measure up. We certainly do not want to balance the budget on the backs of our Federal employees, and I thank the gentleman for bringing this measure to the floor at this time.

Mr. HOYER. Mr. Speaker, I thank the gentleman.

I want to reiterate that I think this is a bipartisan feeling. I made that point. I think it is regrettable that we have not moved ahead by unanimous consent, but nevertheless I think it is a bipartisan feeling.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to my friend, the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I want to say that representing thousands of employees on the west coast of this country, we are just as concerned about this. I commend the gentleman for his leadership.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his cosponsorship of this resolution and his strong leadership in this area.

I thank the Speaker once again.

COMMEMORATING 200TH ANNIVERSARY OF THE POLISH CONSTITUTION

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 669) to salute and congratulate the people of Poland as they commemorate the 200th anniversary of the adoption of the Polish Constitution on May 3, 1991, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. WISE). Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Reserving the right to object, Mr. Speaker, I take this time, first of all to inform the Chair that we have in excess of 20 commemoratives, so we will be reserving our right to object for quite a bit over the next hour.

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. CONTE]. The gentleman is the sponsor of this joint resolution.

Mr. CONTE. Mr. Speaker, I thank the gentleman from the bottom of my heart for his courtesy.

I also want to thank the gentleman from California [Mr. DREIER], who was one of my first cosponsors.

Mr. Speaker, I rise in support of this resolution, which commemorates the bicentennial of the Polish Constitution of 1791. By passing it, we recall a central event in the history of Poland, the history of Europe, and in the development of democracy worldwide. It is an important resolution, and I hope my colleagues will give it their vote and their full support. Until the 18th century, Poland was governed by monarchs and aristocrats. Its parliamentary system, introduced hundreds of years earlier, reflected the feudal nobility of the kingdom rather than the majority of its people.

In the 1780's, however, with the influence of Enlightenment thought and the American Revolution, the inequities of the feudal system became evident to all. Influenced by Polish soldiers like Tadeusz Kosciuszko, who had returned from their service with the Continental * * * Army in the American Revolution, the "Great Polish Parliament" of 1788 enacted a set of legal reforms. The greatest of these, and the one which made an eternal impression on Poland's history and people, was the Constitution we honor today. This document, adopted on May 3, 1791, was the first liberal constitution in Europe and the second in the world after our own. Its basic principle is embodied in these words: "All power in civil society should be derived from the will of the people, * * * Its end and object being the preservation and integrity of the State, the civil liberty and good order of society, on an equal scale and on a lasting foundation."

The Constitution established an elected government similar in many ways to that of the United States, with executive, legislative, and judicial branches. It abolished feudal privileges, gave all citizens the right to vote, and guaranteed the people's right to freedom of speech, freedom of assembly and freedom of religion. Both idealistic and effective, the Constitution established Poland as Europe's first true democracy. Its admirers included Thomas Jefferson himself, who left us two copies of it as part of the original Library of Congress.

The Constitutional era was cut sadly short. Poland was a small country, bordered by the powerful states of Russia, Austria, and Prussia.

And by 1795, despite heroic resistance by Polish nobles and peasants alike, Poland was partitioned.

The country lost its independence for more than 120 years. But throughout that time the Constitution of 1791 remained a guide and an inspiration to the people of Poland and their friends abroad.

In his speech to the joint session of Congress last November, Lech Walesa said the Solidarity movement's work was dedicated "to the service of this idea: government of the people, by the people, for the people. Against privilege and monopoly, against violations of the law, against the trampling of human dignity, against contempt and injustice." The same idealism inspired the authors of the Polish Constitution of 1791 and the authors of the American Constitution of 1787.

For over 200 years, our Constitution has bound together immigrants from every country in the world, and sustained us through civil war, expansion westward, Depression and World Wars. And likewise, the principles of Poland's Constitution remained a guide and a source of hope to the

Poles through partition, war, Nazi occupation, and Marxist oppression.

Enshrined by the Constitution of 1791, those principles glow all the brighter today. Poland's government and people are struggling to rebuild a prosperous market economy and establish a democracy. They have disagreements, as is inevitable, but as they were 200 years ago, they are united today in their commitment to the good of their nation. They are completing a task which began long ago, and they deserve our applause and our assistance.

This resolution recalls the birth of Poland's democracy. It recognizes the idealism of those who fought for it 200 years ago, and it salutes the Polish people who are winning it today. It reaffirms a friendship which began with the American Revolution and is stronger than ever today, and I ask my colleagues to give it their enthusiastic support.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. RIDGE. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I thank my friend for yielding to me.

Mr. Speaker, I would like to congratulate my friend from Pittsfield for giving me the privilege to join as a cosponsor of this legislation.

Mr. Speaker, it seems to me this is obviously a very, very appropriate time for us to be recognizing this 1791 Polish Constitution, because today we are seeing the interdependence of Poland and the United States of America.

We are at a point where the people of Poland have been looking to the United States of America for direction and we have often looked to Poland.

My frustration as we look at this budget process that we just went through is now that we have seen the Polish people move dramatically toward a free market process, we may if we do not change the policies here in the United States of America, have to look to Poland as an economic model for the United States.

It is important for us to recognize that the people of Poland have provided tremendous inspiration to the world.

Passage of this bill is a priority which I hope all of our colleagues will support.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. RIDGE. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I am pleased to rise in support of House Joint Resolution 669 which salutes and congratulates the people of Poland as they commemorate their 200th anniversary of the adoption of the Polish Constitution on May 3, 1991. I would like to take this opportunity to commend the gentleman from Massachusetts [Mr. CONTE] for sponsoring this measure.

In 1791, the people of Poland designed their Constitution to replace the oppressive feudal system of rule with a government of three distinct powers. Like our own Constitution, the Constitution of Poland secures individual freedom and religious tolerance—protecting national unity—while declaring that "All power in civil society should be derived from the will of the people."

The principles of the Constitution of Poland have survived the past 200 years despite economic strife and war. Its endurance is a reflection of Poland's national consciousness. Providing many economic, social and political reforms, the Constitution expanded the rights of every citizen of Poland. Mr. Speaker, we Americans understand the value of a Constitution and we applaud the people of Poland during this time of celebration for the insight our forefathers shared. Let us join together with the people of Poland during this commemoration of the 200th anniversary of the adoption of its Constitution on May 2, 1991, and recognize the rebirth of Poland as a free nation. As the light of freedom grows brighter and brighter in Eastern Europe, we should stand united and salute their efforts toward a free world.

Accordingly, Mr. Speaker, I invite my colleagues to support this resolution.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. RIDGE. I yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, I thank the distinguished gentleman for yielding to me, and again I thank everybody for their good work on this commemorative, and especially my good friend, the gentleman from Pennsylvania [Mr. RIDGE].

I just wanted to add two little historical facts about this Polish Constitution. The gentleman said that the inspiration was Tadeusz Kosciuszko. I am not saying it was the correct Polish pronunciation. I am giving it the old American phonetic pronunciation; because Kosciuszko lent his name to two fighter squadrons, one in 1919 where American pilots tried to return the favor of this young Polish hero who came and fought for our independence, a century and a quarter later flew against the Bolsheviks to help Poland retain and get its freedom in 1919.

□ 2140

A few years later and we are celebrating the 50th anniversary of that, the Polish young pilots and their commander, who escaped from Poland in 1939, flew in the Battle of Britain, 50 years ago this summer, and up through October 31 of this month was still in that 2½-month commemorative period.

And the 303d RAF squadron was called the Tadeusz Kosciuszko Squadron, and it achieved the highest number of air victories against the Nazi Luftwaffe, 2 to 1 over the next closest British squadron, the 249th squadron. They shot down 126 airplanes in the Battle of Britain under the name of that great Polish hero Kosciuszko.

So the history that you have in this resolution—and I hope you will put me on it immediately if I am not on it already—is great, that you brought this to the attention of the Congress, and I thank the gentleman.

Mr. CONTE. I thank the gentleman for his comments.

Mr. RIDGE. Mr. Speaker, with that thoughtful history lesson, I withdraw my reservation of objection.

Mr. SPEAKER pro tempore (Mr. WISE). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 669

Whereas the Polish Constitution of 1791 was designed to protect Poland's sovereignty and national unity, and replaced a feudal system of rule in Poland with a progressive constitutional monarchy;

Whereas the Polish Constitution secured individual freedom for all persons in Poland and guaranteed religious tolerance by assuring "to all persuasions and religions freedom and liberty", and formed a government composed of three distinct powers: Legislative, Executive, and Judicial, while declaring that "all power in civil society should be derived from the will of the people";

Whereas the Polish Constitution revitalized the parliamentary system by placing preeminent lawmaking power in a House of Deputies, by subjecting the legislative Diet to majority rule, and by granting the Diet the power to remove ministers, appoint commissars, and choose magistrates;

Whereas the Polish Constitution provided for significant economic, social, and political reforms for its time by removing inequalities between the nobility and bourgeois, recognizing town residents as "freemen" that had judicial autonomy and expended rights, and extending the protection of law to the peasantry, which previously had no recourse against the arbitrary action of feudal lords; and

Whereas the principles of the Polish Constitution endured and became the symbol around which a powerful new national consciousness was born, helping the Polish nation to survive long periods of misfortune over the next two centuries: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the people of the United States of America salute and congratulate the people of Poland as they commemorate the two-hundredth anniversary of the adoption of the Polish Constitution on May 3, 1991, and recognize that Poland's rebirth as a free nation is supported

by the legacy of the Polish Constitution of 1791;

SEC. 2. The Library of Congress is authorized and directed to commemorate this anniversary with appropriate ceremonies and activities.

SEC. 3. The President of the United States is authorized and requested to issue a proclamation calling upon the Governors of the several States, the chief officials of local governments, and the people of the United States to observe the anniversary with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL RADON ACTION WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 317) to designate the week of October 14, 1990, through October 20, 1990, as "National Radon Action Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 317

Whereas exposure to radon poses a serious threat to the health of the people of this Nation;

Whereas the Environmental Protection Agency estimates that lung cancer attributable to radon exposure causes approximately twenty thousand deaths a year in the United States;

Whereas the United States has set a long-term national goal of making the air inside buildings as free of radon as the ambient air;

Whereas excessively high levels of radon in homes and schools can be reduced successfully and economically with appropriate treatment;

Whereas only about 2 percent of the homes in this Nation have been tested for radon levels;

Whereas the people of this Nation should be educated about the dangers of exposure to radon; and

Whereas people should be encouraged to conduct tests for radon in their homes and schools and to make the repairs required to reduce excessive radon levels: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 14, 1990, through October 20, 1990, is designated as "National Radon Action Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Mr. MARKEY. Mr. Speaker, I rise in support of National Radon Action Week—a week of increased public attention and education surrounding the serious health risks of radon, which runs from October 14 to 20, 1990.

Less gripping than hazardous waste dump sites or acid rain, radon poses an even greater threat to our health than either of those environmental problems. As the second leading cause of lung cancer in the United States, the Environmental Protection Agency estimates that radon is responsible for 31,000 deaths each year.

Some 21,000 deaths each year from an environmental problem which costs, on average, a few hundred dollars to fix.

Some 21,000 lung cancer deaths each year that could be avoided without anyone having to go through the long and difficult process of quitting smoking.

With a relatively inexpensive and painless way of addressing such a serious health threat, why do we need a week of public awareness? The answer lies in the nature of the radon problem: A naturally occurring, invisible, odorless gas that seeps into our homes and causes long term health problems years later. The problem must be addressed at the initiative of the individual homeowner, who usually chooses to focus on more immediate problems like fixing the leaking roof.

On Monday, the Environmental Protection Agency began a week of innovative events designed to raise public awareness of radon's threat to their families. Three million schoolchildren will receive information on radon, as will 400,000 doctors through their local chapters of the American Medical Association. Press conferences will be held across the country, and companies such as AT&T kick off employees awareness programs. In the Northeastern States, bumper stickers will remind people to test their homes for radon this week.

Yet as we encourage people to test for radon and mitigate the problem in their homes, we must not overlook the importance of Government action in certifying and regulating the radon testing industry. How many people can evaluate the accuracy of a radon test on their own? It seems only logical to set some Federal standards in an area where consumers can not possibly make individual choices based on their own knowledge and observations.

So as we begin this week of radon awareness, and focus on the critical role of public education in attacking this problem, let us not forget the importance of Government action to protect consumers once they have made the decision to mitigate radon in their homes. Specifically, companies offering radon testing products and services should be required to meet accuracy standards established by the Environmental Protection Agency. I strongly support these certification requirements as a necessary safeguard for consumers.

In our schools and work places, more attention is needed to address the problem of radon. Children are particularly vulnerable to the health threats of radon, and may be exposed daily to elevated levels in their schools. Testing and mitigation of school buildings should be a priority.

Finally, we need to find ways of speeding up this process of discovering and mitigating radon. Calls for public action have produced extremely disappointing results, with only a tiny fraction of homeowners testing and a smaller fraction taking action to correct the problem in their homes. Clearly, public service announcements and ad campaigns must be augmented with direct Government action to address this serious health threat.

It is my hope that this week of public awareness will lead to a renewed and stronger commitment on the part of Government agencies, members of the housing industry, health officials, the media, and the public to reduce radon levels across the country and to find new and innovative ways of encouraging people to act on this problem. The impressive level of creativity and hard work put into Radon Action Week by these groups is an excellent step toward a more successful and far-reaching radon policy for our Nation, and I commend them for their efforts.

Mr. ROE. Mr. Speaker, it is my pleasure, as the original sponsor of House Joint Resolution 583, commemorating this week of October 14–20 as National Radon Action Week, to urge the passage of this legislation. I am pleased to have over 200 of my colleagues as cosponsors.

With this resolution, recently adopted by the Senate, we are increasing the awareness of the problem of radon and urging Americans to have their homes, schools and workplaces tested. Although radon is a problem throughout the country, my home State of New Jersey has reported some of the highest levels of radon in the Nation. Twenty thousand people die each year from exposure to radon in dwellings, according to the U.S. Environmental Protection Agency (EPA).

Radon is a naturally occurring gas, is second only to smoking as a cause of lung cancer in the Nation. Radon can be so deadly that the Environmental Protection Agency and the Surgeon General have strongly recommended that all homes be tested for radon, except residences above the second floor in multilevel buildings. Alarming as these statistics are, the problem can be readily and cheaply solved through simple testing and mitigation. Nevertheless, less than 10 percent of U.S. homes have been tested so far.

Radon invades your home from the surrounding soil. In some cases, well water can be a source of radon. Once inside, radon is completely invisible to sight, smell, or taste. Radon can accumulate to dangerously high levels. In fact, as you breathe in radon, its decay products become trapped inside your lungs. As these products continue to decay, they release small bursts of energy which can damage lung tissue and lead to lung cancer. It's like exposing your family to hundreds of chest x rays each year.

The EPA conducts the Radon Measure Proficiency [RMP] Program to evaluate companies that make and analyze radon test kits. Therefore, to ensure that you get accurate results, look for test kits from companies that have successfully completed the EPA proficiency program. State radon offices also have a list of all radon measurement companies that are State or EPA approved.

Your family's risk of developing lung cancer from radon depends on the average annual level of radon in your home, and the amount

of time they're exposed to it. Obviously, the longer your exposure, or the higher the level of radon in your home, the greater the risk. That is why it is so important that your home be tested, immediately. Testing, as I stated earlier, is simple and inexpensive. The risk involved if you don't test is great. So the sooner you test your home, the sooner you can take appropriate action.

In the Northeast, radon levels are dangerously high in many areas; so EPA strongly recommends that all homeowners protect their property and health by testing for radon. If homeowners have questions they may contact State radon offices as well as EPA's toll free number 1-800-SOS-RADON.

We cannot deny the health risks that radon imposes. I am convinced of the need for each of us to test our homes. Considering the impact that radon may have on our lives, I am proud to be associated with this important effort, and I encourage each of you to join in support of this resolution.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL RICE MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 353) to designate September of 1991 as "National Rice Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. RES. 353

Whereas rice is the staple grain for two-thirds of the population of the World, and the significance of rice cannot be overemphasized;

Whereas 8 out of 10 people in the World depend on rice for 40 percent of their energy needs;

Whereas rice is the fifth most valuable food crop in this Nation, as rice represents a two-billion dollar cash crop, and is vital to the economic stability of rice farmers and millers in Arkansas, California, Louisiana, Texas, Mississippi, Missouri, and Florida;

Whereas intense research and development in rice technology has resulted in approximately 12 percent of the rice production in the World being carried out on only 2 percent of the available acreage for such production by rice farmers in this Nation, making such rice one of the most land-efficient and cost-efficient crops grown;

Whereas the United States is one of the largest exporters of rice, as this Nation exports rice to over 120 countries and supplies about 20 percent of the rice for world trade;

Whereas wild rice, the only cereal grain to be domesticated from a wild crop in the United States, is a growing segment of the rice industry and is important to the communities where it is grown;

Whereas wild rice is gaining popularity among consumers as an individual dish and in combinations with other rices;

Whereas millions of people in this Nation, as well as countless people in other countries, enjoy rice in a variety of forms, including the use of rice as an edible grain, in flour, bran, cooking oil, cereals, rice cakes, and health food snacks;

Whereas the people of this Nation consume an average of approximately 18 pounds of rice per person per year, an amount that represents twice the per capita consumption of rice 30 years ago;

Whereas rice is an important source of nutritional value, as rice provides an excellent source of complex carbohydrates, contains only a trace of fat, and is cholesterol-free and sodium-free;

Whereas scientists are now beginning to uncover the benefits of rice bran and rice bran oil in lowering the levels of cholesterol in humans;

Whereas new knowledge of the nutritional benefits of the rice kernel and the recent health consciousness of the people of this Nation is producing a growing appreciation of rice by such people;

Whereas rice is recognized worldwide as an economical food and an important part of feeding the expanding population in Third World nations;

Whereas rice provides an important contribution to the diet, to the economy of this Nation, and to the nourishment of other countries; and

Whereas the harvest of rice in this Nation is celebrated each September: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September of 1991 is designated as "National Rice Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Mr. ALEXANDER. Mr. Speaker, I rise today to support my bill to establish National Rice Month. The establishment of National Rice Month will help promote this important industry.

Rice has been grown in North America since the colonization of the Carolinas in the 17th century. In 1696, an improved variety of rice, reportedly from Madagascar, was first grown on the Carolina coast, and the American rice industry began in earnest.

From the beginning, American rice was well suited for the export trade. By 1726, the Port of Charleston exported about 4,500 metric tons of rice annually. Over the next 4 years, that figure doubled.

By the time of independence, 50 years later, rice was one of America's agricultural export giants. America was already a fairly sophisticated trading nation, and rice moved expeditiously from farmer to agent to shipper.

Over the years, rice became less and less important to the Carolinas. Cotton and tobacco were better suited to the Carolina climate. Coastal plantations lost entire crops due to hurricanes. Finally, in the 1860's, advancing Union armies put many of the great rice plantations to the torch. The end of the war brought the end of slavery, on which much of the Carolina rice industry was dependent and because of which it was doomed.

Rice was not forgotten in America, however. Before the turn of the 20th century hardy settlers found that the rich, loamy soils of the newly cleared Mississippi Delta bottomlands and the gulf coast of Texas and Louisiana were uniquely suited to rice production.

Shortly before 1900, German immigrants came to Arkansas' Grand Prairie and founded the city of Stuttgart. It wasn't long before they took up cultivation of the new crop.

Robert Bennett helped them. Bennett was director of the Arkansas Agricultural Experiment Station from 1891 to 1903, and, as Stephen Strausberg points out in his recent centennial history of the station, Bennett was an advocate of alternative crops and diversification—issues that to this day remain on the front burner of Arkansas agriculture.

In 1903, as Strausberg tells it, the Ag Experiment Station requested help from the Arkansas Department of Irrigation and Drainage in developing irrigation methods for Arkansas rice. The experiment station introduced two new varieties of rice, one from Japan and one from Honduras, that were extremely helpful to the commercialization of rice farming in Arkansas.

At the same time, rice was emerging as a significant crop in California. By 1856, the new State of California included in its population some 40,000 Chinese, whose staple food was rice. California rice production began to meet the demand of these immigrants for rice. The first commercial crop of short-grain rice, which is the variety favored throughout Asia, was grown in California in 1912.

From these beginnings, rice has over the years returned to the prominence in American agriculture that it had in colonial times.

Rice is the fifth most valuable cash crop in the Nation, producing farm-gate income of more than $2 billion a year. The First Congressional District of Arkansas, which I am privileged to represent, produces more rice than any other State. But rice is also very important to the economies of California, Louisiana, Texas, Mississippi, and Missouri.

And, after nearly three centuries of moving westward with the growth of the Nation, rice production is beginning to move East again. Rice is now being grown and milled in Florida, and the Florida rice industry is expected to do quite well in the coming years.

The United States is one of only two or three major players in the world rice market. We export rice to more than 120 countries, and supply 20 percent of the rice in world trade. Our rice exports are smaller than those of Thailand, but bigger than those of Vietnam.

A health-conscious public is increasingly turning to rice as a tasty and healthy alternative to other dishes. Rice is an excellent source of complex carbohydrates. It contains only a trace of fat, and it contains no sodium and no cholesterol.

Consumers know this. The people of the United States consume approximately 18 pounds of rice per person per year. That's about twice as much as the per capita consumption of rice in 1960.

What's more, scientists have found indications that rice bran and rice bran oil actually lower cholesterol levels.

In September and October of each year, when harvest is complete and before thoughts turn completely to football and duck season, the people of rice country still take time to celebrate the harvest and celebrate rice at festivals and events like the Arkansas Rice Festival in Weiner, AR.

The U.S. rice industry will continue to grow, and prosper, as long as people continue to be aware of the superior quality of rice and rice products available in their grocery stores. We think "National Rice Month" will help achieve this goal.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EATING DISORDERS AWARENESS WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 214) designating the week of October 23 through October 29, 1989, as "Eating Disorders Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so simply to acknowledge the work of the gentleman from New York [Mr. FISH], who is the chief sponsor of this joint resolution.

Mr. FISH. Mr. Speaker, I rise today in support of House Joint Resolution 214, legislation which I introduced to designate the week of October 22–28, 1990, as "Eating Disorders Awareness Week."

Eating disorders such as anorexia nervosa and bulimia have reached epidemic proportions in the United States, posing a serious risk to the mental and physical well-being of thousands of young women and men. It is estimated that over 3 million women between the ages of 12 and 40 suffer from this type of disorder, and an increasing number of men have been seeking treatment for these potentially life-threatening diseases.

Despite these statistics, however, in many cases, the symptoms of anorexia and bulimia often go unrecognized. Such was the case with my cousin's daughter Cecily. Cecily developed anorexia nervosa at age 15, and for 1 full year, it went undiagnosed. After suffering bulimic complications and severe depression, she was finally hospitalized and underwent a 4-year struggle.

Fortunately, she is now married and has a healthy 3-year-old son. But the suffering of Cecily and her family would have been far less if the symptoms had been recognized earlier. That is where "Eating Disorders Awareness Week" can help. During this week, concerned individuals and groups in 37 States and 7 foreign countries will focus their efforts on educating the public regarding the warning signs of eating disorders and appropriate treatment interventions.

Mr. Speaker, this is an extremely important endeavor, and I urge swift passage of House Joint Resolution 214.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objeciton.

The Clerk read the joint resolution, as follows:

H.J. RES. 214

Whereas anorexia nervosa (also known as starvation sickness) and bulimia (also known as binge-purge syndrome) are emotional disorders that can lead to serious physical illness and even death;

Whereas experts estimate that 1 out of every 100 women between the ages of 12 and 25 suffers from anorexia nervosa, that 1 out of every 7 women in that age group develops bulimia, and that nearly 10 percent of all patients who are referred to eating disorder clinics are men;

Whereas there has been a dramatic increase in the number of reported cases of anorexia nervosa and bulimia, making the need to provide effective treatment to the victims of these disorders much larger than in the past; and

Whereas public awareness about the personal and familial tragedies caused by anorexia nervosa and bulimia must be raised in order to promote continued research into the causes and treatments of these and other eating disorders: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 23 through October 29, 1989, is designated as "Eating Disorders Awareness Week." The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate programs and activities.

AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SAWYER: Page 2, line 3, strike "October 23 through October 29, 1989," and insert "October 22 through October 28, 1990,".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. SAWYER].

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. SAWYER: Amend the title so as to read: "Joint Resolution designating the week of October 22 through October 28, 1990, as 'Eating Disorders Awareness Week'.".

The title amendment was agreed to

A motion to reconsider was laid on the table.

NATIONAL RED RIBBON WEEK FOR A DRUG-FREE AMERICA

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 346) to designate October 20 through 28, 1990, as "National Red Ribbon Week for a Drug-Free America," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I yield to the gentleman from New York [Mr. GILMAN] and I also acknowledge the work of the gentleman from Alaska [Mr. YOUNG] who is the chief sponsor of this joint resolution.

Mr. Speaker, I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of Senate Joint Resolution 346, making the week of October 20–28, 1990, "National Red Ribbon Week for a Drug-Free America." I would like to commend the gentleman from Alaska [Mr. YOUNG] for his efforts in bringing this measure to the floor.

The National Federation of Parents for Drug-Free Youth has established the theme "Line Up To Sign Up for a Drug-Free Decade." They are calling for comprehensive public awareness and prevention and education programs involving parent and community groups.

At the forefront of the distinguished citizens who are participating in this program is our First Lady, Mrs. Bush, who are the honorary chairpersons of the Red Ribbon campaign.

Mr. Speaker, I have worked long and hard trying to help make our Nation a little more drug-free. We must never underestimate the power of programs like Red Ribbon. A grassroots desire to speak up, declare a town or county drug-free, and be heard throughout the Nation, carries a very powerful message.

Accordingly, I strongly support this measure and I urge all our colleagues to participate and vote in favor of House Joint Resolution 595.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

Mr. MRAZEK. Mr. Speaker, I rise to acknowledge that October 20–28, 1990, has been designated "National Red Ribbon Week," during which individuals may wear a red ribbon to demonstrate their support for a drug-free America.

In recognition of this event, on October 22, Concepts For Narcotics Prevention Inc.-The Place, a community counseling center in Northport, Long Island will have representatives at Northpoint High School so that stu-

dents can sign up and wear a red ribbon to show their commitment to a drug-free nation.

The Place provides treatment services for drug- and alcohol-abuse problems through individual, group, and family therapy. Its professional staff of educators, counselors, and social workers is certified to treat the recreational user as well as the drug-dependent population. Its programs include crisis intervention, family-life education workshops, parent support groups, and a free walk-in clinic, held on the first Sunday of each month for evaluation and assessment, information and referral services.

Mr. Speaker, it is the philosophy of Concepts-The Place that, "In school and in the community, for youth and adults, Concepts For Narcotics Prevention Inc.-The Place is working toward the philosophical goal of providing a drug-free environment in which individuals can realize their full potential through positive relationships and productive life styles."

Illegal drug trafficking and abuse continue to be painfully visible. As my colleagues know, they are two of the most serious problems facing our Nation today. I commend concepts for Narcotics Prevention Inc.-The Place and its director, Joan B. Ayer for their tireless efforts, and I would urge my colleagues to support National Red Ribbon Week by wearing a red ribbon throughout the week to demonstrate our determination to bring about a drug-free America.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 346

Whereas alcohol and other drug abuse has reached epidemic proportions and is of major concern to all Americans;

Whereas alcohol and other drug abuse is a major public health threat and is one of the largest causes of preventable disease, disability, and death in the United States today;

Whereas alcohol and other drug abuse costs the United States nearly $100,000,000,000 each year;

Whereas illegal drug use is not limited to persons of a particular age, gender, or socioeconomic status, and evidenced by the fact that—

(1) 23,000,000 Americans age 12 and over currently use illicit drugs;

(2) a nationwide Weekly Reader survey revealed that, of the 68,000 fourth graders polled, 34 percent reported peer pressure to try wine coolers, 41 percent to smoke, and 24 percent to use crack or cocaine; and

(3) Americans age 15 to 24 have a higher rate of deaths due to accidents, homicides, and suicides, many of which are related to drug and alcohol abuse, than any other age group;

Whereas the drug problem appears to be insurmountable, but the United States has begun to lay the foundation to combat it;

Whereas the United States must continue the important strides made to combat alcohol and other drug abuse;

Whereas the most recent national polls reveal that—

(1) the United States had made progress in combatting alcohol and other drug abuse;

(2) there has been a steady decline in the reported use of marijuana on a daily basis by high school seniors since 1979;

(3) marijuana use among high school seniors was at its lowest level in 11 years in 1987;

(4) there was a significant drop in the use of cocaine in 1987; and

(5) the number of high school seniors associating great risk with trying cocaine once or twice rose from 34 percent in 1968 to 48 percent in 1987;

Whereas illicit use of stimulants and sedatives continues to decline among high school seniors, college students, and young adults in general;

Whereas public opinion polls demonstrate that the American people consider drug abuse one of the most serious domestic problems facing the United States and have begun to take steps to fight it;

Whereas the National Federation of Parents for Drug-Free Youth has declared October 20 through 28, 1990, as "National Red Ribbon Week for a Drug-Free America," has organized the National Red Ribbon Campaign to coordinate the week, has established the theme "Line Up to Sign Up for a Drug-free Decade" for the week, and has called for a comprehensive public awareness, prevention, and education program involving thousands of parent and community groups across the country;

Whereas other outstanding groups and agencies, including the Parents Communication Network, the National Crime Prevention Council, the Federal Bureau of Investigation of the Department of Justice, the United States Conference of Mayors, the National Governors' Association, the Chiefs of Police Drug Task Force, Congressional Families for Drug Free Youth, the Patents' Resource Institute on Drug Education (PRIDE), the Outdoor Advertising Association of America, the National Association of State Alcohol and Drug Abuse Directors, Just Say No International, the Corporation Against Drug Abuse (CADA), the National Association, the Washington Regional Alcohol Program (WRAP), the National Prevention Network, the Office for Substance Abuse Prevention of the Department of Health and Human Services, the National Parents and Teachers Association, the General Federation of Women's Clubs, the American Council for Drug Education, Youth to Youth, the Drug Enforcement Administration of the Department of Justice, national youth organizations, and national service organizations, have demonstrated leadership, creativity, and determination in efforts to achieve a drug-free America;

Whereas the National Red Ribbon Campaign is headed by President and Mrs. George Bush as national honorary chairpersons, and by a distinguished national advisory committee, including Bill Cosby, Tom Landry, Joan Lunden, Boone Pickens, and Peter Ueberroth;

Whereas any use of an illegal drug is unacceptable, and the illegal use of a legal drug cannot be tolerated; and

Whereas alcohol and other drug abuse destroys lives, spawns rampant crime, undermines our economy, and threatens our national security: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the period of October 20 through 28, 1990, is designated as "National Red Ribbon Week for a Drug-Free America";

(2) the President is authorized and directed to issue a proclamation calling on the people of the United Sates—

(A) to observe the week by holding meetings, conferences, and fundraising activities to support community and alcohol education, and with other appropriate activities, events, and educational campaigns; and

(B) both during the week and thereafter, to wear and display red ribbions to present and symbolize commitment to a healthy, drug-free life-style, and to develop an attitude of intolerance concerning the use of drugs; and

(3) Congress recognizes and commends the hard work and dedication of concerned parents, youth, law enforcement, educators, business leaders, religious leaders, private sector organizations, and Government leaders in combatting the abuse of alcohol and other drugs.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMERICAN TEXTILE INDUSTRY BICENTENNIAL WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 518) designating October 13 through 20, 1990, as "American Textile Industry Bicentennial Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 518

Whereas in 1790 Samuel Slater, an immigrant mechanic, began producing cotton yarn via water-powered machinery in Pawtucket, Rhode Island;

Whereas Samuel Slater's success led to the firm establishment of the textile factory system in the United States of America and helped give birth to the United States industrial revolution;

Whereas thousands of immigrants from dozens of nations came to the United States to work in these mills and factories alongside the thousands of American textile workers;

Whereas the textile industry has played a major role in the development of the American economy, social system, and political history over the past 200 years; and

Whereas the leaders of the United States textile industry have declared 1990 as "America's Textile Industry Bicentennial Year" in recognition of the 200th anniversary of the first successful production of cotton yarn in this country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 13 through October 20, 1990, is designated as "American Textile Industry Bicentennial Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Mr. MACHTLEY. Mr. Speaker, today, we bring before the House of Representatives, House Joint Resolution 518, commemorating 200 years of the textile industry in America.

This legislation, which the gentlewoman from Tennessee and I introduced earlier this year, has a special importance in my State of Rhode Island.

That is because it is on the banks of the Blackstone River in Rhode Island where 200 years ago in 1790, Samuel Slater began producing cotton yarn by water-powered machinery in Pawtucket, RI.

Samuel Slater's success established the textile factory system in America, and gave birth to the U.S. industrial revolution.

This important story in our labor and manufacturing history deserves to be told and remembered.

The Blackstone River valley, where Slater Mill still stands today, recalls a neglected era of the American past: the age of industry.

The valley is the story of a people at work.

It is the story of entrepreneurs * * * of families at work in factories and on farms * * * of industrial managers and labor organizers * * * of immigrants * * * of religious dissidents and conformists.

Today, people continue to work in and around the nationally significant buildings and historic communities.

Recently, Congress helped provide for the preservation of this critical period in our American history with the passage of legislation I introduced with Senators PELL and CHAFEE to provide grants and other funding for historical and cultural preservation in the Blackstone valley.

Two hundred years ago, the story of America's industrial history truly began. This week, we both commemorate that history and promise it a place in our future.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WORLD POPULATION AWARENESS WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 158) designating October 22 through 28, 1989, as "World Population Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to acknowledge the work of the gentleman from Wisconsin, [Mr. MOODY], who is the chief sponsor of this joint resolution.

Mr. Speaker, I yield under my reservation to the gentleman from New York, [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise today in support of House Joint Resolution 248, designating October 22 through October 28, 1990, as "World Population Awareness Week." I wish to commend the gentleman from Wisconsin, [Mr. MOODY], for introducing this amendment.

Today we are faced with a population explosion that is exceeding 5 billion presently and still growing at an unprecedented rate as we speak. Unfortunately it is in the poorest of countries that this growth is taking place. It is these countries that are least able to provide even the the most basic of services for their current citizens. Countries such as those in the Indian subcontinent, the Middle East, Africa, and Latin America

During the past year the Congress has increasingly focused its attention on the problems of global warming, rain forest deforestation, natural resource depletion, Third World debt, and the dangers such environmental destruction present to the health and prosperity of the world and its people. Population growth is another essential factor that demands our attention. If the United States is going to do something to address the pressing problems of today's planet, we must recognize the strain that rapid population growth places on the already scarce resources of so many developing nations.

The demands of a growing population have contributed substantially to enormous environmental devastation and pose threats of even greater harm to many aspects of life.

The developing world needs to be educated on voluntary child spacing, maternal health programs, and family planning in order to prevent unnecessary deaths, as well as a booming population due to lack of education on birth control

Growing populations force many nations to borrow heavily and to sell off their natural resorces to cover the interest on their debts. In such circumstances such as the destruction of tropical rain forests at a rate of 50,000 acres per day, or the pollution created that is damaging the ozone layer to such an extent that within 40 years the ultraviolet light reaching our planet is expected to be up to 20 percent greater than it is today.

Mr. Speaker, I have been a proud supporter of the legislation designating October 22 through October 28, 1990, as "World Population Awareness Week," and I am hopeful that we can educate ourselves and the growing world on better methods to save lives and our previous gem, Mother Earth.

Mr. RIDGE. Mr. Speaker, continuing my reservation, I yield to the gentleman from New York [Mr. GREEN].

Mr. GREEN of New York. I thank the gentleman for yielding.

Mr. Speaker, I want to join in the thoughts of my friend from New York on this important issue.

The world population will surely double in some decades. We can debate whether it will be 3, 4, or 5 or 6, but unless we do something about it, it will surely double.

What will we accomplish if we cut by 50 percent the per capita emission of greenhouse gases if in fact we double the world's populations? We will be just as badly off as when we started.

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Mr. Speaker, I think it is tragic that the abortion debate has prevented this Congress, and this administration and the previous administrations from coming to grips with this most important problem. Certainly, when he was a Member of Congress, no one was more outspoken on the world population problem and the need for world family planning that was then Congressman Bush, and it is certainly my hope that President Bush will once again recognize the terrible importance of this issue and that his administration will proceed to address it.

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. RIDGE], my friend, and I ask only at this point to associate myself with the remarks of the two gentlemen from New York who preceded me and to join them in commending the work of the gentleman from Wisconin [Mr. MOODY].

This is perhaps the most important of all environmental problems we face.

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, I wish to respond to my colleague from New York when he mentioned the work of Congressman Bush when he was here two decades ago. I was the author of a bill, the Family Research and Population Planning Act, that we worked on from 1967 to 1970. That was cosponsored by the distinguished Senator from Maryland, Joe Tydings, and there were two people that I could always count on to help to give stalwart, and intelligent and articulate help, and one was Bob Taft, Congressman Bob Taft from Ohio. I think he was the nephew of the Senator.

Mr. SAWYER. Son.

Mr. SCHEUER. Was he the son of the Senator?

Of course the other, Mr. Speaker, was Congressman George Bush. George at that time was a very thoughtful, very articulate and very intelligent proponent of family planning, and it is just a pity that, when a voice is needed in the bully pulpit today, that the old George Bush seems

nowhere to be found. We urgently need that eloquent, articulate voice.

Much progress has been taking place in Asia and in Latin America since those days in the last two decades, a great deal of progress. The one bleak area of the world, the one area in which one feels there is almost no hope and where the future only holds the most awful tragedy in store for us all, is sub-Saharan Africa, a continent that has an actual population growth rate of somewhere between 3 and 3½ percent. That gives them a 20- to 25-year doubling period. There are some estimates that the current population of sub-Saharan Africa, which is about 600 or 650 million, will be 2.5 billion in the latter half of this century, will be one-quarter of the global population.

My colleagues, if they cannot support a population of 600 or 650 million now, how on Earth are they going to support a population of 2.5 billion in another 60 or 70 years?

Mr. Speaker, we have only the prospect of unmitigated disaster that defies the imagination, and it is pathos, and it is horror, what we have seen with the scenes we have seen of starving kids with flies all over their faces as they seem to be expiring in front of our eyes is nothing compared to the scenes of mass starvation, by the millions, that we are destined to see in another three-quarters of a century.

There is no challenge involved in our foreign aid program that can challenge us, that has the nobility, the magnificent possibility, of saving lives, saving families, saving humankind, the most unimaginable tragedy as the concept of bringing responsible parenthood to the peoples of sub-Saharan Africa, and I commend the gentleman from Ohio [Mr. SAWYER] for bringing this fine resolution.

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from California [Mr. BROWN].

Mr. BROWN of California. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. RIDGE] for yielding. I do not want this discussion of world population issues to come only from the Members from New York.

I recall during the early 1960's, that national debate on this topic was stimulated by the work of a professor at Stanford University in California, Dr. Paul Enhrlich, who, with his wife Anne wrote a book titled "The Population Bomb." The book laid out in great detail the kind of problems that have been described so eloquently by the gentleman from New York [Mr. SCHEUER], and, in fact, he was so eloquent, the book was so persuasive, that one of the first pieces of legislation which I introduced in the early 1960's had to do with global population problems. I followed the lead of the gentleman from New York [Mr. SCHEUER] and the work that he has described in the later years of the 1960's.

Mr. Speaker, the problem then was far less serious than it is today. We had about half the global population that we have now, and the conditions of the Third World, relatively speaking, are probably worse today, in comparison with the so-called First World, than they were then. There is no solution to global environmental economic problems that does not encompass a major effort on the part of all the peoples of the world to bring under control the rate of population growth. I will not enumerate all of the problems that have already been referred to very eloquently by the gentleman from New York [Mr. GREEN] and others.

However, Mr. Speaker, unless we are able to accomplish some reduction in global population growth rates then the problems that face us in environmental degradation, hunger, education, health, and other areas will continue to get worse.

So, I want to acknowledge the importance of this resolution, and I certainly express my support for it.

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, the final word on this goes to the gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL of California. Mr. Speaker, I thank the gentleman from Pennsylvania. I wish to add my strong support to the importance of world population in our proper planning of resources for the Third World, to recognize that the issue is not resources, but resources per capita. So, if we are in a world of shrinking resources and growing capita, we are destined for crisis.

The gentleman from California [Mr. BROWN], my good colleague and friend, has referenced the most recent work of Paul Anne Erhrlich. Paul Erhrlich just won one of the MacArthur fellowships, the so-called Genius Awards. My colleague's reference to the book brings to mind a chart in that book which I would like to describe. Population is plotted on a vertical axis against time on a horizontal axis. The representation shows population growth over the millennia, from the beginning of time up to the year 1900, roughly as a horizontal line, with only the smallest positive slope, but from roughly 1940 onward that curve turns vertical, vertical, not just slightly sloped, but vertical. That line demonstrates a very different world in which we live than has ever been experienced by humankind.

The other point I would make in rising on this occasion is to emphasize the importance of reversing the Mexico City policy. It is essential in our foreign aid that we grant assistance to those family planning organizations which are doing their best to control population growth so that quality of life may be enhanced. And yet we are curbing our own efforts in that regard when we take money away from those who would effectively use it for family planning, out of a desire to apply a rule that we do not even have in this country, namely depriving a woman of her right of choice.

Mr. RIDGE. Mr. Speaker, I thank the gentleman from California [Mr. CAMPBELL].

Mr. MOODY. Mr. Speaker, I would like to thank the chairman of the Subcommittee on Census and Population, Mr. SAWYER, and his staff for their work in getting House Joint Resolution 248 to the floor. I would also like to thank the 219 Members who cosponsored this resolution.

I am pleased to see that today the House is joining the Senate in passing this legislation, which will designate October 21 through October 28 as World Population Awareness Week. The purpose of World Population Awareness Week is to draw attention to and educate Americans about global population concerns. World Population Awareness Week has had a long history of success. Hundreds of events took place throughout the country last year and over 35 Governors proclaimed World Population Awareness Week as a time for Americans to reflect upon the implications of rapid population growth, particularly in economically struggling parts of the world.

The world's population has been growing at tremendous rates. Our population is well over 5 billion and it is expected to double or possibly triple in the next century. Much of the population growth is occurring in countries least able to physically or economically support it. We can see the consequences of rapid population growth throughout the world—unemployment, malnutrition, environmental degradation, overcrowded cities, and atmospheric pollution.

This year we celebrated the 20th anniversary of Earth Day. For people throughout the world it was a time to reflect on the status of our planet and where it is heading. As we recognized this day we could not ignore the relationship between population growth, the environment, and health. There is a clear link between overpopulation, illness, environmental deterioration, and resource depletion.

My hope for this week is that it won't be just a time to call attention to the expanding planet, but it will also be a time to renew our commitment to improve the lives of the people who suffer from the effects of rapid population growth. An estimated 5 million infant deaths and 125,000 maternal deaths could be prevented each year if voluntary means of child spacing and maternal health programs were expanded to meet minimal needs. Many families in the developing countries need and want family planning but lack access to it. World Population Awareness Week provides Americans with the opportunity to think about these problems and to help formulate policies to combat them.

Far too many women and infants die from lack of voluntary family planning services. Mental health declines as mothers are forced to have more children in the hope that at least some will survive. Economically the families

and these poor countries are destined to stay poor unless they break the cycle of overpopulation, malnourishment, illiteracy, and ill health.

The industrialized nations are not doing all that they can to assist struggling societies in providing funds to voluntary family planning programs. I have seen firsthand in my experiences working with Care and the Peace Corps how many problems in the developing world are directly linked or further exacerbated by rapid population growth. Effective family planning is a vital component of any effort to eliminate poverty and hunger in the Third World. Without it, we are condemning millions of people to a life of hardship and suffering.

Right now we have mostly subscribed to a "band-aid' approach—we send food and money so that children in the Third World don't die of starvation. But we haven't properly addressed the root cause of the problem. By increasing awareness of and access to voluntary family planning, lending people seed money to start their own small businesses, and teaching proper nutrition we can really make a difference in the quality of life in the poor countries of the world.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. WISE). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 158

Whereas the population of the world today exceeds five billion and is growing at an unprecedented rate of approximately ninety million per year;

Whereas virtually all of this growth is occurring in the poorest countries, those countries least able to provide even basic services for their current citizens;

Whereas the demands of growing populations have contributed substantially to enormous environmental devastation and pose threats of even greater harm to the world;

Whereas one-half of the ten million infant deaths and one-quarter of the five hundred thousand maternal deaths that occur each year in the developing world could be prevented if voluntary child spacing and maternal health programs could be substantially expanded;

Whereas research reveals that one-half of the women of reproductive age in the developing world want to limit the size of their families but lack the means or ability to gain access to family planning;

Whereas the global community has for more than twenty years recognized that it is a fundamental human right for people to voluntarily and responsibly determine the number and spacing of their children and the United States has been a leading advocate of this right;

Whereas the demands of growing populations force many countries to borrow heavily and sell off their natural resources to cover the interest on their debt;

Whereas selling off natural resources in such circumstances often causes irretrievable losses, such as the destruction of the tropical rain forests at a rate of fifty thousand acres per day;

Whereas the reliance of a rapidly growing world population on burning fuels is a critical factor in the emission of carbon dioxide into the atmosphere, which many scientists believe has already catalyzed a warming of the Earth's climate;

Whereas pollution is damaging the ozone layer to such an extent that within forty years the ultraviolet light reaching our planet is expected to be up to 20 percent greater than it is today; and

Whereas in 1988, forty State Governors proclaimed "World Population Awareness Week" in their States to call attention to the consequences of rapid population growth and the House of Representatives also passed a resolution to that effect: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 22 through 28, 1989, is designated as "World Population Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SAWYER: Page 3, line 3, strike "October 22 through October 28, 1989," and insert "October 21 through October 27, 1990,".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. SAWYER].

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the third reading of the Senate joint resolution.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. SAWYER: Amend the title so as to read: "Joint resolution designating October 21 through October 27, 1990, as 'World Population Awareness Week'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

NATIONAL DRUG-FREE SCHOOLS AND COMMUNITIES EDUCATION AND AWARENESS DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 304) to designate October 17, 1990, as "National Drug-Free Schools and Communities Education and Awareness Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

□ 2200

The SPEAKER pro tempore (Mr. WISE). Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to recognize the work of the gentleman from Alabama [Mr. ERDREICH], the chief sponsor of this joint resolution, and to yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of Senate Joint Resolution 304, establishing October 17, 1990, as National Drug-Free Schools and Communities Education Awareness Day. I would like to commend the gentleman from Alabama [Mr. ERDREICH] for his efforts in bringing this measure to the floor. I would also like to recognize the unceasing efforts of the distinguished chairman of the Post Office and Civil Service Committee, the gentleman from Michigan [Mr. FORD].

Mr. Speaker, the problems of drug abuse have pervaded throughout our society. We have spent billions of dollars attempting to combat the problem, but the truth is Americans are spending over $100 billion buying illicit drugs. Federal spending alone will not cure this problem. This problem can be effectively addressed only by a comprehensive program of reducing supply and demand, including the education of our youth.

We must educate our youth, prepare them to resist the temptations of drugs by warning them of the physical, psychological and social dangers of drug use and that drugs are not recreational—Drugs are deadly. For those students who know only a life including drug use, we must teach them that there is a better way. There is no single component in our antidrug effort that is more important than the education of our young.

Mr. Speaker, I wholeheartedly support this measure, and I urge all my colleagues to vote in favor of this resolution.

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, I yield to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. I thank the gentleman for yielding.

Mr. Speaker, I am anxious to comment on one of the resolutions that I am a sponsor of, but I could not help just mentioning in listening to the distinguished gentleman from New York [Mr. GILMAN], who was very eloquent about the subject, that the number one drug with young people in schools is still alcohol. I hope that in our efforts to have a drug-free society and so on, that we realize that that is a very, very important component with respect to the overall education of young people.

It is not just hard drugs or what we call illegal drugs. Alcohol is still the No. 1 problem with young people. It is the No. 1 problem in their car acci-

dents, in maiming people, and so on, across the country. Hopefully we in this Congress will amend the Omnibus Crime Act to include alcohol.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 304

Whereas one in every two high school seniors who graduated in 1989 used an illegal drug before graduating;

Whereas the Congress recognizes that drug abuse exists among people in all geographic areas, of all socioeconomic classes, and of all ethnic and racial groups;

Whereas the Congress recognizes that education and public awareness regarding the dangers of drug abuse are necessary to prevent the children and young people of this Nation from entering into cycles of drug abuse; and

Whereas the Congress recognizes that members of a community must unite and work together to address the drug abuse problem that this Nation confronts: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 17, 1990, is designated as "National Drug-Free Schools and Communities Education and Awareness Day", and the President is requested to issue a proclamation calling upon the people of the United States, departments and agencies of State and local governments, and interested organizations to observe such day with appropriate ceremonies, activities, and programs.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL TRAUMA AWARENESS MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 351) to designate the month of May 1991 as "National Trauma Awareness Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 351

Whereas more than eight million individuals in the United States suffer traumatic injury each year;

Whereas traumatic injury is the leading cause of death of individuals less than forty-four years of age in the United States;

Whereas every individual is a potential victim of traumatic injury;

Whereas traumatic injury often occurs without warning;

Whereas traumatic injury frequently renders its victims incapable of caring for themselves;

Whereas past inattention to the causes and effects of trauma has led to the inclusion of trauma among the most neglected medical conditions;

Whereas the people of the United States spend more than $140 billion on the problem of trauma;

Whereas the problem of trauma can be remedied only by prevention and treatment through emergency medical services and trauma systems; and

Whereas the people of the United States must be educated in the prevention and treatment of trauma and in the proper and effective use of emergency medical systems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May, 1991 is designated as "National Trauma Awareness Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GEOGRAPHY AWARENESS WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 323) designating November 11 through 17, 1990, as "Geography Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to recognize the work of the chief sponsor, the gentleman from California [Mr. PANETTA], and yield to my friend and colleague, the gentleman from New York [Mr. GREEN].

Mr. GREEN of New York. Mr. Speaker, although the observation of Geography Awareness Week over the past 3 years has been quite successful in increasing students' knowledge of geography, we still have a long way to go. In a study done in 1988, Americans aged 18 to 24 ranked last in an international comparison of geographic knowledge, and American adults of all ages scored among the bottom third. Thirty percent of the students surveyed at one U.S. university could not locate the Pacific Ocean on a world map. Nearly half of the college students in a California poll could not identify the location of Japan. In addition, 75 percent of Americans surveyed could not locate the Persian Gulf on a map.

Geography illiteracy puts the United States at a significant disadvantage and weakens our ability to remain a nation with worldwide involvements and aspirations. Continued ignorance of world geography will severely hinder us in competing and participating effectively in the international marketplace. Indeed, as a nation with global influence and responsibilities we must possess an understanding of other lands and cultures of the world.

I hope that Geography Awareness Week will again emphasize the importance of geographic literacy and awareness so that our students and our future leaders can effectively compete in global markets and take the lead in meeting international political, economic, environmental, social, and military challenges. We, as the Nation's political leaders, have the responsibility to elevate the importance of geography education and increase its emphasis in the Nation's schools. I urge you to help our students, who are our future leaders, become aware of the world around them.

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. RIDGE], my friend and my neighbor, geographically adjacent to Ohio. I join the gentleman in commending the work of the gentleman from California [Mr. PANETTA], and the gentleman from New York [Mr. GREEN], and recognizing that in addition to all of the other skills that young people in America need to master, among those is the ability to use a globe as if their world depended on it, because it does.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

Mr. PANETTA. Mr. Speaker, one of the key themes and tasks for Congress in this past session has been restoring America's competitiveness in a highly complex and rapidly changing world. America's global influence and responsibilities demand an understanding of the lands, languages and cultures of the world. The sweeping events of the past year make this goal more important than ever. Certainly the collapse of communism in Eastern Europe, the reunification of Germany, the move toward a common market in 1992, the continuing rise of the Pacific rim nations, and the crisis in the Persian Gulf drive home the importance of these responsibilities.

I am pleased the House of Representatives has accepted this responsibility and has once again adopted November 11–17, 1990, as Geography Awareness Week to help meet this challenge. This House is to be commended for recognizing the importance of elevating geography education and increasing its emphasis in the Nation's schools. I was proud to be the original cosponsor of this resolution in the House when it was introduced for the first

time in 1987, and again in 1988 and 1989. I am proud to be joined again this year by my distinguished colleagues, Representatives BILL GREEN and DALE KILDEE.

Geography Awareness Week will once again emphasize the importance of geographic literacy and awareness so that our students and the future leaders of America can effectively compete in global markets and take the lead in meeting international, political, economic, and social challenges. Geography Awareness Week will stimulate students' interests in their environment and concern for its land, air, water, energy resources, plants, and animals. Through geography, students will explore and learn more about our fragile Earth.

Improving our knowledge of the geography, language and culture of other lands will help us reaffirm our leading role in international trade and our place in the world economy. We cannot compete with the Pacific rim nations and the European Community if we do not know our competitors. Knowledge of geography offers perspectives and information necessary to understand ourselves, our relationship to the Earth, and our interdependence with other peoples of the world. Congress must continue the commitment to increase our awareness and heighten interest in geography education in our schools.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 323

Whereas geography is the study of people, their environments, and their resources;

Whereas the United States is a truly unique Nation with diverse landscapes, bountiful resources, a distinctive multiethnic population, and a rich cultural heritage, all of which contribute to the status of the United States as a world power;

Whereas the leadership of the United States in world affairs is threatened by a lack of understanding of the locations and significance of historic changes occurring around the globe;

Whereas a knowledge of geography provides a "Window on a Changing World" and a way in which to understand events and their impacts on the United States;

Whereas the United States is a Nation of worldwide involvements and influence, the responsibilities of which demand an understanding of the lands, languages, and cultures of the world;

Whereas geographically today offers perspectives and information in understanding ourselves, our relationship to the Earth, and our interdependence with other peoples of the world;

Whereas the first federally funded National Assessment of Educational Progress survey revealed a "disturbing geography knowledge gap" among 12th graders in the United States;

Whereas this survey also indicated that many students did not know that the Mississippi River flows into the Gulf of Mexico, or that the Panama Canal shortens sailing time between the east and west coasts of the United States, nor could they identify Jerusalem on a regional map, or name the three oceans moving east around the globe from Africa;

Whereas departments of geography are being eliminated from institutes of higher learning in the United States, thus endangering the discipline of geography in this country;

Whereas, while geography as a distinct discipline has virtually disappeared from the curricula of schools in the United States, it is still being taught as a basic subject in other countries, including the United Kingdom, Canada, Japan, and the Soviet Union;

Whereas an ignorance of geography, foreign languages, and cultures places the United States at a disadvantage with other countries in matters of business, politics, the environment, and global events;

Whereas one-third of adults in the United States cannot name four of the sixteen North/ Atlantic Treaty Organization member nations, and another one-third cannot name any; and

Whereas national attention must be focused on the integral role that knowledge of world geography plays in preparing citizens of the United States for the future of an increasingly interdependency, interconnected, and rapidly changing world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 11 through 17, 1990, is designated as "Geography Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL VISITING NURSE ASSOCIATIONS WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 270) to designate the period commencing February 17, 1991, and ending February 23, 1991, as "National Visiting Nurse Associations Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I am pleased to yield to the gentlewoman from Ohio [Ms. OAKAR], the chief sponsor of this joint resolution.

Ms. OAKAR. Mr. Speaker, I would like to thank Chairman SAWYER of the Census and Population Subcommittee, as well as Mr. RIDGE, the ranking minority member, for their fine leadership and efforts on that subcommittee. I would also like to thank Chairman FORD of the full committee for his support and cosponsorship of this bill, which will pay tribute for the third year in a row to the truly samaritan efforts of Visiting Nurse Associations all across our land. Thanks are also due to Senator BRADLEY and Senator HATCH for their companion bill, Senate Joint Resolution 270, which passed the other body 3 weeks ago. In addition, I want to thank my legislative aide Christopher Porter for assisting me in the passage of this legislation.

My colleague, Mr. BURTON of Indiana, and I introduced House Joint Resolution 509 to designate February 17 through 23, 1991, as "National Visiting Nurse Associations Week." The VNA movement in America is over 100 years old, and the over 460 Visiting Nurse Associations serve virtually every community in America. From the inner city to the suburbs to sprawling farms, these dynamic associations involve registered nurses, nurses aides, therapists, medical specialists, and volunteers to provide quality, professional homecare to nearly 1 million of our Nation's neediest citizens—regardless of the patient's ability to pay.

Mr. Speaker, as a member of the Pepper Commission, I know well the crisis facing our citizens not only in affordability of access to health care in the United States, but also with respect to long-term care. It is essential that Congress recognize the efforts of volunteer and not-for-profit organizations that help to reduce health costs. Visiting Nurse Associations increase access to home health services for millions of Americans who might not otherwise get them. For those with the greatest need of home care, those who can least afford it, VNA's allow the sick to be nursed back to health, receive physical or occupational therapy, or die quietly with dignity, with compassion, in their own homes. Whether it is health or personal care, physical therapy, nutritional counseling or social services, VNA's assume the role of caregiver that once fell upon another family member. People of all ages, races, and cultures benefit from the continued success of VNA's in America.

Today, Visiting Nurse Associations carry on a tradition of innovation in health care. VNA's are at the forefront in maternal child care, as well as home intravenous therapy and respiratory care. In many cities, VNA's have developed special shelters where the homeless can receive attention they would not get otherwise. VNA's, Mr. Speaker, were one of the first groups to recognize the home care needs of Aids victims. Visiting Nurse Associations have also successfully combined the spirit of volunteerism with the skills of talented and dedicated health care professionals. Community volunteers assist VNA's wherever they can help by delivering meals, running errands, fundraising, and in general serving as an extension of the

compassionate spirit that surrounds VNA's in our Nation.

I thank my colleague, Mr. BURTON, for his efforts in this bipartisan legislation. By naming February 17 through 23, 1991, as "National Visiting Nurse Association Week," we pay tribute to the efforts of these modern day samaritans to see that they get the thanks and recognition they deserve. This proclamation recognizes all the medical professionals and volunteers in each community who enable Visiting Nurse Associations to carry out their vital mission.

□ 2210

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. WISE). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 270

Whereas Visiting Nurse Associations have served homebound Americans since 1885;

Whereas such Associations annually provide home care and support services to more than 1,500,000 men, women, children, and infants;

Whereas such Associations serve 464 urban and rural communities in 45 States;

Whereas such Associations adhere to high standards of quality and provide personalized and cost-effective home health care and support regardless of an individual's ability to pay;

Whereas such Associations are voluntary in nature, independently owned, and community-based;

Whereas such Associations ensure the quality of care through oversight provided by professional advisory committees composed of local physicians and nurses;

Whereas such Associations enable hundreds of thousands of Americans to recover from illness and injury in the comfort and security of their homes;

Whereas such Associations ensure that individuals who are chronically ill or who have physical and mental handicaps receive the therapeutic benefits of care and support services provided in the home;

Whereas, in the absence of such Associations thousands of patients with mental or physical handicaps or chronically disabling illnesses would have to be institutionalized;

Whereas such Associations provide a wide range of services, including health care, hospice care, personal care, homemaking, occupational, physical, and speech therapy, "friendly visiting services", social services, nutritional counseling, specialized nursing care by registered nurses, and meals on wheels;

Whereas in each community served by such an Association, local volunteers support the Association by serving on the board of directors, raising funds, visiting patients in their homes, assisting patients and nurses at wellness clinics, delivering meals on wheels to patients, running errands for patients, working in the Association's office, and providing tender loving care; and

Whereas the need for home health care for young and old alike continues to grow annually: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing February 17, 1991, and ending February 23, 1991, is designated as "National Visiting Nurse Associations Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL FAMILY CAREGIVERS WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 525) designating November 18-24, 1990, and November 17-23, 1991, as "National Family Caregivers Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I would like to acknowledge the work of the gentlewoman from Maine [Ms. SNOWE] who is the chief sponsor of this joint resolution.

Mr. Speaker, further reserving the right to object, I yield to our friend, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in strong support of House Joint Resolution 525 designating November 18-24, 1990, as National Family Caregivers Week and would like to commend the gentlewoman from Maine [Ms. SNOWE] for introducing this resolution.

Mr. Speaker, more than 5 million of our elderly have disabilities that render them in need of basic daily care. Statistics show that between 80 and 90 percent of the families provide for the daily care of our elderly and in doing so incur many additional expenses. These family members not only give of their time and energy, but often make great financial and personal sacrifices. This involvement of caregiving strengthens the family bonds and fulfills a functional need in our society as well as provides the younger generation an opportunity to know, respect and serve their elders.

We all know the value of a loving, caring family. These caregivers go beyond the normal responsibilities to family and freely offer help and service to their loved ones in need.

Mr. Speaker, House Joint Resolution 525 calls for a greater public awareness of family caregivers and encourages support of these dedicated people. I am pleased to be a cosponsor of this resolution and urge my colleagues to support this legislation.

Ms. SNOWE. Mr. Speaker, I would like to thank Mr. SAWYER, chairman of the Census and Population Subcommittee, and the ranking minority member, Mr. RIDGE, for bringing House Joint Resolution 525 to the floor. This bill designates Thanksgiving week as the fifth National Family Caregivers Week. I also appreciate the support of more than half of the Members of the House in recognizing the vital contributions and needs of families who care for frail elderly relatives.

National Family Caregivers Week has been signed into law for the past 4 years. During this week, tribute is paid to family caregivers across the country. This is a time to give special recognition and commendation to the many individuals who find personal rewards, but also incredible multiple demands and pressures in caring for disabled older family members. National Family Caregivers Week is also a time in which to focus on ways that communities, employers, service providers, other family members, friends, and neighbors can support and strengthen caregivers throughout the year.

Families, including elderly spouses, provide over 75 percent of the care needed by the elderly, and it is that care which is usually the key factor in delaying or preventing nursing home placement. This informal family care may include personal and medical care, household chores, shopping, and transportation. Almost 75 percent of family caregivers are women, of which 55 percent are employed—and often with children under 18 years of age. About one-third of employed family caregivers lose time from work because of caregiving duties. And the stress and competing family and work demands force many to shift to part time employment or leave the work force altogether.

It is encouraging that the expanding public awareness regarding caregivers is resulting in growing recognition and many new initiatives to help meet their needs. In 1990 alone, a few examples include: First, a Newsweek cover story focusing on the increase of women in the "Daughter track"—working, raising kids and helping aging parents; second, the Stride Rite Corp. opened the first onsite intergenerational day care center for its employees to provide care for young children and frail older persons; third, the Administration on Aging is encouraging State and area agencies on aging to participate in public/private partnership collaborative programs to provide assistance to employed caregivers—often from long distances—such as information and referral for services and support groups; fourth, the Hillhaven Corp. is initiating a National Family Caregiver's Week Program to personally recognize each of its 40,000 employees, select a "best of the best" caregiver—home, work and community—in each of its 400 nursing home and residential facilities to culminate in February with regional recognition of eight outstanding caregivers; fifth, the expanding research agenda on caregivers and services is beginning to produce significant findings, including evidence that the stress of caregiving can adversely affect the immune system; and sixth, several of the larger Federal agencies are de-

veloping plans for eldercare programs to assist their caregiver employees. As our older population, particularly those over age 85, rapidly expands in the coming years, initiatives and programs such as these will become even more crucial.

Mr. Speaker, again, I wish to thank my colleagues for their support and concern. I also wish to thank the many individuals and aging organizations for their efforts on behalf of this important legislation.

I urge that this measure be adopted.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 525

Whereas the number of Americans who are age 65 or older is growing;

Whereas there has been an unprecedented increase in the number of persons who are age 85 or older;

Whereas the incidence of frailty and disability increases among persons of advanced age;

Whereas approximately 5,200,000 older persons have disabilities that leave them in need of help with their daily tasks, including food preparation, dressing, and bathing;

Whereas families provide older persons help with such tasks, in addition to providing between 80 and 90 percent of the medical care, household maintenance, transportation, and shopping needed by older persons;

Whereas families who give care to older persons face many additional expenses, including the costs of home modifications, equipment rental, and additional heating;

Whereas 80 percent of disabled elderly persons receive care from their family members, most of whom are their wives, daughters, and daughters-in-law, who often must sacrifice employment opportunities to provide such care;

Whereas the role of the aged spouse as a principal caregiver has generally been understated;

Whereas family caregivers are often physically and emotionally exhausted from the amount of time and stress involved in caregiving activities;

Whereas family caregivers need information about available community resources;

Whereas family caregivers need respite from the strains of their caregiving roles;

Whereas the contributions of family caregivers help maintain strong family ties and assure support among generations; and

Whereas there is a need for greater public awareness of and support for the care that family caregivers are providing: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 18-24, 1990, and November 17-23, 1991, are each designated "National Family Caregivers Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such weeks with appropriate programs, ceremonies, and activities.

AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SAWYER: Page 3, beginning on line 3, strike "and November 17-23, 1991, are each" and insert "is".

Page 3, line 7, strike "such weeks" and insert "such week".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. SAWYER].

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. SAWYER: Amend the title so as to read: "Joint resolution designating November 18-24, 1990, as 'National Family Caregivers Week'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

NATIONAL COUNTY GOVERNMENT WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 347) designating April 7 through 13, 1991, as "National County Government Week" and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, we have no objection to the Senate joint resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 347

Whereas county government is the oldest form of local government in the United States;

Whereas 98 percent of Nation's population reside in counties;

Whereas county governments employed over 1,900,000 people and spent almost $103,000,000,000 last year to provide a wide range of services for the benefit of the people of the United States;

Whereas county governments are often the last available resource for providing emergency and long-term services for the poor, the homeless, immigrants, refugees, the disadvantaged, and other segments of society;

Whereas county governments own and operate 1,000 health care facilities and over 2,000 health departments;

Whereas almost 1,200 counties are now managed by appointed administrators or elected executives;

Whereas over the last 30 years county governments have assumed increasing responsibility for the administration and financing of health, welfare, justice, transportation, housing, and community development programs; and

Whereas county governments have also been assigned a greater role in solving area wide problems dealing with air pollution, water pollution, solid waste disposal, airports, transit systems, regional parks, and other issues: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of April 7 through 13, 1991, is designated as "National County Government Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL WOMEN VETERANS RECOGNITION WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 307) designating November 11 through November 17, 1990, as "National Women Veterans Recognition Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, we certainly have no objection.

Mr. Speaker, I want to recognize the work of the gentleman from Florida [Mr. BILIRAKIS] who is the chief sponsor of this joint resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 307

Whereas there are more than 1,200,000 women veterans in the Nation, representing 4.2 percent of the total veteran population;

Whereas the number of women serving in the Armed Forces and the number of women veterans continue to increase;

Whereas women veterans have contributed greatly to the security of the Nation through honorable military service, which often involved great hardship and danger;

Whereas the contributions and sacrifices of women veterans on behalf of the Nation deserve greater public recognition and appreciation;

Whereas the special needs of women veterans, especially in the areas of health care, have often been overlooked or inadequately addressed by the Federal Government;

Whereas the lack of attention to the special needs of women veterans has discouraged or prevented many women veterans from taking full advantage of the benefits and services to which they are entitled;

Whereas women are performing a wider range of tasks in the Armed Forces of the Nation, as demonstrated recently by the activities of women in the military action in Panama; and

Whereas designating a week to recognize women veterans in November 1990 will help to promote important gains made by women veterans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 11 through November 17, 1990, is designated as "National Women Veterans Recognition Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL DOCTORS DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 366) to designate March 30, 1991, as "National Doctors Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, we have no objection to this joint resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 366

Whereas society owes a debt of gratitude to physicians for the contributions of physicians in enlarging the reservoir of scientific knowledge, increasing the number of scientific tools, and expanding the ability of health professionals to use the knowledge and tools effectively in the never-ending fight against disease; and

Whereas society owes a debt of gratitude to physicians for the sympathy and compassion of physicians in ministering to the sick and in alleviating human suffering: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) March 30, 1991, is designated as "National Doctors Day"; and

(2) the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL MILITARY FAMILIES RECOGNITION DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 566) acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 19, 1990, as "National Military Families Recognition Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I yield to the gentleman from Mississippi [Mr. ESPY], who is the chief sponsor of this joint resolution.

Mr. ESPY. Mr. Speaker, I thank the distinguished ranking member for yielding to me, and I thank him for his involvement and for his interest, as well as the involvement and interest of the distinguished gentleman from Ohio [Mr. SAWYER]. I thank him as well for helping in passing this resolution.

Mr. Speaker, I rise to call for passage of House Joint Resolution 566, the 1990 National Military Families Recognition Day, a joint resolution that I introduced on May 9. This joint resolution calls for designating November 19 as National Military Families Recognition Day.

Mr. Speaker, when I introduced this joint resolution on May 9 we had no idea that 3 months later we would be sending our troops into the Persian Gulf. This marked the third year for me to introduce a resolution recognizing military families, and there was nothing at that time, we thought, unusual about introducing this resolution once again.

Well, Mr. Speaker, as you know, and as they say, the rest is history. Much has changed. Now, for me, this resolution means much more, and I know that now for many military families it also must mean much more.

Since August 7, families across America have had to say goodbye to their fathers, their mothers, their sons and daughters. Our great Nation, Mr. Speaker, is truly indebted to military families.

□ 2020

We are indebted to military families because of the pain and suffering they must endure when a loved one is deployed to such places as the Persian Gulf. We are, indeed, indebted to military families because of the instability they must endure as they are forced to move constantly as they are assigned to new locations, so I want to thank all of the 223 of my colleagues who have cosponsored this joint resolution.

I hope that by this resolution, Mr. Speaker, and other methods that we can send a clear message to all families who currently have a family member in the Persian Gulf that we all feel indebted to them and tell them through this resolution how much we appreciate their service and their sacrifice.

Mr. RIDGE. Further reserving the right to object, I want to commend the gentleman from Mississippi for this particular resolution and remind all of our colleagues that whenever a man or woman puts on the uniform of this country, we are proud and privileged to have them serve, but directly and indirectly their entire family serves us as well.

If they are career soldiers, sailors, airmen, or marines, their family travels around the world with them when we ask those in the uniform to travel around the world, and we call on their families to provide emotional and oftentimes the financial support when the resources that we put forth as a government are inadequate. We ask the family and friends to provide the moral support that oftentimes is not provided from back home from either the Government or from other folks.

My personal experience, I recall when I was serving in Vietnam, my father wrote me every single day. I think the trauma of service is probably greater on those not wearing the uniform from time to time than it is on those who are wearing the uniform and accept the responsibility and move forward to protect or promote the interests of this country.

I commend and thank the gentleman from Mississippi for this particular recognition. It is appropriate that we step back once a year and remind ourselves that those who serve us are not only in uniform but it entails their entire family as well.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. WISE). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 566

Where Congress recognizes and supports Department of Defense policies to recruit, train, equip, retain, and field a military force that is capable of preserving peace and protecting the vital interests of the United States and its allies;

Whereas military families shoulder the responsibility of providing emotional support for their service members;

Whereas in times of war and military action, military families have demonstrated

their patriotism through their steadfast support and commitment to the Nation;

Whereas the emotional and mental readiness of United States military personnel around the world is tied to the well-being and satisfaction of their families;

Whereas the quality of life that the Armed Forces provide to military families is a key factor in the retention of military personnel;

Whereas the people of the United States are truly indebted to military families for facing adversities, including extended separations from their service members, frequent household moves due to reassignments, and restrictions on their employment and educational opportunities;

Whereas 67 percent of officers and 50 percent of enlisted personnel in the Armed Forces are married;

Whereas families of active duty military personnel (including individuals other than spouses or children) account for more than 2,900,000 of the more than 5,000,000 in the active duty community, and spouses and children of members of the Reserves in paid status account for more than 1,500,000 of the more than 2,700,000 in the Reserves community;

Whereas spouses, children, and other dependents living abroad with members of the Armed Forces total nearly 500,000 and these family members at times face feelings of cultural isolation and financial hardship; and

Whereas military families are devoted to the overall mission of the Department of Defense and have accepted the role of the United States as the military leader and protector of the free world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) Congress acknowledges and appreciates the commitment and devotion of present and former military families and the sacrifices that such families have made on behalf of the Nation; and

(2) November 19, 1990, is designated as "National Military Families Recognition Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL ADOPTION WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 362) to designate the period commencing on November 18, 1990, and ending on November 24, 1990, as "National Adoption Week" and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so simply to acknowledge the work of the gentleman from New Jersey [Mr. SMITH] who is the chief sponsor of this very important joint resolution.

Mr. SMITH of New Jersey. Mr. Speaker, I rise this evening to urge my House colleagues to support the passage of House Joint Resolution 476, legislation proclaiming National Adoption Week 1990.

For the past 12 years, the Congress of the United States has designated Thanksgiving Week as a time to recognize and encourage adoptions. During this uniquely American holiday, we traditionally enjoy a good meal with our family members. With National Adoption Week coinciding with this holiday, we hope that families would reflect upon their blessings and remember those children in need, those without families of their own, those alone during the holidays.

Mr. Speaker, today approximately 2 million couples and individuals would like to adopt a child. These are homes with parents who are ready and willing to accept and love children. Yet, unfortunately, 36,000 children are still in the Nation's foster care system. Many of these children are considered to have special needs. Some may be older or part of sibling groups. Many of the children in foster homes are also from minority groups. But, perhaps those children who have the greatest need for adoptive families are those with handicaps. Mr. Speaker, a child with a physical, mental, or emotional handicap needs the benefits and stability provided by a family and loving parents. Adoption may be the key to their future.

Through the support of House Joint Resolution 476, we can focus much needed attention and publicity on adoption. I would like to take this opportunity to thank those many Members who have cosponsored this resolution and have consistently backed our efforts. Furthermore, I commend Senator HATCH of Utah for taking on this challenge in the other body. His support, and that of our President, will continue to make this all possible.

Finally, Mr. Speaker, I am confident that through the annual enactment of National Adoption Week, we can continue to help with the efforts to find good homes and warm families for children with special needs. I urge the swift adoption of this measure.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 362

Whereas Thanksgiving week has been commemorated as "National Adoption Week" for the past 12 years;

Whereas we in Congress recognize the essential value of belonging to a secure, loving permanent family as every child's right;

Whereas the President of the United States has actively promoted the benefits of adoption by implementing a Federal program to encourage Federal employees to consider adoption;

Whereas approximately thirty-six thousand children who have special needs—school age, in sibling groups, members of minorities, or children with physical, mental and emotional handicaps—are now in foster care or institutions financed at public expense and are legally free for adoption;

Whereas the adoption by capable parents of these institutionalized or foster care children into permanent, adoptive homes would ensure the opportunity for their continued happiness and long-range well-being;

Whereas public and private barriers inhibiting the placement of these special needs children must be reviewed and removed where possible to assure these children's adoption;

Whereas the public and prospective parents must be informed of the availability of adoptive children;

Whereas a variety of media, agencies, adoptive parent and advocacy groups, civic and church groups, businesses, and industries will feature publicity and information to heighten community awareness of the crucial needs of waiting children; and

Whereas the recognition of Thanksgiving week as "National Adoption Week" is in the best interest of adoptable children and the public in general: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on November 18, 1990, and ending on November 24, 1990, is designated as "National Adoption Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL PHILANTHROPY DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 293) to designate November 16, 1990, as "National Philanthropy Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, and I do so to yield to the gentleman from Indiana [Mr. BURTON] who is the chief sponsor of this joint resolution.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today to urge my colleagues to join me and over 220 cosponsors in support of House Joint Resolution 513 which designates November 16 as National Philanthropy Day.

From the philanthropic founders of our Nation, to those helping in crises of the modern age, our country has always been blessed with individuals

who knew the importance of philanthropy.

I believe that as a way of expressing our appreciation to those citizens who have shown their spirit of generosity, it is appropriate that we recognize those who have unselfishly given their time to aid the elderly, disadvantaged, and the sick. National Philanthropy Day will formally recognize philanthropists' contributions, while encouraging them to continue and expand their efforts.

Mr. Speaker, as you know, the accompanying Senate joint resolution introduced by Senator RIEGLE of Michigan, passed the Senate in September.

For this reason, I find it appropriate that we act upon this measure now, so that these individuals will receive due recognition.

PHILANTHROPIC FACTS

Over 4.5 million volunteers actively participate in America's 800,000 philanthropic organization.

Citizens of the United States contribute over $94 billion annually to support nonprofit philanthropic organizations.

These organizations are largely responsible for enhancing the quality of life of Americans, and other people throughout North America and the world.

Philanthropists fill a great void, where the Government is often times unable to venture. In particular, our churches, schools, art and music centers, museums, youth groups, camps, hospitals, research institutions would be unable to function without volunteers.

I believe that as Representatives of the people, we should emphasize our appreciation by honoring the philanthropic organizations for their efforts, skills, and resources.

Again, I urge you to join myself, the Senate, and over 220 of our colleagues in support of National Philanthropy Day.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 293

Whereas there are more than 800,000 nonprofit philanthropic organizations in the United States;

Whereas such organizations employ more than 10,000,000 persons, including approximately 4,500,000 volunteers;

Whereas the people of the United States contributed approximately $104,000,000,000 in 1988 to support such organizations;

Whereas philanthropic organizations are responsible for enhancing the quality of life of people throughout this Nation and the world;

Whereas the people of this Nation owe a great debt to the schools, churches, museums, art and music centers, youth groups, hospitals, research institutions, community service institutions, and organizations that aid and comfort the disadvantaged, sick, and elderly; and

Whereas the people of the United States should demonstrate gratitude and support for philanthropic organizations and for the efforts, skills, and resources of the people who carry out the missions of such organizations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 16, 1990, is designated as "National Philanthropy Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ITALIAN-AMERICAN HERITAGE AND CULTURE MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 349) designating October 1990 as "Italian-American Heritage and Culture Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to yield to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I thank my colleague, the gentleman from Pennsylvania, for the opportunity to acknowledge the work of the gentleman from New York [Mr. ENGEL] who, with Senator DECONCINI, brought this particular resolution before us.

In the month of October, it is often easy to think of Italian-American heritage culture as resting on the laurels of Christopher Columbus, particularly as we approach the 500th anniversary of that enormously momentous landing on this continent.

But I think it is equally important to recognize that the culture that we think of as representing the growth of Europe and its role in the Western world really finds its genesis in the movement of those people whose nation today is Italy throughout that great continent some 2,000 years ago, and that it was only its reiteration and its movement to a new continent 500 years ago that we recognize today.

It is a matter of really the acculturation of the Western World that we are talking about when we discuss Italian-American heritage, and so it is from that perspective that I am particularly pleased to recognize the work of those who have brought this measure before us.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. RIDGE. Further reserving the right to object, I am happy to yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, I want the opportunity to congratulate everybody who brought this before the House and make note that, unfortunately, that it is more than Italian-Americans who serve in this Chamber and the other body who are going to be called to defend Western civilization over the next 2 years, because a fire storm is building from the far, far crazy left, and I am sure they will find some crazies on the far right to those that hate the United States and everything that has to do with naming a nation Columbia and this district Columbia. The fire storm by 2 years from now will probably be obnoxious, and that is why it is important that we keep alive what it is that you have tried to do in this commemorative.

I thank the gentleman.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

Mr. ENGEL. Mr. Speaker, I rise today to thank my colleagues for joining me for the second year in a row in passing House Joint Resolution, 631, legislation which will designate this month of October as Italian-American Heritage and Culture Month. I would also like to thank my colleagues in the Senate for passing identical legislation.

As you know, some 25 million citizens make up the Italian-American community, representing one of the largest ethnic groups in the United States. There are thousands of Italian-American organizations and clubs throughout the United States who greatly contribute to the prosperity and progress of our Nation on a yearly basis.

Italian-Americans have contributed to the United States in all aspects of life including art, science, civil service, military service, athletics, education, and politics.

Italian-American Heritage and Culture Month will feature the many contributions and achievements of Italians and Italian-Americans such as Christopher Columbus, one of the greatest explorers in world history, and Enrico Fermi, one of the early pioneers of nuclear physics. In addition, a key objective of this commemoration will be to acquaint the American public with the lesser known personages such as William Paca, an original signer of the Declaration of Independence. Also, Philip Mazzei is credited with coining the Declaration of Independence phrase "All Men Are Created Equal." He devoted much of his time and energy to the American Revolution where he was an ardent supporter of both religious and political freedom in America. He also carried on an active correspondence with Madison, Jefferson, Thomas Adams, and other Virginians.

Mr. Speaker, we are giving a great honor to one of the largest ethnic communities in this country by passing this resolution. I would like

to thank all of my colleagues who have joined me in cosponsoring this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 349

Whereas Italians and Italian-Americans have made contributions in all areas of life in the United States, including art, science, civil service, military service, athletics, education, law, and politics;

Whereas Italian-Americans make up one of the largest ethnic groups in the United States;

Whereas an annual national observance day has been established in October to recognize the accomplishments of Christopher Columbus, one of the greatest explorers in history and the first to record the discovery of the Americas;

Whereas the phrase "All men are created equal", contained in the Declaration of Independence, was suggested by the Italian patriot and immigrant Philip Mazzei;

Whereas the people of the United States take great pride in the accomplishments of the many outstanding men and women of Italian descent who have enriched our Nation's history, including Fiorello LaGuardia, the beloved mayor of New York City, and Enrico Fermi, winner of the 1938 Nobel Prize for Physics;

Whereas Italy enjoys a rich cultural heritage and has given the world the great works of Dante, the breathtaking art of Giotti and Michelangelo, and the inspirational music of Antonio Vivaldi and Domenico Scarlatti;

Whereas the Americas were named for the Italian explorer Amerigo Vespucci;

Whereas William Paca, an Italian-American, was one of the signers of the Declaration of Independence; and

Whereas during October 1990, special attention will be directed to national, State, and local programs promoting Italian heritage and culture: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1990 is designated as "Italian-American Heritage and Culture Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WEEK OF THE NATIONAL OBSERVANCE OF THE 50TH ANNIVERSARY OF WORLD WAR II

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 324) to designate June 3 through 9, 1990, as "Week of the National Observance of the 50th Anniversary of World War II" and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I simply do so to acknowledge the work of the gentleman from Indiana [Mr. MYERS], who is the chief sponsor of this designation to remind ourselves from June 3 through June 8, 1991, that that is the week of the national observance of the 50th anniversary of World War II, and to thank the gentleman for this effort.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES 324

Whereas the brave men and women of the United States of America made tremendous sacrifices during World War II to save the world from tyranny and aggression;

Whereas the winds of freedom and democracy sweeping the globe today spring from the principles for which over 400,000 Americans gave their lives in World War II;

Whereas World War II and the events that led up to that war must be understood in order that we may better understand our own times, and more fully appreciate the reasons why eternal vigilance against any form of tyranny is so important;

Whereas the World War II era, as reflected in its family life, industry, and entertainment, was a unique period in American history, and epitomized our Nation's philosophy of hard work, courage, and tenacity in the face of adversity;

Whereas, between 1990 and 1995, over 9,000,000 American veterans of World War II will hold reunions and conferences and otherwise commemorate the 50th anniversaries of various events relating to World War II; and

Whereas June 4, 1990, marks the anniversary of the Battle of Midway and June 6, 1990, marks the anniversary of the D-Day battle: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 3 through June 9, 1990, is designated as "National World War II Observance Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate activities and ceremonies.

AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SAWYER: Page 2, line 3, strike "June 3-9, 1990," and insert "June 2-8, 1991,".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. SAWYER].

The amendment was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. SAWYER: Amend the title so as to read: "A joint resolution designating June 2-8, 1991, as a 'Week for the National Observance of the 50th Anniversary of World War II'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

□ 1030

ENDING HUNGER MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 342) designating October 1990 as "Ending Hunger Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore (Mr. WISE). Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, we do so to identify the chief sponsor of this resolution, the gentleman from Florida [Mr. SMITH], and to thank all the sponsors of the preceding plus 20 resolutions for securing a minimum of 218 cosponsors. Be it right or wrong, good or bad, that is the requirement that my colleague, the gentleman from Ohio and I have placed upon them. When they go to the trouble and the effort, we think it is appropriate they be recognized for their good work.

Mr. SAWYER. Mr. Speaker, will the gentleman yield?

Mr. RIDGE. I yield to the gentleman from Ohio.

Mr. SAWYER. Mr. Speaker, I would like to associate myself with the comments of my colleague on the Committee on Post Office and Civil Service, who serves as vice chairman of the Committee on Census and Population, the subcommittee which is charged with the responsibility for managing these commemorative resolutions as they come to the floor.

I particularly want to take this opportunity to thank the gentleman for his work and the orderly consideration of these resolutions, and to make note of the fact that together we seek, in coming weeks, to poll our colleagues about the procedures that are used in bringing matters of important public recognition to the floor of this Chamber, and to seek the collaboration of our colleagues as we try to streamline that process.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. RIDGE. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I want to join in commending both the gentleman from Ohio [Mr. SAWYER] and the gentleman from Pennsylvania

[Mr. RIDGE] for night after night coming to the floor to manage the commemorative resolutions that so many of our colleagues have a sincere interest in, and for their devoted effort. They are deserving of the thanks of this entire body.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 342

Whereas hunger affects the lives of 500,000,000 to 1,000,000,000 people in the world and takes the lives of 13,000,000 to 18,000,000 people each year, 75 percent of whom are children under the age of 5;

Whereas, while families often gain widespread media attention and the subsequent response of the public, little attention is focused on the problem of chronic hunger;

Whereas schools and communities should conduct educational programs that lead to the development of viable methods for alleviating hunger;

Whereas there is a need to promote continuing activities that increase education and heighten public awareness about the extent of hunger, its causes, and consequences;

Whereas a society educated about the pervasiveness of hunger is equipped to respond to the needs of hungry people around the world; and

Whereas the United Nations and the United States Congress have designated October 16, 1990, as World Food Day and have called upon all people to take appropriate actions: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1990 is designated as "Ending Hunger Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the several joint resolutions just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio.

There was no objection.

THE AMERICA-SOAKS-THE-RICH MYTH

(Mr. McEWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. McEWEN. Mr. Speaker, Huey Long said it best in his book in which he recommended that America soaked the rich, and, indeed, we have attempted in recent years to have that kernel of evil return, especially at election time, to begin that demagoguery once again.

Mr. Speaker, I have before me a chart, which I will enter into the CONGRESSIONAL RECORD, which explains very simply that the percentage of income taxes paid by the rich has been increasing every year since 1981.

For example, the top 1 percent paid 17 percent of all the taxes in 1981, but in 1987 they paid a fourth, a 40-percent increase in the amount of income taxes from the top 1 percent.

Let me jump to the top 10 percent. In 1981, they paid 48 percent of the taxes, but in 1987, they paid 55 percent of the taxes.

But what about those in the bottom half? From those 50 to 90 percent of all of those who pay taxes? The percentage of revenue has reduced by 14, and those in the bottom half, those in the bottom half of income taxpayers in America, went from 7 percent of the tax in 1981 to 6 percent last year.

The chart referred to is as follows:

INCOME TAX COLLECTIONS BY PERCENTILE—1981 TO 1987

[In billions of 1982 dollars [1]]

	1981	1987	Percent change
Total	$300.3	$313.0	4.3
The rich:			
Top 1 percent	$51.7	$77.1	49.1
Percent share	17.6	24.6	39.8
Top 5 percent	$94.6	$134.9	42.6
Percent share	35.1	43.1	22.8
Top 10 percent	$144.4	$173.7	20.3
Percent share	48.0	55.5	15.6
The rest:			
Middle 50–90 percent	$132.9	$120.4	−9.4
Percent share	44.3	38.5	−13.1
Bottom 50 percent	$22.4	$19.1	−14.7
Percent share	7.5	6.1	−18.7

[1] Using GNP deflator.

Source: Internal Revenue Service, Statistics on income.

THE SWORD OF THE ARABS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, as all of the turmoil of the last couple of weeks on the budget keeps ringing in our ears, occasionally I like to come to the well and remind my friends on both sides of the aisle, and I hope they are numerous, that we will resolve this probably by the 28th of October. If there was a pool going, that is the day I would pick. Eleven more days of wildness trying to budget our books.

The real problems facing the Commander in Chief of the Armed Forces of the United States of America, one George Walker Bush, our President, I think he is a darn good one. The biggest problem he has is facing up to the sword of the Arabs, and how to beat this sword into a plowshare.

We will hope that we do not have to do it violently. However, that may yet come to pass. Who is the sword of the Arabs? Well, this is not the first time I have ever referred to a magazine story in U.S. News & World Report, and my compliments to the editors because they told it all, way back in June, 2 full months before the invasion of Kuwait. Saddam Hussein was called in this ominous looking cover, "The Most Dangerous Man in the World."

Today's newspaper, months later, one of the Washington, DC, newspapers, the Washington Times, their headline says, "President Bush Talks of Atrocity Trial for Saddam." Somewhere in our foreign policy, and Mr. Bush or his appointee, an excellent Secretary of State, James Baker III, they could not undo the track we were on in the State Department that went on for years to help inadvertently build up the sword of the Arabs, as he is calling himself, but listen to the first paragraph of today's paper, and then I will read the first couple of paragraphs from this June 4 U.S. News & World Report story.

President Bush expresses outrage yesterday in Dallas at reports of Iraqi atrocities against Kuwaiti children, and elderly, and warned that President Saddam Hussein,

and I believe it is fair to call him Sadist Insane now—

and his top military officers could face a Nuremberg style trial for war crimes. Calling Mr. Hussein Hitler Revisited, Mr. Bush suggested senior Iraqi leaders should be prosecuted as war criminals.

Here is the beginning of the cover story of June 4, 1990, in the U.S. News & World Report.

The world's most dangerous man, with billions to spend and help from the United States, the Soviet Union, and Europe, Saddam Hussein is amassing a truly terrifying arsenal.

I will be inserting into the RECORD the list. Just a sampling of weapons that were delivered to Iraq in the 1980's, in this strange season of political upheaval, with the lights of dictators winking out around the globe, the world suddenly seems a saner and safer place. However, as Mikhail Gorbachev, yesterday's recipient of the Nobel Peace Prize and George Bush confer this week, and this is in June we are seeking, providing a little new hope for safety and sanity in ancient Baghdad, half a world away a dangerous man with great ambitions is hosting a summit of his own. Skiping forward in this paragraph,

In Hussein's ruthless obsessive quest to become the Sword of Arabs, as he lately has styled himself, he has relied upon the complicity of Western and other governments, the greed of middlemen, and a clandestine arms procurement network with front companies in the U.S. and Europe.

The article goes on to point out the Atlanta branch of Italy's biggest state-owned bank extended more than a billion dollars in credit for Iraqu arm deals, and the article goes on and on.

Let me point out something again that I am just going to keep pointing out to the world until we finally know the historical outcome of this madman. Israel, on June 7, 1981, and that is almost 9½, 10 years next June, they bombed the Osirak reactor built with French money. Now, President Mitterrand has to send French boys to go in harm's way in the Persian-Arabian Gulf area.

□ 2240

Mr. Speaker, I just want to point out again that our country, unfortunately, Ronald Reagan's first few months in office criticized Isreal for unilaterally taking out this building, the nuclear reactor called the Osirak reactor in Iraq. If they had 9 more years of activity at that site, completing it 7½ years ago and driving toward production of plutonium weapons used fuel, atomic fuel, I am afraid the crisis in the gulf would have wholly different dimensions.

As one of my colleagues on the Armed Services Committee said many times, the gentleman from California, Mr. DUNCAN HUNTER by name, the gentleman from California [Mr. HUNTER] and I have counseled together over the last 9 years that many, many times we have found ourselves saluting Israel for taking out that Osirak Reactor. Now it seems Saddam Hussein's main plan, as the gentleman from California [Mr. HUNTER] has also pointed out to me many times, is to drag Israel into this conflict, Mr. Speaker. God forbid that should happen. Let us all pray during our break that is coming up soon that our young men and women come home safely and that somehow or other we beat the sword of the Arabs into a plowshare without shedding blood; not an easy task, but good luck, I say to the President.

Mr. Speaker, I include the U.S. News & World Report article of June 4 in its entirety.

[From U.S. News & World Report, June 4, 1990]

THE WORLD'S MOST DANGEROUS MAN

In this strange season of political upheaval, with the lights of dictators winking out around the globe, the world suddenly seems a saner and safer place. But as Mikhail Gorbachev and George Bush confer this week, providing a little new hope for safety and sanity, in ancient Baghdad, half a world away, a dangerous man with great ambitions is hosting a summit of his own.

While Bush and Gorbachev are signing agreements to reduce their arsenals of chemical and nuclear arms, Iraqi President Saddam Hussein, the host of the Arab summit, continues to spend billions of dollars in the pursuit and development of those very same weapons. What is even more troubling is that while the superpowers are trying to ensure that their bulging arsenals are never used, Hussein has already lobbed his nerve gas not only at his archenemies in Iran but at some of his own people, killing several hundred Kurdish tribesmen. It is no small irony that this new threat to peace and stability is coming from Mesopotamia, from the cradle of civilization, but if Saddam Hussein has taken note of the fact, he has not deigned to comment on it. He is not, after all, a man much inclined to humor. What he is, demonstrably, is the most dangerous man in the world.

In his ruthless and obsessive quest to become the "Sword of the Arabs," as Hussein lately has styled himself, he has relied upon the complicity of Western and other governments, the greed of middlemen, and the clandestine arms-procurement network with front companies in the U.S. and Europe. The Atlanta branch of Italy's biggest state-owned bank extended more than $1 billion in credit for Iraqi arms deals, U.S. officials say (page 45). A Canadian ballistics and rocket expert was helping Hussein build the world's biggest gun when he was mysteriously murdered in Brussels (page 48), and Iraq obtained hundreds of tons of a chemical used to make mustard gas from a Baltimore manufacturer before the transaction was caught by U.S. Customs.

The fateful combination that fuels Iraq's drive for military power is at once simple and familiar: Money, militarism and ego. With virtually unlimited funds from an oil industry that has an estimated 10 percent of the world's petroleum reserves, he has infinitely more cash to spend on instruments of destruction than Iran, Libya or North Korea. The U.S. intelligence community has consistently underestimated Iraq's military capabilities, but now a growing number of intelligence officials believe Hussein may have a nuclear-weapons capability in between two and five years (page 49). And unlike Kim Il Sung in North Korea, Hussein's ambitions are not contained by a powerful military on his border. His phenomenal military spending, estimated by some intelligence officials at as much as $50 billion over the past decade, has made him the world's single biggest buyer on the international market of chemical, biological and nuclear weaponry.

Even more frightening than his capabilities are the ample indications that Hussein has few qualms about using them. "I swear to God," he said in a statement printed around the world a few weeks ago, "we will let our fire scorch half of Israel if it tries to wage anything against us." Defenders of the Iraqi leader point out that he threatened to use force only in retaliation for an Israeli attack. But he is so isolated, both from his own people and from the international community, that no one knows for sure what he might do.

Worse, there is virtually no one, at home or abroad, who can restrain his worst impulses. He has few friends, even in the Arab world, and fewer and fewer within Iraq's own political structure. He has stubbed out rivals, real and imagined, like cigarette butts, and Western intelligence agencies have reported several instances in which he has pulled the trigger himself. Hussein committed his first murder at 14, attempted his first political assassination at 22, and there is not evidence to suggest he has broken the habit. The State Department calls Iraq's human-rights record "abysmal" and says the country continues to harbor several of the world's most notorious terrorists.

In recent years, moreover, what few constraints there were on Hussein have withered. The Ba'ath Socialist Party, which he rode to power, and the Revolutionary Command Council, which he dominated once he got there, have both fallen into decline, and more and more of the business of government is being handled by trusted members of Hussein's own family. Thus isolated, Hussein charts his own increasingly dangerous course. "He understands Iraq," says Amatzia Bar'am, a professor at Haifa University and one of the world's foremost scholars on Iraq. "But he doesn't understand how the American administration, Israel or Iran think. His advisers are afraid to give him bad news [and] * * * he is prone to make mistakes because he doesn't understand many things outside Iraq." With no back channel to Israel, the potential for a crisis arising from miscommunication seems especially high.

The growing numbers of Soviet Jews emigrating to Israel and the continued violence against Palestinians in the West Bank and Gaza, and now in Israel itself, have inflamed the Arab world, and Hussein has suddenly returned to the conflict with Israel with a vengeance, hailed by his brethren as the only Arab leader willing to stand up to Israel.

A megalomaniac reminiscent of deposed Romanian dictator Nicolae Ceausescu, Hussein is no stranger to self-aggrandizement. Besides the ubiquitous posters of him around Baghdad, the city where Scheherazade once whiled away a thousand and one nights with her exotic tales, Hussein has taken to telling some tall tales of his own, styling himself in the image of the great Babylonian kings Nebuchadnezzar and Hammurabi. Like Ceausescu and Kilm Il Sung, he also likes titles. Before becoming the "Sword of the Arabs," he was the "indispensible leader" and "historical leader."

And now he is equipped to be as good as his word. Hussein's nonstop shopping has bought him a fundamental change in the strategic balance of the Middle East. No longer can Israel readily consider a preventive strike, as it did in 1981, when its bombers destroyed the Iraqi nuclear plant at Osirak. And military analysts say that with its fleet of missiles constantly being improved, by the middle 1990s Iraq will be able to hit targets inside Israel without entering Israeli airspace. "Are we as a state and as a people ready for this challenge and able to deal with it?" Retired Maj. Gen. David Ivry, the director general of Israel's Ministry of Defense, asked recently. "In my opinion, No."

How Hussein has managed this transformation is as much a measure of his own ruthlessness as it is of these-no-evil arms dealers around the globe, and of their respective governments that, almost everytime the capacious pockets of Iraq opened up, offered a free and friendly hand to make sure deals got done.

With French assistance, Iraq has built an entire electronics complex and can now construct its own integrated electronic circuits for use in missile-guidance systems and other military applications.

In the U.S., as elsewhere, the motive for helping Iraq get weapons has been greed. When Iraq was at war with Iran, the official U.S. policy was to "tilt" toward Iraq. But that did not mean U.S. companies could sell weapons to Iraq, which was designated by the State Department as a state sponsor of terrorism. Unfortunately, the legal prohibitions never seemed to amount to much.

SLEEPING POLICEMEN

In 1982, with an O.K. from the U.S. Commerce Department, Hughes Aircraft Company sold Iraq 60 small, bubble-topped helicopters for $25 million. The middleman was Iraq's most prolific arms broker, a genial Lebanese named Sarkis Soghanalian. In 1985, Soghanalian brokered another deal, this time for 26 McDonnell-Douglas-Hughes choppers worth $27.4 million and former Atty. Gen. John Mitchell assisted with the transaction. Again, Commerce approved.

The holes in the U.S. net were everywhere. In 1985, the Centers for Disease Control in Atlanta (CDC) sent three shipments of something called West Nile Fever virus to Iraq. The virus causes wrenching nausea and mild fever, and it had infected two Israeli military installations. CDC officials note that it kills only 1 percent of those it afflicts, and they say they sent the virus to Iraq because they knew the doctor who requested it and believed it would be used for research. The CDC made no attempt to verify that, however, and congressional investigators inquired whether the virus might have been used in Iraq's biological-weapons program. In any event, the CDC has since re-examined its criteria for filling such requests, doctors there say.

Occasionally, but only with great effort, some of the holes in the U.S. net were plugged. In 1986, a Pentagon official named Stephen Bryen learned of a shipment of large analog computers to Iraq's Saad-16 missile-development complex. Commerce said the computers had no military use and approved the shipment. "We got hold of the advertising literature [for the computers]," Bryen says, "and it bragged about their military applications." It would take a year, but Bryen finally succeeded in blocking the shipment.

Just last year, there was another rare success. A London company that supposedly specialized in exporting mini-hamburgers to the Middle East approached a San Marcos, Calif., electronics firm and inquired about buying high-energy capacitors that could be used to help detonate a nuclear explosion. What would a hamburger outfit want with capacitors like that, the company owner wondered. He quickly alerted a U.S. Customs agent in San Diego, who posed as an export manager for the firm and proceeded to negotiate the transaction with three Iraqi government engineers and two employees of the alleged hamburger firm, Euromac, Ltd. Earlier this year, the sting operation hit pay dirt. All five persons have been indicted in the U.S. and Britain, but the three Iraqis have vanished, and Hussein himself has since boasted publicly that Iraq has obtained the same type of capacitors from another source.

What makes all this weaponry especially frightening is the fact that Iraq is rapidly acquiring an impressive arsenal of missiles to deliver it. With help from West Germany, Austria and perhaps Brazil, Iraq is pursuing both solid and liquid-fueled missiles and is believed to have spent well over $1 billion on the program so far. A joint missile program with Egypt and Argentina has largely been abandoned, but Iraq has taken elements of the program, called Condor II, to upgrade the guidance and warhead technology on its existing al-Abbas and al-Husayn missiles. "The bottom line," says Michael Eisenstadt, a military analyst at the Washington Institute for Near East Policy, "is that the al-Abbas and al-Husayn will give Iraq the strategic deterrent capability that it needs."

FAMILY TIES

For this Hussein can be given much of the credit. He chose his No. 2 man wisely and placed him in charge of Iraq's Ministry of Industry and Military Industries. Hussein Kamil al-Majid is married to Saddam Hussein's daughter Ghard, and he supervised the expansion of the elite Republican Guard. A third man, Lt. Gen. Amer Hamoudi al-Saadi, has done a brilliant job overseeing Iraq's missile program. Both Kamil and al-Saadi have been wise, electing to build what can be built inside Iraq and buying the rest outside through front companies like the Euromac hamburger firm. "The Iraqis are doing the best job of any Third World country in collecting high tech in the military field," says Haifa University's Bar'am. ". . . Their fingerprints never appear."

Given the obvious dangers, it would seem imperative for the U.S. to try to impose whatever constraints in can on Saddam Hussein. But the Bush administration's view, in the words of John Kelly, the assistant secretary of state for Near Eastern affairs, is that "there is still a potentiality for positive alterations in Iraqi behavior." Others, in and out of the government, are not so sure. Some wonder about a potential attack on neighboring Kuwait, or on Saudi Arabia, if an attack on Israel does not come first. Others cite the brutality of the Hussein regime and ask why the U.S. does not take action to express its displeasure. "You accurately recite a chamber of horrors," Representative Tom Lantos (D-Calif.) told Assistant Secretary Kelly recently, "and then you sort of express the hope . . . that Iraq under Saddam Hussein will turn in the direction of being a responsible and peace-loving member of the international community." What Iraq is, for the time being, is the most dangerous and destabilizing member. Here is a glimpse of how it got that way:

FOLLOWING THE TANGLED MONEY TRAIL

The trouble that Banca Nazionale Del Lavoro has seen is no small matter. Former BNL officials are the subject of a grand-jury inquiry in the U.S., while at headquarters in Rome the bank's chairman and director general have resigned. Ten employes at the BNL branch in Atlanta have been fired. A half-dozen lawsuits have been filed. Still, BNL would be just another bank in hot water except for the fact that the business that got it there has much to do with the way the government of Iraq pursues and pays for sensitive Western technology. In this case, the $3 billion in unauthorized loans and letters of credit BNL's Atlanta branch issued would have been a wonderfully discreet way to finance a weapons plant, but it didn't quite work out that way.

It began with an ambitious American banker named Christopher Drogoul, BNL's Atlanta branch manager. He was driven, friends say, by suggestions from Rome that the branch would soon be closed. Before long, however, Drogoul found some Iraqi government representatives who wanted credit to pay for U.S. grain, frozen poultry and other commodities. Within months, BNL had extended them millions of dollars.

That deal marked the beginning of a relationship that would lead to 2,500 letters of credit and loans. BNL soon found itself underwriting an ambitious Iraqi shopping list, many of the items on it classified by Western governments as "dual use," meaning they have both industrial and military applications. Iraq, U.S. officials say, used as much as a billion dollars of BNL credit to purchase such equipment to build weapons. One American company, Lummus Crest of Bloomfield, N.J., was given $53.8 million in credit for construction of a petrochemical plant near Baghdad. Another, XYZ Options of Tuscaloosa, Ala., arranged to sell Iraq $14 million worth of machinery to make carbide tools, but was prevented from delivering a precision grinder after U.S. officials questioned its ultimate use. Still other funds went to finance the purchase of either high-tech companies themselves or the construction in Iraq of new factories that will soon become state property.

The transactions were complex. Take the sale of Matrix-Churchill. A British machinery firm, it hadn't made a profit in a decade. Nevertheless, the company was purchased in 1987 by TMG Engineering, which in turn was controlled by TDG, a subsidiary of Al-Arabi Trading, a Baghdad holding company with close ties to Saddam Hussein's government. Within two years, Iraq had used $16 million in BNL credit to purchase precision lathes and other equipment from Matrix-Churchill. TDG officials have denied that their company is controlled by the Iraqi government.

That wasn't the end of it. According to Britain's *Financial Times* a newspaper, TDG also had a hand in buying a Northern Ireland aerospace company, Lear Fan, which specializes in composite plastics, the kind used to make advanced airplanes and, conceivably, missiles. A partner in the deal was SRC Engineering, a company run by Gerald Bull, the arms dealer and engineer who had sold Iraq on his supercannon, known as the Big Gun. The new aerospace firm, SRC Composites, applied to Northern Ireland for a start-up grant of more than $1 million. British officials, fearful that SRC Composites' real mission was making missile parts, quashed the grant on Aug. 14, 1989, effectively killing the project.

The weapons laboratories of Iraq and the machinations of SRC and Al-Arabi Trading are a long way from Atlanta. There, Drogoul now faces the federal investigation and a racketerring suit filed by BNL. Drogoul's lawyer concedes that his client failed to report the proper loan-risk information to the Federal Reserve and the correct amount of the loans to BNL's New York office. But he says his client earned no bonuses or personal commissions on the business. For its part, BNL recently agreed to make good on the outstanding letters of credit in dispute, which means Iraq will get most of the technology it wanted. With results like this, there is no reason to expect that Iraq will stop its byzantine procurement practices anytime soon.

A MAKE-MY-DAY SUPERWEAPON

If anything galvanized the West's attention on Iraq, it was evidence that Gerald Bull, a renegade, naturalized-American artillery genius, was helping Baghdad build the world's biggest gun. But it wasn't until Bull was shot to death outside his Brussels apartment on March 22 with $20,000 untouched in his pocket—and after customs agents across Europe seized 298 tons of massive polished steel tubes headed for Iraq—that the mysterious project was revealed.

Bull himself was something of a mystery. He was given to hyperbole and self-promotion, but he was also brilliant and of unquestioned accomplishment. Born in 1928, he quickly established himself as a Canadian "whiz kid" in rocketry and ballistics. In the 1960s, he co-ran the U.S.-Canadian High Altitude Research Project (HARP) that fired probes into space with giant cannons.

One, in Quebec, had a 16-inch bore barrel and was 172 feet long. A 120-foot version in Yuma, Ariz., set a world record by shooting a projectile 112 miles straight up. The U.S., more interested in rockets, quit the project in 1970.

Frustrated, Bull turned back to artillery design. He helped South Africa build one of the best artillery pieces in the world, the G-5 155-millimeter howitzer and its long-distance pickle-shaped shell. He used artillery shells acquired from the U.S. Army, however, and in 1980 he pleaded guilty to smuggling embargoed arms to South Africa and spent four months in prison.

After his release, a bitter Bull moved to Brussels and met Sarkis Soghanalian, a Miami businessman who was selling arms to Iraq. Soghanalian says Bull soon was trying to interest the Iraqis in building huge guns. Apparently, he succeeded. Indeed, a British Customs official told U.S. News, two big guns had been ordered and one, code-named "Baby Babylon" by the Iraqis, already had been sent. It had a 16-inch bore and was about 120 feet long—the same size as one of the Bull guns in HARP. But it failed during testing in Iraq, and British Customs seized the replacement parts. The second, "Big Babylon," was to be the monster, 512 feet long with a 39-inch bore. It was to be built of 52 pieces; apparently, 44 of them already had been sent to Iraq when the others were intercepted.

Big Babylon would have been the fulfillment of Bull's dream—and Saddam Hussein's too. Such a gun, mounted at a 45-degree angle and shooting rocket-boosted projectiles, could obtain unheard-of distances—or launch satellites, as Bull wrote in a book published in 1988. He estimated that a three-stage rocket shot out of his smaller 16-inch gun could fly 5,000 miles. In theory then, the supergun would have been able to lob huge projectiles at Iraq's enemies for much less than the cost of ballistic missiles. The falling shells might penetrate antimissile defenses being built by Israel—surely an attractive idea to Hussein.

But would it have worked? Chuck Bernard, a former Navy rocket-and-ballistics expert who worked with Bull in the early 1960s, contends that what might be gained militarily by the gun's long range would be lost in its inaccuracy. And some military analysts argue that a monstrous gun pointed at, say, Tel Aviv would have been an easy target for Israeli bombers. Could it have been a launcher for spy or communications satellites instead? "We guess it certainly was intended as a launcher for satellites, but there's no reason to preclude launching anything else," said a British Customs spokesman. "Remember, what goes up might well come down."

HOW QUICKLY CAN IRAQ GET THE BOMB?

The most troubling single question about Iraq's growing arsenal is how close Saddam Hussein is to having nuclear weapons. The official U.S. estimate is that Iraq won't be a nuclear power for five to 10 years. But an increasing number of U.S. intelligence officials, as well as British and Israeli experts, believe Iraq could acquire a nuclear capability in as few as two to five years.

Baghdad is sparing no expense in its pursuit of the bomb. Following Israel's 1981 attack on Iraq's Osirak nuclear reactor, Hussein seems to have followed the example of Pakistan and China and begun seeking an easily concealed enrichment process that can produce weapons-grade uranium.

Using this method, uranium ore is first converted in a chemical process to uranium hexafluoride gas. Iraq already has 250 tons of uranium concentrate, called yellowcake, legally purchased a decade ago from Niger, Portugal, Brazil and Italy. The stockpile is not subject to International Atomic Energy Agency (IAEA) inspections. An Iraqi industrial complex at al-Qaim, built by European companies, which ostensibly processes phosphate ore, also has plants that can produce hydrogen fluoride that can be used to make nerve gas or to make uranium hexafluoride gas. Most press coverage of Iraq's nuclear effort has concentrated on 27 pounds of weapons-grade uranium that survived Israel's 1981 bombing, but that uranium is regularly inspected by the IAEA and is unlikely to be used for a weapons program except in dire circumstances.

A QUESTION OF TIME

The biggest missing pieces of the puzzle are how far Iraq has progressed in building a centrifuge plant for enriching uranium hexafluoride gas, and where the Iraqis are conducting their centrifuge research. The U.S. is fairly confident that Iraq does not yet have a prototype centrifuge plant running, and that belief is largely behind the 5-to-10-year estimate. But, says W. Seth Carus, a missile expert at the U.S. Naval War College Foundation and a longtime observer of Iraqi weapons programs: "If I were doing it and I were them, I'd have it in a place where you couldn't take pictures of it, underground and preferably in the side of a mountain."

U.S. officials admit that their assessment has another major loophole. "The estimate has a caveat—that they don't get significant assistant from abroad," says one administration expert.

But a growing body of evidence suggests that Iraq's nuclear program is getting considerable foreign assistance from West German companies, China and perhaps Pakistan. U.S. intelligence officials say Pakistan may be contributing to the Iraqi nuclear effort by providing Baghdad with vital expertise and technology for its uranium-enrichment program, in return for cooperation on acquiring restricted items.

The American nuclear capacitors that were confiscated in London last March, and a shipment of vacuum diffusion pumps that U.S. Customs officials seized in March, 1989, are both items that Pakistan may be seeking for a second enrichment plant it reportedly is constructing at Golra. Cardoen Industries, a Chilean arms company with close ties to Iraq, is suspected of transshipping sophisticated oscilloscopes from Europe to Iraq for testing detonating devices. Carlos Cardoen, head of the company, denies selling any oscilloscopes to Iraq. Officials in Bonn say a West German company, H & H Metalform, has sent equipment suitable for manufacturing centrifuges to Iraq, and at least two German technicians are believed to have helped Iraq assemble a plant for the equipment. U.S. intelligence officials say that China is helping Iraq to manufacture the special magnets needed to balance the centrifuges.

Experts say Iraq would need 1,000 centrifuges working for a year to enrich enough uranium to make one bomb. Synchronizing the centrifuges is a complex task: They fly apart if not aligned properly. And even if they work, they tend to break down easily. Special magnets are needed to minimize friction. Vacuum pumps and piping move the uranium hexafluoride gas from one centrifuge to another, in what is known as a cascade.

U.S. officials assume it will take Iraqi engineers time to master the mechanics and techniques needed to build and operate a centrifuge enrichment plant. But Simon Henderson, the former editor of MidEast Markets, believes Iraqi engineers, with their experience in Iraq's flourishing arms industry, will have less difficulty building a centrifuge plant than did Pakistan. "Making centrifuges work stretched the Pakistanis' capabilities, but it doesn't necessarily stretch Iraqi capabilities," he says.

How fast Iraq acquires a bomb also depends on what kind of nuclear device it wants. The fastest route, says nuclear expert Leonard Spector of the Carnegie Endowment, would be for Iraq to build a uranium bomb using an implosion method, as soon as it has amassed enough weapons-grade material. This type of bomb would require non-nuclear testing, but the tests could be conducted secretly in a building or underground. One or two unwieldy bombs might be enough to intimidate Iraq's Persian Gulf neighbors, but they would be unlikely to provide the deterrent Iraq wants against nuclear-armed Israel. More likely, Hussein will keep his program secret until he can build nuclear warheads, a more lengthy and complicated process but one that eventually could make him the most feared leader in the Middle East.

FROM BALTIMORE TO BAGHDAD

Dennis Bass was feeling good. The special agent for the U.S. Customs Service had put his reputation on the line to track 120 tons of poison-gas chemicals sent illegally from Baltimore through ports halfway around the world to Iran. Now, he could laugh, for his men had filled the chemical drums with water instead. "Can you imagine how the Iranians felt when they opened them up and all they had was water," Bass mused. "Maybe even the Ayatollah found out."

When Bass searched the offices of the chemical manufacturer, however, he got a nasty surprise. Documents buried in the files of Alcolac International, located in Baltimore, showed that Bass and his colleagues had missed a second shipment of chemicals used in the production of mustard gas. Nearly 300 barrels of the stuff, 520 tons, had gone not to Iran, but to Saddam Hussein's government in Iraq. "Here's a company in Baltimore," Bass said in disgust, "that's supplying both sides of a war effort."

Even with search warrants and a trip to Switzerland, it took Bass nearly a year to unravel Alcolac's web of dealings with Iraq. When he did, he found a network that stretched from Switzerland to Japan to the U.S. to Singapore, with a number of stops in between. It all began with Frans Van Anraat, a mysterious European businessman who ran a Singapore company that bought and sold chemicals. In 1984, Bass says, Van Anraat was introduced to Charles Tanaka, an export-import agent in Japan. Van Anraat was looking for a chemical called thiodiglycol, a key ingredient in mustard gas. Tanaka found some in Japan, and shipped it to Europe for Van Anraat, who sent it on to Iraq.

But in early 1987, as Iran and Iraq bombarded each other with chemical weapons, thiodiglycol became scarce. Tanaka couldn't get enough from Japan to satisfy Van Anraat and Iraq, and Iran wanted it, too. Tanaka turned to America, a riskier proposition because by then the U.S. had banned such shipments. Tanaka quietly called Harold Greenberg, a friend who ran a

Brooklyn sheet-metal export business, and Greenberg sent his partner Nick Defino out in search of thiodiglycol. Defino got off to a bad start, Bass says, when he mistakenly called Morton Thiokol, a giant chemical producer. Defino started by asking to buy "thiokol." "You want to buy our company?" came the response. Eventually, Defino got things straightened out and hooked up with Alcolac. Up until then, says Bass, Alcolac sold only small amounts of thiodiglycol, which is also used in making ballpoint pens. The Defino-Greenberg offer was very attractive. They wanted to broker hundreds of tons, a million dollars' worth. Their cut would be 1 cent a pound.

Government documents show that Alcolac export manager Leslie Hinkleman and the brokers considered shipping it to Monrovia, Liberia, or to a nonexistent company in Antwerp. They finally settled on "Western Europe," labeling the chemical "textile additive." Where it really went, Bass says, Hinkleman didn't ask. Then, an Alcolac accountant heard that U.S. companies were illegally sending thiodiglycol to Iraq. He voiced concern, and top company officials stopped the shipments when they could not determine precisely where the chemical was going. The shipments to Iran continued, Bass believes, because the brokers' papers showed a legal destination—Singapore. In the end, federal charges were brought for export violations. Greenberg, Defino and Hinkleman pleaded guilty to one count each, and Alcolac could be fined up to $1 million.

But how to catch Tanaka and Van Anraat? Tanaka, it turned out, was easy. Customs had Greenberg tell Tanaka the coast was clear to return to America to sell Japanese fingerprint technology, of all things, to police here. When Tanaka stepped off the plane, he was nabbed. He later pleaded guilty. Van Anraat remains at large in Europe.

Back in Baltimore, Customs agents acknowledge that tips and dumb luck play a large role in finding such smugglers. Iraq is reaching out to companies all over the globe. Yet in all of Maryland, with the bustling ports of Baltimore and Baltimore-Washington International Airport, Customs has just five export investigators. Against that kind of competition, the odds against stopping illegal shipments to outlaw states like Iraq are long indeed. Bass is struck by how Iraq's vast arms network is built around an international network of middlemen who will sell anything for a buck. "If someone asked for bicycle tires, or someone asked for mustard gas," says Bass, "I don't think it would have made a difference to Frans Van Anraat."

A LOOPHOLE FOR A SECOND S&L DEBACLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KLECZKA] is recognized for 5 minutes.

Mr. KLECZKA. Mr. Speaker, when Congress enacted the Financial Institutions Reform, Recovery and Enforcement Act [FIRREA] last year, a principal purpose was to crack down on the highflying activities of savings and loans chartered by Federal regulators, and, most especially, those chartered by the States.

That law placed prudent restrictions on the ability of State chartered savings and loans which use Federal deposit insurance. The legislation limited the amount of loans to one borrower a thrift could make, limited direct investment in real estate and junk bonds, and set a reasonable standard for mortgage lending. In addition, it required the Federal Home Loan Bank system, of which nearly all thrifts are members, to pay its fair share of the costs of the FSLIC bailout.

Now, aided by some clever legal advisors and State legislatures eager to take advantage of Federal deposit insurance for thrifts, minus the restrictions of FIRREA, those essential reforms could be scuttled.

To get out from under the coverage of FIRREA, some State chartered savings and loans are simply converting to an organizational form known as a State savings bank. This relieves them from supervision by the regulator charged by Congress as the principal enforcer of FIRREA mandates for savings and loans, the Office of Thrift Supervision, and raises the possibility, depending on the prescriptions of the state legislatures involved, of an exemption from certain FIRREA restrictions.

If a loophole in FIRREA which allows the creation of State savings bank [SSB] is allowed to stand, we may be setting ourselves up for a repeat of the FSLIC disaster.

What could be the practical effect of a conversion from a State chartered savings and loan to a state savings bank?

First, conversion to a State savings bank would remove them from the FIRREA "loans to one borrower" limitation. This very important provision, which requires thrifts to have the same standard as national banks, is essential. Otherwise, State law could prevail for State savings banks, which could mean that a thrift could have most or all of its lending tied up with one borrower, a very dangerous situation.

Second, a State savings bank conversion would allow institutions to leave the Federal Home Loan Bank system, an option which almost certainly would be exercised by certain well capitalized thrifts. The problem with this is that FIRREA required the Federal Home Loan Banks, which are capitalized by the thrift industry, to pay their share of the bailout. If thrifts are allowed to leave at will, they will be shirking their contribution to that fair share payment. If the Federal Home Loan Banks do not contribute to the bailout costs the $300 million per year mandated by FIRREA, those costs will be shifted to the taxpayer.

Third, State savings banks would not have to meet the "Qualified Thrift Lender" test. This very modest provision of FIRREA requires thrifts to have 70 percent of portfolio assets invested in residential mortgage loans and related qualifying investments. Over and over during consideration of FIRREA, we heard that the thrift industry needed assistance due to the vital role it plays in mortgage finance. The quid pro quo involved is that if there is Federal assistance, that mortgage finance effort must be maintained at reasonable levels. This is not an unduly burdensome requirement. For the quarter ending June 30, 1990, the composite breakdown for the 47 State chartered Wisconsin savings and loans shows that approximately 73.8 percent of assets were mortgage-related—66.3 percent were mortgage loans and contracts, and 7.5 percent were mortgage-backed securities.

Fourth, FIRREA limits Federal and State savings and loans to invest only up to 400 percent of capital in loans secured by nonresidential real property. Shifting to a State savings bank would lift this limitation. In at least one State, for example, State savings banks are not now subject to any limitations on such commercial loans. That can be expected to be repeated.

Fifth, conversion of mutual thrifts to stock. OTS regulations severely limit the ability of mutual managers to purchase stock when a thrift converts from a mutual form of ownership to a stock form. Converting to a State savings bank removes this restriction, which opens the possibility to windfalls for well-situated managers.

Finally, conversion to a State savings bank raises the possibility that thrifts may exempt themselves from FIRREA restrictions regarding the purchase of junk bonds, a prospect which I know troubles greatly our colleagues from North Dakota, BYRON DORGAN, The principal author of the FIRREA junk bond provisions.

I want to stress that not all of these circumstances would occur in every State if this loophole goes unplugged. Some States might include restrictions in their laws. Others, however, might not. All States, however, would be rolling the dice with Federal deposit insurance, and the taxpayer could be asked, once again, to pick up the tab for mistakes made at the State level.

A handful of States have allowed for State savings banks for some time. Illinois, Indiana and Louisiana have enacted legislation since the passage of FIRREA which allows their establishment. The Wall Street Journal reported today that at least seven other States, including California, Texas and Florida, are considering such legislation. The Commissioner of Savings and Loan in Wisconsin recently announced that he will propose such legislation next year.

Mr. Speaker, now is not the time for such conversions. While there is indeed a need for an overhaul of the regulatory framework, not only for thrifts, but for banks and credit unions as well, Congress cannot allow an evasion of prudent safety and soundness rules included in FIRREA. Toward that end, I will be joining my Banking Committee colleague, Republican BRUCE VENTO of Minnesota, in drafting legislation to plug this loophole before Congress adjourns.

At this point, I would like to insert in the RECORD the Wall Street Journal article from today which describes the situation.

[From the Wall Street Journal Oct. 16, 1990]

STATE LEGISLATURES MAY BE CREATING LOOPHOLE FOR S&LS

(By Paul Duke Jr.)

WASHINGTON.—State legislatures may be opening a huge loophole that allows savings and loans to evade the regulations placed on them last year, federal regulators said.

The loophole, under which S&Ls change their charter and become savings banks, in some cases could permit thrifts to return to their risky past of junk-bond investments and aggressive real estate development, the

regulators believe. The change in charters also would allow the institutions to escape one of two layers of federal regulation.

But state regulators and some trade group officials angrily denied they are trying an end-run around federal regulation. They said the thrifts are simply trying to cut costs by turning to less expensive state regulation and accused the federal regulators of engaging in a pointless turf battle.

Timothy Ryan, the director of the Office of Thrift Supervision, said he believes he can stop a stampede of thrifts through the loophole simply by declaring that the state legislatures are defying Congress's clear intention to rein in the industry. In an interview, Mr. Ryan promised to deny applications for a charter change in cases where he believes the motivation is to side-step the bailout law. But that approach is sure to be challenged in court. Meanwhile, some members of Congress may move as early as this week to pass legislation prohibiting such charter-switching.

"In my view, these efforts are blatant attempts to evade [the S&L law's] reforms," Mr. Ryan said in the text of a speech scheduled for delivery today in Chicago. He said he wouldn't allow Congress's intent "to be circumvented by misguided and manipulated state legislatures."

Many states had savings banks before the thrift law was passed last year. Mr. Ryan said he is most concerned about the states that have passed laws allowing thrifts to become savings banks since then—Illinois, Indiana and Louisiana. Similar bills are pending in at least seven other states, including California, Texas and Florida, the scene of some of the worst thrift losses. Many of the statutes, Mr. Ryan said, allow the thrifts to hold junk bonds and other equity investments, and get into real estate development.

The switches don't affect the thrifts' federal deposit insurance.

State regulators disputed the assertion that the savings bank charter allows thrifts to dodge federal restrictions. "That is the most specious argument they could come up with," said Sarah Hargrove, secretary of banking in Pennsylvania, home of two thrifts that have switched to savings bank charters since the thrift law was passed.

Ms. Hargrove said state-chartered thrifts face three regulators—her agency, the OTS, and the Federal Deposit Insurance Corp.—and are interested in switching charters "to get rid of one of the layers."

John Seymour, the top S&L regulator for Illinois, said the OTS was driven by the "fear that healthy S&Ls will convert to savings banks and leave OTS with only unhealthy institutions to regulate." Mr. Seymour said the new Illinois law forbids savings banks from holding junk bonds and places restrictions on real estate development similar to those in federal law. However, the Illinois law does allow the savings banks to maintain a lower percentage of their assets—60%—in housing-related investment—than S&Ls, which must hold 70%.

Mr. Ryan denied that he was fighting over turf, noting that he isn't opposed to thrifts' becoming commercial banks because they are properly supervised and regulated. He conceded that some OTS fees are too high and said the agency is trying to bring down the costs.

THE AMERICAN PEOPLE NEED A CHANGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MCCOLLUM] is recognized for 5 minutes.

Mr. MCCOLLUM. Mr. Speaker, it was 1980 when I came to Congress. It was 1980 when Ronald Reagan was elected President of the United States. Sadly, not much has changed in the U.S. House of Representatives in certain respects in that period of time. We still see and were given a prime example of that earlier today, that Democrats not only control the U.S. House of Representatives, as they have continuously for the last 36 consecutive years, they still refuse to consider freezing, let alone reducing, domestic discretionary spending. There has been a blatant and open support on the floor of this House today, as there has been many times in the past 10 years and for many years past before that, for increased taxes in order to maintain the feeding of the discretionary domestic spending embodied in the budgets of the U.S. Congress.

I think this is very sad with the overwhelming population of the United States in favor of reducing domestic spending, with the desire of the people of the United States to keep their taxes down. We have the majority party in this country dominating this body, not only with its votes, but today with its arrogance, its arrogance to gag the minority and not even allow them to present their alternative on the floor for a discussion and debate and a vote, an alternative that would have reduced spending and would not have increased one cent of taxes on the American people and would have saved over a period of 5 years over $400 billion and cut our deficit in that proportion.

We had some people up here today, as they have often been before us, who had the unmitigated gall to tell us that we cannot reduce the deficit without increasing taxes. What they mean very simply is that those on the other side of the aisle, the Democrats, they themselves are unwilling to let us do that. We certainly can technically. All we have to do is cut spending.

The fact of the matter is that they will not let us do that. The fact of the matter is that today they talked about changing and having fairness in the tax system, when indeed they are rolling back the clock, what was passed today going back to what was known as bracket creep that we changed way back in the 1980s.

We tried to change the tax laws of this country then to protect the American people from inflation, so that you do not get inflated when your income goes up into a higher tax bracket. That is going to be withdrawn by the proposal that passed today as part of the Democratic package. We are going back, back to the system before, so that middle Americans have to pay more taxes; where, for example, in the next year a family of two earning $34,000 a year is going to have to pay 6 percent more in income taxes if this proposal becomes law. I think that is ridiculous, to say the least.

Then let us look at where they do think they are saving. When they talk about domestic cuts, they say, "Oh, we do want to cut domestic spending. It is in the entitlement area we want to cut, not the mini-appropriation bills."

They are talking about Medicare. They are talking about the fact that they are increasing the premiums that senior citizens have to pay for Medicare. There is no need to do that. The Republican plan would not have done that. Why do we need to tax senior citizens to pay so much more for Medicare, when they are the least who can afford it. It is ridiculous.

All because we cannot cut ordinary spending. I am talking about at least freezing spending, not spending a penny more for programs such as housing, the arts, the parks, and every agency of the Federal Government. If we had just frozen spending at the previous year's level and not spent a penny more in the next year, not having to cut actually any real spending, we would have wound up with a balanced budget over a 3-year period, almost any given 3-year period of the past decade. That has not happened.

It is absurd, it is absolutely absurd, so it is no wonder that the American people are coming to the position more and more that they want to see us limit the terms of Congressmen. They say "We have had enough with you guys, this nonsense, this zoo land. It is an unbelievable fairyland in Washington."

The fact of the matter is that I happen to concur with that. I cannot help but concur with that. I am in the minority. I have been in the minority this whole time, and I do not see where we are getting out of that position very rapidly, unless we get to the polling place and make big changes in who the majority is around here.

I mean, all but 4 years out of the last 60 years the Democrats have controlled the U.S. House of Representatives, 36 consecutive years, tax and spend, tax and spend, gag the Republicans and not let us get spending reductions, really a sad story.

Then we turn to the crime bill for a minute. We passed one on the floor of the House. We have not even gone to conference on that bill yet. That is a bill that we got a majority to vote on in this body because Republicans so strongly supported restoring the death penalty for Federal crimes and putting the death penalty in for drug kingpins trafficking in large quantities of drugs.

We changed the laws of search and seizure so you could get evidence in more easily, and we got a provision through that changed the opportunity for appeals and restricted that for death row inmates, but that has not gone to conference because there has not been a will of the majority to do that, and I suspect we will delay and delay and not have a crime bill out here the way we are going at all that will go to the President's desk. That is tough on crime this year. It is really a sad case.

Things have not changed a whole lot in the last 10 years in this House. They need to change. The American people need to have their voice restored. We need to get down to business, reduce spending, balance the budget in a responsible way, pass tough crime measures, and do the things that the people out there and the vast majority of Americans want to see done. It does not happen with a Democrat majority. It clearly is not going to happen. We need a change.

IN RECOGNITION OF GEN. ROGER SCHEER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, today I rise to recognize a great American, Maj. Gen. Roger P. Scheer, U.S. Air Force, upon his retirement on October 31, 1990, at the end of his tour as Chief and Commander of the Air Force Reserve. Major General Scheer has served the Nation well in war and in peace, for over 31 years. During his tenure as the Chief of the Air Force Reserve, which began November 1, 1986, the Air Force Reserve reached the highest state of readiness in the history of the Air Force. He ensured the total force policy was fully implemented by his reserve units, and was instrumental in making them full partners with their active-duty counterparts.

Knowing General Scheer as a warrior in the finest sense, he would rather be flying with his volunteers and mobilized Reservists in Operation Desert Shield. His leadership of the Air Force Reserve has ensured the readiness of Reserve personnel critical to the deployment of U.S. Forces to the Middle East. His skill, guidance and exemplary foresight in the planning, programming, budgeting and legislative process during the last 4 years has resulted in the modernization efforts he championed. A spirit of volunteerism permeated the Air Force Reserve and enabled their participation in the sustained airlift operations for almost 1 month prior to the Presidential call-up of the Reserve components. As a result of his leadership, this spirit allowed the Reserve to accomplish what had only been speculation previously.

During his tenure, the Air Force Reserve received many awards, such as Air Force Top Gun, Best Airlifters, Best Tanker Crews and Outstanding Airman of the Year. The Air Force Reserve, as a fully combat ready arm of the air force, participated in many major operations—such as Panama—Operation Just Cause—Honduras, Lebanon, and Libya—in addition to the current Desert Shield.

Major General Scheer entered the Air Force in 1957 and earned his pilot's wings a year later. He flew more than 200 combat missions in F–105's in Southeast Asia. After separating from active duty in 1970, he served in increasingly responsible leadership positions in the Air Force Reserve, culminating in his appointment as the chief and commander of the component. His military decorations include the Distinguished Service Medal, two Silver Stars, two Legions of Merit, five Distinguished Flying Crosses, the Meritorious Service Medal and nine Air Medals.

Mr. Speaker, Roger Scheer is a fine American, a loyal family man and a leader worthy of emulation. We shall be forever grateful for his dedicated contributions to our Armed Forces and to our country. We wish him and his lovely wife, Sandy, a joyful and prosperous life in military retirement.

VACATING SPECIAL ORDER AND GRANTING REQUEST FOR SPECIAL ORDER

Mrs. BENTLEY. Mr. Speaker, I ask unanimous consent that my 60-minute special order for today be vacated and that I instead be granted a 5-minute special order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

WHO BENEFITS?

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 5 minutes.

Mrs. BENTLEY. Mr. Speaker, there have been tremendous debates on the floor of the House today regarding the budget. Already we have had our economy aggravated by Operation Desert Shield, whereby some 200,000 American military troops and others from U.N. countries are supporting us in Saudi Arabia tonight. In connection with that, we have been trying to get many countries to help us. One of those who we have asked and who has come forth has been Japan.

Thus, last week there was a spate of stories about Japan's willingness to purchase United States-made supplies for use in the Gulf. Some people are viewing that with a great deal of optimism. Others are raising questions. I am one of those raising questions about what they are going to be willing to buy for the money that they pledged and what they are not.

If we recall, initially Japan offered $1 billion, and then with pressure from this House they raised it up and up. At the time the first $1 billion was offered, Mr. Yukio Okamoto, the senior foreign ministry official in overseeing Japanese-American relations, said, "Japan could under no circumstances increase its $1 billion pledge, even if war breaks out."

Now, that is a curious statement, Mr. Speaker. That offer has been raised up to $2 billion, plus $2 billion to countries hard-hit by the conflict, because of the efforts of Secretary of the Treasury Nicholas Brady.

But according to the Washington Post, critics of the Japanese effort joke "that it took Japan almost 2 months to ship a boat load of Japanese-built four-wheel-drive vehicles to United States forces in Saudi Arabia, but there was no corresponding delay in exporting cars to the United States."

That earlier shipment of 800 four-wheel-drive vehicles was part of the first $1 billion aid package—now the story in last Tuesday's Washington Post states, "Japan plans to 'buy America' with much of the $2 billion it has pledged to the United States-led forces in the region for equipment and transportation."

Let me clarify that figure for you. Japan earlier pledged $1 billion and now they have upped it to $2 billion. Did those 800 four-wheel-drive vehicles come out of this $2 billion pledge?

Just what will Japan provide for this money and to whom?

The Washington Post reports the "Japanese purchases in the United States are likely to include trucks, computers, television sets and prefabricated barracks."

If they are "buying America," do they intend to buy Zenith TV's. That is the only American television manufacturer we have, the rest are Japanese.

Do they intend to buy Honda trucks, or Chryslers? After all the Japanese were successful in getting Japanese trucks labeled as vans so they would be under the Japanese automobile quota. In this way Japan was able to undercut a profitable market for American truckmakers. Is Japan now going to say those so-called Japanese vans are trucks and ship them to Saudi Arabia?

Is Japan buying United States made prefabricated barracks or will it be a Japanese company in the United States which hires Americans?

To American citizens, a Japanese company located in the United States and hiring American workers, is not an American company. But, there appears to be some confusion on this point in our own Government.

It was the United States Trade Representative who went to Brussels and convinced the EC that Japanese car companies in the United States were American companies.

Will these same Japanese companies now benefit from this $2 billion? According to the U.S. Trade Representative, they are American companies—but Americans do know better than

that. They are Japanese companies. All eyes will be on Japan as they make these purchases.

I can't help but recall that yearly one-half of the foreign owned companies in the United States have failed to pay the Internal Revenue some $35 to $50 billion—this together with the penalties, fines and interest would amount to more than $70 billion.

Japan is, according to newspaper accounts, "Hoping to avoid accusations that it is using the Persian Gulf crisis to stoke its export machine."

Mr. Yujio Okamoto, the senior Foreign Service officer I previously mentioned stated, "We cannot afford to be seen as taking another commercial advantage in assisting our forces."

There is some question about the additional $2 billion in aid to hard hit countries such as Egypt and Turkey. In offering the aid, they are also increasing their network for trade.

After all, Japan was already in Iraq to jointly develop four oil fields when this trouble broke out, and in June, Saudi Arabia had invited the Japanese in to develop an oil field.

Since Japan receives 70 percent of its oil from the Middle East, I would expect them to make a sincere effort to assist Operation Desert Shield. So, I take some exception to the reported statement of a United States official describing "Japan's decision to shop in the United States as a "generous gesture" from Japanese officials."

How generous do you call the American lives on the line in Saudi Arabia? How can you measure those young Americans against cars, TV's and prefabricated barracks? We had to twist arms to get the Japanese to come forward with more funds—and then it is not clear what they will actually do.

Again, I ask who will ultimately benefit in this effort—Japanese companies located in America? I hope they will be genuine American firms.

Up until now it certainly has not been Americans. I know the Japanese are spending millions to give themselves an "applie-pie" look in America and, their money is being wasted because until Japan learns to play by the rules.

Americans will be watching these purchases; and, I will be watching to see if these purchases are made from legitimate American companies. Together we can be an economic barometer for America.

ORDER OF BUSINESS

Mr. DREIER of California. Mr. Speaker, I ask unanimous consent that the gentleman from Georgia [Mr. GINGRICH] be able to exercise his right to the special order following my special order which I ask unanimous consent to take place following the special order of the gentleman from New York [Mr. MCNULTY].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

TRIBUTE TO THE LATE HONORABLE SAMUEL STRATTON

The SPEAKER. Under a previous order of the House, the gentleman from New York [Mr. MCNULTY] is recognized for 60 minutes.

Mr. MCNULTY. Mr. Speaker, I would like to thank my friend from California [Mr. DREIER] and the gentleman from Georgia [Mr. GINGRICH] for allowing the members of the New York delegation to proceed out of order.

Mr. Speaker, I rise tonight to join with my colleagues from the State of New York in paying special tribute to a friend and a great American patriot, Sam Stratton. Samuel Strutherford Stratton was born in Yonkers, NY, on September 27, 1916. At the age of 3 months his family moved to Schenectady, NY, where he attended public school. He also attended Blair Academy prior to graduating from the University of Rochester in 1937.

He received a master's degree from Haverford College in 1938 and a master's in philosophy from Harvard University in 1940.

Sam was the administrative assistant to Congressman Thomas H. Elliott of Massachusetts for 2 years prior to being commissioned as an ensign in the U.S. Naval Reserve on June 6, 1942. Sam served as an intelligence officer for Gen. Douglas MacArthur in the Pacific Theater during World War II, during which time he was promoted to lieutenant. He received two Bronze Stars.

Sam spoke fluent Japanese and, following the signing of the treaty between the United States and Japan in Tokyo Harbor in 1945, Sam was the first American to interrogate Gen. Tomoyuko Yoshimato, who was later hanged as a war criminal. After the war, Sam was deputy secretary general of the Far East Commission of the State Department, where he met his future wife, Joan Harris, who was working at the Indian Embassy.

He was later recalled to active duty during the Korean conflict and was a captain in the Naval Reserve until his retirement.

After Sam's tenure in the State Department, he returned to Schenectady, where he was a radio announcer and one of the earliest television news commentators at WRTV.

You know, Mr. Speaker, Ronald Reagan was not the first TV actor to make it big in politics. At WRGB, Sam became known as Sagebrush Sam and bedecked in a cowboy outfit he hosted western movies for the child audience of the capital district.

He began in politics by being elected to the Schenectady City Council and was later elected as mayor of the city of Schenectady.

He promised to clean up local corruption, and he did that in a rather dramatic fashion.

Some capital district residents are fond of recalling one evening when Sam was sitting on his front porch at 51 Spruce Street in Schenectady. Someone tossed a rock from a passing car with a note attached to it. That note tipped him off that there was to be an illegal gambling party that evening at a downtown restaurant called the Victoria.

Sam staked out the place himself. Once he was satisfied that there was gambling going on, he called a squad car without telling him why he needed it. For, as he said, it would not have been a good idea to alert the police at that time because they were probably in league with the people running the operation.

The door was knocked down, arrests were made, and Sam's reputation as a crimebuster was secured.

Sam was elected to the U.S. House of Representatives in 1958 and served in this body for 30 years.

Despite the best efforts of then-Governor Nelson Rockefeller to gerrymander or, as Sam called it, "Rockymander" him out of office, his last close election was in 1962, when he won with 54 percent of the vote.

Sam also sought the Democratic nomination for Governor in 1962, and the Democratic nomination for the U.S. Senate in 1964.

Throughout his 30 years in Congress, Sam served on the House Armed Services Committee. He is most often remembered for his efforts in this committee where his seniority and chairmanship of the procurement subcommittee made him a formidable force in the U.S. defense acquisition policy for many years.

His impact will continue to be felt for years to come.

His vivid remembrance of a bicycle trip through Europe shortly before World War II made an indelible impression upon him that the only way to deter aggression was through a strong defense. One could say that the phrase "peace through strength" was coined for Sam's view of the world. He never forgot his experiences in the war, and he constantly strived to prevent such an event from every happening again, by doing his level best to see to it that the United States would never again be unprepared to resist aggression anywhere in the world. His legacy in that area is great indeed.

□ 2300

Mr. Speaker, Sam also chaired the House Committee on Armed Services investigation of the My Lai massacre

where two generals were reduced in rank for their part in the coverup of that tragedy.

Sam Stratton was also a man of vision. He led and won the fight to allow women into our military service academies, and, thanks to Sam Stratton, the American people can visit the historic West Front of the Capitol. Sam refused to allow its destruction, and he made it his personal cause to restore its historic edifice for future generations to enjoy.

In addition, Mr. Speaker, while we have come to appreciate 3-day holiday weekends, it was not always that way. Sam sponsored that legislation, and he changed the way America celebrates its holidays.

As for constituent services, I think my friends and colleagues who will speak in a few moments would agree that Sam Stratton wrote the book on constituent service. No problem was too small to gain his attention and his support, and in later years people would talk about the way Sam Stratton treated them and their problems, and some people would comment later on how Sam always gave the impression that he cared. Well, that is, Mr. Speaker, because he did care, and that is why he was so effective, and that is why he was so loved.

Sam passed away on Thursday, September 13, 1990, and is survived by his wonderful wife, Joan, his sons Kevin and Brian, and his daughters Lisa, Debbie, and Kim.

Sam was laid to rest with full military honors on Tuesday, September 18, at Arlington National Cemetery, just below the Tomb of the Unknown Soldier.

Mr. Speaker, there will be many tributes to Sam. I was happy to sponsor an amendment to the defense authorization bill to name one of the future Naval destroyers in his name, and it is comforting for me, and I know for many Americans, to know that in the not-too-distant future patrolling the high seas there will be a Naval vessel called the U.S.S. *Samuel S. Stratton.*

In addition, yesterday in this House we passed another piece of legislation so that he will be remembered locally in the years to come. The VA medical center in Albany will henceforth be known as the Samuel S. Stratton Veterans Administration Hospital.

On October 27, many, many of his friends throughout the capital district will gather at the chapel at Union College to share their remembrances of this outstanding American.

Mr. Speaker, while it is natural that we morn his death, it is even more important that we celebrate his life.

Mr. Speaker, at this point in time I would like to yield to my senior colleague and dean of the Democratic delegation in the State of New York, Congressman JIM SCHEUER.

Mr. SCHEUER. Mr. Speaker, I thank the gentleman from New York [Mr. MCNULTY] for yielding.

My colleagues, I would like to read a letter I received today from SONNY MONTGOMERY, the chairman of the Committee on Veterans' Affairs.

DEAR JIM: Today the House passed H.R. 5739 to name the Department of Veterans Affairs Medical Center in Albany for our dear friend, Sam Stratton. As you know, I was a strong supporter of this legislation. I wanted to be sure that you were aware of the passage of the bill. After consideration of H.R. 5739, the companion Senate bill, S. 3127, was considered and passed by the House. Today's action will allow for the redesignation of the Albany facility as the Samuel S. Stratton Medical Center.

Sincerely,

SONNY MONTGOMERY.

Mr. Speaker, I would like to say a word about Sam. I think I knew him probably as long as any Member of the House. He and I served together in the very early 1940's in the Naval Intelligence Japanese Language School in Boulder, CO. Sam was an extremely diligent and hard-working student at Japanese and was extraordinarily specific for someone who was not born in Japan. We had young men at the school called BIJ's, born in Japan, sons of missionaries, sons of service personnel, sons of teachers, and of course they were bilingual. Sam was virtually bilingual by dint of his remarkable ear for languages and the extraordinary work that he put into acquiring the language from scratch. Over the years as we had known each other, I watched in awe as Sam kept honing his Japanese language skills. He would go religiously, and regularly and systematically to the Foreign Service Institute where Members of Congress can get individual language lessons of all kinds. I went from time to time, but Sam went almost weekly during his entire term in Congress, and in 1990 his Japanese was virtually as good as it was at the peak of his language skills, after he graduated from the Boulder school and put his language skills to the service of his country.

Mr. Speaker, that certainly shows Sam's determination when he focused in on a goal.

Sam had a wonderful capacity for friendship. During the years that we served together in Congress, approximately 25 years that we were here together, he preceding me by 6 years, we remained strong friends. Sam and I did not agree on everything. Sam had a prodigious commitment to the defense of his country and to the state of readiness and of its armed services, and he was an awesome supporter of all of the services, not just the Navy. And while we did not agree all the time on every issue, that never affected our friendship. Disagreements with his colleagues never affected his relations with them. He was the dean, not only because he was senior, but because he was held in such respect and affection by the junior Members of the New York delegation.

I want to express again my condolences to his wife, Joan, and to his wonderful children, and I want to tell them how much Sam meant to all of us and how much he will be missed in this House.

Mr. MCNULTY. Mr. Speaker, I thank my senior colleague, and I know that Joan and the family are grateful to him for staying up at this late hour to pay tribute to our friend, Sam.

I would like at this point to yield to my senior colleague, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman from New York [Mr. MCNULTY] for yielding, and I want to thank the gentleman for arranging this special order so that we could all pay our respects to Sam Stratton.

Mr. Speaker, it is with deep regret that I rise to join my colleagues in commenting on the passing of one of our most distinguished colleagues and our good friend, the late Samuel S. Stratton, who brought great distinction to this Chamber for some 30 years.

Although Sam and I were both from upstate New York, and although we never represented adjacent congressional districts, I often looked to Sam for guidance and assistance with regard to some of the pressing concerns of our entire Hudson Valley. He was especially active as a spokesperson for the needs of the apple industry in our State, and for the continued economic growth of New York State and our Northeast.

Most importantly, Sam Stratton was this body's recognized leader in the national defense. Throughout his long career, Sam recognized that only a strong America could remain free.

Sam Stratton was born in Yonkers, NY, in 1916. Then as now, Yonkers was the fourth largest city in New York State, and represented a microcosm of the problems facing urban America in the 20th century, as well as of the benefits of urban life. Sam attended the University of Rochester, located in the third largest city in our State, and received his A.B. degree in 1937. He went on to earn a masters degree from Haverford College in 1938, and from Harvard University in 1940.

When our Nation was plunged into World War II, Sam was commissioned an ensign in the Naval Reserve. He served in the South Pacific on the staff of the legendary general, Douglas MacArthur, and for his courageous service he was twice awarded the Bronze Star. After retiring from the Naval Reserve with the rank of captain, he was called upon—served again during the Korean war.

Sam Stratton's lifetime of observing and experiencing life in New York State's smaller urban areas—first in Yonkers, then in Rochester—came into great stead in 1949, when Sam was elected to the city council of his new hometown of Schenectady. Sam served his community with unstinting devotion. His hard work was rewarded when he was reelected to the city council in 1953 and subsequently mayor in 1955. As the mayor of Schenectady, Sam Stratton earned a reputation far and wide as a battler against corruption and inefficiency. Interestingly, Sam supplemented his meager income as mayor by appearing on a number of local radio and television stations as a newscaster and announcer. He gained a bit of fame by playing "Sagebrush Sam" for the children in the audience, dressed as a cowboy, and playing a harmonica.

In 1958, Sam Stratton moved on to Congress. As was generally the case in those early days, his campaign was an uphill battle. But win it he did, and he remained in Congress for 30 years, through 1988.

In those early days, Sam was the only Democrat representing New York between New York City and Buffalo. Several times, attempts were made to redistrict him out of office. But Sam kept the affection and the loyalty of the voters no matter how the district lines were drawn.

Despite his electoral successes in Republican territory, the State Democratic Party mysteriously passed over Sam Stratton twice: In denying him the gubenatorial nomination which he fought long and hard for in 1962; and by choosing the U.S. Attorney General, Robert Kennedy, instead of Sam in a spirited struggle at the 1964 State convention for U.S. Senator.

But the folly of the New York State Democratic Party was to the advantage of this Chamber. By not losing Sam to the governorship or to the Senate, we were able to enjoy his wise counsel and his guiding leadership throughout his long and distinguished tenure in the House.

Sam Stratton will long be remembered for his outstanding service as a member of the House Armed Services Committee. Those of us who were Members of Congress at that time will long remember Sam's dramatic use of charts here in the well of the House as he instructed us regarding the dangers of disarmament. He was our leading authority on the military, and once stated in this Chamber: "If you are on a ship crossing the ocean, and it strikes an iceberg, you don't worry about improving the cuisine. You plug the leak."

Despite Sam Stratton's support for the military, he kept a realistic view on the limits of American power. For instance, he opposed our peacekeeping mission to Lebanon in the early 1980's. "I think military forces ought to be used in a military way," Sam said at the time. "The whole idea of a peacekeeping force is ill-conceived. We've got enough problems around the world to be wasting our military forces in an impossible situation where they're not able to do anything, and they're being maimed and killed."

Sam Stratton was the dean of our New York congressional delegation for several terms prior to his retirement in 1988. In this capacity we all came to rely upon his knowledge and his willing way to lend a helping hand to all of us.

Mr. Speaker, I join with our colleagues in expressing our sincerest condolences to Sam's widow Joan; to their three daughters, Lisa, Debra, and Kim; and their two sons, Kevin and Brian. Hopefully, their grief will be eased somewhat by the knowledge that many share their loss, and that the loss of Sam Stratton is the loss of one of the legislative giants of this honorable body.

□ 2310

Mr. MCNULTY. Mr. Speaker, I thank the gentleman from New York [Mr. GILMAN] for his kind words. Of course, the story about the submarine district is legend in New York politics. As the gentleman might remember, that district stretched from Sam's home in Amsterdam all the way out to a suburb of Rochester.

That was at the point in time when both houses of the legislature were controlled by your party, and Governor Rockefeller was in the executive mansion. They were determined to eliminate Sam from Congress. If you took a look at the demographics of that district, Democrats were an endangered species in that district. It was heavily Republican. Sam went out and literally lived on the New York State Freeway out of a little car. He just went out and spent time going to all the little towns and villages along the way and became known to the people, and the people loved him, and he won the district anyway.

Of course, as Members know, in later years everybody just came up on trying to redistrict Sam out of office and put him back in the capital district and stated, "Let's forget about it." He was unbeatable.

I would now like to recognize someone who has had a very special relationship with Sam Stratton through the years and gave such a beautiful eulogy at his funeral, my senior colleague, the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I certainly thank the gentleman for yielding the time. Let me say to my good friends, the gentlemen from New York, Mr. MCNULTY and Mr. GILMAN, that yes, they tried hard to gerrymander poor Sam out of office, and they failed and they failed and they failed. Finally, when they did give up, I think they turned to GERRY SOLOMON and they gave me a district that is now 220 miles long, reaching from just outside of New York City almost to the Canadian border.

I would say to the gentleman from New York [Mr. MCNULTY], I do not want to wish you any bad luck, but maybe the State legislature in their infinite wisdom will give up on GERRY SOLOMON this coming year and maybe stretch MCNULTY out there again.

In all seriousness, I will not be repetitive of the fine remarks that have been said here tonight. Out of courtesy to many Members that have stepped aside so that this special order could be held early on this evening, and especially to the California delegation of which there are Members that will be participating here tonight on the anniversary of the terrible earthquake that took place, we thank the gentleman from California [Mr. DREIER], the leader of that congregation here tonight for stepping aside.

Mr. Speaker, let me commend my good friend the gentleman from New York [Mr. MCNULTY] for holding this special order for a very, very special man.

Sam Stratton is no longer with us, no longer with his beloved wife Joan, his children and grandchildren, no longer with his countless friends, no longer with the people he served for 30 years, no longer with those of us who had the pleasure to serve with him in this body.

But his spirit still fills this floor, this floor on which he was a model congressman.

Mr. Speaker, I know I speak for many here when I say that in all my years of local, State, and national politics, Sam Stratton was the man I most deeply admired and respected.

He had no peers when it came to knowledge and expertise in national defense issues.

I know my good friend SONNY MONTGOMERY will back me up when I say that when it came time to elevate the Veterans' Administration to the President's Cabinet, Sam Stratton was our staunchest ally on this floor.

Sam Stratton dedicated his entire life to making sure our national defense was second to none, and to making sure the veterans who made it the best, received a Nation's gratitude.

How fitting, Mr. Speaker, that yesterday, on the initiative of Congressman MCNULTY, we took steps to rename the Veterans' Administration hospital in Albany after this great American patriot.

How fitting that several weeks ago we voted to name a naval destroyer after him.

A former professor of philosophy at Union College, he was a learned man whose ability to reason things out, was his trademark.

The term "gentleman and a scholar" was invented for Sam Stratton.

But he was a man of action as well as a man of intellect.

He was an intelligence aide to Gen. Douglas MacArthur during World War II.

As a young mayor of Schenectady, he ridded that city of corruption.

So by the time he was first elected to Congress, he had a clear vision on what was needed to keep our enemies at bay, both foreign and domestic.

And when it came to the security of the United States, there was no such word as compromise in his vocabulary.

But it was his human touch that made him so popular at home.

Sam Stratton was the kind of man who would be at the gates of the General Electric plant at 7 in the morning after the election to thank the voters.

He was the master of the front porch kind of campaign.

And his constituents didn't just vote for Sam Stratton, they loved him, as I did.

He was my idol when I first came to Congress.

And I had the great privilege to work by his side for 12 years.

How many times have we found ourselves asking, no matter what the issue, how would Sam handle this? What would Sam do?

He was a great Congressman, a great American, and a great friend and Sam, I can't help feeling that you're listening, we all miss you more than words can say.

Mr. MCNULTY. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON], and especially in recognition of the special friendship that he had with Sam. GERRY always talks about how much he admired Sam, but I happen to know that the feeling was mutual.

Mr. Speaker, I would now like to recognize my colleague, the gentleman from New York [Mr. GREEN].

Mr. GREEN of New York. Mr. Speaker, I thank my colleague from New York for yielding me time on his special order.

Mr. Speaker, I guess I first became aware of Sam Stratton around 1961, maybe early 1962. At that time I was a young lawyer with a law firm where one of my partners, John "J.B." Shea, was the Democratic State committeeman from the assembly district where I was active in Republican politics. Naturally, we always talked together about political goings-on in our county and in our State.

□ 2320

Jack Shay was very enamored of Sam Stratton and thought that Sam would be an extraordinary candidate for the Democratic Party in the 1962 governoral election, and it was through Jack that I first learned really of Sam Stratton and the enormous hold he had on the people of upstate New York. I guess it was fortunate for those of us on the Republican side of the aisle that Jack's dream that Sam Stratton would be the governoral candidate in 1962 did not come to pass, but it certainly brought to my awareness the high qualities that Sam Stratton had and the tremendous affection in which he was held in the upstate area.

I was not to meet Sam until I came down here following my election in a special election in February 1978. Shortly after that Sam became the dean of our New York State delegation. At that time I think our delegation had something of a reputation as one of the most fractious of all of the delegations in the Congress. I hasten to add that that fractiousness was not along party lines at all, but particularly in New York City there were a lot of strong personalities, and it was not easy for the dean of the New York delegation to get all of us in harness and working together on behalf of the State. I think it is a tribute to Sam Stratton that he was able to turn that around, and that he was able to turn a delegation which had very much of a reputation for backbiting and infighting and not advancing very well the cause of its State into one that could work together, could fight together, could stand together on the floor of the House, and could make a difference on behalf of the State of New York.

That is perhaps just one small part of Sam Stratton's contribution to the State and to the country. But it is one that I am happy to report on here tonight, and I again thank my friend for making this time available to me.

Mr. MCNULTY. I thank the gentleman for his very kind words about Sam and for participating in this special order.

Mr. Speaker, I yield to a Member who is not a New Yorker, the gentleman from California [Mr. DREIER], to say a few words about Sam, and without his graciousness, along with that of the distinguished minority leader, the gentleman from Georgia [Mr. GINGRICH], we would not have been able to proceed in such a timely fashion.

Mr. DREIER of California. Mr. Speaker, I thank my friend for yielding.

Mr. Speaker, I will just briefly underscore the fact that this is something other than a New York tribute to our great friend, Sam Stratton. There was tremendous geographic affection for Sam here in the House of Representatives, and two things come to mind when I think of Sam.

I first came here in 1981, and at that time I was working on some special security issues. My friend from New York [Mr. SOLOMON], knows very well that we were working diligently under Ronald Reagan's leadership to rebuild our national defenses. And Sam Stratton clearly played an integral role in that action.

At that time a weapons system that was built in my district, still is, was being hotly debated. It was the Stinger anti-aircraft system. My friend from California [Mr. BROWN] is well aware of the development of that which takes place in the area which we represent. And the chairman of the Defense Appropriation Subcommittee, another New Yorker, the late Joe Addabbo, had not been a strong proponent of the Stinger system.

Sam Stratton helped me, and on my first amendment we were able to successfully ensure that the Stinger anti-aircraft system was maintained in that appropriation bill, which was very important because it has played a major role in the Soviets' withdrawal from Afghanistan and in other spots of the world, and the Stinger anti-aircraft system has been heralded all over.

As a freshman Member I stood in the well as a California Republican, and this strong, intelligent, hardworking New Yorker, Sam Stratton, helped me pass this amendment, and I will never forget the assistance that Sam provided to me at that time.

One other item comes to mind when I think of Sam, which of course was the role that he played in this battle, and you remember very well, others do, that took place in this place as to whether or not we are going to expand the Capitol or restore the Capitol. And Sam Stratton was one who took the well and vigorously argued in favor of restoration, maintaining this beautiful and historic structure as it is, rather than expanding and building more of these offices for Members of the leadership on his side of the aisle. And he won that battle, and he did it with the support of many of us on this side. But he had some very eloquent arguments which he provided during that debate, and I will never forget that.

He was a great friend to many of us, and I miss him, as do other Californians, and others from throughout this country.

I thank my friend from New York [Mr. MCNULTY] for very generously allowing a Californian to step in among all of these great New Yorkers to pay my little tribute to Sam Stratton.

Mr. MCNULTY. I thank the gentleman. He certainly demonstrates that Sam Stratton was loved, admired and respected coast to coast.

Mr. Speaker, I would like to move a little bit to the South and yield to the distinguished gentleman from Georgia

[Mr. GINGRICH], the minority whip of the U.S. House of Representatives.

Mr. GINGRICH. Mr. Speaker, let me just thank my colleague from New York and say that I felt it was a great honor when I was a junior Member to be allowed to serve with Sam Stratton. I felt that he represented in a sense a great tradition, much as Scoop Jackson did, of a person who was very passionate about helping poor people in America, and very passionate about defending America, and he was able to stand firmly for both. I found it a great joy to work with him over the years, particularly on Armed Services matters where we had a number of fights where we were on the same side and tried to get things done.

I just want to say I appreciate very much the gentleman from New York [Mr. MCNULTY] taking the time tonight. I know that not just in the New York delegation but among Members on both sides of the aisle who care deeply for this country's survival that Sam Stratton, as long as we serve in Congress, Sam Stratton's spirit is going to be here, because he really did have an impact and an absolutely fearless willingness to stand up for what he believed in again and again. So I just want to thank the gentleman for taking this time tonight. I regard it as a signal honor that I was able to be here on the floor and to join in.

Mr. MCNULTY. I thank the gentleman very much, and again I am deeply appreciative of him and my colleague from California allowing us to proceed out of order.

Mr. Speaker, I will now yield to another New Yorker colleague to the west of me who happens to represent much of the territory that Sam Stratton formerly represented, by colleague, SHERRY BOEHLERT.

Mr. BOEHLERT. Mr. Speaker, I thank the gentleman for yielding and for taking this special order to pay tribute to an individual for whom I had the greatest respect and affection and admiration, Sam Stratton.

I was first exposed to Sam Stratton in 1964 when I came to this House as a young staffer, full of hope and promise and great expectations. And I knew Sam Stratton then by reputation, and I quickly was privileged to be introduced to him on a personal basis.

I was a staff member. He was a Member of Congress, and in a lofty position, highly regarded on the Armed Services Commitee. But he took time to spend with me, to sort of get my juices flowing, to excite me about the process and what it was all about, to demonstrate to me that he really cared. And there are people in this institution, and he personified them, who really care about making this country a better place to live.

I know so often we mention Sam Stratton's great work on the Armed Services Committee and his determination to guarantee the national security of the United States. But he was a multidimensional man. It was not just his great work on the Armed Services Committee for which he will be remembered for years and years to come, but he also had a heart as big as all outdoors. And later on in my career, after I advanced from the staff stage and became a Member in my own right, and he was my neighbor, I would go to him for guidance, because although he was a Member of the other party, he was a neighbor and he was a friend and I respected him. And he would give me his best advice, and so often on some of the sensitive social issues, I remember the passion with which Sam Stratton would say to me that we have to do it for all of the right reasons, and we did. And many of those bills and laws that are now the law of the land are lasting tributes to Sam Stratton's commitment to making life better for all of us.

In terms of his influence in shaping national security policy, Sam Stratton was always to me an adviser. I would go to him and I would seek out his counsel, and more often than not I would find that I would be very supportive of the position he articulated, because he had sound reasoning.

□ 2330

He had sound reasoning. It was not just that he wanted to say yes to everything the Pentagon or the Department of Defense wanted. He would say yes, because, and then he would explain it to me very systematically why we needed a given weapon system, why it was important for our national security interest, and I would listen, and I would respond.

I consider it one of the great privileges of my life here in this Congress, both as a staff member and as a Member of the House of Representatives, to have had the privilege of working closely with Sam Stratton. He tutored me. I learned a lot from him, and I would like to think I am a better person because he has touched my life.

I know this institution is a better place for all of us because of Sam Stratton's presence, and I thank my colleague for taking this special order to pay tribute to a truly great American who will long be remembered.

Mr. MCNULTY. I thank my colleague for those very kind words, and I know Joan and the members of the Stratton family are deeply grateful to you for your friendship to Sam over the years.

Mr. BOEHLERT. If the gentleman will yield further, I forgot something very important. Much has been made about the various attempts to redistrict Sam Stratton, and I think at one time or another he probably represented half of the real State and the great Empire State.

I found, when I first started campaigning in 1982 in my own right for a seat, I would come into small towns and I would go to a Republican gathering, and the first thing people would ask me is, "Do you know Sam Stratton?" I would say, "Yes, I do know him. I have had the privilege of meeting him." "Please, convey our best wishes." I would come back as I was a freshman in Congress after going to places like Norwich and New Berlin and Sherburne and communities like that, and good, solid Republican territory, and I would have my pockets stuffed with notes to say hello to Sam from Joe, say hello to Sam from Mr. and Mrs. So-and-so. They liked and respected him as all people who knew him and respected him.

Mr. MCNULTY. Indeed, they loved him, and I thank my colleague for those kind words.

From upstate to downstate, I would like to move to the eastern tip of Long Island and yield to my colleague, the gentleman from the First Congressional District of the State of New York, the gentleman from New York [Mr. HOCHBRUECKNER].

Mr. HOCHBRUECKNER. Mr. Speaker, I thank my colleague from the Albany area.

I am very pleased to join my colleagues, both Democrats and Republicans, tonight to say words about Sam that are true and meaningful.

You know, in the last 45 years we have probably not had a better opportunity for world peace with the thawing of the cold war than we have today. Certainly we have situations like the middle East and we have the Muammar Qadhafis to deal with yet in the future, but clearly we have never had a greater opportunity for world peace among the superpowers than we have today, and that was not accidental. That happened because millions of people in this Nation were willing to serve and to lay down their lives, if necessary, and certainly it comes because people in Congress were willing to stand up and provide for a strong defense.

My colleagues, there is no question that Sam Stratton played a key role in the defense of our Nation. I served with Sam on the House Armed Services Committee, and I was one of those junior Members that the gentleman from New York [Mr. SCHEUER] referred to earlier, and certainly Sam counseled me. So I am very proud to have served with him.

He is a man whose life made a difference, and I think as future generations share a more peaceful world and a more peaceful future, it will be clear in his story that Sam made the difference and played a key role.

I was proud to serve with him. I am certainly proud to have called him my friend, and I am very proud to call him

a New Yorker, and I thank my colleague for setting aside this time so that we could say the words that are so necessary and appropriate to be said about Sam at a time like this.

He was a great fellow, a great man, and I am very proud to have served with him. I thank the gentleman from New York [Mr. MCNULTY] for setting up this time so that we could say the words that are so appropriate to Sam.

Mr. MCNULTY. I thank the gentleman for his kind and beautiful words about a great American and a great patriot and certainly a great friend to everyone in this Chamber.

Mr. Speaker, I would also like to again thank all of my colleagues from California for being so kind as to allow us to go out of order and my colleague, the minority whip of the House of Representatives, for giving us that opportunity and, finally, to say thank you to Joan Stratton, to Lisa, Debbie, Kevin, Bryan, and Kim for sharing Sam Stratton with us and the country for so many years.

Mr. ANNUNZIO. Mr. Speaker, I rise to join with my colleagues in the House of Representatives in paying tribute to the late Hon. Samuel Stratton, whose death was a tremendous loss to the people of our Nation.

Congressman Sam Stratton served in the House of Representatives for 30 years, from 1959 through 1988, as a Congressman from the State of New York, and I was honored to have the privilege of knowing and working with Sam during the 24 years we served as Members of Congress together.

Sam Stratton was an outstanding American who dedicated his life to public service. He began his career as a secretary to a Member of Congress for 2 years in 1940, and during World War II, he distinguished himself as a combat intelligence officer in the South Pacific on the staff of Douglas MacArthur. He also served in the Korean war.

Serving on the Schenectady City Council from 1949 through 1956, Sam Stratton also conscientiously represented the citizens of Schenectady as mayor of the city from 1956 until his election to the House of Representatives in 1959 from the 23rd District of New York.

As a Member of Congress, he developed a reputation for maintaining our country's strong military defenses, and ably represented his constituents until his retirement from Congress in 1989. Perhaps one of his greatest victories in Congress resulted from his persistent and tireless fight to prevent the demolition of the west front of the Capitol. The west front today stands beautifully restored largely due to Sam's efforts.

Yesterday, in recognition of the achievements of Congressman Sam Stratton, the House of Representatives with my support approved a bill designating the Department of Veterans Affairs Medical Center in Albany, NY, as the "Samuel S. Stratton Department of Veterans Affairs Medical Center." This legislation has also been approved by the Senate, and has been sent to the President for his signature into Public Law.

Congressman Sam Stratton was a man of great tenacity, determination, courage, and personal integrity, who will be sorely missed by all who had the opportunity of knowing him.

Mrs. Annunzio and I extend our deepest sympathy to his wife, Joan, and the other members of his family who survive him, on their great loss.

Mr. HORTON. Mr. Speaker, I am pleased to join with my colleagues today in paying tribute to Sam Stratton, our former colleague from Albany who passed away recently. After his 30-year tenure in the House, Sam left a legacy of diligent constituent work and ardent support for the Pentagon and the national security of this Nation.

Sam was the eipitome of what a Congressman should be. He was quick to respond to the needs of his constituents and his knowledge and integrity earned him the respect of both Republicans and Democrats alike.

Sam and I first became friends during my freshman year in the House 28 years ago. Sam's office was across from mine and, though he was a Democrat and I a Republican, he took time to show me the ropes. Over the years our friendship grew as we worked together on various projects.

Sam showed the same helpfulness to other Members of the New York delegation, both Republicans and Democrats alike. Sam's bipartisan spirit set the tone for our delegation and molded it into the cooperative unit that it is today. Though he was from upstate, it was Sam Stratton who brought us together during the fiscal crisis of New York City.

I was truly honored when my colleagues selected me to take Sam's place as chairman of the delegation when he retired at the end of the 100th Congress. Filling Sam Stratton's shoes is a mighty task, but I have committed myself to following his example. Since I had worked with Sam as the delegation's vice chairman for several years, the decision to follow the tempo he had set was not hard to make.

For someone who accomplished so much for his constituents and the State of New York, Sam had to fend off a couple of efforts to redistrict him out of the Congress. At one point, his district stretched from the Albany area over to Ontario County, which is just south of Rochester. This district was sliced several times by the famous Finger Lakes making travel very difficult. I now represent two of the counties which were once in Sam's submarine-shaped district. Even today, nearly 20 years since he last represented them, the people of Seneca and Cayuga Counties recall with fond memories the work of Sam Stratton. I have tried to live up to Sam's legacy here as well.

My wife Nancy and I were indeed saddened by the death of Sam Stratton. We both felt a tremendous personal loss. Our heartfelt condolences go out to Sam's wife Joan and their five children.

Mr. CONTE. Mr. Speaker, after 30 years of swapping stories and fighting in the trenches with a man, you get to respect his force and his vigor. Sam Stratton was a man of supreme energy in every aspect of his career on the Hill. We did not see much of the weather man flash from his earlier career. What we saw was a man that came to the point quickly and firmly. There was no mincing of words, no suffering the fool. He was a man dedicated to the upstate New York way of cutting to the heart of a problem or an issue. He loved his country deeply and felt he had a special mission in providing for this Nation's defense.

He cared for the service men and women of this Nation and dedicated his years on the Armed Services Committee to getting the best equipment possible in the hands of our troops.

Once, while taking testimony on a new tank gun to be built with the cooperation of the Germans, he asked the Army's witness why they continually wanted to make tank ammunition bigger and heavier since the men who had to load it were not getting any bigger. As a result the Army continued to improve the current tank ammunition instead of going to rounds a soldier could not lift.

Sam was not a junketeer, but he did go on some interesting trips and got into some interesting situations that showed his fearless courage. While at the South Pole, he was told that the aircraft on which he was leaving was to nose down for take off. Sam suggested that everyone move to the back to weigh the tail down and off they went.

He was a resourceful man who would forge ahead no matter what troubles faced him. It was refreshing to have such a man in our midst and for so long. Honesty, integrity, and grit were his hallmarks. When you dealt with Sam it was tough, but fair, hard pressed, but with a sense of purpose. We will miss that craggy countenance telling us to get our money's worth in defending the Nation.

To his family and friends we give our heartfelt thanks for allowing us to have this gifted, dedicated colleague with us so long in this body. We miss deeply his character and countenance in this body.

Mr. MONTGOMERY. Mr. Speaker, I want to thank my New York colleagues, FRANK HORTON, JIM SCHEUER, and MIKE MCNULTY for taking this time to pay tribute to our friend, Sam Stratton.

Sam's wife, Joan and his family gave me the opportunity to deliver one of the eulogies at his funeral here in Washington on September 18.

Sam was one of my best friends. We worked together on the Armed Services Committee, where I had the chance to see Sam's strong conviction that we must deal from a position of military strength. He was one of the most knowledgeable men on military matters to serve in the Congress. Besides being on the Armed Services Committee, he knew the military from firsthand experience. He served with General McArthur in the Pacific Theater in World War II, where he won two bronze stars.

He will always be remembered for being a leader in opening up the military service academies to women. And, he was a friend of the National Guard and Reserve. When he was chairman of the Procurement Subcommittee, he was the first to earmark money for the Reserve components to give our National Guard and Reserve units across the country the chance to train on new equipment.

I recently visited our troops in Saudi Arabia and I could not help but think of Sam when I

saw all the good equipment our soldiers had on the ground, our airmen had in the air and our Navy had at sea. Because of his work on the Procurement Subcommittee for a number of years, these young men have the proper equipment to fight and defend themselves.

Sam will also be remembered for almost single handedly stopping the demolition of the west front of the U.S. Capitol several years ago. That action was proposed as part of the work to restore the Capitol, but Sam said "no" to tearing down the west front and he prevailed.

Sam was from the old school. He didn't rely on staff to do his homework. He was always well prepared and knew more about the subject at hand than the experts. I never saw him duck away from a floor fight on defense matters, and he had the kind of forceful personality and strong voice to be a formidable advocate for his position.

Sam Stratton was a great American. I am proud to have had the chance to serve with him on the Armed Services Committee and in this House of Representatives.

Again, I thank my colleagues for taking this time to honor our friend.

Mr. SPENCE. Mr. Speaker, my late friend, Sam Stratton, was a man's man in the classic sense. He was not only a good friend and trusted colleague, but I admired his determination and grit. As we all know, he was not someone to back off. He was no wimp, and this was especially the case when it came to defending his beloved America.

I didn't always agree with Sam. Our voting records will indicate this fact. But on one thing we always agreed; namely, that the United States of America is only as free and strong as the willingness of this Congress to keep us free and strong. And, when the role is called "Up Yonder," let it be said with a trumpet blast and a sound of mighty thunder—Sam Stratton was the patriot's patriot. He had a love affair with America, and America's security and defense posture is the better for it.

I had the great privilege to serve with Sam on the House Armed Services Committee for almost 20 years, and this association brought us into close contact on the myriad of issues that the committee must face. We often spoke about this Nation and its ability to protect itself from aggression. He was a wonderful historian, and he lived history. He was a part of history, and in fact, he often told me of the circumstances surrounding his key role in interrogating some of the Japanese war criminals after World War II. One of the most heinous of those criminals, Gen. Tomoyaki Yamashita, who bled the Philippines, was interrogated by Sam Stratton after the war, prior to being hung for his horrible crimes.

Let me also point out the fact that Sam and I held the rank of captain in the U.S. Naval Reserve. Sam believed in a strong maritime presence for the United States, but he did not favor the Navy to the exclusion of the other branches of the Armed Forces. His commitment was to the total force concept of defending America in an often hostile world. He possessed great vision in this regard, and because of his constant struggle to give our men and women in uniform the best training and equipment available, we can feel secure.

I miss Sam Stratton. I miss his wisdom and counsel. America misses him. And, when it's all said and done, this is the best epitaph for a soldier of America.

Mr. RINALDO. Mr. Speaker, I join my colleagues in mourning the passing of our good friend, former Congressman Sam Stratton. Sam served in this body for 30 years, and I was honored to serve with him for 16 of those years. He was a dedicated public servant who had earned the respect of his constituents as well as his colleagues in the House of Representatives. Sam was an honorable man who loved his country. As a young naval officer he served in World War II and was called again to active duty during the Korean conflict. His highly decorated service contributed to his success as a member of the House Armed Services Committee and as chairman of the Subcommittee on Procurement and Military Nuclear Systems. He was recognized as a leader on defense issues and annually spoke at my luncheon for military academy appointees. Because of Sam's expertise he was able to give these future officers an excellent picture of what to expect in their military careers. His appearance was always the highlight of these annual luncheons. To Sam's widow, Joan, and his sons and daughters, I extend my deepest sympathy and prayers.

Mr. CRANE. Mr. Speaker, we in the House of Representatives lost a good friend and the Nation lost an outstanding former Member of Congress with the passing of our colleague, Sam Stratton of New York.

We all respected Sam for his personal touch in pushing for legislation he deemed necessary to provide a strong defense for this country. He always was supportive of the White House, whether it was governed by a Democrat or a Republican, on issues dealing with national defense.

While some other Members of the House were willing to let our defenses slip in the wake of the war in Vietnam, Sam Stratton spoke out and was a leader in the struggle to maintain a strong defensive posture for the United States.

For 30 years, Sam Stratton served his country in this House of Representatives, and at the time of his retirement in January 1989, he was the dean of the New York delegation.

And he served his country in war as well. During World War II, he was in the U.S. Navy on the staff of Gen. Douglas MacArthur, and was decorated with two Bronze Stars. With the outbreak of the Korean war, he went back on active duty. He retired as a captain in the U.S. Naval Reserve.

With his military background, it was only natural he would seek and be given a position on the House Armed Services Committee. Besides fighting for a strong defense, he also led the committee's investigation into the My Lai massacre. He pushed landmark legislation allowing women to attend the national military services academies. And he will also be remembered as one of the leaders who created the 3-day national holidays the country now celebrates.

We send our sympathies to his widow, Joan, and to his five children.

Sam Stratton was our friend and he will be missed. Let it be known that he served his country with distinction in peace and in war.

Mr. ASPIN. Mr. Speaker, as a member and now chairman of the Armed Services Committee, I rise to honor the late Hon. Samuel S. Stratton, our former colleague who was buried recently at Arlington National Cemetery with full military honors. During Sam's 30-year tenure in Congress, he devoted his entire committee experience to the work of the Armed Services Committee. For that reason, we on the committee—staff as well as members—mourn his passing like that of a member of an extended family.

Most of Sam's career life was spent in public service: As an intelligence specialist in World War II on the staff of General MacArthur and as a member of the Naval Reserve with active service during the Korean war and continuing service until retirement as a captain; as mayor of Schnectady, NY; and as the U.S. Representative of the 23d District of New York from his election in 1958 to his retirement at the conclusion of the 100th Congress.

I will remember Sam best for his expertise on national security matters as a member of the House Armed Services Committee—expertise that grew over the years from his service as chairman of three permanent major subcommittees; no fewer than five special subcommittees; and as a member of 16 subcommittees or panels that covered the entire range of committee jurisdiction from weapon systems to personnel.

Sam was extremely dedicated to his work in behalf of the defense of this Nation. He was knowledgeable to an amazing extent about virtually every facet of our defense system. He was a powerful advocate who possessed the strength of his convictions, and he was vigorous and courageous in his approach to vital defense questions and their solution.

Let me give just a few examples of Sam's energy and dedication. He played a major legislative and intellectual role in such diverse areas as strengthening the NATO alliance, modernization of Guard and Reserve forces, pursuit of verifiable arms control agreements, protection of the defense industrial base, development of missile and aviation programs, and improvement in the military medical care and military justice systems. Through his singular and distinctive efforts, Sam was successful in seeing enacted into law the requirement that women be admitted to the Nation's service academies.

Sam knew what his goals were at all times, and he had the ability, experience, strength of character—combined with high resolve and patriotism—to perform his duties as he honestly conceived them, in building the strength of this Nation and protecting and defending its security and its posture in the world. Indeed, some of the weapons he so strongly advocated are now the mainstays of our defense posture in the Middle East in these trying times. I pay tribute to Sam today for his foresight and leadership.

It is proper and fitting that the Nation recognize the contributions to its national security of this great public servant by naming the next guided missile destroyer (DDG-51) the U.S.S. *Samuel S. Stratton.* In a sense of Congress provision included in the fiscal year 1991 Defense Authorization bill, passed by the House on September 19, we, as a body, expressed

our desire and intention to honor our former colleague for his outstanding service in this visible manner.

To his wife and helpmate, Joan Stratton, and her fine family, I offer my deepest sympathy on their loss.

Mr. LENT. Mr. Speaker, I rise to pay tribute to my friend and former colleague Sam Stratton. Sam died on September 13 at the age of 73, less than 2 years after his retirement from this institution in which he served with unparalleled vigor, commitment, and dedication for 30 years.

Sam represented his district in upstate New York with great dignity and honor and earned a record of genuine accomplishment. At home, his desire to help people and his opposition to politics-as-usual made him immensely popular. In Congress, his knowledge of defense matters earned him the true respect of Members from both sides of the aisle.

I strongly believe that Sam's unyielding commitment to our national security played an important role in the momentous events we have witnessed around the world in the past 18 months. The collapse of communism, the triumph of democracy, and our position as the leader in what promises to be a better world is due to those, like Sam, who remained firmly and unalterably committed to advancing the cause of freedom.

Sam was dedicated to keeping America strong and prepared and, over the years, I came to count heavily on his advice on defense-related matters. Sam's knowledge and experience, which made such a difference in so many legislative battles, were deeply missed after his retirement. In fact, this was clearly the case last year, when my Long Island colleagues and I worked to preserve production of the Grumman F-14D "Tomcat" fighter, the Navy's workhorse aircraft.

Mr. Speaker, as my colleagues who are gathered here tonight know, Sam's service to his country was not limited to his 15 terms in the House. Sam was commissioned as an ensign in the Naval Reserve in 1942 and served on the combat intelligence staff of Gen. Douglas MacArthur during World War II. He received two Bronze Stars and was later recalled to active duty during the Korean conflict. In 1949, Sam's career in public service began with his election to the city council of Schenectady, NY. He built his reputation through his determined efforts to fight corruption and racketeering and was rewarded by being elected mayor in 1955.

Sam was blessed with a large and loving family that was always a source of great pride to him. I want his wife Joan, his sons Kevin and Brian, his daughters Debbie, Lisa, and Kim, and his eight grandchildren to know that they are in my thoughts and prayers.

Mrs. BYRON. Mr. Speaker, for those of us across this country who look forward to that occasional 3-day holiday weekend where we have an unaccustomed extra day to spend with family, to forget about work or catch up on it, or to simply go off fishing we have Sam Stratton to thank for the eminently sensible legislation that changed the way we celebrate our holidays. The same Sam Stratton, the passionate and sensible legislator, led and won the fight that would break long-held tradition and open the doors of this country's service academies to women. Of course Sam's work over his 30 years in Congress encompassed many, many more accomplishments but to me these best exemplify the kind of spirited man Sam was. Sam worked hard, and after the strategies had been plotted, the positions reasoned and argued, and the votes cast and the work complete, Sam played hard. As in all things, Sam believed in balance and fairness. I had the distinct honor and pleasure to serve with Sam Stratton for 10 years on the House Armed Services Committee and to learn a great deal from him, because, after all, he had 20 years experience on me. Sam's knowledge of the issues was formidable, and his opponents, especially, knew and respected that. His commitment to our national defense was unwavering and above all, sensible. No sensible man wants war and having experienced it himself in the Navy in World War II and Korean, Sam was determined to see that it should never happen again. Our lives were made better and our world safer by Sam Stratton, and that, I think, is the highest compliment we can pay.

Mr. MAZZOLI. Mr. Speaker, I rise today to honor a former colleague, and friend, Sam S. Stratton, who passed away on August 13.

Sam served ably in the Congress for 30 years [1958 to 1988]. He also served ably the people of the Schenectady-Amsterdam district in New York.

Sam Stratton will be remembered in Congress for his commitment to military and defense issues. In fact, upon retirement, Sam ranked third in seniority on the House Armed Services Committee, and served as chairman of its Subcommittee on Procurement and Military Nuclear Systems.

Sam served in the U.S. Armed Forces, earning the Bronze Star in World War II while serving under Gen. Douglas MacArthur as an intelligence officer in the South Pacific.

When Sam returned to Schenectady, NY, he began his career in public service on the city council, and then as mayor. He was noted and respected for his efforts to fight crime in his hometown.

During his years in Congress, Sam made his mark legislatively by, among other things, creating the 3-day Federal holiday weekends and allowing women to attend national military service academies.

Mr. Speaker, Sam S. Stratton was a man of conviction, intellect, and compassion. He served nobly the people of his district and the country. I extend my sympathies to his wife, Joan, and their five children. I was proud to have known and served with Sam Stratton. His loss is a great one.

Mr. WEISS. Mr. Speaker, I join my colleagues today in paying triubute to Samuel S. Stratton, one of the most distinguished individuals to serve in the U.S. House of Representatives.

Sam Stratton fought hard for what he believed was just and fair, even if it meant crossing partisan and ideological lines. Sam and I had our disagreements, particularly when it came to defense policy, but I always admired the strength of his convictions and his steadfast loyalty to the constituents he represented.

During World War II, Sam served in the Pacific as a naval combat intelligence officer for Gen. Douglas MacArthur. For his distinguished service as a member of an elite group of interrogators, he was twice awarded the Bronze Star. After the war, Sam returned to Schenectady and broke into local politics by winning a tough battle for a city council seat in 1949. That difficult race, in which he successfully challenged the local Democratic machine and the Republic Party, saw the beginning of the door-to-door campaigning Sam would continue for the rest of his political career.

He went on to become mayor of Schenectady and earned a well-deserved reputation as a crusader against crime and corruption. He was elected to Congress in 1958, becoming the first Democrat elected from the Schenectady-Amsterdam area in 42 years. In his subsequent 30 years as a Member of the House, he represented five different congressional districts in New York as a result of Republican redistricting. These unsuccessful attempts to oust Sam prompted his famous phrase, "I always run scared."

In Congress, Sam's passion was defense policy and he argued his beliefs eloquently on the Armed Services Committee for many years. Sam led that committee's arduous investigation of the My Lai massacre, which led to the demotion of two Army generals. At the time of his retirement, Sam was the third ranking member of the Armed Services Committee and chaired its Procurement and Military Nuclear Systems Subcommittee.

But Sam was not one-dimensional. During his 15-term tenure, he succeeded in granting women admission to the United States military academies, led the triumphant battle to preserve the historic West Front of the Capitol, sponsored legislation that placed national holidays on Mondays, supported a national minimum welfare payment, and pushed for economic sanctions against South Africa.

Of the many assets he possessed, I believe Sam's greatest strengths were his closeness to the electorate and his ability to respond to his constituents' needs. His successor from New York, the distinguished Mr. MCNULTY, said it best, "Sam wrote the book on constituent service."

Nearly a century and a half ago, during divisive debate on slavery, Missouri Senator Thomas Hart Benton boldly opposed calls for his State's secession. Benton defended his unpopular stance by stating, "I value solid popularity—the esteem of good men for good action. I despise the bubble popularity that is won without merit and lost without crime." Sam Stratton enjoyed "solid popularity" in the Congress, in his home State of New York, and in all his personal relationships. The entire Nation shares the loss of this celebrated patriot, dedicated public servant, and loyal friend.

Mr. HUTTO. Mr. Speaker, it is an honor for me to participate in the special order paying tribute to our departed former colleague, Sam Stratton. It was a genuine pleasure for me to serve on the Armed Services Committee with Sam for about 10 years and he was someone that I greatly admired. He was a man of principle, a patriot if I ever saw one. He fought for a strong defense for America and it is appropriate that our good friend Sam has been posthumously honored by the naming of a ship and buildings among other things, that will bear his name. Sam Stratton made his mark

for the good of the Nation during his 30 years as a Member of the House of Representatives. We have been saddened by his passing, but relish the fond memories of a man who was so dedicated to doing the things that are right for our Nation. The funeral service held at Fort Myer was a beautiful memorial that surely was a comfort to his wonderful family. I want to join my other colleagues in extending deepest sympathy to Joan and the entire family. Sam Stratton's memory will continue to live with us in the Congress.

GENERAL LEAVE

Mr. McNULTY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore (Mr. WISE). Is there objection to the request of the gentleman from New York?

There was no objection.

PLANNING AND PREPARATION FOR RESPONSE TO EARTHQUAKES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 60 minutes.

Mr. DREIER of California. Mr. Speaker, the hour is late, but I believe it is very important for us to recognize an important distinction which is coming about tomorrow. As we sit here today, I have not heard the final score of game one of the series, but it was seven to nothing when I last heard, Cincinnati over Oakland, but I think it is important for us to recognize that a year ago tomorrow we were at game three of what was called the Battle of the Bay as was just told to me by my friend from the San Francisco Bay area, the gentleman from California [Mr. CAMPBELL], and at that time we all remember looking at the television and seeing the screen blacked out because of the Loma Prieta San Francisco Bay area earthquake that was 1 year ago tomorrow.

I have taken this special order out this evening to underscore the importance of responding and to talk a little bit about how things have developed in the past year, talk a little bit about the situation that took place in my district 3 years ago, the Whittier Narrows quake which was a 5.9 earthquake, and really where we go from here legislatively in this House, how we have the Federal Government prepared to respond to this kind of disaster, and I am going to go through a few of those things.

But because it is now 11:36 eastern time, I am going to begin by calling on the gentleman from California [Mr. BROWN], my distinguished colleague from southern California who has been very involved in this issue for many years, serves on the Science and Technology Committee, has introduced legislation which deals with this issue and has jointly participated in a number of forams with me over the past year when we have sometimes agreed and sometimes disagreed over the direction that we are going to head in this country when it comes to the issue of insurance, and that is, of course, my distinguished colleague from the San Bernardino County-Riverside area, right near the San Andreas Fault.

Mr. BROWN of California. Mr. Speaker, I thank my colleague very much for his participation and arranging this special order on the anniversary of the Loma Prieta earthquake.

I want to thank him even more for the very strong and intelligent leadership that he has given to this national problem over the last period of time, the last several years.

I suspect that all of us are sensitized to the problems of earthquakes when one happens to hit in our district, and he and I both live in an area which is susceptible to earthquakes and have had the opportunity to experience them.

The Loma Prieta earthquake probably has done more to broaden our knowledge of the effects of earthquakes than any similar event in my own history, and I have been following earthquakes for the last generation. It showed us the wisdom of proper planning, proper zoning, proper engineering.

We could see in the effects of that earthquake in various parts of the region, some near to the epicenter, some far from it, the effects of building on, for example, improper soil or not having the proper engineering and construction on a major freeway which would allow it to collapse.

□ 2340

So we learned a lot from that. But what has happened, in a more general way over the last several years is that the entire country has become aware of the problems of earthquakes, and the entire Congress has become more sensitive to this problem. We see that reflected in the fact that, for example, now we have in New York a major earthquake research center. California regretted not having it in California, but nevertheless, I think it has been extremely helpful in broadening the base of earthquake research and broadening the understanding of the importance of doing something about earthquakes to broader regions of the country.

We have become aware of the fact that earthquakes can strike many other parts of the country, and we see now frequent references to the so-called New Madrid earthquake.

Mr. DREIER of California. Reclaiming my time on that point, I would like to underscore what my friend has said, and that is that clearly there are 39 States of the 50 States which are very likely to suffer from earthquakes, and that is something that I think is important for Members to recognize again. The gentleman and I, and the the gentleman from California [Mr. CAMPBELL] are here as representatives from California. We are fortunate to be joined by our New York colleague [Mr. BOEHLERT]. Many people believe this is a California phenomenon, and that because of the fact, why should we be concerned about it.

As my friend from California [Mr. BROWN] refers to the New Madrid Fault, in 1811 and 1912, the worst earthquake that the United States of America has ever seen hit the New Madrid fault running through the Midwest part of the country. Actually, it was my original home State of Missouri that was affected by that. I think it is a very important point.

Mr. BROWN of California. If the gentleman will yield further, that earthquake centered in Missouri, of course, if it occurred again today would affect a broad area of the central part of the United States, including what is now the major population center in that area which is Memphis, TN.

Of course, we have seen a great increase in the interest of the congressional delegation from Tennessee as the result of their awareness that the fault which caused the New Madrid earthquake now we know is likely to break again in the reasonably near future.

Mr. Speaker, I know that the hour is late, and I know that the other Members have a great deal to contribute on this. I am going to shorten my remarks as much as possible. I just wanted to say one additional thing about the contribution which my distinguished colleague from southern California has made in this area. That is in the area of earthquake insurance. I think we have come to recognize that one of the indispensable elements in preparing for future earthquakes and mitigating the damages that they cause, particularly the financial hardship, is a strong national earthquake insurance program. This is something which we need to study. The insurance industry has become aware of the importance of doing something about it. I would say in the last year the most important activity with regard to our national preparations for earthquake has been a keener interest in how we can, through a program of national low cost insurance, do something to spread the risk and to mitigate the financial hardship that comes about as a result of earthquakes.

I want to commend my colleague for the excellent work that he is doing. I look forward to working with him in

developing legislation in this area in the next session of Congress. I think it will do a great deal to help the entire country understand how we can get better prepared and take cognizance of the difficulties and the tragedies caused by earthquakes.

Mr. DREIER of California. Mr. Speaker, I thank my friend for his contribution, and I would especially like to thank him because as we sit here at a quarter to 12, I know that my friend has just this morning come off of the redeye, which those Members from California often travel, leaving late at night and arriving here very early in the morning.

Mr. BROWN of California. I appreciate the gentleman mentioning that. My wife is probably watching this on C-SPAN, wondering why I am not at home. Now she will understand that there are other more important things that we have to do here. I further relish this opportunity because some Members are more accustomed to participating in these late night shows than I am, but it is a very valuable experience. I appreciate the opportunity.

Mr. DREIER of California. Mr. Speaker, I thank the friend for his able contribution. He was absolutely right in the statement that he made that we become involved when our district is affected, and the gentleman said that I had been involved for several years.

Well, it was really October 1, 1987 that I first became involved. That was when the 5.9 Whittier Narrows quake hit in the district which I represent, and that really played a role in launching my involvement in this issue. I hope that we are able to spark the interest of other Members of Congress who will not have to go through situations like my friend from California and I, and one example of that is the gentleman from New York [Mr. BOEHLERT], who has demonstrated an interest in the issue. I assume that his district has not been affected by a quake, or any tremor that is like the one of those Members in California, and I yield to the gentleman.

Mr. BOEHLERT. Mr. Speaker, I want to commend my colleagues from California [Mr. DREIER and Mr. CAMPBELL] for arranging this special order. For as large a tragedy as the Loma Prieta earthquake was, a larger tragedy would be having learned nothing from the death and destruction it left in its wake.

Fortunately, we have learned. The San Francisco quake jolted Americans from coast to coast into recognizing the hazards of earthquakes.

Earthquakes are not just a California problem. The worst earthquakes in the continental United States occurred in the Nation's mid-section, around New Madrid. Serious quakes have occurred in Boston and Charleston, and much of the east coast is seismically active.

We in the East cannot sit back and view quakes as someone else's problem that we might get involved in out of some sort of charitable impulse. We have to be involved.

We cannot prevent earthquakes, of course, and it will be a long time before we're much good at predicting them. But we do know a lot about how to prevent death and destruction from earthquakes and we have a pretty well organized research agenda to fill in the remaining gaps in our knowledge.

But applying that knowledge and conducting the right research will take concentration and commitment and money. The House a few weeks ago passed a bill, H.R. 3533, that indicates that we finally recognize that fact. The bill, which reauthorizes the National Earthquake Hazards Reduction Program [NEHRP], has now been conferenced with its Senate counterpart and could come to the floor this week.

The bill came out of the Science Subcommittee on which I serve as ranking Republican and on which Mr. CAMPBELL is an active member, and we are very proud of this measure. For the first time, it sets clear priorities for the Earthquake Program and provides spending authority which is both adequate and realistic. The impact of the bill should be that fewer people die and less damage is done by future earthquakes.

There's also been progress on another front. Both Mr. DREIER and I have introduced earthquake insurance bills. While there are significant differences between the Swift-Dreier bill and the Brown-Boehlert bill, they both reflect a recognition that more must be done to protect buildings from earthquake damage. And all the sponsors have expressed a desire to increase the level of earthquake hazards mitigation.

So those who lost their lives or property in Loma Prieta did not die in vain. They have made us all realize the fearsome power of earthquakes and the need to take steps—nationwide—to limit their impact. I look forward to working with Mr. DREIER and Mr. CAMPBELL to ensure that those steps are taken.

Mr. DREIER of California. Mr. Speaker, I thank my friend for his contribution on that point. I would like to underscore, once again, mentioning the quake which affected the eastern seaboard as well, reminding Members of the New Madrid Fault line and the effect it had in 1811 and 1812, and as many have predicted, will happen again in possibly the next 10 to 50 years, something that the American people need to be aware of. The gentleman's presence here this evening underscores that it is not simply a regional problem, and also, his activity on the Committee on Science, Space, and Technology has been very important on this.

I remember very well testifying on behalf of the legislation which my colleague from Washington State [Mr. SWIFT] and I have jointly introduced. I look forward to working with the gentleman in the years to come on this.

Mr. Speaker, as we actually are here on the anniversary of the Loma Prieta quake, I cannot help but think of the activities that came from one particular office in the San Francisco Bay area delegation. I will never forget that I was glued to the television that night watching the reports that came out, and in literally the middle of the night on NBC I saw my colleague from California [Mr. CAMPBELL] who was giving a report, having already been in touch with people in his district. There is no doubt about the fact that his district was the one that was overwhelmingly devastated. Not all of the attention went to his district, but the devastation was tremendous in his area.

□ 2350

He was tireless in his efforts to address the needs of his constituents in all northern California, and while it was not always heralded in all the newscasts, I will tell you that the gentleman from California [Mr. CAMPBELL] was the person who was on the front line battling this issue.

In the wake of the quake, there was the gentleman from California [Mr. CAMPBELL] dealing with the Small Business Administration, the Federal Emergency Management Agency, and other Federal agencies, in coordination with the California Office of Emergency Services.

I am very pleased that the gentleman has made the sacrifice to stay up beyond the closure of the Washington Metro System to be here and participate in this special order.

Mr. Speaker, I am happy to yield to my friend, the gentleman from California.

Mr. CAMPBELL of California. Mr. Speaker, I appreciate my colleague yielding to me. I very, very deeply appreciate his kind introduction.

As an environmentally conscious individual, I do not drive an automobile in the District of Columbia, and as a person of limited means I also find it useful to ride the Metro. As a result, I will not ride the Metro tonight because we are past the closing. I appreciate the gentleman commenting on that.

Let me say in a word of response that it was my colleague, the gentleman from California [Mr. DREIER] who arranged for this special order. It was his farsightedness that led to the drafting of the insurance bills that are now before my committee. I compli-

ment the gentleman for his ability to reach beyond his district, reach beyond his State, our State, to recognize the importance of earthquake preparedness.

I am also pleased to add a word of recognition and praise for my vice chairman on the Subcommittee of Science and Technology, the gentleman from New York [Mr. BOEHLERT].

The earthquake of October 17 cost 63 lives and 3,700 injuries. The damage is still being counted a year later. Much of the attention went to San Francisco because that was the area perhaps of the most dramatic damage.

I had the privilege to represent the mountainous area, however, which extends down the spine of the peninsula of California from San Francisco all the way to the San Jose area. The area that I represent includes some of the areas most damaged by the earthquake, because the people who live there were the poorest. In that area of the California peninsula you have a mountain and the people who live in and around that particular area, living in homes that are perhaps not always up to code and certainly not the most expensive in the entire area, they make do with what they have.

So in a very unfortunate turn of nature, it was the poorest who were hurt the most. It turns out, of course, that is almost always how nature hits, whether it is a hurricane or a tornado or an earthquake.

The first lesson I learned was that the importance of help for those most in need extended to those whose homes literally slid down hills. They wanted to build them up again and in many cases today, Mr. Speaker, as we are here on the 1-year anniversary, their homes are not yet rebuilt.

So in preparation for tonight, I made a few notes of what things perhaps might be done better. I am asking my colleague, the gentleman from California, to indulge me as I list a few of these, and I would certainly invite his participation in any respect as I go through them; but the point of doing so is that we not forget. The point of doing so is that we learn so that when the next one comes, whether it is in Missouri or California, Charleston, SC, or Loma Prieta, we will not suffer 63 dead, 3,700 injured.

Perhaps the most important point is the concept of liquefaction, that is to say the geological process in which hard ground becomes for a moment soft, liquefied. It was an absolute map from 1906 to 1989 that would indicate the areas most likely to be damaged, because it was once again those areas of landfill or those areas on the sides of cliffs that suffered the greatest damage.

When liquefaction occurred, the factors are, are your foundations built in such a way as to move when the Earth moves, or are they built in such a way so that they break when the Earth moves?

Had every building, had every home been built according to 1980 earthquake standards, had we in other words applied the information and knowledge that we had derived from so many previous experiences, it is very likely that we would not have had any deaths, except those on the Cypress structure in Oakland, and that deserves special mention as well.

For example, in the Redwood City area and the Foster City area, we had a number of new homes built on landfill which did just fine because they moved when the Earth moved.

So I applaud the efforts of our Science and Technology Committee to devote research to finding out how structure affects damage.

Mr. DREIER of California. Mr. Speaker, I would simply underscore the importance of that study which the Science and Technology Committee has embarked upon.

This summer, we will recall, there was an earthquake which took place in the Luzon Province of the Philippines. Worst hit was a resort community called Baguio. In late August traveling with Senator LUGAR in the Philippines, I had the opportunity to fly over Baguio and look at the damage that hit that area, and it was devastating. This was a very hilly area. It points to the fact that this kind of research, with a degree of success, could play a role in responding to the crisis not only here in the United States, but in other parts of the world.

We, of course, know the horrible earthquake which took place in the northern part of Iran and the Soviet Armenian earthquake, and most recently this earthquake that took place in the Philippines. Thousands of lives were lost in that Baguio area.

I saw these homes which crumbled down these hillsides, and obviously construction was not to any standard at all at that time, but this kind of research that the gentleman's committee is pursuing could play a major role in addressing the problem internationally, and I thank my friend.

Mr. CAMPBELL of California. Mr. Speaker, I thank the gentleman for his point. I would note that this was 7.1 on the Richter Scale, but of exceptionally short duration. Had the Loma Prieta earthquake been of the duration normally associated with an earthquake of that Richter Scale, we would have had many more tests of the proposition that structure determines damage. We were extremely fortunate. The next quake that will hit is more likely to be along the fault structure immediately east of the Bay. I only look at that with great fear and at other Cypress overstructures and other instances where we perhaps are not learning as quickly as we should.

There is another aspect which is very important in the damage area, less so in the question of saving lives, but that is are we adequately set up with our Federal Government institutions to deal with damage to historic buildings.

Mr. Speaker, I regret to say my conclusion is we are not. Whereas I have overall positive things to say about FEMA and certainly nothing but positive things about the dedication of the volunteers who work for FEMA and gave so much of themselves, I am troubled in a number of respects.

First of all, FEMA's attitude toward historic buildings has been that the restoration can be done so that it is a serviceable building, but not necessarily to the level that it is again restored to the historic structure that it was as well.

I am also troubled at the delay we have encountered from FEMA. In my own district, the Watsonville Hospital is still awaiting determination whether the damage to it will be compensated by FEMA, and in my own district of Scotts Valley, a dispute ranged for over 6 months between the Department of Transportation and FEMA as to who was responsible for damage done to a bridge on a State highway.

Incidentally, at that point let me applaud the excellent work of Secretary Sam Skinner who was on the very first plane out to the bay area with Vice President QUAYLE, and in a personal meeting with me subsequently undertook the responsibility of reconstructing the bridge in Scotts Valley.

In moving to another Federal agency, the Small Business Administration, again my highest regard to Susan Engeleiter, the Administrator, but let me observe some difficulties with which she had to work.

□ 2400

Do you know, Mr. Speaker, that the limits on SBA loan insurance for an individual are $100,000 for homes lost by an individual? For a building of a commercial nature, $500,000.

Mr. Speaker, it perhaps does not compel as much compassion as it should when I make the remark that $100,000 does not go very far in buying a home in California. Sometimes that statement is greeted with the comment, "Well, that is too bad. You are too expensive out there." But if you bear in mind that people who, say, put their life savings into a home and then with our rapid appreciation in value might seen an investment of $30,000 become $100,000 in the space of a year or two, and that is actual history in terms of the property values, you would suddenly find your ability to rebuild the home you had far, far constrained by reason of the $100,000 limit.

Mr. DREIER of California. Of course, it is history at this point because we know the real estate market in California is not moving in that direction as we stand here this evening.

Mr. CAMPBELL of California. Regrettably that is so. On the other hand the point remains that the person whose house was damaged as of 1989, who needs $200,000 to rebuild it, might have bought it for $25,000 and say that that person is rich and can take care of it himself or herself is fallacious.

Yes, I too long for the days of increased real estate values as long as I am the one owning the home and not attempting to buy.

The other point I wanted to make on this one issue before passing along to another was that the Small Business Administration—and again I applaud Administrator Engeleiter—was willing to support the effort to increase that insurance limit, but regrettably the support was lacking in other parts of the executive branch.

We have another problem with the rebuilding of homes in a seismologically damaged area, a seismologically difficult area, and that is that SBA will not extend credit until a seismological study, geological study has been done. I have no problem, find no fault with that. It is essentially a wise move. But bear in mind that in some instances in Santa Cruz County and Santa Clara County geological studies have not yet been completed.

So going back to my initial instance, people who were deprived of their homes 1 year ago are in many instances still not allowed to return to them because the study, the geological study, has not yet been completed.

Mr. Speaker, it seems to me imperative that in planning for any earthquake disaster in the future, FEMA be given explicit authority to fund as soon as the Earth has stopped shaking the geological studies necessary and adequate to determine whether rebuilding can take place.

This was not the case, and so months passed and people kept out of homes during that delay.

A third specific that I draw upon is interestingly a lacuna in the law, one that is very meaningful to the people of the Loma Prieta area, and we call it the summit area between Santa Clara County and Santa Cruz County. Most of the water, not most but a large portion of the water, let us say, supplied by private water companies. They are not public utilities. Yet they are not intended to nor do they make a profit. They simply charge what it costs and continue their business year after year.

Because they are not public utilities, they are deprived of the immediate assistance under FEMA, and so they are put to the task of getting funding from the Small Business Administration. But because they make no profit, they cannot show themselves to be creditworthy. And the standard for an SBA loan to a commercial enterprise is, "Can you pay it back,"

The only alternative is the one available under the emergency grant subsidized by the people of California themselves through the Office of Emergency Services.

But this surely is a lacuna that needs to be fixed in the law. A public utility in every respect except that it is technically not so should still have available funding from our Federal relief agencies.

Lastly, a fascinating problem dealing with the restoration of homes of classical beauty and of much sentimental value, of course, to their owners and those who have called them home, in San Francisco, Los Gatos, and Santa Cruz particularly. Because these homes would be removed from their foundation, an Old Victorian, for example, it is no longer habitable. To restore it, put it back on its foundation, may cost more than the owner has in disposable funds. And it may cost more than the $100,000 that I referred to earlier.

If, however, the $100,000 is enough to place the home back on its foundation, we frequently found that the present owner of one of these beautiful Victorians or smaller Victorians or smaller homes of different styles, would lack the means to pay it back under the normal SBA schedule. The reason was that they were no longer employed. Senior citizens who spent all of their lives working hard, putting aside savings so they could buy their homes, in an instant, 1 year ago tomorrow, found that their homes were no longer habitable, and because they had no more income stream from employment, they were unable to satisfy the SBA standards to repay the loan.

Now the answer to this is intriguing as it is clear. We should consider reverse mortgages. It is precisely what is happening in the commercial field, particularly for senior citizens in this condition, where in order to make up for, let us say, an immediate need for cash, perhaps for a medical need, a senior citizen who has completely paid for his or her home is unable to do a reverse mortgage, getting the value of, the nature of an income stream back from real property. If we allowed that under the FEMA regulations and the SBA regulations, there would be virtually no obstacle to someone who has equity in one of these homes getting approval for one of the SBA loans.

Yet this was never a part of the SBA regulation. I have urged Administrator Engeleiter to make it so and have promised to introduce any legislation that is necessary to make it so.

In conclusion, the items I have identified here are the specifics with which I became familiar 1 year ago and over the last year, specifics that should be anticipated as to how FEMA, SBA, can better do their jobs. I am not suggesting in any of these that the United States is making a bad investment or, in many of these, that we made any additional investment of dollars at all, but rather we take the dollars and use them more compassionately and more wisely, recognizing the kind of need these people are in.

I conclude with one last remark: The events of a year ago will never be forgotten. I remember walking through my own home on the Stanford University campus, observing what had been broken and what had been lost. It was the most serious event one could happen, short of damage to one's family, to see one's home in the condition that I saw my home.

There are still cracks in our walls. Hopefully, and we are assured, not of any threat to life or safety.

But that one moment changed the lives of so many Californians and so many Americans because the truth came home. It became true, it could happen to me, it did happen to me.

So my wife and I went around and attached fishing line to our vases and then put the fishing line into nails in the wall, so that the next time the vases would not fall. We took our water heater and bolted it in, all steps that we could well have taken in advance.

To my shame, I will tell you I discovered for the first time where the gas cutoff was.

To those listening to these remarks or who are reading our remarks in the RECORD, Mr. Speaker, I would urge that you do not wait for it to happen; that you take those preventive measures now. A few simple steps that can save so much in property and in life in the event that this disaster befalls you as well: Putting aside some water, putting a radio up, a flashlight, these things should be done in advance.

So many times you hear it, but let me say simply that I thought it would not hit me in my home on the Stanford campus, but it did. If all of us took those steps, then perhaps the next time we would suffer far less in damage and loss of life.

Mr. DREIER of California. I thank my friend from California.

Mr. Speaker, I think it is important for us to note that there actually was a greatly improved response by virtually all Federal agencies in response to the Loma Prieta quake when you juxtaposed that to the situation that I faced in October 1987. I recall working closely with my friend and other members of the bay area delegation in trying to expedite the response when the October 1987, 3 years ago this month, quake hit, the Whittier Narrows quake hit our area. One of the things that was most frustrating for

the officials in Whittier, CA, was in getting an immediate response. One of the things that happened was, in doing the damage assessment there was a delay. Some here on the east coast talked about waiting for the aftershock before any kind of damage assessment would be done. We know that often the aftershock—and there have been 7,000 aftershocks in the bay area following the Loma Prieta quake—that in the aftershock there comes an issue. After the big quake there is a greater degree of concern and psychological damage to those victims that often comes from the initial quake itself.

□ 0010

So, Mr. Speaker, we were able, in response to the problems that we had at the Whittier Narrows quake in 1987, to get an expeditious response to the Loma Prieta earthquake.

Also, I think it is important for us to note that in the Whittier Narrows quake it was tough for us to get the Federal Emergency Management Agency, FEMA, to get the DAC's, disaster application centers, on line. There was a delay period which created a great deal of unhappiness on the part of those victims of that quake, and I am happy to report that, when we worked in that 3-year period between the Whittier Narrows quake and the Loma Prieta quake, we were able, as I remember my friend reported to me, to get a speedy response, and we got the DACs, the disaster application centers, on the line in the gentleman's district and in other parts of the bay area.

So, I think it is important for us to recognize that.

Mr. CAMPBELL of California. Mr. Speaker, if the gentleman will yield, I appreciate his remarks very much.

In this particular instance, bear in mind that FEMA was coming right off the Hugo Hurricane on the South Carolina coast, and, given that, I thought it was remarkable what job they were able to accomplish. The placements of DAC's, the disaster assistance centers to which my colleague refers, was virtually immediate, and it was from learning, from the experience in the Whittier Narrows earthquake, that the response was so soon. The items I identified in both FEMA and SBA were structural in statute or regulation. They had to do with the laws, not the willingness, ability or ability of people who implement those laws.

One other point occurs on this, and it is a fascinating concern. In advance one would not have thought of it. But what does one do when there is damage to an area which is not covered by our statutes? Well, one might ask what would those possibly be. Well, I am privileged to live on the Stanford University campus, and it has one of the most beautiful churches, the Stanford Memorial Church. It is considered by the Federal officials administering FEMA and SBA a violation of the first amendment for Federal assistance to be given to rebuild the Stanford Memorial Church, and no man, I think, or woman has greater respect for the first amendment in this Chamber than I.

But anticipating this, if we had an insurance fund available, to which my colleague from southern California has so contributed, then those institutions that fall out of the regulatory scheme, such as a religious institution because of first amendment concern, would nevertheless be available to take self-insurance to insurance under one of these programs, and so we would have government assisting without running a file of any establishment of religion. That is another example of a structural improvement, not a criticism of those who administer the laws.

Mr. DREIER of California. Mr. Speaker, I thank the gentleman from California [Mr. CAMPBELL] for his contribution, and I think that he has laid the groundwork for use to recognize that this plan, which the gentleman from Washington State [Mr. SWIFT], my colleague, and I have introduced, H.R. 4480, which is designed to have a joint government industry insuring operation to deal with this, is, I believe, a very important thing for us to recognize here this evening.

Mr. CAMPBELL of California. Mr. Speaker, will the gentleman yield a second longer?

Mr. DREIER of California. I yield to the gentleman from California.

Mr. CAMPBELL of California. Mr. Speaker, I particularly want to applaud the gentleman's leadership in proposing that because it addresses one of the most difficult problems of the next quake, which is a massive quake, taking out the reserves of all commercial insurance companies. The problem of a single quake in a single area where you have not laid off the risk of a sufficient number of companies causes a potential shortfall. That shortfall can be accommodated by the coinsurance and secondary insurance pool that is such an integral part of my colleague's bill, and I would also applaud his willingness. I know from discussion, but it is not yet in your bill to consider a possible way of embracing more than simply earthquakes, that, if the average American were informed that his or her home is subject to a disaster, she or he would be willing to contribute to a fund anticipating such disaster. The disaster may be a tornado in one place, a hurricane in another or an earthquake in a third.

Mr. DREIER of California. As my friend knows, Mr. Speaker, I thank him for his contribution. As my friend knows, we already have a program similar to that dealing with floods. The flood insurance program is one example, and it is quite possible that we could broaden this. What I tried to point to is, as I said to the gentleman from California [Mr. BROWN], 39 States in this country are faced with the prospect of being affected by a major quake, and we cannot forget that. There are some who argue that because of the fact that I have introduced this legislation calling for a joint government-industry insuring fund that I am now taking a step in the direction of government encroachment in an area which I, as one whose philosophy is compatible with my friend from Stanford University, am not inclined to support.

Mr. CAMPBELL of California. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. Happy to yield.

Mr. CAMPBELL of California. Mr. Speaker, I would like to state for the record that I know of no Member less tolerant of unnecessary intrusion of government into private life and private industry than my colleague from southern California.

Mr. DREIER of California. Mr. Speaker, I thank my friend for mentioning that, but let me explain why I believe this legislation actually moves away from that and the gentleman's outline of the proposed changes that he would like to see take place in the laws that relate to the Small Business Administration, the Federal Emergency Management Agency and other Government entities is important because today any disaster that hits in this country, the American looks to one source——

Mr. CAMPBELL of California. That is right.

Mr. DREIER of California [continuing]. For the solution, and that is the Federal Government, and virtually in every part of the country the goal is to get designation by the President of the United States that it is a Federal disaster area.

Mr. CAMPBELL of California. Mr. Speaker, if my colleague would yield, one can approach this in a very appropriate philosophical way, and my colleague's background in Claremont is well known on the topic of appropriate levels and use of government. The function of government is to do that which the individual cannot do or to do better than which the individual could do as well, and here we have a very clear example of the use of government where it cannot be done by an individual. That is to say, where the risk is so great that a single individual, or a single company, or even a whole family of companies, would be bankrupted. If ever there were a model for the appropriate involvement of governmental action, it is in response to a national disaster.

So, I do not think that the excellent proposal of my colleague from southern California should be challenged in the slightest as involving government inappropriately. It is perhaps one of those few areas where moderate, conservative, libertarian and every other stripe within the political spectrum would agree that government has an appropriate role.

Mr. DREIER of California. I think, as my friend recognizes, there is one entity the people look to, and that is the Federal Government, and the goal with this legislation of having this coinsuring arm is to shift away from simply having the Government involved, but to instead encourage the private insuring industry to move into this area and simply have, as premiums are being built up in the fund, the Federal Government as a backdrop, and ultimately we hope, when this quake does hit, the Federal Government may not have to be involved at all.

Mr. Speaker, I know that my friend from Georgia [Mr. GINGRICH] is anxiously looking forward to delivering his special order, and I have some information which I would like to incorporate in the RECORD including the Wall Street Journal article which appeared a few weeks ago talking about the prospect of an earthquake hitting on the New Madrid Fault on December 3, and also I would like to provide an outline of the legislation, H.R. 4480, which I have, in the RECORD at this point.

LOMA PRIETA—ONE YEAR LATER

1. 63 persons killed and 3,757 injured.

2. Only one-third of the 85,000 applicants for quake loans or grants from FEMA and two-thirds of 25,000 people seeking SBA loans received money.

3. The California Office of Emergency Services estimated $5.9 billion in damage from the quake.

4. 23,408 houses and 3,530 businesses were damaged, and 1,018 homes and 366 businesses were completely destroyed.

5. FEMA estimates that $1.3 billion in federal funds has been committed and that volunteer agencies have spent another $61.5 million ($54.3 million from the Red Cross).

6. In the past year, more than 7,000 aftershocks, ranging up to 5.4 on the Richter scale, have been recorded on the northern segment of the San Andreas fault.

WHITTIER-NARROWS—THREE YEARS LATER

1. There were 14,537 SBA Disaster Assistance Applications following the earthquake. 13,137 were considered by the SBA. Of those, 8,526 (or 65.3 percent) were approved for a total of $155.9 million in loans. Thus far, seven applications are still pending.

2. According to Whittier City Manager Tom Mauk, there is a sense of recovery, at least to some degree. People are wondering why the recovery has not been completed. He said the City is at about 85% of it's original state before the quake.

3. He said the biggest horror story was the time it took FEMA to respond to the initial quake and to set up the Disaster Application Centers.

4. According to FEMA, federal costs for public assistance and the Individual and Family Grant Program were estimated at $22.3 million. 99 projects received assistance.

5. According to FEMA, 9,000 families received $9.6 million in individual and family grants. Housing assistance was provided to 14,231 families.

6. Damage to homes and businesses totaled $78 million in Whittier, $368 million throughout L.A. and Orange counties.

7. Overall, three people died and hundreds were injured.

8. 50 percent of the damaged buildings in Whittier are still under reconstruction.

9. About 2% of the homeowners in Whittier had quake insurance.

SCENARIO OF CATASTROPHIC EARTHQUAKES

NEW MADRID (8+ MAGNITUDE)

Deaths & Injuries: Only taking into account the immediate physical effects, the number of deaths is expected to be about 6,300 and the number of injured requiring hospitalization about 24,000.

Building Damage: $60 billion for replacement and restoration costs, and another $60 billion from fire follow-on and other after effects.

Electricity Distribution: Expect damage to about 80 percent of electric power lines in the region, and about 40 percent of power generating stations, affecting about 85 percent of uses in the region.

Natural Gas: The quake will cause the disruption of supplies to about 60 percent of the users in Chicago, Philadelphia, New York, Louisville, Cincinnati, Detroit, Buffalo, and Boston. About 50 percent of the population centers of the north and east will be without gas for about 4 months.

Oil: Because of pipeline disruptions, prices for gasoline and heating oil will rise about 15 percent.

Transportation: 85 percent of all bridges across the Mississippi in the region will be destroyed or severely demaged. Traffic on the Mississippi River will be halted for 4 weeks because of shifts in the river flow.

Nuclear Power Plants: One located 150 miles west of St. Louis will suffer undetermined structural damage.

Flooding: Two large reservoirs on the Tennessee and Cumberland Rivers could likely rupture.

Homelessness: Nearly 500,000 in the initial weeks.

Economic Factors: Regional banks will undergo a severe liquidity crisis as wire transfer and communications lines are severed. To pay off insurance claims, industry will have to sell-off $60 billion in assets which would disrupt bond and equity markets.

LOS ANGELES (8+ MAGNITUDE)

Geologists estimate that there is a 50 percent chance of an earthquake of at least 8.3 magnitude striking Los Angeles in the next 30 years.

Death & Injury: depending on the time of day, between 3,000 and 14,000 killed and 12,000-55,000 injured.

Property Loss: Initial damage would total $20 billion.

Roads & Highways: The area has 1,645 miles of highways and freeways. Collapsed bridges and roads would cut many communities off and hamper emergency vehicles.

Utilities: Two of the three major water sources would like rupture. Electric power would be lost for several days.

Petroleum Facilities: With more than a dozen refining facilities and hundreds of pipelines, massive oil spills and major fires would spread, particularly around Long Beach.

Economic Losses: California Department of Insurance estimates economic loss will exceed $50 billion.

OTHER EARTHQUAKES

San Francisco (8.3): 3,500 to 12,840 deaths; 13,300 to 49,700 injuries, and property damage of $40.2 billion (1987 dollars).

Charleston, S.C.: According to FEMA, a repeat of the 8.6 magnitude earthquake of 1886 would cause 5,000 deaths and $2.6 billion in damages.

Boston: According to FEMA, a repeat of the 1755 Cape Ann earthquake could result in hundreds of deaths and $5 billion in damage.

Salt Lake City (7.5): According to the USGS, estimated losses to all buildings would be about $6.5 billion. About 75 percent of the losses would be to housing units because of the large number of older unreinforced brick housing units in central Utah.

PREDICTIONS ABOUT NEW MADRID

1. New Mexico climatologist Iben Browning predicts a 50-50 chance of an earthquake along the New Madrid Fault on Dec. 3 or 4.

2. Scientists agree that there is a 50 percent chance of a damaging earthquake in the New Madrid zone in the next 10 years, and a 90 percent chance in 50 years.

WHERE EARTHQUAKES HAVE OCCURRED

1. 6.5 magnitude in Seattle in 1965.

2. 7.0 magnitude in Olympia, Washington, in 1949.

3. Charleston, S.C. in 1886.

4. Cape Ann, Massachusetts, in 1755.

5. St. Lawrence River region in 1925.

6. Salt Lake City around the time of European settlement.

7. Alaska (many times), the worst coming in 1964.

8. Only portions of three states (Florida, Mississippi, and Texas) are totally immune to earthquake risks.

9. Three 8.5 magnitude in New Madrid in 1811 and 1812. The quake was so strong that it was felt in Canada, west to Nebraska, south to the Gulf of Mexico, and east to the Atlantic Ocean. It was estimated to have affected 50,000 square miles.

OUTLINE OF H.R. 4480

1. All homeowner's insurance policies would include earthquake protection. Premiums would be low in Texas and Florida (about $2 per $100,000), and higher in CA and Tenn. ($20 to $40). Premiums will be lower for homes meeting earthquake standards.

2. Establishes two government-industry funds—using private funds but backed by the govertnment (similar to FHA).

Premiums for "shake damage" will go into one fund run by a tax-exempt government corporation (This is known as the "Primary Residential Property Insurance Program.")

A second and larger fund, known as the "Excess Reinsurance Program," would be financed by assessments on insurance companies to cover the cost of fire, liability, worker's compensation and business interruption. This fund would not be tapped unless losses exceed $10 billion.

3. The Corporation will be a partnership between representatives of private insurance and federal and state governments.

ADVANTAGES OF FEDERAL EARTHQUAKE INSURANCE PROGRAM

1. Lowers property insurance premiums in California.

2. Reduces disaster costs to the Federal Government, such as direct aid, tax losses, and losses from insurance programs.

3. Improves incentives for people to reduce earthquake damage.

4. It's a case of "you can pay me now or pay me later." A national insurance program may be the most cost-effective.

5. Frees up state and local money for infrastructure repairs.

6. Does not rely on direct taxpayer funds.

7. Addresses a national, not regional, problem. 39 States are vulnerable to major or moderate quakes.

8. Insurance is more equitable. The disaster package approved last year cost every working American an average of $32, regardless of where they live. In contrast, earthquake insurance will be based on risk—$2 per year per $100,000 of coverage in Florida, vs $30-$40 in California.

9. Makes earthquake insurance universally available. In California, less than 20 percent currently have earthquake insurance. Nationwide, the figure is about 3 percent.

10. Where most earthquake insurance is sold ($ in premiums):

	Millions
California	$314.5
Kentucky	2.6
Missouri	5.5
S. Carolina	2.5
Tennessee	3.5
New York	2.3
Washington	3.3
Ohio	2.8

Mr. Browning says it's not easy being on record with predictions that few other scientists will support. "I feel like a lonely little petunia in a cabbage patch," he says. But asked if he enjoys being right, he says, "It's the only damn thing that matters. If one is a business consultant, they don't pay you for being wrong."

Plenty of other business people are cashing in on his prediction. Insurance salespeople are peddling earthquake coverage to homeowners and businesses. Salespeople from a Memphis company pop up at survival seminars with a device (for $259 and up) that turns off gas lines when a quake hits. And entrepreneurs are marketing two kinds of earthquake T-shirts in Memphis. One says, "I'm staying," the other, "I'm leaving."

All of this has changed life in places like Blytheville, Ark. (pop: 24,314), tucked amid vast flat farmland, right at the corner of the Arkansas, Tennessee and Missouri borders.

So many people plan to skip town on Dec. 3 that the Flexible Technologies tubing plant already plans to shut down for two days, at a cost of thousands of dollars. Says Jimmy Connell, plant superintendent, "It's going to be a ghost town around here."

Robert Edwards, a Blytheville fireman who teaches seminars in earthquake survival, has become a hot property. For five years, most of his classes were lightly attended. Now his phone-answering machine says he is almost completely booked through October.

For one recent class, he was in Osceola, Ark. It is 9 a.m. on a rainy Saturday, and 325 Osceolans, gripping legal pads and spiral notebooks, fill the high school auditorium for an all-day session on earthquake preparedness. With his booming voice, Mr. Edwards lays out a grim scenario: "One hundred and fifty thousand dead in Memphis instantly-instantly. And all the federal emergency help is going to go there and St. Louis. You have to be prepared to take complete care of yourself for 24 hours to two weeks. You may be five to six months without power."

After the seminar, two elderly sisters, both widows, split on what to do. Fearing their home will be looted, Bess Mann, 86 years old, wants to ride it out. But her sister, Hallie Peterson, 83, wants to stay with their nephew in Mississippi. Scared that the big Memphis-Arkansas bridge that spans the Mississippi River will collapse in a quake, she's charting an alternate route two hours out of her way.

School districts in Earle and Wilson, Ark., have announced closings around Dec. 3. Some schools practice earthquake drills, while others sponsor cake sales to buy survival kits for classrooms, with items like blankets; flashlights and radios.

Michael Prince, a child psychologist in Jonesboro, says he knows of 10 to 15 children, age four to nine, so unnerved that they've reverted to bed-wetting or extreme anxiety about being separated from their parents.

Trying to calm the fear, the National Earthquake Prediction Evaluation Council, a panel of academic and government seismic experts, will review the Browning claim at a meeting in a few weeks. In 11 years of studying prediction methods, the panel has found no bona fide approach. The group usually ignores claims that aren't scientifically documented (like the one by the California man who said his goldfish helped him predict quakes).

"But this one," says Randall Updike, the executive secretary, "has created such chaos in the mild-continent region that we felt we had to give our advice."

Mr. Browning says he is tentatively booked to give a talk in Minneapolis on Dec. 3 and he doesn't plan to go there via St. Louis. But he adds: "I highly recommend against panic. That will kill more people than earthquakes."

Mr. Speaker, out of respect to the distinguished minority whip, I yield back the balance of my time so that he may proceed.

[From the Wall Street Journal, Sept. 17, 1990]

WILL THE EARTH MOVE ON DEC. 3? MIDWEST RATTLED BY PREDICTION—A SCIENTIST EXPECTS A QUAKE; SOME MAY PLAN TO FLEE, AND ENTREPRENEURS PROFIT

By (MICHAEL J. MCCARTHY)

MEMPHIS, TENN.—Friday nights used to be slow at The Fault Line, a nightclub here on busy Poplar Avenue. But after word spread that a major earthquake was forecast for Dec. 3 in the Midwest, The Fault Line began throwing earthquake parties.

On Friday nights now, hundreds of patrons pour into the club to swig "Earthquake shooters" and sign up to win Dec. 3 Earthquake Escape Packages to the Bahamas or Hot Springs, Ark.

But even as Memphis whoops it up, the prediction that the Big One may come in December is triggering tremors up and down the Mississippi Valley. Shaken, thousands of people are crowding into earthquake survival classes. In Arnold, Mo., 3,000 people showed up for one course.

In Missouri and Arkansas, some schools and businesses have announced plans to close in early December. Entrepreneurs are hawking quake insurance, survival kits and gas-line safety gadgets.

Some people are planning to flee. "You can't run from everything," say Tammy McCormick, a nurse in Blytheville, Ark., who will take her two youngsters and spend several days with relatives in North Carolina. "But it seems stupid to stay on a fault line with a prediction like this."

Everybody talks about the San Andreas fault in California. But the Midwest actually has had three of the most powerful earthquakes on this continent. In 1811 and 1812, along a 120-mile zig-zag formation called the New Madrid fault, a series of quakes ravaged the Midwest. Researchers estimate those earthquakes ranked stronger than 8 on the Richter Scale, which hadn't been invented yet. They were more than 10 times greater than the 7.1 quake that rocked California's Bay Area last October.

Church bells rang as far away as Boston. Chimneys crumbled in Cincinnati. And as tons of soil and rock bed pitched and rolled in a seismic frenzy, new waterfalls spiked up, causing part of the mighty Mississippi River to flow backward for several hours.

The New Madrid (pronounced MAD-rid) fault still has 150 small, mostly unfelt, earthquakes a year. In the next 10 years, experts warn, the area has a 33% chance of a quake measuring 7.1. That could produce billions of dollars in damage and thousands of casualties. "We're overdue for one in the 6s and low 7s," says David Stewart, an earthquake expert at Southeast Missouri State University.

Over the years, a few pinpoint-on-the map towns have tried to capitalize on the little-known fault. New Madrid, Mo., the fault's namesake, draws tourists to a museum with exhibits on the 19th century devastation. And Paragould, Ark., has held earthquake festivals with events like the "Miss Faultless" beauty contest.

But as Monday, Dec. 3, approaches, the whole matter is becoming more serious. That's because the predictor has gained credibility in some important circles for his work on the climate.

Iben Browning, a 72-year-old scientist, predicted October's Bay Area quake a week before it happened, say people who heard him speak to the Equipment Manufacturers Institute. And he predicted "geological danger" on Sept. 19, 1985, along a band of latitude that included Mexico City—where a massive quake struck on that day.

Mr. Browning, who has a Ph.D. in physiology, genetics and bacteriology, writes a climate newsletter out of New Mexico. He has clients, such as PaineWebber Inc., who have long paid for his wisdom on how the weather will affect their agricultural investments.

Since 1971, Mr. Browning says, he has picked the correct dates of four large earthquakes, two volcanoes—and one day with both a volcano and an earthquake.

He bases his forecasts on tidal forces caused by the positions of the sun and the moon—an old theory, critics say, that doesn't wash. On Dec. 3, those forces are expected to be at a 27-year high. Mr. Browning says that will exert pressure that could trigger faults already ripe to fall.

The New Madrid area has a 50-50 chance of producing at least a 7 quake on Dec. 3, give or take a day or two on either side, Mr. Browning says. At that time, a similar quake has a lesser change of occurring on California's San Andreas or Hayward faults, according to Mr. Browning, and an 8.2 quake in Tokyo has a greater chance.

Skepticism abounds. "No responsible scientist can predict an exact day for an earthquake," says Brian Mitchell, a quake expert at St. Louis University, echoing the majority opinion.

But Mr. Browning shouldn't be written off so quickly, says Southeast Missouri State's Mr. Stewart, who recently spent four days with Mr. Browning. "He has a methodology that can determine, plus or minus a window of a day or two, an enhanced probability of a volcano or an earthquake in certain latitudes," says Mr. Stewart. "No one else has been able to replicate it, but that doesn't mean it's wrong."

Ms. PELOSI. Mr. Speaker, tomorrow will be 1 year since the devastating Loma Prieta earthquake struck northern California. Indeed, 5:04 p.m., the exact time at which the earth shook, has been seared into the memories of those who experienced the temblor, a time of tragedy, a time of great courage, a time that will never be forgotten.

Mr. Speaker, I will never forget seeing the images of the fallen section of the bay bridge, of the building in the marina on fire, of the cataclysmic failure of the Cypress section of the freeway. I will never forget walking in the marina district of San Francisco, or visiting the shelters where hundreds of San Franciscans slept. And I will never forget the spirit, the sense of all San Franciscans even in the immediate aftermath of the quake which said: Let us start the rebuilding process.

I want to thank all my colleagues in the House, both personally and on behalf of my constituents, for helping my district start the rebuilding process. Your swift action, your ready compassion and generosity provided the raw materials for San Francisco to began healing, to begin rebuilding. Scant days after the earthquake, San Franciscans received Federal checks to pay for alternative housing. The city received swift approvals from Federal agencies to clear the debris and to begin emergency repairs on destroyed gas, water, and electrical lines. Nevertheless, I remain concerned that many of our Federal agencies, charged with carrying out the intent of Congress, are falling short in fulfilling the promises we made to the victims of the earthquake.

Though 1 year has passed, the rebuilding process in San Francisco continues. Large sections of the important arterial freeways to San Francisco remain closed, awaiting final approvals for repair and, in some instances, reconstruction. San Francisco International Airport sustained over $20 million in damages, and to date has not received any reimbursement from either the Federal Aviation Administration or FEMA. For a city which relies so much on tourism, and has been ranked by the the tourist industry as the most desirable city in the United States to visit, these barriers to access to San Francisco remain formidable and continue to have an adverse impact on many businesses in San Francisco.

Many educational and cultural landmarks in San Francisco show visible signs of damage wrought on their structures last October 17. The San Francisco Unified School District requires $21 million to repair its schools, and the U.S. Department of Education continues to bicker over the scope of work. The Geary Theater, Home of the nationally acclaimed American Conservatory Theater and a national historic landmark, continues to sit, empty and with a gaping hole in its ceiling, because of disputes over the need for seismic reconstruction.

But first among the shortfalls of our Federal agencies, many homeowners found that they fell through the safety nets offered by FEMA and the Small Business Administration. Many families found that they could not qualify for a Small Business Administration loan, and then found out that the scope of repairs authorized by FEMA grants fell well below that actually required to make their homes habitable and safe. Others, particularly seniors, found that their fixed incomes prevented them from qualifying for a loan, or found that the application process—which included documents 57 pages long—were too cumbersome and emotionally exhausting for them to complete. Finally, and most sharply felt in San Francisco, the loan amounts offered to homeowners for repairs in an area where house values are extremely high barely scratched the surface of moneys actually needed to complete repairs on homes. I believe one of the first priorities of the new Congress is to review the FEMA/SBA homeowner process to make it more responsive to the realities of modern homeowners.

The reason for my concern is evident once you review the figures. San Francisco suffered over $2.7 billion in damages, nearly half the total loss experienced by the State of California as a result of the Loma Prieta earthquake. Over 382 homes were damaged, 11 homes destroyed, and over 500 units of low-cost housing were lost in the city, 134 businesses suffered direct damage from the earthquake, not including the many businesses that were forced to close because of lost business. And to jangle our nerves even further, the bay area has experienced over 7,000 aftershocks, as recently as this week, from the Loma Prieta epicenter.

But while this may seem like a litany of complaints, let me stress one immutable fact: San Francisco is back. The marina remains one of the most attractive districts in the city to live in, and demand for rentals and homes has returned to near prequake levels. Many neighborhood associations, some formed immediately after the earthquake to deal with the emergency, are celebrating the 1 year anniversary tomorrow with block parties and barbecues. And, tomorrow, at 5:04 p.m., San Francisco will hold a flag-raising ceremony atop the historic Ferry Building. It will be the first time a flag has flown over the ferry building since the earthquake snapped the original flagpole in two. Led by the San Francisco symphony and the San Francisco opera, all in attendance will sing a rousing chorus of the "San Francisco" to remind us all that through the turmoil, trouble, and tragedy, there remains the spirit of the "city that knows how" that will withstand the test of time and nature and continue to make San Francisco one of the greatest cities in the world.

Mr. Speaker, thank you for this opportunity to commemorate this day in history.

Mrs. BOXER. Mr. Speaker, let me add my voice to my colleagues voices in commemorating the San Francisco Earthquake.

On this first anniversary I wish to commend the spirit, the caring and fighting spirit of San Francisco and the surrounding counties; the spirit of Santa Cruz and the surrounding counties; the spirit of all California and indeed the entire country which helped in so many ways. The American people are a great people and our greatness shows in a crisis. We pulled together and we made it back.

Mr. MINETA. Mr. Speaker, I rise today to recognize the 1-year anniversary of the October 17 Loma Prieta Earthquake.

On October 17, 1989, lives of Americans in California were changed forever by the forces of nature.

The Loma Prieta earthquake struck northern California including the 13th Congressional District which I represent.

Most Californians will never forget where they were on October 17, 1989: I was attending a dinner for the President of South Korea here in Washington when I received the call telling me that a major earthquake had struck the bay area.

I immediately got on the phone with Secretary of Transportation Sam Skinner, who was leaving for the bay area that night. I joined Secretary Skinner, Mrs. Quayle and Representative DON EDWARDS. We were to be some of the first on the scene.

We didn't know what to expect once we touched down. We didn't know at first where we could touch down. That's how unknown the extent of the damage was. However, once on the ground, we could see the devastation.

The sights I witnessed after that fateful quake will stay with me forever. The entire San Francisco Bay area is still feeling the impact and will continue to feel it for many months and years.

I was shocked and saddened by the devastation of this natural disaster, but I was proud of the response by the citizens of Santa Clara County and the entire bay area. Everyone pulled together like the close communities we are. That's how we survived until the Federal aid came, and how we were able to rebuild our lives.

And, after the earthquake, the Congress moved quickly as well. I am very grateful to my colleagues on both bodies for their assistance and compassion.

We were able to develop an emergency $3.45 billion legislative package which included $1 billion for emergency transportation assistance programs.

This legislation was passed by the House and Senate and signed into law within 10 days—the fastest action for emergency aid of this magnitude since the Second World War.

I was very disappointed, however, that some Federal agencies didn't respond as quickly as they should have.

I have been reviewing the performance of the Federal Emergency Management Agency during and after the disaster. Bay area residents reported confusion with bureaucratic red tape, constantly busy telephones, misinformation, and computer glitches, which made it tougher for people to get the assistance they needed.

The Public Works Subcommittee on Investigation and Oversight held hearings on the earthquake response to explore, among other things, the competence of the FEMA field office personnel and inspectors, the absense of uniform deadlines for temporary housing assistance, and reports of possible insensitivity by the Agency toward individuals with special needs.

I have continued to review the FEMA operations and look forward to a dialogue with the Agency on their response to natural disasters. It is essential that FEMA be accountable for its response network and must improve the Agency in the event of future disasters and reduce the human cost of such tragedies.

I have been equally disappointed by the response from the Small Business Administration [SBA]. I was contacted by people in my home district of Santa Clara County who had problems qualifying for loans from the SBA.

To help these individuals, I introduced the Disaster Loan Equity Act of 1990 which is designed to assist county residents and others by amending some of the harsher eligibility requirements adopted during the Reagan administration.

Along other lines, the Committee on Science, Space, and Technology has been working to improve the National Earthquake Hazards Reduction Program. This program helped ensure that the Loma Prieta earthquake was not the tragedy on the magnitude of the Armenian and Mexican earthquakes. By learning more about the nature of earthquakes, we can continue to reduce their potential for devastating our homes, our businesses, and our lives.

In the end, we learned how lucky the region was. Less than 100 lives were lost—where a similar magnitude earthquake in Armenia had claimed 25,000 lives a year earlier.

The Loma Prieta earthquake proved that preparedness pays off—and it also proved how lucky we are to have been in the United States, where the dedication of the Congress, the President and Americans throughout the country made it easier for life in the bay area to return to normal as quickly as possible.

BUDGET DECISION PUT INTO CONTEXT

The SPEAKER pro tempore (Mr. WISE). Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I do not intend to take the full time, but I do want to take some time this evening to talk about the series of budget votes we had today because I think that the American people deserve to have these decisions put into context.

For 5 months we have been struggling to try to find a budget solution. I think President Bush in his speech to the joint session of Congress in late September put it very clearly. He said, and I quote: "For America to lead, America must remain strong and vital." Our world leadership and domestic strength are mutual in reinforcing a woven piece as strongly bound as Old Glory. To revitalize our leadership capacity we must address our budget deficit, not after election day, not next year, but now. Higher oil prices slow our growth, and higher defense costs would only make our fiscal deficit problem worse.

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That deficit was already greater than it should have been, a projected $232 billion for the coming year. It must and will be reduced.

To my friends in Congress, together we must act this very month, before the next fiscal year begins October 1, to get America's economic house in order. The gulf situation helps us realize we are more economically vulnerable than we ever should be. Americans must never again enter any crisis, economic or military, with an excessive dependence on foreign oil and an excessive burden of Federal debt. Most Americans are sick and tired of endless battles in the Congress and between the branches over budget matters. It is high time we pulled together and got the job done right. It is up to us to straighten this out.

This job has four basic parts. First, the Congress should this month, within a budget agreement, enact growth-oriented tax measures to help avoid recession in the short term, and to increase savings, investment, productivity and competitiveness for the longer term. These measures include extending incentives for research and experimentation, expanding the use of IRA's for new homeowners, establishing tax-deferred family savings accounts, creating incentives for the creation of enterprise zones, and initiatives to encourage more domestic drilling, and, yes, reducing the tax rate for capital gains.

Notice that the emphasis here is on avoiding a recession. The very first thing the President focused on in his speech to the joint session in early September was that Congress should enact a budget agreement with growth-oriented tax measures.

The average citizen might say, why is a growth-oriented approach the keynote of what the President was trying to do? For a very simple reason. The President recognized that we are on the verge of a recession. In fact, some 60 percent of the American people say we are in a recession.

The President understood that if we go into a recession, if millions of Americans lose their jobs, if they are laid off, they will not be able to pay taxes, because they will not be working, and they will in fact be drawing unemployment or welfare, and the deficit will get bigger. So people who are worried about the deficit have a real reason to worry about stopping the recession.

In fact, the key to our budgetary effort was to create a sound economy to create jobs.

President Bush spoke in early September. Over the last month the economy has grown weaker. Oil prices are too high, and we are in grave danger of having a recession.

We wanted on the Republican side to find a way to adopt a budget which would avoid or minimize a recession. We believe that the lesson in the 1980's, the longest period of economic growth in peacetime American history, are the lessons of cutting taxes, increasing incentives, encouraging entrepreneurs, establishing new small businesses, encouraging investment, and getting more people to work.

The 1980's were better for working middle-class Americans and for retirees than the 1970's. Remember the 1970's? Thirteen percent inflation, 22 percent interest rates, and ultimately, in a recession which was the hangover of the 1970's, 10 percent unemployment, the worst since the Great Depression.

Now the Democrats are rushing us back to the 1970's. Higher taxes, taxes which will crush small business, crush entrepreneurship, and crush savings and investment. Raising taxes causes people to send the money to Washington. They cannot save it because it is not there. They do not take it home. Raising taxes so people cannot invest in new jobs and new businesses.

We know how to create jobs. Republicans were successful throughout the 1980's in creating new jobs in, as I said earlier, the longest period of peacetime job expansion in American history.

We know that higher taxes will kill jobs, and yet the Democrats have created a prorecession budget, a job-killing budget, that will in the long run increase the deficit, because as it crushes the economy with higher taxes, as people are laid off from work, they will cease to pay taxes as they lose their jobs, and in fact the gap will widen and we will have a bigger deficit.

We Republicans, on the other hand, believe that a series of tax incentives could create jobs. As the President said, we believe that enterprise zones for the inner cities could create jobs.

In fact, the Civil Rights Commission came out today in a unanimous 6-to-0 vote and called for the creation of enterprise zones in America's inner cities with zero capital gains to be paid on them to encourage tremendous amounts of new investment so we can create jobs in the inner city on the belief that the most important social welfare program is a job, that helping people have a job in their neighborhood so they can go to work does more for human dignity, to help the poor become the nonpoor, than any other step.

In addition, we Republicans believe that every American should have an individual retirement account, and that individual retirement account should not only allow them to save for their retirement, but they should be able to take it out and use it to buy their first home or to loan it to their

children and grandchildren so they can buy their first home.

Furthermore, we believe, as the gentlewoman from Connecticut [Mrs. JOHNSON] has recommended in a bill she introduced, businesses should be able to expense their first $250,000 in investment in new equipment, in new technology, so that we can encourage American business, particularly small and medium-sized business, to compete in the world market with the best machinery and the best technology, so our workers can have the best jobs with the best take-home pay.

Finally, we believe that a capital gains tax cut to 15 percent with 1-year holding is good for America. That would not be as good a capital gains rate as Japan or Germany has. They both are more favorable to investment. The Japanese and Germans work harder to get people to build factories, to buy new machinery. But it would be a big step in the right direction.

This package of incentives, it is estimated by economists, would create somewhere between 800,000 and 1.5 million new jobs. Just think of that. At a time that Americans are worried about a recession, at a time that Americans are worried about the economy getting weaker, if we could add 800,000 new jobs, if those new jobs were $20,000 or $30,000 a year jobs on the average, and they added $16 to $24 billion in new income to the American economy, and if that new income went out and bought other goods and services, what a tremendous step to avoiding a recession.

Yet, it became clear over the last week that the Democrats would not accept a job-creating, recession-avoiding, incentive program. The Democrats were so committed to class warfare and to envy that they would rather kill the process of creating new jobs. In effect, the spirit of Ligachev in the old times, raise taxes, create a big centralized bureaucracy. Do not worry about creating jobs in the private sector. That mindset was still there in the Democratic Party.

But we Republicans felt we had an obligation to work to bring spending under control, to work on reducing the deficit. With the approval of our leaders, the gentleman from Illinois [Mr. MICHEL], the gentleman from Oklahoma [Mr. EDWARDS], the policy committee chairman appointed a task force headed by the gentleman from Ohio [Mr. KASICH], and the gentleman from Michigan [Mr. PURSELL].

Some 15 Members worked hard putting together a budget with no new taxes. With the help of the gentleman from Minnesota [Mr. FRENZEL], the ranking Republican on the Committee on the Budget, and the gentleman from Texas [Mr. ARCHER], the vice chairman on the Committee on Ways and Means, we put together what we thought was a very effective budget alternative.

Republicans were prepared to freeze spending in Washington, to stop the discretionary spending of the Appropriations Committees from going up, to keep them at last year's number, to take those savings and by controlling spending in Washington, to avoid new taxes on the American people.

We produced a $410 billion deficit reduction package. Not the full $500 billion that some people wanted, but consider this: if you went to the average American and said we can get you $350 billion, like the Republicans did, $60 billion less, and we will get to $500 by raising taxes $150 billion, or we can get you $410 billion by controlling spending, but you won't have new taxes, 85 percent of the American people would have preferred to get to a spending cut budget with no new taxes. The overwhelming majority of the American people favor controlling spending in Washington, rather than raising taxes back home.

When I go to Jonesboro, or Newnan, or Douglasville, or Carrollton, GA, it is clear as I talk to people that they want spending controlled in Washington. They do not want family spending controlled back home in Georgia by raising taxes on every American.

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So we proposed a spending cut, job growth budget, a budget that we believed would be far better, particularly because of the Democratic tax increases and fee increases. According to the best estimate that we could get from economists, those increases would kill at least 500,000 new jobs. At least 500,000 Americans would find themselves unemployed because of the tax increases. And we know that those 500,000 people would no longer be paying taxes, that they would be drawing unemployment and that they would be ultimately drawing welfare. So they would increase the deficit.

Furthermore, we were very concerned because without some capital gains or other help, it is very clear that property values are going to continue to decline at a time that the Government is the largest single seller of property, and so the cost of the savings and loan program is going to go up dramatically, again increasing the deficit.

Finally, there is an enormous threat to our economy. We are in the first long-term deflation in property values in modern times. None of us have lived through a recession in which the real value of property on a national basis has declined, and that is the core wealth of America, not what is in the stock market or not what is in the commodity market, but what do people own in real property, whether that real property is a home, a business, a factory or physical land. The fact is we now have a national long-term decline in the value of property at the very time when the biggest seller of property in America, because of the savings and loan crisis, is the Federal Government.

So we on the Republican side looked for something like a capital gains tax cut that would increase the value of property, that would save money on the savings and loan bailout by increasing the value of property that the Government was trying to sell.

The choice between cutting spending and raising taxes is very real. And it is ironic, as Democrats talk about being the party of the poor and caring about the poor, that the Civil Rights Commission today voted 6 to nothing, unanimously against new taxes. And they did so for two reasons.

The Civil Rights Commission argued first that in the end if you raise taxes on the poor, they have the least discretionary income, and so whether it is a gasoline tax increase, or it is an increase in excise taxes, or whatever the increase, it ultimately trickles down and hits the poor, and they have the least discretionary money and they can least affort to have new taxes.

But second, the Civil Rights Commission argued that taxes kill jobs, and the people who most need jobs in America are the very poor and, therefore, a tax increase budget by definition becomes an antipoor budget because it kills the very jobs that the poor need if they are to get out of poverty.

We Republicans, taking into account what taxes would do to a recession, taking into account what taxes would do to the Civil Rights Commission analysis of the problem of poverty, decided that we would produce a proposal that focused on controlling spending in Washington, DC. The Republican proposal would in fact have cut $35 billion in 1991 without raising any new taxes, and over 5 years would have cut about $410 billion.

The Republican proposal would have frozen budget authority for the nondefense discretionary spending, that is the political spending done in Washington by the Appropriations Committees. We would have frozen their authority in the first, fourth, and fifth years. That is, we would have said you cannot spend more than you spent last year, something almost every American family is faced with every time there is recession, something which millions of American families are going to face in 1991. It is nothing dramatically different. Families that do not get a pay raise cannot spend more. All we are saying to the politicians on the Appropriations Committees is that they are going to be kept at the same level as those families, and they cannot spend more than they spent last year.

On top of that we found ourselves in the position of saying for years two and three that we would allow the committees to have a 4-percent increase over the previous year's spending. So we have a little bit of increase in two of the years, a tight freeze for three of the years, but no cut in actual dollar terms. They would in fact have gotten as many dollars as the previous year, and there are literally millions of families, certainly hundreds of thousands of families in Georgia, and millions of families in America that have had to make do for 2 years or 3 years in a row on the same amount of money. So we are simply applying to Washington government what happens to millions of American families.

In addition, we were bold. We were willing to freeze the foreign aid budget at last year's number and say if we are going to make the American people tighten their belt, we are also going to tighten the belt on foreign aid. The Republican budget incorporated Senator NUNN's spending proposal in defense, saving $170 billion on defense over 5 years. We had precisely the same entitlement spending reductions as the Democratic budget, exactly the same reductions as the Democrats.

We extended the telephone tax and we had a few small fees that had been recommended by the President.

The first year we raised $4 billion total in old taxes and fees and $23 billion over 5 years, but we had no new taxes. The Republicans had no increase in the income tax. The Republicans had no gasoline tax. And the Republicans had no new excise taxes.

We included very tough enforcement mechanisms in the Republican budget, and we were prepared to impose real spending controls on Washington, DC.

Finally, we had a very important requirement that all future budgets be presented in real terms, not on some kind of inflation base that guarantees every year that spending will go up, but instead literally presenting the budget compared with last year's numbers.

When the Republicans proposed a $410-billion spending cut oriented budget, what were they told? The House Democrats literally refused to make the Republican budget in order. They could not find a way, they said, under the budget process to make the Republican budget in order.

Let me make two points about just how totally phoney the Democratic argument was. First of all, in this Congress the Democrats have waived the budget provisions 62 times. Every time they wanted to spend more money, they waived the budget provision.

Now imagine, with a straight face, a Democratic leader saying that we just cannot figure out how to get that spending cut Republican budget to the floor because our rules will not permit it, and then they came to the floor, and what they did was magnificent, and it certainly was worthy of an Oscar or an Emmy. I guess it would have been an Emmy since we are on television and not in the movies. But it simply did not make snese. The fact is when the Democrats want to increase spending, they waive the budget rules, and as I said, they did it 62 times in the 101st Congress. As long as it was more spending, they found a way to bring it to the floor.

Now we get to the Republican budget cuts. The Republican spending cut budget, they cannot bring it to the floor. But there is a second thing. Any person who watched the House this afternoon, or any person who reads this RECORD will recognize that the Democrats brought to the floor an amendment which their Budget Committee chairman made in order, an amendment which had pages that were not numbered, an amendment which the Chair had to physically count the pages to find out that with 10 minutes' notice we had a 260-page amendment, an amendment which nobody on the Republican side had read, and which we discovered during the debate most of the chairmen on the committees on the Democratic side had not read.

Now if the Democrats could make in order a 260-page amendment without having been read by anyone, why could they not make in order a Republican spending cut budget which was offered?

The reason is simple. We believe that the Democrat leadership knew that if their Members, faced with the choice between a massive tax increase budget and on the other hand having available a spending cut budget, we believe that their leadership knew that it was very, very likely that the spending cut budget would pass, and that in fact the Democrats would not have as much money to spend in Washington to maintain their political allies and their special interests.

What did that mean? It meant that we came to the floor under rules, and it was ironic that this was the first day of the World Series because every American knows from watching sports events that both teams are supposed to play under the same rules, but we came to the floor with two different sets of rules. If you favored a tax increase, you could get your bill to the floor. If you favored a tax increase, you could bring a 260-page amendment that nobody had seen, and then under unanimous consent you could actually stand on the House floor and negotiate with Members and rewrite the amendment right on the floor of the House. And that is what happened, as long as you are in favor of raising taxes.

But if you wanted to cut spending, and you did not have tax increases, then you had to play under very, very different rules. The Republicans fought on behalf of the American people. Mr. MICHEL, the Republican leader, appealed the ruling of the Chair, arguing that it is an inherent right of the minority to have a motion to recommit with instructions, that this goes back to 1909. We were defeated because the Democrats who wanted to raise spending and raise taxes could not afford to give the Republicans a motion to recommit with instructions, because we would have instructed spending cuts, and that would have put the Democrats on the spot.

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That would have put the Democrats on the spot. Then we fought the previous question on the rule in order to bring up a rule which would have allowed us to have a spending-cut budget, but we were defeated because the Democrats could not afford to have spending cuts made in order. Then we fought the rule arguing that you should not have a rule that is one-sided; you should not have a rule that allows the taxers and spenders to bring a 260-page amendment to the floor without anyone seeing it, but we were defeated, because the Democrats have control of the House, and the Democrats were determined to have more taxing and more spending.

Then we had the Democratic amendment, a bill which I am going to go into in a little bit of detail, a bill which raised taxes on every American, that is, who works for a living, who files an income tax return. We were defeated. And finally we came to final passage, and the Democratic juggernaut slowed down and barely passed their bill as Member after Member began to realize that they had spent all day voting to raise taxes and voting against spending cuts.

I think it is fascinating, when you go to the American people and you ask the American people what do you want Congress to do, you say you are disgusted with Congress, you say you are tired of what you have been seeing on television, you say you want some changes, what do you want Congress to do. Very straightforward, 83 percent of the American people, more than four out of every five Americans, say cut spending in Washington. Only 12 percent say they want to raise spending and, in fact, of the 83 percent who want to cut spending, 59 percent say they want to strongly cut spending.

What about taxes, you say? Thirty percent say those Republicans who want to cut taxes are right. We ought to cut taxes to avoid a recession, to create jobs. Forty-six percent say, well, the deficit is pretty bad; maybe we should not cut taxes. Let us keep it exactly where it is. Seventy-six percent who favor either cutting taxes or keep-

ing taxes where they are, but, you ask, what about those who want to raise taxes, how many people support the Democrats in raising taxes? Twenty-one percent say they want to raise taxes.

So the side that represented 83 percent, the Republicans who wanted to cut spending, they could not get their budget in order. They could not bring their budget to the floor. That would have been too dangerous.

What about the 12-percent side, the Americans who want to raise taxes? They control the House or, I am sorry, the Americans who want to raise spending, they control the House. Oh, you say, what about taxes? What about the 76 percent who want to keep taxes the same or cut them? Oh, they are not allowed to bring their budget to the floor. What about the 21 percent who want to raise taxes? They get to come to the floor because the Democrats who want to raise taxes control the House.

Well, you say, all right, so they brought taxes to the floor. But did not the Democrats just want to raise taxes on the rich?

Well, the gentleman from New Jersey [Mr. SAXTON], a man who is in a State where Governor Florio, a Democrat, has massively raised taxes and Governor Florio today has so offended the people of New Jersey that he has an 18-percent approval rating matched only by Governor Dukakis of Massachusetts, another man who has raised taxes massively and another Democrat.

Mr. SAXTON, representing a New Jersey district, understands how important it is to analyze taxes, and this is a Dear Colleague letter he sent out today. He said, "The attached 1040 form demonstrates how the Rostenkowski plan," that is, the Democrat plan, "compares to the present income tax plan in terms of cost to an American family of four. Forms No. 1 and 2 show the difference for a family of four with a $44,800 taxable income. Now, $44,800 in taxable income is a good income, but it is hardly the rich. It is hardly what most Americans think of as getting wealthy. It hardly fits the speeches we heard from Democrats all day today.

But what would happen under the Democratic tax plan to a family of four with a $44,800 taxable income? Congressman SAXTON goes on to say,

> The added income tax liability under the Democrat plan results from the elimination of an inflation adjustment for tax brackets. Further liability can come from the elimination of an inflation adjustment for the personal exemption.

And this is what it comes to, the income tax goes up directly by $254 under what is called bracket creep.

Bracket creep is something everybody old enough to remember the 1970's remembers; you get pushed up, get pushed into a higher bracket, and you end up paying more of your money in taxes even though your money does not buy as much.

For a family of four $254 in income tax bracket creep under the Democratic plan, and then there is a second bite, because the Democrats freeze the exemption of the deduction for family members so you lose the inflated value, so your real value declines and that costs you another $120, and if there are four of you in the family, about $30 per family member, so if you had three children, you'd go up another $30.

Then you have on people who are self-employed or people who are doing moderately well who are above $51,000, they pay a medicare tax increase, another $145.

In addition, there are excise taxes which are estimated to cost another $120, so here is a family of four with $44,800 in taxable income, and according to the gentleman from New Jersey [Mr. SAXTON], that is a total tax increase next year for them of $639, an increase, by the way, which comes out over the 5-year period of the budget to be well over $3,000 for this family of four.

Now, remember, this is a Democratic budget which does not cut one penny, not a penny, out of domestic discretionary spending in Washington. The Appropriations Committees do not lose one dime. They get their full inflation adjusted amount of extra money.

So we are going to say to the average American family, you do not get any extra money for your deductions for a child, and you do not get any extra help in terms of your bracket of tax because of inflation. We are going to take money from you as a family, but we are going to protect the politicians in Washington and the budget that they need so that they can spend your money in Washington.

The fact is simple, the family of four, $44,800 in taxable income, will pay to the Federal Government $639 morese per year under the Democratic plan in higher taxes so that the Democrats who control the House and Senate will be able to spend the money for them.

We will transfer the money to the Government in Washington so that instead of the family back home in Georgia spending it, in the case of the gentleman from New Jersey [Mr. SAXTON], the family back in New Jersey spending it, we are going to have the Federal bureaucracy spending it for you.

Another analysis was made of $35,200 of taxable income with a family of a two-earner couple with two children, and this analysis was not by the Republicans, not by the Bush administration, this analysis is by the National Taxpayers' Union. I will enter their analysis into the RECORD. They say:

> A vote for the tax plan proposed by Ways & Means Committee Democrats is a vote for a 7.4% income tax increase for a two-earner couple with two children earning $35,200 of taxable income. It's a vote to make that family pay over $2000 more of new income taxes through 1995. It's also a vote to take away $600 of tax deductions from every family of four filing a tax return. We strongly urge you to oppose these and other new taxes.
>
> The tax increase aimed at middle class taxpayers in the Democratic alternative would be caused by a one-year delay of the annual inflation adjustment of the personal exemption and the tax rate bracket amounts. It would cut the 1991 personal exemption from $2,200 to $2,050. The 28 percent tax rate bracket would begin at $32,450 of taxable income, instead of the $34,250 required under current law. Millions more middle class taxpayers would find themselves in the 28 percent tax rate bracket.
>
> Without indexing for inflation, taxes increase because inflation cuts the value of the personal exemption and pushes taxpayers into higher tax brackets.
>
> Other especially harmful provisions in the proposal include creating a new 33 percent tax rate bracket and a new top rate of over 36 percent.
>
> The tax increase portion of the Committee reconciliation bill also deserves rejection. It represents a larger tax increase than that proposed by the rejected budget summit agreement.
>
> Both the Democratic alternative and the Ways & Means Committee recommendation would break the promise of lowering marginal tax rates made in the 1986 Tax Reform Act by increasing the top marginal income tax rate. Both proposals also attempt to paper over Medicare's serious financial problems by increasing the Medicare wage tax cap.
>
> These higher taxes, and especially higher income tax rates, threaten our economy, which is already in recession in much of the country.
>
> A more apt name for the reconciliation bill would be the Tax and Fee Increase Act of 1990. The package is composed principally of tax and fee increases while leaving subsidies to businesses, unions, and other special interests essentially untouched.

□ 2450

Notice what the nonpartisan National Taxpayers Union analysis suggests here. It suggests very directly that there are two fates awaiting the middle class workers under the Democrats. If a person gets to keep their job, they are not going to have as much take-home pay because the Democrats will raise the income tax, and they will pay it. On the other hand, they may be even more unlucky, and because of their tax rate increases, they may lose their jobs. Therefore, they will not have to worry about paying the higher Democratic taxes because they will not have a job, and they will not have an income, and they will not pay any taxes at all, at which point the Democrats will propose a massively bigger works program to hire the people for the Govern-

ment, which will increase the deficit even further.

Now, as I said a while ago, we Republicans had offered a very different approach. We offered an approach that said, "Let's cut spending," and we actually had serious spending cuts in foreign aid, we had serious spending in domestic discretionary, and serious spending cuts in entitlements, a total of $410 billion. But the Democrats did not make it in order. That would not have fit the package. That would have been too dangerous.

Now notice again, not only are these the same House Democrats who made 62 budget waivers in order, as long as they increased spending, not only are these the same Democrats who made 260-page amendment in order that nobody had read, and then rewrote the amendment on the floor by unanimous consent tonight, but let Members look at how carefully they followed the rules under the congressional budget process.

Here is what section 300 of the law says. The timetable with respect to the congressional budget process for any fiscal year is as follows, and it goes through a series of steps, and then it gets to June 10, House Committee on Appropriations report last annual appropriation bill. Democrats failed to meet the schedule. June 15, Congress completes action on reconciliation legislation. By the way, reconciliation legislation which Congress under the law was supposed to complete on June 15, is what we were dealing with tonight. So they clearly did not meet the rules there. June 30, House completes action on the annual appropriations bills. Well, it is October and we are still working on appropriations bills. October 1, fiscal year begins. The fiscal year cannot start yet because we have not passed all the bills, and therefore we have a continuing resolution because the Congress has not gotten its job done.

My point in reading in the timetable is to say this: The Democrats do not mind sliding past the deadlines in law as long as they get to spend more. The Democrats do not mind sliding past the various budget requirements in law as long as they can raise taxes. The only time the rules matter if a person is a Democrat is that somebody comes up with a proposal which will actually cut spending and allow people to avoid raising taxes.

Notice as I said earlier, that we are in a situation where 83 percent of the country wants to cut spending; 76 percent of the country is opposed to tax increases, yet the Democrats insisted on ignoring the public. Part of the mood in the Nation is term limit movement, the number of people who say they want to limit the terms of Congress because Congress is out of step. It is fascinating if we look at the Democrats who voted against their leadership, many of those who voted no, who voted against their leadership are in tough races. There was a pattern established in the vote on the budget summit. If a person did not have a serious race, a majority voted in favor of the budget agreement. If a person were retiring and were not going to run at all, the margin was 14 to 2 in favor of the budget agreement. But what if that person were in a close race? Of the 25 Members who were in a close race, zero voted for the budget agreement and the tax increases, 25 voted against. Now, think about what this means. Three weeks before an election the U.S. House of Representatives, designed to be the People's House by the Founding Fathers in the Constitution, if a person has a serious opponent, and they are worried about reelection, they vote 25 to 0 no. If they are retiring and are not up for reelection, they vote 14 to 2 yes.

In other words, the power structure in Washington could win the vote as long as we do not have an election. The best explanation of this was in a marvelous article on Sunday entitled "Democracy at Work: The tax Revolt of the Masses," by Thomas B. Edsall and E.J. Dionne, Jr. I thought it was the best single article, and I want to read in the RECORD a couple of paragraphs.

> The budget crisis does not grow out of too much politics. It results from the suppression and distortion of politics. Yes, many members of Congress who voted against the first version of the budget deal were responding to pressures from their constituents. There's a name for that kind of behavior: democracy.
>
> You wouldn't know that from a lot of the commentary on the budget struggles, especially as the original deal was being voted down earlier this month. Members of Congress who voted no were pilloried as irresponsible, cowardly, craven, short-sighted—and worse. The notion seemed to be that worrying about what the voters might think was somehow unseemly.
>
> "The truth is they are simply listening to their political consultants," declared the able and usually dispassionate Andrea Mitchell on NBC as members of the House prepared to vote down the budget package. Isabel Sawhill, senior fellow at the Urban Institute, contended that "pure political timidity" prevented enactment of a measure that "we might come to love" once in place.

The point that Edsall and Dionne were making in the Washington Post article is that if a person is going to believe in democracy, then they have to believe in free elections. If they are going to believe in free elections, then they have to believe that the American people have some right to have some impact on what happens in the Congress. That may be why the Founding Fathers required elections every 2 years, precisely so all those fancy people at the Georgetown cocktail parties who actually have to go home and actually have to talk to normal everyday Americans and actually find out what they want. And having found it out, maybe they would bring that information into the House Chamber.

Now, what do we find out? We find out, as I said a while ago, 76 percent of the country is against raising taxes, 83 percent of the country is in favor of cutting spending. The Democrats ignored all that and decided to raise taxes and raise spending. In the article by Edsall and Dionne they quoted further,

> So the Democrats still have some deciding to do. "Eventually, [Congressional leaders] have to decide if the Democrats are going to be the party of the middle class," said Stan Greenberg, a Democratic poll taker. "I don't know how many times you can go to the well and come back with taxes for the middle class."

Remember, this is a Democratic culture. Let me read that again, because I thought today's Democratic tax increase bill was a test of this question, reading what Stan Greenberg, a Democratic poll taker said, "I don't know how many times you can go to the well and come back with taxes for the middle class."

What did they do today? They raised, as I said a while ago, depending on who we believe, either according to the gentleman from New Jersey [Mr. SAXTON], $639 per year a middle-class family of four, or according to the National Taxpayers Union they managed to raise on a middle-class family with $35,000 in taxable income over $2,000 of new income taxes through 1995. Members decide which of those exact studies they think is more accurate, but both studies point in the same direction, that the Democrat package was, in fact, a package aimed at raising taxes not on the rich but on the middle class.

Now, I happen to think that it is good for Members to listen to the country. I happen to think that it is good for the American people to know what we are doing. I think it is good for them to be able to watch Members on television, to read Members in the CONGRESSIONAL RECORD, to know how we are going, and I think those Americans who watched today know full well because they saw it happen, the Democrats voted to choke off debate on a spending cut budget that the Democrats voted to stop a spending cut budget from even coming to the floor, that having stopped a spending cut budget, the Democrats offered a spending increase and tax increase budget. Those who watched today know that the Democrats had a slogan of taxing the rich, but there was a reality of taxing the working middle class that the spirit of Mondale and Dukakis and Governor Florio is alive in the Congress, and that, in fact, we saw an effort to raise taxes by $199 billion, counting taxes and fees, in order

to raise spending in the Committee on Appropriations by $160 billion.

My close is very simple. Those voters who are sick and tired of politicians that do not listen to them, I have an answer. Go vote, ask your local candidate how did they vote. What did they do? There is a real opportunity called an election. A real chance to change some things. As members watched the Democratic Party gag the process today, block the opportunity of choice, stop the spending cuts from coming to the floor, I think every voter should decide if it is not time for a change.

□ 0100

It may be that after 36 years of one-party monopoly by the Democrats, maybe they have grown too tired and too arrogant, too committed to taxes and too committed to spending, but whatever the American people should do, rather than being apathetic, rather than just griping, whether you are going to vote Democrat or you are going to vote Republican, I think every American when they start to complain ought to be asked the question, "Have you registered, and are you going to vote?"

I think if the American people would take the time to turn out and vote in November, they would send a signal that would truly change the Congress, and frankly, the reality is right now that it is your money, but it is their Congress.

The American people work for it. They earn it and then they lose it and cannot take it home with them because Congress raises their taxes. I think that is the lesson of today, and I think the time has come to change it.

CONFERENCE REPORT ON H.R. 3045, COPYRIGHT REMEDY CLARIFICATION ACT

Mr. KASTENMEIER submitted the following conference report and statement on the bill (H.R. 3045) to amend chapters 5 and 9 of title 17, United States Code, to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of copyright and infringement of exclusive rights in mask works, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private person or against other public entities:

CONFERENCE REPORT (H. REPT. 101-887)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3045) to amend chapters 5 and 9 of title 17, United States Code, to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of copyright and infringement of exclusive rights in mask works, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private person or against other public entities, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTON 1. SHORT TITLE.

This Act may be cited as the "Copyright Remedy Clarification Act".

SEC. 2. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF COPYRIGHT AND EXCLUSIVE RIGHTS IN MASK WORKS.

(a) COPYRIGHT INFRINGEMENT.—(1) Section 501(a) of title 17, United States Code, is amended by adding at the end the following: "As used in this subsection, the term 'anyone' includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this title in the same manner and to the same extent as any nongovernmental entity.".

(2) Chapter 5 of title 17, United States Code, is amended by adding at the end the following new section:

"§ 511. Liability of States, instrumentalities of States, and State officials for infringement of copyright

"(a) IN GENERAL.—Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity, shall not be immune, under the Eleventh Amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for a violation of any of the exclusive rights of a copyright owner provided by sections 106 through 119, for importing copies of phonorecords in violation of section 602, or for any other violation under this title.

"(b) REMEDIES.—In a suit described in subsection (a) for a violation described in that subsection, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any public or private entity other than a State, instrumentality of a State, or officer or employee of a State acting in his or her official capacity. Such remedies include impounding and disposition of infringing articles under section 503, actual damages and profits and statutory damages under section 504, costs and attorney's fees under section 505, and the remedies provided in section 510.".

(3) The table of sections at the beginning of chapter 5 of title 17, United States Code, is amended by adding at the end the following new item:

"Sec. 511. Liability of States, instrumentalities of States, and State officials for infringement of copyright.".

(b) INFRINGEMENT OF EXCLUSIVE RIGHTS IN MASK WORKS.—(1) Section 910(a) of title 17, United States Code, is amended by adding at the end the following: "As used in this subsection, the term 'any person' includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this chapter in the same manner and to the same extent as any nongovernmental entity.".

(2) Section 911 of title 17, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity, shall not be immune, under the Eleventh Amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for a violation of any of the exclusive rights of the owner of a mask work under this chapter, or for any other violation under this chapter.

"(2) In a suit described in paragraph (1) for a violation described in that paragraph, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any public or private entity other than a State, instrumentality of a State, or officer or employee of a State acting in his or her official capacity. Such remedies include actual damages and profits under subsection (b), statutory damages under subsection (c), impounding and disposition of infringing articles under subsection (e), and costs and attorney's fees under subsection (f).".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect with respect to violations that occur on or after the date of the enactment of this Act.

And the Senate agree to the same.

That the Senate recede from its amendment to the title of the bill.

BOB KASTENMEIER,
GEO. W. CROCKETT, JR.,
HOWARD L. BERMAN,
CARLOS J. MOORHEAD,
HOWARD COBLE,
Managers on the Part of the House.

DENNIS DECONCINI,
PATRICK LEAHY,
TED KENNEDY,
ORRIN HATCH,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3045) to amend title 17 of the United States Code to clarify the remedies available for copyright and mask work infringement, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment added a new section 3 to the House bill. The Senate recedes from the addition of section 3.

Due to a printing error, the word "official" was omitted from the first sentence of proposed section 911(g)(1) of title 17 in H.R. 3045 as passed by the House. The House therefore recedes to sections 1, 2, and 4 of the Senate bill.

1. SHORT TITLE

This section in the House and Senate bills is identical. The House recedes.

2. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF COPYRIGHT AND EXCLUSIVE RIGHTS IN MASK WORKS

This section in the House and Senate bills is identical except for a printing error that omitted the word "official" from the first sentence of proposed 17 U.S.C. 911(g)(1) in the bill as passed by the House.

The House recedes.

3. COSTS AND ATTORNEY'S FEES

This section was added by amendment by the Senate. The amendment limits reimbursement for attorneys' fees and other costs to copyright owners unless the copyright owner falls within one of three specified categories, taken from the Equal Access to Justice Act: a business with a net worth of $5 million or less, with 500 or fewer employees; a tax exempt organization or cooperative association with 500 or fewer employees; or an individual with a net worth of $1 million or less.

The Committee agrees with the Register of Copyrights, Ralph Oman, who described the amendment as unnecessary, since "[a]ward of attorney's fees is discretionary with the courts, and judges generally will not award large fees for the benefit of affluent plaintiffs who sue nonprofit defendants. . . . The states generally would not be assessed attorney's fees anyway."

The Register also advised that the Congress should preserve the discretion of judges to award attorneys' fees where appropriate, in order to "deter abuse by individual state officials, who might otherwise be grossly negligent about respecting the copyright law."

Finally, the Register concluded that "[i]f the states violate the copyright law, they are injuring the property rights of citizens and the status of the citizen should not affect the remedies available. Moreover, by depriving more affluent citizens of attorney's fees, you will discourage some of them from filing lawsuits to vindicate their property rights."

The Senate recedes.

4. EFFECTIVE DATE

This section in the House and Senate bills is identical. The House recedes.

BOB KASTENMEIER,
GEO. W. CROCKETT, JR.,
HOWARD L. BERMAN,
CARLOS J. MOORHEAD,
HOWARD COBLE,
Managers on the Part of the House.

DENNIS DECONCINI,
PATRICK LEAHY,
TED KENNEDY,
ORRIN HATCH,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 5019, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1991

Mr. BEVILL submitted the following conference report and statement on the bill (H.R. 5019) making appropriations for energy and water development for the fiscal year ending September 30, 1991:

CONFERENCE REPORT (H. REPT. 101-889)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5019) "making appropriations for energy and water development for the fiscal year ending September 30, 1991, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 3, 4, 5, 6, 12, 13, 16, 17, 18, 22, 23, 34, 48, 60, 61 and 69.

That the House recede from its disagreement to the amendments of the Senate numbered 24, 25, 26, 38, 41, 42, 43, 55, 56, 63, and 68, and agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

Red River Waterway, Shreveport, Louisiana, to Daingerfield, Texas, $1,900,000;

Miami River Sediments, Florida, $200,000;

Monroe County Beach Erosion (Smathers Beach), Florida, $193,000;

Wyoming Valley Levee Raising, Pennsylvania, $1,000,000:

; And the Senate agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named in said amendment, insert *$2,000,000;* and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,450,669,000;* and the Senate agree to the same.

Amendment numbered 36:

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, using $900,000 of the funds appropriated herein, is directed to undertake a major rehabilitation of the Johnstown, Pennsylvania project to insure that the project will continue to provide the authorized level of protection in the future. The Secretary is further directed to investigate those non-federally owned buildings, embankments and walls which were included in the line of protection for the convenience of the Government and to perform needed repair, rehabilitation or replacement at Federal expense subject to the following terms: (1) The City of Johnstown secures needed rights of access to such structures; (2) the City of Johnstown agrees to hold and save the United States free from damages due to construction or operation and maintenance of the work on the non-Federal structures, except for damages due to the fault or negligence of the United States or its contractors: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake improvements to roads, utilities, and other facilities at the Crowder Point East Recreation Area at Eufaula Lake, Oklahoma, using funds appropriated for that purpose in the Energy and Water Development Appropriations Act, 1989, Public Law 100-371*; and the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$642,897,000*; and the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$170,000,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 8, 9, 11, 14, 15, 19, 20, 21, 27, 28, 29, 30, 31, 32, 35, 37, 39, 40, 44, 45, 46, 49, 50, 51, 52, 53, 54, 57, 58, 59, 62, 64, 65, 66, 70 and 71.

TOM BEVILL,
LINDY (MRS. HALE) BOGGS,
VIC FAZIO,
WES WATKINS,
LINDSAY THOMAS,
JIM CHAPMAN,
JAMIE L. WHITTEN,
JOHN T. MYERS,
VIRGINIA SMITH,
CARL D. PURSELL,
SILVIO O. CONTE,
(except amendment No. 51),
Managers on the Part of the House.

J. BENNETT JOHNSTON,
ROBERT C. BYRD,
ERNEST F. HOLLINGS,
QUENTIN N. BURDICK,
JIM SASSER,
DENNIS DECONCINI,
HARRY REID,
MARK O. HATFIELD,
JAMES A. MCCLURE,
JAKE GARN,
THAD COCHRAN,
PETE V. DOMENICI,
ARLEN SPECTER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two houses on the amendments of the Senate to the bill (H.R. 5019) making appropriations for energy and water development for the fiscal year ending September 30, 1991, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effects of the action agreed upon by the managers and recommended in the accompanying conference report.

Report language included by the House which is not changed by the report of the Senate, and Senate report language which is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein.

TITLE I—DEPARTMENT OF DEFENSE—CIVIL

The summary tables at the end of this title set forth the conference agreement with respect to the individual appropriations, programs and activities of the Corps

of Engineers. Additional items of conference agreement are discussed below.

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

GENERAL INVESTIGATIONS

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: *$146,435,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $146,435,000 for General Investigations instead of $167,847,000 as proposed by the House and $153,335,000 as proposed by the Senate.

The conferees agree with the language contained in the Senate Report regarding the Devils Lake, North Dakota, project.

The conferees direct the attention of the Corps of Engineers to the House and Senate Reports in allocating Section 22 Planning Assistance to the States funds. It is the intention of the conferees not to earmark funds for this program in the future.

The conference agreement includes $2,000,000 for the Magnetic Levitation Transportation Pilot Program, $3,500,000 for the Construction Productivity Advancement Research program and deletes funding for the Climate Change Impact Program.

Amendment No. 2: Earmarks $220,000 for preconstruction engineering and design of the Casino Beach, Chicago, Illinois, project as proposed by the House. The Senate bill deleted funding for this project.

Amendment No. 3: Earmarks $2,000,000 for preconstruction engineering and design of the McCook and Thornton Reservoirs (CUP), Illinois, project as proposed by the House instead of $1,000,000 as proposed by the Senate.

Amendment No. 4: Earmarks $125,000 for preconstruction engineering and design of the Lake George, Hobart, Indiana, project as proposed by the House. The Senate bill deleted funding for this project.

Amendment No. 5: Earmarks $220,000 for preconstruction engineering and design of the Little Calumet River Basin (Cady Marsh Ditch), Indiana, project as proposed by the House instead of $100,000 as proposed by the Senate.

Amendment No. 6: Earmarks $600,000 for preconstruction engineering and design of the Ste. Genevieve, Missouri, project as proposed by the House instead of $300,000 as proposed by the Senate.

Amendment No. 7: Earmarks $1,900,000 for the Red River Waterway, Shreveport, Louisiana, to Daingerfield, Texas, project; $200,000 for the Miami River Sediments, Florida, project; $193,000 for the Monroe County Beach Erosion (Smathers Beach), Florida, project; and $1,000,000 for the Wyoming Valley Levee Raising, Pennsylvania, project as proposed by the House. The Senate bill deleted funding for these projects. The conference agreement also deletes funding included in the House bill for the Taylorsville Lake (Routt Road Bridge), Kentucky, project as proposed by the Senate.

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that adds language that provides that the Secretary of the Army is to work in partnership with Department of Energy in conducting research and development associated with an advanced high speed magnetic levitation transportation system.

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *: Provided further, That notwithstanding any other provision of law, the funds appropriated to the Corps of Engineers in Public Law 101-101 for Magnetic Levitation Research and Development activities are hereby authorized for expenditure only in accordance with the directions contained in Senate Report 101-83 and House Report 101-235: Provided further, That with $200,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to resume preconstruction engineering and design of the St. Louis Harbor, Missouri and Illinois, project*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language proposed by the Senate that provides that funds appropriated in Public Law 101-101 for magnetic levitation research and development shall be expended only in accordance with the directions contained in Senate Report 101-83 and House Report 101-235, amended to include language directing the Secretary of the Army to utilize $200,000 of the funds appropriated in the Act to resume preconstruction engineering and design of the St. Louis Harbor, Missouri and Illinois, project.

Amendment No. 10: Restores House language deleted by the Senate amended to provide that $2,000,000 of the funds appropriated in the Act shall be used to initiate preconstruction engineering and design of the Los Angeles-Long Beach Harbors project upon release of the Corps of Engineers South Pacific Division Engineer's notice of completion of the feasibility report instead of $3,000,000 as proposed by the House.

Amendment No. 11: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *: Provided further, That with $800,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to accelerate preconstruction engineering and design for the Folly Beach, South Carolina, project and complete the General Design Memorandum by May 1991 so that project construction could begin in the fourth quarter of fiscal year 1992: Provided. further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $300,000 of the funds appropriated herein to initiate and expedite a reconnaissance study to develop a recommended plan for flood damage prevention and other water resources problems along the Ohio River and its tributaries in Belmont and Jefferson Counties, Ohio: Provided further, That using $270,000 of funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete engineering and design of the Bethel, Alaska, bank stabilization project*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes language proposed by the Senate providing for the use of $800,000 to accelerate preconstruction engineering and design of the Folly Beach, South Carolina, project amended to correct a date; includes language proposed by the Senate directing the use of $300,000 for a reconnaissance study of flooding and other water resources problems along the Ohio River and its tributaries in Belmont and Jefferson Counties, Ohio; and includes language proposed by the Senate directing the use of $270,000 for engineering and design of the Bethel, Alaska, bank stabilization project amended to clarify that the funds are to be used to initiate and complete engineering and design.

Amendment No. 12: Deletes language proposed by the Senate providing $60,000 for the Village Creek, Taylor Bay, Arkansas, project. This language is not required since funding for this project is included in the amount appropriated in Amendment No. 1.

Amendment No. 13: Deletes language proposed by the Senate providing $450,000 for the Jackson Hole, Wyoming, project. This language is not required since funding for this project is included in the amount appropriated in Amendment No. 1.

CONSTRUCTION, GENERAL

Amendment No. 14: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: *$1,050,450,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $1,050,450,000 for Construction, General excluding the Red River Waterway project instead of $1,300,389,000 as proposed by the House and $1,215,407,000 as proposed by the Senate.

The conferees have provided $1,000,000 for the Sacramento Flood Control Project to be used by the Corps of Engineers, Sacramento District, to plan, design and construct historical wetlands in the Yolo Basin, California, under the authority of section 1135 of the Water Resources Development Act of 1986 as outlined in House Report 101-536, Corps of Engineers, Operation and Maintenance, Wetlands Research Program.

The conference agreement includes funding for the projects in the Continuing Authorities Programs listed in the House and Senate Reports. The conference agreement also includes $125,000 for a section 205 flood control study in Pinal County, Arizona, between the Phoenix and Tucson metropolitan areas.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: *$4,100,000, which is to be utilized to construct emergency bank stabilization measures including repairs to revetments and realignments upstream of Shreveport, Louisiana, to Index, Arkansas, that were significantly damaged in the May 1990 flood in the Red River Basin*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are aware of the damages sustained to the revetments and realignment works in the May 1990 flood in the Red River Basin and the need to provide additional bank stabilization to areas not previously protected. Damage to these revetments and realignment works is known to be significant, and early repairs are essential. The Corps of Engineers is directed to survey damages and set priorities on items needing repair. Although the normal maintenance of revetments and realignments above Shreveport, Louisiana, is a local sponsor responsibility, the flood damages incurred are considerably beyond the scope of normal maintenance. Therefore the conferees have provided $4,100,000 for the Red River Emergency Bank Protection project to accomplish needed repairs and to construct new bank stabilization measures.

Amendment No. 16: Earmarks $6,000,000 for the Kissimmee River, Florida, project as proposed by the House instead if $2,000,000 as proposed by the Senate.

Amendment No. 17: Earmarks $9,200,000 for the Wallisville Lake, Texas, project and $5,000,000 for the Red River Basin Chloride Control, Texas and Oklahoma, project as proposed by the House. The Senate bill deleted funding for these projects.

Amendment No. 18: Earmarks $1,500,000 for the Platte River Flood and Streambank Erosion Control Demonstration Project, Nebraska, and $975,000 for the San Diego River and Mission Bay, California, project as proposed by the House. The Senate bill deleted funding for these projects.

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that directs the Secretary of the Army to utilize $6,000,000 of the funds appropriated in the Act to initiate construction of the lower Mingo County, West Virginia, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project.

The conference agreement includes $11,299,000 for the South Williamson element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project, the same as the budget request. In carrying out the South Williamson element, the conferees direct the Corps of Engineers to include the work described in Feature Design Memorandum No. 18, South Williamson Pump Station, dated July 1988.

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that provides that no fully allocated funding policy shall apply to construction of the lower Mingo County, West Virginia, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland project.

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that provides that the Matewan, West Virginia, flood protection project shall include all incorporated units within the town of Matewan.

Amendment No. 22: Restores House language stricken by the Senate that directs the Secretary of the Army to award continuing contracts until construction is complete under the terms and conditions of Public Law 101-101 for the Wallisville Lake, Texas, project.

Amendment No. 23: Restores House language stricken by the Senate that directs the Secretary of the Army to construct the Salyersville, Kentucky, project using $400,000 of the funds appropriated in the Act.

Amendment No. 24: Deletes House language striken by the Senate that authorizes and directs the Secretary of the Army to undertake construction of the Lower and Middle Rouge Rivers projects in Michigan using $3,000,000 of the funds appropriated in the Act.

Amendment No. 25: Earmarks $975,000 for the Tulsa and West Tulsa Local Protection Project, Oklahoma, as proposed by the Senate instead of $300,000 as proposed by the House.

Amendment No. 26: Deletes House language stricken by the Senate that specifically authorizes the Secretary of the Army to repair and restore to a safe condition the Tulsa and West Tulsa Local Protection Project in Oklahoma. This language is not required since the conferees have been advised that the project is authorized.

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that directs the Secretary of the Army to study, design, and construct streambank protection measures at McGregor Park in Clarksville, Tennessee, using $550,000 of the funds appropriated in the Act.

Amendment No. 28: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that directs the Secretary of the Army to relocate the Southeast Light on Block Island, Rhode Island, subject to enactment of authorizing legislation, using $970,000 of the funds appropriated in the Act.

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that deletes House language appropriating $61,636,000 for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project and adds language that appropriates $92,636,000 for the Red River Waterway project and provides direction to the Secretary of the Army regarding the use of those funds.

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that directs the Secretary of the Army to design and construct a support structure for the Seafarers Memorial in the Columbia River using $150,000 of the funds appropriated in the act.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

Amendment No. 31: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: *$344,606,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $344,606,000 for Flood Control, Mississippi River and tributaries instead of $342,731,000 as proposed by the House and $338,993,000 as proposed by the Senate.

The conferees agree with the action taken by the Senate to rename the Yazoo Basin Reformulation Unit as a restudy and direct that the restudy be limited to an examination of alternatives that fall within the scope of the currently authorized Yazoo Basin projects.

The conferees agree with the language contained in the Senate report that clarifies the terms under which the Corps of Engineers is to complete the water balance study for the northwest Mississippi region.

The conferees agree with the language in the House report regarding the Yazoo Basin, Mississippi, Demonstration Erosion Control Program.

Amendment No. 32: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that directs the Secretary of the Army to utilize $2,000,000 of the funds appropriated in the act to construct the West Memphis, Arkansas, project; directs the Secretary of the Army to utilize $400,000 of the funds appropriated in the Act for the Ouachita River Levees project in Louisiana; and provides that the Bayou Rapides Drainage Structure and Pumping Plant is to be included in the Flood Control, Mississippi River and Tributaries, project.

OPERATION AND MAINTENANCE, GENERAL

Amendment No. 33: Appropriates $1,450,669,000 for Operation and Maintenance, General instead of $1,457,488,000 as proposed by the House and $1,408,791,000 as proposed by the Senate.

The conferees agree with the House with regard to the need for the comprehensive study of the Alabama-Coosa and Appalachicola-Chattahoochee-Flint River Basins. The conferees note that interim reallocations of storage for water supply may be necessary while the study is being conducted.

The conferees have no objection to the Corps of Engineers proceeding with the review and study of the operation and maintenance program as described in the October 5, 1990, letter from the Assistant Secretary of the Army (Civil Works) to the House and Senate committees.

Amendment No. 34: Earmarks $3,630,000 for the Long-Term Management Strategy for dredged material disposal in the San Francisco Bay, California, region as proposed by the House instead of $2,000,000 as proposed by the Senate.

Amendment No. 35: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *: Provided further, That $2,500,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the development of recreation facilities at Sepulveda Dam, California: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $3,500,000 of the funds appropriated herein for the Federal share of construction of access facilities in the McAlpine Lock and Dam navigation pool. The non-Federal interests shall be credited for previous work related to access, including $3,000,000 for 1,060 feet of the new downtown wharf. Non-Federal interests shall provide necessary*

easements to the Federal Government for construction of improvements at no cost to the Federal Government. Title for lands shall remain with non-Federal interests: Provided further, That $100,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the Sauk Lake, Minnesota, project: Provided further, That with $350,000 of the funds herein appropriated to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to use continuing contracts to design and construct a riverfront park at Charleston, West Virginia, in accordance with the cost sharing principles of Public Law 99-662 and as generally described in the September 1989 Reconnaissance Report of the Huntington District entitled, Charleston Riverfront Park, Winfield Navigation Pool, Kanawha River: Provided further, That no fully allocated funding policy shall apply to construction of Charleston Riverfront Park, West Virginia

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement restores House language stricken by the Senate earmarking funds for development of recreation facilities at Sepulveda Dam, California; restores House language stricken by the Senate that directs the Secretary of the Army to use $3,500,000 of the funds appropriated in the Act for construction of access facilities in the McAlpine Lock and Dam navigation pool; restores House language stricken by the Senate that earmarks funds for the Sauk Lake, Minnesota, project; and includes language proposed by the Senate that directs the Secretary of the Army to use $350,000 appropriated in the Act to design and construct a riverfront park at Charleston, West Virginia, and provides that no fully allocated funding policy shall apply to construction of the Charleston Riverfront Park.

Amendment No. 36: Restores House language stricken by the Senate that directs the Secretary of the Army to undertake a major rehabilitation of the Johnstown, Pennsylvania, project; restores House language stricken by the Senate that directs the Secretary of the Army to undertake improvements to facilities at the Crowder Point East Recreation Area at Eufaula Lake, Oklahoma, using previously appropriated funds; and deletes House language stricken by the Senate that directs the Secretary of the Army to maintain and improve Bugtussle Road at Lake Eufaula, Oklahoma.

Amendment No. 37: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that provides that $7,000,000 of the funds appropriated in the Act are to be used for a replacement for the existing Corps of Engineers bridge at St. Georges, Delaware.

REVOLVING FUND

Both the House and Senate committees have previously expressed concern about the costs and justification of the Corps of Engineers Automation Plan (CEAP). As a result, in the Statement of Managers accompanying the FY 1990 Energy and Water Development Appropriations Act, the conferees directed that no further acquisitions for CEAP could be made beyond those required for the pilot test. In a letter dated September 17, 1990, the Assistant Secretary of the Army (Civil Works) advised the House and Senate committees of the results of the pilot test. Based on those results, which demonstrated that the benefits of the program exceeded costs and resulted in a revised program with significantly reduced costs, the conferees have no objection to the Corps of Engineers proceeding with further acquisitions for CEAP as outlined in the above referenced letter.

FLOOD CONTROL AND COASTAL EMERGENCIES

Amendment No. 38: Appropriates $20,000,000 for Flood Control and Coastal Emergencies as proposed by the Senate instead of $25,000,000 as proposed by the House.

GENERAL EXPENSES

Amendment No. 39: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that directs the Secretary of the Army to complete the conceptual study of field organization structures in accordance with Senate Report 101-83 and the Conference Report accompanying Public Law 101-101 (House Report 101-235).

GENERAL PROVISIONS

CORPS OF ENGINEERS—CIVIL

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that deletes House language amending Section 4(t)(3)(F) of the Water Resources Development Act of 1988 and replaces it with Senate language amending the same provision of law. Section 4(t)(3)(F) of the Water Resources Development Act of 1988 provided up to $600,000 in debt relief to the city of Aberdeen, Washington, because the transfer of operation and maintenance responsibility for the Wynoochee Lake project from the Corps of Engineers to the city had been delayed. Language in the House bill extended the period of debt relief until the date of transfer of responsibility to the city. The Senate provision agreed to by the conferees extends the period of debt relief to June 30, 1990, and removes the $600,000 limitation.

Amendment No. 41: Deletes House language stricken by the Senate directing the Secretary of the Army to construct loading facilities at Boudinot Harbor on the McClellan-Kerr Arkansas River Navigation System.

Amendment No. 42: Changes a section number as proposed by the Senate.

Amendment No. 43: Changes a section number as proposed by the Senate.

Amendment No. 44: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that directs the Secretary of the Army to conclude a Local Cooperation Agreement for facilities across the Missouri River in the vicinity of Ft. Yates, North Dakota, and provides $250,000 for planning, engineering and design of the project.

Amendment No. 45: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that modifies the authorization for the San Luis Rey, California, project.

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES		CONFERENCE ALLOWANCE	
		INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
	ALABAMA				
[N]	BAYOU LA BATRE, AL	---	347,000	---	347,000
[N]	CHICKASAW CREEK, AL	30,000	---	30,000	---
	CHOCTAWHATCHEE & PEA RIVER BASIN, AL & FL	---	---	400,000	---
[FDP]	VALLEY CREEK, WARRIOR RIVER AND TRIBUTARIES, AL	64,000	---	64,000	---
	ALASKA				
[SP]	BETHEL, AK	---	---	---	270,000
[N]	KODIAK HARBOR, AK	---	233,000	---	233,000
[FDP]	RIVERS AND HARBORS, AK	396,000	---	396,000	---
[FDP]	SEWARD, AK	125,000	---	125,000	--
[FDP]	UNALASKA, AK	136,000	---	136,000	--
	ARIZONA				
[FDP]	CENTRAL MARICOPA COUNTY DRAINAGE AREA, AZ	---	---	300,000	---
[FDP]	GILA RIVER INDIAN COMMUNITY, AZ	200,000	---	200,000	---
[FDP]	GILA RIVER & TRIBUTARIES, LOWER SANTA CRUZ RIVER, AZ	200,000	---	200,000	---
[FDP]	HASSAYAMPA RIVER NEAR WICKENBURG, AZ	---	---	300,000	---
	HOLBROOK, AZ	---	---	---	900,000
[FC]	NOGALES WASH, AZ	---	300,000	---	300,000
[FC]	RILLITO, AZ	---	610,000	---	610,000
[FDP]	TUCSON DRAINAGE AREA, AZ	250,000	---	250,000	---
	ARKANSAS				
[FDP]	CENTRAL ARKANSAS STUDY, AR	500,000	---	500,000	---
[FDP]	LITTLE RIVER COUNTY, AR	---	---	200,000	---
[FDP]	OUACHITA RIVER BASIN, HOT SPRINGS, GARLAND COUNTY, AR	275,000	---	275,000	---
	RED RIVER WW, SHREVEPORT, LA TO VICINITY OF INDEX, AR	---	---	---	50,000
	RED RIVER WW, INDEX, AR TO DENISON DAM, TX	---	---	---	300,000
[RCP]	VILLAGE CREEK TAYLOR BAY, AR [SECTION 216]	---	---	60,000	---
	AMERICAN SAMOA				
[COM]	TERRITORIES DEVELOPMENT STUDY, AS	250,000	---	250,000	---
	CALIFORNIA				
[FC]	AMERICAN AND SACRAMENTO RIVERS, CA	---	2,000,000	---	2,000,000
	ARROYO PASAJERO [FRESNO COUNTY], CA	---	---	250,000	---
	CACHE CREEK BASIN [LAKE COUNTY], CA	---	---	500,000	---
	CALIENTE CREEK, CA	---	---	250,000	---
	CALLEGUAS CREEK, CA	---	---	400,000	---
[SPE]	COAST OF CALIFORNIA, SOUTH COAST REGION	---	---	400,000	---
[FC]	COYOTE & BERRYESSA CREEKS, CA	---	424,000	---	424,000
[FC]	DRY CREEK, ROSEVILLE, CA	---	300,000	---	300,000
[N]	HUMBOLDT HARBOR AND BAY [DEEPENING], CA	225,000	---	225,000	---
[FC]	LOS ANGELES COUNTY DRAINAGE AREA, CA	---	2,000,000	---	2,000,000
[N]	LOS ANGELES - LONG BEACH HARBORS, CA	250,000	---	250,000	2,000,000
[FC]	LOWER MISSION CREEK, CA	---	550,000	---	550,000
	MARIN COUNTY SHORELINE, CA	---	---	150,000	---
[N]	MONTEREY HARBOR, CA	210,000	---	210,000	---
[N]	MORRO BAY HARBOR, CA	---	270,000	---	270,000
[FC]	NAPA RIVER, CA	---	410,000	---	410,000
	NORTHERN CALIFORNIA STREAMS, AMER RVR WATERSHED, CA	---	---	275,000	---
	NORTHERN CALIFORNIA STREAMS, SACRAMENTO METRO AREA, CA	---	---	90,000	---
[FDP]	NORTHERN CALIFORNIA STREAMS, YOLO BYPASS, CA	400,000	---	400,000	---
[FDP]	NORTHERN CALIFORNIA STREAMS, YUBA RIVER BASIN, CA	375,000	---	375,000	---
[N]	OCEANSIDE HARBOR, CA	---	175,000	---	257,000
	RANCHO PALOS VERDES, CA	---	---	300,000	---
[FDP]	SACRAMENTO-SAN JOAQUIN DELTA, CA	350,000	---	350,000	---
[SP]	SAN FRANCISCO COUNTY, OCEAN BEACH, CA	336,000	---	336,000	---
[N]	SAN FRANCISCO HARBOR, CA	---	---	300,000	---
[FDP]	SAN JOAQUIN RIVER BASIN, CALAVERAS RIVER, CA	325,000	---	325,000	---
[FDP]	SAN JOAQUIN RIVER BASIN, KAWEAH RIVER, CA	70,000	---	70,000	---
[FDP]	SAN JOAQUIN RIVER BASIN, MOKELUMNE RIVER & TRIBS, CA	300,000	---	300,000	---
[FDP]	SAN JOAQUIN RIVER BASIN, SAN JOAQUIN R MAIN STEM & TRI	---	---	250,000	---
[FDP]	SAN JOAQUIN RIVER BASIN, TULE RIVER, CA	64,000	---	154,000	---
[FDP]	SAN LORENZO, CA	98,000	---	98,000	---
[FC]	SAN LORENZO RIVER, CA	---	100,000	---	100,000
[N]	SAN RAFAEL CANAL, CA	---	150,000	---	150,000
[FDP]	SANTA ANA RIVER & ORANGE CO, CA	270,000	---	270,000	---
[SP]	SANTA BARBARA COUNTY [BEACH EROSION], CA	122,000	---	122,000	---
[N]	SANTA BARBARA HARBOR, CA	---	150,000	---	150,000
	SANTA BARBARA & VENTURA COUNTIES, EMERG WATER SUPPLIES	---	---	300,000	---
	SANTA CRUZ HARBOR SHOALING, CA	---	---	200,000	---
[N]	SANTA MONICA BREAKWATER, CA	142,000	---	142,000	---
[FDP]	UPPER GUADALUPE RIVER, CA	300,000	---	300,000	---
[N]	VENTURA HARBOR, CA	---	210,000	---	300,000
[FDP]	WALNUT CREEK BASIN, CA	85,000	---	150,000	---
	WHITEWATER RIVER BASIN, CA	---	---	340,000	---
	COLORADO				
[FC]	ALAMOSA, CO	---	240,000	---	240,000
[FDP]	BOXELDER, SPRING, & DRY CREEKS, FT. COLLINS, CO	70,000	---	70,000	---
[FDP]	GOOSE CREEK, BOULDER, CO	70,000	---	70,000	---
[FDP]	RALSTON AND LEYDEN CREEKS, CO	100,000	---	100,000	---
	CONNECTICUT				
[COM]	WEST CENTRAL CONNECTICUT COASTAL FLOODING, CT	90,000	---	90,000	---
	DELAWARE				
[N]	C&D CANAL-BALTIMORE HARBOR CONNECTING CHNLS [DEEP.], D	550,000	---	550,000	---
[SP]	DELAWARE BAY COASTLINE, DE & NJ	355,000	---	355,000	---
[SP]	DELAWARE COAST FROM CAPE HENLOPEN TO FENWICK ISLAND, D	393,000	---	393,000	---

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
	FLORIDA				
[N]	CANAVERAL HARBOR, FL	---	400,000	---	400,000
[N]	CANAVERAL HARBOR, SAND BYPASS, FL	---	415,000	---	415,000
[FDP]	COAST OF FLORIDA EROSION AND STORM EFFECTS STUDY, FL	750,000	---	750,000	---
[FDP]	FROG POND, FL	98,000	---	98,000	---
[FDP]	HILLSBORO CANAL, FL	150,000	---	150,000	---
[FDP]	LOWER HILLSBOROUGH RIVER AND CURIOSITY CREEK, FL	80,000	---	80,000	---
[N]	MIAMI HARBOR CHANNEL, FL	---	1,100,000	---	1,100,000
	MIAMI RIVER SEDIMENTS, FL	---	---	---	200,000
	MONROE COUNTY BEACH EROSION, FL [SMATHERS BEACH]	---	---	---	193,000
[N]	PALM VALLEY BRIDGE, FL	200,000	---	200,000	---
[BE]	PANAMA CITY BEACHES, FL	---	800,000	---	800,000
[N]	PANAMA CITY HARBOR, FL	---	200,000	---	200,000
	PERDIDO KEY BEACHES, FL	---	---	30,000	---
	PORT EVERGLADES HARBOR, FL	---	---	---	250,000
	SOUTH CENTRAL FLORIDA SIMULATION MODEL, FL	---	---	207,000	---
	ST. JOHNS RIVER, FL [WATER QUALITY MGMT]	---	---	150,000	---
	ST. PETERSBURG HARBOR, FL	---	---	65,000	---
	TAMPA BAY [COASTAL AREAS], FL	---	---	250,000	---
[N]	TAMPA HARBOR, ALAFIA RIVER AND BIG BEND, FL	100,000	---	100,000	---
	GEORGIA				
[N]	BRUNSWICK HARBOR, GA	---	50,000	---	50,000
[SP]	GLYNN COUNTY BEACHES, GA	400,000	---	400,000	---
	LOWER SAVANNAH RIVER, GA	---	---	150,000	---
[MP]	RICHARD B. RUSSELL DAM & LAKE, WILDLIFE MITIGATION, GA	---	300,000	---	300,000
[N]	SAVANNAH HARBOR COMPREHENSIVE, GA	---	50,000	---	50,000
[N]	SAVANNAH HARBOR EXTENSION, GA	150,000	---	150,000	---
[FDP]	SAVANNAH RIVER BASIN, GA, SC & NC	123,000	---	123,000	---
	SOUTH ATLANTIC CONTAINERIZED CARGO TRAFFIC STUDY, GA	---	---	1,100,000	---
	HAWAII				
[N]	HILO HARBOR, HI	---	150,000	---	150,000
[FDP]	URBAN FLOOD CONTROL - HONOLULU, HI	200,000	---	200,000	---
	WAIKIKI BEACH, HI	---	---	100,000	---
	IDAHO				
[FDP]	COLUMBIA RIVER AND TRIBUTARIES, ID, MT, OR & WA	61,000	---	61,000	---
[FC]	LITTLE WOOD RIVER, VICINITY OF GOODING AND SHOSHONE, I	---	300,000	---	300,000
[FDP]	UPPER SNAKE RIVER AND TRIBUTARIES, ID & WY	211,000	---	211,000	---
	ILLINOIS				
[FDP]	ALEXANDER AND PULASKI COUNTIES, IL	150,000	---	150,000	---
	APPLE CREEK RESERVOIR, IL	---	---	400,000	---
	CASINO BEACH, CHICAGO, IL	---	---	---	220,000
[FDP]	DES PLAINES RIVER, IL	200,000	---	200,000	---
[BE]	ILLINOIS BEACH STATE PARK, IL	---	100,000	---	100,000
[RCP]	ILLINOIS WATERWAY NAVIGATION STUDY	1,100,000	---	1,100,000	---
[FC]	MCCOOK & THORNTON RESERVOIRS [CUP], IL	---	---	---	2,000,000
[N]	OLMSTEAD LOCKS & DAM, IL & KY	---	3,532,000	---	---
[RCP]	UPPER MISSISSIPPI RIVER NAVIGATION STUDY, IL, IA, MN,	514,000	---	514,000	---
	INDIANA				
[FC]	FORT WAYNE METROPOLITAN AREA, IN	---	585,000	---	585,000
[BE]	INDIANA SHORELINE EROSION, IN	---	105,000	---	105,000
	INDIANAPOLIS, IN	---	---	50,000	---
[N]	JEFFERSONVILLE, IN	127,000	---	127,000	---
	LAKE GEORGE, HOBART, IN	---	---	---	125,000
	LITTLE CALUMET RIVER BASIN [CADY MARSH DITCH], IN	---	---	---	220,000
[FDP]	WABASH RIVER BASIN COMPRE. STUDY, IN & IL[MID WABASH R	100,000	---	100,000	---
	IOWA				
[FDP]	BLACK HAWK COUNTY, IA	89,000	---	89,000	---
[N]	MISSOURI RIVER F&WL MITIGATION, IA, NE, KS & MO	---	429,000	---	429,000
[FC]	PERRY CREEK, IA	---	100,000	---	485,000
[FDP]	THURMAN TO HAMBURG, IA	97,000	---	97,000	---
[FC]	WEST DES MOINES-DES MOINES, IA	---	354,000	---	354,000
	KANSAS				
[FC]	ARKANSAS CITY, KS	---	300,000	---	300,000
[FDP]	ARKANSAS RIVER AND TRIBUTARIES, GREAT BEND, KS TO TULS	582,000	---	582,000	---
[FDP]	CANEY RIVER, KS & OK	210,000	---	210,000	---
[RCP]	SOLDIER CREEK DIVERSION UNIT, TOPEKA, KS	120,000	---	120,000	---
[FDP]	TURKEY CREEK BASIN, KS AND MO	100,000	---	100,000	---
[FC]	UPPER LITTLE ARKANSAS RIVER WATERSHED, KS	---	210,000	---	210,000
[FC]	WINFIELD, KS	---	150,000	---	150,000
	KENTUCKY				
	BEAVER CREEK, FLOYD COUNTY, KY	---	---	---	200,000
[N]	CUMBERLAND-TENNESSEE RIVERS, KY, GA, AL, MS, NC, TN &.	1,008,000	---	1,008,000	---
[FDP]	FISHTRAP LAKE, KY	171,000	---	171,000	---
[N]	GREEN & BARREN RIVERS, KY	---	---	100,000	---
[FDP]	KENTUCKY RIVER AND TRIBUTARIES [EAGLE CREEK INTERIM]	---	---	500,000	---
[FC]	HAZARD, KY	---	200,000	---	200,000
[FDP]	KENTUCKY RIVER AND TRIBUTARIES, KY [JACKSON INTERIM]	220,000	---	220,000	---
[FDP]	LICKING RIVER, KY	100,000	---	200,000	---
[N]	MCALPINE LOCKS AND DAM, IN & KY	---	1,000,000	---	1,000,000
[FDP]	METRO LOUISVILLE, KY	300,000	---	300,000	---
[FDP]	OHIO RIVER MAIN STEM, KY, IL, IN, OH, PA & WV	1,065,000	---	1,065,000	---
[N]	OHIO RIVER MAIN STEM, KY, IL & IN [UNIONTOWN LOCKS & D	250,000	---	250,000	---
[FDP]	SALT RIVER BASIN, KY	225,000	---	225,000	---
[FC]	SOUTH FRANKFORT, KY	---	152,000	---	152,000

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
	LOUISIANA				
[N]	ALGIERS LOCK, LA	---	---	625,000	---
[FC]	ALOHA RIGOLETTE, LA	---	400,000	---	400,000
[FDP]	AMITE RIVER & TRIBUTARIES, LA	400,000	---	400,000	---
[N]	BAYOU LAFOURCHE AND LAFOURCHE - JUMP WATERWAY, LA	22,000	---	22,000	---
[FC]	COMITE RIVER, LA	---	700,000	---	700,000
[N]	GULF INTRACOASTAL WATERWAY, LA & TX SECTION	---	---	---	200,000
[FDP]	LA COASTAL AREA, LOUISIANA COMPRE. COASTAL WETLANDS, L	563,000	---	1,030,000	---
[FDP]	LOUISIANA COASTAL AREA, HURRICANE PROTECTION, LA	78,000	---	78,000	---
[FDP]	LOUISIANA COASTAL AREA, LAND LOSS & MARSH CREATION, LA	171,000	---	171,000	---
[N]	MERMENTAU RIVER, GIWW TO THE GULF, LA	100,000	---	100,000	---
[FDP]	MERMENTAU, VERMILION AND CALCASIEU RIVERS & BAYOU TECH	460,000	---	660,000	---
	ORLEANS & JEFFERSON PARISHES [COMPREHENSIVE FLOOD CONTROL & WATER QUALITY], LA	---	---	800,000	---
[COM]	RED RIVER BASIN, AR & LA, COMPREHENSIVE STUDY	425,000	---	425,000	---
[FC]	TANGIPAHOA, TCHEFUNCTE, AND TICKFAW RIVERS, LA	---	50,000	---	50,000
[FC]	UPPER BAYOU TECHE, LA	---	400,000	---	400,000
[FC]	WEST BANK HURRICANE PROTECTION, EAST OF HARVEY CANAL	---	---	---	600,000
	WEST BANK HURRICANE PROTECTION, LAKE CATAOUACHE LEVEE	---	---	500,000	---
	MARYLAND				
[N]	BALTIMORE HARBOR AND CHANNELS	---	---	150,000	---
[FDP]	ANACOSTIA RIVER & TRIBUTARIES, MD & DC	200,000	---	200,000	---
[RCP]	JENNINGS RANDOLPH LAKE REALLOCATION, MD & WV	150,000	---	250,000	---
[FDP]	MONONGAHELA RIVER BASIN, MD, PA & WV	50,000	---	50,000	---
	MASSACHUSETTS				
[N]	BOSTON HARBOR, MA	---	500,000	---	500,000
	CONNECTICUT RIVER, MA	---	---	150,000	---
	HYANNIS HARBOR, MA	---	---	200,000	---
[FC]	SAUGUS RIVER & TRIBUTARIES, MA	---	2,400,000	---	2,400,000
[FDP]	SPICKET RIVER, MA & NH	100,000	---	100,000	---
	MICHIGAN				
	CLINTON RIVER SPILLWAY, MI	---	---	225,000	---
[FC]	ECORSE CREEK, MI	---	205,000	---	205,000
[N]	GREAT LAKES CONNECTING CHNLS & HBRS FINAL REPORT, MN,M	---	360,000	---	360,000
[RDP]	MENOMINEE RIVER, MI & WI	103,000	---	103,000	---
[N]	SAGINAW BAY AND SAGINAW RIVER, MI	---	---	150,000	---
[N]	MONROE HARBOR, MI	---	100,000	---	100,000
[N]	ST. JOSEPH HARBOR, MI	180,000	---	180,000	---
	MINNESOTA				
[FDP]	CROOKSTON, MN	290,000	---	290,000	---
[FC]	HOUSTON, MN	---	284,000	---	284,000
	LITTLE FALLS, MN	---	---	200,000	---
[FDP]	RED LAKE & CLEARWATER RIVERS , MN	152,000	---	152,000	---
	RED RIVER OF THE NORTH, MN	---	---	250,000	---
[FC]	ST. PAUL, MN	---	397,000	---	397,000
[RDP]	WAHPETON, ND - BRECKENRIDGE, MN	60,000	---	60,000	---
	MISSISSIPPI				
[FDP]	CANEY CREEK, JACKSON, MS	100,000	---	100,000	---
[N]	ESCATAWPA RIVER, JACKSON COUNTY, MS	---	150,000	---	150,000
[FDP]	JACKSON METROPOLITAN AREA, MS	250,000	---	250,000	---
[FDP]	PASCAGOULA RIVER BASIN, MS	130,000	---	130,000	---
	MISSOURI				
[FDP]	BLUE RIVER BASIN, KANSAS CITY, MO	63,000	---	63,000	---
[FC]	BLUE RIVER BASIN, KANSAS CITY, MO	---	10,000	---	10,000
[FC]	COLDWATER CREEK, MO	---	600,000	---	600,000
[FDP]	CUIVRE RIVER AREA AND VICINITY, MO	135,000	---	135,000	---
[FDP]	DARDENNE CREEK, MO	170,000	---	170,000	---
[RDP]	DRY FORK AND EAST FORK LAKES, FISHING RIVER, MO	103,000	---	103,000	---
	JEFFERSON COUNTY, MO	---	---	300,000	---
[FDP]	PLATTIN CREEK, MO	155,000	---	155,000	---
[FC]	RIVER DES PERES, MO	---	718,000	---	718,000
[FDP]	ST. JOSEPH, MO AND VICINITY	140,000	---	140,000	---
	ST. LOUIS COUNTY, MO	---	---	100,000	---
	ST. LOUIS HARBOR, MO & IL	---	---	---	200,000
	STE. GENEVIEVE, MO	---	---	---	600,000
[FDP]	WYACONDA RIVER BASIN, MO AND IA	---	---	150,000	---
	NEBRASKA				
[FDP]	ANTELOPE CREEK, LINCOLN, NE	21,000	---	21,000	---
[FDP]	WOOD RIVER, GRAND ISLAND, NE	28,000	---	28,000	---
[FC]	WOOD RIVER, GRAND ISLAND, NE	---	150,000	---	150,000
	NEVADA				
[FDP]	LAS VEGAS WASH & TRIBS [DUCK CREEK], NV	200,000	---	200,000	---
	LOWER LAS VEGAS WASH WETLANDS, NV	---	---	700,000	---
[FDP]	LOWER TRUCKEE RIVER, NV	257,000	---	500,000	---
[FC]	TROPICANA AND FLAMINGO WASHES, NV	---	500,000	---	500,000
[FC]	TRUCKEE MEADOWS, NV	---	1,476,000	---	1,476,000
	WASHOE VALLEY, ELKO, NV	---	---	150,000	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
	NEW JERSEY				
[N]	DELAWARE RIVER COMPREHENSIVE NAVIGATION STUDY, NJ, PA.	290,000	---	290,000	---
[N]	DELAWARE RIVER MAIN CHANNEL, NJ PA & DE	---	---	---	1,000,000
[N]	DE RIVER, PHILADELPHIA, PA TO TRENTON, NJ, TIOGA MARIN	---	100,000	---	100,000
[FC]	LOWER SADDLE RIVER, NJ	---	590,000	---	590,000
[SP]	NEW JERSEY SHORE PROTECTION	---	---	700,000	---
[FC]	MOLLY ANN'S BROOK AT HALEDON, PROSPECT PARK AND PATERS	---	420,000	---	420,000
[FC]	PASSAIC RIVER MAINSTEM, NJ	---	5,000,000	---	5,800,000
[FC]	RAMAPO RIVER AT OAKLAND, NJ	---	250,000	---	250,000
[FC]	RARITAN RIVER BASIN, GREEN BROOK SUB-BASIN, NJ	---	2,000,000	---	2,000,000
[N]	SALEM RIVER, NJ	---	150,000	---	150,000
	NEW MEXICO				
[FDP]	ESPANOLA VALLEY, NM	---	---	300,000	---
[FDP]	ALBUQUERQUE ARROYOS, NM	140,000	---	140,000	---
[FDP]	LAS CRUCES, NM, EL PASO AND VICINITY	130,000	---	130,000	---
[FC]	ROSWELL, PECOS RIVER, NM	---	460,000	---	460,000
[FC]	RIO GRANDE FLOODWAY, SAN ACACIA TO BOSQUE DEL APACHE,	---	263,000	---	263,000
	NEW YORK				
[BE]	ATLANTIC COAST OF NYC, ROCKAWAY INL TO NORTON PT., NY.	---	250,000	---	250,000
[N]	HUDSON RIVER CHANNEL, NY	100,000	---	100,000	---
[SPEC]	MONTAUK POINT, NY	---	---	200,000	---
[SP]	LONG BEACH ISLAND, NY	150,000	---	150,000	---
	ONONDAGA LAKE, NY	---	---	250,000	---
[N]	OLCOTT HARBOR, NY	---	364,000	---	364,000
[N]	ROCHESTER HARBOR, NY	---	---	100,000	---
[FC]	WESTCHESTER CTY STREAMS, SHELDRAKE R TOWN OF MAMARONEC	---	150,000	---	150,000
	NORTH CAROLINA				
	ATLANTIC INTRACOASTAL WATERWAY, LOCKWOODS FOLLY INLET,	---	---	200,000	---
[N]	CAPE FEAR-NORTHEAST [CAPE FEAR] RIVER, NC	160,000	---	160,000	---
	DARE COUNTY BEACHES, NC	---	---	250,000	---
[FDP]	EASTERN NORTH CAROLINA ABOVE CAPE LOOKOUT, NC	115,000	---	365,000	---
[N]	MOREHEAD CITY HARBOR, NC	---	460,000	---	460,000
[FC]	SUGAR CREEK BASIN, NC & SC	---	800,000	---	800,000
[BE]	WEST ONSLOW BEACH & NEW RIVER INLET, NC	---	460,000	---	460,000
[N]	WILMINGTON HARBOR - NORTHEAST CAPE FEAR RIVER, NC	---	206,000	---	206,000
[SP]	WRIGHTSVILLE BEACH - NORTH PORTION, NC	132,000	---	132,000	---
	NORTH DAKOTA				
[FDP]	GRAND FORKS, ND	177,000	---	177,000	---
	DEVILS LAKE, ND	---	---	600,000	---
	OHIO				
[FC]	FAIRFIELD, OH	---	150,000	---	150,000
[FC]	HOLES CREEK AT WEST CARROLLTON AND MORAINE, OH	---	100,000	---	100,000
[FDP]	OHIO RIVER COMPREHENSIVE STUDY	---	---	300,000	---
[FDP]	METROPOLITAN REGION OF CINCINNATI, OH, KY & IN	200,000	---	200,000	---
	OTTAWA RIVER, OH	---	---	300,000	---
[SPE]	TRUMBULL COUNTY, OH	40,000	---	40,000	---
[FC]	WEST COLUMBUS, OH	---	1,400,000	---	1,400,000
	OKLAHOMA				
[FDP]	CRUTCHO CREEK, OK	100,000	---	100,000	---
[FC]	FRY CREEKS, BIXBY, OK	---	168,000	---	168,000
	KAW DAM TO KEYSTONE LAKE BANK STABILIZATION, OK	---	---	350,000	---
[FDP]	MIAMI, OK & VICINITY	105,000	---	105,000	---
	OREGON				
[N]	COLUMBIA RIVER CHANNEL DEEPENING STUDY, OR & WA	100,000	---	1,200,000	---
[MP]	COLUMBIA RIVER TREATY FISHING ACCESS SITES, OR & WA	---	450,000	---	450,000
[FDP]	COLUMBIA SLOUGH, OR	---	---	250,000	---
[N]	COOS BAY, OR [DEEP DRAFT NAVIGATION]	35,000	---	35,000	---
[FDP]	JOHNSON CREEK, OR	140,000	---	140,000	---
[FDP]	WALLA WALLA RIVER, OR & WA	---	---	210,000	---
	WILLAMETTE RIVER TEMPERATURE CONTROL	---	---	400,000	---
[FDP]	WILLAMETTE RIVER BASIN REVIEW STUDY, OR	314,000	---	314,000	---
	PENNSYLVANIA				
[FDP]	CURWENSVILLE LAKE, PA	77,000	---	77,000	---
[FDP]	JUNIATA RIVER & TRIBUTARIES, PA	60,000	---	60,000	---
[FDP]	LACKAWANNA RIVER, PA	45,000	---	45,000	---
[FC]	LACKAWANNA RIVER, PA	---	300,000	---	300,000
[N]	LOCK AND DAM 3 AND 4, MONONGAHELA RIVER, PA	---	900,000	---	900,000
[FDP]	POTTSTOWN [SCHUYLKILL RIVER BASIN], PA	---	---	200,000	---
[FDP]	RAYSTOWN LAKE, PA	165,000	---	165,000	---
FDP]	READING [SCHUYLKILL RIVER BASIN], PA	---	---	100,000	---
FC]	SAW MILL RUN, PITTSBURGH, PA	---	310,000	---	310,000
	SAW MILL RUN BASIN, PA	---	---	200,000	---
	SOUTH BRANCH BLACKLICK CREEK, PA	---	---	100,000	---
[FDP]	WYOMING VALLEY, PA - INFLATABLE DAM	150,000	---	150,000	---
	WYOMING VALLEY LEVEE RAISING, PA	---	---	---	1,000,000

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
	PUERTO RICO				
[N]	GUAYANES, LAS MAREAS AND GUAYANILLA HARBORS, PR.....	77,000	---	77,000	---
[FC]	RIO DE LA PLATA, PR.....	---	900,000	---	900,000
[FDP]	RIO NIGUA AT SALINAS, PR.....	100,000	---	100,000	---
[FC]	RIO PUERTO NUEVO, PR.....	---	675,000	---	675,000
[N]	SAN JUAN HARBOR, PR.....	---	900,000	---	900,000
	SOUTH CAROLINA				
[BE]	FOLLY BEACH, SC.....	---	400,000	---	800,000
[BE]	MYRTLE BEACH, SC.....	---	1,200,000	---	1,200,000
[SP]	SOUTH CAROLINA SHORES, SC.....	300,000	---	300,000	---
	SOUTH DAKOTA				
[FDP]	BIG SIOUX RIVER, SIOUX FALLS, SD.....	94,000	---	94,000	---
[FDP]	JAMES RIVER BASIN, SD.....	186,000	---	186,000	---
[FDP]	VERMILLION RIVER BASIN, SD.....	---	---	100,000	---
[FDP]	WATERTOWN AND VICINITY, SD.....	98,000	---	98,000	---
[FC]	WATERTOWN AND VICINITY, SD.....	---	50,000	---	50,000
	TENNESSEE				
[FDP]	METROPOLITAN CHATTANOOGA-HAMILTON CO., TN.....	---	---	500,000	---
[FC]	MILL CREEK, TN.....	---	400,000	---	400,000
	TEXAS				
[FDP]	ABILENE, TX [BRAZOS RIVER BASIN].....	42,000	---	42,000	---
[FC]	ABILENE, TX [BRAZOS RIVER BASIN].....	---	258,000	---	258,000
[FC]	BEAL'S CREEK, BIG SPRING, TX.....	---	145,000	---	145,000
[FDP]	BOSQUE RIVER WATERSHED, TX.....	---	---	150,000	---
[FC]	BRAYS BAYOU [HOUSTON], TX.....	---	900,000	---	900,000
[N]	BRAZOS ISLAND HARBOR, TX [42-FOOT PROJECT].....	---	215,000	---	215,000
[N]	CHANNEL TO VICTORIA, TX.....	---	184,000	---	184,000
	CYPRESS CREEK, TX.....	---	---	---	750,000
[MP]	DALLAS FLOODWAY EXTENSION, TRINITY RIVER PROJECT, TX..	---	---	---	350,000
[FC]	FALFURRIAS, TX.....	---	200,000	---	200,000
[FC]	FIVE MILE CREEK, DALLAS, TX.....	---	135,000	---	135,000
[RCP]	GIWW-ARANSAS NATIONAL WILDLIFE REFUGE, TX.....	500,000	---	500,000	---
[RCP]	GIWW-SARGENT BEACH, TX.....	500,000	---	690,000	160,000
[FC]	GREENS BAYOU [HOUSTON], TX.....	---	723,000	---	723,000
[N]	HOUSTON-GALVESTON NAVIGATION CHANNELS, TX.....	---	1,100,000	---	1,100,000
[FC]	LOWER RIO GRANDE, ARROYO COLORADO, TX.....	---	300,000	---	300,000
[FC]	LOWER RIO GRANDE, SOUTH MAIN CHANNEL, TX.....	---	75,000	---	75,000
[SP]	MATAGORDA COUNTY SHORE, TX.....	80,000	---	80,000	---
[N]	MATAGORDA SHIP CHANNEL, TX.....	276,000	---	276,000	---
[FC]	MCGRATH CREEK, WICHITA FALLS, TX.....	---	300,000	---	643,000
[N]	PORT LAVACA TO RED BLUFF, TX.....	77,000	---	77,000	---
	RED RIVER WW., SHREVEPORT, LA TO DAINGERFIELD, TX.....	---	---	---	1,900,000
[FDP]	SAN BERNARD RIVER WATERSHED, TX.....	150,000	---	150,000	---
[COMP]	TRINITY RIVER BASIN COMPREHENSIVE.....	---	---	900,000	---
[FC]	SHOAL CREEK, AUSTIN, TX.....	---	800,000	---	800,000
[FDP]	UPPER TRINITY RIVER BASIN, TX.....	650,000	---	650,000	---
	UTAH				
[FC]	UPPER JORDAN RIVER, UT.....	---	400,000	---	400,000
[FDP]	WEBER RIVER AND TRIBUTARIES, UT.....	300,000	---	300,000	---
	VERMONT				
	VIRGINIA				
[RCP]	AIWW BRIDGE AT GREAT BRIDGE, VA.....	223,000	---	223,000	---
[FC]	BUENA VISTA [LP], VA.....	---	600,000	---	1,695,000
[N]	JAMES RIVER CHANNEL, VA.....	262,000	---	262,000	---
[FDP]	UPPER JAMES RIVER BASIN, VA & WV.....	131,000	---	131,000	---
	WASHINGTON				
[FC]	CENTRALIA, WA.....	---	464,000	---	464,000
[FC]	CHEHALIS RIVER, WA [SOUTH ABERDEEN, COSMOPOLIS].....	---	1,000,000	---	1,000,000
	CHIEF JOSEPH DAM MODIFICATION, WA.....	---	---	150,000	---
[COMP]	LAKE WASHINGTON SHIP CANAL, WA. [WATER SUPPLY].....	---	---	250,000	---
[RCP]	HOWARD HANSON DAM, ADDITIONAL WATER STORAGE, WA.....	42,000	---	200,000	---
[FDP]	LOWER SNOHOMISH RIVER, WA.....	100,000	---	100,000	---
[N]	OLYMPIA HARBOR, WA.....	76,000	---	76,000	---
[FDP]	TRI-CITIES LEVEES, WA.....	225,000	---	225,000	---
	WEST VIRGINIA				
[FC]	CABIN CREEK LPP, WV.....	---	500,000	---	500,000
[FC]	ISLAND CREEK BASIN IN AND AROUND LOGAN, WV.....	---	400,000	---	400,000
[N]	KANAWHA RIVER NAVIGATION, WV.....	650,000	---	650,000	---
[FDP]	LITTLE KANAWHA RIVER BASIN, WV.....	180,000	---	180,000	---
[FC]	MOOREFIELD, WV.....	---	400,000	---	1,000,000
[FC]	PETERSBURG, WV.....	---	600,000	---	1,000,000
[SPE]	WEST VIRGINIA COMPREHENSIVE STUDY, WV [OHIO RIV MI 40-	---	---	500,000	---
	WISCONSIN				
[RCP]	FOX RIVER, WI.....	310,000	---	310,000	---
[N]	FOX RIVER CHANNEL GREEN BAY, WI.....	---	225,000	---	225,000
[FDP]	MILWAUKEE METROPOLITAN AREA, WI.....	200,000	---	200,000	---
[FC]	PORTAGE, WI.....	---	414,000	---	414,000

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
	WYOMING				
	JACKSON HOLE, WY	---	---	450,000	---
	REVIEW OF AUTHORIZED PROJECTS				
	COORDINATION STUDIES WITH OTHER AGENCIES	10,250,000	---	9,250,000	---
	COLLECTION AND STUDY OF BASIC DATA				
	COASTAL FIELD DATA COLLECTION	3,000,000	---	3,000,000	---
	ENVIRONMENTAL DATA SYSTEMS	300,000	---	300,000	---
	FEDERAL STRATEGY FOR AMERICA'S INFRASTRUCTURE	350,000	---	1,000,000	---
	FLOOD PLAIN MANAGEMENT SERVICES	9,000,000	---	7,600,000	---
	HYDROLOGIC STUDIES	280,000	---	280,000	---
	INTERNATIONAL WATER STUDIES	1,100,000	---	1,100,000	---
	NATIONAL WATER MANAGEMENT DURING DROUGHT	2,500,000	---	1,500,000	---
	PRECIPITATION STUDIES (NATIONAL WEATEHER SERVICE)	450,000	---	450,000	---
	SCIENTIFIC AND TECHNICAL INFORMATION CENTERS	130,000	---	130,000	---
	STREAM GAGING (U.S. GEOLOGICAL SURVEY)	600,000	---	600,000	---
	TRANSPORTATION SYSTEMS	850,000	---	850,000	---
	TOTAL	18,560,000	---	16,810,000	---
	RESEARCH AND DEVELOPMENT	30,700,000	---	27,200,000	---
	SUBTOTAL, GENERAL INVESTIGATIONS	90,747,000	59,415,000	108,487,000	73,766,000
	REDUCTION FOR ANTICIPATED SAVINGS AND SLIPPAGE	-14,762,000	---	-35,818,000	---
	TOTAL, GENERAL INVESTIGATIONS	135,400,000		146,435,000	

TYPE OF PROJECT:

- [N] NAVIGATION
- [FC] FLOOD CONTROL
- [BE] BEACH EROSION CONTROL
- [MP] MULTIPLE-PURPOSE, INCLUDING POWER
- [FDP] FLOOD DAMAGE PREVENTION
- [SP] SHORELINE PROTECTION
- [SPEC] SPECIAL
- [COMP] COMPREHENSIVE
- [RDP] RESTUDY OF DEFERRED PROJECT
- [RCP] REVIEW OF COMPLETED PROJECT
- [PHASE I] AUTHORIZED FOR PHASE I STAGE OF ADVANCE ENGINEERING AND DESIGN IN THE WATER RESOURCES DEVELOPMENT ACT OF 1974 OR 1976

CORPS OF ENGINEERS - CONSTRUCTION, GENERAL

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	ALABAMA		
[N]	BLACK WARRIOR AND TOMBIGBEE RIVERS, VICINITY OF JACKSO	95,000	95,000
[N]	TENNESSEE-TOMBIGBEE WATERWAY WILDLIFE MITIGATION, AL &	20,000,000	15,000,000
[FC]	THREEMILE CREEK, MOBILE, AL	4,000,000	4,000,000
[FC]	VILLAGE CREEK, JEFFERSON COUNTY, AL	3,000,000	3,000,000
[N]	WILLIAM BACON OLIVER LOCK AND DAM, AL	5,500,000	5,500,000
	ALASKA		
[N]	KODIAK HARBOR, AK	---	1,000,000
	ARIZONA		
[FC]	CLIFTON, AZ	---	2,700,000
[FC]	PHOENIX ARIZONA AND VICINITY, AZ [STAGE 2]	34,300,000	34,300,000
	ARKANSAS		
[MP]	BEAVER LAKE, AR	300,000	300,000
[FC]	FOURCHE BAYOU BASIN, LITTLE ROCK, AR	6,900,000	6,900,000
[N]	MCCLELLAN-KERR AR RIVER NAV. SYSTEM, LOCKS AND DAMS, A	8,500,000	9,500,000
	RED RIVER EMERGENCY BANK PROTECTION, AR & LA	---	4,100,000
	CALIFORNIA		
[FC]	CACHE CREEK SETTLING BASIN, CA	2,100,000	2,100,000
[FC]	CORTE MADERA CREEK, CA	400,000	400,000
[FC]	DRY CREEK [WARM SPRINGS] LAKE, CA	3,500,000	3,500,000
[FC]	FAIRFIELD VICINITY STREAMS, CA	2,160,000	2,160,000
[FC]	GUADALUPE RIVER, CA	9,000,000	9,000,000
	HANSEN DAM, CA	---	272,000
[FC]	MERCED COUNTY STREAMS, CA	1,900,000	1,900,000
[MP]	NEW MELONES LAKE, CA	2,000,000	2,750,000
[N]	OAKLAND HARBOR, CA	4,400,000	4,400,000
[FC]	PAJARO RIVER, CA	2,000,000	2,000,000
[FC]	REDBANK AND FANCHER CREEK, CA	7,500,000	7,500,000
[N]	REDONDO BEACH [KING HARBOR], CA	---	4,350,000
[N]	RICHMOND HARBOR, CA	---	900,000
[FC]	SACRAMENTO RIVER BANK PROTECTION PROJECT, CA	5,000,000	5,000,000
[N]	SACRAMENTO RIVER DEEPWATER SHIP CHANNEL, CA	3,900,000	3,900,000
[FC]	SACRAMENTO RIVER FLOOD CONTROL PROJECT, CA	1,050,000	1,050,000
	SACRAMENTO RIVER FLOOD CONTROL PROJECT [GCID], CA	---	500,000
[FC]	SACRAMENTO URBAN AREA LEVEE RECONSTRUCTION, CA	13,470,000	13,470,000
	SAN DIEGO RIVER & MISSION BAY, CA	---	975,000
[N]	SAN FRANCISCO BAY TO STOCKTON, CA	2,050,000	2,050,000
[FC]	SAN LUIS REY RIVER, CA	5,500,000	5,500,000
[FC]	SANTA ANA RIVER MAINSTEM, CA	65,000,000	65,000,000
[FC]	SWEETWATER RIVER, CA	5,000,000	5,000,000
[FC]	WALNUT CREEK, CA	4,800,000	4,800,000
[FC]	WILDCAT AND SAN PABLO CREEKS, CA	1,700,000	1,700,000
	YOLO BASIN WETLANDS [SEC 1135], SACRAMENTO RIVER, CA	---	1,000,000
	COLORADO		
[FC]	WESTERLY CREEK, CO	1,242,000	1,242,000
	DELAWARE		
[FC]	DELAWARE COAST PROTECTION, DE	130,000	130,000
	FLORIDA		
[N]	CANAVERAL HARBOR, FL	900,000	900,000
[FC]	CENTRAL AND SOUTHERN FLORIDA, FL	18,800,000	18,800,000
[FC]	DADE COUNTY, FL	2,400,000	2,400,000
	DUVALL COUNTY, FL	---	2,400,000
[N]	FORT PIERCE HARBOR, FL	---	2,500,000
[FC]	FOUR RIVER BASINS, FL	300,000	300,000
	KISSIMMEE RIVER, FL	---	6,000,000
[BE]	MANATEE COUNTY, FL	2,320,000	2,320,000
[BE]	PINELLAS COUNTY, FL	2,500,000	4,500,000
[BE]	SARASOTA COUNTY, FL	2,067,000	2,067,000
	TAMPA BAY [PORT SUTTON], FL	---	500,000

CORPS OF ENGINEERS - CONSTRUCTION, GENERAL

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	GEORGIA		
[FC]	OATES CREEK, RICHMOND COUNTY, GA	2,000,000	2,000,000
[MP]	RICHARD B. RUSSELL DAM AND LAKE, GA & SC	19,000,000	19,000,000
	HAWAII		
	KAWAIHAE SMALL BOAT HARBOR, HI	---	1,000,000
[N]	MAALAEA HARBOR, MAUI, HI	4,450,000	4,450,000
	ILLINOIS		
[FC]	ALTON TO GALE ORGANIZED LEVEE DISTRICTS, IL & MO	4,400,000	4,400,000
[FC]	EAST ST. LOUIS, IL	4,500,000	4,500,000
[FC]	LOVES PARK, IL	1,500,000	1,500,000
[N]	MELVIN PRICE LOCK AND DAM, IL & MO	29,000,000	29,000,000
[N]	MELVIN PRICE LOCK AND DAM, SECOND LOCK, IL & MO	75,000,000	75,000,000
[FC]	NORTH BRANCH CHICAGO RIVER, IL	4,433,000	4,433,000
[FC]	O'HARE RESERVOIR, IL	---	4,300,000
	OLMSTEAD LOCKS & DAM, IL & KY	---	4,000,000
[N]	UPPER MISS RIVER SYSTEM ENV MGMT PROG, IL, IA, MO, MN.	14,900,000	17,000,000
	INDIANA		
[FC]	EVANSVILLE, IN	5,100,000	5,100,000
[FC]	LITTLE CALUMET RIVER, IN	3,390,000	3,390,000
	IOWA		
	DES MOINES RECREATION RIVER & GREENBELT, IA	---	550,000
[FC]	MISSOURI RIVER LEVEE SYSTEM, IA, NE, KS, & MO	905,000	905,000
	RED ROCK DAM AND LAKE, IA	---	3,000,000
	KANSAS		
[FC]	GREAT BEND, KS	9,000,000	9,000,000
[FC]	HALSTEAD, KS	2,200,000	2,200,000
	KENTUCKY		
	SALYERSVILLE, KY	---	400,000
[FC]	YATESVILLE LAKE, KY	250,000	250,000
	LOUISIANA		
[FC]	GRAND ISLE AND VICINITY, LA	2,659,000	2,659,000
[FC]	LAKE PONTCHARTRAIN AND VICINITY, LA [HURRICANE PROTECT	11,655,000	11,655,000
[FC]	LAROSE TO GOLDEN MEADOW, LA [HURRICANE PROTECTION]	4,210,000	4,210,000
[N]	MISSISSIPPI RIVER - GULF OUTLET, LA	1,157,000	1,157,000
[N]	MISSISSIPPI RIVER SHIP CHANNEL, GULF TO BATON ROUGE, L	5,500,000	11,000,000
[FC]	NEW ORLEANS TO VENICE, LA [HURRICANE PROTECTION]	15,900,000	15,900,000
[FC]	PEARL RIVER, SLIDELL, ST. TAMMANY PARISH, LA	730,000	730,000
[N]	RED RIVER WATERWAY, MISSISSIPPI RIVER TO SHREVEPORT, L	39,147,000	92,636,000
[FC]	RED RIVER BELOW DENISON DAM, LEVEE AND BANK STABILIZAT	---	3,820,000
[FC]	WESTWEGO TO HARVEY CANAL, LA [HURRICANE PROTECTION]	3,700,000	3,700,000
	MARYLAND		
[BE]	ATLANTIC COAST OF MARYLAND, MD	14,800,000	14,800,000
	MINNESOTA		
[FC]	BASSETT CREEK, MN	8,505,000	8,505,000
[FC]	CHASKA, MN	4,400,000	4,400,000
[N]	DULUTH SUPERIOR CHANL EXTENSION, MN & WI	---	1,000,000
[FC]	ROCHESTER, MN	8,500,000	8,500,000
	ST. PAUL, MN	---	500,000
	MISSISSIPPI		
	GULFPORT HARBOR, MS	---	100,000
[FC]	SOWASHEE CREEK, MERIDIAN, MS	3,000,000	3,000,000
[FC]	TOMBIGBEE RIVER AND TRIBUTARIES, MS & AL	1,000,000	1,000,000

CORPS OF ENGINEERS - CONSTRUCTION, GENERAL

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	MISSOURI		
[FC]	BLUE RIVER CHANNEL, KANSAS CITY, MO	10,100,000	10,100,000
	BRUSH CREEK, KANSAS CITY, MO	---	1,240,000
[FC]	CAPE GIRARDEAU-JACKSON, MO	7,700,000	7,700,000
[FC]	HANNIBAL, MO	1,460,000	1,460,000
[MP]	HARRY S. TRUMAN DAM AND RESERVOIR, MO	3,495,000	3,495,000
	MERAMEC RIVER BASIN [VALLEY PARK LEVEE], MO	---	500,000
[N]	MISS RIVER BTWN THE OHIO AND MO RIVERS [REG WORKS], MO	4,800,000	4,800,000
	NEBRASKA		
[FC]	MISSOURI NATIONAL RECREATIONAL RIVER, NE & SD	83,000	1,060,000
[FC]	PAPILLION CREEK AND TRIBUTARIES LAKES, NE	2,905,000	2,905,000
	PLATTE RIVER FLOOD & RELATED STREAMBANK EROSION CONTROL PORGRAM, NE	---	1,500,000
	NEW HAMPSHIRE		
[N]	PORTSMOUTH HARBOR AND PISCATAQUA RIVER, NH & ME	75,000	75,000
	NEW JERSEY		
[N]	BARNEGAT INLET, NJ	5,537,000	5,537,000
[BE]	CAPE MAY INLET TO LOWER TOWNSHIP, NJ	3,200,000	3,200,000
[N]	DELAWARE RIVER IN THE VICINITY OF CAMDEN, NJ[BECKETT S	---	3,290,000
[FC]	GREAT EGG HARBOR INLET & PECK BEACH, NJ	3,250,000	3,250,000
[BE]	SANDY HOOK TO BARNEGAT INLET, NJ	29,000,000	29,000,000
	NEW MEXICO		
[FC]	ACEQUIAS IRRIGATION SYSTEM, NM	2,000,000	2,000,000
[FC]	ALBUQUERQUE NORTH DIVERSION CHANNEL, NM	200,000	200,000
[FC]	MIDDLE RIO GRANDE, BERNALILLO TO BELEN, NM	---	1,300,000
[FC]	RIO GRANDE FLOODWAY, TRUTH OR CONSEQUENCES UNIT, NM	1,417,000	1,417,000
	NEW YORK		
	EAST ROCKAWAY INLET TO ROCKAWAY INLET AND JAMAICA BAY, PT.I, NY	---	350,000
[BE]	FIRE ISLAND INLET-JONES INLET,NY 1962 ACT	3,700,000	3,700,000
[N]	HEMPSTEAD HARBOR, NY	2,650,000	2,650,000
[N]	KILL VAN KULL AND NEWARK BAY CHANNEL, NY & NJ	31,000,000	31,000,000
[N]	SHINNECOCK INLET, NY	---	3,000,000
[FC]	YONKERS, NY	355,000	355,000
	NORTH CAROLINA		
[N]	AIWW-REPLACEMENT OF FEDERAL HIGHWAY BRIDGES, NC	2,900,000	2,900,000
[FC]	B. EVERETT JORDAN DAM AND LAKE, NC	1,810,000	1,810,000
[FC]	CAROLINA BEACH AND VICINITY, NC	1,190,000	1,190,000
[FC]	FALLS LAKE, NC	2,500,000	2,500,000
	MANTEO [SHALLOWBAG] BAY, NC	---	182,000
	NORTH DAKOTA		
[FC]	SHEYENNE RIVER, ND	8,900,000	8,900,000
[FC]	SOURIS RIVER BASIN, ND	25,400,000	25,400,000
	OHIO		
[FC]	MILL CREEK, OH	11,200,000	11,200,000
[FC]	SENECAVILLE LAKE, MUSKINGUM RIVER LAKES, OH [DAM SAFET	835,000	835,000
	OKLAHOMA		
[FC]	MINGO CREEK, OK	13,600,000	13,600,000
	TULSA & WEST TULSA, OK	---	975,000
	OREGON		
[N]	BONNEVILLE NAVIGATION LOCK, OR & WA	69,000,000	69,000,000
[MP]	BONNEVILLE SECOND POWERHOUSE, OR & WA	1,900,000	1,900,000
[FC]	ELK CREEK LAKE, OR	3,000,000	3,000,000
[FC]	WILLOW CREEK DAM, OR	---	150,000

CORPS OF ENGINEERS - CONSTRUCTION, GENERAL

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	PENNSYLVANIA		
[N]	GRAYS LANDING, LOCK AND DAM 7, MONONGAHELA RIVER, PA..	31,000,000	31,000,000
[FC]	LOCK HAVEN, PA	18,600,000	18,600,000
[N]	POINT MARION, LOCK AND DAM 8, MONONGAHELA RIVER, PA &.	28,300,000	28,300,000
[BE]	PRESQUE ISLE PENINSULA, PA [PERMANENT]	4,170,000	4,170,000
[FC]	TURTLE CREEK, PA	936,000	936,000
	PUERTO RICO		
[FC]	PORTUGUES AND BUCANA RIVERS, PR	18,200,000	18,200,000
	SOUTH CAROLINA		
[N]	CHARLESTON HARBOR, SC	11,400,000	11,400,000
	TENNESSEE		
	CLARKSVILLE, TN STREAMBANK EROSION	---	550,000
	TEXAS		
[FC]	CLEAR CREEK, TX	3,700,000	3,700,000
[FC]	BOGGY CREEK, AUSTIN, TX	2,263,000	2,263,000
[FC]	COOPER LAKE AND CHANNELS, TX	17,400,000	17,400,000
[FC]	EL PASO, TX	9,000,000	9,000,000
[N]	FREEPORT HARBOR, TX	11,000,000	11,000,000
[FC]	JOE POOL LAKE, TX	600,000	600,000
[FC]	LAKE WICHITA, HOLLIDAY CREEK AT WICHITA FALLS, TX	11,200,000	11,200,000
[N]	MOUTH OF COLORADO RIVER, TX	1,000,000	1,000,000
[FC]	RAY ROBERTS LAKE, TX	4,900,000	4,900,000
	RED RIVER BASIN CHLORIDE CONTROL, TX & OK	---	5,000,000
[FC]	SAN ANTONIO CHANNEL IMPROVEMENT, TX	7,100,000	7,100,000
[FC]	SIMS BAYOU AT HOUSTON, TX	12,600,000	12,600,000
[FC]	TAYLORS BAYOU, TX	4,700,000	4,700,000
[FC]	TEXAS CITY AND VICINITY, TX	848,000	848,000
[N]	WALLISVILLE LAKE, TX	---	9,200,000
	UTAH		
[FC]	LITTLE DELL LAKE, UT	9,070,000	9,070,000
	VERMONT		
	CONNECTICUT RIVER BASIN, TOWNSEND & BALL MOUNTAIN DAMS	---	900,000
	VIRGINIA		
[N]	NORFOLK HARBOR AND CHANNELS, VA	100,000	100,000
[FC]	RICHMOND, [LOCAL PROTECTION], VA	18,000,000	18,000,000
[FC]	ROANOKE RIVER UPPER BASIN, HEADWATERS AREA, VA	2,300,000	2,300,000
	WASHINGTON		
[MP]	CHIEF JOSEPH ADDITIONAL UNITS, WA	3,800,000	3,800,000
[MP]	COLUMBIA RIVER JUVENILE FISH MITIGATION, WA, OR & ID..	15,800,000	18,500,000
[N]	GRAYS HARBOR, WA	10,500,000	10,500,000
[MP]	LOWER SNAKE RIVER FISH & WILDLIFE COMPENSATION, WA, OR	18,400,000	18,400,000
[FC]	MUD MOUNTAIN DAM, WA [DAM SAFETY]	8,700,000	8,700,000
[FC]	ZINTEL CANYON DAM, WA	---	6,300,000
	WEST VIRGINIA		
[N]	GALLIPOLIS LOCKS AND DAM, WV & OH	46,300,000	46,300,000
[FC]	LEVISA AND TUG FORKS AND UPPER CUMBERLAND RIVER, WV, V	36,800,000	70,800,000
[FC]	STONEWALL JACKSON LAKE, WV	1,000,000	1,000,000
[N]	WINFIELD LOCK AND DAM, WV	16,200,000	16,200,000
	WISCONSIN		
[FC]	STATE ROAD AND EBNER COULEES, WI	6,300,000	6,300,000

CORPS OF ENGINEERS - CONSTRUCTION, GENERAL

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	MISCELLANEOUS		
	AQUATIC PLANT CONTROL [1965 ACT]	8,500,000	8,500,000
	BEACH EROSION CONTROL PROJECTS [SECTION 103]	3,000,000	3,000,000
	EMERGENCY STREAMBANK & SHORELINE PROTECTION [SECTION 1	10,000,000	10,000,000
	EMPLOYEES' COMPENSATION	14,930,000	14,930,000
	FLOOD CONTROL PROJECTS [SECTION 205]	30,000,000	28,500,000
	INLAND WATERWAYS USERS BOARD - BOARD EXPENSES	25,000	25,000
	INLAND WATERWAY USERS BOARD - CORPS EXPENSES	160,000	160,000
	MITIGATION OF SHORE DAMAGES [SECTION 111]	500,000	500,000
	NAVIGATION PROJECTS [SECTION 107]	15,000,000	15,000,000
	PROJECT MODIFICATIONS FOR IMPROVEMENT OF THE ENVIRONME	5,000,000	2,500,000
	SMALL SNAGGING AND CLEARING PROJECTS [SECTION 208]	500,000	500,000
	REDUCTION FOR ANTICIPATED SAVINGS AND SLIPPAGE	-69,539,000	-126,273,000
	REDUCTION FOR ANTICIPATED UNOBLIGATED BALANCES	---	-200,000,000
	TOTAL CONSTRUCTION, GENERAL	1,226,000,000	1,143,086,000

TYPE OF PROJECT:
[N] NAVIGATION
[FC] FLOOD CONTROL
[BE] BEACH EROSION CONTROL
[MP] MULTIPLE-PURPOSE, INCLUDING POWER

CORPS OF ENGINEERS - FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

TYPE OF PROJECT		PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
		GENERAL INVESTIGATIONS		
		SURVEYS:		
		GENERAL STUDIES:		
[FC]		EASTERN ARKANSAS REGION [COMPREHENSIVE STUDY], AR.	430,000	430,000
[FC]		HELENA ARKANSAS AND VICINITY, AR.	500,000	500,000
[FDP]		SOUTHEAST ARKANSAS STUDY, AR.	75,000	150,000
[FC]		WHITEMAN'S CREEK, AR.	300,000	300,000
[FDP]		ALEXANDRIA, LA.	---	300,000
[FDP]		BIRDS POINT, NEW MADRID ALTERNATE STUDY, MO.	350,000	350,000
[FDP]		ST. FRANCIS RIVER MO. & AR. [FISH AND WILDLIFE].	350,000	350,000
[FC]		COLLECTION AND STUDY OF BASIC DATA.	295,000	295,000
[FC]		PRECONSTRUCTION ENGINEERING AND DESIGN:		
		BAYOU RAPIDES DRAINAGE STRUCTURE & PUMP PLANT.	---	200,000
		LOWER WHITE RIVER [BIG CREEK AND TRIBS], AR.	385,000	385,000
		LOUISIANA STATE PENITENTIARY, LA.	---	300,000
[FC]		SUBTOTAL, GENERAL INVESTIGATIONS.	2,685,000	3,560,000
[FC]				
[FC]				
[FC]	[N]	**CONSTRUCTION**		
[FC]				
[FC]		CHANNEL IMPROVEMENT, AR, IL, KY, LA, MS, MO & TN.	109,875,000	109,875,000
[FC]		HELENA HARBOR, PHILLIPS COUNTY, AR.	800,000	800,000
[FC]		MISSISSIPPI RIVER LEVEES, AR, IL, KY, LA, MS, MO & TN.	20,300,000	20,300,000
[FC]		ST. FRANCIS BASIN, AR & MO.	10,200,000	10,200,000
[FC]		TENSAS BASIN, AR & LA:	[2,000,000]	[2,000,000]
[FC]		RED RIVER BACKWATER, LA.	2,000,000	2,000,000
[FC]		WEST MEMPHIS, AR & VICINITY.	---	2,000,000
[FC]		ATCHAFALAYA BASIN, LA.	32,000,000	32,000,000
[FC]		ATCHAFALAYA BASIN, FLOODWAY SYSTEM, LA.	11,700,000	11,700,000
[FC]		MISSISSIPPI DELTA REGION, LA.	4,260,000	4,260,000
		MISSISSIPPI & LOUISIANA ESTUARINE AREAS, LA & MS.	---	200,000
[FC]		OUACHITA RIVER LEVEES, LA.	---	400,000
[FC]		HORN LAKE CREEK & TRIBUTARIES [INCLUDING COW PEN CREEK	---	236,000
[FC]		SARDIS DAM, MS [DAM SAFETY ASSURANCE].	555,000	555,000
[FC]		YAZOO BASIN, MS:	[29,225,000]	[29,225,000]
[FC]		BACKWATER FOWL MITIGATION LANDS.	250,000	250,000
[FC]		BIG SUNFLOWER RIVER.	4,600,000	4,600,000
[FC]		DEMONSTRATION EROSION CONTROL.	12,000,000	12,000,000
[FC]		RESTUDY UNIT.	5,900,000	5,900,000
[FC]		TRIBUTARIES.	4,200,000	4,200,000
[FC]		UPPER YAZOO PROJECTS.	2,275,000	2,275,000
[FC]		MEMPHIS HARBOR [ENSLEY BERM] TN.	1,700,000	1,700,000
[FC]		NONCONNAH CREEK, TN & MS.	3,500,000	3,500,000
[FC]		WEST TENNESSEE TRIBUTARIES, TN.	100,000	100,000
		SUBTOTAL, CONSTRUCTION.	226,215,000	229,051,000
		MAINTENANCE		
[FC]		CHANNEL IMPROVEMENT, AR, IL, KY, LA, MS, MO & TN.	62,887,000	62,887,000
[FC]		LOWER ARKANSAS RIVER - NORTH BANK, AR.	679,000	679,000
[FC]		LOWER ARKANSAS RIVER - SOUTH BANK, AR.	151,000	151,000
[FC]		MISS RIVER LEVEES, AR, IL, KY, LA, MS, MO, TN.	6,922,000	6,922,000
[FC]		ST FRANCIS RIVER BASIN, AR & MO.	7,998,000	9,593,000
[FC]		TENSAS BASIN, BOEUF & TENSAS RIVERS, AR & LA.	2,387,000	2,387,000
[FC]		WHITE RIVER BACKWATER, AR.	521,000	521,000
[FC]		ATCHAFALAYA BASIN, LA.	7,105,000	7,105,000
[FC]		BATON ROUGE HARBOR - DEVIL SWAMP, LA.	170,000	170,000
[FC]		BAYOU COCODRIE & TRIBS, LA.	155,000	155,000
[FC]		BONNET CARRE, LA.	653,000	653,000
[FC]		LOWER RED RIVER - SOUTH BANK LEVEES, LA.	63,000	63,000
[FC]		OLD RIVER, LA.	6,715,000	6,715,000
[FC]		TENSAS BASIN, RED RIVER BACKWATER, LA.	1,917,000	1,917,000
[N]		GREENVILLE HARBOR, MS.	216,000	216,000
[N]		VICKSBURG HARBOR, MS.	157,000	157,000
[FC]		YAZOO BASIN, MS:	[16,132,000]	[20,932,000]
[FC]		ARKABUTLA LAKE.	2,359,000	3,109,000
[FC]		BACKWATER.	424,000	424,000
[FC]		BIG SUNFLOWER.	474,000	474,000
[FC]		ENID LAKE.	2,845,000	4,095,000
[FC]		GREENWOOD.	558,000	558,000
[FC]		GRENADA LAKE.	3,579,000	4,829,000
[FC]		MAIN STEM.	893,000	1,193,000
[FC]		SARDIS LAKE.	3,212,000	4,462,000

CORPS OF ENGINEERS - FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
[FC]	TRIBUTARIES	1,020,000	1,020,000
[FC]	WILL M WHITTINGTON AUX CHANNEL	399,000	399,000
[FC]	YAZOO CITY	369,000	369,000
[FC]	WAPPAPELLO LAKE, MO	3,048,000	3,048,000
[N]	MEMPHIS HARBOR [MCKELLAR LAKE], TN	1,239,000	1,239,000
[FC]	INSPECTION OF COMPLETED WORKS	1,082,000	1,082,000
[FC]	MAPPING	803,000	803,000
	SUBTOTAL, MAINTENANCE	121,000,000	127,395,000
	REDUCTION FOR ANTICIPATED SAVINGS, SLIPPAGE, AND PRIOR YEAR UNOBLIGATED BALANCES	-15,400,000	-15,400,000
	TOTAL, FLOOD CONTROL, MISSISSIPPI RIVER & TRIBUTARIES	334,500,000	344,606,000

TYPE OF STUDY OR PROJECT:
[FC] FLOOD CONTROL
[FDP] FLOOD DAMAGE PREVENTION
[N] NAVIGATION

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	ALABAMA		
[N]	ALABAMA - COOSA RIVER, AL	4,057,000	6,439,000
	ALABAMA - COOSA & ACF BASIN COMPREHENSIVE WATER RESOURCE STUDY, AL, FL & GA	---	1,000,000
[N]	BAYOU LA BATRE, AL	679,000	679,000
[N]	BLACK WARRIOR AND TOMBIGBEE RIVERS, AL	9,292,000	14,000,000
[N]	DAUPHIN ISLAND BAY, AL	206,000	206,000
[N]	DOG AND FOWL RIVERS, AL	429,000	429,000
[N]	GULF INTRACOASTAL WATERWAY [MOBILE DISTRICT], AL	2,766,000	2,766,000
[MP]	MILLERS FERRY LOCK & DAM - WILLIAM "BILL" DANNELLY LAK	4,233,000	4,233,000
[N]	MOBILE HARBOR, AL	13,401,000	17,000,000
[N]	PERDIDO PASS CHANNEL, AL	343,000	343,000
[MP]	ROBERT F. HENRY LOCK AND DAM, AL	3,352,000	3,352,000
[N]	TENNESSEE-TOMBIGBEE WATERWAY, AL & MS	13,675,000	18,000,000
[MP]	WALTER F. GEORGE LOCK AND DAM, AL & GA	5,460,000	5,460,000
	ALASKA		
[N]	ANCHORAGE HARBOR, AK	1,776,000	1,776,000
[N]	BETHEL SMALL BOAT HARBOR, AK	498,000	498,000
[FC]	CHENA RIVER LAKES, AK	1,197,000	1,197,000
[N]	CORDOVA HARBOR, AK	405,000	405,000
[N]	DILLINGHAM SMALL BOAT HARBOR, AK	787,000	787,000
[N]	HOMER SMALL BOAT HARBOR, AK	413,000	413,000
[N]	NINILCHIK HARBOR, AK	253,000	253,000
[N]	NOME HARBOR, AK	490,000	490,000
	ARIZONA		
[FC]	ALAMO DAM, AZ	750,000	750,000
[FC]	PAINTED ROCK DAM, AZ	605,000	605,000
[FC]	WHITLOW RANCH DAM, AZ	68,000	68,000
	ARKANSAS		
[MP]	BEAVER LAKE, AR	14,718,000	14,718,000
[MP]	BLAKELY MT DAM - LAKE OUACHITA, AR	2,997,000	2,997,000
[FC]	BLUE MOUNTAIN LAKE, AR	877,000	877,000
[MP]	BULL SHOALS LAKE, AR	4,424,000	4,424,000
[MP]	DARDANELLE LOCK AND DAM, AR	4,917,000	4,917,000
[MP]	DEGRAY LAKE, AR	2,955,000	2,955,000
[FC]	DEQUEEN LAKE, AR	974,000	974,000
[FC]	DIERKS LAKE, AR	824,000	824,000
[FC]	GILLHAM LAKE, AR	851,000	851,000
[MP]	GREERS FERRY LAKE, AR	4,202,000	4,202,000
[N]	HELENA HARBOR, AR	460,000	460,000
[N]	MCCLELLAN - KERR ARKANSAS RIVER NAVIGATION SYSTEM, AR.	22,403,000	22,403,000
[FC]	MILLWOOD LAKE, AR	2,229,000	2,229,000
[MP]	NARROWS DAM - LAKE GREESON, AR	2,745,000	2,745,000
[FC]	NIMROD LAKE, AR	1,072,000	1,072,000
[MP]	NORFORK LAKE, AR	4,082,000	4,082,000
[N]	OSCEOLA HARBOR, AR	575,000	575,000
[N]	OUACHITA AND BLACK RIVERS, AR & LA	4,831,000	4,831,000
[MP]	OZARK-JETA TAYLOR LOCK AND DAM, AR	3,522,000	3,522,000
[N]	WHITE RIVER, AR	2,243,000	2,243,000
	CALIFORNIA		
[FC]	BLACK BUTTE LAKE, CA	1,394,000	1,394,000
[N]	BODEGA BAY, CA	795,000	795,000
[FC]	BUCHANAN DAM - H.V. EASTMAN LAKE, CA	1,274,000	1,274,000
[N]	CHANNEL ISLANDS HARBOR, CA	3,421,000	3,421,000
[FC]	COYOTE VALLEY DAM - LAKE MENDOCINO, CA	1,663,000	1,663,000
[N]	CRESCENT CITY HARBOR, CA	130,000	130,000
[FC]	DRY CREEK - WARM SPRINGS LAKE AND CHANNEL, CA	2,431,000	2,431,000
[FC]	FARMINGTON DAM, CA	221,000	221,000
[FC]	HIDDEN DAM - HENSLEY LAKE, CA	1,271,000	1,271,000
[N]	HUMBOLDT HARBOR AND BAY, CA	4,177,000	4,177,000
[FC]	ISABELLA LAKE, CA	2,092,000	2,092,000
[FC]	LOS ANGELES COUNTY DRAINAGE AREA, CA	2,129,000	2,129,000
[N]	LOS ANGELES - LONG BEACH HARBOR MODEL, CA	155,000	760,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
[N]	MARINA DEL REY, CA	1,700,000	1,700,000
[FC]	MERCED COUNTY STREAMS, CA	187,000	187,000
[FC]	MOJAVE RIVER RESERVOIR, CA	184,000	184,000
[N]	MORRO BAY HARBOR, CA	1,025,000	1,025,000
[FC]	NEW HOGAN LAKE, CA	1,673,000	1,673,000
[MP]	NEW MELONES LAKE, CA	751,000	751,000
[N]	NOYO RIVER & HARBOR, CA	613,000	613,000
[N]	OAKLAND HARBOR, CA	2,091,000	2,091,000
	OCEANSIDE EXPERIMENTAL SAND BYPASS SYSTEM, CA	---	2,700,000
[N]	OCEANSIDE HARBOR, CA	65,000	65,000
[FC]	PINE FLAT LAKE, CA	1,972,000	1,972,000
[N]	PORT HUENEME, CA	802,000	802,000
[N]	PORT SAN LUIS, CA	1,288,000	1,288,000
[N]	RICHMOND HARBOR, CA	2,176,000	2,176,000
[N]	SACRAMENTO RIVER - SHALLOW DRAFT CHANNEL, CA	70,000	70,000
[N]	SACRAMENTO RIVER AND TRIBUTARIES [DEBRIS CONTROL], CA.	721,000	721,000
[N]	SACRAMENTO RIVER [30 FOOT PROJECT], CA	2,115,000	2,115,000
[N]	SAN DIEGO RIVER - MISSION BAY, CA	877,000	877,000
[N]	SAN FRANCISCO BAY - DELTA MODEL STRUCTURE, CA	2,323,000	2,323,000
	SAN FRANCISCO BAY LONG TERM MANAGEMENT STRATEGY, CA	---	3,630,000
[N]	SAN FRANCISCO HARBOR, CA	1,530,000	1,530,000
	SAN FRANCISCO HARBOR AND BAY [DRIFT REMOVAL], CA	1,808,000	1,808,000
[N]	SAN JOAQUIN RIVER, CA	1,385,000	1,385,000
[N]	SAN PABLO BAY AND MARE ISLAND STRAIT, CA	2,566,000	2,566,000
[N]	SAN RAFAEL CREEK, CA	980,000	980,000
[FC]	SANTA ANA RIVER BASIN, CA	1,982,000	1,982,000
[N]	SANTA BARBARA HARBOR, CA	750,000	750,000
	SEPULVEDA DAM, LACDA, CA	---	2,500,000
[FC]	SUCCESS LAKE, CA	1,408,000	1,408,000
[N]	SUISUN BAY CHANNEL, CA	859,000	859,000
[FC]	TERMINUS DAM - LAKE KAWEAH, CA	1,216,000	1,216,000
[N]	VENTURA HARBOR, CA	1,270,000	1,270,000
[N]	YUBA RIVER, CA	25,000	25,000
	COLORADO		
[FC]	BEAR CREEK LAKE, CO	333,000	333,000
[FC]	CHATFIELD LAKE, CO	650,000	650,000
[FC]	CHERRY CREEK LAKE, CO	441,000	441,000
[FC]	JOHN MARTIN RESERVOIR, CO	2,021,000	2,021,000
[FC]	TRINIDAD LAKE, CO	701,000	701,000
	CONNECTICUT		
[FC]	BLACK ROCK LAKE, CT	266,000	266,000
[FC]	COLEBROOK RIVER LAKE, CT	232,000	232,000
[FC]	HANCOCK BROOK LAKE, CT	255,000	255,000
[FC]	HOP BROOK LAKE, CT	634,000	634,000
[FC]	MANSFIELD HOLLOW LAKE, CT	333,000	333,000
[N]	NORTH COVE, CT	758,000	758,000
[FC]	NORTHFIELD BROOK LAKE, CT	220,000	220,000
[FC]	STAMFORD HURRICANE BARRIER, CT	120,000	120,000
[FC]	THOMASTON DAM, CT	425,000	425,000
[FC]	WEST THOMPSON LAKE, CT	470,000	470,000
	DELAWARE		
	CHESAPEAKE AND DELAWARE CANAL, ST. GEORGES BRIDGE REPLACEMENT	---	7,000,000
[N]	INDIAN RIVER INLET AND BAY, DE	325,000	325,000
[N]	INTRACOASTAL WATERWAY, CHINCOTEAGUE BAY TO DELAWARE BA	17,000	17,000
[N]	INTRACOASTAL WATERWAY, DE RIVER TO CHESAPEAKE BAY, DE.	22,402,000	22,402,000
[N]	MURDERKILL RIVER, DE	150,000	150,000
[N]	WILMINGTON HARBOR, DE	3,164,000	3,164,000
	DISTRICT OF COLUMBIA		
	POTOMAC AND ANACOSTIA RIVERS [DRIFT REMOVAL], DC	585,000	585,000
[N]	POTOMAC RIVER BELOW WASHINGTON, DC	500,000	500,000
[N]	WASHINGTON HARBOR, DC	21,000	21,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	FLORIDA		
[N]	APALACHICOLA BAY, FL	188,000	188,000
[N]	BLACKWATER RIVER, FL	8,000	8,000
[N]	CANAVERAL HARBOR, FL	2,315,000	2,315,000
[N]	CARRABELLE HARBOR, FL	277,000	277,000
[FC]	CENTRAL & SOUTHERN, FL	4,627,000	4,877,000
[N]	CHANNELS, NAPLES TO BIG MARCO PASS, FL	907,000	907,000
[N]	CHARLOTTE HARBOR, FL	1,123,000	1,123,000
[N]	CROSS FLORIDA BARGE CANAL, FL	2,072,000	2,072,000
[N]	EAST PASS CHANNEL, FL	465,000	465,000
[N]	FERNANDINA HARBOR, FL	910,000	910,000
[N]	FORT MYERS BEACH, FL	925,000	925,000
[N]	FORT PIERCE HARBOR, FL	651,000	651,000
[N]	INTRACOASTAL WATERWAY, CALOOSAHATCHEE R. TO ANCLOTE R.	366,000	366,000
[N]	INTRACOASTAL WATERWAY, JACKSONVILLE TO MIAMI, FL	1,110,000	1,110,000
[N]	AIWW, NORFOLK TO ST. JOHNS RIVER	2,356,000	2,356,000
[N]	JACKSONVILLE HARBOR, FL	1,223,000	1,223,000
[MP]	JIM WOODRUFF LOCK AND DAM, LAKE SEMINOLE, FL, AL & GA.	4,169,000	4,169,000
[N]	JOHNS PASS, FL	330,000	330,000
[N]	LA GRANGE BAYOU, FL	60,000	60,000
[N]	LONG BOAT PASS, FL	800,000	800,000
[N]	MIAMI HARBOR, FL	257,000	257,000
[N]	NEW PASS, FL	1,205,000	1,205,000
[N]	OKEECHOBEE WATERWAY, FL	1,638,000	1,638,000
[N]	OKLAWAHA RIVER, FL	28,000	28,000
[N]	PALM BEACH HARBOR, FL	944,000	944,000
[N]	PANAMA CITY HARBOR, FL	31,000	31,000
[N]	PENSACOLA HARBOR, FL	107,000	107,000
[N]	PONCE DE LEON INLET, FL	114,000	114,000
[N]	PORT EVERGLADES HARBOR, FL	67,000	67,000
[N]	PORT ST. JOE HARBOR, FL	637,000	637,000
	REMOVAL OF AQUATIC GROWTH, FL	3,196,000	3,196,000
[N]	ST. AUGUSTINE HARBOR, FL	827,000	827,000
[N]	ST. LUCIE INLET, FL	130,000	130,000
[N]	TAMPA HARBOR, FL	2,196,000	2,196,000
	GEORGIA		
[N]	APALACHICOLA, CHATTAHOOCHEE AND FLINT RIVERS, GA, AL &	3,766,000	3,766,000
[MP]	ALLATOONA LAKE, GA	4,872,000	4,872,000
[N]	ATLANTIC INTRACOASTAL WATERWAY [SAVANNAH DISTRICT], GA	947,000	947,000
[N]	BRUNSWICK HARBOR, GA	3,533,000	7,533,000
[MP]	BUFORD DAM AND LAKE SIDNEY LANIER, GA	5,707,000	5,707,000
[MP]	CARTERS DAM AND LAKE, GA	3,278,000	3,278,000
[MP]	J. STROM THURMOND LAKE, GA & SC	7,671,000	7,671,000
[MP]	HARTWELL LAKE, GA & SC	5,422,000	5,422,000
[MP]	RICHARD B. RUSSELL DAM AND LAKE, GA & SC	3,925,000	3,925,000
[N]	SAVANNAH HARBOR, GA	5,173,000	5,173,000
[N]	SAVANNAH RIVER BELOW AUGUSTA, GA	245,000	245,000
[MP]	WEST POINT DAM AND LAKE, GA & AL	4,908,000	4,908,000
	HAWAII		
[N]	BARBER'S POINT HARBOR, HI	55,000	55,000
[N]	KAUNAKAKAI HARBOR, HAWAII	65,000	65,000
[N]	PORT ALLEN HARBOR, KAUAI	65,000	65,000
	IDAHO		
[MP]	ALBENI FALLS DAM, ID	2,939,000	2,939,000
[MP]	DWORSHAK DAM AND RESERVOIR, ID	6,105,000	6,105,000
[FC]	LUCKY PEAK LAKE, ID	683,000	683,000
	ILLINOIS		
[N]	CALUMET HARBOR AND RIVER, IL	157,000	157,000
[FC]	CARLYLE LAKE, IL	3,365,000	3,365,000
[N]	CHICAGO HARBOR, IL	1,133,000	1,133,000
[N]	CHICAGO RIVER, IL	1,923,000	1,923,000
[FC]	FARM CREEK RESERVOIRS, IL	255,000	255,000
[N]	ILLINOIS WATERWAY, IL [LMVD PORTION]	1,647,000	1,647,000
[N]	ILLINOIS WATERWAY, IL AND IN	14,355,000	14,355,000
[N]	KASKASKIA RIVER NAVIGATION, IL	1,343,000	1,343,000
[FC]	LAKE SHELBYVILLE, IL	4,157,000	4,157,000
[N]	MISS RIVER BTWN MISSOURI RIVER AND MINNEAPOLIS, IL, MN	40,518,000	40,518,000
[N]	MISS RVR BTWN MO RIVER & MINNEAPOLIS, IL & MN [LMVD PO	9,935,000	9,935,000
	NORTH BRANCH CHICAGO RIVER, IL	---	150,000
[FC]	REND LAKE, IL	3,426,000	3,426,000
[N]	WAUKEGAN HARBOR, IL	908,000	908,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	INDIANA		
[FC]	BEVERLY SHORES, IN	21,000	21,000
[FC]	BROOKVILLE LAKE, IN	534,000	534,000
[N]	BURNS WATERWAY HARBOR, IN	143,000	143,000
[N]	BURNS WATERWAY SMALL BOAT HARBOR, IN	340,000	340,000
[FC]	CAGLES MILL LAKE, IN	604,000	604,000
[FC]	CECIL M. HARDEN LAKE, IN	644,000	644,000
[FC]	HUNTINGTON LAKE, IN	505,000	505,000
[N]	INDIANA HARBOR, IN	597,000	597,000
[N]	MICHIGAN CITY HARBOR, IN	52,000	52,000
[FC]	MISSISSINEWA LAKE, IN	450,000	450,000
[FC]	MONROE LAKE, IN	929,000	929,000
[FC]	PATOKA LAKE, IN	478,000	478,000
[FC]	SALAMONIE LAKE, IN	466,000	466,000
	IOWA		
[FC]	CORALVILLE LAKE, IA	2,637,000	2,637,000
[N]	FORT MADISON HARBOR, IA	68,000	68,000
[FC]	MISSOURI RIVER - KENSLERS BEND, NE TO SIOUX CITY, IA	52,000	52,000
[N]	MISSOURI RIVER - SIOUX CITY TO MOUTH, IA, NE, KS & MO	6,380,000	6,380,000
[FC]	RATHBUN LAKE, IA	1,480,000	1,480,000
[FC]	RED ROCK DAM - LAKE RED ROCK, IA	3,342,000	3,342,000
[FC]	SAYLORVILLE LAKE, IA	3,237,000	3,237,000
[N]	SMALL NAV PROJ AT SIOUX CITY, IOWA - SECTION 107, IA	5,000	5,000
	KANSAS		
[FC]	CLINTON LAKE, KS	1,364,000	1,364,000
[FC]	COUNCIL GROVE LAKE, KS	1,002,000	1,002,000
[FC]	EL DORADO LAKE, KS	450,000	450,000
[FC]	ELK CITY LAKE, KS	723,000	723,000
[FC]	FALL RIVER LAKE, KS	976,000	976,000
[FC]	HILLSDALE LAKE, KS	961,000	961,000
[FC]	JOHN REDMOND DAM AND RESERVOIR, KS	1,100,000	1,100,000
[FC]	KANOPOLIS LAKE, KS	1,504,000	1,504,000
[FC]	MARION LAKE, KS	740,000	740,000
[FC]	MELVERN LAKE, KS	1,375,000	1,375,000
[FC]	MILFORD LAKE, KS	2,039,000	2,039,000
[FC]	PEARSON - SKUBITZ BIG HILL LAKE, KS	755,000	755,000
[FC]	PERRY LAKE, KS	1,503,000	1,503,000
[FC]	POMONA LAKE, KS	1,251,000	1,251,000
[FC]	TORONTO LAKE, KS	388,000	388,000
[FC]	TUTTLE CREEK LAKE, KS	1,360,000	1,360,000
[FC]	WILSON LAKE, KS	1,171,000	1,171,000
	KENTUCKY		
[MP]	BARKLEY DAM AND LAKE BARKLEY, KY	4,786,000	4,786,000
[FC]	BARREN RIVER LAKE, KY	1,098,000	1,098,000
[N]	BIG SANDY HARBOR, KY	1,030,000	1,030,000
[FC]	BUCKHORN LAKE, KY	718,000	718,000
[FC]	CARR FORK LAKE, KY	846,000	846,000
[FC]	CAVE RUN LAKE, KY	535,000	535,000
[FC]	DEWEY LAKE, KY	927,000	927,000
[FC]	FISHTRAP LAKE, KY	1,028,000	1,028,000
[FC]	GRAYSON LAKE, KY	717,000	717,000
[N]	GREEN AND BARREN RIVERS, KY	1,161,000	1,161,000
[FC]	GREEN RIVER LAKE, KY	1,251,000	1,251,000
[N]	HICKMAN HARBOR, KY	513,000	513,000
[N]	KENTUCKY RIVER, KY	1,343,000	1,343,000
[MP]	LAUREL RIVER LAKE, KY	981,000	981,000
[N]	LICKING RIVER, KY	13,000	13,000
[FC]	MARTINS FORK LAKE, KY	573,000	573,000
[FC]	MIDDLESBORO, KY	37,000	37,000
[FC]	NOLIN LAKE, KY	1,298,000	1,298,000
[N]	OHIO RIVER LOCKS AND DAMS, KY, IL, IN, OH, PA & WV	36,435,000	41,060,000
[N]	OHIO RIVER OPEN CHANNEL WORK, KY, IL, IN, OH, PA & WV	4,849,000	4,849,000
[FC]	PAINTSVILLE LAKE, KY	723,000	723,000
[FC]	ROUGH RIVER LAKE, KY	1,599,000	1,599,000
[FC]	TAYLORSVILLE LAKE, KY	674,000	674,000
[MP]	WOLF CREEK DAM - LAKE CUMBERLAND, KY	4,809,000	4,809,000
[FC]	YATESVILLE LAKE KY	661,000	661,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	LOUISANA		
[N]	ATCHAFALAYA RIVER AND BAYOUS CHENE, BOEUF AND BLACK, L	3,607,000	3,737,000
[N]	BARATARIA BAY WATERWAY, LA	1,900,000	1,900,000
[FC]	BAYOU BODCAU RESERVOIR, LA	368,000	368,000
[FC]	BAYOU PIERRE, LA	38,000	38,000
[N]	BAYOU SEGNETTE WATERWAY, LA	188,000	188,000
[N]	BAYOU TECHE, LA	1,005,000	1,005,000
[N]	BAYOU TECHE AND VERMILION RIVER, LA	275,000	275,000
[FC]	CADDO LAKE, LA	97,000	97,000
[N]	CALCASIEU RIVER AND PASS, LA	3,475,000	3,665,000
[N]	FRESHWATER BAYOU, LA	2,535,000	2,535,000
[N]	GULF INTRACOASTAL WATERWAY, LA	10,890,000	10,890,000
[N]	HOUMA NAVIGATION CHANNEL, LA	165,000	645,000
[N]	LAKE PROVIDENCE HARBOR, LA	258,000	258,000
[N]	MADISON PARISH PORT, LA	68,000	68,000
[N]	MERMENTAU RIVER, LA	1,320,000	1,320,000
[N]	MISSISSIPPI RIVER - BATON ROUGE TO GULF OF MEXICO, LA.	52,000,000	58,222,000
[N]	MISSISSIPPI RIVER - GULF OUTLET, LA	7,280,000	7,280,000
[N]	MISSISSIPPI RIVER, OUTLETS AT VENICE, LA	2,040,000	2,040,000
[N]	PEARL RIVER, MS	1,049,000	1,646,000
[N]	RED RIVER WATERWAY - MISSISSIPPI RIVER TO SHREVEPORT,	3,567,000	3,567,000
	REMOVAL OF AQUATIC GROWTH, LA	1,525,000	1,525,000
[FC]	WALLACE LAKE, LA	156,000	156,000
[N]	WATERWAY - EMPIRE TO THE GULF, LA	232,000	232,000
	MARYLAND		
[N]	BALTIMORE HARBOR & CHANNELS, MD & VA	9,233,000	9,233,000
	BALTIMORE HARBOR [PREVENTION OF OBSTRUCTIVE DEPOSITS],	375,000	375,000
	BALTIMORE HARBOR [DRIFT REMOVAL], MD	294,000	294,000
[FC]	CUMBERLAND, MD AND RIDGELEY, WV	79,000	79,000
[N]	FISHING CREEK, MD	350,000	350,000
[N]	HERRING CREEK, TALL TIMBERS, MD	30,000	30,000
[FC]	JENNINGS RANDOLPH LAKE, MD & WV	1,203,000	1,203,000
[N]	NEALE SOUND, MD	517,000	517,000
[N]	OCEAN CITY HARBOR & INLET & SINEPUXENT BAY, MD	450,000	450,000
[N]	ST. JEROME CREEK, MD	372,000	372,000
[N]	WICOMICO RIVER, MD	1,000,000	1,000,000
	MASSACHUSETTS		
[FC]	BARRE FALLS DAM, MA	431,000	431,000
[FC]	BIRCH HILL DAM, MA	444,000	444,000
[FC]	BUFFUMVILLE LAKE, MA	291,000	291,000
[N]	CAPE COD CANAL, MA	6,387,000	6,387,000
[FC]	CHARLES RIVER NATURAL VALLEY STORAGE AREAS, MA	154,000	154,000
[N]	CHATHAM [STAGE] HARBOR, MA	907,000	907,000
[FC]	CONANT BROOK LAKE, MA	170,000	170,000
[FC]	EAST BRIMFIELD LAKE, MA	285,000	285,000
[N]	GREEN HARBOR, MA	335,000	335,000
[FC]	HODGES VILLAGE DAM, MA	326,000	326,000
[FC]	KNIGHTVILLE DAM, MA	541,000	541,000
[FC]	LITTLEVILLE LAKE, MA	460,000	460,000
[FC]	NEW BEDFORD, FAIRHAVEN AND ACUSHNET HURRICANE BARRIER,	327,000	327,000
[N]	NEWBURYPORT HARBOR, MA	461,000	461,000
[FC]	TULLY LAKE, MA	439,000	439,000
[FC]	WEST HILL DAM, MA	386,000	386,000
[FC]	WESTVILLE LAKE, MA	302,000	302,000
	MICHIGAN		
[N]	ALPENA HARBOR, MI	238,000	238,000
[N]	ARCADIA HARBOR, MI	78,000	78,000
[N]	AU SABLE HARBOR, MI	266,000	266,000
[N]	BIG BAY HARBOR, MI	135,000	135,000
[N]	BOLLES HARBOR, MI	253,000	253,000
[N]	CASEVILLE HARBOR, MI	168,000	168,000
[N]	CHANNELS IN LAKE ST. CLAIR, MI	391,000	391,000
[N]	CHANNELS IN STRAITS OF MACKINAC, MI	213,000	213,000
[N]	CHARLEVOIX HARBOR, MI	24,000	24,000
[N]	CHEBOYGAN HARBOR, MI	166,000	166,000
[N]	CLINTON RIVER, MI	68,000	68,000
[N]	DETROIT RIVER, MI	2,963,000	2,963,000
[N]	FRANKFORT HARBOR, MI	158,000	158,000
[N]	GRAND HAVEN HARBOR, MI	870,000	870,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
[N]	GRAND TRAVERSE BAY HARBOR, MI	121,000	121,000
[N]	GRAYS REEF PASSAGE, MI	44,000	44,000
[N]	HARBOR BEACH HARBOR,MI	781,000	781,000
[N]	HARRISVILLE HARBOR, MI	151,000	151,000
[N]	HOLLAND HARBOR, MI	510,000	510,000
[N]	INLAND ROUTE, MI	19,000	19,000
[N]	KEWEENAW WATERWAY, MI	664,000	664,000
[N]	LELAND HARBOR, MI	117,000	117,000
[N]	LEXINGTON HARBOR, MI	111,000	111,000
[N]	LITTLE LAKE HARBOR, MI	120,000	120,000
[N]	LUDINGTON HARBOR, MI	510,000	510,000
[N]	MANISTEE HARBOR, MI	214,000	214,000
[N]	MANISTIQUE HARBOR, MI	709,000	709,000
[N]	MARQUETTE HARBOR, MI	236,000	236,000
[N]	MENOMINEE HARBOR, MI & WI	23,000	23,000
[N]	MONROE HARBOR, MI	188,000	188,000
[N]	MUSKEGON HARBOR, MI	277,000	277,000
[N]	ONTONAGON HARBOR, MI	2,850,000	2,850,000
[N]	PENTWATER HARBOR, MI	151,000	151,000
[N]	PORT SANILAC HARBOR, MI	210,000	210,000
[N]	PRESQUE ISLE HARBOR, MI	369,000	369,000
[N]	ROUGE RIVER, MI	724,000	724,000
[N]	SAGINAW RIVER, MI	4,050,000	4,050,000
[FC]	SEBEWAING RIVER [ICE JAM REMOVAL], MI	15,000	15,000
[N]	ST. CLAIR RIVER, MI	910,000	910,000
[N]	ST. JOSEPH HARBOR, MI	711,000	711,000
[MP]	ST. MARYS RIVER, MI	12,717,000	12,717,000
[N]	WHITEFISH POINT HARBOR, MI	94,000	94,000
	MINNESOTA		
[FC]	BIGSTONE LAKE, WHETSTONE RIVER, MN & SD	160,000	160,000
[N]	DULUTH - SUPERIOR HARBOR, MN & WI	4,027,000	4,027,000
[FC]	LAC QUI PARLE LAKES, MINNESOTA RIVER, MN	312,000	312,000
[FC]	LAKE TRAVERSE AND BOIS DE SIOUX, SD & MN	219,000	219,000
[N]	MISSISSIPPI RIVER BETWEEN MISSOURI AND MINNEAPOLIS, MN	36,245,000	36,245,000
[N]	MINNESOTA RIVER, MN	272,000	272,000
[FC]	ORWELL LAKE, MN	324,000	324,000
[FC]	RED LAKE RIVER, MN	85,000	85,000
[N]	RESERVOIRS AT HEADWATERS OF MISSISSIPPI RIVER, MN	1,745,000	1,745,000
	SAUK LAKE, MN	---	100,000
[N]	ST. PAUL SMALL BOAT HARBOR, MN	15,000	15,000
[N]	TWO HARBORS, MN	2,635,000	2,635,000
[N]	WINONA SMALL BOAT HARBOR, MN	15,000	15,000
	MISSISSIPPI		
[N]	BILOXI HARBOR, MS	726,000	726,000
[N]	CLAIBORNE COUNTY PORT, MS	149,000	149,000
[FC]	EAST FORK, TOMBIGBEE RIVER, MS	249,000	249,000
[FC]	GRENADA LAKE, MS	100,000	100,000
[N]	GULFPORT HARBOR, MS	2,302,000	2,302,000
[N]	MOUTH OF YAZOO RIVER, MS	164,000	164,000
[FC]	OKATIBBEE LAKE, MS	1,371,000	1,371,000
[N]	PASCAGOULA HARBOR, MS	4,398,000	4,398,000
[N]	PASS CHRISTIAN HARBOR, MS	323,000	323,000
[N]	ROSEDALE HARBOR, MS	379,000	379,000
[N]	WOLF AND JORDAN RIVERS, MS	181,000	181,000
[N]	YAZOO RIVER, MS	275,000	275,000
	MISSOURI		
[N]	CARUTHERSVILLE HARBOR, MO	380,000	380,000
[MP]	CLARENCE CANNON DAM AND MARK TWAIN LAKE, MO	5,469,000	5,469,000
[FC]	CLEARWATER LAKE, MO	1,950,000	1,950,000
[N]	HANNIBAL HARBOR, MO	68,000	68,000
[MP]	HARRY S TRUMAN DAM AND RESERVOIR, MO	8,031,000	8,031,000
[FC]	LITTLE BLUE RIVER LAKES, MO	840,000	840,000
[FC]	LONG BRANCH LAKE, MO	555,000	555,000
[N]	MISS. RVR BETWN OHIO AND MISSOURI RIVERS, IL & MO	10,971,000	10,971,000
[FC]	POMME DE TERRE LAKE, MO	1,402,000	1,402,000
[FC]	SMITHVILLE LAKE, MO	1,047,000	1,047,000
[MP]	STOCKTON LAKE, MO	2,930,000	2,930,000
[MP]	TABLE ROCK LAKE, MO	4,749,000	4,749,000
[FC]	WAPPAPELLO LAKE, MO	147,000	147,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	MONTANA		
[MP]	FT PECK DAM AND LAKE, MT	3,566,000	4,566,000
[MP]	LIBBY DAM, MT	3,898,000	3,898,000
	NEBRASKA		
[MP]	GAVINS POINT DAM, LEWIS & CLARK LAKE, NE & SD	5,144,000	5,144,000
[FC]	HARLAN COUNTY LAKE, NE	1,296,000	1,296,000
	MISSOURI NATIONAL RECREATION RIVER, NE & SD	---	200,000
[FC]	PAPILLION CREEK & TRIBUTARIES LAKES, NE	640,000	640,000
[FC]	SALT CREEK AND TRIBUTARIES, NE	660,000	660,000
	NEVADA		
[FC]	MARTIS CREEK LAKE, NV & CA	381,000	381,000
[FC]	PINE-MATHEWS CANYONS DAMS, NV	87,000	87,000
	NEW HAMPSHIRE		
[FC]	BLACKWATER DAM, NH	400,000	400,000
[FC]	EDWARD MACDOWELL LAKE, NH	355,000	355,000
[FC]	FRANKLIN FALLS DAM, NH	591,000	591,000
[N]	HAMPTON HARBOR, NH	288,000	288,000
[FC]	HOPKINTON-EVERETT LAKES, NH	1,009,000	1,009,000
[FC]	OTTER BROOK LAKE, NH	370,000	370,000
[FC]	SURRY MOUNTAIN LAKE, NH	558,000	558,000
	NEW JERSEY		
[N]	BARNEGAT INLET, NJ	850,000	850,000
[N]	CHEESEQUAKE CREEK, NJ	50,000	50,000
[N]	COLD SPRING INLET, NJ	385,000	385,000
[N]	DELAWARE RIVER, PHILADELPHIA, PA TO TRENTON, NJ	3,280,000	3,280,000
[N]	DELAWARE RIVER, PHILADELPHIA TO THE SEA, NJ, PA & DE	11,410,000	11,410,000
[N]	MANASQUAN RIVER, NJ	190,000	190,000
[N]	NEW JERSEY INTRACOASTAL WATERWAY, NJ	2,529,000	2,529,000
[N]	NEWARK BAY HACKENSACK & PASSAIC RIVERS, NJ	50,000	50,000
[N]	RARITAN RIVER, NJ	600,000	600,000
[N]	RARITAN RIVER TO ARTHUR KILL CUT-OFF, NJ	1,050,000	1,050,000
[N]	SANDY HOOK BAY, NJ	30,000	30,000
[N]	SANDY HOOK BAY AT LEONARDO, NJ	880,000	880,000
[N]	SHARK RIVER, NJ	40,000	40,000
	NEW MEXICO		
[FC]	ABIQUIU DAM, NM	1,233,000	1,233,000
[FC]	COCHITI LAKE, NM	1,494,000	1,494,000
[FC]	CONCHAS LAKE, NM	869,000	869,000
[FC]	GALISTEO DAM, NM	216,000	216,000
[FC]	JEMEZ CANYON DAM, NM	400,000	400,000
[FC]	SANTA ROSA DAM AND LAKE, NM	705,000	705,000
[FC]	TWO RIVERS DAM, NM	423,000	423,000
	NEW YORK		
[FC]	ALMOND LAKE, NY	278,000	278,000
[FC]	ARKPORT DAM, NY	167,000	167,000
[N]	BAYRIDGE & RED HOOK CHANNELS, NY	1,417,000	1,417,000
[N]	BLACK ROCK CHANNEL AND TONAWANDA HARBOR, NY	3,122,000	3,122,000
[N]	BRONX RIVER, NY	720,000	720,000
[N]	BUFFALO HARBOR, NY	1,507,000	1,507,000
[N]	BUTTERMILK CHANNEL, NY	75,000	75,000
[N]	CATTARAUGUS CREEK HARBOR, NY	250,000	250,000
[N]	CONEY ISLAND CHANNEL, NY	720,000	720,000
[N]	CONEY ISLAND CREEK, NY	40,000	40,000
[N]	DUNKIRK HARBOR, NY	225,000	225,000
[N]	EAST CHESTER CREEK, NY	150,000	150,000
[N]	EAST RIVER, NY	1,410,000	1,410,000
[N]	EAST ROCKAWAY INLET, NY	630,000	630,000
[FC]	EAST SIDNEY LAKE, NY	294,000	294,000
[N]	ECHO BAY HARBOR, NY	40,000	40,000
[N]	FIRE ISLAND TO JONES INLET, NY	835,000	835,000
[N]	FLUSHING BAY & CREEK, NY	690,000	690,000
[N]	GOWANUS CREEK CHANNEL, NY	140,000	140,000
[N]	GREAT SOUTH BAY, NY	50,000	50,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
[N]	HARLEM RIVER, NY	140,000	140,000
[N]	HEMPSTEAD HARBOR, NY	40,000	40,000
[N]	HUDSON RIVER, NY	2,102,000	2,102,000
[N]	HUDSON RIVER CHANNEL, NY	660,000	660,000
[N]	JAMAICA BAY, NY	850,000	850,000
[N]	JONES INLET NY	40,000	40,000
[N]	LAKE MONTAUK HARBOR, NY	30,000	30,000
[N]	LONG ISLAND INTRACOASTAL WATERWAY, NY	60,000	60,000
[N]	MAMARONECK HARBOR, NY	40,000	40,000
[FC]	MT MORRIS LAKE, NY	1,284,000	1,284,000
[N]	NARROWS OF LAKE CHAMPLAIN, NY & VT	40,000	40,000
[N]	NEW ROCHELLE HARBOR, NY	40,000	40,000
[N]	NEW YORK AND NEW JERSEY CHANNELS, NY	2,705,000	2,705,000
	NEW YORK HARBOR [DRIFT REMOVAL], NY	3,290,000	3,290,000
[N]	NEW YORK HARBOR, NY	4,279,000	4,279,000
	NEW YORK HARBOR [PREVENTION OF OBSTRUCTIVE DEPOSITS]	605,000	605,000
[N]	NEWTOWN CREEK, NY	30,000	30,000
[N]	NORTHPORT HARBOR, NY	50,000	50,000
[N]	OAK ORCHARD HBR, NY	150,000	150,000
[N]	OLCOTT HARBOR, NY	145,000	145,000
[N]	OSWEGO HARBOR, NY	405,000	405,000
[N]	PORTCHESTER HARBOR, NY	30,000	30,000
[N]	ROCHESTER HARBOR, NY	801,000	801,000
[N]	SHEEPSHEAD BAY, NY	40,000	40,000
[FC]	SOUTHERN NEW YORK PROJECTS, NY	2,106,000	2,106,000
[N]	TARRYTOWN HARBOR, NY	50,000	50,000
[N]	WESTCHESTER CREEK, NY	550,000	550,000
[FC]	WHITNEY POINT LAKE, NY	1,077,000	1,077,000
[N]	WILSON HARBOR, NY	230,000	230,000
	NORTH CAROLINA		
[N]	ATLANTIC INTRACOASTAL WATERWAY [WILMINGTON DISTRICT],	5,437,000	5,437,000
[FC]	B EVERETT JORDAN DAM AND LAKE, NC	1,039,000	1,039,000
[N]	BEAUFORT HARBOR, NC	416,000	416,000
[N]	BOGUE INLET AND CHANNEL, NC	675,000	675,000
[N]	CAPE FEAR RIVER ABOVE WILMINGTON, NC	481,000	856,000
[N]	CAROLINA BEACH INLET, NC	579,000	579,000
[N]	CHANNEL FROM BACK SOUND TO LOOKOUT BIGHT, NC	393,000	393,000
[FC]	FALLS LAKE, NC	1,048,000	1,198,000
[N]	FAR CREEK, NC	946,000	946,000
[N]	LOCKWOODS FOLLY RIVER, NC	535,000	535,000
[N]	MANTEO [SHALLOWBAG] BAY, NC	5,117,000	5,117,000
	MASONBORO INLET AND CONNECTING CHANNELS, NC	---	1,965,000
[N]	MOREHEAD CITY HARBOR, NC	1,983,000	1,983,000
[N]	NEW RIVER INLET, NC	538,000	538,000
[N]	NEW TOPSAIL INLET AND CONNECTING CHANNELS, NC	520,000	520,000
[N]	OCRACOKE INLET, NC	278,000	278,000
[N]	ROLLINSON CHANNEL, NC	395,000	395,000
[N]	SILVER LAKE HARBOR, NC	786,000	786,000
[N]	WATERWAY CONNECTING PAMLICO SOUND AND BEAUFORT HARBOR,	245,000	245,000
[FC]	W. KERR SCOTT DAM AND RESERVOIR, NC	1,537,000	1,537,000
[N]	WILMINGTON HARBOR, NC	4,612,000	6,453,000
	NORTH DAKOTA		
[FC]	BOWMAN HALEY LAKE, ND	222,000	222,000
[MP]	GARRISON DAM, LAKE SAKAKAWEA, ND	6,390,000	6,390,000
[FC]	HOMME LAKE AND DAM, ND	100,000	100,000
[FC]	LAKE ASHTABULA AND BALDHILL DAM, ND	640,000	640,000
[FC]	PIPESTEM LAKE, ND	336,000	336,000
	OHIO		
[FC]	ALUM CREEK LAKE, OH	519,000	519,000
[N]	ASHTABULA HARBOR, OH	267,000	267,000
[FC]	BERLIN LAKE, OH	2,336,000	2,336,000
[FC]	CAESAR CREEK LAKE, OH	739,000	739,000
[FC]	CLARENCE J. BROWN DAM, OH	479,000	479,000
[N]	CLEVELAND HARBOR, OH	3,362,000	3,362,000
[N]	CONNEAUT HARBOR, OH	220,000	220,000
[FC]	DEER CREEK LAKE, OH	373,000	373,000
[FC]	DELAWARE LAKE, OH	777,000	777,000
[FC]	DILLON LAKE, OH	434,000	434,000
[N]	FAIRPORT HARBOR, OH	37,000	37,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
[N]	HURON HARBOR, OH	37,000	37,000
[N]	LORAIN HARBOR, OH	1,149,000	1,149,000
[FC]	MASSILLON, OH	20,000	20,000
[FC]	MICHAEL J. KIRWAN DAM AND RESERVOIR, OH	736,000	736,000
[FC]	MOSQUITO CREEK LAKE, OH	794,000	794,000
[FC]	MUSKINGUM RIVER LAKES, OH	5,384,000	5,384,000
[FC]	NORTH BRANCH KOKOSING RIVER LAKE, OH	177,000	177,000
[FC]	PAINT CREEK LAKE, OH	471,000	471,000
[N]	PORTSMOUTH HARBOR, OH	75,000	75,000
[N]	ROCKY RIVER, OH	250,000	250,000
[FC]	ROSEVILLE, OH	20,000	20,000
[N]	SANDUSKY HARBOR, OH	320,000	320,000
[N]	TOLEDO HARBOR, OH	7,862,000	7,862,000
[FC]	TOM JENKINS DAM, OH	326,000	326,000
[N]	VERMILION HARBOR, OH	275,000	275,000
[FC]	WEST FORK OF MILL CREEK LAKE, OH	371,000	371,000
[N]	WEST HARBOR, OH	75,000	75,000
[FC]	WILLIAM H. HARSHA LAKE, OH	586,000	586,000
	OKLAHOMA		
[FC]	ARCADIA LAKE, OK	390,000	390,000
[FC]	CANDY LAKE, OK	30,000	30,000
[FC]	BIRCH LAKE, OK	771,000	771,000
[MP]	BROKEN BOW LAKE, OK	1,641,000	1,641,000
[FC]	CANTON LAKE, OK	1,409,000	1,409,000
[FC]	COPAN LAKE, OK	919,000	919,000
[MP]	EUFAULA LAKE, OK	3,647,000	3,647,000
[MP]	FORT GIBSON LAKE, OK	3,018,000	3,018,000
[FC]	FORT SUPPLY LAKE, OK	792,000	792,000
[FC]	GREAT SALT PLAINS LAKE, OK	499,000	499,000
[FC]	HEYBURN LAKE, OK	589,000	589,000
[FC]	HUGO LAKE, OK	1,281,000	1,281,000
[FC]	HULAH LAKE, OK	770,000	770,000
[FC]	KAW LAKE, OK	1,790,000	1,790,000
[MP]	KEYSTONE LAKE, OK	2,188,000	2,188,000
[FC]	OOLOGAH LAKE, OK	1,206,000	1,206,000
[FC]	OPTIMA LAKE, OK	556,000	556,000
[FC]	PENSACOLA RESERVOIR - LAKE OF THE CHEROKEES, OK	10,000	10,000
[FC]	PINE CREEK LAKE, OK	876,000	876,000
[MP]	ROBERT S. KERR L&D AND RESERVOIRS, OK	3,149,000	3,149,000
[FC]	SARDIS LAKE, OK	856,000	856,000
[FC]	SKIATOOK LAKE, OK	1,727,000	2,927,000
[MP]	TENKILLER FERRY LAKE, OK	2,854,000	2,854,000
[FC]	WAURIKA LAKE, OK	1,240,000	1,240,000
[MP]	WEBBERS FALLS LOCK AND DAM, OK	2,865,000	2,865,000
[FC]	WISTER LAKE, OK	6,305,000	6,305,000
	OREGON		
[FC]	APPLEGATE LAKE, OR	431,000	431,000
[FC]	BLUE RIVER LAKE, OR	159,000	159,000
[MP]	BONNEVILLE LOCK & DAM-LAKE BONNEVILLE, OR	11,645,000	11,645,000
[N]	CHETCO RIVER, OR	6,000	6,000
[N]	COLUMBIA & LWR WILLAMETTE R. BLW VANCOUVER, WA & PORTL	10,883,000	10,883,000
[N]	COLUMBIA RIVER AT MOUTH, OR & WA	8,571,000	8,571,000
[N]	COLUMBIA RIVER BETWEEN VANCOUVER, WA & THE DALLES, OR.	378,000	378,000
[N]	COOS & MILLICOMA RIVERS, OR	172,000	172,000
[N]	COOS BAY, OR	4,166,000	4,166,000
[N]	COQUILLE RIVER, OR	274,000	274,000
[FC]	COTTAGE GROVE LAKE, OR	630,000	630,000
[MP]	COUGAR LAKE, OR	943,000	943,000
[MP]	DETROIT LAKE, OR	1,698,000	1,698,000
[FC]	DORENA LAKE, OR	497,000	497,000
[FC]	FALL CREEK LAKE, OR	357,000	357,000
[FC]	FERN RIDGE LAKE, OR	592,000	592,000
[MP]	GREEN PETER-FOSTER LAKES, OR	2,004,000	2,004,000
[MP]	HILLS CREEK LAKE, OR	562,000	562,000
[MP]	JOHN DAY LOCK & DAM - LAKE UMATILLA, OR	12,535,000	12,535,000
[MP]	LOOKOUT POINT LAKE, OR	2,708,000	2,708,000
[MP]	LOST CREEK LAKE, OR	3,085,000	3,085,000
[MP]	MCNARY LOCK AND DAM, OR	10,845,000	10,845,000
[N]	PORT ORFORD, OR	105,000	105,000
[N]	ROGUE RIVER AT GOLD BEACH, OR	532,000	532,000
[N]	SIUSLAW RIVER, OR	727,000	727,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
[N]	SKIPANON CHANNEL, OR	216,000	216,000
[N]	TILLAMOOK BAY & BAR, OR	6,000	3,756,000
[N]	UMPQUA RIVER, OR	1,260,000	1,260,000
[FC]	WILLAMETTE RIVER BASIN BANK PROTECTION, OR	104,000	104,000
[N]	WILLAMETTE RIVER AT WILLAMETTE FALLS, OR	709,000	709,000
[FC]	WILLOW CREEK LAKE, OR	437,000	437,000
[N]	YAQUINA BAY & HARBOR, OR	1,151,000	1,151,000
	PENNSYLVANIA		
[N]	ALLEGHENY RIVER, PA	6,075,000	6,075,000
[FC]	ALVIN R. BUSH DAM, PA	402,000	402,000
[FC]	AYLESWORTH CREEK LAKE, PA	152,000	152,000
[FC]	BELTZVILLE LAKE, PA	731,000	731,000
[FC]	BLUE MARSH LAKE, PA	1,367,000	1,367,000
[FC]	CONEMAUGH RIVER LAKE, PA	1,140,000	1,140,000
[FC]	COWANESQUE LAKE, PA	1,135,000	1,135,000
[FC]	CROOKED CREEK LAKE, PA	1,390,000	1,390,000
[FC]	CURWENSVILLE LAKE, PA	410,000	410,000
[N]	ERIE HARBOR, PA	87,000	87,000
[FC]	EAST BRANCH CLARION RIVER LAKE, PA	777,000	777,000
[FC]	FOSTER JOSEPH SAYERS DAM, PA	508,000	508,000
[FC]	FRANCIS E. WALTER DAM, PA	445,000	445,000
[FC]	GENERAL EDGAR JADWIN DAM & RESERVOIR, PA	255,000	255,000
[FC]	JOHNSTOWN, PA	6,000	906,000
[FC]	KINZUA DAM AND ALLEGHENY RESERVOIR, PA	1,464,000	1,464,000
[FC]	LOYALHANNA LAKE, PA	1,038,000	1,038,000
[FC]	MAHONING CREEK LAKE, PA	680,000	680,000
[N]	MONONGAHELA RIVER, PA	11,675,000	11,675,000
[FC]	PROMPTON LAKE, PA	379,000	379,000
[FC]	PUNXSUTAWNEY, PA	5,000	5,000
[FC]	RAYSTOWN LAKE, PA	1,978,000	1,978,000
[N]	SCHUYLKILL RIVER, PA	1,400,000	1,400,000
[FC]	SHENANGO RIVER LAKE, PA	2,017,000	2,017,000
[FC]	STILLWATER LAKE, PA	235,000	235,000
[FC]	TIOGA-HAMMOND LAKES, PA	1,278,000	1,278,000
[FC]	TIONESTA LAKE, PA	1,103,000	1,103,000
[FC]	UNION CITY LAKE, PA	308,000	308,000
[FC]	WOODCOCK CREEK LAKE, PA	803,000	803,000
[FC]	YORK INDIAN ROCK DAM, PA	1,938,000	1,938,000
[FC]	YOUGHIOGHENY RIVER LAKE, PA	2,036,000	2,036,000
	PUERTO RICO		
[N]	ARECIBO HARBOR, PR	650,000	650,000
[N]	MAYAQUEZ HARBOR, PR	200,000	200,000
[N]	PONCE HARBOR, PR	165,000	165,000
[N]	SAN JUAN HARBOR, PR	1,000,000	1,000,000
	SOUTH CAROLINA		
[N]	ATLANTIC INTRACOASTAL WATERWAY [CHARLESTON DISTRICT],	2,282,000	2,282,000
[N]	CHARLESTON HARBOR, SC	2,750,000	2,750,000
[N]	COOPER RIVER, CHARLESTON HARBOR, SC	3,246,000	3,246,000
[N]	FOLLY RIVER, SC	535,000	535,000
[N]	GEORGETOWN HARBOR, SC	1,859,000	1,859,000
[N]	JEREMY CREEK, SC	1,000	1,000
[N]	LITTLE RIVER INLET, SC & NC	144,000	144,000
[N]	MURRELLS INLET, CS	146,000	146,000
[N]	PORT ROYAL HARBOR, SC	894,000	894,000
[N]	SHIPYARD RIVER, SC	608,000	608,000
[N]	TOWN CREEK, SC	444,000	444,000
	SOUTH DAKOTA		
[MP]	BIG BEND DAM - LAKE SHARPE, SD	6,651,000	6,651,000
[FC]	COLD BROOK LAKE, SD	274,000	274,000
[FC]	COTTONWOOD SPRINGS LAKE, SD	147,000	147,000
[MP]	FT. RANDALL DAM - LAKE FRANCIS CASE, SD	7,334,000	7,334,000
[MP]	OAHE DAM - LAKE OAHE, SD & ND	8,006,000	8,006,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	TENNESSEE		
[MP]	CENTER HILL LAKE, TN	3,619,000	3,619,000
[MP]	CHEATHAM LOCK AND DAM, TN	5,507,000	5,507,000
[MP]	CORDELL HULL DAM AND RESERVOIR, TN	3,159,000	3,159,000
[MP]	DALE HOLLOW LAKE, TN	3,206,000	3,206,000
[MP]	J. PERCY PRIEST DAM AND RESERVOIR, TN	3,031,000	3,031,000
[MP]	OLD HICKORY LOCK AND DAM, TN	5,258,000	5,258,000
[N]	TENNESSEE RIVER, TN	11,049,000	11,049,000
[N]	WOLF RIVER HARBOR, TN	675,000	675,000
	TEXAS		
[FC]	AQUILLA LAKE, TX	505,000	505,000
[FC]	ARKANSAS-RED RIVER CHLORIDE CONTROL - AREA VIII, TX	651,000	651,000
[FC]	BARDWELL LAKE, TX	876,000	876,000
[FC]	BELTON LAKE, TX	1,731,000	1,731,000
[FC]	BENBROOK LAKE, TX	1,254,000	1,254,000
[N]	BRAZOS ISLAND HARBOR, TX	3,025,000	3,025,000
[FC]	BUFFALO BAYOU AND TRIBUTARIES, TX	1,497,000	1,497,000
[FC]	CANYON LAKE, TX	1,008,000	1,008,000
[N]	CHANNEL TO HARLINGEN, TX	720,000	720,000
[N]	CHANNEL TO PORT MANSFIELD, TX	600,000	600,000
	CHANNEL TO RED BLUFF, TX	---	400,000
[N]	CHANNEL TO VICTORIA - GIWW, TX	1,725,000	1,725,000
[FC]	COOPER LAKE AND CHANNELS, TX	137,000	137,000
[N]	CORPUS CHRISTI SHIP CHANNEL, TX	5,037,000	5,037,000
[MP]	DENISON DAM - LAKE TEXOMA, TX	4,314,000	4,314,000
[FC]	ESTELLINE SPRINGS EXPERIMENTAL PROJECT, TX	8,000	8,000
[FC]	FERRELLS BRIDGE DAM - LAKE O'THE PINES, TX	1,510,000	1,510,000
[N]	FREEPORT HARBOR, TX	2,835,000	2,835,000
[N]	GALVESTON HARBOR AND CHANNEL, TX	41,000	41,000
[FC]	GRANGER DAM AND LAKE, TX	1,040,000	1,040,000
[FC]	GRAPEVINE LAKE, TX	1,605,000	1,605,000
[N]	GULF INTRACOASTAL WATERWAY, TX	13,185,000	13,185,000
[FC]	HORDS CREEK LAKE, TX	655,000	655,000
[N]	HOUSTON SHIP CHANNEL, TX	6,697,000	6,697,000
[FC]	JOE POOL LAKE, TX	519,000	519,000
[FC]	LAKE KEMP, TX	178,000	178,000
[FC]	LAVON LAKE, TX	1,970,000	1,970,000
[FC]	LEWISVILLE DAM, TX	1,903,000	1,903,000
[N]	MATAGORDA SHIP CHANNEL, TX	1,734,000	1,734,000
[FC]	NAVARRO MILLS LAKE, TX	1,052,000	1,052,000
[FC]	NORTH SAN GABRIEL DAM AND LAKE GEORGETOWN, TX	1,026,000	1,026,000
[FC]	O. C. FISHER DAM AND LAKE, TX	777,000	777,000
[FC]	PAT MAYSE LAKE, TX	1,081,000	1,081,000
[FC]	PROCTOR LAKE, TX	892,000	892,000
[FC]	RAY ROBERTS LAKE, TX	535,000	535,000
[N]	SABINE-NECHES WATERWAY, TX	6,282,000	7,827,000
[MP]	SAM RAYBURN DAM AND RESERVOIR, TX	2,649,000	2,649,000
[FC]	SOMERVILLE LAKE, TX	2,236,000	2,236,000
[FC]	STILLHOUSE HOLLOW DAM, TX	1,396,000	1,396,000
[MP]	TOWN BLUFF DAM-STEINHAGEN LAKE-WILLIS HYDROPOWER, TX	1,167,000	1,167,000
[N]	TRINITY RIVER & TRIBUTARIES, TX	20,000	20,000
[FC]	WACO LAKE, TX	1,573,000	1,573,000
[FC]	WALLISVILLE LAKE, TX	402,000	402,000
[MP]	WHITNEY LAKE, TX	2,772,000	2,772,000
[FC]	WRIGHT PATMAN DAM AND LAKE, TX	1,734,000	1,734,000
	VERMONT		
[FC]	BALL MOUNTAIN LAKE, VT	394,000	394,000
[FC]	NORTH HARTLAND LAKE, VT	366,000	366,000
[FC]	NORTH SPRINGFIELD LAKE, VT	357,000	357,000
[FC]	TOWNSHEND LAKE, VT	347,000	347,000
[FC]	UNION VILLAGE DAM, VT	330,000	330,000
	VIRGINIA		
[N]	APPOMATTOX RIVER, VIRGINIA	1,000,000	1,000,000
[N]	ATLANTIC INTRACOASTAL WATERWAY, VA	4,642,000	4,642,000
[N]	CHANNEL TO NEWPORT NEWS, VA	695,000	695,000
[N]	CHINCOTEAGUE BAY CHANNEL, VA	246,000	246,000
[N]	CHINCOTEAGUE HARBOR OF REFUGE, VA	129,000	129,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
[N]	CHINCOTEAGUE INLET, VA	734,000	734,000
[N]	CRANES CREEK, VA	181,000	181,000
[N]	DEEP CREEK, VA	715,000	715,000
[FC]	GATHRIGHT DAM AND LAKE MOOMAW, VA	1,341,000	1,341,000
[N]	GREENVALE CREEK, LANCASTER COUNTY, VA	229,000	229,000
	HAMPTON ROADS, NORFOLK & NEWPORT NEWS HBR[DRIFT REMOVA	216,000	216,000
[N]	JAMES RIVER CHANNEL, VA	780,000	780,000
[MP]	JOHN H. KERR DAM AND RESERVOIR, VA & NC	5,691,000	5,691,000
[FC]	JOHN W. FLANNAGAN DAM AND RESERVOIR, VA	1,024,000	1,024,000
[N]	LYNNHAVEN INLET, VA	719,000	719,000
[N]	NORFOLK HARBOR AND CHANNELS, VA	4,160,000	4,160,000
	NORFOLK HARBOR [PREVENTION OF OBSTRUCTIVE DEPOSITS], V	520,000	520,000
[FC]	NORTH FORK OF POUND RIVER LAKE, VA	299,000	299,000
[N]	OYSTER CHANNEL, VA	328,000	328,000
[N]	PARKER CREEK, VA	274,000	274,000
[MP]	PHILPOTT LAKE, VA	1,662,000	1,662,000
[N]	QUEENS CREEK, MATHEWS COUNTY, VA	260,000	260,000
[N]	QUINBY CREEK, VA	366,000	366,000
[N]	STARLINGS CREEK, VA	360,000	360,000
[N]	TANGIER CHANNEL, VA	427,000	427,000
[N]	THIMBLE SHOAL CHANNEL, VA	1,405,000	1,405,000
[N]	TYLERS BEACH, VA	201,000	201,000
[N]	WATERWAY ON THE COAST OF VIRGINIA, VA	1,054,000	1,054,000
[N]	WINTER HARBOR, MATHEWS COUNTY, VA	385,000	385,000
	WASHINGTON		
[N]	ANACORTES HARBOR, WA	12,000	12,000
[N]	BELLINGHAM HARBOR, WA	815,000	815,000
[MP]	CHIEF JOSEPH DAM, RUFUS WOODS LAKE, WA	9,488,000	9,488,000
[N]	COLUMBIA RIVER AT BAKER BAY, WA & OR	347,000	347,000
[N]	COLUMBIA RIVER BETWEEN CHINOOK & SAND ISLAND, WA	330,000	330,000
[N]	ELOCHOMAN SLOUGH, WA	106,000	106,000
[N]	EVERETT HARBOR AND SNOHOMISH RIVER, WA	1,027,000	1,027,000
[N]	GRAYS HARBOR AND CHEHALIS RIVER, WA	2,493,000	2,493,000
[FC]	HOWARD A HANSON DAM, WA	750,000	750,000
[MP]	ICE HARBOR LOCK AND DAM, WA	5,682,000	5,682,000
[N]	KENMORE NAVIGATION CHANNEL, WA	7,000	7,000
[N]	LAKE CROCKETT [KEYSTONE HARBOR], WA	26,000	26,000
[N]	LAKE WASHINGTON SHIP CANAL, WA	6,702,000	6,702,000
[MP]	LITTLE GOOSE LOCK AND DAM, WA	3,553,000	3,553,000
[MP]	LOWER GRANITE LOCK AND DAM, WA	5,169,000	5,169,000
[MP]	LOWER MONUMENTAL LOCK AND DAM, WA	4,306,000	4,306,000
[FC]	MILL CREEK LAKE, WA	528,000	528,000
[FC]	MT. ST. HELEN SEDIMENT CONTROL STRUCTURE, WA	566,000	566,000
[FC]	MUD MOUNTAIN DAM, WA	5,710,000	5,710,000
[N]	OLYMPIA HARBOR, WA	20,000	20,000
[N]	PUGET SOUND AND TRIBUTARY WATERS, WA	707,000	707,000
[N]	QUILLAYUTE RIVER, WA	487,000	487,000
[N]	SEATTLE HARBOR, WA	397,000	397,000
[FC]	STILLAGUAMISH RIVER, WA	91,000	91,000
[N]	SWINOMISH CHANNEL, WA	29,000	29,000
[FC]	TACOMA - PUYALLUP, WA	31,000	31,000
[N]	TACOMA HARBOR, WA	62,000	62,000
[MP]	THE DALLES LOCK & DAM - LAKE CELILO, WA	6,719,000	6,719,000
[N]	WILLAPA RIVER AND HARBOR, WA	185,000	185,000
[FC]	WYNOOCHEE LAKE, WA	250,000	250,000
	WEST VIRGINIA		
[FC]	BEECH FORK LAKE, WV	689,000	689,000
[FC]	BLUESTONE LAKE, WV	982,000	982,000
[FC]	BURNSVILLE LAKE, WV	1,015,000	1,015,000
	CHARLESTON RIVERFRONT PARK		350,000
[FC]	EAST LYNN LAKE, WV	1,059,000	1,059,000
[N]	ELK RIVER HARBOR, WV	300,000	300,000
[FC]	ELKINS, WV	5,000	5,000
[N]	KANAWHA RIVER LOCKS AND DAMS, WV	6,590,000	6,590,000
[FC]	R. D. BAILEY LAKE, WV	1,337,000	1,337,000
[FC]	STONEWALL JACKSON LAKE, WV	872,000	872,000
[FC]	SUMMERSVILLE LAKE, WV	1,151,000	1,151,000
[FC]	SUTTON LAKE, WV	1,325,000	1,325,000
[N]	TYGART LAKE, WV	915,000	915,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	WISCONSIN		
[N]	ASHLAND HARBOR, WI	542,000	542,000
[N]	CORNUCOPIA HARBOR, WI	124,000	124,000
[FC]	EAU GALLE RIVER LAKE WISCONSIN, WI	485,000	485,000
[N]	FOX RIVER, WI	1,187,000	1,187,000
[N]	GREEN BAY HARBOR, WI	1,259,000	1,259,000
[N]	GREEN BAY HARBOR, WI - DIKE DISPOSAL	807,000	807,000
[N]	KENOSHA HARBOR, WI	138,000	138,000
[N]	KEWAUNEE HARBOR, WI	317,000	317,000
[FC]	LA FARGE LAKE, WI	32,000	32,000
[N]	LA POINTE HARBOR, WI	92,000	92,000
[N]	MANITOWOC HARBOR, WI	360,000	360,000
[N]	MILWAUKEE HARBOR, WI	2,395,000	2,395,000
[N]	OCONTO HARBOR, WI	363,000	363,000
[N]	PEPIN SMALL BOAT HARBOR, WI	8,000	8,000
[N]	PORT WING HARBOR, WI	135,000	135,000
[N]	SHEBOYGAN HARBOR, WI	486,000	486,000
[N]	STURGEON BAY, WI	699,000	699,000
	WYOMING		
[FC]	JACKSON HOLE, SNAKE RIVER, WY	787,000	787,000
	MISCELLANEOUS		
[N]	DREDGING RESEARCH PROGRAM	7,200,000	7,200,000
	INSPECTION OF COMPLETED WORKS	6,671,000	6,671,000
	MONITORING OF COMPLETED COASTAL PROJECTS	1,850,000	1,850,000
	NATIONAL EMERGENCY PREPAREDNESS PROGRAM [NEPP]	8,000,000	8,000,000
	POLICY AND PROCEDURES OPTIONS FOR PROJECT O&M	1,000,000	---
	PROJECT CONDITION SURVEYS	9,904,000	9,904,000
	PROTECTION, CLEARING, AND STRAIGHTENING OF CHANNELS [S	50,000	50,000
	RECREATION PARTNERSHIP INITIATIVE	800,000	800,000
	REMOVAL OF SUNKEN VESSELS	1,000,000	1,000,000
[N]	REPAIR, EVALUATION, MAINTENANCE, AND REHABILITATION RE	4,000,000	2,000,000
	SCHEDULING OF FLOOD CONTROL RESERVOIR OPERATIONS	2,622,000	2,922,000
	SURVEILLANCE OF NORTHERN BOUNDARY WATERS	2,835,000	2,835,000
	WATERBORNE COMMERCE STATISTICS	3,695,000	3,695,000
	WETLANDS RESEARCH PROGRAM	3,000,000	3,000,000
	REDUCTION FOR ANTICIPATED SAVINGS & SLIPPAGE	-18,646,000	-17,646,000
	TOTAL, OPERATION AND MAINTENANCE	1,389,500,000	1,450,669,000

TYPE OF PROJECT:
[MP] MULTIPLE-PURPOSE, INCLUDING POWER
[FC] FLOOD CONTROL
[BE] BEACH EROSION CONTROL
[N] NAVIGATION

TITLE II—DEPARTMENT OF THE INTERIOR

The summary tables at the end of this title set forth the conference agreement with respect to the individual appropriations, programs and activities of the Bureau of Reclamation. Additional items of conference agreement are discussed below.

BUREAU OF RECLAMATION

GENERAL INVESTIGATIONS

Amendment No. 46: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: *$13,221,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $13,221,000 for General Investigations instead of $12,926,000 as proposed by the House and $12,521,000 as proposed by the Senate.

The conference agreement includes $200,000 to continue advance planning for the Prairie Bend Unit, Nebraska. These funds will permit the Bureau of Reclamation to supplement the existing planning report/draft environmental impact statement to incorporate features of the project desired by local interests.

CONSTRUCTION PROGRAM

Amendment No. 47: Appropriates $642,897,000 for the Construction Program instead of $649,697,000 as proposed by the House and $641,027,000 as proposed by the Senate.

Both the House and Senate versions of the bill provided $250,000 for the Bureau of Reclamation to begin a cost-shared feasibility study of water and power benefits to be derived at Auburn, California, from expanding a Corps of Engineers flood control dam.

However, in response to communication with other Members of Congress, Committee members subsequently agreed to recommend that the Bureau of Reclamation proceed with a study of a complete multipurpose dam versus expansion of a pre-existing flood control dam, provided certain key requirements were squarely met and assurances to that effect were obtained from authoritative officials in the Administration.

These conditions were: that proceeding with the Bureau multipurpose study would

not delay or hinder progress on the flood control project in any way; that the Bureau study comply fully with all principles and guidelines applicable to water resources projects for compliance with the National Environmental Policy Act; and that these studies be completed in sufficient time to allow realistically for congressional authorization of flood protection by October of 1992.

On October 4, 1990, the Office of Management and Budget (OMB) and the Commissioner of Reclamation provided letters to Congress which did pledge to proceed with each study separately so that the Bureau study would not delay the Corps' study, which expressed the hope but not the certainty that the Bureau study could be completed in time for authorization by October of 1992, and which said that principles and guidelines would be followed in some but not all of the respects stipulated. Specifically, the letter from the OMB made no reference and no commitment at all to principles and guidelines governing feasibility reports and environmental compliance. The letter from the Commissioner of Reclamation said that principles and guidelines are necessary only for a document termed "a current economic analysis."

The Commissioner's letter said that compliance with the National Environmental Policy Act required only an "updating" of previous environmental documentation and that in view of a previous authorization for an Auburn project, the original feasibility study requires only updating also. It is not clear from the letter what standards the Commissioner intends such updating of environmental and feasibility documentation must meet, but the letter avoided applying full principles and guidelines to them.

In view of the controversy surrounding the multipurpose project, the serious threat to many thousands of people from floods in the American River watershed, the considerable changes in Auburn Dam's design since its original authorization and the probable reconfiguration of project benefits, it is the view of the conferees that the feasibility and environmental impact studies must be thorough and in accordance with the principles and guidelines which apply to such studies for any water resources project. Further, in accordance with the commitments received by Congress from the Office of Management and Budget and the Bureau of Reclamation, such study shall not delay the efforts of the Corps of Engineers to complete activities associated with "expandable" flood control only dam at Auburn.

The conference agreement includes an additional $3,500,000 for the Central Arizona Project (CAP) as proposed by the House. These funds are to be used to protect the Town of Marana against increased flood and erosion damages caused by a CAP siphon outlet and canal within the Santa Cruz River floodplain. In addition, this project would protect the siphon outlet and canal from overtopping and erosion during flood flows on the Santa Cruz River. The conferees direct the Bureau of Reclamation to enter into an intergovernmental agreement with the Pima County, Arizona Department of Transportation and Flood Control District to transfer these funds to the County for the purpose of conducting this necessary protection work. The cost of this protection work will be nonreimbursable.

The conferees urge the Bureau of Reclamation to reprogram funds to continue safety of dams modifications at Mormon Island Auxiliary Dam (Folsom Dam and related facilities).

Amendment No. 48: Provides that $185,768,000 shall be available for transfer to the Lower Colorado River Basin Development Fund as proposed by the House instead of $182,268,000 as proposed by the Senate.

OPERATION AND MAINTENANCE

In fiscal year 1989, the Bureau of Reclamation began an effort to reduce the backlog of maintenance at its projects. The Congress has supported and continues to support that effort; however, due to the budgetary situation the conference agreement provides for a reduction of $10,000,000 below the budget request.

In the Bureau of Reclamation's operation and maintenance appropriation, costs of $2,800,000 are estimated for Kesterson Reservoir monitoring, research and office support activities. The Secretary of the Interior is directed to review the Department's repayment policies with respect to Kesterson and other drainage related costs with input from the Congress, state and local agencies, and the public and to submit a report on this policy, no later than March 31, 1991, to the appropriate Committees of the House and Senate. Recommendations on past and future cost allocations between Federal and non-Federal interests as well as recommendations on cost allocations between reimbursable and nonreimbursable functions shall be included in such report. No portion of Kesterson and other drainage related costs shall be recovered from non-Federal entities until a cost allocation formula has been established in accordance with this report. However, the appropriate non-Federal share of the $2,800,000 included in this appropriation shall be recovered by the conclusion of fiscal year 1991, pursuant to the recommended cost allocation formula.

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR

Amendment No. 49: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 205. (a) AUTHORIZATION.—The Secretary is authorized and directed to enter into a contract with the McGee Creek Authority, Oklahoma City, Oklahoma, accepting a payment in an amount to be determined by the Secretary after appropriate investigation.

(b) CONTRACT TERMINATION.—Upon receipt of the payment specified in subsection (a), the McGee Creek Water Authority's obligation under contract between the Authority and the Secretary numbered 0-07-50-X0822, dated October 11, 1979, shall be terminated.

(c) TITLE TO PROJECT FACILITIES.—Notwithstanding any payments made by the McGee Creek Water Authority pursuant to section 205 (a) and (b) of this language or pursuant to any contract with the Secretary, title to project facilities of the McGee Creek Project, Oklahoma, shall remain with the United States.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement restores House language stricken by the Senate relating to repayment for the McGee Creek, Oklahoma, project amended to provide that the amount of repayment is to be determined by the Secretary of the Interior.

Amendment No. 50: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 206. (a) Except as provided in subsection (b) of this section, none of the funds appropriated in this or any other Act shall be used to execute new long-term contracts for water supply from the Central Valley Project, California.

(b)(1) The Secretary of the Interior is authorized and directed to enter into the following contracts: (A) a municipal and industrial water supply contract with the Sacramento County Water Agency, not to exceed 22,000 acre-feet annually, to meet the immediate needs of Sacramento County and a municipal and industrial water supply contract with the San Juan Suburban Water District, not to exceed 13,000 acre-feet annually, for diversion from Folsom Lake, with annual quantities delivered under these contracts to be determined by the Secretary based upon the quantity of water actually needed within the Sacramento County Water Agency service area and San Juan Suburban Water District after considering reasonable efforts to: (i) promote full utilization of existing water entitlements within Sacramento County, (ii) implement water conservation and metering programs within the areas served by the contract, and (iii) implement programs to maximize to the extent feasible conjunctive use of surface water and groundwater; and (B) a municipal and industrial water supply contract with the El Dorado County Water Agency, not to exceed 15,000 acre-feet annually, for diversion from Folsom Lake or for exchange upstream on the American River or its tributaries, considering reasonable efforts to implement water conservation programs within areas to be served by the contracts. The contracts required by this subsection are intended as the first phase of a contracting program to meet the long-term water supply needs of Sacramento and El Dorado Counties. The Secretary shall promptly initiate the necessary analysis for the long-term water supply contracts. The Secretary shall include in these contracts terms and conditions to ensure that the contracts may be amended in any respect required to meet the Secretary's obligations under applicable state law and the Federal environmental laws.

(2) Prior to entering into the contracts specified in subsection (b)(1) of this section, the Secretary is directed to comply with the provision of the National Environmental Policy Act by preparing joint Environmental Impact Statements and California Environmental Quality Act Environmental Impact Reports. The Sacramento County Water Agency shall be the joint lead agency with the Bureau of Reclamation in the preparation of the environmental documents required under (b)(1)(A) of this section and the El Dorado County Water Agency shall be the joint lead agency with the Bureau of Reclamation in the preparation of the environmental documents required under (b)(1)(B), with the Bureau of Reclamation cooperating in all aspects of the environmental review process, but not controlling that process.

(3) Diversions from the American River under the contract for the Sacramento County Water Agency shall, to the maximum extent reasonable and feasible, take place at or near the mouth of the American River.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees note that the lower American River is a valuable resource which provides not only needed water supplies and significant flood control for Sacramento, but which also fosters numerous instream, public trust and wild and scenic river resources. As a consequence, diversions from the American River, to the maximum extent reasonable and feasible, should be undertaken at points at or near the mouth of the American River and upstream diversions should be subject to applicable flow requirements that may be established from time to time. For these reasons, the conferees believe that the Bureau of Reclamation's operation of facilities on the American River should protect these instream, public trust and wild and scenic river values to the maximum extent reasonable and feasible.

Amendment No. 51: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that authorizes and directs the Secretary of the Interior to pay, without reimbursement, $1,000,000 to the Fall River Rural Electric Cooperative as reimbursement for environmental protection requirements in connection with the development of hydroelectric power at the Island Park Dam and Reservoir, Idaho, with an amendment as follows:

In lieu of the section number named in said amendment, insert: "207"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

BUREAU OF RECLAMATION

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	GENERAL INVESTIGATIONS		
	ARIZONA		
SP.INV.	UPPER SAN PEDRO RIVER OPTIMIZATION STUDY.....	75,000	75,000
	CALIFORNIA		
PROJ.INV.	AMERICAN RIVER FOLSOM SOUTH OPTIMIZATION STUDY.....	50,000	50,000
	DELTA WATER MANAGEMENT.....	---	100,000
SP.INV.	INDIAN WELLS VALLEY WATER MANAGEMENT STUDY.....	175,000	175,000
	OFFSTREAM STORAGE INVESTIGATION.....	---	150,000
	REFUGE WATER SUPPLY.....	---	200,000
	SALINAS VALLEY WATER RESOURCE MANAGEMENT PLAN.....	---	180,000
PROJ.INV.	SAN JOAQUIN RIVER BASIN RESOURCE MANAGEMENT INITIATIVE	200,000	200,000
	SAN JOAQUIN VALLEY CONVEYANCE.....	---	50,000
SP.INV.	SANTA ANA WATERSHED MANAGEMENT STUDY.....	99,000	99,000
PROJ.INV.	SMALL PROJECT INTEGRATION WITH CVP.....	60,000	---
	COLORADO		
PROJ.INV.	UPPER GUNNISON-UNCOMPAHGRE BASIN PROJECT.....	280,000	280,000
	IDAHO		
SP.INV.	IDAHO RIVER SYSTEMS MANAGEMENT.....	75,000	75,000
PROJ.INV.	MINIDOKA, NORTH SIDE PUMPING DIV. DRAINWTR MGMT STDY..	80,000	80,000
	KANSAS		
SP.INV.	ARKANSAS RIVER WATER MANAGEMENT IMPROVEMENT STUDY.....	240,000	240,000
	MONTANA		
SP.INV.	FLATHEAD RIVER BASIN STORAGE OPTIMIZATION STUDY.....	215,000	215,000
	TONGUE RIVER DAM, MT.....	---	300,000
	NEBRASKA		
	LOUP RIVER BASIN WATER MANAGMENT STUDY.....	---	75,000
	PRAIRIE BEND UNIT, P-SMBP.....	---	200,000
	NEVADA		
PROJ.INV.	NORTHERN NEVADA WATER AUGMENTATION PROGRAM.....	180,000	180,000
	NEW MEXICO		
SP.INV.	NEW MEXICO REGIONAL WATER RESOURCES STUDY.....	200,000	200,000
	OKLAHOMA		
	NORTHWEST OKLAHOMA WATER SUPPLY STUDY.....	---	150,000
	OREGON		
	GRAND RONDE BASIN WATER OPT. STUDY.....	---	220,000
PROJ.INV.	JOSEPHINE COUNTY WATER MANAGEMENT IMPROVEMENT STUDY...	200,000	200,000
PROJ.INV.	NORTHERN DOUGLAS CO. COOP. WATER RESOURCES STUDY.....	50,000	50,000
PROJ.INV.	UPPER DESCHUTES RIVER BASIN WATER CONSERVATION PROJECT	290,000	290,000
PROJ.INV.	UPPER JOHN DAY WATER OPTIMIZATION PROJECT.....	250,000	250,000
PROJ.INV.	WILLAMETTE RIVER BASIN WATER OPTIMIZATION STUDY.....	180,000	180,000
	SOUTH DAKOTA		
	BLACK HILLS HYDROLOGY STUDY.....	---	100,000
	SOUTHEASTERN SOUTH DAKOTA PIPELINE.....	---	100,000
	TEXAS		
SP.INV.	LOWER COLORADO RIVER BASIN TOTAL WATER MGMT STUDY.....	200,000	200,000
	UTAH		
SP.INV.	SEVIER RIVER WATER MANAGEMENT STUDY.....	120,000	120,000
SP.INV.	UTAH AREA WATER DEMAND MODEL.....	100,000	100,000
	WASHINGTON		
PROJ.INV.	YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT.....	540,000	540,000
	WYOMING		
PROJ.INV.	WIND RIVER BASIN STUDY.....	37,000	37,000

BUREAU OF RECLAMATION

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	VARIOUS		
SP.INV.	COLORADO RIVER RECHARGE STUDY	30,000	30,000
PROJ.INV.	COLORADO RIVER WATER QUALITY IMPROVEMENT PROGRAM	935,000	935,000
SP.INV.	DROUGHT INVESTIGATIONS	220,000	220,000
SP.INV.	ENVIRONMENTAL & INTERAGENCY COORDINATION ACTIVITIES	2,699,000	2,699,000
SP.INV.	FOUR CORNERS WATER ASSESSMENT	150,000	150,000
SP.INV.	GENERAL PLANNING STUDIES	875,000	875,000
SP.INV.	INVESTIGATION OF EXISTING PROJECTS	390,000	390,000
SP.INV.	MINOR WORK ON COMPLETED INVESTIGATIONS	521,000	521,000
SP.INV.	TECHNICAL ASSISTANCE TO STATES	1,350,000	1,350,000
SP.INV.	TOXIC CONSTITUENT STUDIES	265,000	265,000
SP.INV.	UPPER SNAKE RIVER BASIN STORAGE OPTIMIZATION	125,000	125,000
	TOTAL, GENERAL INVESTIGATIONS	11,456,000	13,221,000
	CONSTRUCTION PROGRAM		
	CONSTRUCTION AND REHABILITATION AND COLORADO RIVER BASIN SALINITY CONTROL PROJECTS		
	ARIZONA		
	HEADGATE ROCK HYDROELECTRIC PROJECT	8,872,000	8,872,000
	INDIAN WATER RIGHTS SETTLEMENT PROJECT [SAWRSA]	11,177,000	11,177,000
	CALIFORNIA		
	CENTRAL VALLEY PROJECT:		
	AUBURN-FOLSOM SOUTH UNIT	1,500,000	1,750,000
	MISCELLANEOUS PROJECT PROGRAMS	2,400,000	2,600,000
	SACRAMENTO RIVER DIVISION	3,866,000	3,866,000
	SAN FELIPE DIVISION	1,715,000	1,715,000
	SAN LUIS UNIT	2,911,000	2,911,000
	TRINITY RIVER RESTORATION PROGRAM	7,362,000	7,362,000
	COLORADO		
	GRAND VALLEY UNIT, TITLE II, CRBSCP	14,732,000	14,732,000
	LOWER GUNNISON BASIN UNIT, TITLE II, CRBSCP	4,726,000	4,726,000
	PARADOX VALLEY UNIT, TITLE II, CRBSCP	3,380,000	3,380,000
	SAN LUIS VALLEY PROJECT, CLOSED BASIN DIVISION	6,810,000	6,810,000
	NEBRASKA		
	NORTH LOUP DIVISION, P-SMBP	21,646,000	21,646,000
	O'NEILL UNIT, P-SMBP	600,000	600,000
	NORTH DAKOTA		
	GARRISON DIVERSION UNIT	---	35,000,000
	OREGON		
	UMATILLA BASIN PROJECT	---	7,052,000
	SOUTH DAKOTA		
	BELLE FOURCHE UNIT, P-SMBP	8,024,000	8,024,000
	MNI WICONI RURAL WATER SUPPLY PROJECT	---	1,500,000
	WEB RURAL WATER DEVELOPMENT PROJECT	945,000	945,000
	WASHINGTON		
	COLUMBIA BASIN PROJECT:		
	IRRIGATION FACILITIES	3,900,000	4,300,000
	THIRD POWERPLANT, GRAND COULEE DAM	3,348,000	5,348,000
	WYOMING		
	BUFFALO BILL DAM MODIFICATION, P-SMBP	11,930,000	11,930,000
	VARIOUS		
	BOULDER CANYON PROJECT	23,920,000	23,920,000
	MEASURES BELOW IMPERIAL DAM, TITLE I, CRBSCP	14,295,000	14,295,000
	SUBTOTAL, REGULAR CONSTRUCTION	158,059,000	204,461,000
	DRAINAGE AND MINOR CONSTRUCTION:		
	ARBUCKLE PROJECT, OKLAHOMA	---	500,000
	BOISE PROJECT, PAYETTE DIVISION, IDAHO	1,980,000	1,980,000
	BRANTLEY PROJECT, NEW MEXICO	500,000	500,000

BUREAU OF RECLAMATION

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	CHIEF JOSEPH DAM PROJECT, OROVILLE-TONASKET UNIT, WA	739,000	739,000
	COLORADO RIVER FRONT WORK & LEVEE SYSTEM, AR, CO....	6,300,000	6,300,000
	CULTURAL RESOURCES ACT., ID,ND,NE,MT,ORE,SD,WA,WY...	75,000	75,000
	FRYINGPAN-ARKANSAS PROJECT, COLORADO.....	1,470,000	1,470,000
	GILA PROJECT, ARIZONA.....	368,000	368,000
	KLAMATH PROJECT, OREGON-CALIFORNIA.....	1,186,000	1,186,000
	LEADVILLE MINE DRAINAGE TUNNEL, COLORADO.....	3,360,000	3,360,000
	MCGEE CREEK, PROJECT, OKLAHOMA.....	500,000	500,000
	MINIDOKA PROJECT.....	702,000	702,000
	NEWLANDS PROJECT, NEVADA.....	950,000	950,000
	PICK-SLOAN MISSOURI BASIN PROGRAM:		
	EAST BENCH UNIT, MONTANA.....	50,000	50,000
	FARWELL UNIT, NEBRASKA.....	460,000	730,000
	OAHE UNIT, SOUTH DAKOTA.....	65,000	65,000
	OWL CREEK UNIT, WYOMING.....	15,000	15,000
	RECREATION FACILITIES AT EXISTING RESERVOIRS,VARIOUS	315,000	315,000
	VELARDE COMMUNITY DITCH PROJECT, NM.....	---	500,000
	WASHOE PROJECT, CALIFORNIA-NEVADA.....	305,000	305,000
	WETLANDS DEVELOPMENT, VARIOUS.....	2,000,000	2,000,000
	YAKIMA FISH PASSAGE AND PROTECTIVE FACILITIES, WASH.	3,900,000	3,900,000
	SUBTOTAL, DRAINAGE AND MINOR CONSTRUCTION.....	25,240,000	26,510,000
	SAFETY OF DAMS PROGRAMS:		
	BIA - DAM SAFETY PROGRAM.....	9,055,000	---
	BOISE PROJECT, DEER FLAT DAM, IDAHO.....	17,225,000	17,225,000
	CACHUMA PROJECT, BRADBURY DAM, CALIFORNIA.....	280,000	280,000
	CENTRAL VALLEY PROJECT, SAN LUIS UN.,O'NEILL DAM, CA	1,980,000	1,980,000
	DEPARTMENT OF THE INTERIOR DAM SAFETY PROGRAM.....	650,000	650,000
	HYRUM PROJECT, UTAH.....	1,350,000	1,350,000
	INITIATE SOD CORRECTIVE ACTION.....	16,725,000	16,725,000
	MINIDOKA PROJECT, JACKSON LAKE DAM, IDAHO-WYOMING...	409,000	409,000
	MODIFICATION REPORTS AND PRECONSTRUCTION ACTIVITY...	2,550,000	2,550,000
	SALT RIVER PROJECT, BARTLETT DAM, ARIZONA.....	2,550,000	2,550,000
	SALT RIVER PROJECT, HORSESHOE DAM, ARIZONA.....	850,000	850,000
	SALT RIVER PROJECT, STEWART MTN. DAM, ARIZONA.....	3,394,000	3,394,000
	SAN CARLOS IRRIGATION - COOLIDGE DAM, AZ.....	5,130,000	5,130,000
	W.C. AUSTIN PROJECT, ALTUS DAM, OKLAHOMA.....	5,200,000	5,200,000
	SUBTOTAL, SAFETY OF DAMS.....	67,348,000	58,293,000
	REHABILITATION AND BETTERMENT:		
	BOSTWICK IRRIGATION DISTRICT, NE.....	---	150,000
	HIGHLAND-HANOVER DIVISION, P-SMBP, WY.....	150,000	150,000
	HYRUM PROJECT, UTAH.....	786,000	786,000
	MILK RIVER, GLASGOW DIVISION, MT.....	410,000	410,000
	MILK RIVER, MALTA DIVISION, MT.....	560,000	560,000
	OGDEN RIVER PROJECT, UTAH.....	1,954,000	1,954,000
	SARGENT IRRIGATION DISTRICT, P-SMBP, NE.....	---	200,000
	UPPER BLUFF DIVISION, P-SMBP, WY.....	110,000	110,000
	WEBER BASIN PROJECT, UTAH.....	2,200,000	2,200,000
	SUBTOTAL, REHABILITATION AND BETTERMENT.....	6,170,000	6,520,000
	PRECONSTRUCTION ACTIVITY:		
	COLORADO RIVER BRIDGE CROSSING.....	1,000,000	1,000,000
	SCIENCE AND TECHNOLOGY:		
	GLOBAL CLIMATE CHANGE.....	2,400,000	2,400,000
	GROUNDWATER RECHARGE DEMONSTRATION PROGRAM.....	4,503,000	4,503,000
	WATER TECHNOLOGY AND ENVIRONMENTAL RESEARCH.....	6,400,000	6,400,000
	SUBTOTAL, SCIENCE AND TECHNOLOGY.....	13,303,000	13,303,000
	TOTAL, CONSTRUCTION AND REHABILITATION AND COLORADO RIVER BASIN SALINITY CONTROL PROJECTS..	271,120,000	310,087,000

BUREAU OF RECLAMATION

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	COLORADO RIVER STORAGE PROJECT		
	UPPER COLORADO RIVER BASIN FUND		
	PARTICIPATING PROJECTS		
	COLORADO		
	ANIMAS-LA PLATA PROJECT	13,415,000	13,415,000
	DOLORES PROJECT	49,050,000	49,050,000
	UTAH		
	CENTRAL UTAH PROJECT, BONNEVILLE UNIT	81,773,000	81,773,000
	CENTRAL UTAH PROJECT, UINTAH UNIT	50,000	50,000
	DRAINAGE AND MINOR CONSTRUCTION PARTICIPATING PROJECTS:		
	CENTRAL UTAH PROJECT, JENSEN UNIT, UTAH	30,000	30,000
	DALLAS CREEK PROJECT, COLORADO	745,000	745,000
	RECREATIONAL AND FISH AND WILDLIFE FACILITIES:		
	RECREATIONAL FACILITIES	11,836,000	11,836,000
	FISH AND WILDLIFE FACILITIES	15,132,000	15,132,000
	TOTAL, COLORADO RIVER STORAGE PROJECT	172,031,000	172,031,000
	COLORADO RIVER BASIN PROJECT		
	CENTRAL ARIZONA PROJECT		
	ARIZONA		
	CENTRAL ARIZONA PROJECT, WATER DEVELOPMENT [LCRBDF]	182,268,000	185,768,000
	CENTRAL ARIZONA PROJECT, NON-INDIAN DISTR. SYSTEMS	1,996,000	1,996,000
	CENTRAL ARIZONA-SAFETY OF DAMS	14,202,000	14,202,000
	TOTAL, COLORADO RIVER BASIN PROJECT	198,466,000	201,966,000
	ASSOCIATED ITEMS		
	UNDISTRIBUTED REDUCTION BASED ON ANTICIPATED DELAYS	-32,187,000	-41,187,000
	TOTAL, CONSTRUCTION PROGRAM	609,430,000	642,897,000
	LOAN PROGRAM		
	MONTANA		
	MIDDLE CREEK DAM REHABILITATION PROJECT	2,944,000	2,944,000
	TEXAS		
	HIDALGO COUNTY IRRIGATION DISTRICT NO. 1 SUPPL	2,002,000	2,002,000
	VARIOUS		
	ADMINISTRATION OF THE LOAN PROGRAM	762,000	762,000
	TOTAL, LOAN PROGRAM	5,708,000	5,708,000

TITLE III—DEPARTMENT OF ENERGY

The summary tables at the end of this title set forth the conference agreement with respect to the individual appropriations, programs and activities of the Department of Energy. Additional items of conference agreement are discussed below.

OVERHEAD TAXES

The conferees are concerned about the Department of Energy's increased use of overhead taxes and indirect charges which reduce funds available for specific energy, science, and national security programs approved by the Congress. Currently, overhead taxes are being applied for purposes such as independent research and development; occupational safety and health activities; environmental remediation; science, math and education programs; and technology transfer. It is not possible to determine the exact amount of these indirect charges from the Department's existing budget justifications. The conferees direct the Department to submit as part of the FY 1992 budget a description of all overhead taxes or indirect charges which will be made against direct programs during the year, the total amount of the tax, the percentage applied to the direct program, and a justification for each program funded by indirect charges or overhead taxes.

EPA REIMBURSEMENT

The conferees note that there have been proposals which would direct the Secretary of Energy to reimburse the Environmental Protection Agency (EPA) for costs necessary to ensure oversight by EPA of environmental response actions at Department of Energy (DOE) facilities.

Funding for defense activities in the FY 1991 budget must be used to maintain the national security as well as begin to address environmental restoration and cleanup activities at DOE facilities across the nation. To permit an open-ended reimbursement policy by the EPA could severely hamper other important national security activities. In addition, these proposals would permit EPA to augment the funds provided through the Congressional appropriations process for specific EPA functions. EPA could arbitrarily increase spending for personnel and initiate programs with little or no oversight by cognizant Congressional Committees.

Permitting a policy of reimbursement of the EPA for performing its mandated oversight functions does not save money. This approach merely buries the cost of EPA oversight in myriad government programs, makes it difficult to track the actual cost of environmental cleanup activities, and complicates Congressional oversight of EPA programs and personnel. The conferees expect EPA to request adequate resources during the appropriations process to fully fund personnel and programs needed to carry out its mission.

INDEPENDENT RESEARCH AND DEVELOPMENT

The conferees are concerned about the Department's management of the laboratory-directed research and development program and the lack of uniformity in the policy applied at various Departmental laboratories. The Department is directed to develop a policy which will improve the oversight and accountability of this program and ensure that the guidelines are followed consistently by each laboratory. The Secretary of Energy is to provide to the House and Senate Committees on Appropriations his procedures for implementing these recommendations.

Additionally, the Department's FY 1992 budget and future budget submissions should identify the amount of independent research and development funds, the location of the funds, and a justification of the funding.

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

Amendment No. 52: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: *$2,527,082,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $2,527,082,000 for Energy Supply, Research and Development Activities instead of $2,745,615,000 as proposed by the Senate and $2,703,272,000 as proposed by the House.

Amendment No. 53: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted, insert the following: *$89,842,500 shall be available only for the following facilities: Advanced Technology Center, Indiana State University; Center for Energy Resources Management, University of New Orleans; Biomedical Research Facility, University of Alabama at Birmingham; Biomedical Research Facility, Case Western Reserve University; Energy Science Research Facility at Boston College; Center for Nuclear Medicine Research in Alzheimer's Disease and Related Disorders, Health Sciences Center, West Virginia University; Gazes Cardiac Research Institute, Medical University of South Carolina; Biomedical Research Institute, Louisiana State University Medical Center, Shreveport, Louisiana; the Neurosensory Research Center, Oregon Health Sciences University; and the Physical Sciences Center, Fort Hays State University, Fort Hays, Kansas*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement deletes language proposed by the House and stricken by the Senate earmarking funds for the Hydrogen Energy Systems Program. In addition, the conference agreement restores language proposed by the House and amended by the Senate providing funds for specified projects.

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *Provided further, That of the amount appropriated herein, $5,500,000 shall be available only for the Boron Neutron Capture Therapy research program at the Idaho National Engineering Laboratory and $7,500,000 shall be available only for the modification and operation of the Power Burst Facility at the Idaho National Engineering Laboratory, and the Secretary of Energy is directed to obligate and expend funds for those activities prior to the end of the fiscal year 1991.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides for the specific funding of the Boron Neutron Capture Therapy research program.

SOLAR AND RENEWABLE ENERGY

Photovoltaic energy systems.—The conferees provide $2,000,000 for a utility/industry power project using monolithic amorphous silicon-photovoltaic modules and $300,000 is included to assist industry in the integration of SERI tested thin film modules into the design and construction of grid-connected buildings as proposed by the House. Funds are not included to continue the Southeast and Southwest regional experiment stations.

Biofuels energy systems.—The conferees provide $4,500,000 for short rotation woody crops as proposed by the House and $4,500,000 for the regional biofuels program as proposed by the Senate.

Wind energy systems.—The conferees provide that from the total funds available for wind energy research, $1,500,000 is to be made available for the Renewable Energy Research Center program at the University of Massachusetts at Amherst.

Ocean energy systems. —Under the Ocean Energy account, the conferees have provided $2,750,000 for the PICHTR-OTEC project. Not less than $2,250,000 of the PICHTR-OTEC funds shall be made available directly to the organization established by the State of Hawaii pursuant to section 3 of Act 152 of the 1983 Hawaii Legislative Session.

Geothermal.—The conferees provide for the projects as described in the House and Senate reports except that funding for the Fenton Hill project is limited to the budget and $1,500,000 shall be available for the Department to cooperate with industry efforts to maintain production at The Geysers geothermal field.

The conferees agree to provide $5,000,000 to continue the Hawaii geothermal resource verification and characterization project as described in the Senate report.

Electric energy systems and storage.—The conferees provide for the projects as described by the House and Senate reports except that $2,500,000 is included for the thermal energy storage research program. This latter effort includes both diurnal and industrial thermal energy storage and seasonal energy storage to help ensure that research and development support for U.S. firms will maintain international competitiveness in this important energy storage program.

Any reductions that are made to the Electric Energy Systems account as a result of congressional action are to be applied in such a manner so as to not disproportionally reduce the funding for the high temperature superconducting pilot centers at Argonne, Los Alamos and Oak Ridge National Laboratories.

NUCLEAR ENERGY

The conferees direct the Secretary of Energy to develop a plan to implement the cooperative research, development and demonstration project of Spent Nuclear Fuel Dual Purpose (Storage and Transportation) Casks described in House Report 101-536 under Nuclear Energy Programs.

Such plan, which shall be submitted to the House and Senate Committees on Appropriations no later than March 31, 1991, shall include a recommendation to ensure the full Federal funding of the project in fiscal years 1992 and 1993.

The conferees provide for an increase of $10,000,000 over the budget request for the Argonne National Laboratory (ANL) in Idaho for the integral fast reactor program. An additional $3,000,000 is included for the Advanced Liquid Metal Reactor program.

The conferees have included $33,500,000 for the space and defense power systems. Budget constraints continue to require that other departments and agencies come up with their fair share of the costs of these activities.

The conferees agree with the Senate report concerning groundwater contamination at the Falls City, Texas, site.

The conferees provide $7,000,000 of the amended request to permit the Institute of Nuclear Power Operations to evaluate the safety of civilian reactors in the Soviet Union.

The conferees provide $6,000,000 of the amended request to provide for the Office of Nuclear Safety.

SAFETY AND HEALTH

The conferees provide $7,000,000 of the amended request to fund the Office of Health and study air pollution in Mexico City.

BIOLOGICAL AND ENVIRONMENTAL RESEARCH

The conferees provide for activities as described in the House and Senate reports with the following exceptions.

The conferees provide $65,900,000 for Global Warming Research, including $9,000,000 for the National Institute of Global Environmental Change.

The conferees provide for a total of $22,200,000 for the energy biosciences program through competitive grants under Supporting Research and Technical Analysis as proposed by the Senate.

The conferees agree that project 87-R-130, Institute of Nuclear Medicine, New Jersey, may proceed with construction in New Jersey at or near the Newark campus of the University of Medicine and Dentistry of New Jersey provided that the facility will be available for cooperative research with federal laboratories such as DOE, university clinical and laboratory researchers, including the University of Medicine and Dentistry of New Jersey, and local and community hospitals.

The conferees recommend that the Department of Energy solicit competitive proposals to fund up to seven hospital-based, multi-disciplinary medical university demonstration projects and establish them as Centers of Excellence for Laser Medical Applications. Funds to provide for up to $750,000 to each Center for planning and development costs have been provided, with total funding not to exceed $1,500,000, and the conferees expect a report no later than 120 days following enactment of the Act detailing funding plans, and overview of a program to carry out the use of this very hopeful, innovative and cost-effective technology.

The conferees are cognizant of a National Biomedical Tracer Facility (NBTF) Planning Study which is to be completed by the U.S. Department of Energy in cooperation with the nuclear medicine community. The Secretary of Energy is to report the findings of the NBTF Planning Study to the House and Senate Appropriations Committees.

MAGNETIC FUSION

The conferees note recent scientific progress in the fusion program. The Department of Energy is conducting an extensive review of the scope and direction of the Magnetic Fusion program. This review is scheduled for completion this fall.

Because of severe budget constraints, the conferees agree to provide $275,300,000 for the fusion program. In order to provide the Department with the flexibility to develop a meaningful program, the conferees are recommending that these funds be provided without further allocation between program components, projects, and activities within the fusion program.

SUPPORTING RESEARCH AND TECHNICAL ANALYSIS

The conferees provide for activities as described in the House and Senate reports with the following exceptions.

The conferees provide that from within the Department's expanding education programs not less than $2,000,000 shall be available for EPSCoR planning grants and $2,000,000 for Graduate Traineeship EPSCoR funding.

The conferees provide $5,000,000 to be made available, on a competitive basis, to university nuclear engineering programs. These monies are to be made available for graduate fellowships, direct research support, and educational support programs in the field of nuclear engineering.

The conferees provide $22,200,000 through competitive grants for the energy biosciences program.

Within available funds of the Department of Energy, $200,000 shall be made available for Rural Enterprises, Inc., a tax-exempt, non-profit technology transfer center in Oklahoma, to continue a technology transfer demonstration project for the Department of Energy that will attempt to draw prime candidates for transfer to other private and public sector entities, put a system in place for drawing upon these resources, and transfer DOE technologies to private and public sector entities.

From within funds made available in applied mathematical sciences, basic energy sciences, and other energy programs in this account not otherwise discussed in this report, an amount equal to the fiscal year 1990 amount is to be made available to continue the cooperative agreement between the Department of Energy and the Supercomputer Computations Research Institute (SCRI) located at Florida State University. However, if deemed beneficial for the program, the DOE and FSU may mutually agree to adjust the support to be made available to not less than 83% of the FY 1990 amount. DOE and FSU shall work toward normalizing the SCRI support within the DOE budget. The conferees continue to be impressed by the contributions of SCRI to high performance computing in the U.S.

The conferees continue to support the construction of the 6-7 GeV Synchrotron Radiation Source at the Argonne National Laboratory. However, because of severe budget constraints the conferees have reduced the requested increase in funding, providing a total funding of $70,000,000 in FY 1991.

The conferees agree that the Department of Energy may utilize the funds provided in fiscal year 1990 for the operation of the Advanced Technology Research Center at Oklahoma State University, which can be matched by local and private funds, for the construction of such Center.

The conferees have not made any specific allocation of funds for x-ray lithography.

EDUCATION PROGRAMS

The conferees have provided a reduction of $50,000,000 to the Energy Supply, Research and Development program for non-defense education programs. The Department has a large number of ongoing and new initiatives dealing with scientific and energy related education programs. The conferees are supportive of these programs and note that these education programs support the Department's defense mission equally with its other scientific programs. Accordingly, the conferees have provided $50,000,000 to fund education programs in the Atomic Energy Defense Activities appropriation consistent with proposals contained in the authorizing legislation.

ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT (NON-DEFENSE)

The conferees strongly support the Department's efforts to deal with the environment and waste problems at its facilities. However, because of budget restrictions, the conferees have reduced the increase in funding for this program by $50,000,000. This reduction is accomplished by increasing the Department's account for unidentified slippage in programs.

The conferees have included $84,000,000 for the operation of the Fast Flux Test Facility (FFTF), endorse the establishment of the FFTF as a user complex, and encourage the Department to enter into long-term agreements with non-Federal entities (including foreign governments and entities, and municipalities) to use the facility for commercial research as well as isotope and steam production. The agreements should be consistent with DOE contracting practices and allow for the Department to charge for the use of the facility. The Department should cooperate with the State of Washington to thoroughly assess the domestic and foreign commercial market potential for services and products which FFTF can provide and to identify options for providing such services. The conferees direct that the Department spend sufficient funds within the FY 1991 FFTF operating monies for the purpose of exploring marketing opportunities.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

Amendment No. 55: Appropriates $1,340,018,000 as proposed by the Senate instead of $1,406,018,000 as proposed by the House.

Amendment No. 56: Appropriates revenues of $1,450,400,000 as proposed by the Senate instead of $1,530,500,000 as proposed by the House.

The conferees note that appropriations for uranium enrichment are intended to include costs necessary for transfer of technology for alternate applications.

The conferees agree with the funding for Uranium Supply and Enrichment Activities as provided by the Senate which reflects the amendments to the budget submitted by the Administration.

The conferees direct the Department of Energy to reprogram/transfer funds for Nuclear Energy Research and Development and facility cleanup as requested in letters to the committees dated April 30, 1990, and May 31, 1990.

GENERAL SCIENCE

Because of severe budget restraints, the conferees agree to a $50,000,000 reduction to the General Science appropriation, excluding the superconducting super collider, as may be determined by the Secretary.

The conferees agree with the Department's proposed allocation to initiate fabrication of the Gammasphere facility and take note of the proposed siting of the Gammasphere at the Holifield heavy-ion accelerator at the Oak Ridge National Laboratory. The conferees expect that the Department shall maintain the operation of each of the three heavy-ion accelerators at the national laboratories (Atlas at Argonne National Laboratory, the 88-inch Cyclotron at the Lawrence Berkeley Laboratory, and the Holifield) with funds allocated in the Nuclear Physics budget.

SUPERCONDUCTING SUPER COLLIDER

Because of severe budget restraints, the conferees agree to a $75,000,000 reduction to the Superconducting Super Collider. The conferees recognize the critical importance of the SSC for the Nation and for advancing knowledge in the key area of high energy physics.

The conferees agree to remove the restriction on $25,000,000 in construction funds that was imposed in the reports on the FY 1990 appropriation.

In order to keep the program on schedule, and to assure that reductions in appropriated amounts do not result in an increase in the overall cost of the project, conferees encourage the State of Texas to make available in FY 1991 sufficient amounts to meet

the anticipated program requirements during FY 1991.

The SSC is crucial to maintaining U.S. scientific leadership. However, the conferees have a number of concerns that have yet to be addressed by the Department of Energy. The Department of Energy has yet to provide, as promised, an updated estimate of the total cost of the SSC. The Department is encouraged to complete the cost estimate immediately. Also of continued concern is the Department's progress in securing firm foreign commitments to the SSC. While the conferees are aware that contributions of this nature take significant time to develop, the Department is encouraged to accelerate the process.

NUCLEAR WASTE DISPOSAL FUND

Amendment No. 57: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, $242,833,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) of said Act to issue obligations to the Secretary of the Treasury: Provided, That of the amount herein appropriated, within available funds, not to exceed $4,146,000, may be provided to the State of Nevada, for the conduct of its oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended, $622,000 is to be available for the University of Nevada, Reno for infrastructure studies related to nuclear waste, and $207,000 is to be available to the University of Nevada, Las Vegas, to carry out transportation studies related to nuclear waste: Provided further, That not more than $4,892,000, may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: Provided further, That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913: Provided further, That none of the funds herein appropriated may be used for litigation expenses: Provided further, That of the amount appropriated herein, up to $4,146,000 shall be available for infrastructure studies and other research and development work to be carried out by the University of Nevada, Las Vegas (UNLV) and the University of Nevada, Reno.

In paying the amounts determined to be appropriate as a result of the decision in Consolidated Edison Company of New York v. Department of Energy, 870 F.2d 694 (D.C. Cir. 1989), the Department of Energy shall pay interest at a rate to be determined by the Secretary of the Treasury and calculated from the date the amounts were deposited into the Nuclear Waste Fund. Such payments may be made by credits to future utility payments into the fund.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $242,833,000 for nuclear waste disposal activities and provides certain direction with regard to the implementation of the Nuclear Waste Disposal Fund.

ATOMIC ENERGY DEFENSE ACTIVITIES

Amendment No. 58: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: *$10,914,014,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $10,914,014,000 for Atomic Energy Defense Activities instead of $10,915,148,000 as proposed by the House and $10,980,258,000 as proposed by the Senate.

The conferees agree that accomplishing R&D in the weapons program outside the National Laboratories creates problems because of the highly classified nature of the program. The conferees understand that the Rochester Institute of Technology is a high caliber institution conducting work in microelectronic engineering and imaging sciences. The Department is urged to consider use of this facility in accomplishing this type of work in the weapons program.

Pending a review of the 5-year budget plan to be submitted by the Secretary of Energy detailing long-term plans for funding programs and projects of the national security programs for the Department of Energy, the conferees agree to defer without prejudice funding for Project 88-D-105, the Special Nuclear Materials R&D Laboratory Replacement.

The Senate report contains language concerning the use of funds for the acquisition of a supercomputer subject to approval by the Secretary of Energy and under such terms and conditions as the Secretary deems appropriate. The House bill or report did not address this matter. In lieu of the Senate report language, the conferees agree that any supercomputer procured by the Department of Energy through the expenditure of funds appropriated by this Act shall be procured in a competitive and nondiscriminatory manner, as required by the Competition in Contracting Act, and as provided in the recently concluded U.S.-Japan Trade Agreement regarding government procurement of supercomputers.

The conferees agree to provide the budget request of $4,980,000 for the Marshall Islands radiological activities.

The conferees agree to provide within available funds for the Inertial Confinement Fusion program, $8,500,000 to upgrade the OMEGA laser at the University of Rochester, $10,000,000 to upgrade the NOVA laser at the Lawrence Livermore National Laboratory, and note that the Naval Research Laboratory program is to be funded at the level included in the budget request. Also, the request of $10,000,000 for target development, production, and delivery is included as proposed in the budget.

The conferees agree with the House report language regarding the report requirement for the Environmental Restoration and Waste Management program. The Department of Energy should ensure that the report will be a useful document clearly outlining performance versus planned milestones for the program.

Consistent with direction provided by the House and Senate Armed Services Committees during deliberations on the FY 1991 National Defense Authorization Act, the conferees have deleted funds for the following activities: Nuclear Directed Energy Weapons Capital Equipment, $11,250,000; Project 88-D-106, Nuclear Directed Energy Research Facility, $5,000,000; and Project 89-D-125, Plutonium Recovery Modification Project, $65,000,000.

The conferees agree that the Department's Nuclear Directed Energy Weapons (NDEW) program is an integral part of the activities performed in the core research and development weapons program. Accordingly, $90,654,000 associated with NDEW has been provided as part of research and development operating expenses.

The conference agreement provides that all funding for the program direction and management functions for the Environmental Restoration and Waste Management program be included as part of the defense function. The Department had proposed this as part of the non-defense environmental restoration program, but since more than 80 percent of the program is funded within the Atomic Energy Defense Activities account, the conferees chose to realign the program direction activity with the majority of the funds.

The conference agreement moves $50,000,000 of science, mathematics, and engineering education programs to the Atomic Energy Defense Activities account from the Energy Supply, Research and Development account. This program will ensure that technical and scientific workers are available in the future to accomplish the national security mission of the Department.

Amendment No. 59: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: , *except for $15,000,000 in operating expenses for nonsite specific design activities and activities in support of ongoing preparation of the Environmental Impact Statement, subject to authorization: Provided further, That no funds in this Act shall be available for Project 89-D-125, Plutonium Recovery Modification Project (PRMP), until authorizing legislation therefore is enacted into law*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides that $15,000,000 in operating expenses may be used for nonsite specific design activities and activities in support of ongoing preparation of the Environmental Impact Statement for a plutonium processing facility.

Amendment No. 60: Deletes language proposed by the Senate that earmarked specific funding for the verification and control technology program, deleted funding for the Nuclear Depth/Strike Bomb, and limited funding for production and surveillance operating expenses and weapons testing program operating expenses.

Amendment No. 61: Deletes language proposed by the Senate that transferred $500,000 to the Tennessee Valley Authority for environmental monitoring activities.

The conferees agree that not to exceed $500,000 of the amount appropriated for environmental restoration and waste management may be transferred to the Tennessee Valley Authority (TVA) to assist the Department of Energy (DOE) in assessing and monitoring areas and activities within or adjacent to Watts Bar Reservoir, Tennessee, which may be adversely affected by radioac-

tive, mercury, or other contaminants resulting from runoff from DOE facilities within the State of Tennessee. The TVA and DOE should determine the scope of assessment and monitoring activities to be undertaken, and TVA shall make available to the DOE, the Environmental Protection Agency, the Army Corps of Engineers, and the State of Tennessee, all findings and information related to such activities. TVA should request funding as part of its FY 1992 budget request if it seeks to continue this activity in the future.

POWER MARKETING ADMINISTRATIONS

BONNEVILLE POWER ADMINISTRATION

The conferees agree to provide an additional increment of $326,900,000 in new borrowing authority for system development and maintenance, energy conservation, fish and wildlife, and capital equipment. Of this amount, $136,600,000 is available only for the Third Alternating Current Intertie. This amount will fully fund the proposed Third A.C. Intertie requirements in FY 1991. The conferees deleted proposed borrowing authority of $32,600,000 for other capital investments and $15,800,000 for maintenance/replacement work as provided by the Senate.

The conferees are very concerned that the Bonneville Power Administration (BPA) is continuing to request Federal borrowing authority for all capital needs. Compared to other large utilities, BPA has a high proportion of debt to assets. Continued Federal borrowing has mortgaged BPA's future—the conferees expect BPA to present a realistic budget for FY 1992 which limits the use of Federal borrowing and finances a significant portion of capital additions with revenues.

WESTERN AREA POWER ADMINISTRATION

The conferees note with approval that the investor-owned utilities are seeking the necessary approval of the California Public Utilities Commission to participate in the Harold T. "Bizz" Johnson California-Pacific Intertie Transmission Line, also known as the California-Oregon Transmission Project, and urge the expeditious completion of this process. Should the investor-owned utilities fail to provide the required transmission services, the Administrator of the Western Area Power Administration should develop plans to submit to Congress to provide such facilities that the participants determine are necessary.

FEDERAL ENERGY REGULATORY COMMISSION

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which involves procurements by the Federal Energy Regulatory Commission.

GENERAL PROVISIONS—DEPARTMENT OF ENERGY

Amendment No. 63: Deletes House language stricken by the Senate directing the Secretary of Energy to use the Corps of Engineers to manage the environmental restoration of the Hanford Site in Richland, Washington.

Amendment No. 64: Reported in technical disagreement. The managers on the part of the House will offer a motion to delete the matter proposed by the Senate amendment and on page 3, line 13, of the House engrossed bill, H.R. 5019, strike "30,700,000" and insert in lieu thereof "27,200,000"; and on page 14, line 22, of the House engrossed bill, H.R. 5019, strike "136,100,000" and insert in lieu thereof "136,100,000, of which $9,500,000 shall be derived from funds appropriated to "General expenses" by Public Law 101-302"; and on page 21, line 8, of the House engrossed bill, H.R. 5019, strike "231,516,000" and insert in lieu thereof "221,516,000"; and on page 33, line 13, of the House engrossed bill, H.R. 5019, strike "1,273,732,000" and insert in lieu thereof "1,148,732,000"; and on page 35, line 20, of the House engrossed bill, H.R. 5019, strike "375,095,000" and insert in lieu thereof "365,095,000"; and on page 36, line 12, of the House engrossed bill, H.R. 5019, strike "225,095,000" and insert in lieu thereof "215,095,000"; and on page 46, line 13, of the House engrossed bill, H.R. 5019, strike "471,320,000" and insert in lieu thereof "461,320,000"; and on page 47, line 6, of the House engrossed bill, H.R. 5019, strike "156,750,000" and insert in lieu thereof "153,450,000"; and on page 47, line 20, of the House engrossed bill, H.R. 5019, strike "314,570,000" and insert in lieu thereof "307,870,000".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have had to make reductions and other adjustments as a result of the conference report on the Budget Resolution which mandated reductions in the programs funded in this bill. This amendment also deletes Senate language providing a limitation on the use of funds for laboratory-directed research and development.

Amendment No. 65: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate regarding the use of appropriated funds to carry out programs to improve mathematics, science and engineering education and skill levels in the United States.

Amendment No. 66: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate regarding the evaluation of a supercomputing facility.

Department of Energy

	FY 1991 Budget Request	Conference
ENERGY SUPPLY RESEARCH AND DEVELOPMENT		
SOLAR ENERGY		
I. Solar applications		
A. Solar building energy systems		
Operating expenses	1,000,000	2,000,000
B. Photovoltaic energy systems		
Operating expenses	42,800,000	46,100,000
Capital equipment	800,000	800,000
Subtotal, Photovoltaic energy systems	43,600,000	46,900,000
C. Solar thermal energy systems		
Operating expenses	19,350,000	19,350,000
Capital equipment	150,000	150,000
Subtotal, Solar thermal energy system	19,500,000	19,500,000
D. Biofuels energy systems		
Operating expenses	27,000,000	32,550,000
Capital equipment	1,000,000	1,000,000
Subtotal, Biofuels energy systems	28,000,000	33,550,000
E. Wind energy systems		
Operating expenses	8,400,000	11,000,000
Capital equipment	200,000	200,000
Subtotal, Wind energy systems	8,600,000	11,200,000
F. Ocean energy systems		
Operating expenses	---	2,750,000
Subtotal, Solar applications	100,700,000	115,900,000
II. Other solar energy		
A. International solar energy program - OE	1,500,000	1,500,000
B. Solar technology transfer		
Operating expenses	2,223,000	2,223,000
C. Solar Energy Research Institute		
Capital equipment	410,000	410,000
Construction:		
General plant projects	290,000	290,000
91-E-100 Solar energy research facility SERF	4,500,000	4,500,000
Subtotal, Construction	4,790,000	4,790,000
Subtotal, Solar Energy Research Institute	5,200,000	5,200,000
D. Resource assessment		
Operating expenses	950,000	950,000
Capital equipment	50,000	50,000
Subtotal, Resource assessment	1,000,000	1,000,000
E. Program support - OE	900,000	900,000

Department of Energy

	FY 1991 Budget Request	Conference
F. Program direction - OE	4,350,000	4,350,000
Subtotal, Other solar energy	15,173,000	15,173,000
TOTAL, SOLAR ENERGY	115,873,000	131,073,000
(Operating expenses)	(108,473,000)	(123,673,000)
(Capital equipment)	(2,610,000)	(2,610,000)
(Construction)	(4,790,000)	(4,790,000)
GEOTHERMAL		
I. Geopressured research		
Operating expenses	2,900,000	6,000,000
II. Geothermal technology development		
Operating expenses	13,795,000	20,295,000
Capital equipment	405,000	405,000
Subtotal, Geothermal technology development	14,200,000	20,700,000
III. Program direction - OE	900,000	900,000
TOTAL, GEOTHERMAL	18,000,000	27,600,000
(Operating expenses)	(17,595,000)	(27,195,000)
(Capital equipment)	(405,000)	(405,000)
HYDROPOWER		
I. Small scale hydropower development - OE	920,000	920,000
II. Program direction - OE	80,000	80,000
TOTAL, HYDROPOWER	1,000,000	1,000,000
ELECTRIC ENERGY SYSTEMS AND STORAGE		
I. Electric energy systems		
A. Electric field effects research		
Operating expenses	2,500,000	3,500,000
B. Reliability research		
Operating expenses	1,572,000	1,572,000
C. System and materials research		
Operating expenses	21,761,000	21,761,000
Capital equipment	900,000	900,000
Subtotal, System and materials research	22,661,000	22,661,000
D. Program direction - OE	614,000	614,000
Subtotal,Electric energy systems	27,347,000	28,347,000
II. Energy Storage Systems		
A. Battery storage		
Operating expenses	11,189,000	9,189,000
Capital equipment	300,000	300,000
Subtotal, Battery storage	11,489,000	9,489,000
B. Thermal and chemical storage		
Operating expenses	1,000,000	3,000,000

Department of Energy

	FY 1991 Budget Request	Conference
C. Program direction - OE	417,000	417,000
Subtotal, Energy storage systems	12,906,000	12,906,000
TOTAL, ELECTRIC ENERGY SYSTEMS AND STORAGE	40,253,000	41,253,000
(Operating expenses)	(39,053,000)	(40,053,000)
(Capital equipment)	(1,200,000)	(1,200,000)
NUCLEAR		
I. Nuclear energy R & D		
A. Light water reactor		
Operating expenses	41,500,000	38,500,000
B. Advanced reactor R & D		
Operating expenses	45,000,000	55,000,000
Capital equipment	2,000,000	2,000,000
Subtotal, Advanced reactor R & D	47,000,000	57,000,000
C. Space & defense power systems		
Operating expenses	38,040,000	22,040,000
Capital equipment	2,160,000	2,160,000
Construction:		
86-N-105 SP-100 fac. mods - HEDL	14,300,000	9,300,000
Subtotal, Space & defense power systems	54,500,000	33,500,000
D. Advanced nuclear systems		
Operating expenses	55,500,000	55,500,000
Capital equipment	6,400,000	6,400,000
Construction:		
89-N-111 RPSF	13,600,000	13,600,000
Subtotal, Advanced nuclear systems	75,500,000	75,500,000
E. Facilities		
Operating expenses	131,078,000	83,078,000
Capital equipment	2,300,000	2,300,000
Construction:		
91-E-201 Modification to reactors	2,200,000	2,200,000
GPN-102 GPP	3,012,000	3,012,000
89-N-115 Fire suf. imp., ANL	1,900,000	1,900,000
Subtotal, Construction	4,912,000	4,912,000
Subtotal, Facilities	140,490,000	92,490,000
F. Program direction - OE	8,800,000	8,800,000
Subtotal, Nuclear energy R & D	367,790,000	305,790,000
(Operating expenses)	(319,918,000)	(262,918,000)
(Capital equipment)	(12,860,000)	(12,860,000)
(Construction)	(35,012,000)	(30,012,000)
III. Civilian waste R & D		
A. Spent fuel storage R & D		
Operating expenses	590,000	590,000

Department of Energy

	FY 1991 Budget Request	Conference
B. Program direction	110,000	110,000
Subtotal, Civilian waste R & D	700,000	700,000
TOTAL, NUCLEAR	368,490,000	306,490,000
(Operating expenses)	(320,618,000)	(263,618,000)
(Capital equipment)	(12,860,000)	(12,860,000)
(Construction)	(35,012,000)	(30,012,000)
OFFICE OF NUCLEAR SAFETY		
I. Nuclear Safety		
Operating expenses	8,000,000	6,000,000
ENVIRONMENT, SAFETY AND HEALTH		
I. Environment, safety and health		
Operating expenses	104,879,000	102,879,000
Capital equipment	1,542,000	1,542,000
TOTAL, ENVIRONMENT, SAFETY AND HEALTH	106,421,000	104,421,000
LIQUIFIED GASEOUS SPILL TEST FACILITY		
I. Spill test facility		
Operating expenses	1,085,000	1,085,000
BIOLOGICAL AND ENVIRONMENTAL RESEARCH		
I. Biological and environmental research		
Operating expenses	317,888,000	375,488,000
Capital equipment	11,621,000	11,621,000
Construction:		
GP-E-120 General plant projects	3,485,000	3,485,000
II. Program direction	5,800,000	5,800,000
TOTAL, BIOLOGICAL AND ENVIRONMENTAL RESEARCH	338,794,000	396,394,000
(Operating expenses)	(323,688,000)	(381,288,000)
(Capital equipment)	(11,621,000)	(11,621,000)
(Construction)	(3,485,000)	(3,485,000)
FUSION		
I. Magnetic fusion		
A. Confinement systems	163,050,000	163,050,000
B. Development and technology	48,060,000	48,060,000
C. Applied plasma physics	70,880,000	70,880,000
D. Planning and projects	4,250,000	4,250,000
E. Program direction - OE	5,650,000	5,650,000
F. Capital equipment	14,310,000	14,310,000
G. Construction		
GPP-900 General plant projects	8,000,000	8,000,000
89-R-800 Confinement physics res facility	11,100,000	11,100,000
Subtotal, Construction	19,100,000	19,100,000
General reduction	---	-50,000,000
TOTAL, FUSION	325,300,000	275,300,000
(Operating expenses)	(291,390,000)	(241,890,000)
(Capital equipment)	(14,310,000)	(14,310,000)
(Construction)	(19,100,000)	(19,100,000)

Department of Energy

	FY 1991 Budget Request	Conference
SUPPORTING RESEARCH AND TECHNICAL ANALYSIS		
I. Basic energy sciences		
A. Materials sciences	221,954,000	276,547,000
B. Chemical sciences	150,500,000	158,500,000
C. Applied mathematical sciences	47,975,000	52,975,000
D. Engineering and geosciences	32,500,000	34,500,000
E. Advanced energy projects	24,000,000	25,000,000
F. Energy biosciences	20,200,000	22,200,000
G. Program direction - OE	6,500,000	6,500,000
H. Capital equipment	37,019,000	37,019,000
I. Construction		
91-E-314 AID	6,965,000	6,965,000
GPE-400 General plant projects	3,069,000	3,069,000
89-R-402 6-7 GeV Syn. Radiation Source	75,000,000	70,000,000
87-R-406 1-2 GeV Synch Rad Sc, LBL	23,000,000	23,000,000
Subtotal, Construction	108,034,000	103,034,000
Subtotal, Basic energy sciences	648,682,000	716,275,000
(Operating expenses)	(503,629,000)	(576,222,000)
(Capital equipment)	(37,019,000)	(37,019,000)
(Construction)	(108,034,000)	(103,034,000)
II. Energy oversight, research analy. and Univ support		
A. Energy research analysis - OE	3,683,000	3,683,000
B. University research support - OE		
Operating expenses:		
1. University reactor fuel assistance	2,230,000	2,230,000
2. Laboratory Coop Science Education Ctrs	23,230,000	35,230,000
3. University program	1,900,000	1,900,000
4. R & D laboratory tech transfer	2,400,000	2,400,000
Subtotal, University research support	29,760,000	41,760,000
C. Advisory and oversight - OE	4,250,000	4,250,000
D. University research instrumentation	4,924,000	4,924,000
Subtotal, Energy oversight, res analy, and Univ sup	42,617,000	54,617,000
III. Multiprogram energy laboratories - facility sup		
A. Multiprogram general purpose facilities		
Construction:		
91-E-300 Building 90 Science Rehab, LBL	3,700,000	3,700,000
90-R-100 Trans. Fac. Replacement, ANL	1,400,000	1,400,000
90-R-121 Rehab fire, water, pumping and storage systems, ANL	1,000,000	1,000,000
90-R-107 Boiler Replacement, BNL	3,201,000	3,201,000
90-R-108 Ctrl. Shops Alteration & Add., BNL	1,374,000	1,374,000
90-R-109 Building Addition, BNL	24,000	24,000

Department of Energy

	FY 1991 Budget Request	Conference
90-R-112 Measurements and Controls Support Facility, ORNL	3,100,000	3,100,000
90-R-113 Elec. Syst. Upgrade, ORNL	1,457,000	1,457,000
90-R-117 Slope/Seismic Stabilization, LBL	2,415,000	2,415,000
90-R-118 Fire Protection Upgrade, ORNL	1,979,000	1,979,000
89-R-102 Fire Protection III, BNL	33,000	33,000
89-R-108 roads and parking rehab., ORNL	12,000	12,000
89-R-112 Replace PCB Transformers, ANL	7,000	7,000
88-R-805 Environmental improvements, BNL	18,000	18,000
88-R-806 Environmental health & safety project, LBL	1,574,000	1,574,000
88-R-807 Electrical system rehab, ANL	898,000	898,000
87-R-753 Rehabilitate Laboratory Space (Building 200), ANL	1,537,000	1,537,000
87-R-756 Waterline Replacement, ANL	8,000	8,000
84-ER-103 Road repair (various locations)	6,000	6,000
Subtotal, Multiprogram energy laboratories - fac sup	23,743,000	23,743,000
(Construction)	(23,743,000)	(23,743,000)
TOTAL, SUPPORTING RESEARCH AND TECHNICAL ANALYSIS	715,042,000	794,635,000
(Operating expenses)	(546,246,000)	(630,839,000)
(Capital equipment)	(37,019,000)	(37,019,000)
(Construction)	(131,777,000)	(126,777,000)
POLICY AND MANAGEMENT		
I. Policy and management		
A. Policy and management - ER	850,000	850,000
B. Policy and management - NE	32,921,000	32,921,000
C. Policy and management - CE	1,668,000	1,668,000
TOTAL, POLICY AND MANAGEMENT	35,439,000	35,439,000
ENERGY APPLICATIONS		
I. Technical information management program		
Operating expenses	14,100,000	14,100,000
Capital equipment	900,000	900,000
Subtotal, Technical information management program	15,000,000	15,000,000
II. In-house energy management		
Operating expenses	3,540,000	3,540,000
Construction:		
90-A-601 Modifications for energy mgmt	17,000,000	17,000,000
Subtotal, In-house energy management	20,540,000	20,540,000
III. Strategic facilities utilization program		
Operating expenses	---	3,000,000

Department of Energy

	FY 1991 Budget Request	Conference
Construction:		
GP-A-101 Excess facilities - GPP	3,000,000	---
Subtotal, Strategic facilities utilization program	3,000,000	3,000,000
TOTAL, ENERGY APPLICATIONS	38,540,000	38,540,000
ENVIRONMENTAL RESTORATION AND WASTE MGMT (NON-DEFENSE)		
I. Corrective activities		
A. Nuclear energy		
Operating expenses	---	809,000
Construction:		
GP-D-171 General plant project	---	442,000
91-E-203 SCTI waste water disposal system	---	2,861,000
Subtotal, Construction	---	3,303,000
Subtotal, Nuclear energy	---	4,112,000
B. Energy research		
Operating expenses	---	2,756,000
Construction:		
GP-D-171 General plant proj, various locations	---	5,080,000
91-E-307 800 Area landfill leachate (ANL)	---	250,000
91-E-304 Sanit. wastewater treatment upgrade	---	400,000
90-R-115 Laboratory and sanitary sewer collection system rehab (ANL)	---	1,000,000
90-R-116 Hazardous waste mgmt proj (BNL)	---	2,240,000
90-R-119 Sanitary wastewater treatment plant improvements (ANL)	---	3,310,000
88-R-830 Liquid low level waste collection and transfer sys upgrade (ORNL)	---	7,913,000
Subtotal, Construction	---	20,193,000
Subtotal, Energy research	---	22,949,000
Subtotal, Corrective activities	---	27,061,000
(Operating expenses)	---	(3,565,000)
(Construction)	---	(23,496,000)
II. Environmental restoration		
Operating expenses:		
1. Facilities and sites	---	80,105,000
2. Formerly utilized sites, remedial action projects	---	36,200,000
3. Uranium program mill tailings, remedial action projects	---	124,500,000
4. Uranium mill tailings, groundwater restoration project	---	1,000,000
Subtotal, Operating expenses	---	241,805,000
Construction:		
90-R-402 Storage of the ANL CP-5 reactor	---	4,400,000
89-R-113 Environmental upgrades, BNL	---	3,000,000
Subtotal, Construction	---	7,400,000
Subtotal, Environmental restoration	---	249,205,000
(Operating expenses)	---	(241,805,000)
(Construction)	---	(7,400,000)

Department of Energy

	FY 1991 Budget Request	Conference
III. Waste management		
Operating expenses:		
1. Waste operations	---	110,290,000
2. West valley	---	90,000,000
3. Low level waste	---	11,500,000
Subtotal, Operating expenses	---	211,790,000
Capital equipment	---	786,000
Construction:		
GP-D-171 General plant projects	---	3,567,000
91-E-322 Building compliance	---	1,800,000
91-E-305 Waste minimization fac. upgrade, BNL	---	500,000
91-E-306 Haz waste treatment fac, PNL	---	970,000
89-R-111 Building utilities, PNL	---	200,000
Subtotal, Construction	---	7,037,000
Subtotal, Waste management	---	219,613,000
(Operating expenses)	---	(211,790,000)
(Capital equipment)	---	(786,000)
(Construction)	---	(7,037,000)
IV. Technology development		
Operating expenses	---	500,000
Construction:		
91-EM-100 Environmental and molecular science laboratory at Richland	---	5,200,000
Subtotal, Technology development	---	5,700,000
Program slippage	---	-62,000,000
TOTAL, ENVIRON RESTOR AND WASTE MGMT (NON-DEFENSE)	---	439,579,000
(Operating expenses)	---	(395,660,000)
(Capital equipment)	---	(786,000)
(Construction)	---	(43,133,000)
Education programs	---	-50,000,000
General reduction	---	-14,827,000
Use of prior year balances	-6,900,000	-6,900,000
TOTAL, ENERGY SUPPLY RESEARCH AND DEVELOPMENT	2,105,337,000	2,527,082,000
(Operating expenses)	(1,808,706,000)	(2,199,532,000)
(Capital equipment)	(82,467,000)	(83,253,000)
(Construction)	(214,164,000)	(244,297,000)
ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT		
I. Corrective activities		
A. Environmental management		
Operating expenses	43,846,000	---
Capital equipment	1,980,000	---
Construction:		
GP-D-171 General Plant Project	3,720,000	---
89-D-172 Hanford environmental compliance	6,800,000	---
87-D-159 Environmental, health, and safety improvements, Phases I, II, III, & IV, Feed Materials Production Center, Fernald, OH	22,601,000	---
Subtotal, Construction	33,121,000	---
Subtotal, Environmental management	78,947,000	---

Department of Energy

	FY 1991 Budget Request	Conference
B. Defense programs		
Operating expenses	17,808,000	---
Construction:		
GP-D-171 General plant projects	5,259,000	---
90-D-103 Environment, safety and health improvements, various locations	4,200,000	---
90-D-125 Steam plant ash disposal facility, Y-12 Plant, Oak Ridge, TN	6,000,000	---
89-D-126 Environmental, safety, & health upgrade, Phase II, Mound Plant, Miamisburg, OH	1,723,000	---
88-D-102 Sanitary wastewaters systems consolidated, LANL, Los Alamos, NM	3,500,000	---
89-D-142 Reactor effluent cooling water thermal mitigation, Savannah River, SC	44,600,000	---
Subtotal, Construction	65,282,000	---
Subtotal, Defense programs	83,090,000	---
C. Nuclear energy		
Operating expenses	809,000	---
Construction:		
GP-D-171 General Plant Project	442,000	---
91-E-203 SCTI waste water disposal system	2,861,000	---
Subtotal, Construction	3,303,000	---
Subtotal, Nuclear energy	4,112,000	---
D. Energy research		
Operating expenses	2,756,000	---
Construction:		
GP-D-171 General plant projects, various locations	5,080,000	---
91-E-307 800 Area landfill leachate (ANL)	250,000	---
91-E-304 San wastewater Trmt Upg	400,000	---
90-R-115 Laboratory and sanitary sewer collection system rehab., ANL	1,000,000	---
90-R-116 Hazardous waste management projects, BNL	2,240,000	---
90-R-119 Sanitary wastewater treatment plant improvements, ANL	3,310,000	---
88-R-830 Liquid low level waste collection and transfer sys upgrade, ORNL	7,913,000	---
Subtotal, Construction	20,193,000	---
Subtotal, Energy research	22,949,000	---
Subtotal, Corrective activities	189,098,000	---
(Operating expenses)	(65,219,000)	---
(Capital equipment)	(1,980,000)	---
(Construction)	(121,899,000)	---

Department of Energy

	FY 1991 Budget Request	Conference
II. Environmental restoration		
Operating expenses:		
1. Facilities and sites	719,820,000	---
2. Formerly utilized sites, remedial action projects	36,200,000	---
3. Uranium program mill tailings, remedial action projects	124,500,000	---
4. Uranium mill tailings, groundwater restoration project	1,000,000	---
Subtotal, Operating expenses	881,520,000	---
Construction:		
90-R-402 Storage of the ANL CP-5 reactor	4,400,000	---
89-R-113 Environmental upgrades, BNL	3,000,000	---
Subtotal, Construction	7,400,000	---
Subtotal, Environmental restoration	888,920,000	---
(Operating expenses)	(881,520,000)	---
(Construction)	(7,400,000)	---
III. Waste management		
Operating expenses:		
1. Waste operations	1,164,217,000	---
2. West valley	90,000,000	---
3. Low level waste	11,500,000	---
Subtotal, Operating expenses	1,265,717,000	---
Capital equipment	82,805,000	---
Construction:		
GP-D-171 General plant projects	44,721,000	---
91-D-173 Hazardous low-level waste processing tanks, Savannah River Site, SC	5,800,000	---
91-D-172 High-level waste tank farm upgrade, Idaho Chemical Processing plant, INEL, ID	13,000,000	---
91-D-171 Waste receiving and processing facility, module 1, Richland, WA	2,700,000	---
90-D-171 Laboratory ventilation and electrical system upgrade, Richland, WA	4,100,000	---
90-D-172 Aging waste transfer line, Richland, WA	4,000,000	---
90-D-173 B-plant canyon crane replacement, Richland, WA	4,300,000	---
90-D-174 Decontamination laundry facility, Richland, WA	9,900,000	---
90-D-175 Landlord program safety compliance-I, Richland, WA	2,640,000	---
90-D-176 Transuranic (TRU) waste facility, Savannah River, SC	15,300,000	---
90-D-177 RWMC transuranic (TRU) waste treatment and storage facility, ID	26,000,000	---
90-D-178 TSA retrieval containment building, ID	11,100,000	---

Department of Energy

	FY 1991 Budget Request	Conference
89-D-172 Hanford environmental compliance, Richland, WA	35,660,000	---
89-D-173 Tank farm ventilation upgrade, Richland, WA	3,400,000	---
89-D-174 Replacement high level waste evaporator, Savannah River, SC	11,330,000	---
89-D-175 Hazardous waste/mixed waste disposal facility, Savannah River, SC	7,600,000	---
88-D-173 Hanford waste vitrification plant (HWVP), Richland, WA	75,500,000	---
87-D-159 Environmental, health, and safety improvements, Phases I, II, III, & IV, Feed Materials Production Center, Fernald, OH	4,985,000	---
83-D-148 Non-radioactive hazardous waste management, Savannah River, SC	5,000,000	---
91-D-125 Environment, safety and health upgrades, Phase III, Mound Facility Miamisburg, OH	284,000	---
89-D-122 Production waste storage facility, Y-12 plant, Oak Ridge, TN	5,500,000	---
89-D-141 M-Area waste disposal, Savannah River, SC	7,500,000	---
91-E-322 Building compliance	1,800,000	---
91-E-305 Waste minimization fac. upgrade, BNL	500,000	---
91-E-306 Haz waste treatment fac, PNL	970,000	---
89-R-111 Building utilities, PNL	200,000	---
Subtotal, Construction	303,790,000	---
Subtotal, Waste management	1,652,312,000	---
(Operating expenses)	(1,265,717,000)	---
(Capital equipment)	(82,805,000)	---
(Construction)	(303,790,000)	---
IV. Technology development		
Operating expenses	183,980,000	---
Capital equipment	16,820,000	---
Construction:		
91-EM-100 Environmental and molecular science laboratory at Richland	5,200,000	---
Subtotal, Technology development	206,000,000	---
V. Program direction	24,106,000	---
Subtotal, Environmental restoration and waste mgmt	2,960,436,000	---
Program slippage due to delays in permitting	-142,000,000	---
TOTAL, ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT	2,818,436,000	---
(Operating expenses)	(2,278,542,000)	---
(Capital equipment)	(101,605,000)	---
(Construction)	(438,289,000)	---

Department of Energy

	FY 1991 Budget Request	Conference
URANIUM ENRICHMENT		
I. Uranium enrichment activities		
A. Gaseous diffusion operations and support		
Operating expenses	1,029,200,000	1,029,200,000
Capital equipment	7,800,000	7,800,000
Construction:		
91-U-200 Replace capacitors, GDP, Paducah	4,000,000	4,000,000
91-U-201 Refurbish int. purge fac., GDP, Ports	1,400,000	1,400,000
91-U-207 Roof upgrading, GDP, Portsmouth	3,800,000	3,800,000
91-U-208 S & S upgrading, GDP, Portsmouth	3,500,000	3,500,000
90-N-501 Cooling tower mods	8,700,000	8,700,000
GP-N-501 GPP	8,800,000	8,800,000
89-N-501 UF6 cylinders	10,100,000	10,100,000
88-N-502 Process inventory control system, Pad	6,300,000	6,300,000
87-N-502 Cooling tower upgrade, GDP, Paducah	2,000,000	2,000,000
82-N-413 Improved UF6 containment	4,000,000	4,000,000
Subtotal, Construction	52,600,000	52,600,000
Subtotal, Gaseous diffusion operations and support	1,089,600,000	1,089,600,000
B. Atomic vapor laser isotope separation		
Operating expenses	146,500,000	146,500,000
Capital equipment	5,600,000	5,600,000
Construction:		
GP-N-600 General plant projects	2,400,000	2,400,000
Subtotal, Atomic vapor laser isotope separation	154,500,000	154,500,000
C. Corrective action - environment		
Operating expenses	3,750,000	3,750,000
Construction:		
91-U-206 Reduction of PCB contamination	5,500,000	5,500,000
Subtotal, Corrective action - environment	9,250,000	9,250,000
D. Environmental restoration		
Operating expenses	67,419,000	67,419,000
E. Waste management		
Operating expenses	10,304,000	10,304,000
Capital equipment	2,945,000	2,945,000
Construction:		
GP-N-210 General plant projects	700,000	700,000
Subtotal, Waste management	13,949,000	13,949,000
F. Program direction - OE	5,300,000	5,300,000
Subtotal, Uranium enrichment activities	1,340,018,000	1,340,018,000
(Operating expenses)	(1,262,473,000)	(1,262,473,000)
(Capital equipment)	(16,345,000)	(16,345,000)
(Construction)	(61,200,000)	(61,200,000)
Revenues	-1,450,400,000	-1,450,400,000
TOTAL URANIUM ENRICHMENT ACTIVITIES	-110,382,000	-110,382,000
(Operating expenses)	(-187,927,000)	(-187,927,000)
(Capital equipment)	(16,345,000)	(16,345,000)
(Construction)	(61,200,000)	(61,200,000)

Department of Energy

	FY 1991 Budget Request	Conference
GENERAL SCIENCE AND RESEARCH		
I. High energy physics		
A. Physics research		
Operating expenses	140,250,000	140,250,000
B. Facility operations		
Operating expenses	278,715,000	278,715,000
Capital equipment	83,730,000	83,730,000
Construction:		
91-G-304 AIP	14,535,000	14,535,000
90-R-104 Fermilab Linac Upgrade Project	12,000,000	12,000,000
GP-E-103 General plant projects, various locations	12,317,000	12,317,000
Subtotal, Construction	38,852,000	38,852,000
Subtotal, Facility operations	401,297,000	401,297,000
C. High energy technology		
Operating expenses	75,190,000	75,190,000
D. Other capital equipment - CE	4,450,000	4,450,000
Subtotal, High energy physics	621,187,000	621,187,000
(Operating expenses)	(494,155,000)	(494,155,000)
(Capital equipment)	(88,180,000)	(88,180,000)
(Construction)	(38,852,000)	(38,852,000)
II. Nuclear physics		
A. Medium energy physics		
Operating expenses	101,000,000	101,000,000
B. Heavy ion physics		
Operating expenses	72,929,000	72,929,000
C. Low energy physics		
Operating expenses	28,100,000	28,100,000
D. Nuclear theory		
Operating expenses	13,500,000	13,500,000
E. Capital equipment	25,100,000	25,100,000
F. Construction:		
91-G-300 Relativistic heavy ion collider	15,000,000	15,000,000
91-G-301 AIP	4,300,000	4,300,000
GP-E-300 General plant projects, various locations	4,200,000	4,200,000
87-R-203 Continuous electron beam accelerator facility, Newport News, VA	65,000,000	65,000,000
Subtotal, Construction	88,500,000	88,500,000
G. Other capital equipment - CE	1,600,000	1,600,000
Subtotal, Nuclear physics	330,729,000	330,729,000
(Operating expenses)	(215,529,000)	(215,529,000)
(Capital equipment)	(26,700,000)	(26,700,000)
(Construction)	(88,500,000)	(88,500,000)
III. General Science program direction - OE	3,950,000	3,950,000

Department of Energy

	FY 1991 Budget Request	Conference
IV. Superconducting super collider		
Operating expenses	116,000,000	116,000,000
Capital equipment	33,000,000	33,000,000
Construction:		
90-R-106 Superconducting Super Collider	168,866,000	93,866,000
Subtotal, Superconducting super collider	317,866,000	242,866,000
General reduction	---	-50,000,000
TOTAL, GENERAL SCIENCE AND RESEARCH	1,273,732,000	1,148,732,000
(Operating expenses)	(829,634,000)	(779,634,000)
(Capital equipment)	(147,880,000)	(147,880,000)
(Construction)	(296,218,000)	(221,218,000)
ISOTOPE PRODUCTION AND DISTRIBUTION FUND		
A. Isotope Production	16,243,000	16,243,000
B. Receipts from Isotope Sales	-16,243,000	-16,243,000
TOTAL, ISOTOPE PRODUCTION AND DISTRIBUTION FUND	---	---
ATOMIC ENERGY DEFENSE ACTIVITIES		
WEAPONS ACTIVITIES		
I. Research and development		
A. Research and development - weapons		
Operating expenses	813,664,000	884,318,000
Capital equipment	91,300,000	91,300,000
Construction:		
GP-D-101 General plant projects, various locations	20,000,000	20,000,000
90-D-102 Nuclear weapons research, development, & testing facilities revitalization, Phase III, various locations	19,600,000	9,600,000
88-D-105 Special nuclear materials R & D laboratory replacement, LANL, Los Alamos, NM	20,600,000	---
88-D-106 Nuclear weapons research, development, & testing facilities revitalization, Phase II, various locations	72,547,000	72,547,000
Subtotal, Construction	132,747,000	102,147,000
Subtotal, Research and development - weapons	1,037,711,000	1,077,765,000
B. Nuclear directed energy weapons		
Operating expenses	91,211,000	---
Capital equipment	7,300,000	---
Construction:		
88-D-106 Nuclear weapons research, development and testing facilities revitalization Phase II, (NDER facility at LLNL)	5,000,000	---
Subtotal, Nuclear directed energy weapons	103,511,000	---
C. Inertial fusion		
Operating expenses	157,900,000	157,900,000
Capital equipment	8,900,000	17,100,000
Subtotal, Inertial fusion	166,800,000	175,000,000

Department of Energy

	FY 1991 Budget Request	Conference
E. Safeguards and security		
Construction:		
88-D-104 Safeguards and security upgrade, Phase II, LANL, Los Alamos, NM	1,000,000	1,000,000
87-D-104 Safeguards and security enhancement II, LLNL, Livermore, CA	---	1,150,000
Subtotal, Safeguards and security	1,000,000	2,150,000
Subtotal, Research and development	1,309,022,000	1,254,915,000
II. Testing		
A. Weapons program		
Operating expenses	442,268,000	437,268,000
Capital equipment	33,550,000	33,550,000
Construction:		
GP-D-101 General plant projects, various locations	7,100,000	7,100,000
Subtotal, Weapons program	482,918,000	477,918,000
B. Nuclear directed energy weapons		
Operating expenses	84,443,000	---
Capital equipment	3,950,000	---
Subtotal, Nuclear directed energy weapons	88,393,000	---
C. Safeguards and security		
Construction:		
85-D-105 Combined device assembly facility, Nevada Test Site, NV	4,242,000	4,242,000
Subtotal, Testing	575,553,000	482,160,000
Subtotal, Research, development and testing	1,884,575,000	1,737,075,000
(Operating expenses)	(1,589,486,000)	(1,479,486,000)
(Capital equipment)	(145,000,000)	(141,950,000)
(Construction)	(150,089,000)	(115,639,000)
IV. Production and surveillance		
Operating expenses	2,299,880,000	2,161,180,000
Capital equipment	128,571,000	128,571,000
Construction:		
Decision costs:		
91-D-122 Short range attack missile tactical (SRAM-T) production facilities	15,000,000	15,000,000
90-D-122 Production capabilities from the nuclear depth/strike bomb (ND/SB), various locations	13,700,000	---
90-D-123 Follow on to lance warhead production facilities, various locations	3,500,000	---
87-D-122 Short-range attack missile II (SRAM II) warhead production facilities, various locations	8,634,000	8,634,000
Subtotal, Decision costs	40,834,000	23,634,000

Department of Energy

	FY 1991 Budget Request	Conference
Production base:		
Facilities capability assurance program:		
88-D-122 Facilities capability assurance program (FCAP), various locations	131,806,000	106,806,000
Production support facilities:		
GP-D-121 General plant projects, various locations	36,350,000	36,350,000
91-D-123 Production assurance transformer replacement, Kansas City Plant	2,600,000	2,600,000
89-D-125 Plutonium recovery modification project (Bldg. 371), Rocky Flats Plant, Golden, CO	65,000,000	---
88-D-125 High explosive machining facility Pantex Plant, Amarillo, TX	8,840,000	8,840,000
86-D-130 Tritium loading facility replacement, Savannah River Plant, Aiken, SC	2,360,000	2,360,000
Subtotal, Production support facilities	115,150,000	50,150,000
Subtotal, Production base - construction	246,956,000	156,956,000
Environment, safety and health:		
91-D-126 Health physics calibration facility (HPCF), Mound, Miamisburg, OH	1,000,000	1,000,000
91-D-127 Criticality alarm and production annunciation utility replacement, Rocky Flats Plant, Golden, CO	6,600,000	6,600,000
91-D-125 Environment, safety and health, Phase III, Mound Plant, Miamisburg, OH	1,746,000	---
90-D-126 Environment, safety and health improvements, various locations	8,500,000	8,500,000
89-D-126 Environment, safety and health upgrade, Phase II, Mound Plant, Miamisburg, OH	488,000	488,000
88-D-124 Fire protection upgrading, various locations	1,481,000	1,481,000
88-D-126 Personnel radiological monitoring laboratories, various locations	1,600,000	1,600,000
Subtotal, Environment, safety and health	21,415,000	19,669,000
Safeguards and security:		
91-D-124 Safeguards and security upgrades, phase III, Mound Facility, Miamisburg, OH	1,100,000	1,100,000
88-D-123 Security enhancement, Pantex Plant, Amarillo, TX	18,244,000	18,244,000
Subtotal, Safeguards and security	19,344,000	19,344,000
Subtotal, Construction	328,549,000	219,603,000
Subtotal, Production and surveillance	2,757,000,000	2,509,354,000

Department of Energy

	FY 1991 Budget Request	Conference
V. Program direction		
Operating expenses		
1. Weapons program	95,514,000	95,514,000
2. Community assistance	9,201,000	9,201,000
Subtotal, Operating expenses	104,715,000	104,715,000
Capital equipment	1,710,000	1,710,000
Subtotal, Program direction	106,425,000	106,425,000
TOTAL, WEAPONS ACTIVITIES	4,748,000,000	4,352,854,000
(Operating expenses)	(3,994,081,000)	(3,745,381,000)
(Capital equipment)	(275,281,000)	(272,231,000)
(Construction)	(478,638,000)	(335,242,000)
MATERIALS PRODUCTION		
I. Reactor operations		
Operating expenses	811,457,000	811,457,000
Construction:		
Environment, safety and health:		
91-D-148 Reactor charge/discharge training simulator, Savannah River Site, SC	2,000,000	---
90-D-150 Reactor safety assurance, Savannah River, SC	32,600,000	32,600,000
89-D-148 Improved reactor confinement system, Savannah River, SC	12,800,000	12,800,000
85-D-145 Fuel prod. fac., Savannah River, SC	8,481,000	8,481,000
Subtotal, Construction	55,881,000	53,881,000
Subtotal, Reactor operations	867,338,000	865,338,000
II. Processing of nuclear materials		
Operating expenses	628,969,000	628,969,000
Construction:		
Environment, safety and health:		
90-D-141 Idaho chemical processing plant fire protection, Idaho Falls, ID	6,000,000	6,000,000
90-D-143 Plutonium finishing plant fire safety and loss limitation, Richland, WA	2,500,000	2,500,000
Subtotal, Construction	8,500,000	8,500,000
Subtotal, Processing of nuclear materials	637,469,000	637,469,000
III. Supporting services		
Operating expenses	302,043,000	292,043,000
Construction:		
Programmatic projects:		
91-D-143 Increase 751-A elec substation capacity, Savannah River Site, SC	6,000,000	6,000,000
GP-D-146 General plant projects, various locations	36,994,000	36,994,000

Department of Energy

	FY 1991 Budget Request	Conference
90-D-151 Engineering Ctr, Savannah River, SC.	4,000,000	4,000,000
86-D-149 Productivity retention program, Phases I thru VI, various locations.....	61,750,000	61,750,000
85-D-139 Fuel processing restoration, Idaho Fuel Processing Facility, INEL, ID	87,500,000	87,500,000
Subtotal, Programmatic projects.....	196,244,000	196,244,000
Environment, safety and health:		
91-D-145 New whole body counter facility, Savannah River Site, SC.....	4,350,000	4,350,000
90-D-149 Plantwide fire protection, Phases I and II, Savannah River, SC.....	49,100,000	49,100,000
87-D-159 Environmental, health, and safety improvements, Phases I, II, III, & IV, Feed Materials Production Center, Fernald, OH	14,133,000	14,133,000
Subtotal, Environment, safety and health.....	67,583,000	67,583,000
Safeguards and security:		
89-D-140 Additional separations safeguards, Savannah River, SC	16,300,000	16,300,000
88-D-153 Additional reactor safeguards, Savannah River, SC.....	1,000,000	1,000,000
Subtotal, Safeguards and security.....	17,300,000	17,300,000
Subtotal, Construction.....	281,127,000	281,127,000
Subtotal, Supporting services.....	583,170,000	573,170,000
IV. Enriched material.....	117,801,000	117,801,000
V. Capital equipment.....	105,622,000	105,622,000
VI. Program direction.....	42,500,000	42,500,000
TOTAL, MATERIALS PRODUCTION.....	2,353,900,000	2,341,900,000
(Operating expenses).....	(1,902,770,000)	(1,892,770,000)
(Capital equipment).....	(105,622,000)	(105,622,000)
(Construction).....	(345,508,000)	(343,508,000)
WASTE TRANSPORTATION AND SITE MANAGEMENT		
I. Transportation management		
Operating expenses.....	14,660,000	14,660,000
Capital equipment.....	531,000	531,000
Subtotal, Transportation management.....	15,191,000	15,191,000
II. Program direction/landlord		
Operating expenses.....	21,386,000	21,386,000
Capital equipment.....	18,567,000	18,567,000
Construction:		
GP-D-171 General plant projects.....	13,556,000	13,556,000
91-D-170 INEL transportation complex, Idaho National Engineering Laboratory, ID.....	870,000	---
91-D-175 300 area electrical distribution conversion and safety improvements, phase I Richland, WA.....	900,000	900,000

Department of Energy

	FY 1991 Budget Request	Conference
90-D-175 Landlord program safety compliance-I, Richland, WA	8,230,000	8,230,000
89-D-171 INEL road renovation, ID	7,300,000	7,300,000
Subtotal, Construction	30,856,000	29,986,000
TOTAL, WASTE TRANSPORTATION AND SITE MANAGEMENT	86,000,000	85,130,000
(Operating expenses)	(36,046,000)	(36,046,000)
(Capital equipment)	(19,098,000)	(19,098,000)
(Construction)	(30,856,000)	(29,986,000)
NEW PRODUCTION REACTORS		
I. New production reactors		
Operating expenses	134,900,000	134,900,000
Capital equipment	8,800,000	8,800,000
Construction:		
88-D-154 New production reactor capacity, various locations (design only)	231,300,000	231,300,000
TOTAL, NEW PRODUCTION REACTORS	375,000,000	375,000,000
(Operating expenses)	(134,900,000)	(134,900,000)
(Capital equipment)	(8,800,000)	(8,800,000)
(Construction)	(231,300,000)	(231,300,000)
NAVAL REACTORS DEVELOPMENT		
I. Naval reactors development		
A. Plant development		
Operating expenses	89,300,000	89,300,000
B. Reactor development		
Operating expenses	258,900,000	258,900,000
C. Reactor operation and evaluation		
Operating expenses	207,000,000	207,000,000
D. Capital equipment	55,400,000	55,400,000
E. Construction		
GP-N-101 General plant projects, various locations	8,600,000	8,600,000
90-N-102 Expended core facility dry cell project, Naval Reactors Facility, ID	4,000,000	4,000,000
90-N-103 Advanced test reactor off-gas treatment system, INEL, ID	1,800,000	1,800,000
90-N-104 Facility renovations, Knolls Atomic Power Laboratory (KAPL), Niskayuna, NY	7,900,000	7,900,000
89-N-102 Heat transfer test facility, KAPL, Niskayuna, NY	3,600,000	3,600,000
88-N-102 Expended core facility receiving station, Naval Reactors Facility, ID	1,500,000	1,500,000
Subtotal, Construction	27,400,000	27,400,000
F. Program direction	14,000,000	14,000,000
TOTAL, NAVAL REACTORS DEVELOPMENT	652,000,000	652,000,000
(Operating expenses)	(569,200,000)	(569,200,000)
(Capital equipment)	(55,400,000)	(55,400,000)
(Construction)	(27,400,000)	(27,400,000)

Department of Energy

	FY 1991 Budget Request	Conference
ENVIRONMENTAL RESTORATION AND WASTE MGMT (DEFENSE)		
I. Corrective activities		
A. Environmental management		
Operating expenses	---	43,846,000
Capital equipment	---	1,980,000
Construction:		
GP-D-171 General Plant Project	---	3,720,000
89-D-172 Hanford environmental compliance	---	6,800,000
87-D-159 Environmental, health, and safety improvements, Phases I, II, III, & IV, Feed Materials Production Center, Fernald, OH	---	22,601,000
Subtotal, Construction	---	33,121,000
Subtotal, Environmental management	---	78,947,000
B. Defense programs		
Operating expenses	---	17,808,000
Construction:		
GP-D-171 General plant projects	---	5,259,000
90-D-103 Environment, safety and health improvements, various locations	---	4,200,000
90-D-125 Steam plant ash disposal facility, Y-12 Plant, Oak Ridge, TN	---	6,000,000
89-D-126 Environmental, safety, & health upgrade, Phase II, Mound Plant, Miamisburg, OH	---	1,723,000
89-D-142 Reactor effluent cooling water thermal mitigation, Savannah River, SC	---	28,000,000
88-D-102 Sanitary wastewaters systems consolidated, LANL, Los Alamos, NM	---	3,500,000
Subtotal, Construction	---	48,682,000
Subtotal, Defense programs	---	66,490,000
Subtotal, Corrective activities	---	145,437,000
(Operating expenses)	---	(61,654,000)
(Capital equipment)	---	(1,980,000)
(Construction)	---	(81,803,000)
II. Environmental restoration		
Operating expenses:		
1. Facilities and sites	---	833,215,000
III. Waste management		
Operating expenses:		
1. Waste operations	---	1,252,927,000
Capital equipment	---	82,019,000
Construction:		
GP-D-171 General plant projects	---	41,154,000
91-D-173 Hazardous low-level waste processing tanks, Savannah River Site, SC	---	5,800,000
91-D-172 High-level waste tank farm upgrade, Idaho Chemical Processing plant, INEL, ID	---	13,000,000

Department of Energy

	FY 1991 Budget Request	Conference
91-D-171 Waste receiving and processing facility, module 1, Richland, WA	---	2,700,000
90-D-171 Laboratory ventilation and electrical system upgrade, Richland, WA	---	4,100,000
90-D-172 Aging waste transfer line, Richland, WA	---	4,000,000
90-D-173 B-plant canyon crane replacement, Richland, WA	---	4,300,000
90-D-174 Decontamination laundry facility, Richland, WA	---	9,900,000
90-D-175 Landlord program safety compliance-I, Richland, WA	---	2,640,000
90-D-176 Transuranic (TRU) waste facility, Savannah River, SC	---	15,300,000
90-D-177 RWMC transuranic (TRU) waste treatment and storage facility, ID	---	26,000,000
90-D-178 TSA retrieval containment building, ID	---	11,100,000
89-D-172 Hanford environmental compliance, Richland, WA	---	35,660,000
89-D-173 Tank farm ventilation upgrade, Richland, WA	---	3,400,000
89-D-174 Replacement high level waste evaporator, Savannah River, SC	---	11,330,000
89-D-175 Hazardous waste/mixed waste disposal facility, Savannah River, SC	---	7,600,000
89-D-122 Production waste storage facility, Y-12 plant, Oak Ridge, TN	---	5,500,000
89-D-141 M-Area waste disposal, Savannah River, SC	---	7,500,000
88-D-173 Hanford waste vitrification plant (HWVP), Richland, WA	---	75,500,000
87-D-159 Environmental, health, and safety improvements, Phases I, II, III, & IV, Feed Materials Production Center, Fernald, OH	---	4,985,000
83-D-148 Non-radioactive hazardous waste management, Savannah River, SC	---	5,000,000
Subtotal, Construction	---	296,469,000
Subtotal, Waste management	---	1,631,415,000
(Operating expenses)	---	(1,252,927,000)
(Capital equipment)	---	(82,019,000)
(Construction)	---	(296,469,000)
IV. Technology development		
Operating expenses	---	183,480,000
Capital equipment	---	16,820,000
Subtotal, Technology development	---	200,300,000
V. Program direction	---	24,106,000
Subtotal, Environ restor and waste mgmt (defense)	---	2,834,473,000

Department of Energy

	FY 1991 Budget Request	Conference
Program slippage due to delays in permitting.....	---	-129,751,000
TOTAL, ENVIRONMENTAL RESTOR AND WASTE MGMT (DEFENSE)..	---	2,704,722,000
(Operating expenses).....	---	(2,225,631,000)
(Capital equipment).....	---	(100,819,000)
(Construction).....	---	(378,272,000)
OTHER NATIONAL SECURITY PROGRAMS		
I. Verification and control technology		
Operating expenses.....	151,484,000	181,484,000
Capital equipment.....	9,924,000	9,924,000
Construction:		
91-D-192 Foreign Technology Assessment Center, LLNL, Livermore, CA.....	2,592,000	---
90-D-186 Center for national security and arms control, SNL, Albuquerque, NM	10,000,000	5,000,000
Subtotal, Construction.....	12,592,000	5,000,000
Subtotal, Verification and control technology.....	174,000,000	196,408,000
(Operating expenses).....	(151,484,000)	(181,484,000)
(Capital equipment).....	(9,924,000)	(9,924,000)
(Construction).....	(12,592,000)	(5,000,000)
II. Nuclear safeguards and security		
Operating expenses.....	83,934,000	83,934,000
Capital equipment.....	5,066,000	5,066,000
Construction:		
GP-D-186 General plant projects.....	2,000,000	2,000,000
Subtotal, Nuclear safeguards and security.....	91,000,000	91,000,000
(Operating expenses).....	(83,934,000)	(83,934,000)
(Capital equipment).....	(5,066,000)	(5,066,000)
(Construction).....	(2,000,000)	(2,000,000)
III. Security investigations - OE.....	65,000,000	65,000,000
TOTAL, OTHER NATIONAL SECURITY PROGRAMS.....	330,000,000	352,408,000
(Operating expenses)	(300,418,000)	(330,418,000)
(Capital equipment).....	(14,990,000)	(14,990,000)
(Construction).....	(14,592,000)	(7,000,000)
Education programs.....	---	50,000,000
TOTAL, ATOMIC ENERGY DEFENSE ACTIVITIES.....	8,544,900,000	10,914,014,000
(Operating expenses).....	(6,937,415,000)	(8,984,346,000)
(Capital equipment).....	(479,191,000)	(576,960,000)
(Construction).....	(1,128,294,000)	(1,352,708,000)
DEPARTMENTAL ADMINISTRATION		
I. Administrative operations		
A. Office of the Secretary - salaries and expenses.	3,911,000	3,911,000
B. General management - personnel compensation and benefits.....	153,227,000	153,227,000
C. General management - other expenses		
1. Travel.....	5,314,000	5,314,000
2. Services.....	132,137,000	132,137,000
3. Capital equipment.....	4,942,000	4,942,000
Subtotal, Other expenses.....	142,393,000	142,393,000

Department of Energy

	FY 1991 Budget Request	Conference
D. Program support		
1. Policy analysis and system studies	4,300,000	4,300,000
3. Consumer affairs	45,000	45,000
4. Public affairs	42,000	42,000
6. International policy studies	1,359,000	1,359,000
7. Office of minority economic impact	2,832,000	3,500,000
Subtotal, Program support	8,578,000	9,246,000
Subtotal, Administrative operations	308,109,000	308,777,000
II. Cost of work for others	116,131,000	91,718,000
III. Miscellaneous revenues	-183,413,000	-150,000,000
Subtotal, Departmental administration	240,827,000	250,495,000
Use of unobligated balances	-16,400,000	-16,400,000
General reduction	---	-19,000,000
TOTAL, DEPARTMENTAL ADMINISTRATION	224,427,000	215,095,000
(Operating expenses)	(219,485,000)	(210,153,000)
(Capital equipment)	(4,942,000)	(4,942,000)
OFFICE OF THE INSPECTOR GENERAL		
Office of the Inspector General	28,421,000	28,421,000
ALASKA POWER ADMINISTRATION		
I. Operation and maintenance		
A. Power marketing		
1. Operating expenses	3,233,000	3,233,000
SOUTHEASTERN POWER ADMINISTRATION		
I. Operation and maintenance		
A. Power marketing		
1. Operating expenses	2,624,000	2,624,000
2. Purchase power and wheeling	17,661,000	17,661,000
3. Use of prior year balances	-11,000,000	-11,000,000
TOTAL, SOUTHEASTERN POWER ADMINISTRATION	9,285,000	9,285,000
SOUTHWESTERN POWER ADMINISTRATION		
I. Operation and maintenance		
A. Power marketing		
1. Operating expenses	17,316,000	17,316,000
2. Purchase power and wheeling	7,899,000	7,899,000
3. Construction	10,182,000	10,182,000
4. Use of prior year balances	-15,290,000	-15,290,000
TOTAL, SOUTHWESTERN POWER ADMINISTRATION	20,107,000	20,107,000

Department of Energy

	FY 1991 Budget Request	Conference
WESTERN AREA POWER ADMINISTRATION		
I. Operation and maintenance		
A. Power marketing		
1. Construction and rehabilitation	110,520,000	110,520,000
2. System operation and maintenance	115,509,000	115,509,000
3. Purchase power and wheeling	95,298,000	95,298,000
4. Unobligated balances	-27,565,000	-27,565,000
5. Transfer of permanent authority from DOI	(4,702,000)	(4,702,000)
TOTAL, WESTERN AREA POWER ADMINISTRATION	293,762,000	293,762,000
FEDERAL ENERGY REGULATORY COMMISSION		
Federal Energy Regulatory Commission	122,750,000	122,750,000
Offsetting revenues	-122,750,000	-122,750,000
NUCLEAR WASTE DISPOSAL FUND		
Nuclear waste disposal fund	292,833,000	242,833,000
GEOTHERMAL RESOURCES DEVELOPMENT FUND		
Program direction	80,000	80,000
ENERGY AND WATER DEVELOPMENT ACCOUNTS:		
Energy supply research and development		
Operating expenses	1,808,706,000	2,199,532,000
Plant and capital equipment	296,631,000	327,550,000
Total, Energy supply research and development	2,105,337,000	2,527,082,000
Environmental restoration and waste management		
Operating expenses	2,278,542,000	---
Plant and capital equipment	539,894,000	---
Total, Environmental restoration and waste management	2,818,436,000	---
Uranium enrichment		
Operating expenses	1,262,473,000	1,262,473,000
Plant and capital equipment	77,545,000	77,545,000
Subtotal, Uranium enrichment	1,340,018,000	1,340,018,000
Revenues	-1,450,400,000	-1,450,400,000
Total, Uranium enrichment	-110,382,000	-110,382,000
General science and research activities		
Operating expenses	829,634,000	779,634,000
Plant and capital equipment	444,098,000	369,098,000
Total, General science and research activities	1,273,732,000	1,148,732,000
Isotope production and distribution fund	---	---
Atomic energy defense activities		
Operating expenses	6,937,415,000	8,984,346,000
Plant and capital equipment	1,607,485,000	1,929,668,000
Total, Atomic energy defense activities	8,544,900,000	10,914,014,000
Departmental administration		
Operating expenses	219,485,000	210,153,000
Plant and capital equipment	4,942,000	4,942,000
Total, Departmental administration	224,427,000	215,095,000

Department of Energy

	FY 1991 Budget Request	Conference
Office of the inspector general	28,421,000	28,421,000
Power marketing administrations:		
Alaska power administration		
Operation and maintenance	3,233,000	3,233,000
Southeastern power administration		
Operation and maintenance	9,285,000	9,285,000
Southwestern power administration		
Operation and maintenance	20,107,000	20,107,000
Western area power administration		
Operation and maintenance	293,762,000	293,762,000
Total, Power marketing administrations	326,387,000	326,387,000
Federal energy regulatory commission	---	---
Nuclear waste disposal fund	292,833,000	242,833,000
Geothermal resources development fund	80,000	80,000
TOTAL, ENERGY AND WATER DEVELOPMENT ACCOUNTS	15,504,171,000	15,292,262,000

TITLE IV—INDEPENDENT AGENCIES

Appalachian Regional Commission

Amendment No. 67: Appropriates $170,000,000 instead of $180,000,000 as proposed by the Senate or $150,000,000 as proposed by the House.

The conferees agree that a total of $21,500,000 is provided for corridor construction in Alabama; a total of $13,000,000 is provided for corridor construction in Mississippi; and a total of $38,000,000 is provided for Corridor G in West Virginia.

The conferees have agreed to provide $800,000 for a community services facility in Millport, Alabama.

Interstate Commission on the Potomac River Basin

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

Amendment No. 68: Appropriates $538,000 for the Contribution to the Interstate Commission on the Potomac River Basin as proposed by the Senate instead of $200,000 as proposed by the House.

Nuclear Regulatory Commission

Due to severe budget constraints, the conferees have reduced the Nuclear Regulatory Commission by $10,000,000. The conferees agree with the Senate report concerning delays in the completion of design certification.

Tennessee Valley Authority

Amendment No. 69: Appropriates $135,000,000 as proposed by the House instead of $125,000,000 as proposed by the Senate.

TITLE V—GENERAL PROVISIONS

Amendment No. 70: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

Sec. 510. Without fiscal year limitation and notwithstanding any other provision of law, no funds appropriated or made available under this or any other Act now or hereafter shall be used by the executive branch to change the employment levels determined by the Administrators of the Federal Power Marketing Administrations to be necessary to carry out their responsibilities under the Department of Energy Organization Act and related laws, or to change the employment levels of other Department of Energy programs to compensate for employment levels of the Federal Power Marketing Administrations.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment expands language included by the Senate to apply only to the Bonneville Power Administration and provides that no funds may be used by the executive branch to change the employment levels of any of the Federal Power Marketing Administrations.

Amendment No. 71: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of "30 days after the date of enactment of this Act" cited in subsection (b)(1) insert "May 1, 1991".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment prohibits the use of funds to enter into any contract for public works in the United States with any contractor of a foreign country listed by the United States Trade Representative as denying market opportunities to the United States.

Conference Total—With Comparisons

The total new budget (obligational) authority for the fiscal year 1991 recommended by the Committee of Conference, with comparisons to the fiscal year 1990 amount, the 1991 budget estimates, and the House and Senate bills for 1991 follow:

New budget (obligational) authority, fiscal year 1990	$18,432,374,000
Budget estimates of new (obligational) authority, fiscal year 1991	20,214,377,000
House bill, fiscal year 1991	20,775,518,000
Senate bill, fiscal year 1991	20,782,405,000
Conference agreement, fiscal year 1991	20,164,632,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1990	+1,732,258,000
Budget estimates of new (obligational) authority, fiscal year 1991	−49,745,000

House bill, fiscal year 1991 ..... —610,886,000
Senate bill, fiscal year 1991 ..... —617,773,000

TOM BEVILL,
LINDY (MRS. HALE) BOGGS,
VIC FAZIO,
WES WATKINS,
LINDSAY THOMAS,
JIM CHAPMAN,
JAMIE L. WHITTEN,
JOHN T. MYERS,
VIRGINIA SMITH,
CARL D. PURSELL,
SILVIO O. CONTE
(except amendment No. 51),
Managers on the Part of the House.

J. BENNETT JOHNSTON,
ROBERT C. BYRD,
ERNEST F. HOLLINGS,
QUENTIN N. BURDICK,
JIM SASSER,
DENNIS DECONCINI,
HARRY REID,
MARK O. HATFIELD,
JAMES A. MCCLURE,
JAKE GARN,
THAD COCHRAN,
PETE V. DOMENICI,
ARLEN SPECTER,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 5313, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1991

Mr. HEFNER submitted the following conference report and statement on the bill (H.R. 5313) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-888)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5313) "making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 7, 9, 11, 12, 13, 25, 27, and 29.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$746,137,000*; and the Senate agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$89,577,000*; and the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,132,606,000*; and the Senate agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$74,451,000*; and the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$94,241,000*; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$601,288,000*; and the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$38,600,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$174,917,000*; and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$866,018,000*; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$162,957,000*; and the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$934,399,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 5, 10, 14, 15, 16, 17, 19, 20, 26, 28, 30, and 31.

W.G. (BILL) HEFNER,
BILL ALEXANDER,
LINDSAY THOMAS,
RONALD D. COLEMAN,
MARCY KAPTUR,
TOM BEVILL,
NORMAN D. DICKS,
VIC FAZIO,
JAMIE L. WHITTEN,
BILL LOWERY
(except amendments 11, 12, and 13),
MICKEY EDWARDS
(except amendments 11, 12, and 13),
JIM KOLBE
(except amendments 11, 12, and 13),
TOM DELAY
(except amendments 11, 12, and 13),
SILVIO O. CONTE
(except 11, 12, and 13),
Managers on the Part of the House.

JIM SASSER,
DANIEL K. INOUYE,
HARRY REID,
WYCHE FOWLER,
ROBERT C. BYRD,
CHARLES GRASSLEY,
JAKE GARN,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers of the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5313) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

ITEMS OF GENERAL INTEREST

Overseas Military Construction.—The conferees agree to make substantial reductions to the Department's request for military construction overseas. The conference agreement reduces the overseas construction request by 79 percent and reduces NATO Infrastructure program by 54 percent. In addition, the House and Senate have respectively supported the Administration's rescission request to cancel projects overseas in the amount of $286,419,000.

The conferees have taken this action because of the great uncertainty regarding forward deployed forces overseas together with the Department's need to develop force and basing plans as a part of its six-year Defense plan. Therefore, the conferees have agreed to fund only critical projects or projects that are the result of a nation-to-nation agreement.

The conferees agree that the Department should critically review its overseas base structure in terms of reduced force goals overseas and the need for more burdensharing by our allies.

Guard and Reserve Programs.—The conferees continue to support facility construction funding for the Guard and Reserve. As a result, the conferees have agreed to provide funding for the Guard and Reserve at about last year's funding level rather than support the Administration's proposed 60 percent reduction. Restoration of this funding level was more than offset by reductions in overseas construction.

On-Going Base Closures.—The conferees understand that the Secretary of Defense plans to issue recommendations for future military base closures and realignments. The conferees note that pursuant to Public Law 100-526, the Secretary is governed by the recommendations of the Base Realignment and Closure Commission, which are legally binding. The conferees expect those recommendations to be carried out in accordance with the timetable established by Public Law 100-526 notwithstanding any subsequent base closing recommendations.

Homeowners Assistance Fund.—The conferees expect that funds from the Base Closure Account can be utilized to support the

Homeowners Assistance program for areas impacted by the current base closures recommended by the Base Closure Commission pursuant to Public Law 100-526. The conferees also believe that opportunities may exist to utilize the private sector in the administration of the program in instances where it is demonstrated to be a more cost-effective alternative. The conferees continue to support private sector participation in the Homeowners Assistance program and direct the Department to submit a report by March 1, 1991 to the Committees on Appropriations on actions taken to implement a realistic cost-effective plan for this program which includes private sector participation. The conferees also object to permanent legislation that would provide unlimited transfer authority from funds available to the Department of Defense to fund the Homeowners Assistance program.

Authorization Initiatives.—The conferees note that a number of projects were included in the National Defense Authorization Act for fiscal year 1991, but were not included by either the House or the Senate during consideration of the Military Construction Appropriations Act. The conferees agree to consider reprogramming requests for any such projects for which authorization is enacted into law.

Matters Addressed by Only One Committee.—The language and allocations set forth in House Report 101-608 and Senate Report 101-410 should be complied with unless specifically addressed to the contrary in this conference report and statement of the managers. Report language included by the House which is not changed by the report of the Senate or the conference, and Senate report language is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. In cases in which the House or the Senate have directed the submission of a report from the Department of Defense, such report is to be submitted to both House and Senate Committees on Appropriations.

PROGRAM, PROJECT AND ACTIVITY

For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, (Public Law 100-119), the term "Program, Project and Activity" will continue to be defined as the appropriation account.

MILITARY CONSTRUCTION, ARMY

(Including Rescissions)

Amendment No. 1

Appropriations $746,137,000 for Military Construction, Army instead of $747,067,000 as proposed by the House and $697,967,000 as proposed by the Senate. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

Alaska—Fort J.M. Wainwright: Elementary School	+$8,300,000
Georgia—Fort Gordon: Soldier Service Center	+10,600,000
Louisiana—Fort Polk: Maintenance Complex	+22,000,000
Texas—Camp Swift: Sealing Manholes	+100,000
Utah—Tooele Army Depot:	
Ammunition Demilitarization Facility	+9,000,000
Cryofracture Demilitarization Facility Site Preparation	−10,000,000
Germany—Grafenwoeher: Pave Tank Trail	−1,630,000
Germany—Hohenfels Training Area: Hardstand and Maintenance Sheds	−4,350,000
Germany—Vilseck: Hardstand/Tactical Equipment Shop and Sheds	−8,500,000
Japan Various:	
Ammunition Storage	−8,400,000
Ammunition Surveillance Facility	−2,050,000
Korea Various: Ammunition Storage	−11,000,000
Unspecified Worldwide Locations::	
Planning and Design	−6,000,000
Unspecified Minor Construction	+1,000,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

California—Fort Ord: Water Distribution System (Phase I)	$7,400,000
North Carolina—Fort Bragg:	
Land Acquisition (Camp MacKall)	720,000
Addition, SOF Headquarters Facility	4,950,000
Texas—Fort Bliss:	
Barracks Modernization	10,200,000
Barracks Modernization	9,800,000
Germany—Kaiserslautern: Missile Maintenance Shop	5,000,000
Korea—K-16 Army Airfield, Yongsan: Flight Simulator Building	1,500,000
Unspecified Worldwide Locations—General Reduction	0

Amendment No. 2

Earmarks $89,577,000 for study, planning, design, architect and engineer services instead of $95,577,000 as proposed by the House and $83,577,000 as proposed by the Senate.

Hawaii—Tripler Army Medical Center.—The conferees agree that $515,000 be utilized from unspecified minor construction for the relocation and alteration of the headquarters administrative area as recommended by the Senate.

Massachusetts—Army Materials Technology Laboratory (AMTL).—The conferees endorse the report language included by the Senate with regard to the Army Materials Technology Laboratory (AMTL), Watertown, Massachusetts. The conferees direct the Secretary of Defense to provide the appropriate Committees of Congress with a thorough and detailed analysis of the study proposed by the Senate in a timely fashion but not later than January 15, 1991.

Utah—Tooele Army Depot: Chemical Demilitarization Cryofracture.—The conference agreement includes $6,000,000 for planning and design of a demonstration project utilizing cryofracture technology. The conferees direct the Army to expedite design of this facility.

MILITARY CONSTRUCTION, NAVY

(Including Rescission)

Amendment No. 3

Appropriates $1,132,606,000 for Military Construction, Navy, instead of $1,137,278,000 as proposed by the House and $1,083,826,000 as proposed by the Senate. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

Alaska—Amchitka Island Fleet Surveillance Spt Cmd: Electronic Installation	$+21,000,000
California—Concord Naval Weapons Station: Railroad/Vehicular Bridge	−9,850,000
California—Long Beach Naval Shipyard: Asbestos Removal Shop	−500,000
California—Skaggs Island Naval Security Group Act: Potable Water System	−1,472,000
Florida—Orlando Naval Training Center: Mess Hall	−7,070,000
Maryland—Patuxent River Naval Air Test Center: Entry Gate/Road	+2,000,000
North Carolina—Cherry Point Marine Corps Air Station: Aviation Museum	−2,000,000
Rhode Island—Newport Naval Education and Training Center: Child Development Center	+200,000
Virginia—Little Creek Naval Amphibious Base: Small Arms Range	+2,400,000
Virginia—Quantico Marine Corps Combat Dev Command: Marine Corps Academic Research Library	+14,150,000
Washington—Whidbey Island Naval Air Station: Operations and Maintenance Trnr Facility (Incr. I)	−19,100,000
Japan—Hanza Okinawa Naval Security Group Act: Fire Protection System	−1,035,000
Spain—Roto Naval Communication Station: Operations Building Upgrade	+1,105,000
United Kingdom—Brawdy Wales Fleet Surveillance Spt Cmd: Electronic Installation	−1,740,000
Unspecified Worldwide Locations: Planning and Design Various Locations-Land Acquisition	−260,000

The conferees agreed to fund all other items in conference at the level proposed by the House, as shown below:

California—Bridgeport Marine Base: Safety/Modernization	0
California—Miramar Naval Air Station:	
Child Development Center	$2,300,000
Tactical Aircrew Combat Training Facility	1,250,000

California—Monterey Fleet Numerical Oceanography Ctr: Computer Center	6,010,000
California—San Diego Naval Submarine Base: Child Development Center	4,130,000
Georgia—Kings Bay Naval Submarine Base: Community Impact Assistance	10,800,000
Kentucky—Louisville Naval Ordnance Station: Phalanx Shop Modernization	5,660,000
Maryland—Indian Head Naval Ordnance Station: Chemistry Laboratory	6,000,000
Virginia—Norfolk Naval Shipyard: Ship Services Support Facility	14,600,000
Iceland—Keflavik Naval Air Station: Fuel Facilities	2,440,000
Italy—Sigonella Naval Air Station: Corrosion Control Hangar:	8,390,000
Unspecified Worldwide Locations-General Reduction	0

California—Miramar Naval Air Station, California.—The conferees are aware of the local interest in construction of a joint use military and civilian airport on Miramar Naval Air Station. The conferees direct the Secretary of the Navy to study the impact and feasibility of such a joint use airfield and report to the Committees on Appropriations no later than February 15, 1991. The study should include an analysis of the effects of a joint-use airport on: administration, staffing levels, training, safety, noise levels and potential ground passenger traffic in the vicinity of Miramar. The study should analyze how the current "touch and go" operations at Miramar could be conducted in a way not to interfere with a joint-use airport. In addition, any potential cost savings available from sharing the operational and infrastructure costs between the Navy and a civilian airport authority should be included.

Guam—Camp Covington: Mess Hall.—The conferees agree that the rescission of fiscal year 1990 Military Construction, Navy appropriations shall not be derived from this project but offset by a general reduction of $4,300,000 to other projects outside the United States. The conferees support this important project and direct that it be executed in a timely fashion.

Amendment No. 4. Earmarks $74,451,000 for study, planning, design, architect and engineer services instead of $76,951,000 as proposed by the House and $71,951,000 as proposed by the Senate.

MILITARY CONSTRUCTION, AIR FORCE

(Including Rescissions)

Amendment No. 5

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$949,094,000 and rescission of $26,000,000 of the funds appropriated for "Military Construction, Air Force" under Public Law 101-148 in addition to the rescissions listed subsequently in this paragraph*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of Senate.

The conference agreement appropriates $949,094,000 instead of $949,446,000 as proposed by the House and $891,784,000 as proposed by the Senate. In addition, the conference agreement rescinds $26,000,000 in fiscal year 1990 funds to be derived from MX Rail Garrison projects at F.E. Warren AFB, Wyoming. The conferees agree to the following additions and deletions as proposed by the House:

Alaska—Elmendorf AFB: Dormitory	+$8,900,000
Arizona—Luke AFB: Land Acquisition	−1,800,000
Arizona—Williams AFB: Auxiliary Field/Land Acquisition	−5,500,000
Arkansas—Little Rock AFB: Personnel Processing Center	+5,300,000
California—Castle AFB: Strategic Command Center	−5,000,000
California—Edwards AFB: Corrosion Control Facility	−500,000
Colorado—Peterson AFB: Physical Fitness Center	+3,800,000
Florida—Cape Canaveral AFS: Lease Acquisition	+2,953,000
Illinois—Scott AFB: Dormitory	+7,900,000
Indiana—Grissom AFB: Child Development Center	+2,000,000
Kansas—McConnell AFB: Dormitory	−650,000
Consolidated Education Center	−3,600,000
Louisiana—Barksdale AFB: Vehicle Maintenance Complex	+6,300,000
Maine—Loring AFB: Munitions Support Equipment Storage Facility	−830,000
New Mexico—Holloman AFB Realignment:	
Upgrade Utility Systems. F-117 Facilities (Phase I)	−11,000,000
	+36,000,000
New York—Plattsburgh AFB: Cold Storage Facility	+1,200,000
South Carolina—Shaw AFB: Upgrade Sewage Treatment	+3,000,000
Tennessee—Arnold Engineering Development Center: Large Rocket Test Facility (J-6) (Phase III)	+30,000,000
Utah—Hill AFB:	
Automated Tire Storage Facility	−5,000,000
Electrical Upgrade	−407,000
Missile Maintenance shop	−2,350,000
Peacekeeper—Ordnance Storage Facility	+3,250,000
Peacekeeper—State Storage Facility	+3,250,000
Wyoming—F.E. Warren AFB: Peacekeeper (Rescission of Fiscal Year 1990 Funds)	−26,000,000
Japan—Kadena AB: Control Tower Cab	−770,000
Korea—Kunsan AB: Aircraft fuels System Repair Dock	−3,300,000
Korea—Osan AB: Squadron Operations/Sensor Maintenance Facility	−1,700,000
Turkey—Incirlik AB: Alter Munitions Storage Facility	−3,700,000
United Kingdom—RAF Lakenheath: Alter Dormitory	+3,155,000
Overseas Classified:	
F15E—Field Training Facility	−2,400,000
5F15E—Conventional Munitions Maint Facility	−2,400,000
Operations Facility	−14, 243,000
Tactical Intelligence Center	−3,000,000
Classified Locations:	
Various Facilities	−4,000,000
Various Facilities	−2,600,000
Various Facilities	+3,800,000
Various Facilities	−4,000,000
Unspecified Worldwide Locations:	
Planning and Design	+13,500,000
General Reduction	−15,000,000

The conferees agree to fund all other items in conference at the level proposed by the the House, as shown below:

California—Castle AFB:	
Combat Crew Training School	$3,000,000
Standardization Evaluation Center	2,200,000
Colorado—Air Force Academy, Colorado Springs: Consolidated Education and Training Facility (Phase I)	15,000,000
Colorado—Falcon AFS: MILSTAR Communications Ground Terminal	710,000
Colorado—Lowry AFB: Child Development Center	4,550,000
Colorado—Peterson AFB: MILSTAR Communications Ground Terminal	1,350,000
Indiana—Grissom AFB: Renovate Dormitory	2,500,000
Maryland—Andrews AFB: Child Development Center Annex	3,850,000
Missouri—Whiteman AFB:	
Add to and Alter Physical Fitness Center	3,600,000
B-2 Add to and Alter Child Development Center	750,000
B-2 Add to and Alter Base Library/Education Ctr	3,500,000
B-2 Add to and Alter Chapel Community Activity Ctr	1,700,000
B-2 Aircraft Maintenance Docks	8,700,000
B-2 Dormitory	6,500,000
B-2 General Reduction	−37,050,000
New York—Griffiss AFB:	
Add/Alter Integrated Maintenance Facility	2,300,000
Munitions Storage Igloos	2,200,000
Oklahoma—Tinker AFB: Land Acquisition	1,850,000
Utah—Hill AFB: ICBM Non-Destructive Inspection Bunker	2,800,000

Canada—Various Locations:	
Forward Operating Locations	6,300,000
Forward Operating Locations	12,000,000
Turkey—Incirlik AB: Water Distribution Mains	1,100,000

California—Beale AFB: Hazardous Material/Waste Facility.—The conferees direct the Department to submit a reprogramming request of $790,000 for this project. Funding for the reprogramming is available from savings in connection with the KC-135 Operational Flight Trainer Support project at Beale AFB.

Portugal—Lajes Field: Hydrant Fueling System.—The conferees have agreed that the rescission of fiscal year 1990 Military Construction, Air Force appropriations shall not be derived from this project but offset by a general reduction of $6,100,000 to other projects outside the United States. The conferees expect this project to be executed in a timely fashion because of its importance to the Persian Gulf mission.

Amendment No. 6

Earmarks $94,241,000 for study, planning, design, architect and engineer services instead of $107,741,000 as proposed by the House and $80,741,000 as proposed by the Senate.

Amendment No. 7

Deletes language proposed by the Senate which would have prohibited the use of funds for relocation of the 37th Tactical Fighter Wing (F-117A aircraft) from the Tonopah Research Site, Nevada, until certain conditions are met.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(Including Transfer of Funds)

(Including Rescissions)

Amendment No. 8

Appropriates $601,288,000 for Military Construction, Defense Agencies, instead of $625,326,000 as proposed by the House and $600,113,000 as proposed by the Senate. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

Georgia—Fort Benning: Add/Alter Elementary School	$+1,500,000
Hawaii—Tripler Army Medical Center: Alter Family Medical Center	+2,200,000
Maryland—Fort Meade: Bldg 9805 Addition	−3,425,000
Utah—Defense Depot Ogden: Temporary Lodging Facility	−1,100,000
Virginia—Dahlgren Space Surveillance Sys: Ad/Alter School	+1,360,000
Germany—Frankfurt: Atterbury Elementary School Addition	−7,449,000
Germany—Landstuhl: Elementary/Middle School Addition	−3,724,000
Korea—Kunsan Air Base: Hospital/Dental Clinic Replacement	−14,400,000
United Kingdom—Harrogate: Menwith Hill Middle School Addition	−2,100,000
United Kingdom—RAF Edzell: Medical Dental Clinic Replacement	−5,400,000
United Kingdom—Royal Air Force Lanark: Fleet Hospital Facility	−3,900,000
Unspecified Worldwide Locations:	
Contingency Construction	−2,700,000
Deficiency Allowance	+10,100,000
Energy Conservation Program	+10,000,000
Various Locations: Conforming Storage Facilities	−5,000,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

New Mexico—White Sands Missile Range: Large Blast/Thermal Simulator, Phase I	$45,000,000
Texas—Fort Sam Houston: Hospital Replacement (Phase IV)	50,000,000
Virginia—Dahlgren Space Surveillance Sys: Add/Alter School	0
Korea—Camp Casey: Troop Medical Clinic Replacement	1,000,000
Worldwide Unspecified-General Reduction	0
Planning and Design-General Reduction	0
Unspecified Minor Construction (DoDDS)	2,000,000

Amendment No. 9

Earmarks $94,285,000 for study, planning, design, architect and engineer services as proposed by the House instead of $74,285,000 as proposed by the Senate.

Classified Projects.—The conferees agree to provide a deficiency allowance of $8,100,000 for an operations complex at Fort Bragg, North Carolina, together with $2,000,000 for land acquisition to expand an existing parachute training and test facility. The conferees direct the Department to utilize emergency construction authority for these projects.

Energy Conservation.—The conferees note that the Department has significantly reduced its request for capital investment funding to implement permanent facilities improvements and retrofit projects for energy conservation. Therefore, funds in the amount of $10,000,000 are provided for the Department to begin to initiate a comprehensive program of energy use reduction. The Department is directed to report to the Committees on Appropriations by March 1, 1991, on how these funds will be utilized and what steps are being taken to increase emphasis on sound energy resource management in order to achieve rapid payback and significant cost savings.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Amendment No. 10

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$192,700,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $192,700,000 for the North Atlantic Treaty Organization Infrastructure program instead of $250,000,000 as proposed by the House and $210,400,000 as proposed by the Senate.

Amendment No. 11

Restores House language stricken by the Senate, which prohibits the use of unobligated funds, including recoupments in connection with construction of a base for the 401st Tactical Fighter Wing at Crotone, Italy.

Amendment No. 12

Restores House language stricken by the Senate, which prohibits the use of funds in any other Act in connection with construction of a base for the 401st Tactical Fighter Wing at Crotone, Italy.

Amendment No. 13

Deletes the language "until authorized by Congress" as proposed by the Senate.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

Amendment No. 14

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$313,224,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $313,224,000 for Military Construction, Army National Guard, instead of $201,558,000 as proposed by the House and $235,549,000 as proposed by the Senate. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

Alabama-Brewton: Armory	+$903,000
Alabama-Marion: Armory	+764,000
Arizona-Bellemont: Consolidated Training Site	+6,522,000
Arizona-Marana: Apache Simulator Facility	+4,554,000
Arkansas-Camp Robinson: Battalion Support Complex	+4,025,000
Dormitory	+6,950,000
Florida-Camp Blanding: Aviation Fuel Facility	−275,000
Light Anti-Armor Weapon Range	−550,000
MOUT Assault Course Range	−954,000
MOUT Range	−2,600,000
Florida-Lakeland: Armory and Aviation Support Facility	−5,153,000
Florida-Vero Beach: Weekend Training Site	−5,300,000
Illinois-Woodstock: Armory	+1,597,000
Indiana-Knox: Aviation Facility	+3,050,000
Armory	+1,376,000
Iowa-Camp Dodge: STARC Armory and Motor Vehicle Storage Facility	+575,000
Access Road, Phase I	+3,200,000
Iowa-Corning: Armory	+1,008,000
Iowa-Council Bluffs: Armory and Organizational Maintenance Shop	+2,643,000
Iowa-Oskaloosa: Armory	+1,306,000
Louisiana-New Orleans: Armory	+3,628,000
Maryland-Laurel: Armory	+41,000

Mississippi-Durant: Add/Alter Armory	−780,000
Missouri-Jefferson City:	
Armory	+5,049,000
OMS	+942,000
USP&FO Warehouse	+2,800,000
Education Facility	+2,329,000
Support Maintenance Shop	+7,880,000
New Mexico—Albuquerque: Training Site	+1,549,000
New Mexico—Espanola: Armory	+1,600,000
New Mexico—Portales: Armory	+1,600,000
New Mexico—Rio Puerto:	
Armory	+3,400,000
OMS	+1,950,000
Utilities	+2,127,000
New Mexico—Santa Fe: OMS	+850,000
North Dakota—Fargo: Reserve Center	+7,700,000
Ohio—Muskingum County: Land Acquisition	−330,000
Pennsylvania—Fort Indiantown Gap: Combined Support Maintenance Shop	−2,790,000
South Carolina—Greenville:	
Armory	+2,500,000
Organizational Maintenance Shop	+1,800,000
Tennessee—Huntingdon: Armory	+1,319,000
Tennessee—Jackson: Armory Addition	+898,000
Tennessee—Lenoir City: Armory	+1,230,000
Texas—Camp Swift: Sealing Manholes	−600,000
Texas—Houston (Addicks): Armory and Organizational Maintenance Shop	+5,400,000
Utah—Camp Williams:	
Armory	+4,145,000
Aviation Support Facility	+6,952,000
Organizational Maintenance Shop	+799,000
Virginia—Emporia: Armory	−3,000
Virginia—Woodstock: Armory	+1,493,000
West Virginia—Charleston: Armory	+2,900,000
West Virginia—Kingwood: OMS	+1,100,000
West Virginia—Parkersburg: OMS	+900,000
West Virginia—Camp Dawson: Training Facilities, Phase IV	+2,500,000
Wisconsin—Beloit: Armory	+2,200,000
Wisconsin—Richland Center: Armory and Motor Vehicle Storage Building	+1,000,000
Wyoming—Camp Guernsey: Airfield Improvements	+2,947,000
Unspecified Worldwide Locations: Planning and Design	+9,000,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

California—Camp San Luis Obispo: Barracks	$9,140,000
Colorado—Watkins: Armory	2,441,000
Kansas—Salina: Training Site	0
Maryland—Fort Ritchie: Armory	1,800,000
Minnesota—Camp Ripley: Maintenance Facility Addition	6,108,000
Mississippi—Camp McCain:	
Tank Tables Nine and Eleven	600,000
Troop Issue Subsistence Activity	780,000
Ammunition Supply Point	500,000
Mississippi—Camp Shelby:	
Bachelor Officer Quarters (Phase III)	450,000
Ammunition Classification Building	280,000
Mississippi—Fulton: Add/Alter Dormitory	535,000
Mississippi—Starkville: Add/Alter Armory	975,000
North Carolina—Goldsboro:	
Armory	1,663,000
Organizational Maintenance Shop	394,000
Oklahoma—Camp Gruber: Water Treatment Plant	1,204,000
Pennsylvania—Butler: Armory	2,223,000
Pennsylvania—Norristown: Armory	3,028,000
Texas—Camp Bowie, Brownwood:	
Armory	2,142,000
Land Acquisition, Phase II	1,901,000
Texas—Camp Mabry: Armory	6,284,000
Texas—Dallas (Redbird): Add-Alter Armory	2,000,000
Texas—North Hood, Gatesville: Mobilization and Training Equipment Site Expansion	14,369,000
Texas—Waco:	
Add/Alter Armory	2,162,000
Expand Organizational Maintenance Shop	72,000
Texas—Wylie: Armory	2,227,000
Wisconsin—Madison: Armory	7,372,000
Wisconsin—Waukesha: Armory and Motor Vehicle Storage Building	1,341,000

North Carolina—Concord: Organizational Maintenance Shop.—The Committee is concerned about the quality of the maintenance facilities available to the 145th Transportation Company, North Carolina National Guard. This unit has an exceptional record and has now been deployed to Saudi Arabia to provide critical support in Operation Desert Shield. Unfortunately the current maintenance facility is outdated and badly in need of replacement. This unit provides valuable support for four units located in Concord and Salisbury, North Carolina. The Committee directs the Department to expedite the design for this maintenance facility so it can be considered for inclusion in the next budget cycle.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

Amendment No. 15

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$180,560,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $180,560,000 for Military Construction, Air National Guard, instead of $135,240,000 as proposed by the House and $146,369,000 as proposed by the Senate.

The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

Alaska—Kulis ANGB: Base Supply Warehouse	+$4,300,000
Florida—Camp Blanding: Vehicle Maintenance Complex	−300,000
Florida—Jacksonville: Add/Alter Vehicle Maintenance Facility	−700,000
Iowa—Des Moines: Upgrade Aircraft Hangar	+1,800,000
Iowa—Sioux City: Alter Composite Support Facility	+680,000
Kansas—Forbes Airport, Topeka: Utilities Upgrade	+1,140,000
Kentucky—Standiford Field, Louisville: Apron and Taxiway	+3,900,000
Maryland—Glenn L. Martin Airport, Baltimore: Utilities Removal	+3,700,000
Nevada—Reno IAP: Medical/Dining Facility	+3,400,000
North Dakota—Hector Field, Fargo: Jet Fuel Storage Complex	+3,500,000
West Virginia—Yeager Airport, Charleston: Operations and Training Facility	+12,100,000
Wisconsin—Volk Field, Camp Douglas: Apron and Taxiway	+4,100,000
Unspecified Worldwide Locations—Planning and Design	+7,700,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Colorado—Buckley ANGB: Operations and Training Facility	$4,150,000
Fire Station	1,800,000
Massachusetts—Barnes ANGB, Westfield: Jet Fuel Storage Complex	3,000,000
Minnesota Minneapolis-St. Paul IAP: Composite Support Facility	4,350,000
Mississippi—Allen C. Thompson Field, Jackson:	
Base Civil Engineering Facility	1,600,000
Medical Training and Security Police Facility	1,500,000
New York—Stratton ANGB, Scotia: Aeromedical Evacuation Facility	1,350,000
North Carolina—Douglas MAP, Charlotte: Composite Aircraft Maintenance Hangar	12,000,000
North Carolina—Stanly County Airport, Albemarle: Extend Runway	1,850,000

Ohio—Toledo Express Airport:	
Dining Hall/Medical Training Facility	3,100,000
Jet Fuel Storage Complex	3,550,000
Underground Fuel Storage	1,500,000
Pennsylvania—Greater Pittsburgh IAP: Access Road	5,000,000
Utah—West Jordan: Dining/Medical Training Facility	3,400,000
Deficiency Allowance	0

MILITARY CONSTRUCTION, ARMY RESERVE

Amendment No. 16

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$77,426,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $77,426,000 for Military Construction, Army Reserve, instead of $68,297,000 as proposed by the House and $75,226,000 as proposed by the Senate. The conferees agree to the following additions to the amounts and line items as proposed by the House:

West Virginia—Charleston: USARC/OMS	+$5,000,000
West Virginia—Various Locations: Land Acquisition	+1,829,000
Unspecified Worldwide Locations: Planning and Design	+2,300,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Ohio—Toledo: Army Reserve Center/Maintenance Facility	$7,300,000
Pennsylvania—Johnstown: Joint Aviation Facility	0
Deficiency Allowance	0

Pennsylvania—Johnstown: Joint Aviation Facility.—The conferees agree to provide $1,300,000 for design of a Joint Army Reserve/Marine Corps Reserve Aviation Facility, within the additional funds provided for planning and design. The conferees direct the Army Reserve and the Department to submit a budget request for construction funding in the earliest fiscal year in which the project will be executable.

MILITARY CONSTRUCTION, NAVAL RESERVE

Amendment No. 17

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$80,307,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $80,307,000 for Military Construction, Naval Reserve, instead of $63,300,000 as proposed by the House and $75,207,000 as proposed by the Senate. The conferees agree to the following additions to the amounts and line items as proposed by the House:

Illinois—Glenview NAS:	
Maintenance Facility	$+10,400,000
Transmitter/Receiver Building	+640,000
Vermont—Burlington: Reserve Center	+2,500,000
Unspecified Worldwide Locations: Planning and Design	+3,467,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Louisiana—Naval Air Station New Orleans: Aircraft Hangar (C-130)	$13,100,000
Deficiency Allowance	0

MILITARY CONSTRUCTION, AIR FORCE RESERVE

Amendment No. 18

Appropriates $38,600,000 for Military Construction, Air Force Reserve, instead of $37,700,000 as proposed by the House and $41,100,000 as proposed by the Senate. The conferees agree to the following addition to the amounts and line items as proposed by the House:

Unspecified Worldwide Locations: Planning and Design	$+900,000

The conferees agree to fund the other item in conference at the level proposed by the House, as shown below:

Deficiency Allowance	0

FAMILY HOUSING, ARMY

(Including Rescissions)

Amendment No. 19

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$74,300,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $74,300,000 for Construction, Family Housing, Army, instead of $61,800,000 as proposed by the House and $61,700,000 as proposed by the Senate.

The conferees agree to the following addition and reduction to the amounts and line items as proposed by the House:

Kansas—Fort Riley (250 units)	$+16,500,000
Construction Improvements	−4,000,000

Kansas—Fort Riley.—The conferees agree to provide $16,500,000 for construction of 250 new family housing units. The conferees also agree to a reduction of $4,000,000 for a budgeted construction improvement project, involving 104 existing units which are no longer required.

Amendment No. 20

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the sum stricken and inserted by said amendment, insert: *$1,538,267,000.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates a total of $1,538,267,000 for Family Housing, Army, instead of $1,525,767,000 as proposed by the House and $1,525,667,000 as proposed by the Senate. This sum is derived from the conference agreement on amendment No. 19.

FAMILY HOUSING, NAVY AND MARINE CORPS

(Including Rescission)

Amendment No. 21

Appropriates $174,917,000 for Construction, Family Housing, Navy and Marine Corps, instead of $185,000,000 as proposed by the House and $138,607,000 as proposed by the Senate.

The conferees agree to the following addition and deletions to the amounts and line items as proposed by the House:

California—Pacific Missile Test Center Point Mugu: Office	−$513,000
Nevada—Fallon NAS (80 units)	+$10,500,000
New York—Naval Station New York: 150 units	−19,692,000
Bermuda—Naval Air Station (Office)	−378,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

California—Marine Corps Base Camp Pendleton: (116 units)	$11,805,000
California—Naval Station Long Beach (300 units)	25,018,000

New York—Naval Station New York: Family Housing.—The conferees have deferred without prejudice funding of $19,692,000 because of lack of authorization. The conferees understand the need for such housing, and direct the Department to consider utilizing Section 802 authority (rental guarantee) if deemed appropriate. Otherwise, the Department is encouraged to request family housing construction funds in the fiscal year 1992 budget.

Amendment No. 22

Appropriates a total of $866,018,000 for Family Housing, Navy and Marine Corps, instead of $876,101,000 as proposed by the House and $829,708,000 as proposed by the Senate. This sum is derived from the conference agreement on amendment number 21.

FAMILY HOUSING, AIR FORCE

(Including Rescissions)

Amendment No. 23

Appropriates $162,957,000 for Construction Family Housing, Air Force, instead of $185,100,000 as proposed by the House and $138,988,000 as proposed by the Senate.

The conferees agree to the following addition and reduction to the amounts and line items as proposed by the House:

Nevada—Nellis AFB: 13 units	+$1,600,000
Construction Improvements	−23,743,000

The conferees agree to fund the other item in conference at the level proposed by the House, as shown below:

Texas—Kelly AFB (11 units)	$1,369,000

Nevada-Nellis AFB.—The conferees agree to funding of $1,600,000 for 13 units of housing at Nellis AFB. This funding is provided since it would be more cost-effective to build new units rather than repair existing units as requested in the budget.

Construction Improvements.—The conferees direct that the reduction in this account shall be taken at overseas locations and at Nellis AFB, and that the funds provided include $11,300,000 for Phase III of the construction improvement project at Eaker AFB, Arkansas which will accomplish improvements to 186 family housing units.

Amendment No. 24

Appropriates a total of $934,399,000 for Family Housing, Air Force, instead of $956,542,000 as proposed by the House and $910,430,000 as proposed by the Senate. This sum is derived from the conference agreement on amendment number 23.

BASE REALIGNMENT AND CLOSURE ACCOUNT

Amendment No. 25

Appropriates $998,100,000 for the Base Realignment and Closure Account as proposed by the House instead of $916,500,000 as proposed by the Senate.

Amendment No. 26

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken by said amendment, insert: *$100,000,000 of the*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 27

Restores "solely", which was stricken by the Senate.

In amendments numbered 26 and 27, the conferees have agreed to earmark $100,000,000 for environmental restoration, instead of $81,600,000 as proposed by the House and no specific amount as proposed by the Senate, in connection with base realignments and base closures. The conferees also note that these funds should not be considered the sole source of funding for environmental restoration since authority exists to utilize receipts from funds deposited in the Base Closure Account from land sales.

The conferees believe that environmental cleanup to facilitate expedited reutilization of land and facilities to be an important element to economic recovery in areas impacted by base closures. Therefore, the Secretary of Defense is directed to submit to the Appropriations Committees a report, by March 1, 1991, that describes how the Department plans to expedite environmental cleanup at closed bases.

GENERAL PROVISIONS

Amendment No. 28

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides authority for land conveyance at Fort Douglas, Utah.

Amendment No. 29

Deletes language proposed by the Senate which would have prohibited foreign government participation in public works projects under certain circumstances.

Amendment No. 30

Reported in disagreement.

Amendment No. 31

Reported in disagreement.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1991 recommended by the Committee of Conference, with comparisons to the fiscal year 1990 amount, the 1991 budget estimates, and the House and Senate bills for 1991 follow:

New budget (obligational) authority for the fiscal year 1990	$8,493,763,000
Budget estimates of new (obligational) authority, fiscal year 1991	9,125,978,000
House bill, fiscal year 1991	8,311,167,000
Senate bill, fiscal year 1991	7,979,291,000
Conference agreement, fiscal year 1991	8,362,171,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1990	−131,592,000
Budget estimates of new (obligational) authority, fiscal year 1991	−763,807,000
House bill, fiscal year 1991	+51,004,000
Senate bill, fiscal year 1991	+382,880,000

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
ALABAMA				
ARMY				
ANNISTON ARMY DEPOT				
AMMUNITION DEMIL MAINTENANCE FACILITY	10,200	10,200	10,200	10,200
AMMUNITION DEMILITARIZATION FACILITY (PHASE I)	54,300	4,900	4,900	4,900
REDSTONE ARSENAL				
PHYSICAL SCIENCES RESEARCH CENTER	14,400	14,400	14,400	14,400
FORT RUCKER				
FLIGHT SIMULATOR BUILDING	3,400	3,400	3,400	3,400
AIR FORCE				
GUNTER AFB				
ADD/ALTER SENIOR NCO ACADEMY	8,200	8,200	8,200	8,200
STUDENT DORMITORY	3,100	3,100	3,100	3,100
STUDENT DORMITORY	8,800	8,800	8,800	8,800
MAXWELL AFB				
ALTER STUDENT DORMITORIES	2,750	2,750	2,750	2,750
COMMUNICATIONS GROUP COMPLEX	5,300	5,300	5,300	5,300
JUDGE ADVOCATE GENERAL ACADEMIC FACILITY	7,700	7,700	7,700	7,700
SECURITY POLICE OPERATIONS FACILITY	1,750	1,750	1,750	1,750
STUDENT DORMITORY	5,000	5,000	5,000	5,000
DEFENSE AGENCIES				
DEF REUTIL AND MKTG OFC ANNISTON				
OPERATIONS FACILITY/OPEN STORAGE	2,370	2,370	2,370	2,370
ARMY NATIONAL GUARD				
BREWTON				
ARMORY	---	---	903	903
MARION				
ARMORY	---	---	764	764
SELMA				
ARMORY	1,447	1,447	1,447	1,447
ORGANIZATIONAL MAINTENANCE SHOP	587	587	587	587
AIR NATIONAL GUARD				
BIRMINGHAM MAP				
UPGRADE TAXIWAY	520	520	520	520
ARMY RESERVE				
MOBILE				
ARMY RESERVE CENTER W/MAINTENANCE FACILITY	3,188	3,188	3,188	3,188
AIR FORCE RESERVE				
MAXWELL AFB				
SURVIVAL EQUIPMENT/LIFE SUPPORT SHOP	1,025	1,025	1,025	1,025
TOTAL, ALABAMA	134,037	84,637	86,304	86,304
ALASKA				
ARMY				
FT J M WAINWRIGHT				
CONSOLIDATED FUEL FACILITY	2,300	2,300	2,300	2,300
ELEMENTARY SCHOOL	---	---	8,300	8,300
UTILITIES EXPANSION	3,300	3,300	3,300	3,300
NAVY				
ADAK NAVAL AIR STATION				
SOLID WASTE DISPOSAL FACILITY	4,250	4,250	4,250	4,250
ADAK NAVAL SECURITY GROUP ACTIVITY				
OPERATIONS BUILDING ADDITION	3,000	3,000	3,000	3,000
AMCHITKA ISLAND FLEET SURVEILLANCE SPT CMD				
ELECTRONIC INSTALLATION	31,000	10,000	31,000	31,000
AIR FORCE				
CLEAR AFS				
ALTER DORMITORY (PHASE II)	5,000	5,000	5,000	5,000
EIELSON AFB				
UPGRADE SEWAGE TREATMENT PLANT	12,400	12,400	12,400	12,400
ELMENDORF AFB				
DORMITORY	---	---	8,900	8,900
GALENA AIRPORT				
VEHICLE MAINTENANCE FACILITY	8,700	8,700	8,700	8,700
KING SALMON AFB				
VEHICLE REFUELING SHOP	2,500	2,500	2,500	2,500
SHEMYA AFB				
ADD/UPGRADE BASE ENGINEER COMPLEX	6,300	6,300	6,300	6,300
ALTER DORMITORY	7,800	7,800	7,800	7,800
BASE ENGINEER MAINTENANCE SHOP	3,700	3,700	3,700	3,700
FLIGHTLINE ACCESS ROAD	2,400	2,400	2,400	2,400
RENOVATE SUPPORT FACILITY	15,400	15,400	15,400	15,400
SEWAGE TREATMENT PLANT	2,700	2,700	2,700	2,700
UPGRADE BASE ROADS	1,400	1,400	1,400	1,400
VEHICLE MAINTENANCE FACILITY	7,700	7,700	7,700	7,700
VARIOUS LOCATIONS-ALASKA				
OTH-B-NONTECHNICAL SUPPORT FACILITIES	11,000	11,000	11,000	11,000
ARMY NATIONAL GUARD				
AKIACHAK				
SCOUT ARMORY	275	275	275	275
ANCHORAGE				
TRNG SITE LATRINE	866	866	866	866

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
GOLOVIN				
SCOUT ARMORY	275	275	275	275
KASIGLUK				
SCOUT ARMORY	275	275	275	275
AIR NATIONAL GUARD				
KULIS ANGB				
FIRE SUPPRESSION SYSTEM	4,000	4,000	4,000	4,000
BASE SUPPLY WAREHOUSE	---	---	4,300	4,300
TOTAL, ALASKA	136,541	115,541	158,041	158,041
ARIZONA				
ARMY				
FORT HUACHUCA				
FIRE STATION	1,050	1,050	1,050	1,050
NAVY				
YUMA MARINE CORPS AIR STATION				
AVIATION SUPPLY WAREHOUSE	3,720	3,720	3,720	3,720
AIR FORCE				
LUKE AFB				
LAND ACQUISITION	1,800	1,800	---	---
WILLIAMS AFB				
ADD TO AND ALTER FLIGHT SIMULATOR	400	400	400	400
AUXILIARY FIELD/LAND ACQUISITION	5,500	5,500	---	---
BASE ENGINEER COMPLEX	2,350	2,350	2,350	2,350
SPECIALIZED UPT MAINT AND OPS SUPPORT	900	900	900	900
ARMY NATIONAL GUARD				
BELLEMONT				
CONSOLIDATED TRAINING SITE	---	---	6,522	6,522
MARANA				
APACHE SIMULATOR FACILITY	---	---	4,554	4,554
PHOENIX				
UNITED STATES PROPERTY & FISCAL OFFICE	1,994	1,994	1,994	1,994
UNITED STATES PROPERTY & FISCAL WAREHOUSE	1,605	1,605	1,605	1,605
AIR NATIONAL GUARD				
TUCSON IAP				
ADD TO AIRCRAFT PARKING APRON	2,300	2,300	2,300	2,300
FIRE STATION	1,200	1,200	1,200	1,200
AIR FORCE RESERVE				
DAVIS-MONTHAN AFB				
CIVIL ENGINEERING TRAINING FACILITY	900	900	900	900
TOTAL, ARIZONA	23,719	23,719	27,495	27,495
ARKANSAS				
ARMY				
PINE BLUFF ARSENAL				
DETECTION PAPER FACILITY	1,600	1,600	1,600	1,600
AIR FORCE				
LITTLE ROCK AFB				
PERSONNEL PROCESSING CENTER	---	---	5,300	5,300
ARMY NATIONAL GUARD				
CAMP ROBINSON				
BATTALION SUPPORT COMPLEX	---	---	4,025	4,025
DORMITORY	---	---	6,950	6,950
AIR NATIONAL GUARD				
LITTLE ROCK AFB				
COMPOSITE TRAINING FACILITY	950	950	950	950
FT SMITH MAP				
ADD TO AND ALTER FIRE STATION	530	530	530	530
TAXIWAY	400	400	400	400
ARMY RESERVE				
FORT CHAFFEE				
REGIONAL TRAINING SITE-MAINTENANCE FACILITY	2,651	2,651	2,651	2,651
TOTAL, ARKANSAS	6,131	6,131	22,406	22,406
CALIFORNIA				
ARMY				
FT IRWIN				
HARDSTAND/TACTICAL EQUIPMENT SHOP	4,200	4,200	4,200	4,200
FORT ORD				
WATER DISTRIBUTION SYSTEM (PHASE I)	7,400	7,400	---	7,400
NAVY				
BRIDGEPORT MARINE BASE				
SAFETY/MODERNIZATION	---	---	11,300	---
CAMP PENDLETON AMPHIBIOUS TASK FORCE				
LANDING CRAFT AIR CUSHION SUPPORT COMPLEX	8,470	8,470	8,470	8,470
CAMP PENDLETON MARINE CORPS AIR STATION				
CONSTRUCTION & WEIGHT HANDLING EQUIP SHOP	4,110	4,110	4,110	4,110
CAMP PENDLETON MARINE CORPS BASE				
ELECTRONICS COMMUNICATIONS MAINT SHOP	5,330	5,330	5,330	5,330

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
MESS HALL	3,720	3,720	3,720	3,720
MILITARY OPERATIONS IN URBANIZED TERRAIN	10,860	10,860	10,860	10,860
CHINA LAKE NAVAL WEAPONS CENTER				
ADVANCED WEAPONS LABORATORY	17,585	17,585	17,585	17,585
CONCORD NAVAL WEAPONS STATION				
RAILROAD/VEHICULAR BRIDGE	9,850	9,850	9,850	---
CORONA NAVAL WEAPONS STA SEAL BEACH ANNEX				
WEAPONS TEST AND EVALUATION FACILITY	8,870	8,870	8,870	8,870
EL TORO MARINE CORPS AIR STATION				
DATA PROCESSING CENTER	3,970	3,970	3,970	3,970
HAZARDOUS AND FLAMMABLE STOREHOUSES	3,010	3,010	3,010	3,010
LEMOORE NAVAL AIR STATION				
WEAPONS SCHOOL ADDITION	900	900	900	900
LONG BEACH NAVAL SHIPYARD				
ASBESTOS REMOVAL SHOP	500	500	---	---
LONG BEACH NAVAL STATION				
WHARF UTILITIES UPGRADE	3,520	3,520	3,520	3,520
MIRAMAR NAVAL AIR STATION				
CHILD DEVELOPMENT CENTER	---	2,300	---	2,300
TACTICAL AIRCREW COMBAT TRAINING FACILITY	---	1,250	---	1,250
TOPGUN ACADEMIC FACILITY	4,040	4,040	4,040	4,040
WEAPONS SCHOOL ADDITION	1,420	1,420	1,420	1,420
MONTEREY FLEET NUMERICAL OCEANOGRAPHY CTR				
COMPUTER CENTER	---	6,010	6,440	6,010
MONTEREY NAVAL POSTGRADUATE SCHOOL				
LECTURE HALL ADDITION & SEISMIC UPGRADE	2,190	2,190	2,190	2,190
PUBLIC WORKS COMPLEX	6,620	6,620	6,620	6,620
NORTH ISLAND NAVAL AIR STATION				
HIGH EXPLOSIVE MAGAZINES	1,510	1,510	1,510	1,510
POINT MUGU PACIFIC MISSILE TEST CENTER				
SECURITY IMPROVEMENTS	2,070	2,070	2,070	2,070
PORT HUEMEME NAVAL SHIP WPN SYS ENGR STA				
WEAPON SYSTEMS INTEGRATION LABORATORY	10,150	10,150	10,150	10,150
PORT HUENEME NAVAL CONSTRUC BATTALION CTR				
ELECTRICAL DISTRIBUTION SYSTEM IMPROVEMENTS	2,010	2,010	2,010	2,010
SAN DIEGO FLEET ANTI-SUB WAR TRNG CTR PAC				
BACHELOR ENLISTED QUARTERS	8,950	8,950	8,950	8,950
SAN DIEGO NAVAL OCEAN SYSTEMS CENTER				
COMBINED RESEARCH LABORATORY	11,760	11,760	11,760	11,760
SAN DIEGO NAVAL SUBMARINE BASE				
CHILD DEVELOPMENT CENTER	---	4,130	---	4,130
OILY WASTE SYSTEM	540	540	540	540
SAN DIEGO NAVAL SUPPLY CENTER				
COLD STORAGE WAREHOUSE	8,800	8,800	8,800	8,800
SAN DIEGO NAVAL TRAINING CENTER				
BARRACKS	5,630	5,630	5,630	5,630
RECRUIT SUPPORT CENTER AND CHAPEL	5,779	5,779	5,779	5,779
SMALL ARMS RANGE	3,820	3,820	3,820	3,820
SAN DIEGO NAVY PUBLIC WORKS CENTER				
STEAM DISTRIBUTION SYSTEM IMPROVEMENTS	3,320	3,320	3,320	3,320
SKAGGS ISLAND NAVAL SECURITY GROUP ACT				
POTABLE WATER SYSTEM	1,472	1,472	1,472	---
TWENTYNINE PALMS MARCORP AIR-GRND COMB CTR				
FIELD MAINTENANCE SHOP	3,620	3,620	3,620	3,620
INDUSTRIAL WASTEWATER TREATMENT FACILITIES	2,600	2,600	2,600	2,600
POTABLE WATER STORAGE TANK	4,600	4,600	4,600	4,600
AIR FORCE				
BEALE AFB				
DORMITORY	6,300	6,300	6,300	6,300
CASTLE AFB				
COMBAT CREW TRAINING SCHOOL	---	3,000	---	3,000
SECURITY POLICE OPERATIONS FACILITY	3,000	3,000	3,000	3,000
STANDARDIZATION EVALUATION CENTER	---	2,200	---	2,200
STRATEGIC COMMAND CENTER	---	5,000	---	---
EDWARDS AFB				
CORROSION CONTROL FACILITY	---	7,000	---	6,500
JET ENGINE MAINTENANCE FACILITY	11,600	11,600	11,600	11,600
RENOVATE FLIGHT TEST AUDIOVISUAL SPT FACILITY	5,500	5,500	5,500	5,500
MARCH AFB				
TROOP SUBSISTENCE WAREHOUSE	1,050	1,050	1,050	1,050
MCCLELLAN AFB				
ADD TO AND ALTER DEPOT CORROSION CTRL COMPLEX	11,200	11,200	11,200	11,200
SIERRA DEPOT				
STUDENT DORMITORY	3,650	3,650	3,650	3,650
TRAVIS AFB				
ALTER CONSOLIDATED SUPPORT CTR (PHASE II)	5,800	5,800	5,800	5,800
DINING HALL	5,000	5,000	5,000	5,000
VANDENBERG AFB				
LAND ACQUISITION (PHASE I)	10,000	10,000	10,000	10,000
TITAN IV LAUNCH COMPLEX (PHASE I)	19,200	19,200	19,200	19,200
DEFENSE AGENCIES				
CAMP PENDLETON MARINE CORPS BASE				
HOSPITAL FIRE PROTECTION	1,750	1,750	1,750	1,750
CORONADO NAVAL AMPHIBIOUS BASE				
DESERT OPERATIONS FACILITY	7,680	7,680	7,680	7,680

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
MARITIME TRAINING FACILITY	4,900	4,900	4,900	4,900
WATERFRONT MAINTENANCE AND OPERATIONS FACILITY	8,440	8,440	8,440	8,440
DEFENSE DEPOT TRACY				
CONSOLIDATED MAINTENANCE FACILITY	1,700	1,700	1,700	1,700
DEFENSE LANGUAGE INSTITUTE - MONTEREY				
AUDIO/VISUAL INSTRUCTIONAL MEDIA CENTER	2,322	2,322	2,322	2,322
OUTDOOR ATHLETIC FACILITIES	2,168	---	---	---
PRINT PLANT	1,860	1,860	1,860	1,860
ARMY NATIONAL GUARD				
CAMP SAN LUIS OBISPO				
BARRACKS	---	9,140	---	9,140
AIR NATIONAL GUARD				
FRESNO ANGB				
FIRE STATION	1,300	1,300	1,300	1,300
MUNITIONS IGLOOS	2,600	2,600	2,600	2,600
NAVY RESERVE				
MCRC CAMP PENDLETON				
AIRCRAFT MAINTENANCE HANGAR	8,100	8,100	8,100	8,100
NAR MIRAMAR				
AIRCRAFT START SYSTEM	1,440	1,440	1,440	1,440
NMCRC SAN DIEGO				
AIRCRAFT PARKING APRON	3,950	3,950	3,950	3,950
TOTAL, CALIFORNIA	313,706	351,568	321,378	334,246
COLORADO				
ARMY				
FORT CARSON				
AVIATION UNIT MAINTENANCE HANGAR	11,400	11,400	11,400	11,400
TACTICAL EQUIPMENT SHOP	6,500	6,500	6,500	6,500
TANK GUNNERY RANGE UPGRADE	5,600	5,600	5,600	5,600
FALCON AFS				
SATELLITE CONTROL CERTIFICATION FACILITY	1,450	1,450	1,450	1,450
AIR FORCE				
FALCON AFS				
MILSTAR COMMUNICATIONS GROUND TERMINAL	710	710	---	710
LOWRY AFB				
CHILD DEVELOPMENT CENTER	---	4,550	---	4,550
PETERSON AFB				
ADD TO AND ALTER DORMITORY (PHASE I)	2,700	2,700	2,700	2,700
MILSTAR COMMUNICATIONS GROUND TERMINAL	1,350	1,350	---	1,350
PHYSICAL FITNESS CENTER	---	---	3,800	3,800
AIR FORCE ACADEMY, COLORADO SPRINGS				
CONSOLIDATED EDUCATION AND TRNG FAC (PHASE I)	---	15,000	---	15,000
ARMY NATIONAL GUARD				
WATKINS				
ARMORY	---	2,441	---	2,441
AIR NATIONAL GUARD				
BUCKLEY ANGB				
OPERATIONS AND TRAINING FACILITY	---	4,150	---	4,150
FIRE STATION	---	1,800	---	1,800
AIR FORCE RESERVE				
LOWRY AFB				
CIVIL ENGINEERING TRAINING FACILITY	900	900	900	900
TOTAL, COLORADO	30,610	58,551	32,350	62,351
CONNECTICUT				
NAVY				
NEW LONDON NAVAL SUBMARINE BASE				
BACHELOR OFFICER QUARTERS MODERNIZATION	5,000	5,000	5,000	5,000
QUAYWALL REPLACEMENT	9,150	9,150	9,150	9,150
THAMES RIVER DREDGING	8,350	8,350	8,350	8,350
NEW LONDON NAVAL SUBMARINE SCHOOL				
OPERATIONAL TRAINER FACILITY	18,990	18,990	18,990	18,990
ARMY NATIONAL GUARD				
CAMP O'NEILL				
TRAINING FACILITIES (PHASE II)	---	2,900	2,900	2,900
AIR NATIONAL GUARD				
EAST GRANBY				
COMPOSITE SUPPORT FACILITY	---	1,900	1,900	1,900
TOTAL, CONNECTICUT	41,490	46,290	46,290	46,290
DISTRICT OF COLUMBIA				
NAVY				
COMMANDANT NAVAL DISTRICT WASHINGTON				
WASHINGTON NAVAL RESEARCH LABORATORY				
ELECTRO-OPTICS RESEARCH LABORATORY	9,850	9,850	9,850	9,850
DEFENSE AGENCIES				
WALTER REED ARMY MEDICAL CENTER				

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
MAGNETIC RESONANCE IMAGING FACILITY	4,000	4,000	4,000	4,000
TOTAL, DISTRICT OF COLUMBIA	13,850	13,850	13,850	13,850
FLORIDA				
NAVY				
JACKSONVILLE NAVAL AIR STATION				
ANTI-SUBMARINE WARFARE TRAINING FACILITY	2,810	2,810	2,810	2,810
WASTEWATER SYSTEM IMPROVEMENTS	6,330	6,330	6,330	6,330
JACKSONVILLE NAVAL AVIATION DEPOT				
INDUSTRIAL WASTEWATER TREATMENT FACILITIES	14,670	14,670	14,670	14,670
KEY WEST NAVAL AIR STATION				
CARIBBEAN REGIONAL OPERATIONS CENTER	4,020	4,020	4,020	4,020
EXPLOSIVE ORD DISPOSAL MOBILE UNIT FACILITY	3,010	3,010	3,010	3,010
MAYPORT FLEET TRAINING CENTER				
FIRE FIGHTING TRAINING FACILITY	4,300	4,300	4,300	4,300
MAYPORT NAVAL STATION				
POTABLE WATER SYSTEM IMPROVEMENTS	4,950	4,950	4,950	4,950
ORLANDO NAVAL TRAINING CENTER				
BARRACKS	10,960	10,960	10,960	10,960
MESS HALL	7,070	7,070	---	---
PANAMA CITY NAVAL COASTAL SYSTEMS CENTER				
COMPUTATION AND ANALYSIS LABORATORY ADDN	4,330	4,330	4,330	4,330
PENSACOLA NAVY PUBLIC WORKS CENTER				
WATER AND SEWER PIPELINE SEPARATION	3,460	3,460	3,460	3,460
AIR FORCE				
AVON PARK RANGE				
DORMITORY	700	700	700	700
CAPE CANAVERAL AFS				
CHEMICAL TESTING LABORATORY	2,400	2,400	2,400	2,400
LEASE ACQUISITION	---	---	2,953	2,953
EGLIN AFB				
AIRCRAFT PARTS WAREHOUSE	2,800	2,800	2,800	2,800
MISSILE MAINTENANCE FACILITY	1,900	1,900	1,900	1,900
HOMESTEAD AFB				
ALTER DORMITORIES	5,500	5,500	5,500	5,500
JET FUEL STORAGE	2,400	2,400	2,400	2,400
MACDILL AFB				
ADD TO USCENTCOM HEADQUARTERS	3,350	3,350	3,350	3,350
UPGRADE RUNWAY	8,900	8,900	8,900	8,900
DEFENSE AGENCIES				
DEF REUTIL AND MARKTNG OFC EGLIN AFB				
COVERED STORAGE	2,850	2,850	2,850	2,850
EGLIN AFB				
AERIAL DELIVERY FACILITY	3,500	3,500	3,500	3,500
IMPROVE BASE ROADS	1,500	1,500	1,500	1,500
MOBILITY CENTER	3,550	3,550	3,550	3,550
PHYSICAL FITNESS CENTER	3,200	3,200	3,200	3,200
MACDILL AIR FORCE BASE				
HOSPITAL LIFE SAFETY UPGRADE	2,900	2,900	2,900	2,900
ARMY NATIONAL GUARD				
BROOKSVILLE				
ARMORY	858	858	858	858
CAMP BLANDING				
AVIATION FUEL FACILITY	---	275	---	---
LIGHT ANTI-ARMOR WEAPON RANGE	---	550	---	---
MOUT ASSAULT COURSE RANGE	---	954	---	---
MOUT RANGE	---	2,600	---	---
LAKELAND				
ARMORY AND AVIATION SUPPORT FACILITY	---	5,153	---	---
VERO BEACH				
WEEKEND TRAINING SITE	---	5,300	---	---
TALLAHASSEE				
ARMORY ADDITION	721	1,200	1,200	1,200
AIR NATIONAL GUARD				
CAMP BLANDING				
BASE SUPPLIES AND EQUIPMENT WAREHOUSE	1,100	1,100	1,100	1,100
CIVIL ENGINEERING MAINTENANCE FACILITY	---	1,500	1,500	1,500
CIVIL ENGINEERING HEAVY EQUIPMENT SHOP	---	1,000	1,000	1,000
COMPOSITE GNRL SUPPORT AND TRNG FACILITY	1,800	1,800	1,800	1,800
VEHICLE MAINTENANCE COMPLEX	---	1,300	1,000	1,000
JACKSONVILLE				
ADD/ALTER VEHICLE MAINTENANCE FACILITY	---	700	---	---
AIR FORCE RESERVE				
EGLIN AUX FIELD 3				
MEDICAL TRAINING FACILITY	1,600	1,600	1,600	1,600
HOMESTEAD AFB				
ADD FIRE PROTECTION-AIRCRAFT HANGAR	2,400	2,400	2,400	2,400
TOTAL, FLORIDA	119,839	139,650	119,701	119,701

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
GEORGIA				
ARMY				
FORT BENNING				
INDOOR FIRING RANGE	2,930	2,930	2,930	2,930
RECREATION CENTER	3,000	3,000	3,000	3,000
TACTICAL EQUIPMENT SHOP	4,950	4,950	4,950	4,950
FORT GORDON				
SOLDIER SERVICE CENTER	---	---	10,600	10,600
FT STEWART/HUNTER AAF				
CHILD DEVELOPMENT CENTER	1,650	1,650	1,650	1,650
NAVY				
ALBANY MARINE CORPS LOGISTICS BASE				
INDUSTRIAL WASTE TREATMENT PLANT IMPROVEMENTS	1,360	1,360	1,360	1,360
KINGS BAY NAVAL SUBMARINE BASE				
BACHELOR ENLISTED QUARTERS	7,230	7,230	7,230	7,230
COMMUNITY IMPACT ASSISTANCE	---	10,800	10,278	10,800
EXPLOSIVES HANDLING WHARF	56,615	56,615	56,615	56,615
SMALL ORDNANCE MAGAZINE	620	620	620	620
TRIDENT TRAINING FACILITY ADDITION	2,210	2,210	2,210	2,210
AIR FORCE				
MOODY AFB				
ALTER DORMITORIES	4,400	4,400	4,400	4,400
ROBINS AFB				
ADD TO/ALTER INTEGRATION SUPPORT FACILITY	8,300	8,300	8,300	8,300
ADVANCED MICROELECTRONICS FACILITY	9,400	9,400	9,400	9,400
COMBAT COMM EQUIPMENT MAINT FACILITY	3,500	3,500	3,500	3,500
DEFENSE AGENCIES				
FORT BENNING				
TROOP MEDICAL CLINIC REPLACEMENT	2,000	2,000	2,000	2,000
ELEMENTARY SCHOOL REPLACEMENT	---	7,900	7,900	7,900
ADD/ALTER ELEMENTARY SCHOOL	---	---	1,500	1,500
FORT STEWART/HUNTER AAF				
SPECIAL OPERATIONS FORCES HEADQUARTERS	1,900	1,900	1,900	1,900
TACTICAL EQUIPMENT SHOP	3,000	3,000	3,000	3,000
AIR NATIONAL GUARD				
HUNTER ANG SITE				
MOBILITY STORAGE WAREHOUSE	325	325	325	325
ARMY RESERVE				
FORT GORDON				
ARMY RESERVE CENTER	9,534	9,534	9,534	9,534
NAVY RESERVE				
NAS ATLANTA				
AVIONICS SHOP	2,800	2,800	2,800	2,800
AIR FORCE RESERVE				
DOBBINS AFB				
READINESS ADDITION-14TH AF HEADQUARTERS	2,900	2,900	2,900	2,900
TOTAL, GEORGIA	128,624	147,324	158,902	159,424
HAWAII				
ARMY				
SCHOFIELD BARRACKS				
ARMY CONTINUING EDUCATION CENTER	9,700	9,700	9,700	9,700
FORT SHAFTER				
ACCESS ROADS	7,400	7,400	7,400	7,400
NAVY				
BARBERS POINT NAVAL AIRS STATION				
KANEOHE BAY MARINE CORPS AIR STATION				
AIRCRAFT RINSE FACILITY	1,650	1,650	1,650	1,650
LUALUALEI NAVAL MAGAZINE				
ELECTRICAL DISTRIBUTION LINES RELOCATION	1,660	1,660	1,660	1,660
PEARL HARBOR COM OCEANOGRAPHIC SYS PACIFIC				
SURTASS SUPPORT CENTER	12,780	12,780	12,780	12,780
PEARL HARBOR NAVAL SUBMARINE BASE				
ELECTRICAL DISTRIBUTION SYSTEM IMPROVEMENTS	2,010	2,010	2,010	2,010
PEARL HARBOR NAVY PUBLIC WORKS CENTER				
AUTOMOTIVE VEHICLE MAINTENANCE SHOP	6,940	6,940	6,940	6,940
AIR FORCE				
HICKAM AFB				
ADD TO CHILD DEVELOPMENT CENTER	770	770	770	770
DORMITORY	6,100	6,100	6,100	6,100
FIRE PROTECTION-MAINTENANCE FACILITY	2,250	2,250	2,250	2,250
POL OPERATIONS FACILITY	1,000	1,000	1,000	1,000
VEHICLE OPERATIONS/MAINTENANCE FACILITY	1,300	1,300	1,300	1,300
WHEELER AFB				
ADD TO AND ALTER GROUP OPERATIONS FACILITY	2,100	2,100	2,100	2,100
COMBAT ARMS TRAINING AND MAINTENANCE FACILITY	1,400	1,400	1,400	1,400
DEFENSE AGENCIES				
BARKING SANDS				
EDX LAUNCH COMPLEX	3,870	3,870	3,870	3,870
TRIPLER ARMY MEDICAL CENTER				
ALTER FAMILY MEDICAL CENTER	---	---	2,200	2,200
WHEELER AFB				

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
DCA-PAC COMMUNICATIONS CENTER EXPANSION	1,491	1,491	1,491	1,491
ARMY NATIONAL GUARD				
WAHIAWA				
ARMORY ADDITION	4,347	4,347	4,347	4,347
ARMY RESERVE				
FORT SHAFTER				
ADDITION TO WAREHOUSE	1,300	1,300	1,300	1,300
AIR FORCE RESERVE				
HICKAM AFB				
AERIAL PORT TRAINING FACILITY	1,200	1,200	1,200	1,200
TOTAL, HAWAII	69,268	69,268	71,468	71,468
IDAHO				
AIR FORCE				
MOUNTAIN HOME AFB				
ADD TO AND ALTER SQUADRON OPS FACILITY	1,350	1,350	1,350	1,350
ARMY RESERVE				
BOISE				
ARMY RESERVE CENTER W/MAINTENANCE FACILITY	7,227	7,227	7,227	7,227
TOTAL, IDAHO	8,577	8,577	8,577	8,577
ILLINOIS				
NAVY				
GREAT LAKES NAVAL TRAINING CENTER				
FIREMAN APPRENTICE TRAINING SCHOOL	2,170	2,170	2,170	2,170
GREAT LAKES PUBLIC WORKS CENTER				
ELECTRICAL DISTRIBUTION SYS IMPROVEMENTS	1,760	1,760	1,760	1,760
STORM SEWER SYSTEM IMPROVEMENTS	700	700	700	700
AIR FORCE				
SCOTT AFB				
CHILD DEVELOPMENT CENTER	2,160	2,160	2,160	2,160
DORMITORY	---	---	7,900	7,900
ARMY NATIONAL GUARD				
WOODSTOCK				
ARMORY	---	---	1,597	1,597
AIR NATIONAL GUARD				
CAPITAL MAP, SPRINGFIELD				
SPECIAL FUEL FACILITY	300	300	300	300
GREATER PEORIA AIRPORT				
FIRE STATION	1,100	1,100	1,100	1,100
FUEL SYSTEMS MAINT/CORROSION CNTRL FACILITY	2,000	2,000	2,000	2,000
NAVY RESERVE				
NMCRC PEORIA				
RESERVE CENTER ADDITION	800	800	800	800
NMCRC ROCK ISLAND				
RESERVE CENTER ADDITION	3,200	3,200	3,200	3,200
AIR FORCE RESERVE				
CHICAGO-OHARE IAP				
SECURITY POLICE OPERATIONS FACILITY	1,080	1,080	1,080	1,080
NAVY RESERVE				
GLENVIEW NAS				
MAINTENANCE FACILITY	---	---	10,400	10,400
TRANSMITTER/RECEIVER BUILDING	---	---	640	640
TOTAL, ILLINOIS	15,270	15,270	35,807	35,807
INDIANA				
ARMY				
FORT BENJAMIN HARRISON				
FIRE STATION	1,300	1,300	1,300	1,300
LEARNING RESEARCH CENTER	4,300	4,300	4,300	4,300
NAVY				
CRANE NAVAL WEAPONS SUPPORT CENTER				
ELECTRONICS COMMUNICATIONS MAINT SHOP	7,700	7,700	7,700	7,700
MECHANIZED MATERIALS MANAGEMENT FACILITY	4,170	4,170	4,170	4,170
TEST AND EVALUATION FACILITY	1,650	1,650	1,650	1,650
AIR FORCE				
GRISSOM AFB				
RENOVATE DORMITORY	---	2,500	---	2,500
CHILD DEVELOPMENT CENTER	---	---	2,000	2,000
ARMY NATIONAL GUARD				
CAMP ATTERBURY				
RANGE, MODIFIED RECORD FIRE (RETS)	1,100	1,100	1,100	1,100
KNOX				
AVIATION FACILITY	---	---	3,050	3,050
ARMORY	---	---	1,376	1,376
AIR NATIONAL GUARD				
HULMAN FIELD, TERRE HAUTE				
PETROLEUM OPERATIONS AND LABORATORY	350	350	350	350
FT WAYNE MAP				
SMALL ARMS RANGE	400	400	400	400

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
ARMY RESERVE				
SOUTH BEND				
RESERVE CENTER RENOVATION AND IMPROVEMENT	---	397	397	397
NAVY RESERVE				
NRC TERRE HAUTE				
RESERVE CENTER ADDITION	620	620	620	620
TOTAL, INDIANA	21,590	24,487	28,413	30,913
IOWA				
ARMY NATIONAL GUARD				
CAMP DODGE				
STARC ARMORY AND MOTOR VEHICLE STORAGE FACILITY	---	9,398	9,973	9,973
ACCESS ROAD, PHASE I	---	---	3,200	3,200
CORNING				
ARMORY	---	---	1,008	1,008
COUNCIL BLUFFS				
ARMORY AND ORGANIZATIONAL MAINTENANCE SHOP	---	---	2,643	2,643
DENISON				
ARMORY	989	989	989	989
OSKALOOSA				
ARMORY	---	---	1,306	1,306
AIR NATIONAL GUARD				
DES MOINES				
UPGRADE AIRCRAFT HANGAR	---	---	1,800	1,800
SIOUX CITY				
ALTER COMPOSITE SUPPORT FACILITY	---	---	680	680
TOTAL, IOWA	989	10,387	21,599	21,599
KANSAS				
ARMY				
FORT LEAVENWORTH				
GENERAL INSTRUCTION BUILDING	34,000	34,000	34,000	34,000
FORT RILEY				
MULTI-PURPOSE MACHINE GUN RANGE	2,700	2,700	2,700	2,700
TACTICAL EQUIPMENT SHOP	12,200	12,200	12,200	12,200
AIR FORCE				
MCCONNELL AFB				
DORMITORY	---	9,750	9,100	9,100
CONSOLIDATED EDUCATION CENTER	---	3,600	---	---
DEFENSE AGENCIES				
FORT RILEY				
TROOP MEDICAL CLINIC REPLACEMENT	1,050	1,050	1,050	1,050
ARMY NATIONAL GUARD				
IOLA				
ORGANIZATIONAL MAINTENANCE SHOP ADD/ALTER	399	399	399	399
NICKELL BARRACKS				
REGIONAL TRAINING SITE-MAINTENANCE FACILITY	1,667	1,667	1,667	1,667
SALINA				
TRAINING SITE	---	---	1,667	---
AIR NATIONAL GUARD				
FORBES AIRPORT, TOPEKA				
UTILITIES UPGRADE	---	---	1,140	1,140
AIR FORCE RESERVE				
MCCONNELL AFB				
CIVIL ENGINEERING TRAINING FACILITY	1,000	1,000	1,000	1,000
TOTAL, KANSAS	53,016	66,366	64,923	63,256
KENTUCKY				
ARMY				
FORT CAMPBELL				
MACHINE GUN TRANSITION RANGE	1,050	1,050	1,050	1,050
MODIFIED RECORD FIRE RANGE	1,250	1,250	1,250	1,250
FORT KNOX				
AUTOMATED RECORD FIRE RANGE	2,800	2,800	2,800	2,800
MULTI-PURPOSE RANGE COMPLEX - HEAVY	22,600	22,600	22,600	22,600
NAVY				
LOUISVILLE NAVAL ORDNANCE STATION				
PHALANX SHOP MODERNIZATION	5,660	5,660	---	5,660
AIR NATIONAL GUARD				
STANDIFORD FIELD, LOUISVILLE				
APRON & TAXIWAY	---	---	3,900	3,900
TOTAL, KENTUCKY	33,360	33,360	31,600	37,260
LOUISIANA				
ARMY				
FORT POLK				
MAINTENANCE COMPLEX	---	---	22,000	22,000
AIR FORCE				
BARKSDALE AFB				

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
ALTER EXPLOSIVE CARGO PAD ACCESS TAXIWAY	1,600	1,600	1,600	1,600
MUNITIONS SUPPORT EQUIPMENT STORAGE FACILITY	630	630	630	630
PEACEKEEPER-ADD TO COMMUNICATIONS FACILITY	730	---	---	---
PEACEKEEPER-ADD/ALTER INTEG MAINT FACILITY	2,150	---	---	---
PEACEKEEPER-GARRISON FACILITIES	56,150	---	---	---
PEACEKEEPER-MISSILE OPS MAINT FACILITY	3,050	---	---	---
PEACEKEEPER-ROAD, RAILROAD AND UTILITIES	7,600	---	---	---
PEACEKEEPER-TRAINING TRAIN SHELTER	2,800	---	---	---
VEHICLE MAINTENANCE COMPLEX	---	---	6,300	6,300
ARMY NATIONAL GUARD				
BOGALUSA				
ORGANIZATIONAL MAINTENANCE SHOP	783	783	783	783
CAMP BEAUREGARD				
ORGANIZATIONAL MAINTENANCE SHOP	680	680	680	680
NEW ORLEANS				
ARMORY	---	---	3,628	3,628
ARMY RESERVE				
LAKE CHARLES				
ADD/ALTER ARMY RESERVE CTR W/MAINTENANCE FACILITY	1,883	1,883	1,883	1,883
NAVY RESERVE				
NAVAL AIR STATION NEW ORLEANS				
AVIONICS SHOP	3,200	3,200	3,200	3,200
AIRCRAFT HANGAR (C-130)	---	13,100	---	13,100
TOTAL, LOUISIANA	81,256	21,876	40,704	53,804
MAINE				
NAVY				
KITTERY PORTSMOUTH NAVAL SHIPYARD				
DRY DOCK MODERNIZATION AND COVER	38,182	38,182	38,182	38,182
AIR FORCE				
BANGOR				
SQUADRON SUPPORT FACILITY	970	970	970	970
LORING AFB				
MUNITIONS SUPPORT EQUIPMENT STORAGE FACILITY	830	830	---	---
ARMY NATIONAL GUARD				
BANGOR				
ARMORY AFRC (JOINT PROJECT)	3,058	3,058	3,058	3,058
AIR NATIONAL GUARD				
BANGOR IAP				
FIRE SUPPRESSION SYSTEM	1,350	1,350	1,350	1,350
ARMY RESERVE				
BANGOR				
ARMED FORCES RESERVE CENTER (JOINT PROJECT)	1,138	1,138	1,138	1,138
NAVY RESERVE				
AFRC BANGOR				
RESERVE TRAINING BUILDING (JOINT PROJECT)	1,815	1,815	1,815	1,815
TOTAL, MAINE	47,343	47,343	46,513	46,513
MARYLAND				
ARMY				
ABERDEEN PROVING GROUND				
RELOCATE/MODERNIZE FIRE BARRICADES	10,400	10,400	10,400	10,400
SECURITY UPGRADE	1,700	1,700	1,700	1,700
TOXICOLOGY RESEARCH FACILITY	33,000	33,000	33,000	33,000
FORT DETRICK				
STORAGE FACILITY ADDITION	530	530	530	530
NAVY				
BETHESDA NATIONAL NAVAL MEDICAL CENTER				
BACHELOR ENLISTED QUARTERS	9,040	9,040	9,040	9,040
INDIAN HEAD NAVAL ORDNANCE STATION				
INDUSTRIAL WASTEWATER TREATMENT FACILITIES	6,430	6,430	6,430	6,430
CHEMISTRY LABORATORY	---	6,000	---	6,000
PATUXENT RIVER NAVAL AIR TEST CENTER				
ENTRY GATE/ROAD	---	---	---	2,000
SECURITY IMPROVEMENTS	3,010	3,010	3,010	3,010
TEST PILOT SCHOOL	6,030	6,030	6,030	6,030
PATUXENT RIVER NAVAL HOSPITAL				
AVIATION PHYSIOLOGY TRAINING FACILITY	2,510	2,510	2,510	2,510
ST INIGOES NAVAL ELECTRONIC SYS ENGR ACT				
FACSFAC ELECTRONIC SYSTEMS INTEGRATION	4,020	4,020	4,020	4,020
SUITLAND NAVAL INTELLIGENCE COMMAND HDQTRS				
HEADQUARTERS BUILDING (INCREMENT II)	55,048	55,048	55,048	55,048
AIR FORCE				
ANDREWS AFB				
ADD TO AND ALTER COMBAT ARMS TRNG FACILITY	1,300	1,300	1,300	1,300
CHILD DEVELOPMENT CENTER ANNEX	---	3,850	---	3,850
FIRE/CRASH RESCUE STATION	1,750	1,750	1,750	1,750
FORT GEORGE MEADE				
DEFENSE COURIER STATION	1,800	1,800	1,800	1,800
DEFENSE AGENCIES				
DEF REUTILIZATION & MKTG OFC FT MEADE				
COVERED STORAGE	9,500	9,500	9,500	9,500

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
FORT MEADE				
BLDG 9805 ADDITION	3,425	3,425	3,425	---
LOW VOLTAGE POWER UPGRADE	8,221	8,221	8,221	8,221
OPS BUILDING 2A COOLING TOWER	1,800	1,800	1,800	1,800
SUBSTATION 1 ELECTRICAL UPGRADE	6,025	6,025	6,025	6,025
UNIFORMED SVCS UNIV OF HEALTH SCIENCES, BETHESDA				
COMPLETE CONTRUCTION OF ANIMAL ROOMS	800	800	800	800
ARMY NATIONAL GUARD				
FORT RITCHIE				
ARMORY	---	1,800	---	1,800
LAUREL				
ARMORY	---	4,959	---	5,000
AIR NATIONAL GUARD				
ANDREWS AFB				
SPECIAL FUEL FACILITY	300	300	300	300
GLENN L MARTIN AIRPORT, BALTIMORE				
ALTER COMPOSITE SUPPORT FACILITY	600	600	600	600
UTILITIES REMOVAL	---	---	3,700	3,700
TOTAL, MARYLAND	167,239	183,848	170,939	186,164
MASSACHUSETTS				
AIR FORCE				
HANSCOM AFB				
ELECTROMAGNETIC TECHNOLOGY RESEARCH LAB	3,800	3,800	3,800	3,800
AIR NATIONAL GUARD				
BARNES ANGB, WESTFIELD				
JET FUEL STORAGE COMPLEX	---	3,000	---	3,000
NAVY RESERVE				
NAVAL AIR STATION SOUTH WEYMOUTH				
FIRE STATION	780	780	780	780
TOTAL, MASSACHUSETTS	4,580	7,580	4,580	7,580
MICHIGAN				
AIR FORCE				
KI SAWYER AFB				
CONTROL TOWER	2,700	2,700	2,700	2,700
WURTSMITH AFB				
ADD TO AND ALTER CHILD DEVELOPMENT CENTER	960	960	960	960
ARMY NATIONAL GUARD				
WAYNE COUNTY				
ARMORY	2,634	2,634	2,634	2,634
ORGANIZATIONAL MAINTENANCE SHOP	470	470	470	470
AIR NATIONAL GUARD				
SELFRIDGE ANGB				
ADD TO AND ALTER AVIONICS SHOP	650	650	650	650
ADD TO AND ALTER PRECISION MEAS EQUIP LAB	600	600	600	600
ADD TO MUNITIONS MAINT AND STORAGE FACILITY	640	640	640	640
AIR FORCE RESERVE				
SELFRIDGE ANGB				
ADD/ALTER FUEL SYSTEMS MAINT DOCK	650	650	650	650
AERIAL PORT TRAINING FACILITY	1,850	1,850	1,850	1,850
TOTAL, MICHIGAN	11,154	11,154	11,154	11,154
MINNESOTA				
ARMY NATIONAL GUARD				
BROOKLYN PARK				
ARMORY	1,864	1,864	1,864	1,864
CAMP RIPLEY				
MAINTENANCE FACILITY ADDITION	---	6,108	---	6,108
AIR NATIONAL GUARD				
MINNEAPOLIS - ST. PAUL IAP				
COMPOSITE SUPPORT FACILITY	---	4,350	---	4,350
DINING HALL AND MEDICAL TRAINING FACILITY	---	3,700	3,700	3,700
FLIGHT TRAINING SIMULATOR	---	3,000	3,000	3,000
ARMY RESERVE				
WALKER				
ARMY RESERVE CENTER W/MAINTENANCE FACILITY	2,159	2,159	2,159	2,159
TOTAL, MINNESOTA	4,023	21,181	10,723	21,181
MISSISSIPPI				
NAVY				
GULFPORT NAVAL CONSTRUCTION TRAINING CTR				
APPLIED INSTRUCTION BUILDING	1,170	1,170	1,170	1,170
BARRACKS	7,540	7,540	7,540	7,540
AIR FORCE				
COLUMBUS AFB				
ADD TO AND ALTER FLIGHT SIMULATOR	400	400	400	400
BACHELOR OFFICER QUARTERS UPGRADE	---	2,700	2,700	2,700
ARMY NATIONAL GUARD				
CAMP MCCAIN				

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
TANK TABLES NINE AND ELEVEN	---	600	---	600
TROOP ISSUE SUBSISTENCE ACTIVITY	---	780	---	780
AMMUNITION SUPPLY POINT	---	500	---	500
CAMP SHELBY				
BACHELOR OFFICER QUARTERS (PHASE III)	---	450	---	450
AMMUNITION CLASSIFICATION BUILDING	---	280	---	280
DURANT				
ADD/ALTER ARMORY	---	780	---	---
FULTON				
ADD/ALTER ARMORY	---	535	---	535
STARKVILLE				
ADD/ALTER ARMORY	---	975	---	975
AIR NATIONAL GUARD				
ALLEN C. THOMPSON FIELD, JACKSON				
BASE CIVIL ENGINEERING FACILITY	---	1,600	1,500	1,600
MEDICAL TRAINING AND SECURITY POLICE FACILITY	---	1,500	1,300	1,500
GULFPORT				
ADD TO AND ALTER AGE/VEHICLE MAINT FACILITY	1,150	1,150	1,150	1,150
ADD/ALTER BASE ENGINEER MAINTENANCE FACILITY	---	490	490	490
ALTER BASE SUPPLY WAREHOUSE	250	250	250	250
COMMUNICATIONS ELECTRONICS TRAINING FACILITY	---	2,300	2,300	2,300
ARMY RESERVE				
VICKSBURG				
ARMY RESERVE CENTER W/MAINTENANCE FACILITY	6,978	6,978	6,978	6,978
AIR FORCE RESERVE				
KEESLER AFB				
MEDICAL TRAINING FACILITY	600	600	600	600
TOTAL, MISSISSIPPI	18,088	31,578	26,378	30,798
MISSOURI				
ARMY				
FORT LEONARD WOOD				
APPLIED INSTRUCTION FACILITY	900	900	900	900
PHYSICAL FITNESS TRAINING CENTER	8,800	8,800	8,800	8,800
AIR FORCE				
WHITEMAN AFB				
ADD TO AND ALT PHYSICAL FITNESS CENTER	3,600	3,600	---	3,600
B2 AVIONICS SHOP	5,000	5,000	5,000	5,000
B2-ACFT ACCESS APRON AND TAXIWAY UPGRADE	7,900	7,900	7,900	7,900
B2-ADD TO AND ALTER CHILD DEV CTR	750	750	---	750
B2-ADD TO AND ALTER UTILITIES	9,400	9,400	9,400	9,400
B2-ADD TO AND ALTER BASE LIBRARY/EDUCATION CTR	3,500	3,500	---	3,500
B2-ADD TO AND ALTER CHAPEL COMMUNITY ACTIVITY CTR	1,700	1,700	---	1,700
B2-AIRCRAFT MAINTENANCE DOCKS	8,700	8,700	---	8,700
B2-DEFENSE ACCESS ROADS	9,000	9,000	9,000	9,000
B2-DORMITORY	6,500	6,500	---	6,500
B2-HAZARDOUS MATERIAL STORAGE	1,600	1,600	1,600	1,600
B2-HYDRANT FUEL/ACFT SUPPORT SYSTEMS	12,000	12,000	12,000	12,000
B2-IMPACT AID FUNDING	1,000	1,000	1,000	1,000
B2-MUNITIONS CONVOY ROADS	6,000	6,000	6,000	6,000
B2-SURVIVAL EQUIPMENT SHOP	1,000	1,000	1,000	1,000
B2-UPGRADE BASE ROADS	4,000	4,000	4,000	4,000
B2-WEAPONS RECEIVING AND PROCESSING CENTER	1,700	1,700	1,700	1,700
B2-WEAPONS STORAGE AREA SECURITY FENCING	5,900	5,900	5,900	5,900
B2-WEAPONS STORAGE AREA SUPPLY WAREHOUSE	800	800	800	800
B2-WEAPONS STORAGE IGLOOS	5,600	5,600	5,600	5,600
B2-GENERAL REDUCTION	---	-37,050	-15,900	-37,050
FIRE PROTECTION SYSTEM	750	750	750	750
ARMY NATIONAL GUARD				
JEFFERSON CITY				
ARMORY	---	---	5,049	5,049
OMS	---	---	942	942
USP&FO WAREHOUSE	---	---	2,800	2,800
EDUCATION FACILITY	---	---	2,329	2,329
SUPPORT MAINTENANCE SHOP	---	---	7,880	7,880
AIR NATIONAL GUARD				
ROSECRANS MEMORIAL AIRPORT, ELWOOD				
ADD TO WELDING SHOP	250	250	250	250
ST LOUIS-LAMBERT FIELD				
ALTER ENGINE SHOP	400	400	400	400
TOTAL, MISSOURI	106,750	69,700	85,100	88,700
NEBRASKA				
AIR FORCE				
OFFUTT AFB				
ALT PHYSICAL FITNESS CTR AND FIELD HOUSE	2,600	2,600	2,600	2,600
AIR FORCE RESERVE				
OFFUTT AFB				
ADD/ALTER CIVIL ENGINEERING FACILITY	800	800	800	800
TOTAL, NEBRASKA	3,400	3,400	3,400	3,400

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
NEVADA				
AIR FORCE				
INDIAN SPRINGS				
MUNITIONS LOADING/REVETMENTS (PHASE II)	2,550	2,550	2,550	2,550
NELLIS AFB				
ADD TO AND ALT ELECTRICAL DIST SYSTEM	5,200	5,200	5,200	5,200
BASE SECURITY FENCING	270	270	270	270
MAINTENANCE HANGAR	5,000	5,000	5,000	5,000
PARARESCUE FACILITY	1,050	1,050	1,050	1,050
SQUADRON OPERATIONS FACILITY	1,000	1,000	1,000	1,000
DEFENSE AGENCIES				
NELLIS AIR FORCE BASE				
CONSOLIDATED MEDICAL FACILITY REPLACEMENT	56,000	56,000	56,000	56,000
ARMY NATIONAL GUARD				
CARSON CITY				
COMBINED SUPPORT MAINTENANCE SHOP	3,048	3,048	3,048	3,048
ORGANIZATIONAL MAINTENANCE SHOP	676	676	676	676
AIR NATIONAL GUARD				
RENO IAP				
MEDICAL/DINING FACILITY	---	---	2,400	3,400
TOTAL, NEVADA	74,794	74,794	77,194	78,194
NEW JERSEY				
NAVY				
EARLE NAVAL WEAPONS STATION				
TRESTLES REPLACEMENT (PHASE I)	20,100	20,100	20,100	20,100
AIR FORCE				
MCGUIRE AFB				
ADD TO FLIGHT SIMULATOR FACILITY	3,000	3,000	3,000	3,000
ALTER DORMITORIES	4,850	4,850	4,850	4,850
AIR NATIONAL GUARD				
ATLANTIC CITY				
BASE ENTRY COMPLEX	400	400	400	400
MCGUIRE AFB				
ALTER AIRCRAFT MAINTENANCE SHOP	520	520	520	520
TOTAL, NEW JERSEY	28,870	28,870	28,870	28,870
NEW MEXICO				
AIR FORCE				
HOLLOMAN AFB				
ALTER DORMITORY	2,700	2,700	2,700	2,700
SECURITY IMPROVEMENTS	310	310	310	310
HOLLOMAN AFB REALIGNMENT				
ADD/ALTER FUEL SYSTEM MAINTENANCE DOCK	2,200	---	---	---
ALTER AVIONICS SHOP	850	---	---	---
ALTER SQUADRON OPERATIONS	2,000	---	---	---
CONVENTIONAL MUNITIONS SHOP	950	---	---	---
FLIGHT SIMULATION TRAINING	3,400	---	---	---
MUNITIONS STORAGE FACILITY	1,600	---	---	---
UPGRADE UTILITY SYSTEMS	---	11,000	---	---
F-117 FACILITIES, PHASE I	---	---	36,000	36,000
KIRTLAND AFB				
ADD TO AND ALTER HELICOPTER TRAINING AREA	2,650	2,650	2,650	2,650
ALTER DORMITORIES	1,550	1,550	1,550	1,550
ARMY NATIONAL GUARD				
ALBUQUERQUE				
TRAINING SITE	---	---	1,549	1,549
ESPANOLA				
ARMORY	---	---	1,600	1,600
PORTALES				
ARMORY	---	---	1,600	1,600
RIO PUERTO				
ARMORY	---	---	3,400	3,400
OMS	---	---	1,950	1,950
UTILITIES	---	---	2,127	2,127
SANTA FE				
OMS	---	---	850	850
DEFENSE AGENCIES				
WHITE SANDS MISSILE RANGE				
LARGE BLAST/THERMAL SIMULATOR, PHASE I	64,800	45,000	64,800	45,000
TOTAL, NEW MEXICO	83,010	63,210	121,086	101,286
NEW YORK				
ARMY				
FORT DRUM				
CENTRAL WASH FACILITY	8,800	8,800	8,800	8,800
GENERAL INSTRUCTION BUILDING	608	608	608	608
AIR FORCE				
GRIFFISS AFB				
ADD/ALTER INTEGRATED MAINTENANCE FACILITY	---	2,300	---	2,300

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
MUNITIONS STORAGE IGLOOS	---	2,200	---	2,200
PLATTSBURGH AFB				
COLD STORAGE FACILITY	---	---	---	1,200
ARMY NATIONAL GUARD				
GUILDERLAND				
MOUT ASSAULT COURSE RANGE	800	800	800	800
AIR NATIONAL GUARD				
NIAGARA FALLS IAP				
MUNITIONS COMPLEX (JOINT PROJECT)	4,300	4,300	4,300	4,300
STRATTON ANGB, SCOTIA				
AEROMEDICAL EVACUATION FACILITY	---	1,350	---	1,350
SUFFOLK COUNTY AIRPORT				
FIRE DETECTION/SUPPRESSION SYSTEM	1,450	1,450	1,450	1,450
ARMY RESERVE				
BRONX				
ADD/ALTER ARMY RESERVE CTR/MAINTENANCE FACILITY	8,099	8,099	8,099	8,099
AIR FORCE RESERVE				
NIAGARA FALLS IAP				
MUNITIONS STORAGE (W/ANG)	200	200	200	200
TOTAL, NEW YORK	24,257	30,107	24,257	31,307
NORTH CAROLINA				
ARMY				
FORT BRAGG				
BATTALION HEADQUARTERS	1,850	1,850	1,850	1,850
INSTALLATION MAP DEPOT	1,750	1,750	1,750	1,750
LAND ACQUISITION (CAMP MACKALL)	---	720	---	720
MAINTENANCE FACILITY (PHASE I)	31,800	31,800	31,800	31,800
ADDITION, SOF HEADQUARTERS FACILITY	---	4,950	---	4,950
TACTICAL EQUIPMENT SHOP	11,600	11,600	11,600	11,600
TACTICAL EQUIPMENT SHOP	7,400	7,400	7,400	7,400
NAVY				
CAMP LEJEUNE MARINE CORPS BASE				
ELECTRONICS COMMUNICATIONS MAINT SHOPS	4,120	4,120	4,120	4,120
FIELD MAINTENANCE COMPLEX	21,000	21,000	21,000	21,000
MECHANICS TRAINING BUILDING (INCREMENT III)	4,050	4,050	4,050	4,050
CHERRY POINT MARINE CORPS AIR STATION				
AVIATION MUSEUM	---	2,000	---	---
REGIMENTAL GROUP HEADQUARTERS	1,950	1,950	1,950	1,950
WATER TREATMENT FACILITY	12,000	12,000	12,000	12,000
AIR FORCE				
POPE AFB				
SEYMOUR JOHNSON AFB				
BASE FORMS AND PUBLICATIONS WAREHOUSE	600	600	600	600
FIRE PROTECTION SYSTEMS	850	850	850	850
REPAIR TAXIWAY	1,052	1,052	1,052	1,052
DEFENSE AGENCIES				
CAMP LEJEUNE MARINE CORPS BASE				
COURTHOUSE BAY MEDICAL/DENTAL CLINIC	3,200	3,200	3,200	3,200
ARMY NATIONAL GUARD				
CLINTON				
ARMORY	1,603	1,603	1,603	1,603
GOLDSBORO				
ARMORY	---	1,663	---	1,663
ORGANIZATIONAL MAINTENANCE SHOP	---	394	---	394
AIR NATIONAL GUARD				
DOUGLAS MAP, CHARLOTTE				
ADD TO AND ALTER SQUADRON OPERATIONS	400	400	400	400
COMPOSITE AIRCRAFT MAINTENANCE HANGAR	---	12,000	---	12,000
STANLY COUNTY AIRPORT, ALBEMARLE				
EXTEND RUNWAY	---	1,850	---	1,850
AIR FORCE RESERVE				
POPE AFB				
CIVIL ENGINEERING TRAINING FACILITY	790	790	790	790
TOTAL, NORTH CAROLINA	106,015	129,592	106,015	127,592
NORTH DAKOTA				
AIR FORCE				
GRAND FORKS AFB				
ADD TO AND ALTER MISSILE MAINT AND SPT FACILITY	4,700	4,700	4,700	4,700
ADD TO AND ALTER TRANSPORTATION COMPLEX	4,150	4,150	4,150	4,150
PEACEKEEPER-ADD TO AND ALTER COMM MAINT FACILITY	50,000	---	---	---
PEACEKEEPER-ADD TO COMMUNICATIONS FACILITY	800	---	---	---
PEACEKEEPER-LAND ACQUISITION	1,000	---	---	---
PEACEKEEPER-MISSILE OPS/INTEG MAINT FACILITY	5,500	---	---	---
PEACEKEEPER-ROAD, RAILROAD AND UTILITIES	7,900	---	---	---
PEACEKEEPER-TRAINING TRAIN SHELTER	3,000	---	---	---
MINOT AFB				
ADD TO AND ALTER CHILD DEVELOPMENT CTR	3,600	3,600	3,600	3,600
ARMY NATIONAL GUARD				
CAMP GRAFTON (DEVILS LAKE)				

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
COMBINED SUPPORT MAINTENANCE SHOP ADD	1,595	1,595	1,595	1,595
FARGO				
RESERVE CENTER	---	---	7,700	7,700
AIR NATIONAL GUARD				
HECTOR FIELD, FARGO				
ALTER MAINTENANCE HANGAR	1,400	1,400	1,400	1,400
JET FUEL STORAGE	---	---	3,500	3,500
MUNITION MAINT AND STORAGE COMPLEX	2,600	2,600	2,600	2,600
TOTAL, NORTH DAKOTA	86,245	18,045	29,245	29,245
OHIO				
AIR FORCE				
NEWARK AFB				
PEACEKEEPER-GUIDANCE AND CONTROL FACILITY	5,100	5,100	5,100	5,100
WRIGHT-PATTERSON AFB				
AFIT PROFESSIONAL AND TECH EDUC FACILITY	5,500	5,500	5,500	5,500
FOREIGN MATERIAL EXPLOITATION FACILITY	4,650	4,650	4,650	4,650
DEFENSE AGENCIES				
DEFENSE CONSTRUCTION SUPPLY CENTER, COLUMBUS				
BULK STORAGE WAREHOUSE	13,530	---	---	---
ARMY NATIONAL GUARD				
MUSKINGUM COUNTY				
LAND ACQUISITION	---	6,000	5,670	5,670
AIR NATIONAL GUARD				
RICKENBACKER ANGB				
ALTER FUEL SYSTEM MAINTENANCE DOCK	400	400	400	400
POWER CHECK PAD WORK STATION SUPPRESSOR	700	700	700	700
TOLEDO EXPRESS AIRPORT				
DINING HALL/MEDICAL TRAINING FACILITY	---	3,100	---	3,100
JET FUEL STORAGE COMPLEX	---	3,550	---	3,550
UNDERGROUND FUEL STORAGE	---	1,500	---	1,500
ARMY RESERVE				
KENTON				
ADD/ALTER ARMY RESERVE CTR/MAINTENANCE FACILITY	2,804	2,804	2,804	2,804
TOLEDO				
ARMY RESERVE CENTER/MAINTENANCE FACILITY	---	7,300	---	7,300
NAVY RESERVE				
NMCRC CINCINNATI				
RESERVE CENTER ADDITION	1,200	1,200	1,200	1,200
AIR FORCE RESERVE				
RICKENBACKER ANGB				
ALTER FUEL MAINTENANCE DOCK	500	500	500	500
WRIGHT-PATTERSON AFB				
UPGRADE HANGARS/SHOPS	3,781	3,781	3,781	3,781
TOTAL, OHIO	38,165	46,085	30,305	45,755
OKLAHOMA				
ARMY				
FORT SILL				
COMMUNICATIONS-ELECTRONICS LAB ADDN	3,550	3,550	3,550	3,550
MODERNIZE SEWAGE TREATMENT PLANT	21,600	21,600	21,600	21,600
McALISTER AAP				
NAVY				
NAVAL AIR DETACHMENT TINKER AFB (TACAMO)				
AIR FORCE				
ALTUS AFB				
ALTER FLIGHT SIMULATOR FACILITY	800	800	800	800
C17 SHORT FIELD ASSAULT STRIP	9,000	9,000	9,000	9,000
C17-ADD TO FLIGHT SIMULATOR FACILITY	7,100	7,100	7,100	7,100
C17-FIELD TRAINING FACILITY	4,800	4,800	4,800	4,800
TINKER AFB				
AWACS AIRCRAFT FIRE PROTECTION	2,750	2,750	2,750	2,750
B2-ADD TO AND ALTER COMPOSITE REPAIR FACILITY	5,700	5,700	5,700	5,700
B2-ADD TO AND ALTER DEPOT MAINT HANGAR	12,100	12,100	12,100	12,100
B2-ADD TO HANGAR FIRE PROTECTION SYS	3,600	3,600	3,600	3,600
CONSOLIDATED FUEL CONTROL TEST FAC/LAND ACQ	13,600	13,600	13,600	13,600
LAND ACQUISITION	---	1,850	---	1,850
LOGISTICAL SYSTEMS OPS CNTR/LAND ACQ	13,200	13,200	13,200	13,200
SYSTEMS ENGINEERING FACILITY	650	650	650	650
UPGRADE ELECTRICAL DISTRIBUTION SYSTEM	3,500	3,500	3,500	3,500
VANCE AFB				
ADD TO AND ALTER FLIGHT SIMULATOR	400	400	400	400
DEFENSE AGENCIES				
ALTUS AIR FORCE BASE				
MEDICAL LOGISTICS FACILITY	500	500	500	500
FORT SILL				
HOSPITAL REPLACEMENT (PHASE III)	10,400	10,400	10,400	10,400
ARMY NATIONAL GUARD				
CAMP GRUBER				
TRAINING FACILITY (PHASE III)	---	3,332	3,332	3,332
WATER TREATMENT PLANT	---	1,204	---	1,204

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
AIR NATIONAL GUARD				
WILL ROGERS WORLD AIRPORT, OKLAHOMA CITY				
BCE MOBILITY STORAGE WAREHOUSE	400	400	400	400
TOTAL, OKLAHOMA	113,650	120,036	116,982	120,036
OREGON				
ARMY NATIONAL GUARD				
CAMP RILEA				
RANGE, AUTOMATED RECORD FIRE (RETS)	913	913	913	913
TRNG SITE,MEDICAL TROOP TRAINING	312	312	312	312
PENDLETON				
ARMORY	---	1,542	1,542	1,542
MONMOUTH				
MILITARY EDUCATION FACILITY	---	4,060	4,060	4,060
REDMOND				
RANGE, 25 METER BAFFLED	971	971	971	971
TOTAL, OREGON	2,196	7,798	7,798	7,798
PENNSYLVANIA				
ARMY				
CARLISLE BARRACKS				
CENTER FOR STRATEGIC WARGAMING	25,000	25,000	25,000	25,000
CHILD DEVELOPMENT CENTER	1,200	1,200	1,200	1,200
FORT INDIANTOWN GAP				
AMMUNITION SUPPLY POINT	1,350	1,350	1,350	1,350
COLD STORAGE WAREHOUSE	5,000	5,000	5,000	5,000
TOBYHANNA ARMY DEPOT				
SATELLITE SYSTEMS MAINTENANCE FACILITY	6,800	6,800	6,800	6,800
NAVY				
WARMINSTER NAVAL AIR DEVELOPMENT CENTER				
AIRCRAFT TECHNOLOGIES LABORATORY	10,770	10,770	10,770	10,770
DEFENSE AGENCIES				
DEFENSE DEPOT MECHANICSBURG				
TWO GENERAL PURPOSE WAREHOUSES	15,100	15,100	15,100	15,100
UPGRADE INDUSTRIAL PLANT EQUIP BLDG	3,000	3,000	3,000	3,000
DEFENSE PERSONNEL SUPPORT CENTER, PHILADELPHIA				
DEMOLISH BUILDING M5/PARKING AREA	3,940	3,940	3,940	3,940
NORRISTOWN				
ADD/ALT ARMY RES CTR/MAINTENANCE FACILITY	2,598	2,598	2,598	2,598
PHILADELPHIA NAVAL SHIPYARD				
MEDICAL/DENTAL/OCCUPATIONAL HEALTH CLINIC	11,600	11,600	11,600	11,600
ARMY NATIONAL GUARD				
BUTLER				
ARMORY	---	2,223	---	2,223
FORT INDIANTOWN GAP				
COMBINED SUPPORT MAINTENANCE SHOP	---	2,790	---	---
NORRISTOWN				
ARMORY	---	3,028	---	3,028
AIR NATIONAL GUARD				
GREATER PITTSBURGH IAP				
ACCESS ROAD	---	5,000	---	5,000
VEHICLE STORAGE FACILITY	300	300	300	300
WILLOW GROVE NAS				
MEDICAL TRAINING FACILITY (W/AF RES)	1,247	1,247	1,247	1,247
ARMY RESERVE				
NEW CASTLE				
ADD/ALTER ARMY RESERVE CTR/MAINTENANCE FACILITY	1,418	1,418	1,418	1,418
JOHNSTOWN				
JOINT AVIATION FACILITY	---	---	1 300	---
NAVY RESERVE				
AFRC HARRISBURG				
RESERVE CENTER ADDITION	2,400	2,400	2,400	2,400
NAS WILLOW GROVE				
GROUND SUPPORT EQUIPMENT SHED	1,220	1,220	1,220	1,220
AIR FORCE RESERVE				
GREATER PITTSBURGH IAP				
MEDICAL TRAINING FACILITY	1,900	1,900	1,900	1,900
WILLOW GROVE ARF				
MEDICAL TRAINING FACILITY (W/ANG)	1,250	1,250	1,250	1,250
TOTAL, PENNSYLVANIA	96,093	109,134	97,393	106,344
RHODE ISLAND				
NAVY				
NEWPORT NAVAL EDUCATION & TRAINING CENTER				
CHILD DEVELOPMENT CENTER	---	1,000	---	1,200
STEAM DISTRIBUTION SYSTEM UPGRADE	6,230	6,230	6,230	6,230
NEWPORT NAVAL UNDERWATER SYSTEMS CENTER				
INTEGRATED PROPULSION/ACOUSTIC FACILITY	---	13,700	13,700	13,700
TOTAL, RHODE ISLAND	6,230	20,930	19,930	21,130

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
SOUTH CAROLINA				
ARMY				
FORT JACKSON				
AUTOMATED RECORD FIRE RANGE	1,600	1,600	1,600	1,600
NAVY				
BEAUFORT MARINE CORPS AIR STATION				
BACHELOR ENLISTED QUARTERS	6,700	6,700	6,700	6,700
CHARLESTON NAVAL STATION				
PAY AND PERSONNEL SUPPORT OFFICE ADDITION	720	720	720	720
CHARLESTON NAVAL WEAPONS STATION				
MISSILE MAGAZINE	1,910	1,910	1,910	1,910
PROPULSION TRAINING FACILITY	25,120	25,120	25,120	25,120
PARRIS ISLAND MARINE CORPS RECRUIT DEPOT				
CLOTHING ISSUE BUILDING	3,410	3,410	3,410	3,410
AIR FORCE				
CHARLESTON AFB				
C17-ALTER AIRCRAFT MAINTENANCE FACILITIES	7,900	7,900	7,900	7,900
C17-ALTER ENGINE INSP AND REPAIR FACILITY	840	840	840	840
COMMAND POST/BASE OPERATIONS FACILITY	2,250	2,250	2,250	2,250
PARACHUTE DRYING TOWER	500	500	500	500
SECURITY POLICE OPERATIONS FACILITY	1,550	1,550	1,550	1,550
VEHICLE OPERATIONS FACILITY	1,050	1,050	1,050	1,050
SHAW AFB				
UPGRADE SEWAGE TREATMENT	---	---	3,000	3,000
DEFENSE AGENCIES				
DEF REUTIL AND MKGT OFC FT JACKSON				
OPEN STORAGE IMPROVEMENTS	500	500	500	500
ARMY NATIONAL GUARD				
GREENVILLE				
ARMORY	---	---	2,500	2,500
ORGANIZATIONAL MAINTENANCE SHOP	---	---	1,800	1,800
PICKENS				
ARMORY	---	2,000	2,000	2,000
FOUNTAIN INN				
ARMORY	---	2,000	2,000	2,000
GREENWOOD				
ARMORY	---	2,000	2,000	2,000
AIR NATIONAL GUARD				
MCENTIRE ANGB				
ECM MAINTENANCE AND STORAGE	550	550	550	550
TOTAL, SOUTH CAROLINA	54,600	60,600	67,900	67,900
SOUTH DAKOTA				
AIR FORCE				
ELLSWORTH AFB				
UPGRADE ELEC DISTRIBUTION SYSTEM	13,150	13,150	13,150	13,150
ARMY NATIONAL GUARD				
MITCHELL				
ARMORY, ADD/ALTER	954	954	954	954
TOTAL, SOUTH DAKOTA	14,104	14,104	14,104	14,104
TENNESSEE				
AIR FORCE				
ARNOLD ENGINEERING DEV CENTER				
LARGE ROCKET TEST FACILITY (J-6) (PHASE III)	109,300	---	66,000	30,000
DEFENSE AGENCIES				
DEFENSE DEPOT MEMPHIS				
BULK RECEIVING FACILITY	1,500	1,500	1,500	1,500
FLAMMABLE STORAGE FACILITY	1,500	1,500	1,500	1,500
GENERAL PURPOSE WAREHOUSE	11,900	11,900	11,900	11,900
ARMY NATIONAL GUARD				
HUNTINGDON				
ARMORY	---	---	1,319	1,319
JACKSON				
ARMORY ADDITION	---	---	898	898
LENOIR CITY				
ARMORY	---	---	1,230	1,230
WINCHESTER				
ARMORY	1,023	1,023	1,023	1,023
TOTAL, TENNESSEE	125,223	15,923	85,370	49,370
TEXAS				
ARMY				
CAMP SWIFT				
SEALING MANHOLES	---	600	---	100
FORT BLISS				
BARRACKS MODERNIZATION	---	10,200	---	10,200
BARRACKS MODERNIZATION	---	9,800	---	9,800

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
FORT HOOD				
BARRACKS MODERNIZATION	11,000	11,000	11,000	11,000
CONSOLIDATED MAINTENANCE FACILITY	22,700	22,700	22,700	22,700
MODIFIED RECORD FIRE RANGE	1,650	1,650	1,650	1,650
RANGE CONTROL FACILITY	4,400	4,400	4,400	4,400
RANGE MODERNIZATION	3,050	3,050	3,050	3,050
REPLACE VEHICULAR BRIDGES	469	469	469	469
FORT SAM HOUSTON				
CONSOLIDATED MAINTENANCE FACILITY	13,200	13,200	13,200	13,200
MEDICAL RESEARCH LABORATORY	13,400	13,400	13,400	13,400
PHYSICAL FITNESS TRAINING CENTER	7,100	7,100	7,100	7,100
NAVY				
LACKLAND AFB NAVAL TECHNICAL TRNG CTR DET				
BACHELOR ENLISTED QUARTERS	11,850	11,850	11,850	11,850
AIR FORCE				
BROOKS AFB				
BASE ENGINEER COMPLEX	4,100	4,100	4,100	4,100
CARSWELL AFB				
AIRCRAFT PARKING APRON LIGHTING	1,350	1,350	1,350	1,350
ELECTRICAL SUBSTATION ACQUISITION	566	566	566	566
HYDRANT FUELING SYSTEM	10,700	10,700	10,700	10,700
DYESS AFB				
ADD TO AND ALTER VEHICLE MAINTENANCE SHOP	2,400	2,400	2,400	2,400
AIRCRAFT CORROSION CONTROL FACILITY	4,100	4,100	4,100	4,100
RUNWAY APPROACH LIGHTING	1,050	1,050	1,050	1,050
GOODFELLOW AFB				
SECURITY POLICE OPERATIONS FACILITY	980	980	980	980
KELLY AFB				
ADD TO AND ALTER DEPOT CORROSION CTRL FACILITY	6,300	6,300	6,300	6,300
AIR FORCE SERVICE INFO AND NEWS CTR FACILITY	4,000	4,000	4,000	4,000
LACKLAND AFB				
BASE ENGINEER COMPLEX	8,000	8,000	8,000	8,000
BASE ROADS	4,150	4,150	4,150	4,150
DINING FACILITY	4,000	4,000	4,000	4,000
FIRE STATION	1,350	1,350	1,350	1,350
UPGRADE SEWER SYSTEM	5,000	5,000	5,000	5,000
LAUGHLIN AFB				
ADD TO AND ALTER FLIGHT SIMULATOR	400	400	400	400
SPECIALIZED UPT MAINTENANCE SUPPORT	970	970	970	970
TROOP SUBSISTENCE WAREHOUSE	450	450	450	450
RANDOLPH AFB				
SPECIALIZED UPT MAINTENANCE SUPPORT	1,750	1,750	1,750	1,750
REESE AFB				
SPECIALIZED UPT MAINTENANCE HANGAR	4,100	4,100	4,100	4,100
TRAFFIC MANAGEMENT FACILITY	990	990	990	990
SHEPPARD AFB				
AIRCRAFT CORROSION CONTROL FACILITY	550	550	550	550
BASE ENGINEER COMPLEX	6,800	6,800	6,800	6,800
WING OPERATIONS FACILITY	1,050	1,050	1,050	1,050
DEFENSE AGENCIES				
LACKLAND AIR FORCE BASE				
MAGNETIC RESONANCE IMAGING FACILITY	2,250	2,250	2,250	2,250
FORT SAM HOUSTON				
HOSPITAL REPLACEMENT (PHASE IV)	77,000	50,000	77,000	50,000
ARMY NATIONAL GUARD				
CAMP BOWIE, BROWNWOOD				
ARMORY	---	2,142	---	2,142
LAND ACQUISITION, PHASE II	---	1,901	---	1,901
CAMP MABRY				
ARMORY	---	6,284	---	6,284
CAMP MAXEY				
RANGE, MODIFIED RECORD FIRE (RETS)	1,000	1,000	1,000	1,000
DALLAS (REDBIRD)				
ADD/ALTER ARMORY	---	2,000	---	2,000
EL PASO				
ARMORY, ADD/ALTER	2,027	2,027	2,027	2,027
FORT WORTH				
COMBINED SUPPORT MAINTENANCE SHOP	3,439	3,439	3,439	3,439
HOUSTON (ADDICKS)				
ARMORY AND ORGANIZATIONAL MAINTENANCE SHOP	---	---	5,400	5,400
NORTH FORT HOOD, GATESVILLE				
MOBILIZATION AND TRAINING EQUIPMENT SITE EXPANSION	---	14,369	---	14,369
WACO				
ADD/ALTER ARMORY	---	2,162	---	2,162
EXPAND ORGANIZATIONAL MAINTENANCE SHOP	---	726	---	726
WYLIE				
ARMORY	---	2,227	---	2,227
AIR NATIONAL GUARD				
DALLAS NAS				
ADD/ALTER AERIAL PORT TRAINING FACILITY	325	325	325	325
ELLINGTON ANGB				
ALERT FACILITIES	2,200	2,200	2,200	2,200

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
NAVY RESERVE				
NAVAL AIR STATION DALLAS				
GROUND SUPPORT EQUIPMENT SHOP	1,640	1,640	1,640	1,640
LIQUID OXYGEN/NITROGEN FACILITY	650	650	650	650
NMCRC HOUSTON				
READINESS CENTER ADDITION	3,600	3,600	3,600	3,600
AIR FORCE RESERVE				
BERGSTROM AFB				
ADD/ALTER MAINTENANCE SHOPS	2,450	2,450	2,450	2,450
KELLY AFB				
COMPOSITE TRAINING FACILITY	1,400	1,400	1,400	1,400
RED HORSE VEHICLE MAINTENANCE SHOP	2,300	2,300	2,300	2,300
TOTAL, TEXAS	264,206	289,617	269,606	294,517
UTAH				
ARMY				
DUGWAY PROVING GROUND				
SIMULANT MIXING FACILITY	450	450	450	450
TOOELE ARMY DEPOT				
AMMUNITION DEMILITARIZATION SUPPORT FACILITY	11,800	11,800	11,800	11,800
AMMUNITION DEMILITARIZATION FACILITY	---	40,400	49,400	49,400
CRYOFRACTURE DEMILITARIZATION FAC SITE PREPARATION	---	10,000	---	---
AIR FORCE				
HILL AFB				
AUTOMATED TIRE STORAGE FACILITY	---	5,000	---	---
DEPOT WAREHOUSE	16,000	16,000	16,000	16,000
ELECTRICAL UPGRADE	---	407	---	---
ICBM NON-DESTRUCTIVE INSPECTION BUNKER	---	2,800	---	2,800
MISSILE MAINTENANCE SHOP	---	2,350	---	---
PEACEKEEPER-ORDNANCE STORAGE FACILITY	3,250	---	3,250	3,250
PEACEKEEPER-STAGE STORAGE FACILITY	3,250	---	3,250	3,250
DEFENSE AGENCIES				
DEFENSE DEPOT OGDEN				
TEMPORARY LODGING FACILITY	---	1,100	---	---
ARMY NATIONAL GUARD				
CAMP WILLIAMS				
ARMORY	---	---	4,145	4,145
AVIATION SUPPORT FACILITY	---	---	6,952	6,952
ORGANIZATIONAL MAINTENANCE SHOP	---	---	799	799
RANGE, MODIFIED RECORD FIRE (RETS)	1,070	1,070	1,070	1,070
LOGAN				
ARMORY, ADD/ALTER	788	788	788	788
AIR NATIONAL GUARD				
WEST JORDAN				
DINING/MEDICAL TRAINING FACILITY	---	3,400	---	3,400
TOTAL, UTAH	36,608	95,565	97,904	104,104
VERMONT				
AIR NATIONAL GUARD				
BURLINGTON IAP				
ADD TO AND ALTER MAINTENAHCE HANGAR	500	500	500	500
AVIONICS SHOP	1,700	1,700	1,700	1,700
NAVY RESERVE				
BURLINGTON				
RESERVE CENTER	---	---	2,500	2,500
TOTAL, VERMONT	2,200	2,200	4,700	4,700
VIRGINIA				
ARMY				
FORT A P HILL				
FUEL STORAGE FACILITY	3,200	3,200	3,200	3,200
FORT BELVOIR				
ACCESS ROADS - FORT BELVOIR	3,000	3,000	3,000	3,000
FIRE STATION	1,100	1,100	1,100	1,100
FIXED WING RUNWAY	1,400	1,400	1,400	1,400
FORT EUSTIS				
HARBOR CONTROL FACILITY	530	530	530	530
FORT LEE				
FOOD SERVICE TRAINING FACILITY ADDITION	520	520	520	520
FORT MYER				
CHILD DEVELOPMENT CENTER	2,150	2,150	2,150	2,150
FORT STORY				
EMERGENCY SERVICES BUILDING	1,600	1,600	1,600	1,600
NAVY				
ARLINGTON HEADQUARTERS MARINE CORPS				
LOGISTICS SUPPORT FACILITY	2,810	2,810	2,810	2,810
DAHLGREN NAVAL SPACE SURVEILLANCE SYSTEM				
SPACE SURVEILLANCE CENTER	9,850	9,850	9,850	9,850
DAM NECK FLT COMBAT DIR SYSTEMS SPT ACT				
COMPUTER PROGRAMMING OPERATIONS CTR ADDITION	6,500	6,500	6,500	6,500

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
LITTLE CREEK NAVAL AMPHIBIOUS BASE				
LAND CRAFT AIR CUSHION COMPLEX (INCR II)	12,460	12,460	12,460	12,460
SMALL ARMS RANGE	---	---	---	2,400
SURTASS SUPPORT CENTER ADDITION	8,010	8,010	8,010	8,010
LITTLE CREEK NAVAL AMPHIBIOUS SCHOOL				
LANDING CRAFT AIR CUSHION TRAINING FACILITY	1,800	1,800	1,800	1,800
TRAINING MATERIALS STORAGE	800	800	800	800
NORFOLK FLEET TRAINING CENTER				
FIRE FIGHTING TRAINING FACILITY	16,080	16,080	16,080	16,080
NORFOLK NAVAL SHIPYARD				
SHIP SERVICES SUPPORT FACILITY	---	14,600	---	14,600
NORFOLK NAVAL STATION				
ELECTRIC POWER UPGRADE	10,950	10,950	10,950	10,950
NORFOLK NAVY PUBLIC WORKS CENTER				
FUEL LINE	4,020	4,020	4,020	4,020
OCEANA NAVAL AIR STATION				
WEAPONS SYSTEM TRAINER BUILDING ADDITION	3,670	3,670	3,670	3,670
QUANTICO MARINE CORPS COMBAT DEV COMMAND				
COMBAT DEVELOPMENT CENTER	16,094	16,094	16,094	16,094
MARINE CORPS ACADEMIC RESEARCH LIBRARY	14,150	---	14,150	14,150
MILITARY OPERATIONS IN URBANIZED TERRAIN	3,870	3,870	3,870	3,870
QUANTICO NAVAL RESEARCH LABORATORY ANNEX				
MIDWAY RESEARCH CENTER UPGRADE	2,600	2,600	2,600	2,600
WALLOPS ISLAND AEGIS COMBAT SYSTEMS CENTER				
AEGIS COMMAND AND LIFE SUPPORT FACILITY	5,490	5,490	5,490	5,490
AIR FORCE				
LANGLEY AFB				
SOUND SUPPRESSOR SUPPORT	600	600	600	600
DEFENSE AGENCIES				
ARLINGTON SERVICE CENTER				
DCA-HQS WAREHOUSE REPLACEMENT	2,664	2,664	2,664	2,664
CHEATHAM ANNEX, NORFOLK				
FLEET HOSPITAL FACILITY	6,500	6,500	6,500	6,500
DAHLGREN SPACE SURVEILLANCE SYS				
ADD/ALTER SCHOOL	---	---	1,360	1,360
DAM NECK MARINE ENVIRONMENTAL SYSTEMS FACILITY				
OPERATIONS & MAINTENANCE FACILITY	9,160	9,160	9,160	9,160
DAM NECK NAVAL FLIGHT CENTER				
MEDICAL/DENTAL CLINIC REPLACEMENT	4,050	4,050	4,050	4,050
DEFENSE GENERAL SUPPLY CENTER, RICHMOND				
CONSOLIDATED MAINTENANCE FACILITY	7,000	7,000	7,000	7,000
FORT LEE				
HOSPITAL LIFE SAFETY UPGRADE	2,650	4,850	4,850	4,850
PORTSMOUTH NAVAL HOSPITAL				
HOSPITAL REPLACEMENT (PHASE II)	40,000	40,000	40,000	40,000
QUANTICO MARINE CORPS BASE				
OCS TROOP MEDICAL CLINIC REPLACEMENT	2,450	2,450	2,450	2,450
ARMY NATIONAL GUARD				
EMPORIA				
ARMORY	---	1,700	---	1,697
NEWPORT NEWS				
ARMORY, 200-PERSON	2,481	2,481	2,481	2,481
SANDSTON				
ARMY AVIATION SUPPORT FACILITY (PHASE III)	2,515	2,515	2,515	2,515
WOODSTOCK				
ARMORY	---	---	1,493	1,493
AIR NATIONAL GUARD				
CAMP PENDLETON ANGB, VIRGINIA BEACH				
BASE SUPPLIES AND EQUIPMENT WAREHOUSE	1,100	1,100	1,100	1,100
COMPOSITE OPERATIONS AND TRAINING FACILITY	2,650	2,650	2,650	2,650
RICHARD E BYRD IAP, SANDSTON				
ADD TO AND ALTER AVIONICS AND ECM SHOP	1,200	1,200	1,200	1,200
POWER CHECK POD WITH SOUND SUPPRESSOR	700	700	700	700
ARMY RESERVE				
COVINGTON				
ADD/ALT ARMY RESERVE CENTER	1,654	1,654	1,654	1,654
NAVY RESERVE				
NARU NORFOLK				
AIRCRAFT MAINTENANCE HANGAR	7,300	7,300	7,300	7,300
TOTAL, VIRGINIA	227,328	231,678	232,381	251,078
WASHINGTON				
ARMY				
FORT LEWIS				
AUTOMATED RECORD FIRE RANGE	1,250	1,250	1,250	1,250
BRIGADE HEADQUARTERS	8,800	8,800	8,800	8,800
CHAPEL CENTER	2,850	2,850	2,850	2,850
TACTICAL SUPPORT CENTER	5,100	5,100	5,100	5,100
NAVY				
BANGOR TRIDENT REFIT FACILITY				
CRANE TRACKAGE EXTENSION	910	910	910	910

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
HAZARDOUS AND FLAMMABLE STOREHOUSE	2,110	2,110	2,110	2,110
BANGOR TRIDENT TRAINING FACILITY				
FIRE FIGHTING TRAINING FACILITY	3,610	3,610	3,610	3,610
BREMERTON PUGET SOUND NAVAL SHIPYARD				
DRY DOCK UTILITIES UPGRADE	2,000	2,000	2,000	2,000
EVERETT NAVAL STATION				
CARRIER PIER SUPPORT	15,777	15,777	15,777	15,777
COMMUNICATION FACILITY	1,660	1,660	1,660	1,660
SECURITY AND FIRE STATION	1,760	1,760	1,760	1,760
UTILITIES AND SITE IMPROVEMENTS	3,070	3,070	3,070	3,070
KEYPORT NAVAL UNDERSEA WARFARE ENGR STA				
AUTOMATED MATERIALS HANDLING FACILITY	7,340	7,340	7,340	7,340
FIRE STATION	1,100	1,100	1,100	1,100
SUBMARINE WEAPONS SYSTEMS SHOP	10,150	10,150	10,150	10,150
OAK HARBOR NAVAL HOSPITAL				
AVIATION PHYSIOLOGY TRAINING FACILITY	2,180	2,180	2,180	2,180
PUGET SOUND NAVAL SHIPYARD				
LAND ACQUISITION	---	20,000	20,000	20,000
SILVERDALE STRATEGIC WEAPONS FACILITY (BANGOR)				
ENGINEERING SERVICES BUILDING	3,520	3,520	3,520	3,520
MAGAZINE MODIFICATIONS	800	800	800	800
MISSILE ASSEMBLY BUILDING	7,340	7,340	7,340	7,340
MOTOR INSPECTION BUILDING	6,630	6,630	6,630	6,630
RADIOGRAPHIC INSPECTION BUILDING	13,870	13,870	13,870	13,870
TRAINING FACILITY ADDITION	9,740	9,740	9,740	9,740
TRANSFER FACILITY ADDITION	3,520	3,520	3,520	3,520
UTILITIES AND SITE IMPROVEMENTS	11,060	11,060	11,060	11,060
WHIDBEY ISLAND NAVAL AIR STATION				
OPERATIONS AND MAINTENANCE TRNR FACILITY (INCR I)	19,100	19,100	---	---
WHIDBEY ISLAND NAVAL FACILITY				
ELECTRIC POWER IMPROVEMENTS	1,750	1,750	1,750	1,750
AIR FORCE				
FAIRCHILD AFB				
ADD TO/ALTER ACFT PARKING APRON LIGHTING	1,600	1,600	1,600	1,600
ALTER AIRCRAFT MAINTENANCE COMPLEX	9,600	9,600	9,600	9,600
PEACEKEEPER-ADD/ALTER COMM MAINT FACILITY	990	---	---	---
PEACEKEEPER-GARRISON FACILITIES	73,000	---	---	---
PEACEKEEPER-LAND ACQUISITION	1,000	---	---	---
PEACEKEEPER-MISSILE OPS MAINT FACILITY	6,900	---	---	---
PEACEKEEPER-ROAD RAILROAD AND UTILITIES	11,200	---	---	---
PEACEKEEPER-TRAINING TRAIN SHELTER	3,750	---	---	---
MCCHORD AFB				
SQUADRON OPERATIONS FACILITY	5,200	5,200	5,200	5,200
ARMY NATIONAL GUARD				
EVERETT/SNONOMISH				
ORGANIZATIONAL MAINTENANCE SHOP	345	345	345	345
TACOMA				
WATERCRAFT SUPPORT AND TRAINING COMPLEX	---	2,863	2,863	2,863
AIR FORCE RESERVE				
MCCHORD AFB				
SQUADRON OPERATIONS FACILITY	1,500	1,500	1,500	1,500
TOTAL, WASHINGTON	262,082	188,105	169,005	169,005
WEST VIRGINIA				
ARMY NATIONAL GUARD				
CHARLESTON				
ARMORY	---	---	2,900	2,900
KINGWOOD				
OMS	---	---	1,100	1,100
PARKERSBURG				
OMS	---	---	900	900
CAMP DAWSON				
TRAINING FACILITIES, PHASE IV	---	---	2,500	2,500
AIR NATIONAL GUARD				
E WV REGIONAL APT (MARTINSBURG)				
ADD TO AND ALTER AVIONICS SHOP	400	400	400	400
YEAGER AIRPORT, CHARLESTON				
OPERATIONS & TRAINING FACILITY	---	---	12,100	12,100
ARMY RESERVE				
CHARLESTON				
USARC/OMS	---	---	5,000	5,000
VARIOUS LOCATIONS				
LAND ACQUISITION	---	---	1,829	1,829
TOTAL, WEST VIRGINIA	400	400	26,729	26,729
WISCONSIN				
ARMY				
FORT MCCOY				
CENTRAL FUEL STORAGE FACILITY	5,500	5,500	5,500	5,500
CENTRAL WASH FACILITY	5,000	5,000	5,000	5,000

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
COLD STORAGE WAREHOUSE	5,000	5,000	5,000	5,000
MULTI-PURPOSE TRAINING RANGE	8,900	8,900	8,900	8,900
ARMY NATIONAL GUARD				
BELOIT				
ARMORY	---	---	2,200	2,200
MADISON				
ARMORY	---	7,372	---	7,372
RICHLAND CENTER				
ARMORY AND MOTOR VEHICLE STORAGE BUILDING	---	---	1,000	1,000
WAUKESHA				
ARMORY AND MOTOR VEHICLE STORAGE BUILDING	---	1,341	---	1,341
AIR NATIONAL GUARD				
MITCHELL FIELD, MILWAUKEE				
MAINTENANCE HANGAR	---	4,700	4,700	4,700
VOLK FIELD, CAMP DOUGLAS				
APRON & TAXIWAY	---	---	4,100	4,100
ARMY RESERVE				
FORT MCCOY				
REGIONAL TRAINING SITE-MEDICAL	2,258	2,258	2,258	2,258
TOTAL, WISCONSIN	26,658	40,071	38,658	47,371
WYOMING				
AIR FORCE				
FE WARREN AFB				
ADD TO AND ALTER TRANSPORTATION COMPLEX	4,400	4,400	4,400	4,400
PEACEKEEPER-DORMITORY	5,200	---	---	---
PEACEKEEPER (RESCISSION OF FISCAL YEAR 1990 FUNDS)	---	---	---	-26,000
DEFENSE AGENCIES				
DRMO, F.E. WARREN AFB				
COVERED STORAGE FACILITY	1,700	1,700	1,700	1,700
ARMY NATIONAL GUARD				
CAMP GUERNSEY				
AIRFIELD IMPROVEMENTS	---	---	2,947	2,947
TRNG SITE: ADMIN/SUPPLY/BARRACKS	983	983	983	983
LANDER				
ORGANIZATIONAL MAINTENANCE SUB-SHOP	277	277	277	277
TOTAL, WYOMING	12,560	7,360	10,307	-15,693
CONUS CLASSIFIED				
ARMY				
CLASSIFIED LOCATIONS				
CLASSIFIED PROJECT	3,000	3,000	3,000	3,000
DEFENSE AGENCIES				
CLASSIFIED LOCATION				
ADD/ALTER MAINTENANCE SHOPS	547	547	547	547
AVIONICS SHOP	2,200	2,200	2,200	2,200
BUILDING ADD W SUPPORT FACILITIES	26,600	26,600	26,600	26,600
TOTAL, CONUS CLASSIFIED	32,347	32,347	32,347	32,347
ANTIGUA				
AIR FORCE				
ANTIGUA MISSILE TRACKING ANNEX				
INSTRUMENTATION FACILITY	8,200	8,200	8,200	8,200
TOTAL, ANTIGUA	8,200	8,200	8,200	8,200
CANADA				
AIR FORCE				
VARIOUS LOCATIONS-CANADA				
FORWARD OPERATING LOCATIONS	6,300	6,300	---	6,300
FORWARD OPERATING LOCATIONS	12,000	12,000	---	12,000
TOTAL, CANADA	18,300	18,300	---	18,300
GERMANY				
ARMY				
GERMANY VARIOUS				
RECORD FIRE RANGES	4,053	---	---	---
WARTIME HOST NATION SUPPORT	2,500	2,500	2,500	2,500
GIESSEN				
TANK CREW COMBAT COURSE	2,250	---	---	---
GRAFENWOEHR				
APPLIED INSTRUCTION FACILITY	5,700	---	---	---
PAVE TANK TRAIL	1,630	1,630	---	---
READY BUILDING	3,500	---	---	---
HEILBRONN				
HARDSTAND & WASH FACILITY	5,500	---	---	---
HOHENFELS TNG AREA				
EDUCATION CENTER ADDITION	610	---	---	---
HARDSTAND & MAINTENANCE SHEDS	4,350	4,350	---	---

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
LIBRARY ADDITION	550	---	---	---
MILITARY POLICE STATION ADDITION	1,300	---	---	---
PHYSICAL FITNESS TRAINING CENTER	3,350	---	---	---
KAISERSLAUTERN				
MISSILE MAINTENANCE SHOP	5,000	5,000	---	5,000
MANNHEIM				
VEHICLE MAINTENANCE SHEDS	7,600	---	---	---
VILSECK				
CHAPEL CENTER/RELIGIOUS EDUCATION FACILITY	3,300	---	---	---
FIRE STATION	1,250	---	---	---
HARDSTAND/TACTICAL EQUIP SHOP & SHEDS	8,500	8,500	---	---
MULTI-PURPOSE AUDITORIUM FACILITY	2,550	---	---	---
AIR FORCE				
BITBURG AB				
ADD TO PHYSICAL FITNESS CENTER	2,000	---	---	---
HAHN AB				
UPGRADE WATER STORAGE AND DISTRIB SYSTEM	4,300	---	---	---
MARIENFELDE				
UPGRADE OPERATIONS FACILITY	1,621	---	---	---
RHEIN-MAIN AB				
COMMUNICATIONS CONTROL CENTER	3,250	---	---	---
SPANGDAHLEM AB				
ADD/ALTER WATER STORAGE AND DISTRIB SYSTEM	4,900	---	---	---
UPGRADE SEWAGE TREATMENT PLANT/SEWER SYSTEM	4,350	---	---	---
DEFENSE AGENCIES				
DARMSTADT				
ELEMENTARY/JUNIOR HIGH ADDITIONS	7,276	---	---	---
FRANKFURT				
ATTERBURY ELEMENTARY SCHOOL ADDITION	7,449	7,449	---	---
GIESSEN				
DISPENSARY/DENTAL CLINIC REPLACEMENT	5,000	---	---	---
IDAR OBERSTEIN				
ELEMENTARY SCHOOL ADDITION	2,189	---	---	---
KAISERSLAUTERN				
ELEMENTARY/JUNIOR AND HIGH SCHOOL ADDITIONS	13,341	---	---	---
LANDSTUHL				
ELEMENTARY/MIDDLE SCHOOL ADDITION	3,724	3,724	---	---
MANNHEIM				
HIGH SCHOOL ADDITION	8,708	---	---	---
NELLINGEN				
ELEMENTARY SCHOOL ADDITION	3,187	---	---	---
NUERNBERG				
DISPENSARY/DENTAL CLINIC REPLACEMENT	5,800	---	---	---
RAMSTEIN				
ELEMENTARY/JUNIOR HIGH ADDITIONS	12,217	---	---	---
RHEIN-MAIN AIR BASE				
AEROMEDICAL EVACUATION LOGISTICS FACILITY	870	---	---	---
TOTAL, GERMANY	153,675	33,153	2,500	7,500
GREENLAND				
AIR FORCE				
THULE AB				
UPGRADE AIRFIELD PAVEMENTS (PHASE I)	6,300	6,300	6,300	6,300
TOTAL, GREENLAND	6,300	6,300	6,300	6,300
GUAM				
NAVY				
NAVAL MAGAZINE				
TOMAHAWAK SUPPORT COMPLEX	9,319	9,319	9,319	9,319
NAVY PUBLIC WORKS CENTER				
SANITARY WASTEWATER SYSTEM UPGRADE	7,500	7,500	7,500	7,500
TOTAL, GUAM	16,819	16,819	16,819	16,819
HONDURAS				
AIR FORCE				
LA MESA AB				
AIRFIELD IMPROVEMENTS	12,600	---	---	---
PALMEROLA (SOTO CANO) AB				
C130-AIRCRAFT APRON	4,600	---	---	---
TOTAL, HONDURAS	17,200	---	---	---
ICELAND				
NAVY				
KEFLAVIK NAVAL AIR STATION				
FUEL FACILITIES	2,440	2,440	---	2,440
KEFLAVIK NAVAL COMMUNICATION STATION				
COMMUNICATION CENTER	10,248	---	---	---
TOTAL, ICELAND	12,688	2,440	---	2,440

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
ITALY				
NAVY				
SICILY NAVAL COMMUNICATION STATION				
RECEIVER FACILITY	1,513	1,513	1,513	1,513
SIGONELLA NAVAL AIR STATION				
CORROSION CONTROL HANGAR	8,390	8,390	---	8,390
ENGINE MAINTENANCE SHOP ADDITION	1,850	---	---	---
AIR FORCE				
GHEDI AIRFIELD				
ALTER MUNITIONS STORAGE FACILITY	550	---	---	---
RIMINI AIRFIELD				
ALTER MUNITIONS STORAGE FACILITY	510	---	---	---
SAN VITO AS				
ALTER DORMITORY	2,750	---	---	---
DEFENSE AGENCIES				
AVIANO AIR BASE				
SECOND ECHELON MEDICAL LOGISTICS STORAGE	1,100	---	---	---
VICENZA				
HOSPITAL REPLACEMENT	28,000	---	---	---
TOTAL, ITALY	44,663	9,903	1,513	9,903
JAPAN				
ARMY				
JAPAN VARIOUS				
AMMUNITION STORAGE	8,400	8,400	---	---
AMMUNITION SURVEILLANCE FACILITY	2,050	2,050	---	---
NAVY				
HANZA OKINAWA NAVAL SECURITY GROUP ACT				
FIRE PROTECTION SYSTEM	1,035	1,035	---	---
IWAKUNI MARINE CORPS AIR STATION				
HANGAR CONVERSION	3,017	---	---	---
AIR FORCE				
KADENA AB				
CONTROL TOWER CAB	770	770	---	---
FIRE PROTECTION KC135 MAINTENANCE FACILITIES	2,950	---	---	---
TOTAL, JAPAN	18,222	12,255	---	---
JOHNSTON ISLAND				
DEFENSE AGENCIES				
DNA HDQTRS FIELD COMMAND				
COMMUNITY SUPPORT COMPLEX	4,145	4,145	4,145	4,145
MAINTENANCE FACILITY (PHASE I)	4,450	4,450	4,450	4,450
TOTAL, JOHNSTON ISLAND	8,595	8,595	8,595	8,595
KOREA				
ARMY				
CAMP CASEY				
BARRACKS	8,690	---	---	---
CAMP GARY OWEN				
TACTICAL EQUIPMENT SHOP	1,800	---	---	---
CAMP HOVEY				
TACTICAL EQUIPMENT SHOP	8,500	---	---	---
K-16 ARMY AIRFIELD, YONGSAN				
FLIGHT SIMULATOR BUILDING	1,500	1,500	---	1,500
KOREA VARIOUS				
AMMUNITION STORAGE	11,000	11,000	---	---
AIR FORCE				
KUNSAN AB				
AIRCRAFT FUELS SYSTEM REPAIR DOCK	3,300	3,300	---	---
PHYSICAL FITNESS COMPLEX	5,300	---	---	---
SQUADRON OPERATIONS FACILITY	6,000	---	---	---
UPGRADE ELECTRICAL DIST SYSTEM (PHASE III)	5,700	---	---	---
OSAN AB				
AIRCRAFT SUPPORT EQUIP SHOP/STORAGE FACILITY	1,800	---	---	---
BASE OPERATIONS FACILITY	1,950	---	---	---
FIRE STATION	4,650	---	---	---
REPLACE TAXIWAY PAVEMENT (PHASE I)	5,500	---	---	---
SQUADRON OPERATIONS/SENSOR MAINT FACILITY	1,700	1,700	---	---
DEFENSE AGENCIES				
CAMP CASEY				
TROOP MEDICAL CLINIC REPLACEMENT	1,000	1,000	---	1,000
KUNSAN AIR BASE				
HOSPITAL/DENTAL CLINIC REPLACEMENT	14,400	14,400	---	---
TOTAL, KOREA	82,790	32,900	---	2,500

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
PHILIPPINES				
AIR FORCE				
CLARK AB				
CONTROL TOWER CAB	710	---	---	---
TOTAL, PHILIPPINES	710	---	---	---
PUERTO RICO				
ARMY NATIONAL GUARD				
CAMP SANTIAGO (SALINAS)				
RANGE, MODIFIED RECORD FIRE (RETS)	1,000	1,000	1,000	1,000
AIR NATIONAL GUARD				
PUERTO RICO IAP				
FIRE SUPPRESSION SYSTEM	1,100	1,100	1,100	1,100
TOTAL, PUERTO RICO	2,100	2,100	2,100	2,100
SEYCHELLE ISLANDS				
AIR FORCE				
MAHE MISSILE TRACKING SITE				
SATELLITE CONTROL FACILITY	4,600	4,600	4,600	4,600
TOTAL, SEYCHELLE ISLANDS	4,600	4,600	4,600	4,600
SPAIN				
NAVY				
ROTA NAVAL COMMUNICATION STATION				
OPERATIONS BUILDING UPGRADE	1,105	---	1,105	1,105
TOTAL, SPAIN	1,105	---	1,105	1,105
TURKEY				
AIR FORCE				
INCIRLIK AB				
ALTER MUNITIONS STORAGE FACILITY	3,700	3,700	---	---
WATER DISTRIBUTION MAINS	1,100	1,100	---	1,100
PIRINCLIK				
DORMITORY	1,250	1,250	1,250	1,250
DEFENSE AGENCIES				
SINOP				
MEDICAL/DENTAL CLINIC REPLACEMENT	1,750	1,750	1,750	1,750
TOTAL, TURKEY	7,800	7,800	3,000	4,100
UNITED KINGDOM				
NAVY				
BRAWDY WALES FLEET SURVEILLANCE SPT CMD				
ELECTRONIC INSTALLATION	1,740	1,740	1,740	---
LONDON PERSONNEL SUPPORT ACTIVITY				
PAY AND PERSONNEL SUPPORT OFFICE	442	---	---	---
AIR FORCE				
HIGH WYCOMBE				
DORMITORY	4,200	---	---	---
RAF ALCONBURY				
ADD TO AND ALTER PHYSICAL FITNESS CENTER	3,200	---	---	---
ALTER DORMITORIES	4,100	---	---	---
RAF BENTWATERS				
CENTRAL POST OFFICE	1,500	---	---	---
RAF CHICKSANDS				
SATELLITE COMMUNICATIONS TERMINAL	12,200	---	---	---
RAF LAKENHEATH				
ALTER DORMITORY	3,155	3,155	---	---
ALTER MUNITIONS STORAGE FACILITY	4,950	---	---	---
RAF MILDENHALL				
ADD TO AND ALTER PHYSICAL FITNESS CENTER	1,100	---	---	---
DEFENSE AGENCIES				
HARROGATE				
MENWITH HILL MIDDLE SCHOOL ADDITION	2,100	2,100	---	---
RAF EDZELL				
MEDICAL DENTAL CLINIC REPLACEMENT	5,400	5,400	---	---
ROYAL AIR FORCE LANARK				
FLEET HOSPITAL FACILITY	3,900	3,900	---	---
TOTAL, UNITED KINGDOM	47,987	16,295	1,740	---
OVERSEAS CLASSIFIED				
AIR FORCE				
OVERSEAS CLASSIFIED				
F15E-CONVENTIONAL MUNITIONS MAINT FACILITY	2,400	2,400	2,400	---
F15E-FIELD TRAINING FACILITY	2,400	2,400	2,400	---
OPERATIONS FACILITY	14,243	14,243	---	---
TACTICAL INTELLIGENCE CENTER	3,000	3,000	---	---

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
DEFENSE AGENCIES				
CLASSIFIED OVERSEAS LOCATIONS				
CLASSIFIED PROJECT	2,375	2,375	2,375	2,375
OVERSEAS CLASSIFIED				
CLASSIFIED PROJECT	7,800	7,800	7,800	7,800
TOTAL, OVERSEAS CLASSIFIED	32,218	32,218	14,975	10,175
OVERSEAS RESCISSIONS				
ARMY				
FISCAL YEAR 1986	---	-1,900	-1,900	-1,900
FISCAL YEAR 1987	---	-14,905	-14,905	-14,905
FISCAL YEAR 1988	---	-29,030	-29,030	-29,030
FISCAL YEAR 1989	---	-26,910	-26,910	-26,910
FISCAL YEAR 1990	---	-44,000	-44,000	-44,000
SUBTOTAL, ARMY	---	-116,745	-116,745	-116,745
NAVY				
FISCAL YEAR 1990	---	-6,200	-6,200	-6,200
AIR FORCE				
FISCAL YEAR 1989	---	-4,700	-4,700	-4,700
FISCAL YEAR 1990	---	-20,690	-20,690	-20,690
SUBTOTAL, AIR FORCE	---	-25,390	-25,390	-25,390
DEFENSE AGENCIES				
FISCAL YEAR 1989	---	-35,578	-35,578	-35,578
FISCAL YEAR 1990	---	-32,541	-32,541	-32,541
SUBTOTAL, DEFENSE AGENCIES	---	-68,119	-68,119	-68,119
TOTAL, OVERSEAS RESCISSIONS	---	-216,454	-216,454	-216,454
OVERSEAS VARIOUS				
DEFENSE AGENCIES				
VARIOUS LOCATIONS				
HOT LUNCH FACILITIES	15,188	---	---	---
NATO				
NATO INFRASTRUCTURE	420,400	250,000	210,400	192,700
WORLDWIDE CLASSIFIED				
AIR FORCE				
CLASSIFIED LOCATION				
VARIOUS FACILITIES	4,000	4,000	4,000	---
VARIOUS FACILITIES	2,600	2,600	2,600	---
VARIOUS FACILITIES	3,800	3,800	3,800	---
VARIOUS FACILITIES	4,000	4,000	4,000	---
TOTAL, WORLDWIDE CLASSIFIED	14,400	14,400	14,400	---
WORLDWIDE UNSPECIFIED				
ARMY				
UNSPECIFIED WORLDWIDE LOCATIONS				
PLANNING AND DESIGN	89,577	95,577	83,577	89,577
UNSPECIFIED MINOR CONSTRUCTION	7,603	7,603	8,603	8,603
GENERAL REDUCTION	---	---	-2,500	---
NAVY				
UNSPECIFIED WORLDWIDE LOCATIONS				
ACCESS ROADS	4,017	4,017	4,017	4,017
PLANNING AND DESIGN	76,951	76,951	71,951	74,451
UNSPECIFIED MINOR CONSTRUCTION	13,311	13,311	13,311	13,311
GENERAL REDUCTION	---	---	-20,440	---
AIR FORCE				
UNSPECIFIED WORLDWIDE LOCATIONS				
PLANNING AND DESIGN	107,741	107,741	80,741	94,241
UNSPECIFIED MINOR CONSTRUCTION	10,272	10,272	10,272	10,272
GENERAL REDUCTION	---	---	-41,000	-15,000
DEFENSE AGENCIES				
UNSPECIFIED WORLDWIDE LOCATIONS				
CONTINGENCY CONSTRUCTION	12,700	12,700	12,700	10,000
DEFICIENCY ALLOWANCE	---	---	11,000	10,100
GENERAL REDUCTION	---	---	-27,000	---
ENERGY CONSERVATION PROGRAM	---	---	---	10,000
PLANNING AND DESIGN (WASHINGTON HQ SERVICES)	10,000	---	---	---
PLANNING AND DESIGN (DEFENSE MEDICAL FACILITIES)	44,300	44,300	44,300	44,300

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
PLANNING AND DESIGN (SPECIAL OPERATIONS)	2,689	2,689	2,689	2,689
PLANNING AND DESIGN (STRATEGIC DEFENSE INITIATIVE)	6,000	6,000	6,000	6,000
PLANNING AND DESIGN (DEFENSE LEVEL ACTIVITIES)	41,296	41,296	41,296	41,296
DEFENSE AGENCIES, GENERAL REDUCTION	---	---	-20,000	---
SUBTOTAL, DEFENSE AGENCIES PLANNING AND DESIGN	104,285	94,285	74,285	94,285
UNSPECIFIED MINOR CONSTRUCTION (DODDS)	---	2,000	---	2,000
UNSPECIFIED MINOR CONSTRUCTION (DMFO)	2,655	2,655	2,655	2,655
UNSPECIFIED MINOR CONSTRUCTION (SPECIAL OPS)	100	100	100	100
UNSPECIFIED MINOR CONSTRUCTION (SDI)	1,500	1,500	1,500	1,500
UNSPECIFIED MINOR CONSTRUCTION (DEF LEVEL ACT)	1,500	1,500	1,500	1,500
UNSPECIFIED MINOR CONSTRUCTION (JCS EXERCISES)	7,200	7,200	7,200	7,200
SUBTOTAL, DEFENSE AGENCIES UNSPECIFIED MINOR CONSTRUCTION	12,955	14,955	12,955	14,955
ARMY NATIONAL GUARD				
UNSPECIFIED WORLDWIDE LOCATIONS				
PLANNING AND DESIGN	4,100	4,100	13,100	13,100
UNSPECIFIED MINOR CONSTRUCTION	4,064	4,064	4,064	4,064
AIR NATIONAL GUARD				
UNSPECIFIED WORLDWIDE LOCATIONS				
PLANNING AND DESIGN	8,800	8,800	16,500	16,500
UNSPECIFIED MINOR CONSTRUCTION	3,793	3,793	3,793	3,793
DEFICIENCY ALLOWANCE	---	---	12,159	---
ARMY RESERVE				
UNSPECIFIED WORLDWIDE LOCATIONS				
PLANNING AND DESIGN	4,756	6,056	8,356	8,356
UNSPECIFIED MINOR CONSTRUCTION	2,253	2,253	2,253	2,253
DEFICIENCY ALLOWANCE	---	---	3,800	---
NAVY RESERVE				
UNSPECIFIED WORLDWIDE LOCATIONS				
PLANNING AND DESIGN	3,885	3,885	7,352	7,352
UNSPECIFIED MINOR CONSTRUCTION	1,600	1,600	1,600	1,600
DEFICIENCY ALLOWANCE	---	---	8,000	---
AIR FORCE RESERVE				
UNSPECIFIED WORLDWIDE LOCATIONS				
PLANNING AND DESIGN	3,309	3,309	4,209	4,209
UNSPECIFIED MINOR CONSTRUCTION	1,415	1,415	1,415	1,415
DEFICIENCY ALLOWANCE	---	---	2,500	---
TOTAL, WORLDWIDE UNSPECIFIED	477,387	476,687	381,573	481,454
WORLDWIDE VARIOUS				
NAVY				
VARIOUS LOCATIONS				
LAND ACQUISITION	10,660	4,660	4,660	4,400
HOST NATION INFRASTRUCTURE SUPPORT	1,000	1,000	1,000	1,000
DEFENSE AGENCIES				
VARIOUS LOCATIONS				
CONFORMING STORAGE FACILITIES	10,000	10,000	10,000	5,000
CONFORMING STORAGE FACILITIES	3,580	3,580	3,580	3,580
ARMY NATIONAL GUARD				
VARIOUS LOCATIONS				
ARMORY UNIT STORAGE BUILDING	1,600	1,600	1,600	1,600
RANGE, INDOOR MODERNIZATION	2,200	2,200	2,200	2,200
TOTAL, WORLDWIDE VARIOUS	29,040	23,040	23,040	17,780
FAMILY HOUSING, ARMY				
HAWAII				
VARIOUS OAHU (138 UNITS)	15,000	15,000	15,000	15,000
KANSAS				
FORT RILEY (250 UNITS)	---	---	16,500	16,500
CONSTRUCTION IMPROVEMENTS	44,100	44,100	27,500	40,100
PLANNING	2,700	2,700	2,700	2,700
SUBTOTAL, CONSTRUCTION	61,800	61,800	61,700	74,300
OPERATION AND MAINTENANCE				
FURNISHINGS ACCOUNT	73,469	70,035	70,035	70,035
MANAGEMENT ACCOUNT	80,883	80,883	80,883	80,883
MISCELLANEOUS ACCOUNT	1,629	1,629	1,629	1,629
SERVICES ACCOUNT	58,203	58,203	58,203	58,203
UTILITIES ACCOUNT	303,641	303,641	303,641	303,641
LEASING	434,316	434,316	434,316	434,316
MAINTENANCE OF REAL PROPERTY	540,210	514,961	514,961	514,961

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
INTEREST PAYMENTS	31	31	31	31
MORTGAGE INSURANCE PREMIUMS	18	18	18	18
SUBTOTAL, OPERATION AND MAINTENANCE	1,492,400	1,463,717	1,463,717	1,463,717
PLUS APPROPRIATION FOR DEBT REDUCTION	250	250	250	250
SUBTOTAL, APPROPRIATIONS	1,554,450	1,525,767	1,525,667	1,538,267
RESCISSIONS				
FISCAL YEAR 1988	---	-4,264	-4,264	-4,264
FISCAL YEAR 1989	---	-8,400	-8,400	-8,400
SUBTOTAL, RESCISSIONS	---	-12,664	-12,664	-12,664
TOTAL, FAMILY HOUSING, ARMY (NET)	1,554,450	1,513,103	1,513,003	1,525,603
FAMILY HOUSING, NAVY				
CALIFORNIA				
MARINE CORPS BASE CAMP PENDLETON (116 UNITS)	11,805	11,805	---	11,805
NAVAL STATION LONG BEACH (300 UNITS)	25,018	25,018	---	25,018
PACIFIC MISSILE TEST CENTER POINT MUGU (OFFICE)	513	513	513	---
PUBLIC WORKS CENTER SAN DIEGO (300 UNITS)	31,880	31,880	31,880	31,880
NEVADA				
FALLON NAS (80 UNITS)	---	---	10,500	10,500
NEW YORK				
NAVAL STATION NEW YORK (150 UNITS)	19,692	19,692	---	---
VIRGINIA				
LITTLE CREEK NAVAL AMPHIBIOUS BASE (COMMUNITY CNTR)	372	372	372	372
PWC NORFOLK (COMMUNITY CENTER)	417	417	417	417
PWC NORFOLK (COMMUNITY CENTER)	417	417	417	417
BERMUDA				
NAVAL AIR STATION (OFFICE)	378	378	---	---
GUANTANAMO BAY, CUBA				
NAVAL STATION GUANTANAMO BAY (134 UNITS)	18,409	18,409	18,409	18,409
ICELAND				
NAVAL AIR STATION KEFLAVIK (112 UNITS)	27,479	27,479	27,479	27,479
CONSTRUCTION IMPROVEMENTS	42,420	42,420	42,420	42,420
PLANNING	6,200	6,200	6,200	6,200
SUBTOTAL, CONSTRUCTION	185,000	185,000	138,607	174,917
OPERATION AND MAINTENANCE				
FURNISHINGS ACCOUNT	22,609	21,552	21,552	21,552
MANAGEMENT ACCOUNT	53,306	53,306	53,306	53,306
MISCELLANEOUS ACCOUNT	825	825	825	825
SERVICES ACCOUNT	37,140	37,140	37,140	37,140
UTILITIES ACCOUNT	180,610	180,610	180,610	180,610
LEASING	53,775	43,775	43,775	43,775
MAINTENANCE OF REAL PROPERTY	371,037	353,695	353,695	353,695
MORTGAGE INSURANCE PREMIUMS	198	198	198	198
SUBTOTAL, OPERATION AND MAINTENANCE	719,500	691,101	691,101	691,101
SUBTOTAL, APPROPRIATIONS	904,500	876,101	829,708	866,018
RESCISSION, FISCAL YEAR 1990	---	-11,037	-11,037	-11,037
TOTAL, FAMILY HOUSING, NAVY (NET)	904,500	865,064	818,671	854,981
FAMILY HOUSING, AIR FORCE				
NEVADA				
NELLIS AFB (OFFICE)	235	235	235	235
NELLIS AFB (13 UNITS)	---	---	---	1,600
NEW MEXICO				
HOLLOMAN AFB (MAINTENANCE FACILITY)	219	219	219	219
NORTH CAROLINA				
SOUTH CAROLINA				
CHARLESTON AFB (OFFICE AND MAINTENANCE FACILITY)	592	592	592	592
MYRTLE BEACH AFB (OFFICE)	258	258	258	258
SOUTH DAKOTA				
ELLSWORTH AFB (OFFICE)	313	313	313	313
TEXAS				
KELLY AFB (11 UNITS)	---	1,369	---	1,369
GUAM				
ANDERSEN AFB (SUPPLY AND STORAGE FACILITY)	1,371	1,371	1,371	1,371

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	HOUSE RECOMMENDED	SENATE RECOMMENDED	CONFERENCE AGREEMENT
CONSTRUCTION IMPROVEMENTS	173,612	174,743	130,000	151,000
PLANNING	6,000	6,000	6,000	6,000
SUBTOTAL, CONSTRUCTION	182,600	185,100	138,988	162,957
OPERATION AND MAINTENANCE				
FURNISHINGS ACCOUNT	55,164	52,586	52,586	52,586
MANAGEMENT ACCOUNT	41,034	41,034	41,034	41,034
MISCELLANEOUS ACCOUNT	7,559	7,559	7,559	7,559
SERVICES ACCOUNT	24,532	24,532	24,532	24,532
UTILITIES ACCOUNT	223,097	223,097	223,097	223,097
LEASING	110,911	110,911	110,911	110,911
MAINTENANCE OF REAL PROPERTY	326,922	311,642	311,642	311,642
MORTGAGE INSURANCE PREMIUMS	81	81	81	81
SUBTOTAL, OPERATION AND MAINTENANCE	789,300	771,442	771,442	771,442
SUBTOTAL, APPROPRIATIONS	971,900	956,542	910,430	934,399
RESCISSIONS				
FISCAL YEAR 1988	---	-1,941	-1,941	-1,941
FISCAL YEAR 1989	---	-167	-167	-167
FISCAL YEAR 1990	---	-43,856	-43,856	-43,856
SUBTOTAL, RESCISSIONS	---	-45,964	-45,964	-45,964
TOTAL, FAMILY HOUSING, AIR FORCE (NET)	971,900	910,578	864,466	888,435
FAMILY HOUSING, DEFENSE AGENCIES				
NEW CONSTRUCTION				
OVERSEAS CLASSIFIED (3 UNITS)	400	400	400	400
CONSTRUCTION IMPROVEMENTS	100	100	100	100
SUBTOTAL, CONSTRUCTION	500	500	500	500
OPERATION AND MAINTENANCE				
FURNISHINGS ACCOUNT	1,174	1,119	1,119	1,119
MANAGEMENT ACCOUNT	105	105	105	105
MISCELLANEOUS ACCOUNT	1	1	1	1
SERVICES ACCOUNT	296	296	296	296
UTILITIES ACCOUNT	471	471	471	471
LEASING	17,897	17,897	17,897	17,897
MAINTENANCE OF REAL PROPERTY	656	625	625	625
SUBTOTAL, OPERATION AND MAINTENANCE	20,600	20,514	20,514	20,514
SUBTOTAL, APPROPRIATIONS	21,100	21,014	21,014	21,014
RESCISSION, FISCAL YEAR 1990	---	-300	-300	-300
TOTAL, FAMILY HOUSING, DEFENSE AGENCIES (NET)	21,100	20,714	20,714	20,714
HOMEOWNERS ASSISTANCE FUND				
OPERATING EXPENSES	5,100	5,100	5,100	5,100
BASE REALIGNMENT AND CLOSURE ACCOUNT				
BASE REALIGNMENT AND CLOSURE ACCOUNT	916,500	998,100	916,500	998,100

W.G. (BILL) HEFNER,
BILL ALEXANDER,
LINDSAY THOMAS,
RONALD D. COLEMAN,
MARCY KAPTUR,
TOM BEVILL,
NORMAN D. DICKS,
VIC FAZIO,
JAMIE L. WHITTEN,
BILL LOWERY
(except amendments 11, 12, and 13),
MICKEY EDWARDS
(except amendments 11, 12, and 13),
JIM KOLBE
(except amendments 11, 12, and 13),
TOM DELAY
(except amendments 11, 12, and 13),
SILVIO O. CONTE
(except amendments 11, 12, and 13),
Managers on the Part of the House.

JIM SASSER,
DANIEL K. INOUYE,
HARRY REID,
WYCHE FOWLER,
ROBERT C. BYRD,
CHARLES GRASSLEY,
JAKE GARN,
MARK O. HATFIELD,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 5229

Mr. LEHMAN of Florida submitted the following conference report and statement on the bill (H.R. 5229) making appropriations for the Department of Transportation and related agencies, for the fiscal year ending September 30, 1991, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-892)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5229) making appropriations for the Department of Transportation and related agencies, for the fiscal year ending September 30, 1991, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 3, 23, 28, 31, 35, 38, 41, 44, 46, 47, 54, 79, 85, 88, 99, 101, 105, 106, 107, 113, 126, 131, and 142.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 5, 8, 9, 11, 12, 24, 26, 27, 36, 37, 89, 91, 95, 109, 111, 112, 114, 115, 116, 119, 121, 122, 125, 127, and 134, and agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,500,000*; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$406,331,000*; and the Senate agree to the same.

Amendment numbered 17:

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$157,500,000*; and the Senate agree to the same.

Amendment numbered 20:

That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$106,885,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$36,936,000*; and the Senate agree to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$25,000,000*; and the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named in said amendment insert: *$3,250,000*; and the Senate agree to the same.

Amendment numbered 34:

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$205,000,000*; and the Senate agree to the same.

Amendment numbered 39:

That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$256,415,000*; and the Senate agree to the same.

Amendment numbered 40:

That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$67,301,000*; and the Senate agree to the same.

Amendment numbered 42:

That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$14,450,000*; and the Senate agree to the same.

Amendment numbered 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$9,633,333*; and the Senate agree to the same.

Amendment numbered 48:

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named by said amendment insert: *$8,415,000*; and the Senate agree to the same.

Amendment numbered 49:

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named by said amendment insert: *$8,500,000*; and the Senate agree to the same.

Amendment numbered 50:

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named by said amendment insert: *$17,000,000*; and the Senate agree to the same.

Amendment numbered 51:

That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named by said amendment insert: *$7,650,000*; and the Senate agree to the same.

Amendment numbered 52:

That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named by said amendment insert: *$6,800,000*; and the Senate agree to the same.

Amendment numbered 53:

That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named by said amendment insert: *$1,700,000*; and the Senate agree to the same.

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named by said amendment insert: *$3,400,000*; and the Senate agree to the same.

Amendment numbered 56:

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named by said amendment insert: *$3,060,000*; and the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named by said amendment insert: *$10,200,000*; and the Senate agreed to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named by said amendment insert: *$2,550,000*; and the Senate agreed to the same.

Amendment numbered 59:

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named by said amendment insert: *$1,700,000*; and the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named by said amendment insert: *$8,500,000*; and the Senate agree to the same.

Amendment numbered 61:

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named by said amendment insert: *$3,400,000*; and the Senate agree to the same.

Amendment numbered 62:

That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named by said amendment insert: *$7,225,000*; and the Senate agree to the same.

Amendment numbered 63:

That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the first sum named by said amendment insert: *$8,500,000*

In lieu of the second sum named by said amendment insert: *$850,000*; and the Senate agree to the same.

Amendment numbered 64:

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named by said amendment insert: *$9,350,000*; and the Senate agree to the same.

Amendment numbered 65:

That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named by said amendment insert: *$17,000,000*; and the Senate agree to the same.

Amendment numbered 66:

That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named by said amendment insert: *$5,100,000*; and the Senate agree to the same.

Amendment numbered 82:

That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following: *$76,347,100; of which $5,000,000 shall be for carrying out 23 U.S.C. 410 and*; and the Senate agree to the same.

Amendment numbered 83:

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$38,229,500*; and the Senate agree to the same.

Amendment numbered 86:

That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$15,000,000*; and the Senate agree to the same.

Amendment numbered 87:

That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$14,433,000*; and the Senate agree to the same.

Amendment numbered 90:

That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$10,000,000*; and the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$34,362,000*; and the Senate agree to the same.

Amendment numbered 94:

That the House recede from its disagreement to the amendment of the Senate numbered 94, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$22,147,000*; and the Senate agree to the same.

Amendment numbered 100:

That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$475,080,000*; and the Senate agree to the same.

Amendment numbered 102:

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$132,000,000*; and the Senate agree to the same.

Amendment numbered 103:

That the House recede from its disagreement to the amendment of the Senate numbered 103, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the word "second" insert: *third*; and the Senate agree to the same.

Amendment numbered 108:

That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$32,583,000*; and the Senate agree to the same.

Amendment numbered 120:

That the House recede from its disagreement to the amendment of the Senate numbered 120, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$11,042,000*; and the Senate agree to the same.

Amendment numbered 123:

That the House recede from its disagreement to the amendment of the Senate numbered 123, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$31,470,000*; and the Senate agree to the same.

Amendment numbered 124:

That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,000*; and the Senate agree to the same.

Amendment numbered 128:

That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,350,000*; and the Senate agree to the same.

Amendment numbered 133:

That the House recede from its disagreement to the amendment of the Senate numbered 133, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following:

(b) National Weather Graphics System.—None of the funds made available in this Act may be used by the Federal Aviation Administration for a New National Weather Graphics System.

And the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 4, 7, 10, 13, 14, 15, 18, 19, 22, 29, 32, 33, 45, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 80, 81, 84, 93, 96, 97, 98, 104, 110, 117, 118, 129, 130, 132, 135, 136, 137, 138, 139, 140, 141, and 143.

WILLIAM LEHMAN,
WILLIAM H. GRAY III,
BOB CARR (except as to amendments 39 and 40),
RICHARD J. DURBIN,
ROBERT J. MRAZEK,
MARTIN OLAV SABO,
JAMIE L. WHITTEN,
LAWRENCE COUGHLIN,
SILVIO O. CONTE,
FRANK R. WOLF,
TOM DELAY,

Managers on the Part of the House.

FRANK R. LAUTENBERG,
ROBERT C. BYRD,

TOM HARKIN,
JAMES R. SASSER,
BARBARA A. MIKULSKI,
DANIEL K. INOUYE,
ALFONSE M. D'AMATO,
ROBERT W. KASTEN, Jr.,
PETE V. DOMENICI,
CHUCK GRASSLEY,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on amendments of the Senate to the bill (H.R. 5229) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1991, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

CONGRESSIONAL DIRECTIVES

The conferees agree that Executive Branch wishes cannot substitute for Congress' own statements as to the best evidence of Congressional intentions—that is, the official reports of the Congress. Report language included by the House that is not changed by the report of the Senate, and Senate report language that is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, is not intended to negate the language referred to above unless expressly provided herein.

PROGRAM, PROJECT, AND ACTIVITY

During fiscal year 1991 and any year thereafter, for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended, with respect to funds provided for the Department of Transportation and related agencies, the terms "program, project, and activity" shall mean any item for which a dollar amount is contained in an appropriation Act (including joint resolutions providing continuing appropriations) or accompanying reports of the House and Senate Committees on Appropriations, or accompanying conference reports and joint explanatory statements of the committee of conference. In addition, the reductions made pursuant to any sequestration order to funds appropriated for "Federal Aviation Administration, Facilities and equipment" and for "Coast Guard, Acquisition, construction, and improvements" shall be applied equally to each "budget item" that is listed under said accounts in the budget justifications submitted to the House and Senate Committees on Appropriations as modified by subsequent appropriation Acts and accompanying committee reports, conference reports, or joint explanatory statements of the committee of conference. The conferees recognize that adjustments to the above allocations may be required due to changing program requirements or priorities. The conferees expect any such adjustments, if required, to be accomplished only through the normal reprogramming process.

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

OFFICE OF THE ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS

Amendment No. 1: Appropriates $8,500,000 as proposed by the Senate instead of $8,810,000 as proposed by the House.

OFFICE OF THE ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS

Amendment No. 2: Appropriates $2,390,000 as proposed by the House instead of $2,400,000 as proposed by the Senate.

Amendment No. 3: Provides that not to exceed $40,000 of the appropriation to the Office of the Assistant Secretary for Budget and Programs be used for official reception and representation expenses as proposed by the House instead of $50,000 as proposed by the Senate.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$26,745,000, of which $5,000,000 shall remain available until expended*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

General Purpose ADP Systems.—The conferees agree to all reductions as proposed by the House, and in addition agree to provide $5,000,000 to continue the development of the Departmental Accounting and Financial Information System (DAFIS). This activity was included in the President's budget proposal under the Working Capital Fund (WCF). The conferees agree that funding for development or upgrade of general-purpose automated data processing systems is not an appropriate activity of the WCF; therefore, in future budgets the department is requested to include funding for such items in the appropriation for the Office of the Assistant Secretary for Administration or the appropriate modal accounts. Of the amount provided, $5,000,000 is only available for DAFIS.

Reimbursable Agreements with the Department of Defense.—The conferees share the concern of the House over rising costs being charged to the Department of Transportation by the Department of Defense for reimbursable contract audit work. The DOD, beginning in fiscal year 1990, raised billing rates for such services dramatically based upon an interpretation of the Economy Act (31 U.S.C. 1535). When these rates were appealed, DOD refused to provide a lower rate for federal agencies, stating that "there is no legal authority to waive or reduce part of a rate determined for use in Economy Act transactions". The conferees note that in fiscal year 1990, the Department of Transportation received an estimated $180,000,000 in reimbursable orders from the DOD, and that recent audit reports have indicated that DOT's billing structure for reimbursables may need to be updated. Therefore, the conferees direct the Department of Transportation to review the current billing structure for reimbursables and to revise DOD billing rates based upon actual hourly costs of operation for services rendered, with the intent that the two departments' charges to each other would be based upon the same accounting standards. The DOT is to report its findings and plan of action to the House and Senate Committees on Appropriations by December 31, 1990.

OFFICE OF COMMERCIAL SPACE TRANSPORTATION

Amendment No. 5: Deletes appropriation of $725,000 proposed by the House. The Senate bill addressed this matter in amendment No. 10.

OFFICE OF ESSENTIAL AIR SERVICE

Amendment No. 6: Appropriates $1,500,000 instead of $1,251,000 as proposed by the House and $1,610,000 as proposed by the Senate.

The conference agreement provides funding for 23 staff years.

OFFICE OF INTELLIGENCE AND SECURITY

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert the following: *$1,200,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees wish to emphasize that the responsibilities of this office are to focus on policy, oversight and coordination, and not research, development or procurement of intelligence and security equipment. Funding has been provided in the Federal Aviation Administration for acquisition of security equipment. It is expected that funds provided herein for the Office of Intelligence and Security will be used solely for personnel and administrative expenses.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

Amendment No. 8: Appropriates $2,947,000 as proposed by the Senate instead of $4,777,000 as proposed by the House.

Amendment No. 9: Deletes House language that credited to the Transportation planning, research, and development account funds received from space-related user fees. The Senate bill addressed this matter in amendment No. 10.

OFFICE OF COMMERCIAL SPACE TRANSPORTATION

OPERATIONS AND RESEARCH

Amendment No. 10: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

OFFICE OF COMMERCIAL SPACE TRANSPORTATION

OPERATIONS AND RESEARCH

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for operations and research activities related to commercial space transportation, $3,386,000, of which $1,600,000 shall remain available until expended: Provided, That the unexpended balances of the appropriation "Transportation Planning, Research, and Development" associated with commercial space activities shall be transferred to and merged with this appropriation: Provided further, That notwithstanding any other provision of law, there may be credited up to $300,000 to this account funds received from user fees established for regulatory services.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree with the concerns of the House that the planned activities of the Office of Commercial Space Transportation should be scaled back in fiscal year 1991 and that a viable user fee structure should be established without delay. Although funding is provided as a lump sum to allow management flexibility, the conferees note that the recommended level of $3,386,000 is sufficient to fund the entire request of $2,340,000 for the regulatory program of this office as well as $1,046,000 for other activities. The conferees direct that no funds be used to hire personnel above the current full time equivalent level of 23.

PAYMENTS TO AIR CARRIERS

Amendment No. 11: Appropriates $26,600,000 as proposed by the Senate instead of $23,600,000 as proposed by the House.

Amendment No. 12: Limits obligations to $26,600,000 as proposed by the Senate instead of $23,600,000 as proposed by the House.

Payments to Air Carriers.—The conferees agree to provide new budget authority of $26,600,000 for the Essential Air Service (EAS) program as proposed by the Senate instead of $23,600,000 as proposed by the House. In addition, the conferees agree to an obligation limitation of $26,600,000 as proposed by the Senate. The conferees further agree that this program is to be administered in accord with the criteria established for fiscal year 1990, except the agreement allows for points whose subsidy per passenger is greater than $200 and which are located more than 70 miles from the nearest hub airport. The conferees also understand that unobligated balances may be available in addition to the new budget authority provided in this bill. Those prior year funds are not to be used to add additional points into EAS service during fiscal year 1991; rather, they should be used to offset unknown but potential cost increases due to fuel price inflation and other factors.

COAST GUARD

OPERATING EXPENSES

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$2,339,839,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 14: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$2,039,839,000, of which $41,489,000 shall be derived from the Oil Spill Liability Trust Fund*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the following program changes to the House bill:

Mandated initiatives	−$369,000
FRAM recrewing	−2,719,000
Vessel operation and maintenance	−569,000
Restoration of fiscal year 1990 reductions	−6,263,000
Gulf coast land based *Aerostats*	−2,000,000
Night vision goggles	−2,300,000
Island class patrol boat squadron deployability	−300,000
Investigations program	−178,000
HH-65A aircraft engine maintenance	−12,900,000
Department of Defense support and transfers	−140,000,000
Oil spill legislation	+2,837,000
Charleston, SC, air station	+1,500,000
Permanent changes of station	+1,000,000
Shore facility rehabilitation	+1,150,000
Vessel traffic service personnel	+600,000
Health care	+1,800,000
Recreational boating census	+50,000
Fisheries enforcement	+5,000,000
Coastal pollution	+1,500,000

HH-65A aircraft LTS-101 engine maintenance.—Contrary to initial presentations by the Coast Guard to the Senate Committee on Appropriations, the conferees have determined that the Coast Guard will receive credits against its per hour engine costs resulting from the sale of engine parts to the Textron Lycoming Company. These credits, which are anticipated to total $7,700,000 through fiscal year 1991, will result in savings to the Coast Guard over and above the savings stemming from the power-by-the-hour agreement assumed in the Senate bill. Therefore, the conference agreement includes a $12,900,000 reduction.

Fast coastal interceptor boats.—The conferees concur with the House language directing that the $1,493,000 requested for the operation and maintenance of the Coast Guard's fast coastal interceptor boats (fast boats) be reallocated to other drug enforcement activities.

Oil spill liability trust fund.—The conferees direct the Coast Guard to submit quarterly reports to the House and Senate Committee on Appropriations detailing and summarizing all transfers to and expenditures from the oil spill liability trust fund. Each report shall account for each transfer to and expenditure from the fund as authorized by Section 9509 of the Internal Revenue Code of 1986, as amended, and Sections 5003 and 5004 of the Oil Spill Act of 1990 (Public Law 101-380). The report shall also show amounts collectable under Section 9509(b) (2), (3), and (8) of the Internal Revenue Code of 1986. For those authorized expenditures subject to limitations, the report shall so indicate. The Coast Guard shall confer with the House and Senate Committees on Appropriations as to the format for these reports.

Hannibal bridge.—The conferees are concerned about reported delays in the construction schedule for the alteration of the Hannibal bridge. It has been reported that construction to eliminate this obstruction to navigation is approximately nine months behind schedule. The conferees urge the Coast Guard to expedite construction and to give the completion of this project a high priority.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing that not less than $197,000,000 shall be available for marine environmental protection activities.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Amendment No. 16: Appropriates $406,331,000 instead of $391,994,000 as proposed by the House and $432,396,000 as proposed by the Senate.

Amendment No. 17: Provides $157,500,000 for vessel acquisition, construction, and improvements instead of $155,750,000 as proposed by the House and $168,385,000 as proposed by the Senate.

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$90,010,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$15,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 20: Provides $106,885,000 for shore facility and aids to navigation facility acquisition, construction, and improvements instead of $81,385,000 as proposed by the House and $112,675,000 as proposed by the Senate.

Amendment No. 21: Provides $36,936,000 for acquisition, construction, and improvements administration costs instead of $32,659,000 as proposed by the House and $42,336,000 as proposed by the Senate.

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided further, That if necessary the Department of Transportation may transfer funds into the personnel, survey and design, and related costs subaccount from other subaccounts of the Acquisition, Construction and Improvements appropriation to cover personnel compensation and benefits for not to exceed five hundred eighty-six full time equivalent staff years during fiscal year 1991, provided that such transfer shall be subject to the established guidelines for prior approval reprogrammings as stated in House Report 101-315*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The appropriation of $406,331,000 is distributed as follows:

ACQUISITION, CONSTRUCTION AND IMPROVEMENTS

[In thousands of dollars]

	Fiscal year 1991 estimate	House	Senate	Conference agreement
VESSELS				
WLB replacement	$2,200		$2,200	$2,000
MLB replacement	1,000	$1,000	1,000	1,000
Patrol boat replacement	5,500	5,500	5,500	5,500
WLM replacement	3,100	550	3,100	550
ATON barges—9th Dist.	6,400	5,100	6,400	5,750
Buoy boat replacement	5,600	1,000	1,000	1,000

ACQUISITION, CONSTRUCTION AND IMPROVEMENTS—Continued

[In thousands of dollars]

	Fiscal year 1991 estimate	House	Senate	Conference agreement
TACDIS	1,800			
378' cutter FRAM	78,200	78,200	90,985	83,500
210' cutter MMA	32,500	32,500	32,500	32,500
SLEP	20,000	20,000	20,000	20,000
Polar icebreaker RIP	2,700	2,700	2,700	2,700
378' cutter weapons mod	3,200	3,200		
Configuration management		6,000	3,000	3,000
Total, vessels	162,200	155,750	168,385	157,500
AIRCRAFT				
Talon phase II	9,800	5,500	5,500	2,710
HH-60 replacement	34,300	27,900	34,300	29,300
HH-65 supplemental spares	7,700	7,700	7,700	7,700
HU-25 engine improvements	3,500	3,500	3,500	3,500
HH-65 engine replacement	6,500	6,500	6,500	6,500
OPBAT helicopter replacement	45,000	47,100	34,800	36,800
Night vision goggles				2,300
Voice and flt data recorders	3,500	3,500	1,200	1,200
Total, aircraft	110,300	101,700	93,500	90,010
OTHER EQUIPMENT				
AR&SC computer replacement	1,500	1,500	1,500	1,500
GPS installation	1,600	3,600		
Configuration management	6,000			
Alaska: Upgrade LORAN-C	6,000	6,000	6,000	6,000
MSIS replacement	2,500	2,500	2,500	2,500
Service record automation	1,200	1,200	1,200	1,200
Vessel ID/document system	2,200	2,200		
LEIS improvements	1,800	1,800	1,800	1,800
Oilspill administration			2,000	1,500
Oilspill equipment inventory			500	500
PMIS/JUMPS II info systems	1,700	1,700		
Total, other equipment	24,500	20,500	15,500	15,000
SHORE FACILITIES/AIDS TO NAVIGATION FACILITIES				
Minor AC&I construction	9,000	7,685	9,000	7,685
Intell coord ctr relocation	1,800			
National strike force	7,000	7,000	7,000	7,000
Kodiak, AK Air Station	2,700	2,700	2,700	2,700
Charleston, SC Air Facility	2,700	2,700	2,700	2,700
NC HH-60J training facility	2,100		2,100	2,100
Kodiak, AK, Fire Station	4,200	4,200	4,200	4,200
Kodiak, AK, roads/grounds	3,000	3,000	3,000	3,000
Coast Guard Yard improvements	3,700	3,700	3,700	3,700
Coast Guard Yard: Crane #2	2,000	2,000	2,000	2,000
New York, NY, health care bldg	7,600	7,600	7,600	7,600
AL HH-60J training facility	1,200		1,200	1,200
Family quarters	13,500	15,300	15,300	15,300
Burlington, VT, base replace	3,500	3,500	3,500	3,500
New Smyrna Beach, FL, rehab	2,000	2,000	2,000	2,000
East Tewas, MI, rebuild	1,400	1,400	1,400	1,400
Chincoteague, VA, renovation	4,200	4,200	4,200	4,200
Key West, FL, vessel spt bldg	1,200	1,200	1,200	1,200
Ilwaco, WA, renovation	3,200	3,200	3,200	3,200
Ketchikan, AK, storage bldg	3,000	3,000	3,000	3,000
Salem, NJ, SAR facility			50	50
New York VTS—Phase II			6,900	6,900
National response unit			1,725	1,250
Oilspill response equipment			18,000	14,000
Waterways ATON projects	7,000	7,000	7,000	7,000
Total, shore/ATON	86,000	81,385	112,675	106,885
PERSONNEL, SURVEY AND DESIGN, AND RELATED				
Personnel/related costs	30,536	26,659	35,536	30,536
Survey and design: Vessels	1,000	1,000	1,000	1,000
Survey and design: Shore	5,000	5,000	5,800	5,400
Total, personnel/related	36,536	32,659	42,336	36,936

378-Foot Cutter Modernization Programs.—The conferees agree that $2,000,000 of funds appropriated in fiscal years 1989 and 1990 for the 378-foot cutter weapon systems modernization project are to be reprogrammed into the 378-foot cutter fleet renovation and modernization (FRAM) project to cover cost overruns. The Senate had directed that $7,815,000 of such funds be reprogrammed; the House recommended no funding.

Post exchange/recreational facilities.—The conferees agree that no funds are provided to construct, modify, or upgrade Coast Guard post exchange or recreational facilities. As stated in the Senate report, such activities should be financed entirely by nonappropriated funds.

HH-65 Engine improvements.—The conferees direct the Director of Operational Test and Evaluation, Department of Defense, to review the most up-to-date information regarding the capabilities of the Allison C30S and Arriel 1C2 engines. The Director shall evaluate the relative likelihood of the two engines to meet Coast Guard mission requirements in the HH-65 Dolphin airframe in the near term. The Director shall also investigate the capabilities and timeframe of availability of the T800 engine in evaluating the merits of proceeding with a proof-of-concept of a commercially available engine. The Director shall submit his findings within 90 days regarding the relative capabilities of the engines and the merits of proceeding with a commercial proof-of-concept through an independent and impartial report to the Commandant and the House and Senate Committees on Appropriations. Based on this report, the Commandant shall utilize $2,000,000 previously made available for HH-65 engine improvements to conduct a proof-of-concept on a commercial engine should the Director recommend that course of action.

OPBAT Medium-range helicopter.—The conferees agree that $8,200,000 of funds appropriated in fiscal year 1990 for HH-65 engine improvements are to be reprogrammed into the OPBAT Medium-range helicopter program. This amount, in combination with the $36,800,000 in new budget authority provided in fiscal year 1991, will result in total program funding at the level in the budget request. The Senate had directed that $10,200,000 of fiscal year 1990 funds be reprogrammed; the House recommended no such reprogramming.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

Amendment No. 23: Appropriates $21,500,000 as proposed by the House instead of $22,000,000 as proposed by the Senate.

Amendment No. 24: Provides that $7,000,000 shall remain available until expended for environmental compliance and restoration activities as proposed by the Senate. The House bill contained no similar provision.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Amendment No. 25: Appropriates $25,000,000 instead of $24,800,000 as proposed by the House and $25,741,000 as proposed by the Senate.

The conference agreement distributes these funds as follows:

Search and rescue	$2,400,000
Aids to navigation	2,180,000
Marine safety	885,000
Marine environmental protection	3,720,000
Enforcement of laws and treaties	1,460,000
Command, control, and communications	2,285,000
Information systems	1,000,000
Other multimission	2,510,000
RDT&E support and operations	1,500,000
Administration	6,060,000
Columbia and Willamette Rivers Maritime Fire and Safety Association	1,000,000
Personnel support	

The amount recommended will provide for 50 military and 86 civilian positions.

The conference agreement includes $150,000 to permit the Coast Guard to contract with the Centers for Disease Control to develop data on the number and severity of propeller injuries.

OFFSHORE OIL POLLUTION COMPENSATION FUND

Amendment No. 26: Deletes House provision that limits obligations to $60,000,000. The Senate bill contained no similar provision.

DEEPWATER PORT LIABILITY FUND

Amendment No. 27: Deletes House provision that limits obligations to $50,000,000. The Senate bill contained no similar provision.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

Amendment No. 28: Appropriates $4,037,000,000 as proposed by the House instead of $4,038,551,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Operation of air traffic control system	$1,856,681,000
(Positions)	(27,791)
NAS logistics support	170,305,000
(Positions)	(1,579)
Maintenance of air traffic control system	751,172,000
(Positions)	(10,736)
Leased telecommunications service	277,628,000
Administration of aviation standards program	470,038,000
(Positions)	(7,336)
Development direction	15,321,000
(Positions)	(150)
Administration of airports program	38,920,000
(Positions)	(530)
Direction, staff and supporting services	130,961,000
(Positions)	(1,180)
Human resource management	299,336,000
(Positions)	(1,460)
Headquarters administration	31,838,000
(Positions)	(400)
Management initiatives	−5,200,000

Aeronautical charting.—The conference agreement includes an increase of $750,000 over the Senate bill for the aeronautical charting program.

Commuter slot rule.—Based upon assurances by the Secretary that the Department of Transportation will expeditiously process a petition for rulemaking filed with the Department on addressing the use of commuter slots, the conferees have concluded that no further direction on this issue is necessary at this time.

Reprogramming procedures.—The conferees agree with the Senate report language which outlines the reprogramming procedures that the FAA must follow. However, section 6 regarding assessments is deleted; and the dollar level of $500,000 cited under research, engineering, and development is changed to $3,000,000.

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$2,002,749,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 30: Provides $3,250,000 for the Mid-American Aviation Resource Consortium instead of $4,000,000 as proposed by the House. The Senate bill contained no similar provision.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

Amendment No. 31: Deletes Senate provision on the lease or purchase of aircraft from funds available under the Facilities and equipment appropriation. The House bill contained no similar provision.

Amendment No. 32: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$2,095,407,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 33: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter stricken and inserted, insert the following:

Provided further, That with appropriations made for the Airway Science Program, as authorized below in this section, the Federal Aviation Administration may hereafter enter into competitive grant agreements with institutions of higher education having airway science curricula, for the Federal share of the allowable direct costs of the following categories of items, to the extent that such items are in support of airway science curricula: (a) the construction, purchase, or lease with option to purchase, of buildings and associated facilities, and (b) instructional materials and equipment. Such funds are hereby authorized to be appropriated and may remain available until expended, as provided in such Acts. The Federal Aviation Administration shall establish guidelines for determining the direct costs allowable under grants to be made pursuant to this section. The maximum Federal share of the allowable cost of any project assisted by such grants shall be fifty percent

The managers on the part of the Senate will offer a motion to recede and concur in the amendment of the House to the amendment of the Senate.

The conference agreement distributes these funds as follows:

FACILITIES AND EQUIPMENT—FUNDING BY PROJECT

[In thousands of dollars]

Project	Fiscal year 1991 budget	Fiscal year 1991 House recommended	Fiscal year 1991 Senate recommended	Conference agreement
AIR ROUTE TRAFFIC CONTROL CENTERS				
Long Range Radar	$75,200	$45,000	$60,000	$45,000
Radar Microwave Link	21,000	0	10,000	0
NEXRAD Radar	24,736	20,736	24,736	22,736
Improve En Route Facilities	14,908	14,908	13,900	13,900
Advanced Automation Systems (AAS)	556,300	540,500	540,500	510,000
En Route Software Development	10,800	8,000	10,800	8,000
Central Weather Processor	10,000	7,500	7,500	7,500
Aeronautical Data Link	10,000	7,000	4,500	4,500
Improve En Route Automation	5,000	5,000	5,000	5,000
Automatic Dependent Surveillance	6,745	6,745	6,745	0
Provide NADIN II	4,500	4,500	4,500	4,500

FACILITIES AND EQUIPMENT—FUNDING BY PROJECT—Continued

[In thousands of dollars]

Project	Fiscal year 1991 budget	Fiscal year 1991 House recommended	Fiscal year 1991 Senate recommended	Conference agreement
ARTCC Imp/Plant Modernization	46,194	42,000	44,000	42,000
Data Multiplexing Network	8,000	8,000	8,000	8,000
Comm Facilities Consolidation	2,000	2,000	2,000	2,000
Improve En Route Communications	6,368	6,368	6,368	6,368
Upgrade Traffic Mgmt System	17,000	17,000	17,000	17,000
Voice Switching/Control (VSCS)	185,100	126,100	90,000	75,000
Critical Communications Expansion	12,000	12,000	12,000	12,000
High Capacity Voice Recorders	9,100	9,100	9,100	9,100
Air-Ground RFI Elimination	3,500	3,500	3,500	3,500
Establish RCFs	3,000	3,000	3,000	3,000
Expand/Relocate RCFs	3,000	3,000	3,000	3,000
STATCOM Circuit Backup	3,600	3,600	3,600	3,600
Alaskan NAS Communication System	12,000	12,000	12,000	12,000
N.Y. TRACON Communication	0	0	250	250
Subtotal	1,050,051	907,557	901,999	817,954
AIRPORT TRAFFIC CONTROL TOWERS				
Terminal Doppler Weather Radar	83,700	83,700	83,700	83,700
Mode S	37,000	21,200	21,200	21,200
Terminal Radar System Improve	5,900	9,900	16,900	16,900
Airport Surveillance Radar (ASR)	47,372	45,000	45,000	45,000
Terminal NEXRAD	5,000	0	0	0
Precision Runway Monitors	10,550	10,550	30,550	30,550
ASDE Structural Modifications	6,000	6,000	6,000	6,000
L.A. Basin Facility Consolidation	76,100	66,000	66,000	66,000
Austin Airport	850	850	0	0
Mode C Intruder	46,000	41,000	41,000	41,000
Dallas/Fort Worth Airport	40,000	10,000	5,000	5,000
Terminal Software Dev Support	7,600	2,954	7,600	2,954
Remote Maintenance Monitoring	25,000	10,000	10,000	10,000
Replace Terminal ATC Facilities	70,500	70,500	77,500	74,500
ATCT/TRACON Modernization	16,657	22,077	17,077	22,077
Tower Integration Program	1,650	1,650	1,650	1,650
Interim Support Plan (ISP)	99,000	88,200	95,000	88,200
Terminal Communications Imp	14,171	14,171	14,171	14,171
New Denver Airport	60,000	60,000	60,000	60,000
Tower Communications System (TCS)	23,000	0	5,000	0
Emergency Transceivers	5,000	5,000	5,000	5,000
Radio Control Equipment	16,800	16,800	16,800	16,800
Tracon Facility Establishment	1,500	1,500	1,500	1,500
Subtotal	699,350	587,052	626,648	612,202
FLIGHT SERVICE FACILITIES				
FSS Modernization	47,800	47,300	47,000	47,000
VHF Direction Finder Network	8,000	8,000	8,000	8,000
Flight Service Facility Imp	1,529	1,132	1,500	1,500
WMSC Replacement	5,000	0	5,000	2,000
ASOS—Flt Service Facilities	6,472	6,472	6,472	6,472
Direct User Access Terminal	15,000	11,000	15,000	13,000
Subtotal	83,801	73,904	82,972	77,972
AIR NAVIGATION FACILITIES				
VOR/DME	29,441	21,725	21,725	21,725
LORAN-C Monitor System	1,000	1,000	1,000	1,000
Global Positioning System	800	800	800	800
NDB Facilities	2,615	2,615	2,615	2,615
Microwave Landing System (MLS)	35,200	11,100	22,000	22,000
Approach Lighting System Imp	12,500	12,500	12,500	12,500
ASOS—Air Navigation Facilities	30,100	30,100	30,100	30,100
Visual Navaids	15,989	15,989	15,989	15,989
ILS Category I Establishment	16,700	22,588	26,700	30,240
ILS Replacement	25,000	26,000	27,000	26,935
Runway/Visual Range	5,776	5,776	5,776	5,776
Auto Flt Procedures Dev	4,250	4,250	4,250	4,250
Subtotal	179,371	154,443	170,455	173,930

FACILITIES AND EQUIPMENT—FUNDING BY PROJECT—Continued

[In thousands of dollars]

Project	Fiscal year 1991 budget	Fiscal year 1991 House recommended	Fiscal year 1991 Senate recommended	Conference agreement
HOUSING, UTILITIES, AND MISCELLANEOUS FACILITIES				
National Radio Comms System	2,300	2,300	2,300	2,300
Buildings and Equipment	24,366	19,000	20,000	19,000
Airport Datum Monument	1,500	1,500	1,500	1,500
Computer-Based Instruction	2,900	2,900	2,900	2,900
Electrical Power Systems	9,733	9,733	9,733	9,733
Fuel Storage Tank Program	10,000	10,000	10,000	10,000
ADP Facilities Mgmt (CORN)	25,000	15,000	0	0
Employee Safety for ATCTs	6,500	6,500	6,500	6,500
Maintenance Control Centers	5,200	5,200	5,200	5,200
Land/Easement Purchase	3,000	3,000	3,000	3,000
Automatic Document Dev and Maintenance	1,900	1,900	1,900	1,900
System Engineering and Support	111,000	108,600	108,600	108,600
Air Nav/ATC System Support	7,500	7,500	7,500	7,500
Monroney Aeronautical Ctr Lease	8,204	8,204	8,204	8,204
Logistics Support Services	6,300	6,000	6,000	6,000
Air Navaid/ATC Facilities Imp	3,500	3,500	3,500	3,500
Frequency/Spectrum Engineering	1,900	0	1,900	0
Human Resource Mgmt Plan	1,500	1,500	1,500	1,500
PCB Software	3,800	3,800	3,800	3,800
Dynamic Ocean Track System	285	285	285	285
Contract Spt—Mgmt Control	3,984	6,984	3,984	3,984
Independent OT&E Support	4,000	4,000	4,000	4,000
HAZMAT Management	15,000	15,000	15,000	15,000
Airmen/Aircraft Registry System	10,000	10,000	10,000	10,000
Contract Support Services	4,600	2,000	0	0
Aviation Safety Analysis (ASAS)	25,200	20,000	15,200	15,200
NAS Management Automation	14,200	14,200	14,200	14,200
Mid-American Av Res Consortium	0	3,000	0	1,500
Transition Planning and Eng	3,000	0	0	0
Aviation Science Curriculum	0	0	20,000	10,000
Subtotal	316,372	291,606	286,706	275,306
AIRCRAFT AND RELATED EQUIPMENT				
Long-range international flight inspection aircraft	18,600	0	18,600	0
Upgrade flight inspection B-727	2,795	2,795	2,795	2,795
Upgrade flight inspection CV-580	3,200	3,200	3,200	3,200
Marker beacon systems	470	470	470	470
Cockpit voice recorders and flight data recorder	2,620	2,620	2,620	2,620
R&D CV-580	2,200	2,200	2,200	2,200
Subtotal	29,885	11,285	29,885	11,285
DEVELOPMENT, TEST AND EVALUATION				
FAA Technical Ctr—Lease	5,290	5,290	5,290	5,290
Utility Plant Modern	1,800	1,800	1,800	1,800
Turbine rotor burst test facility	400	400	400	400
General Airport Improvements	1,300	1,300	1,300	1,300
System Support Lab Modernization	4,700	4,700	4,700	4,700
Tech Ctr R&D Lab Establishment	2,000	2,000	2,000	2,000
Special Component Eval System	550	550	550	550
Comm System Modernization	230	230	230	230
Subtotal	16,270	16,270	16,270	16,270
PERSONNEL AND RELATED				
Facility Establish/Improve	114,410	114,410	114,410	100,000
Flight Inspection	1,625	1,625	1,625	1,625
Factory Inspection/ Acquisition	6,313	6,313	6,313	6,313
Aeronautical Center	2,550	2,550	2,550	2,550
Subtotal	124,898	124,898	124,898	110,488
Account-Wide Adjustments:				
Support contracts	0	(8,400)	0	0
Prior year unobligated	0	(20,000)	0	0
Subtotal	0	(28,000)	0	0

FACILITIES AND EQUIPMENT—FUNDING BY PROJECT—Continued

[In thousands of dollars]

Project	Fiscal year 1991 budget	Fiscal year 1991 House recommended	Fiscal year 1991 Senate recommended	Conference agreement
Total appropriation, F&E	2,500,000	2,138,615	2,240,018	2,095,407

Voice switching/control system.—The conferees understand that the Voice Switching/Control System (VSCS) is currently experiencing severe developmental problems. Consequently the program is undergoing an extensive review by the FAA which may lead to significant program restructuring. Because of the FAA's past history of awarding production contracts before developmental problems have been resolved, the conferees direct the FAA not to award the VSCS prime contract until thirty days following a report to the House and Senate Committees on Appropriations which describes the status of development, readiness for production, and a technical risk assessment of the VSCS program. This report should include an independent assessment of the program by the Executive Director of Acquisition, whose office was established in part to provide such analyses. The FAA is also directed not to reprogram any of the $75,000,000 provided for this program without receiving prior approval from the House and Senate Committees on Appropriations.

Precision runway monitors.—The conferees agree that none of the $30,550,000 provided for precision runway monitors is available for the procurement of production systems of either the electronic scan (E-scan) or Mode S back-to-back designs. Given the delay in production, the Senate recedes from its direction that priority consideration be given to certain airports. The additional $20,000,000 is provided to cover a cost overrun in the development contract for the E-scan system. The conferees agree that this important program should be kept on schedule, at the expense of the long-range international flight inspection aircraft, which can be deferred one year in order to finance a higher priority program. The conferees hope that in future years the FAA will be able to better control cost growth in order to preclude the necessity for such budgetary disruptions.

Terminal ATC facility replacement.—The conferees agree that the additional $4,000,000 provided for this program is available only for replacement of the air traffic control tower at the Luis Munoz Marin International Airport in San Juan, Puerto Rico. The Senate had provided $7,000,000 for this tower; the House provided no funds.

Instrument landing system establishment.—The conferees agree to provide $30,240,000 for this project. This includes $16,700,000 for sites listed in the President's budget proposal, $540,000 for partial ILS systems at Scappoose, Oregon; Bowerman Field, Washington; and Davenport, Iowa; and $13,000,000 for full ILS systems at the sites listed below: Goodwin Field, Arkansas; Sacramento, California; Lincoln, California; Spokane, Washington; Jonesboro, Arkansas; Gwinnett County, Georgia; DuPage County, Illinois; Huntsville, Alabama; Bowling Green, Kentucky; Mount Joy, Iowa; West Memphis, Arkansas; Owens Field, South Carolina; and Reading, Pennsylvania.

Instrument landing systems replacement.—The conferees agree to provide $26,935,000 for this project. This includes $25,000,000 for sites listed in the President's budget and $1,935,000 for systems in Sacramento, California; McCarran International Airport, Nevada; and Spokane International Airport, Washington.

Tower communications system.—The conferees agree that if operational problems occur in the existing system due to a lack of spare parts, the FAA is authorized to reprogram funding to resolve those problems.

Airway science curriculum.—The conferees direct that before distributing the $10,000,000 provided for the Airway Science Curriculum program, $300,000 be made available to the Mid-Atlantic Aviation Training and Education Center for computer stations and peripherals to run competency-based computer curricular materials. In addition, FAA shall study and report on broadening the recruiting base for future air traffic control professionals and the agency's plans to evaluate innovative educational methods and technological enhancements to air traffic control education.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

Amendment No. 34: Appropriates $205,000,000 instead of $195,000,000 as proposed by the House and $206,600,000 as proposed by the Senate. The conference agreement distributes these funds as follows:

Air traffic control	$108,346,000
Advanced computer	19,141,000
Navigation	3,359,000
Aviation weather	7,739,000
Aviation medicine	6,473,000
Aircraft safety and security	57,542,000
Environment	2,400,000

Wichita State University.—The conferees have included $1,500,000 for the advancement of aviation safety research at the National Institute for Aviation Research at Wichita State University, Wichita, Kansas.

Rutgers University.—The conferees have approved the budget estimate of $1,256,000 for the graduate-level research and education in aviation technology program.

Aviation Security.—The conference agreement provides an increase of $10,400,000 over the budget estimate for aviation security research and development to be distributed as follows:

Centers for aviation systems reliability	$3,000,000
Nondestructive evaluation center (New Mexico)	3,400,000
Vapor detection research	4,000,000

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

Amendment No. 35: Limits obligations for airport planning and development to $1,800,000,000 as proposed by the House instead of $1,650,000,000 as proposed by the Senate.

Amendment No. 36: Provides that not to exceed $122,509,900 shall be available for airport letters of intent as proposed by the Senate instead of $117,509,900 as proposed by the House.

Amendment No. 37: Inserts date of July 30, 1990, as proposed by the Senate instead of July 1, 1990, as proposed by the House.

Amendment No. 38: Provides that the airport planning and development program may be reduced to $1,650,000,000 (if the airport and airway trust fund share of total Federal Aviation Administration funding is less than 75 percent) as proposed by the House instead of $1,500,000,000 as proposed by the Senate.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Amendment No. 39: Limits general operating expenses to $256,415,000 instead of $245,400,000 as proposed by the House and $263,751,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Administrative expenses	$189,114,000
GSA rental payments	
Contract programs	67,301,000
Highway research, development and technology	(24,650,000)
Intelligent vehicle/highway systems	(20,000,000)
National Highway Institute	(1,361,000)
Rural technology assistance program	(3,350,000)
Trucking programs	(900,000)
International transportation	(25,000)
Highway usage data	(500,000)
Minority business	(7,900,000)
Highway use tax evasion	(500,000)
University transportation centers	(5,000,000)
National bicycling/walking study	(1,000,000)
Methanol plantship project (phase II)	(1,750,000)
Feasibility studies	(365,000)

The conference agreement includes $1,000,000 for the constructed facilities center and $1,150,000 for street hardware castings research and development.

Amendment No. 40: Provides that $67,301,000 of general operating expenses shall remain available until expended instead of $56,286,000 as proposed by the House and $73,411,000 as proposed by the Senate.

HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

(HIGHWAY TRUST FUND)

Amendment No. 41: Appropriates $5,450,000 as proposed by the House. The Senate proposed to fund this program by a drawdown from Federal-aid highways under the limitation on general operating expenses.

RAILROAD-HIGHWAY CROSSINGS DEMONSTRATION PROJECTS

Amendment No. 42: Appropriates $14,450,000 instead of $2,000,000 as proposed by the Senate and $15,000,000 as proposed by the House.

The conference agreement includes the following amounts:

Augusta, GA	$1,677,000
Brownsville, TX	2,040,000
Lafayette, IN	2,233,000
Lincoln, NE	3,060,000
Pine Bluff, AR	1,700,000
Springfield, IL	3,740,000

Amendment No. 43: Provides that $9,633,333 shall be derived from the Highway Trust Fund instead of $1,333,334 as proposed by the Senate and $10,000,000 as proposed by the House.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

Amendment No. 44: Limits obligations for Federal-aid highways and highway safety construction programs to $14,500,000,000 as

proposed by the House instead of $13,850,000,000 as proposed by the Senate.

Federal-aid Highways obligational authority.—Following is the conferees' best estimate of fiscal year 1991 federal-aid highways obligational authority that will be made available to the states under the $14,500,000,000 obligation limitation. These figures are subject to change when more accurate data become available. In addition, an estimated $1,568,000,000 will also be obligated for federal-aid highway programs exempted from the obligation limitation.

COMPARISON OF ACTUAL FISCAL YEAR 1990 OBLIGATION LIMITATION FOR FEDERAL-AID HIGHWAYS WITH ESTIMATED LEVELS FOR FISCAL YEAR 1991

[In thousands of dollars]

State	Fiscal year 1990 actual	Fiscal year 1991 estimates
Alabama	$202,194	$248,718
Alaska	144,797	174,554
Arizona	121,741	146,824
Arkansas	101,948	123,804
California	899,089	1,117,412
Colorado	172,377	195,291
Connecticut	309,129	386,222
Delaware	47,659	57,592
District of Columbia	87,027	108,297
Florida	326,754	404,196
Georgia	260,798	317,764
Hawaii	131,942	115,946
Idaho	68,576	83,024
Illinois	333,281	372,510
Indiana	180,100	216,706
Iowa	146,539	164,995
Kansas	128,530	155,622
Kentucky	152,234	186,471
Louisiana	200,154	248,042
Maine	57,397	69,475
Maryland	271,844	281,526
Massachusetts	859,013	1,087,275
Michigan	272,295	332,556
Minnesota	155,733	182,929
Mississippi	111,088	134,437
Missouri	219,696	265,827
Montana	100,912	121,030
Nebraska	89,847	108,627
Nevada	68,119	82,262
New Hampshire	50,981	61,685
New Jersey	336,871	417,663
New Mexico	97,740	117,277
New York	630,700	772,839
North Carolina	208,794	257,619
North Dakota	67,809	81,614
Ohio	331,859	414,187
Oklahoma	134,151	162,833
Oregon	122,567	151,627
Pennsylvania	465,602	567,977
Rhode Island	106,359	131,628
South Carolina	116,534	141,438
South Dakota	74,714	89,662
Tennessee	208,446	255,252
Texas	549,279	667,441
Utah	87,287	105,872
Vermont	51,407	62,130
Virginia	202,899	238,944
Washington	223,448	254,377
West Virginia	105,263	130,106
Wisconsin	147,008	178,137
Wyoming	76,051	91,288
American Samoa	396	488
Guam	396	488
Puerto Rico	54,198	65,577
Northern Marianas	396	488
Virgin Islands	396	488
Territories	10,783	13,014
Subtotal	10,683,147	12,922,073
Administration	227,000	234,850
Federal lands	233,500	237,000
Allocation reserve	1,066,353	1,106,077
Total	12,210,000	14,500,000

The estimated limitations are based on estimated fiscal year 1991 apportionments; the allocation reserve is based on actual allocation used to compute the fiscal year 1990 limitation. Data needed to compute the actual distribution of the estimated fiscal year 1991 limitations is not available at this time.

Interstate Transfer—highways.—The conference agreement includes the following allocations of interstate transfer-highways discretionary funds:

California	$15,000,000
District of Columbia	26,400,000
Illinois	32,457,313
Iowa	15,242,458
Maryland	50,000,000
Oregon	5,000,000
Other	40,900,229

The conferees recognize that delays in some regions' projects might necessitate adjustments to the above allocations. The conferees expect these adjustments, if required, to be accomplished through the normal reprogramming process.

Amendment No. 45: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that directs the Federal Highway Administration to participate fully in funding the longer bridge as required for compliance with the coastal zone plan of the State of New Jersey, on interstate 295 in Trenton, New Jersey.

RIGHT-OF-WAY REVOLVING FUND

(LIMITATION ON DIRECT LOANS)

(HIGHWAY TRUST FUND)

Amendment No. 46: Limits obligations for direct loans to $42,500,000 as proposed by the House instead of $47,850,000 as proposed by the Senate.

The conference agreement includes $5,400,000 for the Route 31 bypass preservation pilot project in New Jersey and $4,000,000 for the Carson City, Nevada, bypass project.

MOTOR CARRIER SAFETY GRANTS

(HIGHWAY TRUST FUND)

Amendment No. 47: Limits obligations to $61,500,000 as proposed by the House instead of $60,000,000 as proposed by the Senate.

The conference agreement distributes these funds as follows:

Basic grants to states	$46,700,000
Commercial drivers license	13,000,000
Administrative expenses	300,000
Continuation of operation deacon enhancement program	800,000
Pilot program for traffic enforcement	300,000
Implementation of verification program	300,000
Development of local government truck inspection programs	100,000

BALTIMORE-WASHINGTON PARKWAY

(HIGHWAY TRUST FUND)

Amendment No. 48: Appropriates $8,415,000 instead of $9,900,000 as proposed by the House. The Senate bill contained no similar appropriation.

INTERMODAL URBAN DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

Amendment No. 49: Appropriates $8,500,000 instead of $10,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

HIGHWAY SAFETY AND ECONOMIC DEVELOPMENT DEMONSTRATION PROJECTS

(HIGHWAY TRUST FUND)

Amendment No. 50: Appropriates $17,000,000 instead of $20,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

HIGHWAY SAFETY IMPROVEMENT DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

Amendment No. 51: Appropriates $7,650,000 instead of $9,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

HIGHWAY-RAILROAD GRADE CROSSING SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

Amendment No. 52: Appropriates $6,800,000 instead of $8,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

HIGHWAY WIDENING DEMONSTRATION PROJECT

Amendment No. 53: Appropriates $1,700,000 instead of $2,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

BRIDGE IMPROVEMENT DEMONSTRATION PROJECT

Amendment No. 54: Restores House language that reallocates $2,000,000 of funds previously appropriated for the bridge improvement demonstration project. The Senate bill contained no similar provision.

HIGHWAY WIDENING AND IMPROVEMENT DEMONSTRATION PROJECT

Amendment No. 55: Appropriates $3,400,000 instead of $4,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

INTERSECTION SAFETY DEMONSTRATION PROJECT

Amendment No. 56: Appropriates $3,060,000 instead of $3,600,000 as proposed by the House. The Senate bill contained no similar appropriation.

CLIMBING LANE AND HIGHWAY SAFETY DEMONSTRATION PROJECT

Amendment No. 57: Appropriates $10,200,000 instead of $12,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

INDIANA INDUSTRIAL CORRIDOR SAFETY DEMONSTRATION PROJECT

Amendment No. 58: Appropriates $2,550,000 instead of $3,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

HIGHWAY CAPACITY IMPROVEMENT DEMONSTRATION PROJECT

Amendment No. 59: Appropriates $1,700,000 instead of $2,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

ALABAMA HIGHWAY BYPASS DEMONSTRATION PROJECT

Amendment No. 60: Appropriates $8,500,000 instead of $10,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

KENTUCKY BRIDGE DEMONSTRATION PROJECT

Amendment No. 61: Appropriates $3,400,000 instead of $4,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

VIRGINIA HOV SAFETY DEMONSTRATION PROJECT

Amendment No. 62: Appropriates $7,225,000 instead of $8,500,000 as proposed by the House. The Senate bill contained no similar appropriation.

URBAN HIGHWAY CORRIDOR AND BICYCLE TRANSPORTATION DEMONSTRATION PROJECTS

Amendment No. 63: Appropriates $8,500,000 for the M-59 urban highway corridor and $850,000 for a bicycle transportation project instead of $10,000,000 and $1,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

URBAN AIRPORT ACCESS SAFETY DEMONSTRATION PROJECT

Amendment No. 64: Appropriates $9,350,000 instead of $11,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

PENNSYLVANIA RECONSTRUCTION DEMONSTRATION PROJECT

Amendment No. 65: Appropriates $17,000,000 instead of $20,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

PENNSYLVANIA TOLL ROAD DEMONSTRATION PROJECT

Amendment No. 66: Appropriates $5,100,000 instead of $6,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

HIGHWAY DEMONSTRATION PROJECTS

Amendment No. 67: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$71,365,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the following allocations for highway demonstration projects:

Center Street extension (Pittsfield, MA)	$3,360,000
Florida U.S. 27 (Palm Beach County)	5,950,000
Grand Concourse Avenue traffic improvements (Bronx, NY)	425,000
Illinois interchange (I-80 and Houbolt Road)	3,000,000
Lake Road Outlet Bridge (Irondequoit, NY)	4,250,000
Pennsylvania industrial park access (Donora-Monessen Bridge)	1,275,000
Pontotoc County Rural Industrialization and Skill Center access road (Ada, OK)	1,275,000
Norrell Road and Interstate 20 (Hinds County, MS)	1,700,000
Texarkana, TX, road improvements (Leopard Drive, off U.S. Highway 59) (Redwater Minton Road)	1,445,000
Lock and dam 4 bridge (AR)	2,125,000
Highway 71 (Fayetteville to I-40, AR)	8,500,000
Interstate 90 interchange (Bozeman, MT)	4,462,000
Route 21 improvements (Newark, NJ)	1,488,000
Lakeview Road (Stillwater, OK)	2,550,000
U.S. Route 89 (Farmington to Ogden, UT)	4,250,000
Cordell Hull Bridge (Carthage, TN)	730,000
Fifth/Sixth Street improvements (Waterloo, IA)	3,400,000
Interstate 70/110th Street interchange (Kansas City, KS)	3,693,000
Traffic control system (Charleston, SC)	337,000
Great River Road bridge (Dyer/Lauderdale Counties, TN)	4,250,000
Olive Road crossing (Augusta, GA)	1,675,000
Ninth Street crossing (Provo, UT)	2,550,000
Grade crossing (White River Junction, VT)	170,000
Bridge construction (Hillsboro, IL)	430,000
Highway 61 (Keokuk to Dubuque, IA)	5,100,000
Rail consolidation/highway safety (Monroe, MI)	2,975,000

HIGHWAY DEMONSTRATION PROJECTS—PRELIMINARY ENGINEERING

Amendment No. 68: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$48,293,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the following allocations for preliminary engineering, environmental studies and right-of-way acquisition for highway demonstration projects:

Biscayne Boulevard renovation (Miami, FL)	$1,700,000
Blackstone River Bikeway project (MA)	255,000
California feasibility studies:	
Dixon grade separation projects (3)	115,000
State Route 12 bypass (City of Rio Vista)	85,000
California Highway 156 bypass (Hollister)	1,275,000
Columbus, IN, I-65 and State Road 46 interchange	2,125,000
Highway 63 (Waterloo, IA, and Rochester, MN)	212,000
Hubbard Expressway project (Youngstown, OH)	2,550,000
Indiana East Chicago Marina/rerouting of Route 12	170,000
Interstate 66 feasibility study	1,275,000
Interstate 680 access ramps project (Youngstown, OH)	1,700,000
Michigan Bristol Road relocation project (Flint and Genesee County)	5,374,000
Michigan M-84 expansion (Saginaw and Bay Counties)	2,125,000
Michigan U.S. 31 (City of Niles and City of Benton Harbor)	850,000
Minnesota U.S. Highway 212 (I-494 to in-place 212 west of Chaska)	1,700,000
Mississippi feasibility study (Jackson)	255,000
Muncie, IN, State Road 67 (I-69 to Muncie By-Pass)	1,190,000
New York Exit 26 bridge project (Schenectady County)	1,700,000
Ohio-West Virginia highway (Ohio Route 35 and a routing to be determined in West Virginia)	510,000
Pennsylvania U.S. 220 (Bald Eagle to Centre County line)	1,700,000
Pennsylvania U.S. Route 202 bypass (Montgomeryville and Doylestown)	1,360,000
Pennsylvania State Route 711 bypass (Ligonier)	3,400,000
Florida causeway tunnel project (Fort Lauderdale)	3,692,000
Rural economic development demonstration project (Illinois 336 from Carthage to Macomb)	1,500,000
Washington State Route 509 East-West corridor (Tacoma)	2,550,000
Great River bridge (AR/MS)	1,275,000
Conway Bypass (NH)	1,700,000
Interstate 5 HOV lanes (Seattle to Dupont, WA)	3,400,000
U.S. 95 corridor preservation (Las Vegas, NV)	2,550,000

Interstate 66 feasibility study.—For the purposes of the Interstate 66 feasibility study, the 50-mile-wide Kentucky corridor shall be centered on the cities of Bowling Green, Columbia, Somerset, London, Hazard, Jenkins, and Pikeville.

CORRIDOR H IMPROVEMENT PROJECT

Amendment No. 69: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $51,500,000.

CORRIDOR G IMPROVEMENT PROGRAM

Amendment No. 70: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

CORRIDOR G IMPROVEMENT PROGRAM

For the purpose of carrying out a demonstration of methods of eliminating traffic congestion, and to promote economic benefits for the area affected by the construction of the Corridor G segment of the Appalachian Highway System, there is hereby appropriated $33,275,000 to remain available until expended: Provided, That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

CORRIDOR D IMPROVEMENT PROJECT

Amendment No. 71: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $10,000,000.

BYPASS CONSTRUCTION PROJECT

Amendment No. 72: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$42,500,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

CORNING BYPASS SAFETY DEMONSTRATION PROJECT

Amendment No. 73: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and

concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$17,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

TURQUOISE TRAIL PROJECT

Amendment No. 74: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$4,684,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

TRADE ENHANCEMENT DEMONSTRATION PROJECT

Amendment No. 75: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$10,625,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

OTTUMWA ROAD EXTENSION PROJECT

Amendment No. 76: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$8,500,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

IOWA CONNECTOR PROJECT

Amendment No. 77: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$1,488,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

HIGHWAY 20 REALIGNMENT PROJECT

Amendment No. 78: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$2,550,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

BRIDGE TRAFFIC SAFETY DEMONSTRATION PROJECT

Amendment No. 79: Deletes appropriation of $2,000,000 proposed by the Senate. The House bill contained no similar appropriation.

RAMP RELOCATION AND RECONSTRUCTION DEMONSTRATION PROJECT

Amendment No. 80: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$10,200,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

U.S. 54 INTERCHANGE PROJECT

Amendment No. 81: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the first sum named in said amendment, insert: *$9,265,000* and

In lieu of the second sum named in said amendment, insert: *$200,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

Amendment No. 82: Appropriates $76,347,100, of which $5,000,000 shall be for carrying out 23 U.S.C. 410 instead of $70,075,500 as proposed by the House and $76,664,000, of which $8,000,000 shall be for carrying out 23 U.S.C. 410 as proposed by the Senate.

Amendment No. 83: Provides that $38,229,500 shall remain available until expended instead of $30,197,000 as proposed by the House and $40,851,000 as proposed by the Senate.

OPERATIONS AND RESEARCH

(HIGHWAY TRUST FUND)

Amendment No. 84: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$42,365,900*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the following distribution for the Operations and Research activity:

Rulemaking	$8,629,000
Enforcement	14,480,000
Highway safety	39,536,500
Research and analysis	47,386,000
Office of the administrator	3,459,000
General administration	9,607,000

The conference agreement includes the following adjustments to the President's budget request:

Rulemaking:	
Hold awards at fiscal year 1990 level	−$16,000
Delete market incentives position	−75,000
Fuel economy contracts	−120,000
Administrative cost growth	−71,000
Enforcement:	
Hold awards/admin services at fiscal year 1990 level	−280,000
Two positions—Office of Defects Invest	+150,000
Compliance program	+1,000,000
Highway safety:	
Hold awards at fiscal year 1990 level	−66,000
Delete one OEES position	−50,000
Office operating expenses	−150,000
Travel	−144,000
Contracts	−101,500
Section 410 alcohol incentive grants	−3,000,000
Research and analysis:	
Hold awards at fiscal year 1990 level	−70,000
Administrative cost growth	−219,000
Advanced technology program	−250,000
Biomechanics research	+3,000,000
National advanced driving simulator	+1,800,000
Office of the Administrator:	
Hold awards at fiscal year 1990 level	−34,000
Administrative cost growth	−91,000
General administration:	
Hold awards at fiscal year 1990 level	−14,000
Hold PCS moves at fiscal year 1990 level	−100,000
Hold program evaluation contracts at fiscal year 1990 level	−105,000
Administrative cost growth	−300,000
Accountwide adjustments:	
Rental payments consolidation	−4,104,000
Training cost growth	−62,500
Field office overhead cost growth	−90,000
Jackson Memorial shock-trauma research	+2,000,000
Dade County trauma system support	+250,000
New Jersey trauma research	+2,700,000

Sixty-five mile-per-hour demonstration analysis.—The conferees agree with the position of the House that no funds should be used to continue the 65 mile per hour demonstration program, as authorized in 1987, due to a flawed sampling methodology. However, the conferees wish to clarify that such prohibition does not extend to NHTSA's overall analysis of the safety impact of the 65 mile per hour speed limit on rural interstates.

Section 410 grants.—The conferees have agreed to provide $5,000,000 for incentive grants to states under the section 410 NHTSA Drunk Driving Prevention Act program. The conference agreement also includes the provisions contained in section 336 of the Senate bill. By providing that a state could qualify for an incentive grant if it allocates "a significant portion of" fines and fees paid by those "apprehended and fined for" drunk driving to programs designed to stop drunk driving, the conferees have made clear that no all such fines and fees must be devoted to this sole purpose for a state to qualify. The conferees wish to emphasize that NHTSA should provide incentive grants to reward those states which are taking steps to provide for self-sufficient stop-DUI programs without requiring in the short term that such programs be totally self-sufficient.

HIGHWAY TRAFFIC SAFETY GRANTS

(HIGHWAY TRUST FUND)

Amendment No. 85: Appropriates $104,825,000 as proposed by the House instead of $107,358,000 as proposed by the Senate.

Amendment No. 86: Limits obligations for "Alcohol safety incentive grants" to $15,000,000 instead of $10,967,000 as proposed by the House and $17,000,000 as proposed by the Senate.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

Amendment No. 87: Appropriates $14,433,000 instead of $13,404,000 as proposed by the House and $14,547,000 as proposed by the Senate.

Amendment No. 88: Provides that $1,669,000 shall remain available until expended for the Office of the Administrator as proposed by the House instead of $1,744,000 as proposed by the Senate.

The conference agreement includes the following adjustments to the President's budget request:

Technical assistance—Class II/III railroads	−$75,000
General counsel (+3 new positions)	+155,000
PCB cost growth	−39,000
Rental payment consolidation	−1,415,000

Wyoming passenger rail study.—The conferees do not agree with language proposed by the House which would have directed FRA to conduct a study on the feasibility of adding a new rail line providing passenger rail service through southern Wyoming. The conferees are not convinced that such a study is necessary. Consequently, FRA is directed not to conduct such a study at this time.

LOCAL RAIL FREIGHT ASSISTANCE

Amendment No. 89: Deletes the word "Service" in the head and inserts the word "Freight" as proposed by the Senate.

Amendment No. 90: Appropriates $10,000,000 instead of $7,000,000 as proposed by the House and $12,000,000 as proposed by the Senate.

Amendment No. 91: Deletes language that places certain administrative requirements on states applying for program funds proposed by the House. The Senate bill contained no similar provision.

RAILROAD SAFETY

Amendment No. 92: Appropriates $34,362,000 instead of $34,110,000 as proposed by the House and $34,616,000 as proposed by the Senate.

Amendment No. 93: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that exempts from Federal Railroad Administration training charges state rail safety inspector activities under section 206 of the Federal Railroad Safety Act of 1970.

The conference agreement includes the following adjustments to the President's budget request:

Rail safety trainees	−$126,000
Office automation	−130,000
Health care benefits cost growth	−380,000
Rental payments consolidation	−1,504,000

RAILROAD RESEARCH AND DEVELOPMENT

Amendment No. 94: Appropriates $22,147,000 instead of $17,747,000 as proposed by the Senate and $25,212,000 as proposed by the House.

Amendment No. 95: Provides $1,000,000 for a grant to the Long Island Rail Road as proposed by the Senate instead of $250,000 as proposed by the House.

Amendment No. 96: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to expand and extend the Long Island Rail Road intermodal project to include acquisition of intermodal equipment and related equipment, and improve terminal facilities. The House bill contained no similar provision.

Amendment No. 97: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing $500,000 to the State of Washington for a study on preliminary corridor design and other work encompassing magnetic levitation and/or other high speed rail/ground transportation. The House bill contained no similar provision.

The conference agreement includes the following adjustments to the President's budget request:

Grade crossing R&D	+$700,000
Locomotive crashworthiness R&D	+200,000
Track safety	−500,000
Maglev/high speed rail	+3,850,000
Long Island Rail Road Intermodal Project	+1,000,000
Accountwide adjustments	−87,000

Grade crossing research and development.—The conferees agree to increase the budget for this activity by $700,000, and direct the Federal Railroad Administration to work closely with the Federal Highway Administration and the National Highway Traffic Safety Administration in conducting a fully integrated grade crossing R&D program. Since grade crossing accidents by definition involve the interface between rail lines and roadways, it is imperative that resources and expertise in these respective areas of transportation be combined for an effective solution to the grade crossing problem.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

Amendment No. 98: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$179,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement distributes these funds as follows:

Dual-propulsion locomotives	$14,000,000
Delaware-New Jersey CETC	5,100,000
Electric traction system	15,900,000
Bridge replacement	5,700,000
Communications/signal system	2,300,000
Track improvements	6,400,000
Platform rehabilitation	4,600,000
Electrification design	25,000,000
High-speed interlockings	6,000,000
Bridge upgrades	5,000,000
New Haven track/electric catenary reconfiguration	5,000,000
High level platform	1,300,000
Canton viaduct	1,500,000
Shell interlocking/electrification reconfiguration	25,000,000
Northend signal/electrification	56,200,000

Amendment No. 99: Deletes language proposed by the Senate that prohibits obligation of funds until September 30, 1991. The House bill contained no similar provision.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

Amendment No. 100: Appropriates $475,080,000 instead of $470,000,000 as proposed by the Senate and $482,000,000 as proposed by the House.

Amendment No. 101: Provides $343,080,000 for Amtrak operating support as proposed by the House instead of $340,000,000 as proposed by the Senate.

Amendment No. 102: Provides $132,000,000 for Amtrak capital improvements instead of $130,000,000 as proposed by the Senate and $138,920,000 as proposed by the House.

Amendment No. 103: Restores the House language restricting federal participation for Atlantic City rail line capital projects and the Amtrak share of Spuyten Duyvil, New York, rail line capital projects to not more than 60 percent of the total costs, and also restores and modifies the House language to prohibit Amtrak from operating Atlantic City service unless at least 80 percent of short-term avoidable operating costs are covered during the third year of operations and 100 percent of such costs are covered for each year thereafter. Under the House bill these operating cost recovery percentages were 80 percent for the second year and 100 percent for each year thereafter.

The conference agreement also restores House language which requires that no funds are required to be expended pursuant to 45 U.S.C. 601(e).

Amendment No. 104: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

Mandatory Passenger Rail Service Payments

Notwithstanding any other provision of law, funds provided under this head are available to enable the Secretary of Transportation to pay obligations of the National Railroad Passenger Corporation for repayment taxes due under section 3321 of the Internal Revenue Code of 1986.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

Amendment No. 105: Prohibits new loan guarantee commitments during fiscal year 1991 as proposed by the House instead of providing $100,000,000 in section 511 loan guarantees as proposed by the Senate.

CONRAIL COMMUTER TRANSITION ASSISTANCE

Amendment No. 106: Appropriates $5,000,000 as proposed by the House. The Senate bill contained no similar appropriation.

AMTRAK CORRIDOR IMPROVEMENT LOANS

Amendment No. 107: Provides $3,500,000 in loans as proposed by the House. The Senate bill contained no similar provision.

URBAN MASS TRANSPORTATION ADMINISTRATION

ADMINISTRATIVE EXPENSES

Amendment No. 108: Appropriates $32,583,000 instead of $32,396,000 as proposed by the Senate and $32,770,000 as proposed by the House. The conference agreement provides funds for 429 full-time equivalent positions.

FORMULA GRANTS

Amendment No. 109: Appropriates $1,600,000,000 as proposed by the Senate instead of $1,690,000,000 as proposed by the House.

Amendment No. 110: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$13,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

Amendment No. 111: Limits obligations to $1,400,000,000 as proposed by the Senate instead of $1,200,000,000 as proposed by the House.

The conference agreement distributes these funds as follows:

Bus and bus facilities	$220,000,000
Existing rail modernization and extensions	455,000,000
New systems and new extensions	440,000,000
(Los Angeles)	(150,000,000)
(Atlanta)	(30,000,000)
(St. Louis)	(60,000,000)
(San Francisco)	(40,000,000)
(Honolulu)	(11,000,000)
(Houston)	(32,000,000)
(Dallas)	(20,000,000)
(Denver)	(17,600,000)
(Baltimore)	(5,000,000)
(Jacksonville)	(14,000,000)
(Cleveland)	(5,000,000)
(Hudson waterfront)	(20,000,000)
(Chicago)	(16,000,000)
(Miami)	(12,000,000)
(Salt Lake City)	(5,000,000)
(San Diego)	(400,000)
(Chattanooga)	(1,000,000)
(Portland)	(1,000,000)
Planning	45,000,000
Elderly and handicapped	35,000,000
University transportation centers	5,000,000
Section 9B formula grants	200,000,000

Portland Westside light rail.—The conferees concur with the Senate report language and require that the data requested on the Westside light rail project in Portland, Oregon, be provided under the Urban Mass Transportation Administration's major capital investment project planning procedures pursuant to House Report 101-183 and that the project proceed to final design and the execution of a full funding agreement under those same procedures. In addition, the conferees expect the data to fully reflect Tri-Met's on-going experience with its existing light rail alignment.

MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

Amendment No. 112: Appropriates $900,000,000 as proposed by the Senate instead of $815,000,000 as proposed by the House.

INTERSTATE TRANSFER GRANTS—TRANSIT

Amendment No. 113: Appropriates $160,000,000 as proposed by the House instead of $180,000,000 as proposed by the Senate.

The conferees have agreed to the following discretionary allocations:

Chicago	$18,000,000
New Jersey	1,908,232
New York City	13,529,823
Baltimore	36,000,000
Memphis	10,161,945
Project management	400,000

WASHINGTON METRO

Amendment No. 114: Appropriates $64,100,000 as proposed by the Senate instead of $108,000,000 as proposed by the House.

Amendment No. 115: Deletes House language providing that $43,900,000 of the Washington Metro appropriation shall be available only upon enactment of authorizing legislation. The Senate bill contained no similar provision.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

Amendment No. 116: Appropriates $10,250,000 as proposed by the Senate instead of $10,500,000 as proposed by the House.

Amendment No. 117: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate making $174,000 available until expended.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

Amendment No. 118: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$15,833,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the following amounts:

Operations:	
Administrator	$460,000
(Positions)	(5)
Chief counsel	664,000
(Positions)	(11)
Program management and administration	1,400,000
(Positions)	(17)
Aviation information management	2,386,000
(Positions)	(22)
Emergency transportation	808,000
(Positions)	(7)
Hazardous materials	9,294,000
(Positions)	(100)
Research and technology	500,000
(Positions)	(6)
(Transportation Systems Center positions)	(515)
Accountwide adjustments	−$1,214,000
Research and Development:	
Hazardous materials	1,125,000
Emergency transportation	110,000
Research and technology	300,000

Amendment No. 119: Provides that $1,535,000 shall remain available until expended as proposed by the Senate instead of $1,555,000 as proposed by the House.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

Amendment No. 120: Appropriates $11,042,000 instead of $10,367,000 as proposed by the House and $11,067,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Personnel compensation and benefits (66 positions)	$3,203,000
Administrative costs	1,168,000
Program funds	1,179,000
Research and development	725,000
State grants	5,200,000
Accountwide adjustments	−433,000

Amendment No. 121: Provides that $5,925,000 shall remain available until expended as proposed by the Senate instead of $5,725,000 as proposed by the House.

OFFICE OF THE INSPECTOR GENERAL

SALARIES AND EXPENSES

Amendment No. 122: Appropriates $31,875,000 as proposed by the Senate instead of $30,970,000 as proposed by the House.

The conference agreement includes the following adjustments to the President's budget request:

Uncontrollable overtime	+$250,000
AICIS computer system	−100,000
Accountwide adjustments	−2,262,000

TITLE II—RELATED AGENCIES

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

Amendment No. 123: Appropriates $31,470,000 instead of $30,940,000 as proposed by the House and $32,000,000 as proposed by the Senate.

The conference agreement provides for 356 full-time equivalents.

Amendment No. 124: Provides $1,000 for official reception and representation expenses instead of $500 as proposed by the House and $2,500 as proposed by the Senate.

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

Amendment No. 125: Appropriates $43,777,000 as proposed by the Senate instead of $45,369,000 as proposed by the House.

The conferees intend that positions be allocated as stated in the justifications accompanying the budget request. However, should the need arise to provide changes in those allocations during the fiscal year, the conferees will consider such changes through the normal reprogramming procedures.

PANAMA CANAL COMMISSION

PANAMA CANAL REVOLVING FUND

Amendment No. 126: Limits administrative expenses to $48,928,000 as proposed by the House instead of $48,941,000 as proposed by the Senate.

Amendment No. 127: Limits obligations for non-administrative and capital programs to $459,000,000 as proposed by the Senate instead of $448,497,000 as proposed by the House.

TITLE III—GENERAL PROVISIONS

Amendment No. 128: Limits funds for the Department of Transportation advisory committees to $1,350,000 instead of $350,000 as proposed by the House and $1,400,000 as proposed by the Senate. The conference agreement provides $1,000,000 for an Intelli-

gent vehicle/highway system advisory council.

Amendment No. 129: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

SEC. 325. (a) INTERMODAL URBAN DEMONSTRATION PROJECT.—Funds appropriated in this Act for "Intermodal Urban Demonstration Project" shall remain available until expended.

(b) WESTSIDE CONNECTOR RAIL LINE PROJECT.—Notwithstanding any other provision of law, of the discretionary funds available to New York State under the Interstate Transfer Grants-Transit account of this Act, $11,000,000 shall be transferred to the Federal Railroad Administration, which shall make such funds available to Amtrak for the Westside Connector Rail Line Project in New York City.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 130: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

SEC. 327. (a) MAXI-CUBE VEHICLES.—Section 411(d) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311(d)), relating to length limitations on federally assisted highways, is amended by inserting after "boat transporters" the following: "and maxi-cube vehicles".

(b) INTERNATIONAL FLIGHT SERVICE TRANSMITTING FACILITY.—(1) Notwithstanding any other provision of law, and subject to the provisions of subsection (b)(2) below, title to a certain 102 acres of property located at West Sayville, town of Islip, Suffolk County, New York, as described in a deed dated November 4, 1918, from the Atlantic Communication Company, recorded in the office of the County Clerk of Suffolk County, New York on February 2, 1921, in Deed Liber 1016, page 433; a quit claim deed dated January 20, 1920, from Mary E. Shell; Executrix of the Estate of Edward Shell, recorded in the office of the County Clerk of Suffolk County, New York in Deed Liber 1016, page 438; and a deed dated September 2, 1920, from Atlantic Communication Company, recorded in the office of the County Clerk of Suffolk County, New York in Deed Liber 1016, page 443, and known as the Federal Aviation Administration's International Flight Service Transmitting Facility, shall be conveyed to the Fish and Wildlife Service of the United States Department of the Interior in order to ensure the continued protection of the sandplain gerardia (Agalinis acuta) a federally listed endangered plant species.

(2) The conveyance of the property identified in subsection (b)(1) shall become effective upon certification by the Administrator of the Federal Aviation Administration that the International Flight Service Transmitting Facility currently located on such property has been completely relocated to an alternate site in Barnegat, New Jersey, and that the relocated International Flight Service Transmitting Facility is fully functional.

(3) Pursuant to the provisions of 40 U.S.C. 484(k)(2), a certain 19.2 acres of property located on the west side of Cherry Avenue in West Sayville, town of Islip, County of Suffolk, New York, as described in a Declaration of Taking, Civil Number 60-CD-853, filed in United States District Court for the Eastern District of New York, dated September 9, 1960, shall be transferred, as a public benefit transfer and without cost, to said town of Islip for recreational purposes.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 131: Restores House language requiring the Secretary to reduce by 25 percent state obligations for Federal-aid highways and highway safety construction programs if that state has a public authority providing mass transportation for an urbanized area within such state with a population of 3,000,000 or more and does not have a dedicated tax-based source of funding for mass transit. The Senate bill contained no similar provision.

Amendment No. 132: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 330. (a) AUXILIARY FLIGHT SERVICE STATION PROGRAM.—The Administrator of the Federal Aviation Administration shall develop and implement a system of manned auxiliary flight service stations. The auxiliary flight service stations shall supplement the services of the planned consolidation to 61 automated flight service stations under the flight service station modernization program. Auxiliary flight service stations shall be located in areas of unique weather or operational conditions which are critical to the safety of flight. Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall report to Congress with the plan and schedule for implementation of this section.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 133: Restores House language prohibiting the use of funds for a new National Weather Graphics System and deletes Senate language directing the Secretary of Transportation to publish and promulgate a rule prohibiting the use of radar detectors by drivers operating commercial motor vehicles.

Amendment No. 134: Deletes the words "beginning after fiscal year 1992," proposed by the House. The Senate bill addresses this matter in connection with amendment numbered 135.

Amendment No. 135: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate modifying the House language regarding the withholding of a State's highway funds if that State does not have in effect a law requiring an immediate revocation of the driver's license of any individual convicted of any drug offense.

Amendment No. 136: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate permitting funds previously appropriated for an intersection project in Louisiana to be used for a different intersection project in Louisiana.

Amendment No. 137: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 335. Notwithstanding section 127 of title 23, United States Code, the State of Wyoming may permit the use of the National System of Interstate and Defense Highways located in Wyoming by vehicles in excess of 80,000 pounds gross weight, but meeting axle and bridge formula specifications in section 127 of title 23, United States Code: Provided, That this section shall remain in effect until December 31, 1991.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 138: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that makes technical changes to the section 410 drunk driving prevention program.

Amendment No. 139: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 337. Within 180 days of the effective date of this Act, the Federal Aviation Administration shall undertake and complete a study on the classification of air traffic controllers at level IV limited radar approach facilities which includes airspace complexity as a factor in determining grade classification. The results of this study, along with an implementation plan, shall be provided to the House and Senate Committees on Appropriations.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are concerned about increasing air traffic delays in the New York-New Jersey metropolitan area. In order to attract and retain more full performance level air traffic controllers in this region, the conferees have directed the FAA to complete a study, within 180 days of enactment of this measure, on the pay grades of controllers at certain air traffic control facilities. This study must consider airspace complexity, not merely volume of operations, at the facilities under review. The conferees have been assured that FAA promptly will act upon the results of this review to implement upgrades in controller salaries in accord with the complexities of their duties at these facilities.

Amendment No. 140: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 338. Notwithstanding any provision of the Urban Mass Transportation Act of 1964, as amended, the Urban Mass Transportation Administration shall not withhold fiscal year 1989, 1990 or 1991 funds for any section 3 and section 9 operating and capital assistance grants for the City of Phoenix, Arizona, based on the inclusion of a "preference in hiring" provision in the employee protective arrangements developed pursuant to 49 U.S.C. 1609(c).

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 141: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede

and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 339. Notwithstanding subsection (d) of section 402 of the Surface Transportation Assistance Act of 1982 (Public Law 97-424, 96 Stat. 2155, 2156) for States which have received only a development grant for fiscal year 1989 under such section 402 and which have participated in the Commercial Motor Carrier Safety Inspection and Weighing Demonstration Program, the Secretary shall only approve a plan under such section 402 for fiscal year 1991 which provides that the aggregate expenditure of funds of the State and political subdivision thereof, exclusive of Federal funds, for commercial motor vehicle safety programs will be maintained at a level which does not fall below the average level of such expenditure for the last two full fiscal years preceding fiscal year 1990.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 142: Deletes Senate language authorizing the Secretary to issue the final rule entitled "Control of Drug Use in Mass Transportation Operations". The House bill contained no similar provision.

Amendment No. 143: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "341", insert: *340*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

	FY 1990 Enacted	FY 1991 Estimates	House	Senate	Conference	Conference compared with Enacted
TITLE I - DEPARTMENT OF TRANSPORTATION						
Office of the Secretary						
Salaries and expenses	---	(60,135,000)	---	(54,555,000)	---	---
Immediate Office of the Secretary	1,090,000	1,311,000	1,215,000	1,215,000	1,215,000	+125,000
Immediate Office of the Deputy Secretary	470,000	487,000	412,000	412,000	412,000	-58,000
Office of the General Counsel	6,120,000	6,500,000	6,420,000	6,420,000	6,420,000	+300,000
Office of the Assistant Secretary for Policy and International Affairs	8,250,000	10,061,000	8,810,000	8,500,000	8,500,000	+250,000
Office of the Assistant Secretary for Budget and Programs	2,325,000	2,400,000	2,390,000	2,400,000	2,390,000	+65,000
Office of the Assistant Secretary for Governmental Affairs	2,300,000	2,255,000	2,255,000	2,255,000	2,255,000	-45,000
Office of the Assistant Secretary for Administration	24,700,000	29,488,000	21,745,000	22,750,000	26,745,000	+2,045,000
Office of the Assistant Secretary for Public Affairs	1,350,000	1,389,000	1,389,000	1,389,000	1,389,000	+39,000
Executive Secretariat	835,000	918,000	918,000	918,000	918,000	+83,000
Contract Appeals Board	488,000	508,000	508,000	508,000	508,000	+20,000
Office of Civil Rights	1,315,000	1,353,000	1,353,000	1,353,000	1,353,000	+38,000
Office of Commercial Space Transportation	725,000	---	725,000	---	---	-725,000
Office of Essential Air Service	1,727,000	---	1,251,000	1,610,000	1,500,000	-227,000
Office of Small and Disadvantaged Business Utilization	3,500,000	3,465,000	3,465,000	3,465,000	3,465,000	-35,000
Office of Intelligence and Security	---	---	---	1,360,000	1,200,000	+1,200,000
Subtotal, Salaries and expenses	55,195,000	60,135,000	52,856,000	54,555,000	58,270,000	+3,075,000
Transportation planning, research, and development	6,748,000	4,047,000	4,777,000	2,947,000	2,947,000	-3,801,000
Office of Commercial Space Transportation Operations and research	---	4,517,000	---	4,217,000	3,386,000	+3,386,000
Working capital fund	4,441,000	10,446,000	---	---	---	-4,441,000
(Limitation on working capital fund)	(137,287,000)	(146,809,000)	(86,264,000)	(86,264,000)	(86,264,000)	(-51,023,000)
Payments to air carriers	30,643,000	23,600,000	23,600,000	26,600,000	26,600,000	-4,043,000
Rental payments	---	---	107,668,000	107,668,000	107,668,000	+107,668,000
Total, Office of the Secretary	97,027,000	102,745,000	188,901,000	195,987,000	198,871,000	+101,844,000
Coast Guard						
Operating expenses	1,917,728,000	2,391,351,000	2,192,000,000	2,051,103,000	2,039,839,000	+122,111,000
Funds included in Department of Defense Appropriations Act, 1990	160,000,000	---	---	---	---	-160,000,000
Subtotal, Operating expenses	2,077,728,000	2,391,351,000	2,192,000,000	2,051,103,000	2,039,839,000	-37,889,000
Acquisition, construction, and improvements	(436,686,000)	(419,536,000)	(391,994,000)	(432,396,000)	---	(-436,686,000)
Vessels	132,302,000	162,200,000	155,750,000	168,385,000	157,500,000	+25,198,000
Aircraft	196,110,000	110,300,000	101,700,000	93,500,000	90,010,000	-106,100,000
(By transfer)	(7,478,000)	---	---	---	---	(-7,478,000)
Other equipment	15,852,000	24,500,000	20,500,000	15,500,000	15,000,000	-852,000
Shore facilities and aids to navigation	70,887,000	86,000,000	81,385,000	112,675,000	106,885,000	+35,998,000
Personnel, survey and design	21,535,000	36,536,000	32,659,000	42,336,000	36,936,000	+15,401,000
Subtotal, Acquisition, construction, and improvements	436,686,000	419,536,000	391,994,000	432,396,000	406,331,000	-30,355,000
Environmental compliance and restoration	---	7,000,000	21,500,000	22,000,000	21,500,000	+21,500,000
Alteration of bridges	2,323,000	6,353,000	3,747,000	3,747,000	3,747,000	+1,424,000
Retired pay	420,800,000	437,300,000	437,300,000	437,300,000	437,300,000	+16,500,000
Reserve training	71,614,000	78,932,000	74,306,000	74,306,000	74,306,000	+2,692,000
Research, development, test, and evaluation	20,465,000	23,000,000	24,800,000	25,741,000	25,000,000	+4,535,000
Offshore oil pollution compensation fund (limitation)	(59,820,000)	(60,000,000)	(60,000,000)	---	---	(-59,820,000)
Deepwater port liability fund (limitation)	(49,850,000)	(50,000,000)	(50,000,000)	---	---	(-49,850,000)
Boat safety (Aquatic Resources Trust Fund)	29,910,000	30,000,000	35,000,000	35,000,000	35,000,000	+5,090,000
Total, Coast Guard: New budget (obligational) authority	3,059,526,000	3,393,472,000	3,180,647,000	3,081,593,000	3,043,023,000	-16,503,000
Federal Aviation Administration						
Operations	3,823,605,000	4,087,700,000	4,037,000,000	4,038,551,000	4,037,000,000	+213,395,000
(By transfer)	(9,970,000)	(10,000,000)	---	---	---	(-9,970,000)
Facilities and equipment (Airport and Airway Trust Fund)	1,721,171,000	2,500,000,000	2,138,615,000	2,240,018,000	2,095,407,000	+374,236,000
Research, engineering, and development (Airport and Airway Trust Fund)	170,163,000	190,000,000	195,000,000	206,600,000	205,000,000	+34,837,000
Grants-in-aid for airports (Airport and Airway Trust Fund):						
(Liquidation of contract authorization)	(1,190,000,000)	(1,277,000,000)	(1,400,000,000)	(1,400,000,000)	(1,400,000,000)	(+210,000,000)
(Limitation on obligations)	(1,425,000,000)	(1,500,000,000)	(1,800,000,000)	(1,650,000,000)	(1,800,000,000)	(+375,000,000)
Rescission of contract authority	-25,000,000	---	---	-10,900,000	-200,000,000	-175,000,000

	FY 1990 Enacted	FY 1991 Estimates	House	Senate	Conference	Conference compared with Enacted
Aircraft purchase loan guarantee program: (Limitation on borrowing authority)	(9,970,000)	(57,000,000)	(9,970,000)	(9,970,000)	(9,970,000)	---
Total, Federal Aviation Administration: New budget (obligational) authority	5,689,939,000	6,777,700,000	6,370,615,000	6,474,269,000	6,137,407,000	+447,468,000
(Limitations on obligations)	(1,425,000,000)	(1,500,000,000)	(1,800,000,000)	(1,650,000,000)	(1,800,000,000)	(+375,000,000)
Total	(7,114,939,000)	(8,277,700,000)	(8,170,615,000)	(8,124,269,000)	(7,937,407,000)	(+822,468,000)
Federal Highway Administration						
(Limitation on general operating expenses)	(233,298,000)	(264,470,000)	(245,400,000)	(263,751,000)	(256,415,000)	(+23,117,000)
University transportation centers (Highway Trust Fund)	4,985,000	5,000,000	5,000,000	5,000,000	5,000,000	+15,000
Highway safety research and development (Highway Trust Fund)	6,062,000	---	5,450,000	---	5,450,000	-612,000
Highway-related safety programs (Highway Trust Fund):						
(Liquidation of contract authorization)	(9,377,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(+623,000)
(Limitation on obligations)	(9,377,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(+623,000)
Railroad-highway crossings demonstration projects	14,845,000	---	15,000,000	2,000,000	14,450,000	-395,000
Federal-aid highways (Highway Trust Fund):						
(Limitation on obligations)	(12,210,000,000)	(12,013,000,000)	(14,500,000,000)	(13,850,000,000)	(14,500,000,000)	(+2,290,000,000)
(Liquidation of contract authorization)	(13,619,020,000)	(13,770,000,000)	(14,300,000,000)	(14,300,000,000)	(14,300,000,000)	(+680,980,000)
Disaster assistance (emergency fund)	1,000,000,000	---	---	---	---	-1,000,000,000
Right-of-way Revolving Fund (Highway Trust Fund):						
(Limitation on direct loans)	(42,373,000)	(47,850,000)	(42,500,000)	(47,850,000)	(42,500,000)	(+127,000)
Motor carrier safety	33,297,000	40,719,000	40,000,000	40,000,000	40,000,000	+6,703,000
Motor carrier safety grants (Highway Trust Fund):						
(Liquidation of contract authorization)	(51,844,000)	(63,000,000)	(63,000,000)	(63,000,000)	(63,000,000)	(+11,156,000)
(Limitation on obligations)	(60,019,000)	(60,000,000)	(61,500,000)	(60,000,000)	(61,500,000)	(+1,481,000)
Baltimore-Washington Parkway (Highway Trust Fund)	11,964,000	---	9,900,000	---	8,415,000	-3,549,000
Intermodal urban demonstration project (Highway Trust Fund)	9,846,000	---	10,000,000	---	8,500,000	-1,346,000
Highway safety and economic development demonstration projects (Highway Trust Fund)	11,840,000	---	20,000,000	---	17,000,000	+5,160,000
Highway safety improvement demonstration project (Highway Trust Fund)	10,949,000	---	9,000,000	---	7,650,000	-3,299,000
Highway-railroad grade crossing safety demonstration project (Highway Trust Fund)	9,355,000	---	8,000,000	---	6,800,000	-2,555,000
Highway widening demonstration project	1,968,000	---	2,000,000	---	1,700,000	-268,000
Bridge improvement demonstration project	3,988,000	---	---	---	---	-3,988,000
Highway widening and improvement demonstration project	4,926,000	---	4,000,000	---	3,400,000	-1,526,000
Intersection safety demonstration project	---	---	3,600,000	---	3,060,000	+3,060,000
Climbing lane and highway safety demonstration project	2,486,000	---	12,000,000	---	10,200,000	+7,714,000
Indiana industrial corridor safety demonstration project	2,378,000	---	3,000,000	---	2,550,000	+172,000
Highway capacity improvement demonstration project	---	---	2,000,000	---	1,700,000	+1,700,000
Oklahoma highway widening demonstration project	2,487,000	---	---	---	---	-2,487,000
Alabama highway bypass demonstration project	8,223,000	---	10,000,000	---	8,500,000	+277,000
Kentucky bridge demonstration project	4,933,000	---	4,000,000	---	3,400,000	-1,533,000
Virginia HOV safety demonstration project	4,629,000	---	8,500,000	---	7,225,000	+2,596,000
Urban highway corridor and bicycle transportation demonstration projects	4,484,000	---	11,000,000	---	9,350,000	+4,866,000
Urban airport access safety demonstration project	4,982,000	---	11,000,000	---	9,350,000	+4,368,000
Ebensburg bypass demonstration project	13,699,000	---	---	---	---	-13,699,000
Pennsylvania reconstruction demonstration project	---	---	20,000,000	---	17,000,000	+17,000,000
Pennsylvania toll road demonstration project	---	---	6,000,000	---	5,100,000	+5,100,000
Highway demonstration projects	---	---	23,800,000	58,070,000	71,365,000	+71,365,000
Highway demonstration projects - preliminary engineering	5,783,000	---	46,050,000	14,000,000	48,293,000	+42,510,000
Corridor safety improvement project (Highway Trust Fund)	17,248,000	---	---	---	---	-17,248,000
Bridge capacity improvements (Highway Trust Fund)	3,933,000	---	---	---	---	-3,933,000
Corridor H improvement project	31,672,000	---	---	51,500,000	51,500,000	+19,828,000
Road extension demonstration	10,958,000	---	---	---	---	-10,958,000
Des Moines inner loop demonstration project	2,792,000	---	---	---	---	-2,792,000
Corridor G Improvement Project	9,970,000	---	---	50,000,000	33,275,000	+23,305,000
Corridor D improvement project	---	---	---	10,000,000	10,000,000	+10,000,000
Bypass construction project	---	---	---	50,000,000	42,500,000	+42,500,000
Corning bypass safety demonstration project	19,940,000	---	---	20,000,000	17,000,000	-2,940,000
Spring Mountain demonstration project	2,193,000	---	---	---	---	-2,193,000
Manhattan Bridge replacement demonstration project	3,200,000	---	---	---	---	-3,200,000
Junction City highway improvement demonstration project	399,000	---	---	---	---	-399,000
Turquoise Trail project	---	---	---	5,510,000	4,684,000	+4,684,000
Trade enhancement demonstration project	---	---	---	12,500,000	10,625,000	+10,625,000
Ottumwa road extension project	---	---	---	10,000,000	8,500,000	+8,500,000
Iowa connector project	---	---	---	1,750,000	1,488,000	+1,488,000
Highway 20 realignment project	---	---	---	3,000,000	2,550,000	+2,550,000
Bridge traffic safety demonstration project	---	---	---	2,000,000	---	---
Ramp relocation and reconstruction demonstration project	---	---	---	10,000,000	10,200,000	+10,200,000
U.S. 54 interchange project	---	---	---	10,900,000	9,265,000	+9,265,000
Total, Federal Highway Administration: New budget (obligational) authority	1,280,414,000	45,719,000	289,300,000	356,230,000	517,045,000	-763,369,000
(Limitations on obligations)	(12,279,396,000)	(12,083,000,000)	(14,571,500,000)	(13,920,000,000)	(14,571,500,000)	(+2,292,104,000)
Total	(13,559,810,000)	(12,128,719,000)	(14,860,800,000)	(14,276,230,000)	(15,088,545,000)	(+1,528,735,000)
National Highway Traffic Safety Administration						
Operations and research	73,340,000	76,376,000	70,075,500	76,664,000	76,347,100	+3,007,100
Operations and research (Highway Trust Fund)	31,756,000	40,950,000	38,960,500	40,394,000	42,365,900	+10,609,900
Subtotal, Operations and research	105,096,000	117,326,000	109,036,000	117,058,000	118,713,000	+13,617,000
Highway traffic safety grants (Highway Trust Fund) (Liquidation of contract authorization)	(136,604,000)	(105,000,000)	(104,825,000)	(107,358,000)	(104,825,000)	(-31,779,000)
State and community highway safety grants: (Limitation on obligations)	(114,655,000)	(114,655,000)	(114,655,000)	(114,655,000)	(114,655,000)	---
Alcohol safety incentive grants: (Limitation on obligations)	(15,967,000)	(10,967,000)	(10,967,000)	(17,000,000)	(15,000,000)	(-967,000)
Education grants (Sec. 209): (Cumulative limitation on obligations)	(4,736,000)	(4,750,000)	(4,750,000)	(4,750,000)	(4,750,000)	(+14,000)

	FY 1990 Enacted	FY 1991 Estimates	House	Senate	Conference	Conference compared with Enacted
Total, National Highway Traffic Safety Administration:						
New budget (obligational) authority	105,096,000	117,326,000	109,036,000	117,058,000	118,713,000	+13,617,000
(Limitations on obligations)	(130,622,000)	(125,622,000)	(125,622,000)	(131,655,000)	(129,655,000)	(-967,000)
Total	(235,718,000)	(242,948,000)	(234,658,000)	(248,713,000)	(248,368,000)	(+12,650,000)
Federal Railroad Administration						
Office of the Administrator	14,589,000	15,807,000	13,404,000	14,547,000	14,433,000	-156,000
Local rail freight assistance	6,979,000	---	7,000,000	12,000,000	10,000,000	+3,021,000
Railroad safety	31,495,000	36,500,000	34,110,000	34,616,000	34,362,000	+2,867,000
Railroad research and development	9,489,000	16,984,000	25,212,000	17,747,000	22,147,000	+12,658,000
Settlements of railroad litigation	---	3,362,000	3,362,000	3,362,000	3,362,000	+3,362,000
Portion applied to debt reduction	---	-3,097,000	-3,097,000	-3,097,000	-3,097,000	-3,097,000
Northeast corridor improvement program	24,442,000	---	16,000,000	165,000,000	179,000,000	+154,558,000
Grants to the National Railroad Passenger Corporation:						
Operations	521,111,000	---	343,080,000	340,000,000	343,080,000	-178,031,000
Capital	83,574,000	---	138,920,000	130,000,000	132,000,000	+48,426,000
Total, Grants to the National Railroad Passenger Corporation	604,685,000	---	482,000,000	470,000,000	475,080,000	-129,605,000
Mandatory Passenger Rail Service Payments	---	---	150,000,000	150,000,000	150,000,000	+150,000,000
Railroad Rehabilitation and Improvement Financing Funds:						
(Railroad credit enhancement)	(49,850,000)	---	(32,000,000)	(32,000,000)	(32,000,000)	(-17,850,000)
(Railroad loan guarantees)	---	---	---	(100,000,000)	---	---
Regional rail reorganization program	101,273,000	307,979	307,979	307,979	307,979	-100,965,021
Portion applied to debt reduction	-94,648,000	-284,979	-284,979	-284,979	-284,979	+94,363,021
Conrail commuter transition assistance	4,920,000	---	5,000,000	---	5,000,000	+80,000
Amtrak corridor improvement loans	3,500,000	---	3,500,000	---	3,500,000	---
(Loan authorization)	(3,500,000)	---	(3,500,000)	---	(3,500,000)	---
Total, Federal Railroad Administration	706,724,000	69,579,000	736,514,000	864,198,000	893,810,000	+187,086,000
Urban Mass Transportation Administration						
Administrative expenses	31,809,000	35,402,000	32,770,000	32,396,000	32,583,000	+774,000
Research, training, and human resources	9,970,000	10,000,000	8,000,000	8,000,000	8,000,000	-1,970,000
Formula grants	1,625,110,000	1,076,800,000	1,695,000,000	1,605,000,000	1,605,000,000	-20,110,000
Discretionary grants (Highway Trust Fund):						
(Limitation on obligations)	(1,136,580,000)	(1,140,000,000)	(1,200,000,000)	(1,400,000,000)	(1,400,000,000)	(+263,420,000)
Mass transit capital fund (Highway Trust Fund)						
(Liquidation of contract authorization)	(897,300,000)	(815,000,000)	(815,000,000)	(900,000,000)	(900,000,000)	(+2,700,000)
Interstate transfer grants - transit	159,520,000	---	160,000,000	180,000,000	160,000,000	+480,000
Washington Metro	84,745,000	38,000,000	108,000,000	64,100,000	64,100,000	-20,645,000
Total, Urban Mass Transportation Administration:						
New budget (obligational) authority	1,911,154,000	1,160,202,000	2,003,770,000	1,889,496,000	1,869,683,000	-41,471,000
(Limitations on obligations)	(1,136,580,000)	(1,140,000,000)	(1,200,000,000)	(1,400,000,000)	(1,400,000,000)	(+263,420,000)
Total	(3,047,734,000)	(2,300,202,000)	(3,203,770,000)	(3,289,496,000)	(3,269,683,000)	(+221,949,000)
Saint Lawrence Seaway Development Corporation						
Operations and maintenance (Harbor Maintenance Trust Fund)	11,375,000	10,749,000	10,500,000	10,250,000	10,250,000	-1,125,000
Research and Special Programs Administration						
Research and special programs	17,158,000	16,723,000	16,300,000	15,916,000	15,833,000	-1,325,000
Pipeline safety (Pipeline Safety Fund)	10,159,000	10,800,000	10,367,000	11,067,000	11,042,000	+883,000
Total, Research and Special Programs Administration	27,317,000	27,523,000	26,667,000	26,983,000	26,875,000	-442,000
Office of the Inspector General						
Salaries and expenses	31,678,000	33,987,000	30,970,000	31,875,000	31,875,000	+197,000
Total, title I, Department of Transportation:						
New budget (obligational) authority (net)	12,920,250,000	11,739,002,000	12,946,920,000	13,047,939,000	12,847,552,000	-72,698,000
Appropriations	(13,039,898,000)	(11,742,383,979)	(12,950,301,979)	(13,062,220,979)	(13,050,933,979)	(+11,035,979)
Appropriations for debt reduction	(-94,648,000)	(-3,381,979)	(-3,381,979)	(-3,381,979)	(-3,381,979)	(+91,266,021)
Rescission	(-25,000,000)	---	---	(-10,900,000)	(-200,000,000)	(-175,000,000)
(By transfer)	(17,448,000)	(10,000,000)	---	---	---	(-17,448,000)
(Limitations on general operating expenses)	(233,298,000)	(264,470,000)	(245,400,000)	(263,751,000)	(256,415,000)	(+23,117,000)
(Limitations on obligations)	(14,971,598,000)	(14,848,622,000)	(17,697,122,000)	(17,101,655,000)	(17,901,155,000)	(+2,929,557,000)
(Cumulative limitation on obligations)	(4,736,000)	(4,750,000)	(4,750,000)	(4,750,000)	(4,750,000)	(+14,000)
(Limitation on working capital fund)	(137,287,000)	(146,809,000)	(86,264,000)	(86,264,000)	(86,264,000)	(-51,023,000)
(Limitations on direct loans)	(42,373,000)	(47,850,000)	(42,500,000)	(47,850,000)	(42,500,000)	(+127,000)
(Railroad credit enhancement)	(49,850,000)	---	(32,000,000)	(32,000,000)	(32,000,000)	(-17,850,000)
(Appropriations to liquidate contract authorizations)	(15,904,145,000)	(16,040,000,000)	(16,692,825,000)	(16,780,358,000)	(16,777,825,000)	(+873,680,000)
Total, title I, New budget (obligational) authority, (DoD transfer) and (limitations on obligations)	(27,891,848,000)	(26,587,624,000)	(30,644,042,000)	(30,149,594,000)	(30,748,707,000)	(+2,856,859,000)
TITLE II - RELATED AGENCIES						
Architectural and Transportation Barriers Compliance Board						
Salaries and expenses	1,936,000	2,100,000	2,700,000	2,700,000	2,700,000	+764,000
Commission on Aviation Security and Terrorism						
Salaries and expenses	1,000,000	---	---	---	---	-1,000,000

	FY 1990 Enacted	FY 1991 Estimates	House	Senate	Conference	Conference compared with Enacted
National Transportation Safety Board						
Salaries and expenses	27,232,000	30,940,000	30,940,000	32,000,000	31,470,000	+4,238,000
Interstate Commerce Commission						
Salaries and expenses	44,205,000	43,777,000	45,369,000	43,777,000	43,777,000	-428,000
Payments for directed rail service (limitation on obligations)	(475,000)	(475,000)	(475,000)	(475,000)	(475,000)	---
Total, Interstate Commerce Commission	(44,680,000)	(44,252,000)	(45,844,000)	(44,252,000)	(44,252,000)	(-428,000)
Panama Canal Commission						
Panama Canal Revolving Fund:						
(Administrative expenses)	(49,692,000)	(48,941,000)	(48,928,000)	(48,941,000)	(48,928,000)	(-764,000)
(Limitation on operating and capital expenses)	(450,649,000)	---	(448,497,000)	(459,000,000)	(459,000,000)	(+8,351,000)
Department of the Treasury						
Rebate of Saint Lawrence Seaway Tolls (Harbor Maintenance Trust Fund)	10,020,000	10,789,000	10,500,000	10,500,000	10,500,000	+480,000
Washington Metropolitan Area Transit Authority						
Interest payments	51,663,569	51,663,569	51,663,569	51,663,569	51,663,569	---
Total, title II, Related Agencies:						
New budget (obligational) authority	136,056,569	139,269,569	141,172,569	140,640,569	140,110,569	+4,054,000
(Limitation on obligations)	(475,000)	(475,000)	(475,000)	(475,000)	(475,000)	---
Total	(136,531,569)	(139,744,569)	(141,647,569)	(141,115,569)	(140,585,569)	(+4,054,000)
Grand total:						
New budget (obligational) authority (net)	13,056,306,569	11,878,271,569	13,088,092,569	13,188,579,569	12,987,662,569	-68,644,000
Appropriations	(13,175,954,569)	(11,881,653,548)	(13,091,474,548)	(13,202,861,548)	(13,191,044,548)	(+15,089,979)
Appropriations for debt reduction	(-94,648,000)	(-3,381,979)	(-3,381,979)	(-3,381,979)	(-3,381,979)	(+91,266,021)
(By transfer)	(17,448,000)	(10,000,000)	---	---	---	(-17,448,000)
(Limitations on obligations)	(14,972,073,000)	(14,849,097,000)	(17,697,597,000)	(17,102,130,000)	(17,901,630,000)	(+2,929,557,000)
(Cumulative limitation on obligations)	(4,736,000)	(4,750,000)	(4,750,000)	(4,750,000)	(4,750,000)	(+14,000)
(Limitations on direct loans)	(42,373,000)	(47,850,000)	(42,500,000)	(47,850,000)	(42,500,000)	(+127,000)
(Appropriations to liquidate contract authorizations)	(15,904,145,000)	(16,040,000,000)	(16,692,825,000)	(16,780,358,000)	(16,777,825,000)	(+873,680,000)
Grand total, New budget (obligational) authority, (DoD transfer) and (limitations on obligations)	(28,028,379,569)	(26,727,368,569)	(30,785,689,569)	(30,290,709,569)	(30,889,292,569)	(+2,860,913,000)

WILLIAM LEHMAN,
WILLIAM H. GRAY III,
BOB CARR (except as to amendments 39 and 40),
RICHARD J. DURBIN,
ROBERT J. MRAZEK,
MARTIN OLAV SABO,
JAMIE L. WHITTEN,
LAWRENCE COUGHLIN,
SILVIO O. CONTE,
FRANK R. WOLF,
TOM DELAY,
Managers on the Part of the House.

FRANK R. LAUTENBERG,
ROBERT C. BYRD,
TOM HARKIN,
JAMES R. SASSER,
BARBARA A. MIKULSKI,
DANIEL K. INOUYE,
ALFONSE M. D'AMATO,
ROBERT W. KASTEN, JR.,
PETE V. DOMENICI,
CHUCK GRASSLEY,
MARK O. HATFIELD,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DREIER of California) to revise and extend their remarks and include extraneous material:)

Mr. MCCOLLUM, for 5 minutes, today.

Mrs. BENTLEY, for 60 minutes each day, on October 20, 21, 22, 23, 24, 25, 26, and 27.

(The following Members (at the request of Mr. MCNULTY to revise and extend their remarks and include extraneous material:)

Mr. KLECZKA, for 5 minutes, today.

Mr. COYNE, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DREIER of California), and to include extraneous matter:)

Mr. PAXON.

Mr. BUNNING.

Mr. DORNAN of California.

Ms. ROS-LEHTINEN.

Mr. GEKAS in two instances.

Mr. OXLEY.

Mr. WALKER.

Mr. RITTER.

Mr. GREEN of New York in three instances.

Mr. MICHEL.

Mr. CRANE.

Mr. GRADISON.

Mr. SUNDQUIST.

Mrs. BENTLEY.

Mr. KYL.

Mr. GILMAN.

(The following Members (at the request of Mr. MCNULTY), and to include extraneous matter:)

Mr. MRAZEK in two instances.

Mrs. KENNELLY.

Mr. STOKES.

Mr. MCMILLEN of Maryland.

Mr. STARK in three instances.

Mr. NELSON in two instances.

Mr. OWENS of New York.

Ms. KAPTUR.

Mr. KOLTER in two instances.

Mr. BORSKI.

Mr. MCNULTY.

Mr. DINGELL in two instances.

Mr. ROE.

Mrs. BOXER.

Mr. ENGEL in two instances.

Mr. KLECZKA.

Mr. DORGAN of North Dakota.

Mr. KANJORSKI.

Mr. TORRES.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 615. An act providing for a 14-year extension of the patent for the badge of the American Legion; to the Committee on the Judiciary.

S. 616. An act providing for a 14-year extension of the patent for the badge of the American Legion Auxiliary; to the Committee on the Judiciary.

S. 617. An act providing for a 14-year extension of the patent for the badge of the Sons of the American Legion; to the Committee on the Judiciary.

S. 1831. An act to direct the Secretary of Agriculture to survey certain lands in the town of Taos, New Mexico; to the Committee on the Interior and Insular Affairs.

S. 2165. An act to expand the boundaries of the Pecos National Historical Park; to the Committee on the Interior and Insular Affairs.

S. 2527. An act to direct the Secretary of Agriculture to conduct a study to determine the need for a National Forest Information Center and an expanded environmental education program in New Mexico; to the Committee on the Interior and Insular Affairs.

S. 2684. An act to authorize a study of methods to protect and interpret the nationally significant fossil trackways found in the Robledo Mountains near Las Cruces, New Mexico; to the Committee on the Interior and Insular Affairs.

S. 2756. An act to encourage national law enforcement cooperation; to the Committee on the Judiciary.

S. 2802. An act to authorize the establishment of the Fort Totten National Historic Site, to the Committee on the Interior and Insular Affairs.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2961. An act for the relief of Sonanong Poonpipat (Latch).

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1824. An act to amend the Education of the Handicapped Act to revise and extend the programs established in parts C through G of such act, and for other purposes.

BILL PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, a bill of the House of the following title:

On October 15, 1990:

H.R. 3787. An act to authorize a joint Federal, State, and tribal study for the restoration of the fishery resources of the Chehalis River Basin, WA, and for other purposes.

ADJOURNMENT

Mr. MCNULTY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 1 minute a.m.), the House adjourned until today, Wednesday, October 17, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4044. A letter from the Deputy Assistant Attorney General, Department of Justice, transmitting the annual report of the Office of Justice Programs, fiscal year 1989, pursuant to 42 U.S.C. 3712(b); to the Committee on the Judiciary.

4045. A letter from the Administrator, General Services Administration, transmitting a copy of a report of building project survey which recommends Federal construction of a new U.S. courthouse adjacent to the existing courthouse in Tallahassee, FL, pursuant to 40 U.S.C. 610(b); to the Committee on Public Works and Transportation.

4046. A letter from the Secretary of Transportation, transmitting the annual report on the status of the public ports of the United States for calendar years 1988–89, pursuant to 49 U.S.C. 308(c); jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

4047. A letter from the Secretary of Energy, transmitting a report entitled, "Blast Furnace Granulated Coal Injection System Demonstration Project," proposed by Bethlehem Steel Corp; jointly, to the Committees on Appropriations; Energy and Commerce; and Science, Space, and Technology.

4048. A letter from the Secretary of Energy, transmitting a report entitled, "LIFAC Sorbent Injection Desulfurization Demonstration Project", proposed by LIFAC North America; jointly, to the Committees on Science, Space, and Technology; Energy and Commerce; and Appropriations.

REPORTS OF COMMITTEE ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follow:

Mr. WILLIAMS: Committee of conference. Conference report on S. 580 (Rept. 101-883). Ordered to be printed.

Mr. HAWKINS: Committee of conference. Conference report on S. 1939 (Rept. 101-884). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4808. A bill to encourage solar, wind, and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Policies Act of 1978 (Rept. 101-885). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5707. A bill to limit the jurisdiction of the Federal Energy Regulatory Commission over local distribution company wholesalers of natural gas for ultimate consumption as a fuel in motor vehicles (Rept. 101-886). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee of conference. Conference report on H.R. 3045 (Rept. 101-887). Ordered to be printed.

Mr. BEVILL: Committee of conference. Conference report on H.R. 5019 (Rept. 101-888). Ordered to be printed.

Mr. HEFNER: Committee of conference. Conference report on S. 5313 (Rept. 101-889). Ordered to be printed.

Mr. BONIOR: Committee on Rules. House Resolution 510. Resolution waving certain points of order against consideration of H.R. 5399, a bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 1991, and for other purposes. (Rept. 101-890). Referred to the House Calendar.

Mr. GORDON: Committee on Rules, House Resolution 511. Resolution providing for the consideration of S. 2924, an act to expand the meat inspection programs of the United States by establishing a comprehensive inspection program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States, and for other purposes (Rept. 101-891). Referred to the House Calendar.

Mr. LEHMAN of Florida: Committee of conference. Conference report on H.R. 5229 (Rept. 101-892). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 2511. The Committee on Energy and Commerce discharged from further consideration of H.R. 2511; H.R. 2511 referred to the Committee of the Whole House on the State of the Union.

H.R. 3155. The Committee on Merchant Marine and Fisheries discharged from further consideration of H.R. 3155; H.R. 3155 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FRANK:

H.R. 5837. A bill to amend the Ethics in Government Act of 1978 to modify the prohibition on honoraria with respect to certain officers and employees; jointly to the Committees on Post Office and Civil Service, House Administration and the Judiciary.

By Mr. HOAGLAND (for himself, Mr. SKAGGS, Mr. LANCASTER, Mr. FROST, and Mr. FAZIO):

H.R. 5838. A bill to amend section 1244 of the Internal Revenue Code of 1986 to create a new seed capital industry by providing an incentive for high-risk, long-term growth-oriented capital investments in small business ventures, and for other purposes; to the Committee on Ways and Means.

By Mr. SCHUMER (for himself and Mr. KENNEDY):

H.R. 5839. A bill to provide consumers with a stronger voice in the financial services industry and before government bodies through the establishment of the Financial Consumers Association, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce.

By Mr. WASHINGTON:

H.R. 5840. A bill to amend the Social Security Act to authorize States and local political subdivisions of States to use Social Security account numbers for jury selection purposes; to the Committee on Ways and Means.

By Mr. CONTE (for himself, Mr. DREIER of California, Mr. ALEXANDER, Mr. ANNUNZIO, Mr. APPLEGATE, Mr. ASPIN, Mr. AUCOIN, Mr. BALLENGER, Mr. BATES, Mr. BENNETT, Mr. BLILEY, Mr. BROWN of Colorado, Mr. BUNNING, Mr. BURTON of Indiana, Mrs. BYRON, Mr. CALLAHAN, Mr. CARR, Mr. CONYERS, Mr. COUGHLIN, Mr. CRANE, Mr. DAVIS, Mr. DE LA GARZA, Mr. DEWINE, Mr. DINGELL, Mr. DORGAN of North Dakota, Mr. DORNAN of California, Mr. DOUGLAS, Mr. DOWNEY, Mr. DURBIN, Mr. EARLY, Mr. FASCELL, Mr. FAZIO, Mr. FISH, Mr. FRANK, Mr. GALLO, Mr. GEPHARDT, Mr. GILMAN, Mr. GINGRICH, Mr. GRANDY, Mr. GREEN, Mr. GUARINI, Mr. GUNDERSON, Mr. HAWKINS, Mr. HAYES of Illinois, Mr. HEFNER, Mr. HENRY, Mr. HILER, Mr. HORTON, Mr. HOYER, Mr. HYDE, Mr. KILDEE, Mr. KLECZKA, Mr. LEATH of Texas, Mr. LEHMAN of Florida, Mr. LENT, Mr. LIVINGSTON, Mr. MCDADE, Mr. MCGRATH, Mr. MCHUGH, Mr. MCNULTY, Mr. MARLENEE, Mrs. MARTIN of Illinois, Mr. MAZZOLI, Mr. MILLER of Ohio, Mr. MILLER of California, Ms. MOLINARI, Mr. MOORHEAD, Mrs. MORELLA, Mr. MORRISON of Washington, Mr. MRAZEK, Mr. MURPHY, Mr. NEAL of Massachusetts, Mr. NOWAK, Mr. OBERSTAR, Mr. OBEY, Mr. PARRIS, Mr. PASHAYAN, Ms. PELOSI, Mr. PORTER, Mr. RANGEL, Mr. RAVENEL, Mr. REGULA, Mr. RITTER, Mr. ROBERTS, Mr. RUSSO, Mr. SABO, Mr. SAXTON, Ms. SCHNEIDER, Mr. SHARP, Mr. SKEEN, Mrs. SMITH of Nebraska, Mr. STEARNS, Mr. STOKES, Mr. SYNAR, Mr. VANDER JAGT, Mr. VOLKMER, Mr. WALKER, Mr. WEISS, Mr. WILLIAMS, Mr. WOLF, Mr. YATES, Mr. YOUNG of Florida, Mrs. JOHNSON of Connecticut, Mr. MADIGAN, Mrs. MEYERS of Kansas, Mr. FROST, Mr. ACKERMAN, Mr. ANDERSON, Mr. ANTHONY, Mr. ARCHER, Mr. ARMEY, Mr. ATKINS, Mr. BAKER, Mr. BATEMAN, Mr. BEREUTER, Mr. BEVILL, Mr. BILIRAKIS, Mr. BOEHLERT, Mrs. BOGGS, Mr. BONIOR, Mr. BROOMFIELD, Mr. BROWDER, Mr. CHANDLER, Mr. CLINGER, Mr. COBLE, Mr. COLEMAN of Missouri, Mr. CRAIG, Mr. DANNEMEYER, Mr. DARDEN, Mr. DELAY, Mr. DICKS, Mr. DIXON, Mr. DONNELLY, Mr. DWYER of New Jersey, Mr. EDWARDS of California, Mr. EDWARDS of Oklahoma, Mr. ERDREICH, Mr. FRENZEL, Mr. GAYDOS, Mr. GEKAS, Mr. GONZALEZ, Mr. GOODLING, Mr. GOSS, Mr. GRADISON, Mr. HALL of Texas, Mr. HAMILTON, Mr. HAMMERSCHMIDT, Mr. HARRIS, Mr. HOPKINS, Mr. HUGHES, Mr. HUNTER, Mr. HUTTO, Mr. JACOBS, Mr. JONES of North Carolina, Ms. KAPTUR, Mr. KASICH, Mr. KASTENMEIER, Mr. KENNEDY, Mr. KOLTER, Mr. KYL, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LEACH of Iowa, Mr. LEWIS of California, Mrs. LLOYD, Mr. LOWERY of California, Mr. MCDERMOTT, Mr. MCEWEN, Mr. MARKEY, Mr. MATSUI, Mr. MAVROULES, Mr. MFUME, Mr. MICHEL, Mr. MINETA, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. MONTGOMERY, Mr. MURTHA, Mr. MYERS of Indiana, Mr. NATCHER, Ms. OAKAR, Mrs. PATTERSON, Mr. PERKINS, Mr. PETRI, Mr. QUILLEN, Mr. RINALDO, Mr. ROE, Ms. ROS-LEHTINEN, Mr. ROYBAL, Mrs. SCHROEDER, Mr. SCHUMER, Mr. SHUMWAY, Mr. SIKORSKI, Mr. SISISKY, Mr. SKAGGS, Mr. SAWYER, Mr. SLAUGHTER of Virginia, Mr. SMITH of Florida, Mr. SMITH of Iowa, Mr. SMITH of Vermont, Mr. SMITH of New Hampshire, Ms. SNOWE, Mr. SOLOMON, Mr. STAGGERS, Mr. STENHOLM, Mr. STUDDS, Mr. STUMP, Mr. TAYLOR, Mr. THOMAS of Wyoming, Mr. TORRICELLI, Mr. TRAXLER, Mrs. UNSOELD, Mr. UPTON, Mr. VENTO, Mrs. VUCANOVICH, Mr. WALGREN, Mr. WATKINS, Mr. WAXMAN, Mr. WEBER, Mr. WHITTEN, Mr. WILSON, Mr. WOLPE, Mr. WYDEN, Mr. WYLIE, and Mr. LIPINSKI):

H.J. Res. 669. Joint resolution to salute and congratulate the people of Poland as they commemorate the 200th anniversary of the adoption of the Polish Constitution on May 3, 1991.

By Mr. WHITTEN:

H.J. Res. 670. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes; jointly, to the Committees on Appropriations and Ways and Means.

By Mr. HOYER (for himself, Mr. FORD of Michigan, Mr. GILMAN, Mr. COLEMAN of Texas, Ms. PELOSI, Mr. MFUME, Mr. BATES, Mr. DICKS, Mr. FAZIO, Mrs. BRYON, Mrs. MORELLA, Mr. PARRIS, Mr. DYSON, Mr. BROWN of California, Mr. WOLPE, Mr. CARDIN, Ms. OAKAR, and Mr. MCMILLEN of Maryland):

H.J. Res. 671. Joint resolution providing for furloughed employees compensation; to the Committee on Post Office and Civil Service.

By Mr. HORTON:

H. Con. Res. 384. Concurrent resolution to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize funds received by States and units of local government to be expended to acquire laboratory equipment and computer software to improve the quality and accessibility of DNA analyses; and for other purposes; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII,

545. The Speaker presented a memorial of the Senate of the State of Michigan, relative to dispensing brand name pharmaceuticals to the poor, elderly, and disabled; and the reauthorization of block grant legislation for the Federal Low Income Home Energy Assistance Program [LIHEAP] and appropriate LIHEAP funds for fiscal year 1991; jointly, to the Committees on Ways and Means and Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BERMAN:

H.R. 5841. A bill for the relief of Eva Yee Wah Yeung, Raymond Chi Man Yeung, Che Wang Yeung, and Che Hong Yeung; to the Committee on the Judiciary.

By Mr. FASCELL:

H.R. 5842. A bill for the relief of Rodgito Keller; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 614: Mr. DYSON.

H.R. 1363: Mr. BEREUTER.

H.R. 3520: Mr. TORRICELLI.

H.R. 3768: Mr. DICKINSON.

H.R. 4433: Mr. SMITH of Vermont.

H.R. 4513: Mr. MATSUI.

H.R. 4683: Mr. GRANDY.

H.R. 4994: Mr. DICKINSON.

H.R. 5103: Mr. DELLUMS.

H.R. 5104: Mr. DELLUMS.

H.R. 5105: Mr. DELLUMS.

H.R. 5226: Mr. GEJDENSON.

H.R. 5259: Mr. RAHALL.

H.R. 5361: Mr. HORTON.

H.R. 5416: Mr. ROTH.

H.R. 5439: Mr. ECKART.

H.R. 5471: Ms. KAPTUR.

H.R. 5584: Mr. LAGOMARSINO, Mr. ROE, and Mr. BILIRAKIS.

H.R. 5616: Mr. DELLUMS and Mr. BILIRAKIS.

H.R. 5622: Mr. LIPINSKI.

H.R. 5635: Ms. KAPTUR.

H.R. 5671: Mr. DYSON.

H.R. 5736: Mr. NAGLE and Mr. ENGEL.

H.R. 5764: Mrs. VUCANOVICH.

H.R. 5810: Mr. GIBBONS.

H.J. Res. 476: Mr. DELAY, Mr. HALL of Ohio, Mr. HEFLEY, Mrs. LOWEY of New York, Mr. MCCRERY, Mr. RAY, Ms. ROS-LEHTINEN, Mr. STUMP, Mr. VENTO, and Mr. DANNEMEYER.

H.J. Res. 492: Mr. COURTER, Mr. HANSEN, Mr. RUSSO, Mr. BARNARD, Mr. BATES, Mr. BUSTAMANTE, Mr. GEKAS, Mr. BILIRAKIS, Mr. THOMAS of Georgia, Mr. HALL of Texas, Mr. HOYER, Mr. FIELDS, Mrs. BOGGS, Mr. ANDERSON, Mr. BILBRAY, Mr. DICKS, Mr. PICKETT, Mr. GAYDOS, Mr. ATKINS, Mr. ROBERTS, Mr. OLIN, Mr. HOPKINS, Mr. RICHARDSON, Mr. BRYANT, Mr. DELLUMS, Mr. CONDIT, Mr. ANDREWS, Mr. JONTZ, Mr. WOLPE, Mr. LEATH of Texas, Mr. LAUGHLIN, Mr. VALENTINE, Mr. MARKEY, Mr. SIKORSKI, Mr. SAXTON, Mr. APPLEGATE, Mr. TRAFICANT, Mr. DICKINSON, Mr. CARR, Mr. KENNEDY, Mr. FLAKE, Mr. WATKINS, Mr. ENGLISH, Mr. NEAL of North Carolina, Mr. NELSON of Florida, Mr. COSTELLO, Mr. HEFNER, Mr. BUNNING, Ms. MOLINARI, Mrs. UNSOELD, Mr. ROHRABACHER, Mr. TORRES, Ms. LONG, Mr. SHAYS, Ms. ROS-LEHTINEN, Ms. SLAUGHTER of New York, Mr. WASHINGTON, Mr. INHOFE, Mrs. LOWEY of New York, Mr. FRANK, Mr. KANJORSKI, Mr. BURTON of Indiana, Mr. WHITTAKER, Mr. MCEWEN, Mr. HAYES of Illinois, Mr. MCCLOSKEY, Mr. BERMAN, Mr. LIGHTFOOT, Mr. DREIER of California, Mr. BUECHNER, Mr. DURBIN, Mr. SLAUGHTER of Virginia, Mr. SABO, Mr. HUBBARD, Mrs. MEYERS of Kansas, Mr. STANGELAND, Mr. KILDEE, Mr. GRAY, Mr. NIELSON of Utah, Mr. LEVINE of California, Mr. GUNDERSON, Mr. HERGER, Mr. DONALD E. LUKENS, Mr. GOSS, Mr. MICHEL, Mr. TORRICELLI, Mr. GONZALEZ, Mr. MCDERMOTT, Mr. OBEY, and Mr. VANDER JAGT.

H.J. Res. 525: Mr. MFUME and Mr. UPTON.

H.J. Res. 566: Mrs. SAIKI, Mr. ALEXANDER, Mr. MILLER of Washington, Mr. ANTHONY, Mr. SKELTON, Mr. ATKINS, Mrs. BENTLEY, Mr. BALLENGER, Mr. BOGGS, Mr. BOUCHER, Mr. BUECHNER, Mr. CAMPBELL of Colorado, Mr. CARPER, Mr. CARR, Mr. CHAPMAN, Mr. CLARKE, Mr. CONYERS, Mr. COURTER, Mr. DAVIS, Mr. DE LA GARZA, Mr. DELLUMS, Mr. DUNCAN, Mr. DYMALLY, Mr. DYSON, Mr. EMERSON, Mr. FLAKE, Mr. FUSTER, Mr. GRAY, Mr. HAMMERSCHMIDT, Mr. HATCHER, Mr. HAYES of Illinois, Mr. HEFNER, Mr. HOLLOWAY, Mr. HOYER, Mr. INHOFE, Mrs. JOHNSON of Connecticut, Mr. JONES of North Carolina, Ms. KAPTUR, Mr. KENNEDY, Mr. LAFALCE, Mr. LEWIS of Florida, Mr. LIVINGSTON, Mr. ASPIN, Mr. HUNTER, Mr. BRENNAN, Mr. COOPER, Mr. CONDIT, Mrs. LOWEY of New York, Mr. MCCLOSKEY, Mr. MAVROULES, Mr. MFUME, Mr. MILLER of Ohio, Mr. MOODY, Mr. MORRISON of Washington, Mr. MURPHY, Mr. NAGLE, Mr. NELSON of Florida, Mr. ORTIZ, Mr. OWENS of New York, Mr. PACKARD, Mr. PORTER, Mr. ROBINSON, Mr. ROSE, Mr. ROWLAND of Georgia, Mr. ROWLAND of Connecticut, Mr. SABO, Mr. SAWYER, Mr. SHAW, Mr. SISISKY, Mr. SMITH of New Hampshire, Mr. ROBERT F. SMITH, Mr. SOLARZ, Mr. STENHOLM, Mr. TANNER, Mr. TAUKE, Mr. TRAFICANT, Mr. WALGREN, Mr. WEISS, Mr. WYDEN, Mr. VOLKMER, Mr. SKAGGS, Mr. WHEAT, Mr. HUBBARD, Mr. CHANDLER, Mr. MINETA, Mr. YOUNG of Alaska, Mr. JOHNSON of South Dakota, Mr. JONES of Georgia, Mrs. UNSOELD, and Mr. HEFLEY.

H.J. Res. 572: Mr. HUTTO, Mr. SPRATT, Mr. DICKINSON, Mr. COBLE, Mrs. SAIKI, and Mr. COLEMAN of Texas.

H.J. Res. 574: Mr. DEFAZIO, Mr. FROST, Mr. COSTELLO, and Mr. LIPINSKI.

H.J. Res. 613: Mr. COBLE, Mr. GRADISON, Mr. STOKES, and Mr. UPTON.

H.J. Res. 643: Mr. GEREN, Mr. PAXON, Mr. FAZIO, Mr. GUARINI, Mr. MCDERMOTT, and Mr. NOWAK.

H.J. Res. 662: Mr. TRAFICANT, Mr. FEIGHAN, Mr. CONYERS, Mr. GUARINI, Mr. YATES, Mr. FROST, Mr. CARPER, Mr. OWENS of Utah, Mr. PAYNE of New Jersey, Mr. FAUNTROY, Mr. EVANS, Mr. HAYES of Illinois, Mr. MARKEY, Mr. DYMALLY, Mr. SCHEUER, Mr. SERRANO, Mr. YOUNG of Alaska, Mr. MCDERMOTT, Mr. FAZIO, Mr. MILLER of Washington, Mr. FUSTER, Mr. HUGHES, Mrs. UNSOELD, Mr. ROE, Mr. LEWIS of Florida, Mr. WOLPE, Mr. DIXON, Mr. TALLON, Mr. SAWYER, Mr. FRENZEL, Mr. GEJDENSON, Mr. FRANK, Mr. FALEOMAVAEGA, Mr. ANDERSON, Mr. LEVIN of Michigan, Mr. DEFAZIO, Mr. WALGREN, Mr. NAGLE, Mr. TOWNS, Mr. LANTOS, Mr. BOSCO, Mrs. MORELLA, Mr. FASCELL, Mr. CROCKETT, Mr. SOLARZ, Mr. ACKERMAN, Mr. RANGEL, Mr. LIPINSKI, Mr. HORTON, Mr. THOMAS A. LUKEN, Mr. MRAZEK, Ms. PELOSI, Mr. STUDDS, Mr. LEHMAN of Florida, Mr. BIELENSON, Mr. MACHTLEY, Mr. AUCOIN, Mr. ATKINS, and Mr. DELLUMS.

H.J. Res. 667: Mr. HUGHES, Mr. STARK, Mr. DEFAZIO, Mr. BILBRAY, Mr. MONTGOMERY, Mr. MCCRERY, Mr. STALLINGS, Mr. LIVINGSTON, Mr. BUSTAMANTE, Mr. MOORHEAD, Mr. ENGEL, Mr. MILLER of Washington, Mr. NATCHER, Ms. KAPTUR, Mr. HYDE, Mr. SMITH of Texas, Mr. DENNY SMITH, Mr. RINALDO, Mr. WALGREN, Mr. BROOMFIELD, Mr. KENNEDY, Mr. MOAKLEY, Mr. POSHARD, Mr. STUDDS, Mr. JONES of North Carolina, Mr. SAXTON, Mr. WALSH, Mr. OLIN, Mr. DIXON, Mr. DURBIN, Mr. WEISS, Mr. BENNETT, Mr. TOWNS, Mr. RANGEL, Mr. ACKERMAN, Mrs. VUCANOVICH, Mr. HAMILTON, Mr. DWYER of New Jersey, Mr. DERRICK, and Mr. PICKLE.

H. Con. Res. 246: Mr. ANDERSON and Mr. MADIGAN.

H. Con. Res. 288: Mr. NEAL of North Carolina.

H. Con. Res. 355: Mr. BRUCE and Mr. MCMILLEN of Maryland.

H. Con. Res. 374: Mr. DORNAN of California and Mr. LIPINSKI.

H. Con. Res. 380: Mr. PANETTA, Mr. ROHRABACHER, Mr. LAGOMARSINO, and Mr. CRANE.

H. Con. Res. 382: Mr. FEIGHAN, Mr. SMITH of Florida, and Mr. BROWN of Colorado.

H. Con. Res. 383: Mr. ACKERMAN, Mr. HOCHBRUECKNER, Mrs. SCHROEDER, Mr. SOLARZ, Mr. TOWNS, Mr. HORTON, Mr. LEHMAN of Florida, Mr. STOKES, Mr. SKAGGS, Mr. ENGEL, Mr. PALLONE, Mr. UDALL, Mr. BAKER, Mr. GALLEGLY, Mr. DORNAN of California, Mr. LEWIS of Florida, Mr. WOLF, Mr. SERRANO, Mrs. MORELLA, Mr. FRANK, and Mr. FEIGHAN.

H. Res. 29: Mr. POSHARD, Mr. HOLLOWAY, and Mr. ROHRABACKER.

H. Res. 476: Ms. PELOSI, Mr. RICHARDSON, Mrs. BOGGS, Mr. ROE, Mr. WHEAT, Mr. LIPINSKI, Mr. FAZIO, Mr. EVANS, Mr. SCHEUER, Mr. ROSE, Mrs. KENNELLY, and Ms. SLAUGHTER of New York.

PETITIONS, ETC.

Under clause 1 of rule XXII,

248. The SPEAKER presented a petition of the Nitijela of the Marshall Islands, relative to the disposal of chemical weapons on Johnston Atoll; which was referred to the Committee on Armed Services.

EXTENSIONS OF REMARKS

THE PROBLEMS CONFRONTING METROPOLITAN HOSPITALS

HON. LOUIS STOKES
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. STOKES. Mr. Speaker, recently, Cleveland Mayor Michael R. White was selected to address the Conference of Metropolitan Hospital Associations on the problems confronting hospitals serving urban areas. As mayor of a major American city, Mayor White has first-hand knowledge of the myriad issues encountered by health care providers today. His remarks touch upon many of the dilemmas facing hospital administrators—from providing health services to indigent patients, overcrowding, the violence associated with drugs and babies addicted to crack cocaine—all of which pose a serious threat to the continued viability of inner-city hospitals.

Mr. Speaker, Mayor White provides a candid and insightful analysis of this complex issue. I am taking this opportunity to bring his remarks to the attention of the Congress and those who are striving to find solutions to these problems. I hope that my colleagues will take a few moments to consider Mayor White's comments:

STATEMENT OF MAYOR MICHAEL R. WHITE, BEFORE THE METROPOLITAN HOSPITAL ASSOCIATION, SEPTEMBER 26, 1990

The word hospital comes from a Greek word meaning guest and a Latin word meaning host. In Greece, the word meant that not only did the host have an obligation to shelter the guest within his walls, but the guest had an obligation to offer reciprocal hospitality in the future. The resulting network of mutal obligations helped bind society together beyond the bounds of the individual extended family (Clairborne, 1989).

It was from within this framework of mutual obligation that hospitals evolved. From the time of the founding of the first formal hospitals in the middle ages, hospitals and communities accepted and acted on the mutual obligation which was changed somewhat from the duty of the guest to house a former host. Rather it was understood that hospitals would provide health care and the community would provide the financial and moral support necessary to maintain services.

I have come to speak to you today about where this mutual obligation stands today in America.

Hospital—the word means guest and host. Hospitals are the hosts for society's health concerns. But society, as guest, has a duty to hospitals as well. This duty is to make sure that hospitals stay in business. I am here today to tell you that both are in trouble. Hospitals, especially inner-city hospitals, are struggling for their lives. And inner-city residents, the people in cities like mine need services more than ever. I am here today to tell you about the problems we are having in my city and to solicit your ideas in resolving them.

Our hospitals first started to struggle after World War II when people began to move in droves to the suburbs. After World War II, financially secure Americans moved in great numbers from cities to suburbs taking with them the insurance policies which helped sustain the operations of urban hospitals. Furthermore, wanting to disassociate themselves from their outdated urban roots, they built new suburban hospitals and made the abandonment of the urban hospitals complete. Left in the inner cities were the medically indigent who, in addition to having no payment source, were often in poorer health because of social conditions such as proverty and poor environment. Left behind were poor people. Poor people who needed care because they were poor. Poor people who could not pay for care because they were poor. Poor people who hated being poor, but saw no way out of their poverty.

The programs of the great society of the 1960's and 1970's were supposed to lead the way out. Equality in health care was a major part of civil rights. In Cleveland, we saw programs like the free medical clinic spring up. These clinics saw anyone who walked in and never asked for payment. Using volunteer doctors, nurses and counselors, they built programs which lived out the promise of health care for all. The free clinic just celebrated its 20th anniversary last week—a triumph over the cuts of the Reagan era when health care became a business, not right.

Today the Cleveland free clinic sees a different type of patient. In the early days, many patients were young and from the suburbs. Their parents were well off and give big donations to the clinic which helped the clinic survive for many years. But today's patients are older and poorer. They come for treatment of high blood pressure and other chronic problems. They come from inner-city neighborhoods with no money to pay for their care. Still they are cared for with the same welcoming ways, but more recently, the clinic must now look for money from other sources. The facts are that in today's society, kindness and fairness cannot and do not keep health care providers open for business.

Our inner city hospitals find themselves in the same bind. Poor residents who have no other sources of health care are filling emergency rooms and outpatients clinics to overflowing capacity. They, too, are accepted although it is more and more difficult to find the financial resources to keep the doors open.

In athletic terms, runners have a saying about the most excruciating part of a race—when they still have a long way to go but feel like they are out of energy. They say they have hit the wall, ladies and gentlemen, I say we have hit that wall in health care. We have a very long way to go toward making health care a reality for everyone. The question is whether we have the will to destroy that wall.

What are the problems we are faced with in America's cities? They are not new. They are drug abuse, violence, high infant mortality rates, poor housing, poor nutrition, lack of jobs. What is new is that the bigger society has turned its back on these people, often blaming them for their problems. This cannot be tolerated. We must face the fact that these problems are everyone's problems. A society is only as healthy as its weakest member. As a mayor of a major American city, I am here to tell you now about what many, in society, are trying to ignore. And if everyone else who shares this podium with me today says the same thing, you will not hear it too many times. It is what America must face—we must not abandon the inner-city poor.

Let me describe Cleveland to you today. Forty-eight percent of Clevelanders live in high poverty neighborhoods; in 1970, only 21 percent of Clevelanders lived in high poverty areas; in 1980, the number was only 27 percent. The past 10 years have seen society as a whole become richer while inner city residents became poorer.

What does this mean for health care coverage? A 1988 survey by Case Western Reserve University showed that there were at least 100,000 persons in Cleveland below poverty and without health insurance. Nearly half of these were children under the age of 19. Thirteen thousand of these children had slept in shelters at least once, and 25,000 children had been served in hunger centers. Good health starts at the dinner table, in a warm, safe home. Our children are being denied this basic health care right. The lack of health insurance only adds insult to injury. When the effects of poerty take their toll on their health they must then face the problem of how to pay for their care.

A group of health care providers in Cleveland recently wrote a grant application for a unique health care program for one of our inner city neighborhoods. Their proposal is to use methods already being applied in Third World countries! Third World countries, is this an exaggeration? A sensationalist ploy? No, it is not. One need only look at Cleveland's infant mortality rate to know that we are more like many Third World countries than we are like our suburban neighbors. Cleveland has the highest infant mortality rate in Ohio. And, we have had the dubious honor of being in the top 10 nationally during the past decade. A child in Singapore has a better chance of survival than one in Cleveland. I am hoping the program will be funded. It will show that America is as concerned and respectful of its own citizens as it is of those in foreign countries.

What about the elderly? Let me tell you a story about a health care program for the elderly and let you draw your own conclusions. For the past several years, a Cleveland hospital has been developing a special outpatient program for the elderly. This is not a program where people are hooked up to machines and measured, probed and prodded. No. It is a program where elderly persons and their families can come to explain the problems mom or dad is having with walking, cooking, shopping or keeping warm. One doctor's visit might be 3 hours long and involve social workers, nurses and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

therapists as well as the doctor examining and questioning these basic functions. This program has been very successful in keeping older persons out of hospitals and nursing homes.

The hospital is having a hard time getting the money to keep the program going. Insurance does not pay for much of the cost of these person to person services and grant funding is running out. The reality of our lack of commitment to the elderly hit home when the physician in charge found out that the program would have to see 50 people in order to get reimbursed the same amount a surgeon would receive for a 2-hour operation. How can we keep our elderly healthy if we continue to deny them services for the two most basic aspects of health?

This story also tells us what we as a society want from our health care providers—high technology medicine. Insurance, if you have it will pay for surgery but not for meals on wheels. Insurance will cover a neonatal intensive care unit but will not pay for prenatal care for those working poor "too well off" to qualify for medicaid. We are more impressed by incubators and oxygen masks for 2½ pound babies than we are with food subsidies for pregnant women. The wall we have hit is the wall of science, the place we want to get to is the land of caring.

Let me tell you another story of how we have misplaced our priorities for health care. Cleveland has major problems with lead poisoning among children. Many homes built in the 1920's and 1930's are now in dire need of repair. One of the major repair needs is for scraping and replacing old flaking paint. This paint, often many layers thick, is full of lead. Children being curious often put these chips into their mouths; inner city children, often being hungry eat the chips.

Last year in Cleveland we found 888 children who had various levels of lead poisoning. But what are our programs designed to do—they are designed to wait until the level becomes so high that the child needs to be hospitalized. There is money to pay for hospitalization once the child is in danger of having convulsions and dying. Last year we hospitalized 133 children at an average cost of $3,000 per child and a total amount nearing $425,000. We submitted these children to 5 days of painful IV medicines which demonstrated the power of high tech medicine. Then we sent them back to their homes where the paint is still chipping and the dirt in the backyard is saturated by lead from car exhausts. Is there money for lead abatement? The answer is no. The estimates are that it would cost billions of dollars to remove lead hazards from inner city homes. So we put a high tech bandaid on the problem and tell ourselves we have tried.

Where are our hospitals in all of this? In a nutshell, they are overwhelmed. First, like the people they serve, they are suffering from our lack of a compassionate health policy. Last year in Cleveland, urban hospitals provided over $100 million in uncompensated care, a 14-percent increase from the year before. Our hospitals have acted as good hosts. The guests are too poor to pay and our hospital administrators are looking for answers to how to stay afloat.

Urban hospitals have several choices in their struggle. They can do either of the following: move to the suburbs where there are people with insurance, reorganize, either by cutting staff or merging with other hospitals, or they can close their doors and shift the burden to the remaining institutions. I am proud to say that no Cleveland hospital has moved to the suburbs and all have indicated a commitment to serve the poor. In fact, I believe that Cleveland is unique among American cities in that the burden of uncompensated care is spread proportionally among all urban hospitals. But the financial reality cannot be escaped, uncompensated care has already caused some hospitals to merge and others to close. Without a coherent national policy to address the issue of uncompensated care no one wants to predict the future.

One very sad note is that current Federal programs have put hospitals all over the United States in competition with one another. Efforts which would be better spent on providing services are now spent cornering the market, health care services are now, as a result of Federal policy, called product lines. Where are we heading? How can hospitals collectively get past the wall when they are being forced to building their own walls to protect their solvency?

Again, I am proud to say that Cleveland hospitals are making efforts to solve their problems as a group. A consortium of inner-city hospitals recently received a state grant for demonstration project for coverage for the working poor. The project is unique in several ways. It includes all inner city hospitals, it is managed by an HMO which is actively recruiting small businesses for participation. And finally, it seeks to define a fair, comprehensive and affordable benefit package for the working. In effect, this program will tell us how to insure universal health care benefits for all who need it. If successful, this proposal represents a local-state initiative. But local resources can only be stretched so far. Other solutions at the State and local level are still necessary. For instance, Ohio has yet to adopt a Federal goal of providing subsidized prenatal care for all women with 185 percent of the poverty level. In fact, in Cleveland we are even worse off. Only about 25 percent of those eligible for support at the current level of 130 percent of poverty have been signed up for this program called Healthy Start. I challenge my colleagues at the State and local levels to fully implement the current program and to move without delay to the higher eligibility levels. Cleveland has one of the best prenatal care systems in the country. We must take action to remove the financial barriers to accessing these programs.

I have not spoken much about drugs. We have recently seen an explosion of drug use, affecting men, women, children and especially the unborn. We have also seen an explosion in funding for drug programs. The city of Cleveland recently received an award to develop a program for pregnant women using cocaine. In the few short months the program has been in action, we have learned some bitter lessons. One is that lack of day care facilities is a major barrier to use of the services. Another is that the return to the neighborhood and home, especially on weekends and holidays, means a powerful temptation to begin using, and may erase a week's worth of therapy.

Unfortunately, funding for drug programs does include only small percentages for day care and virtually nothing for long-term residential care. Hospital care is not appropriate in most cases. What is necessary is homelike environments and alternatives to drug parties. As has recently been demonstrated in Washington, D.C., these and other neighborhood based programs are more effective than law enforcement alone. I ask State and Federal governmentals to fund more broad-based programs. Help us leap the wall with humane programs which address the factors leading to drug use: poverty, poor housing, poor nutrition, and lack of education.

National health insurance will insure a level of financial security for hospitals and other health care providers. But one must ask whether this alone will mean better health for Clevelanders. If there is one message, I can leave with you today, it is that society may be asking too much of its hospitals. We are looking for hospital-based solutions to problems which arise in the community and society at large. Hospitals have responded to society's demand for high technology services. But I know of no cat scan machine which can locate the source of frustration leading to drug use, no surgical technique to delay aging, no ultrasound machine which can make a baby "fat and sassy."

A national health policy will include more than reimbursement for hospital or doctor visits. It will recognize that good health begins in the home and the family, at the dinner table and in a clean backyard. A national health care policy will make nutritious food available to all, not have a WIC (womens, infants, and childrens program—food subsidies) program which provides food supplements once children become anemic. A national health care policy will include funds to reduce environmental lead, not give mothers the distressing news of elevated lead level. An enlightened health care policy will be based on the premise that hospital services should be available when everything else has failed not because nothing else is available.

Our hospitals have demonstrated their commitment to being good health care hosts in the community. As their guests, society must meet its obligations to support their endeavors. However, we must, realize that in many cases their role is to help crash the wall, not crash the wall for us. Like the Berlin Wall which was recently torn down, our wall of indifference will take a collective will and sense of social responsibility. Our hospitals must stand ready to participate in this effort.

THE BRONX SPECIAL OLYMPICS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. ENGEL. Mr. Speaker, throughout our Nation, the Special Olympics give millions of mentally retarded youths and adults the opportunity to participate in athletic training and sports competition. This week in my district, the Bronx Special Olympics is celebrating its 15th anniversary of service to the Bronx community. It is a decade-and-a-half of accomplishment that we are very proud of.

I have seen first-hand the hard work and dedication of the people runnning the programs at the Bronx Special Olympics. Their efforts truly touch all segments of our community. Through Special Olympic programs, the mentally retarded realize their physical potential and improve their self-esteem. Their parents are also taught a positive attitude, and

the community learns more about the inspiring abilities of the handicapped.

By operating more than 50 training clubs and sites throughout our borough the Bronx Special Olympics helps prepare athletes for local, State, national, and international contests. The group has also been at the forefront of innovative programs, such as the Sponsor-an-Athlete Campaign, which provides funds for equipment, uniforms, and travel. Best of all, the people involved in the program volunteer their time and energy to help their neighbors.

I thank and congratulate all the people who have been involved in the Bronx Special Olympics over the past 15 years. Just as we are inspired by the special athletes who participate in their programs, we are equally inspired by their dedication and selflessness.

WORLD'S LARGEST RONALD McDONALD HOUSE

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. GREEN of New York. Mr. Speaker, I rise today to recognize the opening of a second Ronald McDonald House in my congressional district. The founding idea of the Ronald McDonald House, that children with cancer and their families need a supportive living environment, is clearly being furthered by the new House on East 73d Street in New York City.

Those who have dedicated their time and energy in an effort to make the existing Ronald McDonald House on 86th Street such an outstanding success are to be thanked for creating the opportunity to construct another. The newest extension of the Ronald McDonald project will offer love, support, and understanding to more families in need of a nurturing environment for themselves and their children and help prevent families in need from being turned away. I also commend all staff and volunteers who turned this opportunity into a reality. Upon its opening, the residence on 73d Street will be the world's largest Ronald McDonald House.

I should like to join my colleagues in conveying my warmest appreciation and highest praise to the staff and board of directors of the Ronald McDonald House project. Upon the completion of their newest House, they will have taken another step toward their goal of caring for the whole family when a member suffers from cancer.

A SALUTE TO PRATT INSTITUTE'S LIBRARY SCIENCE DEPARTMENT ON ITS 100TH ANNIVERSARY

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. OWENS of New York. Mr. Speaker, as the first professional librarian to become a Congressman in the U.S. House of Representatives, I have long recognized the critical role libraries play in educating and informing Americans, in taking a leadership role in the push for greater literacy in the United States, and in being a critical and important part of the complex, computerized, and ever-changing Age of Information.

New York City and New York State are friendly environments for libraries. New York librarians will undoubtedly be at the forefront of the national mission for libraries in the 1990's. And at the center of this New York leadership role serving as the philosophical anchor and intellectual rudder will be the Pratt Institute Graduate Library and Information Science Department, which this October is observing its 100th anniversary.

The Brooklyn, N.Y.-based program has come a long way since the 1800's when Pratt prepared librarians who, in addition to the tradition of studying, wore white gloves and were taught to pour tea. The need for library studies resulted from the growth of the Pratt Institute Free Library, the first free public library in Brooklyn, which opened in January 1888. Pratt Institute opened the School of Library Training in 1890 to train workers to guide the library's growth and manage the resources.

The school continues to thrive, even at a time when most major institutions are cutting back or abolishing library studies programs. The department, chaired by Rhoda Garoogian, offers a wide range of courses from library administration and reference services to technical process and technology. In addition to a curriculum that provides students with a basic knowledge of library and information science, the department provides the skills necessary for careers in major types of libraries and information centers. Students may elect to concentrate on law, business or health sciences librarianships as well as records management or media center management.

Mr. Speaker, I salute the Pratt Institute Graduate Library and Information Science Department, both for its 100th anniversary, and for being the oldest such library program in the country. As various political and social events reshape the 1990's landscape, and we enter a 21st century vastly different from the world of today, librarians, the expert generalists, will help us stay current with this world of mega-change. Information will play a major part in all of the decisions that are made by those who seek to guide and navigate this rapidly moving society. In this Age of Information the voice of the librarian will be heard. And the Pratt Institute Library Science Program will be a major leader of the chorus of librarians in New York and in our Nation.

MISGUIDED U.S. ROLE

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Ms. KAPTUR. Mr. Speaker, I would like to put on official record a letter to the editor entitled, "Misguided U.S. Role" by Leona Kniess from the 9th District of Ohio which appeared in the Toledo Blade on October 3, 1990. In my district, and in the Nation, there is a growing skepticism among international experts and novices who ask, "Why are we really in Saudi Arabia?" The Congress and the administration need to consider these opinions before taking any further action in the Mideast.

Leona Kniess of Wauseon. OH writer:

I want to say again as an American citizen how much I disapprove of the U.S. involvement in the Middle East. It should be a matter for the United Nations. That's what the United Nations is for.

For this country to take the lead so completely, so overwhelmingly, is not only wrong, it is suspicious. Other nations are more dependent on oil than we are. England and France joined reluctantly, others not at all.

To say that we are saving the oil for the world is so false it is crazy. Do you suppose if Saddam Hussein had the oil in his control, he would not sell it? The price would probably be higher but it would not equal the cost, a billion a month, of keeping an army supplied, and the possibility of war. And we are trillions of dollars in debt.

Before this started, I read an article in Time which stated that Kuwait and Saudi Arabia control their oil all the way from their oil wells to the gasoline in our automobiles. Are U.S. business interests and American politicians working hand-in-glove with Kuwaitis and Saudi Arabian interests?

I don't for one minute believe Mr. Bush is acting out of sympathy for the Kuwaiti people. Not long ago the Chinese government massacred its own young people. A short time later Mr. Bush sent diplomats on a friendly visit to China. Until recently, the United States was backing a group in Cambodia that included the Khmer Rouge. They have been responsible for the death of thousands.

Mr. Bush said we have vital interests in the Middle East. What interests now that we do not have to fear Russia?

LABOR LEADERS CARE ABOUT CUBA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to congratulate the local and national union leaders for their actions in calling attention to the flight of Cuban political prisoners, two of whom are trade unionists imprisoned for over 25 years. I would like to enter an article which appeared in this month's issue of "AFL-CIO News" which describes their actions:

CUBANS IGNORE PLEAS FOR JAILED UNIONISTS

U.S. union leaders tried unsuccessfully to visit Cuban government officials in Washington to demand freedom for two Cuban trade unionists who have been in jail more than 25 years.

The AFL-CIO Labor Committee for a Free Cuba attempted to deliver to the Cuban Interests Section, housed in the Czechoslovakian embassy, letters written by U.S. unionists to Cuban leader Fidel Castro urging the release of the two prisoners. Mario Chanes and Ernesto Diaz.

To date, none of the U.S. trade unionists who have written to Castro has received a reply. Manuel Davis, First Secretary of the Interest Section, refused to meet with the AFL-CIO delegation and declined to send a staff member to receive the packet of letters.

"Keeping these men in prison in an outrage," stated John DeConcini, the AFL-CIO vice president who chairs the Cuba committee. "It appears the Cuban government wants to outdo even South Africa when it comes to keeping political prisoners in jail."

Mario Chanes de Armas was the leader of a brewery workers union in Puenta Grande. He was jailed in 1961 for opposing Castro's destruction of free trade unions. Ernesto Diaz, a transport worker and fisherman, suffered the same fate in 1964 for "crimes against the state."

"We will be gathering information about conditions of workers inside Cuba from a number of sources, including Cuban refugees, academic experts, journalists and trade unions in other countries," said DeConcini, who is president of the Bakery, Confectionery and Tobacco Workers.

"When the documentation is complete, we will ask the International Labor Organization and other appropriate bodies to take action," DeConcini said.

"Our purpose is to help workers in Cuba achieve the same rights as other workers around the world," he said. "We know it will be a long and difficult struggle, but we won't quit until Cuban workers achieve dignity and democracy."

In addition to DeConcini, the AFL-CIO Labor Committee for a Free Cuba includes: Leon Lynch, USWA vice president; Marty Urra, president, South Florida AFL-CIO; Jack Otero, TCU vice president; Ed Pulver, secretary-treasurer, New Jersey AFL-CIO; Murray Sisselman, president, United Teachers of Dade/AFT; Jose Collado, Carpenters representative; Olga Diaz, ACTWU manager; Rick Icaza, president, UFCW Local 770, and William C. Doherty, executive director, American Institute for Free Labor Development.

JUDGE ROBERT J. MALANG

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. ENGEL. Mr. Speaker, on October 18, 1990, the Enrico Fermi Cultural Center will be honoring one of the Bronx's most outstanding civic leaders. On this date, Judge Robert J. Malang will be presented with the First Annual Fermi Award. This award is being given to him to acknowledge and thank him for his service to the community, both through his professional life and his personal endeavors.

Since the time of his graduation from Fordham Law School, Robert Malang has dedicated his life to the promotion of justice through various appointments. Among these include his service as the confidential assistant to the Board of Justices of the Bronx Supreme Court, deputy superintendent of insurance of the State of New York, and housing court judge of the Bronx Civil Court.

In receiving this award, Judge Malang is most notedly being recognized for his community service to the Belmont section of the Bronx. Judge Malang was dedicated to the enhancement of the Belmont area by providing better services and heightening the spirit and cultural vitality of the neighborhood. It was due to his efforts that the Belmont Community Center was founded in 1943 where he also served as president. Also, his expression of concern for the welfare of the family is seen through his effort to provide better services to the community as vice-chairman of Belmont Community Day Care Center.

Judge Malany strove to enhance the cultural pride and highlight the contributions Italian-Americans have given us through his chairmanship of the Enrico Fermi Cultural Center in the Belmont Public Library. His dedication to the community was even noted by the Italian Government in September 1982 when he was decorated for his fine work in the Italian-American community activities and conferred the title of Cavalier. Judge Malang sought to instill a family identity in the Belmont community and we thank him for his tireless efforts to make the Bronx a better place to live.

THE ANNUAL DR. ROBERT WILSON KITCHEN, JR., AWARD LUNCHEON

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. GREEN of New York. Mr. Speaker, it is with great pleasure that I bring to the attention of my colleagues an important event which is scheduled to occur later this fall in my congressional district. The annual Dr. Robert Wilson Kitchen, Jr., Award luncheon will take place on October 27, 1990, and will mark the 11th anniversary of the Harlem Unit of the American Cancer Society. The American Cancer Society has been a premier health advocacy organization for a number of years, working to fight this dread disease through education and research.

The momentous celebration will be held in the Royal Ballroom of the Sheraton Centre of New York City. Four distinguished individuals will be honored for outstanding contributions made to the American Cancer Society. The Dr. Robert Wilson Kitchen Jr. Award will be presented to Louis W. Sullivan, M.D., Secretary of the U.S. Department of Health and Human Services; the C. Melvin Patrick Award to Henry H. Brown, vice president of Marketing Development and Affairs at Anheuser-Busch, Inc.; the Professional Education Award to John Boyce, M.D., professor and chairman of the Department of Obstetrics and Gynecology at the State University of New York Science Center; and the Community Service Award to Ms. Denise Richardson, news broadcaster for Good Day New York, Fox 5.

I ask my esteemed colleagues to join me in offering hearty congratulations to the recipients of these awards. I should also like to thank all those associated with the Harlem Unit of the American Cancer Society. Their contributions to the community are well worth the effort.

OPPOSITION TO AMENDMENTS CURTAILING OR CONDITIONING AID TO UNITA

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. RITTER. Mr. Speaker, I am opposed to all amendments that seek to cut aid to UNITA in H.R. 5422, the intelligence authorization bill for fiscal year 1991. The war in Angola needs to come to an end. The Angolan people deserve peace and the freedom to choose their own government. The MPLA regime took power illegally in 1975. No U.S. administration, either Democratic or Republican, has recognized the MPLA regime. Until 1985 the war waged on with no end in sight. Then this House voted to overturn the Clark amendment and begin assisting UNITA. From that point on the pressure began to build on the MPLA to negotiate a peace agreement and the pressure of strong U.S. support for UNITA has finally brought the MPLA to direct, face to face negotiations with UNITA. Make no mistake about it, were it not for United States assistance to UNITA there would not be a chance for peace today in Angola.

Our current policy has been supported by the House Intelligence Committee. It has been endorsed time and again by a majority of the U.S. Senate. On October 8, it was even endorsed by the Washington Post which stated: "To pull the plug on a southern Africa policy that has succeeded in other aspects and now seems near succeeding in Angola is perverse."

The goal of our policy is to force the MPLA to agree to free and fair, internationally supervised, multiparty elections in Angola. This is what our foreign policy has helped accomplish in neighboring Namibia as well as Nicaragua and Eastern Europe. But the MPLA has shown by its deeds, including the largest military offensive of the entire war earlier this year at Mavinga, that it must be pressured into agreement on a ceasefire and elections.

UNITA has stated publicly that once the ceasefire and elections have been finalized between it and the MPLA, it will no longer have a need for military assistance. That is the appropriate way for this body to bring this war to the end. We are in the end game in this bloody conflict. To send a signal backing off of our successful policy would prolong the war and be shameful.

I, therefore, urge the defeat of all amendments to the Intelligence authorization bill that would cut United States aid to the brave Angolan resistance fighters of UNITA.

Mr. Speaker, the Heritage Foundation's policy expert on Africa and Third World Affairs, Mike Johns, provides an excellent analysis for continued support of UNITA and I insert it in the RECORD:

[From the Heritage Foundation, July 31, 1990]

WITH FREEDOM NEAR IN ANGOLA, THIS IS NO TIME TO CURTAIL UNITA ASSISTANCE

(By Michael Johns)

In Angola, where a civil war has raged for 15 years between the country's Soviet-

backed Marxist regime and an American-supported resistance movement, peace and freedom are now within sight. Unable to achieve a military victory, the Angolan regime of Jose Eduardo dos Santos is at last considering resistance demands for multi-party elections. These elections would allow a cease fire in the Angolan civil war. An obstacle to this has appeared not in Angola, but in the U.S. Congress. There Senator Edward Kennedy, the Massachusetts Democrat, intends this week to attach an amendment to the defense authorization bill that would end American military assistance to Angola's democratic resistance forces, known as the National Union for the Total Independence of Angola (UNITA). Kennedy thus would remove all incentive for Angola's Marxist regime to continue negotiations, and would likely encourage that regime again to seek a military—rather than diplomatic—solution to Angola's civil war.

The Angolan conflict is now at a critical crossroads. Though Moscow continues to support Angola's Marxist leaders, it is possible that Mikhail Gorbachev's stated intention of ending East-West tensions will prompt him to end the Soviet Union's $800 million annual military subsidy of Angola. It is possible that Gorbachev eventually would support a democratic settlement in Angola.

Last December, Moscow helped the Angolan regime launch the largest military offensive against UNITA in the civil war's 15-year history. The offensive was backed by an estimated $1.5 billion in sophisticated Soviet weaponry, including *Hind*-25 helicopter gunships, MiG-23 *Flogger* and SU-25 *Frogfoot* aircraft, and T-55 tanks. Some 1,000 Soviet military advisors directed the fighting from the Angolan front. Some military analysts consider the Soviet-backed offensive in Angola among the largest conventional military battles since World War II, matching even the bloodiest conflicts of Korea and Vietnam. The offensive was an indication that Moscow had not yet abandoned the use of military force in pursuit of its global objectives, and that it remains hostile to pro-Western, democratic movements in the Third World.

FORCING NEGOTIATIONS

With American-supplied weapons and other materiel, the Marxist offensive was turned back. UNITA drove Soviet military advisors and the Angolan army from the key town of Mavinga in May. Now, with dos Santos on the defensive, UNITA is calling for a cease fire and direct negotiations leading to multi-party elections. The Angolan regime agreed to meet UNITA June 18th in Lisbon, and since then the Portuguese government has been involved in negotiations with both dos Santos and UNITA. As a result of UNITA military pressure, the Angolan Marxists announced on July 3 that they would consider working toward a multi-party democracy, though for now the government remains a repressive one-party state.

AMERICA'S INVESTMENT

Since it began arming UNITA in 1986, Washington has made a substantial investment in UNITA's bid for a democratic Angola. American support for UNITA has discouraged Soviet and Cuban military involvement in southern Africa. Indeed, having been defeated in battle, some 65,000 Cuban troops in Angola are now headed back to Havana as a result of a negotiated settlement reached in December 1988.

American support for UNITA since 1986 has also helped advance the cause of democracy in Angola, raising hope that the 15-year conflict can be settled without further loss of blood. Angola's Marxist regime took power in 1975 promising free and fair multi-party elections; it has yet to hold them. Since 1975, UNITA leader Jonas Savimbi has been demanding that the Angolan regime keep its promise. George Bush has supported Savimbi's objective, promising last January that UNITA will receive American support "until genuine national reconciliation has been achieved."

Together with America's commitment to defending Western Europe and supporting those Afghans who fought the Soviet invasion, Washington's support for UNITA has enjoyed bipartisan support. Leaders of the Angolan congressional task forces include Senator Dennis DeConcini of Arizona and Representative Dave McCurdy of Oklahoma, both Democrats, and Senator Robert Kasten of Wisconsin and Representative Joel Hefley of Colorado, both Republicans. They have led this bipartisan charge for freedom in Angola. Without continued bipartisan support for UNITA, the war certainly will continue, and the cause of multi-party elections will be lost.

EFFECTIVE INCENTIVE

Kennedy and other critics of American aid to UNITA contend that ending assistance to UNITA will prompt the Angolan regime and Moscow to seek a settlement to the conflict. However, this contention ignores what has been happening in Angola. After all, the civil war there raged for eleven years before Washington began assisting UNITA in 1986; during this time Washington advocated an end to the fighting. The Angolan regime ignored Washington and instead called in some 40,000 Cuban troops and billions of dollars of Soviet military aid in an effort to defeat UNITA with armed force. It was only after Washington began supporting UNITA that the dos Santos regime agreed to send the Cuban troops home and to begin negotiations.

Now is not the time for Washington to renege on its commitment to UNITA. American assistance to UNITA continues to be the only hope for peace and freedom in Angola. To terminate that assistance now would remove the only effective incentive Angola's Marxist regime has to negotiate a settlement. It would open the door for further militarism on behalf of the Angolan regime, and close the door on the democratic aspirations of the Angolan people.

AMERICANS CAN COMPETE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. CRANE. Mr. Speaker, over the past few weeks the media has inundated Americans with tales of economic doom and environmental despair. If you believe everything you read, you might think that our Nation is headed for a fall. Paul Harvey, however, reports the contrary. His October 6 broadcast tells the story of a Utah County steel mill which, in 2 years, has resuscitated the region's ailing economy and protected its fragile environment. Remarkably enough, both were accomplished without Government assistance and independent of Federal regulations. I urge my colleagues to read Mr. Harvey's piece. It not only pays tribute to the American spirit, but more importantly it reminds us that Uncle Sam need not become industry's babysitter.

AMERICANS CAN COMPETE!

Americans can't compete? Don't you believe it.

In 1987 USX Corporation closed its Geneva Steel Plant in Utah County, between Provo and Salt Lake City.

It was a tragic blow to employees and to related businesses in the area but USX was convinced that the Geneva operation, bedevilled by high labor costs, foreign competition and domestic environmentalists, could never be profitable.

The Cannon family of Utah believed otherwise, bought the mill for 40 million dollars.

That was just two years ago.

This past year Geneva Steel produced 500 million dollars worth of steel, is now the tenth largest steel company in the United States.

The dramatic turnaround in 24 months is an example worthy of emulation.

Joe Cannon, as President of Geneva, rather than fussing with environmentalists and unions leaders, instituted a "Golden Rule" approach to these relationships.

Geneva instituted profit sharing.

On site management replaced absentee overseers.

Then voluntarily Geneva set about to clean up the environment of Utah County.

While most industries in the United States were spending their money on lawyers to fight air quality requirements, Geneva Steel set about voluntarily to exceed those requirements.

Today, prospering, Geneva can afford to invest another $70 million dollars in a further thirty month cleanup.

Without waiting for either the federal government or the state to mandate air quality, this corporation is replacing open hearth furnaces with enclosed high-purity oxygen furnaces, adding a gas-desulferization system, completing a biological wastewater treatment plant.

The all new state-of-the-art computer-controlled equipment will be operating by mid 1992.

The changes will reduce primary and secondary particulate emissions by at least 55 percent. Ninety percent of the particulate emissions—the ones most likely to be a health hazard—are already being removed. The extended cleanup will raise that "purification" process to 96 percent.

The Environmental Protection Agency is applauding the Geneva initative.

Geneva Steel now furnishes employment to 2,600 workers, and is at the margin of Fortune's Top 500 corporations in our nation, is exporting steel to Argentina, Belgium and Japan. (An American firm exporting steel to Japan!) Up to 15 percent of Geneva's production has been sold to Japan.

In its first two years since the Cannons took over, Geneva Steel has earned $120 million dollars after taxes, much of which is being used to modernize the plant.

Geneva Steel is "blooming where it's planted," a good neighbor and prospering in the process.

Americans can't compete? Don't you believe it!

HONORING THE BUTLER COUNTY VETERAN OF THE YEAR

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. KOLTER. Mr. Speaker, I rise today before the U.S. House of Representatives to honor Peter J. "Miles" Standish of Mars, PA., the Butler County Veteran of the Year.

Enlisting in the U.S. Marine Corps in December of 1942 after being graduated from Pittsburgh's Oliver High School and after working briefly for the Pennsylvania Railroad, Mr. Standish served our country until February of 1945 and returned to the railroad with knowledge of engineering drawing from the University of Pittsburgh night school. "Miles" retired from the railroad in 1983.

Joining V.F.W. Post 249 in Butler about 30 years ago, Mr. Standish moved to Adams Township several years later and joined American Legion Post 787 in Mars, where he became very active, holding several post positions, including post commander.

"Miles," who later served as Butler County American Legion Commander from 1968 to 1969, also has been 26th District commander from 1971 through 1973; 26th District adjutant; 26th District deputy commander—from 20 years; Western vice commander for 1978 through 1979; and candidate for Legion State commander for 1981–82.

Mr. Standish, who has been married to his wife Barbara for 29 years, has three sons: Gary, Peter, Jr. and Steven, (C.P.O) U.S. Navy; four brothers who served in the military: John (U.S. Army), Stanley (U.S. Air Force), Anthony (U.S. Army) and George (U.S. Navy); and two sisters: Mary and Ann.

In addition Mr. Speaker, Peter J. Standish Sr. has been very active in community affairs, including the Boy Scouts of America's Pioneer Trail Council and service as Eagle Scout advancement chairman. He is also: a life member of the D.A.V. Butler Chapter 64 where he is currently first vice commander; a member of the 40 & 8 Voiture 5; life member of the Marine Corps League; volunteer of the V.A.V.S. of the Medical Center in Butler with over 300 hours of volunteer service; and I.R.S. Vita Program Volunteer—helping the poor and elderly.

Mr. Standish transferred his V.F.W. membership from Butler to Mars Post 7505 and served as judge advocate, and as chairman of the Voice of Democracy program. He has also served on the Butler Area War Veterans Day Committee since its inception.

Mr. Speaker, I rise today before Congress to honor Peter Standish as Butler County Veteran of the Year. Mr. Standish is a man of whom we are very proud in Butler County and the 4th Congressional District of Pennsylvania. He exemplifies the ideal of volunteer service and, like a number of other area veterans, gives generously of time, money and effort to support Veterans activities throughout my congressional district. Men such as Peter Standish continue to make the United States of America the greatest Nation on Earth with the bravest and most dedicated war veterans.

TRIBUTE TO SAMUEL S. STRATTON

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. GREEN of New York. Mr. Speaker, I rise today to pay tribute to Samuel S. Stratton, a dear friend and former colleague from New York State who passed away on September 14, 1990, after a massive heart attack.

I should also like to thank colleague, Mike McNulty of Green Island, NY, Sam's successor, who has sponsored this special order in Sam's honor.

As dean of the New York delegation, and a member of the Armed Services Committee, Sam Stratton was a demonstrative force in this body. Throughout his 15 terms in the House, Sam gained respect and admiration from all with whom he came into contact, especially those Members, like myself, who were privileged enough to work closely with him.

At this time I should like to join my colleagues in commemorating the memory of Samuel S. Stratton. I should also like to offer my best to Sam's wife, Joan, and their five children. I shall always treasure the opportunity I had to work with such a fine statesman. Sam will surely be missed by all.

CANCER RESEARCH GAINS FOOTHOLD HERE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. MICHEL. Mr. Speaker, cancer patients from rural areas have traditionally needed to endure lengthy travels and temporary relocations while receiving treatments for their illness. However, with the assistance of dedicated men and women in my district and a recent federal grant, the Peoria-based Illinois Oncology Research Association offers experimental cancer therapy and treatments for cancer patients throughout central Illinois. The success of this program illustrates the potential rural-based programs such as these have in assisting our national health research centers, and more importantly, in treating cancer patients with experimental treatments who might otherwise not have had that opportunity. I am proud of having assisted in the procurement of the Federal grant and of members of the medical community in my district for their fine work.

At this point I wish to insert in the RECORD the article, "Cancer Research Gains Foothold Here," which appeared in the Peoria Journal Star, Sunday, October 14, 1990.

[From the Peoria Journal Star, Oct. 14, 1990]

CANCER RESEARCH GAINS FOOTHOLD HERE—PEORIA PROGRAM PUTS NEWEST CURES WITHIN PATIENT'S REACH

(By Dean Olsen)

Prescott Johnson watched as a nurse used a syringe and needle to squirt medicine into his bloodstream.

"It's no big deal," the 69-year-old Monmouth resident said of the injection, which took only a few seconds. "I just hope that if there's any cancer in my system, the medicine knocks it out. I'll probably live to be 100. What do you think?"

Johnson's confidence stems from state-of-the-art treatments he is receiving to prevent a recurrence of his colon cancer. To get the experimental treatment, he doesn't have to travel hundreds of miles to the Mayo Clinic in Rochester, Minn., or other major medical facilities.

He doesn't even need to travel the 60 miles east to Peoria. Instead, he drives 14 miles once a week to Galesburg Cottage Hospital, where he participates in a clinical trial through a Peoria-based research program supported by the National Cancer Institute in Bethesda, Md.

"It's much more convenient, much simpler," Johnson said of his trips to Galesburg. The retired Monmouth College philosophy professor said the treatment seems to be working.

In the past decade, experimental cancer therapy has expanded from large institutions in cities such as Chicago, New York, Los Angeles and Rochester so that more patients can benefit and researchers can study more patients, said Dr. Charles Moertel of the Mayo Clinic.

The trend means fewer Peoria-area residents have to shoulder the cost and emotional trauma of traveling long distances and temporarily living elsewhere to get treatment.

More than 2,000 cancer patients here have participated in local experimental therapies, with varying degrees of success, since Peoria's program began in 1979.

About 250 people participate each year in about 65 kinds of treatment at a time. Those treatments are coordinated with other research sites around the country.

Peoria doctors administer the treatments in hospitals throughout the area, including those in Peoria, Princeton, Canton, Galesburg, Bloomington, Macomb and Carthage.

Their patients have received treatment as good, if not better, than treatment available in large research institutions, said Dr. James B. Gerstner of Peoria, an oncologist who helps coordinate the area's research.

"People often think of places far distant as having the answers to the things going on," the 44-year-old Tremont native said. "You're never an expert in your own town."

Peoria's program has a good reputation around the country. The program's quality was affirmed in August when the Peoria-based Illinois Oncology Research Association and its Community Clinical Oncology Program received a $732,000 federal grant to continue the experimental treatment program.

"Be assured, the treatment is the best in the world," Moertel said of Peoria's program. He directs the North Central Cancer Treatment Group, which helps coordinate treatment in Peoria and at other locations in the United States and Canada.

Moertel said experimental therapy programs, called clinical trials, can be conducted with greater precision in smaller communities such as Peoria than at large institutions. That is because seasoned doctors carry out community-based programs, while less-experienced doctors often carry out clinical trials in the large institutions, he said.

Gerstner and his Peoria colleagues helped conduct trials that led to a breakthrough in preventing recurrence of colon cancer after

surgery. Their results were combined with results of similar trials elsewhere in the country and were published in the Feb. 8, 1990, issue of the New England Journal of Medicine.

Johnson, the Monmouth resident, is receiving treatment similar to the type reported in the article.

Gerstner said participation in clinical trials is strictly voluntary and carries risks, although he said he doesn't know of any local patients who have died because of adverse reactions to the experimental drug therapies.

He said there is no way to estimate the cure rate or even the rate at which local patients are improving because every case is different.

In the testing stage, some of the patients receive free drugs not yet approved by the Food and Drug Administration; others may get FDA-approved drugs but in combinations that haven't been fully tested. Patients pay for everything in their treatment except experimental drugs.

For many patients, experimental treatment is their best or last hope.

"Treatment makes me more tired but I'm fine," Prescott said.

He said he felt a duty to participate in experimental treatment, to help increase the body of knowledge on cancer. He said he doesn't fear the risks.

"It's the thing to do to make sure you cover all the bases you can," he said. "In the old days, all they did was the surgery and left the rest up to chance.

Discovering she had Hodgkin's disease came as a complete surprise to East Peorian Angela Ashburn in 1986. She was 20 at the time.

"My first reaction when I looked at my parents was, 'OK, what's next?' I wasn't crying," she said. "I just didn't look at it as a death sentence. I looked at it as an obstacle."

Her doctor recommended an experimental treatment and she didn't hesitate. "I didn't care if it was experimental or not," she said. "I just wanted what he thought was the right treatment."

After eight months of nausea and fatigue, the treatment was over for Ashburn, who is single and manages a pizza restaurant. Her cancer is now in remission.

"I was confident it was going to work," she said. "I like to be a positive person."

GLENN YOAKUM REMEMBERED

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. SUNDQUIST. Mr. Speaker, Glenn Yoakum certainly meant a lot to east Tennessee and one of the pastors at his funeral services rightly compared his death to the tremor of the Earth and the gap left in the forest when a mighty oak tree falls.

As the speaker eloquently and truthfully stated, he touched so many lives in so many ways it is hard to imagine Claiborne County without him—and as a result, east Tennessee will never be the same again.

Glenn made his mark in the business world as a young man whose first job paid $100 a month in the depths of the Great Depression. His success here needs no recounting—how Claiborne County Bank grew and helped fund the growth of the county, as well as his solid but less spectacular successes in oil, tobacco, farming, and other interests.

Glenn provided well for his family, whom he loved deeply, and was able to do a great deal to help others on the way to prosperity in the process. But yet he found time and energy for a remarkable varied public life that gave him immense satisfaction.

He served in the Navy in World War II. He completed two terms as a State senator. Off and on, through the years, he served nearly 30 years on the Claiborne County Board of Education, and was chairman at the time of his death. He had been a trustee of east Tennessee State University and a member of the First State Board of Education created in Tennessee.

Glenn served as county judge and in a number of civic posts that were less known, far less glamorous and very time consuming on an already crowded schedule, but he was not known to refuse a call for public service. He was truly exemplary of the axiom that "to get something done, you'd better find a man that is already busy."

But these things—a remarkably successful business career, a record of community service anyone could envy—do not give us the feel of what it was to be around the man and catch something of the sheer zest and excitement of every minute of being alive that he enjoyed.

"Whatsoever ye do, do it with a will." This was Glenn's commitment to life and one that he kept. He firmly believed in, and practiced, the notion that you would get out of life proportional to what you put into it. He didn't believe in doing things halfway. At a time when most men lay down their responsibilities, he went back to school to finish earning the college degree started in 1930's. This outlook kept him in remarkably good health throughout his active life. He liked action. I doubt if he ever spent over 5 minutes in morbid introspection.

One part of his career was an early period as teacher, janitor, coach, maintenance man, counselor, and principal of a school of the type now vanished but well known to older folks. I really think this experience was central to Glenn's ability to deal with people. One writer, speaking of a well known British statement said, "He had little use for theory, but for the more practical part, preferring to read men, rather than books." The statement could have been made about Glenn.

This extremely able businessman often said, when asked the secret of his success, that he didn't claim any great expertise in the mechanics of business, but thought he was "a pretty good judge of character."

Besides the insight into people, Glenn had a quality any good teacher must have: delight in seeing those under him succeed. This part of his teaching background carried over into his banking philosophy and when young, struggling couples made a determined effort to shoulder responsibilities and get ahead, Glenn responded with that generous recognition of merit you see in the truly strong who take pleasure in the growing strength of others. This was an endearing quality, and one that will be remembered.

It is a good thing to have lived like that. The real legacy this man leaves is not material wealth, nor the many positions held, impressive though that record is, but his impact on people's lives. The music teacher and band director at the Tazewell High School spoke of Glenn, not as an employer, but one genuinely concerned with supporting the children's programs, contributing symphony concert tickets when the bank budget would not stretch that far, and attending functions where they performed. Such instances are legion.

In politics, personal spite and bitterness play a larger part than it should. Glenn was human, like all of us but he had a way of not holding a grudge and being able to rise above petty concerns that could teach us all some good lessons.

Glenn served as county Republican chairman, as had his father before him. In that capacity, as in others, his loyalty to his friends was outstanding. Shortly before quitting his post, he remarked that one ambition he had was to be a delegate to a national convention. Happily, he was—for George Bush.

Glenn's son-in-law, Robert Barger, who had worked side by side with him for the past 20 years stated about Glenn upon his death, "few lives have touched so many with such great impact. He was part of the past, a creator of the present and a planner for the future."

Glenn is survived by his wife, Mrs. Leo Walker Yoakum; his daughters, Eleanor Yoakum Barger, Glenna Yoakum Adams, and Martha Yoakum Gilreath; his grandchildren, Stephanie Barger, Rob Barger, Oliver Adams and Eleanor Johnson; and his sister, Annette Gentry.

When the books were finally closed, and the last audit completed, every obligation as a father and citizen is paid in full, leaving a generous surplus under good will.

We have only one shot at life. We have one chance to leave someone we love with a smile. We have one chance to earn the respect even of our adversaries. And we have one chance to fill every breathing moment we can in the best way we can. Glenn managed to do this, proving that goals such as these are reachable. This should be inspiration for us all.

STUDIES DEMONSTRATE INSTRUCTIONAL EFFECTIVENESS OF CIVICS PROGRAM TEACHING STUDENTS ABOUT THE CONSTITUTION

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. WALKER. Mr. Speaker, a series of studies, conducted by the Educational Testing Service [ETS], one in 1988 and two more recent ones this year found that students who studied the We the People * * * curriculum significantly outperformed students who used other approaches to studying the Constitution. The National Bicentennial Competition on the Constitution and the Bill of Rights is part of the We the People * * * portfolio of excellent

programs which educate young people about the principles of American Government.

The National Bicentennial Competition is now beginning its fourth year [of a 5 year program]. Funded by an act of Congress and cosponsored by the Commission on the Bicentennial of the U.S. Constitution, the program is administered nationwide through the 435 congressional districts, the four trust territories, and the District of Columbia. This educational program is developed and administered by the Center for Civic Education, which has a 25-year track record of developing curricular materials for our Nation's schools, conducting teacher training seminars and administering national projects such as the National Bicentennial Competition.

The first study released in May 1988 by the Educational Testing Service evaluated the instructional effects at the high school level of the National Bicentennial Competition on the Constitution and Bill of Rights. The results were highly positive and encouraging, and should serve as an important statement on the effectiveness of this excellent civic educational project. Quoting directly from the report, the most significant findings were:

Participating students scored significantly higher on a test of the history and principles of the U.S. Constitution than similar students in comparison classes. Significant differences were found at both the 11th grade and the 12th grade levels, and they extended to all six major curriculum units covered by the test.

All of the participating teachers indicated the use of the We the People * * * curricular materials stimulated student interest in the Constitution and Bill of Rights.

The overwhelming majority of participating teachers were satisifed with student performance in classroom discussions, debates and written work prompted by their use of the curricular materials.

Over 80 percent of the participating teachers indicated that they would use the We the People * * * curricular materials again next year, and teachers were unanimous in recommending these materials to their colleagues.

Participating teachers felt that We the People * * * was among the best curricular materials they had seen in the field of civic education.

Over 90 percent of the participating teachers believed that the content contained in We the People * * * was very important to the field of civics and to education in general.

Most recently, the Educational Testing Service conducted two more studies on classes which studied the We the People * * * curriculum, at both the upper elementary and middle school levels. The results of these two studies confirmed and reinforced the positive results of the 1988 ETS survey finding that students who used the We the People * * * curriculum developed by the Center for Civil Education significantly outperformed students who used other approaches to studying the Constitution. For example, at the upper elementary level, 94 percent of students who used the We the People * * * materials knew that the reason the framers of the Constitutioni separated the powers of government was so that no branch would become too powerful. Only 56 percent of comparison students knew this basic constitutional principle.

Mr. Speaker, I have had first-hand experience in schools in my district with the We the People * * * programs and the National Bicentennial Competition. I am proud to report that my congressional district has 44 participating schools in the We the People * * * programs. This total includes 14 high schools, 13 middle schools, and 17 upper elementary schools. I have been pleased to be an active participant with these fine programs by attending the simulated congressional hearings, presenting awards to students, speaking at in-service teacher training seminars, and teaching constitutional lessons in several classrooms.

Mr. Speaker, I greatly support this civic-minded project. Our Nation needs bright new minds and effective citizens to lead us into the next century. Programs such as We the People * * * are helping to mold a new generation of leaders by sharpening young people's perceptions of the world of government and politics.

TRIBUTE TO DR. CHARLES PRUDHOMME

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. ESPY. Mr. Speaker, I rise today to recognize the accomplishments of Dr. Charles Prudhomme, one of our country's pioneering black physicians who entered psychiatry. Dr. Prudhomme, who lived from 1908 until 1988, is a symbol of perseverance. When strict segregationist rules and practices were the reality of the day, Dr. Prudhomme made succeeding a reality in his personal life. Dr. Prudhomme, a native of Opelousas, LA, is an ideal role model for all medical students today.

I recently received a letter from the American Psychiatric Association expressing its pride that Dr. Prudhomme once served as a vice president for the organization. So that more Americans can learn about Dr. Prudhomme, I would like to enter into the RECORD the following article on Dr. Prudhomme, which was published in the October edition of Psychiatric News:

CHARLES PRUDHOMME OVERCAME MUCH TO BE A PSYCHIATRIST

(By Lucy Ozarin, M.D.)

The APA Archives contains two pieces of autobiographical material on Dr. Charles Prudhomme (1908-88), one of the first black physicians to enter psychiatry and probably the second black psychoanalyst in the U.S. He was also a vice president of APA in 1970-71, the first black to hold elected office in the Association.

One of the items is a taped talk he gave in May 1972 at the Washington Psychoanalytic Society, and the other is an oral history taped in 1975 by Jean Jones, then APA librarian. Both are fragmented, and names mentioned by Dr. Prudhomme are misspelt in the transcript (and hence unidentifiable), but the difficulties and rebuffs suffered by Dr. Prudhomme because of his color come through loud and clear.

Dr. Prudhomme was born in Opelousas, LA. His maternal grandfather was Puerto Rican and his grandmother black. His grandfather had opened a country store that his father later took over. When Charles was 3 years old, his father developed tuberculosis and the family began a migration ostensibly destined for Denver.

One of the stops along the way was Kansas City, Mo., where Charles and his mother remained while his father moved on. Charles became a fine baseball player and graduated from high school second in his class.

Charles entered the University of Kansas in 1925 but remained only a short time. Because of segregation practices, he was not allowed to take certain courses, and he could not use the college swimming pool. He obtained a scholarship to Howard University with the aid of an interested alumnus and for the next six years alternated between college and work. After graduating in 1931, he entered Howard University Medical School. He was able to complete his studies there in 1935 with scholarship money from the State of Missouri—Missouri did not allow blacks at the state university but did pay out-of-state tuition. Dr. Prudhomme recounts that he asked for help from his senator at the time, Harry S Truman, and received it. He served an internship at Freedman's Hospital in 1936-37.

During his years at Howard, he had numerous contacts at St. Elizabeths Hospital, forging strong ties to several physicians there. One is identified as Dr. Kaufman. This is probably Dr. Ben Karpman, an analyst and prolific writer on forensic psychiatry and head of psychiatry at Howard from 1921 to 1941. He required seniors to write a paper on a psychiatric subject, and Dr. Prudhomme wrote on suicide in the American Negro, a paper later published in the Psychoanalytic Review (1938).

Dr. Prudhomme had hoped to intern and take residency at St. Elizabeths Hospital, but he was told that the legislation that had established the hospital in 1855 enforced segregation (the law remained in force until 1954). He talks of a Dr. Craven at St. Elizabeths who was interested in the dreams of black people. Under the guise of providing analysis. Dr. Craven obtained those dreams. Dr. Prudhomme says that he produced prepared dreams for Dr. Craven.

In 1937 Dr. Prudhomme obtained a fellowship at the University of Chicago, but he was dismayed to learn that he was slated to work at Providence Hospital for black people. He had contacts with analysts like Franz Alexander and determined that he, too, would be an analyst. He returned to Washington to try again to get into St. Elizabeths, "using my Senator, Harry S Truman, for all he was worth."

Truman arranged for him to go to Tuskegee in 1940, where Dr. Prudhomme met a number of black psychiatrists who had been trained in Boston by Dr. Solomon Carter Fuller, the first black psychiatrist in the U.S. Dr. Prudhomme remained at Tuskegee until the Army transferred him in 1943 to Howard University to head the Army Specialized Training Program. That year he registered at the Washington School of Psychiatry, where one of his teachers was Frieda Fromm-Reichman. She took him on for analysis, and later he received supervision from Edith Weigert.

It was not an easy road to be admitted to the Washington Psychoanalytic Society. He thought he had completed the requirements when he was told that since his supervised cases were women, he needed to work with a male patient. He was finally admitted in 1958.

Dr. Prudhomme practiced psychoanalysis in Washington for a number of years and continued his teaching at Howard. He recounts numerous incidents related to racism. He tells of having a confirmed reservation in a hotel in Cincinnati for an APA meeting in the early 1950's but was sent instead to the hotel for blacks. He dwells on his rejection for a position at St. Elizabeths Hospital.

One wishes that the material on Dr. Prudhomme in APA's Archives was less fragmented and relayed more of his philosophy and thoughts on being a black pioneer in psychiatry and psychoanalysis. He was truly a trailblazer for the education of black psychiatrists and often pointed out the importance of cultural patterns in the practice of psychiatry. The material strongly conveys, however, a sense of the many difficulties he encountered because of racism and the aggressiveness he needed to achieve his goals.

Dr. Jeanne Spurlock, deputy medical director for minority and national affairs at APA, supplied several additional notes. She said that Dr. Prudhomme had told her of his disappointment in not being allowed to play with white baseball teams in his youth. And when he was in Chicago, he had a bitter disagreement with a prominent neuropathologist who insisted that blacks do not contract multiple sclerosis after Dr. Prudhomme had correctly diagnosed the illness.

ELDERLY STRAINING EMERGENCY DEPARTMENTS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. STARK. Mr. Speaker, these are not members of the knife and gun club traffic on a busy Saturday night in our Nation's emergency rooms. The day of the week and the hour of the day or night have little impact on the steady stream of visitors who now make up 40 percent of patients seen in the emergency departments. These are the elderly, age 65 and older. These are the members of our society who have Medicare—the ones for whom we assured access to health care 25 years ago.

Some of these persons are true emergencies, heart attacks, strokes, and broken hips. But a significant number are the elderly poor who are dependent upon our emergency departments for primary care. They are poor and cannot afford to seek care. They are unable to purchase supplementary insurance or pay their deductibles.

Annie Jones—fictitious name—waits for care in a university emergency room. She has chest pains and is short of breath. Prescriptions ordered at her last visit lie unfilled in the shabby purse she clutches to her. This morning she is even sicker than on her last visit, but she had no money to get her medicines. An illness, treatable as an outpatient last week, has become a hospital admission illness this week.

Visits of the elderly to emergency rooms hasn't captured as much attention as many of the other more dramatic events. However, emergency room staff indicate that it is as significant a problem as that posed by AIDS, uncompensated care and trauma care.

Within 10 years the over-65 age group will make up 13 percent of our population. Persons 75 and older seek treatment at about twice the rate of younger patients. Do we want to see our highly trained trauma staffs and our experts in emergency medicine delivering primary care? Could primary care be delivered outside the hospital where it belongs? Could there be some other final safety net besides the tertiary care hospital? Could it be a universal health plan which assures not only access to diagnosis but also access to medicine and treatment?

TRIBUTE TO DONALD GILMORE

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mrs. KENNELLY. Mr. Speaker, it is with great pride that I rise to recognize a man who personifies the meaning of the word commitment, Donald L. Gilmore, president and CEO of the Masonic Charity Foundation in Wallingford, CT. This year, Mr. Gilmore completes 2 years as elected chairman of the board of the American Association of Homes for the Aging, the national organization of nonprofit homes and services for the Nation's elderly.

In this role, he has continued a life-long advocacy for the highest standards of health care and housing for all older Americans. The dedication Mr. Gilmore has exhibited in this and in his many other leadership roles is appreciated by all those he has served in the State of Connecticut and throughout the country.

Early on, Mr. Gilmore chose a path of professional and voluntary service that was paved by two previous generations of his family. His father and grandfather, both ministers, were veterans of the often difficult, and always rewarding, profession of long-term care administration. Mr. Gilmore served for more than a decade as director of the Wiley Christian Retirement Community in Marlton, NJ, succeeding his father and grandfather in that capacity. In that community, and in subsequent positions, Mr. Gilmore has demonstrated a deep, abiding commitment to the highest standards in housing, health care, and community services for the Nation's elderly. Through his accomplishments, each facility he has been associated with stands as an exemplary model for similar organizations dedicated to quality of care.

Mr. Gilmore's leadership in the American Association of Homes for the Aging reflects his personal crusade to improve the lives of the elderly and to assist others who have chosen aging services as a career.

I congratulate Donald L. Gilmore on the outstanding contributions he has made, and continues to make, to the elderly of this Nation. His efforts have made a profound difference to the many with whom he has come in contact.

THE SENIOR VOLUNTEER RECOGNITION AWARD OF LONG ISLAND

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. MRAZEK. Mr. Speaker, as a way of both rewarding and encouraging the volunteer spirit that characterizes one of the finest impulses of American life, I have initiated the Senior Volunteer Recognition Award to honor outstanding Long Island senior citizens who contribute to several important community programs. The award is presented to seniors who have shown through their voluntary service an inspiring commitment to the improvement and enhancement of the quality of life for the people of Long Island. This year's honorees share a spirit of compassion for others, emblematic of their belief that an investment in people truly gives the greatest return. Honored for their humanitarian efforts and personal dedication to the enrichment of life in our communities, I would like to pay tribute to this year's recipients. They include:

The Volunteers of the Helping Hands Program of the Golden Showcase for Elder Craftsmen, for the success of its outreach crafts program providing invaluable companionship to homebound senior citizens via the teaching of handicrafts. Over 250 seniors, most of whom are frail and isolated, receive weekly visits from a Helping Hands Volunteer who brings all the materials needed to assist the seniors in completing a project. The volunteer provides whatever helping hands may be needed to finish a project, taking the senior's interests, needs, and abilities into account. But the joy and comfort this program brings to both the volunteer, many of whom are seniors themselves, and the senior crafters cannot be measured simply in the number of projects completed together. Program Director Janice Spieler recollects that, in many cases, what begins as a joint venture between the visiting volunteer and his/her client senior citizen, becomes, for many, lasting friendship.

Juanita Enright, a member of the Glen Cove Senior Center, for her innovative and enlightened leadership in actively initiating new programs to make the Glen Cove Senior Center a vibrant and flourishing second home to so many of Glen Cove's senior citizens. Her sense of community spirit inspires her tireless and enthusiastic efforts to pursue activities which are vital to an active organization dependent on public support. Mrs. Enright has devoted her considerable skill and talent toward activities ranging from decorating and beautifying the center to establishing and marketing a shop on the center's premises. Always on call and in demand, Mrs. Enright continues to serve the senior citizen community in Glen Cove as its guardian angel.

Irene G. Harer, for innumerable years of loyal and faithful dedication to serving the humanitarian needs of Oyster Bay and beyond. As an active and longtime professional volunteer, Mrs. Harer serves on the boards of directors of several human-service organizations. A founding member of the Youth and

Family Counseling Agency of Oyster Bay-East Norwich, Mrs. Harer is a board member of the Oyster Bay-Glen Cove Visiting Nurse Association as well as the Doubleday Babcock Senior Center in Oyster Bay to name just a few. Mrs. Harer, at age 83, is the rare individual who is as comfortable officiating at a board of directors meeting as she is officiating over lunch service to the seniors at the Doubleday Babcock Senior Center. Shunning any publicity for herself, Mrs. Harer enjoys doing whatever needs to be done to benefit the lives of others.

Mary Zaremba, as a member and volunteer of the Glen Cove Senior Center, for the organizational skill and community spirit that make the center the success it has become. Honored in 1989 as the Glen Cove Senior Citizen Volunteer of the Year, Mrs. Zaremba has become a driving force at the center, inspiring others to volunteer their time and energies. Whenever and wherever the needs of senior citizens are involved, Mrs. Zaremba enthusiastically rolls up her sleeves to get the job done. Her dedication to making Glen Cove a better place for seniors to live is reflected in the programs she has begun. Praised for her many talents, Mrs. Zaremba excels in each and every endeavor, whether she is presiding over the center's site council, managing the newest shop at the center, or simply planting a beautiful garden for the visiting seniors to enjoy.

I wish them great success as they continue their life's work to the benefit of all Long Island seniors.

CONCERN FOR ISRAEL

HON. BILL PAXON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. PAXON. Mr. Speaker, President Bush has handled the crisis in the Persian Gulf with extraordinary diplomacy and skill. The President has assembled an unprecedented international effort to isolate Saddam Hussein and force Iraq to withdraw from Kuwait.

But, Mr. Speaker, I am concerned that the United States might betray its long-time ally, Israel, and in so doing, ultimately undermine the coalition standing against Saddam Hussein in that region.

Certainly, the recent deaths of 19 Palestineans in Jerusalem were tragic and should be mourned. The incident at the Temple Mount was one of the worst outbreaks of violence in this troubled land, and is truly regrettable.

However, Mr. Speaker, the United States should not move to condemn Israel before all the facts surrounding this incident are known.

We must ascertain whether the violence in Jerusalem was completely spontaneous, or was it, Mr. Speaker, a premeditated provocation?

We do know that several thousand Muslims were gathered at the Temple Mount compound, although it was a regular Muslim weekday and no prayers were scheduled. Normally, few Muslims would be found at the Temple Mount at a time like this. Tens of thousands of Jewish pilgrims were, however, gathered in Jerusalem to celebrate the holy Sukkoth Holiday.

It is aiso known that the Muslim crowd was incited by slogans like "Holy War" and "Slaughter the Jews" to attack the vulnerable Jewish pilgrims worshipping at the Western Wall, the holiest Jewish site, which is located directly below the Temple Mount compound.

Evidence further shows that the Palestinians stockpiled rocks, bottles, and the other weapons which were later hurled down upon the defenseless Jewish worshippers prior to the incident.

And radical PLO leaders are known to have arrived in the Temple Mount compound just minutes before the crowd of Muslims turned into a dangerous mob and stormed a nearby Israeli police station and burned it to the ground. The mob attacked approximately 45 Israeli policemen, locking the gates behind them, and compelling the officers to defend themselves. Only after unsuccessfully trying to disperse the mob with tear gas and rubber bullets, the policemen were forced to use live ammunition in defense of their own lives.

It is not unreasonable to question whether this violent outbreak was an orchestrated attempt to shift attention from Saddam Hussein's armed and unprovoked aggression against neighboring Kuwait.

Saddam Hussein and Yassir Arafat would benefit tremendously if the world's attention turned away from Iraq's occupation of Kuwait, and was focused on the issue of the West Bank, Gaza, and East Jerusalem. They could furthermore undermine President Bush's coalition with many of the Arab nations by reigniting clashes between Israelis and Palestinians.

If the United States leads an effort in the United Nations to condemn Israel before the facts are fully uncovered, we will be sending a contradictory and dangerous message to Saddam Hussein and Yassir Arafat.

Mr. Speaker, it does not make sense to weaken our important friendship and strong alliance with Israel for the sake of political expedience. Other friends in that region may come and go, but Israel remains firmly committed to the values we have always stood for.

We would be making a terrible mistake by telling terrorists that violence pays, and Mr. Speaker, we would be making a terrible mistake by allowing terrorists to interfere with the American-Israeli relationship and with our important actions in the Persian Gulf.

SATELLITE DATA BOOSTS MAP QUALITY FOR U.S. TROOPS

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. McMILLEN of Maryland. Mr. Speaker, I thought this article would be of interest to you and the Members of the House, as it details the practical application of space technology.

[From Space News, Oct. 15, 1990]

SATELLITE DATA BOOSTS MAP QUALITY FOR U.S. TROOPS

(By Vincent Kiernan)

WASHINGTON.—U.S. military forces in the Middle East are using imagery from the Landsat and SPOT remote-sensing satellites to supplement and update maps of the region, according to U.S. Army officials.

The Army's 30th Engineer Battalion (Topographic), Fort Bragg, N.C., is using the satellite data to produce black-and-white and color maps for use by U.S. forces, the Army officials said.

The satellite maps are more current than maps produced by the Defense Mapping Agency (DMA)—some of which are 25 years old—and can provide insights that a convention map cannot, said Army Col. Ronan Ellis, commander of the Army Space Command, Colorado Springs, Colo.

"We're able to provide up-to-date maps and up-to-date terrain analysis information, such as new buildings, new roads and roads that are closed by blowing sand," Ellis said. "Sometimes you can find water underneath the sand."

The space command had been developing ways to use remote-sensing imagery for about a year before the Middle East crisis struck, Ellis said. Since then, specialists from the command have trained soldiers in the engineer battalion in those techniques, he said.

"It's technology transfer to operational forces," Ellis said in a telephone interview October 11.

Officials from the engineer battalion could not be reached for comment, but Ellis said that more than 5,000 black-and-white images have been shipped from Fort Bragg to forces in the Middle East.

Computer workstations are used to manipulate the satellite images and compare them to Defense Mapping Agency maps, and the engineer battalion then mass produces them, Ellis said.

Production of satellite-derived maps in which different types of features are represented by different colors is just beginning, Ellis said.

The system uses approximately 50 Landsat images and a small number of SPOT images, Ellis said. Some of the images were recorded this summer before Iraq's invasion of Kuwait on August 2, but "quite a few" were recorded after the invasion, Ellis said.

The Landsat satellites are owned by the U.S. government but are managed by the Earth Observation Satellite Co., Lanham, Md. SPOT Image, Toulouse, France, operates SPOT 1 and SPOT 2. Landsat satellites scan in seven spectral bands; the SPOT satellites scan in three.

"For the most part, we've been using Landsat because we've got it, and it has those seven bands," Ellis said.

Multi-spectral imagery could help military planners identify beaches that would be most suitable for landing craft carrying U.S. soldiers, or stretches of desert with underground geological structures that could support the traffic of a column of tanks, one industry observer said.

"I would guess that this is the first time this kind of data has been used in this way by U.S. forces," he said. Further, the fact that Landsat images are being used may indicate that U.S. reconnaissance satellites do not have a multi-spectral capability, he said.

David Black, director of public affairs for the Defense Mapping Agency, said that some outdated maps were distributed in the

early days of the massive U.S. mobilization to the Middle East, which began in early August.

All of the 4,000 different maps have been updated since then, Black said. He declined to discuss what sources of information were used for the rapid update.

He conceded that even the most recent maps may omit information that the Landsat satellites could supply. "If we made the map yesterday, it's going to be obsolete today, to some extent," he said.

However, he defended the agency's maps. "We feel our products are reliable," he said.

Kevin Corbley, spokesman for the Earth Observation Satellite Co., declined to discuss sales to the Pentagon, saying company policy bars disclosure of information regarding the company's customers.

However, the company has said in the past that it is selling images of the region, with the exception of sales to Iraq or companies with known ties to Iraq. SPOT officials also have confirmed that they are selling images to the Pentagon.

WORLD FOOD DAY 1990

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. GILMAN. Mr. Speaker, today is "World Food Day" 1990.

I want to take a moment to note that it is with great sadness that we celebrate this day without our good friend, and former colleague, Mickey Leland. He was always a strong supporter of the many important educational activities that took place on this day and his leadership and smiling face are sorely missed by all of us.

Ever since 1979, the National Committee for World Food Day under the leadership of its chairwoman, Patricia Young, has undertaken hundreds of projects and programs related to the world's hunger problem. Without World Food Day and the organizations involved with its celebration, the groundswell needed that made all the media events possible concerning hunger would never have existed.

Yet, despite the impressive outpouring of support, the problem of world hunger persists. A concerted effort must be made to improve the deteriorating conditions that result in tragedy after tragedy—the same conditions that allow famine and starvation to persist and remain a reality in a world with more than enough resources to feed its population. It is time for us, for our Nation and the world of nations to work to prevent disasters from occurring—to solve the problems.

World Food Day has been an effective way to raise global consciousness concerning this issue. I urge my colleagues to partake in the related World Food Day activities in their congressional districts.

TRIBUTE FOR OCTAVIO PAZ NOBEL LAUREATE IN LITERATURE

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. TORRES. Mr. Speaker, it is the rarest of privileges to rise today as we close out Hispanic Heritage Month to pay tribute to Octavio Paz, the 1990 recipient of the Nobel Prize for Literature.

He was born in 1914 in Mexico City, the oldest capital city in this hemisphere. As a young man, he went to Spain and sided squarely with the Republicans over the Fascists. In 1938 he returned to his native land and became politically active. In 1944 he came to the United States on a Guggenheim Fellowship, the beginning of a relationship still present today.

In the fifties, he went home and collaborated with another premiere author of his time—Carlos Fuentes. In the sixties, he served his country as Ambassador to India. In 1968 he returned to the States to teach at the University of Texas and Harvard.

It is fitting we close out this month-long focus on Hispanic heritage with a tribute to Octavio Paz, because he exemplifes and embodies so much to Hispanics throughout this hemisphere. Indeed, I know of no one living or dead, who could elaborate more eloquently, or analyze more incisively, the Hispanic mosiac.

As a writer, Octavio Paz has guided us through his "Labyrinth of Solitude" and the mystics of the Aztec calendar in "Sun Stone."

The Swedish Academy of Letters in awarding this prize to Octavio Paz have assured this Mexican national treasure of discovery by those, that for whatever reason, may not be familiar with his work.

For 60 years, Octavio Paz has been a beacon for freedom, democracy and individual rights. The academy called him a "lodestar in the tide of opinion."

Paz has accomplished what so many great writers, essayists and poets only dream of; universal acceptance by the entire population of his native land. In Mexico, Paz is read and studied by every level of society, all political parties, young and old.

Clearly, Octavio Paz is the most influential Latin American author as recognized by the most treasured literary prize in the Spanish speaking world, the Cervantes prize, awarded to him in 1981.

As a leader he has always been at the center of the storm and the eye of the hurricane. Last summer he organized an intellectual encounter, and attracted the literary geniuses of the Spanish speaking world.

Octavio Paz has been an idealist, he has been a diplomat, and he has been an ardent opponent of totalitarianism. But his most important occupation and avocation, is that of poet. For it is the poet that must make music out of our culture, it is the poet who must painstakingly write every line to paint the most accurate picture of reality from the poet's point of view. It is with the greatest sense of satisfaction that I close my remarks with Paz's explanation of why he chose poetry as his most cherished profession: "It is the hardest path, everyday there is a new best seller, not so for poetry."

Today, Octavio Paz is in New York to present his country's art exhibit titled "Mexico: The Splendor of Thirty Centuries." His relationship with the United States beginning in 1944 with a fellowship, continues through a professorship at Harvard. He is a man for this time, a man for all times.

LINCOLN STATE BANK: SEVENTY YEARS OF COMMUNITY COMMITMENT

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. KLECZKA. Mr. Speaker, on December 1, 1990, Lincoln State Bank, in Milwaukee, WI, will celebrate its 70th anniversary. I rise today to pay tribute to this institution which has served its community faithfully for the past 70 years.

Prior to Lincoln State Bank's inception, the southside of Milwaukee was without a bank to service its growing number of Polish immigrants. With this in mind, plans were set forth to organize such a bank. On December 1, 1920, the desire to open a bank became reality, as Lincoln State Bank officially opened its doors, and became the first Polish bank in the State of Wisconsin.

The history of Lincoln State Bank shows it was an immediate success, and it continued to prosper for seven decades. The strength of the institution was demonstrated, in part, by its ability to successfully weather the storms of economic instability. During the depression of the 1930's, many financial institutions suffered great losses. Thousands were forced to close. However, while virtually no institutions escaped this period unscathed, Lincoln State Bank managed to maintain a stable foundation, and survive this time of uncertainty. With its conservative business practices, and commitment to its depositors, Lincoln State Bank not only remained financially secure, but maintained its depositors loyalty as well.

There are a number of distinguishing features of this community-oriented bank. On June 1, 1950, Lincoln was the first bank in Milwaukee County to offer driveup teller service. While other banks were in the process of planning such service, Lincoln made it happen. In addition, Lincoln State Bank has kept its Polish heritage alive. Every president has been of Polish descent, and the bank continues to. work with Polish-American groups.

It is refreshing to recognize a financial institution with a major focus on community. Lincoln State Bank has demonstrated a deep commitment to not only its own neighborhood, but also to the greater Milwaukee area. It has been actively involved in the local community as well as in civil and charitable affairs. Lincoln State Bank's faith in the community as well as its diversity of involvement, has led to its distinction.

In a time when the banking industry is under stress, due in part to poor management deci-

sions, I am proud to recognize a bank that, by proper management and civic commitment, has created a successful balance of good business and community involvement. Today I extend my congratulations to Lincoln State Bank and its president, Michael Murray. I salute Lincoln for not only its 70 years in business, but also for its good standing in the community.

RITA AND IRWIN HOCHBERG TO RECEIVE YIGAL ALLON AWARD

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. MRAZEK. Mr. Speaker, I am pleased today to pay tribute to an outstanding couple, Rita and Irwin Hochberg of Great Neck, NY. At a special dinner on November 12, the Hochbergs will be honored as the second recipients of the Yigal Allon Award of the American Friends of the Open University of Israel, Inc.

For several years, the Hochbergs have served on the executive committee of the Open University of Israel, Inc., and have worked to offer thousands of students in Israel with the highest standards of academic studies. Its home study method allows capable and talented students throughout the country to pursue a higher education in the home environment. This home-based program allows capable and talented students to choose from 250 courses in a variety of subjects.

In addition to their commitment and dedication to higher education in Israel, the Hochbergs have been involved in many other worthy causes. Irwin is a member of the board of directors of the United Israel Appeal and the board of governors of the Jewish Agency. Rita is a member of the boards of the Joint Distribution Committee and the New York Association for New Americans and is past president of Women's American ORT.

I am happy to pay tribute to the Hochbergs as they receive the Yigal Allon Award.

THE 100TH ANNIVERSARY OF THE ST. FRANCIS BENEVOLENT SOCIETY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. KANJORSKI. Mr. Speaker, 100 years ago hard-working Polish immigrants came to Shamokin, PA, to work in the coal mines. At that time, mine safety measures were virtually nonexistent. As a result, there often were serious accidents or, in some cases, fatalities.

In those times, there was no such thing as insurance or workman's compensation. An injured miner had to depend on his family and friends to help him and his family.

With this in mind, a group of caring and farthinking people banded together and proposed the formation of a society to help the injured and their families weather the hardships they might encounter after a death or an accident.

With the blessing of the local pastor, Rev. Florian Klonowski, these seven men: Joseph Majewski, Phillip Dyzert, Frank Kolowicz, Joseph Narwicz, Frank Glazik, Walter Stellmach, and John Kolowicz, joined together to form the St. Francis Beneficial Society on February 2, 1890.

Under their charter, the members of the society would "unite in the bond of brotherly love to promote charitable purposes so they may exist in brotherhood, harmony and unity."

These goals are truly admirable and the good that they do is to be commended. Even today, the St. Francis Benevolent Society remains one of the oldest and largest Polish-American organizations in Shamokin and the surrounding area.

Mr. Speaker, they are the neighbors we would all like to have and we could learn much from their excellent example. I know my colleagues join me in wishing the society best wishes and good luck for another 100 years.

WELCOME TO AMERICAN CONSULTING ENGINEERS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. DINGELL. Mr. Speaker, I want to inform my colleagues that Dearborn, MI, welcomes with pride the fall conference of the American Consulting Engineers Council [ACEC]. The council, a federation of 51 State and regional councils, is a national professional association representing over 5,000 private-practice consulting firms which employ 160,000 engineers, scientists, technicians, and others who annually design over $100 billion in constructed public works and private industry facilities.

The members of ACEC have been instrumental in designing infrastructure and cleaning up asbestos and hazardous wastes in all of our districts. Roads, bridges, tunnels, and other water treatment facilities are all designed by consulting engineers.

Despite the fact that America's consulting engineers design virtually every facet of the United States constructed environment, over 35 percent of the Nation's population believes that engineers drive trains, manage boiler rooms, or simply do not know the importance of the engineer to the American way of life. This is why I am bringing their important work to the attention of my colleagues.

Imagine waking up in the morning and reaching for a glass of cold sludge. Engineers design the systems that bring pure water into our homes. They also build the systems that enable us to control the temperature of our homes and offices, clean up hazardous waste sites, and construct buildings that will withstand the forces of storms and earthquakes.

We rely on consulting engineers for our quality of life. They have their work cut out for them in restoring our transportation infrastructure. Nearly one-half of all bridges in the United States do not meet minimum safety standards. By the year 2000, approximately 7.5 billion gallons of gasoline will be wasted due to traffic congestion alone. The last major airport constructed in this country was opened 15 years ago, in spite of the fact that there has been a dramatic increase in airline traffic since deregulation 12 years ago. The need to improve our infrastructure is outlined in numerous studies which show that increased spending on infrastructure translates directly into increased productivity. Consulting engineers will do the design work to make the necessary improvements.

Consulting engineers also make a valuable contribution toward lowering our trade deficit. The overseas design and construction industry accounts for $24.5 billion in development projects. Studies show that if U.S. engineering firms design a project overseas, generally the construction and machinery also originate from this country. The design industry has been able to maintain its share of the world market, in spite of growing competition.

Mr. Speaker, these impressive achievements have been accomplished by an industry in which four out of five are small businesses. We can be proud that the small business spirit is so strong in our country. I join my colleagues in the Michigan delegation in welcoming these fine individuals to our State.

MRS. ANNA GREENBERG RECEIVES GREAT AMERICAN TRADITIONS AWARD

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. McMILLEN of Maryland. Mr. Speaker, on Wednesday, October 18, the B'nai B'rith Foundation will present its Great American Traditions Award to Mrs. Anna Greenberg of Annapolis.

Mrs. Greenberg will receive the award as a result of her years of service to her community, not only in Annapolis, but wherever she has lived throughout the world. Recipients of the award are a part of a select group of American citizens, who, through their dedication to their community serve as role models to young people.

Through her dedication to both education and the arts in Annapolis, Mrs. Greenberg's dedication to voluntarism has made her the first women from Maryland to receive the award. A native of Annapolis, Mrs. Greenberg has made many important contributions to her hometown through her work for the Annapolis Fine Arts Committee, the Annapolis Symphony Orchestra, St. John's College, the Anne Arundel General Hospital, the resource council, and the junior league, in addition to being a teaching guide in historic Annapolis. Mrs. Greenberg's dedication to Annapolis and the State of Maryland earned her statewide appreciation when she was named to the Governor's Council on Voluntarism.

Mrs. Greenberg is an asset to the Annapolis community, and her dedication to voluntarism is an example to us all. I congratulate Mrs. Greenberg on this occasion, and hope that many young Americans will follow in her footsteps as dedicated, active citizens.

TRIBUTE TO BOY SCOUT TROOP No. 155

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. BORSKI. Mr. Speaker, I rise today in recognition of Boy Scout Troop No. 155 for their 60 years of service.

On June 10, 1930, Boy Scout Troop No. 155 was officially chartered and dedicated to serve the youth of the Mayfair community in Philadelphia.

Throughout their 60 years, the troop has focused their efforts on enhancing and serving the Philadelphia neighborhood. They deserve great recognition for their success in providing the city with an outstanding example of commitment to achievement.

I would also like to recognize those individuals who have helped to organize the troop, as well as those who have provided longstanding service and dedication to the troop. Together, Mr. Helmar Petersen, Mr. Frank Muhly, Mr. Mahlon Hornberger, Mr. Karl Weigand, Mr. Richard Hall, and Mr. Charles Guido have accumulated 273 years of service and allegiance to Boy Scout Troop No. 155.

Mr. Speaker, I join the citizens of Philadelphia in commending and thanking Boy Scout Troop No. 155 for 60 years of service to its community.

TRIBUTE TO THE NATIONAL GUARD

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. OXLEY. Mr. Speaker, over 50 years ago, the first peacetime mobilization of the entire National Guard of the United States began. On September 16, 1940, some 63,600 officers and enlisted men in National Guard units located in 27 States were called to service. The second induction increment took place on October 15, 1940, when an additional 38,578 National Guardsmen from four States, including my home State of Ohio, were added to our Nation's Federal Active Duty Forces. Inductions of this magnitude would continue until June 23, 1941.

A total of 16 divisions were added to the Nation's troops, plus additional infantry brigades and artillery, engineer, coastal artillery, cavalry, and Army Air Corps units. Moreover, the sailors and marines of the National Guard also were called to the colors. Despite the original plan to keep these citizen-soldiers on Federal active duty for only 1 year, international events and a growing concern over preparedness in this country and in this House dictated that the 1-year tour be extend for 6 months. The opposition to this extension, while vocal for a brief time, soon disappeared when, on December 7, 1941, Pearl Harbor was attacked.

We pay tribute to the combat-readiness of the Guard divisions and their skill in absorbing and training the many draftees and reservists that had been inserted into these divisions to fill out their ranks. Three National Guard divisions, including the 37th from Ohio, were alerted for overseas movement immediately after the bombing of Pearl Harbor. It is worth noting that of the first 10 Army divisions sent overseas during World War II, 3 were National Guard divisions.

The members of the National Guard Naval Militia served with distiniction on fleet warships, while Guard Marine Corps Militia members were among the first to serve in Iceland and later take part in assault landings on islands throughout the Pacific theater. Other National Guardsmen, including members of what had been the 37th Tank Company, Ohio National Guard, were trapped on Bataan and spent 3 hellish years as prisoners of the Japanese. Still other members of the National Guard would storm Fortress Europe on D-Day, would take all that the Germans and the Japanese had to offer, and would participate in daylight bombardment raids of Europe and at Ploesti when daylight raids were considered suicidal at best.

Mr. Speaker, these guardsmen, our hometown friends, neighbors, and relatives, won a number of Congressional Medals of Honor during World War II. They were given field commissions by the hundreds and they trained selective service men and reservists with merit. They were, in truth and deed, a part of the united Army whose sole aim was to protect, defend, and uphold the Constitution and the flag of this great country.

It is fitting that this House pay tribute to the National Guardsmen of 1940 on the 50th anniversary of their induction. We commend those citizen-soldiers of 1940 for their courage, their devotion to duty, and to the cause they cheerfully supported as members of the National Guard of the United States.

TRIBUTE TO JUDGE HENRY J. BRODERICK UPON HIS RETIREMENT AFTER 20 YEARS AS A MARIN SUPERIOR COURT JUDGE

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mrs. BOXER. Mr. Speaker, I rise today and ask my colleagues to join me in honoring a fine jurist on the occasion of his retirement.

Henry J. Broderick, is retiring after 20 years of distinguished service as a superior court judge in Marin County. Since Judge Broderick's appointment in 1970, he has enjoyed a well-earned reputation for toughness, fairness, and intellectual rigor.

The hundreds of individuals who have appeared before Judge Broderick seeking justice over the past two decades have had good reason to be impressed by his dedication to the highest principles of his profession. Hundreds of attorneys have had the privilege of appearing before a jurist who adhered to the most demanding standards of preparedness and professionalism.

I wish Judge Broderick the best in his retirement, and I add my voice to the chorus of congratulations.

GOOD LUCK TO DR. NANCY SPAETH

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. STARK. Mr. Speaker, I rise today to pay tribute to Dr. Nancy Spaeth, the principal of Castro Valley High School in California's Ninth Congressional District. Dr. Spaeth is leaving the Castro Valley Unified School District after 10 years of dedicated service to take a new position as associate superintendent for curriculum and instruction with the Berkeley School District.

Dr. Spaeth began her career with the Castro Valley Unified School District in 1980 and became principal of Castro Valley High School in 1982. Under her leadership, Castro Valley High School became only one of 22 schools nationwide to be selected twice by the U.S. Department of Education as a national exemplary school, once in 1985 and again in 1989. Castro Valley High was also designated as a California Distinguished School in 1988.

Dr. Spaeth has been an outstanding principal. She has worked to involve the community in the life of the school and has made use of community resources for students. She has also worked to improve the educational program through teacher evaluation and an emphasis on cooperative learning, critical thinking, and problem solving. Her administrative style of seeking input and sharing decisonmaking has contributed to a positive student climate.

This year, Dr. Spaeth was selected as California's Outstanding Principal through the In Honor of Excellence Program which is sponsored by the National Association of Secondary School Principals. She was also the recipient of the Castro Valley School District's Larry J. Goodman Education Service Award for the 1985–86 school year. She has also been active in the Association of California School Administrators by helping plan regional conferences and participating as a panelist at forums of this organization. In 1986, she was the Castro Valley Unified School District Administrators' Association's nominee for the ACSA's Administrator of the Year Award.

Mr. Speaker, although Dr. Spaeth will be sorely missed, I wish her much happiness and success in her new position. Our loss is the Berkeley School District's gain.

W. SHERMAN DOEBLER RECEIVES PSACC MEMBER OF THE YEAR AWARD

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. GEKAS. Mr. Speaker, I would like to bring to your attention today the work of Union County Commissioner W. Sherman Doebler as he has been named PSACC

Member of the Year by the Pennsylvania State Association of County Commissioners.

Commissioner Doebler received this award for his outstanding leadership and active involvement in the Union County government, and for his superior role in local and regional development activities.

Doebler is serving his fourth term as a Union County Commissioner; he was first elected in 1976. Since then, he has held the position of chairman for 12 of his 14 years in office. In this capacity, Doebler was instrumental toward the installation of the first electronic voting system used in Pennsylvania. Another first for Union County under Doebler's leadership as commissioner was the implementation of the regional emergency communications system.

Doebler has committed much of his time to various programs and activities for the State association. He has worked on the committee for the Pennsylvania Environmental Insurance Pool for over 3 years in an effort to provide extensive environmental liability insurance coverage for counties. He has also served on the Pennsylvania Counties Risk Pool Board of Directors for nearly 4 years. This agency will enable Union County residents to see a significant 4 percent reduction in insurance costs, while maintaining the broad range of insurance coverage available to them.

PSACC's award means that Doebler's constant dedication and service has benefited residents of Union County, as well as outlying areas. They are being offered outstanding services through Commissioner Doebler's quick response and appropriate guidance to problems they may encounter.

Doebler's commitment to the community proves his devotion to them, and inevitably proves he is well-deserving of this honor.

CONGRATULATING THE DOWNTOWN ROTARY CLUB ON THEIR 75TH ANNIVERSARY

HON. BILL SARPALIUS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. SARPAULIUS. Mr. Speaker, the Downtown Rotary Club of Wichita Falls is celebrating their 75th anniversary on October 18, 1990. The Wichita Falls Rotary Club started in 1915 as an intregal part of Rotary International which benefits people worldwide through a number of service projects. The Rotary's motto—Service Above Self—is an example for all people of every nation to follow. The Wichita Falls Rotary's commitment to service. The Rotary Club members first went to bat for the boys is as strong as ever. Since its humble beginnings in the old city hall on Ohio Street, the Wichita Falls Boys Clubs now boast five club buildings and serves over 4,000 boys each year. Much of the success of the boys clubs can be contributed to the commitment of rotary members.

In 1959 the Rotary Club helped sponsor a family that fled Hungary. Andy Chagoly, now a dentist in Wichita Falls, said if it were not for the Rotary Club, he would not be here now. He and his family escaped from Hungary on Christmas Day 1956 and the Rotary Club paid their way to the United States.

Also in 1959, the late Lt. Col. Floyd Taylor convinced fellow Rotarians here to "adopt" a squadron of airmen. Today, almost every community which boasts of a military base has a squadron adoption program, an effort that had its beginnings in Wichita Falls. In three decades since the Rotary Club of Wichita Falls followed the urgings of one of its past presidents and adopted the first squadron at Sheppard Air Force Base, the program has become one of the best tools available for good relations between military installations and host communities.

Without the financial help of the Rotary Club of Wichita Falls, hundreds of local students would find paying for college a little bit more difficult. Each year, the Rotary Club provides financial aid to Midwestern State University students in the form of internships, scholarships, and short-term low interest loans. Local high school students receive awards for annual speech and essay contests.

The Rotary Club's current endeavor is the flag project. For a nominal fee the Rotary Club will place an American flag in a person's front yard on six designated U.S. holidays. This fine example of patriotism is expected to be seen on 1,000 lawns in Wichita Falls thanks to the efforts of the Downtown Rotary Club.

Not only is the club's interest of a community perspective, the Downtown Rotary Club has a record of international service. By 1996, Rotarians hope to immunize every child in the world for polio and other diseases that threaten our youth. The Wichita Falls club has pledged $21,000 over the next 3 years to assist in this disease fighting program.

Mr. Speaker, the accomplishments of the Wichita Falls Downtown Rotary Club are too numerous for me to mention today. Their involvement in community, county, State, National, and international endeavors is example of their motto—service above self. However, the most essential element to the success of the Rotary Club of Wichita Falls is its membership. Their spirit of enthusiasm is evident in their work. With approximately 200 members, the Downtown Rotary Club serves Wichita Falls as the largest civic club. Their membership is respected—not only for each member's personal involvement in service projects—but for the club's attitude of team accomplishment.

Mr. Speaker I ask my fellow Members to join me today in congratulating the Downtown Rotary Club of Wichita Falls on their 75th anniversary. We commend them for a job well done and wish them well as they continue to better our world by—service above self.

LSC/GAO REPORT

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. STENHOLM. Mr. Speaker, I rise today to call to the attention of my colleagues the findings of a recent GAO study of Federal Legal Services attorneys' handling of migrant farmworker disputes with agricultural producers. The report clearly shows a lack of accountability for the expenditure of Federal tax dollars. This is entirely unacceptable for a program in which $320 million was appropriated last year, a program that has not been authorized for over 10 years.

Of the eight questions we asked, GAO was unable to answer, even partially, well over half. Why? Because records were incomplete and Legal Services grantees would not allow GAO access to the program records. Here is an example of what GAO was up against—quoting from the report:

> Because we did not have access to account records, we were unable to verify that the grantees had properly implemented these procedures or that the procedures provided adequate controls over the accounts, * * *.

This is not a way to "run a railroad," much less a $320 million Government-sponsored program. Representative MCCOLLUM and I plan to offer an amendment to the Commerce/Justice/State appropriations conference report which will address the problems identified in the GAO report, make Legal Services accountable to the American people and help it to provide the much-needed services Congress intended it to provide.

ED AND DOROTHY BELTZ CELEBRATE 60TH WEDDING ANNIVERSARY

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. KOLTER. Mr. Speaker, I rise today to pay a special tribute to my good friends Dorothy and Ed Beltz of Ellwood City, PA, who are celebrating their 60th wedding anniversary on October 30, 1990.

Dorothy and Ed are no ordinary couple. They met each other and have lived and worked in the western Pennsylvania area of New Castle, PA all of their lives. Their lives have been full as they have actively participated in the endeavors of their children, Bonnie, Bill, Charlotte, Harold, and David. These 5 have given in return, 11 grandchildren, and those grandchildren have enhanced Dorothy and Ed's lives by giving them 12 great grandchildren.

This couple has worked long and hard to support and encourage each member of their family circle to survive the joys and sorrows of life. At a time when they should have been enjoying retirement from their business enterprises—restaurant ownership, school bus contracting, and management of school food service—they have assisted in the rehabilitation of their beloved daughter-in-law who has courageously learned to live with paralysis as a result of a stroke, and they have instilled strength and faith to three of their lovely grandchildren who are afflicted with juvenile diabetes.

No adversity has been too great for them as they have survived the losses of their eldest and youngest sons. All of the challenges of their lives have simply made them

stronger and more faithful to their ultimate goal of doing good for others.

Mr. Speaker, I want to take this opportunity on the floor of this House of Representatives to offer my heartiest congratulations to two very fine people who have weathered all the adversities of life with an enthusiasm which cannot be diminished. They continue at their ages—Ed has just recently celebrated his 80th birthday and Dorothy her 76th—to serve their church as officers, they enjoy traveling, square dancing, golfing, Masonic organizational activities and continue to work tirelessly to bring happiness and comfort to their family and friends who need their attention and support.

I ask the Members of the U.S. House of Representatives to join with me in extending congratulations and best wishes to Dorothy and Ed on their 60th wedding anniversary. May this lovely couple enjoy life to its fullest and every day of the future and may all the good deeds they have done for others be returned to them fourfold.

HOUSE OF REPRESENTATIVES—*Wednesday, October 17, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we think about all that we should do in our personal lives and in our shared tasks, we pray, O God, that we would be open to Your spirit to see the goals of justice, mercy, and peace. But we recognize, gracious God, that You have given us minds with which to think, hearts and souls with which to feel, and hands with which to do the work before us. We pray that we will use our hands and hearts and minds and all the abilities You have given to us and thus be faithful in the duties that have been entrusted to us. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SENSENBRENNER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 265, nays 123, not voting 45, as follows:

[Roll No. 476]

YEAS—265

Ackerman	Borski	Collins
Alexander	Bosco	Conte
Anderson	Boucher	Cooper
Andrews	Boxer	Costello
Annunzio	Brooks	Coyne
Applegate	Broomfield	Crockett
Archer	Browder	Darden
Aspin	Brown (CA)	de la Garza
Atkins	Bruce	Dellums
Barnard	Bryant	Derrick
Bartlett	Bustamante	Dicks
Bateman	Byron	Dixon
Bates	Cardin	Donnelly
Bellenson	Carper	Dorgan (ND)
Bennett	Carr	Downey
Bevill	Clarke	Durbin
Bilbray	Clement	Dwyer
Boggs	Clinger	Dymally
Bonior	Coleman (TX)	Dyson
Early	Lehman (FL)	Robinson
Eckart	Lent	Roe
Edwards (CA)	Levin (MI)	Rose
Edwards (OK)	Levine (CA)	Rostenkowski
Engel	Lewis (GA)	Rowland (GA)
English	Lipinski	Roybal
Erdreich	Livingston	Russo
Espy	Lloyd	Sabo
Evans	Long	Saiki
Fazio	Lowey (NY)	Sangmeister
Feighan	Luken, Thomas	Sarpalius
Fish	Manton	Sawyer
Flake	Markey	Scheuer
Flippo	Martinez	Schiff
Foglietta	Matsui	Schulze
Ford (TN)	Mavroules	Schumer
Frank	Mazzoli	Serrano
Frenzel	McCloskey	Sharp
Frost	McCurdy	Shaw
Gaydos	McDermott	Shumway
Gejdenson	McEwen	Shuster
Geren	McMillen (MD)	Sisisky
Gibbons	McNulty	Skaggs
Gillmor	Mfume	Skeen
Gilman	Miller (CA)	Skelton
Glickman	Mineta	Slattery
Gonzalez	Mink	Slaughter (NY)
Gordon	Moakley	Smith (FL)
Gradison	Mollohan	Smith (IA)
Grant	Montgomery	Smith (NE)
Gray	Moody	Smith (NJ)
Green	Morella	Solarz
Guarini	Mrazek	Spratt
Gunderson	Murtha	Staggers
Hall (OH)	Myers	Stallings
Hall (TX)	Nagle	Stark
Hamilton	Natcher	Stenholm
Harris	Neal (MA)	Stokes
Hawkins	Neal (NC)	Studds
Hayes (IL)	Nelson	Swift
Hayes (LA)	Nowak	Synar
Hefner	Oakar	Tallon
Hertel	Obey	Tanner
Hoagland	Olin	Tauzin
Hochbrueckner	Ortiz	Taylor
Horton	Owens (UT)	Thomas (GA)
Houghton	Packard	Torricelli
Hoyer	Pallone	Towns
Hubbard	Panetta	Traficant
Hughes	Parker	Unsoeld
Hutto	Patterson	Valentine
Jenkins	Payne (NJ)	Vander Jagt
Johnson (CT)	Payne (VA)	Vento
Johnson (SD)	Pease	Visclosky
Johnston	Pelosi	Volkmer
Jones (GA)	Penny	Walgren
Jontz	Perkins	Washington
Kanjorski	Petri	Watkins
Kaptur	Pickett	Weiss
Kastenmeier	Pickle	Wheat
Kennedy	Poshard	Whitten
Kennelly	Price	Williams
Kildee	Pursell	Wise
Kleczka	Rahall	Wolpe
Kolter	Rangel	Wyden
LaFalce	Ravenel	Wylie
Lancaster	Ray	Yates
Lantos	Richardson	Yatron
Laughlin	Rinaldo	
Lehman (CA)	Ritter	

NAYS—123

Armey	Campbell (CA)	Dornan (CA)
Baker	Chandler	Douglas
Ballenger	Coble	Dreier
Barton	Coleman (MO)	Duncan
Bereuter	Combest	Emerson
Billirakis	Coughlin	Fawell
Billey	Cox	Gallegly
Boehlert	Craig	Gallo
Brown (CO)	Dannemeyer	Gekas
Buechner	Davis	Goodling
Bunning	DeLay	Goss
Burton	DeWine	Grandy
Callahan	Dickinson	Hammerschmidt
Hancock	McMillan (NC)	Shays
Hansen	Meyers	Sikorski
Hastert	Michel	Slaughter (VA)
Hefley	Miller (OH)	Smith (TX)
Henry	Miller (WA)	Smith (VT)
Hiler	Molinari	Smith, Denny (OR)
Holloway	Moorhead	Smith, Robert (NH)
Hopkins	Murphy	Smith, Robert (OR)
Hyde	Nielson	Snowe
Inhofe	Oxley	Solomon
Ireland	Parris	Spence
Jacobs	Pashayan	Stangeland
James	Paxon	Stearns
Kolbe	Porter	Stump
Kyl	Quillen	Sundquist
Lagomarsino	Regula	Tauke
Leach (IA)	Rhodes	Thomas (CA)
Lewis (CA)	Ridge	Thomas (WY)
Lewis (FL)	Roberts	Upton
Lightfoot	Rogers	Vucanovich
Lukens, Donald	Rohrabacher	Walker
Machtley	Ros-Lehtinen	Walsh
Madigan	Roth	Weber
Marlenee	Roukema	Weldon
Martin (NY)	Saxton	Whittaker
McCandless	Schaefer	Wolf
McCollum	Schneider	
McDade	Schroeder	
McGrath	Sensenbrenner	

NOT VOTING—45

Anthony	Fields	McHugh
AuCoin	Ford (MI)	Morrison (CT)
Bentley	Gephardt	Morrison (WA)
Berman	Gingrich	Oberstar
Brennan	Hatcher	Owens (NY)
Campbell (CO)	Herger	Rowland (CT)
Chapman	Huckaby	Savage
Clay	Hunter	Schuette
Condit	Jones (NC)	Torres
Conyers	Kasich	Traxler
Courter	Kostmayer	Udall
Crane	Leath (TX)	Waxman
DeFazio	Lowery (CA)	Wilson
Dingell	Martin (IL)	Young (AK)
Fascell	McCrery	Young (FL)

□ 1024

Mr. SCHAEFER changed his vote from "yea" to "nay."

Mr. MOAKLEY changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Ohio [Mr. DEWINE] lead the House in the Pledge of Allegiance?

Mr. DEWINE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2061. An act to authorize appropriations to carry out the Magnuson Fishery Conservation and Management Act through fiscal year 1993, and for other purposes; and

H.R. 5257. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1991, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5257) "An Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1991, and for other purposes", requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HARKIN, Mr. BYRD, Mr. HOLLINGS, Mr. BURDICK, Mr. INOUYE, Mr. BUMPERS, Mr. REID, Mr. ADAMS, Mr. SPECTER, Mr. HATFIELD, Mr. STEVENS, Mr. RUDMAN, Mr. MCCLURE, Mr. COCHRAN, and Mr. GRAMM to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 2203) entitled "An act to settle certain claims of the Zuni Indian Tribe, and for other purposes".

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 2753) entitled "An act to reauthorize the Developmental Disabilities Assistance and Bill of Rights Act."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1430) entitled "An act to enhance national and community service, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2104) entitled "An act to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1118. An act to provide for the transfer of the Platoro Reservoir to the Conejos Water Conservancy District of the State of Colorado, and for the protection of fish habitat on the Conejos River;

S. 1767. An act to reimburse cattle owners in Montana, Wyoming, Idaho, and North Dakota and the governments of those States for expenses incurred to test cattle for brucellosis organisms carried outside certain units of the National Park System by elk and bison, and for other purposes;

S. 1893. An act to reauthorize the Asbestos School Hazard Abatement Act of 1984; and

S. 3160. An act to authorize the relocation of the Southeast Light on Block Island, Rhode Island.

The message also announced that pursuant to sections 1928a–1928d, of title 22, United States Code, the Chair on behalf of the Vice President appoints Mr. PELL, Mr. METZENBAUM, Mr. SARBANES, Mr. BOREN, Mr. HEFLIN, Mr. ADAMS, and Mr. FOWLER, as members of the Senate delegation to the North Atlantic Assembly Fall Meeting during the second session of the One Hundred First Congress, to be held in London, England, November 25–30, 1990.

The message also announced that pursuant to sections 1928a–1928d, of title 22, United States Code, the Chair on behalf of the Vice President appoints Mr. STEVENS, Mr. MCCLURE, Mr. CHAFEE, Mr. HATCH, and Mr. BOND, as members of the Senate delegation to the North Atlantic Assembly Fall Meeting during the second session of the One Hundred First Congress, to be held in London, England, November 25–30, 1990.

APPOINTMENT OF CONFEREES ON H.R. 5257, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. NATCHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5257) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CONTE moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 5257, be instructed to agree to no less than the amount contained in Senate amendment No. 76 concerning Low Income Home Energy Assistance.

The SPEAKER. The gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes, and the gentleman from Kentucky [Mr. NATCHER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to focus attention upon one critical issue which our subcommittee must deal with when we go to conference. That is the Low Income Home Energy Assistance Program.

Last winter, retail home heating oil prices shot up as high as $1.50 a gallon because of the record cold in December. The oil companies took advantage of this situation and stuck it to the consumer. And they stuck it to them good. While the oil industry reaped big profits, needy families had to sacrifice food, clothing, and their homes to keep warm.

This committee came to the rescue with an extra $50 million in the dire emergency supplemental for LIHEAP. A majority of my subcommittee joined me as cosponsor for the LIHEAP supplemental. I want to thank my chairman and my good friend, BILL NATCHER for working with me to get that money. That extra money took care of unpaid heating bills. It prevented utility shutoffs. It prevented families from losing their homes. Most importantly, is saved lives.

Now the poor in this country are facing economic ruin as a direct result from the Guns of August. The crisis in the Mideast has propelled oil prices to over $40 a barrel. It could go even higher. While all of us are getting hit with $1.40 a gallon gasoline, the poor are facing a long cold winter with outrageously expensive home heating oil. Already, heating oil prices have hit $1.30 a gallon in many areas. It could shoot to $1.60 a gallon and beyond.

Mr. Speaker, we are approaching another national energy emergency this winter unless we take action now to protect low income American families from becoming heating oil hostages to Saddam Hussein's adventurism.

When the House passed the bill in July, we were awaiting the reauthorization of LIHEAP, and so we had to defer funding until the Senate acted. The Senate has allocated $1.45 billion for LIHEAP for fiscal year 1991. I would have preferred to see them go even higher, but at least this is a $7 million increase over last year, reversing a downward trend over the past few years.

Exorbitant energy prices put the needy at risk of losing their homes and their livelihoods. It is outrageous to see people forced out of their homes simply because they cannot pay their heating bills. We end up paying more for emergency health and housing costs. LIHEAP and the contingency fund would be strong preventive medicine against homelessness and illness.

Mr. Speaker, I urge my colleagues to adopt this motion to instruct. We must not let Saddam Hussein play Uncle

Scrooge to needy Americans this Christmas.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. NATCHER. Mr. Speaker, on this side we agree to the motion offered by the gentleman from Massachusetts [Mr. CONTE].

The SPEAKER. The question is on the motion to instruct offered by the gentleman from Massachusetts [Mr. CONTE].

The motion to instruct was agreed to.

The SPEAKER. The Chair appoints the following conferees, and without objection, the Chair reserves the right to appoint additional conferees: Messrs. NATCHER, SMITH of Iowa, OBEY, ROYBAL, STOKES, EARLY, DWYER of New Jersey, HOYER, WHITTEN, CONTE, PURSELL, PORTER, YOUNG of Florida, and WEBER.

There was no objection.

MOTION TO CLOSE CONFERENCE COMMITTEE MEETINGS ON H.R. 5803, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1991

Mr. MURTHA. Mr. Speaker, I offer a privileged motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. MURTHA moves, pursuant to rule XXVIII, clause 6(a) of the House rules, that the conference committee meetings between the House and the Senate on H.R. 5803, the Department of Defense appropriations bill for the fiscal year ending September 30, 1991, and for other purposes, be closed to the public at such times as classified national security information is under consideration; *Provided, however,* That any sitting Member of Congress shall have a right to attend any closed or open meeting.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania [Mr. MURTHA].

On this motion, the vote must be taken by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 401, nays 4, not voting 28, as follows:

[Roll No. 477]

YEAS—401

Ackerman	Bennett	Bruce
Alexander	Bentley	Bryant
Anderson	Bereuter	Buechner
Andrews	Berman	Bunning
Annunzio	Bevill	Burton
Anthony	Bilbray	Bustamante
Applegate	Bilirakis	Byron
Archer	Billey	Callahan
Armey	Boehlert	Campbell (CA)
Aspin	Boggs	Cardin
Atkins	Bonior	Carper
AuCoin	Borski	Carr
Baker	Bosco	Chandler
Ballenger	Boucher	Clarke
Barnard	Boxer	Clay
Bartlett	Brooks	Clement
Barton	Broomfield	Clinger
Bateman	Browder	Coble
Bates	Brown (CA)	Coleman (MO)
Beilenson	Brown (CO)	Coleman (TX)
Collins	Houghton	Neal (NC)
Combest	Hoyer	Nelson
Condit	Hubbard	Nielson
Conte	Huckaby	Nowak
Conyers	Hughes	Oakar
Cooper	Hutto	Oberstar
Costello	Hyde	Olin
Coughlin	Inhofe	Ortiz
Cox	Ireland	Owens (UT)
Coyne	Jacobs	Oxley
Craig	James	Packard
Crockett	Jenkins	Pallone
Dannemeyer	Johnson (CT)	Panetta
Darden	Johnson (SD)	Parker
Davis	Johnston	Parris
DeLay	Jones (GA)	Pashayan
Dellums	Jones (NC)	Patterson
Derrick	Jontz	Paxon
DeWine	Kanjorski	Payne (NJ)
Dickinson	Kaptur	Payne (VA)
Dicks	Kastenmeier	Pease
Dixon	Kennedy	Pelosi
Donnelly	Kennelly	Penny
Dornan (CA)	Kildee	Perkins
Douglas	Kleczka	Petri
Downey	Kolbe	Pickett
Dreier	Kolter	Pickle
Duncan	Kyl	Porter
Durbin	LaFalce	Poshard
Dwyer	Lagomarsino	Price
Dymally	Lancaster	Pursell
Dyson	Lantos	Quillen
Early	Laughlin	Rahall
Eckart	Leach (IA)	Rangel
Edwards (CA)	Lehman (CA)	Ravenel
Edwards (OK)	Lehman (FL)	Ray
Emerson	Lent	Regula
Engel	Levin (MI)	Rhodes
English	Levine (CA)	Richardson
Erdreich	Lewis (CA)	Ridge
Espy	Lewis (FL)	Rinaldo
Evans	Lewis (GA)	Ritter
Fascell	Lightfoot	Roberts
Fawell	Lipinski	Robinson
Fazio	Livingston	Roe
Feighan	Lloyd	Rogers
Fields	Long	Rohrabacher
Fish	Lowery (CA)	Ros-Lehtinen
Flake	Lowey (NY)	Rose
Flippo	Luken, Thomas	Rostenkowski
Foglietta	Lukens, Donald	Roth
Ford (TN)	Machtley	Roukema
Frank	Madigan	Rowland (GA)
Frenzel	Manton	Roybal
Gallegly	Markey	Russo
Gallo	Marlenee	Sabo
Gaydos	Martin (NY)	Saiki
Gejdenson	Martinez	Sangmeister
Gekas	Matsui	Sarpalius
Geren	Mavroules	Savage
Gibbons	Mazzoli	Sawyer
Gillmor	McCandless	Saxton
Gilman	McCloskey	Schaefer
Glickman	McCollum	Scheuer
Gonzalez	McCurdy	Schiff
Goodling	McDade	Schneider
Gordon	McDermott	Schroeder
Goss	McEwen	Schulze
Gradison	McGrath	Schumer
Grandy	McHugh	Sensenbrenner
Grant	McMillan (NC)	Serrano
Gray	McMillen (MD)	Sharp
Green	McNulty	Shaw
Guarini	Meyers	Shays
Gunderson	Mfume	Shumway
Hall (OH)	Michel	Shuster
Hall (TX)	Miller (CA)	Sikorski
Hamilton	Miller (OH)	Sisisky
Hammerschmidt	Miller (WA)	Skaggs
Hancock	Mineta	Skeen
Hansen	Mink	Skelton
Harris	Moakley	Slattery
Hastert	Molinari	Slaughter (NY)
Hawkins	Mollohan	Slaughter (VA)
Hayes (IL)	Montgomery	Smith (FL)
Hayes (LA)	Moody	Smith (IA)
Hefley	Moorhead	Smith (NE)
Hefner	Morella	Smith (NJ)
Henry	Morrison (CT)	Smith (TX)
Hertel	Mrazek	Smith (VT)
Hiler	Murphy	Smith, Denny (OR)
Hoagland	Murtha	Smith, Robert (NH)
Hochbrueckner	Myers	Smith, Robert (OR)
Holloway	Nagle	
Hopkins	Natcher	
Horton	Neal (MA)	
Snowe	Tauke	Walgren
Solarz	Tauzin	Walker
Solomon	Taylor	Walsh
Spence	Thomas (CA)	Washington
Spratt	Thomas (GA)	Watkins
Staggers	Thomas (WY)	Weber
Stallings	Torricelli	Weldon
Stangeland	Towns	Wheat
Stark	Traficant	Whittaker
Stearns	Traxler	Whitten
Stenholm	Udall	Williams
Stokes	Unsoeld	Wise
Studds	Upton	Wolf
Stump	Valentine	Wolpe
Sundquist	Vander Jagt	Wyden
Swift	Vento	Wylie
Synar	Visclosky	Yates
Tallon	Volkmer	Yatron
Tanner	Vucanovich	

NAYS—4

DeFazio	Obey
Dorgan (ND)	Weiss

NOT VOTING—28

Brennan	Gingrich	Owens (NY)
Campbell (CO)	Hatcher	Rowland (CT)
Chapman	Herger	Schuette
Courter	Hunter	Torres
Crane	Kasich	Waxman
de la Garza	Kostmayer	Wilson
Dingell	Leath (TX)	Young (AK)
Ford (MI)	Martin (IL)	Young (FL)
Frost	McCrery	
Gephardt	Morrison (WA)	

□ 1045

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DEFENSE BUDGET SHOULD BE BROUGHT IN LINE WITH REALITY

(Mr. SCHEUER asked and was given permission to address the House for 1 minute).

Mr. SCHEUER. Mr. Speaker, two extraordinarily interesting events happened yesterday. The first was the announcement that Mr. Gorbachev had won the Nobel Peace Prize, according to the New York Times "for unshackling the Soviet satellites, forging the crucial compromises that will yield large cuts in Soviet nuclear and conventional forces in Europe, leading soon to a strategic arms reduction accord, we all hope, for promoting peace abroad as a precondition to reform at home, and for the promise of peace without fear of nuclear war." They said he had earned this prize for leading the Soviet Union from an era of cold war confrontation into peace.

The very same day that we read that in the paper, this House passed a military budget that equaled the height of the cold war military budgets, based on all the suppositions and assumptions of a bitter confrontational cold war face-off between the United States and the Soviet Union, with the very real specter of nuclear holocaust looming in the background.

Mr. Speaker, in my district we call this plain "meshugah," dumb, dumb, dumb. Plain crazy, man, crazy.

The Secretary of Defense, Mr. Cheney, our thoughtful former colleague, owes us a rationale for continuing the current rate of military expenditures, in this totally new, thawed environment.

Mr. Speaker, this new environment is a quantum jump from the era of cold war confrontation. We spent $2.6 trillion in the last decade, much of it justified with the threat of nuclear or conventional war with the Soviets a real and credible one.

Now, even according to Mr. William Webster, head of the CIA, the swiftly moving events in the Soviet Union, Mr. Gorbachev's insistence on multiparty democracy and his breakup of the Communist grip that at long last, has finally allowed the satellite nations and the Baltic States to seek their own futures, the dissolution of the Warsaw Pact, and spreading democracy in Eastern Europe are all irrevocable and irreversable. Secretary McNamara tells us we ought to cut our defense budget in half over the next decade.

Mr. Speaker, before continuing this level of military expenditures produced by the pressures of the cold war, what we now urgently need from the Secretary of Defense, or the National Security Council, is a long-term military risk assessment of threats we must cope with so that we can be guided by thoughtful analysis of present and future likely military scenarios in formulating our military budget. This information is urgent to establish an overall military program, including individual weapons systems, that is based on knowledge of today's and tomorrow's potential military threats around the world.

Where does the B-2 bomber, apparently designed with the single mission of penetrating Soviet airspace without detection, fit into the current appraisal of risk, at $1 billion a copy?

Where does a $20 billion expenditure on star wars fit in to a program that should be created with the knowledge that the threat of nuclear conflict between two superpowers no longer exists?

How do we justify the mobile MX, another multibillion system created to fight a threat that is no longer real?

Are any of these systems relevant to our current relation with the Soviets? How do they relate to the potential of future regional conflicts, which is where we ought to concentrate our analysis today?

Mr. Speaker, if these weapons systems aren't relevant to today's and tomorrow's military needs, we ought to have the courage, the brains, and the will to cut them out with a surgeon's scalpel.

These funds are badly needed for other, worthwhile needs. We should use them to ease the deficit, and to increase investments in education, health care, the environment, transportation, and infrastructure.

BLACK TUESDAY FOR AMERICAN AGRICULTURE

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARLENEE. Mr. Speaker, yesterday was black Tuesday for American Agriculture.

At 4 a.m. the House Senate Agriculture Conference Committee, coached by the Secretary of Agriculture and Bob Grady of OMB, crafted a blueprint to dismantle farm programs.

This blueprint cuts support for producers but at the same time increases regulation, redtape, and Federal employees.

It is a recipe for disaster, cooked up at 4 a.m. in the morning like revelers after an all night party.

Then at 4 p.m. the Democrat budget is passed cutting $15 billion from farm programs, as if to say, "hit 'em again, there's still food on the table." With friends like this, who needs enemies?

This is one of those rare occasions when nothing is better than something.

The whole farm bill should be junked. It does not help producers. It does not help consumers. It is an exercise in futility.

□ 1050

SUPPORT THE CIVIL RIGHTS ACT AMENDMENTS OF 1990

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, later today we will have an opportunity to vote and debate on the conference report on the Civil Rights Act Amendments of 1990. This is, as we know, the first major rewrite of the Civil Rights Act since its inception in 1964.

The idea and the design is to address recent Supreme Court decisions which have made the redress of grievances due to some discriminatory acts very much more difficult to achieve in courts. When it went through our Judiciary Committee and then when it was on the floor, and even into conference, there were two major issues: whether this was a quota bill; and, whether this bill allowed for unlimited damages.

During the course of debate in our committee and on the floor on these issues twenty changes were made, and seven more were made when the bill went to the second conference.

Mr. Speaker, I can assure the Members of the House that this is a good bill which is not a quota bill and does not have unlimited damages. I hope it is voted up today in this House.

PURSELL-KASICH PLAN, FROM THE PARTY OF LINCOLN

(Mr. PURSELL asked and was given permission to address the House for one minute and to revise and extend his remarks.)

Mr. PURSELL. Mr. Speaker, the GOP Pursell-Kasich plan came from the party of Lincoln, my favorite leader. I quote:

You cannot bring about prosperity by discouraging thrift.

You cannot strengthen the weak, by weakening the strong.

You cannot help the wage earner, by pulling down the wage payer.

You cannot further the brotherhood of man by encouraging class hatred.

You cannot help the poor by destroying the rich.

You cannot keep out of trouble, by spending more than you earn.

You cannot build character and courage by taking away man's initiative and independence.

You cannot help men permanently by doing for them what they could and should do for themselves.—Abraham Lincoln.

TIME FOR UNITED STATES TO SEND JAPAN AND GERMANY A TAX BILL

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, four out of every five soldiers in the gulf are Americans, but the former West German Chancellor, Helmust Schmidt, thinks that is not enough. Listen to what he said. He said it is deplorable that America has to ask Germany to help pay the bills in the Persian Gulf. Deplorable, Mr. Speaker, is what he said.

The truth is Germany is spoiled rotten with American cash while our taxpayers are going bankrupt, and we are raising taxes on mom and dad. How dumb can this place be?

I say it is time, and if it were up to me, to send Japan and Germany a bill. Cut taxes on Americans, and Listen here, folks, we passed a War Powers Act. If we are going to pass legislation, let us enforce it. I am tired of our guys being on the front line, coming back in body bags, and Germans complaining.

You think about that.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Bosco). The Chair would like to ask those sitting in the gallery not to express themselves by applause or any other form of expression.

UNFAIR JAPANESE IMPEDIMENTS TO SERVICES TRADE

(Mr. BEREUTER asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, in recent history, we have had structural impediment talks with Japan, more structural impediment talks and more structural impediment talks. Following conclusion of each round of these talks we have been repeatedly assured by the Japanese that they have negotiated in good faith and they will take significant steps to reduce structural impediments to trade.

But alas, once again a Japanese Government Ministry has demonstrated a marked disregard for commitments that nations made to reduce unfair structural barriers to trade. In this instance, the Japanese Ministry of Trade has purposely granted planes from the United Parcel Service slot authority at Narita airport that effectively knocks UPS out of the cargo trade to Japan on 4 of 6 days of planned operation each week. The United States Department of Transportation had granted Japan Air Lines [JAL] and Nippon Cargo Air Lines [NCA] precisely that slot authority they requested to operate their air cargo service competitively. Consequent to this blatant exhibition of protectionism by the Japanese Ministry of Trade, Secretary Skinner blocked JAL and NCA from utilizing their landing authority. This Member would like to commend Secretary Skinner for the strong stand he has taken to force the Japanese to live up to their repeated pledges to play fair. Now the Japanese say the United State is violating the 1989 Bilateral Aviation Act. Here is the message Japan: We will step back after you stop discriminating against UPS and the United States of America.

Mr. Speaker, this Member has said this before treat America fairly or say "Sayonara," Japan, to increasing shares of your best export market. Our patience has most definitely been worn dangerously thin.

HOUSE DOES GOOD JOB ON DEFICIT REDUCTION

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, I think the House did a good job last night in moving the process ahead on deficit reduction. But in watching the debate I was struck that unfortunately the focus of the debate on both sides was on taxes.

The truth is that two-thirds of the $500 billion deficit reduction comes from spending cuts, and all the talk about raising taxes ignores the very painful cuts in Medicare, the disproportionate cuts, in my judgment, in agriculture, and some cuts in defense and other cuts as well. All those were part of that same resolution.

The American people do not want taxes raised unless spending cuts are made. We made a start last night, nearly $350 billion out of $500 billion in spending cuts. But we can and we should do better, especially to reduce the defense budget further and some of the sacred cows in the nondefense budget have to also be reduced as well.

And if those are not enough, which they probably will not be, and if more tax money is needed, then the rich and not the middle class should pay, and that is what we did last night.

SPECIES INTRODUCTION AND CONTROL ACT OF 1990

(Mr. SAXTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, recently I learned of a plan that is pending in the Delaware River Valley to introduce Chinook salmon, an unnatural species, into the ecosystem.

Today I am introducing on behalf of myself and my colleague from New Jersey, Mr. HUGHES, legislation which will guard against negative environmental repercussions resulting from the introduction of nonindigenous species of fish and wildlife into a habitat.

The Species Introduction and Control Act of 1990 calls for State and Federal officials to study the effects nonindigenous species would have on an ecosystem. Today we do not know what effect, if any, stocking the river with salmon would have on the fish, wildlife, and other organisms which already live there.

In the past, the introduction of nonindigenous species have driven native species into extinction, have driven others to the brink of extinction, and have upset the natural balance of many ecosystems.

SUNSHINE IN INSURANCE POLICIES FOR SENIOR CITIZENS

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, imagine that you are a senior citizen today and your Medicare insurance does not cover as much as it used to, and your medical or prescription drug bills are astronomical. Now try to imagine who you are going to call to get answers on how to improve your health insurance coverage.

Right now there is virtually no place a senior can turn to get impartial answers that he or she needs about health insurance coverage. If you are like 11 million seniors, you will purchase supplemental insurance known as Medigap. But millions of seniors buy policies they do not need. Often seniors buy four or five policies with duplicative coverage just because they want to be safe.

Stopping this duplication and other sources of insurance misinformation could save billions of dollars now wasted on useless policies.

I rise today to introduce a bill to encourage States to set up Medigap insurance hotlines to provide consumers with comparative information about insurance policies.

I urge my colleagues to support this bill for sunshine in insurance policies for our senior citizens.

NEWTON PARK, MO, HISTORICAL PARK DEDICATION

(Mr. HANCOCK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANCOCK. Mr. Speaker, just like my colleagues, I am proud of my district.

It will be my pleasure and privilege on October 20—assuming we are not in session—to dedicate the Newton County Historical Park in Neosho, MO.

The people of Newton County have raised private funds to support this park and banded together as a community to celebrate their rich past and heritage—particularly the tradition of rural education through which generations of our people have been educated, not only in the basic subjects taught in schools today, but in the down home family values of southwest Missouri.

What makes this occasion even more unique is that this year is the 151st anniversary of the incorporation of Newton County. I was honored to take part in their sesquicentennial celebration last year.

You know, it is important for us to understand and appreciate our past. Only then can we have a clear vision of the future.

The example being set for the Nation by the people of Newton County is a fitting memorial to its proud past.

I commend the good people of Newton County and look forward to the festivities.

□ 1200

SAN FRANCISCANS THANK THE HOUSE OF REPRESENTATIVES

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, 1 year ago today northern California was wracked physically and emotionally by the Loma Prieta earthquake. Tonight, at 5:04 p.m. California time, the city of

San Francisco will celebrate the recovery of the spirit of our community. This recovery would not have been possible, Mr. Speaker, without the quick and compassionate response of the House of Representatives, our speaker, and the chairman of our Committee on Appropriations, as well as the gentleman from Massachusetts [Mr. CONTE].

On behalf of my constituents, I want to say that while some individual and institutional hurdles still lay ahead, we are still building back. On the overall basis, San Francisco is back.

I want to extend the gratitude of my constituents, which include the Marina and Eighth Avenue which were hardest hit by the earthquake, and thank the House of Representatives. I want Members to know that as we recover, your kindness to San Francisco has not been forgotten.

WHO CONTROLS THE HOUSE?

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, as of late, we have heard a lot of moaning and groaning about the 1980's, as well as a share of inflammatory rhetoric. The tax policies back then supposedly favored the rich. The 1980's was a dark period in American history. In the 1980's, money was drained away and wasted on the defense budget.

Who controlled the House of Representatives in the 1980's is what I want to ask? If there were tax loopholes written into the tax law, who controlled the committees that wrote those tax loopholes in favor of the rich? In the 1980's, Reagan policy, some of them were permitted to come into existence. They replaced policies that were put in place by the Democratically controlled Senate and House. Those policies of the 1970's, by 1978, 1979, and 1980, gave Americans runaway inflation, national decline, national despair, high interest rates, and all of that.

Well, the policies that followed the Republican policies gave all Americans more work, more take home pay, peace and prosperity. I say it is not time to go back to the policies of the 1970's.

DEMOCRATIC PACKAGE GIVES MANY A BREAK

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, we have heard new-found Republican crocodile tears about middle income Americans, which I find amusing. The fact is that for people making between $20 and $50,000 a year, the President's summit package raised taxes 3 times as much as the House Democratic package passed last night.

The fact is that even for taxpayers between $50 and $100,000, taxes were 25 percent smaller under the Democratic package than under the President's package.

The fact is that 80 percent of all taxpayers are far better off under the Democratic package than the package supported by the President. It is the right 80 percent.

Unlike the President's package, there is no gas tax. It is much more fair to senior citizens.

There is one other sad fact. On the same day that the President of the Soviet Union won the Nobel Prize for Peace, the President of the United States announced his intention to shut down the American Government in order to push through a tax plan that protects the rich. That is a sad commentary on the White House idea of what constitutes leadership. If it were not so sad, it would be laughable.

CONGRESSIONAL CUTS

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, I am delighted to hear a confession or admission that taxes are being raised on the middle class, by a Democrat.

Mr. Speaker, returning to the House today, after passing one of the largest tax increase bills ever produced, and trying to pass it as a deficit reduction plan. The Democrats say it soaks the rich, when in fact it squeezes the poor and the middle class with regressive taxes. It is supposed to reduce the deficit, when all it will do is cause even greater deficit spending.

However, the ultimate hypocrisy in all of this is that while the Democrats in Congress are stabbing the taxpayers in the back, they are going to increase the budget for their staff by 15 percent.

Can this be true? Yes, America, while Congress asks citizens to make sacrifices, it will not even consider the thought of making a token gesture toward doing its fair share. We can change that, and we should.

I want to call Members' attention to an amendment that will be offered by the gentleman from Florida [Mr. STEARNS] of the legislative branch appropriation bill that will come up later today.

Do we have no heart? Do we have no soul? Do we have no sense?

WEALTHY DO NOT CARRY ELECTIONS

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, the goal was a $500 billion deficit reduction in 5 years. Through a combination of dramatic spending reductions and new revenues, that goal has been achieved by the Democratic plan.

Now the President feigns concern for the middle class, that they would be having higher taxes. Indeed, 75 percent of the American people would face higher income taxes of $2 per month or less. But unlike the President's plan, no gasoline tax increases, no home heating oil increases, no dramatic increases on Medicare fees. More likely, the President's concern is that there is going to be a 10-percent fee on million-dollar incomes, taxes on yachts and airplanes, and finally, restoring the principle that the highest income earners pay the highest tax rate.

Some things, Mr. Speaker, never change. The priorities of the Republican Party are among them. The gentleman from Michigan [Mr. PURSELL] noted the words of Lincoln. Lest the Republicans forget these words:

> If the wealthy should, regardless of the justness of the complaint, complain of the change, it is still to be remembered, that they are not sufficiently numerous to carry the elections.—Abraham Lincoln.

HOW WE DEFINE THE RICH

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, it is campaign season and so we have to define our terms if we can. We have heard calls today that we want to tax the rich, and so it is appropriate to say how we define the rich. In the category of $15 to $50,000 per year, we find 44.4 percent of the taxpayers who file tax returns in America. The Democrat tax plan defines that category of income folks among the rich because their plan will make them pay $639 more per year.

Now, the reality is people in the top 10 percent, during the decade of the 1980's, increased the percentage of total tax collections they paid from 48 to 55 percent. During that decade the bottom 50-percent decreased the percentage of the taxes they paid, from 7½ to 6.1. The reality is the Democratic plan has to reach out like an avaricious, searching for manna for additional revenue in order to feed this monster. They know full well if they want to maintain their power of tax, spend, and elect, it will take additional revenue, and they are trying to masquerade and fool the middle class of America that they are among the benefited class. In fact, they are the stuckee class.

REPUBLICAN ALTERNATIVE NO TAX PACKAGE

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, last night we voted on the Democratic budget package, but the Republicans have an alternative no new tax package to offer, and the Democrats through manipulation of the parliamentary process are preventing this from being offered.

Mr. Speaker, the majority of American people are opposed to new taxes, and our Republican package is representative of what the American people want. However, the taxpayers do not get to have an opportunity to hear this pledge.

□ 1110

The truth is that there is a solid, progrowth alternative to this Democratic budget that does exist, that cuts spending and cuts waste. The Democrat-controlled Congress does an injustice to the American taxpayer and undermines the democratic process by not allowing us to vote on the Republican package.

WE CANNOT AFFORD A NEVER-ENDING FOREIGN AID PROGRAM

(Mr. VALENTINE asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. VALENTINE. Mr. Speaker, as we face yet another shutdown of the Federal Government, with its attendant distress for Federal workers and the millions of Americans they serve, it is time to come to grips with at least one of our many items of uncontrolled spending.

While we debate spending cuts that will do real damage to American citizens, we need to pay closer attention to our foreign aid budget.

I understand and support efforts to help other nations struck by famine, drought, and other natural and manmade disasters. I also understand the economic benefits that accrue to American companies that supply the goods purchased by foreign aid.

But we cannot afford a never-ending, always growing foreign aid program. Why can we not take the simple step of requiring aid recipients to provide us with a definite plan to achieve economic self-sufficiency, at least in the long term? Surely American taxpayers are entitled to know that their dollars are being spent for something other than undergirding the current governments of other nations and promoting endless dependence.

We seem to have an institutional problem: The American people are clearly angry about footing this bill, but the administration and the Congress are not listening. I recognize that we are unlikely to undertake a massive rethinking and restructuring of the foreign aid program at that point in the Congress, but I believe that these tasks should be among our first priorities when the 102d Congress convenes next year.

AMERICAN PEOPLE SHOULD READ BETWEEN THE LINES ON MEDIA COVERAGE OF BUDGET

(Mr. DELAY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, last night, and I have to tell the American people that last night we passed out of this House a Democrat tax increase bill that raises taxes on all Americans by over $180 billion and does not cut spending, except in defense.

The spending cuts they talk about are cuts in the increase in spending. We were not allowed to bring a package offered by the Republicans that cuts spending, had true process reform and no new taxes.

I have to tell the American people that, during this time, because the media will not do it. I give an example of the Washington Post this morning. It is a news analysis masquerading as objective journalism. Nowhere in the articles in the Post this morning does it describe the Republican package. All they describe is that the Republican package did not meet that Democrat deficit target.

Mr. Speaker, the American people should read between the lines, because the media will not tell you the truth.

NO, NO, A THOUSAND TIMES NO TO CHINESE GOODS

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, no, no, a thousand times no to opening the doors of freedom to cheap Chinese goods that are going to come into the United States.

This afternoon we will have a chance to vote on most-favored-nation status, and I say no, we do not want to vote for it. If China, why not Cuba, why not Iraq, or why not any of the other despotic nations of the world?

And lest we forget, the Chinese Government murdered thousands of their own Chinese students in Tiananmen Square just a little over a year ago, only because they wanted a little bit of freedom. They wanted to speak freely, and just a week ago China violated the U.N. boycott of Iraq by sending a rare chemical that will make poison gas, make nuclear missiles, make missile fuel, and why? So that it can kill American troops in the Middle East. Is this who we want as a friend of America, and open our doors to their cheap stuff?

This is crazy. We are losing jobs. We cannot afford it, and I do not want any more cheap goods coming from any of the despots of the world into this market.

A NATIONAL DAY OF PRAYER

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, today along with at least 50 of my colleagues I will be introducing a resolution requesting that the President declare a National Day of Prayer in regard to the situation in the Middle East.

This resolution is also being introduced today in the other body by Senator CONRAD BURNS of Montana and several other Senators.

Our Nation has done this several other times during times of war or great national crisis. Our first National Day of Prayer was declared by the Continental Congress on July 12, 1775.

Our soldiers and their families have been asked to make great sacrifices during this period. As we all know, this is a very volatile situation and one which could be ended peacefully or could erupt into war at almost any time. To declare a National Day of Prayer and do it very soon seems to me to be a very small step, but potentially a very helpful step for us to take. I hope that many of my colleagues will join in cosponsoring or becoming original sponsors of this resolution and will assist to whatever extent possible in this very worthwhile effort.

THE SUPERIOR DEMOCRATIC BUDGET

(Mr. JOHNSON of South Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of South Dakota. Mr. Speaker, last night this body passed a budget which is far from perfect, but nonetheless remains far superior to all other plans that have been submitted to this date. It begins by making the very wealthy in this country contribute more, while avoiding a gas tax and avoiding a big run-up in Medicare premiums.

We have had too much for a decade now of a system of helping the rich get richer, while sticking it to the middle class, the farmers and the elderly.

The President now expresses his opposition, because this plan does, in fact, heaven forbid, raise tax rates on

the superrich and denies them yet still more tax shelters.

I believe the tax plan does take too much from agriculture, but the Republican plan or semiplan which was offered makes an equal cut, while requiring an additional $100 billion in borrowing, and was not superior.

If we do nothing, we will face Gramm-Rudman cuts this next week which will devastate farm income, as well as veterans' and senior citizen programs.

WHO IS BEING TAXED?

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, let us understand who the Democrats regard as rich. We just heard a speech about taxing the rich. The Democrats regard as rich a two-earner family making $35,000 a year. According to the National Taxpayers Union, that family under the tax plan they passed last night is going to pay an additional $2,000 in taxes between now and 1995. Those people are not rich. They are the middle class of America, and they ought not to be forced to pay for the Democrat spending in this Congress.

The problem in Congress is the fact that we have been spending money like drunken sailors. We have been doing it for years, and as a result we are now faced with massive bills.

How do the Democrats want to pay those massive bills? They say they want to take it out of the hides of the rich. They are not taking it out of the hides of the rich. They are taking it out of the hides of the middle class. Middle class America is going to pay a huge new tax bill as a result of what has happened here.

And what do we hear from the Democrats on the floor today? Well, they say it is better than the President's budget summit agreement. I would remind them that the gentleman from Missouri [Mr. GEPHARDT] and Speaker FOLEY signed this same agreement.

IF IT IS GOOD FOR THE MASSES TO PAY TAXES, IT IS ALSO GOOD FOR THE CLASSES

(Mr. FLAKE asked and was given permission to address the House for 1 minute.)

Mr. FLAKE. Mr. Speaker, today we have heard in so many speeches, some of them talking about the many problems that are inherent in the legislation which we passed on last night. It seems to me the more we listen, the more we come to the conclusion, if we were to believe what we hear, that it is bad to tax the rich, that in taxing the rich we cause a recession, we cause the Nation to have a problem, but it is all right to tax the middle class and to tax the poor. That is good for the Nation.

Well, Mr. Speaker, I think it is time for us to say to the Nation, if it is good for the masses to pay taxes, it is also good for the classes.

SEEING THROUGH THE SMOKE SCREEN OF THE DEMOCRATIC BUDGET

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, I hope America can see through this smoke screen. They say they are taxing the rich. A person making $21,000 a year, a single person, is going to pay 5 percent more in taxes under their plan. A married couple making $31,000 a year is going to pay 6 percent more in taxes under their plan.

A family making $44,000 with two children is going to pay $615 more in taxes under their plan. They raised taxes last night, if their bill becomes law, by $180 billion, the largest tax increase in American history.

Mr. Speaker, it is bad for America. It is bad for the economy. It is bad for everybody, but they keep telling you they are soaking the rich. They are soaking everybody. When you take $180 billion of buying power out of the American people's pockets, they will not buy shirts, they will not buy clothes, they will not buy cars, they will not buy furniture, because they can't afford it, and that means people will go on the unemployment lines.

It is recessionary, but the worst thing about last night is, the media did not report that the Republican Party had an alternative, an alternative that would reach the targets without a tax increase, that would not hurt the American economy. Theirs is terrible.

□ 1120

GAO REPORT RE LEGAL SERVICES CORPORATION

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, I rise today to call to the attention of my colleagues the findings of a recent GAO study of Federal Legal Services attorneys' handling of migrant farmworker disputes with agricultural producers. The report clearly shows a lack of accountability for the expenditure of Federal tax dollars. This is entirely unacceptable for a program in which $320 million was appropriated last year, a program that has not been authorized for over 10 years.

Of the eight questions we asked, GAO was unable to answer, even partially, well over half. Why? Because records were incomplete and legal services grantees would not allow GAO access to the program records. Here is an example of what GAO was up against—quoting from the report:

> Because we did not have access to account records, we were unable to verify that the grantees had properly implemented these procedures or that the procedures provided adequate controls over the accounts,* * *.

This is not a way to "run a railroad"; much less, a $320 million Government sponsored program. Representative MCCOLLUM and I plan to offer an amendment to the Commerce-Justice-State appropriations conference report which will address the problems identified in the GAO report, make legal services accountable to the American people and help it to provide the much needed legal services Congress intended it to provide.

ONE REPUBLICAN WHO IS ALL FOR TAXING THE RICH FOR REAL DEFICIT REDUCTION

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, and Members, here is one Republican who is all for taxing the rich, they should pay their fair share. What I am not for is taxing the American people for a Congress that has no discipline.

The fact is in fiscal year 1990 under Gramm-Rudman we were supposed to have a deficit that did not exceed $100 billion. We concluded the year with a deficit that exceeded $240 billion.

Last night this House passed a deficit reconciliation plan. What did it do? It increased gross taxes by $175 billion so we could have tax expenditures of $26 billion, giving us $148 billion in net tax revenue.

We increased premiums and fees by $44 billion, which means we had a total of increased financial burden on the American public of $192 billion. Why? So we could increase spending by $132 billion. That is not deficit reduction.

FIGURES DON'T LIE, BUT LIARS FIGURE

(Mr. HEFNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFNER. Mr. Speaker, I would just like to make a couple of points here. The other side talked about that they had a budget reduction package and they were going to get it all from discretionary spending.

In the past 10 years discretionary spending increased 21.1 percent; defense spending, which we and you supported, increased 126.4 percent; entitlements and other mandatory spend-

ing, which I and you supported, not to cut, increased 96 percent; interest under that "mean old" Jimmy Carter, the interest was $52 billion. Now, in the last 10 years it has increased 150 percent in interest, which we all have to pay whether we like to or not.

So I think for somebody to say, "You are going to get $400 billion in cuts in discretionary spending is totally bogus. "Figures don't lie, but liars figure."

MORE THOUGHTS ON THE GASOLINE TAX INCREASE

(Mr. WASHINGTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WASHINGTON. Mr. Speaker and fellow Members, I was here waiting for another purpose and I was sitting listening to the gentleman from Pennsylvania [Mr. WALKER] and I thought I made a terrible mistake last night because I was listening carefully to what he said. I started to get tense, my throat tightened up because he said $2,000. Then he said over 5 years, which is $400 a year.

I thought I made a mistake until he clarified and in that glib political way kind of glossed over the fact that we are talking about $400 a year.

Well, I feel a lot better now because everybody knows, based on the amount of gasoline which they buy, which the Republicans were going to raise 12 cents per gallon, anybody who does not beiieve they are going to pay $2,000 over the next 5 years to buy gasoline that the Republicans would have raised, I got a bridge in Brooklyn I will sell you.

THE 50th ANNIVERSARY OF AMERICA'S ENTRY INTO WORLD WAR II

(Mr. MYERS of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MYERS of Indiana. Mr. Speaker, 1991 marks the 50th anniversary of America's entry into World War II. It is important for Americans to commemorate this event because it allows the Nation a unique opportunity to honor these veterans in special ways.

Unlike past events marking centennial observances of the American Revolution and the American Civil War, the key players are not all gone.

A newspaper publisher from Indiana, Elbert Watson, sensed the importance of honoring those 9 million living American World War II veterans with a national observance and has promoted the idea of a week to pay tribute to our veterans.

Three State Governors have issued proclamations—Evan Bayh of Indiana, Wallace Wilkinson of Kentucky and Guy Hunt of Alabama—and minority leader BOB DOLE sponsored the legislation which passed in the Senate.

It is significant that a week calling for a national observance of the 50th anniversary of World War II includes the anniversary dates of the Battle of Midway, June 4, when our naval forces defeated the Japanese Navy, and D-day, June 6, when "the boys of Pointe du Hoc" took the cliffs at Normandy. The events and people who participated in the most tremendous undertaking in American history have shaped our economic, political and cultural institutions as we know them today. A national recognition will enable us to understand contemporary and international events better and to pay tribute to many of those people.

By calling for a national observance not only do we remember but we renew our commitment to securing the fundamental rights to freedom.

WHEN ALL ELSE FAILS, THE REPUBLICANS BLAME THE MEDIA AND THE DEMOCRATS

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, watch out for America. When all else fails, the Republicans blame the media. The Republican budget plan was a nonstarter. The President said he would veto the budget plan that fell short of real $500 billion deficit reduction. The Republican plan did not make the guidelines set by their own President. And now they are blaming the media and the Democrats.

The Democratic plan is fair, fair to the elderly, fair to the middle class, fair to all Americans. Two-thirds of the deficit reduction is reached by cutting spending, one-third by raising revenues. And the wealthy pay the most by far. And, very important, the elderly and most of them in the middle class are spared.

Watch out for these Republicans. If the middle-class pays an extra $50 and the wealthy pay an extra $10,000, they will get all exercised defending the middle-class when in their heart they really are protecting the rich.

REAGANOMICS AND THE GNP

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, I have here a graph which you might not be able to see from a distance, but it was prepared from data submitted to the Congress by President of the United States, George Bush, when he submitted his budget to the U.S. Congress.

It shows gross Federal debt as a percent of gross national product. And I will be glad to share this with all of my colleagues on the other side of the aisle.

It shows from 1970 to 1981 that debt decreased as a percentage of GNP. But when we passed Reaganomics, that had increased from 1981 all the way up to here through 1989. Friends, what we are debating here in Congress is who will pay for Reaganomics. I urge every American citizen to become informed because if ever you need to know what is going on in Washington, it is now, or you will have to go into your pocketbook to pay for it.

DEFINITION OF PARTY OF THE RICH

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I listened again with fascination as the gentlewoman from California explained the party of the rich.

I think since Diane Feinstein won the primary with, I believe, $3 million from her husband, it is always fascinating to have Democrats explain who the party of the rich are.

But I want to point out that, according to the National Taxpayers Union, a middle-class family of four with $34,000 in taxable income would have $2,000 in additional taxes under the Democratic plan, $2,000. Not a couple of dollars, $2,000, during the course of this budget.

□ 1130

Mr. Speaker, I would suggest that most Americans who are middle class do not want to pay $2,000 in additional taxes to the Democrats for the privilege of hearing speeches on the rich from a party whose candidate for Governor in California spent $3 million of her husband's fortune just to get the nomination.

REPUBLICANS CARPING ON THE SIDELINES AS USUAL

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, the people of America have a pretty clear choice in this budget debate. First, the Republican Party was unable to meet President Bush's guidelines and criteria for deficit reduction. I say to them, "You're out of the debate. You're merely carping on the sidelines, as usual."

Then take a look at the differences between the two parties.

Yesterday in this Chamber we heard speech after speech that, if we can just reward the rich a little more, if we

can just pamper the privileged a little more, then we are going to have real economic growth in this country.

Mr. Speaker, that is not the formula the American people want. It is not what our Nation deserves.

The figures that are being used on the floor today ignore the fact that the tax increases that were passed yesterday are primarily going to hit the wealthy in America, people making an income of over $200,000 a year.

Mr. Speaker, that pains my Republican colleagues, but it does not pain me or the American people. The folks who have had the party during the Reagan years ought to pay the bill, and that is what the vote last night was all about.

IN RESPONSE TO MR. DURBIN

(Mr. FAWELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAWELL. Mr. Speaker, I yield to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, let me say to the gentleman from Illinois [Mr. DURBIN], my friend, that, first of all, it is outrageous, the arrogance of the Democratic leadership which had a Republican budget it could have brought to the floor.

PARLIAMENTARY INQUIRY

Mr. DURBIN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. Bosco). The gentleman will state it.

Mr. GINGRICH. Mr. Speaker, I believe the gentleman from Illinois [Mr. FAWELL] has the time, and I think he controls it, and I do not think a parliamentary inquiry is in order.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. FAWELL] yielded to the gentleman from Georgia [Mr. GINGRICH], and the gentleman from Georgia is recognized by the Chair.

Mr. GINGRICH. Mr. Speaker, I am shocked that the gentleman from Illinois [Mr. DURBIN] is offended that a Member would answer him.

I would simply make the point that it is outrageous that the arrogant Democratic leadership in this House refused to make in order a Republican budget that cuts spending when they have waived the rule 62 times, for spending increases and when they brought to the floor yesterday a 260-page amendment which nobody read. And it is outrageous that they will not make our budget in order.

The SPEAKER pro tempore. The time of the gentleman from Illinois [Mr. FAWELL] is expired.

IN RESPONSE TO MR. GINGRICH

(Mr. MFUME asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, will the gentleman yield?

Mr. MFUME. I yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Speaker, the gentleman from Georgia [Mr. GINGRICH] fails to acknowledge that, when his own President presented a plan on this floor, he opposed it. The gentleman from Georgia fails to recognize that, when his own President set the standard for this Chamber in budget deficit reduction, his side of the aisle failed to meet that standard.

Mr. Speaker, the President of the United States set the high hurdles for us to clear. The Democrats have cleared the hurdles. The Republicans are trying to run under them. It does not work.

I say to the Republicans, "You have no credibility criticizing our plan until you can meet your own President's guidelines and, failing to do that, all you can do is carp and criticize on the sidelines."

Mr. MFUME. Mr. Speaker, I yield back the balance of my time.

IN RESPONSE TO MR. DURBIN

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, I yield to the gentleman from Georgia [Mr. GINGRICH], our distinguished whip.

Mr. GINGRICH. Let me say, first of all, I love the spectacle of the left-wing Democrats defending the President's position despite the fact that the President said publicly yesterday that he would veto their budget. He was not for the budget they brought up yesterday because it raises taxes on the working American middle class by $654 according to the gentleman from New Jersey [Mr. SAXTON]. The Democrats raised taxes.

Let me say furthermore that our budget was as close to the President's mark on cutting spending as their budget was to the President's mark if they take out the taxes he says he would veto, and I think it is outrageous that they refuse to make it in order, that they gag the Republican Party, and they gag the people of this country, and I am just surprised they are too timid to allow a straight up or down vote on spending cuts versus tax increases.

Mr. SOLOMON. Reclaiming my time, Mr. Speaker, I would say to the gentleman, "Isn't it too bad the press won't print this?"

IF I WERE MR. GINGRICH, I'D BE YELLING, TOO

(Mr. MILLER of California asked and was given permission to address the House for 1 minute.)

Mr. MILLER of California. Mr. Speaker, Members of the House, obviously the Republican Party is deeply hurt this morning by the press accounts across the country and the reaction to people across the country that they failed yesterday in their attempt to have a budget considered. They failed because their budget did not meet the test. The test was $500 billion in deficit reduction. They failed. They failed because they could not meet their own President's test.

Mr. Speaker, that was widely reported last night on the nightly news. It was widely reported in today's newspapers. They, as a party, are stung.

Why are they stung? Because this President has got to make a decision on Friday: Is he going to shut down the Government, imperil people's jobs, health, and safety, to protect the rich? Because that is the only alternative they have now, my colleagues. Either they can let the Government run, as it normally would, or they can choose to throw people out of their jobs, imperil their safety, imperil their health for the sake of making one last fight for the rich of this country who have not paid their fair share over the past decade.

Mr. Speaker, I would be yelling a little loud if I were the gentleman, too. It is interesting he wants to fight about the budget today, as opposed to yesterday when they could have offered one.

WHO WAS THAT UNMASKED MAN?

(Mr. FRANK asked and was given permission to address the House for 1 minute.)

Mr. FRANK. Mr. Speaker, I want to address a security problem we apparently have in this House.

I heard the Republican leader yesterday speak strongly against any tax increases, and that causes me some concern about the security of this House because 10 days ago a person purporting to be the Republican leader stood here and urged this House to pass a tax increase. He said it was urgent that we do that.

Mr. Speaker, when someone, and I was not here at the time, but I read it in the RECORD; when a man can pass himself off on this House 10 days ago as the Republican leader and insist that we pass taxes, only to be contradicted by a man I know to be the gentleman from Illinois [Mr. MICHEL] yesterday, who said no taxes should be passed, the time has come to deal with smoking—I mean about security.

Mr. Speaker, my friend from Illinois was worried about smoking. Let us worry about whoever it was who 10 days ago came in here purporting to be the Republican leader and said, "Pass this bill with gasoline taxes,

with other taxes," and then was confuted by the real Republican leader.

Who was that unmasked man?

THERE ARE NOT ENOUGH RICH PEOPLE TO PAY AMERICA'S BILLS

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, I have listened to every Democrat demagog this issue on the rich-poor. I thought I was at a Marxist cell meeting, hearing the politics of envy and class warfare.

There are not enough rich people to pay the bills for America. I know they are not in my district, and I know that I am not rich, but I have not heard one of the Democrats describe why the middle class are not hit by deferring the indexing for a year as the program certainly does.

Mr. Speaker, we have cited statistics where a $34,000 per year family with two children is socked with a 6-percent increase, and will one Democrat tell me if that is a rich person? Is a man making $34,000 a year rich? And how do they explain away his 6-percent increase under this program?

The SPEAKER pro tempore. The time of the gentleman from Illinois [Mr. HYDE] has expired.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills and a joint resolution of the House of the following titles:

H.R. 4111. An act to amend the Mining and Mineral Resources Research Institute Act of 1984, and for other purposes;

H.R. 5209. An act to amend title 39, United States Code, to make nonmailable any unsolicited sample of a drug or other hazardous household substance which does not meet child-resistant packaging requirements, and for other purposes;

H.R. 5367. An act to provide for the renegotiation of certain leases of the Seneca Nation, and for other purposes;

H.R. 5702. An act to amend the Public Health Service Act to improve the health of individuals who are members of minority groups and who are from disadvantaged backgrounds, and for other purposes; and

H.J. Res. 519. Joint resolution designating August 29, 1990, as "National Sarcoidosis Awareness Day".

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 5482. An act to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of District of Columbia revenue bonds; and

H.R. 5759. An act to amend the Age Discrimination in Employment Act of 1967 to clarify the application of such Act to employee group health plans.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 1747) "An act to provide for the restoration of Federal recognition to the Ponca Tribe of Nebraska, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1756) "An act to provide for the preservation and interpretation of sites associated with Acadian culture in the State of Maine" with amendments.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 639. An act to establish the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Program Act of 1990;

S. 2575. An act to urge the Secretary of State to negotiate a ban on mineral resource activities in Antarctica, and for other purposes; and

S.J. Res. 350. Joint resolution to designate October 18, 1990, as "National Hardwood Day."

□ 1140

CONFERENCE REPORT ON S. 2104, CIVIL RIGHTS ACT OF 1990

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 504 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 504

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, and all points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore (Mr. Bosco). The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 504 waives all points of order against the conference report to S. 2104, the Civil Rights Act of 1990, and against any points of order against its consideration.

Mr. Speaker, it may seem that we have done this rule before, and if it seems that way, it is because we have. Just last week, under an identical rule, we discussed a conference agreement reached on the Civil Rights Act with the recommendation of the chairman of the Committee on Education and Labor and the chairman of the Committee on the Judiciary. We voted to recommit that bill to conference.

Mr. Speaker, the reason we did that is that this was our third attempt to reach a compromise on this piece of legislation, and in fact it is my understanding that the chairman of the Committee on Education and Labor will recommend a vote on final passage today based on that new compromise that was reached.

The reason that we are in search of a compromise is that we are looking for a bipartisan bill. I know it is difficult to believe at this point in time that there would be anything that we could agree upon between Democrats and Republicans in this House of Representatives, but in fact on this bill we have reached a measure of accord, and we have a bipartisan bill prepared that we can send to the President of the United States.

Mr. Speaker, the rule today provides for consideration of that bill, and provides that all points of order against that bill are waived.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. WHEAT. I yield to the gentleman from Illinois.

(By unanimous consent, Mr. HYDE was allowed to speak out of order.)

STATEMENT OF APOLOGY

Mr. HYDE. Mr. Speaker, I want to apologize to the gentleman from Massachusetts [Mr. FRANK]. I was very much out of line in what I said. It was said in anger. One should never speak in anger. I did. It was out of line.

Mr. Speaker, I apologize to the gentleman from Massachusetts.

Mr. Speaker, I would like to have my words physically withdrawn from the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois [Mr. HYDE]?

There was no objection.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. WHEAT. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, I appreciate the statement of the gentleman from Illinois [Mr. HYDE]. I accept it fully, as a friend, from one to another.

Mr. SOLOMON. I thank the gentleman for yielding.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just say we have before us today what is essentially the same rule as the one passed the other day. All points of order against this Civil Rights conference report are waived. However, as every Member knows, we committed the conference report back to conference last week, so we have today a slightly modified version to consider.

Mr. Speaker, I am informed that these changes are not sufficient to satisfy the concern of the administration regarding the matter of quotas. Suffice to say, right now these further changes have necessarily entailed exceeding the scope of the conference. Therefore, all points of order have been waived.

Mr. Speaker, I have some genuine misgivings about this conference report. There is no point to be served by delaying the proceedings; so I urge that we go forward with this rule, even though I personally plan to vote against the conference report, which will certainly be vetoed by the President.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. I thank the gentleman for yielding.

Mr. Speaker, there is not much that can be done to stop this rule, I realize. But to the gentleman from Missouri [Mr. WHEAT] who made the statement that what we have is a bipartisan compromise, I can only say that based upon months and months of working on this 1990 civil rights bill, there is absolutely no compromise whatsoever.

Please, disabuse yourself of that. We went to the conference committee, the Republican Members, and I had a version of the LaFalce amendment with several changes which I wanted to reintroduce in this conference committee, which was held out by the gentleman as being an effort to bring together divergent views. I was gaveled out of order. I never even had the opportunity to present my amendment.

When I got to the conference committee, Senator KENNEDY was immediately given the floor. He presented an amendment that a number of people within the proponents of this legislation had worked on. Senator HATCH also had a part to play in it. But as he pointed out to the conference, he could not support this because the President did not find that it came anywhere near the guidelines which the President had.

But let us be fair. There are a lot of us who have good intentions about trying to work out an acceptable bill.

But we in the minority are used to being trampled over. My back is black and blue from being walked over in regard to every suggestion that I have tried to make in regard to this legislation.

The gentleman from Wisconsin [Mr. SENSENBRENNER] also followed with an amendment suggestion at this same conference committee to which the gentleman from Missouri [Mr. WHEAT] has made reference, and said let us give some thought to the remedies section insofar as having the Members of this body being subject to a jury trial in a Federal district court where compensatory and punitive damages would be awarded. Let us give some thought to that.

Mr. Speaker, they would not give him the time of day. I had to go before the Committee on Rules even before the conference committee was held because they were all set to pass a rule that waived all of the rules, and they had this one amendment all set to go, even before we got to conference.

This is commonplace around here. But then to stand up and say we have a compromise bill here and to imply, I gather, at least maybe I am misconstruing the words of the gentleman, because he is an honorable person, but at that conference all we did was slambam, and that so-called compromise which makes the bill worse was jammed through, we were stomped on, and then the next morning the same rule, which was not passed the day before, before the conference committee, was, of course, passed.

So I just want to say, hey, there is no compromise here. There is no bipartisanship to this, at least certainly not in this House, and not as far as the President is concerned. I do not think it ought to be held out in that way.

Mr. MFUME. Mr. Speaker, will the gentleman yield?

Mr. FAWELL. I will be glad to yield to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. I thank the gentleman for yielding and appreciate all of the work he has brought on the conference committee. The gentleman and I both served as conferees on this. It was a difficult process.

Mr. Speaker, I would ask the gentleman from Illinois [Mr. FAWELL] to recall the fact that it was the majority on the committee that twice went back and made modifications based on suggestions from the White House that their position be compromised.

□ 1150

We went through two conferences, and the second group of compromise provisions were in fact adopted.

I would go back to the gentleman's statement regarding the gentleman from Wisconsin [Mr. SENSENBRENNER], and remind him that his position was voted on at the first conference and voted down, as best I recall, and was not allowed to be brought up again, simply because it had a vote on it.

Mr. FAWELL. Reclaiming my time, in the first conference it was my motion. Indeed, while we were in middebate on that motion we had a vote call, the gentleman will recall, and we all came back to the floor. I came back to committee and it was off, I was no longer recognized. Senator KENNEDY was recognized, and I never got a vote on my amendment. I never even was allowed to continue the debate on that very motion.

I am used to this. But please understand what I am saying is that what was brought back into conference was something that has been worked out by the elite of the civil rights movement, by the people who are in the in, who are the proponents, and you attempted to sell it to the White House. The White House said no, we cannot possibly accept this. It was dead then. It is dead now as far as I am concerned. It was no really reasonable effort whatsoever as far as I am concerned.

We will be debating this in a very short period of time. The point I want to bring out, I know this gentleman, you supported me on that motion, for instance, to have the Congress covered by the remedial aspects of this bill. As the gentleman and I know, this is the last great plantation. We know racial discrimination takes place. We know sexual discrimination takes place here which should be actionable, but we know we are, under this bill, going to become prosecutor, judge and jury, of all discrimination charges, and it is going to be business as usual, and we will all close our eyes to that. I know the gentleman does not like that.

But to say that what was jammed back into this conference committee, as the gentleman from Illinois [Mr. MICHEL] said, let us take it back to the conference committee and abide by the guidelines the President has set forth, that just is not fair, and I want to make it clear, because some people are under the misapprehension that there is some kind of a compromise here. There certainly is not, with all due respect to how much you may respect the particular substance of what is the redraft, the umpteenth redraft of this bill. You have convinced some people around here that, hey, there has been a compromise, and we have really accomplished something. But that is not so.

I want to make it very clear, and perhaps one bright light is the fact you have given me the opportunity to certainly make it clear, that there is certainly no compromise as far as the White House is concerned. There is no compromise insofar as so many of us who have labored so long and so hard to try to have some voice of reason from our point of view accepted by you folks.

Again I thank the gentleman for yielding and yield back any time I may have remaining.

Mr. WHEAT. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. HAWKINS], chairman of the Committee on Education and Labor, who has worked so long on this bill.

Mr. HAWKINS. Mr. Speaker, I want to express my appreciation to the gentleman for yielding to me and also to the gentleman from Illinois [Mr. FAWELL]. The gentleman has raised a point of bipartisanship. I think he has

done a real service, because the gentleman from Illinois, I can assure Members, has been given more time in the committee and in conference on this issue than any other single individual. So he has had sufficient time I think to establish his claim.

Now he says it is not a bipartisan compromise. I wish to report that we went back to conference a second time, which is a very unusual procedure, at the request of a group of Republican Senators, actually. Senator HATCH and Senator SPECTER had worked with the administration on the very amendments that we went back to conference, over the opposition of some of my very dear friends in the civil rights movement, including some of the Members of Congress who voted against us to go back to conference.

May I just simply say that I will put in the RECORD a letter sent to Members of Congress, by Mr. TOM CAMPBELL, Mr. PAUL HENRY, and Mr. CARL PURSELL, three Republicans, who in their first paragraph addressed to "Dear Republican Colleague," said this: "We are writing to enlist your support for the significant bipartisan compromise on the Civil Rights Act of 1990."

So apparently the gentleman disagrees with some of his very distinguished Republican colleagues who say that they participated, and they refer to it as a bipartisan compromise.

I submit the full text of that letter which has been addressed to Dear Republican Colleague for the RECORD.

The letter referred to follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 15, 1990.

DEAR REPUBLICAN COLLEAGUE: We are writing to enlist your support for the significant bipartisan compromise on the Civil Rights Act of 1990 as reported out of the House-Senate Conference Committee on October 12, and to ask you to join us in urging President Bush to sign the bill into law.

Some of us previously voted for the bill on final passage in the House and others voted against. We have come together recently to help craft and to support an agreement that addresses our principal concerns and those stated by the Administration. Specifically, the new compromise will:

Address the quote issue in several ways. In addition to providing expressly that the bill may not be interpreted to encourage or require quotas, the bill now requires all plaintiffs to prove which specific job practices are responsible for disparate impact, except where an employer has destroyed or does not produce the relevant records. It also makes it easier for an employer to justify a practice under the defense of business necessity. Particularly with these changes, there is no way that the legislation can fairly be characterized as a quota bill.

Maintain the language: "the mere existence of a statistical imbalance in an employer's workforce on account of race, color, religion, sex or natural origin is not alone sufficient to establish a prima facia case of disparate impact violation."

Eliminate both compensatory and punitive damages in "mixed motive" claims where an employer proves that it would have taken the same job action in the absence of discrimination.

Further promote fairness for employers by providing that where a third party brings an unsuccessful challenge to a court order or decree, the court would have the discretion to determine how attorney's fees should be assessed as between the employer and the third party.

We ask you to join us in our effort. We are convinced that what the national interest requires is a civil rights bill that will unite Americans, not a political issue that will divide us. We believe that the compromise we are supporting offers the best chance of achieving that objective.

TOM CAMPBELL.
PAUL HENRY.
CARL PURSELL.

Mr. WHEAT. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California [Mr. EDWARDS], chairman of the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary.

Mr. EDWARDS of California. Mr. Speaker, I thank the gentleman from Missouri for being so generous to allot me this time. I was the chairman of the subcommittee of the Committee on the Judiciary that worked with the gentleman from California [Mr. HAWKINS] and the splendid Education and Labor Committee to bring this wonderful piece of legislation to the floor. I am very grateful to the Rules Committee for allowing us to be here today, and I am also grateful to the members of my staff who are here, Ivy Davis and Stuart Ishimaru, who worked long and hard on this bill.

Mr. Speaker, I rise in support of the conference report on S. 2104, the Civil Rights Act of 1990.

S. 2104, as approved by the conference, is much like the bill overwhelmingly approved by the House in August. The Senate receded on virtually every difference between the two bodies. The conference also agreed to a number of additional Senate amendments to address remaining concerns about the bill, while, at the same time, meeting our goal of providing effective civil rights protection.

The Civil Rights Act of 1990 amends the Civil Rights Acts of 1866 and 1964 to restore and strengthen civil rights laws that ban discrimination in employment. The Supreme Court dramatically narrowed these laws in a series of decisions last year.

The Civil Rights Act of 1990 also overturns a number of other cases that have adversely affected the ability of victims of employment discrimination to find an attorney and to present a case. It also makes important changes to strengthen the civil rights laws and to fill inexplicable gaps in the law.

The major difference between the two bills was a cap on punitive damages. The House bill placed a cap on punitive damages of $150,000 for nearly all businesses, except large businesses of over 100 employees. The conference removed this small business limitation. While I do not support, and did not vote for, any cap or for removing the small business limitation, the Senate conferees were insistent on removing the limitation, and I support the bill as agreed to by the conference.

The White House reportedly still threatens to veto this bill, because it claims the bill would allow and encourage quotas. Mr. Speaker, we've heard this argument time and time again; it's time to put it to rest.

Both the House and Senate took numerous steps to address the quota issue. We continually refined the definition of "business necessity" to insure that it would follow the standards first established in 1971 in Griggs versus Duke Power Co. and which continued in effect until the disastrous case of Wards Cove versus Atonio. We also added a clear and unambiguous statement of congressional intent that this bill is not intended to require or encourage the use of quotas.

For all the talk of quotas by the White House, and by opponents of civil rights, they have never showed us a single one. There is no evidence, absolutely none, that the Griggs decision resulted in quotas. On the other hand, there is overwhelming evidence that unfair practices that have a discriminatory effect continue to exclude qualified persons from employment opportunities. These unfair practices must be eliminated from the workplace.

The language in the bill before us is language from Griggs, and demonstrates our intent to codify Griggs and its successful 18 year history. Employers were able to meet their burden under Griggs without resorting to quotas—again, there is no evidence that Griggs led employers to use quotas to avoid litigation. By restoring the Griggs standard, the requirements of the Civil Rights Act of 1990 will not lead to quotas.

We have done everything possible to safeguard against the use of quotas, while prohibiting unfair practices that have a discriminatory effect. This apparently is not enough for the White House. Without having offering a viable or effective alternative, the President says he will veto this bill. If he does, he will join the select ranks of Presidents Andrew Johnson and Ronald Reagan in vetoing a civil rights bill. Mr. President, we expected better from you.

The President's veto of the Civil Rights Act will have devastating consequences because these damaging Supreme Court cases will not be overturned. For example, we learned during our extensive hearings that hundreds of lawsuits have already been dismissed because of these decisions. Countless others have not even

been filed since the Supreme Court made it virtually impossible to successfully bring an employment discrimination case.

Just this week, the New York Times reported that courts across the country are reopening civil rights cases settled by consent decree, some up to 20 years old, a situation we tried to avoid by overturning Martin versus Wilks. And these cases only begin the tidal wave of litigation, a real lawyers bonanza. For nearly 90 percent of all employment discrimination cases brought by the Justice Department from 1972 to 1983 were settled by consent decree, even though, as former Assistant Attorney General Drew Days notes, there was "plenty of evidence of discrimination."

Mr. Speaker, the Civil Rights Act of 1990 gives us the opportunity to reinvigorate the civil rights laws banning discrimination in employment. The Congress must seize this opportunity to provide equal opportunity for all Americans, even though the President apparently will abandon his responsibility to make equal opportunity a reality.

□ 1200

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH], the ranking Republican on the Committee on the Judiciary.

Mr. FISH. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, a couple of issues have come up.

First of all, as to whether this effort has been bipartisan. Well, certainly in the last few weeks during the negotiations there have been three Members of the other body, Senators HATCH, SPECTER, and JEFFORDS, who have been very much involved, and on our side in the House negotiations, two Members who had voiced serious concerns with various parts of the bill during the course of debate in the House some time back, the gentleman from Michigan [Mr. HENRY] and the gentleman from California [Mr. CAMPBELL]. My friend, the gentleman from California [Mr. EDWARDS], the subcommittee chairman, talked about the damages section and the changes in there.

I would like to address briefly this whole issue of quotas once again and what we have attempted to do.

The conference-reported language unequivocally rejects any suggestion that employers must resort to quotas. In no uncertain terms, it states that the "mere existence of a statistical imbalance in an employer's workforce on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation" and, again, "[n]othing in the amendments made by this Act shall be construed to require an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex, or national origin * * *."

We further refined this to say require "or encourage."

Some still have described our efforts to address the quota concern as inadequate. They argue employers, nevertheless, will rely on quotas to protect themselves against claims that groups of employment practices have a disproportionate adverse impact on women and minority groups. This overlooks the critical point that the complaining party essentially must link a specific practice or practices to disparate impact unless the respondent forecloses that possibility.

In our recommitted conference, we adopted language that should remove any lingering ambiguity on this issue. It says that "the complaining party shall be required to demonstrate which specific practice or practices are responsible for the disparate impact in all cases unless the court finds after discovery (a) that the respondent has destroyed, concealed or refused to produce existing records * * *, or (b) that the respondent failed to keep such records."

Mr. Speaker, this is a fair and a balanced formulation.

Employment practices resulting in disparate impact, of course, may not be unlawful. The business-necessity defense comes into play at this point, and legislative language that we have incorporated in the conference report codifies, and explicitly acknowledges it codifies, the meaning of business necessity as used in Griggs versus Duke Power Co., a Supreme Court decision with an 18-year history of not leading to quotas.

The new conference report to be brought before us today modified the business-necessity definition to further clarify that certain employment decisions have enhanced protection. The proposal also facilitates proof of business necessity by specifically delineating additional categories of admissible evidence.

Mr. Speaker, that is all I will be saying at this point. I will have further opportunity during the general debate, but I thought it would be worthwhile to put on the record following my colleague's statements about damages just what we are trying to accomplish to meet the concerns of our colleagues on quotas.

Mr. WHEAT. Mr. Speaker, for the purposes of debate only, I yield 10 minutes to the gentleman from Texas [Mr. WASHINGTON].

Mr. WASHINGTON. Mr. Speaker, and Members, I thank my good friend from Missouri for yielding me this time.

Mr. Speaker, I will not go over the reasons why I am so interested in the civil rights bill. I think that they are rather obvious.

When I practiced law, I realized that I could have made a lot more money representing people in automobile-accident cases and things of that nature. In fact, a Federal judge once told me that I ought to stop trying civil rights cases and make a lot of money in admiralty law, and there are a lot of areas of the law where lawyers make a lot of money.

My feeling always was that somebody had to do this work, because where I started out from in life, I never had a dream of the possibility of being where I am now, so I owe something back.

What I owe back is to fight for the rights of people who were, like me, who was a poor kid who grew up about 30 to 40 feet from a railroad track in first ward in Houston, TX, who had the benefit of a modicum of an education but never had an opportunity to think that I could be a lawyer, certainly not a Member of Congress.

If I had to vote just based on how I feel inside, I would vote against this bill, but I am going to vote for it. I am going to urge others to vote for it.

You see, my problem is that even though I am 49 years old, I am still impatient. I think that when I read the Constitution that I love so much and I look at the Declaration of Independence and all of those things that those great people wrote down years ago, I believe them. My problem is I believe that those words were promises that were made to all of us, not black or white or brown or rich or poor or old or young, but those words were great because this is a great country. I believe fundamentally that one day we will be one people and we will not look at people, whether they are disabled or any other way, and I believe that this is a step forward.

Make no doubt about it, this is still a crumb from the table. We ought to be able to pass one bill one time that puts everybody on par. This bill still leaves the women behind, and that troubles me, because as a person, deep down inside, I know that we will never have equality in this country until we stop looking at each other as being different and start looking at each other as being all of God's children. That troubles me. But I plan on being in Congress a long time, and I promise that the rest of my career I will continue to remind my colleagues every session, "Do not forget the women. Do not forget this group, and do not forget that group," because, first of all, in 1964, we forgot about the disabled people. We were insensitive. We overlooked them. But we made up for that this year.

We are still leaving the women behind. As long as the possibility exists that a woman can be harassed in the workplace in the lowest, dirtiest kinds of ways and have no choice but

to quit the job in order to have any compensation at all or stay on the job and suffer the indignities, we do not have civil rights yet in this country.

My problem is though that unless we pass this bill and the President signs it, I think that the signs I see around, and maybe I am just paranoid, I do not think that David Duke is a unique phenomenon. I do not think that spray-painting synagogues is a unique phenomenon. I do not think the skinhead movement is unique. I do not think that the Japanese racial slurs which were made against black people but which offend all Americans is a phenomenon. I think that we have lost our way, and we need leadership. We need to show the entire world that looks to us for direction and guidance that although we have many cultures, many religions, various kinds of people, we can live together in this country as one people, and that what we wrote down in our Declaration of Independence and what we wrote down in our Constitution means something to all of us.

We know that we still have problems, because laws are made as institutions, individuals have to enforce them.

The problem is some of our people are still prejudiced. All of us have prejudices one way or another. I believe that this is a good compromise overall. I believe that the bottom line of allowing a jury, the people who are smart enough to elect the President, the Vice President and all of the Members of the Congress is the best safeguard. I fundamentally believe that juries are not going to run away with these damage provisions. If they are smart enough to elect us, how can we look them in the eye and tell them that they are not smart enough to decide, first, whether a person has been discriminated against, and if so, how much compensation that person should have? I think that they are better equipped than we are, because we are politicians, to be able to feel the discrimination that people suffer, regardless of what race, color, or whatever kind of discrimination it is.

Let us talk about Wards Cove for just a minute and follow up on what my good friend, the gentleman from New York [Mr. FISH], said about Griggs versus Duke Power.

The gentleman from New York [Mr. FISH] said that we have lived with Griggs versus Duke Power from 1972 until 1989.

I was not a Member of the Congress in 1972, but many Members here were. Was there a great hue and cry from the business community to overrule Griggs versus Duke Power? The answer to that question is no. The business community lived with Griggs versus Duke Power.

Let Members talk about quotas. It is offensive to any person who has ever been discriminated against for the word "quotas" to come up, because quotas implies, although a person does not say it, that they are talking about unqualified people. Griggs versus Duke Power does not even reach unqualified people. First, people have to be qualified for the job. Griggs says if you have a factory, and over a period of 20 years, they have never had a woman to rise to the position of supervisor, and a woman goes to court to prove that she is capable of being a supervisor, that she ought to be able to use statisitics to show that women have been discriminated against. What is wrong with that? There is absolutely nothing wrong with that because we use statistics and figures to prove anything and everything in the world that we prove every day.

But what Wards Cove versus Atonio did is chop away at the basic fundamental right of people to get into court, because discrimination is subjective. They do not go around calling a person the "N" word or the "B" word anymore. They discriminate against a person in ways that are more subtle. So, if they discriminate in subtle ways, the only thing a person can do to prove they discriminate is to show over a period of time that they never hired any green people, or a woman, or any other group protected from being discriminated against under our law.

What is wrong with that? What is wrong with it? What is wrong with having one standard so all our people can live together? No person is looking for a handout. The only thing people are looking for is an opportunity. Nobody is asking anyone to give anyone anything. We are asking others to stop denying citizens things because they happen to be a certain color or certain sex, or Asian, or Hispanic, or whatever. We are asking people to treat all of God's children one way, one time. For 58 years there was legal discrimination against black people in this country. Where would we be if we had not been held tied by both hands, and hogtied on the ground for 58 years? There would be a lot more people in Congress for one thing. There would be a lot more blacks in business, because we were denied not just the right to vote, we were denied opportunities. We were denied achievement. We were denied power.

No person is asking for reparations. I am asking others to give people the crumbs from the table. Give the people these measly crumbs.

We have compromised on this bill. This bill is not enough, and it will not go away. The President will sign this bill because if the President does not sign this bill, then the people throughout the land who want to be skinheads, and who want to be David Dukes, and who want to find some reason to discrimimate against people, will have ammunition. We have to stop that ammunition. We are the Congress. This is not about being a Democrat or a Republican. This is for people.

All people in this country are looking to Congress. We are the elected leaders. Whether we like it or not, and I do not like it. I am this close to voting against it. I think collectively we ought to stand up and be leaders, because we are the leaders of this country and we ought to lead. It is more important that we send a signal out to the people who, in the dark of night, spray paint synagogues, who discriminate against Jewish people and Hispanic people in subtle ways. It is not perfect, but it is better than anything we will ever have, and it is more important that we send a signal that we stand collectively, shoulder to shoulder, Democrat and Republican, Wisconsin and Texas, to tell them we are not going to tolerate discrimination any more in this country.

It is the right, it is the duty of the Congress to clarify the misinterpretation of the Civil Rights Act of 1964, as amended, whenever and wherever the Supreme Court has ventured from our ultimate goal of establishing a country in which discrimination does not exist.

Compromise is the art of the possible, and, although there are certain aspects of the conference committee report with which I differ, I believe that is a compromise in the true sense of that definition. Were I writing the bill, I would not, under any circumstances, provide for a cap on damages. I believe that the only legitimate cap on damages is to have a jury of intelligent people. The people in this Nation are intelligent enough to be given the most important responsibility, that of electing its leaders. Those people are the same people who serve on juries. I believe that they can find the fundamental truth and dispense justice. I would not, under any circumstances, impose a cap, particularly upon women who are just attaining the opportunity to be protected from discrimination.

What we need, now more than ever, is truth, not indifference. What we need, now more than ever, is justice, not charity. This bill provides that the truth of discrimination in the workplace will be ferreted out, found, and dealt with. This bill provides that justice, not charity, not quotas, will be the law of the land for the people who have sufferd the most because of discrimination in the workplace in our country.

In short, this bill provides not quotas, but finally, lo these many years, equal opportunity in the workplace.

The world is waiting to hear from us. We hold ourselves out as the leaders of the free world. We fashion ourselves as those who are able to show the leadership by which the peoples of the world mold their fledgling democracies. The world is waiting to hear from us as to whether we can treat all of our people fairly and with the dignity that we preach to the rest of the world.

Racial strife in New York.

Skinhead movement.

Defacing synagogues.
David Duke campaign.
Japanese racial slurs.

Leaders must lead. One is not a leader merely by having been elected. The obligation of leadership is to lead. The Congress must lead in this endeavor to ensure that we set a proper example for all of the world as to how people, from different backgrounds, with different religions, can come together, and work together, and live together, in peace and in harmony, and without discrimination.

The background against which this legislation comes to the floor of the Congress is painful, but we must be reminded, because those who forget the lessons of history, are doomed to repeat it failures.

We must never forget the shame of slavery in this Nation, under which persons of African descent were forced into bondage, against their will, contrary to the Bill of Rights, contrary to the Constitution, and contrary to all of the things that this Nation said that it stood for. Four million human beings were owned by other human beings and lived in an area of the country where only 340,000 nonslaves lived. twelve/thirteenth's of 4,340,000 people had no rights guaranteed by the Constitution.

After slavery, legal discrimination continued. Although many people of good will in this country fought long and hard to overcome the vestiges of slavery, the Supreme Court thwarted the will of the Congress and of the people in its interpretation of the Reconstruction amendments to the U.S. Constitution when they decided the Slaughter House case, the civil rights cases, the infamous Dred Scott decision, and Plessy versus Ferguson.

After reconstruction, by force, by violence, by threat, and by artifice, black people were denied their rights in the South and in many other parts of this land. Women were not considered as good as men and had no right to vote. Hispanics and Asians had virtually no rights at all under our laws.

For 58 years, from 1896 to 1954, in many if not most parts of this land, Plessy versus Ferguson meant separate but equal. It was from 1896 to 1954 before the true meaning of the Constitution began to be applied to persons who happened to have been born black. During that 58 years, blacks had no opportunities in voting, jobs, housing, schools, careers, prestige, wealth, achievement, or power in this land. It is to overcome these unquestionable facts that we need to pass the civil rights bill of 1990.

During the 1950's a few gains, with all deliberate speed, were made on behalf of the people who had been subjected to discrimination in the past. During the 1960's civil rights began to be the topic of public discussion and the emerging rights of individuals began to be a part of our conscious decision making. During the 1970's the rights of women, Asians, and Hispanics came to the forefront. During the 1980's these magnificent efforts began to slow, and in many parts of the country came to a halt. It was at the very end of the 1980's that the Supreme Court decided the cases which we must rectify today.

It is now in the 1990's, that we all speak of a new order. The new order must be one of inclusion.

Now is the time to overcome, forever, the dark days of the period of our history which can only be looked upon with shame. Now is the time to overcome the effects of 58 years of legal discrimination in this country. Now is the time to overcome 94 years of the vestiges of Dred Scott, Slaughter House, and Civil Rights cases and Plessy versus Ferguson. Now is the time for a new order in our country. So long ago, our country promised truth and justice—we want our country back. How long must we wait for our rights to be insured? Not long. How long must we wait for the Constitution and the promises of democracy to be kept? Not long. Not long, because truth forever on the scaffold and wrong forever on the throne, yet that scaffold sways the future, and behind the dim unknown, standeth God within the shadows keeping watch above his own. How long? Not long, because truth crushed to Earth shall rise again. How long? Not long, because the arc of the moral universe is long, but it bends toward justice.

The Congress had to rise above the veto of President Andrew Johnson in passing the Civil Rights Acts of 1866. The Congress had the support of President Lyndon Johnson when it passed the Civil Rights Act of 1964 and the Voting Rights Act of 1965. We fully expect that the Congress will have the support of President Bush when the Civil Rights Act of 1990 reaches his desk. History demands the same and the country can accept no less.

This is not about being a Democrat. This is not about being a Republican. Every woman you see in a good job, every black that you see that has made progress in our society, every Hispanic who is doing well in our society, every Asian who is enjoying the benefits and the blessings of liberty, most Polish-Americans, most Irish-Americans, most Italian-Americans, have benefited from the opportunities of this good country because of strides that we have made collectively to overcome discrimination in any form and at any time by any character or individual. Now is the time for us to end forever the good old boy network by including everyone. No one is looking for a quota; everyone is looking for an opportunity. No one is asking for a handout; everyone is asking for a chance.

Americans, by and large, are good at heart. If they could see the damage that discrimination does, as we have seen, if they could feel the pain that discrimination causes, as we have felt, if they could know the disincentive that discrimination is, as we surely know, they would stand up for the women who is victimized in the workplace. They would stand up for the Asian person who is not given a chance to have a job. They would stand up for the black person who is denied a promotion because of color. They would stand up for the Hispanic person who is passed over time and time again, who trains the persons who end up being supervisor. They would stand up for the Jewish person who is the victim of quiet and subtle discrimination. They would stand up for the disabled person who is overlooked time and time again. They would stand up for the gay person who is fighting, not only to have a rightful place in our wonderful and bountiful country, but also fighting to be understood as one of God's creatures.

We have lost our way in this country, but we have not lost our will.

In response to arguments I hear from time to time about the Civil Rights Act of 1990, and about affirmative action and about set asides for those who have not had an opportunity to participate fully in our democracy, I am reminded of the story of the chief magistrate in Great Britain during the time of slavery in this country. The story is told that a ship docked in England that carried some slaves. One of the slaves set foot on English soil and people of compassion and mercy in that country took the slave in and would not allow the ship captain to reclaim the slave at the time the ship was to depart. A great legal battle ensued over whether a slave, once upon English soil, was then considered to be a freed man. The argument that I hear in opposition to the Civil Rights Act of 1990, sounds strikingly similar to the arguments made in opposition to the application of English law.

The arguments were great protestations to the unsettling affect that this would have upon commerce and how difficult it would be to administer and how important it was to honor the rights of the ship captain. After hearing arguments and looking at legal precedents the lord high magistrates said, and I quote: "Let justice be done, though the heavens may fall."

Now is the time for the Congress to stand up for truth. Now is the time for the Congress to stand up for justice. Now is the time for the Congress to stand up for America.

AN ADDRESS TO THE LOYAL CITIZENS AND CONGRESS OF THE UNITED STATES OF AMERICA, AUGUST 1865

(During 1865 and 1866 Negroes in a number of Southern cities held conventions in which they discussed their problems and formulated appeals for support and protection from the people of the nation. This address was adopted by a convention held in Alexandria, Virginia, from August 2 to 5, 1865.)

We, the undersigned members of a convention of colored citizens of the State of Virginia, would respectfully represent that, although we have been held as slaves, and denied all recognition as a constituent of your nationality for almost the entire period of the duration of your Government, and that by your permission we have been denied either home or country, and deprived of the dearest rights of human nature: yet when you and our immediate oppressors met in deadly conflict upon the field of battle—the one to destroy and the other to save your Government and nationality, we, with scarce an exception, in our inmost souls espoused your cause, and watched, and prayed, and waited, and labored for your success. . . .

When the contest waxed long, and the result hung doubtfully, you appealed to us for help, and how well we answered is written in the rosters of the two hundred thousand colored troops now enrolled in your service; and as to our undying devotion to your cause, let the uniform accalamation of escaped prisoners, "whenever we saw a black face we felt sure of a friend," answer.

Well, the war is over, the rebellion is "put down," and we are declared free! Four fifths of our enemies are paroled or amnestied, and the other fifth are being pardoned, and the President has, in his efforts at the reconstruction of the civil government of the

States, late in rebellion, left us entirely at the mercy of these subjugated but unconverted rebels, in everything save the privilege of bringing us, our wives and little ones, to the auction block. . . . We know these men—know them well—and we assure you that, with the majority of them, loyalty is only "lip deep," and that their professions of loyalty are used as a cover to the cherished design of getting restored to their former relations with the Federal Government, and then, by all sorts of "unfriendly legislation," to render the freedom you have given us more intolerable than the slavery they intended for us.

We warn you in time that our only safety is in keeping them under Governors of the military persuasion until you have so amended the Federal Constitution that it will prohibit the States from making any distinction between citizens on account of race or color. In one word, the only salvation for us besides the power of the Government, is in the possession of the ballot. Give us this, and we will protect ourselves. . . . But, 'tis said we are ignorant. Admit it. Yet who denies we know a traitor from a loyal man, a gentleman from a rowdy, a friend from an enemy? The twelve thousand colored votes of the State of New York sent Governor Seymour home and Rueben E. Fenton to Albany. Did not they know who to vote for? . . . All we ask is an equal chance with the white traitors varnished and japanned with the oath of amnesty. Can you deny us this and still keep faith with us? . . .

We are "sheep in the midst of wolves," and nothing but the military arm of the Government prevents us and all the truly loyal white men from being driven from the land of our birth. Do not then, we beseech you, give to one of these "wayward sisters" the rights they abandoned and forfeited when they rebelled until you have secured our rights by the aforementioned amendment to the Constitution. . . .

Trusting that you will not be deaf to the appeal herein made, nor unmindful of the warnings which the malignity of the rebels are constantly giving you, and that you will rise to the height of being just for the sake of justice, we remain yours for our flag, our country and humanity.

(From "Great Issues in American History, Volume II," Richard Hofstadter, ed., Vintage Books, New York, 1958)

Mr. FAWELL. Mr. Chairman, will the gentleman yield?

Mr. WASHINGTON. I yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Chairman, I think all Members can agree very much with what the gentleman has said, but would the gentleman not agree, if it were not for so many outsiders playings parts on so-called compromise, the gentleman and I and several others could have gotten together and worked out a very acceptable civil rights bill; is this not so?

Mr. WASHINGTON. I believe so, and the gentleman and I worked long and hard on that. It is not a perfect system, and I am just a part like the gentleman, a tiny spoke in a big wheel.

I agree that this is the last plantation. We ought to come back next year to put employees of the Congress under the civil rights bill. There is no justification for that. However, what I am saying is that we should not throw out the baby with the bath. There are enough good things in here to put the law back where we were before the Supreme Court decision, that we ought to stand for, and vote for it. I promise the gentleman that I will work with the gentleman, as long as I am in the Congress, to put the Congress under the same constrictions against discrimination as is the rest of the country.

Mr. FAWELL. But the gentleman, I am sure, would agree with me that there are very sound questions that a number of Members have?

Mr. WASHINGTON. I disagree. We raised the threshold of what is required to prove discrimination in the last compromise. Not the gentleman and I, because I voted with the gentleman. They lowered the standard for justification of discrimination.

Mr. FAWELL. We were not part of that justification, were we?

Mr. WASHINGTON. We were not on the prevailing side, but such is the nature of democracy.

Mr. SOLOMON. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER], a distinguished member of the committee.

(Mr. SENSENBRENNER asked and was given permission to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Chairman, I rise in strong opposition to S. 2104 which will be coming up in a few minutes. If the proponents of this legislation were half as interested in passing a civil rights bill as they are in playing politics with this issue, the Rose Garden signing ceremony would have been over and done with many months ago.

However, we are debating this bill here today. Unfortunately, the proponents have made it perfectly clear that they are not interested in crafting a true civil rights bill, but in using the issue as a political weapon that can be wielded in next month's election.

Last May, the President laid out four simple criteria for a civil rights bill: fair legal standards, an opportunity for every American to have his or her day in court, a law that would not become a bonanza for lawyers, and coverage of the congressional proponents, with the same law that will cover everyone else.

These are four eminently reasonable criteria that any free-thinking American would accept without question. But has this Congress seen fit to embrace these principles? No. Instead of having the moral and political courage to take a careful look at the test of the legislation being placed in front of them, they would rather drown themselves, like lemming, in a sea of civil rights slogans.

The President is willing to sign a true civil rights bill. The business community is willing to support true civil rights legislation. We have all the elements for consensus here except for two groups which apparently have become intoxicated with power politics, the civil rights and the Democratic leadership.

A few months ago, President Bush signed into law the Americans with Disabilities Act. I was a strong supporter of that bill. Did that issue tear the Congress apart as it was being debated on the Senate and House floors? The answer to that question was no. All sides were willing to be reasonable, to work for consensus, to work for compromise, and to work for a good bill that would help the people it was seeking to serve, and we succeeded in doing that.

In contrast, what do we see with this so-called Civil Rights Act of 1990? We see confrontation, polarization, threats, accusations, and character assassination. We see armies of plaintiffs lawyers roaming the halls of Congress, complaining about how hard it is to litigate discrimination cases and how little money they can make from those cases.

The debate here should be over treating civil rights litigants fairly, not making civil rights litigators rich. This so-called Civil Rights Act of 1990 continues to impose impossible burdens of proof, provide unlimited damages, despite the leaky cap that will be discussed later, and increased attorneys, and expert fee awards.

The sum total of these provisions makes quotas an employer's only sure defense. That is what the complaint is with this law, not whether we should not legislate against sexual harassment, not whether we should not deflate the skinheads and swastika painters and David Dukes of this world, but actually how this bill would work.

One of the things I think we are paid $96,000 a year to do is to read the text of the bills, to think them through and to make sure that they work to help the people that the bills are intended to help, and not simply legislate by what looks good on a bumper sticker. Our constituents deserve more than that. That is why this conference report should be defeated. That is why if it is not defeated, the President should veto this bill, and the Congress should sustain the veto.

□ 1220

Maybe then we can lower the rhetoric and work toward compromise and a workable law, just as we did with the Americans with Disabilities Act.

Now, having said that, I would like to pay tribute to my friend, the gentleman from California [Mr. HAWKINS] who is not seeking reelection in this election. He will not be back with us next year, and even though he and I come from different perspectives on this legislation, I believe that he has

treated those with a contrasting viewpoint with a great deal of fairness, allowing us to speak our piece and to make our points, even though we were unsuccessful in committee and in conference and on the floor of the House of Representatives.

We will miss the gentleman from California and his wise counsel, particularly as we are putting together next year's civil rights bill.

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield 6 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I sincerely thank the gentleman from Missouri for yielding me this time, because I must say, this conference report is one of the most painful things that I have ever sat through.

I want to answer some of the charges that have come from the other side. Please do not call this a partisan bill, please, because this is not a partisan bill. If we wanted to be partisan, we would have kept the pure bill we had in the beginning that protected women from sexual harassment that is on the rampage in this country, that would not have put a cap on damages, that would have done all the other things that we really desperately wanted to do. We would have done that and we would have sent it to the White House and said, "See, he vetoed it. He is against civil rights. We are for it." We did not do that.

We went back many a time into conference and negotiated and trimmed our sails and backed up.

I must say as a woman who sits on the Armed Services Committee and just looked at the new report on sexual harassment just in the Armed Services, this was a very hard thing for me to do, to surrender and say, "Oh, well, women, the nineties aren't your decade yet. Maybe someday we will include you fully and treat you as full-fledged citizens."

But why did this side do that? This side has been willing, and many on the Republican side have, too, there are many of them who have worked very hard with us and had terrific patience. They have been willing to compromise and try to come up with something because we have felt that there has never been a time when this country needed leadership on civil rights more. We saw tremendous backing up in the eighties. This year we are seeing the ramifications of that all across America.

We wish David Duke was just kind of a fluke. Duke is not a fluke and we all know it in our hearts. That is part of why we want to see the President of the United States speaking loudly and strongly and saying, "We are not going to retreat on all civil rights and it isn't okay to do the kinds of things that are going on and America really isn't just dreams, those are promises and we deliver."

We collect tax money equally from everyone in this country, no matter what their religion, sex, race or anything else, and this country is going to go out and protect them equally on their rights and their privileges.

You know, in President Lincoln's second inaugural address, he called upon the people of this Nation to find the part inside of them, the angel part. We all know we have that part, and we all know we have another part.

You know, in just a few minutes on this floor we saw the gentleman from Illinois [Mr. HYDE] find his angel part and apologize to the gentleman from Massachusetts. That was a very moving moment.

I must say that we all need in this country to find the angel part within ourselves, because the eighties released another part, the greed part, the "do whatever you can do, tromp on them," or whatever.

As we see the rest of the world struggling to come to terms with things that we struggled and came to terms with in the sixties, it was very unfortunate to see it getting unraveled in the eighties.

Now, let me talk about the four things, supposedly, that some on the other side have complained about.

No. 1, they said Congress was not covered. Wrong. Congress covered itself last year by putting itself under title VII through an enforcement procedure. It was a bipartisan process. If people do not like it, fine, come back, give us more teeth, or do whatever you want to do, but we are moving in this direction. It is very important, and I will be out front to do whatever it takes.

No. 2, they said they want to make sure people get into court. Well, those of us on the other side want to make sure they can also get out of court, that they can get out of court with a meaningful redress, and you cannot get out of court with a meaningful redress unless you attack the next thing that the White House is saying, and that is they want fair legal standards. What do they mean by fair legal standards? If you do not allow statistics to be used, not quotas, but statistics to be used, how do you ever ascertain fair legal standards?

As a lawyer, I must tell you we use statistics for everything, whether it is damages, whether it is anything. Statistics are what you kind of look at to see if things are within a certain range that reflects whatever it is you are trying to reflect, so we want people to have those fair legal standards, and those standards must be strong.

We also hear, oh, they do not want lawyers to make so much money. I wish they had not wanted lawyers to make so much money in the S&L's. I wish they wanted lawyers not to make so much money in the Department of Defense fraud.

I mean, what is this new concern about lawyers making money? Come on.

Well, in summary, Mr. Speaker, I just want to say, that I really sincerely hope that we can get this bill out of here, as sorry as I am that it is not a better bill, and as sorry as I am that we who are women do not feel we have really been included.

But I really hope even more that the White House does not veto this bill, because I end with the haunting words I started with, and that is, Duke is not a fluke. That is on the rampage in this country, and we need strong leadership from the White House saying no more, America will not tolerate it, and I think at that point President Lincoln would start smiling again in his chair down there on the Monument.

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. HENRY], a distinguished member of the Committee on Education and Labor.

Mr. HENRY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the rule. I also urge my colleagues on both sides of the aisle to give serious consideration and favorable consideration to the conference report.

I voted against the bill as it left the House, because yes, I had real problems about the damages provisions.

I also had some concerns relative to the assignment of legal fees on interventions or challenges to court settlement.

I have to say that most of those concerns have been addressed, and I have to say they have been addressed in a fair and equitable basis of negotiations.

Now, I want to touch on two issues. First, the issue of damages, punitive and compensatory damages. I understand the fears of the business community in terms of the cost of legal defense and of damages. That is a very real concern in a society which, in many ways, is overly litigious; but I want to review the history of punitive and compensatory damage awards. Under the Civil Rights Act of 1866, which already allows for such awards for suits based on race discrimination, in the last 10 years, from the years 1980 to 1990, it will show that out of 432 reported cases nationwide, from 1980 to 1990, only four, only four cases resulted in punitive damage awards over $100,000, and in only 29 cases were any punitive damage awards given at all.

The average compensatory damage award was under $30,000, and in 368 out of those 432 cases no compensatory damages were awarded at all.

In other words, out of 432 cases in 10 years, in only 93 instances were any

punitive or compensatory damages given. I am just trying to give some perspective on the numbers, Mr. Speaker.

Now, yesterday in this House we adopted in conjunction with the budget resolution, new impositions of increased fines under OSHA alone which will amount punitively to $1.2 billion in 5 years.

Now, just by way of comparison, what does that mean? That is the equivalent of 1,200 awards in punitive or compensatory damages in 5 years of $1 million.

□ 1230

Now think of what all this says. Workers health and safety are important but look at this relative to worker health and safety costs. Look at it in terms of other areas in which awards are given.

Medical malpractice, product liability—and I cry for reform in that area—we have to address it. If we did in product liability and medical malpractice what we are doing here, people on this side of the aisle would be up cheering. And yet which is more fundamental to what America is? What is fundamental? Human rights is fundamental.

Now I also want to point out that in the Zipes issue, I objected on the passage of that bill when it left the House originally, that it automatically assigned fees to the original defendant for costs incurred by plaintiffs in defending an earlier action of the court.

I felt such an automatic assignment was unfair.

We have language in there now which apportions fees based on reasonableness and principles of equity. That is a vast improvement.

My concern was that it is just wrong to arbitrarily pass all costs on to the defendant in all cases.

Now I pointed out at that time that no one was looking at this, it was being not looked at by the media, not being looked at by the Post, or the Times. The ABA testimony before the committee never touched on it. The original communications from the Department of Justice never touched on it. I thought there was a fundamental potential for inequity. Now I get the issue addressed, and suddenly I am getting communications from the Department of Justice saying, "Oh, this isn't good enough," when before it didn't even matter.

Ladies and gentlemen, it is hard to attack a moving target.

We have moved this bill in many ways that I think can make it much better, and clearly one which I am ready to defend to my people back home, regardless of race, regardless of sex, regardless of creed, regardless of handicap, regardless of age. I am proud to support this bill.

Mr. WHEAT. Mr. Speaker, I yield, for purposes of debate only, 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I would like to discuss process today. The Congress, with or without the President, makes the law. The Supreme Court interprets the law and decides issues.

There is something that has happened in America. We have laws, but then the President comes out and he influences what he considers to be the needed changes. He gets the Supreme Court, and the Supreme Court then through what is called precedents, changes the law.

Now let me say something here, folks. The Constitution is clear on this. It says the Congress and only elected officials can enact law, with the concurrence of the Senate and the President.

The Supreme Court may not necessarily be representative. It can be tilted.

The Constitution protects that. It says, the Constitution says that precedents, if it tears away from the fiber and intent of the congressional act, not only should it be challenged, but it is the mandate of the Congress to change that law and address the issue.

We have got the cart here before the horse. That first Constitution allowed slavery. Women could not vote. It was Congress that had to change that law. And if we let appointed Federal judges that Jefferson said, "Beware the appointment of Federal judges, because they could take the Constitution and mold it like clay in your hands." He said, "God bless juries and God bless Congress."

The Supreme Court should not be making the laws for this country. And when the Supreme Court decision, through an act called new lawmaking organism precedents and that precedents strikes down the fiber and intent of law of the Congress, then Congress stands here.

Let me say one other thing: This quota business is a ruse. Minorities are getting screwed. There are a lot of majority people getting screwed. If this President vetoes this bill, in my opinion this President will veto the Constitution. But if this Congress allows it, this Congress will have abdicated its constitutional mandate, and it would be a sad day.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, if the civil rights bill we are about to consider was truly antidiscriminatory, it would get a resounding approval by this House. But the rule makes in order a bill which promotes discrimination rather than ends it. I say that because the bill assures that quota-based policies will be an inherent part of the future job market in America.

The bill we are about to consider belies all the talk we have heard about fairness in recent days. There is nothing fair about quotas. Telling people whether they can work or cannot work, can get or cannot get the education they want, can succeed or cannot succeed based upon some numerical calculation, is wrong.

Separating society by race is wrong; using racial determinations to guide economic decisions is wrong.

Fairness demands that we become a color blind society, not a race-conscious society. Fairness demands that rights be based on personal qualification, not quota requirements. Fairness cannot be advanced in the name of civil rights if the measure approved is not real civil rights.

Civil rights should unite us, not divide us. Human rights should advance individual merit, not divide us by individual difference.

We are about to make civil rights into another case of Government statistics run amok, and that would be truly tragic.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Speaker, today we are voting on the conference report on the Kennedy-Hawkins civil rights bill. I urge you to join me in voting "no" on this legislation.

As a small businessman in my past life I strongly oppose the civil rights bill.

The conferees failed to fix the two major flaws in the bill. The Kennedy-Hawkins bill continues to provide excessive damages to plaintiffs in employment cases. The bill does not cap damages at $150,000. Let me repeat that, the bill does not cap damages at $150,000. Under the Kennedy-Hawkins bill, punitive damages can equal the sum of compensatory damages and back pay; or $150,000; whichever is greater. With no cap on compensatory damages, juries are free to make large awards.

This would destroy almost any small business and make lawyers rich.

The Kennedy-Hawkins bill fails to solve the quota issue as well. The language in the bill is still unacceptable to the administration and to me.

Let us fight for a good and fair civil rights bill. Vote down this impostor.

A list of cases where juries made large compensatory damage awards follows:

COMPENSATORY DAMAGES AWARDED IN EMPLOYMENT CASES DECIDED UNDER SECTION 1981 AND STATE FAIR EMPLOYMENT LAWS

Christenson v. Equitable Life Assurance Society, 767 F.2d 340 (7th Cir. 1985), cert denied, 474 U.S. 1102 (1986) ($300,000).

Eide v. Kelsey-Hayes Co., 47 FEP 1050 (Mich. 1988) ($240,000).

Gobble v. AT&T Information Systems, Inc., 32 ATLA L. Rep. 274 (E.D. Va. 1989) ($300,000).

Gomez v. Great Lakes Steel Div., 803 F.2d 250 (6th Cir. 1986) ($500,000).

Jett v. Dallas Independent School District, 748 F.2d 748 (5th Cir. 1986), rehearing denied, 837 F.2d 1244 (5th Cir. 1988) ($800,000).

Noye v. Hoffman-LaRoche, Inc., 31 ATLA L. Rep. 23 (N.J. Super. Ct. 1987) ($750,000).

Reese v. Batesville Casket Co., 25 FEP 1472 (D.D.C. 1981) ($240,000).

Reese v. Hayden, 30 ATLA L. Rep. 70 (D.D.C. 1986) ($150,900).

Rodgers v. Fisher Body Div., 739 F.2d 1102 (6th Cir. 1984), cert. denied, 470 U.S. 1054 (1985) ($300,000).

Sargent v. Murray Savings Assoc., 32 ATLA L. Rep. 149 (Wake Co. N.C. Superior Ct. 1989) ($600,000).

Walters v. City of Atlanta, 803 F.2d 1135 (11th Cir. 1986) ($150,000).

Williamson v. Handy Button Machine Co., 817 F.2d 1290 (7th Cir. 1987) ($150,000).

Wilmington v. J.L. Case Co., 793 F.2d 909 (8th Cir. 1986)(($400,000).

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina [Mr. RAVENEL].

Mr. RAVENEL. I thank the gentleman for yielding.

Mr. Speaker, if there is anything in this world I do not want to do, it is to vote against a major civil rights bill. But for 35 years I ran a number of small businesses and ran them successfully. Some not so successfully. Sometimes I just about collapsed. Three times, I believe, I just about went belly up.

It is not easy to run a business. The formula is very simple: All you have got to do is take in a little more money than you put out, and you do it consistently and you will be successful.

But it is tough. Very few people can do it.

Now the way it used to be and still is, is that if you discriminate against somebody, then whoever you discriminate against, they can make a complaint under the existing law and they can come and get you. But the burden of proof is on them.

Now if this legislation passes, that is going to reverse the process. If someone feels like you have discriminated against them, then they can make a charge against you, and then it is up to you, at great expense, to prove that you have not discriminated against them.

Man, I mean to tell you, so far as small business is concerned, that is going to be a nightmare.

So hopefully we will garner enough votes, when the vote finally comes, to be able to sustain the President with his veto, and subsequent to all that, early in the next year, a good solid civil rights bill will be presented to this Congress which will not induce the businessmen of this country to scramble around to make doggone sure they do not do anything that will get them in any problems, which in effect, the bill as presently drawn induces people to hire quotas.

I know if I was running a business and the law is as it is proposed to be changed, and I was in an area where quite possibly I was going to get sued, what I would do is, I would employ so many women and I would employ so many blacks and so many orientals to keep me out of court.

Mr. WASHINGTON. Mr. Speaker, will the gentleman yield?

Mr. RAVENEL. I yield to the gentleman from Texas.

□ 1240

Mr. WASHINGTON. Mr. Speaker, the gentleman sounds very clear.

Does he understand, of course, that we are talking about qualified people? No one is saying, "You have to hire the women if they're not qualified."

Mr. RAVENEL. Oh, absolutely.

Mr. WASHINGTON. OK.

What the bill says is:

If you haven't hired any, and they go to court first, you have to either convince the judge or the jury that, in addition that, the person is qualified, that they are part of the available work pool, and that you didn't hire them and you have a history of not hiring them.

Now what is wrong with making someone show, one, it is legal discrimination? If they can show that there is a legitimate business reason why they have not hired any women, they do not have anything to be afraid of.

What is wrong with that?

Mr. RAVENEL. Of course, Mr. Speaker, what the gentleman from Texas [Mr. WASHINGTON] says may be true, but then, please understand, I feel that quotas, however they come about, are demeaning to people, and I am opposed to them.

The SPEAKER pro tempore (Mr. Bosco). The time of the gentleman from South Carolina [Mr. RAVENEL] has expired.

Mr. SOLOMON. Mr. Speaker, I yield 1 additional minute to the gentleman from South Carolina.

Mr. GUNDERSON. Mr. Speaker, will the gentleman yield?

Mr. RAVENEL. I yield to the gentleman from Wisconsin.

Mr. GUNDERSON. Mr. Speaker, what is wrong with that is under this legislation any time a small business or any business has a disparate impact of employees at any level, compared to the racial or ethnic breakdown of their community, all of a sudden they are subject to a disparate impact suit. The burden of proof then switches to the business, and they have to prove, and they do not even have to identify the specific discriminatory act.

In other words, was it the interview? Was it the posting of the notice of employment? What was the particular violation?

They do not even have to indicate where they are discriminating. If there is a disparate impact, the burden of proof is on them. That is what is wrong.

Mr. RAVENEL. Absolutely. I say to the gentleman from Wisconsin [Mr. GUNDERSON], Man, you've got your finger right on the problem, and it will be a nightmare.

Mr. WASHINGTON. Mr. Speaker, will the gentleman yield?

Mr. RAVENEL. I yield to the gentleman from Texas.

Mr. WASHINGTON. Mr. Speaker, the gentleman from Wisconsin [Mr. GUNDERSON] apparently has not studied carefully the conference committee report. That is cured in the conference committee report, I promise.

Mr. GUNDERSON. I have read it.

Mr. WASHINGTON. Then the gentleman from Wisconsin [Mr. GUNDERSON] does not understand it.

Mr. SOLOMON. Mr. Speaker, before yielding back the balance of my time I might just point out that, although we spent the entire hour discussing the merits of the bill, this is not the bill as such that we are about to vote on. We are now going to be voting on the rule.

Mr. Speaker, I yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for his statement and for reminding us of the fact that we are going to be voting on a noncontroversial rule regardless of how controversial the legislation may be.

I started off this discussion on the rule by suggesting that I believe that the legislation was bipartisan. I did not mean to suggest that every Member of both sides of the aisle supported this piece of legislation. But I think it has been made clear from our debate that there are a significant number of people on both sides of the aisle, a sufficient number so that this legislation can, in fact, be called bipartisan.

Mr. Speaker, I am proud to call it bipartisan legislation because I think it is important that the entire Congress stand for the principles that are embodied, not only in this Civil Rights Act, but were embodied in the original Civil Rights Act of 1964, and in some ways, Mr. Speaker, I am honored to be standing here to share in the history of civil rights that this Congress and six Presidents have led this Nation into in this country.

However, Mr. Speaker, in some ways it is a great tragedy also. I was 13 years old at the time the original civil rights bill passed. That was 13 Congresses ago, and yet we stand here trying to restore this Nation to the legal position that the country was in at that time.

What we are looking for with this civil rights bill is equal treatment under the law, equal opportunity

under the law and the opportunity for equal justice under the law.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. HAWKINS. Mr. Speaker, pursuant to House Resolution 504, I call up the conference report on the Senate bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to House Resolution 504, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 12, 1990, at page H9552.)

The SPEAKER pro tempore. The gentleman from California [Mr. HAWKINS], will be recognized for 30 minutes and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California.

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that the time allocated to the majority be equally divided between myself and the gentleman from Texas [Mr. BROOKS], the chairman of the Committee on the Judciary.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the chairman and principal author of the bill, I want to reemphasize that we are now dealing, not with what I would call a great bill, but certainly one which is a compromise bill and a bipartisan bill. I would hope that in time we will strengthen the bill and that we will take another step in the direction of having a bill much stronger than the one which is before us.

However, Mr. Speaker, there are many things about the bill that I think must be done, and one of those principal things is for the Congress itself to take back the authority to indicate by law what is congressional intent. I think the Supreme Court has done more than deal with the constitutionality of civil rights, but it has in this instance tried to interpret and to misinterpret the intent of Congress in passing the Civil Rights Act of 1964. There are some of us who are still around who were involved in the passage of title VII, and it was, in my opinion, an attempt to get human rights in our country and not a law which would be used by those who want to be protected even though they discriminate against minorities, against women, the disabled, those who discriminate on the basis of age and who use discrimination as a way of life.

I think for the first time, therefore, we have the opportunity to say what the legislative or the congressional intent is and to say it in much more clear language than what apparently the Supreme Court is able to understand.

So, Mr. Speaker, I think that that is what we should be addressing ourselves to, and perhaps, in the next few years again addressing that particular issue.

Now in 1989 there were six Supreme Court decisions, there were four others since 1985 that misinterpreted the intent of Congress, and one of those, I think, has been referred to in the discussion on the rule. One of the decisions indicated that discrimination on the job is permissible, and that certainly was not the intent of the Civil Rights Act, and, as a result of that, women, for example, among others, have been discriminated against on the job and particularly with respect to sexual harassment for which they have had no remedy for the first time.

Therefore, we are giving to women a remedy for discrimination on the job, protection against sexual harassment.

Mr. Speaker, there are other good things about the act, which I will not go into because they have been referred to, but may I make several points with respect to quotas?

It seems that there are some people who live and dream quotas, and that is all they understand. It is public relations, the big lie technically, that, if someone will continue to say something, that people will believe them. That becomes, repetition makes the thing true.

I think what those who talk about a quota bill really want is to protect discrimination. They want to give to certain individuals, selfish, greedy individuals, the right to discriminate on the basis that that is the best way to prove that they are not involved in unlawful quota discrimination. The bill amply protects against that, and I think that anyone who uses that as a basis for our position has the facts and the truth against them, and they are just simply trying to reveal their opposition to civil and human rights and to gain some political advantage by repeating that.

□ 1250

We have since the introduction of this bill in February of this year made 22 changes to accommodate the opposition, the business community in many instances, and the administration in many instances. It is peculiar that in 22 times of moving, some would say to weaken the bill but at least to reach the opposition, we have yet to see one single move on the part of either the administration or the business community to suggest one amendment that would strengthen civil rights. It has all been in one direction. So we have moved in that direction. As I say, we have moved so far that there are some in the civil rights community who say that the bill does not really do that much. I certainly say that that is not true, because we have for the first time certain remedies that were not present before.

We have certainly made it clear that discrimination, not only in employment but on the job, is also unlawful, and there are many ways in which we have moved to improve the civil rights position. We have obviously since 1964 moved on an incremental basis to improve it under six Presidents. Now, for the first time we have one President who says that he is not going to sign the bill. I do not thoroughly believe that the President has made up his mind, and I think that this bill may help him to make up his mind.

I will certainly indicate as time goes on the efforts that we have made in laboring long over the period since February to improve the bill, and certainly to meet the opposition. Perhaps we are far away among some of us, but certainly what has been done, I think, is a step in the right direction, and I hope that in the coming years we will move beyond the current situation.

Certainly, Mr. Speaker, I think we can submit this bill today as being a step in the right direction.

Mr. Speaker, today we are considering the conference report on the Civil Rights Act of 1990. The sponsors of this legislation have labored long and hard for the past 9 months to meet the concerns of the bill's critics. We have agreed to nearly 30 substantive amendments during this process, most recently agreeing to seven new amendments, in order to meet their concerns. After 9 months of careful consideration, the Civil Rights Act of 1990 now stands as a reasoned, effective, bipartisan response to the Supreme Court's recent misinterpretations of Federal civil rights laws.

The sponsors have also gone to great lengths to reach agreement with the White House, but to no avail. Indeed, we have gone so far as to incorporate verbatim some of the administration's own proposals into the bill. Yet with each effort to meet the President's concern, the administration has responded by raising new demands, and has repeated its tired slogan that the bill's restorative provisions would somehow force employers to use quotas.

In his 1990 State of the Union Address, President Bush stood in this Chamber and told America that we must condemn racism and bigotry "not next week, not tomorrow, but right now." But the President's stall tactics for the past 9 months suggest that he does not want a civil rights bill—even one that merely

restores the law—not today, not tomorrow, not next week.

If we have gained anything from these many months of fruitless efforts to satisfy the President's concerns, we have gained insight into his vision of "civil rights." These are a few examples of what George Bush's kinder, gentler America would look like:

Women and religious minorities would be treated as second-class citizens in terms of remedying injuries caused by intentional or egregious discrimination. They would not be made whole for such injuries, and they would be denied remedies now available to racial minorities.

Employers, such as fire and police departments would be free to use discriminatory practices to "resegregate" their work forces, by using hiring or promotion criteria that are not the least bit predictive of job performance.

Federal law would sanction bigotry by expressly permitting employers to exclude women, blacks, or other minorities from jobs because of customer preference.

Employers could escape any liability whatsoever for blatently discriminatory actions if other factors were also involved, and

Supreme Court decisions which stripped away longstanding civil rights protections would be enacted into statute, rather than overturned.

Is this an America we want? I can hardly think so. Indeed, the people of this Nation clearly have a far different vision of America, as witnessed by the overwhelming support the Civil Rights Act of 1990 had when the House first approved it. I can only hope the President realizes how out of step he is when this legislation reaches his desk.

Many of these issues were long ago fought, and long ago won, by citizens across this country and in this Chamber. It is a disgrace to this Nation, to the Constitution and the Bill of Rights, and to the American people that in 1990 we are forced to fight these battles yet again just to hold our ground.

But if fight we must, then fight we will. Let us send our strongest message to the President, and to the Supreme Court, and to this Nation that we will not yield to a resurgence of racism, or bigotry, or prejudice. Let us send the strongest, yet simplest message possible, one that echoes the words inscribes in stone over the entrance to the Supreme Court: "Equal Justice Under Law."

I urge my colleagues to vote in favor of the conference report on the Civil Rights Act of 1990.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself 3½ minutes.

First, Mr. Speaker, let me say that I was surprised to hear that Justice Brennan would ever misinterpret the intentions of the majority in this Congress. That was a shock to me, since he made one of the decisions or wrote one of the opinions.

Mr. Speaker, I rise in opposition to the conference report, or perhaps I should say conference report No. 2. When the motion to recommit the first conference report with instructions offered by the gentleman from Illinois [Mr. MICHEL] passed overwhelmingly last Thursday, I was hopeful that the legislation would be significantly improved. I should have known better.

As usual, the minority was virtually ignored in the second conference, and a set of amendments offered by Senator KENNEDY was adopted. While these changes made some marginal improvements, the basic problems with the legislation have not been resolved, even though I have heard some on my side say that they got something. I have not decided yet what it is they got.

As the administration has stated, the bill will, as before, force some employers to hire by race and sex to avoid litigation. They know they cannot win, and this will lead to a litigation explosion which will only benefit lawyers.

Mr. Speaker, I know we have heard, and we will hear again, that nothing in the bill should be interpreted to encourage quotas. That does absolutely nothing. Quota personnel practices are illegal now. Concerns with this legislation have not been over whether the bill somehow legitimizes quotas but, rather, over whether the new onerous requirements imposed under the disparate impact sections would force employers to covertly engage in quotas to correct statistical imbalances in their work forces in order to avoid that litigation that, as I said, they know they cannot win.

We have a thousand applicants for every opening here on the Hill. I would guarantee you after this legislation that you had darned sight better make sure that in spite of all those applicants, you had advertised in some minority magazine or newspaper about that opening. You had better keep every application and you had better have notations on that application that will somehow or other stand up in court, or you are in serious difficulty.

Incredibly, the bill continues to provide for punitive and compensatory damages in a radical departure from all other labor laws, amending both title VII and the Americans With Disabilities Act.

Let me make a few brief points about this compromise. The proponents have still failed to adopt language from the conclusions of the Griggs case in defining "business necessity." Instead, they have adopted a totally novel, two-pronged definition with uncertain meaning—uncertain because it is not from prior case law—but one which clearly places greater proof requirements on employers than ever existed before. Had the drafters of this legislation simply adopted Griggs, life would have been a lot easier for all of us.

The bill continues to bar many individuals from challenging court decrees under which they believe they are being discriminated against, and continues to provide liability in mixed motive cases even if the employer could prove it would have made the same personnel decision in any case. Remarkably, this provision is intended to reverse a decision by Justice Brennan, hardly a conservative Justice, who found that an employer should not be liable in such circumstances.

Finally, the bill still fails to impose any meaningful cap upon punitive damage awards, a point that other speakers will make later.

Mr. Speaker, I admit that I am not a lawyer, and these are lawyers' issues, but I can say with certainty that it will be lawyers who will enormously benefit from this legislation, and it will be both employees and employers who will suffer. Let us not mince words: Attorneys will enjoy huge fee increases as cases drag on in the courts without resolution. One of the primary purposes of title VII was to put employees wrongfully discriminated against back to work as soon as possible, with an award of lost back pay. We have erased that in this legislation.

Mr. Speaker, first, nothing in the bill should be interpreted to encourage quotas. It does absolutely nothing. Quota personnel practices are illegal now. Concern with this legislation has not been over whether the bill somehow legitimizes quotas, but rather over whether the new, onerous requirements imposed under the disparate impact sections would force employers to covertly engage in quotas to correct statistical imbalances in their work forces in order to avoid litigation that they could not win.

Second, duty to identify specific practice or practices responsible for disparate impact unless relevant records destroyed, concealed, and so forth, or employer does not have such records. The bill, in fact, continues to provide at section 4(k)(1) a general rule that "disparate impact is established * * * when * * * first, a complaining party demonstrates that a group of employment practices results in a disparate impact * * *." It then carves out a new exception by stating that a plaintiff shall be required to demonstrate which "specific practice or practices are responsible for" the impact unless the court finds that the employer has destroyed or concealed the records "necessary to make this showing" or has failed to keep such records.

The retention of a general rule allowing grouping of practices makes the impact of this new section extremely unclear. For example, a plaintiff could apparently still initially allege numerous practices and leave it up to the employer to prove, later in the litigation, that the exception applies. In any case, the employer would be forced to keep "records" on all the myriad types of practices covered by this legislation to avoid a "grouping" case, adding enormous paperwork requirements. Current law only imposes recordkeeping requirements concerning impact on certain kinds of practices. Finally, it must be emphasized that the

overwhelming weight of current law—even prior to Wards Cove—requires the plaintiff to identify the specific practice which is causing the impact. All of the new requirements and conditions imposed by this section are unprecedented; for example, what type of records will suffice, what does "responsible for" mean?—and will lead only to uncertainty and litigation.

Finally, it should be mentioned that court sanctions already exist to penalize employers for destroying, concealing, or failing to produce records.

Third, modifications to the definition of business necessity still retains novel two-pronged test: A selection practice or group of such practices must be justified through a showing of "significant relationship to successful performance of the job"; non-selection employment "decisions" through a "significant relationship to a manifest—replacing significant—business objective of the employer." Certain kinds of practices are now specifically listed as covered under each prong—for example, plant closings and bankruptcies—along with certain kinds of admissible evidence. However, "demonstrable evidence" is still required.

Definitions are still not from the holding of Griggs or otherwise from existing law. The identification of certain practices, while clarifying, is also alarming in that it extends impact analysis to areas where its coverage is, under current law, at best questionable. The continued requirement of "demonstrable evidence" will make proof of many practices—such as use of subjective selection criteria—extremely difficult. The change from "significant" to "manifest" is purely cosmetic. Note that the phrase "significant relationship to successful performance of the job" as used in the first prong can be found in Griggs but is not from the holding of the case and has never been used in subsequent Supreme Court decisions.

The president of the Society for Industrial and Organizational Psychology has stated that this new definition "will not meet professional standards nor be accepted by the scientific community."

Fourth, "mixed motive" cases, the new language now provides that if a plaintiff shows that an illegal factor was a "motivating" factor—the test used in the original bill as introduced—the plaintiff may recover injunctive relief, attorneys' fees, and costs, even if the employer could show that the same personnel decision would have been made in any case. The prior version used "contributing" in place of "motivating" and would have allowed punitive and compensatory damages.

Ironically, the proponents of the legislation argued that the earlier switch from "motivating" to "contributing" was an important concession to opponents. Presumably, the switch back means a lower threshold of proof is now intended. However, undoubtedly, the elimination of recovery of damages is an important change. Nevertheless, the bill still goes further than Justice Brennan's decision in Price Waterhouse, in which he concluded that no liability would result where an employer proved that the same decision would have been made in any case.

Fifth, challenges to consent decrees or other judgments in job discrimination cases. The bill retains its broad bar against challenges to consent decrees—which typically arise where such a decree provides for race-based preferential treatment—for decrees entered prior to 30 days after enactment, but sets new, less restrictive, standards for later challenges.

These changes constitute an improvement of sorts in that fewer individuals overall will be barred from their day in court. However, the Supreme Court found, in Martin versus Wilks, that individuals should not be precluded from asserting their rights against decrees which they believe have resulted in unfair discrimination unless they were parties to the original proceedings. This simple rule seems just.

Sixth, does not overrule existing case law on "comparable worth." Perhaps marginal improvement as the original conference report could have been interpreted to reverse existing law and recognize comparable worth. However, the new language does not reject the concept; it only states that nothing here is intended to overrule existing cases. Thus, the concept is recognized and preserved for future litigation. The fact that this sort of clarification is needed at all demonstrates the enormous breath of disparate impact under this bill.

Seventh, recovery of attorneys' fees in challenges to consent decrees. The Supreme Court held in Zipes that an unsuccessful challenger—often a union—to a consent decree would have to pay attorneys' fees only if its challenge is frivolous. The bill originally reversed that case and provided that such fees would have to be paid by the original defendant, typically an employer. The new version provides that the court may allocate the fees between the challenger and the original defendant based on various factors.

Minor change, although one might continue to ask why the employer should bear any of the costs when it did not bring the challenge.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, for more than 30 years I have supported and worked on civil rights legislation, and today the Members of the House and Senate, after a free and open conference, following recommittal of the conference report by this body on October 11, have returned a Civil Rights Act of 1990 that reflects a consensus between the bills that were passed by the two Houses. This consensus report contains seven important changes. These changes are in addition to the amendments in the original report that bring all employers under the protective cap on punitive damages and clarify congressional coverage. These modifications and the refinements that have been made in the language of the bill since it was first introduced help to significantly clarify this momentous legislation.

Mr. Speaker, the bill now contains language that makes it explicit that a complaining party must prove which specific employment practice or practices resulted in the discrimination complained of. This is a significant concession that assures that employers will not be required to justify the business necessity for every one of their employment practices—a process that would surely be too onerous.

A further aid to the employer in defending a charge of disparate impact is the new listing of specific types of evidence that may be offered to prove that an employment practice is "required by business necessity"—such evidence could include "testimony of individuals with knowledge of the practice." This amendment greatly simplifies the employer's response to discrimination complaints.

Other refinements were made to the bill:

A new provision clarifies that this bill does not overrule existing case law involving comparable worth.

The bill now makes clear that damages are not available in "mixed motive" employment decisions, that is, actions that are based on both nondiscriminatory and discriminatory factors.

Provision is made for additional challenges to consent decrees.

And, finally, the court has more discretion to determine how attorney's fees should be assessed in a third party's unsuccessful challenge to a court order or consent decree.

The major goals of this civil rights legislation—overturning the Supreme Court's restrictive 1989 decisions and providing a damage remedy under title VII for victims of intentional discrimination—are all preserved.

Mr. Speaker, throughout the process under which this legislation was shaped, the proponents have made every effort to meet the concerns of business people and the administration about the effect and application of this bill. Over and over again, concessions have been made, language has been changed, and clarifications have been added. Last week, we even took the extraordinary step of recommitting the bill back to conference. We have gone the extra mile, and we have met every legitimate concern of the administration.

Unfortunately, these good faith efforts at compromise and conciliation have been met with nothing but political sloganeering and counterproposals that actually would make the law worse than it is now. And, despite these efforts, the President is still threatening to veto this legislation.

Mr. Speaker, there is no need whatsoever for the President to take this step. There is no need for this President, who professes to share the bipartisan commitment to civil rights, to become only the third President since the Civil War to veto a civil rights bill.

There is still time for the President to do the right thing. However, if he chooses to exercise his constitutional power of the veto, and if that veto is upheld, it should be remembered that

with power comes responsibility. In this case, the responsibility will rest solely at 1600 Pennsylvania Avenue, and the responsibility will be for this President to explain why, at this critical point in our Nation's history, he has chosen to throw in his lot with those who would turn back the clock of progress.

□ 1300

Mr. HAWKINS. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, when I first came to Congress 42 years ago the first major bill I introduced was a bill which provided for assistance by the Federal Government to try to improve schooling conditions of people of minority in our country. The first speech I made on the floor of the House, which was in January 1949, was in behalf of that legislation.

Mr. Speaker, I am glad to say most of that legislation has now become law under the impact legislation which I also supported in that Congress.

Of all the things that I have joy about in being a Congressman for 42 years, the most satisfying, the most joyful part of my service here, has been to be able to do something to be helpful to those who have been so long overlooked.

Mr. Speaker, it was a great pleasure for me to join in the voting rights bill and other things that have been done to help minorities to be in the mainstream of America. I am not only glad because of what the opportunities are that have been made available to those in the minority, but I am glad because the heart of America is warmer today, more responsive, and we do not talk about "them and us," we talk about ourselves, embracing all minorities in this country.

Mr. Speaker, this is a thing that gives me great personal satisfaction. Of all the things that have happened in the last 40 years that I have been here this is the thing that brings me the greatest joy.

Mr. Speaker, I just wanted to share that with Members. I hope Members are in favor of this legislation, because I think this attempts to correct some of the things that need correction.

Mr. GOODLING. Mr. Speaker, I yield 3½ minutes to the gentleman from New York [Mr. FISH], the distinguished ranking member of the Committee on the Judiciary.

Mr. FISH. Mr. Speaker, I welcomed the opportunity to participate in the reconvened conference on the Civil Rights Act of 1990 and to sign the new conference report. We reached agreement—I am pleased to report—on the compromise proposal that I described to this body last week.

This modified version of the Civil Rights Act of 1990—which we will vote on today—definitively answers the quota argument by providing further assurances that businesses will have no reason to resort to employment-related quotas. We also improve the original confernece reported language by eliminating potential liability for damages in mixed motive cases, restoring opportunities—in appropriate circumstances—to challenge judgments and consent decrees, foreclosing arguments that this legislation overrules judicial decisions on comparable worth, and addressing concern about fairness in awards of attorney's fees.

Although the conference report we signed in late September reflected our best efforts at the time to safeguard employment rights without burdening employers, discussions during the following 2 weeks convinced many of us that we could do even more to allay fears about this legislation. My hope is that the improvements we have fashioned will increase the prospects of bringing this important civil rights effort to a successful conclusion in 1990.

The legislation before us is balanced in its approach. It both advances important civil rights objectives and accommodates the needs of employers. We discourage discriminatory practices in the work place without requiring, encouraging, or facilitating reliance on quotas.

As Congress prepares to take formal action that will result in sending the Civil Rights Act of 1990 to the President, we can take justifiable pride in this renewed expression of our national commitment to removing barriers that limit employment opportunities for so many of our citizens. Faced with restrictive and counterproductive Supreme Court interpretations of civil rights laws designed to protect women and members of minority groups, we recognize that it is incumbent on us to enact new legislation preserving and strengthening essential safeguards.

As each day passes, the evidence continues to accumulate that the Court's decisions are in fact frustrating the purposes of our civil rights laws. For example, as a result of the Supreme Court's disastrous decision last year in the Patterson case, more than 200 discrimination claims have been thrown out of the courts. This includes many cases where trial courts found that victims had suffered egregious racial harassment and bias, only to see verdicts in their favor overruled as a result of Patterson.

As a result of the Supreme Court's Wilks decision, divisive and disruptive lawsuits have been filed in 10 cities seeking to reopen court judgments and consent decrees in discrimination cases, including remedies that had worked well for 20 years. Wilks not only has damaged civil rights plaintiffs but also has harmed businesses and other employers by making it difficult or impossible to settle discrimination cases and forcing them to spend huge sums to defend prior decrees. Birmingham, AL has had to spend in excess of a million dollars for this reason as a result of Wilks.

Clearly, it is time for Congress to act.

I express appreciation to the many Republican colleagues—in both bodies—who joined in the search for alternative formulations of key provisions and to the minority leadership for their recognition of our concerns. The leadership conference on civil rights also deserves commendation for its tireless participation in the effort to forge a compromise.

I urge the Members of this body to join me in voting to approve the conference report.

Mr. BROOKS. Mr. Speaker, I yield 4½ minutes to the gentleman from California [Mr. EDWARDS], a distinguished member of the committee and of the subcommittee.

Mr. EDWARDS of California. Mr. Speaker, I thank the chairman of the Committee on the Judiciary for yielding.

Mr. Speaker, I have been in this Chamber and in this committee on the civil rights bills for a long time, since the first major bill, of course, in 1964, the omnibus civil rights bill, and then 1965 the voting rights bill, and in 1968, a fair housing bill.

Each time there is a repeat of the same complaints from our opponents, that it is a bonanza for lawyers, an invitation for lawsuits, and that these civil rights laws will be a disaster for the country and divide the country.

Mr. Speaker, historically, in each and every instance, they have been 100 percent wrong.

□ 1310

The very civil rights laws that we have enacted in this country have been America's proudest moments. We are the envy of the world because we are trying, by law, in our churches, in our neighborhoods, and in our Federal Government, to live together as various races and colors and religions, and to get along. And the chief way to do so is through strong civil rights laws.

We have negotiated and negotiated on this bill. The Supreme Court decisions, which the other side very conveniently ignores, were very, very damaging to the rights of Americans, especially women and minority Americans. All over the country lawsuits are being dropped where severe discrimination has been proven or could be proven. Many, many lawsuits will never be filed. Consent decrees agreed to by the parties and signed by Federal district judges, some 20 years old, are going to be reopened as a result of the Wilks decision. How unfair. All of these cases could have been won the hard way, without a consent decree, and to

reopen them is a travesty. The Supreme Court made a great mistake in the Wilks decision.

Those of us here in Congress that deal in civil rights on a daily basis are finding that since the early 1980's instead of breaking new ground, we are spending more and more time in reversing unfortunate decisions of a conservative Supreme Court. All of the cases that we are attempting in this bill to reverse are decisions of a Ronald Reagan Supreme Court that are extremely unfortunate.

I really hope that President Bush will remember his history, and remind himself, as my chairman said, that only two other Presidents have vetoed civil rights bills, Andrew Johnson after the Civil War and Ronald Reagan when he vetoed the Civil Rights Restoration Act in 1988. And to the credit of the Congress, we overwhelmingly overrode that veto. I predict that if President Bush vetoes this civil rights bill, Mr. Speaker, that this House and the Senate will override the veto.

What the gentlewoman from Colorado [Mrs. SCHROEDER] said a little while ago is real. We are going in the wrong direction in this country. Those of us who have some sort of a leadership job must lead the way back toward the spirit of the various laws that we have passed since 1964.

The wrong way to do it, the wrong way to lead the country would be for the President to veto this law.

Mr. GOODLING. Mr. Speaker, I yield 6 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise in opposition to the conference report and this umpteenth rewriting of the Civil Rights Act of 1990.

Mr. Speaker, make no mistake, this bill is a quotas bill. It was argued there are no quotas in the bill because the bill states there are no quotas in the bill.

This reminds me of a Rene Magritte painting of a briar pipe, and it is entitled "This is Not a Pipe."

Mr. Speaker, simply stating that this bill is not a quotas bill does not mean that it is not a quotas bill. There are several reasons, and I will mention just a few and there are many more.

First, the troublesome issue remains of the use of statistics alone in order to prove unintentional discrimination. This bill allows a complainant to prove his case through an alleged statistical disparity alone, because the employer failed to keep records necessary to support the complainant's case. That is what it says. The proposal continues to assume that any racial or gender imbalance in the workplace is caused by something the employer is doing, when of course there are any number of innocent reasons for the imbalance, far removed from the workplace, and yes, far removed from any records that an employer would keep.

Second, an unduly strict definition of business necessity will lead employers to abandon attempts to use merit-related employee selection criteria. Business necessity is the employer's only defense. In an unintentional discrimination case where he or she, the accused, not the accuser, but the accused has the burden of proof.

The business necessity defense is still not based on a simple-manifest relationship to the employment or to the business in question, and that is what Griggs actually said. Rather it requires that the employment practices must bear a significant relationship to a successful performance on the job. This penalizes the employers who attempt to set their standards for optimal rather than minimal successful job performance, meaning that the less qualified will be preferred over better qualified simply because of minority origins.

Yet, Griggs stated that employers may set their standards as high as they wish as long as they were consistent with equal employment policy.

Third, even if an employer meets the strict standards of business necessity and proves that he has a lawful employment practice, this bill would make the lawful employment practice ipso facto suddenly unlawful merely by saying that hey, there is an alternative employment practice out there which would bring about less disparate impact, cost apparently being of no concern at all to the drafter.

Mr. Speaker, an employer should have the basic, elementary right to use an employment practice if he meets the strict and difficult standards of business necessity. He is not even given that in this bill.

Columnist Thomas Sowell summed it up rather well when he said:

> In many of these cases (unintentional discrimination) nobody on either side can prove anything, so whoever gets stuck with the burden of proof is almost certain to lose, regardless of innocence or guilt, intentional or happenstance.

Fourth, the gentleman from California [Mr. EDWARDS] stated on this floor that the remedial and backpay remedies of title VII have served us well for 25 years. Yet this bill guts the traditional remedial backpay and equitable relief remedies of title VII, changing it into a multimillion dollar new tort remedy, a bonanza for attorneys, an employers' intimidation bill.

This new tort remedy also applies to title I of the newly passed Americans With Disabilities Act. News: Juries will thus weight henceforth whether discrimination on the basis of one's physical and/or mental disabilities was intentional or not. Was there really undue hardship justifying a refusal? Oh boy, the juries will take over in that too.

Perhaps the saddest aspect of this bill is that its many proponents see racial discrimination as a political issue, a matter of power and pressure by the elite, yes, by the elite, by entitlements and by law.

Let me refer in closing to a statement by Dr. Jeremy Rabkin from Princeton University, who waited a full day to testify, and finally was the last witness when there was nobody there to listen to him. And he said this:

> This legislation sends terrible signals to the people most directly concerned with public policy in this area. To the established civil rights groups that have championed this legislation it says "More of the same is appropriate and acceptable, even though it has plainly failed in central ways." To politicians it says it is enough to please the civil rights groups; you don't have to worry about whether you are really dealing with real problems.

□ 1320

And then he says,

> Let me be blunt. This approach is not merely a disappointment. It is a scandal. The sponsors of this legislation are not even proposing to throw money at the problems in the well-meaning, if naive fashion of great society programs. Instead, they propose to throw money at lawyers who may be hanging around the remotest periphery of the problems or at lawyers who are simply hanging around. A generation of inner-city youth is drowning in drugs and violence and despair and opting out, opting out of the job programs altogether. And does Congress really have no better idea than encouraging new lawsuits to intimidate employers?

I urge a vote against the conference report.

Mr. BROOKS. Mr. Speaker, I yield 3½ minutes to the distinguished gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Speaker, I rise to express my support for the conference report on the Civil Rights Act of 1990. As you know, Mr. Speaker, just a little more than a quarter century ago Congress passed the Civil Rights Act of 1964, which outlawed discrimination in employment, public accommodations and federally funded programs. For the past 25 years, America has made great strides toward wiping out discrimination. Today we must continue to move forward, not backward, in the march against prejudice, and that is why we are here today.

Last year, America's progress toward the goals of equal opportunity for all was threatened by a Supreme Court extremely out of step with our society. Because of the Court's misguided decisions, millions of Americans can no longer count on the protection of this Nation's civil rights laws. That is, not until today.

Mr. Speaker and to my colleagues, I strongly encourage the passage of this conference report because it is our duty to repair the Supreme Court's damage to our civil rights laws. This

legislation that will be sent on to the President restores and strengthens the protections of the civil rights of every American, and moreover it sends a clear message that there will not be any reversal on our national commitment to equal justice for all.

I also ask my colleagues here today that as you consider your vote, that you remember that our job here is not to legislate based upon a looming veto threat, but to legislate based upon the needs of this country.

In closing, I take this time to commend my chairman, GUS HAWKINS, for his unwavering efforts to improve the quality of life for all Americans and in particular for his struggles to pass the Civil Right Act of 1990. He is to be highly commended.

Mr. GOODLING. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, my colleagues, harkening back to the debate on the rule, I agree with everything the gentleman from Texas [Mr. WASHINGTON] said about discrimination. I agree with everything except his conclusion.

The trouble with this bill is it uses invidious discrimination to rectify, to remedy invidious discrimination. If you do not belong to the statistically favored group, if you are the wrong race, the wrong ethnicity, if you are the wrong gender, you are left out. You do not get the job. You are the new victim of invidious discrimination.

The ideal of America has always been a color-blind society. That was the core of the civil rights bill of 1964, but we are moving farther and farther and farther away from that.

The world is balkanized. The world is tribalized. I guess we are getting that way here, too. But the ideal, the ideal we should still hope for and work toward, is equality.

Someone once said, "When he speaks of honesty, I count the spoons." When you label something civil rights, right away you have the battle half won, but beware of false labeling.

We used to use "defense" in wartime. Everything was the "defense education bill," and so on which made it popular. Now it is civil rights. So you had better support this bill or you are against civil rights. Not so.

This is a quota bill. It says it is not a quota bill, but the consequences, and they are not unintended, are quotas.

Quotas must be invidious, because you say it is not a quota bill. We all agree that quotas are not a good idea, so the question is not what the label reads, it is what is in the bottle.

The fact is the surest way for an employer to avoid a costly lawsuit that he or she cannot win plus huge liability and attorneys' fees and costs is to hire and promote by quotas. That is the reality as sure as Newton's three laws of motion.

If you are going to stick somebody with big damages, and we will talk about that in a minute, the easiest thing to do, the smartest thing to do, his accountant will tell him, is to hire by the numbers so you get the job not if you are the best-qualified, not if you have been around long enough; you get the promotion if you have the right color of skin or your last name is Hispanic or you are the proper gender. That is not the ideal of America.

I do not mean we have reached it, but that is not something that ought to be labeled as civil rights. It is civil wrong.

The damage provision is terrorizing. You have an illusory cap on the punitive damages. It provides unlimited compensatory damages plus a cap of $150,000 on punitive, or the sum of the compensatory damages and back pay, whichever is greater. The sky is the limit. It warms the cockles of the heart of a personal-injury lawyer, because that is where the money is.

There are many other reasons. The definition of business necessity; "manifest relation to the job in question" is the Griggs formula. You say you are readopting Griggs, but you move to something else, a "significant relation to successful performance of the job."

□ 1330

We set up hurdles that no one can overleap. We threaten employers with horrendous damages if they do not hire by the numbers. We put the burden of proof not on he who alleges, but he who must defend.

This is not a civil rights bill, this is a dangerous quota bill. That is why it will be vetoed, not because any person is for discrimination, but because they are for a bill that is workable and not results oriented, but opportunities oriented.

Mr. GOODLING. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I think this is one of the more disappointing and tragic days in the Congress of the United States because civil rights law ought to be bipartisan. Civil rights ought to be something that is signed into law, and because that process has failed, we are forced to go through this action this afternoon that will bear no positive result.

I need to start by saying very clearly that those who suggest that the President has not made any compromise on the civil rights debate are absolutely wrong. There was before this House, there was before the other body, legislation the President said he would sign. It modified Wards Cove. It modified the remedy section. It modified the Price Waterhouse case. It modified the Martin versus Wilkes. It modified Patterson, and it modified Lorenz. That is six major changes of present civil rights law that the President of the United States said he would accept and sign into law.

Yet here we stand, so close to bipartisan civil rights legislation that could be signed into law, and yet so far away. Why are we far away? We are far away because if we look at the conference report that is in front of Members, and we go to page 15 of that conference report, it says:

> If compensatory or punitive damages are sought with respect to a claim of intentional discrimination arising under this title, any party may demand a trail by jury.

That is one of the two basic problems the President and I and others have with this legislation, because we are changing the whole premise that civil rights law would be resolved through reconciliation. Now it will be jury trails, litigation, and damages to see how much we can make. If that does not go far enough, what we only need look at is on page 17 of the conference report where it says, and get this:

> No stipulation of dismissal of a claim shall be effective until the parties attest to the courts that a waiver of all or substantially all attorney's fees was not compelled.

This is not civil rights law, and we all know it. It is nothing but full employment for the Trail Lawyers Association. That is why they have been involved in this process. That is why they are politically supporting the people that are bringing this to the floor of the House, and we ought to be embarrassed to do this in the name of the victims of discrimination in this country.

Finally, take a good look at this act because it gets at the points we were discussing during the rule. I will only read to Members line 16, if there is disparate impact in an employment practice, under this bill, if a complaining party demonstrates that a group of practices results in a disparate impact, such party shall not be required to demonstrate which specific practice or practices results in that impact.

That, my friends, is the problem. We are on the defensive, and we have not even the knowledge of what is the reason for the discrimination suit filed against them.

Last year, 40,000 people filed discrimination suits with the EEOC. Some 7,500 were involved in court cases. For those 46,000 people, and for all future victims of discrimination, we can and we must do better than that.

Mr. HAWKINS. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I congratulate the chairman of the committee, the gentleman from California [Mr. HAWKINS] for his leadership. He has been, indeed, one of the most

steadfast and strongest supporters of the Civil Rights Act of all Americans in our Congress. We will miss him when he leaves.

I rise, Mr. Speaker, in very strong support of the conference report on the Civil Rights Act of 1990. This legislation will, as we said when it was discussed during House consideration earlier this year, return the Civil Rights Act of 1964 to the foundation of equality and justice that it was designed to be. I have a great deal of respect for the gentleman who spoke before me, and I worked with him on a very significant civil rights bill that passed this Congress, the Americans with Disabilities Act. He and I both listened quite frankly to person after person who projected the incredible adverse consequences of passing that legislation. I suggest that some are doing that with this legislation, and I would suggest, equally incorrectly.

The Civil Rights Act of 1990 is a milestone in the history of civil rights in this country, just as the Americans with Disabilities Act was earlier this year. It overturns a number of Supreme Court cases which my colleague has just mentioned. The conference report before Members is the result of long negotiations and significant compromise by those committed in this country, who have fought through the decades to ensure the civil rights of citizens of this country. I would hope that when we pass this, as we surely will, that the President would see fit to sign this very, very important act.

It states that it may not be interpreted, I might add, to encourage or require quotas no matter how often that is said in the legislative history, no matter how clearly it is stated in the bill, there continues to be the claim that it creates quotas because it will create defensive actions. Defensive actions perhaps, are necessary because there have been in this country, unfortunately, a history of discriminatory practices that this Congress in 1964 said were not the policy and were not legal in this country, and which we reiterate today in this bill.

If President Bush vetoes this bill, it will be a veto of division, I suggest to Members. It will be a veto of polarization. It will be a veto that says to those who are discriminated in our society, that they are not going to be protected to the extent they should. We ought to pass this today with no less than 290 votes. I urge my colleagues to overwhelmingly support this bill.

Mr. Speaker, I rise today in strong support of the Conference Report on the Civil Rights Act of 1990. I want to commend the conferees for their efforts.

This legislation will, as we said when it was discussed during House consideration earlier this year, return the Civil Rights Act of 1964 to the foundation of equality and justice that it was designed to be.

The Civil Rights Act of 1990 is a milestone in the history of civil rights in this country—just as the Americans With Disabilities Act was earlier this year. The Civil Rights Act of 1990 overturns a number of Supreme Court decisions which did permanent and grievous harm to the landmark Civil Rights Act of 1964, one of the most progressive and just acts this body has come up with in its entire 202-year history.

The conference report before us today is the result of long negotiations and willingness to reach a fair compromise on the part of the civil rights community. There is no reason for President George Bush not to sign this conference report. The bill now expressly states that it may not be interpreted to encourage or require quotas. It also requires all plaintiffs to prove the specific employment practice which is responsible for disparate impact. Compensatory and punitive damages are eliminated in mixed motive claims. The conference report addresses several concerns that had been raised regarding consent decrees, including allowing more individuals to challenge consent decrees.

If President George Bush vetoes this bill, it will be a veto of division, it will be a veto of polarization, it will be veto which says to those who are discriminated in our society that they are of less worth. It will be an unacceptable veto.

Two and a half decades ago, our Nation examined its soul in a time of turmoil and controversy. Yet it was also a time of hope. It was during this time that the Civil Rights Act of 1964 was enacted by the Congress. We must now return to that spirit and ensure that the historic work of that Congress is not destroyed.

The view of America around the world has been dominated many times by our record on civil rights and equal treatment for all. In fact, many news reports indicated that the decision of the International Olympic Committee to locate the 1996 Olympic Games in Atlanta was heavily influenced by that city's progressive record on civil rights.

Today, let us renew that vision of America. I strongly urge my colleagues to pass this legislation by a large and resounding margin, to say again to the world, discrimination is not acceptable in America.

Mr. GOODLING. Mr. Speaker, I yield 3½ minutes to the distinguished gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I rise today in opposition to the conference agreement on the Civil Rights Act of 1990. I stand before you not as an opponent of civil rights and equal employment opportunities for all people, but rather an opponent of unfair, costly and burdensome laws placed on citizens who provide the jobs for all Americans, laws which often ultimately impact negatively on those they are intended to help. I do not believe that the goals of the civil rights community and the business community must necessarily compete and conflict with each other.

In the last few months and today, there has been a lot of debate about what exactly is required by this bill. Both sides cite legal opinions and specific language that shows what they believe this law will require. I am not a lawyer, and will leave that debate to the lawyers. However, I would like to illuminate a perspective that we forget too often here in Congress: The laws we pass have real effects on the lives of real people outside the beltway often exactly opposite to the intention of those who have passed the law.

The small business owner cannot afford the risk of additional litigation Kennedy-Hawkins places on him or her and remain competitive. He or she cannot rely on the opinion of a lawyer in Washington that the language in Kennedy-Hawkins does not require quotas. He or she cannot depend on a phrase in bill that says quotas are not required or encouraged. He or she must be confident that the business will not be subject to a lawsuit. He or she will need to review the hiring practices used and decide if he or she is completely confident that he or she can justify every hiring practice, including subjective tests, and that he can convince a jury that those decisions were justified. Even if the job provider is confident of the fairness of the hiring practices, I believe that most job providers will decide that they cannot afford the risk of a lawsuit, and will adopt quotas or close in cousin to avoid this risk.

There has been much discussion of the changes made in Kennedy-Hawkins since it was introduced. However, these changes merely nibble at the edges of the serious weaknesses in this bill. It still allows juries to award punitive and compensatory damages. There still is no cap on damages for pain and suffering. On the issue of quotas, the changes at best reduced the probability that this bill will lead to quotas from an absolute certainty to a virtual certainty.

Last August 3, the peoples' House had an opportunity to vote on a compromise that did address the concerns about Kennedy-Hawkins. The chairman of the Small Business Committee offered legislation which protected the rights of individuals seeking employment, while allowing the job providers community to operate without congressionally imposed quotas. Unfortunately, the LaFalce-Goodling substitute failed. I do not believe the substitute bill failed because of its merit or substance.

Today we have another chance to improve civil rights legislation by voting against this conference report. We can go back to the drawing board next year to draft legislation to correct the Supreme Court's decisions which have negatively affected civil rights law. I know that a compromise can be reached which protects the

rights of all citizens, black or white, woman or man, employee or employer.

Again, I urge my colleagues to join me in voting "no" on this conference agreement.

□ 1340

Mr. HAWKINS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania [Mr. GRAY], the majority whip.

Mr. GRAY. Mr. Speaker, here we go again. The administration claims that this bill is a quota bill, but what a smoke screen that is.

This bill rejects quotas. Let me quote from page 29, section 13 of the conference report:

Nothing in the amendments made by this Act shall be construed to require or encourage an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex, or national origin:

That is the law, and so to say that this is a quota bill is absolutely wrong.

The fact is we know what the White House wants. We know from the memo that John Sununu sent us last week proposing the alternative that the administration wanted. He had the nerve to say that this bill would interfere with customer relationships. You remember what customer relationships are. Let me remind you. It is what Lester Mattox offered as his reason for standing in front of his restaurant with an axe handle to deny blacks access to his restaurant. It is what universities and country clubs use as their reason why they could not admit people whose names were Cohen, Levy, or Goldberg. It is what corporations said when they hired women only to do typing and why law firms told many women graduates of law schools that they should get married and forget a legal career.

Why? Customer relations. "Our clients couldn't deal with a woman lawyer."

It is what Asian Americans face when their children do so well on college admission exams, but they still cannot get into the college or the university of their choice. They call it customer preference, but we know what it is. It is bigotry. It is sexism. It is racism. It is discrimination.

Arthur Fletcher, the Chairman of the Civil Rights Commission, appointed by President Bush, said about the White House position:

An absolute outrage. It would take us back to the 1940's. I cannot believe anyone sincere about civil rights would have proposed such language.

Well, Arthur, I am here to tell you that they did.

Recently a Republican candidate for the Senate in Louisiana took off his robe, got a face lift and got a new hairdo, but inside he was the same, and all of us knew it, including many Republicans. He got a lot of votes.

David Duke was no fluke. He played the Willie Horton strategy. He played the southern strategy. He played divide and conquer politics.

Mr. Speaker and my friends, if you are for civil rights, vote for this bill. If you want to play politics and have code language that divides this country and plays on the fears of people, then vote against it; but if you want a civil rights bill that moves us forward in the bipartisan tradition of the past, I urge you to vote for this bill.

Mr. GOODLING. Mr. Speaker, I yield 4 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, for starters, I know it is always tempting to play politics in a bill that is entitled Civil Rights, but I do want to set the record straight for my good friend, the majority whip. In fact, David Duke of Louisiana was a Democrat and was running for the U.S. Senate as an independent, and the Republican Party and the Republican leaders and a large number of Republican officials, in fact most, if not all in Louisiana, opposed David Duke, who the gentleman referred to.

Mr. FROST. Mr. Speaker, if the gentleman will yield, Duke holds office as a Republican. He is a Republican State representative.

Mr. BARTLETT. Mr. Speaker, to correct the record as far as politics, not on this bill, David Duke was a Democrat and ran as an Independent with the organized opposition of the Republican Party.

The question on the so-called civil rights bill before us, the question is how do you sell a junk car that does not run? One way, although not very straightforward, is to slap a thin coat of paint on the car and call it fixed and hope that no one looks at the engine, but the car still does not run. It is a little bit slicker. It is a little bit shinier, but it still does not run, and that is what has happened here with this legislation. There is no change in reality in the conference report from the legislation previously sent to conference. The changes are only a thin coat of paint. They are only cosmetic. The bill still is not a civil rights bill. It is an attorneys' fee bill. It is a litigation bill. It is a quota bill.

Let us examine the specifics of this legislation in its present form. First we heard the gentleman from Wisconsin [Mr. GUNDERSON] refer to section 9 of the bill which was not changed. Section 9 says that all other parties can settle their fees, but the attorneys cannot be required to settle their fees in a court. Read section 9, not changed in the conference committee report.

No consent order or judgment settling a claim under this title shall be entered, unless the parties or their counsel attest to the court that a waiver of attorneys' fees was not compelled as a condition of the settlement.

Second, this left the House as a quota bill. It is still a quota bill.

If the proponents of this legislation had wanted to eliminate quotas out of this bill, they could have restored the Griggs decision of 1971. The Griggs definition of business necessity was a one-part definition. It said that business necessity is manifestly related to the employment in question, but this bill does not do that. This bill sets up a two-part definition, and one of the parts of the definition requires a significant relationship to the successful performance of the job. Never been heard from in civil rights law before. Never been heard from in any court cases before. It was made up in order to require quotas, regardless of the other language of the bill.

The bill goes on. In other places it was not correct, requiring demonstrable evidence, presumably that eliminates the subjective evidence of interviews, job recommendations and performance appraisals.

□ 1350

Plaintiffs under this bill are still permitted to demonstrate a group of practices rather than naming the individual practice that resulted in the disparate impact.

It left the House floor a quarter bill, came back as a quarter bill; left the House floor as an attorney's fee bill, came back as an attorney's fee bill, and most egregious, left the House floor as a damages bill, turning 25 years of civil rights laws and practices on their heads, 25 years of civil rights set out as a basic of civil rights enforcement to provide for corrective action, make-whole remedies to stop the discrimination.

This bill provides for the first time in civil rights law punitive damages, compensatory damages and litigation.

Oh, the bill purports to place a cap, but there is no cap. It is compensatory damages plus an equal amount in punitive damages.

I will enter into the RECORD today a list of court cases listing those compensatory damages.

No compromise, the changes are only cosmetic. Vote against the bill.

SECTION 1981 CASES IN WHICH COMPENSATORY AND/OR PUNITIVE DAMAGES WERE AWARDED: 1980—PRESENT

[Selected cases from Shea and Gardner Study]

Date case decided	Name of case	Back pay	Front pay	Compensatory	Punitive	Additional
Nov. 21, 1963	"Jackson v. City of Albuquerque," 890 F.2d 225 (10th Cir. 1989)	[1]	$50,000	$70,000	$70,000	Reinstatement.
July 14, 1989	"Gillespie v. First Interstate Bank of Wisconsin Southeast," 717 F. Supp. 649 (E.D. Wis. 1989).	[2] 20,936.92		50,000	[4] 60,000	
Jan. 31, 1989	"McKnight v. General Motors Corp.," 705 F. Supp. 464 (E.D. Wis. 1989).	55,000		55,000	500,000	Appeal pending in the Seventh Circuit.
Sept. 30, 1989	"Carter v. Sedgwick County, Kansas," 705 F. Supp. 1474 (D. Kan. 1988).	10,748.05	[3]	100,000	10,000	
Nov. 25, 1988	"Erebia v. Crysler Plastic Products Corp.," 863 F.2d 47 (table) (6th Cir. 1988) (Erebia II).	1.00		75,000	55,000	Reversed to resolve issue of reinstatement.
Apr. 12, 1988	"Zaklama v. Mt. Sinai Medical Center," 842 F.2d 291 (11th Cir. 1988).			85,000	50,000	
Sept. 30, 1987	"Rowlett v. Anheuser-Busch, Inc.," 832 F.2d 194 (1st Cir. 1987)	176,000		123,000	300,000	
May 4, 1987	"Williamson v. Handy Button Machine Co.," 817 F.2d 1290 (7th Cir. 1987).	[5] 130,000		20,000	100,000	
Apr. 2, 1987	"Johnson v. Armored Transport of California, Inc.," 813 F.2d 1041 (9th Cir. 1987).			45,000	150,000	
Jan. 26, 1987	"Brown v. Freedman Baking Co.," 810 F.2d 6 (1st Cir. 1987) [three plaintiffs].	22,000 4,000 1,000			53,000 54,000 54,000	
Nov. 10, 1986	"Walters v. City of Atlanta," 803 F.2d 1135 (11th Cir. 1986)			150,000	2,000	Instatement.
Dec. 11, 1985	"Stallworth v. Shuler," 777 F.2d 1431 (11th Cir. 1985)			100,000	1,000	
Jan. 21, 1985	"Mitchell v. Keith," 752 F.2d 385 (9th Cir. 1985)	30,000		20,000	500,000	
July 13, 1984	"Rodgers v. Fisher Body Div.," 739 F.2d 1102 (6th Cir. 1984)			[8]	[9]	
May 31, 1981	"Reese v. Batesville Casket Co.," 25 FEP Cases 1472 (D.D.C. 1981) [two plaintiffs].			[10]		

[1] Amount not reported.
[2] Plus prejudgment interest.
[3] Yes or reinstatement.
[4] District court reduced jury award of $100,000 as excessive.
[5] May include future earnings.
[6] First Circuit reduced jury award of $3 million as excessive.
[7] Plaintiff agreed to reduce jury award from $250,000 rather than face a new trial.
[8] Sixth Circuit vacated $300,000 award as excessive.
[9] Sixth Circuit vacated $500,000 award as excessive.
[10] Includes loss of future earnings $60,000.

The SPEAKER pro tempore (Mr. MFUME). The Chair will advise the gentleman from Pennsylvania [Mr. GOODLING] has 1½ minutes remaining, and the gentleman from Texas [Mr. BROOKS] has 1 minute remaining. The gentleman from Texas will close the debate.

Mr. GOODLING. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this has been a very difficult morning for me as has this whole session dealing with civil rights legislation. I have spent my entire adult life trying to make sure that all had an equal opportunity for a good education and an equal opportunity for a good life in this great country. I owe that to society because I was more fortunate than many. Not because I do not know what poverty is; I was one of 6 children during the Depression. Not because I do not know what discrimination is; I had a horrible year my first year in 9th grade going to the city schools. Minorities as well as majorities attacking us because we were country kids; but I had the love at home to see me through the night and get me back to school the next day. By the time that the end of the year came, I was able to win over those who were so vicious early on.

But I cannot vote for legislation that I believe and I truly believe will set back the civil rights efforts in this country rather than enhance it. And that is what I believe the legislation will do.

I hope that after the veto, even this session we can make a few changes and then have a true civil rights bill.

I want to thank the staff who have worked day and night for a long, long time, sitting behind me for their efforts to try to bring forth good civil rights legislation.

Mr. BROOKS. Mr. Speaker, I yield 30 seconds to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. I thank my chairman.

Mr. Speaker, I am sure if I had stood in this Chamber in 1964, I would have heard the very same type of debate we have heard today regard the original civil rights bill—Very good-natured and very much based on good faith. But I think, in some cases, very wrong.

If you examine this bill from every conceivable angle, persons can find reasons to vote against it. But when you examine its philosophy, its overall direction, it has to be supported.

I certainly rise in behalf of the Civil Rights Act amendments of 1990, salute all of the sponsors of it. It is not a quota bill. There is a limit on damages. There is no reason not to support this bill.

Mr. BROOKS. Mr. Speaker, I yield myself the balance of my time.

I would just say that this is a good confernce report. The Members ought to support it. It is a fair, objective step forward for this Nation. I think we should continue to make progress and not turn the clock back.

Mr. Speaker, I would ask the Members to support this conference report.

Mr. MATSUI. Mr. Speaker, the United States was founded on the principle of equal opportunity for all citizens. No American should be denied a job or the opportunity to succeed based on their race, sex, national origin, or religion. These principles, which until last year had been reaffirmed repeatedly by the Supreme Court, are the strength of our Nation.

The conference report on the Civil Rights Act of 1990 simply ensures these principles stay intact. This measure restores to women and minorities the guarantee that their rights on the job are protected. It also guarantees the right of workers who are the victims of intentional discrimination to sue for damages.

The argument that this legislation would result in a torrent of lawsuits is unfounded. The Civil Rights Act of 1990 merely reinstates the civil rights protections that were in place prior to 1989. During these years, an undue number of discrimination cases was not brought before the courts.

The entire Nation suffers from the burden of intentional discrimination. If the American work force is to be truly productive, workers must be guaranteed a work place free of harassment and discrimination. This is the least assurance that women and minorities in the work place should have.

I do not accept the President's arguments that this bill will lead employers to set hiring quotas. The Civil Rights Act of 1990 is not about requiring hiring quotas. It is about fairness in employment and opportunity and about providing a level playing field for all workers.

Voting for the conference report on the Civil Rights Act of 1990 will reinstate the protections minorities and women need to participate equally and productively in the nation's work place. Congress should pass this conference report and the President should sign this important measure into law. We owe this protection to the women and minorities living and working in the United States:

Mrs. KENNELLY. Mr. Speaker, I rise today in strong support for the conference on the Civil Rights Act of 1990. By passing this conference today, we will renew the commitment of Congress to the employment protections

adopted in title VII of the Civil Rights Act of 1964. In fact, Mr. Speaker, we will reaffirm the original intent of the Civil Rights Act of 1964.

I am especially supportive of the Civil Rights Act because of its provisions to guarantee protection in cases of sex discrimination. We must always remember, sex discrimination knows no boundaries. It crosses racial distinctions. White women are not immuned. Black women are not spared. Asian women know it well. Put simply, women deserve the same protection from sexism, as they do from racism.

In recent years, we have seen the protections guaranteed in the original Civil Rights Act erode before our very eyes. Basic battles for social justice we thought we won years ago, have been weakened and, in some cases, even reversed.

Today we have the opportunity to set America back on a course of respect and protection of basic civil rights for all of its citizens. Today we must pass the conference on the Civil Rights Act of 1990.

I urge all Members to support this conference report.

Mr. SCHEUER. I rise today to voice my support for the conference report on the Civil Rights Act of 1990. This bill restores civil rights guarantees for employees, ensuring that all who are qualified for a job are treated fairly, regardless of their race, sex or their religion.

It has been more that 2 years since the Supreme Court handed down the Grover City decision stating that Federal civil rights laws apply only to a specific program and not to an entire organization, regardless of the prevalence of intentional discrimination throughout that organization. The Grove City case marked the beginning of a string of Court opinions that curtailed well established civil rights remedies and misinterpreted the spirit of the original Civil Rights Act.

This string of opinions resulted in cases such as the Wards Cove case where the Court went so far as to shift the burden of proof on the question of a business necessity from the employer to the worker, although the worker has no access to company forms or records and no way to prove that a decision was made with bias or discriminatory intent.

Today, we are called upon to restore our civil rights laws to their original intent. This legislation restores equity to our present system and makes qualifications for a position the only test for hiring, firing, and promoting decisions. If a business necessity exists so that only certain types of individuals are qualified for a position, then the employer need only justify this disperate treatment by showing such a business necessity and demonstrating that the motivation in fact was not a discriminatory one.

The Civil Rights Act of 1990 guarantees that an entire institution remain free from biased decisionmaking. The act, however, only penalizes those employers who are guilty of intentional discrimination or bias. It allows compensatory and punitive damages for proven intentional discrimination, but punitive damages are not allowed in cases where mixed motives are involved. This limit on punitive damages ensures that this law will not become a quota bill. Moreover, the act itself specifies in clear language that it not only does not require quotas but that it also does not encourage the use of quotas for minorities.

Instead of creating a quota system, our legislation today establishes that a level playing field should exist within our country's business. The legislation makes it clear that equal rights under the law must be provided to all, to women, to seniors, to religious, racial and ethnic minorities. It is a law which furthers the fundamental principles of equality and justice.

Congress now has the opportunity to alleviate the damage done by the Supreme Court's incorrect interpretations of our civil rights laws and to rectify the mass dismissal of hundreds of cases involving discrimination. This act attempts to guarantee that a nondiscrimination ethic functions as our Nation's work ethic. I urge my colleagues to adopt this legislation and reinstate our country's determination to erase all forms of bigotry and provide equal employment opportunity to all those who have been denied it.

Mr. LAFALCE. Mr. Speaker, in late July of this year, I introduced a substitute for the then drafted H.R. 4000, the Civil Rights Act of 1990. I believed it was necessary to reverse a number of unfortunate Supreme Court cases, but I also believed that H.R. 4000, as then drafted, was grieviously flawed. It directly abridges the rights of the men and women who operate our Nation's small businesses and employ most of our work force by tilting the scales of justice against them whenever there was an allegation of discrimination, no matter how unfounded that allegation might be.

On August 3, 1990, my amendment was offered as a substitute to H.R. 4000, in order to place the scales of justice in equilibrium between accusers and accused, between employees and employers.

Although my amendment was defeated, I voted for final passage of H.R. 4000 in the hope that the conferees might, at some point, see the disdom of some of my arguments. I am very happy to say that because of the concerns my amendment addressed, the Civil Rights Act has now been, at least in certain respects, significantly and substantially modified in the direction which I proposed.

On August 3, in order to prevent my amendment from passing, the proponents of H.R. 4000 had to modify the bill in three very important ways.

First, in order to allay the legitimate fear of quotas in disparate impact cases, language, taken from my amendment, was aded to state explicitly that "The mere existence of a statistical imbalance in an employer's workforce on account of race, color, religion, sex or national origin is not alone sufficient to establish a prima facie case of a disparate impact violation." Also, language was added to explicitly state that "nothing in the amendments made by this act shall be construed to require an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex, or national origin."

Second, in international discrimination cases, H.R. 4000 was changed to cap punitive damages at $150,000 for employers of 100 employees or less. Although—and this is not only troubling, but possibly unconstitutional—if higher compensatory damages—pain and suffering—were awarded, the punitive damages could equal the compensatory damages.

Third, the bill was changed so that it would not overturn Supreme Court cases retroactively.

Later, the first conference agreement between the House and Senate extended the punitive damages cap to all employers, although the compensatory-punitive damages exception was still retained.

On October 11, 1990, I took to the House floor to urge that the first conference report be recommitted to the conference committee so that further changes could be made in the direction of my original amendment. The House voted to do just that.

After recommittal of the first conference report, the conference agreed to make the following important changes in the conference report:

First, the bill was amended to bar damages in "mixed motive" cases—involving employment practices motivated by both discriminatory and nondiscriminatory criteria—if the same action would have been taken "in the absence of any discrimination." My concern with the original bill was that an employer could be found guilty of discrimination and made to pay unlimited damages even though it was clearly shown that the employee or job applicant was totally unqualified for the job, salary increase or promotion. That provision was unbelievable. The language before us would now bar recovery of damages in those cases in which the individual was clearly not qualified.

Second, as I had proposed, the "burden of proof" section of the disparate impact provision was amended to require that, before the burden of proof could shift to an employer, the complainant had to show both, first, a disparate impact, and second, a casual connection between the disparate impact and the specific employment practice or practices of the employer.

Prior to this conference agreement, the bill had deliberately avoided the use of the word "cause"—using the word "result" instead—thus inferring that an employer could be punished absent a casual nexus between the employment practice or practices and the disparate impact. This rather radical departure from traditional legal principles has now been avoided.

Further, prior to this conference, complainants did not have to identify the specific employment practice or practices which result in the disparate impact. Now, as was proposed in my amendment, such specificity is required.

Finally, prior to this conference, there was no clarification as to the admissibility of performance evaluations, written records, and the testimony of individuals with knowledge of the practice in determining whether an employment practice meets the test of business necessity. Indeed, most believe such evidence would have been inadmissible. This second conference report now formally recognizes their admissibility.

Third, as I had also proposed, the conference modified the bill's definition of business necessity. It does not, as I had proposed, go fully back to the original language in the hold-

ing of Griggs versus Duke Power and its progeny, language which never resulted in quotas during the 18 years it was the law of the land. But, at least, with respect to nonselection further amended to clarify that the bill does not even intend to encourage quotas.

Fifth, the bill was also amended to more clearly specify, as my amendment did, who may, and under what circumstances they may, challenge already existing consent decrees. Constitutional protections require that a person cannot be deprived of his legal rights in a proceeding to which he is not a party. Crucial to this requirement is the fundamental notion that people should not be barred from bringing a future legal action if they should have received notice of the earlier action and did not. The conference report, as did my amendment, strengthens and clarifies the notice requirements.

Sixth, the bill, as did my amendment, deletes a provision whereby defendants would have had to automatically pay complainants attorneys' fees if the defendant had earlier rejected a settlement offer which was as good or better than the final outcome. The bill, like my amendment, now returns the assessment of attorneys' fees to the discretion of the court.

Seventh, a new provision is added stating that it is not the bill's intent to overrule current case law on comparable worth.

In summary, I believe that the current version of the Civil Rights Act meets a number of the objections addressed by my amendment. These do not represent significant concessions; they represent common sense and fairness. Indeed, it is shocking that the need for these changes was not recognized earlier and even more amazing to think that this law could have been enacted without these changes.

I still wish the conferees would have considered other provisions of my substitute which address a number of other significant problems with the bill. However, despite that, I believe that the bill has now been sufficiently improved, and that the second conference report should now be adopted.

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HAWKINS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 273, nays 154, not voting 6, as follows:

[Roll No. 478]

YEAS—273

Ackerman	Glickman	Owens (NY)
Alexander	Gonzalez	Owens (UT)
Anderson	Gordon	Pallone
Andrews	Grant	Panetta
Anthony	Gray	Patterson
Applegate	Green	Payne (NJ)
Aspin	Guarini	Payne (VA)
Atkins	Hall (OH)	Pease
AuCoin	Hamilton	Pelosi
Barton	Harris	Penny
Bates	Hatcher	Perkins
Bellenson	Hawkins	Pickett
Bennett	Hayes (IL)	Pickle
Berman	Hayes (LA)	Poshard
Bevill	Hefner	Price
Bilbray	Henry	Pursell
Billey	Hertel	Rahall
Boehlert	Hoagland	Rangel
Boggs	Hochbrueckner	Ray
Bonior	Horton	Regula
Borski	Houghton	Richardson
Bosco	Hoyer	Rinaldo
Boucher	Hubbard	Roe
Boxer	Hughes	Ros-Lehtinen
Brooks	Jacobs	Rostenkowski
Browder	James	Roukema
Brown (CA)	Johnson (CT)	Rowland (GA)
Bruce	Johnson (SD)	Roybal
Bryant	Johnston	Sabo
Bustamante	Jones (GA)	Saiki
Byron	Jones (NC)	Sangmeister
Campbell (CA)	Jontz	Savage
Campbell (CO)	Kanjorski	Sawyer
Cardin	Kaptur	Scheuer
Carper	Kastenmeier	Schiff
Carr	Kennedy	Schneider
Chapman	Kennelly	Schroeder
Clarke	Kildee	Schulze
Clay	Kleczka	Schumer
Clement	Kolter	Serrano
Coleman (TX)	Kostmayer	Sharp
Collins	LaFalce	Shays
Condit	Lancaster	Sikorski
Conte	Lantos	Sisisky
Conyers	Laughlin	Skaggs
Cooper	Leach (IA)	Skelton
Costello	Lehman (CA)	Slattery
Coughlin	Lehman (FL)	Slaughter (NY)
Coyne	Levin (MI)	Smith (FL)
Crockett	Levine (CA)	Smith (IA)
Davis	Lewis (GA)	Smith (VT)
de la Garza	Lloyd	Snowe
DeFazio	Long	Solarz
Dellums	Lowey (NY)	Spratt
Derrick	Luken, Thomas	Staggers
DeWine	Machtley	Stallings
Dicks	Manton	Stark
Dingell	Markey	Stokes
Dixon	Martinez	Studds
Donnelly	Matsui	Swift
Dorgan (ND)	Mavroules	Synar
Downey	Mazzoli	Tallon
Durbin	McCloskey	Tanner
Dwyer	McCurdy	Tauzin
Dymally	McDermott	Thomas (GA)
Dyson	McHugh	Torres
Early	McMillen (MD)	Torricelli
Eckart	McNulty	Towns
Edwards (CA)	Meyers	Traficant
Engel	Mfume	Traxler
English	Miller (CA)	Udall
Erdreich	Mineta	Unsoeld
Espy	Mink	Valentine
Evans	Moakley	Vento
Fascell	Mollohan	Visclosky
Fazio	Moody	Volkmer
Feighan	Morella	Walgren
Fish	Mrazek	Walsh
Flake	Murphy	Washington
Flippo	Murtha	Watkins
Foglietta	Nagle	Waxman
Ford (MI)	Natcher	Weiss
Ford (TN)	Neal (MA)	Wheat
Frank	Neal (NC)	Whitten
Frost	Nelson	Williams
Gaydos	Nowak	Wilson
Gejdenson	Oakar	Wise
Gephardt	Oberstar	Wolpe
Geren	Obey	Wyden
Gibbons	Olin	Yates
Gilman	Ortiz	Yatron

NAYS—154

Annunzio	Hastert	Quillen
Archer	Hefley	Ravenel
Armey	Herger	Rhodes
Baker	Hiler	Ridge
Ballenger	Holloway	Ritter
Barnard	Hopkins	Roberts
Bartlett	Huckaby	Robinson
Bateman	Hunter	Rogers
Bentley	Hutto	Rohrabacher
Bereuter	Hyde	Roth
Bilirakis	Inhofe	Russo
Broomfield	Ireland	Sarpalius
Brown (CO)	Jenkins	Saxton
Buechner	Kasich	Schaefer
Bunning	Kolbe	Sensenbrenner
Burton	Kyl	Shaw
Callahan	Lagomarsino	Shumway
Chandler	Leath (TX)	Shuster
Clinger	Lent	Skeen
Coble	Lewis (CA)	Slaughter (VA)
Coleman (MO)	Lewis (FL)	Smith (NE)
Combest	Lightfoot	Smith (NJ)
Courter	Lipinski	Smith (TX)
Cox	Livingston	Smith, Denny (OR)
Craig	Lowery (CA)	Smith, Robert (NH)
Crane	Lukens, Donald	Smith, Robert (OR)
Dannemeyer	Madigan	Solomon
Darden	Marlenee	Spence
DeLay	Martin (NY)	Stangeland
Dickinson	McCandless	Stearns
Dornan (CA)	McCollum	Stenholm
Douglas	McCrery	Stump
Dreier	McDade	Sundquist
Duncan	McEwen	Tauke
Edwards (OK)	McGrath	Taylor
Emerson	McMillan (NC)	Thomas (CA)
Fawell	Michel	Thomas (WY)
Fields	Miller (OH)	Upton
Frenzel	Miller (WA)	Vander Jagt
Gallegly	Molinari	Vucanovich
Gallo	Montgomery	Walker
Gekas	Moorhead	Weber
Gillmor	Morrison (WA)	Weldon
Gingrich	Myers	Whittaker
Goodling	Nielson	Wolf
Goss	Oxley	Wylie
Gradison	Packard	Young (AK)
Grandy	Parker	Young (FL)
Gunderson	Parris	
Hall (TX)	Pashayan	
Hammerschmidt	Paxon	
Hancock	Petri	
Hansen	Porter	

NOT VOTING—6

Brennan	Morrison (CT)	Rowland (CT)
Martin (IL)	Rose	Schuette

□ 1413

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the conference report on the Senate bill, S. 2104, that was just agreed to.

The SPEAKER pro tempore (Mr. MFUME), Is there objection to the request of the gentleman from California?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 39

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent to have my name

removed as a cosponsor of the bill, H.R. 39.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 358, IMMIGRATION ACT OF 1989 AND NATURALIZATION AMENDMENTS OF 1989

Mr. BROOKS. Mr. Speaker, pursuant to the provisions of House Resolution 484, I move that the House insist on its amendment to the Senate bill (S. 358) to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States, and to provide for administrative naturalization, and for other purposes, and request a conference with the Senate thereon.

The SPEAKER. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS].

The motion was agreed to.

The SPEAKER. The Chair appoints the following conferees and, without objection, reserves the right to appoint additional conferees:

From the Committee on the Judiciary, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Messrs. BROOKS, MORRISON of Connecticut, FRANK, SCHUMER, BERMAN, BRYANT, MAZZOLI, FISH, SMITH of Texas, MCCOLLUM, and SLAUGHTER of Virginia.,

From the Committee on Education and Labor, for consideration of section 113 and title V of the Senate bill, and sections 103, 106, 112-13, 311-12, 314(e), and 315 of the House amendment, and modifications committed to conference: Messrs. FORD of Michigan, MILLER of California, SAWYER, GOODLING, and BALLENGER.

From the Committee on Ways and Means, for consideration of section 110 of the Senate bill, and modifications committed to conference: Messrs. ROSTENKOWSKI, STARK, JACOBS, ARCHER, and VANDER JAGT.

From the Committee on Post Office and Civil Service, for consideration of title VI of the Senate bill, and modifications committed to conference: Messrs. FORD of Michigan, SAWYER, and GILMAN.

There was no objection.

CONFERENCE REPORT ON S. 1430, NATIONAL AND COMMUNITY SERVICE ACT OF 1990

Mr. HAWKINS submitted the following conference report and statement on the Senate bill (S. 1430) to enhance national and community service, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-893)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1430), to enhance national and community service, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National and Community Service Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Purposes.

TITLE I—NATIONAL AND COMMUNITY SERVICE STATE GRANT PROGRAM

Subtitle A—General Provisions

Sec. 101. Definitions.
Sec. 102. Authority to make State grants.

Subtitle B—School-Aged Service

PART I—GENERAL PROGRAM

Sec. 110. Short title.
Sec. 111. General authority.
Sec. 112. Allotments.
Sec. 113. State application.
Sec. 114. Local applications.
Sec. 115. Priority; private school participation.
Sec. 116. Federal and local contributions.
Sec. 117. Uses of funds; limitations.

PART II—HIGHER EDUCATION INNOVATIVE PROJECTS FOR COMMUNITY SERVICE

Sec. 118. Higher education innovative projects for community service.

Subtitle C—American Conservation and Youth Corps

Sec. 120. Short title.
Sec. 121. General authority.
Sec. 122. Allocation of funds.
Sec. 123. State application.
Sec. 124. Focus of programs.
Sec. 125. Related programs.
Sec. 126. Public lands or Indian lands.
Sec. 127. Training and education services.
Sec. 128. Amount of award; matching requirement.
Sec. 129. Preference for certain projects.
Sec. 130. Age and citizenship criteria for enrollment.
Sec. 131. Use of volunteers.
Sec. 132. Post-service benefits.
Sec. 133. Living allowance.
Sec. 134. Joint programs.
Sec. 135. Federal and State employee status.
Sec. 136. Regulations and assistance.

Subtitle D—National and Community Service

Sec. 140. Short title.
Sec. 141. General authority.
Sec. 142. Grants.
Sec. 143. Types of national service.
Sec. 144. Terms of service.
Sec. 145. Eligibility.
Sec. 146. Post-service benefits.
Sec. 147. Living allowance.
Sec. 148. Training.
Sec. 149. Public-private partnership.
Sec. 150. In-service education benefits.

Subtitle E—Innovative and Demonstration Programs and Projects

PART I—LIMITATION ON GRANTS

Sec. 155. Limitation on grants.

PART II—GOVERNORS' INNOVATIVE SERVICE PROGRAMS

Sec. 156. General authority.
Sec. 157. Grants.

PART III—PEACE CORPS

Sec. 160. Program authorized.
Sec. 161. Eligibility and selection procedures.
Sec. 162. Training program.
Sec. 163. Educational benefits.
Sec. 164. Evaluation and report.

PART IV—OTHER VOLUNTEER PROGRAMS

Sec. 165. Rural youth service demonstration project.
Sec. 166. Assistance for Head Start.
Sec. 167. Employer-based retiree volunteer programs.

Subtitle F—Administrative Provisions

Sec. 171. Limitation on number of grants.
Sec. 172. Reports.
Sec. 173. Supplementation.
Sec. 174. Prohibition on use of funds.
Sec. 175. Nondiscrimination.
Sec. 176. Notice, hearing, and grievance procedures.
Sec. 177. Nonduplication and nondisplacement.
Sec. 178. State advisory board.
Sec. 179. Evaluation.
Sec. 180. Engagement of participants.
Sec. 181. National Service Demonstration Program amendments.
Sec. 182. Partnerships with schools.
Sec. 183. Service as tutors.
Sec. 184. Drug-free workplace requirements.
Sec. 185. Conforming amendments.

Subtitle G—Commission on National and Community Service

Sec. 190. Commission on National and Community Service.

TITLE II—MODIFICATIONS OF EXISTING PROGRAMS

Subtitle A—Publication

Sec. 201. Information for students.
Sec. 202. Exit counseling for borrowers.
Sec. 203. Department information on deferments and cancellations.
Sec. 204. Data on deferments and cancellations.

Subtitle B—Youthbuild Projects

Sec. 211. Youthbuild projects.

Subtitle C—Amendments to Student Literacy Corps

Sec. 221. Amendments to Student Literacy Corps.

TITLE III—POINTS OF LIGHT FOUNDATION

Sec. 301. Short title.
Sec. 302. Findings and purposes.
Sec. 303. Authority.
Sec. 304. Grants to the Foundation.
Sec. 305. Eligibility of the Foundation for grants.

TITLE IV—FOOD DONATIONS

Sec. 401. Sense of Congress concerning enactment of Good Samaritan Food Donation Act.
Sec. 402. Model Good Samaritan Food Donation Act.
Sec. 403. Effect of section 402.

TITLE V—AUTHORIZATION OF APPROPRIATIONS

Sec. 501. Authorization of appropriations.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Amtrak waste disposal.
Sec. 602. Exchange programs with countries in transition from totalitarianism to democracy.

SEC. 2. PURPOSES.

It is the purpose of this Act to—

(1) renew the ethic of civic responsibility in the United States;

(2) ask citizens of the United States, regardless of age or income, to engage in full-time or part-time service to the Nation;

(3) begin to call young people to serve in programs that will benefit the Nation and improve the life chances of the young through the acquisition of literacy and job skills;

(4) enable young Americans to make a sustained commitment to service by removing barriers to service that have been created by high education costs, loan indebtedness, and the cost of housing;

(5) build on the existing organizational framework of Federal, State, and local programs and agencies to expand full-time and part-time service opportunities for all citizens, particularly youth and older Americans;

(6) involve participants in activities that would not otherwise be performed by employed workers; and

(7) generate additional service hours each year to help meet human, educational, environmental, and public safety needs, particularly those needs relating to poverty.

TITLE I—NATIONAL AND COMMUNITY SERVICE STATE GRANT PROGRAM

Subtitle A—General Provisions

SEC. 101. DEFINITIONS.

As used in this title:

(1) ADULT VOLUNTEER.—The term "adult volunteer" means—

(A) an individual who is beyond the age of compulsory schooling, including an older American, an individual with a disability, and a parent;

(B) an employee of a private business;

(C) an employee of a public or nonprofit agency; or

(D) any other individual working without financial remuneration in an education institution to assist students or out-of-school youth.

(2) COMMISSION.—The term "Commission" means the Commission on National and Community Service established under section 190.

(3) COMMUNITY-BASED AGENCY.—The term "community-based agency" means a private nonprofit organization that is representative of a community or a significant segment of a community and that is engaged in meeting human, educational, or environmental community needs, including churches and other religious entities and community action agencies.

(4) CREW SUPERVISOR.—The term "crew supervisor" means the adult staff individual who is responsible for supervising a crew of participants, including the crew leader.

(5) ECONOMICALLY DISADVANTAGED.—The term "economically disadvantaged" with respect to youths has the same meaning given such term in section 4(8) of the Job Training Partnership Act (29 U.S.C. 1503(8)).

(6) ELEMENTARY SCHOOL.—The term "elementary school" has the same meaning given such term in section 1471(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(8)).

(7) INDIAN LANDS.—The term "Indian lands" means any real property owned by an Indian tribe, any real property held in trust by the United States for Indian tribes, and any real property held by Indian tribes that is subject to restrictions on alienation imposed by the United States.

(8) INDIAN TRIBE.—The term "Indian tribe" means an Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(9) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(10) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the same meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

(11) LOCAL GOVERNMENT AGENCY.—The term "local government agency" means a public agency that is engaged in meeting human, social, educational, or environmental needs.

(12) OUT-OF-SCHOOL YOUTH.—The term "out-of-school youth" means an individual who—

(A) has not attained the age of 27;

(B) has not completed college or the equivalent thereof; and

(C) is not enrolled in an elementary or secondary school or institution of higher education.

(13) PARTICIPANT.—The term "participant" means an individual enrolled in a program that receives assistance under this title.

(14) PARTNERSHIP PROGRAM.—The term "partnership program" means a program through which adult volunteers, public or private agencies, institutions of higher education, or businesses assist a local educational agency.

(15) PLACEMENT.—The term "placement" means the matching of a participant with a specific project.

(16) PROGRAM.—The term "program" means an activity carried out with assistance provided under this title.

(17) PROGRAM AGENCY.—The term "program agency" means—

(A) a Federal or State agency designated to manage a youth corps program;

(B) the governing body of an Indian tribe that administers a youth corps program; or

(C) a local applicant administering a youth corps program.

(18) PROJECT.—The term "project" means an activity that results in a specific identifiable service or product that otherwise would not be done with existing funds, and that does not duplicate the routine services or functions of the employer to whom participants are assigned.

(19) PUBLIC LANDS.—The term "public lands" means any lands or waters (or interest therein) owned or administered by the United States or by an agency or instrumentality of a State or local government.

(20) SECONDARY SCHOOL.—The term "secondary school" has the same meaning given such term in section 1471(21) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(21)).

(21) SERVICE-LEARNING.—The term "service-learning" means a method—

(A) under which students learn and develop through active participation in thoughtfully organized service experiences that meet actual community needs and that are coordinated in collaboration with the school and community;

(B) that is integrated into the students' academic curriculum or provides structured time for a student to think, talk, or write about what the student did and saw during the actual service activity;

(C) that provides students with opportunities to use newly acquired skills and knowledge in real-life situations in their own communities; and

(D) that enhances what is taught in school by extending student learning beyond the classroom and into the community and helps to foster the development of a sense of caring for others.

(22) SERVICE OPPORTUNITY.—The term "service opportunity" means a program or project, including service learning programs or projects, that enables students or out-of-school youth to perform meaningful and constructive service in agencies, institutions, and situations where the application of human talent and dedication may help to meet human, educational, linguistic, and environmental community needs, especially those relating to poverty.

(23) SPECIAL SENIOR SERVICE MEMBER.—The term "special senior service member" means an individual who is age 60 or over and willing to work full-time or part-time in conjunction with a full-time national service program.

(24) SPONSORING ORGANIZATION.—The term "sponsoring organization" means an organization, eligible to receive assistance under this title, that has been selected to provide a placement for a participant.

(25) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau, until such time as the Compact of Free Association is ratified.

(26) STATE EDUCATIONAL AGENCY.—The term "State educational agency" has the same meaning given such term in section 1471(23) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(23)).

(27) STUDENT.—The term "student" means an individual who is enrolled in an elementary or secondary school or institution of higher education on a full- or part-time basis.

(28) SUMMER PROGRAM.—The term "summer program" means a youth corps program authorized under this title that is limited to the months of June, July, and August.

(29) YOUTH CORPS PROGRAM.—The term "youth corps program" means a program, such as a conservation corps or youth service program, that offers full-time, productive work (to be financed through stipends) with visible community benefits in a natural resource or human service setting and that gives participants a mix of work experience, basic and life skills, education, training, and support services.

SEC. 102. AUTHORITY TO MAKE STATE GRANTS.

The Commission may, in accordance with the provisions of this title, make grants to States, or to local applicants, to enable such States or applicants to carry out national or community service programs under subtitles B, C, D, or E.

Subtitle B—School-Aged Service

PART I—GENERAL PROGRAM

SEC. 110. SHORT TITLE.

This subtitle may be cited as the "Serve-America: The Community Service, Schools and Service-Learning Act of 1990".

SEC. 111. GENERAL AUTHORITY.

(a) IN GENERAL.—The Commission, in consultation with the Secretary of Education, may make grants under section 102 to States or local applicants for—

(1) planning and building State capacity (which may be accomplished through grants and contracts with qualified organizations) for implementing statewide, school-aged service-learning programs, including—

(A) preservice and in-service training for teachers, supervisors, and personnel from community organizations in which service opportunities will be provided that will be conducted by qualified individuals or organizations that have experience in service-learning programs;

(B) developing service-learning curricula, including age-appropriate learning components for students to analyze and apply their service experiences;

(C) forming local partnerships to develop school-based community service programs in accordance with this subpart;

(D) devising appropriate methods for research and evaluation of the educational value of youth service opportunities and the effect of youth service programs on communities;

(E) establishing effective outreach and dissemination to ensure the broadest possible involvement of nonprofit community-based organizations and youth-service agencies with demonstrated effectiveness in their communities; and

(F) integration of service-learning into academic curricula;

(2) the implementation, operation, or expansion of statewide, school-based service-learning programs through State distribution of Federal funds made available under this subtitle to projects and activities coordinated and operated by local partnerships among—

(A) local educational agencies; and

(B) one or more community partners that—

(i) shall include a public or private nonprofit organization that will make service opportunities available for participants, and that is representative of the community in which such services will be provided; and

(ii) may include a private for-profit business organization or private elementary and secondary school;

(3) the implementation, operation, or expansion of community service programs for school dropouts, out-of-school youth, and other youth through State distribution of Federal funds made available under this subtitle to projects and activities coordinated and operated by local partnerships among—

(A) one or more public or private nonprofit organizations that work with disadvantaged youth; and

(B) one or more community partners that shall include a public or private nonprofit organization that will make service opportunities available for participants; and

(4) the implementation, operation, or expansion of programs involving adult volunteers in schools, or partnerships of schools and public or private organizations, to improve the education of at-risk students, school dropouts, and out-of-school youth through State distribution of Federal funds made available under this part to projects and activities coordinated and operated by local partnerships among—

(A) local education agencies; and

(B) one or more public or private nonprofit organization or private for-profit business.

(b) DIRECT GRANTS.—In any fiscal year in which a State does not participate in programs under this subtitle, the Commission may use the allotment of that State to make direct grants for the purposes described in subsection (a) to local applicants in that State. The Commission shall apply the criteria described in section 114 in evaluating such local applications.

SEC. 112. ALLOTMENTS.

(a) RESERVATIONS.—Of the amounts appropriated to carry out this subtitle for any fiscal year, the Commission shall reserve not more than 1 percent for payments to Indian tribes, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands and Palau, until such time as the Compact of Free Association is ratified, to be allotted in accordance with their respective needs.

(b) ALLOTMENT.—The remainder of the sums appropriated to carry out this subtitle shall be allotted among the States as follows:

(1) From 50 percent of such remainder the Secretary shall allot to each State an amount which bears the same ratio to 50 percent of such remainder as the school-age population of the State bears to the school-age population of all States.

(2) From 50 percent of such remainder the Secretary shall allot to each State an amount which bears the same ratio to 50 percent of such remainder as allocations to the State for the previous fiscal year under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 bears to such allocations to all States.

(c) LIMITATION.—For any period during which a State is carrying out planning activities under section 111(a)(1) prior to implementation under section 111(a)(2), a State may be paid not more than 25 percent of its allotment under this section.

(d) REALLOTMENT.—The amount of any State's allotment for any fiscal year under this section that the Commission determines will not be required for that fiscal year shall be available for reallotment to other States as the Commission may determine appropriate.

(e) EXCEPTION.—Notwithstanding this section, if less than $20,000,000 is made available in each fiscal year to carry out this subtitle, the Commission shall award grants to States on a competitive basis.

(f) DEFINITIONS.—For purposes of this section:

(1) SCHOOL-AGE POPULATION.—The term "school-age population" means the population aged 5 through 17, inclusive.

(2) STATE.—The term "State" includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 113. STATE APPLICATION.

To be eligible to receive a grant under this subtitle a State, acting through the State educational agency, shall prepare and submit to the Commission, an application at such time, in such manner, and containing such information as the Commission shall reasonably require, including a description of the manner in which—

(1) local applications will be ranked by the State according to the criteria described in section 114, and in a manner that ensures the equitable treatment of local applications submitted by both local educational agencies and community-based organizations;

(2) service programs within the State will be coordinated with each other and with other Federally assisted education programs, training programs, social service programs, and other appropriate programs that serve youth;

(3) cooperative efforts among local educational agencies, local government agencies, community-based agencies, businesses, and State agencies to develop and provide service opportunities, including those that involve the participation of urban, suburban, and rural youth working together, will be encouraged;

(4) economically and educationally disadvantaged youths, including individuals with disabilities, youth with limited basic skills or learning disabilities, youth in foster care who are becoming too old for foster care, youth of limited English proficiency, homeless youth and youth with disabilities, are assured of service opportunities;

(5) service programs that receive assistance under this subtitle will be evaluated;

(6) programs that receive assistance under this subtitle will serve urban and rural areas and any tribal areas that exist within such State;

(7) training and technical assistance will be provided to local grantees by qualified and experienced individuals employed by the State or through grant or contract with experienced content specialist and youth service resource organizations;

(8) non-Federal assistance will be used to expand service opportunities for students and out-of-school youth;

(9) information and outreach services will be disseminated and utilized to ensure the involvement of a broad range of organizations, particularly community-based organizations;

(10) the State will keep such records and provide such information to the Secretary as may be required for fiscal audits and program evaluation;

(11) the State will give special consideration to providing assistance to projects that will provide academic credit to participants; and

(12) the State will assure compliance with the specific requirements of this subtitle.

SEC. 114. LOCAL APPLICATIONS.

(a) IN GENERAL.—A partnership that desires to receive financial assistance under this subtitle shall prepare and submit to the State Educational Agency a proposal that meets the requirements of this section. Such proposal shall be submitted at such time, in such manner, and containing such information as the State Educational Agency may reasonably require.

(b) REQUIREMENTS OF PROPOSAL.—A proposal submitted under subsection (a) shall—

(1) contain a written agreement, between the members of the local partnership, stating that the program was jointly developed by the parties and that the program will be jointly executed by the parties;

(2) establish and specify the membership and role of an advisory committee that shall consist of representatives of community-based agencies including community action agencies, service recipients, youth-serving agencies, youth, parents, teachers, administrators, agencies that serve older adults, school board members, labor, and business;

(3) describe the goals of the program which shall include goals that are quantifiable, measurable, and demonstrate any benefits that flow from the program to the participants and the community;

(4) describe service opportunities to be provided under the program that shall include evidence that participants will make a

sustained commitment to the service project;

(5) describe the manner in which the participants in the program will be recruited, including any special efforts that will be utilized to recruit out-of-school youth with the assistance of community-based agencies;

(6) describe the manner in which participants in the program were or will be involved in the design and operation of the program;

(7) describe the qualifications, and responsibilities of the coordinator of the program assisted under this subtitle;

(8) describe preservice and inservice training for supervisors, teachers, and participants in the program;

(9) describe the manner in which exemplary service will be recognized;

(10) describe any potential resources that will permit continuation of the program, if needed, after the assistance received under this subtitle has ended;

(11) disclose whether the program plans include preventing and treating school-age drug and alcohol abuse and dependency; and

(12) contain assurances that, prior to the placement of a participant, the program will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program.

(c) SCHOOL-BASED AND COMMUNITY-BASED SERVICE LEARNING PROGRAM.—If an applicant under this section intends to operate a program described in section 111(a)(2) or 111(a)(3) such applicant, in addition to providing the information described in subsection (b), shall provide additional information that shall include—

(1) an assurance that the applicant will develop an age-appropriate learning component for participants in the program that shall include a chance for participants to reflect on service experiences and expected learning outcomes;

(2) a disclosure of whether or not the participants will receive academic credit for participation in the program;

(3) the target levels of participants in the program and the target levels for the hours of service that such participants will provide individually and as a group;

(4) the proportion of expected participants in the program who are educationally or economically disadvantaged, including participants with disabilities;

(5) the ages or grade levels of expected participants in the program;

(6) other relevant demographic information concerning such expected participants; and

(7) assurances that participants in the program will be provided with information concerning VISTA, the Peace Corps (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)), chapter 30 of title 38, United States Code, chapter 106 of title 10, United States Code, full-time Youth Service Corps and National Service programs receiving assistance under this title, and other service options and their benefits (such as student loan deferment and forgiveness) as appropriate.

(d) PARTNERSHIP PROGRAM.—If an applicant under this section intends to operate an adult role partnership program, under section 111(a)(4) such applicant, in addition to the information required to be included in the application under subsection (b), shall describe the students who are to be assisted through such program, including the ages and grade levels of such students.

SEC. 115. PRIORITY; PRIVATE SCHOOL PARTICIPATION.

(a) IN GENERAL.—In providing assistance under this subtitle, the State educational agency, or the Commission if section 111(b) applies, shall give priority to applications that describe programs that—

(1) involve participants in the design and operation of the program;

(2) are in the greatest need of assistance, such as programs targeting low-income areas;

(3) involve students from both public and private elementary and secondary schools or individuals of different ages, races, sexes, ethnic groups, disabilities and economic backgrounds serving together;

(4) are integrated into the academic program; or

(5) involve a focus on substance abuse prevention or school drop-out prevention.

(b) ADULT VOLUNTEER AND PARTNERSHIP PROGRAM.—In the case of an adult volunteer and partnership program (as described in section 111(a)(4)) the State educational agency, or the Commission, if section 111(b) applies, shall give priority to applications that contain a description of programs—

(1) that involve older Americans or parents as adult volunteers;

(2) that involve a partnership between an educational institution and a private business in the community;

(3) that include a focus on substance abuse prevention, school drop-out prevention, or nutrition; or

(4) that will improve basic skills and reduce illiteracy.

(c) PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE SCHOOLS.—

(1) IN GENERAL.—To the extent consistent with the number of children in the State or in the school district of the local educational agency involved who are enrolled in private nonprofit elementary and secondary schools, such State or agency shall (after consultation with appropriate private school representatives) make provision—

(A) for the inclusion of services and arrangements for the benefit of such children so as to assure the equitable participation of such children in the programs or projects implemented to carry out the purposes and provide the benefits described in this subtitle; and

(B) for the training of the teachers of such children so as to assure the equitable participation of such teachers in the programs or projects implemented to carry out the purposes and provide the benefits described in this subtitle.

(2) WAIVER.—If a State or local educational agency or institution of higher education is prohibited by law from providing for the participation of children or teachers from private nonprofit schools as required by paragraph (1), or if the Secretary determines that a State or local educational agency substantially fails or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children and teachers. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with section 1017 of the Elementary and Secondary Education Act of 1965.

SEC. 116. FEDERAL AND LOCAL CONTRIBUTIONS.

(a) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of a grant or contract for a project under this subtitle may not exceed—

(A) 90 percent of the total cost of a project for the first year for which the project receives assistance under this subtitle;

(B) 80 percent of the total cost of a project for the second year for which the project receives assistance under this subtitle; and

(C) 70 percent of the total cost of a project for the third year for which the project receives assistance under this subtitle.

(2) CALCULATION.—The State and local share of the costs of a project may be in cash or in kind fairly evaluated, including facilities, equipment, or services.

(b) WAIVER.—The Secretary may waive the requirements of subsection (a) with respect to any project in any fiscal year if the Secretary determines that such a waiver would be equitable due to a lack of available financial resources at the local level.

SEC. 117. USES OF FUNDS; LIMITATIONS.

(a) STATE USES OF FUNDS.—The State educational agency may reserve, from funds made available to such agency under this subtitle—

(1) not more than 5 percent of such funds for administrative costs for any fiscal year;

(2) not more than 10 percent of such funds to build capacity through training, technical assistance, curriculum development, and coordination activities, described in section 111(a)(1);

(3) not less than 60 percent of such funds to carry out school-based service learning programs described in section 111(a)(2);

(4) not less than 15 percent of such funds to carry out community-based service programs described in section 111(a)(3); and

(5) not more than 10 percent of such funds to carry out adult volunteer and partnership programs described in section 111(a)(4).

(b) AUTHORIZED ACTIVITIES FOR LOCAL PROJECTS.—

(1) IN GENERAL.—Local projects may use funds made available under this subtitle for the supervision of participating students, program administration, training, reasonable transportation costs, insurance, and for other reasonable expenses.

(2) LIMITATION.—Funds made available under this subtitle may not be used to pay any stipend, allowance, or other financial support to any participant, except reimbursement for transportation, meals, and other reasonable out-of-pocket expenses directly related to participation in a program assisted under this subtitle.

PART II—HIGHER EDUCATION INNOVATIVE PROJECTS FOR COMMUNITY SERVICE

SEC. 118. HIGHER EDUCATION INNOVATIVE PROJECTS FOR COMMUNITY SERVICE.

(a) PURPOSE.—It is the purpose of this part to support innovative projects to encourage students to participate in community service activities while such students are attending institutions of higher education.

(b) GENERAL AUTHORITY.—The Commission, in consultation with the Secretary of Education, is authorized to make grants to, and enter into contracts with, institutions of higher education (including a combination of such institutions) and other public agencies and nonprofit organizations working in partnership with institutions of higher education—

(1) to enable the institution to create or expand community service activities for students attending that institution;

(2) to encourage student-initiated and student-designed community service projects;

(3) to facilitate the integration of community service into academic curricula, so that students can obtain credit for their community service activities;

(4) to encourage students to participate in community service activities that will engender a sense of social responsibility and commitment to the community;

(5) to encourage students to assist in the teaching of individuals with limited basic skills or an inability to read and write; and

(6) to provide for the training of teachers, prospective teachers, related education personnel, and community leaders in the skills necessary to develop, supervise, and organize community service activities, taking into consideration the particular needs of a community and the ability of the grantee to actively involve a major part of the community in, and substantially benefit the community by, the proposed community service activities.

(c) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of each grant awarded under this section shall not exceed 50 percent of the cost of the community service activities carried out with each such grant.

(2) NON-FEDERAL SOURCES.—That portion of the costs of programs that receive assistance under this subtitle that are to be paid from sources other than Federal funds may be paid in cash or in kind (fairly evaluated).

(d) APPLICATION FOR GRANT.—To receive a grant under this subtitle, an applicant shall prepare and submit to the Commission, an application at such time, in such manner, and containing such information as the Commission may reasonably require, including—

(1) a description of the proposed program to be established with assistance provided under the grant;

(2) a description of the human, educational, environmental or public safety service that participants will perform and the community need that will be addressed under such program;

(3) a description of whether or not students will receive academic credit for community service activities under the program;

(4) a description of the procedure for training supervisors and participants and for supervising and organizing participants in such proposed program;

(5) a description of the procedures to ensure that the proposed program provides participants with an opportunity to reflect on their service experiences;

(6) a description of the budget for the program; and

(7) assurances that, prior to the placement of a participant in the program, the applicant will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such project.

Subtitle C—American Conservation and Youth Corps

SEC. 120. SHORT TITLE.

This subtitle may be cited as the "American Conservation and Youth Service Corps Act of 1990".

SEC. 121. GENERAL AUTHORITY.

The Commission may make grants under section 102 to States or local applicants, to the Secretary of Agriculture, to the Secretary of the Interior, or to the Director of ACTION for the creation or expansion of full-time or summer youth corps programs.

SEC. 122. ALLOCATION OF FUNDS.

(a) COMPETITIVE GRANT.—The Commission shall award grants under this subtitle on a competitive basis to States or Indian tribes that have submitted applications under section 123.

(b) DIRECT GRANTS.—

(1) IN GENERAL.—In the case of a State that does not apply for a grant under this subtitle or have an application approved under section 123, the Commission may award grants directly to public or private nonprofit agencies with experience in youth programs within such State.

(2) EVALUATION.—

(A) APPLICATION OF CRITERIA.—The Commission shall apply the criteria described in section 123 in determining whether to award a grant to a local applicant under this subsection.

(B) EQUITABLE ALLOCATION.—If more than one local applicant within a State applies for funds, the Commission shall allocate funds among such applicants in such manner as the Commission considers equitable.

(3) INDIAN TRIBES.—An Indian tribe shall be treated the same as a State for purposes of making grants under this subtitle.

(4) GRANT TO FEDERAL AGENCY.—If a State has failed to establish a youth corps program and no local youth corps programs exist within such State, the Commission may make a grant to a Federal agency to directly administer a youth corps program.

(c) LIMITATION.—

(1) CAPITAL EQUIPMENT.—Not to exceed 10 percent of the amount of assistance made available to a program agency under this subtitle shall be used for the purchase of major capital equipment.

(2) ADMINISTRATIVE EXPENSES.—

(A) BY PROGRAM AGENCY.—Not to exceed 5 percent of the amount of assistance made available to a program agency under this subtitle shall be used for administrative expenses.

(B) BY STATE.—Not to exceed 5 percent of the amount of assistance made available to a State under this subtitle shall be used for administrative expenses.

(d) RESERVATION.—

(1) FEDERAL DISASTER RELIEF.—The Commission shall reserve not to exceed 5 percent of the amounts made available in each fiscal year to make grants under this subtitle for Federal disaster relief programs.

(2) INDIAN TRIBES.—The Commission shall reserve not to exceed 1 percent of the amounts made available in each fiscal year to make grants under this subtitle to Indian tribes.

(e) EQUITABLE FUNDING OF CONSERVATION AND SERVICE PROGRAMS.—The Commission shall award an equal number of grants to conservation corps programs and youth corps programs.

SEC. 123. STATE APPLICATION.

(a) SUBMISSION.—To be eligible to receive a grant under this subtitle, a State or Indian tribe (or a local applicant if section 122(b) applies) shall prepare and submit to the Commission, an application at such time, in such manner, and containing such information as the Commission may reasonably require, including the information required under subsection (b).

(b) GENERAL CONTENT.—An application submitted under subsection (a) shall describe—

(1) any youth corps program proposed to be conducted directly by such applicant with assistance provided under this subtitle; and

(2) any grant program proposed to be conducted by such State with assistance provided under this subtitle for the benefit of entities within such State.

(c) SPECIFIC CONTENT.—To receive a grant under this subtitle to directly conduct a youth corps program, each applicant shall include in the application submitted under subsection (a)—

(1) a comprehensive description of the objectives and performance goals for the program to be conducted, a plan for managing and funding the program, and a description of the types of projects to be carried out, including a description of the types and duration of training and work experience to be provided by such program;

(2) a plan for the certification of the training skills acquired by participants and the awarding of academic credit to participants for competencies developed through training programs or work experience obtained under this subtitle;

(3) an age-appropriate learning component for participants that includes procedures that permit participants to reflect on service experiences;

(4) an estimate of the number of participants and crew leaders necessary for the proposed program, the length of time that the services of such participants and crew leaders will be required, the support services that will be required for such participants and crew leaders, and a plan for recruiting such participants, including educationally and economically disadvantaged youth, youth with limited basic skills or learning disabilities, homeless youth, youth with disabilities, youth who are in foster care who are becoming too old for foster care, and youth of limited English proficiency;

(5) a list of requirements to be imposed on the sponsoring organizations of participants in the program, including a requirement that a sponsoring organization that invests in a program that receives assistance under this subtitle, by making a cash contribution or by providing free training to participants, shall be given preference over a sponsoring organization that does not make such an investment;

(6) a description of the manner of appointment and training of sufficient supervisory staff (including participants who have displayed exceptional leadership qualities), who shall provide for other central elements of a youth corps, such as crew structure and a youth development component;

(7) a description of a plan to ensure the on-site presence of knowledgeable and competent supervisory personnel at program facilities;

(8) a description of the facilities, quarters and board (in the case of residential facilities), limited and emergency medical care, transportation from administrative facilities to work sites, accommodations for individuals with disabilities, and other appropriate services, supplies, and equipment that will be provided by such applicant;

(9) a description of the basic standards of work requirements, health, nutrition, sanitation, and safety, and the manner that such standards shall be enforced;

(10) a description of the plan to assign participants to facilities as near to the homes of such participants as is reasonable and practicable;

(11) an assurance that, prior to the placement of a participant under this subtitle, the program agency will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program;

(12) a description of formal social counseling arrangements to be made available to the participant;

(13) a plan for ensuring that individuals do not drop out of school for the purpose of participating in a youth corps program; and

(14) such other information as the Commission shall require.

(d) GRANT PROGRAM.—To be eligible to receive a grant under this subtitle, a State shall establish and implement a program to make grants to applicants within the State pursuant to subsection (b)(2) and, in the application submitted under subsection (a), such State shall describe the manner in which—

(1) local applicants will be evaluated;

(2) service programs within the State will be coordinated;

(3) economically and educationally disadvantaged youth, including youth with disabilities, youth with limited basic skills or learning disabilities, youth with limited English proficiency, homeless youth, and youth in foster care who are becoming too old for foster care, will be recruited;

(4) programs that receive assistance under this subtitle will be evaluated;

(5) the State will encourage cooperation among programs that receive assistance under this subtitle and the appropriate State job training coordinating council established under the Job Training and Partnership Act (29 U.S.C. 1501 et seq.);

(6) such State will certify the training skills acquired by each participant and the credit provided to each participant for competencies developed through training programs or work experience obtained under programs that receive assistance under this subtitle; and

(7) prior to the placement of a participant under this subtitle, the State will ensure that program agencies consult with each local labor organization representing employees in the area who are engaged in the same or similar work as the work that is proposed to be carried out by such program.

SEC. 124. FOCUS OF PROGRAMS.

(a) IN GENERAL.—Programs that receive assistance under this subtitle may carry out activities that—

(1) in the case of conservation corps programs, focus on—

(A) conservation, rehabilitation, and the improvement of wildlife habitat, rangelands, parks, and recreational areas;

(B) urban and rural revitalization, historical and cultural site preservation, and reforestation of both urban and rural areas;

(C) fish culture, wildlife habitat maintenance and improvement, and other fishery assistance;

(D) road and trail maintenance and improvement;

(E) erosion, flood, drought, and storm damage assistance and controls;

(F) stream, lake, waterfront harbor, and port improvement;

(G) wetlands protection and pollution control;

(H) insect, disease, rodent, and fire prevention and control;

(I) the improvement of abandoned railroad beds and rights-of-way;

(J) energy conservation projects, renewable resource enhancement, and recovery of biomass;

(K) reclamation and improvement of strip-mined land;

(L) forestry, nursery, and cultural operations; and

(M) making public facilities accessible to individuals with disabilities.

(2) in the case of human services corps programs, include participant service in—

(A) State, local, and regional governmental agencies;

(B) nursing homes, hospices, senior centers, hospitals, local libraries, parks, recreational facilities, child and adult day care centers, programs serving individuals with disabilities, and schools;

(C) law enforcement agencies, and penal and probation systems;

(D) private nonprofit organizations that primarily focus on social service such as community action agencies;

(E) activities that focus on the rehabilitation or improvement of public facilities, neighborhood improvements, literacy training that benefits educationally disadvantaged individuals, weatherization of and basic repairs to low-income housing including housing occupied by older adults, energy conservation (including solar energy techniques), removal of architectural barriers to access by individuals with disabilities to public facilities, activities that focus on drug and alcohol abuse education, prevention and treatment, and conservation, maintenance, or restoration of natural resources on publicly held lands; and

(F) any other nonpartisan civic activities and services that the Commission determines to be of a substantial social benefit in meeting unmet human, educational, or environmental needs (particularly needs related to poverty) or in the community where volunteer service is to be performed; or

(3) encompass the focuses and services described in both paragraphs (1) and (2).

(b) INELIGIBLE SERVICE CATEGORIES.—To be eligible to receive assistance under this subtitle, the activities conducted through programs referred to in subsection (a) shall not be conducted by any—

(1) business organized for profit;

(2) labor union;

(3) partisan political organization;

(4) organization engaged in religious activities, unless such activities do not involve the use of funds provided under this title by program participants and program staff to give religious instruction, conduct worship services, or engage in any form of proselytization; or

(5) domestic or personal service company or organization.

(c) LIMITATION ON SERVICE.—No participant shall perform services in any project for more than a 6-month period. No participant shall remain enrolled in projects assisted under this subtitle for more than 24 months.

SEC. 125. RELATED PROGRAMS.

An activity administered under the authority of the Secretary of Health and Human Services, that is operated for the same purpose as a program eligible to be carried out under this subtitle, is encouraged to use services available under this subtitle.

SEC. 126. PUBLIC LANDS OR INDIAN LANDS.

(a) LIMITATION.—To be eligible to receive assistance through a grant provided under this subtitle, a program shall carry out activities on public lands or Indian lands, or result in a public benefit.

(b) REVIEW OF APPLICATIONS.—In reviewing applications submitted under section 123 that propose programs or projects to be carried out on public lands or Indian lands, the Commission shall consult with the Secretary of the Interior.

(c) CONSISTENCY.—A program carried out with assistance provided under this subtitle for conservation, rehabilitation, or improvement of any public lands or Indian lands shall be consistent with—

(1) the provisions of law and policies relating to the management and administration of such lands, and all other applicable provisions of law; and

(2) all management, operational, and other plans and documents that govern the administration of such lands.

(d) PARTICIPATION BY OTHER CONSERVATION PROGRAMS.—Any land or water conservation program (or any related program) administered in any State under the authority of any Federal program is encouraged to use services available under this part to carry out its program.

SEC. 127. TRAINING AND EDUCATION SERVICES.

(a) ASSESSMENT OF SKILLS.—Each program agency shall assess the educational level of participants at the time of their entrance into the program, using any available records or simplified assessment means or methodology and shall, where appropriate, refer such participants for testing for specific learning disabilities.

(b) ENHANCEMENT OF SKILLS.—Each program agency shall, through the programs and activities administered under this subtitle, enhance the educational skills of participants.

(c) PROVISION OF PRE-SERVICE AND IN-SERVICE TRAINING AND EDUCATION.—

(1) REQUIREMENT.—Each program agency shall use not less than 10 percent of the assistance made available to such agency under this subtitle in each fiscal year to provide pre-service and in-service training and educational materials and services for participants in such a program. Program participants shall be provided with information concerning the benefits to the community that result from the activities undertaken by such participants.

(2) AGREEMENTS FOR ACADEMIC STUDY.—A program agency may enter into arrangements with academic institutions or education providers, including—

(A) local education agencies;

(B) community colleges;

(C) 4-year colleges;

(D) area vocational-technical schools; and

(E) community based organizations;

to evaluate the basic skills of participants and to make academic study available to participants to enable such participants to upgrade literacy skills, to obtain high school diplomas or the equivalent of such diplomas, to obtain college degrees, or to enhance employable skills.

(3) COUNSELING.—Career and educational guidance and counseling shall be provided to a participant during a period of in-service training as described in this subsection. Each graduating participant shall be provided with counseling with respect to additional study, job skills training or employment and shall be provided job placement assistance where appropriate.

(4) PRIORITY FOR PARTICIPANTS WITHOUT HIGH SCHOOL DIPLOMAS.—A program agency shall give priority to participants who have not obtained a high school diploma or the equivalent of such diploma, in providing services under this subsection.

(d) STANDARDS AND PROCEDURES.—

(1) CONSISTENCY WITH STATE AND LOCAL REQUIREMENTS.—Appropriate State and local officials shall certify that standards and procedures with respect to the awarding of academic credit and the certification of educational attainment in programs conducted under subsection (c) are consistent with the requirements of applicable State and local law and regulations.

(2) ACADEMIC STANDARDS.—The standards and procedures described in paragraph (1) shall provide that an individual serving in a program that receives assistance under this subtitle—

(A) who is not a high school graduate, participate in an educational curriculum so that such individual can earn a high school diploma or the equivalent of such diploma; and

(B) may arrange to receive academic credit in recognition of the education and skills obtained from service satisfactorily completed.

SEC. 128. AMOUNT OF AWARD; MATCHING REQUIREMENT.

(a) AMOUNT OF AWARD.—In determining the amount of a grant to be awarded to an applicant under this subtitle, the Commission shall consider—

(1) the number of participants to be served;

(2) the youth unemployment rate in the State; and

(3) the type of project or service proposed to be carried out with the assistance provided under this subtitle.

(b) MATCHING REQUIREMENT.—

(1) FEDERAL SHARE.—The Federal share of the cost of activities for which a grant is made to a State or local applicant under this subtitle shall not exceed 75 percent of the total cost of such activities.

(2) DEMONSTRATION OF EFFECTIVENESS.—In addition to the matching requirement in paragraph (1), the State or local applicant shall demonstrate to the satisfaction of the Commission that the effectiveness of the project will be enhanced by the use of Federal funds.

SEC. 129. PREFERENCE FOR CERTAIN PROJECTS.

(a) IN GENERAL.—In the consideration of applications submitted under section 123, the Commission shall give preference to programs that—

(1) will provide long-term benefits to the public;

(2) will instill a work ethic and a sense of public service in the participants;

(3) will be labor intensive, and involve youth operating in crews;

(4) can be planned and initiated promptly; and

(5) will enhance skills development and educational level and opportunities for the participants.

(b) SPECIAL RULE.—In the consideration of applications under this subtitle the Commission shall ensure the equitable treatment of both urban and rural areas.

SEC. 130. AGE AND CITIZENSHIP CRITERIA FOR ENROLLMENT.

(a) AGE AND CITIZENSHIP.—Enrollment in programs that receive assistance under this subtitle shall be limited to individuals who, at the time of enrollment, are—

(1) not less than 16 years nor more than 25 years of age, except that summer programs may include individuals not less than 15 years nor more than 21 years of age at the time of the enrollment of such individuals; and

(2) citizens or nationals of the United States or lawful permanent resident aliens of the United States.

(b) PARTICIPATION OF DISADVANTAGED YOUTH.—Programs that receive assistance under this subtitle shall ensure that educationally and economically disadvantaged youth, including youth in foster care who are becoming too old for foster care, youth with disabilities, youth with limited English proficiency, youth with limited basic skills or learning disabilities and homeless youth, are offered opportunities to enroll.

(c) SPECIAL CORPS MEMBERS.—Notwithstanding subsection (a)(1), program agencies may enroll a limited number of special corps members over age 25 so that the corps may draw on their special skills to fulfill the purposes of this Act. Programs are encouraged to consider senior citizens as special corps members.

(d) JOINT PROJECTS WITH SENIOR CITIZENS ORGANIZATIONS.—Program agencies shall use not more than 2 percent of amounts received under this subtitle to conduct joint projects with senior citizens organizations to enable senior citizens to serve as mentors for youth participants.

(e) CONSTRUCTION.—Nothing in subsection (a) shall be construed to prohibit any program agency from limiting enrollment to any age subgroup within the range specified in subsection (a)(1).

SEC. 131. USE OF VOLUNTEERS.

Program agencies may use volunteer services for purposes of assisting projects carried out under this subtitle and may expend funds made available for those purposes to the agency, including funds made available under this subtitle, to provide for services or costs incidental to the utilization of such volunteers, including transportation, supplies, lodging, recruiting, training, and supervision. The use of volunteer services under this section shall be subject to the condition that such use does not result in the displacement of any participant.

SEC. 132. POST-SERVICE BENEFITS.

The program agency shall provide post-service education and training benefits (such as scholarships and grants) for each participant in an amount that is not in excess of $100 per week, or in excess of $5,000 per year, whichever is less.

SEC. 133. LIVING ALLOWANCE.

(a) FULL-TIME SERVICE.—

(1) IN GENERAL.—From assistance provided under this subtitle, each participant in a full-time youth corps program that receives assistance under this subtitle shall receive a living allowance of not more than an amount equal to 100 percent of the poverty line for a family of two (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))).

(2) NON-FEDERAL SOURCES.—Notwithstanding paragraph (1), a program agency may provide participants with additional amounts that are made available from non-Federal sources.

(b) REDUCTION IN EXISTING PROGRAM BENEFITS.—

(1) IN GENERAL.—Nothing in this section shall be construed to require a program in existence on the date of enactment of this Act to decrease any stipends, salaries, or living allowances provided to participants under such program so long as the amount of any such stipends, salaries, or living allowances that is in excess of the levels provided for in this section are paid from non-Federal sources.

(2) FAIR LABOR STANDARDS ACT OF 1938.—For purposes of the Fair Labor Standards Act of 1938, residential youth corps programs under this subtitle will be considered an organized camp.

(c) HEALTH INSURANCE.—In addition to the living allowance provided under subsection (a), program agencies are encouraged to provide health insurance to each participant in a full-time youth corps program who does not otherwise have access to health insurance.

(d) FACILITIES, SERVICES, AND SUPPLIES.—

(1) IN GENERAL.—The program agency may deduct, from amounts provided under subsections (a) and (c) to a participant, a reasonable portion of the costs of the rates for any room and board that is provided for such participant at a residential facility. Such deducted funds shall be deposited into rollover accounts that shall be used solely to defray the costs of room and board for participants.

(2) EVALUATION.—The program agency shall establish the amount of the deductions and rates under paragraph (1) after evaluating the costs of providing such room and board to the participant.

(3) DUTIES OF PROGRAM AGENCY.—A program agency may provide facilities, quarters, and board and shall provide limited and emergency medical care, transportation from administrative facilities to work sites, accommodations for individuals with disabilities, and other appropriate services, supplies, and equipment to each participant.

(4) OTHER FEDERAL AGENCIES.—

(A) IN GENERAL.—The Commission may provide services, facilities, supplies, and equipment, including any surplus food and equipment available from other Federal programs, to any program agency carrying out projects under this subtitle.

(B) SECRETARY OF DEFENSE.—Whenever possible, the Commission shall make arrangements with the Secretary of Defense to have logistical support provided by a military installation near the work site, including the provision of temporary tent centers where needed, and other supplies and equipment.

(5) HEALTH AND SAFETY STANDARDS.—The Commission and program agencies shall establish standards and enforcement procedures concerning the health and safety of participants for all projects, consistent with Federal, State, and local health and safety standards.

SEC. 134. JOINT PROGRAMS.

(a) DEVELOPMENT.—The Commission may develop, in cooperation with the heads of other Federal agencies, regulations designed to permit, where appropriate, joint programs in which activities supported with assistance made available under this subtitle are coordinated with activities supported with assistance made available under programs administered by the heads of such agencies (including the Job Training Partnership Act (29 U.S.C. 1501 et seq.)).

(b) STANDARDS.—Regulations promulgated under subsection (a) shall establish standards for the approval of joint programs that meet both the purposes of this title and the purposes of such statutes under which assistance is made available to support such projects.

(c) OPERATION OF MANAGEMENT AGREEMENTS.—Program agencies may enter into contracts and other appropriate arrangements with local government agencies and nonprofit organizations for the operation or management of any projects or facilities under the program.

(d) COORDINATION.—The Commission and program agencies carrying out programs under this subtitle shall coordinate the programs with related Federal, State, local, and private activities.

SEC. 135. FEDERAL AND STATE EMPLOYEE STATUS.

(a) IN GENERAL.—Participants and crew leaders shall be responsible to, or be the responsibility of, the program agency administering the program on which such participants, crew leaders, and volunteers work.

(b) NON-FEDERAL EMPLOYEES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, a participant or crew leader in a program that receives assistance under this subtitle shall not be considered a Federal employee and shall not be

subject to the provisions of law relating to Federal employment.

(2) WORK-RELATED INJURY.—For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to the compensation of Federal employees for work injuries, a participant or crew leader serving in a program that receives assistance under this subtitle shall be considered an employee of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provision of that subchapter shall apply, except—

(A) the term "performance of duty", as used in such subchapter, shall not include an act of a participant or crew leader while absent from the assigned post of duty of such participant or crew leader, except while participating in an activity authorized by or under the direction and supervision of a program agency (including an activity while on pass or during travel to or from such post of duty); and

(B) compensation for disability shall not begin to accrue until the day following the date that the employment of the injured participant or crew leader is terminated.

(3) TORT CLAIMS PROCEDURE.—For purposes of chapter 171 of title 28, United States Code, relating to tort claims procedure, a participant or crew leaders assigned to a youth corps program for which a grant has been made to the Secretary of Agriculture, Secretary of the Interior, or the Director of ACTION, shall be considered an employee of the United States within the meaning of the term "employee of the government" as defined in section 2671 of such title.

(4) ALLOWANCE FOR QUARTERS.—For purposes of section 5911 of title 5, United States Code, relating to allowances for quarters, a participant or crew leader shall be considered an employee of the United States within the meaning of the term "employee" as defined in paragraph (3) of subsection (a) of such section.

(c) AVAILABILITY OF APPROPRIATION.—Contract authority under this subtitle shall be subject to the availability of appropriations. Assistance made available under this subtitle shall only be used for activities that are in addition to those which would otherwise be carried out in the area in the absence of such funds.

SEC. 136. REGULATIONS AND ASSISTANCE.

(a) IN GENERAL.—Before the end of the 120-day period beginning on the date of the enactment of this Act, the Commission shall promulgate regulations necessary to implement the program established by this subtitle.

(b) NOTICE AND COMMENT.—

(1) IN GENERAL.—Prior to the end of the 30-day period beginning on the date of the enactment of this Act, the Commission shall establish procedures to provide program agencies and other interested parties (including the general public) with adequate notice and an opportunity to comment on and participate in the formulation of regulations promulgated under subsection (a).

(2) REPORTING.—The regulations promulgated under subsection (a) shall include provisions to assure uniform reporting on—

(A) the activities and accomplishments of Youth Corps programs;

(B) the demographic characteristics of participants in the Youth Corps; and

(C) such other information as may be necessary to prepare the annual report required by section 172.

Subtitle D—National and Community Service

SEC. 140. SHORT TITLE.

This subtitle may be cited as the "National and Community Service Act".

SEC. 141. GENERAL AUTHORITY.

The Commission may make grants under section 102 to States for the creation of full- and part-time national and community service programs.

SEC. 142. GRANTS.

(a) CRITERIA FOR RECEIVING APPLICATIONS.—In determining whether to award a grant to a State under section 141, the Commission shall consider—

(1) the ability of the proposed program of such State to serve as an effective model for a large-scale national service program;

(2) the quality of the application of such State, including the plan of such State for training, recruitment, placement, and data collection;

(3) the extent that the proposed program builds on existing programs; and

(4) the expediency with which the State proposes to make the program operational.

(b) DIVERSITY.—The Commission shall ensure that programs receiving assistance under this subtitle are geographically diverse and include programs in both urban and rural States.

(c) TRAINING AND SKILLS.—The Commission shall ensure that some of the programs funded under this subtitle enroll individuals who have completed undergraduate education or specialized post-secondary training and whose training and skills enable them to provide needed services in the State.

(d) COMPOSITION OF PROGRAMS.—The Commission shall ensure that not less than 25 percent of the programs that receive assistance under this subtitle include full-time, part-time and special senior service participants.

(e) DESIGN OF PROGRAMS.—States shall design programs, consistent with the provisions of this Act, that meet the unique needs of the State, which may include programs that limit the type of service participants may perform or limit the age of participants to a narrower age subgroup.

(f) STATE APPLICATION FOR GRANT.—To receive a grant under section 141, a State shall prepare and submit, to the Commission, an application at such time, in such manner, and containing such information as the Commission may reasonably require, including—

(1) a description of the State administrative plan for the implementation of a program with assistance provided under this subtitle, including such functions, if any, that will be carried out by public and private nonprofit organizations pursuant to a grant or contract;

(2) a description of the manner in which an ethnically and economically diverse group of participants, including economically and educationally disadvantaged individuals, college-bound youth, individuals with disabilities, youth in foster care who are becoming too old for foster care, and employed individuals, shall be recruited and selected for participation in a program receiving assistance under this subtitle;

(3) a description of the procedures for training supervisors and participants and for supervising and organizing participants in such program;

(4) a description of the procedures to ensure that the program provides participants with an opportunity to reflect on their service experience;

(5) a description of the geographical areas within such State in which the program would be operated to provide the optimum match between the need for services and the anticipated supply of participants;

(6) a description of the plan for placing such participants in teams or making individual placements in such program;

(7) assurances that, prior to such placement, the State will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program;

(8) assurances that, prior to such placement, such State will consult with employees at the proposed project site who are engaged in the same or similar work as that proposed to be carried out by such program;

(9) a description of the anticipated number of full- and part-time participants and special senior service members in such program;

(10) a plan for the recruitment and selection of sponsoring organizations that will receive participants under programs that receive assistance under this subtitle;

(11) a description of the procedures for matching such participants with such sponsoring organizations;

(12) a description of the procedures to be used to assure that sponsoring organizations that are not matched with participants shall be provided with information concerning the VISTA program and the programs established under title II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5001 et seq.);

(13) the State budget for the program;

(14) a plan for evaluating the program and assurances that such State will fully cooperate with any evaluation undertaken by the Commission pursuant to section 178; and

(15) any other information as the Commission may reasonably require.

(g) NUMBER OF STATES.—

(1) IN GENERAL.—The Commission shall ensure that not more than five States are authorized to operate full-time programs and not more than five States are authorized to operate part-time programs in fiscal year 1991 under this subtitle.

(2) SINGLE PROGRAM.—For purposes of paragraph (1), a State operating a single national service program with both full- and part-time options shall be counted as a State operating a full-time program and a State operating a part-time program.

(3) COOPERATIVE ARRANGEMENT.—For purposes of paragraph (1), a State operating a national service program involving a cooperative arrangement with a multi-State organization or with sites in more than one State shall be counted as a single State.

(4) AUTHORIZED PROGRAMS IN FISCAL YEAR 1991.—The Commission shall ensure that not more than eight States are authorized to operate programs in fiscal year 1991 under this subtitle.

(h) INDIAN TRIBES.—An Indian tribe shall be treated the same as a State for purposes of making grants under this subtitle.

SEC. 143. TYPES OF NATIONAL SERVICE.

A participant in a program that receives assistance under this subtitle shall perform national service to meet unmet educational, human, environmental, and public safety needs, especially those needs relating to poverty.

SEC. 144. TERMS OF SERVICE.

(a) LENGTH OF SERVICE.—

(1) PART-TIME.—An individual performing part-time national service under this sub-

title shall agree to perform community service for not less than 3 years.

(2) FULL-TIME.—An individual performing full-time national service under this subtitle shall agree to perform community service for not less than 1 year nor more than 2 years, at the discretion of such individual.

(3) SPECIAL SENIOR SERVICE.—A special senior service participant performing national service under this subtitle shall serve for a period of time as determined by the Commission.

(b) PARTIAL COMPLETION OF SERVICE.—If the State releases a participant from completing a term of service in a program receiving assistance under this subtitle for compelling personal circumstances as demonstrated by such participant, the Commission may provide such participant with that portion of the financial assistance described in section 146 that corresponds to the quantity of the service obligation completed by such individual.

(c) TERMS OF SERVICE.—

(1) PART-TIME.—A participant performing part-time national service under this subtitle shall serve for—

(A) 2 weekends each month and 2 weeks during the year; or

(B) an average of 9 hours per week each year of service.

(2) FULL-TIME.—A participant performing full-time national service under this subtitle shall serve for not less than 40 hours per week each year of service.

(3) SPECIAL SENIOR SERVICE.—A special senior service participant performing national service under this subtitle shall serve either part- or full-time as permitted by the Commission.

SEC. 145. ELIGIBILITY.

(a) PART-TIME.—

(1) REQUIREMENTS.—An individual may serve in a part-time national service program under this subtitle if such individual—

(A) is 17 years of age or older; and

(B) is a citizen of the United States or lawfully admitted for permanent residence.

(2) PRIORITY.—In selecting applicants for a part-time program, States shall give priority to applicants who are currently employed.

(b) FULL-TIME.—An individual may serve in a full-time national service program under this subtitle if such individual—

(1) is 17 years of age or older;

(2) has received a high school diploma or the equivalent of such diploma, or agrees to achieve a high school diploma or the equivalent of such diploma while participating in the program; and

(3) is a citizen of the United States or lawfully admitted for permanent residence.

(c) SPECIAL SENIOR SERVICE.—An individual may serve as a special senior service member under this subtitle if such individual—

(1) is 60 years of age or older; and

(2) meets the eligibility criteria for special senior service membership established by the Commission.

SEC. 146. POST-SERVICE BENEFITS.

(a) PART-TIME.—

(1) FEDERAL SHARE.—The Commission shall annually provide to each part-time participant a nontransferrable post-service benefit that is equal in value to $1,000 for each year of service that such participant provides to the program.

(2) STATE SHARE.—

(A) IN GENERAL.—The State shall annually provide to each part-time participant a nontransferrable post-service benefit that is equal in value to $1,000 for each year of service that such participant provides to the program.

(B) WAIVER.—A State may apply for a waiver to reduce the amount of the post-service benefit to an amount that is equal to not less than the average annual tuition and required fees at 4-year public institutions of higher education within such State.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent a State from using funds made available from non-Federal sources to increase the amount of post-service benefits provided under paragraph (1) to an amount in excess of that described in such paragraph.

(b) FULL-TIME.—

(1) FEDERAL SHARE.—The Commission shall annually provide to each full-time participant a non-transferrable post-service benefit that is equal in value to $2,500 for each year of service that such participant provides to the program.

(2) STATE SHARE.—

(A) IN GENERAL.—The State shall annually provide to each full-time participant a nontransferrable post-service benefit that is equal in value to $2,500 for each year of service that such participant provides to the program.

(B) WAIVER.—A State may apply for a waiver to reduce the amount of the post-service benefit to an amount that is equal to not less than the average annual tuition, required fees, and room and board costs at 4-year public institutions of higher education within such State.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent a State from using funds made available from non-Federal sources to increase the amount of post-service benefits provided under paragraph (1) to an amount in excess of that described in such paragraph.

(c) SPECIAL SENIOR SERVICE PARTICIPANT.—A special senior service participant shall be ineligible to receive post-service benefits under this section.

(d) INDEXING.—The Commission shall increase the value of post-service benefits provided under this section in each fiscal year based on the increase in the costs associated with attending a 4-year institution of higher education during that fiscal year. The Commission shall determine such increases in costs based on information made available by the Bureau of Labor Statistics and the National Center for Education Statistics.

(e) POST-SERVICE BENEFIT.—

(1) PART-TIME.—A post-service benefit provided under subsection (a) shall only be used for—

(A) payment of a student loan from Federal or non-Federal sources;

(B) downpayment or closing costs associated with purchasing a first home; or

(C) tuition at an institution of higher education on a full-time basis, or to pay the expenses incurred in the full-time participation in an apprenticeship program approved by the appropriate State agency.

(2) FULL-TIME.—A post-service provided under subsection (b) shall only be used for—

(A) payment of a student loan from Federal or non-Federal sources; or

(B) tuition, room and board, books and fees, and other costs associated with attendance (pursuant to section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll)) at an institution of higher education on a full-time basis, or to pay the expenses incurred in the full-time participation in an apprenticeship program approved by the appropriate State agency.

SEC. 147. LIVING ALLOWANCE.

(a) FULL-TIME SERVICE.—

(1) IN GENERAL.—From assistance provided under this subtitle, each participant in a full-time national service program receiving assistance under this subtitle shall receive a living allowance of not more than an amount equal to 100 percent of the poverty line for a family of two (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))).

(2) NON-FEDERAL SOURCES.—Notwithstanding paragraph (1), a program agency may provide participants with additional amounts that are made available from non-Federal sources.

(b) REDUCTION IN EXISTING PROGRAM BENEFITS.—Nothing in this section shall be construed to require a program in existence on the date of enactment of this Act to decrease any stipends, salaries, or living allowances provided to participants under such program.

(c) HEALTH INSURANCE.—In addition to the living allowance provided under subsection (a), grantees are encouraged to provide health insurance to each participant in a full-time national service program who does not otherwise have access to health insurance.

(d) SPECIAL SENIOR SERVICE PARTICIPANT.—

(1) FULL-TIME.—Each full-time special senior service participant shall receive a living allowance equal to the living allowance provided to full-time participants under subsection (a), and such other assistance as the Commission considers necessary and appropriate for a special senior service participant to carry out the service obligation of such participant.

(2) PART-TIME.—Each part-time special senior service participant shall receive a living allowance equal to a share of such allowance offered to a full-time special senior service participant under paragraph (1), that has been prorated according to the number of hours such part-time participant serves in the program, and such other assistance that the Commission considers necessary and appropriate for a special senior service participant to carry out the service obligation of such participant.

SEC. 148. TRAINING.

(a) PROGRAM TRAINING.—

(1) IN GENERAL.—Each participant shall receive 3 weeks of training provided by the Commission in cooperation with the State.

(2) CONTENTS OF TRAINING SESSION.—Each training session described in paragraph (1) shall—

(A) orient each participant in the nature, philosophy, and purpose of the program;

(B) build an ethic of community service; and

(C) train each participant to effectively perform the assigned program task of such participant by providing—

(i) general training in citizenship and civic and community service; and

(ii) if feasible, specialized training for the type of service that each participant will perform.

(b) ADDITIONAL TRAINING.—Each State may provide additional training for participants as such State determines necessary.

(c) AGENCY OR ORGANIZATION TRAINING.—Each participant shall receive training from the sponsoring organization in skills relevant to the work to be conducted.

(d) ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES.—In accordance with the nondiscrimination provisions of section 175, each training program shall provide reasonable accommodations for individuals with disabilities.

SEC. 149. PUBLIC-PRIVATE PARTNERSHIP.

The Commission shall consider and develop opportunities for cooperation between public and private entities in the funding and implementation of a program receiving assistance under this subtitle, including cost-sharing arrangements with sponsoring organizations.

SEC. 150. IN-SERVICE EDUCATION BENEFITS.

Each State that receives assistance under this subtitle shall provide to each participant enrolled in a full-time program in-service educational services and materials to enable such participant to obtain a high school diploma or the equivalent of such diploma.

Subtitle E—Innovative and Demonstration Programs and Projects

PART I—LIMITATION ON GRANTS

SEC. 155. LIMITATION ON GRANTS.

The Commission shall make grants for not fewer than three programs authorized in this subtitle.

PART II—GOVERNORS' INNOVATIVE SERVICE PROGRAMS

SEC. 156. GENERAL AUTHORITY.

The Commission may make grants under section 102 to States or Indian tribes for the creation of innovative volunteer and community service programs.

SEC. 157. GRANTS.

(a) CRITERIA FOR RECEIVING APPLICATIONS.—In determining whether to award a grant under section 156, the Commission shall consider—

(1) the ability of the proposed program to serve as an effective model;

(2) the quality of the application submitted for the grant;

(3) the extent to which the proposed program builds on existing programs; and

(4) the degree to which the program responds to human, educational, environmental and public safety needs in an innovative manner.

(b) AUTHORIZED ACTIVITIES.—Grants under this part may be used for—

(1) enhancing volunteer and community service programs;

(2) demonstration programs;

(3) research concerning, assessment of, and evaluation of service programs;

(4) coordination of service programs;

(5) technical assistance;

(6) training and staff development; and

(7) collection and dissemination of information concerning service programs.

(c) APPLICATION FOR GRANT.—To receive a grant under this part, a State or Indian tribe shall prepare and submit to the Commission, an application at such time, in such manner, and containing such information as the Commission may reasonably require, including—

(1) a description of the proposed program to be established with assistance provided under the grant;

(2) a description of the human, educational, environmental or public safety service that participants will perform and the State or community need that will be addressed under such proposed program;

(3) a description of the target population of participants and how they will be recruited;

(4) a description of the procedure for training supervisors and participants and for supervising and organizing participants in such proposed program;

(5) a description of the procedures to ensure that the proposed program provides participants with an opportunity to reflect on their service experiences;

(6) a description of the budget for the program;

(7) assurances that, prior to the placement of a participant in the program, the applicant will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such project; and

(8) assurances that, prior to the placement of a participant in a program, the applicant will consult with employees at the proposed program site who are engaged in the same or similar work as that proposed to be carried out by such program.

PART III—PEACE CORPS

SEC. 160. PROGRAM AUTHORIZED.

(a) GENERAL AUTHORITY.—The Commission is authorized to make grants to the Director of the Peace Corps or the Director of ACTION to carry out training and educational benefits demonstration programs in accordance with this part.

(b) CONTRACT AUTHORITY.—The Director of the Peace Corps and the Director of ACTION are authorized, either directly or by way of grant, contract, or other arrangement, to carry out the provisions of this part. The authority to enter into contracts under this part shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

SEC. 161. ELIGIBILITY AND SELECTION PROCEDURES.

(a) ELIGIBILITY.—Any individual who—

(1) has completed at least 2 years of satisfactory study at an institution of higher education, is enrolled in an educational program of at least 4 years at an institution of higher education for which such institution awards a bachelor's degree, and will complete such program within 2 years;

(2) enters into an agreement with the Director of the Peace Corps or the Director of ACTION to serve at least 3 years as a volunteer in the Peace Corps or in VISTA; and

(3) is selected pursuant to the competitive process established under subsection (b);

is eligible to participate in the demonstration program authorized by this part.

(b) SELECTION PROCEDURES.—The Director of the Peace Corps and the Director of ACTION shall each establish uniform criteria for the selection on a competitive basis of individuals to participate in the training programs established under section 162 and to receive educational benefits under section 163. The selection procedures established under this section shall be designed to provide for the awarding of grants for benefits only to students from groups traditionally underrepresented in the Peace Corps or VISTA and to students who will specialize in courses of instruction for which there is a special need in the Peace Corps or VISTA. Not more than 50 individuals shall be selected to participate in the training programs established under section 162.

SEC. 162. TRAINING PROGRAM.

The Director of the Peace Corps and the Director of ACTION shall each establish and carry out a training program under which each individual selected under section 161(b), as part of the course of study which the individual is pursuing at the institution of higher education of such individual, receives appropriate training in skills that such individual will employ in the Peace Corps or VISTA.

SEC. 163. EDUCATIONAL BENEFITS.

(a) BENEFITS PROVIDED.—Each individual who has been selected under section 161(b) shall be eligible to receive educational benefits in an amount that the Director of the Peace Corps or the Director of ACTION finds reasonable and appropriate, but that shall not exceed the costs of tuition, room and board, books, and fees that the individual incurs in attending the institution of higher education of such individual during the remaining 2 years of the educational program in which the individual is enrolled.

(b) FORM OF BENEFITS.—The educational benefits provided to an individual under subsection (a) shall be in the form of grants, remissions of expenses, or such other form as the Director of the Peace Corps or the Director of ACTION considers appropriate.

(c) REPAYMENT OF BENEFITS.—An individual provided benefits under subsection (a) shall repay the amount of the benefits so provided, plus interest not to exceed that permitted under section 427A of the Higher Education Act of 1965 (20 U.S.C. 1077a)—

(1) if the individual fails to complete the educational program of such individual within the 2-year period specified in section 161(a)(1), or

(2) if the individual fails to serve 3 years as a volunteer in the Peace Corps or VISTA upon completing the educational program of such individual.

The Director of the Peace Corps or the Director of ACTION may waive the repayment requirement if exceptional circumstances, such as illness or death, prevent an individual from meeting such 2-year or 3-year requirement.

(d) COLLECTION BY SECRETARY OF EDUCATION.—The Secretary of Education shall have the authority to collect amounts owed by an individual under subsection (c). The Secretary may, for the purpose of collecting such amounts, exercise the authorities conferred on the Secretary by sections 467 and 468 of the Higher Education Act of 1965 (20 U.S.C. 1087gg and 1087hh) with respect to the collection of defaulted loans under part E of title IV of that Act. Amounts collected under this subsection shall be deposited in the general fund of the Treasury.

SEC. 164. EVALUATION AND REPORT.

The General Accounting Office shall conduct an evaluation of any program authorized by this part and shall prepare and submit to the President and the appropriate committees of Congress—

(1) not later than October 31, 1993, an interim report on such evaluation; and

(2) not later than October 31, 1995, a final report on such evaluation, together with such recommendations, including recommendations for legislation, as the Director of the Peace Corps, the Director of ACTION, and the Secretary consider appropriate.

PART IV—OTHER VOLUNTEER PROGRAMS

SEC. 165. RURAL YOUTH SERVICE DEMONSTRATION PROJECT.

The Commission is authorized, in accordance with this subtitle, to make grants and enter into contracts under section 102 for the establishment of demonstration projects in rural areas. Such projects may include volunteer service involving the elderly and assisted-living services performed by students, school dropouts, and out-of-school youth.

SEC. 166. ASSISTANCE FOR HEAD START.

The Commission, in consultation with the Director of Action, is authorized to make grants under section 102 to grantees under the Foster Grandparent program (part B of title II of the Domestic Volunteer Service Act) for the purpose of increasing the number of low-income individuals who provide services under such program to chil-

dren who participate in Head Start programs.

SEC. 167. EMPLOYER-BASED RETIREE VOLUNTEER PROGRAMS.

The Commission is authorized to make grants under section 102 to public and private nonprofit organizations for the purpose of bringing together retirees, their former employers, and community agencies to develop employer-based retiree volunteer programs.

Subtitle F—Administrative Provisions

SEC. 171. LIMITATION ON NUMBER OF GRANTS.

(a) IN GENERAL.—The Commission shall not award more than one grant during each fiscal year to each State under section 102.

(b) NUMBER OF APPLICATIONS.—In submitting applications for a grant under section 102, a State shall consolidate all of the applications of such State for the conduct of programs under subtitles B through E, into a single application that meets the requirements of such subtitles.

(c) MULTIPLE USE.—A grant awarded under section 102 to a State may be used by the State in accordance with the applications consolidated, submitted, and approved under subtitles (B) through (E).

SEC. 172. REPORTS.

(a) STATE REPORTS.—

(1) IN GENERAL.—Each State receiving assistance under this title shall prepare and submit, to the Commission, an annual report concerning the use of assistance provided under this title and the status of the national and community service programs that receive assistance under such title in such State.

(2) LOCAL GRANTEES.—Each State may require local grantees that receive assistance under this title to supply such information to the State as is necessary to enable the State to complete the report required under paragraph (1), including a comparison of actual accomplishments with the goals established for the program, the number of participants in the program, the number of service hours generated, and the existence of any problems, delays or adverse conditions that have affected or will affect the attainment of program goals.

(3) REPORT DEMONSTRATING COMPLIANCE.—

(A) IN GENERAL.—Each State receiving assistance under this title shall include information in the report required under paragraph (1) that demonstrates the compliance of the State with the provisions of this Act, including sections 177 and 113(9).

(B) LOCAL GRANTEES.—Each State may require local grantees to supply such information to the State as is necessary to enable the State to comply with the requirement of paragraph (1).

(4) AVAILABILITY OF REPORT.—Reports submitted under paragraph (1) shall be made available to the public on request.

(b) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 120 days after the end of each fiscal year, the Commission shall prepare and submit, to the appropriate authorizing and appropriation Committees of Congress, a report concerning the programs that receive assistance under this title.

(2) CONTENT.—Reports submitted under paragraph (1) shall contain a summary of the information contained in the State reports submitted under subsection (a), and shall reflect the findings and actions taken as a result of any evaluation conducted by the Commission.

SEC. 173. SUPPLEMENTATION.

(a) IN GENERAL.—Assistance provided under this title shall be used to supplement the level of State and local public funds expended for services of the type assisted under this title in the previous fiscal year.

(b) AGGREGATE EXPENDITURE.—Subsection (a) shall be satisfied, with respect to a particular program, if the aggregate expenditure for such program for the fiscal year in which services are to be provided will not be less than the aggregate expenditure for such program in the previous fiscal year, excluding the amount of Federal assistance provided and any other amounts used to pay the remainder of the costs of programs assisted under this title.

SEC. 174. PROHIBITION ON USE OF FUNDS.

(a) PROHIBITED USES.—No assistance made available under a grant under this title shall be used to provide religious instruction, conduct worship services, or engage in any form of proselytization.

(b) POLITICAL ACTIVITY.—Assistance provided under this title shall not be used by program participants and program staff to—

(1) assist, promote, or deter union organizing; or

(2) finance, directly or indirectly, any activity designed to influence the outcome of an election to Federal office or the outcome of an election to a State or local public office.

(c) CONTRACTS OR COLLECTIVE BARGAINING AGREEMENTS.—A program that receives assistance under this title shall not impair existing contracts for services or collective bargaining agreements.

SEC. 175. NONDISCRIMINATION.

(a) IN GENERAL.—An individual with responsibility for the operation of a project that receives assistance under this title shall not discriminate against a participant or member of the staff of such project on the basis of race, color, national origin, sex, age, disability, or political affiliation of such member.

(b) FEDERAL FINANCIAL ASSISTANCE.—Any assistance provided under this title shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and the regulations issued under such Acts.

(c) RELIGIOUS DISCRIMINATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), an individual with responsibility for the operation of a project that receives assistance under this title shall not discriminate on the basis of religion against a participant or a member of the project staff who is paid with funds received under this title.

(2) EXCEPTION.—Paragraph (1) shall not apply to the employment, with assistance provided under this title, of any member of the staff of a project that receives assistance under this title who was employed with the organization operating the project on the date the grant under this title was awarded.

(d) RULES AND REGULATIONS.—The Commission shall promulgate rules and regulations to provide for the enforcement of this section that shall include provisions for summary suspension of assistance for not more than 30 days, on an emergency basis, until notice and an opportunity to be heard can be provided.

SEC. 176. NOTICE, HEARING, AND GRIEVANCE PROCEDURES.

(a) IN GENERAL.—

(1) SUSPENSION OF PAYMENTS.—The Commission may in accordance with the provisions of this title, suspend or terminate payments under a contract or grant providing assistance under this title whenever the Commission determines there is a material failure to comply with this title or the applicable terms and conditions of any such grant or contract issued pursuant to this title.

(2) PROCEDURES TO ENSURE ASSISTANCE.—The Commission shall prescribe procedures to ensure that—

(A) assistance provided under this title shall not be suspended for failure to comply with the applicable terms and conditions of this title except, in emergency situations, a suspension may be granted for 30 days; and

(B) assistance provided under this title shall not be terminated for failure to comply with applicable terms and conditions of this title unless the recipient of such assistance has been afforded reasonable notice and opportunity for a full and fair hearing.

(b) HEARINGS.—Hearings or other meetings that may be necessary to fulfill the requirements of this section shall be held at locations convenient to the recipient of assistance under this title.

(c) TRANSCRIPT OR RECORDING.—A transcript or recording shall be made of a hearing conducted under this section and shall be available for inspection by any individual.

(d) STATE LEGISLATION.—Nothing in this title shall be construed to preclude the enactment of State legislation providing for the implementation, consistent with this title, of the programs administered under this title.

(e) CONSTRUCTION.—Nothing in this title shall be construed to link performance of service with receipt of Federal student financial assistance.

(f) GRIEVANCE PROCEDURE—

(1) IN GENERAL.—State and local applicants that receive assistance under this title shall establish and maintain a procedure to adjudicate grievances from participants, labor organizations, and other interested individuals concerning programs that receive assistance under this title, including grievances regarding proposed placements of such participants in such projects.

(2) DEADLINE FOR GRIEVANCES.—Except for a grievance that alleges fraud or criminal activity, a grievance shall be made not later than 1 year after the date of the alleged occurrence.

(3) DEADLINE FOR HEARING AND DECISION.—

(A) HEARING.—A hearing on any grievance conducted under this subsection shall be conducted not later than 30 days of filing such grievance.

(B) DECISION.—A decision on any grievance shall be made not later than 60 days after the filing of such grievance.

(4) ARBITRATION.—

(A) IN GENERAL.—On the occurrence of an adverse grievance decision, or 60 days after the filing of such grievance if no decision has been reached, the party filing the grievance shall be permitted to submit such grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the interested parties.

(B) DEADLINE FOR PROCEEDING.—An arbitration proceeding shall be held not later than 45 days after the request for such arbitration.

(C) DEADLINE FOR DECISION.—A decision concerning such grievance shall be made not later than 30 days after the date of such arbitration proceeding.

(D) COST.—The cost of such arbitration proceeding shall be divided evenly between the parties to the arbitration.

(5) PROPOSED PLACEMENT.—If a grievance is filed regarding a proposed placement of a participant in a program that receives assistance under this title, such placement shall not be made unless it is consistent with the resolution of the grievance pursuant to this subsection.

(6) REMEDIES.—Remedies for a grievance filed under this subsection include—

(A) suspension of payments for assistance under this title;

(B) termination of such payments; and

(C) prohibition of such placement described in paragraph (5).

SEC. 177. NONDUPLICATION AND NONDISPLACEMENT.

(a) NONDUPLICATION.—

(1) IN GENERAL.—Assistance provided under this title shall be used only for a program that does not duplicate, and is in addition to, an activity otherwise available in the locality of such program.

(2) PRIVATE NONPROFIT ENTITY.—Assistance made available under this title shall not be provided to a private nonprofit entity to conduct activities that are the same or substantially equivalent to activities provided by a State or local government agency that such entity resides in, unless the requirements of subsection (b) are met.

(b) NONDISPLACEMENT.—

(1) IN GENERAL.—An employer shall not displace an employee or position, including partial displacement such as reduction in hours, wages, or employment benefits, as a result of the use by such employer of a participant in a program receiving assistance under this title.

(2) SERVICE OPPORTUNITIES.—A service opportunity shall not be created under this title that will infringe in any manner on the promotional opportunity of an employed individual.

(3) LIMITATION ON SERVICES.—

(A) DUPLICATION OF SERVICES.—A participant in a program receiving assistance under this title shall not perform any services or duties or engage in activities that would otherwise be performed by an employee as part of the assigned duties of such employee.

(B) SUPPLANTATION OF HIRING.—A participant in any program receiving assistance under this title shall not perform any services or duties or engage in activities that will supplant the hiring of employed workers.

(C) DUTIES FORMERLY PERFORMED BY ANOTHER EMPLOYEE.—A participant in any program receiving assistance under this title shall not perform services or duties that have been performed by or were assigned to any—

(i) presently employed worker;

(ii) employee who recently resigned or was discharged;

(iii) employee who is subject to a reduction in force;

(iv) employee who is on leave (terminal, temporary, vacation, emergency, or sick); or

(v) employee who is on strike or who is being locked out.

(c) LABOR MARKET INFORMATION.—The Secretary of Labor shall make available to the Commission and to any program agency under this title such labor market information as is appropriate for use in carrying out the purposes of this title.

(d) TREATMENT OF BENEFITS.—Section 142(b) of the Job Training Partnership Act shall apply to the projects conducted under this title as such projects were conducted under the Job Training Partnership Act.

(e) STANDARDS OF CONDUCT.—Programs that receive assistance under this title shall establish and stringently enforce standards of conduct at the program site to promote proper moral and disciplinary conditions.

SEC. 178. STATE ADVISORY BOARD.

(a) FORMATION OF BOARD.—Each State that applies for assistance under this title is encouraged to establish a State Advisory Board for National and Community Service.

(b) MEMBERS.—

(1) IN GENERAL.—The chief executive officer of a State referred to in subsection (a) shall appoint members to such Advisory Board from among—

(A) representatives of State agencies administering community service, youth service, education, social service, senior service, and job training programs; and

(B) representatives of labor, business, agencies working with youth, community-based organizations such as community action agencies, students, teachers, Older American Volunteer Programs as established under title II of the Domestic Volunteer Act of 1973 (42 U.S.C. 5001 et seq.), full-time youth service corps programs, school-based community service programs, higher education institutions, local educational agencies, volunteer public safety organizations, educational partnership programs, and other organizations working with volunteers.

(2) BALANCE OF MEMBERSHIP.—To the extent practicable, the chief executive officer of a State referred to in subsection (a) shall ensure that the membership of the Advisory Board is balanced according to race, ethnicity, age, and gender.

(c) DUTIES OF BOARD.—A State Advisory Board for National and Community Service established under subsection (a) shall assist the State agency administering a program receiving assistance under this title in—

(1) coordinating programs that receive assistance under this title and related programs within the State;

(2) disseminating information concerning service programs that receive assistance under this title;

(3) recruiting participants for programs that receive assistance under this title; and

(4) developing programs, training methods, curriculum materials, and other materials and activities related to programs that receive assistance under this title.

SEC. 179. EVALUATION.

(a) IN GENERAL.—The Commission shall provide, through grants or contracts, for the continuing evaluation of programs that receive assistance under this title, including evaluations that measure the impact of such programs, to determine—

(1) the effectiveness of various program models in achieving stated goals and the costs associated with such;

(2) for purposes of the reports required by subsection (h), the impact of such programs, in each State in which a program is conducted, on the ability of—

(A) the VISTA and older American volunteer programs (established under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 4950 et seq.));

(B) each regular component of the armed forces (as defined in section 101(4) of title 10, United States Code);

(C) each of the reserve components of the armed forces (as described in section 216(a) of title 5, United States Code); and

(D) the Peace Corps (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.));

to recruit individuals residing in such State to serve in such program; and

(3) the structure and mechanisms for delivery of services for such programs.

(b) COMPARISONS.—The Commission shall provide for inclusion in the evaluations required under subsection (a), where appropriate, comparisons of participants in such programs with individuals who have not participated in such programs.

(c) CONDUCTING EVALUATIONS.—Evaluations of programs under subsection (a) shall be conducted by individuals who are not directly involved in the administration of such program.

(d) STANDARDS.—The Secretary shall develop and publish general standards for the evaluation of program effectiveness in achieving the objectives of this title.

(e) COMMUNITY PARTICIPATION.—In evaluating a program receiving assistance under this title, the Commission shall consider the opinions of participants and members of the communities where services are delivered concerning the strengths and weaknesses of such program.

(f) COMPARISON OF PROGRAM MODELS.—The Commission shall evaluate and compare the effectiveness of different program models in meeting the program objectives described in subsection (g) including full- and part-time programs, programs involving different types of national service, programs using different recruitment methods, programs offering alternative voucher options, and programs utilizing individual placements and teams.

(g) PROGRAM OBJECTIVES.—The Commission shall ensure that programs that receive assistance under subtitle D are evaluated to determine their effectiveness in—

(1) recruiting and enrolling diverse participants in such programs, consistent with the requirements of section 145, based on economic background, race, ethnicity, age, marital status, education levels, and disability;

(2) promoting the educational achievement of each participant in such programs, based on earning a high school diploma or the equivalent of such diploma and the future enrollment and completion of increasingly higher levels of education;

(3) encouraging each participant to engage in public and community service after completion of the program based on career choices and service in other service programs such as the Volunteers in Service to America Program and older American volunteer programs established under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.), the Peace Corps (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)), the military, and part-time volunteer service;

(4) promoting of positive attitudes among each participant regarding the role of such participant in solving community problems based on the view of such participant regarding the personal capacity of such participant to improve the lives of others, the responsibilities of such participant as a citizen and community member, and other factors;

(5) enabling each participant to finance a lesser portion of the higher education of such participant through student loans;

(6) providing services and projects that benefit the community;

(7) supplying additional volunteer assistance to community agencies without overloading such agencies with more volunteers than can effectively be utilized;

(8) providing services and activities that could not otherwise be performed by employed workers and that will not supplant the hiring of, or result in the displacement

of, employed workers or impair the existing contracts of such workers; and

(9) attracting a greater number of citizens to public service, including service in the active and reserve components of the Armed Forces, the National Guard, the Peace Corps (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)), and the VISTA and older American volunteer programs established under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

(h) OBTAINING INFORMATION.—

(1) IN GENERAL.—In conducting the evaluations required under subsection (g), the Commission may require each program participant and State or local applicant to provide such information as may be necessary to carry out the requirements of this section.

(2) CONFIDENTIALITY.—The Commission shall keep information acquired under this section confidential.

(i) DEADLINE.—The Commission shall complete the evaluations required under subsection (g) not later than 30 months after the date of enactment of this Act.

(j) REPORT.—Not later than 24 months after the date on which the first program is initiated under this title, the Commission shall prepare and submit, to the appropriate Committees of Congress, a report containing the results of the evaluations conducted under subsection (a)(2) with respect to the first 18 months after such initiation date.

SEC. 180. ENGAGEMENT OF PARTICIPANTS.

A State shall not engage a participant to serve in any program that receives assistance under this title unless and until amounts have been appropriated under section 501 for the provision of post-service benefits and for the payment of other necessary expenses and costs associated with such participant.

SEC. 181. NATIONAL SERVICE DEMONSTRATION PROGRAM AMENDMENTS.

(a) TREATMENT OF EDUCATION AND HOUSING BENEFITS.—For purposes of determining eligibility for programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) (hereafter in this section referred to as the "Act"), post-service benefits received under this Act shall be considered as estimated financial assistance as defined in section 428(a)(2)(C)(i) of title IV of the Act (20 U.S.C. 1078(a)(2)(C)(i)), except that in no case shall such a post-service benefit be considered as—

(1) annual adjusted family income as defined in section 411F(1) of subpart 1 of part A of title IV of such Act (20 U.S.C. 1070a-6); or

(2) total income as defined in section 480(a) of part F of title IV of such Act (20 U.S.C. 1087vv(a)).

(b) TREATMENT OF STIPEND FOR LIVING EXPENSES.—In no case shall living allowances received under this Act be considered in the determination of expected family contribution or independent student status under—

(1) subpart 1 of part A of title IV of such Act (20 U.S.C. 1070a et seq.); or

(2) part F of title IV of such Act (20 U.S.C. 1087kk et seq.).

(c) CONTINGENT EXTENSION.—Section 414 of the General Education Provisions Act (20 U.S.C. 1226a) shall apply to this Act.

SEC. 182. PARTNERSHIPS WITH SCHOOLS.

(a) DESIGN OF PROGRAMS.—The head of each Federal agency and department shall design and implement a comprehensive strategy to involve employees of such agencies and departments in partnership programs with elementary schools and secondary schools. Such strategy shall include—

(1) a review of existing programs to identify and expand the opportunities for such employees to be adult volunteers in schools and for students and out-of-school youth;

(2) the designation of a senior official in each such agency and department who will be responsible for establishing adult volunteer and partnership and youth service programs in each such agency and department and for developing adult volunteer and partnership and youth service programs;

(3) the encouragement of employees of such agencies and departments to participate in adult volunteer and partnership programs and other service projects;

(4) the annual recognition of outstanding service programs operated by Federal agencies; and

(5) the encouragement of businesses and professional firms to include community service among the factors considered in making hiring, compensation, and promotion decisions.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, and on a regular basis thereafter, the head of each Federal agency and department shall prepare and submit, to the appropriate Committees of Congress, a report concerning the implementation of this section.

SEC. 183. SERVICE AS TUTORS.

Notwithstanding any other provision of this Act, a service opportunity through which a part-time participant serves as a classroom tutor under the supervision of a certified professional shall be considered an acceptable placement if the requirements of section 177(b) (1) and (2) and section 174 are met.

SEC. 184. DRUG-FREE WORKPLACE REQUIREMENTS.

All programs receiving grants under this title shall be subject to the Drug-Free Workplace Requirements for Federal Grant Recipients under section 5153 through 5158 of the Anti-Drug Abuse Act of 1988 (41 U.S.C. 702-707).

SEC. 185. CONFORMING AMENDMENTS.

The Higher Education Act of 1965 is amended—

(1) in section 411F(9) (20 U.S.C. 1070a-6(9)), by adding at the end thereof the following new subparagraph:

"(F) Annual adjusted family income does not include any living allowance received by a participant in programs established under the National and Community Service Act of 1990.";

(2) in section 411F(12)(B)(vi) (20 U.S.C. 1070a-6(12)(B)(vi)), by striking "(including all sources of resources other than parents)" and inserting "(including all sources of resources other than parents and living allowances received as a result of participation in a program established under the National and Community Service Act of 1990.)";

(3) in section 480(f) (20 U.S.C. 1087vv(f)), by—

(A) striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting a semicolon and "and"; and

(C) adding at the end thereof the following new paragraph:

"(3) any living allowance received by a participant in a program established under the National and Community Service Act of 1990."; and

(4) in section 480(d)(2)(F) (20 U.S.C. 1087vv(d)(2)(F)), by inserting after "other than parents" "and living allowances as a result of participation in a program established under the National and Community Service Act of 1990)".

Subtitle G—Commission on National and Community Service

SEC. 190. COMMISSION ON NATIONAL AND COMMUNITY SERVICE.

(a) ESTABLISHMENT.—There is established a Commission on National and Community Service that shall administer the programs established under this title.

(b) BOARD OF DIRECTORS.—

(1) COMPOSITION.—

(A) IN GENERAL.—The Commission shall be administered by a Board of Directors (hereinafter referred to in this section as the "Board") that shall be composed of 21 members, to be appointed by the President with the advice and consent of the Senate, who shall be individuals who have extensive experience in volunteer and service opportunity programs and who represent a broad range of viewpoints. The membership of the Board shall be balanced according to the race, ethnicity, age and gender of its members.

(B) EX-OFFICIO MEMBERS.—The Secretary of Education, Secretary of Health and Human Services, Secretary of Labor, Secretary of Interior, Secretary of Agriculture, and the Director of the ACTION agency shall serve as ex-officio members of the Board.

(2) POLITICAL PARTIES.—Not more than 11 members of the Board shall belong to the same political party.

(3) NOMINATIONS.—Seven members of the Board shall be appointed from among individuals nominated by the Speaker of the House of Representatives, and seven of such members shall be appointed from among individuals nominated by the majority leader of the Senate.

(4) TERMS.—Each member of the Board shall serve for a term of 2 years, except that, subject to the provisions of paragraph (4), 11 of the initial members of the Board shall serve for a term of 1 year, as designated by the President.

(5) VACANCIES.—As vacancies occur on the Board, new members shall be appointed by the President, with the advice and consent of the Senate, and serve for the remainder of the term for which the predecessor of such member was appointed.

(6) CHAIRPERSON.—The Board shall elect a chairperson and vice-chairperson from among its membership.

(7) MEETINGS.—The Board shall meet not less than three times each year. The Board shall hold additional meetings if seven members of the Board request such meetings in writing. A majority of the Board shall constitute a quorum.

(8) EXPENSES.—While away from their homes or regular places of business on the business of the Board, members of such Board may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(c) DUTIES.—The Board shall—

(1) advise the President and the Congress concerning developments in national and community service that merit the attention of the President and the Congress;

(2) design, administer and disseminate information regarding the programs and initiatives established under this title;

(3) consult with appropriate Federal agencies in administering programs that receive assistance under this title;

(4) have the authority to delegate authority to administer the programs established under this title to any other agency or entity of the Federal Government, on the agree-

ment of such agency or entity, as the Board determines appropriate;

(5) provide, directly or through contract with public or private nonprofit organizations that have extensive experience in service programs, training and technical assistance to States, school and community-based service programs, full-time youth service corps, and national service demonstration programs;

(6) arrange for the evaluation of programs established under this title, in accordance with section 179;

(7) coordinate with the Secretary of Defense in evaluating the effect of the national service demonstration program on the recruitment efforts of the active and reserve components of the Armed Forces; and

(8) carry out any other activities determined appropriate by the Secretary.

(d) EXECUTIVE DIRECTOR OF THE BOARD.—

(1) IN GENERAL.—The Board shall appoint an individual to serve as Executive Director of the Board (hereinafter referred to in this section as the "Director").

(2) DUTIES.—The Director shall advise the Board concerning developments in volunteer or national service that the Director determines merits the attention of the Board, identify promising service initiatives, and coordinate the work of the Board with the work of other Federal agencies involved in service activities and in the design of a competitive grant to provide assistance as authorized under this title.

(e) TECHNICAL EMPLOYEES.—The Director may, at the discretion of the Board, appoint not more than 10 technical employees to administer the Committee. Such employees shall be appointed for terms that shall not exceed 2 years, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(f) CLEARINGHOUSES.—

(1) IN GENERAL.—The Commission shall provide assistance to not more than four regional service clearinghouses.

(2) PUBLIC AND PRIVATE NONPROFIT AGENCIES.—Public and private nonprofit agencies that have extensive experience in community service, adult volunteer and partnership programs, youth service, intergenerational service programs, and programs working with at-risk youth shall be eligible to receive assistance under paragraph (1).

(3) FUNCTION OF CLEARINGHOUSES.—National and regional clearinghouses that receive assistance under paragraph (1) shall—

(A) assist State and local community service programs with needs assessments and planning;

(B) conduct research and evaluations concerning community service;

(C) provide leadership development and training to State and local community service program administrators, supervisors, and participants;

(D) administer award and recognition programs for outstanding community service programs and participants;

(E) facilitate communication among community service programs and participants;

(F) provide information, curriculum materials, technical assistance on program planning and operation, and training to States and local entities eligible to receive funds under this title;

(G) gather and disseminate information on successful programs, components of successful programs, innovative youth skills curriculum, and projects being implemented nationwide; and

(H) make recommendations to State and local entities on quality controls to improve program delivery and on changes in the programs under this title.

(g) PRESIDENTIAL AWARDS FOR SERVICES.—

(1) PRESIDENTIAL AWARDS.—

(A) IN GENERAL.—The President, acting through the Commission, is authorized to make Presidential Awards for service to—

(i) individuals demonstrating outstanding community service including school-based service;

(ii) outstanding service learning and community service programs; and

(iii) outstanding teachers in service-learning programs.

(B) NUMBER OF AWARDS.—The President is authorized to make one or more individual, one or more teaching, and one or more program awards in each Congressional district, and one or more Statewide individual program and teaching awards in each State.

(C) CONSULTATION.—The President shall consult with the Governor of each State, and with the Board, in the selection of individuals and programs for Presidential Awards.

(D) PARTICIPANTS IN PROGRAMS.—An individual receiving an award under this subsection need not be a participant in a program assisted under this title.

(2) INFORMATION.—The President shall ensure that information concerning individuals and programs receiving awards under this subsection is widely disseminated.

(h) REPORT.—Not later than January 1, 1993, the President shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives, a report containing recommendations for the improvement of the administration and coordination of volunteer, national, and community service programs administered by the ACTION Agency, the Commission on National Service, and other Federal entities. Such report shall include—

(1) an assessment of whether Federal volunteer, national and community service programs could be more cost-effectively and efficiently administered by a single Federal entity or fewer entities, including an estimate of any cost savings that could be achieved by consolidating or centralizing the management of such programs; and

(2) a description of the roles and responsibilities of the ACTION Agency, the Commission on National Service and other Federal entities in developing and coordinating National policy on voluntarism and national and community service and any recommendations for clarifying or altering the missions and responsibilities of such entities which may be appropriate.

TITLE II—MODIFICATIONS OF EXISTING PROGRAMS

Subtitle B—Publication

SEC. 201. INFORMATION FOR STUDENTS.

Section 485(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1092(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (J);

(2) by striking out the period at the end of subparagraph (K) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new subparagraph:

"(L) the terms and conditions under which students receiving guaranteed student loans under part B of this title or direct student loans under part E of this title, or both, may—

"(i) obtain deferral of the repayment of the principal and interest for service under the Peace Corps Act (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)) or under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.), or for comparable full-time service as a volunteer for a tax-exempt organization of demonstrated effectiveness in the field of community service, and

"(ii) obtain partial cancellation of the student loan for service under the Peace Corps Act (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)) under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.) or, for comparable full-time service as a volunteer for a tax-exempt organization of demonstrated effectiveness in the field of community service.".

SEC. 202. EXIT COUNSELING FOR BORROWERS.

Section 485(b) of the Higher Education Act of 1965 (20 U.S.C. 1092(b)) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting in lieu thereof a semicolon and "and"; and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) the terms and conditions under which the student may obtain partial cancellation or defer repayment of the principal and interest for service under the Peace Corps Act (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)) or under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.) or for comparable full-time service as a volunteer for a tax-exempt organization of demonstrated effectiveness.".

SEC. 203. DEPARTMENT INFORMATION ON DEFERMENTS AND CANCELLATIONS.

Section 485(d) of the Higher Education Act of 1965 (20 U.S.C. 1092(d)) is amended by inserting before the last sentence the following new sentence: "The Secretary shall provide information concerning the specific terms and conditions under which students may obtain partial or total cancellation or defer repayment of loans for service, shall indicate (in terms of the Federal minimum wage) the maximum level of compensation and allowances that a student borrower may receive from a tax-exempt organization to qualify for a deferment, and shall explicitly state that students may qualify for such partial cancellations or deferments when they serve as a paid employee of a tax-exempt organization".

SEC. 204. DATA ON DEFERMENTS AND CANCELLATIONS.

Section 485B(a) of the Higher Education Act of 1965 (20 U.S.C. 1092b(a)) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding the following new paragraph after paragraph (4):

"(5) the exact amount of loans partially or totally canceled or in deferment for service under the Peace Corps Act (22 U.S.C. 2501 et seq.)), for service under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.), and for comparable full-time service as a volunteer for a tax-exempt organization of demonstrated effectiveness.".

Subtitle B—Youthbuild Projects

SEC. 211. YOUTHBUILD PROJECTS.

The Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.) is amended by adding at the end thereof the following new title:

"TITLE VII—YOUTHBUILD PROJECTS

"SEC. 701. STATEMENT OF PURPOSE.

"It is the purpose of this title—

"(1) to provide economically disadvantaged young adults with opportunities for meaningful service to their communities in helping to meet the housing needs of homeless individuals and low-income families; and

"(2) to enable economically disadvantaged young adults to obtain the education and employment skills necessary to achieve economic self-sufficiency.

"SEC. 702. AUTHORIZATION OF PROGRAM.

"(a) FINANCIAL ASSISTANCE.—The Director of the ACTION Agency, in consultation with the Secretary of Labor, may provide grants to pay the Federal share of the cost of carrying out Youthbuild projects in accordance with this title.

"(b) FEDERAL SHARE.—The Federal share under subsection (a) for each fiscal year shall not exceed 90 percent.

"SEC. 703. SERVICE IN CONSTRUCTION AND REHABILITATION PROJECTS.

"(a) CONSTRUCTION AND REHABILITATION PROJECTS.—Eligible participants serving in Youthbuild projects receiving assistance under this title shall be employed in the construction, rehabilitation, or improvement of real property to be used for purposes of providing—

"(1) residential rental housing that is occupied primarily by, or available for occupancy primarily by, homeless individuals and low-income families;

"(2) transitional housing for homeless individuals;

"(3) facilities for the provision of health, education, and other social services to low-income families, including—

"(A) senior citizen centers;

"(B) youth recreation centers;

"(C) Head Start or child or adult day care centers; and

"(D) community health centers.

"(b) REQUIREMENTS FOR COMMUNITY FACILITIES.—No assistance may be provided under this title to support the construction, rehabilitation, or improvement of real property to be used to provide facilities described in subsection (a) unless the property—

"(1) is used principally by or for the benefit of low-income families;

"(2) is owned and occupied solely by public or private nonprofit entities; and

"(3) is located in census tracts, or identifiable neighborhoods within census tracts, in which the median family income is not more than 80 percent of the median family income of the area in which the facility is located, as such median family income and area are determined for the purposes of assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

"(c) RESTRICTION OF USE.—Participants under this title may not be employed in the construction, operation, or maintenance of any facility used for sectarian instruction or religious worship.

"SEC. 704. EDUCATION AND JOB TRAINING SERVICES.

"(a) IN GENERAL.—Assistance provided under this title shall be used by each Youthbuild project to provide to participants the following:

"(1) SERVICE OPPORTUNITIES.—Service opportunities in the construction or rehabilitation projects described in section 703, which shall be integrated with appropriate skills training and coordinated with, to the extent feasible, preapprenticeship and apprenticeship programs.

"(2) EDUCATIONAL SERVICES.—Services and activities designed to meet the educational needs of participants, including—

"(A) basic skills instruction and remedial education;

"(B) bilingual education for individuals with limited English proficiency; and

"(C) secondary education services and activities designed to lead to the attainment of a high school diploma or its equivalent.

"(3) PERSONAL AND PEER SUPPORTS.—Counseling services and other activities designed to—

"(A) ensure that participants overcome personal problems that would interfere with their successful participation; and

"(B) develop a strong, mutually supportive peer context in which values, goals, cultural heritage, and life skills can be explored and strengthened.

"(4) LEADERSHIP DEVELOPMENT.—Opportunities to develop the decisionmaking, speaking, negotiating, and other leadership skills of participants, such as the establishment and operation of a youth council with meaningful decisionmaking authority over aspects of the project.

"(5) PREPARATION FOR AND PLACEMENT IN UNSUBSIDIZED EMPLOYMENT.—Activities designed to maximize the value of participants as future employees and to prepare participants for seeking, obtaining, and retaining unsubsidized employment.

"(6) NECESSARY SUPPORT SERVICES.—To provide support services and need-based stipends necessary to enable individuals to participate in the program and, for a period not to exceed 6 months after completion of training, to assist participants through support services in retaining employment.

"(b) CONDITIONS.—The provision of service opportunities to participants in Youthbuild projects shall be made conditional upon attendance and participation by such individuals in the educational services and activities described in subsection (a). The duration of participation for each individual in educational services and activities shall be at least equal to the total number of hours for which a participant serves and is paid wages by a Youthbuild project.

"SEC. 705. USES OF FUNDS.

"(a) FUNDS.—Funds provided under this title may be used only for activities that are in addition to activities that would otherwise be available in the absence of such funds.

"(b) ASSISTANCE CRITERIA.—Assistance provided to each Youthbuild project under this title shall be used only for—

"(1) education and job training services and activities described in paragraphs (2), (3), (4), (5), and (6) of section 704(a);

"(2) wages and benefits paid to participants in accordance with sections 704(a) and 706; and

"(3) administrative expenses incurred by the project in an amount not to exceed 10 percent of the amount of assistance provided to the project under this title unless such project receives a waiver, on the basis of substantial need, granted by the Director to use an amount not to exceed 15 percent of the amount of such assistance provided under this title for such purposes.

"SEC. 706. ELIGIBLE PARTICIPANTS.

"(a) IN GENERAL.—Except as provided in subsection (b), an individual shall be eligible to participate in a Youthbuild project receiving assistance under this title if such individual is—

"(1) 16 to 24 years of age, inclusive;

"(2) economically disadvantaged; and

"(3) an individual who has dropped out of high school whose reading and mathematics skills are at or below the 8th grade level.

"(b) EXCEPTIONS.—Not more than 25 percent of the participants in a Youthbuild project receiving assistance under this title may be individuals who do not meet the requirements of subsection (a).

"(c) PARTICIPATION LIMITATION.—Any eligible individual selected for full-time participation in a Youthbuild project may participate full-time for a period of not less than 6 months and not more than 18 months.

"SEC. 707. LIVING ALLOWANCES.

"(a) AMOUNT OF ALLOWANCE.—

"(1) IN GENERAL.—Each participant in a full-time Youthbuild program that receives assistance under this title shall receive a living allowance of not more than an amount equal to 100 percent of the poverty line for a family of two (as defined in section 673(2) of the Community Service Block Grant Act (42 U.S.C. 9902(2)).

"(2) NON-FEDERAL SOURCES.—Notwithstanding paragraph (1), a program agency may provide participants with additional amounts that are made available from non-Federal sources.

"(3) REDUCTION IN EXISTING PROGRAM BENEFITS.—Nothing in this section shall be construed to require a program in existence on the date of enactment of this title to decrease any stipends, salaries, or living allowances provided to participants under such program so long as the amount of any such stipend, salaries, or living allowances that is in excess of the levels provided for in this section are paid from non-Federal sources.

"(b) NONDISCRIMINATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an individual with responsibility for the operation of a Youthbuild project shall not discriminate on the basis of religion against a participant or a member of the project staff who is paid with funds under this title.

"(2) EXCEPTION.—Paragraph (1) shall not apply to the employment, with funds provided under this title, of any member of the staff of a Youthbuild project who was employed with the organization operating the project on the date the grant funded under this title was awarded.

"SEC. 708. CONTRACTS.

"Each Youthbuild project shall carry out the services and activities under this title directly or through arrangements or under contracts with administrative entities designated under section 103(b)(1)(B) of the Job Training Partnership Act (29 U.S.C. 1501(b)(1)(B)), with State and local educational agencies, institutions of higher education, State and local housing development agencies, and with other public agencies and private organizations.

"SEC. 709. PERFORMANCE STANDARDS.

"(a) IN GENERAL.—The Director, in consultation with the Secretary of Labor, shall prescribe standards for evaluating the performance of Youthbuild projects receiving assistance under this title, including the following factors:

"(1) Placement in unsubsidized employment.

"(2) Retention in unsubsidized employment.

"(3) An increase in earnings.

"(4) Improvement of reading and other basic skills.

"(5) Attainment of a high school diploma or its equivalent.

"(6) Completion of projects providing a benefit to the community.

"(b) VARIATIONS.—The Director shall prescribe variations to the standards determined under subsection (a) by taking into account the economic conditions of the areas in which Youthbuild projects are located and appropriate special characteristics, such as the extent of English language proficiency and offender status of Youthbuild participants.

"SEC. 710. APPLICATIONS.

"(a) SUBMISSION.—To apply for a grant under this title, an eligible entity shall submit an application to the Director in accordance with procedures established by the Director.

"(b) CRITERIA.—Each such application shall—

"(1) describe the educational services, job training, supportive services, service opportunities, and other services and activities that will be provided to participants;

"(2) describe the proposed construction of rehabilitation activities to be undertaken and the anticipated schedule for carrying out such activities;

"(3) describe the manner in which eligible youths will be recruited and selected, including a description of arrangements which will be made with community-based organizations, State and local educational agencies, public assistance agencies, the courts of jurisdiction for status and youth offenders, homeless shelters and other agencies that serve homeless youth, foster care agencies, and other appropriate public and private agencies;

"(4) describe the special outreach efforts that will be undertaken to recruit eligible young women (including young women with dependent children);

"(5) describe how the proposed project will be coordinated with other Federal, State, and local activities, including vocational, adult and bilingual education programs, job training supported by funds available under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) and the Family Support Act of 1988, housing and economic development, and programs that receive assistance under section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306);

"(6) provide assurances that there will be a sufficient number of supervisory personnel on the project and that the supervisory personnel are trained in the skills needed to carry out the project;

"(7) describe activities that will be undertaken to develop the leadership skills of participants;

"(8) set forth a detailed budget and describe the system of fiscal controls and auditing and accountability procedures that will be used to ensure fiscal soundness; and

"(9) set forth assurances, arrangements, and conditions the Director determines are necessary to carry out this title.

"SEC. 711. SELECTION OF PROJECTS.

"In approving applications for assistance under this title, the Director shall give priority to applicants that demonstrate the following:

"(1) POTENTIAL FOR SUCCESS.—The greatest likelihood of success, as indicated by such factors as the past experience of an applicant with housing rehabilitation or construction, youth and youth education and employment training programs, management capacity, fiscal reliability, and community support.

"(2) NEED.—Have the greatest need for assistance, as determined by factors such as—

"(A) the degree of economic distress of the community from which participants would be recruited, including—

"(i) the extent of poverty;

"(ii) the extent of youth unemployment; and

"(iii) the number of individuals who have dropped out of high school; and

"(B) the degree of economic distress of the locality in which the housing would be rehabilitated or constructed, including—

"(i) objective measures of the incidence of homelessness;

"(ii) the relation between the supply of affordable housing for low-income families and the number of such families in the locality;

"(iii) the extent of housing overcrowding; and

"(iv) the extent of poverty.

"SEC. 712. MANAGEMENT AND TECHNICAL ASSISTANCE.

"(a) GENERAL ADMINISTRATION.—The program established under this title shall be administered by an individual with significant experience in the administration of youth service programs that explicitly attempt to enhance the basic academic and vocational skills of participants in such programs. The Director is authorized to delegate any of the functions of the Director under this title as may be appropriate to the Secretary of Labor and provide for the performance of any of the provisions of this title on a cost-reimbursable basis by the Secretary of Labor.

"(b) DIRECTOR ASSISTANCE.—The Director may enter into contracts with a qualified public or private nonprofit agency to provide assistance to the Director in the management, supervision, and coordination of Youthbuild projects receiving assistance under this title.

"(c) SPONSOR ASSISTANCE.—The Director shall enter into contracts with a qualified public or private nonprofit agency to provide appropriate training, information, and technical assistance to sponsors of projects assisted under this title.

"(d) APPLICATION PREPARATION.—Technical assistance may also be provided in the development of project proposals and the preparation of applications for assistance under this title to eligible entities which intend or desire to submit such applications. Community-based organizations shall be given first priority in the provision of such assistance.

"(e) RESERVATION OF FUNDS.—The Director shall reserve 5 percent of the amounts available in each fiscal year under section 715 to carry out subsections (c) and (d).

"SEC. 713. DEFINITIONS.

"For purposes of this title:

"(1) COMMUNITY-BASED ORGANIZATIONS.—The term 'community-based organizations' has the meaning given such term in section 4(8) of the Job Training Partnership Act (29 U.S.C. 1503(8)).

"(2) DIRECTOR.—The term 'Director' means the Director of the ACTION agency.

"(3) DROPPED OUT OF HIGH SCHOOL.—The term 'individual who has dropped out of high school' means an individual who is neither attending any school nor subject to a compulsory attendance law and who has not received a secondary school diploma or a certificate of equivalency for such diploma, but does not include any individual who has attended secondary school at any time during the preceding 6 months.

"(4) ECONOMICALLY DISADVANTAGED.—The term 'economically disadvantaged' has the meaning given such term in section 4(8) of the Job Training Partnership Act (29 U.S.C. 1503(8)).

"(5) ELIGIBLE ENTITY.—The term 'eligible entity' means a public or private nonprofit agency, such as—

"(A) community-based organizations;

"(B) administrative entities designated under section 103(b)(1)(B) of the Job Training Partnership Act (29 U.S.C. 1501(b)(1)(B));

"(C) community action agencies;

"(D) State and local housing development agencies;

"(E) State and local youth service and conservation corps; and

"(F) any other entity that is eligible to provide education and employment training under other Federal employment training programs.

"(6) HOMELESS INDIVIDUAL.—The term 'homeless individual' has the meaning given such term in section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302).

"(7) HOUSING DEVELOPMENT AGENCY.—The term 'housing development agency' means any agency of a State or local government, or any private nonprofit organization that is engaged in providing housing for the homeless or low-income families.

"(8) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(9) LIMITED ENGLISH PROFICIENCY.—The term 'limited English proficiency' has the meaning given such term in section 7003 of the Bilingual Education Act (20 U.S.C. 3223).

"(10) LOW-INCOME FAMILY.—The term 'low-income family' has the meaning given the term 'lower income families' in section 3(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(2)).

"(11) OFFENDER.—The term 'offender' means any adult or juvenile with a record of arrest or conviction for a criminal offense.

"(12) QUALIFIED NONPROFIT AGENCY.—The term 'qualified public or private nonprofit agency' means any nonprofit agency that has significant prior experience in the operation of projects similar to the Youthbuild program authorized under this title and that has the capacity to provide effective technical assistance under this title.

"(13) RESIDENTIAL RENTAL PURPOSES.—The term 'residential rental purposes' includes a cooperative or mutual housing facility that has a resale structure that enables the cooperative to maintain affordability for low-income individuals and families.

"(14) SERVICE OPPORTUNITY.—The term 'service opportunity' means the opportunity to perform work in return for wages and benefits in the construction or rehabilitation of real property in accordance with this title.

"(15) STATE.—The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States.

"(16) TRANSITIONAL HOUSING.—The term 'transitional housing' means a project that has as its purpose facilitating the movement of homeless individuals and families to independent living within a reasonable amount of time. Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals

and other homeless individuals with mental or physical disabilities and homeless families with children.

"(17) YOUTHBUILD PROJECT.—The term 'Youthbuild project' means any project that receives assistance under this title and provides disadvantaged youth with opportunities for service, education, and training in the construction or rehabilitation of housing for homeless and other low-income individuals.

"SEC. 715. REGULATIONS.

The Secretary shall issue any regulations necessary to carry out this title.

"SEC. 716. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $1,000,000 for fiscal year 1991, $2,000,000 for fiscal year 1992, and $5,000,000 for fiscal year 1993.".

Subtitle C—Amendments to Student Literacy Corps

SEC. 221. AMENDMENTS TO STUDENT LITERACY CORPS.

(a) INCREASE IN HOURS OF SERVICE.—Section 144(b)(2)(B) of the Higher Education Act of 1965 (20 U.S.C. 1018 note) is amended by striking "6" and inserting in lieu thereof "60" and by striking "each week of" and inserting in lieu thereof "during".

(b) PRIORITY.—Section 144(b)(2)(D) of such Act is amended by inserting before the semicolon the following: "and, as provided in section 146, will give priority in providing tutoring services to—

"(i) educationally disadvantaged students receiving services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

"(ii) illiterate parents of educationally or economically disadvantaged elementary school students, with special emphasis on single-parent households.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 146 of such Act is amended—

(1) by inserting "(a)" before "In general"; and

(2) by adding at the end thereof the following new subsection:

"(b) The priorities described in section 144(b)(2)(D) shall be applied by the Secretary to funds appropriated which exceed $10,000,000.".

TITLE III—POINTS OF LIGHT FOUNDATION

SEC 301. SHORT TITLE.

This title may be cited as "The Points of Light Foundation Act".

SEC. 302. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) community service and service to others is an integral part of American tradition;

(2) existing volunteers and volunteer programs should be praised for their efforts in helping and serving others;

(3) the definition of a successful life includes service to others;

(4) individuals should be encouraged to volunteer their time and energies in community service efforts;

(5) if asked to volunteer or participate in community service, most Americans will do so;

(6) institutions should be encouraged to volunteer their resources and energies and should encourage volunteer and community service among their members, employees, affiliates; and

(7) volunteer and community service programs are intended to complement and not replace governmental responsibilities.

(b) PURPOSE.—It is the purpose of this title—

(1) to encourage every American and every American institution to help solve our most critical social problems by volunteering their time, energies and services through community service projects and initiatives;

(2) to identify successful and promising community service projects and initiatives, and to disseminate information concerning such projects and initiatives to other communities in order to promote their adoption nationwide; and

(3) to discover and encourage new leaders and develop individuals and institutions that serve as strong examples of a commitment to serving others and to convince all Americans that a successful life includes serving others.

SEC. 303. AUTHORITY.

(a) IN GENERAL.—The President is authorized to designate a private, nonprofit organization (hereinafter referred to in this title as the Foundation) to receive funds pursuant to section 501(b), upon the determination of the President that such organization is capable of carrying out the undertakings described in section 302. Any such designation by the President shall be revocable.

(b) CONSTRUCTION.—Nothing in this Act shall be construed either—

(1) to cause the Foundation to be deemed an agency, establishment, or instrumentality of the United States Government; or

(2) to cause the directors, officers or employees of the Foundation to be deemed officers or employees of the United States.

SEC. 304. GRANTS TO THE FOUNDATION.

(a) IN GENERAL.—Funds made available pursuant to sections 303 and 501(b) shall be granted to the Foundation by a department or agency in the executive branch of the United States Government designated by the President—

(1) to assist the Foundation in carrying out the undertakings described in section 302; and

(2) for the administrative expenses of the Foundation.

(b) INTEREST EARNED ON ACCOUNTS.—Notwithstanding any other provision of law, the Foundation may hold funds granted to it pursuant to this title in interest-bearing accounts, prior to the disbursement of such funds for purposes specified in subsection (a), and may retain for such purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress.

SEC. 305. ELIGIBILITY OF THE FOUNDATION FOR GRANTS.

(a) COMPLIANCE.—Grants may be made to the Foundation pursuant to this title only if the Foundation agrees to comply with the requirements of this title. If the Foundation fails to comply with the requirements of this title, additional funds shall not be released until the Foundation brings itself into compliance with such requirements.

(b) ACTIVITIES.—The Foundation may use funds provided under this title only for activities and programs consistent with the purposes described in sections 302 and 304.

(c) LIMITATION.—The Foundation shall not issue any shares of stock or declare or pay any dividends.

(d) COMPENSATION.—No part of the funds available to the Foundation shall inure to the benefit of any board member, officer, or employee of the Foundation, except as salary or reasonable compensation for services or expenses. Compensation for board members shall be limited to reimbursement for reasonable costs of travel and expenses.

(e) CONFLICTS OF INTEREST.—No director, officer, or employee of the Foundation shall participate, directly or indirectly, in the consideration or determination of any question before the Foundation that affects his or her financial interests or the financial interests of any corporation, partnership, entity, or organization in which he or she has a direct or indirect financial interest.

(f) POLITICAL ACTIVITY.—The Foundation shall not engage in lobbying or propaganda for the purpose of influencing legislation, and shall not participate or intervene in any political campaign on behalf of any candidate for public office.

(g) PRIVATE SECTOR CONTRIBUTIONS.—During the second and third fiscal years in which funds are provided to the Foundation under this title, the Foundation shall raise from private sector donations an amount equal to not less than 25 percent of any funds provided to the Foundation under this title in such fiscal year. Funds shall be released to the Foundation during such fiscal year only to the extent that the matching requirement of the subsection has been met.

(h) AUDIT OF ACCOUNTS.—The accounts of the Foundation shall be audited annually by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States in accordance with generally accepted auditing standards. The reports, of each such independent audit shall be included in the annual report required by subsection (l).

(i) AUDITS BY AGENCIES.—In fiscal years in which the Foundation is receiving grants under this title, the accounts of the Foundation may be audited at any time by any agency designated by the President. The Foundation shall keep such records as will facilitate effective audits.

(j) CONGRESSIONAL OVERSIGHT.—In fiscal years in which the Foundation is receiving grants under this title, the Foundation shall be subject to appropriate oversight procedures of Congress.

(k) DUTIES.—The Foundation shall ensure—

(1) that recipients of financial assistance provided by the Foundation under this title, shall keep separate accounts with respect to such assistance and such records as may be reasonably necessary to disclose fully—

(A) the amount and the disposition by such recipient of the assistance received from the Foundation;

(B) the total cost of the project or undertaking in connection with which such assistance is given or used;

(C) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

(D) such other records as will facilitate effective audits; and

(2) that the Foundation, or any of its duly authorized representatives including any agency designated by the President pursuant to subsection (i) shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipient that are pertinent to assistance provided from funds granted pursuant to this title.

(l) ANNUAL REPORTS.—The Foundation shall prepare and submit to the President and to the appropriate Committees of Congress an annual report, that shall include a comprehensive and detailed description of the Foundation's operations, activities, financial condition, and accomplishments for the fiscal year preceding the year in which the report is submitted. Such report shall be submitted not later than 3 months after the

conclusion of any fiscal year in which the Foundation receives grants under this title.

TITLE IV—FOOD DONATIONS

SEC. 401. SENSE OF CONGRESS CONCERNING ENACTMENT OF GOOD SAMARITAN FOOD DONATION ACT.

(a) IN GENERAL.—It is the sense of Congress that each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States should—

(1) encourage the donation of apparently wholesome food or grocery products to nonprofit organizations for distribution to needy individuals; and

(2) consider the model Good Samaritan Food Donation Act (provided in section 402) as a means of encouraging the donation of food and grocery products.

(b) DISTRIBUTION OF COPIES.—The Archivist of the United States shall distribute a copy of this title to the chief executive officer of each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 402. MODEL GOOD SAMARITAN FOOD DONATION ACT.

(a) SHORT TITLE.—This section may be cited as the "Good Samaritan Food Donation Act".

(b) DEFINITIONS.—As used in this section:

(1) APPARENTLY FIT GROCERY PRODUCT.—The term "apparently fit grocery product" means a grocery product that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the product may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

(2) APPARENTLY WHOLESOME FOOD.—The term "apparently wholesome food" means food that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

(3) DONATE.—The term "donate" means to give without requiring anything of monetary value from the recipient, except that the term shall include giving by a nonprofit organization to another nonprofit organization, notwithstanding that the donor organization has charged a nominal fee to the donee organization, if the ultimate recipient or user is not required to give anything of monetary value.

(4) FOOD.—The term "food" means any raw, cooked, processed, or prepared edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption.

(5) GLEANER.—The term "gleaner" means a person who harvests for free distribution to the needy, or for donation to a nonprofit organization for ultimate distribution to the needy, an agricultural crop that has been donated by the owner.

(6) GROCERY PRODUCT.—The term "grocery product" means a nonfood grocery product, including a disposable paper or plastic product, household cleaning product, laundry detergent, cleaning product, or miscellaneous household item.

(7) GROSS NEGLIGENCE.—The term "gross negligence" means voluntary and conscious conduct by a person with knowledge (at the time of the conduct) that the conduct is likely to be harmful to the health or well-being of another person.

(8) INTENTIONAL MISCONDUCT.—The term "intentional misconduct" means conduct by a person with knowledge (at the time of the conduct) that the conduct is harmful to the health or well-being of another person.

(9) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means an incorporated or unincorporated entity that—

(A) is operating for religious, charitable, or educational purposes; and

(B) does not provide net earnings to, or operate in any other manner that inures to the benefit of any officer, employee, or shareholder of the entity.

(10) PERSON.—The term "person" means an individual, corporation, partnership, organization, association, or governmental entity, including a retail grocer, wholesaler, hotel, motel, manufacturer, restaurant, caterer, farmer, and nonprofit food distributor or hospital. In the case of a corporation, partnership, organization, association, or governmental entity, the term includes an officer, director, partner, deacon, trustee, council member, or other elected or appointed individual responsible for the governance of the entity.

(c) LIABILITY FOR DAMAGES FROM DONATED FOOD AND GROCERY PRODUCTS.—A person or gleaner shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person or gleaner donates in good faith to a nonprofit organization for ultimate distribution to needy individuals, except that this paragraph shall not apply to an injury to or death of an ultimate user or recipient of the food or grocery product that results from an act or omission of the donor constituting gross negligence or intentional misconduct.

(d) COLLECTION OR GLEANING OF DONATIONS.—A person who allows the collection or gleaning of donations on property owned or occupied by the person by gleaners, or paid or unpaid representatives of a nonprofit organization, for ultimate distribution to needy individuals shall not be subject to civil or criminal liability that arises due to the injury or death of the gleaner or representative, except that this paragraph shall not apply to an injury or death that results from an act or omission of the person constituting gross negligence or intentional misconduct.

(e) PARTIAL COMPLIANCE.—If some or all of the donated food and grocery products do not meet all quality and labeling standards imposed by Federal, State, and local laws and regulations, the person or gleaner who donates the food and grocery products shall not be subject to civil or criminal liability in accordance with this section if the nonprofit organization that receives the donated food or grocery products—

(1) is informed by the donor of the distressed or defective condition of the donated food or grocery products;

(2) agrees to recondition the donated food or grocery products to comply with all the quality and labeling standards prior to distribution; and

(3) is knowledgeable of the standards to properly recondition the donated food or grocery product.

(f) CONSTRUCTION.—This section shall not be construed to create any liability.

SEC. 403. EFFECT OF SECTION 402.

The model Good Samaritan Food Donation Act (provided in section 402) is intended only to serve as a model law for enactment by the States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States. The enactment of section 402 shall have no force or effect in law.

TITLE V—AUTHORIZATION OF APPROPRIATIONS

SEC. 501. AUTHORIZATION OF APPROPRIATIONS.

(a) TITLE I.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out title I, $56,000,000 for fiscal year 1991, $95,500,000 for fiscal year 1992, and $105,000,000 for fiscal year 1993.

(2) EARMARKS.—Of the aggregate amount appropriated under paragraph (1) for title I for each fiscal year—

(A) $2,000,000 shall be made available to carry out subtitle G of such title in each such fiscal year;

(B) not less than 30 percent shall be available to carry out subtitle B of such title in each such fiscal year;

(C) not less than 30 percent shall be available to carry out subtitle C of such title in each such fiscal year; and

(D) not less than 30 percent shall be available to carry out subtitle D of such title in each such fiscal year.

(b) TITLE III.—There are authorized to be appropriated to carry out title III, $5,000,000 for fiscal year 1991, $7,500,000 for fiscal year 1992, and $10,000,000 for fiscal year 1993.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. AMTRAK WASTE DISPOSAL.

(a) AMENDMENT TO RAIL PASSENGER SERVICE ACT.—Section 306(i) of the Rail Passenger Service Act is amended—

(1) by inserting "and other Federal, State and local laws" after "Public Health Service Act (42 U.S.C. 264)"; and

(2) by adding at the end thereof the following new sentences: "New intercity rail passenger cars manufactured on or after October 15, 1990, shall be built to provide for the discharge of human wastes only at servicing facilities. The Corporation shall retrofit those of its intercity rail passenger cars that were manufactured after May 1, 1971, and before October 15, 1990, with human waste disposal systems that provide for the discharge of human wastes only at servicing facilities. Subject to the appropriation of funds, (1) such retrofit program shall be completed within not later than October 15, 1996, and (2) all cars that do not provide for the discharge of human wastes only at servicing facilities shall be removed from service after such date. The United States district courts shall have original jurisdiction over any civil actions brought by the Corporation to enforce the exemption conferred hereunder and may grant equitable or declaratory relief as requested by the Corporation.".

(b) PLAN.—Not later than 1 year after the date of enactment of this Act, the National Railroad Passenger Corporation shall prepare and submit to the appropriate committees of Congress a plan that sets forth a schedule and projected cost for the completion of the retrofit program referred to in the amendment made by subsection (a) within the time limit set forth under such amendment.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if enacted on February 5, 1976.

(d) ENVIRONMENTALLY SENSITIVE AREAS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation, after appropriate notice and comment, and in consultation with the National Railroad Passenger Corporation, the Administrator of the Environmental Protection Agency, the Surgeon General, and State and local officials, shall promulgate such regula-

tions as may be necessary to mitigate the impact of the discharge of human waste from railroad passenger cars on areas that may be considered environmentally sensitive.

(e) AVAILABILITY OF INFORMATION CONCERNING DISPOSAL OF WASTE.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall promulgate regulations directing the National Railroad Passenger Corporation to, where appropriate, publish printed information, and make public address announcements, explaining its existing disposal technology and the retrofit and new equipment program, and encouraging passengers using existing equipment not to dispose of wastes in stations, railroad yards, or while the train is moving through environmentally sensitive areas.

SEC. 602. EXCHANGE PROGRAM WITH COUNTRIES IN TRANSITION FROM TOTALITARIANISM TO DEMOCRACY.

(a) AUTHORIZATION OF ACTIVITIES; GRANTS OR CONTRACTS FOR EXCHANGES WITH FOREIGN COUNTRIES.—Pursuant to the Mutual Educational and Cultural Exchange Act of 1961 and using the authorities contained therein, the President is authorized, when the President considers that it would strengthen international cooperative relations, to provide, by grant, contract, or otherwise, for exchanges with countries that are in transition from totalitarianism to democracy, which include, but are not limited to Poland, Hungary, Czechoslovakia, Bulgaria, and Romania—

(1) by financing studies, research, instruction, and related activities—

(A) of or for American citizens and nationals in foreign countries; and

(B) of or for citizens and nationals of foreign countries in American private businesses, trade associations, unions, chambers of commerce, and local, State, and Federal Government agencies, located in or outside the United States; and

(2) by financing visits and interchanges between the United States and countries in transition from totalitarianism to democracy.

The program under this section shall be coordinated by the United States Information Agency.

(b) TRANSFER OF FUNDS.—The President is authorized to transfer to the appropriations account of the United States Information Agency such sums as the President shall determine to be necessary out of the travel accounts of the departments and agencies of the United States, except for the Department of State and the United States Information Agency, as the President shall designate. Such transfers shall be subject to the approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate. In addition, the President is authorized to accept such gifts or cost-sharing arrangements as may be proffered to sustain the program under this section.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the bill, insert the following: "An Act to enhance national and community service, and for other purposes.".

And the House agree to the same.

From the Committee on Education and Labor, for consideration of the Senate bill (except secs. 222, 501, 502, 507, and 508), and the House amendment (except secs. 132(e), 191-95, and 199), and modifications committed to conference:

HAWKINS,
WILLIAM D. FORD,
JOSEPH H. GAYDOS,
GEORGE MILLER,
DALE E. KILDEE,
PAT WILLIAMS,
M.G. MARTINEZ,
MAJOR R. OWENS,
TOM SAWYER,
NITA LOWEY,
JOLENE UNSOELD,
BILL GOODLING,

From the Committee on the Judiciary for consideration of sec. 132(e) of the House amendment, and modifications committed to conference:

JACK BROOKS,
DON EDWARDS,
HARLEY O. STAGGERS, Jr.,

From the Committee on Energy and Commerce, for consideration of secs. 222, 501, and 502 of the Senate bill, and modifications committed to conference:

JOHN D. DINGELL,
THOMAS A. LUKEN,
HENRY A. WAXMAN,
NORMAN F. LENT,
BOB WHITTAKER,
ED MADIGAN (except that, for consideration of secs. 501 and 502, Mr. MADIGAN is appointed in lieu of Mr. WHITTAKER),

From the Committee on Foreign Affairs, for consideration of secs. 507 and 508 of the Senate bill, and secs. 191-99 of the House amendment, and modifications committed to conference:

DANTE B. FASCELL,
HOWARD L. BERMAN,
WM. S. BROOMFIELD,
BENJAMIN A. GILMAN,

From the Committee on Interior and Insular Affairs, for consideration of subtitle C of title I of the Senate bill, and title II of the House amendment, and modifications committed to conference:

MORRIS K. UDALL,
BRUCE F. VENTO,
JOHN LEWIS,
DON YOUNG,
ROBERT J. LAGOMARSINO,

Managers on the Part of the House.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
CHRISTOPHER J. DODD,
BARBARA A. MIKULSKI,
ORRIN HATCH,
JIM JEFFORDS,
DAVID DURENBERGER,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1430) entitled "An act to enhance national and community service, and for other purposes," generally submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE

The Senate bill is called the "National and Community Service Act of 1990," while the House amendment is called the "National Service Act of 1990."

The House recedes.

TABLE OF CONTENTS

The Senate bill, but not the House amendment, includes a table of contents.

The House recedes.

FINDINGS

The Senate bill, but not the House amendment, includes a statement of findings.

The Senate recedes.

STATEMENT OF PURPOSE

The Senate bill, but not the House amendment, includes a statement of purpose.

The House recedes.

CONSOLIDATED STATE APPLICATION

The Senate bill, but not the House amendment, authorizes states to submit a single application for school-aged, youth corps, national service or innovative programs.

The House recedes.

DEFINITIONS

The Senate bill, includes one set of definitions to apply to all new grant programs, while the House amendment, includes definitions for each individual program.

The House recedes.

YOUTHBUILD

The House amendment, but not the Senate bill, authorizes a Youthbuild program.

The Senate recedes with an amendment allowing opening up eligibility to nondisadvantaged individuals and redrafting the program as an amendment to the Domestic Volunteer Service Act.

RURAL DEMONSTRATION

The House amendment, but not the Senate bill, authorizes a separate program for a rural youth demonstration project.

The Senate recedes with an amendment to incorporate the proposal into the modified block grant.

GOVERNORS PROGRAM

The House amendment, but not the Senate bill, authorizes a separate program for a Governor's Voluntary Service Program.

The House recedes.

CURRICULUM MATERIALS

The Senate bill authorizes the Board to make grants for the development of innovative curriculum materials for youth community service and adult volunteer partnership programs, while the House amendment authorizes the Secretary of Education to make grants for innovative community service and service learning programs and curricula.

The House recedes with an amendment eliminating the separate provision as such activities are authorized as part of the school-aged program.

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PROGRAMS FOR DROPOUTS

The House amendment, but not the Senate bill, authorizes a separate programs for Model Service for Dropouts and Out-of-School Youth.

The Senate recedes with an amendment to incorporate these provisions into the school-aged program.

FOSTER GRANDPARENTS

The House amendment, but not the Senate bill, authorizes a separate program for additional funds for Foster Grandparents to service Head Start children.

The Senate recedes with an amendment to incorporate this proposal into the modified block grant and to allow block grant funds to be used for retiree service programs.

NATIONAL AND COMMUNITY SERVICE FULL- AND PART-TIME PROGRAM

The Senate bill, but not the House amendment, authorizes a National and Community Service full-time and part-time program.

The House recedes with an amendment requiring states to contribute half of the value of the post-service benefit, dropping the specific list of service activites, limiting the maximum number of states that can participate to eight, ensuring that some of the programs funded involve individuals who have completed their undergraduate education or specialized post-secondary training and have special training and skills, increasing state flexibility, limiting the use of the post-service benefit to education and training in the case of the full-time program and to education, training, and housing in the case of the part-time program, and clarifying that nothing in this act links performance of service with receipt of student financial assistance.

INNOVATIVE SERVICE PROGRAM

The Senate bill, but not the House amendment, authorizes an innovative service program for States.

The House recedes with an amendment to incorporate this proposal into the modified block grant.

COMMISSION ON NATIONAL SERVICE

The Senate bill, but not the House amendment, authorizes a Commission on National and Community Service to administer new service programs.

The House recedes with an amendment adding the secretaries of relevant agencies as ex-officio members and requiring that not later than January 1, 1993, the President submit a report with recommendations for the improvement of the administration and coordination of volunteer, national and community service programs administered by the ACTION agency, the Commission on National Service, and other federal entities.

CLEARINGHOUSES

The Senate bill authorizes the Commission to fund not less than 3 national or regional clearinghouses, while the House amendment authorizes the Secretary of the Interior and the Director of Action to fund one or more national or regional clearinghouses on youth corps and youth services and the Secretary of Education to fund clearinghouses on volunteer service.

The House recedes with an amendment to limit the authorization to 4 regional clearinghouses. The managers intend that clearinghouse funds may not be used for construction of new facilities.

CLEARINGHOUSE QUALIFICATIONS

The Senate bill provides that public and private non-profit agencies with extensive experience in community service, adult volunteer and partnership programs, youth service, and other volunteer programs are eligible to become clearinghouse, while the House amendment limits eligibility to public and private non-profit agencies with extensive experience in youth corps and youth service programs.

The House recedes.

CLEARINGHOUSE ACTIVITIES

The Senate bill provides that funded clearinghouses shall assist state and local programs, conduct research and evaluations, provide leadership development and training, administer award and recognition programs, and facilitate communication, while the House amendment provides that clearinghouses shall provide information, curriculum materials and technical assistance to state and local programs, gather and disseminate information, and make recommendations.

The Senate recedes with an amendment to combine the House and Senate lists of activities.

MODEL PROGRAMS

The Senate bill, but not the House amendment, provides for a separate provision authorizing the Board to fund national model service programs.

The Senate recedes.

DISSEMINATION

The Senate bill provides that the Board shall widely disseminate information concerning service programs, while the House amendment provides that the Secretary of Education shall widely disseminate information concerning service programs.

The House recedes.

PRESIDENTIAL AWARDS

The Senate bill authorizes Presidential awards for community service, while the House amendment authorizes Presidential awards for school-based service.

The House recedes with an amendment combining the school-based service awards with Presidential awards for community service.

SERVICE-LEARNING TASK FORCE

The House amendment, but not the Senate bill, authorizes a President's Service Learning Task Force.

The House recedes with an amendment to add the functions of this provision to the partnerships with schools section of this Act.

POINTS OF LIGHT FOUNDATION

The Senate bill, but not the House amendment, authorizes a Points of Light Initiative Foundation.

The House recedes with an amendment.

SHORT TITLE

The Senate bill includes the short title "Service America: the Service to America Act of 1990" for the school-aged program, while the House amendment includes the short title "Schools and Service-Learning Act of 1990."

The House recedes with an amendment combining the titles into "Serve America: The Community Service, Schools and Service-Learning Act of 1990."

ADMINISTERING AGENCY

In the Senate bill, the Commission on National Service administers the school-aged program, while the House amendment assigns this function to the Department of Education.

The House recedes with amendment requiring the Commission to consult with the Secretary of Education.

PURPOSE OF GRANTS

The Senate bill authorizes grants to state or local applicants to create or expand service opportunities for students and out-of-school youth and to increase the number of adult volunteers in schools, while the House amendment authorizes grants to states to plan and build state capacity for implementing school-based service learning programs and to implement, operate or expand statewide school-based service learning programs.

The Senate recedes with an amendment to incorporate the Senate provisions regarding adult volunteers, the House program regarding dropouts and out-of-school youth, and language regarding qualifications of individuals providing training and technical assistance.

INDIAN TRIBES

The Senate bill, but not the House amendment, treats Indian Tribes as states.

The House recedes.

ALLOCATION OF FUNDS TO STATES

The Senate bill allocates funds to states on a competitive basis, while the House amendment allocates funds through a formula based on school-age population and Chapter 1 allocations.

The Senate recedes with an amendment authorizing competitive grants if appropriations fall below $20 million.

PLANNING GRANTS

The House amendment, but not the Senate bill, authorizes distribution of up to 25 percent of a state's allotment as a planning grant.

The Senate recedes with an an amendment clarifying that planning activities are those listed in the section on capacity building activities.

DEFINITION OF STATE

The Senate bill, but not the House amendment includes in its definition of state the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau.

The House recedes with an amendment striking the Federated States of Micronesia and the Republic of the Marshall Islands and clarifying language regarding Palau.

RANKING OF LOCAL APPLICATIONS

The Senate bill, but not the House amendment, requires state applicants to include a description of the manner in which local applications will be ranked to ensure equitable treatment of educational and non-educational institutions.

The House recedes with an amendment changing "educational institution" to "Local Educational Authority" and "non-educational institution" to "community based organization."

COORDINATION

The Senate bill, but not the House amendment, requries state applicants to include a description of the manner in which service programs within state will be coordinated on the application. The House amendment, but not the Senate bill, requires that state applicants provide for coordination of service opportunities with other federally assisted education, training, social service and other programs serving youth be included on the application.

The Senate recedes with an amendment incorporating the Senate language.

COOPERATIVE EFFORTS

The Senate bill, but not the House amendment, requires state applicants to describe the manner in which cooperative efforts among appropriate organizations, including those that involve the participation of urban, suburban and rural youth working together will be encouraged. The House amendment, but not the Senate bill, requires state applicants to include evidence of substantial cooperative efforts among appropriate organizations to develop service-learning opportunities.

The Senate recedes with an amendment incorporating the Senate language.

EVALUATION

The Senate bill, but not the House amendment, requires state applicants to describe the manner in which service programs will be evaluated.

The House recedes.

TECHNICAL ASSISTANCE AND TRAINING

The Senate bill, but not the House amendment, requires state applicants to describe the manner in which training and technical assistance will be provided.

The House recedes with an amendment clarifying the qualifications of individuals providing training and technical assistance.

ADDITIONAL ASSISTANCE

The Senate bill, but not the House amendment, requires state applicants to describe the manner in which non-federal assistance and assistance from other federal programs will be used to expand service opportunities.

House recedes with an amendment dropping the reference to other federal programs.

ACADEMIC CREDIT

The House amendment, but not the Senate bill, requires state applicants to provide assurances that the state will give special consideration to providing assistance to projects that will provide academic credit to participants.

The Senate recedes. The managers intend that provision of academic credit for service is not a prerequisite for receipt of funds under this act.

OUTREACH

The Senate bill, but not the House amendment, requries state applicants to describe the manner in which the SEA will disseminate information to ensure involvement of a broad range of organizations.

The House recedes.

RECORDS

The House amendment, but not the Senate bill, requires applicants to provide assurances that they will keep necessary information for audits and evaluations.

The Senate recedes.

PARTNERSHIPS

The Senate bill requires that local applicants for school-based programs form partnerships that include an education institution and a local government or community-based agency unless service opportunities occur within an education institution. The House amendment requires that local applicants form partnerships that include a local educational agency and either a local government agency, community-based organization, higher education institution, or private nonprofit organization. A private school or business may also be included.

The Senate recedes with an amendment providing that partnerships include a local educational agency and a public or private non-profit organization representing the community where services will be provided.

LOCAL ADVISORY COMMITTEE

The Senate bill, but not the House amendment, specifies that one-half of the members be appointed by one partner and one-half by the other.

The Senate recedes.

PROGRAM COORDINATOR

The Senate bill, but not the House amendment, requires local applicants to state the name of the program coordinator, if available.

The Senate recedes.

RECOGNITION OF EXEMPLARY SERVICE

The Senate bill, but not the House amendment, requires the local application to specify how exemplary service will be recognized.

The House recedes.

ILLITERACY

The Senate bill, but not the House amendment, requires local applicants to disclose whether the program plans to address illiteracy.

The Senate bill recedes with an amendment to add improved literacy to the statement of purpose.

SUBSTANCE ABUSE

The Senate bill, but not the House amendment, requires local application to disclose whether program plans include preventing and treating school-age substance abuse.

The House recedes.

CONSULTATION

The Senate bill, but not the House amendment, requires local applicants to include assurances that appropriate local labor organizations will be consulted prior to placement of participants.

The House recedes.

PARTICIPATION OF PRIVATE SCHOOLS

The House amendment, but not the Senate bill, includes provisions requiring equitable participation of private school students and teachers.

The Senate recedes.

PARTNERSHIP PROGRAMS

The Senate bill, but not the House amendment, includes provisions for partnership programs involving businesses and other community organizations volunteering in schools.

The House recedes.

APPROVAL OF LOCAL APPLICATIONS

The Senate bill, but not the House amendment, includes criteria for approving local applications.

The House recedes.

PRIORITY OF FUNDING

The Senate bill includes a priority for programs involving participants in the design and operation of program, programs in greatest need of assistance, programs involving diverse participants, and programs that are integrated into the academic program. It also includes a separate priority list applying to adult volunteer and partnership programs. The House amendment includes a priority for programs involving participants in the design and operation of program, programs in greatest need of assistance, programs involving diverse participants or students from both public and private schools, programs involving adults as mentors to youth participants, programs involving private sector employees, and programs that focus on substance abuse and drop-out prevention or nutrition and health education.

The House recedes with an amendment to add programs that focus on substance abuse and drop-out prevention as a priority.

LOCAL MATCH

The Senate bill requires local applicants to pay a match of 20 percent in first year and 30 percent in second year, while the House amendment requires local applicants to pay a match of 10 percent in first year, 20 percent in second year, 30 percent in third year, and 50 percent in fourth and subsequent years.

The Senate recedes with an amendment dropping the fourth and subsequent years.

PRIVATE SECTOR DONATION INCENTIVE

The Senate bill, but not the House amendment, provides a 5 percent incentive if match is paid by a business.

The Senate recedes.

WAIVER OF MATCH

The House amendment, but not the Senate bill, allows a waiver of the local match if due to lack of resources.

The Senate recedes.

STATE MATCH

The House amendment, but not the Senate bill, requires a 10 percent state match for planning grants.

House recedes.

USE OF FUNDS

The Senate bill provides that up to 20 percent of funds allocated to a state may be used for administration and capacity building activities and up to 10 percent may be used for adult volunteer and partnership programs. The House amendment provides that up to 5 percent of funds allocated to a state may be used for administration and up to 15 percent in the first year, 10 percent in the second year, and 5 percent in the third and fourth years may be used for capacity building activities.

The Senate recedes with an amendment allowing states to use up to 5 percent of funds for administration, up to 10 percent for capacity building activities, and up to 10 percent for adult volunteer and partnership programs.

STATEMENT OF PURPOSE FOR INNOVATIVE PROJECTS FOR COMMUNITY SERVICES

The House amendment, but not the Senate bill, includes a Statement of Purpose.

The Senate recedes.

AMENDMENT OF EXISTING PROGRAM

The Senate bill amends an existing program in the Higher Education Act (HEA), "Innovative Projects for Community Services and Student Financial Independence," while the House amendment authorizes a freestanding program.

The Senate recedes with an amendment to include the new program in the modified block grant and to require that it be administered by the Commission in consultation with the Secretary of Education.

AUTHORIZATION OF FUNDS

The Senate bill authorizes funds to: (1) encourage student-initiated and student-designed service projects; (2) encourage the integration of service into the curricula; (3) encourage students to participate in community service; (4) encourage students to tutor individuals with limited basic skills; and (5) create opportunities for students to perform service in exchange for financial assistance. The House amendment authorizes funds to: (1) encourage student-initiated and student-designed service projects; (2) encourage the integration of service into the curricula; and (3) enable institutions to create or expand service opportunities.

The House recedes with an amendment to combine Senate provisions one through four with the three provisions of the House amendment.

REQUIREMENTS FOR APPLICATIONS

The Senate bill, but not the House amendment, specifies that the Director of FIPSE will determine requirements for applications.

The Senate recedes with an amendment specifying items for inclusion in applications.

ROLE OF FIPSE BOARD

The Senate bill, but not the House amendment, provides that the FIPSE Board shall advise the Director regarding this program.

The Senate recedes.

TECHNICAL EMPLOYEES

The Senate bill, but not the House amendment, authorizes the Secretary to appoint one technical employee to administer this program for each $2 million authorized under this section.

The Senate recedes.

APPLICATION REVIEW

The Senate bill, but not the House amendment, references section 1004(b) of the Higher Education Act, which requires the Director of FIPSE to establish grant review and evaluation procedures and which also limits application review to officials within FIPSE.

The Senate recedes.

CREDIT REQUIREMENT

The Senate bill, but not the House amendment, includes a disclaimer that receipt of funds under this section does not require higher education institutions to offer credit in exchange for community service.

The Senate recedes.

GRANTS FOR TRAINING AND LEADERSHIP DEVELOPMENT

The House amendment, but not the Senate bill, authorizes the Secretary to make grants to colleges and universities and other nonprofits for the purpose of training teachers, education personnel, and community leaders in the skills necessary to develop and coordinate community service activities.

The Senate recedes with an amendment moving this provision to the general authority section.

MATCH

The House amendment, but not the Senate bill, requires a match of not less than 50 percent.

The Senate recedes with an amendment allowing in-kind matching.

WORK-STUDY AMENDMENTS

The Senate bill provides that for those students employed in community-service, work-study jobs, the federal share of the salaries for such jobs is increased from 90 percent to 100 percent. In addition, the federal share of non-community service, work-study jobs is decreased, in the 1992 and 1993 school year, from 70 percent to 60 percent. The House amendment provides that authorization for the work-study program is increased from $656 million to $675 million. The House measure requires the Secretary to allocate all funds appropriated above $625 to colleges that will use such funds for work-study programs that involve students in community service jobs.

The Senate recedes with an amendment eliminating the provision.

ORGANIZATIONS OF DEMONSTRATED EFFECTIVENESS

The Senate bill, but not the House amendment, requires that tax-exempt organizations participating in student loan deferment be of "demonstrated effectiveness."

The Senate recedes.

INFORMATION REGARDING DEFERRAL FOR VOLUNTEER SERVICE

The House amendment, but not the Senate bill, provides that a student must be informed of the option of "comparable full-time service as a volunteer for a tax-exempt organization" when exploring service programs that qualify a student for loan deferment status.

The Senate recedes.

COMPLIANCE WITH TERMS OF THIS SECTION

The Senate bill, but not the House amendment, requires IHEs to emphasize in their student loan program participation agreement their compliance with the terms of this section.

The Senate recedes.

PUBLICATION OF INFORMATION ABOUT MAXIMUM COMPENSATION

The Senate bill, but not the House amendment, requires the Secretary to publish additional information establishing the maximum compensation that a student may receive to qualify for loan deferment while working in a tax-exempt organization.

The House recedes.

NATIONAL STUDENT LOAN DATA SYSTEM

The Senate bill, but not the House amendment, requires that the National Student Loan Data System include information on the amount of loans partially or totally cancelled or deferred in accordance with this part.

The House recedes with an amendment dropping "in accordance with this part."

ORGANIZATIONS OF DEMONSTRATED EFFECTIVENESS

The Senate bill, but not the House amendment, authorizes Perkins loan cancellation for service in tax-exempt organizations of demonstrated effectiveness.

The Senate recedes.

EARNINGS LIMITATION

The House amendment, but not the Senate bill, provides that an individual working in a tax-exempt organization can qualify for loan cancellation only if such individual earns the minimum wage or less.

The House recedes with an amendment eliminating the provision.

PERKINS LOAN CANCELLATION FOR DRUG TREATMENT PROGRAM EMPLOYEES

The House amendment, but not the Senate bill, authorizes Perkins loan cancellation for full-time professional employees engaged in drug treatment or education in a private or public nonprofit organization.

The House recedes.

PERKINS LOAN CANCELLATION FOR INDIAN HEALTH SERVICE EMPLOYEES

The House amendment, but not the Senate bill, authorizes Perkins loan cancellation for full-time volunteers providing Indian health services.

The House recedes.

PERKINS LOAN DEFERMENT

The House amendment, but not the Senate bill, authorizes Perkins loan deferment for individuals receiving up to a minimum wage for service in tax-exempt organizations, for professionals engaged full-time in drug counseling or drug education, or for individuals providing Indian health service.

The House recedes.

TECHNICAL AMENDMENT

The House amendment, but not the Senate bill, includes a technical amendment to the Higher Education Act.

The House recedes.

NEW BORROWERS REQUIREMENT

The House amendment, but not the Senate bill, requires participants to be new borrowers on or after 30 days from the date of enactment.

The House recedes.

STAFFORD LOAN CANCELLATION

The Senate bill, but not the House amendment, authorizes partial Stafford loan cancellation for individuals who volunteer to serve in the Peace Corps, in programs established by the Domestic Volunteer Service Act, or in comparable full-time service in a tax-exempt organization.

The Senate recedes.

STAFFORD LOAN DEFERMENT

The House amendment, but not the Senate bill, authorizes Stafford loan and Federally Insured Student Loan deferment for up to three years for individuals receiving up to minimum wage for service in a tax-exempt organization.

The House recedes.

STAFFORD LOAN DEFERMENT FOR DRUG-TREATMENT PROGRAM EMPLOYEES

The House amendment, but not the Senate bill, authorizes Stafford loan and Federally Insured Student Loan deferment for up to three years for individuals serving as full-time professionals in drug treatment and education.

The House recedes.

STAFFORD LOAN DEFERMENT FOR INDIAN HEALTH SERVICE EMPLOYEES

The House amendment, but not the Senate bill, authorizes Stafford loan and Federally Insured Student Loan deferment for up to three years, for individuals serving in Indian health services.

The House recedes.

STUDENT LITERACY CORPS AMENDMENT

The House amendment, but not the Senate bill, alters the Student Literacy Corps provisions in the Higher Education Act to require participating colleges to give priority to single parents with disadvantaged children and authorizes the Secretary of Education to establish a Student Tutorial Corps, which would engage college students in tutoring educationally disadvantaged students in Chapter 1 schools.

The Senate recedes with an amendment to combine the Student Literacy Corps with the Student Tutorial Corps and to clarify that the priority applies only to funds above $10 million.

PEACE CORPS PROGRAM

The House amendment, but not the Senate bill, authorizes the Director of the Peace Corps to provide educational benefits to students who agree to the provisions of this part. Priority is given to students who come from groups traditionally underrepresented in the Peace Corps and to students who will specialize in courses of instruction for which there is a special need in the Peace Corps.

The Senate recedes with an amendment incorporating this program into the modified block grant, authorizing the Commission to make grants to the Director for the Peace Corps or Director of Action, and limiting the number of students to 50.

SHORT TITLE

The Senate bill, but not the House amendment, includes the short title "The American Conservation and Youth Service Corps Act of 1990" for the youth corps program.

The House recedes.

PROGRAM STRUCTURE

The Senate bill provides for a conservation corps and youth service corps program administered through the Commission on National Service. The House amendment provides for separate programs for conservation corps (administered through Agriculture and Interior) and youth service corps (administered through ACTION).

The House recedes.

ELIGIBLE PROGRAM AGENCIES

The Senate bill allows for youth corps grants to be made to States, public or private non-profit agencies, the Secretary of Agriculture, the Secretary of the Interior, and the Director of ACTION. The House amendment provides that the federal component of the conservation corps will be conducted by the Secretaries of Interior and Agriculture on federal lands and that grants will be made to states or local governments. Under the youth service corps, grants may be made to public or private nonprofit agencies.

The House recedes.

SPECIAL RULE FOR FEDERAL COMPONENT

The House amendment, but not the Senate bill, places a limitation on programs directly administered by federal agencies.

The Senate recedes with an amendment modifying the House language to be applicable to the new program structure.

LOCAL APPLICANTS

The Senate bill requires that if a state does not apply for funding, public or private nonprofit organizations within a state may apply directly to the federal level for funding, and that if a state does apply, the state must conduct grant programs to fund public or private nonprofit organizations within the state. The House amendment requires that if a state does not designate a program agency to receive funds, any local government within the state may carry out the state component, and that any state carrying out a program must provide a mechanism for participation by local governments and nonprofit organizations.

The House recedes with an amendment regarding qualifications of public or private nonprofit agencies.

INDIAN TRIBES

The Senate bill treats Indian Tribes as states, while the House amendment reserves 5 percent of funds for the Secretary of the Interior for Indian Tribes.

The Senate recedes with an amendment limiting the reservation of funds to 1 percent.

EQUITABLE PARTICIPATION

The House amendment, but not the Senate bill, specifies that funds must be allocated to local governments on an equitable basis if the state has not established a program agency.

The House recedes.

MANDATORY LOCAL PARTICIPATION

The House amendment, but not the Senate bill, requires that any state carrying out a program must provide a mechanism for participation by local governments and nonprofit organizations.

The House recedes.

ISSUANCE OF REGULATIONS

The House amendment, but not the Senate bill, specifies a timetable for issuance of regulations.

The Senate recedes.

ELIGIBLE CONSERVATION CORPS PROJECTS

The Senate bill, but not the House amendment, specifies rural revitalization, reforestation, and making public facilities accessible for the disabled on the list of eligible projects.

The House recedes.

CONSULTATION WITH DEPARTMENT OF INTERIOR

The Senate bill, but not the House amendment, requires consultation with the Department of Interior regarding programs to be carried out on public or Indian lands.

The House recedes.

LAND AND WATER CONSERVATION

The House amendment, but not the Senate bill, encourages conservation program to use services available under this Act.

The Senate recedes.

RESERVATION OF FUNDS

The Senate bill, but not the House amendment, reserves up to 5 percent of funds for federal disaster relief. The House amendment, but not the Senate bill, earmarks 50 percent of funds for state projects on state and county lands 15 percent for Agriculture programs, 5 percent for other federal agencies, 25 percent for Interior, and 5 percent for Indian tribes.

The House recedes with an amendment dividing funds between conservation corps and service corps.

ASSISTANT DIRECTOR OF ACTION

The House amendment, but not the Senate bill, authorizes an assistant director of ACTION for Youth Service Corps Programs.

The House recedes.

ELIGIBLE YOUTH SERVICE CORPS PROJECTS

The Senate bill includes programs that serve individuals with disabilities and activities that focus on drug and alcohol abuse education. The House does not specify these provisions on the list of eligible projects, but broad language is included establishing criteria for approval of service projects.

The House recedes.

JOINT CONSERVATION AND YOUTH SERVICE CORPS PROGRAMS

The Senate bill, but not the House amendment, specifically provides for programs including both conservation and youth service corps activities.

The House recedes.

APPLICATION AND PLAN

The Senate bill requires an application, while the House amendment requires a plan.

The House recedes.

ELIGIBILITY OF EMPLOYMENT AND EDUCATIONAL TRAINING PROGRAMS

The House amendment, but not the Senate bill, specifically includes employment and educational training programs as eligible to receive grants. The Senate bill does not exclude or explicitly include these programs.

The House recedes.

CONTENT OF APPLICATION/PLAN

The Senate bill, but not the House amendment, requires that states indicate if they will run a program directly, requires a description of grant programs within the state, requires an age-appropriate learning component, requires a plan for recruitment of participants, requires a description of accommodations for individuals with disabilities, and includes an anti-displacement provision. The House amendment, but not the Senate bill, requires a description of facilities and equipment, a list of service positions, a description of the location of each facility, the cost of transportation, the participation of disadvantaged youth at each facility, the cost of each facility, and a description of formal social counseling to be provided to participants.

The House recedes with an amendment incorporating social counseling into the list of those items requiring description in the application.

STATE-ADMINISTERED GRANT PROGRAM

The Senate bill, but not the House amendment, requires additional material for applications relating to substate grant programs.

The House recedes.

BENEFIT TO COMMUNITY

The Senate bill, but not the House amendment, requires programs to provide participants with information regarding benefits to the community from their activities.

The House recedes.

POST-SERVICE COUNSELING AND JOB PLACEMENT

The House amendment, but not the Senate bill, requires that graduating participants receive education and employment counseling and job placement assistance where appropriate.

The Senate recedes.

ALTERNATIVE PLACEMENTS FOR EDUCATIONAL AND TRAINING SERVICES

The House amendment, but not the Senate bill, requires that if an enrollee seeks study or training not available at a facility, whenever possible that participant shall be offered an alternative assignment.

The House recedes.

IN-SERVICE EDUCATIONAL GUIDANCE AND COUNSELING

The Senate bill, but not the House amendment, requires the provision of career and educational guidance and counseling.

The House recedes.

SIZE OF AWARD

The Senate bill bases the size of award on the number of unemployed youth to be served and the type of project or service proposed to be carried out, while the House amendment bases the size of award on the proportion of the area's unemployed population to be served and the needs of the area.

The House recedes with an amendment basing the size of award on the number of youth to be served, the youth unemployment rate in the state, and the type of project or service to be carried out.

MATCHING REQUIREMENT

The House amendment, but not the Senate bill, requires a 50% nonfederal match.

The Senate recedes with an amendment requiring a match of not less than 25%.

ADDITIONAL REQUIREMENT FOR FEDERAL FUNDING

The House amendment, but not the Senate bill, requires a demonstration that the effectiveness of a project will be enhanced by federal funds.

The Senate recedes.

PAYMENT TERMS

The House amendment, but not the Senate bill, includes a provision for payment terms.

The House recedes.

CONTRACT AUTHORITY

The House amendment, but not the Senate bill, subjects contract authority to the availability of appropriations and provides that funds are only to be used for activities which are in addition to those which would otherwise be carried out.

The Senate recedes.

ADMINISTRATIVE EXPENSES

The Senate bill requires that not more than 15 percent of funds awarded to the program agency may be used for administrative expenses. The House amendment requires that not more than 15 percent of funds awarded to the program agency may be used for administrative expenses, but if a grant is awarded to a local government rather than a state, the state may not use more than 3 percent for administrative expenses.

The Senate recedes with an amendment requiring that not more than 5 percent of funds awarded to a program agency may be used for administrative expenses and not more than 5 percent of funds may be used for administrative expenses by the state.

LIMITATION ON PART-TIME PROGRAMS

The House amendment, but not the Senate bill, specifies that up to 5 percent of funds may be used for unpaid service of up to 15 hours per week.

The House recedes.

JOINT SENIOR CITIZENS PROGRAMS

The House amendment, but not the Senate bill, requires that not more than 1 percent of funds be used for joint programs with organized senior citizens programs.

The Senate recedes with an amendment requiring that not more than 2 percent of funds be used for joint programs with organized senior citizens programs.

PRELIMINARY APPROVAL

The House amendment, but not the Senate bill, includes procedures for preliminary approval of applications.

The House recedes.

EFFECT OF EARNINGS ON ELIGIBILITY FOR FEDERAL ASSISTANCE

The House amendment, but not the Senate bill, provides an exemption for earnings from means tests for federal assistance under this program.

The House recedes with an amendment to the administrative provisions section of the bill.

ENROLLMENT

The Senate bill includes age and citizenship restrictions for enrollment, while the House amendment includes age and citizenship restrictions for enrollment and requires special efforts to recruit the disadvantaged.

The Senate recedes.

ENROLLMENT OF INDIVIDUALS WITHOUT HIGH SCHOOL DIPLOMAS

The House amendment, but not the Senate bill, includes limitations on enrollment of persons without high school diplomas and requires written assurances regarding reasons for leaving school.

The House recedes with an amendment to add to the application section provisions regarding enrollment of individuals without high school diplomas.

SPECIAL CORPS MEMBERS

The House amendment, but not the Senate bill, includes a provision for enrollment of under-age or over-age special corps members.

The Senate recedes.

RESPONSIBILITY FOR ENROLLMENT

The House amendment, but not the Senate bill, specifies that the selection of enrollees is the responsibility of the program agency chief administrator.

The House recedes.

SELECTION OF ENROLLEES

The House amendment, but not the Senate bill, limits the selection of enrollees to those recruited by or enrolled in specific programs.

The House recedes.

LENGTH OF ENROLLMENT

The House amendment, but not the Senate bill, limits the length of enrollment to 24 months.

The Senate recedes.

LENGTH OF PLACEMENT

The Senate bill limits the length of placement to 1 year, while the House amendment limits the length of placement to 6 months.

The Senate recedes.

STANDARDS OF CONDUCT

The House amendment, but not the Senate bill, requires program directors to establish standards of conduct.

The Senate recedes with an amendment moving the provision to the administrative provisions section.

SUBSISTENCE ALLOWANCE

The Senate bill requires a subsistence allowance of up to 100 percent of the poverty line for a family of two to be determined by the program agency and allows that this allowance can be increased with non-federal funds. The House bill requires the subsistence allowance to be set by the administering secretary between 100 and 160 percent of minimum wage and includes provisions for payments when participants perform services substantially similar to regular employees.

The House recedes.

FAIR LABOR STANDARDS ACT

The House amendment, but not the Senate bill, defines residential programs as organized camps for purposes of FLSA.

The Senate recedes.

SERVICES AND FACILITIES

The Senate bill, but not the House amendment, encourages program agencies to provide health insurance and requires program agencies to make accommodations for individuals with disabilities.

The House recedes.

FEDERAL ROLE IN PROVIDING EQUIPMENT AND FACILITIES

The House amendment, but not the Senate bill, provides that the administering agency may provide services, facilities, supplies, and equipment to program agencies and shall make arrangements with the Secretary of Defense for logistical support.

The Senate recedes.

REDUCTION OF BENEFITS

The Senate bill, but not the House amendment, does not require reduction of benefits in existing programs if additional benefits are provided from non-federal sources.

The House recedes.

ROLLOVER ACCOUNTS

The House amendment, but not the Senate bill, requires that funds deducted for room and board be deposited in rollover accounts.

The Senate recedes.

HEALTH AND SAFETY STANDARDS

The House amendment, but not the Senate bill, provides for the establishment of health and safety standards.

The Senate recedes.

REFERRAL TO BASIC SKILLS TRAINING

The Senate bill, but not the House amendment, provides that the program agency must make appropriate referrals of participants to organizations where they may obtain basic skills training or services for learning disabilities.

The House recedes.

CONTRACTING AUTHORITY

The House amendment, but not the Senate bill, explicitly allows program agencies to contract with local government agencies and non-profit organizations.

The Senate recedes.

JOINT PROGRAMS

The Senate bill allows the Commission to develop joint programs with other agencies and provides for issuance of standards for approval of joint programs. The House amendment allows the administering secretary to develop joint programs with the Department of Labor and provides for issuance of standards for approval of such programs and allows program agencies to enter into contracts with local government and nonprofit organizations for operation or management of projects and requires program agencies and administering agencies to coordinate with related programs.

The House recedes.

TORT CLAIMS ACT

The Senate bill limits Tort Claims Act coverage to participants in programs that are sponsored by federal agencies, while the House amendment requires that all participants be covered under the Tort Claims Act.

The House recedes.

POST-SERVICE BENEFITS

The Senate bill, but not the House amendment, specifies a dollar value of post-service benefits.

The House recedes.

GRIEVANCE, NONDISPLACEMENT, NONDUPLICATION PROCEDURES

The Senate bill applies grievance, nondisplacement, and nonduplication procedures to all funded programs, while the House amendment applies these procedures only to youth corps programs and includes an additional stage of grievance procedures referring matters to the administering secretary.

The House recedes.

USE OF VOLUNTEERS

The House amendment, but not the Senate bill, includes provisions regarding the use of volunteers in youth corps programs.

The Senate recedes.

LABOR MARKET INFORMATION

The House amendment, but not the Senate bill, requires the Secretary of Labor to make labor market information available to program agencies.

The Senate recedes.

NONDISCRIMINATION

The Senate bill, but not the House amendment, clarifies application to title IX and the Age Discrimination Act.

The House recedes.

RELIGIOUS DISCRIMINATION

The Senate bill prohibits religious discrimination under certain circumstances and requires promulgation of rules for enforcement of indiscrimination provisions. The House amendment also prohibits religious discrimination under certain circumstances but exempts existing employees and applies nondiscrimination language only to youth corps programs.

The House recedes with an amendment providing that an individual with responsibility for the operation of a project that receives assistance under this title shall not discriminate on the basis of religion against a participant or a member of the project staff who is paid with funds received under this title, except that such provision shall not apply to the employment, with assistance provided under this title, of any member of the staff of a project that receives assistance under this title who was employed with the organization operating the project on the date the grant under this title was awarded.

RACIALLY MOTIVATED BOYCOTTS

The Senate bill, but not the House amendment, bans the use of funds for certain boycotts and creates a right of action if this provision is violated.

The Senate recedes.

ADVISORY BOARDS

The Senate bill includes optional state advisory boards for national and community service, while the House amendment mandates state advisory boards for youth corps programs.

The House recedes.

ANNUAL REPORT

The Senate bill requires a single annual report from each state receiving assistance under any provision of this Act and requires that a report be made to Congress, while the House amendment requires that both the state and Congress report on youth corps programs.

The House recedes.

PROHIBITION ON USE OF FUNDS

The Senate bill includes language regarding use of funds for religious activities. The House amendment bars the use of school-based program grants for religious activities and prohibits school-based participants and project staff from conducting religious activities.

The House recedes with an amendment providing that no assistance made available under this title shall be used to provide religious instruction, conduct worship services, or engage in any form of proselytization.

COLLECTIVE BARGAINING

The Senate bill, but not the House amendment, prohibits assisted programs from impairing existing contracts or collective bargaining agreements.

The House recedes.

SUPPLEMENTATION

The Senate bill, but not the House amendment, requires that funds supplement existing services.

The House recedes.

ENGAGEMENT OF PARTICIPANTS

The Senate bill, but not the House amendment, prohibits the engagement of participants unless sufficient funds have been appropriated to pay the expenses associated with such participant.

The House recedes.

EVALUATION

The Senate bill requires the evaluation of all programs funded under this Act, while the House amendment requires separate evaluation of title I and title II programs.

The House recedes.

PARTNERSHIPS WITH SCHOOLS

The Senate bill, but not the House amendment, requires the heads of Federal agencies to implement a strategy to involve agency employees in school volunteer and partnership programs.

House recedes with an amendment combining these provisions with the House provisions on Federal volunteers.

SERVICE AS TUTORS

The Senate bill, but not the House amendment, includes an exemption from the duplication language for part-time volunteer tutors.

The House recedes.

EMERGENCY MEDICAL SERVICES

The Senate bill, but not the House amendment, amends the Public Health Service Act regarding emergency medical services for children.

The Senate recedes.

PHYSICIAN'S COMPARABILITY ALLOWANCE

The Senate bill, but not the House amendment, includes an amendment regarding the physician's comparability allowance.

The Senate recedes.

PUBLIC HEALTH AMENDMENT

The Senate bill, but not the House amendment, amends the Public Health Service Act.

The House recedes with an amendment.

PEACE DIVIDEND

The Senate bill, but not the House amendment, includes a sense of the Senate amendment regarding the Peace Dividend.

The Senate recedes.

DRUG-FREE WORKPLACE

The Senate bill, but not the House amendment, explicitly provides that all programs receiving grants under this Act shall be subject to the Drug-Free Workplace Requirements for federal grant recipients.

The House recedes.

DISTRICT OF COLUMBIA VOLUNTEERS

The Senate bill, but not the House amendment, includes provisions regarding volunteers who work with children in the District of Columbia.

The Senate recedes.

HUMAN RIGHTS IN CHINA

The Senate bill, but not the House amendment, includes a sense of the Senate amendment regarding human rights repression in China.

The Senate recedes.

EXCHANGE PROGRAM

The Senate bill, but not the House amendment, authorizes an exchange program with countries in transition from totalitarianism to democracy.

The House recedes.

RURAL AREAS

The Senate bill, but not the House amendment, specifies that any entity administering a program under this Act shall ensure that rural areas receive equitable treatment.

The House recedes with an amendment adding this language to the major programs funded under this Act.

MILITARY SELECTIVE SERVICE PROVISIONS

The House amendment, but not the Senate bill, states that individuals who have not registered for the selective service, or who knowingly or willfully did not register before the registration requirement terminated or became inapplicable to that individuals, may not participate in the service programs established under this Act.

The House recedes.

RANDOM DRUG TESTING

The House amendment, but not the Senate bill, requires random drug testing of volunteers working as drug counselors.

DRUG-ABUSE INELIGIBILITY

The House amendment, but not the Senate bill, provides that no individual who has been convicted of use, possession, or distribution of drugs is eligible to participate in the Perkins loan cancellation provisions in title I, part B, subpart 4.

The House recedes.

BUY AMERICAN REQUIREMENT

The House amendment, but not the Senate bill, requires programs funded under this Act to "buy American."

The House recedes.

VOLUNTEER LIABILITY ACT

The House amendment, but not the Senate bill, requires that states receiving grants under the Governor's Voluntary Service Program exempt volunteers from liability.

The House recedes as has the House receded on the Governor's Voluntary Service Program, which was included in the House amendment, but not the Senate bill.

AUTHORIZATION OF APPROPRIATIONS

The Senate bill authorizes $125 million over two years for new programs created under this Act, while the House amendment authorizes $193 million in FY1991 and such sums through FY1994 for activities authorized under this Act.

The House recedes with an amendment authorizing $62 million for FY1991, $105 million for FY1992, and $120 million for JY1993.

From the Committee on Education and Labor, for consideration of the Senate bill (except secs. 222, 501, 502, 507, and 508), and the House amendment (except secs. 132(e), 191-95, and 199), and modifications committed to conference:

AUGUSTUS HAWKINS,
WILLIAM D. FORD,
JOSEPH H. GAYDOS,
GEORGE MILLER,
DALE E. KILDEE,
PAT WILLIAMS,
M.G. MARTINEZ,
MAJOR R. OWENS,
TOM SAWYER,
NITA LOWEY,
JOLENE UNSOELD,
BILL GOODLING,

From the Committee on the Judiciary for consideration of sec. 132(e) of the House amendment, and modifications committed to conference:

JACK BROOKS,
DON EDWARDS,
HARLEY O. STAGGERS, Jr.,

From the Committee on Energy and Commerce, for consideration of secs. 222, 501, and 502 of the Senate bill, and modifications committed to conference:

JOHN D. DINGELL,
THOMAS A. LUKEN,
HENRY A. WAXMAN,
NORMAN F. LENT,
BOB WHITTAKER,
ED MADIGAN (except that, for consideration of secs. 501 and 502, Mr. MADIGAN is appointed in lieu of Mr. WHITTAKER),

From the Committee on Foreign Affairs, for consideration of secs. 507 and 508 of the Senate bill, and secs. 191-99 of the House amendment, and modifications committed to conference:

DANTE B. FASCELL,
HOWARD L. BERMAN,
WM. S. BROOMFIELD,
BENJAMIN A. GILMAN,

From the Committee on Interior and Insular Affairs, for consideration of subtitle C of title I of the Senate bill, and title II of the House amendment, and modifications committed to conference:

MORRIS K. UDALL,
BRUCE F. VENTO,
JOHN LEWIS,
DON YOUNG,
ROBERT J. LAGOMARSINO,

Managers on the Part of the House.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
CHRISTOPHER J. DODD,
BARBARA A. MIKULSKI,
ORRIN HATCH,
JIM JEFFORDS,
DAVID DURENBERGER,

Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO SIT DURING THE 5-MINUTE RULE ON THURSDAY, OCTOBER 18, 1990

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations be permitted to sit during the proceedings under the 5-minute rule on Thursday, October 18, 1990.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was not objection.

APPOINTMENT OF CONFEREES ON H.R. 486, DEFENSE PRODUCTION ACT AMENDMENTS OF 1990

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 486) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees and, without objection, reserves the right to appoint additional conferees:

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and section 1, titles I, II, and III, and sections 501(a) and 501(b)(2) of the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Mr. LAFALCE, Ms. OAKAR, Messrs. VENTO, TORRES, and KANJORSKI, Mrs. PATTERSON, Messrs. NEAL of Massachusetts, WYLIE, SHUMWAY, and ROTH, Mrs. SAIKI, and Mrs. ROUKEMA.

From the Committee on Banking, Finance and Urban Affairs, for consideration of title IV and section 501(b)(1) of the Senate amendment, and modifications committed to conference: Messrs. GONZALEZ, ANNUNZIO, HUBBARD, and LAFALCE, Ms. OAKAR, and Messrs. VENTO, SCHUMER, WYLIE, LEACH of Iowa, SHUMWAY, MCCOLLUM and DREIER of California.

From the Committee on Energy and Commerce, for consideration of section 8 of the House bill and sections 137, 403, 404 and 405 of the Senate amendment, and modifications committed to conference: Messrs. DINGELL, MARKEY, WALGREN, LENT, and RINALDO.

From the Committee on the Judiciary, for consideration of sections 7 and 8 of the House bill, and modifications committed to conference: Messrs. BROOKS, EDWARDS of California, FRANK, FISH, and JAMES.

From the Committee on Government Operations, for consideration of sections 211 and 212 of the Senate amendment, and modifications committed to conference: Mr. CONYERS, Mrs. COLLINS, and Messrs. ENGLISH, HORTON, and KYL.

There was no objection.

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APPOINTMENT OF CONFEREES ON H.R. 3789, STEWART B. McKINNEY HOMELESS ASSISTANCE AMENDMENTS ACT OF 1990

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3789) to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees and without objection, reserves the right to appoint additional conferees:

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Ms. OAKAR, Mr. VENTO, Mr. WYLIE, and Mrs. ROUKEMA.

From the Committee on Education and Labor, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Messrs. HAWKINS, FORD of Michigan, MILLER of California, GOODLING, and BARTLETT.

From the Committee on Energy and Commerce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Messrs. DINGELL, WAXMAN, SYNAR, LENT, and MADIGAN.

From the Committee on Government Operations, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. CONYERS, Mrs. COLLINS, and Messrs. OWENS of New York, HORTON, and NIELSON of Utah.

From the Committee on Veterans' Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Messrs. MONTGOMERY, ROWLAND of Georgia, and STUMP.

There was no objection.

OLDER WORKERS BENEFIT PROTECTIONS ACT TECHNICAL AMENDMENTS

Mr. CLAY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5759) to amend the Age Discrimination in Employment Act of 1967 to clarify the application of such Act to employee group health plans, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate Amendment:

Page 1, strike out all after line 12 over to and including line 4 on page 2, and insert:

(2) in subparagraph (D)—

(A) by inserting after "For purposes of this paragraph" the following: "and solely in order to make the deduction authorized under this paragraph",

(B) by striking "and" at the end of clause (i),

(C) by striking the period at the end of clause (ii) and inserting ", or ", and

(D) by adding at the end of the following new clause:

(iii) the package of benefits provided by the employer is as described in clauses (i) and (ii).".

Mr. CLAY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. CLAY. Mr. Speaker, last week the House passed H.R. 5759, a bill making minor technical corrections to the Older Workers Benefit Protection Act, S. 1511. The Senate has now sent H.R. 5759 back to us with a clarifying amendment. We accept the amendment.

H.R. 5759, with the clarifying amendment made by the Senate, is directed exclusively at the circumstances under which an employer may offset severance pay with health insurance benefits under section 4(l)(2)(A)(1) of the Age Discrimination in Employment Act—as added by S. 1511. Thus, the amendments made to S. 1511 by H.R. 5759, as amended by the Senate, are merely technical. They are not intended to and do not limit in any way

the current protection under the Age Discrimination in Employment Act.

Mr. GOODLING. Mr. Speaker, I rise in support of H.R. 5759 as amended by the Senate. This bill is a companion to H.R. 3200, S. 1511, the Older Workers Benefit Protection Act, which was passed by both bodies several weeks ago and signed by the President just last night.

H.R. 5759 is designed solely to address the technical issue of what benefits, particularly retiree health benefits and pension sweeteners, may be offset against an employee's severance payment under section 4(l)(2) of the Age Discrimination in Employment Act. It is the final piece in the legislative puzzle that will overrule the Betts case and allow us to protect older workers from discrimination on the basis of age in the provision of employee benefits. I urge my colleagues to support this legislation and provide both employees and employers with clear guidelines on complying with the requirements of the ADEA in the area of employee benefits.

Mrs. ROUKEMA. Mr. Speaker, I rise to associate myself with the remarks of my distinguished colleague Mr. GOODLING.

This technical corrections bill, H.R. 5759, was previously passed by the House under suspension of the rules to clarify some drafting problems in the underlying legislation, S. 1511, the Older Workers Benefit Protection Act.

Senators HATCH and METZENBAUM agreed, with the concurrence of Mr. GOODLING, Chairman HAWKINS, Mr. CLAY, and myself, to amend H.R. 5759 so that there would be no question but that retiree health benefits providing coverage for retirees could be offset from severance benefits. In addition, we also agreed that such deduction does not affect the meaning of any other provisions of the Age Discrimination in Employment Act.

I am pleased that with the passage of H.R. 5759 as amended, we have achieved the important goal of bringing employee benefits into the realm of protection against age discrimination.

The SPEAKER. Is there objection to the initial request of the gentleman from Missouri?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5759.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 3095, SAFE MEDICAL DEVICES ACT OF 1990

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3095) to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. WALKER. Mr. Speaker, reserving the right to object, we have no information about this bill on this side of the aisle. We are in the process of making a phone call to try to find out about it. I would appreciate it if the gentleman would withhold his request until we can figure out where we are.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, we have been trying to get an opportunity to go to conference with the safe medical devices bill. This is a bill that has been worked out on both sides of the aisle. This has been cleared with the minority.

Mr. WALKER. Mr. Speaker, I have every reason to believe that the gentleman is correct, but we simply do not have any information at this point from our side.

Mr. Speaker, I am now told we have made the call and we have it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees and without objection, reserves the right to appoint additional conferees: Messrs. DINGELL, WAXMAN, WYDEN, LENT, and MADIGAN.

There was no objection.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1991

The SPEAKER. Pursuant to House Resolution 487 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5422.

The Chair designates the gentleman from Florida [Mr. NELSON] as Chairman of the Committee of the Whole, and requests the gentleman from Pennsylvania [Mr. KANJORSKI] to assume the chair temporily.

□ 1425

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5422) to authorize appropriations for fiscal year 1991 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, with Mr. KANJORSKI, Chairman pro tempore in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore (Mr. KANJORSKI). Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. BEILENSON] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. HYDE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. BEILENSON].

Mr. BEILENSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 5422, the Intelligence Authorization Act for fiscal year 1991.

H.R. 5422 authorizes funds for all intelligence and intelligence-related activities of the U.S. Government for fiscal year 1991. These funds are allocated between the National Foreign Intelligence Program, which consists of those U.S. intelligence programs which provide information to the President and other national decisionmakers, and the tactical intelligence and related activities programs which supply intelligence to military commanders.

The bill is the product of more than 70 hours of hearings by the Budget Subcommittee and the Subcommittee on Legislation. It enjoys the bipartisan support of the Intelligence Committee's 19 members, which is a testament to the constructive and cooperative spirit which the members brought to their work.

I want to thank in particular the committee's ranking Republican member, the gentleman from Illinois [Mr. HYDE], for his invaluable counsel and assistance. The work of the committee reflects his many contributions and was greatly facilitated by his efforts. I also want to commend the committee staff for the dedicated and professional manner with which they assist all members in carrying out the committee's business.

On behalf of the Intelligence Committee, I also want to extend my appreciation to the members and staff of the Armed Services Committee for their assistance in our work. Because elements of the Department of Defense conduct the majority of U.S. intelligence activities, and for reasons of security, the intelligence budget is contained within the defense budget. The committee has worked closely, as it does each year, with the Committee on Armed Services to produce a package of recommendations which treats the programs over which there is shared jurisdiction in as consistent a manner as possible.

While the actual amounts authorized are contained in a classified schedule of authorizations incorporated by reference into H.R. 5422 and explained in a classified annex to the committee's report, those documents are available for the examination of members in the committee's offices. I urge Members who have not already done so to review this material.

The powerful political and social forces which have rocked the world in the past year will have a profound effect on the way in which our intelligence agencies pursue their mission. The focus of our intelligence efforts is changing as threats such as narcotics, international terrorism, and the spread of chemical and biological weapons vie with traditional adversaries like the Soviet Union and its allies in Eastern Europe for attention and resources. Redeployment of assets to meet new threats, while continuing to address the remaining security concerns posed by the old, will require careful planning, flexibility, and resourcefulness.

As the intelligence agencies enter this period of transition, they must contend with the same fiscal constraints which beset other elements of the Federal budget. The growth which characterized the intelligence budgets of the 1980's is over, and the challenges presented by new intelligence priorities will have to be reconciled with the reality of reduced resources.

This bill begins that process. The sum of the committee's recommendations is not only below the President's budget request, but below the amount authorized in fiscal year 1990 as well.

While the committee believes that H.R. 5422 assured adequate funding for all essential intelligence programs and activities, a high degree of cooperation between the agencies and the Congress will be critical if the lean budget years likely in the future are not to impair the ability of the United States to meet its intelligence needs.

The recent changes in the world should produce a reexamination of more than just intelligence budget numbers. The means by which to achieve those foreign policy objectives supported by intelligence programs must also be reviewed. It will be asserted in debate today that U.S. foreign policy goals should not be pursued by secret means, and that important policy decisions should be publicly debated, and openly implemented. That is an argument with which I find myself in substantial agreement.

We will also hear that there are times when, for a variety of operational reasons, U.S. assistance programs cannot be undertaken or sustained if they are publicly acknowledged. As much as I might wish it were otherwise, I believe that there is validity to that argument as well.

A degree of tension therefore exists between the desire of many in this House that policies be determined through open debate, and the likelihood that some policies can be most effectively promoted only through secret means. That tension increases the longer policies are pursued in secret, and it is exacerbated when the details of supposedly covert programs are regularly reported in the media. The result is that we spend far too much time debating whether a policy should be pursued in secret and far too little time considering whether it should be pursued at all.

The Intelligence Committee has tried for a year or more now, to do two sometimes consistent, sometimes conflicting things to resolve this issue.

First, we have attempted to encourage the administration to wind down or bring to an end, a small number of programs which originated some time ago under different conditions—during the height of the cold war. The circumstances under which they were originally undertaken have changed considerably; many of the arguments originally given in justification of pursuing them have themselves since changed because of those changing circumstances.

In the alternative, we have urged the administration, if it feels it necessary to continue any of these programs, to ask publicly for our—and for the American peoples'—support for them through public discussion and debate, and through an open vote in the Congress.

These are programs which are, in fact, quite well known to the public, and well covered and reported by the media. Everyone is free to discuss and debate them except for those of us who are members of the committees which must consider the policy the programs are designed to support, and authorize their funding. We are the only ones who cannot discuss them publicly. In my view, such programs should be debated publicly and voted on publicly. If they are policies worth pursuing, the Congress will support and authorize them and thereby strengthen the position of the administration; if they are not supported, it is likely that they are policies the Government should not be pursuing.

In sum, major component parts of U.S. foreign policy should not be secretly authorized and voted upon unless there are terribly compelling reasons for that procedure. I think it is obvious that there is in general less reason to pursue some of these policies secretly now, than there may well have been just a very few years ago.

Those are the feelings of a great many members of the Intelligence Committees of both Houses of the Congress, but I must also tell you that, most of us at least, have also been trying to help the administration in its effort to wind down some of these programs. Democrats as well as Republicans on the committee are persuaded that this administration seriously is searching for the best way to bring them to a close.

Mr. Chairman, I want to make it clear that members of the Intelligence Committee are determined to promote a review of the general issue of the appropriateness in certain cases of the maintenance of secret means of furthering foreign policy. I again commend the classified documents accompanying H.R. 5422 to the Members' attention. These documents reflect the committee's intention to pursue this issue in the coming months with the administration. I am hopeful our efforts will lead to clear understandings about the limits on the effectiveness of secret means of policy implementation, and on an agreement as to how policies originally pursued in secret can be brought into the open in ways that will allow for a debate on their merits without ending their utility.

Before explaining in summary form the legislative provisions of H.R. 5422, I want to make some comments about the oversight title, title VII, of the Senate version of this legislation. I know that many Members have been contacted by constituents concerned that title VII will convey to the President broad new authorities in the area of covert action which will enable such actions to be conducted without fear of interference by the Congress.

I want to assure the Members that, in my judgment, nothing could be further from the truth. I can think of few legislative provisions which have been so badly misinterpreted as has title VII of the Senate intelligence authorization bill.

No new authority for the conduct of covert action is provided to the President by title VII. No congressional powers or prerogatives are transferred to the executive branch.

In fact, the existing system of congressional oversight of covert action programs is substantially strengthened by improvements that these title VII provisions would make in the procedures by which information about these programs is provided to Congress. More information would be available to Congress as a result of the enactment of title VII. The procedure for approval of covert actions by the President would be tightened, and oversight would be enhanced rather than weakened.

Why am I so certain? Because provisions essentially the same as those contained in title VII comprised a bill reported 2 years ago as a response to the Iran-Contra affair by the House Intelligence Committee. For reasons unconnected to those particular provisions, that bill never reached the House floor. It may be that some

drafting improvements can be made in the Senate's language to make more clear what the bill does, and does not do, with respect to oversight of covert action. We will be discussing necessary changes in conference and I can assure Members that any provisions we agree to will result in strengthened oversight.

At this time, I would like to briefly describe the major legislative provisions of H.R. 5422.

Title III contains provisions developed in cooperation with the Post Office and Civil Service Committee which are intended to bring the CIA's retirement systems into conformance with the retirement systems in effect at other Federal agencies. I want to note in particular the following sections:

Section 304 which will enable a retiree who failed to elect a survivor benefit before retirement to make that election for a spouse married after retirement;

Section 305, which will reduce from 60 to 55 the age before which the remarriage of a former or surviving spouse shall terminate that person's entitlement to retirement or survivor benefits; and

Section 307, which will provide for a restoration to former spouses of the benefits they lose upon remarriage should the remarriage end in death, divorce, or annulment.

Title IV contains recurring provisions which, among other things, provide that authorizations in the bill are not to be construed as authorizing intelligence activities not otherwise authorized by the Constitution or laws of the United States.

Title V contains provisions of particular relevance to the Department of Defense. I want to highlight the following sections:

Section 501, which will enable the Secretary of Defense to charge the CIA the same rate for airlift services that is charged to components of the Department of Defense;

Section 502, which was developed with the assistance of the Government Operations Committee, creates a limited exception to the Freedom of Information Act to permit the withholding from public disclosure of certain unclassified products of the Defense Mapping Agency. This exception would only apply when classification of the products is not feasible, but provision of them pursuant to a Freedom of Information Act request would reveal the sources and methods by which they were produced, or military operational or contingency planning;

Section 503, which will enable the Secretary of Defense, in coordination with the Director of Central Intelligence, to better protect the identity and mission of those DOD clandestine human intelligence collectors needing a commercial cover for their activities. Under current law, a DOD human intelligence collection operation may hold itself out to be a business, but may not engage in routine business activities such as establishing checking accounts, buying and selling products, or furnishing an office. This section will provide the authority for the conduct of those kinds of activities so that the necessary security for the cover operation is provided. The new authority may be used only to support intelligence collection activities conducted abroad, and the intelligence committees must be informed each time a commercial entity is established. In addition, the provision contains a 5-year sunset clause which is intended to ensure that the need for the authority, and its operation in practice, is reviewed.

As the official U.S. defense presence declines in many parts of the world, the execution of the defense intelligence mission may depend to a greater degree than in the past on the ability to gain access to a country through the use of a nonofficial cover. The committee was persuaded that a valid need existed for a reliable nonofficial cover alternative for the Defense Departments human intelligence collectors. The proposal presented by the Department was well developed and well coordinated within the intelligence community. The committee was persuaded that the limited use envisioned by the Department for the authorities provided will adequately address current shortcomings in nonofficial cover arrangements.

Finally, I want to mention section 504 which contains the text of an amendment adopted by the Armed Services Committee during its sequential referral of the bill. The provision requires the Secretary of Defense to provide any Member of Congress with access to a certain classified report concerning the operation of the Defense Department's POW/MIA office.

Mr. Chairman, H.R. 5422 is a well-balanced response to the needs of our intelligence agencies, and I urge its adoption.

□ 1440

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. BEILENSON. I am happy to yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, I thank the gentleman for yielding.

I would like to commend him for his leadership as chairman of this committee. As a person who has served with him for 6 years on this committee, I am delighted with the sort of leadership that, as chairman, he has given, the good will that he has promoted, and the good sense, in my view, and I would like to associate in general with his assessment of the report.

This is a subject which by its very nature involves many controversial areas and policy decisions. We could not possibly come to a conclusion with respect to a report which would satisfy everyone. The fact is that we are in a new age, the post-cold-war age, in which some of the assumptions are being challenged openly through the amendatory process. This is something we accept.

In any event, I do want to express my appreciation to the chairman.

Mr. BEILENSON. Mr. Chairman, I thank the gentleman for his kind comments.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. BEILENSON. I am happy to yield to the gentleman from New York.

Mr. SCHEUER. Mr. Chairman, I congratulate the gentleman and the committee on their fine record and especially for the gentleman's desire to wind down or bring to an end certain covert programs.

There is an urgent need for Congress to have more information than it does on the long-term military threat that we face in the world today, either regional threats or whatever in this postcold war world, in order for us to wind down or bring to an end many of the very comprehensive military programs that we wonder whether they are relevant to the world that we live in. Is the B-2 bomber relevant to a current threat that we face? Is star wars relevant? Is the mobile missile system relevant? Is there any likelihood that Congress is going to get a sophisticated long-term military threat appraisal from the collection of intelligence agencies under the jurisdiction of the gentleman's committee? Are we going to get it from the Defense Department? Are we going to get it from the National Security Agency in cooperation with the President?

Mr. BEILENSON. The answer to my friend, to the gentleman's question, is yes, without question, and I think in the relatively near future.

As the gentleman may know, such material has been requested already of the Defense Department and of the Secretary of Defense who has responded and is in the process of responding.

Both Mr. NUNN on the other side and the other House, the other body, the gentleman from Wisconsin [Mr. ASPIN], the distinguished chairman of our own Committee on Armed Services have requested such information. In fact, yes, that will be available to us, I would say to my friend, in the relatively near future.

Mr. SCHEUER. If the gentleman will yield further, will it be made available to all Members of this House?

Mr. BEILENSON. I am not sure I can answer the gentleman with respect to that particular question. It

may well come in both classified and unclassified form. Quite obviously the relevant material would be available to all Members.

Mr. SCHEUER. As long as it is made available, even in classified form, as the gentleman mentioned, the information about these covert activities is available to us in classified form, that would be sufficient for our public-policy judgments as to whether these major weapons systems, new ones that we are being called upon to fund, are relevant to the military threat that we face in the world, and the world signified by Mikhail Gorbachev's receiving the Nobel Peace Prize yesterday.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. BEILENSON. I am happy to yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, I join my colleague in complimenting the chairman of the Select Committee on Intelligence and the subcommittee chairs and other ranking members, the gentleman from Wisconsin [Mr. KASTENMEIER], the gentleman from New York [Mr. MCHUGH], and the very splendid staff you have that has worked very closely with the staff of the Committee on the Judiciary and, in particular, the staff of my subcommittee that has jurisdiction over the FBI chiefly regarding the budget, laws affecting the FBI, and general day-to-day oversight of activities here in the United States that are not necessarily within the jurisdiction of the Intelligence Committee.

In the many years that I have been here, I have found that this is the best-run Permanent Select Committee on Intelligence in my experience, and it is really a great relief to all of us to understand that and to see the working of the committee and realize that the intelligence agencies are being subjected to daily strict scrutiny as is absolutely necessary.

There are some of us here who had the unpleasant experience of living through the 1970's where the intelligence agencies got out of control, and we had to establish select committees in the House and Senate to find out what was going on.

I assure the Members it was a great disappointment to all of us to find out what was going on back on those days.

The Permanent Select Committee on Intelligence here in the House and its sister committee in the Senate have really done a splendid job, and I compliment the gentleman. I compliment the gentleman and his committee on this good bill that is coming up.

The gentlewoman from California [Mrs. BOXER], I believe, has an amendment later on that perhaps will not pass, but I want to commend it to my colleagues. It is a pretty darn good amendment.

Mr. HYDE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, profound changes have occurred in the world since the Intelligence Committee brought last year's intelligence authorization bill to the House floor. Many of these far-reaching developments were somewhat surprising, even by those closest to the situations involved. For example, some of the most astute German politicians were saying less than a year ago that the two Germanys were a long way from reunification. Yet, just a few weeks ago, in a breathtaking rush of popular will, Germany was officially reunified after 45 years of division.

Meanwhile, the experts on the Middle East were taken by surprise. Saddam Hussein's sabre-rattling threats suddenly gave way to the "blitzkreig" seizure of his small but resource-rich neighbor, Kuwait.

Some of these unforeseen changes have encouraged a degree of optimism, while the implications of others are profoundly sobering. Amidst all of this stunning turmoil, our committee has studied the intelligence budget and programs with great care. We have attempted to grasp the significance of these changes in the world situation vis-a-vis U.S. intelligence requirements and resources. Perhaps the most important conclusion the committee reached is that the world is still a terribly uncertain place, and consequently we must strive to maintain a strong and flexible national intelligence capability. Therefore, I would like to commend the whole committee for its cautious approach toward the budget cuts we have recommended in this intelligence authorization bill.

Moreover, in the course of our authorization hearings, our committee has endeavored to impress upon the intelligence community that it should continue to reevaluate carefully intelligence requirements and priorities in light of the changes in the international arena which are still unfolding.

I also wish to take this opportunity to thank Chairman BEILENSON for his exceptional leadership of the committee's work on this legislation. Under his stewardship, the process of developing this legislation has been characterized by comity and openness to the views and input of all Members, including the minority. In fact, a number of the important topics discussed in the committee's unclassified report reflect specific concerns of minority members.

One very important thrust of this bill is a strong and well-focused effort to reduce unnecessary redundancy among various intelligence programs. I believe our committee has been successful in accomplishing that task. This authorization bill will, in fact, result in more bang for the buck in the intelligence budget.

In short, Mr. Chairman, I am generally satisfied with this bill, as reported by the Intelligence Committee. I believe that the other members of the committee from this side of the aisle are as well. I would note, however, that counterintelligence remains a major concern of mine. In this regard, I believe that there is a need for better coordination among intelligence agencies responsible for sensitive classified programs and U.S. arms control negotiations. Improved coordination is essential if we are to minimize potentially serious counterintelligence problems in connection with on-site-inspection regimes which are likely to be included in arms control agreements. Nevertheless, I urge the House to pass H.R. 5422.

In conclusion, let me add a special word of appreciation for the dedicated efforts of our committee's very capable staff: Dan Childs, Tom Smeeton, Mike Sheehy, Bob Fitch, Diane Dornan, Cathy Eberwein, Louis Dupart, Joyce Pratt, Virginia Callis, Merritt Clark, Sharon Curcio, Calvin Humphrey, Dee Jackson, Jack Keliher, Ken Kodama, Jeannie McNally, Larry Prior, Bernie Raimo, Karen Schindler, Jeannie Seelbach, Bernie Toon, Angel Torres, and Steve Nelson. Without their loyal and diligent assistance, our legislative responsibilities would be virtually overwhelming.

□ 1450

Mr. BEILENSON. Mr. Chairman, I yield 6 minutes to the gentleman from New York [Mr. MCHUGH], chairman of our Subcommittee on Legislation.

Mr. MCHUGH. Mr. Chairman, I rise in support of this Intelligence Authorization Act and urge my colleagues to support it. I would like to commend our chairman, the gentleman from California [Mr. BEILENSON], our ranking Republican, the gentleman from Illinois [Mr. HYDE], and all the members of the committee for working together to forge a consensus on intelligence funding during this challenging time of transition brought about by the remarkable and welcome events that have occurred in the Soviet Union and Eastern Europe.

The budget figures authorized by this bill, while less than last year, are significant. Given our interests in the world and our intelligence requirements, I think that these figures are reasonable. They represent a sensible accommodation of diverse pressures and interests during this unique transition year.

It is clear, however, that much of America's massive intelligence effort must be refocused to reflect both the new strategic environment and the urgency of our budget crisis. I believe that the intelligence requirements of the Nation in this decade and beyond can be met adequately with less

money than is now being spent. Therefore, while supporting this year's authorization, I look forward next year to a leaner intelligence budget, a budget that realistically responds to changing conditions while continuing to protect the national security.

Mr. Chairman, in addition to authorizing spending levels for intelligence activities, this bill also contains several nonbudget legislative provisions considered by the Subcommittee on Legislation which I chair. I believe that they are reasonable provisions and can be briefly summarized as follows:

Sections 301 through 307 make several technical or conforming changes to the laws applicable to the CIA retirement system so as to more equitably treat surviving spouses and former spouses.

Section 502 authorizes the Secretary of Defense to withhold from disclosure under the Freedom of Information Act certain maps and other geodetic products of the Defense Mapping Agency that are properly classifiable, but are not classified because to do so would limit their utility and availability and would unnecessarily increase costs for storage and handling.

Section 503 permits the Secretary of Defense to authorize certain intelligence elements of the Department of Defense to engage in commercial activities necessary to provide more secure cover for authorized intelligence collection activities conducted abroad. Our subcommittee agreed to this provision, which has been reviewed and refined during several years of consideration by the intelligence committees, only after concluding that the underlying intelligence collection activities are legitimate and necessary, that the new cover authority is needed to protect these activities from disclosure, and that the Department of Defense and the Defense Intelligence Agency are fully and irreversibly committed to careful implementation and rigorous oversight of the commercial activities to be conducted. I would also point out that section 503 contains a number of important safeguards which would:

Restrict the use of commercial cover to collection activities, ensuring that it cannot be used for covert action;

Require that the Director of Central Intelligence concur in the use of the commercial activities authorized;

Mandate strict internal financial controls, as well as full reporting to the intelligence committees of activities conducted pursuant to the cover authority, including prompt notice to the committees each time a corporation, partnership, or other legal entity is established; and

Terminate the authority in 5 years, a provision that would ensure a thorough review of this authority by the intelligence committees before it could be renewed.

With all of these oversight safeguards, I am confident that the Department of Defense will utilize the proposed authority prudently, paying close attention to the intelligence risks involved as well as to the potential for financial abuse.

Finally, Mr. Chairman, there are two matters of particular interest to me that, while not treated in the bill before the House today, involve significant issues of intelligence oversight.

The first concerns provisions contained in the intelligence authorization bill passed by the Senate dealing with congressional oversight of intelligence activities in general and approval and reporting of covert actions in particular. These provisions, found in title VII of the Senate bill, are not contained in this House authorization. However, our committee's decision not to include them reflected a desire to pursue related issues with the administration, not a judgment that the Senate provisions are not acceptable. If, as is likely, the House conferees bring most of the provisions in title VII back in the conference agreement, I will, of course, discuss their content and background fully at that time. I would note now, however, that most of these provisions were endorsed by the Foreign Affairs and Intelligence Committees in 1988, and recommended by the Iran-Contra committees in their 1987 joint report. I mention this now only because I participated directly in the drafting of the 1988 provisions upon which title VII is based and because a recent lobbying effort seeks to portray the Senate provisions as providing broad new authority for the conduct of covert actions, with a corresponding lessening of congressional oversight. That is not an accurate characterization of these provisions. In fact, title VII would impose a number of new requirements, limitations, and prohibitions on the process for Presidential approval of covert actions and the reporting thereof to Congress, thereby increasing the ability of the intelligence committees to conduct adequate oversight.

The second issue I would like to mention involves physical searches conducted in the United States to collect intelligence information. I believe it would surprise most Americans, including many Members of Congress, that such searches, including the surreptitious entry of the homes of American citizens, occur periodically—without a court order of any kind and without statutory authorization. I and other members of the committee have been troubled by this state of affairs for several years and believe it is important to impose a requirement that a court order be obtained to safeguard the privacy rights of our citizens whenever the FBI seeks to conduct a physical search for the purposes of intelligence collection. My subcommittee conducted a hearing on this issue in May, and had hoped to include physical search legislation in this authorization bill. However, because our legislative recommendations were going to be reported so late in the session, sufficient time did not remain for the Judiciary Committee to fully consider the measure. Therefore on September 12, primarily for discussion purposes I introduced H.R. 5588, the Intelligence Search Procedures Act. It would subject physical searches to essentially the same court order requirements that were successfully applied to foreign intelligence electronic surveillance in 1978. I want to alert my colleagues to the issues addressed in H.R. 5588, and I look forward to addressing its provisions in the next Congress. In my judgment, due process and the fourth amendment to the Constitution require that independent judicial review and a court order be secured before a private citizen is subjected to a physical search by the Government.

Mr. Chairman, during the course of our consideration of this bill a number of important amendments will be offered relating to so-called covert operations. I look forward to debating those issues. Regardless of how they are disposed of, however, I urge my colleagues to support this authorization bill on final passage.

Mr. HYDE. Mr. Chairman, as I was reciting the litany of excellent staff people, I forgot one of our most valuable staff members, Mr. Dick Gieza. Forgive me, Mr. Gieza. Also, Mr. Mike O'Neill, our very skilled clerk.

Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. Mr. Chairman, I want to also join with the gentleman from Illinois [Mr. HYDE] and others in expressing appreciation to the Chair, and to the gentleman from Illinois [Mr. HYDE] and other members as well as the staff of the committee. I think those who are on the committee, in the atmosphere in which we work, work very well together, with concern for the best interests of the country.

Mr. Chairman, I rise in support of this authorization for the intelligence community for the next year. I would encourage my colleagues who have not made it available to themselves to go to H.R. 405 of the Capitol and look at the Classified Annex which is available to Members of Congress to see what it is that some of these funds are expended for.

As was mentioned earlier, it is difficult and I guess impossible to speak about some of the things that are in the budget for intelligence authorizations. I think it is very important that Members look at what is happening in terms of reality and what is happening in terms of, I think, responsibility by the intelligence community, and cer-

tainly by the committee. As we are experiencing and have been now for several months a basic breaking out of peace all over the world, certainly in some of the most sensitive areas, and areas we have been concerned of in the past, primarily the Soviet Union, I think it is important to note that there are still real problems which exist, as evidenced today in the Persian Gulf, and in what is referred to as the gulf crisis.

□ 1500

I think it is such incidents that point out that in fact while there may be a peaceful breaking out in the world in many areas, there is also a very tremendous need for continuation of a very active and very adequate intelligence community.

In fact, some of us, certainly myself, Mr. Chairman, are of the basic feeling that maybe at a time of build down in other areas this may be a time to look for potential building up of intelligence. As we are pulling back and we are becoming fewer in numbers of Americans around the world in sensitive areas, it becomes more and more important that we know exactly what is going on. We can do this basically and primarily only through adequate and efficient intelligence.

We need to make certain that what is being said and being done is actually what is being done.

I think we need to look very carefully that while in the past there has been a tendency to link somewhat the spending levels of the Department of Defense and of the intelligence comm unity, that those need to be separated and looked at based on what their own needs, are what their requirements are, and yet while they are many times linked very closely together, they do serve different purposes.

I did not coin the phrase or the idea and I am not even certain who did Mr. Chairman, but I think it is important to point out that intelligence and defense and the consequences of defense and peace are the two areas in this country that every American shares equally in, regardless of income level, regardless of race. Everyone who is in America shares equally in the freedom that we have. I think it has been due to lot of adequate capability that we have had in the past, and I want to be very careful as we move forward that we do not throw away 40 years of potential problems because of 1 year of peace and that we do not move faster than some of our adversaries would like to see us move, that we do not build down in areas in which they would be willing to give up something in their own regard to see us build down in, but rather that we recognize this as something positive, but we also recognize very quickly that can change as rapidly in the other direction as we have changed in the breakout of peace.

Mr. Chairman, I appreciate this opportunity and I thank the gentleman for yielding the time to me.

Mr. HYDE. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. SHUSTER], a formidable opponent in this coming election, I might add.

Mr. SHUSTER. Mr. Chairman, I thank my friend, the gentleman from Illinois, for yielding me this time.

Mr. Chairman, several months ago one of America's top spies who had just recently retired was pushing a shopping cart through one of the grocery stores here in the Washington, DC, area and he heard a voice calling to him saying, "We won, we won," and he turned around to look and see who was calling and what it was all about. It turned out it was another one of America's top spies who also had recently retired, both men having put their lives on the line for their country many times, saying to each other as they stood there with their shopping carts, "We won the cold war. Finally, after 40 years, we won."

And indeed, Mr. Chairman, we have and it is a cause for celebration, but is also a cause for caution, because we find ourselves in te very American condition of wanting to be so thankful and celebrate and assume that because we have won the cold war, our worries are over, America is indeed secure.

We find ourselves really in a transition year, in a year where the cold war is behind us, a new world order is in front of us with the opportunity for us to help mold that new world order, and yet a world which is still dangerous and te challenge and the risk to us is that we refuse to see the world as ir really is, that we as Americans so naturally want to see it through rose colored glasses because of our fundamental optimist and do not recognize that indeed, it still is a very dangerous world.

As we speak today, Mr. Chairman, throughout Washington in the Embassies of our enemies and up at the United Nations, there are literally hundreds of intelligence agents watching C-SPAN and watching this debate. We have a different kind of audience today who are not only watching the debate, you can bet they are taping the debate as well to send it back home so that they can analyze what we say here today, hoping to discern some shift in our direction, hoping to understand not only what we plan to do in America to preserve and protect the security of our country, but even more importantly, perhaps, hoping to measure the extent of our resolve to continue providing security for our country as we move into this new world order.

Now, we have heard much talk and we are going to hear more today about the idea of eliminating covert operations. Why should we have covert operations when the cold war is over? And yet if we stop and pause and think for a moment, is there any among us who does not wish that we would have had covert operations to tell us what is happening in Iraq? Is there any among us who does not wish that we had very effective convert operations to tell us what was happening in Iran for the past 10 years? Is there any among us who does not wish that we had the kind of operations necessary to know what was happening in Libya and Lebanon so we could get our hands on our hostages and indeed in the killing fields of Cambodia? Is there anybody who eally does not believe that covert operations are very necessary to help provide us with the kind of information we need in order to protect America and to protect American citizens in this dangerous world in which we live?

Yes, it is a changing world, and the targets for intelligence have got to change. The intelligence community, it is no secret, many of them have made their careers by focusing on the Soviet threat, and indeed the Soviets still are the only ones who could blow us to smithereens, but we all acknowledge that there are other threats today. There are other threats which must get more attention. Certainly we must give more emphasis to the narcotics threat, not only to the narcotics threat, per se, but to the narcoterrorism which may well engulf our country in the years ahead.

We have had many successes. The intelligence community has had many successes in dealing with the narcotics threat. I wish we could talk about them in detail here, but as we all know in the intelligence business, it is only the failures that we can talk about and it is the successes which must go unheralded.

And yes, the terrorism threat, certainly we must focus on that as well. There are new threats. They are very serious threats and we must focus on those threats. We must give the support to the intelligence community which it needs so that it can indeed focus and address these very serious threats facing our countries.

I would close by quoting Felix Dzerzhinsky, the founder of Cheka, the Soviet intelligence system from which came the KGB and virtually the model for all the Marxist intelligence systems and operations in the world. He was talking to Lenin one day and Dzerzhinsky said to Lenin, "the people in the West are wishful thinkers, so what we must do is give them what they want to think."

We must be very careful, Mr. Chairman, that we do not let this dangerous world in which we live beguile us and guide us and soothe us into thinking

that there are not serious dangers out there. We must more than ever provide and protect America, and as we do that we must also reorder our priorities in intelligence to focus on the real and most pressing threats facing us in the decade ahead.

Mr. HYDE. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, there has been some interesting philosophizing in the well today, and I would like to make a contribution to it.

But, first, let me add my congratulations to the staff of the Select Intelligence Committee. I have never seen a better staff on either side of the Hill on any committee or one that operates in a more bipartisan fashion.

Also let me just reiterate what I said yesterday before our discussion on the floor was interrupted with trying to balance the budget of our great country about the people who work for our intelligence agencies. I am just sick and tired of the incessant Hollywood image that most of these fine people are either engaged in drug running or looking the other way when it occurs. And this is not a recent accusation, but goes back to the Vietnam period, indeed all the way back to the middle fifties. The truth is contrary to what one of the greater intellectual fops of our generation, Bill Moyers, perpetrated on television in his pseudo-documentary called "The Secret War", in which he viciously castigated both parties and every administration from Truman on forward. Moyers' argued that somehow or other intelligence agencies run the Government of the United States, not the executive branch or our great parties on this Jenkins Hill. This, of course, is delusional. A leftist fantasy that was shot down when the left-wing loonies at the Christie Institute brought the secret team conspiracy theory into court.

□ 1510

The intelligence communities of the United States, those excellently trained men and women who come before us as analysts or as advocates of various programs, are the finest public servants I have ever seen in my life.

Now, if the chairman will indulge me just a bit of philosophy: I said on the House floor during the debate on our defense bill to one of our better orators, if not the best, the gentleman from California [Mr. DELLUMS] that Plato—the greatest of the Greek philosophers—had said that only the dead have seen the end of war. Mr. DELLUMS got up and said that it was a cynical remark.

Well, a lot of philosophers are cynics.

Other great historians from Josephus to Toynbee have said all of history is military conflict interrupted by very brief periods of peace. Another cynical remark, but historically accurate, unfortunately.

Take one of the oldest of all warlords, Szun Zsu of China, whose books are still taught after three millenia, from Sandhurst to West Point, to the Air Force Academy to the Naval Academy. He said this about warfare: The greatest victor of all is that who wins without ever firing a shot. And that is what every Member in this Chamber dreams for, prays for, will be the outcome of Desert Shield. A victory for freedom. A collapse of the vicious tyranny. An end of the atrocities committed by "Sadist Insane" and his gang in Baghdad. And an end to his cruel occupation without firing a shot.

Now, how do you do that? Well, no less a person than Szun Zsu said that the principal, the cardinal rule of anybody who is faced with conflict or trying to avoid it is to "know thy enemy." That is what intelligence is all about.

When President Carter was sworn in, bless his peanut-pickin' heart, he did away with about 700 or 800 hardworking, talented people within the CIA with an institutional memory of about a quarter of a century each. We paid a heavy price for that for years to come because there is no replacing the infantrymen. Ask two majority Members who have sons over there involved in Desert Shield right now, Mr. DE LA GARZA and Mr. COSTELLO. The ultimate weapon on the ground is that young soldier, that marine, that sailor. And the ultimate person in intelligence is what we refer to in our abbreviation, humint, human intelligence. That we had no human assets in Baghdad is one of the reasons they were able to mount an operation, even though some voices were saying that an attack was coming. Those voices were heard least by the Kuwaiti Government. We need people of high skill and talent in our intelligence agencies so that we can know in an ever-dangerous world, in spite of the collapse of communism, what is happening around the world.

I mentioned yesterday a General Electric commercial that has been running, it seems like 2 years now, on every serious discussion show across the networks and PBS and CNN. I will close with the two opening lines of that: "Freedom is wonderful, freedom is everything."

One of these great clerks behind me said every time he sees it he gets goose pimples.

In the defense of freedom, the first line of defense is intelligence, the people who are trying to find out what we are up against.

Mr. HYDE. Mr. Chairman, I have no more requests for time, but I ask unanimous consent that I be permitted to yield whatever time I have left to the gentleman from California [Mr. BEILENSON].

The CHAIRMAN pro tempore (Mr. KANJORSKI). Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. BEILENSON. Mr. Chairman, I thank the gentleman for that.

Mr. Chairman, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. KENNELLY], a very valuable member of our committee.

Mrs. KENNELLY. I thank the chairman.

Mr. Chairman, I rise to support the authorization, I thank the chairman and take this opportunity to commend the staff.

Mr. BEILENSON. Mr. Chairman, I yield 3 minutes to gentleman from Kansas [Mr. GLICKMAN], a member of the committee.

Mr. GLICKMAN. Mr. Chairman, first of all, I want to compliment both the gentleman from California [Mr. BEILENSON] and the gentleman from Illinois [Mr. HYDE] for doing an excellent job of making sure that our intelligence operations are properly monitored and that there is effective oversight to ensure that the appropriate role for intelligence is carried out by our Government.

The purpose of intelligence is to provide informational support for our Government to carry out its defense and foreign policy objectives.

Intelligence does not set policy. On the contrary, it provides the support base and relevant information so that the policymakers in the administration and in Congress can achieve this country's foreign policy and defense objectives.

Intelligence operatives are the servants of others in Government, not the actors; not the initiators of policy. Intelligence must do that in order to not create the mistakes of the past.

I would say that not only Mr. BEILENSON and his staff have done an excellent job, but I would compliment the administration, this administration, for doing a better job of understanding the proper role of intelligence and not making the terrible mistakes of the previous administration as it related to intelligence and its role in foreign policy.

Now, as Mr. SHUSTER and others talked about, those defense and foreign policy objectives of the United States have changed dramatically in the last year. I will not run through the litany of world change in 1989 and 1990, but there is one thing that has changed that I think needs to have more focus by the intelligence community. That has to do with economic intelligence.

With respect to the economic realities of the world, it is important to re-

member that in this changing world the greatest threat to America is in the economic arena now. It is not in the military arena, it is in the economic arena, both from our allies as well as from our adversaries that we will experience our greatest challenges. These economic challenges are the threats to the American way of life, to jobs, to our ability to produce, to our ability to provide a standard of living second to none in this world.

The intelligence agencies of our Government must be alert to that and must provide appropriate information so that our Government and our policy-makers are able to make those decisions necessary to protect America's interests. And whether those interest have to do with ownership of U.S. assets, U.S. companies, U.S. patents and trademarks, scientific and technical data, or whether they have to do with the protection of U.S. jobs, unfair competition, and all sort of other things that relate to the economic structure of our country, our intelligence agencies must be collecting and providing information and disseminating it to Government policymakers to make sure we know what the rest of the world is doing with respect to economic matters that affect our national interests.

The impact of economic competition in the world on the average U.S. citizen is great. It affects his job; his or her economic security is at stake with what is happening in the world as it is changing. The challenges from Japan, the European Community, Brazil, and a host of other countries to our economic security are significant. Opportunities with respect to changing United States-Soviet relations are great, but so are the emerging challenges from other nations in the world that want to take the lead from the United States in manufacturing, in research in technology and in the financial markets. That is why we must focus as much as possible, and as relevant, making sure our intelligence agencies provide that information based on economic issues.

It has been said that political theory is simply the rationalization of economic self-interest. Our intelligence agencies can and should be a powerful information base to protect our economic self-interest.

Mr. BEILENSON. Mr. Chairman, I yield 2 minutes to our friend, the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, first, this is a very exciting committee to serve on, one of the most interesting. Unfortunately, you can never talk about what you do.

The chemistry between the chairman and the ranking minority member I think has made this committee especially interesting and positive, especially the Chairman who, I think, in his opening remarks laid out what we are trying to do with this intelligence budget.

First it is to scrutinize. Second it is to ensure that we get the best bang for the buck. And I think we are doing that.

I think large credit goes to him and the very fair and impartial and gentlemanly way that he runs the committee. We have to move faster into the new arenas of American national security. The cold war is over. Our intelligence community needs to move into these new areas that have already been discussed, whether they be international narcotics, nuclear proliferation, economic intelligence, drugs, the whole variety of new challenges that are equally of danger to American national security.

□ 1520

Mr. Chairman, there are going to be two good amendments today on Angola that I commend to this body, good amendments that relate to the end of the cold war and the United States moving into new relationships in the Third World. They are moderate amendments. They are amendments that deal with incentives for peace.

I also commend to my colleagues one amendment that I will have on Cambodia that I believe is consistent with this process of moving away into new challenges, away from cold war issues and into new priorities for American foreign policy.

Mr. BEILENSON. Mr. Chairman, I yield 2 of the minutes allotted to me by the gentleman from Illinois [Mr. HYDE] to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, there was a comment made earlier that intelligence now should be able to tell us what Mr. Hussein is doing. I would like to say that I look at intelligence a little differently.

Mr. Chairman, I think our intelligence community should have played a part in preventing Iraq's invasion of Kuwait in the first place.

I would like to say this to the Members: I think that we are a little preoccupied with war ourselves. Our priorities reflect that in our budget.

Second of all, we have several major government academies. They are all military. We teach our brightest young minds how to be military warriors.

In fact, Mr. Chairman, I have a bill that called for the creation of a national academy of science and technology. I had over 100 cosponsors. After graduation students shall serve 4 years in some Government service other than military and, after it is all over, these students come back and work for the government.

Mr. Chairman, 100 cosponsors said, "Gee, that's a lot of money. We better not look at that this year."

Mr. Chairman, I would like to just caution our Members about one thing. It is a fact. I heard about Iraq's invasion of Kuwait on the CNN news, just like most of my colleagues did. I literally wonder if our strong chairman with close ties with the intelligence network knew, but I want to know why our intelligence community has satellites that can read the small print off a pack of cigarettes from outer space, but did not see the mobilization of 120,000 troops and 5,000 tanks on the border moving on Kuwait.

Mr. Chairman, I think those are legitimate questions that Congress should ask, and I do not think there are any two better chairmen in the House than the gentleman from California [Mr. BEILENSON] and the gentleman from Illinois [Mr. HYDE], and I would hope they would work toward those ends.

I have a little amendment today that I am going to be bringing up. I do not care what the chairmen do with it respectively to make it appropriate for this bill. I do not want to see it thrown out in conference. If they are going to be purchasing goods covertly, they can buy American goods overtly, and that is what my amendment does.

Mr. BEILENSON. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Chairman, I thank the gentleman from California [Mr. BEILENSON], my very good friend, for giving me these 2 minutes, and the gentleman from Illinois [Mr. HYDE] for releasing this time so that I could speak.

Mr. Chairman, most of the Members are going to talk about the strategic importance of stopping aid to UNITA. I want to deal with a very human problem today, Mr. Chairman and members of the committee. I want to talk about these children who we have maimed with our bombs.

These beautiful children in the face of tragedy, Mr. Chairman, continue to smile. Why are we doing this to these children? Is it because they are Angolans? I think not. Is it because they are Africans? I think not. Is it because they are Marxists? Certainly we would not be so preposterous to think that these beautiful children are Marxists.

Mr. Chairman, we are doing it because we are blind politically. We are doing it because the cold war continues to rage in Africa, and the victims are these beautiful, innocent children, Mr. Chairman.

We need to stop the armed aid to UNITA so that these children, 55,000, Mr. Chairman, more than the people who reside in the city of Bellflower, CA, which I represent, more than the people who reside in the city of Garde-

na, which I represent, 55,000 of these innocent children, these women, are maimed because of our bombs in the coffee plantations, and in the schoolyards and on the country roads. That is the reason why I come to the well of the House to appeal to my colleagues as mothers and fathers and uncles, so that they can see the tragedy of our policy in Angola.

I ask my colleagues, "As you listen to the debate today, think about these children. Think about what we are doing to them."

Mr. BEILENSON. Mr. Chairman, I yield 5 minutes to our distinguished colleague, the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Chairman, I spoke the other day on the rule, so I do not intend to take all this time today, and I will reserve time for addressing the question of Angola during the debate on the amendments.

However, Mr. Chairman, I wanted to rise and comment briefly about the changing environment in intelligence and some of the new challenges that face us.

I think the gentleman from Kansas [Mr. GLICKMAN] spoke articulately on some of the challenges that lie before us, and the gentleman from New Mexico [Mr. RICHARDSON], and I am sure others in this Chamber have as well.

I was also taken by the gentleman from Ohio [Mr. TRAFICANT] about CNN. As my colleagues know, it is true that television, mass media, has had a tremendous impact on the change in the world this year. I believe that the television coverage of the events in Eastern Europe accelerated the pace of change that occurred there, and it provides a tremendous resource to us today.

I think many of these political changes, the globalization of the communications, has allowed the aspirations and hopes of people all over the world to be expressed and to feel that they are not isolated. It is only in those countries like Iraq and others, where they do not have free communication, where they do not have free press. Countries such as in Angola, where they still have one-party systems, that do not allow for freedom of expression, we do not see this dramatic change.

So, Mr. Chairman, what I would argue is perhaps it is not a question of whether the U.S. Government ought to be funding CNN, which has been advocated. I think what we need to do is to continue to use our resources in this Government, and the prestige and the diplomacy of this Government, to try to open up those systems so that communication can get there so we can have this cross-fertilization of democratic ideas around the globe.

Also I would like to indicate that the agencies in the intelligence community are going to have to change. They are going to be challeged in a way that they never have been before.

Some have mentioned satellites and capabilities. The real issue is how do we get into the intentions of individuals.

We knew there was a mobilization on the Kuwaiti border, but we did not know the intentions of a dictator because there is no freedom of communication in that one-party country.

We have to improve our human capability to not only understand the intentions of tyrants, and dictators, and people that threaten militarily other nations and freedoms, but also those of competitor governments. It is becoming more that governments are competing economically against the United States, and I think we have to have an understanding of their intentions and capabilities as well.

Mr. Chairman, it is true that the cold war is over.

□ 1530

The Warsaw Pact threat has diminished, if not totally collapsed. I believe that the changes in the Soviet Union are positive. I am pleased that Mikhail Gorbachev was awarded the Nobel Peace Prize. But obviously he did not get the Nobel Prize for economics, because they have a long way to go there, and there is going to be much turmoil and difficulty as they try to make the shift from a Marxist system to more of a capitalist system.

Furthermore, when you look at the trends in the future, I think that the nature of threats will change. We have to understand them better. By year 2020 the population of Africa will exceed the combined populations of Japan, North America, Europe, and the Soviet Union. China's population will be eclipsed by India. Brazil will double in population. The claims on global resources will be greater.

We have to have an appreciation of where those strains and challenges are going to be. We need to use our intelligence capabilities to further improve the world's ability to feed itself and to deal with strains on the ecostructure and, of course, the economic competition that could arise as well.

Mr. Chairman, all of these changes are going to challenge the intelligence community, and I believe that a valid, robust intelligence capability is vital to our overall national security.

Mr. BEILENSON. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Mr. Chairman, I would just like to say in response to my friend, the gentleman from California [Mr. DYMALLY], that we are all concerned about the loss of life of young children in Angola and the maiming that is taking place of women and children because of the indiscriminate bombing that is taking place and the mines that have been placed in the fields of battle and around villages. But I would just like to say that much of these terrible tragedies have occurred because of Soviet weapons and Cuban weapons that have been used by the Communist MPLA.

As a matter of fact, when the recent attack on Mavinga took place, because they could not bomb at low levels, the MPLA was doing carpet bombing from 30,000 and 35,000 feet so they would not be hit by ground-to-air missiles.

I would just say that we must make absolutely sure, when we are talking about this issue, that we do not misplace the responsibility.

Mr. DYMALLY. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from California.

Mr. DYMALLY. Mr. Chairman, I stated that to Mr. Savimba. I am not here to place blame on UNITA or the MPLA. I am simply here to say, let us stop bombing. Let us save the children.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the bill is considered under the 5-minute rule by title and each title is considered as read. The amendments recommended by the Permanent Select Committee on Intelligence and the Committee on Armed Services printed in the reported bill are considered as having been adopted, and are considered as original text for the purpose of further amendment.

The Clerk will designate title I.

Mr. BEILENSON. Mr. Chairman, I ask unanimous consent that the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the bill is as follows:

H.R. 5422

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1991".

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1991 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government;

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The Drug Enforcement Administration.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1991, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Permanent Select Committee on Intelligence to accompany H.R. 5422 of the One Hundred First Congress. That Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the Executive Branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1991 under sections 102 and 202 of this Act when he determines that such action is necessary for the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed two percent of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

TITLE II—INTELLIGENCE COMMUNITY STAFF

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the Intelligence Community Staff for fiscal year 1991 $27,900,000.

SEC. 202. AUTHORIZATION OF PERSONNEL END STRENGTH.

(a) The Intelligence Community Staff is authorized 331 full-time personnel as of September 30, 1991. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1991, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During fiscal year 1991, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

SEC. 203. INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY.

During fiscal year 1991, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM AND RELATED PROVISIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1991 $164,600,000.

SEC. 302. CIA FORMER SPOUSE QUALIFYING TIME.

Section 204(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by inserting before the period at the end of paragraph (4) "during the participant's service as an employee of the Central Intelligence Agency".

SEC. 303. ELIMINATION OF 15-YEAR CAREER REVIEW FOR CERTAIN CIA EMPLOYEES.

Section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by striking out the second sentence and inserting in lieu thereof the following: "Any officer or employee who elects to accept designation as a participant entitled to the benefits of the system shall remain a participant of the system for the duration of his or her employment with the Agency. Such election shall be irrevocable except as and to the extent provided in section 301(d) of this Act and shall not be subject to review or approval by the Director.".

SEC. 304. SURVIVOR ANNUITIES UNDER CIARDS FOR CERTAIN POST-RETIREMENT SPOUSES.

(a) COMPUTATION OF ANNUITIES FOR OTHER THAN FORMER SPOUSES.—Section 221(n) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by inserting "or elected under section 226(e)" after "(unless such reduction is adjusted under section 222(b)(5))".

(b) SURVIVOR ANNUITIES.—Section 226 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by adding at the end the following new subsection:

"(e) Upon remarriage occurring on or after the date of the enactment of this subsection to a spouse other than the spouse at the time of retirement, a retired participant whose annuity was not reduced (or was not fully reduced) to provide a survivor annuity for the participant's spouse or former spouse as of the time of retirement may irrevocably elect by means of a signed writing received by the Director within one year after such remarriage, a reduction in the retired participant's annuity for the purpose of providing an annuity for such retired participant's spouse in the event such spouse survives the retired participant. The reduction shall be effective the first day of the month nine months after the date of remarriage. For remarriages that occurred prior to the date of the enactment of this subsection, the retired participant may make such an election within two years after the date of the enactment of this subsection. The retired participant, to the greatest extent practicable, shall pay a deposit under the same terms and conditions as those prescribed for retired employees under the Civil Service Retirement and Disability System under section 8339(j)(5)(C)(ii) of title 5, United States Code. A survivor annuity elected under this subsection shall be treated in all respects as a survivor annuity under section 221(b).".

SEC. 305. REDUCTION OF REMARRIAGE AGE.

(a) Reduction of Remarriage Age for Survivor and Retirement Benefits.—The Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note), is amended—

(1) in section 221—

(A) in subsections (b)(1)(A) and (b)(3)(C), by striking out "age 60" each place it appears and inserting in lieu thereof "age 55"; and

(B) in subsection (g)(1), by striking out "age sixty" each place it appears and inserting in lieu thereof "age 55";

(2) in section 222—

(A) by striking out "60 years of age" each place it appears in subsections (a)(2), (a)(3)(A), and (b)(2) and inserting in lieu thereof "55 years of age"; and

(B) by striking out "age 60" each place it appears in subsections (b)(3), (b)(5)(A), (c)(3)(C), (c)(3)(D), and (c)(4) and inserting in lieu thereof "age 55"; and

(3) in section 232(b)(1), by striking out "attaining age sixty" in the last sentence and inserting in lieu thereof "attaining age 55".

(b) EFFECTIVE DATE OF AMENDMENTS.—(1) The amendments made by subsection (a) relating to widows or widowers shall apply in the case of a surviving spouse's remarriage occurring on or after July 27, 1989, and with respect to periods beginning after such date.

(2) The amendments made by subsection (a) relating to former spouses shall apply with respect to any former spouse whose remarriage occurs after the date of enactment of this Act.

SEC. 306. ELECTION BETWEEN CIARDS ANNUITY AND OTHER SURVIVOR ANNUITIES.

Section 221(g) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended by adding at the end the following paragraph:

"(3) A surviving spouse who was acquired after the participant's retirement shall be entitled to a survivor annuity payable from the fund under this title only upon electing this annuity instead of any other survivor benefit to which he or she may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.".

SEC. 307. RESTORATION OF FORMER SPOUSE BENEFITS AFTER DISSOLUTION OF REMARRIAGE.

(A) SURVIVOR ANNUITY.—Section 224 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note), is amended—

(1) in subsection (b)(1) after "fifty-five" by inserting ", except that the entitlement of the former spouse to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce";

(2) in subsection (c)(1)(B) after "fifty-five" by inserting ", except that the entitlement of the former spouse to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce"; and

(3) by adding at the end thereof the following new subsection:

"(e) Notwithstanding subsection (c)(2)(A) of this section, the thirty-month application requirement for a survivor annuity under this section to be payable shall not apply in cases in which a former spouse's entitlement to such a survivor annuity is restored under subsection (b)(1) or (c)(1)(B) of this section.".

(b) RETIREMENT BENEFITS.—Section 225 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note), is amended—

(1) in subsection (c)(1)(B)(i) by inserting ", except that the entitlement of the former spouse to benefits under this section shall be restored on the date such remarriage is dissolved by death, annulment, or divorce" after "fifty-five years of age";

(2) in subsection (b)(1) after " "fifty-five" by inserting ", except that the entitlement of the former spouse to benefits under this section shall be restored on the date such remarriage is dissolved by death, annulment, or divorce";

(3) by redesignating subsection (e) as subsection (f); and

(4) by adding after subsection (d) the following new subsection (e):

"(e) Notwithstanding subsection (c)(4)(A) of this section, the thirty-month application requirement for benefits under this section to be payable shall not apply in cases in which a former spouse's entitlement to such benefits is restored under subsection (b)(1) or (c)(1)(B) of this section.".

(c) HEALTH BENEFITS.—Section 16(c) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding after paragraph (2) the following new paragraph:

"(3)(A) A former spouse who is not eligible to enroll or to continue enrollment in a health benefits plan under this section solely because of remarriage before age fifty-five shall be restored to such eligibility on the date such remarriage is dissolved by death, annulment, or divorce.

"(B) A former spouse whose eligibility is restored under subparagraph (A) may, under regulations which the Director of the Office of Personnel Management shall prescribe, enroll in a health benefits plan is such former spouse—

"(i) was an individual referred to in paragraph (1) and was an individual covered under a benefits plan as a family member at any time during the 18-month period before the date of dissolution of the marriage to the Agency employee or annuitant; or

"(ii) was an individual referred to in paragraph (2) and was an individual covered under a benefits plan immediately before the remarriage ended the enrollment.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1990. No benefits provided pursuant to the amendments made by this section shall be payable with respect to any period before such effective date.

(e) COMPLIANCE WITH BUDGET ACT.—Any new spending authority (within the meaning of section 401(c) of the Congressional Budget Act of 1974) provided pursuant to the amendments made by this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE IV—GENERAL PROVISIONS

SEC. 401. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 402. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE PROVISIONS

SEC. 501. REIMBURSEMENT RATE FOR CERTAIN AIRLIFT SERVICE.

(a) The Secretary of Defense is authorized to grant the use of the Department of Defense reimbursement rate for military airlift services provided by the Department of Defense to the Central Intelligence Agency if the Secretary of Defense determines that such services are provided in support of authorized intelligence activities.

(b) As used in subsection (a), the term "Department of Defense reimbursement rate" means the amount charged a component of the Department of Defense by another component of the Department of Defense.

SEC. 502. PUBLIC AVAILABILITY OF MAPS, ETC., PRODUCED BY DEFENSE MAPPING AGENCY.

(A) IN GENERAL.—(1) Chapter 167 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2796. Maps, charts, and geodetic data: public availability; exceptions

"(a) The Defense Mapping Agency shall offer for sale maps and charts at scales of 1:500,000 and smaller, except those withheld in accordance with subsection (b) or those specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense or foreign policy and in fact properly classified pursuant to such Executive order.

"(b)(1) Notwithstanding any other provision of law, the Secretary of Defense may withhold from public disclosure any geodetic product in the possession of, or under the control of, the Department, of Defense—

"(A) that was obtained or produced, or that contains information that was provided, pursuant to an international agreement that restricts disclosure of such product or information to government officials of the agreeing parties or that restricts use of such product or information to government purposes only;

"(B) that contains information that the Secretary of Defense has determined in writing would, if disclosed, reveal sources and methods used to obtain source material for production of the geodetic product; or

"(C) that contains information that the Director of the Defense Mapping Agency has determined in writing would, if disclosed, reveal military operational or contingency plans.

"(2) In this subsection, the term 'geodetic product' means any map, chart, geodetic data, or related product.

"(c)(1) Regulations to implement this section (including any amendments to such regulations) shall be published in the Federal Register for public comment for a period of not less than 30 days before they take effect.

"(2) Regulations under this section shall address the conditions under which release of geodetic products authorized under subsection (b) to be withheld from public disclosure would be appropriate—

"(A) in the case of allies of the United States; and

"(B) in the case of qualified United States contractors (including contractors that are small business concerns) who need such products for use in the performance of contracts with the United States.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2796. Maps, charts, and geodetic data: public availability; exceptions.".

(b) DEADLINE FOR INITIAL REGULATIONS.—Regulations to implement section 2796 of title 10, United States Code, as added by subsection (a), shall be published in the Federal Register for public comment in accordance with subsection (c) of that section not later than 90 days after the date of the enactment of this Act.

SEC. 503. USE OF COMMERCIAL ACTIVITIES AS COVER SUPPORT FOR INTELLIGENCE COLLECTION ACTIVITIES OF THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—Chapter 21 of title 10, United States Code, is amended—

(1) by inserting after the chapter heading the following:

"Subchapter
Sec.
"I. General Matters 421
"II. Intelligence Commercial Activities 431

"SUBCHAPTER I—GENERAL MATTERS";

and

(2) by adding at the end the following:

"SUBCHAPTER II—INTELLIGENCE COMMERCIAL ACTIVITIES

"431. Authority to engage in commercial activities as security for defense intelligence collection activities.
"432. Use, disposition, and auditing of funds.
"433. Relationship with other Federal laws.
"434. Reservation of defenses and immunities.
"435. Limitations.
"436. Regulations, internal oversight, and legal review.
"437. Congressional oversight.

"§ 431. Authority to engage in commercial activities as security for defense intelligence collection activities

"(a) AUTHORITY.—The Secretary of Defense, subject to the provisions of this subchapter, may authorize elements of the Department of Defense to engage in such commercial activities as may be necessary for the purpose of providing security for the conduct of authorized intelligence collection activities abroad undertaken by the Department of Defense. The authority of the Secretary under the preceding sentence may not be delegated. No commercial activities may be conducted pursuant to this subchapter after September 30, 1995.

"(b) INTERAGENCY COORDINATION AND SUPPORT.—Any such activity shall—

"(1) be coordinated with, and (where appropriate) be supported by, the Director of Central Intelligence; and

"(2) to the extent the activity takes place within the United States, be coordinated with, and (where appropriate) be supported by, the Director of the Federal Bureau of Investigation.

"(c) DEFINITIONS.—In this subchapter:

"(1) The term 'commercial activities' means activities that are conducted in a manner consistent with prevailing commercial practice. Such term includes—

"(A) the acquisition, use, sale, storage and disposal of goods and services;

"(B) entering into employment contracts and leases and other agreements for real and personal property;

"(C) depositing funds into and withdrawing funds from domestic and foreign commercial businesses or financial institutions;

"(D) acquiring licenses, registrations, permits, and insurance; and

"(E) establishing corporations, partnerships, and other legal entities.

"(2) The term 'intelligence collection activities' means the collection of foreign intelligence and counterintelligence information.

"§ 432. Use, disposition, and auditing of funds

"(a) USE OF FUNDS.—Funds generated by a commercial activity authorized pursuant to this subchapter may be used to offset necessary and reasonable expenses arising from that activity. Use of such funds for that purpose shall be kept to the minimum necessary to operate the activity concerned in a secure manner. Any funds generated by the activity in excess of those required for that purpose shall be deposited into the Treasury as miscellaneous receipts. The Secretary of Defense shall ensure that such deposits are made as often as may be practicable.

"(b) AUDITS.—(1) The Secretary of Defense shall assign an organization within the Department of Defense to have auditing responsibility with respect to activities authorized under this subchapter.

"(2) That organization shall audit the use and disposition of funds generated by any commercial activity authorized under this subchapter not less often than annually. Upon the completion of any such audit, the Secretary shall promptly notify the intelligence committees (as defined in section 437(d) of this title) of the results of the audit.

"§ 433. Relationship with other Federal laws

"(a) IN GENERAL.—Except as provided under subsection (b), a commercial activity conducted pursuant to this subchapter shall be carried out in accordance with applicable Federal law.

"(b) AUTHORIZATION OF WAIVERS WHEN NECESSARY TO MAINTAIN SECURITY.—(1) If the Secretary of Defense determines, in connection with the establishment or operation of a commercial activity pursuant to this subchapter, that compliance with the provisions of certain Federal laws and regulations pertaining to the management and administration of Federal agencies would create an unacceptable risk of compromise of an authorized intelligence collection activity, the Secretary may, to the extent necessary to prevent the disclosure of the commercial activity concerned as an instrumentality of the United States, authorize the establishment and operation of the activity notwithstanding those laws or regulations.

"(2) Any determination and authorization by the Secretary under paragraph (1) shall be certified by the Secretary in writing and shall include a specification of the laws or regulations for which compliance by the commercial activity concerned is not required consistent with this section.

"(3) The authority of the Secretary under paragraph (1) may only be delegated to the Deputy Secretary of Defense, an Under Secretary of Defense, or an Assistant Secretary of Defense.

"(c) FEDERAL LAWS AND REGULATIONS.—For purposes of this section, Federal laws and regulations pertaining to the management and administration of Federal agencies are those Federal laws and regulations pertaining to the following:

"(1) The receipt and use of appropriated and nonappropriated funds.

"(2) The acquisition or management of property or services.

"(3) Information disclosure, retention, and management.

"(4) The employment of personnel.

"(5) Payments for travel and housing.

"(6) The establishment of legal entities or government instrumentalities.

"(7) Foreign trade or financial transaction restrictions that would reveal the commercial activity as an activity of the United States Government.

"§ 434. Reservation of defenses and immunities

"Commercial activity undertaken pursuant to this subchapter, including the submission to judicial proceedings of a State, shall not constitute a waiver of the defenses and immunities of the United States.

"§ 435. Limitations

"(a) LAWFUL ACTIVITIES.—Nothing in this subchapter authorizes the conduct of any intelligence activity that is not otherwise authorized by law or Executive order.

"(b) DOMESTIC ACTIVITIES.—Personnel conducting commercial activity authorized by this subchapter may only engage in those activities in the United States to the extent necessary to support intelligence activities abroad.

"(c) SUPPLY TO DEPARTMENT OF DEFENSE.—Commercial activity may not be undertaken within the United States for the purpose of providing goods or services to the Department of Defense, other than as may be necessary to provide security for the activities subject to this subchapter.

"(d) UNITED STATES PERSONS.—(1) In carrying out a commercial activity authorized under this subchapter, the Secretary of Defense may not permit an entity engaged in such activity to employ a United States person in an operational, managerial, or supervisory position, and may not assign or detail a United States person to perform operational, managerial, or supervisory duties for such an entity, unless that person is informed in advance of the intelligence security purpose of that activity.

"(2) In this subsection, the term 'United States person' means an individual who is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence.

"§ 436. Regulations, internal oversight, and legal review

"The Secretary of Defense shall prescribe regulations to implement the authority provided in this subchapter. Such regulations shall—

"(1) specify all officials authorized to approve commercial activities under this subchapter;

"(2) designate a single office within the Department of Defense to implement, and to maintain accountability for, all activities authorized under this subchapter;

"(3) require that each commercial activity proposed to be authorized under this subchapter be subject to legal review before the activity is authorized; and

"(4) provide for appropriate internal audit controls and oversight for such activities.

"§ 437. Congressional oversight

"(a) PROPOSED REGULATIONS.—Copies of regulations proposed to be prescribed under section 436 of this title (including any proposed revision to such regulations) shall be submitted to the intelligence committees not less than 30 days before they take effect.

"(b) CURRENT INFORMATION.—The Secretary of Defense shall ensure that the intelligence committees are kept fully and currently informed of actions taken pursuant to this subchapter, including any significant anticipated activity to be authorized pursuant to this subchapter. The Secretary shall promptly notify the committees whenever a corporation, partnership, or other legal entity is established under this subchapter.

"(c) ANNUAL REPORT.—Not later than January 15 of each year, the Secretary shall submit to the intelligence committees a report on all commercial activities authorized under this subchapter that were undertaken during the previous fiscal year. Such report shall include (with respect to the fiscal year covered by the report)—

"(1) a description of any exercise of the authority provided by section 433 of this title to the Secretary of Defense;

"(2) a description of any expenditure of funds made pursuant to this subchapter (whether from appropriated or nonappropriated funds); and

"(3) a description of any actions taken with respect to audits under section 432 of this title to implement recommendations or correct deficiencies identified in such audits.

"(d) INTELLIGENCE COMMITTEES DEFINED.—In this section, the term 'intelligence committees' means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.".

(b) EFFECTIVE DATE.—The Secretary of Defense may not authorize an activity under section 431 of title 10, United States Code, as added by subsection (a), until the later of—

(1) the end of the 90-day period beginning on the date of the enactment of this Act; or

(2) the effective date of regulations first prescribed under section 436 of such title, as added by subsection (a).

SEC. 504. DISCLOSURE TO MEMBERS OF CONGRESS OF CLASSIFIED DEFENSE INTELLIGENCE AGENCY REPORT RELATING TO MILITARY PERSONNEL LISTED AS PRISONER, MISSING, OR UNACCOUNTED FOR.

The Secretary of Defense shall provide to any Member of Congress, upon request, full and complete access to the classified report of the Defense Intelligence Agency commonly known as the Tighe Report, relating to efforts by the Special Office for Prisoners of War/Missing in Action of the Defense Intelligence Agency to fully account for United States military personnel listed as prisoner, missing, or unaccounted for in military actions. The Secretary may withhold from disclosure under the preceding sentence any material that in the judgment of the Secretary would compromise sources and methods of intelligence.

AMENDMENT OFFERED BY MR. BEILENSON

Mr. BEILENSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEILENSON: On page 4, line 7:

Strike our "331" and insert in lieu thereof "240".

Mr. BEILENSON. Mr. Chairman, this amendment merely corrects an error in the drafting of the bill. It is purely technical. I have discussed this and cleared it with my friend, the gentleman from Illinois [Mr. HYDE], and I ask for adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. BEILENSON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RICHARDSON: On page 25, after line 18, add the following:

TITLE VI—CAMBODIAN NONCOMMUNIST RESISTANCE

SEC. 601. RESTRICTIONS ON ASSISTANCE FOR THE CAMBODIAN NONCOMMUNIST RESISTANCE FORCES.

(a) RESTRICTIONS.—Funds authorized to be appropriated by this Act may be obligated and expended for assistance for the Cambodian noncommunist resistance forces only as follows:

(1) Any such assistance shall be limited to nonlethal assistance.

(2) Any such assistance shall be consistent with section 906 of the International Security and Development Cooperation Act of 1985 (relating to the prohibition on assistance to the Khmer Rouge).

(3) Any funds to be made available for such assistance shall be allocated for that purpose within 30 days after date of enactment of this Act.

(4) Within 30 days after the conclusion of a comprehensive political settlement involving the 4 Cambodian factions, the unexpended balance of the funds allocated for assistance for the Cambodian noncommunist resistance pursuant to paragraph (3) shall be transferred to such agency of the United States Government as the President may designate. The President may not designate an intelligence agency for purposes of this paragraph. Such funds shall be expended in ways that are consistent with the comprehensive political settlement.

(5) After funds are transferred pursuant to paragraph (4), funds authorized to be appropriated by this Act (and any other funds available to any intelligence agency during fiscal year 1991) may not be obligated or expended by any intelligence agency for assistance for the Cambodian noncommunist resistance forces.

(b) RELATION TO FOREIGN ASSISTANCE FUNDS.—Funds made available for assistance for the Cambodian noncommunist resistance forces pursuant to this section are in addition to any funds that are made available for assistance for the Cambodian noncommunist resistance forces under the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991.

(c) INTELLIGENCE SHARING AND COLLECTION.—Subsection (a) does not apply with respect to intelligence sharing or intelligence collection.

(d) DEFINITION OF INTELLIGENCE AGENCY.—As used in this section, the term "intelligence agency" means any agency within the intelligence community, within the meaning of section 3.4(f) of Executive Order 12333 (December 4, 1981).

Mr. RICHARDSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Chairman, this amendment I think is very necessary. I believe it has been worked out. It deals with Cambodia. The purpose of the amendment is to provide a clear expression of congressional approval for the adoption of a consistent approach by the United States in its support for the non-Communist resistance in Cambodia.

Mr. Chairman, it has the further effect of establishing a mechanism within this bill by which the United States will be able to assist in the implementation of a negotiated settlement for Cambodia, as soon as the four factions have concluded an agreement.

Mr. Chairman, I believe that United States policy should seek to advance the Cambodian peace process, which is at a critical juncture. A negotiated solution to the civil war in Cambodia will best guarantee the ability of the people of that country to freely determine their own destiny. That result, which is the best insurance possible against a return to power of the Khmer Rouge, appears to be closer at hand than at any time in memory.

Mr. Chairman, I believe this amendment creates a framework which encourages both the conclusion of the peace agreement and the smooth transition to the challenging days such an agreement will herald. I urge adoption of this amendment.

Mr. Chairman, I yield to the gentleman from California [Mr. BEILENSON].

Mr. BEILENSON. Mr. Chairman, the amendment of the gentleman from New Mexico [Mr. RICHARDSON] is acceptable to members of the committee on this side of the aisle. The desire for a peaceful end to the conflict in Cambodia is as bipartisan as the intentions that the Khmer Rouge not be permitted to return to power.

To the extent that this amendment contributes to those ends, it represents a worthwhile addition to the bill. It is my understanding the administration does not object to the amendment. Accordingly, we are prepared to accept the amendment.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, we are prepared to accept the amendment, with the proviso that the distinguished gentleman from New Mexico [Mr. RICHARDSON] will support his amendment in conference unyieldingly.

Mr. RICHARDSON. The gentleman is correct.

Mr. HYDE. Mr. Chairman, we are pleased to accept the amendment.

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from New York.

Mr. SOLARZ. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman for what I think is a very constructive amendment, which should make it possible for us to achieve a broader measure of bipartisan support for our policy toward Cambodia than we have had in this House for some time.

As the gentleman will undoubtedly recall, a few months ago we had a rather vigorous debate on our aid program for the non-Communist resistance in the context of our consideration of the foreign aid bill. Those Members who believed that that kind of assistance is important as a way of facilitating progress toward a peaceful settlement of the Cambodian conflict prevailed.

Since that time, some very significant developments have taken place, the most important of which has been the agreement among the five permanent members of the Security Council on a framework for peace in Cambodia, which was subsequently deemed acceptable by each of the four Cambodian factions, and which has brought us very, very close to the conclusion of an agreement which will end the fighting in Cambodia, provide for the introduction of a U.N. peacekeeping force, and make possible an internationally supervised free and fair election.

This amendment, by making explicit what was implicit, and for making a provision for the transfer of these resources in the intelligence bill to other agencies of the Government once a comprehensive settlement is agreed upon and actually implemented and begins to take effect, has created I think the basis for broad bipartisan support in pursuit of our policy, which represents in my judgment the last best chance we have of bringing peace to Cambodia, and preventing Pol Pot and the Khmer Rouge from returning to power in that country.

Mr. Chairman, I want to commend the gentleman from New Mexico [Mr. RICHARDSON] for his efforts, and I urge the adoption of the amendment.

Mr. RICHARDSON. Mr. Chairman, I want to thank the gentleman from New York [Mr. SOLARZ]. As the gentleman and others have said, the purpose of the amendment is so that this issue is openly debated before the American people.

Recent progress in efforts to negotiate an end to the civil war in Cambodia provide reasons for optimism but also offer a perfect opportunity to reevaluate United States policy goals and objectives. At a minimum, U.S. policy should be geared to supporting the peace process in a way that does not strengthen the hand of the Khmer Rouge.

The most effective way to accomplish that result is through programs of assistance that are openly connected to the U.S. Government. United States support is thereby well-defined and unmistakable, and the position of the non-Communist Cambodian resistance [NCR] is thereby strengthened both materially and by perception.

The foreign aid budget already contains a program of assistance for the NCR. To further

the goals of the agreement recently reached in Jakarta, that program should be enhanced in such a way that the non-Communist resistance factions remain able to preserve their places in the negotiation process.

An openly acknowledged U.S. assistance effort can support the NCR without weakening the government in Phnom Penh, which would only benefit the Khmer Rouge. Our recent diplomatic initiative toward the Cambodian Government was made with the understanding on both sides that United States foreign aid to the NCR would continue. That program obviously is not an impediment to a meaningful United States role in achieving a Cambodian settlement.

The United States foreign aid program for the NCR does not benefit the Khmer Rouge because it does not encourage further military action against the Government. Similarly, it does not embolden the NRC to seek to advance its goals through military means. The overt aid program is therefore most in harmony with a United States policy geared toward resolving the Cambodian situation through free elections rather than force of arms.

Concentrating U.S. assistance in an overt program also maximizes whatever leverage we have on the leaders of the NRC factions, particularly Prince Sihanouk. To the extent these leaders value U.S. support, cover changes in funding levels can provide necessary encouragement to adopt a realistic negotiating posture.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to ask the gentleman from New Mexico [Mr. RICHARDSON] a question. The language of this amendment indicates that the unspent funds that the gentleman is talking about would be transferred to any agency recommended by the President.

□ 1540

There are no limitations on what agencies that could be transferred to.

Mr. RICHARDSON. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. Mr. Chairman, it cannot be an intelligence agency. The transfer would be to any kind of defense account; it would not be to a foreign assistance account.

Mr. OBEY. What language does the gentleman have defining how it might be spent?

Mr. RICHARDSON. The second page of the amendment which deals with the language says, "shall be transferred to such agency of the United States Government as the President may designate. The President may not designate an intelligence agency for purposes of this paragraph."

Mr. OBEY. But my question is how may this money be spent? May it be spent only for operations with respect to Cambodia, or might it be spent in other ways?

Mr. RICHARDSON. Exclusively for Cambodia.

Mr. OBEY. Where does it say that?

Mr. RICHARDSON. I believe right where I just referred, "shall be transferred to such agency of the United States Government as the President may designate."

Mr. OBEY. It says the money shall be transferred to another agency, but it does not, as I read the language, have any kind of limitation on how that money might be used once it is transferred.

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. OBEY. Surely, I yield to the gentleman from New York.

Mr. SOLARZ. Mr. Chairman, I think the text of the amendment makes it clear that these funds are authorized and appropriated and can be obligated and expended solely for assistance for the Cambodia non-Communist resistance forces.

The amendment also provides in section (a)(2) that: "Any such assistance shall be consistent with section 906 of the International Security and Development Cooperation Act of 1985," which relates to the prohibition on assistance to the Khmer Rouge.

Mr. OBEY. I understand. I am not concerned at this point about how the money might be spent within Cambodia. My question is could the President use this money to fund any other program he wanted to outside of Cambodia?

Mr. SOLARZ. My interpretation of the amendment is absolutely not.

Mr. OBEY. I would like to know how the gentleman interprets that language, because that is not my interpretation.

Mr. RICHARDSON. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. Mr. Chairman, let me read to the gentleman another relevant section, section (b) of the amendment:

Funds made available for assistance for the Cambodia nonCommunist resistance forces pursuant to this section are in addition to any funds that are made available for assistance for the Cambodian non-Communist resistance forces under the Foreign Operations, Export Financing, and Related Programs Appropriations Act.

It is strictly to the Cambodian non-Communist resistance.

Mr. OBEY. It is at this time. The gentleman is telling me that he is certain that it is after the transfer?

Mr. RICHARDSON. That is correct.

Mr. SOLARZ. If the gentleman will yield further, and if I can supplement the observation of the gentleman from New Mexico, I think that is absolutely clear. If there is any ambiguity about it, I think this legislative history should make it absolutely clear. In discussions with the administration which consented to this amendment it was clearly understood that the only purpose for which these funds could, or would or should be used would be for the purposes referred to in the legislation itself, which is the non-Communist resistance in Cambodia.

Mr. OBEY. Let me ask two other questions.

How would the 302(b) numbers be affected with respect to budget authority if there is any remaining funds?

Mr. RICHARDSON. If the gentleman will yield, the funds would go strictly within the Defense Department accounts. They would not go outside of those Defense Department accounts.

Mr. OBEY. Is the gentleman telling me that the funds cannot be transferred to AID?

Mr. RICHARDSON. They could be.

Mr. OBEY. AID is not within the Defense Department account.

Mr. RICHARDSON. Under the purposes of this amendment, the funds subject to the budget act are strictly within the defense appropriations account.

Mr. OBEY. Does the gentleman from New York want to comment on that?

Mr. SOLARZ. If the gentleman will yield, my impression is that under this amendment, if the President chooses to transfer money, it cannot be transferred to any other intelligence agency of the Government. But there is no restriction on what other agencies it might be transferred to, so long as they are not intelligence agencies.

Now I would imagine there are all sorts of practical administrative and bureaucratic problems. I doubt that he is going to transfer the money to the Coast Guard. But under the terms of the amendment, if he should choose to transfer it, it can be transferred to any agency which is not an intelligence agency.

Mr. RICHARDSON. If the gentleman will yield, let me just assure the gentleman that we are going to go to conference on this issue very shortly, and I want to assure the gentleman that his concerns would be taken care of, specifically that it would be relegated to the purposes the gentleman said.

Mr. OBEY. How does the gentleman know what purpose it is I want to relegate it to? I mean, here is my problem.

The CHAIRMAN pro tempore (Mr. KANJORSKI). The time of the gentleman from Wisconsin [Mr. OBEY] has expired.

(By unanimous consent, Mr. OBEY was allowed to proceed for 5 additional minutes.)

Mr. OBEY. We have a bill which is classified. We cannot talk about the numbers contained in this bill. We

have a program which is classified, moneys which might be, or some which might be, transferred out for another purpose, and at this point I cannot tell what purpose that money might be used for. I cannot tell whether that is going to be counted against the 302(b) ceiling for function 150 account in the budget, for either BA or outlay, and we are supposed to accept the amendment.

Frankly, I am very confused at this point, because we are in the process of adopting a budget which sets specific ceilings for defense, for foreign assistance and for domestic discretionary spending. The administration went to great lengths to try to get a separate cap for foreign assistance, and now my question is whether or not this is going to wind up, or I am wondering whether this may wind up being additional spending within the foreign assistance account above and beyond the 302 numbers, whether this will be counted against our ceiling, whether it will not, and I am trying to figure out about 20 hours after we have passed the initial budget resolution whether we are going to stick to it or not.

Mr. SOLARZ. If the gentleman will yield further, let me say first that if the gentleman from Wisconsin will look on page 2 of the Richardson amendment, it says that such funds shall be expended, assuming they are transferred, "in ways that are consistent with the comprehensive political settlement." So one thing we do know is that it does have to be for Cambodians.

Second, on the question of how this relates to the 302(b) allocations, I think the answer to that is that that question, which you now raise for the first time, but which is a very legitimate question and in which you certainly have a very real interest, is going to have to be worked out. I have discussed this with people in the administration, and my impression is that insofar as the cap on foreign aid is concerned that they would be prepared to agree to exceptions with that cap with respect to this money.

Mr. OBEY. If that is the case, then therein lies the rub, because the administration wants exceptions to the cap. I do not want exceptions to the cap. I did not want that "turkey" arrangement which the administration worked out with the Congress, but if we get it, I want to know that it is going to be enforced, and I do not want to see foreign aid assistance ceilings breached 20 hours after we have agreed to a budget.

Mr. SOLARZ. I would say, if I may, to my very good friend from Wisconsin, that we may have an honest difference of opinion on this. What I can tell the gentleman is that the overall amount of money requested for Cambodia is not, and which is actually spent on Cambodia will not be increased by this amendment. As the gentleman knows, we have money for Cambodia in a number of different pots. This presumably is one of them, and your bill is another.

Mr. OBEY. If I can reclaim my time, with all due respect, that is not my concern. I am not talking about how much money is going to be spent within Cambodia. My concern is that under the powers given to the OMB under the budget arrangement passed by the Congress, OMB is going to have extraordinary powers to decide who exceeds spending ceilings and who does not. We are giving the administration additional authority to define where money is going to go. We do not know how much. We do not know where and we do not know how it is going to be counted. But we are supposed to support it.

As far as I am concerned, count me out under those circumstances.

Mr. McCURDY. Mr. Chairman, will the gentleman yield?

Mr. OBEY. Certainly, I yield to the gentleman from Oklahoma.

Mr. McCURDY. Mr. Chairman, I do not want to interfere with the gentleman's amendment. I share the gentleman's concern. I am curious if in the amendment there was a requirement that a reprogramming action be taken which would thus require votes by the relevant committees, whether that would be preferable or answer the concerns of the gentleman as opposed to a blanket transfer authority that exists in the amendment today?

□ 1550

Mr. OBEY. That might marginally decrease my concern, but it would not remove my opposition, because as far as I am concerned, the administration has gained incredible authority for scorekeeping under the new budget arrangement. I think we are going to have runaway accounting in OMB under the budget arrangement. In addition to that, we are giving them additional holes through which they can pour money. I think that is a very bad precedent, and I think we ought not to support it.

Mr. RICHARDSON. If the gentleman will yield further, I do not know if he was here in the earlier part of the discussion of this amendment. We cannot discuss these issues as openly as the gentleman wants, but let me just tell the gentleman that the purpose of this amendment is to make the policy, the assistance, open, to open it up.

Mr. OBEY. I understand the purpose. The problem is the effect. Purposes are always wonderful around here. The effects are often screwy. This is one time when I think you achieve that result, and so I simply am going to oppose the amendment if there is a rollcall on it.

The CHAIRMAN pro tempore (Mr. KANJORSKI.) The question is on the amendment offered by the gentleman from New Mexico [Mr. RICHARDSON].

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 13, after line 14, insert the following new section:

SEC. 403. BUY-AMERICAN REQUIREMENT.

(a) DETERMINATION BY THE DIRECTOR.—If the Director, with the concurrence of the United States Trade Representative and the Secretary of Commerce, determines that the public interest so desires, the Director is authorized to award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent. In determining under this subsection whether the public interest so requires, the Director shall take into account United States international obligations and trade relations.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts made related to the issuance of any grant made under this Act for which—

(1) amounts are authorized by this act (including the amendment made by this act) to be made available; and

(2) solicitation for bids are issued after the date of the enactment of this Act.

(d) REPORT TO CONGRESS.—The Director shall report to the Congress on contracts covered under this section and entered into with foreign entities in fiscal years 1990 and 1991 and shall report to the Congress on the number of Contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement or an international agreement to which the United States is a party. The Director shall also report to the Congress on the number of contracts covered under this Act (including the amendments made by this Act) and awarded based upon the parameters of this section.

(e) DEFINITIONS.—For purposes of this section—

(1) SECRETARY.—The term "Director" means the Director of Central Intelligence.

(2) DOMESTIC FIRM.—The term "Domestic Firm" means a business entity that is incorporated in the United States and that con-

ducts business operations in the United States.

(3) FOREIGN FIRM.—The term "foreign firm" means a business entity not described in paragraph (2).

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimoius consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, last year we passed this similar amendment. It was removed in conference.

I could understand the sensitivity of purchases made in these accounts. I am willing to make the following statements, understanding those dynamics, I am going to request of both the minority vice chairman and the majority chairman that they accept the amendment and tailor and make such classified structural language that may be necessary so that this emphasis be placed on maintaining some taxpayer purchases on our side of the balance line.

I realize there are some significant questions. I appreciate the fact that you had accepted it last year, but I am going to encourage you to make such adjustments and to try and keep it in as a procurement policy with whatever changes you deem so necessary.

Mr. BEILENSON. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I am happy to yield to the gentleman from California.

Mr. BEILENSON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would say to the gentleman and to my colleagues that the committee has had an opportunity to examine the gentleman's amendment.

We note that the amendment makes discretionary with the Director of Central Intelligence the use of the authority conveyed with respect to contract awards. In addition, we note that an exception is provided for compelling national security considerations.

I believe these provisions will address concerns which might otherwise be raised by the intelligence agencies.

With those understandings, we on this side of the aisle are prepared to accept the amendment, I say to the gentleman, and that we will do our level best, and I hope, frankly, this year we will be successful to keep the gentleman's language in in conference.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I am happy to yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I commend the gentleman. I think it is an excellent amendment. We are certainly happy to accept it on this side and pledge to fight for it in conference.

I have no illusions about how we will fare in conference, but I am ever optimistic. I intend to fight for the gentleman's amendment.

If it needs technical correction, we will get that. I think it is a good idea, and we are happy to accept the amendment.

Mr. TRAFICANT. Mr. Chairman, I appreciate it. I would also like to say that I appreciate the support of the subcommittee chairman, the gentleman from Oklahoma [Mr. MCCURDY], on the issue we have discussed and really want it to be known that whatever changes you make, as long as the integrity of the amendment is in there, I appreciate the support.

Mr. MCCURDY. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I am happy to yield to the gentleman from Oklahoma.

Mr. MCCURDY. Mr. Chairman, of all the agencies of the Federal Government, I believe the intelligence community is the one that probably could manage a buy-American amendment the easiest. I have no problem at all, whatsoever, with the amendment as long as those exceptions are provided in unique areas.

But, for the most part, the intelligence community is probably personnel-driven more than capital, but we need to obviously focus on American-made products and help with competitiveness.

Mr. TRAFICANT. I appreciate the remarks of the gentleman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to the bill.

AMENDMENT OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DELLUMS: at the end of the bill, add the following:

TITLE IV—ASSISTANCE FOR MILITARY OR PARAMILITARY OPERATIONS IN ANGOLA

SEC. 601. DECLARATION THAT THE UNITED STATES SHOULD NOT SUPPORT MILITARY OR PARAMILITARY OPERATIONS IN ANGOLA UNLESS SUCH SUPPORT HAS BEEN OPENLY ACKNOWLEDGED AND PUBLICLY DEBATED.

The Congress finds that the United States Government—

(1) should not provide "covert assistance" in support of military or paramilitary operations in Angola; and

(2) should provide assistance in support of such operations only if the provision of that assistance is the openly acknowledged policy of the United States.

It is, therefore, the sense of the Congress that the United States Government should not provide any such assistance until the President has publicly informed the Congress and the American people that United States Government support for military or paramilitary operations in Angola is important to the national security and the Congress has expressly approved such assistance.

SEC. 602. PROHIBITION ON COVERT ASSISTANCE.

(a) ANY SUPPORT MUST BE OPENLY ACKNOWLEDGED.—During fiscal year 1991, the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may not obligate or expend any funds—

(1) to conduct, directly or indirectly, military or paramilitary operations in Angola, or

(2) to provide any financial, material, or other assistance, directly or indirectly, to any group engaged in military or paramilitary operations in Angola,

unless the use of funds for that purpose is the openly acknowledged policy of the United States Government, as determined in accordance with subsection (b).

(b) PRESIDENTIAL REQUEST AND CONGRESSIONAL APPROVAL.—In order to ensure that any United States Government support for military or paramilitary operations in Angola is openly acknowledged, funds may be used for the purposes described in subsection (a) only if—

(1) the President determines that United States Government support for military or paramilitary operations in Angola is important to the national security and submits to the Speaker of the House of Representatives and the President of the Senate a request that the Congress approve openly acknowledged United States Government support for those operations; and

(2) the Congress enacts a joint resolution approving United States Government support for military or paramilitary operations in Angola.

Any such support may be provided only to the extent permitted by that joint resolution.

(c) INTERPRETATION OF LIMITATION.—Nothing in this section should be construed to prohibit the obligation or expenditure of funds for—

(1) United States diplomatic activities;

(2) activities of the United States Armed Forces which are reported to the Congress pursuant to section 4(a) of the War Powers Resolution; or

(3) assistance provided through the United Nations High Commissioner for Refugees or the International Committee of the Red Cross.

(d) RELATIONSHIP WITH OTHER LAWS.—The requirements of this section may not be waived under the authority of any other provision of law. This section supersedes any provision of law which might otherwise be construed to allow funds to be used for the purposes described in subsection (a). This section shall be superseded only by a provision of law that states explicitly that it is intended to supersede this section.

Mr. DELLUMS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DELLUMS. Mr. Chairman, members of the Committee, this is a significant afternoon. It has been a

very long time since we have had any discussion of this issue.

I listened very carefully during the general debate, and I wrote down a few quotes from a number of my colleagues: "Know thy enemy; in spite of the collapse of communism, we must have intelligence-gathering capability," et cetera, as a justification for secret activity.

It is not to this activity that this amendment goes, but, rather, to the activity of covert operations which, Mr. Chairman, and members of the Committee, allow our Nation to carry out policy outside the framework of public scrutiny, public debate, and public accountability with the exception of a few members of the executive branch and the legislative branch of Government.

In this gentleman's humble opinion the whole notion of covert operations flies in the face of an open and democratic society. But we will have that debate later where the broader issue of the role of covert activity in our Nation will be debated and hopefully debated at a very high level.

This amendment goes to one covert operation, Mr. Chairman and members of the Committee. It goes to our covert aid to UNITA in Angola, and I would like to begin, Mr. Chairman, where one of my colleagues on the other side of the aisle began his remarks in general debate. He said. "The cold war is behind us. The new world order is in front of us." I would begin there.

I would like to lay out for my colleagues, Mr. Chairman, a number of major themes that will come out in the course of this debate with respect to Angola, because I believe, and will assert here, that the funding of the UNITA guerrillas is a cold war anachronism.

My colleague just said without challenge that the cold war is over. So why then are we carrying out the cold war on the continent of Africa where thousands of black African people die and children die, are maimed, harmed, destroyed because of the cold war?

Yet, the Berlin Wall is down. We are talking about peace as a result of the end of the cold war. The West just gave Mr. Gorbachev a great accolade, but we want to continue covertly to provide aid to UNITA in Angola.

It is a cold war anachronism. I would assert, further, Mr. Chairman and members of the Committee, that this funding represents an unnecessary and expensive drain on limited resources.

I would remind my colleagues that we are in the throes of a major, major economic crisis in this country, and I do not believe that it is because of frivolous reasons.

There are major policy differences between and among us here as to why we cannot come to grips with the budget. They are substantial, but one thing we all agree upon is that our resources are limited.

This is a limited-dollar environment, and within this framework, we are providing covert dollars that I will show have wreaked incredible havoc on the people of Angola. It is unnecessary, and it is expensive.

Third, Mr. Chairman, I would assert further that covert activities fly in the face of Democratic ideals and the open conduct of foreign policy.

□ 1600

Our foreign policy ought to be open, Mr. Chairman. It should not be made in the dark. I am not talking about gathering intelligence. I am talking about carrying out policy.

This is a democratic society. This is a magnificent exercise to stand on this floor and be able to, for whatever part of the country, whatever political framework, whatever value framework, to debate issues openly. If it makes sense to provide aid, military assistance to UNITA and Angola, why should it not be dealt with in the open? Why should American people, as in most other issues, be able to say we support or we do not support? Mr. Chairman, this new world order is going to require greater understanding, greater communication, greater cooperation between and among the nation states.

I would suggest a covert operation, as we move forward on the other side of the cold war is anachronistic, and threatens the very notions of our democratic ideals. The world is rushing toward democracy. Covert operations threaten those ideals.

Further, Mr. Chairman, I assert covert activities by their nature are often doomed to failure at worst, and constitute embarrassment at the best. If it makes sense do it in the open.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. UNITA is not a freedom fighting organization. It is not. It is a surrogate, carrying out cold war struggles. Last, I will debate Members all day. Mr. Chairman, numerous reports of human rights abuses by UNITA, no laughing matter. The gentleman laughs, Mr. Chairman. Our covert activity has resulted in the death of 341,000 people, 55,000 children dead. No laughing matter. Amputees by the thousands. No laughing matter. This is serious business here.

My distinguished colleague from California showed pictures of children with one leg, one arm, some with no legs and no arms. This is no laughing matter. I appreciate my opportunity to come here to speak on this issue, make it open.

Mr. Chairman, the focus of this amendment does three things: It requires, first, that the United States not provide covert assistance in support of military or paramilitary operations in Angola. Second, that support should be openly acknowledged. Third, any open support must be requested by the President of the United States and approved by Congress. It is a very radical extreme idea, that a President in a free and open society should have to request military and paramilitary assistance. The Congress of the United States should have the right to approve a very radical and subversive idea. What are we communicating to the other nations in the world who believe that our form of government is magnificent, for the United States to feel that the President and the Congress should not be able to do that? A few people in the dark arrange and frame covert activity?

Mr. Chairman, I did not participate in general debate. I ask my colleagues to indulge me to allow me to make 2 additional comments. One, I want to focus on the role of Angola in the situation, and finally the role of the United States. The Government of Angola has made a number of good will gestures toward the United States in order to improve bilateral relations, foster regional peace, and to bring an end to this brutal 15-to-16-year war. In that regard, Mr. Chairman, with your indulgence, I would like to read only in part, from a letter that was sent to the chairman of the Select Committee on Intelligence and others, from the President of the People's Republic of Angola, Mr. Dos Santos.

I am certain that you are aware that the Angolan government is an advanced phase of preparation regarding its reform with the following objectives: one, the holding of free elections within the context of a multiparty system; creation of a one-person-one vote electoral system; development of a market economy; encouragement of foreign investment; enacting amendments to our constitution and their submission to debate before their approval with the participation of all the national political elements including UNITA, as long as they demilitarize themselves under the framework of the development of a single national army which has been discussed during the contacts held in Portugal.

Finally, I read from this letter,

My government, in a letter addressed to Congressman Beilenson, chair of the House of Representatives Intelligence Committee, manifests a favorable position regarding the Triple Zero plan so long as the United States and its allies also agree not to supply more military aid to UNITA. This political initiative, which I introduced, will certainly be subjected to international verification.

Mr. Chairman, more than half of the 50,000 Cuban troops stationed in Angola have been sent home ahead of schedule by the government under the terms of the United States brokered peace agreement among Angola, Cuba, and South America. Privatization of Angolan economy has been increased to encourage more United States and Western investment. Currently, the United States, Mr. Chairman, is Angola's No. 1 trading partner. The Gov-

ernment has offered amnesty to UNITA, and has agreed to allow UNITA members to run in elections.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. Mr. Chairman, I appreciate my colleagues' indulgence. FMLA, another rebel movement formerly backed by our CIA members, have accepted amnesty proposals. Mr. Chairman, many now occupy high positions in government and industry in Angola.

Mr. Chairman. let Members now look at the U.S. role. Sadly, this administration, unfortunately, has not seized the initiative to build upon an enhanced opportunity for peace in Angola. Instead, it has escalated arms shipments to UNITA and has actively encouraged the leadership to scuttle peace plans offered last year by the Angolan Government with the support of 18 African leaders and the Organization of African Unity.

Mr. Chairman, the Soviet Union's assistance to Angola has been reduced. The Soviets have publicly agreed to end arms shipments to Angola if the United States would stop funding UNITA. Angola has agreed that if the United States ended aid to UNITA and the Soviet Union cut off arms supplies, that it, Angola, would not go to any other source for arms. Only the United States has not taken the necessary step that would complete this circular movement, Mr. Chairman, and end the arms shipments to both parties.

The gentleman from California [Mr. DYMALLY] in a very dramatic and compassionate way said, "I am not placing blame. Let's stop the arms, stop the killing, and save the children." I underscore his remarks for the purpose of emphasis. Mr. Chairman, while the Angolan Government is attempting to renew peace talks with UNITA, an opportunity for peace in Angola is more possible than at any time in the past. The United States, UNITA's principal backer, has not encouraged them to join multinational negotiations. The United States ignores the fact that the Organization of African Unity opposes UNITA and United States aid to them.

In conclusion, Mr. Chairman, let me point out and go back and recount what has taken place in human terms. The country has the highest amputee rate in the world. More of the amputees, most of them are women and children, and more than 50,000 children are war orphans, and more than 800,000 civilians face starvation resulting from the combined effect of war and drought. Property damage from the war is estimated at more than $20 billion. Every 4 minutes an Angolan child dies. Constantly, the beleaguered land has the world's highest infant mortality rate. Mr. Chairman, compassion and wisdom cries out for the United States to open up this process. I believe we ought to end it.

We, as a great and mighty nation, ought to be trying to move these people to the table, not trying to spur more death and destruction.

□ 1610

The cold war is over. A new era is in front of us and let us march forward finally.

Wearing my hat as chairman of the Congressional Black Caucus, let me assert this. I do not often assert race on the floor casually. Whenever I rise, I do it seriously because I believe it. We would not tolerate this in other countries, thousands of people dying, children, amputees, orphans. We would rise up in righteous indignation, but here blacks are dying.

If peace is good on the other side of the cold war in Eastern Europe, and I believe that, and I want to support it and do, then it is good for Africa and good for Third World countries as well.

Mr. Chairman and members of the committee, I ask my distinguished colleagues, all of you, to take this out of the context of the East-West struggle and see it in human terms, see the devastation that is taking place and join me in adopting this amendment and ending this madness.

Mr. HYDE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I guess the assumption that one should draw from the remarks of the distinguished gentleman from California is that because these are black children, somehow they are unimportant, but I reject that notion altogether. It is the black children that I am worried about, too; but I am worried about Soviet land mines that are left behind. I am worried about the Communists who are pouring in $500 million this year, as against $800 million last year.

You say the cold war is over. There is a hot war going on in Angola right now and one-third of the people are represented by UNITA, Mr. Savimbi, and they are dying, too.

So yes, let us stop the killing. You can always stop killing. Surrender, give up, turn it over to the Soviet Union. They are still there. Their personnel are there. They are in the front lines. They have launched an offensive within the last 2 months and they are getting ready to do another one.

Yes, stop the killing, but stop the killing on their side.

Freedom, democracy, human dignity, human rights, that is what the gentleman has directed his career toward. That is what we want, to support UNITA in Angola.

The gentleman took the floor in 1976, I have his remarks here, and he made predictions that if we would stop helping the UNITA, the Communists would leave. The only reason that the Communists are in there is because we were helping one of these factions.

Well, the gentleman prevailed. The Clark amendment, the Tunney amendment passed and for 10 years we did not send a quarter over there. Did the Soviets leave? They are there today, 15 years later, directing the military operations of the Communist MPLA.

As for pictures of children with their legs off, we can show you films of children starving in the UNITA sections of the country because the Communists will not tell Zambia, they will not tell Namibia that it is all right to send United Nations food in there.

Starving kids look just as bad as children with their limbs off.

Now, covert action, covert activities are somehow unsuitable for a democracy. Well, we have had covert action since the days of Nathan Hale, and let me quote from one of the icons of the Democratic liberal pantheon, Mr. Clark Clifford, who testified before our committee on February 24, 1988. He was saying how terrible, how unworthy it is for a democracy to engage in covert activity.

Reminds me of the time Queen Victoria opposed submarines. It was an un-British way to fight under water.

Well, I asked Mr. Clifford this question:

Let me ask you, I take it when you were in the Truman Administration, you opposed the covert activity that helped save Italy in the post-war years from being taken over by the communists who were pouring millions of dollars in there? Your distaste for covert activity, I take it, was expressed in the Truman Administration?

Mr. CLIFFORD. No. I heartily supported it.

Mr. HYDE. That is one covert activity you supported?

Mr. CLIFFORD. I sure did. And it was very successful.

Mr. HYDE. Then you support the successful ones, but not the unsuccessful ones?

Mr. CLIFFORD. No. That is not the point. Here was a carefully structured plan to meet the communist menace in Italy. They were making an all-out plan to get a communist government in Italy. Careful, lengthy study indicated to us that the proper, intelligent use of funds in Italy might prevent that from occurring.

So we did it. We did it successfully. I would do it today. That is a very useful covert activity.

Mr. HYDE. That is my point. You are not against all covert activity?

Mr. CLIFFORD. Oh, my, no.

So I cite him as an example of somebody who can teach us a lesson on a very successful salvation of Italy from being taken over by the Communists after World War II by use of covert activity.

Now, the amendment that the gentleman is offering is a drastic amendment. It absolutely renounces, regardless of what the future might hold, the possibility of a United States covert action to support the freedom fighters in Angola.

Now, the gentleman rejects that characterization of UNITA as freedom fighters. All UNITA wants is free and fair elections and a cease-fire. That is all they want.

Mr. Savimbi has conceded four things. First, dos Santos stays as President.

Second, the MPLA is legitimate.

Third, no interim government.

Fourth, we will reduce our fighting while you change your constitution from a one-party government to a multiparty government. All we want is a date for elections.

Do you know what dos Santos has conceded? Zip, zero, zilch.

Why, we even had Mr. dos Santos, the President, on a satellite hookup and the gentleman from New York [Mr. SOLARZ] asked him when would he set a date for free and fair elections?

May I ask the gentleman from New York [Mr. SOLARZ], the gentleman did not get an answer, did he?

Let the record show that the gentleman from New York [Mr. SOLARZ] is shaking his head in the customary "no" symbol.

This amendment cuts off covert aid to people who have been fighting for years for free elections, for a multiparty government and for a cease-fire, and they do not enjoy this war. They do not enjoy starving, but the Communists are still in there. They are in there 15 years after some of you, and I have got it all here, I have got a great quote from the gentleman from New York [Mr. SOLARZ].

The CHAIRMAN pro tempore (Mr. KANJORSKI). The time of the gentleman from Illinois has expired.

(At the request of Mr. DELLUMS, and by unanimous consent, Mr. HYDE was allowed to proceed for 5 additional minutes.)

Mr. HYDE. Mr. Chairman, I gratefully accept the gentleman's tender of additional time.

Now, this amendment would eliminate a third option for the United States in Angola, covert action. To help UNITA under this amendment, the President would have to announce it to the world and Congress has to debate and approve it. In the meantime, UNITA starves to death, stands naked against another offensive.

This amendment is the mirror image of one offered by the gentleman from Indiana [Mr. HAMILTON] in 1986, September 17, and was defeated 229 to 186.

We have got a House Permanent Select Committee on Intelligence. We have a Senate Permanent Select Committee on Intelligence. Have we got staffs? We have staffs. They are experts. They are skilled. They know their business, and we are designated by Congress and by the law to oversee covert activity, and we talk to them daily, weekly, and monthly on what they are doing and how they are doing it and who is doing it. We are the designated surrogates for the House and for the Senate. That was done because a lot of this information cannot be revealed to the public. Why not? Because other countries are involved occasionally. We cannot do it alone. This is an interdependent world. When we are fighting drugs, when we are fighting terrorists, and we are fighting tyranny, other countries cooperate with us, but they will not if the fact of their cooperation or the extent of their cooperation is made a matter of public record.

So you deny us the opportunity to stand for freedom, free elections, human rights, human dignity in Angola, and it is important.

My God, do you think we want to send our treasury over there? We are already scrambling to try to balance our budget. Should we send money over to a continent far away if we do not care? Do you think we want to establish a new colony over there? No, but we are committed to fighting Communist tyranny, whether it is in Afghanistan or whether it is in Cambodia or whether it is in Angola.

So I suggest to you this is an ill-advised amendment. It is reviving the Clark amendment which we put to bed 5 years ago, which had lasted for 10 years and which did not do what they said it would do, namely, diminish Soviet influence in Angola.

□ 1620

They are still there as we speak. And I hope the gentleman's amendment is rejected.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield to me?

Mr. HYDE. I yield to the gentleman from California.

Mr. DELLUMS. I thank the gentleman for yielding.

I certainly do not wish to dominate this debate. There are a number of other people who will be talking.

Let me just first say to my distinguished colleague I choose not to allow this debate to deteriorate into a personality challenge between the gentleman and myself. This is a contest of ideas. I did not quite understand when the gentleman said I used my 15 minutes. I do not mind how long a person takes to debate an issue. My colleague knows full well that I do not speak in the well of this House often. When I do, I try to make my points cleanly.

Mr. HYDE. Mr. Chairman, I personalized the debate because the gentleman is the embodiment of his side of the argument and if he and I can argue it is the same as arguing with the House on this. I am sorry, I mean no disrespect. I have consummate respect for the gentleman.

Mr. DELLUMS. I thank the gentleman.

Mr. Chairman, I appreciate keeping it at that level.

Let me make three quick responses. With respect to the Soviet Union's continued existence there, the gentleman knows the record is replete with the fact that the South African Government was shipping arms and continued to ship arms to UNITA.

No. 2, with respect to food, food corridors have been established. The Angolan Government has agreed to the establishment of them.

Finally, I just want to repeat what this amendment does; it says the United States should not provide covert assistance, it says any support should be openly acknowledged and it says any open support must be requested by the President and approved by the Congress of the United States.

So if the gentleman wants to do it, this gentleman is saying do it out in the open and let us debate it, not in a covert manner.

Mr. HYDE. This gentleman would direct the gentleman from California to the staff of the Intelligence Committee for an update, up-to-date information on the subject of starvation in Angola and in the UNITA-held territories.

The gentleman will find, contrary to what he just said, that food is not getting in there, because they cannot get permission from the Dos Santos government. Both Zambia and Namibia will not permit food to go in until they get the OK from Dos Santos. That is the latest information.

I yield further to the gentleman.

Mr. DELLUMS. And I appreciate that.

I think we ought to debate on the issue being asserted. What I said was that food corridors have now been established. In my remarks I said people are starving as a result of drought and hunger. I made that statement openly and asserted that.

So at that point the gentleman and I agree. What I want to end is this covert activity that precludes our capacity to provide support.

Mr. HYDE. Well, I do not agree with the gentleman that that is why people are starving. Drought and hunger have a lot to do with it.

But I would suggest the Communist MPLA government, the government will not permit adjoining governments who do not want to be publicly involved to ship food in. That is a volitional action by the Communist government.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois [Mr. HYDE] has expired.

(By unanimous consent, Mr. HYDE was allowed to proceed for 5 additional minutes.)

Mr. HYDE. As far as covert activity is concerned, covert activity is a necessary tool to be used by any Executive. It has been used since the days of George Washington.

The question is whether it is widely used or abusively used.

I would suggest to the gentleman, trusting Mr. BEILENSON, trusting the committee, trusting the Senate committee—it is bipartisan and in fact overwhelmingly is it dominated by the majority party in our House—we know what we are doing, and I think you can trust us. Otherwise you destroy the availability of the covert option for the President and many times it is most useful and necessary, primarily when other countries do not want their cooperation with us a matter of public record. And to handcuff the President on Angola or anywhere else is just unwise.

Mr. Chairman, I yield to the gentleman from California.

Mr. DELLUMS. I thank my colleague.

I know that a number of my other colleagues are going to answer you subsequently. Let me raise another point when you mentioned trusting the gentleman from California and trusting the distinguished gentleman from Illinois, that I have great trust in both gentlemen. That is not the issue. I have trust in the members of the committee.

But the other day I voted against a package that was based on summitry which precluded my capacity to participate openly in the process. A number of colleagues on both sides of the aisle joined me in bringing down the whole motion of summitry where a handful of people make deals in the back room. What I am saying is let us not make policy in the back room; do it in the open. Let us, you and I, earn our income out front. I do not question the gentleman's veracity or the gentleman's activity. I am just saying this is a body of 435 people; let us all participate in the process.

Mr. HYDE. Well, the gentleman just does not think covert activity is appropriate for a democracy, and I cite Clark Clifford as someone who thinks it is a great idea, especially when it works. We have used it for years and years and years. And if the gentleman denies us the opportunity to use covert activity, he denies us the cooperation of other countries in the world on terrorism, in narcotics, and in so many other ways. And that would be a self-blinding and deafening of our country at a time when, despite the euphoria that sweeps over central Europe, it is still a very perilous world.

Mr. Chairman, I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Covert activities in this particular instance is extremely important, I would say to my colleague from California. The fact of the matter is not too long ago—and I alluded to this a few moments ago in my discussion with Mr. DYMALLY—there was an attack from Guido Carnavale on Mavinga. At that particular time it was well known or it became known that UNITA was short on petrol. They were short on gasoline.

I submit to my colleague that may be one of the reasons that attack took place.

Now, if Dr. Savimbi, during these very important negotiations that we hope will end up with a peaceful agreement, during these very important negotiations, if the MPLA perceives they are short of ammunition or short of gasoline or short of any kind of supplies, an attack will take place. Now, that attack did take place on Mavinga and they did carpet bombing from 35,000 feet and thousands of innocent people were killed or maimed. Maybe some of the people in the pictures we saw earlier which Mr. DYMALLY has shown, maybe they were casualties of that conflict.

But the fact of the matter is that it is extremely important that this be covert. If you start telegraphing what we are doing with UNITA, you give the MPLA the upper hand. They know the supply lines, they know the supplies UNITA has if you do this; they know how much weaponry they have, they know when they are short of gasoline. At those particular moments, they will launch an attack as they did on Mavinga.

So I think during these negotiations which we hope will result in a peaceful solution that covert operations is extremely important.

For us to be debating that on the floor of the House would be absolutely insane because then you would tell the MPLA, the Communist government over there, everything that is going on, the kind of supplies that are requested, where we are going to send them. That is something you do not do when a conflict is going on, especially in view of the fact they have been negotiating.

As Mr. HYDE said a moment ago, UNITA has made some serious concessions. They have said that they recognize the Government of Angola, they recognize Dos Santos as the President of Angola, they recognize the Government of Angola as the interim government in the period leading up to elections. Deescalation is something that they will go along with. They are working toward a peaceful settlement. This is exactly the wrong time to be making these changes.

I talked to Jim Baker, I talked to Hank Cohen at the State Department, and they said that the negotiations are moving along at a fairly rapid pace and that we may have an agreement in the not-too-distant future when they will have determined the date for free and fair elections, deescalation of the conflict, and a ceasefire.

I submit to you this is the worst possible time for the United States of America to be considering cutting off aid or going public with what we are doing for UNITA. I think the gentleman from Illinois is right on the money, and I hope he will continue his fight on the Intelligence Committee.

Mr. HYDE. Mr. Chairman, I yield to the gentleman from Ohio [Mr. MCEWEN].

Mr. MCEWEN. I thank the gentleman for yielding.

I just want to emphasize on that particular point the fact that negotiations are taking place at this moment, the fact is, if I may remind the gentleman, due to the fact that we are negotiating this on the floor, some of the people would draw a correlation from the requests of the MPLA to not meet in their fifth negotiating session. They asked 2 days ago to not meet for a temporary period. We do not know for how long.

The world is watching whether or not democracy is going to stand firm. And if there are those who choose to turn our back on what we stood for for these many years and to support the negotiating process and to surrender unilaterally, then it would be absolutely, as you said, be the perfectly wrong moment to take this kind of step when peace is within sight.

□ 1630

Mr. HAMILTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment to H.R. 5422 offered today by Congressmen DELLUMS, DYMALLY, and myself.

This amendment requires that any U.S. assistance to the UNITA rebels in Angola during fiscal year 1991 be openly debated and approved by the full Congress.

PROCESS, NOT SUBSTANCE

Mr. Chairman, this amendment addresses the process by which U.S. policy in Angola is made. It does not address the substance of that policy.

This amendment is not a vote on U.S. assistance to UNITA. It is a vote on how we will make decisions on that assistance. This amendment neither prevents nor provides U.S. aid to UNITA. Rather, it seeks to ensure that we address this question in the same policy process through which we address other issues of great importance to our foreign policy.

My support for this amendment arises from my concern about the excessive use of secrecy in American foreign policy in recent years. I may differ with the other two sponsors of this amendment on the substance of U.S. assistance to UNITA.

For example, I do not think U.S. support for UNITA should be prohibited. Under certain conditions—especially in the event of continued Soviet military assistance to the Angolan Government or a threat to UNITA's

survival—I support assistance to the rebels.

My view, however, and that of my cosponsors is that any U.S. military support for UNITA should be openly requested by the President, openly debated by the American public, and openly approved by Congress.

Members may disagree on whether and how to assist UNITA, but I would hope we can agree that open consideration of this question by the Congress will enhance the prospects for a successful policy.

U.S. POLICY IN ANGOLA IS MADE IN SECRET

Let's be clear about how our policy in Angola has been made for the past 5 years.

The President and a small group of advisers decide what steps to take among themselves. The congressional intelligence committees are simply notified of these decisions. The intelligence committees do not approve a specific line item for Angola, and are not required to. Other Africa specialists in our Government play no role. Outside experts are not consulted. Public debate is squelched. Even Congress has no voice in this policy. It has never had a chance to give it careful review.

Our policy in Angola has been conducted in this elitist, secretive fashion for the past 5 years.

WHY OPEN CONSIDERATION IS NECESSARY

Open consideration of U.S. assistance to UNITA is necessary for three basic reasons:

First, there are major costs and risks when foreign policy is conducted in secret:

Secret foreign policy undermines democratic accountability. In our normal foreign policymaking process, the President proposes initiatives, Congress suggests revisions, the press comments, and the public debates. Rigorous scrutiny refines policies and ensures accountability. When the President keeps a foreign policy operation secret, as he has done in Angola, Congress is bypassed and scrutiny is limited to the intelligence committees. This prevents the broad and open debate that helps correct mistakes and ensure that policies are consistent with American values and interests;

Secrecy restricts policy coordination. A small group of intelligence officials manages the details of policy implementation, and other responsible officials are excluded from decisionmaking. Executive and legislative branch officials, who have experience and expertise, lack the information necessary to perform their jobs and are not able to make a contribution;

Secret foreign policy weakens intelligence analysis. When our intelligence agencies run policy, large amounts of time and energy are diverted from the collection and analysis of intelligence. Objectivity also suffers if policy goals begin to drive facts;

Most importantly, secrecy makes it more difficult to generate and sustain public support for our foreign policies; in the long run, effective foreign policy requires public support. The key to sustained support is an informed and involved Congress.

There is, of course, a role for secret initiatives in our foreign policy. But secret initiatives should supplement publicly enunciated policies; they should never substitute for them. When a secret initiative becomes the core of U.S. policy, as it has in Angola, the risks of failure grow.

Second, U.S. assistance to UNITA is not secret. We should not pretend it is when it is not.

United States aid to UNITA has been discussed openly by Presidents, officials, and the media for several years. Many of its most important features, including its approximate size and the identity of the countries that support it, are widely known. I cannot understand why United States national interests in Angola require continued official secrecy.

If there ever had been a rationale for a secret foreign policy in Angola, it no longer exists. Insistence upon continued official secrecy on United States aid to UNITA suggests a lack of confidence in the policy and an unwillingness to expose it to public debate.

Third, open consideration of UNITA aid is necessary because events in Angola and the world have brought our policy to a crucial juncture.

Much has happened in the 4 years since Congress last took up this issue: Cuban forces have almost withdrawn from Angola; we are working with the Soviet Union to resove regional conflicts, and we have talked about Angola; UNITA and the Angolan Government are discussing a possible political settlement.

These developments raise tough new questions about our policy: What should be our role in what is now a civil war? How do we enhance the prospects for a negotiated settlement? How can we best promote democracy in Angola? What do we know about UNITA's commitment to the values we support? How does our Angola policy affect our relations with the rest of Africa?

These fundamental questions about the course of our policy have been considered in secret, by too few people, for too long. They deserve broad public consideration. They require the input of a wide range of views. To ensure that this occurs, we must bring Angola policy into the normal constitutional process for the making of American foreign policy.

CONCLUSION

Because U.S. assistance to UNITA remains officially secret, Congress is unable openly to debate it and determine its fate. Secret policies are prone to error and lack the kind of accountability that ensures they will be consistent with U.S. interests. An open process produces policies that are better and more likely to receive sustained public support.

If the President believes his course in Angola is correct, he should take his case to the public and to the Congress, for scrutiny and funding. If Congress knowingly and publicly supports military assistance, UNITA will have a better chance of sustained U.S. support based on the commitment of the American people.

I urge you to support this amendment.

So, my colleagues, I urge adoption of this amendment and yield back the balance of my time.

Mr. LIVINGSTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from California [Mr. DELLUMS].

First of all, Mr. Chairman, I would like to associate myself with the incredibly good remarks of the gentleman from Illinois [Mr. HYDE], my friend. I think he responded to the issue extraordinarily well.

I would also like to say that it has been a pleasure to work over the years with all of the members of the committee, but particularly under the leadership of the gentleman from California [Mr. BEILENSON] and the gentleman from Illinois [Mr. HYDE], the ranking minority member, who I think do a great service to this country in working as well together as they do and with all the rest of us as members on the Permanent Select Committee on Intelligence.

I might say to the former chairman of the Permanent Select Committee on Intelligence, the gentleman from Indiana [Mr. HAMILTON], that he has raised a good point. The purpose of the amendment may very well be to withhold funds unless openly acknowledged, but then he must also understand that the rationale for not discussing this covert action on the floor, as we are now doing, is primarily because of the sensitivity of the issue, not only to the United States of America and its policies, but to our allies and friends.

□ 1640

If this amendment were to pass, if all future discussion of this covert policy and ultimately perhaps other covert policies were to be discussed on the floor, I think one could anticipate that other allies, other friends who have their own sovereign interests to consider, might well withhold any support of assistance, whether it is for UNITA or any other worthy efforts in the world.

We are in effect reacting to force with counterforce, a concept which is deplored by the gentleman from Cali-

fornia [Mr. DELLUMS], the author of this amendment. In my opinion if that first force is evil, then counterforce is necessary and justified.

It would then seem that it is in the interests of men of good will throughout this world that covert activity be employed, if necessary, so that friends and allies can join forces to hold off that evil force.

Saddam Hussein currently has posed a force for evil in the Middle East, and if not contained, might ultimately pose a threat to the entire Middle East and ultimately to the entire world, so counterforce is indeed often necessary and must be employed.

With respect to Angola, the author of the amendment has asked why are we discussing the funding of aid to UNITA in the name of the cold war when the cold war is over, making this effort a "cold war anachronism."

Nobody told the MPLA that this is an anachronism, but they are still fighting. They promise they will provide free elections, and someday they will provide for an open and free economy, but the time has come to stop promising and start producing.

What we are looking for is a cease-fire in Angola, and we are not getting it. That's not Savimbi's fault.

On June 23, 1989, a cease-fire was tentatively declared. In December of 1989 the MPLA mounted an offensive against UNITA designed to take the strategic town of Mavinga. They took Mavinga and they occupied it for 2 months. Ultimately they were forced by UNITA to withdraw.

If these are people of good will, is this the way they are going to react in the future? We can hardly accept their intentions today or in the future, regardless of what they say, because we can see how they act. We need concrete action. Mr. Savimbi has made any number of concessions. He has recognized Dos Santos as the President of Angola. He has recognized the legitimacy of the current MPLA government. He said UNITA is not insisting on the formation of an interim government prior to elections. He has reduced his demands to only recognizing UNITA as a political entity, and he has asked for only a fixed date for internationally supervised multiparty elections, and yet Dos Santos, as the gentleman from Illinois [Mr. HYDE] pointed out, has made no concessions, has not given a date certain for elections, and has not agreed to a cease-fire.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. LIVINGSTON] has expired.

(By unanimous consent, Mr. LIVINGSTON was allowed to proceed for 5 additional minutes.)

Mr. LIVINGSTON. Mr. Chairman, the Clark amendment withdrew aid to UNITA for some 10 years. After 10 years of lack of aid, and 10 years of watching this war continue incessantly in Angola, the United States repealed the Clark amendment, and we are back in this picture, preferably behind closed doors, but now openly on the floor.

At a time when the entire world is rejecting communism, the MPLA in Angola promises cease-fires and elections, yet does not produce. They have promised the removal of Cuban troops, but there are still half of the Cuban troops in Angola. Soviet advisers remain in Angola today.

The gentleman who authored this amendment apparently puts this discussion of aid to UNITA on the floor, with the hope that friends and allies of the United States would withdraw their support, so that ultimately there would be no United States aid for UNITA, and with the hope that there would be peace in Angola. But those are false hopes.

Mr. Chairman, this amendment is ill-advised for any number of reasons. One, the MPLA only last year launched an offensive, as we have already talked about, after they agreed to a cease-fire! Second, the MPLA has an oil economy. We know what has happened to the price of oil. It has doubled. They have $5 billion in revenue available to them. If we withhold aid to UNITA, obviously UNITA and Savimbi will be at a serious disadvantage.

Third, even though they are ending the cold war in Europe, the Soviets have continued to provide aid and support for the MPLA to the tune of $800 million in 1989 and $500 million in 1990, this year.

The MPLA withholds food shipments and is starving UNITA out. There is rampant famine in Angola. Is it because of the U.S. action? No, it is because of the actions of the Soviet-supported MPLA.

Finally, the MPLA has on one hand a 15-year stockpile of arms, so that even if the Soviets did withhold aid, they still have arms to continue fighting, unless they declare a cease-fire. They should, but they have failed to do so.

Does the war continue simply because we continue aid to UNITA? No, it's because of the MPLA. And I would add that our support for UNITA is not a racist policy, any more than our concern for what is happening in Ireland, Cambodia, or Lebanon, is a racist policy.

Mr. Chairman, Mr. Savimbi has made numerous concessions. The MPLA has made none. So I firmly believe that this amendment is ill advised.

Mr. HYDE. Mr. Chairman, would the gentleman yield?

Mr. LIVINGSTON. I am happy to yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, about 4 years ago when we debated this amendment in another place, the gentleman from Indiana [Mr. HAMILTON] said in the debate at that time, "Any covert action in Angola will be difficult to sustain in the absence of a thorough and frank debate of this issue."

That is what the gentleman said today, but since that time I would remind Members there have been major breakthrough in southern Africa without the full public debate that the gentleman from Indiana [Mr. HAMILTON] wanted back then, including the independence of Namibia, a timetable for the complete withdrawal of all Cuban troops, and the first face-to-face UNITA-MPLA negotiations to end the civil war.

Mr. Chairman, if it ain't broke, don't fix it.

Mr. DORNAN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the accelerated pace of history over the last year has been absolutely astounding. Each passing week something comes up that just amazes all of us.

I am anxious to leave the Chamber right now to go over to the Rayburn Building and meet with the most intelligent, the most forceful, the longest survivor of all of the Communist conquerors of Vietnam. Nguyen Co Thach is over in room 2200 meeting with the MIA-POW Task Force, and in about 12 minutes that meeting will adjourn to go over to the main Foreign Affairs room where Mr. Thach will meet with the whole Committee on Foreign Affairs. We know that they have a warehouse of American remains that they have been deceiving us about for 15 to 17 years now. We hope to resolve it.

Mr. Chairman, communism has brought utter chaos to Vietnam. The reason I bring this up is because Mr. Dos Santos canceled his trip here because he is the last of the Communist dictators who will not concede publicly that communism has failed his people miserably and that his country is in absolute economic decay.

Mr. Chairman, these Communists are the bad guys. The Dos Santos regime in Luanda, the MPLA—they are the bad guys. I remember 15 years ago a Vietnam veteran from Maryland who was at loose ends. He lived an hour's drive from here, Danny Gerhardt, went over to Angola to fight for what he thought were the forces of freedom. He was captured and was executed. The Dos Santos government made his poor parish, a Catholic parish in Maryland, come up with $5,000 of blood money to buy back Danny Gerhardt's riddled body.

Now flash forward 15 years.

□ 1650

Here is a report from Broadcast Africa just a few days ago, October 10.

"A group of MPLA soldiers," and I do not know if this is true or not, but here is the wire service report, "stationed in Cahombo near Menongue in Cuando Cubango Province, has killed a Catholic priest and a congregation member during an armed robbery at the weekend." And they did this killing during Mass.

I quoted earlier during this debate one of the major generic spots by a big corporation that has been running for 2 years now, "freedom is wonderful, freedom is everything." I add to that that freedom is winning. And I cannot understand, why we don't go in for the kill while we can. When you consider all the horrors of communism and the terror and chaos that terrorist groups have brought around the world, from uncovering mass graves of 300,000 people in the Soviet Union that they build apartment buildings on, to incidents like this involving MPLA murders you have to wonder why so many in this Chamber have such a blind spot when it comes to communism. I have great respect for the Black Caucus of this Congress. I do not know one caucus Member that is the son of a multimillionaire, who got here with inherited wealth, as other Members and Senators have. Every one of you in the Black Caucus is a self-made man who fought your way up through life and is afraid of nothing. And yet every time I have asked one of you individually, including the late and much beloved Mickey Leland, "Will you meet with Savimbi?"; The answer was always the same. "Of course." Mickey Leland said it, and when I asked BILL GRAY when he was chairman, "Will you meet with Savimbi?" he said, "Of course." And yet, the Black Caucus has never had this great heroic black leader before them to make his case.

Why? Because of the South African connection. On its surface that seems logical, but none other than the great statesman, Winston Churchill, the greatest of Western civilization maybe, said, when asked why he was making an alliance with the Soviet Union, and he knew ahead of most of us that Stalin's terror was equal or worse than Hitler's, said, "To conquer Herr Hitler I will make a pact with the devil himself." Savimbi and I discussed that very remark. He said "I know it is a racist regime, but I am fighting for my people. That is why I studied guerilla warfare in China and why I will take any port in a storm until I can get rid of the Communist terror in my country."

Here is a letter that I will just read the first lines of from our Secretary of State to our Republican leader. It says, "As you know, I am engaged in active diplomacy aimed at achieving a negotiated settlement. Foreign Minister Shevardnadze and I are seeking a negotiated settlement to the Angolan conflict." A remarkable world, my colleagues. "This is due in no small measure to Moscow's understanding, despite the enormous and continuing Soviet commitment to the Luanda regime, of American resolve on this issue."

Are those not wonderful words for a change, American resolve? Hanging in there, acting like Americans, helping the good guys against the bad guys.

The CHAIRMAN. The time of the gentleman from California [Mr. DORNAN] has expired.

(By unanimous consent, Mr. DORNAN of California was allowed to proceed for 3 additional minutes.)

Mr. DORNAN of California. Mr. Chairman, our Secretary of State, James A. Baker III, concludes:

My view boils down to this: All Savimbi wants is a ceasefire and the ability to compete in fair and free multiparty elections. Some in the MPLA seem willing to move toward this peaceful, democratic approach as well. A vote to amend the Intelligence Committee's Angola provisions is a vote against this democratic solution at the absolutely worst time—and would be a vote for more killing, more stalemate, and more suffering.

I will put the whole text in the RECORD with my remarks. The intervening paragraphs are just as succinct and as powerful.

Here is an article by James P. Gallagher, an analyst and an excellent writer on what has happened in Africa over the last quarter of a century. He says in an article entitled "Africa's Invisible Famine," that "Just a few short years ago, the American public and the national media were calling the Reagan administration daily to come to the aid of the hundreds of thousands of starving people in Ethiopia." Mr. ACKERMAN went there, Mr. WOLF went there, I went there. It was a horrible thing to see. Mickey Leland went there many times.

And what did we do under Ronald Reagan, a great President? We helped a Marxist-Leninist government with a famine that they created. And now Mr. Gallagher makes an excellent case that the MPLA is doing the same thing.

He says:

All indications are that the MPLA is using food as a way to increase its leverage over UNITA. Angola is on the brink of a serious and deadly situation. The callous lack of a response by the MPLA and their continued inaction shows the lengths to which the regime will go to retain power. It is apparent that the MPLA is willing to barter with human life. The world community must respond before thousands more die in this humanitarian crisis.

Again, the body of the article is just as good.

Finally, I close, Mr. Chairman, from an article in the Washington Post, the Washington inside-the beltway Post:

There is light at the end of the tunnel of Angola's 15-year civil war. The government and its UNITA challengers have shredded the country and demonstrated that neither can defeat the other; they are engaged in direct negotiations.

At the end of the article the Post says, "Congress is right to be appalled that this awful war goes on," on into its 16th year, "but a one-sided cutoff expresses only impatience and partiality for one Angolan party," the Communist Party, the world's greatest killers. That was my aside remark. I do not think the Post has gone that far, yet.

"It is not simply that the government in Luanda receives 10 times as much foreign assistance as the insurgents. Nor is it that either Angolan party has proven itself superior in dedication to the national welfare," writes the Post analyst. "Despite its relatively scant dimensions, American aid has served the crucial purpose of reinforcing the military stalemate and making possible negotiations aimed at a political settlement."

The CHAIRMAN. The time of the gentleman from California [Mr. DORNAN] has again expired.

(By unanimous consent Mr. DORNAN of California was allowed to proceed for 30 additional seconds.)

Mr. DORNAN of California. Mr. Chairman, for emphasis I will strike a Traficant pose.

"To pull the plug on a policy that was failing might be understandable. To pull the plug on a southern Africa policy that has succeeded in other aspects and now seems near succeeding in Angola is perverse."

Unfortunately we have to do it in a covert manner. But as with so much that has involved communism over the years, if you get it done covert, leave it alone as long as it gets done, and done legally. If it is not broken, please, do not fix it.

Defeat this amendment.

The text of the letter and articles referred to follow:

THE SECRETARY OF STATE,
Washington.

HON. ROBERT H. MICHEL,
House of Representatives.

DEAR BOB: You soon will be voting on HR 5422, the Intelligence Authorization Bill. As you probably know, several amendments are contemplated which, if enacted, would seriously hinder efforts to achieve a negotiated settlement to the conflict in Angola.

As you know, I am engaged in active diplomacy aimed at achieving a negotiated settlement. Foreign Minister Shevardnadze and I are seeking a negotiated settlement to the Angolan conflict. This is due in no small measure to Moscow's understanding, despite the enormous and continuing Soviet commitment to the Luanda regime, of American resolve on this issue. Likewise, some, but not all, MPLA leaders are beginning to realize that they cannot defeat UNITA militarily and must negotiate a settlement, despite the wishes of hardliners in Luanda who continue to seek a military solution. After four rounds of UNITA-MPLA direct talks facilitated by the Portuguese Government, our policy may be on the verge of success. For

his part, Dr. Savimbi has been flexible and reasonable in his negotiating positions. Furthermore, he has been steadfast in his calls for free and fair multi-party elections in which UNITA is free to participate.

I firmly believe that Angola, like other regional conflicts, can be resolved through negotiations, if both sides have the incentive to talk and compromise. Our ongoing program is important to persuading the Angolan Government that a military solution to the conflict is not an option. I urge in the strongest possible way that you continue your solid support for this peace process by not endorsing legislative proposals which, although packaged as "compromises", actually would have the effect of undercutting those in the MPLA who want to negotiate and of strengthening the hand of the MPLA hardliners who want to continue the bloodshed.

Any imposition of conditional language will be taken by hardliners in Luanda as the ray of hope they have been looking for and long predicting. They will argue that the U.S. is preoccupied elsewhere, "short of breath," and willing to pull the rug out from under UNITA—and that there is thus no need for negotiations. This will only lengthen Angola's tragic war.

My view boils down to this: All Savimbi wants is a ceasefire and the ability to compete in fair and free multiparty elections. Some in the MPLA seem willing to move toward this peaceful, democratic approach as well. A vote to amend the Intelligence Committee's Angola provisions is a vote against this democratic solution at the absolutely worst time—and would be a vote for more killing, more stalemate, and more suffering.

Therefore, I ask that you strongly oppose any efforts to amend the Intelligence Authorization Bill with respect to Angola.

Sincerely yours,

JAMES A. BAKER III.

AFRICA'S INVISIBLE FAMINE

(By James P. Gallagher)

Just a few short years ago, the American public and the national media were calling on the Reagan Administration daily to come to the aid of the hundreds of thousands of starving people in Ethiopia. The Reagan Administration and the Congress responded by becoming the largest donor of relief supplies for the people of that Marxist-Leninist nation.

A similar crisis has again developed elsewhere on the African continent. A famine of comparable severity now threatens the people of Angola. This southwest African nation, just north of newly independent Namibia, has known nothing but war for the past twenty five years. Western relief agencies now estimate that 250,000 people are at "immediate risk" of starvation in southern and central Angola. Who is to blame for this threat to human life? Certainly nature must take credit for three straight years of drought. However, much of the blame for compounding an already disastrous situation can be placed squarely on the Marxist government of Angola and its Soviet and Cuban benefactors.

A brief glance at Angola's troubled history shows that it has had a troubled history over the past twenty years. In the 1970s, Angola served as a battleground for Soviet dreams of expanding their empire through the use of surrogate "national liberation movements." Since 1975, it has been the battleground between the Marxist Popular Movement for the Liberation of Angola (MPLA) and the National Union for the Total Independence of Angola (UNITA) led by Jonas Savimbi. However, the MPLA appears to be fighting against the tide of history as support for communism and one-party totalitarianism throughout the world is waning.

In a bold attempt to help bring about a solution to this humanitarian crisis and bring food to the starving on both sides of the conflict, UNITA leader Jonas Savimbi proposed the establishment of so-called "corridors of peace." These corridors would be safe routes through which humanitarian assistance could be provided to the people in both UNITA and MPLA-held territories. The State Department embraced the proposal, but it was rejected by the MPLA. The MPLA charged that it was unacceptable for the U.S. to be involved in any humanitarian relief program because it was possible for U.S. to send lethal aid with such supplies. That outrageous charge was made in a July 2 letter to Members of Congress from the MPLA's paid lobbyist in Washington. It was never retracted and was later expanded upon with charges from the same lobbyist that the U.S. had used previous relief programs to funnel arms to rebels in Ethopia and Sudan within shipments or relief supplies.

The time has passed for diplomatic maneuvering. Officials of the Office of Foreign Disaster Assistance (OFDA) estimated just two months ago that 782,000 people in both UNITA and MPLA territory face the threat of starvation. An additional 250,000 are at "immediate risk," two-thirds of which are in UNITA territory. As the State Department reported earlier this year after sending a Needs Assessment Team to southeastern Angola, "humanitarian assistance can be removed from political disagreements in times of great need." This crisis in Angola presents an opportunity for the U.S. to rise above the fray to provide the necessary assistance.

As recently as early September of this year, officials OFDA estimated between 3,800 and 10,000 deaths had already occured in southern Angola. This confirms the need and urgency for the United States to take unilateral action to resolve this crisis. To date, little has done by the United Nations to facilitate the movement of any emergency food aid to the starving in Angola. The risk of mass starvation is real and even the Namibian government has estimated that upwards of 1.5 million Angolans face severe food shortages.

All indications are that the MPLA is using food as a way to increase its leverage over UNITA. Angola is on the brink of a serious and deadly situation. The callous lack of a response by the MPLA and their continued inaction shows the lengths to which the regime will go to retain power. It is apparent that the MPLA is willing to barter with human life. The world community must respond before thousands more die in this humanitarian crisis.

MPLA ALLEGEDLY MURDERS PRIEST AT CAHOMBO

Jamba, Wednesday, October 10—[dateline as received] A group of MPLA [Popular Movement for the Liberation of Angola] soldiers stationed in Cahombo, near Menongue, in Cuando Cubango Province, has killed a Catholic priest and a congregation member during an armed robbery on the weekend.

Informed sources, among them eye-witnesses in the Cuando Cubango provincial capital, said the victims, Father Firmino and Jone Mendes, were killed in their church during Sunday mass in Chikimbili village.

It was not immediately known why MPLA troops have targetted members of the religion. However, relations between the regime and Catholic Church have worsened ever since the pastoral letter published last November which called for a ceasefire and multi-party elections aimed at peace in Angola which angered the MPLA regime.

Meanwhile, an elderly woman identified as Domingas Vunda of Camongua village was reported killed by another group of MPLA soldiers stationed at Cambache two days when she complained to the troops about the robbing of her personal property, including chickens at her home.

[From the Washington Post, October 8, 1990]

THE ANGOLA DEBATE

There is light at the end of the tunnel of Angola's 15-year civil war. The government and its UNITA challengers have shredded the country and demonstrated that either can defeat the other; they are engaged in direct negotiations. Their respective Soviet and American supporters are working in their fashions to turn them toward a ceasefire and political settlement in the coming months.

If this works, it will follow from a line of Reagan administration policy continued by President Bush. One early result was South Africa's delivery of independence to Namibia. A Second was the departure—completed in Namibia, close in Angola—of Communist Cuba's expeditionary forces. The third would be a settlement in Angola. There American policy has sought not just to move out the Cubans but also to encourage Angolan national reconciliation and to persuade the Soviets that the price of their continued support for an unrepresentative local government is too high.

It is this last segment of American policy in Angola—raising the price to Moscow—that is now being debated in Congress. Everyone wants the Cubans to go home. Everybody wants a political settlement. But the Kremlin, disturbingly slow to apply its "new political thinking" in Angola, has kept immense aid flowing; its annual support, though down perhaps by a billion dollars from the 1987 peak, is put at $500 million. Meanwhile, some in Congress are opposed to or tired of sustaining Jonas Savimbi's UNITA, for which the Bush administration reportedly seeks $60 million. Voices in Congress demand that American aid be phased down or out. Some would use Rube Goldberg-type legislative instructions to try to arrange Soviet reciprocity, and some would simply end the aid.

Congress is right to be appalled that this awful war goes on. But a one-sided cutoff expresses only impatience and partiality for one Angolan party. It is not simply that the government in Luanda receives 10 times as much foreign assistance as the insurgents. Nor is it that either Angolan party has proven itself superior in dedication to the national welfare. Despite its relatively scant dimensions, American aid has served the crucial purpose of reinforcing the military stalemate and making possible negotiation aimed at a political settlement. To pull the plug on a policy that was failing might be understandable. To pull the plug on a southern Africa policy that has succeeded in

other aspects and now seems near succeeding in Angola is perverse.

Mr. STOKES. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, at the outset let me express my appreciation to the members of the Intelligence Committee on both sides of the aisle. This is one of the finest committees in the House. It also has one of the finest staffs in the House. I served on the Intelligence Committee for 6 years; 2 years as chairman. Not only did I chair the full committee but I also chaired the Subcommittee on Program and Budget. There were numerous programs, covert and otherwise, that came under my purview.

I fully appreciate the need and requirement for secrecy and fully understand that there are certain programs which must be kept covert. But, this is not such a case. When a program has gone on for this long and is openly acknowledged, then it is time that we let the sun set on it. Our Angola policy should be openly debated in the Congress.

Also, this is not an anti-UNITA amendment. It is simply an amendment to make overt what is already acknowledged as an open secret—the fact that the United States has provided, and continues to provide, covert assistance to Jonas Savimbi's UNITA forces. In fact, President Reagan acknowledged such a covert program publicly in November 1985.

Mr. Savimbi was in town last week and told reporters that President Bush promised continued support for the rebel movement until a cease-fire is in place and a date set for elections.

A ceasefire in Angola, to put an end to the needless and senseless killing, and free and fair elections are both goals which everyone supports. The question is, how do we get there? The administration believes that we should continue to provide covert assistance to Savimbi. I believe, however, that 5 years of covert aid is enough and that if UNITA's cause is to ensure multiparty democracy in Angola and that is in the national security interest of the United States, then this matter should be openly debated in Congress.

Perhaps a program of covert assistance could have been justified 5 years ago.

There were over 50,000 Cuban troops in Angola then. Today, they are withdrawing.

The United States-Soviet superpower relationship was then confrontational. Today, it is one of cooperation. Secretary of State Baker and Foreign Minister Shevardnadze have been meeting frequently to end the surrogate vestiges of the cold war.

Savimbi was perhaps not well known then. Today, he is represented by Black, Manafort.

South Africa was actively involved in assisting Savimbi then but today, they have supposedly ceased such assistance as a result of the New York accords.

Five years ago, there were no peace talks but today, the contesting parties are close to reaching an agreement.

Clearly, the situation has changed significantly. I believe our Government's position in discussions with the Soviets would be much stronger if this were an overt program supported by the American people and the Congress.

This amendment simply says that if this is a matter important to the national security interest of our Nation, then we, the people, all the Members of the House of Representatives, not just those who sit on the Intelligence Committee, ought to be able to judge it on its merits. If the administration believes so strongly in its case, then it should be able to enunciate a position that will gain support and put the entire weight of our country on UNITA's side if that is the way the people should decide.

The administration's argument is that we have come so far and we are so close to achieving a peaceful solution, that with negotiations underway, terminating covert assistance would be pulling the plug on Savimbi and his UNITA fighters. We are not asking in this amendment to pull the plug; we are simply asking that if the administration believes that it has a good case—and I think many believe that it does—then they should be willing to make that case openly and not to continue a covert program that is for all intents and purposes overt. When the former President acknowledges it and the current President endorses it there is no plausibility of denial. Let's be open and honest. I urge you to support this amendment.

□ 1700

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. STOKES. I am happy to yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I want to join with my colleague in his response.

He was the distinguished chairman of this committee when I came on this committee. He did an outstanding job.

I take my responsibilities very seriously as a member of the Intelligence Committee. I do my best not to tell anybody anything about the activities of the committee. This program has disturbed me.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. STOKES] has expired.

(At the request of Mr. GLICKMAN, and by unanimous consent, Mr. STOKES was allowed to proceed for 2 additional minutes.)

Mr. GLICKMAN. If the gentleman will yield further, this program has disturbed me, because others outside of the committee seem to know more about it than I do.

The number of times that I am approached by people working for Mr. Savimbi and others relating to me information which seems to be the kind of information I would be given as a member of the Intelligence Committee, information that I personally would not transmit to anybody else, gets transmitted to me by people who are being paid by parties to the action down there. That is a perfectly legitimate thing to do, but it seems to me to be a highly inappropriate thing to do when we are talking about an activity which is not legally out in the open.

It has always troubled me, and it has caused me to believe that whoever is doing this is not doing this consistent with my responsibilities as a member of the Intelligence Committee which is supposed to have, as part of its function, us keeping our mouths shut on these matters.

So I think it has made me believe all the more that the whole issue of Angola is one that deserves to be brought out in the open. If people are being paid to represent parties to the action there and do it and filing the documents with the appropriate Government parties of the United States, if people are telling me what they think I ought to do as a member of the Intelligence Committee in a lobbying type of capacity, again, a legitimate thing for them to be doing, it is particularly troubling to me that the program should be kept in a secret type of fashion.

For that reason, I intend to support this particular amendment.

Mr. STOKES. I thank the gentleman for his comments.

I can certainly share in his frustrations, having experienced some of the same while I chaired the Intelligence Committee of the House.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, let me see, I would like to recap.

I do not know that everybody is for covert action under every circumstance, but I gather, generally speaking, that it is recognized that covert action by a government, and our Government in particular, seems to be essential to the accomplishment of certain objectives around the world. At least, I have not heard any speaker say anything to the contrary yet, although some people may have that opinion.

This discussion is not about covert action. Look at the history of this whole question on Angola; off again, on again, and we are now at the point

where we are having discussions, finally, on a possibility of the two superpowers supporting a regional settlement. We know that one superpower by a factor of at least 10 and maybe larger has been supplying one side and the United States has been supplying the other side. There has been no secret about it; as a matter of fact, the author of this amendment probably has done a favor to the world and to the United States and certainly with regard to Angola and covert action, because the policy has been debated all afternoon and will continue to be debated.

That is what the issue is all about. The issue is whether or not you are going to continue aid to Angola, at least as far as the United States Government is concerned.

The procedural maneuvering that goes with that is all right, but I asked myself again, why now? Well, we are a little late in the session. The fiscal year has already started, and this bill is a legitimate bill under which you could raise this issue.

But then I began thinking of the wording of the amendment. Why is the wording such? Well, it says if the President feels so strongly about this, let him step up and be counted on the floor of the House. If the amendment passes, the President will have to come down with a supplemental of some kind. He will have to come to the committees. We would then have another public debate.

As a result of the debate today the only thing that we have not found out is exactly how much money is involved, exactly what kind of equipment is involved and just exactly when is it going.

Any Member who wants to know that, I submit, can find out, but those are the only matters that have not been debated.

Well, what happens next? The supplemental request then goes to the appropriate committee, and we will have to work on it, and then it will have to come to the floor of the House.

But the thing is we will, hopefully, leave here in a few days or maybe on election eve. I have sent for my absentee ballot, by the way. But maybe we are going to leave. Well, that means we cannot consider it until the next session of Congress.

Then I got to thinking, what is so important about November, December, January, February, and March. I will leave that to your judgment.

Yes, we can have another public debate. We can even have it resubmitted to the Congress with the specifics spelled out so that anybody could know everything about what is going on.

The policy issue will not be any different in March than it is this afternoon. You want aid to go, or you do not want aid to go; and you have a reason for wanting it to go, and you have a reason for wanting it not to go. So you can take your pick.

I do not want to impugn anybody's motives. My sincerity is equal to anybody else's in this room. I take no back seat to anybody's logic.

I just say you draw your own conclusion.

We are in the middle of negotiations. The administration, with relatively little amount of military support, on a comparative basis and in a short period of time, has brought the parties closer than they were.

We all have the sense to know that anybody who is in the field, and if you are negotiating, would like to be in a better position, but if you are at a disadvantage of 12 to 1 or 15 to 1 in terms of armaments, you really do not have much chance particularly, if you only have one-third of the country in your possession and your people are starving.

So you ask yourself, I am in a negotiating posture, but am I really stronger than the other guy? And the answer is yes, if you are the Government. And am I in a better position to dictate the terms of what is going to happen in the future? and the answer is yes, and, you know, I do not like that. I believe in fair play.

The CHAIRMAN. The time of the gentleman from Florida [Mr. FASCELL] has expired.

(At the request of Mr. HYDE, and by unanimous consent, Mr. FASCELL was allowed to proceed for 2 additional minutes.)

Mr. FASCELL. Let me say this, I believe we should have our politics on top of the table. I have advocated that from the very beginning. But I also have supported oversight.

One of the first bills I introduced when I came here 35 years ago was to have a joint committee on intelligence.

□ 1710

Because there was absolutely no oversight by Congress, I supported the gentleman from Illinois in the establishment of a joint committee sometime ago. It is too late now. We have two committees. It may be a long time before we can unify it into a single committee, but we have one thing. We have oversight.

We have distinguished Members of Congress on the committee, from all political spectrums. There the issues are raised. They have the right to speak. They do speak. They offer amendments. The policy is debated. There are very few countries in the world where this opportunity exists. Any citizen listening, any citizen watching, can make up his own mind about the policy.

I am not saying that we have a perfect policy in the United States. We do participate in covert action, to do what? To work for an independent Africa, with sovereign countries, a policy which the United States has consistently followed for 35 or 40 years. And with Africa today, despite the chagrin and the anger of our allies, the British, the French, the Italians, the Portuguese, and the Germans, it has been United States policy that has helped make it possible for African countries to reach this. Let people support their own democracy and keep dynasties, literally dynasties, out of Africa, running Africa. Leave Africa for the Africans. That is what U.S. policy has done. This is U.S. policy.

Let me say this in conclusion. Be a little patient.

(On request of Mr. DELLUMS and by unanimous consent, Mr. FASCELL was allowed to proceed for 2 additional minutes.)

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from California.

Mr. DELLUMS. It is with some grave misgivings that I rise for this question, because I consider the gentleman in the well my friend.

Mr. FASCELL. Well, it is mutual.

Mr. DELLUMS. I would like for the gentleman to explain to me, and I wrote down his remarks, the gentleman said, "I don't impugn anyone's integrity, but you draw your own conclusions," I would like the gentleman to explain that.

Mr. FASCELL. I intend that you should draw your own conclusions from the facts, not on the people who are involved. I want to make that very clear.

Mr. DELLUMS. The gentleman is not suggesting in any way that the authors of the amendment are trying to play some tricky game?

Mr. FASCELL. No, no, absolutely not.

Mr. DELLUMS. There were some Members who heard the gentleman in the well differently.

Mr. FASCELL. If it drew that inference I apologize for that. I did not mean that at all.

What I am saying is, the facts are thus, and Members should draw their own conclusions based on two opposite positions that are presented with deep sincerity.

I thank the gentleman from California for calling that out, because I would not want to offend anyone, and meant no disrespect to anyone.

Mr. DELLUMS. I would say in conclusion that yes, I believe this covert policy should become overt, and yes, I do believe that if it became overt that it could not be sustained in the public eye. I believe that, and I have asserted that. I am not trying to hide.

Mr. FASCELL. I understand that. I understand that, and that is not the purpose of your amendment. The pur-

pose of your amendment is to have it debated on the House floor, openly. All I said is, that is what we have been doing for about 2 hours, and I am willing to do it more. I am willing to get specific. I am willing to find out what the differential is between what we are doing and what the other guy is doing. I am willing to get in specific weapons systems. I am willing to get into the body counts. I am willing to get into the times of delivery. I am willing to get into any of this.

Mr. SHUSTER. Mr. Chairman, I move to the strike the requisite member of words.

Mr. Chairman, I certainly rise to salute the distinguished chairman of the Committee on Foreign Affairs for his eloquent argument against this amendment, which is before Members. The bottom line is that if we were to eliminate the covert aspect, the details of this activity of ours, our allies simply would not let Members operate in support of UNITA.

Therefore, the effect for that reason, as well as the reasons given by the distinguished chairman of the committee, the effect would be of killing the program, killing the support of UNITA against the Marxist government of Angola.

I certainly want to compliment the remarks of my friends on the left who eloquently spelled out the cause for peace in Angola, and who spelled out the horrors of war. They certainly were accurately portrayed.

I would simply say, tell it to dos Santos. Tell it to the Marxist government. Tell it to those who were making war on UNITA. UNITA, those patriots who are fighting for freedom in their own country.

Yes, we have heard it said here today that the world is rushing toward democracy. My friends on the left tell Members such, and I agree. Sadly, that is not the case in Marxist Angola.

Just a few days ago, the Luanda Domestic Service, the wire service, had a story in which it said, "In Luanda yesterday, Deputy Foreign Minister Venancio de Moura denounced UNITA's" union and their call for "U.S. backed idea of establishing a multiparty system in Angola." Just a few days ago, the Government, the Marxist government of Angola, came out once again against multiparty elections.

So who are we kidding? It is UNITA that is calling for free elections. It is the Marxist government of Angola which is opposing those very free elections, and indeed just 2 days ago the Marxist government canceled the sixth round of the peace talks with UNITA, and it is obvious that they want to see what we do here on the floor today.

So the world might be rushing toward democracy, but the evidence is overwhelming that the Marxist government in Angola is not rushing towards democracy. It is UNITA. It is Jonah Savimbi and his freedom fighters who have, time and time again, called for free elections. I, for the life of me, cannot understand why my friends on the left do not support free elections, do not support democracy, why my friends on the left rather would see Members pull the plug on the freedom fighters so the Marxist government in Angola can prevail and, indeed, that would be the result. That would be the result of our stopping our support for UNITA. The result would be that we would be propping up a Marxist government, one of the last Marxist governments in the world. I say we should not do that, and I say we should oppose this amendment. We should defeat it.

Mr. Chairman, I yield to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I just want to say a couple of things in response to what some of the other speakers have said.

It has not occurred to any Member, nor has it been discussed, and appropriately so, because we cannot discuss it, but we are handicapped in here in an open forum discussing a covert activity with any degree of accuracy or freedom, if we are not to betray the rules of the House and the requirement that we keep these things secret.

However, I just ask Members to fantasize for a moment and imagine a continent where people are landlocked who are fighting for their lives, and we have to get food into them, and weapons into them, but they have to cross other countries to do it. Now, those other countries may be willing to cooperate, but they do not want to be publicly identified. How do we discuss that in an open forum? How do we talk about the reality and the reasonableness of other countries assisting in a covert activity, but they do not want their assistance to be made public? We cannot do it. That is the problem with this issue right here.

Yes, it is an open secret, but if we confirm the accuracy of that as some Members have done, then I think again we are betraying our trust.

Lastly, I am increasingly wondering why we have a Committee on Intelligence. What do we spend the hours up there for, going behind closed doors and pretending what we are doing is important or secret, if it really is not? They do not need Members any more, and Mr. Chairman, I suggest we get together when this bill is through and review whether we need a committee.

See, the gentleman from California [Mr. DYMALLY] and his friends over there do not think we need a Committee on Intelligence. One of the gentleman's friends was mad because there was laughter over here. I am overjoyed that the gentleman is giving me his thumb down, because he is indicating what some think of the Committee on Intelligence.

□ 1720

I hope that is not lost on your colleagues over there.

Mr. McCURDY. Mr. Chairman, I move to strike the requisite number of words.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. McCURDY. I am glad to yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, in the rush to get out of the well and answer some questions, I left something unsaid and undone. I left undone something I should have said.

There are 15 or 22 undeclared wars around the world, depending on who you want to believe. The United States may be in all of them. The United States may be in none of them. I have no way of knowing. That is a function of the Intelligence Committee to find out.

I also have no trouble in debating the issue as to whether or not our politics ought to be on top of the table and debated in the normal course of a Foreign Affairs authorization or some kind of authorization bill; but the point I tried to make is that policy debate is going on right now. The detailed debate can take place some other time. Therefore, I do not think this amendment is necessary. That is the point I was trying to make. We ought not to support this amendment, and I thank the gentleman for yielding to me.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. McCURDY. I am glad to yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I think it is extremely important that one point be made that has not yet been made in the debate, and that is this. When the attack on Mavinga took place, Dr. Savimbi and his people contacted members of the Intelligence Committee and members of the Foreign Affairs Committee telling us that he was out of gasoline supplies and that if he did not get emergency gasoline supplies, the possibility was that not only would Mavinga fall, but they would be moving on Damba, the headquarters of UNITA, and they could lose the war.

If this amendment had been in place at that time and we had to come to the floor and debate additional supplies for Dr. Savimbi, they would have lost the war and freedom would have been lost in Angola for the foreseeable future; so I think it is extremely important if we want to make sure in cases of emergency that the Intelligence community has the latitude to send emergency supplies to help people, like our friend, Dr. Savimbi, that this amendment be defeated.

Mr. McCURDY. Mr. Chairman, I rise in opposition to the amendments which are offered today regarding United States policy toward Angola.

Mr. Chairman, as a member of the Intelligence Committee, I share the dismay that some of us have as members of the committee with the process by which we are operating under today. It is probably the members of this committee who are more constrained in this debate than anyone. We feel as members of this committee when we are appointed that we uphold our oath of secrecy and that we work to protect the interests of this body and that we provide effective oversight on issues of foreign policy. It is difficult for us to openly debate some of the issues that are before us.

As a matter of fact, it is interesting and somewhat ironic that the authors solely by offering this amendment have achieved the very purpose of the amendment itself, and perhaps we do not even need to vote on it because we have had such an open debate here today.

Mr. Chairman, I oppose these amendments because I share with those who offer them a desire to see a permanent settlement to that country's civil war. But I believe that the ideas which these amendments embody, however sincerely held by those who present them, will not encourage the negotiation process that is currently under way between UNITA and the Government of Angola. On the contrary, I respectfully urge my colleagues to restrain their enthusiasm for congressional micromanagement of foreign policy and think about the fundamental point which we must consider: Will a disruption in the United States support for the Angolan resistance, UNITA, help end the war and bring democracy to Angola, or will such a disruption merely prolong that country's misery and agony?

I believe that if the House adopts these amendments, we can expect this conflict to continue, perhaps indefinitely.

Let me explain why by first addressing the substance of the Dellums-Dymally-Hamilton amendment, which proposes to force our policy from its current covert status to one where its most sensitive details would be revealed to those who do not share our values or our interests in this country.

I agree with the views of the gentleman from Indiana [Mr. HAMILTON]. I served under him as chairman of the committee. I agree with him that while covert operations are sometimes a useful tool of our foreign policy, they should not become a substitute for publicly enunciated objectives.

But as he well knows, there are a number of considerations which must be taken into account before we open our intelligence operations to full public debate. Among these are our dealings with other foreign leaders, the personal safety of our intelligence sources, and the very credibility of this country to craft a policy and carry it to a successful conclusion.

We must also consider the nature of the regime against which an intelligence operation is mounted. In the case of Angola, we find an authoritarian regime which still relies on the presence of some 15,000 Cuban troops and almost $800 million in Soviet military aid to maintain power.

These factors and others, in my view, preclude us from bringing this policy out into the open at this particular time and warrant the rejection of the Dellum-Dymally-Hamilton amendment.

Mr. Chairman, I also appreciate what the gentleman from New York [Mr. SOLARZ] is trying to accomplish with his amendment. I share his desire to encourage the negotiating process. But I must argue that the issue is not quite as complicated as his amendment, which now runs over 10 pages, would indicate. If the objective of United States policy is to promote a solution to the Angolan conflict through democratic elections, and UNITA has been demanding multiparty elections for almost 15 years, why would we string up all of this legislative barbed wire around UNITA at this critical moment?

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

(By unanimous consent, Mr. MCCURDY was allowed to proceed for 5 additional minutes.)

Mr. McCURDY. Mr. Chairman, I think it is clear where the focus of energies should be directed. Once the Government of Angola and UNITA agree to a specific time table for elections as part of a comprehensive settlement, I am confident that UNITA will sign a verifiable ceasefire and the rationale for this program will change dramatically.

Yet it is my understanding that during a recent conversation via satellite with the gentleman from New York [Mr. SOLARZ], the President of Angola twice refused to give him even the most general time table for when elections might take place.

Despite such obstacles there is reason to be optimistic that an agreement can be reached. UNITA and the MPLA have held four rounds of negotiations, and some progress has been made. Further talks are scheduled and hopefully, with the active participation of the United States and Soviet Union, we can encourage this process further.

But if the House adopts the amendments offered today, we will demonstrate a lack of resolve, give the hardliners in the MPLA the glimmer of hope they have long wanted, and undermine those who are promoting negotiations.

Finally, Mr. Chairman, concern has been expressed by some about alleged human rights abuses on the part of UNITA. The Intelligence Committee has reviewed these charges, and they have not been substantiated by independent observers. But because the question continues to be raised, I believe that UNITA must do more to assure us that its forces are respectful of human rights.

It is worth noting, however, that UNITA has invited Freedom House, Amnesty International, and Africa Watch, among others, to come to its territory and investigate these charges. UNITA has also allowed the Red Cross to inspect its prisoner-of-war camps. It is my understanding that the MPLA, unfortunately, has always refused these same organizations permission to enter its territory to conduct a review of its human rights practices, and it has not allowed the Red Cross to inspect its POW camps.

But if anyone should have the right to review and pass judgment on these allegations it is the people of Angola. Let them decide at the ballot box if they trust UNITA, the MPLA, or some other party with the powers of government. That is why we should maintain our current policy until firm arrangements for free and fair elections are agreed to.

Mr. Chairman, I urge my colleagues to vote against these amendments not because we should support UNITA as a political party or Jonas Savimbi as its leader. I do so because we should support a political process, just as we have done in Poland, Nicaragua, Namibia, and South Africa, which will culminate in democratic elections for Angola. This is the best way, indeed the only way, to end this conflict. What Oscar Arias said of Central America holds true for Southern Africa: Without democracy, there can be no peace. And this, in my view, requires that we continue our support to UNITA in its present form at this time.

□ 1730

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. McCURDY. I yield to the gentleman from Missouri.

Mr. SKELTON. I thank the gentleman for yielding.

Mr. Chairman, I compliment the gentleman from Oklahoma on his statement and his position on this amendment. I think that this amendment is probably a good example of unanticipated consequences, should it pass. What would actually happen would be that this amendment would effectively end the aid program to UNITA until our President has openly

requested the aid and has gone through the congressional process, which might end up March, April, May of next year and really put an end to the negotiations which I believe are underway right now.

I also agree with the gentleman that American policy in Africa has been successful. Southern Africa, for instance, Namibia is independent, the Cubans have started going home. This is no small thing. This is a result of our policy there.

I think what we should do is continue down the same track, down the same road, and we will reap the benefits and have what the gentleman suggests, open, free, and fair elections in Angola.

Mr. McCURDY. I thank the gentleman.

Just one last point. I received a letter from the National Security Advisor to the President in response to a letter that I had written expressing concern about the situation in Angola and urging the President to coordinate more closely with the Soviet Union in order to promote a settlement because I believe a settlement and a cease-fire is important.

I would just like to quote if I could from the response from the National Security Advisor.

The CHAIRMAN. The time of the gentleman from Oklahoma [Mr. MCCURDY] has expired.

(By unanimous consent, Mr. MCCURDY was allowed to proceed for 2 additional minutes.)

Mr. McCURDY. The security adviser wrote:

I am pleased to inform you that our cooperation with the Soviets on this issue has been improving steadily. There have been a number of useful discussions on this subject of late, and we plan for that pattern to continue. As you know, at the recent round of talks between the MPLA and UNITA in Lisbon there were delegations from both the U.S. and USSR actively in touch with both sides and with the Portuguese who are serving as mediators. This practice will continue in the future.

It is in that context that I want to emphasize the need for the U.S. to stay the course right now on the commitments we have made on Angola, including those to Jonas Savimbi and UNITA. We may be nearing the end of the Angolan civil war. However, if we are to get the right outcome, it is important that we not change signals at this crucial moment in the process. The MPLA must have no doubt about the fact that a negotiated settlement provides the only appropriate road to the future.

I would ask you to bear these thoughts in mind as the Congress considers the Angola issue in the days ahead.

Sincerely,

BRENT SCOWCROFT.

Mr. BEILENSON. Mr. Chairman, I move to strike the requisite number of words, and I will not take the full 5 minutes.

Mr. Chairman, I spoke at length earlier this afternoon in general debate on the bill itself about the propriety and the wisdom of debating and voting publicly on major public policy and foreign policy questions such as this. So I will just add a very brief comment on this particular matter if I may.

I simply want to reiterate my agreement with the premise on which this amendment is based that United States policy toward Angola should not be determined in secret. Four years ago, I joined Mr. HAMILTON, then chairman of our Intelligence Committee, in an unsuccessful attempt to require that our Angolan policy be openly debated. During that effort, I noted that it was the Reagan administration which had removed the cloak of covertness from its Angolan policy, while at the same time insisting that the policy be funded with secret funds.

In my judgment, there are few practices which place the continued availability of covert action as a foreign policy tool at greater risk, than publicly proclaiming the existence of a policy for political purposes on the one hand, while on the other maintaining that the policy should be funded in secret. That was true 4 years ago with respect to Angola, and I believe it is true today.

The result of attempting to have it both ways on a covert program is that it puts the members of the House in general, and of the Intelligence Committee in particular, in a terrible bind. We should not be asked to support policies which are treated in one way for public consumption, and in another way for consideration by Congress.

I support treating the issue of assistance to UNITA in a consistent manner. If it is to be the publicly stated objective of our Government that U.S. support for UNITA is to be steadfast, as President Bush declared when Jonas Savimbi recently visited the White House, then I think it follows that any funds necessary to pursue that objective should be provided after public debate. The amendment now under consideration will ensure an open debate on United States policy toward Angola, and for that reason I intend to vote for it.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. BEILENSON. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the gentleman for yielding.

Mr. Chairman, I think it is important that the House know that the position of the distinguished chairman is not necessarily the position of the committee and he is not necessarily speaking and reflecting the position of the committee.

Mr. BEILENSON. The gentleman is absolutely correct. This gentleman is only speaking for himself.

Mr. KASICH. Mr. Chairman, I move to strike the requisite number of words. I hope to not take the entire 5 minutes.

Let me associate myself with the very good remarks of the gentleman from Oklahoma [Mr. MCCURDY]. But I do not want to just take a second here to do something from rote or something from a prepared text because as some of my friends on the Democrat side know, including Mr. WOLPE, I take this issue very, very seriously. It was not without a great amount of study that I have decided to oppose the restrictions on United States efforts to resolve this problem in Angola.

Let me tell you what I have been doing in the last year, about the last year—the last really 2 years. It was sometime ago that I went to Mickey Leland and asked him if he would work with me to establish a caucus on Africa.

Before Mickey's death he had agreed to do that. In fact, we were in the process of lining people up who would participate in a caucus for the purpose of getting people in Congress to understand the problems in Africa.

Since that time I have been involved in writing a letter—being involved in discussions, I cannot remember whether I wrote a letter or not, but I urged the administration to ask the President of the Congo to come to Washington to be honored for his work to try to resolve this problem in Angola.

Subsequent to those efforts that I made along with several others, the President of the Congo was in fact invited to Washington, where he was honored at a state dinner which I had the great privilege to attend. It was done because we wanted to recognize his brave, courageous efforts to try to resolve this very serious problem in Africa.

I also, by the way, just signed a letter the other day that urged Members to attend the telebriefing between President Dos Santos and Members of Congress.

I must tell you that is not an easy thing to do as a Member some time of the conservative party because here I was saying, "Let us hear what Dos Santos has to say."

Now, I think what is happening or what has happened in Angola is it has been caught up in an East-West confrontation. I think in my own mind I am not convinced that what keeps us from resolving this problem is the East-West confrontation. I am not certain about this, but sometimes I suspect that the problem that we have here is a matter of one group of people who would like to have control battling another group of people who presently have control.

Now, it happens that we are on the side of Mr. Savimbi because they are representing elections, multiparty elections, things that we share and that we believe in here. The other side

happens to be supported by the Soviets.

Now, Mr. Dos Santos told me when I was in Angola in a meeting with him that he wanted to open the Government, he wanted to have free enterprise, he wanted all of these things all of us were eager to hear. None of that has been forthcoming really and I am disappointed in that. But I sat down with Mr. HYDE, I sat down with people from the State Department to honestly ask them what we can do to push forward the process to end this conflict.

You see, I did go to the villages, where I saw people who were pulled around in wagons because they had no legs, their stumps and the rest of their bodies were placed on little wagons and pulled by somebody who had also had a limb blown off or maybe both arms.

I saw many, many people, innocent people in Angola, who have been caught in the middle of this conflict. And I want to see it ended. I have worked aggressively within my own party and with my friends on the other side of this aisle to try to get this conflict resolved quickly so that the people of Angola will not continue to die.

□ 1740

Mr. Chairman, do my colleagues know what it comes down to? How do we most quickly resolve this conflict? The gentlemen from California [Mr. DELLUMS and Mr. DYMALLY] and others on that side believe the way to get it done is for the United States to take a certain set of actions.

Let me tell my colleagues something. There is no one who loves life more than the gentleman from Illinois [Mr. HYDE]. He has fought for it all of his career, and he has taken a lot of hits for some of the things that he has done. I say to my colleagues, "Mr. HYDE wants to see an end to this conflict as much as you do."

Mr. Chairman, it is a matter of how we honestly, intellectually feel we will get it resolved.

As my colleagues know, what gave me good reason for optimism, great reason for optimism, was when Secretary Baker went in his last meetings and talked to Shevardnadze about winding down this and ending this conflict in Angola.

Now look. I do not want this conflict to continue on. We have resolved so many other East-West confrontations throughout the world. This continued East-West confrontation continues to result in a lot of people, innocent people over there, being maimed or being killed.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. KASICH] has expired.

(By unanimous consent, Mr. KASICH was allowed to proceed for 2 additional minutes.)

Mr. KASICH. Mr. Chairman, I personally believe that Secretary Baker and Secretary Shevardnadze are truly interested in ending this, and, if the United States is to move unilaterally, unilaterally, which gives incentives to those who were presently in power to hold out, I believe in my mind we are hurting the solution in Angola, and the conflict will be continued.

Mr. Chairman, I think about Nicaragua, and I think about so many other places in the world, in Afghanistan, where we have had these kinds of debates, and, as my colleagues know, it always has come down to where we have stood tough and we have said to the other people that we are ready to negotiate, we are ready to have a cease-fire, we are ready to have elections. It has worked in other places in the world, and it can work here also.

However, Mr. Chairman, I want to tell my colleagues from the bottom of my heart that I want to see this conflict ended. It is clearly now a question of how we get it done, and that is why I have reached out, taken some steps that maybe other people would not take because of my concern for what is happening in that region.

But I happen to believe at this point in time, because it is in the best interest of ending this conflict in Angola, not to enact the legislative barbed wire, not to arm or give incentives to one side over the other, but let us let Shevardnadze and let us let Baker sit in their meetings and get this darned thing resolved once and for all, and I think the best way to approach that right now is not to add the restriction.

Mr. WOLPE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from California [Mr. DELLUMS].

Mr. Chairman, colleagues, I rise to speak in the strongest possible terms in support of the amendment that has been offered by the gentlemen from California [Mr. DELLUMS and Mr. DYMALLY], and the gentleman from Indiana [Mr. HAMILTON], that requires that any further assistance to UNITA be openly requested by the administration and openly decided by the Members of this Congress. I have enormous respect for those who have taken a different view on this matter, particularly the gentleman from Ohio [Mr. KASICH] who a moment ago indicated that we do have a common goal here—to end this conflict. I am convinced that continued external military flows into Angola have extended the conflict.

Mr. Chairman, it made no sense when our policy of supporting Jonas Savimbi with military assistance was first announced almost 5 years ago. Even then, at the height of the United States cold war with the Soviet Union, this policy was a colossal waste of money, driven by simplistic ideological labels. Our military involvement on behalf of UNITA had the unintended tragic effect of prolonging Angola's war, of delaying Namibia's transition to independence, of further emboldening South Africa in the destabilization of Angola and of deepening Angola's military dependence upon the Soviets and the Cubans. Even though the avowed goal of American policy was to do precisely the opposite.

If the administration's policy made no sense in late 1985, it makes even less sense today, 5 years and, reportedly, over $170 million in American assistance later, when according to published reports the administration has again asked American taxpayers to dig into their pockets to provide UNITA with an estimated $60 million.

Mr. Chairman, the cold war is over. The Soviets are openly searching for the means to scale back their already drastically reduced military flows to Angola—if the United States will cooperate. The Soviets have explicitly accepted the triple zero option in which all sides will end external military flows to Angola. Three-quarters of the Cuban forces have been withdrawn from Angola. The Angolans are engaged in a serious internal reform process and are desperate—for political, for economic, and for diplomatic reasons—to reconcile with the West.

It has been suggested that no concessions have been made by the Government of Angola. That is simply not the case. The Angolan Government has cooperated with American diplomacy for the last several years in ensuring the success of the Angolan-Namibian accords. It has agreed to the withdrawal of Cuban forces, and that withdrawal, as I indicated, is proceeding. It has agreed to facilitate the transition to Namibian independence. The Government of Angola agreed, in fact, to provide a kind of de facto recognition of Mr. Savimbi and his UNITA Party, when it agreed, to meet at Gbadolite where there was a handshake we all will recall between Mr. Savimbi and President Dos Santos. In the eyes of many independent observers, Mr. Savimbi walked away from that agreement. There has been an explicit agreement by the Angolan Government to move to a multiparty system. No ambiguity on that score. The only question is with respect to the specific timetable, and that concession we can expect very shortly.

There has also been an agreement by the Government of Angola to cross-border relief supplies into UNITA-held areas in southeast Angola. Because of that agreement, the International Committee of the Red Cross now has prepared a concrete plan for the deliv-

ery of such relief. Implementation of that plan is now in process.

The Angolan Government, moreover, has agreed to a series of major economic reforms that have been advocated by the United States and by Western states.

So, any notion that the Government of Angola has been intransigent or noncooperative, is simply not true.

Mr. Chairman, in the midst of our own dire budget crisis, when domestic programs are being cut across the board and when we must be much tougher in allocating scarce foreign aid to advance America's national security interests, it is patently outrageous for the administration to ask the American taxpayer to subsidize Jonas Savimbi.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. WOLPE] has expired.

(By unanimous consent, Mr. WOLPE was allowed to proceed for 5 additional minutes.)

Mr. WOLPE. Mr. Chairman, $60 million in reported military assistance to UNITA represents not only an unadulterated waste of taxpayer funds, but also a step which will continue mindlessly adding to Angola's staggering human misery. We have heard of the indiscriminate use of land mines that has created the world's largest amputee population, estimated to be upwards of 50,000. The war has left over 300,000 dead, over 1 million refugees and displaced persons. In the next 2 months famine will threaten 1.9 million people. If there is no durable ceasefire soon and no effective removal of land mines, Mr. Chairman, two thirds of those at risk of starvation will likely not be reached. That is over 1 million people. If fighting continues at current levels, fueled by continued U.S. military flows, American relief agencies such as Catholic Relief Services and World Vision will fail to reach thousands in need.

Mr. Chairman, I know that the concern of those that continue to support this effort is that somehow we will undermine those perceived to be advocates of human rights and democracy in Angola. The government of Angola has an atrocious record on these matters, and American policy ought to be centered on the development of a genuine multiparty system with free elections and respect to fundamental human rights.

However, Mr. Chairman, let us be equally clear that the notion that Jonas Savimbi is the apostle and advocate of these values is simply belied by his own historical record. This is a man that initially traveled to the Soviet Union for support in the days when it was a different kind of Soviet Union. He then turned to China, became an avowed Maoist, and subsequently turned to South Africa.

□ 1750

The only thing that has been consistent about this individual over all these years has been the direct correlation between his ideology of the moment and his source of financial support.

Mr. Savimbi tells us today that he espouses democracy, and I hope he does. I genuinely do. But those who may not be conversant with the history of Angola need to know that this is a man who historically espoused a one-party state and saw himself at the helm of that state. During private conversations with me in my office, he acknowledged under questioning that indeed he was a socialist, more comfortable with the Chinese than the Soviet model.

Amnesty International, Africa Watch, and Savinbi's formerly sympathetic biographer, Fred Bridgland, have all documented repeated human rights violations: Witch burnings, forced labor, and disappearances and violent mistreatment of prominent UNITA personalities.

Just 2 weeks ago, yet another disturbing account appeared in the Washington Post, written by the award winning journalist, Leon Dash, which added further corroboration to charges of human rights abuses.

Life in UNITA-held areas has hardly evolved into a democratic model of broad participation. Power is tightly held in the hands of President Savimbi; UNITA's internal structure is designed along classic Marxist-Leninist lines; there is no history of free elections, free debate or pluralistic tolerance of opposing parties. Rather, society in Jamba has been described as a monopolistic personality cult, most recenty in an article by Radek Sikorski in the conservative National Review.

I don't raise this criticism to make the Angolan Government look better; that Government's record can also be roundly criticized. I emphasize these concerns because it is UNITA with which we have a close intimate relationship. It is UNITA which receives U.S. dollars, supposedly in the pursuit of democracy. Let's stop kidding ourselves: U.S. covert aid to UNITA is not about democracy and human rights.

The question is, is that the proper use of American tax dollars at this time of fiscal constraint?

Mr. Speaker, contrary to administration claims, United States policy has not brought the warring parties in Angola to the edge of peace and democracy. There have been several face-to-face, exploratory meetings between the Government and UNITA, but these do not amount to a substantive political breakthrough. For that to happen, we have to work far more actively with the Soviet Union to apply even-handed pressures upon both sides to reach a negotiated settlement.

Thus far this year, four rounds of Portuguese-mediated exploratory talks have failed to dislodge the Angolan Government and UNITA from their mutual deadlock. That is because each side remains mired in profound distrust and bitterness and each continues to rely overwhelmingly upon military might, in the vain hope that by bludgeoning the other side through one more round of fighting, it can improve its military position before compromising politically. Tragically, continued external military flows—United States, Soviet, South African—only feed this terrible dynamic.

Mr. Chairman, some dramatic step is required to push UNITA and the Angolan Government out of their deadlock. The amendment offered by Congressmen DELLUMS, DYMALLY, and HAMILTON will do just that. I urge all of my colleagues in the House to join me in voting in support of it. It is an action truly in the interests of all Angolans; it is an action in defense of the interests of the American taxpayer.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. WOLPE. I would be pleased to yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, the gentleman and I have a different view of Jonas Savimbi. The gentleman is unwilling to concede that he had his ride to Damascus and has been converted.

I too have talked to the man and I am convinced of his sincerity. That is neither here nor there.

All Savimbi and UNITA wants, and they have been fighting very successfully with darn little support compared to what the Soviets have poured into the MPLA, $800 million last year, to our—well, it is still secret. If nobody else will, I will maintain the secrecy of the amount. But they want a date for a cease-fire, a cease-fire that is internationally monitored, a date for an election that is internationally monitored, a change in the constitution so that it can be multiparty, not limited to one. For 15 years they have been waiting for that.

The gentleman from Michigan [Mr. WOLPE] has influence with the Government. Why do you not urge it on them? As long as the Communists have all the weapons, even the ones the Cubans are leaving behind, and they have enough to last 15 years, I am informed, and as long as UNITA is starving to death, do you think it is an encouragement to negotiating democracy with the Communists if we cut off aid to UNITA?

Do you really think that?

Mr. WOLPE. Mr. Chairman, if I may reclaim my time to respond to the gentleman from Illinois [Mr. HYDE], let me say, first of all, the objectives the gentleman has just described in terms of the kind of constitutional system that will permit multiparty democracy

and the full participation of UNITA in that process, I subscribe to as well.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. WOLPE] has again expired.

(By unamimous consent, Mr. WOLPE was allowed to proceed for 1 additional minute.)

Mr. WOLPE. Mr. Chairman, let me say to the gentleman from Illinois [Mr. HYDE] that the real issue at this point is not the difficulty in getting those kinds of agreements with respect to the constitution.

Mr. HYDE. But it is.

Mr. WOLPE. No, it is not. The Government of Angola has made very clear they are planning to address all of the issues and the concerns that the gentleman has just expressed. But the real issue at this point is Mr. Savimbi's insistence his standing army be kept fully in place throughout the election process.

Mr. HYDE. He is just against unilateral disarmament. So am I.

Mr. WOLPE. The issue is, the Government of Angola has made very clear it wishes to create a single military structure, abandon all party forces, and move to a freely elected multiparty government.

Mr. HYDE. If the gentleman will yield further, the tribal system that exists in that country is not going to go away. There are at least three major tribes. Some democracy has to happen soon.

Mr. DYMALLY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is in order to recount at this time some of the relatively recent efforts of the Angolan Government to bring about a peaceful settlement after 15 years of conflict in Angola:

First, the Government of Angola was one of the parties to the important Tripartite Agreement between Angola, South Africa, and Cuba. This agreement provided for the withdrawal of all Cuban troops from Angola; 80 percent of these troops have already been withdrawn; South African withdrawal from Namibia; free elections and independence for Namibia; and termination of South African military aid to UNITA.

Second, the following additional concessions have been made to the United States: The establishment of an open market economy with private ownership of businesses and land; a ceasefire and face-to-face negotiations with UNITA to end the civil conflict; internationally supervised open elections, universal suffrage, the principle of "one person-one vote" and the right of independent candidates to stand for elective office; revision of the Angolan Constitution to permit a multiparty political system and granting UNITA recognition as part of a comprehensive peace agreement.

Third, the Angolan Government has cooperated with the United Nations and the United States in insuring famine relief in UNITA-held territory.

Fourth, it has refrained, at the request of the U.S. administration, from bombing rebel positions in Jamba and has voluntarily withdrawn troops from the Mavinga and Mucundi areas.

Fifth, the Angolan Government has adjusted to the announcement of discontinued military aid from the Soviet Union.

Sixth, the Angolan Government has seriously proposed a triple zero option. This includes no further importation of lethal military weaponry from any country if the United States, including South Africa, would agree not to grant additional lethal military aid to UNITA.

In spite of these concessions and acts of cooperation, the United States continues to provide UNITA with increased military aid and weaponry which are used against civilian urban population centers and have inflicted numerous civilian casualties including very many women and children.

It is, indeed, ironic that in the midst of great human suffering, incredibly large numbers of amputees, endemic hunger and famine, that considerable amounts of money are being used for destructive and not humanitarian purposes.

The following observations are pertinent:

First, significant geopolitical changes have taken place globally since 1985, when the Clark amendment which led to the resumption of covert aid to UNITA was repealed.

Second, the United States continues to make huge militaristic expenditures and to give lethal aid to UNITA in spite of the fact that famine and hunger are rampant there.

Third, the Angolan conflict has claimed an estimated 340,000 lives and placed at risk of starvation from war and drought, at least 1.9 million civilians. Military campaigns have also displaced an estimated 465,000 and severly disrupted agricultural production.

Fourth, the toll has been particularly heavy on women and children. For example, one child dies every 4 minutes thereby contributing to Angola having one of the world's highest infant mortality rates. Angola also has more than 50,000 amputees, most are women and children, again, among the highest in the world.

Fifth, because of its grave budgetary problems, the United States cannot afford to give financial support of approximately $60 million in lethal aid to UNITA and neglect important domestic program such as Medicare and education.

Sixth, finally the New York Times editorial of Thursday, October 11, 1990, gives further justification for this amendment. It pointedly asks, "Does it really make any sense to continue an aid program rooted in the strategic assumptions of a different era?" It concludes by starting that, "This is the deeper question that Congress and the administration have not yet begun to address."

This amendment, my colleagues, specifically addresses this deeper question and, therefore, calls for your support.

Mr. Chairman, significant and far-reaching changes have taken place globally since 1985, when the Clark amendment was repealed and led to the resumption in 1986 of covert aid to the Angolan rebel movement known as the National Union for the Total Independence of Angola [UNITA].

Paramount among these are the political and economic changes in the Soviet Union and Eastern Europe which have markedly diminished the Communist threat and have made somewhat irrelevant the role of the United States Government in combatting and containing communism in Angola.

It is, therefore, critically incumbent upon the United States to reevaluate the size, nature, and content of its foreign aid to geopolitical areas such as Angola, which it has supported when Russia was the enemy.

It is, indeed, ironic that the United States is making huge militaristic expenditures in a country like Angola where famine and hunger run rampant. This conflict has lasted without clear cut results for 15 years and has claimed and estimated 340,000 lives and placed at risk of starvation from war and drought, at least 800,000 civilians. Additionally, one child dies every 4 minutes thereby contributing to Angola having one of the world's highest infant mortality rates in the world. Angola also has more than 50,000 amputees, most being women and children, again one of the highest in the world.

Mr. Chairman the present rancorous debates in the U.S. Congress concerning the huge budget deficits which threaten national security, make it quite clear that the United States can no longer afford to give financial support to UNITA to the tune of approximately $60 million. National reconcilation cannot be accomplished by militaristic activities and posturing.

Initially, military aid was extended to UNITA to confront a Soviet-backed government and as a leverage to encourage the withdrawal of Cuban troops. Approximately 80 percent of the Cubans have left Angola with the remainder leaving by July.

Additionally, both the Soviet Union and the United States have indicated plans to continue their successful global efforts of cooperation by becoming actively involved in the fourth round of talks to be held in Portugal in efforts to achieve a lasting cease-

fire leading to constitutional changes in Angola which allow for free and fair multiparty elections.

Moreover, the Angolan Government has already made firm moves in that democratic direction and has also instituted merchanisms for a market economy.

Mr. Chairman, it is very difficult to justify continued lethal, military aid to UNITA in view of the fact that the Soviet Union is in agreement with a "zero-zero option" which advocates cutting military aid to UNITA from the United States and military aid to the Angolan Government from the Soviet Union.

This amendment, for which the support of my colleagues is sought, makes the basic assumption that U.S. foreign policy which supports military operations abroad should not be made and implemented covertly.

In essence, it specifically prohibits covert assistance in support of military or paramilitary operations in Angola unless the provision of that assistance is the openly acknowledged policy of the United States. The President of the United States must, therefore, publicly inform the United States Congress and the American people that the support of the United States Government for military or paramilitary operations in Angola is important to the national security and the United States Congress has expressly approved such assistance. According to this amendment no military and lethal aid must be given by the United States to UNITA until or unless this basic condition is met.

In closing, and in keeping with my opening remarks, the New York Times editorial of Thursday, October 11, 1990, raised a cogent and critical question with respect to covert aid to Angola.

The editorial pointedly asks. "Does it really make any sense to continue an aid program rooted in the strategic assumptions of a different era?" The editorial concludes by stating that, "This is the deeper question that Congress and the Administration have not yet begun to address".

This amendment, my colleagues, specifically addresses this deeper question and therefore calls for your support.

Mr. Chairman, I submit for the RECORD correspondence concerning this matter.

PRESIDENT OF THE REPUBLIC,
PEOPLE'S REPUBLIC OF ANGOLA.

His Excellency TOM FOLEY,
Speaker of the House of Representatives, Washington, DC.

His Excellency ROBERT H. MICHEL,
Republican Leader, House of Representatives, Washington, DC.

DEAR MR. SPEAKER AND REPUBLICAN LEADER: I am pleased to state that my Government immensely appreciates the decision of the House of Representatives of the United States of America to allow for an open debate regarding lethal military aid to UNITA, at a time when we are undertaking serious efforts in order to reach a lasting peace in Angola.

My Government is indeed very disappointed by the fact that the Bush Administration has adopted a hostile attitude in relation to the initiatives of my Government and the peace process, in spite of the various concessions and numerous meeting with high U.S. Administration officials. I would also like to highlight that we do not understand if the Bush Administration is truly interested in a negotiated solution and democracy, or if it intends to bring UNITA to power by way of force.

I am certain that you are aware that the Angolan Government is in an advanced phase of preparation regarding its reform program with the following objectives:

1. Holding of free elections within the context of a multiparty system.
2. Creation of a one man, one vote electoral system
3. Development of a market economy.
4. Encouragement of foreign investment.
5. Enacting amendments to our Constitution and their submission to debate before their approval, with the participation of all the national political elements including UNITA, as long as they demilitarize themselves under the framework of the development of a single National Army, which has been discussed during the direct contacts held in Portugal.
6. My Government, in a letter addressed to Congressman Anthony Beilenson, Chairman of the [House of Representatives] Intelligence Committee, manifested its favorable position regarding the "triple zero" plan so long as the United States, and its allies also agree not to supply more military aid to UNITA. This political initiative which I introduced will certainly be subjected to international verification.

In spite of these initiatives as well as others, the Bush Administration continues to ignore our pledge to reach a lasting peace and ceasefire, arguing that UNITA has been very "flexible" during the peace negotiations. The truth is that UNITA never discussed or negotiated in good faith. My Government has consistently presented serious proposals regarding peace and an acceptable cease fire. UNITA, on the other hand, has proposed such unrealistic and vague ideas that it leads us to question its sincerity. Because of its lack of sincerity, difficulties have arisen with respect to ending the war in Angola. Because of this, we are convinced that UNITA is much more interested in prolonging the war in furtherance of its hidden agenda. It is for this reason alone that UNITA seeks to obtain even more military aid from the Bush Administration.

I urge that you consider that the Angolan Government by itself cannot end the war, although it is its deepest wish. The Angolan Government needs to count on the collaboration and help of the United States Congress to put an end to the supply of arms to UNITA within the framework of the "triple zero" plan.

It is our feeling that if Congress were to give special attention to the Solarz or Dellums Amendments, you will certainly note that either one of these amendments will help the Angolan people to attain peace and minimize their suffering.

With respect to the issue of free elections within the context of a multiparty system, I would like to state that the Angolan Government is committed to holding them as soon as possible, once peace and stability have been attained. It would first be necessary to proceed with a census of the population and to implement all the necessary steps with regard to the preparation of the electoral process, despite the very complex committed to holding free and democratic elections, and, therefore, they will be organized accordingly.

Please accept the expression of my highest consideration.

JOSE EDUARDO DOS SANTOS,
President of the People's Republic of Angola.

PERMANENT MISSION OF THE PEOPLE'S REPUBLIC OF ANGOLA TO THE UNITED NATIONS,
New York, NY, October 11, 1990.

Re U.S. Lethal Military Aid for Unita.

DEAR REPRESENTATIVE: I urge your support for efforts to end U.S. lethal military assistance to Unita. Termination of military assistance will bring peace to Angola and end unnecessary bloodshed. Continued lethal military assistance only serves to delay progress in the Angolan-Unita direct peace talks and ignors my Government's efforts to reach a non-military resolution of our civil war.

The Government of Angola has instituted substantive structural reforms in pursuit of peace and democracy. The Angolan economy is moving toward a market-based model free of state subsidies and control. My Government has committed itself to the formation of a constitutional multi-party democracy in Angola and has made numerous other concessions. To continue U.S. lethal military assistance to Unita undercuts our serious efforts and suggests a lack of commitment to finding a peaceful solution to our war.

The military conflict in my country which the United States has funded has resulted in the loss of many lives. Innocent women and children have been maimed and injured by Unita attacks and land mines. Angola presently has the highest per capita amputee rate in the world due to this reckless destruction and guerrilla warfare. The people of Angola deserve peace and my Government is sincerely committed to peace.

In pursuit of peace we have requested that the Bush Administration support the so-called "triple-zero" option. My Government is committed to making no new purchases of military supplies from the Soviet Union, or any other country, provided that, of course, for our army if the U.S. discontinues its delivery of military supplies to Unita. My Government made this commitment in writing to the Chairman of the House Intelligence committee and is committed to implementing such an agreement upon receipt of the Bush Administration's commitment to the "triple zero" option. To date, the Bush Administration has not embraced this important compromise but has persisted in its effort to continue major funding or lethal military assistance to Unita. We believe, therefore, that a Congressional decision to discontinue covert military assistance would send a strong signal of America's desire for permanent peace in my country.

On behalf of my Government, we respectfully urge your support of the efforts of Congressman Dellums, Dymally, Hamilton, Richardson, and Solarz, to change U.S. policy on providing assistance to Unita when their amendments to the Intelligence Authorization Bill are considered.

If you have any questions or desire any additional information, please feel free to call me at 212/861-5656 or contact our Washington representative, Robert B.

Washington, Jr., Esquire at 202/857-4017. Thanking you in advance for your careful consideration, I remain,

Sincerely,

MANUEL PEDRO PACAVIRA,
Permanent Representative for Angola to the United Nations.

SUMMARY POSITION OF THE GOVERNMENT OF ANGOLA REGARDING INCREASED LETHAL MILITARY AID TO UNITA REBELS, OCTOBER 10, 1990

BACKGROUND

1. War since independence: Since gaining its independence from Portugal in 1975, Angola has been engaged in a war between the Government and the National Union for the Total Independence of Angola ("Unita").

2. Government agreed to Cuban troop withdrawal:

a. On December 22, 1988, the Government of Angola (the "Government") agreed to sign a Tripartite Agreement as the result of prolonged talks between Angola, Cuba and South Africa mediated by the U.S. The Agreement between Angola, South Africa and Cuba provided for the withdrawal of all Cuban troops from Angola; South African widthdrawal from Namibia; free elections and independence for Namibia; and termination of South African military aid to Unita.

b. South Africa continues to supply major arms and other military equipment to Unita through Zaire. The Government continues to protest these violations of the Tripartite Agreement and has called these violations to the attention of representatives of the Administration.

3. Angolan Government concessions: President Jose Eduardo dos Santos has reached out to the U.S. and, after consultations between governments, has agreed to: (i) the withdrawal of Cuban troops; (ii) the establishment of an open market economy with private ownership of businesses and land; (iii) a cease-fire and face-to-face negotiations with Unita to end the civil conflict; (iv) internationally supervised open elections, universal suffrage, the principle of "one man-one vote" and the right of independent candidates to stand for elective office; and (v) revision of the Angolan Constitution to permit a multiparty political system pursuant to a public referendum.

4. Cooperation on famine relief. The Government has expedited international famine relief to Unita-held territory by inviting a UN census; agreeing to a UN delivery plan; and permitting cross-border deliveries through Namibia to Southern Angola by non-governmental international relief agencies.

5. Offensive against rebel positions delayed. At the request of the Administration the Government refrained from continuing to bomb rebel positions in Jamba and has voluntarily withdrawn its troops from the Mavinga and Mucundi areas although these areas are of strategic importance to the rebels and are sources of resupply.

6. Peace negotiations underway. The Government has participated in good-faith in four rounds of face-to-face peace negotiations using a format similar to that used in Namibia. The Government and Unita have exchanged peace proposals and have invited the U.S. and U.S.S.R. to observe and participate under the auspices of the Portuguese government. Unita continues to insist that it be recognized as a legitimate opposition political party before even a cease-fire is put in place. The Government believes a multiparty system must follow constitutional changes and a popular referendum but is willing to grant Unita recognition as part of a comprehensive peace agreement.

7. U.S. recommends increased lethal military aid to Unita. Only the U.S. refuses to recognize the Government of Angola. The U.S. continues to supply approximately $80 million in covert lethal military aid to the Unita rebels through secret defense appropriations and the CIA contingency fund. Despite important concessions made to the U.S. by the Government, the Bush Administration has reportedly requested increased covert military assistance to Unita for fiscal 1991, and the House Intelligence Committee has approved additional aid.

8. U.S.S.R. to discontinue military aid. The Soviet Union, which previously supplied weapons to the Government, has announced that, in the interest of resolving this conflict, it will discontinue all such supplies.

9. Pledge to import no new arms. The Government has proposed a "triple zero option" in which it would agree to import no new lethal military weaponry from any country if the U.S. and its key allies including Saudi Arabia, South Africa and Zaire would agree not to grant additional lethal military aid to Unita. To date, neither the Bush Administration nor its allies supporting Unita have agreed to this proposal.

B. POSITION

The U.S. should discontinue covert lethal military assistance to Unita in order to: (i) promote a peaceful resolution of the Angolan Civil War; and (ii) promote closer U.S.-Angolan relations and cooperation.

C. RATIONALE

1. U.S. actions could undercut the peace process. Continuing U.S. military aid undercuts the ability of both the Government and Unita to negotiate peace. Unita has side tracked cease-fire discussions in order to maintain additional military support. Despite numerous promises to President dos Santos by the Administration that specific conciliatory actions will lead to upgraded relations with the U.S., relations have not improved and military support for the opposition is actually increasing. The U.S. Administration's response to the Government's initiatives do not encourage further concessions by the Government or the peace process.

2. U.S. weapons kill civilians. U.S. weapons are being used increasingly against civilian urban population centers including: public buildings, utilities and highways. Huge numbers of civilian casualties have been inflicted by U.S. weapons including large numbers of women and children in an attempt to undermine popular support for the Government.

3. Government concessions ignored. The Government has made most of the significant concessions requested by the U.S. and a process is underway which may lead to settlement of disputes and early elections. Increased levels of lethal military aid in the face of these constructive developments is inconsistent foreign policy and is not in the best interests of Angola or the U.S.

4. U.S. action prolongs conflict. U.S. military assistance which could approach $100 million in FY 1991 (if the Administration's request is granted) continues to prolong the process of the peaceful resolution of the conflict. These resources could be used more productively to end economic suffering and famine, or assist in drought relief.

5. U.S. and U.S.S.R. can create peace. The U.S.S.R. has offered to discontinue its arms shipments to the Government and believes superpower involvement in this regional conflict should cease immediately. The U.S. has a golden opportunity to work constructively with the U.S.S.R. create peace, stability, and strengthen an important trading partner in Southern Africa.

6. U.S.S.R. domination no longer a threat. Given the changes in the world political structure, the U.S. can no longer justify a policy that promotes Africans killing other Africans in the name of ending Soviet world domination.

7. Elimination of aid would encourage Unita to negotiate in good-faith. Elimination, or a decrease in U.S. assistance to Unita, would create a strong incentive for Unita to bargain in good-faith for a cease-fire and peaceful resolution, rather then expending its resources in a domestic U.S. public relations campaign.

Please telephone Robert B. Washington, Jr., Steven Pruitt or Marc J. Scheineson at (202) 857-4000 if you require additional information.

Mr. DYMALLY. Mr. Chairman, I would say to my friend, the gentleman from Illinois [Mr. HYDE], I do not want to abolish the Committee on Intelligence, because my friend is chairman. Given the youthfulness of the chairman of the Committee on Rules, Mr. BEILENSON will never become a chairman unless he keeps this one, so for that reason, I want to keep him as chairman. I do not want to abolish it.

Mr. Chairman, I want to thank the chairman of the Committee on Foreign Affairs for bringing to our attention the fact that we may be here for Christmas. In California we have become very sophisticated. We call it the mail vote. But I do want to go home for Christmas. After Christmas I want the gentleman from Indiana [Mr. BURTON] and the gentleman from Illinois [Mr. HYDE] to visit Angola and see these maimed children with me, so we can have some compassion and bring an end to this war.

Mr. Chairman, we are debating the cold war on this floor. That is not the issue. We missed the point. The point is to have open debate on this subject matter.

My good friend, the gentleman from Illinois [Mr. HYDE] may have inadvertently done a disservice to the dedicated, able and loyal staff of the Committee on Intelligence by suggesting that the gentleman from California [Mr. DELLUMS] should go to them to find out about the food corridors. The fact of the matter is, if we went to them, they would tell us the Red Cross has approved the food corridors, that the State Department knows about the food corridors. My good friend, the eloquent gentleman, the distinguished gentleman from Illinois [Mr. HYDE] may have made a good case of why we should have open debate on this subject and not depend on covert information, because he has given to this House inadvertently wrong information, as a member of the very impor-

tant and prestigious Committee on Intelligence.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. DYMALLY. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I could not hear the gentleman. He said I gave the House wrong information. Would the gentleman tell me what that was?

Mr. DYMALLY. Reclaiming my time, the gentleman suggested to the gentleman from California [Mr. DELLUMS] that if he really wants to find out about the food corridor, he should go to the staff, and he implied that the food corridors were not open.

Mr. HYDE. Mr. Chairman, if the gentleman will yield further, I assert that they are starving to death in the UNITA section because Zambia—I said Zaire, but I meant Zambia—and Namibia will not permit food to come in without Dos Santos' OK, and he has not given it.

Mr. DYMALLY. Mr. Chairman, that is not true. That is the point I am trying to make. The fact of the matter is, the State Department will tell you that the Angolan Government has given permission, and the Red Cross has certified it. That is the wrong information, which prompts me to suggest that we need to have open debate on these matters, that we cannot trust the gentleman with this kind of important information.

Now, having said that, let me say this: We ended the war in Nicaragua, not because we had covert aid, but because this Congress, in open debate, stopped the aid. As a result of stopping the aid, we were able to have free elections.

We are asking Angola to have free elections while we supply aid. If we really want to have free elections, we ought to stop the aid. The fact of the matter is, let us stop fighting the cold war in the Halls of Congress.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. DYMALLY. It is always a pleasure to yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, we did stop the aid in 1976 for 10 years, and all that happened were the Communists got stronger and stronger and stronger. No democracy.

Mr. DYMALLY. Mr. Chairman, I am glad the gentleman raised that issue, because I had a note here and I passed over it. The South Africans were supplying the arms when the Clark amendment went into effect. As a member of the Committee on Intelligence, the gentleman knows that. The South Africans today are supplying arms.

The reason why UNITA wants arms, they want to do what the Contras tried to do, to have a separate and private army within the context of a coalition government. That is the reason why. But let us forget whether they are Marxists or whether they are rebels. Let us think about these children. Let us think about the people who are dying.

The gentleman from California [Mr. DELLUMS] made reference to the fact that as an African-American he is concerned about these children. It was suggested, and properly so, that this was not a question of race. But let me just say this: If you were an African-American, and you looked around the world, you would see my friend Mr. Baker shuttling back and forth to meet the Foreign Minister of the U.S.S.R. bringing peace to Europe, bringing peace to Asia, bringing peace to Latin America, and these two men cannot bring peace to Africa. What are you going to ask? What are you going to say?

□ 1800

All over the world peace is coming to the forefront, and in Africa thousands of people are dying because of bombing, thousands are dying because of famine, thousands are maimed because of bombs from both sides. I am not putting blame on just us.

Mr. HYDE. If the gentleman will yield, Afghanistan is not in Europe, it is not Latin America. Afghanistan is a very ethnic country. There is a lot of bombing and killing, and a lot of children with legs off, and it is because the Soviets still have dreams of empire. They are there still, they are pouring more in as they are in Angola.

The CHAIRMAN. The time of the gentleman from California [Mr. DYMALLY] has expired.

(By unanimous consent Mr. DYMALLY was allowed to proceed for 5 additional minutes.)

Mr. DYMALLY. Mr. Chairman, the gentleman from California [Mr. DELLUMS] and I are African-Americans. We are not Afghanis. So let me say this, it is a matter of concern to 30 million African-Americans who are concerned about this misery, this suffering, and that is what we are trying to address here today. If we could do this without this amendment, then we should do it.

Why could not Mr. Baker and Mr. Shevardnadze arrange an agreement to stop arms on both sides? By the way, the gentleman keeps saying that the Russians are pouring arms into Angola. For God's sake, Angola is the legitimate government. They must defend the integrity of their system and their turf. They are not rebels.

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. DYMALLY. I am glad to yield to the gentleman from Michigan.

Mr. WOLPE. Mr. Chairman, I just want to say that the gentleman's last question he raised is a very important one about the possibility of the Soviet Union and the United States jointly agreeing to stop the flow of arms.

I think it should be emphasized in the course of this debate, by those who have expressed concern, that if we stop and then they do not, then there is an unfair advantage here. The Soviet Union right now, by everyone's acknowledgment, is providing greater amounts of assistance than the United States, and has publicly stated and in private diplomacy as well has made absolutely clear that they are prepared to stop all arms flows whatsoever to the Angola Government if we do the same to the forces of UNITA.

So as a matter of public record there is discussions in the Soviet Union and negotiations, and I thank the gentleman.

Mr. DYMALLY. The gentleman and I have agreed on one thing, and that is that we need to have peace.

The difference between the gentleman from Indiana [Mr. BURTON] and the gentleman from California is how do we get there. Why do we not just stop the arms, period?

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. DYMALLY. I am glad to yield to my friend, the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, the gentleman made a statement that the Government in Luanda, the Communist MPLA, is the legitimate Government of Angola. The fact of the matter is they seized power out of the barrel of a gun, in violation of the ALVOR Agreements. The gentleman well knows that, and that is one of the reasons why this conflict is going on right now.

The other thing I would like to set straight is that the Soviet Union this year is sending $500 million in additional aid into Angola, and there is a stockpile of weapons, some estimated as high as a 10-year stockpile of weapons that the Communist have.

Let me just say we want this resolved. I think this debate probably has gone on long enough. But I would just like to end up by saying one more thing.

Mr. DYMALLY. If I can reclaim my time, we took this country from the barrel of a gun from the British. I mean what is new?

But let me just say to the gentleman, every country in the world recognizes Angola but the United States and South Africa. By the way, we are in company with South Africa.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. DYMALLY. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I think the gentleman has hit on a great idea: Stop the arms and reduce the armaments inside the country. I am told

the Cubans have left an awful lot of arms behind them.

Mr. DYMALLY. Indeed.

Mr. HYDE. They have a stockpile for 15 years. Let us get them out, have an internationally supervised ceasefire. We could do it tomorrow.

Mr. DYMALLY. So could I get a commitment from the gentleman that he will be on this floor today urging the United States Government to cease the arms flow while I join with the gentleman from California [Mr. DELLUMS] and urge the Russians to cease their arm flow.

Mr. HYDE. We can urge together, and I hope you are as successful as I am.

Mr. DYMALLY. I thank the gentleman.

Mr. Chairman, let me just say in conclusion that the Angolans have agreed to phase out the Cubans and about 80 percent have left. They have agreed with the United States to have an open market economy. They are working closely with the United Nations. They have refrained from bombing certain territories at the request of the U.S. Government. They have agreed to discontinue receiving aid from the Soviet Union. They are in support of the triple zero option proposal and, indeed, they have shown every bit of good faith in communications with Mr. MICHEL, with Mr. FOLEY, with the chairman of the Intelligence Committee, with the State Department, and others. They have done everything conceivable.

What we are asking to do is to stop the arms so that we can sit down and talk about peace. Let us save the children.

Mr. SMITH of Florida. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, we have a fascinating and a very relevant debate going on, and I want to thank the gentleman from California for having proposed this amendment in the first instance.

As someone who was a proponent of aid to the contras, but not until the President made it overt instead of covert, I understand what the gentleman is attempting to do, and I support him in attempting to have an overt discussion, which of course we are now having, even though this is covert aid. We are back in that mode again.

The problem with this is we are seeing the vestiges of two enormously compatible political philosophies fighting each other because on the one side the philosophy which governed the Government of Angola, the Marxist-Leninist theory, has crumbled in most places but Angola, and on the other side the Maoist theory of communism has been rejected by the leader of UNITA, or at least we think so, and we would like to hope so.

So here we have two places, one which is bankrupt because that on which it was founded is gone, and the other having rejected as bankrupt that which it originally believed in trying to get power in a country on a permanent basis.

We have been involved in that fight, so far on the side of the UNITA rebels. Would it be right for us to be involved in this fight? Yes, because we are trying in Angola, as in other places in Africa, to bring peace and democracy.

Is it right to do it overtly? Yes. We should not have covert operations if we believe in that which we are trying to achieve. We should be doing it out in the open, and it should be subject to debate.

The only real issue, procedurally, with the gentleman's amendment that can be legitimately attacked is the problem of the time frame. If this had been on the floor 6 months ago, I frankly probably would have been a supporter, because subsequent, had the amendment passed, we could have in fact had this discussion out in the open and made a decision to continue the aid or not to continue the aid.

But we are not faced with that. We are faced with the reality, because I subscribe to what the gentleman from Illinois has said with reference to what weaponry is available inside the country. I also subscribe to what the gentleman from California [Mr. DYMALLY] has said, because there are children dying. It is a terrible shame, and I am not an African-American, and I would not like to see any more children die.

The problem is how do we stop it all, not piecemeal? How do we just stop it instead of slowing it down and another 15 years elapses before we have a conclusion?

We have all agreed, those proponents and those opponents of this amendment, that the parties have come much closer. Mr. WOLPE, chairman of the Africa Subcommittee, whose knowledge and intelligence and capability on this issue both sides support and commend, has said that on the one hand Dos Santos has said they want multiparty elections. Mr. Savimbi has said he wants a government to engage in negotiations to come to multiparty elections. We are really getting closer, if the pronouncements are to be believed.

The question is: Having come this close, having had pronouncements from both sides, having seen that the Soviet Union is enunciating, as the proponents of this amendment have said, that they are going to withdraw their support, having seen the Cubans are leaving Angola in large numbers due to what we have attempted to negotiate with them and the Soviet Union, is it now really, at this moment, right now, is it smart or precipitous to end the aid?

□ 1810

There really is not much more of a question here. Is it smart right now for furthering our foreign policy purposes to bring peace to Angola, to bring a multiparty election, no matter who wins? Because nobody here has talked about trying to influence the elections. No matter who wins, let the people of Angola make up their minds.

Or is it precipitous? Because once having removed that underpinning of support from Mr. Savimbi, we leave him in a terribly disadvantaged position, the person on whom we have pinned our hopes to bring the Dos Santos government to the table to negotiate those free, multiparty, open elections.

I watched last night on channel 3 here in Washington, if anybody else saw it, a small piece on the children in Africa including the children of Angola. The tragedy cannot be described from this well in adequate terms. To watch those children crawling because their legs have been blown off, you cannot describe it. You cannot, in good conscience.

The CHAIRMAN. The time of the gentleman from Florida [Mr. SMITH] has expired.

(By unanimous consent, Mr. SMITH of Florida was allowed to proceed for 2 additional minutes.)

Mr. SMITH of Florida. Mr. Chairman, you cannot, in good conscience, want this to continue, but the question resolves itself again.

If we now at this juncture, at this moment, cut it off, will we be confining scores, hundreds, thousands more of Angolan children, innocent children to the same fate as their older brothers and sisters? Or do we just give it that little bit extra and pray to God that we are doing the right thing?

Unfortunately, I must disagree with my very dear friend, and I want him to know that I am a very significant admirer of his capability and his intelligence, the gentleman from California [Mr. DELLUMS], it is not the right time. We have to give this last shot at it a chance to work, and it will not work, if we disable the one party right now.

But I will join with the gentleman, I tell him from this well, if we do this, defeat this gentleman's amendment and the Solarz amendment and 6 or 7 months from now we have gone nowhere and/or Mr. Savimbi does not live up to what he claims is his goal now, then I will join with the gentleman not only to make this overt, but, frankly, to end it.

I believe that at this moment we would be precipitous and acting against the interests of all of the people of Angola to leave Mr. Savimbi in a disadvantaged position, and that is, frankly, where I come down as an individual who cares about what happens for the future children of Angola.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I am happy to yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, first of all, let me compliment the gentleman for a very thoughtful presentation, clearly heartfelt.

The CHAIRMAN. The time of the gentleman from Florida [Mr. SMITH] has again expired.

(At the request of Mr. DELLUMS, and by unanimous consent, Mr. SMITH of Florida was allowed to proceed for 2 additional minutes.)

Mr. DELLUMS. If the gentleman will yield further, Mr. Chairman, I understand the logic and the politics of the gentleman's statement.

First of all, I appreciate the fact that when the gentleman looks at our amendment he said, frankly, there is nothing wrong with the amendment except the issue of timing, because you know that this amendment raises the issue of process. It also raises the substantive question by inference as well.

The gentleman pointed out that if it had come 6 months ago, he and I may have been standing here advocating the very same position.

The problem is that the gentleman and I do not have control over the process here, and there are a lot of bills that come 6 months late, and that is a frustration that we all have, whether we are Republicans or Democrats, or wherever we fall on the scale. We have no control over that process.

But coming to the last point the gentleman made, he said, and he came down to the judgment, is it smart or is it precipitous, and he made the judgment that it is precipitous, and I respect that.

I do not challenge it, except simply to say that I come to a different conclusion. I come down saying it is not precipitous. I come down saying that I believe that it is smart.

We operate around here on the basis of sending signals, sending messages. The signal that I would like to see in this great Nation, is that by ending aid and coming forward in an open kind of fashion if, indeed, it is necessary, sends two messages. First, we believe in openness and democratic principles, but more importantly, we are saying to the parties there that no longer will we support military involvement, come to the table and negotiate.

Finally, I would say that my colleague knows the tragedy of this discussion is covert aid. If it does not work, you can always go covert again, and maybe this time it would not be on the front page of the Wall Street Journal.

Mr. SMITH of Florida. Reclaiming my time, the gentleman is right as to the last point. They could always go covert again.

Frankly, it would not. We know the process, as well.

Secondarily, let me just say we can come to different conclusions, and while the gentleman and I agree completely on the South African issue, many of our colleagues disagree, and yet we turned out, I believe, to be right.

I do not condemn them for their belief, because I think they thought it might turn out a different way.

I believe, however, on this issue that the next few months is the turning point for the future of Angola, and we would be doing harm to American foreign policy.

The CHAIRMAN. The time of the gentleman from Florida [Mr. SMITH] has again expired.

(By unanimous consent. Mr. SMITH of Florida was allowed to proceed for 1 additional minute.)

Mr. SMITH of Florida. We would be doing harm to American foreign policy, which has brought us to this point, as seemly as it may have been over that period of time, and no one can defend what has happened to the people and the children of Angola, but as seemly as it is, it has brought us to this point. It has brought us to both sides saying, "We are ready to negotiate multiparty elections."

I do not believe at this point we should sacrifice that 15 years' worth of time and the money we have spent which pales in comparison to the blood and the loss that has been felt and sustained by the people of Angola. I believe we owe them that commitment to see it through a few months more, and hope to God that it works.

Mr. PAYNE of New Jersey. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment. I have listened very carefully, and there is not very much new that can be added to this discussion.

I simply, at times during the discussion, thought that I was back in 1952 at the hearings of the McCarthy era when we were trying to weed out the Red tide, or in 1960 when Mr. Nixon and Mr. Khrushchev and President Kennedy were arguing about burying democracy with communism. This is the only place I have heard from this antiquated discussion about the Communist threat of anywhere left in the United States other than here as we relate it to Angola.

It is really time to stop the disgraceful history of foreign military internvention in Angola. The Angolan people suffered 500 years of foreign colonial subjugation that denied them not only basic human rights, but attempted to deny them human dignity as well.

Portugal was the last European power to grant independence to its African colonies. Throughout the entire decolonization process the United States really did very little to help emerging nations in Africa and supported the colonialists from Europe because they were our NATO allies. The armed struggle against the Portuguese began in Angola in 1961 and lasted for 14 years. Unrest in Portugal provoked a coup d'etat in Lisbon in 1974 and the new government withdrew the support from its colonies in 1975, and withdrew from its colonies of Mozambique, Guinea-Bissau, Cape Verde, and Angola.

The United States chose Holden Roberto and the National Front for the Liberation of Angola [FNLA] to support over the MPLA and UNITA, at that time. But here in 1990 we are still engaged in covert aid to Angola to the tune of $60 million, it is suggested, but at the same time, we are supporting UNHCR to care for Angolan refugees in Zambia. That makes no sense. We could take that $60 million and have it so for underdeveloped nations to help them with their economic development or for our domestic programs or even to reduce the debt as we have heard talked about so much during these past 3 of 4 days.

A disproportionate number of citizens, mostly women and children, have been maimed because of the tactics of land mines in Angola.

Last year Rev. Ben Chavis and the former medical director of the city of Newark, NJ, where I reside, Dr. Troutman, traveled to Angola and arranged for some children crippled by UNITA land mines to come to Newark to be fitted with artificial limbs at the University of Medicine and Dentistry of New Jersey. There are currently 50,000 amputees, as we know.

□ 1820

There are currently 50,000 amputees, as we know. But recently, at a hearing held in the Committee on Armed Services room, the Soviet Chief of Staff told Gen. Colin Powell that the Soviets were ready to cut off arms to Angola the next day, he said, if the United States was willing to stop its aid to UNITA.

Let me also make one thing clear, that the aid has not been grants to the Government of Angola. Weapons and arms have been purchased. They are not grants like we have been doing for UNITA. Therefore, I am strongly urging that at this time we cut off the aid. The people of the government have agreed to have the Cubans leave Angola. They have agreed to multinational parties. They have agreed to allow Mr. Savimbi to participate in the elections. They have agreed to have a market economy. They have agreed to recognize UNITA. I think that at this time we ought to end the aid. We should work toward having a settlement.

Finally, there has been talk about the suspension of discussions in Lisbon. The reason for suspension of discussion in Lisbon at this time between MPLA and UNITA is the Central Committee will be meeting in Angola on the 25th and 26th of this month, and they are in the process of discussing what is happening in Lisbon at the peace talks, and will immediately resume discussions in Lisbon after the party meets in Angola in the next few days. So this is not an attempt to end the discussion of peace talks in Angola and Lisbon, but I think that we should strongly support this resolution.

Mr. HOYER. Mr. Chairman, I move to strike the last word. I will not take a full 5 minutes. I know all Members will be happy to hear that. I have a prepared statement that I have read and everything in it has been stated.

Clearly, this is a contentious issue. Just as clearly it is a serious issue. I rise in support of the amendment offered by the gentleman from California. As those Members on this floor know, the gentleman and I do not always agree on issues of international security. I tend, as he reminds me from time to time, to be more hawkish than he. However, as I have considered the issues relating to United States funding one side or the other in civil wars, in my observation, for example, in Nicaragua with respect to funding, the former Speaker of this House, Jim Wright was instrumental in bringing about a peaceful resolution. Subsequently a vote in Nicaragua which resulted in the victory of democracy, makes a persuasive argument that at some point in time withdrawing aid may, in fact, further the peace process in Angola.

I, therefore, rise in support of the amendment of the gentleman from California. I agree with him as well, and with others who have spoken eloquently on this floor, that it is time to give a chance to the innocent in Angola. I understand very well what the gentleman from Illinois says, that there is much wrong, perhaps on both sides. I also agree with my friend from Illinois very strongly that those who lead in the name of Communist dictatorships do not deserve the support and comfort of the United States, which believes that it is not in the best interests of the overwhelming majority of people. However, it has been my observation that we have supported this policy for some period of time, and the gentleman's amendment is worth a chance, in my opinion, worth a change in policy, reaching out to make a change which may well result in both sides moving. I hope that is the case.

Mr. Chairman, today I rise in support of the amendment offered by my colleagues, Congressmen DELLUMS, DYMALLY, and HAMILTON, to prohibit covert aid in fiscal year 1991 to the National Union for the Total Independence of Angola more commonly known as UNITA. I commend them for their dedication and commitment in recognizing that the United States needs to change its policy toward Angola.

Mr. Chairman, the situation in Angola has generated a lot of debate and has proven to be an extremely contentious issue. There are those who believe that any group who claims to fight for democracy deserves our support and the lethal aid of this country despite the obvious fact that current U.S. policy has failed.

It has been 4 years since Congress sustained President Reagan's policy of giving covert lethal aid to the anti-government UNITA rebels. At that time the chairman of the Intelligence Committee, Mr. HAMILTON, inserted language into the intelligence authorization bill prohibiting aid to the UNITA rebels unless it had been publicly debated and approved by Congress. Unfortunately, that language was stricken from the bill by those who felt the language restricted the authority of the President. I supported the committee chairman's language to restrict aid to UNITA then, and I support the language now.

The death toll in Angola as a result of the war and famine has now reached over 500,000. The United Nations estimates that close to 2 million people are at risk of starvation due to the conditions of war and the obstacles restricting food delivery and relief. In addition, Angola has the highest amputee rate in the world with over 50,000 amputees, mostly women and children who frequent UNITA's landmine target areas such as schools and agricultural areas. Surely this type of death and destruction is not what we should be financing.

Mr. Chairman, United States policy directed toward installing a democratic government in Angola has been unsuccessful. It is patently obvious that the cold war policy is outdated and the real impediment to achieving peace in Angola is the continuation of aid to the UNITA rebels. Last year UNITA's leader Jonas Savimbi violated the terms of the Gbadolite summit peace initiative and cease-fire agreement mediated by 18 African heads of state and the Organization of African Unity. Continuing aid to UNITA gives Savimbi absolutely no incentive to agree to any future cease-fire or peace agreements. In fact, some of the nations involved in negotiating the peace settlement maintain that UNITA is the principal obstacle to obtaining peace.

The Angolan Government has recently made significant progress toward improving relations with the United States and toward initiating peace; 38,000 of the Cuban troops stationed in Angola have been withdrawn and the remaining 12,000 are to be sent home in July. The Soviet Union has significantly reduced aid to the Angolan Government and has agreed to immediately halt aid when United States funds to UNITA are cut. In addition, Angola has taken steps to espouse a multiparty system and is offering concessions to UNITA to prepare for free and fair elections, the very same principles for which UNITA has supposedly been fighting for the past 16 years.

Mr. Chairman, Jonas Savimbi and his UNITA rebels have not demonstrated a willingness to negotiate for a peaceful resolution to this long and bloody conflict. It is time for the United States to realize that the only effective means to negotiate a settlement is for all parties involved to stop financing this carnage. How dare we ask our constituents to finance the atrocious and brutal crimes committed by Jonas Savimbi and UNITA to the tune of $60 to $80 million. I must quote the executive director of the Washington Office on Africa, Aubrey McCutcheon III: "If the United States would be so quick to rush money and weapons to continue a war against a country already agreeing to adopt both democracy and free enterprise, if the resulting war victims were white." The answer, I think, is no. Mr. Chairman, I strongly urge my colleagues to support for the Dellums, Dymally, Hamilton amendment.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I am happy to yield to the gentleman from Illinois.

Mr. HYDE. Will the gentleman tell me how, if we stopped aiding UNITA, that will move the Soviets to stop aiding the MPLA?

Mr. HOYER. Let me observe that I believe the Soviets have started to do that, No. 1. No. 2, I think the Soviets would very frankly, in my own view, like an excuse to stop sending money because they are getting dead flat broke as we all know. Their policies have radically changed.

I do not stand here as a proponent or apologist for policies of the United States that I do not agree with, but in point of fact we know there has been a very dramatic revolutionary change which was talked to by our President in his speech to this Congress earlier this year. In the State of the Union he said a revolutionary change had occurred.

Mr. HYDE. I agree, and Mr. Gorbachev won the Nobel Prize. No, if he would just quit sending armaments in the millions to the Najibullah government which Communists imposed on the Afghans, and stopped spending $500 million so far this year to the dos Santos Communist MPLA, we could have peace in a hurry.

Mr. HOYER. Let me suggest to my friend from Illinois, with whom I have a great deal of respect and with whom I agree from time to time on a number of issues, let Members see what his response to this will be. Let Members see what the internal debate is on this when there is no longer the argument that they have to send money because the United States is sending money. I believe that that argument was certainly used with respect to Nicaragua. On that question, the gentleman and I probably disagree. As a matter of fact, I think that much of the buildup in Nicaragua was a result of the infusion of United States moneys. I know we disagree on that.

However, my suggestion is that the gentleman's amendment gives Mem-

bers a chance to test that. We can always change. We are going to be back here in the short term, and we can change that policy if we are incorrect. However, I think it is time to give that alternative a chance.

Mr. WEISS. Mr. Chairman, I rise in strong support of the Dymally-Dellums-Hamilton amendment to prohibit covert aid to the UNITA rebels in Angola.

This amendment would remove the mock secrecy which now shields our Angola policy from open public debate. We certainly don't call this policy covert because it's a secret. It has been openly acknowledged by two Presidents and gleefully promoted by an entire squad of conservative cheerleaders. No, this policy is covert only in the sense that it is not subject to public scrutiny.

This amendment would force the issue out of the recesses of the covert budget, and move it into the light, where it can be openly discussed just like any other foreign policy proposal.

I am convinced that once U.S. support to UNITA is subjected to this kind of open congressional debate, it will collapse under its own weight.

The Reagan administration originally justified this policy by reference to the global cold war struggle with the Soviet Union. Now that this justification no longer makes sense, the Bush administration has shifted gears. They argue that military aid to UNITA will somehow promote democracy and national reconciliation in Angola.

Yet with our aid, UNITA has launched military attacks against medical facilities; has attempted to starve civilians in the areas it controls; and has used land mines which indiscriminately maim both children and adults. Can anyone truly believe that democracy and national reconciliation can be achieved through such means? I hope not.

Mr. Chairman, the Reagan doctrine did not make any sense when it was first concocted. Today, it looks like a stubborn dinosaur refusing to acknowledge that the world has changed.

Let's put this foolish policy behind us, and help the outdated Reagan doctrine join its namesake in retirement. I urge my colleagues to support the Dymally-Dellums-Hamilton amendment.

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to the Dellums and Solarz amendments cutting off and restricting, respectively, aid to the anti-Communist UNITA forces in Angola. While I too would very much like to see the bloody civil war in Angola end through peaceful, negotiated means, I believe that will not occur if either of these well intentioned, but harmful amendments are adopted.

I agree that the world has undergone many incredible changes over the past year warranting changes in policy. Unfortunately, some places have yet to witness this new explosion of freedom and democracy. Angola is one of those still oppressed places.

Some claim our policy in Angola has not worked. They're wrong. They also said the same thing about our policy in Europe—which helped foster today's democratic revolutions—and Central America. History has proven time and again that only serious pressure forces Communist dictatorships to come to the negotiating table. Only serious pressures forces them to remain at the table and deal, and only serious pressure forces them to live up to the agreements they sign. Our support for UNITA provides that very necessary serious pressure.

Already, a lot of progress has been made in Angola. Under the sponsorship of the Portuguese, UNITA and the MPLA have met and have made considerable progress toward a cease-fire and free, democratic elections. Unfortunately, there is still a wing of the MPLA that believes UNITA can be militarily defeated and Angola can remain a repressive, one-party Communist state. They are looking for a sign of weakening support for UNITA and they will find it if we adopt either of these amendments. Once found, they will exploit it scuttling the efforts for a peaceful, negotiated settlement, thereby prolonging the bloodshed—just the opposite of what we claim we want.

Time is on our side. Unlike in the past, the Soviets are cooperating with us to achieve a peaceful, negotiated settlement. Yet, they do not fully control the Luanda government, meaning the MPLA, with its vast stockpiles of weapons, can still hold out for the military option some politbureau members want. It is key for us to keep UNITA strong and show that we back those struggling for freedom and democracy. We're almost there. Here in the last inning of the game we're winning is not the time to change strategy and risk a terrible loss. Let's finish the game. If these negotiations do fail and if the current Baker-Shevardnadze efforts are not successful, then and only then should we change our policy.

I am very strongly opposed to the Dellums amendment because it would give the MPLA everything its hardliners want and require nothing in the forms of freedom and democracy in return. I find it very strange that we are correctly willing to fight racial apartheid in South Africa, yet unwilling—as support for the Communist MPLA does—to fight economic and political apartheid in black African nations. With all of our support for freedom and democracy around the globe, I cannot believe that we're considering cutting off the chances for the Angolan people to achieve these basic human rights and condemning them to a gloomy, repressive future under harsh, Stalinist MPLA rule. That's what enactment of the Dellums-Dymally-Hamilton amendment would do.

We're on the verge of success, that means a cease-fire and free elections for the Angolan people who have been struggling hard at great sacrifice for this for the past 15 years. Let's not ruin this real possibility by adopting either of these amendments. I also welcome my colleagues to review the following letter I received from Secretary of State Baker which further reinforces in a very articulate and convincing way the dangers of these two amendments.

I urge my colleagues to vote for real peace in Angola and vote against both the Solarz and the Dellums-Dymally-Hamilton amendments.

THE SECRETARY OF STATE,
Washington, DC.

HON. ROBERT J. LAGOMARSINO,
House of Representatives.

DEAR BOB: You soon will be voting on H.R. 5422, the Intelligence Authorization Bill. As you probably know, several amendments are contemplated which, if enacted, would seriously hinder efforts to achieve a negotiated settlement to the conflict in Angola.

As you know, I am engaged in active diplomacy aimed at achieving a negotiated settlement. Foreign Minister Shevardnadze and I are seeking a negotiated settlement to the Angolan conflict. This is due in no small measure to Moscow's understanding, despite the enormous and continuing Soviet commitment to the Luanda regime, of American resolve on this issue. Likewise, some, but not all, MPLA leaders are beginning to realize that they cannot defeat UNITA militarily and must negotiate a settlement, despite the wishes of hardliners in Luanda who continue to seek a military solution. After four rounds of UNITA-MPLA direct talks facilitated by the Portuguese Government, our policy may be on the verge of success. For his part, Dr. Savimbi has been flexible and reasonable in his negotiating positions. Furthermore, he has been steadfast in his calls for free and fair multi-party elections in which UNITA is free to participate.

I firmly believe that Angola, like other regional conflicts, can be resolved through negotiations, if both sides have the incentive to talk and compromise. Our ongoing program is important to persuading the Angolan Government that a military solution to the conflict is not an option. I urge in the strongest possible way that you continue your solid support for this peace process by not endorsing legislative proposals which, although packaged as "compromises", actually would have the effect of undercutting those in the MPLA who want to negotiate and of strengthening the hand of the MPLA hardliners who want to continue the bloodshed.

Any imposition of conditional language will be taken by hardliners in Luanda as the ray of hope they have been looking for and long predicting. They will argue that the U.S. is preoccupied elsewhere, "short of breath," and willing to pull the rug out from under UNITA—and that there is thus no need for negotiations. This will only lengthen Angola's tragic war.

My view boils down to this: All Savimbi wants is a ceasefire and the ability to compete in fair and free multiparty elections. Some in the MPLA seem willing to move toward this peaceful, democratic approach as well. A vote to amend the Intelligence Committee's Angola provisions is a vote against this democratic solution at the absolutely worst time—and would be a vote for more killing, more stalemate, and more suffering.

Therefore, I ask that you strongly oppose any efforts to amend the Intelligence Authorization Bill with respect to Angola.

Sincerely yours,

JIM BAKER.

Mr. BROOMFIELD. Mr. Chairman, I rise in opposition to the Dellums amendment. I believe, as a majority of the committee does, that the best way to support peace, security, and freedom in Angola is to remain firm in our support for Dr. Savimbi and his freedom fighters.

For many years, we have heard the argument that support for UNITA would make the peace process impossible in Angola. That argument has been proven thoroughly and decisively wrong. Our policy is working—now is not the time to reward the hard liners in the

Communist MPLA government of Angola on the floor of the House.

As the Washington Post recently editorialized:

To pull the plug on a southern Africa policy that has succeeded in other aspects and now seems near succeeding in Angola is perverse.

There is no reason to vote against the bipartisan provisions in the bill before us—no reason other than undercutting the prospects for a cease-fire and free elections in Angola.

We have heard about allegations of human rights violations by UNITA but these allegations have been refuted by our own Intelligence Committee. We should not let the real issue be clouded by those who have always opposed UNITA.

Secretary of State Baker put it clearly in a letter to me this week:

A vote to amend the Intelligence Committee's Angola provisions is a vote against this democratic solution at the absolutely worst time.

I urge my colleagues to support peace and freedom in Angola, and oppose any amendments to the bill reported by the Intelligence Committee.

Mr. KENNEDY. Mr. Chairman, I rise today to express my strong opposition to reauthorizing covert assistance for the rebel movement in Angola. I believe that America's active involvement in this 15-year-old civil war has contributed to a prolonged conflict that has taken the lives of over 200,000 innocent Angolans. I believe that this policy is morally bankrupt, ineffective, and should be discontinued.

The United States has financially backed UNITA since the repeal of the Clark Amendment in 1985. When South Africa could no longer maintain its support for UNITA, the Reagan administration stepped in to coordinate a covert program to stem the Soviet and Cuban advantage in the region. Now, after 5 years of escalating this policy, the plan has yielded only entrenched civil war and economic disaster for all Angolans.

The nature of the conflict has since changed, making U.S. objectives less clear. To date, 80 percent of the Cuban troops have pulled out of Angola.

The Soviet Union has committed to eliminating all military aid to the MPLA government. And the MPLA government has obligated itself to real democratic reforms that would include UNITA as a viable political party.

Despite the ambiguities of our objectives, however, the administration has still insisted on an increase in covert assistance. Despite the fact that this war is responsible for the world's largest amputee population and the globe's most acute famine, Mr. Bush remains intent to continue this ideologically driven policy.

Mr. Chairman, this cold war knee-jerk reaction is archaic. Such a policy would only work against our long-term objectives in southern Africa, and against our human rights goals worldwide. It is a policy that is ethically wrong and one that should change.

The Dellums amendment, however, is consistent with Angola's progress toward peace. It would discontinue all lethal assistance to the rebels and eliminate any incentive they have developed to avoid any further negotiation. The amendments responds in kind to the Soviet's commitment to end arms shipments to the MPLA, and signals our commitment to a lasting peace. The Dellums amendment would bring the debate on aid into an open forum and force the President to deal with this matter squarely.

The American people have exhausted 5 years funding an unprincipled policy that has only worked to extinguish life in Angola. It is time that we support a policy that would work to preserve it.

I urge my colleagues to vote in favor of the Dellums' amendment and vote in favor of peace.

Mr. MOODY. Mr. Chairman, some speakers here today have told us: "Don't change United States policy in Angola—the Communist government is on the verge of collapse" or "Don't abandon the policy, it's about to succeed." These are not credible statements. United States policy has been successful "only if one is wiling to close your eyes to 14 years of incalcuable suffering in Angola.

Ask the Angolan children who have lost arms and legs by stepping on land mines that are placed along paths to the agricultural fields. Angola has the largest amputee population in the world. These children cannot tell you this policy is a success.

Ask the Angolan children who have lost both their parents in the war. This civil war has claimed 200,000 lives. They will not tell you current policy is a success.

The people of Angola have known only war for 29 years. First, the war was for independence from Portugal, then a factional conflict, then the 14-year war between the Government and UNITA. After these years of civil war, the Angolan people are deeply distrustful of both the Government and UNITA, and simply want peace. But they know it will not come easily. After 29 years, they know that more war and more foreign military aid is not the answer.

United States policy in Angola is not about to succeed. It is about to fail on a massive scale. Already 200,000 have died and many times that injured. Now 1.9 million people in Angola are at risk from the most severe famine in Africa, caused primarily by the lack of safe transport of foodstuffs due to the war. What is urgently needed to respond to the famine is a military cease-fire.

So the urgent question is how to best achieve a cease-fire. UNITA supporters make a paradoxical argument that the strongest pressure is on each side to reach a peace agreement by continuation of United States and Soviet aid. How can that be? Why do we think the fires of war would die as we continue to pour on gasoline? They wouldn't.

UNITA supporters make a second argument that a combined joint United States-Soviet cutoff would favor the Angolan Government over UNITA. How could that be? These are the same people who insist that the Soviets provide seven times the amount of United States aid. Why would a joint cutoff favor the Government? It wouldn't.

The real reason that UNITA supporters want to continue aid is because they think it will provide some military advantage that can be translated into bargaining leverage at the peace talks. As long as both sides in the war seek such leverage, there will be no peace. Both the Government and UNITA must abandon such tactics and commit themselves to a peace settlement. By cuting off United States and Soviet aid, we can strengthen the peace process.

In 1988, South Africa signed the Brazzaville accord and agreed to withdraw from Namibia and end lethal aid to UNITA. Since that time, the United States has filled the gap and become the principal sponsor of UNITA. According to a report of Africa Watch, causing incredible human suffering, both UNITA and the Angolan Government have engaged in gross violation of human rights. Under these conditions our country should not be funding either side in this way.

U.S. policy, in its current form does not promote peace. It is about funding, supplying, and conducting a war that has been waged largely against the civilian population of Angola. Today, we have an opportunity to end this policy. Please join me in supporting the Dellums amendment to end convert aid to UNITA or the Solarz amendment to condition it.

EXCERPT OF REPORT: "ANGOLA, VIOLATIONS OF THE LAWS OF WAR BY BOTH SIDES" BY AFRICA WATCH, DATED APRIL 1989

Africa Watch finds that:

UNITA and Angolan government forces (FAPLA) have engaged in gross violations of the laws of war causing deaths, injuries and great hardships to the civilian population.

UNITA has systematically and indiscriminately planted contact antipersonnel land mines in eastern Angola. Many are buried in footpaths to the fields or sources of water. Many civilians have been killed or maimed as a result.

FAPLA has engaged in the indiscriminate use of land mines in northern Angola. Some of these mines have been planted in the fields, and civilians have been killed or mained as a result.

UNITA has avowedly taken hundreds of foreigners as hostages for the express purposes of extracting concessions or recognition from their government, or for the purpose of exchanging them for UNITA prisoners held by the Angolan government.

UNITA has captured thousands of civilians and conscripted them to serve as combatants or to engage in unpaid agricultural labor.

The Angolan government has forcibly displaced thousands of civilians, in part to deny UNITA a social base.

FAPLA has indiscriminately attacked and killed civilians in UNITA dominated areas and has destroyed their homes.

UNITA has indiscriminately and deliberately attacked and killed civilians in government controlled areas.

UNITA has attacked medical facilities and burned civilian homes.

UNITA has attempted to starve civilians by capturing or killing civilians who tended their fields, by mining foot paths to fields, by sabotaging road transportation to cut off foods supplies, by cutting off food supplies to a town to "soften" it for attack, and by stealing food from the fields.

FAPLA soldiers in eastern Angola have stolen food from the fields.

UNITA has restricted the movements of civilians in areas that it occupies, confiscated food from them, and forced them to do unpaid labor for UNITA. In areas UNITA

has abandoned, its troops have threatened to kill peasants when it returned if they were found living with (that is, growing food for) FAPLA troops.

FAPLA has sought to control the movements of peasants in some areas through a system of "safe conduct" passes. In some cases, FAPLA has required peasants to be accompanied by its soldiers to the fields.

Some peasants have fled their land and homes and sought refuge across the border because they feared threats and interrogation by both sides.

Mr. DORGAN of North Dakota. Mr. Chairman, I rise in support of the Dellums-Hamilton-Dymally amendment, which would end covert aid to the UNITA rebels in Angola. This is the key change which we must make to the intelligence authorization bill.

This amendment takes an important step toward crafting a more constructive policy toward Angola. I realize that my colleagues have widely differing views about the political issues in Angola, but I want to emphasize the humanitarian dimension of this debate. I support the amendment as a necessary measure to prevent further civil war, which endangers the delivery of food aid to millions of people now threatened by famine.

The United Nations estimates that 1.5 to 2 million Angolans will be threatened by famine in the next 6 months, the "hungry season" in southern Africa. The vulnerable populations are located in contested zones, as well as in areas controlled respectively by the MPLA Government of Angola and UNITA.

As usual, hunger knows no politics.

RESPONDING TO THE THREAT OF FAMINE

And responding to hunger should also put politics aside. That's what the House did last month when we passed a resolution calling on both adversaries in the Angolan civil war to put feeding hungry people above winning military battles. The measure urged both sides to cease hostilities and engage in meaningful peace negotiations.

That process is beginning to work. Through the good work of the Agency for International Development's Office of Foreign Disaster Assistance, the United Nations, and the Red Cross, food is beginning to reach hungry Angolans living in all food-short zones.

Now it's our turn to show some statesmanship ourselves.

Unless the United States can muster the kind of creative leadership that it has recently exercised in Europe, the Angolan civil war will rage on and famine will reap its grim reward. We need not and must not let this happen. Instead, we must work with the Soviet Union to obtain an immediate and mutual cutoff of military aid to our respective clients.

Some argue that we should do nothing and let the present negotiations take their course. I understand my colleagues' desire to see that the MPLA does not gain a tactical advantage. But people threatened by famine cannot be patient and neither should we. We have waited for 10 years for the present policy of covert aid to UNITA to bear fruit.

CHANGING COURSE

Now it's time to change course.

I believe that ending covert aid entirely would enhance the prospects for peace and eliminate a major obstacle to the secure passage of food aid to all vulnerable Angolans. We ought to proceed to an unfettered debate on aid to UNITA and then decide in what context whether military aid in fact advances democracy, peace, and food security.

I likewise agree with our distinguished colleague and the former intelligence committee chairman, LEE HAMILTON, that open debate must precede any decision about further aid to UNITA. And it is in that manner that we should assess Soviet intentions toward its own client.

WEIGHING THE RISKS

Admittedly, this approach carries the risk that we will not convince the Soviets to end aid to their MPLA client. But the greater risk is subjecting some 2 million Angolans to hunger or starvation. I submit that ending covert aid is a risk we must take.

Let's test the Soviet willingness to join us in a common search for peace and famine prevention—as we have in Ethiopia. Let's help advance a negotiated settlement to the Angolan civil war and prevent the scourge of another African famine.

Please support the Dellums-Hamilton-Dymally amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. DELLUMS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DELLUMS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 175, noes 246, not voting 12, as follows:

[Roll No. 479]

AYES—175

Ackerman	Early	Lehman (CA)
Alexander	Eckart	Lehman (FL)
Anderson	Edwards (CA)	Levin (MI)
Annunzio	Engel	Levine (CA)
Anthony	Espy	Lewis (GA)
Applegate	Evans	Long
Atkins	Fazio	Lowey (NY)
AuCoin	Feighan	Luken, Thomas
Bates	Flake	Manton
Bellenson	Foglietta	Markey
Bennett	Ford (MI)	Martinez
Berman	Ford (TN)	Matsui
Bonior	Frank	Mavroules
Borski	Gejdenson	Mazzoli
Bosco	Gephardt	McCloskey
Boxer	Gibbons	McDermott
Bruce	Glickman	McHugh
Bryant	Gonzalez	McNulty
Cardin	Gray	Mfume
Carr	Hall (OH)	Miller (CA)
Clarke	Hamilton	Mineta
Clay	Hayes (IL)	Mink
Clement	Hefner	Moakley
Coleman (TX)	Hertel	Moody
Collins	Hoagland	Morrison (WA)
Condit	Hochbrueckner	Mrazek
Conte	Hoyer	Murphy
Conyers	Jacobs	Nagle
Costello	Johnson (SD)	Neal (MA)
Coyne	Johnston	Neal (NC)
Crockett	Jones (NC)	Nowak
de la Garza	Jontz	Oakar
DeFazio	Kanjorski	Oberstar
Dellums	Kaptur	Obey
Dingell	Kastenmeier	Olin
Dixon	Kennedy	Owens (NY)
Donnelly	Kennelly	Owens (UT)
Dorgan (ND)	Kildee	Pallone
Downey	Kleczka	Panetta
Durbin	Kostmayer	Payne (NJ)
Dwyer	LaFalce	Pease
Dymally	Leach (IA)	Pelosi
Penny	Serrano	Traxler
Perkins	Sharp	Udall
Poshard	Sikorski	Unsoeld
Price	Skaggs	Valentine
Rahall	Slattery	Vento
Rangel	Slaughter (NY)	Visclosky
Richardson	Smith (IA)	Walgren
Rostenkowski	Solarz	Washington
Roybal	Staggers	Waxman
Russo	Stark	Weiss
Sabo	Stokes	Wheat
Savage	Studds	Williams
Sawyer	Swift	Wolpe
Scheuer	Synar	Wyden
Schneider	Torres	Yates
Schroeder	Towns	
Schumer	Traficant	

NOES—246

Andrews	Gordon	Natcher
Archer	Goss	Nelson
Armey	Gradison	Nielson
Aspin	Grandy	Ortiz
Baker	Grant	Oxley
Ballenger	Green	Packard
Barnard	Guarini	Parker
Bartlett	Gunderson	Parris
Barton	Hall (TX)	Pashayan
Bateman	Hammerschmidt	Patterson
Bentley	Hancock	Paxon
Bereuter	Hansen	Payne (VA)
Bevill	Harris	Petri
Bilbray	Hastert	Pickett
Bilirakis	Hatcher	Pickle
Billey	Hefley	Porter
Boehlert	Henry	Pursell
Boggs	Herger	Quillen
Boucher	Hiler	Ravenel
Broomfield	Holloway	Ray
Browder	Hopkins	Regula
Brown (CO)	Horton	Rhodes
Buechner	Houghton	Ridge
Bunning	Hubbard	Rinaldo
Burton	Huckaby	Ritter
Bustamante	Hughes	Roberts
Byron	Hunter	Robinson
Callahan	Hutto	Roe
Campbell (CA)	Hyde	Rogers
Campbell (CO)	Inhofe	Rohrabacher
Carper	Ireland	Ros-Lehtinen
Chandler	James	Roth
Chapman	Jenkins	Roukema
Clinger	Johnson (CT)	Rowland (GA)
Coble	Jones (GA)	Saiki
Coleman (MO)	Kasich	Sangmeister
Combest	Kolbe	Sarpalius
Cooper	Kolter	Saxton
Coughlin	Kyl	Schaefer
Courter	Lagomarsino	Schiff
Cox	Lancaster	Schulze
Craig	Lantos	Sensenbrenner
Crane	Laughlin	Shaw
Dannemeyer	Leath (TX)	Shays
Darden	Lent	Shumway
Davis	Lewis (CA)	Shuster
DeLay	Lewis (FL)	Sisisky
Derrick	Lightfoot	Skeen
DeWine	Lipinski	Skelton
Dickinson	Livingston	Slaughter (VA)
Dicks	Lloyd	Smith (FL)
Dornan (CA)	Lowery (CA)	Smith (NE)
Douglas	Machtley	Smith (NJ)
Dreier	Madigan	Smith (TX)
Duncan	Marlenee	Smith (VT)
Dyson	Martin (NY)	Smith, Denny (OR)
Edwards (OK)	McCandless	
Emerson	McCollum	Smith, Robert (NH)
English	McCrery	
Erdreich	McCurdy	Smith, Robert (OR)
Fascell	McDade	
Fawell	McEwen	Snowe
Fields	McGrath	Solomon
Fish	McMillan (NC)	Spence
Flippo	McMillen (MD)	Spratt
Frenzel	Meyers	Stallings
Frost	Michel	Stangeland
Gallegly	Miller (OH)	Stearns
Gallo	Miller (WA)	Stenholm
Gaydos	Molinari	Stump
Gekas	Mollohan	Sundquist
Geren	Montgomery	Tallon
Gillmor	Moorhead	Tanner
Gilman	Morella	Tauke
Gingrich	Murtha	Tauzin
Goodling	Myers	Taylor

Thomas (CA)	Vucanovich	Whitten
Thomas (GA)	Walker	Wise
Thomas (WY)	Walsh	Wolf
Torricelli	Watkins	Wylie
Upton	Weber	Yatron
Vander Jagt	Weldon	Young (AK)
Volkmer	Whittaker	Young (FL)

NOT VOTING—12

Brennan	Hayes (LA)	Rose
Brooks	Lukens, Donald	Rowland (CT)
Brown (CA)	Martin (IL)	Schuette
Hawkins	Morrison (CT)	Wilson

□ 1847

Mrs. JOHNSON and Messrs. SKELTON, TORRICELLI, and GUARINI changed their vote from "aye" to "no."

Mr. VALENTINE and Mr. PRICE changed their vote from "no" to "aye".

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. BEILENSON. Mr. Chairman, I ask unanimous consent that all debate on the Solarz amendment be limited to 40 minutes, with the time to be equally controlled and divided by the gentleman from New York [Mr. SOLARZ] and an opponent thereto.

Mr. Chairman, I also ask unanimous consent that all debate on the amendment of Mrs. BOXER be limited to 60 minutes, with the time to be equally divided and controlled by the gentlewoman from California [Mrs. BOXER] and an opponent thereto.

The CHAIRMAN pro tempore (Mr. COLEMAN of Texas). Is there objection to the request of the gentleman from California?

Mr. BURTON of Indiana. Mr. Chairman, reserving the right to object, I do so only for the purpose of finding out what is going on. I cannot hear what is going on.

□ 1850

The CHAIRMAN. Will the gentleman from California [Mr. BEILENSON] repeat his unanimous-consent request?

Mr. BEILENSON. In a sense, Mr. Chairman, there are two unanimous-consent requests.

The two unanimous-consent requests were for a total of 40 minutes on the amendment offered by the gentleman from New York [Mr. SOLARZ], the time to be equally divided and controlled by Mr. SOLARZ and opponent thereto; and a total of 60 minutes, 1 hour, on the amendment to be offered by the gentlewoman from California [Mrs. BOXER], the time to be equally divided, half of it to be controlled by a Member opposed.

Mr. BURTON of Indiana. Mr. Chairman, reserving the right to object, how much time did the gentleman from California [Mr. BEILENSON] say on the amendment offered by the gentleman from New York [Mr. SOLARZ]?

Mr. BEILENSON. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from California.

Mr. BEILENSON. A total of 40 minutes, 20 on each side.

Mr. BURTON of Indiana. Mr. Chairman, I withdraw my reservation of objection.

Mr. MILLER of Washington. Mr. Chairman, reserving the right to object, I have an amendment at the desk, an amendment to the amendment offered by the gentleman from New York [Mr. SOLARZ].

Would the gentleman from California [Mr. BEILENSON] explain to me what time would be allotted to my amendment?

Mr. BEILENSON. Mr. Chairman , will the gentleman yield?

Mr. MILLER of Washington. I yield to the gentleman from California.

Mr. BEILENSON. Neither this gentleman, nor, I think, the gentleman from New York [Mr. SOLARZ] is aware of the gentleman's amendment.

Mr. SOLARZ. Mr. Chairman will the gentleman yield?

Mr. MILLER of Washington. I yield to the gentleman from New York.

Mr. SOLARZ. Mr. Chairman, I thank the gentleman from Washington [Mr. MILLER] for yielding.

Mr. Chairman, I was not aware that the gentleman from Washington [Mr. MILLER] was going to proceed with his amendment. If he is, I would suggest that the unanimous-consent request be amended to provide that for the purpose of the amendment to be offered by the gentleman from Washington [Mr. MILLER] to my amendment, perhaps 10 minutes be set aside for debate, 5 minutes on each side.

Mr. MILLER of Washington. Mr. Chairman, that would be satisfactory to me.

Mr. BEILENSON. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Washington. I yield to the gentleman from California.

Mr. BEILENSON. Mr. Chairman, I would so amend my unanimous-consent request.

Mr. SOLARZ. Mr. Chairman, would the gentleman further yield?

Mr. MILLER of Washington. I yield to the gentleman from New York.

Mr. SOLARZ. That is 10 minutes in addition to the 40 minutes on the main amendment.

The CHAIRMAN. The Chair needs to be clear about the time. The gentleman from California [Mr. BEILENSON] will restate his unanimous consent request after withdrawing the one he has just offered. The Chair will recognize him for that purpose.

Mr. BEILENSON. Mr. Chairman, I think what the gentleman is requesting at this point is 40 minutes, the time to be equally divided on the amendment offered by the gentleman from New York [Mr. SOLARZ].

With an additional 10 minutes, that time to be equally divided on an amendment thereto to be offered by the gentleman from Washington [Mr. MILLER]; and a total of 1 hour, the time to be equally divided on the amendment to be offered by the gentlewoman from California [Mrs. BOXER].

Mr. MILLER of Washington. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. The Chair would inquire whether or not the limitation would apply to the amendment of the gentlewoman from California [Mrs. BOXER] as well, and any amendments thereto.

Mrs. BOXER. Mr. Chairman, reserving the right to object, I would just like to ask if it is clear that the Boxer amendment would have 1 hour, 30 minutes to be controlled by me and 30 minutes to be controlled by a Member who opposes the Boxer amendment. Is that correct?

Mr. BEILENSON. Mr. Chairman, will the gentlewoman yield?

Mrs. BOXER. I yield to the gentleman from California.

Mr. BEILENSON. Mr. Chairman, that is what this gentleman said.

Mrs. BOXER. Mr. Chairman, that would be fine with the maker of the amendment if it is agreed to by the body.

The CHAIRMAN. The Chair is attempting to ascertain whether or not there are any amendments to the amendment of the gentlewoman from California [Mrs. BOXER], and, if there are, whether or not that would be required to come out of that 1 hour.

Mr. BEILENSON. Mr. Chairman, we do not know of any amendments to the amendment of the gentlewoman from California [Mrs. BOXER]. Some of us hope there will be no amendments to Mrs. BOXER's amendment, but, if there were——

The CHAIRMAN. But if there were?

Mr. BEILENSON. Our unanimous-consent request would have to come out of the time of 1 hour.

Mrs. BOXER. Mr. Chairman, further reserving the right to object, because there are so many members who wish to speak on this side, I am having difficulty keeping it to 30 minutes, but I will absolutely do that. If there are additional amendments, I would appreciate it perhaps if we could suggest that amendments to the Boxer amendment be handled within 10 minutes, and I would make that unanimous-consent request.

Mr. BEILENSON. Mr. Chairman, I would second the request of the gentlewoman from California [Mrs. BOXER]. If there are amendments to her amendment, they should be given an additional 10 minutes, 5 minutes on each side.

The CHAIRMAN. To include all amendments?

Mr. BEILENSON. Each amendment to her amendment. We do not anticipate any such amendments.

Mrs. BOXER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. The Chair understands the unanimous-consent request.

Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. SOLARZ

Mr. SOLARZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLARZ: Page 25, after line 18, add the following:

TITLE VI—INCENTIVES FOR PEACE IN ANGOLA

SEC. 601. ENCOURAGING REDUCTIONS IN EXTERNAL ASSISTANCE TO PARTIES TO THE ANGOLAN CONFLICT.

(a) PROHIBITION ON ASSISTANCE.—

(1) PRESIDENTIAL CERTIFICATION.—If the Government of Angola expresses its willingness to accept a ceasefire and a political settlement to the conflict in Angola and proposes a reasonable timetable for free and fair multiparty national elections in which UNITA would be free to participate, the President shall promptly so certify to the appropriate committees.

(2) ASSISTANCE PROHIBITED PURSUANT TO CERTIFICATION OR JOINT RESOLUTION.—Except as provided in subsections (b), (c), and (d), if the President makes the certification described in paragraph (1) or if the Congress enacts a joint resolution declaring that the Congress has made the determination with respect to the Government of Angola that is described in that paragraph, then—

(A) intelligence community funds may not be obligated or expended during fiscal year 1991 for the acquisition of weapons, ammunition, or other lethal military equipment for the National Union for the Total Independence of Angola; and

(B) the United States shall suspend, or cause the suspension of, the delivery to UNITA of any weapons, ammunition, or other lethal military equipment acquired with any intelligence community funds that may have been previously expended, to the extent that the United States retains the ability to suspend such deliveries.

(b) REMOVAL OF PROHIBITION IF THE GOVERNMENT OF ANGOLA IS NO LONGER PURSUING A POLITICAL SOLUTION.—Except as provided in subsection (e), in the event the President has made the certification described in subsection (a)(1) or the Congress has enacted the joint resolution described in subsection (a)(2), subsection (a)(2) shall cease to apply if the President certifies to the appropriate committees that the Government of Angola is no longer willing to accept a ceasefire and a political settlement and is no longer proposing a reasonable timetable for free and fair multiparty national elections in which UNITA would be free to participate. A certification may be made under this subsection only during the 3-month period beginning on the date on which the President made his certification under subsection (a)(1) or the Congress enacted a joint resolution under subsection (a)(2), as the case may be.

(c) CONDITIONS FOR REMOVAL OF PROHIBITION AFTER 3 MONTHS.—Should subsection (a)(2) become applicable pursuant a President certification under subsection (a)(1) or enactment of a joint resolution under subsection (a)(2) or (e), subsection (a)(2) shall cease to apply, subject to subsection (e), if the President certifies to the appropriate committees (after the end of the 3-month period specified in the last sentence of this subsection) that he has made the determinations required by both paragraphs (1) and (2), as follows:

(1) DETERMINATIONS WITH REGARD TO THE GOVERNMENT OF ANGOLA.—A determination either—

(A) that the Government of Angola refuses to participate in good faith in negotiations for a ceasefire and a political settlement that includes a reasonable timetable for free and fair multiparty national elections in which UNITA would be free to participate;

(B) that—

(i) during the review period, the Soviet Union or other sources outside Angola sold or otherwise made available to the Government of Angola additional, militarily significant amounts of weapons, ammunition, and other lethal military equipment, or

(ii) prior to the end of the review period, the Government of Angola had not ceased receiving militarily significant amounts of lethal military equipment that had previously been sold or otherwise made available by sources outside Angola; or

(C) that the Government of Angola or the Government of Cuba is not complying with its obligations under the Cuban Troop Withdrawal Agreement.

(2) DETERMINATIONS WITH REGARD TO UNITA.—A determination both—

(A) that UNITA has expressed its willingness to participate in good faith in negotiations for a ceasefire and a political settlement that includes a reasonable timetable for free and fair multiparty national elections; and

(B) that—

(i) sources outside Angola did not sell or otherwise make available to UNITA during the review period additional, militarily significant amounts of weapons, ammunition, and other lethal military equipment; and

(ii) prior to the end of the review period, UNITA had ceased receiving militarily significant amounts of lethal military equipment that had previously been sold or otherwise made available by sources outside Angola.

A certification may be made under this subsection only after the end of the 3-month period beginning on the date on which the President made his certification under subsection (a)(1) or the Congress enacted a joint resolution under subsection (a)(2), as the case may be; except that if the Congress enacts a joint resolution disapproving a certification submitted by the President under this subsection, the President may not make another certification under this subsection until after the end of the 3-month period beginning on the date of enactment of that joint resolution.

(d) REMOVAL OF PROHIBITION IF THERE IS A MILITARY OFFENSIVE AGAINST UNITA.—Subsection (a) and paragraphs (1) and (2) of subsection (f) shall cease to apply if the President certifies to the appropriate committees that—

(1) the Government of Angola has launched a military offensive that threatens the survival of UNITA, or

(2) there is clear and credible evidence of a military build-up by the Government of Angola that makes it likely that a military offense that would threaten the survival of UNITA will occur.

(e) CONGRESSIONAL DISAPPROVAL OF PRESIDENTIAL CERTIFICATIONS.—If the Congress enacts a joint resolution disapproving a certification submitted by the President under subsection (b), (c), or (d), then subparagraphs (A) and (B) of subsection (a)(2) shall apply for the remainder of fiscal year 1991 unless the President subsequently makes a certification under subsection (c) or (d).

(f) LIMITATIONS ON AMOUNTS OF UNITED STATES ASSISTANCE.—

(1) ASSISTANCE DURING FIRST QUARTER OF FISCAL YEAR.—Except as otherwise provided in this section, the aggregate amount of intelligence community funds that is obligated during the period beginning October 1, 1990, and ending December 31, 1990, for the acquisition of weapons, ammunition, or other lethal military equipment for UNITA may not exceed the amount which is 25 percent of the amount of any intelligence community funds allocated for that purpose during fiscal year 1990 or during fiscal year 1991, whichever is less.

(2) ASSISTANCE DURING FIRST HALF OF FISCAL YEAR.—Except as otherwise provided in this section, the aggregate amount of intelligence community funds that is obligated during the period beginning October 1, 1990, and ending March 31, 1991, for the acquisition of weapons, ammunition, or other lethal military equipment for UNITA may not exceed the amount which is 50 percent of the amount of any intelligence community funds allocated for that purpose during fiscal year 1990 or during fiscal year 1991, whichever is less.

(3) ASSISTANCE DURING ENTIRE FISCAL YEAR.—The aggregate amount of intelligence community funds that is obligated at any time during fiscal year 1991 for the acquisition of weapons, ammunition, or other lethal military equipment for UNITA may not exceed the amount of any intelligence community funds allocated for that purpose during fiscal year 1990.

(g) REPORTS ON MILITARY ASSISTANCE DELIVERIES, COMMITMENTS TO MULTIPARTY DEMOCRACY, AND COMPLIANCE WITH CUBAN TROOP WITHDRAWAL AGREEMENT.—

(1) IN GENERAL.—On November 1, 1990, January 1, 1991, April 1, 1991, and July 1, 1991, the President shall submit to the appropriate committees a report—

(A) on the extent to which the Government of Angola is continuing to obtain militarily significant amounts of weapons, ammunition, and other lethal military equipment from foreign countries or other third parties;

(B) on the extent to which UNITA is continuing to obtain militarily significant amounts of weapons, ammunition, and other lethal military equipment from foreign countries or other third parties;

(C) on the extent to which the Government of Angola is willing to accept a ceasefire and a political settlement that includes a reasonable timetable for free and fair multiparty national elections in which UNITA would be free to participate;

(D) on the extent to which UNITA is willing to accept a ceasefire and a political settlement that includes a reasonable timetable for free and fair multiparty national elections; and

(E) on whether the Government of Angola and the Government of Cuba are complying with their obligations under the Cuban Troop Withdrawal Agreement.

(2) CERTIFICATION TO BE INCLUDED.—Unless the President has already made the certification described in subsection (a)(1) or the Congress has enacted a joint resolution described in subsection (a)(2), the President shall certify in each report submitted pursuant to paragraph (1) whether the Government of Angola has expressed its willingness to accept a ceasefire and a political settlement to the conflict in Angola and has pro-

posed a reasonable timetable for free and fair multiparty national elections in which UNITA would be free to participate. If the President certifies pursuant to this paragraph that the Government of Angola has expressed such a willingness and proposed such a timetable, that certification shall be considered to be a certification under subsection (a)(1).

(3) DESCRIPTION OF UNITED STATES EFFORTS.—The report required by paragraph (1) shall also describe the President's efforts—

(A) to obtain agreement by foreign countries and other third parties to terminate assistance to the Government of Angola and UNITA for the acquisition of militarily significant amounts of weapons, ammunition, and other lethal military equipment; and

(B) to encourage both the Government of Angola and UNITA to agree to a ceasefire and a political settlement that includes a reasonable timetable for free and fair multiparty national elections.

(4) REPORT WITH CERTIFICATION.—If the President makes a certification under subsection (a)(1), (b), (c), or (d), the President shall include with that certification a report containing the information specified in paragraphs (1) and (3) of this subsection and the justification for the President's certification.

(h) DEFINITIONS.—As used in this section—

(1) the term "appropriate committees" means the Permanent Select Committee on Intelligence and the Committee on Foreign Affairs of the House of Representatives and the Select Committee on Intelligence and the Committee on Foreign Relations of the Senate;

(2) the term "intelligence community funds" means funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities;

(3) the term "obligations under the Cuban Troop Withdrawal Agreement" means the obligations relating to the calendar for redeployment and withdrawal of Cuban troops as specified in the Agreement Between the Governments of the People's Republic of Angola and the Republic of Cuba for the Termination of the International Mission of the Cuban Military Contingent, signed at the United Nations on December 22, 1988;

(4) the term "review period" means the period beginning on the date the President makes a certification under subsection (a)(1) or a joint resolution is enacted under subsection (a)(2) or (e), as the case may be, and ending on the date on which the President makes a certification under subsection (c); and

(5) the term "UNITA" means the National Union for the Total Independence of Angola.

Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. YATES. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. YATES. Mr. Chairman, will the Chair repeat what the time limitations are?

The CHAIRMAN. The Chair would answer the parliamentary inquiry of the gentleman from Illinois [Mr. YATES] by saying that the gentleman offering the amendment has 20 minutes, a Member opposed to the amendment has 20 minutes and, in the event of an amendment to the amendment, as expected by the gentleman from Washington [Mr. MILLER], it will be permitted 10 minutes total time, 5 minutes on each side.

Mr. YATES. Mr. Chairman, is that true as well on the amendment of the gentlewoman from California [Mrs. BOXER]?

The CHAIRMAN. The Chair understands the inquiry of the gentleman from Illinois [Mr. YATES] now is to relate to the amendment of the gentlewoman from California [Mrs. BOXER]. If offered, the gentlewoman's amendment would be permitted to be debated for 60 minutes, 30 minutes on each side.

The gentleman from New York [Mr. SOLARZ] is recognized for 20 minutes.

Mr. HYDE. Mr. Chairman, I would like to control the opposition time.

The CHAIRMAN. The Chair will permit the gentleman from Illinois [Mr. HYDE] to control 20 minutes. The gentleman from illinois will be recognized for 20 minutes following the yielding of time or the use of time by the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Chairman, I yield myself such time as I may consume. Mr. Chairman, we have just gone through an interesting and illuminating debate on the amendment of the gentleman from California [Mr. DELLUMS] which has revealed the existence of significant divisions in the House over how best to advance fundamental American interests and ideals in Angola. On the one hand, there are those Members who clearly believe that the provisions of American assistance to UNITA is both inappropriate and even counterproductive. On the other, there are those Members who believe with equal conviction that the continuation of American assistance to UNITA is essential if we are going to bring about a negotiated settlement of the conflict in that country consistent with the aspirations of the Angolan people for genuine peace and democracy.

Mr. Chairman, my amendment is designed to create a consensus in the Congress to facilitate an end to the fighting and the holding of free and fair multiparty elections through a negotiated political settlement, and is based on the notion that we are always most effective abroad when we are united at home.

□ 1900

The amendment which I have offered has been cosponsored by the gentleman from Michigan [Mr. WOLPE], the gentleman from New Mexico [Mr. RICHARDSON], and myself on our side of the aisle, and by the gentleman from New York [Mr. GREEN], the gentleman from Washington [Mr. MORRISON], the gentleman from New York [Mr. HOUGHTON], and the gentleman from New York [Mr. GILMAN] on the other side of the aisle. It is, I believe, an amendment which most Members should be able to support, regardless of the position they took on the Dellums amendment.

Let me explain what this amendment is all about. The amendment would permit a continuation of any lethal aid we may be providing to UNITA, unless and until President Bush reports to the Congress that the MPLA has put forward a proposal for the holding, within a reasonable period of time, of multiparliamentary elections in which UNITA would be able to participate, and that the MPLA is also prepared in principle to accept a cease-fire.

In the event the President makes such a report to the Congress, any lethal aid we are providing to UNITA, not the relief aid, but lethal assistance only, would be suspended for a period of 3 months. At the end of 3 months, if the MPLA has reneged on its commitment to free and fair elections, if the Cuban forces are not continuing to withdraw from Angola, and if the MPLA is still receiving arms from the Soviet Union, or from any other source, the prohibition on lethal aid to UNITA would be lifted and the lethal assistance could not be provided.

Consequently, under the terms of this amendment, if the MPLA is unwilling to commit itself to a reasonable timetable for free and fair elections and a cease-fire, lethal aid can go forward. Mr. Savimbi will not have lost a cent, and there will be no prohibition on American assistance, even for 3 months. But if the MPLA does make that commitment, if the MPLA does agree to a cease-fire and a reasonable timetable for free and fair elections, which is exactly what Mr. Savimbi and Secretary of State Baker say is essential in order to get a negotiated settlement of the conflict, then the aid could not be provided.

Now, what is wrong with this amendment? Someone objected on the grounds that if the MPLA makes a commitment to free and fair elections and a cease-fire and we prohibit lethal assistance to Mr. Savimbi, the MPLA might launch a major offensive to wipe UNITA out in the interim.

Not to worry, because the amendment provides that if there is a major offensive during the 3-month period when lethal aid is prohibited—if it is

prohibited—the President can unilaterally provide lethal assistance to UNITA.

Another good friend on the other side of the aisle, the gentleman from Indiana [Mr. BURTON], said "supposing they haven't launched a major offensive, but are stockpiling arms with which to launch a major offensive."

Not to worry. We responded to his concerns and put in a provision which enables the President to provide lethal aid to UNITA even if they have not launched a major offensive against UNITA, if the MPLA is even stockpiling weapons for that purpose.

The main objection to this amendment insofar as I can understand it has been the argument advanced by the Department of State that the adoption of this amendment will somehow preclude or prevent a negotiated settlement of the conflict because it will play into the hands of the so-called hard liners within the MPLA who do not want a settlement.

Mr. Chairman, I would say to Members of the House that I do not know if there are hard liners and soft liners in Luanda, but let us assume for the purposes of this debate there are. I cannot for a moment conceive of how anybody can say that this amendment would play into the hands of the hard liners. If it plays into anyone's hands, it plays into the hands of the soft liners in the MPLA, because this amendment will enable the soft liners in the MPLA to say to the hard liners that if they want lethal American assistance to Savimbi to be prohibited, they have to agree to enable the government of Angola to put forward a proposal for free and fair elections within a reasonable period of time, which is exactly what the MPLA has so far not been willing to do.

If the members of the MPLA politburo can read English, or if they can read Portuguese, and I have here a Portuguese translation of my amendment, there is no risk whatsoever that the adoption of this amendment will play into the hands of the hard liners.

Mr. Chairman, I would like my friends on the other side of the aisle who may oppose this amendment to explain exactly how it would play into the hands of the hard liners, when what the amendment says is that if the hard liners want lethal aid to Savimbi prohibited, the way they can achieve it is to agree to put forward a proposal for free and fair elections within a reasonable period of time.

So I would say this amendment does just the opposite. I would say to Members in the House that after 15 years of civil war, after the death of over 200,000 Angolans directly, and up to half a million as a result of this conflict, after trying a cutoff in aid, as we did with the Clark amendment, and after trying several years of unrestricted aid, as we have been doing until now, the time has come for a somewhat different approach—an approach that is reasonable, an approach that is moderate, an approach which enjoys support on both sides of the aisle.

Mr. Chairman, if this amendment is adopted, we have very little to lose. But, potentially, we have a lot to gain. If the MPLA does not agree to a free and fair election within a reasonable period of time, lethal aid can be provided; Savimbi does not suffer a bit.

If they do agree to a timetable for free and fair elections, which is exactly what we want them to do, which is exactly what Mr. Savimbi said is needed in order to get a political settlement, we prohibit lethal assistance for 3 months—during which only nonlethal aid could continue. At the end of the 3 months, if there is an overall agreement, Savimbi does not need lethal assistance. If there is not an agreement and the MPLA is getting arms from the Soviet Union, or the Cubans are not withdrawing, or the MPLA has reneged on their commitment to free and fair elections, lethal aid can be provided.

The Soviet Union has said if we stop our military aid to Savimbi, they will stop their military aid to the MPLA. I should think that would be in everyone's interest.

We heard earlier in the debate from my good friend, the gentleman from Illinois [Mr. HYDE], about how much assistance the Soviet Union is giving to the MPLA. He said $500 million last year.

I am not at liberty to disclose the amount of money there may be for UNITA in the classified section of this bill, but it is far, far less than what the Soviet Union is giving the MPLA.

So let us put the Soviets to the test. Let us put the MPLA to the test. I agree with my friends on the other side of the aisle that if this war is going to end, it will not be ended with a military victory by either side. The only way it will be ended is through a political settlement.

I say to my friends on the other side of the aisle that in order to end it with a political settlement, the MPLA is going to have to be much more specific than it has been on its willingness to have a free and fair election within a reasonable period of time.

Mr. Chairman, they have said they are ready for a multiparty election, but they have left it very vague when that election will be held. This amendment puts the spotlight right on Luanda. It says to the MPLA, if you want lethal assistance to Savimbi prohibited, come forward with a reasonable timetable.

Mr. Chairman, I think this is a moderate approach. It is a reasonable approach. I think it can bring us together. Let me say, in conclusion, we are always more effective abroad when we are united at home. This is the way to bring unity to the House, and I urge Members to support this amendment.

□ 1910

Mr. HYDE. Mr. Chairman, I yield myself 4½ minutes.

Mr. Chairman, I am frank to confess that you need to be a Ph.D. in astrophysics to understand the amendment of the gentleman from New York [Mr. SOLARZ]. This is the fourth version we have had to digest since he first offered it a few days ago, and it was turned down by the Intelligence Committee.

The Solarz language is a maze, and you have to, as I say, be very gifted to understand it. But the effect is very simple, a de facto cutoff in lethal aid to UNITA.

Mr. SOLARZ is enamored of the phrase "put the Soviets to the test." God, why do they not put us to the test once in a while? Cut out aid to the Communists and see if we will. Let us try that for a change.

The gentleman from New York [Mr. SOLARZ], as a prognosticator, has not got a flawless record. I remember in 1976 when I was sitting around here in my first term, and I saw the gentleman from New York [Mr. SOLARZ] take the floor, and he said, and I have always carried it with me, in the car since then, he said, "I believe there are areas in the world in which we have a legitimate interest in curbing the spreading of Soviet influence, but I don't believe Angola is one of them."

Here we are today, 15 years later, worrying about the Communists in Angola, because back then you said if we would stop aiding the faction of UNITA, the Communists would just go away. Well, they did not just go away. They stayed there, and they stayed there, and they dug in so that we finally had to repudiate the Clark amendment, and here we are back again creating this maze, this Rubik's cube of foreign policy.

There are not any conditions the MPLA has to satisfy before the President is required to make a certification that will result in a cutoff at lethal aid. To satisfy the conditions under the Solarz amendment, the MPLA simply has to express, now get this, its "willingness" to accept a cease-fire and a political settlement.

Well, they have already said they are willing to, they just never get around to doing it. They have not done it, and they are not going to do it, and they canceled a meeting 2 days ago waiting to see how this vote turns out.

Let us put them to the test. I am weary of putting the Soviets to the test. I am weary of putting the Sandanistas to the test. They are still flunking the test.

Now if the President refuses to certify that the MPLA has met the above

conditions, then the Solarz amendment permits Congress to make the determination itself by passing a joint resolution. This is called the urge to regulate. This is called becoming the Secretary of State with a vengeance.

If I were to go through the qualifications and the pages in the Solarz amendment, Members would go to sleep, as some Members are already within my scan.

Let me just tell Members this: The Solarz amendment requires four Presidential reports, four, that must satisfy two pages of requirements. Now that is really astrophysics. I think that is incredible.

Someone once said the President and Mr. Baker have been doing pretty well in Europe, pretty well in foreign policy, pretty well in the Middle East, and pretty well around the world getting international cooperation. Let us let them do it. That is what their jobs are, and we have got enough to do over here worrying about the budget.

This is a complicated, Rube Goldberg, intrusive, unworkable plan that the gentleman from New York [Mr. SOLARZ] thinks we have to submit to. It is the fourth version we have had. I know there is a fifty lurking around somewhere.

But I just plead with Members, let us continue working with UNITA, and with the MPLA, with the Portuguese. Let us not change the equation. Let us not put the Soviets to the test. Let them put us to the test and withdraw all of the arms they have left there, take the Cuban arms out that are there, and say let us have peace. That could be done tonight.

Mr. McCURDY. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Oklahoma.

Mr. McCURDY. Mr. Chairman, I rise in opposition to the Solarz amendment and I associate myself with the comments of the gentleman from Illinois.

Mr. HYDE. I am highly complimented, and I thank the gentleman.

Mr. Chairman, I reserve the balance of my time.

Mr. SOLARZ. Mr. Chairman, I yield 2 minutes to my very good friend from the other side of the aisle, the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Chairman, I am never sure what remarks do at this particular hour of the evening, whether it changes any minds or not. However, I want to tell Members how I feel about this amendment.

I think it is a good amendment. I think the time has come for a change, and I support it.

The arguments against are very persuasive. It is at a sensitive time, do not disrupt the talks, the United States and the U.S.S.R. have technical advisers there, so let things be as they are. I do not want to try to practice diplomacy without a license. However, the facts are these: The talks are not succeeding, and the reason is that there always is a fall-back position for one side or the other because they can get arms.

Another fact is the cold war is over. The military solution is stalemated. The United States and the U.S.S.R. both want to disengage, and the Angolan Government is ready to do a variety of things, agree to a cease-fire, a market economy, get rid of the Cubans, and have no new arms supplies coming from the Soviet Union.

So here comes the Solarz amendment, and it asks only two things. Just stop, and also have 3 months testing with a thing called a triple zero option. If the Government cheats, all bets are off. And even if the amendment passes, the President has the right to say no, I want to do another thing.

I have been around a long time, and I have never seen a deal like that. And do you know what, Mr. Savimbi has not either, and he was the one that agreed a few weeks ago that it was a good idea. Now he is gradually backing off because he not only wants to win, but he thinks he can win with a bigger score.

But you ask why is this good for us, why is this good for the United States, the paymaster? One thing is clear as we move through this crazy world of ours and some of the international negotiations in which we have been involved. You cannot shoot your way to the negotiating table. So if it was "yes" to Nicaragua, why can it not be "yes" to Angola?

I support the Solarz amendment.

Mr. HYDE. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Chairman, this is not a compromise. It prompts a withdrawal of UNITA aid on the promise of a cease-fire and a negotiated settlement. Once promised, UNITA gets nothing more for 3 months, but the promise is hollow. The MPLA has $5 billion in oil revenues. They have gotten $500 million from the Soviets this year. They have a 15-year arms stockpile.

The UNITA people are already starving because of the refusal of the MPLA to distribute food, and the MPLA has promised a cease-fire and elections for years now. A 3-month hiatus or even a brief suspension of aid to UNITA will put UNITA at a significant disadvantage, making them horribly vulnerable to the wrongful intentions of the MPLA.

So this is a gamble. It is a dangerous gamble, and it is a cutoff of the aid which could kill UNITA.

Let us have a cease-fire, but let us have it now, not later. Let us have free and fair elections, but let us have them soon, not later.

Savimbi has already said he will go along with this, so why not the MPLA? Let us not gamble with a successful policy that we have implemented at this time.

The MPLA can end the war, today. We should not. Vote down the Solarz amendment.

Mr. SOLARZ. Mr. Chairman, I yield 2 minutes to the very distinguished gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, in Angola, as in many parts of the world, the end of the cold war provides an opportunity to examine policies that have their roots in significantly different times. The Angolan civil war has been for far too long a test of wills between not only the immediate participants, but their respective backers as well. Over the course of two administrations, we have heard that United States support for UNITA was essential if Soviet expansionism was to be thwarted and a diplomatic settlement achieved.

Now, it seems to me, is the time to move beyond the military stalemate which exists on the battlefield and concentrate on the suddenly more promising arena of the negotiating table. Recent expressions by both the Government of Angola and UNITA give some cause for optimism that each side is prepared to rule out a military solution to the conflict. We should encourage those developments and the apparent willingness of the Soviets to play a more constructive diplomatic role on Angola by adopting a new approach in our own policy.

Such an approach is embodied in the Solar amendment which seeks to further a negotiated political solution without prejudicing the interests of either party. The amendment establishes a means by which to measure the professed desire of both UNITA and the Angolan Government for a peaceful settlement, and provides sufficient inducements to encourage good faith efforts to find the compromises necessary to work out a settlement. It is an evenhanded approach to a problem that has at least up to this point seemed to be beyond the ability of any of the interested parties to solve.

By turning the focus of the debate away from conflict and toward negotiation, the Solarz amendment can hasten the necessary process of national reconciliation in Angola. Millions of Angolans now face the threat of famine and the deprivation which accompanies it. Their needs cannot be addressed adequately until the fighting stops. Accomplishing that should be the primary goal of U.S. policy, and I believe the Solarz amendment would contribute to that result.

Mr. Chairman, Congress has been on the periphery of the Angolan debate for the last 5 years. It is time that the

issue of U.S. policy in southern Africa was squarely presented to this body. The Solarz amendment provides an opportunity for a much needed discussion of this issue while at the same time seeking to sustain a commitment to the negotiating process on the part of the parties most directly concerned with the outcome of the Angolan civil war. I urge that the amendment be adopted.

□ 1920

Mr. HYDE. Mr. Chairman, I yield 3 minutes to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, we have said everything I think that can be said on Angola this afternoon in the lengthy debate.

This is an important issue. The gentleman earlier in this afternoon said that this is not a laughing matter. Indeed, it is not a laughing matter. It is not a matter, either, of consideration about whether the cold war is over. That has been said a lot this afternoon.

These people are not interested at all in the cold war. They are interested in a very hot war that they are living through, and I think all of our goals are the same. We want the war to stop, and we want them to have freedom, and we want them to be able to go in a multiparty sense to the ballot box and to elect the people to represent them and govern them.

Mr. Chairman, I would like to discuss with the Members of the Chamber just for a few moments about what would happen if we cut off aid to UNITA. First and foremost, there would be no hope of a multiparty system and free and fair elections. The MPLA would then have the perfect reason to break off peace negotiations, because it would know that it could not win on the battlefield if aid to UNITA will be virtually helpless, and the MPLA would be able to strike with force ending all hope of democracy in Angola, and oppressive Marxist rule will continue to drive Angola toward ruin.

Some argue that if the Soviet Union would stop aid to the MPLA the United States would stop aid to the UNITA, and it would facilitate the peace talks. This is the farthest thing from the truth. I would only facilitate war for the same reasons mentioned earlier. UNITA's position would be immediately weakened while the MPLA has enough weapons and supplies stockpiled, and we have heard it over and over this afternoon, 15 years' supply to sustain the fighting for years.

The point is, cutting aid to UNITA is not the solution. We would be pulling the tug out from under any progress which has been made.

The only reason the MPLA and UNITA are at the talking table is because of the support we have given UNITA, not because the MPLA has suddenly had a change of heart, and peace and democracy is sweeping in southern Africa, and it is because the MPLA cannot win while the U.S. supports UNITA.

The only victory is at the bargaining table.

Mr. Chairman, I, too, would like to one day not have to send aid to UNITA. However, that aid must continue until there have been free and fair elections and peace and a multiparty system exists in Angola.

I strongly urge my colleagues to reject this proposal or any proposal which restricts or stops U.S. aid to UNITA. This is not the time to send a wishy-washy signal that UNITA's friend, the United States, is weak in our resolve to help.

Mr. HYDE. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I approached this debate with a little bit of trepidation, because I worked with my colleague from New York on the draft of the amendment, and we thought we might be able to get someplace on it, but, unfortunately, it did not work out.

Mr. Chairman, there was an article in the Washington Post, and the last part of the article said:

> To pull the plug on a policy that was failing might be understandable. To pull the plug on a southern Africa policy that has succeeded in other aspects and now seems near succeeding in Angola is perverse.

I think that is a very important point to be made. The Angolan policy we have pursued is starting to bear fruit, and I think it is bad to change that policy right now when it appears as though we may be on the verge of an agreement.

The legislation the gentleman from New York [Mr. SOLARZ] has brought before us today is still a little bit ambiguous. When he says the Government of Angola expresses its willingness, that just is too vague in my view. If it said there is a definite time for a cease-fire, a definite time for elections, some kind of a definite timetable, it would have a lot more merit than the bill we have before us right now.

Let me just say this, and I think this is extremely important, I have seen a marked change in the attitude of the Government of Angola in the last year, the Communist government.

In the last year for the first time, I have seen the ambassador from Angola starting to come into the offices of members of the Committee on Foreign Affairs and members of the Intelligence Committee offices to talk about some kind of a conclusion to this terrible debacle over there. After that, I noticed the Ambassador came back a second time but this time he was with the Foreign Minister of Angola and one of the generals in charge of the conflict. So they started talking a little bit more about a solution rather than continued conflict.

Then most recently there was a television communication from the President of Angola himself. Mr. dos Santos addressed a number of us in Congress and answered our questions.

Mr. HYDE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. Mr. Chairman, I thank the gentleman for yielding me this time.

Very rapidly, what I would like to do is just address one specific part of a lot of the arguments against aid to UNITA for a number of years, and that has been the human rights violations that supposedly have occurred there.

To anyone who might be having their heart tugged by this issue, I want to mention as quickly as I can in a matter of 2 minutes some things that offset this. One of those is this picture which was made last week. It shows, as we all know, the gentleman from Illinois [Mr. HYDE] here, along with two gentlemen who supposedly were dead. These gentlemen happened to be very well alive, and either there has been a miracle that has taken place in the last few days or there were some gross inaccuracies in earlier reports.

There was an indication of burning of witches, people who, in fact, had been so-called dissidents who were declared as witches and burned. The individual who alleged that story recanted his allegations in a telephone interview in which he said he had never had eyewitness confirmations of any of his charges. He did see it happen and cannot say, "with my hand on my heart that that happened." They were rumors of UNITA dissidents. "When you are a dissident, you believe anything."

One other, I think, very important factor, Mr. Chairman, Savimbi has repeatedly welcomed international independent investigations into the country. Let me read from a letter that he wrote to the chairman of the Human Rights Watch:

> UNITA regrets that your organization chose to issue a report concerning human rights in Angola without ever setting foot in the country. The MPLA regime refused to let representatives of your organization into its territory. However, Human Rights Watch never requested entry into free Angola and only informed UNITA of the human rights report a week before it was issued. Please accept this letter as a formal invitation for your organization to visit the area under UNITA's control in order to make conclusions more representative of the reality instead of focusing solely on two small towns and on people who do not live in the country.

Mr. SOLARZ. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON], my fellow member of the Permanent Select Committee on Intelligence.

Mr. RICHARDSON. Mr. Chairman, I am convinced that both sides, UNITA and the MPLA, want to work this thing out and want peace. This is the essence of the amendment. Congress suspends aid for 3 months, once the Luanda regime comes up with a realistic election proposal. There has to be incentive, but this is a stopgap solution.

What we have to look at is the longer range. Does it really make any sense to continue a program rooted in the strategic assumptions of a different era? Mr. Chairman, this approach is exactly the way we did the bipartisan agreement in Nicaragua with incentives for peace.

This amendment, modeled after the successful approach Congress took to the crisis in Nicaragua, applies incentives to cease hostilities to both parties involved in the Angolan conflict.

The amendment also builds on the developing cooperation with the Soviet Union. This cooperation led to the decolonization and independence of Namibia.

The war between the MPLA and UNITA has lasted over 15 years and taken the lives of some 200,000 people, many civilians not involved in the conflict.

Furthermore, the lives of nearly 2 million Angolans are threatened by drought. Relief shipments have been severely impeded by the civil war.

By creating an incentive program which encourages both sides of the conflict, and the United States and Soviets, to put down their weapons and pursue a cease-fire. This is the first step toward establishing a multiparty system and democracy in Angola.

While supporters of continued military aid argue that we must keep UNITA strong in order to reach an agreement/ignore that the amendment includes provisions to protect UNITA from an MPLA offensive. The amendment states that:

Should an MPLA offensive, or the potential for an MPLA offensive, exist the President may pursue a lethal aid program for UNITA.

This amendment puts the onus on the Angolan Government. If they do not provide a timetable for settlement and negotiate in bad faith, our aid to UNITA would be unimpeded.

This amendment addresses the real and legitimate concerns of both sides of the issue. I urge its passage.

[From the New York Times, Oct. 11, 1990]

UNDERWRITING ANGOLA'S AGONY

Angola's civil war lingers on, a stubborn relic of the cold war—despite efforts by Moscow and Washington to end it. Fifteen bloody years have claimed 200,000 lives. The warring camps say they're willing to submit to elections, but cannot agree on when and how. The least Congress can do is give President Bush the authority to suspend covert aid to Angola's rebels the moment Angola's Government fixes an election timetable.

This idea, advanced by Representative Stephen Solarz and six colleagues, gives both sides an incentive to bargain. It's vastly preferable to a Senate bill that simply authorizes continued aid to UNITA insurgents led by Jonas Savimbi. Even better would be an immediate suspension of aid, to be resumed only if the Angolan Government rejects a reasonable election timetable. Covert aid makes less and less sense, given the emerging prospects for peace in all of southern Africa.

A reluctant and divided Congress was persuaded to help Mr. Savimbi several years ago when the Soviet bloc was pouring huge amounts of aid into the Marxist Angolan regime. Angola's civil war was then entwined with a parallel struggle in Namibia involving insurgents and South African troops. Since then, however, Namibia has won its independence, a huge Cuban force in Angola has begun to withdraw and African mediators have pressed for a cease-fire and elections.

It's difficult to fix blame for the deadlock. Angola has offered to stop receiving all foreign military aid if the UNITA rebels do likewise, which may only be a feint. Mr. Savimbi contends he's eager to take part in elections. But negotiations have gone nowhere. Meantime, drought and war threaten to starve hundreds of thousands of Angolans, the voiceless victims of an increasingly pointless conflict.

As Mr. Solarz proposes, Congress can now suspend aid for three months once the Luanda regime comes up with a realistic election proposal. But this is at best a stopgap. Does it really make any sense to continue an aid program rooted in the strategic assumptions of a different era? This is the deeper question that Congress and the Administration have not yet begun to address.

□ 1930

Mr. HYDE. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Chairman, it is very clear to me that this amendment is a real mistake. I have just come from a meeting with the Foreign Minister of Vietnam, Nguyen Co Thach, in which we talked about Cambodia. I cannot help but think about the events we are trying to bring about in Cambodia to have a supreme national council bring about free and fair elections. An article in the New York Times, written by the author of this amendment, talks about that situation, and I believe it relates very closely to Angola. He says:

Nor should we risk undermining the whole negotiating process at this delicate juncture by cutting off our nonlethal assistance to the non-Communist resistance. That would greatly diminish the pressure on the Vietnam and the Hun Sen government to make the concessions needed to achieve a settlement.

Also, Mr. Chairman, I think it is very important for Members, on October 19, in Luanda, the Deputy Foreign Minister, Venancio de Moura, announced UNITA-backed idea of establishing a multiparty system in Angola. It is very clear that full support to UNITA is absolutely essential if we are going to bring about a successful resolution to this crisis.

Mr. SOLARZ. Mr. Chairman, I yield 2 minutes to the distinguished and extremely able chairman of the Subcommittee on Africa, the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, I rise in strong support of the Solarz amendment.

As I indicated earlier, during debate over the Dellums-Dymally-Hamilton amendment, U.S. assistance to Jonas Savimbi is a tragically misguided policy, grounded in anachronistic cold war mythology. It adds significantly to Angola's staggering human misery, indulges the worst militaristic tendencies of UNITA, and reinforces widely shared suspicions that the true aim of United States policy is not the promotion of a pluralist, multiparty democracy in Angola, but rather the armed overthrow of the Angolan Government and the installation of a substitute regime; namely, that of Jonas Savimbi.

Mr. Chairman, U.S. policy must change. If Congress cannot at this moment put a complete halt to assistance to UNITA, then Congress should condition that assistance in the way that my colleague, Congressman SOLARZ, proposes. Only by pursuing a new, far more evenhanded policy offering carrots and sticks to both warring parties will United States policy truly begin to advance the peace process in Angola.

Mr. Chairman, the administration, in opposing the Solarz amendment, has turned to a familiar, conveniently timed argument to justify unconditional military support of Jonas Savimbi, at a reported level of $60 million in fiscal year 1991.

We are told by Secretary Baker, Assistant Secretary Cohen, and others that, as a function of United States diplomacy, United States cooperation with the Soviets, and administration resolve in supporting UNITA militarily, negotiations between UNITA and the Angolan Government are now at the edge of a major breakthrough.

This is an unconvincing line of reasoning.

Sixteen months ago, at the time of the Gbadolite summit, when the relevant committees in Congress questioned why, in a post-cold-war era, the administration should unconditionally support UNITA, high-ranking State Department officials argued: "The policy is working. Give us time. Don't force us to change course now. In just a short period, this war will be brought to a negotiated conclusion." Those were the words of the administration then, they are the same words used today.

What resulted from giving the administration the benefit of the doubt?

Savimbi walked out of the peace process initiated at Gbadolite. The war resumed, with large scale military actions undertaken by both sides. The senseless killing and suffering of innocent Angolans continued. Famine created by protracted war and drought only worsened, to the point where almost 2 million Angolans will soon be at risk of starvation. In the meantime, the administration rejected repeated Soviet overtures to the administration to begin mutual cutbacks in external military flows to their respective clients.

Mr. Chairman, the truth of the matter is that while there has been some limited, recent advance in negotiations between the Angolan Government and UNITA, it is a very incomplete progress which falls far short of a major breakthrough. And what progress has taken place has occurred despite the narrow approach of the administration.

The Angolan Government and UNITA have met, face-to-face, in four rounds of exploratory talks. Yet the most important factor promoting these negotiations is not United States aid to UNITA; it is that the Angolan Government and UNITA have lost much of their external military support in the last 2 years.

The Angolan Government has witnessed the withdrawal of three quarters of its Cuban forces; all will have departed by June 1991. In addition, Soviet military aid has dropped from an estimated $1.4 billion in 1988 to $500 million in 1990.

UNITA has lost almost all of its South African aid, which up to April 1989 exceeded $200 million annually, more than three times the reported size of the United States program. Nor can UNITA relay any longer on South African forces to intervene directly in Angola on its behalf.

But despite these changes, the Angolan Government and UNITA still remain mired in profound distrust and bitterness. The Angolan Government resists recognizing UNITA and presenting a timetable for elections, for its fears that UNITA, with the military backing of the administration, is not truly prepared to lay down its arms and reach a nonmilitary, negotiated settlement. UNITA, for its part, resists agreeing to a cease-fire, for it fears that the Angolan Government, with continued Soviet military backing, is not truly serious about recognizing UNITA and agreeing to free and fair elections.

In the midst of this deadlock, the Angolan Government and UNITA each continue to rely overwhelmingly upon military might, in the vain hope that by bludgeoning the other side through one more round of fighting, it can improve its military position before compromising politically. Tragically, continued external military flows only feed this terrible dynamic.

Mr. Chairman, some dramatic step is required to push UNITA and the Angolan Government out of their deadlock. This war has gone on too long. Angola has experienced enough weapons, enough ammunition, enough senseless death and suffering.

UNITA's President Savimbi has openly said that UNITA is prepared to cease fighting, if the Angola Government recognizes UNITA and presents a reasonable timetable for multiparty elections. The Angolan Government has indicated it is willing to move in the direction demanded by UNITA, if it has a reasonable hope that UNITA will turn away from warfare. Fair enough. Let's force each party to live up to its commitments, by adopting the Solarz amendment.

If we adopt the Solarz amendment, we will test the true intentions of UNITA and the Angolan Government, while also testing the Soviets' openly expressed desire to cooperate with the United States in ending all external military flows to Angola.

If we do not adopt the Solarz amendment, more time will pass, more opportunities for United States-Soviet collaboration will pass by, and I fear that, this time next year, we will again hear how close we are to a breakthrough and a final settlement.

I urge support for the Solarz amendment.

Mr. HYDE. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. McEWEN].

Mr. McEWEN. Mr. Chairman, I would especially like to express my admiration for the chairman of the Committee on Intelligence, the gentleman from California [Mr. BEILENSON], and our ranking member, the gentleman from Illinois [Mr. HYDE], as well as our previous chairman from Cleveland, and the members that serve on this committee because they do our country a great service.

There is a reason why the Committee on Intelligence rejected this amendment, and there is a reason why the Washington Post editorialized it. It is because it is a very pernicious amendment. It tells Members that we should have put in a government that is Marxist oriented, and that it will behave well.

Let me share with Members what the makers of this amendment told Members previously, because we have history. In 1974 when the FNLA supported by the Chinese, and the MPLA then supported by the Soviet Union, and UNITA, supported by the democracy of the world were about to close in one the capital, this Congress at just about Christmastime 1975 passed an amendment that cut off all aid to the freedom forces when they were within sight of the lights of Luanda, the capital city. Then we came back in January to make this amendment permanent, and the mover of the amendment said:

> The real issue is not whether we withdraw from the world but whether we choose to involve ourselves in what is in essence a tribally based struggle, the outcome of which is ultimately unrelated to our own national security.
>
> We are told that, if the MPLA is triumphant in Angola, it will result in the establishment of a Soviet satellite in that area, but the fact is that the tides of nationalism run far stronger in Africa than the imperatives of ideology. Having just managed to extricate themselves from the clutches of the Portuguese, the Angolans are most unlikely to submit themselves to the domination of the Soviets. Even if the MPLA is triumphant—and that is something nobody can be sure of—the Russians are unlikely to have any more influence in Angola than they now have in Mozambique, in Algeria, or in Egypt. And these are countries where they spent substantially more money than they are now spending in Angola.
>
> I believe there are areas in the world in which we have a legitimate interest in curbing the spreading of Soviet influence, but I do not believe Angola is among them.
>
> Mr. Speaker, we are also told that a triumph by the MPLA would result in the establishment of a Soviet naval base in South West Africa. According to these diplomatic Dr. Strangeloves, the establishment of such a naval facility in Angola or South West Africa would give the Russians the capacity effectively to interdict any shipping emanating from the Persian Gulf and destined for the east coast of the United States or for Western Europe. But the fact is that the place to establish such a blockage is at the exit of the Persian Gulf, in the Indian Ocean, rather than in the wideopen sea lanes of the Atlantic Ocean.

Let me share something. We should cut off aid to the freedom forces because it can only serve to, only seek to force the MPLA to seek assistance from the Soviet Union, if we will withdraw our aid from the freedom forces, they would not do that. We have history to tell Members what the result has been.

Mr. HYDE. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Chairman, I rise in opposition to the amendment of the gentleman from New York. While I believe that his intentions are good, this amendment is quite complicated, and it would end up sending a wrong signal to the wrong people.

In short, Mr. Chairman, it would hinder efforts to achieve a negotiated settlement in Angola, and that is really what we want to achieve. The recent record at the negotiating table shows that UNITA has been negotiating in good faith and has sought three basic objectives: explicit mutual recognition between itself and the ruling MPLA government; and a reversable commitment by both sides to interna-

tionally supervised multiparty elections; and a cease-fire.

UNITA has made the following concessions in its efforts to resolve the conflict in Angola. It has recognized the Marxist regime, the MPLA has the Government of Angola and has recognized the country's president, and it has called for elections to be held by late 1991, and has accepted the MPLA position that the current government should remain in power until elections are held.

Further, it has reduced the pace of fighting on the part of its forces, in an effort to promote a cease-fire. By contrast, Mr. Chairman, the MPLA response to UNITA's concessions has been less than encouraging. While the Government of Angola has made some concessions in the four rounds of peace talks that have taken place thus far this year, it has done only so in general terms. It has been unwilling to recognize UNITA as a legitimate political party or to make a commitment to holding elections on a specific date. That is terribly important for Members to remember.

One hopeful development in the negotiations concerns the role that the United States and the Soviet Union have assumed as observers of the negotiations. This addition to the talks, moderated by the Portuguese Government, should help push the negotiations forward. Indeed, Dr. Leonid Fituni, of the Institute for African Studies for the U.S.S.R. Academy of Sciences has written that expectations in Luanda are mounting that there will be a workable agreement with UNITA by January 1991. Elsewhere, the Angolan Government has finally agreed to allow an international relief effort through Namibia to assist drought victims in southern Angola. For this decision, UNITA has actually congratulated the MPLA for having collaborated in this humanitarian operation.

American policy, Mr. Chairman, in southern Africa has shown results over the past few years. Namibia is independent. The Cubans have started going home. Negotiations between the two sides in Angola are finally making progress. The amount of aid has served the crucial purpose of reinforcing the military stalemate, and making possible negotiations aimed at a political settlement.

Now is not the time to change a policy that is on the verge of attaining its objectives in Angola. Placing conditions on the one side that has shown flexibility and a willingness to compromise in the ongoing negotiations is simply wrong and even perverse.

Let me quote from a letter that Secretary of State Baker sent a number of us about the issue before us today. He writes:

. . . Some, but not all, MPLA leaders are beginning to realize that they cannot defeat UNITA militarily and must negotiate a settlement, despite the wishes of hardliners in Luanda who seek a military solution. . . . . legislative proposals . . . packaged as "compromises", actually would have the effect of undercutting those in the MPLA who want to negotiate and of strengthening the hand of the MPLA hardliners who want to continue the bloodshed.

Secretary Baker further notes that:

Any imposition of conditional language will be taken by hardliners in Luanda as the ray of hope they have been looking for and long predicting.

I hope the Members of this body will see fit to hold to the course that the intelligence committee, with all the facts at its disposal, chose to chart. I respectfully ask you, my colleagues, to vote down the Solarz amendment.

□ 1940

The policy is working. We should remember it is working and to put it off track would be a disservice to both parties.

Mr. HYDE. Mr. Chairman, I yield 3½ minutes to the distinguished gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, consider this very possible scenario. First the MPLA expresses a willingness—that is the word—willingness to hold elections and have a cease-fire.

Second, the President complies with this amendment, if it were to be passed, and cuts off lethal aid.

Third, the MPLA waits 2 months and then launches a massive offensive against UNITA.

Our dear colleague tells us not to worry. If that were to occur, we can resume aid, but Mr. Chairman, those of us who have been on the Intelligence Committee have had a lot of experience with the problems of starting and stopping and starting again the resupply of aid. We have had experience with it in Central America. We have had experience with it for years in Afghanistan and we have had experience with it in Africa.

I can tell you categorically, and I do not believe any of my colleagues will disagree with this, that once you stop aid, it takes weeks, if not months, to restart that aid.

We could find ourselves in a situation where the MPLA was overrunning UNITA, where UNITA was facing defeat and we would be too little, too late, and we would see the forces of freedom defeated by this Marxist government in Angola.

Now, our friends tell us, well, the Soviets say they will stop aid if we stop aid. Well, that is nice, but that is something for our Secretary of State and Secretary Shevardnadze to negotiate. Let us not play Secretary of State here in the Congress. Let us let that be negotiated, if indeed that is a possibility.

And most of all, let us remember the words that I quoted earlier tonight of Felix Dzerzhinsky, the founder of the KGB, who said:

The West are wishful thinkers. We will give them what they want to think.

Let us not be conned by the Communists in Angola. Let us recognize that it is easy for them to make promises in order to get their way. Let us support UNITA. Let us support Jonas Savimbi until and unless we see that there are firm commitments to free and fair elections, firm commitments to a cutoff of the war, firm commitments to a cease-fire. By doing that we will be supporting freedom and opposing Marxist dictatorship in Africa.

Mr. SOLARZ. Mr. Chairman, for the purpose of concluding this debate, I yield the remaining time to the very distinguished gentleman from California [Mr. BEILENSON], the chairman of the Permanent Select Committee on Intelligence.

Mr. BEILENSON. Mr. Chairman, I rise in support of the Solarz amendment.

Reports of progress in the negotiations between UNITA and the Government of Angola provide some reason for optimism that a political settlement of the Angolan civil war may be possible in the near future. I believe that it is time to capitalize on both the spirit of compromise recently evidenced in these negotiations, and the apparent willingness of the Soviet Union, to play a more positive role in resolving the Angolan issue.

I personally favor a policy which combines an incentive for the Government of Angola to agree to the essentials for peace—the adoption of a cease-fire, and a commitment to a timetable for multiparty elections—with appropriate protection for the position of UNITA. Neither side gains an advantage for delay under such an approach, while each is rewarded for constructive efforts to achieve a political settlement.

Mr. Chairman, we have accomplished much of what we set out to do in Angola. The withdrawal of Cuban troops is on schedule, and the Soviets are showing an interest in disengaging from their costly support of the Government in Luanda.

We need to encourage the process of national reconciliation so that the urgent needs of the people of Angola, especially those threatened with famine, can be addressed. That country has been ravaged by civil war for 15 years now. Its people are tired of the fighting, its economy destroyed by it.

It is time for us to help end the war, and to help Angola fulfill its potential to become one of the most economically healthy countries of Africa. It has oil, coffee, diamonds, timber, and fish. What it needs to have is peace.

I believe that the Solarz amendment provides a positive framework for en-

couraging a peaceful resolution of the Angola conflict, and I support it.

The CHAIRMAN. All time has expired on the Solarz amendment.

The Chair recognizes the gentleman from Washington [Mr. MILLER].

AMENDMENT OFFERED BY MR. MILLER OF WASHINGTON TO THE AMENDMENT OFFERED BY MR. SOLARZ

Mr. MILLER of Washington. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Washington to the amendment offered by Mr. SOLARZ: On page 1, on line 10, after "participate," insert the following: "and is no longer receiving aid from the Soviet Union,".

Mr. MILLER of Washington. Mr. Chairman, first of all, let me say that I have the greatest respect for my distinguished colleague, the gentleman from New York, and I respect what he is trying to do to encourage the peace process in Angola, but I believe there is one very serious flaw in his approach.

The Solarz amendment provides for a cutoff of United States aid if the Angolan Government express a willingness to agree to a cease-fire and agrees to a timetable for a political settlement and elections; however, Soviet military aid continues—that is the flaw.

The result of the Solarz amendment is that the Soviet Union, which has pumped in and continues to pump in at least 10 times as much military aid as the United States, will continue its military aid, while the United States will stop its military aid.

We do want to encourage negotiations and elections. However, as I look back on the last several years of our negotiations with the Soviet Union, where we have achieved some significant arms reduction agreements, they did not come about Mr. Chairman, through the United States agreeing or saying we would unilaterally make reductions or concessions. They came about because the two nations put into effect agreements.

It is for that reason that I offer the amendment to the Solarz amendment to make sure that not only are we on the way to a cease-fire and a political settlement with elections in Angola, but that we are on the way to ending military aid, that is ending military aid by the Soviet Union at the same time as the United States is agreeing to cut off military aid.

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Washington. I am happy to yield to the gentleman from New York.

Mr. SOLARZ. Mr. Chairman, I thank the gentleman for yielding to me, because I think we may be able to find a basis to come together on this amendment.

In the gentleman's amendment, when the gentleman refers to aid from the Soviet Union, do I take it to mean the gentleman is referring to lethal military assistance?

Mr. MILLER of Washington. Referring to military aid, that includes equipment, weapons, ammunition, and military advisors.

Mr. SOLARZ. The gentleman is not referring to nonmilitary assistance?

Mr. MILLER of Washington. No.

Mr. SOLARZ. Let me ask the gentleman one other question, if he will yield further.

Mr. MILLER of Washington. I yield to the gentleman from New York.

Mr. SOLARZ. In the event we were to accept the gentleman's amendment as he has explained it, would the gentleman from Washington be prepared to join the gentleman from New York [Mr. GREEN], the gentleman from New York [Mr. GILMAN], and the gentleman from New York [Mr. HOUGHTON] in supporting the main amendment?

Mr. MILLER of Washington. I would be prepared to if the amendment was accepted with the interpretation and explanation that I have given. If we can get the Soviet Union to stop sending military equipment, ammunition, weapons, and to withdraw their military advisers, then along with getting the willingness for a cease-fire and a political settlement and fair elections, I think then we are on the way to encouraging a truly peaceful fair and democratic settlement in Angola.

□ 1959

Mr. SOLARZ. If the gentleman will yield further—and I thank him for his explanation and constructive efforts to improve the amendment—I say to my good friend from the State of Washington that just as we accepted some suggestions by the gentleman from California [Mr. LAGOMARSINO], to broaden the base of support for the amendment, just as we accepted a suggestion from the gentleman from Indiana [Mr. BURTON] to broaden the base of support for the amendment, so too will we accept the amendment offered by my very good friend, the gentleman from the State of Washington [Mr. MILLER] to further broaden the base of support for the amendment.

I only hope that when the vote comes on the final amendment, that my very good friend from the State of Washington will be able to bring some of his other friends on that side of the aisle along with him.

The CHAIRMAN. The time of the gentleman from Washington [Mr. MILLER] has expired.

The gentleman from New York [Mr. SOLARZ] is recognized for 5 minutes.

Mr. SHUSTER. Mr. Chairman, I believe the gentleman from New York [Mr. SOLARZ] supports the amendment. So should the 5 minutes not go to some Member who might oppose the amendment?

Mr. HYDE. Mr. Chairman, should not a Member in opposition to the amendment be given the 5 minutes?

The CHAIRMAN. Without objection, the gentleman from Illinois [Mr. HYDE] is recognized for 5 minutes.

There was no objection.

Mr. HYDE. Mr. Chairman, I yield to my colleague, the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I would like to say I know my colleague from Washington is well intentioned and his amendment on the surface has merit. The problem I have with the amendment is that it is a Trojan horse. It is going to make a resolution which is going to cause much, much mischief and problems for the resolution of this conflict to look a little better.

So I just say to my colleagues that I think that the path we are on toward peace in Angola is a path that should not be deviated from at this particular point. If this amendment makes this legislation look better and entices some of my colleagues to vote for it and it passes, then I think it is going to cause real problems for the peace process.

Mr. HYDE. Mr. Chairman, I thank the gentleman for his contribution.

Mr. Chairman, I want to go on record in the strongest terms as opposing this well-intentioned amendment because there are so many things wrong with it. It does not say one thing about 1,200 Soviet personnel who are now moving to the front lines. It does not say anything about Cuban weapons which are in abundance there. It does not say anything about the stockpile already in place, 15 years' worth of it. It does not say anything about who is going to monitor whether the Soviets are receiving aid. Are we going to get onsite inspection? Will the United Nations be there?

The problem with this is that it ought to be part of a comprehensive cease-fire with monitors in place so we will know it is being honestly lived up to. Once more, it is "trust me, trust me."

Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. I thank the gentleman for yielding.

Mr. Chairman, I simply concur with the gentleman's point. This is one more complexity added to an already vague and complex amendment. It does nothing to cure the situation. I imagine it might pass by voice vote here. But the real issue is the Solarz amendment, with or without this amendment.

Mr. Chairman, the Solarz amendment, with or without this amendment, should be defeated.

Mr. HYDE. I thank the gentleman.

Mr. Chairman, this is whipped cream over shaving cream; it does not taste very good. It looks all right, but there is no way to monitor it. It does not demand a cease-fire, it just says they are no longer receiving aid.

How are we going to find out? From their representative at the United Nations?

The State Department says at this critical stage of negotiations, when our policy appears to be on the verge of success, any change in our policy would send the wrong signal to all the parties, including the Portuguese mediators, and probably prolong the conflict rather than bring it to a peaceful conclusion.

Mr. Chairman, I yield to my friend, the gentleman from Washington, well-intentioned, but misguided though he be.

Mr. MILLER of Washington. Mr. Chairman, I thank my well-intentioned, albeit perhaps misguided colleague, for yielding, but two responses.

The gentleman raises the question of advisers. In the definition of aid and in the colloquy that we just had, I explained and the other side accepted that aid included not only weapons, ammunition and equipment, but the advisers that the gentleman is talking about.

Second, the gentleman said how will it be monitored? If you look at the Solarz amendment, the title of this paragraph is "Presidential Certification." The President of the United States, our President, the friend of my distinguished colleague, the gentleman from Illinois, has to certify that this has happened. I call that pretty good monitoring.

Mr. HYDE. If the gentleman is through, does the gentleman mean the President is going to go over there in Air Force One and land in Luanda and see if the Soviets are still sending military aid?

The gentleman has something that looks nice, but it sends the wrong signal at the wrong time, and it is a terrible mistake and I am sorry that the gentleman offered it.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Washington [Mr. MILLER] to the amendment offered by the gentleman from New York [Mr. SOLARZ].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SOLARZ], as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SOLARZ. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 213, noes 200, not voting 20, as follows:

[Roll No. 480]

AYES—213

Alexander	Glickman	Oakar
Anderson	Gonzalez	Oberstar
Andrews	Gordon	Obey
Annunzio	Grandy	Ortiz
Anthony	Gray	Owens (NY)
Applegate	Green	Owens (UT)
Aspin	Guarini	Pallone
Atkins	Hall (OH)	Panetta
AuCoin	Hamilton	Patterson
Bates	Hayes (IL)	Payne (NJ)
Beilenson	Hefner	Payne (VA)
Bennett	Henry	Pease
Berman	Hertel	Pelosi
Bilbray	Hoagland	Penny
Boehlert	Hochbrueckner	Perkins
Boggs	Horton	Pickett
Bonior	Houghton	Poshard
Borski	Hoyer	Price
Boucher	Jacobs	Pursell
Boxer	Johnson (SD)	Rahall
Brown (CA)	Johnston	Rangel
Bruce	Jontz	Richardson
Bryant	Kanjorski	Rostenkowski
Buechner	Kaptur	Roybal
Bustamante	Kastenmeier	Russo
Campbell (CO)	Kennedy	Sabo
Cardin	Kennelly	Sangmeister
Carper	Kildee	Sawyer
Carr	Kleczka	Scheuer
Chapman	Kolter	Schneider
Clarke	Kostmayer	Schroeder
Clay	LaFalce	Schumer
Clement	Leach (IA)	Serrano
Coleman (TX)	Leath (TX)	Sharp
Collins	Lehman (CA)	Shays
Condit	Lehman (FL)	Sikorski
Conyers	Levin (MI)	Skaggs
Costello	Levine (CA)	Slattery
Coyne	Lewis (GA)	Slaughter (NY)
de la Garza	Lipinski	Smith (IA)
DeFazio	Long	Smith (VT)
Dellums	Lowey (NY)	Solarz
Derrick	Luken, Thomas	Spratt
Dicks	Machtley	Staggers
Dingell	Manton	Stallings
Dixon	Markey	Stokes
Donnelly	Martinez	Studds
Dorgan (ND)	Matsui	Swift
Downey	Mavroules	Synar
Durbin	Mazzoli	Tanner
Dwyer	McCloskey	Tauke
Dymally	McDermott	Torres
Dyson	McHugh	Towns
Early	McMillen (MD)	Traficant
Eckart	McNulty	Traxler
Edwards (CA)	Mfume	Udall
Engel	Miller (CA)	Unsoeld
Espy	Miller (WA)	Vento
Evans	Mineta	Visclosky
Fazio	Mink	Volkmer
Feighan	Moakley	Walgren
Flake	Moody	Walsh
Foglietta	Morella	Washington
Frank	Morrison (WA)	Waxman
Frenzel	Mrazek	Weiss
Frost	Murphy	Wheat
Gaydos	Nagle	Williams
Gejdenson	Natcher	Wise
Gephardt	Neal (MA)	Wolpe
Gibbons	Neal (NC)	Wyden
Gilman	Nowak	Yates

NOES—200

Archer	Browder	Courter
Armey	Brown (CO)	Cox
Baker	Bunning	Craig
Ballenger	Burton	Crane
Barnard	Byron	Dannemeyer
Bartlett	Callahan	Darden
Barton	Campbell (CA)	Davis
Bateman	Chandler	DeLay
Bentley	Clinger	DeWine
Bereuter	Coble	Dickinson
Bevill	Combest	Dornan (CA)
Bilirakis	Conte	Douglas
Billey	Cooper	Dreier
Broomfield	Coughlin	Duncan
Edwards (OK)	Lewis (FL)	Savage
Emerson	Lightfoot	Saxton
English	Livingston	Schaefer
Erdreich	Lloyd	Schiff
Fascell	Lowery (CA)	Schulze
Fawell	Madigan	Sensenbrenner
Fields	Martin (NY)	Shaw
Fish	McCandless	Shumway
Flippo	McCollum	Shuster
Gallegly	McCrery	Sisisky
Gallo	McCurdy	Skeen
Gekas	McDade	Skelton
Geren	McEwen	Slaughter (VA)
Gillmor	McGrath	Smith (FL)
Gingrich	McMillan (NC)	Smith (NE)
Goodling	Meyers	Smith (NJ)
Goss	Michel	Smith (TX)
Gradison	Miller (OH)	Smith, Denny (OR)
Grant	Molinari	
Gunderson	Mollohan	Smith, Robert (NH)
Hall (TX)	Montgomery	
Hammerschmidt	Moorhead	Smith, Robert (OR)
Hancock	Murtha	
Hansen	Myers	Snowe
Harris	Nelson	Solomon
Hastert	Nielson	Spence
Hatcher	Oxley	Stangeland
Hefley	Packard	Stearns
Herger	Parker	Stenholm
Hiler	Parris	Stump
Holloway	Pashayan	Sundquist
Hopkins	Paxon	Tallon
Hubbard	Petri	Tauzin
Huckaby	Pickle	Taylor
Hughes	Porter	Thomas (CA)
Hunter	Quillen	Thomas (GA)
Hutto	Ravenel	Thomas (WY)
Hyde	Ray	Torricelli
Inhofe	Regula	Upton
Ireland	Rhodes	Valentine
James	Ridge	Vander Jagt
Jenkins	Rinaldo	Vucanovich
Johnson (CT)	Ritter	Walker
Jones (GA)	Roberts	Watkins
Jones (NC)	Robinson	Weber
Kasich	Roe	Weldon
Kolbe	Rogers	Whittaker
Kyl	Rohrabacher	Whitten
Lagomarsino	Ros-Lehtinen	Wolf
Lancaster	Roth	Wylie
Lantos	Roukema	Yatron
Laughlin	Rowland (GA)	Young (AK)
Lent	Saiki	Young (FL)
Lewis (CA)	Sarpalius	

NOT VOTING—20

Ackerman	Ford (TN)	Olin
Bosco	Hawkins	Rose
Brennan	Hayes (LA)	Rowland (CT)
Brooks	Lukens, Donald	Schuette
Coleman (MO)	Marlenee	Stark
Crockett	Martin (IL)	Wilson
Ford (MI)	Morrison (CT)	

□ 2016

The Clerk announced the following pairs:

On this vote:

Mr. Ackerman for, with Mr. Marlenee against.

Mr. RHODES and Mr. HALL of Texas changed their vote from "aye" to "no."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MRS. BOXER

Mrs. BOXER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. BOXER: Page 25, after line 18, insert the following new title:

TITLE VI—OVERSIGHT OF INTELLIGENCE ACTIVITIES

SEC. 601. CONGRESSIONAL OVERSIGHT.

(a) IN GENERAL.—Section 501 of the National Security Act of 1947 (50 U.S.C. 413) is amended to read as follows:

"CONGRESSIONAL OVERSIGHT

"SEC. 501. (a) The President shall ensure that the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives (hereinafter in this title referred to as the 'intelligence committees') are kept fully and currently informed of the intelligence activities of the United States, including any significant anticipated intelligence activities, as required by this title, except that—

"(1) nothing contained in this title shall be construed as requiring the approval of the intelligence committees as a condition precedent to the initiation of intelligence gathering activities. Initiation of covert actions shall require prior approval of the intelligence committees; and

"(2) nothing contained in this title shall be construed as conferring on the President any of the powers enumerated in the Constitution as reserved to the Congress, particularly the power to declare war, Const. Art. I, Sec. 8, Cl. 11; to raise and support military forces, Const. Art. I, Sec. 8., Cl. 12; to appropriate funds, Const. Art. I, Sec. 9., Cl. 7; nor as limiting the foreign policy powers enumerated in the Constitution as reserved to the President, particularly the power to act as Commander in Chief of the armed forces once Congress has declared war, Const. Art. II, Sec. 2., Cl. 1; and the power to make treaties, by and with the advice and consent of the Senate, Const. Art. II, Sec. 2., cl. 2.

"(b) The President, upon being made aware of any allegations of illegal intelligence activity, shall immediately report such allegations to the intelligence committees and keep the intelligence committees informed of the ongoing investigations into such activities, such reports to encompass any measures taken to prevent a recurrence of such illegal activity, including the reporting of such activity to the Department of Justice for prosecution.

"(c) The President and the intelligence committees shall each establish procedures as may be necessary to carry out the provisions of this title, including procedures to ensure that each is kept fully and currently informed of intelligence activities.

"(d) The House of Representatives and the Senate, in consultation with the Director of Central Intelligence, shall each establish, by rule or resolution of such House, procedures to ensure that all members of the Congress are informed regarding intelligence activities to the extent consistent with the need to protect from unauthorized disclosure classified information and information relating to intelligence sources and methods furnished to the intelligence committees or to Members of Congress under this title. In accordance with such procedures, each of the intelligence committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees.

"(e) As used in this section, the term 'intelligence activities' includes 'covert actions', as defined in section 503(e)."

(b) INFORMATION REQUIRED TO BE DISCLOSED; FINDINGS.—The National Security Act of 1947 is amended—

(1) by redesignating sections 502 and 503 as sections 505 and 506, respectively; and

(2) by inserting after section 501 the following:

"REPORTING INTELLIGENCE ACTIVITIES

"SEC. 502. To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods, the President shall—

"(1) keep the intelligence committees fully and currently informed of all intelligence activities which are the responsibility of, are engaged in by, or are carried out for or on behalf of the United States Government, including any significant anticipated intelligence activity and significant failures; and

"(2) furnish the intelligence committees any information or material concerning intelligence activities which is within their custody or control and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities.

"APPROVAL AND REPORTING OF COVERT ACTIONS

"SEC. 503. (a) In setting forth the procedures regulating covert actions, this title shall not be construed as authorizing the use of covert operations as a routine means of conducting foreign policy or achieving foreign policy objectives.

"(b) The President may not conduct covert actions without prior approval by the intelligence committees, except as set forth in subsection (c)(6).

"(c) Approval of a covert action by the intelligence committees shall be predicated on the following:

"(1) The preparation of and delivery to the intelligence committees by the President of a written finding establishing that the covert action is necessary to meet an extraordinary threat to the national security of the United States and detailing the covert action proposed, the purposes of the action, the means by which the action is intended to be carried out, and the Federal agency, agencies, or personnel to be used in the covert action.

"(2) The covert action does not propose, intend, or otherwise include the use of any third party to fund or conduct the operation, be such third party a foreign country or any agent thereof, private contractor, or other entity which is not an element of the United States Government.

"(3) The covert action does not propose, intend, or otherwise include the use of any department, agency, or entity of the United States Government other than United States intelligence agencies, the Department of Defense, and Federal law enforcement agencies.

"(4) The covert action does not propose, intend, or otherwise result in the influencing of United States political processes, public opinion, policies, or media.

"(5) The covert action does not propose, intend, or otherwise include actions which violate the Constitution of the United States, any treaties, such as the United Nations Charter, which under the Constitution are the Supreme Law of the Land, Const. Art. VI, cl. 2, or any statutes of the United States.

"(6) The approval by the intelligence committees of each covert action must be obtained in writing before the covert action can commence, except that the President may under extraordinary and emergency conditions, when time is of the essence, initiate a covert action prior to receiving approval from the intelligence committees, but such covert action shall cease within 48 hours of initiation unless express written approval of the covert action is given by the intelligence committees pursuant to such procedures as the intelligence committees may adopt to ensure a prompt response in such circumstances.

"(d) The President shall—

"(1) keep the intelligence committees fully and currently informed of the status of all covert actions which are carried out for or on behalf of the United States Government, including significant failures;

"(2) furnish to the intelligence committees any information or material concerning covert actions which is in the possession, custody, or control of the executive branch and which is requested by either of the intelligence committees; and

"(3) ensure that the intelligence committees are notified within 24 hours of any significant change in a previously approved covert action, including any change in the nature or scope of the threat which the covert action was designed to counter.

"(e) As used in this section, the term 'covert action' means an activity or activities conducted by the United States Government to meet an extraordinary threat to the national security of the United States so that the role of the United States Government is not intended to be apparent or acknowledged publicly, but does not include—

"(1) activities to protect United States citizens from imminent bodily harm or from being seized or held as a hostage;

"(2) activities the primary purpose of which is to acquire intelligence, traditional counterintelligence activities, traditional activities to improve or maintain the operational security of the United States Government programs, or administrative activities;

"(3) traditional diplomatic or military activities or routine support to such activities;

"(4) traditional law enforcement activities conducted by the United States Government law enforcement agencies or routine support to such activities; or

"(5) activities to provide routine support to the covert activities (other than activities described in paragraph (1), (2), (3), or (4)) of other United States Government agencies abroad.

"PENALTIES FOR VIOLATION

"SEC. 504. Any person who knowingly initiates or participates in a covert action in violation of this title shall be guilty of a felony punishable by up to 20 years in Federal prison, a fine of $100,000, or both.".

(c) AVAILABILITY OF FUNDS SUBJECT TO CONGRESSIONAL APPROVAL.—Section 505 of the National Security Act of 1947, as designated by subsection (b)(1), is amended—

(1) by striking out "501" in subsection (a)(2) and inserting in lieu thereof "503"; and

(2) by adding at the end thereof the following new subsection:

"(d) No appropriated funds may be obligated or expended, or may be directed to be obligated or expended, for any covert actions, as defined in section 503(e), until such time as the intelligence committees have given express written approval of the covert action in accordance with section 503(c).".

Mrs. BOXER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be consid-

ered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from California?

There was no objection.

POINT OF ORDER

Mr. HYDE. Mr. Chairman, I make a point of order against the Boxer amendment.

The CHAIRMAN. The gentleman will state his point or order.

Mr. HYDE. Mr. Chairman, I make a point of order that the amendment violates clause 7 of rule XVI which states, in pertinent part, "* * * no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment." The proposed amendment is not germane to the bill because it deals with matters beyond the scope of the bill's provisions and the

changes in law, and we would say that this is absolutely germane.

My goodness, we are talking about covert activities, and certainly the Intelligence Committee, and it is hard for me to believe that someone could say that a discussion of covert activities in this particular amendment would not be germane to the intelligence authorization bill.

Mr. BEILENSON. Mr. Chairman, may I be recognized very briefly?

The CHAIRMAN. Does the gentleman from California wish to be heard on the point of order?

Mr. BEILENSON. He does, Mr. Chairman.

The CHAIRMAN. The gentleman from California is recognized.

Mr. BEILENSON. Mr. Chairman, I just want to be heard very, very briefly on the point of order.

I recognize the right of the gentleman, of course, to make this point of order and, in fact, I do not know how the Chair will rule on the precedents which the gentleman from Illinois has cited. I would only ask that in its ruling the Chair consider the fact that there are already provisions in the bill which do broaden its scope.

Take into consideration the fact that the gentlewoman from California [Mrs. BOXER] has amended her amendment this very day, I think in a good faith effort to try to assure its germaneness. And I would also urge that the desire of many Members to debate the issue raised by the amendment be noted.

There is not agreement in the House that the amendment would result in an improvement in the existing system of intelligence oversight. I believe, however, that the amendment's consideration would offer an opportunity to the Intelligence Committee to correct many of the misconceptions that have been raised recently in the role Congress plays in monitoring activities of the intelligence agencies, and I would hope that the ruling of the Chair would in some way acknowledge the value of that kind of debate.

I thank the Chair.

The CHAIRMAN (Mr. NELSON of Florida). Are there other Members who wish to be heard on the point of order?

The Chair is prepared to rule.

Although the bill does not amend the National Security Act of 1947, neither does it confine itself to authorities and activities of the intelligence community. In addition to the changes in permanent law already noted, at section 503 the bill inserts new provisions in title 10 of the United States Code—relating to the Armed Forces—to ensure congressional oversight of activities of the Department of Defense in commercial cover of intelligence operations.

Thus, the subject matter of the amendment—the relationship between the executive branch and the Congress with respect to the authorities and activities of the intelligence community—is one of the diverse topics already addressed in the bill.

Accordingly, the point of order is overruled.

The gentleman from Illinois [Mr. HYDE] makes the point of order that the amendment offered by the gentlewoman from California is not germane to the bill. The amendment adds a new title and must be germane to the bill as a whole, as amended.

The bill authorizes funding for the intelligence community for 1 fiscal year and makes several, diverse changes in permanent law relating to sundry authorities of the Central Intelligence Agency and the Department of Defense. For example, the bill makes changes in the CIA retirement and disability system; it authorizes the Secretary of Defense to permit components of DOD to charge the CIA the same rate for airlift services that they would charge another component of DOD: and it authorizes the Secretary of Defense to withhold certain geodetic products from disclosure under the Freedom of Information Act. In addition, the bill, as perfected, includes the amendment recommended by the Committee on Armed Services directing the Secretary of Defense to provide Members of Congress access to a classified report of the Defense Intelligence Agency assessing efforts to account for military personnel listed as prisoners of war or missing in action.

The amendment at the desk does not repeal the Hughes-Ryan law, but does amend title V of the National Security Act of 1947—relating to accountability for intelligence activities. Among other things, it assigns to the President several responsibilities of the type that the existing act assigns to lower officials, such as the Director of Central Intelligence.

□ 2030

Mr. HYDE. Mr. Chairman, may I ask one question?

Mr. Chairman, I did not hear that part, what the Chair read about the criminal penalties that she inserts in the law, and my point that that should go to the Committee on the Judiciary, that it is certainly beyond the scope of our bill.

I must have missed that. How did the Chair rule on that, sir?

The CHAIRMAN. The Chair thinks that the bill, as presented and amended contains provisions within several committee jurisdictions. Therefore the amendment need not meet a strict jurisdictional test. Accordingly, the Chair rules that the point of order is overruled.

Mr. HYDE. I thank the Chair.

The CHAIRMAN. The gentlewoman from California [Mrs. BOXER] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. HYDE] will be recognized for 30 minutes.

The Chair recognizes the gentlewoman from California [Mrs. BOXER].

Mr. BEILENSON. Mr. Chairman, this gentleman is opposed to the gentlewoman's amendment and asks that he control the 30 minutes in opposition.

The CHAIRMAN. The gentleman from California [Mr. BEILENSON] will be recognized for 30 minutes.

Mrs. BOXER. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, I want to thank the Chair for upholding the germaneness of this amendment, and I want to thank the very gracious chairman of the Intelligence Committee who opposed this amendment but yet fought hard for my right to offer it.

Mr. Chairman, my amendment gives the Intelligence Committees of Congress a more important role in covert activity decisions by requiring their approval before a covert activity is undertaken. In doing so, this amendment protects the American people from the possible abuses of an all-too-powerful or overreaching executive branch.

I would like to read to my colleagues from the Senate Committee on Intelligence report on the Iran-Contra affair. This is the Senate and the House committee report, starting on page 11.

Findings and conclusions: The common ingredients of the Iran/Contra policies were secrecy, deception, and disdain for the law. A small group of senior officials believed that they alone knew what was right. They viewed knowledge of their actions by others in the Government as a threat to their objectives. They told neither the Secretary of State, the Congress, nor the American people of their actions. When exposure was threatened, they destroyed official documents, and they lied to Cabinet officials, to the public, and to elected representatives in Congress.

Going on, I go on to page 12:

The United States simultaneously pursued two contradictory foreign policies, a public one and a secret one.

And, further,

The Iran-Contra affair was characterized by pervasive dishonesty and inordinate secrecy. Secrecy became an obsession. Congress was never informed of the Iran or Contra covert actions.

Mr. Chairman, they go on to say, and, Mr. Chairman, I know it is hard to relive some of the horrors of the Iran-Contra scandal, but I think it is important, because it really is what my amendment addresses.

Further, on page 16 of the report:

Covert operations of this Government should only be directed and conducted by the trained professional services that are accountable to the President and to Congress. Such operations should never be delegated as they were here to private citizens in order to evade governmental restrictions.

And, finally, the committee ends in this way:

The President is the principal architect of foreign policy in consultation with the Congress. The policies of the United States cannot succeed unless the President and the Congress work together.

Mr. Chairman, we must learn from the history of the Iran-Contra scandal lest we see it repeated over and over again. We read in this report that keeping secrets from our Intelligence Committees is wrong, that asking private parties who can oftentimes be crooked or greedy or worse is wrong, that consultation with our Intelligence Committees is correct, that checks and balances are correct, that Congress, working with the President, not just being a rubberstamp, is correct.

This Congress is a great institution. Are we unwieldy at times? Yes. Are we contentious at times? Absolutely.

But this is the House of the people, and the people count on us, expect us to make policy through our committee system to check the unbridled power of the executive.

I think it is important that you know that this bill that is before us is silent on the whole area of covert activities. However, the Senate has an entire section spelling out the way covert activities would be authorized, and it is very important that we speak out on this issue my colleagues, because pretty soon they are going to go to conference, and if we have not discussed this, then neither the gentleman from California [Mr. BEILENSON] nor the gentleman from Illinois [Mr. HYDE] nor any of the conferees will know how we feel.

Section 7 in the Senate bill says that covert activities can be carried out for virtually any foreign-policy objective at all, and all that is necessary is notification by the President to the committees, but there is a loophole in this notification process. On a rare occasion, and I put quotes around rare because those are the words, if the President cannot notify Congress before the covert activity begins, he must do so in a timely manner.

"Timely" is not defined in the Senate bill. Conceivably it would be a week. It could be a month. Maybe it could even be a year. So, in essence, the role of Congress in a covert action is limited to notification by the President to the intelligence committees, a written rationale for the action which is important and, in certain cases, no notification until the President thinks it is timely.

□ 2040

The Senate language would allow all agencies of government to participate in covert activities, as well as foreign countries and other third parties.

Members, I ask, have we learned anything from the Iran-Contra scandal? Have we not learned that the Congress was kept totally in the dark? Have we not learned that when funding for the Contras was banned by the Congress, people in the Reagan-Bush administration turned to third parties such as Iranian arms merchants and other foreign nationals, to accomplish their secret plan?

I believe the American people should insist on the checks and balances of a stronger congressional role. The need to know that this Congress through our Intelligence Committees is not only notified but consulted.

(By unanimous consent Mrs. BOXER was allowed to proceed for 2 additional minutes.)

Mrs. BOXER. That the Congress is not only told but is asked. They need to know that covert activities will take place not as an ordinary part of foreign policy, but when our national security absolutely demands it. They need to know that third parties and other nations will not be carrying out our covert policies. And most of all, they have to know and feel confident that their tax dollars are being spent wisely, not on some secret plan hatched in the dark recesses of their Government, or worse, in the dark recesses of some privately run CIA operation.

Let me tell Members what the Boxer amendment does not do. It does not affect intelligence gathering operations or stop Members from getting the intelligence operation on a Qadhafi or a Saddam Hussein. It does not prevent Members from consulting with foreign countries about covert actions, and it does not prevent foreign countries from paralleling our cover actions. It certainly does not require any consultation for hostage rescue.

What it does, very clearly my friends, is say that this Congress, through its intelligence committees, needs to play a role of approval. We have a loophole. If there is an emergency, we give the administration 48 hours to come forward before that approval is given. I urge this body to learn from history, to stand up for the American people and their right to a fair and just Government, to make sure that a tyrannical few cannot undermine the greatest Nation on Earth.

We are a Government of laws, not of men and women. Therefore, we must write laws that protect our people from the abuse of power. Nothing less than their freedom is at stake.

Members, if we are here for anything, it is to protect the freedom of the people we represent. I urge support of the Boxer amendment.

Mr. BEILENSON. Mr. Chairman, I yield 5 minutes to our distinguished ranking member, the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I have heard Iran-Contra since 1986, and I thought Congress did pretty well. We had a House Special Investigating Committee, and boy, did we have investigators. The Senate had a Special Investigating Committee, and did they have counsel and investigators. We spent the summer with hearings. We subpoenaed everybody, all records. We granted immunity to everybody in town. Testify, go before the public.

Then we got a special prosecutor, I guess independent counsel is what he is called. I do not know what counsel he made except prosecute, indict, and he did; 28 million dollars' worth. He got a couple of people. Not enormously big fish, but he has gotten them. The others, he had gotten one on appeal, the other one got reversed, but we have had the newspapers. We have had Congress. We have had the courts. We have had all sorts of investigations, and an election has intervened in between them. A couple of elections as a matter of fact.

I hope we have learned the lessons of Iran-Contra. I hope we have drawn conclusions from that the Congress should not be lied to. There is a penalty paid for lying, if a person is not granted immunity first by Congress. And then life goes on. But, no, it does not.

Mrs. BOXER has brought out of the bowels of the Cristic Institute this complicated amendment which says, as a matter of fact, no covert actions, ever, regardless of special circumstances involving sensitivity and risk to life without prior notice to Congress. Do Members know how we can keep a secret? Don't Members know our lips are sealed? Members never find out the next day in the Washington Post or the New York Times what is going on.

Members have never. Why? Our battle plans are not revealed. What our submarines are doing, what we are doing in the Philippines, they never find that out. We are tight as a drum. I am proud of that fact. We do not even need an oath of secrecy in the Committee on Intelligence. We do not even take an oath of secrecy. We are honor-bound not to leak, and we do not live by the press release or by being stroked by the media. Not at all. "What did you do today? How much are you giving Angola? We know it, we just want to confirm it. We heard it from the other side" and on and on and on, but I am digressing.

The gentlewoman from California has imposed an enormous power that I stand in awe of. She has rewritten the Constitution. Now get this; she says, "Nothing contained in this title shall be construed as conferring on the President any of the powers enumerated in the Constitution as reserved to the Congress." I will buy that, particularly the power to declare war. I will buy that.

Now she goes on and she says, "nor as limiting the foreign policy powers enumerated in the Constitution as reserved to the President, particularly

the power to act as Commander-in-Chief of the Armed Forces, once Congress has declared war." She phases in the Presidential constitutional power as Commander-in-Chief to only be effected after Congress has declared war. That is wonderful if we can do it. Whoever drafted this has, as I say, broad scope, is a visionary, and has rewritten the Constitution to suit himself.

Covert actions, they have redefined covert action, too. So it takes a Philadelphia lawyer to understand what is covert and what is not.

Now, hostage rescues are no longer covert, so the President can do that and not have to confer with Members. They say, great secret keepers in advance. That is fine. Now, if a third country ever wants to work with the United States, if we need to get help from somebody else, no can do under her bill.

It is just a terrible imposition, a terribly inflexible, dangerous, unrealistic rule that she is imposing. It is one last dying gasp for those people who died very hard over Iran-Contra, and never did get to Ronald Reagan, but nunc pro tunc, as the lawyers say, now for then.

We have this amendment. I hope this is defeated. We have crippled the State Department. We have crippled the CIA enough tonight, and let Members not put the lid on the coffin.

Mr. Chairman, I reserve the balance of my time.

Mrs. BOXER. Mr. Chairman, I yield myself 10 seconds to say to the gentleman that I find it amazing that it is inflexible and dangerous to give the Intelligence Committees more power.

Mr. Chairman, I yield 4 minutes to the senior member of the Permanent Select Committee on Intelligence, the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Chairman, I thank the gentlewoman for yielding me this time.

I rise in support of the Boxer amendment. I cannot say that it is technically legal or parliamentarily perfect or not, nor can I say that the chances of it ultimately becoming law are more than very slight. However, it does one thing. It does get to the heart of the matter. Even more so than the 3 hours that we spent on Angola, because it is a question, the principle involved here. The question of policy is so profound, so significant, that really all other questions we have debated today pale in comparison.

It has to do with the relevancy, really, of the Committee on Intelligence, raised by the gentleman from Illinois [Mr. HYDE] earlier. How relevant is our committee? It has to do with whether or not Congress can make any meaningful contribution in terms of national security or international security questions. What is our limitation?

Now, I say this, knowing that since I have been on the Committee on Intelligence and the Committee on Intelligence has been operating in a number of years under what I consider superb chairmanship, including the gentleman from Massachusetts, Mr. Boland, the gentleman from Indiana [Mr. HAMILTON], the gentleman from Ohio [Mr. STOKES], and now my colleague, the gentleman from California [Mr. BEILENSON]. That is not the problem. The problem is our constitutional limitation, our total inability to do anything more than to listen up in room H-405. When proposals are made by the executive branch, you listen to them. We cannot speak of them. We cannot effectively challenge them. There is no vote, normally, on those propositions, and there is no third-party interest.

□ 2050

Except in the most rare instances, we hear from the intelligence agencies only and the executive branch on these proposals.

There are ways, it has been pointed out, that could be challenged. We could, and it was once done by a former Member, Mr. Boland, challenge Central American policy; very painful, very difficult, once in recent years.

We can with this particular vehicle, the authorization bill which contains money, although we customarily as you know do not, we can challenge certain policies. Today we have in two or three particulars, mostly by Members not now members of the Intelligence Committee.

Iran-Contra, cited by the gentlewoman from San Francisco, is very much in point. We have seen Judge Walsh give up the prosecution this last week. We have seen little come of it because the juxtaposition of the executive branch and the Congress is at a terrible disadvantage to the Congress. We literally have been unable, we cannot even get a suitable notice provision out of Iran-Contra. The gentleman from New York [Mr. MCHUGH] has worked desperately hard for 3 years, frustrated at every point, to get a notice provision. You would think we could at least get that out of the scandal of the executive branch in terms of a national security question, and we cannot.

So I say a vote for the gentlewoman's amendment is a vote for a new look at how Congress and the executive branch can handle intelligence in the 1990's.

Mr. BEILENSON. Mr. Chairman, I yield myself such time as I may consume. I rise in opposition to the gentlewoman's amendment.

Mr. Chairman, I understand the desire of my colleagues, the gentlewoman from California [Mrs. BOXER] and those who support her amendment to ensure the congressional oversight of intelligence activities is as strong as possible. That is a goal which the members of the Intelligence Committee share. In fact, it was the primary reason for the creation of these committees 13 years ago.

Congress currently has in place effective tools for conducting oversight of the operation of our intelligence activities. These tools which are applicable to covert action programs, as well as to all other intelligence activities, include regular monitoring by the intelligence Committee of the conduct of ongoing programs and the exercise by our committee and the Committee on Appropriations of the power of the purse.

One of the results of the Intelligence Committee's use over the past few years of the authority it has over funding decisions has been a significant reduction in the amount of money available to initiate covert actions, which I believe has had the effect of ensuring a much more judicious approach in decisions by the President as to when to apply that particular foreign policy tool.

Obviously, improvements could be made in the congressional oversight system, and our committees regularly engage in working with the administration and with the Senate to develop changes on which both branches of Congress can agree.

As I mentioned in my opening remarks on the bill itself some several hours ago, I expect that this year that process will produce some badly needed improvements both in quantity and quality of the information given to Congress when it is notified of the initiation of a covert action. Those improvements include requirements that findings be in writing, that they be contemporaneous with the decision to initiate a covert action, and that they clearly specify if the involvement of non-U.S. Government third parties and agencies other than the intelligence agencies is contemplated. These changes will not satisfy everyone, especially those who have reservations about the wisdom of covert action programs under any circumstances, but they are precisely the procedural changes recommended by the Iran-Contra committees. That is what they recommended. They did not recommend the provisions in the amendment of the gentlewoman from California [Mrs. BOXER].

The provisions they recommended are in the Senate bill and will, I hope and trust, be approved by the conference committee between our two Houses in the near future, and I believe that they represent the most that can be achieved, certainly this year.

The question for me on an effort like the amendment before us is whether it will facilitate efforts by the Intelligence Committee to enhance oversight of the intelligence community. I have concluded that for a number of reasons the amendment will likely have the opposite effect.

First, of course, the amendment seeks to provide Congress with a prior approval authority for covert actions, an authority that would be exercised by the intelligence committees of each House. Either committee could prevent a covert action from being implemented by refusing to approve it.

In light of the Supreme Court's decision in the Chadha case, the constitutionality of the creation of what effectively would be a one-House veto procedure is highly doubtful.

Second, the confrontation with the administration that the amendment's quantification of timely notice is certain to provoke will not be resolved, in my judgment, in favor of the Congress. I can tell the Members from firsthand experience that the Bush administration, like the Reagan and the Carter administrations before it, is unwilling to have the concept of timely notice expressed in terms of hours or days. That is unfortunate, in this gentleman's options, but it is true. That unwillingness is based on a strongly held view of the interpretation of the constitutional powers of the President.

We are not going to change the President's interpretation of his powers by an action we take on this floor.

I therefore believe strongly that this amendment, even if we approve it here, cannot eventually be enacted into law, and I fear that the consequences of putting forth a position on this issue which does not succeed legislatively will be to jeopardize the progress which we have made, incrementally perhaps, but progress nonetheless in ensuring that Congress plays an ever increasingly effective role in overseeing covert action.

I want to try, if it is at all possible for me to do so to my friends over here especially, to provide some assurance to Members of Congress and to the public about the special nature and quality of our system of intelligence oversight. We have an extraordinary system of legislative oversight and review in this country. The United States is unique among the world's democracies in that we require that the Congress be kept fully and currently informed, Mr. Chairman, about intelligence activities, including, of course, covert actions. Congress has the right to know everything—everything about the way in which intelligence programs are pursued, and we do. We are supplied the details of not only the operational aspects of all these programs, but their budgets as well. That is not true in any other country of the world, in any other democracy of the world.

I had the opportunity on two recent occasions to visit just a few months ago with Members of Parliament from both Canada and Great Britain who serve on their intelligence oversight committees, and I was interested to learn, amazed if I may say so, to find out that they are not permitted to know how much money they themselves are voting for intelligence activities in their own country, nor are they told what those activities are, and they, I may say, in turn were astonished to find out that we do know those things.

One of the English gentlemen, in fact, turned to me and said:

> You mean do they ever tell you any of their secrets? They don't tell us any. Every time we raise a question in Parliament, the Minister intercedes and says, I am sure the Right Honorable gentleman does not want to ask that question. I will be happy to talk to him about it later.

My response is that there are no secrets, no secrets at all from the Intelligence Committees of this Congress, of the Senate or the House. We are told all these things.

Let me say also that our system of oversight, whether the subject is covert action or other intelligence activities and, of course, the latter are by far the majority of the activities which we have oversight over. There are not many covert activites. Most are quite small. Most are relatively benign. I do not think Members would be offended by them if they knew about them. It is intended to be a consultative one.

The administration, often in the person of the Director of Central Intelligence, comes to our committee on a regular basis every few weeks and more often if necessary, often, more often to let us know of plans to initiate programs and also to keep us apprised of the status of existing programs.

In turn, we let the administration know what we think about those programs, both old ones and the new ones.

I can recall instances in which expressions of concern by our committees on the House side or on the Senate counterpart led to a decision by the President not to initiate particular programs, including, Mr. Chairman, covert actions.

Obviously, there is a relationship between an administration's recognition of the fact that the power of the purse resides in the Congress and its willingness to pay more than lip service to the process of consultation.

There is also a connection between the willingness of an administration to be cooperative with the intelligence oversight committees and the degree of trust which exists between the parties.

□ 2100

We are constantly working to improve both cooperation and trust, and I want the Members to know, Members should know and members of the public should know that the current administration shares our goals with respect to those particular matters and we are likely, I believe, it is true in fact we have a higher level, a greater amount of mutual trust now than there has been at any time in 13 or more years that these committees have been in existence and have had relationships with one Chief Executive or another.

While I applaud the intent of the gentlewoman from California [Mrs. BOXER], I do not believe her amendment is either necessary, nor will it achieve her goal. It may well make the intelligence oversight system less effective than it is now.

I cannot support her effort. I urge Members to vote to defeat the gentlewoman's amendment.

Mrs. BOXER. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I must say to my dear friend that I think he is probably the best chairman I have ever seen and I trust him, and think the important thing is that we are a government of laws, not people, and I think that the people in 1986 thought they knew everything about what was going on. They were lied to. That is why I think it is more important to know exactly what is happening, but also to play an affirmative role in that.

That is the purpose of the Boxer amendment.

Mr. Chairman, I yield 2½ minutes to my dear friend, the gentleman from New York [Mr. WEISS].

Mr. WEISS. I thank the distinguished gentlewoman from California for yielding time to me, and I want to commend her for undertaking to raise this issue in the manner in which she has.

I must say that I am somewhat distressed on hearing the gentleman from Illinois. It seems to me that he really demonstrates a lack of confidence in our democracy, in our representative form of government.

Yes, it is possible that this is not the most iron-clad body, although historically what leaks have taken place have come not from the Congress, they have come from the executive branch of the Government, and that has happened consistently.

Nor do I understand his suggestion that in some fashion people do not have to tell us the truth—unless they are given immunity in advance. The gentleman knows that it is impossible for anyone to claim that he or she gets

immunity from lying to Congress. There is no such immunity granted.

We expect witnesses who take the oath before us, who appear before us, to tell the truth. That is their obligation under the law.

Mr. Chairman, the Iran-Contra scandal taught us many important lessons. We learned, for example, about the hazards of excessive secrecy, and about the dangers of government-sanctioned lies. Above all, we learned—or we should have learned—that congressional oversight of covert actions is the best way to avoid a repeat performance.

The Reagan administration plotted and carried out the Iran-Contra caper in secret. Through calculated distortions, misleading half truths, and deliberate lies, the President's men led our Nation down a path that sorely damaged our reputation, our credibility and indeed violated our constitutional framework.

The only sure way to avoid a repetition of the Iran-Contra affair would be to eliminate covert actions altogether. But if we can not do that, we must, at least, ensure that such actions are strictly limited and scrupulously monitored by Congress.

That is why we need the Boxer amendment.

The amendment states that covert operations can be undertaken only in response to extraordinary threats to our national security. Second, it requires the administration to notify Congress and seek prior approval of covert activities. And third, it prohibits third-party foreign countries and private contractors from participating in American covert operations.

While the Boxer amendment sets a strict set of oversight regulations, it also allows the administration flexibility to respond to emergency situations quickly. It permits the notification procedures to be waived for hostage rescue missions, and it allows a 48-hour delay in the requirements in cases of dire emergencies.

Mr. Speaker this amendment will help to ensure that the crucial lessons of the Iran-Contra affairs are not forgotten. I urge my colleagues to support the Boxer amendment.

Mr. BEILENSON. Mr. Chairman, I yield 6 minutes to the distinguished gentleman from New York. [Mr. McHUGH], the chairman of our subcommittee on legislation.

Mr. McHUGH. Mr. Chairman, I rise in opposition to the amendment with some reluctance, because I know that the author of the amendment, the gentlewoman from California [Mrs. BOXER] and her supporters have as their purpose strengthening congressional oversight.

I certainly applaud that intent and I share that goal. But I think there really are a number of very practical problems with the amendment as presented.

First of all, in section 503(c)(1) and section 503(e) of the amendment it is required that a covert action to be lawful must be designed to meet an extraordinary threat to the security of the United States or must be designed to protect U.S. citizens from imminent bodily harm or from being seized or held as hostages

These are important purposes, and a covert action should be legitimate for these purposes. However, I think the definition is much too restrictive.

I think many of us can envision covert actions that would serve U.S. interests, but could be deemed unlawful if this amendment were to become law.

Let me cite a hypothetical situation to make point. Let us suppose, hypothetically, that there is a foreign country in which a totalitarian regime completely suppresses democratic expression. Let us suppose, further, that this country is located in an area of vital interest to the United States. Let us suppose, finally, that there is a small dissident group within that country that has come together to promote political change, democratic reforms, and more free expression.

The President of the United States might well determine, with the concurrence of the intelligence committee, that it would be in the interest of the United States and the people of that country to provide some aid and assistance to this dissident group. It might be financial assistance, technical assistance, training, office equipment, or other types of aid designed to enable these dissidents to promote their reforms within that country.

Under the definition proposed by this amendment, that type of assistance could not be provided covertly. If it were provided overtly, it might represent a real threat to the very lives of the dissidents we were attempting to help.

One need not go back in history very far to appreciate that in Eastern Europe, an area of vital interest to the United States, these very circumstances existed. And while this is just a hypothetical case, I think we can appreciate that in other parts of the world a similar situation could pertain.

So this is an example, for me at least, of where limiting covert actions to the description in the amendment would be unwise.

A second problem I find with the definition is that under no circumstances could a covert action employ a third party.

Let us take the example I used just a moment ago. Let us suppose that the President determined that it would be better for the United States and the dissident group in question not to use American agents to go into this country, but rather to use expatriates from that country who had left the country earlier, who were citizens of that country and willing to take the risk of going back in to help that small dissident group get organized.

Under this amendment, as I read it, we could not use those expatriates—they could be third parties in this covert operation. I think that would be unfortunate.

Finally, I think the gentlewoman probably inadvertently broadens under her amendment the agencies that could be used for covert actions. In section 503(c)(3) she suggests, at least implicitly, that Federal law enforcement agencies could be used in covert operations. That is not permitted now in covert operations abroad, and I cannot believe it is the intent of this House or perhaps even the gentlewoman, the author of the amendment, to permit that. However, it would be permitted if this amendment became law.

Mrs. BOXER. Mr. Chairman, will the gentleman yield?

Mr. McHUGH. I yield to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. I thank the gentleman for yielding.

Mr. Chairman, I have to say to the gentleman that in his hypotheticals I come to a completely different conclusion. If the fact the President found in this hypothetical country that there was a threat to our national security, let us say we did business there, our citizens were there, he could absolutely, absolutely, find that a covert activity would be appropriate.

Mr. McHUGH. I respond to the gentlewoman that under her language the President would have to determine that the covert action was designed to meet "an extraordinary threat" to the U.S. national security.

In the hypothetical which I have described, we are talking about a situation where a small group of dissidents has the opportunity to open up the political system. We are responding in that hypothetical with a covert operation to assist them in that purpose. It is not a covert operation designed to meet an extraordinary threat to the security of the United States.

And for that reason I think it would not be permissible under the gentlewoman's amendment.

Mrs. BOXER. Mr. Chairman, I would say to the gentleman if the President found that the government they would like to see overthrown, quote unquote, or could be a threat, he could find that. Also, he would use expatriates, if they were employed by this Government.

□ 2110

The thing is we do not want to have three agents running around, as far as the agency is concerned; in the said amendment any agency would be used

in ours. We limit it to law enforcement agencies and intelligence gathering agencies.

Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. EDWARDS], the senior member of the California delegation and a very important member of the Committee on the Judiciary.

Mr. EDWARDS of California. Mr. Chairman, I approach the subject this evening from the vantage point of being chairman of a subcommittee of the Committee on the Judiciary that for many years has had jurisdiction oversight and budget over the Federal Bureau of Investigation, and I am fairly well acquainted with the problems of oversight and administration of an investigative organization. At this particularly time in history we are very fortunate. We have really not only a splendid head of the CIA and of the FBI, but we also have extraordinarily talented members, especially the chairman and the ranking Republican of the Permanent Select Committee on Intelligence. That it is why everything is working rather well right now, and that is in essence a testimony to the gentleman from California [Mr. BEILENSON], my friend. Of course it works well when we have the kind of committee that we have now.

However, Mr. Chairman, we are not going to always have that kind of a committee, and historically we have not had that kind of a committee. I have been here a long time. The gentleman from Wisconsin [Mr. KASTENMEIER] has been here a long time.

Our founders did not contemplate government by men. They contemplated and put into the Constitution governing by laws. And it is a very untrustworthy system and a dangerous system which says, "You can be pals and insist that they tell you what they're doing," and so forth, and that is not the way it is going to work. I assure my colleagues that we never know who we are going to get as head of the FBI or the CIA.

Mr. Chairman, I could go on for hours. All of my colleagues could.

In the 1970's we had so many scandals that we had to have select committees, select committees at great expense with special counsels, the Church committee in the Senate and the Pike committee in the House. The report was so scandalous when it came out and the House was so shocked that we voted not even to release it because we were so ashamed of what was going on with the intelligence agencies. That was what happened in the 1970's.

Just the other day I read a report of the Arms Control and Foreign Policy Caucus that was issued back in 1984, and it described seven covert actions for a number of years, since I just cannot tell my colleagues in how many countries' covert actions had been going on with the CIA. Do my colleagues want to know something? Practically all of them had been very, very unsuccessful. They would have been much better had they not happened at all.

Just think of Iran. We ended up with the Ayatollah Khomeini because of our covert actions in putting the Shah into power.

I want to recommend very strongly the amendment of the gentlewoman from California [Mrs. BOXER] be accepted. It is a sound amendment putting the intelligence committee where our founders wanted it to be. We are talking about war-making powers here. Remember that. We are not talking about surveillance. We have no problem with surveillance. We are talking about action powers, war-making powers. They belong in the Congress. They do not belong in the President's office.

Mr. Chairman, I list below some of the covert actions of past years, together with the consequences of them. As you can see, they in most cases were failures.

Date	Country	Brief Description of Covert Operations	Update
1953	Iran	CIA covert operations and financing, masterminded by Kermit Roosevelt, succeeded in overthrowing popular but left-leaning Premier Mohammed Mossadegh, and in installing to power Shah Reza Pahlavi.	The Shah ruled for 26 years, when popular discontent, religious fanatacism and political upheaval against U.S. domination forced the Shah's exile, and replaced him with Ayatollah Khomeini.
1953	Philippines	Under CIA auspices, Col. Edward Lansdale went to the Philippines in the early 1950's to aid in the defeat of local communist guerillas (the Huks), and to help engineer the 1953 election of President Magasaysay.	Magsaysay, a progressive, was killed in a plane crash in 1957. After several moderate leaders intervened, Ferdinand Marcos was elected in 1965. He declared martial law in 1972.
1954	Guatemala	The CIA is generally perceived and credited with masterminding and financing the coup which ended 10 years of progressive governments which had sought to promote labor unions, social measures, and land reform (a majority of the land was owned by the United Fruit Company.) The CIA's rebels attacked from Honduras, and with the help of the Army, forced the President from office and set up a military government.	Political confusion and instability has continued since the 1950's, with both army and civilian governments in power. Since 1970, the government has been run by military leaders, amidst charges of fraudulent elections. The most recent coup d'etat (this month) raises further questions about the future of US-Guatemalan relations.
1950's	China	The CIA supported, on its own and in cooperation with Chiang-Kai-shek, guerilla operations against China. Operations were reduced or eliminated after the shooting down in 1954 of two agents Richard Fecteau and John Downey.	Para-military operations against China were short-lived and without positive result. President Nixon visited China in 1972, paving the way to full diplomatic relations.
1955	Vietnam	Agents had been present in Vietnam through the early 1950's, although not in paramilitary operations. Col. Lansdale (see above) is generally credited with eliminating the political rivals of Ngo Dinh Diem, and designing the election ballots which elected him in 1955.	Diem's victory and tenure lasted approximately eight years (see Covert Operations, 1963.)
1958	Indonesia	CIA agents and operatives sought to overthrow the government of President Sukarno; operations included B-26 bombing missions in support of insurgents on Sumatra.	Sukarno solidified power by defeating the insurgents, and balancing the Army and the Communist Party. He was replaced in 1965 by President Suharto.
1959–64	Tibet	After the Chinese take-over of Tibet and the escape of the Dalai Lama to exile in India, the CIA secretly trained and equipped his troops, also in exile in India, for operations against the Chinese in Tibet.	Several raids into Tibet did yield the capture of important Chinese documents, but the Chinese hold over Tibet remains today. Serious destabilization efforts were abandoned by 1964.

Date	Country	Brief Description of Covert Operations	Update
1960	Guatemala	While training Cuban exiles for the CIA's planned overthrow of Castro, the CIA used Guatemalan territory as its "jumping off point" for the Cuban operation. When a rebellion grew against the Guatemalan government, the CIA sent in B-26's to crush the insurgency and to ensure the secrecy of its operations.	As noted above, Guatemala remains one of the most repressive nations in Central America, and continues to experience violence.
1960	Congo	Two CIA officials were dispatched to assassinate Congolese leader Lumumba, who had threatened to bring the Congo under Soviet influence after independence. This particular attempt was never made, but Lumumba was killed in 1961 by the orders of CIA-supported Congolese officials.	Civil disorder, along with a secession movement by the Katanga province, followed in 1961. After UN troops restored order and a coalition government was formed and then deposed, President Mobutu took over.
Early 1960's.	Laos	One of the largest secret operations in CIA history was the "secret war" in Laos. Some 50 CIA agents and hired contractors recruited over 35,000 Meo and other Lao tribesmen into a secret "L'Armee Clandestine," and financed some 17,000 Thai mercenaries, to oppose communism in Indochina.	The war in Laos eventually lost its "secret" nature, but the country remained a battleground between the U.S. and Vietnam for years. Vietnamese-supported forces eventually prevailed. Even now, turmoil continues amidst charges of the use of chemical weapons in Laos.
1961	Dominican Republic	Dictator Trujillo was shot to death by Dominicans who had received weapons and support from the CIA, according to the Senate Select Committee report.	Efforts at economic development in the early '60's came to a halt in 1965, when President Johnson sent in U.S. troops. The peaceful transfer of power in 1978 to President Guzman has resulted in some progress in promoting civil and political rights, but poverty and unemployment remain.
1961	Cuba	The Bay of Pigs operation against Castro, which had entailed massive planning, training and financing, is generally regarded as the CIA's most notable failure.	The Bay of Pigs operation resulted in the departure of Allen Dulles as CIA director, and continued deterioration of US-Cuban relations.
1961-67	Congo	After Lumumba's death, the CIA sought to influence politics with payments to candidates. By 1964, CIA B-26 aircraft were in bombing missions, with Cuban pilots on contract to the CIA.	President Mobutu's takeover, with CIA help, has lasted through the present, although charges of corruption and excessive authoritarianism recurrently threaten stability.
1963	Vietnam	President Diem, elected in 1955 with CIA help, was overthrown and assassinated by a military coup about which the CIA knew, but in which they did not participate, according to the Senate Select Committee.	Diem was replaced by President Thieu and Gen. Ky, who remained in power until the communist takeover in 1975.
1960-65	Cuba	The CIA concocted "at least eight plots" according to the Senate Committee, to assassinate Castro, involving exotic devices such as poison pens, pills and cigars, and powder designed to make Castro's beard fall out—thus "ruining his charismatic image." Sabotage raids against oil refineries and other industrial targets also existed in the early '60's.	all the assassination and covert plots failed, and Castro's image and standing in the Third World was enhanced, in the eyes of many.
Mid-1960's	Peru	According to at least one former CIA agent, the CIA, at the request of the Peruvian government facing guerilla insurrection, financed construction of a major military installation in the jungle, furnished helicopters, arms and other equipment, and provided training of forces by Green Berets on loan from the Army.	The Peruvian guerillas were defeated by a government generally regarded as an oligarchy. In 1968, a coup installed a "revolutionary government of the armed forces," which has since become more moderate.
1965	Vietnam	In a disinformation (but not paramilitary) campaign, according to a recent Washington Post story, the CIA allegedly planned to "con" public opinion by taking communist-made weapons from CIA warehouses, planting them in a Vietnamese battle, and calling in reporters to see the captured weapons as proof of communist weapons in South Vietnam.	This particular plan was not implemented in 1965, but the ex-agent making the claim in the Post suggested that the same concept might be being used in El Salvador today.
1960's	Vietnam	CIA involvement in Vietnam continued with development and implementation of the Phoenix Program, which allegedly "neutralized" (killed) some 20,000 Viet-Cong.	The Phoenix Program apparently ended by 1970, but the war continued until the communist takeover in 1975.
1963-73	Chile	For ten years, "extensive and continuous" CIA covert action aimed at influencing Chile's elections and overthrowing the government of popularly elected Salvador Allende. Although there were no paramilitary operations, some $3 million went into the 1964 election, resulting in the presidency of Eduardo Frei, and some $8 million opposed Allende after his 1970 election.	Allende's overthrow and death resulted in the succession of Gen. Pinochet in a military junta government.
1967	Bolivia	The CIA provided aid to Bolivian President Barrientos to deal with rebel guerilla forces soon discovered being led by Che Guevara.	Che Guevara was killed by Bolivian forces. Barrientos' death in a plane crash was followed by two leftist military governments, and then by other military leaders.

Date	Country	Brief Description of Covert Operations	Update
1972–75	Iraq	At the request of the Shah of Iran, the CIA provided arms to Kurdish rebels fighting for autonomy in Iraq.	Iranian and US aid apparently ended in 1975; but the Kurds are generally perceived today as a potentially de-stabilizing element in Iran, Iraq and Turkey.
1974–76	Angola	Covert activities during transition to independence sought to help two factions. One of these factions, headed by Jonas Savimbi, is still seeking power..	Overt Cuban involvement helped shift the balance from South African and CIA-backed forces, and the Clark Amendment ended covert U.S. activities. Angola's government is now officially Marxist, but allows U.S. businesses to operate in its country.

Mr. BEILENSON. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I thank the gentleman from California [Mr. BEILENSON] for yielding.

I just want to say to my dear friend, the gentleman from California [Mr. EDWARDS], that my recollection of the reason we got the Ayatollah Khomeini was because of some of his liberals hounding the Shah out of the country and his dreaded Savak. We were treated to speeches ad nauseam about how horrible the Shah was, and we did not give much thought about who would succeed the Shah, as so often happens. So, it was not the CIA that put the ayatollah in. I think it was the liberals in the Congress.

Mr. EDWARDS of California. Mr. Chairman, I would just point out to the gentleman from Illinois [Mr. HYDE], my friend, that it was the people of Iran, not the Congress, that got rid of the Shah.

Mr. BEILENSON. Mr. Chairman, I yield 4 minutes to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Chairman, this is an unnecessary and harmful amendment. Two years ago the Permanent Select Committee on Intelligence held hearings on H.R. 4822, the 48-hour bill, and heard a great deal of testimony on both sides of this issue at that time. One of the things which struck me then is the practical difficulties that an amendment like this will cause for our covert activities, which comprise a small, but very important part of our intelligence activities.

There are some very serious constitutional concerns that a number of expert witnesses brought to our attention during the committee hearings, but for the moment, I would like to focus in on the practical problems that would arise should this bill become law.

Former intelligence officials in both Democrat and Republican administrations told the committee that the Iran-Contra affair was an aberration—that the failure was in the people running the program rather than in the process itself.

They pointed out that the then 48-hour and now 24-hour notice periods could potentially increase the danger to the lives of our foreign operatives and would have a chilling effect on the cooperation that we have come to expect from our allies.

Covert operations are an important part of our effort to protect the national security interests of the United States. The majority of the witnesses that we heard who support this legislation do not believe we should be engaging in covert activities at all. If this amendment becomes law they may get their wish.

Our allies would become increasingly reluctant to cooperate with us if they felt that the information would be broadcast to too many people, and future administrations would think twice about engaging in any covert activity unless they felt that there was a consensus among all of the Members that must be notified. That's a bad way to do business.

But the amendment of the gentlewoman from California [Mrs. BOXER] even goes further to prevent the use of covert third parties in this amendment.

Although I am very concerned about the practical difficulties that will cause, an equally taxing problem is the constitutional impact of this legislation.

Scholars and, for that matter, officials of both branches argue about the constitutional prerogatives of the executive and the legislative branches. But this amendment's rigid procedural constraints and micromanagerial rules in the guise of oversight create conditions of permanent constitutional conflict that will be harmful to the spirit of cooperation that must exist between future administrations and Congress.

It is a serious mistake to build into the statutory structure of executive-legislative branch relations a permanent invitation to disagreement and controversy.

We need to think about whether in our zeal to extend the boundaries of congressional oversight we are actually harming our national security interests.

During the Carter administration, the drafters of the current law recognized that there were legitimate interests of both the executive and legislative branches that needed to be protected. President Carter experienced that at least once. They realized that cooperation between the branches was necessary in order to have both effective oversight and a useful intelligence program.

So they did not try to overregulate the intelligence functions of the administration. In effect, they opted for pragmatic ambiguity instead of statutory micromanagement.

There is no doubt that the Reagan administration was less than cooperative in this regard during the Iran-Contra affair, but it paid dearly, and the new administration made a major effort to install corrective procedures. We should allow enough time to see whether those new rules work, especially in this age of danger posed by the likes of Saddam Hussein.

At this point there is no reason to bind this administration with an unworkable and unnecessary statutory formula that guarantees conflict between the branches, and I urge my colleagues to defeat this amendment.

□ 2120

Mrs. BOXER. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. I thank the gentlewoman for yielding.

Mr. Chairman, I rise in support of the Boxer amendment.

Mr. Chairman, I was elected to Congress in 1970. In 1974, I wrote the Omnibus Intelligence Control Act, which was introduced and reintroduced for a number of years. The main purpose of this legislation was to reign in control of the U.S. intelligence apparatus. Central to that theme was and is the elimination of covert activity as an instrument of foreign policy.

Further, during my service on the House Select Committee on Intelligence that the gentleman from California [Mr. EDWARDS] alluded to, that investigated intelligence abuses 15 years ago, I received chilling documentation on the dangers and disastrous effects of American covert activities.

The American people expect and I believe deserve the implementation of a foreign policy which is based on humane principles and democratic ideals. Such policies can only be formulated in the full light of public debate, and implemented under the scrutiny of open congressional oversight.

Mr. Chairman, since 1947 our military and foreign policy has existed under the heavy influence of our national security apparatus.

I oppose the destabilization of foreign governments through the actions of covert operatives. I favor international movements for democratization, which are fueled by the power of the idea, for which we in this body stand as an example.

I oppose so-called guerrilla movements operating under the rubric of "freedom fighters," whose aim is to overthrow foreign nations on behalf of the American people, using American tax dollars, without the knowledge of the American people.

Mr. Chairman, it is with great pride that I rise in support of the Boxer amendment. The amendment to the intelligence authorization bill offered by the distinguished gentlewoman from California [Mrs. BOXER] is a reasonable and measured response to recent efforts to further codify the national security approach to foreign policy. I applaud her efforts and urge Members to support her amendment.

Mr. BEILENSON. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, as a general rule, I do not like covert actions. They go beyond traditional information gathering to affirmative types of conduct, influencing types of conduct. But sometimes they are necessary. This amendment unnecessarily complicates, restricts, and confuses a process that is working well now and will prevent some covert actions that might be necessary for America's national security.

Not only that, the amendment may put U.S. citizens in jeopardy. Let me give Members an example.

The Boxer amendment says that one cannot use any third parties, foreign country or agent thereof, private contractor, or other entity which is not an element of the U.S. Government in these covert actions.

One of the keys in any covert action is for a person to be unattributed. If the Boxer amendment were adopted, it might mean you would have to use U.S. citizens in circumstances where their lives would be directly in jeopardy, where in urgent circumstances an unattributed foreign national may be utilized. If you would use foreign nationals in some of those certain circumstances, it could be done safely and in the better interest of the United States of America.

With respect to the issue of congressional oversight, not only is the oversight process therein working well, but Congress has the ultimate power, the power of the purse, the power of funding these actions. We have, and we will, and we should stop funding if they are not working well.

I would just say that the challenges to this country in the future are unknown. We are moving into an arena where terrorism, economic threats and other uncertain challenges to this country are very great indeed. Our congressional job in intelligence is to do proper oversight, but not to cut off in advance a lot of activities which may be necessary in a most uncertain world.

Because of that, I would urge Members to vote down the Boxer amendment. I know it is well-intentioned, but it is not in the best interest of this country.

Mrs. BOXER. Mr. Chairman, I yield myself 5 seconds, only to say to the gentleman, you can use foreign nationals, as long as you hire them so that the Federal Government, when we do something, takes responsibility.

Mr. Chairman, I yield 2 minutes to my dear friend, the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I thank the gentlewoman for recognizing me and commend her for introducing this important amendment.

Mr. Chairman, I rise in support of the Boxer amendment to H.R. 5422, the intelligence authorization bill, which would ensure that U.S. intelligence activities are carried out within the boundaries of the constitution and under the purview of congressinal intelligence committees. I commend my colleague, Congresswoman BOXER, for offering this important amendment.

Mr. Chairman, the Iran-Contra scandal demonstrated that Congress must take a strong role in the oversight of United States intelligence activities and United States-sponsored covert action. To prevent abuses within the intelligence community, the House and Senate Select Committees on Intelligence must serve as an informed watchdog over United States covert actions. In addition, the intelligence community must know clearly what they can and cannot do. The Boxer amendment would set up a system of checks and balances to monitor and, if appropriate, stop covert action and establish explicit prohibitions on activities which may result in another ill-conceived covert operation.

The Boxer amendment would require prior approval by the House and Senate intelligence committees for covert actions except in extraordinary emergencies when Congress would have to be consulted within 24 hours. It would also limit the definition of covert action to extraordinary threats to national security and prohibit the use of third parties in covert action. The Boxer amendment would not inhibit the ability of the President to carry out foreign policy or compromise the need to maintain classified information.

Mr. Chairman, I urge an aye vote on the Boxer amendment.

Mr. BEILENSON. Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from Nebraska [Mr. BEREUTER], another valued member of our commitee.

Mr. BEREUTER. Mr. Chairman, I rise in opposition to the Boxer amendment. I think it is interesting and somewhat telling that senior members, former members, and former chairmen and ranking members of the Committee on Intelligence, are not here supporting this amendment. Neither are junior members of the House Select Committee on Intelligence, like this member.

Mr. Chairman, the fact of the matter is that the oversight process is working very well today. There are many constitutional problems with the Boxer amendment before us today. However, I will only focus on a few of the procedural difficulties created by it.

Mr. Chairman, if you take a look at section 503(c)(1), for example, the covert operations would be restricted to those that create "an extraordinary threat to the national security."

Covert operations should not be and are not engaged in lightly, but this new very high threshold, I suggest, would extraordinarily limit and inappropriately limit the United States in its covert activities and in its ability to protect our national interest.

Section 503(c)(2), actually would prohibit the United States from engaging in covert operations with an ally, a country like Great Britain or Canada. That is an extraordinary limitation on our ability to conduct covert activities. That is an extraordinary limitation that should not be acceptable.

The gentleman from New York [Mr. MCHUGH], has already pointed out what was, undoubtedly, an inadvertent enlargement of those Federal agencies that now can be involved in covert operations. The Federal Bureau of Investigation, is prohibited from that kind of activity abroad, but would seem to be so authorized under the Boxer amendment.

I would like to go to section 503(c)(4). It reads:

> The covert action does not propose, intend or otherwise result in the influencing of the United States political processes, public opinion, policies, or media.

Certainly that is probably not the intent, but a covert activity abroad could well have an impact upon the media here. To set this kind of limitation simply is unworkable in its results. The possibility of being charged with illegal activity that inadvertently resulted would place a chilling effect in otherwise legitimate and necessary covert operations conducted abroad.

Mr. Chairman, finally I would like to make these points in response to what has been said here earlier. Even as a

junior Member of the House Select Committee on Intelligence I have felt I have had some real impact along with fellow Members in changing or stopping suggested covert operations. It is not true that Members simply sit in the select committee and listen and can have no impact upon it.

Mr. Chairman, I am also in fundamental disagreement with the statement here a few minutes ago that covert operations in general do not work. There is a record of extraordinary success. You only hear about those that are problematic. We ought not advance the Boxer amendment. For these and many other reasons I urge Members to defeat it.

□ 2130

Mrs. BOXER. Mr. Chairman, I yield 2 minutes and 50 seconds to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, I wonder if our Founding Fathers returned to modern America which aspect of constitutional interpretation they would find more surprising?

I suspect it might be article 1, section 8, clause 11. In that clause the Committee of Detail in our first constitutional convention vested in the Congress the power to declare war. As we learned from the Federalist Papers, the framers did not want the wealth and blood of our Nation committed by the decision of a single individual, so they concluded that the potentially momentous consequences of initiating war should only be called up by the concurrence of the President and both Houses of Congress.

Now, through the Second World War the Congress either declared war or ratified a President's declaration of war. But the so-called police action in the Korean conflict and the Vietnam war avoided the clear intent of the war powers clause. Americans fought and died in protracted conflicts without any specific congressional declaration.

The negative national reaction to the Vietnam experience led Congress to enact the War Powers Act over President Nixon's veto. It was designed to tighten the constitutional requirement of a congressional declaration of war, and to spell out in more specific terms the circumstances which would require congressional action.

Most would agree the War Powers Act has had limited utility. Efforts to enforce it through the courts have fallen short. In fact, even Congress for political and philosophical reasons has been reluctant to assert the war powers delegation of power in the Constitution. One need only consider the fact that today, 200,000 Americans are in Saudi Arabia with little more than a vague resolution from this House of Representatives. We have fallen short of the constitutional dictates, even when it comes to today's situation in the Persian Gulf.

The amendment before us addresses an important aspect of this debate, and that is the appropriate role of Congress in covert action. Just what is covert action? It is the instrument of America's national security policy. The term itself almost defies simple definition. But it is described as an activity conducted by the U.S. Government to meet an extraordinary threat. It can include paramilitary action under current law, and its commission can be delegated to third parties and other nations. It can be used to strengthen or to destabilize governments and political forces in foreign nations.

With the resources and prestige of the United States, the power and scope of covert action is substantial. It can define or defy our stated national security policy. It can lead us to war.

Let me just say in very quick conclusion that some may argue that congressional approval is too uncertain. In fact, I am a little bit surprised that my colleague from Illinois has such a low opinion of some of his colleagues on the Intelligence Committee when it comes to harboring the secrets that are shared with them. I honestly believe the men and women serving on that committee are respected and that they are bipartisan in their approach to issues of national security.

I sincerely hope that every Member will support the amendment of the gentlewoman from California.

Mr. BEILENSON. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DORNAN], the only Member from California who is speaking on this side of this matter, and who is a very valued member of the committee.

Mr. DORNAN of California. Mr. Chairman, I thank my excellent chairman for the time and point out that having been appointed to replace the chair held by our current Secretary of Defense, Richard Cheney, I am the most junior member of the committee.

I would like to point out that our 51st President, our Chief Executive, President Bush, has more experience in intelligence than any of the other 40 gentlemen who have held that Presidential position. And he would certainly veto the intelligence authorization if it contained the gentlewoman's language.

It is clearly unconstitutional under both the Chadha and Bowsher rulings.

But let me point out just one illustrative example. If Saddam Hussein were to be so bold as to have the bravado to travel to Amman, Jordan, and to meet with people, and to arouse the citizenry there, and we found out about it 24 or 48 hours out, and the only asset we had there was a British helicopter to use our people to snatch him and put him on a British helicopter and get him out of there and bring him to an atrocities trial which the President wants, the gentlewoman's amendment would preclude our doing that, and possibly, hopefully, would save tens of thousands of lives if Desert Shield turns into action.

Mrs. BOXER. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, to the prior speaker I would say he has not read the amendment thoroughly. That is not true. That would be an extraordinary circumstance for which an exception could be taken.

There is always a fraction between a constitutional, political system which requires the active consent of the governed, in this case the elected representatives of the governed, the Intelligence Committee and the Members of Congress, an inherently antidemocratic national security system built on secrecy and nonaccountability.

There is a delicate balance to be struck here, and the committee bill would benefit by strengthening the checks and balances. This amendment does not deal with routine intelligence gathering, only covert actions.

This bill requires prior approval by the Intelligence Committee, with an exception for extraordinary circumstances, which have been mentioned by numerous Members here tonight, and in every one of these cases an exception could be allowed.

Only intelligence agencies and the Department of Defense and Federal law enforcement agencies could undertake these activities. I do not think that is a restriction that this body should be concerned with. No third parties. No foreign countries, private contractors like we had in Iran-Contra.

Do we learn from experience? I have a quote here from the report on the Iran-Contra scandal.

> The confusion, deception, and privatization which marked the Iran-Contra affair were the inevitable products of an attempt to avoid accountability. Congress, the Cabinet, and the Joint Chiefs of Staff were denied information and excluded from the decisionmaking process. Democratic procedures were disregarded.
>
> LEE HAMILTON said:
>
> In the final analysis, it's a question of balance. We must balance the harm that may result from the disclosure of a secret against the value of consultation and independent advice for the President prior to the initiation of a covert action.

I urge my colleagues to vote in support of the Boxer amendment.

The CHAIRMAN. The gentlewoman from California [Mrs. BOXER] has 2¾ minutes remaining, and the gentleman from California [Mr. BEILENSON] has 1 minute remaining. The gentleman from California, being chairman of the committee, has the right to close debate.

Mrs. BOXER. Mr. Chairman, I yield 2 minutes to the gentleman from Illi-

nois [Mr. EVANS] and I retain the three-quarters of a minute to make my closing remarks.

Mr. EVANS. Mr. Chairman, I rise in support of the amendment offered by the gentlewoman from California.

The abuses and excesses of our intelligence community in running covert operations are legendary. The Iran-Contra scandal was only the latest in a string of misadventures that stretch all around the world. From attempting to overthrow governments in Central America to selling arms to Iranian religious fanatics. Quite often our country's covert operations have disgraced this Nation. It is time we reformed our Nation's intelligence community and restored our Nation's reputation as a country that respects the rule of law.

The Boxer amendment would go a long way in reaching this goal. The amendment would essentially give Congress the oversight role it deserves over covert operations. It would require that our Intelligence Committees approve any covert operations. The bill would also prohibit foreign countries and private contractors from funding and participating in covert operations. Finally, it would allow covert actions only for extraordinary threats to our national security.

Besides making important reforms, I believe the amendment also sends a vital and timely message to the world that we are finally trying to control a part of our foreign policy that has consistently flouted international law. In light of our determined efforts to force Iraq to follow the norms of international law, this is especially important. I urge my colleagues to vote for the amendment.

□ 2140

Mrs. BOXER. Mr. Chairman, I yield myself three-fourths of a minute, the remainder of my time.

Mr. Chairman, I would say to my friend, the gentleman from California, under my amendment we could use a British helicopter to nab Saddam Hussein, and the President can go forward for 48 hours without having to get the approval of the committees in an emergency.

Mr. Chairman, my amendment is not rigid. It simply gives more power to this body in behalf of the American people to be a check and a balance on an executive branch that could get out of hand.

Sure, everything is going fine now. I am happy to hear it. I am delighted. I hope it continues. It is going fine until the next scandal.

Let us not have another scandal. Let us support this amendment. I think that would give us, in an institutional form, the way for these Intelligence Committees, not only to be bystanders, not only to be notified, but to give their assent to covert activities in behalf of this Congress and in behalf of the American people.

I thank the Chair for his generosity, and I thank my dear friend, the chairman of the committee, the gentleman from California [Mr. BEILENSON], for his dignity and his support of my being allowed to bring this amendment forward.

Mr. BEILENSON. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Chairman, I am submitting for the RECORD an article that was written in 1985 by Daniel Schorr which clearly outlines the fact that Members of Congress do leak information to the press.

[From the Washington Post, Nov. 14, 1985]

CLOAK-AND-DAGGER RELICS

(By Daniel Schorr)

If the investigation ordered by President Reagan were to identify an official of the executive branch as having disclosed information about the anti-Qaddafi operation to The Washington Post, that person could be prosecuted for espionage. This is the result of the precedent set when Samuel Loring Morison, former Navy intelligence analyst, was convicted under the 1917 Espionage Act for having provided three classified satellite photographs of a nuclear-powered Soviet aircraft carrier to Jane's Fighting Ships.

The problem becomes stickier, however, if it turns out to be a congressional source. On one occasion, in 1975, the Justice Department threatened to withhold classified information from the House intelligence committee if the material was not protected from disclosure. But it has never been suggested that a member of Congress could be disciplined other than by Congress itself.

This is relevant because (I don't think that I am baring any great journalistic secrets) the exposure of covert intelligence operations is frequently a form of congressional whistle-blowing. A leak often occurs when a clandestine plan runs into substantial opposition during a briefing for congressional committees.

For example, in 1974 the Nixon-Kissinger plan to undermine Chile's President Salvador Allende leaked to the press (Seymour Hersh of the New York Times) at a time when it was a subject of intense criticism by some members of Congress.

In 1975, the CIA's support of the anticommunist faction in Angola (also a Kissinger project) was disclosed after it became an issue in the House Foreign Affairs Committee. The late Rep. Leo Ryan, a member of that committee, told me in an interview at the time that he could condone such a leak if it was the only way to block an ill-conceived operation.

Ryan was subsequently the author, with Sen. Harold Hughes, of legislation that banned CIA involvement in Angola. (That provision was recently repealed.)

To minimize damaging leaks, the congressional leadership eventually agreed to restrict briefings on covert operations to the Senate and House intelligence committees. That did not, however, solve the problem.

In 1983, Sen. Barry Goldwater, then chairman of the intelligence committee, put on the public record the CIA-organized mining of Nicaraguan harbors with a letter to CIA Director William Casey objecting to the operation. (That letter became a prime exhibit in Nicaragua's complaint to the International Court of Justice.) Sen. Jesse Helms was charged with—but denied—having revealed CIA covert aid to the election campaign of El Salvador's President Jose Napoleon Duarte.

Libya's Muammar Qaddafi has been the subject of a previous leak. In August 1981, Newsweek reported that opposition had developed in the House intelligence committee during a briefing on a plan to destabilize the Qaddafi regime. The Reagan administration denied the existence of any such plan. There followed a scare over reported Libyan "hit squads" out to murder President Reagan. Intelligence officials now believe there were no such "hit squads"—that the whole thing was a hoax meant to put Reagan on notice that plotting against a president could be a two-way street.

That has apparently not deterred the president from approving one more plan to undermine Qaddafi. Once again the leak occurred shortly after briefings in the congressional intelligence committee.

By law, the administration must give timely notice to Congress of plans for covert operations. The intelligence committees and their staffs are supposed to respect the secrecy of the information. But, in an era when covert aid to Nicaraguan contras is openly debated, the old-style clandestine operation may be a thing of the past.

It may be time to consign the cloak and dagger to a museum. anyway, the cloak.

Mr. BEILENSON. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in strong opposition to the Boxer amendment. I am very concerned about how it might affect our POW-MIA's in Southeast Asia.

Mr. Chairman, I rise in strong opposition to the Boxer amendment. While it may sound good to some, this amendment would cripple our intelligence system and capabilities. At a time when we need effective intelligence the most in dealing with Saddam Hussein and the crisis in the gulf, this amendment would undercut allied cooperation, tie the President's hands and benefit no one except Saddam Hussein and other terrorists around the globe.

Some have claimed that the Iran-Contra affair exemplified the need for new restrictions on American intelligence and covert activities. However, the Boxer amendment is akin to using a hand grenade to kill a mosquito. The House and Senate Intelligence Committees have added some new measures and checks on the system through this intelligence bill before us today. The problems that some have highlighted in today's debate are addressed through this intelligence bill without the Boxer amendment. The Boxer amendment goes much, much further effectively eliminating the President's capabilities as commander-in-chief. It is a disastrous amendment which, I believe, is unconstitutional as it directly contradicts article II, section 2 of our Constitution conferring to the President the power of commander-in-chief.

The Boxer amendment requires prior approval by the two Select Intelligence Committees for any and all covert activities. Interestingly, all intelligence officials of recent admin-

istrations, both Republican and Democrat—that means the liberal Carter administration—alike, fully oppose this provision. In other words, any time any emergency happens, the President cannot respond without congressional approval. That means if on Christmas Day when Members of Congress are at home or abroad or wherever, if an emergency situation arose—Iraq invades Kuwait, Qaddaffi orders the bombing of a club filled with American GI's, Shiite terrorists suicide bomb the Marine headquarters in Beirut, a TWA jet filled with American tourists is hijacked and taken to Lebanon—the President could not take covert action, like mounting a rescue operation until, in essence, Congress said OK. By then, it could be too late perhaps costing many innocent American lives.

The Boxer amendment does allow for a tiny bit of leeway in a few emergency situations, including some ill-defined hostage rescues. However, even this activity—say a rescue—must be terminated, even if it is underway, if the Intelligence Committees—not just one but both—have not given their written approval. That's ridiculous.

As chairman of the House POW-MIA task force, I am concerned about how the Boxer amendment could complicate the already complex POW-MIA situation. While we currently have no concrete, verifiable information that American servicemen are being held against their will in Southeast Asia, based on the information we do have, our Government has refused to rule out this sad possibility. This issue is a highest national priority of the United States and the President has publicly stated he is ready to take whatever action is necessary based on any intelligence findings. If we find POW's the President should be able to take whatever action is necessary right away to bring them home, not wait for Congress to gather, agree and approve it. By then it could be too late. What a tragedy. Yet, the Boxer amendment could require this or at least impose similar difficulties or at least deter us from taking appropriate action.

The Boxer amendment also prohibits foreign countries from participating in covert actions. This could be very dangerous. During the seizure of our Embassy in Iran in 1979, some Americans managed to escape to the Canadian Embassy which was not occupied. Through covert actions with the Canadians, we were able to get these Americans home. The Boxer amendment could have a chilling effect on such cooperation. Even if the amendment waives this prohibition for actions involving hostages, foreign governments would still refuse to help for fear of this sensitive information being disclosed to Congress at the time. The Canadians, in 1979, made withholding information at that time about their involvement a condition for their participation. Instead of trusting Congress—which is filled with leaks—these foreign allies might just not help us.

Take today's Persian Gulf situation. Let's assume we want to get into Iraq and poke around—gather intelligence and so on. I don't know if we are doing this or not and if I did know I obviously wouldn't say. But hypothetically, it's not too hard to imagine that other countries may somehow be involved, providing a jumpoff base or transit point or some sort of assistance. That would be prohibited by the Boxer amendment. That's foolish and dangerous.

In addition, there are times when we may want to contract out covert activities. Remember, covert activities aren't the sinister, secret wars some erroneously have claimed. They include simple information gathering. We should not rule out any options under any conditions. For example, it appears to me that the Boxer amendment would prohibit contracting with a private satellite owner whose land-mapping satellite happens to be over Iraq—particularly if information from that satellite is used for some other covert action. We hurt only ourselves and jeopardize our forces in the gulf.

Take the case of Lebanon where Americans are easily recognizable and, in some parts, prime targets for assassination and kidnaping. We may want to contract out to someone else to poke around for us for both political and security reasons. Again, I don't know if we're doing this or not, but it is within the realm of possibilities. Not if we enact the Boxer amendment.

Finally, the Boxer amendment requires the President to provide the committees with 24 hours' notice whenever he or she is contemplating—that's right, just thinking—about a covert activity or military action which has not been subject to prior approval. How is Congress supposed to supervise the President's thought processes? This is not detailed in the Boxer amendment. As our colleague JERRY SOLOMON has asked, "Just how seriously must he contemplate something before checking in with the thought police on Capitol Hill?" I certainly hope we have a huge room filled with analysts continuously contemplating options to whatever emergency contingency our Nation may face. As Ben Franklin said "an ounce of prevention is worth a pound of cure." Must all these contemplations be run through Congress even though they will probably never be used or even reach the second stage of consideration? I do not believe the Intelligence Committees could handle this much information or really needs to.

What if the President is walking Millie late one Saturday night and he contemplates his options and possible actions with regard to the Persian Gulf. According to the Boxer amendment, he must provide both Intelligence Committees within 24 hours—that's by Sunday evening—with his thoughts or else he breaks the law. Why can't this wait until Monday morning? Seriously, these may seem like trivial examples, but they are quite real and they underscore the great flaws with the ill-conceived Boxer amendment.

Clearly, the Boxer amendment would effectively terminate all of our policies in the Persian Gulf and our intelligence operations around the globe—operations designed to protect America's national security interests. Many of our allies who are working with us in the gulf and elsewhere have indicated they would case cooperation if this amendment were enacted into law.

The intelligence system isn't broken. It has worked well for many years now. Some recent incidents, like Iran-Contra, Have highlighted the need to refine some parts of it. The intelligence bill before us does what is needed without ruining our basic intelligence structure and jeopardizing our real national security responsibilities. Frankly, if the Intelligence Committee thought the Boxer amendment was such a good idea, I believe it would have incorporated such provisions into the committee's bill. Note the committee—which is controlled by liberal Democrats—did not.

The Boxer amendment is a good reason for the President to veto the bill. It's a very bad amendment based on flawed judgment and with everything happening in the gulf, the timing of this measure is extremely poor. I urge my colleagues to defeat this amendment.

Mrs. KENNELLY. Mr. Chairman, as a member of the House Permanent Select Committee on Intelligence, I want to express my strong support for H.R. 5422, the Intelligence Authorization Act for fiscal year 1991.

At the outset, I want to commend our chairman, Mr. BEILENSON, and the committee's ranking Republican, Mr. HYDE, for the leadership they have provided over the past year. The work of the committee has been greatly enhanced by their efforts.

We live in a vastly different world today, at least from a geopolitical standpoint, than we did a year or two ago. But as significant as recent social and political changes have been, particularly in Eastern Europe and the Soviet Union, it is clear that the pace of change will not slacken in the days ahead. The world that we knew for more than 40 years is gone, and the national policies that positioned the United States to deal with the dangers of that world will have to be reexamined. The legislation now before us begins the process of refocusing the program of our intelligence services to comport with the new international realities we face. As existing foreign and defense policies are reviewed, I expect that even more scrutiny will be directed toward the intelligence budget.

Changing threats to our national security do not necessarily mean that remaining threats are less demanding. The cold war may have ended, but the dangers posed by international terrorism and the scourge of narcotics, as well as military challenges of different types pose substantial risks to our Nation. Our intelligence agencies have important roles to play in addressing those threats, and the Intelligence Committee has attempted to provide the resources necessary to do that job. It is very clear to the members of the committee, however, that our budget constraints will affect intelligence just as they do every other component of the Federal budget. That argues strongly to me that we need to continually encourage the intelligence agencies to question the way in which they perform their mission, and to carefully assess the tools they need to do their jobs. This bill should serve to stimulate that process.

Mr. Chairman, the work of the Intelligence Committee, since it routinely deals with classified information, is rarely well-publicized. While the time the committee devotes to reviewing those programs which implement foreign policy can produce controversy, our efforts to ensure that the less glamorous programs which provide political, economic, and military information to national decisionmakers is equally important. The committee has done its level best to meet the budgetary needs of our intelligence agencies in a way that encour-

ages them to undertake the process of self-examination that will be imperative if those agencies are to be effective in the post-cold-war era. I look forward to working with other members of the committee on this important effort in the year ahead.

Mr. BEILENSON. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, in closing just very briefly, let me reiterate the arguments I made at the outset that the gentlewoman's proposal is: First, unconstitutional; second, it cannot become law. No President would sign it into law; third, it is unnecessary. The committee is doing well now the job that it is charged to do of oversight of intelligence operations.

It would not have prevented Iran-Contra. The people there did not comply with the law that was in existence at that time. If this law were in existence, they would not have complied with it either.

It would not have stopped Nicaragua. In fact, the committee, in effect, approved of the Nicaraguan involvement, the covert action by voting for funding for that operation year after year until finally under Mr. Boland they stopped doing it. So it would not have affected either of those kinds of situations.

I urge my colleagues to support the committee and oppose this gentlewoman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California [Mrs. BOXER].

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mrs. BOXER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 70, noes 341, not voting 22, as follows:

[Roll No. 481]

AYES—70

Anderson	Hayes (IL)	Payne (NJ)
AuCoin	Hertel	Pelosi
Bates	Hochbrueckner	Perkins
Bennett	Jacobs	Rangel
Bonior	Johnson (SD)	Roybal
Bosco	Jontz	Savage
Boxer	Kastenmeier	Scheuer
Bruce	Lehman (FL)	Schroeder
Bryant	Lewis (GA)	Serrano
Clay	Lowey (NY)	Stark
Collins	Markey	Stokes
Conyers	Martinez	Swift
DeFazio	McCloskey	Torres
Dellums	McDermott	Towns
Dorgan (ND)	Mfume	Traficant
Downey	Miller (CA)	Unsoeld
Durbin	Mineta	Washington
Dymally	Mink	Weiss
Edwards (CA)	Moody	Wheat
Evans	Mrazek	Wolpe
Flake	Murphy	Wyden
Foglietta	Oakar	Yates
Gibbons	Owens (NY)	
Gonzalez	Panetta	

NOES—341

Alexander	Annunzio	Applegate
Andrews	Anthony	Archer
Armey	Glickman	Miller (OH)
Aspin	Goodling	Miller (WA)
Atkins	Gordon	Moakley
Baker	Goss	Molinari
Ballenger	Gradison	Mollohan
Barnard	Grandy	Montgomery
Bartlett	Grant	Moorhead
Barton	Green	Morella
Bateman	Guarini	Morrison (WA)
Beilenson	Gunderson	Murtha
Bentley	Hall (OH)	Myers
Bereuter	Hall (TX)	Nagle
Berman	Hamilton	Natcher
Bevill	Hammerschmidt	Neal (MA)
Bilbray	Hancock	Neal (NC)
Bilirakis	Hansen	Nelson
Billey	Harris	Nielson
Boehlert	Hastert	Nowak
Borski	Hatcher	Oberstar
Boucher	Hefley	Obey
Broomfield	Hefner	Olin
Browder	Henry	Ortiz
Brown (CA)	Herger	Owens (UT)
Brown (CO)	Hiler	Oxley
Buechner	Hoagland	Packard
Bunning	Holloway	Pallone
Burton	Hopkins	Parker
Bustamante	Horton	Parris
Byron	Hoyer	Pashayan
Callahan	Hubbard	Patterson
Campbell (CA)	Huckaby	Paxon
Campbell (CO)	Hughes	Payne (VA)
Cardin	Hunter	Pease
Carper	Hutto	Penny
Carr	Hyde	Petri
Chandler	Inhofe	Pickett
Chapman	Ireland	Pickle
Clarke	James	Porter
Clement	Jenkins	Poshard
Clinger	Johnson (CT)	Price
Coble	Johnston	Pursell
Coleman (TX)	Jones (GA)	Quillen
Combest	Jones (NC)	Rahall
Condit	Kanjorski	Ravenel
Conte	Kaptur	Ray
Cooper	Kasich	Regula
Costello	Kennedy	Rhodes
Coughlin	Kennelly	Richardson
Cox	Kildee	Ridge
Coyne	Kleczka	Rinaldo
Craig	Kolbe	Ritter
Crane	Kolter	Roberts
Dannemeyer	Kostmayer	Robinson
Darden	Kyl	Roe
Davis	LaFalce	Rogers
DeLay	Lagomarsino	Rohrabacher
Derrick	Lancaster	Ros-Lehtinen
DeWine	Lantos	Rose
Dickinson	Laughlin	Rostenkowski
Dicks	Leach (IA)	Roth
Dingell	Leath (TX)	Roukema
Dixon	Lehman (CA)	Rowland (GA)
Donnelly	Lent	Russo
Dornan (CA)	Levin (MI)	Sabo
Douglas	Levine (CA)	Saiki
Dreier	Lewis (CA)	Sangmeister
Duncan	Lewis (FL)	Sarpalius
Dwyer	Lightfoot	Sawyer
Dyson	Lipinski	Saxton
Early	Livingston	Schaefer
Eckart	Lloyd	Schiff
Edwards (OK)	Long	Schneider
Emerson	Lowery (CA)	Schulze
Engel	Luken, Thomas	Schumer
English	Lukens, Donald	Sensenbrenner
Erdreich	Machtley	Sharp
Espy	Madigan	Shaw
Fascell	Manton	Shays
Fawell	Marlenee	Shumway
Fazio	Martin (NY)	Shuster
Feighan	Matsui	Sikorski
Fields	Mavroules	Sisisky
Flippo	Mazzoli	Skaggs
Frank	McCandless	Skeen
Frenzel	McCollum	Skelton
Frost	McCrery	Slattery
Gallegly	McCurdy	Slaughter (NY)
Gallo	McDade	Slaughter (VA)
Gaydos	McEwen	Smith (FL)
Gejdenson	McGrath	Smith (IA)
Gekas	McHugh	Smith (NE)
Gephardt	McMillan (NC)	Smith (NJ)
Geren	McMillen (MD)	Smith (TX)
Gilmor	McNulty	Smith, Denny (OR)
Gilman	Meyers	Smith, Robert (NH)
Gingrich	Michel	Smith, Robert (OR)
Snowe	Tallon	Vucanovich
Solarz	Tanner	Walgren
Solomon	Tauke	Walker
Spence	Tauzin	Walsh
Spratt	Taylor	Watkins
Staggers	Thomas (CA)	Waxman
Stallings	Thomas (GA)	Weber
Stangeland	Thomas (WY)	Weldon
Stearns	Torricelli	Whittaker
Stenholm	Traxler	Whitten
Studds	Udall	Wise
Stump	Upton	Wolf
Sundquist	Valentine	Wylie
Synar	Vander Jagt	Yatron
	Vento	Young (AK)
	Visclosky	Young (FL)
	Volkmer	

NOT VOTING—22

Ackerman	Fish	Morrison (CT)
Boggs	Ford (MI)	Rowland (CT)
Brennan	Ford (TN)	Schuette
Brooks	Gray	Smith (VT)
Coleman (MO)	Hawkins	Williams
Courter	Hayes (LA)	Wilson
Crockett	Houghton	
de la Garza	Martin (IL)	

□ 2201

Mr. ESPY and Mr. HEFNER changed their vote from "aye" to "no."

Mr. SCHEUER changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to the bill?

If not, under the rule, the Committee rises.

Accordingly, the Committee rose, and the Speaker pro tempore [Mr. GEPHARDT] having assumed the chair, Mr. NELSON of Florida, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee having had under consideration the bill (H.R. 5422) to authorize appropriations for fiscal year 1991 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, pursuant to House Resolution 487, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment?

Mr. HYDE. Mr. Speaker, I demand a separate vote on the so-called Solarz amendment, as amended.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment?

If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Page 25, after line 18, add the following:

TITLE VI—INCENTIVES FOR PEACE IN ANGOLA

SEC. 601. ENCOURAGING REDUCTIONS IN EXTERNAL ASSISTANCE TO PARTIES TO THE ANGOLAN CONFLICT.

(a) PROHIBITION ON ASSISTANCE.—

(1) PRESIDENTIAL CERTIFICATION.—If the Government of Angola expresses its willingness to accept a ceasefire and a political settlement to the conflict in Angola and proposes a reasonable timetable for free and fair multiparty national elections in which UNITA would be free to participate, and is no longer receiving aid from the Soviet Union, the President shall promptly so certify to the appropriate committees.

(2) ASSISTANCE PROHIBITED PURSUANT TO CERTIFICATION OR JOINT RESOLUTION.—Except as provided in subsections (b), (c), and (d), if the President makes the certification described in paragraph (1) or if the Congress enacts a joint resolution declaring that the Congress has made the determination with respect to the Government of Angola that is described in that paragraph, then—

(A) intelligence community funds may not be obligated or expended during fiscal year 1991 for the acquisition of weapons, ammunition, or other lethal military equipment for the National Union for the Total Independence of Angola; and

(B) the United States shall suspend, or cause the suspension of, the delivery to UNITA of any weapons, ammunition, or other lethal military equipment acquired with any intelligence community funds that may have been previously expended, to the extent that the United States retains the ability to suspend such deliveries.

(b) REMOVAL OF PROHIBITION IF THE GOVERNMENT OF ANGOLA IS NO LONGER PURSUING A POLITICAL SOLUTION.—Except as provided in subsection (e), in the event the President has made the certification described in subsection (a)(1) or the Congress has enacted the joint resolution described in subsection (a)(2), subsection (a)(2) shall cease to apply if the President certifies to the appropriate committees that the Government of Angola is no longer willing to accept a ceasefire and a political settlement and is no longer proposing a reasonable timetable for free and fair multiparty national elections in which UNITA would be free to participate. A certification may be made under this subsection only during the 3-month period beginning on the date on which the President made his certification under subsection (a)(1) or the Congress enacted a joint resolution under subsection (a)(2), as the case may be.

(c) CONDITIONS FOR REMOVAL OF PROHIBITION AFTER 3 MONTHS.—Should subsection (a)(2) become applicable pursuant to a Presidential certification under subsection (a)(1) or enactment of a joint resolution under subsection (a)(2) or (e), subsection (a)(2) shall cease to apply, subject to subsection (e), if the President certifies to the appropriate committees (after the end of the 3-month period specified in the last sentence of this subsection) that he has made the determinations required by both paragraphs (1) and (2), as follows:

(1) DETERMINATIONS WITH REGARD TO THE GOVERNMENT OF ANGOLA.—A determination either—

(A) that the Government of Angola refuses to participate in good faith in negotiations for a ceasefire and a political settlement that includes a reasonable timetable for free and fair multiparty national elections in which UNITA would be free to participate;

(B) that—

(i) during the review period, the Soviet Union or other sources outside Angola sold or otherwise made available to the Government of Angola additional, militarily significant amounts of weapons, ammunition, and other lethal military equipment, or

(ii) prior to the end of the review period, the Government of Angola had not ceased receiving militarily significant amounts of lethal military equipment that had previously been sold or otherwise made available by sources outside Angola; or

(C) that the Government of Angola or the Government of Cuba is not complying with its obligations under the Cuban Troop Withdrawal Agreement.

(2) DETERMINATIONS WITH REGARD TO UNITA.—A determination both—

(A) that UNITA has expressed its willingness to participate in good faith in negotiations for a ceasefire and a political settlement that includes a reasonable timetable for free and fair multiparty national elections; and

(B) that—

(i) sources outside Angola did not sell or otherwise make available to UNITA during the review period additional, militarily significant amounts of weapons, ammunition, and other lethal military equipment; and

(ii) prior to the end of the review period, UNITA had ceased receiving militarily significant amounts of lethal military equipment that had previously been sold or otherwise made available by sources outside Angola.

A certification may be made under this subsection only after the end of the 3-month period beginning on the date on which the President made his certification under subsection (a)(1) or the Congress enacted a joint resolution under subsection (a)(2), as the case may be; except that if the Congress enacts a joint resolution disapproving a certification submitted by the President under this subsection, the President may not make another certification under this subsection until after the end of the 3-month period beginning on the date of enactment of that joint resolution.

(d) REMOVAL OF PROHIBITION IF THERE IS A MILITARY OFFENSIVE AGAINST UNITA.—Subsection (a) and paragraphs (1) and (2) of subsection (f) shall cease to apply if the President certifies to the appropriate committees that—

(1) the Government of Angola has launched a military offensive that threatens the survival of UNITA, or

(2) there is clear and credible evidence of a military build-up by the Government of Angola that makes it likely that a military offensive that would threaten the survival of UNITA will occur.

(e) CONGRESSIONAL DISAPPROVAL OF PRESIDENTIAL CERTIFICATIONS.—If the Congress enacts a joint resolution disapproving a certification submitted by the President under subsection (b), (c), or (d), then subparagraphs (A) and (B) of subsection (a)(2) shall apply for the remainder of fiscal year 1991 unless the President subsequently makes a certification under subsection (c) or (d).

(f) LIMITATIONS ON AMOUNTS OF UNITED STATES ASSISTANCE.—

(1) ASSISTANCE DURING FIRST QUARTER OF FISCAL YEAR.—Except as otherwise provided in this section, the aggregate amount of intelligence community funds that is obligated during the period beginning October 1, 1990, and ending December 31, 1990, for the acquisition of weapons, ammunition, or other lethal military equipment for UNITA may not exceed the amount which is 25 percent of the amount of any intelligence community funds allocated for that purpose during fiscal year 1990 or during fiscal year 1991, whichever is less.

(2) ASSISTANCE DURING FIRST HALF OF FISCAL YEAR.—Except as otherwise provided in this section, the aggregate amount of intelligence community funds that is obligated during the period beginning October 1, 1990, and ending March 31, 1991, for the acquisition of weapons, ammunition, or other lethal military equipment for UNITA may not exceed the amount which is 50 percent of the amount of any intelligence community funds allocated for that purpose during fiscal year 1990 or during fiscal year 1991, whichever is less.

(3) ASSISTANCE DURING THE ENTIRE FISCAL YEAR.—The aggregate amount of intelligence community funds that is obligated at any time during fiscal year 1991 for the acquisition of weapons, ammunition, or other lethal military equipment for UNITA may not exceed the amount of any intelligence community funds allocated for that purpose during fiscal year 1990.

(g) REPORTS ON MILITARY ASSISTANCE DELIVERIES, COMMITMENTS TO MULTIPARTY DEMOCRACY, AND COMPLIANCE WITH CUBAN TROOP WITHDRAWAL AGREEMENT.—

(1) IN GENERAL.—On November 1, 1990, January 1, 1991, April 1, 1991, and July 1, 1991, the President shall submit to the appropriate committees a report—

(A) on the extent to which the Government of Angola is continuing to obtain militarily significant amounts of weapons, ammunition, and other lethal military equipment from foreign countries or other third parties;

(B) on the extent to which UNITA is continuing to obtain militarily significant amounts of weapons, ammunition, and other lethal military equipment from foreign countries or other third parties;

(C) on the extent to which the Government of Angola is willing to accept a ceasefire and a political settlement that includes a reasonable timetable for free and fair multiparty national elections in which UNITA would be free to participate;

(D) on the extent to which UNITA is willing to accept a ceasefire and a political settlement that includes a reasonable timetable for free and fair multiparty national elections; and

(E) on whether the Government of Angola and the Government of Cuba are complying with their obligations under the Cuban Troop Withdrawal Agreement.

(2) CERTIFICATION TO BE INCLUDED.—Unless the President has already made the certification described in subsection (a)(1) or the Congress has enacted a joint resolution described in subsection (a)(2), the President shall certify in each report submitted pursuant to paragraph (1) whether the Government of Angola has expressed its willingness to accept a ceasefire and a political settlement to the conflict in Angola and has proposed a reasonable timetable for free and fair multiparty national elections in which UNITA would be free to participate. If the President certifies pursuant to this paragraph that the Government of Angola has expressed such a willingness and proposed such a timetable, that certification shall be considered to be a certification under subsection (a)(1).

(3) DESCRIPTION OF UNITED STATES EFFORTS.—The report required by paragraph

(1) shall also describe the President's efforts—

(A) to obtain agreement by foreign countries and other third parties to terminate assistance to the Government of Angola and UNITA for the acquisition of militarily significant amounts of weapons, ammunition, and other lethal military equipment; and

(B) to encourage both the Government of Angola and UNITA to agree to a ceasefire and a political settlement that includes a reasonable timetable for free and fair multiparty national elections.

(4) REPORT WITH CERTIFICATION.—If the President makes a certification under subsection (a)(1), (b), (c), or (d), the President shall include with that certification a report containing the information specified in paragraphs (1) and (3) of this subsection and the justification for the President's certification.

(h) DEFINITIONS.—As used in this section—

(1) the term "appropriate committees" means the Permanent Select Committee on Intelligence and the Committee on Foreign Affairs of the House of Representatives and the Select Committee on Intelligence and the Committee on Foreign Relations of the Senate;

(2) the term "intelligence community funds" means funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities;

(3) the term "obligations under the Cuban Troop Withdrawal Agreement" means the obligations relating to the calendar for redeployment and withdrawal of Cuban troops as specified in the Agreement Between the Governments of the People's Republic of Angola and the Republic of Cuba for the Termination of the International Mission of the Cuban Military Contingent, signed at the United Nations on December 22, 1988;

(4) the term "review period" means the period beginning on the date the President makes a certification under subsection (a)(1) or a joint resolution is enacted under subsection (a)(2) or (e), as the case may be, and ending on the date on which the President makes a certification under subsection (c); and

(5) the term "UNITA" means the National Union for the Total Independence of Angola.

Mr. HYDE (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. VOLKMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 207, nays 206, not voting 21, as follows:

[Roll No. 482]

YEAS—207

Alexander	Anthony	AuCoin
Anderson	Applegate	Bates
Andrews	Aspin	Bellenson
Annunzio	Atkins	Bennett
Berman	Hamilton	Owens (UT)
Bilbray	Hayes (IL)	Pallone
Boggs	Hefner	Panetta
Bonior	Hertel	Patterson
Borski	Hoagland	Payne (NJ)
Bosco	Hochbrueckner	Payne (VA)
Boucher	Houghton	Pease
Boxer	Hoyer	Pelosi
Brown (CA)	Jacobs	Penny
Bruce	Johnson (SD)	Perkins
Bryant	Johnston	Pickett
Bustamante	Jontz	Poshard
Cardin	Kanjorski	Price
Carper	Kaptur	Rahall
Carr	Kastenmeier	Rangel
Chapman	Kennedy	Richardson
Clarke	Kennelly	Rose
Clay	Kildee	Rostenkowski
Clement	Kleczka	Roybal
Coleman (TX)	Kolter	Russo
Collins	Kostmayer	Sabo
Condit	LaFalce	Sangmeister
Conyers	Leach (IA)	Savage
Costello	Leath (TX)	Sawyer
Coyne	Lehman (CA)	Scheuer
DeFazio	Lehman (FL)	Schneider
Dellums	Levin (MI)	Schroeder
Derrick	Levine (CA)	Schumer
Dicks	Lewis (GA)	Serrano
Dingell	Lipinski	Sharp
Dixon	Long	Shays
Dorgan (ND)	Lowey (NY)	Sikorski
Downey	Luken, Thomas	Skaggs
Durbin	Machtley	Slattery
Dwyer	Manton	Slaughter (NY)
Dymally	Markey	Smith (IA)
Dyson	Martinez	Solarz
Early	Matsui	Spratt
Eckart	Mavroules	Staggers
Edwards (CA)	Mazzoli	Stark
Engel	McCloskey	Stokes
Espy	McDermott	Studds
Evans	McHugh	Swift
Fazio	McMillen (MD)	Synar
Feighan	McNulty	Tauke
Flake	Mfume	Torres
Flippo	Miller (CA)	Torricelli
Foglietta	Miller (WA)	Towns
Foley	Mineta	Traficant
Frank	Mink	Traxler
Frost	Moakley	Udall
Gaydos	Moody	Unsoeld
Gejdenson	Morella	Vento
Gephardt	Morrison (WA)	Visclosky
Gibbons	Mrazek	Volkmer
Gilman	Murphy	Walgren
Glickman	Nagle	Washington
Gonzalez	Natcher	Waxman
Gordon	Neal (MA)	Weiss
Grandy	Nowak	Wheat
Gray	Oakar	Wise
Green	Oberstar	Wolpe
Guarini	Obey	Wyden
Hall (OH)	Ortiz	Yates
Hall (TX)	Owens (NY)	Yatron

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Archer	Conte	Gillmor
Armey	Cooper	Gingrich
Baker	Coughlin	Goodling
Ballenger	Cox	Goss
Barnard	Craig	Gradison
Bartlett	Crane	Grant
Barton	Dannemeyer	Gunderson
Bateman	Darden	Hammerschmidt
Bentley	Davis	Hancock
Bereuter	DeLay	Hansen
Bevill	DeWine	Harris
Bilirakis	Dickinson	Hastert
Billey	Donnelly	Hatcher
Boehlert	Dornan (CA)	Hefley
Broomfield	Douglas	Henry
Browder	Dreier	Herger
Brown (CO)	Duncan	Hiler
Buechner	Edwards (OK)	Holloway
Bunning	Emerson	Hopkins
Burton	English	Horton
Byron	Erdreich	Hubbard
Callahan	Fascell	Huckaby
Campbell (CA)	Fawell	Hughes
Campbell (CO)	Fields	Hunter
Chandler	Gallegly	Hutto
Clinger	Gallo	Hyde
Coble	Gekas	Inhofe
Combest	Geren	Ireland
James	Olin	Smith (FL)
Jenkins	Oxley	Smith (NE)
Johnson (CT)	Packard	Smith (NJ)
Jones (GA)	Parker	Smith (TX)
Jones (NC)	Parris	Smith, Denny (OR)
Kasich	Pashayan	Smith, Robert (NH)
Kolbe	Paxon	Smith, Robert (OR)
Kyl	Petri	Snowe
Lagomarsino	Pickle	Solomon
Lancaster	Porter	Spence
Lantos	Pursell	Stallings
Laughlin	Quillen	Stangeland
Lent	Ravenel	Stearns
Lewis (CA)	Ray	Stenholm
Lewis (FL)	Regula	Stump
Lightfoot	Rhodes	Sundquist
Livingston	Ridge	Tallon
Lloyd	Rinaldo	Tanner
Lowery (CA)	Ritter	Tauzin
Lukens, Donald	Roberts	Taylor
Madigan	Robinson	Thomas (CA)
Marlenee	Roe	Thomas (GA)
Martin (NY)	Rogers	Thomas (WY)
McCandless	Rohrabacher	Upton
McCollum	Ros-Lehtinen	Valentine
McCrery	Roth	Vander Jagt
McCurdy	Roukema	Vucanovich
McDade	Rowland (GA)	Walker
McEwen	Saiki	Walsh
McGrath	Sarpalius	Watkins
McMillan (NC)	Saxton	Weber
Meyers	Schaefer	Weldon
Michel	Schiff	Whittaker
Miller (OH)	Schulze	Whitten
Molinari	Sensenbrenner	Wolf
Mollohan	Shaw	Wylie
Montgomery	Shumway	Young (AK)
Moorhead	Shuster	Young (FL)
Murtha	Sisisky	
Myers	Skeen	
Nelson	Skelton	
Nielson	Slaughter (VA)	

NOT VOTING—21

Ackerman	Fish	Morrison (CT)
Brennan	Ford (MI)	Neal (NC)
Brooks	Ford (TN)	Rowland (CT)
Coleman (MO)	Frenzel	Schuette
Courter	Hawkins	Smith (VT)
Crockett	Hayes (LA)	Williams
de la Garza	Martin (IL)	Wilson

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Mr. HENRY changed his vote from "yea" to "nay."

Mr. FLIPPO and Mr. SAVAGE changed their vote from "nay" to "yea."

The SPEAKER. On this vote the yeas are 206, and the nays are 206.

The Chair votes "aye."

The yeas are 207.

So the amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

PARLIAMENTARY INQUIRY

Mr. HYDE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HYDE. Mr. Speaker, as I understood it, the vote was by electronic device. I did not see you vote by electronic device. You had announced the vote, Mr. Speaker. You passed the vote.

The SPEAKER. The gentleman will suspend while the Chair explains the result of the vote.

The Chair's vote is entered into the electronic system upon the announcement of the Chair of his vote and prior to the announcement of the final result.

The Chair's vote is entered into the system at the time of the Chair's announced vote, the Chair will advise the gentleman.

Mr. HYDE. Once more this evening, I thank the Chair.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. BEILENSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2834) to authorize appropriations for fiscal year 1991 for the intelligence activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2834

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1991".

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 1991 the amounts referred to in section 102 for the conduct of the intelligence activities of the following elements of the United States Government:

(1) the Central Intelligence Agency;

(2) the Department of Defense;

(3) the Defense Intelligence Agency;

(4) the National Security Agency;

(5) the Department of the Army, the Department of the Navy, and the Department of the Air Force;

(6) the Department of State;

(7) the Department of the Treasury;

(8) the Department of Energy; and

(9) the Federal Bureau of Investigation.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) The amounts authorized to be appropriated by section 101, and the authorized personnel ceilings as of September 30, 1991, for the conduct of the intelligence activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations to accompany ( ) of the One Hundred First Congress. Such Schedule of Authorizations shall be considered to be a part of this Act, and any limitation, requirement, or condition contained in such Schedule pertaining to the amount specified for any project, program, or activity shall be considered to be a part of this Act.

(b) Such Schedule of Authorizations shall be made available to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, and the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch of the Government.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1991 under sections 102 and 202 of this Act if he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 percent of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

TITLE II—INTELLIGENCE COMMUNITY STAFF

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the Intelligence Community Staff for fiscal year 1991 $28,900,000, of which amount $6,580,000 shall be available for the Security Evaluation Office of the Central Intelligence Agency.

SEC. 202. AUTHORIZATION OF PERSONNEL END-STRENGTH.

(a) AUTHORIZED PERSONNEL LEVEL.—The Intelligence Community Staff is authorized 240 full-time personnel as of September 30, 1991, including 50 full-time personnel who are authorized to serve in the Security Evaluation Office of the Central Intelligence Agency. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) REPRESENTATION OF INTELLIGENCE ELEMENTS.—During fiscal year 1991, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence activities.

(c) REIMBURSEMENT.—During fiscal year 1991, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

SEC. 203. INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY.

During fiscal year 1991, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1991 $164,600,000.

TITLE IV—CENTRAL INTELLIGENCE AGENCY ADMINISTRATIVE PROVISIONS

SEC 401. ELIMINATION OF 15-YEAR CAREER REVIEW FOR CIARDS AND FERS SPECIAL CATEGORY PARTICIPANTS.

Section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended—

(1) by striking out the last sentence thereof; and

(2) by adding at the end thereof the following new sentences: "Any officer or employee who elects to accept designation as a participant entitled to the benefits of the system shall remain a participant of the system for the duration of his or her employment with the Agency. Such election shall be irrevocable except as, and to the extent, provided in section 301(d) of this Act and shall not be subject to review or approval by the Director.".

SEC. 402. QUALIFYING PERIOD FOR CIA FORMER SPOUSE.

Section 204(b)(4) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by inserting before the period at the end thereof the following: "during the participant's service as an employee of the Central Intelligence Agency".

SEC. 403. SELECTION BETWEEN CIARDS ANNUITY AND OTHER SURVIVOR ANNUITIES.

Section 221(g) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by adding at the end thereof the following new paragraph:

"(3) A surviving spouse who married a participant after his retirement shall be entitled to a survivor annuity payable from the fund under this title only upon electing this annuity instead of any other survivor benefit to which he or she may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.".

SEC. 404. SURVIVOR ANNUITIES UNDER CIARDS FOR SPOUSES OF REMARRIED, RETIRED PARTICIPANTS.

(a) CALCULATION OF REDUCTION IN ANNUITIES.—Section 221(n) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by inserting "or elected under section 226(e)" after "(unless such reduction is adjusted under section 222(b)(5)".

(b) ELECTION OF REDUCTION IN ANNUITY.—Section 226 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by adding at the end thereof the following new subsection:

"(e) Upon a remarriage occurring on or after the date of enactment of this subsection to a spouse other than the spouse at the time of retirement, a retired participant whose annuity was not reduced (or was not fully reduced) to provide a survivor annuity for the participant's spouse or former spouse as of the time of retirement may irrevocably elect, by means of a signed writing received by the Director within one year after such remarriage, a reduction in the retired participant's annuity for the purpose of providing an annuity for such retired participant's spouse in the event such spouse survives the retired participant. The reduction shall be effective the first day of the month which begins nine months after the date or remarriage. For any remarriage that occurred before the date of enactment of

this subsection, the retired participant may make such an election within two years after such date. To the greatest extent practicable, the retired participant shall pay a deposit under the same terms and conditions as those prescribed for retired employees under the Civil Service Retirement and Disability System under section 8339(j)(5)(C)(ii) of title 5, United States Code. A survivor annuity elected under this subsection shall be treated in all respects as a survivor annuity under section 221(b).".

(c) CONFORMING AMENDMENT.—Section 226(d) of such Act is amended by striking out "This" and inserting in lieu thereof "Subsections (a) through (c) of this".

SEC. 405. RESTORATION OF CERTAIN FORMER SPOUSE BENEFITS AFTER DISSOLUTION OF REMARRIAGE.

(a) Section 224(b)(1) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by inserting before the semicolon ", except that, if such survivor annuity is terminated because of remarriage, such annuity shall be restored at the same rate commencing on the date such remarriage is dissolved by death, annulment, or divorce".

(b) Section 225(b)(1) of the Central Intelligence Agency Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by inserting before the semicolon ", except that the entitlement of a former spouse to benefits under this section shall be restored at the same rate commencing on the date such remarriage is dissolved by death, annulment, or divorce".

(c) Section 16(c) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403p(c)) is amended by adding at the end thereof the following new paragraph:

"(3) A former spouse who is not eligible to enroll in a health benefit plan under this section because of remarriage before the age of 55 shall be restored to such eligibility on the date such remarriage is dissolved by death, annulment, or divorce.".

(d) The amendment made by this section shall take effect on October 1, 1990, and no benefit shall be payable before such effective date.

(e) Any new spending authority (within the meaning of section 401(c) of the Congressional Budget Act of 1974) provided pursuant to the amendments made by this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

SEC. 406. CONFORMING CIARDS TO THE CIVIL SERVICE RETIREMENT SYSTEM.

Section 292 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding section 4(h) of the Civil Service Retirement Spouse Equity Act of 1984 (Public Law 98-615), Executive Order No. 12684 of July 27, 1989 (insofar as it conforms the Central Intelligence Agency Disability and Retirement System to the Civil Service Retirement System by lowering the remarriage age regarding the termination of surviving spouses' annuities from 60 to 55) shall be given effect as of its date of issuance.".

SEC. 407. TREATMENT OF CERTAIN ALIEN EMPLOYEES IN HONG KONG.

(a) AUTHORITY.—In applying the proviso of section 7 of the Central Intelligence Agency Act of 1949, in the case of an alien described in subsection (b), the Director may charge the entry of the alien against the numerical limitation for any fiscal year (beginning with fiscal year 1991 and ending with fiscal year 1996) notwithstanding that the alien's entry is not made to the United States in that fiscal year so long as such entry is made before the end of fiscal year 1997.

(b) ELIGIBLE ALIENS.—An alien eligible under subsection (a) is an alien who—

(1) is an employee of the Foreign Broadcast Information Service in Hong Kong; or

(2) is the spouse or child of an alien described in paragraph (1) if accompanying or following to join the alien in coming to the United States.

TITLE V—DEPARTMENT OF DEFENSE FOREIGN INTELLIGENCE ENHANCEMENTS

SEC. 501. DEPARTMENT OF DEFENSE COVER SUPPORT AUTHORITY.

(a) IN GENERAL.—Chapter 21 of title 10, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 22—SECURITY SUPPORT FOR DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

"§ 431. Authority for certain commercial activity

"The Secretary of Defense, consistent with this chapter, may carry out certain commercial activities as may be necessary for the purpose of providing security for the conduct of intelligence collection activities undertaken by the Department of Defense. Such activities shall be carried out only with the approval of the Director of Central Intelligence and, to the extent such activities take place within the United States, shall also be coordinated with and, where appropriate, be supported by, the Director of the Federal Bureau of Investigation.

"§ 432. Use and disposition of funds

"Proceeds generated by a commercial activity carried out under this chapter may be used to offset necessary and reasonable expenses arising from that activity and shall be kept to the minimum necessary to operate such activity in a secure manner. Any proceeds in excess of those required for this purpose shall be deposited, as often as may be practicable, into the Treasury of the United States as miscellaneous receipts. The disposition of such proceeds shall be audited at least annually by the organization assigned auditing responsibility by the head of the military department or defense agency for the commercial activity concerned.

"§ 433. Relationship with other Federal laws

"(a) Except as provided by subsection (b), commercial activities conducted pursuant to this chapter shall be carried out in accordance with applicable Federal law.

"(b) Whenever the Secretary of Defense, an official of no lower rank than an Assistant Secretary of Defense who is designated by the Secretary for this purpose, or the head of a military department certifies that, in connection with the establishment or operation of a commercial activity pursuant to this chapter, compliance with Federal laws or regulations pertaining to the management and administration of Federal agencies would create an unacceptable risk of compromise of authorized intelligence collection activities, he may authorize the establishment and operation of such activities, notwithstanding such laws or regulations, to the extent necessary to prevent the disclosure of the commercial activity concerned as an instrumentality of the United States Government, except that such certification and authorization shall be in writing and shall specify the Federal laws or regulations for which compliance by the commercial activity concerned is not required consistent with this section.

"(c) As used in this section, the phrase 'Federal laws and regulations pertaining to the management and administration of Federal agencies' means only the following—

"(A) Federal laws and regulations pertaining to the receipt and use of appropriated and nonappropriated funds;

"(B) the acquisition or management of property or services;

"(C) information disclosure, retention, and management;

"(D) the employment of personnel;

"(E) payments for travel and housing;

"(F) the establishment of legal entities or government instrumentalities; and

"(G) foreign trade or financial transaction restrictions that would reveal the commercial activity as an activity of the United States Government.

"§ 434. Reservation of defenses and immunities

"Commercial activity undertaken pursuant to this chapter, including the submission to judicial proceedings of any State, shall not constitute a waiver of the defenses and immunities of the United States.

"§ 435. Restrictions

"(a) No corporation, partnership, or other legal entity may be established to carry out commercial activities pursuant to this chapter except with the approval of the Secretary of Defense or the Deputy Secretary of Defense. Such approval may not be delegated.

"(b) Nothing in this chapter authorizes the conduct of any intelligence activity which is not otherwise authorized by law or Executive order.

"(c) Personnel conducting commercial activity authorized by this chapter may only engage in those activities in the United States necessary to support intelligence activities abroad.

"(d) A citizen of the United States or an alien admitted to permanent residence in the United States may not be employed by, or assigned or detailed to perform operational, managerial, or supervisory duties for, an entity engaged in commercial activity authorized by this chapter unless that person has been informed of the purpose of such activity.

"§ 436. Regulations, oversight, and legal review

"The Secretary of Defense shall issue regulations to implement the authority contained in this chapter within 180 days of its date of enactment. Copies of such regulations shall be provided to the Committees on Armed Services of the Senate and House of Representatives and the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives prior to their issuance. Such regulations shall be consistent with this chapter and shall, at a minimum—

"(1) specify all officials authorized to approve commercial activities pursuant to this chapter and, where a determination is required pursuant to section 433(b) only the officials specified by such section may approve the establishment or operation of the commercial activity concerned;

"(2) designate a single office within the Defense Intelligence Agency to implement, and maintain accountability for, all activities authorized pursuant to this chapter;

"(3) require prior legal review of all commercial activities authorized pursuant to this chapter; and

"(4) provide for appropriate internal audit controls and oversight for such activities.

"§ 437. Reports to Congress

"(a)(1) The Secretary of Defense shall ensure that the Committees on Armed Services of the Senate and House of Representatives and the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives (hereafter in this chapter referred to as 'the intelligence committees') are kept fully and currently informed of actions taken pursuant to this chapter, including any significant anticipated activity to be authorized pursuant to this chapter.

"(2) For purposes of paragraph (1), the Secretary of Defense shall provide all such committees with prior notice of the establishment of any corporation, partnership, or other legal entity.

"(b) Not later than November 1 of each year, the Secretary of Defense shall submit to the committees described in subsection (a) a report on all commercial activity undertaken pursuant to this chapter during the previous fiscal year. Such report shall include a description of any exercise of the authority provided by section 433(b) to the Secretary of Defense, or other authorized officials, as well as a description of any expenditure of appropriated or nonappropriated funds made pursuant to this chapter.

"§ 438. Definitions

"As used in this chapter—

"(1) the term 'commercial activities' means activities conducted in a manner consistent with prevailing commercial practice and includes—

"(A) the acquisition, use, sale, storage, and disposal of goods and services;

"(B) entering into employment contracts, leases, and other agreements for real and personal property;

"(C) depositing funds into and withdrawing funds from domestic and foreign commercial businesses or financial institutions; and

"(D) acquiring licenses, registrations, permits, and insurance; and

"(2) the term 'intelligence activities' means the collection of foreign intelligence and counterintelligence information.

(b) CLERICAL AMENDMENTS.—The tables of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part I of subtitle A of such title, are each amended by inserting after the item relating to chapter 21 the following new item:

"22. Security Support for Department of Defense Intelligence Activities 431.".

SEC. 502. POST-EMPLOYMENT ASSISTANCE FOR CERTAIN NSA EMPLOYEES.

The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by adding at the end thereof the following new section:

"SEC. 17. (a) Notwithstanding any other law, the Director of the National Security Agency may use appropriated funds to assist employees who have been in sensitive positions who are found to be ineligible for continued access to Sensitive Compartmented Information and employment with the Agency, or whose employment has been terminated—

"(1) in finding and qualifying for subsequent employment,

"(2) in receiving treatment of medical or psychological disabilities, and

"(3) in providing necessary financial support during periods of unemployment,

if the Director determines that such assistance is essential to maintain the judgment and emotional stability of such employee and avoid circumstances that might lead to the unlawful disclosure of classified information to which such employee had had access. Assistance provided under this section for an employee shall not be provided any longer than five years after the termination of the employment of the employee.

"(b) The Director of the National Security Agency shall report annually to the Appropriations Committees of the Senate and House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives with respect to any expenditure made pursuant to this section.".

SEC. 503. REIMBURSEMENT RATE FOR CERTAIN AIRLIFT SERVICES.

(a) AUTHORITY.—The Secretary of Defense is authorized to grant the use of the Department of Defense reimbursement rate for military airlift services provided by the Department of Defense to the Central Intelligence Agency, if the Secretary of Defense determines that those military airlift services are provided for activities related to national security objectives.

(b) DEFINITION.—For purposes of subsection (a), the term "Department of Defense reimbursement rate" means the rate of reimbursement charged by the Department of Defense to the military departments.

TITLE VI—DEPARTMENT OF ENERGY PERSONNEL AUTHORITY

SEC. 601. EXCEPTED POSITIONS FROM THE COMPETITIVE SERVICE.

Section 621 of the Department of Energy Organization Act (42 U.S.C. 7231) is amended by adding at the end thereof the following new subsection:

"(f) All positions in the Department which the Secretary determines are devoted to intelligence or intelligence-related activities of the United States Government are excepted from the competitive service, and the individuals who occupy such positions as of the date of enactment of this Act shall, while employed in such positions, be exempt from the competitive service.

TITLE VII—OVERSIGHT OF INTELLIGENCE ACTIVITIES

SEC. 701. REPEAL.

Section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422) is hereby repealed.

SEC. 702. CONGRESSIONAL OVERSIGHT.

(a) IN GENERAL.—Section 501 of the National Security Act of 1947 (50 U.S.C. 413) is amended to read as follows:

"CONGRESSIONAL OVERSIGHT

"SEC. 501. (a) The President shall ensure that the Select Committee on Intelligence of the Senate and the Permanent Select Committee of the House of Representatives (hereafter in this title referred to as the 'intelligence committees') are kept fully and currently informed of the intelligence activities of the United States, including any significant anticipated intelligence activities, as required by this title, except that—

"(1) nothing contained in this title shall be construed as requiring the approval of the intelligence committees as a condition precedent to the initiation of such activities; and

"(2) nothing contained in this title shall be construed as a limitation on the power of the President to initiate such activities in a manner consistent with his powers conferred by the Constitution.

"(b) The President shall ensure that any illegal intelligence activity is reported to the intelligence committees, as well as any corrective action that has been taken or is planned in connection with such illegal activity.

"(c) The President and the intelligence committees shall each establish procedures as may be necessary to carry out the provisions of this title.

"(d) The House of Representatives and the Senate, in consultation with the Director of Central Intelligence, shall each establish, by rule or resolution of such House, procedures to protect from unauthorized disclosure all classified information and all information relating to intelligence sources and methods furnished to the intelligence committees or to Members of Congress under this title. In accordance with such procedures, each of the intelligence committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees.

"(e) As used in this section, the term 'intelligence activities' includes 'covert actions', as defined in subsection 503(e).".

(b) INFORMATION REQUIRED TO BE DISCLOSED; FINDINGS.—The National Security Act of 1947 is amended—

(1) by redesignating sections 502 and 503 as sections 504 and 505, respectively; and

(2) by inserting after section 501 the following:

"REPORTING INTELLIGENCE ACTIVITIES OTHER THAN COVERT ACTIONS

"SEC. 502. To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States Government involved in intelligence activities shall—

"(1) keep the intelligence committees fully and currently informed of all intelligence activities, other than covert actions, as defined in subsection 503(e), which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including any significant anticipated intelligence activity and significant failures; and

"(2) furnish the intelligence committees any information or material concerning intelligence activities other than covert actions which is within their custody or control and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities.

"PRESIDENTIAL APPROVAL AND REPORTING COVERT ACTIONS

"SEC. 503. (a) The President may authorize the conduct of covert actions by departments, agencies, or entities of the United States Government only when he determines that such activities are necessary to support the foreign policy objectives of the United States and are important to the national security of the United States, which determination shall be set forth in a finding that shall meet each of the following conditions:

"(1) Each finding shall be in writing, unless immediate action by the United States is required and time does not permit the preparation of a written finding, in

which case a written record of the President's decision shall be contemporaneously made and shall be reduced to a written finding as soon as possible but in no event more than 48 hours after the decision is made.

"(2) A finding may not authorize or sanction covert actions, or any aspect of such activities, which have already occurred.

"(3) Each finding shall specify each and every department, agency, or entity of the United States Government authorized to fund or otherwise participate in any significant way in such activities, except that any employee, contractor, or contract agent of a department, agency, or entity of the United States Government (other than the Central Intelligence Agency) directed to participate in any way in a covert action shall be subject to the policies and regulations of the Central Intelligence Agency, or to written policies or regulations adopted by such department, agency, or entity, governing such participation.

"(4) Each finding shall specify whether it is contemplated that any third party which is not an element, contractor, or contract agent of the United States Government, or is not otherwise subject to United States Government policies or regulations, will be used to fund or otherwise participate in any significant way in the covert action concerned or be used to undertake the covert action concerned on behalf of the United States.

"(5) A finding may not authorize any action intended to influence United States political processes, public opinion, policies, or media.

"(6) A finding may not authorize any action which violates the Constitution of the United States or any statutes of the United States.

"(b) To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods, or other exceptionally sensitive matters, the Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States Government involved in a covert action shall—

"(1) keep the intelligence committees fully and currently informed of all covert actions which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including significant failures; and

"(2) furnish to the intelligence community any information or material concerning covert actions which is in the possession, custody, or control of any department, agency, or entity of the United States Government and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities.

"(c)(1) Except as provided by paragraphs (2) and (3), the President shall ensure that any finding approved, or determination made, pursuant to subsection (a) shall be reported to the intelligence committees before the initiation of the activities authorized.

"(2) On rare occasions, the President may direct that covert actions be initiated before reporting such actions to the intelligence committees. On such occasions, the President shall fully inform the intelligence committees in a timely fashion and shall provide a statement of the reasons for not giving prior notice.

"(3) If the President determines it is essential to meet extraordinary circumstances affecting vital interests of the United States, the President may limit the reporting of findings or determinations pursuant to paragraphs (1) and (2) to the chairmen and ranking minority members of the intelligence committees, the Speaker and Minority Leader of the House of Representatives, and the Majority and Minority leaders of the Senate. In any such case, the President shall provide a statement of the reasons for limiting access to such findings or determinations in accordance with this subsection.

"(4) In each case reported pursuant to paragraph (1), (2), or (3), a copy of the finding, signed by the President, shall be provided to the chairman of each intelligence committee.

"(d) The President shall ensure that the intelligence committees or, if applicable, the Members of Congress specified in subsection (c)(3) are notified of any significant change in a previously approved covert action, or any significant undertaking pursuant to a previously approved finding, in the same manner as findings are reported pursuant to subsection (c).

"(e) As used in this section, the term 'covert action' means an activity or activities conducted by an element of the United States Government to influence political, economic, or military conditions abroad so that the role of the United States Government is not intended to be apparent or acknowledged publicly, but does not include—

"(1) activities the primary purpose of which is to acquire intelligence, traditional counterintelligence activities, traditional activities to improve or maintain the operational security of the United States Government programs, or administrative activities;

"(2) traditional diplomatic or military activities or routine support to such activities;

"(3) traditional law enforcement activities conducted by United States Government law enforcement agencies or routine support to such activities; or

"(4) activities to provide routine support to the overt activities (other than activities described in paragraph (1), (2), or (3)) of other United States Government agencies abroad.".

(c) AVAILABILITY OF FUNDS SUBJECT TO FINDINGS.—Section 504 of the National Security Act of 1947, as amended by subsection (b)(2), is further amended—

(1) by striking out "501" in subsection (a)(2) and inserting in lieu thereof "503"; and

(2) by adding at the end thereof the following new subsection:

"(d) No funds appropriated for, or otherwise available to, any department, agency, or entity of the United States Government, may be obligated or expended, or may be directed to be obligated or expended, for any covert action, as defined in section 503(e), unless and until a Presidential finding required by section 503(a), has been signed or otherwise issued in accordance with that section.".

TITLE VIII—GENERAL PROVISIONS

SEC. 801. AUTHORIZATION OF APPROPRIATIONS FOR INCREASES IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

There are authorized to be appropriated for fiscal year 1991 such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, and other benefits for Federal employees which are authorized by law.[H17OC0-T5]{H10090}by law.

MOTION OFFERED BY MR. BEILENSON

Mr. BEILENSON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr BEILENSON moves to strike out all after the enacting clause of the Senate bill, S. 2834, and insert in lieu thereof the text of the bill, H.R. 5422, as passed, as follows:

That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1991."

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1991 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government;

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The Drug Enforcement Administration.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1991, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Permanent Select Committee on Intelligence to accompany (H.R. 5422) of the One Hundred First Congress. That Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the Executive Branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1991 under sections 102 and 202 of this Act when he determines that such action is necessary for the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed two percent of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

TITLE II—INTELLIGENCE COMMUNITY STAFF

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the Intelligence Community Staff for fiscal year 1991 $27,900,000.

SEC. 202. AUTHORIZATION OF PERSONNEL END STRENGTH.

(a) The Intelligence Community Staff is authorized 240 full-time personnel as of September 30, 1991. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from

other elements of the United States Government.

(b) During fiscal year 1991, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During fiscal year 1991, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

SEC. 203. INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY.

During fiscal year 1991, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM AND RELATED PROVISIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1991 $164,600,000.

SEC. 302. CIA FORMER SPOUSE QUALIFYING TIME.

Section 204(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain employees (50 U.S.C. 403 note) is amended by inserting before the period at the end of paragraph (4) "during the participant's service as an employee of the Central Intelligence Agency".

SEC. 303. ELIMINATION OF 15-YEAR CAREER REVIEW FOR CERTAIN CIA EMPLOYEES.

Section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by striking out the second sentence and inserting in lieu thereof the following: "Any officer or employee who elects to accept designation as a participant entitled to the benefits of the system shall remain a participant of the system for the duration of his or her employment with the Agency. Such election shall be irrevocable except as and to the extent provided in section 301(d) of this Act and shall not be subject to review or approval by the Director.".

SEC. 304. SURVIVOR ANNUITIES UNDER CIARDS FOR CERTAIN POST-RETIREMENT SPOUSES.

(a) COMPUTATION OF ANNUITIES FOR OTHER THAN FORMER SPOUSES.—Section 221(n) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by inserting "or elected under section 226(e)" after "(unless such reduction is adjusted under section 222(b)(5))".

(b) SURVIVOR ANNUITIES.—Section 226 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by adding at the end the following new subsection:

"(e) Upon remarriage occurring on or after the date of the enactment of this subsection to a spouse other than the spouse at the time of retirement, a retired participant whose annuity was not reduced (or was not fully reduced) to provide a survivor annuity for the participant's spouse or former spouse as of the time of retirement may irrevocably elect by means of a signed writing received by the Director within one year after such remarriage, a reduction in the retired participant's annuity for the purpose of providing an annuity for such retired participant's spouse in the event such spouse survives the retired participant. The reduction shall be effective the first day of the month nine months after the date of remarriage. For remarriages that occurred prior to the date of the enactment of this subsection, the retired participant may make such an election within two years after the date of the enactment of this subsection. The retired participant, to the greatest extent practicable, shall pay a deposit under the same terms and conditions as those prescribed for retired employees under the Civil Service Retirement and Disability System under section 8339(j)(5)(C)(ii) of title 5, United States Code. A survivor annuity elected under this subsection shall be treated in all respects as a survivor annuity under section 221(b).".

SEC. 305. REDUCTION OF REMARRIAGE AGE.

(a) REDUCTION OF REMARRIAGE AGE FOR SURVIVOR AND RETIREMENT BENEFITS.—The Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note), is amended—

(1) in section 221—

(A) in subsections (b)(1)(A) and (b)(3)(C), by striking out "age 60" each place it appears and inserting in lieu thereof "age 55"; and

(B) in subsection (g)(1), by striking out "age sixty" each place it appears and inserting in lieu thereof "age 55";

(2) in section 222—

(A) by striking out "60 years of age" each place it appears in subsections (a)(2), (a)(3)(A), and (b)(2) and inserting in lieu thereof "55 years of age"; and

(B) by striking out "age 60" each place it appears in subsections (b)(3), (b)(5)(A), (c)(3)(C), (c)(3)(D), and (c)(4) and inserting in lieu thereof "age 55"; and

(3) in section 232(b)(1), by striking out "attaining age sixty" in the last sentence and inserting in lieu thereof "attaining age 55".

(b) EFFECTIVE DATE OF AMENDMENTS.—(1) The amendments made by subsection (a) relating to widows or widowers shall apply in the case of a surviving spouse's remarriage occurring on or after July 27, 1989, and with respect to periods beginning after such date.

(2) The amendments made by subsection (a) relating to former spouses shall apply with respect to any former spouse whose remarriage occurs after the date of enactment of this Act.

SEC. 306. ELECTION BETWEEN CIARDS ANNUITY AND OTHER SURVIVOR ANNUITIES.

Section 221(g) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended by adding at the end the following paragraph:

"(3) A surviving spouse who was acquired after the participant's retirement shall be entitled to a survivor annuity payable from the fund under this title only upon electing this annuity instead of any other survivor benefit to which he or she may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.".

SEC. 307. RESTORATION OF FORMER SPOUSE BENEFITS AFTER DISSOLUTION OF REMARRIAGE.

(A) SURVIVOR ANNUITY.—Section 224 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 408 note), is amended—

(1) in subsection (b)(1) after "fifty-five" by inserting ", except that the entitlement of the former spouse to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce";

(2) in subsection (c)(1)(B) after "fifty-five" by inserting ", except that the entitlement of the former spouse to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce"; and

(3) by adding at the end thereof the following new subsection:

"(e) Notwithstanding subsection (c)(2)(A) of this section, the thirty-month application requirement for a survivor annuity under this section to be payable shall not apply in cases in which a former spouse's entitlement to such a survivor annuity is restored under subsection (b)(1) or (c)(1)(B) of this section.".

(b) RETIREMENT BENEFITS.—Section 225 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note), is amended—

(1) in subsection (c)(1)(B)(i) by inserting ", except that the entitlement of the former spouse to benefits under this section shall be restored on the date such remarriage is dissolved by death, annulment, or divorce" after "fifty-five years of age";

(2) in subsection (b)(1) after "fifty-five" by inserting ", except that the entitlement of the former spouse to benefits under this section shall be restored on the date such remarriage is dissolved by death, annulment, or divorce";

(3) by redesignating subsection (e) as subsection (f); and

(4) by adding after subsection (d) the following new subsection (e):

"(e) Notwithstanding subsection (c)(4)(A) of this section, the thirty-month application requirement for benefits under this section to be payable shall not apply in cases in which a former spouse's entitlement to such benefits is restored under subsection (b)(1) of (c)(1)(B) of this section.".

(c) HEALTH BENEFITS.—Section 16(c) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding after paragraph (2) the following new paragraph:

"(3)(A) A former spouse who is not eligible to enroll or to continue enrollment in a health benefits plan under this section solely because of remarriage before age fifty-five shall be restored to such eligibility on the date such remarriage is dissolved by death, annulment, or divorce.

"(B) A former spouse whose eligibility is restored under subparagraph (A) may, under regulations which the Director of the Office of Personnel Management shall prescribe, enroll in a health benefits plan is such former spouse—

"(i) was an individual referred to in paragraph (1) and was an individual covered under a benefits plan as a family member at any time during the 18-month period before the date of dissolution of the marriage to the Agency employee or annuitant; or

"(ii) was an individual referred to in paragraph (2) and was an individual covered under a benefits plan immediately before the remarriage ended the enrollment.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1990. No benefits provided pursuant to the amendments made by this section shall be payable with respect to any period before such effective date.

(e) COMPLIANCE WITH BUDGET ACT.—Any new spending authority (within the meaning of section 401(c) of the Congressional Budget Act of 1974) provided pursuant to the amendments made by this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE IV—GENERAL PROVISIONS

SEC. 401. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 402. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

SEC. 403: BUY-AMERICAN REQUIREMENT.

(a) DETERMINATION BY THE DIRECTOR.—If the Director, with the concurrence of the United States Trade Representative and the Secretary of Commerce, determines that the public interest so desires, the Director is authorized to award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent. In determining under this subsection whether the public interest so requires, The Director shall take into account United States international obligations and trade relations.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts made related to the issuance of any grant made under this Act for which—

(1) amounts are authorized by this act (including the amendments made by this act) to be made available; and

(2) solicitation for bids are issued after the date of the enactment of this Act.

(d) REPORT TO CONGRESS.—The Director shall report to the Congress on contracts covered under this section and entered into with foreign entities in fiscal years 1990 and 1991 and shall report to the Congress on the number of Contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement or an international agreement to which the United States is a party. The Director shall also report to the Congress on the number of contracts covered under this Act (including the amendments made by this Act) and awarded based upon the parameters of this section.

(e) DEFINITIONS.—For purposes of this section—

(1) SECRETARY.—The term "Director" means the Director of Central Intelligence.

(2) DOMESTIC FIRM.—The term "Domestic Firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States.

(3) FOREIGN FIRM.—The term "foreign firm" means a business entity not described in paragraph (2).

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE PROVISIONS

SEC. 501. REIMBURSEMENT RATE FOR CERTAIN AIRLIFT SERVICE.

(a) The Secretary of Defense is authorized to grant the use of the Department of Defense reimbursement rate for military airlift services provided by the Department of Defense to the Central Intelligence Agency if the Secretary of Defense determines that such services are provided in support of authorized intelligence activities.

(b) As used in subsection (a), the term "Department of Defense reimbursement rate" means the amount charged a component of the Department of Defense by another component of the Department of Defense.

SEC. 502. PUBLIC AVAILABILITY OF MAPS, ETC., PRODUCED BY DEFENSE MAPPING AGENCY.

(A) IN GENERAL.—(1) Chapter 167 of title 10, United States Code, is amended by adding at the end the following new section.

"§ 2796. Maps, charts, and geodetic data: public availability; exceptions

"(a) The Defense Mapping Agency shall offer for sale maps and charts at scales of 1:500,000 and smaller, except those withheld in accordance with subsection (b) or those specifically authorized under criteria established By Executive order to be kept secret in the interest of national defense or foreign policy and in fact properly classified pursuant to such Executive order.

"(b)(1) Notwithstanding any other provision of law, the Secretary of Defense may withhold from public disclosure any geodetic product in the possession of, or under the control of, the Department, of Defense—

"(A) that was obtained or produced, or that contains information that was provided, pursuant to an international agreement that restricts disclosure of such product or information to government officials of the agreeing parties or that restrict use of such product or information to government purposes only;

"(B) that contains information that the Secretary of Defense has determined in writing would, if disclosed, reveal sources and methods used to obtain source material for production of the geodetic product; or

"(C) that contains information that the Director of the Defense Mapping Agency has determined in writing would, if disclosed, reveal military operational or contingency plans.

"(2) In this subsection, the term 'geodetic product' means any map, chart, geodetic data, or related product.

"(c)(1) Regulations to implement this section (including any amendments to such regulations) shall be published in the Federal Register for public comment for a period of not less than 30 days before they take effect.

"(2) Regulations under this section shall address the conditions under which release of geodetic products authorized under subsection (b) to be withheld from public disclosure would be appropriate—

"(A) in the case of allies of the United States; and

"(B) in the case of qualified United States contractors (including contractors that are small business concerns) who need such products for use in the performance of contracts with the United States.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2796. Maps, charts, and geodetic data: public availability; exceptions.".

(b) DEADLINE FOR INITIAL REGULATIONS.—Regulations to implement section 2796 of title 10, United States Code, as added by subsection (a), shall be published in the Federal Register for public comment in accordance with subsection (c) of that section not later than 90 days after the date of the enactment of this Act.

SEC. 503. USE OF COMMERCIAL ACTIVITIES AS COVER SUPPORT FOR INTELLIGENCE COLLECTION ACTIVITIES OF THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—Chapter 21 of title 10, United States Code, is amended—

(1) by inserting after the chapter heading the following:

"Subchapter	Sec.
"I. General Matters	421
"II. Intelligence Commercial Activities	431

"SUBCHAPTER I—GENERAL MATTERS";

and

(2) by adding at the end the following:

"SUBCHAPTER II—INTELLIGENCE COMMERCIAL ACTIVITIES

"431. Authority to engage in commercial activities as security for defense intelligence collection activities.
"432. Use, disposition, and auditing of funds.
"433. Relationship with other Federal laws.
"434. Reservation of defenses and immunities.
"435. Limitations.
"436. Regulations, internal oversight, and legal review.
"437. Congressional oversight.

"§ 431. Authority to engage in commercial activities as security for defense intelligence collection activities

"(a) AUTHORITY.—The Secretary of Defense, subject to the provisions of this subchapter, may authorize elements of the Department of Defense to engage in such commercial activities as may be necessary for the purpose of providing security for the conduct of authorized intelligence collection activities abroad undertaken by the Department of Defense. The authority of the Secretary under the preceding sentence may not be delegated. No commercial activities may be conducted pursuant to this subchapter after September 30, 1995.

"(b) INTERAGENCY COORDINATION AND SUPPORT.—Any such activity shall—

"(1) be coordinated with, and (where appropriate) be supported by, the Director of Central Intelligence; and

"(2) to the extent the activity takes place within the United States, be coordinated

with, and (where appropriate) be supported by, the Director of the Federal Bureau of Investigation.

"(c) DEFINITIONS.—In this subchapter:

"(1) The term 'commercial activities' means activities that are conducted in a manner consistent with prevailing commercial practice. Such term includes—

"(A) the acquisition, use, sale, storage and disposal of goods and services;

"(B) entering into employment contracts and leases and other agreements for real and personal property;

"(C) depositing funds into the withdrawing funds from domestic and foreign commercial businesses or financial institutions;

"(D) acquiring licenses, registrations, permits, and insurance; and

"(E) establishing corporations, partnerships, and other legal entities.

"(2) The term 'intelligence collection activities' means the collection of foreign intelligence and counterintelligence information.

"§ 432. Use, disposition, and auditing of funds

"(a) USE OF FUNDS.—Funds generated by a commercial activity authorized pursuant to this subchapter may be used to offset necessary and reasonable expenses arising from that activity. Use of such funds for that purposes shall be kept to the minimum necessary to operate the activity concerned in a secure manner. Any funds generated by the activity in excess of those required for that purpose shall be deposited into the Treasury as miscellaneous receipts. The Secretary of Defense shall ensure that such deposits are made as often as may be practicable.

"(b) AUDITS.—(1) The Secretary of Defense shall assign an organization with the Department of Defense to have auditing responsibility with respect to activities authorized under this subchapter.

"(2) That organization shall audit the use and disposition of funds generated by any commercial activity authorized under this subchapter not less often than anually. Upon the completion of any such audit, the Secretary shall promptly notify the intelligence committees (as defined in section 437(d) of this title) of the results of the audit.

§ 433. Relationship with other Federal laws

"(a) IN GENERAL.—Except as provided under subsection (b), a commercial activity conducted pursuant to this subchapter shall be carried out in accordance with applicable Federal law.

"(b) AUTHORIZATION OF WAIVERS WHEN NECESSARY TO MAINTAIN SECURITY.—(1) If the Secretary of Defense determines, in connection with the establishment or operation of a commercial activity pursuant to this chapter, that compliance with the provisions of certain Federal laws and regulations pertaining to the management and administration of Federal agencies would create an unacceptable risk of compromise of an authorized intelligence collection activity, the Secretary may, to the extent necessary to prevent the disclosure of the commercial activity concerned as an instrumentality of the United States, authorize the establishment and operation of the activity notwithstanding those laws or regulations.

"(2) Any determination and authorization by the Secretary under paragraph (1) shall be certified by the Secretary in writing and shall include a specification of the laws or regulations for which compliance by the commercial activity concerned is not required consistent with this section.

"(3) The authority of the Secretary under paragraph (1) may only be delegated to the Deputy Secretary of Defense, an Under Secretary of Defense, or an Assistant Secretary of Defense.

"(c) FEDERAL LAWS AND REGULATIONS.—For purposes of this section, Federal laws and regulations pertaining to the management and administration of Federal agencies are those Federal laws and regulations pertaining to the following:

"(1) The receipt and use of appropriated and non-appropriated funds.

"(2) The acquisition or management of property or services.

"(3) Information disclosure, retention, and management.

"(4) The employment of personnel.

"(5) Payments for travel and housing.

"(6) The establishment of legal entities or government instrumentalities.

"(7) Foreign trade or financial transaction restrictions that would reveal the commercial activity as an activity of the United States Government.

"§ 434. Reservation of defenses and immunities

"Commercial activity undertaken pursuant to this subchapter, including the submission to judicial proceedings of a State, shall not constitute a waiver of the defenses and immunities of the United States.

"§ 435. Limitations

"(a) LAWFUL ACTIVITIES.—Nothing in this subchapter authorizes the conduct of any intelligence activity that is not otherwise authorized by law or Executive order.

"(b) DOMESTIC ACTIVITIES.—Personnel conducting commercial activity authorized by this subchapter may only engage in those activities in the United States to the extent necessary to support intelligence activities abroad.

"(c) SUPPLY TO DEPARTMENT OF DEFENSE.—Commercial activity may not be undertaken within the United States for the purpose of providing goods or services to the Department of Defense, other than as may be necessary to provide security for the activities subject to this subchapter.

"(d) UNITED STATES PERSONS.—(1) In carrying out a commercial activity authorized under this subchapter, the Secretary of Defense may not permit an entity engaged in such activity to employ a United States person in an operational, managerial, or supervisory position, and may not assign or detail a United States person to perform operational, managerial, or supervisory duties for such an entity, unless that person is informed in advance of the intelligence security purpose of that activity.

"(2) In this subsection, the term 'United States person' means an individual who is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence.

§ 436. Regulations, internal oversight, and legal review

"The Secretary of Defense shall prescribe regulations to implement the authority provided in this subchapter. Such regulations shall—

"(1) specify all officials authorized to approve commerical activities under this subchapter;

"(2) designate a single office within the Department of Defense to implement, and to maintain accountability for, all activities authorized under this subchapter;

"(3) require that each commercial activity proposed to be authorized under this subchapter be subject to legal review before the activity is authorized; and

"(4) provide for appropriate internal audit controls and oversight for such activities.

"§ 437. Congressional oversight

"(a) PROPOSED REGULATIONS.—Copies of regulations proposed to be prescribed under section 436 of this title (including any proposed revision to such regulations) shall be submitted to the intelligence committees not less than 30 days before they take effect.

"(b) CURRENT INFORMATION.—The Secretary of Defense shall ensure that the intelligence committees are kept fully and currently informed of actions taken pursuant to this subchapter, including any significant anticipated activity to be authorized pursuant to this subchapter. The Secretary shall promptly notify the committees whenever a corporation, partnership, or other legal entity is established under this subchapter.

"(c) ANNUAL REPORT.—Not later than January 15 of each year, the Secretary shall submit to the intelligence committees a report on all commercial activities authorized under this subchapter that were undertaken during the previous fiscal year. Such report shall include (with respect to the fiscal year covered by the report)—

"(1) a description of any exercise of the authority provided by section 433 of this title to the Secretary of Defense;

"(2) a description of any expenditure of funds made pursuant to this subchapter (whether from appropriated or nonappropriated funds); and

"(3) a description of any actions taken with respect to audits under section 432 of this title to implement recommendations or correct deficiencies identified in such audits.

"(d) INTELLIGENCE COMMITTEES DEFINED.—In this section, the term 'intelligence committees' means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.".

(b) EFFECTIVE DATE.—The Secretary of Defense may not authorize an activity under section 431 of title 10, United States Code, as added by subsection (a), until the later of—

(1) the end of the 90-day period beginning on the date of the enactment of this Act; or

(2) the effective date of regulations first prescribed under section 436 of such title, as added by subsection (a).

SEC. 504. DISCLOSURE TO MEMBERS OF CONGRESS OF CLASSIFIED DEFENSE INTELLIGENCE AGENCY REPORT RELATING TO MILITARY PERSONNEL LISTED AS PRISONER, MISSING, OR UNACCOUNTED FOR.

The Secretary of Defense shall provide to any Member of Congress, upon request, full and complete access to the classified report of the Defense Intelligence Agency commonly known as the Tighe Report, relating to efforts by the Special Office for Prisoners of War/Missing in Action of the Defense Intelligence Agency to fully account for United States military personnel listed as prisoner, missing, or unaccounted for in military actions. The Secretary may withhold from disclosure under the preceding sentence any material that in the judgment of the Secretary would compromise sources and methods of intelligence.

TITLE VI—CAMBODIAN NONCOMMUNIST RESISTANCE

SEC. 601. RESTRICTIONS ON ASSISTANCE FOR THE CAMBODIAN NONCOMMUNIST RESISTANCE FORCES.

(a) RESTRICTIONS.—Funds authorized to be appropriated by this Act may be obligated and expended for assistance for the Cambo-

dian noncommunist resistance forces only as follows:

(1) Any such assistance shall be limited to nonlethal assistance.

(2) Any such assistance shall be consistent with section 906 of the International Security and Development Cooperation Act of 1985 (relating to the prohibition on assistance to the Khmer Rouge).

(3) Any funds to be made available for such assistance shall be allocated for that purpose within 30 days after date of enactment of this Act.

(4) Within 30 days after the conclusion of a comprehensive political settlement involving the 4 Cambodian factions, the unexpended balance of the funds allocated for assistance for the Cambodian noncommunist resistance pursuant to paragraph (3) shall be transferred to such agency of the United States Government as the President may designate. The President may not designate an intelligence agency for purposes of this paragraph. Such funds shall be expended in ways that are consistent with the comprehensive political settlement.

(5) After funds are transferred pursuant to paragraph (4) funds authorized to be appropriated by this Act (and any other funds available to any intelligence agency during fiscal year 1991) may not be obligated or expended by any intelligence agency for assistance for the Cambodian noncommunist resistance forces.

(b) RELATION TO FOREIGN ASSISTANCE FUNDS.—Funds made available for assistance for the Cambodian noncommunist resistance forces pursuant to this section are in addition to any funds that are made available for assistance for the Cambodian noncommunist resistance forces under the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991.

(c) INTELLIGENCE SHARING AND COLLECTION.—Subsection (a) does not apply with respect to intelligence sharing or intelligence collection.

(d) DEFINITION OF INTELLIGENCE AGENCY.—As used in this section, the term "intelligence agency" means any agency within the intelligence community, within the meaning of section 3.4(f) of Executive Order 12333 (December 4, 1981).

TITLE VII—INCENTIVES FOR PEACE IN ANGOLA

SEC. 701. ENCOURAGING REDUCTIONS IN EXTERNAL ASSISTANCE TO PARTIES TO THE ANGOLAN CONFLICT.

(a) PROHIBITION ON ASSISTANCE.—

(1) PRESIDENTIAL CERTIFICATION.—If the Government of Angola expresses its willingness to accept a ceasefire and a political settlement to the conflict in Angola and proposes a reasonable timetable for free and fair multiparty national elections in which UNITA would be free to participate, and is no longer receiving aid from the Soviet Unions, the President shall promptly so certify to the appropriate committees.

(2) ASSISTANCE PROHIBITED PURSUANT TO CERTIFICATION OR JOINT RESOLUTION.—Except as provided in subsections (b), (c), and (d), if the President makes the certification described in paragraph (1) or if the Congress enacts a joint resolution declaring that the Congress has made the determination with respect to the Government of Angola that is described in that paragraph, then—

(A) intelligence community funds may not be obligated or expended during fiscal year 1991 for the acquisition of weapons, ammunition, or other lethal military equipment for the National Union for the Total Independence of Angola; and

(B) the United States shall suspend, or cause the suspension of, the delivery to UNITA of any weapons, ammunition, or other lethal military equipment acquired with any intelligence community funds that may have been previously expended, to the extent that the United States retains the ability to suspend such deliveries.

(b) REMOVAL OF PROHIBITION IF THE GOVERNMENT OF ANGOLA IS NO LONGER PURSUING A POLITICAL SOLUTION.—Except as provided in subsection (e), in the event the President has made the certification described in subsection (a)(1) or the Congress has enacted the joint resolution described in subsection (a)(2), subsection (a)(2) shall cease to apply if the President certifies to the appropriate committees that the Government of Angola is no longer willing to accept a ceasefire and a political settlement and is no longer proposing a reasonable timetable for free and fair multiparty national elections in which UNITA would be free to participate. A certification may be made under this subsection only during the 3-month period beginning on the date on which the President made his certification under subsection (a)(1) or the Congress enacted a joint resolution under subsection (a)(2), as the case may be.

(c) CONDITIONS FOR REMOVAL OF PROHIBITON AFTER 3 MONTHS.—Should subsection (a)(2) become applicable pursuant a President certification under subsection (a)(1) or enactment of a joint resolution under subsection (a)(2) or (e), subsection (a)(2) shall cease to apply, subject to subsection (e), if the President certifies to the appropriate committees (after the end of the 3-month period specified in the last sentence of this subsection) that he has made the determinations required by both paragraphs (1) and (2), as follows:

(1) DETERMINATIONS WITH REGARD TO THE GOVERNMENT OF ANGOLA.—A determination either—

(A) that the Government of Angola refuses to participate in good faith in negotiations for a ceasefire and a political settlement that includes a reasonable timetable for free and fair multiparty national elections in which UNITA would be free to participate;

(B) that—

(i) during the review period, the Soviet Union or other sources outside Angola sold or otherwise made available to the Government of Angola additional, militarily significant amounts of weapons, ammunition, and other lethal military equipment, or

(ii) prior to the end of the review period, the Government of Angola had not ceased receiving militarily significant amounts of lethal military equipment that had previously been sold or otherwise made available by sources outside Angola; or

(C) that the Government of Angola or the Government of Cuba is not complying with its obligations under the Cuban Troop Withdrawal Agreement.

(2) DETERMINATIONS WITH REGARD TO UNITA.—A determination both—

(A) that UNITA has expressed its willingness to participate in good faith in negotiations for a ceasefire and a political settlement that includes a reasonable timetable for free and fair multiparty national elections; and

(B) that—

(i) sources outside Angola did not sell or otherwise make available to UNITA during the review period additional, militarily significant amounts of weapons, ammunition, and other lethal military equipment; and

(ii) prior to the end of the review period, UNITA had ceased receiving militarily significant amounts of lethal military equipment that had previously been sold or otherwise made available by sources outside Angola.

A certification may be made under this subsection only after the end of the 3-month period beginning on the date on which the President made his certification under subsection (a)(1) or the Congress enacted a joint resolution under subsection (a)(2), as the case may be; except that if the Congress enacts a joint resolution disapproving a certification submitted by the President under this subsection, the President may not make another certification under this subsection until after the end of the 3-month period beginning on the date of enactment of that joint resolution.

(d) REMOVAL OF PROHIBITION IF THERE IS A MILITARY OFFENSIVE AGAINST UNITA.—Subsection (a) and paragraphs (1) and (2) of subsection (f) shall cease to apply if the President certifies to the appropriate committees that—

(1) the Government of Angola has launched a military offensive that threatens the survival of UNITA, or

(2) there is clear and credible evidence of a military build-up by the Government of Angola that makes it likely that a military offense that would threaten the survival of UNITA will occur.

(e) CONGRESSIONAL DISAPPROVAL OF PRESIDENTIAL CERTIFICATIONS.—If the Congress enacts a joint resolution disapproving a certification submitted by the President under subsection (b), (c), or (d), then subparagraphs (A) and (B) of subsection (a)(2) shall apply for the remainder of fiscal year 1991 unless the President subsequently makes a certification under subsection (c) or (d).

(f) LIMITATIONS ON AMOUNTS OF UNITED STATES ASSISTANCE.—

(1) ASSISTANCE DURING FIRST QUARTER OF FISCAL YEAR.—Except as otherwise provided in this section, the aggregate amount of intelligence community funds that is obligated during the period beginning October 1, 1990, and ending December 31, 1990, for the acquisition of weapons, ammunition, or other lethal military equipment for UNITA may not exceed the amount which is 25 percent of the amount of any intelligence community funds allocated for that purpose during fiscal year 1990 or during fiscal year 1991, whichever is less.

(2) ASSISTANCE DURING FIRST HALF OF FISCAL YEAR.—Except as otherwise provided in this section, the aggregate amount of intelligence community funds that is obligated during the period beginning October 1, 1990, and ending March 31, 1991, for the acquisition of weapons, ammunition, or other lethal military equipment for UNITA may not exceed the amount which is 50 percent of the amount of any intelligence community funds allocated for that purpose during fiscal year 1990 or during fiscal year 1991, whichever is less.

(3) ASSISTANCE DURING ENTIRE FISCAL YEAR.—The aggregate amount of intelligence community funds that is obligated at any time during fiscal year 1991 for the acquisition of weapons, ammunition, or other lethal military equipment for UNITA may not exceed the amount of any intelligence community funds allocated for that purpose during fiscal year 1990.

(g) REPORTS ON MILITARY ASSISTANCE DELIVERIES, COMMITMENTS TO MULTIPARTY DEMOCRACY, AND COMPLIANCE WITH CUBAN TROOP WITHDRAWAL AGREEMENT.—

(1) IN GENERAL.—On November 1, 1990, January 1, 1991, April 1, 1991, and July 1, 1991, the President shall submit to the appropriate committees a report—

(A) on the extent to which the Government of Angola is continuing to obtain militarily significant amounts of weapons, ammunition, and other lethal military equipment from foreign countries or other third parties;

(B) on the extent to which UNITA is continuing to obtain militarily significant amounts of weapons, ammunition, and other lethal military equipment from foreign countries or other third parties;

(C) on the extent to which the Government of Angola is willing to accept a ceasefire and a political settlement that includes a reasonable timetable for free and fair multiparty national elections in which UNITA would be free to participate;

(D) on the extent to which UNITA is willing to accept a ceasefire and a political settlement that includes a reasonable timetable for free and fair multiparty national elections; and

(E) on whether the Government of Angola and the Government of Cuba are complying with their obligations under the Cuban Troop Withdrawal Agreement.

(2) CERTIFICATION TO BE INCLUDED.—Unless the President has already made the certification described in subsection (a)(1) or the Congress has enacted a joint resolution described in subsection (a)(2), the President shall certify in each report submitted pursuant to paragraph (1) whether the Government of Angola has expressed its willingness to accept a ceasefire and a political settlement to the conflict in Angola and has proposed a reasonable timetable for free and fair multiparty national elections in which UNITA would be free to participate. If the President certifies pursuant to this paragraph that the Government of Angola has expressed such a willingness and proposed such a timetable, that certification shall be considered to be a certification under subsection (a)(1).

(3) DESCRIPTION OF UNITED STATES EFFORTS.—The report required by paragraph (1) shall also describe the President's efforts—

(A) to obtain agreement by foreign countries and other third parties to terminate assistance to the Government of Angola and UNITA for the acquisition of militarily significant amounts of weapons, ammunition, and other lethal military equipment; and

(B) to encourage both the Government of Angola and UNITA to agree to a ceasefire and a political settlement that includes a reasonable timetable for free and fair multiparty national elections.

(4) REPORT WITH CERTIFICATION.—If the President makes a certification under subsection (a)(1), (b), (c), or (d), the President shall include with that certification a report containing the information specified in paragraphs (1) and (3) of this subsection and the justification for the President's certification.

(h) DEFINITIONS.—As used in this section—

(1) the term "appropriate committees" means the Permanent Select Committee on Intelligence and the Committee on Foreign Affairs of the House of Representatives and the Select Committee on Intelligence and the Committee on Foreign Relations of the Senate;

(2) the term "intelligence community funds" means funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities;

(3) the term "obligations under the Cuban Troop Withdrawal Agreement" means the obligations relating to the calendar for redeployment and withdrawal of Cuban troops as specified in the Agreement Between the Governments of the People's Republic of Angola and the Republic of Cuba for the Termination of the International Mission of the Cuban Military Contingent, signed at the United Nations on December 22, 1988;

(4) the term "review period" means the period beginning on the date the President make a certification under subsection (a)(1) or a joint resolution is enacted under subsection (a)(2) or (e), as the case may be, and ending on the date on which the President makes a certification under subsection (c); and

(5) the term "UNITA" means the National Union for the Total Independence of Angola.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent for rollcall 478, the conference report on S. 2104—the Civil Rights Act of 1990; rollcall No. 479, the Dellums amendment on H.R. 5422—intelligence authorization; rollcall 480, the Solarz amendment to H.R. 5422; rollcall 481, the Boxer amendment to H.R. 5422; and rollcall 482, the Solarz amendment as amended.

Had I been here, I would have cast the following votes: "aye," "aye," "aye," "aye," and "aye."

APPOINTMENT OF CONFEREES ON S. 2834, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1991

Mr. BEILENSON. Mr. Speaker, pursuant to clause 1 of House rule XX and by the direction of the Permanent Select Committee on Intelligence, I move to take from the Speaker's table the Senate bill (S. 2834) to authorize appropriations for fiscal year 1991 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, insist on the House amendments, and request a conference with the Senate thereon.

The SPEAKER. The question is on the motion offered by the gentleman from California [Mr. BEILENSON].

The motion was agreed to.

The Chair appoints the following conferees and, without objection, reserves the right to appoint additional conferees:

From the Permanent Select Committee on Intelligence: Messrs. BEILENSON, MCCURDY, KASTENMEIER, ROE, MCHUGH, DWYER of New Jersey, and WILSON, Mrs. KENNELLY, and Messrs. GLICKMAN, MAVROULES, RICHARDSON, SOLARZ, HYDE, LIVINGSTON, SHUSTER, COMBEST, BEREUTER, ROWLAND of Connecticut, and DORNAN of California.

From the Committee on Armed Services (for the consideration of Department of Defense Tactical Intelligence and related activities and Section 504 of the House bill): Messrs. ASPIN, SKELTON, and DICKINSON.

There was no objection.

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AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5422, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1991

Mr. BEILENSON. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 5422, the Clerk be authorized to make such technical and conforming changes as may be necessary to correct such things as spelling, punctuation, cross-referencing, and section numbering.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. BEILENSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5422, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

REPORT ON RESOLUTION WAIVING A SPECIFIC REQUIREMENT OF RULE XI AGAINST CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED FROM THE COMMITTEE ON RULES

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-895) on the resolution (H. Res. 512) waiving the requirement of clause 4(b) of rule XI against consideration of certain resolutions reported from the Committee on Rules, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION AUTHORIZING THE SPEAKER TO DECLARE RECESSES

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-896) on the resolution (H. Res. 513) authorizing the Speaker to declare recesses, which was

referred to the House Calendar and ordered to be printed.

APPROVAL OF EXTENSION OF MOST FAVORED NATION TREATMENT TO CZECHOSLOVAKIA

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of this joint resolution (H.J. Res. 649) approving the extension of nondiscriminatory treatment—most favored nation treatment—to the products of Czechoslovakia, and that the debate be limited to 20 minutes, to be equally divided between myself and the gentleman from Minnesota [Mr. FRENZEL].

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 649

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress approves the extension of nondiscriminatory treatment with respect to the products of Czechoslovakia transmitted by the President to the Congress on September 6, 1990.

The SPEAKER. The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 10 minutes, and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Illinois [Mr. Rostenkowski].

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of House Joint Resolution 649, a resolution approving the extension of nondiscriminatory most-favored-nation [MFN] treatment to Czechoslovakia.

Nearly 7 months ago, the newly elected President of Czechoslovakia, Vaclav Havel, stood in this Chamber and addressed a joint session of Congress on the dramatic changes that had taken place in his country. Over the course of just a few months, the people of Czechoslovakia had peacefully overthrown the Communist regime that had dominated that country since world war II. They adopted a series of far-reaching changes to the centralized economic system. They now have a freely elected government and are beginning to put the elements of a market-oriented economy in place.

Today, Members of this Chamber have an opportunity to lend a helping hand to President Havel and to all of those in Czechoslovakia working to transform their country. Enactment of H.J. Res. 649 will allow a bilateral trade agreement to enter into effect, granting most-favored-nation trading status for Czechoslovakia. This action will benefit both countries. It will allow Czechoslovakia not only to earn more hard currency through exports, but to use those earnings to import goods necessary to improve its productivity and standard of living. For United States exporters and investors, the trade agreement will provide substantially improved protections in the area of intellectual property rights, dispute settlements, and other areas.

At this time, I want to express my gratitude to Congressman BOB MRAZEK for his leadership in helping the Congress to recognize the importance of taking this important step at this time. Largely because of his contributions, the House has recognized the tangible steps that Czechoslovakia has taken to move toward a market economy.

The Committee on Ways and Means has heard no objections to enactment of House Joint Resolution 649 and the bilateral trade agreement. The General Accounting Office has issued an analysis of the agreement, showing that its implementation would pose no threat to U.S. industry.

Mr. Speaker, I urge my colleagues to strongly support House Joint Resolution 649 and the normalization of United States trade relations with Czechoslovakia.

Mr. Speaker, I reserve the balance of my time.

Mr. MRAZEK. Mr. Speaker, I want to thank Chairman ROSTENKOWSKI for his kind and thoughtful remarks in support of granting most-favored-nation status to Czechoslovakia.

This is a deeply personal moment for me. The members of my family, all of whom are of Czechoslovakian ancestry, never quite believed that the beacon of freedom would come to Czechoslovakia in their lifetime.

The noble idea on which our own American society is founded—that all of us have equal value as human beings—that we are judged on the basis of who we are and not who our parents were—was the hallmark of the free Czechoslovakian republic that existed between the two great world wars.

Now, a free Czechoslovakia is again a reality. I am very confident that Czechoslovakia will take its place again in the pantheon of free nations—a nation of people who will treasure their independence with the same great spirit that has always characterized their desire to be free.

I am proud to add my support to this resolution.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree wholeheartedly with the remarks of the gentleman from Illinois [Mr. ROSTENKOWSKI]. The minority believes that it is past time for the adoption of this particular resolution.

Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, as the Member who represents more Czechoslovakian-Americans than any other, this Member would especially like to offer the strongest possible support for this important and long overdue legislation.

Even without that special constituent consideration, however, clearly, the newly renamed Czech and Slovak Federated Republic merits MFN tariff status.

MFN has long been a matter of deep concern for this Member. Convinced of the importance of rapid action, this Member introduced House Concurrent Resolution 266, a bill to waive Jackson-Vanik limits with regard to Czechoslovakia, on February 20 of this year. House Concurrent Resolution 266 reflected this Member's firm conviction that a timely change in trade policy is essential to improved relations between our two nations. The legislation before this body today is wholly consistent with the objectives of this Member's proposal.

Mr. Speaker, at this time last year Czechoslovakia remained under the tight and seeming unshakable grip of a totalitarian dictatorship. But in the course of few short days last November, the people took to the streets and cast out their oppressors. This velvet revolution—which, by the way, occurred with almost no loss of life, has resulted in a regime that is enthusiastically and passionately democratic. Perhaps because they understand tyranny so well, the Czech and Slovak people have become among the world's most committed converts to democracy and a free market economy.

It should also be noted that the people of Czechoslovakia are among the strongest supporters of the United States. Indeed, some of the most enthusiastic advocates of the American way of life can be found in Prague, in Bratislava, in Pilsen, and in Bruno. This Member has had the good fortune to have travelled to Prague in August on official business, and can testify to the genuinely warm response. Everywhere this Member visited, a deep interest in, and affinity for America was evident.

It is understandable that our two nations should have such deep cultural links. There are, after all, very large numbers of Slovaks, Bohemians, and Moravians in the United States, and these ties of ancestry and heritage have not been erased over the decades of Communist rule. In this Member's own constituency—in communities such as Prague, Dwight, Bee, Bruno, Wilber, Crete, David City, Wahoo, Schuyler, and Verdigre, among others—the traditions of the ancestral homeland live on.

Mr. Speaker, the granting of most-favored-nation tariff status is absolutely fundamental to fostering better relations. By approving MFN, of course, this body will merely be granting normal trading status. Czechoslovakia will not be receiving any special favors—it will simply be permitted to trade without the disadvantages of prohibitive tariffs.

Of course, there are other steps that are necessary to assist American businessmen in Czechoslovakia. Businessmen need, and are beginning to receive, the guarantees and insurance that are offered by OPIC and the

Export-Import Bank. The first commercial service officer reached Prague only last month, and a second is already needed. In addition, we must take advantage of the opportunities in Slovakia. To do this the consultate in Bratislava must be opened without delay, a move endorsed by the Bush administration. In short, Mr. Speaker, our new trade relationship requires total change in attitude, and a comprehensive package of policy changes. But MFN is a critical first step—perhaps the critical first step—toward initiating that change.

The action this body takes today will result in important dividends. As Czechoslovakia reduces its dependence on trade with the Soviet Union, it is undoubtedly looking to the West for new trading partners. Also, they do not want to be overwhelmed by German business interests. Instead, the Czechoslovakia Government has made it clear that the United States is the preferred source of imports and services in many different areas. As automakers such as General Motors, telecommunications firms such as U.S. West, and electronics giants such as General Electric open operations in Czechoslovakia, it is clear there is great demand for United States goods and services.

This Member would thank the chairman of the Committee on Ways and Means [Mr. ROSTENKOWSKI] and the chairman of the Subcommittee on Trade [Mr. GIBBONS] for acting on this measure in a timely manner. I would also like to thank the ranking members, the gentleman from Texas [Mr. ARCHER] and the gentleman from Illinois [Mr. CRANE].

Last, this Member would also like to offer this special thanks to the gentleman from Minnesota [Mr. FRENZEL] who has labored for so many years for the advancement of U.S. trade policy. Our distinguished colleague from Minnesota has long demonstrated expertise on our trade policy with respect to the countries of the old Warsaw Pact that is now breaking apart. This Members' first visit to Czechoslovakia was in the company of Mr. FRENZEL, in a group that, by the way, was so very ably and energetically led by our distinguished colleague from Florida [Mr. GIBBONS]. It is, I believe, a special tribute to these two distinguished Member's foresight that we are ready and able to appropriately respond to the very dramatic and positive changes in Czechoslovakia that at long last make MFN recognition highly appropriate.

Mr. Speaker, this Member would urge speedy passage of the legislation.

Mr. MICHEL. Mr. Speaker, I urge support for House Joint Resolution 649, which extends most-favored-nation status to Czechoslovakia.

This is a resolution originally introduced by the majority leader and myself, as required under the 1973 Trade Act. I was glad to be a sponsor, because this represents another important step in the process of bringing the newly democratic nations of Eastern Europe into the world markets.

The MFN designation is one of the components in the overall trade agreement we have signed with the Czechoslovakian Government. They in turn give us similar MFN status.

Beyond this, the agreement contains certain safeguard arrangements designed to protect our domestic markets and establishes certain rights for our businesses in conducting trade with Czechoslovakia.

In particular, their Government has committed to substantially improve its protection of intellectual property rights.

Overall, the agreement establishes and clarifies the trade framework between the United States and Czechoslovakia. It opens the door for American businesses, such as Caterpillar in my district, to pursue new opportunities for sales, and that means more jobs in this country.

So, it is a good agreement, and since MFN is an essential component of the agreement, it is important that we pass this resolution of approval.

Mrs. BYRON. Mr. Speaker, I rise in support of this resolution granting most-favored-nation status to Czechoslovakia. On November 17 last year, a politically free Czechoslovakia emerged from what has been called the velvet revolution. The phrase implies a peaceful change—and it was. But the transformation to a democratic form of government has just begun.

The Czech and Slovak people want freedom. Their excitement energizes any subject—from health care to the chance of owning property for the first time—without having to prove party loyalty. Czechoslovakians speak in terms of post-revolution opportunities, and anxiously want to move toward a market-oriented economy.

This could be more readily achieved if the United States grants MFN status to Czechoslovakia. By doing this, both countries could benefit from the certain development of free trade. I hope that we will encourage Czechoslovakia's passion for democracy and its excitement for economic and political independence by approving this resolution.

Mr. HOYER. Mr. Speaker, I rise in support of House Joint Resolution 649, which would extend most-favored-nation status to the Czech and Slovak Federal Republic.

The recent events in Eastern Europe are more than just today's news. They are events of compelling historical significance which will resonate for centuries to come. These events are remarkable enough for the profound changes they have generated—almost overnight—in systems marked by decades of entrenched totalitarianism. They are even more remarkable for having come about with relatively little bloodshed. No case illustrates this better than last November's "Velvet" Revolution in Czechoslovakia. There, we witnessed a collective consensus with immense moral force surge forth demanding that human dignity as a political issue be reckoned with; and when regimes failed to respond they fell. Human rights triumphed as a crucial determinant governing the relationship between state and society.

Perhaps these events are most striking to me because I had the chance, as chairman and cochairman of the Commission on Security and Cooperation in Euorpe, to witness the old regimes first hand. Only 3 years ago, in 1987, at a time when many of this country's experts were convinced that Communist regimes would never give up their power without a vicious struggle, I went to Czechoslovakia to meet with its Communist authorities, as well as religious figures, dissidents, and private citizens. The degree of repression which marked that country was evident when I tried to meet with representatives of the human rights initiative, charter 77. Three of them, Vaclav Havel, Jiri Dienstbier, and Petr Uhl, were arrested to prevent them from even talking with the Helsinki Commission.

Today, Vaclav Havel is President of his country; Jiri Dienstbier is Czechoslovakia's Foreign Minister; and Petr Uhl is the head of the state news agency. But these are only the most obvious manifestations of fundamental changes which are taking place every day in Czechoslovakia. Czechoslovakia is transforming itself, from its political structure to its school system to its artistic and cultural life to its economy. One of the most encouraging changes has taken place in relations between the United States and Czechoslovakia.

When President Havel spoke before this Congress earlier this year, the relationship between Czechoslovakia and the United States was a constant refrain in his remarks. Indeed, his speech was testimony to the fact that the historical friendship between our two countries could not be destroyed by 45 years of propaganda. President Havel remarked, "Twice in this century, the world has been threatened by a catastrophe; twice this catastrophe was born in Europe, and twice, you Americans, along with others, were called upon to save Europe, the whole world, and yourselves." In the postwar era, Havel described the United States as a "defender of freedom," which "contributed to the salvation of us Europeans, of the world and thus of yourselves for a third time: you have helped us survive until today." Now Havel says, Czechoslovakia "must learn many things from you, from how to educate our offspring, how to elect our representatives, all the way to how to organize our economic life." But the legacy of communism will not be eradicated overnight. As President Havel sadly described, the Communist type of totalitarian system has left "a legacy of countless dead, an infinite spectrum of human suffering, profound economic decline and, above all, enormous human humilitation." The task of rebuilding these societies lies ahead for all.

I believe there is much the United States can and must do for the Czech and Slovak Federal Republic—including extending MFN. But this is no act of charity; by extending our contacts and developing our relations with this country, so deeply enriched by its profound experiences with democracy, we reinvigorate our own democracy. President Havel has noted that when Thomas Jefferson wrote of "just powers," he backed up those words with his life. "It was not just words, it was his deeds as well." We should now back up our stated commitment to democracy by extending most-favored-nation trading status to Czechoslovakia, a fellow democracy in the community of nations.

Mr. GEPHARDT. Mr. Speaker, I rise in support of House Joint Resolution 649, legislation approving the extension of nondiscriminatory treatment—most-favored-nation treatment—to the products of Czechoslovakia, which minority leader MICHEL and I introduced.

In the new world in which we live, adversaries are becoming allies, and the tools of aid and trade are standing alongside military hard-

ware as the means by which we build nations and relationships between them. As Czechoslovakia went through its democratic revolution last year, many of us in Congress asked what the United States could do to speed that nation's movement toward political and economic reform.

One way to help the Czechs lift themselves economically and consolidate their political reforms is by normalizing the trade relationship which exists between our two countries. American consumers and Czech producers both stand to gain by the reduction of American tariffs placed on their goods. This resolution seeks to do precisely that.

Under current law, we cannot extend nondiscriminatory trade treatment to goods made in Czechoslovakia. Under the Jackson-Vanik amendment, countries must meet specific freedom of emigration requirements in order for the President to grant most-favored-nation [MFN] status to a nonmarket economy.

On February 20, 1990, President Bush waived application of sections of the Trade Act with respect to Czechoslovakia based upon a determination that such a waiver would substantially promote the act's objectives relating to freedom of emigration. The waiver made Czechoslovakia eligible immediately for United States Government credits, credit guarantees, and investment guarantees.

On April 12, a bilateral trade agreement was signed by U.S. Trade Representative Carla Hills and Czechoslovak Foreign Trade Minister Andrej Barcak. At that time, side letters on trade and financial matters, intellectual property rights, and tourism were signed.

This resolution signifies more than the fact that Czechoslovakia now meets our emigration requirements. It signifies our resolve in Congress to do what we can to reward the people who fought for freedom in Eastern Europe. It represents our commitment to economic growth in the post-cold-war world.

Mr. GAYDOS. Mr. Speaker, I rise in strong support of this resolution granting most-favored-nation trade status to Czechoslovakia.

As we all know, in order to be eligible for consideration, a nation must agree to meet certain freedom of emigration requirements. Czechoslovakia, prior to succumbing to Hitler and prior to being engulfed by communism, had been a beacon of freedom for its own citizens and for others around the world and is regaining that status today.

Today, as the nations of Eastern Europe—including Czechoslovakia—throw off the shackles of oppression, they have an underlying need to develop a solid economic base in order to withstand any threats to their freedom. This resolution will provide that kind of stabilization for Czechoslovakia.

Another factor in Czechoslovakia's behalf is its trading record with us. Over the past 10 years, from 1980 to 1990, the United States shipped goods worth $7.591 billion to Czechoslovakia, and bought goods worth $7.577 billion from them.

This is almost a dollar-for-dollar match, and it looks like this relatively equal trading balance will continue. For the first 7 months of this year, American exports to Czechoslovakia totaled $32.7 million, while imports from them to the United States totaled $46 million.

We haven't even come close to getting this good of a deal from Japan, one of our so-called trading partners. In fact, when it comes to Japan, we're not even in the same ballpark.

That's why I support this resolution. Whatever we would lose in terms of import tariffs will be more than worthwhile in comparison to the benefits from giving Czechoslovakia most-favored-nation trade status.

Judging from this Nation's pre-Hitler and precommunism history, and considering our leadership role in encouraging humanitarian oriented, and democratic governments, it is more than appropriate to extend this small assistance to help Czechoslovakia maintain a stable eonomy.

With economic stability, the voice of this smaller nation can, in all reality, become a leading voice of freedom among nations still struggling to poke their heads above the blanket of oppression.

I urge all of my colleagues to support House Joint Resolution 649.

Mr. FRENZEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

House Resolution 486 was laid on the table.

REMEMBERING PERSIAN GULF CASUALTIES

(Mr. ERDREICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ERDREICH. Mr. Speaker, last week our U.S. military suffered four fatal air crashes in the Persian Gulf. Twelve crewmembers lost their lives. Two of those, Maj. Barry K. Henderson and Lt. Col. Stephen G. Schramm, were Birmingham-based Air National Guardsmen. Lieutenant Colonel Schramm lived in Jefferson County in my congressional district.

Lieutenant Colonel Schramm was a 43-year-old master navigator. Both he and Major Henderson were members of the 106th Squadron of the 117th Tactical Reconnaissance Wing, which has about 115 members and six aircraft deployed in the gulf. The squadron's RF-4C Phantoms fly low and fast to photograph enemy positions.

Stephen Schramm, son of a World War II Navy fighter pilot, worked as an engineer for one of our utility companies, Southern Company Services. On weekends, he flew for our Alabama Air National Guard. When this conflict broke out in the gulf, he volunteered to go. As a veteran who flew hundreds of missions in Vietnam, he felt his experience was needed in this new crisis.

Lieutenant Colonel Schramm's wife, Mrs. Cynthia Schramm, also is employed by Southern Company Services. They have two children, a daughter, Kim, who attends Auburn University, and a son, Jeff, who attends the University of Alabama.

I join with all Alabamians and Americans in expressing our heartfelt sympathy to the families of Lieutenant Colonel Schramm, Major Henderson, and the other crewmen who have given their lives while serving during Operation Desert Shield.

Cmdr. Jerry Coffee, a former American POW who was held in Vietnam, wrote these lines about—

. . . Our hearty comrades who have fallen
from the skies,
And were gently caught by God's own hands
to be with him on high.
To dwell among the soaring clouds they've
known so well before,
From victory roll to tail chase, at heaven's
very door.
As we fly among them there,
We're sure to hear their plea,
Take care my friend,
Watch your six,
And do just one more roll for me.

Following are editorials published in the Birmingham News and the Birmingham Post-Herald, expressing our community and Nation's pride in the bravery of these two men and our grief on their tragic deaths:

[From the Birmingham News, Oct. 10, 1990]

CASUALTIES OF WAR

That so many Alabamians have been assigned to Operation Desert Shield in the Persian Gulf increases the chances that some of those soldiers, sailors and airmen might not come back safely.

Anticipating that neighbors and friends may be among the casualties, however, does not make it any easier to take when that actually happens.

Our prayers go out to the families of Maj. Barry K. Henderson, 40, a senior pilot from Tuscumbia, and Maj. Stephen G. Schramm, 43, a master navigator from Birmingham, two Alabama Air National Guardsmen killed Monday when their RF-4C Phantom jet crashed in Saudi Arabia.

Maj. Henderson and Maj. Schramm were killed during a training flight over the southern Saudi Arabia peninsula. These fine men who volunteered for Persian Gulf duty will be missed by all who knew them.

We hope their families and friends will be consoled by the knowledge that they followed a trail blazed hundreds of years ago and traced by thousands of other Americans who made the ultimate sacrifice for their country.

[From the Birmingham Post-Herald, Oct. 10, 1990]

WE'VE LOST 2 GOOD MEN

Those who serve in the armed forces are trained to face the possibility of death at any time, if not in actual combat with an enemy, then in the course of carrying out duties that will always be inherently dangerous.

But the fact that Maj. Stephen G. Schramm of Birmingham and Maj. Barry K.

Henderson of Tuscumbia were aware of the risks they took as members of the Alabama Air National Guard doesn't make it any easier to accept their deaths.

Alabama, and the nation, lost two good men when their Phantom jet crashed Monday while on a mission associated with Operation Desert Shield, the U.S. military effort to protect Saudi Arabia from invasion by the forces of Iraqi dictator Saddam Hussein.

Schramm and Henderson were not full-time military men. Like other members of the Air Guard's 117th Tactical Reconnaissance Wing, they were normally weekend warriors who kept up their military training in the event they might be needed to augment the regular Air Force. When the call came, though, they and the rest of the unit stepped forward to volunteer for active duty.

Schramm and Henderson were not the first casualties in Operation Desert Shield. Unfortunately, they won't be the last, either. It is a price that sometimes must be paid to protect freedom.

Our condolences to the families and friends of Stephen Shramm and Barry Henderson, two brave men who answered the call of duty.

DARKE COUNTY, OH: IN HOG HEAVEN

(Mr. DONALD E. "BUZ" LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks. And include extraneous matter.)

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, there is good news for Darke County, OH, today. "We're No. 1 in Ohio in Agricultural production. The Ohio State Department of Agriculture has ranked Darke as No. 1 of all 88 Ohio counties in total 1989 farm production.

These gross receipts have Darke No. 1 in hog production, No. 1 in poultry and sheep production, No. 2 in soybean production, No. 3 in corn production, No. 6 in cattle and calf production, No. 8 in wheat production and No. 9 in dairy products production. This is truly remarkable as they competed against 87 counties in Ohio.

The farmers and their families, are responsible for Darke's success, but Dennis Baker, the county's Agricultural Extension Agent should be singled out and recognized.

Mr. Speaker, it is with great pleasure I can boast on this most recent achievement of Darke County, OH. They certainly have earned Ohio's bragging rights.

That is the good news. The bad news is that the Democrat $190 billion tax bill passed last will increase the tax of every one of my Darke County farmers.

DARKE No. 1—Leads State Agriculture in Receipts

(By Bill Booker)

There's good news for Darke County today.

"We're Number One" again fits to a "T."

The State Department of Agriculture has ranked Darke as topping all 88 Ohio counties in the just released total 1989 gross receipts in farm products.

In attaining that level, Darke unseats Mercer County and returns to a level this county held for a number of years.

Both Dennis Baker, the county's Agricultural Extension Agent and Ted Finnarn, of the Darke County Farmers Union, were understandably quite pleased with the news.

Said Baker, "This re-states our strong agricultural base. Whether we're number one or even number two doesn't always have a marked different effect on every individual farmer, but overall it's really great to be on top."

He went on to say that the effect on this county from the income standpoint is positive, strengthening the overall, total economic base.

Finnarn, who mirrored those feelings, said, "I feel it's just great to be back on top in the state. It's just plain good news for everyone, farmers or not."

He cited the below figures for seven major agricultural divisions, saying Darke County's strong showing in hogs and poultry, helped bring up the other five areas where a No. 1 posting was not indicated.

Jim Holzapfel, executive secretary of the Darke County Chamber of Commerce, was elated at the news. "That's great. Now we have the bragging rights back here. I guess Mercer County will have to take down their No. 1 sign they have up there."

The following is a breakdown of the total gross receipts, followed by the seven areas and how the state's counties ranked during 1989.

TOTAL GROSS RECEIPTS

1. DARKE; 2. Mercer; 3. Wayne; 4. Licking; 5. Putnam; 6. Fulton; 7. Auglaize; 8. Holmes; 9. Lorain; 10. Clarke.

HOGS

1. DARKE; 2. Mercer; 3. Fulton; 4. Clinton; 5. Preble; 6. Greene; 7. Putnam; 8. Fayette; 9. Holmes; 10. Auglaize.

POULTRY AND SHEEP

1. DARKE; 2. Mercer; 3. Licking; 4. Union; 5. Holmes; 6. Wayne; 7. Putnam; 8. Scioto; 9. Knox; 10. Paulding.

SOYBEANS

1. Seneca; 2. DARKE; 3. Madison; 4. Putnam; 5. Wyandot; 6. Crawford; 7. Van Wert; 8. Hancock; 9. Wood; 10.

CORN

1. Fulton; 2. Fayette; 3. DARKE; 4. Champaign; 5. Pickaway; 6. Madison; 7. Clinton; 8. Wood; 9. Van Wert; 10. Clark.

CATTLE AND CALVES

1. Wayne; 2. Clark; 3. Mercer; 4. Holmes; 5. Fulton; 6. DARKE; 7. Ashland; 8. Williams; 9. Stark; 10. Columbiana.

WHEAT

1. Wood; 2. Hancock; 3. Paulding; 4. Putnam; 5. Henry; 6. Van Wert; 7. Mercer; 8. DARKE; 9. Seneca; 10. Hardin.

DAIRY PRODUCTS

1. Wayne; 2. Mercer; 3. Holmes; 4. Stark; 5. Tuscarawas; 6. Columbiana; 7. Ashland; 8. Ashtabula; 9. DARKE; 10. Auglaize.

In another category, titled "Other Crops", Darke did not place in the top ten counties. Leading this category was Lorain County with Lake County runner-up.

SENATE BILLS AND JOINT RESOLUTION REFERRED

Bills and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1118. An act to provide for the transfer of the Platoro Reservoir to the Conejos Water Conservancy District of the State of Colorado, and for the protection of fish habitat on the Conejos River; to the Committee on Interior and Insular Affairs.

S. 1767. An act to reimburse cattle owners in Montana, Wyoming, Idaho, and North Dakota and the governments of those States for expenses incurred to test cattle for brucellosis organisms carried outside certain units of the National Park System by elk and bison, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 3160. An act to authorize the resolution of the Southeast Light on Block Island, Rhode Island; to the Committee on Public Works and Transportation.

S.J. Res. 350. Joint resolution to designate October 18, 1990, as "National Hardwood Day"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4174. An act to establish a comprehensive personnel system for employees of the Administrative Office of the United States Courts, and for other purposes:

H.R. 5579. An act to amend section 28(w) of the Mineral Leasing Act, and for other purposes; and

H.R. 4757. An act to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police.

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled bills and joint resolutions of the Senate of the following titles:

S. 2167. An act to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act;

S. 3127. An act to designate the Department of Veterans Affairs Medical Center in Albany, NY, as the "Samuel S. Stratton Department of Veterans Affairs Medical Center";

S.J. Res. 317. Joint resolution to designate the week of October 14, 1990, through October 20, 1990, as "National Radon Action Week";

S.J. Res. 342. Joint resolution designating October 1990 as "Ending Hunger Month";

S.J. Res. 349. Joint resolution designating October 1990 as "Italian-American Heritage and Culture Month"; and

S.J. Res. 304. Joint resolution to designate October 17, 1990 as "National Drug Free Schools and Communities Education and Awareness Day."

BILL PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, a bill of the House of the following title:

On October 16, 1990:

H.R. 4279. An act to amend title 31, United States Code, to improve cash management of funds transferred between the Federal Government and the States, and for other purposes.

ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 36 minutes p.m.) the House adjourned until tomorrow, Thursday October 18, 1990, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Report of various committees of the U.S. House of Representatives concerning foreign currencies and U.S. dollars utilized by them during the third quarter of 1990 pursuant to Public Law 95-384, as well as the consolidated report of official foreign travel authorized by the Speaker of the U.S. House of Representatives in the third quarter of 1990 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1990

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Tom Downey	8/16	8/23	Sweden	8,454.90	1,460.00				191.06		1,651.06
Hon. Bill Frenzel	7/2	7/4	Italy		454.00						454.00
	7/4	7/7	France		699.00						699.00
	7/7	7/9	U.S.S.R.		654.68						654.68
Military transportation							11,351.67				11,351.67
Hon. Sander Levin	7/5	7/7	Switzerland		450.00						450.00
	7/7	7/9	United Kingdom		454.00						454.00
Commercial transportation							1,045.00				1,045.00
Hon. Jim Moody	8/19	8/21	Albania		250.00						250.00
	8/21	8/22			175.00						175.00
Commercial transportation							1,676.00				1,676.00
Hon. Guy Vander Jagt	9/20	9/22	Netherlands		434.00						434.00
Mary Jane Wignot	7/8	7/27	Switzerland		3,150.00		2,552.00				5,702.00
Committee total					8,180.68		16,624.67		191.06		24,996.41

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DAN ROSTENKOWSKI, Chairman, Oct. 5, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO SWITZERLAND, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 10 AND JULY 14, 1990

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Jack O. Andresen	7/10	7/14	Switzerland	1,244.74	978.95					1,244.74	978.95
Commercial air transportation							1,612.00				1,612.00
Marc Benedict	7/10	7/14	Switzerland	1,244.74	978.95					1,244.74	978.95
Commercial air transportation							1,612.00				1,612.00
Art Simonetti				1,244.74	978.95					1,244.74	978.95
Commercial air transportation							1,612.00				1,612.00
Committee total					$2,936.85		$4,836.00				7,772.85

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JACK O. ANDRESEN, Aug. 10, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO GENEVA, SWITZERLAND, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 6 AND AUG. 10, 1990

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Jim Moody	8/6	8/10	Geneva	1,240.65	900.00		NA			1,240.65	900.00
Madalene O'Donnell	8/4	8/10	Geneva	1,240.65	900.00		NA			1,240.65	900.00
Committee total					1,800.00						1,800.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JIM MOODY, Sept. 24, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO SAN SALVADOR, EL SALVADOR, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 5 AND AUG. 11, 1990

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Michael J. O'Neil	8/7	8/10	El Salvador	2,994.66	381.00						381.00
Commercial transportation							876.00				876.00
John Plashel	8/7	8/10	El Salvador	2,994.66	381.00						381.00
Commercial transportation							876.00				876.00
Nancy Agris	8/7	8/10	El Salvador	2,994.66	381.00						381.00
Commercial transportation							876.00				876.00
Louis Dupart	8/7	8/10	El Salvador	2,994.66	381.00						381.00
Commercial transportation							876.00				876.00
William Woodward	8/7	8/11	El Salvador	4,991.11	635.00						635.00
Commercial transportation							876.00				876.00
James McGovern	8/7	8/11	El Salvador	4,991.11	635.00						635.00
Commercial transportation							876.00				876.00
Randy Scheunemann	8/5	8/9	El Salvador	5,987.54	889.00						889.00
Commercial transportation							676.00				676.00
Committee total					3,683.00		5,932.00				9,615.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

MICHAEL J. O'NEIL, Sept. 21, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO SOUTH AFRICA, ZAIRE, ZIMBABWE, ZAMBIA, U.S HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 17 AND AUG. 24, 1990

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Jim McDermott	8/17	8/17	Zambia		250.00		[3] 7,462.00		[4] 114.85		7,826.85
	8/17	8/19	South Africa		700.00						700.00
	8/19	8/21	Zaire		600.00						600.00
	8/21	8/24	South Africa		[5]						
Charles M. Williams (McDermott)	8/17	8/17	Zambia		250.00		[3] 6,291.00				6,541.00
	8/17	8/19	South Africa		700.00						700.00
	8/19	8/21	Zaire		600.00						600.00
	8/22	8/30	Zimbabwe		400.00						400.00
Miles Lackey (Weiss)	8/17	8/17	Zambia		250.00		[3] 6,571.00				6,821.00
	8/17	8/19	South Africa		700.00						700.00
	8/19	8/21	Zaire		600.00						600.00
	8/21	8/24	South Africa		[5]						
Committee total					5,050.00		20,324.00		114.85		25,488.85

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Roundtrip air.
[4] Hotel, New York City.
[5] Included above.

JAMES A. McDERMOTT, Oct. 12, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO ROMANIA AND HUNGARY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 21 AND AUG. 27, 1990

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Frank R. Wolf	8/22	8/27	Romania/Hungary		359.50		3,004.50		112.50		3,476.50
Charles E White	8/22	8/27	Romania/Hungary		392.50		3,004.50		112.50		3,509.50
Committee total					752.00		6,009.00		225.00		6,986.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

FRANK R. WOLF, Sept. 7, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO BAHRAIN, SAUDI ARABIA, AND EGYPT, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 31 AND SEPT. 3, 1990

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Richard A. Gephardt	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Hon. Dante B. Fascell	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO BAHRAIN, SAUDI ARABIA, AND EGYPT, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 31 AND SEPT. 3, 1990—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Dan Rostenkowski	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Hon. Robert W. Kastenmeier	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Hon. Sam Gibbons	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Hon. Lee Hamilton	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Hon. G.V. Montgomery	9/1	9/2	Bahrain		100.00						$100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Hon. David R. Obey	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Hon. Les Aspin	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Hon. W.J. Tauzin	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Hon. Steny H. Hoyer	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Hon. Dave McCurdy	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Hon. Edolphus Towns	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Hon. Robert J. Mrazek	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Hon. Robert H. Michel	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Hon. William S. Broomfield	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Hon. William L. Dickinson	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Hon. Guy Vander Jagt	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Hon. Bud Shuster	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Hon. Mickey Edwards	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Hon. Newt Gingrich	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Hon. William E. Dannemeyer	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Michael J. O'Neil	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Thomas J. O'Donnell	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Deborah Johns	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Robert E. Hunter	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
William Gavin	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO BAHRAIN, SAUDI ARABIA, AND EGYPT, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 31 AND SEPT. 3, 1990—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
U.S. military transportation							5,603.84				5,603.84
Mike Woo	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Warren Nelson	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Larry Prior	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Toni Verstandig	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Rob Leonard	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Terry Peel	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Jack Sinclair	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Vicki Martyak	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
John Chapla	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Keith Jewell	9/1	9/2	Bahrain		100.00						100.00
	9/2	9/3	Saudi Arabia								
	9/3	9/3	Egypt								
U.S. military transportation							5,603.84				5,603.84
Committee total					3,700.00		207,342.08				211,042.08

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RICHARD A. GEPHARDT, Oct. 1, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO ENGLAND, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 30 AND SEPT. 6, 1990

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Robert K. Dornan, MC	8/30	9/6	England								
Paul C. Morrell	8/30	9/6	England	959.15	1,867.00						
Committee total				959.15	1,867.00						

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

R.K. DORNAN, Oct. 4, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO HUNGARY, CZECHOSLOVAKIA, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 29 AND SEPT. 15, 1990

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
William Freeman	8/31	9/8	Hungary	75,710	1,218.00					75,710	1,218.00
	9/8	9/15	Czechoslovakia		1,596.00						1,596.00
Commercial transportation							2,828.00				2,828.00
Lucien Nedzi	8/31	9/8	Hungary	75,710	1,218.00					75,710	1,218.00
	9/8	9/15	Czechoslovakia		1,596.00						1,596.00
Commercial transportation							2,828.00				2,828.00
Kristi E. Walseth	8/29	9/6	Hungary	64,895	1,044.00					64,895	1,044.00
Commercial transportation							2,831.00				2,831.00
Committee total					6,672.00		8,487.00				15,159.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

KRISTI E. WALSETH, Oct. 4, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HON. ALEX McMILLAN, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND JULY 8, 1990

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Alex McMillan	7/1	7/8/90	East/West Germany		875.00		718.00		NA		1,593.00
Committee total					875.00		718.00				1,593.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

J. ALEX McMILLAN, July 31, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. ROBERT LaRUSSA, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 5 AND JULY 11, 1990

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Robert LaRussa	7/5	7/11	Switzerland	1,755	1,350.00	907.4	698.00			662.4	2,048.00
Committee total											

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

ROBERT LaRUSSA, Aug. 9, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. ROY C. BELL, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 15 AND JULY 20, 1990

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Bell, Roy C.	7/15	7/20	Canada		850.00		937.00				1,787.00
Committee total					850.00		937.00				1,787.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; If U.S. currency is used, enter amount expended.

ROY C. BELL, July 26, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. JOSEPH CRAPA, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 17 AND AUG. 24, 1990

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Joseph R. Crapa	8/17	8/20	Ireland		606.00		3,697.74				4,303.74
	8/20	8/21	Germany	327.42	214.00						214.00
	8/21	8/23	Poland	3,042,900	322.00						322.00
	8/23	8/24	Hungary	21,569	348.00						348.00
	8/24	8/26	Czechoslovakia		392.00						392.00
Committee total					1,882.00		3,697.74				5,579.74

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOSEPH R. CRAPA, Aug. 24, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HONORABLE CHARLIE ROSE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 26 AND AUG. 30, 1990

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Charlie Rose	8/26	8/30	Turkey		541.00		6,089.00				6,630.00
Commercial transportation											
Committee total					541.00		6,089.00				6,630.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CHARLIE ROSE, Sept. 10, 1990.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HON. BILL GREEN, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 28 AND SEPT. 1, 1990

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Bill Green	8/29	9/1	Switzerland	668.05	525.00		868.00				1,393.00
Committee total					525.00		868.00				1,393.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BILL GREEN, Sept. 4, 1990

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4049. A letter from the Secretary of the Navy, transmitting notification that the Harpoon Program has increased by more than 15 percent over unit cost, determined on October 10, 1990, pursuant to 10 U.S.C. 2433; to the Committee on Armed Services.

4050. A letter from the Assistant Secretary of Defense, Department of Defense, transmitting the strategic and critical materials report during the period October 1989–March 1990, pursuant to 50 U.S.C. 98 et seq.; to the Committee on Armed Services.

4051. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4052. A letter from the Deputy Association Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4053. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4054. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4055. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4056. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4057. A letter from the Secretary of the Interior, transmitting the 1989 section 8 report on national historic and natural landmarks that have been damaged or to which damage to their integrity is anticipated, pursuant to 16 U.S.C. 1a-5(a); to the Committee on Interior and Insular Affairs.

4058. A letter from the Secretary of the Interior, transmitting a report entitled, "Combustion Engineering IGCC Repowering Project", proposed by Combustion Engineering, Inc., jointly, to the Committees on Appropriations; Energy and Commerce; and Science, Space, and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 3520. A bill to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1990 and 1991, to provide for greater consistency in laws and regulations governing the transportation of hazardous materials in intrastate, interstate, and foreign commerce, and for other purposes; with an amendment (Rept. 101-444, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4520. A bill to amend title 13, United States Code, and the International Investment and Trade in Services Survey Act to improve the quality of data on foreign investment in the United States, and for other purposes; with an amendment (Rept. 101-855, Pt. 2). Ordered to be printed.

Mr. HAWKINS: Committee of conference. Conference report on S. 1430 (Rept. 101-893). Ordered to be printed.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5822. A bill to make technical corrections in certain recent tax legislation, and for other purposes; with amendments (Rept. 101-894). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 512. Resolution waiving the requirement of clause 4(b) of rule XI against consideration of certain resolutions reported from the Committee on Rules, and for other purposes (Rept. 101-895). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 513. Resolution authorizing the Speaker to declare recesses (Rept. 101-896). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GILMAN:

H.R. 5843. A bill to impose an excess profits tax on the income of corporations engaged in the production of petroleum and petroleum products for a limited period; to the Committee on Ways and Means.

By Mr. EMERSON (for himself and Mr. VOLKMER):

H.R. 5844. A bill to provide for the acquisition of certain lands within the Mark Twain National Forest, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Ms. KAPTUR (for herself, Mr. HORTON, Mr. GILLMOR, Mr. HERTEL, Mr. MCNULTY, Mr. MRAZEK, Mrs. COLLINS, Mr. ROE, Mr. JONTZ, Mr. RAHALL, Mr. FISH, Mr. NEAL of North Carolina, Mr. FROST, Mr. EVANS, Mr. FAZIO, and Mr. ENGEL):

H.R. 5845. A bill to direct the Secretary of Health and Human Services to conduct a demonstration project establishing toll-free telephone hotlines to provide information on Medicare supplemental insurance; to the Committee on Energy and Commerce.

By Mr. LEVINE of California (for himself, Mr. LEVIN of Michigan, Mr. PANETTA, Mr. CRANE, Mr. STARK, Mr. GILMAN, Mr. RANGEL, Mr. HUNTER, Mr. MATSUI, Mr. HYDE, Mr. VANDER JAGT, Mr. GUARINI, and Mr. MILLER of Washington):

H.R. 5846. A bill to amend the Internal Revenue Code of 1986 to impose a 100-percent tax on income from frozen Iraqi assets; to the Committee on Ways and Means.

By Mrs. LLOYD:

H.R. 5847. A bill to establish a national energy strategy for energy research and development for the United States that reflects concern for the global environmental consequences of current trends in atmospheric concentrations of greenhouse gases, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. MAVROULES:

H.R. 5848. A bill to prohibit the sale or distribution in commerce of paintings that are similar to original works of art and are intended to deceive consumers as to the identity of the creator of such paintings; to the Committee on the Judiciary.

By Mrs. MORELLA:

H.R. 5849. A bill to amend the provisions of the Ethics in Government Act of 1978 prohibiting the acceptance of honoraria in order to create an exception for honoraria paid for reasons unrelated to the recipient's

duties or position; jointly, to the Committees on Post Office and Civil Service, the Judiciary, and House Administration.

By Mrs. MORELLA (by request):

H.R. 5850. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance technology transfer for works prepared under certain cooperative research and development agreements; jointly, to the Committees on Science, Space, and Technology and the Judiciary.

By Mr. RAVENEL:

H.R. 5851. A bill to amend title XVIII of the Social Security Act to provide coverage under part B of Medicare for air fluidized bead bed therapy in nursing facilities; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. SAXTON (for himself and Mr. HUGHES):

H.R. 5852. A bill to minimize the risk of adverse impacts from the international introduction of fish and wildlife into ecosystems to which they are not indigenous; to the Committee on Merchant Marine and Fisheries.

By Mr. WHITTAKER:

H.R. 5853. A bill to repeal the Federal Employers' Liability Act, to provide for coverage of railroad employees' injury claim under individual State workers' compensation programs, and for other purposes; jointly, to the Committees on the Judiciary and Energy and Commerce.

By Mr. WILLIAMS (for himself and Mr. DORGAN of North Dakota):

H.R. 5854. A bill to clarify that the inspection of meat and poultry products offered for import into the United States is to be conducted by U.S. personnel, and for other purposes; to the Committee on Agriculture.

By Mr. CONTE:

H.J. Res. 672. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes; jointly, to the Committees on Appropriations and Ways and Means.

By Mr. DUNCAN (for himself, Mr. CLEMENT, Mr. APPLEGATE, Mr. FAUNTROY, Mr. WOLF, Mr. ROE, Mr. SMITH of New Jersey, Mrs. LLOYD, Mr. WEBER, Mr. EMERSON, Mrs. VUCANOVICH, Mr. HORTON, Mr. ERDREICH, Mr. LEWIS of California, Mr. GUARINI, Mr. STALLINGS, Mr. SPENCE, Mr. SMITH of Texas, Mr. MCNULTY, Mr. SUNDQUIST, Mr. BEVILL, Ms. KAPTUR, Mr. BUSTAMANTE, Mr. CONTE, Mr. DE LUGO, Mr. DERRICK, Mr. ESPY, Mr. FLIPPO, Mr. SKEEN, Mr. MONTGOMERY, Mr. LIPINSKI, Mr. HOYER, Mr. JONES of North Carolina, Mr. COSTELLO, Mr. HUTTO, Mr. HOCHBRUECKNER, Mr. BROOMFIELD, Mr. FALEOMAVAEGA, Mr. RANGEL, Mr. MURPHY, Mr. PARKER, Mr. NATCHER, Mr. PERKINS, Mr. LEWIS of Georgia, Mr. HARRIS, Mr. SERRANO, Mr. SPRATT, Mr. ROWLAND of Georgia, Mr. TALLON, Mr. TAYLOR, Mr. MAZZOLI, Mr. VALENTINE, Mrs. PATTERSON, Mr. TAUZIN, Mr. CRAIG, Mr. SKELTON, Mr. JONTZ, Mr. STENHOLM, Mr. DONALD E. LUKENS, Mr. LEATH of Texas, Mr. MAVROULES, Mr. QUILLEN, Mr. DORNAN of California, Mr. SLATTERY, Mr. RAHALL, Mr. OWENS of Utah, Mr. DE LA GARZA, Mr. COOPER, Mr. TANNER, Mr. NIELSON of Utah, Mr. POSHARD, Mr. BILIRAKIS, Mr. BLAZ, Mr. BLILEY, Mr. BUNNING, Mr. BURTON of Indiana, Mr. CALLAHAN, Mr. COBLE, Mr. FAWELL, Mr. GALLO, Mr. HUNTER, Mr. HYDE, Mr. INHOFE, Mr. LAGOMARSINO, Mrs. MARTIN of Illinois, Mrs. MEYERS of Kansas, Mr. MOORHEAD, Mr. ROBERTS, Mr. BARTLETT, Mr. GORDON, Mr. PARRIS, Mr. PAXON, Mr. HANCOCK, Ms. ROS-LEHTINEN, Mr. THOMAS of Wyoming, Mr. COX, Mr. DOUGLAS, Mr. ROHRABACHER, Mr. WALSH, Mr. RAVENEL, Mr. LAFALCE, Mr. WATKINS, Mr. GOSS, Mr. STERNS, Mr. HERGER, Mr. SHUMWAY, Mr. DANNEMEYER, Mr. OXLEY, Mr. GILMAN, and Mr. JAMES):

H.J. Res. 673. Joint resolution to designate November 2, 1990, as a national day of prayer for members of American Military Forces and American citizens stationed or held hostage in the Middle East, and for their families; to the Committee on Post Office and Civil Service.

By Mr. OBEY (for himself and Mr. LEVINE of California):

H.J. Res. 674. Joint resolution to prohibit the proposed sales to Saudi Arabia of M1A2 tanks and Bradley Fighting Vehicles, APACHE helicopters, and Patriot guided missile units that were reported to the Congress on September 27, 1990; to the Committee on Foreign Affairs.

By. Ms. SNOWE:

H.J. Res. 675. Joint resolution to designate the week beginning November 4, 1990, as "National Workers for the Homeless Week"; to the Committee on Post Office and Civil Service.

By Mrs. SAIKI (for herself and Mr. YOUNG of Alaska):

H. Res. 514. Resolution to commend the Government of Taiwan for taking steps to protect certain species of dolphins and to encourage further conservation efforts; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1083: Mr. YOUNG of Florida, Mr. SLAUGHTER of Virginia, Mr. BLILEY, Mr. STENHOLM, and Mrs. MEYERS of Kansas.

H.R. 1582: Mr. ROE.

H.R. 2816: Mr. UDALL.

H.R. 3154: Mr. LEWIS of Florida.

H.R. 3270: Mrs. COLLINS, Mr. HOUGHTON, Mr. FUSTER, Mrs. MEYERS of Kansas, Mr. DONALD E. LUKENS, Mr. PETRI, MR. RAVENEL, Mr. PAXON, Mr. HENRY, Mr. POSHARD, Mr. DARDEN, Mr. EVANS, Mr. MCCOLLUM, Mr. MCCANDLESS, Mr. DOUGLAS, Mr. FISH, Mr. ANTHONY, Mr. JAMES, Mr. CONTE, and Mr. ENGEL.

H.R. 3885: Mr. KOSTMAYER.

H.R. 4424: Mr. PACKARD and Mr. HUCKABY.

H.R. 4486: Mr. FRANK.

H.R. 4493: Mr. DELLUMS.

H.R. 4795: Mr. ENGEL.

H.R. 4816: Mr. ENGEL.

H.R. 4840: Mr. COLEMAN of Texas, Mr. VISCLOSKY, and Mr. YATRON.

H.R. 5090: Mrs. SAIKI.

H.R. 5103: Ms. SCHNEIDER.

H.R. 5104: Ms. SCHNEIDER.

H.R. 5105: Ms. SCHNEIDER.

H.R. 5212: Mr. MCCURDY.

H.R. 5377: Mr. SMITH of New Hampshire, Mr. HANCOCK, Mr. NEAL of North Carolina, Mr. TORRICELLI, Mr. PRICE, Mr. WALKER, Mr. GALLEGLY, Mr. MADIGAN, Mr. BLILEY, Mr. BUNNING, Mr. GRANDY, Mr. BARNARD, and Mr. CONYERS.

H.R. 5411: Mr. GILMAN and Mr. RANGEL.

H.R. 5416: Mr. RITTER, Mr. DEFAZIO, and Mrs. PATTERSON.

H.R. 5434: Mr. WYDEN, Mr. ERDREICH, Mr. RAHALL, Mr. EMERSON, Mr. AUCOIN, Mr. SABO, and Mr. JONTZ.

H.R. 5536: Mrs. JOHNSON of Connecticut, Mr. MOODY, Mr. DURBIN, Mr. BONIOR, Mr. ENGLISH, Ms. KAPTUR, Mr. JONTZ, Mr. BOUCHER, Mr. KILDEE, Mr. MACHTLEY, Mr. DELLUMS, Mr. ENGLE, and Ms. SCHNEIDER.

H.R. 5551: Mr. JONTZ and Mr. GUARINI.

H.R. 5589: Mr. COSTELLO and Mr. VENTO.

H.R. 5603: Mr. TORRES and Ms. SCHNEIDER.

H.R. 5625: Mr. NEAL of North Carolina, Mr. OBERSTAR, Mr. KANJORSKI, Mr. COLEMAN of Texas, Mr. SWIFT, Mr. ROSE, Mr. APPLEGATE, Mr. SMITH of Florida, Mr. COSTELLO, and Mr. GLICKMAN.

H.R. 5671: Mr. WYDEN and Mr. RAVENEL.

H.R. 5786: Mr. LAGOMARSINO.

H.R. 5804: Mr. TOWNS, Mr. HORTON, and Mr. POSHARD.

H.J. Res. 87: Mr. THOMAS of Wyoming.

H.J. Res. 202: Mrs. MARTIN of Illinois.

H.J. Res. 492: Mrs. KENNELLY, Mr. GINGRICH, and Mr. YOUNG of Alaska.

H.J. Res. 615: Mr. THOMAS of Georgia, Mr. EMERSON, Mr. UPTON, Mr. KILDEE, Mr. HORTON, Mr. OWENS of Utah, Mr. DE LA GARZA, Mr. LAGOMARSINO, Mr. CALLAHAN, and Mr. HASTERT.

H.J. Res. 628: Mr. SCHEUER.

H.J. Res. 642: Mr. KANJORSKI.

H.J. Res. 652: Mr. BENNETT, Mr. BLILEY, Mr. BUSTAMANTE, Mr. DEFAZIO, Mr. DURBIN, Mr. ESPY, Mr. FROST, Mr. GONZALEZ, Mr. GUARINI, Mr. HORTON, Ms. KAPTUR, Mr. LAGOMARSINO, Mr. LIPINSKI, Mr. MCDERMOTT, Mr. MCGRATH, Mr. MCNULTY, Mr. NIELSON of Utah, Mr. RANGEL, and Mr. WILSON.

H.J. Res. 654: Mrs. BOXER, Mr. FROST, Mr. LAGOMARSINO, Mr. MCDERMOTT, and Mr. RANGEL.

H.J. Res. 667: Mr. GEJDENSON, Mr. HILER, Mr. KLECZKA, Mr. ATKINS, Mr. MURTHA, Mr. TRAXLER, Mrs. UNSOELD, Mr. TALLON, Mr. MOODY, Mr. MADIGAN, Mr. YATES, Mr. SANGMEISTER, Mr. HATCHER, Mr. SCHUETTE, Mr. FORD of Michigan, Mr. GILMAN, Mr. GUNDERSON, Mr. BUECHNER, Mr. MORRISON of Connecticut, Mr. ROWLAND of Connecticut, Mr. WYDEN, Mr. UPTON, Mr. BURTON of Indiana, Mr. ANNUNZIO, Mr. LIGHTFOOT, Mr. ROBINSON, Mr. LEVINE of California, Mr. RICHARDSON, Mrs. KENNELLY, Mr. STUMP, Mr. WYLIE, Mr. BROWN of Colorado, Mrs. SAIKI, Mr. WELDON, Mr. HUBBARD, Mr. APPLEGATE, Mr. FRANK, Mrs. BENTLEY, Mr. SCHAEFER, Mr. JONTZ, Mr. CROCKETT, Mr. MILLER of Ohio, Mr. HAYES of Louisiana, Mr. NEAL of Massachusetts, Mr. SCHEUER, Mr. LEATH of Texas, Mr. STANGELAND, Mr. ESPY, Mr. PAXON, Mr. SPRATT, Mr. PERKINS, Mr. SOLARZ, Mr. MCHUGH, Mr. OWENS of Utah, Mr. OWENS of New York, Mr. FRENZEL, Mr. SCHUMER, Mr. SHARP, Mr. HOAGLAND, Mr. THOMAS of California, Mr. JOHNSON of South Dakota, Mr. CALLAHAN, Mr. COUGHLIN, Mr. MAVROULES, Mr. SABO, Mr. STAGGERS, Mr. LEHMAN of Florida, Mr. DE LA GARZA, Mr. COURTER, Mr. LAGOMARSINO, Mr. NELSON of Florida, Mr. PALLONE, Mr. BILIRAKIS, Mr. YOUNG of Alaska, Mr. SIKORSKI, Mr. DARDEN, Mr. BARNARD, Mr. NEAL of North Carolina, Mr. WOLF, Mr. STOKES, Mr. RAHALL, Mrs. PATTERSON, and Mr. MFUME.

H.J. Res. 668: Mr. RANGEL.

H. Con. Res. 270: Mr. DURBIN.

H. Con. Res. 382: Mrs. LOWEY of New York and Mr. LANTOS.

H. Res. 29: Mr. THOMAS of Wyoming.

H. Res. 474: Mr. DORNAN of California, and Mr. LIPINSKI.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 39: Mr. MARTINEZ.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

249. The SPEAKER presented a petition of the Office of Friend of the Court, 26th Judicial Circuit of MI, relative to the Child Support Enforcement Program; which was referred to the Committee on Education and Labor.

SENATE—*Wednesday, October 17, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable CHARLES S. ROBB, a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*King Belshazzar gave a great banquet for a thousand of his nobles and drank wine with them. While Belshazzar was drinking his wine, he gave orders to bring in the gold and silver goblets that Nebuchadnezzar his father had taken from the temple in Jerusalem, so that the king and his nobles, his wives and his concubines might drink from them. So they brought in the gold goblets that had been taken from the temple of God in Jerusalem, and the king and his nobles, his wives and his concubines drank from them. As they drank the wine, they praised the gods of gold and silver, of bronze, iron, wood and stone. Suddenly the fingers of a human hand appeared and wrote on the plaster of the wall, near the lampstand in the royal palace. The king watched the hand as it wrote. * * * This is the inscription that was written: Mene, Mene, Tekel, Parsin. This is what these words mean: Mene: God has numbered the days of your reign and brought it to an end. Tekel: You have been weighed on the scales and found wanting. Peres: Your kingdom is divided and given to the Medes and Persians.*—Daniel 5:1-5, 25-28.

Eternal God, infinite in truth and justice, it is so easy to dismiss the idea of Divine judgment, righteous judgment. So easy, also, to miss the fact that that judgment often comes as a consequence of our decisions and choices. We demand freedom to choose, but we deny the reality of inevitable consequences. Daniel reminds us of the judgment of God on a Babylonian King—ancient Babylon—modern Iraq. Guide us as a nation lest we by our choices, our decisions, our actions, suffer the same awful judgment—our days numbered and ended, weighed on the scale and found wanting. Help us, Lord, not to fail, not to miss the boat, not to be found wanting in our responsibility.

In His name who lived and sacrificed. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 17, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHARLES S. ROBB, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ROBB thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Without objection, all leader time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond 9:30 a.m. with Senators permitted to speak therein.

THE NATIONAL COMMUNITY SERVICE ACT

Mr. DOMENICI. Mr. President, I would like to make a few comments about the conference report to S. 1430 that we passed last evening. I was pleased to support this conference agreement, as I believe it will do much to encourage and nurture a sense of community service in many of our youth.

Early in this Congress I introduced a small bill, S. 689, "The Kids Helping Kids Act." That bill proposed helping create school-based programs providing community service opportunities for students. In particular, my bill proposed assisting programs that get high school students helping their fellow students, and which worked service opportunities into school curriculums.

I am pleased that some of the ideas in that bill were incorporated into this bill. I commend those who helped create, and who worked to put this conference report together.

PROMOTING DEMOCRACY IN THE SOVIET UNION

Mr. HATCH. Mr. President, this morning I would like to say a few words about what our policies should be toward promoting democratic reforms in the Soviet Union. In this respect, I wish to draw the attention of the Members of the Senate to an important article by Ilya Zaslavsky that appeared in the summer 1990 issue of the Journal of Democracy, which is published by the National Endowment for Democracy.

As the reform process continues in the Soviet Union, our policies should seek to promote the development of genuine democratic processes in that country. This would serve not only the interests of the Soviet people. It would also advance our geopolitical and humanitarian interests, as well as the interests of global peace and stability. The less repressive and more democratic the Soviet Union becomes, the less aggressive and more cooperative Moscow is likely to be. To form our policy, we need to understand which leaders in the Soviet Union are the genuine advocates of democracy—Mikhail Gorbachev and his circle of supporters from the Communist Party or the new radical reformers who are challenging Gorbachev's supremacy.

Mr. Zaslavsky, a member of the Soviet Congress of People's Deputies and the chairman of the Oktyabrsky District Council in Moscow, is one of the genuine democratic figures in the Soviet Union today. Unlike Mr. Gorbachev, Mr. Zaslavsky believes in pure representative democracy, rather than the present system of partial democracy in which key powers and electoral controls remain in the hands of the Communist Party. Moreover, Mr. Zaslavsky has faced the voters in competitive elections and won decisively, while Mr. Gorbachev has always run unopposed contests for the offices he has held.

I do not mean to diminish the importance of the reforms that Mr. Gorbachev has undertaken. He has permitted vastly more freedom of expression in the Soviet press and for the Soviet people than his predecessors. He has allowed some competitive elections for legislative bodies. But he has not advocated unalloyed democracy. He has always sought to retain for himself and for the Communist Party exclusive powers beyond the control of Soviet electorate.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Reformers like Mr. Zaslavsky constitutes a grassroots movement for real democracy in the Soviet Union. They represent the wave of the future in the Soviet system because they are winning the support of the people, who have nothing but contempt for the Communist system under which they have suffered for three-quarters of a century. As Mr. Zaslavsky describes:

In practice, the democratic movement consists of a multitude of more or less organized structural components, such as popular fronts, voters' associations, and various cultural and educational societies with a democratic orientation. These organizations have begun forming umbrella groups called civic action committees, based on the principle of representation for all organized progressive forces. Although lacking any formal power whatsoever, these committees will be capable, by virtue of their moral authority, of decisively influencing the situation in particular regions and in the country as a whole.

We need to understand the political forces at work in the Soviet Union if we are to formulate a policy that promotes democratic values and secures our interests. For those who wish to read an insightful analysis of the current situation, I commend this important article by Mr. Zaslavsky.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PRESSING FOR DEMOCRACY IN THE U.S.S.R.

(By Ilya Zaslavsky)

As the entire world knows, the Soviet Union now has perestroika, democracy, and, of course, the world's most popular political leader who started it all—Mikhail Gorbachev. About Mikhail Gorbachev and the reforms he launched five years ago, there can be no disagreement. It is an indisputable fact that before we lived in one kind of society, and now we are trying to create another. Only one question remains: Are we creating a democracy, or is it something else?

The whole world believes it is a democracy. And indeed, we have chosen a parliament, and all sorts of people are arguing there, expressing a wide—sometimes even too wide—variety of opinions, voting on various proposals, passing resolutions by a majority of votes. It is true that, as a rule, this parliament approves either proposals handed down from above—from the Presidium of the Supreme Soviet, from the government, from Gorbachev himself—so slightly edited versions thereof. But that cannot be helped. If these laws have been passed by the majority, then it is democracy.

But . . . we should ask ourselves a question. How was this majority formed? It is well known that during the 1989 elections to the Congress of People's Deputies of the USSR, the winning candidates in some districts ran unopposed, which reveals something of a flaw in our democracy. It is also well known that one-third of the deputies in the Soviet parliament were chosen by the executive bodies of public organizations (and not such all organizations, but only some of them). This too has been seen as a distortion of our democracy. Finally, there was still another distortion in our electoral process: in 1989 there were special preelection meetings where a few hundred people, chosen in a rather arbitrary way and certainly not representing the opinions of all the voters in the district, decided which candidates should stay on the list and which should be stricken from it.

But even that is not the end of it. For there were two more major flaws in our parliamentary elections. First, in many districts where there were two or more candidates, they all represented one and the same platform, that of the Communist Party (CPSU). In other words, the only choice available was between personalities, not ideas. Thus all votes were effectively cast for the same program, that of the Central Committee of the CPSU.

Second, even in districts where there was a competition of ideas, the candidates who followed the Central Committee line enjoyed enormous advantages. Such "correct" candidates were supplied with whole brigades of campaigners and copying machines, and were given access to the press. They also benefited from the support of Communist organizations at various enterprises and of the so-called "Soviet veterans"—persons retired from official positions who, as a rule, unquestioningly support Communist Party policy.

For all these reasons, the debates between the minority and the majority at the sessions of the Congress of People's Deputies and the Supreme Soviet of the USSR are not in the same category as the traditional debates in Western parliamentary systems between a democratically elected majority and a democratically elected minority. It would be more accurate, in our case, to speak of debates between an undemocratically elected majority and a democratically elected minority—though of course there are exceptions on each side. For instance, People's Deputies Andrei Sakharov and Gavriil Popov, though they joined the democratic minority, were elected not by popular vote but by a public organization, the USSR Academy of Sciences.

These exceptions notwithstanding, the rule is this: the passage of resolutions in our esteemed parliament is democratic in form rather than in substance. The balance of forces in the legislative body is not the same as in the population. This can be easily ascertained by comparing the results of several parliamentary votes on key issues with the results of public opinion polls.

The determination of the conservative parliamentary majority to keep Article 6 [guaranteeing the Communist Party's monopoly on power] in the Soviet Constitution for at least a while longer seemed especially defiant. It was also quite illogical, because to the delight of nearly everyone in this country and abroad the power of the party is being dismantled. This process is being directed both from above (the February plenum of the CPSU Central Committee, which called for the alteration of Article 6, is one example), and from below (by the efforts of the democratic movement both within and outside the party).

A careful observer, however, can see a basic difference between these two aspects of the process, the downward-directed and the upward-directed. The effort to break the CPSU's monopoly from below seeks to create a democratic, multiparty parliamentary system; while the effort to break its monopoly from above seeks to replace one-party dictatorship with one-man dictatorship. It was with this goal in mind that one of the most reactionary laws generated by perestroika, a law I would even describe as ultra-monarchist—the Law on Presidential Powers in the USSR—was so decisively, so unceremoniously, and so quickly pushed through the parliament. The powers that be were perfectly aware that their only chance to salvage the dictatorship of the nomenklatura was a rapid and aggressive assault on an obedient legislative body, at a time when it was still possible to have a vote of the undemocratic majority instead of a direct popular vote.

The gap between the people and its alleged parliament leads to difficult social conflicts, growing tensions and, as we say these days, to the rocking of an already unstable boat. Popular discontent with the content and pace of decisions by the country's legislative body is expressed through rallies, demonstrations, and strikes—not to mention hunger strikes, unauthorized takeovers of government officials' summer homes, and other excesses.

All these actions, of course, are criticized by the authorities. The strikes, we are told, undermine the economy, while rallies distract people from their jobs. Both claims are partially true, though rallies and strikes are often the only way the people have to force their "chosen" representatives to make concessions and speed up economic and political reforms. And the delay of such reforms does much more harm to the economy than any strikes ever could.

To some degree, grassroots actions bridge the gap between the policies pursued by the legislative body and the policies that the people want—policies that could also help get the country out of its present crisis. At the same time, the scope of popular disturbances and the number of people involved keep growing, thereby creating the preconditions for the emergence of a new kind of dialogue between the people and the government. Such dialogue could take the form of a "roundtable discussion" between representatives of the upper echelons of the official power structure and representatives of a mass democratic movement with its own structure and its own influence exercised through collective action.

This broad-based democratic movement has emerged and is developing as a result of the dissatisfaction of the majority of the population with the current situation. It is further prodded and provoked by the actions of those in the upper echelons of power—both the right and the so-called "center."

In practice, the democratic movement of a multitude of more or less organized structural components, such as popular fronts, voters' associations, and various cultural and educational societies with a democratic orientation. These organizations have begun forming umbrella groups called civic action committees, based on the principle of representation for all organized progressive forces. Although lacking any formal power whatsoever, these committees will be capable, by virtue of their moral authority, of decisively influencing the situation in particular regions and in the country as a whole.

The idea of the theorists of the democratic movement is that these civic action committees must, in the near future, become a sort of unofficial parliament for the democratic forces—just as the official power structure usually functions as a parliament of the conservative forces. Then, the interaction between these two parliaments—the conservative one and the democratic one—should eventually yield a compromise satisfying to the majority of the population, and

hence to the democrats, since according to public opinion polls the majority of the population shares the democratic point of view. Thus, in the Oktyabrsky District of Moscow, where I was elected a People's Deputy in 1989, approximately 60 percent of the citizenry supports private property.

The development of structures of a broad-based democratic movement, and the involvement of these structures in the electoral process, make it quite probable that mid-level and lower-level elected bodies will more or less accurately reflect the interests of the people—that is, will be truly democratic. Thus, the 1990 elections to local and other bodies of authority offered good opportunities. The elections in the Baltic republics have been the harbinger of democracy. There, alternative structures—the republics' popular fronts—won by a landslide, bringing these peoples' dream of self-determination very close to reality. The results of the municipal elections in Moscow as a whole—and in my district of Oktyabrsky—have also been positive, with democratic forces winning an absolute majority. Gavriil Popov was elected chairman of the Moscow City Council, and I was chosen as chairman of the Oktyabrsky District Council.

Thus, in parts of the country—districts, cities, republics—there is a realistic prospect of bringing government under democratic control. At the same time, the uneven distribution of the democratic forces throughout the country will necessitate the coexistence, within the framework of the same central state, of regions with democratic-dominated and conservative-dominated local authorities. Such a situation is normal in the West, where different regions of the same country may be controlled by rival but essentially democratic parties: here, however, it is complicated by the authoritarian or totalitarian outlook of Soviet conservatives, who tend to be proponents of "barracks style socialism" and show a truly Bolshevist intolerance toward dissenting views, especially democratic ones.

At the same time, the existence of jurisdictions where democrats control local government can boost the democratic process throughout the Soviet Union. They can be an inspiration to other regions; moreover, democratic local councils can actively support popular movements and assist the work of civic action committees in neighboring nondemocratic regions.

The increase in the number of prodemocracy jurisdictions will inevitably step up the pressure on the upper echelons of power. This pressure must be brought to bear not only through strikes, rallies, and demonstrations, but also through the actions of local councils in various regions. By adopting resolutions and pressing the central legislature, local bodies can further the cause of demoractic reform. We hope that in this way our country can successfully navigate through narrow and dangerous straits to early elections for a genuinely democratic parliament of the USSR—a new legislative body that will reflect the true hopes and convictions of our people.

THE ANTARCTIC PROTECTION ACT OF 1990

Mr. KERRY. Mr. President, I am pleased that late last night the Senate unanimously passed a bill I introduced earlier this year which offers protection to the environment in Antarctica well into the next century. S. 2575 the Antarctica Protection Act of 1990 places a long-term moratorium on mineral resource activities in the Antarctic and urges the Secretary of State to negotiate such a long-term prohibition at the upcoming special consultative meeting opening in Santiago, Chile, in November.

Mr. President, the Antarctic plays an important and unique role in our global ecosystem. Ninety percent of the Earth's ice and 70 percent of the Earth's fresh water are found there. It is an integral part of the Earth's climate system.

The Antarctic supports large populations of marine life from krill and plankton to whales, seals, and sea birds. It holds untold answers to the Earth's evolution and the world's future climate.

Today, scientists have just begun to understand the vital role the continent of Antarctica plays in regulating the Earth's temperature. Antarctica provides science with an as yet unsullied vantage point from which to monitor our changing planet. Much of Antarctica remains today as it has for millions of years. Barren and bountiful, a massive ice cap encases all but 2 percent of the continent, while the surrounding ocean brims with life.

Development in the Antarctic is a new environmental concern. Many scientists believe that development is likely to cause ice caps to melt, which would not only cause sea levels to rise, but would also reduce the ocean's absorption capacity for carbon dioxide. Currently oceans take up one-third to one-half of the world's carbon dioxide emissions which we know to be one of the main greenhouse gases. This change could add significantly to global climate change.

In recent years, demand for access and use of resources in Antarctica has grown. As uses grow, so has the potential for environmental degradation. Oil-spills and water pollution from toxic chemicals, raw sewage, and solid wastes have already been reported in this environmentally sensitive area.

Currently, the United States and other nations face major policy decisions surrounding the development of the Antarctic. Traditionally, Antarctica has remained peaceful because it has had few things to fight over. However, several countries are now interested in development. Development of oil and minerals, tourism, fisheries, increased research all which have led to the debate of environmental protection versus inappropriate development.

Oil and mineral development first became a concern in the early 1970's when we faced an oil crisis worldwide. Consequently, member nations of the Antarctic Treaty, recognizing the need to address the question of future development came together to hammer out new rules governing oil and mineral exploration. This resulted in the Convention on the Regulation of Antarctic Mineral Resource Activities known as CRAMRA. CRAMRA was agreed upon by the 20 treaty nations in 1988. The purpose of the agreement was to protect Antarctica from the dangerous environmental effects of oil and mineral development. However, the international agreement instead of protecting the Antarctic from mineral resource development, established a framework under which mining and drilling could take place in the most unspoiled environment on Earth.

In my view, Mr. President, the agreement falls far short of its goal. Some have called the agreement a "road map to development." France and Australia have already withdrawn their support from the agreement, and several other nations such as New Zealand and Italy are currently considering doing so soon. The U.S. Government would be wise to follow suit, particularly since the U.S. Senate recently passed a resolution introduced by Senator GORE which urges the President to put aside the existing CRAMRA and negotiate a new comprehensive protective agreement. Under the Antarctic Treaty system, all agreements must be unanimous.

The purpose of my legislation is to ensure that mineral resource activities do not occur in the Antarctic. Last month the Senate Foreign Relations Committee unanimously passed the bill I introduced which established a permanent prohibition on all mineral resource activities in Antarctica. Let me reiterate—unanimously passed the bill with a permanent ban. Mr. President, the House Foreign Affairs Committee took similar action a few weeks ago on a bill introduced by my colleague from Massachusetts, Representative SILVIO CONTE. And both committees took this action despite strong opposition from the Bush administration. The vote could not be more clear—the congressional committees responsible for foreign policy issues unanimously voted for a permanent ban on mineral resource activities in Antarctica.

However, the State Department, speaking on behalf of the President, threatened a veto of the legislation which overwhelmingly passed the Senate Foreign Relations Committee—exhibiting what I consider to be an unfortunate view toward the fragility of Antarctica. Parenthetically, I might add the Foreign Relations Committee has the authority to approve all international treaties.

The State Department, working on behalf of the President, exhorted us not to tie their hands in Chile next month. We were told that the administration wanted to leave their options open for the future in Antarctica and for potential technological break-

throughs in oil and gas development. Well, Mr. President I have witnessed why this administration enjoys leaving options open in the future when it comes to mineral resources activities. Let us look at the facts. The administration continues to exercise the option to open the Arctic National Wildlife Refuge in Alaska for oil development; and year after year the President has opted to recommend drilling for oil and gas on Georges Bank, MA prime fishing grounds and whale watching area; and, in the most recent budget proposal, the President opted to offer tax incentives to the oil industry for new oil and gas exploration and development. It is fairly obvious what the administration means by keeping their options open when it comes to Antarctica.

My aim, Mr. President, has been to work for the most protective legislative initiative I could in order to set a tone of Antarctic protection at the upcoming meeting in Chile. Working for weeks, finally, we have developed legislation which, although it does not require a permanent ban, does insist upon a long term moratorium on mineral resource activities. Speaking as the framer of this new initiative, my message could not be more clear. America's negotiators must develop a comprehensive approach toward the protection of Antarctica and must lead the consultative treaty participants in establishing a minimal long term moratorium on mineral activities of at least 100 years.

The pressures of the situation in the Persian Gulf adds significantly to the quest to find more oil and gas worldwide. Shortsighted fixes such as opening up Antarctica for prospecting of mineral resources does not offer meaningful long term solutions. And this legislation is designed to prevent such myopic thinking.

This legislation will provide the needed protection for Antarctica. It provides an indefinite ban, expected to be at least 100 years or more, on all mineral exploration and development in Antarctica by United States entities, and it directs the Secretary of State to urge other nations to take the same position. It also recommends that the Secretary of State ask other nations to adopt an international accord which grants Antarctica special status as an international wilderness park dedicated to science designed to provide wilderness protection through international cooperation and scientific research.

Mr. President, in April Senator GORE and I and other Senators hosted an Interparliamentary Conference on the Environment. Over 150 parliamentarians representing 36 nations attended. I chaired the Water Resource Committee in which we discussed the future of the Antarctic. Capt. Jacque Cousteau who has dedicated significant time and effort to preserving the Antarctic helped lead the discussion in our working group. We all agreed that in order to protect the Antarctic, we must first extend the current moratorium on exploration and exploitation of mineral and energy resources until we are able to negotiate an ongoing prohibition in mineral mining activities among the Antarctica Treaty nations. We also agreed that we must grant Antarctica special protective status as a Land of Science Treaty Reserve and International Wilderness Area.

In closing Mr. President I want to thank the Alliance for Antarctica which is made up of 13 groups interested in preserving and protecting Antarctica's future for generations to come. They have worked hard on this legislative initiative and others which will provide environmental protection for this unique area.

I want to thank my colleagues for supporting this legislation which will send the right message worldwide, that the Antarctic is a unique environmental resource of global significance and it must be protected from harmful development.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,041st day that Terry Anderson has been held captive in Beirut.

EISENHOWER LEGACY OF CARING FOR TROOPS PERSISTS IN THE ARMED FORCES BENEFIT ASSOCIATION

Mr. HATCH. Mr. President, I take special note of the 100th anniversary of the birth of one of America's most distinguished generals: Dwight David Eisenhower.

General Eisenhower's legacy is still of special significance to military personnel and their families. Senator INOUYE has commented on the need to ensure benefits for our serving military personnel. My friend from Ohio, Senator GLENN, has taken the admirable initiative, supported by many of us in the Senate, to ensure that the basic allowance for subsistence, a payment which is suspended when troops are deployed to combat areas, can be recaptured through other pay and allowances.

The theme of caring for the troops was never better enunciated by word and deed than was done by General Eisenhower. As the Supreme Allied Commander, with jurisdiction over the largest American Army ever assembled in World War II, Ike moved to protect members of the Armed Forces from the awful costs of combat service.

In 1947, Ike formed the Armed Forces Benefit Association, a nonprofit, tax-exempt, federally chartered association dedicated to providing care for the men and women of our Armed Forces. The organization's purpose was, and remains; "to promote the general welfare of its members for the mutual benefit of all."

Since its founding, AFBA has provided $300 million in death benefits to the survivors of casualties from the Korean and Vietnam conflicts through its life insurance programs which, Mr. President, I hasten to add excludes that awful restriction that all military people fear: the so-called "war clause" that suspends insurance coverage if one is killed in combat.

AFBA's board of directors today includes some of our most distinguished military leaders, including the Chairman of the Joint Chiefs of Staff, Gen. Colin Powell. The board makes sure that AFBA is responsive to the needs of our men and women serving in Saudi today and, I hope, will continue to provide care for our forces well into the next decade and century.

I ask all my colleagues in the Senate to join with me in commemorating Ike's birthday in applauding one of his great legacies, the Armed Forces Benefit Association.

CIVIL RIGHTS ACT OF 1990

Mr. KENNEDY. Mr. President, earlier this afternoon, the House of Representatives approved the conference report on the Civil Rights Act of 1990 by a vote of 273 to 154. This legislation now goes to President Bush, who has said he will veto it.

But the President still has time to reject the misguided advice of his misguided advisers and heed the legitimate call for simple justice for the millions of minorities and women who bear the burden of bigotry on the job.

Perhaps we can override a veto in Congress. But it should never come to that. I hope that President Bush will reconsider the unwise and unjustified course he is on. This bill is a civil rights bill, not a quota bill. It deserves the President's support and his signature, not a divisive Presidential veto.

As we have seen in the many months of this debate, it is easy for discriminatory employers to hide behind the false hue and cry of quotas. But anyone who takes an independent and objective look at this bill will see at a glance that the quota argument is a sham. As clearly as any argument can be, it is refuted by the facts.

The simple truth behind this bill is that we don't have to guess about what will happen if President Bush signs it. We know what will happen, because we know what happened for 18 years while the provisions of this bill were the law of the land.

All we are doing in the Civil Rights Act of 1990, so far as this issue is concerned, is reversing a Supreme Court

decision in 1989 that overturned 18 years of civil rights case law between 1971 and 1989. We are restoring the law, not extending it or otherwise changing it.

In hundreds of antidiscrimination cases decided in those 18 years, the law on equal employment opportunity was used to strike down discriminatory practices that deny a fair chance for women and minorities to participate fully in the workplace.

All that Congress is doing in this legislation is restoring the law in effect between 1971 and 1989. The old law never led any employer to adopt quotas, and the new law won't either.

So I say this to President Bush: "Mr. President, ask your Attorney General a simple question. Ask him to explain how this bill can possibly be a quota bill, if the exact same rule of law we are restoring never led to quotas for 18 years in the past.

Mr. President, when so much is at stake, do not rely solely on your justice department lawyers and your White House counsel who are so bent on killing this bill.

Mr. President, listen to the other side of the argument, before you take an action that may well make you the anti-civil rights President for the rest of your term.

Mr. President, before you cast a veto, I challenge you to ask a neutral panel of Republican lawyers whom you respect to examine the provisions that have caused all this controversy.

Ask them for their views about whether this is a civil rights bill or a quota bill.

I can assure you, Mr. President, that there are a number of Republican Sentors who may well vote to sustain a veto out of loyalty to you, but who want to see this bill signed, and who believe it should be signed.

Ask them, Mr. President, whether they think this is a civil rights bill or a quota bill.

I believe they will agree that in the long and difficult negotiations over this bill, we have gone the extra mile together to eliminate any reasonable objection that this legislation might somehow lead to quotas.

The only thing we are not willing to include, Mr. President, is language that would make discrimination more likely.

In the view of many of us, Mr. President, you are being misled by a small group of advisers into bowing to those in the business community trying to escape the liability they deserve for acts of job discrimination.

Some businesses oppose giving women and religious minorities the same remedy for intentional discrimination that racial minorities have under current law.

Other employers are hoping to escape any penalty when they engage in sexual harassment and other particularly offensive forms of discrimination in the workplace.

They know that their actions cannot stand the light of day. So they have seized on the quota argument in a devious attempt to block this vitally needed civil rights bill.

Reject that cynical strategy, Mr. President. Do not be misled into accepting any such big lie strategy by some of your business supporters.

Mr. President, You are the President of all the people. You owe it to Congress and the country to take a fair, unbiased, and independent look at this bill. If you do, I am confident you will sign it, because women and minorities deserve the same civil rights that all other Americans have.

NEHEMIAH HOUSING PROGRAM

Mr. SARBANES. Mr. President, I rise to discuss with the distinguished chairman of the Housing Subcommittee of the Senate Banking Committee the implementation of the Nehemiah Housing Opportunity Grants Program. The Nehemiah Program was originally enacted as part of the 1987 Housing Act to provide new permanent owner-occupied housing for low- and moderate-income families and to establish stable neighborhoods in distressed areas. The program is structured to leverage a relatively small amount of Federal seed money with funds provided from other sources, including State and local governments, nonprofit organizations, and other resources. This program is an innovative, community-based initiative that will make home ownership a reality for many families who otherwise would not be able to purchase a home. Grants are provided under the program to eligible nonprofit sponsors who apply, and the first round of grants was made by HUD in August 1988.

Mr. CRANSTON. The Senator from Maryland correctly describes the Nehemiah Program, and I share his interest in this innovative program. One of the most important features of this program is the requirement that grants be made to nonprofit organizations that the Secretary of HUD has found meet certain standards. Eligible nonprofit sponsors must have a voluntary board, a tax exemption ruling, and must demonstrate that the project has been developed with input from residents of the neighborhood where the project is located. In addition, the application must be approved by the local government.

Mr. SARBANES. One of the most attractive features of this program is the combination of resources that can be used to restore blighted areas. In order for a Nehemiah project to work, the nonprofit sponsor of a Nehemiah project would also need to be eligible to receive other Federal, State, local, and private funds that are committed to the project. Is that correct?

Mr. CRANSTON. Absolutely, the only way the Nehemiah concept can work is if the Federal Nehemiah grant funds can be used in conjuction with other leveraged funds; and it doesn't make any sense to have separate entities administering funds intended for the same project. This is one of the key elements of the program.

Mr. SARBANES. I understand there has recently been some confusion about the use of funds from the CDBG Program in conjunction with the Nehemiah Program. In Baltimore, MD, and perhaps in other areas that have Nehemiah projects, HUD has questioned whether the approved Nehemiah nonprofit sponsor is eligible as a subgrantee under the CDBG Program. I regret that this issue has delayed implementation of the Nehemiah project in Baltimore and hope that it can be resolved promply. Congress clearly intented that the entity that is eligible for the Nehemiah grant should also be able to administer the other resources that are part of the combined project.

Mr. CRANSTON. There is no doubt Congress intended that Nehemiah nonprofit sponsors can also receive assistance as eligible neighborhood-based nonprofit organizations under the CDBG Program. The laws and regulations for these two programs must be read together in order to avoid implementation delay and confusion.

AIDS UPDATE

Mr. CRANSTON. Mr. President, according to the Centers for Disease Control, as of September 30, 152,126 Americans have been diagnosed with AIDS; 92,401 Americans have died from AIDS; and 59,725 Americans are currently living with AIDS.

EARLY INTERVENTION

Mr. President, for the first decade of the AIDS pandemic we have focused our Federal efforts on research into the causes and potential cures for this deadly, tragic disease. In the years ahead we must continue work toward a cure. But we are making significant advances in our ability to slow the onset of AIDS in HIV-positive individuals, and our Federal efforts must also emphasize access to early treatment.

Early treatment or intervention can help delay the onset of disease in persons who are infected with the AIDS virus [HIV] but have not yet developed symptoms. Drugs and treatments that are now available can help make AIDS a chronic but manageable disease. Without a vaccine, early intervention is the best and only hope to slow the progress of AIDS in individuals and to ease the catastrophic impact of the disease in our society.

As more drugs and treatments become available and more HIV-positive persons look to them to extend their lives, there will be health policy implications that we must carefully consider. The availability of drugs such as AZT that slow or arrest the progress of HIV disease will lead more people to be tested. The need for counseling and clinical monitoring will expand, inasmuch as drug interventions will be determined by the immune status of infected persons. The larger numbers of patients being treated will call for more medical staff—yet there is a growing shortage of people going into nursing and allied health professions. Many current physicians and health care workers are reluctant to treat HIV-infected persons.

The economic cost of early intervention is strongly influenced by the epidemiology of AIDS, inasmuch as 10 times as many persons are HIV infected than are diagnosed with AIDS. Basing its figures upon current treatment pricing, the Journal of the American Medical Association has estimated the annual pretreatment costs—testing and monitoring but not drug intervention—at about $854 per person per year. The JAMA estimates treatment costs—testing, monitoring, and drug intervention—at about $9,637 per person per year. There is no reliable estimate of how long individuals will remain in the asymptomatic stage. Drugs now comprise about 80 percent of treatment costs.

The policy dialog on early intervention is just beginning. Legislation has been introduced in my State of California to expand the early intervention demonstration projects that were established in 1988. The Centers for Disease Control is drafting guidelines for a national program to monitor the immune status of asymptomatic HIV-infected persons. Title II of the Federal AIDS CARE bill includes intervention programs as eligible for funding. The National Commission on AIDS is continuing to explore the issue and to make recommendations for action.

Through early intervention we may be able to extend the lives of large numbers of people who are affected with the AIDS virus. By prolonging the asymptomatic stage of illness we may also be able to have more persons still alive when more effective treatments become available. Early intervention offers the opportunity to begin rational planning for health care in the AIDS epidemic in place of the crisis-driven policymaking that has so far characterized our response.

OMNIBUS BUDGET RECONCILIATION ACT OF 1990

The PRESIDING OFFICER (Mr. KERREY). Under the previous order, the Senate will now proceed to the consideration of S. 3209, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3209) to provide for reconciliation pursuant to section 4 of concurrent resolution on the budget for the fiscal year 1991.

The Senate proceeded to consider the bill.

PRIVILEGE OF THE FLOOR

Mr. SASSER. Mr. President, I ask unanimous consent that the following staff of the Committee on the Budget and its members be allowed to remain on the floor during consideration of the reconciliation bill:

STAFF OF THE COMMITTEE ON THE BUDGET

REGULAR FLOOR PRIVILEGES

Majority staff: Tim Ahern, Kip Banks, Agenes Bundy,[1] Steven Burns, John Callahan,[1] John Cestar,[1] Alan Cohen,[1] Bill Dauster,[1] Kathy Deignan, Randy Devalk, Matt Greenwald, John Hilley,[1] Phil Kardis, Charles Marr, Doug Olin, Larry Stein, Gordon Stoddard, Barry Strumpf, Ingrid Taylor, John Wagster, Paul Weech, David Williams.[1]

Minority staff: Hal Brayman, Jim Capretta, Charlie Flickner, William Hoagland,[1] Bill Hughes, Melissa Longoria, Carole McGuire, Ann Miller, Michelle Mrdeza, Adele Obsermayer, Roy Phillips, Cheri Reidy, Austin Smythe,[1] Peter Taylor.

Nondesignated: Alison Cormack, Lisa Guzzi, Anne W. Hill, Sue Nelson.

FIFTEEN-MINUTE FLOOR PRIVILEGES

Lisa Bartko, Diane Bath, Alice Benton, Louise Echols, Elaine Gaither, Andrea Gatta, Bert Gilliam, Amy Kestnbaum, Jackie King, Cathy Mallison, Angela Nicholas, Cris Ondrick, Beth Strader, Carolyn Willis.

STAFF OF MEMBERS OF THE COMMITTEE ON THE BUDGET

REGULAR FLOOR PRIVILEGES

Staff members: Barry Strumpf, Laura Hudson, Joan Huffer, Chris McLean, Bruce King, John Weinberger, Judy Love, Brian Wheeler, Tracey Thornton, Vi Boyer, Jeff Anders, Julius Hobson, Nancy Mitchell, Hillel Weinberg, Jeff Kumer, Kris Kolesnik, Cesar Conda, Hazen Marshall, Rachel Sotsky, Mike Solon, Julie Dammann.

Senator on whose behalf request is made: Senator Hollings, Senator Johnston, Senator Riegle, Senator Exon, Senator Lautenberg, Senator Simon, Senator Sanford, Senator Wirth, Senator Fowler, Senator Conrad, Senator Dodd, Senator Robb, Senator Armstrong, Senator Boschwitz, Senator Symms, Senator Grassley, Senator Kasten, Senator Nickles, Senator Rudman, Senator Gramm, Senator Bond.

The PRESIDING OFFICER. Without objection, it is so ordered.

USE OF SMALL ELECTRONIC CALCULATORS

Mr. SASSER. Mr. President, I ask unanimous consent that small electronic calculators be permitted on the floor of the Senate during the consideration of the reconciliation bill.

[1] These individuals have privileges to be admitted without pass under a previous letter to the Sergeant at Arms.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, I rise this morning to introduce the budget reconciliation bill for fiscal year 1991. I do so with both confidence and hope, I say to my distinguished friend, Senator DOMENICI; confidence that the committees of this body have jointly crafted a budget plan that is balanced, one that is fair, and one that does the critical work of reducing this Nation's deficit. I offer this package with the hope that what has been a long wait for the American people and a period of uncertainty and strife for this body will finally be nearing an end.

In my judgment, Mr. President, the job before us could not be more plain. Deficit reduction simply must be accomplished, but we must also do it in a fair and equitable way. We must move decisively now to accomplish deficit reduction.

I think it is only fair to note in that context that the closed-door budget summit, in which I participated, took some 6 months to reach conclusion on the issues that we address today. And I must say, Mr. President, I sincerely hope that is the last budget summit negotiation in which I shall ever have to participate. It was hard, bone-crushing work, long, long hours.

The product had much to recommend it in the final conclusion but also the product had some severe flaws to which I think we will all agree. But the task that we undertook for 6 months in the budget summit has been picked up and completed by the congressional committees in both the House of Representatives and the Senate in the space of only 10 days.

The foundation and the framework that was done in the budget summit has been put to good use by the committees in both Houses, and I think the committees in both Houses of Congress are to be congratulated for the expeditious manner in which they have addressed themselves to the task of honest and meaningful deficit reduction.

This package, which was produced through established procedures of the Congress, has a far better chance of passage than the agreement that was passed behind closed doors by the small and somewhat isolated group that called itself the summit conferees. Virtually every Member of the Senate has had a hand in the creation of this package, and every Member of the Senate has a stake in seeing that this package becomes law.

If we act swiftly, if we act now and complete our work, we will send the clearest possible answer to those citizens who may be troubled that Congress cannot do its job and cannot do it on time. I think we will have drawn and completed in the space of 2 weeks the largest deficit reduction package

in the history of this Nation—over $40 billion in honest deficit reduction in fiscal year 1991, 500 billion dollars' worth of honest deficit reduction over 5 years, the largest deficit reduction package in the history of this Republic.

Mr. President, 10 committees have now reported legislation that would produce more than $24 billion in budget savings for 1991 and $246 billion in savings over the 5-year period. Each and every committee of the Senate—and I am proud to report this, Mr. President—has moved very forcefully to get these savings.

This work has not been easy. On the contrary, it has been very difficult. Some of the choices they have had to make have been very painful, and some of the cuts that they have had to make have been very painful for them, and they will be painful for the American people. Some of the Senators have reported to me that this is the most difficult work they have ever had to do. One indicated that cutting some of these programs was almost like shooting his children as far as he was concerned. Farm price supports, for example, have been scaled back. And for those of us who come from agricultural States, that is, indeed, a bitter pill to swallow.

Bank insurance fees have been increased so that the banks themselves would pay a larger portion of any contingent liability that they might be exposed to rather than the taxpayer. Coast Guard user fees have been adopted—less subsidies for the Coast Guard in doing work that rightfully ought to be paid for. The Student Loan Program has been tightened up to cut out some of the waste and perhaps some of the abuse that has taken place. And Federal retiree benefits such as the lump sum option have been eliminated. We have attempted to address some of the problems of the growth in Medicare. Revenues of $142 billion have been proposed also, all in the name of deficit reduction.

There has not been a single committee that has not measured up to its responsibilities. Not a single committee, Mr. President, has not assumed its share of the burden and assumed it willingly. The fact is that the savings from each committee of the Senate either meet or exceed the instructions which we sent them.

According to the Congressional Budget Office, this bill actually surpasses and exceeds our deficit reduction goals or the reconciliation instructions by $4 billion in 1991 and $6 billion over 5 years, and I say to my friend, the distinguished ranking member, Senator DOMENICI, I think that is virtually unprecedented.

In terms of deficit reduction, the package contains more out-year savings than any reconciliation bill that has ever been enacted. Together, we have assembled a package that seeks to make up for the fiscal excesses and deficiencies, I would submit, of an entire decade.

I realize, Mr. President, that although committee members have all spoken on this package, it does not mean that we must forever hold our peace. There is likely to be a very spirited debate on the floor of this Chamber today, and I think that is healthy, a very spirited debate about tax equity and, quite frankly, I believe that is as it should be

I do not believe we should ask middle-income Americans, those who have been stretched and squeezed by the policies of the 1980's, to work overtime in the gristmill of deficit reduction. I think all of us would agree that middle-income Americans have done their fair share, and it is only fair that the 700,000 upper-income households that benefited most from the policies of the 1980's, who saw their tax rates cut in half and then income in many cases double, should contribute proportionately to help solve this Nation's deficit crisis.

I extend my congratulations to the distinguished chairman of the Senate Finance Committee, Senator BENTSEN of Texas, who, along with the joint leadership team of Senator PACKWOOD, the very able ranking member, Senator MITCHELL, the distinguished majority leader, and Senator ROBERT DOLE, the distinguished minority leader, have together and in a bipartisan way designed a revenue package that is equitable and one that I submit is sound.

Moreover, they have created a package that was built to pass this body. They have created a package that will rally the votes to be accepted. I submit that in terms of progressivity it is, indeed, a far better plan than the original summit proposal that the summiteers brought back to this body.

The burden of sacrifice is spread much more evenly than that of the budget summit proposal. The summit plan, for example, would have increased tax rates by 7.6 percent on the neediest Americans.

The proposal that we will have before us today rightly cuts the rates on the poorest citizens by 2.3 percent. What about the other end of the income scale, the wealthiest Americans? The summit proposal that we brought back to this body would have increased the contribution of the wealthiest Americans by only 1.7 percent. Under the plan that we are considering today these wealthiest Americans would see a 3.7-percent rise in their tax rates. Finally, this proposal will not suffocate middle-income Americans. It seeks only a 2-percent tax rate increase for middle Americans.

So in sum, Mr. President, this entire piece of legislation I think represents a genuine step forward, one that asks moderate sacrifice from all Americans in our drive to reduce this deficit and safeguard our economy. It exempts no one, no citizen from the duty of deficit reduction. On its merits I submit it is sound, sensible, and supportable.

I think, perhaps equally as important, the proposal that we present to our colleagues today accomplishes real genuine deficit reduction without fakery, without deception, and without shrinking from the stark reality of the fiscal problem that faces this country.

We all have an interest in demonstrating to the American people that we can do our job. I suggest that our interest is even more pressing than that. The forces that at the very moment are undermining the foundation of our economy leave us no choice but to act and to act now.

The perils of our indebtedness have been widely recognized. Confidence has been shaken in the soundness of the financial system of this country. Confidence has been shaken in our Government's ability to stand up to its responsibility. Foreign investors, those from whom we borrowed enormous sums of money over the past few years, are now looking elsewhere to invest their funds. Unless we get this Government out of the massive business of borrowing, interest rates will inevitably go up and economic stagnation will set in.

I do not have to remind anybody in this Chamber that we are now poised dangerously on the cusp of a recession, and we see ourselves at the very brink of war in the Middle East. The stock market has lost 20 percent of its value in just the past few months. The U.S. dollar in world markets is dropping to record lows. Sky-high oil has pushed up prices. And, once again, the tentacles of inflation are tightening themselves around our productive capacity.

For ills of that magnitude, I will have to confess that the budget agreement we are considering today is not a magic cure-all. But it is a very potent dose, I submit, of fiscal responsibility, a signal to one and all that this Government of the United States is serious about reducing its crippling deficit, serious about nursing its economy back to health. It is the kind of tangible agreement that the world financial markets have been waiting to embrace, a credible package upon which our own Federal Reserve, and Dr. Alan Greenspan, the able chairman, can now rely on and move to reduce interest rates.

Yes. There will be sacrifice. And I think it is high time that those of us in elective office started telling the American people the truth again. It has been the fashion over the past decade to say that we could have it all, that there would be no tomorrow, that we could mortgage the future of our

childen, and we did not have to take any bad medicine ourselves.

That day is gone. Yes. We tell the American people that there will be some sacrifice in this package. But we tell them at the same time that it will be fair, that no American is going to be asked to make more sacrifice than another. We tell them that the wealthiest in our society are going to pay their fair share.

I say, Mr. President, that if we can implement this, if we can move this deficit reduction plan into place quickly before our economy deteriorates further, then we stand a good chance of receiving real benefits, a chance of receiving real substantial gains.

Lower interest rates, we all know, will put more money in the pocket of American working men and women. If interest rates fall by just one-half of 1 percent, and certainly that is a reasonable and logical expectation given the content of this legislation, then the average middle-class family could save $435 a year on their $100,000 adjustable rate mortgage. Compare this to the $297 cost of the Senate agreement to the typical middle-income family, and you can see that the vast majority of Americans clearly have something to gain from the passage of this deficit reduction package.

This is the message that we must take to the American people. It is the message that we must consider ourselves today. We must convince the American people of the benefits we will all derive from a balanced and sound economy. The benefits we will all derive from lower interest rates, and the benefits derived from this agreement, will persist and endure a long time after the time of sacrifice has passed and has been forgotten about.

Mr. President, after many months of adversarial dickering, after many months of back and forth, after many months of partisan accusations, it is now time for us to get down and do our job.

This deficit reduction package is the product of virtually every committee of the U.S. Senate. Virtually every Member of this Senate has participated in producing this product. I do not think anyone has been left out of the process. Everyone is an author and every citizen of every State can know that their elected representatives had a hand in producing this final result.

I must say the result is a commendable agreement that I think deserves the support of all of us, and I do believe it reflects credit on this institution.

If ever there was a time for action, I submit, Mr. President, it is now. For the better part of a decade we have had rhetoric about the crisis to come, and we have had rhetoric about the perilous problems we are creating for our children. We have talked about the uncertain future we are bequeathing to our country. Mr. President, this Senator has been on the floor a number of times in the past few years raising those problems.

But now the crisis is here that many of us have been predicting. The problems are ours and the future is the here and now. We have much to prove, Mr. President, to our fellow citizens in this country, many of whom have watched in dismay as our Government was stopped cold in its tracks.

I say to my colleagues that with the adoption of this budget reconciliation bill today, this budget reconciliation bill that will reduce the indebtedness of our children and our children's children by $500 billion over the next 5 years, we will have demonstrated not only to our countrymen, but to those who watch us with great interest from abroad, that we here in this Chamber, and we in this Government know how and can govern.

Mr. President, I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I yield myself as much time as I might require.

Mr. President, might I inquire of the distinguished chairman of the Budget Committee, the Senator from Tennessee, so that our fellow Senators might understand that our intentions are totally consistent, I hope, with the rules.

Mr. President, is it not the case that, for those fellow Senators from either side of the aisle who might want to make opening statements, the chairman and the ranking member are going to see to it that, in yielding time, we yield only for that purpose until sometime after 12 o'clock?

Mr. SASSER. Mr. President, that is correct.

Mr. DOMENICI. That means, if I understand it, that any Senator who intends to offer any action on the floor by way of an amendment, to make a point of order, motions, that it is the intention of the chairman and the ranking member certainly not to preclude anyone. There will be plenty of time. They should know there are 20 hours. That goes into tomorrow. But we intend not to yield for that purpose until sometime after lunch.

Mr. SASSER. That is correct. We have been approached by a number of Members in prior days wishing to make opening statements, and we will consume the time up to noon in doing so. I might say to the distinguished ranking member that I hope we can make significant and speedy progress today, and perhaps it might not be necessary to use the full 20 hours of debate.

To those of our colleagues who might be listening to us in their offices, once we get past the opening statements, I hope we can move fast on any amendments that might be offered, and I hope that we can keep any amendments to an absolute minimum.

Mr. DOMENICI. Mr. President, let me say, so there will be no misunderstanding, this rule that we just established, this modus operandi, is not the creature of the chairman and the ranking member. We have been asked by and consulted with the leadership, who have asked us to do this.

I hope our fellow Senators will understand that we, too, want to get on with things. But there are a few problems we are trying to work out with reference to this measure that need our time. Some of us have to go off the floor and work on those items.

A number of Senators have asked me when amendment time is. We will follow the rules and be fair but, obviously, we control the time, and we would like opening statements until noon or thereabouts, without prejudice to either side.

Mr. President, let me say at this point, while this document before us is historic, and there is no question about that, it is with a great deal of sadness that the Senator from New Mexico comes to the floor with it, because, frankly, a number of us have worked very hard over a long period of time, and it was not intended that the process, started 4 or 5 months ago at the request of and behest of the President of the United States, would end up in the manner that it is now evolving. Clearly, we did not intend that it become partisan, as has occurred in the U.S. House.

This is not criticism on my part; it is just a truism. Since we went to the summit, bipartisan, bicameral, with both Houses, we had intended more of what is happening here on the floor of the Senate, because everyone should know that we do not know how many Republicans are going to vote for this package. Clearly, the Democrats do not know how many are going to vote for it on their side.

But it does not come to the floor of the Senate as a package of deficit reduction activities, reducing expenditures in a permanent and real way, and raising revenues. It does not come here as a Democratic or Republican initiative.

Maybe some of the specific initiatives within it might be somewhat partisan, but the package was produced by the joint bipartisan Democrat-Republican leadership, and the principal committees of activity, such as Finance, produced the bipartisan package that is before us.

Frankly, I believe the deficit of the United States is so serious that it is not a Democrat issue, a Republican issue, or the President's issue. The people of the United States want us to

do something. As a matter of fact, they are almost to the point, in my opinion, where they are giving up on our ability to govern. I hate to say, but I think some of them think it is a joke.

Frankly, the way we have conducted ourselves over the past few months, maybe that is right; maybe their conclusion is right. Let me say to them, however, that we have a few days, fellow Americans and fellow New Mexicans—maybe 2, maybe 5—to redeem ourselves, because indeed, this particular deficit reduction package, if it goes through here, has Democrat and Republican support, and probably would get the President's support, and we would have an historic event occur.

Let me suggest that during the day, I say to my fellow Senators who are chairmen and ranking members, in particular, of the Finance Committee, that wrote the principal package—Chairman BENTSEN and Ranking Member PACKWOOD and other chairmen and ranking members—we already know there are going to be a number of amendments and proposals affecting their part of this bill.

Frankly, we will try our very best to notify the ranking members and chairmen, so they can come down and defend and argue their point, if Senators intend to change what they have put together. I hope they know that. We do not want to do that; we want them to do it. We will do it if they are not here, or are busy or occupied. We will try to get notice to them. That is point No. 1.

Point No. 2, this package contains some provisions which should not be in a budget reconciliation package. We are going to try our best to keep this a clean package, and we will confer with those committees and those Senators is due course about provisions that are extraneous and subject to what we call the "Byrd rule," which is a rule that says, essentially, matters that are really not deficit reduction can get taken out of here, and those who want them in have to get a super majority to keep them. That will occur in due course.

My third point is that a number of Senators have asked us where is the reform and enforcement part, the reform of the processes and the enforcement provisions. They are not in this, Mr. President, because there was no committee that could be instructed to do that.

So later in the day, hopefully, we will have completed with the leadership, the chairman and ranking member of the Budget Committee, and others who were interested in the summit reform activities, and we will hopefully have a major amendment to offer on the floor of the Senate. Certainly, we are hopeful that the distinguished chairman of the Appropriations Committee, Senator BYRD, is on board, and we are trying to see that the package is what he understands it to be.

So those who are worried about voting for this package, without some reform and assurance that the deficit will be reduced and we will not just spend the money, you will have an opportunity to vote on that reform before you have to vote on this package.

Obviously, I want to say here and now, if a whole new enforcement process building credibility into our activities is not adopted, count me out. There are a number of things in this package I would like to take out that are extraneous, but I support the substance of this package. It is bipartisan and it is fair.

I will try in my own simple way to dispose of the notion that we are not taxing the wealthy enough in this package for deficit reduction, because we are. In fact, as a general statement, the wealthy in the United States will pay more in new taxes under this proposal. Let me repeat it. The wealthy of the United States will pay more under this proposal than they do under the so-called Democrat package in the House. This bipartisan one imposes more taxes and, I think, in an orderly and reasonable way and somewhat more progressive upward than in the House package.

It does not have the removal of indexing of taxes for middle-income America. It does not permit bracket creep to start again. One of the most devastating aspects of the income tax for middle America was bracket creep with inflation. We did not adjust for inflation, and obviously we were collecting taxes we never expected because, with inflation, people's incomes were going up, but it was not meaningful, but the brackets never changed. We did that. The distinguished Senator from Colorado [Mr. ARMSTRONG] leaves that as his legacy, one of the most significant things we have done. The House did away with that for a year and changed the deductions for middle income a bit. We do not do that in this package.

Having said that, let me conclude that I hope we can keep this package basically intact and send it to the conference with a bipartisan attitude of getting something this weekend or early next week so that we do not close down Government in the United States because of our inability to get things done. I do not agree with those who think we ought to close down Government in order to push ourselves to do what we ought to do. I may be alone in that. I do not support it. It does not come as anything new to Members on my side. I do not see that as an approach. For one thing, the working people in Government are only a little tiny part of our expenditures. The expenditures of two-thirds of Government go on while we in a rather vindictive way furlough people who are supposed to be getting their paychecks.

Having said that, let me say that I will for now say nothing more about the progressive nature of this other than what I have just said in general terms. But as the debate ensues, I will talk about dollar numbers, how much more the higher income people will pay under this. I do not think it is punitive at all, but it is more than the House-passed bill for the higher income. I believe it is in a rather fair way. We have been told over and over that what we were talking about here on our side was not progressive. It is. They say that the wealthy did not pay their fair share, not more, but their fair share. That is wrong. It does.

Now, Mr. President, one last remark. When we speak of $40 billion in the first year, $500 billion over 5 years, assuming the new process reform, the enforcement mechanism, the new caps we are going to put on that are enforceable, the pay-as-you-go that we are going to insist on for entitlements, and all the other things that are going to be in the reform package, if all of this occurs, then people tend to ask, do we not have to pass something next year to carry it out? No. We have to keep the agreement which is enforced by caps and other measures and change the laws which are changed in this package so that expenditures that would have occurred automatically will not occur. And that is where you get the package.

A portion of it is discretionary and principally for defense. Defense is coming down. Some might say, is that real? I think for the next 3 years it is as real as anything we have done because, if we get the reform package in, we will have three caps in each of the next 3 years, defense, domestic, foreign. You do not mingle them and you do not exceed them. If you exceed them, it is cut back. That is how you get the discretionary savings. And even in the fourth and fifth there is a similar provision.

So, obviously, if I were writing my own budget, if I were writing a budget, I would not write this one, but nobody else would either. Everyone would have a different idea, a different plan, a different approach. And I am very comfortable with Senators coming to the floor saying how they would do it. But I just remind everyone, unless someone can convince 51 Senators that what they want to do is what we ought to do, then it is nothing more than somebody's idea, somebody's wish. Clearly we want collective decisions; that is why we have a Senate. If we wanted one-man decisions, we would not have a Congress.

So it is very difficult to come into consensus, and I hope we are close to that, and I hope after a day's debate,

maybe long into the night tonight, we will do something right and historic and get on to conference with the House and perhaps end this agony, not only for us, but for our people. We ought to get it done.

Now, Mr. President, let me confer for one moment and I will yield.

Mr. President, I understand that Senator SYMMS, a member of the Budget Committee, desires to speak by way of opening remarks.

Mr. SYMMS. That is correct.

Mr. DOMENICI. How much time would the Senator like?

Mr. SYMMS. At least 25 minutes.

Mr. DOMENICI. I might say, could I yield 25 minutes off our side to the distinguished Senator? He is going to manage for our side.

Mr. PRESSLER. Will my colleague yield for a question?

Mr. DOMENICI. I will. Let me do one thing.

Mr. PRESSLER. I have a brief point of order I would like to raise. It will not take more than 2 or 3 minutes. I would like to do that now if I could.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KOHL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I believe that I have yielded myself 25 minutes off of the Republican side. Is that correct?

The PRESIDING OFFICER. Yes.

Mr. SYMMS. Mr. President, I would first like to say I know how hard the chairman and the ranking Republican worked to put this package together. If anyone doubts it, if anyone out in America is worried about this, this is the size of this legislation that was only put together yesterday—an 8-inch stack of legislation, that is now before us on the Senate floor. I have the utmost respect for both of my colleagues, and I worked very closely with Senator DOMENICI over the years on many issues and there is no Senator in this Chamber that I respect more. However, I have a different point of view on how this should be resolved. Mr. President, I am one of those Senators who has an idea on how the budget deficit ought to be fixed but probably do not have 51 votes to get it passed. That well may be the case, but I believe when the course of this week is over and the American people realize what is going on here in Washington, DC, my point of view may have a very good chance to prevail. Simply stated, my plan is to freeze the budget, and not spend any more money next year than we spent this year. If we do that, we have no need for all of these taxes that this package has in it.

Mr. President, I guess if I had one message for America it would be, "Grab your wallets and run for cover because Congress is getting up a head of steam to raise your taxes. They are going to tax your cigarettes, your alcohol, your gasoline and your insurance companies."

Yes, insurance companies. There is a tax in this bill that is going to decimate part of the insurance industry. It is a simple little thing called the DAC. What it does is force people to amortize the cost of selling insurance policies, to amortize them over 10 years instead of expensing these costs against current income. What it really is, Mr. President, is a phony bookkeeping process that takes the money away from the private sector and puts it into the hands of the Government so they can fund the welfare state, so they can fund the regulators, so they can fund the things of Government that somehow we have become to believe are so important.

Mr. President, in my opinion, when President Bush started out his campaign and said no new taxes, let's have a flexible freeze, he was right and that is still the right position for this country. This is still the best idea for our economy and that is a position that this Senator takes.

Sooner or later I think the Members of this Congress are going to catch up with the rest of the country to slow down this momentum for raising taxes. Part of this big package that I held up here, Mr. President, part of this huge package comes from the Finance Committee, which I am privileged to be a member. The Finance Committee, in my view, is one of the best committees in this Congress. Some of the best Senators serve on the Finance Committee. But I want to tell you what happened in the pressured atmosphere of the Finance Committee that instead of cutting spending, we were told to raise taxes to solve our fiscal problems.

The Finance Committee has added to this package a $142 billion tax increase; another $11.3 billion in additional taxes is disguised as spending cuts. Less than one quarter of the budget represents real savings or improved efficiencies in Government programs.

Yes, there will be some cuts in Government spending. It will be in the Defense Department. There will be cuts from the sinews of the Defense Department, when we have our young men and women in Saudi Arabia in harm's way right as we are speaking here. This does not make sense to this Senator.

In addition to this, under the original budget summit agreement, the various committees of Congress were directed to raise about $116 billion more in various user fees. These additional tax increases are hidden because they are scored as reductions. When user fees are combined with the Finance Committee's explicit tax increases it comes to a total tax increase of over $250 billion, maybe according to some estimates, up to $269 billion, one of the largest tax increases in our Nation's history.

It comes at a time when our economy is already struggling, battered by a credit crunch run up in the oil prices recently as the result of the Iraqi invasion of Kuwait. As a result, our economy is slipping into a recession. The recession may be over in a year, or it may last a lot longer. It may be a gentle slowdown in development or it may be a deep, precipitous collapse. We do not know how it will be, but the recession is clearly at hand.

There is no defensible economic theory which says that the correct policy in a recession is to raise taxes. You can talk to the Austrian school of economists and they will say do not raise taxes. In fact, the Austrian school economists normally will tell you, do not ever raise taxes. I happen to be in that school myself.

But you can talk to the supply-siders, and they will say do not raise taxes. You can talk to the Keynesians and they will say do not raise taxes at this time because we are going into a recession. The liberal, the conservative, the pragmatic middle-of-the-road iconoclast economists say the same thing: do not raise taxes going into a recession. Hold the line on Government spending.

In fact, Mr. President, yesterday I shared this information with my colleagues. I made the observation that I had come from my office, having had a meeting with the American Farm Bureau Federation, and their position has been all along that they want a flexible freeze of the budget and no new taxes.

The U.S. Civil Rights Commission came out with a statement yesterday.

The U.S. Commission on Civil Rights urges the President and Congress, in their efforts to reduce the federal deficit, to be fully cognizant of the importance of continued economic growth to the advancement of civil rights in this country. In bad economic times, black and Hispanic unemployment rates rise the fastest. In good times, a tight labor market encourages employers to cast a wider net when hiring, thus breaking barriers that have traditionally prevented minorities, women and persons with disabilities from gaining better paying jobs. Civil rights laws can do little to expand opportunities for members of historically disadvantaged groups when opportunities for all Americans shrink. Strong economic growth is important for creating a climate for effective civil rights policies.

Strong economic growth can also be a powerful force for cutting the federal deficit. A growing economy means more and better paying jobs, which expands the tax base. Policies that encourage savings and

entrepreneurial initiative create a growth dividend which will reduce the deficit.

The Commission recognizes that deficit-spending can stifle economic growth, and encourage deficit-reduction efforts. However, plans for balancing the budget that would also reduce the incentives for individuals to work, save, and invest are likely to be self-defeating. This is the great danger in trying to control the deficit through new taxes.

We therefore call on the President and Congress to adopt only those deficit-reducing proposals consistent with economic growth.

Now get this, Mr. President. This is the U.S. Civil Rights Commission.

Specifically, we recommend freezing real total government expenditure at the fiscal year 1990 level.

The Commission recommends that the President and Congress focus on developing policies that will spur both general economic growth and, in particular, growth in the depressed urban and rural areas of our nation.

In fact, this is one I know my friends on the Democratic side of the aisle would love.

For those who live, work and invest in the depressed areas of our inner cities, for examples, we urge cutting the capital gains tax rate to zero, establishing enterprise zones, and other social and job-creating initiatives to help restore economic prosperity to these areas.

But what is this Congress preparing to do? Just the opposite. Even the Keynesian school, the economic thought that reigned during the days of Franklin Roosevelt, tells us to cut taxes, just the opposite of what this Congress is heading to do. Everyone is telling us to not raise taxes.

Our time is a parallel to what happened in 1932. A great man, Herbert Hoover, a fine person, following the collapse of the stock market and clear signs of recession decided the best policy to get the Nation's fiscal house in order was to raise taxes.

His decision was a tragic mistake. History, I think, has pretty well proven that it was a mistake to raise taxes during a recession. What could have been a slight recession, because the business cycle still thrived and could have pulled through, became a deep depression that could have probably been avoided.

The expectation at the time was that tax increases would reduce Government borrowing, relax the string on the credit market created by the policies of the Federal Reserve and thereby reduce interest rates. Congress, while spending months wrangling over the details of the tax increase, did not question the need for the increase, the prime factor that contributed to the Great Depression.

It sounds just like today, in every sense. As Hoover related to 1932, relate our present situation to President Bush in 1990—when the President agreed to put taxes on the table, the argument here has been who to tax, not whether or not to tax.

I am saying, Mr. President, in my opinion what we need is no new taxes, and a freeze on Government expenditures.

A lot of my colleagues are saying, "Oh, but if we do not pass this bill, we may have a sequester." The only place you are going to mind having a sequester is inside the Beltway. Most of the rest of the people in the country that live and work and pay their taxes would like to see the Government restrained, held back. Most pollsters show, if you check their attitudes they say, 75 percent of the American people think the budget problem should be restrained and fixed by a gentle holdback of the spending.

We do not have to fire all the people. It does not have to be Armageddon. It simply means we cannot allow the expansion of Government programs.

I think the idea that we need to raise taxes in a recession to cut our budget deficit and thereby lower interest rates has two fatal flaws. A tax increase, first off, is not needed to reduce the deficit. If we simply hold the line on last year's levels the deficit will fall by over $70 billion due to the natural growth in revenues. That is without any legislated tax increase, right now. If we want to cut the deficit by twice the amount proposed in the budget agreement we can do it without a single cut in spending. In other words, $76 billion is the estimate of savings if we just spent at last year's level. That would do more than the budget package.

The second flaw is the idea that cutting by $40 billion will lower interest rates. Reducing the deficit by a few tens of billions of dollars in the context of a $5 trillion economy and global economy many times that size simply does not cut it. It is like a few pebble waves out on the ocean. It is like throwing a little rock out on a pond. It makes a little blip but that is all.

The facade of a budget agreement with a loose fiscal policy of raising taxes and continuing the spending machine of the Federal Government will only allow the Federal Reserve to lower short-term interest rates. They cannot control long-term rates. Since long-term rates are dictated by long-term expectations, long-term rates will only increase once the public discovers the lie of deficit reduction by this package. That will make the yield curves further apart and make the dollar weaker.

This will put the United States in a policy of following the Brazilian and Argentine models. Those are two nations in South America that have massive resources; they should by all standards of the world be wealthy. The fact is in 1945 I believe Argentina had the highest per capita income of any nation on Earth. We would have thought they would all be wealthy people today but because their government policies in those countries have been so poorly managed, the government managed to see the people have a great deal of poverty despite great resources. That is what we should try to avoid here in the United States.

We have many assets in our favor but one of the things we should not think we can do is artificially drive down the short-term interest rates unless the markets believe the long-term rates are going to drop down. It puts the Fed in a very precarious position of trying to encourage foreign investment in this country, and I believe that will happen is it will work just the opposite of what most people in the Congress, who are well intended, expect to have happen.

The budget deficit, Mr. President, for those who espouse the interest rate argument, is expected to increase by about $130 billion from fiscal year 1990 to 1991. That means if interest rates are affected significantly by the budget they would be driven up by the budget agreement documents, not down. And if proponents of the interest rate theory really considered the argument in detail in the face of recession, I believe it would be irresponsible to accept a paltry $40 billion in deficit reduction.

I want to say it again. What the American people are crying out for is for us to hold the line on spending. Have a flexible freeze. Keep the airlines flying, keep the FAA working, keep the meat inspectors working, but go through all the other areas of the Government's budget and cut out the waste, reduce the spending, freeze the budgets.

Look at the legislative appropriations for the House and Senate, we do not have to look any further than that. We could very ably run the Congress on 10 percent less money than we have. I challenge anybody to refute that. There is not one Senate office or one committee staff or one House office or one House committee staff, or the whole apparatus of the operation of the Capitol, where we could not do things to save money. Slightly reduce travel. Reduce payrolls slightly. Maybe close an office here and there throughout the United States.

Look at the offices that we as Senators have around the country. Maybe we would each have to close an office here or there. But it would save enough money to make a real dent in the operation of the U.S. Senate and the House. And we ought to cut the White House budget also. Hopefully next time they have a summit agreement they will be more willing to look at other parts of the government and

not take increased taxes for the only answer.

That brings me to another point I want to make here this morning. We find ourselves, in my view, in this predicament because Congress convinced the White House that the only way to deal with the budget was to convene a summit. In my opinion, Mr. President, the purpose of the summit was to hide the budget deliberations from the public eye, to allow proposals to be advanced and adopted without the public knowing whose fingerprints were on them. I do not condemn my colleagues who were part of the secret summit. I do not say I envy those people who had to be there. I am not sorry that I was not there.

I do not know whose idea it was, but I suggest the idea that under the shelter of anonymity people could put forth these so-called tough proposals probably came from someone who had not been elected to office. It probably came from someone who was appointed in the administration or something, who thought somehow we can go behind closed doors, we will come out with this perfect budget, we will get the Democrats and Republicans to sign off on it, then we will go down to the Congress and wham, bam it will pass.

That is not the way it works, Mr. President. This is a grassroots country. The people have a say. The problem is it was brought out to the Congress on a take-it-or-leave-it basis.

The President and majority leader went on television and did their best to encourage the American people to voice their support for the package. I can tell you what happened in my office. People expressed themselves but they did not express themselves in support for the package. Then the summit agreement, of course, went down to defeat.

During the process the package was presented to the American people on a take-it-or-leave-it basis and, guess what? They said leave it. We do not want the package. We do not want our gas taxes raised. Raising the gas taxes in the West, as the distinguished Senator from Montana pointed out in the Finance Committee at 2 in the morning last Friday night is devastating on Montana. It is devastating on Idaho. It is regional. It kills us in the West who have many, many miles to drive and, because of inclement weather, often have to drive less efficient four-wheel-drive vehicles to get to work. It is an absolute outrage this could be presented to Congress.

I will divert from my opening remarks, Mr. President, and say that at the appropriate time this Senator is going to offer an amendment. In fact, I have two amendments to this package. The first one is to strike the gas tax completely, the fuel tax. Strike it from this package because it is unfair, it hits the working people, it is unfair regionally to the West, it is unfair to rural America as opposed to urban America. It is a regional area tax that is not evenly or fairly distributed on the American people. This Senator wants to see a record vote on that. I do not believe the votes are here in the Senate, if a record vote comes, to keep a 10-cents-a-gallon gas tax in this package.

Second, if I am wrong and I lose that vote, I intend to offer a second amendment. I hope I do not have to offer it but if the first one passes I will not have to offer the second one. But if I fail on the first amendment I am going to offer an amendment that all the motor vehicle tax quotient of this bill goes into the highway trust fund.

If this package passes the way it is written, you can kiss good roads goodbye in America, Mr. President. This will be the demise of a good user-fee-supported highway system that we have worked so hard for the last 30 years to develop in the United States of America. It has taken a lot of work and a lot of effort by the people, all the way from Dwight David Eisenhower, Jennings Randolph, our former colleague here, and thousands of other Americans, to make it work to have a user-fee-supported highway system in America.

But if we start taking money to feed the bureaucratic welfare state out of the highway fuel taxes to have more big government, I can tell my colleagues what is going to happen. We will have more potholes. We ought to call this bill the potholes bill of 1990.

Mr. President, most of this bill was written behind closed doors. I think that my colleagues on the Senate Finance Committee will vouch for that. A lot of this was done by two or three leaders, who we all respect, of our Finance Committee. Then it was put before the Finance Committee behind closed doors. When we would try to bring up amendments they would say: "Cannot take amendments. We are all locked in."

Maybe I would do the same thing if I was chairman. I know my colleague from Montana was upset and expressed his frustrations. The Senator from South Dakota, who is on the floor, has also expressed his frustrations. The Senator from South Dakota is frustrated about the fact we worked for years to fairly treat the donor and donee States. That is what the freeway system is, a national highway system that treats everyone fairly.

Also, this bill tampers with the formula of distribution among the States. When I was chairman of the Highway Committee, Mr. President, during the early eighties, we put a minimum floor in so that every State got back at least 85 percent of what they put in the highway trust fund. That was a big compromise for States like South Dakota, Idaho, Utah, Wyoming, and Montana. It was a big compromise. We made big accommodations to try to make the program fair and recognize that we were coming to the completion of the interstate program.

But all of a sudden in the dark of the night, in the secret of summiteering, we find out that there is a formula in this bill which changes the pattern, changes the formula and raises the floor for the States.

Mr. PRESSLER. Will my friend yield for a question?

Mr. SYMMS. Mr. President, I will yield only for a question, but not for any other parliamentary matters.

Mr. PRESSLER. I ask my friend if my amendment which I have spoken on the Senate floor about to strike that section would be beneficial to small States? Is it true that the amendment I have filed and have talked about on the floor would resolve that problem, to give the power to the Environment and Public Works Committee?

Mr. SYMMS. As the Senator understands it, yes, it would. In fact, it would be beneficial to about 30 States in the Union. I think the Senator's amendment would not only be fair to the 30 States in the Union, that is, the small States, like South Dakota, with a small declining population, long road miles, but it would also, I think, be fair to the rest of the country in terms of the fact that the Environment and Public Works Committee has worked on this formula question throughout the period of years since the inception of the Federal Highway Program during the years of the Eisenhower administration. We have constantly modernized it, updated it, and tried to make it fit the needs of the Nation. For us to do this in secret summiteering I think sets a very bad precedent. It weakens, I think, the opportunity for the representation of the American people to have a sound, fair highway system.

Mr. President, I think my time has expired. I yield myself 5 more minutes to complete my remarks.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator has that right.

Mr. SYMMS. Mr. President, I want to say that the rallying cry of the tax-and-spend crowd now has become tax the rich. Certainly, many people, though certainly not all, agree with the ability to pay proposition; that is, that the wealthy people should pay a higher total tax than the middle-income people. I would like to give some figures.

If there has ever been a fraud perpetrated—and I have to compliment the majority leader and Speaker of the House, both of whom I have high respect for, for the job they have done to sell this proposition to the Ameri-

can people that somehow the rich do not pay any taxes.

Mr. President, under the current tax system, the top 1 percent of the taxpayers earn 13.4 percent of all income and pay 24.8 percent of the Federal income tax. The top 5 percent are 28 percent of the total income and pay 44 percent of the income. The top half of all taxpayers earn 86 percent of all income and pay 94 percent of the tax.

I call my colleagues' attention to the article in today's Washington Times newspaper, by Warren Brookes, "Stomping the Rich." I ask unanimous consent that at the end of my remarks this be printed in the RECORD, with the combined table.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SYMMS. Mr. President, what this points out is that the trends of the 1986 Tax Reform Act are that the wealthy people in this country are paying more taxes than they have ever paid before. These are IRS figures just recently released on 1987–88 tax returns, that show in a summary now that the distribution of total income tax burden for those with incomes over $100,000, those people are paying, 36.4 percent of all taxes. During the 1980's period of growth, these people's share grew 76 percent of where they used to be pre-Ronald Reagan: Those over $50,000 are now paying 62.9 percent of all the taxes. Under $50,000 pays 37 percent.

The point is, Mr. President, that our tax system does already tax—it is like the old question when they asked Willie Sutton why he robbed the bank. He said that is where the money is. The same thing is true with the tax collector. This package has all kinds of excise taxes that are going to hit across-the-board, rich and poor alike and, in my view, is unnecessary at this point in time.

In summarizing my remarks, I say, again, to the American people, now is the time to grab your wallet, run for cover, get the ballot box out and start comparing how the people in Congress vote and how these bills come out on your tax increases and start watching because, in my opinion, we are playing Russian roulette with the American economy to be doing anything other than controlling spending. In fact, this budget's saving will not be savings at all. Why? Because the President's man, Jim Brady just asked this week for an additional $50 billion to bail out saving and loans. This $50 billion will more than wipe out the $40 billion in 1991 savings put forward by this budget package before us.

No, Mr. President, this budget will not lead to a balanced budget as it proposes to do. Moreover, every economist in the country, every business leader in the country will tell you the problem is spending, spending, spending. Somehow it turns out it is easier to divert the argument from spending to whom are we going to tax. Then the strategy becomes, tax someone and try to make it look like, "Oh, I didn't want to do that but I have to vote for this bill because we just cannot get by without it."

Cannot get by without what? Cannot get by without $1,150 trillion? We have $1,150 trillion in the Treasury now, or close to that. The revenue flow to the Treasury has been growing every year. We have so far $1,100 billion in revenue and people are saying that is not buying us enough government.

Look out America. Congress is getting up a head of steam to raise taxes and neither facts nor reality seem able to slow it down. What will certainly slow down further if the Congress continues down this path is: our economy.

The Finance Committee has contributed to this headlong tax increase, $11.3 billion in additional taxes disguised as spending cuts, and $5.3 billion in additional, new spending. Combined with the other elements in the budget, less than one-quarter of the budget represents real savings or improved efficiencies in Government programs.

In addition, under the original budget summit agreement the various committees of Congress were directed to raise about $116.2 billion in various user fees. These additional tax increases are cleverly hidden because they are scored as spending reductions.

When combined with the user fee increases, the Finance Committee's explicit and disguised tax increases bring the total tax increase to $269.6 billion, one of the largest tax increases in our Nation's history. And it comes at a time when our economy is already struggling. Battered by a credit crunch and the recent runup in oil prices as a result of the Iraqi invasion of Kuwait, the economy is slipping into a recession. The recession may be over in a year, or it may last much longer. The recession may be a gentle slowdown in growth, or a precipitous collapse like the recession in the early 1980's. But a recession is clearly at hand.

There is no defensible economic theory which says the correct policy in a recession is to raise taxes. Not from the left, not from the right, not from the past, nor from the present. Not one.

The monetarist, supply side, and neoclassical schools all tell us the correct response to a recession is to cut spending to free up resources for more productive uses and to cut taxes to reduce the straitjacket Government imposes on investment, work, and growth.

Even the now discredited Keynesian school tells us to increase spending and to cut taxes, exactly the opposite of what the Finance Committee is reporting out.

The one prescription each of these schools agree on is that the correct policy in a recession is to cut taxes, not to raise them.

So, what ghost of a theory is propelling these Halloween tax increases through the Finance Committee and the rest of Congress? The evidence points to the Depression economics of Herbert Hoover. In 1932, following the collapse of the stock market and in the clear signs of recession, Herbert Hoover decided the best policy was to get the Nation's fiscal house in order by raising taxes. Mr. Hoover, a fine man, was tragically mistaken, as events quickly proved.

The expectation at the time was that the tax increase would relax the strain on the credit markets created by the policies of the Federal Reserve and thereby reduce interest rates. Congress, while spending months wrangling over the details of the tax increase, did not question the need for such an increase. While many factors contributed to the Great Depression, no one questions that the Hoover tax increase made a bad situation worse. Yet here we are getting ready to repeat the tragic mistake of 1932.

Today's argument—and that may be too strong a word—for increasing taxes traces its intellectual heritage directly to the Hoover tax increase. The full statement of this argument runs as follows: Raising taxes in a recession is necessary to cut the budget deficit and thereby lower interest rates.

There are two fatal flaws with this theory. First, a tax increase is not needed to reduce the budget deficit. If we simply hold this year's spending at last year's levels, the deficit would fall by about $76 billion. That is, even without a tax increase we could cut the deficit by nearly twice the amount proposed in the budget summit agreement, and we could do so without a single cut in spending.

The second flaw is the idea that cutting the budget deficit by $40 billion will lower interest rates. The effect on interest rates of reducing the deficit by a few tens of billions of dollars in the context of a $5 trillion economy, and a global economy many times that size, is like a pebble's waves on the ocean surface.

Proponents of the interest rate argument are not even consistent. Even with a deficit reduction package of $40 billion, the budget deficit is expected to increase by about $130 billion from fiscal year 1990 to fiscal year 1991. This means that if interest rates are affected significantly by the budget deficit, they would be driven upward by the budget agreement targets, not downward. If proponents of the interest rate theory really considered their argument in detail, in the face of a re-

cession it would be irresponsible of them to accept a paltry $40 billion deficit reduction package.

We find ourselves in this predicament because the Congress convinced the White House that the only way to deal with the budget was to convene a summit. The sole purpose of the summit was to hide the budget deliberations from the public eye and to allow proposals to be advanced and adopted without the public knowing whose fingerprints were on them. The secret summiteers did not have the courage of their convictions to defend their ideas in public debate, so they sought the shelter of anonymity.

The agreement was presented to the Congress on a take-it-or-leave-it basis. The President and the Senate majority leader went on television to encourage the American people to voice their support for the package. The American people expressed themselves, all right. Well over 90 percent of the calls we received were in strong opposition to the budget agreement. Our experience seems to have been typical, and so, despite the exceptional efforts of the secret summiteers, the agreement went down to defeat in the House of Representatives. It was a take-it-or-leave-it deal, and the American people shouted: Leave it.

The package put together in the Finance Committee has been accurately described as the budget summit agreement with softened edges. In fact, the leadership of the Finance Committee took the budget summit agreement as its starting point and then began a committee minisummit.

The committee leadership has met numerous times, all behind closed doors. Members caucused numerous times, all behind closed doors. The package was then presented to the whole committee for discussion and informal markup, again behind closed doors, and with a clear leadership understanding that Members' amendments would be opposed—the fix was in.

These informal discussions are not necessarily or always bad. But there comes a point where public hearings, and public discussion and debate are essential to safeguard the democratic process. When the entire legislative process is done out of public view, it not only conflicts with our national values and traditions, but it breeds the kinds of legislative disasters for which the Congress is rightly scolded. The reconciliation tax bill the committee has reported out may turn out to be one of the best examples of a late-night, closed-doors disaster that we have seen.

The rallying cry of the tax-and-spend crowd has become: "Tax the Rich." Many people, though certainly not all, agree with the ability-to-pay proposition; that is, that the wealthy should pay a higher total tax relative to their income than should middle-income taxpayers and that middle-income taxpayers should pay more than lower income taxpayers. But it is fair to wonder if enough is not already enough.

As the table below describes, when measured by income levels, under our current tax system the top 1 percent of taxpayers earn 13.4 percent of all income and pay 24.8 percent of the Federal income tax. The top 5 percent of all taxpayers earn 28 percent of the total income and pay 44.8 percent of the tax. The top half of all taxpayers earn 86.4 percent of all income and pay 94.6 percent of the tax. A tax system in which the top half of all taxpayers already pay almost 95 percent of the tax while the bottom half pays about 5 percent is not merely progressive, it is punitive.

Income percentile	Percentage of total income earned	Percentage of total tax paid
1 percent	13.4	24.8
5 percent	28.0	44.8
50 percent	86.4	94.6

While the package the Finance Committee is reporting out isn't as extreme as other proposals floating around the Capitol, it clearly achieves the tax-the-rich goal. For example, the package includes a provision that reduces by 5 percent of their adjusted gross income the itemized deductions that may be taken by individuals with incomes over $100,000.

The effect of this provision, much like the effect of the so-called bubble, which results from phasing out personal exemptions and the 15-percent tax rate for upper income individuals, is to increase the effective top tax rate by about 1.67 percentage points. The effective top income tax rate, therefore, has been raised from 33 percent to almost 35 percent. Ironically, after all the opposition from the White House over the bubble and preserving the existing tax rate structure, the Finance Committee has managed to slip in a higher tax rate.

The charities are strongly opposed to this proposal, and for good reason. For, although the 5-percent limit is low enough so as not to affect most individuals' decisions as to whether and how much to give, it is not hard to read the writing on the wall. Over time, the 5-percent rate will be raised, first to 8 percent, then to 10 percent, then to 50 percent, and so forth. And while the rate increases, the threshold will fall to $90,000, then to $75,000, and so on. And with each change, more and more Americans will become discouraged by the tax treatment of charitable giving.

The rich are also the primary target of the tax on luxury items. There is no policy reason to support this new tax. It is just a convenient means to hit up higher income individuals for another $2.1 billion. These are not so much luxury taxes as envy taxes; it is the codification of covetousness.

The Finance Committee has given upper middle income taxpayers a higher tax rate as well. Currently, both employers and employees pay a 1.45-percent hospital insurance [HI] tax on gross wages to fund Medicare, along with a 6.2-percent tax to fund Social Security. In each case, only the first $51,300 of wage income is subject to tax under current law.

Under the Finance Committee proposal, the wage cap for the HI tax is raised to $89,000. Since the employee pays all of his tax, and much or all of the employer's share of the tax, this proposal is equivalent to raising the income tax rate of a very large number of taxpayers from 28 percent to almost 31 percent, and another tax rate increase is slipped in through the back door to raise $19 billion.

The rich aren't the only ones offered the opportunity to pay for Congress' inability to restrain spending. For example, even though the price at the pump for a gallon of gas has increased over 27 cents since the Iraqi invasion, the Finance Committee has decided to raise an additional $42.6 billion by more than doubling the gas tax.

The gas tax was originally levied under a compact with the American people that the funds raised would be placed into the highway trust fund to be spent on transportation infrastructure such as highways, bridges, tunnels, and mass transit. The Hooverites on the Finance Committee have broken this compact because only half of the money raised by the gas tax increase goes into the trust fund. The other half goes to deficit reduction.

Having broken faith with taxpayers, the committee may be criticized as well for counting the taxes that are deposited into the trust fund as deficit reduction. Clearly, taxes raised to be spent will eventually be spent, and so it is disingenuous to count the increased inflow into the trust fund as deficit reduction.

The biggest tax increase on businesses falls on the life insurance industry. Whatever the technical merits of the proposal, the effect of this $8 billion revenue grab is nearly to double the industry's taxes overnight.

According to the Finance Committee, the rich would seem to be anyone who works for a living, drives a car, has a small business, drinks wine or smokes cigarettes, buys life insurance or works for a life insurance company, or has a telephone.

Some Senators intone gravely that we may be playing Russian roulette with the economy if we don't get our budget deficit under control by raising taxes. The reality, however, is that

this package is the economic version of the Dark Ages medical practice of bleeding the patient to effect a cure. Applying the tax leeches to the American economy may well worsen the biggest budget buster of all—recession. And next year we could be facing a budget dilemma that makes this year's deliberations look like a cakewalk.

EXHIBIT 1

STOMPING THE RICH

(By Warren Brookes)

In the last few months, Americans have been treated to the greatest orgy of rich-bashing since Vladimir Lenin led the revolutionaries onto the barricades in 1917.

Broadcast talk shows now reveal most Americans think the rich in this country pay very little taxes, and are paying less every year, at the expense of the poor and middle class.

This incredibly false notion is being fed with gusto by the Democrats in Congress and their friends in the media, like Sam Donaldson, who was massively offended last Sunday because the new Senate tax proposal "only" adds $29 billion to the tax burden of those over $100,000.

But then Mr. Donaldson has never been one much troubled by facts, and apparently the public is in no mood for rational discourse in this already deeply poisoned debate. For anyone interested in the truth, the reality could not be further separated from the rhetoric.

If you doubt this, we ask you to consider the 1987 and 1988 income tax return data recently released by the Internal Revenue Service. Not only do the data show the massive concentration of the income tax burden on the top taxpayers, but they demonstrate conclusively that virtually all the growth in income tax revenues is now coming from the top 13 percent of the taxpayers, and nearly 77 percent of it is coming from those over $100,000. (See Table).

In 1988, total income tax collections rose by $47 billion over 1987, from $369 billion to $416 billion, a 12.7 percent rise—reflecting the strong, pre-Bush economy. Yet in that 1988 year, the taxes paid by the income groups under $50,000 (representing 87.3 percent of the taxpayers) rose by only $1.9 billion, or only 4 percent of the total increase.

Furthermore, that 87.3 percent of all taxpayers paid only 37.1 percent of the total income taxes collected, and in real terms their tax payments have actually been going down every year. And 1988 was no exception: The real tax payments (after inflation) for the bottom 87 percent of all taxpayers fell by another 2 percent, on top of a 10 percent real drop in 1981–87.

This means that 96 percent of the entire 1987–1988 increase was paid by the top 13 percent of the taxpayers, who accounted for nearly 63 percent of all income taxes paid. Their tax payments rose 21 percent in 1988, or a real rise of 17 percent. It is hard to imagine a more steeply progressive tax burden than that, or a more steeply progressive trend.

The bellyaching coming from average taxpayers over the alleged "tax breaks" for the rich represents an appalling level of ignorance from a class of taxpayers who have seen their income taxes go down massively (nearly 15 percent) in real terms over the last nine years, even as the taxes paid by the wealthy have in fact soared at their fastest growth in at least three decades. From 1981–88, the taxes paid by the top 5 percent rose in real terms by more than 70 percent while GNP grew less than 24 percent.

Indeed, in 1988 the 2.3 percent of all taxpayers over the income level of $100,000, paid 77 percent of all of the additional taxes collected in 1988 (over 1987), even though this 2.3 percent's total share of the tax burden is already a massive 36.4 percent. Their actual tax payments rose 27 percent real.

In plain English, the 1986 Tax Reform Act made an already intensely "progressive" income tax burden still more progressive, with new taxes collected from the rich at double even their already high share of the current income tax burden.

Indeed, the highest target of the Democrats' revenge, the 65,303 taxpayers with more than $1 million in income, who represent only 6/100 of 1 percent (0.06 percent) of all the taxpayers, not only paid 10.5 percent of all the taxes paid ($44 billion) but paid 41.3 percent of the total revenue increase in 1988!

This means that the Democrats and their allies like Kevin Phillips are engaged in the most astonishing and destructive, not to mention irresponsible, level of distortion on this issue, and the result could be catastrophic for economic policy.

That is because simply slapping huge new 5 percent to 15 percent tax surcharges on everyone with an income of more than $100,000 (as House Democrats now propose) will not only be massively unfair in terms of who has actually been paying the rising tax burden in this country, but economically suicidal.

The vast preponderance of U.S. new job formation is the result of investment by those with incomes of more than $100,000, and whacking those incomes is attacking job creation and economic growth.

It is time to stop disgusting and ugly politics of envy and remember where Lenin led his people—right down the economic toilet.

1987–88 INCOME TAX TRENDS

Income class	Revenue growth 1987–88 (millions)	Percent of total growth	Percent of taxpayers	Percent of total burden
Under $15,000	−$765	−1.6	43.0	3.3
$15,000 to $50,000	2,611	5.6	44.4	33.8
$50,000 to $100,000	9,018	19.2	10.4	26.5
$100,000 to $1,000,000	16,661	35.5	2.2	25.9
$1,000,000 and over	19,381	41.3	0.06	10.5
Total	46,906	100.0	100.0	100.0
Summary:				
Under $50,000	1,846	4.0	87.4	37.1
Over $50,000	45,060	96.0	12.6	62.9
Over $100,000	36,042	76.8	2.3	36.4

Source: IRS statistics of income, spring 1990.

Mr. PRESSLER. Parliamentary inquiry.

Mr. SYMMS. I yield the floor.

Several Senators addressed the Chair.

Mr. PRESSLER. Parliamentary inquiry; parliamentary inquiry.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. Does the Senator yield the floor for a parliamentary inquiry?

Mr. SASSER. I yield only for a parliamentary inquiry.

Mr. PRESSLER. Mr. President, I have a point of order which I would like to raise at this time.

Mr. SASSER. Mr. President, that is not a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Tennessee has the floor.

Mr. SASSER. Mr. President, I have listened with interest to the remarks made here this morning by the distinguished Senator from Idaho, a valuable member of the Senate Budget Committee. I must say that I cannot agree entirely with a number of the assertions which have been made this morning by my distinguished friend.

Mr. President, the Senator from Idaho raised the point—and I think a valid point—that this is perhaps not the most opportune time for us to be raising revenues given the state of the economy. This economy, according to most of the indicators, is either teetering on the brink of a recession or is, indeed, in a recession at the present time. So why should we be looking at a deficit reduction package today that would reduce the deficit by over $40 billion in fiscal year 1991 and by almost $500 billion over the next 5 years?

We do so, Mr. President, because we are forced to do so. We have absolutely no alternative. We are seeing a virtual explosion in the Federal indebtedness and in the deficit that this Government is now carrying.

Some of us approached leading representatives of the new administration as they came into office right after President Bush's inauguration and made the case to them that we needed to embark on a program of significant deficit reduction, and it needed to be done then—and now—when the economy was doing well, when the economy was expanding.

We were rebuffed in those overtures and told that it was not time to take the measures that needed to be taken—perhaps at a later date but not yet.

Some of us retorted that if we continue to wait we are going to see this business cycle, which is already very mature, begin to curve downward; we will see the deficits get up even further; that will not be the opportune time to come with a significant deficit reduction package.

Again we were rebuffed, and the effect at substantial deficit reduction was put off once again, even though these same officials realized that something was going to have to be done about the deficit.

How did we get into the present posture?

The proximate cause of the explosion in indebtedness that we have seen over the past decade is the result of two things: One, the supply side tax cut of 1981. According to the statistics of the Office of Management and Budget—and bear in mind, Mr. President, at the time, this was President Ronald Reagan's Office of Manage-

ment and Budget—as a result of that tax cut of 1981, the so-called supply side tax cut, the Federal Government lost $1.414 trillion during the decade of the 1980's, an unprecedented hemorrhage of Federal revenue.

In essence, the revenue base of the U.S. Government was reduced by 20 percent over the period of the 1980's. Superimposed on top of that was the largest military buildup in the peacetime history of this country; indeed, a military buildup that even surpassed the buildup during the course of the Vietnam war.

As we were reducing taxes and depriving the Government of a revenue base to the tune of $1.414 trillion during the decade of the 1980's, we were increasing military spending in nominal dollars at about 50 percent.

Mr. President, that is what confronts this Congress, and that is the reason we are in the posture now of having to move in the direction of serious deficit reduction. That is the reason leading officials of the Bush administration knew when they took office that something was going to have to be done about this deficit, because we were literally mortgaging the future of this country to satisfy the need to meet the Federal debt payments.

We found over the past few months that there has been a virtual explosion in the deficit. It comes about as a result of two things: First, the economy is now starting to curve downward, just as some cautioned the administration it would do; second, there is an almost unprecedented need for Federal borrowing to deal with the disaster that has occurred in the savings and loan administration.

So that is where we find ourselves now as we hang on the edge of a recession having to move in the direction of significant deficit reduction.

The distinguished Senator from Idaho was quite correct in his assertion that this is not good for an economy which is coursing downward, but I would submit that because of the failure of the administration to act—we simply have no alternative but to do so.

Why do we have no alternative? Because we now find that the Federal deficit which the President told the American people in his State of the Union message in January was $101 billion and would be reduced to $64 billion by fiscal year 1991, and then it would go away, by the President's own statement of a few days ago in his White House address to the American people the deficit has mushroomed to over $300 billion. So we have no alternative but to try to deal with it now.

We are in a catch-22 situation. Why? Because we are financing a substantial portion of this deficit with funds that are borrowed from abroad, principally Japanese funds. We find now that as the American dollar continues to decline, as our economy continues to decline, as troubles start to appear in the banking structure and in the underlying insurance structure of our economy, foreign investors are looking elsewhere to invest their funds. They find that interest rates in Japan and interest rates in Germany and even the financial security offered by those two countries might be at least on a par or even preferable to that of the United States. So we see the option of financing our excesses from abroad starting to dry up on us. We are left with no alternative but to fall back on our own resources to try to finance this deficit.

The distinguished Senator from Idaho said why do anything; let us just go on with the sequester. He cited polls in which the American people said we want to see Government shrunk.

He said the American people would not care if we had a sequester. I submit that the American people might very well change their minds when they determine that the airplanes are not running on time, or in some places running hardly at all.

There might be second thoughts when there are air collisions because of not enough air traffic controllers, and people perish as a result of that. There might be second thoughts when we go back to the days before meat inspections were in the factories and in the meat packing plants, back to the days written about the muckrakers at the turn of the century, when people were eating meat from disabled cattle; spoiled meat. If we did not have the Government funds to keep the meat inspectors there, then we would see that people were really starting to care.

What about lack of Government employees to get out the Social Security checks or the Medicare checks? Certainly, I think we would see the people beginning to care then. I suspect we would begin to see a lot of citizens beginning to care if they saw the military establishment in this country reduced by sequester by as much as 30 percent, while we have almost 200,000 troops now deployed in the Middle East.

So sequester is not a rational alternative for us at the present time. If we went to sequester, it would mean a sequester of well over $120 billion across the whole spectrum of the Federal Government.

The distinguished Senator from Idaho addressed himself to reducing Government spending. He said that he found that to be a more platable alternative than the package we have before us. But I noted not one word was said about reducing defense spending.

I submit to my colleagues that when you spend a dollar to buy a B-2 bomber, that dollar is just as valid as the dollar you spend for child nutrition programs. And the dollar you spend to build a nuclear aircraft carrier depletes the Federal Treasury just as much as the dollar you spend for defense. And the dollar you spend to buy 155-millimeter howitzers depletes the Federal Treasury just as much as the dollar you spend for Medicare for our older people. But not a word was said about reducing defense spending in this budget package.

I thought, Mr. President, it was sad irony yesterday when the word came that the President of the Soviet Union was receiving the Nobel Peace Prize, and a majority of this U.S. Senate voted to expend tens of billions of dollars of taxpayers' money to buy more B-2 bombers. Who in the world are we going to bomb with those things?

My distinguished friend also indicated that the Members of Congress asked for a summit; that we wanted to get the administration in a summit so there could be anonymity as to what the results of that summit agreement were.

Well, the facts are that the President of the United States requested the summit. The facts are that this Senator said: I do not want to go to a summit. The facts are that the Senate majority leader, Senator MITCHELL, indicated he would go to a summit only with great reluctance.

But when the President of the United States summons the leadership of this Congress to the White House to discuss the economic mess that this country is in, to discuss the fiscal crisis that threatens the very health of this economy, what do we do? Of course, you go to the White House to discuss those matters with the President, and if he wishes an economic summit, that is precisely what the responsibility of the leadership to accede to the President's request is. That is what was done.

But I submit that it was not the Congress or the leaders of the Congress who wanted the anonymity of a summit. No.

I strongly suspect it was leading figures in the administration, perhaps even the Chief Executive himself, who wanted the anonymity of the summit so that when the summit came out with a budget summit agreement that had revenues in it—which every sensible economist in this country knew had to occur and every serious student of Government affairs knew had to be a principal part of any summit agreement—I suspect that there were officials in the administration, and perhaps even the President, that wanted to say this is something that had some kind of an immaculate conception: "We had nothing to do with it."

It was the administration that wanted the anonymity of a summit agreement to do what they knew had

to be done. Well, to the credit of the leadership of this Congress; to the credit of the distinguished majority leader, Senator MITCHELL; to the credit of the Speaker of the House of Representatives, Mr. FOLEY, they let it be known in no uncertain terms that they were willing to do their duty, but they wanted to have a sharing of the responsibility.

That is when the President finally, at long last, sort of slipped a piece of paper out from under the door to the waiting press, and said, "Oh, by the way; we are going to need some increases in revenue in this budget package."

Following that statement, then we saw the Chief of Staff rush over here to Capitol Hill to assure Members of the other party in the House of Representatives: Well, no, that probably was not the case at all. As if to say, "We did not want to do it, but the leadership, the Democratic leadership in the Congress, made us do it."

Mr. President, some statements were made about the tax policy: What sort of revenue policies we ought to have; who ought to be paying them. Just let me remind my colleagues of a few statistics.

According to the nonpartisan Congressional Budget Office, during the decade of the 1980's, the tax rate on the poorest tenth of our population increased by 28 percent, while the tax rate on the richest 5 percent was cut by 9½ percent. And when some of our colleagues in the House of Representatives try to call attention to that, they are accused of what? Class warfare.

I call my colleagues' attention to the fact that the bottom 30 percent in the economic brackets of this country were hit by double-digit tax-rate increases during the 1980's. Tax rates were increased on the bottom 60 percent of our population, and they were lowered on the top 40 percent.

The real disposable income of the poorest 10 percent of this population dropped by 8.4 percent during the 1980's, while the richest 5 percent experienced a skyrocketing 45-percent growth in real disposable income.

What we are saying in this package, what we are saying in a bipartisan way—and I want to say to the credit of the distinguished minority leader, Senator DOLE, who has been a leader in a lot of areas, and who is a man, I think, of proven courage, not only on the floor of this Senate, but in other fields of endeavor, also, the leadership of this Senate, working in conjunction with the Finance Committee, its distinguished chairman and ranking minority member—I think they have produced a fair and progressive revenue package. Is it the one that I would have produced? No. I would like to have one that is more progressive. I would like to have one that raises the top bracket. I would like to have one with no gasoline tax at all. I would like to have one with no reduction in benefits to Medicare beneficiaries at all. But they have done the best they could in a bipartisan way, and I think it is a fine product. In the final analysis, Mr. President, I am going to support it.

The time has passed for us to come to this floor to try to convince the American people that the problems facing this Government can simply be solved by doing away with the waste, fraud, and abuse. I have served in this body for 14 years, and I have not seen one line item in any budget dedicated to waste, fraud, and abuse, and I have looked hard for it. I cannot find anybody that is allocating funds to waste, fraud, and abuse in this budget or in any other. Sure, there are some excesses. There are excesses in any large human endeavor. And that is precisely what government is—perhaps the largest of all human endeavors. There are some places we can cut; there are some places we can save, and we have to continue to look for them. But to say that, by cutting here and saving a tiny bit there and cutting out a little duplication here, we would solve a problem that now amounts to over $3 trillion, simply, I think, Mr. President, to put it kindly, begs a question.

So although I think the Senator from Idaho has done the Senate a service in bringing some of these matters to our attention here this morning, I say that, on balance, I would have to agree with him on the substance to a substantial degree. What we have before us, I think, is a budget reconciliation bill that every Senator can proudly support.

Mr. President, I ask unanimous consent that I be allowed to yield 10 minutes to the Senator from Delaware, from the time under the control of Senator DOMENICI, for the sole purpose of an opening statement, and that I be recognized immediately at the close of that statement, without any intervening action.

The PRESIDING OFFICER. Is there objection?

Mr. PRESSLER. Reserving the right to object, I would like to speak on this for 5 minutes. I do not intend to offer an amendment or a point of order at this time. I have an amendment and a point of order to offer at the proper time, but I want to be able to speak for 5 minutes. I ask unanimous consent to do that at this moment.

Mr. SASSER. Mr. President, I am not controlling the time on the other side. I do have a unanimous-consent request pending with regard to the Senator from Delaware and, perhaps, by the time he has finished, Senator DOMENICI will have returned, and he can deal with that.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Tennessee?

Mr. BAUCUS. Mr. President, reserving the right to object, and I shall not object. I am inquiring if there would be an appropriate time that I could make a 5- or 6-minute statement, too, sometime this morning before the committee moves on to taking action on this reconciliation bill?

Mr. SASSER. Mr. President, we have reserved the time up to 12 o'clock for opening statements.

Mr. PRESSLER. Mr. President, I ask unanimous consent that I may speak for 5 minutes.

The PRESIDING OFFICER. The unanimous-consent request of the Senator from Tennessee is pending. Is there objection to that request?

Mr. HOLLINGS. Mr. President, reserving the right to object, I do not want to delay this. We are going to have to have more time than this 12 o'clock arbitrary time, it is quite obvious. And I am confident that the distinguished managers of the bill want to hear the opening statements of the Senators. We are going to have to go beyond 12 o'clock, and we want to know when our turns come, and on that basis I will not object; but I will be objecting until we can work something out and get some idea. I will wait my turn, but I would like to have a turn in making an opening statement.

Mr. SASSER. Mr. President, I say to my distinguished friend from South Carolina that we have 20 hours on the bill, as he knows, and I think we have probably used up about 1½ hours, so there will be ample time. What we are trying to do now, we reserved up to 12 o'clock for opening statements, and then Senators may make statements thereafter. The leadership has requested that there be no amendments offered until 12 o'clock. We are not precluding opening statements going on after 12 o'clock.

Mr. HOLLINGS. Just remember that some of us are around and have been waiting.

Mr. SASSER. I say, Mr. President, that we will put my friend on the list, and I ask the Chair to do so, also.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. I reserve the right to object, and I shall not object. I want progress to continue. I want to be remembered by my distinguished friend from Tennessee as one of those standing seeking recognition, and shortly, during the course of the noon-hour period, perhaps I could be recognized for approximately 10 minutes.

Mr. SASSER. Mr. President, the distinguished Senator from Arkansas will be remembered for recognition and for other well and good reasons.

Mr. PRESSLER. Reserving the right to object, Mr. President. What is the unanimous-consent request?

Mr. SASSER. The unanimous-consent request is that I be allowed to yield 10 minutes to the Senator from Delaware from the time under the control of the distinguished Republican manager, Senator DOMENICI—and now Senator SYMMS is on the floor—for the sole purpose of an opening statement; that I be recognized immediately at the close of that statement, without any intervening action.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, reserving the right to object. I am wondering if the manager of the bill would bend his consent to include the Senator from Montana for 5 minutes immediately following the 10 minutes allocated to the minority side.

Mr. SASSER. Mr. President, I would be pleased to do that.

Mr. PRESSLER. Mr. President, will the Senator yield 5 minutes to me following that?

Mr. SASSER. I would be pleased to. I might add that the time of the Senator from South Dakota would be charged to the time of Senator DOMENICI.

The PRESIDING OFFICER. Is there objection?

Mr. PRYOR. Reserving the right to object, so I can properly get in the line here, Mr. President. Immediately following that I request, since the Senator from Tennessee cannot yield time on that side, that I follow the distinguished Senator from Montana after his statement.

Mr. PRESSLER. Mr. President, reserving the right to object, could the acting Republican manager yield that time? I have been waiting all morning trying to get in a 5-minute speech. I am not going to offer any amendments or points of order during that time. I have been shut out here for some reason.

Mr. SASSER. Mr. President, in all fairness, I think we are operating on the basis of alternating back and forth. Senator SYMMS is representing Senator DOMENICI here, and what I suggest is that, following the opening statement of the Senator from Delaware, the Senator from Montana be recognized for an opening statement only, then the Senator from South Dakota be recognized only for an opening statement, then the Senator from Arkansas be recognized only for an opening statement. I do not want to leave the Senator from South Carolina out.

Mr. HOLLINGS. But you have.

Mr. SASSER. If no other Senator from the other side appears, we would go to the Senator from South Carolina, with the provision, Mr. President, that they be recognized only for opening statements and not for the purpose of calling up an amendment or making a point of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair, under the previous order, recognizes the Senator from Delaware for 10 minutes for an opening statement.

Mr. ROTH. I thank the distinguished Senator from Tennessee for his courtesy.

Mr. President, I have long opposed tax increases and promoted policies for economic growth, and I remain steadfast in my commitment today. Unfortunately, as the most recent edition of the prestigious British journal, the Economist, reported, in the budget process now under way, "Exasperation is the father of desperate solutions," and when Congress gets its tax increases, "The deficit will rise."

This is the truth, and as Frank Lloyd Wright was fond of saying, "The truth is more important than the facts." Both parties can bicker over the facts and try to hide deficit and tax increases in a smoke-and-mirror presentation to the American taxpayers. But in the end, the taxpayers know that unless we initiate real reform in our budgeting, rates will go up, Government spending will continue out of control, and the deficit will continue to rise. But how difficult will it be to realize real reform? Yesterday, the Democrats in Congress did not even allow the Republican "no-tax alternative" to come to the House floor for a vote. How can these Members of Congress begin to believe the public is not aware of the tax-and-spend game when they will not even allow the process of Government to protect the taxpayer?

Frankly, the folks back home are aware. They are well aware. They remember that Congress enacted tax increases in 1982, 1983, 1984, 1985, and 1987, all with the excuse of bringing down the deficit. And they remember the result: Today the deficit is larger than ever before.

Some would try to lay the deficit at the foot of the Reagan tax cuts, which sparked the longest peacetime economic expansion in the history of America. To those who oppose this tax cut I would only say, why do not you offer an amendment on the floor to revoke those tax increases? I have seen no one willing to do that. But, in any event, the folks know better. They know, as the Economist reported, it is "right to blame the deficits on higher spending rather than on lower taxes." This is the Economist reporting, and let me repeat, as the Economist said, "It is right to blame the deficits on higher spending rather than on lower taxes. Americans paid the same proportion—19 percent—of their GNP in Federal taxes in 1988-89 as they had done 20 years earlier, but Federal spending rose from 19.8 percent of GNP to 22.2 percent."

Again, that is the truth, and the taxpayers know it. They do not for a minute think they are undertaxed; they think the Government overspends, and it is here—on this side of the equation—where we are going to find long-term solutions to the deficit problem. Congress must responsibly cut spending. This is the only way the deficit can be brought under control. This is the only way it can be brought under control without plunging our economy into a recession.

To move forward with the Democratic budget proposals advancing on Capitol Hill—either of which would represent one of the largest tax increases in history—is no way to strengthen our teetering economy. Instead, we need policies that promote growth. We need incentives for the folks back home to save, to build families and homes, to invest, educate and prepare for retirement. We need capital formation for research and development, and to encourage risk taking and modernization of farms and factories. This is how we will compete throughout the nineties and into the 21st century. We cannot tax America into prosperity. It has not worked in the past; it will not work now.

The taxpayers know this, just like they know all this talk about tax fairness is euphemistic for tax increases that ultimately will affect everyone. I do not need to remind my colleagues that only 4 years ago, the 1986 reforms were hailed as the great equalizer between income classes—the great bill to restore fairness. Congressman ROSTENKOWSKI, the House Ways and Means chairman, stood in that body's chamber 4 years ago and said the 1986 Tax Reform Act was "the broadest tax bill ever written * * * (that) it reaches deep into our national sense of justice * * * (that) it is the great equalizer between income classes * * * (that it was) structured in such a way as to leave the new income tax system more progressive in every income range."

Today, 4 years later, we are hearing virtually the same thing with these new proposals. What I want to know is: did the old bill not work, or has Congress just come back to draw more blood? I do not need to remind my colleagues that even the so-called bubble was enthusiastically supported by Democrats—not to benefit the wealthiest taxpayers, but to actually increase progressivity of the Tax Code.

Tax increases in the eighties raised hundreds of billions for the U.S. Treasury. What these people in Congress are saying today is that despite the dramatic increase in revenues due to the Reagan recovery—and despite these additional increases—Congress cannot make do with the money it has—literally twice the revenue it had

in 1980, before the economic recovery sparked by Roth-Kemp.

Frankly, it is absurd to think the folks back home are believing this spoiled logic—that Congress cannot make do, and that these tax proposals are only going to hit the rich. They know that the taxes proposed by both the House Democrats and the Senate Finance Committee will end up squarely on the backs of the middle class. They know that as the deficit continues to climb they—the middle class—will be hit even harder. What is worse, Congress knows it too. The people drafting these bills are well aware that even if they took all the earnings of people making $200,000 a year and more, they would be able to run Government for only 20 days or so. Consequently, tax increases have to hit the middle class. They always have; they always will.

Even right now the House Democratic plan delays indexing and hits the middle class family with a tax increase of $300 a year, and this is just one bad provision that does not include taxes on cigarettes, alcohol, and others. On top of this, only 5 percent of our taxpayers are individuals or joint filers earning $70,000 a year or more. All the money of these 5 percent will not be able to satisfy Congress' insatiable appetite. Eventually the taxes on the middle class are bound to increase.

Real reform must come on the spending side of the equation. It must come through increased Government efficiency, by cutting waste, fraud, and abuse. The GAO reports that through effective management and efficiency, we could save $180 billion. One hundred and eighty billion dollars is not chickenfeed. And real reform must come through enforcement procedures that puts real bite into the budget process. Gramm-Rudman has turned out to be a fraud perpetuated on the American people to allow Congress to talk one game and vote another—a fraud that has allowed the biggest budget deficit ever. Real reform must also have provisions for emergency tax cuts to stimulate the economy, just as the current budget summit proposal has provisions for emergency spending.

The way out of the problem is clear, Mr. President: we hold the line on spending and promote growth incentives to strengthen the economy, and then let it help pull us out of the red. Under current law, Federal revenues are projected to increase an average of $64 billion annually, adding $320 billion to the revenue base by fiscal 1995. This should be enough to deal with the budget deficit, especially if the amount of spending growth is kept well within the annual growth of revenues—which should not be too difficult for a responsible Congress. This approach to the deficit would be good for family, good for business, good for the economy and even good for a Government that would have to concentrate on cutting waste, fraud and abuse and getting other spending under control.

It does not take great ingenuity to raise taxes or cut services. What takes ingenuity and commitment is improving productivity.

The PRESIDING OFFICER. The time allocated to the Senator has expired.

Under the previous order the Senator from Montana is now recognized.

Mr. BAUCUS. Mr. President, late last Friday night, about 12:30 in the morning, the Senate Finance Committee reported out its Finance Committee reconciliation package. Included in that package is a provision which changes the minimum allocation provision in the highway formula from 85 to 95 percent.

Such a provision is not within the jurisdiction of the Finance Committee. Also, it has no consequence in reducing budget deficit; it has no revenue effect. In short, it is completely extraneous to the reconciliation bill.

Consequently, late Friday night, Mr. President, I as a member of the Finance Committee, expressed this as one of my reasons for opposing the Finance Committee bill; I feel strongly this matter should be taken up, if at all, next year in the next Congress when reauthorization of the Federal-Aid Highway Program comes before the Senate Environment and Public Works Committee.

On Monday of this week, I also expressed here on the Senate floor, my opposition to the formula change.

Mr. President, earlier this morning, at about 9:30 this morning, I came over to the floor to also rise to speak for the purpose of making a point of order against the reconciliation bill; the minimum allocation change is extraneous to the budget bill and, therefore, should fall under the Byrd rule. I was told by the leadership that the leadership would prefer no amendments to be brought up before noon today and no points of order made before noon today. Consequently, I left the floor so I could come back at a later time and make my point of order.

Mr. President, I will make the point of order at a later time today. There are two ways to remove this heinous provision from the reconciliation bill. One would be a motion to strike. That takes 51 votes, takes a majority of the Members of the Senate to prevail. The other alternative to make a point of order is that the provision is extraneous under the Byrd rule. That is the action I will take a short time from now. And if the Presiding Officer agrees and rules that the matter is extraneous and falls under the Byrd rule, it then falls from the bill unless someone then moves to appeal the ruling of the Chair. Such a motion requires 60 votes.

This will be an opportunity for Senators to determine what road they wish to go down. Do Senators on this reconciliation bill wish to go down the road of adding in matters that are extraneous to budget deficit reduction, or do Senators wish to go down the road of respecting the integrity and authority of the authorizing committees?

I hope that Senators on this point of order, and particularly on a motion to waive, if such a motion is made, agree that we, on this budget reconciliation bill, will not consider an extraneous matter.

If we go down the road, either by allowing this minimum allocation provision to remain in the bill, or allow other provisions to be in this bill that are brought up on the floor here today, I strongly submit that we will be doing a disservice to the Senate, to the country, we will become entangled and we will have a budget reconciliation bill which will include matters that have nothing to do with budget deficit reduction. Frankly, I think this would do a disservice to the American people.

Mr. REID. Will the Senator yield for a question?

Mr. BAUCUS. Mr. President, I have very little time remaining, but I will yield to the Senator.

Mr. REID. I just want to ask the Senator a question.

The PRESIDING OFFICER. If the Senator will withhold, the Chair advises the Senator from Montana that under the unanimous consent propounded by the Senator from Tennessee, there were no time limits for other Senators to speak.

Mr. BAUCUS. Mr. President, under the unanimous-consent agreement, might I yield to the Senator from Nevada for the purpose of asking a question?

The PRESIDING OFFICER. The Senator can yield for that purpose.

Mr. REID. I say to the Senator, it is true that he laid out very well as a matter of fact why this reconciliation bill should not have extraneous matters on it. It is also true, is it not, that, just from a sheer point of equity and fairness, this should be upheld as a point of order; for that basis if nothing else, just on basis of equity, that is some 27 States are being treated unfairly? Is that not true?

Mr. BAUCUS. Mr. President, the Senator is absolutely correct. There will be 27 States who will lose if this provision is enacted into law. That is very unfair to 27 States who have not had the opportunity to debate the allocation formula in the due course of the highway funding bill which will come up on the next Congress.

The proper time to determine the fair allocation of the distribution of highway funds will be next year when the highway authorization bill comes up. It is unfair to States who lose, and 27 States will lose, for us in a reconciliation bill, without any opportunity to debate the matter in full committee that has jurisdiction, to have to have this issue forced upon us.

Mr. REID. Will the Senator yield for one more question?

Mr. BAUCUS. I yield to the Senator from Nevada for the purpose of asking a question.

Mr. REID. It is true, is it not, in the State of Montana, for example—I was there recently; I did not drive the highways—but it is true, is it not, flying over the highways, that in the State of Montana you have a very sparse population with thousands and thousands of miles of roadways that that sparsely populated State must maintain for people traveling through Montana? Is that not true?

Mr. BAUCUS. The Senator is absolutely correct. In fact, the State of Montana has the second-highest State overall fuel tax of the Nation. It is 20 cents a gallon for all motor fuels. So not only Montanans but people from California, from New Jersey, from Texas, from Florida, can go to Glacier National Park and Yellowstone National Park and drive on our highways. The Senator is absolutely correct.

Mr. REID. Does the Senator know which State has the highest gasoline tax?

Mr. BAUCUS. Because the Senator from Nevada asked the question, I have a pretty good idea what State that is.

Mr. REID. I thank the Senator very much.

Mr. BAUCUS. I thank the Senator from Nevada for his questions and for his contributions to this debate.

Mr. President, I will be very brief. I know other Senators may want to speak. Let me just reiterate the basic points.

The minimum allocation formula change that is in this reconciliation bill should not be in the bill. At a later time this afternoon I will make the point of order that that matter should fall, it is extraneous under the Byrd rule. It is extraneous because it has nothing to do with deficit reduction. It is extraneous because it is not within the jurisdiction of the Environment and Public Works Committee and has nothing to do with the reason why we are here today—that is, deficit reduction.

It is also unfair. It is unfair to 27 States who will have dramatically reduced highway funding allocations. The proper time to deal with this matter, Mr. President, is next year when the highway authorization expires and when the Congress and the appropriate committees in due course take up highway funding and highway authorization. That is when this should be taken up.

Mr. President, I will not at this moment list all the States which lose under the formula, but in my full statement I will include those States who will lose dollars under the proposed formula change. I very much hope Senators who will lose under this formula will support my point of order which will be made at a later time against this provision of the bill.

Mr. President, while this reconciliation package contains a number of controversial items, there is one particular provision I object to on both policy and procedural grounds. This item is both budget extraneous and clearly outside the jurisdiction of the Finance Committee, the committee reporting it—no hearings were held, no vote was taken.

This provision, section 7405(j), entitled "Apportionments With Respect to Increased Revenues" has nothing to do with reducing the deficit. It raises no additional revenues. And it has no effect on overall Federal spending.

Rather, this represents an abrupt attempt to bring about a controversial and significant change in the way Federal highway funds are distributed to the States.

More specifically, this provision would increase the minimum allocation—the minimum payback 19 States are currently entitled to receive from their payments into the Highway Trust Fund—from 85 to 95 percent.

Such a change is inconsistent with the concept of a national highway program—a program established to bring all Americans together.

My home State of Montana is large and sparsely populated. Yet we are also resource rich. Our land and people help meet a large part of this Nation's needs for such vital commodities as: coal, wheat, barley, beef, timber, oil and gas, and hard rock minerals.

With deregulation of the rail industry, we depend now more than ever upon our highways to get these products to market.

And, at the State level, we are taxing ourselves to death to maintain these roads. While some relatively rich States like Florida and Georgia, for example, have managed to keep their gas taxes below 10 cents, Montana's 20-cent-per-gallon tax on all motor fuels ranks as one of the highest in the Nation.

Despite these efforts at the State level, make no mistake about it, Montana is struggling to maintain its existing highway system.

Yet, before serious consideration of next year's highway bill has even begun, we are being asked to make a concession to more populous, more urban, and more economically diverse States. Mr. President, that's just plain unfair.

But it's not just States like Montana that lose under this proposal. This is one area where States as diverse as Montana, New York, Alaska, and Rhode Island have a lot in common.

According to the Federal Highway Administration, increasing the minimum allocation to 95 percent would result in a shift of over $3 billion away from the so-called donee States over the life of this budget agreement.

Under preliminary tables provided to the Environment and Public Works Committee, Federal Highways estimates the following 27 States will end up losing under this proposed change: Alabama, Alaska, Colorado, Connecticut, Delaware, Hawaii, Idaho, Iowa, Louisiana, Maryland, Massachusetts, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, West Virginia, and Wyoming.

Mr. President, I ask unanimous consent that these preliminary tables be printed at this point in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 91.—ESTIMATED ADDITIONAL APPORTIONMENTS AND 95-PERCENT MINIMUM ALLOCATION ASSOCIATED WITH $2.647 BILLION INCREASE IN REVENUE BASED ON 80 PERCENT OF A 4.5-CENT GAS TAX INCREASE TO THE HIGHWAY ACCOUNT FOR FISCAL YEAR 1991

State	Total fiscal year 1991 apportionment including preliminary M.A. at 85 percent	Assuming an increase in apportionment (2.647 billion)	Assuming an increase in minimum allocation at 95 percent
Alabama	214,226,334	50,797,653	.....
Alaska	151,089,059	35,826,453	.....
Arizona	154,313,430	30,107,919	9,294,363
Arkansas	139,989,375	25,530,266	11,066,024
California	1,050,343,761	229,225,774	35,198,980
Colorado	167,729,601	39,772,282	.....
Connecticut	345,506,580	31,927,012	.....
Delaware	49,697,289	11,784,292	.....
District of Columbia	92,283,023	21,882,282	.....
Florida	498,797,928	83,425,932	37,319,302
Georgia	376,357,055	64,871,779	27,984,463
Hawaii	99,484,342	23,589,869	.....
Idaho	71,840,889	17,035,014	.....
Illinois	321,156,804	76,153,158	17,684,183
Indiana	268,162,308	44,284,990	19,814,122
Iowa	142,542,289	33,799,830	.....
Kansas	132,912,051	31,516,295	883,791
Kentucky	163,401,657	38,117,259	6,866,184
Louisiana	210,633,267	49,945,660	.....
Maine	59,860,553	14,194,219	708,083
Maryland	242,577,872	57,520,410	.....
Massachusetts	946,656,621	224,472,565	.....
Michigan	321,615,694	57,667,980	13,775,849
Minnesota	158,095,414	37,487,810	5,676,344
Mississippi	140,550,350	27,308,457	6,659,776
Missouri	255,234,773	53,972,576	10,847,211
Montana	104,658,689	24,816,817	.....
Nebraska	94,186,677	22,333,679	.....
Nevada	71,180,918	16,878,521	.....
New Hampshire	53,505,699	12,687,347	.....
New Jersey	361,317,959	85,676,229	.....
New Mexico	101,423,942	24,049,789	.....
New York	666,191,087	157,968,178	.....
North Carolina	321,840,803	52,619,594	25,621,565
North Dakota	70,476,531	16,711,495	.....
Ohio	387,441,444	84,470,788	13,355,991
Oklahoma	179,645,685	32,688,438	10,242,613
Oregon	145,395,824	31,186,564	3,534,394
Pennsylvania	491,587,854	116,566,011	.....
Rhode Island	113,941,663	27,018,009	.....
South Carolina	149,667,407	28,765,510	7,890,850
South Dakota	77,294,851	18,328,265	.....

TABLE 91.—ESTIMATED ADDITIONAL APPORTIONMENTS AND 95-PERCENT MINIMUM ALLOCATION ASSOCIATED WITH $2.647 BILLION INCREASE IN REVENUE BASED ON 80 PERCENT OF A 4.5-CENT GAS TAX INCREASE TO THE HIGHWAY ACCOUNT FOR FISCAL YEAR 1991—Continued

State	Total fiscal year 1991 apportionment including preliminary M.A. at 85 percent	Assuming an increase in apportionment (2.647 billion)	Assuming an increase in minimum allocation at 95 percent
Tennessee	220,035,689	51,639,990	7,415,972
Texas	773,447,965	136,365,892	49,804,918
Utah	91,627,752	21,726,903	
Vermont	53,637,107	12,718,507	
Virginia	267,402,092	49,050,118	19,605,097
Washington	222,313,283	52,715,242	
West Virginia	110,421,092	26,183,206	
Wisconsin	211,270,365	36,223,466	14,267,407
Wyoming	79,020,602	18,737,478	
American Samoa	414,163	98,207	
Guam	414,162	98,207	
Puerto Rico	57,315,026	13,590,621	
Northern Marianas	414,162	98,207	
Virgin Islands	414,162	98,207	
Territories	11,271,774	2,672,779	
Total	12,274,734,748	2,647,000,000	362,517,482

TABLE 92.—ESTIMATED ADDITIONAL APPORTIONMENTS AND 95-PERCENT MINIMUM ALLOCATION ASSOCIATED WITH $4.781 BILLION INCREASE IN REVENUE BASED ON 80 PERCENT OF A 4.5-CENT GAS TAX INCREASE TO THE HIGHWAY ACCOUNT FOR FISCAL YEAR 1992

State	Total fiscal year 1991 apportionment including preliminary MA at 85 percent	Assuming an increase in apportionment ($4.781 billion)	Assuming an increase in minimum allocation at 95 percent
Alabama	214,226,334	91,750,502	
Alaska	151,089,059	64,709,584	
Arizona	164,813,430	54,380,794	16,757,438
Arkansas	139,939,375	46,112,656	19,987,405
California	1,050,343,761	414,026,605	63,576,247
Colorado	167,729,601	71,836,524	
Connecticut	345,506,580	147,976,216	
Delaware	49,697,289	21,284,737	
District of Columbia	92,283,023	39,523,683	
Florida	498,797,928	150,683,560	67,405,963
Georgia	376,357,055	117,171,128	52,545,417
Hawaii	99,484,342	42,607,919	
Idaho	71,840,889	30,768,569	
Illinois	321,156,804	137,547,507	31,941,095
Indiana	268,162,308	79,987,359	35,788,181
Iowa	142,542,289	61,049,108	
Kansas	132,912,051	56,924,596	1,596,300
Kentucky	163,401,657	68,847,228	12,401,673
Louisiana	210,633,267	90,211,636	
Maine	59,860,553	25,637,538	1,278,936
Maryland	242,577,872	193,893,117	
Massachusetts	946,656,621	405,441,380	
Michigan	321,615,694	122,221,615	24,881,879
Minnesota	158,095,414	67,710,320	10,252,589
Mississippi	140,550,350	49,324,417	12,025,860
Missouri	255,234,773	97,485,035	19,592,186
Montana	104,658,659	44,824,028	
Nebraska	94,186,677	40,338,995	
Nevada	71,180,918	30,485,911	
New Hampshire	53,505,699	22,915,832	
New Jersey	361,317,959	154,748,035	
New Mexico	101,423,942	43,438,626	
New York	666,191,087	285,321,444	
North Carolina	321,840,803	95,041,285	46,277,560
North Dakota	70,476,531	30,184,231	
Ohio	387,441,444	152,570,773	33,154,513
Oklahoma	179,645,685	59,041,716	15,500,164
Oregon	145,395,824	56,329,037	6,383,808
Pennsylvania	491,587,854	210,541,028	
Rhode Island	113,941,663	45,799,812	
South Carolina	149,667,407	51,956,141	14,252,420
South Dakota	77,294,851	33,105,433	
Tennessee	220,035,689	93,271,928	13,394,696
Texas	773,447,965	246,303,487	59,957,428
Utah	91,527,752	39,243,038	
Vermont	53,637,107	22,972,113	
Virginia	267,4102,092	88,594,112	35,410,643
Washington	222,313,283	95,214,043,	
West Virginia	110,421,092	47,291,995	
Wisconsin	211,270,365	65,426,669	25,769,725
Wyoming	79,020,602	33,843,551	
American Samoa	414,163	177,381	
Guam	414,162	177,381	
Puerto Rico	57,315,026	24,547,320	
Northern Marianas	414,162	177,380	
Virgin Islands	414,162	177,380	

TABLE 92.—ESTIMATED ADDITIONAL APPORTIONMENTS AND 95-PERCENT MINIMUM ALLOCATION ASSOCIATED WITH $4.781 BILLION INCREASE IN REVENUE BASED ON 80 PERCENT OF A 4.5-CENT GAS TAX INCREASE TO THE HIGHWAY ACCOUNT FOR FISCAL YEAR 1992—Continued

State	Total fiscal year 1991 apportionment including preliminary MA at 85 percent	Assuming an increase in apportionment ($4.781 billion)	Assuming an increase in minimum allocation at 95 percent
Territories	11,271,774	4,827,562	
Total	12,274,734,748	4,781,000,000	651,165,129

Note.—No adjustment has been made for elasticity because of the gas tax increase. Revenue estimate assumes phases of tax increase; 5 cent—Dec. 1, 1990, 4 cent—July 1, 1991. The $651 million in contract authority minimum allocation apportionment is in addition to the contract authority generated by the tax increase.

TABLE 93.—ESTIMATED ADDITIONAL APPORTIONMENTS AND 95-PERCENT MINIMUM ALLOCATION ASSOCIATED WITH $4.811 BILLION INCREASE IN REVENUE BASED ON 80 PERCENT OF A 4.5-CENT GAS TAX INCREASE TO THE HIGHWAY ACCOUNT FOR FISCAL YEAR 1993

State	Total fiscal year 1991 apportionment including preliminary M.A. at 85 percent	Assuming an increase in apportionment ($4.811 billion)	Assuming an increase in minimum allocation at 95 percent
Alabama	214,226,334	92,326,222	
Alaska	151,089,059	85,115,627	
Arizona	164,813,430	54,722,024	16,892,777
Arkansas	139,989,375	46,402,005	20,112,823
California	1,050,343,761	416,624,555	63,975,177
Colorado	167,729,601	72,287,286	
Connecticut	345,506,580	148,904,743	
Delaware	49,697,289	21,418,296	
District of Columbia	92,283,023	39,771,688	
Florida	498,797,928	151,629,074	67,828,925
Georgia	376,357,055	117,906,358	50,862,581
Hawaii	99,484,342	42,875,277	
Idaho	71,840,889	30,961,636	
Illinois	321,156,804	138,410,595	32,141,520
Indiana	268,162,308	80,489,266	38,012,747
Iowa	142,542,289	61,432,181	
Kansas	132,912,051	57,281,788	1,606,317
Kentucky	163,401,657	69,279,233	12,479,492
Louisiana	210,633,267	90,777,699	
Maine	59,860,553	25,798,410	1,286,960
Maryland	242,577,872	104,545,030	
Massachusetts	946,656,621	407,985,459	
Michigan	321,615,694	122,988,536	25,038,008
Minnesota	158,095,414	68,135,191	10,316,923
Mississippi	140,550,350	49,633,920	12,104,339
Missouri	255,234,773	98,096,738	19,715,123
Montana	104,658,689	45,105,292	
Nebraska	94,186,677	40,592,115	
Nevada	71,180,918	30,677,205	
New Hampshire	53,505,699	23,059,626	
New Jersey	361,317,959	155,719,054	
New Mexico	101,423,942	43,711,196	
New York	666,191,087	287,111,789	
North Carolina	321,840,803	95,637,653	46,567,945
North Dakota	70,476,531	30,373,632	
Ohio	387,441,444	153,528,130	33,362,552
Oklahoma	179,645,685	59,412,193	18,616,249
Oregon	145,395,824	56,682,492	6,423,866
Pennsylvania	491,587,854	211,862,139	
Rhode Island	113,941,663	49,106,023	
South Carolina	149,667,407	52,282,157	14,341,852
South Dakota	77,294,851	33,312,158	
Tennessee	220,035,689	93,857,195	13,478,745
Texas	773,447,965	247,849,001	90,521,897
Utah	91,627,752	39,489,282	
Vermont	53,637,107	23,116,259	
Virginia	267,402,092	89,150,026	35,632,839
Washington	222,313,283	95,811,496	
West Virginia	110,421,092	47,588,744	
Wisconsin	211,270,365	65,837,211	25,931,429
Wyoming	79,020,602	34,055,914	
American Samoa	414,163	178,494	
Guam	414,162	178,494	
Puerto Rico	57,315,026	24,701,351	
Northern Marianas	414,162	178,494	
Virgin Islands	414,162	178,494	
Territories	11,271,774	4,857,854	
Total	12,274,734,748	4,811,000,000	655,251,086

TABLE 94.—ESTIMATED ADDITIONAL APPORTIONMENTS AND 95-PERCENT MINIMUM ALLOCATION ASSOCIATED WITH $4.858 BILLION INCREASE IN REVENUE BASED ON 80 PERCENT OF A 4.5-CENT GAS TAX INCREASE TO THE HIGHWAY ACCOUNT FOR FISCAL YEAR 1994

State	Total fiscal year 1991 apportionment including preliminary M.K. at 85%	Assuming an increase in apportionment ($4.858 billion)	Assuming an increase in minimum allocation at 95%
Alabama	214,226,334	93,228,183	
Alaska	151,089,059	85,751,759	
Arizona	164,813,430	55,256,619	17,057,007
Arkansas	139,959,375	46,855,319	20,309,311
California	1,050,343,761	420,694,676	64,600,169
Colorado	167,726,601	72,993,481	
Connecticut	345,506,580	150,359,435	
Delaware	49,697,289	21,627,537	
District of Columbia	92,283,023	40,160,228	
Florida	498,797,928	153,110,381	68,491,565
Georgia	376,357,055	119,058,218	51,359,472
Hawaii	99,484,342	43,294,138	
Idaho	71,840,889	31,264,109	
Illinois	321,156,804	13,976,267	32,455,519
Indiana	268,162,308	81,275,588	36,364,566
Iowa	142,542,289	62,032,329	
Kansas	132,912,051	57,841,390	1,622,009
Kentucky	163,401,657	69,956,042	12,601,407
Louisiana	210,633,267	91,664,532	
Maine	59,860,553	26,050,441	1,299,534
Maryland	242,577,872	105,566,359	
Massachusetts	946,656,621	411,971,183	
Michigan	321,615,694	124,190,045	25,282,612
Minnesota	158,095,414	68,800,823	10,417,711
Mississippi	140,550,350	50,118,805	12,222,589
Missouri	255,234,773	99,055,072	19,907,726
Montana	104,658,689	45,545,938	
Nebraska	94,186,677	40,988,671	
Nevada	71,180,918	30,976,900	
New Hampshire	53,505,699	23,284,901	
New Jersey	361,317,959	157,240,317	
New Mexico	101,423,942	44,138,223	
New York	666,191,087	289,916,665	
North Carolina	321,840,803	96,571,964	47,022,880
North Dakota	70,476,531	30,670,361	
Ohio	387,441,444	155,027,989	33,688,481
Oklahoma	179,645,685	59,992,607	18,798,117
Oregon	145,395,824	57,236,239	6,486,622
Pennsylvania	491,587,854	213,931,879	
Rhode Island	113,941,663	49,585,753	
South Carolina	149,667,407	52,792,916	14,481,961
South Dakota	77,294,851	33,637,594	
Tennessee	220,035,689	96,774,112	13,610,423
Texas	773,447,965	250,270,307	91,406,230
Utah	91,627,752	39,875,064	
Vermont	53,637,107	23,342,088	
Virginia	267,402,092	90,020,958	35,930,945
Washington	222,313,283	96,747,505	
West Virginia	110,421,092	48,053,652	
Wisconsin	211,270,365	66,480,393	26,184,760
Wyoming	79,020,602	34,388,616	
American Samoa	414,163	180,238	
Guam	414,162	180,237	
Puerto Rico	57,315,026	24,942,665	
Northern Marianas	414,162	180,237	
Virgin Islands	414,162	180,237	
Territories	11,271,774	4,905,312	
Total	12,274,734,748	4,858,000,000	661,652,416

TABLE 95.—ESTIMATED ADDITIONAL APPORTIONMENTS AND 95-PERCENT MINIMUM ALLOCATION ASSOCIATED WITH $4.932 BILLION INCREASE IN REVENUE BASED ON 80 PERCENT OF A 4.5-CENT GAS TAX INCREASE TO THE HIGHWAY ACCOUNT FOR FISCAL YEAR 1995

State	Total fiscal year 1991 apportionment including preliminary M.A. at 85 percent	Assuming an increase in apportionment ($4.932 billion)	Assuming an increase in minimum allocation at 95 percent
Alabama	214,226,334	94,648,291	
Alaska	151,089,059	56,753,330	
Arizona	164,813,430	56,098,321	17,317,642
Arkansas	139,989,375	47,569,048	20,618,674
California	1,050,343,761	427,102,953	65,584,197
Colorado	167,729,601	74,105,362	
Connecticut	345,506,580	152,649,801	
Delaware	49,697,289	21,956,981	
District of Columbia	92,283,023	40,771,973	
Florida	498,797,928	155,442,651	69,534,870
Georgia	376,357,055	120,871,785	52,141,810
Hawaii	99,484,342	43,953,620	
Idaho	71,840,889	31,740,343	
Illinois	321,156,804	141,891,718	32,949,902

TABLE 95.—ESTIMATED ADDITIONAL APPORTIONMENTS AND 95-PERCENT MINIMUM ALLOCATION ASSOCIATED WITH $4.932 BILLION INCREASE IN REVENUE BASED ON 80 PERCENT OF A 4.5-CENT GAS TAX INCREASE TO THE HIGHWAY ACCOUNT FOR FISCAL YEAR 1995—Continued

State	Total fiscal year 1991 apportionment including preliminary M.A. at 85 percent	Assuming an increase in apportionment ($4.932 billion)	Assuming an increase in minimum allocation at 95 percent
Indiana	268,162,308	82,513,627	36,918,493
Iowa	142,542,289	52,977,243	
Kansas	132,912,051	58,722,465	1,646,717
Kentucky	163,401,657	71,021,654	12,793,360
Louisiana	210,633,267	93,060,822	
Maine	59,860,553	26,447,257	1,319,329
Maryland	242,577,872	107,174,410	
Massachusetts	946,656,621	418,246,577	
Michigan	321,615,694	126,081,783	25,687,732
Minnesota	158,095,414	69,848,839	10,576,400
Mississippi	140,550,350	53,882,248	12,408,771
Missouri	255,234,773	100,563,939	20,210,973
Montana	104,658,689	46,239,721	
Nebraska	94,186,677	41,613,035	
Nevada	71,180,918	31,448,758	
New Hampshire	53,505,699	23,639,591	
New Jersey	361,317,959	159,635,496	
New Mexico	101,423,942	44,810,563	
New York	666,191,087	294,332,851	
North Carolina	321,840,803	98,043,007	47,739,160
North Dakota	70,476,531	31,137,550	
Ohio	387,441,444	157,389,470	34,201,643
Oklahoma	179,645,685	60,906,451	19,084,461
Oregon	145,395,824	58,108,097	6,585,430
Pennsylvania	491,587,854	217,190,619	
Rhode Island	113,941,663	50,341,074	
South Carolina	149,667,407	53,597,090	14,702,559
South Dakota	77,294,851	34,149,982	
Tennessee	220,035,689	96,217,768	13,817,746
Texas	773,447,965	254,082,576	92,798,585
Utah	91,627,752	40,482,465	
Vermont	53,637,107	23,697,649	
Virginia	267,402,092	91,392,211	36,529,030
Washington	222,313,283	98,221,222	
West Virginia	110,421,092	48,785,534	
Wisconsin	211,270,365	67,493,063	26,583,622
Wyoming	79,020,602	34,912,444	
American Samoa	414,163	182,983	
Guam	414,162	182,983	
Puerto Rico	57,315,026	25,322,607	
Northern Marianas	414,162	182,983	
Virgin Islands	414,162	182,983	
Territories	11,271,724	4,980,033	
Total	12,274,734,748	4,932,000,000	671,731,106

Mr. BAUCUS. In summary, Mr. President, there are three excellent reasons to remove this provision from the bill:

First, the proposed change in the minimum allocation is budget extraneous;

Second, it falls outside the jurisdiction of the Finance Committee, and is clearly within the jurisdiction of the Environment and Public Works Committee; and,

Third, it marks an abrupt change in Federal policy that should be addressed, if at all, next year when the Environment and Public Works Committee takes up reauthorization of the Federal Highway Program.

The PRESIDING OFFICER (Mr. FORD). Under the previous order, the Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, I congratulate the Senator from Montana. His point of order is identical to the point of order I tried to offer this morning. I join in his effort.

The organization of this body being what it is, I am sure that point of order would have to come from the majority party side. I recognize that. I tried to make the identical point of order this morning but was prevented under parliamentary rules. But let me discuss the substance of the issue from my State's perspective.

We are very concerned about the highway trust fund formula. I spoke on the floor last night and over the last few days. I had an amendment to correct this as well as a point of order. But we all should work together, in spite of the election year situation we are in. And I certainly join in that effort.

The small States are potentially treated very badly in the highway formula. The large States want to do the formula by population.

Some say, well, is that fair? The small States have much greater distances. They have a great deal of difficulty raising the money for adequate highways. This is one of the problems in our Federal Republic.

I have a copy of "The Federalist Papers" which discusses the quality of representation in the Senate, the conflict our forefathers foresaw between the large States and the small States, and the decision to allow the House of Representatives to have the number of their Representatives based on population, and the decision to have two Senators for every State in the other House of Congress. The Federalist Papers say:

> A government founded on principles more consonant to the wishes of the larger States is not likely to be obtained from the smaller States.

So we had a compromise—the Great Compromise.

Here, today, 200 years later, this is exactly what we are talking about. It is a fight between the small States and the more populous large States, the big city States which dominate in the House of Representatives. So when the highway bill goes through the House it comes through with a very strong bias toward using population as the formula to allocate highway funds.

When it comes to the Senate, the coalition of Western Senators, two per State, joined together the last time, and I was very active providing some leadership in that area. We joined together to work to change the formula so the number of miles of roads is also used as a factor in the formula.

Some people say this means the people of Texas pay $1 and they get 85 cents back. There is an 85 percent rule. Whereas some people in smaller States pay more than a dollar but get more than a dollar back. That is true in some instances.

But, we can also say in the current S&L crisis that my State of South Dakota has not contributed anything to the cost of the S&L crisis but my citizens are paying—indeed, we contributed a great deal.

The point is: There are different situations where moneys are allocated or distributed in different ways. I do not always agree with them. I do not agree with the S&L one. But here on the highway trust fund formula we have the Senate Finance Committee this week acting in an area where the Environment and Public Works Committee is supposed to act.

Last night, I gave a speech on this floor talking about my amendment, talking about the efforts I was going to make today. Those efforts will procedurally be made by somebody on the other side of the aisle. I do not object to that because if we get the job done, that is the important thing.

The point is the highway bill will be up next year for a reauthorization. That will be a 5-year bill, a 5-year effort. That formula will be decided in the Environment and Public Works Committee where it is supposed to be decided, and on the Senate floor. What the Finance Committee has done this week is to have changed the payout from the highway trust fund. They have changed that formula. It would be in this reconciliation package going through here. We would not really have a chance to vote on it. That is the reason I prepared the Byrd rule point of order which I tried to offer this morning—which I presented to the Parliamentarians last night and earlier this morning, but which will be offered by somebody on the other side of the aisle later today.

I also prepared amendments which I announced and filed and published in the CONGRESSIONAL RECORD over the last week anticipating this. Parliamentary rules and partisan preferences will not allow me to offer that, but I join in any such effort as a cosponsor. I support it and we will get the job done. Whoever gets the credit, it does not matter.

In conclusion, I think this dispute over the allocation of highway funds and the fact the Finance Committee has attempted to put this into the reconciliation package is an illustration of what our forefathers foresaw in "The Federalist Papers." It is the duty of Senators from small States to band together to fight this sort of thing to protect our people. That is what they foresaw.

Also, it is fair because we have greater miles of roads. We have weather conditions that are severe. We need a national interstate highway system. We also need to work on the infrastructure of our country. We need to rebuild bridges and roads. I think in the 1990's, the crisis of our country will be an infrastructure crisis, keeping our bridges and roads in good shape and repairing them.

I ask unanimous consent that a copy of the amendment and the two points

of order I prepared be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BYRD RULE POINT OF ORDER

Mr. President, pursuant to section 20001 of the Consolidated Omnibus Budget Reconciliation Act, I raise a point of order that subsection 7405(j) is an extraneous provision.

This provision violates subparagraph (d)(1)(C) of that statute because it is not in the jurisdiction of the Committee with jurisdiction over the provision.

BYRD RULE POINT OF ORDER

Mr. President, pursuant to section 20001 of the Consolidated Omnibus Budget Reconciliation Act, I raise a point of order that subsection 7405(j) is an extraneous provision.

This provision violates subparagraph (d)(1)(A) of that statute because it does not produce a change in outlays or revenues.

AMENDMENT

Beginning on page 353, line 15 of subpart B of part I of subtitle D of title VII, strike all through page 354, line 3.

LANGUAGE WHICH WOULD BE DELETED BY THE PRESSLER AMENDMENT

(j) APPORTIONMENTS WITH RESPECT TO INCREASED REVENUES.—Section 9503(c)(1) (relating to the expenditures from the highway trust fund with respect to the federal-aid highway program) is amended by adding at the end the following new flush sentence:

"No expenditures shall be made under this paragraph with respect to receipts (including interest) of such Fund attributable to any rate increase provided under the Revenue Reconciliation Act of 1990 unless rules similar to the rules under section 157(a)(3)(A) of title 23, United States Code (as in effect on the date of the enactment of such Act), are applied to such expenditures by substituting '95 percent' for '85 percent'.

Mr. PRESSLER. Mr. President, I will not have the opportunity to offer these. Recognition was not allowed for me, but rather reserved for someone on the other side of the aisle. I note with some humor and simply for the record that the original order of recognition was changed to reverse the order of the distinguished Senator from Arkansas [Mr. PRYOR] and the distinguished Senator from Montana [Mr. BAUCUS] so that I would follow my friend from Montana in the speaking order. Also, I have been on the floor all morning seeking recognition. And when I began a parliamentary inquiry my recognition was terminated before the inquiry was made, much less finished. Perhaps that is my fault. I need to talk faster.

Mr. President, let me assure my colleagues I do not raise these points in anger. I simply want the record to be clear on my part. I accept that my party is in the minority. That does not preclude us from initiating proposals, which can later become reality when offerings by Members of the majority party. My main concern is that it gets done.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for an opening statement only.

Mr. PRYOR. Mr. President, I think this legislation we are having on the budget and also the process has been one of some degree of length. There is no question about that, Mr. President. It has also been illuminating and, if there is any silver lining whatsoever in this fiasco we have created, it is that maybe the public has now become somewhat more educated on the process that we labor under and try to work within in order to establish a budget for the United States of America.

Mr. President, I apologize to my colleagues this morning. I have not found time to read this document. Also, in fact, if I found time to read this document, the budget reconciliation measure before the Senate, I do not think I would take that time. I daresay no Member of the Senate is going to read these several hundred or several thousand pages of minutiae and budget detail.

However, Mr. President, on our desks this morning, and sent to our respective offices throughout Capitol Hill area, was a summary of what this budget document represents. This summary is here. I hold it in hand, Mr. President. I respectfully invite the attention of my colleagues to page 13 of this particular document. This is the summary. Which I will have printed in the RECORD. I think it should be a part of this debate.

What we have before us in this, several thousand page reconciliation bill, is a very, very small revenue raiser that raises $1.1 billion over the next 5 years. This proposal comes, I think, if my information is correct, from the Labor and Human Resources Committee in attempting to meet under our budget process the goal that they were required to meet and furnish as a part of their effort in helping to reduce the deficit. The $1.1 billion is raised by increasing five times the maximum civil penalties that can be imposed by the Occupational Safety and Health Administration, OSHA, for violations of worker safety and health standards.

That sounds pretty good. But what, in effect, happens out here in the real workplace is every inspector, every regulator employed by OSHA, has a different method of deciding what the rules and the regulations are. What we are about to do, if we do not strike this section out of the reconciliation bill, is create an army of bounty hunters within OSHA to go out and find enough violations so they can satisfy the budget numbers in the reconciliation bill of $1.1 billion over the next 5 years.

I am a member of the Finance Committee. I voted for the Finance Committee package at 1:30 a.m. on Saturday. But I dare say, Mr. President, of all the members of the Finance Committee helping to bring this monumental blueprint for a budget to the floor of the Senate, no one, I think, had any idea that this section was in here.

Mr. President, just imagine this. The distinguished occupant of the Chair from the State of Kentucky has a number—thousands I assume—of small businesses, just like this Senator from Arkansas. Just imagine a situation in a shoe store on a corner in Paducah, KY, or Lexington, or Little Rock, or Magnolia, or wherever, a person who owns that store, or a person who, under the incorporated charter of that store happens to be a member of the board of directors, or a person who is labeled as the manager or the president, of this store. This individual is going to open up the doors of that shoe store, after we pass this bill, and is going to find himself liable overnight for five times the fine that is presently imposed under present law.

Second, if a person—and this is where I found this section so egregious, Mr. President—if a person consents to be on the board of directors of that shoe store, or any company in America, criminal liability for a violation in the workplace is extended to that member of the board of directors.

Mr. President, this has never been done before in the history of this country. We are about to impose one additional hardship on not only every major business, but definitely, and more specifically on every small business person who is going to be faced with an OSHA inspector who is a bounty hunter now, who is charged with raising additional deficit reduction dollars to comply with the budget resolution.

Mr. President, I received a letter from NFIB, and let me quote it:

In the past, small business owners viewed OSHA as the enemy. However, over the last several years, due to positive changes in poorly-drafted and executed regulations and improved philosophy at OSHA, cooperative efforts between OSHA and business owners, business owners have now been able to work productively with OSHA to improve working conditions for employees.

The letter goes on to state, Mr. President, that if criminal sanctions are going to be charged against not only the president, the manager, the owner, but now extended to those individuals who are on the respective boards of directors, that this is going to create a situation that will be intolerable for American business.

Mr. President, I am going to classify this section in this particular bill as a mistake. I hope it is a mistake. I am also going to respectfully suggest that those Senators who feel that this should be a part of reconciliation, part of reducing the deficit, by extending criminal sanctions, by increasing fines fivefold on business owners, that they

come to the floor and explain why this provision happens to be in a deficit reduction package that this Senator from Arkansas wants to support. I want to support it. I want to see this process move forward.

Mr. President, I hope that our colleagues who are basically the fathers of this legislation, this particular section in the reconciliation bill, will come at the proper time to see if we cannot extract this from the budget reconciliation because what we are doing is imposing one additional hardship that may break the back of many businesses in this great country of ours.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, since no Republican is seeking recognition, the distinguished Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, let me thank the managers of the bill and thank my distinguished colleague from Arkansas. We can see the bedevilment that besets us when we operate in this particular 11th-hour fashion.

With regard to the Senator from Arkansas' remarks, I would note that men convinced against their will are of the same opinion still. I can remember a dozen year ago when these same Senators complained about certain severe OSHA requirements. OSHA excesses more or less disposed of the former distinguished Senator from Wyoming, Senator McGee, because our colleague here, the present Senator, Senator WALLOP, depicted on TV how the OSHA crowd was going to require Wyoming ranchers to ride the range with portable toilets. The ad depicted a roundup, complete with Marlboro men, but instead of the cigarettes, you had a toilet bowl and tank wrapped around the poor horse's neck. As the animal went wobbling down the range, about to go head over heels, the announcer said: "That is the way Washington thinks we ought to round up cattle here in Wyoming. Vote Wallop." So do not wallop me with that OSHA nonsense again.

I want to join the Senator from Arkansas in opposing that provision. I do not see how it got out of the committee, but it has, and these things do happen.

Now, Mr. President, by way of opening remarks on this bill, let me note that we have heard this morning from our distinguished colleague from Delaware, the daddy rabbit of growth, the growth of deficits and debt, that is. That is the only thing that has grown in any meaningful terms. Deficits and debt, and debt and deficits, and deficits and debt.

We are told that when you find yourself in a hole, you should stop digging, but we have never seen, as the Senator said, a Republican who did not like a shovel. They continue digging furiously today. Here, after 10 years of wrecking the economy, they want to take another swig of that old deficit barleycorn and preach the old-time religion of growth, growth, growth.

For heaven's sakes, do not give us any more of this growth. It is killing us. It has been a nagging cancer all summer long, this so-called capital gains issue. For a year and a half, now, we have heard how that $5 billion measure is going to single handedly jumpstart the economy. We have witnessed grown men walking around hollering how we are going to jump-start a $5 trillion economy with a capital gains provision that, of course, over the 5 years, loses us $21 billion. What nonsense.

"We are going to have growth, growth." Do not ever tell us southern politicans about growth. We learned long ago how to carpetbag the North. The first requirement is that you pay your bills. You are not going up to New York, to Boston, to Chicago to visit captains of American industry, and try to lure them with visions of moonlight and magnolias. You're not going to lure them with promises like: "We are going to pave your road." No way, Jose. That's a lot of hooey.

You have to offer them productivity. You have to pay your bills. And back in the 1950's, we led the way. We raised taxes in South Carolina. And it was not easy. I had to sell the idea.

That is why I fought the President of the United States, because we have seen this problem of not paying the bills. I have been to the mountain top and seen the other side. You have to work, and work against friends, and work against politics because nobody likes taxes.

All these polls say the people are against taxes. Who is surprised? Heavens above, polls do not ever ask, "Do you want the Federal Government to pay its bills?" I think 95 percent would say "yes" to that, but polls do not ask that question. They just ask: "Are you for taxes?"

So you have to straighten yourself out in the first instance, raise taxes and pay the bills. Therein, incidentally, was the idea behind Gramm-Rudman-Hollings. It was, immodestly, my initiative growing out of my experience in South Carolina. Wall Street said, "Governor, we have heard that before, that you have a balanced budget. But how can we count on it?"

I said I have an iron-clad device to control it. Our law requires the auditor to periodically certify to the Governor, that the expenditures were within the reference. And if not, zoom, right across, sequestration and it works. Governor Reilly did that; Governor Campbell has done it. The sequester is usually 2 percent. It is a minimal kind of cut, but everybody knows that the discipline is there.

And, incidentally, we did not contemplate under Gramm-Rudman-Hollings cutting $110 billion in a single year. Indeed, 1991, this year, was supposed to give us a balanced budget when we adopted Gramm-Rudman-Hollings back in 1985.

And we did not anticipate robbing the Social Security Trust Fund. There was no need. We planned a balanced budget by 1991. So there is nothing wrong with the budget law.

The failure of Gramm-Rudman-Hollings is simply that we have not told the truth. Of course, it would be blasphemous to try to compare Gramm-Rudman-Hollings with the Ten Commandments. Nonetheless, we do not obey the Ten Commandments, but nobody says abolish them. We do not obey Gramm-Rudman-Hollings, but everybody says let us get rid of it. But they do not want to have to vote explicitly to kill it.

The Senator from Delaware says we need growth. Of course we do. We need growth. We need a freeze. We need spending cuts. We need taxes. We need all of the above. Our situation is desperate.

I have outlined the nature of the crisis throughout the summer. When we came back after Labor Day, I wrote a Washington Post article, and more recently one in the New York Times, describing our predicament.

As I have said we need a mini-Marshall plan for East Europe and Latin America and a maxi-Marshall plan here in the United States, because we have moved into the trade war where competitiveness is the name of the game. There is no sense of that in this Congress or in this town. There is no understanding of the problem from the President of the United States. Instead, he flies around the country trying to blame Congress. The debate is distracted by questions of who is rich and who is poor; and which tax is progressive and which is regressive. But we are not talking about America stepping up to the challenge of competition internationally.

So we need growth, yes, and the best growth measure is to stop the growth of interest costs. We are now into a vortex where interest costs are eating the Federal budget alive.

For the first time in the history of the United States, we are witnessing an international crisis in which the dollar is going down rather than up. The Europeans and Japanese do not think the United States of America is a safe haven for their money, and so the dollar goes down. In previous crises, the dollar always went up.

So the best way to achieve growth and straighten this mess out is to pay the bills. It is annoying, dismaying to me to have Senators come on this

floor and start talking about growth, and how they are against taxes, because the pollster says that is what Senators have to parrot: Reelect me.

You will not find in the history of man the solution to a problem of this magnitude in a political pool. At the founding of the country, Ben Franklin said, "Let's put this proceeding in Philadelphia off the record if we are going to get a Constitutional Convention," because if you took a public pool back 200-some years ago, people were against the king, against strong government.

They were for the Articles of Confederation and against the Constitution. Everybody knew it. But the wisdom of the forefathers said, "Close the door, and let us not have any political pools, because we will never get a free people started."

We also hear fine preachments against waste, fraud, and abuse, and for cutting spending. Let us be clear right now that the President is agreeing to $162 billion deficit for this year, right now, 1991. Add Bill Seidman's S&L bailout which they are off the floor trying to maneuver to get off budget. It could total $100 billion. They cannot find a rug big enough to sweep that one under. You can get wall-to-wall carpeting, but it is not going to hide the S&L bailout.

I know the President does not want to hear about his son, Neil, anymore. We do not want to hear about the S&L Senators anymore. But there it is, another $100 billion in 1991.

So if you add 162 billion and 100 billion, you have 262 billion. And then add the trust funds that they are still trying to rob. The Senator from Pennsylvania calls it embezzlement. The Senator from New York calls it thievery. We have the gall to call it "hard," "tough" choices. "Hard," "tough" choices. Pain, pain; oh, I have pain. Nonsense. They have been out there at Andrews eating so much ice cream that they all gained weight; they got fat out there. One of my friends told me, "I have to go on a diet." They took good care of pleasure boats, the pleasure craft.

Mr. FOWLER. Planes.

Mr. HOLLINGS. Yes, they took care of the private airplanes. They got all the little loopholes for oil exploration, and they fed the Japanese lobbyists by exempting electronics. And then they had the gall to come on the floor and cry: Pain; hard, tough choices; tough choices.

And by the way, they say, let us have a conference report here with no amendments, and 10 hours of debate. Like right now, you cannot offer an amendment; same act, same scene, same let us sweep it under the rug.

Well, we will watch that. We will watch that. But in any event what about waste, fraud, and abuse?

If you have spending of $400 billion, how are you going to cut that? Nobody in his right mind wants to cut spending by $400 billion in a $1.2 trillion budget. Even the Grace Commission report did not have that in mind.

Incidentally, in the last Grace report we got, in 1989, the President said that we have adopted 69 percent of the Grace Commissiion initiatives, and by now it is over 70 percent of the Grace Commission initiatives. And obviously, the Grace Commission initiatives are a matter of sound public policy.

Included in that astronomical amount, Grace was going to save out of defense, for example, were commissaries and post exchanges, the things that we put in there to attract people into the volunteer army. And otherwise, CHAMPUS, health care, according to the Grace Commission, is waste, fraud, and abuse.

So they can parrot that pollster nonsense of "I am against waste, fraud, and abuse," and "I am against taxes," and "Reelect me," but look honestly at the spending that you cannot and will not cut. We are not going to cut defense spending. According to the summit and every other plan, $292 billion is the Nunn figure for defense. We will not go below $292 billion for defense. And add in Desert Shield, and you have at least $300 billion or more.

I do not want to cut it, and the President does not want to cut it, and they will not be cutting it. So you have $300 billion budget defense. You have $200 billion for health costs. We would all like to control that. I could get elected President if I knew how to control it.

I have listened to everyone, and I still listen, but how do you keep those health-care costs from going up 11.5 percent each and every year? I want the best health care. I want the CAT scan when I get sick. I want all of the tests. Then, of course, they are suing the doctors, so the doctors require every conceivable test. The bills run up and up and away. So health costs are $200 billion, plus $300 billion for defense; that is $500 billion.

Then, of course, you have $263 billion for Social Security, and no one dares to cut that. There are the trust fund. We would do well to stop them from robbing it, much less cutting it. So they are not going to cut it. In addition, $286 billion in interest costs are projected. So now, adding it all up, we have spending of some $1.50 billion. So even if you eliminate all the rest of the Government—the President, the Congress, the courts, the FBI, the drug program, Commerce, Interior, Agriculture. Just eliminate the rest of Government, and you still have a deficit of some $200 billion.

So let us start talking sense. The American people have no idea about the magnitude of the task of getting this Government back in the black. I made one suggestion—I got eight votes for it in the Budget Committee—5-percent VAT tax, exemption food, housing, and health care. But they projected that out at the Congressional Budget Office. Even a VAT tax would take to the year 2021 to do the job.

So we have a serious, serious problem. They keep talking about the Democratic controlled Congress. Well, I saw Sununu this morning. He started palavering that political nonsense. He is the one controlling this Congress. The White House is watching Congress at every move. Why did we not get child care, clean air, CAFE standards, the textile bill? The Republicans over there, so well disciplined, upheld the FSX veto, the Hatch Act veto. We have had 15 up and down vetoes, and you cannot override them.

They have the control. So do not talk about a Democratic control. It is controlled at the executive level. He has the bully pulpit.

So don't talk any more about a Democratic-controlled Congress. We were ready last Thursday to take up Labor, Health and Human Resources. We had to wait for the minority to say when we could take it up. We waited all Thursday evening; we waited all Friday morning, and Friday afternoon. We were in here till midnight. I was here. We could have easily taken it up. But the minority tells you if you can even vote on Friday and on Monday. They just put two or three Senators on the floor, and they all go about politicking. We are a minority-controlled Congress.

I am against the filibuster rule. That is how strongly I feel about it now. We do not need extended debate. We can have, 1 hour, 2 hours. I came from the South, and we relied in the old days on the filibuster. My senior South Carolina colleague is the national champion.

But I can see now rather than making us the most deliberative body, the filibuster has undermined true deliberation. We have to change and move into the modern world of television.

Let us look this budget crisis in the face and understand it. In a capsule, Mr. President, we have trebled the national debt. The national debt right now is $3.2 trillion. It was $907 billion when President Reagan took office. It took all the previous Presidents, Republican and Democrat, 192 years of our history, all the wars, revolutions, civil, Spanish-American, World War I, World War II, Vietnam, Korea, all the wars, and we got our debt at a little over $900 billion. Now we are at $3.2 trillion after one President, plus one Vice President who is now President.

We added up all the new spending programs that have been proposed. We took Senator KENNEDY's health program for 1 year.

We took Senator DODD's child care program. We took DANNY QUAYLE'S go-to-Mars program; we took all the research programs; we took all the infrastructure programs, and it added up to only $19 billion. Yet we spent $27 billion this past year for nothing, just for added interest on the debt.

As I said, interest costs are now up to $286 billion. The House passed a budget for defense, of $283 billion.

They were saying that in several years interest cost would exceed defense. It already has. The interest costs exceed the defense budget.

Interest is eating us alive. We have gone from the biggest creditor to the biggest debtor nation in the world. The Europeans do not anymore consider the United States a safe haven. The dollar value is going down. We do not have a trade policy. We have a trade deficit of $100 billion plus each year. And we have basic institutional problems with the banks, the S&L's, the insurance companies, real estate, and right on down the list.

Incidentally, if this keeps up, by the next quarter—in the first part of December—we will have had two quarters of less than 1 percent growth, and you can then set aside Gramm-Rudman-Hollings. We put that proviso in the law. So we will have the technical recession I am fearful of, and that will be our refuge.

U.S per capita income is actually declining for the first time since World War II. And Federal spending is over $400 billion more than we are taking in.

The problem, then, if you are going to try to tackle it over 5 years, is not a $500 billion problem. The Comptroller General of the United States last month said to the summiteers it was $1 trillion problem. But the Congress, along with the President, said, we can solve the problem by disregarding half of it.

With this $1 trillion problem, that is why the Senator from South Carolina keeps counseling freezes and a VAT tax. Heavens above, I am not advocating this, because I like taxes and I am against Government. I am for Government, and I would like to see it work, and I have seen it work. I have seen this disaster build up over the past decade.

With a problem of this magnitude, the President needs to get out into the hinterlands and educate, sell, cajole, persuade, and come again and again and again and tell the American people exactly where we stand. Instead, he finally agrees, in the Rose Garden, to a budget agreement and sells it on TV for a mere 10 minutes. He claimed there is no smoke and there are no mirrors. He claimed we have not messed with Social Security. In truth, there are all kinds of smoke, all kinds of mirrors; and we rob $169 billion from the Social Security Trust Fund.

And he says, if the Soviets and the United States can get together, Republicans and Democrats can get together, as if we only have a political problem here. We have a national economic crisis, for rich, poor, for everyone. All of America is going to have to pitch in on this one and sacrifice.

I well remember Jack Kennedy's first inaugural, when he said, "The new frontier of which I speak is not a set of promises—it is a set of challenges. It sums up not what I intend to offer the American people, but what I intend to ask of them."

Compare Kennedy's Inaugural Address with George Bush's. Recall Kennedy's call to "challenges" and "new frontiers," then compare it to the most memorable line from George Bush's inaugural: "we have more will than wallet."

"We have more will than wallet." How ironic! In 1990, the United States stands as the world's only remaining superpower. We are the wealthiest Nation on the face of the Earth, endowed with unparalleled natural resources and the world's most productive workers. The U.S. economy is four times larger than it was at the end of World War II. Our per capita GNP is 2.3. times larger. And yet, today, our poor-mouthing President protests that we have "more will than wallet." He should be ashamed of himself.

In the 1930's America truly had more will than wallet, but our President, from his wheelchair, put the U.S. economy back on its feet.

In 1948 America had more will than wallet, but Harry Truman ignored the polls and pushed ahead with the Marshall plan for Europe and the Truman doctrine in Greece and Turkey.

In 1961 America had more will than wallet, but Kennedy summoned us to a New Frontier and a race to the Moon.

Throughout our history, we Americans have always had more will than wallet. But we moved forward and accomplished great things because of leaders with ambitious, progressive agendas for the Nation.

But today's President says we have more will than wallet. And, by the way, let us get a 25-percent writeoff if somebody buys stock, and let us have tax breaks for oil. We need incentives. The price of oil is up to $40 a barrel. We are ready to go to war for oil.

The distinguished Senator from Nevada put in CAFE standards, and it was vetoed. That is why we did not get even the beginning of an energy policy. The President put troops in the sands of Saudi Arabia but killed a CAFE standards bill that would have saved the equivalent of the production of Iraq and Kuwait.

He says we have more will than wallet, so let us just keep spending, and don't pay the bills.

Mr. President, look at this reconciliation bill. Like the summit agreement before it, it is half a haircut. You have a fellow 100 yards offshore, and you throw him a 50-yard lifeline and brag about how you are trying to save the man. Nonsense.

Nowhere in the media have I seen reported perhaps the most profound element of this latest incarnation of Gramm-Rudman-Hollings. It guts Gramm-Rudman-Hollings. Heretofore, Gramm-Rudman-Hollings has been premised on specific deficit targets aimed at achieving a balanced budget. That is now gone. In its place, this bill talks only about targets for proposed savings. In other words, in 1991 we only have to reach the proposed savings of $40 billion, and no one is supposed to notice or care that the deficit skyrockets to $253 billion. By 1995, the last year of the plan, even the wildly optimistic OMB projection foresees a $63 billion deficit—even after raiding the trust funds, factoring in rosy economic assumptions, and excluding S&L bailout costs. A more accurate deficit projection for 1995 would be closer to $200 billion. In other words, the deficit can continue to grow unchecked in each and every year of this plan, but as long as we reach our target for proposed savings, then we get to claim that we did our job. Perhaps nothing more clearly illustrates the inadequacy and sham of this bill.

There we go again, the same old smoke and the same old mirrors. The bill's economic assumptions are basicly sound for 1991, but the assumptions for 1992 through 1995 really put the rouge on old "Rosy Scenario." Consider 1992, when OMB says we will have robust GNP growth of 3.8 percent and interest rates at only 5.7 percent. Or consider 1995, when OMB promises us 3.5 percent economic growth and 4.2 percent interest rates. These are just not in the real world.

Meanwhile, a large portion of the Social Security, Medicare, highway, and airport trust funds will all be on budget for purposes of calculating the Gramm-Rudman-Hollings deficit. The surpluses in those funds will be used in their entirety to fund the operating expenses of the Government.

Neatly tucked away in this bill is the fact that all expenditures for the S&L bailout will be off budget for purposes of calculating the Gramm-Rudman-Hollings deficit. At the same time, the statutory debt limit is left open-ended and is extended for a full 5 years. When you put these two provisions together, what you have is congressional authorization of carte blanche for bailout spending by the Resolution Trust Corporation. RTC can spend whatever it needs to cover up its incompetent handling of the S&L liquidations. Those tens of billions won't count against the deficit, and they

won't bring about a crisis in terms of exceeding the statutory debt limit. The purpose, of course, is to solve Congress' and the administration's political problems by keeping the S&L mess out of sight and out of mind.

They say, hard choices. They say, smoke and mirrors. But there is no truth to this. More to the point, Mr. President, this bill eliminates the function to the Congressional Budget Office, it eliminates the practical role of the Budget Committee, and it eliminates Gramm-Rudman-Hollings.

I was bemused at the Budget Committe markup that every one of my colleagues on the Republican side said that we have to have reform of the process. The distinguished ranking member and former chairman, the Senator from New Mexico, said if he does not get this process, count him out.

Mr. President, this reconciliation bill is especially shameful in that it fails to address our changing national priorities. During the last year, our Nation has moved from the cold war to the trade war. We have a crying need for new investments in education and infrastructure in order to get our country moving and competitive. This bill offers a martial plan, not the domestic Marshall plan we desperately require.

I can tell you that the extremely low spending celings for domestic discretionary spending are not adequate to fund even current program obligations. Beyond that, the bill assumes zero new initiatives by the self-styled education President, environment President, child care President, and his like-minded colleagues in Congress.

Mr. President, this reconciliation bill presents us with a formula for a gridlock Congress and a do-nothing Government for the next 5 years. It also grants three-way veto authority to a willful minority in Congress. Take your pick from the Sununu veto, the Dole veto, and the Darman veto. The Sununu White House can exercise the traditional constitutional veto requiring 67 votes for override. The distinguished Republican leader, Senator DOLE, has his own veto power under the provision requiring a 60-vote point of order for any bill exceeding the spending caps. And Dick Darman has yet a third veto option by virtue of OMB's authority under the terms of this package to rule unilaterally on whether a given bill violates the spending caps.

Meanwhile, the Senate Budget Committee will be reduced to automatic pilot. It will be stripped of any meaningful role in establishing budget priorities, and will quickly fall into irrelevance.

As I said, Mr. President, this is a sure-fire formula for a deadlocked Congress and a do-nothing Government. That may be just fine in the eyes of the President without an agenda. But America deserves an agenda, and a leadership willing to pay for it.

Hopefully we will get out of this confrontation in the Middle East without further loss of life. I do not think Kuwait is worth it. Meanwhile, this bill officially kills any idea of a "peace dividend." Gone are the predictions of DOD's budget being pushed down toward $250 billion over the next several years. What's more, the cost of Desert Shield is not included under the DOD budget cap—it does not count against DOD's $292-plus billion spending limit. In other words, instead of a peace dividend to fund urgent domestic priorities, this bill awards the Pentagon a "war dividend" by exempting it from significant cuts and giving DOD carte blanche in the Persian Gulf.

Returning to the matter of the triple-veto provision in this bill, I would note that there have been those who have been very, very careful to stick up for the prerogatives of the congressional branch, to not weaken its power. They have opposed the line-item veto. I can tell you right now you do not have to worry about a line or an item because the executive branch now has three vetoes establishing minority control over this body.

You do not have to worry about November 6. If you can win the White House, you control government, and if you do not win the White House, then you have nothing.

Meanwhile, CBO can forget about giving us budget figures. This bill does not give CBO anything but the back of the hand. They say to CBO we do not want to hear from you. Just look at the so-called leadership amendment. It says OMB will be the authority and whatever OMB says, we will live by.

So, they effectively abolish the Congressional Budget Office. They effectively abolish the Budget Committee. All we are left with is, as they said yesterday, ministerial duties. I never heard of that particular role.

There was no reason, in my opinion, for not fully discussing this matter in committee. Conscientiously I would want the chairman and ranking member to discuss all of this with my Budget Committee members, because section 306 of the Budget Act envisions just that, that none of these things would come out that were not considered within the Budget Committee.

Now they are going to fall back on a technicality and say that the bill came out of the Budget Committee, but when the bill was in committee they said we cannot discuss it because we could not instruct the authorizers. They instructed me on Coast Guard, and instructed me on several other things as chairman of the Committee on Commerce, Science, and Transportation. Why not instruct the budget process reform to the Budget Committee? You could not discuss it and now they do not want you to amend it because they just want opening statements until they get it all greased. As a result we have done away with the Budget Committee save for ministerial duties, as they call it. We will raise a point of order and then of course finally we have done away with, I guess, the Congress itself.

You effectively eliminate CBO, OMB, and the Budget Committee, and you include provisions which say that "such and such shall be held harmless for Gramm-Rudman-Hollings." That is a rhetorical way of abolishing Gramm-Rudman-Hollings. I know my distinguished chairman does not like Gramm-Rudman-Hollings. He does not like me saying that Gramm-Rudman-Hollings got them to the summit, which it did when I raised the point of order on putting the S&L bailout off budget.

The premise of Gramm-Rudman-Hollings was truth in budgeting. Everybody was supposed to see everything on top of the table, and then we could all make sound judgments. We would consider it in the open. We debated taxes in the open, in markups in the Budget Committee.

But instead they went to the summit and in secret all pledged not to discuss the deal in public, and I can see why. As a result, of course, the majority of Democrats and majority of Republicans turned the summit deal down.

Mr. President, I will vote against the Senate reconciliation bill. I take no pride in this negative vote. Quite frankly, I have been chomping at the bit to find a budget package that I can vote for, a budget package that addresses the magnitude of the problem and that offers some promise of actually balancing the budget over a 5-year period. This bill fails on all counts.

Indeed, this bill is next-of-kin to the original, discredited summit package, and it displays all the same warts and deformities of the earlier version. It continues to ransack the Social Security trust fund. It puts spending for the S&L bailout off budget—out of sight and out of mind. It leaves defense spending virtually untouched and sacrosanct, while hog-tying domestic discretionary spending in a 3-year-straitjacket, meaning that we can forget about any new initiatives to improve education, to rebuild infrastructure, to boost competitiveness. This package is all pain and no gain. It raises the debt limit by $1.9 billion, which gives us a good idea of the magnitude of additional deficit spending which is expected over the next 5 years. And it will still leave us with a whopping deficit in 1995. So what is the purpose of this exercise?

Mr. President, Senators are well aware of my efforts in recent weeks to

advance my own budget freeze plan designed to accomplish the consensus objective of saving $50 billion in 1991 and $500 billion over 5 years. More importantly, for years now I have urged freeze plans and a value-added tax which would go well beyond that limited objective by actually balancing the budget over the same timeframe. So I have sought to be constructive, but I refuse to capitulate on my fundamental insistence that we produce a deficit-reduction package that is real, and that will get the job done. At this point, I believe I can best serve the Senate by sticking to my guns. The inadequacy of this package will be abundantly manifest within a matter of months. Deficit forecasts will skyrocket. Our foreign creditors, looking inward in the case of the Japanese and looking eastward in the case of the Europeans, will refuse to continue financing our run-away deficits. At that point, Congress and the President will at long last be ready for a budget freeze and a value-added tax which, together, will move this country toward a balanced budget in short order. I am prepared to lead that effort, to pay whatever political cost is involved in selling and administering that bitter medicine. But I cannot support the present, entirely inadequate measure.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SASSER. I yield to the distinguished Senator from Nevada 10 minutes.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 10 minutes.

Mr. BRYAN. Mr. President, I thank the Chair and the able and distinguished chairman of the Budget Committee. I shall confine my comments to the minimum allocation provisions in the proposed new gasoline taxes that are to be imposed by the bill, and I associate myself with the comments made earlier this morning by the distinguished senior Senator from Montana, Senator BAUCUS.

Mr. President, I object to the 95 percent minimum allocation provisions on two grounds. First, I believe the proposal would undermine our national transportation policy. Second, and I believe this is more important today, it is very clear that a change in the minimum allocation formula has nothing to do with deficit reduction and should be considered in the broader context of the highway reauthorization bill to be debated next year.

Mr. President, it has been more than three decades since the Congress passed the Federal-Aid Highway Act of 1956, which authorized the largest Federal highway construction program in our Nation's history.

The centerpiece of our highway program has long been the acknowledgement that we all as Americans benefit from the construction and maintenance of a truly National Highway System. Since the highway system is funded through excise taxes, it is inevitable that some States will contribute more, other States will contribute less. It is also inevitable that some States will require more funds than others because of the nature of their individual situation.

Let me cite my own State of Nevada as an example. Due to its large land area and relatively small population, we spend $1.37 in Federal highway funds for every dollar we collect for the trust fund. The role of bridge States, such as Nevada, is critical to efficient transcontinental highway traffic for both commercial and passenger vehicles.

I might note, Mr. President, this is not simply a concern of those of us in the West. The table that has been provided to us indicates that some 27 States would be net losers under the proposed 95-percent minimal allocation formula. From the South, Alabama is affected, to New England, Vermont is affected. It has a bicoastal impact, Massachusetts, on the Atlantic, Washington on the Pacific; large States and small States in population, from New York to the Dakotas, both North and South Dakota, will be adversely affected.

It has been argued that the Federal interstate system is nearly completed. And that is true. But we also must recognize, taking pride as we do in its construction, that it is one thing to build, yet another thing to maintain. We need now to continue that commitment, Mr. President, to maintain this system.

Throughout the country, federally funded highways are in dire need of repair. In my own home State of Nevada there are portions of our interstate system which will need to be closed to traffic if substantial repairs are not made in the next few years.

My State cannot afford to maintain its share of the Federal highway system on its own. A recent study found that the State of Nevada and local governments need to spend more than $6 billion over the next decade to preserve our State-funded road system. There are 161 bridges and 25,724 miles of roads that need immediate improvement.

Mr. President, we have identified only $2½ billion in expected and anticipated revenue under the present revenue system, $3.8 billion less than the amount needed. Lest there be any conclusion that Nevada is not imposing upon its own citizens a reasonable gas tax, Mr. President, let me point out that the State of Nevada has the highest gasoline taxes in America. To add the burden of increased responsibility for our Federal road system would be impossible in light of these heavy responsibilities and financial commitments made by the citizens of my own State. The continued cost sharing between our States is essential to protect our national interests.

It has been argued that no one will lose under the proposed 95-percent minimum allocation formula. The new formula is ostensibly only supposed to apply to the new gas taxes which will be imposed by this measure. The reality, however, is that many States will face a relative loss of funds under this formula.

While it is true that every State may conceivably receive additional funding, such States as Nevada would receive less than they otherwise would receive under the present 85-percent formula.

Mr. President, I also note that, under the tables being circulated that make the assumptions that increased highway funds will be made available, the formulas that are contemplated do not allow for a substantial increase in the obligation limits. It is the present obligation limits that cause a buildup in the Federal highway trust fund of nearly $11 billion and prevent the States from spending the money that presently is in the trust fund and that has been collected from motorists who travel along our highways.

I am encouraged that both the House and the Senate transportation appropriation bills include some increases in these obligation limits, but any possible increases in highway funding over the next few years can easily be covered by the current $11 billion surplus.

While the definition of which highway spending will be attributed to the new gas tax is unclear, it seems unlikely in fact that any of the funds derived from the new tax will actually be spent on highway improvements over the next 5 years.

The timing of the 95-percent minimum allocation proposal is simply inappropriate. Never before have changes in our highway allocation formulas been made as part of the budget reconciliation process. In addition, highway allocation formulas have always been under the jurisdiction of the Senate Environment and Public Works Committee. The 95-percent minimum allocation provision was reported to the Budget Committee by the Senate Finance Committee. While the Finance Committee does have some jurisdiction over all the trust fund, the historical record clearly establishes that the Environment and Public Works Committee is the committee which enjoys plenary jurisdiction over the division of the highway funds between the States. Any change in the minimum allocation formula needs to be addressed in the context of next year's highway reauthorization funds.

Mr. President, I ask unanimous consent that the list of the 27 States that

will be adversely impacted by the 95-percent minimum allocation be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LOSERS UNDER 95 PERCENT MINIMUM ALLOCATION

Alabama, Alaska, Colorado, Connecticut, Delaware, Hawaii, Idaho, Iowa, Louisiana, Maryland, Massachusetts, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, West Virginia, and Wyoming.

Mr. BRYAN. I thank the Chair and I yield the floor.

Mr. SASSER. I yield 10 minutes to the distinguished Senator from Texas for the purpose of a statement.

The PRESIDING OFFICER (Mr. ADAMS). The Senator from Texas is recognized.

Mr. BENTSEN. There has been a lot of debate here this morning about the minimum allocation provision. Let me state that from the very inception of the highway program, my State of Texas has been a donor State. And we could understand that. There was a reason to have donors and donees. One of the reasons is that you go across a State like Nevada, which did not have that much population, or you go across States like Montana and Idaho, and in many of those instances, it required very expensive construction to push through mountains, spending an extraordinary amount of money per mile. It was justified, and we did it it.

But now the interstate is 99.3 percent complete—99.3 percent complete. It is not yet complete in my State, however. At some point, this business of some States getting $2.50 for every dollar they send to the trust fund has to end. And the logical time for it to end is when the interstate is finished.

We had a problem in trying to get the people of the South and the West to vote for an additional gasoline tax even though we know that helps conservation, and even though half of it is going to the deficit. The one-half that was left was going to the highway trust fund. It was important to be able to go back to your State and to say to those people who were from donor States: "You are going to get 95 percent of it back. It won't be as bad as it has been in the past, you still won't get all your money back but it won't be as bad." As to the other States which are going to get more than they send in, to further protect those States, the provision will hold them harmless. It says on the 9 cents of gasoline tax that is now on the books, you will continue to get 85 percent back. For those States that get $2.50 for every dollar you send, you will continue to get that on the 9 cents.

But what we are talking about is the additional revenue for highways coming from the gas tax increase and on that you still have more money for your States. You will get back a minimum of 95 percent of it, at a minimum. And, in addition, you will be able to share in that extra 5 percent of funds not going to donor States. That is what we are talking about.

I understand the realities. I understand that there are at least 27 of those States that get more than they send in, and there are only 23 of us that would be donor States under the provision. I understand how those economic interests prevail and how those that have been getting more than they send, more than their people pay in Federal gas taxes, I know they are going to want to continue that kind of a situation. There will still be donor and donee States. But at some point—and it seems to me that the time is now, as we have this increase in the gas tax—we must try to bring some justice and equity into the funding equation as we are finishing up the interstate.

Maintenance costs? Of course there are maintenance costs. Donor States have them and donee States have them. But the big difference in costs, in cutting roads through mountain States, that has been taken care of in the first phase of the highway program now coming to an end.

My State, Texas, is now at the bottom of the heap, along with Wisconsin, North Carolina, and Oklahoma, and it may always be there. But at least we ought to get that minimum allocation up to where there is more equity in it now that the interstate is virtually completed.

I hope the Senators and their staffs would take a look at some material prepared for me by the FHWA. When my colleagues see it, they will realize this proposal is beneficial. It provides some equity and fairness. I urge Senators to support it.

We shoulder a disproportionate share of this tax in the South and in some Western States. We drive more and we drive farther than others. We have to because of the distances involved. That is why I urge my colleagues to look at these numbers, look at this provision and see how much their States benefit or at least are held harmless by it.

I urge my colleagues to support provisions on minimum allocation.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask the chairman of the committee to yield to me 10 minutes?

Mr. SASSER. Mr. President, I yield, to the Senator from Montana, 10 minutes.

The PRESIDING OFFICER. The Senator from Montana is recognized for 10 minutes.

Mr. BAUCUS. Mr. President, all of us in the Senate have the highest regard for the Senator from Texas, the chairman of the Finance Committee. He obviously feels very strongly about the minimum allocation provision that is in the reconciliation bill.

This is a matter which is often contested. It is contested whenever the highway authorization bill comes before the Congress. It was addressed in 1983. At that date the Environment and Public Works Committee changed the minimum allocation formula in a way that would benefit more States—I see the Senator rises to ask a question. I will be glad to yield to the Senator from Texas.

Mr. BENTSEN. I will tell my colleague who the Senator was who changed it.

Mr. BAUCUS. I have a good idea who it was.

Mr. BENTSEN. You are looking at him. My State was getting back 55 cents on the dollar and I urged we get it up to 85.

I yield.

Mr. BAUCUS. The Senator is correct. The present formula is 85 percent and generally there are about 19 States who benefit under that formula.

But the main point, Mr. President, is this. This is a matter which is contested on occasion. When it is, it is contested in the committee. When the debate on the highway bill comes before the Environment and Public Works Committee, that same debate will come next year when the highway authorization comes up again.

The present highway authorization program that distributes dollars among States for highway construction and maintenance expires next year, in 1991. So next year in 1991 this Congress will again face the question what should the allocation be, what should the formula be, how many dollars go to which States for what purposes of highway construction and maintenance. Next year is when it should come before the Congress, if at all: in the ordinary course of business, in the committee that has jurisdiction, the Environment and Public Works Committee.

It is my view, and I think it is the view of a good number of Senators, that we should get on with the business of budget reconciliation, we should get on with the business of budget deficit reduction, we should do all we can to reduce the deficit by as much as we can, and as fairly as we possibly can, so the burden of deficit reduction is felt evenly and fairly all across our country. That is the goal here, and we are trying mightily to achieve that goal so we can pass the resolution and adjourn and go home. That should be our goal.

I therefore think we should not be involved in adding provisions in the budget reconciliation bill which have

nothing to do with budget deficit reduction. That is, we should not be adding in provisions which go to policy, which change formula allocation, but have nothing to do with budget deficit reduction.

So that is one reason I urge us to come up with a solution here that strikes from the reconciliation bill the change in the minimum allocation formula which has the effect of massively transferring dollars away from approximately 27 States in favor of approximately 23 States. We should not be involved in this massive change in highway funding distribution.

A few days ago the distinguished chairman of the Environment and Public Works Committee, Mr. BURDICK, introduced a resolution with 32 cosponsors asking the Senate to go on record saying this matter, the change in the minimum allocation formula, properly is in the jurisdiction of his committee, the Environment and Public Works Committee, and we should not be addressing it at this time.

Also there are various letters in circulation, signed by various Senators, making this same point: this matter should not be brought up this year; it should be considered next year in the appropriate authorizing committee.

There have been no hearings on this issue. There have been no deliberations. It is just a formula change that was inserted in the reconciliation. Because this matter is so important, and because Senators on both sides have such passionately held views on this matter, it seems only fair there should be hearings before this matter is addressed one way or the other.

This question of the minimum allocation provision is always in contest with the House. It is always a matter that is debated with the other body; and the Senate, this body, uses the lower percentage figure as a bargaining chip with the other body in conference to come up with a conference report that addresses the proper formula in the distribution of dollars.

So if we, at this point, enact this minimum allocation formula change, we in the Senate will be giving up a bargaining chip when we negotiate in conference with the House.

We all know next year when the highway authorization comes up, when we in the Senate finally pass our bill dealing with this subject, we then go to conference with the other body and the other body will have a formula change which tilts highway distribution even more in favor of populous parts of the country, even more at the expense of thinly populated parts of this country.

We should not give up that bargaining chip. We should not be making those decisions now.

Finally, Mr. President, our highways, our interstate system is a national system. The distinguished chairman of the committee is accurate when he says the Interstate Highway System is practically complete. He used the figure 99.3 percent and I suspect that figure is accurate. But that begs the issue.

Even though the Interstate Highway System is for all intents and purposes complete, I do not think we want to walk away from that investment. We still have to maintain those highways. We still have to repave them. We have to keep them in good operating shape.

There are many States today, the thinly populated States, which are having a devil of a time trying to maintain their existing highways.

My own State of Montana and many other Western States have State gasoline taxes much higher than the national average. Montana's State gasoline tax is 20 cents per gallon. It is one of the highest in the Nation. We are forced to raise our gasoline taxes in our State in order to try to maintain our highways in as good shape as we possibly can. Still, we are having a hard time keeping up.

The Interstate Highway System, the primary system in this country, is a national system.

Those of you who live in Eastern States and more populous States like to take vacations; you like to drive across our country. You would like to go to Yosemite; you want to drive some summer to Yellowstone or Glacier Park in my State; you want to drive across the country to visit relatives, and you want to drive on national highways that you can depend upon. This is a national program.

Those of us in business transport products across the country and would like an interstate system that works, a primary system that is a national system, so that we know if we are driving across one State and we get to the next State, we can depend upon highways; that they are, by and large, as good as they were in the last State.

I submit, Mr. President, if we change this highway allocation formula today, Americans are going to have a quiltwork, patchy highway system in this country. Some will have great highways. Others will have highways that are not quite so good; a lot of pot holes, a lot of chuckholes. Those of us in Montana know we have a checkerboard land pattern in this country in Federal lands, unfortunately. If changes such as this are approved, we are going to have a checkerboard highway program. We cannot have a checkerboard highway program in this country. This is a national program.

When we add it all up, for a countless number of reasons, this provision should not be in this bill. The Finance Committee has no jurisdiction.

I see the distinguished chairman of the Environment and Public Works Committee on the floor. The distinguished chairman submitted a resolution with 32 cosponsors asking the Senate to go on record as saying that the proper committee, the proper time to deal with this matter, is in the Environment and Public Works Committee when that highway authorization bill is before the distinguished chairman's committee.

We also should not go down the road, Mr. President, of beginning to add extraneous matters. There may be other amendments later on today and tomorrow that will add extraneous matters. I think most Senators would not like to add extraneous matters to this budget reconciliation bill.

Mr. President, I strongly urge all Members, depending upon the parliamentary situation we find ourselves in, to resist the inclusion of the minimum allocation provision. It should not be in the bill.

Accordingly, Mr. President, I raise a point of order under subsection (d)(1)(C) of section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1986 against section 7405 (J) on pages 353 and 354 of the bill.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Senator PRESSLER be permitted to speak for 3 minutes before the Chair rules on the point of order.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Reserving the right to object. I ask unanimous consent to add several other cosponsors joining me in making my point of order, in addition to Senator PRESSLER.

Mr. President, joining me along with Senator PRESSLER are Senators REID, SYMMS, CONRAD, BRYAN, LAUTENBERG, DOMENICI, and the distinguished chairman of the Environment and Public Works Committee, Senator BURDICK.

The PRESIDING OFFICER. Is there objection that the Senator from South Dakota be recognized for 2 minutes?

Mr. DOMENICI. For 3 minutes, Mr. President.

The PRESIDING OFFICER. For 3 minutes. Hearing no objection, it is so ordered.

Mr. PRESSLER. Mr. President, I think this issue is an important one to the smaller States. As I have said earlier, the proper place for this is in the Environment and Public Works Committee. The large States want a highway formula based on population. The small States want a highway formula based on a combination of population and length and miles of roads. It is a fairness issue to the small States.

In the Federalist Papers, written by the Forefathers of our Constitution, it was pointed out the need to have a

Senate where the small States would have a fair chance. This is a classic example of that. This is the same point of order and the same amendment I proposed and spoke about on the Senate floor for the past week.

I am happy that this is getting done. I am very pleased to join in it because next year we will be writing the 5-year highway bill. The formula will be written. There will be a battle between the House and the Senate. The House will come forth with a formula very favorable to the big States. The Senate will come forth with a formula more favorable to the smaller States.

I have been a leader in fighting for the small States in terms of the highway trust fund formula. I urge that the point of order that has been raised be interpreted in such a way as to strike what the Finance Committee has done, as a matter of fairness to States such as South Dakota.

Mr. REID. Mr. President, I rise to join my colleague from Montana in making a point of order against section 7405(j) of the bill—the minimum allocation formula for the distribution of Federal highway funds. I am strongly opposed to this provision in the finance title of the Reconciliation Act altering the minimum allocation on extra highway funds from 85 to 95 percent.

My opposition is based on three points. First, it is not within the jurisdiction of the Finance Committee; second, it does not alter revenues or outlays, and third, it is unfair to a majority of the States.

Jurisdiction. What the Finance Committee is doing is wrong. The issue of minimum allocation is not within their jurisdiction. It is within the jurisdiction of the Environment and Public Works Committee. The committee which has always had jurisdiction over the issue. The Environment Committee will take up highway reauthorization next year when it can deal with this and all other highway issues in a comprehensive manner.

If the Senate retains this provision, an important bargaining chip will be thrown away. For years, the House and some big States have been trying to change the highway program. It is now a national program. Some States put in more than they get out. If this were not the case, States like Nevada, Idaho, Montana, Massachusetts, and many others would never have the funds to build and maintain an adequate road system. This would be a blow to interstate commerce.

There are thousands of miles of roads in my State. They are used regularly by Nevadans. But they are also used by tourists from many States and by trucks and other freight carriers passing through Nevada to other States. In other words, the whole Nation benefits from the roads crisscrossing our States and all other States. Nevada could never on its own pay to maintain this road network. It needs help from its fellow States. And the Highway Act recognizes this need through a formula that currently provides Nevada $1.37 in funds for every dollar it donates. Changing this formula would make it difficult for Nevada to maintain its share of the national road network.

This issue, and all other highway issues will be debated at great length when Congress reauthorizes the Highway Act. There will be tradeoffs at that time and this may be one. But if it is lost now, then the Senate goes into the reauthorization process with a weaker position. The Environment Committee and the Senate ought to have the chance to save all of its bargaining chips for next year's battle which promises to be bitter and decisive.

Effect on revenue. This provision does not belong in the finance section of the package for jurisdictional reasons. It is unfair to most States as I will explain below. And it has no effect on the deficit.

The minimum allocation only affects the distribution of highway funds. It does not raise taxes or spend the funds. Those provisions are elsewhere in the reconciliation package and other existing legislation. Since the provision has no effect on the deficit, it should be struck for that reason.

Fairness. But the most compelling argument of all is the unfairness of this money grab.

Changing the minimum allocation formula benefits only 23 States. Some may try to tell you no one loses because of this change. This is simply not true. According to the Federal Highway Administration, increasing highway revenues by $5 billion under the 85-percent formula will mean $680 million more for all the States. Changing the formula to 95 percent means half the amount goes to 50 States, with the other half dedicated to the other 23—27 States lose to 23. How is this fair?

This means a total loss of $345 million and a loss of $2.2 million to Nevada. Not a lot in some other States, but a lot in Nevada. We need every penny we can get. A penny increase in the State gas tax brings in $6 million, while the Federal gas tax brings in $8.2 million per penny increase. We should get our fair and historic share of any increase.

Nevada and the other States should not forfeit a single penny of highway funds. And if we are ever to lose money, it should not occur on reconciliation—a bill to reduce the budget deficit. It should only occur after careful deliberation on a highway bill. This body should follow the normal legislative process, particularly on such a contentious issue.

Congress will address this issue next year. For the sake of fairness, let us wait until then to change formulas and other provisions of the highway bill. I support my colleague's point of order and urge all of my fellow Senators to do so as well.

Mr. METZENBAUM. Mr. President, I support the 95 percent highway reallocation provision included in this reconciliation package by the Finance Committee.

The way in which funds are allocated under the Federal Aid Highway Program today is completely and totally unfair.

The States that need highway funds the most—ones with heavy interstate truck traffic, ones with wornout, crumbling bridges, with annual salt and freeze winter damage—the States whose highways are the oldest in the country—are the States that consistently get ripped off on the highway program.

Ohio is one of those States.

So are 22 other States in this country.

It is absurd that in 1990, highway funds are still being apportioned to the States on the basis of such factors as rural postage mileage and rural population.

Since 1957, when the Federal Aid Highway Program was restructured, my State has contributed nearly $700 million more to the highway program than it has received back.

Here are some others.

Texas lost $2.2 billion; Michigan lost $667 million; Indiana lost $652 million; Wisconsin lost $556 million; California lost $1.8 billion.

It is absurd.

Ohio's highways are some of the most beat-up roads in the country.

Ohio is a heavily industrialized crossroads State. The amount of truck traffic that travels through Ohio is infinitely greater than the traffic through Idaho, Montana or South Dakota.

Yet Ohio's drivers continue to subsidize highway construction in those States—at the expense of their own roads—year after year after year.

Now this reconciliation package increases the gas tax. Drivers in my State will be asked to pay even higher taxes—to shell out even more money to repair roads out West.

The accompanying provision to increase the minimum allocation to 95 percent is only fair.

To raise the gas tax, but to continue the same old subsidy system, would be ridiculously unfair.

It is absurd for Senators, whose States have benefited from an unfair system for years, to now complain that their States will be treated unfairly by the Bentsen amendment.

The fact is, the Bentsen 95 percent minimum provision only applies to the

additional funds to be raised under a gas tax increase.

No State is going to lose money. Every State will receive some increase.

It is a good provision, it is equitable and it is fair.

Mr. GARN. Mr. President, I join many others of my colleagues who have spoken their opposition this morning to the proposed changes in the Federal Highway Administration minimum allocation formula contained in the budget summit agreement.

I think the adoption of the 95-percent minimum allocation formula from its current 85 percent would set a very dangerous precedent and is bad public policy. In addition, the 95 percent proposal is ill-timed and completely inappropriate as part of this budget effort when the entire highway program is due for reauthorization next year. As has been so eloquently stated by my colleagues, the minimum allocation formula has nothing to do with deficit reduction and everything to do with the shape and character of future national highway policy.

Utah is one of the States that will be sorely penalized by such a change. Utah normally receives more in transportation funds than are collected in the State. On the surface this may seem unfair. However, the reality is that this is a correct policy and should be continued.

The State of Utah has been charged with constructing large numbers of miles of highways across unpopulated, Federal lands that provide no tax base to the State coffers. Many times these lands are primarily used by non-Utahans engaged in recreation or commerce. It is not fair that Utah would be asked to maintain these roads with a smaller share of Federal support that was given to construct them. The Utah Department of Transportation estimates that Utah would lose at least $10 million per year in revenue under this proposal. That is a large chunk of money to my State and its loss would have a devastating impact on Utah's ability to keep and maintain the Federal highways as they should be.

I do not think this proposal should be included in any Federal highway reauthorization. But I think it is especially onerous and inappropriate that it has been proposed as part of this budget reconcilation bill.

Mr. KERREY. Mr. President, I would like to rise today to add to the comments of Senator BAUCUS, among others, oppose an effort to raise the minimum allocation of highway trust fund moneys from 85 to 95 percent. This provision would seriously hurt and be unfair to the economies of largely rural States such as Nebraska.

This provision would increase the minimum allocation—the minimum payback 19 States are currently entitled to receive from their payments into the highway trust fund—from 85 to 95 percent. By increasing the minimum allocation to these 19 States we would dramatically decrease the pool of funds available to rural States like Nebraska to maintain their highway infrastructure.

Supporters of the increased minimum allocation argue that with the near completion of the Interstate Highway System we need to develop a more equitable formula for the distribution of highway trust fund moneys. Mr. President, I find this argument curious because it neglects the importance of the ongoing need for rebuilding and maintenance of that system. These demands are tremendous and it would be shortsighted to neglect them at a time that we need to strengthen our country's infrastructure.

Further, to those Senators who argue that equity demands an increase in the minimum allocation, I would point out that this is an argument that we neglect to apply when it comes to other forms of Federal investments. If we consider the allocation of military spending, research spending, spending under the provisions of the savings and loan bill, along with billions and billions of other Federal dollars, it is clear that behind the equity argument relating to the minimum allocation formula is another effort to draw dollars away from rural America.

For these reasons I applaud the decision of the Chair to remove the provision increasing the minimum allocation of highway trust fund revenues from the Senate reconciliation bill.

The PRESIDING OFFICER. The Chair is prepared to rule. The provision is contained in the title submitted by the Finance Committee to the budget reconciliation bill. The provision apportions highway funds between the States, which is within the jurisdiction of the Environment and Public Works Committee, and therefore violates subsection (d)(1)(C) of the Byrd rule.

The point of order is sustained, and the provision, pursuant to the rule, is stricken from the bill.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. For what purpose does the Senator from Idaho rise? Time is controlled.

AMENDMENT NO. 3011

Mr. SYMMS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS] proposes an amendment numbered 3011.

Strike section 7405 of the bill (relating to increase and extension of highway related taxes and trust fund).

Mr. DOMENICI. Mr. President, I think I have an understanding with Senator SYMMS that goes something like this: He has sent his amendment to the desk. He will not object if we now permit the distinguished chairman of the Finance Committee to take up to 10 minutes—is that what the distinguished chairman wants, 10 minutes; 15 minutes?

Mr. BENTSEN. I would like 15 minutes.

Mr. DOMENICI. Up to 15 minutes for his opening remarks, and Senator SYMMS would proceed immediately thereafter with the time as allocated on his amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Mexico? If not, it is so ordered. The Senator from Texas is recognized for 15 minutes. And thereafter, the Senator from Idaho is recognized—what was the request of the Senator from New Mexico for the Senator from Idaho?

Mr. DOMENICI. Immediately after.

The PRESIDING OFFICER. For what period of time?

Mr. DOMENICI. I believe that is controlled by law. The Senator has not agreed to relinquish his time. I believe he has 2 hours.

The PRESIDING OFFICER. In other words, the Senator does not make any request.

Mr. DOMENICI. He may relinquish some, but that is what he has.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I yield to the Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that Senators BYRD and MURKOWSKI be added as cosponsors to the point of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas.

Mr. BENTSEN. Mr. President, I will not ask to waive the point of order, because I understand the legitimacy of a procedural point. But I shall advise the Senate I will rise again on that particular issue, insofar as the formula is restructured next year, and will strongly support the idea that the donor States get a better deal.

Mr. President, what we are doing here today is dealing with a decade of indulgence by this country of ours; a decade of writing $150 billion worth of hot checks; regrettably the American people do not understand nor have they been advised of the depth of the problem. It has taken us months to come to this point. One of the reasons it has taken us so long is that we are living under the illusion that we can spend on and on and on, without ever having to pay for it.

That is no longer the case. It is important that the Congress and this administration help the American people to understand the economic problems we face and what these deficits mean for the future of this country. Within

the last 3 years, we went from the greatest creditor Nation in the world to the biggest debtor Nation in the world.

The spending cuts and revenue package we have brought out of the Finance Committee is a bipartisan measure.

It is not the proposal the Senator from Texas would have written or the proposal the minority leader from Kansas would have written or the proposal the majority leader from Maine would have written, or my distinguished friend, the ranking minority member from Oregon would have written. It is a compromise. As my colleagues may recall, I walked out on the rose garden ceremony last year because I said the budget proposal crafted by the White House and the Congress was smoke and mirrors—too much creative accounting. And I was proven right. That is one of the reasons we are here, because we did not address the problem earlier. This package before us today has some very politically unpopular things in it. It calls for sacrifice. It is a credible cut in the deficit. The deficit will be reduced by $40 billion in the first year and $500 billion over the next 5 years. The question is, Will we in the Congress continue posturing and arguing, fighting for partisan advantage, or bring this deficit reduction effort to a conclusion? The American people are rightfully fed up with the arguing. They want the President to be part of this process and they want him to show the leadership that has to be shown in this situation, they do not want to see him walk away from it saying, "You in the Congress settle this." Ours is a balanced Government of three branches. One cannot not imagine a Governor not participating in the budget decision in his own State. So it is with the President. We ask for his participation.

We brought a package out of the summit. The Finance Committee revenue and spending cuts proposals before you today are a much better, progressive set of proposals. If you look at the table of distribution, where in the summit there was a 7-percent tax increase for the poorest among us, in today's proposal they have been held harmless. The people who pay the most are those who make the highest incomes. This package came out of the committee by a vote of 15 to 5, a majority of Democrats and Republicans supporting this legislation. That is what I mean by compromise.

But let me say there is one thing I will not compromise on, and that is trying to see that the burden of cutting this deficit is equitably shared across all economic levels, and I am talking particularly about that sixtenths of 1 percent of the people at the top. They must bear their fair share. The interesting thing is that I think the vast majority of them expect and want to bear an equitable share of responsibility for reducing the deficit.

One of the things we have to think about as we are completing this budget process is that we must not lose sight of the bottom line: What could happen to this country and its economy and its credit ratings if we fail to enact a serious deficit reduction plan. West Germany does not have to buy our securities as they have over the last decade. They have East Germany to be concerned about now and Eastern Europe. Japan's stock market has been in a free fall, the country has taken a tremendous loss—they have problems in their banks, add overinflated real estate. We understand that. The Japanese do not have to buy our securities. You let this dollar continue falling as it has over the last 6 months and it will add to inflation concerns in this country and increase interest rates. We must show to the rest of the world that we are in charge of our economic destiny.

We cannot afford to see another Government shutdown, further recriminations, further loss in our capacity to govern. If we fail to act and have a sequester, giving us problems in the operation of the Federal Government, then we can expect further selloffs in the stock market and further escalation of interest rates.

Mr. President, the budget summit negotiations were marked by partisan differences, differing views about how the American people should share the burden of deficit reduction, and I expect that some of those differences are going to be referred in amendments on this floor from Members on both sides of the aisle. But in the final analysis, when we vote on this bill, we can and we should put aside those partisan differences and do what is right for the country and put the country first, ahead of partisan differences. It is critically important for the Senate to lead. I believe the Senate will live up to that responsibility, move this legislation forward, and pass a reconciliation bill to be signed and that will be signed by the President.

In the Finance Committee title of the reconciliation bill, the contribution from the highest income taxpayers in the country is substantially greater than was contemplated in the budget summit agreement. We have doubled the share of the tax burden on those making over $200,000 a year and we reduced the burden on the majority—average Americans, middle-income Americans—as we should have. Over the last decade middle America increased its earnings only 3 percent after taxes, yet the rich increased theirs by some 87 percent. They can afford to help share in cutting this deficit.

We were able to make some changes in the summit package by increasing the share of the deficit reduction borne by those with the highest incomes. We were able to reduce the hit on elderly and disabled Medicare beneficiaries by $10 billion. Where the summit agreement had them paying a 30-percent premium on part B of Medicare, this package cuts it back and continues the current policy under which they pay 25 percent.

I am especially pleased to note that the Finance Committee package includes some very important—albeit modest—spending initiatives to protect low-income elderly and disabled beneficiaries from the additional costs associated with high premiums, deductables, and as payments for Medicare services.

In addition, we expanded Medicaid coverage for low-income children—a national priority when are infant mortality rate is alarmingly high and 12 million American children lack health insurance coverage.

Originally, I had proposed a $20 billion reduction in the Medicare savings, but we had to compromise, and $10 billion was the best we could do. We eliminated the 2-cent tax per gallon on refined petroleum products, including the tax on home heating oil that was so controversial in the Northeast. We cut the size of the gasoline tax by over 20 percent. We deleted a provision that would have delayed for 2 more weeks the unemployment checks for the unemployed. And, finally, the Finance Committee deleted the ill-conceived, so-called small business incentives from the summit agreement. I heard Republicans and Democrats alike criticizing that one. The Finance Committee replaced these with some important initiatives that Members are familiar with and that have broad bipartisan support. These include the extenders—the mortgage revenue bond program, the 25-percent deduction for health insurance premiums by the self-employed, and the targeted jobs tax credit, as well as the low-income housing credit and the research and experimentation credit. All these are included in this package.

These are some significant improvements, Mr. President. This is a package that I think both Democratic and Republican Senators can support. The package has the support of 15 members of the Finance Committee, Democrats and Republicans. I strongly urge my colleagues to support this piece of legislation so it receives the same kind of strong bipartisan support from the Senate that it received in the Finance Committee.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator yields back the remainder of his time.

Mr. DOMENICI. Mr. President, I do not see Senator SYMMS on the floor.

The PRESIDING OFFICER. The Senator has returned.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. Is not the Symms amendment the pending business?

The PRESIDING OFFICER. The Senator is correct. The Symms amendment is the pending business at the present time. The Senator is on the floor.

Mr. DOMENICI. Let me say to the Senate I think he is going to agree to a half-hour.

Senator SYMMS is here. We indicated some time ago as we listed these amendments that the Senator desired a half-hour. Is that correct?

Mr. SYMMS. That is correct. I must say, if I may have 30 seconds to respond to the Senator, I could argue my case in well less than a half-hour. It is a very simple case.

I just would ask unanimous consent, however, to add as original cosponsors to my amendment Senator HATCH, Senator GARN, Senator HELMS, Senator HUMPHREY, Senator WALLOP, Senator ARMSTRONG, Senator KASTEN, Senator MCCAIN, and Senator GRASSLEY. How many of those Senators wish to speak on this I do not know.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Thirty minutes is all the time this Senator needs.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the time be limited to a half-hour on the amendment and a half-hour in opposition. Is that all right with the Chairman?

Mr. SASSER. That is satisfactory.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. I assume to be divided in the usual form.

Mr. DOMENICI. Obviously Senator SYMMS has half an hour and Senator SASSER has half an hour in opposition.

The PRESIDING OFFICER. You wish one-half hour equally divided, an hour equally divided, one-half hour to each side?

Is there objection?

Mr. SYMMS. Reserving the right to object, Mr. President, would it then be in order for other Senators who wish time to be able to speak from the bill?

The PRESIDING OFFICER. Not under the unanimous-consent request. The manager of the bill can yield time from the time that they control. But the unanimous-consent request order would cover the specifics of the amendment unless they yield time.

Mr. CONRAD. Mr. President, reserving the right to object, I will not object, but for the purposes of attempting to establish some rough schedule, the Senator from Montana and I have an amendment of some complexity to it that we would like to offer. The Senator from Montana has a clean air conference that is going on. I ask the leaders if it would be possible for us to get unanimous consent at this point to follow Senator SYMMS' amendment with our amendment. We would be glad to agree to a time limit.

Mr. SASSER. Mr. President, I am not in a position at this moment to be able to agree to the Senator's request. The leadership has indicated their wishes with regard to taking up two more amendments immediately after the Symms amendment is disposed of.

I cannot, unfortunately, agree to the Senator's request.

Mr. DOMENICI. Might we say to the distinguished Senator, however, with the Chairman's concurrence, that we will do everything we can to give adequate notice. We have a couple of amendments that the leaders have asked us to take up next, but we would be delighted to give plenty of advance notice because of the schedule to the distinguished Senator.

Mr. CONRAD. Reserving the right to object further, Mr. President, I ask if I could be advised what the next two amendments are that the leadership seeks to take up?

Mr. SASSER. Mr. President, there are two amendments by the Senator from Florida dealing with the Federal Deposit Insurance Corporation. One of those amendments, as I understand it, gives the Federal Deposit Insurance Corporation the authority to decline to insure any federally chartered bank.

The other amendment by the Senator from Florida is less clear. That is an amendment that allows the Federal Deposit Insurance Corporation, as I understand it, simply to rate banks as to the risk that they might offer to the insurance fund.

With regard to the Senator from Washington, Mr. GORTON's amendment, perhaps Senator DOMENICI could address that better than I.

Mr. DOMENICI. I understand that it deals with the FAA. I think it is being worked out now.

Mr. CONRAD. Mr. President, reserving the right to object further, I hope not to have to object, I do not want to cause a problem with the schedule. The leaders are attempting to implement it here. I want to cooperate. But I also want, to the degree they are able to achieve it, some understanding about an ability to offer our amendment.

The last thing I would want to do is find that we at the evening hour all of a sudden are told we have to be done tonight, and some of us are frozen out. This is a substantial amendment. We want to have a chance to give our colleagues a chance to vote on that.

Would it be possible to get an agreement or some informal commitment, at least, from the leadership that after the amendments that have been outlined we would then have the right to offer our amendment?

Mr. SASSER. Mr. President, first let me assure the Senator from South Dakota there is no effort to shut any Senator out from offering an amendment. I think there is going to be ample time for all amendments to be offered and to be fully debated.

I would be reluctant to enter into any agreement now as to an order of precedence for calling up amendments or amendments to be debated without first conversing with the leadership on that question. But I will say to the Senator who has been sitting here most of the morning waiting in turn to bring up his amendment that it is anticipated that his amendment will be brought up at sometime this afternoon.

Mr. CONRAD. I thank the leaders.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Mexico on limitation of time? Hearing no objection——

Mr. SYMMS. This Senator from Idaho will have 30 minutes?

The PRESIDING OFFICER. That is correct.

Mr. SYMMS. The Senator from New Mexico can yield time to other Senators as he wishes?

The PRESIDING OFFICER. That is correct.

Mr. SYMMS. I have no objection.

The PRESIDING OFFICER. The Chair will state that the unanimous-consent request is that the argument on the amendment will be limited to 1 hour, one-half controlled by the Senator from Idaho, and one-half hour controlled by the opposition to the Senator from Idaho on his amendment. So, there is a 1-hour time limit.

Mr. SYMMS. Reserving the right to object, I want to make this clear. Since we have been standing here I have had three Senators call in who wished to be heard on this. The Senator from Idaho needs 30 minutes; the Senator from Mississippi [Mr. LOTT] has asked for 10 minutes. Can that be made part of it?

The PRESIDING OFFICER. If the one who propounded the unanimous-consent request is willing to accept that, yes. That can be done. Does the Senator wish to extend this to an hour and 10 minutes?

Mr. DOMENICI. We will try to accommodate.

Mr. SYMMS. I do not want to hold us up. I suggest that we go ahead and just yield the Senator from Idaho 30 minutes, which I can either use myself or yield to other Senators, and reserve 10 minutes to the Senator from Mississippi [Mr. LOTT]. That is all I have a request for.

The PRESIDING OFFICER. The order of the Chair will be, there is a 1-hour time limit to be equally divided between the Senator from Idaho and the opposition to the amendment which will be by one of the managers as they may see fit.

Mr. SASSER. Perhaps I could simplify this by simply saying that I ask unanimous consent that the proponents of the Symms amendment be allocated 40 minutes, 30 minutes to be under the control of the Senator from Idaho [Mr. SYMMS], 10 minutes to be under the control of the Senator from New Mexico [Mr. DOMENICI], who may allocate that to the Senator from Mississippi [Mr. LOTT]; 40 minutes to be under the control of the opponents of the Symms amendment, and that would be myself.

The PRESIDING OFFICER. Is there objection? Hearing no objection——

Mr. CONRAD. Reserving the right to object, Mr. President, I guess this heightens my concern about what I see happening. I have been on the floor since noon today, actually before noon, seeking to get recognition to offer an amendment.

I have been told there is an informal leadership agreement on a sequence of amendments. We understand that. But then I am told we cannot have any understanding about when we might be able to offer an amendment, and it is important to the sequence of amendments here, obviously. It makes a difference on whether or not you get fair consideration of an amendment or not.

And I simply say that I would hope there could be some understanding, either through a unanimous-consent request or an assurance that after this sequence of amendments, I will have a chance, along with Senator BAUCUS, who is in a conference committee, to offer our amendment, or I will be in a position of having to object just in order to protect ourselves.

Mr. DOMENICI. Mr. President, might I say to my friend from North Dakota, we do not need the unanimous consent, and he will be in worse shape. He has 2 hours, amendments to it have an hour. We were trying to limit the time.

I will do everything I can in meeting with the leader, and we will meet with him shortly to see if we can put the amendment—I will ask Senator SASSER to join me—in a position that the Senator can be assured it is not way down the list, but in a timely manner, consistent with what we have. I think we will save time and accelerate the Senator's opportunity, if we get on with the 40 minutes, as recommended by the chairman.

Mr. SASSER. Mr. President, I also say to the Senator from North Dakota that in seeking the unanimous-consent agreement with the Senator from Idaho, we are seeking to save time. He has 2 hours, by statute, on his amendment. We are seeking to reduce that to an hour and 20 minutes. And, frankly, I do not anticipate using all of the time on my side. I am seeking to accommodate the Senator from Idaho so that we can compress his time, and we will have more time left over.

Mr. CONRAD. Mr. President, I do not want to prolong the agony, but I want to make clear that, obviously, the only leverage this Senator has to try to assure my colleague, who is going to offer the amendment with me, is through a unanimous-consent request. That is the only leverage we have here to try to assure some fair treatment. I will take it on the word of the leaders that they will attempt to get us fair treatment.

Mr. SASSER. We will do our best to accommodate the Senator from North Dakota. I say again that there is no wish to shut out his amendment. I anticipate it will be taken up this afternoon, if he perseveres, and obviously, he intends to.

The PRESIDING OFFICER. Without objection, the unanimous-consent request of the Senator from Tennessee is agreed to.

The Senator from Idaho is recognized on his amendment.

Mr. SYMMS. Mr. President, it is very obvious that this amendment is a very, very important amendment. I think it is also very obvious to the American people that the gasoline tax is one of the most regressive taxes that can be brought to the American people. It hits hardest those least able to afford it. Families that live on $10,000 to $20,000 a year spend twice as large a share of their income on gasoline as families living on $50,000 or more a year. People supported largely or entirely by Social Security would lose more to the tax than either working people or retired people with much higher incomes.

Fully, two-thirds of the Americans oppose an increase on the Federal gasoline tax. Mr. President, I think that is an important point. I heard the eloquent remarks of my friend from South Carolina earlier. Sure, if you take a poll, everyone is against tax increases. But I think everyone outside of the Government's network, particularly here in Washington, is against the increase in spending on Government programs. They would like to freeze the budget.

A lot of people say that this will be a killer amendment, because it is $45 billion that comes out of this bill. One Senator came to me and said, "How do you make it up?" I am not going to make it up. I want to make that clear. I am not in favor of raising taxes, period.

I am sure Senators will make the argument that if you vote for the Symms amendment to cut out the gasoline tax, the fuel tax, you are then going to have to have a higher income tax rate. I am not going to vote for higher income tax rates. Other Senators may vote however they choose. But I think it is about time we settle this issue, and this is as good a place to settle as any, right at the outset of this debate over whether or not the American people believe they need more taxes and more revenue. We have heard some good speeches here on the floor about how this bill will devastate the highway program.

Mr. President, as I said, two-thirds of the American people realize that raising the tax on gasoline is to raise revenues for the reduction of the Federal budget deficit, and two-thirds of the American people are against this. Most believe the budget deficit could be significantly reduced by Federal Government spending cuts. I happen to think that is true, as one who has been here in the Congress, I am convinced it is true.

There is no part of the Government that could not get by, if we are in an emergency and I think this is an emergency, on the same amount of money that they had last year. We can even be more generous. We could allow the Government to grow at 4 percent and do as well as this $269 billion tax bill calls on for the American people, and have a balanced budget by 1996.

In terms of areas, Mr. President, the West and the South, the rural States, this tax not only discriminates against people with lower incomes that have to have automobile transportation, it discriminates among geographical regions. It will fall more heavily on the lower-income States in the South and in the West than on the higher-income States in the East. It will hit suburban residents harder than city dwellers, because they have to drive back and forth to work. People who are able to use mass transit, will not be hit as much. It will hit rural households especially hard. Adding 10 cents to the cost of gasoline would reduce the GNP by nearly $10 billion in the first year alone, according to the study by the prestigious Wharton School of Finance.

Auto production will fall, some estimate by as much as 5.3 percent. Housing construction would drop. Eighty thousand people would be out of work next year, and 180,000 people by 1992. Refinery output would decline by 1.2 percent. Income tax revenues will decline by nearly $1 billion annually. Personal savings rate would decline by 3 percent. The CPI would increase by 1 percent.

Mr. President, I think that the gas tax issue is a good issue to draw the line on whether or not we want to raise taxes on the American people or whether we want to freeze the budget.

The gas tax will impact the cost of all goods and services, since motor fuel

is used as an input for other economic activity, such as the trucking industry.

The trucking industry is under a lot of pressure right now. For those Senators who come from States that depend heavily on the trucking industry, they certainly should vote for this, because I can tell you, as a former chairman and now ranking member of the highway subcommittee of the U.S. Senate, that we need to dedicate more funds, not less, to the road building in this country. If we take this gasoline tax, as proposed here, even though I know that the summiteers are sincere when they say, "we put part of it in the Highway Trust Fund," actually they are not going to allow you to spend it. It will only be an accounting procedure, and the money will be spent for other obligations and other activities of the Federal Government, as the trust fund builds up. There will be no new Federal highway spending; and we will decimate the State and local governments, ability to raise gas taxes in the future and, yes, the Federal Government's ability to raise taxes to fund the highway program.

It will put American companies at a competitive disadvantage. The gas tax ignores the huge surplus in the Federal highway trust fund. Motor fuel taxes go to the highway trust fund to repair the roads and bridges. The fund today has over $17 billion, if you add the highway trust fund and the transit fund in together.

Mr. President, it is not there, and it will not be there because they have spent it. The Congress will have spent the money for other activities.

Now they have the nerve to come in and say, we want another 10 cents a gallon gas tax. It is going to reduce the revenue for States, and States will have a harder time funding their share of the highway program. The tax will not reduce the deficit, as projected, even though the advocates are saying it will cut the deficit by $1 billion for each penny of new tax. Consumer prices and business operating costs and unemployment will rise right along with the tax, further depressing the economy and other tax revenues. As a result, government expenditures for many, many programs will be forced upward.

I heard my friend from South Carolina making some criticism about the supply-side economic theory. The only thing that has been wrong with so-called supply side economics is one very simple fact: Congress has not had the guts here in Washington, DC, to cut spending. Apparently, some have forgotten that supply-side theory has a compliment to cutting taxes and that is reduce spending. However, to balance the budget we do not even have to cut spending, just hold it to a modicum of growth—1 or 2 percent a year—and the budget would eventually be balanced; the economy would be better off as we would continue to experience economic growth. What has happened in the 1980's is we spent and spent and now the answer in the 1990's has become tax and tax. Revenues doubled in the 1980's, so no one can truly say supply side economics did not work. The problem was and is, spending more than doubled during the 1980's, leaving us where we are today.

The amendment I have submitted is going to put every Senator on the line. If you are for tax increases, then obviously you would want to vote against my amendment.

We have heard a great deal about the rich and the poor and who pays their fair share of the taxes. This tax clearly strikes at the very heart of the middle-working American families in America.

The majority of the House and the Senate opposed a fuel tax increase last year. The Senate voted unanimously in May 1989 against the gas tax. During the 1988 Presidential campaign Vice President Bush at the time specifically stated in a letter to the American Automobile Association:

> The use of such a tax to balance the budget would strictly hurt lower wage earner families with both spouses working, farmers and residents of Western States who have long distances to drive.

He opposed an increase in the gas tax to balance the budget. I want to repeat that, Mr. President; he opposed it.

The Senators here in this Chamber have gone on record repeatedly, because this Senator has offered the motion, saying we will have no gas taxes that go to deficit reduction. They opposed it because it is devastating in its effects. It is devastating to rural America. This is the sentiment of over 1,000 organizations around the country which represent a very broad base of the people of this country of all kinds of economic and political spectrum who oppose a fuel tax increase.

Mr. President, I think that this is as good a time as any to decide. People say, well, what is your solution? I will tell you what my solution is: modify the continuing resolution to include a substantial savings, a flexible freeze, if you will, a modified sequester, and fund the Government, hold back the line on spending, and adjourn the Congress. The longer we stay adjourned, the faster this country will get out of a recession.

I yield the floor, and I reserve the remainder of my time.

How much time do we have remaining, Mr. President?

The PRESIDING OFFICER (Mr. SIMON). The Senator has 19½ minutes remaining.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be charged equally to each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SYMMS. Is the time running against the bill?

The PRESIDING OFFICER. The time is running equally against both sides.

Mr. SYMMS. I ask unanimous consent that the time be charged against the bill.

The PRESIDING OFFICER. Is there objection?

Mr. SASSER. Mr. President, I object to that.

May I ask why the Senator wants to charge the time against the bill?

Mr. SYMMS. The Senator from Idaho has 19 minutes remaining, and I have had Senators call and ask for time. If the time is running against them, they may not be given time to speak.

Mr. SASSER. I have no objection, Mr. President, to the time being charged against the bill on Senator DOMENICI's time. I fail to see why time should be taken from us in order to allow the Senator to get his supporters over here on his amendment.

The PRESIDING OFFICER. The Chair has received the unanimous-consent request and there is objection.

Mr. DOMENICI. Mr. President, what is the parliamentary situation?

I have no desire to minimize the time that Senator SYMMS needs. There was no one here to speak. I wanted to provide some order, and normally under this budget process when there is no one to speak, we charge it equally. So I just requested that.

The Senator has how much time?

The PRESIDING OFFICER. The Senator has 16½ minutes remaining.

Mr. SASSER. Mr. President, I will recant on my previous remarks and ask unanimous consent that the time be charged against the bill equally on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I see the junior Senator from Mississippi here. I think under the time agreement he has 10 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I yield the floor and yield time, which has previously been agreed to, to the junior Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 10 minutes.

Mr. LOTT. Mr. President, I thank the Senator from New Mexico for yielding the time.

I rise to heartily endorse and support the amendment of the Senator from Idaho which would eliminate the gasoline tax increases in this package. I have spoken against this previously—a few weeks ago and over a period of a number of years.

When I participated in the past in budget negotiations, a gasoline tax increase always would come up as one way to solve the budget deficit problem. I would always make the point that I thought a gas tax increase was fundamentally unfair to working people—people who have to drive long distances to get to work—to fishermen, and a lot of other people who would be adversely affected by it, and that it is certainly something that would ripple throughout the economy. I urged, as an alternative—if we wanted to do somthing like that—to go with an oil import fee. At least there would be benefit for it throughout the economy, and it could help affect our energy shortage in other ways.

But usually when I would suggest oil import fees, the discussion would end. The oil import fee would go away, and the gasoline tax would go away. This particularly took place in the 1987 budget negotiations.

Every time we have a budget deficit discussion, gasoline tax increases come up because it is one way to raise a lot of money quickly. What's interesting about it today, is that we are talking about adding another several cents a gallon on gasoline at a time when we have just seen gasoline go from around $1 to $1.66 to $1.76 a gallon, a significant increase, all over the country. And now we're proposing adding more to it.

Some people say, "Well, this would discourage people even more from using their automobiles and encourage them to conserve more. In the South and in the West, we do not have urban mass transportation. We do not have access to high-paying jobs that are close by. We have to drive long distances, quite often 60 miles one way, to get to a minimum wage-paying job.

Here are people who have just seen their gasoline prices go up by at least 50 percent, and now we're talking about adding another levy. We have had a gas tax hike proposal as much as 12 cents. The House has a different position; now the Senate has a 9 cents tax increase. It is just not the thing to do.

A lot of people are going to stand up on the floor of the Senate and say, "Let us make sure we tax the rich. We are going to look after the middle-income and the low-income people." What about the people who are driving a 1976 Chevrolet to get to work? They are not rich people. This is not taxing the rich to help the welfare systems. This is taxing the people who are trying to work, to get to a job, to get to the grocery store, by adding another gasoline tax increase on their already very difficult situation.

I ask my colleagues, what in the world are we doing in raising gas taxes more? Look at who it will hit the hardest: the middle-income, low-income working people who are trying to do their part. This is not the way to solve the deficit problem.

Now some folks will say, "Well, if you vote to knock out this gasoline tax, that means there is going to be tax increases somewhere else." No, it does not mean that. Under the rules, you do not have to replace this revenue; you can just knock it out.

In conference, if they want to raise income taxes, if they want to cut spending in some way to make up for this loss; fine, go right ahead.

We have to take these things one step at a time. And, boy, there are going to be a lot of steps in this process. But in the first step, let us knock out this gasoline tax increase. In Tennessee, in Texas, in Idaho, in North Carolina, in Alaska, and in Mississippi, the people are saying, "Don't hit me with this gasoline tax."

There were several parts of that original summit agreement I did not like, but some more than others. The gasoline tax was No. 1. Reducing Medicare for our elderly was No. 2. And another was reducing agriculture.

This is like a dagger in the heart of the poorest State in the Nation, Mississippi.

How do you want to solve the deficit problem? Raise the gasoline tax, cut Medicare, and cut agriculture? Great. We get a triple hit with that type of package.

But we will talk about those other issues later on. Right now we are talking about a gasoline tax increase.

I urge my colleagues: vote for the Symms amendment. Take this onerous provision out. Who knows? Maybe after 15 or 16 hours of debate, we might come up with a reconciliation package that may really get the job done, and that will do it the way it should be done, by cutting spending and not raising gasoline taxes on the working, taxpaying people of America.

I yield the floor.

Mr. BENTSEN. Mr. President, I ask the manager to yield me 8 minutes.

Mr. SASSER. I yield the distinguished Senator from Texas 10 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, I do not think anyone who opposes the gasoline tax understands the difficulties and the burdens of it any more than the Senator from Texas. That is one of the reasons I was in the debate earlier trying to get 95 percent of it back to donor States.

The realities are that it is easy to strike something as a tax and then not replace it with anything—not with anything, to just say, "We are going to strike it. It is not popular. It is a burden. We will cut it out."

The job we have to do is to make a credible cut in the deficit we are facing. What is going to happen to interest rates if we do not do it? You do not accomplish it by just cutting out some of the taxes.

I heard my colleague from Idaho criticizing the Finance Committee because we included $5.4 billion in spending initiatives for the next 5 years in our title.

Do you know who is the author of one of the biggest spending initiatives? The Senator from Idaho. It is one of the largest ones we have in the bill—$395 million over 5 years to improve payment rates for nurses who administer anesthesia. But that is a very important issue in rural communities and I understand the Senator's interest in the amendment, I sympathize with it and I support it.

But let me make a point to you. When the Senator talks about outlays, does he not understand that all the outlay increases in the committee title, with the exception of the child care provisions requested by the President and financed according to the summit agreement, all of the outlays, all of them are financed by cutting spending?

No one should be under the illusion that taxes were raised to finance such popular initiatives as the closure of the gap between urban and rural hospital payment rates under Medicare. So, when he talks about cutting out $42.6 billion in gasoline tax increases and thereby makes us come up short in this reconciliation bill, let us talk also about how we make up the loss of that revenue. Oh, it is fun to cut back on taxes. But it sure is tough to cut back on expeditures. But that is what we did to cover the cost of these additional outlays; a major one of them his.

I know full well how that gas tax would hit. The summit agreement called for a 12-cent-a-gallon tax increase on motor fuels. I fought my hardest to bring it down, and we did

bring it down. We brought it down to 9½ cents. We could not get a bipartisan agreement to bring it down any more. We could not reach our target under reconciliation without this kind of a tax.

There is not a Member here who likes that tax. But the result that we see here today is the result of intense negotiation for months. Unlike the package on the House side, which does not have any gas tax increase, this bill is a bipartisan compromise, supported by the leadership on both sides of the aisle.

Believe me, I have gone over all the alternative revenue raising options. But I can tell you that striking this tax will put the entire deficit reduction effort in very grave peril. This package must stand as a package. We cannot begin to go down the road of striking the unpleasant parts of the package, those parts that we do not like. It took us over 5 months to put this together. It will take only a few minutes to tear it down. Let one of these amendments be won, and watch us start down that road and end up with nothing, no credible cut in this deficit.

I understand my colleague is unhappy because one-half of the gas tax revenue goes to deficit reduction. It does not all go to the highway trust fund. I understand that. I fought to put it all in the highway trust fund, but I did not win that fight. I could not get bipartisan support for that position. And I am here to support this bipartisan package. That was the agreement we made. The Senator from Idaho knows full well I tried to get it all into the highway trust fund, but the committee decided half of it had to go to deficit reduction. That is part of the compromise.

We are trying to make a $40 billion cut in the first year and a $500 billion cut over the next 5 years. But we are not going to bring that about, we are not going to reach that target, if we start carving off pieces here and pieces there.

I urge the Senate to turn down the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. I yield back the remainder of my time.

Mr. KASTEN. Mr. President, I rise in strong support of the SYMMS amendment to strike the proposed 9-cent increase in the gasoline tax in this reconciliation bill. A gas tax increase would single out large and less densely populated states like Wisconsin. It also hurts rural States like Wisconsin. It will mean almost $200 more in new taxes for the median-income Wisconsin family.

A gasoline tax is one of the most regressive taxes that we can impose on the American people. Almost 80 percent of American families earning less than $10,000 per year drive to work. As percentage of their income, those workers would pay almost three times as much for deficit reduction as people earning higher wages.

Furthermore, this proposed tax increase represents a dramatic change in public policy. The gasoline tax is supposed to go to the highway trust fund to build and improve our Nation's roads and bridges—not to reduce the budget deficit.

Mr. President, we ought to reject all tax increases because they will throw the economy into a tailspin. But a gasoline tax increase, in particular, is one of the most regressive and economically destructive taxes that can be levied. I urge the Senate to adopt the SYMMS amendment.

Mr. SYMMS. Mr. President, I yield 2 minutes to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. D'AMATO. Mr. President, I think the American people are wondering what we are doing down here in Congress. They hear about the deficit dilemma, and what do they see us doing? We are coming up with proposals to raise taxes on everything that moves. Any darn fool can do that, and that is why we look so foolish. There is another part of the equation. It is called spending. It is called discipline, fiscal discipline.

I have to report today to my colleagues that one of the committees I serve on, Postal Service, yielded or is about to yield in the conference with the House of Representatives as it relates to pay increases for this year. Notwithstanding we have not always budgeted what we provide for, nor did we do it fully this year—3.5 percent for all of the Federal workers—this august body, the conference, raised it to 4.1 percent.

Six-tenths of a percent. What is that? It comes out to $190 million. We do know where it is to come from; we have not provided it. Here we are—we are here to say we have to raise revenue, reduce the deficit—increasing spending.

We have to get the message. Maybe there are some of us in this body who say we are not going to continue to raise taxes as a priority. That comes last. Let us get some fiscal discipline. That is why I am going to support the Senator's amendment.

It is about time we stop raising taxes. It is about time, whether it is on the rich or the poor.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. D'AMATO. I ask if my colleagues will yield me an additional 2 minutes?

Mr. SYMMS. I yield another 2 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for an additional 2 minutes.

Mr. D'AMATO. So we find ourselves trapped in this situation where we are talking about should we raise the tax on the wealthiest of the wealthy? Should we raise the tax on the middle income? What about the gas tax? What about the user's tax?

No. 1, what about some fiscal discipline? What about a freeze? Could we freeze domestic programs? Freeze them at last year's level? What about maybe a cut? What about maybe eliminating some programs?

We all fall victim to it. Everyone says cut, cut; but do not cut my favorite programs. I called up my Syracuse office today and I was told they had the veterans marching. I do not know why they were marching. They were afraid they were not going to get enough.

Whether it is the veterans, elderly, students—and we have lost the capacity to govern because we are so worried about getting reelected, we have to give everything to everybody. We do not have the courage to say, "Wait a minute; we cannot do it." We do not have the courage to say, "Hold on." Here we are pandering because we do not want to get the civil service workers angry. We give them a 4.1-percent increase. We do not have the money.

But that is why we should vote down these taxes; we are overspending. That is the message I think the people are sending to us. They are saying, "Listen; hold that line on spending, and if we see you are doing it fairly, across the board, we will join with you, then, if you have to raise revenues. But not until then." That is why I am not prepared to vote for increasing taxes at this time.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Tennessee is recognized.

Mr. SASSER. Does the Senator from Georgia seek recognition?

Mr. FOWLER. I do.

Mr. SASSER. Mr. President, I yield the Senator from Georgia 5 minutes.

The PRESIDING OFFICER. The Senator from Georgia is recognized for 5 minutes.

Mr. FOWLER. Mr. President, I rise almost reluctantly in the midst of this debate, after hearing several of my colleagues who have just spoken, to say almost incredibly that we seem to have forgotten we have 200,000 men and women facing poison gas, missiles, armaments, and tanks in the Middle East.

At this very moment we—not knowing whether they are going to come home, not knowing whether we are going to lose many of them—are engaged in a debate that ought to be

about national unity and political resolve, and a commitment of this country in times of crisis to stand behind our forces by making the political commitment that at least helps pay to defend our friends against the naked aggression that we see that threatens the lifestyle of every man, woman, and child in the United States of America.

Yet I have heard no one in the U.S. Senate stand before this body and even suggest how Americans would make a penny of sacrifice to support the commitment of our children over there. They do not want to cut a dime out of anything. Every single program is so sacred to my pocketbook that we can never, ever make 10 dollars' worth of commitment a year. We cannot make a tax, no matter how small.

Americans stop me in the barber shop and say: How can I help pay for the commitment of our young people in the Middle East? How can I help stick my finger in the dictator's eye? How can we show the political commitment and the national resolve in this country, that we are united as a strong economy and a strong country, so we can keep that commitment and fulfill that commitment as necessary?

No; we cannot do that. Never any tax. Ask Americans to pay 10 or 20 or 30 cents a month to smoke a cigarette or to buy a beer or to drive?

Is there not some patriotism tax? Is there not something we can ask the American people to do that will make them feel they are participants in backing up Americans abroad?

My friends on the other side say resoundingly: No. A few pennies on gas, a few pennies on beer, a few pennies on cigarettes is this overwhelming burden on a country that calls itself No. 1; the $5 trillion economy.

And the only response to those who have no response, who want to continue to say we will never, ever, ever ask for any sacrifice, no matter how penurious—pennies—the only rational answer to that, the only response is we want to continue to borrow and borrow and borrow, and push off every cost to our grandchildren and their grandchildren.

There is no other answer. It is bad enough when times are good, when we are growing and we are earning money.

The PRESIDING OFFICER. The time of the Senator from Georgia has expired.

Mr. SASSER. Mr. President, I yield the Senator from Georgia an additional 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for an additional 5 minutes.

Mr. FOWLER. I thank the Senator.

I think it is absolutely true that all of us in public office are to be faulted; that when times were much better, we failed to act and we failed to act for some commensurate fair sacrifice on the American people, I submit, who will participate willingly in strengthening our economy, in educating our children, yes, in providing for the elderly and sick who have spent their lives in productive endeavors but now cannot do it. That is part of the community spirit that makes this Nation great.

We are to be faulted, and I stand with my share of blame as one who has been proud to serve in the U.S. Congress for 14 or 15 years. But now we are in a state of crisis. We have a crisis of debt because of our neglect. We have seen that all of the money and the hardware that we put into our military armaments, and I supported 90 percent of it, is not sufficient to make us safe and secure from all harms. We have experienced the hard way that energy security is as much a part of national security as is our military budget, and because of our failure to become self-sufficient, our casual use of our fossil fuels, our depletion of our resources as if God would continue to bless the Earth with incredible bounty that can never be used up, we now have 200,000 men and women in the Persian Gulf on the front lines, and we hear all these talks and hear all these speeches about how we simply cannot ask for any sacrifice to show the political commitment that we will back them up.

I say to my friends with great respect that the American people are ahead of us. All they ask is that whatever we devise be as fair as possible in treating everybody alike and asking for a little sacrifice from each individual, each family, yes, each corporation, each special interest group, define us all, divide us all, as we do in debate, any way you want to.

But what we forget in this body is that the ones who went before us knew something about sacrifice. The elderly in our country won the Second World War, survived the Great Depression, built this country because they knew about sacrifice, the joint sacrifice of working together and sacrificing together, especially in times of national crisis. We have a domestic crisis and a foreign crisis right now, and all of us are acting like never, never even put a penny on the gas tax.

The ultimate vote here today, of course, will be on the Senate package. I do not have to add my caveats to everything else that has been said. Lord knows it is not perfect. Many, many things that I fought for are not in there; many things that are in there I could do without. But surely sometime on this floor and in this body we will come to our senses. The American people are looking at us and saying, what in the world is that body doing? The President is out campaigning; he is not governing. We are here acting like we are starting from ground zero and nothing is happening in the world to our people, either at home or abroad. I hope that somehow after we have all beaten our chests and offered our amendments, we will realize we owe something, at least in times of war and near war, to those who are not able to speak but who are serving by standing and waiting for possible war in the Middle East, which we can at least participate in helping.

I thank the chairman and I thank the minority leader for yielding me this time.

The PRESIDING OFFICER. Who yields time?

Mr. SYMMS. Mr. President, I yield 5 minutes to the Senator from New Jersey [Mr. LAUTENBERG].

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 5 minutes.

Mr. LAUTENBERG. Mr. President, I respond to the Senator from Idaho, it is my understanding the Senator from New Hampshire was going to speak. I prefer that.

Mr. SYMMS. Mr. President, I yield the 5 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 5 minutes.

Mr. HUMPHREY. Mr. President, we have heard a lot today about the need for the American people to sacrifice. You would think they have not been paying taxes for the last 10 years. You would think Federal revenues have not grown robustly during those 10 years. That is not the case at all. The American people have been paying taxes heavily and Federal revenues have grown year after year. The problem is not in taxes, the problem is not in revenues; the problem is on the spending side. Instead of asking the American people to sacrifice further, I suggest we now ask Congress to sacrifice. I suggest we ask the executive branch to sacrifice.

The Senator says we are only talking about adding pennies to the price of a gallon of gasoline. I remind my colleagues that the price of gasoline has already gone up 35 to 40 cents per gallon in the last 3 months and now we have the temerity to suggest we ought to raise it 9 cents further? It is ironic. We have several hundred million dollars over the next couple of years, for example, for the National Endowment for the Arts. We have money to spend on the highbrows and the la-di-das, but we are going to stick it to the people who scrimp and save to buy gasoline to drive to work every day. This does not make any sense at all, Mr. President.

I commend the Senator from Idaho for offering this amendment to strike. I am going to support it. I am going to support every amendment to strike every tax we can raise between now

and the time we run out of time on this bill.

Mr. President, those who observe the American people should not be under any illusions. This is not merely partisan wrangling; it is much more important than that. The reason we have had so much strife and so much difficulty is that we are at a crossroads; we are at a watershed. Are we going to go down the road for ever more spending by the Federal Government, financed by ever higher taxes, or are we going to stay on the sound course that we followed for 10 years which produced jobs, which produced opportunity, which produced growth, such that we remain the envy of the world and the model, may I point out, for the world with more and more countries following our example? How ironic that some would propose we turn back, that we open up the spigots on spending and we open up the spigots on taxing.

We are at a watershed. I dig in my heels. The President may have changed his mind, tragically and mistakenly, but I have not. This is one Senator who has not. I am digging in my heels. I hope this second attempt fails miserably, and I hope instead we go to a continuing resolution with some large element of sequestration. The President has already announced that he has the legal authority to take those actions necessary to ensure essential Government services like air traffic control, inspection of meat, and things of that kind.

Let us defeat this bill. Let us strike first from it all of these taxes. Let us send it to conference and hope that it comes out so bad that the President will veto it. And then make a campaign issue about his vision for America versus that of the other party, the other party that wants to increase taxes and increase spending ad infinitum.

That is not the kind of country I want, not the kind of country I want for my children, and I do not think it is the kind of country that most people of this country want. I commend the Senator from Idaho, and I intend to support him with my vote and I hope my colleagues will likewise.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, was the Senator from Colorado seeking recognition?

Mr. WIRTH. Yes, Mr. President.

Mr. SASSER. Mr. President, I yield 10 minutes to the Senator from Colorado.

Mr. WIRTH. Mr. President, I appreciate the distinguished chairman of the Budget Committee yielding a little bit of time to me today as I oppose the amendment offered by the Senator from Idaho.

Three weeks ago the President of the United States came before the country and told us why we were in the Middle East. He spoke to a joint session of the Congress and told us that our objectives in the Persian Gulf were clear, our goals defined and familiar. First, Iraq must withdraw from Kuwait completely, immediately and without condition. Second, Kuwait's legitimate Government must be restored. And third, the security and stability of the Persian Gulf must be assured.

Not one mention there, Mr. President, of why we are really there. You know and I know why we are there. We are there because of oil. We are there because we are deeply dependent upon imported oil in the United States, dangerously dependent on it, Mr. President—more dependent on imported oil in the United States that we have ever been in our Nation's history.

Three months ago we went over the 50 percent mark for the first time, I believe, ever—50 percent dependent upon imported oil. And what are we willing to do in the United States to stand up to this issue? What kind of fortitude is there in the congressional branch of our Government, or the administrative branch, to be honest about the fact that we are there because of oil and we better get our energy act together and get it together rapidly.

We are currently using about 16 million barrels of oil a day. About half of that, Mr. President, is imported as I just pointed out—8 million barrels of oil a day. About two-thirds of the total amount of oil that we use in the States goes for transportation. So about 11 million barrels of oil a day is used in transportation, most of that for automobiles, trucks, and so on.

Now, what are we doing to limit our dangerous dependence on foreign oil, which is why 200,000 young people from the United States are in the Persian Gulf today? What are we doing about that? Well, we are doing, so far, nothing. What opportunities have we had, Mr. President, to do something about it and which ones have we ducked?

The first thing we ducked was moving away from the President's initially good proposal on alternative-fueled vehicles. When the President announced his Clean Air Act in 1989, the President's assumption—and he proudly announced this, quite correctly, in the White House—was that we were going to have a million alternative-fueled vehicles.

By the time the oil companies got done with that proposal, Mr. President, it had disappeared. The President of the United States ducked that proposal. We dropped away from it and we lost the opportunity to move away from imported oil to move on to domestic fuels like natural gas and look at the alternative fuels. How much was it estimated that could save? That proposal alone by the year 2000 could save us around 2 million barrels of oil a day.

We walked up to that, looked at it; the big energy companies said you cannot do something that is not oil. Everybody ran for cover. We dropped the alternative fuels proposal, originally something proposed by the President—everybody cut and ran.

The second opportunity we had, Mr. President, was no more than 3 or 4 weeks ago on the floor of the Senate when we debated the amendment offered by the distinguished junior Senator from Nevada [Mr. BRYAN] which was to raise fuel economy standards in the United States from about 27 miles per gallon to 34, and then higher than that, something that Detroit has testified is technically possible to do. That had the opportunity, Mr. President, of saving us about 2.6 million barrels of oil a day. What did we do on that? We ducked and ran in the wrong direction.

We had an amendment on alternative fuels that I offered with the distinguished Senator from California which lost on the floor of the Senate by about five votes. We lost on the fuel economy standards by a larger amount of votes.

Now we have a third alternative. We have a third opportunity available to us as to what we are going to do related to energy policy, which is the rationale for our being in the Persian Gulf.

You cannot tell me, Mr. President, that if there had been one Central African country attacking another, we would have said that Central African country had to withdraw from the other, that the legitimate government of the one attacked had to be restored, and that we were concerned about the security and stability of the Central African region.

That is not why we are in the Persian Gulf. We are there because of oil, the world's dependence on oil and our own dependence on oil.

We have the opportunity now in thinking about a small gasoline tax, which is the equivalent, Mr. President, of less than two fillups per year, two fillups per year, to start developing alternatives to our dangerous dependence on imported oil. Energy policy is all around us and the energy crisis is all around us, telling us in the United States we better redefine what we are talking about in terms of national security, and do it very rapidly.

What are we doing? If we adopt this amendment, we are once again acting as if this were the 1960's or the 1950's, that we live in a world in which there is abundant, inexpensive energy found here in the United States; that we do not have to worry. That day and age has gone.

The opportunity that we have is to stick with this modest proposal. This

is modest. You compare what we are paying in the United States to what others are paying. We have to start making the transition toward a much more realistic level than what we are doing. If we are unwilling Mr. President, to do something as simple as just stick with what agreement has been made on this issue by the President, by the leadership, by the Finance Committee, if we cannot do something that simple, how in the world are we going to get on to the serious business of looking at all the other parts of energy policy which we all, understand we must do—conservation, alternative fuels, moving to solar, renewable. All of the things that have to be done.

So I beg my colleagues; we missed the opportunity on fuel economy. We missed the opportunity when it came to looking at an issue as simple as moving from use of oil to using other domestically available fuels. Let us at least stick with this modest and correct step.

Mr. President, I ask unanimous consent that two gasoline consumption charts be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

Gasoline Consumption Per Registered Driver

State:	Consumption
Alabama	987.9
Wyoming	913.8
North Dakota	848.1
Minnesota	844.2
Montana	839.6
South Dakota	821.2
Alaska	820.1
Georgia	816.5
Nevada	808.3
Texas	802.3
Kentucky	798.2
Utah	797.7
Tennessee	794.5
Louisiana	794.8
Missouri	791.7
New Mexico	791.4
Kansas	777.8
Oklahoma	771.5
North Carolina	766.0
Maine	759.4
Arkansas	758.7
Delaware	740.6
Iowa	739.3
Nebraska	736.6
Virginia	731.9
Indiana	731.5
Arizona	726.5
U.S. average	725.9
Vermont	717.1
Colorado	701.5
Mississippi	697.5
Florida	692.2
South Carolina	691.9
Michigan	687.1
Illinois	684.6
California	681.6
Ohio	679.4
Idaho	676.9
Washington	675.0
Maryland	669.4
New Hampshire	660.9
Wisconsin	647.8
West Virginia	642.6
New Jersey	640.5
Oregon	628.9
Pennsylvania	616.5
Rhode Island	602.3
Massachusetts	598.6
Connecticut	589.6
Hawaii	592.4
New York	561.8
District of Columbia	476.5

Source: Highway Users Federation, 1988.

Gas Consumption Per Capita by State

State:	Consumption
Wyoming	631
Nevada	593
South Dakota	560
Georgia	554
Montana	553
Minnesota	553
Maine	552
North Dakota	547
Missouri	542
Kansas	536
Delaware	535
New Mexico	532
Arizona	530
Vermont	528
Oklahoma	521
Tennessee	520
North Carolina	520
Texas	517
Virginia	506
Kentucky	505
Nebraska	503
Alabama	503
Oregon	499
Indiana	499
Iowa	498
Florida	497
New Hampshire	485
Arizona	482
Mississippi	475
Michigan	475
Idaho	475
Washington	473
Colorado	466
Ohio	465
South Carolina	460
California	460
Louisiana	458
Maryland	457
Utah	453
New Jersey	451
West Virginia	446
Alaska	444
Wisconsin	441
Maine	435
Connecticut	432
Illinois	429
Rhode Island	406
Pennsylvania	402
Hawaii	342
New York	321
District of Columbia	303

NOTE.—U.S. average=467.

Source: Energy Information Administration.

Mr. WIRTH. I thank the distinguished chairman of the Budget Committee for yielding time, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I yield to the Republican leader as much for the bill as he desires.

Mr. DOLE. Mr. President, I will take about 2, 3, 4 minutes.

This will be the moment of truth in whether or not we want deficit reduction. Forty-three billion dollars right off the top if this amendment passes—not replaced, not any other savings or taxes recommended, just $43 billion off the top.

I do not fault my colleagues who are opposed to the entire budget package for offering amendments. I do not suggest any of us are happy with an increased gas tax. But again I would recall the Time magazine—I think it was Time magazine poll or Newsweek, U.S. News polls that asked the American people, are you willing to make a sacrifice because of the gulf crisis? Eighty-four percent said "yes." The next question, would you be willing to raise gas taxes? Seventy-three percent said "no."

Let us not make any mistake about this. Are we willing to make tough choices or are we going to go by polls in America? Are we willing to worry about our children and grandchildren for one vote or two votes or three votes?

There is the only policy tax in the whole package as far as I am concerned because we are in the Mideast for three letters, oil, o-i-l. That is why we are in the gulf. We are not there to save democracy. Saudi Arabia is not a democracy. Neither is Kuwait. We are there because we do not want Saddam Hussein to get his hand around our throats and jack up the price of oil which would have a severe impact on the economy; it might bring down the economy of lesser nations, and have a great impact on ourselves.

All other amendments you are going to have to find savings to offset or some way to offset. When you move to strike out a tax, you can do it all day long. Strike out every tax. None of us like taxes. But none of us, at least those of you who have been working for the last 5 months, want to walk away from this package after this vote saying we could not get $500 billion, we could only get $450 billion. Why do we need $450 billion? Why do not we settle for $400 billion, $300 billion? Why do we do anything?

Again I do not fault the distinguished Senator from Idaho. He is against the package. He is against the gas tax but in any case he is willing to reduce spending. So I do not fault the Senator from Idaho. He is the one who put up $40 billion in new spending restraint. He will vote for it.

But I think if we cannot survive this vote, and a couple of others coming this afternoon, we might as well fold up our tent.

Oh, this is an easy vote politically. Oh there would be great applause if you walked into a room and said, "Boy, I just killed the gas tax."—until people thought about it, thought about the gulf crisis, until they thought about making one little sacrifice for the 200,000 Americans in the

gulf, young men and women in uniform. We wanted to make sacrifice. We did not want to make this sacrifice. We do not want to make that sacrifice. We do not want to make that sacrifice. But we are putting language right in there. Do not let the price of gas go up because of taxes. Half the tax goes into the trust fund and half goes for deficit reduction. That half is going to build highways and bridges which we need.

This is the first test vote we have had. This is probably the toughest one we will have all day. I think the Senator from Idaho picked out the bottom line right here. If we cannot win this one, we might as well wrap it up, get a CR, continuing resolution, until after the election and go home, and then come back November 8. Maybe we can put it together. We would have a sequester to help tide us over—the CR with a sequester. That is an alternative.

But I think I am going to be joining the distinguished majority leader, after some other speakers speak, in tabling this amendment. It is not that we all like gas taxes, but if we are not willing to put a little pressure on the use of gasoline, motor fuel, conserve a little, so we can import less from the gulf, what is our sacrifice going to be when you look one of those young men in the eye, and say, Well, I made a sacrifice, I tried to kill the gas tax."

Maybe you can stay an extra month or 2 months. We started out June 26. We plan on a $500 billion deficit reduction package, and now we are down to the nitty-gritty. Now we are going to determine whether we have a majority in this U.S. Senate, Republicans, and Democrats who want to make tough choices, not choices we like. Sometimes they get to all those votes and are making the choices they like, and those of us who vote yes are not satisfying anyone.

But we crossed that bridge. Some are opposed to this package. I regret it, but they certainly have a right to oppose the package. Some will support this amendment. That is their right. I can tell you, if it is a majority, this package is in trouble. I would see no reason to spend any more time on the package today if we lost $50 billion out of the package. Why? Why not offer another amendment to take out another $50 billion? Why have any savings? Why not just wipe out any Medicare savings?

So I hope this amendment will be tabled, and any other amendments to this package will be tabled that affect either the savings side or the overall $500 billion package.

I will just say finally some of my colleagues call me every hour. "When are we going to go home? When are we going to adjourn," I put out a hotline to see if we can reduce the time. I had 15 Members. "Do not take 1 minute away from the 20 hours on this package." So those who are calling who want more time, that is fine.

But do not call me to tell me to get me out of here Friday or Saturday. We can all go home and adjourn this Congress. We cannot have it both ways. If we want to dispose of this package tonight we can dispose of it. These amendments will determine whether we will have a gas tax or not. It should not take too long to debate that. Everybody has a pretty good judgment where they are going to be. But in this particular case, if this amendment is adopted, count me out.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I think we have a couple more speakers. I have not had a chance to speak yet. But I did say to Senator HELMS who has an engagement in the Ethics Committee that I would yield 3 minutes to him. Is that what he desires? Five minutes?

Mr. HELMS. Five.

Mr. DOMENICI. Let me say to the distinguished chairman it will be his turn next.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 5 minutes.

Mr. HELMS. Mr. President, I thank the Chair and I thank my friend from New Mexico.

Mr. President, nearly 18 years ago when I walked for the first time down this well and held up my hand to become a Senator, the price of gasoline in North Carolina, if you were willing to pump it yourself, ranged from 26 cents a gallon to 30 cents. The United States exported oil. Then I came to this Senate and I watched with amazement the countless attempts to control the production of oil and the price of oil. And I remember the distinguished Senator on the other side who said if we do not do something, oil is going to $8 a barrel. Does the Senator from Idaho remember that?

Now look at us. I cannot stand silent when the suggestions are made that the American people are not willing to sacrifice—because they have been sacrificing; 40 years at the hands of the Congress of the United States. It is the Congress that has run up this debt by spending more every year than the Government takes in.

Do not give me this hogwash about the Reagan deficit, the Reagan debt, the Bush deficit, the Bush debt because the Constitution of the United States says that not a dime can be spent by any President unless it is authorized and appropriated by the Congress of the United States.

I called CBO, the Congressional Budget Office. I asked, how much in this 101st Congress has Congress already added in terms of new programs, new expenditures? You know, they do not know. They estimated that the figure is about $60 billion. I do not know whether that is correct or not. But that is their estimate.

Mr. President, the point is, the people of this country are already sacrificing. Who do you think caused the interest rates to go up to the extent that small business people cannot even borrow money? The Congress of the United States did it. The liberal spenders in the Congress of the United States did it. You check the voting records of Senators. You check the voting records of Members of the House of Representatives. You will see who voted aye on every bloated spending bill that came down the pike. Just last Friday almost 80 Senators voted for a Labor HHS appropriations bill that was $11 billion over the President's request. But they say blame the President for the deficit.

There is the trouble. It is not just a symptom. It is a disease.

Trying to buy votes in the next election, day after day, week after week, Congress after Congress, that is the problem. I get sick and tired of people suggesting that the American people are not willing to sacrifice. They are sacrificing every day of their lives. Ask a couple, both of whom have to work. Ask them about their sacrifice. Oh, it is easy to dump another 6, 8, 10 cents a gallon gasoline tax on them.

And it is easy to say we are saving this or we are not saving that, but the fact of the matter is that these people out there across America are suffering because of the spending madness of this Congress.

So there is no shortage of money coming into Washington from the taxpayers. There never has been. It is a shortage of some sense of responsibility in the Congress of the United States. This Government will take in this year, I am told, about $80 billion more than it took in last year. That is extra money. But this Congress, this Senate, spends all of that and then spends more. I read the other day that for every dollar that is saved or additional dollar that comes in, Congress spends about a dollar and a half. That is the reason we are in the hole. That is the reason the economy is in difficulty. I do not think we ought to sit by sanctimoniously and say nobody wants to sacrifice. I say again that the American people have sacrificed, and they are sacrificing, and I think it is an insult to suggest otherwise.

Mr. SYMMS. Madam President, I yield myself 30 seconds, and then I will yield 5 minutes to the Senator from New Jersey.

Madam President, I appreciate the speech the Senator from North Carolina just gave. He has been a leader. In

fact, I believe the President said if we had more Senators like Senator HELMS, we would not be in the mess we are in.

Just to give an example, if we froze appropriate accounts at 1990 levels, it would save $9.9 billion the first year and then give them a cost-of-living increase each of the next 4 years, you would save $82 billion, almost twice as much as the gas tax. So do not try to tell people that you have to have a gas tax somehow to fund the Government. The choice is, do you want to spend or tax?

I yield 5 minutes to the Senator from New Jersey.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Madam President, I find myself in a different position, let me say, because I am disagreeing with many good friends who have worked very hard to fashion a reconciliation bill that pleases many disparate views.

I find myself, also, on the side of Senator SYMMS, in support of this amendment, perhaps for different reasons, because I am not one of those who feels less patriotic or less committed to a national energy policy because of a gas tax.

As a matter of fact, I want to point out that our friends on the other side of the Capitol, the House, found a way to satisfy their budgetary requirement without a gas tax. I speak against this because, Madam President, I feel that we do a disservice to the American people when we place a tax on gasoline and do not use it for the traditional purpose for which gasoline taxes have been reserved, and that is to build an infrastructure, to get rid of the congestion on the highways, to have bridges and tunnels that are always operating.

In my State and in many States across the country, there are deficient, substandard bridges being used to carry loads of traffic—and, by the way, some of those bridges have collapsed as a result of overuse and the lack of significant superstructure to carry out.

The gas tax has always been one of our true "user fees." People paid it. And, in return, their transportation systems were maintained and improved.

The reconciliation bill would change that. It would make a fundamental change, by saying that we are going to increase this user fee, and use it for deficit reduction; and do not expect to see any transportation improvements come from it.

That is why I support the amendment of the Senator from Idaho. We need to reduce the deficit. There are ways to do it. But using the gas tax is not one of them.

I think it is important that my colleagues understand what is really happening here.

The budget agreement would raise the motor fuels taxes by 9½ cents. It says that half of that increase would go to deficit reduction, and half would go to the highway and transit trust funds.

That is what it says. But what it means is something altogether different. The reality is, that under the budget agreement, all of this money—some billion dollars for every penny increase in the gas tax—would go to deficit reduction.

On paper, money would go into the trust funds. But, if we accept the terms of the budget agreement, we will not be able to spend any of it. Billions will come in, and nothing will go back out.

The budget summit sets caps on domestic discretionary spending. They would be in place for 3 years. After that, if we want to hike discretionary spending, it has to come out of defense or foreign aid.

The agreement counts as deficit reduction every penny of gas tax revenues coming in. It does not assume that any of those dollars go back out. And, with a cap on domestic discretionary spending, there's no way to appropriate an additional $5 billion or so a year.

Those caps simply do not leave the room to spend new gas tax revenues out of the trust fund.

Over the whole range of domestic discretionary programs, the budget deal lets spending go up $11 billion next year, and $8 billion the year after. That just barely covers inflation in all our programs. There is no room for increases. None. Zero.

No one should expect that every domestic discretionary program in the Government is going to get cut below inflation—programs like education, AIDS, science, housing, environmental spending—so that we can spend these new revenues on highways.

That is just not going to happen. People are going to be paying more in taxes each time they pump gas.

And, they will expect that, like in the past, they are paying for transportation improvements. But that will not be the case. They are paying for deficit reduction.

That is because this budget agreement would turn the gas tax into what so many other user fees are—a gimmick. A way to raise money for the Federal Government, with no intention of using it for its intended purpose.

The summiteers and our colleagues on the tax writing committees can say that half the gas tax revenues are going into the trust fund. They can say all the gas taxes are going into the trust fund. And, if we are going to raise gas taxes, that is where they should go.

But, the gas tax revenues are not coming out, not in the near term anyway.

What goes in will not come out, as long as we have discretionary spending caps.

I chair the Transportation Appropriations Subcommittee. I am trying as hard as I can to fund infrastructure improvements in our country.

Yesterday, we completed our conference with the House on the transportation appropriations bill.

In that bill, we raised the highway obligation ceiling to $14.5 billion. That is $2.5 billion over the level the administration requested. We do not want to hoard those trust funds money. We want to see them used for their intended purpose.

The administration does not like that. OMB Director Darman sent me a letter to say so. They do not want us to spend those dedicated revenues.

They want to keep them around, to use for deficit reduction.

I do not like the idea that the gas tax—which has been the source of infrastructure funding—is going to be used for deficit reduction, but that is what is going to happen, if we do not adopt the amendment of the Senator from Idaho.

The reality is that the agreement does not intend that any of this money will be spent. It is all for deficit reduction. I do not like that.

Communities out there in need of new or better highways and improved transit systems are not going to like it, either, but, it is the reality.

I just want my colleagues to understand that. Come this time next year, I do not want to hear complaints from my colleagues, from Governors, from businesses, and individuals who need and want better highway and transit systems—that we broke faith with them.

I want this up front and on the record.

I am not sure if this amendment will succeed. I hope it does. But, if it does not, I want to make sure that everyone understands just what the result will be.

We should make it clear to the American people, to the people who will be paying the increased taxes at the gas pump, that they are contributing to deficit reduction, not better transportation.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I want to yield, off the bill, 3 minutes to the senior Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. HEINZ. Madam President, we all know that this exercise in deficit reduction is, by every stretch of the human vocabulary, only modest. The amount of $500 billion over 5 years may sound like a lot to many people, but everybody knows that, while we are reducing what would otherwise be the size of the deficit by one-half trillion dollars, the sad news is that the national debt over the next 5 fiscal years, even if we meet the extraordinary and overly optimistic economic assumptions of the third, fourth, and fifth years in this budget, the national debt will grow by an additional $1 trillion—$1 trillion. So for every dollar we are saving—if we are lucky we might—we will still be running up the debt that our children and grandchildren will have to pay by $2 trillion.

So here we are with an amendment that starts right off the bat cutting $43 billion off the top of what already is a modest—some people might even say "phony"—effort to get the budget deficit and the national debt under control.

Forty-three billion dollars is nearly 10 percent of this entire deficit reduction effort.

If we go along with this, we might just as well give up here and now in trying to reduce the deficit, not only this year but every year in the future.

If you want to do something about reducing the deficit, and my friend from Idaho, I know, does, we ought to start by reducing spending. And in this legislation we give a free pass to the appropriators, the people who have control over discretionary spending, whether it is defense or international affairs or nondefense. Nondefense discretionary spending is expected to increase by at least the amount of inflation for at least the first 3 years. And then all bets are off. It could skyrocket after that.

But I also want to address myself to the choices that we have had on the very specifics of this issue, the gas tax.

A number of weeks ago a number of us came to the floor to urge the support of increases in the CAFE standards, the automobile fuel fleet efficiency standards, which over the next decade, we proposed to increase by some 40 percent, a 40-percent increase, Madam President, in fuel efficiency standards.

That means that the average family, if Detroit engineered the car right, could be saving 40 percent on their gas bill if they drove an average car, when that legislation became fully effective.

What we are arguing about here, and it is a sorry substitute for it, is what amounts to about a 3-percent increase in the prices people are going to have to pay for gas at the pump.

I understand there are people who do not want to pay that 3 percent, the 4 cents next year or even the 4½ cents that goes to deficit reduction when this legislation becomes fully effective.

I do not think people mind paying the part that goes into the highway trust fund, because the people in my State know the bridges and highways are a priority and that those funds are going to make our roads safer, our transportation system more efficient. They will spend their time better. They will get what they are paying for.

But on the deficit reduction half, that amounts even when fully effective to only 3 percent. You compare that to the CAFE standards which when fully effective would have saved 40 percent and you understand how the opportunity to really save our constituents on our gas bills has been snatched from before this very body.

Those who believed that argument that somehow improving the fuel efficiency standards is going to increase fuel miles, increase gas usage, as some people did argue, I think have a chance to at least be able to go home tonight, and look themselves in the mirror by voting aye on this.

You cannot have it your way all the time in life. And you cannot say we do not want to be in the Persian Gulf protecting oil, you cannot be in the Persian Gulf at the cost of maybe $2 billion a month protecting oil and say, look, we did not want fuel efficiency standards.

Anyone who voted against fuel efficiency standards ought to be voting for tabling this amendment. This amendment should be defeated. And if there is any honesty in this body—and we have all made speeches, I think, about energy conservation— today is the day to go home having voted against this effort to not only gut this budget, but to take a sensible step towards energy conservation, a second best one perhaps, and say at least we did our duty both by the budget and to make ourselves less dependent on fuel imported from abroad.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr DOMENICI. I yield myself such time as I may use off the bill.

The PRESIDING OFFICER. The Senator may proceed.

Mr. DOMENICI. I thank the Chair.

Madam President, I say to my good friend from Idaho, Senator SYMMS, that he has some of the finest qualities of any Senator around. It is obvious he wants a vote on the gasoline tax provision that is in this $500 billion deficit reduction package. And he is eminently clear that he wants to kill the package. He makes no bones about it. He did not come here to the floor, as some would, and fuzz up the issue. He wants us to leave the floor tonight or tomorrow without a deficit reduction package unless it is the one he has in mind. I laud him for his honesty.

On that last point, I think I am right. The Senator is saying unless it is his deficit reduction package, he won't support it. All the rest of those things the Senator has said here, I truly believe are filled with integrity and forthrightness.

But I must tell my fellow Senators that if someone wants to kill this deficit reduction package outright, and say, "Start over my way," then I submit to you that we are going to get no deficit reduction this year. We are going to have a sequester, we are going to close down Government, and we are not even going to go to conference with the U.S. House of Representatives and see if, in fact, we can get a real package with real reform that starts us down the path toward fiscal sanity.

So I am not going to take my few minutes to argue the issues that have already been argued eloquently: conservation, the Middle East, the other issues that have been discussed by way of sacrifice and the like. I am merely going to repeat, why we are here and what we are doing.

There was a hue and cry that we ought to put more taxation in this package. And, if we were going to have more taxes, they should be put on wealthy Americans. The committee of jurisdiction—not the Budget Committee, we do not have authority, but the Finance Committee, went out and raised taxes on wealthy Americans.

As a matter of fact, for those who are across the country, speaking of the House-passed package and how it taxes the wealthy, I submit to you it is absolutely black and white that this particular package has the wealthy bearing more of the burden than the House Democratic package. The Senate package raises taxes in a rather fair way in terms of how it moves about through the wage scale of higher income Americans.

I thought we wanted that. I thought that is what was fair about a deficit package. I thought that is what most Americans wanted us to try to do.

Make no bones about it, that package of taxation is gone, too, if this amendment passes; finished.

I thought people wanted balance in this package. I have heard some Senators come down and talk about saving more money. I heard some, who I have great respect for, say we are spending too much money in discretionary accounts of the Government.

Madam President, I see the occupant of the Chair is the chairman of a subcommittee. I will not go beyond saying that she and her ranking member find that many Senators who are talking about spending less are all before the

subcommittee wanting more. And I do not personalize that. I just say that as a matter of course. We all say, "spend less," but we have more ideas and we want more things. Nonetheless, when this package is finished and the enforcement mechanisms are in place, the American people should know that the accounts of the Federal Government that we appropriate every year, are going to come down by $180 billion over the next 5 years. Most of that will be out of defense, but nonetheless $180 billion of savings will come out of the discretionary accounts of the Federal Government.

That is a good share of the total package, if you want some balance. Discretionary cuts make up 35 percent of the package. It is a pretty good balance. Why do I talk about it? Because those savings are gone if we pass this amendment. We will start over, and who knows where we will end up.

Many said we need a reasonable balance on entitlement and mandatory spending. I do not know if it is reasonable; but I will give you the number.

Entitlement and mandatory cuts make up 22 percent of this package. And the revenues account for 30 percent of the savings.

Frankly, Americans may be angry at parts of it, but I do not think this afternoon we are voting on parts of it. We are voting for that kind of balanced deficit reduction package or nothing.

I am not at all interested in those who say they have another way. They are saying I am not for any deficit reduction unless you do it my way. I do not think we can afford that at this point, at this stage, at this late date.

With great respect and admiration for my friend from Idaho, I do hope that we will table this amendment and send a signal that we want this package approved sometime tonight or tomorrow. We want to get on with a major deficit reduction package.

Some of my good friends in the Senate are concerned about a couple of things in this package, and I agree with them. Some are worried about whether it will still be a bipartisan package when we go to conference.

Let me submit, with all the work that has been put into this by Republicans and Democrats and the President, that this bill leaves the floor intact. I will insist that, when we go to conference, it remains bipartisan. Because I am not at all sure that many of us who are going to support it here, will support a package that is dictated to us by the House and by one party. I hope that does not happen.

I think it is fair to raise that because there are some who are saying we will not support this package on our side because they are worried about that happening. Well, the President is still around. Under those circumstances, he can do something, and he will. So I truly urge Senators to vote with the leadership and table the Symms amendment. This is done with the highest regard for those who favor the Symms amendment, and for many of my good friends who are here that are not going to be on our side.

Mr. HELMS. Will the Senator yield?

Mr. DOMENICI. I am pleased to yield.

Mr. HELMS. Madam President, I have a problem. The Ethics Committee is beginning a meeting of a sensitive nature. I am needed there for a quorum. I wonder if I might ask unanimous consent that it now be in order for me to offer an amendment for consideration after the Symms amendment is disposed of. I ask unanimous consent that I be granted that.

The PRESIDING OFFICER. Is there objection?

Mr. SASSER. Madam President, reserving the right to object, what type of amendment does the Senator have in mind?

Mr. HELMS. I will show it to the Senator.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I would also like to reserve the right to object. While they are discussing this, I say to my colleague from North Carolina, I have been on the floor off and on since before the noon hour trying to get an amendment up, so I would be constrained to object.

Mr. HELMS. Madam President, I withdraw the request.

The PRESIDING OFFICER. The request is withdrawn.

Mr. SASSER. Madam President, during my years in the Senate, I have traditionally opposed and voted against increases in what is commonly called a gasoline tax. That is a misnomer of sorts because the so-called gasoline tax is principally a user fee. The overwhelming majority of the funds that are collected as a fee on motor fuels are used to fund the roads and bridges and highways over which those who own and operate motor vehicles travel.

As evidence of that, motor fuels which are used on the farm by farmers in tractors which do not traverse the highways are not subject to these user fees or so-called gasoline taxes. But I have always opposed increases in these user fees because I have felt that they worked an undue hardship on the people of my State, and I have felt that these user fees were to some extent regressive. And lastly, I have always felt that this was a source of revenue that ought to be reserved to the several States rather than being taken as a source of revenue by the Federal Government.

But times change, and as times change one must change one's views. The infrastructure in this country is in terrible condition. It is suffering from really 12 years of neglect; 12 years in which we reduced the revenue base of this Government of ours by 20 percent, at a time when we were increasing defense, in nominal dollars, by about 50 percent.

Some effort was made to make up the difference by reductions in domestic spending and in domestic discretionary spending. I suspect we will hear during the course of this debate a very learned and persuasive discourse from the distinguished chairman of the Senate Appropriations Committee who will outline in graphic detail how this effort to reduce spending by cutting the domestic discretionary accounts has diminished the ability of this country to compete in the international markets and diminished our ability to at least enhance the quality of life of our citizens.

But, having said that, as this domestic spending has been reduced, we have seen the infrastructure, the highways and the bridges, take the hits. I had a bridge in my native State of Tennessee that collapsed a year and a half ago. Five or six people perished because this bridge fell into a river. They came over a crest of a hill to traverse the bridge and no bridge was there, and they went into the river. A whole family was lost. It took days to find them.

Potholes are all over the Interstate System. Bridges are shaky and collapsing. We need to do more on the roads and highways. So for that reason, I am going to back away from a long held view that I would not support increases in highway user fees, a so-called motor fuels tax. I am going to support it today with reluctance because it is absolutely necessary.

Second, 50 percent of this levy will be allocated to deficit reduction. When we put it into deficit reduction, then it no longer becomes a user fee but it then indeed becomes a tax.

Now, why would I reverse 14 years of votes today on the Senate floor to do that? I do it because this Nation of ours is facing a financial crisis, a fiscal crisis, if you will. This Nation of ours is slowly but surely going bankrupt before our very eyes. We have seen ourselves move from the largest creditor Nation just 12 years ago to now we are the largest debtor Nation in the world.

The external debt of the country of Brazil pales to insignificance when compared to that of the United States. We in this Government are mortgaging our future and the future of our heirs. And that mortgage is being held by the Japanese investors, by German investors, by other foreign investors who are coming in and slowly but surely purchasing the ability of our Government to control its own destiny, to control its own affairs. And by

this continued reliance on foreign capital, we are sapping the very vitality of this Government of ours and the economic machine that supports it.

So, having witnessed, from the period of 1980 through the period of 1990, the national debt explode from slightly over $900 billion to where it now stands at well over $3 trillion, I am persuaded that we must take steps immediately to try to stem this hemorrhage. This particular provision, which is not what I would have chosen had I been selecting it myself, I think, is necessary to meet that task. If this particular user fee, a motor fuels levy or tax, is excluded from this package, then I think the distinguished Senator from Kansas, the minority leader, is quite correct; it unwinds the whole ball and we see 6 months of work going down the drain for nothing. So I urge my colleagues today to set aside past voting patterns and look to the necessity for rebuilding our infrastructure and look to the necessity for reducing this budget deficit as they cast their votes. I urge them to vote against the Symms amendment.

I yield the floor, Madam President.

Mr. SYMMS. I understand I have 3 minutes and 56 seconds remaining, and I yield that time to myself.

The PRESIDING OFFICER. The Senator is correct. The Senator may proceed.

Mr. SYMMS. Madam President, I appreciate the comments I heard from the distinguished Republican leader and Senator DOMENICI and Senator SASSER and many others who have spoken here on the floor. I realize the work, the time and effort, they have invested in this endeavor.

I must say I agree with the good chairman of the committee, the Senator from Tennessee, when he talks about the potholes. But I remind my colleagues there are $17 billion that have already been put in the trust funds that have been spent on other accounts of our Government. The Senator from New Jersey [Mr. LAUTENBERG] made it very clear: Do not believe half of this money that is going into trust funds is going to be spent on the highways. It will not happen because they have caps on the funding under the rules. The money will not go to highways.

Madam President, to my colleagues on the other side I say I have sat patiently on the floor for many months and listened to them hammer the point, "Soak it to the rich." If they want to soak it to the rich, I advise them that voting for a gas tax is doing just the opposite of that. It is soaking middle Americans, working Americans, senior citizens. Yes, I agree with my colleague, the Senator from Georgia, who spoke so eloquently about the senior citizens in this country who lived through the Depression, won World War II; they are patriotic; they have paid a price.

And if we want to be patriotic to the young men and women in the Persian Gulf, I will tell my colleagues what we ought to do. In my opinion, we need economic prosperity and economic growth, innovation, and better technology, which is the solution to oil dependence. The new automobiles today get 10 times better mileage than the old automobiles—for better fuel efficiencies. We need to make them even better. We need better designs. We need more modern efforts spent to build new, clean, safe nuclear powerplants and other kinds of powerplants and alternative energy sources. Raising a tax on the working people of America will not solve that problem.

Madam President, for those on this side of the aisle and those who have worked so hard on this, there is an alternative. Freeze the budget. Senator DOLE mentioned that Senator SYMMS will vote to cut spending. I will vote to freeze all spending. The CBO sent me information that said if we freeze all the appropriated accounts in the budget, we save almost $10 billion on the first year, and over the accumulation of this 5-year program we save $82 billion. Somebody can get up and offer that immediately after the vote on this.

It is not Armageddon. It does not have to destroy it. I am sorry for interfering with the work of the secret summiteers, but raising the gas tax on working Americans is not the solution.

Madam President, our people are calling. They are calling for Congress to come home. Stop taxing. Freeze spending. Stop the remedies, Madam President. They are sick and tired. Senator HELMS said here on the floor the CBO told him there has been $60 billion in new starts, remedies to solve problems. They may be big problems, but pass another law, start another program, start another welfare bureaucracy, another regulatory bureaucracy, that is what we are raising these taxes for.

The American people are saying, "Come home, Congress. Freeze the budget. Leave us alone. For God's sake, do not raise taxes again." That is the message, and that is all that this vote is about. If we want to keep the funding machine going and spending the money, vote against my amendment. If my colleagues want to give the working people of America a break, vote against the tabling motion the distinguished majority leader is about to make.

I thank my colleagues for their indulgence.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Madam President, I yield 5 minutes to the distinguished Senator from Arkansas.

Mr. BUMPERS. Madam President, I hate this gas tax increase. God knows, I hate what we are doing here to rural states like Arkansas.

But I also hate the speeches that I have heard for 16 years as a moral justification for continuing to increase spending while cutting taxes. Why do my colleagues think we are here this afternoon? I have heard this kind of rhetoric from, I would say, 50 percent of the Members for 16 years. If we could just do this and do that we can avoid the hard choices.

My colleagues do not have to worry about the political fallout on the gas tax issue because Congress cannot get any lower than it is right now in public esteem. The only way in the world Congress can resurrect itself is to show a little spine and say to the American people, "Not only do we understand your frustration and your hostility to the budget deficit, we are going to try to honor it in the best democratic tradition by facing it with courage and honesty."

I come from the State that has the highest gasoline use per capita per vehicle in the United States. Do my colleagues think I will enjoy opposing the amendment of the Senator from Idaho? I hate this gas tax. I hate it so much, if it comes back from conference with a 9- or 10-cent gasoline tax increase on it, I will vote against the whole package.

But we cannot vote on a final package until we get to conference with the House.

Ask the Senator from Idaho, "Senator, you are removing $42.6 billion deficit reduction from the package and what is your alternative deficit reduction plan?" How many times have we heard about some unspecified alternative? We can just freeze this and freeze that. But then those same Senators all line up at the spending trough.

Yesterday afternoon in the Appropriations Committee, it was the Senator from Idaho, the ranking member, Senator MCCLURE, who spoke about the number of requests made of the chairman and of the ranking member by Senators for special spending projects. My colleagues know about the wish lists we all send to the chairmen of the subcommittees on appropriations. How many requests do my colleagues think the chairman and ranking member, Senators BYRD and MCCLURE, got from the Members of this body for pork in their States? Do my colleagues want to take a guess? How many specific requests were made just in one of the eight subcommittees

of the Appropriations Committee—28,000.

Those same Senators then come in here with unctious, pontificating statements about how, if we just freeze this or that, we could get the deficit under control.

Mr. President, I made a statement in the Democratic caucus. We are always admonished by the majority leader not to talk about what happens in the Democratic caucus. But he did not tell me I could not reveal what I said in the caucus. And I said, in connection with what I said just a moment ago: "Do not worry about the politics of this vote on the gas tax. You are not going to lose any more than you have already lost. The people in this country have never been as upset with Congress and with the President as they are now."

What I said is there is only one way we can resurrect ourselves to some extent with the American people. The political writers and analysts would have no choice but to give Congress a little credit if we voted for more than $500 billion in deficit reduction. I would like to marry the best parts of the Senate budget proposal with the House budget proposal. I would like to take out that 3.5 or 4 billion dollars' worth of energy incentives and apply that to the deficit. I would like to take out that capital gains thing in the House bill and save $15.8 billion for deficit reduction.

That capital gains thing the House put in is absolutely cockamamy. And take out some of those things that are pure boondoggles then you can reduce the deficit by $300 billion over the next 5 years. Maybe some kind journalist out there will have a little mercy on Congress and say, "They finally stood up and did what they knew had to be done."

Madam President, my real apprehension about all of this is that we are going to be back here next October, same place, same station, second verse. When we look at the economic assumptions in the budget deficit it is certain we'll be back here. The economic assumptions do not have anything to do with the $500 billion we are talking about in deficit reduction. These $500 billion in savings are real, but these savings do not guarantee us that the budget deficit in 1995 will not be as high or higher than it is going to be in 1991, because of the totally unrealistic assumptions that are being used here.

So it is one of the saddest votes I will ever cast, but it is a vote that will at least get us to conference. Hopefully, in the conference we can talk to the House about bursting the bubble, which will produce more revenue than the gasoline tax, and then we can drop the gasoline tax or at least get it down to where we are not really hammering middle America. This is what the House did. I am not going to vote against the Senator's motion to strike the gas tax increase because I favor a 9-cent or a 10-cent gasoline tax. I am going to vote against him because it is the only responsible thing this body can do today, to try to get a deficit reduction bill.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BUMPERS. I thank the Chair.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The distinguished majority leader.

Mr. MITCHELL. Madam President, in the 11 years in which I have served in the Senate, no subject has been more discussed in this Chamber than the need to reduce the Federal budget deficit. The speeches have been persuasive; the speeches have been powerful; the speeches have been emotional and, most of all, the speeches have been plentiful. If we could have charged fees for the speeches made in this Chamber on the need to reduce the deficit, we could have reduced the deficit just by that fee. We would have a balanced budget by now. In fact, we would have a surplus.

Over and over and over again Senators have filled this Chamber with rhetoric about the need to reduce the Federal budget deficit. Disaster has been projected if we do not; Armageddon has been projected if we do not; calamity has been projected if we do not. And over and over and over again Senators, including my good friend and our colleague, the Senator from Idaho, have urged the Senate to deal with the Federal budget deficit, to reduce the Federal budget deficit, to do something about the Federal budget deficit.

Now here in the middle of October 1990, for the first time in 10 years, we have before us the opportunity to do something serious about the Federal budget deficit; to do something about the Federal budget deficit other than to talk about the Federal budget deficit; to do something that will actually result in a reduction of the Federal budget deficit.

And what is the first amendment that is proposed? It is an amendment to destroy the effort, the first serious effort in a decade to reduce the Federal budget deficit.

Mr. President, and I say to the Members of the Senate, with all due respect to my colleagues—and I respect and have great affection for every one of them, particularly my good friend from Idaho—any Senator who votes for this amendment and then goes back to his or her home State and stands up in front of the citizens there and says a single word about the Federal budget deficit ought to be laughed out of the room and laughed out of the State, because what this vote will tell us is who has meant what he or she has said about the Federal budget deficit over the past decade.

Those who vote for this amendment make clear by their action that the only assault they are interested in against a Federal budget deficit is the verbal assault; that they want to say plenty of words about the Federal budget deficit, but they do not want any deeds against the Federal budget deficit.

This, as the distinguished Republican leader said with absolute accuracy, is a test. It is a test of the individual Members of the Senate and it is a test of the Senate as an institution. Do we have that minimum level of courage necessary to do something that is difficult, unpleasant, unpopular? Or, must we forever say that this institution is incapable of taking any action that meets any of that description? If it is difficult, we cannot do it. If it is unpleasant, we cannot do it. If it is unpopular, we cannot do it.

The one thing we can do, the one thing we have done, the one thing we surely will do, is talk, talk. We will expound on the Federal budget deficit; we will analyze the Federal budget deficit; we will denounce the Federal budget deficit; we will exclaim our allegiance to reducing the Federal budget deficit, but we will not actually do anything about it because that requires something other than talking.

No one here likes this. I have never in my 11 years in the Senate voted to increase the gas tax. I have consistently opposed all forms of excise taxes because I believe our tax system is unfair. It is increasing those taxes unrelated to the ability to pay, while decreasing those taxes with the ability to pay.

We now have a total package. It is an imperfect package. It does not meet fully the desires of any single Member of this Senate. Every Senator, 100 of us, has his or her own plan for reducing the deficit. And every one of us can stand up and say if only the other 99 had my wisdom, had my good judgment, had my experience and would adopt my plan, the deficit would have been solved.

There we see one of the failures of democracy. It takes more than one vote to get anything done. It takes 51 votes in this Chamber. So we have to try to reconcile the competing and conflicting desires and demands and interests from all regions of the country, from each of the 50 States, from the various economic sectors, arising out of differing political and other philosophies.

This package, imperfect as it is, is the best that could be done in that regard. It reduces the deficit by $500 billion over the next 5 years. We can do no less, we must do no less. Yet, along comes the Senator from Idaho and says, let us take it down to $460

billion because he does not like this tax. Soon there will be others who say, let us take it down to $440 billion and $410 billion, and we will have a reverse bidding that once we start down that road will end at zero.

Senators should make no mistake about it. If this amendment to strike succeeds, this deficit reduction effort will be over. We are not going to have a deficit reduction package. We are going to be starting down the road again of single shots aimed at particular items without any regard for the total package and, most importantly, without any regard for the overall national interest.

I urge my colleagues for once, can we not keep in mind the national interest? Does anyone here believe what has been said over the past decade in this very Chamber? Does anyone here believe their own words when over and over again they declaim on the need to reduce the Federal budget deficit?

Mr. BUMPERS. Will the distinguished majority leader yield for a question?

Mr. MITCHELL. Yes, certainly.

Mr. BUMPERS. Is the distinguished majority leader not also a member of the Finance Committee?

Mr. MITCHELL. Yes; I am.

Mr. BUMPERS. That is the committee which reported this reconciliation bill that we are on today?

Mr. MITCHELL. Yes.

Mr. BUMPERS. I know it was an agonizing process for that committee. Is it not true that there was an effort made in that committee to burst the bubble, as they say, and raise the income tax on the wealthiest people in America to avoid having to put on a gasoline tax?

Mr. MITCHELL. No formal amendment was offered in that regard because it was clear that there were insufficient votes to raise the income tax rates. We were advised that our Republican colleagues were unanimously opposed to any increase in the rate and would not vote for it, and combined with a sufficient number, minority number of Democrats on the committee, would have made it impossible to pass it.

Mr. BUMPERS. So therefore the only way the committee could meet its mandate was to impose this gasoline tax, is that correct?

Mr. MITCHELL. That is correct.

Mr. BUMPERS. I thank the Senator.

Mr. MITCHELL. Madam President, the only way this Senate is going to meet this mandate is to include this.

I make just two points. This is not a partisan issue. During these negotiations overall this time there were some on the Republican side, including the President and his negotiators, who wanted a higher gasoline tax. There were others among the Republicans who wanted a lower or none. There were some on the Democratic side who wanted a higher gasoline tax. There were others who wanted lower or none.

I remind my colleagues that the budget summit agreement endorsed by the President and the congressional leadership would have increased the gas tax by 12 cents. This is a reduction from that down to 9.5. I recognize the difficulty of the issue and the unpopularity of this or any other tax. But I say to my colleagues, you cannot pick this thing apart one item at a time, and you especially cannot do it and say that you are going to turn a $500 billion deficit reduction package into a $460 billion deficit reduction package, because once we start down that road, let us be very clear, there is no deficit reduction package.

We are either going to come out of this exercise with a $500 billion deficit reduction package or with nothing. That is the reality. It is an imperfect reality. It is an undesirable reality for many, but it is the reality in which we find ourselves today.

As elected public officials, we have a responsibility to deal with the reality as it exists before us and ask ourselves do we want to be responsible for destroying the first serious deficit reduction effort in these United States in 10 years.

I say we cannot in the name of our Nation's future permit that to happen. Difficult as it is, painful for many as it is, we must reject this and other amendments and we must proceed to pass this reconciliation bill, I hope as close to the manner and form in which it has been reported, and then go to conference with the House and try to develop the most fair, responsible package that we can that reduces the deficit not by $460 billion, not by $419 billion, not by any amount other than $500 billion.

Mr. CONRAD addressed the Chair.

Mr. MITCHELL. Does the Senator have a question?

Mr. CONRAD. No. Excuse me. I thought the Senator was finished.

Mr. MITCHELL. A pregnant pause. But it does remind me that I probably was speaking too long in view of that. So I will close my remarks by saying that the distinguished Republican leader and I will join at the appropriate time in a motion to table, and I hope, and I urge, and I implore all of our colleagues to join with us in tabling this amendment.

Mr. SASSER. Madam President, will the distinguished majority leader withhold before making that motion.

Mr. MITCHELL. Yes. I do not intend to make the motion until we are advised that it is appropriate to do so. I merely want to say, and I want to repeat what the distinguished Republican leader said, this is a test. This is a test of every Senator. This is a test of the Senate, and ultimately this is a test for our Nation's future.

If we cannot defeat this amendment, I do not think we are going to proceed to do anything with respect to the deficit, and we are going to be rightly, objects of ridicule in this country. So I hope, and I urge, and I implore my colleagues to join in voting with the distinguished Republican leader and I in tabling this amendment.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee, the chairman of the Budget Committee.

Mr. SASSER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. DIXON). Without objection, it is so ordered.

Mr. SASSER. Mr. President, I yield to the distinguished Senator from North Dakota.

AMENDMENT NO. 3013

(Purpose: To provide alternative revenue provisions)

Mr. CONRAD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], for himself and Mr. BAUCUS, proposes an amendment numbered 3013.

Strike all after the section designated as the language to be stricken and insert the following:

ELIMINATION OF PROVISION REDUCING MARGINAL TAX RATE FOR HIGH-INCOME TAXPAYERS.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)), a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $32,450	15% of taxable income.
Over $32,450 but not over $78,400.	$4,867.50, plus 28% of the excess over $32,450.
Over $78,400	$17,733.50, plus 33% of the excess over $78,400.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $26,050	15% of taxable income.
Over $26,050 but not over $67,200.	$3,907.50, plus 28% of the excess over $26,050.
Over $67,200	$15,429.50, plus 33% of the excess over $67,200.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $19,450	15% of taxable income.
Over $19,450 but not over $47,400.	$2,917.50, plus 28% of the excess over $19,450.
Over $47,050	$10,645.50, plus 33% of the excess over $47,050.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $16,225	15% of taxable income.
Over $16,225 but not over $39,200.	$2,433.75, plus 28% of the excess over $16,225.
Over $39,200	$8,866.75, plus 33% of the excess over $39,200.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $5,450	15% of taxable income.
Over $5,450 but not over $14,150.	$817.50, plus 28% of the excess over $5,450.
Over $14,150	$3,253.50, plus 33% of the excess over $14,150."

(b) REPEAL OF PHASEOUT.—

(1) IN GENERAL.—Section 1 is amended by striking subsection (g) (relating to phaseout of 15-percent rate and personal exemptions).

(2) CONFORMING AMENDMENT.—subparagraph (A) of section 1(f)(6) (relating to adjustments for inflation) is amended by striking "subsection (g)(4),".

(c) 28 PERCENT MAXIMUM CAPITAL GAINS RATED.—Subsection (j) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(j) MAXIMUM CAPTIAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the amount of the net capital gain, or

"(ii) the amount of taxable income taxed at a rate below 28 percent, plus

"(B) a tax of 28 percent of the amount of taxable income in excess of the amount determined under paragraph (1).

"(2) COORDINATION WITH SECTION 1202 DEDUCTION.—For purposes of paragraph (1), the amount of the net capital gain shall be reduced by the sum of—

"(A) the amount allowable as a deduction under section 1202(a)(1), plus

"(B) the amount of the qualified gain (as defined in section 1202(c)) for the taxable year to the extent taken into account under section 1202(c)(1) for the taxable year."

(d) TECHNICAL AMENDMENTS.—

(1)(A) Subsection (f) of section 1 is amended—

(i) by striking "1988" in paragraph (1) and inserting "1990", and

(ii) by striking "1987" in paragraph (3)(B) and inserting "1989"

(B) Subparagraph (B) of section 32(i)(1) is amended by striking "1987" and inserting "1989". (C) Subparagraph (C) of section 41(e)(5) is amended—

(i) by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end of clause (i),

(ii) by striking "1987" in clause (ii) and inserting "1989", and

(iii) by adding at the end of clause (ii) the following new sentence: "Such substitution shall be in lieu of the substitution under clause (i).".

(D) Subparagraph (B) of section 63(c)(4) is amended by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end.

(E) Clause (ii) of section 135(b)(2)(B) is amended by striking ", determined by substituting 'calendar year 1989' for 'calendar year 1987' in subparagraph (B) thereof".

(F) Subparagraph (B) of section 151(d)(3) is amended by striking "1987" and inserting "1989".

(G) Clause (ii) of section 135(h)(2)(C) is amended by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end.

(2) Section 1 is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (g) and (h), respectively.

(3) Subsection (j) of section 59 is amended—

(A) by striking "section 1(i)" each place it appears and inserting "section 1(g)", and

(B) by striking "section 1(i)(3)(B)" in paragraph (2)(C) and inserting "section 1(g)(3)(B)".

(4) Paragraph (4) of section 691(c) is amended by striking "1(j)" and inserting "1(h)".

(5)(A) Clause (i) of section 904(b)(3)(D) is amended by striking "subsection (j)" and inserting "subsection (h)".

(B) Subclause (I) of section 904(b)(3)(E)(iii) is amended by striking "section 1(j)" and inserting "section 1(h)".

(6) Clause (iv) of section 6103(e)(1)(A) is amended by striking "section 1(j)" and inserting "section 1(g)".

(7)(A) Subparagraph (A) of section 7518(g)(6) is amended by striking "1(j)" and inserting "1(h)".

(B) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act, 1936 is amended by striking "1(j)" and inserting "1(h)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7461A. INCREASE IN RATE OF INDIVIDUAL ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subparagraph (A) of section 55(b)(1) (relating to tentative minimum tax) is amended by striking "21 percent" and inserting "25 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1990.

SEC. 7461B. SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000.

(a) GENERAL RULE.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000

"Sec. 59B. Surtax on section 1 tax.
"Sec. 59C. Surtax on minimum tax.
"Sec. 59D. Special rules.

"SEC. 59B. SURTAX ON SECTION 1 TAX.

"In the case of an individual who has taxable income for the taxable year in excess of $1,000,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 10 percent of the amount which bears the same ratio to the tax imposed under section 1 (determined without regard to this section) as—

"(1) the amount by which the taxable income of such individual for such taxable year exceeds $1,000,000, bears to

"(2) the total amount of such individual's taxable income for such taxable year.

"SEC. 59C. SURTAX ON MINIMUM TAX.

"In the case of an individual who has alternative minimum taxable income for the taxable year in excess of $1,000,000, the amount of the tentative minimum tax determined under section 55 for such taxable year shall be increased by 2.5 percent of the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds $1,000,000.

"SEC. 59D. SPECIAL RULES.

"(a) SURTAX TO APPLY TO ESTATES AND TRUSTS.—For purposes of this part, the term 'individual' includes any estate or trust taxable under section 1.

"(b) TREATMENT OF MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$500,000' for '$1,000,000'.

"(c) COORDINATION WITH OTHER PROVISIONS.—The provisions of this part—

"(1) shall be applied after the application of section 1(h), but

"(2) before the application of any other provision of this title which refers to the amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $1,000,000."

(C) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7461C. 5-CENT INCREASE IN MOTOR FUEL TAXES.

Notwithstanding any provision of, or amendment made by, section 7405 of this Act (relating to increase and extension of highway-related taxes and trust fund) or any provision of the Internal Revenue Code of 1986, the following tax rates shall be effective for any period beginning on or after January 1, 1991:

(1) TAX ON GASOLINE.—The Highway Trust Fund financing rate and the deficit reduction rate under section 4081(a)(2)(B) shall be 11.5 cents a gallon and 2.5 cents a gallon

(3 cents a gallon in the case of gasohol containing ethanol), respectively.

(2) TAX ON DIESEL FUEL.—The Highway Trust Fund financing rate and the diesel fuel deficit reduction rate under section 4091(b) shall be 17.5 cents a gallon and 2.5 cents a gallon (3 cents a gallon in the case of any mixture of diesel if at least 10 percent of such mixture is ethanol), respectively.

(3) TAX ON FUEL USED IN TRAINS.—The rate of tax on fuel used in trains under sections 4041(a)(3) and 4093(c) shall be 2.5 cents per gallon.

SEC. 7461D. PART B DEDUCTIBLE.

Section 1833(b) of the Social Security Act (42 U.S.C. 1395l), as amended by section 6162, is further amended by striking "for calendar years before 1991 and after 1995, and $150 for years after 1990 and before 1996" and inserting "for calendar years before 1991 and $100 for 1991 and subsequent years".

SEC. 7461E. AGRICULTURAL SUPPORT PROGRAMS.

Notwithstanding any provision of, or amendment made by, this Act—

(1) the base reduction percentage for the 1991 crops of wheat, feed grains, upland cotton, and rice under section 1101(c) of this Act shall be 5 percent; and the base reduction percentage for the 1992 through 1995 crops of wheat, feed grains, upland cotton, and rice under section 1101(c) of this Act shall be 7.5 percent.

(2) in calculating deficiency payments for each of the 1991 through 1995 crops of wheat, feed grains, and rice under section 1102(a) of this Act, the payment rate for a crop shall be the amount by which the established price for the crop exceeds the higher of—

(A) the national weighted average market price received by producers during the first 6 months of the marketing year for the crop, as determined by the Secretary of Agriculture; or

(B) the loan level determined for the crop; and

(3) the amount of the dairy assessment provided for in section 1105(b) of this Act shall be $0.05 per hundredweight during the period beginning January 1, 1991, and ending August 31, 1995.

Notwithstanding any other provision of this Act the provision of section 7461 as reported will be effective.

Mr. SYMMS. Parliamentary inquiry, Mr. President. Is not the motion to strike the pending business?

The PRESIDING OFFICER. The motion to strike is in order. However an amendment is in order addressed to the language involved in the motion to strike.

Mr. CONRAD. If I might respond to my colleague, and explain——

The PRESIDING OFFICER. Who yields time for this discussion?

Mr. SASSER. Mr. President, I yield 10 minutes to the distinguished Senator from North Dakota.

Mr. CONRAD. I thank the acting leader.

I just say to my colleague from Idaho, I share his concern about a gas tax. I have sent to the desk in the nature of a perfecting amendment to the underlying language an amendment that deals with the gas tax. It reduces the gas tax increase.

Very frankly, I do not think that is enough. I think there are other deficiencies that need to be addressed in the reconciliation legislation before us. I think we can do a better job for the elderly sick. I think we can do a better job for our Nation's middle class. I think we can do a better job for our farmers.

So I have sent to the desk an amendment that deals with all of those questions. But it does more than that because it pays for the provisions. It pays for the provisions so that we keep intact a package that provides for $500 billion of deficit reduction because, very frankly, Mr. President, my colleagues, the situation that we confront demands that.

Let me just explain briefly, if I might, why I have constructed this amendment, and what it entails and why I think it is better than what is before us.

Mr. President, might we have order in the Chamber?

The PRESIDING OFFICER. The Senate will come to order.

Mr. CONRAD. As I told our colleagues when we faced the summit agreement I believe what was offered to us from the summit was unfair to the middle class because it doubled the rate of increase in taxes from the middle class as against those in the upper class. It was unfair to the elderly sick because fully half of the cuts came from the elderly sick. It was unfair to our Nation's farmers because it took a disproportionate cut from them, four times as great as any other cut in any other program. It was unfair to the rural areas because of the extent of the gas tax increase.

The Senate version that has come here today is an improvement. Without question, it is better than what the summit had done—better for the middle class, better for the rural areas, better for the elderly sick.

Mr. President, I think we can do even better. So I am offering this amendment. Let me just briefly describe what is included in this amendment.

First of all, we replace the individual income tax rate structure with three rates, and in shorthand we pierce the bubble. We have heard a lot of talk about the inequity of the marginal rates for the very highest income people being lower than the marginal rates for those who are below that class.

So we address that question. We pierce the bubble. In addition, we increase the alternative minimum tax from 21 to 25 percent so that those who seek through a whole series of exclusions and deductions to avoid any tax obligation have their opportunity to pay just like the rest of us do.

Third, the amendment that I am proposing provides a 10 percent surtax on those with incomes of over $1 million. In order not to have a double hit on those at the highest income categories, we take out the provisions which disallow 5 percent of itemized deductions. And then, with the net revenue that we realize from this set of proposals, we scale back the increase in the gasoline excise tax to 5 cents a gallon; we limit the increase in Medicare part B deductible to $100 in 1991, with no further increases, unlike the package before us that has a $150 deductible; and we reduce the cuts coming from the farm program by something over 40 percent.

I want to stress, Mr. President, that this package is revenue neutral. We pay for what we do. Unlike the proposal from the Senator from Idaho, this package is revenue neutral, and I believe it is more fair, more fair to the middle class, more fair to the elderly sick, more fair to our Nation's farmers, and more fair to the rural parts of our country.

Mr. President, I have charts with me that show the tax bubble. We have had a lot of talk about the tax bubble. This chart shows what happens in the Tax Code. Very simply, we have a top rate of 33 percent on incomes from $78,000 to $185,000 for couples, but it goes down to a 28-percent rate for those over $185,700.

Mr. President, we have had a lot of talk about progressivity and regressivity and what the burdens of the various tax packages are that have come before this Chamber.

The budget summit plan is depicted in the top part of this chart. It shows the changes in Federal taxes, all Federal taxes, of the three proposals that have been before us. The budget summit, which was clearly inequitable, with the middle class being asked to have an increase twice the rate of the increase from the upper classes. The Senate finance plan, which is before us now, is more fair and clearly has a slight edge of progressivity to it. We can see that in this set of charts. And here is the alternative plan that has now passed in the House, which is depicted in this third part of the chart. As one can see, that is far more progressive.

Again, that looks at all Federal taxes, Mr. President. It is far more progressive, with less being asked by way of increase of the middle-income people of this country and more being asked of those in the top income categories.

Let me show why that is important, Mr. President, why it is important that we consider a package that asks more from those with the highest income. It is important to go back and look at what has happened before, what has happened from 1977 to 1990 with the tax burden in this country.

Mr. President, this chart shows the tax changes in billions of dollars for each income group in our society. We can see that every income group in our

society has experienced a tax increase over the last 13 years, with one exception, Mr. President. That one exception is the top 1 percent in our society. The top 1 percent have experienced a very significant and dramatic tax reduction.

Let us turn to this next chart that puts in context not only the tax changes, but also the income changes, and looks at what has happened over this same period of time, from 1977 to 1990.

In each group, the lowest 20 percent, the red bar is the real income change for that group; the blue bar is the tax rate change, Mr. President. You can see that for the lowest 20 percent in our society, those in the lowest 20-percent income category, they have seen, in real income, a reduction of 9 percent. And yet they have experienced a tax increase of 2.6 percent.

Mr. President, so it goes. We can look up the income categories. But maybe it is instructive to look at the top 1 percent. They have experienced an increase in real income of 91 percent, but a tax reduction of 23 percent.

Mr. President, that is why it is critically important that we offer a revenue package here that deals with the question of fairness and of a fair sharing of the tax burden. We have seen a dramatic change in the last 13 years. Now we are seeking to redress that change, albeit slightly, by asking those at the top income categories to pay somewhat more, so that we do not have to go back to the middle-income people in our society and insist, once again, that they pay a disproportionate share of this tax burden.

Mr. President, that is why I believe the package that we are offering today is more fair to the middle class, because if you look at the effect, we are increasing the tax rates on those who are at the highest income categories, and we are also looking at those parts of this plan that put a burden on the middle income, and we are reducing them.

On Medicare, instead of increasing the deductible from $75 to $150, which is in the Senate plan, we go from $75 to $100. Mr. President, three-quarters of our senior citizens will have a health requirement that would force them to pay the full $150 deductible.

So many of our senior citizens cannot take an additional hit in their medical expenses. So many of them are already experiencing real pressure, when they have to make the decision to seek the help of a doctor or to stay home and suffer?

Mr. President, we say we can do better than what was proposed in the Senate plan. I urge my colleagues to examine each and every element of this proposal, because we believe it is more fair to those who are the middle-income people in this country, more fair to the elderly sick, more fair to the farmers.

Mr. President, let me just turn my attention briefly to the question of what happened to agriculture in this summit agreement.

It has been written in headlines all across the country that agriculture was reduced 25 percent. No other program comes close.

Mr. President, it is not the full story. The actual truth is that agriculture has taken a much bigger hit than 25 percent. The reason for that is simple: The so-called budget baseline for agriculture is unlike any other budget baseline. Every other budget baseline has inflation included but not agriculture. So, the real cut for agriculture is close to 40 percent.

This chart shows the trend in agriculture spending starting in 1989, basing that at 100 percent, and look at this trend line. Agriculture will be cut 42 percent in 1995 when adjusted for inflation to the level of spending in 1989. No other part of the budget takes anywhere near that kind of hit.

Let us just compare for a moment the program cuts in agriculture, which is the red bar, compared to the program cuts in defense, which is the blue bar.

These charts show the real reduction in agriculture compared to the real reduction in defense.

As one can see, agriculture takes a hit that is four times as great as the reduction for defense.

Mr. President, this is all the more serious if one reflects on what has happened to agricultural income over the past decade. The estimates by the Congressional Budget Office are that with no cuts agriculture will face a 21-percent decline in real net farm income over the next 5 years, with no cuts; a decline of 21 percent in net farm income.

With these cuts, the projection in my State is that farmers will face a reduction in income of 30 percent or more.

Mr. President, this is not a matter of just being inconvenienced. This is not a matter of just paying a little more for gasoline. This is not a matter of paying a little more in the way of taxes. This is not a question of a little cut around the edges in some program. This is a question of survival for tens of thousands of farm families all across this country, and it comes against a backdrop of a decade in which we have had the lowest farm income, when adjusted for inflation, of any 10-year period in our history.

Let me just repeat that. We have just completed a 10-year period in which we have had the lowest farm income of any 10-year period since we started keeping records back in the 1910's.

So, Mr. President, the amendment that I have offered the body is more fair to farmers, more fair to the elderly sick, more fair to the middle income, and yes, more fair to rural areas, more fair to rural areas because we drive more than other parts of the country, and so we have reduced the gas tax in the amendment that I have proposed from the 9½-cent increase that has come to us from the Senate to a 5-cent increase included in the amendment that I have offered.

Mr. President, gas taxes are regressive and this package that has come to us from the Senate seeks to raise $42.6 billion in gas taxes, the biggest single source of revenue in the package.

Families, with incomes of $10,000 a year, spend twice as large a proportion of their income on gasoline as those earning $50,000 a year. That demonstrates the regressivity of that proposal.

So, we have in this amendment sought to do several things: Make the tax system more fair; make it more progressive; recognize what has happened in the last 13 years to a system that has become more regressive, asking more from those with less; and we have also addressed the question of the elderly sick. We have tried to make the package more fair for them.

We have addressed the question of farm programs by reducing the cut in the overall package some 40 percent. And finally, we have attempted to create a package more fair to rural areas by reducing the gas tax increase.

That is the package that we have put before the Senate. It does not have—and I want to stress; it does not have—what was in the House package, increasing income taxes for everyone by indexing the rates. That is not included. It does have all of the other Senate provisions. It has the extenders. It has the move to encourage research, R&D.

Mr. President, we believe it is a package that is more fair, and perhaps most important, it pays for itself. It provides the same level of deficit reduction that we had in the package that came from the summit and the same level of deficit reduction that came out of Senate reconciliation.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is informed that he has used 20 minutes of the 1 hour allotted to his side. The Chair understands there is 2 hours equally divided.

Who yields time?

Mr. SASSER. Mr. President, the Senator from Nebraska is seeking recognition. How much time remains to the Senator?

The PRESIDING OFFICER. The Senator from North Dakota has 40 minutes remaining on his side in connection with the 2 hours evenly divided.

If the manager opposes the amendment, he controls 1 hour.

Mr. SASSER. Mr. President, I yield 10 minutes to the Senator from Nebraska.

Mr. KERREY. I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I rise in support of the amendment offered by the Senator from North Dakota. I believe, for all the reasons stated by the distinguished Senator from North Dakota, this improves the proposal being offered to the Senate by the Senate leadership.

I want to make it clear that I think the American people, at least the people in the State of Nebraska, are saying that we want deficit reduction. Make no mistake about it: They want to reduce this deficit. And make no mistake about it as well: I think what the distinguished Senator from Tennessee and the ranking member, the distinguished Senator from New Mexico, presented is some difficult choices for this body.

Reducing the deficit will not be easy. None of us believe that it will. We are going to have to make tough choices, and the work that the distinguished Senator from Tennessee and the distinguished Senator from New Mexico have done has, I think, been exemplary in presenting us with an opportunity to really reduce the deficit in year 1 and to achieve over a 5-year period the largest single reduction in the deficit in the history of the Republic.

I point out that many of us believe that this will have to be revisited. It is likely the deficit will increase if economic conditions do not improve, if there is not a significant enough reduction in the interest rates. No one expects this action that we take here in October not to have to be revisited.

Let me deal as well with a couple of other things that I think the distinguished Senator from Tennessee earlier touched on that I also think are important. In addition to the need to reduce the deficit, I think it is important as well that we listen to what our citizens are telling us. They are telling us, yes, we want action; we want you to finish your work, get this to the President so he can sign it, so you all can go home. We want this business out of the way. But it matters how you do it. What you do matters. The action itself is important, but the nature of the action is important.

I heard the distinguished Senator from Tennessee say earlier in some of the debate some Members were saying, and particularly coming from the administration, it was almost as if defense cuts themselves were different from all other reductions.

I quite agree with the distinguished Senator that a reduction in agriculture is the same as a reduction in defense. They are no different. I still object to the unwillingness to make further reductions in defense because I think they could have occurred. It is almost as if those were not reductions.

I appreciate the effort on behalf of the Senator from Tennessee to defend further reductions in agriculture, because, though I think agriculture took a significant hit and an unfair hit compared to other parts of the budget, it could have been worse. It could have been worse if the distinguished Senator from Tennessee had not fought to preserve what we eventually got. I must point out to my colleagues, with all due respect, that not once, not once, did either the President or the Secretary of Agriculture go to the American people and say: Here is why this expenditure is important; here is why we need it.

Unlike all other areas of Government, we heard our Defense Secretary telling us over and over again why the defense budget was needed, why it was important for the country. We heard from the Administrator for the Environmental Protection Agency, and the Department of Energy, and all other areas of Government, but not a word from the Secretary of Agriculture saying: Here is why these expenditures are important. Here is where we have to have $10.7 billion.

So there was not a word, I say to my colleagues, coming from the administration on agriculture reduction. I think, were it not for the work of the distinguished Senator from Tennessee, this reduction would have even been worse. I point out to my colleagues that the distinguished Senator from Tennessee is right. A reduction is a reduction and an expenditure is an expenditure. It does not matter in what area it is.

Finally, Mr. President, I simply say that what the distinguished Senator from North Dakota is offering is an opportunity as well to listen to people at home who say, "If you have to raise our taxes, as you and the President have agreed"—the President now says we have to have a tax increase; Congress agrees there has to be a tax increase though there is still some dissent on it. I would love personally to make a deeper reduction in defense to avoid a tax increase, but I am not being presented with that opportunity. "If you have to raise our taxes, do it in a fair way," because, again, Mr. President, it matters what you have. Do not just willy-nilly raise them and leave. Make sure that you consider what happened in the 1980's and what is happening as well with the specific reductions. And it is not parochial, Mr. President, to be concerned about what this budget will do particularly to the Midwest but also as a consequence of the agriculture reductions.

What the distinguished Senator from North Dakota is offering is an attempt to mitigate this reduction by being careful how you select the taxes, and making it more progressive with an increase in the income tax, by making it less regressive with a decrease in the energy tax, and particularly on the gasoline tax. I must point out that this will come at a terrible time for us already in agriculture. We are going to have decreased income and increased expenses. This is an awfully good amendment for those of us who are concerned not just about agriculture but about the economic health of America.

In closing, Mr. President, again, I applaud the work of the distinguished Senator from Tennessee and the ranking member, the distinguished Senator from New Mexico. I understand we have to get something done. I understand that progress must be made on this deficit. I understand as well that many of these amendments will probably be defeated.

I want the conferees to know that I want them to go into a conference with the House of Representatives fighting for more progressivity than they have already been able to achieve. I applaud the progress they have made. I want them to know the people of Nebraska would like to have a reduction in the gasoline tax. They would like to have an increase in the income tax.

I have heard the arguments about the bubble. Frankly, I think sometimes they are overstated.

What they are saying is we want our taxes to be more progressive. We would like to have a progressive tax package come out of this if taxes are necessary. If you need to tax us make sure they are more progressive because the 1980's have increased the regressivity of taxes and have placed increasing burdens particularly on working and self-employed people. And I think the people of Nebraska and, I suspect, in most parts of the country, as well, will say to the conferees that they should make progress towards increasing the progressivity in this package.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator has yielded the floor.

Mr. SASSER. Mr. President, a parliamentary inquiry. As I understand it, the Senator from North Dakota is controlling a portion of time.

The PRESIDING OFFICER. May I say to the manager of the bill, the Senator from North Dakota is in control of 1 hour. The opponents to the Senator from North Dakota are in control of another hour. I recognized the manager, thinking he was rising in opposition. He yielded 10 minutes to the distinguished Senator from Nebraska, who spoke in support of the amendment. So the Chair is somewhat

confused at this point in time of who is controlling the hour in opposition to the Senator from North Dakota.

Mr. SASSER. Let me just say to the Chair that I do not regret yielding that 10 minutes to the Senator from Nebraska even if it came off the time of those who are opposing the Senator from North Dakota because the Senator from Nebraska made some excellent points in his usual eloquent fashion.

But I would ask of the Chair, how much time does the Senator from North Dakota have remaining?

The PRESIDING OFFICER. If the yielding by the Senator who is manager of the bill is to be charged against him, the Senator from North Dakota still has 40 minutes and the Senator who is the manager has 51 minutes and 22 seconds.

Mr. SASSER. Then I suggest that perhaps the Senator from North Dakota could yield to the Senator from Washington if the Senator from Washington is speaking in support of the proposal of the Senator from North Dakota.

Mr. CONRAD. I would be pleased to yield 10 minutes to my friend from the State of Washington. I also want to indicate to my colleagues that the cosponsor of my amendment, Senator BAUCUS, is now on the floor. I will be eager to grant some time to him as soon as the Senator from Washington has completed his remarks.

The PRESIDING OFFICER. The Senator from Washington is recognized for 10 minutes.

Mr. ADAMS. Mr. President, I rise in support of this amendment. I might state that I want to congratulate the Senator from Tennessee and many others for the work that they have done under most difficult circumstances. However, I think that this should prove, once and for all, that we are 6 months late, and we are 6 months later because of this budget summitry.

Earlier today, my very good friend, the junior Senator from South Carolina [Mr. HOLLINGS] made reference to my tenure as chairman of the House Budget Committee. Yes, I was the first chairman of the Budget Committee at a time when the Budget Committee had a much more narrow and specific function than has been inflicted upon it during the Reagan-Bush era. And I note parenthetically, Mr. President, that anyone faced with chairing a Budget Committee in either the Senate or the House now in the shadow of Gramm-Rudman-Hollings, faces a considerable challenge.

But, Mr. President, I do not share the view of those who proclaim a failure of democracy, when Members of the United States Congress reject a deficit reduction proposal produced at the summit, or at a committee meeting, that strikes an individual member as being unfair. I respect the efforts that were undertaken at Andrews Air Force Base, but I am not prepared to support the result.

I commend the members of the Finance Committee on both sides of the aisle for working very hard to put the package together before us today, but I reserve the right to work with other Members of this body who feel this package can be improved upon here on the floor of the Senate.

As a former Budget Committee chairman, and a former member of the body that yesterday produced, in my view, a plan that is far superior to the package that is being urged upon us today, I remind my colleagues that each of us has an individual right, and an obligation, to support those initiatives we feel are fair, and to reject those that we feel are not. To reduce this vote to a litmus test of loyalty to some ill-defined measure of what is or is not a serious effort to reduce the deficit is a mistake.

I might state to my colleagues that I have here in my hand the son of Rostenkowski—and I am prepared to introduce it if all of these amendments are defeated—that would give fairness to this package, or if we are not given some commitment that indicates that we will come out of this deficit reduction with fairness to the American people. By "fairness," I mean the type of things that are in the Conrad-Baucus proposal.

We can no longer go to the American people and say we will simply tax the poor, and we will have the middle-class taxes increased, and we will let the weathy off scot free. That is what has been going on for 10 years. And it has become worse and worse.

All you have to do is read the mea culpa book of Dave Stockman of what they did in 1982, and then what was followed up with the tax reform in 1986. I regret I was not in either body at that time—I was in private life—because I surely wish I had been here to fight them. I am here today to fight them once again because the American public deserves something fair.

The ringing telephones, the angry mail, the burned out fax machines we have all witnessed really do represent democracy in action. The middle-class wage earners, our elderly on fixed incomes, our farmers, and our young families, were outraged to hear that the wealthy are, once again, avoiding their share. They are only going to pay 28 percent. They do not even pay what the middle taxpayers pay at the 33-percent rate. They are sick and tired of hearing about sweet deals with wheeler dealers in the savings and loans industry. And they feel that they want to have some fairness.

I echo again what was said by the Senator from Nebraska [Mr. KERREY]. It is not just what we do, but how we do it. And the way we do it, is we do it with fairness. That is why I am supporting the Conrad amendment. There should be an income tax structure with three rates of 15, 28, and 33 percent. When I was in private life, I was paying on a 50-percent rate and I was glad to pay it. I had the money to pay it, and I thought it was fair. I thought I should pay more than the wage earner making $10,000 or $15,000 a year.

A thousand dollars to a person making $200,000 is much easier to pay than for one making $10,000, or $15,000, or $17,000. We have to have fairness in this proposal. That is not just criticism of the deficit, it is how we do it.

Senator CONRAD has done three things here that are terribly important. That is why I support this amendment, and I support others like it. The first thing is to make it a progressive and fair tax.

What happened to the idea of progressive taxation? What happened to the idea that a person making $1 million, that last thousand is worth less to them than the person making $25,000? That has always been our tenet and it should continue. And that, at least, is addressed in this amendment and I support it.

The second part is, why balance off the deficit on the backs of the elderly, whom we have spent years trying to help? Everybody should help in this package, but this is balanced way too heavily on taxes on the lower-income people, and on the elderly. So that is corrected in the Conrad amendment.

The third part involves the gasoline tax, and I talk about this both as former Secretary of Transportation and budget chairman. I used to oppose trust funds when I was a budget chairman, because I felt they should all be in one budget package. But now I feel those trust funds have to be protected. The infrastructure of this country is coming apart. I believe if we have a gasoline tax, that we should put it into the infrastructure, to repair it and to replace it, and we should tax with the income tax in order to pay for the deficits that we have run up. And who should be paying that? The people who got it during the last 10 years. And who are the people who got it? They are not the people in the middle class. Their incomes went up about 3 percent over the last 10 years. The top six-tenths of 1 percent, their incomes went up 86 percent. Let us have them give a little bit of it back.

I do not know why it is in budget debates often there is no passion; people seem to feel they are just numbers, they do not count. They do count. There are people out there, and the people out there are mad about the fact we on the Democratic side, and particularly all of us who have said for years that we are going to reduce that

deficit, did not come up with a proposition that we want the people who have the money and made it during the 1980's to pay some of it back. That goes for savings and loan people, it goes for people who made it on the defense industry, it goes for all the people who made a whole lot of money at that time; and it was not the middle class. I think we have a right to expect fairness in this country.

I will support the taxes on beer and on cigarettes and on these other items like that. But those are taxes—let us not kid ourselves—on the man who is going to work every day. Maybe he is making $15,000, maybe he's making $20,000, maybe he's making $25,000. We are going to tax his items.

If we are going to do that, what about the one making $200,000 a year? I thought the package that was put together on the other side was a pretty good one. It has a little capital gains in it. I do not mind putting a little capital gains in it. It is a one-time, $100,000 capital gains so people can sell their houses or sell items, but they do not get us back into the wheeler-dealer days.

I was in private practice during those wheeler-dealer days and I saw some of those things that were done. They were done to a lot of us. We served on boards where they were attacked by raiders, where they would come in and sell junk bonds. Those junk bonds have now failed. They came in with deals to build golf courses rather than housing, and where they did not have any money, to borrow it, and the savings and loans institutions were driven under.

The savings and loans were something created for housing, and then this deregulation thing—I am sick of the day I ever heard of it. It first came up in the Carter administration. We said, all right, we will try it in the airlines. We will be very careful in the trucking industry.

But then we started with money. There are two things the Government should regulate and control, monopolies and money. When you give up control of those you are in trouble, because when the money supply and the money availability is unfairly distributed and the money availability goes to those who are in the wheeler-dealer business, you get just exactly what happened.

I support the Conrad amendment, and I will support other efforts to make this a better deal for the middle class in this society. This effort is not intended to soak the rich. But the taxpayers who have taken a bath while the rich were getting richer during the greedy decade of the 1980's, have a right to expect that we will demand fairness in this package. I would rather vote to pass the package that was approved in the House of Representatives last night, than vote to add additional suffering to the citizens of this country that have already paid their fair share.

So I thank, very much, Senator CONRAD for yielding me this time. I may be back on the floor again with other amendments as they come, but this is the first chance and the first amendment that has come up—and I cannot support this package that has come out unless we get an amendment like this one with some progressive taxes. I should be ashamed of people who are coming in and saying they, making over $200,000 a year, cannot pay 33⅓ percent when they are demanding the people below them pay 33 percent and the people at the bottom, by the time you add their FICA and 15 percent, are paying 30 percent on their income if they are making $30,000 a year and they are self-employed.

It is fairness. I hope this message goes to the conferees when we go to the House side. I am proud of my colleague sitting through and listening to all of us, but we feel pretty mad about all this, and now is the time for us to speak out for fairness in deficit reduction.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. We had originally agreed I would yield 12 minutes to the Senator from Montana next.

Mr. SASSER. I am controlling the time in opposition at this juncture. Following the Senator from Montana I will yield. I ask the Senator from Minnesota if he is speaking in opposition?

Mr. BOSCHWITZ. Yes. May I speak at this time?

Mr. SASSER. Following the Senator from Montana's address, I will yield to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Montana is recognized on the time of the Senator from North Dakota for 12 minutes.

Mr. BAUCUS. Mr. President, I am pleased to join my colleague from North Dakota in supporting this very important amendment. I think it essentially goes to the heart of most of the objections that various Senators—I think various Members of the House—have had as they have been watching the reconciliation, particularly the deficit reduction parts of reconciliation, move through the Congress.

Simply put, the goal of this amendment is to equitably distribute the burden of deficit reduction.

The amendment increases taxes on the wealthiest Americans and uses the additional revenue to lessen the cuts applied to the farm program and Medicare. The amendment also lowers the gasoline tax reported by the Finance Committee by 45 percent.

Make no mistake about it. This amendment shares the pain. The farm program would still be cut by approximately $6.6 billion.

Medicare would still be cut by $47.5 billion; $13.75 billion of those cuts would be made up by beneficiaries. And Americans would still be forced to pay $24.5 billion in gasoline taxes. There is still a burden to be borne.

But this amendment would improve the deficit reduction legislation before us in four important ways. First, the draconian cuts in the farm program would be decreased. Second, Medicare cuts that will place a tremendous burden on America's elderly are decreased. Third, the highly regressive gasoline tax is cut. And, finally, the amendment distributes the tax burden far more progressively than the bill before us.

Let me explain these points in greater detail.

FARM PROGRAM CUTS

There is an unfortunate myth that farm program benefits go exclusively to millionaire farmers. Nothing could be further from the truth. The average farmer in America makes about $16,000 per year. Far from being a millionaire, he is struggling to support his family on an income only a few thousand dollars above the poverty level.

Net farm income in the decade of the 1980's has been lower than farm income in any decade since we began keeping records, and that includes the 1930's. A portion of those farmers' income is derived from Federal farm program benefits, that is true. But these benefits have been slashed from more than $24 billion a few years ago to $10.6 billion this year—a 55-percent cut. The farm program has been the fastest shrinking item in the Federal budget in recent years.

The Congressional Budget Office—the same agency that completed all of the estimates on which the legislation before us is based—recently estimated that if farm program spending is merely frozen for the next 5 years, 500,000 farmers will be driven off the land. That is the bipartisan CBO estimate.

In other words, one in every four farmers will go out of business simply if farm program spending is frozen over the next 5 years.

But the legislation now before the Senate goes beyond even a freeze. It cuts $13.6 billion from the farm program over 5 years.

CBO has not been able to redo their estimates in light of these cuts. But the CBO models indicate that the cuts in this bill could easily force one out of three or even one out of every two farmers out of business, off the land, belly up.

Such an exodus would be unprecedented and would create dozens of new ghost towns in Montana, North Dakota, South Dakota, Nebraska, and farm States.

But this amendment does not even seek to replace all of the farm program cuts. It merely decreases those cuts by about 50 percent.

Farmers will still bear more than their fair share of cuts. But perhaps we will be able to keep a few more farmers on the land, if this amendment is agreed to.

MEDICARE CUTS

Senior citizens would also be hit hard by this package.

The proposal we are debating today, which I opposed in the Finance Committee, doubles the Medicare Part B deductible.

Under that proposal, the deductible increases from $75 to $150. That means that seniors who go to the doctor would have to pay twice as much, before Medicare begins to cover those doctor bills.

I cannot support asking our Nation's seniors to pay out-of-pocket increases of that magnitude in the name of deficit reduction.

There is no question that Medicare is one of the fastest-growing items in the Federal budget and I am as concerned about that as any Member of this body.

We are not solving that problem by asking seniors to pay an additional expense.

It is true that many seniors have Medigap insurance which will protect them from feeling the full effect of the deductible increase.

But many seniors—especially low-income seniors—do not have Medigap policies and they will be hurt by the increase.

And those who do have Medigap will have to pay yet another rate increase, reflecting the higher amount that Medicare will not pay.

Mr. President, the amendment that Senator CONRAD and I are offering today reduces the deductible increase to $100. It does not completely eliminate the deductible increase, but it cuts the increase in half.

The cost of lowering the deductible increase to $100 is about $4 billion over 5 years. That is $4 billion that would remain in the pockets of our Nation's seniors.

Again, our amendment will not hold seniors harmless. But it will protect them from devastating out-of-pocket increases.

THE GASOLINE TAX

The amendment also lowers the gasoline tax reported by the Finance Committee.

A higher gasoline tax increase than that proposed in this amendment would be unfair to lower income taxpayers and rural States.

A gasoline tax is highly regressive; it falls more heavily on lower income families than on higher income families.

U.S. Department of Labor statistics show that families living on $10,000 a year spend twice as much of their income on gasoline as families living on $50,000 or more a year.

An increase in the gasoline tax also treats different areas of the country differently.

A study by Auburn University shows that a gasoline tax increase would hit rural States especially hard.

That is not surprising because many rural residents have little or no access to mass transportation.

For example, a household in Montana on average consumes 19 more gallons of gasoline a year and drives about 1,000 more miles than the national average.

Rural America is certainly willing to pay for its share of deficit reduction.

But the farm program cuts, the Medicare cuts, and the gasoline tax would be a devastating triple blow to rural States like mine.

TAX THE RICH

Certainly, reducing the Federal deficit is an important national goal that would benefit all Americans.

But the current debate about distributing the deficit reduction burden comes after a decade in which an oft-quoted saying has come true: the rich have gotten richer and the poor poorer, and tax policy was part of the reason.

This amendment seeks to pay for the cuts I have described by raising taxes on the rich.

Specifically, the amendment provides for increasing the top marginal tax rate on upper income Americans to 33 percent and imposing a new 10 percent surtax on those with incomes over $1 million.

These changes will eliminate some of the inequity in the current Tax Code.

According to the Congressional Budget Office the top 5 percent of American families will have 45 percent more in pretax income in 1990 than they did in 1980 after accounting for inflation.

But the overall percentage of that income they pay in Federal taxes will have fallen from 29.5 percent to 26.7 percent, a drop of almost 10 percent. That is, their incomes are up, but their taxes are down. That is the top most wealthy Americans.

Precisely the opposite trend occurred on the bottom of the income ladder.

The budget office estimates that the poorest 10 percent of American households will earn 9 percent less in 1990 than they did in 1980.

But rather than paying 6.7 percent of their income in taxes as they did in 1980, they will pay 8.5 percent, an increase of almost 28 percent.

Correspondingly, during the 1980's, upper-income households had their income tax rates cut, from 70 percent in 1980 to 28 percent today.

Meanwhile the poorest households saw their payroll taxes for Social Security and Medicare rise from 6.13 percent in 1980 to 7.65 percent in 1990.

Keep in mind, the payroll tax burden is an important factor in determining the fairness of our tax system.

The $51,300 cap on wages and salaries subject to the payroll tax covers all of a median family's income—but less than one-fourth of the total income of a typical family in the top five percent who earn in excess of $200,000.

As a result, for a two-parent family earning the national median income, the full burden of social security taxes exceeds that of the income tax.

These statistics paint a disturbing picture.

The Nation's tax bill is being paid disproportionately by the poor and middle class. The rich are paying a steadily smaller portion of the bill.

If we are going to raise taxes to address the deficit, the rich should pay their share.

The basic principle of deficit reduction should be: those that can pay more should pay more.

CONCLUSION

In sum, this amendment shifts the deficit reduction burden from farmers, rural Americans, and the elderly to upper income Americans who can afford to pay a little more than they have in the past decade.

The budget reconciliation legislation now before the Senate attempts to balance the budget largely on the back of farmers, rural Americans, and senior citizens.

That approach will not work.

All Americans must pay their fair share if we are to produce a package all sides can support.

Under this amendment, all Americans will bear their fair share.

Farm program benefits will be cut.

Medicare benefits will be cut.

The gasoline tax will be raised.

But taxes are also increased on the most wealthy.

This amendment would make the budget package much fairer to rural States, much fairer to farmers, and much fairer to senior citizens.

Ultimately, this amendment is much fairer to all Americans.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

Mr. SYMMS. Parliamentary inquiry.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. I yield 10 minutes to the Senator——

Mr. SYMMS. Mr. President, are the yeas and nays ordered on the Conrad amendment?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. SYMMS. I ask for the yeas and nays on the Conrad amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SASSER I yield 10 minutes to the distinguished Senator from Minnesota who has been waiting patiently.

Mr. BOSCHWITZ. Mr. President, I say first to my friend, the distinguished senior Senator from Tennessee, it is not clear to me how I am going to vote on this amendment, but I want to talk about tax fairness. We on this side are not going to see to it that this amendment is voted down so we can just be the subject of more political abuse.

I am not sure yet how I am going to vote, but I want to talk about tax fairness, Mr. President. I want to talk about whether or not it has become worse or whether or not it has become better, whether or not the rich are paying, or whether or not they are escaping taxation because I think that those who say the rich are escaping income taxation are doing a disservice to our whole income tax system and destroying the faith of the American people in the income tax system. I do not think that is a very honest thing to do, and I do not think it is a very accurate thing to do, as well.

Frankly, some of those I now hear speaking about the fact that it is not fair voted for it. Those of us on our side who hear this recognize that, as a practical matter, the tax system would not have been changed unless votes came from both sides of the aisle. Quite obviously, the tax program of the United States could not have been changed unless there were more Democratic votes for it over in the House because they controlled over there for about 40 years in an uninterrupted manner.

But let me talk, if I may, about taxes and who is paying them. First, income taxes in the United States constitute about 45 percent of all taxes that the Federal Government collects. About 45 cents of every dollar that the Government collects is collected from the income tax. About 35 percent is collected from Social Security insurance including both HI and Social Security and other trust funds and the balance of it is corporate tax, about 10 percent, and then other taxes about 8 percent. It should add up to about 100 percent.

But nevertheless, in taxes, 45 cents of every dollar that the Federal Government receives comes from income taxes. There are about 110 million income tax returns filed every year. The top 5 percent of those, the people with the highest income, pay 46 percent of all the income taxes paid. So is it fair or unfair that the top 5 percent of the income taxpayers pay, to be quite exact, Mr. President, 45.9 percent of all income taxes paid. These are 1988 figures, the last time we have complete figures.

It is interesting to note that in 1979 the top 5 percent paid only 37.6 percent of all income taxes. So that income taxes have become more progressive in the 1980's. The people with the highest incomes are paying a larger proportion of the income taxes paid in the United States.

How about the top 10 percent? The top 10 percent of all taxpayers—and the top 10 percent by income—pay 57 percent of all income taxes paid, and that too has gone up in this decade and has gone up materially.

What about the lowest 50 percent, the 55 million tax returns that show the lowest income. They pay less than 5 percent of all the income taxes that are paid in the United States, even though they have considerably more than 5 percent—15 percent or so—of the total income.

The tax system of the United States is fair, and it has been made fairer in recent years. Yes, we lowered the tax rates but we took away all the loopholes. When is the last time you saw an article in the paper that said somebody with a high income escaped taxation altogether? You have not. There has not been such an article since the 1986 tax bill because we got them all.

Now, if somebody invested entirely in municipal bonds, perhaps they still can avoid Federal income taxes, but that would be a very unusual investor. The truth is that the income tax system of the United States is fair, and we have made it fairer.

Mr. President, I went into business in 1963. The top rate of income tax then was 91 percent, and I was not in the top bracket by any means so it did not matter so much to me, but the top bracket was confiscatory. And on top of the 91 percent came the State taxes. So that there really was not much left. Then President Kennedy introduced legislation that brought tax rates from 91 percent on earned income down to 50 percent and on unearned income it was at 70 percent. Then President Reagan brought it down still further to 28 percent as the top rate of tax.

Some people say that it should be higher. I can only tell you, Mr. President, that after all the so-called loopholes were taken away, after all the incentives or whatever else they were called that led to a good deal of tax avoidance were all taken away, the rich are, indeed, paying more taxes than they ever paid before. And that is the way it is supposed to be. They are paying a larger percentage of the total tax pie than they have ever paid before because the rates are lower and you cannot fool around with all these tax avoidance schemes. There is not much use going down to the lawyer's office and spending a bundle trying to figure out how to avoid the income tax because you are not going to be very successful. Indeed, people are now paying more taxes than they have in the other years.

So those who say that the income tax system in this country is unfair are wrong. Those who say that they now have to enter a new element of greater fairness into it I think are just making political speeches—some, indeed, involving considerable demagoguery. The tax system of the United States is by and large fair. The income tax system of the United States is fair. People who have higher income are paying a larger and larger percentage of the tax, and that is the way it should be.

So, Mr. President, I will perhaps put some of this material into the RECORD at some future date, but I wanted to speak out because many people apparently are noticing in the few weeks ahead there is something called an election and they certainly are making speeches that would have a bearing on that. So my speech is that the income tax system of the United States is fair and it has gotten fairer.

I yield the floor.

The PRESIDING OFFICER (Mr. BINGAMAN). Who yields time?

Mr. ADAMS. Mr. President, on behalf of Senator SASSER, I yield 6 minutes to the Senator from Wisconsin, Mr. KOHL.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KOHL. Mr. President, today we continue the difficult, unpopular, and unhappy work of reducing our Federal deficit. In doing so, we have several plans and alternatives before us. Some are better than others, some are more fair than others, and some raise more money than others. Not one of them is perfect and not one of them is everything this Senator or every other Senator wants.

Mr. President, I feel strongly that the Senate should pass a deficit reduction plan that asks more from the wealthiest in America than does the Senate plan. Our national economy grew during the Reagan and Bush years, but we all know that not everybody shared in the wealth. America's working families do not need fancy tables or fancy economic analyses to understand that the 1980's were not their decade.

Today, families must have two members at work to make enough money just to make the standard of living their parents had. Today, the Senate can begin to address that inequity. We start the nineties by paying bills left over from the 1980's. The first and biggest payment must be made by those who benefited most from our past credit card fiscal policies.

Let me be more specific. We ought to help reduce the deficit by raising tax rates on the wealthiest Americans. I favor a permanent 33-percent income tax rate. I favor the Rostenkowski pro-

posal to place a 10-percent surcharge on those making over $1 million a year. I campaigned for the Senate calling for higher taxes on the wealthiest in our society. I supported taxes, higher taxes on the rich from my first day in Congress long before politicians would mention taxes at all.

We have an excellent opportunity to do so in Senator CONRAD's amendment. He proposes both raising the income tax rate to 33 percent for the wealthiest Americans and also imposing a 10-percent surcharge on millionaires. With the money raised my friend from North Dakota will reduce the cuts in farm programs by one-half and reduce cuts in the Medicare Program. He also brings down the gasoline tax considerably. Senator CONRAD proposes taking the burden of deficit reduction from those least able to bear it and placing it on those most able to bear it.

I believe that is fair, and I believe that is a real improvement in the Senate package. The Senate package and the budget summit agreement that preceded it should have asked for a greater contribution from the richest people before it sought to save money on Medicare programs serving the elderly poor. The Senate package should have taxed Donald Trump before it took funds from dairy farmers. The Senate package should have turned to progressive income taxes before raising regressive excise taxes. The Senate budget package should have tried to find more savings in our spending programs.

I voted against the Defense appropriations bill because I felt it responded more to the needs of 1970 rather than the needs of 1990. We could and should have cut more there. Also, we owe it to the American people to save as much as we can by managing our Government programs more efficiently. I am pleased to see that the Senate package gives the IRS new funds to increase their enforcement efforts. In my opinion it is ludicrous to ask honest taxpayers to pay more before we do all we can to collect the tax dollars of those avoiding their legal obligations.

None of my reservations, however, are meant to deny that the Senate passage is much better than the budget summit package. The tax on home heating oil is gone. The Medicare cuts are greatly reduced. The overall package is more progressive than the summit package.

But, Mr. President, while the budget summit package was worse than the Senate package, the Senate package could be improved by moving it closer to the House package. There is no doubt in my mind we can do better. And adopting the Conrad amendment is a step in the right direction.

But regardless of what we do on this amendment there is also no doubt we must do something, and we must do it this week. The deficit is a threat to every American's standard of living, a direct threat to every American's pocketbook, a far greater inequity than any congressional budget package. Let us spend the time we have left in this session today and later during the conference with the House working to send the President a budget supported not just by a majority of both Houses, but by a majority of the American people.

The Conrad amendment moves us toward this end. I will support it and I will support other amendments offered today to make the Senate package more progressive. I will vote to move the Senate package on to conference with the House bill in the hopes that the final product is one that resembles a Rostenkowski proposal more than the Senate proposal. And if that final package reduces the deficit fairly and adequately, I will vote to send it on to the President.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, I want to commend the Senator from North Dakota for offering his amendment this afternoon. The Senator's amendment is fiscally responsible. The Senator has indicated that he objects to some of the provisions that are in the package that is before the body today and he takes the responsible approach of modifying that package in such a way that the deficit reduction totals remain the same.

The Senator from North Dakota says he objects to a gasoline tax, just as the Senator from Idaho objects to a gasoline tax. The Senator from Idaho would have us reduce our deficit reduction effort by $42 billion; just simply vote the gasoline tax out, forget it, do away with that portion of the deficit reduction package, and we will just increase the national debt by another $42 billion.

Well, if we follow that rationale, you know I object to some of the Medicare deductible increases that are in this particular package before us. So why do not I just offer an amendment and say we are going to knock out those Medicare premium increases. I do not like those. We will knock those out. And that means that we lose another 40 billion dollars' worth of deficit reduction out of this package.

I will tell you something else I do not like. I share with the Senator from North Dakota a dislike of the reductions in the agriculture programs and the agriculture cuts in this package. So I could just offer an amendment, say I want to strike out that $13 billion in savings that comes out of the agricultural programs. Then other Senators would object to other provisions.

Some Senator would say, I object to this lump-sum provision here where we deny Federal employees the right to the lump-sum retirement benefit. That is unfair. We gave them a warning. I want to strike that out. And he or she could make a good case for that. Pretty soon we would have no deficit reduction package at all.

That is essentially the course that has been urged on this body by the Senator from Idaho with his amendment. Contrast that with the approach taken by the Senator from North Dakota. He is frank to tell us that he objects to the gasoline taxes, as do I. He is frank to tell us that he objects to the agricultural cuts, as does this Senator. He is frank to say that he dislikes the increase in the Medicare premiums intensely, as does this Senator. But, rather than just trying to cut those particular items out of this deficit reduction package and leaving a gaping hole, the Senator from North Dakota comes before his colleagues and says here is what I object to, and here is how I am going to cure it. Here is how I am going to fill the hole. That is what I call being fiscally responsible.

I want to commend the Senator from North Dakota for his efforts here today.

The Senator from North Dakota says he wants a tax structure that is more progressive. I agree with him. We have a package that we are voting on today which is a progressive package. I can support it because when we look at the charts and tables that have been prepared by the nonpartisan Joint Tax Committee, it is a progressive package, infinitely more progressive than the highly objectionable package that emerged from the budget summit.

I will tell you, Mr. President, I was going to support that budget summit agreement. I had no hand in writing the tax portions of it, the revenue portions of it. When I saw what emerged, I almost gagged.

The results of that revenue package that came out of the budget summit came about as a result of the administration in the final analysis holding the gun of sequester to the heads of the negotiators, really on both sides of the aisle, representing both sides of the aisle, in that budget summit negotiation.

I thought the revenue provisions that came out of that budget summit agreement were odious. They were highly regressive. The so-called incentive measures I thought were not incentives for investment at all but really a way for a few to further gorge themselves and enrich themselves. But I was prepared in the final analysis to hold my nose and vote for it all in the name of deficit reduction.

But we do not have to do that now. We have a much more progressive and acceptable package that has emerged from the Senate Finance Committee. But the Senator from North Dakota seeks to make that even more progressive, and perhaps more acceptable to some Members of this body; perhaps less acceptable to others.

What is progressive and what is regressive to some extent is in the eye of the beholder, and to some extent dependent on what tax bracket one finds his or herself in at that particular moment.

So I say to those of our colleagues who find the package that has been presented to them today unacceptable, or objectionable—put it that way—because it is not progressive enough, let them come to the floor and let us hear from them.

Let us come to the floor and hear from them, hear what they have to say about it. Those who think perhaps the agricultural cuts are too high, let us hear from them. Those who say the Medicare cuts are too high or too low, let us hear from them.

But that is the way we ought to be approaching this whole matter, not simply coming to the floor and saying, "I object to this part; I am going to move to strike it." What if every Senator did that? By the time we got through, there would be no deficit reduction at all.

I see the distinguished Senator from New Mexico, the ranking member, is back on the floor. I happen to know that there are provisions in this deficit reduction package before us today that are objectionable to the Senator from New Mexico—a lot of them, he says. But the Senator from New Mexico is not out here saying, "I want to make a motion to strike that particular item." The Senator from New Mexico is taking the responsible course, and he is saying, "I am going to have to swallow some things that I do not like, some things that may be politically unpopular, some things that may be philosophically unpalatable to me today; but I am going to do it in the name of the common good," and the common good is reducing this deficit that is eating away at the very vitals of this economy of ours in the United States.

If you do not believe it, just look around and see what is happening. When I came to this U.S. Senate in January 1977, there was talk a few years later, 2 or 3 years later, about a national malaise. But even in the midst of that national malaise, this was the largest creditor nation, the United States. Today, some 14 years later, following the decade of the 1980's, we see ourselves as the largest debtor nation.

When I came to the U.S. Senate in January 1977, the largest most powerful banks in this world were in New York City, or in California. Today, we find that not one of the five or six largest banks are in the United States. They are in Japan. There has to be a reason for that.

We find that officials of this Government have to hold their tongues on occasion. They cannot really say what they feel about trade policy, because they do not want to offend the bankers of the United States Government, our friends the Japanese. We are letting this country collapse around our ears. We are eroding our very fiscal integrity. We are losing the ability to formulate our own foreign policy, the last bastion of a great power. Why? Because we will not get our fiscal House in order.

That is why the Senator from New Mexico, and the Senator from Tennessee, and the distinguished minority leader, and the distinguished majority leader are out here supporting this package. It is not that we are in love with everything in it. We are certainly not. It is not that there are not things in it that we do not dislike rather intensely. But we feel very strongly, Mr. President, that it is in the national interest that this deficit reduction package pass. That is why we are out here struggling to get it passed.

I want to say to the Senator from North Dakota, he may not agree with everything that is in this package, but I commend him for coming to this floor and telling us what he disagrees with and then telling us how it ought to be cured, and at the same time containing the deficit reduction elements that are necessary in the final analysis to reduce this deficit by at least $41 or $42 billion in fiscal year 1991, and $500 billion over 5 years.

Contrast that with the approach taken by others, who would simply say: I object to this; let us strike this out. It leaves a hole in the deficit reduction package, and it is just no good.

Mr. President, I yield the floor at this juncture.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I yield up to a half hour off the bill to the distinguished Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 30 minutes.

Mr. CONRAD. Will the Senator from Colorado yield for a moment, so I might inquire as to the time remaining?

Mr. ARMSTRONG. Of course.

The PRESIDING OFFICER. The Senator from North Dakota has 17 minutes remaining. The Senator from Tennessee has nearly 22 minutes on the amendment itself.

Mr. CONRAD. I thank my colleague from Colorado, and I thank the chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ARMSTRONG. I thank the chair, and I thank my friend from New Mexico for yielding me the time.

Mr. President, this is a very interesting discussion this afternoon, but I do not want to lose track of what I think is the main question. I believe the main issue is, do we want to raise taxes as America's economy lurches into a recession? is raising taxes in the teeth of a recession a good idea? That is the main issue.

This bill, which appears on the desks of Senators, is several inches thick, but you can boil it down to its main essentials pretty quickly.

There is about $169 billion in taxes and user fees in here; $180 billion in defense cuts and savings of one kind or another, savings which, by the way, will occur, whether or not we adopt this package. Later, I want to talk about whether this package is the only alternative and whether there are other ways to get there. I will tell you that 180 billion dollars' worth of cuts will occur whether we pass the package this day, this week, or ever.

Then there is $65 billion in assumption about interest rate savings. Those are the three big pieces of it. We have a $500 billion package here, and over $400 billion of it is in just those three pieces: a tax increase, defense cuts, and an assumption about interest rates savings. Make no mistake, this highly touted piece of legislation is first, last, and always a big increase in taxes, an increase in the income tax, an increase in the gasoline tax, the tobacco tax, and the tax on beer and wine, and on boats, airports, airplanes, telephone taxes, and an increase in the health insurance tax, and a lot of other increased taxes and fees.

In fact, Mr. President, I hope my colleagues will take a moment sooner or later to look through the summary of the Senate reported bill. There are $142 billion in explicit taxes, and then a list of the savings which are proposed in addition to the tax increases. When you look at the savings, it turns out that they are, for the most part, or at least in large part, fees.

For example, under agriculture, scored as a spending reduction, is the APHIS fee; then there is the bank insurance fund increase; Coast Guard user fee; railroad safety inspection fee; National Weather Service fee; tourism user fee; uranium enrichment fee; EPA service fee; Nuclear Regulatory Commission fee; Army Corps recreation fee; and the list goes on and on and on.

That is in addition to the limitation on itemized deductions, the practical effect of which is to raise $30 billion more from income taxpayers. The motor fuel tax increase goes up 9½ cents, more than double that tax. There are other taxes, which I have mentioned, on tobacco, alcohol, auto-

mobiles, private boats, jewelry, furs, airplanes, airport tax, extension of the health insurance tax, airport trust fund, Medicare wage caps, and you name it. This is a big tax bill.

Mr. President, the question I hope Senators will think about when they march down in the well to vote on this bill is, why in the world would we want to raise taxes when this country is already staggering under the blow of rising oil prices, a sagging bond market, a crashing stock market, and a real estate economy that is in depression—not recession—but in a deep depression in many parts of the country? Why would we want to adopt the kind of economic remedy which is recommended by no known reputable economic theory?

This bill is predicated on the belief that what we really need is from $142 to $169 billion in new taxes. The fact of the matter is that as we go into this recession I do not think you could find even one reputable economic theory which says that is the right policy when we head into a recession. I do not think you could find a theory from the left or the right or the center or from the past or the present or the future; I do not think you could get an economist to tell you that it is smart to raise taxes when a recession is coming on. The monetarist, naysayers, neoclassical schools, all of them as far as I am aware tell us when a recession is looming is the time to cut taxes. They disagree about some other details but the one prescription which, as far as I know, every school of economic thought in the country agrees with is that when a recession looms, that is the time to cut taxes, not to raise them.

Mr. President, this is not primarily a matter of abstract theory. It is a question of whether or not our sons and daughters are going to have jobs. It is a question of whether or not the factories that are just hanging on by their fingernails in some of our communities, including some I represent, are going to be able to stay in business, whether they are going to be able to meet the obligation for those retirees on pension from those companies, whether or not the community in which they are located will be able to hang on until the economy turns again and once more they can prosper.

This is real life stuff. We are shooting with real bullets, as one of our colleagues likes to say. The question is not whether we are going to have a recession. In my opinion it is clear it has already started. The issue is whether it will be a brief, mild downturn or whether we are going to take the steps in this Chamber that will make it much worse, perhaps cause it to last beyond a few weeks or a few months, maybe to a year or two. Perhaps it will even turn into the kind of recession that we experienced in the 1930's. I do not know that is going to happen. I hope it will not.

I cannot help remembering when President Hoover, a fine man, made the tragic mistake of calling upon Congress to raise taxes just as the Great Depression of the 1930's was getting under way. It was not long before Congress did so, and it was not long after that that we discovered what a foolish and counterproductive, self-defeating policy that became.

Mr. President, that is the issue. Are we going to raise taxes in the teeth of a depression or a recession?

Mr. President, in support of this package, we are told, among other things, that probably this is the only answer; that, as I think the Senator from Tennessee put it, there are pieces of this I do not like; there are pieces other Senators do not like. After all, this is the only chance we have if we are ever going to get the deficit under control. This is our only chance.

I do not want to leave that unchallenged. The reality is there are lots of other options. There are good options. There are such options as cutting spending.

Now, I do not expect that is likely to occur, and I want to say, as I have on many occasions, you do not have to cut spending for anything. I believe there are 1,176 separate, individual, recognized programs of Government, and you do not have to cut spending for one of them. Personally, I would like to cut the spending on many of them. I would like to abolish quite a number of those programs.

I would like to go out to the communities where Amtrak runs and say to them, "Amtrak is an anachronism." Passenger railroad service should not be subsidized by people who do not use it. Passenger railroad service in many communities is outmoded. We could save several hundred million dollars a year, several billion if we wanted to cut out Amtrak. I do not suggest that is going to happen. It will happen sooner or later. Before this decade ends, I am convinced, we will be out of the railroad passenger subsidy business. But you do not have to cut Amtrak to solve this budget crisis.

I am ready to cut back on housing programs. Frankly, I think the smartest thing we could do is defeat the housing bill coming out of conference shortly, just defeat it, just do not add anything to our supply of subsidized housing in this country next year. We have 6 million units of subsidized housing. As far as I am concerned that is enough. You do not have to take that kind of hard-line position.

You do not have to cut farm subsidies. Personally, though there is some curtailment of farm subsidies spending in this bill, I think we ought to go to the Nation's farmers and say, ladies and gentlemen, on or about a certain date, say 5 years from now, this Government is going out of the subsidy business; we are just not going to do it any more. We are going to phase it out 20 percent a year over the next 5 years. We are going to do it because we need to save money. But also this is a subsidy that failed, a subsidy that has not helped the farm families. It has made them dependent and poverty stricken. It has wrecked the family farm economy. The healthiest parts of rural America today are exactly the ones that have remained free of these disastrous subsidies.

I am not saying things are easy in the citrus business or vegetable business or the cattle business, but it is instructive that we do not hear representatives of the cattle business or vegetable business, or the other segments of agriculture, down here clamoring for the kind of programs that have been so costly and so ruinous in wheat, corn, and the other subsidized commodities. So I would like to cut farm subsidies.

I could give you a hundred things I would like to cut. You know, you do not have to cut anything to solve this budget crisis.

Another and, frankly, more politically practical alternative is some kind of a spending freeze, maybe a 1-year freeze or an 18-month freeze, or something like that. That is a notion that does not seem too drastic. Just take last year's number, the highest level of spending that has ever been seen in this country in any one year, and say, if that was good enough for last year, let us just try it again for next year.

If you did just that, it would make a dramatic difference over the period of 5 years in total amount of deficit. Or there is the so-called 4 percent solution. For those who cannot quite stomach the idea of a freeze, maybe a freeze of 4 percent or a freeze of 2 percent.

I want to make the point that there is absolutely no evidence that we are underspent in this country, that we are underspent in the Federal Government. We are just overtaxed.

I want to send to the desk and ask that there be printed at the conclusion of my remarks a table which traces the growth of Federal outlays in broad categories, in functional categories from 1960 to the present time and projects them through 1995. The record is very, very clear.

In 1960, this Government spent less than $100 billion. Even by 1970 we were spending less than $200 billion. Today we are spending $1.2 trillion, and under this proposal, this so-called deficit reduction proposal, we are going to be spending $1.5 trillion within a very few years. Even with the so-called deficit reductions in this bill, the deficit will rise and we are going to incur nearly $2 trillion in additional debt in the next 5 years.

Mr. President, I do send this table to the desk and ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ARMSTRONG. There are a lot of ways we could solve this problem. This is not the only opportunity or only package.

Another thing we hear in support of this package is that, well, it is all President Bush's fault. Let us blame him.

It is no secret I do not agree with the way the President has handled this negotiation. But I'll tell you something: It sticks in my craw when some of the very people who demanded that President Bush relent on his desire to hold the line on taxes and make taxes negotiable and agree to some kind of a tax increase are now coming back in here shedding crocodile tears about how the President has not shown leadership.

I do not know how this bill is going to turn out. It is going to pass here tonight, I suppose. Whether or not by the end of the week it gets so bad the President will veto it all or we will not get the votes for it, I am not sure what will happen. I think there is a reasonable chance that could happen.

But it is a bum rap to place the blame on George Bush. The fault is on the Congress. The Congress has the moral, ethical, and for that matter the constitutional responsibility to set the budget, provide the funds to pass the appropriation bills.

Now there is also the fairness doctrine. That is the idea that, after all, we can solve this problem by taxing the rich. I do not want to talk about that at any great length because, first of all, nobody believes that. The truth of the matter is nobody in this Chamber really thinks that you can solve the deficit crisis by taxing the rich. There is not enough money in the upper income brackets or upper wealth brackets to even make a dent in the kind of deficit we are running in the country. Out in the hinterlands they do not believe it either. It just is not true. That is why they do not believe it.

I encourage my colleagues to read David Broder's thoughtful article in this morning's Washington Post in which he basically says the same thing in a more thoughtful and eloquent way than I am today. He just says, look, this fairness talk, the idea of taxing the rich, this notion of class warfare—my word, not his—does not wash and really it should not wash.

Mr. President, as we listened to all the arguments in support of this bill, there is a certain eerie familiarity about them. We have been hearing the same arguments, almost literally the same words, today and over the last several days that we heard over and over again. Members come to the floor. We hear the managers of the bill, we hear our leaders plead with us to be responsible, to help in the process of governing, not to be naysayers, not to be nitpickers, not to say "no," not to be negative.

Mr. President, there comes a time when the only responsible course is to say "no," when the only reasonable course is not to participate in this kind of a charade.

One of my colleagues in the House related an episode. Somebody came to him and said, "Why did you vote 'no'? Why didn't you show leadership and vote 'yes'? " He said, "In my opinion, if somebody is getting ready to jump off the cliff, it is not leadership to clear the way so he can get to the edge a little sooner."

That is what we are doing here, getting ready to jump off the cliff. That is what I think is at stake if we go forward with the notion of raising taxes in the teeth of a recession.

Mr. President, as you listen to the arguments, if you listen to what people are saying, see if you do not hear the same haunting sense of familiarity from the past. Listen to what Senators have said on similar occasions in recent years.

Let us go back to 1982. One of the prominent members of the Budget Committee came to the floor in 1982 during the Senate consideration of the infamous TEFRA bill, another large tax increase. Do you want to know what he said? Let me quote him. He said:

> I am absolutely confident that we are on the road to less Government, not more.
>
> I am absolutely convinced that we are on the road to lower interest rates, lower service on the debt. These are the sign posts along the road to prosperity for millions of Americans.
>
> I know of no other way to send a more dramatic signal to the people of this country than by what we have done and what I hope we do here tonight.

That was couple of trillion dollars ago, Mr. President. On the same date another Senator said it this way. He said:

> This bill is fiscally responsible. * * * It will reduce the projected deficit. * * * (T)he country needs it. Interest rates are coming down.

That was in 1982.

A couple of years later, in 1985, the White House and the Republican majority in the Senate came up with another plan. That was the Rose Garden plan. One after another, Senators from our side of the aisle—I am speaking to my brothers on the Republican side of the aisle right now—came down to the floor to offer their optimistic guesses of the outcome. One of them, a fiscal conservative, one of the great men in the Senate and a dear friend of mine, said this. He was proved to be totally wrong, though I admire him.

You know once in a while we all say things that turn out, in retrospect, to be totally wrong. It is not any individual's statement that I want you to reflect on but the pattern here, this consistent pattern of optimisim, of a colossal ignoring of the facts as they develop.

This Senator in 1985 said:

> This budget proposal would reduce projected deficits in fiscal year 1986 by more than $52 billion. Over the 3-year period of fiscal years 1986–88, projected deficits would be reduced by $297 billion.

But it did not happen, did it, Mr. President?

Another Senator came to the floor and he said:

> We have before us a plan, a compromise, a a package put together by the Senate Republican leadership and the White House. This proposal will cut the deficit. It will slow the rate of growth of our national debt. It is a step in the right direction.

That was in 1985.

Now, in 1986, another year, the second year of the Gramm-Rudman-Hollings discipline, one of the senior members of the Budget Committee looked around and he thought he saw clear sailing ahead. He made this statement. He said:

> Mr. President, we have to start someplace.

He goes on to recount the details on a meeting that he had attended and what had come out of it and then he said:

> This budget gets the job—

He was referring in 1986 to the then pending budget. He said:

> This budget gets the job done on the deficit this year and sets us on the path for what must be done in the next 4 years to achieve a balanced budget.

Well, he missed the mark by about $231 billion.

Next year, 1987, the annual budget resolution debate again became bogged down again. We had another big compromise package. They brought it to the floor. It was lauded. There was a lot of fanfare. One Senator said:

> I strongly believe that we must bring the deficits down if we are to continue to grow as a nation. The congressional budget before us calls for $37 billion in additional deficit reduction measures for next year—reducing the deficit from a record high $221 billion in 1986 to $180 billion in 1987.

Well, he was wrong, was he not, Mr. President?

Another Senator praised the author of the package in these words. He said:

> He has spent untold hours laboring through the difficult and often tense process of creating a consensus on a budget that will both make a significant dent in the Federal deficit and meet the pressing priorities of our Nation.

Does that all sound familiar? Is this what we have been hearing all day today and in the last week or so?

Well in 1988, the Senate, again right back in the same jackpot, came back with the same kind of answer with the same kind of praises ringing in the ears of Senators as they were called to vote for this fraud. They said, one of the Senators on that occasion, this is now in 1988, April of 1988:

"It is no empty rhetoric," he thundered, "to say that the road ahead will be hard and the choices will be tough. The deficit is the most stubborn animal in the domestic barn."

Then he went on to say that at last we had something before us that would solve the problem, but it did not.

A few days later in the same debate, a Senator from the West said:

This year we have made a modest, but important, effort to reduce the deficit. * * * I urge my colleagues to join me in support of the budget resolution. It is time to lay aside the rhetoric and take action.

Then there was the 1989 budget summit agreement that was announced on April 14 in a White House ceremony. One of the leaders, as he left the Rose Garden ceremony, said: "This is not an heroic agreement" but a "very good start in the direction of better cooperation."

From the other side of the aisle, one of those who was present said it is a "very important bipartisan step toward a balanced budget."

And here is what one of the leaders said when they got back to the Senate:

The budget reductions provided in this plan are very modest, but they do meet the Gramm-Rudman-Hollings targets for fiscal year 1990 and keep us on the road to completely eliminating the deficit by 1993.

I quoted 12 or 15 Senators. I could have quoted 50. I have not mentioned any names. It is not necessary. I think everybody knows who said what and it is not my purpose to embarrass any Senator.

Let me say again that everyone of us at some time or another has said something which years later turns out not to be true, which even might seem foolish, and I do not exempt myself from that general comment.

But what I am telling you is tonight is not a singular occasion. This is not an isolated event. It is part of a pattern, a pattern of exaggerated claims, a pattern of colossal optimism, a pattern of Senators being invited to the floor to hear the managers and the leaders tell them that they have to hold their noses and vote for a tax increase and hold their noses and vote for a budget resolution and another big increase in the national debt and then consistently, year after year after year, none of the promises turn out to be true.

This is not rocket science here. This is really simple. Is it not time we ask ourselves, are we being realistic? We are being asked to vote for this tax increase, a big tax increase. It is either the largest or second largest increase in taxes in the history of our country. We are being told that it is tough medicine but we have to vote for it because this is our weapon against deficits. Do we really believe it? We are told this is the silver bullet. We are told that this is the stake that will be driven through the heart of the deficit monster.

I just ask my colleagues when they get ready to vote on this thing, is this package what is being advertised? Is it tough? Is it hard-nosed? Is it sensible? Is it realistic? I do not think so.

I think, on the contrary, Mr. President, this is going to fail. It makes unrealistic assumptions. It is at best composed primarily of only three pieces, as I said at the outset. About $169 billion in taxes, a defense cut of $180 billion that will occur whether or not we pass this bill, or whether, as I hope, we kick it in the creek, and some interest rate savings that are now estimated at $65 billion.

In order for this thing to work out as it is being advertised, you have to make assumptions about the price of oil and the price of money in the outyears, that are simply unrealistic.

My prediction is that we are going to be back here if we pass this. In a few months, the Senate will be back in session, facing the same crisis. We will be hearing the same arguments. The only differences will be this: That we will have ratcheted up the tax rates. The economy will be a little worse because we have done so. The employment will be a little lower and unemployment will be a little higher and a few companies will be out of business. Some of our options may be foreclosed and our constituents will be just that much more cynical than they already are.

Dan Mitchell is the John M. Olinn senior fellow at the Heritage Foundation. I hope you will take time to read his article written recently in the Washington Times. I would like to quote a couple of paragraphs because he nailed it down just right. He said:

America's longest peacetime period of economic growth need not come to an end. The right combination of policies could restore and extend the expansion.

He wrote:

The way to stop a recession or to reduce its severity is to return to policies that promote economic growth. America needs tax cuts, not tax increases. Rather than return to the tax and spend fiscal policies of the 1970's, growth in Federal spending must be limited to 4 percent per year.

He goes on at some length and he sums up:

in short, we need to do all we can to prevent or cut short the biggest budget-buster of all: a recession. Even a mild recession could push the deficit above $300 billion.

I send this article from the Washington Times of September 26 to the desk and ask it be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. ARMSTRONG. Raising taxes during a recession will make the recession worse. Dan Mitchell knows that. The U.S. Civil Rights Commission knows that.

I thank my friend from Idaho for sharing with us the news release in which the U.S. Civil Rights Commission makes the point first that raising taxes in a recession means less jobs and in that setting that minority people get hurt worse than anybody else. The U.S. Chamber of Commerce knows that, the Farm Bureau knows that, the NTU knows that, and the Wall Street Journal knows that, and deep down in our hearts many of us in this Chamber, maybe most of us, know that raising taxes in a recession is a poor idea.

Our constituents at home know it. Inside the beltway, if we spend a lot of time just going to committee meetings in a closed room with little or no input from people who are just trying to make a living and keep their households running and maybe pay their kids' college tuitions and things like that, it is easy to get the idea when you are isolated from that kind of input from everyday Main Street people to think that raising taxes somehow makes sense. That is what happened to Herbert Hoover.

But, if we talk to people at home we will find out that out in the real world where people work at everyday jobs, in companies that would like to stay open, in communities that would like to remain viable, they think the notion of raising taxes in a recession is a harebrained idea. Mr. President, so do I. That is why when the vote comes I am going to vote against this tax raising bill.

EXHIBIT 1

HISTORICAL BUDGET DATA: FEBRUARY 1990 CBO BASELINE BUDGET PROJECTIONS

[In billions of dollars]

Federal Outlays	1960	1970	1980	1981	1982	1983	1984	1985	1986	1987	1988	Actual 1989	1990	1991	1992	1993	1994	1995
National defense	45.2	78.6	134.0	157.5	185.3	209.9	227.4	252.7	273.4	282.0	290.4	303.6	298.3	306.5	315.9	325.8	341.7	351.5
International affairs	3.0	4.3	12.7	13.1	12.3	11.8	13.9	16.2	14.2	11.6	10.5	9.6	15.6	17.8	18.8	19.4	19.6	20.7

HISTORICAL BUDGET DATA: FEBRUARY 1990 CBO BASELINE BUDGET PROJECTIONS—Continued

[In billions of dollars]

Federal Outlays	1960	1970	1980	1981	1982	1983	1984	1985	1986	1987	1988	Actual 1989	1990	1991	1992	1993	1994	1995
Space and technology	0.6	4.5	5.8	6.5	7.2	7.9	8.3	8.6	9.0	9.2	10.8	12.8	14.2	15.2	15.7	16.1	16.8	17.4
Energy	0.5	1.0	10.2	15.2	13.5	9.4	7.1	5.7	4.7	4.1	2.3	3.7	3.5	4.0	4.4	5.0	5.3	5.2
Natural resources	1.6	3.1	13.9	13.6	12.0	12.7	12.6	13.4	13.6	13.4	14.6	16.2	18.0	18.9	19.6	20.2	20.6	21.2
Agriculture	2.6	5.2	8.8	11.3	15.9	22.9	13.6	25.	31.4	27.4	17.2	16.9	12.4	14.0	17.0	15.7	15.1	14.3
Commerce and housing credit	1.6	2.1	9.4	8.2	6.3	6.7	6.9	4.2	4.4	6.2	18.8	27.7	55.6	25.0	12.4	21.7	18.8	13.8
Transportation	4.1	7.0	21.3	23.4	20.6	21.3	22.7	25.8	28.1	26.2	27.3	27.6	29.3	30.7	32.0	33.1	34.3	35.5
Community development	0.2	2.4	11.3	10.6	8.3	7.6	7.7	7.7	7.2	5.1	5.3	5.4	8.5	8.6	8.6	8.7	8.9	9.2
Education/social services	1.0	8.6	31.8	33.7	27.0	26.6	27.6	29.3	30.6	29.7	31.9	36.7	38.9	41.8	43.0	44.0	45.4	46.9
Health	0.8	13.1	23.2	26.9	27.4	28.6	30.4	33.5	35.9	40.0	44.5	48.4	56.9	65.5	73.3	80.9	88.9	97.5
Medicare		6.0	32.0	42.0	46.6	52.6	57.5	65.8	70.2	75.1	78.9	85.0	95.7	104.9	120.0	134.4	150.5	168.0
Income security	18.8	48.1	86.5	99.7	107.7	122.6	112.7	128.2	119.8	123.2	129.3	136.3	147.5	160.5	167.8	175.3	185.3	192.2
Social Security	11.4	30.0	119.0	139.6	156.0	170.7	178.2	188.6	198.8	207.4	219.3	232.5	248.7	266.3	283.7	301.4	319.0	337.2
Veterans	5.4	8.7	21.2	23.3	24.0	24.8	25.6	26.4	26.4	36.8	29.4	30.1	29.1	31.7	32.4	33.8	36.3	36.
Justice	0.4	1.0	4.6	4.8	4.7	5.1	5.7	6.3	6.6	7.5	9.2	9.4	10.5	12.8	14.2	14.9	15.4	16.0
General Government	1.0	1.9	4.4	4.6	4.5	4.8	5.1	5.2	6.1	6.0	9.5	9.1	10.5	11.7	12.0	11.8	12.0	12.4
Gen. purpose funds	0.2	0.5	8.6	6.9	6.4	6.5	6.8	6.4	6.4	1.6	1.8	1.8	1.5	1.5	1.5	1.5	1.5	1.5
Interest	8.3	18.3	52.5	68.7	85.0	89.8	111.1	129.4	136.0	138.6	151.7	169.1	181.7	189.5	195.4	202.3	207.3	210.9
Offsetting receipts	−2.5	−6.6	−19.9	−28.0	−26.1	−34.0	−32.0	−32.8	−33.0	−36.5	−37.0	−37.2	−36.5	−38.6	−40.7	−42.4	−44.7	−47.1
Total outlays	92.2	196.6	590.9	678.2	745.7	808.3	851.8	946.3	990.3	1,003.8	1,064.0	1,142.6	1,238.3	1,287.0	1,345.6	1,422.1	1,496.3	1,558.6
Total receipts	92.5	193.7	520.0	599.3	617.8	600.6	666.5	734.0	769.1	854.1	909.0	983.0	1,066.9	1,137.0	1,203.8	1,276.7	1,354.6	1,437.8
Surplus/deficit	+0.3	−2.8	−73.8	−78.9	−127.9	−207.8	−185.3	−212.3	−221.2	−149.7	−155.1	−159.6	−171.4	−150.0	−141.8	−145.4	−141.7	−120.8
Gramm-Rudman targets									171.0	144.0	144.0	136.0	100.0	64.0	28.0	0		
Debt subject to limit	283.8	372.6	908.7	998.8	1,142.9	1,377.9	1,573.0	1,823.8	2,111.0	2,336.0	2,586.9	2,830.0	3,162.7	3,478.6	3,775.7	4,013.1	4,187.3	4,354.3
Economic Assumptions																		
Real GNP growth	[1]3.9	[2]3.5	−0.4	−1.9	−0.9	5.5	6.8	2.7	2.9	3.4	3.8	[3]2.9	2.1	2.4	2.6	2.6	2.6	2.6
Unemployment	[1]4.8	[2]6.2	7.0	7.5	9.5	9.9	7.5	7.2	6.9	6.2	5.5	[3]5.3	5.3	5.4	5.4	5.4	5.5	5.5
Interest rate (T-bill)	[1]3.4	[2]6.3	11.5	14.1	10.7	8.6	9.6	7.5	6.0	5.8	6.3	[3]8.1	7.7	6.9	6.8	6.3	5.7	5.4
Inflation	[1]2.3	[2]7.1	13.5	10.4	5.9	4.6	3.4	3.5	1.6	3.6	4.1	[3]4.8	4.7	4.3	4.3	4.1	4.0	4.0

[1] 1960–69. [2] 1970–79. [3] 1989.

Source: Congressional Budget Office, Tables titled, "President's fiscal year 1991. Budget Reestimated, Original Pres., and CBO Revised Baseline," June 21, 1990 (CBO August update on economic assumptions) Debt Subject to Limit from Midsession Revision.

EXHIBIT 2

[From the Washington Times, Sept. 26, 1990]

RECESSION OVERTURE

Many economists, political analysts and media commentators now are telling Americans that the economy is heading for a recession. They could be right.

Although the current economic expansion is the longest in America's peacetime history, the economy has struggled with anemic growth of just over 1 percent in the past nine months. Inflation also is on the rise.

While politicians will try to blame everything and everyone from Iraqi President Saddam Hussein to the business cycle for the looming economic hard times, any recession that occurs should be stamped with the label, "Made in Washington, DC."

The one lesson that policymakers should have learned by now is that bad economic conditions are mainly the result of bad government policies.

In the 1970s high taxes, wasteful spending, inflation and excessive regulation combined to produce stagflation. As a result of the weak economy, fewer jobs were created, many businesses went bankrupt and families suffered.

In the 1980s, by contrast, tax cuts, an improved monetary policy and deregulation helped spark the current economic expansion and the greatest burst of job creative in U.S. history.

So far, the 1990s have resembled the 1970s. In the current session of Congress, legislators have increased the minimum wage, enacted new regulations that enormously increase the costs of doing business and appropriated huge increases in domestic spending. Still to come, perhaps, are the Clean Air Act, a massive child-care entitlement program and a tax increase—a deadly mix even to a strong economy.

America's longest peacetime period of economic growth need not come to an end. The right combination of policies could restore and extend the expansion.

The way to stop a recession or to reduce its severity is to return to policies that promote economic growth. America needs tax cuts, not tax increases. Rather than return to the tax-and-spend fiscal policies of the 1970s, growth in federal spending must be limited to 4 percent per year.

Instead of punishing those who would risk their money in investment, the tax code should be amended to reward expenditures on new plant and equipment, and the anti-savings bias in the tax code should be eliminated.

And finally, expensive new regulations need to be shelved in favor of legislation that strengthens American competitiveness.

The stakes are enormous. The economy is not numbers, it is people. When growth falters, people lose their jobs. When the economy slows, entrepreneurs see their businesses fail. When the stock market falls, millions of people's pensions lose value.

More than any other group, the poor suffer most. They would be the ones who bear the brunt of a recession.

The main goal of Washington right now should be economic growth. For that we need tax cuts, not tax increases. We need to roll back the Social Security payroll tax. We need to cut the capital-gains tax. We need to make individual retirement accounts available to more people, for more purposes: retirement, long-term care, education, homeownership.

And we need to hold the line on federal spending, capping annual spending growth at 4 percent, which would balance the budget by 1997.

In short, we need to do all we can to prevent or cut short the biggest budget-buster of all: a recession. Even a mild recession could push the deficit above $300 billion.

The PRESIDING OFFICER. Who yields time? The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I yield myself what time is necessary from the amendment.

Mr. President, I have been listening with great interest to my friend and colleague from my neighboring State of Colorado. We have worked, labored on the Budget Committee for many, many years together. I want to generally associate myself with the remarks that he just made. I do not agree in total concept with everything the Senator from Colorado has said. I am not going to start fixing blame for the critical mess we are in right now.

I am going to be very brief in my remarks, Mr. President, and try to set some kind of pattern here. Let us stop talking and start voting, because we are in a totally critical, crisis situation with the Government scheduled to close down the day after tomorrow and we do not yet even have a bill with which to go into a conference with the House of Representatives. I think wasting a lot of time on debate that is not going to change any votes is not too fruitful a way to move ahead and at least try to get something worked out.

One of the things my friend from Colorado said I want to correct him on, and I think he would agree with me. He just sent an article to the desk that said the budget deficit was $300 billion. That is an error. That is what we keep hearing.

The GAO just gave a report, requested by the Senator from Idaho, who I see on gave floor, and myself, which said the real deficit today is $370 billion. The difference of course is the amount of money that is continually used to offset the true deficit because we have been borrowing from the Social Security Trust Fund. So that makes the situation even worse.

I pointed out in a talk a week ago that even if the President's summit package had been enacted, the national debt would have gone on up in the next 4 or 5 years from its present lofty

heights of $3 trillion to over $5 trillion.

I think the worst mistake we are making here in toto is the American people are being led to believe that had the budget summit agreement the President endorsed come over here and had it passed with all that pain and suffering and increased taxes, that would have once and for all told the American public that we have done something and we have solved the budget deficit. Hogwash. It would not do that, for the many reasons my articulate friend and colleague from Colorado just enunciated.

Possibly out of all this might come sense. I do not know what is going to happen but I suspect sooner or later, Sometime this week, we are going to come to some kind of a budget agreement that in all probability will be vetoed by the President of the United States. Then we will be back in the soup once again.

The only good news I can see about that, Mr. President, is that at that time maybe a proposal that the Senator from Colorado had referenced—and that is a freeze that this Senator and a few others have been advocating for 7 of the last 8 years on the floor of the U.S. Senate—maybe we can come back with something like that.

I caution against continuing to fool the American people every 5 years that we fashion a new 5-year program to balance the budget at the end of the 5 years and in almost every instance those of us who have some rudimentary understanding of the budget know there is no possible way that that could prevail. So, regardless of what we work out here it should be clearly understood across America that while whatever action we take might be a step in the right direction, it does not solve the problem, as the Senator from Colorado said so very, very well.

One of the things we might have to come back to is reality. The reality of the situation is that there is no way we can balance the Federal budget of the United States and stop the skyrocketing increase in the national debt in 5 years.

Mr. President, it cannot be done. It took us a lot longer than 5 years to get into this mess. It is going to take us more than 5 years to get out of it, and only if we are wise enough to plan ahead, in some way to not break the country and throw this country into a recession by unwise and inappropriate action.

I suggest maybe when we come back to that train wreck that is likely to happen this weekend, maybe at that time a little reason will prevail, we will come up with a plan that will freeze spending; come up with a plan that will force, over a series of years beyond the 5 years, total elimination of the deficit. The only way we could do that, Mr. President, is with a motion I offered in the Budget Committee, which was strongly supported by the Senator from Colorado, and that is we should change the enforcement mechanism, rather to have it be in the form of projected savings, to make the day that we have to borrow money, the day we have to raise the national debt ceiling of the United States, the day we should have as the enforcement date of whatever we in advance agree to.

Why is that? Because that is a finite number. It is easily understood and we cannot use smoke and mirrors to cover it up. If you are broke and you have to go to the bank and borrow money, as the Federal Government has had to do time and time again, then that is the time to call a halt and make the hard choice that has to be made.

I do think in the end maybe we will be able to work out some kind of a freeze agreement if everything else fails, with some kind of an enforcement mechanism over a longer period of years, to force the Congress and the President to make honest decisions and force them to live up to that by using the day we have to borrow more money as the only enforcement mechanism that I think will work.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Maine?

Mr. COHEN. I yield myself 5 minutes from the amendment.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. COHEN. Mr. President, last week I indicated that I, like other Members in this Chamber, supported the overall goals that were set by the budget resolution; namely to seek a reduction in the next fiscal year of approximately $40 billion with an overall reduction of $500 billion over the next 5 years.

I have heard a number of individuals say, let us just make a decision. Why is Congress paralyzed? Why not just adopt what the President submitted, what the President said he would support and what the budget summiteers agreed upon? Why not just vote for that and get out of town? It would be easy to make that decision and go home, but I do not think that would be fair or equitable in its results.

Last week, I supported the budget resolution and indicated at that time that I would reserve judgment on the reconciliation package that would be forthcoming and is now before this body. I believe the Finance Committee proposal is, indeed, an improvement over what was recommended through the budget summit. But I still do not believe it goes far enough for a number of reasons. First, this reconciliation package would more than double the Federal excise tax on gasoline at the very time that we are seeing dramatic increases in the price of gas at the pump.

Perhaps, if the price of gas was down to where it was in August, it might make some sense. But even then it would mark the first time we are using the gasoline tax for deficit reductions rather than for the highway trust fund to build roads and improve the infrastructure.

We are cutting into the States' ability too. They traditionally have turned to the gas tax for revenues. I do not believe we should be raising the gas tax, not by this amount or not by any amount under the circumstances.

Second, I do not support what this reconciliation package does to Medicare. Many would justify the cuts on the basis that the Medicare program has grown so rapidly. However, this growth merely demonstrates how much our senior citizens need this program. While the cuts in this bill are not as severe as they would have been under the budget summit agreement, I still believe that this reconciliation package takes too much out of the Medicare program. I do not support the reductions in this package due to the toll they would take on Medicare providers and beneficiaries.

While I realize that it would be impossible to craft a budget agreement to satisfy every Member of this body, I do believe that we must apply a basic test of fairness to a deficit reduction plan. I believe that the reconciliation package before us today fails the fairness test by placing too much of the burden on low- and middle-income Americans. There is a fairer, more progressive way to reduce the deficit.

I support, for example, an increase in the tax rate of wealthy taxpayers. I believe we should go to a higher tax rate for those who are earning incomes above $110,000 individually or about $180,000 on a joint return. It is only fair that high-income Americans be called on to bear a greater portion of the deficit reduction effort. Indeed, I also support a 10-percent surtax on those with incomes above $1 million. I have no objection to doing that and think we should do so in this budget package.

I also favor the restoration of a windfall profit tax on those who make excessive profits on the price of oil. We should be taxing oil companies which take advantage of international events through gouging rather than taxing consumers, who are already the victims of high gas prices.

Restoring fiscal health to our Nation will require both new revenues and real spending cuts. I never took the "no new taxes" pledge because I believe that new revenues would be essential to balance the budget. New taxes alone, however, will not cure our fiscal ills. We need serious cuts in spending as well. Without spending re-

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straint, new tax revenues will be for naught. We have already agreed upon significant defense cuts. I strongly support these cuts. In order to seriously reduce the deficit, we must also look to contain nondefense discretionary programs. Before this debate is over, I am sure that many proposals will be offered to better allocate the burdens of deficit reduction. I will consider each amendment on its merits and decide if, in my view, it improves the current reconciliation bill.

With respect to the amendment that is now pending in the second degree, I have some problems with the specific allocations provided for in the amendment. For example, I have problems with reducing the savings from the farm programs by 50 percent. I do support, however, the amendment by the Senator from Idaho to strike the increase in the gas tax. I do not think we ought to have any increase in the gas tax.

Because there are fairer ways to achieve deficit reduction, Mr. President, I do not intend to support the finance package that is currently before the Senate.

The PRESIDING OFFICER (Mr. BREAUX). Who yields time?

The Senator from North Dakota.

Mr. CONRAD. Mr. President, I ask unanimous consent to add the Senator from Nebraska as an original cosponsor of my amendment.

The PRESIDING OFFICER. Which Senator is the Senator referring to?

Mr. CONRAD. The Senator from Nebraska.

The PRESIDING OFFICER. Which one of the two?

Mr. CONRAD. Senator KERREY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, we have heard some novel and even creative arguments advanced against the amendment that I have offered with the Senator from Montana and the Senator from Nebraska. I heard my good friend from Minnesota say, well, the rich are already paying more taxes than other people, and of course that is true. They have more money than other people. That is not the question.

We have heard the Senator from Colorado say what we really ought to be doing is cutting spending more. Nobody agrees with that proposition more than the Senator from North Dakota. I believe we ought to be cutting spending more. I offered a plan in the Budget Committee that provided for $559 billion of deficit reduction, and I can tell you that plan cut spending more than the plan that is before us out of the summit that has now been refined through the Senate reconciliation process.

One of the areas where I proposed cutting more was in the area of defense spending. I have this chart that shows the pattern of defense spending since the end of the Second World War.

The blue line right through the middle of this chart shows the cold war average. Even after the defense reductions that are included in this proposition, we are going to be spending more for defense than the cold war average, even after the Warsaw Pact has collapsed, even after Germany has unified, even after the Soviets have announced massive reductions of their own.

I proposed that we reduce defense back to the cold war average in my proposal before the Budget Committee, but that was rejected.

Now we have before us a measure that cuts defense $180 billion over the next 5 years. It sounds like a lot of money. The hard reality is you would have to cut defense from what the projections of what the spending increases will be by $250 billion over the next 5 years just to get to the cold war average.

Mr. President, let us go back to the question of tax fairness. We have heard Senators in this Chamber say that those who have the most in our society, those who are the wealthiest among us, are already paying a lot of taxes. There is no question that is true. The question is whether they are paying a fair proportion of the tax burden in this society. That is the question.

I return my colleagues' attention to this chart which shows the annual change in taxes from 1977 to 1990. These are not my figures. These are the figures from the Ways and Means Green Book of 1990. That is an official record of the Federal Government. What this chart shows is that every income group is paying more taxes in the period from 1977 to 1990 with the exception of one group. What is that group? It is the wealthiest 1 percent. They have enjoyed a $39 billion tax reduction.

Mr. President, another way of talking about this question is to look at the percentage change in real income and Federal tax rates of the population ranked by income taken from the period 1977 through 1990, and this chart, too, reveals a very interesting pattern. What it shows is that the poorest 20 percent in our society have experienced a real income reduction of 9 percent while they have seen their tax rates go up 2.6 percent.

Contrast that with the wealthiest 1 percent in our society who over this 13-year period have seen their real incomes rise over 91 percent while they have seen their tax rates reduced 23 percent.

Mr. President, that is why when we sought to put together a package to make the Senate reconciliation bill—that is before us—more fair we first decided that we needed to pierce the bubble. Once again, I know there is confusion about what is the bubble. What is this bubble that we hear so much talk about?

Very simply, this chart shows what the tax bubble is. It shows that on incomes from zero to $32,000, there is a tax rate in this country of 15 percent; from incomes of $32,000 to $78,000, there is a tax rate of 28 percent; for incomes from $78,000 to $185,000, for a married couple with a joint return, they are paying a rate of 33 percent. But when you get to incomes over $185,000, they go back down to a marginal rate of 28 percent. That is not fair. That is what piercing the bubble is all about.

In addition, our proposal takes the alternative minimum tax from 21 percent up to 25 percent. What is the alternative minimum tax? Very simply, it is designed to get at those who have a set of exclusions and deductions that would allow them to avoid taxation altogether if it were not for the alternative minimum tax calculation.

Third, we provide for a 10-percent surcharge on millionaires; those who have incomes of over $1 million a year would in effect wind up with a tax rate of 36.5 percent instead of the 33 percent provided for by piercing the bubble.

What do we do with those revenues? Very simply, we try to make the package more fair: reduce the burden of the gas tax on the part of our population that is disproportionately affected. So we reduce the gas tax to 5 cents from the 9.5 cents in the Senate package.

No. 2, we try to take some of the burden off the elderly sick. They are seeing their deductibles go up from $75 to $150 in the Senate package. We knock that down to an increase from $75 to $100.

Third, we seek to be more fair with the farmers of this country. As I indicated before, the farmers are taking the biggest cut of any group by far, in real terms, a 40-percent reduction after they have already experienced a 60-percent cut from 1986.

Finally, Mr. President, we have sought to put together a package that is revenue neutral; it keeps the promise that there will be a package of $500 billion of deficit reduction.

Mr. President, I want to make clear this overall package is not the one I would have written. I, very frankly, would have made more cuts in spending, and I would have liked to have seen an expanded fair share program to go after the tax gap, the $100 billion a year that is hemorrhaging from this tax system from people who are not paying what they legitimately owe.

Once again, we find if you analyze who it is who is not paying, it is the folks who have the ability to hire the high-priced tax accountants, and the

high-priced tax attorneys. They are the ones escaping what they legitimately owe.

I would like to see the fair share package I offered in the Budget Committee as part of this overall package and proposal that is before us. But only a fraction of what I offered in the Budget Committee is here, some $9 billion out of the $43 billion we offered the Budget Committee.

Nonetheless, Mr. President, I think it is abundantly clear that the provisions we have offered are more fair to the middle class, more fair to the elderly sick, more fair to the farmers, more fair to the rural parts of this country, and for the first time would take a very clear step in redressing the direction we took in the 1980's to lessen the tax burden on the wealthiest among us and stack it on everyone else.

This amendment that Senator BAUCUS and I and Senator KERREY of Nebraska are offering says we are going to go to those who are the wealthiest among us, and say to them: Now it is your turn; pay a little more. It only affects those who are over $185,000 a year, married couples with an income of over $185,000 a year. Certainly, they can be asked to do somewhat more so the middle class and the less able do not have to bear a disproportionate part of this tax burden.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, I yield the distinguished Senator from Montana 10 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BURNS. I thank the chairman, the Senator from Tennessee.

Mr. President, when you look at this tax thing, I think it has been referred to here today that everybody is just coming out talking about this tax thing, and nobody is doing anything about it. It is kind of like Mark Twain and the weather. Eveybody talks about it, but nobody does anything about it, or can.

I come at it in a little bit different light. About 2 or 3 weeks ago, we introduced a measure that sort of addressed some of the things that we are trying to address here today; that is, talking about taxes. You know, we look at the amendment that is before us now. You look at the budget package as it has been reported out by the Finance Committee. I want Americans to realize that 77 percent of that $500 billion so-called savings is still taxes and service fees.

That does not sound too delightful. This is a tax bill any way you look at it. Now, you take this amendment. If you look at the real cuts, the real cuts come not in defense; the real cuts in real dollars come in agriculture. They are the folks that took the hit. I do not like it very much when you take agriculture, because rural America is still hurting. This country still has a cheap food policy. They eat better than any country in the world. They do it on less money outlay.

So I am ready to look at spending priorities and take up the fight for agriculture, to spread the burden of spending cuts fairly. I am not talking about taxes. I am talking about the real cuts we took in agriculture in the Midwest.

The amendment does not do the job. It is talking about raising more taxes. All the charts show we are going to raise more taxes. If you put in another rate, then where does it stop? Do we go back to the way of doing business, the old way, again? It furthers the business as usual mentality around here: tax, tax, tax.

The amendment is being presented by its proponents as a fair, necessary amendment, when in fact it is an effort to continue the policies that got us here today, and it is a tax-and-spend mentality.

I will tell you. Two years ago, I can remember I was on the campaign trail. I did not run on that platform. So I am opposed. I am not in favor of raising taxes on the poor or on the middle class or the rich.

I also support the Symms amendment to eliminate the gas tax. If you look at Montana, we have 148,000 square miles out there. It is a long way to anywhere. So we know who is going to pay that tax, the amount of roads we have to keep up. We certainly would hate to see that go in.

I am opposed to taxes in this amendment.

There were some interesting figures floating around. Again we were talking about them the other day. I want to reiterate that because I think it is time. Somewhere, there are a bunch of voices running around here. We feel like we are just kind of the lonesome voice in the night. All growth, virtually all growth in income tax revenues has come from the top 13 percent of the taxpayers in 1987 and 1988. Those are not my figures. They are figures according to the IRS.

Seventy-seven percent of that growth has come from taxpayers over $100,000. I guess I call it the old 50-percent deal, because I will tell you, 83⅓ percent of the taxpayers paid 37.1 percent of the total taxes in this country. So again, we are back in this mentality, trying to find ways to finance the insatiable appetite that the Government has.

This amendment we are talking about now taxed the wrong side of the equation. It focuses on taxes and revenue. The proponents try to tell us that only the rich will pay it, or that the rich will pay more. That is not true. The tax increase in this package, even if the Conrad amendment passes, will affect each and every one of us. We will all pay.

Let us take a look. We are not going to reduce any deficit. They say our figures will not fly. You just run the graphs on this, and you tell me when this budget balances out. It will not be in 1995. We will not get rid of this debt. This deficit will still keep going up because we spend it as fast as we take it in, maybe a little bit faster. It just does not accomplish more.

We offered a 4-percent solution. I heard the Honorable Senator from Colorado get on this floor and talk about that a little bit. We will have every department in the country grow 4 percent every year, based on last year's outlays, and never levy more taxes. And then let this economy in this great country grow, get off of business' back, and put them back to work and give them some incentive. Incentive is what makes this old free enterprise work.

What is wrong with making a profit and paying taxes on it? Has anyone gone broke paying taxes? Nobody. We want to lump it on the guy that makes the biggest investment and makes things happen in our neighborhood, and there is not a man in America that does not understand that. You take his incentive away, and he goes away and takes his capital with him.

So let us get off of this tax thing. Let us talk about letting the Federal budget grow 4 percent a year based on the previous year's outlays. Then let us talk about priorities where we want to spend that money.

We do not have to do without those programs that the American people embrace. That is Social Security, WIC, Aid to Dependent Children, all of those programs, and our moneys for research, moneys for disease control. We can handle all of that without one more penny of taxes on the American people because revenues will go up.

Revenues have gone up every year since 1981—every year. In 1986, when that bubble we are talking about was 33 and 28 percent, that was fairness. We could talk about fairness.

But when real cuts come from military, and some should, and then from agriculture, into a sector that is really hurting and has to compete on a market that is subsidized by all the other foreign countries, and we want to fight that battle with one hand tied behind our back—this is wrong. It is unfair.

I realize it is pretty hard to say, well, the farmers have it pretty easy, especially when you have a mouthful of pork and beans, and you got them pretty cheap.

So let us get off this thing of tax and spend. Let us talk about the real problem. Let us attack those problems where they exist. If you tax gasoline, and the county or State roads, then

you impede the county or State's ability.

How do you think they pay for their schools and their gravel roads in their county? Pull the money out of the air? Government mandates programs that we send to the counties and States that says pay for them. And then, do we take away the ability to find the money?

That is no way to do it. Let us attack it on the end it should be attacked, and let us start setting priorities and bring some responsibility. Yes, we are going to have to cast a hard vote here in this body, but I am not afraid to do so.

Mr. President, I, too, am against the deep cuts that Agriculture is being asked to take in this package. I am ready to look at our spending priorities and to fight for agriculture—to spread the burden of spending cuts more fairly. But this amendment does not do the job. It just raises more taxes so we can spend more.

It just furthers the business as usual mentality around here. Tax, tax, tax. This amendment is being presented by its proponents as a fairness amendment, when in fact it is an effort to continue the policies that got us where we are today—the tax-and-spend mentality.

I am opposed to this entire package. I am not in favor of raising taxes on the poor, on the middle class, or on the rich. I support the Symms amendment to eliminate the gas tax, a tax that is unfair to all Americans, a tax that hits my State particularly hard. But I am also opposed to the taxes included in this amendment.

Prior to this amendment, the budget reconciliation bill relied heavily on taxes, fees, and budgetary gimmicks; 77 percent of the package was made up of just those things. This amendment raises that percentage to over 80 percent.

This amendment attacks the wrong side of the equation. It focuses on taxes and revenues. The proponents try to tell us that only the rich will pay, or that the rich will pay more. That is not true. The tax increases in this package, even if the Conrad amendment passes, will affect us all.

If we could balance the budget by taxing the rich, we would have done it a long time ago, folks. The fact of the matter is that in order to balance the budget by raising taxes, every working man and woman will have to pay. This tax package still relies on cigarette taxes, the alcohol taxes, other transportation taxes, and payroll taxes.

All of these taxes are paid by the lower middle class, the middle class, and the rich alike!

This amendment also relies on the myth of "bursting the bubble." Let us look at the facts. Before 1986, we had 14 separate marginal tax rates.

Our Tax Code today has only two income tax rates: 15 percent and 28 percent. The reform not only reduced the number of brackets but moved 6 million lower income Americans off the tax rolls entirely.

There is a saying that goes, "Desperate times call for desperate measures." I believe this budget package has forced these desperate measures upon us. What was a good idea only 4 short years ago appears to be on the chopping block.

The Democratic controlled Congress is searching for needed billions in additional revenues at the last minute, and the bubble appears to them to be ripe for the picking.

I do not question the right of Members of this Congress to decide that more revenue is necessary and to advocate an increase in income taxes. But I think Members step across the line when they claim that the rates, which were so carefully conceived in bipartisan cooperation in order to bring fairness to the system are now somehow a Republican device to protect the rich.

Mr. President, the facts clearly show both parties voted for the bubble. Senator BRADLEY sent a "Dear Colleague" back on May 15, 1990, endorsing his bubble. This bubble was a great idea in 1986, and it is still a great idea in 1990.

The argument now for bursting the Bradley-Gephardt bubble is to punish the rich for all the benefits of the 1981 tax cut.

Well, if it had not been for those 1981 tax cuts the average middle-class family would now be paying $2,500 more than they do.

Americans also should remember that under the tax policies of the 1970's the average marginal tax rate on middle-income families soared from 23 to nearly 28 percent in 1981. Today that average marginal tax rate is less than 18 percent.

If the bubble is eliminated it would set a dangerous precedent for the American taxpayer. Do not think for a minute that it would stop there. If the bubble is eliminated, this would set a precedent to raise the bracket for all incomes.

Then the worst fear would come true—that the American taxpayer, who gave up many of his deductions with the promise of lower tax rates, would not be faced with higher tax rates and fewer deductions.

The effect of a 33-percent tax bracket on an already shaky economy would be devastating.

The issues of tax progressivity and balancing the budget by "soaking the rich" are based on the politics of envy. By pitting groups of taxpayers against one another, politicians who refuse to consider spending limits are using this issue to gain political support for a tax increase.

The American people should realize that the battle is not between the rich taxpayers and poor taxpayers but between all taxpayers and a Federal Government that refuses to limit spending and is chomping at the bit to take an increasing share of what you and I earn.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I ask unanimous consent that the Senator from South Dakota [Mr. PRESSLER], appear as an original cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I want to compliment the authors of this amendment and join as a cosponsor. I think it addresses many of the concerns that some Members have had with the earlier budget deficit reduction packages that have been presented. This amendment addresses the tax bubble problem. It addresses the minimum tax issue. It scales back gasoline and diesel fuel tax, which is a very severe tax problem.

Incidentally, the barge traffic is not covered by the fuel tax increase. I have wondered if some members of the Finance Committee could explain later why diesel burning barge traffic was not included in this gas tax increase proposal, since both diesel burning railroads and trucks are included.

Also, the Medicare cuts are eased by this amendment. This helps our senior citizens. The proposed agricultural, cuts are partially restored. The agricultural cuts were among the hardest hit of any of the various budget areas. The 5-percent itemized deduction proposal is eliminated.

Mr. President, I think this amendment represents the kind of thinking that should have been considered in tax reforms and budget reform. My State would be especially hard hit by some of these proposals. That is the reason I voted against the earlier deficit reduction package, with agriculture suffering a $13.1 billion cut. In the underlying Budget Reconciliation Bill,

the fuel tax is increased. South Dakota depends on short-line railroads, which would pay the additional tax, while diesel burning barges would not pay it. We have a large senior citizen population. This amendment protects them from excessive Medicare cuts. All these cuts fall heavily upon the State of South Dakota. This particular amendment does much to rectify that.

So I hope that the Senate will adopt this amendment. I urge its adoption.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Chair asks the Senate, who yields time?

Mr. SASSER. Mr. President, may I inquire of the Senator from Indiana, does he wish to speak on the Conrad amendment?

Mr. COATS. No. I have a general statement on the budget process in general.

Mr. SASSER. How long does the distinguished Senator wish?

Mr. COATS. Mr. President, I do not think it will take more than 5 or 6 minutes.

Mr. SASSER. I will yield 8 minutes to the Senator, off the bill.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, I remember once seeing an elderly woman asked by a television reporter why, after a lifetime, she had turned her back on liberal politicians and switched her vote. "They told me they would tax the rich," she replied. "Then they told me I was the rich."

There is a real appeal to soaking the wealthy. Giving up just one of the limos, after all, is not too much to ask. Taxing mink coats won't cause anyone to go cold. Maybe we could put a surtax on polo mallets and croquet balls.

It is all so emotionally satisfying—making the rich pay to close the deficit. There is only one problem. As an economic policy, it is deception pure and simple. And those who espouse it, know it.

Appealing as it seems, the hard fact is clear. There are never enough of the wealthy to soak. They are a tiny percentage of taxpayers.

Suppose the Government just confiscated—taxed at 100 percent—the entire income of people who made over $1 million. The money they raised would run the Government for precisely 12 days. If Congress took every cent in income from those who made over $200,000, just .39 percent—that is about one-third of 1 percent—of the returns actually filed, it would fund the Treasury for just 1 month.

So what do politicians do to raise the kind of serious cash they need to support their spending habits? It is very simple. They redefine what it means to be wealthy. And that new definition always includes most of the rest of us.

The middle class, because of its size, is where the real money is for politicians. When they say they want to increase taxes on the rich, they really mean they want to increase taxes. Period.

All this talk of a class war is just cover for the same old politics of tax and spend. It is the middle-class that always pays the bills for bigger Government.

Let me get specific. Again and again in recent weeks the House and Senate have come up with budget plans. As each one fell, the pressure built to put the primary burden on the rich. Now soak the rich rhetoric has reached a crescendo. Transcripts of the House floor debate read like passages of "Das Capital."

But even in these plans, sold as taxes on the wealthy, let us look at who actually pays. The people who always pay when real money is needed, average middle-class Americans.

The House plan delays inflation adjustments for tax brackets and the personal exemption. Who gets hit here? Everyone. That is right, every single one of the 87 million individuals and families that filed tax forms and paid taxes last year. Every single one of those people gets hit with the plan to delay inflation adjustments for tax brackets and the personal exemption.

The Treasury Department estimates that a married couple with two children making $34,000 a year would have their tax burden increased 6 percent. A single person with no dependents making $21,000 would pay 5 percent more.

Is a married couple with two children making $34,000 a year rich? Is a single person making $21,000 a year rich?

This plan that is being sold to us, the plan that the House voted on and accepted last evening, says we are just going to go after the rich. Let us make no mistake about it. The married couple making an average wage is going to get hit with a tax increase.

Are these the rich they are talking about? Families that are just getting by, trying to help their kids to a better future? Young men and women just getting their start in life

I worked hard in 1986 to help double the personal exemption, taking some of the burdens off families already bending and breaking under economic strain. Now, in the name of taxing the rich, will we press down those burdens again?

An increase in the payroll tax for Medicare would be a direct new burden on a large number of two-income middle-class families. New taxes on alcohol and cigarettes would hit the same group. The Senate's plan for a massive increase in gas taxes would be a regressive, deeply resented debacle—$42.6 billion over 5 years for every class of Americans.

Are these the rich who suffer? By what cruel deception, by what cynical sleight of hand, and are average Americans designated aristocrats in this tax package?

Congress promised to tax the rich. Now they inform us the truth—we are all the rich.

You are all going to pay the taxes. Congratulations. We redefined the rich. We are going to take you all in so that we can classify you as rich and tax all of you.

And in the process, the Congress heaps deception upon ineffectiveness. It pleads for national sacrifice. It promises Armageddon unless its tax demands are met. And still it spends with the same familiar recklessness.

Each new budget package seems more bloated in spending and taxes than the last. The one before us now cuts spending in only one area between now and next year—defense. Every other program will receive hefty increases in fiscal 1991. Not one dollar of pork or waste is eliminated. In fact, domestic spending will rise $60 billion next year. Government expenses are slated to rise 10 percent. Energy programs grow 20 percent, all in 1 year, all at a moment when crisis rules our rhetoric. These are not "emergency measures." It sounds more like it's "business as usual."

I have been at a loss to explain it. Every week we lurch toward dreadful new catastrophes, making a habit of hysteria. Every week we promise dramatic answers and significant departures. But every week the proposed solutions grow more tired and timid.

I am convinced it is possible to simply freeze spending at the current level plus 4 percent for inflation. No one would suffer unfairly. No one would need to bear slashing cuts. Along with planned defense reductions, we could balance the budget in 7 years.

But our failure in Congress is not a failure of ideas. It is a failure of political will. The cause of these problems is not a lack of innovation. It is a counterproductive political agenda.

I have come to a conclusion. Something that is obvious to most Americans. Many in the Congress have as their primary goal to increase taxes, not reduce the deficit. And the reason is simple. They are using this tax package, not as a means to limit

spending, but as a means to increase it. They hope to build into the fine print of this deal a guaranteed growth in Government, and a guaranteed growth in revenue. Under the guise of spending restraint we are asked to approve a spending explosion.

In this package, nondefense domestic spending increases by $245 billion, or 34 percent, during the next 5 years. This increase is larger than the entire nondefense spending increase during the whole of the 1980's. This plan, in other words, increases domestic spending more dramatically in the first 5 years of this decade than in the entire 10 years of the previous decade.

This deal, in short, is a sham. Its tax increases are used, not to reduce the deficit, but to finance a barrage of new spending. New taxes go to the S&L bailout, to pet programs, to massive spending growth—everything except paying off our debt. It sets the policies of tax and spend in cement. It institutionalizes our spending incontinence. Its reductions are illusions. Its taxes hit the middle class and push us toward recession.

The PRESIDING OFFICER. The 8 minutes allotted to the Senator has expired.

Mr. SASSER. Mr. President, I yield an additional 2 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator is recognized.

Mr. COATS. I thank the Senator for yielding. I will not use the 2 minutes.

I will vote against this package or any package that looks like it. It is a con game. The American people know the American people deserve better.

Mr. President, I yield back the time.

The PRESIDING OFFICER. The Senator yields back the time.

Mr. SASSER. Mr. President, I suggest the absence of a quorum and ask unanimous consent the time be charged equally against the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SASSER. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, I yield to the distinguished chairman of the Appropriations Committee, Senator BYRD, such time as he may consume.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the distinguished chairman of the Budget Committee for his courtesy in yielding me time.

Mr. SASSER. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senator will suspend until the Senate comes to order.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

Mr. President, when the mariner has been tossed for many days in thick weather and on an unknown sea, he naturally avails himself of the first pause in the storm, and the first glance of the Sun, to take his latitude, and ascertain how far the elements have driven him from his true course. Let us imitate this prudence and, before we float further on the waves of his debate, refer to the point from which we departed, that we may at least be able to conjecture where we now are.

So, in the words of Webster, let us refer back to what I shall call the point of our departure, the point of our departure from fiscal sanity. In doing so, I would like to talk about three of the deficits which face this country: the trade deficit, the Federal deficit, and the investment deficit—or the infrastructure deficit.

We have experienced an unbroken string of triple-digit trade deficits in recent years. The last time that the United States enjoyed a trade surplus was in 1981. I direct my colleagues' attention, and the attention of the press and the viewing public to the charts to my left.

The last year that the United States enjoyed a trade surplus, as I said, was the year in which President Ronald Reagan took office, 1981. That year, the balance on our current account was a positive $8.2 billion. So over the years immediately preceding that time, the country adhered to a fairly straight line, sometimes a little above, sometimes a little below the line. But since that time, in 1981, the United States has experienced an unbroken and unprecedented string of trade deficits. In 1984, our current account deficit approached the $100 billion mark for the first time ever; $99 billion, right at the $100 billion mark for the first time.

In 1982, the trade deficit was $7 billion; 1983, $40 billion; 1984, $99 billion; 1985, a $122 billion deficit; in 1986, a $145 billion deficit; in 1987, a $162 billion trade deficit; in 1988, a $128.9 billion deficit, and in 1989, a $110 billion trade deficit.

So what has been the result of this endless string of trade deficits? We have seen our manufacturing base erode. We have seen Americans lose jobs, high-paying jobs.

Do these deficits really matter? They do. Just as the recordbreaking budget deficits of the 1980's have left the country with $3 trillion of Federal cost, thereby placing a tremendous burden on future generations of Americans, the recordbreaking trade deficits of the 1980's have destroyed the international investment position of the United States.

At the start of the last decade, the United States was the world's largest creditor. At the end of the decade, we were the world's largest debtor.

On this chart we see the U.S. creditor position, and we see the U.S. debtor position. Running from 1976 until 1984, Senators will see that the United States maintained a strong creditor position. And then, beginning in 1984 we began slipping and did slip into a debtor position. For 1984, we were in the red, $38.7 billion; 1985, we were in the red, to other countries—in hock to other countries—$212.9 billion. In 1986, the U.S. slipped further to minus $452.8 billion. In 1987, it had gone in debt $577.5 billion to other countries. By 1988, we were in hock to other countries to the tune of $769.9 billion; by 1989, $963.9 billion.

So we see in this short span of time that the United States slipped from an advantageous creditor position, with respect to other countries, to a devastatingly low position in which the United States is head over heels in debt to other countries. In other words, this line, the red line on the chart, for 1989 shows that other countries' assets in the United States—bonds, stock, property, et cetera—exceeded U.S. assets in those countries to the tune of $963 billion, almost a trillion dollars; with the U.S. slipping from a creditor position in 1984 to a debtor position, to the tune of almost a trillion dollars, of $963 billion in 1989.

Today, the foreign ownership, then, of American assets, exceeds American ownership of foreign assets by almost $1 trillion.

How much is a trillion dollars? How long would it take to count $1 trillion at the rate of $1 per per second? 32,000 years. Think of it. At the rate of $1 per second, it would take 32,000 years to count $1 trillion. So that is the sad picture of the slipping of America from a creditor position to a devastatingly low position in the space of a half dozen years, starting in 1984.

Now I want to direct my remarks to the Federal deficit. This is what we are talking about here this afternoon, the Federal deficits. Let us see how these deficits began to accumulate.

In fiscal year 1976, this country had a Federal deficit of $70 billion. In fiscal year 1977, the deficit was $50 billion. That was the last fiscal year for which President Ford was responsible. In fiscal year 1978, the Federal deficit was $55 billion. That was the first year of Mr. Carter's administration.

To repeat, for the 2 years that Mr. Ford was in office, there was a deficit: his first year, $70 billion; $50 billion in his second year.

In Mr. Carter's first fiscal year 1978, for which he was responsible, the deficit was $55 billion. In the second year of Mr. Carter's 4-year term, this Gov-

ernment ran a deficit of $38 billion. In the third fiscal year of Mr. Carter's Presidency, the country ran a deficit of $73 billion. And, in the final fiscal year for which Mr. Carter was responsible, fiscal year 1981, the country ran a deficit of $74 billion.

So the country had never yet seen a triple digit deficit.

And then for the first fiscal year for which Mr. Reagan was responsible, beginning with October 1, 1981—fiscal year 1982 is what we are talking about—the Federal deficit plummeted to triple digit status for the first time: $120 billion. Then the next year, $208 billion; then the next year, $186 billion; then the next year, $222 billion; the next year, $238 billion; and the next year, $169 billion; the next year, $194 billion; the next year, $205 billion; and for fiscal year 1990, a Federal deficit of $220 billion.

This last figure represents the latest CBO estimate of the fiscal year 1990 deficit.

So if Americans want to see the trend of deficits, when those deficits first became triple digit deficits, and how the country has labored under triple digit deficits for these last 9 years, here is the chart for all to see, beginning with Mr. Reagan's first year in office.

The next chart indicates the national debt subject to statutory limit. The national debt on January 1, 1981, was $931 billion, a little under $1 trillion. That was the first year of the Presidency of Ronald Reagan.

On January 1, 1989, just shortly before Mr. Reagan left office on January 20, the national debt had risen to $2,669 billion.

As of October—just a couple of weeks ago—it was $3,189 billion.

(Mr. WIRTH assumed the chair.)

Mr. BYRD. Mr. President, shortly after President Reagan first took office, he addressed a joint session of the Congress on February 18, 1981. Here is an extract from his speech. He said: "Our national debt is approaching $1 trillion."

I remember seeing the President on television that evening. He had a chart to his right and he pointed to that chart and he said: "Our national debt is approaching $1 trillion. A few weeks ago, I called such a figure—$1 trillion—incomprehensible, and I have been trying ever since to illustrate how big a trillion really is. The best I could come up with is that if you had a stack of thousand dollar bills in your hand only 4 inches high, you'd be a millionaire. A trillion dollars would be a stack of thousand dollar bills 67 miles high."

I seem to recall that the figure later was reduced to something like 62 miles.

On this chart, this bar represents what Mr. Reagan was pointing out to the American people on February 18, 1981; that a stack of thousand dollar bills would stretch 62 miles into the stratosphere, representing the national debt at that point in time.

I said many times during the Reagan Presidency, you will never see President Reagan on television again doing that. Why? Because the stack was growing higher and higher. On January 1, 1989, 19 days before Mr. Reagan left office, that stack of thousand dollar bills, if it represented the national debt, would have been 179 miles into the stratosphere.

What a difference! Remember that this stack to which Mr. Reagan alluded in February 1981 represented 39 administrations, over a period of 192 years; 38 different Presidents; one President, Cleveland, had been elected twice with an intervening term by Benjamin Harrison.

The stack of thousand dollar bills, to which Mr. Reagan pointed, was the accumulation of the debt beginning with George Washington, John Adams, Thomas Jefferson, James Madison, Monroe, John Quincy Adams, Andrew Jackson, Martin Van Buren, William Henry Harrison, John Tyler, Polk, Taylor, Fillmore, Pierce, Buchanan, Lincoln, Andrew Johnson, Grant, Hayes, Garfield, Arthur, Cleveland, Benjamin Harrison, Cleveland again, McKinley, Teddy Roosevelt, Taft, Wilson, Harding, Coolidge, Hoover, Franklin D. Roosevelt, Truman, Eisenhower, Kennedy, Lyndon B. Johnson, Nixon, Ford, and Carter. That is what this bar represented: the accumulated debt throughout all of those 39 administrations, preceding President Reagan, $931 billion. The stack of thousand dollar bills went, during one President's administration—that of Ronald Reagan—to 179 miles—representing an increase during his years in the White House, of $1.738 trillion. Nineteen days later, Mr. Bush inherited that bar on the chart. Since that time, the stack of bills has increased, as I have already indicated, to where it would be 214 miles in the air on October 1, 1990, just 2 weeks ago.

I had a friend recently who said to me, "Senator, I just had an idea. If every working man in the United States contributed a dollar toward our national debt, we could pay it off."

I said, "No; that would not begin to pay the interest on it."

The per capita debt—the amount that each American man, woman, boy, and girl would have to contribute to pay off that national debt, as it stood on October 1 of 1990—would be $12,659.

I have now shown how much the Federal debt has grown in the past 10 years.

Let us take a look at Government spending over the same period and see where it has grown. Let us see what has caused these deficits. Let us see what has caused that debt to grow. Let us see what the chief offenders are.

I have heard a great deal of talk, and we all have, about Government spending. Let us now take a look at Government spending. A good many people in talking about Government spending forget that spending for defense is Government spending; that spending on entitlements is Government spending, as well as is domestic discretionary spending, which I want to get around to shortly.

This line on this chart is baseline. Baseline means last year's appropriation plus inflation. The chart indicates what happened between the years 1981 and 1990. So beginning in 1981, let us take a look at the entitlement bar, which will be pointed out to the viewers. In 1981, the baseline for entitlements was $320 billion.

What I am saying to our viewers is this. Each year we take the appropriation for last year and add inflation. The next year we take the appropriation for last year and add inflation. The next year we take the appropriation for last year and add inflation. The next year we take the appropriation for last year and add inflation. Now, that is what we call baseline.

What happened on entitlements, which started out with a $320 billion baseline in 1981? Entitlements over a 10-year period grew $599 billion above baseline—in other words, above inflation. What happened on defense? In 1981, defense spending and domestic discretionary spending were on a level. Defense spending was $158 billion. Domestic discretionary spending was $157 billion—a $1 billion difference between defense and domestic discretionary in 1981. What happened?

Defense increased above baseline $569 billion in 10 years. It grew that much above inflation. And what happened to domestic discretionary spending, remembering that it started out almost on a par with defense in 1981? Defense, $158 billion; domestic discretionary, $157 billion. What happened to domestic discretionary? Domestic discretionary spending: highways, bridges, mass transit, waste water treatment, water quality, rivers and harbors, et cetera, et cetera, decreased under baseline by a total of $326 billion—$326 billion below inflation.

While entitlements went up $599 billion over inflation, and defense went up $569 billion over inflation, domestic discretionary spending was cut $326 billion below inflation. Foreign operations almost held its own. It dropped just $10 billion below baseline over a period of 10 years.

Here is a chart that shows the share of domestic discretionary funding as related to the total budget in 1981, and the share of domestic discretionary funding out of the total budget for the upcoming fiscal year, 1991. In

1981, domestic discretionary, as I pointed out a moment ago, was to the tune of $157 billion. That was out of a total budget of $678 billion.

In other words, domestic discretionary—what we spend for education, job training, law enforcement, bridges, mass transit, railways, et cetera—constituted 23 percent of the total budget in fiscal year 1981—almost a fourth of the total budget—$157 billion out of $678 billion.

Ten years later, what had happened? The whole budget had grown to $1.434 trillion by fiscal year 1991, while domestic discretionary grew from $157 billion to $171 billion. So while the entire budget by fiscal year 1991 grew $756 billion over what it was in 1981, domestic discretionary grew only $14 billion over what it was 10 years ago. Where domestic discretionary was 23 percent in fiscal year 1981, it is 11.9 percent of the total budget for fiscal year 1991.

This chart again shows the pitiful plight of domestic discretionary. That is the little runt puppy. Ten years ago, it constituted 23 percent of the total budget. Today it constitutes 11.9 percent. It reminds me of the little puppy that cannot get enough to eat and it wiggles its way and tries to push aside the big dogs, it looks like it has the scratches, and it is all skin and bones. There it is right here on the graph: domestic discretionary.

Let us now take a look at the rest of the chart for fiscal year 1991: The interest on the national debt is 13.2 percent; Medicare, 6.1 percent; Social Security, 23.7 percent; "other," this one right here—that is civil service retirement, unemployment compensation, et cetera—is 8.2 percent; and the next one, moving clockwise, GRH mandatory—that is Medicaid, child nutrition, food stamps, veterans' compensation—items that are not to be cut, or not very much, at least, in the event of a sequester—is 13.5 percent. Then, moving further up clockwise, defense, 23.4 percent. That includes 1.5 percent for foreign operations, the two together making 23.4 percent. And then, finally, back to our little runt puppy, domestic discretionary spending, which a lot of people around here still want to cut. This little fellow has been on the operating table for 10 years, under the knife; yet, there are those who want to cut on it more.

So we can see how little we are investing in our own country. I am talking about investing in human infrastructure—people—and in the physical infrastructure—the roads and the bridges, airports, waterways, our need for clean water, cancer research, scientific research, and so on.

On this chart, viewers will see the situation that this country is going to be in by the year 1997 if things continue as they are going now. Right now there are 21 airports in this country in each of which there has been 20,000 hours of delay annually; 20,000 hours of delay at each of 21 airports in this country.

I know that every Member of this body understands what it is, and the people who are viewing from that electronic eye up there know what it is to have to fly around in the "soup" in fog, clouds, over crowded cities for a half-hour, for 45 minutes, for an hour, looking out the window, not being able to see the ground—planes wasting fuel, producing pollution, wasting the passengers' time, increasing the danger to all persons on the planes. Only one airport has been built since 1974, that being in Colorado. In 1997, there are going to be 33 airports which will experience in excess of 20,000 hours of annual delays. Here is the chart. And the red dots show where those airports are located which will be experiencing such delays by 1997 if we do not do something about it. That is domestic discretionary spending.

What about the Nation's bridges? The estimated cost of the Federal highway bridge repair and replacement program right today would be $50.7 billion. There are 577,717 bridges in this country, and some of these are interstate, some are urban, some are offsystem, some are primary, and some are on secondary or lesser roads. But these are the bridges in which there is some degree or some percentage of Federal participation in the cost.

According to the Department of Transportation, some bridges are structurally deficient. Some are functionally obsolete. Those that are functionally obsolete are no longer functionally viable in a way that meets the needs of today as against the days when they were built. But those that are structurally deficient are dangerous bridges. They ought to be replaced. They are like the bridge at Point Pleasant, WV, that collapsed just a few years back and carried many people to their deaths. To repair and replace these bridges today would cost $50.7 billion.

The Federal highway system makes up 22 percent of the Nation's highways, yet it carries 81 percent of the vehicles, more than 1.6 trillion miles a year, enough to make 8,600 round trips to the Sun, which is 93 million miles away. More than 40 percent of the pavement on the system is in need of repair. It is in poor condition or fair condition.

To meet the existing capital needs of the Federal highway system, the Department of Transportation estimates that a $40 billion annual investment is required. Of this annual amount, the Federal share would be $25 billion; $25 billion out of the $40 billion would be for the Federal share. The fiscal year 1991 baseline for Federal highway spending was only $14.6 billion. In other words, it was $10.4 billion below the amount required for the Federal Government to meet the $25 billion share of the $40 billion annually that, according to the Department of Transportation, would be required to deal with the existing capital needs for highways.

The poor and neglected state of the Nation's highways and bridges is a drain on the Nation's productivity. It is estimated by the Department of Transportation that the American people waste 1.38 billion gallons of gasoline every year and waste 1.2 billion hours every year because of traffic tieups and traffic congestion. And each of these figures is estimated to grow to over 7 billion gallons of gasoline and 7 billion hours of time wasted on the highways by the year 2005.

Let us see what our failure to invest in the Nation's physical infrastructure means in comparison with the nations that do make vital public investments. Let us look at the link between public investments in infrastructure and productivity of workers.

Over a 12-year period, 1973 to 1985, we will see, in looking at the chart, the blue bars, which represent nondefense public investment as a percentage of the gross domestic product—goods and services produced in this country and utilized in this country, a little different from gross national product. Looking at the blue bars, the United States invested three-tenths of 1 percent of its gross domestic product, on the average, annually during those 12 years, 1973 to 1985. Canada, meanwhile, invested 1.5 percent; the United Kingdom invested 1.8 percent; France invested 2 percent; and what was the Federal Republic of Germany at that time invested 2.5 percent; Italy invested 2.7 percent; and Japan invested 5.1 percent. Look at it again. Japan invested 5.1 percent of its gross domestic product in infrastructure annually during that period, while the United States was investing only three-tenths of 1 percent.

How did that correspond with the productivity? While the United States was investing only three-tenths of 1 percent of its gross domestic product annually in its infrastructure, its productivity grew only six-tenths of 1 percent. Less than 1 percent.

Canada invested 1.5 percent and experienced a productivity growth of 1.3; the United Kingdom invested 1.8 percent and had a 1.8 percent productivity growth; France invested 2 percent and grew 2.3 percent; the then Federal Republic of Germany invested 2.5 percent and enjoyed a 2.4 percent productivity growth annually; Italy invested 2.7 percent for a productivity growth of 1.8 percent the same as the United Kingdom; and in Japan, productivity growth of 3 percent—all while the United States invested only three-tenths of 1 percent and had only six-

tenths of 1 percent growth in productivity.

So we can see there how nondefense public investment translates into increased productivity; and increased productivity means increased economic growth; and increased economic growth means increased national security. It also means an enhanced competitive position for a nation. It means a higher standard of living. And increased public investment also encourages increased private investment.

Why not? Mr. President, if you had a company, let us say, and you would like to buy a brand spanking new fleet of trucks, all outfitted in bright red paint and chrome, how would you like to put that fleet of trucks out on roads that are filled with potholes and on bridges in need of repair? How would you like to detour 18 miles around a bridge which was closed because it was unsafe? How much would that cost? How much would that lower your productivity? How much would that cut into your profits?

Public investment encourages private investment and is conducive to the profit-making of the private sector.

Mr. GORE. Will the Senator yield?

Mr. BYRD. Yes.

Mr. GORE. Mr. President, I rise only for a brief comment.

Mr. President, there was just a major study by one of the leading technical institutes of higher education in the United States, which focused on the precise point the distinguished President pro tempore is making at this very moment. A team of management analysts, economists, and scientists joined forces to analyze all of the factors that can be said to influence national productivity growth in nations around the world.

This is a controversial field of study, but it has grown increasingly sophisticated in recent years. And this particular team ended up by identifying as the one factor most influential in determining the relative rate of productivity growth in nations around the world, the level of nondefense public investment, such as in infrastructure.

I have been one who has argued that we should expand the definition of infrastructure to include not only roads and bridges, as has been the common definition in the past, but now fiber optic cables and information infrastructure and the like.

In any event, I was intrigued by this study and the close correlation between the conclusions of this team of experts and the point being made by the distinguished President pro tempore, which just now provoked this brief intervention.

I thank my colleague for his courtesy in yielding.

Mr. BYRD. I thank my distinguished colleague from Tennessee for the emphasis he has placed upon the importance of nondefense public investment and how it relates to productivity growth.

Let us take now the human side of infrastructure. This chart indicates the relative standing of the United States among a total of 16 nations, in respect to education spending—grades K through 12, for the year 1985.

We do very well with postsecondary education. Students come from other countries to the United States to study. But from K through 12, we are cheating our kids. On this chart, we find that in K through 12 spending, as a percent of gross national product, in 1985 the United States ranked 14th in a list of 16 nations—14th—spending just 4.1 percent of the gross national product. The lowest was Ireland with 3.8; and Australia, 3.9. The rest of the countries spent a higher percent of the gross national product on children's education from kindergarten through the 12th year.

Let us see how that reflects on the achievement in science. On the left of the chart is the rank in order for 10-year-olds, grades 4 through 5. This is a list of 15 nations. The United States is No. 8 in a listing of those 15 nations.

By the time they reach the age of 14 and are in grades 8 and 9, see how they have gone down. In a list of 17 nations, the United States is in a tie with two other nations for 13th place. Singapore, Thailand, and the United States are all tied for 13th place, with only Hong Kong and the Philippines at the bottom. And the other countries listed above the United States are: Italy, England, Australia, Norway, Poland, Korea, Sweden, Finland, Canada, The Netherlands, Japan, and Hungary—Germany does not show up on the chart because, it is my understanding, there were no figures for Germany; they were not available at that point.

Isn't this a drab, dreary picture of what we are doing to our kids? When it comes to spending Federal funding for the education of our kids in grades K through 12, look what it is ultimately doing to meet the country's need for scientists.

This is a chart that projects the supply and demand for science and engineering Ph.D's per year in the United States. The green indicates the number of science and engineering Ph.D.'s that are coming out of the reservoir of U.S. citizens and permanent residents annually.

Observers will note that the line is fairly level beginning in 1988 and going to the year 2006, fairly level, at about 10,000 to 12,000 Ph.D's per year that are being turned out in the United States from the reservoir of U.S. citizens and permanent residents. And the yellow coloring represents foreign students who come to the United States to get their science and engineering Ph.D.'s, but half of them return to their native countries. So, considering that there may be half who remain here, it means that we annually produce in this country something like from 11,000 to 13,000 or 14,000 Ph.D's from this reservoir of U.S. citizens and permanent residents and foreign students. The red coloring represents the projected demand for science and engineering Ph.D.'s showing that the year 2006 the demand in the United States will be for about 23,500 or 24,000 Ph.D's per year. And, of course as I have indicated, we will meet only a little better than half of that need by the year 2004.

Mr. President, I have taken the time of the Senate to address three deficits—the trade deficit, the Federal deficit, and the investment deficit.

Unless we do something to address the horrors that these charts portray, we are a Nation that is headed for a fall. The reconciliation bill before the Senate makes a start toward addressing these problems that I have been talking about.

And there are efforts in this Senate today, by way of amendments that are being offered, to tear the package apart.

I attended the summit. I never want to attend another. I do not expect to ever attend another one, even though I may live to be as old as Methuselah, and he lived to be 969 years old. I do not want to attend any more summits.

As the summit here is what we did. Everybody put on their green eyeshades and they looked at figures and formulas. I took the position there, and I take the position here, that while we not only have to deal with the Federal deficit, and the meeting of targets, and shaving a little here, shaving a little there, and shaving a little somewhere else, what we are really talking about actually is a 5-year plan for the Nation. So we ought to take off our green eyeshades and, in addition to discussing the figures, the targets, the outlay levels and all of those important things regarding Gramm-Rudman-Hollings, we also want to think about this country and where we are going for the next 5 years.

I tried to bring the summit away from the green eyeshades, away from a total concentration on figures and targets—important though they are—using pencils and erasers, and cutting a little here and a little there, meeting this Gramm-Rudman target, and meeting that Gramm-Rudman target, and all that, but also to stop and take a look at the forest and not just at the trees and to consider the fact that we are actually considering a 5-year plan for this country. Where are we headed in this country? And where are we going to be at the end of the 5-year period?

I happen to believe that this country still has the spirit to which de Tocque-

ville referred over 150 years ago when he came to this country when he said, "The incredible American," think of it! "The incredible American believes that if something has not yet been accomplished, it is because he has not yet attempted it." That was the spirit of the incredible American of that day.

Sampson took the jawbone bone of an ass and killed 1,000 Philistines. The early American took an ax, a Bible, a rifle, and a bag of seeds, and he hewed the forests, blazed the trails, and crossed the mountains to the prairies, from sea to shining sea, and he built a nation.

Moses struck the rock at Horeb with his rod, and the water gushed forth. The incredible American struck the rock of our natural resources and we have exceeded all other countries in the production of steel, coal, chemicals, and glass.

Elijah, when he came to the Jordan with his son, Elisha, tossed his mantle on the waters of the Jordan, and the waters parted, and the two crossed over Jordan on dry land. The incredible American built shining, massive, bridges that glimmer in the Sun, that span the Mississipi, the Missouri, the many great rivers of this country.

It took Moses 40 years to lead the Israelites out of Egypt and bring them to the land of Canaan. The incredible American invented the airplane in 1903. And when Lindberg took off in 1927 in the *Spirit of St. Louis* he crossed over New York City at the incredible speed of 100 miles an hour. And with that indomitable spirit, the American spirit, he braved the Atlantic alone, and set foot on the European shores, having crossed the mighty waters. The incredible American!

In high school, I read a book by Jules Verne, Around the World in 80 Days. JOHN GLENN and other American astronauts, as they have orbited the Earth, traveled at the speed of 18,000 miles an hour, around the world not in 80 days but in 80 minutes! Man had gazed upon the moon for centuries with longing eyes, wanting to see the other side. The incredible American put a man on that Moon and brought him back to Earth safely again.

This was the spirit that made our country great!

Jesus touched a dead Lazarus and he sprang from his bed.

Franklin D. Roosevelt led us in a time of Great Depression, when the country was prostrate—and I lived in that Depression; I know what it was. Men and women walking the country roads of this Nation, standing in soup lines in the urban communities, looking for a job. But the indomitable spirit of a crippled man and his vision brought the country back to its feet.

So he stretched forth his hand and the dead corpse of the Depression went away, and the country lived again and soared to greater heights.

What a proud heritage!

I think too many of us are unlike Lot's wife. She looked back. We fail to look back.

Cornelius Tacitus said, "when you go into battle, remember your ancestors and your descendents."

We fail to remember our ancestors. We fail to remember and to recall and to relive again the vision that was America, that made this country great; when men hewed the forests and built the bridges and the roads and traveled with their pioneer wagons and built a great nation. They believed they could do it, and they did it. And now, today, we face a challenge

Are we going to make it possible for America to again? Are we going to make it possible for our young people to study and to learn and to develop their talents and to become the best of whatever is in them?

America is in trouble.

Pericles, one of the greatest of Athenians, said to his countrymen, "Set your eyes upon the greatness of your country and remember that her greatness was won by men with courage, with a knowledge of their duty, and with a sense of honor in action."

In this time of trouble, America needs men, America needs politicians—statesmen who have courage and a knowledge of their duty.

Our country is in trouble, bad trouble. We have an S&L crisis. We have a deficit crisis. Some of our banks are on thin ice. Investors are nervous. The stock markets are shaky. We have a war threatening in the Middle East and a recession looming just over the horizon. It is time to stop posturing and pretending. It is time to stop all of the glib talk. It is time to do our duty.

We have almost 200,000 men in the Middle East. Those men and women are in the desert with 120 degree heat. They probably don't think it is such a great idea, being over there in that heat and in the sands of the desert. But they are not complaining. They are there to do their duty.

Now why can we not do our duty? Why can't Senators on both sides of the aisle do their duty? Why cannot House Members on both sides of the aisle do theirs? Why cannot the President? Why cannot all of us work together to do our duty?

Some of those servicemen, may I say to the distinguished Senator from Arkansas, [Mr. PRYOR], if a war breaks out over there, some of them will come home in flag-draped coffins. Some of them will never have seen their children who were born after they left these shores to do their duty in a land thousands of miles way.

And what about our children? In listening to all of the debate over the past several days, seldom have I heard a Senator or a House Member refer to our children. We talk about what is good for us politically or what would please the special interest groups. We are governed, we are owned, we are controlled; we are little men, controlled by special interest groups in this country. Let some of those special interests say "go," and we run. Let them say "jump," and we jump.

I tried eight times to close off a filibuster here when I was majority leader in the effort to enact campaign financing reform. The American people, if they really wanted a bargain, they would finance the campaigns of Members of the House and Senate. It would be a bargain for the American people. Because once again, the American people themselves would be heard and their elected representatives would no longer be cowards. That is what we have seen right at work here in the legislative branch of both Houses, political cowardice—speaking to the galleries, posturing to the cameras. Everybody has his own plan. I have a plan. He has a plan. She has a plan. And every one of us knows that my plan will not get 25 votes. His plan will not get 30 votes. Her plan will not get 50 votes. But we all have plans. And we all realize down deep in our hearts that if we get a plan through these two Houses, that will be signed by the President of the United States, that plan is going to have to have votes from both sides of the aisle.

It is tough. It is difficult. But that is what we signed on for. The American people think we are wimps. And they are right.

We knee-jerk to the drumbeats of the pressure groups, the special interest groups. Each of us tries to please this special interest group or that special interest group.

That is not to say that some of the special interest groups do not represent the views of a great many people in this country; it is true. But until the American people wise up and become awake to the fact, the bald fact, that the special interest groups are calling the tune and the American people are paying the fiddlers—you have to pay the fiddler when you call the tune—the American people are going to continue to get the shaft.

(Mr. GORE assumed the chair.)

Mr. BYRD. So our boys are in the sands of the deserts—Desert Shield. I refer to what we have before us as deficit shield. Desert Shield; deficit shield.

Are we going to respond to the needs of our children? In all of this talk, as I started to say a moment ago, I do not hear anyone talking about their grandchildren. Everybody is thinking about how he is going to be affected out there in the campaign. We listen to the drumbeats of the special interest groups. What about the voices of the voiceless—our grandchildren, our

children, our great-grandchildren? Are they represented here? They are voiceless.

We are passing on this tremendous debt and these deficits to the children and grandchildren who are not even knocking yet, knocking at the gates. They are being unheard of and unthought of.

We should remember them, think of them, and perhaps we will all stand a little straighter and a little taller and be a little more courageous. And we will pay less attention to the special interest groups if we listen and try to hear the faint whisper of the yet unborn or those who are our children or grandchildren today. They cannot speak here.

We are told in the Scriptures that who among you, if your son asks for bread, would give him a stone; or if he should ask for a fish, would give him a serpent; or if he should ask for an egg, would give him a scorpion?

These voices cry out and they are not being heard. I say let us think of our posterity. Let us think of our children. And let us put out of our minds and our mind's eye the special interest groups. Just for once. Perhaps the American people, then, would have a renewed faith in politicians. They would appreciate a little bit of candor, a little bit of courage on the part of their elected representatives.

Senior citizens of this country are patriots. They have worked in the fields, in the mines, in the harbors; they fought for their country. They are patriots. Others who are being asked to make a contribution in this reconciliation bill to this national problem are patriots. I believe if they were fully made aware of the trouble this country is in, the predicament in which this country finds itself, I believe they would be willing to be taxed a little more for the sake of their country.

The President had the courage to come out and say that he would support a tax increase. We have all made our glib statements and our political speeches about taxes—nobody wants to vote for taxes. I do not want to vote for taxes.

But as I said to Mr. Reagan in 1981, you cannot have a 3-year 10-percent-per-year tax cut, increase defense astronomically, and balance the budget all at the same time. Now, we cannot deal with this deficit, and it is getting worse and worse and worse, with the interest payment this year at $189 billion. That does not buy a single textbook; not one. That is the interest on the national debt. And it is going higher all the time.

Ten years ago it was $69 billion. Today it is $189 billion; $189 for every minute since Jesus Christ was born. That is the interest on the national debt.

I believe that if the American people were told the truth so that they understood the deficits and the national debt, the terrible things that are afflicting our country, they would be willing to give their share to deal with the problem. And we owe it to them to tell them the truth.

To my colleagues I say—to the distinguished Senator from Alaska [Mr. STEVENS]—a fine Senator, a Senator who has courage and backbone. I have seen him stand up in this Senate many times when he did not have many Senators standing with him. But he took a stand. The American people should be told the truth.

Esther, in the Old Testament—I will not tell the whole story; anyone can go to the Scriptures, and find in the Book of Esther where Mordecai, her cousin, said to Esther, "who knoweth whether thou art come to the kingdom for such a time as this?" I say to Senators, "Who knoweth whether thou art come to the"—Senate—"for such a time as this?"

This is a time when the country needs men. I will not take the time to recite the poem by J.G. Holland: "God give us men * * *"

Lycurgus the Lawgiver said it best when he said, "That city is well fortified which has a wall of men instead of brick."

I can understand why the American people are put out with the Congress. So many of us foul our nests; we badmouth the Congress; we run against the institution.

As one who reveres the history of this institution, I have seen men and women rise to the need of the moment in this Senate, during my time here. And I believe they can and will again.

Let us not be fooled by the glittering gewgaws of some of the amendments that are called up. Let us stand with the leadership in opposing the waiver of points of order and let us stand with the leadership in opposing amendments to the reconciliation bill, because that is the only way that we will resolve this problem. We are not going to wipe out the national debt or the deficit with this package alone. This is a start. It is a start in paying the bill and the tip for the feast on which the Nation has gorged itself during the past 10 years.

Benjamin Hill was a great Senator from the State of Georgia, and I am told that on his statue in Atlanta are these words:

> Who saves his country saves himself, saves all things, and all things saved do bless him. Who lets his country die lets all things die, dies himself ignobly, and all things dying curse him.

Let us not crucify the Nation on a cross of political expediency and political cowardice. Let us work to save our country!

I urge my colleagues to stand with the leadership in opposing waivers to points of order and in opposing amendments. Support the reconciliation and the leadership, because only in that way will we be able to make a start on the problem that confronts us, and only then will we merit the conference and the faith of the people who send us here. As Webster said at the laying of the cornerstone of the Bunker Hill Monument in 1825, "Let our object be our country, our whole country, and nothing but our country."

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, I yield such time as the Senator from Arkansas may consume.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I will only take 2 minutes of the Senate's time.

Mr. President, I would just like to rise in tribute to the distinguished senior Senator from West Virginia for giving a speech this evening on the floor of the U.S. Senate that is long overdue. I would like to compliment the Senator from West Virginia for the dedication that he has shown, not only in trying to resolve this particular budget crisis that we are in, but also in helping to educate and to illuminate the American public and even Senators, as colleagues of the distinguished President pro tempore, on some of these monumental problems and some of these critical choices that we have.

Mr. President, no other Member of this Senate could have brought that message more clearly, more forcefully, and with a greater commitment than the Senator from West Virginia. I am proud that I have had an opportunity, not only to serve with him, but I wish only that I could have stayed here during the entirety of his message. I hope many, many Americans watched that message because, today I think the impression that the American public is getting is exactly the opposite impression of what the Senator from West Virginia wants this Senate, and this House, and this institution, to become in the future.

Mr. President, I commend Senator BYRD for his speech, and I would like to say it is a privilege and a high opportunity to serve in this body with him.

Mr. President, I yield the floor.

Mr. STEVENS. Will the Senator from New Mexico yield me 2 minutes?

Mr. DOMENICI. I yield 2 minutes to the distinguished Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am pleased I was here to hear at least a portion of the statement of the distinguished President pro tempore, and to

once again witness his tremendous memory and intellect applied to the problems of our Nation.

I am delighted to hear this reference repeatedly to the unborn children and even to some who are born in terms of our children and grandchildren, and the burdens they will bear if we do not support this work of the leadership.

I am one who sought to be part of that leadership and was not, but I have watched with great interest the work of the leaders in these past few months. I know the time that they have committed to this package that is before us. I want to say to the Senator from West Virginia, that I agree with his injunction to the Senate to support this package, to take it to conference, and to see what we can work out. It does seem to me that it is a request that we should heed.

With the long service that the Senator from West Virginia has given to the Senate and to the country, I think it was very timely for him to bring that message to us tonight. I thank him for it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I want to join this evening in expressing my appreciation to the distinguished President pro tempore for the address that he has delivered to the Senate. The distinguished Senator from West Virginia is an historian of note, and perhaps is the most distinguished historian of the U.S. Senate in its history to simultaneously serve in this body. He has done, I think, the Senate and the country a service with his message this evening.

I want to add my voice to that of our distinguished President pro tempore in saying that I think it is a shame when Members of this body or Members of the other body, for that matter, rise to castigate the institution in which they serve. Frankly, I am proud to be a U.S. Senator. It is a culmination of a life's ambition for me, as it is for many of those who serve here.

This institution is a House of the people. It is a reflection of the American people. It reflects the strengths of the American people. It reflects, I think, the courage and the tenacity of the American people, and expresses the compassion of the American people. And conversely, on occasion, it may also reflect, to some degree, the flaws, the weaknesses, that we may have as a Nation or as a people.

But the distinguished President pro tempore, I think, does us all a great service. With his message here this evening, and as we reflect on his distinguished career in this body, I think he makes all of us proud to have served, not only in this Chamber, but to have served with him. He is, indeed, correct that this budget reconciliation that we are considering here this evening, may very well serve as the beginning building block in providing the resources to, once again, move ahead with the work that needs to be done on the domestic front in this country, both with our capital resources, and with our human resources.

But simultaneously with that, this budget reconciliation provision that we are considering here this evening, will not only be building domestically, but will also be conserving on the fiscal side in reducing our deficit by as much as $500 billion over 5 years.

I thank the distinguished President pro tempore for his message here this evening and calling these matters to the attention of our colleagues.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Did the distinguished chairman desire to speak?

Mr. BYRD. Mr. President, I simply wanted to thank my colleague for his very generous remarks. I apologize for speaking at considerable length.

While I am on my feet again, however, I want to pay tribute to the leaders who worked to put this package together. I saw Mr. DOLE at the summit almost every day. I saw the Speaker there. I saw Mr. PANETTA, the chairman of the House Budget Committee; Mr. SASSER, the chairman of the Senate Budget Committee; GEORGE MITCHELL, the Senate Democratic leader; and LLOYD BENTSEN, the chairman of the Finance Committee; Mr. ROSTENKOWSKI, head of the House Ways and Means Committee; and those on the Republican side of those committees: Mr. DOMENICI, Mr. HATFIELD, Mr. PACKWOOD, and others.

They worked long and hard and diligently, and I think they are all to be given great credit. We all received a good bit of castigation and criticism, but that is not the first time, I am sure, that we have had that experience in our lives. But this is a package that has now been placed before the Senate. I think it is one that should have the support of Senators. It is a bipartisan product.

I just want to pay my tribute to the two leaders and to the chairmen of the committees to which I have referred for the labors, the toils, and I would say almost, the tears they they have shed in attempting to do the work for all of us. It has not been easy. They are entitled to a tribute. They are entitled to the thanks of their colleagues, and they are entitled to my thanks.

Mr. DOMENICI. Mr. President, I want my friend from West Virginia, the chairman of the Appropriations Committee, former majority leader, to know that I sought recognition and yielded to him, and that I was going to also pay my respects and compliment the distinguished Senator for his presentation tonight. I watched a great deal of it, if the Senator is wondering; there are other ways to do that other than sitting here, and I am fully aware of the Senator's premise and the point the Senator was making.

I just want to say to the Senator that there has been a lot of comment about how bad this summit was. Frankly, if we get a $500 billion deficit reduction package, maybe, at least from this Senator's standpoint, it is probably worth all the grief we have taken, because I cannot conceive, in spite of others saying there was a better way, of the House and the Senate and the President of the United States getting that done any other way. I just do not believe, had we not set those targets and taken all that time to get educated and learn—and believe you me, there was a lot of learning to take place. Appropriators had to learn about entitlements, and everybody had to learn about budgeting and a little bit about defense and a lot about the process. So we had to reform all those and fix a lot of them. So that set the stage. So if it works, for myself, I will say it was worth it.

But I also want to say there were some other things that made it worthwhile. The distinguished chairman of the Appropriations Committee is one of those. He devoted a great deal of time, and, frankly, the personal relationships in getting to understand and to know each other was a very big plus, perhaps not for some but for this Senator.

I have now found that if there is one thing that really is important, it is integrity. I can say that when the Senator from West Virginia spends enough time figuring out what he wants to do and when he agrees, frankly in the future the Senator from New Mexico does not need anything in writing. We sure need things in writing in order to pass laws, but I am firmly convinced when the chairman sat in the room and said, "I will do that," I have watched the last 15 days since we finished and we did not have to go back and worry about whether that particular Senator would do it. He did it.

As we put together the package for reform of these processes, because everybody says this will not work unless there is reform in these processes, we had a lot of disagreements, but there stood the Senator who had made an agreement, and unless we had not agreed, let me tell you the Senator from West Virginia did not have to go to meetings. We just knew that if we called up and asked, did he agree, and if he said, yes, he agreed, you could count on him. That is how I see it.

I want to close by saying I think it is good that the Senator finished the presentation with that particular graph of the United States of America. I want to share my own thoughts with

the good Senator from West Virginia. Frankly, I have a new economic theory. I am not sure that I understand what is going to happen to this country from the spiritual standpoint. I do not know what might happen to our families, to our attitudes, to our sensitivity, more or less, our Judeo-Christian historic values. Obviously, if those continue to fall apart, I think we are gone.

But let me talk about the economy and my own new value, new concept because it comes from that chart.

Mr. BYRD. Will the Senator yield to allow me to thank him?

Mr. DOMENICI. I am pleased to yield.

Mr. BYRD. I thank the Senator for his kind references to me. I recall that when Senator Thomas Hart Benton, of Missouri, had an altercation with Senator Foote, of Mississippi, Senator Foote drew a gun on Senator Benton. This happened in the Old Chamber, I believe, down the way. Afterward, Senator Foote, who was a diminutive man in stature—Benton was a huge man—rose to say to Benton that he was going to write a little book and that Benton would have a big part in it, Benton answered, that he was going to write a very big book and Foote would have no part whatever.

I want to say to the distinguished Senator, my second volume will appear in the spring. I have about finished; the selection of pictures is going on, and galley proofs are being edited, and all those things. I have a little bit to do in it yet. But there is a part that I have already written, "the moving finger writes and having writ * * *"

I refer to some of the very bright Senators in this Chamber. I will not go into all of that now. But while I cannot in a book indicate the entire list of Senators who, with respect to my own impressions, loom large or loom small, I at least have mentioned a few names. I have mentioned the Senator from New Mexico, PETE DOMENICI, as one of the bright, effective Senators who sits on the Republican side of the aisle. I have mentioned some others, too. And there are some on this side whom I have mentioned.

But while I am saying what I think about the Senator from New Mexico tonight, I want to pay some credit to the President as well. The President made what I thought was an unwise campaign promise, but he had the courage when he saw the full picture, saw the real world as it is, he had the courage—and it takes a lot of courage—to say, "I was wrong. I changed my mind." He had the courage to say he would reverse his stand on taxes. Now, we ought to have the courage in this body, we ought to have the courage to take a stand that is difficult also. The leaders on both sides of the Capitol, as I have indicated already, have shown great stamina and dedication.

Credit should be given to all to whom credit is due. I thank the distinguished Senator, and apologize for interrupting him, but I thought he was then at a point in his remarks where he was going to turn away from the stage on which we were playing our little parts earlier.

I thank the Senator.

Mr. SYMMS. Mr. President, will the Senator yield for a question?

Mr. DOMENICI. Yes.

Mr. SYMMS. The inquiry is to the two managers of the bill. What is the intent of the managers of the bill? This Senator has waited all day long for a vote on my amendment. Are we going to get to a vote on the Symms amendment? Is that the plan of the leadership here tonight?

Mr. DOMENICI. Before I try to answer—of course I would like the chairman to answer. The majority is in control. Might I ask the Parliamentarian? How much time remains on the bill?

The PRESIDING OFFICER. Approximately 8 hours and 44 minutes.

Mr. DOMENICI. Equally divided?

The PRESIDING OFFICER. No. The time remaining to the majority side is 3 hours, 3 minutes. The time remaining to the Republican side is approximately 5 hours, 15 minutes.

Mr. DOMENICI. From my standpoint, I might say to my good friend, Senator SYMMS, I have about 4 more minutes of my comments, and I will inquire of the distinguished Republican leader if he is ready to proceed. If he is, and if the majority is, we will proceed. We will vote on the Conrad amendment one way or another, and then that will be followed by whatever occurs next.

I am not sure whether the time has all been yielded on the amendment.

The PRESIDING OFFICER. The Chair will advise the Senator from North Dakota he has 3 minutes 10 seconds remaining under his control on his amendment.

Mr. SYMMS. Might I make a further inquiry to the two leaders, the managers of the bill? In the event that the Conrad amendment would fall because of a point of order that I understood might be raised against it, it is my understanding that it is out of order. Then would it be the intention to go ahead and vote on the Symms amendment?

Mr. DOMENICI. I clearly cannot tell the Senator what the leadership position is. I am sure they do not intend to unduly delay. The Senator asked a very precise question. I do not have an answer to a precise question.

Mr. SYMMS. If the Conrad amendment is voted on, and passes, then what is the situation with respect to the Symms amendment? Is it completely modified?

Mr. DOMENICI. I have to ask the Chair that. Parliamentary inquiry.

The PRESIDING OFFICER. The question would then recur on the Symms amendment, as it is an amendment to strike language which would be modified by the Conrad amendment.

Mr. SYMMS. In other words, we would not get a clear up or down vote on the Symms amendment if the Conrad amendment passes? Would that be a correct interpretation?

The PRESIDING OFFICER. The question would occur on the Symms amendment to strike the language, which language would have been modified by the Conrad amendment, should the Senate decide to adopt the Conrad amendment.

Mr. SYMMS. What language would then be left in the bill?

The PRESIDING OFFICER. The Chair will advise that if the Conrad amendment passed, then the Symms amendment would strike the language of the bill as modified by the language contained in the Conrad amendment.

Mr. SYMMS. I thank the Chair.

Mr. DOMENICI. Might I say to my friend, we were not trying to delay this much longer. As soon as I can speak to the Republican leader—I do not know what the disposition of the Symms amendment will be, but as soon as the Senator is through with his time, I will seek the Republican leader, and we can proceed as rapidly as possible.

Do I have the floor?

The PRESIDING OFFICER. The Senator retains the floor.

Mr. DOMENICI. I yield myself 4 minutes.

Let me finish by saying to the Senator from West Virginia that I know he spoke of many aspects of American economic prosperity or lack thereof, and he closed with the notion of science in America, and what is happening to Ph.D. scientists, American style, American born, American citizens.

I was just going to suggest to the Senator from West Virginia that a very, very famous industrialist appearing before a committee about 2½ years ago said, when asked about the future of the United States—it used to be that the future of this country was tied to its basic resources. He said, "I regret to tell you that such is no longer the case." The future of this country is tied to knowledge, and we will rise and grow and prosper only as we understand and pursue the fact that knowledge, in particular science, physics, engineering and mathematics, are chosen by the best and the brightest for their future.

I believe with the passage of each month I look back at it, and say he is right, right, right. Then I look at what is happening to America, and I regret to say that there are two trends going

in the opposite direction. One is the constant growth of lawyers. More and more of the brightest and the best becoming lawyers; 40,800, Mr. Chairman, last year, 50 percent more than 10 years before, and growing almost exponentially.

The first theory of economics is that we will rise and grow and prosper in reverse order to the growth of lawyers. That is the first premise. I will not take credit for it. I will say that belongs to a very distinguished chief executive, Martin Marietta's chief executive, Mr. Augustine, who wrote a book, and one chapter is that. That is the theory.

The second one is the reverse. We will grow and prosper, absent falling apart from drugs and other things, in proportion to math, science, engineering, and that will be in direct proportion instead of reverse.

I regret to tell you that while the lawyer numbers are as I indicated, there were only 1,500 Ph.D.'s in physics and math produced last year in the United States that are American citizens, and American born. We have to do something about it. It is not easy. It is not all budgeting. But clearly we have to do our share.

I believe the country understands that those are the kinds of things we must do together. I also want to close.

I forgot to mention when I thanked the distinguished chairman for his 3, 4, 5 months of extraordinary effort and the Andrews effort. I forgot to tell him that I really have great respect for someone who is a partisan, a Democrat or a Republican, but when it comes to serious matters that affect the country, finds it relatively easy to be neither, and to be just a good American. I thank him for that because it has been very helpful to all of us.

I yield the floor.

Mr. BYRD. Mr. President, I thank the very distinguished Senator.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I, too, rise and commend the President pro tempore on his presentation, because the President pro tempore in his presentation, I believe, has captured the fundamentals that threaten the security of this country.

As I have said many times on the floor, I deeply believe that the greatest threat to our security, our national security, is our economic vulnerability. I have never seen a presentation—you can tell by the presentation of the President pro tempore—that so clearly identifies the problems that we have with the basis of a strong economy.

So I want to thank the President pro tempore for the time that he has taken to outline the things that leave us vulnerable, and the things that need to be done to make us strong.

Let me just conclude, Mr. President, with the presentation of my amendment.

Mr. BYRD. If the Senator will yield, I thank the distinguished Senator for his comments. I appreciate them very much.

Mr. CONRAD. Mr. President, I thank the President pro tempore for the effort that he has put forward in this process.

Let me say that it is from that same set of feelings about what needs to be done to strengthen this country that I, along with others, presented the amendment that we will vote on very soon.

Clearly, the Senate package is superior to the summit package. As I started this debate some 5 hours ago, I indicated that the problem with the summit package, from my analysis, was that it hit too hard at the middle income in this country. It hit too hard at the elderly sick. It hit too hard at the farmers in this country. It hit too hard at the rural areas.

We have designed a package to present to our colleagues to try to improve the package, to try to have one more fair to the middle class and to the other groups we have identified. We have done that by taking the top rate to 33 percent, which affects those who earn over $185,000 a year, increasing the alternative minimum tax for those who seek to avoid a tax liability, and a 10 percent surcharge on those who have incomes of over $1 million a year. Then we have moved to reduce the gas tax, reduce the hit on the elderly sick, reduce the cut in agriculture, and reduce the impact on the rural areas.

The PRESIDING OFFICER. The Senator's time has expired.

All time on the Conrad amendment has expired.

Mr. SASSER. Mr. President, I yield such time to the majority leader as he might require.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, this is an ironic moment for me. Four-and-a-half years ago when the Senate was considering the Tax Reform Act of 1986, I stood on this Senate floor for an entire day and offered an amendment to provide for a three-rate tax schedule. The maximum marginal tax rate had been 70 percent until 1981, when it was reduced to 50 percent. And in 1986 we debated on how much further to reduce it.

President Reagan proposed and advocated a three-rate structure with a maximum rate of 35 percent. I agreed with President Reagan, and when the committee went to a two-rate structure of 15 and 28 percent, I attempted to persuade the Senate that we should have a three-rate structure at 14, the lowest bracket, then 28 and 35 percent.

I presented on the Senate floor a number of charts which are similar to those which the Senator from North Dakota has presented here tonight. And following the defeat of my amendment and the passage of the Tax Reform Act with a two-rate structure, I requested a series of studies by the Congressional Budget Office which produced the data which are on the charts the Senator from North Dakota has and are based on a series of subsequent studies building on that information. I still believe there should be a three-rate structure, 15, 28, and 33 percent, for many of the reasons suggested by the Senator from North Dakota and others, and for still further reasons not mentioned here this evening.

I believe that would be the most simple, logical, straightforward, and most important, fair method of dealing with the problem of fairness in the tax structure and raising the necessary revenue to address the problem we are here seeking to address.

But the reality is, Mr. President, that President Bush has stated clearly and unequivocally his intention to veto any legislation which includes a 33-percent tax rate on higher-income taxpayers. My proposal has consistently been that the third rate of 33 percent should apply to those taxpayers at the upper end of the bubble. Notwithstanding what I believe to be the logic and fairness of that argument, the President has been consistent and emphatic in his statements that he will veto any such legislation.

Therefore, we are now faced, again, with a problem which we confront regularly here in the Senate. It is whether we wish to make a statement or make a law. Adoption of this amendment will make a very strong statement. It will result in no law. Rejection of the amendment will permit us to go forward to make a law which, while not completely consistent with what the Senator from North Dakota has proposed, will still produce a fair and progressive tax package that deals with the deficit problem.

How can that be accomplished? Well, of course, as we all know, raising the top rate is not the only mechanism by which taxes can be increased on those at the very top of the income scale. There are a variety of other means by which to accomplish that objective.

The tax package that is included in this reconciliation bill, the basic bill now before us, does that in three ways. The first is a relatively modest and imprecise method of accomplishing the objective, and that is an excise tax on the purchase of certain luxury items. The second and third, however, are substantial and very precise mechanisms for accomplishing that purpose.

They are, first, an increase in the wage cap for the health insurance portion of the FICA or better known as the Social Security tax. Under current law, income in excess of $52,300 is not subject to that tax. This bill increases that amount to $89,000. By definition, that applies only to those persons whose incomes exceed $52,300 a year. It does not and, of course, cannot apply to those whose incomes are below that level because they are already paying a tax on the full amount of their earned income.

The third and largest, most substantial, and most precise mechanism for raising taxes from those at the very top of the income scale is the limitation on deductions now set at 5 percent in this legislation which, again, by definition applies only to taxpayers whose adjusted gross income exceed $100,000 a year. So any taxpayer whose adjusted gross income is less than $100,000 a year is unaffected by this provision.

The combination of those three provisions raises in excess of $50 billion or nearly half of the total amount of taxes, the net of $130 billion being the target under this legislation, and it raises it for higher income groups, primarily from those whose incomes exceed $100,000 a year.

So, Mr. President, I want to say to the Senator and to my colleagues and especially to those who will be disposed to support this amendment, if this amendment prevails and we get no bill, we will not only fail to address the problem of the deficit, which is, after all, our principal target here, our main objective which we ought always to keep in mind, but second, we will leave in place a tax structure that is less progressive than it would be if this bill were adopted, not as progressive as if the Senator's amendment were adopted, but we know that is not going to become law because the President has said repeatedly and unequivocally that he will veto it.

I do not happen to agree with the President on that. I think he is wrong. There is no Member of this Senate who has spoken more often and consistently for a need for a third rate to apply to those with very high incomes than myself. But in the circumstances in which we now find ourselves, if we adopt this amendment, we assure no deficit reduction package and the resulting chaos which will flow from that decision and we assure that the tax system now in place remains in effect with neither the 33-percent rate nor the other provisions which raise taxes on the very wealthy that are included in the bill.

So the reality is if one believes that the tax structure should be made more progressive, as I believe many of our colleagues do, understand then that adoption of this amendment retains the current tax structure which is less progressive than it would be if we adopted the committee bill.

I wish it were otherwise. I wish we could get not just the votes to pass the 33-percent rate, but the 67 votes necessary to override the veto. The reality is that we cannot. So, as is so often in the case in life generally and certainly in the political process, we must play with the cards that are dealt to us. We must deal with the situation as it exists and the situation as it exists is as I have described it.

So while I commend my colleague for the presentation he has made—and I emphasize my agreement with the importance of piercing the bubble and having a third rate and have a more progressive tax structure—I must say and repeat to all of my colleagues that adoption of this amendment will prevent the adoption of a more progressive tax structure which would result from the committee bill now before us and from the results of the conference.

And, remember, we are going to conference with the House bill that is much more progressive than either this bill or the current tax structure.

So with the greatest of reluctance, and with respect for my colleague, I must ask and encourage all Members of the Senate to join in refusing to waive the Budget Act for this amendment so that we can proceed to get the job done, so that we can get a bill passed and get in a conference and get a conference report and have written into law the most meaningful deficit reduction legislation in our Nation's history. That is what we started out to do. That is what we should finish doing, and I hope we can do it before the Friday midnight deadline.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. DASCHLE). The Republican leader is recognized.

Mr. DOLE. Mr. President, I want to just briefly underscore what the majority leader has said.

I guess, as we look back over the past 2 or 3 months, many of us have been involved—maybe we cannot see the forest for the trees—but we have been involved in this process at different stages for several months and knowing at each step of the way that somebody probably had a different plan or a better plan but that our responsibility was primarily deficit reduction.

We were not going to write a new tax bill or see how many new taxes we could think of, or go after the "rich," whoever they are, but to try to find a $500 billion deficit reduction package that would have a majority of my colleagues on that side and a majority of my colleagues on this side and that would pass the House and be signed by the President.

I think many of my colleagues in the Senate probably chuckled when the House stumbled here 10 days ago and said that never happened over here. I hope it does not. But this is our first test. We thought we had the votes for the budget summit, we did not have the votes. I am with you particularly since you did not vote; I know I am with you.

Then we had the budget resolution that did not mean anything—it meant quite a bit, but not everything. We did not specify, so I will vote for this.

See now we are getting down to the nitty-gritty. It is payoff time. We have to tell the American people we are going to provide leadership and in some cases whether they like it or not because we are concerned about the future of America, and their children and their grandchildren, and their farms and their businesses, whether it is rural America, or whatever.

I do not have any particular quarrel with Senator CONRAD except I do not like his package. He has more new taxes that we have not even considered going to eliminate the bubble. I have been out here telling how the bubble really works, that it is progressive and it was praised by Democrats and Republicans alike in 1986 as being a way to have progressivity in the Tax Code and still make certain the upper incomes paid a higher rate and nobody paid more than 28 percent average rate, and a number of my colleagues in the Senate wanted a 15-percent flat tax. There is about a rate of 28 percent; you get a 15 and then 28.

I recall my colleagues from, I think, Arizona, Senator DECONCINI, and others who advocated a 15-percent flat tax, no deductions, no exemptions.

If you understand the bubble, once you come out of the bubble, you have lost your exemptions and you have lost the benefit of the 15-percent rate. Most people in the bubble paid maybe 20 or 25 percent and when you are outside the bubble you are paying 28 percent. That is the upper income, and that is how it works.

So the tax bubble being eliminated in my view does not make the Tax Code more progressive. It does not tax the rich.

While it is hard to understand, I think if the American people understood it—and more and more people are understanding it. In fact, I will repeat that I heard from a lady named Mary Harding in Charlotte, NC, who said she was neither Republican nor Democrat; she was not registered to

vote. She said a pox on both our Houses. She had been convinced by the media and the Democrats that the Republicans were the party of the rich and she convinced herself that the Democrats were the giveaway party. She was unemployed.

But she listened to me explain the bubble. I had some good notes and a good staff.

She said, "I didn't know whether to believe it or not so I checked it out. So I got out my computer." She said, "I am unemployed. I have lots of time. I computed those with incomes of $3,500 all the way to $1 million." She said, "You know what? You are right."

So I said to myself, I finally convinced somebody that the bubble should not be burst and it turns out she is not registered to vote, and she lives in the wrong State. [Laughter.]

But there may be other Mary Hardings out there. If the media would tell the story, as the New York Times did it in last Saturday's edition about the bubble, instead of somehow fuzzing it up and saying this is something that helps the rich or taxes one income group at a higher rate than the rich, which is not true, then we would not have this debate.

Minimum tax increase; well, I guess that is all right if we want to make certain everybody gets to pay some taxes. And we try to put a lot of preferences in that group to make certain that happens. Who could pass up one like a surtax for millionaries? That is almost too good to be true. Who could be against that? Well, probably quite a few in this Chamber, come to think of it. [Laughter.]

But not me.

But they will rise above principle and vote to tax millionaires anyway. That is the courage we have in this body. That is about the easiest target. Big oil and millionaires are about the easiest targets in the country. So we ought to give them a little shot.

I could repeat—I will not do it now but I hope to before the debate—the statements by the former Speaker, Speaker O'Neil and my good friend Chairman ROSTENKOWSKI and others in the House who are now in very prominent leadership positions, saying the 1986 Tax Code was the best thing that ever happened. We went after the rich. And the word fairness was used a dozen times by these speakers saying finally the Tax Code is fair. Well, that lasted 4 years. And we have not changed a thing.

Suddenly now it is unfair. Somehow the rich, who were being properly treated in 1986 are not being properly treated today.

Then we want to scale back. This is called the all-American plan. Everybody gets something. And we do not get anything. We do not get a package.

So I want to join the majority leader in suggesting that I think this is a testing time. This is a time we sort of have to belly up to the bar and say, well I think I better either stop making those deficit reduction speeches back home, maybe stop saying, well I want to cut the deficit but I do not want to do it this way, I want it my way. I do not have any votes, but I got mine. And if I could write a package, believe me, I would reduce your deficit in X State or Y State or Z State. But, unfortunately, it does not work that way. We have to have a majority.

I have to believe the American people are probably, as they usually are, about 6 months to a year ahead of Congress. In any event, they wonder what we are still doing here. We are working on this deficit reduction package. They cannot understand why we do not make the decisions. They are going to be painful.

Maybe this would be a recipe for a painless deficit reduction.

But in my view, despite the ridicule heaped upon the summiteers, they were Republicans, Democrats, and House Members and Senators who spent a lot of time, members of their staffs. Maybe we did not do it right. But we did come up with a $500 billion package over 5 years, which is historic as far as this country is concerned.

So now we have an opportunity to keep it going. I think there are 30-some amendments pending and they ought to all be defeated. We ought to go to conference with the House and we ought to sit down with the conferees and try to come back to the Senate with a conference report that we can pass and the President of the United States will sign.

One way to end the evening, get home early, is to adopt this amendment, because that would certainly be the end of the package. It would be all over. There would not be any need to do anything else. And I think that is going to be the case with a number of these amendments. We have to make a judgment that we have to decide. We cannot postpone it.

Let me just say one word about agriculture, because I share the views expressed by my friend from North Dakota and Presiding Officer and my friend from Iowa and others who represent farmers.

Farmers took a pretty good cut. Most of it is real. And it is very attractive to say, "well, I would like to change that, too."

As I have indicated to some of my friends, maybe there is still a way we can ease it somewhere in the conference.

I see the chairman walking on the floor.

It was not easy. In fact, it lasted until 4 o'clock in the morning, I understand.

But I do want to remind my colleagues that farmers are also concerned about inflation and interest. We can tinker around with what we call target prices or loan rates, but if the interest rates are going up and inflation is going up the farmer is not going to make it in any event.

A 1-percent-farm-inflation increase is going to cost the average grain/livestock farmer about $3,100 over 5 years and a 1-percent-interest increase is going to cost about $1,500 over 5 years for a total of about $4,650. You could change the target price considerably and the farmer would still be much worse off.

On the average, wheat farm inflation increased 1 percent, about $1,850; over 5 years, a 1-percent-interest increase would cost about $900; that cost to the average wheat farmer is $2,750. If you increase the target price 1.4 percent, that cost is $500.

So my point is that interest and inflation are the real enemies to the American farmer. It is not the amount of the subsidy. But I do believe that, and I hope we can find some way in the reconciliation process because the Agriculture Committee has completed its work. The conference has been completed.

There is still one provision that I think needs attention and that is where we already have the crop in the ground and where we cannot maybe absorb the so-called triple base in the first year if you happen to be raising wheat.

But in any event, the bottom line is, as much as I respect the Senator from North Dakota, and I do, I am constrained at this point, pursuant to section 305(b)(2) of the Budget Act, to raise a point of order that the pending Conrad amendment is not germane.

Mr. CONRAD. Mr. President, pursuant to section 904(b) of the Budget Act, I move to waive the relevant provisions of the Budget Act.

I make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CONRAD. The inquiry that I would direct to the Chair is, as I understand it, the motion to waive the Budget Act is debatable, and I would have 1 hour.

The PRESIDING OFFICER. The Senator is correct.

Mr. CONRAD. Would it be appropriate at this time then that I start on that time?

The PRESIDING OFFICER. The Chair would inform all Senators that the time will be equally divided between the Senator from North Dakota and the majority manager.

Who yields time?

The Senator from North Dakota.

Mr. CONRAD. Mr. President, I yield myself such time as I would consume.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CONRAD. I would notify the leadership that I certainly do not

intend to consume the time available. But there have been arguments advanced here that I think require a response and I will do my best to make it a brief one.

First of all, I want to indicate to the majority leader and to the Republican leader the great respect that I have for them both. I think they have been very strong through a difficult time. Both of them have had to compromise on matters that they would rather not.

I especially recognize the difficult position of the majority leader. I certainly recognize that he has been a foremost advocate of making the tax structure more progressive.

I would acknowledge that the Republican leader is partially right in his argument on the bubble. But he is dead wrong when he suggests that my package is not more progressive, because it certainly is.

It clearly is. Going to a 33-percent marginal rate for couples earning over $185,000 from the current marginal rate of 28 percent is more progressive. The alternative minimum tax increase is more progressive. A 10-percent surtax on those with incomes of over $1 million a year is more progressive. Reducing the gas tax is more progressive. Reducing the cut for the elderly sick is more progressive. Reducing the farm cuts for our Nation's farmers, who have taken by far the biggest share of the cuts in this package, is more progressive.

Those are the issues that are before my colleagues when they vote on this measure tonight.

Finally, I would simply argue to those who say we cannot change this package in any way or the President will say, "No, no; veto"—I am not ready to give up. I am not ready to say let us not even try; let us not even try to send the President a package that is more fair for the middle class, more fair for the elderly sick, more fair for the farmers of this country, more fair for the rural areas.

It seems to me we ought to give the country that opportunity. And we have a chance tonight to pass a package that would meet those goals.

I urge my colleagues to understand that this point of order is simply a technical point of order that says my amendment is not germane because it introduces a new subject. Well, the new subject is a tax structure that is more fair for the middle class—more fair for the middle class. And because of the technical rules of the Chamber, that will allow the other side to bring a point of order.

There is no question that my package deals strictly with the package of deficit reduction that is before this Chamber. That is exactly what my package addresses.

Finally, I urge my colleagues to vote to waive this Budget Act, to send a signal to the conference that we want them to come back with a package that is more fair.

I yield the floor. I am ready to vote.

Mr. REID. Mr. President, I must rise in opposition to this amendment. There is a lot in this amendment that I support. I believe that if taxes must be raised to help balance the budget, they should be raised on those who can best afford to pay. That is why I support busting the bubble in our tax structure.

As someone who represents a large population of senior citizens—they make up 35 percent of the voters in Nevada—I also support reducing the increased health costs imposed on our senior citizens by this budget package.

I would also like to see the proposed gasoline tax increases reduced.

However, I cannot in good conscience support a tax increase to provide greater subsidies for agriculture.

Is it good, responsible, public policy to dole out Federal dollars to as many farmers as possible? If the original intent of the Agricultural Adjustment Act was to keep as many Americans as possible on the farm, our programs have failed miserably: Since 1933 the U.S. farm population has fallen from 30 million to less than 5 million.

I am ashamed to say that what was once intended to assist Americans in rising out of the depths of the Great Depression has departed from that vision and become a policy ridden with disincentives to efficient production—the nightmare of any free-market nation.

According to the USDA, there were 2.2 million farms in the United States in 1988. Yet the USDA classifies a farmer as anyone who sells over $1,000 a year in farm commodities. This means that if my neighbor sells his horse for more than $1,000, USDA classifies him as a farmer. Needless to say, USDA farm statistics are grossly skewed by this inclusion of $1,000 a year "farmers" who are obviously not earning a living in this endeavor. In spite of the inclusion of these gentlemen farmers, the 1988 average net farm income of all U.S. farmers was a healthy $45,644 a year.

In 1986, 55 percent of the USDA's so-called farmers' income came from off the farm. This could come from occupations such as teaching and consulting, or even investment income. Farmers are relying less and less on actual farm income. Because of the USDA's generous definition of farmer, it often appears that the American farmer is truly in a crisis position. Perhaps he is, but who could be sure with such deceptive accounting by the USDA?

By refusing to make a responsible classification of just who is and is not a farmer, the USDA guarantees the overspending of billions of our tax dollars.

Since the New Deal era, it has been proclaimed that farmers have a right to their cost of production. This says that if a farmer grows a certain program crop, the taxpayer is obliged to pay for it, and provide him a profit, too. If farmers have a right to the cost of their production, then why are we not subsidizing all fruits, vegetables, and livestock? If economic arguments for subsidizing the commodities which we do made sense, then no one would produce commodities not protected by Government programs.

In any other business, an owner must either lower his costs of production, or try another business if he cannnot make ends meet. Our taxes are increased when farmers of certain commodities can't stay afloat.

How can it be logical to subsidize certain foods we eat and not others? Who has the right to decide for us what we will and will not eat and what price we will pay for it? Why have we not pegged the price of a dozen eggs, or a pound of hamburger or chicken? I find it hard to accept Americans will go hungry if farmers are allowed to stop idling their land and are permitted to grow whatever they want, and as much as they want. Why do price fluctuations, heavy debt, and bad weather affect farmers of some commodities and not others? Why are some farmers dependent on government programs, and not others? It just does not make sense to me.

Current agricultural policy seems to be based on the assumption that America will benefit from federally mandated inefficiency and waste, rather than allowing farmers to produce at maximum productivity.

Supporters of farm programs often justify them based on farmers' needs. But since the New Deal, the programs have not targeted benefits according to need. It is morally inappropriate to provide farm program benefits to all but the most needy. Why should any but the most destitute farmer be treated better by the Federal Government than any other American citizen? Prevailing agricultural policy assumes that the Federal Government treats all farmers equitably and ethically. This is not so. Providing agricultural subsidies to affluent farmers contradicts the realities, priorities, justice, and moral principles important to most Americans.

Some argue that our Nation's food supply needs protecting. While no one would dispute the importance of food to our survival, controlling its supply was not the original intent of our programs initiated during the Great Depression. There are many other goods and services crucial to our well-being which are not directly subsidized. Medicine is vital to our well-being. We do not, however, subsidize doctors, and Government-provided health care is

available only to the poorest of the poor who are lucky enough to obtain it. Clothing is essential to us, yet our tax dollars do not subsidize textile mills. If there was a moral imperative to provide our citizenry with what we politicians deem are necessities, we would not be able to afford to subsidize prosperous farmers the way we do. This is the sort of Government intervention which creates victims. We cannot reward economically one group without punishing another group. What is lavished on wealthy farmers must first be taken from other citizens. In a free market society, what gives one citizen the right to another's paycheck? In order for Government to control agriculture in our country, we insist on subsidizing wealthy farmers. By doing this, the poor are sacrificed again, and again, and again.

The moral and economic debate for Government control over agriculture either includes all sectors of agriculture, or no sectors of agriculture.

Our farm programs are in need of fixing for several reasons. One, our food prices can and ought to be lower, two, we need not spend billions of dollars a year on agriculture in these times of tightening budget constraints, and three, since the moral and economic arguments for farm subsidies hold no water, program benefits should be targeted to the neediest farmers, period.

I am not alone in my belief that the distribution of agricultural payments is grossly disproportionate. When the National Public Policy Education Committee surveyed 12,000 American farmers—farmers, I repeat—it was found that 53 percent of these people agreed that agricultural programs should give more benefits to needy farmers. This tells me that farmers, like other Americans, recognize that our limited resources need to be carefully distributed.

I hope, Mr. President, that we will have the opportunity to vote for busting the bubble. I will support that. I also hope that the benefits gained by busting the bubble can be used where it is really needed—to avoid increasing health costs to our senior citizens; to avoid other more regressive tax increases; and to help balance the budget. However, I cannot vote for increasing taxes to subsidize agriculture.

Mr. AKAKA. Mr. President, I rise in strong support of this revenue-neutral amendment offered by my colleagues, Senator BAUCUS and Senator CONRAD. I am supporting this alternative to the Finance Committee package because it brings us closer to the more equitable package adopted by the House last night. It takes the right steps toward reducing the Federal deficit.

As importantly, it removes the disproportionate burden placed on elderly and disabled Medicare recipients and scales back the gasoline tax to 5 cents a gallon.

It's wrong to say this amendment is an attack on the wealthy. I don't see how anyone can oppose fair taxes on those earning more than $200,000 a year. This amendment ensures that the wealthiest few pay their fair share. By piercing the tax bubble, the measure would return fairness to our tax structure.

The amendment correctly rejects the Finance Committee proposal to disproportionately increase out-of-pocket expenditures for elderly and disabled Medicare beneficiaries. By limiting the current $75 per year deductible for Medicare part B to $100, the measure ensures that the elderly, particularly lower income beneficiaries are not pushed over the poverty line.

Mr. President, the key provision of this amendment that directly affects Hawaii's consumer is a rollback of the gasoline tax to 5 cents a gallon. The Finance Committee proposal would more than double the current 9½ cents a gallon tax to 18½ cents. We already pay a higher toll at the gas pump than any other State. A month ago, I saw gas being sold at $1.98⁹/₁₀ a gallon. To ask that Hawaii residents shoulder a further increase in gasoline prices is out of the question. We already know that lower and middle-income families use more of their income to pay for gasoline than wealthier drivers.

Again, the issue is fairness. And again, this proposal gives us a program that remedies the dramatic shift in the tax burden during the 1980's.

Mr. BRADLEY. Mr. President I am voting not to waive the Budget Act on the Conrad amendment. The reason is not that I don't support the Senator's intention to increase the Tax Code's progressivity by creating a 33-percent rate and imposing a 10-percent surtax on those with incomes over $1 million. I support both of these proposals with one important proviso—that the revenues raised by increasing the tax burden on the wealthiest taxpayers be used to insulate middle-income families from the impact of deficit reduction. The amendment before us does not do that. Instead, it uses a large portion of the additional tax revenues to restore funding to agricultural programs. In other words it raises taxes on people in New Jersey and sends the revenues to North Dakota.

Mr. President, one of the few things I like about the pending legislation is the substantial cuts in the Federal role in agriculture. Spending on agriculture is reduced by $13 billion over the next 5 years. That is real progress, although my own preference would be to cut these programs by twice that amount. The Conrad amendment would restore almost 50 percent of those cuts. That would be a mistake, not just in terms of equity but also in terms of the long run productivity and efficiency of the agricultural sector.

Accordingly, I will oppose the amendment in the expectation that the Senate will shortly consider an amendment to be offered by Senators GORE and MIKULSKI that will also raise the top tax rate to 33 percent and impose a 10-percent surtax on millionaires but use the revenues to delete increased costs for Medicare recipients and remove the limits on itemized deductions. The use of increased revenues from the wealthy for that purpose is more appropriate than sending those revenues to North Dakota and a few other States.

The PRESIDING OFFICER. Who yields time? Does the Senator yield back the remainder of his time?

Mr. CONRAD. I yield back the remainder of my time if the other side does.

Mr. SASSER. Mr. President, we yield back the remainder of our time.

The PRESIDING OFFICER. All time having been yielded back, the question occurs on the motion.

The Chair would advise Senators the yeas and nays have not been ordered.

Mr. SASSER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered.

The clerk will call the roll.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 32, nays 67, as follows:

[Rollcall Vote No. 277 Leg.]

YEAS—32

Adams	Cranston	Kerrey
Akaka	Daschle	Kohl
Baucus	DeConcini	Lautenberg
Biden	Exon	Leahy
Bond	Gore	Mikulski
Boren	Graham	Pell
Boschwitz	Grassley	Pressler
Bumpers	Harkin	Sanford
Burdick	Heflin	Simon
Cohen	Jeffords	Specter
Conrad	Kennedy	

NAYS—67

Armstrong	Domenici	Kasten
Bentsen	Durenberger	Kerry
Bingaman	Ford	Levin
Bradley	Fowler	Lieberman
Breaux	Garn	Lott
Bryan	Glenn	Lugar
Burns	Gorton	Mack
Byrd	Gramm	McCain
Chafee	Hatch	McClure
Coats	Heinz	McConnell
Cochran	Helms	Metzenbaum
D'Amato	Hollings	Mitchell
Danforth	Humphrey	Moynihan
Dixon	Inouye	Murkowski
Dodd	Johnston	Nickles
Dole	Kassebaum	Nunn

Packwood	Rudman	Thurmond
Pryor	Sarbanes	Wallop
Reid	Sasser	Warner
Riegle	Shelby	Wilson
Robb	Simpson	Wirth
Rockefeller	Stevens	
Roth	Symms	

NOT VOTING—1

Mr. Hatfield

So the motion was rejected.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls. The amendment is not germane.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3014

Mr. MITCHELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for himself and Mr. DOLE, proposes an amendment numbered 3014.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. MITCHELL. Mr. President, this amendment maintains the amount of the gas tax increase that is in the pending bill, but it modifies the allocation of receipts from that tax to the highway trust fund so that 60 percent goes to the trust fund and 40 percent in deficit reduction. That is an increase in the amount allocated to the trust fund over the 50-50 split that is contained in the pending bill.

The gas tax increase would still sunset in 1995 as it does under the current bill.

The amendment also contains a sense-of-the-Senate provision stating our intention to modify the diesel fuel tax applicable to the railroads to 40 percent when we reach conference. That is to accommodate that increase to the proportion that goes to deficit reduction as opposed to the trust fund.

Many Senators have expressed an interest in seeing a higher proportion of the revenue from the gas tax going to the highway trust fund as opposed to deficit reduction. The bill now provides a 50-50 split. This substitute, which I offer on behalf of myself and Senator DOLE, would modify that allocation so that 60 percent goes into the highway trust fund and 40 percent goes to deficit reduction.

Mr. President, I yield to my colleague.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, let me indicate that I will offer a second-degree amendment when the time on the first-degree amendment has expired. I understand there are 2 hours allotted to the first-degree amendment and 1 hour for the second-degree amendment, but I do not think we will use all that time. In fact, I would inquire of the majority leader at this time—I have had a number of inquiries on this side of the aisle—as to the program for the balance of the evening.

Mr. MITCHELL. Mr. President, as all Senators know, the deadline for completion of action on the reconciliation conference report is midnight Friday. So we must work backward from that time. That means we must complete action on a conference with the House after we complete action on this bill. It is imperative, therefore, given the complexity of the issues and the differences in the legislation, that we complete action on this bill as soon as possible.

After we deal with this amendment—and it is not my intention that we use the full 2 hours. I think we can use a very small proportion of that, unless other Senators wish to address the subject. It is a relatively simple and straightforward modification. I propose to discuss the matter with the managers, discuss how best to proceed this evening and tomorrow.

There has never been an all-night session since I have been majority leader, and I hope we do not start tonight. But we have to finish this bill, and it requires cooperation by all Senators.

We are going to have to discuss with the managers what is the best way to proceed, what number of amendments are intended to be offered, and hopefully discuss with some of those Senators whether or not they might be willing to forbear in the interests of not being in all night and after completing action at a relatively early hour tomorrow, because we have to be in conference tomorrow.

The conference with the House must occur tomorrow. We still have, I am estimating now, about 8 hours remaining on this bill. In fact, I might inquire of the Chair, how much time is remaining?

The PRESIDING OFFICER. Approximately 8 hours.

Mr. MITCHELL. Approximately 8 hours.

Mr. BENTSEN. Will the majority leader yield for a point?

Mr. MITCHELL. Yes.

Mr. BENTSEN. If we go on through the night, we have staff working through the night also, and then try to go into the complexities of a tax measure with the House of Representatives and the Ways and Means Committee, we have an incredible task in front of us. So I would strongly urge that we try to expedite this as much as possible.

As the majority leader has said, we are talking about moving from 50-50 trust funds to 60-40. That is a relatively minor modification and should not take too long to debate.

Mr. DOLE. Will the majority leader yield further?

Mr. MITCHELL. Certainly.

Mr. DOLE. In addition to knowing what the schedule will be this evening, a number of my colleagues would like to know what it will be the rest of the year. Some would like to get out Saturday night sine die, including this Senator. Others may be as late as Sunday with a few thinking it probably would not happen until Monday. They probably are in the majority.

But if we complete action on this, I understand that we could probably go to conference tomorrow evening on the bill, and of course the primary conference will be Ways and Means and Finance. I understand that may be ready by tomorrow evening.

It seems to me if we came in early tomorrow morning we would still complete action on this bill even if we use every minute of the 20 hours by 4 or 5 o'clock tomorrow afternoon.

The House with 435 Members did this in 4 hours. We only have 100, but it is taking us 20 hours. I guess that says there is a difference in the two bodies.

I know there are probably 30 amendments still pending. As I understand it, if we get to the end and you have not had a chance to offer your amendment, you can offer it and have a vote without debate. So everybody will have a chance to have their amendments voted on.

But I would like to encourage my colleagues to let us yield back a little time. Maybe if we could yield back a couple hours, we could go home now, and that would leave 6 hours tomorrow; and come in at 9; be finished by 3 o'clock. But if nobody wants to yield back time, I do not think the majority leader has any choice but to stay here and eat it up. We can eat up 3 hours with the amendments, the first- and second-degree amendments we have. So I would be willing to do that. That would be 3 hours. That would only leave 5 hours.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. MITCHELL. Certainly.

Mr. STEVENS. I address a question to both leaders. The problem with the bill as it stands now is it has material subject to the Byrd rule, in my judgment. The reason for some of us opposing yielding back the time is that if the Byrd rule is not applied we each need time to discuss the extraneous material. I would like to encourage the leaders to address that question, and

to tell us is there an intention on the part of the leadership to take action to apply the Byrd rule across the board to this bill?

Mr. DOMENICI. Mr. President, will the majority leader yield?

Mr. MITCHELL. I yield to the ranking manager and the manager.

Mr. DOMENICI. The delay was not caused, I say to my friend from Alaska, because we have not been working on that issue. We have. I think it is safe to say that we are fully aware of his concern. We intend to work together with a list of extraneous material, and present it in the earliest part of the morning to see if we can get some concurrence to offer that in behalf of the leadership, and perhaps the distinguished author of the amendment, Senator BYRD, who has indicated he wants the extraneous material removed.

We are going to work on that I say to my friend. I cannot assure him at this moment that every single bit of extraneous material in this bill is on the list. It is subject to interpretation. We are working on it, however. We are going to try to get it done in a reasonable manner.

Mr. STEVENS. Mr. President, if the distinguished leader will yield once more, I urge the leaders on both sides to defer yielding back the time. This Senator would be perfectly willing to a limitation of 10 minutes on each side if we apply the Byrd rule uniformly to the materials that are in this reconciliation proposal which are extraneous and ought to be stricken.

Mr. MITCHELL. The Senator from Alaska has raised a relevant and important issue. We will discuss how best to proceed in that regard. I will discuss it with the distinguished Republican leader, and the managers. We have already done that previously. I know they have been working on it with their staffs very actively. We will discuss that.

Mr. SYMMS. Mr. President, who has the floor?

The PRESIDING OFFICER. The majority leader retains the floor.

Mr. SYMMS. Will the majority leader yield for a question? The Mitchell amendment that is now pending affects the Symms amendment to strike the gas tax from this bill. Will the Senator from Idaho be able to have any time to speak on the Mitchell amendment?

Mr. MITCHELL. Certainly.

Mr. GORE. Will the majority leader yield?

Mr. MITCHELL. Absolutely, yes.

Might I make an inquiry? My understanding is that there are 2 hours on this amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. MITCHELL. Since it affects the amendment of the Senator from Idaho, it is my intention that the Senator from Idaho have whatever time he wishes within reason.

Mr. SYMMS. I do not need a long time. I would like to explain to my colleague what happened.

Mr. MITCHELL. Certainly. Might I complete this?

Mr. GORE. Will the majority leader yield? I respect very much what both leaders are attempting to do. I feel that it is understandable. Nevertheless, some of us do have some amendments which we would like to discuss, not for a long period of time.

The junior Senator from Maryland, Senator MIKULSKI, and I have an amendment which we would like to introduce for the Senate's consideration. We are perfectly willing to enter into a time agreement and not spend a lot of time on the amendment.

Again, I understand what the leaders are trying to do but let us be clear about one thing. The process by which the Senate considers this measure is not intended to give solely to two, or three, or four Senators so much prerogative——

Mr. SASSER. May we have order, Mr. President?

Mr. GORE. To design the outcome that other Senators——

The PRESIDING OFFICER. The Senate will be in order.

Mr. GORE. If the majority leader will continue to yield, the procedures are not intended to give so much power to the leaders as to preclude totally the opportunity of other Senators to engage in a reasonable effort to bring up issues that ought to be considered by the Senate.

I will say that regardless of what the Senate decides on the amendment which the Senator from Maryland and I intend to propose, I will support the leadership package whether it passes or does not pass. If it happens to get enough votes to make a point, I think the Senate will be all to the better. If it happens to pass, I think it will be better still. But I would like to have an opportunity other than at 4 o'clock in the morning to present the amendment and to have a short and reasonable debate of the amendment.

So, after we have had about 13 hours, 14 hours, of debate and we voted on one amendment, and now the leaders are talking about yielding back all time, I understand what they are up to, and I respect it. But I would just like to put down that marker, say we are willing to have a short time agreement, and then vote on our amendment. But we would like a chance to discuss it just briefly before the vote.

The PRESIDING OFFICER. The Senate is not in order. Senators will cease audible conversations.

Mr. DOLE. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. DOLE. Mr. President, obviously we want to accommodate everybody who wishes to offer an amendment. I just say for those on this side who intend to offer their amendments if we can be notified then we can take a look at how much time we have remaining on this side, and determine how much time is left for each amendment. We are not trying to shut anybody off. But I think much of the debate today has been general debate.

Second, if we do decide to go out fairly early tonight, say at 11, 12, 1 a.m., I would like to then move to the Executive Calendar, and the State Department. We have been holding up about a dozen ambassadors, 10 ambassador rank, since October 1, and about 14 other nominations not ambassadors.

It is being held up on this side. I will make that clear.

All these people have families. They have all been out of the committee since October 1. They all have children. They all have a right to make plans.

I think the only way we can get these holds off, and they should not be honored this late in the session, is to bring them up. Whoever has a hold then can come out here and filibuster all these ambassadors and others. It just seems to me we are doing an injustice to the system to permit this to happen.

I do not know how many families are involved here. I guess a couple dozen. We are not serving our country, and at least I am speaking now for those on this side, by holding up appointments made by our President for 16 or 17 days for some unknown reason.

My view is if somebody has a legitimate complaint, that is fine. But I cannot believe they have a legitimate complaint to the Ambassador to Belize, Uruguay, Venezuela, some of these countries I am not too familiar with, Swaziland, and others. So, I think we ought to hear what the objections are to all of these folks. They probably would like to move. It probably has cost them a lot of money waiting for somebody to lift a hold, some arbitrary hold on 20-some nominees on the Executive Calendar.

If we have to stay all night, that is good enough for me. If there are only two of us here, whoever objects, maybe we can resolve this issue this evening.

Mr. SYMMS. Will the majority leader yield?

Mr. MITCHELL. Mr. President, if I may make one comment with respect to what the Republican leader has said, I agree with the concern expressed by the Republican leader. I wish to emphasize, so there can be no misunderstanding, that I have sought to proceed with respect to these nominations, but they have been blocked

by a Republican hold. This is a Republican Senator or Senators preventing consideration of nominations made by the Republican President. I have made an effort to proceed to them but have been prevented from doing so.

I am certainly prepared to accommodate the concerns of the Republican leader and the President. Although I must say I am willing to go a long way for the President, I hope I do not have to stay up all night for him because a Republican Senator objects to the nominations by a Republican President. Maybe doing it will, in the manner suggested by the Republican leader, enable us to proceed.

But to accommodate that request, I now announce that when we complete action on this legislation tonight, I am going to attempt to proceed to the Executive Calendar, and any Senator who has an objection to the nominees to which the Republican leader has referred should be present to stand in the Senate and express that objection. Then we will do the best we can to proceed from there.

Mr. President, I understand the matter is subject to debate. I would like to yield some time to the Senator from Idaho.

Mr. SYMMS. Mr. President, I would like to make a suggestion to the majority leader so we can expedite this vote tonight. In this Senator's opinion, I think I can summarize this from my side in 5 minutes, and I am ready to move to table the majority leader's amendment, if it is in order. And we can vote on it.

Mr. MITCHELL. The distinguished Republican leader has a second-degree amendment to offer when the time is used or yielded back.

Mr. SYMMS. Well, I say that I do not care to delay my colleagues. It will take me a very brief time to explain here and frame this so everyone knows what they are voting on.

Mr. MITCHELL. Might I suggest that the Senator indicate how much time he would like. We control 2 hours.

Mr. SYMMS. Ten minutes is all the time this Senator needs.

Mr. MITCHELL. Why does the distinguished Republican leader not yield off his time, and when the Senator from Idaho finishes, I will make a brief statement and yield back my time, and the distinguished Republican leader can offer his second-degree amendment; is that agreeable?

Mr. SYMMS. Yes, 10 minutes is fine.

Mr. President, if the minority leader will yield, I learned my legislative training in the House, and they operated in 5 minutes.

What we have here is, the Senator from Idaho offered an amendment to strike the gas tax. Because of the parliamentary situation, it will be nearly impossible to ever get a vote up or down on that amendment.

Mr. President, what has happened is that the majority leader now offers an amendment that changes where the gas tax goes from 50 percent to the trust fund to 60 percent for the trust fund. The truth of it is that none of this money that is on the gas tax is going to be spent on highways, because there is a cap on highway spending, and you are going to see an artificial number built up in a trust fund, but the money will be spent for other obligations of the Government.

So this amendment is totally a sham, so that Senators will not have to vote on whether they want to raise the gas taxes or not. So the vote will be on a motion to table the majority leader's amendment.

If we vote to table it, we are voting to not have gas taxes in this package. If you vote with the majority leader's amendment, you are voting to have gas taxes in this package.

So once again, the men and women that work in this country are going to have their pockets picked because we refuse to cut spending.

I must say I am not in a comfortable position. I do not like to put any Senator on line to make a vote, because I am not up for election and some of you are. No one wants to vote on whether they want to raise taxes. We have heard countless speeches about it. But, Mr. President, the question is not deficit reduction. That is a wordsmith's use of the words. The question is how much money do you want the Government to spend? It is what the Government spends that causes the problems.

I have said it over and over in this Chamber, a freeze on the budget, and some of the Senators have said a freeze on the budget will not do it. I urge you to look to reducing the deficit spending and revenue options report to the Senate and House committees on the budget, Congressional Budget Office, on page 30, and it goes through the different choices. A 1-year freeze in the appropriated accounts would make up over twice what it is we are talking about picking the Americans' pockets on another gas tax. We can accept that, and we can freeze the appropriated accounts for the 1990 levels and put them on a baseline, and the accrued savings would be incredible. There are all kinds of options.

Mr. KERREY. Will the Senator yield for a question?

Mr. SYMMS. Yes.

Mr. KERREY. Mr. President, I ask the Senator if he intends to offer an amendment to reduce the budget.

Mr. SYMMS. I thank the Senator for the question. The way the parliamentary situation is, you cannot offer it all at once. Some Senators might do that. That would be an option some Senator could do, or this Senator, at the appropriate time.

I want to make the point that a vote for the Mitchell amendment is a vote for the 9½ cents gas tax in this package. There will be no other vote because of the parliamentary situation. It is an up-or-down vote or a motion to table, and this Senator is willing to do it however the leaders want to do it, but that is basically what is there.

And the text of the amendment means absolutely nothing, absolutely nothing. The way the bill is written, 50 percent of the funds go to the highway trust fund. The way the amendment is written, 60 percent of the funds go to the highway trust fund, and the truth of it is that not one thin dime will be spent back in your States for highway construction, because the highway appropriations will be capped in the package, and the money will not be spent on the highways. The money will be spent for deficit reduction, and the problem is the deficit reduction is a play on words, Mr. President.

What we need to do is hold the line on spending, and the rest of this argument is really not that relevant. If we raise the tax on the American people, as this package calls for, we are going to deal a real blow to the American people whom we represent.

I reserve the remainder of my time.

Mr. ARMSTRONG. Mr. President, does the Senator from Idaho control half of the time? I suppose he has an hour.

Mr. SYMMS. I yield 10 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The majority leader controls half of the time, and the Republican leader or his designee controls the remainder of the time.

Mr. DOLE. Mr. President, I will give my time to the Senator from Idaho.

Mr. SYMMS. I thank the Senator, and I yield 10 minutes.

Mr. ARMSTRONG. I do not need 10 minutes. I want to ask a question. I am confused.

Do I understand the Senator to say that we have worked ourselves into a parliamentary situation where the only way that Senators can express their opinions on the gas tax issue is by voting to table a motion on the amendment of the majority leader? In other words, we are not going to get an up-or-down vote on the question of whether we favor raising the gas tax?

Mr. SYMMS. It would be this Senator's wish, I say, that we would. But this Senator is not the majority leader or the minority leader and I cannot bring that to a vote.

If we vote down their amendment, then the Symms amendment is still pending.

Mr. ARMSTRONG. I want to clarify the situation. As I understand it, the bill comes with a built-in gas tax increase that doubles the gas tax during the 5-year period of this bill; that is, it

goes from 9 cents to 18½ cents as a result of this bill.

The Symms amendment—in fact I hope it is the Symms-Armstrong-Wallop-Kasten-Lott amendment, I think there are a number of us joined in cosponsoring—as I understand the amendment we offered simply strikes that provision from the legislation, leaving the gas tax right where it is.

I think it is important that we get an up-or-down vote on it, and I gather that the purpose of the pending amendment by the Senator from Maine, the majority leader, is exactly to preclude that possibility. So the real reason that I have risen is simply to emphasize what the Senator from Idaho is saying. We are not going to get an up-or-down vote by adopting this reconciliation procedure.

When we voted for the budget resolution, we worked ourselves into a parliamentary situation in which Senators do not have their usual rights and very likely in this parliamentary situation and with the determination of the leaders and the managers they can prevent any Senator from getting a straight up-or-down vote on any amendment that they may wish to offer.

So the only way Senators can express their view on this is a kind of round-the-barn way in this instance if the Senator is advising us that if we are against the gas tax increase we have to vote to table the Mitchell amendment.

If that is the Senator's best recommendation, I intend to support him on it. My interest is only to support the Symms amendment which is to strike out the gas tax increase in this bill.

Mr. SYMMS. If the Senator will yield for a reply to that, it would be either we table the Mitchell amendment, and no Senator likes to table the majority leader's amendment, or if we just vote it up or down, vote it down and then the Symms amendment is still the pending business.

We can vote on that. I cannot control that course. I believe the Republican leader may have a second-degree amendment to offer to the Mitchell amendment.

Mr. ARMSTRONG. Mr. President, if I have any remaining time, I observe to the Senator, first of all, that I think he is to be congratulated for attempting to bring this issue before the Senate. It is an important issue; it is an issue which affects the lives and economic well-being of millions of American families.

I think the overwhelming majority of them will be on the Senator's side. But I think if they fully understood the round-the-barn, back-door process that we have to go through to get a vote on this, they would be as upset about it as some of the Senators are tonight.

At this point, we do not have any choice. The only way to get to where we want to go is either to vote down the Mitchell amendment or vote to table it. But I hope when it is all over, however it turns out, there is not any Senator that has the temerity to go home and say to constituents "No, on the gas tax, I did not vote against the Symms amendment on the gas tax; I was just voting on procedural amendments or voting on another subject, just a parliamentary situation."

Every Senator should recognize what they are voting on is the gas tax amendment and that is what they will be recorded on when the time comes.

Mr. SYMMS. Mr. President, I am happy to yield 10 minutes to the Senator from Wyoming.

Mr. WALLOP. Mr. President, I shall not use 10 minutes but I would like to echo the words of the Senator from Colorado. Whether or not people think that his amendment is responsible, given the emergency, as we have all been led to believe exists, the fact is that those of us who support it ought to be by rights entitled to a vote on it. We will not be. I understand that. But the more awkward thing for someone who is a Senator, who claims to have pride in representing his State and people of America in this so-called world's greatest deliberative body, it seems a shame we are not going to be permitted to deliberate on that specific amendment.

It also seems a shame to this Senator that the situation as described by the Senator from Idaho as it relates specifically to the distribution of funds to the highway trust fund and to deficit reduction is simply not quite the case, and Americans should understand it.

We cannot devote a proportion of the money to the highway trust fund and then cap the amount of moneys that can be appropriated from that fund and in all honesty, and I say that word specifically, in all honesty claim that you are doing anything for the highway trust fund for the Senators' States. For the Senator from Tennessee who was worried about a bridge that fell in his State and killed some people, it is not going to be affected or helped or aided in any single way by the action that the Senate is about to undertake tonight.

So, to be honest with the American people, that seems a difficult thing for the Senate to do and the Congress to do in these days. We really should tell them that what we are doing is raising their taxes on the gasoline that they buy, not to improve their highways, their roads, their infrastructure, and all the things that the Senator from West Virginia spoke of, but in fact to spend more money on more programs such as that we passed last night when we started a brand new program and a brand new spending program for Americans, and I am speaking in particular about that volunteers in service to America bill.

Curiously enough, the volunteers are all paid volunteers, too, and that is another one of those curious uses of the English language that the Senate has become quite adept at trying to persuade Members they are doing something to appeal to their generosity when, in fact, they are appealing to their avarice.

But it is not the right thing for this Senate to do, to deny any Members of the Senate the opportunity to vote on the gas tax. My State is affected more than any other State by the gas tax. We have to drive farther to work because we have fewer people and an enormous territorial expanse, and statistically our people drive farther to work than do all the rest of Americans.

But even if it were not the case of just Wyoming, I would ask the Senate tonight to examine who it is that is affected by the gas tax. Who drives the oldest cars? Not the richest Americans that our colleagues on the other side would have us believe they are trying to ding and to get to pay their fair share. It is the bottom edge of the middle class that has the oldest cars that consume the most gasoline and who, by and large, drive the farthest to work.

Think of the carpenter who lives out in Olney, MD, who is under subcontract in a project in the District. He has to drive every day or he does not have a job. You are taxing his livelihood and not to give him better roads or to give him better transportation. Or the nurse who may come in from 40 or 50 miles outside of Washington to work in a hospital in Washington. These are the people most affected by this rise in the gas tax.

Yet our leadership is saying tonight that we do not deserve a vote on that, much the same way the leadership in the House denied the Republicans an opportunity to present to the House of Representatives an opportunity to vote on the means of securing the reduction in the deficit that this program does without taxes.

Why? Because it had a chance of passage.

Somehow or another we have fixated ourselves on some sort of guilt trip that somehow Americans are overindulged by their Government. I remember days in the Finance Committee when they used to talk about tax expenditures. And the theory of a tax expenditure is very simple. The theory of a tax expenditure is that everything you earn belongs first to the Government and you get to keep what you keep by grace of that Government, not in support of that Government but by grace of that Government. And that is

what the Symms amendment on the gasoline tax is all about.

I regret the situation that the Senator from Idaho finds himself in. I hope the Senate understands that the vote they are being asked to take is to deny the Senate an opportunity to express itself directly on whether or not Americans, working Americans, traveling Americans, commuting Americans, should have a very specific doubling of the tax that they now pay for the privilege of working in this great land.

It is not a fair thing to do. It is not a right thing to do. And it clearly is not going to be the kind of vote that at the end of it anybody could have said I was in favor of the Symms amendment but, lordy me, the processes of the Senate just did not give me any opportunity.

Oh, woe is me; I am with you Americans. I am with you fellows that drive. But I never had a chance. I just could not do it. I am sure you understand. I had to vote because this is the only act in town.

Mr. President, that is not a fair way to treat Americans, and it is not a fair way to treat Senators. I say to my friend from Idaho that I am with him. We have three votes to go through to get to his amendment. I hope the Senate understands that and gives us an opportunity to do just exactly that.

I yield back the remainder of my time.

Mr. NICKLES. Will the Senator from Idaho yield me 10 minutes?

Mr. SYMMS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 43 minutes remaining.

Mr. SYMMS. I am happy to yield 10 minutes to the Senator from Oklahoma.

Mr. NICKLES. I wish to congratulate my friend from Idaho. I share his concern. I think a lot of us have amendments. I happen to have a couple. They are not the same as the one of the Senator from Idaho dealing with the gas tax.

Frankly, I think most everybody knows what the gas tax provision is in this bill. I personally am a little more concerned about what we do not know that is in the bill than what we know.

Mr. President, I am just scanning through this bill, and I see there are 1,084 pages in this reconciliation package. I have been spending all day and my staff has been spending all day, but I would venture to say that we do not know everything that is in here. And I would venture to say there is not a Senator on this floor that knows everything that is in this package.

As a matter of fact, I have gone to some of the leaders on this package, and I have expressed concerns about various things in here that I have reservations about. I said: Well, can we change them? Well, if we are going to change them, it is going to take amendments. Maybe it is on gasoline tax; maybe it is on something else. But right now the way this procedure is working, I do not think we are going to be able to have the amendments to make the changes.

Some of them, Mr. President, need to be changed. I noticed on page, on one page 488, line 15, there is a little provision dealing with the debt limit. There is a little increase in the debt limit.

I saw my friend from West Virginia, Senator BYRD, hold up a chart not too long ago and talk about the increase in debt limit. And it has increased dramatically. In the last 10 years, the debt limit has increased from less than $1 trillion to $3 trillion; $3.1 trillion.

Well, this bill, on page 488, has one little line that says the debt limit has increased by $1.9 trillion—not billion—$1.9 trillion, an increase in the debt limit, enough to take care of us for several years; 5, 6, maybe more. Why should we increase the debt limit for 6 years—I do not understand—or for 5 years? Do we want to avoid tough votes in the future? Do we want to avoid making budget reforms in the future?

I have an amendment. I want to reduce that. I think the debt limit increase should be no more than a couple hundred billion dollars. I have an amendment to do it. Maybe that is the right figure; I do not know. But I think we should have the opportunity to offer that amendment. I am afraid we are going to be denied that opportunity. I hope we are not. I have the amendment.

I heard my friend and colleague from Kansas say that amendments will be taken up at the conclusion of the bill. This is going to be one of them. I hope that it will be adopted. I expect that it will. I have a hard time seeing how people are going to vote against an amendment that will reduce the increase in debt limit by $1.9 trillion. So that is one amendment.

I look at other provisions and I see some labor provisions that really have nothing to do with reconciliation. They increase the cost on small business, increase the fines and penalties by 5 times.

That means an OSHA inspector—and I happen to have been a small businessman coming to the State. I would have inspections by OSHA. They might drop by and say, "Your exit sign is not visible." That used to be a penalty of $100 or $200. Now it is a penalty of $1,000 or $10,000. They increased the penalties 5 times.

OSHA is not supposed to be out raising money. The whole idea of OSHA is to make workplaces more safe, to increase the quality of the environment and safety for employees, not to be raising money for the Federal Government. But yet that is in here.

There is a provision that increases the penalty for employers if they make a mistake or they have a teenager, somebody that is 16 or 17 years old—right now, present law says that they should not work more than 18 hours a week. If they work more than that—which incidentally, I expect our pages work a lot more than that—if they work more than that, the penalties go up 10 times. The employer can be fined not $1,000, but $10,000; $10,000 because they hire somebody and they are 17 years old. And if they work 20 hours a week, and it happens to be a week that they are in school, they can be fined $10,000 per employee. And that is in here, Mr. President.

There are a lot of other provisions that are in here. There are provisions dealing with pension funds, a little tax on reversions. Oh, reversions, that must be a bad provision. So the present tax, which is 15 percent, basically they increase it to 40 percent. We do not want anybody to overfund their plan and have that revert back to their employer, so they are going to tax it away.

They say they are going to raise $1 billion. What they are going to do, as a result of that provision, people are not going to overfund their plans. They are going to underfund their plans. When they underfund their plans, that jeopardizes the entire health of the defined benefit pension plan community; that is, pension plans for the majority of Americans are going to be jeopardized because they try and raise more taxes on those plans. They try and help the employer. They cannot do that. Therefore, we are going to have a heavy tax if you overfund the plan.

So the employer, instead of overfunding the plan, they are going to underfund it. They are going to put minimum funding in those plans. They do not want to be taxed. The net result is 10 years from now, we are going to find a lot of pension plans going upside down. They are going to be underfunded. That is a mistake.

It raises some money. At least maybe it is somewhat germane to the reconciliation bill. But it is a bad mistake. It is bad pension policy, yet we are going to have that taxed at 40 percent reversions.

There is a little provision dealing with labor protection provisions on airline companies. This really has nothing to do with this bill whatsoever, but it is in this bill right now. It says that if an airline employee was laid off for whatever reason—maybe there is a merger; maybe there is a sale of the airline company, or whatever—that the unemployed employee could receive 60 percent of his benefits for 60 months, for 5 years.

Now if you are talking about a pilot, the pilot may have an income of

$150,000 a year, so their unemployment compensation would be $100,000 for 5 years. That happens to be in this bill.

It may not be a pilot. It might be another employee of the airline company, most of which are well compensated. That does not belong in this bill, but presently it is in this bill.

Again, I would like to have an amendment to strike that provision. Maybe the managers will strike it. I hope that is the case.

But, Mr. President, my point is there are 1,084 pages in this bill. There are a lot of provisions in this bill that we do not know about, that no Senator knows about, that some staff person might have put in. Certainly, a majority of the Senators do not know about them. We need to have the opportunity to take some of those out. It will take amendments to do so.

I hope the managers will move to strike a lot of these provisions that I have mentioned. If they do not, at least this Senator or other Senators would like to have that opportunity to do so. I am afraid if we allow ourselves to continue to get bogged down in long debate over amendments which even the author of the last amendment said is a miniscule amendment, that would deny us the opportunity to improve this piece of legislation, which at least in this Senator's opinion needs significant improvement.

I thank my friend and colleague for yielding me the time.

The PRESIDING OFFICER. Who yields time?

Mr. KASTEN. Will the Senator yield me 5 minutes?

Mr. SYMMS. I am happy to yield the Senator 5 minutes.

Mr. KASTEN. Mr. President, I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. KASTEN. At the present time, it is my understanding that before us is the Mitchell amendment, which is an amendment in the first degree; is that right?

The PRESIDING OFFICER. The Senator is correct.

Mr. KASTEN. And therefore, if I were to send an amendment to the desk and ask for its immediate consideration, my amendment would be in the second degree?

The PRESIDING OFFICER. The Senator is correct. But the amendment cannot be sent up until all time has expired on the amendment in the first degree.

Mr. KASTEN. It seems to me, Mr. President, that the easiest way that we can get to the votes that we are seeking is simply to amend the Mitchell amendment to the original Symms amendment, which would mean that the Symms amendment would then be voted on first.

If the Symms amendment for a straight elimination of the gas tax were defeated by the body, then the Mitchell amendment, which is a compromise amendment, would be in order. But at least by doing this, by offering the repeal amendment first, we could get the amendments in the logical order.

In other words, if the body wanted to eliminate the gas tax completely, that would be the first amendment. Then if we chose not to eliminate the gas tax completely, the logical next step is the Mitchell amendment, which is somewhere between straight out repeal and the position that the bill is in now in which a disproportionate part of it goes, not to the infrastructure improvement but to reducing the overall deficit.

I am disappointed that again procedurally I am unable to get us, at least at this moment, back to the place where we would be voting on repeal of the gas tax straight and, instead, are clouding it with a procedural question.

Let me, if I can, address myself not only to the gas tax but to the question with regard to the overall agreement. I think the easiest way of doing this is to quote from some comments of a number of people who have been active in the budget process in Government in this town, even members of previous administrations.

I oppose this budget agreement * * * it is a disaster. The ambitious enforcement program is full of loopholes. The package doesn't reduce the deficit, the deficit goes up by $50 billion.

If this agreement is approved, I think it is vitally important that we take the table with the outlays and the revenues, and we frame it, put it on the wall, and then every year we compare the numbers and see what they are. I'm willing to bet that the numbers will not comport with reality.

That statement is by James Miller, Ph.D., chairman, Citizens for a Sound Economy, but most importantly, former Director of the Office of Management and Budget.

The Symms amendment to reduce the gas tax or to eliminate the gas tax would be a step in the right direction, not the wrong direction in the view of Citizens for a Sound Economy.

If I may, could I ask the Senator from Idaho, maybe to yield me a couple more minutes, if I could have his attention? Will the Senator yield me 3 more minutes?

Mr. SYMMS. Yes, I will be happy to yield the Senator more minutes.

I might just say to the Senator before I yield to him, this Senator does not like to be in a position to move to table this majority leader's amendment or any majority leader's amendment. I have the utmost respect for Senator MITCHELL. I do not like to come in and move to table the majority leader's amendment, but it seems to me, as the Senator from Wisconsin outlines, the easiest thing to understand on this vote is, if Symms moves to table it, that is the closest thing we can get to vote for the Symms amendment tonight. If we table it, then maybe the leadership will give us a vote on it. If not, I have a couple of other ideas I would like to try to pursue.

Mr. KASTEN. I think without question, if it is necessary to table——

Mr. SYMMS. I yield the Senator 3 additional minutes.

Mr. KASTEN. It seems to me what we ought to do is put this in a logical order. If there is going to be a slight change here, we still ought to be able to vote for a straight repeal by sending an amendment to the desk in the second-degree. That would work.

Let me just take two other people whom I respect and read their quotes.

Contrary to what the President asserts, this agreement will exert a strong contradictory influence on the economy. * * * The President should tell us how a whopping tax increase and virtually no cuts in spending other than in defense outlays will help the U.S. economy to grow.

What we really need are real expending cuts, and we need basic tax reform that will make the economy more efficient, remove impediments to growth, and remove impediments to the competitiveness of American businesses in the world economy.

That is Norman Ture, Ph.D., president of the Institute for Research in Economics and Taxation and a former Under Secretary of the Treasury. These are not yahoos somewhere out there who do not know what they are doing. These are people who have been in charge of policy.

Last, I quote:

This is the tenth year of budget agreements. Higher taxes have always been permanent, and budget savings have never been realized. If you reached into a hat and pulled out something it would be better than this.

Paul Craig Roberts, a former Assistant Secretary for the Treasury for Economic Policy.

The Symms amendment is a step in the right direction. I am hopeful we will not be prevented, by parliamentary procedure, from dealing with a straight up or down vote on the question either before or after we get through the efforts with the majority leader.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The majority leader.

Mr. MITCHELL. Mr. President, this involves an amendment by myself and a second-degree amendment by the distinguished Republican leader, Senator DOLE. I would like to suggest we yield back the time on this amendment so Senator DOLE can offer his and some of our Republican colleagues can start referring to this as the Dole amendment, which it really is, which is the substance. Mine is just a shell.

Perhaps they can repeat those speeches with respect to the Dole amendment. There will be 1 hour on that. I wonder if my good friend, the Senator from Idaho, might not permit us to yield back the time on this amendment so we can have the Dole amendment, and then Senators can get up and make all those speeches about the Dole amendment.

Mr. SYMMS. Before I do that, I would like to say to the majority leader—and I said this while the majority leader was off the floor—I do not like to be in a position, because I am being denied a vote on my amendment, that I have to move to table the majority leader's amendment.

Mr. MITCHELL. Tabling the Republican leader's amendment.

Mr. SYMMS. And I doubly hate to move to table the Republican leader's amendment. I suggest I confer with the two leaders for 1 minute, if we could just go into a quorum call, and talk to them about an alternative I have.

Mr. President, I suggest the absence of a quorum.

Mr. DOMENICI. Would the Senator withhold? Might I have 2 minutes to express some ideas with the Senator from Oklahoma which he raised?

Mr. SYMMS. I withdraw my suggestion.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield myself 2 minutes off the bill.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DOMENICI. Mr. President, I am glad my friend from Oklahoma is still on the floor. Let me say, he has been around the Senate quite a while. I have been here a few years. It is not with great pride that I look at a bill of this magnitude and say we are going to vote on it and that everyone in here knows everything in it, because they do not, or that everyone should know it, because they should not.

I can remember a tax bill produced in a box once. I do not know if my colleague was here, but they carried it over in a box. We did not even have a chance to do this to it. It was carried over from the House one evening, down this aisle. I am not saying that is good.

I want to say to the Senator from Oklahoma, however, that it pertains to specific provisions of the type that he referred to. Some are clearly extraneous under the so-called Byrd rule, which is intended to keep material from getting in a reconciliation bill and thus being protected which truly is not related to deficit reduction or only incidentally so. This is pretty subjective sometimes. But we are going to try to deal with some of the provisions the Senator referred to in that manner.

Some of the others—while I may agree or disagree with the Senator in terms of whether they deserve the support of the U.S. Senate as this package goes through, or should they be taken out—I will try my best to give the Senator an opportunity to get a vote on, under the motion to strike.

My colleague might wonder if there is a difference between what he discussed and what is occurring here. I do not know if there is or not in other people's minds, but frankly I do not believe anything my colleagues have talked about—I am not sure—but I do not think anything my colleague has talked about I would call an amendment calculated to kill the deficit reduction package.

I tend to see a bit of a difference between that and something that is overtly—not incidentally—but overtly intended to kill the package. I think there might be a difference, and I thank the Senator for raising those issues. We will try our best to accommodate.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Does the Senator from Oklahoma wish to complete the colloquy?

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield the Senator 1 minute off the bill.

Mr. NICKLES. I thank my friend from New Mexico. I think several of the provisions I did talk about should fall under the Byrd provision. Labor protection provisions do not belong on this bill. They have nothing to do with reconciliation. Certainly criminal penalties under OSHA do not belong in this bill.

Also, this Senator has concerns about multiplying the OSHA penalties by five times, or the violations under the labor laws by 10 times, or increasing the Federal debt limit by $1.9 trillion. I have those concerns as well.

So I do hope we will have a chance to have amendments to strike some of those provisions.

Mr. PELL. Mr. President, I will vote to table the amendment by Senator MITCHELL to modify the gasoline tax provisions of the reconciliation bill. I am doing so because approval of this amendment would have the affect of making it impossible for the Senate to vote directly on the question of whether the deficit reduction package should contain an increase in the gasoline tax.

I believe the Senate should have the opportunity to vote directly on the question of increasing the gasoline tax. I am opposed to an increase in the gasoline tax at this time even though I have in the past advocated a higher Federal gasoline tax as a means to increase revenue and to encourage energy conservation. The reason for my vote today is my concern about the immense impact a sudden additional increase in the cost of gasoline would have on the working men and women of my State who must rely on their automobiles to get to and from their work. In just 10 weeks the average cost of gasoline in Rhode Island has increased 45 cents a gallon. And this is occurring in a State already in a recession with more than 7-percent unemployment and headed into a possibly much deeper recession. Some day—should the price of oil go down—I could see the merit in reexamining the gasoline tax question. But to vote to increase that tax for Rhode Islanders in today's circumstances would not be correct.

Mr. DURENBERGER. Mr. President, the budget reconciliation package that is before this body today is held together by the thinnest of threads. Weaken a single thread in any part of this package and the entire package could unravel. Mr. President, raising fuel taxes is not popular, it is especially difficult to do at a time when the Iraqi crisis has caused gasoline and diesel fuel prices to increase 30 to 40 cents per gallon in a little more than 2 months.

But, Mr. President, if this country is ever going to develop a rational energy conservation strategy; if we are ever going to make a dent in our Federal budget deficit, then we inevitably have to consider raising the cost of fuel. Everyone likes cheap gasoline until we wake up one day and find that our addiction to cheap oil has made us far too dependent on oil from the Middle East. Our entire economy, the transportation sector, the heating sector, the manufacturing sector, every service in this country, is affected by the sharp runup in oil prices in the past 2 months.

The budget deficit package seeks to encourage conservation by incrementally raising the gasoline and diesel fuel tax. Part of the increase in funds will be used for deficit reduction. Mr. President, while I do not like the idea of separating gasoline tax revenue from the trust fund, I believe the urgency of the budget deficit requires that we do so at this time.

Simply stated, if we eliminate the gas tax provision, we might as well give up on the idea of congressional input into deficit reduction. The Symms amendment would not only unravel the threads of this deficit reduction package, it guts the package. It would tell the American people to live with a $100 billion across-the-board sequester because the Congress cannot make the hard decisions.

Mr. President, I think we can make the hard, but less popular decisions. This is one of those times when we should stand up for the national interest and vote against an amendment to kill this package.

Mr. MITCHELL. Mr. President, I would like to renew my suggestion that we yield back the time on the first-degree amendments and then permit the distinguished Republican leader to offer the second-degree amendment. There will be 1 hour debate on that.

I move that all of the time so far has been used by the Senator from Idaho and those supporting him. Will that be acceptable to the Senator?

Mr. SYMMS. Mr. President, I will be happy to yield back my time right now.

Mr. MITCHELL. Mr. President, I yield back my time.

The PRESIDING OFFICER. The Republican leader.

AMENDMENT NO. 3015 TO AMENDMENT NO. 3014

(Purpose: To change the allocation formula)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes amendment numbered 3015 to amendment No. 3014.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. Under the rule, the Republican leader controls 30 minutes. The majority manager or his designee controls the balance of the time. The Republican leader is recognized.

Mr. DOLE. Mr. President, this amendment retains the 9½-cent gas tax. It does shift the mix. Instead of 50-50, 60 percent goes into the trust fund and 40 percent is deficit reduction. That in essence is what it does and it does avoid a vote on the gas tax amendment offered by the distinguished Senator from Idaho.

I have heard a lot of complaints about not having a vote up or down. I think I have been here long enough to know we all know we are within the rules. Nobody is violating the rules. We are using the rules. We are offering amendments.

I think the majority, at least I trust the majority understands we are working on a package here of about $500 billion. This would take out $33.6 billion and put nothing back. That would not only unravel the package, that would probably finish the package. If not, someone can offer a motion to strike the next tax and then offer to strike the Medicare savings and then offer to strike defense savings. And then, of course, the interest savings would fall on their own. Maybe the leaders can offer that motion.

Those who want to kill this bill certainly ought to use every opportunity, but we should not have to cooperate with them. If somebody is going to hang me, they are going to furnish the rope. I am not going to furnish the rope. You get your own rope.

I am trying to do the best I can for President Bush. The last time I checked, he was a Republican. It is my job as a leader in the Senate to try to move the President's agenda. I regret that some of my colleagues on this side disagree. That is their right. We all have our rights. I might find myself in disagreement sometime.

If we put a COLA freeze in here, we would have people all over us about the COLA freeze. If we taxed Social Security benefits, they would be all over us about taxing Social Security benefits. We left those out.

I defy anyone to put together a $500 billion package to pass—I can put one together—but put one together that will pass. We will be glad to remove this one and bring another one up by unanimous consent. But that is not what we have before us. We have some people who want to kill the package, but they want to do it an inch at a time. This is more than an inch. It is about 10 percent of the package, so we will just have 90 percent left. Then somebody says, let us take out another 10 percent.

This Senator would like to finish this bill and leave Washington. But certainly every Member has a right to offer every amendment, and we have every right to try to frustrate every amendment. That is the way it works, and this Senator does not know the rules that well. I agree with the Parliamentarian. If he did not vote, I would not try to interpret him. So we have an understanding. I do the voting and he would do the interpretation.

What we are doing is legislating. We are playing by the rules in an effort to preserve this package. And to those who do not want the package, they can do everything they can to try to frustrate it, defeat it, chop it up. But, in my view, if we think there is a chance that they might prevail and kill the package, then we will look a little foolish out here. Oh, I do not want anybody to be denied their vote. It is only a $500 billion package, so what. We can dream up another one in a couple of years.

We may lose in any event, but I want the RECORD to show at least we tried to protect the package and not give everybody a free shot like it is a turkey shoot around here, to shoot until you win. If somebody wins, the country loses, in this Senator's view.

So I regret we cannot have an up-or-down vote. I regret we cannot support any of the amendments that are pending, unless they are agreed upon by the managers. Some may be and there may be good questions raised by the Senator from Oklahoma and others, and they ought to be addressed, and they are. But this takes 10 percent of the package and it is gone and does not substitute one dime; not one dime.

I understand that this will add about $20 to the average motorist per year. Not quite a tank of gas. This tax, not quite a tank of gas. We turn on the evening news and we see the boys over in Saudi Arabia. We say, "oh, well, boys, we feel sorry for them, but we do not want to do anything to inconvenience us. We keep on driving, you keep staying over there in the hot sun; you keep on protecting that oil over there so we can keep on driving. We do not want to conserve anything, so you just stay over there 2 or 3 years." You tell that to somebody's son or tell that to the parents.

This is about the best policy in this whole bill, trying to conserve energy. As I said earlier, I respect the Senator from Idaho because he is one to stand up here and vote to cut spending, whatever it is. He does not care what it is. If it is necessary, he will vote to reduce spending and so will the Senator from Wyoming and so will the Senator from Colorado and the Senator from Oklahoma. and others who have spoken. But that is not a majority. And I will do the same.

I do not know what the answer is. We try to please everybody and let everybody have an up-or-down vote on every amendment and let the package unravel. This amendment can still be offered later. All you have to do is say notwithstanding anything in this bill, and you put your amendment in. But then it is subject to a point of order, and it takes 60 votes. That is the difference. We are talking about 10 votes.

So I just suggest we vote on this amendment. The distinguished Senator from Idaho is going to move to table the amendment. He may prevail. I would say to those who want to kill the package, vote with the Senator from Idaho. We can get home by 11:15. That may be the best argument we have.

Mr. DOMENICI. Be careful. We are going to lose votes.

Mr. DOLE. Then let us make it 11:30. We always want to compromise.

I just suggest we are taking the proper course as leaders. Sometimes it is not much fun being a leader when other people have better ideas and better judgment and ought to be the leader, but they have to have an election first.

In an effort to keep the package together, I am opposed to doing what my friend from Idaho wishes to do and, therefore, I have offered the second-degree amendment. I reserve the remainder of my time.

Mr. WALLOP. Will the Republican leader yield 3 minutes to me?

Mr. DOLE. I will be happy to.

The PRESIDING OFFICER. The Chair informs the Senate the manager is not in opposition to the amendment. The Republican leader may designate the 30 minutes to someone else.

Mr. DOLE. I designate the Senator from Wyoming.

Mr. WALLOP. We will not use 30 minutes.

Mr. President, when the Senate was asked to vote on the budget resolution last week, I doubt there is a Senator who cannot fail to remember that we were told not to argue the budget resolution because that was just a shell. Time for the debate on the specifics of it would come now and we would be permitted that opportunity.

Now, basically, that is being denied. I guess I cannot say we are being denied debate. We are just being denied the consequences of that debate.

That is unfortunate. I again would suggest that a body which calls itself deliberative ought to be permitted deliberation.

I have the utmost respect for my leader, Mr. DOLE. I certainly do not intend to substitute myself or offer myself in his place in the elections that are coming up, and I do not think that is the point. I think all of us are entitled to press a view on the floor of the Senate.

One of the views that I have was expressed by the President of the United States. We were told by him just yesterday, and half a dozen times in the weeks preceding it, that our presence in the Middle East is not about oil but about naked aggression. I think it is a bit unfair to say that those of us who are opposed to this amendment are opposed to or threatening the young men and women who serve this country at the request of the President, and with the general agreement of the Senate and the House, to confront naked aggression in the Middle East.

So do not make any mistake about it. We are not here arguing about whether or not we ought to be in the Middle East, and we are not here arguing about whether or not this is supporting the boys in the Middle East, or neglecting them and saying we just want to drive.

Some of us feel really seriously still about taxes. Some of us feel really seriously still that taxes, no matter where you take them from the pocket of Americans, comes out of the pockets of Americans. If I were persuaded that this whole package was really something about diminishing the deficit, I might feel differently and might even be on the other side of my friend from Idaho, but I am not. I am not persuaded to that.

I am persuaded that the package is based on a house of fees, a house of taxes, a house of requirements, a house of brutally unfair treatment of America's business.

Think for a minute of that one provision that is in this package which says that American corporations can no longer deduct the interest on their business expenses with regards to a confrontation with the Internal Revenue Service over an argument on taxes. You tell me, Members of the Senate, what corporation is going to be able to dare to confront the IRS, already arrogant, trying to justify what they believe to be an honest difference of opinion with the Internal Revenue Service of America and their view of what tax law says.

I always believed that this country had courts to settle that argument for a purpose, but we are being told by this package that it does not.

Returning to the amendment of the Senator from Idaho, I again say we were told to vote for the budget resolution, which I did not—I will admit that—because this would be the arena for debate, and this would be the arena in which we had the opportunity to express ourselves. Now that opportunity is cleverly, within the rules, being denied us.

Do not tell us that we are ignoring the young men and women serving their country in the Middle East. That is as unfair a comment as was the comment that this is a Nation now divided amongst rich and poor, middle class and lower class, earners, nonearners, homeowners and renters, and others.

We are not a Nation divided until we get to the debate on the floor of the Senate. Then all of a sudden nobody can have an opinion that is different from that prevailing without having chosen a side amongst the divided classes of America. That is not the America that I know. This is not an America divided by class. It is not an America divided by envy. It is an America based on the premise of opportunity and the premise of fairness. This gasoline tax is not a fair tax. I reserve the remainder of my time.

Mr. LOTT. Will the Senator yield?

Mr. WALLOP. I will be happy to yield to the Senator from Mississippi.

Mr. LOTT. Three minutes.

Mr. WALLOP. Three minutes.

Mr. LOTT. Mr. President and the Senator from Wyoming, maybe I could suggest another argument. How about let us just move the process along, sort of dovetailing what the Senator was saying a minute ago. We were told a week or so ago, vote for the shell, move the process along.

Now we have the bill that fills in the blanks, the reconciliation. And we are being told: Do not mess with it. Move it along. Move the process along. Let us get it into conference. Friday night, Saturday, Sunday, we are going to get a conference report, and then we are going to be told let us move it along again. Let us see if the President will veto it.

I understand the leadership has a tough job, and they are doing a great job. They are doing what we would expect them to do. But it has been said: "We are not going to allow you a turkey shoot." We are not asking for a turkey shoot, not even one shotgun blast. Give us just one single bullet—one .22 shot—just one vote on this reconciliation package. That is all we are asking.

For my colleagues on both sides of the aisle, I would like to talk just a minute about procedure. Let us just look at this day. It has been an interesting day. No votes this morning, no votes early afternoon. I was headed for the Ethics Committee. At 3 o'clock, when I was told we were expecting a vote on the Symms amendment to knock out the gasoline tax increase. So I dropped by the floor, and that was not happening.

I thought it might be 15 minutes or 30 minutes more. I think I was told that. I motored on up to the Ethics Committee. An hour goes by, 2 hours go by. No Symms amendment.

Then this becomes a bipartisan thing. The Conrad amendment is offered. We got right up to within 3 minutes of when the Conrad amendment was going to be voted on. It disappeared.

Then came this magnificent speech, as it always is by the distinguished Senator from West Virginia, who is always magnificent in his remarks. He knows the history of the body, the history of everything that has happened in it. His speech was beautiful, but after 3 hours, there still were no votes.

I am sitting up in the Ethics Committee at 7 o'clock. Still no votes. I thought we were going to have a vote at 3 o'clock. Great procedure!

Lo and behold, I drive home tonight to Annandale, VA. I eat supper, and guess what? A vote at 9:30. All day, not one vote. Not a shotgun blast, not a turkey shoot, not a single vote.

And what do we vote on, on the Conrad amendment? A motion to waive the point of order to avoid getting a vote on his amendment.

Now here we come again. Are we going to get a vote on the Symms amendment? No. We have an amendment by the distinguished and very capable majority leader. Now a second-degree amendment by our leader, Senator DOLE. The idea is, look, nobody will ever figure out what we are voting on. We have this procedure figured out. Nobody will understand the motion to table the second-degree amendment to the amendment, going around the amendment of the Senator from Idaho.

Look, it is not going to work. We are going to get one single shot at least at this turkey. This is a tax increase turkey.

All we ask is one single .22 bullet aimed at it to knock out gasoline taxes for heaven's sake. Conservation? What if you live in Kansas, or in Mississippi and to get to a low-income minimum wage job, you have to drive 60 miles? How are you going to conserve it? You drive 120 miles a day to get to a minimum wage job. That is the only way you get the job. If you do not drive there, you do not have it. So you are going to pay not only 9½ cents a gallon more under this bill, you already have seen it go up 50, 60, 70 cents a gallon since August.

Listen, my colleagues, Democrats and Republicans. You think you are going to get a clean vote on an amendment dealing with capital gains? If you are a Senator from Georgia or from Oklahoma, do not believe it. You are going to get a clean vote on an amendment dealing with medicare? Forget it. You think you are going to get an amendment to knock out taxes? No way.

So understand, we can cloud it up all we want. But this single shot vote is on whether or not we are going to knock out a 9½ cent-a-gallon tax increase on the working taxpayers of America. Cloud it up all you want to, but that is what this vote is going to be.

I thank the Senator for yielding.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. How much time? Does the Senator from Wyoming have any more requests for time?

Mr. WALLOP. I know of no more.

Mr. SYMMS. I would like 1 minute.

Mr. WALLOP. I yield 1 minute.

Mr. SYMMS. Mr. President, I want to say in my 1 minute that I appreciate the comments of the Senator from Mississippi, but I also appreciate the comments of the Senator from Kansas. I want to say to my leader that I am not challenging him for his job, and I am one of his big fans in this Senate. I just disagree with him on this tax-and-spend issue.

I want to make it clear. The Senator from Kansas made it clear in his remarks that if you vote against or vote for the Symms motion to table the Mitchell-Dole substitute, you are voting to cut out the gas tax. That is what he said. That is all this vote is about.

So this is the closest we are going to get to it. But this vote—and I want to apologize to my two leaders—to have them move to table the underlying Mitchell amendment with the Dole amendment is so they both go down so that we can get to the Symms amendment. But the vote, my colleagues, is when you vote for the Symms amendment you are voting to cut out the gas taxes in this package.

I yield my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I yield to the distinguished majority leader 10 minutes.

The PRESIDING OFFICER. The majority leader is recognized for 10 minutes.

Mr. MITCHELL. Mr. President, life in the Senate is full of irony. But I do not think I have seen so much of it in one evening as I have tonight.

Let me begin with the Senator from Mississippi who expressed his concern for the minimum wage workers of Mississippi.

On April 12 of this year we had a chance to express our concern for the minimum wage workers of Mississippi, and Wyoming, and Idaho, and Maine, and Kansas when we voted on the minimum wage bill. The Senator from Mississippi voted against that bill. Everyone has a right to vote as he or she wishes. But the minimum wage workers of this country ought to know that what really matters to them was an increase in the minimum wage. The opportunity existed to do something for them. The Senator from Mississippi was nowhere to be found.

Now we have heard tonight a lot of discussion about the procedure. Oh, the procedure we have been told, good heavens, the majority leader is offering an amendment and the minority leader is offering a second-degree amendment, and what a procedure. My good friend, the Senator from Colorado, expressed his deep concern about that.

Mr. President, Members of the Senate, in the nearly 2 years I have been majority leader no Member of the Senate has more frequently and more skillfully used the rules to his advantage than the distinguished Senator from Colorado.

Just last Friday the entire Senate was rendered incapable of anything—not a first-degree amendment, not a second-degree amendment, not a bill—because the Senator from Colorado rightfully insisted upon his rights under the rules. He appropriately insisted on his rights under the rules as he has regularly in the past 2 years, and always to advance his point of view. And I respect him for that because he vigorously pursues his point of view. But now let someone else employ the rules in an appropriate manner to advance their point of view, let the majority leader offer an amendment, let the minority leader offer a second-degree amendment, why, suddenly, that is not fair. That is not right. Why can we not have this vote?

Those who have prevented vote after vote after vote, those who have used the rules over and over again to advance their point of view, suddenly, if someone else does it, why, that is not right.

Ladies and gentlemen, we cannot have a double standard in the Senate. Surely, my colleagues are not suggesting a double standard. Surely, my colleagues do not think that one set of rules should apply in their case, and another set of rules should apply to everyone else. No one would suggest that, would they?

As he always does, the Republican leader cut right to the heart of what is involved in this debate, in this vote. And that is whether we are or we are not to have deficit reduction. Whatever the intention—and I never make an effort to read people's minds or impugn motives. I expressly disclaim any intention or any effort to define someone else's intention. Whatever the intention, the effect of this amendment will be to destroy this deficit reduction effort. The first serious deficit reduction effort in 10 years, a $500 billion deficit reduction package, will be undermined and fatally affected by this amendment. That is what is at stake here. Are we for deficit reduction or are we not for deficit reduction?

And the final and greatest irony in this Chamber, which has heard so many words and listened to so many speeches to overflowing on the need to reduce the deficit, from many of those who now argue in favor of this amendment, now we are being asked to destroy the one serious deficit reduction effort that is being undertaken—just take out the gas tax.

Well, what is next? Take out the tobacco tax. What after that? Take out the tax on beer and wine. What after that? Take out the luxury tax. What after that? Take out the savings. And we will be right back where we were, piling up debt, having our Nation consumed by rising interest payments on that debt. And I predict to you the Senate will be back listening to speech after speech about that awful deficit, and how we have to do something about it. And the words will once again fill and overflow this Chamber from those who will warn the Senate and the Nation about how bad the debt is, and how we have to do something about the deficit.

Well, now we have the chance. This is the test. Senators have suggested what this vote means on the gas tax. Well, let me suggest what it means.

The vote for the Symms motion to table is a vote to destroy this effort at deficit reduction. The Senator from Colorado suggested no Senator who votes against the Symms amendment should have the temerity to go home and say he really was not against the gas tax.

Well, I say, no Senator who votes for the Symms amendment should have the temerity to go anywhere and say he or she cares about the deficit, because they will have demonstrated by

their deeds here tonight that the only thing they are prepared to do about the deficit is talk about it, talk about it—words, words, and more words; speeches, speeches, and more speeches; press releases, press releases, and more press releases. But when it came time to do something, to actually act, to actually reduce the deficit, the deeds did not match the words; the deeds did not match the speeches; the deeds did not match the press releases.

That is what is at stake here. This is a killer amendment. If you want to kill this bill, if you want to end this deficit reduction effort now, then vote for the Symms motion to table, because that is what the effect will be.

So we have to decide that tonight. No one likes to decide it, none of us. But that is why we ran for the Senate, so we could participate in the shaping of national policy. And it means, on occasion, difficult, painful votes. That is what we are going to have tonight, and tonight we will find out who meant it when they said the deficit was a problem and who was just speaking words.

Mr. ARMSTRONG. Mr. President, who controls the time?

The PRESIDING OFFICER (Mr. LEVIN). The Senator from Wyoming has 18 minutes.

Mr. ARMSTRONG. Will the Senator yield 5 minutes?

Mr. WALLOP. I would be happy to yield 5 minutes to the Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I was surprised to be the subject of a compliment at this point from the majority leader. Actually, he is mistaken; there are many Senators who are more skillful than the Senator from Colorado in protecting their rights.

Since he mentioned a specific occasion on last Friday when, in fact, I did seek to protect my rights and in some way gave the impression that it was the equivalent of the circumstance we found ourselves in tonight, I want to set that record straight. It, in fact, was diametrically the opposite of the situation tonight.

Last Friday I found myself in exactly the same boat the Senator from Idaho does tonight. Hour after hour, day after day, I had been seeking to get a vote on a simple amendment which—ultimately the Senate, when it got a chance to vote on it—was agreed to. And hour afer hour Senators, exercising their rights within the rules, sought to prevent me from getting that vote. All I did was exercise an option under the rule to bring the issue before the group.

Mr. President, that is the opposite of the situation tonight. The Senator from Maine and the Senator from Kansas are using their rights to prevent the Senator from Idaho from getting a vote on this issue. It is their right to do so, but we should not mistake what is going on here. At the outset, there was an effort to provide a cover vote, a chance to vote for something that would not somehow be seen as an up-or-down vote on the gas tax question. Now this debate has clarified that. There will not be even one Senator who will be able to go home and have the temerity to say "I did not understand what was going on with the parliamentary situation so confused." It is not confused. If you are for the gas tax increase, vote against the Symms amendment. If you are doubling the gas tax, then you vote in favor of his motion. That was the only point I was seeking to make.

We have been told tonight that Senators run for the Senate so they can participate in national policymaking. But the Senator from Mississippi is absolutely right. A week or so ago we were told if we would vote for the budget resolution, it would keep the process moving, that was merely a procedural vote, and that the real policymaking would occur when this reconciliation bill came to the floor. "We will be shooting with real bullets then." We were told that the budget resolution does not count. Now we are told that the real decision was made when we passed the budget resolution and that, after all, we do not have any choice; this is the only serious alternative around; this is the only package.

In fact, we have never had a fair shot at it. The reality is, after the budget resolution was passed, the committees went to work. And I cannot speak for all of them, but in the Finance Committee it was all done, with the exception of a very small portion in open session, behind closed doors, without the kind of normal procedure and input that we have, without the hearings, or the input from the lobbyists, and yes, from the interest groups, from those people who represent our senior citizens and taxpayers and corporations and people who care about legislation.

That is important from the standpoint of custom and tradition, but that is not why it is especially significant. The reason why it is customary around here to seek the input from our fellow citizens is to avoid bringing to the floor legislation that is going to backfire—just as we have done in the past, just as it backfired in the House.

I do not know how this vote will come out, but it deserves to backfire from start to finish. Since last May the effort has been to put this package together behind closed doors, to bring it to the floor of this body and in the other body under parliamentary rules that prevent up or down votes on other issues which compromise the package. That is the real issue.

I understand we do not all agree, and I honor those who think this is a good package. I do not think so. I think raising taxes in the teeth of a recession is bad policy. I think it means fewer jobs for our sons and daughters. I think it means that communities in this country, some of them in my own State, will wither and die on the vine.

I understand there are others who have a different view, who think a tax increase, a huge tax increase, is a responsible thing to do at this point. I respect that difference of opinion.

But I do not think that. I think to pass this bill is a huge mistake, and I absolutely reject the notion that this is the only alternative available to us. It is the only alternative, if that is what we decide. If we defeat this bill, then a whole range of alternatives open up before us, and we all know that to be the case. That, however, is not the issue when Senator SYMMS makes his motion.

A vote on this up or down, whether you are for or against it, is not a vote on the package. All we are voting on with the SYMMS amendment is whether or not we want to include in the package a doubling of the gas tax.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. WALLOP. Mr. President, I yield 1 minute to the Senator from Idaho.

Mr. SYMMS. I repeat again, Mr. President, and I admire the expertise with which the majority leader is such a wonderful wordsmith, but if he has listened closely, he had never heard the Senator from Idaho stand in here and talk about deficit reduction. I talked about spending reduction. There is a big difference.

What seems to be the big craze in this town is that we have to reduce the deficit. Nobody ever talks about reducing spending. It is the percentage of the work and labor—sweat, blood, and tears—that we jerk out of those people that we spend in Government that matters. That is the issue. And this tax is regressive. It hits those that are the least able to afford it. It hurts the low-income, the retired senior citizen on Social Security that has to drive somewhere, worse than any other group. If we would just reduce spending, we would not have to worry about the so-called deficit. It is the percentage of the gross national product the Government spends that is so detrimental to our economy and our people. There is a big difference between spending control and deficit reduction.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, the able majority leader says that those of us who are in opposition to this tax are not serious about the deficit.

I do not know what constitutes serious in the majority leader's mind, but in this Senator's mind he could not be

more wrong. I bring to the attention of the body that we have in this year—this body of Senators—increased our spending by 14 percent. Our deficit package is a great deal bigger than it would have been had we just restrained ourselves to a level of spending similar to inflation, or similar to that of a year ago.

The ones who have been voting for those things are the ones not serious about the deficits. I can tell you who the special interests in America are; the special interest in America is reelection. I was flailed about the head 2 years ago in my reelection effort for being against women, for being against farmers, for being against the elderly, for being against truckers, for being against all these kinds of things, because I made it a point to vote against those things which were huge increases in spending over a year before.

That is serious. That is serious to have to put your seat on the line for having voted to restrain spending.

The Senator from Colorado is correct in stating this is not the only tool that is available to the United States or to the Congress to reduce spending and to reduce the deficit. Make no mistake about that. It is the only tool available to us tonight, and it has been characterized as Dooms Day; this or nothing. And it is simply not the case, and this amendment does not destroy the effort on the part of all of us who care seriously about the deficit to reduce it.

The Senator from Idaho is quite correct; the issue is much more spending than revenue. Revenues have been increasing at an astonishing rate over the last 8 years, but not nearly so astonishing as our rate of using them.

I am reminded from time to time how this Senate has an enormous appetite to authorize new pieces of ground to the National Park System and no stomach at all for paying for them. We just take the land from people, freeze them in their spot, and then say we are serious about the deficit; we have taken your land, but we are not going to pay for it. We are adept at stealing, and this is an effort at stealing, this tax.

Some of us would really prefer real deficit reduction to tax increases. I have been told that I could not stand the heat if we went to sequester. Try me out. Try me out, because therein, I would know that those portions of the deficit which were reduced would be real, would be permanent, would be lasting, as will be these taxes real, permanent, and lasting, but they will not have an effect on the deficit anything like that which is proclaimed, anything like that absurd assumption and intrasavings that is going to come as part of the $65 billion of this $500 billion package.

The majority leader says our deeds do not match our speeches. I suggest that those in this body last night who voted for a new spending program, a brand new start in spending, are the ones whose deeds do not match their speeches. Oh, yes, it looks good at home to have volunteers in America cleaning up parks, and everything else, but it looks rough on the deficit side of the ledger, too.

It is brand new; it was a luxury. It is great for reelection, but it is not great for the deficit, make no mistake about it. It was new spending, and it requires new spending next year and the year after, and as far down the road as you can see.

No, my friends, those of you who are not serious about the deficit are those of you who vote to spend and spend, and add new programs. And we have a lot of them yet to come, if the majority has its way, before the Senate has finished its work.

Mr. President, I yield.

Mr. LOTT. Mr. President, will the Senator yield a couple minutes?

Mr. WALLOP. I yield the remainder of my time.

Mr. LOTT. Mr. President, I would like to correct the record in a couple of instances. First, I do not mean to infer that what the leadership is doing here is unfair or that it is not right. It is in the rules, and they are masters at making use of the rules. And I hope someday to be able to do the same in return.

But what I am trying to make clear is the novelty of how things did not occur during the day. No vote at 3 o'clock; finally one vote at 9:30. Even though we are going through this protracted process, everybody needs to understand here and across the country that this vote is a vote on whether or not to raise the gasoline tax 9½ cents.

All I am trying to do is make clear what is being done. We will have as tough votes as ever the Senate cast tough votes. This Senator over the years has voted for more budgets than I voted against—7 out of 10 times. I voted for TEFRA and apologized time and time again for that horrible vote. I view this package as another TEFRA. I got trapped once and do not want to do it again.

It is interesting to me that we are being told if we knock this gas tax provision out, the whole bill goes down; it is destroyed. "The bill is sacrosanct; we cannot touch it; we cannot breathe on it." Yet, in the other body, there were three packages floating around, two of which had no gasoline tax increase, the Republican taxes and then one so-called Democratic one. The one that passed, I believe, only had 3 cents.

Why is it if we breathe on this package anyway, all of a sudden the whole thing goes down? I do not understand that. You know we are going to wind up not with a 9½ cent increase, but somewhere between 3 and 9½ cents. Maybe if we knock this part of it out, we will wind up eventually with 3 cents. I do not understand how, if we change one little piece, the whole house of cards comes tumbling down.

Press releases? Hey, look, we are putting them out on both sides. We all have a fair amount of complexity in that area.

I remember all the press releases also coming out when the leaders were at Andrews Air Force Base. I could not wait to see the paper every morning for the new release or leak, or whatever it was.

Finally, on the minimum wage, I think the leader knows that on November 8, by a vote of 89 to 8, the Senate passed a bill the President signed into law after we had been dinging back and forth for the year with the President saying, "This is what I am going to sign." We did pass it. I did vote for it, the President signed it into law, and that is the law today.

I thank the Senator for yielding that time, and if I control the remainder of the time, I yield back.

Mr. WALLOP. I am prepard to yield back.

Mr. LOTT. I yield the floor.

Mr. GRAMM. Mr. President, will the minority leader yield?

Mr. DOLE. I am happy to yield.

Mr. GRAMM. I got lost in all the speechmaking as to what the underlying amendment is that we are about to vote on tabling. Can someone simply tell me what it is? Everybody has told me that they are voting for or against. I would like to know what the underlying amendment is.

The PRESIDING OFFICER. (Mr. CONRAD). The majority leader.

Mr. MITCHELL. Mr. President, the amendment merely provides that the allocation to the highway trust fund of the receipts from the gas tax will be 60 percent, with 60 percent going to deficit reduction.

Mr. GRAMM. In the bill now, it is 50-50; is that right?

Mr. MITCHELL. Yes. All the bill does is change the allocation from 50-50.

Mr. GRAMM. I thank the distinguished majority leader.

The PRESIDING OFFICER. The Republican leader has 10 minutes remaining.

Mr. DOLE. I yield 1 minute.

Mr. DOMENICI. Mr. President, I want to respond to those who have asked the question whether the Symms amendment is a killer amendment. Frankly, I do not think we have to imply; we have to ask the author. He is filled with integrity and honesty, and we have all said that today. He said: This is a killer amendment; I intend to kill the package. That is what he said.

I told him I did not disagree, but I truly respected his honesty. That is what he is trying to do, as I understand it.

I thank the leader.

Mr. DOLE. Mr. President, I want to make one comment. The Senator from Wyoming indicated, as I made myself clear, as far as our mission in the gulf, and certainly I did not imply, but I made this statement so many times maybe I did not make it at length. My message is that the American people want us to demonstrate leadership, and I recited this Time poll. About four or five times, I think, Time magazine asked people if they are willing to make a sacrifice to help in the gulf crisis. Eighty-four percent said yes.

Question No. 2: Are you willing to raise the gas tax; 73 percent said no. The point I am making is we are there for oil. We import about 8 million barrels, about 45 or 46 percent. We consume about 30 percent of the world's energy in this country, and we need to conserve a little bit. Maybe this will not do it.

Yes, that is the point I wish to make, and of course the House does not have any gas tax, I say to the Senator from Mississippi, zero gas tax in the package passed by the House. But to make up for that, they delay indexes for 1 year, which takes $30 billion out of the pockets of the working people, indexing the tax brackets and indexing exemptions. And that is how they avoided the gas tax in the House package.

I do not think this Senator or the Senator from Mississippi would care to delay indexes for 1 month or 1 year. So it all gets back to the point that to some, this may be deficit reductions; to some, it is not the way we like it.

The Senator from Idaho is correct. He talks about spending restraint, and he is right and votes that way. And so do other Senators that I have referred to earlier.

But, unfortunately, we are not in the majority, and, unfortunately, or fortunately, depending on your point of view, we agreed to work out some kind of agreement, and we are trying to stick with it.

I do not fault anybody who does not like it, who is trying to upset it. But again I say that it is the leader's responsibility to try to see that that does not happen. If it does, it is not the end of the world. But what happens if this amendment is adopted? If we are alert, we will recommit the bill to the Finance Committee and say find $43.6 billion in taxes somewhere else. If all those who support the amendment would please give me a list of the taxes they like better—maybe you like some taxes better—give me a list of about $43 billion that I could give the Senate Finance Committee chairman and the ranking Republican and say, "I do not like gas taxes. I would rather raise the income tax or the cigarette tax or the beer tax or the wine tax or the HI cap or the luxury tax or something we have not thought of; or take it out of the savings side."

That would be my hope. This, I guess, does not kill the bill completely. It will just take a few days for it to die, because the Senate Finance Committee then would be under the obligation to report back forthwith with $43.6 billion in additional revenues. And I am certain that those $43.6 billion additional revenues would not meet with any more approval than the present provision.

So there are not any easy choices. I do not fault those who have a better idea. I say to my colleagues that I understand my friend from Idaho is going to move to table the amendment. I hope Senators will support the leaders in this instance and vote against the tabling motion.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Wyoming has 4 minutes remaining.

Mr. WALLOP. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. SYMMS. Mr. President, I move to table the Mitchell amendment, with the underlying Dole amendment, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 3014 offered by the majority leader. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 40, nays 59, as follows:

[Rollcall Vote No. 278 Leg.]

YEAS—40

Armstrong	Heflin	Nickles
Baucus	Helms	Pell
Bond	Hollings	Pressler
Burns	Humphrey	Riegle
Coats	Kasten	Roth
Cochran	Kerrey	Sanford
Cohen	Kerry	Shelby
D'Amato	Levin	Simpson
Dixon	Lieberman	Specter
Exon	Lott	Symms
Garn	Mack	Wallop
Grassley	McCain	Wilson
Harkin	McClure	
Hatch	McConnell	

NAYS—59

Adams	Bingaman	Breaux
Akaka	Boren	Bryan
Bentsen	Boschwitz	Bumpers
Biden	Bradley	Burdick
Byrd	Graham	Murkowski
Chafee	Gramm	Nunn
Conrad	Heinz	Packwood
Cranston	Inouye	Pryor
Danforth	Jeffords	Reid
Daschle	Johnston	Robb
DeConcini	Kassebaum	Rockefeller
Dodd	Kennedy	Rudman
Dole	Kohl	Sarbanes
Domenici	Lautenberg	Sasser
Durenberger	Leahy	Simon
Ford	Lugar	Stevens
Fowler	Metzenbaum	Thurmond
Glenn	Mikulski	Warner
Gore	Mitchell	Wirth
Gorton	Moynihan	

NOT VOTING—1

Hatfield

So, the motion to lay on the table the amendment (No. 3014) was rejected.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The amendment before the body is amendment No. 3015 to No. 3014. The question is on agreeing to the amendment.

The amendment (No. 3015) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to Amendment No. 3014, as amended.

The amendment (No. 3014) as amended, was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The motion to strike is rendered moot.

Who yields time?

REALLOCATION OF STATES' SHARE OF HIGHWAY TRUST FUND

Mr. SIMPSON. Mr. President, I fully support the efforts and statements previously made by my colleagues, Senators BAUCUS and PRESSLER, with regard to this provision in the Senate Finance Committee budget proposal which changes the distribution to the States of certain money that are collected into the highway trust fund. I, too, oppose this reallocation and will support any effort to have it stricken from this agreement.

States are categorized as "donor" or "donee" depending on certain formulas which allocate highway trust fund money. Now if we want to analyze a complicated program—dig into the highway trust fund. They have more

programs, initiatives, obligations, targets, estimates, estimated estimates—it is quite a system. But, back to the point,—as that system stands, calculations are made on how much a State contributes to the highway fund via the gas tax and trucker fees versus how much that State needs from the trust fund to adequately take care of its highways. They consider population, land area, and lane miles. Obviously, States with lower populations won't contribute as much to the trust fund—but, with large land areas to cover, we have extensive highway systems that need more funds. Hence—the donor-donee system was born.

Donee States, and there are 27 of which Wyoming is one, receive $1.15 in highway trust funds for every dollar we put into the trust fund. Donor States—and there are 23 of which Texas is one, receive .85 cents for every dollar they contribute. But don't misunderstand this system—they aren't coming out short. They get millions of dollars from other pockets and accounts and budget provisions. Our counterparts on the House side make sure of that—so I have no reservation whatsoever in making sure that this donor-donee allocation remains the same.

The Finance Committee's budget proposal would use one-half of the revenues generated from the gas tax directly for deficit reduction. The other half would be placed in the trust fund. This is the half of revenues—an estimated $4 or $5 billion—that the committee suggests be reallocated. Donee States would receive $1.05 for every dollar they contribute, and donor States would receive .95 cents for every dollar.

Donee States will still receive revenues—that's true. We will just receive a lot less than we would have otherwise, and the more heavily populated States will receive even more than they would have. Wyoming stands to lose $5 million from this reallocation. That's a loss—a loss that we can barely afford when we may already have to take the hit from an increased gas tax. The fact we may have to swallow a gas tax is bad enough, but I can't accept Wyoming taking a double hit and losing more highway money to boot.

I work very hard to represent the constituency in Wyoming. But I must now make some difficult decisions for the constituency of future generations, in Wyoming and in this Nation. So often, we in Congress are pressed to do what is politically expedient—solving the current crisis or appeasing the interest of special interest groups—we lose sight of what is down the road. That must come to an end.

I'm prepared to have to tell the people of Wyoming that a gas tax may be one solution to our problems. And I'll take a hit for that. But I can not tell these people that they will have to pay more in taxes, but can receive less. I join 26 of my colleagues in telling you all today—we can not do that.

America is over 3 trillion bucks in the hole. The economic backlash from that situation—which can very easily continue to worsen—will hit our kids and their kids the hardest. It would be quite easy to keep on spending and opposing any regional taxes and just hold off on the heavy lifting and difficult decisions for years to come—but when this budgetary chicken finally does come home to roost, it would just wipe out the economy. We must deal with it now. The time has truly come to show some real leadership and political courage to tackle this problem.

So although I am not in favor of an increase in gasoline taxes, I may have to support one in order to get a budget agreement. I am sure there will be some heavy artillery wheeled out and leveled at me, but I must remain more concerned with the future of our great Republic than with any political fallout that may occur now. But I can't ask them to take a double hit.

I thank my colleagues and urge you to support this effort by Senator BAUCUS and a number of others to strike this reallocation language from the budget agreement. It does not affect budget revenues—and striking it will not affect the budget agreement made by the Finance Committee.

MINIMUM ALLOCATION PROVISION

Mr. KOHL. Mr. President, I would like to express my disappointment with the point of order that was sustained earlier today against the 95-percent minimum allocation provision contained in this bill. I regret that there was not sufficient support in this body to retain this important provision.

Mr. President, I supported the change in the minimum allocation formula contained in this bill. Wisconsin is a donor State, and has been a donor State for a long time. Since 1956, Wisconsin has sent to Washington more than $1.5 billion in Federal gas taxes that have not come back to the State in Federal highway or mass transit funds. That's an average of $44 million each year that Wisconsin has generously contributed to some other State's highway and mass transit systems.

Wisconsin's status as a donor State would be less objectionable if our generosity under the Highway Trust Fund was being reciprocated under other Federal aid programs. But it isn't. According to a study released by the Northeast-Midwest Coalition this year, Wisconsin averaged an $0.82 return on every tax dollar it sent to Washington during the 1980's.

Mr. President, the Senator from Montana argued that the more appropriate time to consider a change in the minimum allocation formula would be during next year's debate over the Highway Trust Fund reauthorization. And I will assure my colleagues that it will be considered during that debate. Yet that did not absolve us from addressing a fundamental inequity here today.

Today we are asking Americans to shoulder a 9½-cent increase in the Federal gas tax. I cannot say I am happy about this level of increase. I would prefer that we look to the wealthy to pay their fair share of taxes rather than resort to regressive taxes such as a gas tax. And I will support amendments today that will place more of a burden on the wealthy than on middle-income Americans.

But if this measure is going to require a gas tax increase, regardless of the level of that increase, then this measure should also require a more equitable distribution of revenues that result from that increase. Why should the residents of Wisconsin, who have donated an average of $44 million a year in gas taxes to other States, be asked to not only continue that donation but increase that donation substantially in fiscal year 1991 just so that this issue can be "more appropriately" debated next year? This delay means that Wisconsin will lose an opportunity to receive an additional $27 million in its fiscal year 1991 apportionment.

Mr. President, it is easy to understand why the Senator from Montana and others who represent States that have benefited from the current formula objected to this provision. Their States would have benefited substantially less than they would have otherwise under this bill. But it's important to note that this provision would not have resulted in any State receiving a lower apportionment under the Highway Trust Fund than its current apportionment. By tying this change to only the new revenues generated as a result of this bill, no State would have lost highway funds as a result.

Mr. President, I regret that the Senate did not agree today to offer donor States such as Wisconsin a small degree of overdue equity. But this issue will be debated again next year. And I will do all I can at that point to see that the formula is rewritten in a way that provides some fairness to donor States such as Wisconsin.

MEDICAID

Mr. GRAHAM. Mr. President, in November 1989, I introduced S. 1878, legislation to allow states to finance their State Medicaid match through any tax or donated funds. This legislation would protect State Medicaid budgets from unwarranted Federal intrustion.

On February 9, 1990, the Health Care Financing Administration [HCFA] published a proposed regulation, 55 FR 4626—February 9, 1990—to prohibit the States' right to use spe-

cial taxes and voluntary donations as sources of the State Medicaid share.

The administration, however, has a short memory. A few years ago, the administration urged States to pursue innovative approaches to finance escalating State Medicaid budgets. With increased Federal mandates and diminishing State resources, should not we continue to encourage flexibility for State Medicaid programs?

For many States, taxes and/or voluntary contributions are vital sources of revenue. The proposed regulations would restrict for the first time the wide latitude States traditionally have had in financing Medicaid programs. States affected would include Florida, Tennessee, Texas, California, New York, Alabama, Georgia, and Ohio. Several other States have passed legislation to utilize provider taxes or donated funds but are awaiting HCFA final action.

In my State of Florida, we passed landmark legislation creating the Public Medical Assistance Trust Fund (PMATF) in 1984 to provide indigent health care to the State's neediest citizens. The PMATF is funded through a 1.5-percent assessment on the net revenues of all hospitals in Florida and through general State revenues. Florida was the first State to use a hospital tax for Medicaid funding.

If HCFA prohibits hospital taxes for Medicaid use, Florida would lose $150 million from its Federal share next fiscal year. Florida spent the entire hospital tax revenues to keep up with just the new Federal mandates from the 1989 reconciliation bill.

In addition, if the administration succeeds in restricting how States can raise their funds, States will have to cut already insufficient benefits and reimbursement.

HCFA's reasons that the donations and special taxes are essentially a kickback if facilities which put up Medicaid money—whether through taxes or donations—get State and Federal reimbursement for their services. This is no more a kickback then when taxpayers receive subsidized health care or other benefits. Strict rules already exist which prevent real kickbacks.

The administration also assumes that my bill would cost significant amounts as other States would initiate programs if S. 1878 passed. This is a specious argument. Raising taxes in any State is not an easy feat.

The real basis for the administration's policy is clear. If the Federal Government refuses to match the whole State Medicaid portion, there is a budget savings. But this is not a real savings. States will only find other ways to raise their State match. It may take some time, but States will have no other choice. And when States do find the funds, the Federal Government will have to match them.

My bill would fight this subjective logic in two ways. It would allow States to finance their share of health care funds through taxes. It would also allow donated funds to be utilized as part of the State Medicaid share with two limitations to prevent abuse. The donations cannot amount to more than 10 percent of the State's Medicaid spending or 10 percent of the donating facility's gross revenues.

Although these provisions were included in the House Budget Reconciliation Act last year, the final reconciliation bill included only a moratorium on issuance of final regulations.

The House-passed reconciliation bill included the text of S. 1878. The Senate reconciliation bill, however, establishes another moratorium on final HCFA restrictions.

We must act now to end 2 years of moratoriums. We need to permanently resolve this issue and give States latitude to raise Medicaid funds through innovative mechanisms.

MEDICALLY NEEDY INCOME LEVEL UNDER MEDICAID

Mr. CRANSTON. Mr. President, I want to highlight one particular provision in the budget reconciliation measure now before us. It's not a major provision, but one that is very important to elderly and disabled low-income individuals in my State and many others. This provision would prohibit the Health Care Financing Administration [HCFA] from implementing regulations concerning the medically needy income standard for single individuals under State Medicaid plans.

Mr. President, I must applaud the distinguished chairman of the Finance Committee Senator BENTSEN, for his tremendous assistance on this issue during the course of the last year. Without his diligent efforts on behalf of myself, the Senator from Vermont, Senator LEAHY, and other concerned Senators, thousands of single aged, blind, and disabled adults would have been rendered ineligible for Medicaid in many States.

Mr. President, the provision I speak of prohibits the administration from implementing a draconian revision of the Medicaid regulations with respect to the medically needy income levels for single adults. Last year, the administration sought in its fiscal year 1990 budget complex regulatory changes which would have affected 95,000 low-income disabled persons in California alone.

With the assistance of the distinguished chairman of the Finance Committee, Mr. BENTSEN, language was included in the Omnibus Budget Reconciliation Act of 1989 which placed a 1-year moratorium on the implementation of the proposed regulations. In February of 1990, 22 Senators joined in writing a letter to Secretary Sullivan requesting that he review and reconsider his proposal to change the regulations with respect to the medically needy income levels. Secretary Sullivan acknowledged our correspondence, but I am unaware of any forthcoming efforts on the part of the administration to withdraw or reconsider the regulations.

In light of the administration's lack of response to this compelling situation and the impending deadline for the discontinuation of the moratorium on the regulations, we were again forced to approach our good friend from Texas, Senator BENTSEN, for his assistance.

Mr. President, I want to commend the distinguished chairman of the Finance Committee, Mr. BENTSEN, for working with myself, Senator LEAHY, and others in permanently resolving a situation that promised to have a devastating impact upon many low-income medically needy individuals who would have been excluded from receiving Medicaid services.

I ask unanimous consent that copies of the correspondence relating to this matter be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, September 19, 1989.

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR LLOYD: I am writing regarding the Finance Committee's upcoming consideration of the FY 1990 budget reconciliation legislation.

I understand that the Administration proposed in its FY 1990 budget a regulatory change regarding the Medicaid Medically Needy Income Levels for single aged, blind, and disabled Social Security recipients, pensioners, and other medically needy adults. This proposal would impact California disproportionately hard.

Current regulation states that, in determining the Medically Needy Income Levels (MNIL) for a single person, states may utilize a methodology that is 133⅓ percent of the amount "reasonably related to the highest money payment which would ordinarily be made under the State's AFDC plan to a family of two without income and resources." The statute and regulations reflect the fact that a medically needy family of one ordinarily will be an aged, blind, or disabled adult, while an AFDC family of one ordinarily will be a child.

HCFA further clarified this regulation in the Regional Office Manual (1979), which states, "[w]here there is no amount of payment for one person in the AFDC program which is reasonably related to the AFDC payment for two-person families, for example, because the AFDC plan does not provide for payments to single individuals, *or such payments are based on reduced need standards applicable only to dependent children and are therefore not related to reasonable maintenance needs of medically needy adults, an amount for one-person families must be established by the State to meet the requirements of this provision*" (emphasis added).

The regulations and the ROM manual cited above both stress the statutory requirement of setting a MNIL for individuals on the "basis of reasonable relationship" to the AFDC level for a family consisting of two or more persons. HCFA's current regulations correctly interpret this to mean that even if a State has an AFDC payment level for a family of one child, since that level is not related to the reasonable maintenance needs of medically needy adults, a State may set different levels to take into account the greater needs of adults.

I understand that HCFA may propose new regulations that would forbid states from implementing the "reasonable relatedness" requirement when such states have an AFDC payment standard for one person. I would very much appreciate your including a provision in the reconciliation legislation that would protect the single person MNIL in those states which, as of June 1, 1989, had relied upon the current regulations. I have included draft language for your review.

Since this is codifying current practice and regulation that find ample justification in current law, I do not believe that there should be a cost associated with the amendment. An analogous provision that was adopted in section 4106 of Public Law 100-203 provides precedent for this amendment and cost analysis. You were very helpful in enacting that provision, which protected California's adult couple MNIL, which was set at 133⅓ percent of the AFDC payment standard for a family of three. The rationale underlying this formula is analogous to the rationale for setting the medically needy income level for individuals described above and was authorized according to the same ROM and regulations.

Similar to the Administration's current proposal, HCFA attempted to revoke the authority for higher adult couple standards. P.L. 100-203 prohibited HCFA from taking such action. In that case, CBO found no cost associated with the provision.

Lloyd, in California, the MNIL for single aged, blind, or disabled SS recipients is $600 a month. California's standard was set according to current law and regulation. I am very concerned that the Administration may move forward with this regulation in the near future, which would result in a reduction of nearly 25 percent in California's MNIL and would affect 94,500 Californians. Thousands of individuals in other states would similarly be impacted.

Thank you for your assistance on this crucial matter.

Cordially,

ALAN CRANSTON.

COMMITTEE ON FINANCE,
Washington, DC, December 19, 1989.

Hon. ALAN CRANSTON,
U.S. Senate, Washington, DC.

DEAR ALAN: The Fiscal Year 1990 budget reconciliation cycle presented some unusually difficult challenges for all of us in Congress and I wanted to take a moment, now that we have adjourned the first session of the 101st Congress, to express my appreciation to you for all your extra effort and advice, particularly with respect to a resolution for the issue of medically needy income levels for one-person families.

While it was not possible to arrive at a permanent resolution of the issue of the medically needy income levels for one-member families under State Medicaid programs, the conferees did agree to a provision that prohibits the Health Care Financing Administration (HCFA) from issuing final regulations on the issue until Congress has an opportunity to examine its merits. This ban, which expires at the end of 1990, is contained in section 6411(h) of the Omnibus Budget Reconciliation Act of 1989 (OBRA '89).

I very much regret that we were unable to include the legislative language you sought in the final version of the budget reconciliation legislation adopted by Congress, but, as you are well aware, provisions that were not critically time sensitive or that did not have the effect of reducing the deficit were stripped from the final bill in the closing hours of the session. In any case, I hope that there will be an opportunity to address your concerns during the second session of the 101st Congress. In the meantime, I want you to know how deeply grateful I am to you and to your excellent staff for all the special assistance, long hours, and hard work during an especially difficult budget cycle.

Best wishes for the Holiday Season.

Sincerely,

LLOYD BENTSEN.

U.S. SENATE,
Washington, DC, February 13, 1990.

Hon. LOUIS W. SULLIVAN, M.D.,
Secretary of Health and Human Services, Washington, DC.

DEAR SECRETARY SULLIVAN: We are writing concerning the September 26 Notice of Proposed Rulemaking (54 Federal Register 39421) issued by the Health Care Financing Administration in which modifications of 42 CFR 435.1007 are proposed. The regulations concern the medically needy income level (MNIL) for single aged, blind, and disabled Social Security recipients, pensioners, and other medically needy adults. This proposal would impact residents of California, Vermont, Rhode Island, Maryland, Virginia, Pennsylvania, Montana, Oklahoma, North Dakota, Kansas, Nebraska, Tennessee, Iowa, Georgia, Utah, Minnesota, Missouri and possibly other states.

Current regulations—which have been in effect for more than 20 years—state that, in determining the Medically Needy Income Levels for a single person, states may utilize a methodology that is 133⅓ percent of the amount "reasonably related to the highest money payment which would ordinarily be made under the State's AFDC plan to a family of two without income and resources." The statute and regulations reflect the fact that a medically needy family of one ordinarily will be an aged, blind, or disabled adult, while an AFDC family of one ordinarily will be a child.

HCFA further clarified this regulation in the Regional Office Manual (1979), which states, "[w]here there is no amount of payment for one person in the AFDC program which is reasonably related to the AFDC payment for two-person families, for example, because the AFDC plan does not provide for payments to single individuals, or such payments are based on reduced need standards applicable only to dependent children and are therefore not related to reasonable maintenance needs of medically needy adults, an amount for one-person families must be estalished by the State to meet the requirements of this provision".

The regulations and the ROM manual cited above both stress the statutory requirement of setting a MNIL for individuals on the "basis of reasonable relationship" to the AFDC level for a family consisting of two or more persons. HCFA's current regulations correctly interpret this to mean that even if a State has an AFDC payment level for a family of one child, since that level is not related to the reasonable maintenance needs of medically needy adults, a State may set different levels to take into account the greater needs of adults.

HCFA's proposed regulations would forbid states from implementing the "reasonable relatedness" policy when such states have an AFDC payment standard for one person. Since all states have such AFDC payment standards, no state would be permitted to continue its current policy.

We do not support such a change in regulation. There has been no change in statute to require or support this reinterpretation. In our view, it is simply an attempt to save a few dollars at the expense of the most vulnerable members of our society—low-income elderly and disabled individuals. We are concerned that if this regulation is implemented, many frail individuals will be faced with choosing between food, heat and rent or vital medical care, including physicians' visits and prescription drugs. Many will no longer be able to live independently and will be forced into nursing homes in order to gain access to medical care. That will result in greater, not lesser, Medicaid costs.

As you may know, the Omnibus Budget Reconciliation Act of 1989 included a one-year moratorium on the implementation of the proposed regulation. With this additional time, we urge you to review this proposal and the comments you have received about its potential impact. We hope that, upon such review, you will agree not to proceed with the final regulations. We look forward to hearing from you about your decision on this matter.

Sincerely,

Alan Cranston, J. Robert Kerrey, Kent Conrad, Patrick Leahy, J. James Exon, Paul Sarbanes, David Pryor, Tom Harkin, Barbara A. Mikulski.

James M. Jeffords, Quentin N. Burdick, Claiborne Pell, Orrin G. Hatch, Jake Garn, Conrad Burns, Max Baucus, Jim Sasser, Sam Nunn, Rudy Boschwitz, Pete Wilson, Dave Durenberger, Albert Gore, Jr.

WASHINGTON, DC,
April 19, 1990.

Hon. ALAN CRANSTON,
U.S. Senate, Washington, DC.

DEAR ALAN: I am responding to your letter urging me to review carefully a proposed Medicaid rule which was published on September 26, 1989.

The rule proposed to establish the maximum Federal financial participation limit for medically needy families consisting of one person at 133⅓ percent of a State's Aid to Families with Dependent Children payment standards for one person. As you indicate, Congress imposed a 1-year moratorium in the Omnibus Budget Reconciliation Act of 1989 which prevents implementation of a final rule. I assure you that I will carefully review this issue and will give your comments every consideration.

Thank you for sharing your concerns with me. A similar letter has been sent to the other Senators who signed your letter.

Sincerely,

LOUIS W. SULLIVAN, M.D.,
Secretary.

U.S. SENATE,
Washington, DC, September 18, 1990.

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR LLOYD: We are writing regarding the Finance Committee's upcoming consideration of the FY 1991 budget reconciliation legislation.

Last year, the Administration proposed in its FY 1990 budget a regulatory change regarding the medically needy income levels for one-member families under state Medicaid programs. This regulation would have had the effect of rendering thousands of single aged, blind, and disabled adults ineligible for Medicaid in at least 17 states.

With your assistance, language was included in the Omnibus Budget Reconciliation Act of 1989 which placed a one year moratorium on the implementation of the proposed regulation. In February of 1990, twenty-two Senators joined in writing a letter to Secretary Sullivan requesting that he review and reconsider his proposal to change the regulations with respect to the medically needy income levels. Secretary Sullivan acknowledged our correspondence, but we are unaware of any effort within the Administration to date to give this matter serious reconsideration. Because this ban is due to expire on December 31, 1990, we are seeking your assistance in resolving this issue permanently.

As you may recall, current regulations—which have been in effect for more than 20 years—state that in determining the medically needy income levels for a single person, states may utilize a methodology that is 133⅓ percent of the amount "reasonably related to the highest money payment which would ordinarily be made under the state's AFDC plan to a family of two without income and resources." Thus, even if a state has an AFDC payment level for a family of one child, since that level is not related to the reasonable maintenance needs of a medically needy adult, a state may set different levels to take into account the greater needs of an adult. This practice is wholly consistent with current law.

The Administration's proposed regulations would forbid states from implementing the "reasonable relatedness" requirement when such states have an AFDC payment standard for one person. Since all states have such AFDC payment standards, no state would be permitted to continue its current policy.

Lloyd, we would very much appreciate your including a provision in this year's reconciliation legislation that would protect the single person medically needy income level in those states which, as of June 1, 1989, had relied upon the current regulations. We have included draft language for your review.

Since this provision is codifying current practice and regulations, we do not believe that its inclusion will result in increased costs. This provision is very similar to one adopted in section 4106 of Public Law 100-203, which protected California's adult couple medically needy income levels. CBO found no increased costs associated with that provision, which also sought to codify existing practice. We are currently in the process of requesting a cost estimate of our proposal from CBO and will share the results with your office as soon as it's available.

Thank you for your assistance on this crucial matter.

Sincerely,

ALAN CRANSTON
PATRICK LEAHY.

THE MEDICAID MEDICALLY NEEDY PROGRAM

Mr. LEAHY. Mr. President, I want to join Senator CRANSTON in thanking Chairman BENTSEN for including in his Finance Committee reconciliation package our provision clarifying how States set income tests for single individuals in the Medicaid medically needy program. This is good news for the 2,000 low-income and disabled Vermonters whose Medicaid benefits have been threatened since the administration requested a change in the income tests last year.

In its fiscal year 1990 budget, the administration proposed a regulatory change that would remove an option States have had for the last 20 years allowing them to set more generous income levels for single adults in the Medicaid medically needy program.

The medically needy program covers individuals who are not eligible for cash assistance under the Mediciad program but who need help with medical expenses and meet a financial standard established by the State. The medically needy income standard is based on 133⅓ percent of the State's AFDC payment standard for a household of similar size. But for 20 years there has been an exception. States have had the option of calculating the income standard for medically needy single adults based on the AFDC payment for a household of two instead of one.

This option reflects the fact that a medically needy household of one ordinarily is an elderly, blind or disabled adult with greater needs than an AFDC household of one, ordinarily a dependent child.

Vermont and other States have taken advantage of this flexibility in order to make Medicaid available to more single individuals. For thousands of elderly and disabled Vermonters, receiving medical care under the medically needy program has meant a chance to live independently and avoid nursing home care.

During last year's reconciliation debate, Senator CRANSTON and I worked with Senator BENTSEN to place a 1-year ban on the administration's proposed rule with the understanding that we would work this year to permanently resolve the issue.

In February of this year, twenty Senators joined us in writing to Secretary Sullivan requesting that he review and reconsider his proposal to revise the provisions for establishing income tests in the medically needy program. To our knowledge, the administration has made no effort toward this end.

Mr. President, I have never understood the wisdom of the administration's proposal. In my view, it is simply an attempt to save a few dollars at the expense of the most vulnerable members of our society: low-income elderly and disabled individuals. Loss of Medicaid benefits would mean that many frail individuals would be forced to choose between food, heat and rent or vital medical care. Many would lose their independence and be forced into nursing homes in order to gain access to medical care. In the long run, that would mean a much greater commitment of Federal and State Medicaid dollars.

I am grateful to Chairman BENTSEN and his Committee for including the language Senator CRANSTON and I drafted. It will protect the single person medically needy income level in those states which, as of June 1, 1989, relied on the current regulations. It is my understanding that the House reconciliation package includes a similar provision.

I especially want to thank Senator CRANSTON for his leadership and hard work in seeing his provision through the Finance Committee. This is a good provision that will help many elderly and disabled Americans with their urgent medical needs. I urge all Senators to support this effort.

I also would like to thank Chairman BENTSEN on another matter regarding access to health care. His reconciliation bill includes a provision assuring that Medicaid beneficiaries continue to receive urgent medical care while they appeal a decision of "not disabled" made by the Social Security Administration [SSA].

In another example of the ongoing effort by this administration to deny people access to disability benefits, the Health Care Financing Administration adopted a rule in January 1990, that limits the States' flexibility in providing care to thousands in need. In this rule, HCFA denied States the right to provide Medicaid benefits to persons determined "not disabled" by the completely separate Supplemental Security Income Program.

Chairman BENTSEN included legislation I drafted that rightly allows States to continue providing Medicaid benefits to persons needing urgent medical care, until a final decision is handed down by SS. This is absolutely essential in light of the serious problems with the Social Security Administration's handling of disability cases. A report issued by the General Accounting Office [GAO] last year determined that over half of those applicants who are denied disability benefits by the SSA should have been granted those benefits. The reconciliation provision assures that beneficiaries will not face a 1-year delay in Medicaid benefits if they do not get fair treatment from the Social Security Administration.

I had hoped that the Finance Committee would accept my proposal to allow States to make Medicaid disability determinations independent of Social Security decisions. For years Vermont has provided an effective appeals process through which the State could overturn SSA determinations of "not-disabled." Other States have made the initial determination of disability independent of SSA. Through these processes, States provided Medicaid for persons it considered disabled and in need. Eligibility was not restricted by the very narrow interpretations of disability characteristic of Social Security Administration decisions. In addition, States like Vermont made determinations in a timely and accurate manner, as mandated in the Social Security Act.

However, the chairman has shown foresight by asking the General Accounting Office to study the feasibility of establishing a definition of "disabled" for the Medicaid program that differs from the standard definition used for the Supplemental Security Income Program. These two programs address vastly different needs. The GAO study will determine if a more flexible definition of disability is needed for determining Medicaid eligibility.

I look forward to working with Chairman BENTSEN and the General Accounting Office in developing this study.

REFORMULATED GASOLINE

Mr. JOHNSTON. Mr. President, I am very concerned with the reformulated gasoline provisions agreed to by the Senate and House Clean Air conference staffs. Several aspects of the agreement on reformulated gasoline will cost the American public dearly, could force a significant amount of domestic refining capacity to shut down, and are simply not cost effective as environmental mitigation measures. Further, the reformulated gasoline requirements in the staff agreement raise serious technical feasibility questions, and could have substantial adverse consequences for energy policy and the economic health of the country, while providing questionable environmental benefits. Above all, the deadlines imposed in the agreement are probably unachievable when you consider that EPA will probably need at least 1 year to write its regulations before the refiners even begin to navigate the maze of a multiyear permitting process.

Moreover, in strictly prescribing the recipe percentages and prohibitions nationwide for numerous ingredients in the complex hydrocarbon mixture we call gasoline, refinery engineers and chemists will be unduly constrained in the methods they may employ to achieve this legislatively designed gasoline. For example, what if refinery engineers could cost-effectively achieve 14 percent aromatics reduction and 1.1 percent benzene reduction, but find that incremental costs necessary to meet the recipe mandates are very large, or require massive reconfigurations of some refineries using certain types of crude? Consumers would be subjected to severely higher pump prices for an arbitrary and tiny increment of formula change and marginal environmental benefit. This could force many refineries to shut down, impairing energy security by dramatically increasing gasoline imports, and in effect, levying a multibillion dollar tax on the motoring public with no revenues flowing to the Government.

In June 1990, soon after the House passed its version of the Clean Air bill, I wrote to the Congressional Research Service requesting that its experts analyze and evaluate the environmental benefits, costs, and feasibility of the proposed changes in gasoline. At that time, I also requested that the Office of Technology Assessment evaluate reformulated gasoline in its report on alternative fuels, a part of its ongoing assessment of "Technological Risks and Opportunities for Future U.S. Energy Supply and Demand."

CRS concluded that, among other things, the phase-in schedules for oxygenates are unrealistic, unnecessarily constraining for refiners, costly to the public, of questionable environmental benefit, and do not account for the long refinery reconfiguration permitting process. For ozone nonattainment areas, there would be increased NO_x emissions, actually exacerbating ozone problems. CRS warned of the inability of refiners to meet demand, leading to significant short term economic costs, increased imports, and market distortions, as well as transportation, storage, and distribution nightmares. We would have to build vast new storage tank farms and pipelines dedicated to ethanol, methanol, and ethers to meet these requirements. Ethanol and methanol are simply incompatible with our current storage and pipeline infrastructure. Yet the agreement ignores these realities despite the alarms sounded in the CRS reports.

A warning repeated throughout the CRS reports is the great scientific uncertainty as to how legislated reformulations will be measured or accomplished, and whether the legislated approach would even materially benefit the environment and public health.

In September, OTA released its study, "Replacing Gasoline: Alternative Fuels for Light Duty Vehicles." As with the CRS reports, the OTA Report underscored the speculative and as yet unquantified nature of potential benefits and costs that would result from a mandate to reformulate gasoline using a specific recipe. OTA emphasized the lack of critical tests that have been performed, tests that measure the specific chemical constituents of the emissions, and employ those results in air quality models to estimate urban ozone levels in a meaningful way. OTA asserted that "collection of this type of speciated data has been extremely limited thus far". The report said that there was "a significant lack of knowledge" about the impact of reformulations on actual emissions, especially in cars with the catalytic converters of today. "The ultimate ability of reformulated gasoline to lower emissions is unclear at this time" because science "can't as yet quantify the effects of reductions, and emissions benefits may be strongly non-linear". OTA asserted that the scientific community would know much more about the impact of changes to gasoline after the first phase of the oil-auto industry research project on reformulated is completed later this year. OTA concluded: "We cannot overstress the uncertainty associated with projecting the emissions-reduction potential of reformulated gasoline".

When these important reports were made available to the Energy and Natural Resources Committee, I wrote to the chairman of the Senate Environmental Protection Subcommittee urging the Senate Clean Air conferees to study the reports and consider fully the conclusions of CRS and OTA before making the final decisions on fuels in the conference. I implored the conferees to consider the energy policy, national security, and cost-effectiveness implications of these provisions, especially since the Iraqi invasion of Kuwait and the consequent oil shock. These considerations have apparently been ignored by the staff who negotiated the fuels package. The warnings of CRS and OTA were simply not reflected in the provisions agreed to by staff.

In a recent hearing held on natural gas vehicles, the Energy Regulation and Conservation Subcommittee heard testimony that Senate Environment Committee staff simply would not consider energy security implications in the Clean Air bill, but would only focus narrowly on clean air during the conference negotiations. I am astonished that we as a Nation cannot afford to adopt this ostrich-like attitude to policymaking. This myopia is simply irresponsible.

Conference committee staff even introduced an entirely new provision into the agreement during the early hours of one morning, effectively prohibiting an inexpensive octane enhancing additive, MMT, for use in reformulated gasoline. The MMT manufacturer, Ethyl Corp., asserts that it could save us 100,000 barrels of oil a day. The additive has been used in Canadian unleaded gasoline for over 10

years, with no adverse health effects. MMT is currently undergoing the legal waiver process at EPA, where scientists and public health professionals are dispassionately sifting through the environmental and health risk assessment data and literature in order to make a reasoned decision based on substantial environmental, technological, and economic evidence. Yet, Clean Air Conference staff preempted this decision for fear that narrow environmentalist opposition to MMT in the EPA proceeding would not withstand scientific scrutiny. MMT was never discussed in either Chamber during the consideration of this bill. It was never the subject of title II hearings or markups. It has simply materialized from thin air in the conference bill, further restricting the ability of refiners to meet their recipe requirements in a cost-effective manner. How many other provisions are being developed in the same outrageous manner, reflecting hidden agendas of staff and certain interest groups?

I am now beginning to question some of the basic assumptions that have been advanced by those who decry the vast public health threat resulting from changes that refiners have made to gasoline since the lead phasedown. The constant warning of the massive carcinogenic poisoning of the American public has been one of the prime motivations for redesigning gasoline and imposing very stringent new tailpipe standards for new cars. Archer-Daniels-Midland, the manufacturer of 70 percent of the fuel ethanol in this country, even ran public service type TV ads demonstrating how mothers could protect their children from cancer at the pump.

Despite this hysteria, data from EPA itself is most revealing. In September 1989, EPA published its analysis of the economic and environmental effects of methanol as an automotive fuel. Page 60 of that report reviews the air toxics impact of the President's proposed methanol fueled fleet of 1 million cars sold per year in the 9 worst polluted cities by 2005 over the baseline of cancers caused by gasoline powered vehicles. The EPA report states: "The use of methanol will also reduce the air toxic impacts of motor vehicle emissions * * *. This analysis indicates that methanol would, under the given example, result in about 9 reductions in cancer cases in 2005." That is a reduction of 9 hypothetical cancer cases in the 9 worst polluted cities by 2005 if the President's original methanol auto program had been adopted. Nine cases; not deaths, but cases.

In fact, the chart on the following page of that report shows that EPA modeling predicts 69 cases of cancer a year by the year 2005 attributed to automotive pollution in the 9 cities if gasoline use continued unabated.

To put these numbers in context, there are 1 million cancer cases reported annually in the U.S. today, and 400,000 annual cancer deaths. The President's methanol program promised to reduce air toxics by 80-90 percent by 2005, which EPA predicted would reduce cancer cases in turn by 9. The toxics reductions proposed for reformulated gasoline would start at 15 percent and increase to 25 percent. That equates to somewhere less than 9 case reductions. Yet we would spend many billions of dollars to accomplish this goal.

Should not the EPA administrator be mandated to determine the cost effectiveness, energy policy implications, and technical feasibility of the transportation fuels sections of this bill? Should not the administrator have the authority, in consultation with the Secretary of Energy, to propose changes to the transportation fuels requirements after notice and comment rulemaking? Should not EPA, in consultation with DOE, be authorized to delay implementation dates for these fuel provisions if economics, technology or cost effectiveness of benefits demonstrate the need? I believe the answer must be yes.

Mr. President, I believe very strongly that we must strive to protect and enhance public health and welfare, and environmental quality. I believe that Congress has sent a very strong message to the oil companies, electric utilities, the automakers, and other industries that we must work very hard to reduce the air pollution, water pollution, hazardous wastes, and stratospheric ozone depletion that are plaguing our planet.

But we cannot afford to legislate with blinders on. We cannot ignore the dispassionate conclusions of scientists and engineers who question the costs and benefits of these and other provisions. Especially in light of the new world energy situation, we cannot remain oblivious to the interrelationships between environmental and energy policy, and the budgetary and economic implications of our actions. I urge my colleagues to make sensible changes here to ensure that a very effective Clean Air bill is enacted, which at the same time adequately addresses economic, tax, energy security, timing, and technical feasibility considerations. Scientists, engineers, EPA and DOE must be able to work together to design cost effective, environmentally beneficial fuels of the future within reasonable, achievable time frames.

I ask unanimous consent that the material in the EPA report to which I referred to printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

[From the Environmental Protection Agency, September 1989]

ANALYSIS OF THE ECONOMIC AND ENVIRONMENTAL EFFECTS OF METHANOL AS AN AUTOMOTIVE FUEL

AIR TOXICS

The use of methanol in motor vehicles will also reduce the air toxics impacts of motor vehicle emissions. The potential reduction in cancer cases in the year 2005 has been estimated earlier. This analysis indicates that methanol would, under the given example, result in about 9 reductions (a reduction of 13 percent) in cancer cases in 2005.

Methanol is not generally considered a toxic pollutant at levels likely to be inhaled from use as a motor vehicle fuel. Available information indicates that methanol is not a carcinogen. The Health Effects Institute, an independent non-profit research organization funded jointly by EPA and the motor vehicle industry, concluded in a May 1987 report that "the weight of available scientific evidence indicates that exposure to methanol vapors is not likely to cause adverse health effects. Health concerns regarding methanol vapors should not prevent government and industry from encouraging the development and use of methanol fuels, assuming that such development and use are otherwise in the public interest." [1] Nevertheless, EPA and HEI are conducting further research in this area, especially with respect to chronic exposure to low levels of methanol.

Table 4 provides a pollutant specific analysis of the air toxics impacts of methanol.[2] A range of total cancer case reductions of 9.3-22.6 is presented. The lower number represents the minimum benefit of the proposed program in the nine affected areas in 2005. Cancer cases are estimated for the year 2005 assuming a 50/50 split of FFVs (utilizing M85 year round) and dedicated vehicles in these areas. The larger number represents the benefit in the nine areas in 2015. Replacement of 30 percent of gasoline vehicles with dedicated methanol vehicles is assumed in the year 2015 in these nine areas. As many as 75 cancer case reductions could be realized, assuming complete replacement of gasoline vehicles with dedicated methanol vehicles in the year 2015 in these nine areas.

The following toxic pollutants were examined: benzene (including exhaust, evaporative, running loss, and refueling benzene), gasoline refueling vapors, exhaust 1,3-butadiene, polycyclic organic material (POM) adsorbed onto gasoline-derived particulate matter, and formaldehyde. These pollutants are emitted by gasoline-fueled vehicles and are classified by EPA as either known or probable human carcinogens. The base motor vehicle cancer cases in the year 2005 or 2015 from gasoline-fueled vehicles and light-duty trucks in the nine affected cities were used as a starting point.[1]

To obtain reductions in cancer cases for each pollutant, the base urban cancer cases are multiplied by the per vehicle reductions (expressed as a fraction), and the fraction of the urban gasoline fuel consumption dis-

[1] "Automotive Methanol Vapors and Human Health: An Evaluation of Existing Scientific Information and Issues for Future Research," Health Effects Institute Report, May 1987.

[2] Air Toxics Emissions and Health Risks from Mobile Sources, Jonathan M. Adler and Penny M. Carey, U.S. Environmental Protection Agency, APCA Paper No. 89-34A.6, June 1989.

placed by methanol. As seen in the table, vehicles fueled with neat methanol emit little or no benzene, gasoline refueling vapors, 1,3-butadiene or POM. The virtual elimination of these pollutants with neat methanol use is responsible for most of the cancer reductions. Vehicles fueled with neat methanol also do not emit any diesel particulate; however, since the analysis was only performed for gasoline vehicles, the base cancer cases due to diesel particulate are unaffected and not included in Table 4.

TABLE 4—AIR TOXICS IMPACTS OF A METHANOL PROGRAM

Pollutant/source	Year 2005 base light-duty gasoline motor vehicle cancer cases in 9 cities [1]	Per vehicle percent reductions		Year 2005 reductions in urban cancer cases with proposed methanol program [2]	Year 2015 reductions in urban cancer cases with proposed methanol program [3]
		M100	FFV's on M85 (optimized)		
Exhaust benzene	11.4	97	77	2.0	4.0
Evaporative benzene	1.5	100	67	0.3	0.6
Running loss benzene	1.6	100	69	0.3	0.5
Refueling benzene	1.9	100	14	0.3	0.7
Gasoline refueling vapors (excluding benzene)	11.7	100	14	1.3	4.3
Exhaust 1,3-butadine	19.8	99	64	3.2	7.1
Exhaust gasoline POM	15.4	99	72	2.6	5.6
Direct formaldehyde	1.3	(+200)	(+600)	(+1.3)	(+1.5)
Indirect formaldehyde	4.4	80	43	0.6	1.3
Total	69.0			9.3	22.6
Percent reduction		93	44	[4] 13	[4] 33

[1] Assumes gasoline vehicles meet standards proposed by the President.
[2] This program assumes that 20 percent of all passenger cars and light trucks in the nine most serious ozone non-attainment areas in 2005 are methanol vehicles. A 50/50 mix of optimized FFV's (utilizing M85 year round) and dedicated methanol vehicles is assumed.
[3] These estimates assume that 30 percent of all passenger cars and light trucks in the nine most serious ozone non-attainment areas in 2015 (or some later year) are dedicated methanol vehicles.
[4] Of base risk.

VETERANS PROGRAMS

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I wish to comment on the provisions in title XI of S. 3209, the fiscal year 1991 budget reconciliation measure.

Mr. President, the reconciliation instructions contained in section 4(c)(10) of House Concurrent Resolution 310, the concurrent resolution on the budget for fiscal year 1991, require the Committee on Veterans' Affairs to report changes in laws within the committee's jurisdiction sufficient to reduce outlays for veterans' programs by $620 million in fiscal year 1991 and $3.35 billion in fiscal years 1991-95.

Pursuant to section 4(a) of House Concurrent Resolution 310 and action of the committee at an October 12, 1990, meeting, the Committee on Veterans' Affairs submitted to the Budget Committee legislation recommending budget savings. Estimated savings resulting from enactment of the legislation we submitted would exceed the 5-year total of $3.35 billion in required reconciliation savings by $2.71 billion. According to CBO estimates, the committee legislation would achieve net savings of $6.059 billion in outlays over fiscal years 1991 through 1995.

Mr. President, title XI of the bill contains provisions that would make changes in the areas of compensation and pension, VA health care, educational and vocational assistance, home loan guaranties, burial benefits and gravemarkers, and in other miscellaneous areas. In summary, these provisions would:

COMPENSATION AND PENSION

First, in section 11001, suspend payment of service-connected disability compensation to an incompetent veteran without dependents whose estate exceeds a value of $25,000 and resume compensation payments when the value of the estate reaches $10,000.

Second, in section 11002, eliminate the presumption of permanent and total disability for veterans over age 65 for purposes of pension eligibility. VA regulations currently provide that nonworking veterans aged 55-59 are considered permanently and totally disabled if they have disabilities rated 60 percent or more or are 60 to 64 years old and rated at least 50-percent disabled. It is expected that VA would extend this system of presumptions for veterans age 65 and older.

Third, in section 11003, limit monthly pension payments to $90 for Medicaid-eligible recipients of VA pension who are in nursing homes, other than State veterans homes, participating in Medicaid.

Fourth, in section 11004, eliminate dependency and indemnity compensation and pension benefits for surviving spouses who have remarried and again become single.

Fifth, in section 11005, round down to the nearest whole dollar the fiscal year 1991 cost-of-living adjustment for disability compensation and DIC and reduce by $1 the COLA for veterans rated 20-percent disabled or less.

HEALTH CARE

Sixth, in section 11011, authorize VA to bill third-party insurers for the cost of health care provided for non-service-connected conditions of veterans who have service-connected disabilities; establish the medical care cost recovery fund [MCCRF] to receive collections from billing third-party insurers for certain health-care services and from copayments by veterans for VA-furnished care and to pay the administrative costs of these collection activities, including the costs of 300 full-time equivalent employees [FTE] in addition to those currently engaged in billing and collection efforts; and provide that collections in excess of the administrative costs would be paid from the MCCRF into the Treasury.

Seventh, in section 11012, require payment of $2 for each 30-day supply of medication dispensed by VA for the care of non-service-connected conditions of veterans who do not have service-connected disabilities rated 50 percent or more disabling.

Eighth, in section 11013, modify health-care categories and copayment requirements by: Eliminating the distinction between the current B and C categories; and requiring all veterans other than category A veterans to make copayments of $10 a day for inpatient care—in addition to a copayment equal to the Medicare annual deductible for the first 90 days of care in a year, plus half that amount for each subsequent 90 days of care in the year—$5 a day for nursing home care—in addition to a copayment for each 90 days of care equal to the Medicare deductible—and $16 per visit for outpatient care—with no cap.

EDUCATIONAL AND VOCATIONAL ASSISTANCE

Ninth, in section 11021, reduce education benefits payable for certain intervals between school terms or quarters to 33 percent of the full amount.

Tenth, in section 11022, eliminate vocational rehabilitation benefits for veterans with disabilities rated 20 percent or less.

HOME LOAN GUARANTIES

Eleventh, in section 11031, allow lenders to file guaranty claims for manufactured home loans upon the lender's receipt of the VA estimate of the resale price of the manufactured home.

Twelfth, in section 11032, increase all fees for VA-guaranteed home loans by 0.75 percent.

BURIAL BENEFITS AND GRAVEMARKERS

Thirteenth, in section 11041, limit the VA plot allowance—$150 paid on behalf of deceased veterans who are not buried in a national cemetery—to those who are eligible for a burial allowance, generally veterans who, at the time of their death, were receiving VA pension or disability compensation. The plot allowance would continue to be paid for veterans buried in State veterans cemeteries.

Fourteenth, in section 11042, eliminate the headstone allowance, which is a payment in lieu of a VA-furnished headstone or gravemarker, based on VA's average wholesale cost for headstones and markers—currently $87—for deceased veterans who are not buried in a national cemetery.

MISCELLANEOUS

Fifteenth, in section 11051, allow use of certain Internal Revenue Service and Social Security Administration data to verify veterans' income for purposes of eligibility for VA needs-based benefits.

Sixteenth, in section 11052, eliminate compensation for the secondary effects of willful misconduct or of the abuse of alcohol or drugs.

Seventeenth, in section 11053, require disclosure of Social Security numbers for applicants for VA needs-based benefits and require VA to conduct regular matches of Social Security and State data on deaths with certain VA beneficiary data in order to identify erroneous payments being made to or for veterans and other beneficiaries who have died.

SECONDARY EFFECTS OF WILLFUL MISCONDUCT

Mr. President, there was one matter in this legislation—relating to elimination of compensation for the secondary effects of willful misconduct—as to which I was seeking further information at the time we submitted our report. Under current law, direct or primary effects of willful misconduct may not be compensated as service connected. However, under VA regulations—Section 3.301 of title 38, Code of Federal Regulations—organic diseases and disabilities which are a secondary result of the chronic use of alcohol or of drugs are not considered to be caused by willful misconduct. The committee legislation is designed to change that result.

Because of concerns about how VA would implement the committee provision, I wrote to Secretary Derwinski on October 9, 1990, requesting specific information as to VA's plans in that regard. Secretary Derwinski responded in an October 15, 1990, letter.

Mr. President, so that my colleagues and the public may have the benefit of this correspondence, I ask unanimous consent that my letter and Secretary Derwinski's reply be printed in the RECORD at this point.

There being no objection the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, October 9, 1990.

Hon. EDWARD J. DERWINSKI,
Secretary of Veterans' Affairs,
Washington, DC.

DEAR ED: During recent consultations between the Committee staff and VA officials concerning Administration suggestions for legislation to comply with the deficit-reduction requirements of the expected budget agreement, the Department provided a briefing paper (copy enclosed) describing VA's proposal to eliminate disability compensation for conditions that constitute secondary efforts of willful misconduct. The briefing paper raises a number of questions. I am writing to request clarification as to how VA would implement this proposed legislation.

First, the white paper stated that "organic diseases and disabilities which are a secondary result of the chronic use of alcohol as a beverage . . . would be considered of willful misconduct origin. . . . " This raises the question as to whether you will adopt a principle that long-term behavior patterns that result in cumulative harm to one's medical condition constitute "willful misconduct" and how far that principle might be extended. For example, would that principle apply to adverse health effects of the use of tobacco? On the other hand, if no such new principle is being proposed or if it would be very limited in application, how would the distinction be drawn between organic diseases resulting from the chronic use of alcohol and diseases resulting from other unhealthy behaviors?

With respect to AIDS, the briefing paper also stated, "The amendment would only bar benefits based on AIDS secondary to drug abuse." Does that statement accurately reflect the Department's policy regarding the interpretation and implementation of the provision? Also, I would like to know how you anticipate it being established in the adjudication process that a particular veteran contracted AIDS as a result of drug abuse and whether the same principles would apply to hepatitis and other diseases transmissible through intravenous-drug abuse?

Ed, I would appreciate receiving your reply to these questions no later than Thursday, October 11, in light of the time constraints inherent in the current budget process. I greatly appreciate the cooperation you and other Department officials are extending, in providing information and technical consultation to the Committee concerning this and other deficit-reduction proposals.

With warm regards,
Cordially,

ALAN CRANSTON,
Chairman.

Enclosure.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, October 15, 1990.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter requesting clarification of VA's proposal to eliminate disability compensation for conditions that constitute secondary effects of willful misconduct.

The enclosed fact sheet has been developed to address the concerns you raised.

Sincerely yours,

EDWARD J. DERWINSKI.

Enclosure.

DEPARTMENT OF VETERANS AFFAIRS VETERANS BENEFITS ADMINISTRATION COMPENSATION AND PENSION SERVICE

I. Issue: To respond to letter of 10-9-90 from Sen. Cranston regarding proposal to eliminate disability compensation benefits for conditions that constitute secondary effects of willful misconduct.

II. Background: The law prohibits payment of compensation if the disability was the result of the veteran's own willful misconduct. Venereal disease is stated to be presumed not to be due to willful misconduct. (38 USC 105a) A 1931 Administrator's decision held that excessive drinking of alcohol to enjoy its intoxicating effects is willful misconduct if it results in disability. A 1964 Administrator's decision made a distinction between disabilities which are the primary result of drinking (for example, automobile accidents) and the remote, organic, secondary effects (for example, liver disease). As a result of the second decision, regulations were promulgated which permit the grant of benefits based on the secondary effects. The same principles were extended to the effects of drug abuse. Attention to specific causes and effects were clearly responsive to societal concerns of the times in question.

III. Current Status: It has been proposed to amend the section of the law dealing with willful misconduct to specify that disability secondary to willful misconduct may not be the basis for a grant of service connection. This proposed change would make inapplicable the 1954 Administrator's decision.

IV. Questions from Sen. Cranston's letter (paraphrased):

Question. If the proposed change is enacted, will you adopt a principle that long-term behavior patterns that result in cumulative harm to one's medical condition (such as use of tobacco) constitute "willful misconduct" and how far would that principle extend?

Response. At some future date the issue of the known secondary effects of the use of tobacco, or other unhealthful behavior, could well rise to the level of concern associated with alcohol and drug usage at earlier dates. In such an atmosphere VA would have to consider the application of the statutory language regarding willful misconduct to these conditions.

It is not possible to determine at this time what the eventual outcome might be. Certainly the similarities and differences between the condition(s) under discussion and alcohol and drug use would have to be considered in the light of the law as it existed at that time. We have no intention of addressing the general issue of "unhealthy behaviors" at this time, with or without the proposed change regarding willful misconduct.

Question. If no new principle is being proposed, how would the distinction be drawn between organic diseases resulting from chronic use of alcohol and diseases resulting from other unhealthy behaviors?

Response. If changes are made in the statutory language so as to exclude disabilities secondary to willful misconduct, the changes would apply to the effects of alcohol and drug use. The consideration of secondary effects of these activities has been a part of VA regulations and procedures since 1964 but we would need to make amend-

ments to conform to the new law. We see nothing in the proposed language which would mandate an expansion to other behaviors.

Question. Is it accurate to state that the amendment would only bar benefits based on AIDS secondary to drug abuse?

Response. We believe that 38 USC 105, as currently written, prohibits denial of benefits based on venereal disease as a willful misconduct activity. Therefore, it is our position that benefits based on AIDS contracted through sexual activity cannot be denied, without regard to the question of secondary effects. AIDS contracted due to drug usage, or in other ways, is subject to the usual provisions regarding willful misconduct, including the current regulations regarding secondary effects. If the law and regulations regarding secondary effects were amended, they would likewise apply to nonsexually-contracted AIDS.

Question. How do you anticipate it being established in the adjudication process that a particular veteran contracted AIDS as a result of drug abuse?

Response. Determinations as to the applicability of current willful misconduct provisions to AIDS (that is, whether it was contracted due to sexual activity or otherwise) are made in the same manner as all other willful misconduct determinations. If there is evidence that any condition was contracted due to a willful misconduct activity, the applicable regulations must be applied. In the absence of evidence of misconduct origin, no misconduct determination need be made. Determinations in each case must be based on the available evidence of record.

In an AIDS case, if the law prohibited benefits based on secondary effects of misconduct disabilities, we would have to determine what evidence was regarding the incurrence. With information tending to show sexual origin, or in the absence of evidence regarding origin, misconduct would not be an issue. If there were evidence of origination in drug use and the law had been changed, benefits would not be payable.

Question. Would the same principles apply to hepatitis and other diseases transmittable though intravenous-drug abuse?

Response. This same principle would apply to any type of disease caused by drug abuse.

SUNSET DATES

Mr. CRANSTON. Mr. President, the legislation that I proposed at the committee's October 12, 1990, meeting included termination dates for certain provisions. That part of my proposal was superceded by an amendment deleting the sunset provisions. I am concerned that the Committee legislation—which exacts an extra $2.7 billion from veterans programs over the next 5 years—is an unfortunate distortion of the intent of our reconciliation instructions and takes unfair advantage of the breadth of the cuts we had to make in order to meet our first-year savings requirements. I have expressed my strongly held beliefs on this matter in the additional views that I transmitted with the committee's submission to the Budget Committee. My views appear elsewhere in the RECORD for today in the materials submitted by the Budget Committee.

CONCLUSION

Mr. President, there are very few provisions in this package that I would recommend in the absence of reconciliation requirements and the great need to reduce the Federal deficit this year and in coming years. However, in light of the savings levels required and aside from the sunset issue, I believe that these recommendations would make savings in the most appropriate areas.

GASOLINE TAX

Mr. SANFORD. Mr. President, I had prepared this statement to support a fair allocation of any new gasoline taxes. Since we are denied that vote and debate by a parlimentary device, I nevertheless want to state my views for the record.

Mr. President, we have seen that the gasoline tax proposals in the legislation before us have created considerable controversy. We have heard considerable debate on the so-called minimum allocation provisions that were reported from the Finance Committee. It has been argued that provisions dealing with minimum allocation represent major transportation policy changes and ought not to be dealt with in this bill. It has been argued that we ought to wait and discuss the matter during consideration of the highway bill next year.

I would respectfully but strongly disagree with those arguments. First, we are already proposing major transportation policy changes in this bill. The question of funding is about as important a part of transportation policy as you can find. Raising gasoline taxes will have a major impact on transportation policy. Adding new moneys to the Highway Trust Fund will have a major impact. So it is perfectly appropriate, in my view, to include some modest and sensible restrictions on how any of those new moneys are going to be allocated. It would be shortsighted to ignore the issue at this time.

Mr. President, some of us are reluctant to raise gasoline taxes to begin with, especially if the new tax revenues are to be used for purposes unrelated to transportation. A gasoline tax increase of the magnitude we are talking about will have particularly severe consequences in North Carolina, for reasons I will presently discuss. Without the modest relief provided by an increased minimum allocation, the burden of a doubling of the gasoline tax would fall particularly heavily on my State.

As my colleagues know, it has long been my view that we have legitimate transportation needs that are going unmet, and that we ought to be doing a better job of using the Highway Trust Fund to address those needs. So my second point, Mr. President, would be that each Senator must consider carefully the manner in which the proposed new revenues would be utilized, both in terms of addressing national budgetary and transportation needs and in terms of the fairness of the package to our constituents.

We have unacceptably high levels of congestion in many of our cities; deteriorating highways that must be upgraded; and crumbling and unsafe bridges. We have areas that still need new or better highways if they are to be fully integrated into the national transportation system. These needs result in lost productivity; increased safety risks; and missed economic opportunities for areas and peoples who sorely need help. I might mention northeastern North Carolina as one such area, Mr. President. Northeastern North Carolina has not shared in the economic benefits that have been brought by our Interstate Highway System.

I suppose I could make a case that our needs in North Carolina are as severe as those in most any State, Mr. President. So I am going to want to do all I can to see that transportation-related provisions in the reconciliation package do not ignore those needs. I am going to want to make sure that those provisions are sound national policy, but they are also going to have to have the effect of helping my State more than hurting it.

Let me bring to the attention of my colleagues once again the fact that North Carolina, despite compelling highway needs, has consistently been sending a great deal of gasoline tax money out of State to subsidize highways and transit in other States. We have received back only about 85 cents on the dollar over the past 30 years, so we are one of the largest donor States along with Oklahoma and Texas.

Does this mean that we are so wealthy that we ought to be subsidizing other States year after year? I do not think so, Mr. President. We are doing OK, but we are not the wealthiest State. Does this mean that our roads and transit are in such good shape that we do not need our own tax money? It does not. We are proud of our roads, but we have needs there so compelling that the Governor and the legislature had to increase our State gas tax to about the highest level in the Nation to begin addressing those needs. And we are really just beginning on transit.

Perhaps, Mr. President, North Carolina has been supported by the other States with many other programs and should thus be happy to help those States with this program. Well, this is not the case. We are not a State that has received an overabundance of Federal assistance.

Mr. President, I do not want to dwell on this. The point is that there is an important question of fairness. We do need a national system and that does mean that some States must be donors

and others must be recipients. I do not have any problem with that. We are a nation, and we must act to provide the greatest good for the greatest number. I do, however, object to the fact that our needs have been going unmet to a far greater extent than those of other States, and I do not want to see that situation worsened today.

There are positive and negative considerations associated with a gasoline tax. A gas tax is a powerful revenue raiser, with a well-established system in place. A gas tax can be utilized as a "user fee", where those who pay the taxes get corresponding benefits in terms of better roads or transit systems. A gas tax increase would probably provide substantial environmental benefits, and energy security benefits.

On the negative side, a gas tax that is not used to benefit those who pay it is highly regressive. Like any tax, it will have some negative economic effects. And, while U.S. gas taxes are considerably lower than those in most other nations, we cannot escape the fact the proposed increase will be particularly difficult at a time when gasoline prices are already going through the roof.

So this proposal presents difficult choices to begin with. A further complication is the fact that we are proposing to use the new revenue for deficit reduction. This means that those who purchase gasoline will be paying indirectly for programs that have nothing to do with transportation. They will not even be paying for energy security programs, or for programs that have anything to do with gasoline. This will violate the "user fee" concept that has long been our stated policy.

One might argue that we have been doing this anyway for some time by failing to appropriate the needed levels of money from the Highway Fund. Unexpended Trust Fund balances are accumulating interest, and this interest has long been used to disguise the deficit. My colleagues are well aware of my interest in an honest budget. Well, Mr. President, I do not know if using gasoline taxes directly for deficit reduction is more honest, but I do know that we have not done this before, and I do know that we have many unmet transportation needs that ought to be addressed before we start looking elsewhere with transportation revenues.

Let us examine the minimum allocation provisions in more detail, Mr. President. Despite some of what we have heard, there will really be no losers under this proposal. The current 9-cent tax would continue to be distributed under the 85 percent minimum allocation and the present formula. Only the proposed new revenues would be subject to the 95 percent minimum allocation. This means that donor States are still going to be donors, and recipient States are still going to be recipients.

The question is not winners against losers, Mr. President. If we strike the 95 percent minimum allocation, we will be taking winners and making them much bigger winners, and taking losers and making them much bigger losers. That is not fair, Mr. President. That is not the way to go.

In fact, even with the 95 percent minimum allocation, North Carolina would still be sending even more money out of State than we are at present. We would be losing 15 cents on the dollar on the old tax, and losing 5 more cents on the dollar on the new tax. This is not much to hang our hats on, but it is an absolute minimum as far as what needs to be done. If the 95-percent minimum is removed, North Carolina will lose about $50 million a year on top of what we are already losing.

Mr. President, I have already stated that North Carolina has the highest gas tax in the country, or very close to it. Any increase in the Federal gas tax is going to hurt our State collection efforts. It will affect our ability to meet an aggressive schedule to restore and upgrade our highways. We certainly cannot afford an increased Federal gas tax that will not grant a fair return to our state.

It is my personal view that, in these difficult times with the budget, we ought to be looking for every possible means of stretching limited Federal dollars. We ought to be encouraging State and local governments and the private sector to enter into partnerships with the Federal Government to get the most from our money. So we ought to reward those States that have increased their own tax effort for transportation purposes. This concept is consistent with the administration's interest in leveaging Federal funds, and I intend to actively pursue the idea during consideration of the Highway bill next year.

But North Carolina cannot afford a large Federal gas tax increase that diverts even more money away from our own urgent transportation needs than is the case under the current system. It will be difficult enough for me to support a gasoline tax increase to begin with. It will be impossible for me to support it without a fair minimum allocation.

GASOLINE TAX INCREASE

Mr. LEVIN. Mr. President, the gasoline tax increase in this package is the wrong tax at the wrong time. This tax increase comes on top of the Saddam Hussein gas price hike. It asks middle-income taxpayers to pay more as part of a deficit reduction package that does not ask the wealthiest members of our society to pay enough, especially in light of the fact that they were the chief beneficiaries of the 1980's.

I will vote in favor of the Symms amendment in order to open the way for consideration of a deficit reduction package which adheres to the principle of fundamental fairness to middle-income taxpayers. Among the changes that could be made in the reconciliation bill in order to achieve this goal, if the Symms amendment is adopted, are:

First, increasing the maximum income tax rate only for families making over $200,000 from 28 to 35 percent. This proposal would affect less than 1 percent of the taxpayers. It would set the maximum rate at the same level which President Reagan proposed in this first tax reform bill, although his proposal affected incomes above $70,000 and the proposal that I am making today would only affect family incomes above $200,000. This proposal would raise $60.4 bllion over 5 years.

Second, eliminating the increase in the Medicare premium payments and the Medicare deductible increases. This proposal would reduce revenues or increase spending in the reconciliation bill by $14.1 billion over 5 years.

Mr. President, these are the core elements of a deficit reduction package which would meet the test of fundamental fairness, and which we should work towards if the Symms amendment is adopted.

Mr. MITCHELL. Mr. President, and I say to Members of the Senate, there will be no further roll call votes this evening. The Senate will be in tomorrow and on the bill at 9 a.m. so that we can complete action on this measure in sufficient time tomorrow to permit us to go to conference tomorrow. Therefore, Senators should be aware that rollcall votes and possible early in the morning and throughout the day. Mr. President, I suggest the absence of a quorum.

Mr. GORE. Will the leader withhold of yield?

Mr. MITCHELL. I withhold my suggestion of the absence of a quorum.

Mr. GORE. Will the leader yield?

Mr. MITCHELL. Certainly.

Mr. GORE. Mr. President, I wonder if it might be possible to suggest some structure for the first part of the consideration tomorrow. I know the Senator from Florida has been waiting patiently, and the Senator from Maryland, Senator MIKULSKI, and I have been waiting as well. Might it be possible to get some kind of an agreement that when we come back onto the bill that the order of business would be to take up the amendment of the Senator from Florida, and then to go to the amendment of the Senator from Tennessee and the Senator from Maryland? We are willing to do a time agreement of an hour equally divided.

Mr. MITCHELL. Mr. President, I would refer the Senator from Tennes-

see and others who have amendments, and there are a large number of Senators, to the managers who I believe will be here early tomorrow and be prepared to proceed and to set up the best and most expeditious way of dealing with the bill. I believe the appropriate course would be to discuss the matter with the managers first thing in the morning.

Mr. GORE. I am prepared to, of course, accept the judgment of the leader and the manager of the bill, my good friend and colleague, but may I get some kind of assurance that there will not be an effort on the part of the leaders to use up all of the remaining time so that those of us who have been patiently waiting to offer amendments will have to do so under procedures that do not afford any debate at all?

Mr. MITCHELL. Mr. President, of course, we will do our best to accommodate as many Senators as possible in that regard. I emphasized earlier this evening that I and the Republican leader tried to shorten the time for debate on some of the matters that were before us so that there could be the opportunity for others to offer amendments. Understandably, those who offer the amendments wish to discuss them. As frequently happens in the Senate, the debate went on longer than one would have anticipated at its beginning. I assure the Senator, and I assure the managers, who can speak for themselves, that every effort will be made to accommodate every Senator as possible.

Mr. GORE. We will be here at 9 o'clock sharp.

Mr. METZENBAUM. Will the leader of the Senate yield for a question?

Mr. MITCHELL. Certainly.

Mr. METZENBAUM. Mr. President, I wonder if it would be possible in the interest of fairness to get unanimous consent that with respect to any amendment there would be a time agreement that not more than a half hour will be allocated, 15 minutes on a side, so that as many amendments as possible could be heard? I think that would be fair to the Senator from Tennessee and many other Senators. I think that is a reasonable proposal. I wonder if anybody would object to it?

Mr. MITCHELL. Mr. President, I think that is one of many responsible suggestions for proceeding that has been and will be made. I think the best course is for all interested to come in in the morning and meet with the managers and attempt to work out a procedure that provides the most fair and responsible and expeditious way of proceeding. I am certain the managers are committed to that and will be happy to consider the suggestion from the Senator from Ohio, the suggestion of the Senator from Tennessee, the suggestion of the Senator from Florida, and others in that regard.

Mr. DOMENICI. Will the majority leader yield?

Mr. MITCHELL. Certainly.

Mr. DOMENICI. I understand the time is running now on this bill. Might the leader make arrangements so that it is not, so we can move to something else? So we can get off it and not waste the time off the bill.

Mr. GRAMM. Why not let them debate it tonight?

Mr. MITCHELL. Mr. President, may I suggest that all Senators who wish to offer amendments should be here in the morning and meet with the managers to discuss the best way to proceed in the most fair and expeditious manner in an effort to accommodate as many Senators as possible. I know both the distinguished chairman of the Budget Committee and the ranking member will do their very best to accommodate the interest of as many Senators as possible.

Mr. SASSER. If the majority leader will yield for one moment, as we got underway this morning, the distinguished Senator from Florida, Senator GRAHAM, was here wishing to present his amendment. A list was compiled, I think, by the distinguished majority and minority leader listing four amendments that would be in order to be taken up immediately. One of those amendments was the amendment of the distinguished Senator from Florida. The other three amendments have been dealt with today in one way or another.

So I hope that tomorrow morning we could proceed with the amendment of the distinguished Senator from Florida and make every effort to curtail debate so that as many amendments as possible can be taken up and debated. I might say to my colleagues that suddenly about 6 o'clock this evening, amendments started descending like a snowfall. The list of six amendments suddenly grew in the space of about 10 minutes to 22 amendments. So that gives us some problem.

I understand that some of these amendments perhaps will not be offered. Some of our colleagues I think have looked at what has happened to the amendments that have been offered so far. They have not been faring very well.

Additionally, some of the items that will be in other amendments have been discussed in the Conrad amendment to some extent and in the Symms amendment to some extent also. So there has been debate on facets or other amendments that will be introduced. So perhaps we can compress the time tomorrow morning and enter into an agreement so that all Senators may have an opportunity to speak for some limited time on their amendments.

The PRESIDING OFFICER (Mr. SHELBY). The majority leader.

Mr. MITCHELL. I yield to the distinguished Republican leader.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, earlier this evening I had requested of the distinguished majority leader that we go to the Executive Calendar because there are a number of State Department nominees that have been held for some time and that I felt we should move forward. I have been advised by the Senator who has the hold that he has been unable to reach someone by telephone and I think as a courtesy to him—I do not think he will object tomorrow if we can work out the problem. I would ask the majority leader if we could not take those up immediately after we dispose of the reconciliation bill tomorrow afternoon.

Mr. MITCHELL. Mr. President, I will be pleased to do that in accordance with the wishes of the distinguished Republican leader.

Mr. DOLE. I thank the majority leader.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quourm call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

A PATHETIC FORGERY IN PAKISTAN

Mr. MOYNIHAN. Mr. President, on November 20, 1989, I took the Senate floor to discuss an event which had occurred in the Indian election campaign. I did so because a pathetic forgery had been released to the press in an effort to tarnish the image of now Prime Minister V.P. Singh. The forgery was a letter purporting to show that Prime Minister Singh had received funds from the CIA. I said of this document:

> It is a tragic, transparent fraud, a palpable fraud, a contemptible fraud. I use that phrase with some care on the Senate floor * * * . I am sure that the world's largest democracy will not allow their votes to be affected by a transparent and pitiable fraud; pitiable, but no less despicable. Anything that puts in danger the judgment of the democratic electorate is an offense

against free governments and free society everywhere.

Sadly this practice has now been repeated by persons in Pakistan. I have received a copy of a document which has been released in Pakistan with the transparent purpose of influencing the elections to be held there shortly. Every word that I said of the Indian forgery in November is applicable to this new forgery. Indeed. This new document is, if anything, an even more pitiable fraud. The document purports to be a letter written by Prime Minister Benazir Bhutto to Mr. Peter Galbraith, a staff member on the Senate Committee on Foreign Relations requesting that he work to cut off aid and oil to Pakistan and to encourage the Indian Army to "engage the Pakistan Army on the borders.* * *"

One need not read further than the letter's salutation to know with utter certainty that the letter is a fraud. Mr. Galbraith, a long-time friend of Prime Minister Bhutto, is stiffly addressed by his full name—rather than simply Peter—and his last name is misspelled. The misspelling so totally discredits the letter that the government-controlled newspaper the Pakistan Times corrected this obvious error when it published the text of the letter. The actual text of the letter is a laughable compilation of grammatical mistakes and tortured syntax. Barely a line exists without an egregious error which the Harvard and Oxford-educated Prime Minister Bhutto would have instantly noticed and corrected.

The contents of the letter may be laughable. The fact of its creation and distribution is not. As I stated last November, "Anything that puts in danger the judgment of the democratic electorate is an offense against free governments and free society everywhere." If this is the manner in which this election is being conducted, then the already grave doubts which exist in the Congress concerning its fairness will be strongly reinforced. This type of forgery has no place whatsoever in a state which wishes to be considered a democracy.

Mr. President, I ask unanimous consent that two articles, one from the Pakistan Times which reproduces the text of the forged letter and one from the independent newspaper Dawn which analyzes its obvious flaws, be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Pakistan Times, Oct. 16, 1990]

BENAZIR ACCUSED OF ANTI-STATE ACTIVITIES

ISLAMABAD, Oct. 15: Bhutto family is involved in anti-state activities and the letter written to Peter Gailbraith by Ms. Bhutto is a vivid proof of it.

This was stated by Mr. Navid Malik Chairman, Pakistan Solidarity Front and Adviser to the IJI Chief, Mian Nawaz Sharif at a Press conference here this evening. He also distributed photocopies of a letter addressed to Peter Gailbraith which he claimed was written by the PPP co-chairperson, Benazir Bhutto.

About the authenticity of the letter, Mr. Malik said "if the document was not authentic, he was ready to face the penalty", he said "she was free to sue him in this regard."

He asked Ms. Benazir to explain her conduct in 24 hours otherwise, he would preceed on a recourse, which he did not specify.

He said that Ms. Benazir Bhutto started confrontation with the President, Army and the Judiciary. He bitterly criticised the policies of the PPP and said its leadership was ridiculing the honourable judiciary.

Mr. Malik demanded of the government to confiscate her passport but not to arrest her, as he said that IJI wanted to eliminate her politically.

He alleged that Bhutto family had in the past left the country when they were out of the power. He said that he had challenged Ms. Bhutto by writing a pamphlet when she was ruling the country asking her to sue him, if she was not guilty.

The following is the letter issued to the Press alleged to have been written by Ms. Bhutto:

Bilawal House, Karachi,
September 24, 1990.

DEAR PETER GAILBRAITH: I don't know how to thank you, for your so many favours to me and my family.

As you know that the orders of my dismissal were drafted in the JAG branch of the GHQ, as it was not possible for me to pull along with the army and they subverted my government.

I have already communicated to various friends in the Congress and especially Stephen Solarz to use their good offices with President Bush, so as to put maximum pressure on President Ishaq, and the Army in Pakistan, that they do not disqualify me from the elections, as it will be unjust and negation of all democratic principles for which we have struggled.

It would be most appropriate if military as well as economic assistance to Pakistan is stopped, and all the international agencies like the World Bank, IMF are told to squeeze the government of Pakistan, and if possible oil supply to Pakistan should be disrupted so that normal life in Pakistan comes to stand still.

As long as I was the Prime Minister, I kept a check on the nuclear device, but now I do not know what the plans of the government.

The suspension of F-16 and its spares will bring the army to its senses.

Dear Peter, please use your influence on V.P. Singh the Indian Prime Minister, to engage the Pakistan army on the borders, so that they do not impede my way.

I wish Rajiv Gandhi has been the Prime Minister of India, things regards have been easier. Thanking you and with warm records.

Sincerely yours,

BENAZIR BHUTTO.

[From Dawn, Oct. 16, 1990]

BENAZIR'S 'FAKE' LETTER ISSUED

ISLAMABAD, Oct. 15: Two controversial documents, alleged to have been signed by former Prime Minister Benazir Bhutto, were released to the Press by two IJI leaders at separate news conferences on Monday.

Special Assistant to the Prime Minister, Mr. Kamal Azfar released copies of a cheque signed by Ms. Bhutto and her mother, for stan amount 6.2 million, issued to daily *Musawaat*, the PPP official party paper.

Former Special Assistant to the Punjab Chief Minister, Mian Nawaz Sharif, Mr. Naveed Malik released a letter allegedly written by Ms. Bhutto to Mr. Peter Galbraith, a family friend of the Bhuttos' in the United States.

While the copy of the cheque issued to newsmen appeared genuine, the letter to Mr. Galbraith was immediately challenged by reporters attending Naveed Malik's news conference as a "forgery."

The letter, distributed by Naveed Malik, begins with "Dear Peter Galbraith," written in a handwriting which is totally different to the signature of Ms. Benazir Bhutto at the end. The spelling of Galbraith is also wrong.

Typed on a plain paper, the text contains a number of grammatical and spelling mistakes and ends with the date written in a typical clerical style: "dated: 24-9-1990."

Shortly after the letter was released, a former PPP Minister, Shahnaz Wazir Ali strongly denied its existence and said: "This is the crudest form of forgery that can be done to malign the former Prime Minister. This is character assassination at its worst and we shall sue any newspaper which publishes the contents of the letter."

The PPP leader said the signatures of Ms Bhutto, appearing at the end of the letter, had been copied from the Eid greetings card sent by the former Prime Minister to a large number of people, including journalists. The card also had signatures of Mr. Asif Ali Zardari.

Wazir Ali said Ms Bhutto had published a letter she had written to Mr. Peter Galbraith in her book "Daughter of the East" and it began with only "Dear Peter" and not "Dear Peter Galbraith" this clearly shows they have tried to forge it, she said.

The most incriminating portion of the alleged letter asks Mr. Galbraith to pressure President Bush to stop all aid to Pakistan, stop all oil supplies so that, "normal life in Pakistan comes to a standstill," and ask Indian Prime Minister V.P. Singh to "engage the Pakistan Army on the borders."

The address written on the top right corner begins with the words: Mrs. Benazir Bhutto, Bilawal House, Karachi.

"No educated person who is writing a letter would write Mr. or Mrs. before his or her name in such an important letter, let alone Oxford and Harvard-educated Benazir Bhutto," Shahnaz Wazir Ali said.

Ex-Prime Minister's lawyers on Monday night issued a legal notice to Mr. Naveed Malik, former Adviser of Punjab Chief Minister, stating that the letter he had circulated at his Press conference was a "total fabrication and forgery."

THE PROPOSED VETERANS BENEFITS AND HEALTH CARE AMENDMENTS OF 1990

Mr. CRANSTON. Mr. President, last Wednesday, the Senate was witness to a very unusual event. For the first time in my memory—and I have been actively involved with veterans' issues since first coming to the Senate nearly 22 years ago—the Senate debated a motion to proceed to consideration of a veterans' bill. The bill is S. 2100, the proposed Veterans Benefits and Health Care Amendments of 1990, and

the debate appears on pages S14874 through S14889 of the RECORD for October 10. As I noted during that debate, the Senate's normal procedure is to take up a veterans' bill and consider it and any amendments to it on their merits and then pass the best legislation we can fashion. It is very regrettable that we have thus far been prevented from doing that with respect to S. 2100.

Mr. President, during the debate last Wednesday, considerable confusion about the bill itself and what it contains was raised on the other side. At this point, I will not address the specific provisions of S. 2100 as reported to which objection has been raised. The debate on those matters can be left to when the bill and amendments to it are before the Senate. Today, I wish to clarify issues regarding the procedural and budgetary objections that were lodged against this bill. My hope is that, by addressing some of the points of confusion, we might be able to put those matters behind us and gain agreement to move forward on this very important bill.

SCOPE OF THE BILL

Mr. President, on a number of occasions during the debate, the Senator from Wyoming [Mr. SIMPSON] referred to the bill as a "simple COLA bill" with extraneous materials having been added to it. I find this characterization difficult to understand.

For a number of years—certainly dating back to the late 1970's when I first chaired the committee and continuing through the early 1980's, when Senator SIMPSON was the chairman and then through Senator MURKOWSKI's chairmanship and up to this year—our committee has regularly reported and brought to the floor each year an omnibus veterans' bill that included the annual COLA increase in VA disability programs. S. 2100 is the latest of these bills. I am surprised that anyone was expecting a simple COLA bill. On this point, I note that Senator SIMPSON, in a Dear Colleague letter dated September 19, indicated that the "Senate will shortly be taking up S. 2100, the omnibus veterans' legislation for this year." By last Wednesday, this understanding on this point seemed to have been forgotten.

As introduced, S. 2100 included a number of provisions in addition to the COLA, including ones relating to benefits for veterans exposed to radiation during their service, revisions in VA's disability rating schedule, a pilot program for mobile health care clinics, eligibility for prosthetic devices, VA insurance programs, and various other VA programs. S. 2100 was not a simple COLA bill when it was introduced or when it was considered by our committee.

NOTICE OF CONTENTS OF THE BILL

During the debate, it was also suggested by the Senator from Wyoming [Mr. SIMPSON] that there was confusion among the members of the committee about the contents of S. 2100 at the time of the committee markup in June and July of this year. Specifically, Senator SIMPSON said that he knew "that the staff knows the exacting detail which was in the bill" but added that he "very much doubt[s] that others did." This is a remarkable statement. There was absolutely no suggestion by anyone, including my good friend from Wyoming, at the time of the markup that anyone was confused or uncertain about what was in S. 2100 as it was before the committee. Indeed, during the first day of our markup, Senator MURKOWSKI noted that the "overwhelming portion (of the committee print of S. 2100) has been the object of continuous dialog and revision long before we got here."

Mr. President, our committee met to mark up this legislation on June 28. In accordance with our committee rules, more than 72 hours in advance of the markup, a June 24 memorandum describing all of the provisions of the bill, and a draft of the committee print, were provided to each committee member. On June 26, 2 days before the beginning of the markup, the committee staff conducted a meeting at which staff of committee members were present, including the staff representative of the Senator from Wyoming. No one raised any question about understanding the content of the bill at that time and Senator SIMPSON's staff representative noted that the Senator might have amendments at the markup. The first day of markup was held on June 28 and then, at the request of the Senator from Alaska [Mr. MURKOWSKI], a second day was held on July 12. Surely if any member of the committee had been concerned about understanding the contents of the bill, he had ample opportunity to express those concerns at some point before or during the 17-day period between the distribution of the June 24 memo and the July 12 conclusion of the markup.

TIMING AS A CONSIDERATION

Mr. President, my friend from Wyoming complained that the bill was being brought up late in the session. In his words, the provisions "deserve the careful attention of Members and not a hasty, half-attentive effort when that comes at the end of a session as it is tacked on to a must-pass piece of legislation."

As I discussed on Wednesday, the committee's markup of S. 2100 was completed on July 12 and the report was filed on July 19. Since the time of the filing of the reported bill, I have sought to arrange a reasonable time agreement to make prompt consideration of the bill possible. Unfortunately, the other side has been very slow to respond. In fact, it was not until September 25 that I was advised that the earlier, incomplete agreements we had worked on were not actually steps toward a complete reasonable time agreement. On that late date, I was first advised that the minority would not enter into any time agreement because the Senator from Wyoming, a member of the committee, would not agree to one.

The Senator from Wyoming, for whom I have great respect, has persisted in his refusal.

Then, on Thursday, October 4, we learned that the other side would not give consent to proceeding to the consideration of this measure.

Mr. President, had we been given a time agreement when we sought one in July and again in September, this bill could have been considered a month or more ago.

Mr. President, it is true that we are in the waning days of the 101st Congress. I deeply regret that, but I reject the suggestion that this state of affairs is in any sense deliberate on my part. I am ready to proceed to the bill now. I was ready on Wednesday. I am not the one blocking its consideration.

BUDGETARY ISSUES

Mr. President, there also seemed to be enormous confusion during the debate on Wednesday about the cost of S. 2100 and the relationship of those costs to the overall budget process that we are in the midst of at this time.

First and foremost, it is important to note that the principal cost of S. 2100 is the compensation COLA, which accounts for $392 million of the $563 million fiscal year 1991 outlay cost of the bill. No one is opposed to the COLA and both Senator MURKOWSKI and Senator SIMPSON expressed their strong support for it during the debate. Nevertheless, the distinguished Senator from Wyoming repeatedly castigated the bill on the grounds of its approximately $600 million price tag—even though he portrayed himself as a strong proponent of 70 percent of the costs.

The Senator from Wyoming also repeatedly charged that there was no way to pay for the costs of the bill. Thus, he alleged, "This is the new mode in the Veterans' Affairs Committee, start up a new entitlements program and you know we do not have the money to pay for it."

I deeply regret that my friend from Wyoming would level such an unfounded charge at me and my stewardship as committee chairman. I know he did not mean to make a personal attack, but I must respond. The entitlement provisions in the bill are fully within the budget act section 302(a) allocation to our committee under the fiscal year 1991 budget resolution. The bill as reported had offsetting savings that fully covered all entitlement costs

above baseline. Cost is and has always been a serious concern of mine.

The allegation that S. 2100 as reported would create new entitlements is an overstatement and otherwise misleading. The legislation includes some modest expansions, totaling $27 million in fiscal year 1991, of existing entitlements. The bulk of the increases, accounting for $18 million in fiscal year 1991, a full two-thirds, were requested by either the Bush administration—$6 million for section 708(a) and (b)—and received solid backing from the committee's Republicans or by the committee's ranking minority member—$12 million for section 708(b). Only a small fraction of the entitlement outlays, $5 million for the radiation provisions in sections 111 and 112 have ever been criticized by any member of the committee—and those provisions were, in the main, supported by the administration.

The bill does include provisions with express or implied authorizations that would involve fiscal year 1991 outlays of $171 million if enacted and fully appropriated. These committee-approved provisions would provide valuable authorities for VA in meeting the needs of deserving and needy veterans. However, based on actions of the two bodies on the fiscal year 1991 VA-HUD appropriations bill, it is now clear that—except for funding for the provision to update VA's physicians' and dentists' special-pay authority—little or none of the funding will be provided in fiscal year 1991. Passage and enactment of this bill simply will not increase VA's fiscal year 1991 appropriations levels at this point.

To the extent that the authorizations are enacted and implemented in fiscal year 1991, the resources will come from internal realignments within otherwise available resources.

Thus, Mr. President, the entire range of budgetary arguments offered by the Senator from Wyoming failed to form any rational basis for opposition to consideration of this legislation.

CONCLUSION

Mr. President, no case was made for not proceeding to the consideration of S. 2100—other than a dislike of and opposition to certain provisions. I sincerely hope we can get to the merits of this bill and do so in the next day or so. That's what veterans deserve. And when we do, I trust that the debate will leave behind the misconceptions and confusion of last Wednesday.

THREATENED VETO OF CHEMICAL WEAPONS BILL

Mr. HELMS. Mr. President, this morning our friend, Secretary of State Baker, appeared before the Foreign Relations Committee to testify about the situation in the Middle East.

We had a colloquy during that appearance about a letter I had received from our good friend threatening a veto if a Senate bill calling for sanctions against international chemical weapons proliferation should prevail during the conference on the Export Administration Act, H.R. 3033 and S. 195.

Mr. President, the Secretary knows of my deep respect and affection for him. Yet I am baffled by the reasons which he puts forth to support a veto threat. After all, we are talking about a measure which has passed the Senate three times, including a rollcall vote of 92-0.

The Secretary's letter indicates a preference for the House version, calling it "supportive of our multilateral objectives." He believes that the House bill "would reinforce international multilateral efforts and demonstrate unified, bipartisan support."

Mr. President, I hope the Secretary understands that I am wholly supportive of the President's multilateral objectives. I am pleased that the Secretary is attempting to negotiate a broadbased multilateral treaty that will cover many kinds of advanced and nonconventional weapons.

But the Secretary should not forget that Senate bill is also bipartisan. It was introduced by the distinguished chairman of the Foreign Relations Commitee and me. We have worked hand-in-hand on it for almost 3 years. Moreover, it has the virtual unanimous support of Senators of both parties.

Lastly, it has the advantage that it can become effective just as soon as the conference report is approved and the President puts his signature to it. There is no need to wait 2 years, 3 years, 10 years, or however long it would take to negotiate painstakingly a multilateral accord.

Senators should understand that the Pell-Helms bill is effective because it does not depend for its enforcement upon international sanctions or the legal processes of other States. Its most powerful sanction is that it hits violators where it hurts most—in the pocketbook. The United States is the world's largest market. Every large corporation wants to sell here. What the Pell-Helms bill does is to deny the U.S. market to any corporation that sells technology, machinery, or supplies to a country that produces materials for chemical or biological warfare.

Mr. President, the fact is that the House bill is full of loopholes which will enable companies wishing to continue to trade in chemical and biological weapons technology to evade all effective sanctions.

This is unfortunate, for while the American taxpayer must spend literally millions of dollars to provide our troops with protections against Iraqi chemical weapons, those foreign companies which helped Iraq build these weapons have gone scot-free with their profits safely in their pockets.

Under both the House and Senate bills, before sanctions can be imposed upon a foreign company, the President must first determine that the company had knowingly and either materially or substantially assisted the chemical or biological weapons program of Iraq or certain other outlaw nations. This is not an easy standard, and whether a company has met this standard is left to the discretion and judgment of the President.

Yet, despite this provision of authority to the President, the House bill goes on to include two additional provisions which companies assisting the chemical weapons program of Iraq could utilize to avoid sanctions. Section 103(f) of the bill gives the President the additional authority to "waive the imposition of any sanction * * * if the President determines that such waiver is important to the national security interests of the United States."

With all due respect to the President, everyone knows that the State Department will invoke a waiver any chance it gets. Earlier this year, the State Department even permitted over $200 million in United States Government credits to go to Iraq by invoking a similar national security waiver.

Mr. President, these companies know that such a waiver provision makes sanctions legislation meaningless, and even if by chance they are caught trading chemical weapons with Iraq, they will get their own governments to weigh in with the State Department to see that any waiver is invoked.

In addition, there is a glaring loophole in the House bill which allows a foreign company to trade with Iraq but avoid sanctions simply by arranging their corporate structure in a manner designed to skirt the requirements of this language.

Under both bills, a company violating the statute is prohibited from selling in the United States for 24 months. The Senate bill applies the sanctions to the offending company, its parent, its subsidiaries, its affiliates, its successor company, and any subsidiaries or affiliates of the parent company.

Under the House bill, only the foreign company which assists the chemical weapons program of countries like Iraq is subject to sanctions. Not the parent company, not its subsidiaries nor its affiliates, nor the other subsidiaries of the parent would be sanctioned.

Large international conglomerates often set up their subsidiaries or affiliates to serve different and specific markets. Any clever corporate execu-

tive could set up five subsidiaries that sell principally to the United States and a sixth, separate subsidiary—the sole purpose of which is to sell chemical weapons to Iraq, and which does not now, nor intend to in the future, sell to the United States.

Under the Senate version, not only the parent corporation, but also the five subsidiaries selling to the United States, would become prohibited corporations because of the poison gas sales of the sixth subsidiary to Iraq. The House version would be meaningless, because only the poison gas subsidiary would be proscribed. The other five subsidiaries could keep on selling to the United States, thereby benefiting the parent corporation, which establishes and benefits from the policies of its poison gas subsidiary.

I hope these are not the reasons why the Secretary thinks the Senate version is too rigid. In fact, the Senate version is very tightly drawn so that it applies sanctions only to violators who meet specific norms. I cannot imagine why our good friend, the Secretary, or the President, would ever want the flexibility to exempt a corporation that is guilty of proliferation of chemical and biological weapons and technology.

Therefore, Mr. President, I urge the Secretary of State to reconsider his opposition. He also mentions some problems in the Senate bill that he believes might arise from the so-called legislative veto issue decided in the case of INS versus Chadha. However, I am pleased that the conference has already tentatively agreed upon language that would cure this defect. I hope the Secretary of State will study the new language.

Mr. President, I ask unanimous consent that a copy of the letter of the Secretary of State to me, dated October 16, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, October 16, 1990.

Hon. JESSE HELMS,
U.S. Senate.

DEAR JESSE: You and your colleagues will soon address differing House and Senate chemical weapons (CW) sanctions legislation (H.R. 3033 and S. 195) in the context of a conference on the Export Administration Act. I want to take this opportunity to convey directly to you the Administration's position on these bills; we have conveyed specific comments to your staff on the differences in the two bills.

The President has taken the lead in seeking multilateral agreement on a global and comprehensive ban on CW and on stemming their proliferation in the meantime. We have already achieved a high degree of international cooperation in this effort. Further strengthening of this cooperation, including achieving a CW convention containing provisions for sanctions, presents a difficult challenge. The Administration welcomes strong bipartisan congressional support for this important national objective and believes that the Congress can help by enacting legislation that strengthens our diplomatic hand. This requires legislation based on international cooperation rather than unilateral fiat.

The House version of H.R. 3033 is supportive of our multilateral objectives; its endorsement by the conference committee would reinforce international multilateral efforts and demonstrate unified, bipartisan support. The House bill provides for meaningful sanctions on CW users and against companies that support CW programs, yet enables the President to target these sanctions for maximum effectiveness, taking into account the entire range of our national security and foreign policy interests.

The Senate version, which provides for mandatory sanctions, does not give the President sufficient flexibility to impose or waive sanctions based on a consideration of the nation's security interests. In addition, one provision of the Senate bill requires certain determinations and, in some cases, follow-on actions by the President in response to requests from relevant committee chairmen. As formulated, this provision is unconstitutional, as it is inconsistent with INS v. Chadha.

The Administration is prepared to endorse a conference report that supports multilateral cooperation in stemming the use and proliferation of CW and provides adequate discretion to the President in determining whether and which sanctions to impose. However, the President's senior advisors will recommend that he veto a CW sanctions bill that does not take account of these concerns.

We urge the conferees to agree on a bill that the President can sign. Such a bill would bolster the President's authority to apply sanctions, while providing the flexibility to do so in a manner consistent with overall U.S. national interests.

OMB advises there is no objection to submission of this report to Congress. Enactment of CW sanction legislation (e.g., Senate-passed S. 195) that does not provide adequate Presidential discretion would not be in accord with the President's program.

With best personal regards,

Sincerely yours,

JAMES A. BAKER III.

EXECUTIVE CALENDAR

EXECUTIVE SESSION

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination: Calendar 1016, Jeanne S. Archibald, to be General Counsel for the Department of the Treasury; I further ask unanimous consent that the nominee be confirmed, that any statements appear in the RECORD as if read; that the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF THE TREASURY

Jeanne S. Archibald, of Virginia, to be General Counsel for the Department of the Treasury.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 10:37 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 1824. An act to amend the Education of the Handicapped Act to revise and extend the programs established in parts C through G of such act, and for other purposes;

S. 2167. An act to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act;

S. 3127. An act to designate the Department of Veterans Affairs Medical Center in Albany, NY, as the "Samuel S. Stratton Department of Veterans Affairs Medical Center";

H.R. 2971. An act for the relief of Sonanong Poonpipat (Latch);

H.R. 4174. An act to establish a comprehensive personnel system for employees of the Administrative Office of the United States Courts, and for other purposes;

S.J. Res. 304. Joint resolution to designate October 17, 1990, as "National Drug-Free Schools and Communities Education and Awareness Day";

S.J. Res. 317. Joint resolution to designate the week of October 14, 1990, through October 20, 1990, as "National Radon Action Week";

S.J. Res. 342. Joint resolution designating October 1990 as "Ending Hunger Month"; and

S.J. Res. 349. Joint resolution designating October 1990 as "Italian-American Heritage and Culture Month."

The enrolled bills and joint resolutions were subsequently signed by the

Acting President pro tempore [Mr. ROBB.]

At 11:22 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5835. An act to provide for reconciliation pursuant to section 4 of the concurrent resolution of the budget for fiscal year 1991.

At 12:38 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolutions, each without amendment:

S.J. Res. 270. Joint resolution to designate the period commencing February 17, 1991, and ending February 23, 1991, as "National Visiting Nurse Associations Week";

S.J. Res. 293. Joint resolution to designate November 16, 1990, as "National Philanthropy Day";

S.J. Res. 304. Joint resolution to designate October 17, 1990, as "National Drug-Free Schools and Communities Education and Awareness Day";

S.J. Res. 307. Joint resolution designating November 11 through November 17, 1990, as "National Women Veterans Recognition Week";

S.J. Res. 317. Joint resolution to designate the week of October 14, 1990, through October 20, 1990, as "National Radon Action Week";

S.J. Res. 323. Joint resolution designating November 11 through 17, 1990, as "Geography Awareness Week";

S.J. Res. 342. Joint resolution designating October 1990 as "Ending Hunger Month";

S.J. Res. 346. Joint resolution to designate October 20 through 28, 1990, as "National Red Ribbon Week for a Drug-Free America";

S.J. Res. 347. Joint resolution designating April 7 through 13, 1991, as "National County Government Week";

S.J. Res. 349. Joint resolution designating October 1990 as "Italian-American Heritage and Culture Month";

S.J. Res. 351. Joint resolution to designate the month of May 1991, as "National Trauma Awareness Month";

S.J. Res. 353. Joint resolution to designate September of 1991 as "National Rice Month";

S.J. Res. 362. Joint resolution to designate the period commencing on November 18, 1990, and ending on November 24, 1990, as "National Adoption Week"; and

S.J. Res. 366. Joint resolution to designate March 30, 1991, as "National Doctors Day."

The message also announced that the House has passed the joint resolution (S.J. Res. 158) designating October 22 through 28, 1989, as "World Population Awareness Week"; with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5257) making appropriations for the Department of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. NATCHER, Mr. SMITH of Iowa, Mr. OBEY, Mr. ROYBAL, Mr. STOKES, Mr. EARLY, Mr. DWYER of New Jersey, Mr. HOYER, Mr. WHITTEN, Mr. CONTE, Mr. PURSELL, Mr. PORTER, Mr. YOUNG of Florida, and Mr. WEBER as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5803) making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. MURTHA, Mr. DICKS, Mr. WILSON, Mr. HEFNER, Mr. AUCOIN, Mr. SABO, Mr. DIXON, Mr. WHITTEN, Mr. MCDADE, Mr. YOUNG of Florida, Mr. MILLER of Ohio, Mr. LIVINGSTON, and Mr. CONTE as managers of the conference on the part of the House.

The message further announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

S.J. Res. 214. Joint resolution designating the week of October 22 through 28, 1990, as "Eating Disorders Awareness Week";

S.J. Res. 518. Joint resolution designating October 13 through 20, 1990, as "American Textile Industry Bicentennial Week";

S.J. Res. 525. Joint resolution designating November 18 through 24, 1990, as "National Family Caregivers Week";

S.J. Res. 566. Joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 19, 1990, as "National Military Families Recognition Day"; and

S.J. Res. 669. Joint resolution to salute and congratulate the people of Poland as they commemorate the two-hundredth anniversary of the adoption of the Polish Constitution on May 3, 1991.

At 6:33 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 5759) to amend the Age Discrimination in Employment Act of 1967 to clarify the application of such act to employee group health plans.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3095) to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DINGELL, Mr. WAXMAN, Mr. WYDEN, Mr. LENT, and Mr. MADIGAN as managers of the conference on the part of the House.

The message also announced that the House has passed the bill (S. 1859) to restructure repayment terms and conditions for loans made by the Secretary of the Interior to the Wolf Trap Foundation for the Performing Arts for the reconstruction of the Filene Center in Wolf Trap Farm Park in Fairfax County, VA, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the joint resolution (S.J. Res. 324) to designate June 3 through 9, 1990, as "Week of the National Observance of the 50th Anniversary of World War II"; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 358) to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States, to provide for administrative naturalization, and for other purposes, with amendments; it insists upon its amendments to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on the Judiciary, for consideration of the Senate bill and the House amendment, and modifications committed to conference: Mr. BROOKS, Mr. MORRISON of Connecticut, Mr. FRANK, Mr. SCHUMER, Mr. BERMAN, Mr. BRYANT, Mr. MAZZOLI, Mr. FISH, Mr. SMITH of Texas, Mr. MCCOLLUM, and Mr. SLAUGHTER of Virginia.

From the Committee on Education and Labor, for consideration of section 113 and title V of the Senate bill, and sections 103, 106, 112-113, 311-312, 314(e), and 315 of the House amendment, and modifications committed to conference: Mr. FORD of Michigan, Mr. MILLER of California, Mr. SAWYER, Mr. GOODLING, and Mr. BALLENGER.

From the Committee on Ways and Means, for consideration of section 110 of the Senate bill, and modification committed to conference: Mr. ROSTENKOWSKI, Mr. STARK, Mr. JACOBS, Mr. ARCHER, Mr. VANDER JAGT.

From the Committee on Post Office and Civil Service, for consideration of title VI of the Senate bill, and modifications committed to conference: Mr. FORD of Michigan, Mr. SAWYER, and Mr. GILMAN.

The message further announced that the House disagrees to the

amendment of the Senate to the bill (H.R. 3789) to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Banking, Finance and Urban Affairs, for consideration of House bill, and modifications committed to conference: Mr. GONZALEZ, Ms. OAKAR, Mr. VENTO, Mr. WYLIE, and Mrs. ROUKEMA.

From the Committee on Education and Labor, for consideration of House bill, and the Senate amendment, and modifications committed to conference: Mr. HAWKINS, Mr. FORD of Michigan, Mr. MILLER of California, Mr. GOODLING, and Mr. BARTLETT.

From the Committee on Energy and Commerce, for consideration of House bill, and the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mr. WAXMAN, Mr. SYNAR, Mr. LENT, and Mr. MADIGAN.

From the Committee on Government Operations, for consideration of House bill, and the Senate amendment, and modifications committed to conference: Mr. CONYERS, Mrs. COLLINS, MR. OWENS of New York, Mr. HORTON, and Mr. NIELSON of Utah.

From the Committee on Veterans' Affairs, for consideration of House bill, and the Senate amendment, and modifications committed to conference: Mr. MONTGOMERY, Mr. ROWLAND of Georgia, and Mr. STUMP.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 486) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and section 1, titles I, II, and III, and sections 501(a) and 501(b)(2) of the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Mr. LAFALCE, Ms. OAKAR, Mr. VENTO, Mr. TORRES, Mr. KANJORSKI, Mrs. PATTERSON, Mr. NEAL of Massachusetts, Mr. WYLIE, Mr. SHUMWAY, Mr. ROTH, Mrs. SAIKI, and Mrs. ROUKEMA.

From the Committee on Banking, Finance and Urban Affairs, for consideration of title IV and section 501(b)(1) of the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Mr. ANNUNZIO, Mr. HUBBARD, Mr. LAFALCE, Ms. OAKAR, Mr. VENTO, Mr. SCHUMER, Mr. WYLIE, Mr. LEACH of Iowa, Mr. SHUMWAY, Mr. MCCOLLUM, and Mr. DREIER of California.

From the Committee on Energy and Commerce, for consideration of section 8 of the House bill and sections 137, 403, 404, and 405 of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mr. MARKEY, Mr. WALGREN, Mr. LENT, and Mr. RINALDO.

From the Committee on the Judiciary, for consideration of sections 7 and 8 of the House bill, and modifications committed to conference: Mr. BROOKS, Mr. EDWARDS of California, Mr. FRANK, Mr. FISH, and Mr. JAMES.

From the Committee on Government Operations, for consideration of sections 211 and 212 of the Senate amendment, and modifications committed to conference: Mr. CONYERS, Mrs. COLLINS, Mr. ENGLISH, Mr. HORTON, and Mr. KYL.

ENROLLED BILLS SIGNED

At 11:02 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 4757. An act to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police; and

H.R. 5579. An act to amend section 28(w) of the Mineral Leasing Act, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following bill, received from the House of Representatives for concurrence on October 15, 1990, was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5269. An act to control crime.

ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, October 17, 1990, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 304. Joint resolution to designate October 17, 1990, as "National Drug-Free Schools and Communities Education and Awareness Day";

S.J. Res. 317. Joint resolution to designate the week of October 14, 1990, through October 20, 1990, as "National Radon Action Week";

S.J. Res. 342. Joint resolution designating October 1990 as "Ending Hunger Month"; and

S.J. Res. 349. Joint resolution designating October 1990 as "Italian-American Heritage and Culture Month".

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

H.R. 2566. A bill to direct the Secretary of the Interior to transfer all right, title, and interest of the United States in certain property on San Juan Island, Washington, to those persons who own such property because of an erroneous survey (Rept. No. 101-535).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 4567. A bill to authorize an exchange of lands in South Dakota and Colorado (Rept. No. 101-536).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LIEBERMAN:

S. 3212. A bill to establish the Industry Development for Eastern Europe Foundation; to the Committee on Foreign Relations.

By Mr. DASCHLE:

S. 3213. A bill to clarify that the inspection of meat and poultry products offered for import into the United States is to be conducted by United States personnel and for other purposes; to the Committee on Agriculture Nutrition and Forestry.

By Mr. KASTEN:

S. 3214. A bill to repeal the Federal Employers' Liability Act, to provide for coverage of railroad employees' injury claims under individual state worker compensation programs and for other purposes; to the Committee on Labor and Human Resources.

By Mr. NUNN (for himself and Mr. WARNER) (by request):

S. 3215. A bill to authorize the transfer by lease of a specified naval landing ship dock to the Government of Brazil; considered and passed.

By Mr. SYMMS (for Mr. THURMOND (for himself and Mr. HOLLINGS)):

S. 3216. A bill to designate the Department of Veterans Affairs Medical Center in Charleston, South Carolina, as the "Ralph H. Johnson Department of Veterans Affairs Medical Center; considered and passed.

By Mr. INOUYE (for himself and Mr. MCCAIN):

S. 3217. A bill to authorize additional positions for the National Museum of the American Indian of the Smithsonian Institution and for other purposes; to the Commitee on Rules and Administration and the Select Committee on Indian Affairs, jointly by unanimous consent.

By Mr. HEFLIN:

S.J. Res. 380. A joint resolution to designate February 14, 1991 as "Flag Wavers Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LIEBERMAN:

S. 3212. A bill to establish the Industrial Development for Eastern Europe Foundation; to the Committee on Foreign Relations.

INDUSTRIAL DEVELOPMENT FOR EASTERN EUROPE FOUNDATION FUND

● Mr. LIEBERMAN. Mr. President, I am introducing today legislation to create the Industrial Development for Eastern Europe [IDEE] Foundation. IDEE is modeled after the highly successful Binational Industrial Research and Development [BIRD] Foundation. The BIRD foundation was established in 1977 to develop a cooperative relationship between American and Israeli high tech industries. BIRD has an income of approximately $10 million a year most of which comes from its $110 million endowment. With its income, it shares the expense—50-50—with an Israeli-American venture trying to develop and commercialize a nondefense technical product or process.

In the last decade, BIRD has supported over 250 joint ventures, and over 100 of these ventures led to sales of about $1.5 billion. BIRD's success is due to a number of factors, not the least of which is the advanced state of Israeli research and development. The nations of Eastern Europe should not be able to take advantage of joint venture opportunities with American entrepreneurs.

If we are to truly help Eastern Europe as we have promised for over four decades, then we must, as Churchill said, "* * * pass with relief from the tossing sea of Cause and Theory to the firm ground of Result and Fact." These nations, from Poland to Hungary to Czechoslovakia, are struggling to build democracy and a free market system. For over 40 years, we have promised them that we would come to their aid if they would rise up against their communist oppressors. They have succeeded beyond our expectations, but we are not living up to our end of the bargain.

We are understandably concerned about our domestic economic problems. There is no money to spare in our budget. We must, therefore, develop aid programs that make efficient use of our limited resources. The IDEE foundation is one such proposal.

IDEE, like BIRD, would receive its operating expenses from the interest on its endowment, as well as any royalties it may receive from successful projects. Contributions to IDEE would be made by all member nations not just the United States.

An initial contribution of $25 million from the United States would be complemented by a contribution of $25 million each from Eastern European nations wishing to be members. These contributions would be made in three tranches and could be made in local currency. The three Eastern European nations best able to take advantage of IDEE initially are Hungary, Poland, and Czechoslovakia.

IDEE would be governed by a board which would control its activities. The board would consist of representatives from the U.S. State Department, Treasury, Department of Commerce and their counterparts from the other member nations. An executive director, appointed by the board, would be in charge of the day to day activities of IDEE. In addition, an advisory council consisting of representatives from private industry would help the board and the executive director and his or her staff evaluate projects and make recommendations on investment opportunities.

I have suggested that IDEE be headquartered in a neutral location close to the three Eastern European nations that will be members of IDEE. It is important that IDEE be located in the region in order to have a hands on working relationship with the private sector of its member nations.

IDEE will only need a one time appropriation since its projects will be funded from the interest on its endowment and from royalties. While the primary purpose of IDEE is to foster the growth of high tech industry in the nations of Eastern Europe, there are clear advantages for American firms willing to become involved with Eastern European entrepreneurs, engineers, and scientists. American investors will be able to share in any profits and innovations developed through joint ventures.

It is important that as we continue to look for more cost effective ways to aid the nations of Eastern Europe and throughout the developing world, that we make every effort to develop programs that will be of some benefit to American businesses. The only way that we will be able to get continued support for funding for such programs is by making certain that the American business community will accrue some benefit from these programs. We can no longer afford to offer aid without concern for return. We simply do not have the resources. IDEE embodies the principle of helping both American businesses while at the same time helping the private sector of its Eastern European member nations.

Finally, it is my hope that IDEE will develop a close working relationship with BIRD, facilitating closer contact between the Israeli private sector, the private sector of those Eastern European nations belonging to IDEE, and the American business community. A close relationship between these nations is to everyone's advantage. Since BIRD has been a tremendous success, it would also be very useful to have the board and staff of IDEE to work closely together with the BIRD staff to make certain that IDEE is equally successful.

Mr. President, I ask unanimous consent that the text of the bill and a summary of its provisions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Industrial Development for Eastern Europe Foundation Act".

SEC. 2. ESTABLISHMENT AND PURPOSES OF THE FOUNDATION.

(a) ESTABLISHMENT.—There is hereby established the Industrial Development for Eastern Europe Foundation (hereafter in this Act referred to as the "Foundation"). It is the sense of the Congress that the President should negotiate with the governments of foreign nations for participation by such nations, consistent with section 4, in carrying out the activities of the Foundation.

(b) PURPOSES.—The Purposes of the Foundation are—

(1) to promote and support joint, nondefense, industrial research and development activities of mutual benefit to the nations involved with the Foundation and its activities;

(2) to develop nondefense high technology industry in these natons, particularly through joint and cooperative projects between firms in participating nations;

(3) to aid with the modernization of the economies of these nations by helping them to create a more sophisticated manufacturing base; and

(4) to help these nations to become economically viable by providing benefits to their industrial sector, particularly through joint projects.

SEC. 3. FUNCTIONS AND POWERS OF THE FOUNDATION.

(a) The Foundation shall support and promote the purposes stated in section 3(b) and research and development activities which—

(1) involve all applied science activities in the process through which an innovation becomes a commercial product; and

(2) assist with product engineering and manufacturing start up.

(b) The Foundation shall be a legal entity and shall have all the powers necessary to carry out its objective, including the power to—

(1) promote and support, by funding or otherwise, joint industrial research and development projects (hereafter in this Act referred to as "projects"), in accordance with subsection (c);

(2) make loans and grants;

(3) enter into contracts;

(4) provide services;

(5) acquire, hold, administer, and dispose of real and personal property;

(6) receive, hold, and disburse funds, and open bank accounts;

(7) accept contributions of property, funds, and services; and

(8) employ personnel.

(c)(1) Projects shall be undertaken and otherwise supported through direct investment and joint ventures in order to develop the more advanced technology sectors of the economies of Foundation member nations.

(2) All technology and products developed as a result of the work of the Foundation may be freely transferable among the nations participating in a project.

(3) More than one member nation of the Foundation must participate in a project.

(4) All projects undertaken must be in compliance with the export control laws of the United States.

(d) Nothing in this Act may be construed to prejudice other arrangements for scientific cooperation between the United States and other nations belonging to the Foundation.

SEC. 4. BOARD OF GOVERNORS.

(a) A Board of Governors (hereafter in this Act referred to as the "Board"), shall be the governing body of the Foundation and shall be responsible for determining the Foundation's program, including the fields of cooperative research which will be supported by the Foundation, and the Foundation's financial and managerial policies. Subject to the provisions of this Act, the Board shall have the authority to—

(1) adopt bylaws and rules of procedure;

(2) establish regulations defining the policies, organization, and procedures of the Foundation;

(3) appoint an Executive Director;

(4) approve the annual budget and research program of the Foundation indicating, among other things, the research and development fields to which priority is to be given;

(5) accept contributions of property, funds, and services;

(6) establish the principal office of the Foundation in a neutral location;

(7) approve project and other expenditures by the Foundation and agreements pertaining to projects to be funded by the Foundation; and

(8) exercise and delegate any other power of the Foundation not otherwise assigned by this Act.

(b) The Board shall consist of—

(1) the Secretary of State or his designee;

(2) the Secretary of Commerce or his designee;

(3) the Secretary of Treasury or his designee; and

(4) a representative from the Foreign Ministry, Ministry of Finance, Ministry of Trade and Industry, and the national science foundation or its equivalent from the governments of Poland, Hungary, and Czechoslovakia.

(c) Each other East European country shall be eligible for membership in the Foundation whenever the Board determines that such country has made sufficient progress toward marketization, democratization, and as long as its government is not in violation of section 502B of the Foreign Assistance Act of 1961.

(d) The chairman of the Board shall be a United States national and shall serve for a one year term. The chairmanship shall rotate among the three Board members who are United States nationals.

(e) The Board shall meet at least twice a year, but meetings of the Board may be held at such times and places as the Board may from time to time determine.

(f) The Board shall act by a vote of at least two-thirds of its entire membership.

(g) Members of the Board shall serve without compensation from the Foundation, but the Board shall authorize the payment by the Foundation of the necessary expenses of any members in attending Board meetings and in performing other official duties for the Foundation. Acceptance of such payments by Board members of the Foundation for this purpose shall not be deemed in violation of Ethics in Government Act for the purposes of carrying out this section.

(h) The Board shall provide for annual audits by independent auditors of the accounts of the Foundation. The reports of such audits, which shall be submitted to all member governments, shall contain certification as the accounts of the Foundation and evaluate the Foundation's internal control and auditing systems.

SEC. 5. ADVISORY COUNCIL.

(A) An Advisory Council (hereafter in this Act referred to as the "Council"), shall act in an advisory capacity to the Board and the staff of the Foundation. The Council shall—

(1) help the Board and the Foundation staff evaluate projects; and

(2) make proposals as to which sectors of member nation economies offer the best opportunity for a favorable return on an investment.

(b) Recommendations made by the Council to the Board and the staff of the Foundation shall not be binding.

(c) The Council shall consist of three members from the business and finance community from each nation belonging to the Foundation. In the case of the United States, the President shall appoint the members.

(d) The chairmanship of the Council shall change on a yearly basis, rotating among the members of the panel and alternating among member countries.

(e) The Council shall meet at least twice a year. To the extent practical, it shall meet at the same time and place as the Board.

(f) Members of the Council shall serve without compensation from the Foundation, but the Board shall authorize the payment by the Foundation of necessary expenses of any members of the Council attending Council meetings and in performing other official duties for the Foundation.

SEC. 6. STRUCTURE OF THE FOUNDATION.

(a)(1) The Foundation shall be administered by an Executive Secretariat. The Executive Secretariat shall be headed by an Executive Director, who is a United States citizen, and his staff, which shall—

(A) act as a liaison to the Board; and

(B) coordinate the activities of the Executive Secretariat and the Board.

(2) There shall be three Deputy Directors one each for Poland, Hungary, and Czechoslovakia who shall evaluate projects from each nation, making recommendations to the Board and the Executive Secretariat as to whether or not the Foundation shall support the project; and

(3) Additional Deputy Directors shall be created as more nations join the Foundation.

(b)(1) The Executive Director shall be the chief executive officer of the Foundation. He shall be responsible for the operations and staff of the Foundation, and act in accordance with the policies, directives, and delegation of the Board.

(2) The Executive Director shall employ, oversee, and dismiss the members of the professional administrative staff subject to the approval of the Board.

(3) The Executive Director shall, among other things—

(A) evaluate proposals for projects submitted to the Foundation and prepare and submit recommendations and draft agreements concerning project proposals to the Board for its approval;

(B) prepare and submit to the Board for its approval an annual budget and research program, including long-range plans for use of the Foundation's resources;

(C) prepare and submit to the Board for its approval an annual report, including an audited financial statement, on the activities of the Foundation, and

(D) implement decisions of the Board.

(4) Any power of the Executive Director under this Act or delegated to him by the Board may be delegated by him to other officers of the Foundation, except as otherwise prescribed by the Board.

(5) The Executive Director may obtain assistance from outside professionals and experts for the purposes of evaluating proposals and auditing and monitoring projects sponsored by the Foundation. These professionals and experts may be given compensation by the Foundation for services rendered, as approved by the Board.

(6) The Executive Director shall be permitted to organize various activities, such as consultant visits, information exchanges, and similar activities, to facilitate the achievement of the Foundation's objective. The Executive Director shall be given a budget approved by the Board to undertake these activities.

(7) The Executive Director shall maintain an appropriate system of internal control, including books and records which reflect the transactions of the Foundation and show the current financial condition of the Foundation. Such system shall include adequate internal financial and operational audits. The books, records, and internal audit reports shall be available for review by authorized representatives of governments involved with the Foundation.

SEC. 7. OPERATIONS OF THE FOUNDATION.

(a) The Foundation's operations shall consist mainly of the selection, approval, and monitoring of projects funded in whole or in part by the Foundation. All proposals for such projects shall be submitted through the Executive Director to the Board for approval.

(b) Each proposal considered by the Board shall—

(1) be submitted by Foundation member entities;

(2) demonstrate the technical and economic feasibility of the project;

(3) contain evidence that the applicant is capable of carrying out the project, either alone or through the partial subcontracting to universities, industrial research institutes, or other qualified entities; and

(4) indicate that the applicant will contribute, from its own financial resources or resources available to it, some portion of the financial resources required to carry out the project.

(c) Each proposed project considered by the Board shall—

(1) propose a tangible, direct benefit for the national economies of Foundation member nations, such as an increase in exports, value added or new markets;

(2) be of interest to Foundation member nations' industry;

(3) be of general interest to an entire industrial field;

(4) directly or indirectly contribute to additional development of products, processes, or markets; and

(5) have tangible benefits for nations involved with a project.

(d) For purposes of subsection (c)(5), a project having a tangible benefit is one that—

(1) is submitted by one or more Foundation member firms or a joint venture between a United States firm and a member nation firm;

(2) will require expenditures for goods and services in nations involved with the project; and

(3) meets any other criteria established by the Board.

SEC. 8. FINANCING OF THE FOUNDATION.

(a) The original endowment of the Foundation shall consist of the following:

(1) an initial contribution of $28,000,000 by the United States; and

(2) in order to be a member nation of the Foundation, each participating nation shall be required to contribute to the Foundation the equivalent of $25,000,000, to be paid in three installments, as follows:

(A) $5,000,000 to be paid one year after the Foundation begins operations.

(B) $8,000,000 to be paid 2 years after the Foundation begins operations.

(C) $12,000,000 to be paid 3 years after the Foundation begins operations.

(D) Notwithstanding any other provisions of law, payments to the Foundation may be made in lieu of the repayment of official debt owed to the United States Government.

(E) Payments may be made in local currency.

(b) There are authorized to be appropriated $28,000,000 for fiscal year 1992 for the purposes of making the United States contribution to the Foundation described in subsection (a)(1). Funds appropriated pursuant to the preceding sentence are authorized to remain available until expended.

(c) An endowment of $25,000,000 shall be deposited in an account or accounts in a bank or banks agreed to by Foundation member nations, and shall earn interest at prevailing market or LIBOR rates.

(d) Income shall be deposited in the bank until used.

(e) Of the amount authorized to be appropriated by subsection (b), $3,000,000 shall be used for initial administrative expenses.

(f) Investment and other income of the Foundation shall remain available for the operation of the Foundation and for carrying out its activities.

SUMMARY OF THE INDUSTRIAL DEVELOPMENT FOR EASTERN EUROPE FOUNDATION ACT

Section 1: Short title.

Section 2: Establishment and Purposes of the Foundation.

The foundation will develop nondefense high tech industry in the nations of Eastern Europe that belong to the foundation.

Section 3: Functions and Powers of the Foundation.

The foundation will make loans and grants, as well as accept contributions in order to be able to carry out its function of funding joint ventures between its member nations.

Section 4: Board of Governors.

The foundation will be governed by a Board of Governors consisting of representatives from the United States Department of State, Treasury, and Commerce and their equivalents from other member nation governments. In addition to setting policy guidelines, the board will also approve all joint venture projects.

Section 5: Advisory Council.

The Advisory Council will be made up of three members of the private sector from the business and finance community from each of its member nations. It will help the board with its evaluation of projects and joint venture opportunities.

Section 6: Structure of the Foundation.

The Foundation will be run by an Executive Director, who shall establish an Executive Secretariat that will be responsible for the day to day running of the foundation.

Section 7: Operations of the Foundation.

The principle function of the foundation shall be to select, approve, and monitor projects funded by the foundation.

Section 8: Financing of the Foundation.

The foundation will be funded of an initial appropriation of $25 million from the United States and contributions of $25 million from each other member nation, to be paid in three tranches. These contributions can be made in local currency.

By Mr. DASCHLE:

S. 3213. A bill to clarify the inspection of meat and poultry products offered for import into the United States is to be conducted by U.S. personnel, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

INSPECTION OF IMPORTED PRODUCTS BY UNITED STATES PERSONNEL

● Mr. DASCHLE. Mr. President, the integrity of U.S. meat and poultry inspection laws is under attack by the Department of Agriculture, the agency assigned to enforce these same laws.

I am introducing legislation today to clarify U.S. inspection laws. Representatives BYRON DORGAN of North Dakota and PAT WILLIAMS of Montana are introducing similar legislation in the House.

The legislation is intended to prevent an interpretation of these laws that would undermine the confidence of American consumers and producers in the safety and wholesomeness of our food supply.

The bill makes it clear that certain inspections required by U.S. meat and poultry inspection laws must be conducted by U.S. inspectors. This would seem obvious, but not to USDA. The Department is proposing a rule to end border inspections of meat and poultry products from Canada offered for importation into the United States. The rule is based on an interpretation that U.S. law permits the Secretary to delegate these inspection responsibilities to foreign inspectors. As I have stated on previous occasions, this proposal is not consistent with U.S. law. Its legality has been questioned by the General Accounting Office and the USDA Office of General Counsel.

The proposed change in regulations means that United States inspectors will no longer conduct random inspections to check compliance with United States food safety and quality laws of Canadian meat and poultry products offered for import into the United States. The immediate proposal is for a 1-year experiment under the so-called "open border" agreement between the United States and Canada. At the end of the year, the experiment will be evaluated and the agreement permanent.

The comment period on the proposed rule closed September 5. USDA received more than 2,000 comments on the rule, many negative. Nevertheless, USDA plans to disregard these comments and go ahead with the rule.

Representatives DORGAN and WILLIAMS and I wrote to Secretary Yeutter to urge that he withdraw the proposed rule. Furthermore, we urged that USDA improve the current inspection procedures in three ways: First, determine why large amounts of meat from Canada are not meeting United States standards when it enters at the North Dakota and Montana inspection stations; second, evaluate the current Canadian meat inspection system, and document this evaluation, to provide a sound basis for possible future experiments in relaxed inspection procedures; and third, reinstate the system, which was abandoned in 1988, that made all shipments of Canadian meat into the United States subject to border inspections. We have not received a response from the Secretary.

Mr. President, the open border experiment is a dramatic departure from current inspection procedures. It is disturbing that such a sweeping action has been considered and proposed without broader public discussion.

The manner in which USDA has handled this agreement suggests that USDA does not believe the proposals can withstand public scrutiny. The agreement appears designed more to achieve political ends, rather than assure the safety of the U.S. food supply, which is the primary responsibility of FSIS. As one industry observer has noted. "The USDA gave up consumer protection for free trade."

However, free trade in this case is a one-way street. It is not clear that any parties other than the Canadian meat and poultry industries benefit under this proposal, certainly not American producers, processors or least of all, American consumers. USDA has made sweeping concessions to the Canadians without any serious assurance of reciprocal concessions from the Canadians on inspection issues, or other issues of concern to the United States meat and poultry industry.

EQUIVALENCY

The agreement was made on the grounds that the Canadian inspection system is equivalent to our own. The General Accounting Office [GAO], based on its report issued July 1990, testified at the July 12 hearing that USDA lacked adequate documentation for GAO, or any party, for that matter, to independently review the USDA determination of equivalency of the two inspection systems.

Equivalency is a critical issue, because under the open border experiment, the determination of equivalency becomes the only assurance that Canadian meat and poultry products are safe and wholesome for American consumers.

FSIS procedures with regard to Canada have been an issue in the past. In light of past problems, it is not appropriate to proceed with relaxed regulations until it is clear these problems have been resolved. In 1987 and 1988, prior to the implementation of the Free-Trade Agreement, the USDA Office of the Inspector General [OIG] and the GAO issued reports critical of the FSIS meat import inspection procedures. The OIG concluded that FSIS did not have reasonable assurance that systemic problems in foreign inspection systems were detected and corrected. Therefore, according to the OIG, an increased risk exists that products not meeting U.S. standards are exported to the United States.

In response to these reports, FSIS announced in 1989 that it would inspect Canadian meat imported to the United States at the border. Administrator Crawford said at that time that implementation of the FTA would not alter the new regulation. "Whether or not the FTA is adopted, import reinspection of Canadian products will continue to be conducted by United States inspectors," Mr. Crawford wrote in a letter announcing the border inspections. One year later, FSIS is reversing this stand with no evidence that improvements in either FSIS or Canadian procedures justify such an action. If anything, the evidence calls for a more cautious approach. Furthermore, the U.S. Senate is on record as not accepting FSIS application of the "the same as" requirement of the Poultry Products Inspection Act with respect to foreign inspection systems. Section 1979 of the Food, Agriculture, Conservation, and Trade Act, S. 2830, passed by the Senate on July 27, 1990, states that the U.S. Senate considers that the regulation promulgated by the FSIS, 54 FR 43948, with respect to poultry products offered for importation into the United States "does not reflect the intention of the Congress of the United States." The section urges FSIS to repeal the October 30, 1989, regulation and promulgate a new regulation reflecting the intention of the Congress.

Equivalency is also important as a trade issue. The FSIS is likely to respond that trade matters are not under FSIS authority and, therefore, not relevant to the proposed rule. However, these issues are within the authority of the USDA and the administration. The FSIS should not have been granted the authority to conduct negotiations toward an agreement of this nature without consideration of outstanding trade issues with Canada. Having overlooked the relationship between these issues and the open border agreement, the administration has revealed a disturbing lack of coordination with respect to trade policy that may require a legislative remedy.

Testimony presented at the July 12 hearing showed that there are significant differences in inspection and grading standards and procedures that put our processors and producers at a competitive disadvantage. These differences are not mentioned in the open border agreement, and no provision is made to seek further actions on the part of the Canadians to end these differences.

For example, the witness representing the National Pork Producers Council at the July 12 hearing noted that Canada permits the use of two drugs, Dimetridazole and Ipronidazole, that are not approved in the United States. These drugs are used in Canada to treat livestock and poultry diseases, but the United States Food and Drug Administration has not approved these products for use in the United States because it is believed that the drugs may be linked to cancer. No action is proposed in the agreement or the proposed rule to resolve this disparity.

USDA offers in defense of its judgment that the Canadian inspection system is equivalent to that of the United States but the Canadian system is more like our system than that of any other country in the world. That is not a satisfactory justification. Comparisons between the Canadian system and other countries' systems tell us little about the differences between the United States and Canadian systems. Whether or not the Canadian system is more like our own system is beside the point. The critical issue is whether USDA can assure consumers that the Canadian system is equivalent to the United States system.

The combination of these issues—the past problems in the FSIS equivalency review procedures, the GAO's findings regarding the lack of documentation, and the trade-related disparities—leads to the conclusion that the FSIS is on thin ice with respect to the issue of equivalency. I urge USDA to adopt the recommendations contained in the July 1990 GAO report that the FSIS be directed to review and document the equivalency of the Canadian inspection system, and that the FSIS investigate, as part of the equivalency review, the reasons for the high rejection rates in 1989 for Canadian products offered for import to the United States. I also urge the USDA to consider other factors in this review, such as the economic advantages that differences between the United States and Canadian inspection and grading systems may give to the meat and poultry industry of one country over that of the other.

THE AGREEMENT AND U.S. LAW

The GAO, in its July 1990 report, said that its review identified several legal and policy issues regarding the open border proposal:

From a legal perspective, there is a question of whether the open border proposed under the Free Trade Agreement conflicts with the requirements of U.S. meat inspection laws and whether a legislative change is necessary. The United States-Canada Free-Trade Agreement Implementation Act of 1988 (P.L. 100-449) specifies (section 102(a)) that "no provision of the Agreement, nor the application of any such provision to any person or circumstance, which is in conflict with any law of the United States shall have effect." FSIS program officials have raised a possible legal issue about whether legal authority exists to permanently establish an open border or whether FSIS needs to ask the Congress to amend the Federal Meat Inspection Act. Before the open border agreement, the head of FSIS' International Programs office told us that port-of-entry inspection of Canadian meat imports was required under FSIS' statutes.

This issue remains unresolved and is further confounded by the opinion of the USDA Office of General Counsel [OGC]. According to the OGC, the agreement was made and signed without any consultations with the General Counsel as to whether or not the agreement is consistent with U.S. law. The agreement was signed contingent upon the clearance of the General Counsel. OGC says that as of May 18, such clearance had not been sought or obtained. It is not clear that such clearance has been granted to this date. If the agreement is contingent on General Counsel clearance, this raises the question of whether, without such clearance, there is an agreement that is enforceable. Furthermore, there is a question of whether the agreement requires clearance by the Department of State.

As the agreement was made and signed prior to OGC clearance, the OGC was forced to develop—some might say concoct—a legal argument to justify the agreement. The interpretation that the OGC developed, which is that the Secretary of Agriculture may rely on foreign inspectors to enforce U.S. meat and poultry inspection laws, is not what Congress envisioned when it wrote these laws. It is my opinion that Congress intended that the Secretary of Agriculture enforce U.S. inspection laws through U.S. inspectors. The USDA interpretation suggests that USDA has no further responsibility to spot check, or make random reinspections, to make sure that imported meat and poultry products are in compliance with United States rules and standards, or that the Canadian Government is complying with the terms of the open border agreement.

Moreover, the USDA legal interpretation is clearly not what Congress envisioned when it approved the Free-Trade Agreement. The FTA specifically provides allowance for spot checks. Article 708.3 states that the importing country may examine agricultural and food goods from the exporting country

only to ensure that the exporting party has determined or certified that such goods meet the standards or technical regulations of the importing country: "This provision shall not preclude spot checks or similar verifying measures necessary to ensure compliance with the importing party's standards or technical regulations provided that such spot checks or similar verifying measures, including any conducted at the border, are conducted no more frequently than those conducted by the importing party under similar circumstances with respect to its goods."

The USDA OGC has warned the Assistant Secretary of Marketing and Inspection Services that implementation of the agreement by regulation, without a change in law, is subject to legal risk.

FOOD SAFETY AND QUALITY

USDA offers assurances that spot checks will occur, but only to the extent that they occur on domestic products. This means that inspections on meat and poultry products for further processing at United States processing plants will be the only means by which inspections by United States inspectors will take place to determine a Canadian product's compliance with United States health and safety standards. These inspections are not as rigorous as procedures at the border. Furthermore, it means that any products imported from Canada ready for retail would not receive any inspection by United States inspectors. For example, geese labeled grade A could be imported and sold in the supermarket without any check by U.S. inspectors to determine whether the product is in compliance with U.S. grading standards. Hot dogs could be imported and sold in the supermarket without any check by U.S. inspectors for chemical residues or other contaminants.

These issues are significant because concerns have been raised over products imported from Canada. Earlier this year, geese from Canada that were improperly labeled were found at five establishments in the United States. GAO reported, and FSIS confirmed, that rejection rates for Canadian products reinspected under random procedures increased in 1989 from the previous year.

Last month, USDA officials found a fourth sample of meat from a Canadian processor tainted with a dangerous bacterium, listeria monocytogenes. USDA took the processor off the list of companies approved for export to the United States. The entire shipment was destroyed. But had the shipment not been inspected by U.S. personnel, it would have been delivered to U.S. supermarket shelves, without any intervening action by the U.S. government.

Border inspectors report significant problems with the current relaxed inspection procedures as well as significant rejections of Canadian products. The inspector in Sweetgrass, MT, for example, reports high percentages of contaminated meat coming in from Canada through his facilities. For example, on May 11, the inspector received 13 assignments to run product exams. He refused entry to 5 of the 13, based on findings of fecal material, ingesta, hair, bruises, and blood clots on the samples. Of the 175,799 pounds of meat inspected, the inspector refused for entry 64,638 pounds. This is a 36 percent rate of failure for 1 day. On May 18 and 19, the inspector refused entry to 13.9 percent and 22.5 percent, respectively, of the meat he inspected.

The proposed rule says that Canadian inspection personnel would be required to perform reinspections in Canada of Canadian products destined for import to the United States. These reinspections would include the random reinspections for residues and species verification required by the Federal Meat Inspection Act and the Poultry Products Inspection Act.

The proposed rule notes that each country maintains internal review programs to assure that meat and poultry products intended for export meet the laws and regulations of the respective countries. But it is not clear that this program in Canada includes random reinspections specifically required under United States law. As these reinspections are now conducted by United States inspection personnel, it is reasonable to assume that these reinspections are not now conducted by Canadian personnel on Canadian products destined for export to the United States, and that such reinspections will constitute an added responsibility for Canadian inspection personnel over and above their current duties.

This requirement is a problem for two reasons: First, a primary purpose for reinspections by U.S. personnel is for the United States to verify the compliance of the foreign country's inspection activities with our laws and regulations. Turning this verification activity over to the foreign government defeats the entire purpose of the reinspection. How do we make sure the Canadian inspectors are doing what they are supposed to be doing? Second, this requirement risks future difficulties with Canada. It is not clear that the Canadians agree that they are expected to conduct any procedures beyond their current practices. An initial inspection for species verification and residues will not satisfy U.S. law, or the terms of this proposed rule. Products that have received an initial inspection must at some point be subject to a reinspection to satisfy U.S. law.

VERIFICATION

The proposed rule does not indicate how the United States will verify that Canada is complying with United States laws and regulations. The proposed rule mentions that during the experiment, use of the amended regulations would be evaluated and that this evaluation would be used by inspection officials in both countries to ascertain whether these regulations should be modified. But this statement does not address the issue of verification.

One of the benefits of the procedures under U.S. law for reinspection of imported products is that these procedures provide a means for verifying the compliance of the exporting country with U.S. laws and regulations for meat and poultry safety and quality. Reinspections are a means to protect the health and safety of American citizens. American consumers want to know that the meat and poultry products they eat have been inspected by U.S. Government personnel to determine the acceptability of the product under U.S. standards for safety and quality. If the United States Government abandons reinspections by United States inspection personnel, the United States Government no longer has a means for verifying compliance by Canada unless another method is substituted. The proposed rule does not address this point.

GRADING

The proposed rule does not address problems in grading, or the different grading systems in which Canadian and United States processors operate.

For example, in the case of geese, grading services are provided by the Canadian Government at no additional cost. U.S. processors must pay the Government for grading inspectors. Furthermore, differences exist over grading standards. These were discussed at some length during the subcommittee hearing. It is the view of the goose processor who testified at the hearing that these differences put his company at a competitive disadvantage with respect to Canadian firms exporting product to the United States.

No attempt is made in the proposed rule to resolve these differences. Moreover, without some means of reinspection by United States personnel, there is no opportunity to determine that Canadian processors are complying with our grading standards as is required when they export to the United States. Given the history of problems in this area, it is difficult to understand why USDA would not be more concerned about this problem.

EVALUATION

The proposed rule does not state how the 1-year experiment will be evaluated. It does say that an evaluation will be made to determine whether or not the experiment should become a permanent change in U.S. regulations. However, the proposed rule gives no guidance as to how the

evaluation will be conducted, who will do the evaluation, whether or not the industry will be consulted, who in the industry might be consulted, and on what terms the determination to continue the experiment will be made.

This is a major omission. USDA ought to give the public information on which to comment regarding the plans for the evaluation.

CONCLUSION

Producers, processors, and consumers who have contacted me are shocked that USDA would agree to such a wholesale abrogation of U.S. meat and poultry inspection law. American consumers expect that U.S. officials will enforce U.S. law. They will not be satisfied with a system that relies solely on employees of a foreign government to enforce U.S. laws.

Random reinspections at the border are not a trade impediment. They are a means to protect the health and safety of American citizens. One need only look at the amounts of Canadian products imported into the United States to realize that the Canadian industry has not suffered problems of access under the current regime, or under the system that operated prior to 1989. Imports of Canadian meat and poultry to the United States are greater than United States exports of meat and poultry to Canada by a ratio of almost 4 to 1. If anything, the figures on meat and poultry trade show that it is the United States industry that has suffered problems of access, not the Canadian industry.

It is the role of the FSIS to assure American citizens that meat and poultry products, whether processed domestically or in a foreign country, are safe and wholesome. Standards that the United States has established for domestic products ought to apply to foreign products if they are to be sold in the United States. American consumers expect meat and poultry products imported to the United States to meet standards for inspection and grading that are the same as those the United States applies to domestic products.

Meat and poultry products are not the same as timber, automobiles, or other manufactured goods. Meat and poultry products must be safe for people to eat. It is reasonable, and compatible with free trade, to maintain a system for monitoring industry compliance with fair and responsible health, safety, and grading laws and regulations. The integrity of our inspection laws, and the inspection system established by these laws, enables the U.S. meat and poultry industry to assure American consumers that when they eat in a restaurant, or buy meat or poultry in a supermarket, they are receiving safe and wholesome products. These laws should not be compromised. USDA's proposed rule does compromise these laws and Congress should protect the integrity of the laws by enacting the legislation I am introducing today.●

By Mr. KASTEN:

S. 3214. A bill to repeal the Federal Employers' Liability Act, to provide for coverage of railroad employees' injury claims under individual State workers' compensation programs, and for other purposes; to the Committee on Labor and Human Resources.

RAILROAD WORKER'S INJURY COMPENSATION ACT

Mr. KASTEN. Mr. President, today I am pleased to introduce the Railroad Workers' Injury Compensation Act of 1990.

The bill covers railroad employees for injuries received while on the job in the same manner as other industrial employees in this country—including other transportation employees. Rail employees would not continue to be covered by an out-dated FELA system that was enacted 82 years ago to address an industry, and a problem, that bears little resemblance to today's realities.

Therefore, this legislation provides that railroad employees would be compensated for work-related injuries under the no-fault, State workers compensation systems, rather than under the fault-based, litigation-oriented Federal Employers' Liability Act [FELA].

This measure has the strong support of the administration, and particularly Transportation Secretary Skinner. Repeal of FELA is an element of the National Transportation Policy which would produce significant benefits for railroad employees and the industry itself.

By way of background, Mr. President, FELA was enacted in 1908 in response to the then very dangerous working conditions in the railroad industry. At the beginning of this century, the railroad industry was the dominant industrial employer. Because FELA preceded the development of modern no-fault State workers' compensation laws, the Congress, in responding to the clear need for a workers compensation law to deal with injuries in the industry, relied upon the existing concepts of tort law in structuring this system. However, concerns on the part of many Members of Congress and others as to the fairness of FELA led shortly after its enactment to continued analysis and study of the system. Thus, the Sutherland Commission was created by the Congress in 1910 to examine the 2-year old FELA system.

In its report to the Congress in 1912, the Commission stated that it was:

unanimously of the opinion that the existing system of employers' liability based upon negligence, with the defenses of assumption of risk, fellow servant fault, and contributory negligence, no longer met the requirements of modern industrial conditions; . . . and in the operation resulted in waste, plausible antagonism between employer and employee in giving to a few injured employees large and sometimes extravagant damages, while leaving the great majority to bear the entire burden without any recompense whatsoever.

The Commission recommended that the Congress enact legislation to replace FELA, "putting in the place of it a law based not upon fault but upon the fact of injury resulting from accident in the course of employment."

Efforts from 1910 through 1939 in the Congress to change FELA to a no-fault based system proved unsuccessful as FELA trial lawyers and some union leaders worked to maintain the fault-driven system. While maintaining the fault-based nature of FELA, change to the law were enacted in 1939 to make it easier for an injured worker to receive compensation.

From 1939 until June, 1988, when at my request the Commerce Committee's Surface Transportation Subcommittee held a hearing on FELA in relation to Amtrak, the Congress had done nothing further with respect to this law.

In the interim, however, the Supreme Court stepped in on numerous occasions to reshape FELA, increasing to the greatest extent it felt possible the likelihood that injured rail workers would be compensated for their work-related injuries. Despite its many efforts to transform FELA into a better system from the employees' perspective, it was constitutionally precluded from restructuring FELA to follow the no-fault principles underlying State workers' compensation laws. Therefore, FELA remains a system out of synch with the commonly accepted no-fault approach of compensating workers for on-the-job injuries which has been adopted by all 50 States.

Despite the changes made to the act in 1939, and the Supreme Court's efforts in changing the law, FELA continues to suffer from four specific problems which justify treating railroad employees the same as employees in other industries in this country—including the employees of the airlines, truck and bus industries.

FELA fails to assure that all injured workers are guaranteed fair and prompt compensation when they are injured. Because fault must be established for a worker to recover, some injured railroad workers receive no compensation while others receive rewards far in excess of what would be considered reasonable. In essence, the system produces many unfair and unpredictable results.

FELA guarantees that a small group of specialized FELA trial lawyers will grow rich from representing injured rail workers. These lawyers will take 25 to 40 percent of the amount recovered by an injured worker. In the case of Amtrak, which receives Federal sub-

sidies on the order of $600 million per year, this amounts to an enormous Federal subsidy to trial lawyers.

FELA adversely affects the ability of Amtrak and the freight railroads to compete for business because its competitors' employees are covered under State workers compensation laws. There should be modal equity in the area of workers' compensation coverage.

FELA continues to stand in the way of improved labor-management relations and increased rail safety. Because recovery can only occur if fault is proven, the employee and management immediately start pointing an accusatory finger at one another rather than working together to determine the cause of the accident that resulted in the injury. Thus, contrary to those who argue that FELA promotes safety, FELA acts as an impediment to joint efforts to further improve safety on Amtrak, just as it does in the entire rail industry.

Mr. President, I believe that rail workers would be better served if they were covered under state workers' compensation laws like the employees of other industries, including other transportation industries. This bill will accomplish this aim.

Some parties have suggested that FELA serves as a safety statute. I would suggest that the testimony of Amtrak's President, Graham Claytor, describing the negative effect of FELA on rail safety to the Surface Transportation Subcommittee on several occasions, is the demonstrably more logical analysis.

Mr. President, in the last 10 years attorney involvement in FELA cases in the railroad industry has increased from 15 to 32 percent, payments excluding medical expenses and administrative costs have risen from $296 million to $811 million—a 174% increase; and the average payment per claim has increased from $8,004 in 1979 to $37,852 in 1988. All this has occurred while employment has dropped from 487,534, to 259,696. Between 1981 and 1986, railroad employment was down 35 percent, injuries dropped 53 percent yet FELA lawsuits more than doubled.

In the case of Amtrak, in the last 7 years it has seen its total costs for employee injury cases triple to nearly $54 million.

After 82 years, I believe the situation surrounding the FELA system justifies the enactment of the same approach to workers' compensation for rail employees that all of the states have chosen for the other workers of this Nation.

I have previously supported a limited repeal of FELA, which is supported by the National Industrial Transportation League—the Nation's oldest and largest association of shippers—the National Taxpayers Union, the Railway Progress Institute, the National Association of Railroad Passengers, The American Short Line Railroad Association, the Regional Railroads Association, the Association of American Railroads, Amtrak, and others.

I look forward to the support of my colleagues for this bill, and urge them to educate themselves about the abuses and inefficiencies of the FELA system. I will also be introducing similar legislation in the early days of the 102d Congress. As more and more members of Congress learn about the working of this anachronistic system, I believe we will repeal FELA—and thus bring the workers' compensation system for the railroads from the first decade of this century up to the present.

Mr. President, I ask unanimous consent that both the text of the Railroad Workers' Injury Compensation Act of 1990 and a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

SECTION 1. SHORT TITLE

This Act may be cited as the "Railroad Workers' Injury Compensation Act of 1990".

SEC. 2. FINDINGS

The Congress finds that—

(1) the Federal Employers' Liability Act, enacted in 1908, preceded the enactment of state workers' compensation statutes and represents an important early effort to provide compensation to workers injured or killed in the course of their employment;

(2) the Federal Employers' Liability Act establishes a fault-based system in which employee injury compensation is based on the employee's ability to establish negligence on the part of the employer, and in which compensation may be reduced or eliminated to the extent the employee is contributorily negligent;

(3) following enactment of the Federal Employers' Liability Act, all of the individual states adopted no-fault workers' compensation statutes which provide compensation for workers injured or killed in the course of their employment without regard to considerations of fault or negligence on the part of either the employer or the employee, and which are applicable to virtually all other industries in the United States;

(4) in recognition of the remedy provided to injured railroad employees by the Federal Employers' Liability Act, certain state workers' compensation laws specifically exclude railroad workers from coverage under the state programs;

(5) the determination of fault as a component of injury compensation produces a number of undesirable consequences, including the failure to insure that all injured workers receive compensation, a disincentive to railroad safety and sound employer-employee relations, and a lengthy process with high transaction and social costs that increase industry costs, burden the court system, and decrease the compensation received by the injured worker;

(6) state workers' compensation programs provide for the receipt of compensation (in accordance with benefit schedules established by each state to meet its particular needs) by all workers who are injured on the job without requiring workers to demonstrate fault or the cause of the accident, and with an administrative process that is generally less complicated and expensive than litigation through State or federal court systems;

(7) subjecting the railroad industry to the fault-based Federal Employers' Liability Act puts the industry at a disadvantage in competing with other modes of transportation, which are covered by state workers' compensation programs, and this inequality of treatment places a burden on interstate commerce; and

(8) the determination of fault as a component of employee injury compensation does not represent sound public policy and should be eliminated.

SEC. 3. PURPOSE

It is the purpose of this Act to place all railroad employees under the workers' compensation laws of the several states, in order to assure that railroad employees will be compensated, without a determination of fault or negligence, for injuries or death arising out of or in the course of their employment.

SEC. 4. REPEAL

The Act of April 27, 1908 (45 U.S.C. 51 *et seq.*) (popularly referred to as the "Federal Employers' Liability Act") is repealed.

SEC. 5. APPLICABILITY OF STATE WORKERS' COMPENSATION STATUTES

Notwithstanding any provision of state law that excludes railroad employees from coverage under a state workers' compensation program or that authorizes a railroad employee to bring a tort claim against a railroad, no state shall, after the effective date of this Act, prohibit railroad employees from access to that state's workers' compensation program and any claim against a railroad by an employee of the railroad for injury, death, or occupational disease arising out of or in the course of the employee's employment shall be treated the same as the claim of a non-railroad employee against his or her employer brought under the state's workers' compensation laws.

SEC. 6. AMTRAK TAX EXEMPTION

Notwithstanding section 306(n) of the Rail Passenger Service Act (45 U.S.C. 546) or any other provision of law, the National Railroad Passenger Corporation shall be subject to the workers' compensation taxes, fees, and assessments of a state in the same manner and to the same extent as any other interstate entity doing business within the state and governed by the workers' compensation laws of that state.

SEC. 7. CONFORMING AMENDMENT

Section 20(a) of the Act of March 4, 1915 (38 Stat. 185), as amended (46 U.S.C. 688), is further amended by adding after the words "railroad employees" in both instances where they appear the following: "in effect prior to the enactment of the Railroad Workers' Injury Compensation Act of 1990".

SEC. 8. EFFECTIVE DATE

The provisions of this Act shall become effective nine months after the date of enactment. All claims for work-related injuries, including occupational disease or death, that accrue prior to such effective date shall continue to be processed under the provisions of the Act of April 27, 1908 (45 U.S.C. 51 *et seq.*) (popularly referred to as the "Federal Employers' Liability Act"). All claims for work-related injuries, including

occupational disease or death, that accrue on or after such effective date shall be processed under the applicable state workers' compensation programs. Notwithstanding any other provision contained herein, a claim for injury, including occupational disease or death, that is found not covered by applicable state workers' compensation law because the injury resulted solely from an employment event occurring prior to the effective date of this Act may be processed under the provisions of the Act of April 27, 1908: *Provided further,* That in such event the time for filing an action provided in section 6 of the Act of April 27, 1908 (45 U.S.C. 56) shall begin to run only from the date an adverse final decision denying coverage under the state workers' compensation law is received.

SECTION-BY-SECTION ANALYSIS OF THE RAILROAD WORKERS' INJURY COMPENSATION ACT OF 1990

Section 1.—Section one provides that the Act may be cited as the "Railroad Workers' Injury Compensation Act of 1990".

Section 2.—Section two contains Congressional findings supporting the need for enactment of the Railroad Workers' Injury Compensation Act of 1990. The findings focus on the genesis of the Federal Employers' Liability Act in the early part of the twentieth century, the subsequent successful adoption of no-fault systems by all of the states, the significantly improved safety in railroad employment, and the difficulties associated with the presence of negligence as a factor in employee injury compensation. The findings support the need for a change from the fault-based Federal Employers' Liability Act to the no-fault programs maintained by the several states.

Section 3.—Section three declares that it is the purpose of this Act to provide all railroad employees after the effective date hereof with coverage exclusively under the workers' compensation laws of the several states in order to assure that railroad employees are compensated, without a determination of fault or negligence, for injuries or death arising out of or in the course of their employment.

Section 4.—Section four repeals the Federal Employers' Liability Act, officially known as the Act of April 27, 1908 (45 U.S.C. 51 *et seq.*).

Section 5.—Section five provides that in recognition of the repeal of the Federal Employers' Liability Act states would be prohibited from treating claims against a railroad by an employee of the railroad for injury, death, or occupational disease arising out of or in the course of the employee's employment differently from that state's treatment of claims of non-railroad employees under that state's workers' compensation laws. It is the intent of section 5 of the bill that railroad workers be entitled to participate in the state no-fault workers' compensation programs notwithstanding the existence of provisions in state workers' compensation statutes, which may either exclude railroad workers from the state compensation programs or contain language paralleling the Federal Employers' Liability Act and providing railroad workers with a tort-based claim for compensation under state law.

Section 6.—Section six contains a technical provision designed to insure that exemption from state and local taxes and other fees that the National Railroad Passenger Corporation ("Amtrak") is entitled to under Federal law does not affect Amtrak's responsibility to comply with the taxes and assessments associated with the individual state workers' compensation statutes.

Section 7.—Section seven contains a conforming amendment designed to insure that the repeal of the Federal Employers' Liability Act as it applies to railroad employees does not inadvertently affect the compensation system established for merchant seamen. Under section 20(a) of the Act of March 4, 1915 (46 U.S.C. 688), the rights of seamen who suffer personal injury in the course of their employment are tied to the rights and remedies available to railway employees under the Federal Employers' Liability Act. Section seven of the bill insures that the repeal of the Federal Employers' Liability Act will not alter the rights available to merchant seamen whose employment-related injuries may occur at sea and not obtain the benefits of state workers' compensation laws.

Section 8.—Section eight provides that the Railroad Workers' Injury Compensation Act of 1990 shall become effective nine months after the date of enactment. Accordingly, all causes of action for work-related injury, death, or occupational disease that accrue prior to such date would continue to be processed under the Federal Employers' Liability Act. All causes of action that accrue on or after that date would be processed under the applicable state workers' compensation programs. A nine month delay in the effective date of the provisions of the Act has been included in order to provide the states with a period of time in which to make necessary administrative adjustments to their workers' compensation programs to respond to the addition of railroad employees to the programs. Section eight also includes a savings clause which has been added to ensure that no employee is left without recourse in the event the employee's claim for injury, including occupational disease or death, is found not covered by the applicable state workers' compensation law because the injury resulted solely from an employment event occurring prior to the effective date of this Act. An employee in this instance would continue to have the right to pursue a claim under the Federal Employers' Liability Act, and the statute of limitations provided in section 56 of title 45 of the United States Code would not begin to run until an adverse final decision denying coverage under state law is received.

By Mr. INOUYE (for himself and Mr. MCCAIN):

S. 3217. A bill to authorize additional positions for the National Museum of the American Indian of the Smithsonian Institution, and for other purposes; by unanimous consent, referred jointly to the Committee on Rules and Administration and the Select Committee on Indian Affairs.

NATIONAL MUSEUM OF THE AMERICAN INDIAN AMENDMENTS ACT

● Mr. INOUYE. Mr. President, I am introducing a bill today on behalf of myself and Senator MCCAIN, to extend to the Smithsonian Institution, provisions of generic legislation addressing the repatriation of native American human remains, sacred objects, funerary objects, and cultural patrimony.

Mr. President, you will recall that last year, the Smithsonian Institution took the lead in this sensitive area, by agreeing to become the first federally funded institution to conduct an inventory of the native American human remains in its possession and to voluntarily return remains that are not the subject of scientific study, if the return of those remains is requested by the lineal descendants of the deceased or the tribe with whom the remains are affiliated.

I believe that it is important to note that the Smithsonian took this step at the initiative of Secretary Robert McCormick Adams. The Smithsonian did not insist that other federally funded museums be covered by the same policy. I raise this matter, because the generic legislation that I referred to, legislation that is now pending in the Senate and which would extend national repatriation policy to museums that receive Federal funds, has been met with some resistance from the museum community, based upon the failure to include the Smithsonian Institution within the scope of that legislation. In an effort to address this concern, I made a commitment to the President and Vice President of the American Association of Museums that I would introduce a separate bill which would extend the provisions of the generic legislation, S. 1980, to the Smithsonian Institution.

This legislation amends the National Museum of the American Indian Act, Public Law 101-185, to provide a more comprehensive repatriation policy, consistent with the policy that would govern issues of repatriation for other museums that are the recipients of Federal funds.

The repatriation of native American human remains, sacred objects, funerary objects, and cultural patrimony is an issue that demands resolution—it is vitally important to Indian country, and I believe, will foster better relations between the scientific and Indian communities. With my colleagues on the Committee on Rules and Administration, I look forward to expeditious action on this most important matter.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3217

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Museum of the American Indian Amendments Act".

SEC. 2. AMENDMENT TO SECTION 11.

Section 11 of the National Museum of the American Indian Act (20 U.S.C. 80q-9) is amended to read as follows:

"SEC. 11. INVENTORY, IDENTIFICATION AND REPATRIATION OF NATIVE AMERICAN HUMAN REMAINS, FUNERARY OBJECTS, SACRED OBJECTS AND OBJECTS OF CULTURAL PATRIMONY.

"(a) INVENTORY.—The Secretary of the Smithsonian Institution shall compile an inventory of Native American human remains and associated funerary objects and, to the extent possible, identify the geographic and cultural affiliation of such remains and objects.

"(b) REQUIREMENTS.—The inventories and identifications required under subsection (a) shall—

"(1) be completed in consultation with Indian tribes and Native Hawaiian organizations and traditional religious leaders;

"(2) be completed by no later than the date that is 4 years after the date of enactment of the National Museum of the American Indian Act;

"(3) include a review of existing records, inventories, or catalogues, relevant studies, or other pertinent data for the limited purposes of determining the geographic origin, cultural affiliation, and basic facts surrounding acquisition and accession of such remains and objects; and

"(4) be made available to the review committee established in section 12 both during the time they are being conducted and afterward.

"(c) NOTIFICATIONS.—(1) If the cultural affiliation of any particular Native American human remains and associated funerary objects is determined pursuant to this section, the Secretary of the Smithsonian Institution shall notify the affected Indian tribes or Native Hawaiian organizations, not later than 6 months after the completion of the inventory.

"(2) The notice required by paragraph (1) shall include information—

"(A) which identifies each of the Native American human remains, funerary objects, sacred objects, and objects of Native American cultural patrimony and the circumstances surrounding each acquisition;

"(B) which lists the remains and objects that are clearly identifiable as to tribal origin; and

"(C) which lists the remains and objects that are not clearly identifiable as being culturally affiliated with the Indian tribe or Native Hawaiian organization, but which, given the totality of circumstances surrounding the acquisition of the remains or objects, are reasonably believed to be remains or objects culturally affiliated with the Indian tribe or Native Hawaiian organization.

"(3) A copy of each notice provided under paragraph (1) shall be published in the Federal Register.

"(d) WRITTEN SUMMARY.—(1) The Secretary of the Smithsonian Institution shall provide a written summary of the Native American unassociated funerary objects, sacred objects or objects of cultural patrimony which is based upon all available information. The summary shall describe the scope of the collection, the kinds of objects included, reference to geographical location, means and period of acquisition and cultural affiliation, where readily ascertainable.

"(2) The summary required under subsection (d) shall be—

"(A) in lieu of an object by object inventory;

"(B) followed by consultation with Indian tribes and Native Hawaiian organizations and traditional religious leaders; and

"(C) completed by not later than the date that is 3 years after the date of enactment of the National Museum of the American Indian Act.

"(3) Upon request, Indian tribes and Native Hawaiian organizations shall have access to records, catalogues, relevant studies or other pertinent data for the limited purposes of determining the geographic origin, cultural affiliation, and basic facts surrounding acquisition and accession of Native American objects subject to this section. Such information shall be provided in a reasonable manner agreed upon by all parties.

"(e) RETURN OF REMAINS AND OBJECTS.—(1) If the cultural affiliation of Native American human remains and associated funerary objects with a particular Indian tribe or Native Hawaiian organization is established, then upon request of the tribe or Native Hawaiian organization or a known lineal descendant of the Native American, such remains and associated funerary objects, if any, shall be expeditiously returned.

"(2) If the cultural affiliation of unassociated funerary objects, sacred objects, or objects of cultural patrimony with a particular Indian tribe or Native Hawaiian organization is established, then upon the request of the tribe or Native Hawaiian organization or a known lineal descendant of the Native American and pursuant to subparagraphs (5), (6), and (7) of this section, such objects shall be expeditiously returned.

"(3) The return of such remains and objects shall be in consultation with the requesting lineal descendant or tribe or organization to determine the place and manner of delivery of the remains.

"(4) Upon request and pursuant to subparagraphs (5), (6), and (7), sacred objects and objects of cultural patrimony shall be expeditiously returned where—

"(A) the requesting party is the direct lineal descendant of an individual who owned the sacred object;

"(B) the requesting Indian tribe or Native Hawaiian organization can show that the object was owned or controlled by the tribe or organization; or

"(C) the requesting Indian tribe or Native Hawaiian organization can show that (i) the sacred object was owned or controlled by a member thereof; (ii) there are no identifiable lineal descendants of said member; or (iii) the lineal descendants, upon notice, have failed to make a claim for the object under this Act.

"(5) If the lineal descendant, Indian tribe, or Native Hawaiian organization requests the return of culturally affiliated Native American human remains, funerary objects, sacred objects, or objects of Native American cultural patrimony, the Secretary of the Smithsonian shall expeditiously return such remains or objects unless such remains or objects are indispensable for the completion of a specific scientific study the outcome of which would be of major benefit to the United States and the Secretary can establish that the Smithsonian Institution has the right of possession. Such remains or objects shall be returned no later than 90 days after the date on which the scientific study is completed.

"(6) If an known lineal descendant or an Indian tribe or Native Hawaiian organization requests the return of Native American unassociated funerary objects, sacred objects or objects of cultural patrimony pursuant to this Act and presents evidence which, if standing alone before the introduction of evidence to the contrary, would support a finding that the Smithsonian did not have the right of possession, then the Smithsonian shall return such objects unless it can overcome such inference by clear and convincing evidence and prove that it has a right of possession to the objects.

"(7) Where there are multiple requests for repatriation of any cultural item and, after complying with the requirements of this Act, the Secretary of the Smithsonian cannot clearly determine which requesting party is the most appropriate claimant, the Secretary of the Smithsonian may retain such item until the requesting parties agree upon its disposition or the dispute is otherwise resolved pursuant to the provisions of this Act or by a court of competent jurisdiction.

"(8) The Secretary of the Smithsonian Institution shall share what information the Smithsonian Institution does possess regarding any item in question with the known lineal descendant, Indian tribe, or Native Hawaiian organization to assist in establishing the cultural affiliation of the Native American remains, funerary objects, sacred objects, and objects of cultural patrimony.

"(9) The United States district courts shall have jurisdiction over any action brought by any person alleging a violation of this Act and shall have the authority to issue such orders as may be necessary to enforce the provisions of this Act.".

SEC. 3. AMENDMENT TO SECTION 13.

Section 13 of the National Museum of the American Indian Act (20 U.S.C. 80q-11) is amended to read as follows:

"SEC. 13. FIDUCIARY DUTY.

"The United States Government and the Secretary of the Smithsonian Institution shall not be liable for claims by an aggrieved party or for claims of breach of fiduciary duty, public trust, or violations of Federal law that are inconsistent with the provisions of this Act for the repatriation of any item in good faith pursuant to this Act.".

SEC. 4. AMENDMENT TO SECTION 14(a).

The heading for section 14, and section 14(a) of the National Museum of the American Indian Act (20 U.S.C. 80q-12(a)) are amended to read as follows:

"SEC. 14. GRANTS BY THE SECRETARY OF THE INTERIOR TO ASSIST INDIAN TRIBES AND NATIVE HAWAIIAN ORGANIZATIONS WITH THE REPATRIATION OF NATIVE AMERICAN HUMAN REMAINS, FUNERARY OBJECTS, SACRED OBJECTS AND OBJECTS OF CULTURAL PATRIMONY.

"(a) GRANTS.—The Secretary of the Interior may make grants to Indian tribes and Native Hawaiian organizations to assist such tribes and organizations in reaching and carrying out agreements with—

"(1) the Board of Regents for the repatriation of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony under section 11; and

"(2) other Federal and non-Federal entities for the repatriation of other remains or objects.".

SEC. 5. AMENDMENT TO PARAGRAPHS (3) AND (4) OF SECTION 16.

Paragraphs (3) and (4) of section 16 of the National Museum of the American Indian Act (20 U.S.C. 80q-14) are amended to read as follows:

"(3) the term 'burial site' means any natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which there was deposited, as a part of the death rites or ceremonies of

a Native American culture, the remains of a deceased Native American;

"(4) the term 'cultural affiliation' means a relationship of shared group identity which can be reasonably traced historically or prehistorically between a present day Indian tribe or Native Hawaiian organization and an identifiable historic or prehistoric Indian tribe or Native Hawaiian group;".

SEC. 6. AMENDMENT TO PARAGRAPH (8) OF SECTION 16.

Paragraph (8) of section 16 of the National Museum of the American Indian Act (20 U.S.C. 80q-14) is amended to read as follows:

"(8) the term 'Indian tribe' means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;".

SEC. 7. AMENDMENT TO SECTION 16.

Section 16 of the National Museum of the American Indian Act (20 U.S.C. 80q-14) is amended (1) by deleting "and" at the end of paragraph (10); (2) by deleting the period at the end of paragraph (11) and inserting in lieu thereof a semicolon; and (3) by adding at the end thereof the following:

"(12) the term 'Native Hawaiian organization' means any organization which—

"(A) serves and represents the interests of Native Hawaiians,

"(B) has as a primary and stated purpose the provision of services to Native Hawaiians,

"(C) has a membership of which a majority are Native Hawaiians, and

"(D) has expertise in Native Hawaiian affairs and Native Hawaiian traditions.

Such organizations may include, but are not limited to, the Office of Hawaiian Affairs and Malama I Na Kupuna O Hawaii Nei;

"(13) the term 'associated funerary object' means an object that as part of the death rite or ceremony of a culture, is reasonably believed to have been placed with human remains either at the time of death or later, and both the human remains and associated funerary objects are presently in the possession or control of the Smithsonian Institution, except that other items exclusively made for burial purposes or to contain human remains shall be considered as associated funerary objects;

"(14) the term 'unassociated funerary object' means an object that as part of the death rite or ceremony of a culture, is reasonably believed to have been placed with human remains either at the time of death or later, where the remains are not in the possession or control of the Smithsonian Institution and the object can be identified by a preponderance of the evidence as having been removed from a specific burial site culturally affiliated with a particular tribe;

"(15) the term 'sacred object' means any specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents;

"(16) the term 'Native American cultural patrimony' means an object having historical, traditional, or cultural importance central to the culture of the Indian tribe or Native Hawaiian organization such that it cannot be legally alienated, appropriated, or conveyed by any individual Indian or Native Hawaiian;

"(17) the term 'right of possession' means—

"(A) possession obtained with the voluntary consent of an individual or group that had authority to alienate possession; and

"(B) the original acquisition of a Native American funerary object or sacred object from an Indian or Native Hawaiian individual, or from an Indian tribe or Native Hawaiian organization with the voluntary consent of an individual or group with authority to alienate such object is deemed to give right of possession to that object; or

"(C) the original acquisition of Native American cultural patrimony from an Indian tribe or Native Hawaiian organization with the voluntary consent of the tribe or organization with authority to alienate such object is deemed to give right of possession to that object; or

"(D) the original acquisition of Native American human remains which were excavated, exhumed, or otherwise obtained with the full knowledge and consent of the next of kin, or the official governing body of the appropriate Indian tribe or Native Hawaiian organization is deemed to give right of possession to those remains.".

SEC. 8. AMENDMENT TO SECTION 6(c).

Section 6(c) of the National Museum of the American Indian Act (20 U.S.C. 80q-4(c)) is amended by deleting "2 employees" each time it appears and inserting in lieu thereof "10 employees".

SEC. 9. AMENDMENT TO SECTION 7(a).

Section 7(a) of the National Museum of the American Indian Act (20 U.S.C. 80q-5(a)) is amended by deleting "Maryland Avenue,".

SEC. 10. AMENDMENT TO PUBLIC LAW 94-74.

The Act entitled "An Act to reserve a site for the use of the Smithsonian Institution", approved August 8, 1975 (89 Stat. 407), is amended by deleting "Maryland Avenue" and inserting in lieu thereof "Independence Avenue".●

ADDITIONAL COSPONSORS

At the request of Mr. LAUTENBERG, the names of the Senator from New Jersey [Mr. BRADLEY] and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 758, a bill to require the Secretary of the Treasury to monitor the adherence by certain United States corporations to principles of nondiscrimination and freedom of opportunity in employment practices in Northern Ireland.

S. 2112

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 2112, a bill to amend the National Labor Relations Act to prevent discrimination based on participation in labor disputes.

S. 2590

At the request of Mr. THURMOND, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 2590, a bill to amend title 10 United States Code, to authorize the appointment of chiropractors as commissioned officers in the Armed Forces to provide chiropractic care, and to amend title 37, United States Code, to provide special pay for chiropractic officers in the Armed Forces.

S. 2614

At the request of Mr. GRASSLEY, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 2614, a bill to amend the Public Health Service Act to establish and coordinate research programs for osteoporosis and related bone disorders, and for other purposes.

S. 2677

At the request of Mr. LAUTENBERG, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 2677, a bill to extend for 2 years the operation of sections 599D and 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990.

S. 2709

At the request of Mr. BOSCHWITZ, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 2709, a bill to amend the Internal Revenue Code of 1986 to provide that certain expenses of travel, meals, and lodging of members of the National Guard or reserve units of the Armed Forces will be allowable as deductions in computing adjusted gross income.

2. 2729

At the request of Mr. BOSCHWITZ, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 2729, a bill to amend the Coastal Barrier Resources Act, and for other purposes.

S. 2873

At the request of Mr. BOSCHWITZ, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 2873, a bill to provide for treatment of Federal pay in the same manner as non-Federal pay with respect to garnishment and similar legal process.

S. 2925

At the request of Mr. DIXON, the name of the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Alaska [Mr. STEVENS], and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of S. 2925, a bill to authorize the minting and issuance of coins in commemoration of the quincentenary of the discovery of America and to authorize the payment of the proceeds of the sale of such coins to the Christopher Columbus Quincentenary Scholarship Foundation for the purpose of establishing a scholarship program and for other purposes.

S. 3019

At the request of Mr. LAUTENBERG, the names of the Senator from New York [Mr. D'AMATO], the Senator from Tennessee [Mr. GORE], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 3019, a bill to enforce compliance with an internationally agreed upon economic sanction against Iraq.

S. 3069

At the request of Mr. JEFFORDS, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 3069, a bill to provide a method of locating private and Government research on environmental issues by geographic location.

SENATE JOINT RESOLUTION 354

At the request of Mr. GLENN, the names of the Senator from Oregon [Mr. PACKWOOD], the Senator from Tennessee [Mr. SASSER], the Senator from Michigan [Mr. RIEGLE], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Washington [Mr. ADAMS], the Senator from North Dakota [Mr. CONRAD], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Idaho [Mr. MCCLURE], the Senator from South Carolina [Mr. THURMOND], the Senator from Massachusetts [Mr. KERRY], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Tennessee [Mr. GORE], the Senator from Utah [Mr. HATCH], the Senator from Ohio [Mr. METZENBAUM], the Senator from Maryland [Ms. MIKULSKI], the Senator from Rhode Island [Mr. PELL], the Senator from Utah [Mr. GARN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Hawaii [Mr. AKAKA], the Senator from North Carolina [Mr. SANFORD], the Senator from Kansas [Mr. DOLE], the Senator from Wisconsin [Mr. KASTEN], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Alaska [Mr. STEVENS], the Senator from Indiana [Mr. COATS], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Maine [Mr. COHEN] were added as cosponsors of Senate Joint Resolution 354, a joint resolution designating November 18-24, 1990, and November 17-23, 1991, as "National Family Caregivers Week."

SENATE JOINT RESOLUTION 375

At the request of Mr. BOSCHWITZ, the names of the Senator from Tennessee [Mr. GORE], the Senator from South Dakota [Mr. DASCHLE], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Illinois [Mr. DIXON], the Senator from New Hampshire [Mr. HUMPHREY], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of Senate Joint Resolution 375, a joint resolution to designate October 30, 1990 as "Refugee Day."

SENATE JOINT RESOLUTION 379

At the request of Ms. MIKULSKI, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of Senate Joint Resolution 379, a joint resolution providing for furloughed employee's compensation.

SENATE RESOLUTION 338

At the request of Mr. SASSER, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Resolution 338, a resolution expressing the sense of the Senate that the Department of Commerce should utilize the statistical correction methodology to achieve a fair and accurate 1990 Census.

SENATE RESOLUTION 340

At the request of Mr. BURDICK, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of Senate Resolution 340, a resolution to express the sense of the Senate that any proposal to increase the Federal-aid highway program's minimum allocation percentage from 85 percent to 95 percent should be addressed as part of the legislative process to reauthorize surface transportation programs in 1991.

AMENDMENTS SUBMITTED

OMNIBUS BUDGET RECONCILIATION ACT

SYMMS (AND OTHERS) AMENDMENT NO. 3011

Mr. SYMMS (for himself, Mr. GARN, Mr. HELMS, Mr. HUMPHREY, Mr. WALLOP, Mr. ARMSTRONG, Mr. KASTEN, Mr. MCCAIN, Mr. GRASSLEY, Mr. HATCH, Mr. BURNS, Mr. LOTT, Mr. MACK, and Mr. EXON) proposed an amendment to the bill (S. 3209) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1991, as follows:

Strike section 7405 of the bill (relating to increase and extension of highway related taxes and trust fund).

PRESSLER AMENDMENT NO. 3012

(Ordered to lie on the table.)

Mr. Pressler submitted an amendment intended to be proposed by him to the bill S. 3209, supra, as follows:

Beginning on page 353, line 15 of subpart B of part I of subtitle D of title VII, strike all through page 354, line 3.

CONRAD (AND BAUCUS) AMENDMENT NO. 3013

Mr. CONRAD (for himself, Mr. BAUCUS, Mr. KERREY, and Mr. PRESSLER) proposed an amendment to amendment No. 3011 proposed by Mr. SYMMS (and others) to the bill S. 3209, supra, as follows:

Strike all after the section designation of the language to be stricken and insert the following:

ELIMINATION OF PROVISION REDUCING MARGINAL TAX RATE FOR HIGH-INCOME TAXPAYERS.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)), a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $32,450	15% of taxable income.
Over $32,450 but not over $78,400.	$4,867.50, plus 28% of the excess over $32,450.
Over $78,400	$17,733.50, plus 33% of the excess over $78,400.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $26,050	15% of taxable income.
Over $26,050 but not over $67,200.	$3,907.50, plus 28% of the excess over $26,050.
Over $67,200	$15,429.50, plus 33% of the excess over $67,200.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $19,450	15% of taxable income.
Over $19,450 but not over $47,400.	$2,917.50, plus 28% of the excess over $19,450.
Over $47,050	$10,645.50, plus 33% of the excess over $47,050.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $16,225	15% of taxable income.
Over $16,225 but not over $39,200.	$2,433.75, plus 28% of the excess over $16,225.
Over $39,200	$8,866.75, plus 33% of the excess over $39,200.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $5,450	15% of taxable income.
Over $5,450 but not over $14,150.	$817.50, plus 28% of the excess over $5,450.
Over $14,150	$3,253.50, plus 33% of the excess over $14,150."

(b) REPEAL OF PHASEOUT.—

(1) IN GENERAL.—Section 1 is amended by striking subsection (g) (relating to phaseout of 15-percent rate and personal exemptions).

(2) CONFORMING AMENDMENT.—subparagraph (A) of section 1(f)(6) (relating to adjustments for inflation) is amended by striking "subsection (g)(4),".

(c) 28 PERCENT MAXIMUM CAPITAL GAINS RATED.—Subsection (j) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(j) MAXIMUM CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the amount of the net capital gain, or

"(ii) the amount of taxable income taxed at a rate below 28 percent, plus

"(B) a tax of 28 percent of the amount of taxable income in excess of the amount determined under paragraph (1).

"(2) COORDINATION WITH SECTION 1202 DEDUCTION.—For purposes of paragraph (1), the amount of the net capital gain shall be reduced by the sum of—

"(A) the amount allowable as a deduction under section 1202(a)(1), plus

"(B) the amount of the qualified gain (as defined in section 1202(c)) for the taxable year to the extent taken into account under section 1202(c)(1) for the taxable year."

(d) TECHNICAL AMENDMENTS.—

(1)(A) Subsection (f) of section 1 is amended—

(i) by striking "1988" in paragraph (1) and inserting "1990", and

(ii) by striking "1987" in paragraph (3)(B) and inserting "1989"

(B) Subparagraph (B) of section 32(i)(1) is amended by striking "1987" and inserting "1989". (C) Subparagraph (C) of section 41(e)(5) is amended—

(i) by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end of clause (i),

(ii) by striking "1987" in clause (ii) and inserting "1989", and

(iii) by adding at the end of clause (ii) the following new sentence: "Such substitution shall be in lieu of the substitution under clause (i).".

(D) Subparagraph (B) of section 63(c)(4) is amended by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end.

(E) Clause (ii) of section 135(b)(2)(B) is amended by striking ", determined by substituting 'calendar year 1989' for 'calendar year 1987' in subparagraph (B) thereof".

(F) Subparagraph (B) of section 151(d)(3) is amended by striking "1987" and inserting "1989".

(G) Clause (ii) of section 135(h)(2)(C) is amended by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end.

(2) Section 1 is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (g) and (h), respectively.

(3) Subsection (j) of section 59 is amended—

(A) by striking "section 1(i)" each place it appears and inserting "section 1(g)", and

(B) by striking "section 1(i)(3)(B)" in paragraph (2)(C) and inserting "section 1(g)(3)(B)".

(4) Paragraph (4) of section 691(c) is amended by striking "1(j)" and inserting "1(h)".

(5)(A) Clause (i) of section 904(b)(3)(D) is amended by striking "subsection (j)" and inserting "subsection (h)".

(B) Subclause (I) of section 904(b)(3)(E)(iii) is amended by striking "section 1(j)" and inserting "section 1(h)".

(6) Clause (iv) of section 6103(e)(1)(A) is amended by striking "section 1(j)" and inserting "section 1(g)".

(7)(A) Subparagraph (A) of section 7518(g)(6) is amended by striking "1(j)" and inserting "1(h)".

(B) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act, 1936 is amended by striking "1(j)" and inserting "1(h)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7461A. INCREASE IN RATE OF INDIVIDUAL ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subparagraph (A) of section 55(b)(1) (relating to tentative minimum tax) is amended by striking "21 percent" and inserting "25 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1990.

SEC. 7461B. SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000.

(a) GENERAL RULE.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000

"Sec. 59B. Surtax on section 1 tax.
"Sec. 59C. Surtax on minimum tax.
"Sec. 59D. Special rules.

"SEC. 59B. SURTAX ON SECTION 1 TAX.

"In the case of an individual who has taxable income for the taxable year in excess of $1,000,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 10 percent of the amount which bears the same ratio to the tax imposed under section 1 (determined without regard to this section) as—

"(1) the amount by which the taxable income of such individual for such taxable year exceeds $1,000,000, bears to

"(2) the total amount of such individual's taxable income for such taxable year.

"SEC. 59C. SURTAX ON MINIMUM TAX.

"In the case of an individual who has alternative minimum taxable income for the taxable year in excess of $1,000,000, the amount of the tentative minimum tax determined under section 55 for such taxable year shall be increased by 2.5 percent of the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds $1,000,000.

"SEC. 59D. SPECIAL RULES.

"(a) SURTAX TO APPLY TO ESTATES AND TRUSTS.—For purposes of this part, the term 'individual' includes any estate or trust taxable under section 1.

"(b) TREATMENT OF MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$500,000' for '$1,000,000'.

"(c) COORDINATION WITH OTHER PROVISIONS.—The provisions of this part—

"(1) shall be applied after the application of section 1(h), but

"(2) before the application of any other provision of this title which refers to the amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $1,000,000."

(C) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7461C. 5-CENT INCREASE IN MOTOR FUEL TAXES.

Notwithstanding any provision of, or amendment made by, section 7405 of this Act (relating to increase and extension of highway-related taxes and trust fund) or any provision of the Internal Revenue Code of 1986, the following tax rates shall be effective for any period beginning on or after January 1, 1991:

(1) TAX ON GASOLINE.—The Highway Trust Fund financing rate and the deficit reduction rate under section 4081(a)(2)(B) shall be 11.5 cents a gallon and 2.5 cents a gallon (3 cents a gallon in the case of gasohol containing ethanol), respectively.

(2) TAX ON DIESEL FUEL.—The Highway Trust Fund financing rate and the diesel fuel deficit reduction rate under section 4091(b) shall be 17.5 cents a gallon and 2.5 cents a gallon (3 cents a gallon in the case of any mixture of diesel if at least 10 percent of such mixture is ethanol), respectively.

(3) TAX ON FUEL USED IN TRAINS.—The rate of tax on fuel used in trains under sections 4041(a)(3) and 4093(c) shall be 2.5 cents per gallon.

SEC. 7461D. PART B DEDUCTIBLE.

Section 1833(b) of the Social Security Act (42 U.S.C. 1395l), as amended by section 6162, is further amended by striking "for calendar years before 1991 and after 1995, and $150 for years after 1990 and before 1996" and inserting "for calendar years before 1991 and $100 for 1991 and subsequent years".

SEC. 7461E. AGRICULTURAL SUPPORT PROGRAMS.

Notwithstanding any provision of, or amendment made by, this Act—

(1) the base reduction percentage for the 1991 crops of wheat, feed grains, upland cotton, and rice under section 1101(c) of this Act shall be 5 percent; and the base reduction percentage for the 1992 through 1995 crops of wheat, feed grains, upland cotton, and rice under section 1101(c) of this Act shall be 7.5 percent,

(2) in calculating deficiency payments for each of the 1991 through 1995 crops of wheat, feed grains, and rice under section 1102(a) of this Act, the payment rate for a crop shall be the amount by which the established price for the crop exceeds the higher of—

(A) the national weighted average market price received by producers during the first 6 months of the marketing year for the crop, as determined by the Secretary of Agriculture; or

(B) the loan level determined for the crop; and

(3) the amount of the dairy assessment provided for in section 1105(b) of this Act shall be $0.05 per hundredweight during the period beginning January 1, 1991, and ending August 31, 1995.

Notwithstanding any other provision of this Act the provisions of section 7461 as reported will be effective.

MITCHELL (AND DOLE) AMENDMENT NO. 3014

Mr. MITCHELL (for himself and Mr. DOLE) proposed an amendment to the bill S. 3209, supra; as follows:

In lieu of the language proposed to be stricken insert the following:

Subpart B—User-Related Taxes

SEC. 7405. INCREASE AND EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUND.

(a) INCREASE IN TAX ON GASOLINE.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) (relating to rate of tax) is amended—

(A) by striking "and" at the end of clause (i),

(B) by striking the period at the end of clause (ii) and inserting ", and", and

(C) by adding at the end thereof the following new clause:

"(iii) the deficit reduction rate."

(2) RATES OF TAX.—Subparagraph (B) of section 4081(a)(2) is amended—

(A) by striking "9 cents a gallon, and" and inserting "13.75 cents a gallon,",

(B) by striking the period at the end of clause (ii) and inserting ", and", and

(C) by adding at the end thereof the following new clause:

"(iii) the deficit reduction rate is 4.75 cents (5.25 cents in the case of gasohol containing ethanol) a gallon ."

(3) 15-CENT LIMIT ON TAX ON GASOLINE USED IN NONCOMMERCIAL AVIATION.—

(A) RATES OF TAX AFTER DECEMBER 31, 1990, AND BEFORE JULY 1, 1991.—Paragraph (3) of section 4041(c) is amended by striking "12 cents a gallon over the Highway Trust Fund financing rate" and inserting "15 cents a gallon over the sum of the Highway Trust Fund financing rate and the deficit reduction financing rate".

(B) REFUND ON TAX.—

(i) Section 6427 is amended by striking subsections (m) and (o) and by redesignating subsections (n), (p), (q), and (r) as subsections (m), (n), (o), and (p), respectively.

(ii) Subsection (o) of section 6427 (as redesignated by clause (i)) is amended to read as follows:

"(o) GASOLINE USED IN NONCOMMERCIAL AVIATION.—Except as provided in subsection (k), if gasoline is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(2)), the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the excess of the aggregate amount of tax paid under section 4081 on the gasoline so used over an amount equal to 15.1 cents (12.1 cents during December 1990) multiplied by the number of gallons of gasoline so used."

(iii) Paragraph (1) of section 6427(i) is amended by striking "or (q)" and inserting "or (o)".

(iv) Clause (i) of section 6427(i)(2)(A) is amended by striking "and (q)" and inserting "and (o)".

(v) The amendments made by this subparagraph shall take effect on December 1, 1990.

(C) REPEAL OF TAX AFTER JUNE 30, 1991.—

(i) Subsection (c) of section 4041 is amended by striking paragraphs (2) and (3) and by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

(ii) Paragraph (3) of section 4041(c), as redesignated by clause (i) is amended by striking "paragraphs (1) and (2)" and inserting "paragraph (1)".

(iii) Paragraph (2) of section 6421(f) is amended by striking "section 4041(c)(4)" and inserting "section 4041(c)(2)".

(iv) The amendments made by this subparagraph shall take effect on July 1, 1991.

(5) Conforming amendments.—

(A) Paragraph (1) of section 4081(c) is amended—

(i) by striking "applied by" and all that follows through "in the case" and inserting "applied by substituting rates which are 10/9th of the otherwise applicable rates under subsection (a)(2) in the case", and

(ii) by adding at the end thereof the following: "For purposes of this subsection, in the case of the Highway Trust Fund financing rate, the otherwise applicable rate is 7.75 cents a gallon."

(B) Paragraph (2) of section 4081(c) is amended by striking "at a rate equivalent to 3 cents" and inserting "at a Highway Trust Fund financing rate equivalent to 7.75 cents".

(C) Subparagraph (A) of section 9503(c)(2) is amended by adding at the end thereof the following new sentence:

"The amounts payable from the Highway Trust Fund under this subparagraph shall be determined by taking into account only the Highway Trust Fund financing rate applicable to any fuel."

(6) RATES OF TAX FOR GASOLINE REMOVED AFTER NOVEMBER 30, 1990, AND BEFORE JANUARY 1, 1992.—Section 4081 is amended by adding at the end thereof the following new subsection:

"(e) RATES OF TAX FOR GASOLINE REMOVED AFTER NOVEMBER 30, 1990, AND BEFORE JANUARY 1, 1992.—

"(1) HIGHWAY TRUST FUND FINANCING RATES.—

"(A) In the case of gasoline removed after November 30, 1990, and before July 1, 1991—

"(i) subsection (a)(2)(B)(i) shall be applied by substituting '11 cents' for '13.75 cents', and

"(ii) subsection (c) shall be applied by substituting '5 cents' for '7.75 cents' each place it appears.

"(B) In the case of gasoline removed after June 30, 1991, and before January 1, 1992—

"(i) subsection (a)(2)(B)(i) shall be applied by substituting '13.5 cents' for '13.75 cents', and

"(ii) subsection (c) shall be applied by substituting '7.5 cents' for '7.75 cents' each place it appears.

"(2) DEFICIT REDUCTION RATE.—

"(A) In the case of gasoline removed after November 30, 1990, and before July 1, 1991, subsection (a)(2)(B)(iii) shall be applied by substituting '2 cents (2.5 cents in the case of gasohol containing ethanol)' for '4.75 cents (5.25 cents in the case of gasohol containing ethanol)'.

"(B) In the case of gasoline removed after June 30, 1991, and before January 1, 1992, subsection (a)(2)(B)(iii) shall be applied by substituting '4.5 cents (5 cents in the case of gasohol containing ethanol)' for '4.75 cents (5.25 cents in the case of gasohol containing ethanol)'."

(7) EFFECTIVE DATE.—Except as otherwise provided in this subsection, the amendments made by this subsection shall apply to gasoline removed (as defined in section 4082 of the Internal Revenue Code of 1986) after November 30, 1990.

(b) INCREASE IN OTHER TAXES.—

(1) DEFICIT REDUCTION RATE.—

(A) Clause (i) of section 4091(b)(1)(A) is amended by inserting "and the diesel fuel deficit reduction rate" after "financing rate".

(B) Subsection (b) of section 4091 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) DIESEL FUEL DEFICIT REDUCTION RATE.—For purposes of paragraph (1), the diesel fuel deficit reduction rate is 4.75 cents a gallon (5.25 cents a gallon in the case of any mixture of diesel if at least 10 percent of such mixture is ethanol)."

(2) INCREASE IN HIGHWAY TRUST FUND FINANCING RATE.—Paragraph (2) of section 4091(b) is amended by striking "15 cents" and inserting "19.75 cents".

(3) INCREASE IN TAX ON SPECIAL MOTOR FUELS.—Paragraph (2) of section 4041(a) is amended by striking "of 9 cents a gallon" and by inserting at the end thereof the following new sentence:

"The rate of the tax imposed by this paragraph shall be the sum of the Highway Trust Fund financing rate and the deficit reduction rate in effect under section 4081 at the time of such sale or use."

(4) 4.75-CENT TAX TO APPLY TO FUEL USED IN TRAINS.—

(A) Paragraph (2) of section 4093(c) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) 4.75-CENT TAX ON FUEL USED IN TRAINS.—In the case of fuel sold for use in a diesel-powered train, with respect to the tax imposed by section 4091(b)(1)(A), paragraph (1) shall apply only to the excess of such tax over 4.75 cents per gallon. In the case of fuel sold for use after November 30, 1990, and before July 1, 1991, the preceding sentence shall be applied by substituting '2 cents' for '4.75 cents'; in the case of fuel sold for use after June 30, 1991, and before January 1, 1992, the preceding sentence shall be applied by substituting '4.5 cents' for '4.75 cents'."

(B) Subsection (l) of section 6427 is amended by adding at the end thereof the following new paragraph:

"(4) 4.75-CENT TAX ON FUEL USED IN TRAINS.—In the case of fuel used in a diesel-powered train, with respect to the tax imposed by section 4091(b)(1)(A), paragraph (1) shall apply only to the excess of such tax over 4.75 cents per gallon. In the case of fuel used after November 30, 1990, and before July 1, 1991, the preceding sentence shall be applied by substituting '2 cents' for '4.75 cents'; in the case of fuel used after June 30, 1991, and before January 1, 1992, the preceding sentence shall be applied by substituting '4.5 cents' for '4.75 cents'."

(C) Section 4041(a) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) TAX ON DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 4.75 cents a gallon on any liquid (other than any product taxable under section 4081)—

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

"(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such liquid under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if there was a taxable sale of such liquid under section 4091."

(D) Paragraph (4) of section 9503(b) is amended to read as follows:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2)—

"(A) there shall be taken into account the taxes imposed by sections 4041, 4081, and 4091 only to the extent attributable to section 4041(c) and the Highway Trust Fund financing rates and 20 percent of the deficit reduction rate under such sections.

"(B) there shall not be taken into account the taxes imposed by section 4041(a)(3) or 4091 on any diesel fuel used in a diesel-powered train."

(5) INCREASES IN TAXES NOT TO APPLY TO INTERCITY BUSES.—Subparagraph (A) of section 6427(b)(2) is amended by striking "shall not exceed 12 cents" and inserting "shall be 3.1 cents per gallon less than the aggregate rate at which tax was imposed on such fuel by section 4041 or 4091, as the case may be".

(6) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4091(c) is amended—

(i) by striking "9 cents" and inserting "13.75 cents" and by striking "10 cents" and inserting "15.28 cents", and

(ii) by striking "shall be 1/9 cent per gallon" and inserting "and the diesel fuel deficit reduction rate shall be 10/9th of the otherwise applicable such rates under subsection (b)".

(B) Paragraph (2) of section 4091(c) is amended by striking "9 cents" and inserting "13.75 cents".

(C) Paragraph (1) of section 4041(a) is amended by striking "of 15 cents a gallon" and by inserting before the last sentence the following new sentence:

"The rate of the tax imposed by this paragraph shall be the sum of the Highway Trust Fund financing rate and the diesel fuel deficit reduction rate in effect under section 4091 at the time of such sale or use."

(D) Subparagraph (A) of section 4041(b)(2) is amended to read as follows:

"(A) IN GENERAL.—In the case of—

"(i) qualified methanol fuel, the Highway Trust Fund financing rate applicable under subsection (a)(2) shall be 6 cents per gallon less than the otherwise applicable rate under such subsection,

"(ii) qualified ethanol fuel, the deficit reduction financing rate applicable under subsection (a)(2) shall be the otherwise applicable rate under such subsection plus 0.5 cent per gallon, and

"(iii) qualified methanol or ethanol fuel, subsection (d)(1) shall be applied by substituting '0.05 cent' for '0.1 cent' with respect to sales and uses to which clause (i) or (ii) applies.".

(E) Paragraph (1) of section 4041(k) is amended by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

"(A) with respect to liquids containing any alcohol other than ethanol, the Highway Trust Fund financing rates under paragraphs (1) and (2) of subsection (a) shall be 6 cents per gallon less than the otherwise applicable rates under such paragraphs,

"(B) with respect to liquids containing ethanol, the deficit reduction financing rates under paragraphs (1) and (2) of subsection (a) shall be the otherwise applicable rates under such paragraphs plus 0.5 cent per gallon, and".

(F) Section 4041(m)(1) is amended by striking subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting before subparagraph (C) the following new subparagraphs:

"(A) with respect to partially exempt methanol, the Highway Trust Fund financing rate applicable under subsection (a)(2) shall be 4.5 cents per gallon less than the otherwise applicable rate under such subsection,

"(B) with respect to partially exempt ethanol, the deficit reduction financing rate applicable under subsection (a)(2) shall be the otherwise applicable rate under such subsection plus 0.5 cent per gallon, and".

(G) Subsection (d) of section 9502 is amended by adding at the end thereof the following new paragraph:

"(4) TRANSFERS FOR REFUNDS AND CREDITS NOT TO EXCEED TRUST FUND REVENUES ATTRIBUTABLE TO FUEL USED.—The amounts payable from the Airport and Airway Trust Fund under paragraph (2) or (3) shall not exceed the amounts required to be appropriated to such Trust Fund with respect to fuel so used."

(H) Subparagraph (D) of section 9503(c)(4) is amended by striking "(to the extent attributable to the Highway Trust Fund financing rate)" and by inserting before the period ", but only to the extent such taxes are attributable to the Highway Trust Fund financing rates under such sections".

(7) RATES OF TAX FOR DIESEL FUEL AFTER NOVEMBER 30, 1990, AND BEFORE JANUARY 1, 1992.—Section 4091 is amended by adding at the end thereof the following new subsection:

"(e) RATES OF TAX FOR DIESEL FUEL AFTER NOVEMBER 30, 1990, AND BEFORE JANUARY 1, 1992.—

"(1) HIGHWAY TRUST FUND FINANCING RATES.—

"(A) In the case of diesel fuel on which tax is imposed after November 30, 1990, and before July 1, 1991—

"(i) subsection (b)(2) shall be applied by substituting '17 cents' for '19.75 cents', and

"(ii) subsection (c) shall be applied by substituting—

"(I) '11 cents' for '13.75 cents' each place it appears, and

"(II) '12.22 cents' for '15.28 cents'.

"(B) In the case of diesel fuel on which tax is imposed after June 30, 1991, and before January 1, 1992—

"(i) subsection (b)(2) shall be applied by substituting '19.5 cents' for '19.75 cents', and

"(ii) subsection (c) shall be applied by substituting—

"(I) '13.5 cents' for '13.75 cents' each place it appears, and

"(II) '15 cents' for '15.28 cents'.

"(2) DIESEL FUEL DEFICIT REDUCTION RATE.—

"(A) In the case of diesel fuel on which tax is imposed after November 30, 1990, and before July 1, 1991, subsection (b)(4) shall be applied by substituting '2 cents a gallon (2.5 cents a gallon' for '4.75 cents a gallon (5.25 cents a gallon'.

"(B) In the case of diesel fuel on which tax is imposed after June 30, 1991, and before January 1, 1992, subsection (b)(4) shall be applied by substituting '4.5 cents a gallon (5 cents a gallon' for '4.75 cents a gallon (5.25 cents a gallon'." '4.5 cents' for '4.75 cents'."

(8) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on December 1, 1990.

(c) EXTENSION OF TAXES.—The following provisions are each amended by striking "1993" each place it appears and inserting "1995":

(1) Section 4041(a)(4) (relating to tax on diesel and special fuels), as redesignated by subsection (b)(4)(C).

(2) Section 4051(c) (relating to tax on heavy trucks and trailers sold at retail).

(3) Section 4071(d) (relating to tax on tires and tread rubber).

(4) Section 4081(d)(1) (relating to gasoline tax).

(5) Section 4091(b)(6)(A) (relating to diesel fuel tax), as redesignated by section 13211(b).

(6) Sections 4481(e), 4482(c)(4), and 4482(d) (relating to highway use tax).

(d) EXTENSION OF EXEMPTIONS.—

(1) Paragraph (3) of section 4041(f) (relating to exemptions for farm use) is amended by striking "1993" and inserting "1995".

(2) The last sentence of section 4041(g) (relating to other exemptions) is amended by striking "1993" and inserting "1995".

(3) Subsection (a) of section 4221 (relating to certain tax-free sales) is amended by striking "1993" and inserting "1995".

(4) Subsection (g) of section 4483 (relating to termination of exemptions for highway use tax) is amended by striking "1993" and inserting "1995".

(5) Section 6420 (relating to gasoline used on farms) is amended by striking subsection (h) and by redesignating subsection (i) as subsection (h).

(6)(A) Section 6421 (relating to gasoline used for certain nonhighway purposes, etc.) is amended by striking subsection (i) and by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(B) Subsections (a) and (b) of section 6421 are each amended by striking "subsection (j)" and by inserting "subsection (i)".

(7) Paragraph (5) of section 6427(g) (relating to advance repayment of increased diesel fuel tax) is amended by striking "1993" and inserting "1995".

(e) EXTENSION OF REDUCED RATES OF TAX ON FUELS CONTAINING ALCOHOL.—The following provisions are each amended by striking "1993" each place it appears and inserting "2000, or if earlier for any period before January 1, 2000, during which the Highway Trust Fund financing rate under section 4081(a)(2) is not in effect":

(1) Section 4041(b)(2)(C) (relating to qualified methanol and ethanol fuel).

(2) Section 4041(k)(3) (relating to fuels containing alcohol).

(3) Section 4081(c)(4) (relating to gasoline mixed with alcohol).

(4) Subsections (c) and (d) of section 4091 (relating to diesel fuel and aviation fuel mixed with alcohol and aviation fuel used to produce certain alcohol fuels).

(5) Section 6427(f)(3) (relating to fuels used to produce certain alcohol fuels).

(f) OTHER PROVISIONS.—

(1) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking "1993" each place it appears and inserting "1995", and

(B) by striking "1994" each place it appears and inserting "1996".

(2) INSTALLMENT PAYMENTS OF HIGHWAY USE TAX.—Section 6156(e)(2) (relating to installment payments of tax on use of highway motor vehicles) is amended by striking "1993" and inserting "1995".

(g) EXTENSION OF DEPOSITS INTO TRUST FUND.—

(1) IN GENERAL.—Subsection (b), and paragraphs (2), (3), and (4) of subsection (c), of section 9503 (relating to the Highway Trust Fund) are each amended—

(A) by striking "1993" each place it appears and inserting "1995", and

(B) by striking "1994" each place it appears and inserting "1996".

(2) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-11) is amended—

(A) by striking "1993" and inserting "1995", and

(B) by striking "1994" each place it appears and inserting "1996".

(h) INCREASE IN TRANSFERS TO MASS TRANSIT ACCOUNT.—

(1) IN GENERAL.—Paragraph (2) of section 9503(e) is amended by striking "1 cent" and inserting "1.95 cents".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to amounts attributable to taxes imposed on or after December 1, 1990.

(3) TAXES IMPOSED BEFORE JANUARY 1, 1991.—

(A) In the case of taxes imposed after November 30, 1990, and before July 1, 1991, paragraph (2) of section 9503(e) of the Internal Revenue Code of 1986 shall be applied by substituting "1.4 cents" for "1.95 cents".

(B) In the case of taxes imposed after June 30, 1991, and before January 1, 1992, paragraph (2) of section 9503(e) of the Internal Revenue Code of 1986 shall be applied by substituting "1.9 cents" for "1.95 cents".

(i) ESTABLISHMENT OF WETLANDS FUND ACCOUNT.—

(1) IN GENERAL.—Section 9504 (relating to aquatic resources trust fund) is amended—

(A) by striking "and" at the end of subsection (a)(2)(A),

(B) by striking the period at the end of subsection (a)(2)(B) and inserting ", and",

(C) by inserting after subsection (a)(2)(B) the following new subparagraph:

"(C) a Wetlands Fund Account.",

(D) by inserting "Wetlands Fund Account," before "Boat Safety Account" in subsection (d), and

(E) by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

"(d) EXPENDITURES FROM WETLANDS FUND ACCOUNT.—Amounts in the Wetlands Fund Account shall be available, as provided by appropriation Acts, for making expenditures to carry out the purposes of any law which is substantially identical to sections 4 through 8 of S. 1731 of the 101st Congress as passed the Senate on August 2, 1990."

(2) TRANSFER OF NEW MOTORBOAT FUEL TAXES TO ACCOUNT.—Section 9503(c)(4) (relating to transfers from the trust fund for motorboat fuel taxes), as amended, is further amended—

(A) by inserting ", at the rates in effect before December 1, 1990" after "1995" in subparagraph (A)(i), and

(B) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and inserting after subparagraph (C) the following new paragraph:

"(D) TRANSFER TO WETLANDS FUND ACCOUNT.—Any amount received in the Highway Trust Fund—

"(i) which is attributable to motorboat fuel taxes, and

"(ii) which is not transferred from the Highway Trust Fund under subparagraphs (A), (B), or (C),

shall be transferred by the Secretary from the Highway Trust Fund into the Wetlands Fund Account in the Aquatics Resources Trust Fund."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on December 1, 1990.

(k) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—In the case of gasoline and diesel fuel on which tax was imposed under section 4081 or 4091 of such Code before any tax-increase date (other than gasoline on which tax is imposed under section 4041(c)(2) of such Code) and which is held on such date by any person, there is hereby imposed a floor stocks tax on such gasoline and diesel fuel.

(2) RATE OF TAX.—The rate of the tax imposed by paragraph (1) shall be—

(A) 4 cents per gallon in the case of the tax imposed on December 1, 1990,

(B) 5 cents per gallon in the case of the tax imposed on July 1, 1991, and

(C) 0.5 cent per gallon in the case of the tax imposed on January 1, 1992.

(3) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding gasoline or diesel fuel on any tax-increase date to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before—

(i) May 31, 1991, in the case of the tax imposed on December 1, 1990,

(ii) September 15, 1991, in the case of the tax imposed on July 1, 1991, and

(iii) June 30, 1992, in the case of the tax imposed on January 1, 1992.

(4) DEFINITIONS.—For purposes of this subsection—

(A) TAX-INCREASE DATE.—The term "tax-increase date" means December 1, 1990, July 1, 1991, and January 1, 1992.

(B) HELD BY A PERSON.—Gasoline and diesel fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(C) GASOLINE.—The term "gasoline" has the meaning given such term by section 4082 of such Code.

(D) DIESEL FUEL.—The term "diesel fuel" has the meaning given such term by section 4092 of such Code.

(E) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(5) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to gasoline or diesel fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 or 4091 of such Code, as the case may be, is allowable for such use.

(6) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by paragraph (1) on gasoline or diesel fuel held in the tank of a motor vehicle or motorboat.

(7) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1)—

(i) on gasoline held on any tax-increase date by any person if the aggregate amount of gasoline held by such person on such date does not exceed 4,000 gallons, and

(ii) on diesel fuel held on any tax-increase date by any person if the aggregate amount of diesel fuel held by such person on such date does not exceed 2,000 gallons.

The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (5).

(C) CONTROLLED GROUPS.—For purposes of this paragraph, rules similar to the rules of paragraph (5) of section 13201(e) of this Act shall apply.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code in the case of gasoline and section 4091 in the case of diesel fuel shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081 or 4091.

(8) TRANSFER OF PORTION OF FLOOR STOCKS REVENUE TO HIGHWAY TRUST FUND.—For purposes of determining the amount transferred to the Highway Trust Fund, the tax imposed by paragraph (1) shall be treated as imposed at a Highway Trust Fund financing rate to the extent of—

(A) 2 cents per gallon in the case of the tax imposed on December 1, 1990,

(B) 2.5 cents per gallon in the case of the tax imposed on July 1, 1991, and

(C) 0.25 cent per gallon in the case of the tax imposed on January 1, 1992.

(k) AMENDMENTS RELATING TO IMPROVED ENFORCEMENT OF GASOLINE TAX.—

(1) REPORTING REQUIREMENTS.—Section 4082 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(c) REPORTING REQUIRED OF TERMINAL OPERATORS.—

"(1) IN GENERAL.—Each person—

"(A) who is registered (or is required to be registered) under section 4101 as a terminal operator, and

"(B) from whose terminal gasoline is removed,

shall make a return (at such time and in such form as the Secretary may by regulations prescribe).

"(1) SPECIFIC REPORT REQUIREMENTS.—The report described in paragraph (1) shall specify—

"(A) the name, address, and registration number under section 4101 of the owner (or the owner of record in such cases as the Secretary deems appropriate) of the gasoline,

"(B) the amount of gasoline removed, and

"(C) such other information as the Secretary may require."

(2) REGISTRATION AND BOND.—

(A) IN GENERAL.—Section 4101 is amended to read as follows:

"SEC. 4101. REGISTRATION AND BOND.

"(a) REGISTRATION.—Each person—

"(1) before incurring any liability for tax under section 4091, or

"(2) required by the Secretary as the Secretary determines to be necessary to carry out this part,

shall register with the Secretary at such time, in such manner and form, and subject to such terms and conditions, as the Secretary may by regulations prescribe. A registration under this subsection may be used only in accordance with regulations prescribed under this subsection. Rules similar to the rules of section 4222(c) shall apply for purposes of this subsection.

"(b) BONDS AND LIENS.—Under regulations prescribed by the Secretary, the Secretary may require, as a condition of permitting

any person to be registered under subsection (a), that such person—

"(1) give a bond in such sum as the Secretary determines appropriate, and

"(2) agree to the imposition of a lien on such property (or rights to property) of such person as the Secretary determines appropriate.

If a lien is imposed pursuant to paragraph (2), the Secretary shall release such lien in connection with a transfer of the property if there is furnished to the Secretary (and accepted by the Secretary) a bond in such sum as the Secretary determines appropriate. The Secretary shall respond to any request to release a lien imposed pursuant to paragraph (2) in connection with a transfer of the property not later than 90 days after the date the request for such a release is made."

(B) DISCLOSURE PERMITTED OF REGISTRATION INFORMATION.—Subsection (k) of section 6103 (relating to disclosure of certain returns and return information for tax administration purposes) is amended by adding at the end thereof the following new paragraph:

"(7) DISCLOSURE OF NAMES AND REGISTRATION NUMBERS FOR ADMINISTRATION OF EXCISE TAXES.—The name, address, and registration number of any person registered with the Secretary under subtitle D may be disclosed to the extent necessary to permit the effective administration of such subtitle. In the case of the tax imposed by section 4081, the terminals owned by such person may also be disclosed."

(3) CONFORMING AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 32 is amended by inserting "and special rules" in the item relating to section 4082.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1991.

SEC. 7405A. INCREASE AND EXTENSION OF AVIATION-RELATED TAXES AND TRUST FUND; REPEAL OF REDUCTION IN RATES.

(a) INCREASE IN RATES ON TRANSPORTATION.—

(1) TRANSPORTATION OF PERSONS.—Subsections (a) and (b) of section 4261 are each amended by striking "8 percent" and inserting "10 percent".

(2) TRANSPORTATION OF PROPERTY.—Subsection (a) of section 4271 is amended by striking "5 percent" and inserting "6.25 percent".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transportation beginning after December 31, 1990, but shall not apply to amounts paid on or before such date.

(b) INCREASE IN RATES ON FUEL.—

(1) NONCOMMERCIAL AVIATION JET FUELS.—Paragraph (3) of section 4091(b) is amended by striking "14 cents" and inserting "17.5 cents".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4041(c) is amended by striking "14 cents" and inserting "17.5 cents".

(B)(i) Subparagraph (B) of section 4041(k)(1), as redesignated by section 13211 of this Act, is amended to read as follows:

"(B) subsection (c) shall be applied by substituting '3.5 cents' for '17.5 cents' and '3 cents' for '15 cents'."

(ii) Subparagraph (B) of section 4041(m)(1) is amended to read as follows:

"(B) subsection (c) shall be applied by substituting '3.5 cents' for '17.5 cents' and '3 cents' for 15 cents'."

(C)(i) Paragraphs (1) and (2) of section 4091(d) are amended to read as follows:

"(1) IN GENERAL.—The Airport and Airway Trust Fund financing rate shall be—

"(A) 3.5 cents per gallon in the case of the sale of any mixture of aviation fuel if—

"(i) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and

"(ii) the aviation fuel in such mixture was not taxed under subparagraph (B), and

"(B) 3.89 cents per gallon in the case of the sale of aviation fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A).

In the case of a sale described in subparagraph (B), the Leaking Underground Storage Tank Trust Fund financing rate shall be ⅛ cent per gallon.

"(2) LATER SEPARATION.—If any person separates the aviation fuel from a mixture of the aviation fuel and alcohol on which tax was imposed under subsection (a) at the Airport and Airway Trust Fund financing rate equivalent to 3.5 cents per gallon by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such aviation fuel. The amount of tax imposed on any sale of such aviation fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel."

(ii) The heading for subsection (d) of section 4091 is amended by striking "EXEMPTION FROM" and inserting "REDUCED RATE OF".

(3) Subsection (f) of section 6427 is amended to read as follows:

"(f) GASOLINE, DIESEL FUEL, AND AVIATION FUEL USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

"(1) IN GENERAL.—Except as provided in subsection (k), if any gasoline, diesel fuel, or aviation fuel on which tax was imposed by section 4081 or 4091 at the regular tax rate is used by any person in producing a mixture described in section 4081(c), 4091(c)(1)(A), or 4091(d)(1)(A) (as the case may be) which is sold or used in such person's trade or business the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

"(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.

"(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any gasoline, diesel fuel, or aviation fuel with respect to which an amount is payable under subsection (d), (e), or (l) of this section or under section 6420 or 6421.

"(4) TERMINATION.—This subsection shall not apply with respect to any mixture sold or used after September 30, 2000, or if earlier for any period before January 1, 2000, during which the Highway Trust Fund financing rate under section 4081(a)(2) is not in effect."

(4) EFFECTIVE DATES.—The amendments made by this subsection shall take effect on January 1, 1991.

(5) FLOOR STOCKS TAXES.—

(A) IMPOSITION OF TAX.—In the case of gasoline or aviation fuel on which tax was imposed under section 4041(c)(2) or 4091 of the Internal Revenue Code of 1986 before January 1, 1991, and which is held on such date by any person, there is hereby imposed a floor stocks tax on such gasoline or fuel.

(B) RATE OF TAX.—The rate of the tax imposed by subparagraph (A) shall be—

(i) 3 cents per gallon in the case of gasoline, and

(ii) 3.5 cents per gallon in the case of aviation fuel.

(C) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(i) LIABILITY FOR TAX.—A person holding gasoline or aviation fuel on January 1, 1991, to which the tax imposed by this paragraph applies shall be liable for such tax.

(ii) METHOD OF PAYMENT.—The tax imposed by this paragraph shall be paid in such manner as the Secretary shall prescribe.

(iii) TIME FOR PAYMENT.—The tax imposed by this paragraph shall be paid on or before June 30, 1991.

(D) DEFINITIONS.—For purposes of this paragraph—

(i) HELD BY A PERSON.—Gasoline or aviation fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(ii) GASOLINE.—The term "gasoline" has the meaning given such term by section 4082 of such Code.

(iii) AVIATION FUEL.—The term "aviation fuel" has the meaning given such term by section 4092(a) of such Code.

(iv) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(E) EXCEPTION FOR EXEMPT USES.—The tax imposed by this paragraph shall not apply to fuel held by any person exclusively for any use which is a nontaxable use (as defined in section 6427(l) of such Code).

(F) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this paragraph, apply with respect to the floor stock taxes imposed by this paragraph to the same extent as if such taxes were imposed by such section 4091.

(c) EXTENSION OF TAXES AND TRUST FUND.—

(1) TRANSPORTATION TAXES.—Sections 4261(g) and 4271(d) are each amended by striking "January 1, 1991" and inserting "January 2, 1996".

(2) FUEL TAXES.—

(A) Subparagraph (B) of section 4091(b)(6) (as redesignated by section 13211(b)) is amended by striking "January 2, 1991" and inserting "January 1, 1996".

(B) Paragraph (5) of section 4041(c) is amended by striking "December 31, 1990" and inserting "December 31, 1995".

(3) DEPOSITS INTO TRUST FUND.—Subsection (b) of section 9502 (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes) is amended by striking "January 1, 1991" each place it appears and inserting "January 1, 1996".

(4) CONFORMING AMENDMENT.—Section 9502(b)(2) is amended by inserting "and the deficit reduction financing rate" after "rate".

(d) REPEAL OF REDUCTION IN RATES.—

(1) Section 4283 (relating to reduction in aviation related taxes in certain cases) is hereby repealed.

(2) The table of sections for part III of subchapter C of chapter 33 is amended by striking the item relating to section 4283.

(3) Subsection (c) of section 4041 is amended by striking paragraph (6).

It is the sense of the Senate that the conferees be instructed to adjust the taxes imposed by sections 4041(a)(3) or 4091 on any diesel fuel used on a diesel-powered train so that such taxes will not exceed the increases to taxes imposed under sections 4041, 4081, and 4091 (other than on trains) which will not be dedicated to the highway trust fund.

DOLE AMENDMENT NO. 3015

Mr. DOLE proposed an amendment to amendment No. 3014 proposed by Mr. MITCHELL (for himself and Mr. DOLE) to the bill S. 3209, supra, as follows:

In lieu of the language proposed to be inserted insert the following:

Subpart B—User-Related Taxes

SEC. 7405. INCREASE AND EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUND.

(a) INCREASE IN TAX ON GASOLINE.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) (relating to rate of tax) is amended—

(A) by striking "and" at the end of clause (i),

(B) by striking the period at the end of clause (ii) and inserting ", and", and

(C) by adding at the end thereof the following new clause:

"(iii) the deficit reduction rate."

(2) RATES OF TAX.—Subparagraph (B) of section 4081(a)(2) is amended—

(A) by striking "9 cents a gallon, and" and inserting "13.75 cents a gallon,",

(B) by striking the period at the end of clause (ii) and inserting ", and", and

(C) by adding at the end thereof the following new clause:

"(iii) the deficit reduction rate is 4.75 cents (5.25 cents in the case of gasohol containing ethanol) a gallon ."

(3) 15-CENT LIMIT ON TAX ON GASOLINE USED IN NONCOMMERCIAL AVIATION.—

(A) RATES OF TAX AFTER DECEMBER 31, 1990, AND BEFORE JULY 1, 1991.—Paragraph (3) of section 4041(c) is amended by striking "12 cents a gallon over the Highway Trust Fund financing rate" and inserting "15 cents a gallon over the sum of the Highway Trust Fund financing rate and the deficit reduction financing rate".

(B) REFUND ON TAX.—

(i) Section 6427 is amended by striking subsections (m) and (o) and by redesignating subsections (n), (p), (q), and (r) as subsections (m), (n), (o), and (p), respectively.

(ii) Subsection (o) of section 6427 (as redesignated by clause (i)) is amended to read as follows:

"(o) GASOLINE USED IN NONCOMMERCIAL AVIATION.—Except as provided in subsection (k), if gasoline is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(2)), the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the excess of the aggregate amount of tax paid under section 4081 on the gasoline so used over an amount equal to 15.1 cents (12.1 cents during December 1990) multiplied by the number of gallons of gasoline so used."

(iii) Paragraph (1) of section 6427(i) is amended by striking "or (q)" and inserting "or (o)".

(iv) Clause (i) of section 6427(i)(2)(A) is amended by striking "and (q)" and inserting "and (o)".

(v) The amendments made by this subparagraph shall take effect on December 1, 1990.

(C) REPEAL OF TAX AFTER JUNE 30, 1991.—

(i) Subsection (c) of section 4041 is amended by striking paragraphs (2) and (3) and by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

(ii) Paragraph (3) of section 4041(c), as redesignated by clause (i) is amended by striking "paragraphs (1) and (2)" and inserting "paragraph (1)".

(iii) Paragraph (2) of section 6421(f) is amended by striking "section 4041(c)(4)" and inserting "section 4041(c)(2)".

(iv) The amendments made by this subparagraph shall take effect on July 1, 1991.

(5) Conforming amendments.—

(A) Paragraph (1) of section 4081(c) is amended—

(i) by striking "applied by" and all that follows through "in the case" and inserting "applied by substituting rates which are 10/9th of the otherwise applicable rates under subsection (a)(2) in the case", and

(ii) by adding at the end thereof the following: "For purposes of this subsection, in the case of the Highway Trust Fund financing rate, the otherwise applicable rate is 7.75 cents a gallon."

(B) Paragraph (2) of section 4081(c) is amended by striking "at a rate equivalent to 3 cents" and inserting "at a Highway Trust Fund financing rate equivalent to 7.75 cents".

(C) Subparagraph (A) of section 9503(c)(2) is amended by adding at the end thereof the following new sentence:

"The amounts payable from the Highway Trust Fund under this subparagraph shall be determined by taking into account only the Highway Trust Fund financing rate applicable to any fuel."

(6) RATES OF TAX FOR GASOLINE REMOVED AFTER NOVEMBER 30, 1990, AND BEFORE JANUARY 1, 1992.—Section 4081 is amended by adding at the end thereof the following new subsection:

"(e) RATES OF TAX FOR GASOLINE REMOVED AFTER NOVEMBER 30, 1990, AND BEFORE JANUARY 1, 1992.—

"(1) HIGHWAY TRUST FUND FINANCING RATES.—

"(A) In the case of gasoline removed after November 30, 1990, and before July 1, 1991—

"(i) subsection (a)(2)(B)(i) shall be applied by substituting '11 cents' for '13.75 cents', and

"(ii) subsection (c) shall be applied by substituting '5 cents' for '7.75 cents' each place it appears.

"(B) In the case of gasoline removed after June 30, 1991, and before January 1, 1992—

"(i) subsection (a)(2)(B)(i) shall be applied by substituting '13.5 cents' for '13.75 cents', and

"(ii) subsection (c) shall be applied by substituting '7.5 cents' for '7.75 cents' each place it appears.

"(2) DEFICIT REDUCTION RATE.—

"(A) In the case of gasoline removed after November 30, 1990, and before July 1, 1991, subsection (a)(2)(B)(iii) shall be applied by substituting '2 cents (2.5 cents in the case of gasohol containing ethanol)' for '4.75 cents (5.25 cents in the case of gasohol containing ethanol)'.

"(B) In the case of gasoline removed after June 30, 1991, and before January 1, 1992, subsection (a)(2)(B)(iii) shall be applied by substituting '4.5 cents (5 cents in the case of gasohol containing ethanol)' for '4.75 cents (5.25 cents in the case of gasohol containing ethanol)'."

(7) EFFECTIVE DATE.—Except as otherwise provided in this subsection, the amendments made by this subsection shall apply to gasoline removed (as defined in section 4082 of the Internal Revenue Code of 1986) after November 30, 1990.

(b) INCREASE IN OTHER TAXES.—

(1) DEFICIT REDUCTION RATE.—

(A) Clause (i) of section 4091(b)(1)(A) is amended by inserting "and the diesel fuel deficit reduction rate" after "financing rate".

(B) Subsection (b) of section 4091 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) DIESEL FUEL DEFICIT REDUCTION RATE.—For purposes of paragraph (1), the diesel fuel deficit reduction rate is 4.75 cents a gallon (5.25 cents a gallon in the case of any mixture of diesel if at least 10 percent of such mixture is ethanol)."

(2) INCREASE IN HIGHWAY TRUST FUND FINANCING RATE.—Paragraph (2) of section 4091(b) is amended by striking "15 cents" and inserting "19.75 cents".

(3) INCREASE IN TAX ON SPECIAL MOTOR FUELS.—Paragraph (2) of section 4041(a) is amended by striking "of 9 cents a gallon" and by inserting at the end thereof the following new sentence:

"The rate of the tax imposed by this paragraph shall be the sum of the Highway Trust Fund financing rate and the deficit reduction rate in effect under section 4081 at the time of such sale or use."

(4) 4.75-CENT TAX TO APPLY TO FUEL USED IN TRAINS.—

(A) Paragraph (2) of section 4093(c) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) 4.75-CENT TAX ON FUEL USED IN TRAINS.—In the case of fuel sold for use in a diesel-powered train, with respect to the tax imposed by section 4091(b)(1)(A), paragraph (1) shall apply only to the excess of such tax over 4.75 cents per gallon. In the case of fuel sold for use after November 30, 1990, and before July 1, 1991, the preceding sentence shall be applied by substituting '2 cents' for '4.75 cents'; in the case of fuel sold for use after June 30, 1991, and before January 1, 1992, the preceding sentence shall be

applied by substituting '4.5 cents' for '4.75 cents'."

(B) Subsection (l) of section 6427 is amended by adding at the end thereof the following new paragraph:

"(4) 4.75-CENT TAX ON FUEL USED IN TRAINS.—In the case of fuel used in a diesel-powered train, with respect to the tax imposed by section 4091(b)(1)(A), paragraph (1) shall apply only to the excess of such tax over 4.75 cents per gallon. In the case of fuel used after November 30, 1990, and before July 1, 1991, the preceding sentence shall be applied by substituting '2 cents' for '4.75 cents'; in the case of fuel used after June 30, 1991, and before January 1, 1992, the preceding sentence shall be applied by substituting '4.5 cents' for '4.75 cents'."

(C) Section 4041(a) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) TAX ON DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 4.75 cents a gallon on any liquid (other than any product taxable under section 4081)—

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

"(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such liquid under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if there was a taxable sale of such liquid under section 4091."

(D) Paragraph (4) of section 9503(b) is amended to read as follows:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2)—

"(A) there shall be taken into account the taxes imposed by sections 4041, 4081, and 4091 only to the extent attributable to section 4041(c) and the Highway Trust Fund financing rates and 20 percent of the deficit reduction rate under such sections.

"(B) there shall not be taken into account the taxes imposed by section 4041(a)(3) or 4091 on any diesel fuel used in a diesel-powered train."

(5) INCREASES IN TAXES NOT TO APPLY TO INTERCITY BUSES.—Subparagraph (A) of section 6427(b)(2) is amended by striking "shall not exceed 12 cents" and inserting "shall be 3.1 cents per gallon less than the aggregate rate at which tax was imposed on such fuel by section 4041 or 4091, as the case may be".

(6) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4091(c) is amended—

(i) by striking "9 cents" and inserting "13.75 cents" and by striking "10 cents" and inserting "15.28 cents", and

(ii) by striking "shall be 1/9 cent per gallon" and inserting "and the diesel fuel deficit reduction rate shall be 10/9th of the otherwise applicable such rates under subsection (b)".

(B) Paragraph (2) of section 4091(c) is amended by striking "9 cents" and inserting "13.75 cents".

(C) Paragraph (1) of section 4041(a) is amended by striking "of 15 cents a gallon" and by inserting before the last sentence the following new sentence:

"The rate of the tax imposed by this paragraph shall be the sum of the Highway Trust Fund financing rate and the diesel fuel deficit reduction rate in effect under section 4091 at the time of such sale or use."

(D) Subparagraph (A) of section 4041(b)(2) is amended to read as follows:

"(A) IN GENERAL.—In the case of—

"(i) qualified methanol fuel, the Highway Trust Fund financing rate applicable under subsection (a)(2) shall be 6 cents per gallon less than the otherwise applicable rate under such subsection,

"(ii) qualified ethanol fuel, the deficit reduction financing rate applicable under subsection (a)(2) shall be the otherwise applicable rate under such subsection plus 0.5 cent per gallon, and

"(iii) qualified methanol or ethanol fuel, subsection (d)(1) shall be applied by substituting '0.05 cent' for '0.1 cent' with respect to sales and uses to which clause (i) or (ii) applies.".

(E) Paragraph (1) of section 4041(k) is amended by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

"(A) with respect to liquids containing any alcohol other than ethanol, the Highway Trust Fund financing rates under paragraphs (1) and (2) of subsection (a) shall be 6 cents per gallon less than the otherwise applicable rates under such paragraphs,

"(B) with respect to liquids containing ethanol, the deficit reduction financing rates under paragraphs (1) and (2) of subsection (a) shall be the otherwise applicable rates under such paragraphs plus 0.5 cent per gallon, and".

(F) Section 4041(m)(1) is amended by striking subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting before subparagraph (C) the following new subparagraphs:

"(A) with respect to partially exempt methanol, the Highway Trust Fund financing rate applicable under subsection (a)(2) shall be 4.5 cents per gallon less than the otherwise applicable rate under such subsection,

"(B) with respect to partially exempt ethanol, the deficit reduction financing rate applicable under subsection (a)(2) shall be the otherwise applicable rate under such subsection plus 0.5 cent per gallon, and".

(G) Subsection (d) of section 9502 is amended by adding at the end thereof the following new paragraph:

"(4) TRANSFERS FOR REFUNDS AND CREDITS NOT TO EXCEED TRUST FUND REVENUES ATTRIBUTABLE TO FUEL USED.—The amounts payable from the Airport and Airway Trust Fund under paragraph (2) or (3) shall not exceed the amounts required to be appropriated to such Trust Fund with respect to fuel so used."

(H) Subparagraph (D) of section 9503(c)(4) is amended by striking "(to the extent attributable to the Highway Trust Fund financing rate)" and by inserting before the period ", but only to the extent such taxes are attributable to the Highway Trust Fund financing rates under such sections".

(7) RATES OF TAX FOR DIESEL FUEL AFTER NOVEMBER 30, 1990, AND BEFORE JANUARY 1, 1992.—Section 4091 is amended by adding at the end thereof the following new subsection:

"(e) RATES OF TAX FOR DIESEL FUEL AFTER NOVEMBER 30, 1990, AND BEFORE JANUARY 1, 1992.—

"(1) HIGHWAY TRUST FUND FINANCING RATES.—

"(A) In the case of diesel fuel on which tax is imposed after November 30, 1990, and before July 1, 1991—

"(i) subsection (b)(2) shall be applied by substituting '17 cents' for '19.75 cents', and

"(ii) subsection (c) shall be applied by substituting—

"(I) '11 cents' for '13.75 cents' each place it appears, and

"(II) '12.22 cents' for '15.28 cents'.

"(B) In the case of diesel fuel on which tax is imposed after June 30, 1991, and before January 1, 1992—

"(i) subsection (b)(2) shall be applied by substituting '19.5 cents' for '19.75 cents', and

"(ii) subsection (c) shall be applied by substituting—

"(I) '13.5 cents' for '13.75 cents' each place it appears, and

"(II) '15 cents' for '15.28 cents'.

"(2) DIESEL FUEL DEFICIT REDUCTION RATE.—

"(A) In the case of diesel fuel on which tax is imposed after November 30, 1990, and before July 1, 1991, subsection (b)(4) shall be applied by substituting '2 cents a gallon (2.5 cents a gallon' for '4.75 cents a gallon (5.25 cents a gallon'.

"(B) In the case of diesel fuel on which tax is imposed after June 30, 1991, and before January 1, 1992, subsection (b)(4) shall be applied by substituting '4.5 cents a gallon (5 cents a gallon' for '4.75 cents a gallon (5.25 cents a gallon'." '4.5 cents' for '4.75 cents'."

(8) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on December 1, 1990.

(c) EXTENSION OF TAXES.—The following provisions are each amended by striking "1993" each place it appears and inserting "1995":

(1) Section 4041(a)(4) (relating to tax on diesel and special fuels), as redesignated by subsection (b)(4)(C).

(2) Section 4051(c) (relating to tax on heavy trucks and trailers sold at retail).

(3) Section 4071(d) (relating to tax on tires and tread rubber).

(4) Section 4081(d)(1) (relating to gasoline tax).

(5) Section 4091(b)(6)(A) (relating to diesel fuel tax), as redesignated by section 13211(b).

(6) Sections 4481(e), 4482(c)(4), and 4482(d) (relating to highway use tax).

(d) EXTENSION OF EXEMPTIONS.—

(1) Paragraph (3) of section 4041(f) (relating to exemptions for farm use) is amended by striking "1993" and inserting "1995".

(2) The last sentence of section 4041(g) (relating to other exemptions) is amended by striking "1993" and inserting "1995".

(3) Subsection (a) of section 4221 (relating to certain tax-free sales) is amended by striking "1993" and inserting "1995".

(4) Subsection (g) of section 4483 (relating to termination of exemptions for highway use tax) is amended by striking "1993" and inserting "1995".

(5) Section 6420 (relating to gasoline used on farms) is amended by striking subsection (h) and by redesignating subsection (i) as subsection (h).

(6) (A) Section 6421 (relating to gasoline used for certain nonhighway purposes, etc.) is amended by striking subsection (i) and by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(B) Subsections (a) and (b) of section 6421 are each amended by striking "subsection (j)" and by inserting "subsection (i)".

(7) Paragraph (5) of section 6427(g) (relating to advance repayment of increased diesel fuel tax) is amended by striking "1993" and inserting "1995".

(e) EXTENSION OF REDUCED RATES OF TAX ON FUELS CONTAINING ALCOHOL.—The following provisions are each amended by striking "1993" each place it appears and inserting "2000, or if earlier for any period before January 1, 2000, during which the Highway

Trust Fund financing rate under section 4081(a)(2) is not in effect":

(1) Section 4041(b)(2)(C) (relating to qualified methanol and ethanol fuel).

(2) Section 4041(k)(3) (relating to fuels containing alcohol).

(3) Section 4081(c)(4) (relating to gasoline mixed with alcohol).

(4) Subsections (c) and (d) of section 4091 (relating to diesel fuel and aviation fuel mixed with alcohol and aviation fuel used to produce certain alcohol fuels).

(5) Section 6427(f)(3) (relating to fuels used to produce certain alcohol fuels).

(f) OTHER PROVISIONS.—

(1) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking "1993" each place it appears and inserting "1995", and

(B) by striking "1994" each place it appears and inserting "1996".

(2) INSTALLMENT PAYMENTS OF HIGHWAY USE TAX.—Section 6156(e)(2) (relating to installment payments of tax on use of highway motor vehicles) is amended by striking "1993" and inserting "1995".

(g) EXTENSION OF DEPOSITS INTO TRUST FUND.—

(1) IN GENERAL.—Subsection (b), and paragraphs (2), (3), and (4) of subsection (c), of section 9503 (relating to the Highway Trust Fund) are each amended—

(A) by striking "1993" each place it appears and inserting "1995", and

(B) by striking "1994" each place it appears and inserting "1996".

(2) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-11) is amended—

(A) by striking "1993" and inserting "1995", and

(B) by striking "1994" each place it appears and inserting "1996".

(h) INCREASE IN TRANSFERS TO MASS TRANSIT ACCOUNT.—

(1) IN GENERAL.—Paragraph (2) of section 9503(e) is amended by striking "1 cent" and inserting "1.95 cents".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to amounts attributable to taxes imposed on or after December 1, 1990.

(3) TAXES IMPOSED BEFORE JANUARY 1, 1991.—

(A) In the case of taxes imposed after November 30, 1990, and before July 1, 1991, paragraph (2) of section 9503(e) of the Internal Revenue Code of 1986 shall be applied by substituting "1.4 cents" for "1.95 cents".

(B) In the case of taxes imposed after June 30, 1991, and before January 1, 1992, paragraph (2) of section 9503(e) of the Internal Revenue Code of 1986 shall be applied by substituting "1.9 cents" for "1.95 cents".

(i) ESTABLISHMENT OF WETLANDS FUND ACCOUNT.—

(1) IN GENERAL.—Section 9504 (relating to aquatic resources trust fund) is amended—

(A) by striking "and" at the end of subsection (a)(2)(A),

(B) by striking the period at the end of subsection (a)(2)(B) and inserting ", and",

(C) by inserting after subsection (a)(2)(B) the following new subparagraph:

"(C) a Wetlands Fund Account.",

(D) by inserting "Wetlands Fund Account," before "Boat Safety Account" in subsection (d), and

(E) by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

"(d) EXPENDITURES FROM WETLANDS FUND ACCOUNT.—Amounts in the Wetlands Fund Account shall be available, as provided by appropriation Acts, for making expenditures to carry out the purposes of any law which is substantially identical to sections 4 through 8 of S. 1731 of the 101st Congress as passed the Senate on August 2, 1990."

(2) TRANSFER OF NEW MOTORBOAT FUEL TAXES TO ACCOUNT.—Section 9503(c)(4) (relating to transfers from the trust fund for motorboat fuel taxes), as amended, is further amended—

(A) by inserting ", at the rates in effect before December 1, 1990" after "1995" in subparagraph (A)(i), and

(B) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and inserting after subparagraph (C) the following new paragraph:

"(D) TRANSFER TO WETLANDS FUND ACCOUNT.—Any amount received in the Highway Trust Fund—

"(i) which is attributable to motorboat fuel taxes, and

"(ii) which is not transferred from the Highway Trust Fund under subparagraphs (A), (B), or (C),

shall be transferred by the Secretary from the Highway Trust Fund into the Wetlands Fund Account in the Aquatics Resources Trust Fund."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on December 1, 1990.

(k) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—In the case of gasoline and diesel fuel on which tax was imposed under section 4081 or 4091 of such Code before any tax-increase date (other than gasoline on which tax is imposed under section 4041(c)(2) of such Code) and which is held on such date by any person, there is hereby imposed a floor stocks tax on such gasoline and diesel fuel.

(2) RATE OF TAX.—The rate of the tax imposed by paragraph (1) shall be—

(A) 4 cents per gallon in the case of the tax imposed on December 1, 1990,

(B) 5 cents per gallon in the case of the tax imposed on July 1, 1991, and

(C) 0.5 cent per gallon in the case of the tax imposed on January 1, 1992.

(3) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding gasoline or diesel fuel on any tax-increase date to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before—

(i) May 31, 1991, in the case of the tax imposed on December 1, 1990,

(ii) September 15, 1991, in the case of the tax imposed on July 1, 1991, and

(iii) June 30, 1992, in the case of the tax imposed on January 1, 1992.

(4) DEFINITIONS.—For purposes of this subsection—

(A) TAX-INCREASE DATE.—The term "tax-increase date" means December 1, 1990, July 1, 1991, and January 1, 1992.

(B) HELD BY A PERSON.—Gasoline and diesel fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(C) GASOLINE.—The term "gasoline" has the meaning given such term by section 4082 of such Code.

(D) DIESEL FUEL.—The term "diesel fuel" has the meaning given such term by section 4092 of such Code.

(E) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(5) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to gasoline or diesel fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 or 4091 of such Code, as the case may be, is allowable for such use.

(6) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by paragraph (1) on gasoline or diesel fuel held in the tank of a motor vehicle or motorboat.

(7) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1)—

(i) on gasoline held on any tax-increase date by any person if the aggregate amount of gasoline held by such person on such date does not exceed 4,000 gallons, and

(ii) on diesel fuel held on any tax-increase date by any person if the aggregate amount of diesel fuel held by such person on such date does not exceed 2,000 gallons.

The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (5).

(C) CONTROLLED GROUPS.—For purposes of this paragraph, rules similar to the rules of paragraph (5) of section 13201(e) of this Act shall apply.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code in the case of gasoline and section 4091 in the case of diesel fuel shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081 or 4091.

(8) TRANSFER OF PORTION OF FLOOR STOCKS REVENUE TO HIGHWAY TRUST FUND.—For purposes of determining the amount transferred to the Highway Trust Fund, the tax imposed by paragraph (1) shall be treated as imposed at a Highway Trust Fund financing rate to the extent of—

(A) 2 cents per gallon in the case of the tax imposed on December 1, 1990,

(B) 2.5 cents per gallon in the case of the tax imposed on July 1, 1991, and

(C) 0.25 cent per gallon in the case of the tax imposed on January 1, 1992.

(k) AMENDMENTS RELATING TO IMPROVED ENFORCEMENT OF GASOLINE TAX.—

(1) REPORTING REQUIREMENTS.—Section 4082 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(c) Reporting Required of Terminal Operators.—

"(1) IN GENERAL.—Each person—

"(A) who is registered (or is required to be registered) under section 4101 as a terminal operator, and

"(B) from whose terminal gasoline is removed,

shall make a return (at such time and in such form as the Secretary may by regulations prescribe).

"(1) SPECIFIC REPORT REQUIREMENTS.—The report described in paragraph (1) shall specify—

"(A) the name, address, and registration number under section 4101 of the owner (or the owner of record in such cases as the Secretary deems appropriate) of the gasoline,

"(B) the amount of gasoline removed, and

"(C) such other information as the Secretary may require."

(2) REGISTRATION AND BOND.—

(A) IN GENERAL.—Section 4101 is amended to read as follows:

"SEC. 4101. REGISTRATION AND BOND.

"(a) Registration.—Each person—

"(1) before incurring any liability for tax under section 4091, or

"(2) required by the Secretary as the Secretary determines to be necessary to carry out this part,

shall register with the Secretary at such time, in such manner and form, and subject to such terms and conditions, as the Secretary may by regulations prescribe. A registration under this subsection may be used only in accordance with regulations prescribed under this subsection. Rules similar to the rules of section 4222(c) shall apply for purposes of this subsection.

"(b) BONDS AND LIENS.—Under regulations prescribed by the Secretary, the Secretary may require, as a condition of permitting any person to be registered under subsection (a), that such person—

"(1) give a bond in such sum as the Secretary determines appropriate, and

"(2) agree to the imposition of a lien on such property (or rights to property) of such person as the Secretary determines appropriate.

If a lien is imposed pursuant to paragraph (2), the Secretary shall release such lien in connection with a transfer of the property if there is furnished to the Secretary (and accepted by the Secretary) a bond in such sum as the Secretary determines appropriate. The Secretary shall respond to any request to release a lien imposed pursuant to paragraph (2) in connection with a transfer of the property not later than 90 days after the date the request for such a release is made."

(B) DISCLOSURE PERMITTED OF REGISTRATION INFORMATION.—Subsection (k) of section 6103 (relating to disclosure of certain returns and return information for tax administration purposes) is amended by adding at the end thereof the following new paragraph:

"(7) DISCLOSURE OF NAMES AND REGISTRATION NUMBERS FOR ADMINISTRATION OF EXCISE TAXES.—The name, address, and registration number of any person registered with the Secretary under subtitle D may be disclosed to the extent necessary to permit the effective administration of such subtitle. In the case of the tax imposed by section 4081, the terminals owned by such person may also be disclosed."

(3) CONFORMING AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 32 is amended by inserting "and special rules" in the item relating to section 4082.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1991.

SEC. 7405A. INCREASE AND EXTENSION OF AVIATION-RELATED TAXES AND TRUST FUND; REPEAL OF REDUCTION IN RATES.

(a) INCREASE IN RATES ON TRANSPORTATION.—

(1) TRANSPORTATION OF PERSONS.—Subsections (a) and (b) of section 4261 are each amended by striking "8 percent" and inserting "10 percent".

(2) TRANSPORTATION OF PROPERTY.—Subsection (a) of section 4271 is amended by striking "5 percent" and inserting "6.25 percent".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transportation beginning after December 31, 1990, but shall not apply to amounts paid on or before such date.

(b) INCREASE IN RATES ON FUEL.—

(1) NONCOMMERCIAL AVIATION JET FUELS.—Paragraph (3) of section 4091(b) is amended by striking "14 cents" and inserting "17.5 cents".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4041(c) is amended by striking "14 cents" and inserting "17.5 cents".

(B)(i) Subparagraph (B) of section 4041(k)(1), as redesignated by section 13211 of this Act, is amended to read as follows:

"(B) subsection (c) shall be applied by substituting '3.5 cents' for '17.5 cents' and '3 cents' for '15 cents'."

(ii) Subparagraph (B) of section 4041(m)(1) is amended to read as follows:

"(B) subsection (c) shall be applied by substituting '3.5 cents' for '17.5 cents' and '3 cents' for '15 cents'."

(C)(i) Paragraphs (1) and (2) of section 4091(d) are amended to read as follows:

"(1) IN GENERAL.—The Airport and Airway Trust Fund financing rate shall be—

"(A) 3.5 cents per gallon in the case of the sale of any mixture of aviation fuel if—

"(i) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and

"(ii) the aviation fuel in such mixture was not taxed under subparagraph (B), and

"(B) 3.89 cents per gallon in the case of the sale of aviation fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A).

In the case of a sale described in subparagraph (B), the Leaking Underground Storage Tank Trust Fund financing rate shall be 1/9 cent per gallon.

"(2) LATER SEPARATION.—If any person separates the aviation fuel from a mixture of the aviation fuel and alcohol on which tax was imposed under subsection (a) at the Airport and Airway Trust Fund financing rate equivalent to 3.5 cents per gallon by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such aviation fuel. The amount of tax imposed on any sale of such aviation fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel."

(ii) The heading for subsection (d) of section 4091 is amended by striking "EXEMPTION FROM" and inserting "REDUCED RATE OF".

(3) Subsection (f) of section 6427 is amended to read as follows:

"(f) GASOLINE, DIESEL FUEL, AND AVIATION FUEL USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

"(1) IN GENERAL.—Except as provided in subsection (k), if any gasoline, diesel fuel, or aviation fuel on which tax was imposed by section 4081 or 4091 at the regular tax rate is used by any person in producing a mixture described in section 4081(c), 4091(c)(1)(A), or 4091(d)(1)(A) (as the case may be) which is sold or used in such person's trade or business the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

"(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.

"(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any gasoline, diesel fuel, or aviation fuel with respect to which an amount is payable under subsection (d), (e), or (l) of this section or under section 6420 or 6421.

"(4) TERMINATION.—This subsection shall not apply with respect to any mixture sold or used after September 30, 2000, or if earlier for any period before January 1, 2000, during which the Highway Trust Fund financing rate under section 4081(a)(2) is not in effect."

(4) EFFECTIVE DATES.—The amendments made by this subsection shall take effect on January 1, 1991.

(5) FLOOR STOCKS TAXES.—

(A) IMPOSITION OF TAX.—In the case of gasoline or aviation fuel on which tax was imposed under section 4041(c)(2) or 4091 of the Internal Revenue Code of 1986 before January 1, 1991, and which is held on such date by any person, there is hereby imposed a floor stocks tax on such gasoline or fuel.

(B) RATE OF TAX.—The rate of the tax imposed by subparagraph (A) shall be—

(i) 3 cents per gallon in the case of gasoline, and

(ii) 3.5 cents per gallon in the case of aviation fuel.

(C) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(i) LIABILITY FOR TAX.—A person holding gasoline or aviation fuel on January 1, 1991, to which the tax imposed by this paragraph applies shall be liable for such tax.

(ii) METHOD OF PAYMENT.—The tax imposed by this paragraph shall be paid in such manner as the Secretary shall prescribe.

(iii) TIME FOR PAYMENT.—The tax imposed by this paragraph shall be paid on or before June 30, 1991.

(D) DEFINITIONS.—For purposes of this paragraph—

(i) HELD BY A PERSON.—Gasoline or aviation fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(ii) GASOLINE.—The term "gasoline" has the meaning given such term by section 4082 of such Code.

(iii) AVIATION FUEL.—The term "aviation fuel" has the meaning given such term by section 4092(a) of such Code.

(iv) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(E) EXCEPTION FOR EXEMPT USES.—The tax imposed by this paragraph shall not apply to fuel held by any person exclusively for any use which is a nontaxable use (as defined in section 6427(l) of such Code).

(F) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this paragraph, apply with respect to the floor stock taxes imposed by this paragraph to the same extent as if such taxes were imposed by such section 4091.

(c) EXTENSION OF TAXES AND TRUST FUND.—

(1) TRANSPORTATION TAXES.—Sections 4261(g) and 4271(d) are each amended by striking "January 1, 1991" and inserting "January 2, 1996".

(2) FUEL TAXES.—

(A) Subparagraph (B) of section 4091(b)(6) (as redesignated by section 13211(b)) is amended by striking "January 2, 1991" and inserting "January 1, 1996".

(B) Paragraph (5) of section 4041(c) is amended by striking "December 31, 1990" and inserting "December 31, 1995".

(3) DEPOSITS INTO TRUST FUND.—Subsection (b) of section 9502 (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes) is amended by striking "January 1, 1991" each place it appears and inserting "January 1, 1996".

(4) CONFORMING AMENDMENT.—Section 9502(b)(2) is amended by inserting "and the deficit reduction financing rate" after "rate".

(d) REPEAL OF REDUCTION IN RATES.—

(1) Section 4283 (relating to reduction in aviation related taxes in certain cases) is hereby repealed.

(2) The table of sections for part III of subchapter C of chapter 33 is amended by striking the item relating to section 4283.

(3) Subsection (c) of section 4041 is amended by striking paragraph (6).

It is the sense of the Senate that the conferees be instructed to adjust the taxes imposed by sections 4041(a)(3) or 4091 on any diesel fuel used on a diesel-powered train so that such taxes will not exceed the increases to taxes imposed under sections 4041, 4081, and 4091 (other than on trains) which will not be dedicated to the highway trust fund.

ADAMS AMENDMENT NO. 3016

(Ordered to lie on the table.)

Mr. ADAMS submitted an amendment intended to be proposed by him to the bill S. 3209, supra, as follows:

Strike title VII of the bill and insert the following new title:

TITLE XIII—REVENUE PROVISIONS

SEC. 13001. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Revenue Reconciliation Act of 1990".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 NOT TO APPLY.—Except as otherwise expressly provided in this title, no amendment made by this title shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) TABLE OF CONTENTS.—

TITLE XIII—REVENUE PROVISIONS

Sec. 13001. Short title; etc.

Subtitle A—Individual Income Tax Provisions; Luxury Excise Tax

PART I—PROVISIONS AFFECTING HIGH-INCOME INDIVIDUALS

Sec. 13101. Elimination of provision reducing marginal tax rate for high-income taxpayers.
Sec. 13102. Increase in rate of individual alternative minimum tax.
Sec. 13103. Surtax on individuals with incomes over $1,000,000.
Sec. 13104. Taxes on luxury items.
Sec. 13105. Increase in dollar limitation on amount of wages subject to hospital insurance tax.

PART II—DELAY OF INDEXING OF INCOME TAX BRACKETS AND PERSONAL EXEMPTIONS

Sec. 13111. Delay of indexing of income tax brackets and personal exemptions.

PART III—PROVISIONS RELATED TO EARNED INCOME TAX CREDIT

Sec. 13121. Increase in earned income tax credit.
Sec. 13122. Simplification of credit.

PART IV—CAPITAL GAINS PROVISIONS

subpart a—reduction in capital gains tax for individuals

Sec. 13131. Reduction in capital gains tax for individuals

subpart b—depreciation recapture

Sec. 13135. Recapture under section 1250 of total amount of depreciation.

Subtitle B—Excise Taxes

PART I—TAXES RELATED TO HEALTH AND THE ENVIRONMENT

Sec. 13201. Increase in excise taxes on distilled spirits, wine, and beer.
Sec. 13202. Increase in excise taxes on tobacco products.
Sec. 13203. Additional chemicals subject to tax on ozone-depleting chemicals.

PART II—USER-RELATED TAXES

Sec. 13211. Increase and extension of aviation-related taxes and trust fund; repeal of reduction in rates.
Sec. 13212. Amendments to gas guzzler tax.
Sec. 13213. Increase in harbor maintenance tax.
Sec. 13214. Extension of Leaking Underground Storage Tank Trust Fund taxes.
Sec. 13215. Floor stocks tax treatment of articles in foreign trade zones.

Subtitle C—Other Revenue Increases

PART I—INSURANCE PROVISIONS

subpart a—provisions related to policy acquisition costs

Sec. 13301. Capitalization of policy acquisition expenses.
Sec. 13302. Treatment of nonlife reserves of life insurance companies.
Sec. 13303. Treatment of life insurance reserves of insurance companies which are not life insurance companies.

subpart b—treatment of salvage recoverable

Sec. 13305. Treatment of salvage recoverable.

subpart c—waiver of estimated tax penalties

Sec. 13307. Waiver of estimated tax penalties.

PART II—COMPLIANCE PROVISIONS

Sec. 13311. Suspension of statute of limitations during proceedings to enforce certain summonses.
Sec. 13312. Accuracy-related penalty to apply to section 482 adjustments.
Sec. 13313. Treatment of persons providing services.
Sec. 13314. Application of amendments made by section 7403 of Revenue Reconciliation Act of 1989 to taxable years beginning on or before July 10, 1989.
Sec. 13315. Other reporting requirements.
Sec. 13316. Study of section 482.

PART III—EMPLOYER REVERSIONS

subpart a—treatment of reversions of qualified plan assets to employers

Sec. 13321. Increase in reversion tax.
Sec. 13322. Additional tax if no replacement plan.
Sec. 13323. Effective date.

subpart b—transfers to retiree health accounts

Sec. 13325. Transfer of excess pension assets to retiree health accounts.
Sec. 13326. Application of ERISA to transfers of excess pension assets to retiree health accounts.

PART IV—CORPORATE PROVISIONS

Sec. 13331. Recognition of gain by distributing corporation in certain section 355 transactions.
Sec. 13332. Modifications to regulations issued under section 305(c).
Sec. 13333. Modifications to section 1060.
Sec. 13334. Modification to corporation equity reduction limitations on net operating loss carrybacks.
Sec. 13335. Issuance of debt or stock in satisfaction of indebtedness.

PART V—EMPLOYMENT TAX PROVISIONS

Sec. 13341. Coverage of certain State and local employees under Social Security.
Sec. 13342. Extension of surtax on unemployment tax.
Sec. 13343. Deposits of payroll taxes.

PART VI—MISCELLANEOUS PROVISIONS

Sec. 13351. Special rules where grantor of trust is a foreign person.
Sec. 13352. Return requirement where cash received in trade or business.

Subtitle A—Individual Income Tax Provisions; Luxury Excise Tax

PART I—PROVISIONS AFFECTING HIGH-INCOME INDIVIDUALS

SEC. 13101. ELIMINATION OF PROVISION REDUCING MARGINAL TAX RATE FOR HIGH-INCOME TAXPAYERS.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)), a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $32,450	15% of taxable income.
Over $32,450 but not over $78,400.	$4,867.50, plus 28% of the excess over $32,450.
Over $78,400	$17,733.50, plus 33% of the excess over $78,400.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $26,050	15% of taxable income.
Over $26,050 but not over $67,200.	$3,907.50, plus 28% of the excess over $26,500.
Over $67,200	$15,429.50, plus 33% of the excess over $67,200.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $19,450	15% of taxable income.
Over $19,450 but not over $47,050.	$2,917.50, plus 28% of the excess over $19,450.
Over $47,050	$10,645.50, plus 33% of the excess over $47,050.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $16,225	15% of taxable income.
Over $16,225 but not over $39,200.	$2,433.75, plus 28% of the excess over $16,225.
Over $39,200	$8,866.75, plus 33% of the excess over $39,200.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $5,450	15% of taxable income.
Over $5,450 but not over $14,150.	$817.50, plus 28% of the excess over $5,450.
Over $14,150	$3,253.50, plus 33% of the excess over $14,150."

(b) REPEAL OF PHASEOUT.—

(1) IN GENERAL.—Section 1 is amended by striking subsection (g) (relating to phaseout of 15-percent rate and personal exemptions).

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 1(f)(6) (relating to adjustments for inflation) is amended by striking "subsection (g)(4),".

(c) 28 PERCENT MAXIMUM CAPITAL GAINS RATE.—Subsection (j) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(j) MAXIMUM CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the amount of the net capital gain, or

"(ii) the amount of taxable income taxed at a rate below 28 percent, plus

"(B) a tax of 28 percent of the amount of taxable income in excess of the amount determined under paragraph (1).

"(2) COORDINATION WITH SECTION 1202 DEDUCTION.—For purposes of paragraph (1), the amount of the net capital gain shall be reduced by the sum of—

"(A) the amount allowable as a deduction under section 1202(a)(1), plus

"(B) the amount of the qualified gain (as defined in section 1202(c)) for the taxable year to the extent taken into account under section 1202(c)(1) for the taxable year."

(d) TECHNICAL AMENDMENTS.—

(1)(A) Subsection (f) of section 1 is amended—

(i) by striking "1988" in paragraph (1) and inserting "1990", and

(ii) by striking "1987" in paragraph (3)(B) and inserting "1989".

(B) Subparagraph (B) of section 32(i)(1) is amended by striking "1987" and inserting "1989".

(C) Subparagraph (C) of section 41(e)(5) is amended—

(i) by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end of clause (i),

(ii) by striking "1987" in clause (ii) and inserting "1989", and

(iii) by adding at the end of clause (ii) the following new sentence: "Such substitution shall be in lieu of the substitution under clause (i).".

(D) Subparagraph (B) of section 63(c)(4) is amended by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end.

(E) Clause (ii) of section 135(b)(2)(B) is amended by striking ", determined by substituting 'calendar year 1989' for 'calendar year 1987' in subparagraph (B) thereof".

(F) Subparagraph (B) of section 151(d)(3) is amended by striking "1987" and inserting "1989".

(G) Clause (ii) of section 513(h)(2)(C) is amended by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end.

(2) Section 1 is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (g) and (h), respectively.

(3) Subsection (j) of section 59 is amended—

(A) by striking "section 1(i)" each place it appears and inserting "section 1(g)", and

(B) by striking "section 1(i)(3)(B)" in paragraph (2)(C) and inserting "section 1(g)(3)(B)".

(4) Paragraph (4) of section 691(c) is amended by striking "1(j)" and inserting "1(h)".

(5)(A) Clause (i) of section 904(b)(3)(D) is amended by striking "subsection (j)" and inserting "subsection (h)".

(B) Subclause (I) of section 904(b)(3)(E)(iii) is amended by striking "section 1(j)" and inserting "section 1(h)".

(6) Clause (iv) of section 6103(e)(1)(A) is amended by striking "section 1(j)" and inserting "section 1(g)".

(7)(A) Subparagraph (A) of section 7518(g)(6) is amended by striking "1(j)" and inserting "1(h)".

(B) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act, 1936 is amended by striking "1(j)" and inserting "1(h)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 13102. INCREASE IN RATE OF INDIVIDUAL ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subparagraph (A) of section 55(b)(1) (relating to tentative minimum tax) is amended by striking "21 percent" and inserting "25 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1990.

SEC. 13103. SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000.

(a) GENERAL RULE.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000

"Sec. 59B. Surtax on section 1 tax.

"Sec. 59C. Surtax on minimum tax.

"Sec. 59D. Special rules.

"SEC. 59B. SURTAX ON SECTION 1 TAX.

"In the case of an individual who has taxable income for the taxable year in excess of $1,000,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 10 percent of the amount which bears the same ratio to the tax imposed under section 1 (determined without regard to this section) as—

"(1) the amount by which the taxable income of such individual for such taxable year exceeds $1,000,000, bears to

"(2) the total amount of such individual's taxable income for such taxable year.

"SEC. 59C. SURTAX ON MINIMUM TAX.

"In the case of an individual who has alternative minimum taxable income for the taxable year in excess of $1,000,000, the amount of the tentative minimum tax determined under section 55 for such taxable year shall be increased by 2.5 percent of the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds $1,000,000.

"SEC. 59D. SPECIAL RULES.

"(a) SURTAX TO APPLY TO ESTATES AND TRUSTS.—For purposes of this part, the term 'individual' includes any estate or trust taxable under section 1.

"(b) TREATMENT OF MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a

married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$500,000' for '$1,000,000'.

"(c) COORDINATION WITH OTHER PROVISIONS.—The provisions of this part—

"(1) shall be applied after the application of section 1(h), but

"(2) before the application of any other provision of this title which refers to the amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $1,000,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 13104. TAXES ON LUXURY ITEMS.

(a) IN GENERAL.—Chapter 31 (relating to retail excise taxes) is amended by redesignating subchapters A and B as subchapters B and C, respectively, and by inserting before subchapter B (as so redesignated) the following new subchapter:

"SUBCHAPTER A—CERTAIN LUXURY ITEMS

"Part I. Imposition of taxes.

"Part II. Rules of general applicability.

"PART I. IMPOSITION OF TAXES

"Subpart A. Passenger vehicles, boats, and aircraft.

"Subpart B. Jewelry and furs.

"Subpart A—Passenger Vehicles, Boats, and Aircraft

"Sec. 4001. Passenger vehicles.

"Sec. 4002. Boats.

"Sec. 4003. Aircraft.

"Sec. 4004. Rules applicable to subpart A.

"SEC. 4001. PASSENGER VEHICLES.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

"(b) PASSENGER VEHICLE.—

"(1) IN GENERAL.—For purposes of subsection (a), the term 'passenger vehicle' means any 4-wheeled vehicle—

"(A) which is manufactured primarily for use on public streets, roads, and highways, and

"(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

"(2) SPECIAL RULES.—

"(A) TRUCKS AND VANS.—In the case of a truck or van, paragraph (1)(B) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'.

"(B) LIMOUSINES.—In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

"(c) EXCEPTIONS FOR TAXICABS, ETC.—The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

"SEC. 4002. BOATS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any boat a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $100,000.

"(b) EXCEPTIONS.—The tax imposed by this section shall not apply to the sale of any boat for use by the purchaser exclusively in the active conduct of—

"(1) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(2) any other trade or business unless the boat is to be used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement, or recreation.

"SEC. 4003. AIRCRAFT.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any aircraft a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $100,000.

"(b) AIRCRAFT.—For purposes of this section, the term 'aircraft' means any aircraft—

"(1) which is propelled by a motor, and

"(2) which is capable of carrying 1 or more individuals.

"(c) EXCEPTIONS.—The tax imposed by this section shall not apply to the sale of any aircraft for use by the purchaser exclusively—

"(1) in the aerial application of fertilizers or other substances,

"(2) in the case of a helicopter, in a use described in paragraph (1) or (2) of section 4261(e),

"(3) in a trade or business of providing flight training, or

"(4) in a trade or business of transporting persons or property for compensation or hire.

"SEC. 4004. RULES APPLICABLE TO SUBPART A.

"(a) EXEMPTION FOR LAW ENFORCEMENT USES, ETC.—No tax shall be imposed under this subpart on the sale of any article—

"(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or

"(2) to any person for use exclusively in providing emergency medical services.

"(b) SEPARATE PURCHASE OF ARTICLE AND PARTS AND ACCESSORIES THEREFOR.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—Except as provided in paragraph (2), if—

"(A) the owner, lessee, or operator of any article taxable under this subpart (determined without regard to price) installs (or causes to be installed) any part or accessory on such article, and

"(B) such installation is not later than the date 6 months after the date the article was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

"(2) LIMITATION.—The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

"(A) the sum of—

"(i) the price of such part or accessory and its installation,

"(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

"(iii) the price for which the passenger vehicle, boat, or aircraft was sold, over

"(B) $100,000 ($30,000 in the case of a passenger vehicle).

"(3) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory, or

"(B) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the taxable article does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

"(4) INSTALLERS SECONDARILY LIABLE FOR TAX.—The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

"(c) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF ARTICLES PURCHASED TAX-FREE.—

"(1) IN GENERAL.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any article by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such article is resold by the purchaser or such purchaser makes a substantial non-exempt use of such article,

then such sale or use of such article by such purchaser shall be treated as the 1st retail sale of such article for a price equal to its fair market value at the time of such sale or use.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means any use of an article if the 1st retail sale of such article is not taxable under this subchapter by reason of such use.

"Subpart B—Jewelry and Furs

"Sec. 4006. Jewelry.

"Sec. 4007. Furs.

"SEC. 4006. JEWELRY.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any jewelry a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $5,000.

"(b) JEWELRY.—For purposes of subsection (a), the term 'jewelry' means all articles commonly or commercially known as jewelry, whether real or imitation, including watches.

"(c) MANUFACTURE FROM CUSTOMER'S MATERIAL.—If—

"(1) a person who in the course of a trade or business produces jewelry from material furnished directly or indirectly by a customer, and

"(2) the jewelry so manufactured is for the use of, and not for resale by, such customer,

the delivery of such jewelry to such customer shall be treated as the 1st retail sale of such jewelry for a price equal to its fair market value at the time of such delivery.

"SEC. 4007. FURS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of the following articles a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $10,000:

"(1) Articles made of fur on the hide or pelt.

"(2) Articles of which such fur is a major component.

"(b) MANUFACTURE FROM CUSTOMER'S MATERIAL.—If—

"(1) a person who in the course of a trade or business produces an article of the kind described in subsection (a) from fur on the hide or pelt furnished, directly or indirectly, by a customer, and

"(2) the article is for the use of, and not for resale by, such customer,

the delivery of such article to such customer shall be treated as the 1st retail sale of such article for a price equal to its fair market value at the time of such delivery.

"PART II—RULES OF GENERAL APPLICABILITY

"Sec. 4011. Definitions and special rules.

"SEC. 4011. DEFINITIONS AND SPECIAL RULES.

"(a) 1ST RETAIL SALE.—For purposes of this subchapter, the term '1st retail sale' means the 1st sale, for a purpose other than resale, after manufacture, production, or importation.

"(b) USE TREATED AS SALE.—

"(1) IN GENERAL.—If any person uses an article taxable under this subchapter (including any use after importation) before the 1st retail sale of such article, then such person shall be liable for tax under this subchapter in the same manner as if such article were sold at retail by him. "(2) EXEMPTION FOR FURTHER MANUFACTURE.—Paragraph (1) shall not apply to use of an article as material in the manufacture or production of, or as a component part of, another article taxable under this subchapter to be manufactured or produced by him. "(3) COMPUTATION OF TAX.—In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) LEASES CONSIDERED AS SALES.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the lease of an article (including any renewal or any extension of a lease or any subsequent lease of such article) by any person shall be considered a sale of such article at retail.

"(2) SPECIAL RULES FOR CERTAIN LEASES OF PASSENGER VEHICLES, BOATS, AND AIRCRAFT.—

"(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE.—The sale of a passenger vehicle, boat, or aircraft to a person engaged in a leasing or rental trade or business of the article involved for leasing by such person in a qualified lease shall not be treated as the 1st retail sale of such article.

"(B) QUALIFIED LEASE.—For purposes of subparagraph (A), the term 'qualified lease' means—

"(i) any lease in the case of a boat or an aircraft, and

"(ii) any long-term lease (as defined in section 4052) in the case of any passenger vehicle.

"(C) SPECIAL RULES.—In the case of a qualified lease of an article which is treated as the 1st retail sale of such article—

"(i) DETERMINATION OF PRICE.—The tax under this chapter shall be computed on the lowest price for which the article is sold by retailers in the ordinary course of trade.

"(ii) PAYMENT OF TAX.—Rules similar to the rules of section 4217(e)(2) shall apply.

"(iii) NO TAX WHERE EXEMPT USE BY LESSEE.—No tax shall be imposed on any lease payment under a qualified lease if the lessee's use of the article under such lease is an exempt use (as defined in section 4004(c)) of such article.

"(d) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee,

"(iii) the value of any component of such article if—

"(I) such component is furnished by the 1st user of such article, and

"(II) such component has been used before such furnishing, and

"(C) the price shall be determined without regard to any trade-in.

Subparagraph (B)(iii) shall not apply for purposes of the taxes imposed by sections 4006 and 4007.

"(2) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

"(e) PARTS AND ACCESSORIES SOLD WITH TAXABLE ARTICLE.—Parts and accessories sold on, in connection with, or with the sale of any article taxable under this subchapter shall be treated as part of the article.

"(f) PARTIAL PAYMENTS, ETC.—In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2), and of section 4216(d), shall apply for purposes of this subchapter."

(b) EXEMPTION FOR EXPORTS.—

(1) The material preceding paragraph (1) of section 4221(a) is amended by striking "section 4051" and inserting "subchapter A or C of chapter 31".

(2) Subsection (a) of section 4221 is amended by adding at the end thereof the following new sentence: "In the case of taxes imposed by subchapter A of chapter 31, paragraphs (1), (3), (4), and (5) shall not apply."

(c) EXEMPTION FOR SALES TO THE UNITED STATES.—Section 4293 is amended by inserting "subchapter A of chapter 31," before "section 4041".

(d) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking "section 4053(a)(6)" and inserting "section 4001(c), 4002(b), 4003(c), 4004(a), or 4053(a)(6)".

(2) Paragraph (1) of section 4221(d) is amended by striking "the tax imposed by section 4051" and inserting "taxes imposed by subchapter A or C of chapter 31".

(3) Subsection (d) of section 4222 is amended by striking "sections 4053(a)(6)" and inserting "sections 4001(c), 4002(b), 4003(c), 4004(a), 4053(a)(6)".

(e) CLERICAL AMENDMENT.—The table of subchapters for chapter 31 is amended to read as follows:

"Subchapter A. Certain luxury items.

"Subchapter B. Special fuels.

"Subchapter C. Heavy trucks and trailers."

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

SEC. 13105. INCREASE IN DOLLAR LIMITATION ON AMOUNT OF WAGES SUBJECT TO HOSPITAL INSURANCE TAX.

(a) HOSPITAL INSURANCE TAX.—

(1) IN GENERAL.—Paragraph (1) of section 3121(a) is amended—

(A) by striking "contribution and benefit base (as determined under section 230 of the Social Security Act)" each place it appears and inserting "applicable contribution base (as determined under subsection (x))", and

(B) by striking "such contribution and benefit base" and inserting "such applicable contribution base".

(2) APPLICABLE CONTRIBUTION BASE.—Section 3121 is amended by adding at the end thereof the following new subsection:

"(x) APPLICABLE CONTRIBUTION BASE.—For purposes of this chapter—

"(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—For purposes of the taxes imposed by sections 3101(a) and 3111(a), the applicable contribution base for any calendar year is the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(2) HOSPITAL INSURANCE.—For purposes of the taxes imposed by section 3101(b) and 3111(b), the applicable contribution base is—

"(A) $100,000 for calendar year 1991, and

"(B) for any calendar year after 1991, $100,000 adjusted in the same manner as is used in adjusting the contribution and benefit base under section 230 of the Social Security Act."

(b) SELF-EMPLOYMENT TAX.—

(1) IN GENERAL.—Subsection (b) of section 1402 is amended by striking "the contribution and benefit base (as determined under section 230 of the Social Security Act)" and inserting "the applicable contribution base (as determined under subsection (k))".

(2) APPLICABLE CONTRIBUTION BASE.—Section 1402 is amended by adding at the end thereof the following new subsection:

"(k) APPLICABLE CONTRIBUTION BASE.—For purposes of this chapter—

"(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—For purposes of the tax imposed by section 1401(a), the applicable contribution base for any calendar year is the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(2) HOSPITAL INSURANCE.—For purposes of the tax imposed by section 1401(b), the applicable contribution base for any calendar year is the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(c) RAILROAD RETIREMENT TAX.—Clause (i) of section 3231(e)(2)(B) is amended to read as follows:

"(i) TIER 1 TAXES.—

"(I) IN GENERAL.—Except as provided in subclause (II) of this clause and in clause (ii), the term 'applicable base' means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(II) HOSPITAL INSURANCE TAXES.—For purposes of applying so much of the rate applicable under section 3201(a) or 3221(a) (as the case may be) as does not exceed the rate of tax in effect under section 3101(b), and for purposes of applying so much of the rate of tax applicable under section 3211(a)(1) as does not exceed the rate of tax in effect under section 1401(b), the term 'applicable base' means for any calendar year the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (3) of section 6413(c) is amended to read as follows:

"(3) SEPARATE APPLICATION FOR HOSPITAL INSURANCE TAXES.—In applying this subsection with respect to—

"(A) the tax imposed by section 3101(b) (or any amount equivalent to such tax), and

"(B) so much of the tax imposed by section 3201 as is determined at a rate not greater than the rate in effect under section 3101(b),

the applicable contribution base determined under section 3121(x)(2) for any calendar year shall be substituted for 'contribution and benefit base (as determined under section 230 of the Social Security Act)' each place it appears."

(2) Sections 3122 and 3125 are each amended by striking "contribution and benefit base limitation" each place it appears and inserting "applicable contribution base limitation".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to 1991 and later calendar years.

PART II—DELAY OF INDEXING OF INCOME TAX BRACKETS AND PERSONAL EXEMPTIONS

SEC. 13111. DELAY OF INDEXING OF INCOME TAX BRACKETS AND PERSONAL EXEMPTIONS.

(a) INCOME TAX BRACKETS.—Subsection (f) of section 1 (as amended by section 13101) is amended—

(1) by striking "1990" in paragraph (1) and inserting "1991", and

(2) by striking "1989" in paragraph (3)(B) and inserting "1990".

(b) AMOUNT OF PERSONAL EXEMPTIONS.—

(1) IN GENERAL.—Paragraph (1) of section 151(d) (relating to allowance of deductions for personal exemptions) is amended to read as follows:

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'exemption amount' means $2,050.".

(2) INDEXING AFTER 1991.—Paragraph (3) of section 151(d) is amended—

(A) by striking "paragraph (1)(C)" and inserting "paragraph (1)",

(B) by striking "after 1989" each place it appears and inserting "after 1991", and

(C) by striking ", by substituting" in subparagraph (B) and all that follows and inserting a period.

(c) CONFORMING AMENDMENTS.—

(1) Each of the following provisions (as amended by section 13101) is amended by striking "1989" and inserting "1990":

(A) Section 32(i)(1)(B).

(B) Clauses (i) and (ii) of section 41(e)(5)(C).

(C) Section 63(c)(4)(B).

(D) Section 513(h)(2)(C)(ii).

(2) Clause (ii) of section 135(b)(2)(B) (as so amended) is amended by inserting before the period at the end thereof the following: "determined by substituting 'calendar year 1989' for 'calendar year 1990' in subparagraph (B) thereof".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

PART III—PROVISIONS RELATED TO EARNED INCOME TAX CREDIT

SEC. 13121. INCREASE IN EARNED INCOME TAX CREDIT.

(a) GENERAL RULE.—

(1) Subsection (a) of section 32 is amended by striking "14 percent" and inserting "the credit percentage".

(2) Paragraph (2) of section 32(b) is amended by striking "10 percent" and inserting "the phaseout percentage".

(3) Subsection (c) of section 32 is amended by adding at the end thereof the following new paragraph:

"(3) CREDIT PERCENTAGE AND PHASEOUT PERCENTAGE.—The credit percentage and the phaseout percentage for any taxable year shall be determined in accordance with the following table:

If the taxable year begins during:	The credit percentage is:	The phaseout percentage is:
1991	18.5	13.0
1992 or 1993	19.0	13.5
1994 or thereafter	20.0	14.0."

(b) CONFORMING AMENDMENT.—Subparagraphs (B)(i) and (C)(i) of section 3507(c)(2) are each amended by striking "14 percent" and inserting "the credit percentage".

(c) EFFECTIVE DATE.—The amendments by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 13122. SIMPLIFICATION OF ELIGIBILITY FOR EARNED INCOME TAX CREDIT.

(a) ELIGIBILITY.—Section 32(c)(1) (defining eligible individual) is amended to read as follows:

"(1) ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'eligible individual' means any individual who has a qualifying child for the taxable year.

"(B) QUALIFYING CHILD INELIGIBLE.—If an individual is the qualifying child of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall not be treated as an eligible individual for any taxable year of such individual beginning in such calendar year.

"(C) 2 OR MORE ELIGIBLE INDIVIDUALS.—If 2 or more individuals would (but for this subparagraph and after application of subparagraph (B)) be treated as eligible individuals with respect to the same qualifying child for taxable years beginning in the same calendar year, only the individual with the highest adjusted gross income for such taxable years shall be treated as an eligible individual with respect to such qualifying child.

"(D) EXCEPTION FOR INDIVIDUAL CLAIMING BENEFITS UNDER SECTION 911.—The term 'eligible individual' does not include any individual who claims the benefits of section 911 (relating to citizens or residents living abroad) for the taxable year."

(b) QUALIFYING CHILD DEFINED.—Section 32(c) is amended by adding at the end thereof the following new paragraph:

"(4) QUALIFYING CHILD.—

"(A) IN GENERAL.—The term 'qualifying child' means, with respect to any taxpayer for any taxable year, an individual—

"(i) who bears a relationship to the taxpayer described in subparagraph (B),

"(ii) except as provided in subparagraph (B)(iii), who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

"(iii) who meets the age requirements of subparagraph (C), and

"(iv) with respect to whom the taxpayer meets the identification requirements of subparagraph (D).

"(B) RELATIONSHIP TEST.—

"(i) IN GENERAL.—An individual bears a relationship to the taxpayer described in this subparagraph if such individual is—

"(I) a son or daughter of the taxpayer, or a descendant of either,

"(II) a stepson or stepdaughter of the taxpayer, or

"(III) an eligible foster child of the taxpayer.

"(ii) MARRIED CHILDREN.—Clause (i) shall not apply to any individual who is married as of the close of the taxpayer's taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable year with respect to such individual (or would be so entitled but for paragraph (2) or (4) of section 152(e)).

"(iii) ELIGIBLE FOSTER CHILD.—For purposes of clause (i)(III), the term 'eligible foster child' means an individual not described in clause (i) (I) or (II) who—

"(I) the taxpayer cares for as the taxpayer's own child, and

"(II) has the same principal place of abode as the taxpayer for the taxpayer's entire taxable year.

"(iv) ADOPTION.—For purposes of this subparagraph, a child who is legally adopted, or who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer, shall be treated as a child by blood.

"(C) AGE REQUIREMENTS.—An individual meets the requirements of this subparagraph if such individual—

"(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins,

"(ii) is a student (as defined in section 151(c)(4)) who has not attained the age of 24 as of the close of such calendar year, or

"(iii) is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year.

"(D) IDENTIFICATION REQUIREMENTS.—The requirements of this subparagraph are met if the taxpayer includes the following information on the return of tax for such taxable year (or provides such information to the Secretary in such other manner as the Secretary may prescribe):

"(i) the name and age of such individual, and

"(ii) if the individual has attained the age of 1 before the close of the taxpayer's taxable year, the taxpayer identification number of such individual.

"(E) ABODE MUST BE IN THE UNITED STATES.—The requirements of subparagraphs (A)(ii) and (B)(iii)(II) shall be met only if the principal place of abode is in the United States."

(c) SEPARATE SCHEDULE REQUIRED.—The Secretary of the Treasury or his delegate shall prescribe a separate schedule to be included as part of the return of tax of any individual claiming a credit under section 32 of the Internal Revenue Code of 1986 on such return.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

PART IV—CAPITAL GAINS PROVISIONS

Subpart A—Reduction in Capital Gains Tax for Individuals

SEC. 13131. REDUCTION IN CAPITAL GAINS TAX FOR INDIVIDUALS.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end thereof the following new section:

"SEC. 1202. CAPITAL GAINS DEDUCTION FOR INDIVIDUALS.

"(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the sum of—

"(1) the annual capital gains deduction (if any) determined under subsection (b), plus

"(2) the lifetime capital gains deduction for nontradable property (if any) determined under subsection (c).

"(b) ANNUAL CAPITAL GAINS DEDUCTION.—

"(1) IN GENERAL.—For purposes of subsection (a), the annual capital gains deduction determined under this subsection is the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) $1,000.

"(2) PHASE-OUT FOR INCOMES BETWEEN $100,000 AND $150,000.—The $1,000 amount specified in subparagraph (B) of paragraph (1) shall be reduced by an amount which bears the same ratio to $1,000 as—

"(A) the adjusted gross income of the taxpayer for the taxable year in excess of $100,000, bears to

"(B) $50,000.

"(3) CERTAIN INDIVIDUALS NOT ELIGIBLE.—This subsection shall not apply to—

"(A) any taxpayer whose adjusted gross income for the taxable year exceeds $150,000, or

"(B) any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(4) ANNUAL DEDUCTION NOT AVAILABLE FOR SALES TO RELATED PERSONS.—The amount of the net capital gain taken into account under paragraph (1)(A) shall not exceed the amount of the net capital gain determined by not taking into account gains and losses from sales and exchanges to any related person (as defined in section 543(f)).

"(c) LIFETIME CAPITAL GAINS DEDUCTION FOR NONTRADABLE PROPERTY.—

"(1) IN GENERAL.—For purposes of subsection (a), the lifetime capital gains deduction for nontradable property determined under this subsection for any taxable year is 50 percent of the qualified gain for such taxable year.

"(2) LIMITATION.—

"(A) IN GENERAL.—The amount of the qualified gain taken into account under paragraph (1) for any taxable year shall not exceed $200,000 reduced by the aggregate amount of the qualified gain taken into account under this subsection by the taxpayer for prior taxable years.

"(B) SPECIAL RULE FOR JOINT RETURNS.—The amount of the qualified gain taken into account under this subsection on a joint return for any taxable year shall be allocated equally between the spouses for purposes of determining the limitation under subparagraph (A) for any succeeding taxable year.

"(3) QUALIFIED GAIN.—For purposes of paragraph (1), the term 'qualified gain' means the lesser of—

"(A) the net capital gain for the taxable year reduced by the annual capital gains deduction for such taxable year, or

"(B) the net capital gain for the taxable year determined by only taking into account gains and losses from sales and exchanges on or after October 15, 1990, of qualified assets.

A taxpayer may elect for any taxable year not to take into account under this subsection all (or any portion) of the qualified gain for such taxable year. Such an election, once made, shall be irrevocable.

"(4) QUALIFIED ASSETS.—For purposes of this subsection, the term 'qualified assets' means any property other than—

"(A) stock or securities for which there is a market on an established securities market or otherwise, and

"(B) property (other than stock or securities) of a kind regularly traded on an established market.

"(5) SUBSECTION NOT TO APPLY TO CERTAIN INDIVIDUALS.—This subsection shall not apply to any individual who has not attained age 25 before the close of the taxable year.

"(d) SECTION NOT TO APPLY TO CERTAIN TAXPAYERS.—No deduction shall be allowed under this section to—

"(1) a married individual (within the meaning of section 7703) filing a separate return for the taxable year, or

"(2) an estate or trust.

"(e) SPECIAL RULES.—

"(1) TREATMENT OF CERTAIN SALES OF INTERESTS IN PARTNERSHIPS, ETC.—For purposes of subsection (c), any gain from the sale or exchange of a qualified asset which is an interest in a partnership, S corporation, or trust shall not be treated as gain from the sale or exchange of a qualified asset to the extent such gain is attributable to unrealized appreciation in the value of property described in subparagraph (A) or (B) of subsection (c)(4) which is held by such entity. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(2) DEDUCTION AVAILABLE ONLY FOR SALES OR EXCHANGES ON OR AFTER OCTOBER 15, 1990.—The amount of the net capital gain taken into account under subsections (b)(1)(A) and (c)(3)(A) shall not exceed the amount of the net capital gain determined by only taking into account gains and losses from sales and exchanges on or after October 15, 1990.

"(3) DETERMINATION OF ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—For purposes of subsection (b), adjusted gross income shall be determined—

"(i) without regard to the deduction allowed under this section, but

"(ii) after the application of sections 86, 135, 219, and 469.

"(B) COORDINATION WITH OTHER ADJUSTED GROSS INCOME LIMITATIONS.—For purposes of sections 86, 135, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

"(4) TRANSITIONAL RULE.—If for any taxable year beginning before January 1, 1991, subsection (c)(1) shall be applied by substituting '41 percent' for '50 percent'.

"(5) SPECIAL RULE FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying this section with respect to any pass-thru entity—

"(i) the determination of when the sale or exchange occurs shall be made at the entity level, and

"(ii) any gain attributable to such entity shall in no event be treated as gain from sale or exchange of a qualified asset if interests in such entity are described in subparagraph (A) or (B) of subsection (c)(4)

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru-entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund."

(b) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTERESTS IN PARTNERSHIPS, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof)."

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(c) MINIMUM TAX.—Paragraph (1) of section 56(b) is amended by adding at the end thereof the following new subparagraph:

"(F) LIFETIME CAPITAL GAINS DEDUCTION FOR NONTRADABLE PROPERTY NOT ALLOWED.—The deduction under section 1202(a)(2) shall not be allowed."

(d) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 62 is amended by inserting after paragraph (13) the following new paragraph:

"(14) CAPITAL GAINS DEDUCTION.—The deduction allowed by section 1202."

(2) Clause (ii) of section 163(d)(4)(B) is amended by inserting ", reduced by the amount of any deduction allowable under section 1202 attributable to gain from such property" after "investment".

(3)(A) Paragraph (2) of section 172(d) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(4)(A) Section 221 (relating to cross reference) is amended to read as follows:

"SEC. 221. CROSS REFERENCES.

"(1) For deduction for net capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 is amended by striking "reference" in the item relating to section 221 and inserting "references".

(5) Paragraph (4) of section 691(c) is amended by striking "1201, and 1211" and inserting "1201, 1202, and 1211".

(6) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 (relating to deduction for net capital gain) and" after "except that".

(7) Paragraph (1) of section 1402(i) is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply."

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chap-

ter 1 is amended by adding at the end thereof the following new item:

"Sec. 1202. Capital gains deduction for individuals."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending on or after October 15, 1990.

(2) TREATMENT OF COLLECTIBLES.—The amendments made by subsection (b) shall apply to dispositions on or after October 15, 1990.

Subpart B—Depreciation Recapture

SEC. 13135. RECAPTURE UNDER SECTION 1250 OF TOTAL AMOUNT OF DEPRECIATION.

(a) GENERAL RULE.—Subsections (a) and (b) of section 1250 (relating to gain from disposition of certain depreciable realty) are amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, if section 1250 property is disposed of, the lesser of—

"(1) the depreciation adjustments in respect of such property, or

"(2) the excess of—

"(A) the amount realized (or, in the case of a disposition other than a sale, exchange, or involuntary conversion, the fair market value of such property), over

"(B) the adjusted basis of such property,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(b) DEPRECIATION ADJUSTMENTS.—For purposes of this section, the term 'depreciation adjustments' means, in respect of any property, all adjustments attributable to periods after December 31, 1963, reflected in the adjusted basis of such property on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for exhaustion, wear and tear, obsolescence, or amortization (other than amortization under section 168 (as in effect before its repeal by the Tax Reform Act of 1976), 169, 185 (as in effect before its repeal by the Tax Reform Act of 1986), 188, 190, or 193). For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed as a deduction for any period was less than the amount allowable, the amount taken into account for such period shall be the amount allowed."

(b) LIMITATION IN CASE OF INSTALLMENT SALES.—Subsection (i) of section 453 is amended—

(1) by striking "1250" the first place it appears and inserting "1250 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)", and

(2) by striking "1250" the second place it appears and inserting "1250 (as so in effect)".

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 1250(d)(4) is amended—

(A) by striking "additional depreciation" and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(2) Subparagraph (B) of section 1250(d)(6) is amended to read as follows:

"(B) DEPRECIATION ADJUSTMENTS.—In respect of any property described in subparagraph (A), the amount of the depreciation adjustments attributable to periods before the distribution by the partnership shall be—

"(i) the amount of gain to which subsection (a) would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time, reduced by

"(ii) the amount of such gain to which section 751(b) applied."

(3) Subparagraph (D) of section 1250(d)(8) is amended—

(A) by striking "additional depreciation" each place it appears and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(4) Paragraph (8) of section 1250(d) is amended by striking subparagraphs (E) and (F) and inserting the following:

"(E) ALLOCATION RULES.—For purposes of this paragraph, the amount of gain attributable to the section 1250 property disposed of shall be the net amount realized with respect to such property reduced by the greater of the adjusted basis of the section 1250 property disposed of, or the cost of the section 1250 property acquired, but shall not exceed the gain recognized in the transaction."

(5) Subsection (d) of section 1250 is amended by striking paragraph (10).

(6) Section 1250 is amended by striking subsections (e), (f), and (g) and by redesignating subsections (h) and (i) as subsections (e) and (f), respectively.

(7) Paragraph (5) of section 48(q) is amended to read as follows:

"(5) RECAPTURE OF REDUCTION.—For purposes of sections 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation."

(8) Clause (i) of section 267(e)(5)(D) is amended by striking "section 1250(a)(1)(B)" and inserting "section 1250(a)(1)(B) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990".

(9)(A) Subsection (a) of section 291 is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(B) Subsection (c) of section 291 is amended to read as follows:

"(c) SPECIAL RULE FOR POLLUTION CONTROL FACILITIES.—Section 168 shall apply with respect to that portion of the basis of any property not taken into account under section 169 by reason of subsection (a)(4)."

(C) Section 291 is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(D) Paragraph (2) of section 291(d) (as redesignated by subparagraph (C)) is hereby repealed.

(E) Subparagraph (A) of section 265(b)(3) is amended by striking "291(e)(1)(B)" and inserting "291(d)(1)(B)".

(F) Subsection (c) of section 1277 is amended by striking "291(e)(1)(B)(ii)" and inserting "291(d)(1)(B)(ii)".

(10) Subsection (d) of section 1017 is amended to read as follows:

"(d) RECAPTURE OF DEDUCTIONS.—For purposes of sections 1245 and 1250—

"(1) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

"(2) any reduction under this section shall be treated as a deduction allowed for depreciation."

(11) Paragraph (5) of section 7701(e) is amended by striking "(relating to low-income housing)" and inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions made on or after October 15, 1990, in taxable years ending on or after such date.

Subtitle B—Excise Taxes

PART I—TAXES RELATED TO HEALTH AND THE ENVIRONMENT

SEC. 13201. INCREASE IN EXCISE TAXES ON DISTILLED SPIRITS, WINE, AND BEER.

(a) DISTILLED SPIRITS.—

(1) IN GENERAL.—Paragraphs (1) and (3) of section 5001(a) (relating to rate of tax on distilled spirits) are each amended by striking "$12.50" and inserting "$13.50".

(2) TECHNICAL AMENDMENT.—Paragraphs (1) and (2) of section 5010(a) (relating to credit for wine content and for flavors content) are each amended by striking "$12.50" and inserting "$13.50".

(b) WINE.—

(1) TAX INCREASES.—

(A) WINES CONTAINING NOT MORE THAN 14 PERCENT ALCOHOL.—Paragraph (1) of section 5041(b) (relating to rates of tax on wines) is amended by striking "17 cents" and inserting "$1.27".

(B) WINES CONTAINING MORE THAN 14 (BUT NOT MORE THAN 21) PERCENT ALCOHOL.—Paragraph (2) of section 5041(b) is amended by striking "67 cents" and inserting "$1.77".

(C) WINES CONTAINING MORE THAN 21 (BUT NOT MORE THAN 24) PERCENT ALCOHOL.—Paragraph (3) of section 5041(b) is amended by striking "$2.25" and inserting "$3.35".

(D) ARTIFICIALLY CARBONATED WINES.—Paragraph (5) of section 5041(b) is amended by striking "$2.40" and inserting "$3.50".

(2) REDUCED RATES FOR SMALL DOMESTIC PRODUCERS.—Section 5041 is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c) REDUCED RATES FOR SMALL DOMESTIC PRODUCERS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, in the case of a person who produces not more than 200,000 wine gallons of wine during the calendar year, the per wine gallon rates of the taxes imposed by this section shall be the following amounts on the 1st 100,000 wine gallons of wine (other than wine described in subsection (b)(4)) which are removed during such year for consumption or sale and which have been produced at qualified facilities in the United States:

"(A) 17 cents in the case of wines described in subsection (b)(1).

"(B) 67 cents in the case of wines described in subsection (b)(2).

"(C) $2.25 in the case of wines described in subsection (b)(3).

"(D) $3.40 in the case of wines described in subsection (b)(4).

"(E) $2.40 in the case of wines described in subsection (b)(5).

"(2) CONTROLLED GROUPS.—Rules similar to rules of section 5051(a)(2)(B) shall apply for purposes of this subsection.

"(3) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to prevent the reduced rates provided in this subsection from benefiting any person who produces more than 200,000 wine gallons of wine during a calendar year."

(3) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 5041 is amended by striking "shown in subsection (b)" and inserting "applicable under subsection (b) or (c)".

(B) Paragraph (3) of section 5061(b) is amended to read as follows:

"(3) section 5041(e),".

(c) BEER.—

(1) IN GENERAL.—Paragraph (1) of section 5051(a) (relating to imposition and rate of tax on beer) is amended by striking "$9" and inserting "$18".

(2) REGULATIONS.—Paragraph (2) of section 5051(a) is amended by adding at the end thereof the following new subparagraph:

"(C) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to prevent the reduced rates provided in this paragraph from benefiting any person who produces more than 2,000,000 barrels of beer during a calendar year."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

(e) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—

(A) IN GENERAL.—In the case of any tax-increased article—

(i) on which tax was determined under part I of subchapter A of chapter 51 of the Internal Revenue Code of 1986 or section 7652 of such Code before January 1, 1991, and

(ii) which is held on such date for sale by any person,

there shall be imposed a tax at the applicable rate on each such article.

(B) APPLICABLE RATE.—For purposes of subparagraph (A), the applicable rate is—

(i) $1 per proof gallon in the case of distilled spirits,

(ii) $1.10 per wine gallon in the case of wine described in paragraph (1), (2), (3), or (5) of section 5041(b) of such Code, and

(iii) $9 per barrel in the case of beer.

In the case of a fraction of a gallon or barrel, the tax imposed by subparagraph (A) shall be the same fraction as the amount of such tax imposed on a whole gallon or barrel.

(C) TAX-INCREASED ARTICLE.—For purposes of this subsection, the term "tax-increased article" means distilled spirits, wine described in paragraph (1), (2), (3), or (5) of section 5041(b) of such Code, and beer.

(2) EXCEPTION FOR SMALL DOMESTIC PRODUCERS.—In the case of wine held by the producer thereof on January 1, 1991, the tax imposed by paragraph (1) shall not apply to such wine if the rate of tax under section 5041 of such Code on such wine would have been determined under subsection (c) thereof (as added by this section) had the amendments made by subsection (b) applied to all wine removed during 1990. A similar rule shall apply to beer held by the producer thereof. For purposes of this paragraph, an article shall not be treated as held by the producer if title thereto had at any time been transferred to any other person.

(3) EXCEPTION FOR CERTAIN SMALL WHOLESALE OR RETAIL DEALERS.—No tax shall be imposed by paragraph (1) on tax-increased articles held on January 1, 1991, by any dealer if—

(A) the aggregate liquid volume of tax-increased articles held by such dealer on such date does not exceed 500 wine gallons, and

(B) such dealer submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(4) CREDIT AGAINST TAX.—Each dealer shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to—

(A) $240 to the extent such taxes are attributable to distilled spirits,

(B) $330 to the extent such taxes are attributable to wine, and

(C) $87 to the extent such taxes are attributable to beer.

Such credit shall not exceed the amount of taxes imposed by paragraph (1) with respect to distilled spirits, wine, or beer, as the case may be, for which the dealer is liable.

(5) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding any tax-increased article on January 1, 1991, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before June 30, 1991.

(6) CONTROLLED GROUPS.—

(A) CORPORATIONS.—In the case of a controlled group—

(i) the 500 wine gallon amount specified in paragraph (3), and

(ii) the $240, $330, and $87 amounts specified in paragraph (4),

shall be apportioned among the dealers who are component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(B) NONINCORPORATED DEALERS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of dealers under common control where 1 or more of such dealers is not a corporation.

(7) OTHER LAWS APPLICABLE.—

(A) IN GENERAL.—All provisions of law, including penalties, applicable to the comparable excise tax with respect to any tax-increased article shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by the comparable excise tax.

(B) COMPARABLE EXCISE TAX.—For purposes of subparagraph (A), the term "comparable excise tax" means—

(i) the tax imposed by section 5001 of such Code in the case of distilled spirits,

(ii) the tax imposed by section 5041 of such Code in the case of wine, and

(iii) the tax imposed by section 5051 of such Code in the case of beer.

(8) DEFINITIONS.—For purposes of this subsection—

(A) IN GENERAL.—Terms used in this subsection which are also used in subchapter A of chapter 51 of such Code shall have the respective meanings such terms have in such part.

(B) PERSON.—The term "person" includes any State or political subdivision thereof, or any agency or instrumentality of a State or political subdivision thereof.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(9) TREATMENT OF IMPORTED PERFUMES CONTAINING DISTILLED SPIRITS.—For purposes of this subsection, any article described in section 5001(a)(3) of such Code shall be treated as distilled spirits; except that the tax imposed by paragraph (1) shall be imposed on a wine gallon basis in lieu of a proof gallon basis. To the extent provided by regulations prescribed by the Secretary, the preceding sentence shall not apply to any article held on January 1, 1991, on the premises of a retail establishment.

SEC. 13202. INCREASE IN EXCISE TAXES ON TOBACCO PRODUCTS.

(a) CIGARS.—Subsection (a) of section 5701 is amended—

(1) by striking "75 cents per thousand" in paragraph (1) and inserting "$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)", and

(2) by striking "equal to" and all that follows in paragraph (2) and inserting "equal to—

"(A) 10.625 percent of the price for which sold but not more than $25 per thousand on cigars removed during 1991 or 1992, and "(B) 12.75 percent of the price for which sold but not more than $30 per thousand on cigars removed after 1992."

(b) CIGARETTES.—Subsection (b) of section 5701 is amended—

(1) by striking "$8 per thousand" in paragraph (1) and inserting "$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)", and

(2) by striking "$16.80 per thousand" in paragraph (2) and inserting "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)".

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 is amended by striking "1/2 cent" and inserting "0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)".

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 is amended by striking "1 cent" and inserting "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)".

(e) SMOKELESS TOBACCO.—Subsection (e) of section 5701 is amended—

(1) by striking "24 cents" in paragraph (1) and inserting "36 cents (30 cents on snuff removed during 1991 or 1992)", and

(2) by striking "8 cents" in paragraph (2) and inserting "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)".

(f) PIPE TOBACCO.—Subsection (f) of section 5701 is amended by striking "45 cents" and inserting "67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles removed after December 31, 1990.

(h) FLOOR STOCKS TAXES ON CIGARETTES.—

(1) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before any tax-increase date and held on such date for sale by any person, there shall be imposed the following taxes:

(A) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, $2 per thousand.

(B) LARGE CIGARETTES.—On cigarettes weighing more than 3 pounds per thousand, $4.20 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thou-

sand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(2) EXCEPTION FOR CERTAIN AMOUNTS OF CIGARETTES.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on cigarettes held on any tax-increase date by any person if—

(i) the aggregate number of cigarettes held by such person on such date does not exceed 30,000, and

(ii) such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this subparagraph.

For purposes of this subparagraph, in the case of cigarettes measuring more than 6½ inches in length, each 2¾ inches (or fraction thereof) of the length of each shall be counted as one cigarette.

(B) AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES.—To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph (1) on cigarettes held for retail sale on any tax-increase date by any person in any vending machine. If the Secretary so provides with respect to any person, the Secretary may reduce the 30,000 amount in subparagraph (A) and the $60 amount in paragraph (3) with respect to such person.

(3) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to $60. Such credit shall not exceed the amount of taxes imposed by paragraph (1) for which such person is liable.

(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigarettes on any tax-increase date to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the 1st June 30 following the tax-increase date.

(5) DEFINITIONS.—For purposes of this subsection—

(A) TAX-INCREASE DATE.—The term "tax-increase date" means January 1, 1991, and January 1, 1993.

(B) OTHER DEFINITIONS.—Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the respective meanings such terms have in such section.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(6) CONTROLLED GROUPS.—Rules similar to the rules of section 13201(e)(5) shall apply for purposes of this subsection.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701.

SEC. 13203. ADDITIONAL CHEMICALS SUBJECT TO TAX ON OZONE-DEPLETING CHEMICALS.

(a) GENERAL RULE.—

(1) The table set forth in section 4682(a)(2) (defining ozone-depleting chemical) is amended by adding at the end thereof the following new items:

"Carbon tetrachloride	tetrachloromethane
Methyl chloroform	1,1,1-trichloroethane
CFC-13	CF3Cl
CFC-111	C2FCl5
CFC-112	C2F2Cl4
CFC-211	C3FCl7
CFC-212	C3F2Cl6
CFC-213	C3F3Cl5
CFC-214	C3F4Cl4
CFC-215	C3F5Cl3
CFC-216	C3F6Cl2
CFC-217	C3F7Cl."

(2) The table set forth in section 4682(b) is amended by adding at the end thereof the following new items:

"Carbon tetrachloride	1.1
Methyl chloroform	0.1
CFC-13	1.0
CFC-111	1.0
CFC-112	1.0
CFC-211	1.0
CFC-212	1.0
CFC-213	1.0
CFC-214	1.0
CFC-215	1.0
CFC-216	1.0
CFC-217	1.0."

(b) SEPARATE APPLICATION OF EXPORT CREDIT LIMIT FOR NEWLY LISTED CHEMICALS.—Paragraph (3) of section 4682(d) is amended by adding at the end thereof the following new subparagraph:

"(C) SEPARATE APPLICATION OF LIMIT FOR NEWLY LISTED CHEMICALS.—

"(i) IN GENERAL.—Subparagraph (B) shall be applied separately with respect to newly listed chemicals and other chemicals.

"(ii) APPLICATION TO NEWLY LISTED CHEMICALS.—In applying subparagraph (B) to newly listed chemicals—

"(I) subparagraph (B) shall be applied by substituting '1989' for '1986' each place it appears, and

"(II) clause (i)(II) thereof shall be applied by substituting for the regulations referred to therein any regulations (whether or not prescribed by the Secretary) which the Secretary determines are comparable to the regulations referred to in such clause with respect to newly listed chemicals.

"(iii) NEWLY LISTED CHEMICAL.—For purposes of this subparagraph, the term 'newly listed chemical' means any substance which appears in the table contained in subsection (a)(2) below Halon-2402."

(c) SEPARATE BASE TAX AMOUNT FOR NEWLY LISTED CHEMICALS.—Subparagraphs (B) and (C) of section 4681(b)(1) are amended to read as follows:

"(B) BASE TAX AMOUNT.—

"(i) INITIALLY LISTED CHEMICALS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1995 with respect to any ozone-depleting chemical other than a newly listed chemical (as defined in section 4682(d)(3)(C)) is the amount determined under the following table for such calendar year:

"Calendar Year	Base Tax Amount
1990 or 1991	$1.37
1992	1.67
1993 or 1994	2.65.

"(ii) NEWLY LISTED CHEMICALS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1996 with respect to any ozone-depleting chemical which is a newly listed chemical (as so defined) is the amount determined under the following table for such calendar year:

"Calendar Year	Base Tax Amount
1991 or 1992	$1.37
1993	1.67
1994	3.00
1995	3.10.

"(C) BASE TAX AMOUNT FOR LATER YEARS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use of an ozone-depleting chemical during a calendar year after the last year specified in the table under subparagraph (B) applicable to such chemical shall be the base tax amount for such last year increased by 45 cents for each year after such last year."

(d) OTHER AMENDMENTS.—

(1) The last sentence of section 4682(c)(2) is amended by inserting "(other than methyl chloroform)" after "ozone-depleting chemical".

(2) Paragraph (3) of section 4682(h) is amended by striking "April 1" and inserting "June 30".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and uses after December 31, 1990.

(f) DEPOSITS FOR 1ST QUARTER OF 1991.—No deposit of any tax imposed by subchapter D of chapter 38 of the Internal Revenue Code of 1986 on any substance treated as an ozone-depleting chemical by reason of the amendment made by subsection (a)(1) shall be required to be made before April 1, 1991.

PART II—USER-RELATED TAXES

SEC. 13211. INCREASE AND EXTENSION OF AVIATION-RELATED TAXES AND TRUST FUND; REPEAL OF REDUCTION IN RATES.

(a) INCREASE IN RATES ON TRANSPORTATION.—

(1) TRANSPORTATION OF PERSONS.—Subsections (a) and (b) of section 4261 are each amended by striking "8 percent" and inserting "10 percent".

(2) TRANSPORTATION OF PROPERTY.—Subsection (a) of section 4271 is amended by striking "5 percent" and inserting "6.25 percent".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transportation beginning after November 30, 1990, but shall not apply to amounts paid on or before such date.

(b) INCREASE IN RATES ON FUEL.—

(1) IN GENERAL.—Paragraph (3) of section 4091(b) is amended by striking "14 cents" and inserting "17.5 cents".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4041(c) is amended by striking "14 cents" and inserting "17.5 cents".

(B)(i) Subparagraph (C) of section 4041(k)(1) is amended to read as follows:

"(C) subsection (c) shall be applied by substituting '3.5 cents' for '17.5 cents'."

(ii) Subparagraph (B) of section 4041(m)(1) is amended to read as follows:

"(B) subsection (c) shall be applied by substituting '3.5 cents' for '17.5 cents'."

(C)(i) Paragraphs (1) and (2) of section 4091(d) are amended to read as follows:

"(1) IN GENERAL.—The Airport and Airway Trust Fund financing rate shall be—

"(A) 3.5 cents per gallon in the case of the sale of any mixture of aviation fuel if—

"(i) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and

"(ii) the aviation fuel in such mixture was not taxed under subparagraph (B), and

"(B) 3.89 cents per gallon in the case of the sale of aviation fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A).

In the case of a sale described in subparagraph (B), the Leaking Underground Storage Tank Trust Fund financing rate shall be 1/9 cent per gallon.

"(2) LATER SEPARATION.—If any person separates the aviation fuel from a mixture of the aviation fuel and alcohol on which tax was imposed under subsection (a) at the Airport and Airway Trust Fund financing rate equivalent to 3.5 cents per gallon by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such aviation fuel. The amount of tax imposed on any sale of such aviation fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel."

(ii) The heading for subsection (d) of section 4091 is amended by striking "EXEMPTION FROM" and inserting "REDUCED RATE OF".

(3) Subsection (f) of section 6427 is amended to read as follows:

"(f) GASOLINE, DIESEL FUEL, AND AVIATION FUEL USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

"(1) IN GENERAL.—Except as provided in subsection (k), if any gasoline, diesel fuel, or aviation fuel on which tax was imposed by section 4081 or 4091 at the regular tax rate is used by any person in producing a mixture described in section 4081(c), 4091(c)(1)(A), or 4091(d)(1)(A) (as the case may be) which is sold or used in such person's trade or business the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

"(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.

"(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any gasoline, diesel fuel, or aviation fuel with respect to which an amount is payable under subsection (d), (e), or (l) of this section or under section 6420 or 6421.

"(4) TERMINATION.—This subsection shall not apply with respect to any mixture sold or used after September 30, 1995."

(4) EFFECTIVE DATES.—The amendments made by this subsection shall take effect on December 1, 1990.

(5) FLOOR STOCKS TAXES.—

(A) IMPOSITION OF TAX.—In the case of aviation fuel on which tax was imposed under section 4091 of the Internal Revenue Code of 1986 before December 1, 1990, and which is held on such date by any person, there is hereby imposed a floor stocks tax on such fuel.

(B) RATE OF TAX.—The rate of the tax imposed by subparagraph (A) shall be 3.5 cents per gallon.

(C) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(i) LIABILITY FOR TAX.—A person holding fuel on December 1, 1990, to which the tax imposed by this paragraph applies shall be liable for such tax.

(ii) METHOD OF PAYMENT.—The tax imposed by this paragraph shall be paid in such manner as the Secretary shall prescribe.

(iii) TIME FOR PAYMENT.—The tax imposed by this paragraph shall be paid on or before May 31, 1991.

(D) DEFINITIONS.—For purposes of this paragraph—

(i) HELD BY A PERSON.—Fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(ii) AVIATION FUEL.—The term "aviation fuel" has the meaning given such term by section 4092(a) of such Code.

(iii) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(E) EXCEPTION FOR EXEMPT USES.—The tax imposed by this paragraph shall not apply to fuel held by any person exclusively for any use which is a nontaxable use (as defined in section 6427(l) of such Code).

(F) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this paragraph, apply with respect to the floor stock taxes imposed by this paragraph to the same extent as if such taxes were imposed by such section 4091.

(c) INCREASES IN TAX REVENUES BEFORE 1993 TO REMAIN IN GENERAL FUND.—Subsection (b) of section 9502 is amended by adding at the end thereof the following new sentence:

"In the case of taxes imposed before January 1, 1993, paragraphs (1), (2), and (3) shall be applied without regard to any increase in tax enacted by Revenue Reconciliation Act of 1990."

(d) EXTENSION OF TAXES AND TRUST FUND.—

(1) TRANSPORTATION TAXES.—Sections 4261(g) and 4271(d) are each amended by striking "January 1, 1991" and inserting "January 1, 1996".

(2) FUEL TAXES.—

(A) Subparagraph (B) of section 4091(b)(5) is amended by striking "January 1, 1991" and inserting "January 1, 1996".

(B) Paragraph (5) of section 4041(c) is amended by striking "December 31, 1990" and inserting "December 31, 1995".

(3) DEPOSITS INTO TRUST FUND.—Subsection (b) of section 9502 (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes) is amended by striking "January 1, 1991" each place it appears and inserting "January 1, 1996".

(e) REPEAL OF REDUCTION IN RATES.—

(1) Section 4283 (relating to reduction in aviation related taxes in certain cases) is hereby repealed.

(2) The table of sections for part III of subchapter C of chapter 33 is amended by striking the item relating to section 4283.

(3) Subsection (c) of section 4041 is amended by striking paragraph (6).

SEC. 13212. AMENDMENTS TO GAS GUZZLER TAX.

(a) INCREASE IN RATE OF TAX.—Subsection (a) of section 4064 (relating to gas guzzler tax) is amended to read as follows:

"(a) IMPOSITION OF TAX.—There is hereby imposed on the sale by the manufacturer of each automobile a tax determined in accordance with the following table:

If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 22.5	$ 0
At least 21.5 but less than 22.5	1,000
At least 20.5 but less than 21.5	1,300
At least 19.5 but less than 20.5	1,700
At least 18.5 but less than 19.5	2,100
At least 17.5 but less than 18.5	2,600
At least 16.5 but less than 17.5	3,000
At least 15.5 but less than 16.5	3,700
At least 14.5 but less than 15.5	4,500
At least 13.5 but less than 14.5	5,400
At least 12.5 but less than 13.5	6,400
Less than 12.5	7,700."

(b) LIMOUSINES INCLUDED WITHOUT REGARD TO WEIGHT.—Subparagaph (A) of section 4064(b)(1) is amended by adding at the end thereof the following new sentence:

"In the case of a limousine, the preceding sentence shall be applied without regard to clause (ii)."

(c) REPEAL OF EXCEPTION FOR LENGTHENING EXISTING AUTOMOBILES.—Subparagraph (B) of section 4064(b)(5) (defining manufacturer) is amended to read as follows:

"(B) LENGTHENING TREATED AS MANUFACTURE.—For purposes of this section, subchapter G of this chapter, and section 6416(b)(3), the lengthening of an automobile by any person shall be treated as the manufacture of an automobile by such person."

(d) REPEAL OF SPECIAL RULES FOR SMALL MANUFACTURERS.—Section 4064 is amended by striking subsection (d).

(e) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to sales after December 31, 1990.

(2) Subsection (c).—The amendments made by subsection (c) shall take effect on January 1, 1991.

(3) SUBSECTION (d).—The amendment made by subsection (d) shall take effect on the date of the enactment of this section.

SEC. 13213. INCREASE IN HARBOR MAINTENANCE TAX.

(a) IN GENERAL.—Subsection (b) of section 4461 is amended by striking "0.04 percent" and inserting "0.125 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1991.

SEC. 13214. EXTENSION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.

(a) IN GENERAL.—Paragraph (2) of section 4081(d) is amended to read as follows:

"(2) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—The Leaking Underground Storage Tank Trust Fund financing rate under subsection (a)(2) shall not apply after December 31, 1996."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 30th day after the date of the enactment of this Act.

SEC. 13215. FLOOR STOCKS TAX TREATMENT OF ARTICLES IN FOREIGN TRADE ZONES.

Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) or any other provision of law, any article which is located in a foreign trade zone on the effective date of any increase in tax under the amendments made by this part, part I, or part IV shall be subject to floor stocks taxes imposed by such parts if—

(1) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(2) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

Subtitle C—Other Revenue Increases

PART I—INSURANCE PROVISIONS

Subpart A—Provisions Related to Policy Acquisition Costs

SEC. 13301. CAPITALIZATION OF POLICY ACQUISITION EXPENSES.

(a) GENERAL RULE.—Part III of subchapter L of chapter 1 (relating to provisions of general application) is amended by adding at the end thereof the following new section:

"SEC. 848. CAPITALIZATION OF CERTAIN POLICY ACQUISITION EXPENSES.

"(a) GENERAL RULE.—In the case of an insurance company—

"(1) specified policy acquisition expenses for any taxable year shall be capitalized, and

"(2) such expenses shall be allowed as a deduction ratably over the 120-month period beginning with the first month in the second half of such taxable year.

"(b) 5-YEAR AMORTIZATION PERIOD FOR SMALL COMPANIES.—

"(1) IN GENERAL.—Paragraph (2) of subsection (a) shall be applied with respect to specified policy acquisition expenses for any taxable year of an insurance company which is a small company for such taxable year by substituting '60-month' for '120-month'.

"(2) SMALL COMPANY DEFINED.—For purposes of this subsection, the term 'small company' means any insurance company which meets the requirements of section 806(a)(3); except that—

"(A) paragraph (1)(A) of section 806(c) shall be applied by substituting 'insurance' for 'life insurance' each place it appears, and

"(B) paragraph (2) of section 806(c) shall not apply.

"(3) EXCEPTION FOR ACQUISITION EXPENSES ATTRIBUTABLE TO CERTAIN REINSURANCE CONTRACTS.—This subsection shall not apply to any specified policy acquisition expenses for any taxable year which are attributable to premiums or other consideration under any reinsurance contract with any insurance company unless each insurance company which takes into account premiums with respect to the reinsured contract is a small company.

"(c) SPECIFIED POLICY ACQUISITION EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'specified policy acquisition expenses' means, with respect to any taxable year, so much of the general deductions for such taxable year as does not exceed the sum of—

"(A) 1.5 percent of the net premiums for such taxable year on specified insurance contracts which are annuity contracts,

"(B) 1.80 percent of the net premiums for such taxable year on specified insurance contracts which are group life insurance contracts, and

"(C) 6.75 percent of the net premiums for such taxable year on specified insurance contracts not described in subparagraph (A) or (B).

"(2) GENERAL DEDUCTIONS.—The term 'general deductions' means the deductions provided in part VI of subchapter B (sec. 161 and following, relating to itemized deductions) and in part I of subchapter D (sec. 401 and following, relating to pension, profit sharing, stock bonus plans, etc.).

"(d) NET PREMIUMS.—For purposes of this section—

"(1) IN GENERAL.—The term 'net premiums' means, with respect to any category of specified insurance contracts set forth in subsection (c)(1), the excess (if any) of—

"(A) the gross amount of premiums and other consideration on such contracts, over

"(B) return premiums on such contracts and premiums and other consideration incurred for reinsurance of such contracts.

The rules of section 803(b) shall apply for purposes of the preceding sentence.

"(2) AMOUNTS DETERMINED ON ACCRUAL BASIS.—In the case of an insurance company subject to tax under part II of this subchapter, all computations entering into determinations of net premiums for any taxable year shall be made in the manner required under section 811(a) for life insurance companies.

"(3) TREATMENT OF CERTAIN POLICYHOLDER DIVIDENDS AND SIMILAR AMOUNTS.—Net premiums shall be determined without regard to section 808(e) and without regard to other similar amounts treated as paid to, and returned by, the policyholder.

"(4) SPECIAL RULE FOR CERTAIN REINSURANCE.—Premiums and other consideration incurred for reinsurance shall be taken into account under paragraph (1)(B) only to the extent such premiums and other consideration are includible in the gross income of an insurance company taxable under this subchapter or are subject to tax under this chapter by reason of subpart F of part III of subchapter N.

"(e) CLASSIFICATION OF CONTRACTS.—For purposes of this section—

"(1) SPECIFIED INSURANCE CONTRACT.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'specified insurance contract' means any life insurance, annuity, or noncancellable accident and health insurance contract (including any life insurance or annuity contract combined with noncancellable accident and health insurance).

"(B) EXCEPTIONS.—The term 'specified insurance contract' shall not include—

"(i) any pension plan contract (as defined in section 818(a)),

"(ii) any flight insurance or similar contract, and

"(iii) any qualified foreign contract (as defined in section 807(e)(4) without regard to paragraph (5) of this subsection).

"(2) GROUP LIFE INSURANCE CONTRACT.—The term 'group life insurance contract' means any life insurance contract—

"(A) which covers a group of individuals defined by reference to employment relationship, membership in an organization, or similar factor,

"(B) the premiums for which are determined on a group basis, and

"(C) the proceeds of which are payable to (or for the benefit of) persons other than the employer of the insured, an organization to which the insured belongs, or other similar person.

"(3) TREATMENT OF ANNUITY CONTRACTS COMBINED WITH NONCANCELLABLE ACCIDENT AND HEALTH INSURANCE.—Any annuity contract combined with noncancellable accident and health insurance shall be treated as a noncancellable accident and health insurance contract and not as an annuity contract.

"(4) TREATMENT OF GUARANTEED RENEWABLE CONTRACTS.—The rules of section 816(e) shall apply for purposes of this section.

"(5) TREATMENT OF REINSURANCE CONTRACT.—A contract which reinsures another contract shall be treated in the same manner as the reinsured contract.

"(f) SPECIAL RULE WHERE NEGATIVE NET PREMIUMS.—

"(1) IN GENERAL.—If for any taxable year there is a negative capitalization amount with respect to any category of specified insurance contracts set forth in subsection (c)(1)—

"(A) the amount otherwise required to be capitalized under this section for such taxable year with respect to any other category of specified insurance contracts shall be reduced (but not below zero) by such negative capitalization amount, and

"(B) such negative capitalization amount (to the extent not taken into account under subparagraph (A))—

"(i) shall reduce (but not below zero) the unamortized balance (as of the beginning of such taxable year) of the amounts previously capitalized under subsection (a) (beginning with the amount capitalized for the most recent taxable year), and

"(ii) to the extent taken into account as such a reduction, shall be allowed as a deduction for such taxable year.

"(2) NEGATIVE CAPITALIZATION AMOUNT.—For purposes of paragraph (1), the term 'negative capitalization amount' means, with respect to any category of specified insurance contracts, the percentage (applicable under subsection (c)(1) to such category) of the amount (if any) by which—

"(A) the amount determined under subparagraph (B) of subsection (d)(1) with respect to such category, exceeds

"(B) the amount determined under subparagraph (A) of subsection (d)(1) with respect to such category.

"(g) TREATMENT OF CERTAIN CEDING COMMISSIONS.—Nothing in any provision of law (other than this section) shall require the capitalization of any ceding commission incurred on or after September 30, 1990, under any reinsurance contract.

"(h) TREATMENT OF QUALIFIED FOREIGN CONTRACTS UNDER ADJUSTED CURRENT EARNINGS PREFERENCE.—For purposes of determining adjusted current earnings under section 56(g), acquisition expenses with respect to contracts described in clause (iii) of subsection (e)(1)(B) shall be capitalized and amortized in accordance with the treatment generally required under generally accepted accounting principles as if this subsection applied to such contracts for all taxable years.

"(i) TRANSITIONAL RULE.—In the case of any taxable year which includes September 30, 1990, the amount taken into account as the net premiums (or negative capitalization amount) with respect to any category of specified insurance contracts shall be the amount which bears the same ratio to the amount which (but for this subsection) would be so taken into account as the number of days in such taxable year on or after September 30, 1990, bears to the total number of days in such taxable year."

(b) REPEAL OF SPECIAL TREATMENT OF ACQUISITION EXPENSES UNDER MINIMUM TAX.—Paragraph (4) of section 56(g) is amended

by striking subparagraph (F) and redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter L of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 848. Capitalization of certain policy acquisition expenses."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to taxable years ending on or after September 30, 1990. Any capitalization required by reason of such amendments shall not be treated as a change in method of accounting for purposes of the Internal Revenue Code of 1986.

(2) SUBSECTION (b).—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years beginning on or after September 30, 1990.

(B) SPECIAL RULES FOR YEAR WHICH INCLUDES SEPTEMBER 30, 1990.—In the case of any taxable year which includes September 30, 1990, the amount of acquisition expenses which is required to be capitalized under section 56(g)(4)(F) of the Internal Revenue Code of 1986 (as in effect before the amendment made by subsection (b)) shall be the amount which bears the same ratio to the amount which (but for this subparagraph) would be so required to be capitalized as the number of days in such taxable year before September 30, 1990, bears to the total number of days in such taxable year. A similar reduction shall be made in the amount amortized for such taxable year under such section 56(g)(4)(F).

SEC. 13302. TREATMENT OF CERTAIN NONLIFE RESERVES OF LIFE INSURANCE COMPANIES.

(a) GENERAL RULE.—Subsection (e) of section 807 (relating to special rules for computing reserves) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR TREATMENT OF CERTAIN NONLIFE RESERVES.—

"(A) IN GENERAL.—The amount taken into account for purposes of subsections (a) and (b) as—

"(i) the opening balance of the items referred to in subparagraph (C), and

"(ii) the closing balance of such items,

shall be 80 percent of the amount which (without regard to this subparagraph) would have been taken into account as such opening or closing balance, as the case may be.

"(B) TRANSITIONAL RULE.—

"(i) IN GENERAL.—In the case of any taxable year beginning on or after September 30, 1990, and on or before September 30, 1996, there shall be included in the gross income of any life insurance company an amount equal to 3⅓ percent of such company's closing balance of the items referred to in subparagraph (C) for its most recent taxable year beginning before September 30, 1990.

"(ii) TERMINATION AS LIFE INSURANCE COMPANY.—Except as provided in section 381(c)(22), if, for any taxable year beginning on or before September 30, 1996, the taxpayer ceases to be a life insurance company, the aggregate inclusions which would have been made under clause (i) for such taxable year and subsequent taxable years but for such cessation shall be taken into account for the taxable year preceding such cessation year.

"(C) DESCRIPTION OF ITEMS.—For purposes of this paragraph, the items referred to in this subparagraph are the items described in subsection (c) which consist of unearned premiums and premiums received in advance under insurance contracts not described in section 816(b)(1)(B)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning on or after September 30, 1990.

SEC. 13303. TREATMENT OF LIFE INSURANCE RESERVES OF INSURANCE COMPANIES WHICH ARE NOT LIFE INSURANCE COMPANIES.

(a) GENERAL RULE.—Paragraph (4) of section 832(b) (defining premiums earned) is amended by striking "section 807, pertaining" and all that follows down through the period at the end of the first sentence which follows subparagraph (C) and inserting "section 807.".

(b) TECHNICAL AMENDMENT.—Subparagraph (A) of section 832(b)(7) is amended—

(1) by striking "amounts included in unearned premiums under the 2nd sentence of such subparagraph" and inserting "insurance contracts described in section 816(b)(1)(B)", and

(2) by striking "such amounts into account" and inserting "such contracts into account".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after September 30, 1990.

Subpart B—Treatment of Salvage Recoverable

SEC. 13305. TREATMENT OF SALVAGE RECOVERABLE.

(a) GENERAL RULE.—Subparagraph (A) of section 832(b)(5) (defining losses incurred) is amended to read as follows:

"(A) IN GENERAL.—The term 'losses incurred' means losses incurred during the taxable year on insurance contracts computed as follows:

"(i) To losses paid during the taxable year, deduct salvage and reinsurance recovered during the taxable year.

"(ii) To the result so obtained, add all unpaid losses on life insurance contracts plus all discounted unpaid losses (as defined in section 846) outstanding at the end of the taxable year and deduct all unpaid losses on life insurance contracts plus all discounted unpaid losses outstanding at the end of the preceding taxable year.

"(iii) To the results so obtained, add estimated salvage and reinsurance recoverable as of the end of the preceding taxable year and deduct estimated salvage and reinsurance recoverable as of the end of the taxable year.

The Secretary shall by regulations provide that the amounts referred to in clause (iii) shall be determined on a discounted basis in accordance with procedures established in such regulations."

(b) CONFORMING AMENDMENT.—Subsection (g) of section 846 is amended by adding "and" at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

(2) AMENDMENTS TREATED AS CHANGE IN METHOD OF ACCOUNTING.—

(A) IN GENERAL.—In the case of any taxpayer who is required by reason of the amendments made by this section to change his method of computing losses incurred—

(i) such change shall be treated as a change in a method of accounting,

(ii) such change shall be treated as initiated by the taxpayer, and

(iii) such change shall be treated as having been made with the consent of the Secretary.

(B) FRESH START.—Notwithstanding section 481 of the Internal Revenue Code of 1986, the net amount of the adjustments (otherwise required by such section 481 to be taken into account by the taxpayer) shall not be required to be taken into account for any taxable year.

(3) SPECIAL RULE FOR OVERESTIMATES.—If for any taxable year beginning after December 31, 1989—

(A) the amount of the section 481 adjustment which would have been required without regard to paragraph (2) and any discounting, exceeds

(B) the sum of the amount of salvage recovered taken into account under section 832(b)(5)(A)(i) for the taxable year and any preceding taxable year beginning after December 31, 1989, attributable to losses incurred with respect to any accident year beginning before 1990 and the undiscounted amount of estimated salvage recoverable as of the close of the taxable year on account of such losses,

such excess (adjusted by the discount rate used in determining the amount of salvage recoverable as of the close of the last taxable year of the taxpayer beginning before January 1, 1990) shall be included in gross income for such taxable year.

(4) EFFECT ON EARNINGS AND PROFITS.—The earnings and profits of any insurance company for its 1st taxable year beginning after December 31, 1989, shall be increased by the amount of the section 481 adjustment which would have been required but for paragraph (2). For purposes of applying sections 56, 902, 952(c)(1), and 960 of the Internal Revenue Code of 1986, earnings and profits of a corporation shall be determined without regard to the preceding sentence.

Subpart C—Waiver of Estimated Tax Penalties

SEC. 13307. WAIVER OF ESTIMATED TAX PENALTIES.

No addition to tax shall be made under section 6655 of the Internal Revenue Code of 1986 for any period before March 16, 1991, with respect to any underpayment to the extent such underpayment was created or increased by any provision of this part.

PART II—COMPLIANCE PROVISIONS

SEC. 13311. SUSPENSION OF STATUTE OF LIMITATIONS DURING PROCEEDINGS TO ENFORCE CERTAIN SUMMONSES.

(a) GENERAL RULE.—Section 6503 (relating to suspension of running of period of limitation) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) EXTENSION IN CASE OF CERTAIN SUMMONSES.—

"(1) IN GENERAL.—If any designated summons is issued by the Secretary with respect to any return of tax by a corporation, the running of any period of limitations provided in section 6501 on the assessment of such tax shall be suspended—

"(A) during any judicial enforcement period—

"(i) with respect to such summons, or

"(ii) with respect to any other summons which is issued during the 30-day period which begins on the date on which such designated summons is issued and which re-

lates to the same return as such designated summons, and

"(B) if the court in any proceeding referred to in paragraph (3) requires any compliance with a summons referred to in subparagraph (A), during the 120-day period beginning with the 1st day after the close of the suspension under subparagraph (A).

If subparagraph (B) does not apply, such period shall in no event expire before the 60th day after the close of the suspension under subparagraph (A).

"(2) DESIGNATED SUMMONS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'designated summons' means any summons issued for purposes of determining the amount of any tax imposed by this title if—

"(i) such summons is issued at least 60 days before the day on which the period prescribed in section 6501 for the assessment of such tax expires (determined with regard to extensions), and

"(ii) such summons clearly states that it is a designated summons for purposes of this subsection.

"(B) LIMITATION.—A summons which relates to any return shall not be treated as a designated summons if a prior summons which relates to such return was treated as a designated summons for purposes of this subsection.

"(3) JUDICIAL ENFORCEMENT PERIOD.—For purposes of this subsection, the term 'judicial enforcement period' means, with respect to any summons, the period—

"(A) which begins on the day on which a court proceeding with respect to such summons is brought, and

"(B) which ends on the day on which there is a final resolution as to the summoned person's response to such summons."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any tax (whether imposed before, on, or after the date of the enactment of this Act) if the period prescribed by section 6501 of the Internal Revenue Code of 1986 for the assessment of such tax (determined with regard to extensions) has not expired on such date of the enactment.

SEC. 13312. ACCURACY-RELATED PENALTY TO APPLY TO SECTION 482 ADJUSTMENTS.

(a) GENERAL RULE.—Subsection (e) of section 6662 (defining substantial valuation overstatement under chapter 1) is amended to read as follows:

"(e) SUBSTANTIAL VALUATION MISSTATEMENT UNDER CHAPTER 1.—

"(1) IN GENERAL.—For purposes of this section, there is a substantial valuation misstatement under chapter 1 if—

"(A) the value of any property (or the adjusted basis of any property) claimed on any return of tax imposed by chapter 1 is 200 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be), or

"(B)(i) the price for any property or services claimed on any such return in connection with any transaction between persons described in section 482 is 200 percent or more (or 50 percent or less) of the amount determined under section 482 to be the correct amount of such price, or

"(ii) the net section 482 transfer price adjustment for the taxable year exceeds $10,000,000.

"(2) LIMITATION.—No penalty shall be imposed by reason of subsection (b)(3) unless the portion of the underpayment for the taxable year attributable to substantial valuation misstatements under chapter 1 exceeds $5,000 ($10,000 in the case of a corporation other than an S corporation or a personal holding company (as defined in section 542)).

"(3) NET SECTION 482 TRANSFER PRICE ADJUSTMENT.—For purposes of this subsection, the term 'net section 482 transfer price adjustment' means, with respect to any taxable year, the net increase in taxable income for the taxable year (determined without regard to any amount carried to such taxable year from another taxable year) resulting from adjustments under section 482 in the transfer price for any property or services. For purposes of the preceding sentence, rules similar to the rules of the last sentence of section 55(b)(2) shall apply."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 6662(b) is amended to read as follows:

"(3) Any substantial valuation misstatement under chapter 1."

(2) Subparagraph (A) of section 6662(h)(2) is amended to read as follows:

"(A) any substantial valuation misstatement under chapter 1 as determined under subsection (e) by substituting—

"(i) '400 percent' for '200 percent' each place it appears,

"(ii) '25 percent' for '50 percent', and

"(iii) '$20,000,000' for '$10,000,000',".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 13313. TREATMENT OF PERSONS PROVIDING SERVICES.

(a) GENERAL RULE.—Subsection (n) of section 6103 (relating to certain other persons) is amended—

(1) by striking "and the programming" and inserting "the programming", and

(2) by inserting after "of equipment," the following "and the providing of other services,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 13314. APPLICATION OF AMENDMENTS MADE BY SECTION 7403 OF REVENUE RECONCILIATION ACT OF 1989 TO TAXABLE YEARS BEGINNING ON OR BEFORE JULY 10, 1989.

(a) GENERAL RULE.—The amendments made by section 7403 of the Revenue Reconciliation Act of 1989 shall apply to—

(1) any requirement to furnish information under section 6038A(a) of the Internal Revenue Code of 1986 (as amended by such section 7403) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any requirement under such section 6038A(a) to maintain records which were in existence on or after March 20, 1990,

(3) any requirement to authorize a corporation to act as a limited agent under section 6038A(e)(1) of such Code (as so amended) if the time for authorizing such action is after the date of the enactment of this Act, and

(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began. Such amendments shall also apply in any case to which they would apply without regard to this section.

(b) CONTINUATION OF OLD FAILURES.—In the case of any failure with respect to a taxable year beginning on or before July 10, 1989, which first occurs on or before the date of the enactment of this Act but which continues after such date of enactment, section 6038A(d)(2) of the Internal Revenue Code of 1986 (as amended by subsection (c) of such section 7403) shall apply for purposes of determining the amount of the penalty imposed for 30-day periods referred to in such section 6038A(d)(2) which begin after the date of the enactment of this Act.

SEC. 13315. OTHER REPORTING REQUIREMENTS.

(a) GENERAL RULE.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6038B the following new section:

"SEC. 6038C. INFORMATION WITH RESPECT TO FOREIGN CORPORATIONS ENGAGED IN U.S. BUSINESS.

"(a) REQUIREMENT.—If a foreign corporation (hereinafter in this section referred to as the 'reporting corporation') is engaged in a trade or business within the United States at any time during a taxable year—

"(1) such corporation shall furnish (at such time and in such manner as the Secretary shall by regulations prescribe) the information described in subsection (b), and

"(2) such corporation shall maintain (at the location, in the manner, and to the extent prescribed in regulations) such records as may be appropriate to determine the liability of such corporation for tax under this title as the Secretary shall by regulations prescribe (or shall cause another person to so maintain such records).

"(b) REQUIRED INFORMATION.—For purposes of subsection (a), the information described in this subsection is—

"(1) the information described in section 6038A(b), and

"(2) such other information as the Secretary may prescribe by regulations relating to any item not directly connected with a transaction for which information is required under paragraph (1).

"(c) PENALTY FOR FAILURE TO FURNISH INFORMATION OR MAINTAIN RECORDS.—The provisions of subsection (d) of section 6038A shall apply to—

"(1) any failure to furnish (within the time prescribed by regulations) any information described in subsection (b), and

"(2) any failure to maintain (or cause another to maintain) records as required by subsection (a),

in the same manner as if such failure were a failure to comply with the provisions of section 6038A.

"(d) ENFORCEMENT OF REQUESTS FOR CERTAIN RECORDS.—

"(1) AGREEMENT TO TREAT CORPORATION AS AGENT.—The rules of paragraph (3) shall apply to any transaction between the reporting corporation and any related party who is a foreign person unless such related party agrees (in such manner and at such time as the Secretary shall prescribe) to authorize the reporting corporation to act as such related party's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to any request by the Secretary to examine records or produce testimony related to any such transaction or with respect to any summons by the Secretary for such records or testimony. The appearance of persons or production of records by reason of the reporting corporation being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of any transaction between the reporting corporation and such related party.

"(2) RULES WHERE INFORMATION NOT FURNISHED.—If—

"(A) for purposes of determining the amount of the reporting corporation's liability for tax under this title, the Secretary issues a summons to such corporation to produce (either directly or as an agent for a related party who is a foreign person) any records or testimony,

"(B) such summons is not quashed in a proceeding begun under paragraph (4) of section 6038A(e) (as made applicable by paragraph (4) of this subsection) and is not determined to be invalid in a proceeding begun under section 7604(b) to enforce such summons, and

"(C) the reporting corporation does not substantially comply in a timely manner with such summons and the Secretary has sent by certified or registered mail a notice to such reporting corporation that such reporting corporation has not so substantially complied,

the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which such summons relates (whether or not the Secretary begins a proceeding to enforce such summons). If the reporting corporation fails to maintain (or cause another to maintain) records as required by subsection (a), and by reason of that failure, the summons is quashed in a proceeding described in subparagraph (B) or the reporting corporation is not able to provide the records requested in the summons, the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which the records relate.

"(3) APPLICABLE RULES.—If the rules of this paragraph apply to any transaction or item, the treatment of such transaction (or the amount and treatment of any such item) shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

"(4) JUDICIAL PROCEEDINGS.—The provisions of section 6038A(e)(4) shall apply with respect to any summons issued under paragraph (2)(A); except that subparagraph (D) of such section shall be applied by substituting 'transaction or item' for 'transaction'.

"(e) DEFINITIONS.—For purposes of this section, the terms 'related party', 'foreign person', and 'records' have the respective meanings given to such terms by section 6038A(c)."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6038A(a) is amended by striking "or is a foreign corporation engaged in trade or business within the United States".

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6038B the following new item:

"Sec. 6038C. Information with respect to foreign corporations engaged in U.S. business."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) any requirement to furnish information under section 6038C(a) of the Internal Revenue Code of 1986 (as added by this section) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any requirement under such section 6038C(a) to maintain records which were in existence on or after March 20, 1990,

(3) any requirement to authorize a corporation to act as a limited agent under section 6038C(d)(1) of such Code (as so added) if the time for authorizing such action is after the date of the enactment of this Act, and

(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began.

SEC. 13316. STUDY OF SECTION 482.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall conduct a study of the application and administration of section 482 of the Internal Revenue Code of 1986. Such study shall include examination of—

(1) the effectiveness of the amendments made by this part in increasing levels of compliance with such section 482,

(2) use of advanced determination agreements with respect to issues under such section 482,

(3) possible legislative or administrative changes to assist the Internal Revenue Service in increasing compliance with such section 482, and

(4) coordination of the administration of such section 482 with similar provisions of foreign tax laws and with domestic nontax laws.

(b) REPORT.—Not later than March 1, 1992, the Secretary of the Treasury or his delegate shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

PART III—EMPLOYER REVERSIONS

Subpart A—Treatment of Reversions of Qualified Plan Assets to Employers

SEC. 13321. INCREASE IN REVERSION TAX.

Section 4980(a) (relating to tax on reversion of qualified plan assets to employer) is amended by striking "15 percent" and inserting "20 percent".

SEC. 13322. ADDITIONAL TAX IF NO REPLACEMENT PLAN.

(a) IN GENERAL.—Section 4980 is amended by adding at the end thereof the following new subsection:

"(d) INCREASE IN TAX FOR FAILURE TO ESTABLISH REPLACEMENT PLAN OR INCREASE BENEFITS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '50 percent' for '20 percent' with respect to any employer reversion from a qualified plan unless—

"(A) the employer establishes or maintains a qualified replacement plan, or

"(B) the plan provides benefit increases meeting the requirements of paragraph (3).

"(2) QUALIFIED REPLACEMENT PLAN.—For purposes of this subsection, the term 'qualified replacement plan' means a qualified plan established or maintained by the employer in connection with a qualified plan termination (hereinafter referred to as the 'replacement plan') with respect to which the following requirements are met:

"(A) PARTICIPATION REQUIREMENT.—Substantially all of the active participants in the terminated plan who remain as employees of the employer after the termination are active participants in the replacement plan.

"(B) ASSET TRANSFER REQUIREMENT.—

"(i) 30 PERCENT CUSHION.—A direct transfer from the terminated plan to the replacement plan is made before any employer reversion, and the transfer is in an amount equal to the excess (if any) of—

"(I) 30 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, over

"(II) the amount determined under clause (ii).

"(ii) REDUCTION FOR INCREASE IN BENEFITS.—The amount determined under this clause is an amount equal to the present value of the aggregate increases in the nonforfeitable accrued benefits under the terminated plan of any participants (including nonactive participants) pursuant to a plan amendment which—

"(I) is adopted during the 60-day period ending on the date of termination of the qualified plan, and

"(II) takes effect immediately on the termination date.

"(iii) TREATMENT OF AMOUNT TRANSFERRED.—In the case of the transfer of any amount under clause (i)—

"(I) such amount shall not be includible in the gross income of the employer,

"(II) no deduction shall be allowable with respect to such transfer, and

"(III) such transfer shall not be treated as an employer reversion for purposes of this section.

"(C) ALLOCATION REQUIREMENTS.—

"(i) IN GENERAL.—In the case of any defined contribution plan, the portion of the amount transferred to the replacement plan under subparagraph (B)(i) is—

"(I) allocated under the plan to the accounts of participants in the plan year in which the transfer occurs, or

"(II) credited to a suspense account and allocated from such account to accounts of participants no less rapidly than ratably over the 7-plan-year period beginning with the year of the transfer.

"(ii) COORDINATION WITH SECTION 415 LIMITATION.—If, by reason of any limitation under section 415, any amount credited to a suspense account under clause (i)(II) may not be allocated to a participant before the close of the 7-year period under such clause—

"(I) such amount shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants by reason of any such limitation, shall be allocated to the participant as provided in section 415.

"(iii) TREATMENT OF INCOME.—Any income on any amount credited to a suspense account under clause (i)(II) shall be allocated to accounts of participants no less rapidly than ratably over the remainder of the period determined under such clause (after application of clause (ii)).

"(iv) UNALLOCATED AMOUNTS AT TERMINATION.—If any amount credited to a suspense account under clause (i)(II) is not allocated as of the termination date of the plan—

"(I) such amount shall be allocated to the accounts of participants as of such date, except that any amount which may not be allocated by reason of any limitation under section 415 shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants under subclause (I) by reason of such limitation, such portion shall be treated as an employer reversion to which this section applies.

"(3) PRO RATA BENEFIT INCREASES.—

"(A) IN GENERAL.—The requirements of this paragraph are met if a plan amendment to the terminated plan is adopted in connection with the termination of the plan which provides pro rata increases in the nonforfeitable accrued benefits of all participants (including nonactive participants) which—

"(i) have an aggregate present value not less than 25 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, and

"(ii) take effect immediately on the termination date.

"(B) PRO RATA INCREASE.—For purposes of subparagraph (A), a pro rata increase is an increase in the present value of the nonforfeitable accrued benefit of each participant (including nonactive participants) in an amount which bears the same ratio to the aggregate amount determined under subparagraph (A)(i) as—

"(i) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to

"(ii) the aggregate present value of nonforfeitable accrued benefits of the terminated plan (as so determined).

Notwithstanding the preceding sentence, the aggregate increases in the nonforfeitable accrued benefits of nonactive participants shall not exceed 40 percent of the aggregate amount determined under subparagraph (A)(i) by substituting 'equal to' for 'not less than'.

"(4) COORDINATION WITH OTHER PROVISIONS.—

"(A) LIMITATIONS.—A benefit may not be increased under paragraph (2)(B)(ii) or (3)(A), and an amount may not be allocated to a participant under paragraph (2)(C), if such increase or allocation would result in a failure to meet any requirement under section 401(a)(4) or 415.

"(B) TREATMENT AS EMPLOYER CONTRIBUTIONS.—Any increase in benefits under paragraph (2)(B)(ii) or (3)(A), or any allocation of any amount (or income allocable thereto) to any account under paragraph (2)(C), shall be treated as an annual benefit or annual addition for purposes of section 415.

"(C) 10-YEAR PARTICIPATION REQUIREMENT.—Except as provided by the Secretary, section 415(b)(5)(D) shall not apply to any increase in benefits by reason of this subsection to the extent that the application of this subparagraph does not discriminate in favor of highly compensated employees (as defined in section 414(q)).

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) NONACTIVE PARTICIPANT.—The term 'nonactive participant' means an individual who—

"(i) is a participant in pay status as of the termination date,

"(ii) is a beneficiary who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, or

"(iii) is a participant not described in clause (i) or (ii)—

"(I) who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, and

"(II) whose service, which was creditable under the terminated plan, terminated during the period beginning 3 years before the termination date and ending with the date on which the final distribution of assets occurs.

"(B) PRESENT VALUE.—Present value shall be determined as of the termination date and on the same basis as liabilities of the plan are determined on termination.

"(C) REALLOCATION OF INCREASE.—Except as provided in paragraph (2)(C), if any benefit increase is reduced by reason of the last sentence of paragraph (3)(A)(ii) or paragraph (4), the amount of such reduction shall be allocated to the remaining participants on the same basis as other increases (and shall be treated as meeting any allocation requirement of this subsection).

"(D) AGGREGATION OF PLANS.—The Secretary may provide that 2 or more plans may be treated as 1 plan for purposes of determining whether there is a qualified replacement plan under paragraph (2).

"(6) SUBSECTION NOT TO APPLY TO EMPLOYER IN BANKRUPTCY.—This subsection shall not apply to an employer who, as of the termination date of the qualified plan, is in bankruptcy liquidation under chapter 7 of title 11 of the United States Code or in similar proceedings under State law."

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT.—

(1) FIDUCIARY RESPONSIBILITY.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end thereof the following new subsection:

"(d)(1) If, in connection with the termination of a single-employer plan, an employer elects to establish or maintain a qualified replacement plan, or to increase benefits, as provided under section 4980(d) of the Internal Revenue Code of 1986, a fiduciary shall discharge the fiduciary's duties under this title and title IV in accordance with the following requirements:

"(A) In the case of a fiduciary of the terminated plan, any requirement—

"(i) under section 4980(d)(2)(B) of such Code with respect to the transfer of assets from the terminated plan to a qualified replacement plan, and

"(ii) under section 4980(d)(2)(B)(ii) or 4980(d)(3) of such Code with respect to any increase in benefits under the terminated plan.

"(B) In the case of a fiduciary of a qualified replacement plan, any requirement—

"(i) under section 4980(d)(2)(A) of such Code with respect to participation in the qualified replacement plan of active participants in the terminated plan,

"(ii) under section 4980(d)(2)(B) of such Code with respect to the receipt of assets from the terminated plan, and

"(iii) under section 4980(d)(2)(C) of such Code with respect to the allocation of assets to participants of the qualified replacement plan.

"(2) For purposes of this subsection—

"(A) any term used in this subsection which is also used in section 4980(d) of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section, and

"(B) any reference in this subsection to the Internal Revenue Code of 1986 shall be a reference to such Code as in effect on January 1, 1991."

(2) CONFORMING AMENDMENTS.—

(A) Section 404(a)(1)(D) of such Act (29 U.S.C. 1104(a)(1)(D)) is amended by striking "or title IV" and inserting "and title IV".

(B) Section 4044(d)(1) of such Act (29 U.S.C. 1344(d)(1)) is amended by inserting ", section 404(d) of this Act, and section 4980(d) of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "paragraph (3)".

SEC. 13323. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subpart shall apply to reversions occurring after September 30, 1990.

(b) EXCEPTION.—The amendments made by this subpart shall not apply to any reversion after September 30, 1990, if—

(1) in the case of plans subject to title IV of the Employee Retirement Income Security Act of 1974, a notice of intent to terminate under such title was provided to participants (or if no participants, to the Pension Benefit Guaranty Corporation) before October 1, 1990, or

(2) in the case of plans subject to title I (and not to title IV) of such Act, a notice of intent to reduce future accruals under section 204(h) of such Act was provided to participants in connection with the termination before October 1, 1990.

Subpart B—Transfers to Retiree Health Accounts

SEC. 13325. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) IN GENERAL.—Part I of subchapter D of chapter 1 (relating to pension, profit-sharing, and stock bonus plans) is amended by adding at the end thereof the following new subpart:

"Subpart E—Treatment of Transfers to Retiree Health Accounts

"Sec. 420. Transfers of excess pension assets to retiree health accounts.

"SEC. 420. TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

"(a) GENERAL RULE.—If there is a qualified transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to a health benefits account which is part of such plan—

"(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of subsection (a) or (h) of section 401 solely by reason of such transfer (or any other action authorized under this section),

"(2) no amount shall be includible in the gross income of the employer maintaining the plan solely by reason of such transfer,

"(3) such transfer shall not be treated—

"(A) as an employer reversion for purposes of section 4980, or

"(B) as a prohibited transaction for purposes of section 4975, and

"(4) the limitations of subsection (d) shall apply to such employer.

"(b) QUALIFIED TRANSFER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer—

"(A) of excess pension assets of a defined benefit plan to a health benefits account which is part of such plan in a taxable year beginning after December 31, 1990,

"(B) which does not contravene any other provision of law, and

"(C) with respect to which the plan meets—

"(i) the use requirements of subsection (c)(1),

"(ii) the vesting requirements of subsection (c)(2), and

"(iii) the minimum benefit requirements of subsection (c)(3).

"(2) ONLY 1 TRANSFER PER YEAR.—

"(A) IN GENERAL.—No more than 1 transfer with respect to any plan during a taxable year may be treated as a qualified transfer for purposes of this section.

"(B) EXCEPTION.—A transfer described in paragraph (4) shall not be taken into account for purposes of subparagraph (A).

"(3) LIMITATION ON AMOUNT TRANSFERRED.—The amount of excess pension assets which may be transferred in a qualified transfer shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the tax-

able year of the transfer for qualified current retiree health liabilities.

"(4) SPECIAL RULE FOR 1990.—

"(A) IN GENERAL.—Subject to the provisions of subsection (c), a transfer shall be treated as a qualified transfer if such transfer—

"(i) is made after the close of the taxable year preceding the employer's first taxable year beginning after December 31, 1990, and before the earlier of—

"(I) the due date (including extensions) for the filing of the return of tax for such preceding taxable year, or

"(II) the date such return is filed, and

"(ii) does not exceed the expenditures of the employer for qualified current retiree health liabilities for such preceding taxable year.

"(B) REDUCTION IN DEDUCTION.—The amount of the deductions otherwise allowable under this chapter to an employer for the taxable year preceding the employer's first taxable year beginning after December 31, 1990, shall be reduced by the amount of any qualified transfer to which this paragraph applies.

"(C) COORDINATION WITH REDUCTION RULE.—Subsection (e)(1)(B) shall not apply to a transfer described in subparagraph (A).

"(5) EXPIRATION.—No transfer in any taxable year beginning after December 31, 1995, shall be treated as a qualified transfer.

"(c) REQUIREMENTS OF PLANS TRANSFERRING ASSETS.—

"(1) USE OF TRANSFERRED ASSETS.—

"(A) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) shall be used only to pay qualified current retiree health liabilities (other than liabilities of key employees not taken into account under subsection (e)(1)(D)) for the taxable year of the transfer (whether directly or through reimbursement).

"(B) AMOUNTS NOT USED TO PAY FOR HEALTH BENEFITS.—

"(i) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) which are not used as provided in subparagraph (A) shall be transferred out of the account to the transferor plan.

"(ii) TAX TREATMENT OF AMOUNTS.—Any amount transferred out of an account under clause (i)—

"(I) shall not be includible in the gross income of the employer for such taxable year, but

"(II) shall be treated as an employer reversion for purposes of section 4980 (without regard to subsection (d) thereof).

"(C) ORDERING RULE.—For purposes of this section, any amount paid out of a health benefits account shall be treated as paid first out of the assets and income described in subparagraph (A).

"(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).

"(B) SPECIAL RULE FOR 1990.—In the case of a qualified transfer described in subsection (b)(4), the requirements of this paragraph are met with respect to any participant who separated from service during the taxable year to which such transfer relates by recomputing such participant's benefits as if subparagraph (A) had applied immediately before such separation.

"(3) MINIMUM COST REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the benefit maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer.

"(B) APPLICABLE EMPLOYER COST.—For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by dividing—

"(i) the qualified current retiree health liabilities of the employer for such taxable year determined—

"(I) without regard to any reduction under subsection (e)(1)(B), and

"(II) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer at the end of the taxable year, by

"(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

"(C) ELECTION TO COMPUTE COST SEPARATELY.—An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

"(D) BENEFIT MAINTENANCE PERIOD.—For purposes of this paragraph, the term 'benefit maintenance period' means the 5 taxable year period beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more overlapping benefit maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.

"(d) LIMITATIONS ON EMPLOYER.—For purposes of this title—

"(1) DEDUCTION LIMITATIONS.—No deduction shall be allowed—

"(A) for the transfer of any amount to a health benefits account in a qualified transfer (or any retransfer to the plan under subsection (c)(1)(B)),

"(B) for qualified current retiree health liabilities paid out of the assets (and income) described in subsection (c)(1), or

"(C) for any amounts to which subparagraph (B) does not apply and which are paid for qualified current retiree health liabilities for the taxable year to the extent such amounts are not greater than the excess (if any) of—

"(i) the amount determined under subparagraph (A) (and income allocable thereto), over

"(ii) the amount determined under subparagraph (B).

"(2) NO CONTRIBUTIONS ALLOWED.—An employer may not contribute after December 31, 1990, any amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to qualified current retiree health liabilities for which transferred assets are required to be used under subsection (c)(1).

"(e) DEFINITION AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED CURRENT RETIREE HEALTH LIABILITIES.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified current retiree health liabilities' means, with respect to any taxable year, the aggregate amounts (including administrative expenses) which would have been allowable as a deduction to the employer for such taxable year with respect to applicable health benefits provided during such taxable year if—

"(i) such benefits were provided directly by the employer, and

"(ii) the employer used the cash receipts and disbursements method of accounting.

For purposes of the preceding sentence, the rule of section 419(c)(3)(B) shall apply.

"(B) REDUCTIONS FOR AMOUNTS PREVIOUSLY SET ASIDE.—The amount determined under subparagraph (A) shall be reduced by any amount previously contributed to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) to pay for the qualified current retiree health liabilities. The portion of any reserves remaining as of the close of December 31, 1990, shall be allocated on a pro rata basis to qualified current retiree health liabilities.

"(C) APPLICABLE HEALTH BENEFITS.—The term 'applicable health benefits' mean health benefits or coverage which are provided to—

"(i) retired employees who, immediately before the qualified transfer, are entitled to receive such benefits upon retirement and who are entitled to pension benefits under the plan, and

"(ii) their spouses and dependents.

"(D) KEY EMPLOYEES EXCLUDED.—If an employee is a key employee (within the meaning of section 416(i)(1)) with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing qualified current retiree health liabilities for such taxable year or in calculating applicable employer cost under subsection (c)(3)(B).

"(2) EXCESS PENSION ASSETS.—The term 'excess pension assets' means the excess (if any) of—

"(A) the amount determined under section 412(c)(7)(A)(ii), over

"(B) the greater of—

"(i) the amount determined under section 412(c)(7)(A)(i), or

"(ii) 125 percent of current liability (as defined in section 412(c)(7)(B)).

The determination under this paragraph shall be made as of the most recent valuation date of the plan preceding the qualified transfer.

"(3) HEALTH BENEFITS ACCOUNT.—The term 'health benefits account' means an account established and maintained under section 401(h).

"(4) COORDINATION WITH SECTION 412.—In the case of a qualified transfer to a health benefits account—

"(A) any assets transferred in a plan year after the valuation date for such year (and any income allocable thereto) shall, for purposes of section 412(c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(B) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) for the first plan year after the plan year in which such transfer occurs in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the pension plan under subsection (c)(1)(B)), except that such section

shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(b) CONFORMING AMENDMENT.—Section 401(h) is amended by inserting ", and subject to the provisions of section 420" after "Secretary".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers in taxable years beginning after December 31, 1990.

SEC. 13326. APPLICATION OF ERISA TO TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) EXCLUSIVE BENEFIT REQUIREMENT.—Section 403(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1103(c)(1)) is amended by inserting ", or under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "insured plans)".

(b) FIDUCIARY DUTIES.—Section 404(a)(1) of such Act (29 U.S.C. 1104(a)(1)) is amended by inserting "and subject to section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)," after "4044,".

(c) EXEMPTIONS FROM PROHIBITED TRANSACTIONS.—Section 408(b) of such Act (29 U.S.C. 1108(b)) is amended by adding at the end thereof the following new paragraph:

"(13) Any transfer in a taxable year beginning before January 1, 1996, of excess pension assets from a defined benefit plan to a retiree health account in a qualified transfer permitted under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)."

(d) FUNDING LIMITATIONS.—Section 302 of such Act (29 U.S.C. 1082) is amended by redesignating subsection (g) as subsection (h) and by adding at the end thereof the following new subsection:

"(g) QUALIFIED TRANSFERS TO HEALTH BENEFIT ACCOUNTS.—For purposes of this section, in the case of a qualified transfer (as defined in section 420 of the Internal Revenue Code of 1986)—

"(1) any assets transferred in a plan year after the valuation date for such year (and any income allocable thereto) shall, for purposes of subsection (c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(2) the plan shall be treated as having a net experience loss under subsection (b)(2)(B)(iv) for the first plan year after the plan year in which such transfer occurs in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the plan under section 420(c)(1)(B) of such Code), except that such subsection shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(e) NOTICE REQUIREMENTS.—

(1) IN GENERAL.—Section 101 of such Act (29 U.S.C. 1021) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) NOTICE OF TRANSFER OF EXCESS PENSION ASSETS TO HEALTH BENEFITS ACCOUNTS.—

"(1) NOTICE TO PARTICIPANTS.—Not later than 60 days before the date of a qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the administrator of the plan shall notify (in such manner as the Secretary may prescribe) each participant and beneficiary under the plan of such transfer. Such notice shall include information with respect to the amount of excess pension assets, the portion to be transferred, the amount of health benefits liabilities to be funded with the assets transferred, and the amount of pension benefits of the participant which will be vested immediately after the transfer.

"(2) NOTICE TO SECRETARIES, ADMINISTRATOR, AND EMPLOYEE ORGANIZATIONS.—

"(A) IN GENERAL.—Not later than 60 days before the date of any qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the employer maintaining the plan from which the transfer is made shall provide the Secretary, the Secretary of the Treasury, the administrator, and each employee organization representing participants in the plan a written notice of such transfer. A copy of any such notice shall be available for inspection in the principal office of the administrator.

"(B) INFORMATION RELATING TO TRANSFER.—Such notice shall identify the plan from which the transfer is made, the amount of the transfer, a detailed accounting of assets projected to be held by the plan immediately before and immediately after the transfer, and the current liabilities under the plan at the time of the transfer.

"(C) AUTHORITY FOR ADDITIONAL REPORTING REQUIREMENTS.—The Secretary may prescribe such additional reporting requirements as may be necessary to carry out the purposes of this section.

"(3) DEFINITIONS.—For purposes of paragraph (1), any term used in such paragraph which is also used in section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991) shall have the same meaning as when used in such section."

(2) PENALTIES.—

(A) Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by inserting "or section 101(e)(1)" after "section 606".

(B) Section 502(c)(3) of such Act (29 U.S.C. 1132(c)(3)) is amended—

(i) by inserting "or who fails to meet the requirements of section 101(e)(2) with respect to any person" after "beneficiary" the first place it appears, and

(ii) by inserting "or to such person" after "beneficiary" the second place it appears.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified transfers under section 420 of the Internal Revenue Code of 1986 made after the date of the enactment of this Act.

PART IV—CORPORATE PROVISIONS

SEC. 13331. RECOGNITION OF GAIN BY DISTRIBUTING CORPORATION IN CERTAIN SECTION 355 TRANSACTIONS.

(a) GENERAL RULE.—Section 355 (relating to distribution of stock and securities of a controlled corporation) is amended by striking subsection (c) and inserting the following new subsections:

"(c) TAXABILITY OF CORPORATION ON DISTRIBUTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no gain or loss shall be recognized to a corporation on any distribution to which this section (or so much of section 356 as relates to this section) applies and which is not in pursuance of a plan of reorganization.

"(2) DISTRIBUTION OF APPRECIATED PROPERTY.—

"(A) IN GENERAL.—If—

"(i) in a distribution referred to in paragraph (1), the corporation distributes property other than qualified property, and

"(ii) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then gain shall be recognized to the distributing corporation as if such property were sold to the distributee at its fair market value.

"(B) QUALIFIED PROPERTY.—For purposes of subparagraph (A), the term 'qualified property' means any stock or securities in the controlled corporation.

"(C) TREATMENT OF LIABILITIES.—If any property distributed in the distribution referred to in paragraph (1) is subject to a liability or the shareholder assumes a liability of the distributing corporation in connection with the distribution, then, for purposes of subparagraph (A), the fair market value of such property shall be treated as not less than the amount of such liability.

"(3) COORDINATION WITH SECTIONS 311 AND 336(A).—Sections 311 and 336(a) shall not apply to any distribution referred to in paragraph (1).

"(d) RECOGNITION OF GAIN ON CERTAIN DISTRIBUTIONS OF STOCK OR SECURITIES IN CONTROLLED CORPORATION.—

"(1) IN GENERAL.—In the case of a disqualified distribution, any stock or securities in the controlled corporation shall not be treated as qualified property for purposes of subsection (c)(2) of this section or section 361(c)(2).

"(2) DISQUALIFIED DISTRIBUTION.—For purposes of this subsection, the term 'disqualified distribution' means any distribution to which this section (or so much of section 356 as relates to this section) applies if, immediately after the distribution—

"(A) any person holds disqualified stock in the distributing corporation which constitutes a 50-percent or greater interest in such corporation, or

"(B) any person holds disqualified stock in the controlled corporation (or, if stock of more than 1 controlled corporation is distributed, in any controlled corporation) which constitutes a 50-percent or greater interest in such corporation.

"(3) DISQUALIFIED STOCK.—For purposes of this subsection, the term 'disqualified stock' means—

"(A) any stock in the distributing corporation acquired by purchase after October 9, 1990, and during the 5-year period ending on the date of the distribution, and

"(B) any stock in any controlled corporation—

"(i) acquired by purchase after October 9, 1990, and during the 5-year period ending on the date of the distribution, or

"(ii) received in the distribution to the extent attributable to distributions on stock described in subparagraph (A).

"(4) 50-PERCENT OR GREATER INTEREST.—For purposes of this subsection, the term '50-percent or greater interest' means stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of shares of all classes of stock.

"(5) AGGREGATION RULES.—

"(A) IN GENERAL.—For purposes of this subsection, a person and all persons related to such person (within the meaning of 267(b) or 707(b)(1)) shall be treated as one person. For purposes of the preceding sentence, sections 267(b) and 707(b)(1) shall be applied by substituting '10 percent' for '50 percent' each place it appears.

"(B) PERSONS ACTING PURSUANT TO PLANS OR ARRANGEMENTS.—If two or more persons act pursuant to a plan or arrangement with respect to acquisitions of stock in the distributing corporation or controlled corporation, such persons shall be treated as one person for purposes of this subsection.

"(6) PURCHASE.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'purchase' means any acquisition but only if—

"(i) the basis of the property acquired in the hands of the acquirer is not determined (I) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or (II) under section 1014(a),

"(ii) except as provided in regulations, the property is not acquired in an exchange to which section 351, 354, 355, or 356 applies, and

"(iii) the property is not acquired in any other transaction described in regulations.

"(B) CERTAIN 351 EXCHANGES TREATED AS PURCHASES.—The term 'purchase' includes any acquisition of stock in an exchange to which section 351 applies to the extent such stock is acquired in exchange for—

"(i) any cash or cash item,

"(ii) any marketable security, or

"(iii) any debt of the transferor.

"(C) CARRYOVER BASIS TRANSACTIONS.—If—

"(i) any person acquires stock from another person who acquired such stock by purchase (as determined under this paragraph with regard to this subparagraph), and

"(ii) the adjusted basis of such stock in the hands of such acquirer is determined in whole or in part by reference to the adjusted basis of such stock in the hands of such other person,

such acquirer shall be treated as having acquired such stock by purchase on the date it was so acquired by such other person.

"(7) SPECIAL RULE WHERE SUBSTANTIAL DIMINUTION OF RISK.—

"(A) IN GENERAL.—If this paragraph applies to any stock for any period, the running of the 5-year period set forth in subparagraph (A) or (B)(i) of paragraph (3) (whichever applies) shall be suspended during such period.

"(B) STOCK TO WHICH SUSPENSION APPLIES.—This paragraph applies to any stock for any period during which the holder's risk of loss with respect to such stock is (directly or indirectly) substantially diminished by—

"(i) an option,

"(ii) a short sale,

"(iii) any special class of stock,

"(iv) any device limiting risk from any portion of the activities of the corporation, or

"(v) any other device or transaction.

"(8) ATTRIBUTION FROM ENTITIES.—

"(A) IN GENERAL.—Paragraph (2) of section 318(a) shall apply in determining whether a person holds stock in any corporation (determined by substituting '10 percent' for '50 percent' in subparagraph (C) of such paragraph (2)).

"(B) DEEMED PURCHASE RULE.—If—

"(i) any person acquires by purchase an interest in any entity, and

"(ii) such person is treated under subparagraph (A) as holding any stock by reason of holding such interest,

such stock shall be treated as acquired by purchase by such person on the date of the purchase of the interest in such entity.

"(9) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations to prevent the avoidance of the purposes of this subsection through the use of related persons, pass-thru entities, options, or other arrangements."

(b) TECHNICAL AMENDMENTS.—Subsection (c) of section 361 is amended by adding at the end thereof the following new paragraph:

"(5) CROSS REFERENCE.—

"For provision providing for recognition of gain in certain distributions, see section 355(d)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after October 9, 1990.

(2) TRANSITIONAL RULES.—For purposes of subparagraphs (A) and (B)(i) of section 355(d)(3) of the Internal Revenue Code of 1986 (as amended by subsection (a)), an acquisition shall be treated as occurring on or before October 9, 1990 if—

(A) such acquisition is pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition,

(B) such acquisition is pursuant to a tender or exchange offer filed with the Securities and Exchange Commission on or before October 9, 1990, or

(C) such acquisition is pursuant to an offer—

(i) the material terms of which were described in a written public announcement on or before October 9, 1990,

(ii) which was the subject of a prior filing with the Securities and Exchange Commission, and

(iii) which is subsequently filed with the Securities and Exchange Commission before January 1, 1991.

SEC. 13332. MODIFICATIONS TO REGULATIONS ISSUED UNDER SECTION 305(c).

(a) GENERAL RULE.—Subsection (c) of section 305 (relating to certain transactions treated as distributions) is amended by adding at the end thereof the following new sentence: "Regulations prescribed under the preceding sentence shall provide that—

"(1) where the issuer of stock is required to redeem the stock at a specified time or the holder of stock has the option to require the issuer to redeem the stock, a redemption premium resulting from such requirement or option shall be treated as reasonable only if the amount of such premium does not exceed the amount determined under the principles of section 1273(a)(3),

"(2) a redemption premium shall not fail to be treated as a distribution (or series of distributions) merely because the stock is callable, and

"(3) in any case in which a redemption premium is treated as a distribution (or series of distributions), such premium shall be taken into account under principles similar to the principles of section 1272(a)."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to stock issued after October 9, 1990.

(2) EXCEPTION.—The amendment made by subsection (a) shall not apply to any stock issued after October 9, 1990, if—

(A) such stock is issued pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such issuance, or

(B) such stock is issued pursuant to a registration or offering statement filed on or before October 9, 1990, with a Federal or State agency regulating the offering or sale of securities and such stock is issued before the date 90 days after the date of such filing.

SEC. 13333. MODIFICATIONS TO SECTION 1060.

(a) EFFECT OF ALLOCATION AGREEMENTS.—Subsection (a) of section 1060 (relating to special allocation rules for certain asset allocations) is amended by adding at the end thereof the following new sentence: "If in connection with an applicable asset acquisition, the transferee and transferor agree in writing as to the allocation of any consideration, or as to the fair market value of any of the assets, such agreement shall be binding on both the transferee and transferor unless the Secretary determines that such allocation (or fair market value) is not appropriate."

(b) INFORMATION REQUIRED IN CASE OF CERTAIN TRANSFERS OF INTEREST IN ENTITIES.—

(1) IN GENERAL.—Section 1060 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) INFORMATION REQUIRED IN CASE OF CERTAIN TRANSFERS OF INTERESTS IN ENTITIES.—

"(1) IN GENERAL.—If—

"(A) a person who is a 10-percent owner with respect to any entity transfers an interest in such entity, and

"(B) in connection with such transfer, such owner (or a related person) enters into an employment contract, covenant not to compete, royalty or lease agreement, or other agreement with the transferee,

such owner and the transferee shall, at such time and in such manner as the Secretary may prescribe, furnish such information as the Secretary may require.

"(2) 10-PERCENT OWNER.—For purposes of this subsection—

"(A) IN GENERAL.—The term '10-percent owner' means, with respect to any entity, any person who holds 10 percent or more (by value) of the interests in such entity immediately before the transfer.

"(B) CONSTRUCTIVE OWNERSHIP.—Section 318 shall apply in determining ownership of stock in a corporation. Similar principles shall apply in determining the ownership of interests in any other entity.

"(3) RELATED PERSON.—For purposes of this subsection, the term 'related person' means any person who is related (within the meaning of section 267(b) or 707(b)(1)) to the 10-percent owner."

(2) TECHNICAL AMENDMENT.—Clause (x) of section 6724(d)(1)(B) is amended by striking "section 1060(b)", and inserting "subsection (b) or (e) of section 1060".

(c) INFORMATION REQUIRED IN SECTION 338(h)(10) Transactions.—Paragraph (10) of section 338 is amended by adding at the end thereof the following new subparagraph:

"(C) INFORMATION REQUIRED TO BE FURNISHED TO THE SECRETARY.—Under regulations, where an election is made under subparagraph (A), the purchasing corporation and the common parent of the selling consolidated group shall, at such times and in such manner as may be provided in regulations, furnish to the Secretary the following information:

"(i) The amount allocated under subsection (b)(5) to goodwill or going concern value.

"(ii) Any modification of the amount described in clause (i).

"(ii) Any other information as the Secretary deems necessary to carry out the provisions of this paragraph."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to acquisitions after October 9, 1990.

(2) BINDING CONTRACT EXCEPTION.—The amendments made by this section shall not apply to any acquisition pursuant to a written binding contract in effect on October 9,

1990, and at all times thereafter before such acquisition.

SEC. 13334. MODIFICATION TO CORPORATION EQUITY REDUCTION LIMITATIONS ON NET OPERATING LOSS CARRYBACKS.

(a) REPEAL OF EXCEPTION FOR ACQUISITIONS OF SUBSIDIARIES.—Clause (ii) of section 172(m)(3)(B) (relating to exceptions) is amended to read as follows:

"(ii) EXCEPTION.—The term 'major stock acquisition' does not include a qualified stock purchase (within the meaning of section 338) to which an election under section 338 applies."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to acquisitions after October 9, 1990.

(2) BINDING CONTRACT EXCEPTION.—The amendment made by subsection (a) shall not apply to any acquisition pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition.

SEC. 13335. ISSUANCE OF DEBT OR STOCK IN SATISFACTION OF INDEBTEDNESS.

(a) ISSUANCE OF DEBT INSTRUMENT.—

(1) Subsection (e) of section 108 (relating to general rules for discharge of indebtedness) is amended by adding at the end thereof the following new paragraph:

"(11) INDEBTEDNESS SATISFIED BY ISSUANCE OF DEBT INSTRUMENT.—

(A) IN GENERAL.—For purposes of determining income of a debtor from discharge of indebtedness, if a debtor issues a debt instrument in satisfaction of indebtedness, such debtor shall be treated as having satisfied the indebtedness with an amount of money equal to the issue price of such debt instrument.

(B) ISSUE PRICE.—For purposes of subparagraph (A), the issue price of any debt instrument shall be determined under sections 1273 and 1274. For purposes of the preceding sentence, section 1273(b)(4) shall be applied by reducing the stated redemption price of any instrument by the portion of such stated redemption price which is treated as interest for purposes of this chapter."

(2) Subsection (a) of section 1275 is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) LIMITATION ON STOCK FOR DEBT EXCEPTION.—

(1) IN GENERAL.—Subparagraph (B) of section 108(e)(10) is amended to read as follows:

"(B) EXCEPTION FOR CERTAIN STOCK IN TITLE 11 CASES AND INSOLVENT DEBTORS.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any transfer of stock of the debtor (other than disqualified stock)—

"(I) by a debtor in a title 11 case, or

"(II) by any other debtor but only to the extent such debtor is insolvent.

"(ii) DISQUALIFIED STOCK.—For purposes of clause (i), the term 'disqualified stock' means any stock with a stated redemption price if—

"(I) such stock has a fixed redemption date,

"(II) the issuer of such stock has the right to redeem such stock at one or more times, or

"(III) the holder of such stock has the right to require its redemption at one or more times."

(2) CONFORMING AMENDMENT.—Paragraph (8) of section 108(e) is amended by adding at the end thereof the following new sentence: "Any stock which is disqualified stock (as defined in paragraph (10)(B)(ii)) shall not be treated as stock for purposes of this paragraph."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to debt instruments issued, and stock transferred, after October 9, 1990, in satisfaction of any indebtedness.

(2) EXCEPTIONS.—The amendments made by this section shall not apply to any debt instrument issued, or stock transferred, in satisfaction of any indebtedness if such issuance or transfer (as the case may be)—

(A) is in a title 11 or similar case (as defined in section 368(a)(3)(A) of the Internal Revenue Code of 1986) which was filed on or before October 9, 1990,

(B) is pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such issuance or transfer,

(C) is pursuant to a tender or exchange offer filed with the Securities and Exchange Commission on or before October 9, 1990, or

(D) such acquisition is pursuant to an offer—

(i) the material terms of which were described in a written public announcement on or before October 9, 1990,

(ii) which was the subject of a prior filing with the Securities and Exchange Commission, and

(iii) which is subsequently filed with the Securities and Exchange Commission before January 1, 1991.

PART V—EMPLOYMENT TAX PROVISIONS

SEC. 13341. COVERAGE OF CERTAIN STATE AND LOCAL EMPLOYEES UNDER SOCIAL SECURITY.

(a) EMPLOYMENT UNDER OASDI.—Paragraph (7) of section 210(a) of the Social Security Act (42 U.S.C. 410(a)(7)) is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

(3) by adding at the end the following new subparagraph:

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system (as defined in section 218(b)(4)) of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 211(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self-employment.

(b) EMPLOYMENT UNDER FICA.—Paragraph (7) of section 3121(b) of the Internal Revenue Code of 1986 is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

(3) by adding at the end the following new subparagraph:

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system (as defined in section 218(b)(4) of the Social Security Act) of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 1402(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self-employment.

(c) MANDATORY EXCLUSION OF CERTAIN EMPLOYEES FROM STATE AGREEMENTS.—Section 218(c)(6) of the Social Security Act (42 U.S.C. 418(c)(6)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

(3) by adding at the end the following new subparagraph:

"(F) service described in section 210(a)(7)(F) which is included as 'employment' under section 210(a).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after December 31, 1990.

SEC. 13342. EXTENSION OF SURTAX ON UNEMPLOYMENT TAX.

(a) GENERAL RULE.—Subsection (a) of section 3301 (relating to rate of unemployment tax) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) 6.2 percent in the case of calendar years before 1996, or

"(2) 6.0 percent in the case of calendar year 1996 and each calendar thereafter,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to calendar years after 1990.

SEC. 13343. DEPOSITS OF PAYROLL TAXES.

(a) IN GENERAL.—Subsection (g) of section 6302 is amended to read as follows:

"(g) DEPOSITS OF SOCIAL SECURITY TAXES AND WITHHELD INCOME TAXES.—If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21 and 24 on the basis of eighth-month periods, such person shall make deposits of such taxes on the 1st banking day after any day on which such person has $100,000 or more of such taxes for deposit.".

(b) TECHNICAL AMENDMENT.—Paragraph (2) of section 7632(b) of the Revenue Reconciliation Act of 1989 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts

required to be deposited after December 31, 1990.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 13351. SPECIAL RULES WHERE GRANTOR OF TRUST IS A FOREIGN PERSON.

(a) IN GENERAL.—Section 672 (relating to definitions and rules) is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULE WHERE GRANTOR IS FOREIGN PERSON.—

"(1) IN GENERAL.—If—

"(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

"(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

"(2) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) any trust created after the date of the enactment of this Act, and

(2) any portion of a trust created on or before such date which is attributable to amounts contributed to the trust after such date.

SEC. 13352. RETURN REQUIREMENT WHERE CASH RECEIVED IN TRADE OR BUSINESS.

(a) CERTAIN MONETARY INSTRUMENTS TREATED AS CASH.—Subsection (d) of section 6050I (relating to returns relating to cash received in trade or business) is amended to read as follows:

"(d) CASH INCLUDES FOREIGN CURRENCY AND CERTAIN MONETARY INSTRUMENTS.—For purposes of this section, the term 'cash' includes—

"(1) foreign currency, and

"(2) to the extent provided in regulations prescribed by the Secretary, any monetary instrument (whether or not in bearer form) with a face amount of not more than $10,000.

Paragraph (2) shall not apply to any check drawn on the account of the writer in a financial institution referred to in subsection (c)(1)(B)."

(b) INCREASE IN PENALTY FOR INTENTIONAL DISREGARD OF REPORTING REQUIREMENT.—Paragraph (2) of section 6721(e) (relating to penalty for intentional disregard) is amended—

(1) by inserting "6050I," after "6050H," in subparagraph (A),

(2) by striking "or" at the end of subparagraph (A),

(3) by striking "and" at the end of subparagraph (B) and inserting "or", and

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C) in the case of a return required to be filed under section 6050I(a) with respect to any transaction (or related transactions), the greater of—

"(i) $25,000, or

"(ii) the amount of cash (within the meaning of section 6050I(d)) received in such transaction (or related transactions) to the extent the amount of such cash does not exceed $100,000, and".

(c) CLARIFICATION OF APPLICATION OF PROVISION PROHIBITING EVASION TECHNIQUES.—The heading of subsection (f) of section 6050I is amended to read as follows:

"(f) STRUCTURING TRANSACTIONS TO EVADE REPORTING REQUIREMENTS PROHIBITED.—".

(d) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study on the operation of section 6050I of the Internal Revenue Code of 1986. Such study shall include an examination of—

(1) the extent of compliance with the provisions of such section,

(2) the effectiveness of the penalties in ensuring compliance with the provisions of such section,

(3) methods to increase compliance with the provisions of such section and ways Form 8300 could be simplified, and

(4) appropriate methods to increase the usefulness and availability of information submitted under the provisions of such section.

Not later than March 31, 1991, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under this subsection, together with such recommendations as he may deem advisable.

(e) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall apply to amounts received after the date of the enactment of this Act.

(2) The amendment made by subsection (c) shall take effect on the date of the enactment of this Act.

(3) Not later than June 1, 1991, the Secretary of the Treasury or his delegate shall prescribe regulations under section 6050I(d)(2) of the Internal Revenue Code of 1986 (as amended by this section).

SEC. 13353. PART B PREMIUM.

Section 1839(e) of the Social Security Act (42 U.S.C. 1395r(e)), as amended by section 6161, is further amended—

(1) by inserting "(A)" after "(e)(1),

(2) by adding at the end of paragraph (1) the following new subparagraph:

"(B) Notwithstanding the provisions of subsection (a), the monthly premium for each individual enrolled under this part for each month in—

"(i) 1991 shall be $29.90,

"(ii) 1992 shall be $31.70,

"(iii) 1993 shall be $36.50,

"(iv) 1994 shall be $41.20, and

"(v) 1995 shall be $46.20.", and

(3) by striking "and for each month after December 1992 and before January 1996" after "January 1991" each place it appears.

SEC. 13354. PART B DEDUCTIBLE.

Section 1833(b) of the Social Security Act (42 U.S.C. 1395l), as amended by section 6162, is further amended by striking "for calendar years before 1991 and after 1995, and $150 for years after 1990 and before 1996" and inserting "for calendar years before 1991 and $100 for 1991 and subsequent years".

LEASE OF A NAVAL LANDING SHIP DOCK TO THE GOVERNMENT OF BRAZIL

HELMS AMENDMENT NO. 3017

Mr. SYMMS (for Mr. HELMS) proposed an amendment to the bill (S. 3215) to authorize the transfer by lease of a specified naval landing ship dock to the Government of Brazil, as follows:

In section 1(a) of the bill, strike out "The Secretary" and insert in lieu thereof "Subject to section 5, the Secretary".

At the end of the bill, add the following new section:

SEC. 5. CONDITION ON AUTHORITY TO TRANSFER.

The Secretary may not exercise the authority granted under section 1(a) unless and until the Government of Brazil has provided written assurances to the Secretary of State that Brazil is in compliance with the United Nations sanctions against Iraq and has discontinued the export to Iraq of all military equipment, materials, and technologies, including the export of all nuclear, chemical, and biological warfare equipment, materials, and technologies and all missile equipment, materials, and technologies. The Secretary of State shall transmit to Congress a copy of any such assurances received by the Secretary.

USE OF NAMES OR INSIGNIA OF THE VISITING NURSE ASSOCIATION OF AMERICA

BIDEN AMENDMENT NO. 3018

Mr. FORD (for Mr. BIDEN) proposed an amendment to the bill (S. 682) to amend chapter 33 of title 18, United States Code, to prohibit the unauthorized use of the names "Visiting Nurse Association," "Visiting Nurse Service," "VNA," "VNS," or "VNAA," or the unauthorized use of the name or insignia of the Visiting Nurse Association of America, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. PROHIBITION OF UNAUTHORIZED USE OF NAME VISITING NURSE ASSOCIATION OR VISITING NURSE SERVICE.

(a) IN GENERAL.—Chapter 33 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 716. Visiting Nurse Association; Visting Nurse Service

"(a) IN GENERAL.—Whoever, not being a Visiting Nurse Association, Visiting Nurse Service, or Visiting Nurse Associations of America knowingly uses the words 'Visiting Nurse Association', 'Visiting Nurse Service', 'VNA', 'VNS', or colorable imitation thereof, in commerce, on or in connection with any goods or services, in such a manner as to cause confusion, mistake, or deception, or to falsely suggest, that the goods or services are those of or endorsed by, or that the person or organization is associated in any way with, a Visiting Nurse Association, Visiting Nurse Service, or Visiting Nurse Associations of America shall be subject to a civil penalty of not more than $1,000 for each violation and shall be enjoined from further uses of these terms. The court shall levy the appropriate civil penalties, and may order reasonable attorney's fees, costs of the action, and such other and further relief as the court may deem proper, to the injured party.

"(b) DEFINITIONS.—For purposes of this section—

"(1) The terms 'Visiting Nurse Association', 'VNA', 'Visiting Nurse Service', and 'VNS' mean a community-based home health agency which is controlled by an in-

dependent, self-perpetuating, voluntary board of directors, is exempt from Federal taxation under section 501(a) of the Internal Revenue Code of 1986, and is described in section 501(c)(3) of such Code.

"(2) The term 'Visiting Nurse Associations of America' means a nonprofit corporation which is organized under the laws of the State of Delaware in 1983, and which is an umbrella organization of Visiting Nurse Associations and Visiting Nurse Services.

"(c) REMEDIES IN ADDITION.—The remedies provided under this section are in addition to those provided by any other law.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 33 of title 18, United States Code, is amended by adding at the end the following new item:

"716. Visiting Nurse Association; Visiting Nurse Service.".

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—The provisions of this Act shall take effect 6 months after the date of enactment of this Act.

(b) EXCEPTION.—The provisions of this Act shall not apply to any person or organization who has used the terms defined in section 716(b) of title 18, United States Code, as added by this Act, continuously for at least 2 years prior to the date of enactment of this Act.

EMERGENCY MEDICAL SERVICES AND TRAUMA CARE IMPROVEMENT ACT

CRANSTON AMENDMENT NO. 3019

Mr. FORD (for Mr. CRANSTON) proposed an amendment to the bill (S. 15) to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes, as follows:

On page 72, line 16, strike out ", on a competitive basis,".

On page 72, strike out lines 18 through 23, and insert in lieu thereof the following new paragraph:

"'(2) APPLICATION.—A State wishing to receive a grant under this section shall, as part of the application of the State submitted under section 1219, request assistance under this section and describe the proposed activities and projects to be assisted with such grants.' ".

On page 73, strike out lines 4 through 14.

On page 73, line 15, strike out "(c)" and insert in lieu thereof "(b)".

On page 74, between lines 11 and 12, insert the following new subsection:

"'(c) AMOUNT.—

"'(1) FORMULA.—The amount of a grant to a State under this section shall be an amount equal to the amount that bears the same ratio to the amount available for making grants under this section as the rural population of the State bears to the rural population of all States.

"'(2) PRIORITY.—If the total amount available under section 1242(b)(3) for any fiscal year is less than $3,750,000, the Secretary shall make grants under this section, on a competitive basis, giving priority to—

"'(A) projects targeted at filling gaps in basic and advanced life support emergency medical services in rural communities;

"'(B) projects that are necessary to carry out * * *.

On page 76, strike out line 18 and all that follows through line 4 on page 77.

On page 77, line 5, strike out "(b)" and insert in lieu thereof "(a)".

On page 77, line 14, strike out "(c)" and insert in lieu thereof "(b)".

On page 77, line 15, strike out "1 year and".

On page 77, lines 16 and 17, strike out "and (b), respectively,".

On page 80, strike out lines 1 through 18 and insert in lieu thereof the following new subsection:

(b) FEDERAL COMMUNICATIONS COMMISSION.—Not later than 18 months after the date of enactment of this Act, the Federal Communications Commission shall prepare and submit, to the appropriate Committees of Congress, a report that—

(1) describes in detail any problems and solutions identified by the National Public Safety Planning process in meeting the communications requirements of pre-hospital emergency medical service providers; and

(2) assesses the overall adequacy of, and makes recommendations concerning, such communications services as indicated by comments the Commission receives in any on-going proceedings related to pre-hospital emergency medical communications.

On page 43, between lines 21 and 22, insert the following new subsection:

"(c) CONSULTATION AND COORDINATION.—The Secretary shall consult and coordinate with the Secretary of Transportation to ensure that the implementation of this title will not conflict with the responsibilities of the Secretary of Transportation under title 23, United States Code, with respect to emergency services.".

On page 78, line 8, strike out "participate in the development" and insert in lieu thereof "communicate and coordinate with regard to".

On page 79, line 6, strike out "participate in the development" and insert in lieu thereof "communicate and coordinate with regard to".

GREAT LAKES WATER QUALITY IMPROVEMENT ACT

LEVIN (AND LIEBERMAN) AMENDMENT NO. 3020

Mr. FORD (for Mr. LEVIN, for himself, Mr. LIEBERMAN, Mr. KOHL, Mr. GLENN, Mr. KASTEN, Mr. JEFFORDS, Mr. METZENBAUM, Mr. DURENBERGER, Mr. LEAHY, Mr. D'AMATO, and Mr. SIMON) proposed an amendment to the bill (H.R. 4323) to amend the Federal Water Pollution Control Act relating to water quality in the Great Lakes, as follows:

Strike out all after the enacting clause and insert in lieu therof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Great Lakes Critical Programs Act of 1990".

TITLE I—GREAT LAKES

GREAT LAKES ACTION SCHEDULES

SEC. 101. Section 118 of the Federal Water Pollution Control Act (33 U.S.C. 1268) is amended by inserting immediately after subsection (c)(1) the following new paragraphs, and by renumbering the existing paragraphs accordingly:

"(2) GREAT LAKES WATER QUALITY GUIDANCE.—

"(A) By June 30, 1991, the Administrator, after consultation with the Program Office, shall publish in the Federal Register for public notice and comment proposed water quality guidance for the Great Lakes System. Such guidance shall conform with the objectives and provisions of the Great Lakes Water Quality Agreement, shall be no less restrictive than the provisions of this Act and national water quality criteria and guidance, shall specify numerical limits on pollutants in ambient Great Lakes waters to protect human health, aquatic life, and wildlife, and shall provide guidance to the Great Lakes States on minimum water quality standards, anti-degradation policies, and implementation procedures for the Great Lakes System.

"(B) By June 30, 1992, the Administrator, in consultation with the Program Office, shall publish in the Federal Register, pursuant to this section and the Administrator's authority under this chapter, final water quality guidance for the Great Lakes System.

"(C) Within two years after such Great Lakes guidance is published, the Great Lakes States shall adopt water quality standards, anti-degradation policies, and implementaiton procedures for waters within the Great Lakes System which are consistent with such guidance. If a Great Lakes State fails to adopt such standards, policies, and procedures, the Administrator shall promulgate them not later than the end of such two-year period. When reviewing any Great Lakes State's water quality plan, the agency shall consider the extent to which the State has complied with the Great Lakes guidance issued pursuant to this section.

"(3) REMEDIAL ACTION PLANS.—

"(A) For each area of concern for which the United States has agreed to draft a Remedial Action Plan, the Program Office shall ensure that the Great Lakes State in which such area of concern is located—

"(i) submits a Remedial Action Plan to the Program Office by June 30, 1991;

"(ii) submits such Remedial Action Plan to the International Joint Commission by January 1, 1992; and

"(iii) includes such Remedial Action Plans within the State's water quality plan by January 1, 1993.

"(B) For each area of concern for which Canada has agreed to draft a Remedial Action Plan, the Program Office shall, pursuant to subparagraph (c)(1)(C) of this section, work with Canada to assure the submission of such Remedial Action Plans to the International Joint Commission by June 30, 1991, and to finalize such Remedial Action Plans by January 1, 1993.

"(C) For any area of concern designated as such subsequent to the enactment of this Act, the Program Office shall (i) if the United States has agreed to draft the Remedial Action Plan, ensure that the Great Lakes State in which such area of concern is located submits such Plan to the Program Office within two years of the area's designation, submits it to the International Joint Commission no later than six months after submitting it to the Program Office, and includes such Plan in the State's water quality plan no later than one year after submitting it to the Commission; and (ii) if Canada has agreed to draft the Remedial Action Plan, work with Canada, pursuant to subparagraph (c)(1)(C) of this section, to ensure the submission of such Plan to the International Joint Commission within two years of the area's designation and the finalization of such Plan no later than eighteen months after submitting it to such Commission.

"(D) The Program Office shall compile formal comments on individual Remedial Action Plans made by the International Joint Commission pursuant to section 4(d) of Annex 2 of the Great Lakes Water Quality Agreement and, upon request by a member of the public, shall make such comments available for inspection and copying. The Program Office shall also make available, upon request, formal comments made by the Environmental Protection Agency on individual Remedial Action Plans.

"(4) LAKEWIDE MANAGEMENT PLANS.—The Administrator, in consultation with the Program Office shall—

"(A) by January 1, 1992, publish in the Federal Register a proposed Lakewide Management Plan for Lake Michigan and solicit public comments;

"(B) by January 1, 1993, submit a proposed Lakewide Mangement Plan for Lake Michigan to the International Joint Commission for review; and

"(C) by January 1, 1993, publish in the Federal Register a final Lakewide Management Plan for Lake Michigan and begin implementation.

Nothing in this subparagraph shall preclude the simultaneous development of Lakewide Management Plans for the other Great Lakes.

"(5) SPILLS OF OIL AND HAZARDOUS MATERIALS.—The Program Office, in consultation with the Coast Guard, shall identify areas within the Great Lakes which are likely to experience numerous or voluminous spills of oil or other hazardous materials from land based facilities, vessels, or other sources and, in consultation with the Great Lakes States, shall identify weaknesses in Federal and State programs and systems to prevent and respond to such spills. This information shall be included on at least a biennial basis in the report required by this section".

CONTAMINATED SEDIMENTS

SEC. 102 Section 118(c)(7) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)(3)), as renumbered by section 101 of this title, is amended by—

(1) inserting "(A)" following the title; and

(2) by adding the following new subsections:

"(B) The Program Office shall—

"(i) by December 31, 1990, complete chemical, physical, and biological assessments of the contaminated sediments at the locations selected for the study and demonstration projects;

"(ii) by December 31, 1990, announce the technologies that will be demonstrated at each location and the numerical standard of protection intended to be achieved at each location;

"(iii) by December 31, 1992, complete full or pilot scale demonstration projects on site at each location of promising technologies to remedy contaminated sediments; and

"(iv) by December 31, 1993, issue a final report to Congress on its findings.

"(C) The Administrator, after providing for public review and comment, shall publish information concerning the public health and environmental consequences of contaminants in Great Lakes sediment. Information published pursuant to this subparagraph shall include specific numerical limits to protect health, aquatic life, and wildlife from the bioaccumulation of toxins. The Administrator shall, at a minimum, publish information pursuant to this subparagraph within 2 years of the date of the enactment of this title.".

DEFINITIONS

SEC. 103 Section 118(a)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1268(a)(3)) is amended by deleting "and" at the end of clause (D), by deleting the period at the end of clause (E), and inserting in lieu thereof a semicolon; and by adding at the end thereof the following:

"(F) 'area of concern' means a geographic area located within the Great Lakes, in which beneficial uses are impaired and which has been officially designated as such under Annex 2 of the Great Lakes Water Quality Agreement;

"(G) 'Great Lakes States' means the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin;

"(H) 'Great Lakes Water Quality Agreement' means the bilateral agreement, between the United States and Canada which was signed in 1978 and amended by the Protocol of 1987;

"(I) 'Lakewide Management Plan' means a written document which embodies a systematic and comprehensive ecosystem approach to restoring and protecting the beneficial uses of the open waters of each of the Great Lakes, in accordance with article VI and Annex 2 of the Great Lakes Water Quality Agreement; and

"(J) 'Remedial Action Plan' means a written document which embodies a systematic and comprehensive ecosystem approach to restoring and protecting the beneficial uses of areas of concern, in accordance with article VI and Annex 2 of the Great Lakes Water Quality Agreement.".

GREAT LAKES CONFINED DISPOSAL FACILITIES

SEC. 104. At the end of section 118(c) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)) add the following new paragraph:

"(11) CONFINED DISPOSAL FACILITIES.—(A) The Administrator, in consultation with the Assistant Secretary of the Army for Civil Works, shall develop and implement, within one year of the date of enactment of this paragraph, management plans for every Great Lakes confined disposal facility.

"(B) The plan shall provide for monitoring of such facilities, including—

"(i) water quality at the site and in the area of the site;

"(ii) sediment quality at the site and in the area of the site;

"(iii) the diversity, productivity, and stability of aquatic organisms at the site and in the area of the site; and

"(iv) such other conditions as the Administrator deems appropriate.

"(C) The plan shall identify the anticipated use and management of the site over the following twenty-year period including the expected termination of dumping at the site, the anticipated need for site management, including pollution control, following the termination of the use of the site.

"(D) The plan shall identify a schedule for review and revision of the plan which shall not be less frequent than five years after adoption of the plan and every five years thereafter.".

GREAT LAKES NATIONAL PROGRAM AUTHORIZATION

SEC. 105. (a) AUTHORIZATION.—Section 118(h) of the Federal Water Pollution Control Act (33 U.S.C. 1268(h)) is amended by deleting "1990, and 1991" and inserting in lieu thereof "and 1990, and $25,000,000 for fiscal year 1991".

(b) ALLOCATION.—Section 118(h) of the Federal Water Pollution Control Act (33 U.S.C. 1268(h)) is amended by adding after "30 percent" the following: "or $3,300,000, whichever is the lesser"

HEALTH RESEARCH REPORT

SEC. 106. Subsection 118(e) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph—

"(3) HEALTH RESEARCH REPORT.—(A) Not later than September 30, 1994, the Program Office, in consultation with the Research Office, the Agency for Toxic Substances and Disease Registry, and Great Lakes States shall submit to the Congress a report assessing the adverse effects of water pollutants in the Great Lakes System on the health of persons in Great Lakes States and the health of fish, shellfish, and wildlife in the Great Lakes System. In conducting research in support of this report, the Administrator may, where appropriate, provide for research to be conducted under cooperative agreements with Great Lakes States.

"(B) There is authorized to be appropriated to the Administrator to carry out this section not to exceed $3,000,000 for each of fiscal years 1992, 1993, and 1994.".

TITLE II—LONG ISLAND SOUND

SHORT TITLE

SEC. 201. This part may be cited as the "Long Island Sound Improvement Act of 1990".

AMENDMENT TO THE FEDERAL WATER POLLUTION CONTROL ACT

SEC. 202. Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended by adding at the end the following new section:

"SEC. 119. LONG ISLAND SOUND.—(a) The Administrator shall continue the Management Conference of the Long Island Sound Study (hereinafter referred to as the 'Conference') as established pursuant to section 320 of this Act, and shall establish an office (hereinafter referred to as the 'Office') to be located on or near Long Island Sound.

"(b) ADMINISTRATION AND STAFFING OF OFFICE.—The Office shall be headed by a Director, who shall be detailed by the Administrator, following consultation with the Administrators of EPA regions I and II, from among the employees of the Agency who are in civil service. The Administrator shall delegate to the Director such authority and detail such additional staff as may be necessary to carry out the duties of the Director under this section.

"(c) DUTIES OF THE OFFICE.—The Office shall assist the Management Conference of the Long Island Sound Study in carrying out its goals. Specifically, the Office shall—

"(1) assist and support the implementation of the Comprehensive Conservation and Management Plan for Long Island Sound developed pursuant to section 320 of this Act;

"(2) conduct or commission studies deemed necessary for strengthened implementation of the Comprehensive Conservation and Management Plan including, but not limited to—

"(A) population growth and the adequacy of wastewater treatment facilities,

"(B) the use of biological methods for nutrient removal in sewage treatment plants,

"(C) contaminated sediments, and dredging activities,

"(D) nonpoint source pollution abatement and land use activities in the Long Island Sound watershed,

"(E) wetland protection and restoration,

"(F) atmospheric deposition of acidic and other pollutants into Long Island Sound,

"(G) water quality requirements to sustain fish, shellfish, and wildlife populations, and the use of indicator species to assess environmental quality,

"(H) State water quality programs, for their adequacy pursuant to implementation of the Comprehensive Conservation and Management Plan, and

"(I) options for long-term financing of wastewater treatment projects and water pollution control programs.

"(3) coordinate the grant, research, and planning programs authorized under this section;

"(4) coordinate activities and implementation responsibilities with other Federal agencies which have jurisdiction over Long Island Sound and with national and regional marine monitoring and research programs established pursuant to the Marine Protection, Research, and Sanctuaries Act;

"(5) provide administrative and technical support to the conference;

"(6) collect and make available to the public publications, and other forms of information the conference determines to be appropriate, relating to the environmental quality of Long Island Sound;

"(7) not more than two years after the date of the issuance of the final Comprehensive Conservation and Management Plan for Long Island Sound under section 320 of this Act, and biennially thereafter, issue a report to the Congress which—

"(A) summarizes the progress made by the States in implementing the Comprehensive Conservation and Management Plan;

"(B) summarizes any modifications to the Comprehensive Conservation and Management Plan in the twelve-month period immediately preceding such report; and

"(C) incorporates specific recommendations concerning the implementation of the Comprehensive Conservation and Management Plan; and

"(8) convene conferences and meetings for legislators from State governments and political subdivisions thereof for the purpose of making recommendations for coordinating legislative efforts to facilitate the environmental restoration of Long Island Sound and the implementation of the Comprehensive Conservation and Management Plan.

"(d) GRANTS.—(1) The Administrator is authorized to make grants for projects and studies which will help implement the Long Island Sound Comprehensive Conservation and Management Plan. Special emphasis shall be given to implementation, research and planning, enforcement, and citizen involvement and education.

"(2) State, interstate, and regional water pollution control agencies, and other public or nonprofit private agencies, institutions, and organizations held be eligible for grants pursuant to this subsection.

"(3) Citizen involvement and citizen education grants under this subsection shall not exceed 95 per centum of the costs of such work. All other grants under this subsections shall not exceed 50 per centum of the research, studies, or work. All grants shall be made on the condition that the non-Federal share of such costs are provided from non-Federal sources.

"(E) AUTHORIZATIONS.—(1) There is authorized to be appropriated to the Administrator for the implementation of this section, other than subsection (d), such sums as may be necessary for each of the fiscal years 1991 through 1996.

"(2) There is authorized to be appropriated to the Administrator for the implementation of subsection (d) not to exceed $3,000,000 for each of the fiscal years 1991 through 1996.".

RELATIONSHIP TO OTHER LAWS

SEC. 203. Amend subsection 116(g) of the Marine Protection Research and Sanctuaries Act (33 U.S.C. 1416(g)) by striking all after "shall comply with" and inserting in lieu thereof the following "the requirements of this title.".

TITLE III—LAKE CHAMPLAIN

SHORT TITLE

SEC. 301. This title may be cited as the "Lake Champlain Special Designation Act of 1990".

DEMONSTRATION PROGRAM

SEC. 302. Paragraph (2) of section 314(d) of the Federal Water Pollution Control Act (33 U.S.C. 1324(d)) is amended by inserting "Lake Champlain, New York and Vermont;" before "Lake Huston, Texas".

LAKE CHAMPLAIN MANAGEMENT CONFERENCE

"SEC. 303. Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended by adding at the end thereof the following new section—

"LAKE CHAMPLAIN MANAGEMENT CONFERENCE

"SEC. 120. (a) ESTABLISHMENT.—There is established a Lake Champlain Management Conference to develop a comprehensive pollution prevention, control, and restoration plan for Lake Champlain. The Administrator shall convene the management conference within ninety days of the date of enactment of this section.

"(b) MEMBERSHIP.—The Members of the Management Conference shall be comprised of—

"(1) the Governors of the States of Vermont and New York;

"(2) each interested Federal agency, not to exceed a total of five members;

"(3) the Vermont and New York Chairpersons of the Vermont, New York, Quebec Citizens Advisory Committee for the Environmental Management of Lake Champlain;

"(4) four representatives of the State legislature of Vermont;

"(5) four representatives of the State legislature of New York;

"(6) six persons representing local governments having jurisdiction over any land or water within the Lake Champlain basin, as determined appropriate by the Governors; and

"(7) eight persons representing affected industries, nongovernmental organizations, public and private educational institutions, and the general public, as determined appropriate by the trigovernmental Citizens Advisory Committee for the Environmental Management of Lake Champlain, but not to be current members of the Citizens Advisory Committee.

"(c) TECHNICAL ADVISORY COMMITTEE.—(1) The Management Conference shall, not later than one hundred and twenty days after the date of enactment of this section, appoint a Technical Advisory Committee.

"(2) Such Technical Advisory Committee shall consist of officials of: appropriate departments and agencies of the Federal Government; the State governments of New York and Vermont; and governments of political subdivisions of such States; and public and private research institutions.

"(d) RESEARCH PROGRAM.—(1) The Management Conference shall establish a multi-disciplinary environmental research program for Lake Champlain. Such research program shall be planned and conducted jointly with the Lake Champlain Research Consortium.

"(e) POLLUTION PREVENTION, CONTROL, AND RESTORATION PLAN.—(1) Not later than three years after the date of the enactment of this section, the Management Conference shall publish a pollution prevention, control, and restoration plan (hereafter in this section referred to as the 'Plan') for Lake Champlain.

"(2) The Plan developed pursuant to this section shall—

"(A) identify corrective actions and compliance schedules addressing point and nonpoint sources of pollution necessary to restore and maintain the chemical, physical, and biological integrity of water quality, a balanced, indigenous population of shellfish, fish and wildlife, recreational, and economic activities in and on the lake;

"(B) incorporate environmental management concepts and programs established in State and Federal plans and programs in effect at the time of the development of such plan;

"(C) clarify the duties of Federal and State agencies in pollution prevention and control activities, and to the extent allowable by law, suggest a timetable for adoption by the appropriate Federal and State agencies to accomplish such duties within a reasonable period of time;

"(D) describe the methods and schedules for funding of programs, activities, and projects identified in the Plan, including the use of Federal funds and other sources of funds; and

"(E) include a strategy for pollution prevention and control that includes the promotion of pollution prevention and management practices to reduce the amount of pollution generated in the Lake Champlain basin.

"(3) The Administrator, in cooperation with the Management Conference, shall provide for public review and comment on the draft plan. At a minimum, the Management Conference shall conduct one public meeting to hear comments on the draft plan in the State of New York and one such meeting in the State of Vermont.

"(4) Not less than one hundred and twenty days after the publication of the plan required pursuant to this section, the Administrator shall approve such plan if the plan meets the requirements of this section and the Governors of the States of New York and Vermont concur.

"(5) Upon approval of the plan, such plan shall be deemed to be an approved management program for the purposes of section 319(h) of this Act and such plan shall be deemed to be an approved comprehensive conservation and management plan pursuant to section 320 of this Act.

"(f) GRANT ASSISTANCE.—(1) The Administrator may, in consultation with the Management Conference, make grants to State, interstate, and regional water pollution control agencies, and public or nonprofit agencies, institutions, and organizations.

"(2) Grants under this subsection shall be made for assisting research, surveys, studies, and modeling and technical and supporting work necessary for the development of the Plan and for retaining expert consultants in support of litigation undertaken by the State of New York and the State of Vermont to compel cleanup or obtain cleanup damage costs from persons responsible for pollution of Lake Champlain.

"(3) The amount of grants to any person under this subsection for a fiscal year shall not exceed 75 per centum of the costs of

such research, survey, study and work and shall be made available on the condition that non-Federal share of such costs are provided from non-Federal sources.

"(4) The Administrator may establish such requirements for the administration of grants as he determines to be appropriate.

"(g) DEFINITION.—For the purposes of this section, the term 'Lake Champlain drainage basin' means all or part of Clinton, Franklin, Warren, Essex, and Washington counties in the State of New York and all or part of Franklin, Grand Isle, Chittenden, Addison, Rutland, Lamoille, Orange, Washington, Orleans, and Caledonia counties in Vermont, that contain all of the streams, rivers, lakes, and other bodies of water, including wetlands, that drain into Lake Champlain.

"(h) STATUTORY INTERPRETATION.—Nothing in this section shall be construed so as to affect the jurisdiction or powers of—

"(1) any department or agency of the Federal Government or any State government; or

"(2) any international organization or entity related to Lake Champlain created by treaty or memorandum to which the United States is a signatory.

"(i) AUTHORIZATION.—There are authorized to be appropriated to the Environmental Protection Agency to carry out this section $2,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995.".

FEDERAL PROGRAM COORDINATION

SEC. 304. (a) DESIGNATION OF LAKE CHAMPLAIN AS A SPECIAL PROJECT AREA UNDER THE AGRICULTURAL CONSERVATION PROGRAM.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Lake Champlain basin, as defined under section 120(h) of the Federal Water Pollution Control Act, shall be designated by the Secretary of Agriculture as a special project area under the Agricultural Conservation Program established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).

(2) TECHNICAL ASSISTANCE REIMBURSEMENT.—To carry out the purposes of this subsection, the technical assistance reimbursement from the Agricultural Stabilization and Conservation Service authorized under the Soil Conservation and Domestic Allotment Act, shall be increased from 5 per centum to 10 per centum.

(3) COMPREHENSIVE AGRICULTURAL MONITORING.—The Secretary, in consultation with the Management Conference and appropriate State and Federal agencies, shall develop a comprehensive agricultural monitoring and evaluation network for all major drainages within the Lake Champlain basin.

(4) ALLOCATION OF FUNDS.—In allocating funds under this subsection, the Secretary of Agriculture shall consult with the Management Conference established under section 120 of the Federal Water Pollution Control Act and to the extent allowable by law, allocate funds to those agricultural enterprises located at sites that the Management Conference determines to be priority sites, on the basis of a concern for ensuring implementation of nonpoint source pollution controls throughout the Lake Champlain basin.

(b) COOPERATION OF THE UNITED STATES GEOLOGICAL SURVEY OF THE DEPARTMENT OF THE INTERIOR.—For the purpose of enhancing and expanding basic data collection and monitoring in operation in the Lake Champlain basin, as defined under section 120 of the Federal Water Pollution Control Act, the Secretary of the Interior, acting through the heads of water resources divisions of the New York and New England districts of the United States Geological Survey, shall—

(1) in cooperation with appropriate universities and private research institutions, and the appropriate officials of the appropriate departments and agencies of the States of New York and Vermont, develop an integrated geographic information system of the Lake Champlain basin;

(2) convert all partial recording sites in the Lake Champlain basin to continuous monitoring stations with full gauging capabilities and status; and

(3) establish such additional continuous monitoring station sites in the Lake Champlain basin as are necessary to carry out basic data collection and monitoring, as defined by the Secretary of the Interior, including ground water mapping, and water quality and sediment data collection.

(c) COOPERATION OF THE UNITED STATES FISH AND WILDLIFE SERVICE OF THE DEPARTMENT OF THE INTERIOR.—

(1) RESOURCE CONSERVATION PROGRAM—The Secretary of the Interior, acting through the United States Fish and Wildlife Service, in cooperation with the Lake Champlain Fish and Wildlife Management Cooperative and the Management Conference established pursuant to this subsection shall—

(A) establish and implement a fisheries resources restoration, development and conservation program, including dedicating a level of hatchery production within the Lake Champlain basin at or above the level that existed immediately preceding the date of enactment of this Act; and

(B) conduct a wildlife species and habitat assessment survey in the Lake Champlain basin, including—

(i) a survey of Federal threatened and endangered species, listed or proposed for listing under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), New York State and State of Vermont threatened and endangered species and other species of special concern, migratory nongame species of management concern, and national resources plan species;

(ii) a survey of wildlife habitats such as islands, wetlands, and riparian areas; and

(iii) a survey of migratory bird populations breeding, migrating and wintering within the Lake Champlain basin.

(2) To accomplish the purpose of paragraph (1), the Director of the United States Fish and Wildlife Service is authorized to carry out activities related to—

(A) controlling sea lampreys and other non-indigenous aquatic animal nuisances;

(B) improving the health of fishery resources;

(C) conducting investigations about and assessing the status of fishery resources, and disseminating that information to all interested parties; and

(D) conducting and periodically updating a survey of the fishery resources and their habitats and food chains in the Lake Champlain basin.

(d) AUTHORIZATIONS.—(1) There is authorized to be appropriated to the Department of Agriculture $2,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995 to carry out subsection (a) of this section.

(2) There is authorized to be appropriated to the Department of Interior $1,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995 to carry out subsections (b) and (c) of this section.

MOYNIHAN AMENDMENT NO. 3021

Mr. FORD (for Mr. MOYNIHAN) proposed an amendment to amendment No. 3020 proposed by Mr. FORD (for Mr. LEVINE, for himself and Mr. LIEBERMAN) to the bill H.R. 4323, supra, as follows:

At the end of the amendment insert the following:

(a) The Assistant Secretary of the Army for Civil Works, the Administrator of the Environmental Protection Agency, and the Governor of the State of New York, acting jointly, shall convene a management conference for the restoration, conservation, and management of Onondaga Lake. The purpose of this management conference shall include but not be limited to—

(1) the development, within a two year period following the date of the enactment of this Act, of a comprehensive restoration, conservation, and management plan for Onondaga Lake that recommends priority corrective actions and compliance schedules for the cleanup of such Lake; and

(2) the coordination of the implementation of such plan by the State of New York, the United States Army Corps of Engineers, the Environmental Protection Agency and all local agencies, governments, and other groups participating in such management conference.

(b)(1) The members of the mamagement conference convened pursuant to subsection (a) shall include, at a minimum, the Assistant Secretary of the Army for Civil Works, the Administrator of the Environmental Protection Agency, the Governor of the State of New York, and representatives of—

(A) the Attorney General of the State of New York;

(B) Onondaga County, New York; and

(C) The city of Syracuse, New York.

(2) Any member of the management conference may designate a representative to attend meetings of the management conference and otherwise represent such member on the management conference.

(3) The management conference shall have ex officio members which shall include, at a minimum—

(A) the United States Senators from the State of New York; and

(B) the memeber(s) of the United States House of Representatives within whose congressional district(s) lies Onondaga Lake.

(4) The management conference shall have standing committees which shall include, at a minimum—

(A) a Citizens Advisory Committee; and

(B) a Technical Review Committee.

(c)(1) Not later than 120 days after the completion of the plan developed pursuant to subsection (a), and after providing for public review and comment, Assistant Secretary of the Army for Civil Works and the Administrator of the Environmental Protection Agency shall approve such plan if such plan meets the requirements of this section, and if the Governor of the State of New York concurs in such approval.

(2) Upon approval of the plan under this subsection, such plan shall be implemented.

(d)(1) The Assistant Secretary of the Army for Civil Works and the Administrator of the Environmental Protection Agency are authorized to make grants to the State of New York to perform activities authorized under this section or to contract for such performance, provided that such grants shall not exceed 70 percent of the

costs of such activities and that the non-Federal share of such costs are provided from non-Federal sources. Administrative services for the development and implementation of the plan approved pursuant to subsection (a) shall be provided by a not-for-profit corporation established for the purpose of assisting with the planning and coordination of the clean up of Onondaga Lake.

(2) To carry out this section, the Governor of the State of New York may, using funds provided pursuant to paragraph (1), make grants for—

(A) research, surveys, administrative services and studies approved by the management conference as necessary for the development of the plan under this section;

(B) other activities including administrative services that are approved by the management conference and are necessary to implement the plan approved by the management conference pursuant to subsection (a); and

(C) gathering data and retaining expert consultants in support of litigation undertaken by the State of New York to compel clean up or obtain clean up and damage costs from parties responsible for the pollution of Onondaga Lake, including administrative services.

(3) In-kind payments shall qualify for the purpose of meeting the total non-Federal matching requirements of this subsection.

(e) There are authorized to be appropriated to the Assistant Secretary of the Army for Civil Works and the Administrator of the Environmental Protection Agency such sums as may be necessary to carry out this section.

(f) Grants made under this section are not intended to relieve any person who would otherwise be liable under Federal or State law for damages, response costs, natural resource damages, restitution, equitable relief or any other relief, from liability for such relief.

HISTORIC SITES, BUILDINGS, AND ANTIQUITIES ACT AMENDMENTS

BUMPERS AMENDMENT NO. 3022

Mr. FORD (for Mr. BUMPERS) proposed an amendment to the bill (H.R. 2582) to amend the Historic Sites, Buildings, and Antiquities Act, as follows:

1. In section 102(3), strike "and the State of West Virginia".

2. Section 105(a)(1) is amended to read as follows:

"(1) Three individuals who are nationally recognized as experts and authorities on the history of the Civil War, and two individuals who are nationally recognized as experts and authorities in historic preservation, appointed by the Secretary."

3. In section 105(g), strike "terminate after" and insert in lieu thereof, "terminate 90 days after".

4. In section 108(a), strike "associated with the Civil War" and insert in lieu thereof, "associated with military action during the Civil War".

5. Strike section 109 in its entirety and redesignate section 110 as section 109.

6. Strike titles II and III in their entirety insert in lieu thereof the following:

"TITLE II—NATIONAL PARK SYSTEM ADVISORY BOARD

"SEC. 201. NATIONAL PARK SYSTEM ADVISORY BOARD

"Section 3 of the Act of August 21, 1935, entitled 'An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes' (49 Stat. 667; 16 U.S.C. 463(b)) is amended in the first sentence of subsection (b) by striking '1990' and inserting in lieu thereof '1995'.".

7. Amend the title so as to read: "An Act to provide for a Civil War Sites Study and to reauthorize the National Park System Advisory Board, and for other purposes.".

NEZ PERCE NATIONAL HISTORICAL PARK

HATFIELD AMENDMENT NO. 3023

Mr. SYMMS (for Mr. HATFIELD) proposed amendment to the bill (S. 2804) to amend the Act of May 15, 1965, authorizing the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes, as follows:

In section 2 of the bill, after "Camas Meadows Battle Sites, Idaho;" insert "Joseph Canyon Viewpoint, Oregon; Old Chief Joseph's Gravesite and Cemetery, Oregon (limited to the portion that is, on the date of enactment of this Act, owned by the United States in trust for the Umatilla and Nez Perce tribes); Traditional Campsite at the fork of the Lostine and Wallowa Rivers, Oregon;".

In section 3(c) of the bill, strike "Idaho, Washington," and insert Idaho, Oregon, Washington,".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the full Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 17, at 10 a.m. to conduct a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, October 17, 1990, at 5 p.m. to hold a closed conference meeting with the House Intelligence Committee on Intelligence Matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HOLLYWOOD WOMEN'S PRESS CLUB

● Mr. WILSON. Mr. President, on December 9, 1990, the Hollywood Women's Press Club will be celebrating its 50th annual Golden Apple Awards. It is with great admiration for its many contributions to Hollywood and its distinguished history that I salute the Hollywood Women's Press Club in this Chamber of the U.S. Senate and call upon my Senate colleagues to join with me in commending its members, past and present, for their immeasurable contributions to Hollywood and motion picture history.

Originally launched as a luncheon and swapping of shop talk, the Hollywood Women's Press Club was founded in 1928 by Louella Parsons and 10 of her fellow writing colleagues. Originally the founding members met in their homes, but when time and space demanded a central meeting place, the group decided to meet at the Photoplay office within Hollywood's first skyscraper, the 13-floor Taft Building. Upon expansion of membership, the luncheon club began to meet monthly at the American Room of Holywood's famed Brown Derby. It was here that they named themselves, the Hollywood Women's Press Club.

Averaging nearly 140 members, the HWPC restricted its memberships to newspaper and magazine writers. However, in 1938 when the club's 25-cent monthly dues proved to be too small to purchase a going-away gift for a member, they decided to invite the Publicity Girls to join.

As the club's coverage expanded, so did its membership and its legacy. Today's roster of past and present members includes playwriters, screen writers, producers, novelists, lecturers, editors, press agents, and personalities, in addition to the original magazine and newspaper writers. The roster includes such impressive names as columnists Louella O. Parsons and Rona Barrett; Isobell Sheldon, Madamoiselle; Morgan, Time/Life. Bette Davis, Cary Grant, Charlton Heston, and Bob Hope are just a few others, all of whom were accorded honorary membership.

For all its many contributions to Hollywood, not the least of which is an active scholarship fund, the HWPC is probably best known for its Golden Apple Awards luncheon. Beginning in 1940, and celebrating its 50th anniversary, this awards luncheon recognizes the best image of the entertainment industry to the world, the newsworthy male and female stars, most promising newcomers, and least newsworthy. With the presentation of these awards in 1990, the year of their 50th anniversary, the club's archives will become a special collection at the Margaret Herrick Library of the Academy of Motion Picture Arts and Sciences. It is its preservation of Hollywood's lore which is the most important legacy of the Hollywood Women's Press Club. I am confident that this venerable organization will continue to flourish and

serve our American community while keeping strong the legacy which it has built over the past 50 years.●

ONE BILLION DOLLAR 504 DEBENTURE SALE

● Mr. BOSCHWITZ. Mr. President, today the Small Business Administration [SBA] 504 Program is celebrating the issuance of over $1 billion in guaranteed debentures.

The 504 Loan Program provides financial assistance through certified development companies [CDC] to support communities, both urban and rural, in stimulating the growth and expansion of small business. Financing for 10 or 20 years is provided to small businesses for the acquisition of land and buildings, construction, conversion, expansion, modernization, and the purchase of machinery and equipment.

Under the 504 Program, SBA sells—on behalf of a CDC—100 percent guaranteed debentures in the capital market. A debenture carries a maximum of $750,000 and may not exceed 40 percent of a total project. Debentures are pooled monthly and sold to the public through a certificate mechanism. Today the program will hold its 48th consecutive monthly debenture sale closing. This sale, a $38.8 million offering of 10- and 20-year debenture certificates, will push the 504 Program past the $1 billion mark.

In order to qualify for a 504 loan, a small business must have a net worth of less than $6 million and a net income of less than $2 million annually. The business must also create one job for every $35,000 borrowed. In the typical CDC loan, the small business borrower must supply a 10 percent downpayment, the bank contributes 50 percent and the CDC provides a guaranteed loan for the remaining 40 percent. The bank receives the first mortgage claim on the entire asset; SBA takes the second position.

My State of Minnesota currently has seven certified development companies providing funds to small businesses in Minnesota. Mr. President, I would like to share with you two examples in which one particular CDC—Coon Rapids Development Co.—provided assistance to businesses in Minnesota.

The Judd Supply Co. is a wholesaler of electrical parts components located in Coon Rapids. It has received three loans from the Coon Rapids Development Co. Judd went from 3 employees and no business in 1979 to 34 employees and $12 million in sales in 1989.

Furniture and Things, Inc., is a retail furniture store now having three locations—Anoka, Elk River, and Coon Rapids. It has received two SBA 504 expansion loans. The company went from 2 employees and $100,000 in sales in 1980 to 27 employees and $2 million in sales in 1989.

Mr. President, the 504 Loan Program has only been in existence since November 1986. It is remarkable how much financial assistance it has provided to small business in this short period of time. I commend those associated with this program and encourage its continued success.●

REPORT ACCOMPANYING S. 2724, THE ARTS, HUMANITIES, AND MUSEUM AMENDMENTS

● Mr. PELL. Mr. President, the Committee on Labor and Human Resources recently filed its report on S. 2724, the Arts, Humanities and Museums Amendments of 1990. It has been brought to my attention that this Report 101-472 contains two errors which I believe are of significant importance.

The first error is of a typographical nature. On page 20, paragraph VIII, line 14, the figure $10,000 should read $100,000.

Secondly, the cost estimate supplied by the Congressional Budget Office contained an error in reference to the salary of the Director of the Institute of Museum Services. The bill proposes a salary increase for the Director rather than a salary reduction. The Congressional Budget Office has submitted a corrected cost estimate for S. 2721 and I ask that the text of this letter be printed in the RECORD at this point.

The letter follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 3, 1990.

Hon. EDWARD M. KENNEDY,
Chairman, Senate Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has revised its previous cost estimate for S. 2724, a bill to extend and improve arts and humanities programs, museum services, and arts and artifacts indemnification, as ordered reported by the Senate Committee on Labor and Human Resources on September 12, 1990. The original estimate incorrectly indicated that the salary for the Director of the Institute of Museum Services would be reduced. The bill actually authorizes an increase in salary associated with a promotion from Executive Level V to Executive Level IV.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE—OCTOBER 3, 1990

1. Bill number: S. 2724.

2. Bill title: Arts, Humanities, and Museums Amendments of 1990.

3. Bill status: As ordered reported by the Senate Committee on Labor and Human Resources on September 12, 1990.

4. Bill purpose: This bill extends and improves arts and humanities programs, museum services, and arts and artifacts indemnification, and for other purposes.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1991	1992	1993	1994	1995
AUTHORIZATIONS					
National Endowment of the Arts:					
Authorization level	195.3	203.2	211.3	219.7	228.5
Estimated outlays	66.4	160.9	194.7	212.2	220.7
American Arts Celebration:					
Authorization level	10.0	10.0	10.0	10.0	10.0
Estimated outlays	3.4	8.1	9.5	10.0	10.0
Federal Council on the Arts and Humanities:					
Authorization level	.3	.3	.3	.3	.3
Estimated outlays	.1	.2	.3	.3	.3
National Endowment of the Humanities:					
Authorization level	165.0	171.7	178.5	185.6	193.1
Estimated outlays	74.3	141.6	167.1	180.3	187.6
Institute of Museum Services:					
Authorization level	24.0	25.0	26.0	27.0	28.1
Estimated outlays	6.2	24.3	25.2	26.2	27.3
Bill total:					
Authorization level	394.6	410.1	426.0	442.6	460.0
Estimated outlays	150.4	335.0	396.7	429.1	445.8

The costs of this bill fall in Function 500.

Basis of estimate: S. 2724 extends and improves arts and humanities programs, museum services, and arts and artifacts indemnification. The authorizations for 1991 appropriation are specified in the bill. The estimate of amounts authorized for 1992-1995 are the 1991 levels increased for projected annual inflation, except for the American Arts Celebration authorization, which is specified for 1991-1995. Estimated outlays assume full appropriation of the amounts authorized and assume continuation of the current spending patterns. The bill proposes an increase in salary for the Director of the Institute of Museum Services, which would result in an estimated cost of $18,000 for 1991.

This bill also amends the Arts and Artifacts Indemnity Act. The maximum limits of coverage for agreements entered into by the Council are currently $1.2 billion in total and $125 million for a single exhibit. This amendment would raise the current limit for the aggregate maximum amount of coverage to $5 billion, increasing the potential liability to the government by $3.8 billion. It is not known if, or when, any of the additional $3.8 billion would need to be funded. Since enactment of the Arts and Artifacts Indemnity Act in 1975 only two claims have ever been filed. The most recent claim was made in 1989 and was for $4,700. While there could be increased costs to the federal government, CBO has no basis on which to make a precise estimate.

6. Estimated cost to State and local government: The federal share of grants and agreements entered into for the purpose of encouraging and developing arts education cannot exceed 50 percent of the cost of the activity for which the grant is made. State and local governments, or private entities would assume the remaining cost of the activity.

7. Estimate comparison: None.

8. Previous CBO estimate: CBO prepared a cost estimate for S. 2724 for the Senate Committee on Labor and Human Resources on September 13, 1990. This estimate incorrectly indicated that the salary for the Director of the Institute of Museum Services would be reduced by the bill.

9. Estimate prepared by: Diane Celuch.

10. Estimate approved by: C.G. Nuckols, for James L. Blum, Assistant Director for Budget Analysis.●

BILL HYBL: NOMINEE FOR U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

● Mr. WIRTH. Mr. President, Mr. William J. Hybl of Colorado Springs, CO, has been nominated to be a member of the U.S. Advisory Commission on Public Diplomacy. I have known Bill Hybl for several years and am impressed with his commitment to serve the people of Colorado Springs and this Nation as a whole. Bill is a man of honesty and integrity, and a worthy recipient of this honor.

Bill Hybl is currently the chairman and chief executive officer for the El Pomar Foundation and vice-chairman and member of the board of directors for the Broadmoor Hotel, Inc., in Colorado Springs. The El Pomar Foundation is the largest foundation in the Rocky Mountain region and makes grants to those concerned with education, health care, the environment, human services, and the arts. He is also a member of the board of directors for the U.S. Chamber of Commerce and the Colorado Association of Commerce and Industry.

Bill Hybl serves as president of the Air Force Academy Foundation which assists with major capital improvement projects for the Air Force Academy, including Falcon Stadium, the Eisenhower Golf Course, the Cadet Activities Center, and the Goldwater Visitors' Center. In addition, since 1986, Bill has been a civilian aide to the Secretary of the Army.

Bill Hybl's credentials are impeccable. I congratulate Bill on his nomination to the Advisory Commission on Public Diplomacy and urge my colleagues to confirm his nomination. I know that Bill will be an excellent member of this commission.

Mr. President, I ask that Bill Hybl's vita be printed in the RECORD.

The vita follows:

WILLIAM J. HYBL

Home: Colorado Springs, Colorado.

Current employment:

El Pomar Foundation, Colorado Springs, Colorado (1973-Present); Chairman and Chief Executive Officer; served as president for eight years until August 1, 1989.

Broadmoor Hotel, Inc., Colorado Springs, Colorado; Vice Chairman/Board of Directors.

El Pomar Foundation has owned, and still maintains a substantial interest in, the Broadmoor Hotel in Colorado Springs. El Pomar Foundation has other assets in Colorado and Kansas, and maintains a large, diversified equity portfolio.

El Pomar Foundation is the largest foundation in the Rocky Mountain Region, making grants in education, health care, the environment, human services, and the arts.

Employment history: 1981 (Jan.-Mar.): Special White House Counsel, Washington, D.C.

Advised on Administration transition matters associated with presidential personnel appointments, policy associated with the boycott of 1980 Olympic Games and other areas.

1972-1973: Member, Republican, Colorado, House of Representatives; Vice Chairman, House Judiciary Committee.

Involved with water policy, judicial reform and other legislative matters.

1970-1972: Assistant District Attorney, Fourth Judicial District, Colorado.

Held the number two position in the District Attorney's office with a staff of 20 deputy district attorneys and 45 support personnel; served as Chief Administrative and Personnel Officer.

Corporate and business affiliations:

United States Chamber of Commerce Washington, D.C.; Board of Directors, Chairman, Public Affairs Committee.

The Chamber serves as the principle national spokesman for business and industry on domestic business issues and international trade efforts.

Colorado Association of Commerce and Industry, Denver, Colorado; Past Vice-Chairman and Executive Committee member, Board Member.

First National Bank of Colorado Springs, Colorado Springs, Colorado; Board of Directors.

Affiliated Bankshares of Colorado (A 29-bank holding company), Denver, Colorado; Board of Directors.

KN Energy, Denver CO; Board of Directors.

Civic Associations:

The Air Force Academy Foundation, Colorado Springs, Colorado; President, Board of Directors.

Leadership involvement in major capital improvement projects for the Air Force Academy, which have included Falcon Stadium, Eisenhower Golf Course and the Cadet Activities Center. Chaired fund drive for the Goldwater Visitors' Center which opened May 1986, at the Academy.

National Junior Achievement of America; Secretary/Board of Directors.

Vail Valley Foundation, Vail, Colorado; Board of Trustees.

United States Olympic Committee, Asst. to USOC President.

American Council of Young Political Leaders, Washington, D.C.; Board of Trustees.

Served as Secretary-General and member of the Executive Committee of The Atlantic Alliance of Young Political Leaders. Have been Chairman and/or member of several American delegations to Portugal, Germany, The People's Republic of China and NATO. Served as Republican representative to the first round of French elections in 1981.

The Colorado College, Colorado Springs, Colorado; Vice Chairman, Board of Trustees.

Colorado Commission on the Bicentennial of the Constitution; Chairman of Commission by appointment of Governor, 1985-1986.

Nature Conservancy (Colorado Chapter); Board of Trustees.

Education and Professional Credentials:

The Colorado College, B.A.—1964; Sigma Chi Fraternity—President, Interfraternity Council—President, Blue Key Honorary, Black & Gold Honorary.

University of Colorado Law School, J.D.—1967; Phi Alpha Delta Law Fraternity—President.

Admitted to practice law: United States Supreme Court, United States Court of Appeals, United States District Court, United States Tax Court, State of Colorado.●

TRANSFER BY LEASE TO THE GOVERNMENT OF BRAZIL

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3215, introduced earlier today by Senators Nunn and Warner.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3215) to authorize the transfer by lease of a specified naval landing ship dock to the Government of Brazil.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3017

Mr. SYMMS. Mr. President, I send an amendment to the desk on behalf of Senator Helms, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS] for Mr. HELMS, proposes an amendment numbered 3017.

Mr. SYMMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 1(a) of the bill, strike out "The Secretary" and insert in lieu thereof "Subject to section 5, the Secretary".

At the end of the bill, add the following new section:

SEC. 5. CONDITION ON AUTHORITY TO TRANSFER

The Secretary may not exercise the authority granted under section 1(a) unless and until the Government of Brazil has provided written assurances to the Secretary of State that Brazil is in compliance with the United Nations sanctions against Iraq and has discontinued the export to Iraq of all military equipment, materials, and technologies, including the export of all nuclear, chemical, and biological warfare equipment, materials, and technologies and all missile equipment, material, and technologies. The Secretary of State shall transmit to Congress a copy of any such assurances received by the Secretary.

The PRESIDING OFFICER. Is there debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (No. 3017) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments? If there are no further amendments, the bill is

considered read a third time and passed.

So the bill (S. 3215) as amended, was passed, as follows:

S. 3215

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO LEASE

(a) IN GENERAL.—Subject to section 5, the Secretary of the Navy is authorized to lease the naval landing ship dock Alamo (LSD-33) to the Government of Brazil. A lease under this act may be renewed.

(b) APPLICABLE LAW.—Such leasing shall be in accordance with chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 et seq.), except that section 62(a) of that Act (22 U.S.C. 2796a(a)) shall apply only to renewals of the lease.

SEC. 2. COSTS OF LEASING

Any expense of the United States in connection with the lease authorized by section 1 shall be charged to the Government of Brazil.

SEC. 3. CONSIDERATION FOR LEASE

Notwithstanding section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), the lease of the ship described in section 1(a) may provide, as part or all of the consideration for the lease, for the maintenance, protection, repair, or restoration of the ship by the Government of Brazil.

SEC. 4. EXPIRATION OF AUTHORITY

The authority granted by section 1(a) shall expire at the end of the 2-year period beginning on the date of the enactment of this Act unless the lease authorized by that section is entered into during that period.

SEC. 5. CONDITION ON AUTHORITY TO TRANSFER

The Secretary may not exercise the authority granted under section 1(a) unless and until the Government of Brazil has provided written assurances to the Secretary of State that Brazil is in compliance with the United Nations sanctions against Iraq and has discontinued the export to Iraq of all military equipment, materials, and technologies, including the export of all nuclear, chemical, and biological warfare equipment, materials, and technologies and all missile equipment, materials, and technologies. The Secretary of State shall transmit to Congress a copy of any such assurances received by the Secretary.

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration en bloc of the following joint resolutions just received from the House: House Joint Resolution 214, House Joint Resolution 518, House Joint Resolution 525, House Joint Resolution 566, and House Joint Resolution 669; that the resolutions be deemed read a third time and passed en bloc, that the preambles be agreed to, and that the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL MILITARY FAMILIES RECOGNITION DAY

The joint resolution (H.J. Res. 566) acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 19, 1990, as "National Military Families Recognition Day" was considered, ordered to a third reading, read the third time, and passed.

NATIONAL FAMILY CAREGIVERS WEEK

The joint resolution (H.J. Res. 525) designating November 18 through 24, 1990, as "National Family Caregivers Week" was considered, ordered to a third reading, read the third time, and passed.

AMERICAN TEXTILE INDUSTRY BICENTENNIAL WEEK

The joint resolution (H.J. 518) designating October 13 through 20, 1990, as "American Textile Industry Bicentennial Week" was considered, ordered to a third reading, read the third time, and passed.

EATING DISORDERS AWARENESS WEEK

The joint resolution (H.J. Res. 214) designating the week of October 22 through October 28, 1990, as "Eating Disorders Awareness Week" was considered, ordered to a third reading, read the third time, and passed.

COMMEMORATING THE 200TH ANNIVERSARY OF THE ADOPTION OF THE POLISH CONSTITUTION

The joint resolution (H.J. Res. 669) to salute and congratulate the people of Poland as they commemorate the 200th anniversary of the adoption of the Polish Constitution on May 3, 1991, was considered, ordered to a third reading, read the third time, and passed.

WORLD POPULATION AWARENESS WEEK

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on Senate Joint Resolution 158.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S.J.Res. 158) entitled "Joint resolution designating October 22 through 28, 1989, as 'World Population Awareness Week'," do pass with the following amendments:

Page 3, line 3, strike out "October 22 through 28, 1989,", and insert: "October 21 through October 27, 1990,".

Amend the title so as to read: "Joint resolution designating October 21 through October 27, 1990, as 'World Population Awareness Week'.".

Mr. FORD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SPARK M. MATSUNAGA DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

Mr. FORD. Mr. President, on behalf of Senator AKAKA I ask unanimous consent that the Veterans Committee be discharged from further consideration of S. 3032, a bill to name the proposed Department of Veterans Affairs Medical Center in Hawaii for our late colleague, Senator Spark Matsunaga, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3032) to designate the planned Department of Veterans Affairs Medical Center in Honolulu, Hawaii, as the "Spark M. Matsunaga Department of Veterans Affairs Medical Center".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. AKAKA. Mr. President, today I am pleased to rise in support of Senate passage of legislation I recently introduced to name the proposed VA medical center in Hawaii after our dear, departed friend and colleague, Senator Spark Masayuki Matsunaga. My bill, S. 3032, cosponsored by Senators INOUYE and GRAHAM, is strongly supported by the Hawaii congressional delegation, the Senate Veterans' Affairs Committee, and Hawaii veterans service organizations.

Mr. President, few in this Chamber may be aware that Hawaii is one of only two States without a VA medical center [VAMC], or that Hawaii ranks at or near the bottom of the scale in terms of Federal medical expenditures per veteran. This despite the fact Hawaii veterans number more than 100,000—fully a tenth of the State's population—and despite the fact that Hawaii has the highest ratio of service

connected disabled veterans in the Nation.

Up until 2 years ago, the only VA facility in the entire State was a small outpatient clinic located in the bowels of the local Federal office building in Honolulu; there were then no VA facilities in the neighbor islands as there are today. While there was on-again, off-again talk about establishing a VA inpatient facility at Tripler Army Medical Center E-wing (interestingly, it was Senator Matsunaga himself who first proposed using E-wing as far back as 1975), continual delays by the military in turning over the wing to the VA rendered the project purely speculative.

Mr. President, if veterans required medical or psychiatric care, they were forced to negotiate a highly fragmented health delivery system involving the outpatient clinic, Tripler Army Medical Center, and private health care providers. As it does today, Tripler, the primary inpatient referral center for veterans, gave veterans lowest priority of care, after active duty military, their dependents, and retirees. Worse, Tripler personnel displayed little sensitivity to veterans, at times treating them like poor relations; horror stories abound about veterans who were victimized by inferior treatment accorded them by Army doctors and nurses.

Veterans in the neighbor islands had an even more difficult time accessing health care because of the absence of VA facilities in those areas. As a consequence, many veterans turned away from VA, preferring to suffer in silence or seek care in the private sector at their own oftentimes considerable expense.

It was this situation that impelled Senator Matsunaga, himself a wounded and decorated veteran of the famous 100th Infantry Battalion and 442d Regimental Combat Team, to hold a Senate Veterans' Affairs Committee oversight hearing on the status of Hawaii veterans health care. That hearing, which took place in April 1987, featured compelling testimony from veterans about the many shortcomings of VA's patchwork health care system in Hawaii, and led directly to the formation of a special VA task force to assess the short- and long-term needs of Hawaii veterans.

The task force report, issued 2 months later, confirmed the hearing's finding that Hawaii veterans had been seriously neglected, criticized the state of VA health care in Hawaii, and offered a number of far-reaching recommendations to enhance VA's presence in the 50th State, including proposals to expand the outpatient clinic, establish colocated primary care clinics and veterans readjustment counseling centers in the neighbor islands, and construct a full-fledged VA medical center on Oahu.

Today, as a result of pressure brought to bear on VA by Senator Matsunaga, many improvements suggested by the hearing and the task force have been carried out. For example, the outpatient clinic has tripled in size; primary care clinics and veterans readjustment counseling centers have been established on the Big Island, Maui, and Kauai; and, Tripler is now far more accommodating of veterans—the military hospital's new commanding general has taken radical steps to improve cooperation between VA and Tripler as well as to sensitize Tripler health care staff to veterans needs.

Most important, however, because of the late Hawaii lawmaker's untiring advocacy, the VA has at last agreed that there is ample justification to build a veterans medical center in Hawaii. Seizing on the task force recommendation that VA build a 165-bed free-standing hospital on Oahu, Sparky became the conscience of the Department, pressing VA officials to endorse the recommendation in countless letters, phone calls, and hearings. In late 1988, his efforts bore fruit when then-Chief Medical Director Dr. John Gronvall, gave his official sanction to the hospital recommendation.

But Senator Matsunaga's final victory came a few months later when, in early 1989, Secretary-designate Derwinski indicated at his confirmation hearing that he would strongly support the initiative. Knowing that the future Secretary of Veterans Affairs was a man of his word, Sparky believed at that moment that his dream would eventually come true. During the long illness that preceded his death last Easter, I am quite certain, Mr. President, that Spark took great comfort in knowing that the Hawaii veterans hospital would someday become a reality.

Mr. President, I think it is important to recount this tale of an individual legislator's tireless, singleminded effort to accomplish something of immense value to his electorate. No one represented his State's veterans more effectively, or with more sympathy and understanding, than Spark Matsunaga. This is why I hope that the Senate will join us in our effort to name the proposed Hawaii VA medical center after our late friend and colleague.

While to some this bill may seem redundant, given the fact that Secretary Derwinski has already indicated his support for naming the hospital after Senator Matsunaga, I believe that Congress, an institution he loved above all others and in which he took so much joy and pride in serving, should have the privilege and opportunity to express its will on this matter.

Mr. President, it is eminently fitting that Spark Matsunaga's name be forever associated with a veterans medical center. Aside from the fact that it was his advocacy that today makes the Hawaii veterans hospital a possibility, it is suitable that the war hero who preferred to be remembered as a peacemaker is recognized in this way. For the essential truth about Sparky was this: although he accepted that war was sometimes necessary, he never accepted the pain and tragedy it engendered.

For Spark was far more about healing than he was about fighting, as his long efforts to establish the U.S. Peace Institute amply demonstrates. Those who knew him personally, as I did, knew that his abhorrence of conflict extended to his personal dealings as well: he never raised his voice in anger, he never twisted arms, always preferring to use the art of gentle persuasion rather than the bludgeon of confrontation. It is therefore appropriate that a veterans medical center be named in his honor—a place where wounds and illnesses are mended, a place where those who have suffered the terrible experience of war can receive succor and comfort.

In closing, Mr. President, I would like to thank the chairman of the Senate Veterans' Affairs Committe, Senator CRANSTON, and the ranking minority Member, Senator MURKOWSKI, for their assistance in getting this bill to the floor with dispatch. Without Chairman CRANSTON's support, in particular, it is doubtful that the Senate could have acted on my bill this year.

Thank you, Mr. President. I urge my colleagues to support the designation of the planned Hawaii veterans hospital as the "Spark M. Matsunaga Department of Veterans Affairs Medical Center."

I yield the floor.

The PRESIDING OFFICER. If there are no amendments, without objection, the bill is deemed read the third time and passed.

So the bill (S. 3032) was passed, as follows:

S. 3032

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. THE SPARK M. MATSUNAGA DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.

The medical center planned to be constructed in Honolulu, Hawaii, by the Department of Veterans Affairs shall be known and designated as the "Spark M. Matsunaga Department of Veterans Affairs Medical Center" in honor of the late United States Senator from the State of Hawaii, Spark M. Matsunaga.

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

39-059 O-91-29 (Pt. 21)

RALPH H. JOHNSON DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

Mr. SYMMS. Mr. President, I send a bill to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3216) to designate the Department of Veterans Affairs Medical Center in Charleston, South Carolina, as the "Ralph H. Johnson Department of Veterans Affairs Medical Center".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. THURMOND. Mr. President, I rise today with great pride to introduce legislation to rename the Department of Veterans Affairs Medical Center in Charleston, SC, in honor of Pfc. Ralph H. Johnson. I am pleased that Senator HOLLINGS has joined as a cosponsor.

Pfc. Ralph H. Johnson, a native of Charleston, SC, served with distinction in the U.S. Marine Corps during the Vietnam war. While involved in combat operations, Private first class Johnson threw himself on a live enemy grenade in order to save the lives of his fellow marine squad members. For his selfless act of courage, Private first class Johnson was awarded posthumously the Congressional Medal of Honor.

The South Carolina delegation unanimously agrees that Private first class Johnson's supreme act of courage can best be remembered and honored by naming the Charleston Veterans Hospital after this great South Carolinian and American patriot. This legislation is also supported by Gov. Carroll Campbell, the General Assembly of South Carolina, the American Legion, the Disabled American Veterans, and the Veterans of Foreign Wars.

I hope that this legislation can be passed before Congress adjourns. I ask unanimous consent that the resolution of support and letters be printed in the CONGRESSIONAL RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONCURRENT RESOLUTION

Whereas, the late Ralph H. Johnson was Private First Class, United States Marine Corps, Company A, 1st Reconnaissance Battalion, 1st Marine Division (Rein), FMF; and

Whereas, he was born on January 11, 1949, at Charleston, South Carolina; and

Whereas, he entered the military service of his country at Oakland, California, and he died near the Quan Duc Valley, Republic of Vietnam, on March 5, 1968; and

Whereas, he was cited for conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty while serving as a reconnaissance scout with Company A in action against the North Vietnamese Army and Viet Cong forces; and

Whereas, his bravery and gallantry saved another life at the cost of his own and inspired valor and selfless devotion to duty among others in keeping with the highest traditions of the Marine Corps and the United States Naval Service; and

Whereas, for his heroism he was awarded the Congressional Medal of Honor; and

Whereas, It would be a fitting memorial indeed to this great South Carolinian and American, and it would honor the heroism of thousands of young Americans who served the cause of freedom in Vietnam, to name the Veterans Administration Hospital in Charleston for the late Ralph H. Johnson. Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring, That the General Assembly of the State of South Carolina, by this resolution, memorializes Congress to take whatever action may be necessary to name the Veterans Administration Hospital in Charleston, South Carolina in honor of the late Ralph H. Johnson of Charleston County, a great South Carolinian and American and recipient of the Congressional Medal of Honor who gave his life in the cause of freedom while in the service of his country in Vietnam: Be it further

Resolved, That a copy of this resolution be forwarded to the President of the United States Senate, the Speaker of the United States House of Representatives, and all eight members of South Carolina's congressional delegation, all at Washington, DC.

THE AMERICAN LEGION,
Greenville, SC, July 24, 1990.

Senator STROM THURMOND,
209 Russell Senate Office Building, Washington, DC.

DEAR SENATOR THURMOND: As the newly elected Department Commander from South Carolina it is my pleasure to report that the vote was unanimous in support of your recommendation for a name for the Veterans Hospital in Charleston.

This vote of support for Ralph Johnson was given at our recent state convention held in Charleston.

The best to you in your re-election campaign. If I can be of any help don't hesitate to call on me.

Very Truly Yours,
J. NORRIS KINION,
Commander,
Department of South Carolina.

VETERANS OF FOREIGN WARS,
Columbia, SC, May 16, 1990.

Hon. J. STROM THURMOND,
U.S. Senator, Washington, DC.

DEAR SENATOR THURMOND: The Department of South Carolina, Veterans of Foreign Wars of the United States endorses the resolution naming the Charleston Veterans Administration Medical Center after the late Ralph Johnson, a Medal of Honor recipient from Charleston County.

With kindest regards and best wishes, I am

Sincerely yours,
GEORGE M. PULLIES,
Commander,
Department of South Carolina,

DISABLED AMERICAN VETERANS,
West Columbia, SC, June 11, 1990.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: In regards to your recent correspondence concerning naming the Charleston VA Hospital for PFC Ralph Johnson, I am writing to let you know that this is something that the D.A.V., Department of South Carolina endorses and fully supports.

Sincerely,
W. LEVAKE CAUBLE,
Commander,
Department of South Carolina.

Mr. HOLLINGS. Mr. President, I rise with great pride as a South Carolinian to cosponsor legislation to rename the Department of Veterans Affairs Medical Center in Charleston, SC, in honor of Pfc. Ralph H. Johnson.

Ralph H. Johnson was born on January 11, 1949, in Charleston, SC. He entered the U.S. Marine Corps in March 1967, and died near the Quan Duc Valley, Republic of Vietnam, on March 5, 1968. He died gallantly and with utmost selflessness by throwing himself on a live, enemy grenade, which landed in his three-man fox hole. He absorbed the blast of the grenade, saving the life of one of the other marines and preventing the enemy penetration of his sector. For this act of extraordinary valor, he was awarded the Congressional Medal of Honor posthumously on April 20, 1970.

It is fitting that a facility devoted to caring for veterans be named after a man who sacrificed himself out of heroic concern for his fellow man. It is also appropriate that at a site where the wounds of war are healed, we look back on the Vietnam war with a deep appreciation of the sacrifices which were made in valor for our country; such selfless, heroic actions help make sense of the horrors of war. Mr. President, I urge the Senate to join South Carolinians in preserving the memory of Ralph Johnson, and in renaming the Veterans Medical Center of Charleston, SC in his honor. This a fitting and long overdue honor for Private first class Johnson, a hero and an American patriot.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3216

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That the Department of Veterans Affairs Medical Center located in Charleston, South Carolina, after the date of enactment of this Act shall be known and designated as the "Ralph H. Johnson Department of Veterans Affairs Medical Center". Any refer-

ence to such medical center in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Ralph H. Johnson Department of Veterans Affairs Medical Center.

Mr. SYMMS. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL KEY CLUB WEEK

Mr. FORD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 356, National Key Club Week, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 356) designating November 4 through 11, 1990, as "National Key Club Week."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 356

Whereas Key Club International is the largest youth service organization in the world with a membership of over one hundred thirty-three thousand high school students in more than three thousand eight hundred schools across fourteen nations;

Whereas Key Club International emphasizes the human and spiritual rather than the material values of life;

Whereas Key Club International encourages the daily living of the "Golden Rule" in all human relationships;

Whereas Key Club International promotes the adoption and application of higher standards in scholarship, sportsmanship and social contacts, and seeks to develop a more aggressive and serviceable citizenship;

Whereas Key Club International provides a practical means for high school students to form enduring friendships, render unselfish service, and build better communities; and

Whereas Key Club International contributes to creating and maintaining the sound public opinion and high idealism which make possible the increase of righteousness, justice, partriotism, and good will: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 4 through 11, 1990, is designated as "National Key Club Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

USE OF NAMES OR INSIGNIA OF THE VISITING NURSE ASSOCIATION OF AMERICA

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 950, S. 682, a bill to amend the United States Code to prohibit the unauthorized use of the names Visiting Nurses Association, Visiting Nurses Service, VNA, or VNS.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 682) to amend chapter 33 of title 18, United States Code, to prohibit the unauthorized use of the names "Visiting Nurse Association," "Visiting Nurse Service," "VNA," "VNS," or "VNAA," or the unauthorized use of the name or insignia of the Visiting Nurse Association of America.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. PROHIBITION OF UNAUTHORIZED USE OF NAME VISITING NURSE ASSOCIATION OR VISITING NURSE SERVICE.

(a) IN GENERAL.—Whoever, not being a Visiting Nurse Association, Visiting Nurse Service, or Visiting Nurse Associations of America, as these terms are defined in this Act, knowingly uses the words "Visiting Nurse Association," "Visiting Nurse Service," "VNA," "VNS," or colorable imitation thereof, in commerce, on or in connection with any goods or services, in such a manner as to cause confusion, mistake, or deceptive, or to falsely suggest, that the goods or services are those of or endorsed by, or that the person or organization is associated in any way with, a Visiting Nurse Association, Visiting Nurse Service, or Visiting Nurse Association of America, as these terms are defined in this Act, shall be subject to a civil penalty of not more than $1,000 for each violation and shall be enjoined from further uses of these terms. The court shall levy the appropriate civil penalties, and may order reasonable attorney's fees, costs of the action, and such other and further relief as the court may deem proper, to the injured party.

(b) DEFINITIONS.—For purposes of this section—

(1) The terms "Visiting Nurse Association," "VNA," "Visiting Nurse Service," and "VNS" mean a community-based home health agency which is controlled by an independent, self-perpetuating, voluntary board of directors, is exempt from Federal taxation under section 501(a) of the Internal Revenue Code of 1986, and is described in section 501(c)(3) of such Code.

(2) The term "Visiting Nurse Associations of America" means a non-profit corporation which is organized under the laws of the State of Delaware in 1983, and which is an umbrella organization of Visiting Nurse Associations and Visiting Nurse Services, as these terms are defined in this Act.

(c) The remedies provided under the Act are in addition to those provided by any other law.

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—The provisions of this Act shall take effect six months after the date of enactment of this Act.

(b) EXCEPTION.—The provisions of this Act shall not apply to any person or organization who has used the words described in Section 1(a), continuously for at least two years prior to the date of enactment of this Act.

Amend the title to read as follows: "A bill to amend chapter 33 of title 18, United States Code, to prohibit the unauthorized use of the names "Visiting Nurse Association," "Visiting Nurse Service," "VNA," or "VNS."

AMENDMENT NO. 3018

(Purpose: To amend chapter 33 of title 18, United States Code, to prohibit the unauthorized use of the names "Visiting Nurse Association", "Visiting Nurse Service", "VNA", or "VNS")

Mr. FORD. Mr. President, on behalf of Senator BIDEN, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. BIDEN, proposes an amendment numbered 3018.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. PROHIBITION OF UNAUTHORIZED USE OF NAME VISITING NURSE ASSOCIATION OR VISITING NURSE SERVICE.

(a) IN GENERAL.—Chapter 33 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 716. Visiting Nurse Association; Visiting Nurse Service

"(a) IN GENERAL.—Whoever, not being a Visiting Nurse Association, Visiting Nurse Service, or Visiting Nurse Associations of America knowingly uses the words 'Visiting Nurse Association', 'Visiting Nurse Service', 'VNA', 'VNS', or colorable imitation thereof, in commerce, on or in connection with any goods or services, in such a manner as to accuse confusion, mistake, or deception, or to falsely suggest, that the goods or services are those of or endorsed by, or that the person or organization is associated in any way with, a Visiting Nurse Association, Visiting Nurse Service, or Visiting Nurse Associations of America shall be subject to a civil penalty of not more than $1,000 for each violation and shall be enjoined from further uses of these terms. The court shall levy the

appropriate civil penalties, and may order reasonable attorney's fees, costs of the action, and such other and further relief as the court may deem proper, to the injured party.

"(b) DEFIITIONS.—For purposes of this section—

"(1) The terms 'Visiting Nurse Association', 'VNA', 'Visiting Nurse Service', and 'VNS' mean a community-based home health agency with is controlled by an independent, self-perpetuating, voluntary board of directors, is exempt from Federal taxation under section 501(a) of the Internal Revenue Code of 1986, and is described in section 501(c)(3) of such Code.

"(2) The term 'Visiting Nurse Associations of America' means a nonprofit corporation which is organized under the laws of the State of Delaware in 1983, and which is an umbrella organization of Visiting Nurse Associations and Visiting Nurse Services.

"(c) REMEDIES IN ADDITION.—The remedies provided under this section are in addition to those provided by any other law.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 33 of title 18, United States Code, is amended by adding at the end the following new item:

"716. Visiting Nurse Association; Visiting Nurse Service.".

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—The provisions of this Act shall take effect 6 months after the date of enactment of this Act.

(b) EXCEPTION.—The provisions of this Act shall not apply to any person or organization who has used the terms defined in section 716(b) of title 18, United States Code, as added by this Act, continuously for at least 2 years prior to the date of enactment of this Act.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 3018) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 682

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION OF UNAUTHORIZED USE OF NAME VISITING NURSE ASSOCIATION OR VISITING NURSE SERVICE.

(a) IN GENERAL.—Chapter 33 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 716. Visiting Nurse Association; Visiting Nurse Service

"(a) IN GENERAL.—Whoever, not being a Visiting Nurse Association, Visiting Nurse Service, or Visiting Nurse Associations of America knowingly uses the words 'Visiting Nurse Association', 'Visiting Nurse Service', 'VNA', 'VNS', or colorable imitation thereof, in commerce, on or in connection with any goods or services, in such a manner as to cause confusion, mistake, or deception, or to falsely suggest, that the goods or services are those of or endorsed by, or that the person or organization is associated in any way with, a Visiting Nurse Association, Visiting Nurse Service, or Visiting Nurse Associations of America shall be subject to a civil penalty of not more than $1,000 for each violation and shall be enjoined from further uses of these terms. The court shall levy the appropriate civil penalties, and may order reasonable attorney's fees, costs of the action, and such other and further relief as the court may deem proper, to the injured party.

"(b) DEFINITIONS.—For purposes of this section—

"(1) The terms 'Visiting Nurse Association', 'VNA', 'Visiting Nurse Service', and 'VNS' mean a community-based home health agency which is controlled by an independent, self-perpetuating, voluntary board of directors, is exempt from Federal taxation under section 501(a) of the Internal Revenue Code of 1986, and is described in section 501(c)(3) of such Code.

"(2) The term 'Visiting Nurse Associations of America' means a nonprofit corporation which is organized under the laws of the State of Delaware in 1983, and which is an umbrella organization of Visiting Nurse Associations and Visiting Nurse Services.

"(c) REMEDIES IN ADDITION.—The remedies provided under this section are in addition to those provided by any other law.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 33 of title 18, United States Code, is amended by adding at the end the following new item:

"716. Visiting Nurse Association; Visiting Nurse Service.".

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—The provisions of this Act shall take effect 6 months after the date of enactment of this Act.

(b) EXCEPTION.—The provisions of this Act shall not apply to any person or organization who has used the terms defined in section 716(b) of title 18, United States Code, as added by this Act, continuously for at least 2 years prior to the date of enactment of this Act.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WEIR FARM NATIONAL HISTORIC SITE ESTABLISHMENT ACT

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2059.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2059) entitled "An Act to establish the Weir Farm National Historic Site in the State of Connecticut," do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Weir Farm National Historic Site Establishment Act of 1990".

SEC. 2. DEFINITIONS.

As used in this Act—

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "historic site" means the Weir Farm National Historic Site establsihed in section 4.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the Weir Farm in Connecticut is listed on the National Register of Historic Places as a historic site associated with major American artists and several artistic developments:

(2) the Weir Farm, acquired in 1882 by J. Alden Weir, a founder and principal exponent of American Impressionism, has been continuously occupied by working artists and their families who have maintained its significance and integrity as a historic site; and

(3) the Weir Farm, including the house, barns, studios, pond, field, and woods thereon, and the approximately 113 acres of adjacent natural areas owned by the Nature Conservancy and the Town of Ridgefield, Connecticut, provide opportunities for illustrating and interpreting cultural themes of our Nation's heritage and provide opportunities for public use and enjoyment.

(b) PURPOSES.—The purposes of this Act are—

(1) to preserve a significant site of the tradition of American Impressionism;

(2) to maintain the integrity of a setting that inspired artistic expression and encourages public enjoyment; and

(3) to offer opportunities for the inspirational benefit and education of the American people.

SEC. 4. ESTABLISHMENT OF WEIR FARM NATIONAL HISTORIC SITE.

(a) IN GENERAL.—There is established, as a unit of the National Park System, the Weir Farm National Historic Site in the State of Connecticut.

(b) DESCRIPTION.—The historic site shall consist of—

(1) the approximately 2-acre core parcel containing the Weir House, studio, and barn; and

(2) the approximately 60 acres and improvements thereon owned by the State of Connecticut;

both as generally depicted on a map entitled "Land Ownership Map, Weir Farm Historic Site", Figure 5, dated October 1989, as contained in the National Park Service Weir Farm Suitability/Feasibility Study, February, 1990. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

SEC. 5. ACQUISITION OF REAL AND PERSONAL PROPERTY AND SERVICES.

(a) REAL AND PERSONAL PROPERTY.—The Secretary is authorized to acquire by donation, exchange, or purchase with donated or appropriated funds, the lands and improvements within the boundaries of the historic site, except that any such lands and improvements owned by the State of Connecticut may be acquired only by donation. The Secretary may also acquire by the same methods personal property associated with, and appropriate for, the interpretation of the historic site: *Provided,* That the Secretary may acquire works of art associated with the Weir family, J. Alden Weir, and other artists who lived at or visited the site

only by donation or purchase with donated funds.

(b) OTHER PROPERTY, FUNDS, AND SERVICES.—The Secretary is authorized to accept and use donated funds, property, and services to carry out this Act.

SEC. 6. ADMINISTRATION OF HISTORIC SITE.

(a) IN GENERAL.—The Secretary shall administer the historic site in accordance with this Act and the laws generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 *et seq.*), and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national historic significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 *et seq.*), except that the Secretary shall take no action with respect to the 60 acres owned by the State of Connecticut within the boundaries of the historic site until such time as the State has transferred all right, title, and interests therein to the Secretary.

(b) COOPERATIVE AGREEMENTS.—(1) The Secretary may consult and enter into cooperative agreements with the Weir Farm Heritage Trust, the State of Connecticut, the American Academy of Arts and Letters, and other organizations and groups in the development, presentation and funding of art exhibits, resident artist programs, and other appropriate activities related to the preservation, development, and use of the historic site.

(2) The Secretary may consult and enter into cooperative agreements with the Nature Conservancy and the towns of Ridgefield and Wilton for the purpose of coordinating activities on the historic site with activities on the Nature Conservancy's Weir Preserve and lands adjoining the historic site owned by the towns.

(c) EXHIBITS.—The Secretary may display, and accept for the purpose of display, works of art associated with J. Alden Weir, the Weir Farm, and the American Impressionist movement, as may be necessary for the interpretation of the historic site.

(d) GENERAL MANAGEMENT PLAN.—Within 2 complete fiscal years after the date of the enactment of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the Unites States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a general management plan for the historic site. The plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (16 U.S.C. 1a-1 through 1a-7) and other applicable law.

SEC. 7 AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, except that not more than $1,500,000 may be appropriated for the acquisition of real and personal property.

Mr. FORD. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kentucky.

The motion was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. S. 903 and 904, en bloc; that committee amendments, where indicated, be agreed to; that the concurrent resolutions be agreed to, the amendment to the preamble, and the preambles to the concurrent resolutions be agreed to; and the motion to reconsider adoption of the concurrent resolutions en bloc be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENSE OF CONGRESS ON NUCLEAR SALES TO SOUTH ASIA

The Senate proceeded to consider the concurrent resolution (S. Con. Res. 113) expressing the sense of the Congress on international nuclear sales to South Asia, which was considered, and agreed to.

The amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

The concurrent resolution, and the preamble, as amended, as are follows:

S. CON. RES. 113

Whereas section 403 of the Nuclear Non-Proliferation Act of 1978 directs the President to take immediate and vigorous steps to seek agreement from all nations to ensure that IAEA safeguards will be applied to all peaceful nuclear activities in, under the jurisdiction of, or under the control of any non-nuclear-weapon state;

Whereas France, China, and Soviet Union have recently announced their intentions to sell nuclear reactors to Pakistan and India without any requirement for full-scope international safeguards;

Whereas both of these nations have fought three wars in forty three years and the situation in South Asia remains potentially volatile;

Whereas both nations are continuing research and development activities related to nuclear explosive devices and have in the past used peaceful nuclear technology for such purposes; and

Whereas full-scope international nuclear safeguards benefit the peace and security of all nations: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That (a) it is the sense of the Congress that—

(1) the sale or transfer by any nation of nuclear materials and equipment or sensitive nuclear technology to any non-nuclear-weapon state without the requirement of full-scope safeguards will undermine international efforts to halt the regional and global spread of nuclear weapons;

(2) the President should continue his efforts to encourage Pakistan, India, and other non-nuclear-weapon states that are not parties to the Nuclear Non-Proliferation Treaty to agree to full-scope safeguards;

(3) the President should urge all current adherents to the Nuclear Non-Proliferation Treaty to join the United States in seeking these objectives; and

(4) the President should continue and expand his efforts to encourage all nuclear supplier nations to require full-scope safeguards as a condition for future nuclear commerce and cooperation with all non-nuclear-weapon nations.

(b) For purposes of subsection (a)—

(1) the term "non-nuclear-weapon state" is used within the meaning of the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow on July 1, 1968; and

(2) the terms "nuclear materials and equipment" and "sensitive nuclear technology" have the same meanings as are given to such terms in paragraphs (4) and (6), respectively, of section 4(a) of the Nuclear Non-Proliferation Act of 1978.

SENSE OF THE CONGRESS ON THE DETERIORATING HUMAN RIGHTS SITUATION IN KENYA

The Senate proceeded to consider the concurrent resolution (S. Con. Res. 141) expressing the sense of the Congress regarding the deteriorating human rights situation in Kenya, which had been reported from the Committee on Foreign Relations, with amendments.

The amendments were agreed to.

The concurrent resolution, as amended, was agreed to.

The preamble was agreed to.

The concurrent resolution, as amended, and the preamble, are as follows:

S. CON. RES. 141

Whereas the United States and Kenya have enjoyed friendly relations based on their mutual respect of human rights and democratic freedoms;

Whereas Kenya has been an important and politically stable ally to the United States in Africa;

Whereas such aid has been offered to encouraged democratic freedoms, human rights, and political stability in Kenya;

Whereas Kenya is one of the largest recipients of United States aid in sub-Saharan Africa;

Whereas such aid has been offered to encourage democratic freedoms, human rights, and political stability in Kenya;

Whereas the Government of Kenya has been waging a campaign of repression designed to eliminate criticism and dissent;

Wheres the Government of Kenya has compromised the independence of the Kenyan judiciary and increasingly restricted freedom of the press;

Whereas government security forces have harassed and detained government critics, including former Cabinet Members and other advocating multi-party democracy, and assaulted their families and co-workers;

Whereas government security forces have targeted human rights attorneys by interfering with their work and arresting and detaining them;

Whereas the government crackdown compelled Gibson Kamau Kuria, one of the world's foremost human rights attorneys and the recipient of the Robert F. Kennedy Human Rights Award in 1988, to seek refuge in the United States Embassy in Nairobi for five days, and forced his partner,

human rights attorney Paul Muite, into hiding;

Whereas the Government of Kenya has resorted to the use of force against demonstrators calling for multi-party democracy and peaceful political change;

Whereas at least one thousand five hundred peaceful demonstrators have been arrested and detained by government security forces during the first two weeks of July;

Whereas the Government of Kenya's ongoing campaign against its citizens violates basic standards of international law with respect to human rights and fundamental freedoms; and

Wheres Kenya's political stability is threatened by the government's crackdown on individual rights and democratic freedoms and intolerance of political dissent: Now, therefore be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(A) condemns the arrest and detention of Kenyan citizens for the peaceful expression of their political views and the recent violence against unarmed civilians by Kenyan securities forces;

(B) condemns the Government of Kenya's disregard of human rights and fundamental freedoms;

(C) calls upon the Government of Kenya to end the intimidation and harassment of those who are critical of government policies, particularly individuals within the church, the press, and the legal and academic communities; and

(D) calls upon the Government of Kenya to implement effective safeguards to ensure undrestricted freedom of the press and the independence of the judiciary and to guarantee due process and other fundamental civil rights and human rights for individuals imprisoned or otherwise detained by the government; and

(2) It is the sense of the Congress that the President of the United States should suspend all military assistance and economic support fund assistance to the Government of Kenya, and review development assistance programs to ensure that they directly benefit the Kenyan population, until that Government—

(A) restores basic rights and fundamental freedoms, including the rights of free speech, free press, and free association;

(B) releases all detainees and persons arrested for the peaceful expression of their political views;

(C) ends the harassment and detention of its political opponents and human rights lawyers by security forces; and

(D) enables the Kenyan people to enjoy the benefits of a multi-party democratic system.

EMERGENCY MEDICAL SERVICES AND TRAUMA CARE IMPROVEMENT ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 714, S. 15, the Emergency Medical Services and Trauma Center Improvement Act.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 15) to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Medical Services and Trauma Care Improvement Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Federal Government and the governments of the States have established a history of cooperation in the development, implementation, and monitoring of integrated, comprehensive systems for the provision of emergency medical services throughout the United States;

(2) physical trauma causes 140,000 deaths each year, is the leading cause of death of Americans between the ages of 1 and 44, and is the fourth leading cause of death in the general population of the United States;

(3) a disproportionate amount of serious trauma occurs in rural settings, the rural area death rate for motor vehicle accidents is over twice the rate for large cities, and 38 percent of all machinery-related deaths occur on farms even though farm workers constitute only four percent of U.S. workers;

(4) physical trauma in the United States results in an aggregate annual cost of $135,000,000,000 in medical expenses, insurance, administrative costs, property damage, and indirect costs (including more than an annual $31,000,000,000 in lost wages of individuals who are in their most productive work years);

(5) barriers still exist in many parts of the country that prevent quick and efficient emergency medical services from being provided;

(6) few States and communities have developed and implemented regional trauma care systems;

(7) uncompensated care costs associated with trauma have forced many trauma centers to drop out of trauma systems; and

(8) the number of deaths and disabilities resulting from incidents of physical trauma can be substantially reduced by improving emergency medical services systems and, in particular, the trauma care components of such systems.

SEC. 3. ESTABLISHMENT OF PROGRAMS WITH RESPECT TO TRAUMA CARE.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by inserting after title XI the following new title:

"TITLE XII—TRAUMA CARE

"PART A—GENERAL AUTHORITY AND DUTIES OF SECRETARY

"SEC. 1201. CLEARINGHOUSE ON EMERGENCY MEDICAL SERVICES AND TRAUMA CARE.

"(a) ESTABLISHMENT.—The Secretary shall by contract provide for the establishment and operation of a National Clearinghouse on Emergency Medical Services and Trauma Care (hereinafter referred to in this title as the 'Clearinghouse').

"(b) DUTIES.—The Clearinghouse shall—

"(1) foster the development of appropriate, modern emergency medical services and trauma care (including the development of policies for the notification of family members of individuals involved in a medical emergency) through the sharing of information among agencies and individuals involved in planning, furnishing, and studying such services and care;

"(2) collect, compile, and disseminate information on the achievements of, and problems experienced by, State and local agencies and private entities in providing emergency medical services and trauma care and, in so doing, give special consideration of the unique needs of rural areas;

"(3) provide technical assistance relating to emergency medical services and trauma care to State and local agencies; and

"(4) sponsor workshops and conferences on emergency medical services and trauma care.

"(c) FEES AND ASSESSMENTS.—A contract entered into by the Secretary under this section may provide that the Clearinghouse shall charge fees or assessments in order to defray, and beginning with fiscal year 1991, to cover, the costs of operating the Clearinghouse.

"(d) AUTHORITY TO ENTER INTO CONTRACTS.—The authority of the Secretary to enter into contracts under this section shall be to such extent or in such amounts as are provided in Appropriation Acts.

"(e) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $500,000 for the later of fiscal year 1991 or the first fiscal year thereafter for which funds are appropriated under this section, $300,000 for the later of fiscal year 1992 or the second fiscal year after fiscal year 1991 for which funds are so appropriated, and $100,000 for fiscal year 1993 or the third fiscal year after fiscal year 1991 for which funds are so appropriated.

"SEC. 1202. GENERAL DUTIES.

"(a) IN GENERAL.—The Secretary shall—

"(1) conduct and support research, training, evaluations, and demonstration projects with respect to emergency medical services and trauma care systems;

"(2) provide to State and local agencies technical assistance relating to emergency medical services and trauma care systems; and

"(3) establish guidelines for the development of uniform State data reporting systems as described in section 1214(b)(8).

"(b) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants, and enter into cooperative agreements and contracts, for the purpose of carrying out subsection (a).

"PART B—GRANTS WITH RESPECT TO MODIFICATIONS OF STATE PLANS

"SEC. 1211. ESTABLISHMENT OF PROGRAM.

"(a) REQUIREMENT OF ALLOTMENTS FOR STATES.—

"(1) IN GENERAL.—Subject to section 1242(b), the Secretary shall for each fiscal year make an allotment for each State in an amount determined in accordance with section 1220.

"(2) APPLICATION.—The Secretary shall make payments each fiscal year to each State from the allotment for the State if the Secretary approves for the fiscal year involved an application submitted by the State pursuant to section 1219.

"(b) AVAILABILITY.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which such amount was paid.

"SEC. 1212. USE OF ALLOTMENTS.

"(a) PLANNING, IMPLEMENTING, ETC.—Not less than 35 percent of the total amount

paid to a State under section 1211 for a fiscal year shall be used by a State to pay the costs of planning, implementing, monitoring, and evaluating the operation of, county, regional, or State trauma care systems. Such funds shall be administered by the head of the State agency or office responsible for the planning and coordination of emergency medical services system in the State. Each trauma care system supported with amounts made available under this subsection shall—

"(1) meet the standards and requirements established under the State plan submitted under section 1214;

"(2) provide for prehospital triage by paramedics, emergency medical technicians, and other emergency care providers to assess the severity of injury incurred by trauma patients;

"(3) provide for appropriate transportation and transfer policies, including those referenced in section 1214(c), to ensure the delivery of patients to designated trauma centers, including facilities with specialized capabilities and expertise in the care of pediatric trauma patients, and other facilities within and outside of the jurisdiction of such system, including policies to ensure that only individuals appropriately identified as trauma patients are transferred to designated trauma centers;

"(4) improve or establish injury prevention programs and conduct public education activities concerning obtaining access to emergency medical services and trauma care; and

"(5) establish criteria and procedures, in accordance with the State plan required under section 1214, for the identification and designation of trauma centers to participate in the trauma care system.

"(b) TRAUMA CARE EXPENDITURES.—Not less than 35 percent of the amount available for a fiscal year to a State from the total amount paid to the State under section 1211 for such fiscal year shall be used by the State to reimburse designated trauma centers for such portions of the uncompensated trauma care expenditures of such centers (including uncompensated professional services) as the State considers appropriate. In order to receive reimbursement for uncompensated trauma-care expenditures under this subsection, a designated trauma center shall—

"(1) be a center that—

"(A) meets the standards and requirements established by the State in accordance with the State plan required under section 1214; and

"(B) meets the guidelines for level I or level II trauma centers or in the case of rural communities, a level III trauma center as specified by the State plan required under section 1214;

"(2) serve an area in which the procedures and policies described in paragraphs (1) and (2) of subsection (a) have been implemented; and

"(3) maintain its designation as a designated trauma center throughout the fiscal year for which reimbursement is provided under this subsection.

"(c) REMAINING AMOUNTS.—After the application of subsections (a) and (b) for a fiscal year, the amount remaining available for such fiscal year to a State from the total amount paid to the State under section 1211 for such fiscal year may be used for any purposes for which funds are required to be used under such subsections.

"(d) ADJUSTMENTS IN USE OF AMOUNTS AND ADMINISTRATION.—

"(1) ADJUSTMENTS.—The percentage of the total amount paid to a State under section 1211 for a fiscal year that is required by subsection (a) to be used for the uses specified in such subsection may be adjusted by the Secretary in order to—

"(A) permit the State to use for such uses such greater proportion of such amount as the Secretary determines, based upon a demonstration by the State of the extent to which the State is unable to use 35 percent of such amount for reimbursements under subsection (b), that the State is unable to use for such reimbursements; or

"(B) permit the State to use for such uses such lesser proportion of such amount as the Secretary determines, based on a demonstration by the State of the extent to which the State does not need to use 35 percent of such amount for such uses in order to carry out adequately during such fiscal year the activities described in subsection (a), that the State needs to use for such uses.

"(e) ADMINISTRATIVE COSTS.—Not more than 5 percent of the total amount paid to a State under section 1211 for a fiscal year may be used for administering the funds made available under section 1211. The State shall pay from non-Federal sources the remaining costs of administering such funds.

"SEC. 1213. REQUIREMENT OF MATCHING FUNDS FOR FISCAL YEARS SUBSEQUENT TO FISCAL YEAR 1991.

"(a) IN GENERAL.—

"(1) PROHIBITION.—The Secretary may not make payments under section 1211(a) unless the State involved agrees, with respect to the costs to be incurred by the State in carrying out the purposes described in section 1212, to make available non-Federal contributions (in cash or in kind under subsection (b)) toward such costs in an amount equal to not less than $1 for each $3 of Federal funds provided in payments from the allotment for such fiscal year.

"(2) LIMITATION ON CONDITIONS.—With respect to an allotment under section 1211(a) for a State for fiscal year 1991, the Secretary may not require the State to make non-Federal contributions as a condition of receiving payments from the allotment.

"(b) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required in subsection (a) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"SEC. 1214. REQUIREMENTS WITH RESPECT TO CARRYING OUT PURPOSE OF ALLOTMENTS.

"(a) STATE PLAN.—

"(1) TRAUMA CARE COMPONENT.—For each fiscal year, beginning with fiscal year 1991, each State shall submit the trauma care component of the State emergency medical services plan (hereafter in this section referred to as the 'State plan') to the Secretary.

"(2) INTERIM PLAN.—For fiscal year 1991, if a State has not completed the State plan, such State may provide, in lieu of a completed plan, an interim plan or description of efforts made toward the completion of the plan.

"(b) REQUIREMENTS OF PLAN.—Each State plan shall—

"(1) specify that the modifications required pursuant to paragraphs (2) through (10) will be implemented by the principal State agency with respect to emergency medical services or by the designee of such agency;

"(2) specify the State or local public agency or private entity that will designate trauma care regions and trauma centers in the State;

"(3) contain minimum standards and requirements for the designation of different categories of trauma centers (including facilities with specified capabilities and expertise in the care of the pediatric trauma patient) by such agency or entity, including standards and requirements for—

"(A) ensuring that such centers will have sufficient experience and expertise to be able to provide quality care for victims of injury which, in the case of level I or level II trauma centers, include the number and types of trauma patients for whom such centers must provide care in order to;

"(B) the resources and equipment needed by such centers;

"(C) the availability of rehabilitation services for trauma patients; and

"(D) the provision of assurances that such centers may not refuse the transfer of a trauma patient because the patient is unable to pay for the care that the patient requires;

"(4) contain standards and requirements for the implementation of regional trauma care systems, including standards and guidelines (consistent with the provisions of section 1867 of the Social Security Act (42 U.S.C. 1935d(d) and subsection (c) of this section) for medically directed triage and transportation of trauma patients;

"(5) contain standards and requirements for medically directed triage and transport of severely injured children to facilities with specified capabilities and expertise in the care of the pediatric trauma patient;

"(6) specify procedures for the evaluation of designated trauma centers (including facilities described in paragraph (5)) and trauma care systems;

"(7) provide that the standards and requirements described in paragraphs (3) and (4) address the special needs and problems of rural communities;

"(8) provide for the establishment in the State of a central data reporting and analysis system for—

"(A) identifying severely injured trauma patients within regional trauma care systems in the State;

"(B) identifying the nature and cause of severe injuries, and if known, factors contributing to the injury;

"(C) identifying patient outcomes;

"(D) monitoring trauma care resources (including prehospital care) within a regional trauma care system (including relevant rehabilitation information);

"(E) identifying the total amount of uncompensated trauma care expenditures made for each fiscal year by each trauma center in the State; and

"(F) identifying patients transferred within a regional trauma system, including reasons for such transfer;

"(9) provide periodic reviews of the transfers and the auditing of such transfers determined to be inappropriate;

"(10) improve or establish injury prevention programs and conduct public education activities concerning obtaining access to emergency medical services and trauma care; and

"(11) with respect to the requirements established in paragraphs (2) through (10), provide for the coordination and cooperation between the State and any other State with which the State shares any standard metropolitan statistical area.

"(c) EXAMINATION AND TREATMENT FOR EMERGENCY MEDICAL CONDITIONS.—Appropriate transfer policies referred to in subsec-

tion (b)(4) and section 1212(a)(3) shall include the following requirements:

"(1) MEDICAL SCREENING REQUIREMENTS.—In the case of a hospital that has a hospital emergency department, if any individual comes to the emergency department and a request is made on the individual's behalf for examination or treatment for a medical condition, the hospital shall provide for an appropriate medical screening examination within the capability of the hospital's emergency department to determine whether or not an emergency medical condition (as such term is defined in section 1867(e)(1) of the Social Security Act (42 U.S.C. 1395dd(e)(1))) exists or to determine if the individual is in active labor (as such term is defined in section 1867(e)(2) of the Social Security Act (42 U.S.C. 1395dd(e)(2))).

"(2) NECESSARY STABILIZING TREATMENT FOR EMERGENCY MEDICAL CONDITIONS AND ACTIVE LABOR.—

"(A) IN GENERAL.—If any individual comes to a hospital and the hospital determines that the individual has an emergency medical condition or is in active labor (as so defined), the hospital must provide either—

"(i) within the staff and facilities available at the hospital, for such further medical examination and such treatment as may be required to stabilize the medical condition or to provide for treatment of the labor; or

"(ii) for transfer of the individual to another medical facility in accordance with paragraph (3).

"(B) REFUSAL TO CONSENT TO TREATMENT.—A hospital shall be considered to meet the requirement of subparagraph (A) with respect to an individual if the hospital offers the individual the further medical examination and treatment described in such clause but the individual (or a legally responsible person acting on the individual's behalf) refuses to consent to the examination or treatment.

"(C) REFUSAL TO CONSENT TO TRANSFER.—A hospital shall be considered to meet the requirements of subparagraph (A) with respect to an individual if the hospital offers to transfer the individual to another medical facility in accordance with paragraph (3) but the individual (or a legally responsible person acting on the individual's behalf) refuses to consent to the transfer.

"(3) RESTRICTING TRANSFERS UNTIL PATIENT STABILIZES.—

"(A) GENERAL RULE.—If a patient at a hospital has an emergency medical condition which has not been stabilized (as such term is defined in section 1867(e)(4)(B) of the Social Security Act (42 U.S.C. 1395dd(e)(4)(B))) or is in active labor, the hospital may not transfer the patient.

"(B) EXCEPTION.—A patient that has not been stabilized (as such term is defined in section 1867(e)(4)(B) of the Social Security Act (42 U.S.C. 1395dd(e)(4)(B))) or is in active labor may be transferred if—

"(i)(I) the patient (or a legally responsible person acting on the patient's behalf) requests that the transfer be effected, or

"(II) a physician, or other qualified medical personnel when a physician is not readily available in the emergency department, has signed a certification that, based on the reasonable risks and benefits to the patient, and based on the information available at the time, the medical benefits reasonably expected from the provision of appropriate medical treatment at another medical facility outweigh the increased risks to the individual's medical condition from effecting the transfer; and

"(ii) the transfer is an appropriate transfer (within the meaning of subparagraph (D)) to that facility.

"(C) REQUIREMENT.—If a patient at a hospital has an emergency medical condition that has been stabilized, the hospital may transfer the patient but only by means of an appropriate transfer.

"(D) APPROPRIATE TRANSFER.—A transfer to a medical facility is an appropriate transfer if—

"(i) the receiving facility—

"(I) has available space and qualified personnel for the treatment of the patient, and

"(II) has agreed to accept transfer of the patient and to provide appropriate medical treatment, except that a hospital may not refuse to accept a transferred patient unless such hospital does not have the facilities or personnel available to provide proper care for such transferred patient, or the hospital has a full census at that time;

"(ii) the transferring hospital provides the receiving facility with appropriate medical records (or copies thereof) of the examination and treatment affected at the transferring hospital;

"(iii) the transfer is effected through qualified personnel and transportation equipment, as required including the use of necessary and medically appropriate life support measures during the transfer; and

"(iv) the transfer meets such other requirements as the Secretary may find necessary in the interest of the health and safety of the patient transferred.

"(4) CALL SCHEDULES.—In the case of a hospital that has a hospital emergency department, such hospital shall provide a call schedule that lists the appropriate medical specialists that will be immediately available for duty to provide ongoing, definitive treatment to a patient after the initial examination by the emergency physicians.

"(d) CERTAIN STANDARDS WITH RESPECT TO TRAUMA CARE CENTERS AND SYSTEMS.—

"(1) IN GENERAL.—In carrying out paragraphs (3), (4), and (5) of subsection (b), the State shall adopt standards for the designation of trauma centers, and for triage, transfer, and transportation policies. In adopting such standards the State shall—

"(A) take into account existing national standards concerning such;

"(B) consult with medical and nursing speciality groups, hospital associations, emergency medical services State and local directors, concerned advocates and other interested parties;

"(C) conduct hearings on the proposed standards after providing adequate notice to the public concerning such hearing; and

"(D) beginning in fiscal year 1992, take into account the model plan described in subsection (e).

"(2) QUALITY OF TRAUMA CARE.—The highest quality of trauma care shall be the primary goal of State standards adopted under this subsection.

"(3) STATES WITH EXISTING STANDARDS.—In the case of a State that has adopted standards with respect to trauma care centers and systems prior to the date of enactment of this title, such State shall demonstrate in the State plan that the State standards provide for the highest possible quality of trauma care and that the State—

"(A) took into account existing national standards in adopting such standards; and

"(B) consulted with medical and nursing speciality groups, hospital associations, emergency medical services State and local directors, concerned advocates and other interested parties.

"(4) APPROVAL BY SECRETARY.—The Secretary shall not make payments under section 1211(a) for a fiscal year if the Secretary determines that—

"(A) the State has not taken into account existing national standards in adopting standards under this subsection;

"(B) beginning in fiscal year 1992, the State has not taken into account the model plan as described in subsection (e) in adopting such standards; and

"(C) the State has not developed such standards in an open process or has not provided all interested parties an opportunity to participate.

"(e) MODEL TRAUMA CARE PLAN.—Not later than 1 year after that date of enactment of this Act, the Secretary shall develop a model plan for the designation of trauma centers and for triage, transfer and transportation policies that may be adopted for guidance by the State. Such plan shall—

"(1) take into account existing national standards;

"(2) take into account existing State plans;

"(3) be developed in consultation with medical and nursing speciality groups, hospital associations, emergency medical services State directors and associations, concerned advocated and other interested parties; and

"(4) include standards for the designation of rural health facilities and hospitals best able to receive, stabilize, and transfer trauma patients to the nearest appropriate designated trauma center, and for triage, transfer, and transportation policies as they relate to rural areas.

Standards described in paragraph (4) shall be applicable to all rural areas in the State, including both non-metropolitan areas and frontier areas that have populations of less than 6,000 per square mile.

"SEC. 1215. REQUIREMENT OF ANNUAL REPORT BY DESIGNATED TRAUMA CENTERS.

"The Secretary may not make payments under section 1211(a) for a fiscal year unless the State involved agrees to require each designated trauma center in the State to provide to the central data reporting system of the State pursuant to section 1214(b)(8) each fiscal year a report that—

"(1) specifies the number of severely-injured trauma patients cared for by such facility by injury severity grouping and nature of the injury during the fiscal year;

"(2) specifies the average length of hospital stay by such patients according to injury severity groupings during the fiscal year;

"(3) specifies the outcomes, including the disability outcome, of severly-injured trauma patients and their discharge disposition;

"(4) specifies the total amount of uncompensated trauma care expenditures incurred by such facility for such patients for such fiscal year; and

"(5) specifies the number of patients transferred in a manner not in accordance with the provisions of section 1214(c)(3)(D).

"SEC. 1216. REQUIREMENT OF PROVISION OF CERTAIN INFORMATION TO SECRETARY.

"(a) INFORMATION RECEIVED BY STATE REPORTING AND ANALYSIS SYSTEM.—The Secretary may not make payments under section 1211(a) for a fiscal year unless the State involved agrees that the State will, not less than once each year, provide to the Secretary the information received by the State pursuant to section 1214(b)(8).

"(b) AVAILABILITY OF EMERGENCY MEDICAL SERVICES IN RURAL AREAS.—The Secretary

may not make payments under section 1211(a) for a fiscal year unless—

"(1) the State involved identifies any rural area in the State for which—

"(A) there is no system of access to emergency medical services through the telephone number 911;

"(B) there is no basic life-support system; or

"(C) there is no advanced life-support system; and

"(2) the State submits to the Secretary a list of rural areas identified pursuant to paragraph (1) or, if there are no such areas, a statement that there are no such areas.

"SEC. 1217. RESTRICTIONS ON USE OF PAYMENTS.

"(a) IN GENERAL.—The Secretary may not, except as provided in subsection (b), make payments under section 1211(a) for a fiscal year unless the State involved agrees that the payments will not be expended—

"(1) to make cash payments to intended recipients of services provided pursuant to such section;

"(2) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical or communication equipment, ambulances, or aircraft; or

"(3) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(b) EXCEPTION.—If the Secretary finds that the purpose described in section 1212 cannot otherwise be carried out, the Secretary may, with respect to an otherwise qualified State, waive the restriction established in subsection (a)(3).

"SEC. 1218. REQUIREMENT OF REPORTS BY STATES.

"(a) IN GENERAL.—The Secretary may not make payments under section 1211(a) for a fiscal year unless the State involved agrees to prepare and submit to the Secretary an annual report in such form and containing such information as the Secretary determines (after consultation with the States and the Comptroller General of the United States) to be necessary for—

"(1) securing a record and a description of the purposes for which payments received by the State pursuant to such section were expended and of the recipients of such payments; and

"(2) determining whether the payments were expended in accordance with the purpose of the program involved.

"(b) AVAILABILITY TO PUBLIC OF REPORTS.—The Secretary may not make payments under section 1211(a) unless the State involved agrees that the State will make copies of the report described in subsection (a) available for public inspection.

"(c) EVALUATIONS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall, from time to time, evaluate the expenditures by States of payments under section 1211(a) in order to assure that expenditures are consistent with the provisions of the program involved.

"SEC. 1219. REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS AND ASSURANCES.

"The Secretary may not make payments under section 1211(a) to a State for a fiscal year unless—

"(1) the State submits to the Secretary an application for the payments containing agreements in accordance with section 1212 through section 1218;

"(2) the agreements are made through certification from the chief executive officer of the State;

"(3) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary;

"(4) the application contains the information required to be submitted to the Secretary pursuant to sections 1214(a) and 1216(b)(2); and

"(5) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"SEC. 1220. AMOUNTS OF ALLOTMENTS.

"(a) FORMULA.—

"(1) IN GENERAL.—Except as provided in subsection (b), the Secretary shall allot to each State under section 1211(a) an amount that shall be the sum of the amounts allotted to the State under paragraphs (2) and (3).

"(2) POPULATION.—Eighty percent of the total amount made available under section 1242(b)(2) for a fiscal year shall be allotted to States under this paragraph. The allotment of a State under this paragraph shall be the amount that bears the same ratio to the amount available for allotment under this paragraph as the population of the State bears to the population of all States.

"(3) SQUARE MILEAGE.—Twenty percent of the total amount made available under section 1242(b)(2) for a fiscal year shall be allotted to States under this paragraph. The allotment of a State under this paragraph shall be the amount that bears the same ratio to the amount available for allotment under this paragraph as the square mileage of the State bears to the square mileage of all States.

"(4) MAXIMUM ALLOTMENT.—The total amount allotted to a State under this subsection shall not be greater than three times the greater of—

"(A) the amount the State would otherwise receive if a State's allotment were determined by the amount which bears the same ratio to the amount available for allotment as the population of the State bears to the population of all States; or

"(B) the minimum allotment as determined under subsection (b).

"(b) MINIMUM ALLOTMENT.—Notwithstanding subsection (a)—

"(1) if the total amount appropriated under section 1242 for any fiscal year equals or exceeds $25,000,000, the allotment of a State under this section for such fiscal year shall not be less than the greater of—

"(A) $250,000, or

"(B) an amount equal to one-half of one percent of the total amount appropriated to carry out this part for such fiscal year; or

"(2) if the total amount appropriated under section 1242 for any fiscal year is less than $25,000,000—

"(A) the Secretary shall allot 25 percent of such amount equally among the States; and

"(B) the Secretary shall allot 75 percent of such amount according to a formula developed by the Secretary designed to target funds to States that demonstrate in their applications the greatest commitment to establishing and maintaining trauma systems and that have the greatest need to develop, implement, and maintain such systems.

"(c) DISPOSITION OF CERTAIN FUNDS APPROPRIATED FOR ALLOTMENTS.—

"(1) IN GENERAL.—Amounts described in paragraph (2) shall, in accordance with paragraph (3), be allotted by the Secretary to States receiving payments under section 1211(a) for the fiscal year (other than any State referred to in paragraph (2)(C)).

"(2) TYPE OF AMOUNTS.—The amounts referred to in paragraph (1) are any amounts made available pursuant to 1242(b)(2) that are not paid under section 1211(a) to a State as a result of—

"(A) the failure of the State to submit an application under section 1219;

"(B) the failure, in the determination of the Secretary, of the State to prepare within a reasonable period of time such application in compliance with such section; or

"(C) the State informing the Secretary that the State does not intend to expend the full amount of the allotment made for the State.

"(3) AMOUNT.—The amount of an allotment under paragraph (1) for a State for a fiscal year shall be in proportion to the amount otherwise allotted to such State for the fiscal year without regard to this subsection.

"SEC. 1221. FAILURE TO COMPLY WITH AGREEMENTS.

"(a) REPAYMENT OF PAYMENTS.—

"(1) IN GENERAL.—The Secretary may, in accordance with subsection (b), require a State to repay any payments received by the State pursuant to section 1211(a) that the Secretary determines were not expended by the State in accordance with the agreements required to be made by the State as a condition of the receipt of payments under such section.

"(2) FAILURE TO REPAY.—If a State fails to make a repayment required in paragraph (1), the Secretary may offset the amount of the repayment against any amount due to be paid to the State under section 1211(a).

"(b) OPPORTUNITY FOR A HEARING.—Before requiring repayment of payments under subsection (a)(1), the Secretary shall provide to the State an opportunity for a hearing.

"SEC. 1222. PROHIBITION AGAINST CERTAIN FALSE STATEMENTS.

"(a) IN GENERAL.—

"(1) MATERIAL FACT.—A person may not knowingly make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payments may be made by a State from amounts paid to the State under section 1211(a).

"(2) INTENT TO DEFRAUD.—A person with knowledge of the occurrence of any event affecting the right of the person to receive any payments from amounts paid to the State under section 1211(a) may not conceal or fail to disclose any such event with the intent of fraudulently securing such amount.

"(b) CRIMINAL PENALTY FOR VIOLATION OF PROHIBITION.—Any person who violates a prohibition established in subsection (a) may for each violation be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

"SEC. 1223. TECHNICAL ASSISTANCE AND PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.

"(a) TECHNICAL ASSISTANCE.—The Secretary shall, without charge to a State receiving payments under section 1211(a), provide to the State (or to any public or nonprofit private entity designated by the State) technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to section 1212. The Secretary may provide such technical assistance directly, through contract, or through grants.

"(b) SUPPLIES AND SERVICES.—

"(1) IN GENERAL.—On the request of a State receiving an allotment under section 1211(a), the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the State in carrying out section 1211(b) and, for such purpose, may detail to the grantee any offi-

cer or employee of the Department of Health and Human Services.

"(2) REDUCTION IN AMOUNTS.—With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments to the State under section 1211(a) by an amount equal to the fair market value of any supplies, equipment, or services provided by the Secretary and shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"SEC. 1224. REPORT BY SECRETARY.

"Not later than February 1, 1993, the Secretary shall prepare and submit to the appropriate Committees of Congress a report on the activities of the States carried out pursuant to section 1211. Such report may include any recommendations of the Secretary for appropriate administrative and legislative initiatives and shall include—

"(1) an evaluation of the trauma system plans and standards of the State and their respective data as required by section 1216(a);

"(2) recommendations regarding the plans and standards that result in the most favorable patent outcomes; and

"(3) recommendations regarding and, if appropriate, modifications of the model State plan as required by section 1214(e).

"PART C—RURAL EMERGENCY MEDICAL SERVICES AND TRAUMA CARE

"SEC. 1231. IMPROVING RURAL EMERGENCY MEDICAL SERVICES AND TRAUMA CARE.

"(a) GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall make grants, on a competitive basis, to States to carry out activities to improve rural emergency medical services.

"(2) APPLICATION.—A State wishing to receive a grant under this section shall prepare and submit an application at such time, in such form, and containing such information, including the proposed activities and projects to be assisted with such grants, to the Secretary.

"(3) REDISTRIBUTION.—Grants made to States under this section shall be redistributed to the individuals, organizations, or governmental entities on whose behalf the State submitted an application under this section.

"(b) PRIORITY.—In making grants under this section, the Secretary shall give priority to—

"(1) projects aimed at filling gaps in basic and advanced life support emergency medical services in rural communities;

"(2) projects that are necessary in order for the State to carry out the activities described under section 1212; and

"(3) States and communities that serve large numbers of individuals that reside in rural communities;

"(c) ACTIVITIES AND PROJECTS.—Financial assistance may be provided with a grant received under subsection (a) by a State for—

"(1) the support of rural emergency medical services systems;

"(2) the recruitment, training, and retention of personnel to provide emergency medical services and system support, including first responders, emergency medical technicians, paramedics, and emergency medical services systems managers;

"(3) the purchase, upgrading, and maintenance of medical and communications equipment relating to emergency medical services, including equipment for the implementation 911 telephone systems;

"(4) the improvement and maintenance of transportation services for medical emergencies; and

"(5) the conduct of public education activities concerning preventing injuries of special concern to rural communities, including injuries to children resulting from farm equipment, and obtaining access to emergency medical services and trauma care.

"PART D—GENERAL PROVISIONS

"SEC. 1241. DEFINITIONS.

"As used in this title—

"(1) DESIGNATED TRAUMA CENTER.—The term 'designated trauma center' means a trauma center designated in accordance with the modifications to the State plan described in section 1214.

"(2) PLAN FOR THE PROVISION OF EMERGENCY MEDICAL SERVICES.—The term 'plan for the provision of emergency medical services' means a plan for a comprehensive, organized system to provide for the access, response, triage, field stabilization, transport, hospital stabilization, definitive care, and rehabilitation of patients of all ages with respect to emergency medical services.

"(3) STATE.—The term 'State' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(4) TRAUMA CARE COMPONENT OF THE PLAN FOR THE PROVISION OF EMERGENCY MEDICAL SERVICES.—The term 'trauma care component of the plan for the provision of emergency medical services' means a plan for a comprehensive health care system, within rural and urban areas of the State, for the prompt recognition, prehospital care, emergency medical care, acute surgical and medical care, rehabilitation, and outcome evaluation of seriously injured patients.

"(5) UNCOMPENSATED TRAUMA CARE EXPENDITURES.—The term 'uncompensated trauma care expenditures' means any amount that is expended by a health care facility to provide health care services to a trauma patient and for which such facility does not receive payment or reimbursement.

"SEC. 1242. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this title, there is authorized to be appropriated $75,000,000 for each of the fiscal years 1991 through 1993.

"(b) ALLOCATION OF FUNDS BY SECRETARY.—

"(1) PART A.—For the purpose of carrying out part A, the Secretary shall make available 5 percent of the amounts appropriated for a fiscal year pursuant to subsection (a).

"(2) PART B.—For the purpose of making allotments under section 1211(a), the Secretary shall make available 80 percent of the amounts appropriated for a fiscal year pursuant to subsection (a).

"(3) PART C.—For the purpose of making grants under section 1231(a), the Secretary shall make available 15 percent of the amounts appropriated for a fiscal year pursuant to subsection (a).".

SEC. 4. REQUIREMENT OF CERTAIN STUDIES RELATING TO TRAUMA CARE.

(a) MEDICAID POLICIES OF STATES.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall conduct a study for the purpose of determining the policies adopted by States in reimbursing trauma centers pursuant to title XIX of the Social Security Act (42 U.S.C. 1396 et seq.). The study shall assess the adequacy and appropriateness of the reimbursements provided pursuant to such title by States to such centers and shall include recommendations with respect to whether the requirements imposed under such title should be modified in order to ensure that such centers are appropriately reimbursed.

(b) LONG-TERM ECONOMIC EFFECTS OF TRAUMA.—The Secretary shall conduct a comprehensive multidisciplinary study of the long-term economic effects of incidences of trauma in the United States. In conducting the study, the Secretary shall utilize the services of individuals with expertise in appropriate fields (including epidemiology, statistics, behavioral sciences, and health economics) in order to identify and evaluate as many factors as possible that influence the impact and long-term outcome of a trauma incident.

(c) TIME FOR COMPLETION.—The Secretary shall, not later than 1 year and 3 years after the date of enactment of this Act, complete the studies required in subsections (a) and (b), respectively, and submit to the appropriate Committees of Congress a report describing the findings made as a result of the studies.

SEC. 5. COOPERATION BETWEEN STATE AGENCIES.

(a) CERTIFICATIONS REQUIRED IN APPLICATIONS FOR PHHS BLOCK GRANT.—Section 1905(c) of the Public Health Service Act (42 U.S.C. 300w-4(c)) is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) agrees to provide the officer of the State government responsible for the administration of the State highway safety program with an opportunity to—

"(A) participate in the development of any plan by the State relating to emergency medical services, as such plan relates to highway safety, including the State plan required by section 1910B; and

"(B) review and comment on any proposal by any State agency to use any Federal grant or Federal payment received by the State for the provision of emergency medical services as such proposal relates to highway safety.".

(b) HIGHWAY SAFETY PROGRAM.—Paragraph (1) of section 402(b) of title 23, United States Code, is amended—

(1) by striking out the period at the end of each subparagraph and inserting in lieu thereof a comma;

(2) by adding "or" at the end of subparagraph (F); and

(3) by adding at the end thereof the following new subparagraph:

"(G) provide procedures that ensure that State officials who are responsible for the administration, planning, and coordination of emergency medical services within the State have the opportunity to—

"(i) participate in the development of the State highway safety program as such program relates to emergency medical services;

"(ii) provide advice on the development and implementation of those provisions of the State highway safety program related to emergency medical services; and

"(iii) review, and comment on, any proposals to use funds provided to the State under this section for emergency medical services.".

SEC. 6. IMPROVING COMMUNICATIONS SYSTEMS.

(a) WATER AND WASTE FACILITY LOANS AND GRANTS.—The first sentence of section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)) is amended by inserting "emergency telephone service, communications equipment for emergency medical services," after "recreational developments,".

(b) FEDERAL COMMUNICATIONS COMMISSION.—Not later than 1 year after the date of enactment of this Act, the Federal Communications Commission shall—

(1) complete a study of the availability of radio frequency channels for emergency medical services communications (including in such study, to the maximum feasible extent, an analysis of communications between public and private ambulances and public and private hospitals);

(2) establish a plan to ensure that the needs of emergency medical services communications (including effective prehospital communications) shall be adequately provided for in the allocation of frequencies for public safety; and

(3) prepare and submit, to the appropriate Committees of Congress, a report that contains the results of such study and plan relating to emergency medical services communications; and

SEC. 7. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect October 1, 1990, or on the date of the enactment of this Act, whichever occurs later.

Mr. CRANSTON. Mr. President, I am delighted to bring S. 15, the proposed Emergency Medical Services and Trauma Care Improvement Act to the full Senate for its consideration. This legislation is greatly needed to assist communities to develop and preserve trauma care systems.

I introduced S. 15 on the first day of the 101st Congress. I was joined by my good friends, the chairman of the Labor and Human Resources Committee [Mr. KENNEDY] and the Senator from Tennessee [Mr. GORE]. Today, S. 15 is cosponsored by 35 Senators from both sides of the aisle.

The bill is supported by a broad coalition of individuals and organizations who believe that improving trauma care throughout the United States is an important health priority.

THE COSTS OF INJURY

In 1985, the prestigious National Academy of Sciences issued a report, "Injury in America," which assessed the magnitude and characteristics of injury in the United States, efforts to prevent and treat injury, and Federal support for injury research. It was conducted as a followup to a landmark study conducted 20 years earlier by the National Research Council, entitled "Accidental Death and Disability: The Neglected Disease of Modern Society." The National Academy of Sciences concluded that, tragically, insufficient progress had been made in injury control since the first study was reported.

Each year, approximately 145,000 Americans die from injuries and 2.3 million Americans suffer injuries serious enough to warrant hospitalization. Injury is the fourth leading cause of death among all Americans and the major killer of children and young adults. More Americans between the ages of 5 and 34 die from injuries than from all diseases combined.

Injury is also a leading cause of short- and long-term disability. More than 80,000 persons become permanently disabled from brain or spinal cord injuries each year. Over 4 million years of future worklife are lost to injury annually—nearly double that lost to heart disease or cancer.

Injury represents one of our most expensive health problems. According to a 1989 report to Congress, entitled "Cost of Injury in the United States," injury "imposed a $158 billion burden on the U.S. economy" in 1985. The total economic cost is estimated to have risen to $180 billion in 1988; 75 percent of the cost was incurred in the first year of injury with the remaining 25 percent incurred in later years.

The report further concluded that, of the total lifetime costs, direct costs for medical care and rehabilitation account for $45 billion or 29 percent; morbidity costs—the value of goods and services not produced because of injury-related illness and disability—account for $64.9 billion or 41 percent; and mortality costs—the value of lifetime earnings lost from individuals who die prematurely from injury—account for $47.9 billion or 30 percent.

The Federal Government's share of the cost of injuries is enormous. Of all direct care costs, the Federal Government pays $8.9 billion or 21 percent. The Federal Government also pays $13 billion in disability and death benefits under Social Security Disability Insurance, Supplemental Security Income, the Department of Veterans Affairs, and workers' compensation.

Much of the death disability resulting from injury—particularly severe injury—can be prevented or ameliorated by quick-response teams providing prehospital care and through the accessibility and availability of sophisticated emergency hospital care when needed. In Washington, DC, trauma deaths declined 50 percent over a 5-year period after implementation of a trauma system, and fell 55 percent in San Diego. Experts estimate that as many as 25,000 trauma deaths per year in the United States could be prevented with appropriate medical treatment. At least two studies show that with prompt, expert trauma care over 80 percent of the most seriously injured patients return to full-time productivity 4 years following the injury, with most regaining full activity within 1 year.

Well-coordinated EMS and trauma care systems help ensure that injury and trauma victims—as well as others, such as heart attack victims, in need of emergency care—receive that kind of swift and effective medical attention. Regional trauma systems are also cost effective by providing for appropriate distribution and utilization of expensive health-care technology and resources.

TRAUMA CENTERS THREATENED WITH CLOSURE

Over the last 3 years, many urban trauma care systems have come under siege and are now threatened by total collapse. An estimated 20 designated trauma centers in different parts of the country have withdrawn from regional trauma systems because of financial losses. Although trauma patients number only 600,000, a high proportion of them are uninsured and the cost of trauma care is two to four times higher than the average cost of care. Inadequate funding of trauma centers resulted in seven level II centers dropping out of the Dade County, FL, trauma system, leaving James Jackson Memorial Hospital as the county's only remaining trauma center. The Los Angeles trauma system is on the verge of collapse after 11 of the city's 23 trauma centers dropped out because of high uncompensated costs associated with providing trauma care—between $500,000 and $2 million annually per trauma center. Huntington Memorial Hospital in Pasadena lost $3.7 million last year and is the most recent trauma center to withdraw. San Diego's trauma system reported a loss of $6.8 million for 1988 for its six designated trauma centers.

In Chicago, 4 out of 10 trauma centers have dropped out of the system. Houston's Hermann Hospital—one of only two level I trauma centers in that city—decided to withdraw from the city's trauma system late last year after losing more than $7 million. The MedSTAR Trauma Center at the Washington Hospital Center in Washington, DC, is threatening to close after sustaining losses of $8.9 million in 1989 associated with providing care to trauma and burn victims.

A recent study on trauma care reimbursement found that trauma care represents an estimated $1.69 billion or 24 percent of the total uncompensated acute care, which costs $6.96 billion.

The issue of uncompensated trauma care must be addressed comprehensively and on a systemwide basis. At the same time, however, stop-gap measures are needed to preserve existing trauma systems and prevent more trauma centers from closing their doors.

Mr. President, the cover story for the May 28, 1990, Time magazine was entitled, "Emergency! Overwhelmed and Understaffed, Medicine's Front Lines are Collapsing Across America." It chronicled the dire straits of trauma centers and emergency departments throughout the country. I ask unanimous consent that the article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Although S. 15 is a modest bill, it is an important first

step toward addressing the problems outlined in the Time article.

AMENDMENTS

Mr. President, I would like to address briefly six amendments that have been worked out on both sides. The first, offered by Senator COCHRAN would change the method for allocating funding under section 1231 of the Public Health Service Act as added by the bill, the set-aside for rural EMS projects. The amendment would require that funding be distributed on a formula basis, according to the rural population of the State. States would apply for this funding as part of the application for funding under the Trauma Care Grant Program. However, if the overall appropriation for the Trauma Grant Program fell below $25 million—and, therefore, only $4.75 million would be available for rural EMS projects—funding for section 1231 would be awarded on a competitive basis. I think this amendment streamlines the application process and improves the bill. I congratulate the Senator from Mississippi.

The second amendment would delete section 4(a) of the bill, which would require the Secretary of Health and Human Services to conduct a study of State Medicaid policies with regard to trauma care. I am aware that the GAO is already conducting a study regarding the financing of trauma care, which would include financing under Medicaid. I have therefore proposed to delete that requirement from the bill.

Mr. President, the third amendment would delete the prior language under subsection 6(b), which would have required that the Federal Communications Commission complete a study of the availability of radio frequency channels for the emergency medical services community, establish a plan to ensure the needs of emergency medical services communications are met, and prepare a report for Congress containing the results of the study and plan.

Mr. President, this amendment would still require the FCC to report the Congress on the overall adequacy of the communications systems for prehospital emergency medical services providers. It would also leave intact the requirement that the FCC provide Congress with recommendations regarding the future availability of radio frequency channels for these service providers. However, rather than requiring the FCC to submit a separate report regarding the development of a national assignment plan, the amendment would require the FCC to provide the Congress with ongoing assessments of prehospital emergency medical communications based on several steps the FCC is currently undertaking.

The FCC is presently in the process of implementing a national public safety plan in which approximately 55 regions across the country develop and implement plans with respect to the allocation of public safety radio frequencies. According to the FCC, plan approval is contingent on, among other things, the inclusion of the emergency medical community in the frequency allocation planning process. Once the plan is developed it is submitted to the FCC for review and public comment. This amendment would require that the FCC use the planning process to monitor future allocations of radio frequencies to identify problems experienced by emergency medical services providers and to report such problems to Congress.

In addition, the FCC has recently received a petition for rulemaking to establish new radio service related directly to the emergency medical services. Under this amendment, the FCC would provide further assessments and recommendations to Congress based on comments received on the petition and any subsequent rulemaking activity in this area.

Mr. President, it is my hope that these ongoing assessments by the FCC will go far in identifying and meeting the communication needs of the emergency medical services providers. It is crucial that Congress remain informed of the availability of frequency channels for these vital pre- hospital communications.

The fourth, fifth, and sixth amendments would require the Secretary of Health and Human Services to consult and coordinate with the Secretary of transportation with respect to the research, training evaluations, and demonstration projects regarding emergency medical services and trauma care systems. I understand that the Department of Transportation has several excellent emergency medical service and trauma care programs in place. These amendments are intended to clarify that the implementation of this act does not conflict with the activities carried out by the Department of Transportation.

CONCLUSION

Mr. President, 17 years ago the first comprehensive law to upgrade emergency medical services throughout the United States was enacted. That law and those that followed in 1976 and 1979, which I am very proud to have authored, enabled communities to transform emergency medical services that consisted of poorly trained ambulance and emergency room personnel, outdated equipment, and little coordination of services into efficient and effective EMS systems able to respond to all kinds of medical crises.

The measure before us today would enable communities to build on those systems in order that victims of serious injuries can be assured of receiving the highest quality of medical care available, and more importantly, be given every opportunity to continue full and productive lives.

This legislation is the culmination of more than 3 years of effort, and I am proud that the Senate is now on the verge of passing it. I want to express my great appreciation to the chairman of the Labor and Human Resources Committee, Mr. KENNEDY, who has been an ardent supporter of this legislation and who was a principal cosponsor of the original EMS legislation in the 1970's and who has done so very much to cooperate with me and my staff to develop this legislation, and the ranking Republican of the committee, Mr. HATCH, for their assistance in bringing this bill before the Senate today. I also want to express my appreciation to two organizations that have worked tirelessly with me and my staff on this legislation—the American College of Surgeons and the American Trauma Society.

Mr. President, I urge all my colleagues to support this measure.

EXHIBIT 1

EMERGENCY! OVERWHELMED AND UNDERSTAFFED MEDICINE'S FRONT LINES ARE COLLAPSING ACROSS AMERICA

[By Nancy Gibbs]

"We do traumas; we do heart attacks; we do orthopedic fractures; we deliver babies; we do it all," explains Peter Moyer, chief of emergency medicine at Boston City Hospital. "I think of us as the urban GP." Tonight Moyer's trauma team is summoned to save a man who has overdosed on heroin. They cut his clothes away, thump on his chest and connect an IV tube, all the while talking to him, trying to keep him awake. "Do you want to die?" resident Stuart Kessler yells at the man, who is feebly pushing the doctors away. The man shakes his head. "Good," says Kessler. "I don't want you to die either." He administers Narcan, a heroin antidote. An hour later, the patient regains his strength and wants to leave before the police come. He gets angry when a nurse tells him his clothes were cut to pieces. She tries to hide her annoyance. "You understand, sir, that our first priority was saving your life."

The gray Cadillac was going more than 50 m.p.h. when it swerved off the road onto a Little League field in Riverside, Ill. By the time the car rolled to a stop, the bodies of children and parents were strewn across the infield. Ambulances came whooping and screeching to Loyolas McGaw Hospital, 23 blocks away, and the trauma team went to work. Research shows tht if basic life support is used on serious trauma victims within four minutes and advanced life support with in eight, nearly 50% of them survive. McGaw beat the averages. The first child was in cardiac arrest, and two more died on the operating table. But five others with severe head, chest and abdominal injuries survived. "It could have been my child," murmured one doctor, whose boy was only slightly injured in the accident. "My son could have been sitting next to the children who got killed."

It's not really all the blood on the gunshot victims, or the long wait for a doctor, or the smell of the street people that bothers patients in the emergency room at Booth Memorial in Queens, N.Y. It's the indignity.

"Forty-year-old people come in with terminal cancer, and this is where they die," says Dr. Mark Henry. "With the lights on, no privacy, no curtains, with their bedpans and medical charts in clear sight of other patients and their relatives forced to crowd around their gurney and cry.

In large cities and small towns, the emergency room is the abused child of American medicine. Overburdened, understaffed and underfinanced, emergency departments across the country are reeling from multiple blows. Start with 37 million patients who have no health insurance. Add a graying population with a growing need for expensive treatment. Substract government reimbursements, which often cover only half the cost of treating the poor. Factor in the effects of the AIDS epidemic and drug violence. Under such pressures, the miracle is that the system shows any vital signs at all.

Fighting hard to keep it alive are some 110,000 doctors and nurses, plus technicians, social workers and paramedics, employed by roughly 5,700 emergency departments nationwide. Last year they treated 90 million patients for everything from hangnails to heart attacks. In the busiest hospitals, emergency-room personnel minister to an average of 200 patients in a single, brutal twelve-hour shift, while stretchers stack up in the waiting rooms, hallways and even closets. Staffers eat large meals before going on duty, since there will be no breaks once they start. They treat wounds they hoped never to see outside a war zone: it is to Los Angeles, which had more automatic-weapons victims than Beirut last year, that the U.S. Army sends its physicians for combat training, at the Martin Luther King Jr./Drew Medical Center. "What gives out is not patient care," says Dr. Elisabeth Rosenthal of New York Hospital, "but our sanity."

With each passing month, a few more hospitals decide they can no longer stand the strain. Chicago has lost four of its ten trauma centers—specialized units set up within hospitals to handle victims of car wrecks, violence and other life-threatening injuries. In Dade County, Fla., every hospital has dropped out of the trauma network, except James M. Jackson Memorial: one trauma center for more than 2 million residents. Many other emergency departments across the country have "down licensed," or substantially reduced the scope of their emergency services.

When emergency rooms and trauma centers shut down, either permanently or temporarily, the impact sends a shudder throughout the entire medical system. Though patients may be able to choose where they go to have brain surgery, they cannot choose where to have a heart attack, or crash their car, or stumble into cross fire. "The hospitals don't just close their doors to poor people," says Virginia Price-Hastings, director of Los Angeles' trauma hospital programs. "When they're closed, they're closed to everyone." Furthermore, if hospital beds are filled with emergency patients, doctors cannot schedule elective surgeries like breast biopsies, gallbladder removals and cardiac bypasses. Delay a bypass too long, and it can turn into a heart attack—which brings the patient back to the crowded emergency room.

A typical May afternoon in the District of Columbia's George Washington University Medical Center: half a dozen suspected heart attacks; a man who was mowing the lawns at Oak Hill cemetery and caught his foot in the mower; another who was cleaning the meatslicing machine at a restaurant and cut off his fingertip. A 40-year-old man with black hair and gray skin is complaining of sharp stomach pains. He is HIV positive and taking AZT. "That's what someone looks like who's going to die soon," Dr. Michael Bourland explains quietly as he moves on. Doctors here agree that they make the vast majority of their decisions within the first 15 seconds of seeing a patient. But some things simply demand more time. When a patient cannot be saved, Dr. Bourland says, "you have to go tell the family that their loved one died, and you know that you only have about 120 seconds to do it—to get them to cry, to get them to yell and scream, to get them calm enough to give them all the facts so they won't wonder later what we did to try to save him. But I've only 120 seconds to do all that, because if I don't get out of there, then three other people are going to die while I'm sitting talking to a family."

If people think this is a problem only of big inner-city hospitals, they are wrong. They may be dead wrong," says Dr. Stephan Lynn, the director of the emergency department at Manhatten's St. Luke's—Roosevelt Hospital. It is true that there are healthy suburban hospitals that have been largely spared the city's crises. But many rural hospitals are also swamped with trauma cases: farming, fishing and forestry are the most dangerous occupations in America. Isolated from major urban centers, rural hospitals are struggling to recruit and train emergency physicians and to pay for the sophisticated trauma networks that make all the difference in saving accident victims. At the same time they are coping with the AIDS patients, drug overdoses and hopsital overcrowding that were once largely confined to the cities. "Sometimes this place is like a M.A.S.H. unit," says Dr. E. Jackson Allison Jr. of Pitt County Memorial Hospital in Greenville, N.C. "The patients don't stop coming. We end up putting people in the hallways and numbering the beds H1, H2, H3 and so on."

But it is the cities like New York, Chicago and Los Angeles that are suffering a meltdown. During the busiest periods, paramedics talk of "medical gridlock." They cannot even unload their ambulances because the emergency room cannot open because every last bed in the hospital is taken. At this point the hospital may go on "bypass" and ask that ambulances be sent elsewhere. But many hospitals that used to go on bypass once or twice a year now do so every week. In California emergency rooms open and shut like tollgates depending on the traffic. Because surgeons were too busy, one homeless woman who was transferred to Harbor-UCLA Medical Center to have a kidney stone removed was released with a wastecollection tube protruding from her body. She was told to come back for surgery—in one month.

Doctors are loath to admit that patients may be dying because they cannot get proper treatment in overcrowded emergency rooms. Indeed, under such harsh conditions, they are rightly proud of the high level of expert care they maintain. But in some hospitals, as volume grows, there are bound to be errors: in 1988, for example, the New York State health department reported that poor patient care was at least partly responsible for twelve deaths that year at Lincoln Hospital in the South Bronx. In one case, a 30-year-old woman with chest pains died after waiting 5½ hours for a chest X ray; she was never given oxygen or an EKG. At Martin Luther King Jr./Drew Medical Center, an 18-year-old woman who needed a tracheotomy had her throat inadvertently slit and both jugular veins cut by the hospital's trauma doctors. Despite massive bleeding, she managed to recover.

"I know from observation that there have been preventable deaths," says an emergency-room doctor at a private New York hospital. "Ambulances don't get there soon enough. Nurses can't get medicine to patients on schedule. Physicians can't assess all the critically ill patients early. The IVs, the antibiotics and the cardiac medications are delayed. There are no monitors available and sometimes no one to monitor the monitor.

The doctors and nurses of St. Bernard Hospital in Chicago already had their hands full when the Trans Am nearly crashed into the emergency room. The driver, who had been shot in the neck, lost consciousness as he approached the hospital and ran into a retaining wall just out front. Five more feet and he would have landed in the waiting room. The trauma team dragged him out of the car, raced him into the emergency room, cut off his clothes and tried to use suction equipment to get the blood out of his lungs. A thoracic surgeon was called in to locate the bullet, which had entered his Adam's apple and been deflected into his lung. Hospital officials figured that they would get roughly $71 from the state for treating the patient. The first two hours of his care had already cost $2,000.

The crisis is all the more ironic in light of the revolutionary advances in trauma care during the past decade. A generation ago, emergency rooms were dumping grounds for bad doctors and training grounds for young ones. But the experience of two world wars, Korea and especially Vietnam taught doctors that saving injured patients depended as much on speed as on skill. Doctors refer to "the golden hour" after a trauma, before irreversible shock sets in, when lifesaving treatment is most likely to succeed. Beginning in the early '80s, states organized themselves into trauma networks and began tailoring training programs for physicians interested in emergency care as a specialty. The goal was not entirely altruistic: the hope was that most accident victims would be middle class and well insured. "A lot of hospitals looked to trauma victims as $250,000 pieces of meat, and everyone wanted them," says Fred Hurtado, president of the United Paramedics of Los Angeles.

Whatever the hospitals' motives, the advantages for patients were obvious. Trauma is the leading cause of death for people under 44, killing more than 140,000 in the U.S. each year. By improving paramedic training, integrating ambulance services and diverting critical patients to hospitals that specialize in burns or limb reattachment or spinal injury, death rates could be dramatically reduced. In the year after setting up their trauma networks, Peoria, Ill, saw traffic fatalities drop 50%, and Orange County, Calif., saw deaths among non-head-injured auto-accident victims drop from an estimated 73% to 9%.

But in gearing up their emergency-care capacity, hospitals didn't bargain on a crucial economic fact: in the cities, at least, the patients most likely to need such treatment are least likely to be able to pay. Hospitals have always subsidized nonpaying patients by tacking excess charges on to bills of those with health insurance. But when it comes to emergency care, hospitals cannot handpick their clientele. A 1986 law forbids hospitals to turn away poor patients at the

emergency room before they are "stablized." The typical trauma-patient bill last year was $13,000, on average hospitals took a loss of $5,000 on each. Says Dr. Robert Hockberger of Harbor-UCLA: "It's amazing to me that in 1983 all the hospitals didn't realize that most of the people who shoot and stab each other and wreck their cars at 3 a.m. don't have insurance."

At the same time that the trauma centers were expanding, government subsidies were collapsing. To cap soaring health-care costs, the federal and state governments tightened the controls over how much hospitals could charge Medicare patients for any procedure. Private insurers soon followed suit, with the result that patients who have used up their quota of covered costs are often discharged too early—only to return sooner and sometimes sicker to the emergency room.

Under pressure to contain their costs, many hospitals began eliminating beds, including some in their intensive-care units. ICU beds are the most expensive because they must be vigorously monitored by nurses. But by cutting back on ICU beds, hospitals simply shifted the burden to emergency rooms and other facilities. "A young man who needed neurosurgery waited eight days before he could get a bed," says Dr. Albert Lauro, director of emergency medicine at New Orleans' Charity Hospital. "Another woman, who had had a stroke, waited four days. They sit in the emergency department hours and days trying to get into the intensive-care units."

In some cases, private hospitals dump expensive patients on public facilities—not because the private institutions are losing money but because they are not making as much money as they are accustomed to. "Hospitals have shifted resources away from emergency care to drug and alcohol rehabilitation or outpatient psychiatric care," says Dr. Hockberger. "These are the things that make money." According to the National Association for Hospital Development, by the year 2000, 40% of the nation's 2,200 acute-care hospitals will be closed or converted to other uses.

At the heart of the problem, health-care experts agree, is the absence of any national consensus or policy on how to care for the poor and underinsured. Many of those flocking to emergency rooms are working people whose employers are no longer able or willing to provide insurance. "The 9-to-5 executive with benefits can take time off to see his doctor," says Dr. Keith T. Sivertson, director of the Johns Hopkins emergency department in Baltimore. "The poor slob mopping the floor until 4 a.m. may be sick after work, yet has to be ready to go back on the job the next day because if he doesn't work he doesn't get paid. Where does he get a doctor at 4 a.m.?" For many people the answer used to be walk-in health clinics; but when funding for these clinics started drying up, some closed their doors.

In those neighborhoods that have functioning clinics, patients may still choose the emergency room because it is open 24 hours a day or because they think the care is better. At Chicago's Michael Reese Hospital, some pregnant women wait in the parking lot until they are close to delivery so they can be admitted through the emergency room. The deluge has forced most hospitals to adapt their primary-care systems. Triage nurses divide patients into two groups: the critically ill, who must be seen immediately, and the less serious cases, which can be sent to "urgent-care centers." For millions of Americans, the emergency room has become the family doctor.

But even the best emergency department is a poor substitute for reliable primary care. Fearful of the harsh conditions and long waits at hospitals, people often put off treatment as long as possible. When they do show up at the emergency room, they are sicker than if they had had regular preventive care, and often require longer hospitalization—which further ties up valuable beds. "The longer the length of stay, the higher the occupancy rate," says Kenneth Raske, president of the Greater New York Hospital Association, "and the more pressure on the emergency rooms." This is especially true of AIDS patients. While the average hospital stay is around eight days, the typical AIDS patient remains between 20 and 30 days.

One day last spring, Dr. Peter Moyer at Boston City was tending to a young man who had been wounded in a shoot-out, presumably over the cocaine the staff found stashed in his underwear. Hovering nearby was the patient's bodyguard, an immense personage who kept his hand on a bulging object inside his jacket. He refused to leave when the security guards ordered him out. When they threatened to call the police, the patient climbed off the treatment table and walked out with the bullet still lodged in his arm.

The trasnformation of urban neighborhoods into war zones has turned many hospitals into combat units. "Intentional penetrating injuries"—which is to say, gunshot and stab wounds—used to be rare outside the worst inner-city areas. Now every hospital sees them. At the Washington Hospital Center, the number of violent injuries has jumped 94% since 1987, totaling 681 cases last year. Gunshot wounds were up 150%. Today roughly half of those with serious traumatic injuries in Los Angeles have been cut, stabbed or shot.

The drug war is often fought in the hospitals themselves. Patients try to steal drugs and syringes, and attack doctors and nurses who get in their way. At Philadelphia's Albert Einstein Medical Center, three-quarters of those screened at the trauma center tested positive for illegal or prescription drugs. Again, it is not only inner cities that suffer. "Drug pushers realize rural America is an easy mark," says Dr. Allison in Greenville, N.C. "Coke is color blind. It is overwhelming the community, particularly the poor." Adds Dr. Herbert Garrison III: "We have people who come in here carrying weapons and who are out of their heads. Sometimes we have police officers with shotguns in our parking lot."

Drugs and violence combine with a host of social problems that often overpower the medical ones. At Bellevue in Manhattan, a survey last year uncovered the astonishing fact that 42 percent of the patients in the hospital were homeless. As emergency rooms become the refuge of last resort, social workers are just as busy as the doctors and nurses. Victims of domestic violence are looking for a safe haven, homeless people for a place to sleep, addicts for a chance at treatment. Doctors at G.W.U.'s department of emergency medicine recall the day an elderly, malnourished woman from a local boarding home was brought to the hospital in cardiac arrest. As they were trying, unsuccessfully, to resuscitate her, doctors noticed that she had maggots on her legs under her stockings, and bedsores. "The paramedics said that home was the worst place they'd ever seen," social worker Mary Helen Harris recalls, "and they've seen a lot." She launched an investigation, testified in court about conditions, and the place was closed down.

Before crack, nurse Kathleen Paolicelli could handle drug addicts. "They would come in, they were quiet and you could treat them," says the 18-year veterans of the Elmhurst Hospital Center in Queens, N.Y. But crack, she says, has transformed her clientele and the dynamics of the emergency room. "With crack, it's overwhelming. They're wild, they go after patients, they swing from the IV packets, they jump out of the stretchers. They become paranoid. And they have enormous strength." Paolicelli, a robust woman herself, says the times for playing "little Nancy Nurse" in the emergency room are over. "You're tying people on top of stretchers, sitting on top of people and fighting with them constantly.

For some hospital administrators, the critical-care problem is essentially one of personnel. In New York, a hard-hit city, about 5,000 registered nurses' positions—about 1 of every 6 nursing jobs in the city—are vacant and about 900 beds are idle because of staffing shortages. Not surprisingly, emergency rooms are the ones that suffer the largest nurse shortages. Some nurses burn out; others leave because they are frustrated by a job that has come to demand as much baby-sitting of patients as emergency medicine. "I know one who's painting houses right now," says Dr. Thomas Coffee, director of emergency services at Cabrini Medical Center in Manhattan. "She left the profession because it broke her heart."

The doctors are often just a few steps behind. Some pioneering hospitals, like G.W.U. in Washington, have worked to give emergency medicine a higher professional status and to attract doctors to the specialty. The regular, albeit high-stress, hours are appealing, as is the chance to see a wide variety of ailments. "I think generally people see what goes on down here as either stress or excitement," says Dr. Bourland. "Those who interpret it as stress burn out, and those who see it as excitement don't."

Others flee the field because of the risk of malpractice suits. "In the E.R. you're a sitting duck for malpractice, and people here know it," says Dr. Rosenthal. For all their heroic efforts, emergency-room doctors have little chance to establish a continuing relationsip with patients and little time for tenderness. The waits can be long, the treatments painful and the sheer volume of patients high. "You have to work quickly during an emergency," she says, "with a lot of angry people, in a climate in which lawsuits are used by people to express their anger."

The obvious solutions to emergency-room overload are expensive and controversial: give people access to affordable health care, pay nurses decently, allow doctors some flexibility in treating their patients and recognized that good preventive care is a sound investment. Though politicians may resist boosting their budgets for medical care, they might be surprised to learn that many of their constituents are willing to pay the price. According to a Gallup poll released this month, 73 percent of Californians who believe the government should provide better health care for the poor were willing to pay higher taxes for such expanded coverage; 84 percent favored mandatory employer-provided health insurance.

But in cities like New York, once again facing a crippling budget battle, the hospital crisis cannot be solved without huge new investments and new priorities. "In New York City," says Dr. Lynn of St. Luke's-Roosevelt, "we have a phrase: 'It always gets

worse before it gets worse.'" By 1994, AIDS patients alone, who now fill 9% of the city's beds, will need an additional 2,300 hospital beds—the equivalent of four new hospitals. The major municipal hospitals are crumbling; private facilities are eating into their endowments in order to pay expenses. "It's a crazy way to run a health-care system," says Dr. Alexander Kuehl, director of New York Hospital's emergency room. "Either give us national health insurance or give us an entrepreneurial system, but don't play games asking private hospitals to spend endowment to take care of patients. The endowment is the future."

Another, perhaps inevitable, answer is to ration health care more scrupulously. Already many hospital administrators are arguing that less money should be spent on highly specialized care—patients with terminal conditions, babies born with multiple defects who are not expected to live long, elderly patients in need of organ transplants. "We have to let some babies die, some old people die," says Dr. John West, a trauma-care expert at the University of California at Irvine. "We have to look at the quality of life, and we have to look at the return on our health-care buck. You just can't keep everyone alive forever."

But the decisions and solution will not come easily or soon. AIDS will not be cured tomorrow, nor will the population cease to age. Drugs will continue to kill, as will people who use them. When the doctors and nurses who devote themselves to saving lives on the edge are also asked to be baby-sitters, body-guards, street fighters and traffic cops, the burnout rate will only increase. And the last thing that a grievously wounded or ailing person needs to think about in a speeding ambulance is whether the hospital doors will be open when it arrives. Until the emergency room is made safe for emergencies, no one will be safe.

Reported by Scott Brown/Los Angeles, Barbara Dolan/Chicago and Priscilla Painton/New York)

A HARD DAY'S NIGHT IN L.A.

(By James Willworth)

Frantic family members and blinking squad-car lights surrounded Antonio Ramirez. Knocked down by a passing pickup truck, the six-year-old boy screamed in pain as he lay on a curbside patch of grass in a south Los Angeles County barrio. For paramedics Edwin St. Andrew, 27, and Walter Tayenaka, 32, summoned to an "unknown T.C." (traffic collision), the moment was routine yet unnerving. The boy briefly lost consciousness and appeared to have broken bones. They had to move him quickly to a hospital. "You never know about kids," explained St. Andrew. "They seem to be doing well and suddenly they just drop."

St. Andrew and Tayenaka work for Paramedic Squadron 39 of the Los Angeles County Fire Department, a unit that serves a working-class white and Hispanic area within comfortable reach of five hospital emergency rooms. But as time passes each day, one E.R. after another claims saturation and closes down. Paramedics with life-and-death cases must sometimes beg or bluff their way in. Equally frustrating, trauma-care capability gets entangled with the community's demand for street medicine. High speed runs for "unknown rescue" all too often involve nothing more than cut fingers, headaches and family hysteria.

Little Tony Ramirez seemed to be in serious trouble. Wrapping the boy in head-to-knee flexible braces to keep his spine straight, technicians gingerly placed him in the ambulance. It left the scene at 7:05 p.m., just 13 minutes after St Andrew and Tayenaka got the call. St. Andrew monitored Tony's blood pressure while he cradled a portable phone and asked a county trauma center for permission to bring in the case. He tried to insert an IV needle, but the boy, who spoke no English, cried and resisted. "No moveas," St. Andrew cajoled in semi-Spanish. An impatient nurse on the phone demanded a blood-pressure reading. Suddenly Tony stopped crying. St. Andrew shook him gently: "Antonio, Antonio!" The boy began to wail again. Everything was chaotically routine. Hospital tests eventually showed that Tony had neither head injuries nor broken bones.

The radio barked again while St. Andrew and Tayenaka were still in the parking lot, and they took off at top speed. Arriving with the siren blaring, they found a man who had cut his hand in a minor traffic accident and wanted hospital care. A county-contracted private ambulance took the case. "He'll get a bill," said Tayenaka, "but nobody pays." Later a drunken partygoer fell and cut his head slightly; he wanted an ambulance too.

At 8:05 p.m., retired landscape gardener Robert McKinney, 76, sat shaky and pale in a room full of firemen. As paramedics attached red EKG clips to his chest, McKinney explained in a raspy voice that he had got out of bed at 1 a.m.—19 hours earlier—and had been struggling to breathe ever since. His blood pressure was an alarming 200 over 140 (120 over 80 is normal). Such severe hypertension can impair lung function and lead to congestive heart failure. McKinney's EKG showed an irregular, rapid heartbeat.

In the ambulance St. Andrew turned on oxygen, spritzed nitroglycerin under McKinney's tongue to relieve the hypertension and potential heart problems, and briefed a hospital over the phone. He warned McKinney to be ready for "a stick," then put in the IV needle to administer the diuretic drug Lasix, which dilates blood vessels. McKinney rallied as his pressure slipped down to 164 over 120. "I was scared," he admitted hoarsely. "I didn't think I'd make it." He did.

"I'm so sick! I'm so sick!" wailed Mona Aguayo as the paramedics entered her tiny bedroom at 1:30 a.m. Observed St. Andrew: "She's 96 years old, maybe senile, hurts all over. But basically she's healthy." Carried out by burly firemen, Aguayo seemed like a wounded bird with her thin, angular features, frightened eyes and short silver hair. "My hands! My hands!" she cried. She began to vomit as the ambulance sped toward Santa Marta Hospital, the last "open" emergency room of the night. But her pain and terror were apparently caused by hysteria. The woman was sent home within hours.

St. Andrew and Tayenaka remember the night they forced a local community hospital to admit a man who was gushing blood from a bullet wound to the neck. The sophisticated county trauma centers were closed; a less-equipped emergency room at Downey Community Hospital, six minutes away, was full. The paramedics were ordered to St. Francis Medical Center, twice the distance. They went instead to Downey, and the man survived the night. "I know the situation," said St. Andrew. "I'd pay extra taxes to keep the trauma centers open. I want one available if my kid is hurt."

Mr. PELL. Mr. President, I am delighted that the Senate will today act on S. 15, the Emergency Services and Trauma Care Improvement Act. This is an extremely important bill, and it is one that I know has received very careful attention from its sponsor, the senior Senator from California, Senator CRANSTON, and from our committee.

Mr. President, this bill contains a small provision of which I am particularly proud. Last summer, I received a very compelling letter from a constituent of mine in Peace Dale, RI. It was this letter from Mrs. Anne B. Barrington that prompted me to include in the bill a provision which I believe may help people cope just a little better with the sudden injury or death of a loved one.

Mrs. Barrington wrote to tell me of a tragedy that befell a close friend of hers. Her friend, Richard Monahan, who now lives in North Kingston, RI, was living in New Hampshire with his bride, Patricia. One day, he came home from his midnight to 8 a.m. work shift to find that Patricia was not there. Her car was undisturbed in its parking space; their neighbors did not know Patricia's whereabouts. Richard grew worried; he noticed a chair not in its proper place and discovered on the floor the nose piece of oxygen equipment. He began to call hospitals, and fortunately, located the hospital to which Patricia had been taken. Mrs. Barrington's letter eloquently expresses the sad result:

[Richard] was informed it would be best for him to get to the hospital as soon as he could. When he arrived, he was ushered into a room and informed that his wife had been able to dial 911 at 6 a.m., the paramedics had found her unconscious when they arrived just minutes after Patricia had called, that the paramedics and hospital staff had done everything they could for her, but that she had died from a massive coronary before reaching the hospital.

Mr. President, Mrs Barrington's description of the tragic situation faced by Richard Monahan says two things to me: one is that we need this comprehensive trauma care legislation. We need excellent trauma care systems in every State in this Nation. Traumatic injury or death can happen anywhere, anytime, and whether we or a loved one survives the injury should not depend on where we live or what community we happen to be driving through.

Mrs. Barrington's letter says something else to me too. It is a reminder that there is a human component to trauma care—it says that we have families and loved ones who experience fear, anxiety, and potentially great tragedy if they cannot locate an absent family member who has been stricken or injured. How much better it would be if we could ensure that loved ones are notifed that an emer-

gency has occurred and instructed where to call for information.

Mr. President, I am delighted that this legislation requires the "Clearinghouse on Emergency Medical Services and Trauma Care" established by the bill to "foster * * * the development of policies for the notification of family members of individuals involved in a medical emergency * * *." Providing notices to indicate that an emergency has occurred has two purposes: It may save a life if a family member can locate an absent relative quickly and help doctors by providing missing medical information, such as medications the victim may be taking, or whether the victim has certain allergies or a particular medical problem. Second, it would help families, and perhaps the victim, cope better with the trauma that has occurred. In the words of Mrs. Barrington:

[I]t is a terrible shock to be caught up in a situation such as this not knowing what to do or where to turn as panic sets in. If some of the panic could be alleviated, it would make it a little easier to bear the outcome.

Mr. President, Mrs. Barrington has told me that the towns of East Greenwich and South Kingstown, RI, have already put a notification plan in effect, and the town of Narragansett, RI, had plans to implement a plan as well. I am very pleased by these developments, and hope that by including this important provision in today's legislation, we may provide encouragement and support for the development of such policy nationwide.

I would like to thank Mrs. Barrington for sharing her excellent idea with me, and extend my appreciation to Mr. Richard Monahan, who has since moved to North Kingstown, RI, for allowing us to try to make some good out of a terrible personal tragedy. I would also like to thank Senator CRANSTON, the bill's sponsor and moving force, and the members of our committee, for supporting this important addition to the bill.

Mr. President, I ask unanimous consent to insert in the RECORD at this time the letter I received from Mrs. Anne Barrington, to which I have referred in my remarks, and note that I have excised certain personal data provided by Mrs. Barrington to protect her privacy.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

PEACE DALE, RI,
August 21, 1989.

Hon. CLAIBORNE PELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR PELL: I am writing to ask your help in getting some type of legislation set up nationwide to help people involved in medical emergencies. I do not know where to start other than to let you know what happened to very dear friends of my husband and I (using them as an example), as well as to let you know what so many of us in the Town of South Kingstown would like to see done.

About four months ago, Patricia and Richard Monahan were married and Patricia relocated to Nashua, New Hampshire to be with her husband. On July 29 Richard, who works from midnight until 8:00 a.m., returned home from work and found his wife no where in sight. Patricia was no where in the apartment, her car was still parked in its proper space, and no one in the apartment complex was aware of anything going on, and could give Richard no information as to her where-abouts. He had no way of knowing what was going on, until after looking for her everywhere inside the apartment and the surrounding grounds, he noticed a chair moved from its normal position. Upon checking closer, he noticed the nose piece to oxygen paraphernalia and then the panic set in. In his panic, he was able to gain enough composure to start checking hospitals and was able to locate the hospital Patricia was taken to. (Richard was luckier than most in his plight to locate his wife as there are only two hospitals in Nashua, and not dozens as in the big cities such as New York, Chicago, etc.) He was informed it would be best for him to get to the hospital as soon as he could. When he arrived, he was ushered into a room and informed that his wife had been able to dial 911 at 6:00 a.m., the paramedics had found her unconscious when they arrived just minutes after Patricia had called, that the paramedics and hospital staff had done everything they could for her, but that she had died from a massive coronary before reaching the hospital.

The United States would be lost without the excellent paramedics and EMTs we have in existence today. They are well-trained in what they do, they are efficient, they are kind, sympathetic and quick, and know what to do without any hesitation whatsoever. In essence, they have to be the doctor until they can get their patient to the proper facility, and all medical decisions made while the patient is in their care, are theirs alone. They have saved numerous lives with the training they have. However, there is one thing wrong; especially in a situation such as our friend went through. Since no one else was home at the time, the paramedics were able to find a medicine bottle with Patricia's name on it, but had no way of knowing it was not her married name since the prescription had been filled before she was married. The other problem was that when Richard walked through the door that morning, he had no way of knowing what had happened until he called hospitals and was finally able to locate the hospital where his wife had been taken. You can imagine his anxiety in not being able to find out immediately what was going on, knowing that his wife was happy and perfectly healthy when he had left for work nine hours earlier.

One of the solutions so many of us have come up with is to get some kind of legislation going which would make it mandatory so that in an emergency such as this the paramedics, firemen (or any type of emergency personnel), have some kind of a sticker, flyer, or anything very bright in color that would catch the eye with the simple words of, "There has been a medical (fire, etc.) emergency at this address. For information please call — — —." The emergency personnel, as they leave, would put this preprinted information at a spot where it would be seen immediately by anyone entering the dwelling after the emergency. Since the sticker (or whatever) is already printed, they would not have to take the added time to fill information out other than to place the sticker on a door, wall, table or at some spot where it is readily seen. The information number could be attached to the 911 headquarters, at the local fire stations, at the local police stations, or some office of higher authority who would have all the information they need to know within minutes of the emergency. When a person in our friend's situation calls that number, he/she is told when the emergency occurred, where to go, or who to call. This will alleviate much of the terror and confusion of someone in Richard's position, and save a considerable amount of time; even though it would not quell any fears or alter the outcome.

I am sure so many people have thought of something like this, but probably in their bereavement they were not up to doing anything about it. However, since Patricia's death, we have all been doing some checking and talking to try to get something started. (I have to add that Patricia was a very dear and close friend of mine for over 23 years.) Richard's brother, William, has talked to the Commander of the South Kingstown Ambulance Corps, David Weinreich, and David would also like to see something done; and in fact, has already started the ball rolling on his part. Richard has also talked to numerous fire department members, state and town officials, and we have all talked to everyone we see about getting something in the works to make it a must to leave some kind of information where it can be seen to avoid situations like Richard's from happening again. It is a terrible shock to be caught up in a situation such as this not knowing what to do or where to turn as panic sets in. If some of the panic could be alleviated, it would make it a little easier to bear the outcome; whether the outcome is good or bad.

I guess what I am trying to ask is if there is anything we need to do from our end to get some kind of legislation going, or is there something you can do to help us. I cannot honestly say whether there is any state in the Union that has something such as we are proposing, but it would seem to me that it is something well worth looking into. If legislation is needed to get this going, can you tell me where to start, what you need from me, etc.; in other words, where do we go from here. I can be reached during the day in —— if you would like to discuss this with me further. Richard would also be very willing to talk with you and can be reached in Nashua at .

Thanking you in advance for any help you can give me.

Sincerely yours,

ANNE B. BARRINGTON.

AMENDMENT NO. 3019, EN BLOC

(Purpose: To revise provisions relating to rural emergency medical services and trauma care)

(Purpose: To eliminate the requirement for the conduct of a study concerning certain Medicaid policies)

(Purpose: To clarify provisions relating to the submission of a report by the Federal Communications Commission)

(Purpose: To require the Secretary of Health and Human Services to consult and coordinate with the Secretary of Transportation in the implementation of the act)

(Purpose: To require the State highway officer to communicate concerning the State emergency medical services plan rather than participate in the development of such plan)

(Purpose: To require the State officer responsible for emergency services to communicate concerning the State highway safety program rather than participate in the development of such program)

Mr. FORD. Mr. President, on behalf of Senator CRANSTON, I send six amendments to the desk and I ask that the amendments be considered en bloc and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it it so ordered.

The amendments considered and agreed to en bloc are as follows:

On page 72, line 16, strike out ", on a competitive basis,".

On page 72, strike out lines 18 through 23, and insert in lieu thereof the following new paragraph:

"'(2) APPLICATION.—A State wishing too receive a grant under this section shall, as part of the application of the State submitted under section 1219, request assistance under this section and describe the proposed activities and projects to be assisted with such grants.'".

On page 73, strike out lines 4 through 14.

On page 73, line 15, strike out "(c)" and inset in lieu thereof "(b)".

On page 74, between lines 11 and 12, insert the following new subsection:

"'(c) AMOUNT.—

"'(1) FORMULA.—The amount of a grant to a State under this section shall be an amount equal to the amount that bears the same ratio to the amount available for making grants under this section as the rural population of the State bears to the rural population of all States.

"'(2) PRIORITY.—If the total amount available under section 1242(b)(3) for any fiscal year is less than $3,750,000, the Secretary shall make grants under this section, on a competitive basis, giving priority to—

"'(A) projects targeted at filling gaps in basic and advanced life support emergency medical services in rural communities;

"'(B) projects that are necessary to carry out * * *

On page 76, strike out line 18 and all that follows through line 4 on page 77.

On page 77, line 5, strike out "(b)" and insert in lieu thereof "(a)".

On page 77, line 14, strike out "(c)" and insert in lieu thereof "(b)".

On page 77, line 15, strike out "1 year and".

On page 77, lines 16 and 17, strike out "and (b), respectively,".

On page 80, strike out lines 1 through 18 and insert in lieu thereof the following new subsection:

(b) FEDERAL COMMUNICATIONS COMMISSION.—Not later than 18 months after the date of enactment of this Act, the Federal Communications Commission shall prepare and submit, to the appropriate Committees of Congress, a report that—

(1) describes in detail any problems and solutions identified by the National Public Safety Planning process in meeting the communications requirements of pre-hospital emergency medical service providers; and

(2) assesses the overall adequacy of, and makes recommendations concerning, such communications services as indicated by comments the Commission receives in any on-going proceedings related to pre-hospital emergency medical communications.

On page 43, between lines 21 and 22, insert the following new subsection:

"(c) CONSULTATION AND COORDINATION.—The Secretary shall consult and coordinate with the Secretary of Transportation to ensure that the implementation of this title will not conflict with the responsibilities of the Secretary of Transportation under title 23, United States Code, with respect to emergency services.".

On page 78, line 8, strike out "participate in the development" and insert in lieu thereof "communicate and coordinate with regard to".

On page 79, line 6, strike out "participate in the development" and insert in lieu thereof "communicate and coordinate with regard to".

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there are no further amendments, the substitute, as amended, is agreed to.

Without objection, the bill is considered read a third time and passed.

So the bill (S. 15), as amended, was passed.

(The text of the bill as passed, will appear in a future edition of the RECORD.)

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT AGREEMENT—S. 1829

Mr. FORD. Mr. President, I ask unanimous consent the majority leader, after consultation with the Republican leader, may at any time, notwithstanding the provisions of rule XXII, proceed to the consideration of Calendar No. 787, S. 1829, a bill to amend the Controlled Substances Act to further restrict the use of steroids and human growth hormones, and that it be considered under the following time limitations:

Thirty minutes on the bill, equally divided and controlled in usual form between Senators BIDEN and THURMOND or their designees; that no amendments, other than the committee reported substitute amendment and an amendment to be offered by the manager on behalf of Senator HUMPHREY to amend title 18, section 1961(1), on which there be no time for debate, be in order; and that no motions to recommit be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT REFERRAL OF S. 3217

Mr. FORD. Mr. President, I ask unanimous consent that the Inouye-McCain bill authorizing additional positions for the National Museum of the American Indian, introduced earlier today, be jointly referred to the Rules Committee and the Indian Affairs Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

KOREAN WAR VETERANS MEMORIAL 38TH ANNIVERSARY COMMEMORATIVE COIN ACT

Mr. FORD. Mr. President, I ask the Chair to lay before the Senate a message from the House on S. 2737, a bill to require the Secretary of the Treasury to mint a silver dollar coin in commemoration of the 38th anniversary of the ending of the Korean war and in honor of those who served.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2737) entitled "An Act to require the Secretary of the Treasury to mint a silver dollar coin in commemoration of the thirty-eighth anniversary of the ending of the Korean War and in honor of those who served", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Korean War Veterans Memorial Thirty-Eighth Anniversary Commemorative Coin Act".

SEC. 2. FINDINGS AND SENSE OF THE CONGRESS.

(a) FINDINGS.—The Congress finds that—

(1) on June 25, 1950, the Republic of Korea was invaded by the North Korean Army,

(2) Untied States forces in a United Nations action defended South Korea and repelled the attackers,

(3) further aggression by the Chinese Communists was also repelled,

(4) an armistice was signed on July 27, 1953

(5) American combat deaths totaled 33,629, and more than 8,000 remains are still unaccounted for,

(6) an additional several thousand nonbattle deaths occurred on or around the Korean peninsula,

(7) 103,284 Americans were wounded, with many disabled and handicapped,

(8) this war, waged under the United Nations aegis, halted communist aggression in Northeast Asia, preserved the human rights of 40 million people, and restored the territorial integrity of the Republic of Korea,

(9) the desire to memorialize American gratitude to the courageous men and women who served has led to the Korean War Veterans Memorial authorization,

(10) this memorial must be built by private donations, and

(11) the moneys must be raised by the thirty-eighth anniversary of the ending of the war.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress—

(1) that the thirty-eighth anniversary of the ending of the Korean War should not go unrecognized,

(2) that the United States should recognize this anniversary and the veterans of the Korean War by minting and issuing a silver dollar coin; and

(3) that issuance of this coin will enable the Korean War Veterans Memorial to be built in the Nation's capital on schedule, with all donations to be deposited in the United States Treasury Memorial Fund.

SEC. 3. KOREAN WAR VETERANS COMMEMORATIVE COIN.

(a) AUTHORIZATION.—Subject to subsection (b), the Secretary of the Treasury (hereinafter referred to as the "Secretary") shall mint and issue not more than 1,000,000 one-dollar silver coins to commemorate the thirty-eighth anniversary of the ending of the Korean War.

(b) SPECIFICATIONS.—Each silver coin minted under this Act shall—

(1) have a diameter of 1.500 inches; and

(2) be composed of 90 percent silver and 10 percent copper.

(c) DESIGN.—The design of the coins minted in accordance with this section shall be symbolic of the Korean War Veterans' heroic service. Each coin shall bear a designation of the value of the coin, an inscription of the years "1953-1991", an inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum". The design for the coins authorized by this Act shall be selected by the Secretary after consultation with the Korean War Veterans Memorial Advisory Board and the American Battle Monuments Commission (hereinafter referred to as the "Advisory Board" and the "Commission", respectively).

(d) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

(e) LEGAL TENDER.—The coins referred to in subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 4. SOURCES OF BULLION.

The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

SEC. 5. MINTING AND ISSUANCE OF COINS.

(a) UNCIRCULATED AND PROOF QUALITIES OF COINS.—Coins minted under this Act may be issued in uncirculated and proof qualities, except that only one facility of the United States Mint may be used to strike each quality of coins.

(b) COMMENCEMENT OF ISSUANCE.—The Secretary may issue the coins minted under this Act beginning on January 1, 1991.

(c) TERMINATION OF AUTHORITY.—Coins may not be minted under this Act after December 31, 1991.

SEC. 6. SALE OF COINS.

(a) IN GENERAL.—The Secretary shall sell the coins minted under this Act at a price equal to the face value, plus the cost of designing and issuing the coins (including labor, materials, dies, use of manchinery, and overhead expenses).

(b) SURCHARGES.—Sales of coins minted under this Act shall include a surcharge of $7 for each one-dollar coin.

(c) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this Act at a reasonable discount to reflect the lower costs of such sales.

(d) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this Act prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount to reflect the benefit of prepayment.

SEC. 7. FINANCIAL ASSURANCES.

(a) NOT NET COST TO GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the Federal Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satifactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, or the Resolution Trust Corporation.

SEC. 8. USE OF SURCHARGES.

(a) DISPOSITION OF SURCHARGES.—Surcharges received from the sale of coins minted under this Act shall be deposited in the Korean War Veterans Memorial Fund in the United States Treasury.

(b) USE OF SURCHARGES.—

(1) CONSTRUCTION.—All surcharges collected shall be available to the Commission—

(A) to estalish and erect the Korean War Veterans Memorial in the Nation's capital to honor those who served;

(B) to make the donation required by section 8(b) of Public Law 99-652; and

(C) to make the deposit described in section 3(c) of Public Law 99-572.

Any surcharges in excess of the amounts needed for the purposes of this paragraph shall be used as provided in paragraphs (2) and (3).

(2) MAINTENANCE AND PERPETUAL CARE.—Excess funds above the funds required for paragraph (1) shall be available to provide maintenance and perpetual care for the memorial. Any additional excess funds shall be used to establish interpretive centers and to disseminate information.

(3) NATIONAL PARK SERVICE FUNDS..—Any remaining excess funds shall be donated to the National Park Service for maintenance of memorials under its jurisdiction and authorized by Congress during the 20th century relating to the commemoration of military conflicts in which the United States was involved.

(c) AUDIT.—The Comptroller General of the United States shall have the right to examine the books, records, documents, and other data of the Commission relating to the expenditure of amounts paid under subsection (b).

SEC. 9. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement of public contracts shall be applicable to the proocurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 10. COINAGE PROFIT FUND.

(a) DEPOSITS.—All amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund.

(b) PAYMENTS.—The Secretary shall pay the amounts authorized under section 8 from the coinage profit fund.

(c) EXPENDITURES.—The Secretary shall charge the coinage profit fund with all expenditures under this Act.

Mr. FORD. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

GREAT LAKES WATER QUALITY IMPROVEMENT ACT OF 1990

Mr. FORD. Mr. President, I ask unanimous consent that the Environment Committee be discharged from further consideration of H.R. 4323, regarding the Great Lakes, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4323) to amend the Federal Water Polution Control Act relating to water quality in the Great Lakes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3020

(Purpose: To provide a substitute for the bill)

Mr. FORD. Mr. President, I send a Levin-Lieberman amendment to the desk and ask for its immediate consideration:

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD] for Mr. LEVIN, for himself, Mr. LIEBERMAN, Mr. KOHL, Mr. GLENN, Mr. KASTEN, Mr. JEFFORDS, Mr. MOYNIHAN, Mr. DURENBERGER, Mr. LEAHY, Mr. D'AMATO, and Mr. SIMON, proposes an amendment numbered 3020.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu therof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Great Lakes Critical Programs Act of 1990".

TITLE I—GREAT LAKES

GREAT LAKES ACTION SCHEDULES

SEC. 101. Section 118 of the Federal Water Pollution Control Act (33 U.S.C. 1268) is amended by inserting immediately after

subsection (c)(1) the following new paragraphs, and by renumbering the existing paragraphs accordingly:

"(2) GREAT LAKES WATER QUALITY GUIDANCE.—

"(A) By June 30, 1991, the Administrator, after consultation with the Program Office, shall publish in the Federal Register for public notice and comment proposed water quality guidance for the Great Lakes System. Such guidance shall conform with the objectives and provisions of the Great Lakes Water Quality Agreement, shall be no less restrictive than the provisions of this Act and national water quality criteria and guidance, shall specify numerical limits on pollutants in ambient Great Lakes waters to protect human health, aquatic life, and wildlife, and shall provide guidance to the Great Lakes States on minimum water quality standards, anti-degradation policies, and implementation procedures for the Great Lakes System.

"(B) By June 30, 1992, the Administrator, in consultation with the Program Office, shall publish in the Federal Register, pursuant to this section and the Administrator's authority under this chapter, final water quality guidance for the Great Lakes System.

"(C) Within two years after such Great Lakes guidance is published, the Great Lakes States shall adopt water quality standards, anti-degradation policies, and implementaiton procedures for waters within the Great Lakes System which are consistent with such guidance. If a Great Lakes State fails to adopt such standards, policies, and procedures, the Administrator shall promulgate them not later than the end of such two-year period. When reviewing any Great Lakes State's water quality plan, the agency shall consider the extent to which the State has complied with the Great Lakes guidance issued pursuant to this section.

"(3) REMEDIAL ACTION PLANS.—

"(A) For each area of concern for which the United States has agreed to draft a Remedial Action Plan, the Program Office shall ensure that the Great Lakes State in which such area of concern is located—

"(i) submits a Remedial Action Plan to the Program Office by June 30, 1991;

"(ii) submits such Remedial Action Plan to the International Joint Commission by January 1, 1992; and

"(iii) includes such Remedial Action Plans within the State's water quality plan by January 1, 1993.

"(B) For each area of concern for which Canada has agreed to draft a Remedial Action Plan, the Program Office shall, pursuant to subparagraph (c)(1)(C) of this section, work with Canada to assure the submission of such Remedial Action Plans to the International Joint Commission by June 30, 1991, and to finalize such Remedial Action Plans by January 1, 1993.

"(C) For any area of concern designated as such subsequent to the enactment of this Act, the Program Office shall (i) if the United States has agreed to draft the Remedial Action Plan, ensure that the Great Lakes State in which such area of concern is located submits such Plan to the Program Office within two years of the area's designation, submits it to the International Joint Commission no later than six months after submitting it to the Program Office, and includes such Plan in the State's water quality plan no later than one year after submitting it to the Commission; and (ii) if Canada has agreed to draft the Remedial Action Plan, work with Canada, pursuant to subparagraph (c)(1)(C) of this section, to ensure the submission of such Plan to the International Joint Commission within two years of the area's designation and the finalization of such Plan no later than eighteen months after submitting it to such Commission.

"(D) The Program Office shall compile formal comments on individual Remedial Action Plans made by the International Joint Commission pursuant to section 4(d) of Annex 2 of the Great Lakes Water Quality Agreement and, upon request by a member of the public, shall make such comments available for inspection and copying. The Program Office shall also make available, upon request, formal comments made by the Environmental Protection Agency on individual Remedial Action Plans.

"(4) LAKEWIDE MANAGEMENT PLANS.—The Administrator, in consultation with the Program Office shall—

"(A) by January 1, 1992, publish in the Federal Register a proposed Lakewide Management Plan for Lake Michigan and solicit public comments;

"(B) by January 1, 1993, submit a proposed Lakewide Mangement Plan for Lake Michigan to the International Joint Commission for review; and

"(C) by January 1, 1993, publish in the Federal Register a final Lakewide Management Plan for Lake Michigan and begin implementation.

Nothing in this subparagraph shall preclude the simultaneous development of Lakewide Management Plans for the other Great Lakes.

"(5) SPILLS OF OIL AND HAZARDOUS MATERIALS.—The Program Office, in consultation with the Coast Guard, shall identify areas within the Great Lakes which are likely to experience numerous or voluminous spills of oil or other hazardous materials from land based facilities, vessels, or other sources and, in consultation with the Great Lakes States, shall identify weaknesses in Federal and State programs and systems to prevent and respond to such spills. This information shall be included on at least a biennial basis in the report required by this section".

CONTAMINATED SEDIMENTS

SEC. 102. Section 118(c)(7) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)(3)), as renumbered by section 101 of this title, is amended by—

(1) inserting "(A)" following the title; and

(2) by adding the following new subsections:

"(B) The Program Office shall—

"(i) by December 31, 1990, complete chemical, physical, and biological assessments of the contaminated sediments at the locations selected for the study and demonstration projects;

"(ii) by December 31, 1990, announce the technologies that will be demonstrated at each location and the numerical standard of protection intended to be achieved at each location;

"(iii) by December 31, 1992, complete full or pilot scale demonstration projects on site at each location of promising technologies to remedy contaminated sediments; and

"(iv) by December 31, 1993, issue a final report to Congress on its findings.

"(C) The Administrator, after providing for public review and comment, shall publish information concerning the public health and environmental consequences of contaminants in Great Lakes sediment. Information published pursuant to this subparagraph shall include specific numerical limits to protect health, aquatic life, and wildlife from the bioaccumulation of toxins. The Administrator shall, at a minimum, publish information pursuant to this subparagraph within 2 years of the date of the enactment of this Title.".

DEFINITIONS

SEC. 103. Section 118(a)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1268(a)(3)) is amended by deleting "and" at the end of clause (D), by deleting the period at the end of clause (E), and inserting in lieu thereof a semicolon; and by adding at the end thereof the following:

"(F) 'area of concern' means a geographic area located within the Great Lakes, in which beneficial uses are impaired and which has been officially designated as such under Annex 2 of the Great Lakes Water Quality Agreement;

"(G) 'Great Lakes States' means the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin;

"(H) 'Great Lakes Water Quality Agreement' means the bilateral agreement, between the United States and Canada which was signed in 1978 and amended by the Protocol of 1987;

"(I) 'Lakewide Management Plan' means a written document which embodies a systematic and comprehensive ecosystem approach to restoring and protecting the beneficial uses of the open waters of each of the Great Lakes, in accordance with article VI and Annex 2 of the Great Lakes Water Quality Agreement; and

"(J) 'Remedial Action Plan' means a written document which embodies a systematic and comprehensive ecosystem approach to restoring and protecting the beneficial uses of areas of concern, in accordance with article VI and Annex 2 of the Great Lakes Water Quality Agreement.".

GREAT LAKES CONFINED DISPOSAL FACILITIES

SEC. 104. At the end of section 118(c) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)) add the following new paragraph:

"(11) CONFINED DISPOSAL FACILITIES.—(A) The Administrator, in consultation with the Assistant Secretary of the Army for Civil Works, shall develop and implement, within one year of the date of enactment of this paragraph, management plans for every Great Lakes confined disposal facility.

"(B) The plan shall provide for monitoring of such facilities, including—

"(i) water quality at the site and in the area of the site;

"(ii) sediment quality at the site and in the area of the site;

"(iii) the diversity, productivity, and stability of aquatic organisms at the site and in the area of the site; and

"(iv) such other conditions as the Administrator deems appropriate.

"(C) The plan shall identify the anticipated use and management of the site over the following twenty-year period including the expected termination of dumping at the site, the anticipated need for site management, including pollution control, following the termination of the use of the site.

"(D) The plan shall identify a schedule for review and revision of the plan which shall not be less frequent than five years after adoption of the plan and every five years thereafter.".

GREAT LAKES NATIONAL PROGRAM AUTHORIZATION

SEC. 105. (a) AUTHORIZATION.—Section 118(h) of the Federal Water Pollution Con-

trol Act (33 U.S.C. 1268(h)) is amended by deleting "1990, and 1991" and inserting in lieu thereof "and 1990, and $25,000,000 for fiscal year 1991".

(b) ALLOCATION.—Section 118(h) of the Federal Water Pollution Control Act (33 U.S.C. 1268(h)) is amended by adding after "30 percent" the following: "or $3,300,000, whichever is the lesser,".

HEALTH RESEARCH REPORT

SEC. 106. Subsection 118(e) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph—

"(3) HEALTH RESEARCH REPORT.—(A) Not later than September 30, 1994, the Program Office, in consultation with the Research Office, the Agency for Toxic Substances and Disease Registry, and Great Lakes States shall submit to the Congress a report assessing the adverse effects of water pollutants in the Great Lakes System on the health of persons in Great Lakes States and the health of fish, shellfish, and wildlife in the Great Lakes System. In conducting research in support of this report, the Administrator may, where appropriate, provide for research to be conducted under cooperative agreements with Great Lakes States.

"(B) There is authorized to be appropriated to the Administrator to carry out this section not to exceed $3,000,000 for each of fiscal years 1992, 1993, and 1994.".

TITLE II—LONG ISLAND SOUND

SHORT TITLE

SEC. 201. This part may be cited as the "Long Island Sound Improvement Act of 1990".

AMENDMENT TO THE FEDERAL WATER POLLUTION CONTROL ACT

SEC. 202. Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended by adding at the end the following new section:

"SEC. 119. LONG ISLAND SOUND.—(a) The Administrator shall continue the Management Conference of the Long Island Sound Study (hereinafter referred to as the 'Conference') as established pursuant to section 320 of this Act, and shall establish an office (hereinafter referred to as the 'Office') to be located on or near Long Island Sound.

"(b) ADMINISTRATION AND STAFFING OF OFFICE.—The Office shall be headed by a Director, who shall be detailed by the Administrator, following consultation with the Administrators of EPA regions I and II, from among the employees of the Agency who are in civil service. The Administrator shall delegate to the Director such authority and detail such additional staff as may be necessary to carry out the duties of the Director under this section.

"(c) DUTIES OF THE OFFICE.—The Office shall assist the Management Conference of the Long Island Sound Study in carrying out its goals. Specifically, the Office shall—

"(1) assist and support the implementation of the Comprehensive Conservation and Management Plan for Long Island Sound developed pursuant to section 320 of this Act;

"(2) conduct or commission studies deemed necessary for strengthened implementation of the Comprehensive Conservation and Management Plan including, but not limited to—

"(A) population growth and the adequacy of wastewater treatment facilities,

"(B) the use of biological methods for nutrient removal in sewage treatment plants,

"(C) contaminated sediments, and dredging activities,

"(D) nonpoint source pollution abatement and land use activities in the Long Island Sound watershed,

"(E) wetland protection and restoration,

"(F) atmospheric deposition of acidic and other pollutant into Long Island Sound,

"(G) water quality requirements to sustain fish, shellfish, and wildlife populations, and the use of indicator species to assess environmental quality,

"(H) State water quality programs, for their adequacy pursuant to implementation of the Comprehensive Conservation and Management Plan, and

"(I) options for long-term financing of wastewater treatment projects and water pollution control programs.

"(3) coordinate the grant, research and planning programs authorized under this section;

"(4) coordinate activities and implementation responsibilities with other Federal agencies which have jurisdiction over Long Island Sound and with national and regional marine monitoring and research programs established pursuant to the Marine Protection, Research, and Sanctuaries Act;

"(5) provide administrative and technical support to the conference;

"(6) collect and make available to the public publications, and other forms of information the conference determines to be appropriate, relating to the environmental quality of Long Island Sound;

"(7) not more than two years after the date of the issuance of the final Comprehensive Conservation and Management Plan for Long Island Sound under section 320 of this Act, and biennially thereafter, issue a report to the Congress which—

"(A) summarizes the progress made by the States in implementing the Comprehensive Conservation and Management Plan;

"(B) summarizes any modifications to the Comprehensive Conservation and Management Plan in the twelve-month period immediately preceding such report; and

"(C) incorporates specific recommendations concerning the implementation of the Comprehensive Conservation and Management Plan; and

"(8) convene conferences and meetings for legislators from State governments and political subdivisions thereof for the purpose of making recommendations for coordinating legislative efforts to facilitate the environmental restoration of Long Island Sound and the implementation of the Comprehensive Conservation and Management Plan.

"(d) GRANTS.—(1) The Administrator is authorized to make grants for projects and studies which will help implement the Long Island Sound Comprehensive Conservation and Management Plan. Special emphasis shall be given to implementation, research and planning, enforcement, and citizen involvement and education.

"(2) State, interstate, and regional water pollution control agencies, and other public or nonprofit private agencies, institutions, and organizations held be eligible for grants pursuant to this subsection.

"(3) Citizen involvement and citizen education grants under this subsection shall not exceed 95 per centum of the costs of such work. All other grants under this subsections shall not exceed 50 per centum of the research, studies, or work. All grants shall be made on the condition that the non-Federal share of such costs are provided from non-Federal sources.

"(e) AUTHORIZATIONS.—(1) There is authorized to be appropriated to the Administrator for the implementation of this section, other than subsection (d), such sums as may be necessary for each of the fiscal years 1971 through 1996.

"(2) There is authorized to be appropriated to the Administrator for the implementation of subsection (d) not to exceed $3,000,000 for each of the fiscal years 1991 through 1996.".

RELATIONSHIP TO OTHER LAWS

SEC. 203. Amend subsection 116(g) of the Marine Protection Research and Sanctuaries Act (33 U.S.C. 1416(g)) by striking all after "shall comply with" and inserting in lieu thereof the following "the requirements of this title.".

TITLE III—LAKE CHAMPLAIN

SHORT TITLE

SEC. 301. This title may be cited as the "Lake Champlain Special Designation Act of 1990".

DEMONSTRATION PROGRAM

SEC. 302. Paragraph (2) of section 314(d) of the Federal Water Pollution Control Act (33 U.S.C. 1324(d)) is amended by inserting "Lake Champlain, New York and Vermont;" before "Lake Huston, Texas".

LAKE CHAMPLAIN MANAGEMENT CONFERENCE

SEC. 303. Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended by adding at the end thereof the following new section—

"LAKE CHAMPLAIN MANAGEMENT CONFERENCE

"SEC. 120. (a) ESTABLISHMENT.—There is established a Lake Champlain Management Conference to develop a comprehensive pollution prevention, control, and restoration plan for Lake Champlain. The Administrator shall convene the management conference within ninety days of the date of enactment of this section.

"(b) MEMBERSHIP.—The Members of the Management Conference shall be comprised of—

"(1) the Governors of the States of Vermont and New York;

"(2) each interested Federal agency, not to exceed a total of five members;

"(3) the Vermont and New York Chairpersons of the Vermont, New York, Quebec Citizens Advisory Committee for the Environmental Management of Lake Champlain;

"(4) four representatives of the State legislature of Vermont;

"(5) four representatives of the State legislature of New York;

"(6) six persons representing local governments having jurisdiction over any land or water within the Lake Champlain basin, as determined appropriate by the Governors; and

"(7) eight persons representing affected industries, nongovernmental organizations, public and private educational institutions, and the general public, as determined appropriate by the trigovernmental Citizens Advisory Committee for the Environmental Management of Lake Champlain, but not to be current members of the Citizens Advisory Committee.

"(c) TECHNICAL ADVISORY COMMITTEE.—(1) The Management Conference shall, not later than one hundred and twenty days after the date of enactment of this section, appoint a Technical Advisory Committee.

"(2) Such Technical Advisory Committee shall consist of officials of: appropriate departments and agencies of the Federal Government; the State governments of New York and Vermont; and governments of political subdivisions of such States; and public and private research institutions.

"(d) RESEARCH PROGRAM.—(1) The Management Conference shall establish a multi-disciplinary environmental research program for Lake Champlain. Such research program shall be planned and conducted jointly with the Lake Champlain Research Consortium.

"(e) POLLUTION PREVENTION, CONTROL, AND RESTORATION PLAN.—(1) Not later than three years after the date of the enactment of this section, the Management Conference shall publish a pollution prevention, control, and restoration plan (hereafter in this section referred to as the 'Plan') for Lake Champlain.

"(2) The Plan developed pursuant to this section shall—

"(A) identify corrective actions and compliance schedules addressing point and nonpoint sources of pollution necessary to restore and maintain the chemical, physical, and biological integrity of water quality, a balanced, indigenous population of shellfish, fish and wildlife, recreational, and economic activities in and on the lake;

"(B) incorporate environmental management concepts and programs established in State and Federal plans and programs in effect at the time of the development of such plan;

"(C) clarify the duties of Federal and State agencies in pollution prevention and control activities, and to the extent allowable by law, suggest a timetable for adoption by the appropriate Federal and State agencies to accomplish such duties within a reasonable period of time;

"(D) describe the methods and schedules for funding of programs, activities, and projects identified in the Plan, including the use of Federal funds and other sources of funds; and

"(E) include a strategy for pollution prevention and control that includes the promotion of pollution prevention and management practices to reduce the amount of pollution generated in the Lake Champlain basin.

"(3) The Administrator, in cooperation with the Management Conference, shall provide for public review and comment on the draft Plan. At a minimum, the Management Conference shall conduct one public meeting to hear comments on the draft plan in the State of New York and one such meeting in the State of Vermont.

"(4) Not less than one hundred and twenty days after the publication of the Plan required pursuant to this section, the Administrator shall approve such plan if the plan meets the requirements of this section and the Governors of the States of New York and Vermont concur.

"(5) Upon approval of the plan, such plan shall be deemed to be an approved management program for the purposes of section 319(h) of this Act and such plan shall be deemed to be an approved comprehensive conservation and management plan pursuant to section 320 of this Act.

"(f) GRANT ASSISTANCE.—(1) The Administrator may, in consultation with the Management Conference, make grants to State, interstate, and regional water pollution control agencies, and public or nonprofit agencies, institutions, and organizations.

"(2) Grants under this subsection shall be made for assisting research, surveys, studies, and modeling and technical and supporting work necessary for the development of the Plan and for retaining expert consultants in support of litigation undertaken by the State of New York and the State of Vermont to compel cleanup or obtain cleanup damage costs from persons responsible for pollution of Lake Champlain.

"(3) The amount of grants to any person under this subsection for a fiscal year shall not exceed 75 per centum of the costs of such research, survey, study and work and shall be made available on the condition that non-Federal share of such costs are provided from non-Federal sources.

"(4) The Administrator may establish such requirements for the administration of grants as he determines to be appropriate.

"(g) DEFINITION.—For the purposes of this section, the term 'Lake Champlain drainage basin' means all or part of Clinton, Franklin, Warren, Essex, and Washington counties in the State of New York and all or part of Franklin, Grand Isle, Chittenden, Addison, Rutland, Lamoille, Orange, Washington, Orleans, and Caledonia counties in Vermont, that contain all of the streams, rivers, lakes, and other bodies of water, including wetlands, that drain into Lake Champlain.

"(h) STATUTORY INTERPRETATION.—Nothing in this section shall be construed so as to affect the jurisdiction or powers of—

"(1) any department or agency of the Federal Government or any State government; or

"(2) any international organization or entity related to Lake Champlain created by treaty or memorandum to which the United States is a signatory.

"(i) AUTHORIZATION.—There are authorized to be appropriated to the Environmental Protection Agency to carry out this section $2,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995.

FEDERAL PROGRAM COORDINATION

SEC. 304. (a) DESIGNATION OF LAKE CHAMPLAIN AS A SPECIAL PROJECT AREA UNDER THE AGRICULTURAL CONSERVATION PROGRAM.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Lake Champlain basin, as defined under section 120(h) of the Federal Water Pollution Control Act, shall be designated by the Secretary of Agriculture as a special project area under the Agricultural Conservation Program established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).

(2) TECHNICAL ASSISTANCE REIMBURSEMENT.—To carry out the purposes of this subsection, the technical assistance reimbursement from the Agricultural Stabilization and Conservation Service authorized under the Soil Conservation and Domestic Allotment Act, shall be increased from 5 per centum to 10 per centum.

(3) COMPREHENSIVE AGRICULTURAL MONITORING.—The Secretary, in consultation with the Management Conference and appropriate State and Federal agencies, shall develop a comprehensive agricultural monitoring and evaluation network for all major drainages within the Lake Champlain basin.

(4) ALLOCATION OF FUNDS.—In allocating funds under this subsection, the Secretary of Agriculture shall consult with the Management Conference established under section 120 of the Federal Water Pollution Control Act and to the extent allowable by law, allocate funds to those agricultural enterprises located at sites that the Management Conference determines to be priority sites, on the basis of a concern for ensuring implementation of nonpoint source pollution controls throughout the Lake Champlain basin.

(b) COOPERATION OF THE UNITED STATES GEOLOGICAL SURVEY OF THE DEPARTMENT OF THE INTERIOR.—For the purpose of enhancing and expanding basic data collection and monitoring in operation in the Lake Champlain basin, as defined under section 120 of the Federal Water Pollution Control Act, the Secretary of the Interior, acting through the heads of water resources divisions of the New York and New England districts of the United States Geological Survey, shall—

(1) in cooperation with appropriate universities and private research institutions, and the appropriate officials of the appropriate departments and agencies of the States of New York and Vermont, develop an integrated geographic information system of the Lake Champlain basin;

(2) convert all partial recording sites in the Lake Champlain basin to continuous monitoring stations with full gauging capabilities and status; and

(3) establish such additional continuous monitoring station sites in the Lake Champlain basin as are necessary to carry out basic data collection and monitoring, as defined by the Secretary of the Interior, including groundwater mapping, and water quality and sediment data collection.

(c) COOPERATION OF THE UNITED STATES FISH AND WILDLIFE SERVICE OF THE DEPARTMENT OF THE INTERIOR.—

(1) RESOURCE CONSERVATION PROGRAM—The Secretary of the Interior, acting through the United States Fish and Wildlife Service, in cooperation with the Lake Champlain Fish and Wildlife Management Cooperative and the Management Conference established pursuant to this subsection shall—

(A) establish and implement a fisheries resources restoration, development and conservation program, including dedicating a level of hatchery production within the Lake Champlain basin at or above the level that existed immediately preceding the date of enactment of this Act; and

(B) conduct a wildlife species and habitat assessment survey in the Lake Champlain basin, including—

(i) a survey of Federal threatened and endangered species, listed or proposed for listing under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), New York State and State of Vermont threatened and endangered species and other species of special concern, migratory nongame species of management concern, and national resources plan species;

(ii) a survey of wildlife habitats such as islands, wetlands, and riparian areas; and

(iii) a survey of migratory bird populations breeding, migrating and wintering within the Lake Champlain basin.

(2) To accomplish the purpose of paragraph (1), the Director of the United States Fish and Wildlife Service is authorized to carry out activities related to—

(A) controlling sea lampreys and other non-indigenous aquatic animal nuisances;

(B) improving the health of fishery resources;

(C) conducting investigations about and assessing the status of fishery resources, and disseminating that information to all interested parties; and

(D) conducting and periodically updating a survey of the fishery resources and their habitats and food chains in the Lake Champlain basin.

(d) AUTHORIZATIONS.—(1) There is authorized to be appropriated to the Department of Agriculture $2,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995 to carry out subsection (a) of this section.

(2) There is authorized to be appropriated to the Department of Interior $1,000,000 for each of fiscal years 1991, 1992, 1993, 1994,

and 1995 to carry out subsections (b) and (c) of this section.

Mr. LEVIN. Mr. President, I am offering legislation today which will revitalize the Federal commitment to the Great Lakes. I urge my colleagues to join me in supporting this legislation, entitled the Great Lakes Critical Programs Act.

In the 1960's and 1970's, the Great Lakes were known for their pollution problems. The Cuyahoga River was infamous as the river that caught fire, and Lake Erie was widely depicted as a dying lake. Amid public outcry, the United States and Canada signed the Great Lakes Water Quality Agreement to revive the Lakes, and both countries embarked upon a tremendous antipollution effort. They have since experienced a number of successes, including an 80-percent reduction in phosphorous, the revival of Lake Erie, and other signs of environmental rejuvenation. But the Great Lakes are still a long way from health.

For the past 18 months, the Senate Subcommittee on Oversight of Government Management, which I chair, has held a series of hearings on Federal programs to implement the Great Lakes Water Quality Agreement and revive the Great Lakes. In hearings in Michigan, Wisconsin and Washington, chaired by myself and Senator KOHL and also attended by Senators GLENN and HEINZ, we heard from a large number of witnesses expert in Great Lakes matters. Several testified about a 1989 report by the Conservation Foundation and the Institute for Research on Public Policy warning of continuing pollution problems and describing the worrisome state of Great Lakes wildlife—eagles that reproduce poorly, cormorants with beak deformities, dwindling mink populations and schools of trout that can no longer survive without assistance. The International Joint Commission, a United States-Canadian body which oversees the Great Lakes, gave similar warnings about toxic pollution and unacceptable delays in pollution-fighting programs. State officials, and even EPA witnesses, admitted slow progress on long-promised cleanup efforts.

Because EPA is designated by the Clean Water Act as the lead agency to implement the Great Lakes Water Quality Agreement, we looked especially closely at its programs. We found, to our dismay, that EPA had repeatedly dropped the ball on major Great Lakes programs, Including commitments to encourage water quality standards for the Great Lakes in compliance with the Agreement; ensure the drafting of cleanup plans for designated areas of concern; ensure the development of lakewide plans to control critical pollutants; and conduct demonstration projects using new technologies to cleanup contaminated sediments.

We found, for example, that efforts to draft the "Remedial Action Plans" to clean up the Great Lakes' designated toxic hotspots have been underway since 1984 but, after 6 years, only 1 of the 42 plans is complete. We found that, despite a 1987 commitment to draft a Lake Michigan Plan, after 3 years, not a single word has been written. In short, we found EPA's Great Lakes programs to be stagnating—without momentum, without deadlines and without adequate resources.

The Great Lakes need more. To revitalize EPA's efforts, in September 1989, I introduced S. 1646, the Great Lakes Critical Programs Act, along with Senator KOHL and Senator GLENN. We were then joined by Senators SIMON, KASTEN, RIEGLE, DIXON and BOSCHWITZ.

The purpose of this bill was not to create new programs, but to make the existing Great Lakes programs effective. It proposes essentially three changes. It proposes spelling out key treaty commitments in our domestic law to help ensure that the United States lives up to its promises. It proposes statutory deadlines to put teeth into the key cleanup effort, and it proposes increasing Federal resources to make meaningful progress possible.

The proposed deadlines would affect these key Great Lakes programs:

The Great Lakes Initiative which seeks through a regional dialog to produce guidelines which will reduce disparities among the Great Lakes States' water quality standards;

The completion of State remedial action plans to cleanup the 42 designated toxic hotspots in the Great Lakes;

The development of a Federal Lakewide Management Plan to control critical pollutants in Lake Michigan, and

The performance of five demonstration projects to test promising technologies to cleanup contaminated sediments.

An authorization provision would raise the ceiling on Great Lakes programs from about $16 million to $23 million.

After introduction, S. 1646 was praised by the Greak Lakes environmental community. The Sierra Club called it "the most comprehensive Great Lakes protection legislation of the decade." Support for its provisions on statutory deadlines and increased resources was expressed by such organizations as the International Joint Commission, the National Wildlife Federation, Great Lakes United, the Conservation Foundation, and others.

The provisions in the Great Lakes Critical Programs Act—with some adjustments in the language and dates—were approved by the Senate Committee on Envrionment and Public Works in July and incorporated into a larger Coastal Protection Act as title IV. Because that larger bill is not ready for floor action, I am today offering, in an amendment to a House bill, the committee-approved language on the Great Lakes, with other sections from the Coastal Protection Act concerning Long Island Sound and Lake Champlain.

Due to my involvement in the drafting of the Great Lakes provisions and my subcommittee's review of Federal Great Lakes programs, I would like to take a moment here to explain how the Great Lakes Critical Programs Act [GLCPA] is intended to operate. The goal of the GLCPA is nothing more or less than the revitalization of Federal Great Lakes programs.

GREAT LAKES INITIATIVE.

The first set of deadlines in the GLCPA requires the development of Great Lakes water quality guidance. These provisions are intended to codify an ongoing effort known as the Great Lakes Initiative. This Initiative, begun by EPA's Great Lakes National Program Office in 1989, with the active involvement of all eight Great Lakes States, is one of the few bright spots in EPA's recent Great Lakes efforts.

The goal of the initiative is to reduce the disparities that currently exist among the water quality controls of the Great Lakes States. Imposing statutory deadlines on the initiative is intended to ensure that EPA produces the final product—a Great Lakes guidance document—in a reasonable period of time.

This guidance document is intended to move the eight Great Lakes States toward a more consistent, regionwide implementation of the Great Lakes Water Quality Agreement. The GLCPA requires the guidance to address the topics already under discussion in the region: minimum water quality standards for selected pollutants, antidegradation policies and implementation procedures. The guidance must specify recommended numerical limits for the selected pollutants to protect the health of aquatic life, wildlife and human beings in the Great Lakes System. These numerical limits are intended to function within the Great Lakes region in the same way that national water quality criteria do for the country, by providing a regulatory minimum that States must meet unless they have a specific justification for doing less. The Great Lakes numerical limits must be at least as stringent as the national criteria, and must be tougher if called for by the Great Lakes Water Quality Agreement.

These Great Lakes numerical limits are needed, because the United States made specific commitments in the Great Lakes Water Quality Agreement to achieve certain levels of water quality throughout the Lakes. The United

States thus committed the Great Lakes States to meeting not only our national water quality criteria, but also the binational water quality objectives specified in the agreement. The Great Lakes Initiative is a critical first step toward meeting that obligation and needs the status of domestic law to be effective.

REMEDIAL ACTION PLANS

The next set of deadlines concerns the development of Remedial Actions Plans or RAPs to cleanup the 42 desingated toxic hotspots in the Great Lakes. The RAP process has operated since 1984, under voluntary deadlines specified by the States charged with drafting the RAPS. After 6 years of work, only one RAP is complete. That's not good enough. That is why the GLCPA replaces the States' voluntary goals with mandatory deadlines.

The dealines chosen essentially give the States 2 more years to complete their RAP's. The final deadline requires the States to incorporate their RAP's into their annual water quality plans by January 1, 1993. Including a RAP in a State's annual water quality plan was chosen as the benchmark for a "complete" RAP, because these plans require EPA approval, they are the basic planning document for a State's water quality program, and they are subject to annual review and adjustment.

The GLCPA requires States to submit draft RAP's to the IJC for review in order to comply with commitments made in the Great Lakes Water Quality Agreement. Should the IJC fail to comment on a draft RAP within the 6-month period specified in the bill, States must nevertheless meet the next deadline of obtaining EPA approval to include the RAP in the State's water quality plan. The 6-month period is provided to give the IJC a reasonable amount of time for review, but the GLCPA does not want the lack of timely IJC comments to delay the RAP process. Should IJC comments be made after a RAP has been included in a State plan, the State can and should make the suggested changes. Our hope, however, is that the IJC comments will be made within the six-month period set out in the legislation.

The final deadline for completing the RAP's, January 1, 1993, was chosen to insure that all States have their RAPs' in place prior to EPA's triennial review of their water quality programs.

Some States have asked what will happen if they miss the deadlines for the RAP's. The GLCPA does not currently specify a penalty for missing that—or any other—deadline. The hope is that the statutory deadlines will, in themselves, encourage action. If not—if these statutory deadlines are ignored—penalties or other incentives could be legislated at a later time.

LAKE MICHIGAN PLAN

The GLCPA Imposes deadlines on EPA to develop a lakewide management plan to control critical pollutants in Lake Michigan. The United States committed itself to drafting this plan in the 1987 protocol to the Great Lakes Water Quality Agreement, but has yet to do so. The GLCPA is intended to force action on this important promise.

DEMONSTRATION PROJECTS

The GLCPA also imposes deadlines on achieving milestones in an existing program to conduct onsite demonstrations at five Great Lakes locations of technologies to clean up contaminated sediments at the sites. This demonstration program was established in the 1987 amendments to the Clean Water Act, but almost no progress was made for two years. The last year has seen some progress, but statutory deadlines are needed to ensure action. The GLCPA thus establishes a timetable for EPA to complete the site assessments, announce the technologies to be tested at the sites, conduct the actual demonstrations, and issue a final report. The Army Corps of Engineers is active in this effort and has announced that, as part of the report, it intends to provide guidance for full-scale technology demonstrations and cleanup operations at the tested sites. This is exactly what should happen.

GREAT LAKES SPILLS

Besides setting deadlines on existing programs, the GLCPA sets up on new task fo" EPA's Great Lakes office, based upon a subcommittee hearing on the threat of Great Lakes spills. We learned in that September 1989 hearing that the Great Lakes experience hundreds of spills of oil and toxic chemicals each year, yet have serious inadequacies in their spill response and prevention programs. In September of this year, a tanker named the *Jupiter* carrying over 1 million gallons of gasoline caught fire and threatened to release its cargo into the Saginaw River, which flows into Lake Huron. An environmental disaster was narrowly averted, but the threat posed by Great Lakes spills became clearer than ever.

To address this threat, the GLCPA directs EPA, in consultation with the Coast Guard, to identify areas within the Great Lakes which are likely to experience spills and to identify weaknesses in Federal and State programs to prevent and respond to such spills. In implementing the requirement to identify high-risk spill areas, EPA should include a thorough analysis of the Great Lakes spill data released by the Coast Guard in April 1990, on the occurrences, volumes and natures of these spills. In implementing the requirement to identify weaknesses in Great Lakes spill programs, EPA should pay special attention to its Spill Prevention, Control and Countermeasurers [SPCC] Program which monitors the approximately 50,000 oil storage facilities on Great Lakes shorelines. These land-based facilities appear to be responsible for more than 75 percent of the Great Lakes spills and 100 percent of the major spills. Given testimony describing the SPCC Program as a cost-effective means of controlling these spills, it is probably the most important spill prevention program in the Great Lakes region.

INCREASED AUTHORIZATION

The GLCPA increases the authorization for Great Lakes programs from about $16 million to $25 million. This increased authorization is needed to permit EPA to accelerate its Great Lakes programs and meet the deadlines established in the legislation. EPA acknowledged the need for an increased authorization for Great Lakes programs in a letter dated August 6, 1990.

DEFINITIONS

The GLCPA adds to the Clean Water Act several definitions of terms used in the Great Lakes Water Quality Agreement, such as "Remedial Action Plans" and "Lakewide Management Plans." It uses language similar to the language used in the agreement so that the terms will have the same meaning in U.S. domestic law as they do in the international agreement.

SEDIMENT STANDARDS

In addition to the provisions setting deadlines and adding resources, during committee markup of the Coastal Protection Act, Senator METZENBAUM added to the GLCPA two other important provisions. The first requires EPA to publish information on the health and environmental consequences of contaminated sediments in the Great Lakes, including specifying recommended numerical limits on sediment pollutant concentrations to protect human health, aquatic life and wildlife from the bioaccumulation of toxins.

Contaminated sediments are the single biggest remediation problem in the Great Lakes, affecting 41 of the 42 toxic hotspots. Information spelling out the allowable amounts of pollutants in such sediments is desperately needed by Great Lakes communities trying to identify which of their sediments are safe and which need to be cleaned up. The GLCPA requires EPA to publish the numerical limits within 2 years of the enactment of this legislation to enable communities to rely upon them when implementing the contaminated sediment aspects of their remedial action plans, also due for completion in 2 years.

The numerical limits required by the GLCPA should be designed not only to allow identification of contaminated sediments in the Great Lakes, but also to facilitate the development of measures to remediate and prevent this

contamination, including measures in remedial action plans, lakewide management plans and NPDES permits. The United States committed itself in the Great Lakes Water Quality Agreement to developing limits on sediment pollutants in the Great Lakes—in order to assist in the remediation of the lakes' contaminated sediments—and the information produced under this section should be designed to work in tandem with the other antipollution efforts underway in the region.

Because the information on Great Lakes sediment limits will play a role in protecting human health and the environment and in guiding communities on the remediation of contaminated sediments, EPA is urged to produce limits which are scientifically credible as well as practical for communities to use and understand.

CONFINED DISPOSAL FACILITIES

A second measure added by Senator METZENBAUM to the GLCPA requires EPA, in consultation with the Army Corps of Engineers, to develop 20-year management plans for the facilities used to contain contaminated sediments dredged from the Great Lakes. This measure is long overdue. It is my hope that, in developing these plans, EPA will consult extensively with the States hosting the facilities. The shared goal should be to minimize environmental problems due to the operation and maintenance of these sites.

Senator METZENBAUM is a fast friend of the Great Lakes, and I commend him for his work on these and other Great Lakes provisions. I am delighted that he has joined the Environment and Public Works Committee and look forward to working with him on any more Great Lakes efforts.

HUMAN HEALTH STUDY

The final Great Lakes provision in the GLCPA requires EPA to submit a report to Congress on adverse health affects caused by pollutants in Great Lakes waters. This report is to be prepared in consultation with EPA's Agency for Toxic Substances and Disease Registry and the Great Lakes States based upon a 3-year research effort.

The goal here is to produce one or more research projects focussing on the links between water pollutants and the health of fish, wildlife and people. There is a dearth of research on the precise health effects of such pollutants, and we need to fill that gap.

The idea for this amendment came from the State of Michigan which cited both the lack of research and the need to follow up on a recent Great Lakes study examining a possible relationship between fish toxins and developmental problems in children whose mothers consumed large amounts of Lake Michigan fish. This research was jointly conducted by the School of Public Health in the University of Michigan, the Environmental Toxicological Institute in Michigan State University and the School of Medicine in Wayne State University. Its preliminary findings are chilling and call out for additional research.

This study was not in the Great Lakes provisions approved by the committee in July, but it was presented to Committee members last month and has been cleared by them.

OTHER PROVISIONS

In addition to the GLCPA, the amendment before us contains provisions which will benefit Long Island Sound and Lake Champlain. In addition, Senator MOYNIHAN will offer a separate amendment with respect to Lake Onondaga. The sponsors of these measures will be describing each of them in a moment. I will just say that they, too, seek to increase protections for a body of water important to this country.

The legislation I have just described is contained in an amendment to H.R. 4323, the House companion bill to protect the Great Lakes. H.R. 4323 was introduced by Congressman NOWAK several months after I introduced S. 1646, but because the House was quicker to move its bill than the Senate, we are going to use Mr. NOWAK's bill as our vehicle today. I want to express my appreciation to Mr. NOWAK for introducing and moving his bill in the House, so we have a fighting chance of enacting this legislation into law during this session of Congress.

I also want to express my appreciation to the Senate Committee on Environment and Public Works—and in particular to Senator MITCHELL—for including in their work this year consideration of the Great Lakes Critical Programs Act. With all the work that the committee has done this year on clean air, oil spills and other environmental issues, I commend them for finding the time to address Great Lakes concerns. I also want to thank the Senate Great Lakes task force and its chair Senator GLENN for their help with the Great Lakes legislation. The hard work and enthusiasm of the task force's Allegra Cangelosi was key in getting the Great Lakes bill to this point. Senator KOHL was another leader in this effort, and I want to thank him and his staff for their commitment to the Great Lakes, not only in this legislation, but in our hearings and other efforts. Senator LIEBERMAN, Senator JEFFORDS and others also helped us, and I thank them as well.

In conclusion, the legislation before you provides needed measures to protect one of the United States' greatest national treasures, the Great Lakes. I urge all of us who want to protect American waterways to join us in voting for Senate passage of this important environmental legislation.

Mr. LIEBERMAN. Mr. President, I am proud to support passage of H.R. 4323, the Great Lakes Critical Programs Act of 1990. This legislation will ensure the accelerated cleanup of the Great Lakes. It builds on the existing Great Lakes Agreement by improving the organization of the cleanup and by mandating accountability.

Mr. President, these are also the objectives of the Long Island Sound provisions of the amendment. What now appears as title II of the Levin amendment was passed unanimously by the Senate Environment and Public Works Committee as part of S. 1178, the Coastal Protection Act of 1990. Prior to its inclusion in S. 1178, this provision was introduced by me and by Senators DODD, MOYNIHAN, and D'AMATO as S. 1722, The Long Island Sound Improvement Act of 1989. The Senate Environment and Public Works Committee held a hearing on S. 1722 on October 2, 1989.

Since the hearing, at which S. 1722 received the enthusiastic support of local and national environmental and citizens groups and the support of both the States of New York and Connecticut, the management conference of the National Estuaries Program's Long Island Sound study has endorsed the objective of this bill: to establish a Long Island Sound Program Office within the U.S. Environmental Protection Agency for the purposes of coordinating Federal responsibilities to the cleanup of Long Island Sound.

The Long Island Sound Study has been one of the most successful of management conferences convened by the National Estuaries Program. Its 5-year study is drawing to a close, and next year we will be in receipt of its comprehensive conservation and management plan for restoring the sound to health. Under present law, the Federal Government would, at that point, be exempted from any futher responsibility to the study it had both initiated and led. I think that is wrong. And I am happy to say that the U.S. EPA Administrators of regions I and II also think that is wrong. They voted, along with the representatives of the States of Connecticut and New York, to support continuing the management conference and establishing an office to coordinate Federal responsibilities after the 1991 deadline for completion.

The Long Island Sound Program Office will be a particularly important addition. Having a central office from which to coordinate clean up activities builds on the successful cooperative effort that has existed up to this point. It will also provide accountability. And I believe it is time that someone or some group of people within the Federal Government think of the health of this great estuary as their full-time job.

It is that important. Nearly 10 percent of the population of the United States lives within 50 miles of Long Island Sound. Its waters are subject to the jurisdiction of nearly 150 separate local, State, regional, and Federal agencies and entities. Long Island Sound supports uses both necessary and diverse: Its shoreline falls along the great east coast flyway for migratory birds in addition to supporting a major interstate highway; 200,000 boaters traverse the sound yearly, and 44 sewage treatment plants dump into it. This legislation to protect Long Island Sound is the end result of one of the most powerful grassroots efforts I have seen in Connecticut history, an effort born of the hope engendered by the Long Island Sound study that it's not to late to save our sound, and a drive engendered by the preliminary results of the study which serve to warn us that while it may not be too late, it is neither a minute too soon.

Mr. President, it is my intention that the Long Island Sound Program Office serve to build on the success of the Long Island Sound Management Conference and that it draw on the talents of Federal agencies not already actively involved to participate in this condition. I am hopeful that the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, the U.S. Department of Agriculture, and other appropriate Federal agencies will see fit to assign to this office and to the protection of Long Island Sound the necessary personnel to accomplish this.

We have come this far toward restoring Long Island Sound because of the depth and breadth of support and commitment to its health. But we cannot afford to let-up now. When the Long Island Sound Study releases its comprehensive conservation and management plan, the really hard work will begin. I urge my colleagues to support H.R. 4323 with its Long Island Sound provisions to ensure that that work be well-organized, that those responsible be held accountable for progress, that the public be included in the process, and that the Federal Government not now back out of its honorable and necessary commitment to Long Island Sound.

Mr. KOHL. Mr. President, having spent most of my life near the shores of Lake Michigan, I have long appreciated the importance of the Great Lakes to our region of the country. The Great Lakes are largely responsible for the early settlement of Wisconsin and our neighboring States in the Upper Midwest. Over the years, the lakes have provided us with unique opportunities for transportation, commerce, recreation, scenic beauty, and in general, a superb quality of life.

Unfortunately, for more than two centuries, we took the Great Lakes for granted. We took from them endlessly, without giving anything back in return. And the Nation has paid—and is still paying—a price for that carelessness. The Great Lakes have suffered enormously as a result of our shortsighted actions. By the early 1970's, the lakes looked and smelled polluted, fish, and wildlife were dying off, and one of the lakes was even pronounced dead.

Fortunately, that crisis provoked a quick and effective response. Over the past two decades, we have made great progress in ridding the Great Lakes of the conventional pollutants which choked the lakes and killed the fish. By the early 1980's, the lakes looked cleaner, and the fish populations were rebounding.

But before we could congratulate ourselves on that achievement, new scientific findings gave new cause for concern. Fish were being found with strange tumors. Birds were found with deformed bills, or eggs that never hatched. Closer examination revealed that body tissue samples from fish, birds, and other wildlife commonly carry heavy burdens of toxic chemicals and heavy metals—PCB's, DDT, lead, cadmium, and mercury among others. Scientists believe that these toxins are responsible for the deformities, reproductive failures, and other developmental abnormalities evident among fish and wildlife in the Great Lakes region.

It was discovered that through a process called bioaccumulation, persistent toxics in the Great Lakes accumulate at increasingly greater concentrations in fish, birds, and animals up through the food chain. Through this process, the fish and wildlife living in and around the Great Lakes are much more toxic than the water itself. Water which may be safe for drinking yields fish which are unsafe for human consumption. The birds that eat those fish may show even higher levels of toxicity. And ultimately, the people living near the Great Lakes, who are part of this ecosystem, may be at risk.

Mr. President, these are the symptoms of an ecosystem in trouble. These are signs that our beautiful Great Lakes—and the fish and wildlife which depend of the lakes—are being slowly and systematically poisoned. But unlike a mystery novel, where the culprit remains unknown until the very end, we know where the poisons are coming from, and we know how to stop them. We know how to solve this crime against nature. But so far, we haven't done it.

For instance, we know that the toxics in the Great Lakes come from many sources. It is likely that over half the toxins arrive via the air, where they are carried sometimes for hundreds of miles before being deposited in the lakes. Some of the toxics are the result of direct discharges, from industrial and municipal sources. Some chemicals reach the Great Lakes through urban and agricultural runoff—the so-called nonpoint sources. Others come from overflowing sewage systems, tanker spills, and leaking storage tanks in shoreline areas.

So why have we not done anything? I chaired a series of hearings throughout Wisconsin last year, to find out why we haven't stopped this steady flow of toxics into the Great Lakes. And I attended several hearings here in Washington, chaired by Senator LEVIN, to learn more about the problem and the solutions. We've heard from a vast array of experts over the past 2 years. What we found were lots of good intentions, and even an international treaty with very admirable goals, but little real action.

In the Great Lakes Water Quality Agreement, signed by the United States and Canada in 1972, and updated in 1978 and 1987, the two countries pledged to undertake specific actions aimed at cleaning up the toxics already in the Great Lakes, and stopping the continued flow of toxics into the lakes. In the treaty, we established goals aimed at restoring and protecting all beneficial uses of Great Lakes waters, making the waters safe for swimming, fishing, and drinking. We agreed that "the discharge of any or all persistent toxic substances (shall) be virtually eliminated."

To reach that goal, the United States and Canada pledged to develop local cleanup plans, known as remedial action plans [RAP's], for 42 areas of concern—harbors and river mouths along the Great Lakes shoreline which are severely contaminated with toxics. In almost every case, the bottom sediments of these toxic hot spots are themselves a major source of contamination to the water.

The two nations also pledged to develop Lakewide Management Plans—comprehensive management documents for each lake—to protect the lakes from all negative impacts. We pledged to regulate water quality consistently throughout the Great Lakes Basin. And we pledged to protect the Great Lakes from spills of oil and other hazardous materials.

That all sounds great, until you realize that very little has actually happened. Those goals exist on paper, and on paper only. The Clean Water Act directs the Environmental Protection Agency to implement the U.S. commitments under the agreement, but the agency has made very little headway toward meeting those commitments.

To date, only one remedial action plan has been completed by the United States—the one for Green Bay. I am proud that the first plan happens to be in Wisconsin, and that the community is now trying to implement its

ambitious cleanup plan. But the fact that the United States has completed only one RAP is a national disgrace. The fact that we have not developed a single lakewide management plan is disappointing. The fact that none of the other goals in the agreement have been met is disheartening to the millions of Americans who live and raise their children near the Great Lakes, get their drinking water from the lakes, and eat the fish caught in the lakes.

In order to translate the goals of the agreement into concrete actions, I worked with Senators LEVIN and GLENN to develop legislation, S. 1646, which we introduced last year. That legislation is the basis for the measure which we are passing today on the floor of the Senate. The bill sets statutory deadlines to insure that the goals of the Great Lakes Water Quality Agreement will be met by the United States in a timely manner. It insures that shoreline communities, like Milwaukee, Sheboygan, Marinette, and Superior in Wisconsin, will get the help they need from the EPA to develop specific cleanup plans for their contaminated harbors and tributary rivers.

The bill also insures that the States in the Great Lakes basin will share an equal burden in the Great Lakes cleanup, by requiring that the EPA develop uniform water quality guidance for the States to use when they develop their water quality rules. And the bill requires that the United States cooperate with the Canadian Government to insure that our northern neighbors make similar progress toward implementing the agreement.

The bill also requires that the EPA develop scientific criteria for use by States in assessing the toxicity of shoreline sediments, and undertake demonstration projects to develop environmentally sound ways in which contaminated sediments can be stabilized or removed.

Another provision of our bill requires the EPA and the Coast Guard to identify weaknesses in programs designed to protect the Great Lakes from chemical and oilspills, so that those weaknesses can be remedied. The bill also requires that the Army Corps of Engineers develop management plans for the confined disposal facilities which are used to contain dredged lake-bottom materials, to find and prevent leaks of toxic-laden sediments.

Finally, the bill contains two other provisions which I believe are very important to the people living near the Great Lakes. The first provision requires the EPA to submit to Congress a report assessing the human health effects of toxic contamination in the Great Lakes. We need to develop a better scientific understanding of the risks to human health and safety. The second provision insures that Federal grants, as well as expertise and assistance, will be available to help the States and local communities carry out their responsibilities under the water quality agreement. While it is commendable that the agreement assigns much of the cleanup responsibility to States and localities, we cannot reasonably expect them to meet their mandates without more help from the Federal Government. After all, the agreement represents a national commitment, and it is only fair that the Federal Government stand behind that commitment.

In closing, passage of this legislation represents the culmination of 2 years of effort on the part of many people. For me, it is the fulfillment of a goal which I set for myself when I first came to the Senate. But I could not conclude without recognizing the dedication and commitment which my distinguished colleague, Senator LEVIN, gave to this effort. Senator LEVIN's personal commitment and hard work have made this bill a reality. In addition, I could not fail to mention Senator GLENN's significant contribution to this measure.

And I would be remiss if I did not recognize the hard work that went into this effort on the part of many people in the State of Wisconsin. This measure reflects the input of a great many individuals in the environmental community, state agencies, scientific community, and the business community in my State.

I believe that this bill will make a real difference in the environmental quality of the Great Lakes. We owe it to ourselves and future generations to enact this legislation. And we owe it to the fish and wildlife who depend on us to protect their environment. This isn't the end of our work, by any means. Much more remains to be done. But I am pleased that the Senate is taking this important step forward today.

Mr. GLENN. Mr. President, I rise today to urge my fellow Senators to vote affirmatively on H.R. 4323, as amended with the Senate bill S. 2244, the Great Lakes Critical Programs Act of 1990. This bill will accomplish a very important objective within the Great Lakes region. It will codify in domestic law certain responsibilities to which the United States has committed itself in an international environmental agreement with Canada. The agreement, called the Great Lakes Water Quality Agreement, was initially signed by the two nations almost 20 years ago to address the primary problem of nutrient pollution in the Great Lakes. Lake Erie benefited dramatically by the programs set forth under this initial agreement. The treaty was more recently revised and amended to abate and clean up the heavy toxic pollution of some parts of the Great Lakes. Unfortunately, at our current rate of progress under the toxics portion of the agreement, we may never see the same dramatic results.

I would like to commend Senators LEVIN and KOHL, the authors of the bill, for bringing this fact to the attention of Congress. Their Oversight on Government Management Subcommittee hearings to research the bill gave us a chance to really look at implementation of the Great Lakes Water Quality Agreement programs directed at toxic pollution. They found that our efforts under the agreement were not much to boast about.

The bill before us will help us to begin to gain ground in fighting toxic pollution in the Great Lakes. The bill sets reasonable goals for completing our responsibilities in the remedial action planning process, the development of lakewide management plans, and the completion of demonstration projects on contaminated sediments in the region. In addition, the bill provides for research into health impacts of toxic pollution on residents of the Great Lakes basin, and better prevention of onshore hazardous materials spills, among other provisions.

The Great Lakes Critical Programs Act will help to energize the Environmental Protection Agency, to better focus its resources, and allow it to more effectively assist State and local participants in preventing and managing toxic contamination of the Great Lakes. I believe that once we get serious about Great Lakes Water Quality Agreement programs directed at toxic pollution, we will begin to see the badly needed results. This bill will help us get serious. I urge its passage by the Senate.

Mr. LEAHY. Mr. President, last October, I spoke to a concerned group of Vermonters and New Yorkers about the environmental health of Lake Champlain. These citizens gathered at the Lake Champlain Symposium because they are worried that one of the region's greatest natural treasures is in trouble and needs quick attention.

At that conference I promised to work with my colleagues from Vermont and New York to write and pass model pollution prevention and cleanup legislation to help Lake Champlain. That promise resulted, on February 6, 1990, in my joining with Senators JEFFORDS, D'AMATO, and MOYNIHAN to introduce the Lake Champlain Special Designation Act.

Today, this important conservation bill passed the Senate. After months of hard work and through the leadership of not only my Vermont and New York colleagues but also Senators MITCHELL and CHAFEE, we are one step closer to reaching our goal.

I am particularly thankful to Senator LEVIN for his assistance in speeding the passage of the Lake Champlain

Special Designation Act by combining it with his Great Lakes Critical Programs Act. His tireless efforts to improve and protect the Great Lakes and their adjacent waterways deserve our applause.

Lake Champlain is truly one of the Nation's great lakes. It provides drinking water for almost 300,000 people. It provides varied recreational opportunities, and economic benefits to the towns and businesses along its shores.

Yet, Lake Champlain is struggling with many challenges including overdevelopment, profligate recreational use, and point and nonpoint source pollution. These problems are not immediately noticeable, like an oilspill or massive fish kill. Rather, they take place over years, slowly choking the lake to a point where more resources and effort are needed just to keep the lake from deteriorating further.

This act that passed today authorizes specific activities for the Environmental Protection Agency, the Department of Agriculture, and the Department of the Interior. These agencies will work together with State government, local communities, academic institutions, and public interest groups in pollution research, prevention, management, and control.

In its present form, the Lake Champlain Special Designation Act, is incorporated into the same legislative package with not only the Great Lakes, but also with the Chesapeake Bay and Long Island Sound. This approach is entirely appropriate. These are all large, highly significant natural resources. The waters of all of them have been marred by pollution and wastes. Most important, all of them, through timely local, State, and national intervention, are on their way back to better ecological health.

Senator JEFFORDS, who has worked so hard to assure protection of Lake Champlain, has a few words on the Environmental Protection Agency's role in implementing this act. But before he begins I would like to take a few moments to expand on provisions in the Committee on Environment and Public Works' report on this bill, regarding the Department of Agriculture and the Department of the Interior.

The Lake Champlain Special Designation Act designates the lake as a special project area under the Agriculture Conservation Program. While we are pleased by the committee's work to provide special attention to the basin as a whole, we would like to be sure that current projects conducted by the Department of Agriculture which have proven to be successful in reducing phosphorus and nonpoint source pollution are continued.

In order to expand monitoring efforts within the basin, we believe the Secretary of Agriculture should develop a comprehensive monitoring and evaluation network for all major drainage within the basin. Whenever practical, monitoring and associated research shall be developed and conducted jointly with existing efforts in the basin.

The Lake Champlain Special Designation Act also provides for Department of the Interior programs. Although the U.S. Geological Survey and Fish and Wildlife Service have limited new authorities, we believe a much greater effort is needed under existing law.

The Secretary of the Interior, acting through the heads of the water resources divisions, should develop an integrated geographic information system [GIS] for the basin. Whenever practical, monitoring and associated research should be developed and conducted jointly with extension efforts within the basin.

Lake Champlain played an essential role in the War of Independence and then in the War of 1812. The lake and its basin hold important regional and national significance. Within this historical archeological context, the Department of the Interior plays an important role in protecting cultural resources. The Secretary of the Interior, acting through the National Park Service, is encouraged to consult with the management conference in carrying out historic preservation and natural landmark programs within the basin. Of special interest is the survey and inventory of lakeshore and underwater historical and archeological sites.

In order to improve and maintain the health of wildlife and fishery resources within the basin, the Fish and Wildlife Service should expand its efforts there. Special attention should be given to threatened and endangered species and their habitats, and to migratory species. Recognizing that aquatic nuisance species are causing great damage to the fishery resources in the basin, the Secretary of the Interior is given authority to conduct lamprey control activities, including the application of lampricides in the basin, after completion of an environmental impact statement. The Secretary should also use, as appropriate, equipment purchased with funds provided through the Great Lakes equipment purchased with funds provided through the Great Lakes Fishery Commission.

We also note that appropriated funds for the Department of the Interior should be judiciously distributed between the Fish and Wildlife Service and Geological Survey based on their annual needs and the priorities of the management conference.

Mr. President, Senator JEFFORDS and I will be working to ensure that the Lake Champlain Special Designation Act remains in this bill through its upcoming consideration by the House. The fate of the lake hangs in the balance.

The PRESIDING OFFICER. Are their amendments to the substitute.

AMENDMENT NO. 3021 TO AMENDMENT NO. 3020

(Purpose: To create a management conference for the restoration of Onondaga Lake)

Mr. FORD. Mr. President, on behalf of Senator MOYNIHAN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. MOYNIHAN, proposes an amendment numbered 3021 to amendment No. 3020.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment insert the following:

(a) The Assistant Secretary of the Army for Civil Works, the Administrator of the Environmental Protection Agency, and the Governor of the State of New York, acting jointly, shall convene a management conference for the restoration, conservation, and management of Onondaga Lake. The purpose of this management conference shall include but not be limited to—

(1) the development, within a two year period following the date of the enactment of this Act, of a comprehensive restoration, conservation, and management plan for Onondaga Lake that recommends priority corrective actions and compliance schedules for the cleanup of such Lake; and

(2) the coordination of the implementation of such plan by the State of New York, the United States Army Corps of Engineers, the Environmental Protection Agency and all local agencies, governments, and other groups participating in such management conference.

(b)(1) The members of the management conference convened pursuant to subsection (a) shall include, at a minimum, the Assistant Secretary of the Army for Civil Works, the Administrator of the Environmental Protection Agency, the Governor of the State of New York, and representatives of—

(A) the Attorney General of the State of New York;

(B) Onondaga County, New York; and

(C) The City of Syracuse, New York.

(2) Any member of the management conference may designate a representative to attend meetings of the management conference and otherwise represent such member on the management conference.

(3) The management conference shall have ex officio members which shall include, at a minimum—

(A) the United States Senators from the State of New York; and

(B) the member(s) of the United States House of Representatives within whose congressional district(s) lies Onondaga Lake.

(4) The management conference shall have standing committees which shall include, at a minimum—

(A) a Citizens Advisory Committee; and

(B) a Technical Review Committee.

(c)(1) Not later than 120 days after the completion of the plan developed pursuant to subsection (a), and after providing for public review and comment, the Assistant Secretary of the Army for Civil Works and the Administrator of the Environmental Protection Agency shall approve such plan if such plan meets the requirements of this section, and if the Governor of the State of New York concurs in such approval.

(2) Upon approval of the plan under this subsection, such plan shall be implemented.

(d)(1) The Assistant Secretary of the Army for Civil Works and the Administrator of the Environmental Protection Agency are authorized to make grants to the State of New York to perform activities authorized under this section or to contract for such performance, provided that such grants shall not exceed 70 percent of the costs of such activities and that the non-federal share of such costs are provided from non-federal sources. Administrative services for the development and implementation of the plan approved pursuant to subsection (a) shall be provided by a not-for-profit corporation established for the purpose of assisting with the planning and coordination of the clean up of Onondaga Lake.

(2) To carry out this section, the Governor of the State of New York may, using funds provided pursuant to paragraph (1), make grants for—

(A) research, surveys, administrative services and studies approved by the management conference as necessary for the development of the plan under this section;

(B) other activities including administrative services that are approved by the management conference and are necessary to implement the plan approved by the management conference pursuant to subsection (a); and

(C) gathering data and retaining expert consultants in support of litigation undertaken by the State of New York to compel clean up or obtain clean up and damage costs from parties responsible for the pollution of Onondaga Lake, including administrative services.

(3) In-kind payments shall qualify for the purpose of meeting the total non-federal matching requirements of this subsection.

(e) There are authorized to be appropriated to the Assistant Secretary of the Army for Civil Works and the Administrator of the Environmental Protection Agency such sums as may be necessary to carry out this section.

(f) Grants made under this section are not intended to relieve any person who would otherwise be liable under federal or State law for damages, response costs, natural resource damages, restitution, equitable relief or any other relief, from liability for such relief.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3021) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as amended.

The amendment (No. 3020), as amended, was agreed to.

The PRESIDING OFFICER. Without objection, the bill is considered read a third time and passed.

So the bill (H.R. 4323), as amended, was passed.

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

USE OF A CERTAIN PARCEL OF LAND FOR A CHILD CARE CENTER

Mr. FORD. Mr. President I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 969, H.R. 3888, a bill to allow a certain parcel of land in Rockingham County, VA, to be used for a child care center.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3888) to allow a certain parcel of land in Rockingham County, Virginia, to be used for a child care center.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. If there is no amendment to be proposed, without objection, the bill is considered read a third time and passed.

So the bill (H.R. 3888) was passed.

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INCORPORATION OF AMERICAN UNIVERSITY AMENDMENT

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 5749 regarding American University now at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5749) to amend the Act entitled "An Act to incorporate the American University", approved February 24, 1893, to clarify the relationship between the Board of Trustees of the American University and the General Board of Higher Education and Ministry of the United Methodist Church.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 5749) was ordered to a third reading, was read the third time, and passed.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SEQUENTIAL REFERRAL OF NONINDIGENOUS AQUATIC SPECIES LEGISLATION

Mr. FORD. Mr. President, I ask unanimous consent that Calendar No. 971, S. 2244, a bill to prevent unintentional introduction of nonindigenous species into waters of the United States and for other purposes, be sequentially referred to the Committee on Commerce, Science, and Transportation for a period not to exceed 2 calendar days; and if S. 2244 is not reported by the Committee on Commerce within that time, the bill then be automatically discharged and returned to the calendar.

The PRESIDING OFFICER. Without objection it is so ordered.

HISTORIC SITES, BUILDINGS, AND ANTIQUITIES ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2582, a bill to amend the Historic Sites, Buildings, and Antiquities Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2582) to amend the Historic Sites, Buildings, and Antiquities Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3022

Mr. FORD. Mr. President, I send an amendment to the desk for Mr. BUMPERS and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD] for Mr. BUMPERS, proposes an amendment numbered 3022.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 102(3), strike "and the State of West Virginia".

Section 105(a)(1) is amended to read as follows:

"(1) Three individuals who are nationally recognized as experts and authorities on the history of the Civil War, and two individuals who are nationally recognized as experts and authorities in historic preservation, appointed by the Secretary."

In section 105(g), strike "terminate after" and insert in lieu thereof, "terminate 90 days after".

In section 108(a), strike "associated with the Civil War" and insert in lieu thereof, "associated with military action during the Civil War".

Strike section 109 in its entirety and redesignate section 110 as section 109.

Strike titles II and III in their entirety insert in lieu thereof the following:

"TITLE II—NATIONAL PARK SYSTEM ADVISORY BOARD

"SEC. 201. NATIONAL PARK SYSTEM ADVISORY BOARD.

"Section 3 of the Act of August 21, 1935, entitled 'An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes' (49 Stat. 667; 16 U.S.C. 463(b)) is amended in the first sentence of subsection (b) by striking '1990' and inserting in lieu thereof '1995'.".

Amend the title so as to read: "An Act to provide for a Civil War Sites Study and to reauthorize the National Park System Advisory Board, and for other purposes.".

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3022) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 2582), as amended, was passed.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NEZ PERCE NATIONAL HISTORICAL PARK

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 917, S. 2804, a bill relating to the Nez Perce National Historical Park in Idaho.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2804) to amend the Act of May 15, 1965, authorizing the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 2804

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 1 of the Act entitled "An Act to authorize the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes", approved May 15, 1965 (79 Stat. 110), as amended (hereinafter referred to as "the Act"), is amended by inserting after "the Nez Perce Country of Idaho" the words "and in the States of Oregon, Washington, Montana, Wyoming, and Oklahoma".

SEC. 2. Section 2 of the Act is amended by adding at the end the following new sentence: "Sites to be so designated shall include the following sites as described in the 1989 National Park Service draft "Nez Perce National Historical Park Additions Study": Tolo Lake, Idaho; Looking Glass' 1877 Campsite, Idaho; Buffalo Eddy, Washington and Idaho; [Doug Bar, Washington and Idaho;] Camas Meadows Battle Sites, Idaho; [Joseph Canyon Viewpoint, Oregon; Old Chief Joseph's Gravesite and Cemetery, Oregon; Traditional Campsite at the Fork of the Lostine and Wallowa Rivers, Oregon;] Burial Site of Chief Joseph the Younger, Washington; Nez Perce Campsites, Washington; Big Hole National Battlefield, Montana; Bear's Paw Battleground, Montana; and Canyon Creek, Montana. *Additional sites to be designated shall include but not be limited to Virginia City, Montana; Lolo Pass, Montana; St. Mary's Mission, Montana; Bannack State Park, Montana; and Pompeys Pillar, Montana".*

SEC. 3. (a) Section 3 of the Act is amended by replacing the colon in the first sentence with a period and striking the remainder of the sentence and by adding the following new sentence at the end thereof: "Lands and interests therein owned by a State or local political subdivision may be acquired only by donation or exchange and private lands or interests therein may be purchased only on a willing seller basis:".

(b) Section 4(a) of the Act is amended by striking the third sentence.

(c) Section 6(a) of the Act is amended by striking the words "State of Idaho, its" and inserting in lieu thereof the words "States of Idaho, [Oregon,] Washington, Montana, Wyoming or Oklahoma, their".

SEC. 4. Section 7 of the Act is amended by striking the number $630,000" and inserting the number "$2,130,000" in lieu thereof, and by striking the number "$4,100,000" and inserting the number "$9,300,000" in lieu thereof.

SEC. 5. Section 5 of the Act is amended by adding the following subsections (b) and (c) at the end thereof:

"(b) The individual and separate Federal components of the Nez Perce National Historic Park shall be administered by the respective administrative region of the National Park Service in which it is located.

"(c) Cooperative agreements for the individual and separate State and private components of the Nez Perce National Historic Park shall be administered by the respective administrative region of the National Park Service in which it is located.".

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

AMENDMENT NO. 3023

(Purpose: To authorize certain sites in the State of Oregon to be included in the park)

Mr. SYMMS. Mr. President, I send an amendment to the desk for Senator HATFIELD and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS], for Mr. HATFIELD, proposes an amendment numbered 3023.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 2 of the bill, after "Camas Meadows Battle Sites, Idaho;" insert "Joseph Canyon Viewpoint, Oregon; Old Chief Joseph's Gravesite and Cemetery, Oregon (limited to the portion that is, on the date of enacement of this Act, owned by the United States in trust for the Umatilla and Nez Perce tribes); Traditional Campsite at the fork of the Lostine and Wallowa Rivers, Oregon;".

In section 3(c) of the bill, strike "Idaho, Washington," and insert "Idaho, Oregon, Washington,".

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3023) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

So the bill (S.2804), as amended, was passed as follows:

S. 2804

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 1 of the Act entitled "an Act to authorize the Secretary of the Interior to designate the Nez Perce National Park in the State of Idaho, and for other purposes", approved May 15, 1965, (79 Stat. 110) as amended (hereinafter referred to as "the Act") is amended by inserting after "the Nez Perce Country of Idaho" the words "and in the States of Oregon, Washington, Montana, Wyoming, and Oklahoma".

SEC. 2. Section 2 of the Act is amended by adding at the end of the following new sentence: "Sites to be so designated shall include the following sites as described in the 1989 National Park Service draft "Nez Perce National Historical Park Additions Study": Tolo Lake, Idaho; Looking Glass' 1877 Campsite, Idaho; Buffalo Eddy, Washington and Idaho; Joseph Canyon Viewpoint, Oregon; Old Chief Joseph's Gravesite and Cemetery, Oregon (limited to the portion that is, on the date of enactment of this Act, owned by the United States in trust for the Umatilla and Nez Perce tribes); Traditional Campsite at the fork of the Lostine and Wallowa Rivers, Oregon; Burial Site of Chief Joseph the Younger, Washington; Nez Perce Campsites, Washington; Big Hole National Battlefield, Montana; Bear's Paw Battleground, Montana; and Canyon Creek, Montana. Additional sites to be designated shall include but not limited to Virginia City, Montana; Lolo Pass, Montana; St. Mary's Mission, Montana; Bannack State Park, Montana; and Pompeys Pillar, Montana".

SEC. 3. (a) Section 3 of the Act is amended by replacing the colon in the first sentence with a period and striking the remainder of the sentence and by adding the following new sentence at the end thereof: "Lands and interests therein owned by a State or local political subdivision may be acquired only by donation or exchange and private lands or interests therein may be purchased only on a willing seller basis:".

(b) Section 4(a) of the Act is amended by striking the third sentence.

(c) Section 6(a) of the Act is amended by striking the words "State of Idaho, its" and inserting in lieu thereof the words "States of Idaho, Oregon, Washington, Montana, Wyoming or Oklahoma, their".

SEC. 4. Section 7 of the Act is amended by striking the number "$630,000" and inserting the number "$2,130,000" in lieu thereof, and by striking the number $4,100,000" and inserting the number "$9,300,000" in lieu thereof.

SEC. 5. Section 5 of the Act is amended by adding the following subsections (b) and (c) at the end thereof:

"(b) The individual and separate Federal components of the Nez Perce National Historic Park shall be administered by the respective administrative region of the National Park Service in which it is located.

"(c) Cooperative agreements for the individual and separate state and private components of the Nez Perce National Historic Park shall be administered by the respective administrative region of the National Park Service in which it is located.".

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR THURSDAY, OCTOBER 18

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate recesses today, it stand in recess until 9 a.m. on Thursday, October 18; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; and that the Senate then resume consideration of calendar No. 922, S. 3209, the omnibus reconciliation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. THURSDAY, OCTOBER 18

Mr. FORD. Mr. President, if the acting Republican leader has no further business, I ask unanimous consent that the Senate stand in recess, under the previous order, until 9 a.m., Thursday, October 19.

There being no objection, the Senate, at 12:29 a.m., recessed until Thursday, October 18, 1990, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 17, 1990:

NATIONAL COUNCIL ON DISABILITY

JOHN LEOPOLD, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1991, VICE BRENDA PREMO, TERM EXPIRED.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT FOR THE TERMS INDICATED:

FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 30, 1991: EUGENE L. MADEIRA, OF PENNSYLVANIA, VICE DONALD M. CLARK.

FOR A TERM EXPIRING SEPTEMBER 30, 1992: DALE P. GOLD, OF VIRGINIA, VICE RUTH REEVE JENSON, TERM EXPIRED.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. THOMAS W. KELLY, [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. EDWIN S. LELAND, JR., [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. DAVID M. MADDOX, [redacted], U.S. ARMY.

THE JUDICIARY

DENNIS W. SHEDD, OF SOUTH CAROLINA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF SOUTH CAROLINA VICE KAREN LECRAFT HENDERSON, ELEVATED.

CONFIRMATION

Executive nomination confirmed by the Senate October 18, 1990:

DEPARTMENT OF THE TREASURY

JEANNE S. ARCHIBALD, OF VIRGINIA, TO BE GENERAL COUNSEL FOR THE DEPARTMENT OF THE TREASURY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

BEL AIR VOLUNTEER FIRE CO. CELEBRATES CENTENNIAL

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mrs. BENTLEY. Mr. Speaker, my fellow coleagues, I rise today so that I may recognize the Bel Air Volunteer Fire Co. which celebrates its 100th anniversary on September 15 this year. I had the honor and privilege of attending the centennial celebrations which marked an important week in the history of the fire company and the town of Bel Air.

Established in 1890, the Bel Air Volunteer Fire Co. has served the town of Bel Air and surrounding communities with a commitment to the needs of their fellow man. I am truly touched by the sense of pride and responsibility toward the community that is exhibited by the men and women who volunteer their time and energies to the fire company. Through protecting life and property they have given of themselves so that others may benefit.

Given the dangers and demands of firefighting, one would think that many might shy away from such work. Yet one cannot help but be impressed by the spirited and professional attitude with which these individuals approach their work. Stories of firefighters being hit with falling walls and ceilings, holes in floors, sweltering summer heat complemented by 80 pounds of equipment and fire coats so covered in ice that they could not be removed without first chipping away the ice has not discouraged the willingness of these special men and women.

The town of Bel Air as well as the entire Nation has changed radically since 1890. Although Bel Air primarily is surrounded by rural countryside, what was once a quite sleepy little town has experienced a recent surge in population and development that has placed new demands on the fire company. In addition, dramatic advances in technology have meant that firefighters also must keep pace with the increasingly technological society in which we live.

Life-saving equipment at the scene of an accident at one time may have been a crow bar and sledge hammer. Today, they are replaced by powerful cutting and spreading tools that quickly can extract an injured person from a car, yet demand a skilled and knowledgeable operator. I always am impressed by the amount of equipment and techniques which emergency personnel must master and the life or death situations under which they must operate. We indeed owe a great debt to these men and women who under the most stressful and dangerous situations perform heroic tasks on a daily basis.

To enter a burning dwelling is something which few of us can say we ever have experienced nor hope to. However, these individuals stand at the ready every hour of every day to be called upon should they be needed. We are truly blessed in this Nation to have the skill and knowledge of countless volunteer fire companies which provide emergency services to our communities.

Having the opportunity to join in the centennial celebration was an honor for me. I cannot stress enough the selfless and giving attitude of these fine men and women. I sincerely enjoy their comradeship and outstanding devotion to their work. Their work and contribution to our community, State, and country deserves the utmost recognition and is truly commendable. Through giving of themselves, they not only have worked for the betterment of their fellow man and the town of Bel Air, but they also have made this a better Nation as well. The members of the Bel Air Volunteer Fire Co. recognize the profound affect their work has on the community and derive a distinctive satisfaction from giving to society.

Although I wish not to recognize one particular person, for the true focus of my salute is to the company on its 100th anniversary, I do feel compelled to use for the purpose of example the name of a senior member, Millard Purcell. Mr. Purcell personifies the attitude and commitment shared by all the members. A former chief, Mr. Purcell; has served the company for half a century. At age 75, he still serves the company rather than retiring and, again does so with the unmatched commitment and dedication shared by all the members.

I ask how many individuals do you know who demonstrate such remarkable characteristics? How many individuals do you know who opt for continued work and service rather than retiring? As we are all aware, it is far better to give than receive. The members of the Bel Air Volunter Fire Co. serve as shining examples of this principle for I contend that such loyalty and affection for one's work only can come from the heartfelt satisfaction of helping someone in his/her time of need.

Mr. Speaker, fellow colleagues, it is with a deep respect and admiration for the work of the Bel Air Volunteer Fire Co. that I extend congratulations on its 100th anniversary. We are forever in debt to volunteer fire companies across our great Nation. Their hard work never shall go unnoticed. May God bless them and protect them in all that they do.

TRIBUTE TO JUDGE HENRY J. BRODERICK UPON HIS RETIREMENT AFTER 20 YEARS AS A MARIN SUPERIOR COURT JUDGE

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mrs. BOXER. Mr. Speaker, I rise today and ask my colleagues to join me in honoring a fine jurist on the occasion of his retirement.

Henry J. Broderick, is retiring after 20 years of distinguished service as a superior court judge in Marin County. Since Judge Broderick's appointment in 1970, he has enjoyed a well-earned reputation for toughness, fairness, and intellectual rigor.

The hundreds of individuals who have appeared before Judge Broderick seeking justice over the past two decades have had good reason to be impressed by his dedication to the highest principles of his profession. Hundreds of attorneys have had the privilege of appearing before a jurist who adhered to the most demanding standards of preparedness and professionalism.

I wish Judge Broderick the best in his retirement, and I add my voice to the chorus of congratulations.

GOOD LUCK TO DR. NANCY SPAETH

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. STARK. Mr. Speaker, I rise today to pay tribute to Dr. Nancy Spaeth, the principal of Castro Valley High School in California's Ninth Congressional District. Dr. Spaeth is leaving the Castro Valley Unified School District after 10 years of dedicated service to take a new position as associate superintendent for curriculum and instruction with the Berkeley School District.

Dr. Spaeth began her career with the Castro Valley Unified School District in 1980 and became principal of Castro Valley High School in 1982. Under her leadership, Castro Valley High School became only one of 22 schools nationwide to be selected twice by the U.S. Department of Education as a national exemplary school, once in 1985 and again in 1989. Castro Valley High was also designated as a California Distinguished School in 1988.

Dr. Spaeth has been an outstanding principal. She has worked to involve the community in the life of the school and has made use of community resources for students. She has

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

also worked to improve the educational program through teacher evaluation and an emphasis on cooperative learning, critical thinking, and problem solving. Her administrative style of seeking input and sharing decisionmaking has contributed to a positive student climate.

This year, Dr. Spaeth was selected as California's Outstanding Principal through the In Honor of Excellence Program which is sponsored by the National Association of Secondary School Principals. She was also the recipient of the Castro Valley School District's Larry J. Goodman Education Service Award for the 1985–86 school year. She has also been active in the Association of California School Administrators by helping plan regional conferences and participating as a panelist at forums of this organization. In 1986, she was the Castro Valley Unified School District Administrators' Association's nominee for the ACSA's Administrator of the Year Award.

Mr. Speaker, although Dr. Spaeth will be sorely missed, I wish her much happiness and success in her new position. Our loss is the Berkeley School District's gain.

W. SHERMAN DOEBLER RECEIVES PSACC MEMBER OF THE YEAR AWARD

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. GEKAS. Mr. Speaker, I would like to bring to your attention today the work of Union County Commissioner W. Sherman Doebler as he has been named PSACC Member of the Year by the Pennsylvania State Association of County Commissioners.

Commissioner Doebler received this award for his outstanding leadership and active involvement in the Union County government, and for his superior role in local and regional development activities.

Doebler is serving his fourth term as a Union County Commissioner; he was first elected in 1976. Since then, he has held the position of chairman for 12 of his 14 years in office. In this capacity, Doebler was instrumental toward the installation of the first electronic voting system used in Pennsylvania. Another first for Union County under Doebler's leadership as commissioner was the implementation of the regional emergency communications system.

Doebler has committed much of his time to various programs and activities for the State association. He has worked on the committee for the Pennsylvania Environmental Insurance Pool for over 3 years in an effort to provide extensive environmental liability insurance coverage for counties. He has also served on the Pennsylvania Counties Risk Pool Board of Directors for nearly 4 years. This agency will enable Union County residents to see a significant 4 percent reduction in insurance costs, while maintaining the broad range of insurance coverage available to them.

PSACC's award means that Doebler's constant dedication and service has benefited residents of Union County, as well as outlying areas. They are being offered outstanding services through Commissioner Doebler's quick response and appropriate guidance to problems they may encounter.

Doebler's commitment to the community proves his devotion to them, and inevitably proves he is well-deserving of this honor.

CONGRATULATING THE DOWNTOWN ROTARY CLUB ON THEIR 75TH ANNIVERSARY

HON. BILL SARPALIUS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. SARPAULIUS. Mr. Speaker, the Downtown Rotary Club of Wichita Falls is celebrating their 75th anniversary on October 18, 1990. The Wichita Falls Rotary Club started in 1915 as an intregal part of Rotary International which benefits people worldwide through a number of service projects. The Rotary's motto—Service Above Self—is an example for all people of every nation to follow. The Wichita Falls Rotary's commitment to service. The Rotary Club members first went to bat for the boys is as strong as ever. Since its humble beginnings in the old city hall on Ohio Street, the Wichita Falls Boys Clubs now boast five club buildings and serves over 4,000 boys each year. Much of the success of the boys clubs can be contributed to the commitment of rotary members.

In 1959 the Rotary Club helped sponsor a family that fled Hungary. Andy Chagoly, now a dentist in Wichita Falls, said if it were not for the Rotary Club, he would not be here now. He and his family escaped from Hungary on Christmas Day 1956 and the Rotary Club paid their way to the United States.

Also in 1959, the late Lt. Col. Floyd Taylor convinced fellow Rotarians here to "adopt" a squadron of airmen. Today, almost every community which boasts of a military base has a squadron adoption program, an effort that had its beginnings in Wichita Falls. In three decades since the Rotary Club of Wichita Falls followed the urgings of one of its past presidents and adopted the first squadron at Sheppard Air Force Base, the program has become one of the best tools available for good relations between military installations and host communities.

Without the financial help of the Rotary Club of Wichita Falls, hundreds of local students would find paying for college a little bit more difficult. Each year, the Rotary Club provides financial aid to Midwestern State University students in the form of internships, scholarships, and short-term low interest loans. Local high school students receive awards for annual speech and essay contests.

The Rotary Club's current endeavor is the flag project. For a nominal fee the Rotary Club will place an American flag in a person's front yard on six designated U.S. holidays. This fine example of patriotism is expected to be seen on 1,000 lawns in Wichita Falls thanks to the efforts of the Downtown Rotary Club.

Not only is the club's interest of a community perspective, the Downtown Rotary Club has a record of international service. By 1996, Rotarians hope to immunize every child in the world for polio and other diseases that threaten our youth. The Wichita Falls club has pledged $21,000 over the next 3 years to assist in this disease fighting program.

Mr. Speaker, the accomplishments of the Wichita Falls Downtown Rotary Club are too numerous for me to mention today. Their involvement in community, county, State, National, and international endeavors is example of their motto—service above self. However, the most essential element to the success of the Rotary Club of Wichita Falls is its membership. Their spirit of enthusiasm is evident in their work. With approximately 200 members, the Downtown Rotary Club serves Wichita Falls as the largest civic club. Their membership is respected—not only for each member's personal involvement in service projects—but for the club's attitude of team accomplishment.

Mr. Speaker I ask my fellow Members to join me today in congratulating the Downtown Rotary Club of Wichita Falls on their 75th anniversary. We commend them for a job well done and wish them well as they continue to better our world by—service above self.

LSC/GAO REPORT

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. STENHOLM. Mr. Speaker, I rise today to call to the attention of my colleagues the findings of a recent GAO study of Federal Legal Services attorneys' handling of migrant farmworker disputes with agricultural producers. The report clearly shows a lack of accountability for the expenditure of Federal tax dollars. This is entirely unacceptable for a program in which $320 million was appropriated last year, a program that has not been authorized for over 10 years.

Of the eight questions we asked, GAO was unable to answer, even partially, well over half. Why? Because records were incomplete and Legal Services grantees would not allow GAO access to the program records. Here is an example of what GAO was up against—quoting from the report:

> Because we did not have access to account records, we were unable to verify that the grantees had properly implemented these procedures or that the procedures provided adequate controls over the accounts, * * *.

This is not a way to "run a railroad," much less a $320 million Government-sponsored program. Representative MCCOLLUM and I plan to offer an amendment to the Commerce/Justice/State appropriations conference report which will address the problems identified in the GAO report, make Legal Services accountable to the American people and help it to provide the much-needed services Congress intended it to provide.

ED AND DOROTHY BELTZ CELEBRATE 60TH WEDDING ANNIVERSARY

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 16, 1990

Mr. KOLTER. Mr. Speaker, I rise today to pay a special tribute to my good friends Dorothy and Ed Beltz of Ellwood City, PA, who are celebrating their 60th wedding anniversary on October 30, 1990.

Dorothy and Ed are no ordinary couple. They met each other and have lived and worked in the western Pennsylvania area of New Castle, PA all of their lives. Their lives have been full as they have actively participated in the endeavors of their children, Bonnie, Bill, Charlotte, Harold, and David. These 5 have given in return, 11 grandchildren, and those grandchildren have enhanced Dorothy and Ed's lives by giving them 12 great grandchildren.

This couple has worked long and hard to support and encourage each member of their family circle to survive the joys and sorrows of life. At a time when they should have been enjoying retirement from their business enterprises—restaurant ownership, schoolbus contracting, and management of school food service—they have assisted in the rehabilitation of their beloved daughter-in-law who has courageously learned to live with paralysis as a result of a stroke, and they have instilled strength and faith to three of their lovely grandchildren who are afflicted with juvenile diabetes.

No adversity has been too great for them as they have survived the losses of their eldest and youngest sons. All of the challenges of their lives have simply made them stronger and more faithful to their ultimate goal of doing good for others.

Mr. Speaker, I want to take this opportunity on the floor of this House of Representatives to offer my heartiest congratulations to two very fine people who have weathered all the adversities of life with an enthusiasm which cannot be diminished. They continue at their ages—Ed has just recently celebrated his 80th birthday and Dorothy her 76th—to serve their church as officers, they enjoy traveling, square dancing, golfing, Masonic organizational activities and continue to work tirelessly to bring happiness and comfort to their family and friends who need their attention and support.

I ask the Members of the U.S. House of Representatives to join with me in extending congratulations and best wishes to Dorothy and Ed on their 60th wedding anniversary. May this lovely couple enjoy life to its fullest and every day of the future and may all the good deeds they have done for others be returned to them fourfold.

THE DEFICIT REDUCTION PACKAGE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 10, 1990, into the CONGRESSIONAL RECORD:

THE DEFICIT REDUCTION PACKAGE

After months of difficult and sometimes bitter deficit reduction negotiations between the President and Congressional leaders, the House last week considered, but rejected, the negotiated package. The largest deficit reduction package ever, it called for cutting the deficit $40 billion in 1991 and $500 billion over a five-year period. It had two dollars in spending cuts for every dollar of tax increases. While far from my ideal package, I felt it was a positive step to help us get our fiscal house in order.

THE NEED FOR DEFICIT REDUCTION

The federal budget deficit is our most pressing economic problem; it must come down. With the economy on the brink of recession, deficit reduction is urgently needed to allow lower interest rates to restore health to the economy. For the longer term, deficit reduction is the only sure and proven way for the federal government to increase national savings and thereby strengthen investment and productivity.

The deficit has kept us from addressing important domestic needs, and has led to budgetary games that cost us dearly in terms of public trust. Failure to solve the deficit problem would lead to a lower standard of living in the long run and reduced American influence in the world. No one can believe that this country should allow $300-billion deficits to continue.

The package went after obvious targets. On the spending side, it recognized that the Soviet threat has lessened and that Medicare costs—expected to double over the next five years—should be restrained. Although the excise tax increases were controversial, higher prices for cigarettes and alcohol may discourage younger Americans from smoking and drinking, and the gasoline tax would reduce our consumption of foreign oil. The package removed Social Security from the budget and avoided any cost-of-living-adjustment freezes or taxes on Social Security benefits.

REASONS FOR THE PACKAGE

Although I disagreed with many aspects of the package, I voted for it for several reasons. First, and most importantly, the alternative is fiscal chaos. Failure to pass a package would mean the Gramm-Rudman deficit reduction law would trigger large across-the-board spending cuts, shutting down many parts of government and curtailing all kinds of essential services, from meat inspection to mail delivery to air traffic control. While the package would have reduced the 1991 deficit by $40 billion, the Gramm-Rudman cuts would wring out more than $100 billion. Cuts that large would be disastrous, almost certainly pushing into recession an economy already weakened by the shock of increased oil prices and problems in the financial system.

Second, on the whole it was a credible deficit reduction effort. Over the past decade, we have lost the public trust as budget plan after budget plan proved to be a charade. With a few exceptions, this package relied on concrete steps taken now, not accounting gimmicks or vague plans for the future. The package contained new enforcement mechanisms to ensure that most of the savings would materialize and grow into the coming years.

Third, the package would have allowed a drop in interest rates which would help bolster economic growth in the economy. The Federal Reserve Chairman has said that he will move to reduce interest rates if a credible budget package is enacted. That will help to offset some of the effects of tax increases and spending cuts; in particular, homeowners with adjustable rate mortgages and those buying homes will benefit. It will also increase business investment and productivity, and lengthen our nation's current short-term planning horizon.

Fourth, the size and the timing of the projected deficit reduction was about right. The package had a little of this and a little of that—a mix of excise taxes, user fees, limits on income tax deductibility, and cuts in defense spending and entitlements. I felt that the $40-billion reduction target for next year was reasonable. Any less and the budget deal would lack credibility; any more and it might slow an already sluggish economy. Because the deficit reduction in the package was real, the savings would grow, taking a larger bite out of the deficit in future years.

DRAWBACKS OF THE PACKAGE

The package was certainly not my ideal budget plan. Too much of the burden would be shouldered by the middle class, in excise taxes and user fees. The Medicare cuts were deeper than I would prefer, and could be a burden on low- and middle-income persons. The package would have increased somewhat the tax burden on the wealthy—through limiting their itemized deductions, taxing their luxury items, and raising the cap of their Medicare payroll taxes. Yet the overall result of the package was that moderate-income taxpayers would be hit harder than the most well off. My preference would be to place more of the burden on those most able to bear it.

Although the deficit cuts in the package were real, the long-run economic assumptions underlying the package were still too optimistic. That meant the underlying deficit was much larger than indicated; so the result would be higher deficits than predicted and additional deficit reduction needed down the road.

LIMITED OPTIONS

Despite its drawbacks, the package was a long-overdue shift toward responsible fiscal policy. For years we have been stalemated because each Member wanted a lower deficit and had his own unique program to achieve it. But when the House took up the package, it was not a question of this one or some personal preference; no other feasible alternative was available. I felt that a "no" vote on this package could mean that the economy falters, the federal government stops, the markets fall, the deficit explodes, and the economy slips out of control.

It is easy to pick apart this package. The package was a result of divided government and a reflection of the election results. With neither party totally in charge of the government, neither got entirely what it wanted.

The package was better than no package and better than any feasible alternative. Yet the package had no study, no hearings,

and was drafted by a handful of officials. That is not the way to govern.

ELEMENTARY SCHOOL CONTINUES TO LIVE UP TO VISION OF CECIL H. PARKER

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mrs. LOWEY of New York. Mr. Speaker, Cecil H. Parker was a pioneer in the field of education. Through her passion, her patience, and her faith, she instilled a sense of pride and sparked a sense of curiosity in her students. She has been a role model for educators and students for many years.

Seven years ago, the Nathan Hale Elementary School in Mount Vernon, NY, was renamed and rededicated as the Cecil H. Parker Elementary School in her honor. She had taught there for almost 30 years. At the same time, Cecil H. Parker/Nathan Hale Elementary School graduates are selected to receive scholarships to continue their education. This scholarship program makes a higher education affordable to young people who would without this help not have been able to afford to go beyond high school.

Mr. Speaker, in Ms. Parker's vision, the teachers were the gardeners and the students the garden. In her vision, our schools would produce harvests of responsible, committed citizens. I wish to congratulate all of the Cecil H. Parker Elementary School family for their success in continuing Ms. Parker's tradition of educational excellence. Her legacy will be embodied in the accomplishments of those who are educated at this special institution. What she has done for education will long live as a tribute to the remarkable dedication of Ms. Cecil H. Parker.

PALESTINIAN-ISRAELI HOSTILITY MAKE HEADLINES

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. ENGEL. Mr. Speaker, the Temple Mount confrontation in Jerusalem has brought Palestinian-Israeli hostility back into the headlines and has pushed Saddam Hussein's invasion of Kuwait off the front pages, just as Saddam would want. It's clear to me that the Palestinian rock throwers deliberately provoked the incident to help Saddam Hussein link his invasion of Kuwait to the Arab-Israeli conflict. Barrels of stones were later found, indicating that the rock throwing incidents were apparently planned in advance.

Unfortunately, as usual, the international community has taken the bait. The United Nations Security Council passed a resolution condemning the Israeli security forces' handling of the situation, and not mentioning one word about the fact that peaceful Jewish worshippers at the Western Wall were initially bombarded with stones. Apparently no thought was given to possible Palestinian motivation for fomenting such a confrontation. Shamefully, the United States sponsored the resolution. It is apparent that President Bush is desperately trying to protect his alliances with the Arabs in Operation Desert Shield and he's using Israel as a sacrificial lamb.

While I deeply deplore the Palestinian deaths in Jerusalem, it must be understood that the stone throwers were the ones who provoked the incident. The PLO has endorsed Saddam Hussein and his power hungry designs, and the riot in Jerusalem was simply a calculated Palestinian move to advance Saddam's agenda. It is shameful and disgraceful that the President and the Secretary of State have made one-sided comments condemning Israel while turning a deaf ear to Palestinian provocation and calculation.

A SPEECH BY SECRETARY JACK KEMP

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. GUNDERSON. Mr. Speaker, given the many arguments that have been made on the various budget proposals before Congress, I'd like to add one more.

In his recent address to the Aspen Institute, Housing and Urban Affairs Secretary Jack Kemp made a good point that we should not be tied to addressing persistent economic problems with the same old, failed solutions.

Following are the Secretary's remarks which I hope will be reviewed by my colleagues on both sides of the aisle.

SPEECH BY SECRETARY JACK KEMP

Thank you for that warm introduction. It's an honor to be part of such an outstanding program, focusing on the domestic and international challenges facing America today.

What an exciting time it is to be alive. President Bush has called it the Revolution of 1989, but perhaps it's just the Revolution of 1776 not yet brought to its ultimate completion.

But as in all revolutionary eras, Charles Dickens' statement still applies: it can be the best of times and the worst of times simultaneously. It is best of times to witness the triumph of liberal domestic values—small "l," small "d"—capturing the global zeitgeist. It is the worst of times when we see poverty, despair, homelessness, and hopelessness cripple the lives of too many people and far too many children living in America's inner cities.

Clearly we can't help the poor if the country itself becomes poorer. So for a few moments, I'd like to discuss the war against poverty in the context of the great debate now taking place on Capitol Hill over tax and budget policies.

One of the most hotly contested issues today involves the current budget talks between the White House and Congress. I believe that President Bush demonstrated great leadership in advocating a cut in the capital gains tax to 15% during the presidential election two years ago, and again in his State of the Union Address.

Clearly there are deep differences and divisions between Republicans and Democrats about the direction our national economic policy should take, and bitter debate over the vexing issue of the budget. I really believe President Bush deserves credit for being willing to consider every issue as a subject for negotiation and compromise in his relations with the Democratic Leadership in Congress, including putting the issue of taxes on the table. He has walked the last mile in his effort to come to some bipartisan agreement, and in fact has taken a lot of heat from people on both sides of the aisle.

It's no secret that our economy is facing a slowdown, and unemployment is on the rise. As President Bush's Secretary of HUD, I express the concerns of millions of low income Americans struggling to make a living and keep homes together in the inner cities of this country. We owe it to the poor to do everything in our power to maintain, and indeed, restore the growth momentum which has created over 21 million jobs during the past eight years and launched over 4 million new small businesses.

The good shepherd reminds us all that those who are blessed have an obligation to be a blessing to those left out or left behind.

It is the poorest of our citizens who suffer the most from the consequences of bad economic policies. They are the first to lose their jobs and homes, and the first to suffer from a credit crunch. Indeed, their problems are the most severe and distressing.

In the interests of both promoting economic growth and reaching a budget agreement that truly reduces the deficit, I would offer the suggestion that Congress consider the plan offered by the President: reducing the effective rate on capital gains taxes to 15% plus indexing, then in return, as the Democrats demand, raising the top marginal rate to 31% to put an end to the complaints of so-called "unfairness."

The American economy is sliding into a recession that may be long and deep if Congress does not soon agree to the growth initiative President Bush has endorsed. In the interests of furthering that effort, I would further urge Congress to consider suspending attempts to secure a five-year budget agreement and concentrate its energies toward securing a one-year budget agreement that limits or even freezes spending and cuts taxes, not raises them.

The ambitious effort to cut $500 billion in a five-year agreement began when the economy was stronger and there was no foreign policy challenge as we face in the Middle East today. In my view, it's not logical to adopt sharp tax increases in the face of such an uncertain future. The poorest and the weakest in our society are sure to be hurt the most, as they would be in any economic downturn.

This compromise would give the Democrats in Congress one last chance to prove that they are sincere when they say they are willing to help the President find a solution to this country's need for growth and budgetary stability. If the Democratic Leadership now rejects this fair and generous offer from the President, they will have shown their intent is not to help, but to obstruct.

Cutting the capital gains tax will unlock billions of dollars now tied up in existing assets, while indexing for inflation would reduce the confiscatory effective tax rates that can easily reach 75% on long-term assets, according to economist David Goldman. Those dollars will provide access to the seed capital which is the number one need of entrepreneurs seeking to start or expand an enterprise and put people to work.

Even economist Allen Sinai—never a strong proponent of tax cuts—has concluded that cutting the capital gains tax would raise federal revenue by $30—$40 billion between 1990 and 1995, increase GNP by almost 3% or over $150 billion, create 2.5 million new jobs, and boost business capital spending by 1.3%.

Contrary to the Democrats' hysterical claims, cutting the capital gains tax is not a boondoggle for the rich, but an incentive for small businessmen and women—especially in our inner cities and among minority entrepreneurs—who want the opportunity to become rich. Between 1977 and 1982, when the Steiger Amendment cut the capital gains tax from 49% to 28%, the number of black-owned businesses exploded by nearly 50%—one of the largest gains on record. We need to at least double the number of minority-owned businesses in the next few years, and it can't be done under the current capital gains tax laws.

Resorting to the politics of envy and class warfare—now masquerading as the so-called "fairness" issue—is an old trick which the Democrats mothballed during the 1980s, but have recently dusted off for the ongoing budget debate.

The premise here is that the Reagan-Bush tax cuts gave the wealthy a free ride in the 80s by shifting the burden onto middle and lower income families, and that there is growing resentment among these voters which can be exploited to the Democrats' political advantage. They are wrong on both counts.

According to recent IRS statistics, between 1981 and 1987, the tax burden on the top 1% of taxpayers shot up by nearly 40%; the top 5% pay a 23% greater share; and the top 10% of income earners saw their share jump by over 15%. Meanwhile, the lower half of income earners say their total tax burden fall by about 19%, measured as a share all taxes paid. (Source: syndicated columnist Warren Brookes, Washington Times, 10/12/90.)

And after visiting hundreds of distressed communities in cities across the Nation, I believe I am as qualified as any poll to discuss the mood of low income Americans. Let me tell you something, the new pseudo-populism being peddled by the Democrats won't sell in the inner city. Poor people don't want to revisit the failed zero-sum income redistribution policies, in fact, it is demeaning for Democrats to suggest that poor people believe that the only way they can get ahead is by tearing down the rich.

Low income families across America want the same thing we all want—to get a good job, to own a home, to start a business. They want the opportunity to pursue their hopes and dreams unencumbered by government tax and regulatory barriers; and the opportunity to escape the poverty trap perpetuated by the liberal-left policies of the last twenty-five years that reward welfare more than work and consumption more than saving.

But what I've found during my visits to inner city ghettoes and barrios is that our country is divided into two economies. Our mainstream economy is democratic capitalist, based on private property, and rewards entrepreneurship, saving, and investment.

But this inner city second economy is directly the opposite: it is government-directed, based on government ownership of property, and punishes entrepreneurship, risk-taking, saving, and investment. It is similar in many ways to Third World socialist economies, the kind which are being replaced by the entrepreneurial capitalist spirit so alive in Eastern Europe today, and even in Moscow.

President Bush has asked me to help eliminate this socialist second economy so that every American—especially the poor—can participate in the free enterprise system. We want everyone to have the chance to make the most of their God-given talents and abilities. Here are a few of the ideas that President Bush and I have proposed to launch a new free enterprise war on poverty.

First, we need the authority to designate distresses inner cities and rural communities as Enterprise Zones, with dramatic incentives to invite capital to invest in new entrepreneurial ventures that will create real private sector jobs. The most powerful incentive would be eliminating the capital gains tax in Enterprise Zones, both to attract more seed capital and to strengthen the link between effort and reward for entrepreneurs and risk-takers.

Second, we need to expand resident management in public housing, homeownership opportunities, and private property. Empowering low income residents with greater control over their neighborhoods and the opportunity to someday own their own home provides powerful incentives for families living in America's public housing communities.

The noted Washington Post columnist William Raspberry recently wrote (quote) "* * * when assets are present, people begin to think in terms of the asset. If a young mother owns her own home, she begins to pay attention to real estate values, property taxes, the cost of maintenance and so forth * * * it is the assets themselves that create this effect, as opposed to just educaional programs or exhortations toward better values."

Whether you call it resident ownership, urban homesteading, or putting assets into peoples' hands, the results are truly dramatic in altering rewards, changing behavior, and lowering poverty levels.

Third, we should increase and expand the availability of housing vouchers. Low income people should have greater choice and more freedom about where to live, and better access to affordable housing. They should be treated as independent consumers instead of perpetually dependent welfare recipients.

Fourth, tax reform is needed now to help remove more low income families from the tax rolls and dramatically increase the after-tax income of welfare mothers and jobless fathers who want to work. In 1948, a median-income family of four paid almost no income taxes, and only $30 a year in direct Social Security taxes. This year, the same family's tax burden would be over $6,000. To be as sensitive to families today as in 1948, the tax code would have to allow a personal exemption of at least $6,000 for children under 16.

Fifth, it is essential to expand the earned income tax credit and pass President Bush's Child Care tax credit to roll back the huge tax burden on low income families and unemployed parents.

Sixth, for homeless people, the Administration's new Shelter Plus Care plan will expand community-based mental health facilities, drug abuse treatment, job training, and day care. Shelter and support services are the key to helping homeless Americans re-enter the mainstream economy.

Seventh, to enhance education and opportunity, we should expand true choice and competition through magnet schools, education vouchers, tuition tax credits, and policies for choice in education like those being championed by State Representative Polly Williams in Wisconsin and Council Member Keith Butler in Detroit.

Eighth, Congress should pass President Bush's HOPE legislation (Homeownership and Opportunity for People Everywhere) which includes programs to allow families to use IRA's to help purchase their first home; an expanded low income housing tax credit; and a new initiative called Operation Bootstrap which links housing vouchers to strategies such as job training to help people become self-sufficient.

A budget agreement that includes a meaningful cut in the capital gains tax is the only way to keep the economy growing. President Bush's plan to cut the capital gains tax to 15% and index gains for inflation will stimulate economic growth by encouraging entrepreneurship and job creation.

It's time for the Democrats in Congress to put aside narrow and partisan political envy and help our economy grow for all Americans. The longer they hold the health of our economy hostage for political purposes, the larger the deficit will grow, and, the harder it will be to get our Nation moving again. I think it's time for 15/31 or fight.

A TRIBUTE TO LEROY REITZ

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. POSHARD. Mr. Speaker, I rise to pay tribute to a great American and public servant from my district, LeRoy Reitz, who is retiring next month as the circuit clerk of Monroe County, IL.

LeRoy has dedicated his life to serving the public with dedication, compassion, and excellence. He has worked in city, county, State, and Federal government during his long and distinguished career. In addition, LeRoy heard the call of his country and took up arms to defend her during World War II as a U.S. Marine, serving 38 months to defend his country and the freedom for which she stands.

As LeRoy prepares to turn over the circuit clerk's duties at the end of November, I think it's important to let everyone know what a fine person Monroe County is losing. Since he's been in the courthouse for the last 30 years I'm sure that fact is well known, but you just don't find people the quality of LeRoy Reitz every day.

As Circuit Clerk LeRoy has watched the comings and goings of the people in Monroe County from a unique perspective. The county has grown in population to over 21,000 now, and the caseload in the courthouse has expanded with all kinds of judicial business, large and small.

LeRoy has used one guiding principle during his time as clerk, and that is to treat each and every person with respect and dignity. Going to the courthouse or into a courtroom can be a very trying experience, but LeRoy has always worked to make people feel comfortable.

During his service LeRoy has kept his record as white as a sheet as he says, knowing how important it is for people to have faith and trust in their public officials.

When he retires LeRoy and his wife of 44 years, Jeanette, will do some traveling and visit family, and I know we can count on LeRoy to stay active in the Democratic Party. He's been a loyal and valued member of my party for a long time, and I know we can depend on him in the future.

In closing let me simply express my appreciation to LeRoy Reitz for all he has done for me and for his friends and neighbors in southern Illinois. His retirement is well deserved, and here's wishing him nothing but the best for years to come.

THE FUTURE OF AMERICAN POLICY IN THE MIDDLE EAST

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. PANETTA. Mr. Speaker, on August 2, Iraqi dictator Saddam Hussein's army launched a well-planned military attack on its small neighbor, Kuwait. Within a matter of hours, Iraq had overrun and occupied Kuwait, and Iraqi forces began to mass on Kuwait's border with Saudi Arabia. Today Saddam Hussein continues to occupy Kuwait, to torture and kill Kuwaiti children, women and men and to hold as many as 850 American men and hundreds of other foreign men hostage. A reported 370,000 Iraqi soldiers remain stationed in Kuwait and southern Iraq, threatening Saudi Arabia with one of the largest standing armies in the world.

Responding to Iraq's threatening buildup along the Saudi Arabian border and to Saudi Arabia's urgent request for assistance in the face of this proximate threat, President Bush authorized the deployment of as many as 200,000 American military personnel to Saudi Arabia and the waters surrounding the Arabian Peninsula.

Military forces from 26 other nations, numbering over 100,000, have joined in the protection of Saudi Arabia and the enforcement of the United Nations-imposed economic land, sea and air blockade of Iraq. The United Nations Security Council has approved the blockade and has voted unanimously to allow military action in the enforcement of the blockade. I am very encouraged by the comity and coordination in the Security Council's deliberations on the crisis thus far. I would note in particular that the United States and the Soviet Union have cooperated in the Council's actions to an unprecedented degree, and the support of the Arab States and our allies has been most heartening. The United Nations is functioning well in this crisis as the forum in which Iraq's aggression must be addressed and, ultimately, settled, and as the unquestioned international guarantor of collective action in the event enforcement of its will is necessary.

I believe that this unified response was necessary to send Saddam Hussein the unmistakable message that his invasion of Kuwait was intolerable and that further aggression against Saudi Arabia is unacceptable to the world community. Saddam Hussein, having deliberately and successfully used the world's fifth-largest army and over 5,000 tanks to conquer Kuwait, only hesitated in his aggression when confronted by a strong and unified military force in Saudi Arabia.

Let us be very clear about the purpose of the U.S. deployment, however. American men and women are stationed in and around Saudi Arabia to deter an Iraqi attack on Saudi Arabia and to aid the enforcement of the United Nations-imposed economic sanctions against Iraq. Our Armed Forces are not in the region to attack Iraq, nor to provoke Iraq into attacking Saudi Arabia. It is not the will of the American people, nor is it the view of this Congressman, that American soldiers and sailors should engage Iraq's Armed Forces in war.

Sadly, some so-called experts in the administration say otherwise. In recent weeks, Mr. Speaker, we have heard increasingly confident and equally disturbing talk in our Nation's Capital about the inevitability of war with Iraq, the necessity of striking quickly in a window of opportunity. I find such comments greatly disturbing. Our men and women are not in the Middle East to die in a vain attempt to wrest Saddam Hussein for power. I want the President to hear, to see, to know that a war with Iraq will not be short, it will not be painless, and it will not have the support of America unless we are attacked deliberately and without provocation. To believe otherwise at this juncture is to engage in the kind of vainglory that cost thousands of young men's lives only 20 years ago. How quickly some forget. I hope that the President learned that tragic lesson when he was a Congressman during the Vietnam war. He must not forget it.

Mr. Speaker, I want to help the President avoid that mistake. Building on our actions to date, I would propose that the President take the following actions: first, undertake urgent diplomatic efforts to place all foreign and Saudi Armed Forces in the region under the command and the flag of the United Nations; second, consult with the congressional leadership and the leaders of the Foreign Affairs, Foreign Relations and Armed Services Committees at every stage in the evolution of the situation and particularly during any decision-making process related to the commitment of troops to any form of hostilities; third, continue to seek a peaceful resolution of the situation; fourth, expedite the development of a national energy policy that encourages the development of alternative fuels and energy conservation; and fifth, continue to press our wealthy allies to contribute their fair share of the cost of the collective mobilization to the region.

UNITED NATIONS FORCE

Only under the aegis of the United Nations can the world and the Arab nations successfully enforce the blockade and force Iraq to abandon occupied Kuwait. Continued worldwide unanimity and cooperation are essential; the U.N. umbrella over military forces is critical to our durability in the face of time and, we must admit, likely political fissures.

ROLE OF THE CONGRESS

What is the role of Congress in this, the gravest crisis we have faced in over 20 years? Congress cannot sit idly by while the President acts freely to commit American military personnel to dangerous lands. We are rightly empowered by the Constitution and by the continuing mandate of the American people with the responsibility to weigh the decision to risk the lives of American soliders. I take that responsibility very seriously, and I know that most of my colleagues share that burden.

Mr. Speaker, I have cosigned a letter to you urging that you include in the provisions of the Resolution of Adjournment for the 101st Congress a clause that will allow you to reconvene the House of Representatives in the event that United States forces become involved in hostilities in the Persian Gulf region. Should the President propose to commit troops to hostilities in the Middle East, the Congress must be a part of that decision. The American people, the American system, the very vitality of our republic demand this at least.

SEEK A PEACEFUL RESOLUTION

I have also cosigned a joint House letter to the President, along with 32 of my colleagues, setting forth several very important tenents of a well-ground and legitimate policy in the gulf. The letter, originated by my good friend and distinguished colleague, Mr. DELLUMS, urges the President to seek a peaceful resolution of the crisis through negotiations. The letter also makes it abundantly clear to the President that Congress must be consulted—not informed, but consulted—before any decision to use force in the region is reached.

We must all now unify to urge that every effort be made to release all Americans in Iraq and Kuwait, that the legitimate Government of Kuwait be restored, and that the withdrawal of American forces be enabled at the earliest opportunity. To that end, I strongly support the initiative of U.N. President Javier Perez de Cuellar to explore mediation among Arab leaders and a resolution of the situation. The hope is that United Nation actions in combination with the enforced economic blockade of Iraq will force Saddam Hussein to realize the folly of his hostage-taking, his invasion and brutal occupation of Kuwait and his threatening posture toward Saudi Arabia.

DEVELOP AND NATIONAL ENERGY POLICY

If the American people are to support this action, it is also critical that the President confront the Middle East crisis on a second front: our own economy. The second front should focus on reducing our dependence on oil from the Middle East. I have called upon President Bush to rededicate the Nation to a broad energy policy that encourage the development of alternative fuels and energy conservation. In my appeal to the President, I urge him to direct the Department of Energy to expedite the completion of its national energy strategy and present that proposal to the Congress for consideration the end of this session.

I will be introducing legislation to accomplish the same goals. The proposal should revive many of the energy development and conservation programs implemented during the Carter administration, most of which were allowed to lapse or were underfunded during the 1980's. Any forthcoming budget agreement should also address the urgent need for changes in energy policy.

The tragedy in this respect is that we forgot the lessons of the last energy crisis. An initiative now to relearn and reapply those lessons may be just as important in the long run as our military deployment in Saudi Arabia. The urgent enactment of a national energy policy would be very effective not only in bolstering the United States' energy supplies and in maintaining sanctions against Iraq, but also in developing a balanced stewardship of our resources for the future, encouraging a balancing of energy development with conservation.

Our national security is threatened not only by the military aggression of Iraq, but by our own national reliance upon oil from the Middle East. That dependence holds us hostage to any Middle East tyranny, undermines our national economy, and robs purchasing power from every American family. The United States must treat energy as a national security interest equal in importance to its military capabilities. We can no longer subject our economy to the strong inflationary pressures of oil price rises, and must not allow our national economic security interests to be held hostage by the Saddam Husseins of the world.

SHARE THE BURDEN

Finally, Mr. Speaker, believing that America cannot shoulder this burden alone, I have joined my colleagues in the Congress in calling on the President to elicit greater material and financial support from our allies to defray the costs of the United States mobilization. Germany, Japan, the United Kingdom, France, Italy and other comparatively wealthy allies and friendly nations share the United States' strong interest in stability in the Middle East. Indeed, Japan and Germany are far more dependent upon oil from the Persian Gulf, and the stability of the region, than is the United States. Let us ensure that the burden of this effort falls in proportion to the needs and abilities of each participating nation.

Mr. Speaker, at every critical juncture in its history, America has risen to the challenge when the voice of its citizenry has spoken loudly and clearly. I call upon the President and Congress to take heed of our friends' and neighbors' counsel; I call upon our President not to arrogate to himself the right to place American lives at risk, and I would urge our own congressional leadership to exercise our rightful, constitutional authority to share in that awesome responsibility.

IN RECOGNITION OF JOHN F. HENNING

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Ms. PELOSI. Mr. Speaker, I rise today to recognize a giant of the labor movement, John F. "Jack" Henning. For over 50 years Jack has played a pivotal and unique role in the development and protection of labor in San Francisco, in California, and indeed the Nation.

Jack was born on November 22, 1915. Since 1949, he has been a member of the California Labor Federation, AFL-CIO. This long and illustrious career with the California Labor Federation was interrupted only by public service at the highest levels. From 1959 to 1962, under Gov. Pat Brown, he served as the director of the California State Department of Industrial Relations. Under the Kennedy and Johnson administrations, Jack rose to national prominence through his position as Under Secretary for the U.S. Department of Labor. In 1967 to 1969, Jack served as the U.S. Ambassador to New Zealand.

In 1970, Jack returned to California and was elected as executive secretary-treasurer for the California Labor Federation, a position he has held to this day. Jack's commitment to public service continued unabated, however, through service on numerous boards and commissions in San Francisco and California, including serving as a regent for the prestigious University of California system from 1977 to 1989.

On October 19, 1990, Jack will be honored with the "People's Award" for excellence in public service. Sponsored by Old St. Mary's Housing Committee, the "People's Award" is dedicated to recognizing those individuals from the community who seek to serve the public good with integrity and principles.

Mr. Speaker, Jack Henning's leadership, hard work, and compassion have earned him the respect and love of those who know him well, not only in labor, housing, and education but in all areas of public service.

EXCESS DEFENSE EQUIPMENT PROVIDED UNDER THE SOUTHERN REGIONAL AMENDMENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. HAMILTON. Mr. Speaker, on June 19, 1990, I submitted an extension of remarks for inclusion in the CONGRESSIONAL RECORD (p. E2017) detailing the value of excess defense equipment provided under the Southern region amendment. The source of this information was the Defense Security Assistance Agency [DSAA]. Soon after its publication, I was contacted by DSAA and informed that the figures were inaccurate. On October 12, 1990, I received a correction from DSAA.

I would like to draw the attention of my colleagues to this correction of the record by DSAA.

The last paragraph of the letter from DSAA mentions the enclosure of notification letters, which are retained in the files of the Committee on Foreign Affairs.

The text of the letter from DSAA follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, October 12, 1990.

Hon. LEE H. HAMILTON,
Committee on Foreign Affairs, Chairman, Subcommittee on Europe and the Middle East, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: With regard to your extension of remarks, entitled "Excess Defense Equipment Provided Under the Southern Regional Amendment," in the CONGRESSIONAL RECORD Tuesday, June 19, 1990, pg. E2017, we believe a figure cited in the remarks to be incorrect.

The figure in question is the dollar amount in the following sentence: "In fiscal year 1990, $3.447 billion in excess equipment was offered to eligible countries." According to our calculation of the acquisition value of excess defense articles (EDA) offered to Southern Region Amendment (SRA) countries during FY 90 at the time this information was printed in the RECORD, we obtain a figure of $388,287,166. Clearly, there is a considerable difference between the two. We are concerned that the perception that such a large amount of exess defense equipment was offered for transfer in a single year might be viewed in a negative light, particularly at a time of defense cutback.

We have attempted to reconstruct the figure cited, but have been unsuccessful in duplicating it. The highest figure that we have calculated for all excess defense equipment offered in FY 90 at the time your remarks were made in $409,448,955. This figure includes the aforementioned amount offered to SRA countries—$388,287,166. In addition, $21,161,789 in EDA was offered to drug countries under the International Narcotics Control Act (INCA) this year. These figures represent the original acquisition values of the equipment offered. The depreciated value, which more accurately reflects the value of the equipment at the time it is offered for transfer, is much lower, totaling $202,239,988 for the EDA offered to Southern Region countries. The depreciated value of the equipment offered under INCA is $1,603,175.

In addition to the excess equipment listing printed in your remarks, five additional offers of EDA to SRA countries have been notified to Congress. The total original acquisition value for these recent offers, one notified on 5 June 90, one on 27 July 90, and three on 19 Sept 90, is $340,557,070. The depreciated current values for the items contained in these notifications total $68,734,408.

We respectfully request that the information provided herein be used in correcting the erroneous figure printed in the CONGRESSIONAL RECORD. To this end, we are enclosing copies of the relevant Southern Regional Amendment EDA notifications. In addition, although it does not fall under the SRA heading that was the subject of your remarks, we are also enclosing the INCA EDA notification for the purpose of detailing the scope of all grant transfers during FY 90. Your consideration in this matter is appreciated.

Sincerely,

TEDDY G. ALLEN,
Lieutenant General, USA, Director.

WESTCHESTER ALZHEIMER'S ASSOCIATION HONORS MARY ALICE UGHETTA

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mrs. LOWEY of New York. Mr. Speaker, I rise today to join the Westchester Chapter of the Alzheimer's Association in honoring Mary Alice Ughetta for her dedication and commitment to the Westchester County community.

As vice president and board member of the Westchester Alzheimer's Association, Mary Alice Ughetta brought to the organization hard

work, dedication, compassion, and real life experience. When her husband, Henry, developed Alzheimer's disease, she and her children cared for him with devotion and love. Mary Alice Ughetta knows firsthand the importance of a respite program to relieve the burden of family caregivers.

In addition to her work with the Alzheimer's association, Mary Alice Ughetta has served on the boards of White Plains Hospital Auxiliary, the United Way, the Neuberger Museum, the Youth Counseling League, and the Scarsdale Historical Society. Through all of her community work, she has shown an unselfish commitment to reaching out to help others.

Mr. Speaker, Alzheimer's disease afflicts more and more Americans every day. Those suffering with the disease must rely on others to care for them. Mary Alice Ughetta has dealt with the difficulties of caring for an Alzheimer patient in her own family, and has committed herself to sharing her experiences with residents of Westchester County. I am truly grateful for all that she has done, as I know others in Westchester have benefited greatly from her unselfishness. I congratulate her for all of her outstanding contributions.

PHILIP MAZZEI

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. ENGEL. Mr. Speaker, as the original author of House Joint Resolution 631, legislation designating October 1990 as "Italian-American Heritage and Culture Month," I am rising today to bring to your attention the importance a great Italian has played in American History.

Philip Mazzei was born at Poggio-a-Caiano, Italy. Throughout his life, Mazzei held various professions including that of a physician, merchant, horticulturist, agent of Virginia in Europe during the American Revolution, and author.

In 1773, Mazzei sailed for Virginia to introduce the culture of grapes, olives, and other such fruits as might be expected to flourish there. This was not a success, mainly on account of the American Revolution, to which Mazzei devoted most of his time and energy. He was an ardent supporter of both religious and political freedom in Virginia.

Philip Mazzei played a great part in framing the basis of the Government of the United States. Throughout the years he spent in America, he carried on a large amount of correspondence with one of our Founding Fathers, Thomas Jefferson. He has also been credited with coining the Declaration of Independence phrase "all men are created equal."

On June 16, 1785, Mazzei sailed from New York for Europe. He published in Paris his "Recherches historiques et politiques surles Etats-Unis de l'Amerique septentrionale." Based in part on materials furnished by Jefferson, this was the most accurate work on America that had appeared in French.

In 1788, Mazzei was appointed "Intelligencer to the King of Poland," and in 1792, he went to Warsaw where he was a private adviser to Stanislas II.

In 1813 he completed his "Memorie della Vita e delle Pereqrinazioni del Fiorentino Filippo Mazzei." He died in Pisa and is buried there.

This extraordinarily versatile man lived in 20-odd cities of importance in the old and new worlds, was a naturalized citizen of Virginia, and later a naturalized Pole. He carried on an active correspondence with Madison, Jefferson, Thomas Adams, and other Virginians.

Mr. Speaker, this man is a great example of the many contributions Italians have brought to America. I am proud to honor him this month by authoring legislation that has designated October as "Italian-American Heritage and Culture Month."

CONGRATULATIONS TO THE HERRIN JUNIOR HIGH SOFTBALL TEAM

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. POSHARD. Mr. Speaker, I rise to salute the achievements of the Herrin Junior High School's class "L" softball champions.

Herrin, IL, is a community in my district which is known for a lot of great things, not the least of which is its outstanding tradition of producing top-flight softball players. The young women who work their way through the system in place at Herrin are widely known for their skill, competitiveness, and sportsmanship. And I am one who believes that students learn a great deal from the experience of competing in sports at this level.

The Lady Red Devils recently won their fifth consecutive class "L" title in Illinois, and during that time they've posted a 70 to 3 record.

Mayor Ed Quaglia has proclaimed October 22 through October 28, 1990, as Herrin Junior High Girl's Softball Week. As the proclamation says, the team, coaches, faculty, and administration brought honor and acclaim to the city by their outstanding achievements, and have represented their school and city by demonstrating sportsmanship, character, and integrity.

I am honored to serve the city of Herrin, its fine citizens, and its legendary softball program in Congress.

I would like to enter into the CONGRESSIONAL RECORD the names of the students and adults who have worked so hard for this success so they may receive the recognition due them.

Nicole Murray, Kimmy McNeal, Shandra Miller, Sarah Helleny, Joy Major, Rhonda Helvey, Amy Stuebe, Shelly Stuebe, Jamie Hayes, Laura Franklin, Shelli Stucker, Kelly Newman, Rae Liening, Casey Vinson, Cassey Lindsay, manager; Craig Baumgarte and Mark E. May, coaches.

WESTCHESTER COUNTY AMERICAN LEGION HONORS TWO

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mrs. LOWEY of New York. Mr. Speaker, I rise today to join the Westchester American Legion in honoring Joseph Roma, former county commander, and Maura Ciraco, former president, of that fine organization. These two individuals have worked tirelessly on behalf of Westchester County veterans for many years.

Several weeks ago, Joseph Roma retired after 2 years as American Legion county commander. He is a World War II Army veteran and a lifelong resident of Yonkers. He holds theater of operations medals in the American and European theaters, as well as the Soldiers Medal for Valor. He was honorably discharged in 1945, and since that time has had a long and illustrious career serving the veterans of Westchester County.

Before becoming county commander, Joe served three terms as Westchester zone one commander. He is a 41 year member of the Charles N. Bajart Post American Legion, where he has held every elected position He was Westchester Catholic War Veterans commander. He has twice been elected chairman of the central committee of War Veterans in Yonkers, NY.

Maura Ciraco has been involved with veterans issues for many years. Her late husband, Vito Ciraco, was a life member of the American Legion, and she is a life member of the American Legion auxiliary. She has been a member of the Mamaroneck Post for 41 years, and she has served as a delegate to many veterans conventions over the years. She has spent many hours organizing shows and dances to entertain veterans at Montrose and Kingsbridge Hospitals, like she did with the U.S.O. in the Atlantic and Pacific theaters. Maura is the mother of 6 children—including 2 Vietnam veterans—the grandmother of 15, and the great grandmother of 8.

Mr. Speaker, Joe Roma and Maura Ciraco have clearly devoted their lives to Westchester County's veterans. They understand that those men and women who have fought for our country so valiantly deserve our respect, our recognition, and our deepest gratitude. I am grateful for this opportunity to join with the Westchester American Legion in recognizing Joe Roma and Maura Ciraco for all of their accomplishments.

THE BUDGET CRISIS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 17, 1990, into the CONGRESSIONAL RECORD.

THE BUDGET CRISIS

No one thought that it would be easy to win the approval of a $500 billion five year deficit reduction package which the President and congressional leaders had worked on for five months. But neither did anyone expect the House of Representatives to reject the proposal so resoundingly, by 254 votes to 179. What follows are some observations.

DIFFICULTY OF DEFICIT REDUCTION

One of the great puzzles is why reducing the deficit has been so difficult, especially when there is a consensus among Members of Congress that the deficit must come down. Several factors help explain this situation.

First, Americans have refused to admit the seriousness of the budget deficit as an insupportable drain on the economy and on the ability of government to fulfill its responsibilities. Americans have heard for a decade that we could cut taxes, increase revenues, and have it all; that there could be all gain with no pain. In fact, this country has been on a flight from fiscal responsibility for at least a decade.

Second, the budget deficit is a crisis that cannot be seen and whose long-term ill effects are very hard to identify and isolate. Any politican will tell you that it's hard to get people stirred up about budget deficits. President Bush referred to the deficit as a cancer gnawing away at the nation's health' economists have compared big deficits to having termites—you can't see them but they eat away at the structure of the house.

Third, deficit reduction causes short-term pain in return for less certain and longer term gains. It is simply impossible to bring about major reductions in the deficit without attacking many programs people like, including medicare. Cutting popular programs achieves big budget savings, but it also raises the hackles of certain groups. At the same time, the major benefits of deficit reduction—increased productivity and improved standard of living—are long-term and less tangible.

Fourth, politicians in a representative democracy have a hard time saying no to competing interests. Politicians are very much aware that Americans want incompatible things. They want guns and butter: lower taxes and better services, a cleaner environment and less regulation. The President and other politicians have failed to educate the American people to the steep cost of these programs. As a result, most Americans believe that the government can keep spending without having to raise taxes.

Fifth, a divided government has made budget negotiations exceedingly difficult. With the Republicans controlling the presidency and the Democrats controlling the Congress, no party can enforce its policy preferences and compromises have to be made. Meanwhile, party discipline—once a major factor in building consensus—continues to erode, and individual Members have preyed on the budget agreement for partisan or personal gain.

Sixth, the budget agreement created a storm of special interest objections. Many criticized certain tax increases in the package, without offering credible alternatives. Others, who have opposed tax increases in times of prosperity, argued that an economy in stagnation or recession should not face higher taxes either. Many complained that the tax increases fell heaviest on the middle class, while others fought very hard to protect upper income taxpayers from higher taxes.

Seventh, many Members were upset because they were excluded from the key budget decisions. Any budget agreement negotiated without the broad participation of the Members is bound to cause problems. This one certainly did. The summit short-circuited the normal legislative process, perhaps for good reasons, but the congressional leadership could not deliver the rank-and-file vote when an agreement was brought to the House floor.

Eighth, the timing of the budget agreement—only a month before the mid-term elections in November—made many Members of Congress nervous. There were plenty of faults in the agreement and Members of Congress did not miss the message from constituents who were overwhelmingly hostile to the agreement. Politicians love to make tough speeches but they don't like to make tough choices. The agreement required a tough choice.

OBSERVATIONS ONE OUTCOME

The defeat of the agreement was a stunning political defeat for the President and for congressional leaders. More fundamentally it raises questions about the American political system to deliver when faced with tough choices. Our failure to reach a viable budget agreement in a timely fashion shows weak political leadership in a time of real domestic duress. It shows a deep conflict over economic policy and a clash of fundamental values. It shows an electorate under great economic stress and pressure.

To our friends abroad the budget debacle only underscores their anxiety that the United States is facing a looming recession and is incapable of governing itself. Many of them think that deep structural problems in the economy and the financial sector simply are not being addressed by American officials. America's image as a haven of financial opportunity has been shaken and indeed in the past few months foreign investors have been taking money out of the U.S. markets.

OUTLOOK

At least for the next few days there will be continuing budgetary chaos in Washington. For all of the turmoil that the Congress has put itself through to produce a budget, the real struggle still lies ahead. Over the next several days nearly two dozen congressional committees will have to decide how to cut spending and raise taxes in order to reach the deficit reduction targets. The plan now under consideration, the new budget resolution, omits most of the means for achieving the laudable goals. It resolves little, buying two or three more weeks for congressional committees to work the specifics out.

Meanwhile our constituents continue to ask the relevant question: Why can't you Members of Congress govern? The turmoil over the budget will certainly multiply the anti-incumbent feeling in the country today. The biggest cost of all of this budget turmoil is the cost in voter cynicism. The reaction of most people to the complex budget maneuvering is simply one of anger and bitterness towards politicians.

BRADY BILL A MUST

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. GREEN of New York. Mr. Speaker, during recent consideration of the Comprehensive Crime Control Act of 1990, I spoke on the floor of the House to express my deep disappointment at the bill's failure to address the issue of a handgun waiting period. Amazingly enough, the only gun control amendment to the bill that was made in order was one that weakened the bill's provisions. That is an outrage.

I should like to share with my colleagues an editorial that appeared in the New York Daily News today arguing the urgent need for passage of the Brady bill. The message is clear. We cannot afford to wait any longer:

HOW MANY MORE?

There is only one effective response to the death of 8-year-old John Thomas Jones: (202) 255-5604. Dial it. Tell House Speaker Thomas Foley that another child has been cut down by random gunfire in New York City. Tell him you're mad as hell. Tell him to move two gun control measures to a floor vote. Now. Tell him to use all the power of his position to see that the bills are passed. Immediately.

For New Yorkers, these gun-control bills are imperative. The state's tough gun-control laws mean little if not backed up by equally tough federal laws.

One proposed law, the so-called Brady Bill, would mandate a seven-day waiting period before anyone could buy a handgun. For hunters and other pro-gun lobbyists, this should be a breeze. It's the kooks, the crooks and the convicts who will find this law puts a cramp in their shooting style. Good.

The second law would call for a three-year ban on the manufacture and sale of semi-automatic weapons that can easily be converted to automatic. Why such a law should bother hunters and other legitimate gun supporters—and why this bill should thus be in deep trouble in Congress—is a profound mystery. In dense urban areas, there is no legitimate purpose for assault weapons. Ask the family of little TT Jones. And seven other children caught in the crossfire. Any New York pols who vote against this bill will be held accountable.

The front-page headline in yesterday's Daily News said it all: "How Many Have to Die?" That's the question to put to Foley. It's (202) 255-5604. Dial it. Now.

MANVILLE APPRECIATION DAYS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. LAGOMARSINO. Mr. Speaker, October 19-20 has been designated "Manville Appreciation Days" in the Lompoc Valley.

The 2-day celebration will feature many activities including tours of the Manville mining operation for the general public; an arts and crafts show presented by the Lompoc Valley

Art Association; a street dance; several barbecues; displays of artifacts uncovered during mining operations in Miguelito Canyon; dedication of the giant mural on the north wall of the chamber of commerce building; planting of a tree in the city's Recognition Grove; special displays and programs at the Lompoc Museum; music by Lompoc school bands; and a civic luncheon among others.

The special event was dreamed up by an ad hoc committee of citizens who are cognizant and appreciative of the many contributions that Manville Corp. and its employees have made to the valley and its citizens over the many decades that the corporation has been mining diatomaceous earth here.

Almost any place you look in the community you will see the touch of Manville and its employees. The company has donated land for five city parks; made land available at its cost for employees' housing; assisted in the construction of the city swimming pool and the community hospital and helped to finance construction of the Lompoc Murals project. Manville's employees are major contributors to the United Way and other charity fundraisers and they participate in the community in hundreds of ways including teaching Sunday school, working with Scouts, coaching ball clubs, assisting youth groups, senior citizen groups and supportring the arts and cultural groups.

Manville employs approximately 600 persons. The corporation has mined diatomaceous earth in the valley since November 16, 1928. The first hospital in the valley was built at the plant in 1921. The corporation has donated land for municipal uses including: Floresta Park; Centennial Park; JM Little League Park; and 30 acres for Beattie Park.

Medical care was provided for workers and their families for a small monthly payment in the early days. The corporation made substantial contributions in the planning and financing of the Lompoc Hospital in 1943.

The corporation allowed and encouraged employees to participate in local civic affairs. Manville people have served as mayors, council members, school trustees, and at one time the city engineer was a Manville employee.

The JM enterprise was not a typical ordinary business but rather a unique enterprise in which enthusiasm, persistence, youth, and hard work—and some luck—all played a part.

In conclusion, Mr. Speaker, the people of Lompoc are proud of Manville, and Manville is proud of the community. And it is my honor and privilege to extend to Manville, on behalf of the U.S. House of Representatives, commendations and thanks for its contributions to the valley, and our best wishes for continued prosperity and happiness in the "Valley of the Flowers."

TRIBUTE TO PAUL BELL

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. LEHMAN of Florida. Mr. Speaker, yesterday Paul W. Bell, superintendent of the Dade County Public Schools, the fourth largest school system in the country, died of heart failure. I want to join with all of Dade County in expressing to his wife, Barbara and to his children Karen, Miya, Steven, and Shari, my heartfelt sorrow and deepest sympathy for their loss.

From my days on the school board, I knew Paul Bell as a man dedicated to excellence in education. He was talented, committed, and compassionate.

A recent incident is typical of Paul Bell. Erin Tinsman, the granddaughter of Ruth Tinsman of my North Miami Beach staff, had to miss her graduation last spring and was readmitted to Miami Children's Hospital to carry on her 9-year battle against leukemia. She was not able to get her high school diploma with the rest of her class. When Paul found out about it, he arranged to present Erin's diploma personally. "I couldn't attend any graduations myself this spring," he said to Erin, referring to his own recuperation from a heart attack in May, "so I'll attend yours."

Paul was a great human resource, not only for education, but for our entire community. He touched and influenced for the better the lives of thousands of young people. The impact of his efforts will be felt long into the future. He leaves behind a legacy of which any person would be proud, and for which we are all grateful.

Mr. Speaker, I would like to share with my colleagues portions of an article about Paul Bell from the Miami Herald.

[From the Miami Herald, Oct. 17, 1990]

SCHOOLS CHIEF PAUL BELL, 57, DIES OF HEART FAILURE

(By Charisse L. Grant and Arnold Markowitz)

Paul W. Bell, who rose from teacher to superintendent of the nation's fourth-largest school system during his 30-year career, died Tuesday of heart failure.

* * * * *

MASTER'S DEGREE

His rise to the top without a doctoral degree was a rarity for a big city school administrator. Bell's most advanced degree was a master's in elementary education. At School Board headquarters, where people are addressed as "Doctor" about as often as in a hospital, Bell was a rare "Mister." It was one of the few objections raised to his appointment last March, but Bell had been around the top for so long that once the voting logjam was broken, it was easy for every member of the board to accept him.

"These last seven months were his happiest and the most fulfilled time of his life. He felt he really gave the school system the direction that was important," Barbara Bell said in a prepared statement issued when her husband's death was announced.

"The job gave him a feeling of renewal. He loved it and leaves it with pride and no regrets. He would have done it no other way."

Bell grew up in Louisville, Ky., and attended the University of Louisville, majoring in political science and expecting to go to law school there. Along the way he worked one summer as a camp counselor, acquiring an interest in children at about the time his enthusiasm for a law career was ebbing. Instead of law, he earned his graduate degree in elementary education.

TEACHING INDIO CHILDREN

After he graduated, he married and moved to Guatemala, where he managed his father-in-law's coffee farm. While there, he tried to teach the local Indio children to read in Spanish, a skill he had not mastered himself. After two years, his father-in-law sold the farm. Bell moved to Guatemala City to teach in an American school, was divorced and came back to the United States nearly broke with two daughters, Karen and Miya, to look after.

That was in December 1959. By the following Feb. 1, he was at Miramar Elementary School on Northeast 19th Street in Miami, teaching English as a second language to children of Miami's new immigrants from Cuba. Another teacher there was Barbara Vozmer, who married Bell a year later. They had two children, Steven and Shari.

Paul Bell was a classroom teacher just two years before he was reassigned to train other teachers in bilingual education and to help write texts for the courses. He was in administration ever since—rising to assistant superintendent for instruction and curriculum, the post he held longest.

His responsibilities and salary were cut in a 1978 staff shuffle by then-superintendent Johnny L. Jones. It was a bad time for Bell, but he waited it out. When Jones was fired in 1980 and replaced by Leonard Britton, back up went Bell, first as assistant superintendent of administration and then as associate superintendent for education.

"I've only applied for two jobs in my life. One was as a teacher in Dade County schools. The other was as superintendent." he said in an interview in April.

COMPROMISE CHOICE

Last March, when the School Board could not decide who should lead the district in the 1990s, Bell began looking like a good compromise choice. He had, after all, 30 years in Dade public education under superintendents Hall, Edward L. Whigham, Jones, Britton and Fernandez.

More than that, School Board Vice Chairman Janet McAliley said when the 17th ballot finally settled things:

"He's been a driving force and the creative force behind Fernandez, Britton and Whigham, too. When there's a problem in a school, I go to him, and it's consistently dealt with immediately."

WESTCHESTER-PUTNAM AFFIRMATIVE ACTION PROGRAM TO HONOR THREE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mrs. LOWEY of New York. Mr. Speaker, on October 28, the Westchester-Putnam Affirmative Action Program will honor three outstanding individuals: Mr. Bruce Bozeman, Ms. Merna Popper, and Mr. Bernard Doyle. Each of these individuals will be recognized for their commitment to affirmative action.

The Westchester-Putnam Affirmative Action Program has, since 1972, made affirmative action a reality for area residents. With leaders like Paul Redd, this program leads by example—an example of excellence. The three individuals who are being honored today rep-

resent the vision of the Affirmative Action Program in our community.

Mr. Bruce Bozeman will be honored with the Community Service Award. He is a lawyer who has given countless hours of legal and other services to the less fortunate. His compassion and dedication is inspiring and empowering. He has served as the acting director of both the Westchester Community Opportunity Program and the Port Chester Carver Center, and he has provided invaluable counsel in the establishment of numerous agencies including the Westchester Community Opportunity Program, the Greenburgh Neighborhood Health Center, and the Port Chester Carver Center.

Ms. Merna Popper will receive the Westchester-Putnam Affirmative Action Management Award for promoting the accomplishment of women. As the publisher of Women's News, Ms. Popper has served as a role model for women throughout the county. In addition to publishing Women's News, Ms. Popper produces and hosts "The Women's Line," a radio talk show, and "Women's News TV," an interview show on public access cable television. Her efforts have ensured that Westchester women know the accomplishments of other women and have been an invaluable source of information.

The Westchester-Putnam Affirmative Action Union Award will go to Mr. Bernard Doyle for increasing minority representation in the Teamsters Local 456, based in Elmsford, NY. Mr. Doyle is the local's secretary-treasurer, and because of his efforts over the years, the local now has a 40-percent minority membership. He joined the Teamsters at age 19, and he has held a number of elected offices over the last 20 years. He is an active member of the Westchester Affirmative Action Program.

Mr. Speaker, these three individuals are being honored for their outstanding contributions to the cause of equality and their work in behalf of opportunity. They serve as role models in our community, and I am proud to have this opportunity to join with the Westchester-Putnam Affirmative Action Program in honoring them for their accomplishments on behalf of our community. I know I speak for many when I say how grateful I am for their vision and dedication. These individuals are making a difference for many who are striving to succeed.

THE 66TH ANNUAL OBSERVANCE OF CO-OP MONTH

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. PANETTA. Mr. Speaker, I rise today to pay tribute to cooperative businesses on the 66th annual October observance of Co-op Month.

Cooperatives are a part of a self-help tradition as old as our Nation. Throughout our history, cooperatives have enabled people to meet common needs through group efforts. The first cooperative was organized in the United States when Benjamin Franklin formed the Philadelphia Contributorship for the Insurance of Homes from Loss of Fire—the oldest continuing cooperative in the country. Today, cooperatives continue to play a dynamic role in our economy and our heritage.

Nearly 60 million people are members of 40,000 U.S. cooperatives. These people have organized to provide themselves with goods and services in nearly every sector of our economy. Numerous cooperative associations throughout the United States provide industry-specific services, educational programs, and financial and other services to their members.

International cooperatives are also strongly united; 164 national cooperative organizations, representing 72 nations, belong to the International Cooperative Alliance—the apex organization of all national cooperative movements. The alliance aims to promote cooperative development and worldwide trade. It boasts an individual membership of almost 500 million people.

Currently, cooperatives are at the forefront of two major endeavors. Not only are they helping rural Americans with self-help efforts, but they are helping Eastern European countries make the transition from a controlled economy to a free market.

Mr. Speaker, I ask my colleagues to join me now in recognizing the outstanding contributions that cooperatives across the Nation and the world are making daily. It is with great respect that I pay tribute to cooperatives and their endeavors to encourage a neighbor helping neighbor approach to business.

THE BUDGET AGREEMENT

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. ENGEL. Mr. Speaker, Congress and the American people understand the importance of cutting our Federal deficit. The question is who should bear the brunt of reducing this deficit? I believe that the wealthy must pay their fair share. The middle class has paid enough. Senior citizens have paid enough. Working class Americans have paid enough.

I voted against the budget agreement which came out of the budget summit because the middle class was being asked to pay too much. The wealthiest of Americans were not being asked to pay their fair share and, as a result, the bill was defeated in the House of Representatives. We should not be balancing our budget on the backs of the middle class, or on the backs of senior citizens. The Medicare cuts in the proposed budget summit agreement were ridiculous and harsh. The gasoline taxes and home heating fuel taxes were too great. At the same time, the wealthiest were given huge tax incentives and a good deal. This was wrong.

The President, unfortunately, seems determined to help his rich friends. He wants the middle class to pay more of the burden while the rich get away virtually scot-free. The Rostenkowski proposal in the House of Representatives puts the burden where it should be, mainly on the wealthy. It cuts the gasoline tax. It makes less cuts in Medicare. It eliminates the home heating fuel tax. It bursts the bubble and mandates that wealthy people pay at the same tax rate that the middle class does, not a lower rate as is the law now. It mandates a 10-percent surtax on people making $1 million or more a year. In short, it takes much of the burden off the middle class and puts it where it belongs, on those who can afford it.

For the past 10 years, the middle class in this country has received the short end of the stick. Where is the trickle down effect from supply side economics that was supposed to result from reducing taxes on the wealthy? It has certainly not reached the middle class American family, the people who continue to pay taxes faithfully, who work hard every day, who simply ask for some value for their tax dollar. Instead of benefiting all Americans, the trickle down went into flimsy real estate deals and the bank accounts of crooked savings and loan officers.

As a representative of the forgotten middle class, I say stop trying to balance the budget on the backs of working families and senior citizens. The middle class supports a fair tax system that would burst the tax bubble and at least tax the wealthy at the same rate as the middle class. We want to see Medicare remain affordable, and we do not want Social Security funds used to mask the Federal deficit. We want Social Security funds to be used for Social Security purposes only. We need an effective long-term health care program for senior citizens.

Mr. Speaker, we must institute a tax system based on the ability to pay, not a system that continually squeezes the middle class.

THE TRAGEDY OF THE CIVIL RIGHTS DEBATE

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. GUNDERSON. Mr. Speaker, my colleague and friend, Congressman GUS HAWKINS recently ventured the rhetorical question, does "the President want a civil rights bill?" The answer is, GUS, you bet he does.

Contrary to what the chairman of the Education and Labor Committee would have you believe, the President and his administration have gone the extra mile to get a genuine civil rights bill. Unfortunately, as introduced, only mildly amended, and passed in both Houses, the Civil Rights Act of 1990 does not live up to its title. It's not a civil rights bill; it's a full employment for plaintiff attorneys bill. This is a sad state of affairs for all of us in Congress, and indeed, for America, when civil rights becomes a partisan issue.

Upon introduction of the Kennedy-Hawkins Civil Rights Act of 1990, it was clear to many of us in the House minority that the White House wanted to support the bill, if only they could. Unfortunately, the bill's flaws were too great. That the President is now in a position of having to veto the bill isn't because the White House became cagy or uncooperative. On the contrary, the administration tried to negotiate in good faith, and made clear early on what kind of a bill they could accept. Rather than pursue a course of negotiations similar to

the Americans with Disabilities Act, the bill's authors chose to ignore all warnings. If this bill does not become law by the end of this Congress, the fault will rest squarely on their shoulders.

The President had four specific criteria for a civil rights bill which he would sign. First, he announced in May it could not be a quota bill. Second, it would have to give all individuals who believe their rights have been violated their day in court; and preserve the fundamental concept that an accused is innocent until proven guilty. Third, it would have to serve as a remedy to workplace harassment, but it should not bring about what he termed, a "lawyers' bonanza," encouraging litigation at the expense of conciliation. And, finally, it should place on Congress the same standard applicable to everyone else.

Rejecting the process used since the original Civil Rights Act of 1964, the Kennedy-Hawkins bill wants discrimination conflicts to be resolved, not through conciliation and compromise, but through confrontation, litigation, jury trials, and all that this includes. When one considers that the major case of this debate, Wards Cove, was filed 16 years ago—it is difficult to believe increased litigation, as opposed to conciliation, is to the benefit of any victim of discrimination.

Perhaps this legislation is the end result of today's Democratic Party becoming the tool of the Trial Lawyer's Association and their legislative agenda. Recent FEC reports disclose the trial lawyers' PAC has contributed $149,550 to the Democrats on Mr. HAWKINS' committee. At the same time, Republicans have received only $17,500. Maybe money doesn't talk, but the connection between this disparity in donations and a partisan civil rights bill premised on litigation and jury trials is, at a minimum, very troubling.

Let's understand, both the Democratic bill and the Republican alternative overturn five Surpreme Court cases. But, their methods and results are different. And, certainly, one can claim the Democratic bill overturns even more. The debate is not in overturning recent cases, but rather how it is done.

Under Kennedy-Hawkins, it would no longer be acceptable for companies with 15 employees or more to try to foster equal opportunities. To protect themselves, they would have to guarantee an exact numerical representation of minorities, women, religious, and other ethnic groups on their staff in line with that of the population living in the surrounding community. It also gives employees the right to sue for unlimited compensatory and punitive damages. Under current law, victims of job place discrimination are "made whole," or given back their previous position and all back pay. Kennedy-Hawkins, as mentioned earlier, gives plaintiffs and their attorneys a powerful new incentive to enter the courts—and it's not unreasonable to assume that among the suits that would be brought would be frivolous ones.

Congressman HAWKINS argues that one of the concessions made by the proponents is that now the plaintiff must point to a particular practice as the cause of disparity when he/she can reasonably do so.

But, in fact, the plaintiff is not required to show that any practice caused the disparity. Rather, it is enough for the plaintiff to show that a group of practices resulted in a statistical disparity, and that a practice within a group contributed to the disparity, even if the practice did not itself cause the disparate impact.

What about the defendant? With virtually no tangible statistics to back him/her up, the employer has a nearly impossible task of stitching together a case to prove his innocence. As the employer's presumption of innocence is trampled upon, he would have to engage in enormously complicated mathematical gyrations to disprove a negatives; that is, when did you stop discriminating against your employees?

Perhaps the most serious indictment of Kennedy-Hawkins, though is the fact that it would not succeed in doing what its sponsors say is its most important goal: Overturning the 1989 Wards Cove decision and restoring the 1971 Griggs versus Duke Power Co. decision. No one disputes that the Griggs standard for determining whether employment decisions are free of discrimination is a suitable one. It is correct for proponents of Kennedy-Hawkins to say that Griggs worked well in the real world for 18 years. There's one little problem with this reasoning: Kennedy-Hawkins does not restore Griggs.

Griggs required that any employment practice which adversely impacted minority workers that is a disparate impact practice—would have to be shown to be "manifestly related to the employment in question." This definition has appeared in every disparate impact case Supreme Court decision until the Wards Cove case. One would expect any restoration of the Griggs decision to include these vital definitional words, yet they never appeared in any of the six rewrites of the Kennedy-Hawkins bill.

If supporters of Kennedy-Hawkins want to restore Griggs, then why don't they restore that actual language of Griggs?

Republican Leader BOB MICHEL reminisced during floor debate that this was the first time in his memory civil rights debate had become a partisan issue. Unfortunately, the goal no longer appears to be bipartisanship in civil rights, or a good strong civil rights bill that truly does restore law to what existed before these five cases. Rather than achieving a quick Presidential signature on legislation restoring these protection to victims of discrimination, the strategy of Kennedy-Hawkins is clear: Guarantee quotas in reality, if not in name; turn civil rights litigation into a new wave of litigation and jury trials; and guarantee that President Bush's overtures to minorities be stopped by a veto of this bill.

Let's hope that changes. Victims of discrimination ought not be the pawn of partisan politics.

CALABRIA SOCIETY TO CELEBRATE 55 YEARS AND HONOR LUIGI GALLICCHIO AND JOSEPH MARTORANA

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mrs. LOWEY of New York. Mr. Speaker, 55 years ago in New Rochelle, NY, the Calabria Society was formed. For over half a century, the society has served as a pillar in the Westchester County community. The society has provided scholarships and has supported a wide range of charities throughout the county. In addition, the society has worked to maintain a strong sense of culture and tradition within our Italian-American community.

On October 20, the Calabria Society will honor two outstanding individuals for their contributions to the society and to our community. Mr. Luigi Gallicchio has been a member of the Calabria Society for 20 years. He has consistently shown his commitment to the community programs with which the society has worked. Mr. Joseph Martorana has been a good friend of the society for many years. Through his work in New York State government, he has also been a superb representative of Italian-Americans in Albany. He, too, has exhibited a strong sense of commitment to our community.

For the last 8 years, the Calabria Society and its 300 members have been led by Dom Procopio. As president of the society, Dom has been an active and vigorous community leader in Westchester County. I am delighted to have this opportunity to recognize the achievements of the Calabria Society, as well as the special accomplishments of Luigi Gallicchio and Joseph Martorana.

UNCIVIL RIGHTS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. CRANE. Mr. Speaker, Congress is once again addressing the issue of civil rights, and whether or not the Civil Rights Act of 1990 will be effective in establishing equal rights for minorities. A surge in racial unrest, the Central Park jogger incident, the Virginia Beach riots, and the riots in Miami, provide a troubling backdrop for consideration of legislation that is meant to ensure civil rights to all Americans.

With respect to this legislation, my concern has always been how does the practice of essentially mandating quotas assure the American people that equality for minorities will be attained? I commend to my colleagues two articles that have recently been brought to my attention. The first was written by Ambassador Morris Abram, permanent representative to the U.N. in Geneva and past vice-chairman of the U.S. Commission on Civil Rights from 1984 to 1986, and is entitled "The Senate's Quota Bill Vs. King's Dream" from the Sep-

tember 11, 1990, issue of the Wall Street Journal. The second is a Mike Royko column from the September 21, 1990, Chicago Tribune, and is entitled "Where Good Sense Is In The Minority." Mr. Royko's column is of particular interest to me because of the absolute absurdity of the situation he describes, and because of the fact that the incident occurred in my home State of Illinois.

Mr. Speaker, I believe the Civil Rights Act of 1990 as it is presently constituted is a grave mistake and will not do anything to promote the true meaning and spirit of civil rights in this country. Indeed, I am afraid this piece of legislation will be a step backward in the promotion of equality and justice. I commend the aforementioned articles to my colleagues attention and would simply close with a quote from Frederick Douglass, to which Ambassador Abram makes mention in his article: "Equality of numbers has nothing to do with equality of attainments."

[From The Wall Street Journal, Sept. 11, 1990]

THE SENATE'S QUOTA BILL VERSUS KING'S DREAM

(By Morris Abram)

If I were still practicing law, I would love the Kennedy-Hawkins Bill—the so-called "Civil Rights Act of 1990." It may enrich contingency fee lawyers. But it will also impoverish the principle of equality of all Americans. All my life, beginning in the darkest days of segregation in my home state of Georgia, I have fought against the principle of color preference, then known as "White supremacy." This bill institutionalizes color preference under the false flag of civil rights. It is not a civil rights bill. It is a quota bill that will achieve precisely what the landmark 1964 Civil Rights Act stood foursquare against.

Proportionality of result, not equality of opportunity, is the touchstone of this flawed legislation. It creates a presumption of guilt based only on crude race or gender statistical imbalances in the workplace, and then forces employers to rebut that presumption under a standard of proof that rules out the pursuit of excellence as a defense and is very difficult to meet. The cumulative weight of this stacked deck will make the risk of having the wrong numbers so great that the employer, in self-defense, will hire by quota.

Contrary to the blandishments of its supporters, Kennedy-Hawkins rewrites 20 years of civil rights law. It would do something I never thought I would see in America—it would make racial, ethnic and sex imbalance alone presumptively illegal. Under Kennedy-Hawkins, a plaintiff need only allege a statistical disparity between minorities in the labor pool and on the job, and charge that the employer's practices collectively caused the imbalance—nothing more. Because it effectively eliminates the requirement that plaintiffs identify a specific discriminatory practice, the legislation would turn a civil rights complaint into an indictment without a bill of particulars.

By effectively making bottom-line statistical imbalances proof of discrimination (although protesting that it does not), Kennedy-Hawkins holds employers hostage to raw census data. Those statistics do not measure individual differences in skills, experience, training or quality of education with each job group. But such distinctions do matter: Try convincing an employer that there's no difference between the graduates of a third-rate college and those of a first-rate university.

The bill's faith in the idea that statistical disparities alone create a presumption of discrimination is equally flawed. Abraham Lincoln's friend, the former slave Frederick Douglass, understood the divisive and destructive implications of the belief that, in a word without discrimination, there would be racial proportionality in every human endeavor: "Equality of numbers," he wrote in 1871, "has nothing to do with equality of attainments."

Without the requirement that the plaintiff specifically charge discrimination, employers must justify every hiring or promotion practice that might account for the imbalance—and prove their innocence by rebutting a presumption of guilt so difficult to overcome and so costly to fight that they will capitulate and hire by numbers.

The proposed standard requires the employer to demonstrate that every one of his hiring or promotion criteria "bear(s) a significant relationship to successful performance of the job" by means of "demonstrable evidence." How many employers can "prove" that their hiring criteria—whether they be standardized tests, job interviews, written or oral skills, education or experience—definitively correlate with successful job performance? Could a Supreme Court justice prove by "demonstrable evidence"—whatever that means—a "significant relationship"—whatever that means—between law review experience and successful performance as a Supreme Court clerk—especially when seeking out the best is no defense? Could a college faculty show that tenure track candidates who publish articles always make better teachers or advance the cause of knowledge?

Under this test, merit and high standards go out the window, impairing not only the principle of American equality but, inevitably, American efficiency and productivity. Together, the bill's presumption of guilt and its high hurdle of proof will force employers to avoid lawsuits and potential liability by hiring and promoting by quota.

Kennedy-Hawkins wages war on objective standards at a time when this society can least afford a lesser measure of achievement. Objective criteria may not be perfect; some may mask discriminatory intent, or have little relation to the job. But Kennedy-Hawkins wields a bludgeon where a scalpel would do. Existing law already walks the fine line between protecting standards and weeding out potentially discriminatory criteria. The Supreme Court's 1989 Ward's Cove v. Atonio decision, the case Kennedy-Hawkins would overturn, already demands an exacting standard of business necessity: Why fix it if it's not broken?

But the social costs of a quota bill go beyond loss of productivity and efficiency. It balkanizes and tribalizes our nation by raising the color line; it stigmatizes and demoralizes those it supposedly helps. Kennedy-Hawkins may be a middle-class minority ride to preferential treatment; but it won't solve our real minority problems. It won't help fight the crack epidemic ravaging our minority youth; it won't stem the tide of unwed minority teen pregnancies; it won't stop the breakdown of our inner-city education system.

Congress and this administration have the opportunity, perhaps more than any other in recent years, to forge a new and lasting civil rights consensus. Every opinion poll confirms that the vast majority of Americans of all races share the goals of equal opportunity and color blindness and will support the vision of Martin Luther King, who urged that we judge ourselves "not by the color of our skin but by the content of our character." Let's not miss this chance by endorsing a quota bill.

[From the Chicago Tribune, Sept. 21, 1990]

WHERE GOOD SENSE IS IN THE MINORITY

(By Mike Royko)

You play the jury and decide. Does Mike Welbel discriminate in his hiring practices?

Welbel owns a small business, the Daniel Lamp Co., 3611 W. Cermak Rd.

He buys lamp parts that are made elsewhere, and his workers assemble them in his plant. The lamps are shipped to furniture stores.

He has 26 employees. The jobs require little skill or education so the pay is low. But a job is a job. Welbel says that of his 26 workers, 21 are Hispanic and 5 are black.

At this point, some of you might say: Yes, Welbel discriminates because he doesn't have any non-Hispanic white employees.

Overruled. Welbel's business is in the heart of the Southwest Side's Hispanic community. So most of the people he hires are from the neighborhood. It's doubtful that anyone would want to travel a considerable distance to work in the lamp shop.

But yes, Welbel does discriminate. You might not think so, and I don't think so. That doesn't matter. Federal bureaucrats say he does. And so he's up to his ears in trouble.

It seems that a black woman applied for a job about 18 months ago. She wasn't hired. Welbel says he doesn't know why.

"I didn't interview her. Maybe the plant supervisor did. He's not here anymore. I don't know why she wasn't hired. Maybe we didn't need anyone. I just don't know."

But he does know that the woman filed a complaint with the Chicago office of the Equal Employment Opportunity Commission, the federal agency that is supposed to guard against discriminatory hiring practices. She complained that she wasn't hired because she is black.

And one spring day last year, two investigators came to his plant.

"I told them, 'Here's the records. Help yourselves. You can see everything.' What did I have to hide? I figured that if everybody who works for me is Hispanic or black, how could I be discriminating?

"You see, when I started the business nine years ago, I used to deal with the state Department of Labor or place help-wanted ads.

"Then I got to know these Hispanic organizations—the Spanish Coalition and Latino Youth in Chicago—and we could call and say we needed a couple of people, and they'd say 'no problem,' and send someone in.

That's why Welbel wasn't concerned when the federal bureaucrats came snooping. With an all-minority work force, why should he worry? "I didn't even get a lawyer."

Now he knows why he should have worried. "Dealing with those government people is frightening. They do all the talking. They tell you how it's going to be. You just sit and listen. I've never even met the woman who filed the complaint."

The bureaucrats have told him how it is going to be.

First, they say he must pay the woman $340.01 in wages she lost by not being hired.

Welbel says: "Fine. I'll be glad to pay her that just to get rid of the headache."

But that's just for starters. Sort of a small ante in the pot.

The bureaucrats have also demanded that Welbel pay $123,991 in back pay.

Back pay to whom? Good question. The money is to be divvied up by six other blacks who weren't hired and whose names were found in Welbel's files. And by any other blacks who might have applied in 1988 and 1989.

And who are these others? Welbel doesn't know. Nor do the bureaucrats.

So the feds want Welbel to spend about $10,000 on newspaper advertising to find black people who say they applied and weren't hired. Then they can come in and get their share of the $123,991.

"They told me that I should have had 8.45 black employees in 1988 and 1989. They said that within a 3-mile radius of my plant, companies that have 100 workers or more average 31.3 percent black. So I should have a 31.3 percent black work force. And that's how they came up with what I owe people who didn't work for me.

"And they want me to spend $10,000 on advertising to find people who didn't work for me so I can pay them $123,991 for not working for me."

Is Welbel going to do it?

"I can't. I don't have the money. To tell the truth, the whole company isn't worth that much. That's why I came in this neighborhood. I got the building cheap. Nobody wanted it. I have a nonskilled work labor pool nearby.

"No, I can't pay that money. I'll have to close down, go out of business.

"This is incredible. I'm a small operation. I've got 26 minority people working for me. And here's this federal agency on my back with some mathematical formula that I never heard of before."

I called the EEOC for their side of it, but they wouldn't discuss the case. I can understand that. If I did something that loony, I wouldn't want to talk about it either.

So if the EEOC doesn't back off, Welbel might have to go out of business. And that will eliminate 26 jobs held by minorities. They won't have incomes, they won't pay taxes, and maybe some of them will have to go on welfare, which means someone else's taxes will be used to support them.

I wonder: Among all the other things the Japanese have acquired, do you think they might have bought the EEOC?

INTRODUCTION OF THE RAILROAD WORKERS' INJURY COMPENSATION ACT OF 1990

HON. BOB WHITTAKER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. WHITTAKER. Mr. Speaker, it is a privilege to take one of the first steps toward reforming the shamefully outdated system of compensating injured railroad workers. The 1908 law, known as the Federal Employers' Liability Act, was progressive at the time, when concepts such as no-fault workers compensation had yet to become accepted. But in our modern society, a fault-based, luck-of-the-draw injury compensation system like FELA is as archaic as a buggy whip.

The measure I am introducing today, prepared by the Bush administration and transmitted to us by Transportation Secretary Sam Skinner, initiates the process of replacing FELA with a modern, efficient, and equitable no-fault compensation system. That is the prevailing system in virtually all other industries now. Even when they operate across many State lines, companies are governed by no-fault workers compensation systems when it comes to liability for their employees' on-the-job injuries. But the railroads are still singled out for disparate treatment that merely increases the uncertainty of recovery for the employee and helps to enlarge the share of the recovery going to the lawyers rather than the injured worker or his family.

Embarrassingly, the House had not even examined whether the FELA compensation system was working, for a period of 50 years. Yes, the last time that the House had revisited FELA was in 1939. Then in late 1989, the Transportation Subcommittee of the Energy and Commerce Committee, where I serve as ranking Republican member, ended that long period of neglect by holding a comprehensive oversight hearing on FELA.

The bill I am introducing today builds upon the record created at our hearing. It also emphasizes in my mind the need for constructive and creative discussion of this issue between railroad management and rail labor. They are the ones who know the day-to-day operating environment of the railroad industry, and who can help with technical refinements and improvements to this basically sound legislation. I look forward to working with them, and with the administration, to lay a firm foundation for the eventual replacement of FELA with a modern and human compensation system.

I think it is especially fitting that we are taking this next critical step to modernize the working environment of the railroad industry and its employees, almost exactly 10 years after the enactment of the Staggers Rail Act, the law that economically emancipated the railroad industry. As the successful record of the railroad since 1980 demonstrates, the Staggers Act allowed healthy market forces into the over-regulated rail transportation industry, allowing the carriers to operate in an environment more nearly comparable to other American industries.

But the excessive rate and abandonment regulation that affected the railroads prior to 1980 was only one aspect of an outmoded public-policy psychology—a mindset that had unfortunately been frozen into statutes, FELA is one such statute—a manifestation of that now-discredited penchant for anomalous, unique-to-railroad laws that have proven economically disastrous and self-defeating not just for management, but also from the standpoint of employee welfare. Therefore, I am doubly glad to be a small part of the process that will change the FELA system for the better.

Finally, Mr. Speaker, I would like to have inserted into the RECORD at this point Secretary Skinner's letter of October 15, 1990, transmitting the draft of this legislation, as well as the accompanying section-by-section analysis of the bill.

THE SECRETARY OF TRANSPORTATION,
Washington, DC, October 15, 1990.

Hon. THOMAS S. FOLEY,
Speaker of the House,
Washington, DC.

DEAR MR. SPEAKER: Transmitted herewith is a bill, "To repeal the Federal Employers' Liability Act, to provide for coverage of railroad employees' injury claims under individual state workers' compensation programs, and for other purposes."

This bill, entitled the Railroad Workers' Injury Compensation Act of 1990, provides for a long overdue reform of the railroad industry's employee injury compensation system. The bill would repeal the Federal Employers' Liability Act ("FELA") with its outmoded concept of fault as a necessary component of employee injury compensation, and provide for railroad employees to be compensated for job related injuries under the no-fault workers' compensation systems maintained by each of the individual states. Enactment of this bill will allow railroad workers to join millions of other employees in virtually every other American industry who receive compensation for work related injuries without regard to who was at fault.

FELA was enacted by Congress in 1908 to address a very serious and pressing need. Railroading represented not only one of the nation's largest and most important industries, employing approximately 1.5 million employees, but also one of the nation's most dangerous occupations, with 4,534 rail employees killed on duty in 1907. Opportunities for obtaining compensation were very limited. In addressing this need Congress naturally looked to the common law tort system and adopted a negligence-based system. Under FELA, railroad employees are entitled to receive compensation to the extent they can establish that their injuries were caused by the negligence of their employer. Correspondingly, the employee's recovery can be reduced or eliminated to the extent they were contributorily negligent. The enactment of FELA was certainly landmark legislation, which provided vital benefits to rail employees and an important impetus to the adoption of workers' compensation systems across the nation.

Unfortunately, while FELA may have represented an enlightened step forward in 1908, its fault-based system has not kept pace with modern developments. Fault as a component of employee injury compensation has been rejected by all states which have adopted worker's compensation statutes in the years following enactment of FELA. As a result, the railroad industry and its employees are burdened with a system that is costly, ineffective, and out of step with modern workers' compensation concepts. There is no justification for treating railroad workers differently from workers in virtually every other industry, including the transportation industry. A transformation of the railroad workers' compensation program to no-fault principles is long overdue.

The workers' compensation system established by FELA fails to protect the interests of railroad employees, the railroad industry, or the nation's interest in maintaining a sound, competitive transportation system. There are five essential needs that an effective workers' compensation program must cover. First, an effective system must insure that every injured worker receives compensation regardless of who is at fault. FELA does not meet this most basic of requirements. Some injured employees who are unable to establish negligence on the part

of their employer do not receive any compensation for their injuries; furthermore, injured employees' recoveries are reduced to the extent they were contributorily negligent.

Second, an effective system should resolve cases quickly and provide injured employees with rapid access to compensation benefits to meet day-to-day financial responsibilities for themselves and their families. FELA does not provide for prompt payment of benefits because the parties are forced to battle over the question of who was at fault. This produces lengthy investigations, protracted settlement negotiations, and often extensive trial proceedings through several levels of the court system. The employee does not receive compensation through FELA until this process is complete.

Third, an effective system provides incentives for immediate rehabilitation and, when possible, a speedy return to productive employment. FELA encourages quite the opposite result since the goal of a maximum settlement or jury award is enhanced if the injured employee has a greater appearance of need. Delayed rehabilitation can only lead to greater expense and a lessened likelihood of the employee returning to work. Neither represents sound social or economic policy.

Fourth, an effective system minimizes the extent to which it burdens the courts and permits lawyer's fees and administrative expenses to eat into an employee's recovery and the company's resources. The administrative expenses associated with FELA are enormous and ever increasing. The investigative costs associated with establishing fault and the requirement that disputes be resolved through the courts adds significantly to the total monetary and social cost of the system without providing any additional benefits to the injured employee.

Fifth, an effective system should place fair and equitable burdens on competing industries. Since the railroad industry's competitors are subject to no-fault state workers' compensation programs, they have a significant competitive advantage over rail carriers. This directly harms the railroad industry, rail employment, shippers who use rail, and the nation's ability to compete in world markets.

The Department of Transportation has no greater interest than the safety of our transportation system. We reject the contention made by some that FELA is a safety statute, i.e. a positive force for improved rail safety. In fact, the opposite is true. Since the employee and the carrier are primarily interested in showing that the other party was at fault, the true cause of the accident is frequently obscured. The contentious nature of the inquiry can also sour the employer-employee relationship. Eliminating fault from consideration will facilitate prompt identification of safety problems and expeditious corrective action by employers.

The President has recently announced the National Transportation Policy, which is designed to help our transportation system meet the needs of the 21st century. The Policy has identified as a major goal efforts to bring Federal treatment of railroads into conformity with treatment of other industries and the repeal of Federal statutes that impose archaic and outmoded requirements on railroads. Railroads have as a result of the Staggers Rail Act of 1980 been freed of the most onerous and unnecessary economic regulations governing rates and services, and this has led to dramatic improvements in their ability and incentive to offer efficent, competitive transportation. The repeal of FELA will likewise produce significant benefits for railroad employees, and the railroad industry.

I urge the Congress to move ahead on this important legislation. Hearings held before subcommittees in each house have developed an ample legislative record identifying the inequities and inadequacies of FELA and providing strong support for its repeal. As we strive to improve America's competitive position in the world, we need a strong and healthy rail industry. The repeal of FELA can made an important contribution to that objective.

The Office of Management and Budget advises that enactment of this proposal would be in accord with the program of the President.

Sincerely,

SAMUEL K. SKINNER.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Railroad Workers' Injury Compensation Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Federal Employers' Liability Act, enacted in 1908, preceded the enactment of State workers' compensation statutes and represents an important early effort to provide compensation to workers injured or killed in the course of their employment;

(2) the Federal Employers' Liability Act establishes a fault-based system in which employee injury compensation is based on the employee's ability to establish negligence on the part of the employer, and in which compensation may be reduced or eliminated to the extent the employee is contributorily negligent;

(3) following enactment of the Federal Employers' Liability Act, all of the individual States adopted nofault workers' compensation statutes which provide compensation for workers injured or killed in the course of their employment without regard to considerations of fault or negligence on the part of either the employer or the employee, and which are applicable to virtually all other industries in the United States;

(4) in recognition of the remedy provided to injured railroad employees by the Federal Employers' Liability Act, certain State workers' compensation laws specifically exclude railroad workers from coverage under the State programs;

(5) the determination of fault as a component of injury compensation produces a number of undesirable consequences, including the failure to ensure that all injured workers receive compensation, a disincentive to railroad safety and sound employer-employee relations, and a lengthy process with high transaction and social costs that increase industry costs, burden the court system, and decrease the compensation received by the injured worker;

(6) State workers' compensation programs provide for the receipt of compensation (in accordance with benefit schedules established by each State to meet its particular needs) by all workers who are injured on the job without requiring workers to demonstrate fault or the cause of the accident, and with an administrative process that is generally less complicated and expensive that litigation through State or Federal court systems;

(7) subjecting the railroad industry to the fault-based Federal Employers' Liability Act put the industry at a disadvantage in competing with other modes of transportation, which are covered by State workers' compensation programs, and this inequity of treatment places a burden on interstate commerce; and

(8) the determination of fault as a component of employee injury compensation does not represent sound public policy and should be eliminated.

SEC. 3. PURPOSE.

It is the purpose of this Act to place all railroad employees under the workers' compensation laws of the several States, in order to ensure that railroad employees will be compensated, without a determination of fault or negligence, for injuries or death arising out of or in the course of their employment.

SEC. 4. REPEAL.

The Act of April 27, 1908 (45 U.S.C. 51 et seq.) (popularly referred to as the "Federal Employers' Liability Act") is repealed.

SEC. 5. APPLICABILITY OF STATE WORKERS' COMPENSATION STATUTES.

Notwithstanding any provision of State law that excludes railroad employees from coverage under a State workers' compensation program or that authorizes a railroad employee to bring a tort claim against a railroad, no State shall, after the effective date of this Act, prohibit railroad employees from access to that State's workers' compensation program and any claim against a railroad by an employee of the railroad for injury, death, or occupational disease arising out of or in the course of the employee's employment shall be treated the same as the claim of a nonrailroad employee against his or her employer brought under the State's workers' compensation laws.

SEC. 6. AMTRAK TAX EXEMPTION.

Notwithstanding section 306(n) of the Rail Passenger Service Act (45 U.S.C. 546(n)) or any other provision of law, the National Railroad Passenger Corporation shall be subject to the workers' compensation tax, fees, and assessments of a State in the same manner and to the same extent as any other interstate entity doing business within the State and governed by the worker's compensation laws of that State.

SEC. 7. CONFORMING AMENDMENT.

Section 20(a) of the Act of March 4, 1915 (38 Stat. 1185; 46 U.S.C. App. 688), is amended by inserting after "railway employees" both places it appears the following: "in effect prior to the enactment of the Railroad Workers' Injury Compensation Act of 1990".

SEC. 8. EFFECTIVE DATE.

The provisions of this Act shall become effective 9 months after the date of enactment. All claims for work-related injuries, including occupational disease or death, that accrue prior to such effective date shall continue to be processed under the provisions of the Act of April 27, 1908 (45 U.S.C. 51 et seq.) (popularly referred to as the "Federal Employers' Liability Act"). All claims for work-related injuries, including occupational disease or death, that accrue on or after such effective date shall be processed under the applicable State workers' compensation programs. Notwithstanding any other provision contained herein, a claim for injury, including occupational disease or death, that is found not covered by applicable State workers' compensation law because the injury resulted solely from an

employment event occurring prior to the effective date of this Act may be processed under the provisions of the Act of April 27, 1908. In such event the time for filing an action provided in section 6 of the Act of April 27, 1908 (45 U.S.C. 56) shall begin to run only from the date an adverse final decision denying coverage under the State workers' compensation law is received.

SECTION-BY-SECTION ANALYSIS OF THE RAILROAD WORKERS' INJURY COMPENSATION ACT OF 1990

Section 1. Section one provides that the Act may be cited as the "Railroad Workers' Injury Compensation Act of 1990".

Section 2. Section two contains Congressional findings supporting the need for enactment of the Railroad Workers' Injury Compensation Act of 1990. The findings focus on the genesis of the Federal Employers' Liability Act in the early part of the twentieth century, the subsequent successful adoption of no-fault systems by all of the states, the significantly improved safety in railroad employment, and the difficulties associated with the presence of negligence as a factor in employee injury compensation. The findings support the need for a change from the fault-base Federal Employers' Liability Act to the no-fault programs maintained by the several states.

Section 3. Section three declares that it is the purpose of this Act to provide all railroad employees after the effective date hereof with coverage exclusively under the workers' compensation laws of the several states in order to assure that railroad employees are compensated, without a determination of fault or negligence, for injuries or death arising out of or in the course of their employment.

Section 4. Section four repeals the Federal Employers' Liability Act, officially known as the Act of April 27, 1908 (45 U.S.C. 51 et seq.).

Section 5. Section five provides that in recognition of the repeal of the Federal Employers' Liability Act states would be prohibited from treating claims against a railroad by an employee of the railroad for injury, death, or occupational disease arising out of or in the course of the employee's employment differently from that state's treatment of claims of non-railroad employees under that state's workers' compensation laws. It is the intent of section 5 of the bill that railroad workers be entitled to participate in the state no-fault workers' compensation programs notwithstanding the existence of provisions in state workers' compensation statutes, which may either exclude railroad workers from the state compensation programs or contain language paralleling the Federal Employers' Liability Act and providing railroad workers with a tort-based claim for compensation under state law.

Section 6. Section six contains a technical provision designed to insure that the exemption from state and local taxes and other fees that the National Railroad Passenger Corporation ("Amtrak's responsibility to comply with the taxes and assessments associated with the individual state workers' compensation stautes.

Section 7. Section seven contains a conforming amendment designed to insure that the repeal of the Federal Employers' Liability Act as it applies to railroad employees does not inadvertently affect the compensation system established for merchant seamen. Under section 20(a) of the Act of March 4, 1915 (46 U.S.C. 688), the rights of seamen who suffer personal injury in the course of their employment are tied to the rights and remedies available to railway employees under the Federal Employers' Liability Act. Section seven of the bill insures that the repeal of the Federal Employers' Liability Act will not alter the rights available to merchant seamen whose employment-related injuries may occur at sea and not obtain the benefits of state workers' compensation laws.

Section 8. Section eight provides that the Railroad Workers' Injury Compensation Act of 1990 shall become effective nine months after the date of enactment. Accordingly, all causes of action for work-related injury, death, or occupational disease that accrue prior to such date would continue to be processed under the Federal Employers' Liability Act. All causes of action that accrue on or after that date would be processed under the applicable state workers' compensation programs. A nine month delay in the effective date of the provisions of the Act has been included in order to provide the states with a period of time in which to make necessary administrative adjustments to their workers' compensation programs to respond to the addition of railroad employees to the programs. Section eight also includes a savings clause which has been added to ensure that no employee is left without recourse in the event the employee's claim for injury, including occupational disease or death, is found not covered by the applicable state workers' compensation law because the injury resulted solely from an employment event occurring prior to the effective date of this Act. An employee in this instance would continue to have the right to pursue a claim under the Federal Employers' Liability Act, and the statute of limitations provided in section 56 of title 45 of the United States code would not begin to run until an adverse final decision denying coverage under state law is received.

WE NEED LOW-INCOME HOUSING PRODUCTION

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. FRANK. Mr. Speaker, one critical issue which we must resolve before we adjourn is the extension of the low-income housing tax credit. If this credit expires, the housing crisis that afflicts many parts of the country will worsen, and shelter costs will be under great pressure in many places. We have shown our concern for the homeless by a variety of measures, but no program dealing with the problems of homelessness will avail us much if they are not accompanied by programs to get housing built at prices that low-income people can afford.

The low-income housing tax credit is an indispensable part of this effort and it must be extended by legislative action this year.

The following letter signed by a wide range of groups concerned with housing needs illustrates the point.

OCTOBER 16, 1990.

To: Members, Senate Finance Committee and House Ways and Means Committee.

The undersigned neighborhood and nonprofit groups concerned with the provision of low income housing for needy Americans urge an extension of the low income housing tax credit as part of any tax package. The low income housing tax credit program now produces about 125,000 units of housing to shelter the homeless and others desperately in need of decent housing. It is the nation's major housing production effort, and with the expected freeze on government expenditures, may be the only such effort for years to come. It has received overwhelming bipartisan support in both houses, and President Bush has urged its extension.

If Congress fails to extend the program, then the momentum generated by non-profits and local state agencies working in conjunction with the private sector to produce this needed housing will come to an abrupt stop.

Please do not fail to extend this vitally needed effort.

Lynchburg Covenant Fellowship, Lynchburg, VA.

Aquinas Housing Corporation, Bronx, NY.

Asian Americans for Equality, New York, NY.

University Settlement House, New York, NY.

York Area Development Corporation, York, PA.

Housing Council of York, Inc., York, PA.

Southeast Development, Inc., Baltimore, MD.

New Land Samaritan Inns, Lynchburg, PA.

New Land Jobs, Lynchburg, PA.

Women's Self-Employment Project, Palo Alto, CA.

Promised Land Employment Service, Rockford, IL.

St. Ambrose Housing Aid Center, Inc., Baltimore, MD.

Cleveland Housing Network, Cleveland, OH.

Sudbrook Park Civic Association, Pikesville, MD.

Phoenix, Inc., Baltimore, MD.

Urban Homesteading Assistance, (UHAB) Inc., New York, NY.

Greensboro Episcopal Housing Ministry, Greensboro, NC.

Downtown Housing Improvement Corp., Raleigh, NC.

Stockyard Area Development Corp., Cleveland, OH.

Church of the Messiah Housing Corp., Detroit, MI.

Neighborhood Rental Services of Baltimore, Inc., Baltimore, MD.

St. Ambrose Homesharing, Baltimore, MD.

Jubilee Housing, Inc., Washington, DC.

Westminster Corporation, St. Paul, MN.

Dallas City Homes, Inc., Dallas, TX.

Maryland Low-Income Housing Coalition, Baltimore, MD.

Center for Community Organization, Baltimore, MD.

Michigan Avenue Community Organization, Detroit, MI.

Hawthorne Community Council, Philadelphia, PA.

Dade Community Foundation, Miami, FL.

Centro Campesino Farmworker Center, Florida City, FL.

Progress of People's Development Corp., Brooklyn, NY.

Garfield Jubilee Association, Inc., Pittsburgh, PA.

Community Equity Investments, Pensacola, FL.

Mosholu Preservation Corp., New York, NY.

Housing Conservation Coordinators, New York, NY.

New York City Partnership, New York, NY.
St. Nicholas N.P.C., Brooklyn, NY.
General Board of Pensions—United Methodist Church, Chicago, IL.
Chattanooga Neighborhood Enterprises, Chattanooga, TN.
New Orleans Neighborhood Development Corp., New Orleans, LA.
Salem Housing Task Force, Flint, MI.
City Homes, Inc., Baltimore, MD.
Atlanta Economic Development Corp., Atlanta, GA.
Atlanta Neighborhood Collaborative, Atlanta, GA.
Ogontz Avenue Revitalization Corp., Philadelphia, PA.
Center for Housing Resources, Dallas, TX.
Jubilee Baltimore, Inc., Baltimore, MD.
Jubilee West, Inc., Oakland, CA.
Hope Communities, Inc., Denver, CO.
Homewood-Brushton Revitalization, Pittsburgh, PA.
Bethel New Life, Chicago, IL.
Words for Life Literacy Program, Baltimore, MD.
Philadelphia Neighborhood Enterprise, Philadelphia, PA.
Columbus Housing Partnership, Columbus, OH.
ACTION-Housing Inc., Pittsburgh, PA.
Interfaith Housing Task Force, Inc., Wilmington, DE.
Detroit Shoreway Community Development Organization.
Cohab, Inc., Cleveland, OH.
Broadway Area Housing, Cleveland, OH.
Interfaith Housing of Maryland, Eastern Shore, Easton, MD.
Crispus Attucks, C.D.C., York, PA.
Crispus Attucks Employment Center, York, PA.
Impact Services Corp., Philadelphia, PA.
Franklin Terrace Community Association, Baltimore, MD.
Enterprise Housing Venture, Baltimore, MD.
Transitional East, Inc., Cleveland, OH.
Women's West Housing, Cleveland, OH.
People of God's Love, Columbus, OH.
Banana Kelly Community Improvement Assn., Bronx, NY.
East Little Havana Community Development Corp., Miami, FL.
Newark Apartment Improvement Program, Newark, NJ.
Community Human Services, Inc., Pittsburgh, PA.
Homeless Aloha, Inc., Honolulu, HI.
South Dallas/Fair Park CDC, Dallas, TX.
Urban Edge Housing Corporation, Boston, MA.
East Dallas Cooperative Parish, Dallas, TX.
CODEC, Inc., Miami, FL.
United Way Housing Initiatives of York, York, PA.
Urban Resource Development Corporation of Philadelphia, Philadelphia, PA.
Greater Miami Neighborhoods, Inc., Miami, FL.
Baltimore Housing Partnerships, Baltimore, MD.
Community Development Financing Corp., Baltimore, MD.
Banc One Community Development Corp., Columbus, OH.
Connecticut Housing Coalition, Hartford, CT.
Community Economics, Oakland, CA.
Nonprofit Housing Association of Northern California, San Francisco, CA.
National Temple Nonprofit Corp., Philadelphia, PA.
Massachusetts Association of Community Development Corp., Boston, MA.
Community Access, New York, NY.
Eastside Community Investment, Indianapolis, IN.
Georgia Housing Coalition, Atlanta, GA.
YWCA of Jacksonville, Jacksonville, FL.
Community of Initiatives, Inc., Jacksonville, FL.

TRIBUTE FOR FRANK HUNTLEY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Frank Huntley of my 17th Congressional District of Ohio for his many years of dedicated service to the citizens of the Youngstown area.

As the current coordinator of the Center for Urban Studies at the Youngstown State University, Frank is in charge of developing and implementing programs which help relate university resources to problems associated with urbanization in the Youngstown community. One of his primary responsibilities is to provide technical assistance and training to local government, business, and public service organizations. Prior to this, Mr. Huntley served the Youngstown community as the coordinator of continuing education at Youngstown State University, director of community relations for the Youngstown Vindicator, and was a member of the city of Youngstown Planning Commission.

Frank received his B.A. degree from Youngstown State University in Sociology and his M.A. from the University of Akron in Urban Planning and Urban Administration. He has put his academic achievements to work by striving for the urban development of the Youngstown community. Mr. Huntley has also worked for the improvement of his community by devoting himself wholeheartedly to the Buckeye Elks Lounge and the Buckeye Elks Youth Development Center. His service to the youth of Youngstown is particularly noteworthy.

It is with great pride that I rise today to pay tribute to one of the many fine citizens of my 17th Congressional District of Ohio. It is indeed an honor to salute Mr. Frank Huntley.

ORCHARD SCHOOL NAMED A BLUE RIBBON SCHOOL BY SECRETARY CAVAZOS

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mrs. LOWEY of New York. Mr. Speaker, I rise today to congratulate the Orchard School in Yonkers, NY, for being selected as a blue ribbon school by Secretary of Education Cavazos. The school, which is run under the auspices of the Julia Dyckman Andrus Memorial in Yonkers, NY, was honored last month at the White House by President Bush.

The Orchard School was established in 1972 as a school for children and youth with special needs, specializing in the education of emotionally troubled children. Last spring, 55 children were enrolled, the majority of whom were in residence at the treatment center. The school is known nationally for its innovative application of educational technology and regionally for its record of academic excellence.

The Blue Ribbon Schools Program honors elementary and secondary schools who meet achievement criteria in reading and mathematics and who demonstrate exceptional ability to meet the needs of their students and their communities. This year, the Orchard School was 1 of 221 schools chosen nationally, and 1 of 18 in New York State. It is the only special education school in New York and one of only three nationally to earn this honor.

I am proud of the achievements of the Orchard School and of the way that critical services are provided both professionally and compassionately to young people in need of help in our community. We can never underestimate the importance of instilling in our children a sense of identity and self-esteem. I am grateful for the vision that the Andrus family had when they chose to support important programs such as this.

I want to congratulate all of the students and staff of the Orchard School for this well deserved recognition. I am certain that they will continue to live up to this high level of academic excellence for years to come.

REFLECTIONS ON IKE

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. EMERSON. Mr. Speaker, as one who spent his formative years during the administration of President Eisenhower, I have always been a devoted admirer of the man the world knew as Ike. As I have gotten older I have reflected on his era many times, usually with great nostalgia, and sometimes have even thought there must have been much that I did not understand about those times, because they did seem so good—peace prosperity—a climate that would be nice at almost any point to retrieve.

During the sixties and the seventies many among the elitist establishment pooh-poohed Ike as a do-nothing President, hands off in administration and delegating to others the real decisionmaking authority. I never took to that theory, and now I'm glad to see that history, based on careful research, is beginning to bear out my longstanding gut feeling about the man from Abilene and is vindicating my long-held views. But, that's a personal satisfaction and I won't belabor it.

This year is the centennial anniversary of President Eisenhower's birth. Indeed, even as we speak, it is interesting to contemplate that 100 years ago the man who was to lead the allied cause to victory in World War II, lead the entire free world for 8 years as President of our great Nation, set a magnificent standard as a role model for family, public service, military ideals—was but a babe of 3 days.

During this centennial period many observances have been held, many tributes paid,

many memories rehashed. There is also a lot of perspective coming into focus. One of the most thoughtful and refreshing perspective pieces came to my attention this morning. I want to share with my colleagues, and submit herewith the article by Robert J. Samuelson that appeared today in the Washington Post.

[From the Washington Post, Oct. 17, 1990]

THERE'S GOOD REASON TO LIKE IKE

(By Robert J. Samuelson)

I didn't always like Ike. In 1960, at the age of 14, I was enthralled by John Kennedy. Not only was he more charming, idealistic and energetic than Richard Nixon, but he promised a clear break from the plodding Eisenhower. Somewhere in the 1960s (or was it the early 1970s?), I got wisdom. I realized that Dwight Eisenhower had two qualities vital in a president: a sense of self-restraint and a sense of what's important.

As an Eisenhower fan, I've been struck by how favorable the reviews have been on his 100th birthday. For years, he was dismissed as a mediocrity who played too much golf and provided no leadership. In 1962 a poll of historicans on presidential greatness ranked Ike 22 out of 33, between Andrew Johnson and Chester Arthur. Now, Ike is celebrated as a successful president and something of a visionary, who foresaw the end of the Cold War. It's an odd resurrection that exaggerates his clairvoyance and overlooks the real causes of his competence.

His rehabilitation has occurred partly by default. No president since has seemed to handle the office so well. Kennedy and Gerald Ford are hard to judge, because they served so briefly. Lyndon Johnson, Richard Nixon and Jimmy Carter all departed in disgrace, Ronald Reagan, though popular, is widely dismissed—somewhat like Eisenhower 30 years ago—by commentators as a lucky pea-brain. Eisenhower's reputation has not risen so much as the standard of comparison has fallen. In the 1960s, it was Franklin Roosevelt; now, Ike's competitors are not so tall.

The Eisenhower revival also reflects the discovery that he was craftier and more complex than he seemed. When historians studied his archives, they found that he controlled his aides—not the other way around—and that his public ambiguity was often calculated. "Don't worry, Jim," he once told press secretary James Hagerty, who fretted about how a sensitive issue would be handled at a press conference. "I'll just confuse them."

But all these refinements merely discredit Eisenhower's bungler image. His success involved far more. His greatest feat was to heal. You need to recall the climate of the times. The Americans of the 1950s had experienced two hateful political debates; the first over the New Deal, the second over communism. By the late 1930s, President Roosevelt was exploiting class tensions by denouncing the well-to-do. In the late 1940s, Republicans were denouncing Democrats as communist dupes. At its worst, this became McCarthyism.

Eisenhower calmed these passions. This was not preordained. He might have sought (as many Republicans wanted) to overturn New Deal programs. As late as 1964, Barry Goldwater, the GOP presidential nominee, wondered publicly about the value of Social Security. Any effort to undo the New Deal would have failed, but in the process would have been hugely divisive, Ike didn't try. He might also have embraced strident anti-communism. Instead, he carefully constructed a bipartisan foreign policy and generally avoided shrill political rhetoric. Eisenhower's dull style was a deliberate part of his politics. He strove to soothe.

His second big achievement was maintaining a sound economy. With hindsight, the economic statistics of his years seem stunning. Unemployment averaged 4.8 percent and inflation 1.4 percent. Median household incomes (adjusted for inflation) rose 22 percent. Three of Eisenhower's eight budgets ran surpluses, and his deficits were small. Of course, not all of this was his doing. The engines of the early postwar economy were the new technologies and pent-up demand left by the war and Depression. But Eisenhower's policies allowed the engines to perform.

What's absent from Eisenhower's legacy is a long list of new federal programs, though he did create a few big ones: the Interstate Highway System (1956) and the National Defense Education Act (1958)—which provided aid for science education. "Eisenhower had * * * [a] deep aversion to the expansion of the state," writes historian Alan Brinkley in The Wilson Quarterly. "His mission, he believed, was to restrain and limit government, not to force it to fulfill any great missions or obligations."

Eisenhower is understandably criticized for not being bolder in attacking obvious social injustices such as racial segregation. What's forgotten is that even his successors, Kennedy and Johnson, didn't act until civil rights demonstrations compelled them to act. The more spontaneous activism of Kennedy and Johnson involved creating new programs and trying to raise the economy's growth through "economic management." These undertakings often created as many problems as they solved.

Government needs disciplines that are both effective and understandable to the public. Eisenhower adhered to certain common-sense convictions that provided these. Balance the budget. Control inflation. Create a climate in which private enterprise can generate growth. Following these convictions wasn't easy. To check inflation, Eisenhower endured three recessions (the slumps of 1953-54 and 1960-61 were mild, that of 1957-58 severe). Controlling the budget meant resisting constant demands from his party for tax cuts and from the Democrats for spending increases. But Ike resisted because he had a "consoling faith in 'the long view,'" as one-time aide Emmet John Hughes later wrote.

It has been lost. In the 1960s, economists who thought themselves smarter and more sophisticated than Eisenhower convinced politicians and the public that his common sense was old-fashioned. So the taboos against budget deficits and inflation were broken in the name of promoting higher economic growth. And once broken, they have been hard to recreate. Politicians had been given respectable rationales for doing popular things. Self-restraint diminished.

Had we retained Eisenhower's caution, we would have spared ourselves much grief. Double-digit inflation (and the harsh recessions required to cure it) would never have occurred. The inevitable expansion of government would have been slower and more careful. Huge budget deficits would have been avoided. The reason I like Ike is that to this day we are paying the penalty for abandoning his common-sense approach.

REALITY AND RESPONSIBILITY

BY THE HONORABLE JOHN J. LAFALCE

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. LAFALCE. Mr. Speaker, this body is quite familiar with the difficulties this year in producing an acceptable budget package: 5 months of negotiations between House and White House leaders; a less than spectacular agreement; angry constituents; a failed package. An article by noted economist Lester Thurow, which appeared in Sunday's Washington Post, elucidated the causes of this fiasco.

Mr. Speaker, our budgetary difficulties stem from a belief that our Nation can be governed without responsibility and sacrifice—a belief created and perpetuated through the doctrine of supply-side economics. Until we confront and dispel the myth that simultaneously increasing Government spending and lowering the taxes of the wealthiest citizens will balance the budget, we will be mired in huge deficits, voter antipathy if not antagonism, and irresponsible Government. Moreover, courage and tough choices will be required of this body and the other body if we are to achieve vital deficit reduction, establish a progressive Tax Code, and restore voter confidence in Congress.

Supply-side economics—the antithesis of reality—promised greater investment which, in turn, would lead to growth in the GNP, higher wages for low- and middle-income households, and higher revenues. Indeed, Ronald Reagan promised that supply-side economics would completely balance the budget, without spending cuts, by as early as 1985. Reality, as Mr. Thurow points out, was quite different: the deficit is between $250 and $300 billion, the national savings rate has significantly decreased, and GNP growth has slowed.

Yet it is the effect on low- and middle-classes that make supply-side economics, and its progeny, cutting the capital gains tax, so loathsome. The results of the 1980's are in: the poor grew poorer while the rich grew richer. According to the Congressional Budget Office, the after-tax income share of the richest 2.5 million households is nearly equal to the income share held by the 100 million households with the lowest incomes. A cut in the capital gains cut will perpetuate the income injustices of supply-side economics; capital gains largely are the exclusive domain of the upper income quartiles. CBO estimates that in 1990 the lowest 90 percent of all households had capital gains of $299. The richest one percent of all households earned $175,536 in capital gains.

The budget package must rectify, not aggravate, the growing inequality of income distribution. Congress must weight and balance many competing, worthwhile interests. Most importantly, Congress must show the courage necessary to pass an acceptable package. If Members have the courage to face the need for painful spending cuts and revenue in-

creases, a responsible package can be reached.

The following articles by Lester Thurow is of great value and should be read by all Members and staff.

[From the Washington Post, Oct. 7, 1990]

THE BIG LIE THAT CAUSED THE BUDGET CATASTROPHE

(By Lester C. Thurow)

In 1980 the American electorate embarked on a grand experiment—supply side economics. Ten years later, that experiment continues to warp the political process. Its enduring influence explains why Congress and President Bush found it so difficult to reach any budget agreement at all; why the failed agreement was so peculiarly shaped; and why the public, nourished on a decade of false promises, seems unwilling to make even modest sacrifices to assure the nation's economic future.

In the current economic climate almost any solid deficit-redcution package would be welcome. Still it is remarkable that the initial deal struck last week would aggravate the very features of the current tax system that seemed most generally objectionable to tax experts and the public: Its "small business growth incentives" would offer new tax dodges to the wealthy—who had supposedly traded away their shelters for the much lower tax rates provided by the 1986 tax reform; its tax-deduction limit would worsen, rather than eliminate, the disreputable "bubble" feature which grants the very, very rich lower marginal income tax rates, and hence lower capital-gains tax rates than those faced by the merely well-to-do taxpayers; and to would increase the relative tax burden borne by low- and moderate-income taxpayers. All this in a package endorsed by Democratic leaders who claimed to have tax fairness as their top concern.

What explains the persistance of supply-side mythology? From where comes its power to so constrain American politics?

When America first jumped on the supply-side bandwagon, people felt, rightly, that the economic performance of the 1970s was unacceptable. The political and miltary affronts in Tehran were compounded by the vision of a chained economic giant wilting in the face of Japanese and German competition.

A GNP growth rate of 2.8 percent was unacceptable when compared with the 4.1 percent growth rate of the 1960s. That dismal record was compounded by an even more important measure of economic performance, productivity growth—the rate at which a nation is becoming more efficient and hence more affluent. The 1960s' growth rate of 2.9 percent had fallen to only 1.4 percent in the 1970s. Such a decline meant that instead of doubling every 24 years, America's standard of living would take 50 years to double—each generation could no longer expect to have a standard of living twice that of its parents. Facing these facts Americans were willing to try something new and different.

Supply-side economics, as enunciated by President Regan and later embraced by Bush, promised that lower taxes on upper income groups would stimulte savings and hence permit more investment—the argument used by Bush to advance his capital-gains tax cut proposals in the recent budget summit. Higher investment would lead to higher growth. In addition to restoring economic vigor and rebuilding international competitiveness, higher growth would accomplish two other important objectives—without asking for painful sacrifice from anybody.

First, with a larger economy, government tax revenue could go up even though tax rates had been reduced. In 1981 Reagan promised that the federal budget would be balanced in 1985 without having to make significant spending reductions. Second, allthough most of the tax cuts would go to high-income individuals (it was they who had the capacity to save more), higher growth would lead to better paying jobs for middle- and low-income Americans. In the short run their total tax rates would go up—for 80 percent of the population the extra payroll taxes they would be asked to pay to fund Social Security would be larger than the income tax cuts they would get. But with higher earnings they would in the end benefit. All gain, no pain.

Politically supply-side economics delivered the goods—three presidential elections have been won using it—but economically it has not delivered on any of it promises.

Where higher GNP growth was promised, lower growth was delivered—2.6 percent over the decade of the 1980s. In 1990 the economy is stalled on the lip of a recession, just where it was in 1980. Because of the debt and banking problems built up during the 1980s, any recession in the 1990s will produce levels of bankruptcy not seen since the Great Depression. Even without a recession, middle-class wealth is melting away as housing prices fall in much of the nation in reaction to the debt excesses of the 1980s.

Instead of growing faster, productivity slowed down—1.2 percent during the 1980s. In 1989 productivity actually declined. There is only darkness visible at the end of the productivity tunnel.

Savings rates plunged. In the last four years of the 1970s, American families saved 7 percent of their disposable income; in the last four years of the 1980s, they saved only 4 percent. The rich saved nothing from their tax cuts. In contrast, the Japanese saved 15.7 percent of their income in the past 12 months.

If total national savings (a measure that includes corporate savings and government dissavings) is examined, savings fell from 17.4 percent of GNP in the last four years of the 1970s to 11.3 percent of GNP in the last four years of the 1980s. As a result, in 1989 Japanese investments in plant and equipment per worker were three times as large as those in the United States.

At the beginning of the decade the United States had a small surplus in its trading accounts ($1.5 billion in 1980 and $8.2 billion in 1981). At the end of the decade it recorded a current-account deficit of $129 billion in 1988 and $110 billion in 1989. What was a competitive problem at the beginning of the decade was a competitive disaster at the end of the decade.

In 1981, the United States was the world's largest creditor nation with net assets totaling $141 billion. Every year the rest of the world paid interest, dividends, and profits to Americans. By 1989 the United States had become the worlds largest net debtor nation with debts totaling $620 billion. Where Americans used to get, they now give.

The federal deficit did not, of course, vanish in 1985. In the year ahead, the deficit is estimated to be $254 billion and rising if last week's deficit reduction proposals are passed by Congress ($294 if they are not) and over $300 billion if the Social Security surpluses are excluded from the totals, as they ought to be. A budget summit that reduces the deficit by $40 billion is essentially the equivalent of Nero fiddling while Rome burns. The difference is that Nero wanted to burn Rome so that he could rebuild it—the Roman Colosseum was his. Unfortunately there is no evidence that the current fiddlers have any real rebuilding in mind.

President Bush is fond of saying that "we have more will than wallet." He has it exactly backwards. Our GNP after correcting for inflation is four times as large as it was in 1947 when we were paying to rebuild the world after World War II. Our per capita GNP is 2.3 times as large. We can afford to do what must be done abroad; we can afford to do what must be done at home.

America is not an over-taxed country. In 1989, Americans paid fewer taxes as a percentage of GNP (about 30 percent) than the citizens in any other industrial country. Taxpayers in 22 industrial countries, including the Japanese and the Germans, paid more. Moreover, there are places where the budget can be cut without harm. Based on the performance of other countries (far lower spending levels; far better performances when it comes to health and longevity), substantially less could be spent on health care if the system were fundamentally reorganized. The events in Eastern Europe mean that big defense cuts can occur while still maintaining our ability to fight wars in the Third World. America has more than 2 million troops; fewer than 200,000 are in the Middle East.

The American problem is will—not wallet. In a democracy, will depends upon leadership and in the United States that means presidential leadership. It isn't leadership to spend months arguing that a capital-gains tax cut is the most important issue facing the American economy.

Whatever one believes about the growth-enhancing aspects of a capital-gains tax cut—or other "tax incentives"—everyone agrees that they leave more after-tax income in the hands of the wealthiest. In the last decade America has already had a heavy dose of that kind of "sacrifice."

Recently the U.S. Census Bureau confirmed that inequality in the distribution of income had increased substantially in the last decade. Every statistic points in the same direction. In the decade of the 1980s, the average real income of the top 5 percent of the population rose from $120,253 to $148,438. At the same time the average real income of the poorest 20 percent fell from $9,990 to $9,431. After-tax measures of income would report an even wider gap. As the income share of the top 20 percent rose in the 1980s, the income share of each of the bottom four quintiles was falling—the lower the quintile the bigger the decline. Despite a 21-percent rise in the real per capita GNP, the average real hourly wages of rank-and-file workers fell 5 percent. Those promised good jobs for middle- and low-income Americans did not appear.

If the income share of the rich is rising at the expense of the rest of the population (it is), if government is directly altering its policies to augment the income share of the rich (it has), if the campaign contributions of special interests increasingly dominate the political process (they do), if fewer and fewer middle- and lower-income individuals vote (it's happening), America is, under the cover of supplyside economics, rapidly moving towards becoming (dare we say it openly?) a plutocracy.

Unfortunately history tells us that as a social and governmental system, plutocracy does not for long work.

TRIBUTE TO BOB OWEN

HON. JOHN S. TANNER
OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. TANNER. Mr. Speaker, I rise today to share with my colleagues the dedicated work of Bob Owen of Gleason, TN. Bob has worked for the Bank of Gleason for 46 years, the last 25 as its president. His is a story of success and of service.

Bob says he came from a family "too poor to paint and too proud to white wash", but he has not allowed that to hinder him. He got his first job at the bank at the age of 17. Through hard work and a quick mind, he became a bank officer before the age of 21. From there, he climbed steadily up the career ladder to his current position.

In this day and time of "fast tracks" and "workaholics", one might think that Bob spent all of his time figuring out how to make the bank more profitable. Measured by the success he has achieved, it is obvious that he did expend a great deal of energy insuring the success of the bank. However, while achieving that success, he never lost his sense of responsibility to his community.

He served as mayor of Gleason for 4 years during which he worked hard to attract new industry to the town. He has also served on numerous boards of the local public utility, the hospital, the industrial committee, and numerous other local organizations. He continues to serve on many of them.

His service, both as a banker and a community leader, has meant much to Gleason, so much that he has endeared himself to its citizens.

Bob Owen has set high standards for himself and his business. They are standards that all officials, in the public and private sectors alike, can emulate.

I ask unanimous consent that the attached news article be inserted in the RECORD.

FATE LEADS FARM BOY TO SUCCESSFUL CAREER IN BANKING

(By Linda Bolton)

Bob Owen of Gleason laughingly says he got into the banking business 46 years ago because "no one else would hire him."

The fact of the matter is, Owen hit the job market at the ripe draft age just as the United States was about to become engaged in World War II. Most young military prospects were not even considered for employment, because once trained for those positions, they most likely would be vacating them to go off to war.

However, at the young age of 17 with his high school diploma fresh in hand, Bob nervously walked into the Bank of Gleason to inquire about a job his uncle, Benny Oliver, had told him about.

He recalled how he talked with Bank President Carl Parks and M. E. Fanning, Chief Executive Officer for a moment before the two disappeared into another room momentarily to discuss young Owen's future.

"They just looked me over and for some reason or another they hired me," he said as if he still had trouble believing it. "It was about the third time I had been inside a bank and I knew only three people in Gleason at the time," he added.

He went to work that day—attending to bookkeeping and waiting on customers. He was also in charge of building a fire in the stove every morning.

Young Owen's only other previous work history included six weeks working for Ira Scates, off-bearing slabs at a local sawmill, until the mill closed in 1944.

The ambition and potential the bank officers must have seen in that shy, unexperienced farm boy has lead him through the ranks to the bank's top position today. Mr. Owen currently serves as president of Bank of Gleason, which recently opened a branch office in McKenzie. His family, who owned no stock when he joined the banking staff, is today the second largest stockholder in the growing company.

He has served two terms as director of the Tennessee Bankers Association and currently serves as first vice-president. Through a ladder-type program, he is slated to become president-elect in May, 1991 and will become the first person in the tri-county area to head the statewide association as president in May, 1992.

Along with other members of the executive committee, Owen said he gives direction to banks.

"We are a listening ear for the association. We listen and we make recommendations," he added.

Going back a few years, Bob said he was reared on the family farm in the "suburbs of Como" as he puts it. His father died when he was only 12 years old, leaving his mother to rear Bob, his sister, Mary Elizabeth, and his younger brother, Oscar. Following his father's death, Bob said he sort of "became the quarterback" of the family.

Due to the impending war and the scarcity of money, he said his family couldn't afford to send him to college after he graduated from Cottage Grove High School.

"The way I tell the story, we came from a family too poor to paint and too proud to white wash," said the genteel man.

However, he built for himself a successful career in banking, being elected an officer in the firm before the age of 21, advancing to cashier in 1954, vice-president in 1958, executive vice-president in 1960 and president in 1965.

He related how his mother managed to rear her children without entering the public work force. She sold the family farm in 1946 and moved her family to a Carroll Street residence in McKenzie. She never remarried and died at the age of 86 in 1984.

His sister, Mrs. Mary Elizabeth Travillian retired following a successful teaching career with the Gleason school system and his brother, Oscar Owen of McKenzie, recently retired from a successful postal career.

Owen said he was examined four separate times for military service during World War II, but was always turned down.

"I was classified 4-F because they said I had a problem with my hearing," he stated.

At that time, Owen said people looked down on you if you were a healthy-looking young man of draft age and not serving your country. Many people thought he was given special consideration because he worked in the bank, he said.

Asked if he enjoyed his early years at the bank, he replied, "I thought it was just awful. I just kept the job until I would be called to service, I thought," he said, adding no one else would hire you."

During those early years, he met Darreen Shaw, a student at Gleason High School and native of The Tumbling Creek community. They fell in love and were married December 12, 1946.

Just as Bob was settling into the banking business, the U.S. again become engaged in military action in the Korean War. In January, 1952, about six months prior to becoming too old for the draft he received a notice to appear for yet another examination. He said he and his wife laughed when he got the notice because they were sure he would once again be rejected.

Well, Bob says his hearing must have improved since his last testing and 70 days later found him in the army for a stint just under two years, 15 months of which was overseas duty.

He returned home to his banking job and later helped rear three sons, Robert and Eric, who presently own and operate Owen Brothers farm and Alan, who works alongside his father as Vice-President of Bank of Gleason.

Bob eventually attended Bethel College and is a graduate of the Tennessee Banking School at Vanderbilt.

He said he only had one other job during his 46-year banking career—it lasted only four days and his superiors at Bank of Gleason never knew about the venture. He related how First American National Bank of Nashville had urged him to take a job there and "just try it," he said. So he took a few vacation days and reported for work in his new position. He said it didn't take him long to get homesick for his family and friends in Gleason, so he quit the new job and returned to the old one his bosses none the wiser.

The Gleason resident earned admiration that placed him in the mayor's seat from 1957 until 1960. He was appointed to fill an unexpired term created by the death of Mayor J.L. Margrave and was subsequently elected to another term.

Under his administration, the town located the Henry I. Siegel manufacturing industry in Gleason and lay the groundwork for the brick company.

"It was fascinating, but I got all I wanted," he said of his political career.

Owen has also served his community in many other capacities, including charter member and past president of Gleason Rotary Club in which he was bestowed the Rotary's highest award "Paul Harris Fellow"; past Commander of the Gleason American Legion Post; has served on the Board of the West Tennessee Public Utility District since 1957, where he has served as chairman of the board and president since 1969; serves as director of Methodist Hospital of McKenzie, serves on the City of Gleason Industrial Committee, is a member of the board of directors of the Tennessee Student Assistance Corporation and has served for the past 15 years with the Weakley County Jury Commission, and has been a partner in Finch-Owens Insurance Agency since 1957. In addition, he is a 32nd degree Mason, a Shriner, and a member of First Baptist Church in Gleason.

Owen received the "Outstanding Citizenship Award" in 1959 and the Jaycee "Boss of the Year" award in 1978. He was honored in 1982 by local townspeople with a day set aside in his honor.

The banker said the current mideast crisis has some effect on the banking industry.

"People are not as venturesome. I see a lot of people backing up and taking another look (before spending)," said Owen. "It takes a lot of money out of circulation and that takes its toll."

When asked what major changes he has seen over the years in the business, he laughingly replied, "air conditioning and computerization," the latter of which he admits he still isn't too familiar with.

"I've always said if we've succeeded in the banking business it's because we hired people smarter than I am. We have a great group," he added.

Bob said the most trying time of his life was during the illness and death of his wife, who lost a three-month battle with cancer approximatley 10 months ago.

Bob said he seriously considered retiring a few years ago, but his wife talked him out of it. Now he is glad of that decision.

He said he deals with grief by staying as busy as he can and taking one day at a time.

"When I quit now is when they fire me or take me to the cemetery," he said.

He concluded by saying, "The people of the tri-county area have been good to me. They are great people-people and family is all this world is about."

C. JAMES PATTI NAMED "MARITIME PERSON OF THE YEAR"

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. FIELDS. Mr. Speaker, I was delighted to learn that C. James Patti, president of the Maritime Institute for Research and Industrial Development—MIRAID—recently was presented with the National Propeller Club's Maritime Person of the Year Award for 1990.

Jim received the award on October 12 at the 64th annual Propeller Club of the United States national convention in Tacoma, WA. The award was intended to recognize Jim's "leadership, dedication and untiring efforts in the promotion of the Propeller Club of the United States and devotion to the business of its executive commitee."

The Propeller Club of the United States represents ship owners and operators, ports, shipyards, stevedores and maritime labor. It has as its goal the promotion, furtherence and support for America's merchant marine.

Those of us who serve on the House Merchant Marine and Fisheries Committee and who have had the pleasure of working with Jim know that he richly deserves this great honor which has been accorded to him. Jim has been associated with the U.S. maritime industry for more than 20 years, representing various segments of the U.S. merchant marine on Capitol Hill. During that time, he has been one of the leading voices in the country for a strong American merchant marine, and he has worked tirelessly for the revitalization of America's maritime industry.

From 1970 to 1980, Jim served as vice president and counsel at the Transportation Institute. In that position, he established and directed the Institute's legislative department on behalf of its members shipping companies. Jim joined MIRAID as its vice president in 1980. He developed and implemented the organization's legislative and regulatory policies affecting the U.S.-flag merchant marine. Five years later, he was elected president of MIRAID's board of directors.

Jim served as president of the Propeller Club, Port of Washington, DC, from 1981 to 1983, and currently serves on the Propeller Club's national executive committee.

Mr. Speaker, I know that you join with me when I congratulate Jim on receiving this award. It is well deserved and it demonstrates the high regard in which he is held by his colleagues in the maritime industry. I know that I speak for all the members of the House Merchant Marine and Fisheries Committee when I say that we look forward to working with Jim Patti for many years to come. We all wish him and MIRAID continued success in the future.

"SOUTHERN NEEDS" BY THE PRIME MINISTER OF JAMAICA, MICHAEL MANLEY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. RANGEL. Mr. Speaker, I would like to call your attention to a recent article in Foreign Policy magazine by Prime Minister Manley of Jamaica. The article, entitled "Southern Needs", articulates the challenges facing developing countries as well as the possible effective responses to those problems by the industrialized nations.

Excerpts from Prime Minister Manley's article follow:

FROM THE PERSPECTIVE OF A LEADER

From the perspective of a leader of a sovereign and developing country, the evolution of the political contour of the world over the last three decades is nothing less than breathtaking. Movements for democracy, intellectual freedom, and economic self-determination have forced fundamental changes in the relationship between the state and its citizens. New economic policies are clearly demanded. Simultaneously, the political and economic order has become truly globalized. All these factors have led to the rapid and seemingly irreversible warming of the Cold War.

While discussions of East-West economic competition are being recast in terms of cooperation, glaring disparities in the comparative levels of wealth and development remain between North and South. Yet all countries are becoming aware of the need for collective, coordinated, and rational approaches toward the problems of the Third World.

During the 1970s, many Third World countries sought to create institutions that could formulate development schemes to advance their economic development exponentially. Attempts were made to identify the sources of developing countries' economic woes and to provide solutions to remove the impediments to economic well-being.

This new wave of thinking led Third World countries to adopt development models that were believed to address more accurately nationalist aspirations, historical inequities of class, and the apparent unwillingness of the developed countries to undertake significant efforts to redistribute the world's wealth. In the 1960s, Jamaica was one of many countries to adopt wide-ranging import substitution policies, and it took some time to learn the inherent disadvantages of that strategy. Then, as developing countries began to address the flaws of pure import substitution, there came the enormous shocks of the 1970s.

In 1972, the government of the People's National Party of Jamaica had a vision of a development plan that would correct the maldistribution of its country's resources, increase local ownership of the means of production, and improve Jamaica's position in the international marketplace. Like most Caribbean countries, Jamaica's economy is small and import-dependent. During the 1970s, the economy was hurt by several developments. The oil crisis of 1973 led to a worldwide recession and a decline in imports of raw materials and commodities by industrialized countries. As Jamaica's energy bill soared, international demand for its most important exports, sugar and bauxite/alumina, dropped. Inevitably, its balance of payments deteriorated sharply. At the same time, the prosperity of the island's industrial base was almost completely dependent on attracting foreign capital. Like many Third World countries, Jamaica experienced problems when foreign owners of Jamaican-based businesses and industrial concerns transferred profits to their home countries rather than investing them in local development. Exacerbating the already formidable problems facing the government were such glaring social inequities as high unemployment, an inadequate educational system, and deficient health care, which deprived a substantial number of Jamaican citizens of the basic requirements for productive lives. Thus, rapid rises in the price of imported oil, domestic demands on government resources, increased costs of imported goods, and financial turbulence within the world monetary and trade sectors all coalesced to form the ceaseless debt problems and financial shortfalls that Jamaica is currently experiencing.

During my first period as prime minister, 1972-80, Jamaica's government reacted to these difficulties with very strong government interventionist policies. Jamaica was not alone in its early and unsuccessful experimentation with new types of development strategies—strategies that were viewed as the *deus ex machinas* of the Third World. Developing countries adopted import substitution, protectionist legislation, and regulations that compelled foreign exchange generating export sectors to subsidize more inefficient and less competitive sectors. By the 1980, however, bitter experience had taught us that the slender capacity of the state to counteract the tidal forces of the world economy was totally inadequate.

Currently, Jamaica is strangled by debt; virtually half its export earnings go to service the debt. Its economy cannot move forward. At the end of 1989, Jamaica had a population of only 2.3 million but an external debt of US $4.5 billion, constituting approxiamtely 140 percent of gross domestic product (GDP).

As the pressures mounted, the Jamaican government, like most others in the Third World, was forced to borrow. Loans came from three sources: private commercial banks, other governments, and official international lending agencies, such as the International Monetary Fund (IMF), the World Bank, and regional development banks like the Inter-American Development Bank. The last group is known as "multilateral institutions." Whereas most African debt is bilateral—that is, it is owed to governments—most Latin American debt is

owed to commercial banks. Jamaica's own debt is mostly bilateral and multilateral, and it was accumulated mainly from 1978 thorugh 1987.

The debt crisis threatens not only individual countries, but the functioning of the world economy as well. It constrains world trade, inhibits capital inflows, hampers growth and per capita income, and generates tremors of increasing severity in the international banking system. Certainly it cannot be in the interest of transnational banking institutions in industrialized countries to allow Third World countries to degenerate into virtually permanent states of debt. It is highly likely that some banks will be unable to absorb the financial shocks that would flow from a unilateral and permanent suspension of repayments by large numbers of developing countries, particularly if the governments of these banks did not formulate tax and banking regulations to protect their solvency or financial ratings. Morever, any perturbations in the banking sector could have ripple effects in other capital-intensive sectors of industrialized countries. Finally, any regional or bilateral conflicts among developing countries resulting from the pressures of the debt crisis could set back the superpowers' current progress toward sustained détente.

The question must be asked whether the world appreciates that it is in every nation's interest to create conditions favorable for general economic development, rather than economic development for only one sector of the world. The time for the international community to look into this question is long overdue, and the price in human suffering is too high. Further, the democratic governments and free-market economies in many developing countries are being threatened by the dangers caused by the debt crisis. Indeed, one need only examine the motives cited by participants in internal disturbances and attempted coups around the world to confirm that crushing external debt leads to domestic instability. The effects of the debt crisis can be seen in the increasing attractiveness of underground economies to citizens of developing countries, economies that sap governments of capital, complicate the task of stabilizing their structures, and deprive national industries of legal consumer transactions.

The debt crisis has also fueled the explosive growth of the drug trade; in Colombia wealthy and powerful drug cartels have undermined democratic government. When meeting subsistence needs legally seems impossible, the attractiveness of illegal alternatives, such as drug trafficking, increases.

In addition, developing countries face a brain drain as their most talented and educated citizens emigrate to developed countries where economic and career opportunities are better. Emigration is not limited to the elite, however; those on the lower rungs of the economic and educational ladders also enter (legally or illegally) developed countries in an attempt to escape the cycle of poverty. It is ironic that, as East-West rapprochement is diminishing the risk of superpower conflict, the danger of Third World instability appears to be increasing.

Assistance from the North to developing nations can thus be justified upon the same basis as was the Marshall Plan: enlightened self-interest. Following World War II, the United States concluded that it could best serve its national interests and the world's security by assisting in the reconstruction of the war-ravaged economics of the West Europeans countries, regardless of the side on which they had fought during the war. While the altruistic considerations underlying the Marshall Plan cannot be denied, a fundamental motivation was the U.S. government's realization that European reconstruction would provide new markets and trading opportunities for the U.S. business sector and therefore significant benefits for the American economy.

The success of the Marshall Plan and U.S. assistance to Japan is manifest in the West European and Japanese economies today. The countries of western Europe, particularly West Germany, are models of industial know-how and technological innovation. U.S. reconstruction assistance to Japan allowed that country to emerge in the postwar years as an economic powerhouse respected around the world for its expertise in high-technology production and for the quality of its consumer groods. The United States, for its part, has enjoyed export markets in the reconstructed economies.

Ultimately, the global debt crisis may be resolved in several ways, including the revival of world trade and the resumption of adequate capital inflows to developing countries. Whatever the solution, a way must be found to halt the debt-deflation spiral that saps the world economy of much of its vitality. Sufficient debt relief to developing countries would restore the import capacity of debtor countries and free resources to resuscitate world trade. Such an expansion in world trade would alleviate the trade deficits of debtor countries. Moreover, debt relief would prompt a resumption of capital flows to developing countries that would stimulate economic growth.

In recent times, various innovative solutions to the debt crisis have been proposed, including debt-equity swaps, cancellation of debt for least developed countries, and the Brady Plan. In the case of debt-equity swaps, particularly those proposed for purposes of privatization, private concerns have hesitated to acquire state enterprises that are often highly inefficient, with outdated equipment and little market dominance. Variations on the debt-equity swaps, such as "debt for nature" exchanges are problematic because of countries' understandable desire to control their natural resources and, in the case of small island nations, the lack of available land. It is not surprising that transnational banks resist outright cancellation of privately held debt; they would prefer arrangements that would guarantee payments on arrears and the resumption of regular repayments. The Brady Plan represents a conceptual breakthrough because for the first time debt reduction has been contemplated by the United States as part of an overall strategy to cope with Third World debt; however, it does not do enough. The extent of its relief for foreign exchange payments is relatively small, and it involves considerable new lending, which tends to perpetuate the cycle of debt.

With regard to multilateral lending institutions such as the World Bank and the IMF, the misconception persists that developing countries oppose conditionality. Generally this is not true. The overwhelming majority of developing countries have long since accepted the important contribution of institutions like the IMF to good economic management, fiscal prudence, and other matters. While these countries may sometimes question the manner in which conditionality is approached, they do not reject the concept. Many Third World countries are, however, concerned by the trend toward a heavy emphasis on structural adjustment and corrective measures in the absence of adequate resources for development.

The debt crisis is not going to solve itself, nor do piecemeal measures such as case-by-case rescheduling constitute a feasible solution. A solution must proceed from the recognition that governments in developed countries, transnational commercial banks, multilateral lending institutions, and governments of developing countries share some of the responsibility and all of the consequences of the debt crisis. Industrialized countries must understand that Third World countries are not seeking tolerance of inefficiency or corruption. Nor are they asking one part of the world to pay the costs of irresponsibility by other parts of the world. What developing countries do ask is that the world community capitalize upon hard-earned lessons in economic management to assist developing countries that have the will, intelligence, and determination to end their economies' stagnation or deflation.

As noted earlier, a more coherent, collective effort to solve the debt crisis is emerging. Discussions and planning at meetings of multilateral organizations, such as the June 1990 G-15 meeting, and summits of the industrialized countries contribute significantly to our understanding of the debt crisis and its possible solutions. What is needed, however, are joint meetings between the Paris Club and debtor countries in order to agree on concrete measures of debt relief for hard-pressed Third World countries. Such discussions will require all participants to avoid tangential matters, such as apportionment of blame for the current debt crisis, that distract from the task of extracting the developing countries from their morass of debt. One must believe that the international community will rise to this challenge to ensure peace and prosperity for future generations in both North and South.

INTRODUCTION OF A BILL TO ESTABLISH A NATIONAL GLOBAL WARMING ENERGY RESEARCH AND DEVELOPMENT POLICY

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mrs. LLOYD. Mr. Speaker, today I am introducing a bill that addresses two issues that I believe have been long neglected problems—a national energy research and development strategy and its relevance to potential global warming problems. The bill, the National Global Warming Energy Research and Development Policy Act of 1990, attempts to set forth a civilian energy research and development program that gives program direction and policy guidance to domestic energy technology development.

Once again, the recent events in the Persian Gulf have acted as a destabilizing factor on United States oil prices. We need to examine how we set our energy priorities and take a closer look at the complicated linkages among our energy needs, our energy policy, and research and development strategies. I

believe that the bill I am introducing today will help us focus our energy priorities.

The bill establishes a national policy for energy research and development that will lead to energy technologies that reduce the contribution of energy to potential changes in global climate. In addition, the policy will reduce the dependence of the United States on foreign energy supplies consistent with the achievement of other domestic energy, economic, social, and environmental goals.

The bill establishes and continues programs within the Department of Energy that will increase energy efficiency of existing technologies; will promote technologies that generate lower levels of carbon dioxide and other greenhouse gases; improve scientific understanding of the natural and man-made sources of greenhouse gases and attempt to determine their relative contributions to global climate change.

However, I believe that we cannot abandon our large fossil fuel resource base, and I have also included in the bill a review and assessment of our ongoing Federal fossil energy research to be carried out by the National Research Council. The National Research Council will evaluate the goals of the program, will assess the potential contribution of each technology's emission of greenhouse gases, and look at the technology in terms of its ability to reduce our energy supply vulnerability.

In seeking to ensure the continued development of appropriate technologies, I have included joint research and development ventures for several technologies as an enhancement for private sector involvement in our energy future. I believe the ventures, which also call for Federal and private sector cofunding, are an appropriate way to leverage scarce Federal research dollars.

In the past we have approached energy problems one issue at a time. I believe we must recognize the complexity and interrelationship among these various issues. Global climate and energy security concerns must be an integral part of our long-term research and development policies for new energy technologies. The legislation presents an opportunity to look at the interrelationships of energy issues in the context of a well thought out research and development program, a key ingredient of a national energy policy.

FIRST BAPTIST CHURCH OF OSSINING CELEBRATES BICENTENNIAL

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mrs. LOWEY of New York. Mr. Speaker, 200 years ago, Capt. Elijah Hunter established a little church in the area that has become Ossining, NY. This was the first church to be established in the village, and the 40th Baptist Church to be established in New York.

For over 30 years, church members met and worshipped in private homes. Baptisms were performed in the Hudson River and the Kil-Brook. In 1815, the first church building was erected, and later, in 1865, a baptistry was built. Finally, on June 4, 1974, the present church structure was dedicated, replacing the original wooden structure.

The church standing today is truly beautiful. In addition to its gothic design and the beautiful interior woodwork, the church boasts a towering steeple that is an Ossining landmark and beautifully crafted stain glass windows.

On October 21, the First Baptist Church of Ossining will celebrate its bicentennial. The members of the congregation are proud of their history and of the role that their church has played in the religious and cultural history of our Nation. I wish to congratulate Dr. William R. Conklin, the pastor, and all of the members of the First Baptist Church on this very special occasion.

AN EDUCATIONAL EXPERIMENT THAT WORKS

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. DANNEMEYER. Mr. Speaker, several years ago, former Secretary of Education William Bennett published a provocative pamphlet entitled "Schools That Work: Educating Disadvantaged Children," which profiled exemplary schools across the Nation that have succeeded in delivering a top quality education to low-income students. Not surprisingly, these schools shared certain characteristics, including first, creating an orderly and safe school environment by setting high standards for discipline and attendance; second, helping students to acquire the habits and attitudes necessary for achieving academic excellence and success in life; third, providing a challenging academic curriculum, and fourth, encouraging parents to involve themselves in their children's education.

I have attached an article from the October 4, 1990 issue of the New York Times, which describes the 25th anniversary reunion of a small private school on Manhattan's West Side which subscribes to this old-fashioned and successful approach. Small, privately funded Points of Light such as De La Salle Academy demonstrate that disadvantaged kids can excel academically when our schools remember to stress these simple truths.

I urge my colleagues to read this article and to support educational policies, such as education vouchers for low-income families, that will encourage the creation of other De La Salle Academies across America.

[From the New York Times, Oct. 4, 1990]

FORTY-FIVE RETURN TO THE PLACE WHERE THE FUTURE BEGAN

(By David Gonzalez)

Grown men do not often gather to pay homage to their junior high school, especially when it existed for only seven years.

But a quarter century after their school's founding, the graduates of the Msgr. William Kelly School, a Catholic school for gifted minority and working class youths, boast of their alma mater with the pride and reverence most people reserve for the tweediest Ivy League institutions.

Last weekend, 45 men reunited in the basement parish hall of a West Side church to celebrate the school and teachers who helped open their eyes to a world beyond cramped housing projects and blue-collar careers. They returned as doctors, lawyers, executives, social workers and, in some cases, with paunches, thinning hair and children in tow.

"Kelly was a turning point for me," said Michael Schneider, a physician who flew in from Ohio to attend the reunion. He grew up in the Bronx, the son of a janitor who had emigrated from Romania. "It made me optimistic about the future."

Many said their experiences at the school, which they called simply Kelly, not only awakened them to possibilities, but also to responsibility to use their talents to improve their communities. The school has produced several public interest lawyers, government officials and entrepreneurs who have employed inner-city residents. Many alumni said the epitome of that philosophy was Brother Brian Carty, a teacher and principal at Kelly who was their mentor, friend and booster.

"We always emphasized that the only change that is going to take place is by us creating that change," said Brother Brian, a 46-year-old beefy, bespectacled man whose easy smile is topped by a thick, bushy moustache. "They did not have to be passive and accept what is, but had to create and take risks."

The Roman Catholic Archdiocese of New York took a bit of a gamble itself when it opened the school in 1965 to meet the needs of talented inner-city children who were not sufficiently challenged by the traditional curriculum. The 270-students, who attended the school had to pass a stringent test and be recommended by their parochial and public school principals before being admitted to Kelly, which served grades six through eight.

The school benefited from a synergy with the social ferment of the civil rights and Vietnam eras. In contrast to local schools, which reflected the de facto segregation of New York's balkanized neighborhoods, Kelly students came from the five boroughs and all races.

"These kids were all bright and different," said Dr. Schneider. "It was the first time for many with a lot of other black kids or Hispanics."

BIG PAYOFF CAME LATER

They received an education that emphasized the basics of reading and writing, but also valued independent study and group projects. Courses in psychology, theology, cinema and philosophy and frequent field trips rounded out their education and spurred them to think about their place in the world.

"We told the kids they had the ability and they had to start using their heads, Brother Brian said. "We expected a great deal from them and didn't let them coast." He said the payoff came when a number of Kelly's alumni were admitted to New England boarding schools or the city's elite public high schools and later went on to Ivy League colleges.

"Kelly helped me see the big picture," said Kevin Allen, a third-year ophthalmology resident at Harlem Hospital who graduated from Kelly in 1968. "A lot of kids today don't think they can be leaders, but Kelly brought that across, that the world wasn't just the five blocks up and down my street."

Dr. Allen added that the spirit of service he learned at Kelly has influenced him to

plan to open an office in the inner city when he finishes his residency. "There's a huge need in the inner city for eye care, from young people who need glasses for school to old people who have glaucoma."

Neftali Martinez credited the lessons he learned at the school with having helped him rebuild his life after it was torn apart by drug abuse and a fling with the fast life on the streets. "If it hadn't been for Kelly I would have been lost or dead," said Mr. Martinez, 36, a treatment team leader at Creedmore Psychiatric Hospital who said he used drugs while at Kelly. "But there was this connection to the world of ideas, Kelly kept me anchored and helped me realize I have this talent." He said he now tries to impart the lessons he learned both on the streets and at Kelly to a group of troubled teen-agers that meets regularly at a West Side church.

The Kelly school closed in 1972, the victim of diminished archdiocesean funds and dwindling numbers of the De La Salle Christian Brothers, the religious order that ran the school. But Brother Brian, determined that today's poor urban youths need such a school more than ever, kept alive his dream of reopening the school. In 1984 he and a group of Kelly alumni, many of whom had remained in New York, opened the De La Salle Academy on the Upper West Side, which is supported by donations and a tuition assessed on a sliding scale.

The unfulfilled promises of the 1960's, combined with crack, unemployment and broken families make the job more difficult, and hiring for the school is more expensive now that most of the 12-member faculty is composed of lay teachers. But Brother Brian vowed to promote the values of service and achievement to a new group of students that he hopes will become a new generation of urban leaders.

His only fear is that they may become victims of their success. "Too many kids want to leave the city and escape to the suburbs," he said. "But who can blame them?"

ADMINISTRATION STILL WIMPISH IN PROSECUTION OF S&L CROOKS

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. OWENS of New York. Mr. Speaker, several recent announcements and developments have combined to remind us of the continuing monstrous injustice of the Savings and Loan Association bailout swindle.

The New York Times—Sunday, October 14, 1990—recently reported a new conspiracy involving Jeb Bush and the Broward Federal Savings and Loan Association in Sunrise, FL. Although Attorney General Thornburgh and his FBI experts have stated that most of these swindles are too complicated for prosecution, this ripoff appears to be a simple one: A building worth only $6.9 million was overevaluated and sold for $9 million. The partnershp, including Mr. Bush, secured loans totaling $11.6 million to buy the building, improve it and maintain a reserve account. The conspirators—partners—probably divided up the difference between $9 million and $11.6 million and now the taxpayers have already paid out $4 million in support of this scheme.

Another significant development occurred in Washington where the RTC called for an immediate infusion of $40 billion to keep the bailout operation going while the budget summit—as a major technology revision—included $74.3 billion over a 3-year period for the bailout. Meanwhile on the floor of the Congress neither of these bailout requests is being openly discussed.

Also recently, Attorney General Thornburgh, who has been quite soft on S&L investigations and prosecutions, announced that he was revising his previous position of light sentences for white collar crooks. He's now on again with a tough approach to white collar crime. The statistics related to indictments, prosecutions and convictions for S&L crooks, however, show no change in the lack of zeal of the FBI and the Justice Department.

In another very significant development, Charles Keating, the owner of Lincoln Savings in California and one of the kingpin S&L thieves, was indicted and put in jail by a Los Angeles prosecutor. To date, Attorney General Thornburgh and the FBI have treated this same Charles Keating with white kid gloves. Despite the enormity of Keating's crimes the only thing our wimpish Federal law enforcement operation has done is file a civil suit against Keating, the mega-million dollar bank robber.

In summary, Mr. Speaker, this Nation's top law enforcement agencies are still not willing to treat the old boy network as criminals. The following Rap Poem goes to the heart of the scandal:

THE FBI IS LIVING A LIE

The FBI is living a lie
When it puts bank robbers away
Treat them all equal
The way they treat Charles Keating
And let all the thieves stay.
For Keating they made a law
That is brand new
This kingpin can stay free
All Wimp Thornburgh wants to do
Is go to court and sue.
The FBI is living a lie
As long as it lets Keating talk tough
This suspect is a widow mugger
Who ought to be treated real rough.
The FBI must apologize
To bank robber Willie Sutton's children
Or put Charles Keating in the pen
This is America
Bank robbers are all equal men.
Keating—the punk who took the most—
Deserves the tightest knot
On his golden upright noose
The FBI is living a lie
As long as it lets Keating run loose.
Keating stole millions
He's clearly an enemy of the state
So why does Wimp Thornburgh
Continue to discriminate?
All Thornburgh wants to do is sue
Why not equal justice
They should have sued
Slick Willie Sutton too.
Just because Willie robbed banks
Was no reason to go to jail
Look at all the S and L crooks
Not even putting up bail.
The FBI is living a lie
Under Thornburgh's wimpish rule
Being soft on S and L thugs
Makes our great nation
Look like a silly damn fool.

OPEN LETTER TO MIKHAIL GORBACHEV

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. DONALD E. "BUZ" LUKENS. I would like to insert into the RECORD an article from the New York Times that contains an open letter from a member of the Soviet Congress to Mikhail Gorbachev. I believe it is a thoughtful letter that shows how much work is yet undone in the Soviet Union despite the awarding of the Nobel Peace Prize to Mr. Gorbachev.

[From the New York Times, Oct. 16, 1990]

NOW, MIKHAIL, THINGS WILL GET HARDER

(By Vitaly A. Korotich)

Dear Mikhail Sergeyevitch, I am happy that you have been awarded the Nobel Peace Prize. I know that life is not easy for you these days—that you are not the happiest and most relaxed man in our country—and that it will not be easier for you in the future. In fact, it will be even worse now that you have won the prize, because more than ever before you are in the spotlight and everyone's hopes are focused on you.

We in the Soviet Union have never, in peacetime, lived as badly as we do now, and our hopes for a better life have never been higher than they are now. The weight of these hopes will press upon you. I want you to survive under this pressure—to survive as a human being and as a politician.

For the first time in many decades, humanity's hopes are really connected with our country; for the first time in many years, people really believe us. The Soviet Union has been separated from the rest of the world for decades by the walls that we have built—by social and political and all kinds of social and political crimes.

Only recently have we started our way back into humanity, and possible to see that we have a domestic and foreign enemies would not want such a comeback. In that country, they include militarist orthodox Communists who are willing to give up their power must destroy the barriers that has been built up, not only by your own enemies but also by those who were and sometimes still are, your partners. Outside the country, you have enemies who cannot survive if there is mutual understanding between honest people. These foreign enemies will press you to do what they want. I want you to resist. I want you to believe in the power and teach us how to listen to one another.

I don't know how the elected leaders of the Russian Republic or the Lithuanian Republic feel privately about your Nobel Prize. Maybe they wish you had won the Nobel Prize in Economics. But, still, they will be obliged to celebrate your decisions—publicly at least—if those decisions help them fulfill the will of their—and your—people.

Maybe in many places in Russia, the Ukraine, Georgia, the Transcauscus, Central Asia, Armenia and the Baltics the peoples' elected leaders and people who are standing in long lines in the streets will not celebrate your award—not because they are against the prize but because they have something else on their minds.

They need your help in solving their economic and political problems. They want you to listen to them today. They want you

to draw closer to them, to cut through all the ways of bureaucracy and dogmatism.

I remember how, in Parliament, you interrupted the speech of Academician Andrewi Sakharov, your predecessor in the winning the Nobel Peace Prize—a speech about peace and mutual understanding—and how you would not let him finish it. Now Mr. Sakharov is dead, and you yourself must finish this speech and this fight for democracy.

Millions of people—live and dead—are looking at you. More than 40 million have been killed in our country from the time of the October Revolution. If each one of those people were to receive one minute of silence—if there were 40 million minutes of silence—that would amount to more than 73 yars of silence: the time that has passed from Revolution until now. These dead, and the living, are waiting for your decisions. Don't disappoint them. Don't disappoint us.

I wish you success in carrying out your responsibilities. And I greet you from the bottom of my heart.

PLAGIARIZED ART PROHIBITION ACT

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. MAVROULES. Mr. Speaker, several media sources in my district have carried recent stories about deceptively produced art which is inundating U.S. markets and about a local organization, the Rockport Fine Arts Council which has been leading a valiant crusade against it. The Rockport Fine Arts Council, and particularly two of its members who are renowned Rockport artists, Dorothy and Mike Stoffa, have fought to pass local and State laws which would protect unsuspecting art buyers.

This art, which is usually copied directly from works with proven commercial appeal, is being reproduced abroad using sweatshop labor and imitative mass production techniques. The sweatshop art then enters the United States duty-free as original art and may quickly be distributed for sale throughout the country. It is frequently sold in violation of our copyright laws, and there are numerous stories of ways it is advertised and sold that defraud purchasers. It is often foisted upon unwary consumers as the work of a neophyte, but promising, American artist or even as recently discovered original prints of great artists. As sales of this massively copied art may now exceed $1 billion annually, the ingenuity of those who profit from it is growing as well. We are seeing plagiarized, slightly altered artworks being generated by computers; and new photo reproduction techniques which imitate fine art paintings.

While there are a series of procedural legal protections available through the U.S. Customs Service for seizing and destroying illegally copied artworks, the responsibility for pursuing the violations rests with the aggrieved copyright holder who has been able to identify specific infringements. First, the copyright holder must locate where the illegal copies are entering the country and submit to the Commissioner of Customs each of the following: a valid copy of a U.S. registered copyright; a customs disclosure form; five photos of the copyrighted material; and then he or she must pay a base fee. Additionally, the individual must file a written demand to block the shipment of the pirated art and a bond to cover any damage to the seized art which might occur.

If no copyright infringement is found, the seized articles are released and the bond is turned over to the accused importer. This process is, however, inconsistent and inadequate because it is nearly impossible for one individual to have the facilities and resources to be able to monitor everywhere copied art may be entering the country, as well as identify the responsible parties.

Placing greater responsibility with the custom service would improve the process for locating large and dispersed amounts of pirated works of art, thus protecting the consumer from fraudulent art hucksters.

Today's high volume, high technology, fast-paced world marketing methods make it difficult for individual purchasers, legitimate art dealers, or aggrieved artists to protect themselves. Current law does not provide an adequate remedy for consumers who have been deceived about the quality of their art purchases, art dealers who must compete with plagiarized works, or injured artists whose artistic property was stolen. By the time consumers, art dealers and artists become aware of the problem that they face, it is too late to take individual legal action by themselves. Those ultimately liable are usually far beyond the jurisdiction of the local and district courts.

ART AND THE CONSTITUTION

Our works of art are the purest measure of our cultural achievements and represent the highest expression of our aspirations as a civilized people. They shape our other social expressions; they provide many of our best personal inspirations, and they are a store of our cultural history. Our sense of aesthetics is one of those few human characteristics that clearly distinguish us from other worldly creatures.

Article I of our Constitution expressly recognizes the importance of incentives for artistic and scientific creativity. In our copyright, patent and trademark laws, Congress has acted throughout our history to provide incentives for and to protect creative property.

These historic congressional protections for creative property have generated major industries that sustain the U.S. economy, improve competitiveness, and bolster our balance of payments position. For example, copyright industries are now one of the largest revenue producing sectors of the American economy, accounting for almost 5 percent of our total gross national product. The National Endowment for the Arts has estimated that the direct sales of all art-related industries constitute a $50 billion a year industry in this country alone.

THE DECEPTIVELY MARKETED ART THREAT TO CONSUMERS

The theft of artistic creativity from another individual is the oldest recognized arts crime in recorded history. Since the seventh century B.C., Greek artists have claimed the right of authorship by signing their sculptures and paintings. By the second century B.C., we have Greek records that those caught stealing artistic creativity and claiming authorship of it were brought before a tribunal, convicted as thieves and banished from the city.

During the same historical period Jewish sages gave creators the right to be recognized as the source of a creation. Ancient Jewish teachings admonished one to give credit to the authors of original creative works. One who did not identify creative sources was actually considered a thief under Jewish law.

During the Middle Ages in Italy, artists usually had no legal standing to protect their works. Patrons selected the subject matter, manner of expression, delivery requirements, and price. Nevertheless, the state provided for protection against illegally copying—mostly to protect society rather than the artist. Yet, today when we have tried to make the protection of creators' rights a high constitutional and statutory priority, our laws are proving inadequate to deter the theft of artwork and to protect unsuspecting art purchasers.

CONCLUSION

In reviewing the existing laws to protect the public and our Nation's artistic creators, I believe there are gaps in our Federal fraud and copyright laws that must be filled. We must act to make the importation and sales of plagiarized art a Federal offense. Those who willfully create, import, and sell it, should be subject to criminal penalties. We should also create Federal penalties to discourage other deceptive and fraudulent art sales practices.

Twelve States have already enacted consumer protection laws against the sale of falsely represented works of art and many others are now considering it. But State by State legislation is inadequate to deal with a national problem of such massive dimensions.

Therefore, I am proposing Federal criminal legislation—the Plagiarized Art Prohibition Act. My legislation is designed to protect potential purchasers and artistic creators against the fraudulent art marketing practices being perpetrated around the Nation.

Essentially, my legislation will make it a Federal crime to create deceptive art for introduction into interstate commerce or to import, transport, advertise or sell works of art in a fraudulent or deceptive manner. It will give the Attorney General important tools to use in combating these practices including the right to seize and destroy deceptive marketed works of art. The Federal Government would be empowered to protect consumers and artists from illegal art trade practices without depending on individual copyright holders to initiate legal action.

Mr. Speaker, the threat to the art admiring public and to artistic creators from plagiarized and deceptively marketed works of art is truly alarming. We should act now to protect our consumers and preserve our artists' ability to be compensated for their creative efforts.

I include the text of the Plagiarized Art Prohibition Act in the RECORD:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Plagiarized Art Prohibiton Act".

SEC. 2. PROHIBITIONS.

(a) PROHIBITIONS.—Any person who imports into the United States, or sells or distributes in commerce 1 or more paintings that are similar to or imitations of an original work of visual art shall be subject to the penalties set forth in this Act if—

(1) such paintings are plagiarized from that original work of visual art; and

(2) such person intends to deceive prospective purchasers of such paintings as to the identity of the creator of the paintings.

(b) DEFINITIONS.—For purposes of this Act—

(1) the term "commerce" means—

(A) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, and any place outside thereof, and

(B) commerce within the District of Columbia or within any territory or possession of the United States;

(2) an "original work of visual art" is an original work of authorship under title 17, United States Code, that is a painting existing in a single copy, or in a limited edition of 200 copies or fewer, that are signed and consecutively numbered by the author; and

(3) a work is "plagiarized" from another source if it—

(A) is derived from that other source,

(B) is strikingly and substantially similar to or an imitation of that other source, and

(C) is presented as the work of someone other than the creator of that other source.

SEC. 3. CRIMINAL PENALTIES.

(a) CRIMINAL OFFENSES.—Any person who violates any provision of this Act willfully and for purposes of commercial advantage or private financial gain shall be punished as provided in section 2319 of title 18, United States Code, for violations of section 506(a) of title 17, United States Code. Section 506(b) of title 17, United States Code, shall apply with respect to copies of the work involved in the violation to the same extent as such section applies to infringing copies.

(b) SEIZURE AND FORFEITURE.—Section 509 of title 17, United States Code, shall apply with respect to copies relating to a violation of subsection (a) to the same extent as such section applies to copies relating to a violation of section 506(a) of such title.

SEC. 4. CIVIL REMEDIES.

(a) CIVIL ACTIONS.—Any person who is or would be aggrieved by a violation of this Act, either as the creator of an original work of visual art or as a purchaser of a copy of the work that is the subject of the violation, may bring a civil action against the person or persons committing the violation.

(b) REMEDIES.—The provisions of sections 502 through 505 of title 17, United States Code, shall apply with respect to actions brought under subsection (a) for a violation of this Act to the same extent as such provisions apply to civil actions brought for infringement of copyright.

SEC. 5. LIMITATIONS ON ACTIONS.

(a) CRIMINAL PROCEEDINGS.—No criminal proceeding shall be maintained under this Act unless it is commenced within 3 years after the cause of action arises.

(b) CIVIL ACTIONS.—No civil action shall be maintained under this Act unless it is commenced within 3 years after the claim accrues.

(c) EXCLUSIVITY OF REMEDIES.—

(1) CIVIL ACTIONS.—An action under section 4(a) against a person who violates this Act that is brought by an owner of copyright in an original work of visual art described in section 2(a) precludes any action under title 17, United States Code, brought by that owner against that person for infringement of that copyright arising from the same acts which comprise the violation under this Act.

(2) CRIMINAL PROCEEDINGS.—A person convicted of a violation under section 3(a) shall not be subject to the penalties set forth in section 506 of title 17, United States Code, for infringement of copyright arising from the same acts which comprise the violation under section 3(a) of this Act.

SEC. 6. PREEMPTION.

The provisions of this Act preempt any State law to the extent that this Act provides rights or remedies more extensive than those provided by such State law.

TAXES HIT MIDDLE CLASS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. HUBBARD. Mr. Speaker, constituents of mine continue to ask why I have voted against the recent budget proposals that have come before us over the past 2 weeks. Consistently I have answered that my constituents cannot bear the burden of higher Federal taxes.

Yesterday, this Chamber adopted a budget resolution which, according to its sponsors, shifts the tax burden to the Nation's wealthiest taxpayers. I opposed this budget resolution because I did not buy that argument. Others, too, have not bought it.

I draw my colleagues' attention to an excellent editorial which appeared in today's edition of the Paducah Sun, the largest newspaper in my western Kentucky congressional district. The editorial points out that a family earning an average annual income of $25,000 would pay about $183 in additional taxes, while a family with an annual income of $36,000 would owe $280 in additional taxes.

I think that we would all agree families earning $25,000 or $36,000 a year are far from being among America's wealthiest taxpayers.

I congratulate the newspaper's editorial page editor, Don Gordon, and the other members of the staff at the Paducah Sun for their insight into this timely matter.

I would ask my colleagues to read this editorial and consider its points closely in the event that we have the opportunity to consider another budget resolution which would be fairer to America's working middle class.

The editorial is as follows:

HOUSE POISED TO HIT MIDDLE CLASS

House Democrats, apparently emboldened to abandon all restraint in the face of thier opposition's weakness, have gone from a position of "soaking the rich" to one of soaking nearly everybody who earns a paycheck.

A tax plan that has emerged from the House Ways and Means committee and reportedly enjoys broad party support in the House would hit all but the poorest taxpayers. For instance, families earning an average of about $25,000 would pay about $183 more per year. For those averaging about $36,000, the additional tax bill would be $280.

From protectors like these, deliver the American middle class.

One way the House tax writers would increase the revenue take is by depriving wage-earners of their tax protection against inflation next year. It seems many members of Congress are interested in cost-of-living indexing only when it protects entitlements, not earnings.

The entire budget process started downhill when President Bush repudiated his own no-new-taxes pledge and it has been accelerating ever since.

And now the administration apparently has abandoned the field completely to the Democratic congressional majority, and that's sure to be bad news for American taxpayers.

If the budget had been squeezed dry of unnecessary and wasteful spending, the tax plan might go down better. But of course spending continues unabated and anyone who believes Congress won't find ways to spend the new revenue envisioned in the House tax package hasn't been watching that august body in action in recent years.

President Bush, whose performance in the budget fiasco over the past several weeks does him no credit, can yet redeem himself by using his remaining weapon. It's called a veto.

WORKING TOGETHER IN HIGHER EDUCATION

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. GAYDOS. Mr. Speaker, there is little doubt that funding for education, especially for higher education through student assistance, is one of the critical issues facing us today. What's more, with reauthorization of the Higher Education Act of 1965 coming up next year, it is likely that the debates on student aid, both loan, and grant programs, will intensify.

One of the elements of the debate focuses on providing assistance for middle income students who are increasingly not eligible for the more traditional Stafford Guaranteed Loan Program and the Pell Grant Program.

Another element focuses on finding ways of realistically controlling student defaults in the loan programs, with a special emphasis on those students in the career training sector of higher education.

Today, I want to address those issues. First, I will touch on a singular effort by Pennsylvania's State treasurer, Catherine Baker Knoll, to support a special loan program in the Commonwealth primarily for students from middle- and upper-middle-income families.

Then I will describe a new program developed by a career training school as a step toward guaranteeing repayment of student loans.

And, finally, I will focus on some positive contributions that career training schools, their faculties, and their students, make to their communities.

Just a short while ago, a unique agreement was reached between the Pennsylvania treasurer and the State's designated guarantee agency for the title IV student loan programs—the Pennsylvania Higher Education Assistance Agency—that will ensure the con-

tinuation of a program that assists students from predominantly middle- and upper-middle-income families.

These are the students who are too often forgotten when policy regarding the financial assistance programs has been made. They are the ones who usually don't qualify for the federally backed and federally subsidized Stafford loans, and, who, for the past decade or so, have increasingly had to rely on high-interest loans to finance the rapidly escalating costs of any postsecondary study.

Under the terms of the agreement, the treasury will buy up to $200 million in funding notes from the Pennsylvania Higher Education Assistance Agency. This extensive line of credit enables PHEAA to continue its nonsubsidized student loan program which is the only one of its kind in the Nation. It provides assistance to students from predominantly middle- and upper-middle-income families.

PHEAA's nonsubsidized loan program has helped thousands of students since its inception 7 years ago. Last year, the program provided assistance totaling $135 million and, during this academic year, the program is expected to provide at least $150 million in assistance. This $150 million is expected to assist more than 66,000 students attending 363 Pennsylvania postsecondary institutions.

As the father of five children, I know firsthand that education is an excellent investment, and, I'm sure, that as the mother of four children, Pennsylvania Treasurer Catherine Baker Knoll also knows this.

But, as the person entrusted to make many crucial financial decisions for Pennsylvania, it is not her job to invest State money without a return that can be measured relatively easily.

According to Mrs. Knoll, the loan to PHEAA will provide a yield of 20 to 25 basis points over the 90-day treasury bills, which is one of the staples of the Pennsylvania Treasurer's Short-Term Investment Poll.

I join with Treasurer Knoll in saying that this unique agreement "represents an excellent source of liquidity for PHEAA, a sound purchase for the State treasury, and a superb investment in Pennsylvania's future."

Prior to signing the agreement, PHEAA was forced to stop processing applications for these special 8-percent loan because the growing reliance on them increased so quickly the program ran short of funds.

Although none of PHEAA's other programs had to be halted, the delay in processing loan applications for this one program caused a great deal of concern among Pennsylvania families. Unfortunately, the prospect of having to do without these loans required some students to put their educational plan on hold.

Now, these students have the opportunity to follow through with their plans because of the agreement between PHEAA and the Treasury.

This agreement is indeed a wise investment an sends a very clear and much needed message to Pennsylvania's young men and women that higher education is important and should be financially accessible to all students.

The next agreement I'll tell you about exists between a chain of truck driving schools and the private businesses that hire its graduates. This arrangement represents a concerted effort to help reduce the student loan default rates.

Several months ago, CareerCom, the company that operates the truck driving schools, approached the carriers who hire its gradutes about participating in a tuition reimbursement incentive partnership program.

Under the program, CareerCom gives preferential access to its graduating students for those carriers who agree to assist the graduates with repaying their student loans and the carriers pay $50 per month directly to the graduate's lender or current holder of the loan.

CareerCom now has 30 of these arrangements with 13 different carriers.

The total amount of the loans the carriers agree to repay on behalf of the graduates ranges from $1,500 to $6,625 and the period of employment required before repayment benefits begin ranges from 2 to 6 months.

This partnership is an excellent initiative in its own right, but, what makes it even more impressive is that it is coming from the career training sector of higher education.

The students and schools in this sector are the ones who seem to have been excessively targeted in recent years for much of the criticism regarding any problems related to the student financial assistance programs.

Mr. Speaker, we are constantly bombarded with negative stories about the career training sector of higher education, but we never seem to hear about the significant and positive contributions these career training schools and their students make to their communities and their chosen professions every day.

Does anyone know, for example, that the students, teachers, and staff at the Pittsburgh Beauty Academy have raised and donated $125,000 to Children's Hospital over the past 10 years, and, who, just this year alone, raised $2,500 for St. Anthony's School for Exceptional Children?

Is anyone aware that this same group of men and women regularly participates in activities to benefit West Penn and Mercy Hospitals, the Lupus Foundation, the Alzheimers Foundation, and continually participates in blood drives?

Does anyone also know that the academy has 10 small beauty salons in homes for the aged where its students regularly use their talents while brightening their customers days with a little conversation?

The Pennsylvania Association of Private School Administrators is well aware of these activities. The association recently chose the Pittsburgh Beauty Academy and its students to receive its first Community Service Award.

In the notification letter to the Pittsburgh Beauty Academy the association says:

> The committee was very impressed with the numerous activities sponsored by your schools, students, teachers, and staff. The good you serve to your communities is certainly appreciated by all * * *. The Pennsylvania Association of Private School Administrators is proud to have you as a member.

The Pittsburgh Beauty Academy has been graduating topnotch students for the last 35 years and has five schools in the Pittsburgh area—two of which, I'd like to point out, are in my district.

But the students at the Pittsburgh Beauty Academies are not unique. Many other career school students use their skills and talents to make significant contributions to their communities. The Art Institutes of Seattle and Pittsburgh and the Colorado Institute of Art are among this group of schools.

A new environmental recycling program at the Art Institute of Seattle helps men and women overcome drug addiction.

The institute started the paper and aluminum recycling program in cooperation with a local drug and narcotics treatment facility. The treatment facility manages the program as a way to offer its clients voluntary employment while teaching good work habits and helping to save our environment at the same time.

Volunteer efforts at the Colorado Institute of Art were recently recognized by the National Association of Trade and Technical Schools through its Community Service Award.

The service work benefited United Way, the Keep Denver Beautiful campaign, the Cystic Fibrosis Foundation, and the American Red Cross.

Students in the visual communications program at the Art Institute of Pittsburgh participate in art projects to benefit the American Heart Association and the American Cancer Society, and paint cartoon graphics on the examining room doors at Children's Hospital.

In addition, students in the industrial design technology program at the Art Institute of Pittsburgh designed and built background props that were used at a benefit dinner for the homeless.

When these students aren't giving of themselves, or using their talents to raise money for worthy causes, they have their eyes toward the future.

And, judging from the successes of past graduates, the future looks very bright for these young men and women.

This year, two former students of the Pittsburgh Beauty Academy—Arnold Zegarelli and Philip Pelusi—are among the first six career training school graduates who have been inducted into the newly created Hall of Fame at the Pennsylvania Association of Private School Administrators.

Mr. Zegarelli was one of the Pittsburgh Beauty Academy's first graduates. After graduating in 1958, he has worked diligently to perfect his talents. Today, Mr. Zegarelli enjoys the reputation of one of the best platform stylists in the country.

Since Mr. Pelusi graduated from the academy in 1962, he has undertaken the challenge of further developing his styling talents as well as his business talents. Today, he is the owner of 10 beauty salons in the Pittsburgh area.

Mr. Pelusi also had the recent honor of being a guest in Japan which enabled him to share some of his styling tips while picking up a few from the Japanese.

Another student who received the honor of inclusion in the Hall of Fame at the Pennsylvania Association of Private School Administrators is Kathy Grubb.

Ms. Grubb, a 1980 graduate of the Art Institute of Pittsburgh, began her career as assistant art director at Gray, Baumgarten, Layport

Advertising in Mt. Lebanon, PA. Today, she is vice president of that advertising firm.

Let me just briefly tell you about four other former students of the Art Institute of Pittsburgh:

Kelly Freas, a 1951 graduate, developed the carefree Alfred E. Newman for Mad magazine;

Tom Wilson, a 1955 graduate, created the luckless Ziggy cartoon character;

J. Robert Teringo, a 1956 graduate, is associate art director for National Geographic;

And, Vince Manino, a 1979 graduate, is chief photographer for United Press International.

There are six more successful career training school graduates I'd like to tell you about while I still have the floor because they were inducted into the Hall of Fame at the National Association of Trade and Technical Schools this year.

Fritz Gerlach graduated from the Nashville Auto Diesel College more than 30 years ago and was inspired to continue his education.

While attending the University of Kentucky, Mr. Gerlach earned 80 percent of the money used to pay his expenses by relying on the skills he learned in Nashville as an automobile and truck mechanic.

Mr. Gerlach began his career as a field service engineer with Cummins Engine Co., and, today, he is vice president for marketing with Cummins Atlantic in Charlotte, NC. His major responsibility is directing the company's overall marketing effort in North and South Carolina, Maryland, Virginia, Delaware, and parts of West Virginia.

Mr. Gerlach is also a member of the Nashville Auto Diesel College Hall of Fame.

William Romius traveled from Mississippi to St. Louis at the age of 16 to live with his grandmother.

Having never attended school, he immediately entered the fourth grade and remained in school until entering the Army at 21 years of age.

After his Army service, Mr. Romius returned to complete high school. He later completed the electronic technology program at the Basic Institute of Technology in St. Louis and enrolled in the Logan College of Chiropractic Medicine.

Today, he operates a private chiropractic clinic and is doing research at St. Lousi University for an electronic device to help patients with spinal cord injuries.

Garey Lee Womack graduated from the Refridgeration School in Phoeniz, AZ, and went to work for the cities of Lubbock and El Paso, TX.

In 1980, he joined Honeywell, Inc., to become a heating, ventilation and air-conditioning technician and was one of the developers of the corporation's restaurants business unit which is the largest such service contractor in the United States. It currently operates in 17 locations and employs over 120 people.

Today, Mr. Womack is the national operations manager for the unit. He personally interviews and hires all supervisors and support staff for the unit and assists them in their job development.

Mr. Womack has also received the Honeywell stock recognition award. This honor is given to a very select number of employees to "recognize and employee whose past and projected future contributions are critical to Honeywell's continued success."

Duane Wiens graduated from the advertising design program at the Colorado Intitute of Art more than 20 years ago.

In 1967, he cofounded Unit 1, Inc., which is today one of Colorado's major corporate and institutional design houses.

By 1978, Mr. Wiens had moved on to start Matrix International which creates corporate identity programs—including trademark design, annual reports, brochures, and posters. He has also worked to create coordinated images for resort and housing projects.

Matrix International has received local and national design awards from organizations such as the Public Relations Society of America and Printing Industries of America, and the company's work has been reproduced in numerous trade publications and exhibited in the Colorado International Invitational Poster Exhibition.

The agency also donates its services to community organizations. Some of the beneficiaries of this ongoing effort are Children's Hospital, Junior League of Denver, Rockefeller University, and the Multiple Sclerosis Society of Colorado.

Paul Whinnie took his training from the Art Institute of Pittsburgh and decided to train other young people.

Following his graduation from the specialized technology in visual communications program at the Institute, Mr. Whinnie joined the faculty of the Greater Johnstown Area Vocational-Technical School in 1975. He teaches a course in commercial art which includes the study of typography, graphic design, color theory, airbrush, layout and design, and computer-generated design.

While teaching full time, Mr. Whinnie continued his education at the University of Pittsburgh's Johnstown campus where he earned a bachelor's degree in education and a master's equivalency certificate in vocational education.

When he is not working with his students, Mr. Whinnie maintains a freelance graphic design studio and an affiliated silk-screen printing operation, coordinates Vocational Industrial Club of America competitions at the district and State levels, and advises the clubs at the national level.

Mr. Whinnie has also taught at the University of Pittsburgh's Johnstown campus and at Mount Aloysius Junior College. And, in 1984, he received the Outstanding Art Educator Award from the Pennsylvania Art Education Association.

While growing up in South Dakota, Terry Avon Redlin planned to eventually work as a forest ranger, but a motorcyle accident and the loss of one leg during his teens forced him to change his plans.

He decided to attend the College of Associated Arts in St. Paul, MN.

Mr. Redlin spent 25 years working in the commercial art field as a layout artist, graphic designer, illustrator, and art director.

His breakthrough came in 1977 when his painting, "Winter Snows" appeared on the cover of the Farmer magazine. Since then, he has won the Minnesota Duck Stamp competition twice and the State trout stamp contest.

In 1982, Mr. Redlin placed second in the Federal Duck Stamp competition, and the following year he was named Artist of the Year for Ducks Unlimited, National and Minnesota.

He has also branched out to designing limited edition collector plates and received the National Association of Limited Edition Dealers' Lithograph of the Year Award in 1988 and 1989.

Also in 1988, a book of Mr. Redlin's work received a certificate of merit in the Printing Industries of America Competition.

With all of these successes, Mr. Redlin still makes time to support his first love—the wilderness.

He has raised over $10 million for wildlife projects, and, in 1986, Mr. Redlin was named Conservationist of the Year-Magnum Donor by the Minnesota Waterfowl Association for his gifts of entire print editions.

Mr. Redlin has also donated $900,000 to the Courage Center in Golden Valley, MN, a nonprofit organization that helps individuals with disabilities and sponsors rehabilitation programs.

All of these men and women had the opportunity to receive the needed career training to follow their dreams. They have used this training as the basic foundation on which they have built extremely successful careers while, at the same time, making significant contributions to their communities.

If not for the student loan programs, some of these successes might never have occurred.

Yes, there are problems with our student loan programs but these students and schools should not be singled out and made the scapegoats for all of them.

When we take up reauthorization of the Higher Education Act of 1965 next year, we must ensure that every eligible student has the opportunity to follow his or her dreams and to pursue the educational program of his or her choice.

Reducing educational access is not an effective solution. Such actions will not solve any of the existing problems and will most likely create many new ones.

EXCESS PROFITS TAX ON THE OIL INDUSTRY (H.R. 5843)

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. GILMAN. Mr. Speaker, I rise today to introduce the Excess Profits Tax Act of 1990 (H.R. 5843), and I invite my colleagues to back this measure. Over the last 2 months we have seen the price of oil more than double ostensibly as a result of Iraq's invasion and occupation of Kuwait. Fears of a shooting war breaking out in the Middle East that could disrupt the world's oil supply have increased prices even further. The main beneficiary of this price increase has been the oil industry. Oil producers have realized profits far in excess of those they had anticipated for this period, and realizing this, middlemen and re-

tailers have raised the price of oil even further. While those in the oil industry have seen their incomes jump in the last 2 months, our Nation's consumers and businesses have borne the brunt of these price increases at the pump. Lower and middle-income families are especially hard hit by the recent jump in oil prices.

This excess profits measure would help to deter and redistribute the huge profits oil companies are now realizing. Specifically, excess profits in the oil industry would be taxed at a rate of no more than 40 percent for a period of 3 years. At the same time, exploration and development of oil resources would be encouraged under the provisions of this bill. Mr. Speaker, in these times of fear and uncertainty over the situation in the Persian Gulf, while our courageous Americans are stationed in the Saudi Arabian deserts to protect our interests, it is only right that those who inure undue profits from this crisis also contribute to our country. H.R. 5843 does just that.

Mr. Speaker, I request that the full text of my bill be inserted at this point in the RECORD:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subtitle A of the Internal Revenue Code of 1986 (relating to income taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 7—EXCESS PROFITS TAX

"Sec. 1571. Imposition of tax.
"Sec. 1572. Definitions.
"Sec. 1573. Adjustments to income for years in the emergency period.
"Sec. 1574. Excess profits deduction.
"Sec. 1575. Energy plowback deduction.

"SEC. 1571. IMPOSITION OF TAX.

"(a) GENERAL RULE.—In addition to the other taxes imposed by this subtitle, there is hereby imposed on the income of every corporation engaged in the production of petroleum and petroleum products for each taxable year which ends or begins during the emergency period, a tax equal to 40 percent of the excess profits taxable income for such taxable year.

"(b) TAXABLE YEARS PARTLY IN THE EMERGENCY PERIOD.—In the case of a taxable year which begins before the emergency period or ends after the emergency period, the tax imposed by subsection (a) shall be an amount equal to 40 percent of the excess profits taxable income for the taxable year multiplied by a fraction the numerator of which is the number of days within the emergency period and the denominator of which is the total number of days in the taxable year.

"SEC. 1572. DEFINITIONS.

"(a) EMERGENCY PERIOD.—For the purposes of this chapter, the term 'emergency period' means the 3-year period beginning on the date of the enactment of this chapter.

"(b) BASE PERIOD.—For the purposes of this chapter, the term 'base period' means the period beginning January 1, 1986, and ending on December 31, 1988.

"(c) PETROLEUM AND PETROLEUM PRODUCTS.—For the purposes of this chapter, the term 'petroleum and petroleum products' means any crude oil, gasoline, kerosene, fuel oil, or home heating oil extracted or produced by any corporation doing business in the United States.

"(d) EXCESS PROFITS TAXABLE INCOME.—For purposes of this chapter, the term 'excess profits taxable income' means taxable income for the taxable year (computed with the adjustments specified in section 1573) reduced by the sum of—

"(1) the excess profits deduction for the taxable year; plus

"(2) the energy plowback deduction for the taxable year.

"SEC. 1573. ADJUSTMENTS TO INCOME FOR YEARS IN THE EMERGENCY PERIOD.

"For the purposes of this chapter, in determining the taxable income of a corporation for a taxable year ending or beginning in the emergency period, the following adjustments shall be made:

"(1) DIVIDENDS RECEIVED.—The deduction for dividends received shall apply, without limitation, to all dividends on stock of all corporations, except that no deduction for dividends received shall be allowed with respect to dividends on stock of foreign personal holding companies or dividends on stock is not a capital asset.

"(2) GAINS AND LOSSES FROM SALES OR EXCHANGES OF CAPITAL ASSETS.—There shall be excluded gains and losses from sales or exchanges of capital assets.

"(3) INCOME FROM RETIREMENT OR DISCHARGE OF BONDS, ETC.—There shall be excluded income derived from the retirement or discharge by the taxpayer of any bond, debenture, note, or certificate or other evidence of indebtedness, if the obligation of the taxpayer has been outstanding for more than 6 months, including in the case the issuance was at a premium, the amount includible in gross income for such year solely because of such retirement or discharge.

"(4) DEDUCTIONS ON ACCOUNT OF RETIREMENT OR DISCHARGE OF BONDS, ETC.—If during the taxable year the taxpayer retires or discharges any bond, debenture, note, or certificate or other evidence of indebtedness, if the obligation of the taxpayer has been outstanding for more than 6 months, the following deductions for such taxable year shall not be allowed:

"(A) the deduction allowable under section 162 for expenses paid or incurred in connection with such retirement or discharge;

"(B) the deduction for losses allowable by reason of such discharge or retirement; or

"(C) in case the issuance was at a discount, the amount deductible for such year solely because of such retirement or discharge.

"(5) RECOVERY OF BAD DEBTS.—There shall be excluded income attributable to the recovery of a bad debt if the deduction of such debt was allowable from gross income for any taxable year ending before the effective date of this chapter or if such debt was properly charged to a reserve for bad debts during any such table year.

"SEC. 1574. EXCESS PROFITS DEDUCTION.

"(a) COMPUTATION.—The excess profits deduction for a taxable year shall be the greater of the following:

"(1) 100 percent of the average base period taxable income, or

"(2) an amount equal to the total of the following amounts;

"(A) 10 percent of the first $10,000,000 of invested capital,

"(B) 9 percent of the next $9,000,000 of invested capital, and

"(C) 8 percent of invested capital exceeding $20,000,000.

"(b) AVERAGE BASE PERIOD TAXABLE INCOME.—The average base period taxable income shall be determined by computing the base period taxable income for each month in the base period, the highest and lowest aggregate of 6 months taxable income shall be dropped and the remaining sum of 24 months shall be divided by 2 to obtain a base year figure for the purposes of this chapter.

"(c) APPLICATION OF CHAPTER.—The provision of this chapter shall apply to all corporations which were in existence during the entire or any part of the base period or the emergency period as defined in this chapter.

"SEC. 1575. ENERGY PLOWBACK DEDUCTION.

"(a) GENERAL RULE.—For purposes of this chapter, the term 'energy plowback deduction' means the amount paid or incurred by the taxpayer during the taxable year (with respect to areas within the United States or a possession of the United States) for—

"(1) intangible drilling and development costs to which section 263(c) applies or ascertaining the existence, location, extent, or quality of any deposit of crude oil or natural gas,

"(2) the construction, reconstruction, erection, or acquisition of the following items but only if the original use of such items begins with such taxpayer—

"(A) depreciable assets used for—

"(i) the exploration for or the development or production of oil or gas (including development or production from oil shale),

"(ii) converting oil shale, coal, or liquid hydrocarbons into oil or gas, or

"(iii) refining oil or gas (but not beyond the primary product stage),

"(B) pipelines for gathering or transmitting oil or gas, and facilities (such as pumping stations) directly related to the use of such pipelines, or

"(3) secondary or tertiary recovery of oil or gas.

"(b) LIMITATION.—The amount of the energy plowback deduction for any taxable year may not exceed 25 percent of the excess profits taxable income for such year (determined without regard to the energy plowback deduction)."

(b) The table of chapters for such subtitle A is amended by adding at the end thereof the following new item:

"Chapter 7. Excess profits tax."

(c) The amendments made by this Act shall take effect on the date of the enactment of this Act.

PROPOSED EXTENSION OF REMARKS IN SUPPORT OF THE UNITED STATES-MEXICO FREE TRADE AGREEMENT: PRIVATIZATION PROVIDES OPPORTUNITY FOR UNITED STATES INVESTMENT

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. LIVINGSTON. Mr. Speaker, the world is experiencing a dramatic time in history. The Soviet Union and Eastern Europe are turning toward free societies and free markets. The European Community is breaking down internal barriers to spur free trade and economic development. The world is becoming increasingly interdependent as businesses expand across borders and international trade escalates. These events indicate the efficiencies and benefits resulting from free markets and free trade.

Mexico is actively participating in the global transformation toward free markets to improve economic growth. The United States has the opportunity to encourage this transformation and to share in the benefits of open markets. A free trade agreement between the United States and Mexico holds out the prospect of increased economic growth for both countries.

The Salinas government has embarked on an extensive program of economic reform by reducing the Government's role in the economy. A large component of the reform is privatization of Government-controlled industries. By the end of 1989, about 650 federally managed companies, or "parastatals" had been dismantled, consolidated, or sold. Of the 219 companies that have been sold, Mexican groups bought 91 percent and 9 percent were bought by foreigners or joint ventures.

According to the United States International Trade Commission, the Mexican Government has undertaken a major program of deregulation. As part of this program, the Government has completed, or is in the process of preparing, deregulatory measures affecting most areas of the economy, including the financial system, insurance, standards for containers, agriculture, fishing, motor carriers, multimodal transportation, the petrochemical industry, refined petroleum products, rules regulating transfer of technology, telecommunications terminal equipment, customs brokers, and commodities—sugar, coffee, and cocoa.

The Government of Mexico's decision to reduce the Government's participation in the management of industries opens up a number of opportunities for United States investors. For example, Aviacion, the country's largest air carrier, permitted participation by a number of new United States and other foreign investors. Also, the Mexican Government has outlined a plan for privatizing Mexico's 56-percent share of Telmex, the Government-controlled telephone monopoly.

Mexico's privatization efforts will provide profitable opportunities for United States investment. Privatization will improve the efficiency of the Mexican economy and provide healthy markets for United States exports. A free trade agreement will allow American businesses to take advantage of the investment opportunities and healthy export markets provided by Mexico's privatization and deregulation efforts. The competition from United States firms would create incentives for the Mexican Government to further privatize inefficient state-owned enterprises and for Mexican businessmen to channel capital and labor into more productive industries.

A free trade agreement would encourage Mexico's drive toward capitalism and solidify a democratic ally on our southern border. It would also contribute to creating the North American Free Trade Area, stretching first from Canada to Mexico and eventually including the democratic countries of the Caribbean and Central America. This alliance would surpass the European Community and dominate Japan.

Both partners benefit from free trade agreements. Therefore, I urge my colleagues to cosponsor H.R. 4680, the Mexico-United States Trade Act, introduced by Representative KOLBE. Congress should support this effort to initiate negotiations for a trade agreement with Mexico that reduces and ultimately eliminates trade barriers.

MEAT AND POULTRY INSPECTIONS

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. WILLIAMS. Mr. Speaker, today I am introducing a bill to clarify that the inspection of meat and poutry products offered for import into the United States is to be conducted by U.S. personnel. My colleague Mr. DORGAN has joined me in introducing this legislation in the House and Senator DASCHLE has introduced a similar version in the Senate.

The U.S. Department of Agriculture [USDA] wants to eliminate meat and poultry inspections at the Canadian border as an experiment to help implement the United States-Canada Free-Trade Agreement.

Before the Free-Trade Agreement was adopted all trucks carrying meat into the United States from Canada were required to stop for inspection. If meat was found unfit for consumption it was refused entry.

Under the so called streamlined inspection plan that has since gone into effect only trucks preselected by computer in Canada are required to stop for inspection. Shipments not computer picked come into this country without stopping at an import facility. The USDA's latest proposal would literally eliminate border inspections all together. I frankly did not think much of USDA's no inspection proposal when I first heard about it a few months ago and I think even less of it now. It is very possible that the current streamlined inspection system is not only diminishing consumers confidence but in fact endangering the health of American people. The proposals to virtually eliminate any border inspection will only make this worse.

USDA data shows that 703 million pounds of meat entered Montana from Canada in 1989. Given Canada's status as the No. 1 exporter and the fact that it has the worst refused U.S. entry rate, it seems wrong to continue the current streamlined system with Canadians picking the lots to inspect and ludicrous to move as USDA has proposed, to a system of no inspection whatsoever. It seems to me that any computer preselection should be done by the United States.

A few weeks back Representative DORGAN, Senator DASCHLE, and myself sent a letter to USDA requesting them to voluntarily improve and tighten the current system of meat inspection that would include the following: First, determine why so much meat is not meeting U.S. standards now at Montana and North Dakota entries; second, evaluate the current Canadian meat inspection system to provide a basis for any future experiments with United States food safety as USDA is now proposing; and third, USDA should consider reinstating the system that was abandoned in 1988 where all Canadian trucks carrying meat into the United States would be subject to inspection at the border. As to today we have not heard back from USDA on any of these proposals. As a result we are introducing this legislation.

In my view and the view of the majority of my constituents, all meat and poultry entering this country should be inspected. The purpose of the Free-Trade Agreement was to create an equitable marketplace between the United States and Canada. It should not be used as an opportunity to let inferior food into the United States. It is still my hope that as this legislation moves through Congress over the next few days that my colleagues and I can convince USDA to adopt a different inspection system that restores consumers confidence.

ISRAEL MUST NEGOTIATE A LASTING PEACE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. DINGELL. Mr. Speaker, once again the world has watched in horror at the consequences of hatred in the battlefield in Jerusalem. Monday, October 8, marked the worst violence in Jerusalem since the beginning of the intifada 34 months ago.

After Jewish worshipers were attacked with rocks and bottles at the Wailing Wall below the Temple Mount, Israeli security forces opened fire on the demonstrators, killing 19 and wounding more than 100.

Regardless of who is responsible for starting this incident, the bloody response is an outrage. The United States supported a U.N. Security Council resolution approved last Friday condemning this violent incident and calling for a full investigation by the U.N. Secretary General. This is an action I encourage and endorse.

Since August 2, the United States has directed its attention away from the grave events within Israel and the occupied territories to focus on suppressing Saddam Hussein's bloody and unjustified aggression. Yet, we cannot overlook the fact that while there are unprecedented international efforts to avoid war in the Persian Gulf, 20 Palestians are dying for every 1 Israeli in this struggle for self-determination in the occupied territories of the West Bank, the Gaza Strip, the Golan Heights, and East Jeruslem.

It is troubling that the Israeli Government has decided not to comply with the provisions of the U.N. resolution and refuses to cooperate in a thorough investigation of this affair. I concur in the judgment that by refusing to cooperate, the Israeli Government will inflict further damage upon itself as well as in its relationships with both hostile and friendly nations.

Mr. Speaker, earlier this year I addressed the House to decry Israel's violations of basic human rights. These violations include administrative detention for alleged security reasons, the closing of schools, and illegal search and seizure as well as the demolition of Palestinian homes. I also condemned the violence that is tearing apart this region and urged that the United States use all reasonable power and influence to open a dialog among all involved parties.

Since that time, this crisis has intensified. The throwing of stones and bottles onto worshipers at the Wailing Wall is intolerable. So too is the closing of the Temple Mount, one of Islam's holiest shrines, for the first time in 700 years.

In light of our commitment to peace and security in the Middle East, the United States has deployed over 200,000 American men and women to Saudi Arabia, and has invested billions of dollars in the promotion of a safe and prosperous future for this region.

Peace in the Middle East will not come without cost, as Operation Desert Shield has proven to our Nation and the many contributing nations who have joined this U.S.-backed effort. Peace also has not come freely in Europe, or South Africa, or between a still-divided Korea, but both the pains and rewards of these nations' efforts are apparent as their struggles for peace surge forward.

Given the importance of a Middle East peace settlement to global stability, I call upon Israel to immediately open a dialog with the Palestinian people. If this does not occur, I believe that now is the time for the United States, with its traditions of democracy and self-determination, to tie our continued economic support of Israel to its willingness to meet with the Palestinians in the interest of peace.

A CONGRESSIONAL SALUTE TO MAJ. GEN. RICHARD E. COLLIER

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. BLILEY. Mr. Speaker, on November 4, 1990, Maj. Gen. Richard E. Collier will be honored at a change of command ceremony at Fort Belvoir, VA, on the occasion of his retirement after 33 years of service as an active and reserve officer. He will be awarded the Distinguished Service Medal in recognition of his outstanding contributions as commanding general of the 310th Theater Army Area Command [TAACOM] from October 1986 to November 1990 and for his dedicated and unselfish service to the Nation and the U.S. Army Reserve. General Collier's exceptional achievements and devotion to duty have earned him national recognition for his leadership in the NATO environment and for management excellence in improving his command's performance and mobilization readiness.

The 310th TAACOM, a high priority Army Reserve unit located at Fort Belvoir, VA, exercises command and control of 37 combat service support units in peacetime, including three major subordinate headquarters—the 55th Support Center, 300th Area Support Group, and the 510th Area Support Group. The 310th Command structure is comprised of some 4,500 officers and enlisted personnel located at 18 Army Reserve centers in Virginia, Maryland, and Delaware. In wartime, the 310th would also command more than 300 subordinate Capstone units if called upon to meet its mission responsibilities.

The 310th continuously revises and updates its numerous operational plans in preparation for their postmobilization mission and utilizes many of its Capstone units in applicable United States and overseas training exercises. During the past 4 years, the command participated in readiness-related exercises in Europe and the United States such as Able Archer, Crested Eagle, Golden Sabre, Logex, Reforger, Wintex, et cetera.

As a result of General Collier's leadership, the 310th's capabilities have been significantly improved to meet both its peacetime and wartime missions. He placed significant command emphasis on the unit's wartime mission by taking actions to strengthen the Capstone program, improve and foster goodwill and cooperation among our NATO allies, ensure enhanced logistical support for wartime contingencies, and developed outstanding support and cooperation between his unit and active components in Europe. At the same time, General Collier devoted his energies to improving the training readiness and mobilization capabilities of his peacetime units. To this end, realistic and rigorous training, supply, maintenance, marksmanship, personnel strength, and budget and financial management programs were instituted at his direction. These programs are now paying dividends with the recent mobilization of four units of The 310th TAAACOM ordered to active duty by Secretary of Defense Cheney as part of "Operation Desert Shield" in Saudi Arabia. General Collier's continuing interest and concern for the welfare of his soldiers, his integrity and moral leadership have endeared him to the members of this command.

General Collier was instrumental in the planning, development, and execution of the logistical support for Reforger 87—return of forces to Germany—the largest deployment of U.S. forces to Europe since World War II. Also noteworthy was the cooperative working relationships established by General Collier and the 310th TAACOM with our NATO allies in the United Kingdom, Netherlands, Belgium, Germany, and Denmark concerning host nation support and matters involving mutual logistical support in the event of hostilities

General Collier was born in Richmond, VA on December 29, 1934 and was commissioned as a second lieutenant on June 11, 1957. He served on active duty as an infantry platoon leader and instructor from November 1957 to September 1959. His principal Army Reserve assignments include duty as an aide-de-camp to a division commander, as an S–1 and a division G–4. He commanded a company, two battalions, and a brigade with the 80th Training Division. In 1982, General Collier was selected as assistant division commander of the 80th Training Division before becoming commanding general of the 310th TAACOM in 1986.

General Collier is a graduate of the infantry officer basic and advanced courses, the command and General Staff College, the Senior Commander Chemical Officer Course, and the U.S. Army War College. His decorations include the Meritorious Service Medal, Army Commendation Medal with Oak Leaf Cluster, Armed Forces Reserve Medal (2d award), Army Reserve Components Achievement Medal (4th award), Army Service Ribbon, and the USAR Overseas Ribbon.

His civilian education includes a bachelor's degree in chemistry from the Virginia Military Institute and a master's degree in chemistry from the University of Virginia. In the civilian life, General Collier is president and principal stockholder of R.E. Collier, Inc., a Richmond general contracting and land development company, which specializes in residential and light commercial construction and real estate development.

General Collier resides in Richmond with his wife, the former Sarah Hicks, also a native of Richmond. They have five grown children: Sonya, Richard E., Jr., Stephanie Ann, Robin Chairman, and Brian Batten.

As a fellow Virginian keenly interested in a strong Army Reserve, it gives me great pleasure to congratulate General Collier for a job well done. I know my colleagues will want to join me in wishing General Collier and his wife Sarah, great success, health, and happiness in the years ahead.

A TRIBUTE TO CHRISTINE CAROLINE DRESSELHOUSE HEYDLAUFF

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. PURSELL. Mr. Speaker, throughout history, man has paid tribute to women who have led their families with a combination of strength, intellect, love, and undying commitment to strong moral values. These matriarchs are revered for their individual accomplishments as well as the achievements of those whose lives were molded and guided by them. I rise today in honor of just such a woman on the occasion of her 80th birthday, Christine Heydlauff of Chelsea, MI. This is not a woman you will read about in your newspaper or view on the evening news. Yet, she symbolizes the kind of person that has made this country great in much the same way that more celebrated matriarchs have been shining beacons for their families to learn and prosper from. In celebration of this event, her grandson, Dale Heydlauff, has written the following accolade to her. I ask that it be made a part of the RECORD:

A HOMAGE TO MY GRANDMOTHER

(By Dale E. Heydlauff)

Christine Caroline Dresselhouse was born in her family home in Sharon Township, Michigan on October 28, 1910. The youngest of four children, Christine was raised to respect the land and the bountiful fruits it could provide with hard work and perseverance. She was also instilled with a strong belief in the value of a good education. She walked a mile and a half to school each day, sometimes facing severe temperatures, so that she could learn the basic skills needed to excel in rural Michigan. When not studying, her parents taught her the myriad jobs required to run a farm and household. These lessons would prove invaluable to her later in life when she continued in the tradition of the German immigrants who had settled in this area by becoming a farmer's wife and mother.

On November 23, 1932, Christine married Clifford Heydlauff, a farmer from Grass Lake, Michigan. Throughout their life together, Christine and Clifford toiled with the land, carefully culling all the land would offer in order to feed their family and earn a modest living. Over the years, Christine gave birth to four children, Jerald, James, Ned and Ann. Each of her children would grow to embrace the same values of hard work and dedication to the land and the family that had shaped her life as a child and adult.

Christine Heydlauff is a strong willed woman who has overcome considerable adversity in her life. She has had to bury all of her siblings and her loving husband, whose difficult death from cancer in 1973 was a crushing blow. These painful experiences have not tainted her love for life or dimmed the sparkle she shares with those around her. Her talents are many and varied. She makes the best pies, cakes and cookies of anyone I know. She can create anything out of cloth. She can complete a crossword puzzle faster than anyone alive. She is well read and keeps current on world events, which contributes to lively discussions and debates when we get together. Her life has been governed by a commitment to Christian values and a fierce devotion to her family. She has been and continues to be a radiant example to those who are fortunate to know her, and displays a solid resolve to face life with a stubborn confidence that she can conquer anything in her path.

Despite this tough veneer, Christine has a heart of gold and a real softness for children. She is patient and kind. She is generous and a faithful friend. She is a beautiful woman, both physically and spiritually. These admirable characteristics would serve us all well if we could only acquire them. And our lives would be enriched by emulating her ways.

Happy Birthday Grandma. I love you and am proud to be your grandson.

TRIBUTE TO ART BLAKEY—THE NATION'S LEGENDARY JAZZ DRUMMER

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. CONYERS. Mr. Speaker, it is with great sadness that I inform my colleagues of the passing of the 71-year old legendary jazz drummer, Art Blakey. He was a drummer whose band nurtured generations of leading jazz players. For the majority of his career, Mr. Blakey did his drumming for the Jazz Messengers, the band that came together under his leadership in the early 1950's, which included pianist Horce Silver, trumpeter Kenny Dorham and saxophonist Hank Mobley. The band toured all over the United States for the next three decades, including a White House performance in 1981. The 1981 Newport Jazz Festival devoted an evening to "The Blakey Legacy," in which the drummer was joined by the players who had been with his band during the previous quarter-century.

Dizzy Gillespie, a giant of be-bop, once described him as "the volcano" of be-bop drummers. He was considered in the top echelon that included such drummers as Max Roach and Buddy Rich. In a television film about Art's career, pianist Walter Davis, an alumus of the Jazz Messengers, said "I think no one in jazz has brought more great musicians to music than Art Blakey."

Art Blakey was a prodigious and versatile artist, and band leader, who appeared on stages around the world. He was most supportive in urging passage of House Concurrent Resolution 57, expressing the sense of Congress that jazz is a national American treasure. He was utterly devoted in his commitment to the preservation and support of this great art form.

Art Blakey truly exemplified the spirit of this magnificant music that he loved and lived for, and his contributions to it will be the most lasting evidence of enormous talent, and he will never be forgotten.

The following article on Art Blakey's life and accomplishments was printed in the New York Times. It speaks to the extraordinary life and times of this artist and I would like to share them with my colleagues in the RECORD:

[From The New York Times, Oct. 17, 1990]

ART BLAKEY, JAZZ GREAT IS DEAD; A DRUMMER AND BAND LEADER, 71

(By Peter Watrous)

The drummer and band leader Art Blakey, one of the most influential figures in jazz for the last 40 years, died yesterday at St. Vincent's Hospital and Medical Center. He was 71 years old and lived in Manhattan.

He died of lung cancer, said a hospital spokeswoman, Barbara Cron.

Mr. Blakey, who until recently was leading his band, the Jazz Messengers, played with a mixture of powerful abandon and precise control. An extradordinary drummer, he would turn each piece into an epic voyage, starting out calmly, slowly packing the tune with texture after texture, always controlling the dynamics until a thunderous barrage released the tension. Mr. Blakey shaped each performance by manipulating the texture for his soloists as well; a result was a set of performances that always mixed the excitement of improvisation with a real understanding of the personalities and capabilities of the musicians involved.

"Art was an original," said the drummer Max Roach. "He's the only drummer whose time I recognize immediately. And his signature style was amazing; we used to call him 'Thunder.' When I first met him on 52nd Street in 1944, he already had the polyrhythmic thing down. Art was the perhaps the best at maintaining independence with all four limbs. He was doing it before anybody was. And he was a great man, which influenced everybody around him."

A ONE-MAN UNIVERSITY

While Mr. Blakey was a gifted and important drummer, his contributions to American music as a band leader and talent scout are equally important. Mr. Blakey, like no other band leader for the last 40 years, had acted as a one-man university for young musicians. A partial list of the musicians he hired resembles a history of jazz from the 1950's to the present. They included the trumpeters Kenny Dorham, Clifford Brown, Bill Hardman, Lee Morgan, Freddie Hubbard, Woody Shaw, Wynton Marsalis, Wallace Roney and Terence Blanchard; the saxophonists Lou Donaldson, Jackie McLean, Hank Mobley, Johnny Griffin, Wayne Shorter, Gary Bartz, Bobby Watson, Branford Marsalis, Donald Harrison, Kenny Garrett and Javon Jackson, and the pianists Horace Silver, Bobby Timmons, Cedar Walton, John Hicks, James Williams, Mulgrew Miller and Bennie Green.

"It's like the door is closed on a generation of musicians that were developed through Art's band," said Mr. McLean, who first played with Mr. Blakey in the early 1950's. "Even when I was with Miles Davis, Art was the strength of the band. That was the first band I was in, and ever since then I've been trying to lead my band the way he has his."

The trumpeter Wynton Marsalis, who joined the band as a 17-year-old in 1979, said: "Art was important to me because he always displayed the maximum belief in integrity and quality. Even more important, he represents the most mature man our society can develop because he was making life easier for everyone else. He provided the context for musicians to play and develop. And since we weren't on his level, he'd subject himself to us so we'd learn. First he just let the musicians play, but then he'd offer subtle advice, but he'd never discourage you: it was always positive reinforcement. He knew that there's a price to be paid to develop in this music, and he did his best to help us."

As a band leader, Mr. Blakey had a powerful influence on the way modern jazz is played, codifying the innovations of the bebop movement and integrating the drums into small-group arrangements that became the leading examples of what was called hard bop. Relying on some of the best arrangers and composers of his time, Mr. Blakey managed to stamp his own identity on his work from his first notable band in 1955 to his last. Tough and based in blues, his bands' arrangements were full of dynamic change and always swung hard. As a result, Mr. Blakey's bands were always popular, and from the 50's on Mr. Blakey was one of jazz's most important figures commercially.

"He came up with a new way to interpret the blues and another way of building the ensamble, where the drums were more orchestrated," Mr. Marsalis said. "That sound is the sound you hear today, particularly with many of the younger musicians. And he had his own particular brand of swing, which makes him important by itself."

Art Blakey was born in Pittsburgh. By the seventh grade he was playing music regularly, and he quickly realized that drumming was a way out of the grinding industrial work prevalent in the area. He joined Mary Lou Williams's band in New York in 1942 and then played the next two years with Fletcher Henderson's orchestra. In 1944, on the urging of Dizzy Gillespie, he joined the singer Billy Eckstine's band, which was a haven for be-bop modernists.

"The first time I heard Art, I said, 'Oh, man, let's get that guy,'" Mr. Gillespie recalled. "He had the knack of knowing when to play loud or soft, and when he played the whole band would lift right off the bandstand. He'd shout like somebody in a sanctified church. He was truly one of our greats."

In the late 1940's, Mr. Blakey brought together a 17-piece band called the Jazz Messengers—a name he would keep for his band throughout his career—and traveled to Africa. When he returned, he continued a series of recordings and performances with Thelonious Monk and Miles Davis that again helped to define modern jazz. In 1955, Mr. Blakey joined forces with Horace Silver, Hank Mobley and Kenny Dorham under the name Jazz Messengers, and he per-

formed and recorded with that group until the late 1980's.

An important element in Mr. Blakey's success was the relationship he had with the Blue Note record label; between 1955 and 1961 he recorded a series of brilliant records that document the succession of his bands. Starting with "The Jazz Messengers at the Cafe Bohemia," recorded in 1955 with Kenny Dorham and Hank Mobley, the label released about 30 albums, including some made by his most famous band, featuring Freddie Hubbard on trumpet, Wayne Shorter on saxophone, Curtis Fuller on trombone, Cedar Walton on piano and Jymie Merritt on bass.

A RENAISSANCE IN THE 80'S

In the 1980's, Mr. Blakey underwent a renaissance. His bands constantly turned out some of the best young musicians working. Not only did Mr. Marsalis and his brother, Branford, herald a new age of jazz, but Mr. Blanchard and Mr. Harrison went on to form their own bands; the trumpeter Wallace Roney spent several years with Mr. Blakey, as did the pianists Mulgrew Miller, Bennie Green and Jeff Keezer. For many young musicians, Mr. Blakey's band was a lifeline back to an era of jazz verities. In the late 1970's and early 1980's, it was one of the few places a young musician could apprentice with a veteran. "When jazz was in danger of dying out, there was still a scene," said the young drummer Cindy Blackman. "Art kept it going."

Mr. Mclean said: "I loved him dearly as a man. Of all the bands I played with—and I got a great deal from Charles Mingus and Miles Davis—he taught me the most. Not just how to be a musician, but about being a man and keeping a sense of responsibility."

Ms. Blackman added: "He adopted me like his daughter. He taught me a lot of things about drummers and music. But as important, he helped me when I was just starting out and not working too often. He'd ask me to sit in when he was playing, he helped me if I needed money. His influence on all us young musicians is incalculable."

Mr. Blakey is survived by four sons, Takashi Buhaina and Kenji Buhaina, both of Manhattan, Gamal Buhaina of Waitsfield, Vt., and Akira Buhaina of Quebec, and four daughters, Gwendolyn Blakey and Evelyn Blakey, both of Manhattan, Jackie Blakey of Florida, and Sakeena Buhaina of San Jose.

THE CRISIS IN THE PERSIAN GULF

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. DERRICK. Mr. Speaker, many of our country's outstanding military leaders throughout history have been natives of the South. We have supplied the bravest soldiers, airmen, sailors, and civilians to the defense of the United States since the Revolutionary War days. Many of the units now serving in Saudi Arabia have trained in South Carolina and their loved ones at home know firsthand the sacrifices that are necessary to keep our military equipped financially and morally. I was not surprised, therefore, to read the reasonable analysis and wise counsel of Anderson Attorney William Watkins as recently published in the Anderson Independent Mail. For the benefit of the Members of this body, I would like to share with you the text of Mr. Watkins' editorial of October 10, 1990:

GULF CRISIS CALLS FOR SACRIFICE

(By William L. Watkins)

This country has no choice but to take the Persian Gulf crisis extremely seriously. We—our country, our allies, our freedom and independence—have not been so threatened since 1941, and this threat may be even worse than then. If Saddam Hussein is allowed to take Saudi Arabia, he will take the entire Middle East. In time, he will have the atomic bomb and will use it where he will. If he is successful in dominating the oil-producing nations of the Middle East, he will have unlimited wealth because he will be able to set the cost of energy around the whole civilized world.

It may take a war to stop him. If it does, we will have to be in it. All indications are that the United States must furnish a large part of the troops and equipment, and if there is a war we will furnish part of the casualties.

This country has never lost a war when the whole civilian as well as military worked together. It has not won a war when the civilian population was not asked to make its share of sacrifices. We cannot have, as the saying is, "guns and butter." We civilians were not called upon to make sacrifices in either Korea or Vietnam wars. We did not feel we were a part of the war effort, and the boys doing the fighting probably didn't feel that we were part of the effort either. We must not make the same mistake again. We must prepare for war, and there is no way we can be sure that it will be a short war. We must make sacrifices whenever, the sacrifices will aid the fighting effort. This means very probably some rationing of critical goods and even some price controls by government if prices start to get out of line. And we must be ready to reinstitute the draft.

There cannot be a war fought without replacement troops being available. The replacements are going to come from the young men of the right age and right physical conditions of today. If they are not brought into service and given extensive military training then, if they are called in as replacements, they are unprepared sacrifices. Every Army or Marine camp that is now largely vacant because of the troops having gone to Saudi Arabia should be filled anew with reserves and National Guard troops to improve their combat preparedness and to provide the training needed by draftees. We cannot win a war without this. We must not send our troops into combat without the proper training.

Finally, the cost of this military operation—and it will be high—has got to be paid. It must be "pay as you go." We do not have enough credit left to finance it. And to pay for it, more taxes are necessary. Congress has worn out all efforts to find a tax that does not hurt anybody, or at least anybody who represents a bloc of votes or can have an influential lobbyist. The war should be financed by a tax that hurts everybody, hopefully equally. Maybe a low rate gross income tax, without any loopholes, will accomplish this. Maybe it will be a low rate "value added" tax. Or an energy tax. This would add to the cost of living but if we do not win this war, the cost of energy to us and all our allies will go out the top. Better to pay it now than later and longer. The cost of gasoline to us could still be less than is paid in other nations. Whatever the tax is, it should be so uniform that no minority, how well organized can be exempt from it. There must be no loopholes. And it must end when the need for it ends, and not spent for new programs.

SPECIES INTRODUCTION AND CONTROL ACT OF 1990

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. SAXTON. Mr. Speaker, today I introduced a bill—the Species Introduction and Control Act of 1990. The bill's objectives are to prevent species extinctions, to protect dwindling populations, and to maintain biological diversity. Its focus is not on ecosystems in Brazil, but on lands and waters here in the United States.

We have intentionally and unintentionally introduced and transplanted countless exotic and native fish and wildlife species into U.S. ecosystems over the years with no established controls. In so doing we have:

First, driven some species to extinction, for example many of our indigenous western trout, and

Second, driven some species to the brink of extinction because of predation, competition, and hybridization with indigenous species, and

Third, upset the natural balance in receiving ecosystems.

Guidelines and controls are desperately needed to prevent further devastations resulting from the introduction of nonindigenous species. Gypsy moths, killer bees, and carp are examples of some of the more widely known ecological disasters resulting from such introductions.

The Species Introduction and Control Act of 1990 will not ban the introduction of nonindigenous species. It will require extensive research and review of any proposed introduction in order to minimize the risk of adverse impacts. This is a reasonable and responsible approach to take, that the potential consequences from introducing a nonindigenous species be thoroughly examined before an introduction.

My bill calls for the establishment of protocols and procedures to be followed for implementing the protocols when someone proposes an introduction of a nonindigenous species into the United States.

These protocols and procedures include: publication of submitted proposals, notification to potentially affected States, establishing procedures to be followed, including requirements for an extensive literature review, and scientific research, opportunity for public comment and review, scientific peer review, and final approval by the States.

Procedures for submitting a proposal include requiring a proponent to provide an explicit statement of the objectives for the proposed introduction, and to identify other species, both indigenous and nonindigenous, which could be introduced in place of the proposed species, and also accomplish the same objective.

In addition, the bill calls for responsive follow-up measures, by requiring the proponents to put into place, monitoring and control programs, and maintain capabilities for monitoring and control efforts in order to identify any deviations from the projected behavior and distribution of the introduced species. This is a very important component, since an unforeseen impact could result and the monitoring would provide a way to detect it, and control efforts could be implemented to minimize and prevent further damage.

Concerning enforcement, both civil and criminal penalties are included, to send a clear message to violators that this is a very serious issue, and therefore, anything less than strict compliance with the established protocols and procedures, will not be accepted nor tolerated.

Uncontrolled species introductions are a huge problem. We need to get some controls in place. This bill provides a reasonable approach through the establishment of protocols and procedures, and gives the authority for final approval of any introduction of a nonindigenous species to the potentially affected States. I intend to actively pursue this issue and legislation next Congress.

COMMEMORATING LEONARD BERNSTEIN

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. WEISS. Mr. Speaker, I rise to pay tribute to one of my constituents, Leonard Bernstein. Mr. Bernstein, one of the greatest artists of our times, passed away this weekend at the age of 72. We will miss this man, who over the course of his long career, contributed profoundly to American music as a composer, conductor, teacher, writer, and pianist.

Mr. Bernstein made his career debut conducting the New York Philharmonic on November 14, 1943, when conductor Bruno Walter suddenly fell ill. That night, Leonard Bernstein, at the age of 25, dazzled audiences and critics alike. November 14, 1943, marked the first of what would be many magical and celebrated concerts.

As a highly esteemed conductor, he was in great demand. In 1957, he was chosen to be the musical director of the New York Philharmonic and he conducted the orchestra for 12 years. Mr. Bernstein was the only American to ever hold that position. He gave up that position to conduct some of the greatest orchestras in the world, including the New York, Berlin, Israel, and Vienna Philharmonic orchestras. Last year, he conducted a Christmas concert in Berlin, celebrating the fall of the Berlin Wall.

Mr. Bernstein's talents reached well beyond the realm of conducting. He was a major influence in American musical theatre with scores for numerous dramatic works such as "On the Town", "Candide", and "West Side Story". In 1971, he composed the musical theatre piece "Mass" for the opening of the Kennedy Center. He also composed a Kaddish (Jewish memorial service) to the memory of Holocaust victims and numerous symphonies, concertos, and popular songs that will continue to delight and inspire audiences around the world. We will always be grateful for these contributions.

We are especially indebted to Mr. Bernstein for bringing honor and respect to the American performing arts. Traditionally, great music has been associated with Europe. By choosing to study, teach, and work here in America, Mr. Bernstein made great strides in changing this perspective. His example will influence and inspire future American musicians.

Mr. Bernstein also has brought great pride to New York City. He achieved his first fame in New York and his music often celebrated this city. "New York, New York, it's a hell of a town," for example, is the marvelous blare that opens "On the Town." "Here we are, Christopher Street/Right in the heart of Greenwich Village," a line from "Wonderful Town," commemorates my congressional district.

I am proud to have served as Leonard Bernstein's representative in Congress. My district and the rest of the country, will surely miss this dedicated, music genius. We are thankful for his musical legacy that will continue to dazzle and inspire audiences around the world.

TRIBUTE FINALLY PAID TO CIVIL WAR HERO MICHAEL BURKE OF TROY, NY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. SOLOMON. Mr. Speaker, I would like to pay tribute today, 126 years after the fact, to an American hero.

The name of Michael Burke may not be familiar to you, but I hope my remarks today will be part of a process to correct that.

It was my privilege a few days ago to take part in a ceremony honoring Pvt. Michael Burke, who died in 1878 from complications of wounds he suffered 14 years earlier in the Civil War.

In 1864, Michael Burke of Troy, NY, and the 125th New York Volunteer Infantry, won the Congressional Medal of Honor, our Nation's highest award.

On May 12 of that year, in the Battle of Spottsylvania Courthouse in Virginia, Pvt. Burke wrestled a rebel flag from a Confederate sergeant and was immediately shot through the chest. He never really recovered from that wound. When he died, he was only 34 years old.

The 125th Regiment, however, still lives on as a Civil War living history organization. Current members of the regiment were researching unit history when they discovered that the gravemarker of Michael Burke was deteriorating badly. There wasn't even any indication that Burke had received the Congressional Medal of Honor. A special committee was established, and a bronze plaque was obtained from the Veterans' Administration.

On last Sunday, October 14, a memorial service was held at St. Mary's Cemetery in Troy, complete with flag folding, wreath laying, and musket firing by regiment members wearing Civil War uniforms. The new plaque was dedicated.

The service was followed by a reception and display of Civil War items at the Rensselaer County Historical Society in Troy.

Michael Burke's action personified the spirit and pride of the 125th Regiment, and the spirit and pride the American military has shown for over 200 years. America is the freest nation on earth because of unsung heroes like Michael Burke.

Mr. Speaker, I'd also like to commend Steve Alston, commander of the 125th Regiment, and Richard E. Straight, chairman of the Medal of Honor Committee, for doing such an outstanding job of making the memorial service a success.

But finally, Mr. Speaker, I'd ask you and all members to join me in saluting, however belatedly, Pvt. Michael Burke of Troy, NY, an American hero.

TRIBUTE TO DR. VINCENT E. REED

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. DIXON. Mr. Speaker, it is with great pleasure that I join the Los Angeles chapter of the West Virginia State University Alumni Association in paying special tribute to the outstanding accomplishments of Dr. Vincent E. Reed. This is a well deserved commendation for an individual who has dedicated his talent and commitment to educational excellence and community service.

An innovative and productive educator and administrator, Vincent Reed's selfless dedication to educational achievement enabled him to build a long and illustrious career. In 1956 he began his career with the District of Columbia Public School System and served as a teacher, assistant director of the Manpower Development Training Program, assistant principal of Dunbar High School, assistant principal and principal of Woodrow Wilson High School, assistant superintendent of personnel, and executive assistant superintendent in charge of all secondary schools. Because of his superior organizational and administrative skills, he was called upon to organize and head the first security office for the D.C. school system and the newly created Office of State Administration where he served as associate superintendent. In 1976 Dr. Reed was appointed superintendent of the D.C. public school system

Vincent is a versatile, competent, and well respected administrator who has continuously demonstrated his unflagging commitment toward improving the quality of education in this country. These qualities were particularly recognized in March 1981 when Dr. Reed was appointed by President Reagan to serve as Assistant Secretary of Elementary and Secondary Education. In 1982 he joined the Washington Post as vice president for communications where he has continued his involvement in community service and charitable events.

Born in St. Louis, MO, Vincent was educated in the St. Louis public schools, Iowa University, West Virginia State College, Howard University, Wharton School of Finance and Commerce of the University of Pennsylvania, Virginia State College, and the University of Massachusetts.

Vincent Reed's genuine commitment and dedication to educational achievement have not gone unnoticed. He has received many public service and education awards. Among the awards and commendations he has received for his distinguished contributions are the honorary degrees of doctor of public administration by Southeastern University, doctor of humanities by West Virginia State College, doctor of humane letters by Georgetown University, doctor of humane letters by Strayer College, doctor of laws by the University of the District of Columbia, and doctor of humane letters by Harris-Stowe University. To complement his outstanding achievements, he has published articles on educational topics, is an accomplished public speaker, and serves on the board of trustees of a number of colleges and universities. He is affiliated with many education and community service organizations and is also listed in "Who's Who in America."

Dr. Vincent Reed is a living example that diligence and a commitment to excellence can indeed be rewarding. He is a man well respected and admired in the District of Columbia and around the Nation. He has accomplished a remarkable career of public service and is truly deserving of the honor bestowed on him by the West Virginia State University Alumni Association of Los Angeles. I salute his distinguished contributions and wish him continued success in his future endeavors.

IN HONOR OF SISTER MARY JEANNE FERRIER, R.S.M.

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. GILMAN. Mr. Speaker, I invite my colleagues to join me today in honoring Sister Mary Jeanne Ferrier, Religious Sisters of Mercy, for more than three decades of distinguished service as a hospital administrator. Known for her love of children and praised by her colleagues for her energy and dedication to health care, Sister Mary Jeanne has devoted much of her attention to the administration of hospitals in New York State. Of particular note is her meritorious service at Mercy Community Hospital in Port Jervis, NY. Having served as the president of the board at the hospital, then called St. Francis, from 1956 to 1959, she left New York to assist the Mother General in Bethesda, MD, bringing her caring and knowledge of health care to the rest of the world, from Europe to the Far East to the Americas. Sister Mary returned to Mercy Community Hospital in 1966, serving ast the hospital's administrator and chief executive officer until 1981. She resigned only this year as president of the board of directors, a position she had held since 1977.

We owe a debt of gratitude to those "people with concerned hearts and minds" who, to use Sister Mary Jeanne's own words, "are the strong, rock bottom of health care." Felt by many to be the most effective hospital administrator in the State of New York, we honor Sister Mary Jeanne Ferrier today for her many years of dedication, of caring, and leadership in providing health care to the sick or our region.

CONGRATULATING ROBY CHRISTIE ON THE 9TH ANNUAL HOTTER-N-HELL 100

HON. BILL SARPALIUS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. SARPALIUS. Mr. Speaker, the city of Wichita Falls, TX, boasts of hosting the largest bicycle race in the United States. The August event is appropriately named the Hotter-n-Hell 100. With average temperatures during the 100-mile ride of at least 95 degrees, it always lives up to its name. This ride is not just another bicycle race, and one man responsible for making it different, is Roby Christie.

This year's ride on August 25 attracted 11,467 cyclists to Wichita Falls from 42 States and 4 foreign countries.

The activities started Friday night with a spaghetti dinner known to cyclists as the "Carbo Load", and a cycling symposium.

On Saturday, the riders chose between the U.S. Cycling Federation Sanctioned race, the 100-mile ride, or a number of shorter routes to test their endurance, strategy, and ability. Mr. Christie's committee organized rest stops sponsored by business and community organizations along every 7 miles of the course. These rest stops provide food, drink, and entertainment. For the riders who were unable to finish, a "sag wagon" would pick them up and carry them to the finish line. Meanwhile, the families of the riders were treated to one of the largest consumer shows in the country for cycling equipment. In this, its 3d year in existence, the show has more than tripled in size since 1988.

In spite of all the professional teams that participated, an amateur placed first. However, the professional teams had a chance to compete among themselves in the Criterium race on Sunday. Again, families of riders were treated to entertainment by watching a hot-air balloon race sponsored by Sikes Senter Mall.

All told, the race brings an estimated $1 million directly into the Wichita Falls economy. The Hotter-n-Hell 100 has an economic impact of $3 million. In addition to the economics, it increases community spirit, involvement and introduces social diversity. Mr. Speaker, fellow Members of the House, please join me in congratulating Roby Christie for a successful 9th Annual Hotter-n-Hell 100.

CIVIL RIGHTS ACT: A BETTER BILL

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. HOUGHTON. Mr. Speaker, I voted against the original civil rights bill. I thought it was unfair—basically a quota bill which would make it difficult for smaller businesses to operate.

The bill went back to conference—a highly unusual practice—and the language was changed. I'm now convinced that my original fears have been satisfied. Words and phrases like "business necessity," "mixed motives," and "particularity" are thrown around in explanation of this civil rights legislation. The main point now, however, is that though far from perfect—the new bill is better than before and far better than having no bill at all. So I'm supporting it.

I am a former businessman. I'm very sensitive to the well-being of the private economic engine of our society. I do not want to have it bear still another burden. However, I do not, in the perspective of this total issue—feel that it will.

One can easily take an issue and prove beyond any doubt the worse possible scenario. But when balanced between theory and practice, I have to believe that this legislation will not hurt business. Business will be better off going back to the original meaning of "business necessity" which has worked without leading to either racial quotas or undue financial damages for 18 years.

There has been a great deal of emotion generated here. I don't know whether that's good or bad. What I do know is that we must resolve this issue and move forward. The ghosts and demons projected by the doom sayers I frankly do not believe are there. Certainly there will be a lobby of lawyers which will become more active under title VII or the Act of 1866. But that will subside. Reason will prevail. It always has. Furthermore, there will continue to be changes and adjustments to any legislation which is as fundamental as equality of opportunity.

I must admit that it hurt me to vote against the first bill. I want to be supportive. I have been fortunate in my lifetime not to have had to overcome racial barriers. But the people who would write the perfect civil rights legislation want to insert paragraphs that—for example—would allow employers to defend discriminatory job practices on the grounds that these practices were prompted by community or customer relationship efforts. You know we went through that period 30 years ago. As a result I have a fear that these proponents of the ideal bill—whatever that means—want no bill at all. And I just don't think that's right.

In the revised bill that emerged from the reopened conference, the punitive damages cap doesn't just pick on small businesses. In the original bill an employee didn't have to point to anything specific when charging discrimination. Now he does. The conference report greatly strengthens any business' ability to

argue the importance of job performance. I could go on. I won't.

Suffice it to say that this bill, in my opinion, now meets the test of rightness and practicality.

REMARKS BY CONGRESSMAN GINGRICH CONCERNING THE BUDGET

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. THOMAS of California. Mr. Speaker, I want to commend our colleague, Congressman GINGRICH, for recent remarks he made concerning the budget summit and the budget process in general. I am submitting them for the record as his thoughts on what the voters want and what we have been doing are worthy of consideration by all of us.

ADDRESS BY REPRESENTATIVE NEWT GINGRICH TO A CONFERENCE SPONSORED BY THE FINANCIAL EXECUTIVES INSTITUTE

Rep. NEWT GINGRICH: Thank you very much. I thought I would talk for a little while and then take questions, but I should say that my major claim to fame isn't all that nice stuff you just heard; it is that I am the congressman who represents the Atlanta Airport. And in a sophisticated group like this, I always ask, how many of you have been through my district? Raise your hand, if you've been through. (Laughter.)

Now, I'm serious. Raise your hand if you've been through Hartsfield. That's good; that's a start. I had somebody once yell from the back of the room—I asked how many enjoyed it. But we have 55,000 jobs at the airport, so we're grateful any time you can come through, or as you rise in importance send your subordinates.

This is a real challenge to me. I'm going to try to compress four and a half months in a budget summit and the last two very, very hectic weeks, plus a projection of the future into a short enough talk that we can take questions, and as a former college professor who's used to at least 55 minutes, you can imagine what a challenge this is.

So I'm going to sort of jump along and give you a series of outlines rather than necessarily talk only in a long and elaborate way about this thing.

But I want to start with—and I waver between two titles that I think are sort of the key to where we're at. One was that a budget is more than numbers. I think that's one of the major mistakes in the current budget debate; that a budget is really about values, it's about vision, it's about where you want to go, it's about programs. And to talk about a budget in pure numbers is inherently wrong, and is something I think that we have made a major mistake of in the city of Washington.

Because numbers by themselves are almost meaningless. And again, if you think of your family budget or your corporate budget, numbers have to be driven by policy. If numbers start to drive policy, you have sort of a mindless, almost nihilism of government, in which you end up making decisions that make no sense, except that the number forced you to the decision.

And so in a very real sense, you have to have a constant cyclic process in which the numbers inform the policy makers who then look at policy decisions based on values and vision, about which they then make decisions that are numerical.

But unless you go through that almost cybernetic loop, you are in fact missing the key elements of how to make decisions.

The second choice I had was to talk about the budget as if we'd actually allowed normal citizens to write it.

Let me give you just one example, because I think it is such an astonishing and such an unnoticed fact in this city, that it's worth paying a lot of attention to. If you had randomly drawn any 21 citizens in America into a room, and said we're going to give you four and a half months to think about the federal budget, we're going to give you all the technical backup you need, we're going to give you all the opportunities to look at all the arguments—one of the things they could never have done, ever, is allow the Appropriations Committees to have no cuts. I mean, only in Washington would you start a budget process by saying we're going to protect the Appropriations Committees so that they have full inflation-level growth in their spending for the next five years, and now we're going to talk about cutting spending.

And yet in America at large, where there's an overwhelming majority convinced that government is a bad buy, that they're not getting their money's worth, that Washington doesn't have the wisdom to spend their money intelligently—and after watching us last weekend, this has been doubled or tripled.

In the rest of the country they would have started out by saying, now how much do you intend to have the Appropriations Committees spend? And it's well over a trillion dollars over five years. And they would have said, gee, we could probably get a little bit there.

Another example. No group of average citizens, looking at what's happened over the last two months in the Middle East, could possibly have come up with a gas tax increase.

Now I understand that gas tax increases are extraordinarily popular among editorial boards that ride Metro. They're extraordinarily popular among inner city politicians. They're extraordinarily popular among people and college faculties whose vision of the world is European socialism. But the fact is Belgium is one-third the size of South Carolina. The fact is that from Tokyo to Kyoto is 100 miles. The fact is that most of the models imported into the U.S. of a high gas-tax economy are simply irrational for a continent-wide country and for a country which has practiced mobility and which has encouraged suburban and small-town growth.

And to artificially raise the cost of living for a normal average American while avoiding any cuts in the Appropriations Committee would have struck the average American as nuts.

But there's a third issue. The average American would probably have said how close are we to a recession? How serious is the threat of a recession? Sixty percent of the country currently believes we're already in a recession, and they would probably have said what happens to deficits if we have a real recession. And they would have been told by the experts, oh, if you have a real recession, what'll happen is people will be laid off of work, they'll quit paying taxes, they'll start drawing unemployment and welfare, and guess what—the deficit will get bigger.

And they would have said, well, I don't understand this. If the deficit will get bigger in a real recession, then if we're worried about the deficit shouldn't our very first goal be to avoid a recession?

And they'd be told by the experts, no, that doesn't count because the Joint Committee on Taxation has an economic model which is static and does not take into account any kind of expectational changes, and cannot predict outside effects.

I'll give you an example. The much-maligned capital gains tax, which, by the way, would have two surprising indirect effects. One is by lowering the cost of capital in the United States, it would draw money into the United States, thereby providing non-Federal Reserve Board liquidity and at the margin lowering interest rates, and, second, it would raise the value of real property, something of substantial importance if you're the federal government, and you are the largest single seller of real property in America today. Therefore, it would lower the cost of the S&L bailout.

Neither of those changes can be handled by the Joint Committee on Taxation. The Joint Committee on Taxation is today intellectually the equivalent of a travel agency that will not put you on an airplane because their model airplanes can't fly.

It's literally true. If you look at their nondynamic model of how human beings behave, they always overestimate revenue, for example, and excise taxes because they underestimate the speed with which humans stop doing the things we tax. They always underestimate the revenue gain from things like capital gains that increase behaviors, because they always underestimate the expectational changes of humans when you reward certain behavior.

And yet they are the people who set up the ground rules, so that we spend five months in a meeting in which all of us who happen to believe in any kind of private sector economic growth kept saying we stipulate that their model is dumb but we'll now use it.

Now the average citizen would have said, you know, if it's that dumb why are you doing it? And we would have said, well, this is Washington. Which gets me to my next point.

Everywhere on the planet we are seeing dramatic change in the direction of value that could broadly be called Ronald Reagan's values.

We're seeing changes in Mexico, which we applaud—more privatization, more free enterprise. We're seeing changes in Hungary, Poland, Russia, and all the various states of the Soviet empire which we applaud.

I had a New York politician tell me, recently, that he found himself talking to some of the radicals on Boris Yeltsin's staff about how they could sell private property in Moscow, how they could privatize the apartments. And the guy said, well, how would you set prices? And he said, well, you'd let the market economy determine what's the value of an apartment. Then he suddenly thought—my God, I hope he doesn't ask me about rent control in New York City.

Well, what are we doing in Washington. We are preaching to everybody else on the planet smaller bureaucracies, stronger market forces, greater incentives, and then in Washington we're practicing socialism. I mean, look bluntly at what we're talking about—more red tape, more regulations, more bureaucrats, more centralized decision making.

I had a state government official tell me last night that he's seeing a reversal back to more centralization in Washington again.

And yet the average voter knows that government is a bad guy. Let me give you an example of the kind of political madness which exists in America today. Per thousand dollars spent, you get three to five times better education in a Catholic school than you do in the New York City public schools. Now everybody knows that. I mean, there's not any great argument about that. Yet our tax code and our spending code is such that there is a very real likelihood that within the next year, the New York Catholic schools are going to collapse because they don't have any money, and 100,000 children are going to leave a system that is still working to go to a system that is failing, and are going to go from a system that costs less per child to a system that costs more per child.

Now as a society, you have to be relatively dumb to have those kind of patterns developing; to not be able to stop and say isn't there some way we can find either to increase charitable giving, to provide greater incentive for people to have choice; but to do something so that that which works is encouraged and that which fails is changed?

And instead what we're told is you can't behave like that. In New York City today it costs an estimated $250,000 to fire a bad teacher. The result is they have people who have been accused of sex offenses teaching in classrooms because they can't figure out how to go through the process of getting rid of them.

In Chicago, the Chicago Tribune interviewed a teacher who every principal she had ever worked for had tried to fire. And the expectations were that this year she would ruin 30 children. And they asked her: you have 11 more years to go, what is your number-one educational goal, and her answer was to retire on a full pension.

Now a system which can't reorient and rethink itself is a system in crisis, and yet let's look at the U.S. Congress. What you heard in this city I think is extraordinarily anti-democratic, with a small d.

It is extraordinarily anti free society and self-government. I mean, go back and read the comments of the last week. People who lacked courage; people who were unwilling to face up to the American public. What kind of balderdash is this?

You know, the founding fathers presumably established elections for a purpose. They were trying to create a market environment in which on a regular basis, laid out in the Consititution, every two years—not a surprise—people had to go home and say hi, do you like the job I'm doing, would you like to rehire me? And they presumably did this because they valued the opinion of the American people.

Now you get to the Washington elite, and there is nothing but cynicism and contempt for the American people. How dare the American people reject this budget package? Well, they dared it pretty easily. They just paid 27-cents-a-gallon higher gasoline prices yesterday morning, and they said to themselves, do I think I'm getting a good enough buy in Washington to pay 10 cents a gallon more? By a rather remarkably large number, the answer was no.

The average senior citizen looked at this city and said, I have this hunch they haven't cut any spending among the politicians. Do I think they should cut my Medicare? And the average sense was no. Now you may all say, well, they're all selfish, but let me tell you—if your conclusion is that the American people are too stupid and too selfish to be talked to intelligently, and they can't be brought into the process of deciding their future, then what model do you intend to suggest to Gorbachev and Yeltsin? Now you can't have it both ways. If, in the end, you believe in self-government, then you have to find a budget and you have to find a solution which you can explain to the American people so that when they see it they go—that makes sense, that's a future I'd like to have.

Now, what the American people will tell you I think is pretty simple. They want very dramatic reform in this city; there's a reason that term limitation is sweeping the city. People are sickened of the political elite; they are disgusted with incumbents who exploit their office, use taxpayers' money, guarantee their own reelection. The most stable incumbents in the modern world, more stable than any European communist dictatorship, except Albania. Literally. That's not an exaggeration, that's not hyperbole, that is statistically true. You are more likely to be defeated in any election in any part of the Soviet empire than in the United States House of Representatives.

Now that's how sick the system is, and so people finally are rising up in rebellion and saying I've had it—I don't want you to raise my taxes because you no longer have legitimacy. I'm going to set a term limitation because I've concluded I can't reform the system enough to beat you. And I want you to clean up and cut political spending in Washington before you ask me to give up a dime in my family or my charity or my church or synagogue, or my neighborhood.

That's not an irrational statement, despite the Washington Post and New York Times editorial boards. That is a very different perception of reality. It is a non-elite, non-Washington syndrome sense that government ain't functioning, these guys haven't got a prayer of solving it, and I ain't giving them more of my money to waste.

And again, if you watched C-SPAN all weekend, which way would you have voted? Did that look like a group you want to send more of your money to?

And it's not—please understand me—it's not because we're incompetent; it's because we're locked into a terribly difficult struggle. For three presidential elections in a row, the American people have spoken with absolute decisiveness. I mean, the truth is if you go back, you can argue that Carter running as a Southern Baptist, populist outsider was part of the same tradition. And in a very real sense, Nixon versus McGovern and the Nixon/Wallace combined vote in 1968 fit the same pattern. The last time a progovernment tax increase, welfare-state bureaucracy winner existed was Lyndon Johnson in 1964. So, for 26 years, at the presidential level, the American people have said that's it.

I mean, stand up in San Francisco and promise you'll raise taxes as Walter Mondale did and you're gone; you'll barely carry your home state by 7,000 votes. Wander around the country and offer the Massachusetts miracle, and people say, I'll bet that sucker's going to collapse. And it did.

So I'm suggesting to you that in the core values of the culture of the American people, they've made a decision, and their decision is they want big change.

The side which argued for lower taxes and less government, and a stronger national defense, and stronger anti-crime and drug policies, to take the core values, that side got 89 percent of the electoral vote in the last three presidential elections. Eighty-nine percent. It carried the popular vote by an average of 54 to 42 in three presidential elections. This is not close. Then you get to Capitol Hill where a combination of labor union power structures, gerrymandering, incumbency use of taxpayer money to keep themselves locked into office, and all the other perks that the Democratic Party has now used to entrench itself, create a left-wing bastion, so that you have the most liberal House and Senate leadership in history, while the country, for at least three consecutive elections has gone to the right. And you have this huge chasm. And that's the real collision.

This weekend—why did the government shut down? The government shut down because the Democrats who control the House would not accept even a nominal cut in spending. They were determined to have full funding at this year's level, not last year's, while they continue to avoid passing a budget, and we had the government close for two days because they would not pass a spending cut resolution, and we finally passed one which is very weak and very mild, and out of sheer exhaustion we didn't fight any further.

But in fact it was madness. There is not a person in America who thought that for one week you couldn't sequester. By the way, the sequester in the original fight—the sequester would have been travel money; no furloughs, no crisis—travel money.

Now a Congress which is saying to the American people every dime we get from you is so precious we can cut nothing, and every dime you have in your family budget is so available we can raise your taxes, including something as obvious and sensitive as gasoline, is a Congress which is simply grotesquely out of touch.

Let me give you just a couple set of numbers, to give you a sense, again, of what I mean by being out of touch. Members who were unopposed in November voted 44 to 34 in favor of the budget deal.

Members who were retiring and not running for any other office voted 14 to 2. Members who are running for the Senate voted zero to eight. Members who are running for governor voted zero to three. Members who are listed in close elections voted zero to twenty-five.

Now you can say that's a sign they're cowards. But I want to come back to my earlier point. I am a populist because I think sovereignty rests in the people. I'm a populist because I think at some level if you can't convince them they have the right to say no. That the burden is on the leaders to convince the led. It's not to be cynical, it's not to involve in a conspiracy, it's not to sneak something through as quick as you can before they notice it. It is to be able, with honor and dignity, to go home and say yes, I did this and let me tell you why. And if you can't, you shouldn't.

And we haven't made the case up here. Now we're going to have a very interesting 10 days, and I'll make a couple predictions for you.

The House Republicans yesterday, the Policy Committee led by Mickey Edwards of Oklahoma, with a task force led by Carl Pursell of Michigan and John Kasich of Ohio, have produced a dramatic alternative to the current Democratic budget. It's an alternative that has no gasoline tax increase; it is an alternative which has dramatically better funding for Medicare; it's an alternative which, for the first time, touches the

largest of sacred cows, or maybe it's a sacred pig—the Appropriations Committee. And actually has the temerity to freeze the Appropriations Committee for one year at last year's number, a sign that in this city will probably lead to some people having heart attacks, strokes, and other kinds of difficult personal responses to that kind of heresy.

What it does by freezing the Appropriations Committee is it liberates political money which can then be used, instead of being spent for pork barrel, can be used, for example, in Medicare, and it makes the clear argument that until you have put some discipline in the Appropriations Committee and on government spending in Washington, why would you punish the average American?

Now the Democrats will not like the package we're going to offer, and they will make an effort—I will predict this morning, they will make an effort to block us from bringing it to the Floor. Now, remember, this is a party which in the last two years, in this Congress, has waived the budget act 62 times. This is a party which has written bills which have never gone to committee, never had a hearing, which they brought straight to the Floor under a rule waiving all points of order.

So this is a Democratic party which could make an order of virtually anything they wanted to. If they wanted to declare Mars a state they could bring it to the floor today. The rules of the House are very flexible. But I will predict to you that the difference between a budget drawn starting with the American people and then changing Washington, rather than a budget drawn starting with Washington and then changing the American people, that difference will be so powerful that in fact in order to avoid allowing us to have a clean chance, the Democrats would write a rule that makes our budget not in order.

And what we'll do then frankly is make the rules vote count as a key, and we'll go to the American people. And we'll say here is a clear choice between two ways of doing business. If you want a gas tax increase, then you have exactly the right man chairing the Ways and Means Committee.

If you want more, deeper cuts in Medicare, in order to spend more money in the Appropriations Committee, then you ought to vote Democrat. But there is a real and fundamental difference. And I think a lot of moderate and conservative Democrats and a lot of Democrats from districts with a large number of senior citizens and a lot of Democrats from districts that are large, like rural, suburban, are going to find it very interesting to look at an alternative that doesn't raise the gas tax and to look at an alternative that freezes the Appropriations Committee and thereby enables us to do better by Medicare recipients. And I think it's a legitimate argument, and I think it will be very interesting to see how the next ten days work out.

Let me stop if I might and just throw it open to questions and comments.

Q: Congressman, I understand that Chairman Rostenkowski yesterday indicated that he would (inaudible) the Republican alternative to be brought to the floor (inaudible) Democratic alternative to be brought to the floor, as well as the summit agreement. Your comments on that and a question on the proposal that you just outlined, is President Bush on board?

Rep. GINGRICH: At the present moment, this is purely a House Republican proposal. We haven't seen the White House to go over it in detail. We've shared it with them, and we developed parts of it with technical help from the Office of Management and Budget.

But I think, frankly, you've got a process in both the House and Senate that's going to have to fight its way out.

Let me make this suggestion to you, though. The Democratic budget resolution prohibits any cuts in the Appropriations Committee from counting towards deficit reduction. Our budget is going to have cuts in the Appropriations Committee. And if any of you happen to know any of the leading Democrats you can go back and ask them, are they going to make that an order, are they going to count cuts in the Appropriations Committee, or are they only willing to count cuts that aren't in the political spending they control.

Because their budget resolution explicitly does not count any cuts in Appropriations Committee towards reconciliation.

Yes, sir.

Q: Republican Congressman Frenzel said earlier this week he thought Republican House members had shot themselves in the foot essentially last week by voting down the compromise, that that was their best shot at getting something out of the (inaudible) Democratic-controlled Congress. President Bush has apparently said he'd sure like to see something very similar to the thing that was voted down last week come up again for another vote.

That leads me to four related questions, which are, was it a mistake for you to——

Rep. GINGRICH: Why don't you ask them individually and let me——

Q: Well, I think they can actually be made into one.

Rep. GINGRICH: Four subplots of a major question.

Q: Was it a mistake for you and your colleagues to vote against the resolution last week because that really was your best shot? Would you consider voting for something similar to it now if it were offered again? How can, I guess, what could you come up with that you could really have a realistic chance of working out an agreement with or getting through a Democratic controlled Congress, and the fourth, I even forgot, which is if you can't even agree among yourselves as Republicans, how can you hope to reach some sort of compromise agreement with the Democrats?

Rep. GINGRICH: First of all I think that this is a city which all too often explains that while the thing I'm doing is not defendable, it's better than the thing I would have done.

I mean, I think you have to start and say was that good enough, did that fit the values of the American people. And I would come back to my initial point.

How can you seriously defend not cutting a dime out of Appropriations while raising taxes on the American people and cutting Medicare? It's just wrong. I mean, it doesn't make any sense.

How can you defend an ideal which may or may not have made sense in the spring to raise gasoline taxes, coming—in terms of being out of touch with normal America.

How can you propose a ten-cent a gallon gasoline tax right on the edge of people who are sitting out here at the margin who are worried about a recession who just had the average gasoline price go up 27 cents a gallon? In terms of a sense that Washington doesn't understand normal America, I think that is simply not correct. It's not valid, it's not a legitimate offer in that sense, from the American people's standpoint.

And it wasn't the House Republicans who defeated this. I mean, everybody reminds us we can't pass anything because we're a minority, and we're to blame because the budget summit failed.

Now if you think that sentence through, I mean it's obviously just not possible. The budget collapsed on both sides of the aisle because when the American people looked at it, they said no, they said no in overwhelming numbers.

And if they can't say no a month before the election then what's the point of being a democracy. I mean why have elections. So I'd come back and I'd say no I wouldn't vote for that package slightly modified. I think you need to rework it and rethink it. And I think there are ways (inaudible).

Second, what is the strength of the House Republican party? Well, obviously by ourselves we can't pass something. Let me point out to you the liberal Democratic leadership was deeply opposed to capital gains last year. The people who represented farming districts and people who represented timber areas and people who represented small business areas and people who represented senior citizens who had a lot of savings and who are the primary people who take capital gains, by the way, all those different groups came together last year and we had over 260 votes in favor of a proposal which the liberal Democratic leadership opposed.

So when you put together a coalition, it can work. In addition, any time the president wants to veto things, 146 of us can sustain. We looked pretty powerful on Saturday.

I mean the liberal Democrats couldn't override his veto. The president and the House Republicans on Saturday stopped the liberal Democrats in their tracks. And they could have done it again in my judgement on Monday.

So we have a veto base. If the Democrats insist on a gas tax increase, Medicare cut, no spending cuts in appropriations budget and that's their package, we'd probably urge the president to veto it. We'd go back and say we can now do better and we should do better. And we owe it to the American people to do better.

Lastly, it seems to me that we were told for four and a half months—I was in the summit. We were told don't go out here and worry all these guys developing budget options, because we have the summiteers. Now we're told since none of you developed budget options, you have no standing.

Well, which is it? I mean everybody was told to hang around for the summit to succeed, and when the summit failed they were blamed because they hung around.

Nobody asked Mickey Edwards and John Kasich and Carl Pursell to develop a budget option till Sunday. And Edwards got Bob Michel's approval around 2:00 Sunday afternoon, appointed him to the task force at 3:00, it met at 4:00, and at 8:00 that night was in the leadership meeting briefing us on the basic outline of a budget agreement.

Now I think that's reasonably fast. We passed it in policy yesterday with, I think, 40 votes to 2. But considering that we were told for five months don't do anything because the summit will solve it, now we're being told why didn't you do something, you no longer have legitimacy. That's nonsense.

And frankly, the average American, having repudiated the deal last week, wants to see some new ideas. They don't want to be told the best they can do is a warmed over version of what they just repudiated.

And I was astonished the other night on "Nightline" with Bill Gray to have him honestly admit that all the Democratic budget is is a slight variation on the document the American public repudiated.

I wouldn't want to go out to the country and say, hi, we really heard you. We're not going to raise your taxes 10 cents a gallon; the mark yesterday was nine. Boy, we really listened to you. And I'm sure that average American out there is grateful that it's only nine cents a gallon; they're going to say no, that's nuts. It's a sign that once again the politicians in Washington haven't heard.

Q: But where's the number compromised? That's the part (inaudible), between your position and the——

Rep. GINGRICH: Well, listen, I think if you have two-thirds of the American people, as Ronald Reagan proved over and over again, the goal may not be compromise. The goal may be to convince the Democrats at the margin that after two vetoes or three vetoes they ought to vote for a package that the American people want.

I mean, Ronald Reagan didn't compromise in three years of tax cuts by having a year and a half of tax increase and a year and a half of tax cuts. You know, he didn't compromise in the Gramm-Latta (phonetic) budget cuts, which were the most decisive budget cuts in the last 30 years, in the direction of saying, well, why don't we go ahead and increase this and decrease that. He in fact fought very hard for a package of cuts.

And he didn't compromise his military buildup by saying, I'll tell you what, we'll be weak on two fronts, but we'll be strong on two fronts. He fought to be strong everywhere so that in fact the Soviet empire would collapse, as it did.

And what I'm suggesting is, the American people are now angry. There are, I think, seven or nine tax limitation initiatives on ballots around this country. There are term limitations on the ballots in California and in Colorado that are ahead by over 70 percent in both states.

John Silver (phonetic) just came out for a six-year limitation for state legislatures in Massachusetts. I mean there's a tidal wave building out there of the American people, and I'm not sure that on behalf of the American people we have any great need to compromise.

I think we just ought to stand there and say, here are the values we believe the American people represent. We're prepared to sustain a veto if the budget deal doesn't fit those values. And then tell the Democrats, if you'd like to be here on Friday, Saturday and Sunday before the election fighting over whose values ought to exist, we're perfectly happy to have the country watch that and then let them decide who they want to shape things.

Yes, sir.

Q: You haven't said much about the entitlement programs, which is where a lot of the big money is. Could you comment on what you see happening there? And also, entitlement programs not being touched, is that really the American people talking or just the very large vocal recipients of these programs?

Rep. GINGRICH: Well, the very large vocal recipients of those programs are about 35 million people who are the most likely to vote this November. Senior citizens are more likely to vote than younger cares. Thirty-five million of them are an impressive number. If any of you doubt that, I suggest you go to your local congressional district and walk around for a half day, or go to any town hall meeting.

And they're not—let me say again, they are not any more selfish, they are not any more short-sighted, they are not any more venal, than any other American. They're just normal everyday folks. And what you've got to do is have an argument.

That's why I started by saying, when you have these mindless numbers games—$500 billion for fives years—remember, this is a budget which increased by $240 billion in the projected deficit this year. We have a magic number for five years. And so you go before your senior citizens and say, it's $500 billion over five years, and we're taking $196 out of you. And they go, tell me again why. And these people have been around awhile. You know, they've been around long enough to watch FDR and Harry Truman and Dwight Eisenhower and Jack Kennedy and Lyndon Johnson and Richard Nixon, you know, and Jerry Ford and Jimmy Carter and Ronald Reagan and now they're into George Bush.

And they're saying: Explain this to me again. Because they don't automatically buy whatever the latest gimmick is, or at latest nine-second sound bite. And they want to be convinced.

My experience is, that's the generation that lived through World War II. They're very patriotic. They'll do anything they are convinced is fair; they'll do anything they're convinced is reasonable; they'll sacrifice if the country needs them—they have all their lives.

But what they don't want to be told is that the boys in Washington cut a deal, and the boys in Washington get lots more money to play with, and by the way, you're going to get hit once again. Because their lifetime experience has been, that doesn't work for the country and it doesn't work for them; it just makes the politicians happier while the country gets weaker.

And so I think you've got to start. If you want to reform entitlements, you've got to have an argument about entitlements—not a budget number.

I'll give you an example: people talk about progressivity on the tax side, the Democrats who are the last stand of a Ligachev-level class warfare. You know, the Democrats are just totally into class warfare. And it's amazing to watch and listen to them. Fine, you want to talk about progressivity, let's talk about it on the spending side.

Explain to me why a person who's retirement income is $200,000 a year should have their Medicare insurance subsidized? Now, I can't find a single argument for that. I can go back home and say confidently to almost every group in my district, tell me why we should tax people who earn $20,000 a year to transfer from their family with two young children to subsidize a person whose retirement income is 200 grand, which we do right now.

And my district would say, that's a little irrational. They'd accept that change. But notice, you're now making an argument about a reform; you're not making an argument about a budget number. You're not trying to package 1,100 things in a budget deal, vote on it once, never explain any of it, and say, trust me—in a city which, by the way, has become profoundly untrustworthy in the country.

I mean the American people don't trust Washington. They've been through 25 years of being convinced this is not smart. And then they watch Marion Barry, who they probably thought was an appropriate mayor for the capital that they've watched over the years.

And then you show up and you say, hi, we've got this deal, you know, we're going to rush it through very quickly, trust us, and yes it's a little thick, but there's nothing in there really bad for you. And their attitude is a little bit like most of yours would be if it was a private contract and somebody rushed in and say, sign this, it's only the rest of your career.

And you'd say, oh, I'd like to read it awhile, like to get a few experts to read it awhile. Call you in a week.

And so I think you've got to—yes, you have to reform entitlements. Yes, I think we have to talk with (inaudible). I made a very bold speech on Social Security in 1986, in November, and I virtually got my brains beaten out last election because I talked openly about the need for the baby boomers to rethink it.

And yes, I think you ought to rethink parts of Medicare, but you ought to do it starting with the people who currently rely on it, understanding their fears and their concerns, and trying to have some appreciative understanding of what it's like to have $300-400 a month coming in, to live in a small apartment, to be terrified that you're going to lose all of your savings, and to have this sense that there's a large bureaucracy and a large political system who have no idea who you are as a human being, and for whom you're simply one of the folks to get nicked.

And I think that's why there's been such an anti feeling about Medicare—about the current Medicare cuts.

Yes, sir?

Q: If your wildest dreams come true, and all of that works as you talk, where'll these talks come from when you talk appropriations? Could you give us some sense of size, impact, program?

Rep. GINGRICH: Sure.

Q: Where will this money come from?

Rep. GINGRICH: I think it would come from—first of all, like most state legislatures, what would happen is you would squeeze the appropriations committee. And you would say to them, this is the most you get to spend. And they'd have to set priorities. And you'd have a very gruesome fight.

I'll just give you one example. I'm a fanatic about getting into space. I would really like to get into space; I think it's very important.

Given the current track record at NASA, can any of you make a serious argument that if we slip the space station a year, that you would notice it?

But it is such a sacred funding item, we can't deal with it except by getting all that money there, no matter what the cost?

Would any of you like to guess, if you were go through the latest list of appropriations projects, that if we were to set priorities, you couldn't find 10 or 15 or 20 projects per subcommittee that could either be postponed or foregone?

Now, whether you're talking about personal pet projects involving various members in appropriations to send money to the school of their choice, it's an alumni program; they tax all of us to send the check by the way of the government.

You know there are schools out there that have gotten $80 and $90 and $100 million not through peer review; not because they've got quality; but because of political access.

I don't know that we need to continue doing that.

You have all of the different opportunities. But okay, I'll give you a different step.

I helped found the military reform caucus in 1981. And I participated in the Center for Strategic and International Studies military reform panel in the mid-'80s which helped lead to the reform of the joint chiefs.

I would like to say to Cheney, tell us how you're going to cut 25 percent of the overhead in the defense department. Give us a proposal, show us how you're going to cut that money out next year, tell us how you're not going to have that amount of paperwork, show us how you're going to shorten the procurement rates by at least a third to half.

And there's no reason that we have to invent the Soviet civilian economy in defense procurement. But we have. It is now a centralized bureaucracy with too much planning, too little work, too little risk-taking, too much red tape. And it's a mess. And it means you maximize the cost of every weapon system.

Now, you're never going to change that until you force a crisis. Corporations in America change because they have recessions. The only large institution in America to get through the last 30 years without a recession is the federal government.

The federal government looks about like you'd expect a large institution—I'll give you one other challenge.

And I'm not trying to avoid the issue; I'm trying to give you a way of thinking that is different than the way this city works.

We have a personnel policy right now which makes it almost as hard to fire a federal employee as it is to fire a New York City school teacher. Now what if we had said, we're going to have a sequester this year, but by the way, the president can pick the 50,000 least affected federal employees.

Now, all the public employees unions would have gone nuts. All the Democratic politicians would have gone nuts. The government would have improved dramatically overnight as each employee tried to prove they weren't that one.

I mean, to give you an example of how radical the change could be, if we simply allowed the president to dismiss 100 employees for cause, and then set up an 800 number so you could call if you thought you'd found one of them, you would change the whole pattern of IRS behavior. You would change the whole way in which you were dealt with. Because suddenly you'd be a customer again, and not just a taxpayer to be milked.

So it's an attitudinal thing.

My last comment, and then I'll wrap up. All of you would doubt me, go down here and walk past the great buildings of bureaucracy. Do you truly believe if we were a private corporation that we couldn't go through those buildings and actually manage them? That we couldn't find paperwork that didn't need to be done, travel that didn't need to be made, conferences that didn't need to be held, employees that didn't need to be replaced?

If you simply governed by attrition for three years, and said the aggregate employment of the federal government will be no more than X, and you can cross-train people, you can transfer them from department to department; you can do what you have to; but we're going to limit you to only replacing one-third of the people and then make exceptions for things like cancer researchers and very sophisticated technical people.

Now, are there any of you who truly believe America would even notice if we shrank the clerical employment of the federal government by 10 percent and instead took that money and bought computers so that those who did work had modern facilities?

You wouldn't even notice it. In fact the quality of government would improve—the current federal employee wants to work hard. They're trapped in 1950 work rules, with 1960 office equipment, and an 1880 civil service law. And then we say, why—you know, I'm not anti-federal civil servant. You can't have a decent government unless you have good civil servants. And I'd rather pay them more and have rational work rules and have rational investment in technology and have fewer of them at higher salaries than have the kind of decay we've been under now for 15 years.

That's what a budget ought to be all about, is talking about what are our values—and I'll close with this, because I think this is the essence of the system. What we should be doing is starting with, what's our vision of America. What are the values we're prepared to fight for. What are the plans we're willing to finance? How do we explain it to the American people in language they understand about their lives? How do we rally a majority of the nation to manage their own government and to support rather than oppose the changes that are needed?

It seems to me this is the essence of what we're trying to teach Gorbachev and Yeltsin and all of the Soviet bloc. And then we ought to have the courage to go back home and explain what we're doing, and say we're proud of this.

And yes, certainly, you can argue about the details. But on balance this is our plan for a 21st century America worth giving your children.

And I'll leave you with this thought. Because a lot of people are saying, well, what's George Bush going to do? We had the question today.

Well, this is not George Bush's country. That's not George Bush's Congress. The genius of America is that each of you personally bear more responsibility for the future of your children and grandchildren. You get the Congress you deserve; you get the government you deserve; you get the politics you deserve.

And when you are prepared to spend the time, the money and the courage it takes to take your country back from the professional political class, you'll do it. And you see it beginning to happen in Oklahoma, you see it beginning to happen in Massachusetts, you see it beginning to happen in Colorado and California.

And in time, the American people will once again reclaim their government, and then they'll establish a new elite in Washington and a new establishment in Washington, and we'll actually think it's good to have the American people approve of something. It's good to have the American people understand something. It's legitimate to insist that we be able to talk candidly with the American people.

So I think we have a lot ahead of us. I think it's going to be a very exciting decade. And I strongly urge, whether you're Democrat or Republican, liberal or conservative, if you don't spend more on politics than you spend on your favorite hobby, you're not really being a responsible citizen.

If you don't spend more hours in politics than you spend on your favorite hobby, given the mess this country's in, you're not being a responsible citizen.

And if you aren't taking charge of giving your children and grandchildren a country and a government worth giving them, then you're not being responsible as a citizen.

So I came today to recruit you. This is your chance to create the America you want your grandchildren to have.

Thank you and God bless you.

TRIBUTE TO MOSES FLEETWOOD WALKER

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. APPLEGATE. Mr. Speaker, it is my great pleasure to honor a great man who in his time, broke many barriers. Moses Fleetwood Walker was the first black player in major league baseball. Born in Mt. Pleasant, OH, in 1857, Moses was the son of the first black physician in Ohio, Dr. Moses W. Walker. Dr. Walker later moved his family up the Ohio River, to my hometown of Steubenville.

Moses joined the varsity baseball team at Oberlin College in 1881 as a catcher. He left Oberlin temporarily to play for 2 years at the University of Michigan, where he earned two varsity letters.

Moses went professional in 1883 when he became a player in the Northwestern League with the Toledo Club. He became the first black major leaguer when Toledo entered the American Association and he went with the franchise. He later went on to play for other teams in the Western leagues.

After Moses finished his career in baseball, he went on to become a businessman, inventor, newspaper editor, and author. When he returned to Steubenville, he managed a hotel and later was manager and owner of several motion picture houses.

I take great pleasure in honoring Moses Fleetwood Walker, an outstanding, multitalented black American and Ohioan who has honored us with his talents and intellect.

TRIBUTE TO MARION UEHLINGER

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. ORTIZ. Mr. Speaker, I rise today to pay tribute to one of the leading public servants and genuine ladies in my district, Marion Uehlinger, Nueces County Clerk.

Marion has served Nueces County honorably for 42 years, and will retire after this election. She is a remarkable woman who is admired and respected by everyone. She will be commemorated in the form of a banquet Monday, October 22, for her many years of leadership and dedication to public service.

Marion is the County official who oversees birth certificates, death certificates, marriage licenses, voting and probate activities in the County. She is the County official who literally oversees citizens from birth to death, and all activities in between. She began her career in the Probate Office where a Corpus Christi attorney assures me that she knew a great deal

more about the Probate laws than the young attorneys who dealt with them. I understand she practically taught probate law to young attorneys in Corpus Christi.

Let me take a minute to tell you about this special lady. Marion is easily one of the most popular people in the Corpus Christi area due to her love of people and her high energy level. Those who know her and have worked with her over the years attest to her friendship and tireless work schedule. She is constantly accessible to all the citizens of Nueces County, as well as her family. She takes her civic responsibility very seriously, making certain that she is available at all times for the operation of her duties.

But far and away, Marion's most valuable contribution has been her stewardship of the County Clerk's Office and the process of balloting in Nueces County. She instituted the upgrading of the political process from paper ballots, counted by hand, to voting machines which tabulate votes as they are cast. Where once paper ballots cast by absentee were also counted by hand, the office now has an optical scanner to verify the votes.

On Election Night, she ensures an accurate ballot count and works tirelessly until the last ballot has been counted and a winner has been declared. Marion Uehlinger has been a vigilant guard over the very essence of our democracy—the ballot. I offer Marion my personal thanks, and the thanks of the good citizens of Nueces County.

A TRIBUTE TO COLBY C. "PETE" CRIPPEN

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. HERTEL. Mr. Speaker, I would like to take this opportunity to ask my colleagues to join me in congratulating Colby C. "Pete" Crippen on his retirement.

Pete served with the Boilermakers Local 169 for 43 years. From 1947 to 1966, he was involved in field construction. Since 1966, he has been the business agent and safety director for the Boilermakers. Pete's outstanding contributions to the Boilermakers, labor, and society in general have been in the area of safety. During his illustrious career, he was a member of three crucial Michigan Occupational Safety and Health Administration Standard Advisory committees: heat stress, protective equipment, and confined space. In addition, he was a member of Boilermakers International Oversite Committee for a New Directions grant for safety and health education. Furthermore, Pete served three terms as vice president of Boilermakers Local 169 and one term as chair of the trustees.

Pete has worked diligently to ensure that workers are protected from unnecessary danger and health hazards on the job. He has successfully garnered support in the Michigan legislature for important programs, such as the right-to-know measure which allows workers access to information regarding the chemicals with which they work. Because of Pete's outstanding dedication to health and safety issues throughout his career, numerous lives have been saved.

Mr. Speaker, please join me in honoring Colby C. "Pete" Crippen for his years of service to Boilermakers Local 169 and extraordinary commitment to the well-being of his fellow workers.

TRIBUTE TO JUDGE HENRY J. BRODERICK UPON HIS RETIREMENT AFTER 20 YEARS AS A MARIN SUPERIOR COURT JUDGE

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mrs. BOXER. Mr. Speaker, I rise today and ask my colleagues to join me in honoring a fine jurist on the occasion of his retirement.

Henry J. Broderick is retiring after 20 years of distinguished service as a superior court judge in Marin County. Since Judge Broderick's appointment in 1970, he has enjoyed a well-earned reputation for toughness, fairness, and intellectual rigor.

The hundreds of individuals who have appeared before Judge Broderick seeking justice over the past two decades have had good reason to be impressed by his dedication to the highest principles of his profession. Hundreds of attorneys have had the privilege of appearing before a jurist who adhered to the most demanding standards of preparedness and professionalism.

I wish Judge Broderick the best in his retirement, and I add my voice to the chorus of congratulations.

HONORING THE 50TH ANNIVERSARY OF THE MARY LOUIS ACADEMY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. ACKERMAN. Mr. Speaker, I would like to take this opportunity to recognize and congratulate the Mary Louis Academy of Jamaica Estates, Queens County, NY, on the occasion of the fiftieth anniversary of its first graduating class.

While traveling on the Long Island Railroad, Mother Mary Louis, general superior of the Sisters of St. Joseph, admired one of the highest hills of Queens from a train window and selected it as the site for a school. She passed away shortly thereafter, and the new school was named the Mary Louis Academy after her. In September 1936, 57 students arrived. Since the new building was not completed, they began classes in the convent.

For half a century, the Mary Louis Academy has worked toward achieving its stated purpose: to educate young women to take their places in society and contribute to the world. To achieve this lofty goal, a demanding academic program has been pursued and spiritual development encouraged. From the very beginning, a variety of extracurricular activities extended the interests of the students. Mariel, the school paper, published its first issue in 1936. Glee Club and Orchestra, the Drama Club Genesians, and the language clubs fostered school talents. The athletic association sponsored field days and many intramural events and competitions.

The reputation of Mary Louis Academy for academic excellence has flourished since its foundation. During the 1960's and 1970's, the academy undertook many changes in the curriculum, in response to the educational climate of the times. In response to the needs of the 1980's, computer science was introduced and a computer room was outfitted. Most recently, the original board room has been renovated and designated as a chapel.

Mr. Speaker, I ask all my colleagues in the House of Representatives to join me now in congratulating principals, Sister Joan Petito, Sister Filippa Luciano, and Sister Eileen Gildea, all of the faculty, staff, students and parents of the Mary Louis Academy.

SER-JOBS FOR PROGRESS CELEBRATES 12 YEARS OF CULTIVATING AMERICA'S GREATEST RESOURCE: PEOPLE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize today SER-Jobs for Progress which will be celebrating its 12th anniversary on October 30.

This successful nonprofit program has trained more than 10,000 educationally and economically disadvantaged persons in the Miami area for jobs in the clerical, data entry and nursing assistants fields since its beginning in 1978. SER-Jobs has given a fresh start to many in Miami by providing computer-assisted basic skills, job skills training, employment counseling, day care and summer/work study for school dropout prevention. According to School President Melvin Chaves, SER-Jobs successfully placed 767 students in jobs last year, and expects that over 70 percent of this year's students will complete programs and be placed in jobs.

The Miami SER-Jobs Program is part of a larger national program established in 1963. The Family Learning Centers established by SER were recently selected as one of the 10 most promising family literacy programs highlighted in First Teachers: A family literacy handbook for parents, policymakers, and literacy providers which will be published by the Barbara Bush Foundation for Family Literacy next month.

SER-Jobs has had such an excellent track record that it has attracted major support from private industry. Amigos de SER is an organization of local businessmen who have recognized the benefits that SER-Jobs brings to the community and supports its efforts. Amigos de SER is raising funds through a 12th anniversary banquet at the Port of Miami on October 30. Among the community leaders helping with this event are Banquet Co-chairmen Michael J. Randels of Ryders System, Inc. and

H.R. Smith of Allstate Insurance. Federico Cosatles, Alicia Baro, Gilbert Carrillo, George Hernandez, Carlos Jilia, Eddie Barbosa, Hervin A. Romney, Tony Ojeda, and Robert K. Lowell serve on Amigos de Ser Board of Directors.

As Secretary of Labor Elizabeth Dole has commented on this program, "active involvement and support from the business community are essential if this program is to work well and achieve its highly commendable goals and objectives." I wish to commend the work of the Amigos de SER and the SER-Jobs Program which has done so much to develop America's greatest resource: its people.

FIFTEEN YEARS OF SERVICE BY NEW HOPE COMMUNITY, INC.

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. McHUGH. Mr. Speaker, at the end of this month the New Hope Community in Loch Sheldrake, NY, will celebrate its 15th anniversary.

Throughout those years, New Hope has become known throughout the Catskill and Hudson Valley area of New York for quality care of developmentally disabled persons. It has indeed offered new hope to individuals and their families, and has provided a supportive, educational environment to foster the growth and well-being of those who are among the most vulnerable in our society.

I am sure my colleagues join me in saluting the service provided by the dedicated staff and administration of New Hope Community, and in wishing the facility continued success in serving its clients, their families, and the community.

IN HONOR OF ROBERT SCHREIBER, VOLUNTEER BUSINESSMAN TO UNITED CARBON, BANGKOK, THAILAND

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. CLINGER. Mr. Speaker, I rise today to commend the efforts of Robert Schreiber, from St. Mary's in my 23d Congressional District in Pennsylvania.

Mr. Schreiber served as a technical manager to United Carbon Co. in Bangkok, Thailand. He was recruited by International Executive Service Corps, a not-for-profit organization devoted to assisting developing countries by providing skilled volunteers from American business. In a few months Mr. Schreiber will be returning to United Carbon to observe the progress he helped initiate.

Mr. Speaker, I salute Robert Schreiber and others like him, who have that special volunteer spirit so indicative of America. Through their efforts and the IESC program, developing nations can benefit from knowledgeable businessmen like Mr. Schreiber, who have helped make our country great.

IRAQI AGGRESSION TAX OF 1990

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. LEVINE of California. Mr. Speaker, today I rise to offer a tax that I believe all Americans, Republicans and Democrats alike, will strongly support.

Today, I am proposing an Iraqi aggression tax which would levy a 100-percent withholding tax on interest income earned on frozen Iraqi Government assets in the United States.

At a time when 200,000 American troops are preparing to lay their lives on the line to oppose Iraqi aggression, and when millions of Americans face the very real prospect of increased taxes, Saddam Hussein does not deserve any United States tax breaks.

This tax will help correct a serious anomaly in the tax code that allows Iraq to continue earning interest on its frozen assets while they continue to violate international law in their attempt to annex Kuwait.

It is ludicrous that while the United States is financing an international effort to deter Iraqi aggression, Saddam Hussein is earning free interest on Iraqi accounts in the United States. Americans do not get such a good deal; why should Saddam?

The withholding tax would affect all income of the Government of Iraq derived from investments or from deposits in banks in the United States. In particular, the measure would be levied on all interest accrued from August 2, the day of the invasion, until Iraqi withdrawal from Kuwait or the President negotiates an appropriate settlement.

The bill will be written to make sure after the crisis is over that Iraq cannot file a tax return and get a refund for these specific taxes. And, of course, the law would be repealed immediately upon Iraqi withdrawal from Kuwait.

Although the U.S. Treasury Department is not currently releasing figures on the amount of Iraqi Government assets in the United States, unofficial estimates put the figure at a minimum of $300 to $400 million. Experts estimate that we would raise $2.5 to $3 million a month minimum from the tax.

I am certain my colleagues would agree that this generous tax break to Saddam is deeply embarrassing in light of the fact that American taxpayers are spending millions a day to keep Saddam in check, while Iraq is receiving free interest paid by United States banks.

I urge my colleagues to support and pass this measure this year.

H.R. 5835, OMNIBUS BUDGET RECONCILIATION ACT OF 1990

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1990

Mr. COLEMAN of Texas. Mr. Chairman, I rise in support of the reconciliation package put together by the chairman of the Ways and Means Committee. I voted for the budet resolution that failed on October 5. In voting for that resolution, I said that I did not like the budget summit package and that I would seek to change some aspects of it. As one Member who was not present at the summit negotiations, I felt that we could put together a package that was cleaner and fairer.

Eighty percent of the revenues in this package are identical to the provisions of the summit package the Pesident urged all Americans to support. The remainder of the package simply asks those Americans who have profited so handsomely from the policies of the past 10 years to do their share to help us avoid another shutdown of the Government, another fall in the stock market, and a further erosion of confidence of the American people in their Government. Ten days after the defeat of the resolution which would have given us the summit package, we do have a better version.

It is a shame that the vote to pass this bill be a vote along party lines. I understand the frustration of many members of the Republican party because of their indecision over how to continue to shelter the incomes of the wealthiest Americans from the Tax Code. There is also uncertainty on the minority side as to which faction is running the White House on a day-to-day basis. But I cannot accept the criticism of this package when there is nothing to compare it to. Just as no one offered President George Bush's budget on the floor of the House in June, no one from the Republican Party has managed to put on the table any plan which achieves $500 billion in deficit reduction over 5 years.

This bill, like its predecessors, is far from perfect. For instance, I am not convinced that we need any captial gains exclusion, but if that is the price of compromise, fine. More importantly, this bill saves Medicare beneficiaries $20 billion over the cuts proposes by the summit agreement. That is a plain fact.

Of all the versions of the budget enforcement legislation circulating around Washington these days, this one does the most to help those who are most vulnerable in our society. It increases earned income tax credits for the working poor. This bill will protect rural hospitals as the summit plan did not. It will increase payments to rural hospitals by $240 million for each of the next 5 years. Under this plan, institutions like the hospitals in Van Horn, Kermit, Monahans, and Pecos, TX, will see the differential in their annual reimbursement rates lowered, so that they will no longer have to face the prospect of cutting back on their services to at-risk populations, or closing down altogether. If the cost of doing that is the elimination of the bubble whereby those with hundreds of thousands of dollars in income paid lower rates than the middle class, I will take that trade. If we can avoid driving a wedge between the young and the elderly, or between urban and rural Americans by imposing a surcharge on taxable income above $1

million, then I think that my constituents will accept that.

The passage of this bill does not conclude the budget process, it simply moves it forward. This allows us to move to a conference with the Senate and to make further refinements. What is the alternative—to vote "no" on everything that anyone proposes and then to try to con voters into thinking that the financial catastrophe which follows is someone else's fault? That sort of logic is what exasperates the American people—they are sick and tired of bickering and they are insulted by politicians telling them they can have it all for free.

I urge support for this package in the name of bringing back some progressivity and fairness to our tax system.

H.R. 3789

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 17, 1990

Mr. MONTGOMERY. Mr. Speaker, I rise in support of H.R. 3789, as it relates to assistance to, and rehabilitation of, homeless veterans. Title VI of the bill would allow the Department of Veterans Affairs to continue its fine efforts to assist homeless veterans who make up as much as one-third of the Nation's homeless population.

On any given night, up to 200,000 veterans are without shelter. And, twice that number who live with relatives or in cheap hotels on a day-by-day basis are at risk of becoming homeless at any time. These are the men and women who served this country in its time of need. And now, many of these same men and women, buffeted by the inconsistencies and incongruities of life are themselves in need.

The Veterans' Affairs Committee recognized that need and authorized two special programs built on the foundation of existing VA programs. The Homeless Chronically Mentally Ill Program utilizes the extensive expertise of the VA in the treatment of mental illness. The Domiciliary Care for Homeless Veterans Program is part of VA's program to address unmet clinical needs of eligible veterans while reducing medically unnecessary use of expensive hospitals and nursing homes.

VA itself has performed impressively in implementing this congressional authority. It has made outreach contact with and initial evaluations of more than 30,000 homeless veterans. It has provided residential care for approximately 18,000 homeless veterans.

Under the Homeless Chronically Mentally Ill Program, 45 of VA's 172 hospitals maintain contracts with more than 200 community-based residential facilities nationwide. Teams of outreach workers visit shelters and urban parks seeking homeless veterans. Assistance is offered when they are found. This assistance consists of six components: Outreach; the offering of services and, if accepted, assessment of the veteran's problems and immediate health care needs; psychiatric and medical evaluation; treatment; and care and rehabilitation in community-based residential treatment facilities. Under this program, more than 4,500 homeless veterans have been provided with medical and psychiatric treatment and placed in residential rehabilitation programs.

Twenty-seven VA medical centers operate domiciliaries for the homeless under the second program, the Domiciliary Care for Homeless Veterans. The historical roots of this program are deep—the Civil War has once again captured this Nation's attention thanks to the splendid program recently broadcast by the public broadcasting system. This Domiciliary Program is an expansion of an effort first initiated following the Civil War to care for disabled homeless veterans of that terrible war. The Domiciliary Care for Homeless Veterans Program consists of five components: Community outreach and referral; admission screening and assessment; medical and psychiatric evaluation and treatment; vocational counseling and rehabilitation; and post-discharge community support. The program has provided medical treatment, counseling and rehabilitation services to more than 8,000 homeless veterans.

Aside from these two special, legislatively mandated programs, VA has utilized existing benefits and offered other services to assist the homeless veteran. Each VA regional office has a designated staff member who serves as coordinator and point of contact for homeless veterans. The staff member visits shelters and works with community-based groups assisting the homeless. Aside from the personal touch, the regional offices help administer two services geared to the plight of the homeless veterans. The Homeless Eligibility Clarification Act enables eligible veterans without a fixed address to receive benefits checks. The shelter for homeless veterans through acquired property sales enables VA to sell acquired properties at discounted prices to State and local agencies and nonprofit organizations, to provide shelters for the homeless.

VA with its network of medical facilities is active in providing health care to homeless veterans. VA domiciliaries, aside from those set up for the homeless, provide treatment to eligible ambulatory veterans disabled by medical and psychiatric disorders who do not need hospitalization or nursing home care. Outpatient services are offered in mental health clinics, day-treatment centers, day hospital programs, as well as alcohol-dependence and drug-dependence treatment programs. VA also support contract care in community-based facilities for veterans with substance abuse disorders and a community residential care program in private homes for eligible veterans unable to live independently.

VA's readjustment counseling service has a network of almost 200 Vietnam veteran outreach centers offering counseling to veterans on a variety of problems. Each vet center, as they are commonly called, has a homeless veterans' coordinator who works with the VA regional offices and medical centers, and private and public sector homeless groups, as well as conducting outreach in shelters and in the streets.

Each VA medical center has a staff member who coordinates activities for homeless veterans and works with community groups that assist the homeless. Before a veteran is discharged from inpatient care, he or she receives assistance from social work services.

In addition, selected community-based shelters under VA contract meet special needs for certain categories of the homeless. There is one shelter dedicated to homeless AIDS veterans and another geared toward sobriety.

VA is constantly seeking ways to further assist the homeless veteran. It is right now working on a joint initiative with the Department of Housing and Urban Development, still in the proposal stage, to use section 8 housing through a voucher system for the homeless. The idea is to use this as a stepping stone program for those veterans who need some additional support and clinical services before rejoining the community as nonhomeless.

Programs such as those under VA should be applauded and provided with additional financial incentive to continue the work already being accomplished. H.R. 3789 would help make that possible.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 18, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 19

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on the nomination of Mary S. Brunette, of Virginia, to be an Assistant Secretary of Housing and Urban Development.

SD-538

FEBRUARY 26

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of the Disabled American Veterans.

345 Cannon Building

FEBRUARY 28

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Paralyzed Veterans of America, Blinded Veterans Association, Vietnam Veterans of America, Military Order of the Purple Heart, and Non-Commissioned Officers Association.

345 Cannon Building

MARCH 5

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of the Veterans of Foreign Wars.

345 Cannon Building

APRIL 17

9:00 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of AMVETS, Ex-Prisoners of War, Jewish War Veterans, and World War I Veterans.

345 Cannon Building

SENATE—*Thursday, October 18, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HERBERT KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

God of Abraham, Isaac, and Israel, in these crucial days help us all, government and people, to hear and heed the wisdom of Moses as he prepared the people of God for nationhood:

*Beware that thou forget not the Lord thy God * * *. Lest when thou hast eaten and art full, and hast built goodly houses, and dwelt therein; And when thy herds and thy flocks multiply, and thy silver and thy gold is multiplied, and all that thou hast is multiplied; Then thine heart be lifted up, and thou forget the Lord thy God * * *. And thou say in thine heart, My power and the might of mine hand hath gotten me this wealth. But thou shalt remember the Lord thy God: for it is he that giveth thee power to get wealth. * * * And it shall be, if thou do at all forget the Lord thy God, and walk after other gods, and serve them, and worship them, I testify against you this day that ye shall surely perish.*—Deuteronomy 8:11-14, 17-19.

Forgive us, patient Father, when we allow prosperity to cause us to forget Thee and allow it to destroy us. For the glory of God and the strength of our Nation. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 18, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERBERT KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Without objection the time of the two leaders is reserved.

OMNIBUS BUDGET RECONCILIATION ACT OF 1990

The ACTING PRESIDENT pro tempore. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 3209) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1991.

The Senate resumed consideration of the bill.

Mr. SASSER. Mr. President, as Senators know this reconciliation bill has been prepared under a very short deadline. In order to avoid delay, we brought the bill to the floor without printing a formal report. So in an effort to complete the legislative record I send to the desk at this time the report language that the various committees submitted to the Budget Committee and ask unanimous consent that this language be printed in the RECORD at the beginning of debate on the reconciliation bill today so as not to interrupt any debate on the bill itself.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, DC, October 15, 1990.

Senator JIM SASSER,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR SENATOR SASSER: On behalf of the Committee on Agriculture, Nutrition and Forestry of the Senate, we submit the following recommendations necessary to meet the budget reconciliation instructions for the Committee.

These recommendations include adoption of a 15 percent triple base system for the 1992 through 1995 crops of feed grains, rice, cotton and wheat. Deficiency payments for rice, wheat and feed grains will be calculated on a 12-month basis. Other cost saving items will bring the total savings to more than $13.6 billion during the period of 1991 through 1995.

We also would like to raise the issue of the establishment of Acreage Reduction Program (ARP) percentages for the 1992 through 1995 crop years. The Committee is concerned with the methodology used by the Congressional Budget Office to adjust the level of the ARP percentages. There are occasions when the Congressional Budget Office will make as little as a 0.1 percent adjustment in the ARP. This seriously affects the scoring, while it does not reflect actions one would expect the Secretary of Agriculture to take. ARP percentages are not adjusted in the real world in increments of less than 2.5 to 5 percent. We will continue to work with the Congressional Budget Office on this issue as we work through Conference.

Sincerely,

RICHARD G. LUGAR,
Ranking Member.
PATRICK J. LEAHY,
Chairman.

COMMITTEE ON BANKING,
HOUSING, AND URBAN AFFAIRS.
Washington, DC, October 12, 1990.

Hon. JIM SASSER,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am pleased to transmit the Banking Committee's recommendations for this year's budget reconciliation bill in accordance with the Concurrent Resolution on the Budget and section 310 of the Congressional Budget Act.

Sincerely,

DONALD W. RIEGLE, Jr.,
Chairman.

COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION,
Washington, DC, October 12, 1990.

Hon. JIM SASSER, *Chairman.*
Hon. PETE V. DOMENICI, *Ranking Member.*
Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR JIM AND PETE: Under the Concurrent Resolution on the Budget for Fiscal Year 1991, the Senate Committee on Commerce, Science, and Transportation was instructed to achieve $232 million in unspecified deficit reduction for fiscal year (FY) 1991 and a total of $1.335 billion for FY 1991 through FY 1995.

On October 10, 1990, the Committee approved a package of legislative changes, in programs within the jurisdiction of the Commerce Committee, which meets these instructions. The package includes the following:

1. Coast Guard user fees;
2. Rail safety user fees;
3. Tourism user fees; and
4. National Oceanic and Atmospheric Administration fees.

In addition, the Committee approved a slightly amended version of S. 3094 for inclusion in the Committee's reconciliation package. Enclosed are legislative provisions and explanatory language for each of these proposals.

If you need anything else, please let us know.

With warmest personal regards, we are

Sincerely,

JOHN C. DANFORTH,
Ranking Member.
ERNEST F. HOLLINGS,
Chairman.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

TITLE III—COMMERCE COMMITTEE

SUBTITLE A—USER FEES

Section 301. Coast Guard user fees

This section directs the establishment of Coast Guard user fees. Specifically, it directs the Coast Guard to implement a user fee system for direct and indirect services to collect $200 million dollars in each of the fiscal years 1991 through 1995. The amount collected over the five years, FY 1991 through FY 1995, with inflation included, totals $1.077 billion. Further, the legislation limits the use of indirect fees established under this section to apply only to vessels operating in navigable waters where the Coast Guard has a presence.

Section 302. Railroad safety user fees

This section amends the Federal Railroad Safety Act of 1970 to establish a system of fees for the regulatory oversight of railroad safety provided by the Federal Railroad Administration, comparable to those previously authorized by Congress for the provision of federal pipeline safety regulation. The Secretary of Transportation is to establish a schedule of fees to be assessed the railroads based on such criteria as revenue ton-miles, track miles, passenger miles, revenues, other relevant factors, or an appropriate combination of these.

This program is expected to raise $20 million in FY 1991, $37 million in FY 1992 and FY 1993, and $38 million in FY 1994 and FY 1995. The fees collected shall be deposited in the general fund of the Treasury as offsetting receipts. The fees assessed shall at least equal the appropriations made for the rail safety program but in no event shall the fees collected exceed 105 percent of the appropriations level.

Section 303. Tourism user fees

This section directs the collection of a tourism "user fee" on commercial airlines and passenger ship lines which carry passengers to and from the United States. The argument in support of this fee is that these entities receive a direct benefit from the activities of the United States Travel and Tourism Administration (USTTA).

This section would amend the International Travel Act of 1961 (22 U.S.C. 21246) to provide that:

(A) the Secretary of Commerce shall charge each commercial air carrier and passenger ship an amount equal to one dollar—multiplied by the number of non-excluded passengers arriving at points-of-entry;

(B) passengers excluded from the fee are:

(1) those arriving only for immediate and continuous passage through the United States;

(2) those whose journey originates in Canada, Mexico, or a territory or possession of the United States.

For FY 1991, the fee is expected to generate $7 million. For FY 1992 through FY 1995, it is estimated that the fee would generate at least $14 million. The fees collected shall be deposited in the general fund of the Treasury as offsetting receipts. The fees assessed shall at least equal the appropriations made for the USTTA but in no event shall they exceed 105 percent of the appropriations level.

Section 304. National Oceanic and Atmospheric Administration user fees

This section authorizes the establishment of user fees for the National Oceanic and Atmospheric Administration (NOAA), estimated to raise $5 million annually by assessing a fee based on "fair market value" to recipients of NOAA data and information. Currently, section 409 of Public Law No. 100-685 (15 U.S.C. 1534) authorizes the Secretary of Commerce, on behalf of NOAA, to assess fees based on fair market value for data provided only by the NOAA National Environmental Satellite, Data and Information Service (NESDIS). This section amends section 409 to extend the authority of the Secretary, on behalf of NOAA, to charge fees based upon fair market value to all commercial users of NOAA data, information and products.

This amendment is necessary due to current statutes which prohibit Federal entities from establishing fees in excess of the total costs (direct and indirect) to the Government of rendering a special service or thing of value to a beneficiary. In support of this proposal, it is argued that oceanic and atmospheric data produced by NOAA have considerable value to relevant industries which use these products to make a profit. The proposal would waive fees as necessary to continue to provide weather warnings, forecasts and other essential NOAA services. Fees for nautical and aeronautical products have separate statutory authority (44 U.S.C. 1007) and would not be affected by this legislation.

SUBTITLE B—AIRPORT CAPACITY

National noise policy

This legislation requires the Secretary of Transportation to promulgate a national noise policy by January 1992. This policy is to include:

A phase-out date for Stage 2 aircraft;

Review of existing or proposed local airport noise restrictions by the Federal Aviation Administration (FAA);

No restrictions for operation of Stage 3 aircraft; and

A prohibition against a Passenger Facility Charge (PFC) being imposed at an airport unless the airport has conducted a noise compatibility study.

Passenger facility charge

PFCs may be authorized after a National Noise Policy is in place and when the balance in the Airport and Airway Trust Fund is $4 billion. The PFC authority shall be terminated any time appropriations for FAA Trust Fund programs, including Essential Air Service, fall below 95% during the fiscal year.

An airport sponsor must consult with users and local entities before applying to the Secretary of Transportation (Secretary) for PFC authority. If there is no disagreement, the PFC shall be approved. If there is disagreement, the Secretary shall not approve the PFC unless it would benefit significantly airport security, safety, noise mitigation or capacity.

PFCs may be used only for projects eligible under the Airport Improvement Program (AIP) and for gates.

Slots

The provisions included are those of S. 2851 (except for the treatment of Washington National Airport with respect to the High Density Rule and new entrants) which was reported favorably by the Commerce Committee in July 31, 1990.

Under these provisions, as of July 12, 1990, carriers may no longer buy, sell, or lease slots at the High Density Airports (LaGuardia, Kennedy, O'Hare, Washington National). Certain exemptions apply to existing leases, slots involved in the sale of a carrier, and commuter slots.

The legislation also directs the FAA to increase capacity for new entrants (i.e. carriers holding less than 12 slots) at the LaGuardia, Kennedy, and O'Hare airports by 5% for 18 months before abolition of the High Density Rule. With respect to Washington National Airport, it directs the FAA to create a pool of 30 daily air carrier special authorizations at that airport which will not exceed the total number of authorized daily operations under the High Density Rule. These authorizations are only for air carriers with fewer than 12 existing slots at Washington National and are to be allocated by lottery.

The High Density Rule is to be repealed 18 months after enactment, except as it applies to Washington National Airport. On January 1, 1994, the FAA shall initiate a review of the method of controlling operations at Washington National Airport to determine the impact on safety, competition, congestion, and capacity, among other things, and shall report not later than January 1, 1995, to Congress with findings and recommendations.

The Administrator of the FAA must certify to Congress that restrictions are required for safety considerations before the Administrator can reimpose a rule restricting operations at any airport.

The Secretary must do a study of the public interest significance of shuttle operations in the northeast United States, and report to Congress with any appropriate recommendations within 12 months.

Military airports

This legislation establishes a set-aside in the AIP for converting former military airports to civil use. It further provides that .5% of the airport program funds are to be used for grants for five such airports to be named by the Secretary.

Labor protection provisions

The legislation protects seniority rights of flight deck crew members in mergers and acquisitions.

Other provisions

The legislation includes the following:

It establishes an Auxiliary Flight Service Station program.

It authorizes the FAA to make grants for an air transportation center to one or more schools in each of 10 federal regions.

It transfers safety functions from the Secretary back to the FAA Administrator.

The FAA is to do a study within 6 months on the environmental impact of the air traffic East Coast plan for the New Jersey area.

Hawaii provision

The legislation directs the FAA Administrator to issue regulations to prohibit aircraft overflights of national disaster areas in the State of Hawaii. This prohibition is not to apply in the case of scientific need or emergency.

Atlantic City airport

The legislation would strike as no longer necessary an existing provision in the Airport and Airway Safety and Capacity Act of 1987 relating to the Atlantic City airport.

FAA technical changes

The legislation discontinues a report required by the Airline Deregulation Act of 1978 and clarifies language regarding sensitive security information and disclosure under the Freedom of Information Act.

Commerce Reconciliation Package

[In millions of dollars]

	Fiscal year—				
	1991	1992	1993	1994	1995
Coast Guard fees	200	208	216	223	230
Rail safety fees	20	37	37	38	38
Tourism fees	7	14	14	14	14
NOAA fees	5	5	5	5	5

U.S. SENATE, COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC, October 15, 1990.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed legislation and report are submitted in accordance with the reconciliation instruction contained in H. Con. Res. 310, the Concurrent Resolution on the Budget for Fiscal year 1991. The recommendations of the Committee include changes in existing laws within its jurisdiction to achieve reductions in outlays required for fiscal years 1991 through 1995.

The Committee ordered reported legislation incorporating language from two bills previously reported: the Tongass Timber Reform Act (H.R. 987, as amended and passed by the Senate on June 13, 1990) and the Uranium Enrichment Act of 1989 (S. 83, as amended and passed by the Senate on July 29, 1989). The Tongass bill is incorporated exactly as it passed the Senate. The Uranium Enrichment Act of 1989 has been modified to provide for the following: 1) preclusion of payments in lieu of taxes by the Uranium Enrichment Corporation until fiscal year 1996; 2) restrictions on the expenditures of the Corporation and requirements to pay dividends during fiscal years 1991-1995; and 3) establishment of a fee of two-tenths of a mill per kilowatt hour on net generation of electricity by each civilian nuclear power reactor during fiscal years 1991-1995.

Our discussions with Budget Committee staff and CBO staff indicate that approval of these two measures will more than meet our reconciliation instructions of $36 million in fiscal year 1991 and $364 million for fiscal years 1991 through 1995.

With best wishes,

Sincerely,

JAMES A. MCCLURE,
Ranking minority member,
J. BENNETT JOHNSTON,
Chairman.

TITLE V—REPORT LANGUAGE

ENVIRONMENTAL PROTECTION AGENCY FEES

Section 1 requires the Environmental Protection Agency (EPA) to collect $154,000,000 in fees for services provided by the Agency over the five year period fiscal years 1991-1995. A rulemaking is required for any fee or charge assessed under the programs administered by the Agency.

The President's budget for FY91 includes an EPA user fee proposal based on pesticide registrations, toxic chemical notifications, radon mitigation, water permits, and motor vehicle testing. This provision gives the Agency the flexibility to assess these fees, as well as to consider others in the programs it administers. However, the Agency should relate fees directly to the cost to the Agency for the services provided.

There is one specific fee that merits comment. If the Agency proceeds with the imposition of Sec. 402 National Pollutant Discharge Elimination System (NPDES) permit fees, the Agency should not assess such fees on municipal dischargers. Since municipal wastewater treatment facilities are partially Federal funded, they should not be required to pay a Federal permit fee. This exclusion is specified in the legislation.

To enable the Agency and Congress to account for the receipts that accrue through user fees and charges, a provision is included to require that fees be deposited in a special fund at the Department of the Treasury, for appropriation to the Agency and to the program for which the fee was collected. This provision is consistent with the proposal contained in the President's FY91 budget.

NUCLEAR REGULATORY COMMISSION USER FEES AND ANNUAL CHARGES

Section 2 amends the Atomic Energy Act to require the Nuclear Regulatory Commission (NRC) to recover 100 percent of its budget for fiscal years 1991 through 1995 from the collection of annual charges from NRC licensees.

The Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272) established permanent fee collection authority for the NRC at a maximum level equal to 33 percent of the Commission's annual estimated costs. The Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) authorized a fee collection increase to 45 percent of the Commission's budget for fiscal years 1988 and 1989, as did the Omnibus Budget Reconciliation Act of 1990. Without additional legislation, the user fee recovery level for fiscal year 1991 would revert to the 33 percent level.

The present standard for the collection of these charges is increased to 100 percent for each of the next five years. In fiscal year 1996, the NRC would still be required to collect fees for services provided or things of value received from the Commission, but would no longer be required to assess annual charges.

To the maximum extent practicable, the annual charges shall be assessed of all licensees, shall be reasonably related to the regulatory service provided by the Commission to the licensee, and shall fairly reflect the cost to the Commission of providing such services.

RECREATION USER FEES

The Department of the Army, through the Army Corps of Engineers, administers one of the largest systems for outdoor recreation in the entire Federal Government. Currently, the bulk of the cost of operating and maintaining this program is borne by the general taxpayer even though an easily identifiable group—those who actually visit Corps recreation sites—derive a benefit at little or no direct cost.

The purpose of this proposal is to authorize the collection of recreation user fees for use of specialized recreation sites and facilities, including but not limited to, improved campsites, swimming beaches, and boat launching ramps at water development areas administered by the Department of the Army. Enactment of this legislation would remove existing restrictions on the authority of the Department of the Army to impose charges for use of certain developed recreation areas under its administration and would eliminate the requirement to provide one free campground at each project where camping is permitted. The legislation, however, is not intended to authorize the imposition of fees for general public access to water development projects. In addition, it is not intended to mandate that the Corps charge fees at all recreation sites, regardless of the cost of collecting such fees.

It is estimated that the imposition of recreation user fees will generate $20 million annually in new revenue, all of which would be utilized to off-set recreation maintenance costs.

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, October 15, 1990.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I hereby submit the statutory language implementing the recommendations of the Committee on Finance for purposes of the reconciliation bill provided for in H. Con. Res. 310, the concurrent resolution on the budget for fiscal year 1991. Also enclosed are materials which explain these provisions along with a recommendation of the Committee concerning the budgetary treatment of the Social Security program.

These statutory provisions will reduce outlays for programs within the jurisdiction of the Committee on Finance by $4.2 billion in fiscal year 1991 and by $52.7 billion over fiscal years 1991-1995. The revenue provisions will increase Federal receipts by $17.3 billion in fiscal year 1991 and by $142.1 over the five year period. As directed by the budget resolution, the Committee on Finance is also submitting statutory language which will provide additional borrowing authority under the statutory debt limit in an amount not to exceed $1,900 billion.

Sincerely,

LLOYD BENTSEN,
Chairman.

U.S. SENATE, COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC, October 15, 1990.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In accordance with the requirements of Sec. 310(b) of the Congressional Budget and Impoundment Control Act of 1974, enclosed is draft legislation to the Environment and Public Works Committee contained in H. Con. Res. 310. This legislation should result in savings of $329 million in fiscal year 1991, and will total $1,808 billion over the next five years.

We have also enclosed report language to accompany the legislation and provided 10 copies as you requested.

Sincerely,

JOHN H. CHAFEE.
QUENTIN N. BURDICK.

TITLE IV—COMMITTEE ON ENERGY AND NATURAL RESOURCES

SUBTITLE A—TONGASS TIMBER REFORM

Subtitle A of the reconciliation language of the Committee on Energy and Natural Resources includes, with certain conforming changes, the provisions of H.R. 987 as passed by the Senate. The Committee report accompanying H.R. 987 (S. Rpt. 101-261) is incorporated herein by reference. Among other things, Subtitle A would permanently repeal the $40 million direct appropriation to the Tongass National Forest Timber Supply Fund as called for in the Budget Summit Agreement. It also provides certain fisheries and forest protection, modifies long-term timber sale contracts, and provides for certain land exchanges.

Subtitle A contains the following provisions not described in S. Rept. 101-261

which were contained in floor amendments to the bill.

During consideration of H.R. 987, the Senate adopted several amendments which were not addressed in the Committee report. As reported from the Energy and Natural Resources Committee, section 103 of H.R. 987 directed the Secretary of Agriculture to maintain 100-foot buffer zones on all Class I streams and the first 300 feet of Class II streams which flow directly into Class I streams. The Senate amended the language to provide protection for all Class II streams in the Tongass.

Section 201 of the Committee reported bill was amended to correct a mapping error in the Yakutat Forelands LUD II Management Area. Section 402 was added to H.R. 987 during floor consideration and directs the Secretary of Agriculture to prepare a study regarding recommendations on the need to standarize riparian management practices within the Tongass. The Senate also added Title V during floor consideration which provides for the United States to exchange 1,151 acres in the Echo Cove area of the Tongass for approximately 2,600 acres of land in the Hobart Bay area of Tongass.

In addition, the Senate added Title VI to H.R. 987 which directs the Secretary of Agriculture to engage in expedited negotiations regarding two proposed land exchanges within the Tongass.

SUBTITLE B—URANIUM ENRICHMENT ACT

Subtitle B of the Committee's reconciliation language includes, with certain modifications and conforming changes, the provisions of S. 83 which establishes the United States Enrichment Corporation. The report accompanying S. 83 (S. Rpt. 101-60) is incorporated herein by reference.

The principal modifications to S. 83 made by the reconciliation language are: (1) preclusion of payments in lieu of taxes by the Corporation until fiscal year 1996; (2) restrictions on the expenditures of the Corporation and requirements to pay dividends during fiscal years 1991 through 1995; and (3) establishment of a fee of two-tenths of a mill per kilowatt hour on net generation of electricity by each civilian nuclear power reactor during fiscal years 1991 through 1995: "for purposes of reimbursing the Corporation for the costs of decontaminating and decommissioning uranium enrichment facilities of the Corporation which costs are attributable to the provision of separative work and other enrichment services to commercial customers prior to the enactment of this title."

For purposes of the fee, "net generation of electricity" shall not include electricity generated by a reactor but consumed by internal loads. In addition, it is intended that each licensee of a civilian nuclear power reactor allocate a proportionate share of the fee to all users of electricity from such reactor.

EXPLANATORY MATERIAL CONCERNING COMMITTEE ON FINANCE 1990 RECONCILIATION SUBMISSION PURSUANT TO HOUSE CONCURRENT RESOLUTION 310

I. Non Revenue Title (title VI of the bill) (Income security and services, Medicare, Medicaid, Trade, Pension Benefit Guaranty Corporation, and child care).

II. Revenue Title (title VII of the bill).

III. Revenue table prepared by the Joint Committee on Taxation.

IV. Cost estimate of the Congressional Budget Office.

V. Vote of Committee in approving the submission.

VI. Additional views.

I—NON REVENUE TITLE (TITLE VI OF THE BILL)

(b) Table of contents.—

Sec. 6000. Amendment of the Social Security Act; table of contents.

Subtitle A—Income Security

PART I—CHILD SUPPORT ENFORCEMENT

Sec. 6001. IRS intercept for non-AFDC families.
Sec. 6002. Commission on interstate child support.

PART II—SUPPLEMENTAL SECURITY INCOME

Sec. 6010. Continuation of medicaid eligibility under section 1619(b) past age 65.
Sec. 6011. Exclusion from income of impairment-related work expenses.
Sec. 6012. Treatment of royalties and honoraria as earned income.
Sec. 6013. Evaluation by pediatrician in child disability determinations.
Sec. 6014. Concurrent SSI and food stamp applications by institutionalized individuals.
Sec. 6015. Reimbursement for vocational rehabilitation services furnished during certain months of nonpayment of supplemental security income benefits.
Sec. 6016. Certain non-cash contributions received by recipients of SSI benefits excluded from income.
Sec. 6017. Certain trusts not to be counted as a resource available to the recipient; trust not income in month in which it is established.
Sec. 6018. Notification of certain individuals eligible to receive retroactive benefits.

PART III—AID TO FAMILIES WITH DEPENDENT CHILDREN

Sec. 6020. Optional monthly reporting and retrospective budgeting.
Sec. 6021. Children receiving foster care maintenance or adoption assistance payments not treated as member of family unit for purposes of determining eligibility for, or amount of, AFDC benefit.
Sec. 6022. Elimination of term legal guardian.
Sec. 6023. Reporting of child abuse and neglect.
Sec. 6024. Disclosure of information about AFDC applicants and recipients authorized for purposes directly connected to State foster care and adoption assistance programs.
Sec. 6025. Repatriation.
Sec. 6026. Good cause exception to required cooperation for transitional child care benefits.
Sec. 6027. Technical correction regarding penalty for failure to participate in JOBS program.
Sec. 6028. Technical correction regarding AFDC-UP eligibility requirements.
Sec. 6029. Technical amendments to national commission on children.
Sec. 6030. Family support act demonstration projects.
Sec. 6031. Study of JOBS programs operated by Indian tribes and Alaska Native organizations.
Sec. 6032. Proposed emergency assistance and AFDC special needs regulations.

PART IV—CHILD WELFARE AND FOSTER CARE; CHILD CARE

Sec. 6040. Clarification of terminology relating to administrative costs.
Sec. 6041. Section 427 triennial reviews.
Sec. 6042. Independent living initiatives.
Sec. 6043. Grants to States for child care.

PART V—OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Sec. 6050. Continuation of disability benefits during appeal.
Sec. 6051. Repeal of special disability standard for widows and widowers.
Sec. 6052. Dependency requirements applicable to a child adopted by a surviving spouse.
Sec. 6053. Representative payee reforms.
Sec. 6054. Fees for representation of claimants in administrative proceedings.
Sec. 6055. Applicability of administrative res judicata; related notice requirements.
Sec. 6056. Demonstration projects relating to accounting for telephone service center communications.
Sec. 6057. Telephone access to the Social Security Administration.
Sec. 6058. Amendments relating to Social Security account statements.
Sec. 6059. Trial work period during rolling five-year period for all disabled beneficiaries.
Sec. 6060. Continuation of benefits on account of participation in a non-State vocational rehabilitation program.
Sec. 6061. Limitation on new entitlement to special age-72 payments.
Sec. 6062. Elimination of advanced crediting to the trust funds of Social Security payroll taxes and revenues from taxation of Social Security benefits.
Sec. 6063. Elimination of eligibility for retroactive benefits for certain individuals eligible for reduced benefits.
Sec. 6064. Consolidation of old methods of computing primary insurance amounts.
Sec. 6065. Suspension of dependent's benefits when the worker is in an extended period of eligibility.

Subtitle B—Medicare

PART 1—PROVISIONS RELATING ONLY TO PART A

Sec. 6101. Reductions in payments of capital-related costs of inpatient hospital services.
Sec. 6102. Prospective payment hospitals.
Sec. 6103. Reduction in indirect medical education payments.
Sec. 6104. PPS exempt hospitals.
Sec. 6105. Expansion of hospice benefit.
Sec. 6106. Miscellaneous and technical amendments relating to part A.

PART 2—PROVISIONS RELATING ONLY TO PART B

SUBPART A—PAYMENT FOR PHYSICIANS' SERVICES

Sec. 6111. Reductions in payments for overvalued procedures.
Sec. 6112. Radiology services.
Sec. 6113. Anesthesia services.
Sec. 6114. Pathology services.
Sec. 6115. Update for physicians' services.
Sec. 6116. New physicians.
Sec. 6117. Assistants at surgery.
Sec. 6118. Advance determinations by carriers.
Sec. 6119. Limitation on beneficiary liability.
Sec. 6120. Statewide fee schedule areas for physicians' services.
Sec. 6121. Technical corrections relating to physicians payment.
Sec. 6122. Billing for services of substitute physician.
Sec. 6123. Study of prepayment medical review screens.
Sec. 6124. Utilization screens for physician visits in rehabilitation hospitals.
Sec. 6125. Study of high volume payment adjustment.

SUBPART B—PAYMENTS FOR OTHER ITEMS AND SERVICES
Sec. 6130. Hospital outpatient services.
Sec. 6131. Clinical diagnostic laboratory services.
Sec. 6132. Durable medical equipment.
Sec. 6133. Orthotics and prosthetics.
SUBPART C—MISCELLANEOUS PROVISIONS
Sec. 6140. Community mental health centers.
Sec. 6141. Extension of Alzheimer's disease demonstration projects.
Sec. 6142. Certified registered nurse anesthetics.
Sec. 6143. Federally qualified health centers and rural health clinics.
Sec. 6144. Separate payment under part B for services of certain health professionals.
Sec. 6145. New technology IOL's.
Sec. 6146. Rural nursing inventives.
PART 3—PROVISIONS RELATING TO PARTS A AND B
Sec. 6150. End-stage renal disease services.
Sec. 6151. Staff-assisted home dialysis.
Sec. 6152. Medicare as secondary payer.
Sec. 6153. Health maintenance organizations.
Sec. 6154. Peer review organizations.
Sec. 6155. Improvements in and simplification of medigap policies.
Sec. 6156. Technical and miscellaneous provisions relating to parts A and B.
Sec. 6157. Living wills and other advance directives.
PART 4—PROVISIONS RELATING TO PREMIUMS, DEDUCTIBLES, AND COINSURANCE
Sec. 6161. Part B premium.
Sec. 6162. Change in Part B deductible.
Sec. 6163. 20 percent coinsurance for clinical diagnostic laboratory tests.
Subtitle C—Medicaid
PART I—PRESCRIPTION DRUG DISCOUNTS
Sec. 6201. Reimbursement for prescribed drugs under Medicaid.
PART II—PURCHASE OF PRIVATE INSURANCE
Sec. 6211. States required to pay premiums, deductibles, and coinsurance for private health insurance coverage for Medicaid beneficiaries where cost effective.
PART III—LOW INCOME ELDERLY
Sec. 6221. 1-year acceleration of an increase in option amount for buy-in of premiums and cost sharing for indigent Medicare beneficiaries.
Sec. 6222. Delay in counting Social Security COLA, increases until poverty guidelines implemented.
PART IV—CHILD HEALTH
Sec. 6231. Medicaid child health provisions.
PART V—HOME AND COMMUNITY-BASED SERVICES
Sec. 6241. Home and community-based care as optional service.
Sec. 6242. Community supported living arrangements services.
Sec. 6243. Medicaid coverage of personal care services outside the home.
PART VI—NURSING HOME REFORM
Sec. 6251. Medicaid nursing home reform provisions.
PART VII—MISCELLANEOUS AND TECHNICAL PROVISIONS
Sec. 6261. Demonstration projects to study the effect of allowing States to extend medical coverage to certain low-income families not otherwise qualified to receive Medicaid benefits.
Sec. 6262. Medicaid respite demonstration project extended.
Sec. 6263. Demonstration project to provide Medicaid coverage for HIV-positive individuals, and certain pegnant women determined to be at risk of contracting the HIV virus.
Sec. 6264. Mental health facility certification demonstration project.
Sec. 6265. Optional State Medicaid disability determinations independent of the Social Security Administration.
Sec. 6266. Medically needy income levels for certain member families.
Sec. 6267. Medicaid spenddown option.
Sec. 6268. Limitation on disallowances or deferral of Federal financial participation for certain inpatient psychiatric hospital services for individuals under age 21.
Sec. 6269. 5-year extension of certain waiver.
Sec. 6270. Medicaid long-term care insurance demonstration project.
Sec. 6271. Medicaid coverage of alcoholism and drug dependence treatment services.
Sec. 6272. Home and community-based services.
Sec. 6273. Medicaid provisions relating to health maintenance organizations.
Sec. 6274. State flexibility in indentifying and paying disproportionate share hospitals.
Sec. 6275. Extension of provision on voluntary contributions and provider-specific taxes.
Sec. 6276. Prohibition on waiving reasonable and adequate payment rates.
Subtitle D—Trade Provisions
PART I—CUSTOMS USER FEES
Sec. 6301. Customs user fees.
PART II—TECHNICAL CORRECTIONS
Sec. 6311. Technical amendments to the Harmonized Tariff Schedule.
Sec. 6312. Technical amendments to certain customs laws.
Subtitle E—Pension Benefit Guarantee Corporation Premiums
Sec. 6401. Increase in premium rates.
Subtitle F—Child Care and Development Block Grant
Sec. 6501. Child Care and Development Block Grant.
TITLE VI—NON-REVENUE PROVISIONS OF THE COMMITTEE ON FINANCE
SUBTITLE A—INCOME SECURITY
Part I—Child Support Enforcement
1. Extension of IRS Intercept for Non-AFDC Families (Section 6001)

Present law

States may collect child support arrearages of at least $500 owed to non-AFDC families through the Federal income tax refund offset mechanism. This provision expires at the end of 1990. A similar mechanism is authorized permanently for AFDC families, but the limit on arrearages is set at $150 by regulations. The arrearages must be owed to a "minor child." Spousal support is excluded from the definition of support that can be collected through this offset.

Proposed change

The provision permanently extends the present law provision that allows States to ask the IRS to collect child support arrearages of at least $500 out of income tax refunds otherwise due to non-custodial parents. The minor child restriction would be eliminated for adults with a current support order who are disabled, as defined under OASDI or SSI. In addition, the offset could be used for spousal support when spousal and child support are included in the same support order.

The provision would take effect on January 1, 1991.

Budget impact (in millions): 1991, $1; 1992, $1; 1993, $2; 1994, $2; 1995, $3; 5-year, $9.

2. EXTENSION OF INTERSTATE CHILD SUPPORT COMMISSION (SECTION 6002)

Present law

The Family Support Act of 1988 established the Interstate Child Support Commission to report to Congress no later than May 1, 1991 on recommendations for improvements in the child support enforcement system and the Uniform Reciprocal Enforcement of Support Act. The Commission expires on July 1, 1991.

Proposed change

The provision would extend the life of the Commission to July 1, 1992 and would require it to submit its report no later than May 1, 1992. Also, the provision would authorize the Commission to hire its own staff.

The provision would take effect on the date of enactment.

Budget impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

Part II—Supplemental Security Income

1. Work Incentives

(a) Eliminate the Age Limit on Section 1619 Eligibility (Section 6010)

Present law

To be eligible for the Medicaid-only benefit under the section 1619 work incentive provisions an individual must be under 65 years old.

Proposed change

The provision would eliminate this age limit and would be effective in the eighteenth month after the date of enactment.

(b) Treatment of Impairment-Related Work Expenses (Section 6011)

Present law

Impairment-related work expenses (IRWE) are excluded from a disabled individual's earnings for determinations of: (1) whether earnings constitute "substantial gainful activity;" (2) the benefit amount of an eligible disabled individual; and (3) continuing eligibility on the basis of income.

Proposed change

The proposal would exclude impairment-related work expenses from income in determining initial eligibility and reeligibility for SSI benefits, and in determining State supplementary payments.

The provision would take effect for months following the month of enactment.

(c) Treat Certain Royalties and Honoraria as Earned Income (Section 6012)

Present law

Under present law, royalties received are considered unearned income under the SSI program unless they are from self-employment in a royalty-related trade or business. Honoraria are also considered unearned income. This results in a dollar-for-dollar loss of SSI benefits.

Proposed change

Any royalty which is earned in connection with the publication of an individual's work, or any honorarium which is received for services rendered would be treated as earned income for purposes of SSI eligibility and benefit determination. This would mean that income from these sources would be

disregarded to the same extent that income from other types of earnings is disregarded (i.e., the first $65 of monthly earnings plus 50 percent of additional earnings).

The effective date for the provision would be the eighteenth month beginning after the date of enactment.

Budget impact (in millions): 1991, *; 1992, *; 1993, *; 1994, *; 1995, *; 5-year, *.

2. Evaluation of Child's Disability By Pediatricians (Section 6013)

Present law

Present law does not require that a pediatrician or other qualified specialist be involved in the evaluation of a child's disability case.

Proposed change

The provision would require the Secretary of Health and Human Services to make reasonable efforts to ensure that a qualified pediatrician or other specialist in a field of medicine appropriate to the disability of the child evaluate the child's disability for purposes of determining eligibility for SSI.

The provision would take effect in the month beginning 6 months after the date of enactment.

Budget impact (in millions): 1991, *; 1992, 2; 1993, 2; 1994, 2; 1995, 2; 5-year, 8.

3. Concurrent Applications for SSI and Food Stamps (Section 6014)

Present law

Public Law 99-570, the Anti-Drug Abuse Act of 1986, amended the Social Security Act to require the Secretaries of HHS and Agriculture to develop a procedure to allow institutionalized individuals who are about to be released to make a single application for both SSI and food stamp benefits.

Proposed change

The provision would permit the Secretary of HHS to: (1) use a single application form for the food stamp and SSI programs; or (2) take concurrent applications for the SSI and food stamp programs.

The provision would take effect on the date of enactment.

Budget impact (in millions): 1991, *; 1992, *; 1993, *; 1994, *; 1995, *; 5-year, *.

4. Reimbursement for Vocational Rehabilitation Services (Section 6015)

Present law

The Secretary of HHS is required to refer blind and disabled individuals who are receiving SSI benefits to State vocational rehabilitation agencies and is authorized to reimburse these agencies for the reasonable and necessary costs of the vocational rehabilitation services that are provided to recipients under certain specified conditions. Reimbursement is not allowable with respect to services provided to individuals who are not receiving cash benefits but who are eligible for Medicaid benefits because they are in "special status" under 1619(b), are in suspended benefit status, or are receiving Federally-administered State supplementary payments but not Federal SSI benefits.

Proposed change

The provision would implement a recommendation of the Disability Advisory Council to authorize reimbursement for vocational rehabilitation services provided to individuals who are not currently receiving Federal SSI benefits but who are in "special status" under section 1619(b), are in suspended benefit status, or are receiving Federally—administered State supplementary payments. The provision would apply to claims for reimbursement pending on or after the date of enactment.

The provision would take effect on the date of enactment.

Budget impact (in millions): 1991, *; 1992, *; 1993, *; 1994, *; 1995, *; 5-year, *.

5. Disregard of Trust Contributions (Sections 6016-6018)

Present law

The term "trust" is not defined in either SSI law or regulations. SSI policy, as expressed in the program's operating manual, is to treat a trust as a resource when an individual owns the assets in the trust and, acting on his own behalf or through an agent (such as a representative payee for SSI benefits), has the legal right to use them for his own food, clothing, or shelter. If, however, the individual does not have the legal authority to access trust assets for his own food, clothing, or shelter (e.g., there is an intervening trustee), the trust is not considered a resource.

Cash payments made to an individual, including those from a trust (regardless of whether the trust is considered a resource), are considered income in the month received. Noncash payments (i.e., actual food, clothing, or shelter) are also considered income. However, there are special rules under which noncash payments are presumed to have a maximum value of one-third of the Federal SSI monthly benefit amount, plus a $20-a-month income exclusion. If a person can show that any in-kind support and maintenance provided is less than the "presumed value," the lesser amount is considered income. Thus, any cash payments or noncash income for food, clothing, or shelter affects SSI benefits and eligibility status.

Proposed change

The SSI statute would be amended to specify that a trust established for an SSI recipient to which the recipient does not have legal access would not be counted as a resource, and certain non-cash contributions to a recipient would not be counted as income. In addition, the Secretary of HHS would be required to inform the family of a child who is awarded a retroactive payment as the result of the decision of the Supreme Court in Sullivan v. Zebley that the family may be able to place the payment in a trust for the benefit of the child. This information need not be provided in the form of a separate notice, but may be included in the notice of award of the retroactive payment.

Budget impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0;

Part III—Aid to Families with Dependent Children

1. State Option to Require Monthly Reporting and Retrospective Budgeting (Section 6020)

Present law

Under section 402(a)(14) of the Social Security Act, States must require families with earned income or a recent work history to provide a monthly report on: (1) income and family composition during the prior month; and (2) estimates of the income and resources anticipated in the current or future months. With the approval of the Secretary, a State may select categories of these families to report at less frequent intervals, if monthly reporting is not cost effective.

AFDC eligibility and benefits are determined monthly. Generally, a family's eligibility for and amount of aid for a month are based on the family's income, composition and resources in that month. However, under section 402(a)(13) of the Social Security Act, for families who are subject to monthly reporting requirements, States are required to calculate benefits based upon retrospective budgeting. Under retrospective budgeting, although eligibility is based on the family's circumstances in the current month, payment amounts are based on the family's income in the first or second month preceding the current month.

Proposed change

The provision would give States the option of specifying from which categories of families, if any, monthly reports will be required. If the State exercises the option, it must describe in its State plan the categories subject to the reporting requirement. Further, the State may choose to apply the retrospective budgeting technique to any one or more of the categories to whom the reporting requirement applies.

The provision would take effect with respect to reports pertaining to, or aid payable for, months after September 1990.

Budget impact (in millions): 1991, *; 1992, *; 1993, *; 1994, *; 1995, *; 5-year, *;

2. Treatment of Foster Care Maintenance Payments and Adoption Assistance (Section 6021)

Present law

Prior to October 1, 1984, a child receiving State or Federal foster care maintenance payments or adoption assistance did not have to be included in the AFDC family unit, and the income and resources of the child did not count as the income and resources of the AFDC family. A family unit rule implemented as part of the Deficit Reduction Act of 1984, however, required that any parent or sibling of a dependent child be included in the AFDC unit. This rule applied to any sibling receiving foster care or adoption assistance.

The Tax Reform Act of 1986 amended AFDC law retroactively to October 1, 1984 to provide that, in determining a family's eligibility for or amount of AFDC benefits, a child receiving foster care maintenance payments under title IV-E would not be regarded as a member of the family, and the income and resources of the child would not be counted as the income and resources of the family (Section 478 of the Social Security Act).

Proposed change

A child receiving State and/or local foster care maintenance payments would not be regarded as a member of an AFDC family for purposes of determining a family's eligibility for or amount of AFDC benefits, and the child's income and resources would not be counted as the income and resources of the family.

Further, a child receiving adoption assistance payments under title IV-E, or State and/or local adoption assistance payments would not be regarded as a member of an AFDC family for the purposes of determining a family's eligibility for or amount of AFDC benefits, and the child's income and resources would not be counted as the income and resources of the family unless this would result in lower benefits for the family.

The provision would also move the section 478 provision, as amended, from title VI-E of the Social Security Act to title IV-A.

The provision would take effect in the month beginning six months after the date of enactment.

Budget impact (in millions): 1991, *; 1992, 1; 1993, 1; 1994, 1; 1995, 1; 5-year, 4.

3. Eliminating the Use of the Term "Legal Guardian" (Section 6022)

Present law

Section 402(a)(39) of the Social Security Act requires that, in determining AFDC benefits for a dependent child whose parent or legal guardian is under the age of 18, the State agency must include the income of the minor parent's own parents or legal guardian who are living in the same home.

Proposed change

The provision would delete all references to legal guardians.

Legal guardianship is not relevant to eligibility determination or the deeming of income under the AFDC program. For example, the use of the term "legal guardian" in the first instance is irrelevant since, even if such a guardian were appointed, the child would not be eligible for AFDC unless living with a relative specified in section 406 of the Social Security Act.

The use of the term "legal guardian" in the second instance is also inappropriate in the context of the AFDC statute. Unlike the parent-child relationship, legal guardianship has not been a basis for attributing income to AFDC beneficiaries. Using legal guardianship as a source of attributed income in three-generation families creates unequal treatment under the program. For example, if a minor child is living with an aunt who is her legal guardian, the aunt's income is not automatically attributed to the AFDC beneficiary; however, if the minor has a child, the guardian's income is included in the AFDC determination for the minor and her child.

The provision would take effect on the date of enactment.

Budget impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

4. Reporting of Child Abuse and Neglect (Section 6023)

Present law

Under current law, both the title IV-A (AFDC) and title IV-E (foster care and adoption assistance) State plan requirements stipulate that State agencies must report to appropriate court or law enforcement agencies instances of a child receiving program aid who is residing in a home that is unsuitable because the child is subject to abuse, neglect or exploitation (Sections 402(a)(16) and 471(a)(9) of the Social Security Act).

Proposed change

The provision would amend the AFDC, foster care and adoption assistance State plan requirements to require that each State agency report, to an appropriate agency or official, known or suspected instances of child abuse and neglect of a child receiving program aid. This would include instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment under circumstances which indicate that the child's health or welfare is threatened. The State agency would also be required to provide such information with respect to the situation as it may have.

The provision would take effect on the date of enactment.

Budget impact (in millions); 1991* 1992* 1993* 1994* 1995* 5-year,*.

5. Permissible Uses of AFDC Information (Section 6024)

Present law

Section 402(a)(9) of the Social Security Act restricts the use of disclosure of information about AFDC applicants and recipients to purposes directly connected with: (1) the administration of the AFDC program or several other specified Social Security Act programs; (2) any investigation, prosecution, or criminal or civil proceeding conducted in connection with such programs; (3) the administration of any other Federal or Federally-assisted program providing assistance or services to individuals on the basis of need; and (4) any audit of such programs.

Proposed change

The provision would add an explicit reference to title IV-E, the foster care and adoption assistance programs, to the list of programs for which information about AFDC applicants and recipients may be made available.

The provision would take effect on the date of enactment.

Budget impact (in millins): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

6. Repatriation (Section 6025)

Present law

Section 1113 of the Social Security Act authorizes the Secretary to provide temporary assistance to U.S. citizens and their dependents if they: (1) have returned or been brought from a foreign country to the U.S. because of destitution or illness, or war, threat of war, invasion or similar crisis; and (2) are without resources.

Prior to June, 1990, the maximum amount of temporary assistance that could be provided in one fiscal year equaled $300,000. In June, 1990, the Secretary requested that the $300,000 limit be increased to $1 million, to accommodate the repatriation of several hundred Americans from Liberia. This increase was enacted in P.L. 101-382. According to the Secretary, the subsequent Iraqi invasion of Kuwait has placed new and unpredictable demands on the repatriation program. The Secretary expects the resulting program costs to exceed $1 million.

Proposed change

The provision temporarily repeals the $1 million spending cap for the repatriation program for fiscal year 1990 and 1991, and permits HHS to receive gifts from those wishing to contribute assistance to repatriated Americans through the repatriation program.

Budget impact (in millions): 1991, 2; 1992, 2; 1993, 0; 1994, 0; 1995, 0; 5-year, 4;

7. Technical Amendment to Allow Good Cause Exception (Section 6026)

Present law

Under current law, as a condition of eligibility for AFDC, a parent must cooperate with the child support enforcement (IV-D) agency in establishing paternity, and in obtaining and enforcing a support order unless there is "good cause" for refusal. "Good cause" includes such factors as reasonable belief that cooperation could result in physical or emotional harm to the child or caretaker relative, and other factors established by regulation. The Family Support Act of 1988 established a similar requirement for cooperation with the IV-D agency in order for a family to be eligible to receive child care transition benefits. However, the "good cause" exception was omitted.

Proposed change

The good cause exception from cooperation with the IV-D agency would be made applicable to transitional child care benefits to make it consistent with the exception that applies to AFDC cash benefits.

The provision would take effect on the date of enactment.

Budget impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

8. JOBS Technical Correction Regarding Penalty for Failure to Participate (Section 6027)

Present law

The Family Support Act of 1988 added a penalty provision to the AFDC statute (section 402(a)(19)(G)) that provides that if the principal earner (in the case of a family eligible on the basis of the unemployment of the principal earner (AFDC-UP) fails to participate in the JOBS program as required, the needs of that individual will not be taken into account in determining the amount of the family's AFDC benefit. If the spouse is not participating, the needs of the spouse will also not be taken into account. The penalty does not apply to benefits on behalf of any child in the family. When this new penalty language was added, however, the language contained in section 407 imposing a penalty for any child in the family if the principal earner failed to meet employment and training participation requirements was not repealed.

Proposed change

The statute would be clarified by repealing the penalty language in section 407 that requires a reduction in AFDC benefits on behalf of a child in an AFDC-UP family if the principal earner fails to participate in the JOBS program.

The provision would take effect on the date of enactment.

Budget impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

9. Technical Correction Regarding AFDC-UP Eligiblity Requirements (Section 6028)

Present law

Prior to October 1, 1990, participation in the Work Incentive (WIN) and Community Work Experience (CWEP) programs counted in the definition of "quarter of work" for purposes of qualifying a family for AFDC-UP. Title IV of the Family Support Act of 1988 amended the definition of "quarter of work" to include participation in JOBS, but deleted references to WIN and CWEP. The result is that beginning October 1, 1990, prior participation in WIN or CWEP will not count toward the "quarter of work" requirement for purposes of establishing eligibility for AFDC-UP.

Proposed change

Section 407(d) would be amended to allow participation in WIN and CWEP prior to October 1990 to count toward the "quarter of work" requirement for purposes of AFDC-UP eligiblity.

The provision would take effect on the date of enactment.

Budget impact (in millions): 1991, *; 1992, *; 1993, *; 1994, *; 1995, *; 5-year, *.

10. Children's Commission Reporting Date (Section 6029)

Present law

The National Commission on Children is directed to study and recommend to the President and the Congress ways to improve the well-being of children. P.L. 101-239 included an amendment to the original legislation that was intended to establish a final reporting date for the Commission of March 31, 1991. The Amendment as enacted, however, includes a technical error.

Proposed change

The statute would be corrected to clarify that the final reporting date for the Commission is March 31, 1991.

The provision would take effect on the date of enactment.

Budget impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

11. Community Development Demonstration Technical Correction (Section 6030)

Present law

The Family Support Act of 1988 authorized the Secretary of HHS to enter into agreements with up to 10 nonprofit organizations (including community development corporations) for the purpose of conducting demonstration projects to create employment opportunities for certain low income individuals. The authorization for the demonstrations is $6.5 million for each of fiscal years 1990, 1991, 1992.

Proposed change

The statute would be clarified to specify that the Secretary could enter into agreements with up to 10 nonprofit organizations each year. There would be no increase in the authorization.

Budget impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

12. GAO Study of JOBS Funding for Indian Tribes (Section 6031)

Present law

Under the Family Support Act of 1988, Indian tribes (or Alaska Native organizations) may apply to operate JOBS programs. The statute required that, in order to be considered by the Secretary, an application for Federal funding must be made within six months after enactment of the Family Support Act.

If an application is approved, the Secretary may grant funds to the tribe or Alaska Native organization (without a non-Federal matching requirement) to operate a JOBS program. The amount of funds is based on the ratio of adult recipients in the tribe relative to the adult recipients in the State. (The State's cap is appropriately reduced.) Requirements of the JOBS program may be waived if the Secretary determines that they are inappropriate.

Proposed change

The bill would direct the General Accounting Office to conduct a study of how the provisions with respect to Indian tribes and Alaska Native organizations have been implemented by the Secretary and by such tribes and organizations, to describe any problems that may have been experienced in implementing the provisions, to determine to the extent possible the effectiveness of JOBS programs that are being operated by Indian tribes and Alsaka Native organizations, and to make recommendations as to any legislative or administrative changes that could be made to improve the effectiveness of such programs.

Budget impact (in millions): 1991, *; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, *.

13. Moratorium on Final Reguations for Emergency Assistance (Section 6032)

Present law

The Omnibus Budget Reconciliation Act of 1989 (P.L. 101-239) included a provision stating that any final regulation which would change any policy in effect immediately before the date of the enactment of that Act with respect to the use of emergency assistance or special needs funds under the AFDC program could not take effect before October 1, 1990.

Proposed change

The date on prohibition of issuance of final regulations would be extended to October 1, 1991.

Budget impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

Part IV—Child Welfare, Foster Care, and Child Care

1. Accounting for Administrative Costs (Section 6040)

Present law

States are entitled to Federal reimbursement at a rate of 50 percent for expenditures made for the proper and efficient administration of the State title IV-E plan.

Under current law and regulation, Federal matching for administrative costs includes matching for activities that involve placement of the child in foster care, as well as what are ordinarily considered administrative "overhead" costs. These include activities related to child protections mandated by the Child Welfare and Adoption Assistance Amendments of 1980, such as: referral to services at time of intake; preparation for, and participation in, judicial determinations; development of a case plan for the child; periodic reviews of the child's case plan; and case management and supervision.

Although there are no official program data showing what portion of administrative costs go for child placement activities as opposed to ordinary administrative overhead, the Inspector General has estimated that only about 20 percent of foster care administrative costs represent what are traditionally considered administrative overhead expenses.

Proposed change

Title IV-E would be amended to specifically add "child placement services" as activities for which States are entitled to receive Federal reimbursement. This is not intended in any way to change the type of activities for which States are currently allowed to claim Federal reimbursement as an administrative cost under title IV-E. In order to provide the Congress with more specific information on how these child placement and administrative matching funds are being spent, the Congress expects that the Secretary will develop and establish uniform definitions for the activities reimbursable as child placement services and administration, and will require the States to account for expenditures according to these activities.

The provision would take effect on the date of enactment.

Budget impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

2. Section 427 Triennial Reviews (Section 6041)

Present law

Public Law 96-272, the Adoption Assistance and Child Welfare Amendments of 1980, was designed to provide financial incentives to the States to implement and operate a set of services and procedures to prevent the unnecessary removal of children from their home, prevent extended stays in foster care, and ensure that efforts are made to reunify children with their families or place them for adoption. The services and procedures are outlined in section 427 of the Social Security Act.

According to the HHS Section 427 Review Handbook, to verify compliance with section 427 requirements, HHS conducts a two-stage review. The first stage is an administrative review which determines whether States have developed policy and procedures to implement the section 427 requirements for all children in foster care under the responsibility of the State. The second stage of the review is the case record survey which confirms that the policies are being implemented throughout the State.

An initial review is conducted for the fiscal year in which the State first certifies its eligibility. If a State meets the initial review, a subsequent review is conducted for the following fiscal year. States that meet the requirements of this subsequent review will be reviewed for the third fiscal year following the fiscal year for which the subsequent review was conducted, and every third year thereafter. This is known as the triennial review. The case record survey must confirm that the section 427 foster care protections are provided for at least 66% of the children in the initial review, 80% in the subsequent review, and 90% in the triennial review. If a State does not meet the established standards for the year under review, the review is conducted each succeeding year until eligibility is established.

The Omnibus Budget Reconciliation Act of 1989 included a provision which prohibited the Secretary from, before October 1, 1990, reducing payments to, seeking repayment from, or withholding any payments for any State as a result of a disallowance determination made in connection with a triennial review of State compliance with the section 427 foster care protections, for any fiscal year proceding fiscal year 1991.

HHS has convened a department-wide task force to review and revise the current section 427 review process. Draft regulations are expected during calendar year 1991.

Proposed change

The provison would extend the current prohibition on reducing payments to, seeking repayment from, or withholding payments from States to October 1, 1991, to apply to any determinations made in conection with a triennial review for any Federal fiscal year preceding fiscal year 1992.

The provision would take effect on October 1, 1990.

Budget impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

3. Independent Living to Age 21 at State Option (Section 6042)

Present law

The Independent Living Initiatives Program is a State entitlement program under title IV-E designed to help ease the transition of foster children age 16 and older to independent living. Independent living services may include school and vocational training, living skills training, housing location and career planning assistance, counseling service coordination, outreach, and the development of plans for independent living as part of the case plan.

Proposed change

The statute would be amended to allow States to include youths who have been "discharged" from the foster care system in services provided under the indepenedent living program, up to age 21.

The provision would take effect on October 1, 1990.

Budget impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

4. Grants to States for child care (Section 6043)

Present law

Federal matching is available to States on an entitlement basis to provide child care for AFDC parents who are participating in the JOBS program, and to provide child care for a period of 12 month after the family loses eligibility for AFDC as a result

of increased hours of, or increased income from, employment.

Proposed change

Funding for the existing title IV child care program would be increased to provide $65 million for each of fiscal years 1991-1995 to enable States to provide child care to low income non-AFDC families that the State determines (1) need such care in order to work, and (2) would otherwise be at risk of becoming dependent upon AFDC. Capped entitlement funds would be allocated on the basis of child population. Rules relating to Federal matching rates, standards, reimbursement, and fee schedules would remain the same as in current law. States would be required to report annually to the Secretary on child care activities carried out with funds under this entitlement. It is the Committee's intent that States will have maximum flexibility in determining how these funds are used.

In addition, the authorization for grants (enacted in the Family Support Act of 1988) to enable States to improve their child care licensing and registration requirements and procedures, and to monitor child care provided to children receiving AFDC, would be extended to provide $35 million for each of fiscal years 1992, 1993, and 1994 for these purposes.

Budget impact (in millions): 1991, 39; 1992, 57; 1993, 65; 1994, 65; 1995, 65; 5-year, 291.

Part V—Old-age, Survivors, and Disability Insurance

1. Make Permanent the Continuation of Disability Benefits During Appeal (Section 6050)

Present law

A disability insurance (DI) beneficiary who is determined to be no longer disabled may appeal the determination sequentially through three appellate levels within the Social Security Administration (SSA): a reconsideration, usually conducted by the State Disability Determination Service that rendered the initial unfavorable determination; a hearing before an SSA administrative law judge (ALJ); and a review by a member of SSA's Appeals Council.

The beneficiary has the option of having his or her benefits continued through the hearing stage of appeal. If the earlier unfavorable determinations are upheld by the ALJ, the benefits are subject to recovery by the agency. (If an appeal is made in good faith, benefit recovery may be waived.) Medicare eligibility is also continued, but medicare benefits are not subject to recovery.

The Disability Reform Amendments of 1984 (P.L. 98-460) provided benefits through the hearing stage on a temporary basis. This provision was subsequently extended, most recently by the Omnibus Budget Reconciliation Act of 1989 (P.L. 101-239). That Act extends the provision to appeals of termination decisions made on or before December 31, 1990. Under this latest extension, payments may continue through June 30, 1991 (i.e., through the July 1991 check).

Proposed change

The provision would make the temporary provision permanent. Thus, on a permanent basis, beneficiaries would have the option of having their DI and medicare benefits continued through the hearing stage of appeal. As under current law, DI benefits would be subject to recovery where the ALJ upheld the earlier unfavorable decision, while medicare benefits would not be subject to subsequent recovery.

The provision would be effective upon enactment.

Budget Impact (in millions); 1991, 9; 1992, 40; 1993, 53; 1994, 62; 1995, 71; 5-year, 235.

2. Improvement of the Definition of Disability Applied to Disabled Widow(er)s (Section 6051)

Present law

A widow(er) or surviving divorced spouse of a worker may be entitled to widow(er)'s benefits if he or she is age 60, or at any age if he or she is caring for the worker's child who is under age 16. A widow(er) or surviving divorced spouse with no child in care and who is under age 60 but is at least age 50 may be eligible for widow(er)'s benefits as a disabled widow(er).

Generally, disability is defined as an inability to engage in any substantial gainful activity (defined in regulations as earnings of $500 per month, effective January 1, 1990) by reason of a physical or mental impairment. The impairment must be medically determinable and expected to last for not less than 12 months or to result in death. A person (other than a disabled widow(er)) may be determined to be disabled only if, due to this impairment, he or she is unable to engage in any kind of substantial gainful work, considering his or her age, education and work experience, which exists in the national economy.

The definition of disability which is applied to widow(er)s, however, is stricter than that which is applied to workers and to Supplemental Security Income (SSI) disability applicants. First, a widow(er) must have a disability severe enough to prevent him or her from engaging in "any gainful activity" (little or no earnings at all) rather than substantial gainful activity (ordinarily, earnings of more than $500 per month). Second, for a disabled widow(er) the three vocational factors used in determining a worker's disability—age, education, and work experience—are not considered. Therefore, the disability must be established based on medical evidence alone.

Once SSA determines that an individual is disabled, there is a five-month waiting period before disability benefits are payable. Once disability benefits begin, there is a 24-month waiting period for entitlement to medicare benefits.

The stricter test of disability for disabled widow(er)s was established in the Social Security Amendments of 1967, which created this new entitlement to benefits. In explaining the reasons for the more restrictive rules, Chairman Wilbur Mills stated on the House floor, "We wrote this provision of the bill very narrowly, because it represents a step into an unexplored area where cost potentials are an important consideration."

Proposed change

The provision of benefits to widow(er)s on the basis of disability has been found not to be a significant cost to the trust fund. Therefore, the provision would repeal the stricter defintion of disability that must be met by a disabled widow(er) age 50-59 in order to qualify for widow(er)'s benefits and instead apply the definition of disability used for workers. Widow(er)s who had been receiving SSI disability benefits or social security disability benefits on their own work records prior to becoming eligible for disabled widow(er)'s benefits would be able to count the months beginning with the month they first received these benefits toward satisfying the five-month waiting period for disability benefits and the 24-month waiting period for medicare benefits. In addition, widow(er)s who receive SSI disability benefits prior to becoming entitled to disabled widow(er)'s benefits would not lose medicaid eligibility as a result of receiving a higher social security benefit, but only for so long as they are not entitled to medicare benefits.

The provision would be effective for benefits payable for months after December, 1990, but only on the basis of applications filed on or after January 1, 1991. The Secretary would not be required to make a new determination of disability for widow(er)s receiving SSI or disabled worker's benefits prior to becoming entitled to disabled widow(er)'s benefits. SSA would be required, to the extent possible, to notify such individuals of their eligibility for disabled widow(er)'s benefits.

Budget impact (in millions): 1991, 21; 1992, 51; 1993, 83; 1994, 103; 1995, 128; 5-year, 385.

3. Payment of Benefits to a Child Adopted by a Surviving Spouse (Section 6052)

Present law

A child adopted by the surviving spouse of a deceased worker must meet two tests in order to the entitled to benefits as a surviving child. First, adoption proceedings must have been initiated prior to the worker's death, or the adoption must have been completed within two years of the worker's death. Second, the child must have been living in the worker's home and cannot have been receiving support from any source other than the worker or the spouse (e.g., a foster care program) in the year prior to the worker's death.

Proposed change

A child adopted by the surviving spouse of a deceased worker would be entitled to survivor's benefits if the child either lived with the worker or received one-half support from the worker in the year prior to death. The requirements relating to the timing of the adoption would not be changed.

The provision would be effective with respect to benefits payable for months after December 1990, but only on the basis of applications filed on or after January 1, 1991.

Budget impact (in millions): 1991, *; 1992, 1; 1993, 1; 1994, 2; 1995, 2; 5-year, 6.

4. Improvements in the Representative Payee System (Section 6053)

Present law

Under current law, the Secretary of Health and Human Services may appoint a relative or some other person (known as a "representative payee") to receive social security or SSI benefit payments on behalf of a beneficiary whenever it appears to the Secretary that the appointment of a representative payee would be in the best interest of the beneficiary.

The Secretary is required to investigate each individual applying to be a representative payee either prior to, or within 45 days after, the Secretary certifies payment of benefits to that individual. Present law does not specify what shall be included in the investigation.

The Secretary is required to maintain a system of accountability monitoring under which each representative payee is required to report not less than anually regarding the use of the payments. The Secretary is required to review the reports and identify instances where payments are not being properly used.

Any individual convicted of a felony under section 208 or section 1632 of the Social Security Act may not be certified as a representative payee.

Proposed change

a. Investigations of representative payee applicants

During the investigation of the representative payee applicant, the Secretary would be required to: (1) require the representative payee applicant to submit documented proof of identity; (2) conduct a face-to-face interview with the representative payee applicant when practicable; (3) verify the social security account number or employer identification number of the representative payee applicant; (4) determine whether the representative payee applicant has been convicted of a social security felony under section 208 or section 1632 of the Social Security Act; and (5) determine whether the representative payee applicant had ever been dismissed as a representative payee for misuse of a beneficiary's funds. An individual who had been convicted of a felony under section 208 or section 1632, or dismissed as a representative payee for misuse of the benefit payment, would not be permitted to be certified as a representative payee on or after January 1, 1991. The Secretary would be permitted to issue regulations under which an exemption from the prohibition against certification in the case of misuse would be granted on a case-by-case basis, if the exemption would be in the best interest of the beneficiary. The Committee intends that the exemption would be granted only in rare instances.

The Secretary would be required to: (1) terminate payments to a representative payee where the Secretary or court of law found that the representative payee and misused the benefit payments; (2) maintain a list of those terminated for misuse on or after January 1, 1991; and (3) provide such a list to local field offices. If the computer program necessary to maintain such a list is not developed by January 1, 1991, the list should be maintained manually. Under current SSA policy, misuse is defined as converting benefit payments for personal use, or otherwise diverting the payments in bad faith with a reckless indifference to the welfare and interests of the beneficiary. The Committee expects the Secretary to apply this definition under this provision.

The Secretary would be required to maintain a centralized, current file readily retrievable by all local SSA offices of: (1) the address and social security account number (or employer identification number) of each representative payee; and (2) the address and social security account number of each beneficiary for whom each representative payee is providing services as representative payee. In addition, local service offices would be required to maintain a list of all public agencies and community-based nonprofit social service agencies qualified to serve as a representative payee in the area served by such office.

Current law prohibits any individual convicted of a felony under section 208 or section 1632 of the Social Security Act from serving as representative payee. The provision would require SSA to maintain a list of those convicted and make it readily available to local field offices.

b. Withholding of benefits

In cases where the Secretary is unable to fine a representative payee, and the Secretary determines that it would cause the social security beneficiary or SSI recipient substantial harm to make direct payment, the Secretary would be permitted to withhold payment for up to one month. Not later than the expiration of the one month period, the Secretary would be required to begin direct payment to the beneficiary starting with the current months' benefit unless the beneficiary had been declared legally incompetent or was under age 15. Retroactive benefits would be withheld until a representative payee has been appointed or the Secretary determines a suitable representative payee could not be found. Retroactive benefits would be paid over such period as the Secretary determines is in the best interest of the beneficiary.

It is not the intention of the Committee to encourage SSA to withhold benefits from a beneficiary whom the Secretary has determined to need a representative payee. The beneficiary should be paid directly if at all possible, especially if the beneficiary had been using the benefit payment to meet immediate needs such as shelter, food and clothing.

The Committee does not wish SSA to view the one month withholding period as a routinely acceptable length of time in which to find a representative payee. The Committee expects SSA to make every effort to find a qualified representative payee for an individual as quickly as possible.

The Committee recognizes that in some cases (such as an unreported change of address) SSA may not be officially notified of the need to change a representative payee. The Committee intends that the 1-month period of suspension shall be measured from the point the Secretary first becomes aware that a representative payee issue exists, and shall consider the objective of this provision met so long as the Secretary takes prompt action to minimize interruption of benefits.

c. Limitations on the appointment of representative payee

An individual who is a creditor providing goods and services to an OASDI or SSI beneficiary for consideration would be precluded from serving as the beneficiary's representative payee with certain exceptions. The exceptions would include: (1) a relative who resides in the same household as the beneficiary; (2) a legal guardian or representative; (3) a facility licensed or certified under State or local law; (4) an administrator, owner, or employee of such facility if the beneficiary resides in the facility and the local social security office has made a good faith effort to locate an alternative representative payee; and (5) an individual whom the Secretary determines to be acceptable based on a written finding reached under established rules that require the individual to show to the satisfaction of the Secretary that he or she poses no risk to the beneficiary, that the individual's financial relationship with the beneficiary poses no substantial conflict of interest, and no other more suitable representative payee exists.

d. Appeal rights and notices

The beneficiary would have the right to: (1) appeal the Secretary's determination of the need for a representative payee; and (2) appeal the designation of a particular person to serve as representative payee. In appealing either the determination or the designation, the beneficiary (or the applicant in cases of initial entitlement) would have a right to review the evidence upon which the determination was based and to submit additional evidence to support the appeal.

The Secretary would be required to send a written notice of the determination of the need for a representative payee to the beneficiary (Other than a child under age 18 living with his parents), and each person authorized to act on behalf of an individual who is legally incompetent or is a minor.

The provision would require that the notices be provided in advance of any benefits being paid to a representative payee. In addition, the notice must be clearly written and explain the beneficiary's rights in an easily understandable manner.

e. High-risk representative payees

The Secretary would be required to study and provide recommendations as to the feasibility and desirability of formulating stricter accounting requirements for all high-risk representative payees and providing for more stringent review of all accounting from such representative payees. The Secretary would be required to define as high-risk representative payees: (1) non-relative representative payees who do not live with the beneficiary; (2) those who serve as a representative payee for five or more beneficiaries (under title II, title XVI or a combination thereof) and who are not related to them; (3) creditors of the beneficiary; and (4) any other group determined by the Secretary to be high-risk.

The purpose of the provision is to identify groups or individuals serving as representative payee who may be likely to misuse or improperly use benefit payments. At a minimum, the Committee expects SSA to examine board and care operators, nursing homes, and individuals who are not related to the beneficiary. The proposal does not apply to Federal or State governmental institutions.

f. Underpayment of benefits

In cases where the negligent failure of the Secretary to investigate or monitor a representative payee result in misused benefits, the Secretary would be required to make repayment to the beneficiary. In addition, the Secretary would be required to make a good faith effort to obtain restitution of any misused funds.

g. Fee for representative payee services

Community-based non-profit social service agencies, in existence on October 1, 1988, which are bonded or licensed by their states and regularly serve as representative payees for five or more beneficiaries would be allowed to collect a monthly fee for representative payee services. The fee would be collected from the beneficiary's social security or SSI payment not to exceed the lesser of ten percent of the monthly benefit due or $25.

The provision would sunset after three years. The Secretary would be required to keep track of the number and type of groups who participated under this provision and report back to the Committee on Ways and Means and the Committee on Finance at the end of two years.

In general, the provision would prohibit an agency which is a creditor of the beneficiary from serving as a representative payee but would require the Secretary to develop regulations whereby exceptions would be granted on a case by case basis if the exception is in the best interest of the beneficiary.

The term "community-based, non-profit, social service agencies" means non-profit social service agencies which are representative of communities or significant segments of communities and that regularly provide services for those in need. Guardian, Inc., of Calhoun County, Michigan, is an example of a non-profit organization which regularly provides representative payee services. The Salvation Army, Catholic Charities, and Lu-

theran Social Services are examples of agencies providing social services to the needy.

Qualified organizations which charge or collect, or make arrangements to charge or collect, a fee in excess of the maximum fee would be subject to a fine of not more than $10,000.

Currently, SSA permits an individual serving as a representative payee to be reimbursed from the beneficiary's check for actual out-of-pocket expenses incurred on behalf of the beneficiary. These expenses include items such as stamps, envelopes, cab fare, or long-distance phone calls. It is the intention of the Committee that such individual representative payees would continue to be reimbursed in this manner. The Committee does not intend these representative payees to receive any additional fee for services.

The General Accounting Office would be directed to conduct a study of the advantages and disadvantages of allowing qualified organizations that charge fees to serve as representative payees to individuals who receive social security and SSI benefits, and to report its finding to the Finance and Ways and Means Committee by January 1, 1993.

h. Studies and demonstration projects

(i) The Secretary would be required to enter into demonstration arrangements with not fewer than two states under which the Secretary would send to such states a list of all addresses where OASDI and SSI benefit payments are received by five or more unrelated beneficiaries. The Secretary would be required to send the information to the state agencies primarily responsible for regulating care facilities or for providing adult or child protective services in the participating states.

The purpose of this demonstration project is to determine whether providing such information to the state protective service agencies would be useful in locating unlicensed board and care homes.

(ii) The Secretary would be required to study the feasibility of determining the type of representative payee applicant most likely to have a felony or misdemeanor conviction, the suitability of individuals with prior convictions to serve as representative payees, and the circumstances under which such applicants could be allowed to serve as representative payee.

The information obtained from this study would assist the Committee in determining whether there are circumstances under which an individual with a conviction should be permitted to serve as a representative payee.

(iii) The Secretary of Health and Human Services, in consultation with the Secretary of the Treasury and the Attorney General, would be required to study the feasibility of establishing and maintaining a list of the names and social security account numbers of those who have been convicted of social security or SSI check fraud violations under section 495 of title 18 of the U.S. Code. As part of the study, the Secretary would be required to consider the feasibility of providing such a list to social security field offices in order to assist claims representatives in the investigation of representative payee applicants. The Secretary would be required to report the results of the study, together with any recommendations, to the Committee on Ways and Means and the Committee on Finance no later than July 1, 1992.

Law enforcement agencies do not report violations under section 495 of title 18 of the U.S. Code to either SSA or the Department of Health and Human Services Inspector General. As a result, SSA is often unaware of arrests and convictions of individuals for violations under this section and therefore fails to obtain restitution or to prevent those convicted of such violations from serving as representative payee.

(iv) The Secretary would be required to conduct a study with the Department of Veterans' Affairs of the feasibility of designating the Department of Veterans' Affairs as the lead agency for administering a representative payee program for dual recipients of Old Age Survivors and Disability Insurance or Supplemental Security Income benefits and veterans' benefits. The Secretary would be required to report to Congress on the feasibility of this arrangement within six months after enactment.

In general, the provision would be effective July 1, 1991.

Budget impact (in millions): 1991, 17; 1992, 4; 1993, 5; 1994, 5; 1995, 5; 5-year, 36.

5. Streamlining of the Attorney Fee Payment Process (Section 6054)

Present law

Attorneys and other persons who represent claimants before the Social Security Administration (SSA) are permitted to collect fees for their services, subject to approval and limits set by SSA. By regulation, the representative must submit a fee petition detailing the number of hours spent on the case and requesting a specific fee. The Administrative Law Judge (ALJ) who heard the case is required to review the fee petition. If the fee requested is less than $3,000, the ALJ has authority to approve or modify it. If the amount requested exceeds $3,000, it must be reviewed and approved or modified by the regional Chief ALJ. Where the claimant is represented by an attorney and a favorable determination is made, SSA by statute may withhold up to 25 percent of the claimant's past-due social security benefits and pay the attorney directly. In cases where the claimant is concurrently entitled to both retroactive social security and Supplemental Security Income (SSI) benefits and the SSI benefits are paid first, the amount of past-due social security benefits payable is reduced by the amount of SSI benefits that would not have been paid if the social security benefits had been paid monthly when due rather than retroactively. In many such cases, this leaves little or no past-due social security benefits out of which to pay the attorney the approved fee.

Proposed change

The provision would generally replace the fee petition process with a streamlined process in which SSA would approve any fee agreement jointly submitted in writing and signed by the representative and the claimant if the Secretary's determination with respect to a claim for past-due benefits was favorable and if the agreed-upon fee did not exceed a limit of 25 percent of the claimant's past-due benefits up to $4,000. The $4,000 limit could be increased periodically for inflation at the Secretary's discretion. If a fee was requested for a claim which did not meet the conditions for the streamlined approval process, it would be reviewed under the regular fee petition process.

A representative who is an attorney would be paid the approved fee out of the claimant's past-due social security benefits, prior to any reduction for previously-paid SSI benefits. However, if the attorney were awarded a fee in excess of 25 percent of the claimant's past-due social security benefits, the amount payable to the attorney out of the attorney out of the past-due social security benefits could not exceed 25 percent of these benefits.

The representative, the claimant, or the ALJ that heard the case would have the right to protest the approved fee. However, the ALJ could protest the approved fee only on the basis of evidence of the failure of the person representing the claimant to represent adequately the claimant's interest, or on the basis of evidence that the fee is clearly excessive for the services rendered. SSA would review any protested fee and approve, modify, or disallow it. If the ALJ that heard the case filed the protest, a different ALJ would review the fee.

It is not the Committee's intent that this process be used to establish regular review of fees at the ALJ level. The Committee wishes to emphasize that the protest of a fee amount by an ALJ is to be made only in cases where there is evidence that the fee is clearly excessive in light of the services rendered.

In addition, with respect to reinbursement for travel expenses of individuals who represent claimants, such reimbursement could not exceed the maximum amount that would be payable for travel to the site of the reconsideration interview or proceeding before an ALJ from a point within the geographical area served by the office having jurisdiction over the interview or proceeding.

With the exception of the provisions relating to direct payment of an attorney's fee out of past-due benefits, conforming changes would be made with respect to representation of SSI applicants.

The provision would be effective for determinations made on or after January 1, 1991, and reimbursement for travel costs incurred on or after January 1, 1991.

Budget impact (in millions): 1991, 12; 1992, 9; 1993, *; 1994,-3; 1995,-4; 5-year, 14.

6. Improvements in Social Security Administration Services and Beneficiary Protections (Sections 6055-6056)

Present law

a. SSA Telephone Accountability Demonstration Projects: The Social Security Act is silent regarding telephone service provided by SSA. In practice, SSA currently operates 37 teleservice centers (TSCs) that respond to inquiries from the public. In addition to providing general program information, these TSCs can schedule appointments at local offices and provide individual service, including discussing a person's eligibility and taking specific actions regarding his or her benefits. In October 1988, the TSCs were integrated into a toll-free telephone network that covered 60 percent of the population. In October 1989, toll-free service was extended via the TSCs and four new mega-TSCs to the entire country. At the same time, direct telephone access to SSA's local field offices was terminated, so that the public can no longer call most of these offices directly.

Since October 1989, there have been many complaints from the public about SSA's telephone service. These complaints focus on high 800 number busy rates, on problems with the accuracy and completeness of information provided to callers, and on difficulties caused by the elimination of telephone access to local offices.

b. Appeal Versus Reapplication: If a claimant for social security disability benefits successfully appeals an adverse determination by the Secretary, benefits can be paid

retroactively for up to 12 months prior to the date of the original application.

If, however, instead of appealing, the claimant reapplies and is subsequently found to be disabled as of the date originally alleged, there are circumstances where retroactive benefits would be limited to 12 months prior to the date of the subsequent application (rather than prior to the date of the first application). This occurs when SSA's "reopening rules" do not permit the original application to be reopened. (SSA's administrative policy permits a case to be reopened within 12 months of an initial determination for any reason; and within four years if there is new and material evidence or the original evidence clearly shows on its face that an error was made in the original decision.)

A reapplication, in lieu of an appeal, also could result in an outright denial of social security or Supplemental Security Income (SSI) benefits without consideration of an individual's medical condition. This occurs in the case of social security when (i) the claimant's insured status runs out before the date of the original denial, and (ii) there is no new and material evidence and no facts or issues that were not considered in making the prior decision. In the case of SSI, this occurs when (ii) applies. In these situations, SSA applies the legal principle of res judicata to deny the subsequent claim. Under this principle—the use of which is prescribed by SSA regulations—SSA will not consider the same claim again and again.

Prior to May 1989, SSA's standard denial notice informed claimants that they could reapply at any time but did not explain the potential adverse consequences of reapplying versus appealing a denial. A May 1989 modification of this notice informs claimants that reapplying may result in a loss of benefits but does not mention the second problem described above, i.e., an outright denial of eligibility without further consideration of the evidence.

Proposed change

The provision would establish an additional set of protections for claimants and beneficiaries.

a. SSA Telephone Accountability Demonstration Projects: The Secretary would be required to carry out demonstration projects testing a set of accountability procedures in at least three teleservice centers. These procedures are intended to assure that individuals who conduct business with the agency via telephone concerning title II, title XVI, or title XVIII benefits are not disadvantaged, either as a result of receiving incorrect information or from their inability to document their own actions and requests. Under these procedures, callers who provide adequate identifying information would be given a written confirmation of the date and nature of their telephone communication with the agency. This confirmation would include the name of the SSA employee with whom the caller spoke, a description of any action that the employee said would be taken in response to the call, and any advice that the caller was given. SSA would be required to maintain a copy of this confirmation for a minimum of five years following the termination of the demonstration projects.

Routine telephone communication would be excluded from these requirements. Thus, callers making inquiries that do not relate to potential or current entitlement or eligibility for title II, title XVI or title XVIII benefits—i.e., questions about the location or hours of operation of local offices—would not be subject to the accountability procedures described above.

The Secretary would be required to issue a report to the Committee on Ways and Means and the Committee on Finance on the demonstration projects. This report would:

(i) assess the costs and benefits of the accountability procedures;

(ii) identify any major difficulties encountered in implementing the demonstration projects; and

(iii) assess the feasibility of implementing the accountability procedures nationally.

The telephone demonstration projects would be required to be initiated within six months of the enactment of this Act, and would continue for one to three years. The report would be submitted 90 days after the termination of the projects.

Budget impact (in millions): 1991, 1; 1992, 3; 1993, 1; 1994, 0; 1995, 0; 5-year, 5.

b. Appeal Versus Reapplication: When a claimant for social security or SSI benefits can demonstrate that he or she failed to appeal an adverse decision because of reliance on incorrect, incomplete, or misleading information provided by SSA, his or her failure to appeal could not serve as the basis for denial by the Secretary of a second application for any payment under title II or title XVI. This protection would apply to both initial denials and reconsiderations by the Secretary. The Secretary also would be required to include in all notices of denial a clear, simple description of the effect on possible entitlement to benefits of reapplying rather than filing an appeal.

The provision would apply to adverse determinations made on or after January 1, 1991.

Budget impact (in millions): 1991, *; 1992, *; 1993, *; 1994, *; 1995, *; 5-year, *.

7. Restoration of Telephone Access to the Local Offices of the Social Security Administration (Section 6057)

Present law

The Social Security Act is silent regarding telephone service provided by the Social Security Administration (SSA). In practice, SSA currently operates 37 teleservice centers (TSCs) that respond to inquiries from the public. In addition to providing general program information, these TSCs can schedule appointments at local offices and provide individual service, including discussing a person's eligibility and taking specific actions regarding his or her benefits. In October 1988, the TSCs were integrated into a toll-free telephone network that covered 60 percent of the population. In October 1989, toll-free service was extended via the TSCs and four new mega-TSCs to the entire country. At the same time, direct telephone access to SSA's local field offices was terminated, so that the public can no longer call most of these offices directly.

Proposed change

The provision would require the Secretary to reestablish telephone access to local SSA offices at the level generally available on September 30, 1989 (the date just prior to the cut-off of direct telephone access to most local offices). The Secretary would also be required to re-list these local office numbers in local telephone directories (as well as in the directories used by public telephone operators in providing callers with information). The required telephone listings could include a brief instruction to the public to call SSA's 800 number for general information.

In addition, by January 1, 1993, the Secretary would be required to submit to the Committee on Finance and the Committee on Ways and Means a report which: (i) assesses the impact of the requirements established by this provision on SSA's allocation of resources, workload levels, and service to the public, and (ii) presents a plan for using new, innovative technologies to enhance access to the Social Security Administration, including access to local offices. If the Secretary's plan provides for maintaining or enhancing public access to local offices by individuals in need of assistance from a local SSA representative, it is the Committee's intent to reconsider the need for a statutory requirement governing telephone access. Ninety days after the enactment of this provision, the General Accounting Office would be required to report to the Committee on Finance and the Committee on Ways and Means on the level of public telephone access to the local offices of the Social Security Administration.

The provision would require restoration of SSA's local telephone service by April 1, 1991.

Budget impact (in millions): 1991, 1; 1992, 1; 1993, 1; 1994, 1; 1995, 1; 5-year, 4.

8. Improvement in Earnings and Benefit Statements (Section 6058)

Present law

The Omnibus Budget Reconciliation Act of 1989 required the Social Security Administration to establish a program under which covered workers receive periodic statements concerning their earnings and the potential benefits payable on the basis of those earnings. Under that legislation, these statements are to be provided on a biennial basis starting October 1, 1999.

Proposed change

The requirement that earnings and benefit statements be provided biennially starting in 1999 would be modified to require annual statements beginning at that time. In addition, the Secretary of the Treasury would be authorized to disclose to the Commissioner of Social Security the mailing address of any taxpayer who is entitled to receive an earnings and benefit statement.

The provision would be effective upon enactment.

Budget impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

9. Provide a Rolling Five-Year Trial Work Period for All Disabled Beneficiaries (Section 6059)

Present law

Under present law, disability beneficiaries who are still disabled but who want to return to work despite their disabling condition are entitled to a nine-month trial work period. (The months need not be consecutive.) During this period, disabled beneficiaries may test their ability to work without affecting their entitlement to disability benefits. Any work and earnings are disregarded in determining whether the beneficiary's disability has ceased.

Only one trial work period is allowed in any one period of disability. In addition, an individual who is entitled to disabled worker's benefits for which he has qualified without serving a waiting period (i.e., the worker was previously entitled to disabled worker's benefits within five years before the month he again becomes disabled) is not entitled to a trial work period.

Proposed changes

All beneficiaries would be given an opportunity to test their capacity to engage in substantial gainful activity over a sustained period of time before their benefits would be stopped by providing that a disabled beneficiary would exhaust his nine-month trial work period only if he performed services in any nine months within a rolling 60-month period (that is, within any period of 60 consecutive months) and repealing the provision which precludes a reentitled disabled worker from being eligible for a trial work period.

The provision would be effective January 1, 1992.

Budget impact (in millions): 1991, 0; 1992, *; 1993, 1; 1994, 1; 1995, 1; 5-year, 3.

10. Continuation of Benefits on Account of Participation in a Non-State Vocational Rehabilitation Program (Section 6060)

Present law

Social security disability insurance (DI) benefits or Supplemental Security Income (SSI) benefits based on disability that are paid to a beneficiary who has medically recovered may not be terminated or suspended because the disability has ceased if: (1) the individual is participating in an approved State vocational rehabilitation program, and (2) the Commissioner of Social Security determines that completion of the program, or its continuation for a specified period of time, will increase the likelihood that the individual may be permanently removed from the benefit rolls. The 1988 Disability Advisory Council recommended that the same benefit continuation provisions be extended to beneficiaries who medically recover while participating in other approved vocational rehabilitation programs.

Proposed change

The provision would extend to those DI or SSI beneficiaries who medically recover while participating in an approved non-State vocational rehabilitation program the same benefit continuation rights as those who medically recover while participating in a State vocational rehabilitation program.

The provision would be effective with respect to benefits payable for months after the eleventh month following the month of enactment and would apply with respect to individuals whose disability ceased after such eleventh month.

Budget impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

11. Limitation on New Entitlement to Special Age-72 Payments (Section 6061)

Present law

Special age-72 benefits (so-called "Prouty benefits" after Senator Winston Prouty of Vermont) were enacted in 1966 to provide some payment to individuals who, when the social security program began or when coverage was extended to their jobs, were too old to earn enough quarters of coverage to become fully insured for regular retirement benefits.

When the benefits were created in 1966, it was expected that new entitlement under this provision would not be possible for anyone reaching age 72 after 1971. This is because individuals age 72 after 1971 who met the quarters-of-coverage requirements for Prouty benefits would also have enough quarters of coverage to be fully insured, and because the amount of the Prouty benefits was less than the amount of the minimum benefit payable at age 62. However, due to subsequent changes in the law, it is now theoretically possible for certain people who will reach age 72 after 1990 and who receive the frozen minimum benefit (due to a change in the law in 1977) or who receive less than the minimum benefit (due to its elimination in 1982) to become newly eligible for Prouty benefits. In 1990, the Prouty benefit amount is $159 per month.

Proposed change

The provision would preclude the unintended payment of Prouty benefits (due to the interaction of the Prouty benefit provision with subsequent changes in the law affecting the minimum benefit) by providing that Prouty benefits would not be payable to any individual reaching age 72 after 1971 who files an application for Prouty benefits after December 31, 1990. This change would not affect any current beneficiaries.

The provision would be effective upon enactment.

Budget impact (in millions): 1991, *; 1992, *; 1993, *; 1994, *; 1995, *; 5-year, *.

12. Elimination of Advance Tax Transfer (Section 6062)

Present law

Because of the threatened insolvency of the social security trust funds, the Social Security Amendments of 1983 changed the rules for crediting the trust funds with social security tax receipts. Prior to 1983, the trust funds were credited with the receipts as they were collected throughout each month. Under the 1983 amendments, the trust funds are credited at the start of each month with the full amount of social security tax receipts which are expected to be collected throughout the month. These receipts are invested in interest bearing Treasury securities; however, an interest adjustment is made later to leave the trust funds with the same interest earnings that they would have had if the taxes had been credited on an "as received basis." When the debt subject to limit approaches the level of the debt limit, the present crediting rules frequently present Treasury with a situation in which trust fund assets cannot be invested because the debt limit has been reached.

Proposed change

The advance tax transfer provisions would be repealed, returning to the prior procedure of crediting the trust funds as tax receipts are received. However, the advanced tax transfer mechanism would be retained as a contingency to be exercised only to the extent that the Secretary of the Treasury determines is necessary to assure sufficient funds to meet current benefit obligations. This would give the social security program the same level of protection that it enjoys under present law without continuing the routine use of the advance transfer mechanism.

The provision would be effective after December 1990.

Budget impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

13. Repeal of Retroactive Benefits for Certain Categories of Individuals (Section 6063)

Present law

Social security retirement and survivor benefits can be paid for up to six months prior to the month of application if the applicant were otherwise eligible for benefits during that period.

In general, retroactive benefits cannot be paid if doing so would cause a reduction in future monthly benefits (i.e., it would effectively mean that an individual would be filing for "early retirement," in which case an actuarial reduction in benefits is required.) For example, if a retroactive application for retirement benefits were to cause a retiree's initial entitlement month to fall before the individual reached age 65, no retroactive benefits could be paid for the months prior to age 65. However, there are four exceptions to this rule which permit payment of retroactive benefits even though it causes an actuarial reduction in benefits.

Proposed change

The provision would eliminate eligibility for retroactive benefits for two categories of individuals eligible for actuarially reduced benefits: (1) individuals who have dependents who would be entitled to unreduced benefits during the retroactive period (e.g., a retiree under age 65 who has a spouse age 65 or over); and (2) individuals who have pre-retirement earnings over the amount allowed under the social security retirement test that could be charged off against benefits for months prior to the month of application, thus permitting an early retiree to receive benefits for months prior to actual retirement.

The provision would be effective with respect to applications for benefits filed on or after January 1, 1991.

Budget impact (in millions): 1991, −134; 1992, −149; 1993, −147; 1994, −144; 1995, −139; 5-year, −713.

14. Consolidation of Old Computation Methods (Section 6064)

Present law

A number of old, rarely-used benefit computation methods remain in the Social Security Act. They apply only to claims in which the worker filed for benefits or died before 1967 and are used only if they provide a higher benefit than newer computation methods.

Such computations must be done manually. The Social Security Administration (SSA) estimates it would cost more to develop computer programs for these computation methods than would be paid in cumulative added benefits when the benefits payable under these computation methods are compared to newer computation methods.

Proposed change

The provision would eliminate all old computation methods which require manual intervention. It would substitute newer computation methods which may be fully processed by computer.

The provision would apply only to new claims for benefits, virtually all of which are for survivor's benefits, and to recomputations for retired workers now on the rolls who have recent earnings. However, it is unlikely that there are many individuals who are over 85 and are working at a wage high enough to result in an increase in benefits after a recomputation using a computation method to be eliminated under this provision. No benefits paid to individuals already on the rolls would be reduced.

The provision would be effective 18 months after the month of enactment.

Budget impact (in millions): 1991, *; 1992, *; 1993 *; 1994, *; 1995, *; 5-year, *.

15. Suspension of Dependent's Benefits When a Disabled Worker Is in an Extended Period of Eligibility (Section 6065)

Present law

A disability insurance beneficiary who successfuly completes a nine-month trial work period has an extended period of eligibility during which he or she continues to

receive medicare benefits and is eligible to receive disability benefits if earnings fall below $500 a month. The law is silent regarding the payment of benefits to dependents during this extended period. However, current Social Security Administration (SSA) policy provides that dependent's benefits are suspended during this period if the disabled worker's benefits are suspended.

Proposed change

The provision would codify current SSA policy which links the disabled worker's entitlement to monthly benefits and the dependent's entitlement to benefits for the same month. Thus, a dependent could receive benefits for a month only if the disabled worker received benefits for that month.

The proposal would be effective upon enactment.

Budget impact (in millions): 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year, 0.

16. Recommendation of the Committee Concerning the Budgetary Treatment of Social Security

The Committee recommends that the income and outgo of the social security tax revenues and other elements of trust fund income such as interest, transfers of receipts from the income taxation of benefits, and other payments to the trust fund, be excluded from any calculations of the surplus or deficit of the general government including the deficit totals used for purposes of applying the sequestration provisions of the Balanced Budget and Emergency Deficit Control Act ("Gramm-Rudman").

MEDICARE PAYMENTS FOR INPATIENT HOSPITAL CAPITAL

Present law

Capital-related costs (including depreciation, leases, rentals and interest) are excluded from Medicare's prospective payment system (PPS), for cost reporting periods beginning before October 1, 1991, and are reimbursed on a reasonable cost basis. The Secretary of HHS is required to implement a prospective payment system for inpatient hospital capital beginning on October 1, 1991.

Under the Omnibus Budget Reconciliation Act of 1989, Medicare payments for inpatient hospital capital were reduced by 15% during FY1990, so that Medicare is paying 85% of reasonable costs for capital. Sole community hospitals are exempt from these reductions. In FY1991, under present law, Medicare payments for inpatient hospital capital are scheduled to revert to 100% of reasonable costs.

The President's Budget proposes setting Medicare's payment for inpatient hospital costs at 75% of reasonable costs for urban hospitals and 85% of reasonable costs for rural hospitals. These reductions would be made permanent.

Committee provision

The Committee provision would reimburse Medicare capital at costs minus 15% for fiscal year 1991, and costs minus 10% for 1992 through 1995. It is the expectation of the Committee that the Secretary will implement a policy by which capital-related costs will be paid on a prospective basis as scheduled beginning on October 1, 1991.

The provision would also modify the requirement that the Secretary implement a prospective payment system for inpatient hospital capital beginning in fiscal year 1992 in two ways. First, it would require that payments for capital-related costs in fiscal year 1992 be no greater or no less than what they would have been had all capital payments be made on the basis of 90% of reasonable costs. Second, it would allow the Secretary to adopt a new capital payment policy that continues to make payments for fixed capital/costs on a reasonable cost basis.

PROSPECTIVE PAYMENT SYSTEM (PPS) UPDATE

Present law

Under Medicare's prospective payment system (PPS) hospitals are paid a fixed amount per discharge, adjusted from geographic wage variation, teaching or disproportionate share status, and other factors. When PPS was created in 1983, separate fixed rates were developed for hospitals located in urban and rural areas to reflect the best available data about the relative cost of caring for Medicare patients. Under the Omnibus Budget Reconciliation Act of 1987 (OBRA 1987), a further distinction was made between hospitals located in large urban areas (over 1 million population) and hospitals in other urban areas, with the result that there are now three basic Medicare PPS rates. Taking into account more generous increases for hospitals in rural and large urban areas legislated in recent years, the basic payment rate for rural hospitals in 1990 is 8%-9% lower than the two urban rates.

Under current law, the increase in payment rates for fiscal year 1991 is set to equal 5.2%, which is the projected increase in the hospital market basket, a specialized measure of the increase in the prices of goods and services purchased by hospitals.

Committee provision

The Committee provision would update the PPS rates by market basket minus 2% for fiscal year 1991 (for an increase of 3.2%), market basket minus 1.5% for fiscal year 1992, market basket minus 1.4% for fiscal year 1993, and the full market basket increase for fiscal years 1994 and thereafter. The fiscal year 1991 update provision would be effective for discharges occurring on or after January 1, 1991. For discharges occurring during the first three months of fiscal year 1991, hospitals would receive an update factor equal to the projected market basket rate of increase.

PHASE OUT OF URBAN/RURAL DIFFERENTIAL

Present law

Under the Medicare Prospective Payment system (PPS), payments to hospitals are made using a basic PPS rate, adjusted for to reflect geographic differences in wages, variation in teaching and disproportionate share status and other factors. When PPS was created in 1983, separate fixed rates were developed for hospitals located in urban and rural areas to reflect the best available data about the relative cost of caring for Medicare patients. Under the Omnibus Budget Reconciliation Act of 1987 (OBRA 1987), a further distinction was made between hospitals located in large urban areas (over 1 million population) and hospitals in other urban areas, with the result that there are now three basic Medicare PPS rates. Taking into account more generous increases for hospitals in rural and large urban areas legislated in recent years, the basic payment rate for rural hospitals in 1990 is 8 percent-9 percent lower than the two urban rates. OBRA 89 requires that the Secretary of HHS develop by October 1, 1990 a legislative proposal to eliminate the differential by fiscal year 1995, including recommendations, where appropriate, for modifying or maintaining other payment adjustments, including those for teaching hospitals, referral centers disproportionate share hospitals and outlier cases.

Committee provision

The Committee provision would phase out the differential between the standardized amounts for hospitals in rural and other urban areas (those with a population of less than 1 million people) by the beginning of fiscal year 1995. This would be achieved through modifications in the update factor for rural hospitals. Rural hospitals would receive the full market basket update in fiscal years 1991 through 1993 (as opposed to the update reductions specified for all hospitals); the remaining differential would be eliminated by fiscal year 1995. The separate standardized amounts for hospitals in large urban areas (those with 1 million people or more) would be continued.

With regard to the report mandated by OBRA 1989, the Committee intends to carefully review and consider any proposals the Secretary may make for modifying or maintaining the separate rate for large urban areas or for changes to other payment adjustments that may be appropriate once the differential is eliminated.

HOSPITAL WAGE INDEX

Present law

Under Medicare's hospital prospective payment system, the fixed payment for each patient is adjusted by a wage index which reflects the relative level of hospital wages in the particular geographic area compared to national average hospital wages. The wage index is based on a survey of hospital wages conducted by the Health Care Financing Administration (HCFA). In FY90, the hospital wage index is based on data from FY84. Under the Omnibus Budget Reconciliation Act of 1989, HCFA is required to update the wage index for fiscal years 1991 and 1994, and every year after that, in a budget neutral fashion. In keeping with the statutory requirement for updating the wage index for 1991, HCFA has published a regulation adopting a wage index for 1991 based on a survey of 1988 hospital wages. H.J. Res. 666 delayed implementation of the new wage index.

To the extent determined feasible by the Secretary, the hospital wage survey conducted to compute the wage index shall measure earnings by occupational category. In its March 1990 report, the Prospective Payment Assessment Commission recommended that the Secretary of HHS begin immediately to collect data on employee compensation and paid hours of employment for hospital workers in each occupational category, then carefully evaluate the effect of adjusting the area wage index for differences in the occupational mix of employment.

Committee provision

The Committee bill would require that for discharges occurring during fiscal year 1991, the hospital wage index be based on a blend of 75% of the wage index based on 1988 hospital survey data and 25% of the wage index based on 1984 hospital survey data.

The Prospective Payment Assessment Commission would be required to examine State-level and other available data measuring hospital wages by occupational category. In its annual report due March 1, 1991, the Commission would report the results of its analysis and make recommendations regarding the feasibility and desirability of modifying the wage index to take into account occupational mix. In considering alternative computations or adjustments to the wage

index, ProPAC would examine and take into account variation in occupational mix resulting from differences, in State codes and requirements.

INDIRECT MEDICAL EDUCATION

Present law

Medicare pays teaching hospitals an additional percentage amount for each discharge to reflect the indirect costs of medical education. The add-on percentage is computed for each hospital using a formula based on the hospital's ratio of interns and residents to beds. The formula reflects an average adjustment of 7.65% for each 0.1 increase in the hospital's ratio of interns and residents to beds. The adjustment is scheduled to increase to 8.29% in FY1996, when Medicare's disproportionate share adjustment is scheduled to expire. Under the current formula, a hospital with 5 residents for every 100 beds receives an adjustment of 3.8 percent; a hospital with 25 residents per 100 beds receives an adjustment of 17.9 percent. In FY1991, about 20%, or about 1,200 of the nation's 5700 prospective payment system hospitals will receive indirect medical education payments totalling $2.5 billion.

Medicare first recognized the indirect costs of medical education in 1980, when limits on hospital payment per day were adjusted upward by 4.7% for teaching hospitals. In 1982, limits on payment per case were increased by 6.06% for teaching hospitals. When the prospective payment system was created in 1983, the adjustment was increased to 11.59% to account for severity of illness. The adjustment was reduced to 8.1% by the Consolidated Omnibus Budget Reconciliation Act of 1986 and to 7.65% by the Omnibus Budget Reconciliation Act of 1987.

Numerous studies have analyzed the relationship between the level of a hospital's teaching activity and the hospital's Medicare cost per case. Conclusions about the appropriate level of the adjustment depend on which factors known to affect hospital costs are explicitly taken into account, as well as on the age of the data analyzed. Reductions in the indirect medical education adjustment have been recommended by the General Accounting Office (GAO) and the Prospective Payment Assessment Commission (ProPAC). GAO estimates that an adjustment factor of between 3.73% and 6.26% would be justified, depending on which factors affecting Medicare costs are taken into account, and recommends an adjustment of 5.09% as most appropriate. ProPAC analysis supports an adjustment as low as 3.2%, but the Commission recommended lowering the adjustment only to 6.8% in 1991 out of concern for the overall financial health of teaching hospitals.

Committee provision

The Committee provision would reduce the indirect medical education adjustment factor from 7.7% to 6.8%, effective for discharges occurring on or after January 1, 1991.

EXCEPTIONS AND ADJUSTMENTS FOR PPS-EXEMPT HOSPITALS

Present law

Four types of specialty hospitals—psychiatric, rehabilitation, childrens', and long-term, are exempt from Medicare's prospective payment system and are paid reasonable costs, subject to an annual limit on the increase in the individual hospital's average cost per case. (Hospitals with increases below the limit receive bonus payments). These cost per case figures are generally based on FY 1982 data indexed forward. The Secretary is directed to provide an exemption from, or an adjustment to a hospital's target rate if events beyond the hospital's control, or extraordinary circumstances, including changes in case mix, cause a distortion in the hospital's cost per case. OBRA 89 explicitly authorized the Secretary to adjust a hospital's base year as one method of providing an adjustment.

Committee provision

The Committee provision would amend the Contractor Performance and Evaluation standards to require fiscal intermediaries to forward applications to HCFA within 60 days of receiving a completed application. The Secretary would be required to act on the application within 180 days of receiving a completed application from the fiscal intermediary. The provision would also clarify the grounds on which appeals can be granted by instructing the Secretary to take into consideration changes in technologies, medical practices or case mix severity, relatively high increases in wages, and other factors the Secretary considers appropriate. The Health Care Financing Administration would be required to provide assistance to fiscal intermediaries and providers with regard to filing applications for exemption, exception and adjustment. It is the intent of the Committee to make improvements in the timeliness with which the decisions are made, and to give guidance with regard to criteria that may be applied as part of the Secretary's deliberations. The decision to grant an exemption, exception or adjustment is clearly at the discretion of the Secretary.

ELIMINATE 210 DAY LIMIT ON HOSPICE SERVICES

Present law

Medicare beneficiaries may elect to receive hospice benefits if a physician certifies that they are terminally ill, (defined as having a life expectancy of 6 months or less). Beneficiaries electing hospice benefits are entitled to up to 210 days of services elected by two 90-day periods of service and one subsequent period of 30 days, so long as they are re-certified as terminally ill. When electing hospice benefits, beneficiaries must waive eligibility for most other Medicare benefits.

Committee provision

The Committee bill would allow for election of an additional benefit period without time limit so that Medicare beneficiaries suffering from a terminal illness would be allowed to continue receiving hospice services until their death. Effective January 1, 1990. In imposing this effective date, it is the expectation of the Committee that providers will be responsible for the identification of individuals who would have been eligible for additional days of hospice care during 1990.

WAIVER OF LIABILITY FOR HOME HEALTH, SNF, AND HOSPICE

Present law

Under part A of Medicare, providers are allowed to collect payment from intermediaries after a claim has been denied if a finding is made that neither the beneficiary nor the provider knew or could reasonably have been expected to know that the items or services were not covered. However, certain providers can earn a presumption, or "waiver of liability", that allows them not to be held liable for uncovered services they provided if they meet certain criteria. By meeting the criteria, providers are essentially presumed not to have known that the service would not be covered and their liability for paying for that service therefore can be waived. The Consolidated Omnibus Budget Reconciliation Act of 1985 required the Secretary of Health and Human Services to continue what was then the current adminstrative standards for skilled nursing facilities and home health agencies. Under these provisions, a skilled nursing facility is eligible for a presumption of waiver if the percentage of days billed that are later determined to be uncovered is less than 5 percent and a home health agency is eligible if the percentage of visits denied is less than 2.5 percent. The Omnibus Reconcilation Act of 1986 extended the waiver of liability to hospices in a manner similar to home health agencies.

Committee provision

The Committee bill would extend the waiver of liability provisions for home health agencies, hospices, and skilled nursing facilities through 1995.

ESSENTIAL ACCESS COMMUNITY HOSPITAL PROGRAM

Present law

The Essential Access Community Hospital program authorizes up to $10 million for grants to up to 7 states to develop a rural health plan that creates rural health networks, promotes regionalization of rural health services in the state, improves access to hospital and other health services for rural residents in the state and enhances the provision of emergency and other transportation services related to health care. A participating state may designate a facility as an Essential Access Community Hospital (EACH) if it is located in a rural area, is more than 35 miles from another facility that is designated as an EACH or a referral center, has at least 75 beds, or is located more than 35 miles from any other hospital. An EACH must also agree to provide emergency and medical back up services to hospitals participating in the rural health network that are designated as Rural Primary Care Hospitals (RPCH). A State may designate a facility as an PRCH if it is located in a rural area, is in compliance with Medicare conditions of hospital participation at the time it applies for designation, provides 24 hour emergency care, provides no more than 6 inpatient beds for providing inpatient care for up to 72 hours to patients requiring stabilization before discharge or transfer to another hospital. The Secretary is authorized to waive certain requirements in designating EACHs and PRCHs. The Secretary is also authorized to designate up to 15 facilities as RPCHs that are not in states receiving grants. Authorizes $15 million in grants to hospitals, facilities, and consortia for the purposes of converting to EACH or RPCH status, or in becoming part of a rural health network in a State.

Committee provision

The Committee bill would modify criteria for designation of rural primary care hospitals by (1) requiring the Secretary to give perference to facilities that have entered into an agreement to be part of a rural health network in a state receiving a grant, (2) allowing hospitals that have closed within the past 12 months could qualify as a RPCHs, and (3) allowing States to designate as RPCHs facilities that do not meet the 6 bed and 72 hour inpatient treatment criteria if they meet alternative criteria imposed by the State that limit the number of inpatient beds and the duration of inpatient treatment.

It is the expectation of the Committee that the Secretary, when appropriate, will use existing authority to waive certain requirements in designating facilities as EACHs and RPCHs. In particular, the Committee encourages the Secretary to waive criteria in the case of facilities that are not more than 35 miles from another hospital but meet the travel time criteria established by the Secretary in designating hospitals as sole community hospitals under section 1886(d)(5)(D)(iii)(II).

PROPAC RESPONSIBILITIES

Present law

The Prospective Payment Assessment Commission (ProPAC) recommends to the Secretary by March 1st each year the appropriate percentage change in payment for hospital inpatient discharges. ProPAC also recommends to the Secretary needed changes in the classification and weighting factors of the diagnosis-related groups (DRGs), based on its evaluation of scientific evidence with respect to new practices, and reports to the Congress with respect to its evaluation of any adjustments made by the Secretary. The Commission consists of 17 individuals appointed by the Director of the Office of Technology Assessment. The Office shall report annually to the Congress on the functioning and progress of the Commission.

Committee provision

The Committee provision would clarify and expand the responsibilities of the Prospective Payment Assessment Commission in several ways. ProPAC would be required to report to the Congress by June 1st of each year on issues facing the American health care system, including trends in health care costs; hospital financial conditions under the Medicare program and in general, trends in the use of health care services; and innovative strategies used by employers and private insurers to constrain growth in health care costs. The Commission would be required to conduct analyses and make recommendations each year regarding major revisions to the DRGs and other aspects of Medicare's hospital payment system, prospective payment or other modifications to Medicare payment policy for hospital outpatient services, hospitals exempt from PPS, skilled nursing services, and home health services. ProPAC would submit its March 1st report to both the Secretary and the Congress. The requirement for the Office of Technology Assessment to report annually on the functioning and progress of the Commission would be eliminated, as would the requirement for the Commission to report to the Congress on its evaluation of the DRG adjustments made by the Secretary.

ProPAC would be required to conduct a study of hospital payment rates under State Medicaid programs. The study would specifically examine the level of hospital reimbursement under these programs, the relationship between payments to hospitals under the Medicare and Medicaid programs, with particular attention to hospitals in urban areas which treat large numbers of Medicaid recipients and other low-income individuals. ProPAC would report the results of such study to the Congress by October 1, 1991.

The Committee continues to be concerned about the financial difficulties faced by urban and rural hospitals for which Medicare patients constitute a high proportion of discharges or days of care. Having completed the study of Medicare-dependent hospitals required under Section 6014 of the Omnibus Reconciliation Act of 1989, it is the expectation of the Committee that ProPAC will further examine the factors responsible for relatively low Medicare margins in these hospitals and other facilities that have shown a consistent pattern of relatively high or low profit margins under Medicare. In particular, this analysis should examine the extent to which the construction of the prospective payment system and other factors beyond the control of hospitals have contributed to these patterns.

SNF LIMITS

Present law

Medicare law authorizes the Secretary of HHS to set limits on skilled nursing facility (SNF) routine service costs that will be recognized as reasonable and reimbursed under the program. The Secretary is required to establish separate per diem limits for freestanding and hospitals-based SNFs as follows: for freestanding SNFs in urban and rural areas, the limits are set at 112 percent of the mean routine service costs of urban and rural freestanding facilities, respectively. Limits for urban and rural hospital-based facilities are set at the appropriate freestanding limit, plus 50 percent of the difference between the freestanding limit and 112 percent of the mean routine service costs for hospital based b-facilities. An amount is added to the hospital based facility limit to account for cost differences between hospital based and freestanding SNFs that are attributable to excess overhead allocations resulting from Medicare reimbursement principles. The current schedule of Medicare cost limits is based on cost reports submitted by SNFs for cost reporting period ending between October 1, 1982 and September 30, 1983. The Omnibus Budget Reconciliation Act of 1989 requires the Secretary to use for SNF limits cost reports submitted by SNFs for cost reporting periods ending September 30, 1986.

Committee provision

The Committee provision would require the Secretary, for cost reporting periods beginning on or after October 1, 1989, to base SNF limits on data from cost reporting periods ending not earlier than January 31, 1988 and not later than December 31, 1988. Future updates of SNF limits would be required every two years.

CLARIFY WAIVER AUTHORITY

Present law

The Secretary has authority to waive requirements of Title XVIII in order to conduct demonstrations for limited purposes described under Section 402 of the Social Security Amendments of 1967 and Section 222 of the Social Security Amendments of 1972.

OBRA 1989 authorized the Secretary of HHS to waive survey and certification requirements to the extent the Secretary determines necessary in order to carry out a pilot demonstration project in Wisconsin which tests an approved alternative survey and certification process for nursing homes. The waiver applies for one year beginning on the date of implementation of the project.

Committee provision

The Committee provision would clarify that the Secretary is authorized to waive Medicare requirements in order to conduct any demonstration project for limited service rural hospitals with respect to which the Secretary entered into an agreement prior to enactment of OBRA '89. It would also allow for states in addition to Wisconsin to participate in the nursing home case-mix and quality assurance demonstration project.

GEOGRAPHIC CLASSIFICATION REVIEW BOARD

Present law

OBRA '89 requires the Secretary to appoint a five-person Geographic Classification Review Board to review applications by hospitals for a change in classification from rural to urban or from one urban area to another. The Secretary was required to publish guidelines to be utilized by the Board in rendering decisions by July 1, 1990. The guidelines were published September 6, 1990. Hospitals must apply for a change in geographic classification for a given year by the first day of the preceding fiscal year.

Committee provision

The Committee provision would, for 1990 only, extend the deadline for hospitals to apply to the Geographic Classification Review Board from October 1st to 60 days after publication of the guidelines. In addition, the provision includes technical changes regarding the appointment of Board members and the operation of the Board. The Committee is aware of the need for timely Board decisions in order to ensure that these decisions are taken into account in the annual regulation affecting the prospective payment system for inpatient hospital services. Accordingly, although the technical correction made would strike the explicit statutory language indicating that hospitals have only 15 days to file an appeal of a Board decision, the Committee expects that the Secretary would continue to impose a 15 day limit for hospitals to file such appeals.

STUDY OF REGULATIONS AFFECTING RURAL HOSPITALS

Present law

Any notice of proposed rulemaking or final regulation published by the Secretary of Health and Human Services that may have a significant impact on the operations of a substantial number of small rural hospitals, the Secretary must make include a regulatory impact analysis describing the effects on small rural hospitals.

Committee provision

The Committee provision would require the HHS Secretary to conduct a review of Medicare regulations affecting hospitals participating in the prospective payment system to determine which requirements could be made less administratively and economically burdensome on rural hospitals, without diminishing the quality of care provided to Medicare beneficiaries. The Secretary would report to the Congress by April 1, 1991 on the results of the review, including any recommendations on modifications of regulations for rural hospitals.

REDUCTIONS FOR OVERVALUED PROCEDURES

Present law

The prevailing charge levels for some physicians' services exceed the estimated payment amounts for those services under a national fee schedule derived from a resource-based relative value scale. OBRA '89 provides for a transition to such a fee schedule beginning in 1992.

As part of this transition, OBRA '89 reduced the prevailing charges of 245 "overvalued" physicians' services by one-third of the difference between the 1989 prevailing charge and the estimated fee schedule amount for the service, subject to a 15 per-

cent maximum reduction. A procedure was classified as overvalued if its prevailing charge exceeded the estimated fee schedule amount by 10 percent or more.

The estimated fee schedule amount for a service was obtained by reducing the national average prevailing charge for the service by the percent it was estimated to be overvalued, and then adjusting the reduced national average prevailing charge by the appropriate geographic practice cost index value for the locality involved.

The geographic practice cost index value applied under OBRA '89 reflected only variations in overhead costs. Under the resource-based fee schedule that becomes effective in 1992, payments will be adjusted to reflect not only variations in overhead costs but also one quarter of the variations in the cost of physician work (cost of living).

Committee provision

The Committee provision would continue the transition for services designated as overvalued in OBRA '89, reducing their prevailing charges for 1991 by one-third of the difference between the 1990 prevailing charge and the estimated fee schedule amount for the service, subject to a 15 percent limit.

The estimated fee schedule amount would be derived from the 1989 weighted national average prevailing charge, standardized for geographic variation, and reduced by the percentage the particular procedure is estimated to be overvalued.

Under the Committee provision, the geographic index to be applied in determining the estimated fee schedule amount is an index that fully reflects variations in overhead costs as well as one-quarter of the variations in the cost of physician work.

Effective for services furnished on or after January 1, 1991.

UNSURVEYED OVERVALUED PROCEDURES

Present law

The prevailing charge levels for some physicians' services exceed the estimated payment amounts for those services under a national fee schedule derived from a resource-based relative value scale. OBRA '89 provides for a transition to such a fee schedule beginning in 1992.

As part of this transition, OBRA '89 reduced the prevailing charges of 245 "overvalued" physicians' services by one-third of the difference between the 1989 prevailing charge and the estimated fee schedule amount for the service, subject to a 15 percent maximum reduction. A procedure was classified as overvalued if its prevailing charge exceeded the estimated fee schedule amount by 10 percent or more.

The OBRA '89 overvalued procedure reductions were limited to procedures for which relative values were available based upon phase I of the survey of relative values for physicians' services conducted by Dr. William Hsiao of the Harvard School of Public Health. Some of the relative values were obtained directly from the Hsiao survey and others were extrapolated on the basis of charge data.

Legislative reductions in payments for radiology, anesthesiology, and pathology services—for which average payments are also likely to decrease under a resource-based fee schedule—have been effected separately.

Payments for evaluation and management services are expected to increase (on average) under the new fee schedule.

In a September 18, 1990, letter to the Committee on Finance, the Physician Payment Review Commission (PPRC) has recommended that the prevailing charges for unsurveyed overvalued procedures be reduced by a uniform percentage as part of the transition to a national, resource-based fee schedule.

Committee provision

The Committee provision would reduce by 4 percent the prevailing charges for all physicians' services other than OBRA '89 overvalued procedures, radiology, anesthesiology, and pathology services, and "evaluation and management" and other undervalued services. Effective for services furnished on or after January 1, 1991.

PAYMENT FOR RADIOLOGY SERVICES

Present law

Most radiology services currently are paid under a fee schedule based on a relative value scale. Under this fee schedule, payments are based on the lesser of (1) actual charges, or (2) a fee schedule amount determined by multiplying a conversion factor by the relative value for the particular service. A conversion factor is the dollar amount that, when multiplied by the relative value of a service, produces the payment amount.

Payment is made for both the physician's professional services (the "professional component") and the equipment, technical resources, and supplies needed to furnish the service (the "technical component").

While the relative value of a service does not vary geographically under the radiology fee schedule, each locality currently has a separate conversion factor that is based on the historical level of prevailing charges for covered services in that locality, rather than on variations in the costs of furnishing the service.

As a result, there is wide variation in the conversion factors for different localities. For example, southern Illinois has a conversion factor of $18.10, while northeast Iowa has one of $9.34.

Radiology services furnished by non-specialists currently are reimbursed under the reasonable charge methodology applied to other physicians' services.

In 1989, both the Health Care Financing Administration (HCFA) and the Physician Payment Review Commission (PPRC) estimated that payments for radiology services would be reduced by about 21 percent from 1988 levels under a national, resource-based fee schedule for all physicians' services.

As part of the transition to such a fee schedule, local radiology conversion factors were reduced by 3 percent in 1989. OBRA '89 continued this transition with reductions of 4 percent in 1990.

OBRA '89 provided special treatment for portable X-ray services, nuclear medicine services, and interventional radiology services furnished in 1990.

Committee provision

The committee provision would reduce local conversion factors under the radiology fee schedule by the lesser of 8 percent or the amount (if any) by which they exceed a national average conversion factor that has been standardized, reduced by 12 percent, and adjusted by the appropriate geographic practice cost and work index values for the locality involved.

Current estimates vary about the percent by which services subject to the radiology fee schedule are overvalued (after taking into account prior legislative reductions). Preliminary analyses by the Physician Payment Review Commission (PPRC) and the Health Care Financing Administration (HCFA) indicate that these services are overvalued by approximately 15 percent, while the American College of Radiology (ACR) indicates that these services are overvalued by about 10 percent.

While the committee provision would assume an ultimate average reduction of 12 percent, this should not be construed as a final judgment on this issue. Rather it is a working assumption, which will be adjusted as additional information becomes available in the future.

The geographic index to be applied under the committee provision is an index that fully reflects variations in overhead costs as well as one-quarter of the variations in the cost of physician work (cost of living).

For the professional component of a service, the geographic adjustment factor is 80 percent of the physician work index value and 20 percent of the overhead cost index value.

For the technical component of a service, the geographic adjustment factor is 35 percent of the physician work index value and 65 percent of the overhead cost index value.

These percentages are based upon current estimates and should not be construed as limiting the Secretary's discretion in implementing the new fee schedule for physicians' services in 1992.

Payment for a service that is not subject to the radiology fee schedule would be limited to the amount payable for the service under the fee schedule.

The special rules established for portable X-ray services, nuclear medicine services, and interventional radiology services would be continued in 1991 on the same basis as in 1990.

Effective for services furnished on or after January 1, 1991.

PORTABLE X-RAY SERVICES

Present law

OBRA 1987 provided for establishment of a fee schedule for radiology services based on a relative value scale, effective for services furnished on or after January 1, 1989. The relative value scale adopted for this purpose was developed by the American College of Radiology.

The fee schedule applies to services furnished by or under the supervision of a physician who is a board-certified or board-eligible radiologist, or who bills at least 50 percent of his or her Medicare part B charges for radiology services.

Portable X-ray services are radiology services usually furnished by non-physician technologists who bring X-ray equipment to the home of the patient. These services are covered by the fee schedule if they are furnished by or under the supervision of a physician to whom the fee schedule applies.

Although portable X-ray services are billing under the same procedure codes as other radiology services, they involve special equipment and additional time to perform. In recognition of this fact, HCFA has established a separate conversion factor for these services.

OBRA '89 exempted portable X-ray services from the reductions mandated for radiology services in 1990, and required the Secretary to report on appropriate treatment of these services in the future.

Committee provision

The Committee provision would exclude portable X-ray services subject to the radiology fee schedule from any reductions in the fee schedule amounts for 1991.

CARDIOVASCULAR AND INTERVENTIONAL RADIOLOGISTS

Present law

OBRA 1987 provided for establishment of a fee schedule for radiology services based on a relative value scale, effective for services furnished on or after January 1, 1989. The relative value scale adopted for this purpose was developed by the American College of Radiology (ACR).

Cardiovascular and interventional radiologists furnish services, such as angiographies, that involve more than one procedure. Typically, these procedures include injection of a contrast medium and supervision and interpretation of the image obtained.

If the two procedures are performed by different physicians, they may be billed separately, using both a surgery code and a radiology code. The radiology fee schedule requires a cardiovascular or international radiologist who performs both procedures to bill for them under a single "common procedure" code.

Although ACR included charge data drawn from some surgery codes in calculating the relative values for "complete procedures" under the fee schedule, the data that was used may include lower charges billed by other physicians using the same codes. In addition, charge data for the relevant surgery codes may not have been used in calculating the conversion factor under the fee schedule.

Before the establishment of the fee schedule, many cardiovascular and interventional radiologists billed separately for each procedure. In recognition of this fact, HCFA has permitted these physicians to continue this practice during 1989.

OBRA '89 extended this special treatment through 1990.

Committee provision

The Committee provision would authorize those cardiovascular and interventional radiologists who have billed separately for related procedures during 1990 to continue the practice during 1991.

NUCLEAR MEDICINE

Present law

OBRA 1987 provided for establishment of a fee schedule for radiology services based on a relative value scale, effective for services furnished on or after January 1, 1989. The relative value scale adopted for this purpose was developed by the American College of Radiology.

Nuclear medicine is a medical specialty in which radioactive materials are administered to patients to diagnose and sometimes treat disease. While nuclear medicine procedures are billed under radiology codes and are subject to the fee schedule, most physicians who specialize in nuclear medicine are not radiologists.

Some radiologists perform a few types of nuclear medicine procedures. ACR apparently used charges for these procedures in establishing relative values under the fee schedule.

Physicians specializing in nuclear medicine perform a wider range of services, however, and handle more complex cases. Thus, they maintain that the fee schedule does not reflect the differences in the practice of nuclear medicine by specialists and non-specialist radiologists.

OBRA '89 established a special payment rule for nuclear medicine specialists for the 1990-1991 period. In 1990, payments are a blend of 2/3 of the radiology fee schedule amount and 1/3 of 101 percent of the 1988 prevailing charge for the service involved. In 1991, the relative proportions of the blend are reversed.

Committee provision

The Committee provision would extend through 1991 the special payment rules applicable to nuclear medicine specialists during 1990 and clarify that relative values developed through the consensus process, rather than relative values developed by the American College of Radiology, will be applied to nuclear medicine services under the resource-based fee schedule for physicians' services that becomes effective in 1992.

FLOOR ON RADIOLOGY CONVERSION FACTORS

Present law

Most radiology services currently are paid under a fee schedule based on a relative value scale. Under this fee schedule, payments are based on the lesser of (1) actual charges, or (2) a fee schedule amount determined by multiplying a conversion factor by the relative value for the particular service. A conversion factor is the dollar amount that, when multiplied by the relative value of a service, produces the payment amount.

While the relative value of a service does not vary geographically under the radiology fee schedule, each locality currently has a separate conversion factor that is based on the hsitorical level of prevailing charges for covered services in that locality, rather than on variations in the costs of furnishing the service.

As a result, there is wide variation in the conversion factors for different localities. For example, southern Illinois has a conversion factor of $18.10, while northeast Iowa has one of $9.34.

Under the new, national fee schedule for physicians' services that becomes effective in 1992, these low conversion factors will gradually increase to the national average conversion factor, adjusterd to reflect geographic variations in cost.

Committee provision

The Committee provision would establish a "floor" on radiology conversion factors at 80% of the standardized 1990 national average conversion factor, adjusted to reflect geographic variations in costs.

PAYMENT FOR ANESTHESIA SERVICES

Present law

Anesthesia services currently are paid under a fee schedule that is based upon a relative value guide. Under the fee schedule, payments are based on the lesser of (1) actual charges, (2) the customary charge conversion factor multiplied by the total number of base units and time units for a particular service, or (3) the prevailing charge conversion factor multiplied by the total number of base units and time units.

Base units correspond to the relative value of the service, while time units are assigned on the basis of time required to perform the service.

Under the provision added by OBRA '87, reductions are made in the number of base units assigned for concurrent medical direction of more than one certified registered nurse anesthetist (CRNA). This provision expires at the end of 1990.

While the relative value of a service does not vary geographically under the fee schedule for anesthesia services, each locality currently has a separate conversion factor that is based on the historical level of prevailing and customary charges for covered services in that locality, rather than on variations in the costs of furnishing the service.

As a result, there is wide variation in the conversion factors for different localities. For example, Las Vegas, Nevada, has a conversion factor of $35.80, while Wausau, Wisconsin, has one of $12.39.

HCFA and PPRC estimate that payments for anesthesia services will be reduced by appropriately 18 percent under a national, resource-based fee schedule for all physicians' services.

Committee provision

The Committee provision would reduce local conversion factors under the fee schedule for anesthesia services by the amount (if any) by which they exceed a national average conversion factor that has been standardized, reduced by 4 percent, and adjusted by the appropriate geographic practice cost and work index values for the locality involved. In addition, the Committee provision would extend expiring current law reductions for concurrent medical supervision of certified registered nurse anesthetists (CRNAs) through 1995. Effective for services furnished on or after January 1, 1991.

FLOOR ON ANESTHESIOLOGY CONVERSION FACTORS

Present law

Anesthesia services currently are paid under a fee schedule that is based upon a relative value guide. Under the fee schedule, payments are based on the lesser of (1) actual charges, (2) the customary charge conversion factor multiplied by the total number of base units and time units for a particular service, or (3) the prevailing charge conversion factor multiplied by the total number of base units and time units.

Base units correspond to the relative value of the service, while time units are assigned on the basis of time required to perform the service.

While the relative value of a service does not vary geographically under the fee schedule for anesthesia services, each locality currently has a separate conversion factor that is based on the historical level of prevailing and customary charges for covered services in that locality, rather than on variations in the costs of furnishing the service.

As a result, there is wide variation in the conversion factors for different localities. For example, Las Vegas, Nevada, has a conversion factor of $35.80, while Wausau, Wisconsin, has one of $12.39.

Under the new, national fee schedule for physicians' services that becomes effective in 1992, these low conversion factors will gradually increase to the national average conversion factor, adjusted to reflect geographic variations in cost.

Committee provision

The Committee provision would establish a "floor" on anesthesia conversion factors at 75% of the standardized 1990 national average conversion factor, adjusted to reflect geographic variations in costs.

PAYMENT FOR PHYSICIAN PATHOLOGY SERVICES

Present law

Medicare currently pays for physician pathology services based on the lowest of the physician's actual charge, the physician's customary charge, or the prevailing charge level in the area. As with other services paid under the reasonable charge method, payments for these services are substantially higher in some areas than in others, even after adjustment for variations in practice costs.

These services, as a class, were estimated to be overvalued by about 25 percent on the basis of a survey conducted by Dr. William Hsiao of Harvard, and many of them were initially included in the list of overvalued procedures recommended for payment reductions by the Physician Payment Review Commission (PPRC) in 1989. Because of uncertainty about some of the Hsiao results, however, they were ultimately excluded from the PPRC list.

In a July 5, 1990, letter to the Committee on Finance, PPRC indicated that payments for these services will decrease substantially under the national, resource-based fee schedule for physicians' services due to be implemented in 1992, and suggested that a moderate reduction in payment levels in 1991 would be consistent with a transition to the new fee schedule.

OBRA '89 requires implementation of a separate fee schedule for physician pathology services in 1991 and incorporation of them in the national, resource-based fee schedule for all physicians's services in 1992.

In addition, OBRA '89 (section 6102(d)(5)(F)) requires PPRC to take into account the special circumstances of independent laboratories serving rural areas in conducting its study of appropriate adjustments to reflect the practice costs associated with furnishing physicians' services.

Although the PPRC study is not due until July 1, 1991, the Commission has indicated that its recommendations will be included in its 1991 annual report, which is due by April 1, 1991.

In its annual report for 1990, PPRC indicates that "an independent pathology laboratory separate from a hospital and owned by or employing a pathologist provides the professional service and incurs the costs of the technical component as well, so it should be paid the global fee for a [physician] pathology service.".

The College of American Pathologists has also commissioned a study of practice costs for physician pathology services. In its Model Fee Schedule for Physicians' Services, the Health Care Financing Administration (HCFA) has indicated that it is considering imputing a technical component for physician pathology services equal to 10–15% of the global payment in its Model Fee Schedule for Physicians' Services.

Committee provision

The committee provision would reduce by 4% the prevailing charge for all physician pathology services furnished on or after January 1, 1991. The prevailing charge for the professional component of a service furnished through an independent laboratory could not be reduced below 115 percent of the prevailing charge for the professional and technical components for the same service furnished by a hospital-based physician.

In addition, the committee provision would repeal the requirement that a separate fee schedule for physician pathology services be implemented in 1991.

Finally, the committee provision would require the Secretary to provide for an appropriate adjustment (under the fee schedule established under section 1848 of the Social Security Act) to reflect the overhead costs associated with physician pathology services furnished through an independent laboratory on or after January 1, 1992. The Secretary would be free to modify this adjustment as better data becomes available about the overhead costs associated with these services.

MEI ADJUSTMENT FOR PHYSICIANS' SERVICES

Present law

Medicare currently pays for most physicians' services based on the lowest of the physician's actual charge, the physician's customary charge, or the prevailing charge level in the area. Some services are paid under a separate fee schedule.

Current law provides for an annual adjustment in the prevailing charge level for a service (or the fee schedule conversion factor) to reflect changes in the Medicare Economic Index (MEI).

In recent years, the increase in the MEI has been legislatively determined, with primary care services receiving higher updates as part of a transition to a resource-based payment system.

The Omnibus Budget Reconciliation Act of 1987 (OBRA '87) established the increase in the MEI at 3.6 percent for primary care services and 1 percent for other physician services for 1988, and at 3.0 and 1 percent for those services, respectively, for 1989.

The Omnibus Budget Reconciliation Act of 1989 (OBRA '89) froze customary and prevailing charges for all physicians' services at 1989 levels for the first three months of 1990 and established the increase in the MEI for the remainder of 1990 at 4.2 percent for primary care services, 0 percent for radiology services, anesthesia services, and overvalued procedures, and 2.0 percent for all other physicians' services.

Primary care services include office medical services, emergency department services, home medical services, nursing home services, and two eye-care visits.

The MEI increase for 1991 is currently estimated to be 3.5 percent.

Committee provision

The Committee provision would limit the MEI increase for primary care services to 2.0 percent for 1991, and freeze customary and prevailing charges for all other physicians' services for 1991. Customary charges of new physicians would be permitted to increase in accordance with the limits specified in current law. Effective for services furnished on or after January 1, 1991.

FISCAL YEAR 1991 MEDICARE VOLUME PERFORMANCE STANDARDS FOR PHYSICIANS' SERVICES

Present law

Section 6102 of the Omnibus Budget Reconciliation Act of 1989 (OBRA '89) provides for the establishment of a national, resource-based fee schedule for physicians' services under Medicare beginning in 1992.

As a part of this reform of physician payment under Medicare, the law provides for the establishment of a Medicare volume performance standard (MVPS) rate of increase in expenditures for physicians' and related services for each fiscal year.

If the actual rate of increase in expenditures for these services exceeds (or falls below) the MVPS rate for the fiscal year involved, the annual inflation update for physicians' services is adjusted in a subsequent year.

The law sets limits on the extent to which annual inflation adjustment for may be reduced if expenditures exceed the MVPS rate. For fiscal years 1992 and 1993, the limit is 2 percentage points. For fiscal years 1994 and 1995, it is 2½ percentage points. For fiscal years 1996 and thereafter, it is 3 percentage points.

These limits apply only to reductions under the automatic MVPS mechanism, not to reductions effected through the legislative process.

There is no upper limit on the extent to which the annual inflation update may be increased if expenditures fall below the MVPS rate.

The law contemplates that the MVPS rate will be set in legislation, but specifies a formula for the Secretary of Health and Human Services (Secretary) to follow in establishing a "default" MVPS if legislation is not enacted by October 15 of the fiscal year involved.

The formula for the default MVPS requires the Secretary to take into account the weighted average percentage increase in physicians' fees for the fiscal year involved, changes in beneficiary population, a 5-year rolling average of the growth in volume and intensity of physicians' services, and legislative and regulatory changes (such as benefit expansions and deficit reduction measures) affecting expenditures for physicians' services.

It also provides for a gradual reduction in the rate of growth of expenditures for physicians' services. The rate computed under the formula is reduced by 1 percentage point for fiscal year 1991, 1½ percentage points for fiscal year 1992, and 2 percentage points for each succeeding year.

The law requires the Secretary to recommend an MVPS rate of increase by April 15 of the year in which the fiscal year begins. It also requires the Physician Payment Review Commission (PPRC) to review the Secretary's submission and make its own recommendations by May 15 of the same year.

Because deficit reduction legislation for fiscal year 1991 was not enacted at the time these recommendations were made, neither report took into account the projected effects of such legislation on the rate of growth in expenditures for physicians' services during that period.

At the present time, the Congressional Budget Office (CBO) estimates that, in the absence of any legislation, expenditures for physicians' and related services will grow at a rate of 14.1% in fiscal year 1991. The Secretary projects a growth rate of 13.4% for these expenditures for the same period.

The most recent CBO estimate assumes that the "default" MVPS for fiscal year 1991 will be 11.8%, while preliminary estimates of the Secretary indicate that it will be approximately 11.6%.

Committee provision

The Committee provision would set the fiscal year (FY) 1991 Medicare volume performance standard at 2 percentage points below the baseline rate of growth in expenditures for physicians' services, adjusted to reflect the impact of any legislative changes increasing or decreasing these expenditures.

The Committee provision would establish separate volume standards for surgery and all other physicians' services, with the only variation in the two standards being the differential effects of the impact of legislative actions on the two categories of services.

The Committee provision would establish a specific percentage volume standard in the law for each of these two categories of services for FY 1991, with those percentages being determined on the basis of final estimates of the impact of the other provisions of the FY 1991 budget reconciliation legislation.

SERVICES FURNISHED BY NEW PHYSICIANS

Present law

Medicare currently pays for physicians' services based on the lowest of the physi-

cian's actual charge, the physician's customary charge, or the prevailing charge level in the area.

The customary charge of a physician is the amount most frequently charged by the physician for the service. The prevailing charge for a service is the amount that will cover 75 percent of the customary charges for the service in the area.

Under current law, the customary charge of a new physician for a service under Medicare is limited to a specified percentage of the prevailing charge for that service in the area. The percentage is 80 percent in the case of first-year physicians and 85 percent in the case of second-year physicians.

Regulations implementing those provisions specify the manner in which a new physician's initial period of practice (and subsequent periods) are determined.

Beginning in 1992, Medicare will pay for physicians' services under a national, resource-based fee schedule.

Committee provision

The commitee provision would extend and make permanent the limits on payments to new physicians, with payment being limited to 90 and 95 percent of the allowable amount for third- and fourth-year physicians.

Until 1992, these limits would be computed as a percentage of the prevailing charge. For 1992 and thereafter, they would be computed as a percentage of the fee schedule amount determined under the resource-based relative value scale mandated by the physician payment reforms enacted in 1989.

Current law exceptions for primary care services care services and services furnished in a rural health manpower shortage area would be retained.

PAYMENT FOR THE SERVICES OF AN ASSISTANT-AT-SURGERY

Present law

Surgical services may be furnished by a surgeon without assistance or with the assistance of another physician, a physician assistant, or hospital-employed personnel (such as operating room registered nurses, interns, or residents).

Medicare has different reimbursement rules for different types of assistants-at-surgery.

In the cae of the physician serving as an assistant at surgery, payment is limited to 20% of the prevailing charge for the global surgical service, which includes pre- and post-hospital visits, the surgical procedure itself, and other services related to the surgery.

The 20% limit, which was established by the Secretary of Health and Human Services (Secretary) pursuant to the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), was a codification of the approach taken by many Medicare carriers at the time.

In the case of a physician assistant, payment is limited to 65% of the amount that would apply if a physician served as an assistant-at-surgery (i.e. 13% of the prevailing charge for the global surgical service).

Some carriers currently limit payment to a surgeon who is involved only in the surgical portion of a global surgical service to 80% of the global fee, based upon their appraisal of the relationship between intra-operative services and other services, such as visits, that are bundled into the global service.

Data from phase I of Hsiao, et al., "A National Survey of Resource-Based Relative Value Scales for Physicians' Services" (table 101) indicates that intraoperative work accounts for about 50 to 60 percent of the work for a surgical global service. These figures may be conservative in light of the fact that Hsiao did not include post-hospital visits within the definition of a surgical global service.

Under the national, resource-based fee schedule for physicians' services that will become effective in 1992, the portion of a global surgical fee that is attributable to visits is expected to increase, while the portion attributable to intraoperative services will decrease.

Committee provision

The Committee provision would apply the 20 percent rule to the intraoperative portion of a global surgical service, effective for services furnished on or after January 1, 1991.

The Committee would limit the amount paid by Medicare for the services of a physician serving as an assistant-at-surgery to 16% of the amount paid for the surgical global service (i.e. 20% of the portion of the global service (80%) that is estimated to cover intraoperative services).

ADVANCE DETERMINATIONS BY CARRIERS

Present law

Claims submitted under part B of the Medicare program are processed and paid by organizations that are known as "carriers". Carriers review claims in order to determine whether the item or service involved is covered by Medicare and whether or not it is medically necessary. In most cases, the review is conducted after the care has been provided.

Under current law, peer review organizations (PROs) may require advance determinations for hospital admissions and certain surgical procedures. Carriers currently have no authority to make advance determinations of this sort.

Committee provision

The committee provision would require carriers to make advance determinations for expensive procedures specified by the Secretary of Health and Human Services. It would also authorize carriers to make advance determinations for items and services ordered or furnished by a physician for whom a substantial number of items and services have been disallowed or for whom a pattern of overutilization exists.

This authority would not extend to items and services that are subject to prior review by a PRO or to emergency services.

1991 BALANCE BILLING LIMITS

Present law

The Omnibus Budget Reconciliation Act of 1986 (OBRA '86) established limits on actual charges of nonparticipating physicians. These limitations, known as MAAC (maximum allowable actual charge) limits, vary from physician to physician, and from service to service, based upon how much a physician's actual charges for a particular service exceeded the Medicare-allowable amount during a base period.

The Omnibus Budget Reconciliation Act of 1989 (OBRA '89) included legislation reforming physician payment under the Medicare program. This legislation mandates a new national fee schedule for physicians' services beginning in 1992, under which the amount Medicare pays for office visits and other "cognitive" (or evaluation and management services) will increase, while reimbursement for surgery and other "interventional" services will decrease.

Physician payment reform also replaced MAACS with simpler, more uniform limits on beneficiary liability, effective for services furnished in 1991 and thereafter.

In 1991, the limit on actual charges is the lesser of 125 percent of the Medicare-allowable amount (prevailing charge) for nonparticipating physicians or the physician's 1990 MAAC, updated to 1991.

In 1992, the limit on actual charges for a service is equal to 120 percent of the amount payable to nonparticipating physicians for the service under the new payment system.

In 1993, and thereafter, the limit on actual charges for a service is equal to 115 percent of the amount payable to nonparticipating physicians for the service under the new payment system.

Because the new limits become effective a year before the national fee schedule for physicians' services goes into effect, the total allowed charges for some services for which payments will increase under the new payment system—primarily evaluation and management services—will be lower in 1991 than in 1990 or 1992.

Committee provision

The Committee provision would establish the limits on actual charges for evaluation and management services for 1991 at the lesser of the physician's 1990 MAAC, updated to 1991, or 150 percent of the prevailing charge for the service in the physician's payment locality. The actual charge limits on these services for 1992 and thereafter would be unaffected.

The Committee provision is not intended to affect in any way any State law requiring a physician to accept assignment on Medicare claims as a condition of licensure in the State.

STATE-WIDE PAYMENT LOCALITIES FOR PHYSICIANS' SERVICES

Present law

Claims submitted to Medicare by physicians are processed and paid by organizations (commonly referred to as "carriers") under contract with the program. Carriers are nongovernmental entities, such as private insurers, with experience in administering health benefit programs.

The geographic area served by a carrier may be subdivided into different payment localities, with payments for the same service varying from one locality to another.

Under the current, reasonable charge payment system for physicians' services, a different set of payment limits is established for each locality in a carrier service area, based upon the actual and customery charges for services in that locality.

Under the national, resource-based fee schedule for physicians' services that becomes effective in 1992, a different geographic practice cost index (GPCI) value will be applied to determine payments in each locality.

At the present time, there is great variation across the country in the size and configuration of these localities, with some localities including a whole State and others being limited to a single city. Although current law permits modification of payment localities by administrative action, it is often not possible to do so in a budget-neutral manner.

The physician payment reform legislation enacted in 1989 did not disturb existing payment localities (or the discretion to alter them by administrative action). It did, however, require the Physician Payment Review

Commission (PPRC) to report to the Congress not later than July 1, 1991, on the feasibility and desirability of establishing a uniform national definition of payment localities.

Physicians in two States (Oklahoma and Nebraska) have expressed interest in consolidating the existing payment areas in their State into a single, State-wide locality by 1992, when the new national fee schedule for physician's services becomes effective. They have indicated a willingness to do so in a budget-neutral manner.

It is possible that other States may seek the same treatment before 1992.

Committee provision

The Committee provision would require the Secretary of Health and Human Services (Secretary) to establish a State-wide payment locality for physicians' services furnished on or after January 1, 1992, for any State that meets requirements designed to ensure that there is widespread agreement among physicians in the State that consolidation of existing payment localities is appropriate.

Although the establishment of such requirements would ordinarily be left to the Secretary's discretion, the Committee provision spells them out in detail in this case.

This approach has been adopted in order to dispense with the administrative procedures that ordinarily would govern the establishment of such requirements by the Secretary. This is necessary because of the relatively short period of time during which the provision would be implemented and the Secretary's many other responsibilities during the same period in connection with the implementation of a national, resource-based fee schedule for physicians' services in 1992.

The requirements specified in the Committee provision have been developed in consultation with the Health Care Financing Administration (HCFA).

Because of the complexities of implementing a new, national fee schedule for physicians' services in 1992, the provision also establishes an April 1, 1991, deadline by which the requirements must be met.

The Committee provision would authorize the Secretary to implement any change in localities pursuant to the provision in a budget-neutral manner.

It would also clarify that consolidation of the payment localities in a State pursuant to the provision does not preclude subsequent modifications to the locality structure in the State through available administrative mechanisms.

The Committee wishes to stress the highly unusual nature of legislative intervention in matters such as this and to emphasize that such intervention was justified in this case only because of the unanimous support of the Congressional delegations of the States involved, the willingness of physicians in those States to agree to a budget-neutral implementation of the desired changes, and the desirability of effectuating those changes at the same time as the new national fee schedule for physicians' services is implemented.

BILLING FOR THE SERVICES OF A SUBSTITUTE PHYSICIAN

Present law

Sections 1842(b)(6) and 1902(a)(32) of the Social Security Act (42 U.S.C. 1395u(b)(6) and 42 U.S.C. 1396a(a)(32)) provide that, except under limited circumstances, the Medicare and Medicaid programs may make payments for services rendered only to the physician or other person who actually provides the services.

The purpose of these provisions is to prevent "factoring"—the sale of claims receivable at a discount to third parties—which might increase program costs and cause administrative difficulties.

These provisions, read literally, prohibit a variety of arrangements under which one physician substitutes for another during his or her absence, with claims for services being billed in the absent physician's name.

Under one type of arrangement, two (or more) physicians agree to "cover"patients when one of the physicians is absent. Typically, the substitute physician continues to practice in his or her own office, and remuneration consists of reciprocal coverage privileges rather than financial compensation.

Another type of arrangement involves a more formal agreement under which one physician staffs the office of another during his or her absence in return for a per diem or other fee-for-time compensation. Frequently referred to as a locum tenens arrangement, this type of agreement usually involves a longer absence.

Committee provision

The Committee provision would establish an exemption from the anti-factoring prohibitions for short-term reciprocal arrangements and longer-term locum tenens arrangements.

Substitute billing under a reciprocal arrangement would be limited to a period of 14 consecutive days, with at least one day elapsing between 14-day periods.

Substitute billing under a locum tenens arrangement would be limited to a period of 90 consecutive days, with at least 30 days elapsing between 90-day periods.

The identity of the substitute physician must be included on any claim for services furnished under such an arrangement (in a manner specified by the Secretary).

The Secretary would be given discretion to permit locum tenens arrangements of longer than 90 days. It is expection that this would be done only in unusual circumstances, as when, for example, a physician becomes seriously ill or receives a fellowship or other award that involves a substantial absence from his or her practice.

STUDY OF PREPAYMENT MEDICAL REVIEW SCREENS

Present law

Medicare carriers, the organizations that process and pay part B claims, are required to review claims in order to assure that they are for covered services and are medically necessary. As a part of the review process, carriers frequently apply prepayment screens that determine whether a claim will be paid or subjected to more stringent review. These screens are not available to practitioners or providers.

Committee provision

The Committee provision would require the Secretary of Health and Human Services (Secretary) to conduct a study to determine whether the release of prepayment medical review screen parameters influences physician billing. The study will be conducted at a minimum of six Medicare carrier sites. The Secretary would be required to report the results of the study to the Congress on or before October 1, 1992.

UTILIZATION SCREENS FOR PHYSICIAN VISITS IN REHABILITATION HOSPITALS

Present law

Carriers are required to institute utilization safeguards to assure that payments are made only for covered services that are medically necessary. Carriers employ utilization screens to check for possible overutilization of services. If services are provided in excess of a specified level, the case is targeted for further review.

The screen for physician visits to hospital inpatients does not distinguish between visits to patients in acute care settings and those in rehabilitation hospitals and units. As a result, a patient who has been transferred to a rehabilitation facility after discharge from an acute care hospital will often reach the screen parameter that triggers more stringent review.

In an attempt to correct this problem, section 4085(h) of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87) required the Secretary of Health and Human Services (Secretary) to establish "a separate utilization screen *for physician visits* to patients in rehabilitation hospitals and units".

Rather than establishing a screen that recognizes the special circumstances rehabilitation inpatients (and applies to *all physician visits* at such a site as the statutory language clearly requires), the Secretary has established a screen that applies to inpatient visits made by physiatrists regardless of site.

This approach was apparently adopted because claims for inpatient visits do not include information about the type of hospital involved. Unfortunately, it has led to development of an unduly restrictive screen and to discrimination against physiatrists.

In addition, different carriers are applying varying levels of scrutiny to claims for visits in excess of the screen's parameters.

Committee provision

The Committee provision would require the Secretary to revise the screen establish under section 4085(h) of OBRA '87 to apply to all physician visits to inpatients of a rehabilitation hospital or unit and to base the revised screen on a standard of care comparable to that for inpatients of acute care hospitals, particularly with reference to the frequency of visits.

STUDY OF PAYMENT ADJUSTMENT FOR PHYSICIANS FURNISHING A HIGH VOLUME OF A PARTICULAR PROCEDURE

Present law

Payments for physicians' services under Medicare are not adjusted to reflect the economies of scale that are realized when a physician performs a high volume of a particular procedure.

Under the new, resource-based fee schedule for physicians' services that becomes effective in 1992, payment for a service will be based in part upon the relative value of the service involved, which in turn is based upon the time and intensity of effort expended, *on average*, by physicians furnishing the service.

The Secretary of Health and Human Services (Secretary) is required to update the relative values under the new fee schedule at least every five years in order to reflect changes in the time and effort expended by physicians in furnishing a service. These changes may be due to new technology or other factors.

Committee provision

The Committee provision would require the Secretary of Health and Human Services to report to the Congress not later than July 1, 1992, on the feasibility and desirability of adjusting payments to physicians performing a high volume of a particular procedure.

Taking into account the potential impact of such an adjustment on program costs and patient access to services, the Secretary would make recommendations on procedures for which such an adjustment would be appropriate, options for implementing such an adjustment, appropriate exceptions to such a policy, and safeguards to ensure patient access.

PAYMENTS FOR HOSPITAL OUTPATIENT SERVICES

Present law

Medicare generally pays the reasonable costs of services provided in the hospital outpatient department, although a variety of fee schedules, limits or prospective rates apply to many of the services typically provided to outpatients (surgery, radiology, clinical lab services, dialysis). In the case of surgery and radiology, payments are directly linked in part to the individual hospital's reasonable cost of those services.

Capital costs incurred by hospitals are allocated between the inpatient and outpatient departments, and among outpatient services, in proportion to the use of these services by Medicare enrollees. Capital costs allocated to activities in the outpatient department are built into each of the reimbursement methodologies used for these services. Thus, capital costs are reflected in the reasonable costs of services to the degree that the service is reimbursed on that basis.

The Omnibus Budget Reconciliation Act of 1989 reduced payments for outpatient capital to reasonable costs minus 15% for portions of cost reporting periods occurring during FY90.

Committee provision

The Committee bill would establish payment at 85% of outpatient capital costs for portions of cost reporting periods occurring during fiscal year 1991, and at 90% of costs in 1992 through 1995, to be parallel with the treatment of inpatient capital. The Committee bill would also reduce hospital outpatient payments by 5% for certain services furnished during fiscal years 1991 through 1995. The reduction would apply to those hospital outpatient services that are reimbursed on a cost basis, other than capital-related costs.

EYE AND EAR HOSPITALS

Present law

Medicare pays for surgery provided in a hospital outpatient department on the basis of a blended rate. 50 percent of the payment is based on the hospital's costs; 50 percent is based on the fixed payment rate paid for the same surgery provided in a free-standing ambulatory surgery center (ASC). Hospitals designated as eye and ear specialty hospitals are paid 75 percent based on costs and 25 percent based on the ASC rate.

Committee Provision

The Committee provision would extend the special treatment of eye and ear hospitals through fiscal year 1993.

PAYMENT FOR CLINICAL LABORATORY SERVICES

Present law

Clinical laboratory services are paid for by Medicare under state-wide or carrier-wide fee schedules. The fee for a particular service under a fee schedule is subject to a national limitation amount, currently set at 93 percent of the national median for all fee schedules for that service. Fee schedule amounts are updated annually by the percentage change in the consumer price index (CPI) during the preceding calendar year.

Committee provision

The Committee provision would lower the national limitation amount to 90 percent of the national median. It would limit inflation update for 1991 to 2 percent, and apply it only to fees that are below the national limit.

As in the past, the new national limit would be calculated after determining updated fee schedule amounts.

PAYMENTS FOR DURABLE MEDICAL EQUIPMENT

Present law

The Omnibus Budget Reconciliation Act of 1987 (OBRA '87) provided for the establishment of fee schedules for durable medical equipment (DME).

DME was divided into six categories, and local fee schedules were established for each item in a category. The amount payable for an item is the lesser of the actual charge or the fee schedule amount.

The fee schedule amounts for most categories of DME are based upon the average reasonable charge (Medicare-allowable amount) for an item in a particular locality during a base period, increased annually by the increase in the consumer price index (CPI).

Because fee schedule payments are based upon the amount historically paid by Medicare in a particular locality, there is considerable geographic variation in the fees Medicare pays for the same or similar items.

Beginning in 1991, limits are to be imposed on the range of prices in the same geographic region; under these limits, payments may not be less than 85% nor more than 125% of the national average. In 1992 and thereafter, these limits would move to 90% and 120%, respectively.

In the case of "capped rental" items (primarily hospital beds, patient lifts, and wheelchairs), the fee schedule rental amount is derived from the average purchase price on assigned claims for the item, rather than on the average Medicare allowable amount.

Committee provision

The committee provision would phase in, over three years, national limits on the geographic variation in the fees paid by Medicare for DME. At the end of the transition, the fee for an item of DME in a particular locality could not exceed 100% of the weighted national average of all local fees in the nation for that item, nor could they be less than 85% of the average.

In 1991, fees would be based ⅔ on the local payment amounts for 1990 (updated by the applicable inflation adjustment for 1991) and ⅓ on those amounts as constrained by the 85% and 100% limits.

In 1992, the blend woud be reversed, with ⅓ being based on local payment amounts for 1990 (updated by the applicable inflation adjustments for 1991 and 1992), and ⅔ on these amounts as constrained by the 85% and 100% limits.

Beginning in 1993, DME fees would be based entirely on the local payment amounts updated for inflation, as constrained by the 85% and 100% limits.

In addition, the committee provision would base fees for capped rental items on 110 percent of the Medicare-allowed charges rather than submitted charges, and total rental payments would be limited to 120% of the purchase price (rather than the current 150%).

The committee provision would also require periodic retesting of certain patients receiving oxygen at home to ensure that they continue to need it over time.

Fee schedule amounts for parenteral and enteral nutrients would be frozen for 1991.

PAYMENTS FOR ORTHOTICS AND PROSTHETICS

Present law

The Omnibus Budget Reconciliation Act of 1987 (OBRA '87) provided for the establishment of fee schedules for durable medical equipment (DME). Orthotic and prosthetic devices were included within the durable medical equipment benefit.

Committee provision

The Committee provision would establish a separate fee schedule for orthotic and prosthetic devices, and would freeze the update for these items for 1991. It would also clarify that one pair of eye glasses is covered as a prosthetic device after cataract surgery and prohibit the Secretary from removing coverage for this item.

COMMUNITY MENTAL HEALTH CENTERS

Present law

Partial hospitalization services include therapy by physicians, mental health professionals, and other health professionals, as well as other items and services reasonable and necessary for the diagnosis or active treatment of the patient's condition.

Medicare covers "partial hospitalization" service prescribed by a physician and furnished by a hospital in a distinct and organized intensive ambulatory treatment setting offering less than 24-hour care.

While community mental health centers are not currently Medicare providers, they are recognized under section 1916(c)(4) of the Public Health Service Act. Until OBRA '89 extended direct reimbursement for pyschologist services in all settings, coverage was limited to services furnished on-site at a community mental health center.

Services furnished by psychiatric nurses and marriage and family therapists are not currently reimbursable under Medicare.

Committee provision

The Committee provision would extend Medicare coverage to partial hospitalization services furnished by a community mental health center that is recognized under 1916(c)(4) of the Public Health service Act and that meets applicable State licensing or certification requirements. Reimbursement would be made on a reasonable cost basis.

The Committee provision would extend Medicare reimbursement to services furnished by a psychiatric nurse and marriage and family therapist in a community mental health center.

ALZHEIMER'S DISEASE DEMONSTRATION PROJECTS

Present law

The Secretary of Health and Human Service (Secretary) has established eight alzheimer's disease demonstration projects pursuant to section 9342 of the Omnibus Budget Reconciliation Act of 1986 (OBRA '86). Their purpose is to determine the effectiveness, cost, and impact on health status and functioning or providing comprehensive services for Medicare beneficiaries with Alzheimer's disease or a related disorder.

The eight sites are located in Florida, Illinois-Indiana, Minnesota, New York, Ohio-

Kentucky, Oregon, Tennessee, and West Virginia-Ohio.

OBRA '86 limits the duration of these demonstration projects to three years. As presently designed, the projects will be in full-scale operation for a period of only 12 months, with the rest of the three years being used for planning, enrollment, and phase down.

A longer period of full-scale operations is desirable because of the long-term nature of alzheimer's disease.

Committee provision

The Committee provision would extend the duration of the demonstration projects to five years.

CRNA FEE SCHEDULE

Present law

Effective January 1, 1989, the services of a certified registered nurse anesthetist (CRNA) are paid for under a fee schedule. This fee schedule provides for separate conversion factors depending upon whether the CRNA is medically directed by a supervising physician. The conversion factors also vary by geographic area. The current conversion factor for medically directed services averages approximately $8.10 for medically directed services and $18.00 for services that are not medically directed. CRNAs must accept assignment for their services.

Committee provision

During the period between 1991 and 1995, the conversion factor for non-medically directed CRNAs would be phased in to a level that is consistent with the anticipated conversion factor for physician anesthesia services at the end of the transition to the new, resource-based fee schedule for physicians' services established under section 1848 of the Social Security Act.

Since physician anesthesia services are estimated to be, on average, 18% overvalued, the conversion factor for physician anesthesia services at the end of the transition should be approximately 82 percent of the 1990 weighted national average conversion factor for these services. With an average conversion factor of $20.42 in 1990, this would produce an ultimate conversion factor of approximately $16.75.

The committee provision would set the conversion factor for medically directed CRNAs at $15.50 in 1991, $15.75 in 1992, $16.00 in 1993, $16.25 in 1994, $16.50 in 1995, and $16.75 in 1996. In 1997 and thereafter, the previous year's conversion factor would be adjusted by the same update as for physician anesthesia services.

The committee provision would set the conversion factor for non-medically directed CRNAs at $10.50 in 1991, $10.75 in 1992, $11.00 in 1993, $11.25 in 1994, $11.50 in 1995, and $11.70 in 1996, and apply the same update as for non-medically directed CRNAs for years thereafter.

In recognition of the fact that, in a few localities, the conversion factor for non-medically directed CRNAs is currently greater than $16.75, these conversion factors would be reduced during each year of the 5-year transition by one-fifth of the amount by which the 1990 conversion factor exceeds the ultimate conversion factor of $16.75.

In localities where the conversion factor for non-medically directed CRNAs is greater than the starting point for the phase-in ($15.50) but less than the end point ($16.75), payment would be determined on the basis of the higher of the 1990 conversion factors (updated through the year involved) or the conversion factor specified under the phase-in for that year. This will prevent payments in these localities from decreasing and then increasing during the transition.

Thus, after a 5-year phase-in, the conversion factor for non-medically directed CRNAs would attain approximately the same level as the conversion factor for physician anesthesiologists, and the conversion factor for medically directed CRNAs would be set at 70 percent of the conversion factor for their non-medically directed counterparts.

The conversion factors for both categories of CRNAs would be adjusted by the same geographic practice cost index (GPCI) that will apply to anesthesia services furnished by an anesthesiologist under the national resource-based fee schedule for physicians' services that becomes effective in 1992.

In addition, since the conversion factors for physician anesthesia services will continue to vary substantially from one locality to another through 1995, the conversion factor for CRNAs in a locality would be capped at the conversion factor for physician anesthesiology services in the same locality.

The Committee is aware that proposed regulations were issued on the CRNA fee schedule in January 1989 and have yet to be issued in final form. Although the Committee proposal is to become effective on January 1, 1991, it should not be construed as superseding or affecting in any way the issuance of a final rule for the 1989-1990 period. In addition, it is not intended to supersede those portions of the rule that treat matters other than the conversion factors for CRNA services.

RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS

Present law

Medicare law reimburses for rural health clinic services furnished by clinics that are integral parts of a hospital, skilled nursing facility, or home health agency on the basis of their reasonable costs. It pays for services furnished by independent clinics on the basis of an all-inclusive rate that reflects projected costs.

Rural health clinic services include physicians' services (and services incident to them), similar services furnished by a physician assistant, nurse practitioner, clinical psychologist, and clinical social worker (and services incident to them), and, in the case of areas with a shortage of home health agencies, part-time and intermittent nursing care and medical supplies (other than drugs and biologicals) furnished by a registered nurse or licensed professional nurse to a homebound patient.

The services of a non-physician health care professional specified above are covered whether or not the clinic is under the full-time direction of a physician as long as the individual is legally authorized under State law to perform the services.

Current law staffing requirements specify that a rural health clinic must have a nurse practitioner, a physician assistant, or a certified nurse-midwife available to furnish patient care not less than 50 percent of the time the clinic operates. This requirement applies even if a physician is available to provide services at the clinic.

Migrant health centers, community health centers, and health care centers for the homeless are designated under sections 329, 330, and 340, respectively, of the Public Health Service Act. Although they are eligible to receive grants under the law, they are not recognized as providers under Medicare. Because of Federal funding constraints, some of these centers qualify for grants but do not receive them.

A provision of the Omnibus Budget Reconciliation Act of 1989 extends Medicaid reimbursement to these centers for care provided to Medicaid beneficiaries, but they receive no reimbursement for care provided to low-income Medicare beneficiaries.

Committee provision

Rural health clinics

The Committee provision would permit the Secretary to waive the mid-level staffing requirement for a rural health clinic for a one-year period if the clinic can demonstrate to the Secretary's satisfaction that it has been unable, despite reasonable efforts, to hire a physician assistant, nurse practitioner, or a certified nurse-midwife.

The waiver would merely permit the health clinic to receive Medicare reimbursement for services furnished by a physician, or incident to such services.

Federally Qualifed Health Centers

The Committee provision would extend Medicare reimbursement to any clinic qualifying as a migrant health center, community health center, or health center for the homeless under the Public Health Service Act, without regard to whether the clinic actually receives a grant.

Medicare would pay for the same services that are covered at a rural health clinic.

Federally qualified health center services would be reimbursed on the basis of their reasonable costs or an all-inclusive rate based upon projected costs, as are rural health clinics.

These centers would be afforded the same standing as providers before the Provider Reimbursement Review Board.

PSYCHOLOGIST TECHNICAL

Present law

Section 6113(a) of the Omnibus Budget Reconciliation Act of 1989 (OBRA '89) eliminated existing statutory restrictions on the settings in which a clinical psychologist may furnish services that are reimbursable by Medicare.

An ambiguity in the law makes it necessary to clarify that direct reimbursement may be made for services furnished to a hospital inpatient.

The Health Care Financing Administration has recommended that similar technicals be made for the services of certified nurse-midwives and certified registered nurse anesthetists (CRNAs).

Committee provision

The Committee provision would clarify that the services of a clinical psychologist, certified nurse-midwife, and certified registered nurse anesthetist are directly reimbursable when furnished to hospital inpatients.

NEW TECHNOLOGY INTRAOCULAR LENSES

Present law

Section 1833(i)(2) of the Social Security Act (42 U.S.C. 13951(i)(2)) establishes reimbursement for ambulatory surgery centers (ASCs). The amount paid for facility services is 80 percent of the "standard overhead amount established by the Secretary . . . on the basis of the Secretary's estimate of a fair fee." The estimate must take into account costs incurred that payment will be less than would have been the case if the care were provided on an inpatient basis.

OBRA 87 added a new criterion for calculating the overhead amount in the case of cataract surgery involving implantation of an intraocular lens (IOL). It required the Secretary to incorporate an amount that is

"reasonable and related to acquiring the cost of acquiring the class of lens involved."

The reference to "class of lens" was intended to reflect the fact that not all IOLs are the same, but the law did not specifically require the Secretary to evaluate IOLs based on new technologies.

In August 1989, the Secretary issued a notice of proposed rulemaking to implement the mandate. This rule proposed that ASCs be reimbursed a flat $200 per lens, regardless of the type involved. The rule became final early in 1990.

Committee provision

Require the Secretary of Health and Human Services to establish a process under which interested parties could request review of the appropriate reimbursement for a class of new technology IOL.

Review would be restricted to IOLs that have been approved by the FDA, but such approval would not, in itself, be sufficient to qualify the lens for a special reimbursement adjustment.

In conducting a review, the Secretary would be required to consider the medical benefits of an IOL and such other factors as the Secretary determines to be relevant. The Secretary would publish in the Federal Register from time to time (but not less often than once each year) a list of the requests for review the Secretary has received.

There would be a 60-day period for public comment on the requests. The Secretary would be required to publish a notice of his determinations with respect to IOLs specified in the notice within 60 days after the close of the comment period.

RURAL NURSING INCENTIVES

Present law

Medicare will pay for health care services that are furnished "incident to" a physician's services, including the services of nonphysician health professionals such as nurses, who are employed by the physician and under his or her direct supervision.

Medicare will directly reimburse registered nurses only in limited circumstances. Direct reimbursement is authorized for the services of a certified nurse-midwife and the services of a certified registered nurse anesthetist.

Medicare also makes separate payment for the services of nurse practitioners in a rural health clinic, an HMO, and a skilled nursing facility, but payment is made to the provider.

Committee provision

The committee provision would extend direct payment under Medicare for services furnished by a nurse practitioner or clinical nurse specialist in a rural area if the services (1) are within the scope of practice authorized by State law or regulation, and (2) would be covered as physicians' services if furnished by a physician.

Reimbursement would be limited to 75% of the prevailing charge or fee schedule amount for a comparable physicians' service. Beneficiaries would be responsible for the usual coinsurance under Medicare (i.e., 20% of the Medicare allowable amount, and payment would be made only on an assignment related basis.

ESRD COMPOSITE RATE

Present law

ESRD services are reimbursed under two methods. Under method I, hospital and free-standing dialysis facilities are paid a flat amount, known as the composite rate. There are two composite rates, one for free-standing facilities ($125 per treatment) and one for hospital-based units ($129 per treatment). While the Secretary of Health and Human Services has the authority to adjust the composite rate, the law does not provide for periodic, automatic inflation updates to the composite rates.

Under method II, the beneficiary makes his or her own arrangements to receive home dialysis equipment, supplies, and support services. The beneficiary (or supplier, if assignment is taken) is paid directly based on itemized bills and the reasonable charge methodology. The Omnibus Budget Reconciliation Act of 1989 (OBRA '89) capped method II payments at method I levels.

In 1986, HCFA proposed to reduce the composite rate by approximately $6.00 per treatment; OBRA 1986 superseded this Committee provision by reducing the composite rates by $2.00 for 1987 and FY 1988. It also established a moratorium on further reductions in the composite rate, pending an Institute of Medicine (IOM) study on the effects of reimbursement policies on the quality of care. The study is due at the end of 1990. The moratorium has been extended legislatively several times.

Committee provision

The Committee provision would extend the moratorium until October 1, 1993, and require the Prospective Payment Assessment Commission (ProPAC) to study and recommend an appropriate update for FY 1993. The study, which should take into account the preliminary IOM findings, would be due on or before June 1, 1992.

COVERAGE OF ERYTHROPOIETIN WHEN SELF-ADMINISTERED

Present law

While Medicare generally does not cover outpatient prescription drugs and biologicals, the program does cover drugs and biologicals administered "incident to" a physician's services.

This coverage is limited, however, to substances that cannot be self-administered.

In May of 1989, the Food and Drug Administration (FDA) approved recombinant erythropoietin, a biological, as safe and effective in the treatment of uremic anemia in patients with renal failure. Until FDA took this action, this condition was treated primarily with periodic blood transfusions or androgenic steroids, both of which posed substantial risks to the patient.

In June of 1989, the Health Care Financing Administration (HCFA) issued guidelines for coverage of erythropoietin by Medicare. Reflecting the limitation contained in current law, these guidelines extend coverage to cases in which the biological is administered at a dialysis facility or in a physician's office, but not when it is self-administered at home.

As a result, end stage renal disease (ESRD) patients who dialyze at home must travel to a dialysis facility or physician's office to receive erythropoietin treatments, pay for the treatments from their own funds, or forego treatment with erythropoietin altogether.

At the present time, erythropoietin is administered intravenously an average of three times a week, usually during maintenance dialysis treatments.

This limitation in coverage has created incentives for patients to remain at (or return to) dialysis facilities for treatment and undercut legislative and regulatory efforts to encourage home dialysis.

Under existing legislative and regulatory authority, HCFA has established reimbursement for erythropoietin at $40 per dose for doses of under 10,000 units and $70 per dose for doses of 10,000 units or more.

The Medicare program pays eighty percent of these amounts, while beneficiaries are responsible for the remaining twenty percent. In addition, Medicare will pay a $2 administration fee for each dose furnished in a physician's office. Facilities and physicians are prohibited from billing the beneficiary for additional amounts.

Committee provision

The committee provision would extend coverage of erythropoietin to self-administration at home by dialysis patients, under guidelines established by the Secretary of Health and Human Services for its safe and effective use.

It would not alter the way in which payment is made for the biological at the present time; nor would it limit the Secretary's authority under current law to modify the existing reimbursement mechanism in response to changing dosage and administration patterns, as well as other factors.

Although the committee provision specifies that payments to a "method II" supplier be determined in the same manner as payments to a dialysis facility, this should not be read as *requiring* coverage of erythropoietin when furnished by a supplier.

Unlike dialysis facilities, method II suppliers are not responsible for the medical supervision of the patients they serve. In light of the fact that it necessary to monitor closely a patient's response to erythropoietin, the Secretary might conclude that it is not possible to ensure safe and effective use of the biological by method II patients.

While the committee provision would permit the Secretary to establish guidelines that limit coverage to patients served by a dialysis facility, it carefully does not preclude coverage under method II—in the hope that it will be possible for the Secretary to develop guidelines that afford equal access to erythropoietin for all dialysis patients.

EXTEND ESRD SECONDARY PAYER PERIOD

Present law

Under current law, Medicare is intended to be the secondary payer, for a 12-month period, for individuals who are covered by an employer-based group health plan and entitled to Medicare benefits on the basis of end-stage renal disease (ESRD). (A technical error in the law effectively limits Medicare's secondary status to the first 9 months of an individuals's Medicare entitlement.)

Except under limited circumstances, a group health plan may not differentiate in the benefits it provides to ESRD beneficiaries and others covered by the plan.

An employer with a non-complying group health plan is subject to an excise tax equal to 25 percent of the expenses of the plan.

Committee provision

The Committee provision would clarify that the period during which Medicare is secondary to private insurance for ESRD beneficiaries begins with the month entitlement to Medicare begins, and extend the period during which employer-based health coverage is the primary payer to the first 24 months of Medicare entitlement.

The Committee provision would require the Comptroller General to report on the effect of this extension on the availability employment and employment-based health coverage for ESRD beneficiaries.

Effective for services furnished on or after February 1, 1991, and before January 1,

1996, with respect to periods of Medicare entitlement beginning on or after February 1, 1990.

STAFF-ASSISTED HOME DIALYSIS

Present law

Under current law, Medicare will pay for home dialysis treatments of en-stage renal disease (ESRD) patients in one of two ways. Under "method I" reimbursement, a dialysis facility is paid a flat amount (known as the "composite rate") for each home treatment.

Although the labor costs associated with in-facility dialysis treatments were taken into account in determining the composite rate, no separate payment is made for any additional costs associated with sending a staff assistant to the home of a patient receiving treatment there.

Medicare will pay for the costs associated with training a family member to assist the home patient with the dialysis process.

Although some dialysis facilities currently supply a staff assistant to a limited number of their patients without additional compensation, others have not done so because of the financial constraints imposed by the composite rate.

Under "method II," Medicare will pay a supplier based upon its reasonable charges, for furnishing dialysis equipment and suppliers directly to home patients.

Until February 1, 1990, there was no upper limit on charge-based reimbursement under this method of reimbursement. One supplier, Home Intensive Care (HIC), furnished a staff assistant to each of its patients and raised its charges for equipment and supplies in order to cover the costs of furnishing such assistance. According to the General Accounting Office, per patient reimbursement to HIC was nearly double the amount paid under the composite rate. As a result, the Omnibus Budget Reconciliation Act of 1989 (OBRA '89) capped payments to method II suppliers at method I levels.

In response to this limitation, HIC ceased its home dialysis operations, forcing its patients to find alternative sources of dialysis treatment. While it was possible for many of these patients to travel to a dialysis facility for treatment, it was necessary to utilize ambulance services for some of them because of their medical conditions.

Under section 1881(f)(2) of the Social Security Act (42 U.S.C. 1395rr(f)(2)), which gives the Secretary of Health and Human Services (Secretary) experimental authority to evaluate methods for reducing ESRD program costs, the Secretary has provided staff assistance to a limited number of former HIC patients for whom it was not possible to find alternative treatment sources.

Committee provision

The Committee provision would amend Medicare law to authorize reimbursement to a dialysis facility for staff assistance furnished to home dialysis patients who meet specified criteria.

The Committee provision would require that a patient meet *all* of the following criteria in order to be eligible for the benefit:

1. certified by a physician as being confined to a bed or wheelchair and unable to transfer themselves from a bed to a chair; or have a serious medical condition (as specified by the Secretary of Health and Human Services) that would be exacerbated by transportation to and from a dialysis facility; and

2. are eligible for ambulance transportation, are likely to require it for at least 6 consecutive months, and the cost of ambulance transportation is likely to exceed the cost of a staff assistant; and

3. there is no spouse or relative available to assist with the dialysis; and

4. the Secretary certifies annually that the preceding criteria continue to be met.

The provision would become effective (if at all) only after the Secretary conducts a 3-year demonstration project involving the same population and determines that it is cost-effective to provide staff assistance to this population.

In determining whether the benefit is cost-effective, the Secretary would take into account the relative costs of ambulance transportation and staff assistance, the extent to which participants in the demonstration continue to utilize ambulance services for other purposes, and the per capita Medicare expenditures for participants compared with other ESRD beneficiaries with similar diagnoses and comorbidities.

The demonstration would be limited to 550 patients at any one time, but new participants would be admitted as openings become available. While the benefit could only be provided through a dialysis facility, the demonstration could be nation-wide or limited to specific sites, as the Secretary determines to be appropriate.

Individuals who are receiving staff-assistance under the Secretary's demonstration authority as of the date of the enactment of the legislation would be deemed to satisfy the criteria for participating in the demonstration.

The demonstration would begin on January 1, 1991, and continue through December 31, 1993. The Secretary would report to the Congress on or before January 15, 1993, preliminary conclusions on the cost-effectiveness of the benefit established under the demonstration project. A final report would be due on or before January 15, 1994.

Any individual participating in the demonstration as of December 31, 1993, would be eligible to receive the staff-assisted benefit after the termination of the project for as long as they continue to satisfy the criteria, even if the Secretary determines that it would not be cost-effective to implement a permanent benefit for the entire ESRD patient population.

EXTEND MEDICARE SECONDARY PAYER REQUIREMENTS

Present law

Medicare is the secondary payer to other third party insurers under specified circumstances when beneficiaries may be covered by the other insurer. Medicare may be the secondary payer to automobile, medical, no-fault and liability insurance, and to employer health plans. Requirements that employers offer primary coverage to Medicare-eligible enrollees or their dependents, and penalties for failure to comply with these requirements, vary with the basis for the individual's Medicare eligibility (age, disability or end-stage renal disease) as well as with the size of the employer. For beneficiaries eligible for Medicare on the basis that they have end-stage renal disease, however, Medicare is the secondary payer to available employer-based health insurance only for the first 12 months of eligibility. The requirement that Medicare be secondary payer for disabled beneficiaries expires.

The Omnibus Budget Reconciliation Act of 1989 requires the Internal Revenue Service (IRS) and the Social Security Administration (SSA) to provide information to the Health Care Financing Administration (HCFA) to improve identification and collection of Medicare secondary payer cases. SSA provides IRS with the names and Social Security numbers of all Medicare beneficiaries. IRS then provides SSA with a file of the names and Social Security numbers of all Medicare beneficiaries who filed a tax return for the previous calendar year.

SSA provides HCFA with a listing of all Medicare beneficiaries and their spouses, and the name of the beneficiary's or spouse's employer if: 1) the beneficiary and/or spouse filed a W-2, and 2) the beneficiary and/or spouse was employed by a large employer, defined as an employer with 20 or more employees.

HCFA uses the listing provided by SSA to identify more thoroughly secondary payer cases, including Medicare beneficiaries with employer-provided health coverage through the spouse's employment. HHS's contractors use this new information to contact employers in writing to determine whether the employer provided health coverage and the date of such coverage. General restrictions on the disclosure of information under the Internal Revenue Code and the Privacy Act also apply to the information provided by SSA and IRS to HCFA.

Third party payers, such as Medicare carriers and employers, receiving taxpayers information from HHS are subject to restrictions and safeguards on disclosure similar to those restrictions, safeguards and penalties currently provided for in the Internal Revenue Code with respect to other authorized recipients of taxpayer information.

To enable HHS to verify employer-provided health coverage, employers are required to respond to HCFA inquiries within 30 days of receiving the written request. HCFA would pay as secondary payer on all claims for beneficiaries currently covered by an employer health plan. Payments would be recovered from private insurers for claims erroneously paid for beneficiaries if the claim was submitted at a time when the beneficiary was covered by an employer health plan.

The provision expires on September 30, 1991.

Committee provision

Under the Committee bill, two provisions expiring in 1992 would be extended. One would continue requirements for data matching between the IRS and the Social Security Administration to identify Medicare beneficiaries who may be covered by group health plans. The other would extend the requirement that Medicare be secondary payer for disabled beneficiaries.

MEDICARE HMO PROVISIONS

Present law

a. Actuarial Equivalence of AAPCC: The Secretary of Health and Human Services (Secretary) must estimate in advance the average per capita amounts that Medicare would pay for beneficiaries enrolled in a Health Maintenance Organization (HMO) or Competitive Medical Plan (CMP) paid on a risk basis in a contract year if these beneficiaries were not enrolled in the organization. The per capita estimates must include administrative costs as well as costs for services covered under the Medicare program. The Secretary must base these estimates on actual experience or data and information that assures actuarial equivalence.

b. Modification of 50-50 Rule: At least 50 percent of the enrollment in an HMO or CMP that contracts with Medicare on a risk basis must be from private insurance plans. The Secretary may modify or waive this requirement only if more than half of the

population in the area served by the organization are entitled to Medicare or Medicaid benefits. The requirement may also be waived for the first three years of a contract if the organization is owned and operated by a governmental entity and makes reasonable efforts to enroll non-Medicare/Medicaid individuals.

c. Temporary Waiver of Enrollment Composition Rule for Related Entities: For the duration of a Medicare contract, at least one-half of the enrolled membership of a HMO or CMP must consist of individuals who are not eligible for Medicare or Medicaid. In assessing compliance, the Secretary considers the enrolled membership of the legal entity that contracts with Medicare.

d. Physician Incentive Payments: HMOs and CMPs are permitted to make arrangements with physicians to assume all or part of the financial risk of providing services to Medicare beneficiaries. However, the Omnibus Budget Reconciliation Act of 1986 (OBRA) prohibited an HMO with a Medicare risk contract from making direct or indirect payments to a physician as an inducement to reduce or limit services to enrollees. This prohibition becomes effective April 1, 1991. Organizations that violate this requirement are subject to civil monetary penalties.

e. Waiver of Certain Requirements: In order to enter into a Medicare risk contract, an organization must be a federally qualified HMO and CMP and have at least 5,000 members. The Secretary may contract with an eligible organization that has fewer members (at least 1500) if the organization primarily serves members residing outside of urbanized areas. In addition, at least one-half of the enrolled membership of an organization that enters a Medicare contract must be individuals who are not Medicare or Medicaid beneficiaries.

f. Application of National Coverage Decisions to Risk Contract Organizations: The Secretary is required to determine annually a per capita rate of payment for all Medicare covered benefits for beneficiaries who are enrolled in an HMO/CMP. Organizations with a risk contract are paid this predetermined per capita rate each month. During the course of the contract, adjustments may be made in the monthly payments only when there are changes in beneficiary enrollment or where the Secretary makes an administrative error. If Medicare covers new benefits, either by law or by Secretarial decision, effective after the Secretary announces the per capita rate for the following year (no later than September 7) the risk contracting HMO must provide the services, but the per capita rate may not be increased until the following year.

g. Retroactive Enrollments: Organizations with a risk contract are paid a prospectively determined per capita rate of payment each month. During the course of the contract, adjustments may be made in the monthly payments only when there are changes in beneficiary enrollment or where the Secretary makes an administrative error. Other administrative errors, for example when an employer submits a late Medicare enrollment to an HMO/CMP for its retirees, cannot be retroactively adjusted.

h. Extension of Social HMO Waivers: Under the Deficit Reduction Act of 1984 (DEFRA), the Secretary was authorized to grant waivers to permit the establishment of social health maintenance organizations. Four demonstration projects have been established under this authority.

The purpose of these projects is to provide for the integration of health and social services under the direct financial management of a provider at a fixed annual prepaid capitation rate for Medicare of 100% of the adjusted average per capita cost of treating patients in a non-HMO setting. Under the DEFRA authority, the waivers were limited to three years.

In conducting the demonstration projects under this authority, the Secretary has established a limit on the number of Medicare beneficiaries (7,500) that may be enrolled at each of the four sites. The level of enrollment has varied substantially from one site to another.

Section 4018(b) of the Omnibus Budget Reconciliation Act of 1987 required the Secretary to extend the waivers through 1992. The Secretary is required to make a final report to the Congress on the demonstration projects established under the DEFRA authority by January 1, 1993.

i. Study of Chiropractic Services: Medicare HMOs are required to provide to Medicare beneficiaries all of the services that are covered under Medicare. They have wide latitude to determine which types of practitioners will furnish covered services.

Proposal

a. Actuarial Equivalence of the AAPCC: While national projections of total Medicare costs (the USPCC) appear reliable when compared to actual total expenditures, recent studies have suggested that the actual payment levels on an individual beneficiary basis are not as accurate. Although the individual payment is adjusted for geographic characteristics (county of residence) and demographic factors (age, sex, welfare and institutional status), the AAPCC methodology in its current form is an inadequate mechanism for estimating the variations among Medicare beneficiaries in terms of their individual use of health care resources. In fact, researchers at the Health Care Financing Administration have concluded that the current enrollee characteristics used to determine individual payment explain less than 1 percent of actual interpatient variations in utilization. This has led to payment rates that have been uneven and unpredictable. Many HMOs have found the payment levels too low, resulting in decisions to either terminate their risk contracts or to not enter a risk contract. On the other hand, reports from the General Accounting Office and research studies have suggested that in many cases, actual beneficiary service use among HMO enrollees is lower than the average of the general Medicare population, resulting in payment levels that may be too high. Thus this provision requires the Secretary, working with the industry, to develop a refined or new payment method on a priority basis. The new methodology will be applied to the January 1, 1993 rates.

Under this provision, the Secretary must submit a proposal to the Committee on Finance of the Senate and the Committees on Ways and Means and on Energy and Commerce of the House of Representatives by January 1, 1992. The new methodology must be designed to modify the payment method to organizations with a risk contract to better predict the future actual service utilization and annual medical expenditures of the beneficiary population enrolled in each contracting organization. The recommendations may modify the current AAPCC formula, for example, by adding predictors of medical utilization such as health status adjustors or refined geographic adjustor, or may propose a new payment methodology as an alternative to the AAPCC. The goals of the revised payment method are to provide more appropriate payment to an individual organization for its actual enrolled Medicare beneficiaries and to reduce the effects of favorable or adverse selection. The data to support the recommended changes must show that the refined or revised payment methodology is effective in explaining 15 percent of the annual variation in health care utilization and costs among Medicare beneficiaries.

The 15 percent measure is derived from research that has been conducted on the adequacy of the AAPCC. Research conducted by the Health Care Financing Administration has identified health status adjustors that increase the predictability in explaining the variation in utilization from the current 1 percent to up to 16 percent. Studies conducted by the RAND Corporation indicate that health measures and prior use measures may explain up to 60 percent of the variance in annual medical expenses among the non-elderly. Other studies suggest that the maximum percentage of variance that one should expect to be explained ranges between 14 and 20 percent.

The American Academy of Actuaries must certify that the methodology can predict 15 percent of the estimated variation.

The Secretary is required to publish, on or before March 1, 1992, a proposed rule to implement the new payment methodology, effective for contract years beginning on or after January 1, 1993.

The Comptroller General is required to review the proposed changes in the methodology and make recommendations to the Congress on appropriate modifications in the proposal. This report is due by May 1, 1992.

The Secretary is required to issue a final rule during the period beginning August 1, 1992, and ending September 7, 1992.

b. Waiver of 50–50 rule: The Secretary of HHS may waive the 50–50 enrollment composition rule for an HMO or CMP that has (or is seeking) a risk contract if all of the following criteria are met:

1. Both the organization with (or seeking) the risk contract and any affiliated organization must demonstrate profitability for the most recent 3 consecutive years. If the plan seeking a waiver is a new organization established by an affiliated organization as part of an expansion program, the affiliate must demonstrate to the Secretary that it can ensure solvency of the new operation until profitability is achieved.

2. The plan must have been a Medicare risk contractor for at least three years. If the plan seeking the waiver is a new organization, an affiliated organization must have five years of successful experience in operating plans with Medicare risk contracts in two or more states.

3. The plan seeking a waiver (or the affiliated organization in the case of a new organization) must have a total enrollment (including non-Medicare) of at least 100,000 enrollees.

4. The plan seeking a waiver must have no significant quality problems (as determined by the Secretary identified through internal or external quality review. In addition the organization must agree to an annual quality review conducted by the Secretary. If there are any qualified problems identified after the waiver has been approved, the Secretary, after notice to the organization of the unfavorable review and an opportunity to correct any deficiencies, may suspend new enrollment or payment to the organiza-

tion after the Secretary notifies the organization.

5. As a condition of the waiver, the plan must agree to fund an annual membership satisfaction survey to be conducted either by an independent survey firm or the PRO. The survey must include satisfaction measures drawn from three populations:

a. The enrolled Medicare membership;

b. Medicare members who have been discharged from a hospital within a previous 30 day period, and

c. Medicare disenrollees.

The results of these surveys must be reported to the Secretary.

6. In exchange for approval of an increased proportion of Medicare enrollees, the plan with a waiver under this section must provide, at no additional charge to the enrolled beneficiary or Medicare (i.e. within the Medicare allowed coinsurance and deductible amounts), special services that are uniquely targeted towards an elderly Medicare population and are not covered by the Medicare benefit package or routinely provided to non-Medicare enrollees in the plan. These services must include a multi-disciplinary geriatic assessment for each new beneficiary enrolled after the date that the waiver is approved (performed by a social worker, physician and a nurse, each of whom has a specialty in geriatrics or has completed a geriatric training program). This assessment will result in a plan for each beneficiary to treat or manage specific medical conditions and will identify a beneficiary's level of disability as determined by objective criteria that measure impairment of activities of daily living (ADL) in six areas (toileting, eating, mobility, bathing, continence and dressing) and objective criteria that measure cognitive impairment. Medicare enrollees who are determined to be dependent in 3 or more ADLs for at least 3 months would be eligible to receive home and community based services (defined as non-medical services provided to prevent or delay a Medicare beneficiary from entering a nursing home). The home and community based services offered by the plan must include at least one and preferably will include more than one of the following services: homemaker or chore services, personal care services, adult day health care, meals on wheels, respite care, lifeline telephone assistance, transportation, geriatric case management, rehabilitation and home adaptation, special health education programs geared to the elderly, or geriatric mental health services.

7. The waiver will be approved for a three year period. The additional benefits must be available to enrollees for at least three years. The Secretary must review the organization's compliance with the terms of the waiver on an annual basis. The waiver may be withdrawn if the plan fails to comply with any of the provisions.

8. The Secretary is required to evaluate the cost and impact of the waiver authority, including any impact on the financial viability of the plans given such waivers, after two years and recommend to Congress whether the waiver authority should be extended or whether any changes should be made in the 50/50 enrollment requirement.

c. Temporary Waiver of Enrollment Composition Rule for Related Entities: For a period of two years, the Secretary may count, for purposes of the 50/50 enrollment rule, the enrolled members of an entity that is a separate corporation but is functionally integrated with a qualified HMO through common ownership or control. The Secretary must be satisfied that the entity: meets the definition of an eligible organization; provides services in the same geographic area through essentially the same physicians and providers as the contracting HMO/CMP; uses an integrated quality assurance program; and uses common grievance procedures, claims processing, management and administrative services. If some of the providers or physicians are affiliated with the entity but not with the HMO/CMP, then only the members of the entity that use common providers and physicians may be deemed to be HMO/CMP members for purposes of 50/50 determination.

d. Physician Incentive Payments: The Secretary would be authorized to collect such information as may be necessary to identify inappropriate financial risk and incentive arrangements used by an HMO/CMP with a contract for services provided to Medicare enrollees.

The general prohibition against physician incentive plans in HMOs and CMPs with Medicare risk contracts would be repealed. A Medicare risk or cost contracting HMO/CMP would be prohibited from making any direct and specific payment or other inducement to an individual physician to withhold or limit a specific medically necessary service to an identifiable patient. If a plan violates this prohibition, it will be subject to civil monetary penalties of $25,000 for each determination or intermediate sanctions.

An HMO/CMP could not place an individual physician or physician group at substantial financial risk (as determined by the Secretary) for services that are not rendered by the physician (or group) unless the HMO/CMP provides adequate protections (as determined by the Secretary) to limit the physician's liability through measures such as stop-loss insurance or appropriate risk corridors. In addition, an HMO/CMP would be required to conduct periodic surveys of its enrollees and former enrollees to determine their satisfaction with access to, and quality, of services, as well as to have safeguards against underutilization in place under its quality assurance program. If a plan violates this prohibition, it will be subject to civil monetary penalties of $25,000 for each determination or intermediate sanctions.

e. Waiver of Certain Requirements: Managed Care, Inc., an affiliate of CHP, the medical group associated with Long Island Jewish Medical Center, may include the enrollees of a State licensed health maintenance organization with respect to whom Managed Care, Inc. has agreed to assume full financial risk for provision of hospital and physician services for purposes of meeting the Medicare risk contracting requirement that no more than 50 percent of the enrolled membership be Medicare or Medicaid beneficiaries and the requirement that there be a minimum enrollment of 5,000 persons. The waiver will be approved for two years, at the conclusion of which the Secretary will terminate its contract with CHP if it has not met the 50 percent and 5,000 member requirements. The members of the HMO with whom CHP has an agreement may not be considered for purposes of any other Medicare risk contract.

f. Application of National Coverage Decisions to Risk Contract Organizations: This provision would permit the Secretary, for a temporary period, to make fee-for-service payments to the risk HMO/CMP for new benefits authorized by statute, regulation or other Secretarial coverage policy decision, if these benefits have not been taken into account in determining the per capita rate. At the beginning of the next contract year, the monthly payment to the HMO would be adjusted to include the actuarial amount of the new benefit.

g. Retroactive Enrollments: Allow retroactive enrollment, and thus retroactive payments, of up to three months, for Medicare beneficiaries who are enrolled in a Medicare risk-contracting HMO/CMP as part of an employer group. Retroactive enrollment and payment will be permitted only if the beneficiary, on or before the intended effective date of enrollment, signs a statement indicating his or her understanding of the Medicare lock-in requirement.

h. Extension of Social HMO Waivers: Expiration of the waiver authority for the four existing sites in 1992 will make it increasingly difficult for these projects to attract and retain enrollees after 1990. Require the Secretary to extend the waivers through 1995 under the same terms and conditions as currently apply.

Although a limit on the total number of Medicare beneficiaries enrolled at the four sites may be reasonable, the Committee believes that a limit on the number of enrollees at any one site is unnecessary as long as the overall limit is observed and expects that such ceilings will be adjusted or eliminated in order to take into account varying enrollment patterns at the various sites.

i. Study of Chiropractic Services: The proposal would require the Secretary to study and report to Congress on the availability of the chiropractic benefits covered by Medicare to HMO enrollees and the arrangements and types of practitioners involved in furnishing such services.

PROVISIONS RELATING TO PEER REVIEW ORGANIZATIONS

Present law

Section 1156 of the Social Security Act imposes upon health care practitioners and providers the obligation to provide only care that is medically necessary and meets professionally recognized standards of quality.

This provision also authorizes a Peer Review Organization (PRO) to recommend that the Secretary of Health and Human Services (Secretary) sanction a practitioner or provider for a gross and flagrant violation of these obligations or for a pattern of lesser violations.

The Secretary may exclude the practitioner or provider from program participation (permanently or for a period of time), or impose a money penalty not exceeding the actual cost to the Medicare program of the unnecessary or substandard care.

The law requires that, before excluding a practitioner or provider from program participation, the Secretary must determine that there has been an "unwillingness or a lack of ability substantially to comply" with these obligations.

In some cases, administrative law judges have determined that a practitioner's decision to cooperate with a PRO corrective action plan *after* the initiation of exclusion proceedings is sufficient to preclude a finding that he or she is unwilling to comply with those obligations.

As a result, the Office of the Inspector General (OIG) of the Department of Health and Human Services, which is responsible for acting upon PRO sanction recommendations, has been reluctant to initiate exclusion proceedings.

In January of 1990 OIG declined to pursue an exclusion remedy against a California physician who had failed to respond to communications from the PRO on its

findings that he had failed to provide care meeting professionally recognized standards health care. This decision was based, in part, upon a judgment that OIG could not "attach sufficient weight to that lack of response to justify a finding of unwillingness."

The Administrative Conference of the United States and the General Accounting Office urged correction of this problem.

Committee provision

The committee provision clarifies that, in determining whether a practitioner or person is "unwilling or unable", the Secretary will take into account the practitioner's or person's willingness to comply with a corrective action plan agreed to by the PRO before the Secretary reviews the PRO's recommendation for sanctions.

The statutory language indicates (by the phrase "as appropriate") that a corrective action may not be appropriate in all circumstances, and the Committee expects that the Secretary will monitor use of corrective action plans to ensure that they are not being abused.

The committee provision also clarifies that podiatrists and optometrists should be involved in reviewing services furnished by their peers.

Finally, the committee provision clarifies that PROs, as well as the individuals involved in PRO review activities, are immune from suit if they exercised due care in performing the activities.

MEDIGAP INSURANCE

Present law

Section 1882 of the Social Security Act establishes a voluntary certification program for private health insurance policies designed to supplement Medicare. These health insurance policies, known as "Medigap" insurance, may be certified in one of two ways. Individual insurers may submit their policies to the Secretary and be authorized to display a federal emblem if they are found to meet or exceed the minimum standards established under Section 1882. Or, policies sold in States with regulatory programs that meet or exceed the Federal standards may be deemed by the Secretary to meet the Federal requirements.

To be certified under this program, a Medigap insurance policy must: (1) meet or exceed the standards with respect to Medicare supplemental policies set forth in the "NAIC Model Regulation to Implement the Individual Accident and Sickness Minimum Standards Act," as amended and adopted by the National Association of Insurance Commissioners, and (2) be expected to pay benefits to subscribers (as estimated for the entire period for which rates are computed to provide coverage, on the basis of incurred claims experience and earned premiums for such period) equal to 75% of premiums in the case of group policies and 60% in the case of individual policies.

The law does not affect the right of a state to regulate policies marketed in that state, and approval of a policy under the voluntary certification program does not authorize the insuring organization to market a policy that does not conform to applicable state laws and regulations. Criminal penalties are set forth for fraudulent activities connected with the sale of Medigap policies. Activities proscribed include making false statements and misrepresentations; falsely claiming certification by the Secretary; selling policies that duplicate Medicare benefits; and mailing into a state Medigap policies disapproved by that state. Violation of these provisions is a felony, entailing maximum penalties of $5,000, 5 years' imprisonment, or both.

The Medicare Catastrophic Coverage Repeal Act of 1989 provided a period of 90 days for the NAIC to revise the model regulation to improve the regulation and to reflect benefit changes made under the law. The new NAIC standards applied in a state on the earlier of the date upon which the state adopts standards equal to or more stringent than the amended model regulation, or 1 year after the NAIC adopted it amended regulation (December 13, 1989). Policies sold before enactment, but still in effect on January 1, 1990 would not meet the standards unless each policy holder who is eligible for Medicare is sent a notice by January 31, 1990 explaining the changes in Medicare benefits resulting from catastrophic repeal legislation and how these changes affect the policy's benefits and premium. Special rules were established to allow for reinstitution of coverage for individuals who had terminated Medigap coverage between December 1988 and enactment of the Medicare Catastrophic Coverage Repeal Act of 1989.

Committee provision

The Committee bill would make a number of changes related to Medicare supplemental insurance.

Simplification: Simplification standards for limiting variation among Medicare supplemental insurance policies would be developed, either within 9 months by the National Association of Insurance Commissioners (NAIC), or if the NAIC fails to act, by the Secretary. These standards would require that each Medigap insurer offer a policy incorporating a core group of benefits that consists of the current NAIC minimum package without deductibles. If the NAIC chooses to develop such standards, the Committee requests that the Association report within 6 months of enactment of this provision on its progress in developing simplification standards.

The standards would further limit variation in Medigap policies in one of three ways: establish a fixed number of defined benefit packages (not to exceed 10), establish a core package with additional benefits (not to exceed 10) from which beneficiaries could choose, or establish a core package with a fixed number of defined benefits (not to exceed 4 for any insurer.)

The standards would also include a required uniform format and standard terminolgy to be used by insurers.

States would be allowed to grant exceptions for innovative benefits. Every three years the Secretary would evaluate whether the simplification standards should be changed to incorporate innovative benefits.

Each Medigap insurer would be required to provide a summary sheet which describes benefits and allows beneficiaries to directly compare benefits and prices among policies. The summary sheet will include information on the average loss ratio for the most recent three-year period in which the policy was in effect.

States with alternative simplification programs in place prior to enactment of the new requirements could apply to the Secretary for a waiver of the simplification standards.

The simplification standards would only apply to policies issued after adoption of the new standards.

With 4 years of enactment, the General Accounting Office would report to the Congress on the impact of simplification standards on consumer protection, health benefit innovation, consumer choice, and health care costs.

Renewals and Conversions: All Medigap policies would be guaranteed renewable, and that conversion options be offered when a group policy is terminated by the group, when an individual terminates membership in the group.

Preexisting Condition Limitations: Pre-existing condition limitations could not apply for more than 6 months; in the case of a replacement policy, any time period applicable to preexisting conditions or other waiting periods under the original policy would be credited to the replacement policy.

Approval for Sale in State: All Medigap policies sold through the mail would have to be approved by the State. The civil monetary penalty for sale of an unapproved policy through the mail would be increased from $5,000 to $25,000.

Duplication of Sale for Medigap: Insurers would be required to obtain a statement from the purchaser indicating whether the individual was covered by other Medigap policies or Medicaid. Sale of a policy without obtaining a signed statement, or for which the statement indicates the individual has another Medigap policy or is covered by Medicaid would be subject to penalty. The penalty would not apply to the sale of a policy to a Medicaid recipient if the premium was paid by the Medicaid program, or if the state Medicaid program does not provide complete coverage of Medicare cost sharing. The seller of the policy would not be required to verify the accuracy of the information on the applicant's written statement. The civil monetary penalty for selling a duplicative policy would be increased from $5,000 to $25,000.

Suspension of Premiums for Medicaid Recipients: Insurers would be required to suspend benefits and premiums upon request of a policy-holder who becomes a Medicaid recipient. If Medicaid eligibility is reversed, the insurer would be required to reinstate coverage if the individual notifies the insurer within 90 days after the loss of Medicaid benefits.

Increase in Other Civil Monetary Penalties: Existing civil monetary penalties which apply to misrepresentation of a policy as certified and misrepresentation of Medigap insurance as associated with the Medicare program would be increased from $5,000 to $25,000.

Refund of Premiums: To the extent that a policy in a given year did not meet loss ratio standards, insurers would be required to issue a refund to policyholders in order to come into compliance with the loss ratio standards. Refunds could be in the form of a credit against premiums due for individuals who continue to be policyholders. Policies in effect for less than 3 years would be exempted from this requirement.

Approval Process for Premium Increases: States would be required to have a process for approving and disapproving premium increases and to establish a policy for the holding of public hearings prior to approval of a premium increase.

Medicare Select: If a policy would meet the model standards except that benefits are restricted to items and services provided by certain entities, or reduced benefits are provided when services are provided by other entities, the policy will be deemed to meet the standards if benefits are provided through a contract arrangement with a network that offers sufficient access, full benefits are provided for emergency services, and the issuer of the policy provides an ongoing

quality assurance program. The Secretary would be authorized to enter into a contract with an entity with a policy approved under this provision for the purpose of determining whether items and services are considered reasonable and necessary.

Treatment of HMOs: Clarify that HMOs with risk or cost contracts under Medicare would not be subject to Medigap standards.

Monitoring of State Medigap Programs: States would be required to report to the Secretary on the implementation and enforcement of the Medigap standards, including information on loss ratios of policies sold in the State, actions taken by the state to bring policies into compliance, and state programs implementing consumer protection provisions. The Secretary will determine how frequently such reports are required.

Penalty for Unapproved Policies: Policies sold in a state without an approved regulatory program, and for which the Secretary determines that the State does not provide for consumer protection at least as great as the protection provided under an approved program, would have to be certified by the Secretary or carry a disclaimer indicating that the policy has not been certified as meeting Federal standards. The disclaimer would have to be included in at least 12 point type on any advertisement for the policy, on each page of the policy's outline of coverage, and on the first page of the policy itself. Purchasers of such policies would be required to sign a statement indicating that they understand that the policy has not been certified by the Secretary. Sale of such a non-certified policy without the disclaimer, or without obtaining the signed statement would be subject to a civil monetary penalty not to exceed $25,000.

Adoption of New Standards: The NAIC would be expected to revise the Model Regulation to incorporate the new requirements within 9 months of enactment. If the NAIC failed to act, the Secretary would issue new standards. States would then have 1 year to adopt the standards. After that time, policies sold in a state that failed to adopt the standards could no longer be certified as meeting Federal standards unless certification was given directly by the Secretary.

Within two years of enactment, the Secretary would report to the Congress on the implementation of the new standards, including identification of which states have and have not adopted the standards, and any reasons for failure to adopt some or all of the new standards.

Grants to States for Consumer Counseling: The Committee bill would authorize $10 million annually from Medicare trust funds for fiscal years 1991, 1992, and 1993 for grants to states for programs to provide health insurance information and counseling to Medicare beneficiaries.

Information by Telephone: The Secretary would establish a toll-free telephone number for providing information on Medicare, Medicaid and Medicare supplemental policies. The Secretary would be authorized to conduct demonstration projects in up to 5 states for the purpose of establishing statewide toll-free telephone numbers for providing consumer information on benefits under Medicare, Medicare supplemental insurance available in the state, and the state's Medicaid program.

HOME HEALTH WAGE INDEX

Present law

Medicare pays home health agencies the reasonable cost of covered services, subject to annual limits. The annual limits are set at 112% of the average cost agencies incur in delivering services, but are adjusted to reflect geographic variations in wage levels. The Health Care Financing Administration has adjusted the home health limits for area wage variations by applying the same wage index used to adjust hospital payments under the prospective payment system (the hospital wage index is based on a special survey of hospitals). The Omnibus Budget Reconciliation Act of 1987 required that, effective July 1, 1988, HCFA implement a special wage index based on audited data from home health agencies to adjust the limits. The Medicare Catastrophic Coverage Act of 1988 delayed this requirement until July 1, 1989 and substituted a requirement that the data be "verified" rather than "audited." OBRA 89 further delayed the effective date until July 1, 1991 after HCFA published a home health wage index that in many cases varied widely from the hospital wage index previously used (plus or minus 60%). During this time, HCFA has continued to use a wage index based on 1982 hospital data.

Committee provision

The Committee provision would eliminate the requirement that HCFA establish a home health wage index. The wage index used to adjust payments to hospitals under the prospective payment system (PPS) would be applied to home health agency cost limits. Updates to the hospital wage index would be phased in over three years by blending wage data as follows: for portions of cost reporting periods beginning on or after July 1, 1991, one-third of the index based on 1988 data and two-thirds of the index based on 1982 data; for cost reporting periods beginning on or after July 1, 1992, two-thirds of the 1988 index and one-third of the 1982 index. For cost reporting periods beginning on or after July 1, 1993, the wage index applicable to PPS hospitals would be used.

NURSING AND ALLIED HEALTH EDUCATION PROGRAMS

Present law

Medicare pays hospitals the direct costs of approved medical education programs, including programs to train resident physicians, nurses and allied health professionals. These costs are excluded from Medicare's prospective payment system (PPS) and are reimbursed on a reasonable cost basis (for nurses and allied health professionals) or using a special formula (for resident physicians). Costs may include stipends for residents and other students, supervisory salaries of teachers and overhead costs (i.e., classroom space).

Under current Medicare regulations, hospital costs of approved medical education programs (including nursing education) are recognized as reimbursable under the pass-through only if the program is operated by the provider. (Non-provider operated programs may involve allowable costs, but the costs are assumed to be covered under the DRG payment). This policy, adopted in 1984, reversed an earlier policy under which hospital costs would be allowable by Medicare if incurred in support of joint programs conducted in the name of an educational institution but with support from one or more hospitals. Under pre-1984 policy, hospital costs were allowed as direct medical education costs as long as: a) hospital support did not constitute a redistribution of non-provider costs to the provider; b) the provider received a benefit for the support furnished; and c) the provider's support was less than what it would incur with its own program.

Based on an interpretation by the Provider Reimbursement Review Board issued in 1988, intermediaries began disallowing nursing education costs claimed by hospitals that were part of academic medical centers or which were related to nursing schools.

OBRA 89 precluded HHS from recouping alleged overpayments until October 1, 1990. The Secretary was required to publish regulations before July 1, 1990 specifying the relationship required between an approved nursing or allied health program and a hospital for the hospital's costs to be allowable, the types of costs allowable by Medicare, and the distinction between costs treated as operating costs and costs reimbursed on a pass-through basis. The Secretary has not yet published such regulations.

Committee provision

The Committee provision would permanently prohibit recoupment of the disallowances in payments made prior to October 1, 1990, and establish a payment policy effective beginning on October 1, 1990 that would reimburse hospitals on a pass-through basis for clinical costs (as defined by the Secretary) associated with training nurses and allied health professionals. For the purposes of determining the initial proportion of costs attributed to the costs of clinical training, hospitals will be subject to a special audit (or other appropriate scrutiny) so as to ensure that each hospital has not artificially or inappropriately inflated its level of support for the education program during that period.

CASE MANAGEMENT DEMONSTRATIONS

Present law

"Case management" is a system under which a designated person or organization has responsibility for overseeing health care services for individuals assigned to the person or organization. Where case management is used, an insurer usually will not pay (or will pay less) for those services that are provided without permission of the case manager. Under current law, there are no requirements for Medicare beneficiaries to receive case management services, and case management is not a covered service. The Medicare Catastrophic Coverage Act of 1988 required the Secretary of HHS to establish 4 2-year demonstration projects under which an appropriate entity agreed to provide case management services to Medicare beneficiaries with high cost health care services. $2 million per year was authorized to carry out these projects. The Secretary awarded the four projects, which were suspended when the provision authorizing the demonstrations was repealed under the Medicare Catastrophic Coverage Repeal Act of 1989.

Committee provision

The Committee bill would require the Secretary to resume three case management demonstration projects under the same terms and conditions established in the Medicare Catastrophic Coverage Act of 1988.

BASE YEAR COST FOR GRADUATE MEDICAL EDUCATION

Present law

Medicare pays teaching hospitals the direct costs of medical education (resident salaries, supervisory time, classroom space). Under the Consolidated Omnibus Budget Reconciliation Act of 1985, a hospital's direct medical education payments are limit-

ed in the aggregate by the number of the hospital's residents times a hospital-specific base year cost per resident indexed forward for inflation. In most cases, the Secretary of HHS is required to use 1984 as the base year for this calculation, but may choose a different year for hospitals not involved in medical education or participating in Medicare in 1984.

Committee provision

The Committee provision would allow the Secretary to use a base year other than 1984 for hospitals that were involved in medical education at the time but which have substantially upgraded their medical education program since that time, if the hospital requests the use of a different base year.

HCFA SERVICE FELLOWS PROGRAM

Present law

The Health Care Financing Administration (HCFA) administers the Medicare and Medicaid programs. The appointment of the HCFA Administrator is subject to Senate confirmation.

Committee provision

The Committee provision would authorize the HCFA Administrator to establish the HCFA Service Fellows Program under which up to 10 individuals from the private sector or academia who have demonstrated exceptional competence or highly specialized skills or knowledge may conduct healthcare related research studies and investigations within the Health Care financing Administration. Qualified individuals would be appointed by the Administrator to serve as fellows for up to 2 years; costs of the program could not exceed $750,000 a year.

PHYSICIAN REFERRALS

Present law

Section 1877 of the Social Security Act (42 U.S.C. 1395nn) establishes certain penalties for the submission of claims for clinical laboratory services under Medicare by a physician who has an ownership interest in, or compensation arrangement with, the entity that furnishes the services.

Although the purpose of section 1877 was to eliminate incentives for the overutilization of clinical laboratory services, one reading of the law would preclude a physician from referring patients to a health care provider with which the physician has a financial relationship, even though that relationship is not related to the provision of clinical laboratory services.

Without further clarification, the law could be construed as prohibiting referrals to a hospital laboratory by an emergency room physician who has a compensation arrangement with, but is not employed by, the hospital. (The laws of some states prohibit the hospitals from employing physicians.)

It could also be read as precluding a physician who has invested in a particular unit of a hospital (such as a neonatal unit) from referring a patient's laboratory tests to the hospital's laboratory.

Committee provision

The Committee provision would clarify that penalties under section 1877 do not apply to clinical laboratory services furnished by a hospital pursuant to a referral by a physician who has a financial relationship with the hospital that does not involve the provision of clinical laboratory services.

LIVING WILLS AND OTHER ADVANCE DIRECTIVES

Present law

Although Medicare providers are not required under current law to have policies and procedures in place concerning decision-making on treatment alternatives, the Joint Commission on the Accreditation of Health Care Organizations (JCAHO), which provides "deemed status" to many hospitals under the Medicare program, does require hospitals to have protocols for decision-making on "do not resuscitate" orders.

In addition, section 1138 of the Social Security Act (42 U.S.C. 1320b-8) requires hospitals, as a condition of participation in the Medicare program, to establish written protocols for the identification of potential organ donors.

Committee provision

The Committee provision would require providers of health care services (hospitals, skilled nursing facilities (nursing facilities under Medicaid), hospice programs, home health agencies, and comprehensive outpatient rehabilitation facilities) and Medicaid programs to maintain written policies and procedures:

(1) to provide written information to all adult patients (regardless of whether they are program beneficiaries) on their rights under State law to make decisions about their medical care (including the right to accept or refuse care and the right to formulate an advance directive) and on the policies of the provider on implementing such rights;

(2) to inquire whether an individual has executed an advance directive and document the individual's response'

(3) not to discriminate against an individual on the basis of whether the individual has executed an advance directive;

(4) to ensure compliance with State law concerning advance directives; and

(5) to provide for staff education on advance directives.

Although it requires a provider to maintain written policies and procedures to "ensure compliance with requirements of State law respecting advance directives," the Committee provison should not be read as susperseding any right recognized under State law an individual caregiver to refuse to withdraw treatment as a matter of conscience, nor should it be read as authorizing such a refusal in a State whose laws do not recognize such a right.

The Committee provision amends the provisions of Medicare law relating to provider agreements, and failure of a provider to satisfy the new requirements could lead to termination of its agreement with the Medicare program.

The Committee recognizes that providers should not be routinely placed at risk of termination of their provider agreements because of requirements that are not directly related to the health and safety of program beneficiaries or to the quality of the health care they provide.

In this case, however, the Committee believes that knowledge of the patient's wishes regarding the course of treatment can improve the quality of care furnished by providers. Making available information on the advance directives will increase the ability of patients to influence treatment decisions.

In addition, the Committee provision would require a State, as a condition of approval of its State Medicaid plan, to develop written materials on the laws of the State concerning advance directives. It is expected that these materials would be an impartial description of State law. These materials would be made available for distribution by Medicare and Medicaid providers to their patients.

The Committee provision would also require the Secretary of Health and Human Services (Secretary) to study and report to the Congress on the implementation of these requirements, ways to encourage reciprocal enforcement of advance directives by the States, and the manner in which treatment decisions are made in the absence of an advance directive.

Finally, the Committee provision would require the Secretary to conduct a public education campaign to increase awareness of the availability of advance directives.

PART B PREMIUM

Present law

Individuals entitled to benefits under part A of the Medicare program have the option of enrolling in part B of the program as well. Enrollees pay a monthly premium. The part B premium originally was set to ensure that enrollee premiums covered 50 percent of the costs of the part B program; the remainder of the funding came from general revenues.

Subsequent legislation limited the percentage increase in the part B premium for a given year to the percentage increase in Social Security cash benefits in that year. This had the effect of decreasing the share of program costs borne by enrollees.

The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and the social Security Amendments of 1983 provided for part B premiums in 1984 and 1985 to be set at a level that would cover 25 percent of program costs. If there were no cost of living adjustment (COLA) under the cash benefits program, there would be no increase in the part B premium, and the dollar value of an individual's premium increase could not exceed the dollar increase in his or her cash benefits. Subsequent legislation extended these provisions through 1990.

Committee provision

The Committee bill would require that for calendar years 1993 through 1995, part B premiums would be set to cover 25 percent of part B costs, with protections to ensure that no individual's premium increase could exceed the increase in Social Security cash benefits.

PART B DEDUCTIBLE

Present law

Beneficiaries enrolled in part B of the Medicare program must pay the first $75.00 in part B costs each year. The deductible has increased only twice since 1966, when it was established at $50.00. The deductible was increased to $60 in 1973. The most recent increase was from $60.00 to $75.00 in 1982.

Committee provision

The Committee provision would increase the Part B deductible from $75.00 to $150.00 for calendar years 1991 through 1995.

COINSURANCE ON CLINICAL LABORATORY SERVICES

Present law

Medicare currently pays 100 percent of the approved fee for clinical laboratory services provided to enrollees. The amount paid by Medicare for these services is determined under a fee schedule, and providers must accept the approved fee as payment-in-full for the service.

Medicare beneficiaries currently pay coinsurance of 20 percent for most other services provided under the supplementary medical insurance (part B) portion of Medicare, as they did for clinical laboratory services

furnished before July of 1984. The part B deductible also applies to these services.

The Deficit Reduction Act of 1984 eliminated coinsurance for clinical laboratory services as part of a comprehensive revision of payment policies regarding these services that included establishment of a fee schedule and elimination of balance billing.

Committee provision

The Committee provision would limit Medicare payments for clinical laboratory services to 80 percent of the fee schedule amount and would authorize the collection of the remaining 20 percent from Medicare beneficiaries. It would also apply the part B deductible to these services.

Medicare would continue to pay 100 percent of the fee schedule amount in the case of tests required in connection with a required second or third opinion.

MEDICAID PRESCRIPTION DRUG DISCOUNTS

Present law

Discount agreements: Federal law permits States to cover outpatient prescription drugs under their Medicaid programs and every State does so. Because Medicaid patients may have their prescriptions filled at the pharmacy of their choice, the State Medicaid programs pay for prescription drugs through reimbursement to pharmacists. Current Medicaid law and regulations (both State and Federal) place limits on the amount that the pharmacists are reimbursed. Although State Medicaid programs are free to negotiate discounts with manufacturers, there are no Federal mechanisms for receiving discounts from pharmaceutical manufacturers for the Medicaid program.

Coverage restrictions; prior authorization: About 19 States also control costs of their prescription drug programs by excluding certain drugs from coverage (i.e., they establish "restrictive formularies"). States also monitor utilization by requiring prior authorization for the prescription or dispensing of certain drugs or categories of drugs. There are no federal laws or regulations governing prior authorization programs.

Generic drug dispensing: HCFA regulations require that a generic drug product be dispensed to a Medicaid patient unless the physician has specifically indicated on the prescription that the brand name is medically necessary. HDFA establishes upper payment limits for those multiple-source drugs for which all formulations are rated as therapeutically equivalent and pharmaceutically equivalent.

Drug utilization review: States are not required to have drug utilization review programs.

Electronic claims management: A 90 percent enhanced match is available for the design, development, or installation of mechanized claims processing and information retrieval systems that the Secretary determines are likely to provide more efficient, economical and effective administration of the plan and to be compatible with the claims processing and information retrieval systems utilized in the administration of Medicare.

Pharmacist reimbursement: Pharmacists are reimbursed for the cost of drug ingredients and a reasonable amount for dispensing the product, pursuant to Federal and State guidelines. The Federal government sets upper payment limits for certain generic drug ingredients. Reimbursement for other drug ingredients is determined by the State subject to Federal guidelines. Dispensing fees are determined by the State.

Committee provision

Discount agreements: In order to have its products covered by State Medicaid programs, each manufacturer of prescription drug products would have to enter a discount agreement with the Secretary of Health and Human Services. Pursuant to such an agreement, the manufacturer would be required to give each State a rebate based on the volume of its products that were paid for by the State on behalf of Medicaid beneficiaries.

For "non-innovator multiple-source" ("generic") and over-the-counter drugs, the discount would be 12 percent of the Average Manufacturer's Price (AMP)—the average price of a drug to wholesalers that sell to the retail trade.

For "single-source" (patented) drugs and "innovator multiple-source drugs" (the brand-name product for which there is a generic equivalent) the Medicaid price from January 1, 1991 through December 31, 1993, would be the AMP minus 15 percent. From January 1, 1993 onward, the Medicaid program would receive the lower of the AMP minus 15 percent, or the manufacturer's "best price" to other U.S. purchasers.

For purposes of determining a manufacturer's "best price," the prices to certain purchasers would be excluded: the price charged to the depot component of the Veterans' Affairs Department, or the Department of Defense pharmaceutical purchasing system; "nominal" prices (such as a token price charged to certain charitable organizations); and, the Committee expects, other prices that the Secretary might deem appropriate to exclude upon a request by the manufacturer (such as prices charged to specific charitable organizations that are other than a "nominal" price). Vaccines are excluded from the discount arrangements. Hospitals and HMOs with certain drug purchasing arrangements, and that meet other requirements, also would be exempt.

In addition to the standard discount, each manufacturer entering a discount agreement would agree to added rebates if its average manufacturer price to Medicaid (based on a weighted average across its sole source and innovator multiple-source product line) rose faster than inflation in the general economy. The Secretary would be required to assure that each manufacturer's average price to Medicaid (based on a weighted average across their sole source and innovator multiple-source product line) did not rise faster than the CPI (urban rate). Annually, based on auditable information provided by manufacturers and States, the Secretary would calculate added rebates that would be paid to Medicaid programs to carry out this provision.

Under one such approach, the Secretary would calculate the WAMP (weighted average of manufacturer price), as the average of each of the manufacturer's AMPs weighted by volume of Medicaid sales for the fiscal year in question. That WAMP would be compared to the manufacturer's average price as of October 1, 1990, fixing volume weights at those for the fiscal year in question. The Secretary would calculate the percentage (if any) by which the WAMP had increased faster than inflation since October 1, 1990. That percentage would be applied to the manufacturer's sales to Medicaid for sole source and innovator multiple-source drugs (calculated using AMPs) for the fiscal year in question, and added rebates would be provided to each State in those amounts, to be included with the manufacturer's succeeding quarterly payment.

Based on utilization data supplied by the States, each manufacturer would rebate the appropriate amount to the State. Federal financial participation (FFP) to the State would reflect the discount (that is, the State and Federal government would share the discount in proportion to the State matching rate).

Coverage restrictions; prior authorization: Manufacturers that give discounts to the States would have all of their products (with limited exceptions) covered by the Medicaid program, subject to prior authorization at the State's option. New prescription drugs and biologicals would be exempt from prior authorization for one year (as explained below). Drugs or categories of drug products and their medical indications could be excluded from coverage if they appear on a statutory list (periodically updated by regulation) that represents drugs which, currently, are commonly subject to exclusion or restriction by State Medicaid programs. Examples of products on this list are: agents used for weight loss, cosmetic purposes, or smoking cessation; cough and cold remedies; over-the-counter medications; and barbiturates.

New drugs: States would be required to cover new drugs in their Medicaid programs without any restrictions. One year after the new drug is approved by the FDA, it would be treated as other drugs (i.e., subjected to permissible restrictions at State option). By requiring the coverage of new drugs, Medicaid beneficiaries will be assured access to innovative medications, and the States and the Secretary will be able to gather utilization data on which to base decisions about whether the new drug is subject to abuse or inappropriate utilization patterns.

Secretarial study of discounts and patient access: In 1993, the Secretary will be required to report and make recommendations to Congress concerning appropriate utilization controls for States to employ in their Medicaid programs, and an appropriate policy for Medicaid's payments for prescription drugs, including an evaluation of the policy established in this Act. In formulating such recommendations, the Secretary must consider whether this discount system affects patient access to medications and other medical care, and affects incentives for research and development of innovative drugs. The Secretary also must take into account the economics of pharmaceutical pricing, including factors such as volume purchased and delivery arrangements.

It is the expectation of the Committee that Congress would consider the recommendations of the Secretary and make appropriate changes in the law.

The Secretary also will be required to study and make recommendations to Congress concerning other issues, including the cost-effectiveness of reimbursing pharmacists for cognitive services, the adequacy of pharmacy reimbursement and payment rates for vaccines.

Generic drug dispensing: To encourage enforcement of generic substitution laws, the Federal Government also would be authorized to adjust Federal financial participation in cases where a brand-name product was dispensed when a less expensive generic product could have been prescribed under HCFA regulation and State law. In the study on reimbursement to pharmacists, the Secretary should review the current upper payment limit methodology with respect to multiple-source drugs, to determine wheth-

er an increase in the number of upper payment limits would additionally encourage the dispensing of generic multiple-source products. The Committee is concerned that the methodology for determining upper payment limits does not take into account the availability of the generic products throughout the country, which may lead to upper payment limits that are unreasonably low. In addition, the Secretary should review the applicability of financial incentives to encourage pharmacists to dispense generic products where appropriate to do so.

Drug utilization review: States would be required to institute drug utilization review programs providing for prospective drug utilization review (counseling of Medicaid clients) and retrospective review of claims to identify patterns of inappropriate or excessive prescribing or dispensing. A pharmacist would be required to make a "reasonable effort" to counsel and obtain information from Medicaid clients. For example, the pharmacist should ask the beneficiary about the medications that he or she currently is taking, and may, but shall not be required to call the beneficiary's physician about the client's condition and medications. There would be a temporary enhanced match of 75 percent for States to institute these programs.

Electronic claims processing: States would be encouraged to develop point-of-sale electronic claims systems by providing a temporary enhanced match of 90 percent.

MEDICAID PURCHASE OF PRIVATE INSURANCE

Present law

States are permitted to purchase private insurance for Medicaid beneficiaries, provided that the benefits are comparable to benefits provided to other Medicaid beneficiaries. Only a handful of States have taken advantage of this option, however, including, on a limited basis, New York, California, and Minnesota. According to officials of the Health Care Financing Administration, this probably is due, in part, to the requirement that all Medicaid beneficiaries receive benefits comparable in amount, duration, and scope (a requirement difficult to meet since many private policies are more generous than Medicaid, or differ somehow in their benefit packages).

Committee provision

States would be required to pay premiums, deductibles and coinsurance for Medicaid beneficiaries for private insurance policies when it is cost-effective to do so. The Secretary would establish guidelines for determining cost-effectiveness.

States would be required to ensure that the beneficiary receives benefits at least as generous as those provided by Medicaid; to the extent the private policy falls short, Medicaid would serve as a "wrap-around" policy. Beneficiaries would not be required to pay any portion of their premium or any cost-sharing required by the private policy (except, if administratively feasible) to the extent they would pay copayments under Medicaid. The comparability requirement (section 1905(a)(10) would be amended to permit beneficiaries for whom private insurance is purchased to receive benefits different in amount, duration and scope than other Medicaid beneficiaries.

Under this proposal, the State could also pay private insurance expenses for individuals not Medicaid-eligible but who would have to be covered to gain access to the employer-sponsored insurance.

COST SHARING FOR MEDICARE BENEFICIARIES

Present law

The Medicare Catastrophic Coverage Act of 1988 requires State Medicaid plans to pay Medicare cost sharing (including Part B and, where applicable, Part A premiums) for elderly individuals who are eligible to participate in the Medicare program and whose income and resources are below specified levels. These individuals are referred to as Qualified Medicare Beneficiaries (QMBs). Effective January 1, 1991, to qualify as a QMB, one's income must be under 95 percent of the Federal poverty level. Effective January 1, 1992, one's income must be under 100 percent of the Federal poverty level to qualify. In certain States (so-called "209(b)" States) the applicable income levels are 90 percent and 95 percent, respectively.

Committee provision

States (except 209(b) States) would be required to pay all cost sharing for those individuals who meet current QMB asset standards who have incomes below 100% of the Federal poverty level, effective January 1, 1991. In 209(b) States, the requirement would be to pay cost-sharing for those up to 95 percent of the Federal poverty level in 1991 and 100 percent in 1992. Also effective January 1, 1991, States would have the option of making individuals eligible for QMB status if their income does not exceed 133 percent of the Federal poverty level.

DISREGARD OF COST-OF-LIVING ADJUSTMENTS IN CERTAIN MEDICAID ELIGIBILITY DETERMINATIONS

Present law

Whether an individual is determined to be a Qualified Medicare Beneficiary ("QMB") depends upon whether his or her income is less than a specified percentage of the Federal poverty level. Cost-of-living adjustments for cash benefits under title II of the Social Security Act become effective on January 1 of a calendar year. The Federal poverty levels for a year generally are not updated until the middle of February of that year.

As a result of this lag, individuals in these groups who were near (but below) the maximum income levels in one year may lose their Medicaid eligibility in the following year until the new poverty levels are issued. Likewise, new applicants may not be found eligible during this lag period, even though they should be.

Committee provision

The Committee-approved provision requires State Medicaid plans to disregard any increased income of Qualified Medicare Beneficiaries (QMBs) that is attributable to cost-of-living adjustments under title II that become effective during the period between January 1 and the last day of the month in which a State agency implements its annual revision of the official poverty line during that calendar year.

MEDICAID CHILD HEALTH PACKAGE

Present law

Children up to age 8: Pursuant to OBRA 1989, States are required to extend Medicaid eligibility to all pregnant women, infants, and children up to the age of 6 with family incomes up to 133% of the Federal poverty level. States also may cover children up to age seven (or, at State option, age 8) born after September 30, 1983 whose family incomes are below 100% of poverty. States also have the option of covering pregnant women and infants (under age one) up to 185% of the Federal poverty level.

Children up to age 19: Older children up to age 19 must be covered if they are AFDC recipients. States may offer Medicaid to children whose family income is within AFDC standards but who do not meet nonfinancial criteria for AFDC.

Continuous eligibility: States have the option of continuing coverage for a pregnant woman through the end of the second full month beginning after the end of the pregnancy, even if the woman would otherwise become ineligible during that period; the infant born to the woman remains eligible for the same period. Eligibility redeterminations are made periodically, at intervals determined by the State, for beneficiaries not eligible for cash assistance. When States determine that an individual is no longer eligible on one basis, the individual may be required to re-apply to get benefits on another basis by which they may be eligible.

Amount, duration and scope of services: Generally, States are permitted to determine amount, duration and scope of benefits under their Medicaid programs. Some States limit the number of hospital days covered, or the dollar amount paid for hospital services for a beneficiary, but States are not permitted to impose durational limits on medically necessary services provided to children under 1 year old in hospitals serving a disproportionate share of low-income patients with special needs. If the State pays for inpatient services on a prospective basis, the State must provide additional payment to disproportionate share hospitals for patients under 1 year old who have exceptionally long or costly stays ("outliers").

Committee provision

Children up to age 19: The Committee provision would require States to phase in Medicaid eligibility for children from age six up to age 19 in families whose income is below 100% of the Federal poverty level. The phase-in would be accomplished one year at a time.

Effective January 1, 1991, the bill would permit States to phase in coverage more quickly or to cover children up to 185% of the Federal poverty guidelines. The State could select the age groups for which it wishes to apply a faster phase-in or more generous income standard.

Effective January 1, 1991, the bill also would prohibit States from imposing: (1) day limits for children in disproportionate share hospitals, (2) day limits for infants in non-disproportionate share hospitals, and (3) dollar limits for infants in any hospital. States with prospective payment systems would be required to establish outlier payments for exceptionally costly or lengthy stays of children (up to age 19) in disproportionate share hospitals and infants in any hospital.

In addition infants born to women eligible for Medicaid due to their income level and pregnancy would remain eligible for Medicaid for one year without the need for a new application.

FRAIL ELDERLY

(Optional Home and Community-Based Care)

Present law

The Medicaid program covers nursing home services for the poor elderly, many of whom have "spent down" to certain asset and income standards to become eligible. These expenditures are often incurred when the person is in an institution, or when living at home and paying for home and

community-based care out of their own pockets.

Medicaid generally does not cover home and community-based care, although States may obtain waivers to do so. In order to obtain these "2176" (section 1915(c)) waivers, States must complete a lengthy application process, and must demonstrate to HCFA that, without the waiver, the individuals to be served under the waiver program would require an institutional level of care, the cost of which would be reimbursed under the State plan, and that the average per capita expenditure for waiver services will not exceed the anticipated average per capita expenditures without the waiver.

As a result of current law, there are a number of low-income elderly people who need assistance at home but cannot get it under Medicaid because their State does not have a waiver program sufficient in scope to cover their needs. Some of these people will enter nursing homes in order to get Medicaid coverage because they cannot afford to purchase the care they need at home.

Committee provision

Permit States, at their option, to cover home and community-based care under their Medicaid programs for "functionally disabled" individuals over age 65 who receive SSI or meet the income and resource standards of their State's medically needy program.

The State would not be required to demonstrate, as it is to receive a waiver, that individuals receiving services otherwise would have required institutionalization, or show that the cost of services is no greater on average than the cost of institutional care. The Federal payments would be capped, however, at 50% of the average State per diem rate for Medicare skilled nursing home care, multiplied by the number of patient days for individuals receiving the benefit in the relevant quarter year. A "maintenance of effort" requirement would be imposed on States: failure to maintain current spending levels on home and community-based care would result in a reduction of Federal matching payments equal to the reduction in Statewide spending.

A person would be considered functionally disabled if he or she is unable to perform at least two of the following three "activities of daily living" (ADLs): toileting, transferring and eating, or has Alzheimer's Disease and meets Alzheimer's Disease-specific ADL criteria. Functional disability would be determined by an interdisciplinary team designated by the State. A qualified case manager would develop and periodically review an "individual community care plan" (ICCP) for the beneficiary and would be responsible for assuring that the specified care is provided.

The State could choose to cover any one or more of following services: homemaker/home health aide services; chore services; personal care services; nursing care services provided by or under the supervision of a registered nurse; respite care; training for family members; adult day health services; or other home and community care services approved by the Secretary.

The bill requires the Secretary to establish minimum quality standards for home and community-based care providers and for settings where long-term care services are provided, including board and care homes. The Secretary would be required to develop guidelines to, among other things, assure the safety of the beneficiaries and to protect them from abuse, neglect, financial exploitation, and inappropriate restraint.

Expenditures under the program will be capped at $200 million over five years. The funds identified for each year (1991 through 1995) will be allocated to each State in the proportion of the amount of Federal expenditures made available to the State for fiscal year 1989 (as reported in the quarterly form HCFA-64 expenditure reports) to the sum of Federal expenditures for all States, excluding territories. The statewideness requirement otherwise applicable under Medicaid would be waived for this program.

COMMUNITY SUPPORTED LIVING ARRANGEMENT SERVICES FOR THE DEVELOPMENTALLY DISABLED

Present law

Medicaid services designed to assist individuals with developmental disabilities are delivered in Medicaid-certified residential institutions known as ICF/MRs (Intermediate Care Facilities for the Mentally Retarded). Some Medicaid funding is also provided for community-based services for this population under the Medicaid home and community-based waiver program, but is relatively limited.

Committee provision

Adds a new optional service called Community Supported Living Arrangements (CSLA) under Medicaid. This provision recognizes the needs of those individuals with disabilities and their families, who wish to receive services in a community based setting rather than in an ICF/MR. This new service is designed to assist individuals with developmental disabilities and their families by providing services necessary to permit such an individual to live in an integrated environment, and to achieve increased independence and productivity. The Committee further intends this provision not limit in any way services provided through present and future Medicaid waivers in any state.

No fewer than four and no more than eight states will be permitted to adopt this new Medicaid optional service in the first five years. The Committee intends that any funds used in conjunction with this new option will be in addition to funds expended for any existing Medicaid services, including any waiver services, for which an individual receiving services under this program is already eligible. States desiring to provide this optional service must apply to the Secretary and must identify the services it will provide, the categories of individuals and families to whom it will provide such services, and the per capita cost of providing such services. In addition the state must outline a quality assurance system applicable to this new service, including program and provider certification, staff training, consumer grievance procedures, and community monitoring boards. For the purpose of this new option, the Secretary may allow states to waive comparability, statewideness, and freedom of choice under Medicaid.

In selecting 4 but no more than 8 states the Secretary is to choose among those states which desire this option through a competitive application process. In determining which states will be allowed to adopt this option the Secretary shall consider the degree to which the option will help a state meet existing need for these CSLA services. The Secretary may consider an appropriate mix of other characteristics including but not limited to: size of the state; population; geographic location; and other demographic characteristics. The Secretary shall decide which states will be permitted to adopt this CSLA option no later than July 1, 1991.

CLARIFY COVERAGE OF PERSONAL CARE SERVICES

Present law

Personal care services are not explicitly defined but are generally recognized in statute. HCFA regulations define personal care services as "personal services in a recipient's plan of treatment, provided by an individual who is qualified to provide the services and is not a member of the recipient's family, and supervised by a registered nurse". The regulations limit personal care services to those performed strictly within the four walls of a recipient's home.

Committee provision

The Committee-approved provision explicitly defines and recognizes "personal care services" in statute. The provision also allows medically necessary personal care services to be performed in settings outside of the recipient's home, with safeguards to preclude the diversion of funds to adult day care activities.

NURSING HOME REFORM

In OBRA 87, Congress comprehensively revised the statutory authority applying to nursing homes participating in Medicare and/or Medicaid. The revision is often referred to as nursing home reform of OBRA 87, and includes three major new sections in Medicare and Medicaid laws: (1) requirements that nursing homes must meet in order to participate in the programs; (2) provisions revising the survey and certification process for determining whether nursing homes comply with these requirements; and (3) provisions expanding the range of sanctions and penalties that the States and the Secretary of HHS may impose against noncompliant nursing homes. Congress included in the enactment a phased-in implementation schedule for these provisions, with major sections of the new law becoming effective October 1, 1990. The Committee's bill includes a number of changes to nursing home reform law that are primarily technical in nature. Many of these provisions would apply both to skilled nursing facilities participating in Medicare and nursing facilities participating in Medicaid. Other provisions would amend Medicaid law only.

A number of the amendments are effective on April 1, 1991. The Committee expects that, by that time, the Health Care Financing Administration will have issued its final regulations on nurse aide training and pre-admission screening and annual resident review, and that these regulations will reflect the amendments made pursuant to this bill. The Committee also expects that these regulations will permit a public comment period.

Nurse aide training

Present law

Effective October 1, 1990, skilled nursing facilities (SNFs) participating in Medicaid must use on their staffs as nurse aides only those persons who have completed approved training and competency evaluation programs. Specifically, the law prohibits nursing homes from using (on a full-time, temporary, per diem, or other basis) persons as nurse aides for more than 4 months, unless the aid (a) has completed a training and/or a competency evaluation program approved by the State; and (b) is competent to provide nursing or nursing related services. OBRA also requires States to establish nurse aide registries of all persons who have satisfactorily completed training and competency evaluation programs and those per-

sons who have been involved in resident neglect and abuse. Nursing homes are required to consult these registries before hiring a person as a nurse aide.

OBRA 87 required the Secretary to establish requirements for State approval of nurse aide training and competency evaluation programs by September 1, 1988, and to specify in these requirements areas to be covered in programs, content of curriculum, minimum hours of initial and ongoing training and retraining, qualification of instructors, and procedures for determining competency. The law prohibits the approval of training and competency evalutation programs offered by a SNF or NF, if the facility has been determined to be out of compliance with requirements for provision of services, residents' rights, and administration. In addition, an amendment included in OBRA 89 prohibits the approval of programs that impose charges for training and competency evaluation. In 1989, HCFA issued an interim guidance document, effective May 12, 1989, setting out criteria for the States for approval of nurse aide training programs. On March 23, 1990, HCFA published a proposed regulation on approval criteria for nurse aide training and competency evaluation programs.

OBRA 87 authorized enhanced Federal Medicaid matching payments for State activities required in connection with nurse aide training and competency evaluation programs. For the 8 calendar quarters beginning July 1, 1988, States have been authorized to receive for nurse aide training and competency evaluation activities their Federal matching rate plus 25 percentage points, but not exceeding 90 percent. In subsequent years, the rate becomes 50 percent.

Committee provision

1. No Compliance Actions Before Effective Date of Final Regulations: The Committee bill would amend Medicare and Medicaid to prohibit the Secretary from taking (and continuing) any compliance actions against a State for its failure to meet the law's requirements for nurse aide training and competency evaluation programs before the effective date of final regulations for such programs, if the State demonstrates that it had made a good faith effort to meet the requirements.

2. Part-Time Nurse Aides Not Allowed Delay in Training: The Committee bill would amend Medicare and Medicaid to require that nurse aides used on a temporary, per diem, or any other basis complete the training and competency evaluation programs that full-time aides must complete.

3. Extension of Enhanced Medicaid Match: The Committee bill would amend Medicaid to extend enhanced Federal matching for nurse aide training and competency evaluation through September 30, 1990.

4. Clarification of Permissible Charges for Training of Aides Not Yet Employed by a Facility: The Committee bill would amend Medicare and Medicaid to permit States to approve accredited non-facility based nurse aide training and competency evaluation programs that charge for training and instruction.

5. Reimbursement of Certain Individuals Prior to Employment: The Committee bill would also require that the State ensure that nurse aides who are employed by a facility within 12 months after successfully completing and paying for an accredited non-facility based program be reimbursed for the costs of the program.

6. Clarification of State Responsibility to Determine Competency: The Committee bill would clarify that States may not subcontract for the determination that an aide is competent to provide nursing and nursing-related services.

7. Nurse Aide Registry: The Committee bill would require SNFs and NFs to consult other State nurse aide registries if they have reason to believe that an aide whom they are considering employing is from another State. The Committee bill would further require that nurse aides deemed under OBRA '89 to have met the law's training and competency evaluation requirements be added to a State's nurse aide registry.

8. Required Retraining of Nurse Aides: The Committee bill would require those nurse aides who have not performed nursing or nursing-related services for 24 consecutive months to complete either a nurse aide training and competency evaluation program or a new training and competency evaluation program (instead of being required to undergo another training program).

9. Facilities Ineligible to Offer Nurse Aide Training and Competency Evaluation Programs: The Committee bill would modify standards for prohibiting a nursing home from conducting nurse aide training due to deficiencies in its compliance with regulations. A facility would be prohibited from conducting such programs if it has been terminated from the program any time on or after October 1, 1988, until after the end of a period of at least two years during which no survey or investigation finds any deficiencies warranting termination; or it has received a notice initiating termination between October 1, 1989 and September 30, 1990, until the completion of the next survey which finds no deficiencies warranting such a notice. Beginning October 1, 1990, a nursing facility will not be permitted to conduct training if it is found in a standard survey to have deficiencies resulting in significant civil money penalties (over $5,000), denial of payment, or appointment of temporary management, until the completion of the next standard survey which finds no such deficiencies.

The Committee intends that, as the Department gains experience with the new survey and certification methods established in OBRA 1987, the Secretary will recommend more appropriate criteria, if any, to determine whether facilities provide appropriate, quality care to their residents, and therefore, are qualified to provide nurse aide training.

Preadmission screening and annual resident review

Present law

OBRA '87 requires States to establish preadmission screening and review programs to determine whether mentally ill or mentally retarded persons require the level of services provided by a nursing facility and whether they require active treatment. Effective January 1, 1989, NFs participating in Medicaid must not admit any new resident who is mentally ill or mentally retarded, unless the State has determined, prior to admission, that the prospective resident requires the level of services provided by the facility, and whether he or she requires active treatment. OBRA also requires States to review, on an annual basis, all residents who are mentally ill or mentally retarded to determine whether their continued placement is appropriate and whether they require active treatment. The first of these annual reviews was to have been completed April 1, 1990. These preadmission screening and annual resident review requirements are often referred to as PASARR requirements.

The law requires that certain residents be discharged from facilities if their placement is found to be inappropriate. OBRA authorized the Secretary of HHS and States to enter into agreements, prior to April 1, 1989, that specify alternative disposition plans (ADPs) for persons who must be discharged from facilities. ADPs provide additional time for the State to arrange for the disposition of persons who must be discharged.

OBRA required the Secretary to issue by October 1, 1988, minimum criteria for States to use in making determinations as to whether a mentally ill or mentally retarded individual requires the level of services provided by a nursing facility. In May, 1989, HCFA issued interim guidelines (effective May 26) to the States for use in making determinations. On March 23, 1990, HCFA published proposed regulations on requirements for PASARR.

Committee bill

1. No Delegation of Authority to Conduct Screening and Reviews: The Committee bill would clarify that a State mental health authority and State mental retardation or developmental disability authority may not delegate their PASARR responsibilities to nursing facilities (or entities that have a direct or indirect affiliation or relationship with these facilities).

2. No Compliance Actions Before Effective Date of Final Regulations: The Committee bill would prohibit the Secretary from taking (and continuing) any compliance actions against a State for its failure to meet the law's requirements for preadmission screening before the effective date of HCFA's regulations, if the State demonstrates it had made a good faith effort to meet the requirements.

3. Revision of Alternative Disposition Plans: The Committee bill would allow States with approved alternative disposition plans to revise their plans before April 1, 1991, but only if all residents who do not require the level of services provided by nursing facilities are discharged no later than April 1, 1994.

4. State Reports: The Committee bill would require States to report annually to the Secretary on the number and disposition of mentally ill and mentally retarded residents who are discharged from nursing facilities because they do not require this level of care. The Committee bill would also require the Secretary to include this information in his annual report on nursing home reform requirements.

5. Definition of Mentally Ill: The Committee bill would modify the current definition of mental illness from "a primary or secondary diagnosis of mental disorder as defined in DSM-III" to "serious mental illness as defined by the Secretary in consultation with the National Institute of Mental Health." The Committee bill would retain the existing exclusion from PASARR requirements for individuals with a primary diagnosis of dementia (including Alzheimer's disease or related disorder) and would clarify that an individual with a secondary diagnosis of dementia would also be excluded if the individual's primary diagnosis is not a serious mental illness.

6. Substitution of "Specialized Services" for "Active Treatment": The Committee bill would make a technical change to substitute the term "specialized services" for the term

"active treatment." The Committee intends that specialized services include active treatment where appropriate.

7. Clarification with Respect to Admissions and Readmission from a Hospital: The Committee bill would clarify that preadmission screening requirements would not apply to nursing facility residents who are being readmitted to the facility after a hospital stay. The Committee bill would also provide that preadmission screening requirements would not apply to persons (1) who are admitted to the nursing facility directly from a hospital after receiving acute inpatient care at a hospital; (2) who require nursing facility services for the condition for which the person received care in the hospital; and (3) whose attending physician has certified, before admission to the facility, that the person is likely to require less than 30 days of nursing facility services.

Facility staffing

Present law

OBRA 87 requires SNFs and NFs to provide, directly or under arrangements, various kinds of services, including medically-related social services, dietary services, and an on-going program of activities. It also requires facilities to maintain clinical records on all residents. Final regulations published by HCFA on February 2, 1989, and effective October 1, 1990, specify qualifications for the persons providing these services. In some respects, these differ from regulations in effect prior to October 1.

Nursing facilities participating in Medicaid are required to provide 24-hour licensed nursing care sufficient to meet the nursing needs of residents and must use a registered professional nurse at least 8 consecutive hours a day 7 days a week. OBRA 87 authorizes States to waive the registered nurse or licensed nurse requirements if (1) the facility demonstrates that it has been unable to recruit appropriate personnel, despite diligent efforts (including offering wages at the community prevailing rate for nursing facilities); (2) the State determines that a waiver will not endanger the health or safety of residents, and; (3) a registered nurse or physician is obligated to respond immediately to telephone calls from the facility. These waivers are subject to annual renewal and to review by the Secretary of HHS.

1. Standards for Certain Professional Services: The Committee bill would require the Secretary to conduct a study on the hiring and dismissal practices of SNFs and NFs with respect to social workers, dieticians, activities professionals, and medical records practitioners and to report to Congress by January 1, 1993, on whether facilities have on their staffs persons with significantly different credentials as a result of new regulations that became effective October 1, 1990. The Committee also intends that the Secretary discuss in this report the impact any changes have on the quality of care provided by facilities.

2. Additional Requirements with Respect to Medicaid Nurse Staffing Waivers: The Committee bill would require the State agency granting the waivers of nurse staffing requirements to provide notice of a waiver to the appropriate State and substate long-term care ombudsman, to the protection and advocacy system and other appropriate State and private agencies. The Committee bill would also require nursing facilities with waivers to make reasonable efforts to notify present and prospective residents of the facility (or a guardian or legal representative of the resident) of the waiver.

3. Study on Staffing Requirements in Nursing Facilities: The Committee bill would further require the Secretary to study and report to the Congress by January 1, 1992, on minimum caregiver to resident ratios and minimum supervisor to caregiver ratios for nursing facilities receiving Medicaid payments.

Miscellaneous

1. Delay in Requirement for Remedies

Present law

OBRA 87 revises and expands the sanctions that States and the Secretary may impose against nursing facilities found to be out of compliance with the requirements for participation. OBRA required States to amend their Medicaid plans by October 1, 1989, to include certain sanctions that they could use to impose against noncompliant nursing facilities. OBRA also required the Secretary to provide guidance to the States on these sanctions by October 1, 1988, but specified that the failure of the Secretary to provide this guidance did not relieve a State of its responsibility for establishing the sanctions by the statutory deadline. The Secretary has not yet issued regulations providing this guidance.

Committee provision

The Committee bill would delay until April 1, 1991, the requirement that States establish certain sanctions to be imposed against noncompliant nursing facilities.

2. Resident access to clinical records

The Committee bill would require facilities to assure that residents or their legal representatives have access to current clinical records, promptly upon reasonable request;

3. Ombudsman program coordination with State Medicaid and survey and certification agencies

The Committee bill would require that State survey and certification agencies enter into agreement with the Office of the State Long-term Care ombudsman to provide for information exchange, case referral, and prompt notification of any adverse action against a SNF or NF.

4. Period for Resident assessment

The Committee bill would increase from 4 to 14 days the period permitted for resident assessment.

DEMONSTRATION: UNINSURED FAMILIES

Present law

Traditionally, Federal law has extended Medicaid eligibility only to people who are also eligible for cash assistance (SSI, due to age, blindness or disability, or AFDC, due to membership in a family with dependent children). These are called the "categorically needy." Federal law also permits States to cover the "medically needy"—individuals who meet the qualifications for those programs other than income and resource standards, and whose medical bills are high relative to their incomes. The medically needy include many elderly people in nursing homes who "spend down" income and resources to the point that they qualify for Medicaid. The eligibility standards for both the categorically and medically needy are determined largely by the States, so there is a wide variation in eligibility.

In recent years, Congress has extended Medicaid coverage to certain populations based solely on income level, without regard to potential eligibility for cash assistance programs. States must cover pregnant women, infants, and children up to the age of 6 in families whose income is below 133% of the Federal poverty level. States have the option to cover pregnant women and infants with family incomes up to 185% of the Federal poverty level, as well as children up to age 7 (or, at State option, age 8) born after September 30, 1983 whose family incomes are below 100% of poverty.

Committee provision

The Committee approved a provision to establish a demonstration program to permit for up to four States to conduct demonstration projects to provide a minimum health benefits package equal to the State's Medicaid package, to all individuals in families with incomes up to 150% of the Federal poverty level who are not otherwise eligible for Medicaid and do not have other insurance. Those with incomes below 100% of poverty would have all expenses paid by the State. Those with incomes between 100% and 150% of poverty would pay premiums, deductibles and copyaments on a sliding scale basis up to 3% of their monthly gross income. Where it is determined to be cost-effective, the State would pay contributions to employer-based health insurance available to the eligible individuals.

The State may impose a resource test in determining eligibility and may, with the Secretary's approval, restrict services other than early periodic screening, diagnostic and treatment services, to children under age 18. The demonstration project may not be used to pay for nursing home or other long-term care services, or for pregnancy related services in States which have picked up all Medicaid options relating to eligibility of pregnant women and children.

The demonstration project must begin no later than July 1, 1991 and will be of three years' duration. At least one, but no more than two of the projects must be conducted on a substate basis in an area containing a high percentage of racial or ethnic minorities. Other projects must be conducted on a statewide basis, in States which already provide the most generous coverage currently permitted under Federal law to pregnant women, infants and children. The Secretary may not approve a project unless it can reasonably be expected to improve access to health insurance for the uninsured.

The program is intended to demonstrate the effects of eliminating categorical eligibility for Medicaid, both on costs of the program and on reducing the number of uninsured individuals.

DEMONSTRATION: RESPITE CARE

Present law

Medicaid does not cover respite care services except where provided under a home and community-based services waiver approved by the Secretary under section 1915(c) of the Social Security Act. OBRA 1986 established a respite care pilot project under the Medicaid program in the State of New Jersey. This project is intended to determine the extent to which respite services will delay or avert the need for institutional care and how such services can enhance and sustain the role of the family in providing long-term care services for elderly and disabled individuals at risk of institutionalization. The project was to be conducted for a maximum of four years (FY 1987 through FY 1990), plus an additional period of up to six months for final evaluation and reporting.

Committee provision

The Committee bill extends the New Jersey respite care demonstration through September 30, 1992 to compensate for a two-year delay in initiation of the program.

DEMONSTRATION: AIDS

Present law

Eligibility for Medicaid and services offered are determined by States within guidelines established by Federal law. Certain population groups and services must be covered; States have the option of covering other groups and services. The mandatory services generally resemble those offered by traditional health insurance policies.

Federal Medicaid law requires that eligibility and services be uniform throughout a State (the so-called "statewideness" requirement), although this requirement may be waived by the Secretary in certain situations. With limited exceptions, the law also requires that services be comparable for all beneficiaries.

Individuals who test positive for HIV often do not qualify for Medicaid because they do not fit into one of the eligibility categories related to eligibility for a cash assistance program (AFDC or SSI), and are not members of the groups eligible by virtue of income level (pregnant women, infants, and children). Individuals with HIV often become eligible for Medicaid, however, after they have become seriously ill and have spent their resources and income on hospital or other medical care. (In fact, Medicaid pays for approximately 40 percent of all hospital costs incurred by AIDS patients.)

In addition, it is often difficult for AIDS patients, and other patients with complex medical and psychosocial needs, to obtain the various services they require. For example, a pregnant substance abuser with mental illness would be unlikely to find one medical or mental health facility that could address all her needs.

Committee provision

In order to determine the cost-effectiveness of early medical intervention in a hospital-based setting, for HIV-infected individuals and certain other individuals at risk for HIV-infection, two demonstration projects would be established, under which:

Hospitals would be responsible for providing certain services, in certain settings to individuals: (1) who have tested positive for and are infected with the HIV virus (without regard to whether they display symptoms of AIDS or related opportunistic diseases) and whose income and resources do not exceed the maximum amounts that a disabled individual may have under the State Medicaid plan, or (2) who are under age 19, pregnant, have multiple medical and psychosocial needs, and are at risk for HIV infection due to substance abuse.

Medicaid services would be expanded for these individuals to include: general and preventive health care services; prescribed drugs; educational services; case management; social work services/counseling; home care services, including assistance in the activities of daily living; substance abuse treatment services, and respite for caregivers.

The hospitals participating in the program would be paid on a per capita basis determined by the State.

These programs are expected to demonstrate whether early intervention in the treatment of HIV-infected individuals is more cost-effective than treatment for the disease once symptoms occur. The demonstration is also expected to demonstrate the extent to which centralizing various medical and psychosocial services enhances treatment. It is the Committee's intent that hospitals in States or localities with a high incidence of AIDS will be given priority in the selection of facilities for which these demonstration grants will be awarded.

DEMONSTRATION: DEEMED STATUS FOR MENTAL HEALTH FACILITIES

Present law

Under the Medicare program, a provide is said to have "deemed status" if it is accredited by the Joint Commission on the Accreditation of Health Care Organizations (JCAHO). The term refers to the fact that the law specifically provides that such accreditation will satisfy most conditions of participation under the Medicare program, thus dispensing with the need for Federal enforcement of such conditions.

Under State Medicaid plans, a State may determine, through a State agency, whether a provider qualifies for program participation. Alternatively the State may involve private accrediting organizations in making such determinations.

Committee provision

The Committee-approved bill requires the Secretary to establish a demonstration project involving not more than 5 States in which deemed status is provided to mental health facilities (excluding ICFs/MR) by private agencies designated by the State in accordance with criteria developed by the Secretary. A mental health facility is defined, solely for purposes of this demonstration project, as a facility or part of a facility which provides, in an organized setting, outpatient mental health services, outpatient substance abuse and alcoholism services, residential treatment services for children, or day treatment services for children.

The Secretary would be required to consult with various accrediting agencies and provider and consumer organizations in determining criteria for granting deemed status to accrediting bodies, which will be reflected in agreements between those organizations and the Secretary.

PERMIT STATES TO MAKE DISABILITY DETERMINATIONS

Present law

On December 11, 1989, the Health Care Financing Administration issued a final rule, effective January 10, 1990, that prohibits States from making their own determinations of disability for the purpose of determining Medicaid eligibility.

Committee provision

All States would be given the option to make independent eligibility determinations—using Federal standards—for the purposes of Medicaid eligibility, pending a final determination by the Social Security Administration.

MEDICALLY NEEDY INCOME LEVEL FOR FAMILIES OF ONE

Present law

In a medically needy program, a client becomes eligible through deduction of medical expenses from income. After deductions, the client is eligible if the adjusted income does not exceed 133% of the AFDC payment standard that would be paid to a family of the same size without income or resources. The AFDC program does not have a standard for an individual. States are permitted to impute what this standard should be. Most States have been using the AFDC payment standard for a family of two for individuals. The typical medically needy Medicaid client is an adult, but the AFDC payment standard for one is developed to meet the needs of a child. Because of this, an adult has very little remaining income upon which to live.

Committee provision

The Committee-approved bill clarifies 1903(f)(3) so that States are permitted to continue to base medically needy eligibility for single persons on an AFDC payment standard for a family of two.

OPTIONAL SPEND-DOWN METHODOLOGY OPTION

Present law

States have the option of covering "medically needy" individuals—persons who, except for income and resource levels, fall into one of the categories covered by the State (i.e., aged, blind, disabled, member of a family with dependent children, pregnant women and certain children), and whose income and resources fall below the medically needy standards established by the State (according to certain Federal criteria). People may "spend down" to these levels by incurring medical expenses.

Typically, this spend down occurs when a person is institutionalized in a nursing home or has catastrophic health care expenses. In some cases, however, a person whose income and resources are close to the medically needy standard may regularly incur expenses, such as prescription drugs to treat a chronic illness, that make them newly eligible periodically (e.g., monthly). In such cases, the person must present incurred medical bills to establish eligibility.

Committee provision

States would be permitted to apply an alternative methodology for establishing eligibility for their medically needy programs. Medicaid applicants would be given the option to pay their "spend down" amount (i.e., the difference between their actual income and the medically needy income level) to the State Medicaid agency ("pay in"), becoming eligible upon doing so, rather than becoming eligible only after incurring medical expenses.

Under the proposed procedure, the Medicaid agency would notify clients of their monthly spend-down amount; clients could choose whether to pay in or incur the medical expenses to qualify. If an individual elects to pay in, a Medicaid card would be issued monthly until the person failed to make a payment or their eligibility terminated due to a change in circumstances.

This procedure is intended to simplify eligibility determinations for both the applicant and the State, and may afford individuals greater access to health care.

Federal financial participation could be claimed only for the amounts in excess of the spend-down amount paid in.

SANCTIONS FOR INPATIENT PSYCHIATRIC FACILITIES

Present law

Medicaid permits optional coverage of inpatient psychiatric services for children under age 21 in facilities that meet the Medicaid definition of a psychiatric hospital. Coverage is permitted only where a multidisciplinary team has determined that the services are necessary on an inpatient basis and can be reasonable expected to improve the patient's condition. This screening determination—known as the "certification-of-need" process—must be made for new admissions, emergency admissions, and existing patients who become eligible for Medicaid. Regulations prescribe details of the requirements.

Although these requirements have been in place since the optional services was added in 1972, the Department has not actively enforced the screening requirement. Recently, however, the HHS Inspector General began auditing selected States for compliance. Disallowances have been taken in two States and are expected in several others. The disallowances are based on failure to follow proper certification-of-need procedures; whether the admissions were actually appropriate is not at issue.

Committee provision

Disallowances for failure to comply with the regulations pertaining to certification of need requirements would be limited to the time period between admission and the date on which the facility has developed a plan of care for the patient or related documentation that reflects the need for inpatient care, or, where that is not applicable, to the date on which an independent utilization review was completed (pursuant to 42 C.F.R. sec. 441.155(c), or the earliest date that a utilization review is completed that determines that the admission was appropriate. Disallowances could be taken only for the 3-year period ending on the date the audit commenced. In addition, the disallowance would be limited to 25% of the amount in question.

The above limitations would apply to any disallowances or deferral actions with respect to which there has not been a final judicial determination or administrative decision not subject to judicial review as of the date of enactment. The limitations on disallowances for failure to comply with the certification of need requirements would not apply for violations occurring after the date of enactment.

EXTEND AUTHORIZATION OF MINNESOTA MANAGED CARE DEMONSTRATION

Present law

Section 1115 of the Social Security Act provides for demonstration waives of State plan requirements in order to permit the States "to achieve more efficient and effective use of funds for public assistance." Under one such 115 demonstration project, the Minnesota Department of Human Services has been testing a pre-paid capitated approach to providing medical assistance since 1985. The waiver will expire June 30, 1991.

Committee provision

Extend demonstration project for an additional five years.

DEMONSTRATION: ROBERT WOOD JOHNSON LONG-TERM CARE PROJECTS

Present law

In most States, Medicaid will cover the costs of long-term care for poor, elderly individuals who are eligible for SSI. A State may also cover long-term care for elderly individuals with incomes exceeding SSI levels in several ways.

First, a State may establish higher income standards for elderly individuals in nursing facilities, based upon the greater need for financial assistance these individuals would have if they were not in an institution. The income levels for these individuals may not exceed 300 percent of the SSI benefit rate for an individual. Second, a State may opt to cover elderly individuals with incomes below 100 percent of poverty for the wider package of benefits available under its State Medicaid plan. Third, a State may establish a "medically needy" program under which an individual with income exceeding SSI levels become eligible for long-term care by incurring expenses for medical care that reduce his or her income to a level specified by the State; this level may not exceed 133⅓ of the amount that would be payable to a family of the same size without income of resources under the State's AFDC program.

In order to be classified as medically needy, individuals "spend down" to the medically needy level by incurring sufficient medical expenses. They must contribute to the cost of long-term care to the extent that subsequent income would cause the eligibility level to be exceeded.

The Robert Wood Johnson Foundation has awarded planning grants to a number of States to investigate the potential role of public-private partnerships in financing long-term care.

Committee provision

The Committee bill requires the Secretary to approve 10 State Medicaid demonstration projects, in States with long-term care grants from the Robert Wood Johnson Foundation, to permit States to implement public-private partnerships for long-term care insurance. Under the State plans, Medicaid would "reinsure" individuals who purchase approved private long-term care insurance by deeming such individuals eligible for Medicaid long-term care services after the expiration of the benefits provided by the private long-term care insurance plan. Thus, certain resources of these individuals would be protected.

The Secretary would be authorized to waive requirements relating to statewideness, comparability, income and resource eligibility limits, Qualified Medicare Beneficiaries, collection of premiums, liens, recovery of assets, freedom of choice, personal needs allowances, protection of community spouses, and transfer of assets.

States would be required to assure the Secretary that: the average per capita and aggregate expenditures for long-term care services for individuals covered under the waiver do not exceed the expenditures for such individuals under the State plan in the absence of the waiver; services to Medicaid beneficiaries not involved in the demonstration program are not affected; State-approved insurance policies meet certain (NAIC) guidelines; and Medicaid payments will be made on behalf of the demonstration project participants after the demonstration program has expired. States and the Secretary also will be required to report certain information to Congress. The projects will be for an initial period of five years and must be renewed for another five years if requirements have been met. The Secretary would be required to award the demonstration projects in a budget neutral manner.

CLARIFICATION OF SUBSTANCE ABUSE COVERAGE

Present law

Under the Medicaid program, States may cover a number of services at their option, in addition to specified mandatory services. There has been some confusion among States about whether substance abuse treatment may be covered. A recent memorandum from HCFA (August 1990) clarified that any of the Medicaid services that States may offer may be used to treat substance abuse.

Committee provision

The Committee bill includes a provision designed to codify the HCFA policy that nothing shall be excluded from Federal financial participation solely because it is provided as a treatment service for alcoholism or drug dependency.

HOME AND COMMUNITY BASED SERVICES WAIVERS

Present law

a. Bed and board exclusion: Section 2176 of OBRA 1981 permitted States to obtain waivers of certain Medicaid requirements in order to establish a home and community-based service program for a defined population (such as the aged or the mentally retarded) of persons who would otherwise require long-term institutional care. Costs for bed and board are excluded from those which a State may include as Medicaid costs under a waiver.

b. Residents of Terminated ICFs/MR: In order to obtain a Section 2176 waiver, the State must demonstrate that average per capita Medicaid costs for waiver participants are no greater than would have been incurred in the absence of the waiver.

c. HCBS Waiver Baseline Costs: Section 1915(d) waivers place an overall ceiling on the amount a State can spend on all long-term care services, including nursing home and community-based care for persons aged 65 and older. States must determine how much was spent on such services during a base year (usually Federal fiscal year 1987), and inflate the base year amount forward by taking into account inflation and the growth in the age 65 and older population.

d. Freedom of choice of case managers: Home and community-based waivers may not include waiver of patients' freedom to choose among providers of services. Where case management services are purchased as a Medicaid program cost under the waivers, State must allow the recipient of waiver services to choose any provider of case management services.

Committee provision

a. Bed and Board Exclusion: The "bed and board" exclusion would be applied to the share of rent and food costs attributable to an unrelated caregiver who is residing with a waiver participant and without whom the participant would require institutional care.

b. Residents of Terminated ICFs/MR: In estimating per capita costs in the absence of a waiver for persons with mental retardation or a related condition who are residents of an ICF/MR whose Medicaid participation has been terminated, the State may use the costs that would have been incurred if the facility had not been terminated.

c. HCBS Waiver Baseline Costs: Include the costs of OBRA 1987 nursing home reform provisions and other statutory requirements hereinafter in calculating the baseline costs for waiver determinations.

d. Freedom of choice of case managers: Allow States to restrict waiver clients' cloice of case management providers to those employed or trained by the State. States would have to provide assurances to the Secretary that the restriction would not substantially limit the beneficiary's access to waiver services.

MEDICAID PREPAID PLAN PROVISIONS

Present law

a. Physician Incentive Payments: HMOs and CMPs have been permitted to make arrangements with physicians to assume all or part of the financial risk of providing services to Medicaid beneficiaries. However, OBRA 1986 prohibited a health maintenance organization with a Medicaid risk contract from making direct or indirect payments to a physician as an inducement to reduce or limit services provided to enrollees. This prohibition is effective April 1, 1991. Organizations that violate this re-

quirement are subject to civil monetary penalties.

b. Enrollment Composition Requirement: No Federal Medicaid matching payments may be made for services provided by entities contracting with States on a prepaid basis if 75 percent or more of the enrollees are medicaid recipients or Medicare beneficiaries.

Proposal

a. Physician Incentive Payments: The State would be authorized to collect such information as may be necessary to identify inappropriate financial and incentive arrangements used by a prepaid plan with a contract for services provided to Medicaid enrollees.

A prepaid plan with a Medicaid contract would be prohibited from making any direct and specific payment to an individual physician as an inducement to withhold or limit a specific medically necessary service to an identifiable patient. If a plan violates this prohibition, it will be subject to civil monetary penalties of $25,000 for each determination.

A prepaid plan could not place an individual physician or physician group at substantial financial risk (as determined by the State) for services which are rendered by a provider other than the physician or group unless the plan provides adequate protections (as determined by the State) to limit liability, such as stop-loss reinsurance or appropriate risk corridors. A plan would also be required to conduct periodic surveys to determine enrollee satisfaction with access to, and quality of, services, and to have in place quality assurance mechanisms to guard against underutilization. If a plan violates this prohibition, it will be subject to civil monetary penalties of $25,000 for each determination.

b. Enrollment Composition Requirements: The Secretary will have the authority to approve waivers of the 75 percent enrollment standard on a case-by-case basis after he or she has complied with the following requirements:

1. conduct a study of situations where the 75/25 percent enrollment standard is not practical and/or where alternative safeguards or procedures other than private enrollment and oversight could be used to assure that prepaid health care organizations provide quality care and are fiscally sound;

2. publish in the Federal Register by April 1, 1991 for review and comment a set of minimum standards that prepaid health plans must meet to be considered eligible for an enrollment composition waiver (including standards to assure that high quality is maintained) and the terms under which waivers will be approved; and

3. publish revised standards and terms as a final notice.

A waiver under this section shall initially be approved for three years; the Secretary shall determine the terms of the renewal.

DISPROPORTIONATE SHARE FORMULA

Present law

States are required, in making payment for inpatient hospital services, to take into account the situation of hospitals that serve a disproportionate share of low-income patients with special needs. Section 4112 of OBRA 1987 established minimum criteria for defining disproportionate share hospitals and for payment adjustments States are required to make to those hospitals. OBRA 1987 and the Medicare Catastrophic Coverage Act of 1988 established special rules for States that already had program for compensating these hospitals before the enactment of the minimum requirements. The special rule for one of these States (Texas) expires in June 1991.

Guidelines issued by HCFA to assist States in implementing the statutory requirements provided three options for calculating payments to disproportionate share hospitals—the two specified in the statute and another mechanism developed by the State, if the State could demonstrate that it would result in payment adjustments at least equal to the amounts that would be paid under either of the alternatives defined in the law.

On March 19, 1990, HCFA issued proposed regulations that would eliminate this third option for determining payments to disproportionate share hospitals. At least 16 States were employing alternative payment calculation formulae under the interim guidelines, which were approved by the Secretary through approval of the State plans for medical assistance. These States would be required to redesign their payment calculation formulae if this new regulation becomes effective.

Committee provision

In order to give States flexibility in identifying and paying disproportionate share hospitals, States would be permitted to continue using disproportionate share payment methodologies they are currently using provided that they met specified criteria. In addition, States would be provided with additional flexibility in determining which hospitals should be considered disproportionate share hospitals.

In order to be considered a disproportionate share hospital, a hospital would have to meet the criteria (related to Medicaid or low-income utilization rates) currently contained in the statute, or (1) meet other criteria specified by the State that identify hospitals serving a disproportionate number of low income patients with special needs, or (2) meet other criteria specified in an amendment to the State plan that was approved by the Secretary prior to May 1, 1989.

States could continue to use current payment calculation methodologies, including those which treat different types of hospitals in different ways, provided that the amount of each payment adjustment is reasonably related to services provided to Medicaid or low-income patients and that either: (1) the amount of each payment adjustment is at least as great as the minimum currently specified in the law, or (2) the aggregate amount of payment adjustments under a State plan approved prior to December 22, 1987 is not less than the aggregate amount of payment adjustments that otherwise would be required if subsection (c)(1) of section 1923 applied.

A technical amendment would be made that would require States identifying hospitals on the basis of low-income utilization rates to make payments in proportion to the amount by which such rate exceeds 25 percent. (This is parallel to the current requirement for proportionality to the Medicaid utilization rate for hospitals deemed to be disproportionate share hospitals on that basis.)

VOLUNTARY CONTRIBUTIONS/PROVIDER-SPECIFIC TAXES

Present law

Current regulations allow States to use as State expenditures, for purposes of receiving Federal matching payments, funds donated from private sources. Donated funds must be transferred to the State Medicaid agency, be under the agency's administrative control, and not revert to the donor's facility or use unless the donor is a nonprofit organization and the Medicaid agency, of its own volition decides to use the donor's facility. In addition, some States use funds that are generated from taxes on health care providers to draw Federal matching funds.

In the President's proposed budget for FY 1989, the Administration indicated that it would issue regulations to limit the use of donated funds to draw down Federal matching payments. Section 8431 of the Technical and Miscellaneous Revenue Act of 1988 prohibited the Secretary from issuing final regulations changing the treatment of voluntary contributions or provider-paid taxes utilized by States to receive Federal matching funds under Medicaid. The prohibition expired May 1, 1989.

The President's budget for FY 1990 indicated that regulations changing the treatment of these contributions and taxes would be issued after expiration of the ban, but the regulations were not issued.

In its reconciliation bill last year, the Committee approved an amendment that would have permitted states to use donated funds for the purposes of drawing down Federal funds if the State's financial participation in Medicaid in a year, and donations by a particular hospital could not exceed 10 percent of the hospital's gross revenues for a cost reporting period (excluding any Federal revenues under Medicare, Medicaid, or the Maternal and Child Health Block Grant).

The conference agreement simply extended the moratorium on regulations pertaining to both donated funds and provider-specific taxes until December 31, 1990.

In February 1990, HCFA issued proposed regulations that would prohibit State use of either voluntary contributions or provider-specific taxes. Subsequently, HCFA has publicly indicated that it will reconsider its position.

Committee provision

The Committee-approved provision continues the moratorium on regulations pertaining to both voluntary contributions and provider-specific taxes until September 1, 1991. The Committee expects that the Department will seek the advice of outside experts in health economics in reconsidering its policy, and expects a new proposed regulation to be issued within six months.

PROHIBIT WAIVER OF REASONABLE AND ADEQUATE PAYMENT RATES

Present law

In granting waivers of freedom-of-choice under section 1915(b)(4), to allow for selective contracting program, the Secretary has, in some instances, also granted waivers of the provision that requires States to pay hospitals rates that are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities (the "Boren amendment") (section 1902(a)(13)(A)).

Committee provision

The Committee provision would prohibit the Secretary from waiving the reasonable and adequate payment rates for facilities under freedom-of-choice waivers and clarifies that rates established for facilities under selective contracting arrangements must be reasonable and adequate for economically and efficiently operated facilities.

The provision does not prohibit States from establishing selective contracting arrangements for hospital and other institutional services. Nor does it remove the Secretary's authority to waive other portions of section 1902 that could allow the States to pay different rates to different providers under a selective contracting arrangement.

CHILD CARE REPORT LANGUAGE

The Committee has included in its amendment the Child Care and Development Block Grant Act of 1990, a program in the jurisdiction of the Committee on Labor and Human Resources. The Committee has taken the unusual step of including a program that is in the jurisdiction of the Committee on Labor and Human Resources in order to preserve the Senate's intent (as manifest in Senate passage of S. 5 on June 23, 1989) that child care legislation include both expanded tax credits and such a grant program to states. The Committee intends that the child care block grant remain exclusively in the jurisdiction of the Committee on Labor and Human Resources.

The purpose of this block grant program is to increase the availability, affordability, and quality of child care and to expand the range of choices available to parents throughout the nation. The provision provides financial assistance to low-income and working families to help them find and afford quality child care services for their children. It also contains provisions to enhance the quality and increase the supply of child care available to all parents, include those who receive no financial assistance under the block grant project.

More specifically, the purposes of this block grant program are to give parents the maximum choice possible in addressing family child care needs. Additionally, this provision is intended to build on and to strengthen the role of the family by seeking to ensure that parents are not forced by the lack of available programs or financial resources to place a child in an unsafe or unhealthy child care arrangement; to promote the availability and diversity of quality child care services to expand child care options available to all families who need such services; to provide assistance to families whose financial resources are not sufficient to enable such families to pay the full cost of necessary child care; to improve the productivity of parents in the labor force by lessening the stresses related to the absence of adequate child care services; and to provide assistance to states and Indian tribes to improve the quality of, and coordination among, child care programs and early childhood development programs.

The subchapter authorizes $750,000,000 for fiscal year 1991, $825,000,000 for fiscal year 1992, $925,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal years 1994 and 1995. Block grant funds are provided to states in accordance with a formula based on numbers of young children and of school lunch recipients.

Use of Block Grant Funds for Child Care Services

Each state may use 75 percent of block grant funds for direct assistance to parents for child care services and to increase the supply and to improve the quality of child care. The Committee believes that parents should have the greatest choice possible in selecting child care for their children. Thus, parents assisted under section 658E(c)(3)(B) would have complete discretion to choose from a wide range of child care arrangements, including care by relatives, churches, synagogues, family providers, centers, schools, and employers. All such providers could be paid with funds from this program through grants or contracts or through certificates provided to the parent. A parent assisted under section 658E(c)(3)(B) must be given the option of receiving a certificate.

States may use some portion of these funds to increase the supply of child care services. To this end, the Committee expects each state to consider using funds for one or more of the following activities, although this is not intended to be an exclusive list, and the Committee encourages innovative approaches to providing child care for families. The Committee suggests: (1) grants or loans to family and non-profit providers to help establish or expand programs, (2) grants or loans to providers to assist them in meeting state and local standards, (3) activities to promote business involvement in meeting employee child care needs, (4) assistance for the temporary care of eligible children who are sick, (5) assistance for the establishment and operation of child care programs for eligible children who are homeless, (6) assistance to link publicly-assisted child care programs with programs designed to assist the elderly, (7) establishment and administration of a revolving loan fund from which a person desiring to make capital improvement to his or her principal residence may obtain a loan in order to become a family care provider and to comply with applicable state standards, (8) planning, developing and operating a child care certificate program, (9) assistance for comprehensive child care demonstration projects within public school buildings in order to provide year-round, on-site, all-day child care for children ages 3 to 5 and on-site before- and after-school care and which include a family support system for parents (including a home visitation program), (10) grants to local libraries to improve the quality and availability of early childhood learning resources, and (11) establishment of a state liability risk retention pool for child care providers.

The Committee is aware that child care providers are concerned about exposure to liability and the high cost of liability insurance coverage. In come cases, the cost of this insurance has prohibited potential child care providers from openly entering the market. To help provide a mechanism for relief of this liability burden, the Committee has included establishment of liability risk retention groups in the list of activities suggested above that may be undertaken by states to promote and improve child care services. It is assumed that a state which elects to establish such a program may pattern it after the Liability Risk Retention Act of 1986 and may wish to seek technical assistance from the Department of Commerce.

Use of 25 Percent Reserve of Funds

Each state will reserve 25 percent of block grant funds for grants and contracts to providers of early childhood development or before- and after-school services and for activities to improve the quality of child care. Forty percent of this reserve should be allocated to early childhood development and before- and after-school care, 40 percent to quality activities, and the remaining 20 percent may be used for either purpose. The Committee expects that a state may choose to assign responsibility for administration of early childhood development and/or latchkey programs to an agency other than the lead agency. Eligible quality activities include assisting resource and referral programs; making grants or providing loans to providers to assist them in meeting state and local child care standards; establishing or improving child care standards; improving the monitoring of, compliance with, and enforcement of, state standards and licensing and regulatory requirements; providing training and technical assistance; and improving salaries and other compensation paid to child care providers.

General Provisions

Families eligible for assistance in paying for child care are those earning less than 75 percent of the state median income and with children under age 13. The amount of assistance would be based on a sliding fee scale, and providers would receive payment at rates which would ensure equal access to services comparable to those provided to children whose care is not publicly subsidized (with categories for comparability to be determined by the state).

Parental choice and involvement are further enhanced through provisions for unlimited access to providers during the day and within the care setting, for parental complaint procedures and access to records of substantiated parental complaints, and for consumer education.

The Committee intends that the determination whether any financial assistance provided under this subchapter, including a loan, grant or child care certificate, constitutes Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 794 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), all as amended, and the regulations issued thereunder, shall be made in accordance with those provisions.

To receive funds, a state will submit a plan that includes: designation of a lead agency; local consultation regarding use of funds; coordination with existing programs; descriptions of planned use of funds, in general and in the quality reserve; supplement not supplant language; priority for very low income children and children with special needs; and use of a sliding fee scale. The Committee intends that, to the maximum extent practicable, the lead agency be a state entity in existence on or before the date of enactment of this subchapter with experience in the administration of appropriate child care programs.

All eligible providers will be licensed, regulated, or registered prior to payment and must comply with applicable state and local licensing and regulatory requirements. The state plan must describe health and safety requirements established by the state for all providers funded through this subchapter and ensure that such providers demonstrate compliance with these requirements. These health and safety requirements are to cover the prevention and control of infectious diseases, building and physical plant premises safety, and a minimum health and safety training requirement. The health and safety training requirement is to be appropriate to the provider setting and thus may vary by type of provider and may utilize past experience or other informal training. The state is to conduct a one-time review of state licensing and regulatory requirements and policies, unless the state has done so within three years prior to the date of enactment.

The state will report to the Secretary of Health and Human Services annually on the use of funds (including use of the quality re-

serve); data on caregivers and children in care; results of any review of state licensing and regulatory requirements; an explanation of any state actions to reduce the levels of state standards; state actions to improve the quality of care; and a description of standards in the state.

The Secretary will report to Congress annually on use of funds in the states (including the use of the quality reserve). The report will include a summary and analysis of the above data provided by the States to the Secretary and any recommendations to Congress on further steps necessary to improve access to quality and affordable child care.

SUBTITLE D—TRADE PROVISIONS

Part I—Customs User Fees (Section 6301)

Customs User Fees

(a) Extension of customs user fees

Present law: Sections 111 through 115 of the Customs and Trade Act of 1990 (Public Law 101-382) restructured the merchandise processing fee in order to bring the United States into conformity with the General Agreement on Tariffs and Trade (GATT) and reauthorized the merchandise processing fee and the fees imposed on the processing of air passengers from abroad, various conveyances, dutiable mail, and customs broker permits through FY 1991.

Proposed change: The provision would extend the merchandise processing fee and other above-mentioned user fees through September 30, 1995.

Effective date: The provision would be effective on and after October 1, 1991.

(b) Adjustment mechanism for merchandise processing fee on formal entries.

Present law. Present law provides no authority for the Customs Service to adjust the merchandise processing fee on formal entries, since the fee had been extended only through FY 1991. Sections 113(a) (3), (4), and (5) of the Customs and Trade Act of 1990 require the Customs Service to estimate for each fiscal year, based on the amounts appropriated, the amount of the fee that would, if imposed on the processing of merchandise, offset the salaries and expenses subject to reimbursement from the fee that will likely be incurred by Customs in conducting operations during that fiscal year, develop a detailed explanation of the cost base and methodology used to compute the fee and report the estimates and explanations to the House Ways and Means and Senate Finance Committees. As provided in Section 111(a) of the Customs and Trade Act of 1990, the merchandise processing fee on formal entries is 0.17 percent *ad valorem.*

Proposed change: The Committee bill authorizes the Secretary of the Treasury to adjust the fee in order to take into account changes in economic conditions or trade flows and avoid unintended under- or over-collections. The Committee believes this adjustment mechanism would help to ensure that the user fee would continue to conform to the requirements of the GATT.

Under the provision, the Secretary may adjust the merchandise processing fee on formal entries by the lesser of either the amount needed to meet the appropriated levels for allowable Commercial Operations costs, or 0.02 percentage points. When an adjustment is made, the Secretary shall take into consideration any under- or over-collections in prior years. The Secretary may adjust the fee only after: (1) publishing within 30 calendar days of the date of enactment of the Customs Service's regular annual appropriation both a notice of intent to adjust the fee, the amount of the proposed fee, and an invitation for public comment on the proposal; (2) consulting with the Senate Finance and House Ways and Means Committees for a period of 30 legislative days (as defined in the section); and (3) publishing a final determination of the new rate in the *Federal Register* after the public comment and Congressional consultation periods have expired. The new rate would be effective 15 days after the determination is published.

Effective date: The amendments made by this section shall apply to the processing of merchandise during any fiscal year beginning after September 30, 1991.

(c) Small user fee airports

Present law: Section 111 of the Customs and Trade Act of 1990 exempts air courier hubs, express consignment carrier facilities and user-fee airport operators from the Customs user fees on "informal" entries (generally, those valued at less than $1,250). In lieu of these informal fees, section 111 requires that these entities reimburse Customs in an amount that is double their current assessments for Customs processing services.

Proposed change: Under this provision, user fee airports that process fewer than 25,000 informal entries annually would be required to collect the applicable informal entry user fee. Such low-volume user fee airports would not be required to pay the double reimbursement to Customs. This change reflects the fact that the double reimbursement requirement imposed an unintended hardship on those user fee airports that process small volumes of informal entries. High volume user fee airports continue to be exempt from the user fees for informal entries and subject to the double reimbursement requirement.

Effective: October 1, 1990.

Part II—Technical Corrections (Sections 6311 and 6312)

Technical Corrections to Customs and Trade Act of 1990

Present law: The Customs and Trade Act of 1990 included numerous tariff provisions and miscellaneous Customs provisions.

Proposed change: This section corrects several technical errors in the Customs and Trade Act of 1990. In particular, it corrects drafting errors in various tariff provisions, and reinstates two statutory provisions of the Customs Forfeiture Fund that were inadvertently deleted from existing law.

Effective date: The amendments to the miscellaneous tariff provisions apply to articles entered, or withdrawn from warehouse for consumption, on or after October 1, 1990. Where applicable, retroactivity contained in original provisions is preserved. The Customs Forfeiture Fund amendments are retroactive to August 21, 1990.

INCREASES IN PBGC PREMIUMS

Present law

Under present law, a flat-rate per-participant premium of $16 is payable with respect to each single-employer defined benefit pension plan. The premium is payable to the Pension Benefit Guaranty Corporation (PBGC). An additional premium of $6.00 multiplied by $1,000 of unfunded vested benefits is payable with respect to underfunded plans. The maximum additional per-participant premium (i.e., the total additional premium divided by the number of plan participants) is capped at $34.

Committee provision

The Committee bill raises the flat-rate PBGC premium to $19, increases the assessment per $1,000 of unfunded vested benefits to $9, and increases the per-participant cap on the additional premium to $53. The increases are effective for plan years beginning after December 31, 1990. The Committee believes that it is appropriate to increase the PBGC premiums in a manner so that the proportion of premium revenue raised from the flat-rate premium and the additional premium keeps relatively constant compared to present law.

II—REVENUE TITLE (TITLE VII OF THE BILL)

SUBTITLE A. EXTEND EXPIRING TAX PROVISIONS THROUGH 1991

1. Allocation and apportionment of research and experimental expenditures (sec. 7101 of the bill and sec. 864(f) of the Code)

Present Law

Foreign tax credit and source rules

Under the Code, each item of income is assigned either a U.S. source or a foreign source. The foreign tax credit for foreign taxes paid on foreign source income is limited to the amount of U.S. tax otherwise payable on foreign source income. The foreign tax credit is not available against U.S. tax on U.S. source income. (This is known as the foreign tax credit limitation.) A shift in the source of income from foreign to U.S. may increase net U.S. tax for some taxpayers by reducing the foreign tax credit limitation.

In determining foreign source taxable income for purposes of computing the foreign tax credit limitation, and for other tax purposes, taxpayers are required to apportion expenses between foreign source income and U.S. source income (Code secs. 861-864). A shift in the apportionment of expenses from U.S. source to foreign source gross income decreases foreign source taxable income. This decrease may increase U.S. tax by reducing the foreign tax credit limitation.

Research and experimental expense allocation regulation

Treasury Regulation section 1.861-8 (promulgated in 1977) sets forth detailed rules for allocating and apportioning several categories of expenses, including deductible research and experimental expenditures ("research expenses"). The regulation provides that research expenses are ordinarily considered definitely related to all gross income reasonably connected with one or more of 32 product categories based on two-digit classifications of the Standard Industrial Classification ("SIC") system. Research expenses are not traced solely to the income generated by the particular product which benefited from the research activity. Instead, these expenses are associated with all the income within the SIC product group in which the product is classified.

The Treasury regulation contemplates that taxpayers will sometimes undertake research solely to meet legal requirements imposed by a particular governmental entity with respect to improvement or marketing of specific products or processes. In some cases, such research cannot reasonably be expected to generate income (beyond de minimis amounts) outside that governmental entity's jurisdiction. If so, the deductions allowable for such associated research expense are allocated solely to gross income from the geographic source that includes that jurisdiction.

After research expenses incurred to meet legal requirements are allocated under the above rule, any remaining research expenses are generally apportioned to foreign source income based on the ratio of total foreign source sales receipts in the SIC product group with which the expenses are identified to the total such worldwide sales receipts in that product group (the "sales" or "gross receipts" method). In computing this fraction, sales by a party controlled or uncontrolled by the taxpayer may be taken into account if the party can reasonably be expected to benefit from the research expense. However, the regulation provides that a taxpayer using the sales method may first apportion at least 30 percent of research expense remaining after allocation to meet legal requirements exclusively to income from the geographic source where over half of the taxpayer's research and development is performed.

Thus, for example, a taxpayer that performs 50 percent or more of its research and development in the United States may automatically apportion at least 30 percent of its remaining research expense to U.S. source income. A taxpayer can choose to apportion to the geographic source where research and development is performed a percentage of research expense significantly greater than 30 percent if the taxpayer establishes that the higher percentage is warranted because the research and development is reasonably expected to have a very limited or long-delayed application outside that geographic source.

Alternatively, subject to certain limitations, a taxpayer may elect to apportion its research expense remaining after any allocation to meet legal requirements under one of two optional gross income methods. Under these optional methods, a taxpayer generally apportions its research expense on the basis of relative amounts of gross income from U.S. and foreign sources. If a taxpayer makes an automatic place-of-performance apportionment, the taxpayer may not use either optional gross income method.

The basic limitation on the use of the optional gross income methods is that the respective portions of a taxpayer's research expense apportioned to U.S. and foreign source income using these methods can not be less than 50 percent of the respective portions that would be apportioned to each income grouping using a combination of the sales and place-of-performance apportionment methods.

If this 50-percent limitation is satisfied with respect to both income groupings, the taxpayer may apportion the amount of its research expense that remains after allocation under the legal requirements test ratably on the basis of foreign and U.S. gross income. If the 50-percent limitation is not satisfied with respect to one of the income groupings, then the taxpayer must apportion to that income grouping 50 percent of the amount of its research expense which would have been apportioned to that income grouping under the sales and place-of-performance methods. A taxpayer electing an optional gross income method may be able then to reduce the amount of its research expense apportioned to foreign source income to as little as one-half of the amount that would be apportioned to foreign source income under the sales method.

For example, consider a taxpayer with $110 of U.S.-performed research expense and equal U.S. and foreign sales. Assume that $10 of the research expense is to meet U.S. legal requirements and is allocated to U.S. source income. Of the remaining $100, 30 percent ($30) is exclusively apportioned to U.S. source income under the automatic place-of-performance rule and the remaining $70 is divided evenly between U.S. and foreign source income, using the sales method. Thus, under this method $35 would be allocated to foreign source income and $75 would be allocated to U.S. source income. Under the optional gross income methods, the $35 of research expense allocated to foreign sources can be reduced as much as 50 percent, to $17.50. This can occur, for example, if the foreign sales were made by a foreign subsidiary that did not repatriate earnings to the U.S. corporation, and thus a disproportionately high fraction of the U.S. corporation's income is from U.S. sources.

The optional gross income methods apply to all of a taxpayer's gross income, not gross income on a product category basis.

Temporary moratorium and Treasury study

The Economic Recovery Tax Act of 1981 (ERTA) provided that, for a taxpayer's first two taxable years beginning within two years after the date of its enactment (August 13, 1981), all research and experimental expenditures (within the meaning of sec. 174) paid or incurred in those years for research activities conducted in the United States were to be allocated or apportioned to income from sources within the United States (sec. 223 of ERTA).

This two-year moratorium was effectively extended for two additional years by the Tax Reform Act of 1984 (the "1984 Act"). Under section 126 of the 1984 Act, for taxable years beginning generally after August 13, 1983, and on or before August 1, 1985, all of a taxpayer's research and experimental expenditures (within the meaning of sec. 174) attributable to research activities conducted in the United States were to be allocated to sources within the United States for purposes of computing taxable income from U.S. sources and taxable income from sources outside the United States.

One reason Congress cited for enacting the original two-year moratorium was that some foreign countries do not allow deductions under their tax laws for expenses of research activities conducted in the United States. Taxpayers argued that this disallowance caused U.S.-based research to be disadvantaged. First, U.S.-based research expense is deemed to be allocated to a foreign country which may not recognize that such amount is deductible as an expense. The allocation of this U.S.-based research expense to foreign sources had the effect of reducing the foreign tax credit of U.S. taxpayers. Because those taxpayers could take their deductions if the research occurred in the foreign country, taxpayers argued that there was an incentive to shift their research expenditures to those foreign countries whose laws disallow tax deductions for research activities conducted in the United States but allow tax deductions for research expenditures incurred locally.

Accordingly, Congress concluded that the Treasury Department should study the impact of the allocation of research expenses under the 1977 regulation on U.S.-based research activities and on the availability of the foreign tax credit. Pending the outcome of the study, Congress concluded that expenses should be charged to the cost of generating U.S. source income, regardless of whether such research was a direct or indirect cost of producing foreign source income.

On the ground that a reduction in research and development might adversely affect the competitive position of the United States, the 1983 Treasury report recommended the two-year extension of the moratorium that was ultimately enacted by Congress in 1984. The extension was intended to allow Congress to consider further the results of the Treasury study.

The Consolidated Omnibus Budget Reconciliation Act of 1985 (the "1985 Act") extended the moratorium on the application of the research and experimental expense allocation rules of the 1977 regulation generally for one additional taxable year beginning after August 1, 1985, and on or before August 1, 1986.

The Tax Reform Act of 1986 (the "1986 Act") permitted the moratorium on application of the research expense allocation rules in regulation section 1.861-8 to expire. However, for taxable years beginning after August 1, 1986, and on or before August 1, 1987, application of the regulation was liberalized by the 1986 Act in three respects, which were intended by Congress to provide an additional tax incentive to conduct research in the United States while Congress analyzed whether any additional permanent incentive was necessary.

The first liberalization under the 1986 Act was that for the specified one-year period, 50 percent of all remaining amounts allowable as a deduction for qualified research and experimental expenditures (that is, research and experimental expenditures within the meaning of section 174 that are attributable to activities conducted in the United States) after allocation of legally required research expenses could be apportioned to U.S. source income and deducted from such income in determining the amount of taxable U.S. source income. The 1986 Act thus had the effect of increasing the automatic place-of-performance apportionment percentage for U.S.-based research expense from 30 percent to 50 percent.

The 1986 Act further provided that, for the specified one-year period, the portion of those amounts allowable as a deduction for qualified research and experimental expenditures that remained after any legal requirements allocation and the 50 percent automatic place-of-performance apportionment were apportioned either on the basis of sales or gross income. Thus, the 1986 Act's second effective liberalization of the regulation was to allow the automatic place-of-performance apportionment temporarily to taxpayers who elected to apportion expenses using the optional gross income method, rather than only to taxpayers that used the standard sales method of apportionment. Third, the 1986 Act had the effect of temporarily suspending the regulatory rule that prohibits taxpayers from using the optional gross income method to reduce allocation of research expense to foreign source income by more than 50 percent of the amount that would be allocated to foreign source income under the sales method.

The temporary modifications made by the 1986 Act to the research expense allocation rules in regulation section 1.861-8 applied for purposes of computing taxable income from U.S. sources and taxable income from sources outside the United States. The modifications applied only to the allocation of expenditures for research and experimental activities conducted in the United States, and only for the purposes of geographic sourcing of income; the modifications did not apply for other purposes, such as the computation of combined taxable income of

a FSC (or DISC) and its related supplier. Also, the modifications did not apply to any expenditure for the acquisition or improvement of land, or for the acquisition or improvement of depreciable or depletable property to be used in connection with research or experimentation.

The Technical and Miscellaneous Revenue Act of 1988 (the "1988 Act") further modified, again on a temporary basis, the rules for sourcing research expenditures. These modifications were effective only for the first four months of a taxpayer's first taxable year beginning after August 1, 1987 (treating all applicable expenditures in that taxable year as if they were incurred ratably over the year). Under the 1988 Act, the treatment of research and development expenditures incurred to meet certain legal requirements was unchanged. After applying the legal requirements rule, however, the 1988 Act modifications provided that 64 percent of the U.S.-based research expenses remaining to be allocated and apportioned were allocated to U.S. source income and 64 percent of the remaining foreign-based research expenses were allocated to foreign source income. The remaining research expenditures treated as having been incurred during this four-month period were allocated and apportioned either on the basis of sales or gross income. However, if the gross income method of apportionment was utilized, the amount apportioned to foreign source income could be no less than 30 percent of the amount that would have been apportioned to foreign source income had the sales method been used.

Generally, for the remainder of a taxpayer's first taxable year beginning after August 1, 1987 (and for subsequent taxable years), the rules set forth in regulation section 1.861-8 were (and are) applicable with respect to sourcing research and experimental expenditures.

The Revenue Reconciliation Act of 1989 (the "1989 Act") extended, again on a temporary basis, the rules for sourcing research expenditures that were contained in the 1988 Act. As extended, these rules were effective only for the first nine months of a taxpayer's first taxable year beginning after August 1, 1989, and before August 2, 1990 (treating all applicable expenditures in that taxable year as if they were incurred ratably over the year). Generally, for the remainder of a taxpayer's first taxable year beginning after August 1, 1989, and before August 2, 1990 (and for subsequent taxable years), the rules set forth in regulation section 1.861-8 were (and are) applicable with respect to sourcing research and experimental expenditures.

Reasons for Change

In the 9 years since the first temporary moratorium on the 1977 regulation was enacted, Congress, the Treasury Department, and representatives of affected industries have intensely scrutinized the effects of the research and experimental allocation rules on research activities.[1] That scrutiny has not resulted in an unambiguous recommendation regarding the appropriateness of allocating U.S.-based research expenses to U.S. source income under either the 1977 regulation, the complete moratorium, or the partial moratoria of the 1986 and 1988 Acts. On the one hand, there are those who argue that the moratorium and the partial moratoria had a beneficial effect on U.S. research activity and on U.S. competitiveness in world-wide markets. On the other hand, there are those whose studies prompt them to conclude otherwise. Furthermore, the tax costs of both the total and the partial moratoria have been significant, and the tax benefits they have bestowed are distributed somewhat arbitrarily among taxpayers. At the same time, these taxpayers have faced a prolonged period of uncertainty as to the research and experimental allocation rules that will apply in the coming years, making it more difficult for them to predict the after-tax costs of the research in which they generally must engage, if at all, over extended future periods.

In April 1987 the Treasury Department, noting that "we all have a stake in ending [the controversy] as soon as possible,"[2] expressed its view that an appropriate way to balance the concerns of promoting U.S. research and development, on the one hand, and appropriately dividing income tax receipts between the United States and foreign taxing jurisdictions, on the other, would be to make the 1986 Act liberalizations permanent, while further increasing the automatic place-of-performance apportionment percentage from 50 percent to 67 percent. In 1988, a somewhat modified temporary proposal was adopted by the committee, and was subsequently adopted by Congress.

The committee continues to believe that the substantive modifications adopted in the 1988 Act and extended in the 1989 Act are consistent with tax and competitiveness policy, while reducing somewhat the cost of the permanent solution to these issues. The committee is concerned, for example, that the unlimited use of the gross income method of apportionment together with an automatic apportionment percentage of 67 percent would unfairly favor companies that delay or otherwise manipulate the repatriation of earnings of controlled foreign subsidiaries. The committee also wishes to avoid any possible inference, arguably arising under the language of the committee's 1987 bill, that while 64 percent of expenses for U.S. conducted research may be allocated to U.S. source income in order to encourage U.S. research, the regulation might also be used to automatically allocate in some cases 30 percent of the expenses of conducting research abroad to U.S. source income. Thus, the committee believes that if research is conducted abroad, most of those expenses should be allocated and apportioned against foreign source income.

In light of the 1986 Act provisions regarding the sourcing of income from space, the high seas, and Antarctica, the committee believes that it is appropriate to clarify on a permanent basis whether expenses for research conducted in such places is allocated and apportioned according to the rules for allocating expenses of U.S. conducted research or foreign conducted research.

Explanation of Provision

General allocation rule

The bill extends the application of Code section 864(f), which supersedes the Treasury's research and experimentation expense allocation regulation for purposes of determining the source of taxable income, and applies the statutory rules for allocation of such expenses contained in the 1988 Act and the 1989 Act. These rules do not apply, for example, in the allocation and apportionment of deductions for research and experimental expenditures for purposes of computing the taxable income of a foreign taxpayer effectively connected with its conduct of a trade or business in the United States.

The bill allocates research and experimental expenditures as defined by section 174 of the Code ("qualified research and experimental expenditures" as that phrase is used in the bill) entirely to one geographic source if they were incurred to meet legal requirements imposed with respect to improvement or marketing of specific products or processes and cannot reasonably be expected to generate income (beyond de minimis amounts) outside that geographic source (see Treas. Reg. sec. 1.861-8(e)(3)(i)(B)).

With respect to qualified research and experimental expenditures not specifically allocated under the rules described in the preceding paragraph, the bill provides that a taxpayer shall allocate 64 percent of such expenses for research conducted in the United States to U.S. source income, and 64 percent of expenses for foreign-based research and experimentation to foreign source income. Under the bill, a taxpayer may allocate and apportion the remainder of research and experimental expenses on the basis of either sales or gross income. However, if the income based method of apportionment is chosen, the amount apportioned to foreign source income can be no less than 30 percent of the amount that would be apportioned to foreign source income had the sales method been used.

For example, assume that an unaffiliated U.S. taxpayer has $100 of U.S. research expenses and $100 of foreign research expenses, that 50 percent of relevant gross sales produce foreign source income, and that 10 percent of the taxpayer's gross income is from foreign sources. Under the bill, assuming there is no legal requirements allocation, $125.20 of the qualified research and experimental expenditures may be allocated and apportioned to U.S. source income. The bill allocates $64 to U.S. source income using the automatic place-of-performance allocation for U.S. research expenses, and $64 to foreign source income using the automatic place-of-performance allocation for foreign research expenses. Of the remaining $72 of qualified research and experimental expenditures, $61.20 may be apportioned to U.S. source income. A straight gross income apportionment of the $72 remainder would have resulted in apportioning $64.80 to U.S. source income, and $7.20 to foreign source income, while a gross sales apportionment would have resulted in apportioning $36 to U.S. source income and $36 to foreign source income. The gross sales limit provides that a minimum of 30 percent of $36, or $10.80, must be apportioned to foreign source income. Therefore, of the $72 of expenses remaining for apportionment after the automatic place-of-performance allocations, no more than $61.20 may be apportioned to U.S. source income.

The bill expressly does not apply to any expenditure for the acquisition or improvement of land, or for the acquisition or improvement of depreciable or depletable property to be used in connection with research or experimentation. Additionally, any qualified research and experimental expenditures treated as deferred under section 174(b) shall be taken into account for purposes of applying these source allocation rules in the taxable year such expenditures are allowed as a deduction.

[1] *See, e.g., Interaction Between U.S. Tax Policy and Domestic Research and Development: Hearing on S.58 and S.716 Before the Subcomm. on Taxation and Debt Management of the Senate Comm. on Finance*, 100th Cong., 1st Sess. (1987).

[2] *Id.* at 84.

Affiliated group and possessions corporations

As is already true for research expenses that, but for the special allocation rule extended by the bill, would be covered by the general expense allocation rules introduced in the 1986 Act (sec. 864(e)), the bill provides generally that allocation and apportionment of research expenses, like other expenses, is to be determined as if all members of the affiliated group (plus any section 936 companies (possession corporations) that would be eligible to consolidate absent statutory prohibition) were a single corporation. However, in the case of a section 936 company that has elected either the cost sharing or profit split method of computing its intangible property income (sec. 936(h)(5)(C)), its sales and gross income from products produced in whole or in part in a possession, and dividends paid by such company attributable to sales of such products, will not be taken into account under the bill to the extent that the company is allowed a credit under section 936 with respect to gross income on those products that is intangible property income.

Where an affiliated group with qualified research and experimental expenditures has a possession corporation that has elected either the cost sharing or profit split method for computing its intangible property income, its cost sharing amount will be an adjustment to the group's qualified research and experimental expenditures subject to allocation and apportionment under the bill. (This rule applies to the profit split method as well as the cost sharing method with respect to section 936 companies because the amount allocated and apportioned to combined income in the case of such a company electing the profit split method is computed taking into account the cost sharing amount.) Thus, for example, if a group has a possession corporation using cost sharing with respect to its only product and all of the group's research expenses are qualified research and experimental expenditures, then the cost sharing amount under section 936 that is attributable to those qualified research and experimental expenditures will reduce the research expenses allocated between the group's U.S. and foreign source income based on the gross income or gross sales of the group. Similarly, where an affiliated group with qualified research and experimental expenditures has a section 936 company that has elected the profit split method, the qualified research and experimental expenditures taken into account in computing combined taxable income will be an adjustment to the group's qualified research and experimental expenditures subject to allocation and apportionment under the bill.

The bill provides the Treasury with the authority to prescribe such regulations as may be necessary to carry out the purposes of the one taxpayer rule and its exceptions regarding section 936 companies. In addition to providing the safeguards addressed in the regulations under the general one taxpayer rule of section 864(e), these regulations are to provide for the source of gross income and the allocation and apportionment of deductions to take into account the adjustment to group-allocable qualified research and experimental expenditures for research expenses treated as cost sharing amounts under section 936. In addition, these regulations may provide for an adjustment to group-allocable research expenditures to take into account certain bona fide cost sharing payments by foreign affiliates, where necessary and appropriate in light of the purposes of the one taxpayer rule. The committee anticipates that in taking into account cost sharing amounts, the regulations will prevent any disproportionate reduction in the amount of research expenses allocated and apportioned to foreign source income.

Allocation for space, ocean, and Antarctica research expenses

The bill clarifies the rules for research conducted in space, on or beneath the ocean, or in Antarctica. Research expenses incurred by U.S. persons for activities conducted in space, in Antarctica, or on or under water not within the jurisdiction (as recognized by the United States) of a foreign country, U.S. possession, or the United States, are allocated and apportioned in the same manner as if they were attributable to activities conducted in the United States. Similarly, research expenses for such activities incurred by non-U.S. persons are allocated and apportioned as if they were attributable to activities conducted outside the United States.

Effective Date

The provision is effective for the taxpayer's first two taxable years beginning after August 1, 1989, and on or before August 1, 1991. Thus, the allocation and apportionment rules of the provision apply to the remainder of the year covered by the 1989 Act as well as to the subsequent year.

2. Research and experimentation tax credit (sec. 7102 of the bill and sec. 41 of the Code).

Present Law

A 20-percent tax credit is allowed to the extent that a taxpayer's qualified research expenditures for the current year exceed its base amount for that year. The credit will not apply to amounts paid or incurred after December 31, 1990, and a special rule to prorate qualified research expenditures applies in the case of any taxable year which begins before October 1, 1990, and ends after September 30, 1990.[3]

The base amount for the current year generally is computed by multiplying the taxpayer's "fixed-base percentage" by the average amount of the taxpayer's gross receipts for the four preceding years. If a taxpayer both incurred qualified research expenses and had gross receipts during each of at least three years from 1984 to 1988, then its "fixed-base percentage" is the ratio that its total qualified research expenses for the 1984-1988 period bears to its total gross receipts for this period (subject to a maximum ratio of .16). A taxpayer's base amount may not be less than 50 percent of current-year qualified research expenditures.

In addition, the 20-percent tax credit also applies to the *excess* of (1) 100 percent of corporate cash expenditures (including grants or contributions) paid for university basic research *over* (2) the sum of (a) the greater of two fixed research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fixed base period, as adjusted for inflation.

Reasons for Change

The committee concluded that the credit for qualified research expenditures and the university basic research credit should be extended for one additional year.

Explanation of Provision

The 20-percent incremental credit for qualified research expenditures and the university basic research credit are extended through December 31, 1991. The special rule to prorate research expenditures incurred during 1990 is repealed.

Effective Date

The provision is effective for taxable years beginning after December 31, 1989.

3. Exclusion for Employer-Provided Educational Assistance (sec. 7103 of the bill and sec. 127 of the Code)

Present Law

Under present law, an employee (including a self-employed individual) must include in income and wages, for income and employment tax purposes, the value of educational assistance provided by an employer to the employee, unless (1) the cost of such assistance qualifies as a deductible job-related expense of the employee (secs. 132, 162) or (2) the educational assistance is provided under an educational assistance program that meets certain requirements (sec. 127).

The exclusion for educational assistance benefits provided pursuant to an educational assistance program described in section 127 expired for taxable years beginning after September 30, 1990. Only amounts paid before October 1, 1990, in a taxable year beginning in 1990 are taken into account in determining the amount of the exclusion.

No more than $5,250 of educational assistance benefits provided during any calendar year can be excluded from the income of an employee. In addition, the exclusion for educational assistance benefits does not apply to graduate level courses. Specifically, the exclusion does not apply to any payment for, or the provision of any benefits with respect to, any course taken by an employee who has a bachelor's degree or is receiving credit toward a more advanced degree if the particular course can be taken for credit by any individual in a program leading to a law, business, medical, or other advanced academic or professional degree.

To the extent that employer-provided educational assistance is not excludable from income because it exceeds the maximum dollar limitation or because of the limitation on graduate-level courses, it may be excludable from income as a working condition fringe benefit (sec. 132(d)), provided the requirements of that section are otherwise satisfied (e.g., the education is job related as defined under sec. 162).

Reasons for Change

The exclusion for educational assistance was originally enacted for a temporary period in order to provide Congress with an opportunity to evaluate the use and effectiveness of the exclusion. The committee believes it is appropriate to extend the exclusion again for a temporary period. In addition, the committee believes it is appropriate to make the exclusion available in the case of graduate level courses.

Explanation of Provision

The bill extends the exclusion for employer-provided educational assistance benefits through taxable years beginning before January 1, 1992. The special rule limiting the exclusion in the case of a taxable year beginning in 1990 is repealed. In addition, the rule restricting the availability of the

[3] Under this special proration rule, the amount of qualified research expenses incurred by a taxpayer prior to January 1, 1991, is multiplied by the ratio that the number of days in that taxable year before October 1, 1990, bears to the total number of days in such taxable year before January 1, 1991.

exclusion with respect to graduate level courses is repealed.

Effective Date

Effective for taxable years beginning after September 30, 1990.

4. Exclusion for Employer-Provided Group Legal Services; Tax Exemption for Qualified Group Legal Services Organizations (sec. 7104 of the bill and sec. 120 of the Code).

Present Law

Under present law, amounts contributed by an employer to a qualified group legal services plan for an employee (or the employee's spouse or dependents) are excluded from the employee's gross income for income and employment tax purposes (sec. 120). The exclusion also applies to any services received by an employee (or the employee's spouse or dependents) or any amounts paid to an employee under such a plan as reimbursement for the cost of legal services for the employee (or the employee's spouse or dependents). The exclusion is limited to an annual premium value of $70. In order to be a plan under which employees are entitled to tax-free benefits, a group legal services plan is required to fulfill certain requirements. One such requirement is that group legal services benefits may not discriminate in favor of highly compensated employees in certain respects.

The exclusion for group legal services benefits expired for taxable years beginning after September 30, 1990. Only amounts paid before October 1, 1990, in taxable years beginning in 1990 for coverage before October 1, 1990, are taken into account in determining the amount of the exclusion for the year.

In addition, present law provides tax-exempt status for an organization the exclusive function of which is to provide legal services or indemnification against the cost of legal services as part of a qualified group legal services plan (sec. 501(c)(20)). The tax exemption for such an organization expired for taxable years beginning after September 30, 1990.

Reasons for Change

The committee believes it is appropriate to extend, on a temporary basis, the exclusion for employer-provided group legal services and the tax exemption for group legal services organizations.

Explanation of Provision

The bill extends the exclusion for employer-provided group legal services and the tax exemption for qualified group legal services organizations through taxable years beginning before January 1, 1992. The special rule limiting the exclusion in the case of taxable years beginning in 1990 is repealed.

Effective Date

The provision is effective for taxable years beginning after September 30, 1990.

5. Targeted Jobs Tax Credit (sec. 7105 of the bill and sec. 51 of the Code).

Present Law

A tax credit is available on elective basis to employers of individuals described in at least one of nine targeted groups. The nine groups consist of individuals who are either recipients of payments under means-tested transfer programs, economically disadvantaged (as measured by family income), or disabled. The credit generally is equal to 40 percent of the first $6,000 of qualified first year wages. A credit equal to 40 percent of up to $3,000 of wages to qualified summer youth employees is also allowed. The employer's deduction for wages must be reduced by the amount of the credit. The credit expired on September 30, 1990.

Present law also authorizes appropriations for administrative and publicity expenses relating to the credit through September 30, 1990. These monies are to be used by the Internal Revenue Service (IRS) and Department of Labor to inform employers of the credit program.

Reasons for Change

The committee believes that the targeted jobs tax credit provides a useful incentive for hiring disadvantaged individuals. It further believes that a further extension will provide an opportunity for further assessment of the program by the Congress and the Treasury Department.

Explanation of Provision

The bill extends the targeted jobs tax credit through December 31, 1991. Generally, the authorization for appropriations also is extended.

Effective Date

The provision is effective for amounts paid or incurred with respect to an individual who begins work for an employer after September 30, 1990.

6. Business Energy Tax Credits (sec. 7106 of the bill and sec. 46(b) of the Code).

Present Law

Three nonrefundable business energy tax credits have been allowed for certain types of energy property since 1978 and 1980. These tax credits were extended in the Omnibus Budget Reconciliation Act of 1989 for a 9-month period, and consequently, they expired after September 30, 1990. The credits, i.e., the rates and property to which they pertain, are:

(1) Solar—10% credit;

(2) Geothermal—10% credit; and

(3) Ocean thermal—15% credit.

Under section 38, these (and other) tax credits may not exceed the excess (if any) of the taxpayer's net income tax over the greater of (a) the taxpayer's tentative minimum tax for the taxable year, or (b) 25 percent of so much of the taxpayer's net regular tax liability for the taxable year that exceeds $25,000.

Reasons for Change

The committee believes that the business energy credits for solar energy, geothermal, and ocean thermal properties serve a valuable function in encouraging the development of renewable fuel sources and should be continued.

Explanation of Provision

The business energy tax credits for solar, geothermal, and ocean thermal energy property are extended beyond the present September 30, 1990, expiration date through December 31, 1991.

Effective Date

The provision is effective for qualified investments placed in service after September 30, 1990, and before January 1, 1992.

7. Low-Income Rental Housing Tax Credit (sec. 7107 of the bill and sec. 42 of the Code).

Present Law

Overview of the credit

A tax credit is allowed in annual installments over 10 years for qualifying low-income rental housing, which may be newly constructed or substantially rehabilitated residential rental property. For most newly constructed and substantially rehabilitated housing placed in service after 1987, the credit percentages are adjusted monthly to maintain a present value of the credit stream of 70 percent of the total qualified expenditures. In the case of housing receiving other Federal subsidies (including the use of the proceeds of tax-exempt bonds) and the acquisition of an existing building which is substantially rehabilitated, monthly adjustments are made to maintain a present value of the credit stream of 30 percent of the total qualified expenditures. Generally, that part of the building for which the credit is claimed must be rented to qualified low-income tenants at restricted rents for 15 years after the building is placed in service. In addition, a subsequent additional 15-year period of low-income use is generally also required.

In order for a credit to be claimed with respect to a building, the building owner generally must receive a credit allocation from the appropriate credit authority. An exception is provided for property which is substantially financed with the proceeds of tax-exempt bonds subject to the State's private-activity bond volume limitation. The low-income housing credit is allocated by State or local government authorities subject to an annual limitation for each State. The annual State credit limitation was $1.25 per resident for years before 1990 and is $0.9375 per resident for 1990.

Rights of first refusal

Under present law, any determination as to whether Federal income tax benefits are allowable to a taxpayer with respect to a qualified low-income building is made without regard to whether the tenants are given the right of first refusal to purchase the building, for a minimum purchase price, should the owner decide to sell to them (at the end of the compliance period). The minimum purchase price to be paid by the tenants is the sum of: (1) the principal amount of all indebtedness secured by the building, with the exception of indebtedness incurred within the five years immediately prior to sale, and (2) all Federal, State, and local income taxes attributable to such sale. In determining the Federal income (but not other) taxes attributable to the sale, the tax liability resulting from the agreement to pay taxes attributable to the sale are taken into account.

10-year rule

Generally, properties placed in service within the last 10 years are ineligible for the credit. An exception is provided for certain transfers including transfers in which the new owner retains the basis of the previous owner. In addition, when the transferor is a qualified tax-exempt organization or a governmental entity, the 10-year rule is applied by looking to the placed-in-service date of the most recent taxable owner. There are also circumstances in which the 10-year rule may be waived, including transfers of: (1) certain Federally assisted properties, a default on which would result in a Federal Government budget outlay, (2) low-income buildings the mortgages on which are subject to prepayment if the waiver is necessary to avert conversion of the properties to market rate use; and (3) certain buildings acquired from failed financial institutions.

Compliance

Under present law each State must develop a plan for allocation of the credit among projects. A qualified State allocation plan must provide a procedure for the agency to notify the Internal Revenue Service of noncompliance with the credit rules. There is no affirmative requirement that qualified

State allocation plans require a procedure for monitoring compliance with the credit rules. The allocating agency also is required to evaluate projects in order to ascertain that a project receives only the amount of credit necessary to the economic feasibility of the project and its viability as a qualified low-income housing project throughout the credit period.

Intermediary costs

Under present law, a qualified State allocation plan must set forth criteria to be used by the agency in making allocations. Under these criteria, the highest priority must be given to those projects which result in the highest percentage of credit dollars to project costs other than intermediary costs.

Gross rent limitation

The gross rent paid by families, for units on which a tax credit is claimed, is restricted based upon apartment size and area median income. Gross rent includes the cost of any utilities, other than telephone. If any utilities are paid directly by the tenant, the maximum rent that may be paid by the tenant is reduced by a utility allowance prescribed by the Treasury Department.

The gross rent limitation applies only to payments made directly by the tenant. For example, any rental assistance payments made on behalf of the tenant, such as through section 8 of the United States Housing Act of 1937 or any comparable Federal, State or local program of rental assistance, are not included in gross rent for purposes of the 30-percent limit.

Qualified census tracts

In certain high cost areas designated by the Department of Housing and Urban Development (HUD), the eligible basis of qualifying buildings is deemed to be 130 percent of the otherwise eligible basis. Qualified census tracts and difficult-to-develop areas may be qualified high cost areas. To be a qualified census tract, 50 percent or more of the households within the tract must have an income 60 percent or less of the area median income. Qualified census tracts are identified based upon the most recent census for which data is available. The 1980 census generally only identified census tracts in metropolitan statistical areas.

Credit and HUD Section 8 programs

No credit is available for property receiving assistance under the HUD Section 8 Moderate Rehabilitation program.

Units occupied by students

Generally the credit is not allowed for units occupied by students. An exception is provided for units occupied by an individual who is enrolled in a job training program receiving assistance under the Job Training Partnership Act or other similar Federal, State, or local laws. No exception is provided for recipients of Aid to Families with Dependent Children (AFDC), who are students in other types of programs.

Passive loss rules

In general

Deductions from passive trade or rental activities, to the extent they exceed income from all such passive activities (exclusive of portfolio income), generally may not be deducted against other income. Similarly, credits from passive activities generally are limited to the tax attributable to the passive activities. Suspended losses from an activity are allowed in full when the taxpayer disposes of his entire interest in the activity.

These limitations apply to individuals, estates, trusts, and personal service corporations. A special rule limits the use of passive losses and credits against portfolio income in the case of closely-held corporations.

Special rules

$25,000 allowance in the case of rental real estate activities: A special rule is provided for passive losses and credits attributable to rental real estate activities. In the case of rental real estate activities, a taxpayer who is an individual is allowed to deduct up to $25,000 of passive losses (to the extent that they exceed income from passive activities) if the taxpayer actively participates in the rental real estate activity (and has at least a 10-percent interest in it). The $25,000 amount is phased out ratably as the taxpayer's adjusted gross income (AGI), with certain modifications, increases from $100,000 to $150,000.

$25,000 allowance for low-income housing and rehabilitation credits: Under a special rule, the $25,000 allowance also applies to low-income housing and rehabilitation credits (on a deduction-equivalent basis), regardless of whether the taxpayer claiming the credit actively participates in the rental real estate activity generating the credit. In addition, the adjusted gross income phaseout range for the $25,000 amount for the rehabilitation credit is from $200,000 to $250,000 (rather than the generally applicable phaseout range of $100,000 to $150,000). There is no AGI phaseout range for the low-income housing credit under the $25,000 allowance.

Reasons for Change

The committee is concerned about the lack of affordable housing for low-income people and considers it appropriate that the Federal government play a significant role in the development of additional housing. The committee believes that the extension of this tax credit program is useful in light of the lack of other Federal subsidies for such housing. While the committee recognizes that it may be necessary to reexamine the use of the credit as other laws affecting the provision of low-income housing change, it believes that further modification of the credit is necessary to meet current housing needs.

Explanation of Provision

In general

The bill extends the low-income rental housing tax credit through December 31, 1991. It also restores the credit allocation limit to $1.25 per State resident for 1990.

Rights of first refusal

The bill expands present law to provide that tenant cooperatives, resident management corporations, qualified nonprofits, and governmental agencies, as well as tenants acting individually, may have a right of first refusal to purchase their units at the end of the compliance period. For purposes of this rule, resident management corporations generally should meet the definition provided in Section 20 of the Housing Act of 1937. The bill also modifies the definition of a qualified nonprofit organization for purposes of the credit.

Under the bill, a qualified nonprofit organization must own (directly or indirectly) an interest in the project throughout the compliance period. Also, a qualified nonprofit organization may not be affiliated with or controlled by a for-profit organization (as determined by the State housing credit agency). For these purposes a for-profit subsidiary of a qualified nonprofit organization is not considered to be an affiliated organization.

10-year rule

The bill provides an exception from the 10-year placed-in-service rule for owner-occupied single family dwelling units that have had no use other than as a principal residence for the owner thereof for the 10-year period before its placement in service with respect to which the credit is claimed.

Compliance

The bill provides that qualified allocation plans must include a procedure for monitoring and reporting noncompliance to the IRS. It is contemplated that the allocating agencies' responsibility to report noncompliance with the credit rules may be satisfied through the use of an agent or other private contractor.

Intermediary costs

The priority relating to the amount of intermediary costs is deleted from the qualified plan requirements and is instead made a factor in project evaluations.

Gross rent limitation

For purposes of the gross rent rules, the bill provides that FmHA's Section 515 program is to be treated comparably to the HUD Section 8 program.

Qualified census tracts

The bill authorizes the Secretary of Housing and Urban Development (HUD), to use data from census enumeration districts in lieu of data from census tracts when data from census tracts is unavailable. The committee understands that the 1990 census will identify census tracts for all non-metropolitan areas of the United States, in addition to metropolitan statistical areas. The committee intends that the Secretary of HUD rely solely on census tract data when such data is available from the 1990 and subsequent censuses.

Credit and HUD Section 8 programs

The bill provides an exception from the denial of the credit in conjunction with the Section 8 Moderate Rehabilitation program for funds disbursed under the Stewart B. McKinney Homeless Assistance Act of 1988.

Units occupied by students

The bill provides that dwelling units occupied by students receiving AFDC payments do not fail to qualify for the credit.

Passive loss rules

The bill modifies the $25,000 deduction equivalent allowance by removing the $200,000 to $250,000 adjusted gross income phaseout range for the rehabilitation tax credit in certain circumstances. This phaseout range is removed with respect to any portion of the passive activity credit that is attributable to the rehabilitation investment credit (within the meaning of section 48(o)) with respect to a building for which a credit is determined under section 42 for such year.

Effective Date

The amendments generally are effective for determinations made under section 42 with respect to housing credit dollar amounts allocated from State housing credit ceilings for calendar years after 1990. For projects not subject to the credit allocation limits, the amendments generally apply to buildings placed in service after December 31, 1990.

The provisions relating to rights of 1st refusal, the 10-year rule, and units occupied by students are effective upon date of enactment.

The provision relating to compliance monitoring and reporting procedures in the State allocation plans is effective for calendar years beginning after December 31, 1991.

The provision which removes the adjusted gross income limitation for rehabilitation tax credits, in certain circumstances, under the passive loss rule is effective in taxable years ending after December 31, 1990, for property placed in service for purposes of the rehabilitation tax credit after December 31, 1990. In addition, if the property is held through a partnership or other passthrough entity, the taxpayer's interest in the partnership or other passthrough entity must have been acquired after December 31, 1990.

8. Mortgage Revenue Bonds and Mortgage Credit Certificates (sec. 7108 of the bill and sec. 143 of the Code)

Present Law

Qualified mortgage bonds (QMBs) generally are used to finance the purchase or qualifying rehabilitation or improvement of single family, owner-occupied homes. The recipients of QMB-financed loans must meet purchase price, income, and other restrictions.

Qualified governmental units may elect to exchange qualified mortgage bond authority for authority to issue mortgage credit certificates (MCCs). MCCs entitle homebuyers to nonrefundable income tax credits for a specified percentage of interest paid on mortgage loans on their principal residences. Once issued, generally an MCC remains in effect as long as the residence being financed continues to be the certificate-recipient's principal residence. MCCs generally are subject to the same borrower eligibility requirements as qualified mortgage bonds.

Effective for loans originating after December 31, 1990, a portion of the QMB and MCC subsidy (other than qualified home improvement loans) is recaptured upon disposition of a house financed with an assisted loan within ten years and is phased out for taxpayers who have resided in the home for more than five years. The recapture is the lesser of fifty percent of the gain realized on disposition or 1.25 percent of the initial loan principle multiplied by the number of years that the taxpayer has owned the home. Recapture only applies to certain recipients whose income rises after the financing is received.

Authority to issue QMBs and to exchange private activity bond volume authority for authority to issue MCCs expired on September 30, 1990.

Reasons for Change

Generally, the committee believes that the qualified mortgage bond and the mortgage credit certificate programs should be extended without modification. It does, however, believe that a delay in the effective date of the recapture rules provides more time to review those rules.

Explanation of Provision

The bill extends the QMB and MCC programs through December 31, 1991. It also delays the effective date of the recapture provision for one year. Specifically, the recapture provision becomes effective for loans originating or mortgage credit certificates issued after December 31, 1991, rather than loans originating or mortgage credit certificates issued after December 31, 1990.

Effective Date

The provision is effective with respect to bonds issued after September 30, 1990, and before January 1, 1992.

9. Qualified Small-Issue Bonds (sec. 7109 of the bill and sec. 144(a) of the Code).

Present Law

Interest on certain small issues of private activity bonds is exempt from tax if at least 95 percent of the net proceeds of the bonds is to be used to finance manufacturing facilities or certain land or other property for first-time farmers ("qualified small-issue bonds").

Qualified small-issue bonds are bond issues having an aggregate authorized face amount (including certain outstanding prior issues) of $1 million or less. Alternatively, the aggregate face amount of the issue, together with the aggregate amount of certain related capital expenditures during the 6-year period beginning three years before the date of the issue and ending three years after that date, may not exceed $10 million. In determining whether an issue meets the requirements of the small-issue exception, certain previous small issues (and in the case of the $10-million limitation, capital expenditures during a 6-year period) are taken into account.

Interest on qualified small-issue bonds is taxable if the aggregate face amount of all outstanding tax-exempt private activity bonds (including exempt-facility bonds, qualified redevelopment bonds, and qualified small-issue bonds) that would be allocated to any beneficiary of the qualified small-issue bonds exceeds $40 million.

The aggregate amount of qualified small-issue bond financing for first-time farmers for all types of depreciable farm property (including both new and used property) is subject to a $250,000 lifetime limit for any person or related persons.

To be a qualified small-issue bond, the issuer must receive an allocation from the State private activity volume limitation. Authority to issue qualified small-issue bonds expired on September 30, 1990.

Reasons for Change

The committee believes it is appropriate to permit State and local governments to continue to issue qualified small-issue bonds.

Explanation of Provision

The bill extends authority to issue qualified small-issue bonds through December 31, 1991.

Effective Date

The provision is effective with respect to bonds issued after September 30, 1990, and before January 1, 1992.

10. Deduction for Health Insurance Costs of Self-Employed Individuals (sec. 7110 of the bill and sec. 162(l) of the Code).

Present Law

Present law provides a deduction for 25 percent of the amounts paid for health insurance for a taxable year on behalf of a self-employed individual and the individual's spouse and dependents. The 25-percent deduction is also available to a more than 2-percent shareholder of an S corporation.

No deduction is allowable for any taxable year in which the self-employed individual or eligible S corporation shareholder is eligible to participate (on a subsidized basis) in a health plan of an employer of the self-employed individual (or of such individual's spouse).

The 25-percent deduction expires for taxable years beginning after September 30, 1990. For taxable years beginning in 1990, the deduction is allowed only for premiums paid for coverage before October 1, 1990. In addition, an individual's earned income for the taxable year beginning in 1990 is pro rated in determining the applicable deduction for such year.

Reasons for Change

The committee believes it is appropriate to extend the 25-percent deduction on a temporary basis.

Explanation of Provision

The bill extends the 25-percent deduction for health insurance costs of self-employed individuals through taxable years beginning before January 1, 1992. The special rule prorating the deduction for taxable years beginning in 1990 is repealed.

Effective Date

The provision is effective for taxable years beginning after September 30, 1990.

11. Orphan Drug Tax Credit (sec. 7111 of the bill and sec. 28(e) of the Code).

Present Law

A nonrefundable tax credit is allowed for 50 percent of the expenses incurred by the taxpayer in a taxable year for the clinical testing on human beings of a qualified drug for rare diseases or conditions.

The credit applies to human clinical testing which is carried out under an exemption for a drug being tested for a rare disease or condition authorized by the Food and Drug Administration under statutory or regulatory authority. The basic statutory authority for these tests is in section 505(i) of the Federal Food, Drug, and Cosmetic Act. The testing must occur after the date a drug is qualified for such tests and before approval of sale of the drug.

A rare disease or condition means any disease or condition which (1) affects less than 200,000 persons in the United States, or (2) affects more than 200,000 persons in the U.S. but there is no reasonable expectation of recovering the developmental, production, and distribution costs from sales in the U.S. of a drug to treat a rare disease or condition.

This tax credit is scheduled to expire after December 31, 1990.

Reasons for Change

The committee believes that research conducted with tax incentives from the orphan drug make important contributions to public health. An extension of the credit for only one year, however, is consistent with limited continuation of this and other tax credits under the current budget deficit reduction program.

Explanation of Provision

The orphan drug tax credit is extended past its present expiration date of December 31, 1990, through December 31, 1991.

Effective Date

The provision is effective on January 1, 1991.

SUBTITLE B. OTHER TAX INCENTIVE PROVISIONS

1. Energy Incentive Provisions.

a. Credit for nonconventional fuels (sec. 7201 of the bill and sec. 29 of the Code).

Present Law

In general

Nonconventional fuels are eligible for a production credit that is equal to $3 per barrel or BTU oil barrel equivalent (adjusted for inflation). Qualified fuels must be produced from a well drilled, or a facility placed in service, before January 1, 1991. The production credit is available for qualified fuels sold before January 1, 2001.

Qualified fuels include (1) oil produced from shale and tar sands, (2) gas produced

from geopressured brine, Devonian shale, coal seams, a tight formation, or biomass, and (3) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite), including such fuels when used as feedstocks.

Gas produced from tight formations

Under the nonconventional fuels production credit, qualifying gas produced from a tight formation only includes gas the price of which is regulated by the United States or for which the maximum lawful price is at least 150 percent of the applicable price under section 103 of the Natural Gas Policy Act of 1978.[4] The restriction that tight formation gas be subject to some form of regulation was instituted in 1980 under the anticipation that absent regulation, prices for natural gas would increase to the extent that economical production of gas from tight formations would not require the section 29 credit.

Pursuant to the Natural Gas Policy Act of 1978, phased deregulation of natural gas began in 1985. As of the beginning of that year, tight formation gas that was not committed or dedicated to interstate commerce in 1977 was deregulated. The Federal Energy Regulatory Commission (FERC) subsequently ruled that certain tight formation gas that also qualified as deregulated gas under another provision of the Natural Gas Policy Act of 1978 was to be treated as deregulated.[5] The FERC ruling was upheld by the Supreme Court in 1988.[6] Production of gas from wells that were deregulated under this decision was thus no longer qualified for the section 29 credit.

On July 26, 1989, Congress enacted the Natural Gas Wellhead Decontrol Act of 1989.[7] In part, that legislation provided that all previously regulated gas generally was to be deregulated as of 1993. With respect to gas produced from wells drilled after July 26, 1989, deregulation was to occur on May 15, 1991.

In 1990, FERC issued an order providing that regulated tight formation gas produced from wells drilled after May 12, 1990 would no longer qualify for an incentive price under the Natural Gas Policy Act of 1978.[8] The result of this order was to disqualify from the section 29 credit tight formation gas produced from wells drilled after May 12, 1990.

The cumulative result of the legislation and regulatory actions described above is that the nonconventional fuels production credit presently is not available to most gas produced from tight formations, and will no longer be available for any such gas as of January 1, 1993.

Reasons for Change

In general

The committee believes that it is in the best interest of the United States to provide incentives designed to enhance the nation's energy security and to reduce its dependence on foreign energy sources. The committee views the permanent extension of the credit for the domestic production of fuel from nonconventional fuel sources to be in accordance with the goals of lowering the United States' dependence on imported petroleum products and of discovering alternative sources of fuel. The committee believes that continuing present-law phaseout of the benefits of the credit when oil prices are sufficiently high is desirable tax policy because the tax subsidy is reduced as market prices provide increased incentives for production.

Gas produced from tight formations

The committee does not believe that under the current economic environment, provision of the credit to tight formation gas should be linked to a requirement that the price for such gas be subject to Federal regulation. Based on recent geological information, some believe that a significant capacity for production of gas from tight formations can be developed given a sufficient after-tax rate of return. The committee believes that reinstatement of the production credit for tight formation gas is desirable in order to accelerate increases in natural gas production. Since section 29 already provides the credit will be phased out when oil prices are high enough to provide sufficient production incentive, there is no need, in the committee's view, to retain the additional limitation on qualification for deregulated gas.

In the committee's view, it is proper to reinstate qualification for the section 29 tax credit to tight formation gas produced from previously drilled wells where such gas was committed or dedicated to interstate commerce as of April 20, 1977. With respect to such gas, it was anticipated by the owners at the time of drilling that the resulting natural gas production would qualify for the credit.

Explanation of Provision

In general

The bill makes permanent the nonconventional fuels credit. Thus, the bill repeals both the placed-in-service date and the sunset date of the credit as provided under present law.

Gas produced from tight formations

Under the bill, gas produced from certain tight formations is reinstated as qualifying for the section 29 credit, and any requirement that such gas be regulated or eligible for price incentives is repealed. Specifically, the bill treats as qualifying tight formation gas any gas produced from a tight formation (1) which is produced from a well drilled after December 31, 1990, or (2) which, as of April 20, 1977, was committed or dedicated to interstate commerce (within the meaning of section 2(18) of the Natural Gas Policy Act of 1978 as in effect on the date of enactment of this bill). Wells producing gas that was not committed or dedicated to interstate commerce as of April 20, 1977, and thus was subject to decontrol under provisions of the Natural Gas Policy Act of 1978, will not qualify for reinstatement of the credit under the bill.

Effective Date

The January 1, 1991 placed-in-service date and the sunset date of January 1, 2001 are repealed and the credit is made permanent under the bill. The provisions related to natural gas produced from tight formations apply to qualifying tight formation gas which is produced after December 31, 1990.

b. Alcohol fuels credit, exemption, and tariff (sec. 7202 of the bill and sec. 40 of the Code).

Present Law

Excise taxes

Excise taxes on gasoline, diesel fuel, special motor fuels, trucks and truck trailers, and truck tires make up the sources of tax revenue for the Highway Trust Fund (sec. 9503). The Highway Trust Fund taxes, however, generally are scheduled to expire after September 30, 1993. Through that expiration date, an excise tax of 9 cents per gallon generally is imposed upon gasoline (sec. 4081), and an excise tax of 15 cents per gallon generally is imposed upon diesel fuel used in diesel-powered highway vehicles (secs. 4041(a)(1) and 4091). An excise tax of 9 cents per gallon generally is imposed on certain special motor fuels (e.g., benzol, benzene, naphtha, and liquefied petroleum gas) used as fuel in a motor vehicle or motorboat (sec. 4041(a)(2)).

Special reduced excise tax rates are applicable to certain alcohol fuel mixtures. One gallon of gasohol (i.e., any mixture of gasoline containing at least 10 percent alcohol) is subject to a reduced excise tax of 3 cents per gallon, rather than the general rate imposed upon gasoline of 9 cents per gallon (sec. 4081(c)); an additional ⅛ of one cent per gallon is added for the LUST tax. Diesohol (i.e., any mixture of diesel fuel containing at least 10 percent alcohol) is subject to a reduced excise tax of 9 cents per gallon, rather than the general rate imposed upon diesel fuel of 15 cents per gallon (secs. 4091(c) and 4041(k)(1)(A)). Methanol and ethanol fuels (i.e., any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from a substance other than petroleum or natural gas) are subject to a reduced excise tax of 3 cents per gallon (sec. 4041(b)(2)).

An excise tax rate of 3 cents per gallon also applies to special motor fuels otherwise subject to tax under section 4041(a)(2)(e.g., benzol, benzene, naphtha, and liquefied petroleum gas) if the fuel contains at least 10 percent alcohol (sec. 4041(k)(1)(B)). The excise tax rate is 4½ cents per gallon in the case of any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from natural gas (sec. 4041(m)).

Alcohol fuels credit

An income tax credit is provided for alcohol used in certain mixtures of alcohol and gasoline (e.g., gasohol), diesel fuel, or any other liquid fuel which is suitable for use in an internal combustion engine if the mixture is sold by the producer in a trade or business for use as a fuel or is so used by the producer (sec. 40). The credit also is permitted for alcohol (e.g., qualified methanol fuel) which is not in a mixture with gasoline, diesel, or other liquid fuel which is suitable for use in an internal combustion engine, provided that the alcohol is used by the taxpayer as a fuel in a trade or business or is sold by the taxpayer at retail to a person and placed in the fuel tank of the purchaser's vehicle (sec. 40(b)(2)). The credit is equal to 60 cents for each gallon of alcohol (at least 190 proof) used as fuel; the credit is 45 cents per gallon of 150 to 190 proof alcohol fuel. The credit is scheduled to expire after December 31, 1992.

The amount of any taxpayer's credit under section 40 is reduced to take into account any benefit received with respect to the alcohol under the special reduced excise tax rates for alcohol fuels mixtures or alcohol fuels (described above). For purposes of the credit, the term alcohol includes methanol and ethanol, but does not include alcohol produced from petroleum, natural gas, or coal (including peat), or alcohol with a proof less than 150.

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[4] P.L. 95-621, November 9, 1978.

[5] FERC Order no. 406, 49 F.R. 46874 (1984).

[6] *Federal Energy Regulatory Commission v. Martin Exploration Management Company*, 106 S.Ct. 1765, 1770 (May 31, 1988).

[7] P.L. 101-60, July 26, 1989.

[8] FERC Order No. 519, 55 F.R. 6367, (February 23, 1990).

Ethanol imports

1. Tariff provisions: Currently, there is applied to imported ethanol an additional tariff of 15.85 cents per liter to offset the domestic alcohol fuels tax credit. The tariff is scheduled to expire on December 31, 1992.

2. Caribbean Basin imports: Under the Caribbean Basin Economic Recovery Act of 1983 (CBERA; also known as the Caribbean Basin Initiative, or CBI), articles imported from CBI countries, including ethanol, are entitled to duty-free treatment, if they are produced in the region and at least 35 percent of their value was added in the CBI countries. The Tax Reform Act of 1986 amended the 1983 CBI legislation to require that increasing amounts of feedstock indigenous to the Caribbean basin be used in order for Caribbean producers to be eligible for duty-free treatment of their ethanol exports to the United States. Several companies were "grandfathered"; and the grandfather clause was extended, with a cap on imports, until December 31, 1989, by the Omnibus Trade and Competitiveness Act of 1988.

A compromise provision, establishing several different criteria for the duty-free entry of ethanol from CBI countries and U.S. insular possessions, was enacted as part of H.R. 3275, the Steel Trade Liberalization Program Implementation Act. Under this provision, there is no feedstock requirement for imports up to a level of 60 million gallons or 7 percent of the domestic ethanol market, whichever is greater. A feedstock requirement of 30 percent (by volume) applies to the next 35 million gallons of imports and a 50 percent (by volume) feedstock requirement applies to all additional imports. This is referred to as the CBI ethanol compromise.

The CBI ethanol compromise is effective for all calendar years after 1989. Although this appears to be a permanent provision on its face, the duration of this provision is linked to the effective date of the existing additional tariff applicable to imported ethanol, which is scheduled to expire on December 31, 1992. Thus, it too is scheduled to expire on December 31, 1992.

3. ETBE imports: Under current law, imports of ethyl tertiary-butyl ether (ETBE) enter the United States with columns 1 and 2 rates of duty of 6.66 cents per liter through December 31, 1992, or the date on which Treasury regulation 1.40-1 is withdrawn or declared invalid.

Reasons for Change

The committee believes that the national effort to develop renewable fuel alternatives should be sustained, and the alcohol fuels credit and alcohol fuels excise tax exemption should be extended and modified in order to provide meaningful incentives to producers of alcohol fuels.

In addition, the committee believes that alcohol fuels, by displacing some gasoline, contribute to enhancing automobile performance by reducing accumulation of petroleum-source deposits on engine parts, reducing emissions of oxides of nitrogen and hydrocarbons.

The committee also believes that more of the benefit of the ethanol tax incentives should be targeted to small producers who make ethanol for use as a fuel or in a fuel mixture.

Explanation of Provision

The committee action to extend the following items beyond their specified expiration dates is contingent upon continuation of the excise taxes that finance the Highway Trust Fund. Those taxes currently are scheduled to expire after September 30, 1993. The provisions in the committee bill are extended through September 30, 1995.

Alcohol fuels excise tax rates: The bill extends the various special, reduced Highway Trust Fund tax rates related to alcohol fuels. Specifically, the reduced tax rate on gasohol (sec. 4081(c)) expires with respect to removals or sales after September 30, 2000. In addition, the special tax rates related to diesohol (secs. 4091(c) and 4041(k)(1)(A)), qualified methanol and ethanol fuels (sec. 4041(b)(2)), special motor fuels consisting of at least 10 percent alcohol (sec. 4041(k)(1)(B)), and any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from natural gas (sec. 4041(m)) remain applicable through September 30, 2000, during any period when the motor fuels excise taxes are in effect.

Alcohol fuels credit: The bill extends the alcohol fuels credit (sec. 40) through the year 2000 in modified form. Thus, the bill provides that this modified credit does not apply to any sale or use of qualifying alcohol mixtures after December 31, 2000. In addition, the bill provides that, at any time prior to December 31, 2000, the alcohol fuels tax credit for producers and blenders will terminate, or will be reinstituted, at the same time that the motor fuels excise taxes expire, are terminated, or are reinstituted. Furthermore, the alcohol fuels tax credit will be extended if other motor fuels taxes are substituted for the motor fuels taxes in present law.

The 60 cents per gallon tax credit for ethanol used as a fuel, or in an alcohol fuel mixture is reduced to 55 cents per gallon, and the 45 cents per gallon credit for 150 to 190 proof ethanol is reduced to 40 cents per gallon. In addition, the 6-cents-per-gallon excise tax exemption from the motor fuels excise tax is reduced to 5.5 cents per gallon for gasohol or diesohol. A reduction to 4 cents per gallon also applies to the exemption under sec. 4041(m) for qualified ethanol fuels which are at least 85 percent ethanol.

A new 10 cents-per-gallon income tax credit is allowed to an eligible small ethanol producer. For this purpose, a small producer is defined as any fuel ethanol producer with productive capacity to produce less than 20 million gallons of alcohol per year. The new credit is limited to the first 15 million gallons of ethanol for use as a fuel produced per year by such small producer. The committee intends that production means making ethanol from raw materials, and it does not include those producers increasing the proof of purchased alcohol through additional distillation. To prevent abuse of this incentive, all members of the same groups of corporations under common control shall be treated as one person. A similar aggregation rule applies to partnerships and other related parties. With respect to partnerships, Subchapter S corporations, trusts, and other pass-through entities, the 15 million gallon limitation applies at the entity and the interest holder level. The Secretary is given regulatory authority to enforce these rules in all relevant situations and to prevent the benefit of the credit from going directly or indirectly to large ethanol producers or persons with large alcohol production capacity. The committee intends that these regulations will include rules generally disallowing the credit in the case of a subchapter C corporation to the extent that a significant interest in such corporation is held by a large producer but the controlled group rules do not apply.

Ethanol imports: The Committee bill also would reduce the existing additional tariff on imported ethanol to 14.53 cents-per-liter. As stated above, the Committee bill would reduce the existing 60 cents-per-gallon tax credit for ethanol used as a fuel or in a mixture to produce gasohol to 55 cents-per-gallon. Since the ethanol tariff is imposed to offset this credit, the Committee bill reduces the ethanol tariff by a proportionate amount to 14.53 cents-per-liter.

The bill also would extend the tariff on imported ethanol and, consequently, the CBI ethanol provision, so that the tariff and provision would remain in effect during any period the motor fuels taxes are in effect through September 30, 2000.

ETBE imports: The bill would extend the tariff on imported ETBE so the tariff would remain in effect during any period the motor fuels taxes are in effect through September 30, 2000. As under current law, the tariff and provision would not apply if Treasury regulation 1.40-1 is ever withdrawn or declared invalid.

Effective Date

These provisions are effective after December 31, 1990.

c. Tax credit for costs attributable to enhanced oil recovery projects and qualified exploratory costs (sec. 7203 of the bill and new sec. 43 of the Code)

Present Law

Enhanced oil recovery

In general

Under present law, no tax credit is allowed for costs related to enhanced oil recovery projects (generally these projects are referred to as tertiary recovery projects). However, taxpayers are permitted to deduct costs paid or incurred for tertiary injectants which are used as a part of a tertiary recovery method (Code sec. 193).

Prior law

Tertiary recovery methods were defined in Code section 4993, prior to its repeal (related to the Windfall Profit Tax), to include nine specified methods: miscible fluid displacement, steam-drive injection, microemulsion flooding, in situ combustion, polymer-augmented water flooding, cyclic-steam injection, alkaline flooding, carbonated water flooding, and immiscible non-hydrocarbon gas displacement, or any other method approved by the IRS. To qualify for a reduced rate of windfall profit tax, a method had to be applied in accordance with sound engineering principles and the use of the method had to be expected to significantly increase the amount of crude oil ultimately recoverable. Certification from a petroleum engineer or from the appropriate jurisdictional authority was required.

Until repealed by the Tax Reform Act of 1986, an investment credit was allowed to taxpayers who placed in service tangible property. Rules for determining the costs eligible for this credit limited these costs to the amount the taxpayer was at risk with respect to such property.

Exploratory drilling costs

Under present law, an operator who pays or incurs intangible drilling or development costs ("IDCs") in the development of a domestic oil or gas property may elect either to expense or capitalize such amounts. For this purpose, IDCs include all expenditures made by an operator for wages, fuel, repairs, hauling, supplies, etc., incident to and neces-

sary for the drilling of wells and the preparation of wells for the production of oil and gas. Generally, IDCs do not include expenses for items which have a salvage value (such as pipes and casings), or items which are part of the acquisition price of an interest in the property.

If a taxpayer elects to expense IDCs, the taxpayer deducts the amount of the IDC as an expense in the taxable year the cost is paid or incurred. Generally, if IDCs are not expensed, but are capitalized, they can be recovered through depletion or depreciation, as appropriate, or under a special election, they may be amortized over a 60-month period. In the case of a nonproductive well ("dry hole"), IDCs may be deducted, at the election of the operator, as an ordinary loss in the taxable year in which the dry hole is completed. In the case of an integrated oil company, 30 percent of the IDCs on productive wells must be capitalized and amortized over a 60-month period.

IDCs in excess of the amount which would have been currently deductible if IDCs had been capitalized and recovered through cost depletion or amortization over a 10-year period are an item of tax preference for purposes of the alternative minimum tax to the extent that this difference exceeds 65 percent of the taxpayer's net income from oil and gas for the taxable year.

Under present law, no distinction is made between IDCs incurred with respect to oil and gas exploratory drilling or any other category of drilling.

Reasons for Change

Enhanced oil recovery

The committee believes that enhanced oil recovery (EOR) projects have the potential to recover substantial amounts of oil from known United States reserves.[9] Significant portions of this oil are potentially recoverable through the use of EOR methods (one study estimates that with prices for crude oil around $28 per barrel, tax incentives, and technological advances, more than 20 billion additional barrels of oil could be recoverable through tertiary methods).[10]

The committee further believes that tax incentives would be instrumental in encouraging the expanded use of EOR production methods. To the extent these methods increase the proven reserves of oil in the United States, energy security would be enhanced.

Exploratory drilling costs

The committee views the expansion of domestic energy reserves as essential to national energy security. Accordingly, the committee believes it appropriate to encourage taxpayers to engage in certain domestic oil and gas drilling enterprises. The committee understands that the degree of risk associated with exploratory drilling for oil and gas is significantly greater than the degree of risk associated with other types of drilling (e.g., development drilling). The committee believes that an increased level of domestic exploratory drilling will result in the discovery of a significant amount of additional proven U.S. oil and gas reserves. Thus, the committee believes it necessary to target certain drilling incentives to exploratory drilling.

Explanation of Provision

In general

The bill adds a new domestic energy exploration and production tax credit as a component of the general business credit. The exploration and production credit is equal to 15 percent of qualified costs attributable to qualified enhanced oil recovery projects and to certain exploratory drilling in the United States.[11] To the extent that a credit is allowed for these costs, the taxpayer must reduce the amount otherwise deductible or required to be capitalized and recovered through depreciation, depletion, or amortization, as appropriate, with respect to these costs. That is, both a credit and a deduction are not permitted for the same costs, thereby eliminating the potential for a taxpayer to receive a double benefit from the same item.

As is the case under present law, the general business credit for any taxable year may not exceed the excess (if any) of the taxpayer's net income tax over the greater of (a) the taxpayer's tentative minimum tax for the taxable year, or (b) 25 percent of so much of the taxpayer's net regular tax liability for the taxable year as exceeds $25,000. Generally, any unused general business credit is permitted to be carried back three years and carried forward 15 years. However, as a transition rule, any unused portion of the taxpayer's general business credit attributable to the exploration and production credit may not be carried back to a taxable year that began prior to January 1, 1991.

The amount of the exploration and production credit is to be reduced in a taxable year following a calendar year during which the average price of crude oil exceeds $28. The credit will be reduced ratably over a $6 phaseout range. For example, if the price of oil in the calendar year preceding the taxable year is $29, the exploration and production credit for qualified costs incurred in that year would be 12.5 percent (computed as (($34–$29) / ($34–$28)) x 15% = 12.5%). The $28 figure will be adjusted for inflation using the GNP implicit price deflator.

For purposes of this provision of the bill, the average price of crude oil with respect to a calendar year will be estimated and published by the Secretary of the Treasury. The Secretary's estimate will be based on the average wellhead price per barrel for all domestic crude oil.

The exploration and production credit is subject to the passive activity loss and credit rules contained in section 469, including the special rules under that section for working interests in oil and gas property.

Enhanced oil recovery

One component of the exploration and production credit base consists of qualified enhanced recovery costs. This term includes the following costs which are paid or incurred with respect to a qualified enhanced oil recovery project: (a) the cost of tangible property which is an integral part of the project and with respect to which depreciation or amortization is allowable; (b) intangible drilling and development costs with respect to which a taxpayer may make an election to deduct under section 263(c); and (c) the cost of tertiary injectants with respect to which a deduction is allowable under section 193.

Qualified enhanced oil recovery projects generally include the application (in accordance with sound engineering principles) of a qualifying tertiary recovery method to a domestic property where the application of the method can reasonably be expected to result in more than an insignificant increase in the amount of crude oil which will ultimately be recovered from the property. Tertiary recovery methods qualifying for the EOR credit are defined as in the prior law section 4993 described above. These include miscible fluid displacement, steam-drive injection, microemulsion flooding, in situ combustion, polymer-augmented water flooding, cyclic-steam injection, alkaline (or caustic) flooding, carbonated water flooding, and immiscible gas displacement (e.g., carbon dioxide or other immiscible non-hydrocarbon gas) or any other method approved by the Secretary of the Treasury. The committee anticipates that the Secretary will add to the above list of qualifying tertiary recovery methods to take into account advancements in EOR technology which might occur (or have occurred) subsequent to the issuance of the June 1979 Department of Energy regulations.

A project will not be treated as a qualified enhanced oil recovery project unless the operator of the project submits to the Secretary a certification from a petroleum engineer that the project meets the requirements detailed above. Certifications will be required to be filed at such times and in such manner as may be prescribed by the Secretary.

EOR project costs eligible for the credit will be limited to the amount for which the taxpayer is at risk with respect to such project. That is, the credit base of any item generally will be reduced to the extent that it was financed with nonqualified nonrecourse financing.

The committee wishes to make clear that if any property may qualify as an integral part of more than one qualifying EOR project, the taxpayer may include the cost of that property in the credit base only once.

Exploratory drilling costs

The second component of the exploration and production credit base includes qualified exploratory costs attributable to domestic exploratory drilling. For purposes of this provision of the bill, the term qualified exploratory costs generally means intangible drilling and development costs of a taxpayer other than an integrated oil company that the taxpayer may elect to deduct as expenses under Code section 263(c), and that are paid or incurred in connection with the drilling of an exploratory well located in the United States. However, qualified exploratory costs do not include any cost related to the acquisition, construction, transportation, erection, or installation of an offshore platform. Nor do they include costs incurred after the commencement of the installation of the production string of casing.

The bill establishes special qualification rules for determining whether a well is an exploratory well for purposes of the credit.[12] In general, a well (the "new well")

[9] The Committee on Finance, Subcommittee on Energy and Agricultural Taxation, conducted hearings on August 3, 1989 and on July 27, 1990, testimony during which underscored the magnitude of recoverable EOR reserves.

[10] This estimate is from J.P. Brashear, A. Becker, K. Biglarbigi, and R.M. Ray, "Incentives, Technology, and EOR: Potential for Increased Oil Recovery at Lower Oil Prices", *Journal of Petroleum Technology*, February 1989.

[11] The United States for this purpose includes the seabed and subsoil of those submarine areas which are adjacent to the territorial waters of the United States and over which the United States has exclusive rights, in accordance with international law, with respect to the exploration and exploitation of natural resources.

[12] This definition of exploratory well also applies for purposes of section 7207 of the bill, relating to the special energy deduction for the alternative minimum tax.

qualifies as an exploratory well if at the time it is completed (or if not completed, at the time drilling operations cease), there is no completed oil or gas well that is capable of production in commercial quantities within a 1.25 mile radius of the new well. If the new well is drilled within 1.25 miles of a completed well capable of production in commercial quantities of oil or gas, it may still qualify as an exploratory well if it is drilled to a depth at least 800 feet below the completion depth of the deepest completion depth of any oil or gas well capable of production in commercial quantities within that 1.25 mile radius. If the new well fails both the distance and the depth tests, it nevertheless will be considered an exploratory well if it is drilled into a new reservoir of oil or gas. The committee intends that a new well will qualify under the new-reservoir test if the taxpayer is able to establish with a reasonable degree of certainty that the reservoir has not previously been penetrated by a productive well.

Under the bill, a taxpayer is required to submit to the Secretary of the Treasury (at such time and in such manner as required by the Secretary) a certification from a petroleum engineer that the new well qualifies as an exploratory well as defined in this provision.

A well is presumed to be capable of production in commercial quantities if it has been completed and either a "christmas tree," storage tank or battery, or pipeline has been installed. The committee anticipates that the Secretary may issue regulations necessary to prevent taxpayers from attempting to manipulate the definition of exploratory well.

Except as provided in regulations, a well generally will not qualify as exploratory if it is completed after the completion of a nearby well that is capable of production in commercial quantities. It is anticipated that any such regulations would grant relief from this rule only in certain situations where it can be demonstrated to the satisfaction of the Secretary that the taxpayer bore a true exploratory risk in drilling the well and did not undertake drilling of the well as part of a plan to qualify multiple wells as exploratory. For example, if at the time a taxpayer is drilling a well another person is drilling a nearby well that is completed first as a commercially productive well, the taxpayer's well might nonetheless qualify as exploratory if the taxpayer demonstrates to the satisfaction of the Secretary that the taxpayer (i) is not related to the other person and (ii) had committed to drill the well prior to learning that the nearby well was to be drilled.

If a well is tested or completed at different depth intervals, and if considered separately, drilling to or completing at any of those intervals would not qualify the well as an exploratory well, then the IDCs paid or incurred with respect to the well shall be allocated to the drilling relating to each separate depth interval. In such a case, only IDCs attributable to depth intervals that would have qualified as exploratory if considered separately will qualify for the credit. For example, if a well is drilled and tested at the completion depth of another well capable of production in commercial quantities that is less than 1.25 miles away, then IDCs paid or incurred with respect to drilling the well to that depth would not be treated as exploratory IDCs. However, if the well is then further drilled to a depth that is at least 800 feet deeper than the commercially productive well, the IDCs paid or incurred with respect to the further drilling would qualify for the credit.

Effective Date

Enhanced oil recovery

The enhanced oil recovery portion of the exploration and production credit is effective for taxable years beginning after December 31, 1990, with respect to costs paid or incurred in enhanced oil recovery projects begun or significantly expanded after that date. For this purpose, the committee intends that an EOR project be treated as beginning on the first date on which the tertiary injectant is injected into the reservoir. A significant expansion of any project is to be treated as a separate project. A project will be considered significantly expanded if tertiary activities are taken to recover oil from areas not substantially affected by the project's previously implemented tertiary activities. Except as provided in regulations, a project will not be considered as substantially expanded to the extent it affects acreage to which an EOR method has previously been applied.

Exploratory drilling costs

The exploratory drilling portion of the exploration and production credit is effective for taxable years beginning after December 31, 1990, for costs paid or incurred after that date.

d. Modification of percentage depletion rules (secs. 7204-7206 of the bill and sec. 613A of the Code)

Present Law

In general

Under present law, persons owning economic interests in oil and gas producing properties may deduct an allowance for depletion in computing taxable income. Independent producers and royalty owners are permitted to claim the greater of cost or percentage depletion on the production of domestic crude oil and domestic natural gas. The percentage depletion allowance for oil and gas is computed as a fixed percentage (i.e., 15 percent) of the taxpayer's gross income from the oil or gas property.

Net income limitation

The allowance for percentage depletion is subject to several limitations. First, an independent producer or royalty owner may only claim percentage depletion on its combined average daily production of domestic crude oil and domestic natural gas that does not exceed 1,000 barrels (or equivalent amount of natural gas). Second, percentage depletion is further limited (on a property by property basis) to an amount not in excess of 50 percent of the taxpayer's net taxable income from the property, computed without a deduction for depletion (the "net income limitation"). Finally, a taxpayer's overall deduction for percentage depletion is limited to an amount that is equal to 65 percent of the taxpayer's pre-depletion taxable income for the taxable year (the "taxable income limitation").

Transferred property limitation

The allowance for percentage depletion generally does not apply to interests in oil or gas properties (including interests in partnerships or trusts) that were transferred after December 31, 1974 by one taxpayer to another if, at the time of the transfer, the principal value of the property had been demonstrated by prospecting, exploration or discovery work. Exceptions to the transferred property limitation generally include transfers of property at death, certain tax-free transfers of property to controlled corporations under Code section 351, transfers resulting from changes in beneficiaries of trusts, transfers of property between members of a controlled group of corporations, transfers of property between commonly controlled business entities or between certain individuals who are members of the same family, and certain transfers of property between trusts and individuals who are members of the same family. In addition, the transfer rule does not apply to a transfer of certain property by an electing individual to a qualified corporation.

Reasons for Change

The committee is concerned about the steadily increasing dependence of the United States on oil imported from abroad. In light of this concern, the committee believes it is necessary to take steps to maintain and encourage the production of oil and gas in the United States.

The committee understands that in many cases the gross income generated from marginally producing oil and gas property is offset to a significant degree by associated operating costs. By operation of the 50-percent net income limitation, owners of interests in such property often receive little or no benefit from the percentage depletion deduction under present law. The committee understands that as a result of the minimal net income and lack of percentage depletion deduction which occur with respect to some marginal properties, taxpayers have contended that it is not economically feasible to continue the operation of such properties. The committee further understands that once the operation of an oil or gas property is shut down, it is unlikely that production from that property will be restored in the future.

The committee believes that certain incentives should be provided for oil and gas properties so that the extraction of oil and gas reserves from such properties will continue. In particular, the committee believes that it is appropriate to permit a percentage depletion deduction for up to 100 percent of the net income from an oil or gas property in order to permit greater percentage depletion deductions with respect to marginally profitable properties. In the committee's view, the percentage depletion deduction should be limited to 100 percent of net income from the property, as opposed to completely repealing the net income limitation, in order to prevent the percentage depletion deduction from offsetting a taxpayer's income in excess of the net income from the property subject to depletion. Although the application of the amendment to the net income limitation is not limited to a specifically defined group of properties, it is the belief of the committee that most of the benefit of this repeal will inure to owners of interests in marginally producing oil and gas properties.

The committee believes that it is appropriate to encourage the continuing production from oil and gas properties in an efficient and economic manner. The committee believes that the present law rules which prevent a transferee of a proven oil or gas property from claiming percentage depletion with respect to production from that property may discourage the transfer of oil and gas properties that are uneconomic in the hands of their current owners (and thus are likely to be abandoned) to those who may be more efficient, who may be more willing to bear current losses, or who may be better able to use the tax benefits of percentage

depletion (and thus who would be able to continue operation of the properties).

The committee also believes that it is appropriate to enhance the benefits of the percentage depletion deduction with respect to marginal properties by increasing the percentage depletion rate during periods in which the price of crude oil or natural gas is sufficiently low to make the profitable operation of marginal properties unlikely.

Explanation of Provision

In general

The bill provides three amendments to the oil and gas percentage depletion rules.

Net income limitation

First, the net income limitation on oil and gas percentage depletion is increased from 50 percent to 100 percent of the net income from the property. The 100-percent net income limitation applies to all oil and gas properties with respect to which percentage depletion is allowed.

To illustrate this rule, consider the following example. Assume that a domestic property owned by an independent producer produces crude oil that generates $200 of gross income during a taxable year and has operating costs (before depletion) of $150. Under the present-law percentage depletion rate of 15 percent, the maximum amount of depletion which could be claimed on such property is $30 ($200 of gross income multiplied by 15 percent). However, under present law, the allowable percentage depletion deduction is limited to $25 because of the 50-percent net income limitation ($50 net income multiplied by 50 percent). Under the bill, the taxpayer would be allowed to claim a percentage depletion deduction of $30 (prior to considering other applicable limitations).

As another example, assume that the same independent producer owns an interest in another domestic oil-producing property, the gross income from which during the taxable year is $100. Further assume that expenses other than depletion for that property are $90, resulting in pre-depletion net income of $10. The 15-percent depletion rate yields a maximum amount of percentage depletion on the property of $15. Because of the 100-percent net income limitation, however, the taxpayer would be limited to a percentage depletion deduction of $10 with respect to that property.

Transferred property limitation

The bill's second amendment repeals the prohibition on claiming percentage depletion on transferred proven oil and gas properties. The repeal of the transfer rule applies to all domestic oil and gas producing properties.

Percentage depletion on marginal production

The bill's third amendment to the percentage depletion rules applies only to interests in marginally producing oil and gas wells held by independent producers or royalty owners. Under this amendment, the statutory percentage depletion rate will be increased by one percent for each whole dollar that the average price of crude oil for the immediately preceding calendar year is less than $20 per barrel (not to be adjusted for inflation). The increased rate will apply for the taxpayer's taxable year which immediately follows a calendar year for which the average crude oil price falls below the $20 floor. Thus, for example, if in a calendar year, the average price of a barrel of crude oil is $19, then the percentage depletion rate for production from marginal wells would be increased by one percent (to 16 percent), for taxable years beginning in the succeeding calendar year.

The bill places a limit on the amount by which the percentage depletion rate can be increased under this provision. The bill specifies that in no event may the rate of percentage depletion exceed 25 percent for any taxable year.

Under the bill, the term marginal production includes (1) crude oil and natural gas produced from a domestic stripper well, and (2) heavy oil (oil that has a weighted average gravity of 20 degrees API or less corrected to 60 degrees Fahrenheit) produced from a domestic property. For purposes of this provision of the bill, a stripper well is any oil or gas producing well which produced a daily average of 15 or less equivalent barrels of oil and gas in the calendar year during which the taxpayer's taxable year begins.[13]

The determination of whether a well qualifies as a stripper well under the bill shall be made separately for each calendar year. The fact that a well does or does not qualify as a stripper well for one year shall not affect the determination of the status of that property for a subsequent year. The stripper well determination is to be made based on the total amount of production from the well for the calendar year. In the case of a person who owns a partial interest in an oil or gas producing well, that person must take into consideration total production from the well for the year, including the portion of such production which is attributable to ownership interests other than his own, in determining whether the well is a stripper well. If the well satisfies the requirements of a stripper well, then that person would receive the benefits of this provision of the bill with respect to his allocable share of the production from the well for his taxable year that begins during the calendar year in which the well so qualifies.

If a taxpayer owns an interest in a depletable property which consists of both stripper wells and non-stripper wells, the benefits of this provision apply only to the portion of the production from that property that is attributable to the stripper wells.

Under the bill, the allowance for percentage depletion remains subject to a 1,000 barrel-per-day limitation. The bill provides, however, that unless a taxpayer elects otherwise, its marginal production shall be given priority over other production for purposes of utilization of the 1,000 barrel-per-day limitation. Any limitation remaining for a taxable year after all marginal production is taken into consideration shall be allocated among the taxpayer's non-marginal production under present-law allocation rules. If a taxpayer elects not to use this special allocation rule, then production will be allocated under present-law rules for purposes of the 1,000 barrel-per-day limitation. Such an election may be made for any taxable year for which this provision of the bill applies.

For purposes of this provision of the bill, the average price of crude oil with respect to a calendar year will be estimated and published by the Secretary of the Treasury. The Secretary's estimate will be based on the average wellhead price per barrel for all domestic crude oil.

[13] Equivalent barrels is computed as the sum of (1) the number of barrels of crude oil produced, and (2) the number of cubic feet of natural gas produced divided by 6,000. If a well produced 10 barrels of crude oil and 12,000 cubic feet of natural gas, its equivalent barrels produced would equal 12 (i.e., 10 + (12,000 / 6,000)).

Effective Date

The provisions related to the net income limitation and the percentage depletion rate for marginal properties are effective for taxable years beginning after December 31, 1990. The provision repealing the transfer rule is effective for property transfers occurring after October 11, 1990.

e. Alternative minimum tax relief for oil and gas operations (sec. 7207 of the bill and sec. 56 of the Code).

Present Law

In general

Under present law, corporations and individuals are subject to an alternative minimum tax which is payable, in addition to all other tax liabilities, to the extent that it exceeds the taxpayer's regular income tax owed. The tax is imposed at a flat rate of 20 percent (21 percent in the case of individuals) on alternative minimum taxable income in excess of the exemption amount. Alternative minimum taxable income is the taxpayer's taxable income increased by tax preferences and adjusted by determining the tax treatment of certain items in a manner which negates the deferral of income resulting from the regular tax treatment of those items.

Net operating losses and foreign tax credits generally cannot be used to offset, in the aggregate, more than 90 percent of the pre-foreign tax credit tentative minimum tax which would otherwise be determined.

Preferences relating to oil and gas

The items of tax preference relating to oil and gas operations for which additions are made to taxable income to arrive at alternative minimum taxable income are as follows:

(1) The deduction for percentage depletion is limited to the adjusted basis of the property. To the extent that a percentage depletion deduction for regular tax purposes represents depletion in excess of the taxpayer's basis in the depletable property, that deduction constitutes an item of tax preference (the "percentage depletion preference").

(2) The amount of intangible drilling costs (IDCs) that are expensed in excess of the amount that would have been allowable if the costs had been capitalized and recovered through cost depletion or amortized ratably over a 10-year period and that are in excess of 65 percent of the amount of net oil and gas income is an item of tax preference (the "excess IDC preference").

Adjusted current earnings

For taxable years beginning after 1989, the alternative minimum taxable income of a corporation is increased by an amount equal to 75 percent of the amount by which adjusted current earnings (ACE) exceed pre-net operating loss alternative minimum taxable income. In general, adjusted current earnings means alternative minimum taxable income with additional adjustments. These adjustments generally follow the rules presently applicable to corporations in computing their earnings and profits.

The adjustments specifically relating to oil and gas operations are described below:

(1) The allowance for depletion for any property placed in service in a taxable year beginning after 1989 shall be computed using the cost depletion method (the "ACE depletion adjustment").

(2) Intangible drilling costs deductible under section 263(c) in taxable years beginning after 1989 are capitalized and amortized over the 60-month period beginning

with the month in which such costs are paid or incurred (the "ACE IDC adjustment").

Reasons for Change

The committee believes that it is appropriate to provide relief to certain taxpayers with oil and gas operations from the various alternative minimum tax preferences and adjustments that specifically relate to such operations. The committee believes the effectiveness of oil and gas incentives is softened to the extent that taxpayers in the oil and gas industry are subject to the alternative minimum tax (in addition to the regular income tax). Moreover, the committee believes that a large segment of oil and gas independent producers have significant amounts of tax preference items and accordingly are subject to the alternative minimum tax. Consequently, to increase the effectiveness of certain oil and gas incentives, the committee desires to make these incentives applicable, to some extent, to the alternative minimum tax.

Explanation of Provision

In general

The bill provides a special energy deduction for purposes of the alternative minimum tax. The deduction is based on a specified portion of the various oil and gas related tax preference items. In addition, for corporations, the deduction generally includes a specified percentage of the energy-related portion of the adjusted current earnings adjustment.

Specifically, the special energy deduction is initially determined by determining the taxpayer's (1) intangible drilling cost preference and (2) the marginal production depletion preference. The intangible drilling cost preference is the amount by which the taxpayer's alternative minimum taxable income would be reduced if it were computed without regard to the excess IDC preference and the ACE IDC adjustment. The marginal production depletion preference is the amount by which the taxpayer's alternative minimum taxable income would be reduced if it were computed without regard to the excess depletion preference and the ACE depletion adjustment attributable to marginal production. The intangible drilling cost preference is then apportioned between (1) the portion of the preference related to qualified exploratory costs and (2) the remaining portion of the preference. The portion of the preference related to qualified exploratory costs generally is multiplied by 75 percent and the remaining portion generally is multiplied by 15 percent. The marginal production depletion preference generally is multiplied by 50 percent. The three products described above are added together to arrive at the taxpayer's special energy deduction (subject to certain limitations).

The application of these general rules to corporate and noncorporate taxpayers, limitations and phase-outs of the special energy deduction, allocation and apportionment rules, and other special rules are described below.

Taxpayers other than corporations

In the case of a taxpayer other than a corporation, the special energy deduction is generally equal to the sum of the following items: (1) 75 percent of the portion of the excess IDC preference (as determined under Code section 57(a)(2)) which is attributable to exploratory IDCs, (2) 15 percent of the portion of the excess IDC preference (as determined under Code section 57(a)(2)) which is attributable to developmental IDCs, and (3) 50 percent of the portion of the percentage depletion preference (as determined under Code section 57(a)(1)) which is attributable to marginal production of oil and gas.[14] The special energy deduction is not allowed, however, to the extent that it exceeds 40 percent of alternative minimum taxable income determined without regard to either this special energy deduction or the alternative tax net operating loss deduction. Any special energy deduction amount limited by the 40-percent threshold may not be carried to another taxable year.

For purposes of this provision of the bill, a taxpayer is required to determine the portion of domestic IDCs which are attributable to the drilling of exploratory wells, and the portion which is attributable to the drilling of development wells. The taxpayer's IDC preference attributable to exploratory IDCs is an amount equal to the total IDC preference multiplied by the ratio of domestic exploratory IDCs to total domestic IDCs for the taxable year. For this purpose, exploratory IDCs are IDCs paid or incurred with respect to the drilling of an exploratory well as that term is defined under section 7203 of the bill relating to the exploratory drilling credit. That provision of the bill establishes special qualification rules for determining whether a well is an exploratory well. In general, an oil or gas well (the "new well") qualifies as an exploratory well if at the time it is completed, there is no oil or gas well capable of commercial production within a radius of 1.25 miles of the drilling site of the new well. If the new well is drilled within 1.25 miles of another well capable of producing oil or gas in commercial quantities, it may still qualify as an exploratory well if it is drilled to a depth at least 800 feet below the deepest commercial production depth within the 1.25 mile radius. If the new well fails both the distance and the depth tests, it nevertheless will be considered an exploratory well if it is drilled into a new reservoir of oil or gas.

The taxpayer's IDC preference attributable to developmental IDCs is an amount equal to the total IDC preference less the portion of that preference attributable to exploratory IDCs as defined above.

With respect to the portion of the special energy deduction related to the percentage depletion preference, marginal production of oil and gas has the same meaning as it has under section 7203 of the bill for purposes of providing an increased rate of percentage depletion in taxable years when the price of crude oil is sufficiently low. That is, the term marginal production includes (1) crude oil and natural gas produced from a domestic stripper well, and (2) heavy oil (oil that has a weighted average gravity of 20 degrees API or less corrected to 60 degrees Fahrenheit) produced from a domestic property. For purposes of this provision of the bill, a stripper well is any oil or gas producing well which produced a daily average of 15 or less equivalent barrels of oil and gas in the calendar year during which the taxpayer's taxable year begins.

The portion of a taxpayer's percentage depletion preference attributable to marginal production shall be determined based on an identification of the component of the percentage depletion preference that is specifically attributable to percentage depletion from marginal wells. For example, if a taxpayer has both marginal and non-marginal oil and gas wells, but only the production from non-marginal wells produces percentage depletion in excess of basis, then the taxpayer would have no marginal production depletion preference. To the extent that a depletable property consists of both marginal and non-marginal wells, the committee intends the property's basis will be allocated between those two classifications of wells in a reasonable manner for the purpose of determining whether excess percentage depletion from the property relates to marginal or non-marginal wells.

Corporations

Generally, the special energy deduction for corporations is computed similarly to the deduction for non-corporate taxpayers, except that the corporate deduction takes into consideration the portion of the adjusted current earnings adjustment that is related to percentage depletion attributable to marginal production and IDCs. Thus, in the case of a corporation, the special energy deduction is generally equal to the sum of the following items: (1) 75 percent of the portion of the intangible drilling cost preference which is attributable to exploratory IDCs, (2) 15 percent of the portion of the intangible drilling cost preference which is attributable to developmental IDCs, and (3) 50 percent of the portion of the marginal production depletion preference.

The intangible drilling cost preference is treated as being attributable to exploratory and developmental drilling under the same formula that applies for non-corporate taxpayers. The marginal production depletion preference amount is treated as being attributable to marginal producing properties under rules similar to the rules that apply for non-corporate taxpayers.

As in the case of non-corporate taxpayers, the special energy deduction for corporations is not allowed to the extent that it exceeds 40 percent of alternative minimum taxable income determined without regard to either this special energy deduction or the alternative tax net operating loss deduction. Any special energy deduction amount limited by the 40-percent threshold may not be carried to another taxable year.

The special energy deduction may not be claimed by integrated oil companies.

Phase-out of special energy deduction

The special energy deduction will be phased out in taxable years that follow calendar years in which the price of crude oil exceeds a specified level. The amount of the special energy deduction (determined without regard to the phaseout) is to be reduced for any taxable year that immediately follows a calendar year during which the average price of crude oil exceeds $28 per barrel (adjusted for inflation using the GNP implicit price deflator) and will be completely phased out if the average price of oil exceeds such inflation adjusted amount by $6 or more in such year. The amount of the deduction would phase out ratably over the $6 phaseout range. That is, for example, if in a year the average price of oil exceeded the inflation adjusted base level by $4, then the amount of the otherwise allowable deduction would be reduced by two-thirds ($4 over $6) for the immediately following taxable year.

For purposes of this provision of the bill, the average price of crude oil with respect to a calendar year will be estimated and published by the Secretary of the Treasury. The Secretary's estimate will be based on the annual average wellhead price per barrel for all domestic crude oil production.

[14] Taxpayers other than corporations generally are not subject to the ACE adjustments described in section 56.

Regulations and other rules

The bill authorizes the Secretary of the Treasury to develop regulations to provide for appropriate adjustments in computing taxable income, alternative minimum taxable income, and adjusted current earnings for any taxable year following a taxable year for which a deduction was allowed under this provision to ensure that no double benefit is allowed by reason of such deduction.

In addition, the combination of the special energy deduction, the alternative minimum tax net operating loss and the alternative minimum tax foreign tax credit cannot generally offset, in the aggregate, more than the 90 percent of a taxpayer's alternative minimum tax determined without such attributes.

Effective Date

The special energy deduction is effective for taxable years beginning after December 31, 1990.

2. Small Business Incentives

a. Revision of estate freeze rules (secs. 7209-7210 of the bill and sec. 2036(c) of the Code)

Present Law and Background

Overview of transfer tax system

In general

Generally, a Federal gift tax is imposed on transfers by gift during life, and a Federal estate tax is imposed on the taxable estate at death. The Federal estate and gift taxes are unified, so that a single progressive rate schedule is applied to an individual's cumulative lifetime and death time transfers.

Valuation of property

The value of property transferred by gift or includable in the decedent's gross estate generally is its fair market value at the time of the gift or death. Fair market value is the price at which the property would change hands between a willing buyer and willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts (Treas. Reg. sec. 20.2031-1(b)). This standard looks to the value of the property to a hypothetical seller and buyer, not the actual parties to the transfer.[15] Accordingly, courts generally have refused to consider familial relationships among co-owners in valuing property. For example, courts allow corporate stock to be discounted to reflect minority ownership even when related persons together own most or all of the underlying stock.[16] In addition, a transfer made in the ordinary course of business which is bona fide, at arm's length, and without any donative intent, will be deemed to be for full and adequate consideration and, therefore, not result in a taxable gift. *See* Treas. Reg. sec. 25.2512-8.

Statute of limitations

Generally, any estate or gift tax must be assessed within 3 years after the filing of the return. No proceeding in a court for the collection of an estate or gift tax can be begun without an assessment within the 3-year period. If no return is filed, the tax may be assessed, or a suit commenced to collect the tax without assessment, at any time. If an estate or gift tax return is filed, and the amount of unreported items exceeds 25 percent of the amount of the reported items, the tax may be assessed or a suit commenced to collect the tax without assessment, within 6 years after the return was filed. (Code sec. 6501.)

Selected transfer tax consequences of estate freeze transactions without regard to section 2036(c)

In general

An "estate freeze" is a technique that has the effect of limiting the estate tax value of property held by an older generation at its value at the time of the freeze and passing any appreciation in the property to a younger generation. Generally, the older generation retains income from, or control over, the property.

In order to effect a freeze, the older generation transfers an interest in a business or other property that is likely to appreciate while retaining an interest in the property that is less likely to appreciate. Because the value of the transferred interest increases while the value of the retained interest remains relatively constant, the older generation has "frozen" the value of the property in the transferor's estate.

Preferred interests in corporations and partnerships

Description.—In one common estate freeze transaction, the "preferred interest freeze", a person owning preferred and residual interests in a corporation or partnership transfers the residual interest to a younger generation while retaining the preferred interest.

The preferred interest may enjoy preferred rights as to income or management. It also may carry discretionary rights regarding the amount, timing or fact of payment. Such discretionary rights include: (1) a right to "put" the frozen interest for an amount equal to the liquidation preference of the frozen interest; (2) a right to liquidate an entity and receive assets; or (3) a right to convert the nonappreciating retained interest into an appreciating interest.

Gift tax consequences: The transfer of a residual interest in a corporation or partnership for less than full and adequate consideration is a gift. The value of the residual interest is generally determined by subtracting the value of the preferred interest from the value of all interests in the corporation or partnership. The value of preferred stock then is determined by looking to comparable stocks. The Internal Revenue Service has ruled that the most important factors in determining the value of preferred stock generally are its yield, dividend coverage, and protection of its liquidation preference.[17] Voting, redemption, liquidation, and conversion rights also may add to the value of the preferred interest. Under the "willing buyer, willing seller" valuation standard, it is assumed that rights will be exercised so as to maximize the value of the owner's retained interests without regard to the actual likelihood of exercise.

For example, in *Snyder* v. *Commissioner*,[18] a grandmother transferred publicly traded shares of a growing corporation to a newly created holding company in exchange for preferred stock and common stock of the holding company. The preferred stock had a par value equal to the value of the holding company less $1,000, was callable at the election of the preferred shareholders, and, in effect, could be put to the company at par. The grandmother then transferred the common stock to a trust for the benefit of her grandchildren and valued the common stock at $1,000. Although finding that the grandmother did not expect to exercise the put option in the absence of unanticipated and extraordinary financial need, the U.S. Tax Court nonetheless held that the value of the common stock was $1,000, because a willing buyer would pay more only with some assurance that the option would not be exercised.

The failure to exercise rights in an arm's-length manner after the initial transfer of common stock may give rise to a gift. The Internal Revenue Service has held in several private letter rulings that the failure to exercise rights with respect to an equity interest can give rise to a gift.[19]

Trusts and term interests in property

Description: Another common estate freeze transaction involves the retention of a term of years or life estate in a trust or property. For example, a parent may transfer property or money to an irrevocable trust for the ultimate benefit of a child in which the parent retains an income interest for a term of years. Or, an owner of property may sell a remainder interest in the property to a child. Or, older and younger generations may jointly purchase term and remainder interests in property from a third party. All these transactions effectively shift future appreciation in the property to the younger generation.

Gift tax consequences: The above transfers result in a taxable gift if the value of the remainder interest exceeds the value of any consideration paid for such interest. The value of the remainder interest is the value of the entire property less the value of rights in the property retained by the grantor. Rights retained by the grantor generally are valued pursuant to Treasury tables that assume a rate of return on the underlying property equal to 120 percent of the applicable Federal midterm rate (Code sec. 7520, Treas. Reg. sec. 20.2512-5(f)). Use of the Treasury tables is allowed even when they do not accurately predict the actual rate of return from the property. For example, in 1977, the Internal Revenue Service ruled that the application of tables based on an interest rate of 6 percent per year was appropriate in valuing a trust whose corpus consisted of stock that had paid an average dividend of 3 percent for the preceding ten years.[20] According to the ruling, "departure from strict application of the tables is permissible in exceptional cases where use of the tables would violate reason and fact; for example, where transferred property may yield no income at all or the income is definitely determinable by other means."[21]

Options and buy-sell agreements

Description: Under another common freeze device, a member of an older generation grants a member of a younger generation an option to purchase property at a fixed or formula price. Such an option may be part of a buy-sell agreement under which the survivor (or the corporation) has the right to purchase stock from the estate of the first to die. An option may freeze the

[15] *See* Rev. Rul. 59-60, 1959-1 C.B. 237, 237.

[16] *See, e.g., Estate of Bright v. United States*, 658 F.2d 999 (5th Cir. 1981).

[17] *See* Rev. Rul. 83-120, 1983-2 C.B. 170.

[18] 93 T.C. No. 43 (Nov. 2, 1989).

[19] *See* LTR 8723007 (Feb. 18, 1987) (finding a gift on the failure to declare a noncumulative dividend); LTR 8726005 (March 13, 1987) (finding a gift on the failure to exercise conversion right); LTR 8610011 (Nov. 1, 1985) (finding a gift on the failure to redeem stock). *See Snyder* at 28-29 (finding a gift by reason of the failure to exercise a conversion right that would have permitted accumulation of unpaid dividends).

[20] *See* Rev. Rul. 77-195, 1977-1 C.B. 295.

[21] *Id.* at 297.

value of property at the strike price which in turn may be below the fair market value of the property at the date of death.

Estate tax consequences: A restriction upon the sale or transfer of property may reduce its fair market value. Treasury regulations issued in 1958 acknowledge that the existence of an option or contract to purchase may affect the estate tax value of stock. Those regulations provide that the restriction is to be disregarded unless the agreement represents a bona fide business arrangement and not a device to pass the decedent's stock to natural objects of his bounty for less than full and adequate consideration.[22]

Some courts have gone beyond the Treasury regulations and held that the price contained in a buy-sell agreement will limit fair market value for estate tax purposes if the price is fixed or determinable, the estate is obligated to sell, the agreement contains restrictions on lifetime transfers, and there is a valid business purpose for the agreement.[23]

In applying this standard, a number of courts have held that maintenance of family control and ownership is a business purpose that precludes the possibility that the agreement serves as a testamentary device.[24] Continuation of family ownership and control has been found sufficient even when the "control" being preserved is only the right to participate as a limited partner.[25] It also has been held sufficient when one party to the agreement has already contracted a terminal illness.[26]

In *Saint Louis County Bank v. United States*, 674 F.2d 1207 (8th Cir. 1982), the Eighth Circuit held that the maintenance of family ownership and control of the business standing alone to be an insufficient ground for giving effect to a buy-sell agreement. Conceding that such purpose established the existence of a business purpose, the court went on to consider whether the agreement was a tax avoidance device. In finding evidence that might establish a tax avoidance motive notwithstanding a business purpose, the court considered the health of the decedent when the agreement was made, the disparity of the sale price from fair market value, and the enforcement of the agreement against other parties.

Lapsing rights

Estate freezes often involve the creation of a right that terminates over time or lapses at death. In *Estate of Harrison v. Commissioner*,[27] however, the United States Tax Court held to the contrary. In that case, a father retained both a limited and general partnership interest after forming a partnership in which his sons received limited partnership interests. Held in conjunction with the general partnership interest, the father's limited partnership interest was worth $59 million (because the general partnership interest carried with it the right to liquidate the partnership); held alone, the limited partnership interest was worth $33 million. The father died owning both interests, but the general partnership interest was immediately sold to the sons for $700,000 pursuant to a buy-sell agreement taking effect at death. The United States Tax Court held that the limited partnership interest was includable in the father's gross estate at a value of $33 million. The IRS has privately ruled that the value of a voting right that lapses on the decedent's death is includable in the gross estate under section 2031.[28]

Estate tax inclusion relating to estate freezes: section 2036(c)

In the Omnibus Budget Reconciliation Act of 1987, the Congress addressed the estate freeze transaction by including the value of the transferred appreciating interest in the decedent's gross estate and crediting any gift tax previously paid (Code sec. 2036(c)). Section 2036(c) generally provides that if a person in effect transfers property having a disproportionately large share of the potential appreciation in an enterprise while retaining an interest, or right in, the enterprise, then the transferred property is includable in his gross estate. Dispositions of either the transferred or retained property prior to the transferor's death result in a deemed gift equal to the amount that would have been includable had the transferor died at the time of the transfer.

Reasons for Change

Repeal of section 2036(c)

The committee believes that an across-the-board inclusion rule is an inappropriate and unnecessary approach to the valuation problems associated with estate freezes. The committee believes that the amount of any tax on a gift should be determined at the time of the transfer and not upon the death of the transferor.

Moreover, the committee is concerned that the statute's complexity, breadth, and vagueness posed an unreasonable impediment to the transfer of family businesses. The committee also is concerned that many taxpayers have refrained from legitimate intrafamily transactions because of uncertainty about the scope of its rules. Moreover, the current rules are over inclusive because they apply if the transferor retains virtually any interest in the income from, or rights in, the enterprise.

Accordingly, the committee bill repeals section 2036(c) retroactive to the date of its enactment.

Replacement for section 2036(c)

While the committee believes that section 2036(c) is not the appropriate method of taxing freeze transactions, the committee nonetheless is concerned about potential estate and gift tax valuation abuses. Accordingly, the committee bill generally substitutes for section 2036(c) a series of targeted rules generally designed to assure a more accurate determination of the value of the property subject to transfer tax.

In developing a replacement for current section 2036(c) the committee sought to accomplish several goals: (1) to provide a well defined and administrable set of rules; (2) to allow business owners who are not abusing the transfer tax system to freely engage in standard intrafamily transactions without being subject to severe transfer tax consequences; and (3) to deter abuse by making unfavorable assumptions regarding certain retained rights.

Preferred interests in corporations and partnerships

The committee is concerned about the potential transfer of wealth through the use of discretionary rights in a partnership or corporation. For example, wealth may pass from a preferred shareholder to a common shareholder if the corporation fails to pay dividends to the preferred shareholder. Even if the preferred stock is cumulative, such failure results in a transfer equal to the value of the use of the money until the dividend is paid. Or, by exercising conversion, liquidation, put or call rights in other than an arm's-length fashion (or by not exercising such rights before they lapse), the transferor may transfer part or all of the value of such rights.

Accordingly, the committee adopts certain rules designed to eliminate the potential for transferring wealth through nonexercise of discretionary rights. The bill values at zero certain discretionary rights on the assumption that they will not be exercised in an arm's length manner. The bill also assures a full transfer tax from the failure to exercise cumulative distribution rights in a timely fashion by compounding unpaid distributions.

The committee believes that the residual interest in a corporation or partnership may have value in excess of current projected cash flows because it carries with it the right to future appreciation. The market often gives substantial value to this "option value". Accordingly, the committee bill provides for a minimal value for the residual interests in a corporation or partnership. This minimum value, in effect, sets a floor on the discount rate used in valuing the preferred interests in a corporation or partnership that is not dramatically below the market rate. This floor reflects the minimal coverage that a purchaser of the preferred stock might require in the market for traded securities.

Statute of limitations

The committee also is concerned about the difficulty experienced by the Internal Revenue Service in auditing estate freeze transactions. Many estate freeze transactions are unreported because the taxpayer takes the position that the transfer was for full and adequate consideration or for less than the annual gift tax exclusion. Moreover, even reported freeze transactions are seldom detected. Indeed, it is virtually impossible for the IRS to monitor all post-transfer action or inaction with respect to such rights.

To assist the Internal Revenue Service in this audit problem, the bill extends the statute of limitations for transfers not reported on a gift tax return.

Trusts and term interests in property

In addition, the committee is concerned about the undervaluation of gifts valued pursuant to Treasury tables. Based on average rates of return and life expectancy, those tables are seldom accurate in a particular case, and therefore, may be the subject of adverse selection. Because the taxpayer decides what property to give, when to give it, and often controls the return on the property, use of Treasury tables undervalues the transferred interests in the aggregate, more often than not.

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[22] *See* Treas. Reg. sec. 20.2031-2(h).

[23] *See Seltzer v. Commissioner*, T.C. Memo 1987-568, 54 T.C.M. (P-H) para. 85,515 at 2345. *See also Weil v. Commissioner*, 22 T.C. 1267, 1273-74 (1954), *acq.*, 1955-2 C.B. 10.

[24] *See, e.g., Estate of Bischoff v. Commissioner*, 69 T.C. 32, 39-40 (1977).

[25] *Id.*

[26] In *Littick v. Commissioner*, 31 T.C. 181, 186 (1958), the decedent, who had contracted a terminal illness, entered into a fixed-price buy-sell agreement with his brothers one year prior to death. Finding "nothing in the record to indicate that the [fixed price] was not fairly arrived at by arm's-length negotiation or that any tax avoidance scheme was involved," the U.S. Tax Court valued the stock at its fixed price, rather than its stipulated fair market value. 31 T.C. at 187.

[27] 52 T.C.M. (CCH) 1306 (1987).

[28] *See* LTR 8510002.

Therefore, the committee determines that the valuation problems inherent in trusts and term interests in property are best addressed by valuing retained interests at zero unless they take an easily valued form—as an annuity or unitrust interest. By doing so, the bill draws upon present law rules valuing split interests in property for purposes of the charitable deduction.

Options and buy-sell agreements

The committee believes that buy-sell agreements are common business planning arrangements and that buy-sell agreements generally are entered into for legitimate business reasons that are not related to transfer tax consequences. Buy-sell agreements are commonly used to control the transfer of ownership in a closely held business, to avoid expensive appraisals in determining purchase price, to prevent the transfer to an unrelated party, to provide a market for the equity interest, and to allow owners to plan for future liquidity needs in advance. However, the committee is aware of the potential of buy-sell agreements for distorting transfer tax value. Therefore, the committee establishes rules that attempt to distinguish between agreements designed to avoid estate taxes and those with legitimate business agreements. These rules generally disregard a buy-sell agreement that would not have been entered into by unrelated parties acting at arm's length.

Lapsing rights

The committee is concerned about the use of lapsing rights to transfer value free of transfer tax. Such rights are difficult to value when created and may not be exercised in an arm's length manner.

Accordingly, the committee does not believe it appropriate to give value to lapsing voting rights carried by preferred interests. In addition, it believes that property transferred at death is more accurately valued by disregarding lapsing restrictions and by adding back the value attributable to a lapsing right to the value of the transferor's interest in the business.

Explanation of Provisions

In general

The bill repeals section 2036(c) retroactively and provides in its place rules generally intended to assure more accurate gift tax valuation of the initial transfer. These rules modify the valuation of specific retained rights in corporations and partnerships, the valuation of split temporal interests in property, the effect of buy-sell agreements and options upon value, the transfer tax consequences of lapsing rights, and the gift tax statute of limitations.

Preferred interests in corporations and partnerships

The bill provides rules for valuing certain rights retained immediately after the transfer of an interest in a corporation or partnership by the transferor or applicable family members. The rules rely on present law principles regarding the valuation of residual interests, with an adjustment to reflect the actual fragmented ownership. The rules apply to the transfer of a residual interest to (or for the benefit of) a family member. In applying the rules, an individual is treated as holding amounts held through a corporation, partnership, trust or other entity. The bill does not affect minority discounts or other discounts available under present law.

Retained rights affected by the bill

A retained liquidation, put, call, or conversion right is valued at zero, unless such right must be exercised at a specific time and amount. For instance, a liquidation right that is required to be exercised at a fixed date for a sum certain is unaffected by the bill.

A retained distribution right that is noncumulative or lacks a preference upon liquidation is valued at zero if the transferor and applicable family members control the entity. For a corporation, control is defined as holding, before the transfer, at least 50 percent (by vote or value) of the stock of the corporation. For a partnership, control generally is defined as holding at least 50 percent of the capital or profits interest in the partnership. In addition, any general partner in a limited partnership is deemed to have control. In determining control, an individual is treated as holding any interest held by a brother, sister, or lineal descendent.

Example 1: A father who holds convertible debt and 50 percent of the stock gives the stock to his daughter. The corporation has only a single class of stock. In valuing the gift, the conversion feature of the debt is valued at zero. Assuming that this conversion feature otherwise would have been valued at $1,000, the bill increases the value of the gift of the stock to the daughter by $500. If the father had only given half of the stock to the daughter, the gift would be increased by $250.

A cumulative distribution right having a preference upon liquidation is valued under a special standard under which the determination as to whether the cumulative distribution can reasonably be expected to be timely paid is made without regard to whether the transferor retains control.

Exceptions

The bill contains five exceptions to the above rules. First, the bill does not apply to any right conferred by a retained interest for which market quotations are readily available on an established securities market. The bill also does not apply if the market quotations are readily available for the transferred interest.

The second exception is for a retained interest that is of the same class as the transferred interest. Under this exception, the bill does not affect the valuation of a gift of common stock if the transferor only retains rights of that class of common. Likewise, the bill does not affect the valuation of a gift of a partnership interest if all interests in the partnership share equally in all items of income, deduction, loss and gain in the same proportion (*i.e.*, straight-up allocations).

The third exception excludes a retained interest that would be of the same class as the transferred interest but for nonlapsing differences in voting power (or, in the case of a partnership, nonlapsing differences with respect to management and limitations on liability). Nonlapsing limitations on liability are permitted only if the transferor or applicable family member does not have the right to alter the transferee's liability. Under this exception, the bill does not affect the valuation of a transfer of nonvoting stock in an S corporation, coupled with the retention of voting stock in such corporation.

Except as provided in Treasury regulations, a right that lapses by reason of state law would be treated as nonlapsing for these purposes. The committee intends that the regulations exempt lapses occurring by reason of state law that do not have the effect of transferring value not contemplated by state law, as when a lapsing right to management effectively extinguishes a right to be redeemed at fair market value.

Fourth, the bill provides an exception in situations where the rights in the retained interests in the business are proportionally the same as all of the rights in the transferred interests in the business, other than voting rights. This exception would apply, for instance, if the retained and transferred interests consisted of two classes of common stock, which shared in all distributions, liquidation and other rights in a two to one ratio.

Fifth, the bill does not apply to a right to convert into a fixed number (or a fixed percentage) of the shares of the same class as the transferred stock, if such rights are nonlapsing, subject to proportionate adjustments for splits, combinations, reclassifications and similar changes in the capital stock, and adjusted for accumulated dividends not paid on a timely basis. A similar exception applies to rights in partnerships. This exception is provided because the full appreciated value of such right will be subject to later transfer tax.

Example 2: A mother holding all the common stock and preferred stock in a company sells one half of her common stock to her son. The preferred stock is cumulative and can be put to the corporation for its par value. In determining whether there is a gift, and the amount of the gift, the determination of whether cumulative dividends can reasonably be paid is made without regard to the mother's control, the put right is valued at zero, and the retained rights under the common stock are valued as under present law.

Example 3: The facts are the same as Example 2, above, except that the mother does not have control over the corporation. In determining whether there is a gift, and the amount of the gift, the put right is valued at zero. The right to distributions and the retained rights under the common stock are valued as under present law.

Example 4: F owns 25 shares of the 100 outstanding shares of noncumulative preferred stock in Company X. F's father, GF, owns the remaining 75 shares of the noncumulative preferred in Company X. F owns all of the 100 outstanding shares of the common stock in Company X. F gives 10 shares of common stock to his son. Under the provisions of the bill, the noncumulative preferred stock of both F and GF would be given a value of zero in determining the amount of the gift by F to his son. Thus, the amount of the gift would be the same amount as if F gave 10 shares of common to his son in a corporation that had only 100 shares of common stock outstanding.

Definitions

Liquidation, put, call or conversion right: A liquidation, put, call or conversion right is any liquidation, put, call or conversion or similar right the exercise or nonexercise of which affects the value of the transferred interest.

Distribution right: A distribution right generally is a right to distributions with respect to stock of a corporation or a partnership interest. A distribution right does not include any right in a junior equity interest.[29] Junior equity interests do not affect

[29] In a case of a corporation with only one class of preferred stock and one class of common stock, the junior equity interest is the common stock.

the value of the transferred preferred interests because the valuation of the preferred interests does not affect the value of the junior equity interests, i.e., the value of the preferred interests does not depend upon the value of the junior equity interests. In addition, a distribution right does not include any liquidation, put, call, or conversion right, or a guaranteed payment determined without regard to income.

Family: A "member of the family" is, with respect to any transferor, the transferor's spouse, a lineal descendent of the transferor or the transferor's spouse, and the spouse of any such descendant. An "applicable family member" is, with respect to any transferor, the transferor's spouse, ancestors of the transferor and the spouse, and spouses of such ancestors.

Transfer: Except as provided in Treasury regulations, any redemption, recapitalization, contribution to capital, or other change in the capital structure of a corporation or partnership is treated as a transfer of an interest in such entity if an individual or applicable family member thereby receives a retained right affected by the bill. Regulations also may provide that such an event results in a transfer if the individual or applicable family member thereafter holds such an interest.

Example 5: Mother and daughter together own all the common shares in a corporation. Mother redeems her shares for preferred stock. The provision applies in valuing the preferred stock received by mother for purposes of determining whether the redemption results in a gift to daughter.

Example 6: Father and son form a partnership to which each contributes capital and in which the father receives a preferred interest and the son receives a residual interest. The provision applies in determining whether, and the extent to which, the capital contributions result in a gift.

Transfer tax treatment of accumulated distributions

The bill increases the taxable gifts or taxable estate of a transferor who retained cumulative preferred stock valued under the rule described above. The amount of the increase is the excess of (1) the value of the distributions payable during the period beginning on the date of transfer and ending on the date of the taxable event determined as if all such distributions were paid on the date payment was due and all such distributions were reinvested by the transferor as of the date of payment at a yield equal to the discount rate used in determining the value of the applicable retained interest over (2) the value of the distributions paid during such period computed on the basis of the time when such distributions were actually paid.

Where the retained preferred cumulative stock is transferred to the transferor's spouse in a transfer that qualifies for the gift or estate tax marital deduction no adjustment is made with respect to taxable gifts or the taxable estate of the original transferor, but the spouse is then treated as the transferor. Any payment of any distribution prior to the end of the 4-year period beginning on its due date would be treated as having been made on such due date. The bill provides that a taxpayer may elect to treat payment of a distribution after the 4-year period as a taxable gift for purpose of chapter 12.

The amount of unpaid accumulated dividends and interest thereon that is subject in the gift or estate tax is capped at an amount equal to the excess of the fair market value of the common interests in the business at date of death over the fair market value of the common interests in the business at the date of the transfer multiplied by a fraction equal to the value of the preferred interests in the business held by the transferor divided by the value of all the preferred interests in the business. The purpose of this cap is to limit the amount of increase under the provision to the benefit adhering to the donee from the failure to pay dividends.

The bill provides that Treasury Regulations would provide for appropriate transfer tax adjustments for rights previously valued under the bill in order to prevent the double taxation of rights that were given a zero value under the provisions of the bill.

Minimum value of residual interest

The bill also establishes a minimum value for a junior equity interest in a corporation or partnership. This minimum is the value that would be determined if the total value of all the junior equity interests equaled 10 percent of the sum of the total equity in the corporation or partnership plus any debt which the corporation or partnership owes to the transferor or members of his family. This minimum value is intended to reflect the "option value" of the right of the residual interest to future appreciation.

Statute of limitations

Under the bill, the gift tax statute of limitations runs for transfers subject to the rules governing preferred interests in corporations and partnerships and to increases in taxable gifts with respect to cumulative preferred stock only if the transfer is disclosed on a gift tax return with sufficient detail to appraise the secretary of the nature of the transferred and retained interests. Thus, the statute would not run on an undisclosed or inadequately disclosed transfer, regardless of whether a gift tax return was filed for other transfers in the year in which the transfer occurred.

Trusts and term interests in property

The bill also provides rules for determining whether a transfer of an interest in trust to a member of the transferor's family is a gift, and the amount of the gift. These rules do not apply to the extent that the transfer is incomplete. Nor do they apply to a transfer of an interest in a personal residence inhabited by the holder of the term interest.

Valuation of initial transfer

The bill requires that the value of a remainder interest be determined by subtracting the value of the income interest from the value of the entire property. The bill provides that the value of an interest retained by the transferor or an applicable family member is zero unless such interest is a "qualified interest". A qualified interest is (1) a right to receive fixed amounts payable at least annually, (2) a right to receive amounts payable at least annually which are a fixed percentage of the trust's assets (determined annually), or (3) a non-contingent remainder interest if all the other interests in the trust are qualified payments.[30] A qualified interest generally would be valued under present law, e.g., by reference to section 7520.

Thus, a person who makes a completed transfer of nonresidential property in trust and retains (1) the right to the income of the trust for a term of years and (2) a reversionary right (or a testamentary general power of appointment) with respect to trust corpus is treated as making a transfer equal to the value of the whole property. The same result obtains if the transferor retains (1) the right to both income and appreciation for a term of years plus (2) a testamentary general power of appointment over trust corpus for that period. In contrast, the creation of a trust the only interests in which are an annuity for a term of years and a noncontingent remainder interest is valued under present law.

Sale of remainder interest and joint purchase of interests in property

Under the bill, the retention of a term interest (including a life estate) in property is treated like the retention of an interest in trust. Moreover, a joint purchase of property is treated as an acquisition of the entire property by the holder of the term interest, followed by a transfer of the remainder interest. Thus, for purposes of determining the amount of the gift, the bill effectively treats the purchaser of a life estate pursuant to a joint purchase as making a transfer of the entire property less the consideration paid by the remainderman.

A special rule applies to a term interest in tangible property where the non-exercise of the term-holder's rights does not substantially affect the value of the property passing to the remainderman. In that case, the value of the term interest is the amount for which the taxpayer establishes that the interest could be sold to an unrelated third party. Such amount is not determined under the Treasury tables, but by reference to market norms, taking into account the illiquidity of such interests.

For example, the rule could apply to the joint purchase of a painting or undeveloped real estate (the value of which primarily reflects future development potential). On the other hand, the rule would not apply to a joint purchase of depletable property. Treasury regulations would provide for the proper treatment of improvements or other changes in property governed by this special rule.

Buy-sell agreements

The bill provides that the value of property for transfer tax purposes is determined without regard to any option, agreement or other right to acquire or use the property at less than fair market value or any restriction on the right to sell or use such property, unless the option, agreement, right or restriction meets three requirements. These requirements apply to any restriction, however created. For example, they apply to restrictions implicit in the capital structure of the partnership or contained in a partnership agreement, articles of incorporation, or corporate bylaws or a shareholder's agreement.

The first two requirements are that the option, agreement, right or restriction (1) be a bona fide business arrangement, and (2) not be a device to transfer such property to members of the decedent's family for less than full and adequate consideration in money or money's worth. These requirements are similar to those contained in the present Treasury regulations, except that the bill clarifies that the business arrangement and device requirements are independent tests. The mere showing that the agreement is a bona fide business arrangement would not give the agreement estate tax effect if other facts indicate that the agreement is a device to transfer property to members of the decedent's family for less than full and adequate consideration. In

[30] These interests are similar to those permitted in charitable split interest trusts under section 664.

making this clarification, it adopts the reasoning of *Saint Louis County Bank* and rejects the suggestion of other cases that the maintenance of family control standing alone assures the absence of a device to transfer wealth.

In addition, the bill adds a third requirement, not found in present law, that the terms of the option, agreement, right or restrictions be comparable to similar arrangements entered into by persons in an arm's length transaction. This requires that the taxpayer show that the agreement was one that could have been obtained in an arm's length bargain. Such determination would entail consideration of such factors as the expected term of the agreement, the present value of the property, its expected value at the time of exercise, and the consideration offered for the option. It is not met simply by showing isolated comparables but requires a demonstration of the general practice of unrelated parties. Expert testimony would be evidence of such practice. In unusual cases where comparables are difficult to find because the taxpayer owns a unique business, the taxpayer can use comparables from similar businesses.

The bill does not otherwise alter the requirements for giving weight to a buy-sell agreement. For example, it leaves intact present law rules requiring that an agreement have lifetime restrictions in order to be binding on death.

Treatment of lapsing rights

The bill also provides rules governing the transfer tax consequences of lapsing rights. These rules are intended to overturn the result and reasoning of *Harrison v. Commissioner.* Under these rules, the value of property is determined without regard to any restriction other than a restriction which by its terms will never lapse.

Example 7: Parent and child contribute capital to a newly formed partnership. The partnership agreement provides that the partnership cannot be terminated for a term of years. The determination of whether the contributions to capital constitute a gift is made without regard to the restriction on terminations.

In addition, any right held by the decedent with respect to property includable in the gross estate which effectively lapsed on the death of the decedent would, in valuing such property in the estate, be deemed exercisable by the estate.

Example 8: Parent and child form a corporation in which the parent obtains voting common stock and the child obtains nonvoting common stock. The voting feature of the parent's stock lapses on the parent's death. Under the bill, the parent's stock is valued under the assumption that the stock continues to vote.

Study

The bill requires that the Secretary of the Treasury conduct a study of the prevalence and types of options and agreements used to distort the transfer tax valuation of property and other methods using discretionary rights to distort the value of property for such purposes. The results of the study would be reported no later than December 31, 1992.

Effective Date

The rules regarding preferred interests in corporations and partnerships and trusts and term interests are effective generally for transfers after October 8, 1990. With respect to property transferred before October 9, 1990, any failure to exercise a right of conversion, any failure to pay dividends, and any failure to exercise other rights specified in regulations would not be treated as a subsequent transfer.

The rules governing trusts and term interests are effective generally for transfers after October 8, 1990. The rules governing buy-sell agreements would apply to agreements, options, rights or restrictions entered into or granted after October 8, 1990. The rules governing lapsing rights would be effective for restrictions and rights created after October 8, 1990. The modification in the statute of limitations would be effective for gifts after October 8, 1990.

b. Expand election to expense certain depreciable business property (sec. 7211 of the bill and sec. 179 of the Code)

Present Law

Under section 179 of the Internal Revenue Code, a taxpayer generally may elect to deduct the cost of up to $10,000 of qualifying property for the taxable year in which the property is placed in service, in lieu of recovering the cost of the property under the accelerated cost recovery system. For this purpose, qualifying property is generally defined as depreciable tangible property that is purchased for use in the active conduct of a trade or business.

The amount eligible to be expended for any taxable year is reduced by the amount by which the cost of qualifying property placed in service during the year exceeds $200,000.

In addition, the amount allowed as a deduction for any taxable year may not exceed the taxable income of the taxpayer for the year that is derived from the active conduct by the taxpayer of any trade or business (determined without regard to the deduction). Any amount that is not allowed as a deduction because of the taxable income limitation may be carried forward to succeeding taxable years (subject to similar limitations).

Reasons for Change

The committee believes that it is appropriate to increase the amount of the cost of certain tangible property that is eligible for expensing in order to provide an incentive for small businesses to invest in such property.

Explanation of Provision

The bill amends section 179 to allow taxpayers to elect to deduct the cost of up to $14,000 of qualifying property for the taxable year in which the property is placed in service.

Effective Date

The provision is effective for property placed in service in taxable years beginning after December 31, 1990.

c. Treatment of certain expenditures incurred to make public accommodations accessible to disabled individuals (sec. 7212 of the bill and sec. 190 and new sec. 30 of the Code).

Present Law

Under present law, a taxpayer may elect to deduct certain architectural and transportation barrier removal expenses for the taxable year in which paid or incurred rather than capitalizing such expenses. Architectural and transportation barrier removal expenses are defined for this purpose as expenditures that are paid or incurred by a taxpayer in order to make facilities or public transportation vehicles owned or leased in connection with the taxpayer's business more accessible to handicapped and elderly individuals. In order for such expenditures to be deductible under this provision, the taxpayer must establish to the satisfaction of the Treasury Department that the facility or public transportation vehicle to which the expenditures relate conforms to standards promulgated by the Treasury Department with the concurrence of the Architectural and Transportation Barriers Compliance Board. The amount of the deduction allowed under this provision for any taxable year is limited to $35,000.

Reason for Change

The Americans With Disabilities Act of 1990 requires businesses to make structural changes to facilities to accommodate disabled and handicapped individuals. The committee is concerned that the requirements contained in the Americans With Disabilities Act of 1990 may impose a severe financial burden on certain small businesses. Consequently, the committee believes that it is appropriate to provide these small businesses with a nonrefundable income tax credit for a portion of the expenditures that are incurred in complying with the requirements of the Americans With Disabilities Act of 1990. As a means of offsetting the cost of this new credit, the committee believes that it is appropriate to reduce the amount that is allowed as a deduction under section 190.

Explanation of Provision

Small business public accommodations access credit

In general

Under the bill, an eligible small business that elects the application of the provision is allowed a nonrefundable income tax credit equal to 50 percent of the amount of the eligible public accommodations access expenditures for any taxable year that exceed $250 but do not exceed $10,250.[31]

The amount of the credit allowed for any taxable year is not to exceed the excess if any of (1) the regular tax for the taxable year reduced by the amount of the foreign tax credit, any nonrefundable personal credits, and certain other specified credits allowed for such taxable year, over (2) the tentative minimum tax for the taxable year. The amount of the credit that is not allowed under this limitation for any taxable year is to be carried back 3 years and forward 15 years, except that the amount of such credit is not to be carried back to any taxable year beginning before January 1, 1991. The amount of any credit that is carried to another taxable year is subject to the limitation described above for the year to which the credit is carried.

Definition of eligible small business

An eligible small business is defined for any taxable year as any person that is engaged in the trade or business of operating a public accommodation and is required by Federal law to make such accommodation accessible to, or usable by, individuals with disabilities, and that either (1) had gross receipts [32] for the preceding taxable year that did not exceed $4 million or (2) had fewer than 30 full-time employees [33] during the taxable year.

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[31] Consequently, the maximum amount of the credit for any taxable year is $5,000.

[32] The gross receipts of a person for any taxable year are to be determined after reduction for returns and allowances made during the taxable year.

[33] For this purpose, a full-time employee is defined as any employee of the taxpayer who is employed at least 30 hours per week for 20 or more calendar weeks during the taxable year.

Definition of eligible public accommodations access expenditures

Eligible public accommodations access expenditures are defined as amounts paid or incurred by a taxpayer either (1) for the purpose of removing architectural, communication, or transportation barriers which prevent a public accommodation operated by the taxpayer from being accessible to, or usable by, an individual with a disability, or (2) for providing auxiliary aids or services to an individual with a disability who is an employee of, or using, a public accommodation operated by the taxpayer.

The amount of an expenditure is not to be considered an eligible public accommodations access expenditure unless the taxpayer establishes to the satisfaction of the Treasury Department that the removal of any barrier or the provision of any auxiliary aid or service to which the expenditure relates satisfies standards set forth in regulations promulgated by the Treasury Department with the concurrence of the Architectural and Transportation Barriers Compliance Board. In addition, amounts paid or incurred by a taxpayer for the purpose of removing architectural, communication, or transportation barriers do not qualify as eligible public accommodations access expenditures if the amounts are paid or incurred in connection with any facility that is first placed in service (*i.e.*, the first occupancy of which occurs) after December 31, 1990.

Other definitions and special rules

For purposes of this provision, the terms "disability," "public accommodation," and "auxiliary aids and services" have the same respective meanings given such terms by the Americans With Disabilities Act of 1990, as in effect on the date of enactment of this provision.

For purposes of determining the amount of the credit and in determining whether the $4 million gross receipts limitation and the 30 full-time employee limitation are satisfied, all members of the same controlled group of corporations (as defined in section 52(a)) and all persons under common control (as defined in section 52(b)) are treated as one person. Thus, for example, two or more corporations that are members of the same controlled group of corporations would be allowed a credit that is not to exceed $5,000 if, treating all such corporations as a single person, the $4 million gross receipts limitation or the 30 full-time employee limitation is satisfied.

In the case of a partnership, the $10,250 annual limitation on the amount of expenditures that are taken into account in determining the amount of the credit is to apply at both the partnership level and the partner level. Similarly, in the case of an S corporation, the $10,250 annual limitation on the amount of the expenditures that are taken into account in determining the amount of the credit is to apply at both the S corporation level and the shareholder level.

The bill also provides that no deduction or credit is to be allowed under any other provision of chapter 1 of the Internal Revenue Code for any amount for which a credit is allowed and the adjusted basis of any property with respect to which a credit is determined is not to include the amount of the credit.

Finally, the bill requires the Treasury Department to prescribe such regulations as are necessary to carry out the purposes of the provision, including regulations that (1) adjust the $4 million gross receipts limitation and the 30 full-time employee limitation in the case of taxable years that are less than 12 months and (2) apportion the $10,250 annual limitation among two or more persons that are treated as a single person under the related-person rules described above.

Reduction of amount deductible as architectural and transportation barrier removal expenses

The bill also reduces the amount of architectural and transportation barrier removal expenses that may be deducted for any taxable year to $15,000.

Effective Date

The small business public accommodations access credit applies to eligible expenditures paid or incurred after the date of enactment.

The reduction in the amount of deductible architectural and transportation barrier removal expenses applies to taxable years beginning after the date of enactment.

Subtitle C. Modifications of Earned Income Tax Credit; Dependent Care Credit (secs. 7301-7303 of the bill and secs. 21, 32, and 3507 of the Code).

Present Law

Earned Income Tax Credit

An individual who maintains a home for one or more children is allowed an advance refundable tax credit based on the taxpayer's earned income (sec. 32 of the Internal Revenue Code). In 1990, the earned income tax credit (EITC) is equal to 14 percent of the first $6,810 of earned income.

The credit is phased out at a rate of 10 percent of the amount of adjusted gross income (or, if greater, earned income) that, in 1990, exceeds $10,730. The $6,810 and $10,730 amounts are adjusted annually for inflation, so that the maximum amount of credit and the maximum amount of income eligible for the credit increase with inflation.

The projected maximum amount of the credit in 1991 is $994. The actual maximum will depend on future inflation.

The earned income credit is available to: (1) married individuals filing a joint return who are entitled to a dependency exemption for a child, (2) a head of household, or (3) a surviving spouse. In order to qualify to file as a head of household or surviving spouse, a taxpayer must establish that he or she has provided over half of the cost of maintaining the household for the year. In order to be eligible to claim a dependency exemption, the taxpayer, in general, must provide over half of the support for the child, and the child must have the same principal place of abode as the taxpayer for at least half the year. Benefits under the Aid to Families with Dependent Children (AFDC) program and other public assistance programs are not considered support provided by the taxpayer. Thus, if more than half of the taxpayer's income is from AFDC or sources other than the taxpayer's own income, the earned income tax credit generally is not available.

Tax provisions relating to individual health insurance

Expenses for medical care, including health insurance premiums, are deductible to taxpayers who itemize deductions to the extent the expenses exceed 7.5 percent of adjusted gross income (AGI).

Health insurance provided by an employer is excludable from gross income. Self-employed individuals are entitled to deduct 25 percent of the amount of health insurance expenditures; in general, the provision for self-employed individuals expires with respect to expenses for health insurance coverage for periods after September 30, 1990.[34]

There is no provision that provides a credit for health insurance.

Treatment of EITC for means-tested programs

The AFDC statute provides for the disregard of the EITC from income in determining eligibility and benefits for AFDC recipients. The food stamp statute provides for disregarding the EITC for purposes of determining eligibility and benefits if it is paid as an advance payment. EITC payments received as a lump sum are counted as assets. Some means-tested programs, including housing assistance programs, treat the EITC as income for determining eligibility and benefits.

Dependent care credit

A credit equal to 30 percent of employment-related dependent care expenses is provided to taxpayers who maintain a household for a qualified individual. The 30-percent rate is reduced for taxpayers with AGI greater than $10,000 so that the credit percentage is 20 percent for taxpayers with AGI greater than $28,000.

The maximum amount of expenses eligible for the credit is $2,400 for one qualifying individual, and $4,800 for two or more individuals. In addition, the amount of eligible expenses cannot exceed the lesser of the taxpayer's earned income or that of the spouse, if married.

A qualifying individual is one for whom the taxpayer is entitled to claim a dependency or spousal exemption and is (1) under the age of 13 or (2) mentally or physically incapable of caring for himself or herself.

The credit is nonrefundable.

Reasons for Change

The committee intends to address two important needs of low-income working families: child care and health insurance. The committee recognizes the financial strain that the costs of these items place on low-income families and is concerned that these families obtain financial assistance in obtaining child care and health insurance.

The committee modifies the present-law earned income tax credit (EITC) to accomplish its goals in this regard by adjusting the credit by family size and by providing a supplemental credit for health insurance coverage that includes coverage for the taxpayer's children. The EITC has been modified because the credit is intended to provide tax relief to low-income working families and to improve incentives to work. In addition, the EITC provides an important means by which overall progressivity under the tax system may be achieved.

Concerns have been expressed about the complexity of the EITC and potential taxpayer compliance problems. Accordingly, the committee has adopted modifications intended to both simplify and enhance compliance with the credit.

The bill also makes the existing dependent care credit 90-percent refundable. The committee believes that the credit should be refundable so that low-income families with children obtain financial assistance for necessary child care so the parents may be gainfully employed. The committee believes that refundability of the credit will remove an important barrier to the economic ad-

[34] See sec. 7110 of the bill relating to the extension of this provision.

vancement of low-income families in that adequate child care for working parents will now be more affordable.

Explanation of Provision

The bill modifies the earned income tax credit (EITC) by providing an adjustment for family size and a supplemental health insurance credit. In addition, the treatment of the EITC is modified for purposes of certain means-tested programs. The bill makes the dependent care credit refundable. Finally, provision is made for a study of the advance payment system and a public awareness program.

Earned income tax credit

Family size adjustment: The bill increases the amount of the earned income tax credit, modifies the present-law phase-out percentage, and adjusts the credit for family size as follows:

	Credit percentage	Phase-out percentage
For 1991:		
1 qualifying child	15.3	10.9
2 or more qualifying children	15.7	11.2
For 1992:		
1 qualifying child	15.95	11.4
2 or more qualifying children	16.55	11.8
For 1993:		
1 qualifying child	17.25	12.3
2 or more qualifying children	18.25	13.0
For 1994 and thereafter:		
1 qualifying child	20.5	14.6
2 or more qualifying children	22.5	16.1

As under present law, a taxpayer may receive the EITC on an advanced basis. However, the amount of the credit that may be received on this basis is limited to the credit that the taxpayer could receive if the taxpayer had only one qualifying child. Of course, if the taxpayer is entitled to receive a larger credit under the bill (e.g., by reason of family size), the balance of the credit may be refunded after the taxpayer's income tax return has been filed.

Modification of rules relating to eligibility for EITC: In order to qualify for the EITC, the taxpayer must meet the present-law earned income and adjusted gross income thresholds (as modified by the bill). In addition, the taxpayer must have a "qualifying child."

In order to be a qualifying child, an individual must satisfy a relationship test, a residency test, and an age test. The individual satisfies the relationship test if the individual is a son, stepson, daughter or stepdaughter of the taxpayer, a descendent of a son or daughter of the taxpayer, or a foster or adopted child of the taxpayer. A foster child is defined as an individual whom the taxpayer cares for as the taxpayer's own child. An adopted child includes a child who is legally adopted, or who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer.

As under present law, if the individual is married at the close of the taxpayer's year, the taxpayer generally must be entitled to a dependency deduction for the taxable year with respect to such individual.

An individual satisfies the residency test if the individual has the same principal place of abode as the taxpayer for more than half the taxable year (the entire year for foster children). It is intended that the determination of whether the residency requirement is met is made under rules similar to those applicable with respect to whether an individual meets the requirements for head-of-household filing status. Thus, for example, certain temporary absences due to education or illness would be disregarded for purposes of determining whether the child had the same principal place of abode as the taxpayer for over half the year. As under present law, the residence must be in the United States.

An individual satisfies the age test if the individual (1) has not attained the age of 19 at the close of the taxable year; (2) is a full-time student who has not attained the age of 24 at the close of the taxable year; or (3) is permanently and totally disabled. Whether a child is a full-time student is determined under the rules relating to dependency exemption (sec. 151(c)(4)). An individual is permanently and totally disabled if such individual meets the requirements relating to the credit for the disabled (sec. 22(e)(3)).

If, with respect to a taxable year, an individual is a qualifying child with respect to more than one taxpayer, then only the taxpayer with the highest adjusted gross income may claim the EITC with respect to that child. In addition, a taxpayer may not claim the EITC if the taxpayer is a qualifying child.

As under present law, married taxpayers may only claim the EITC if they file a joint return.

Solely for purposes of the EITC, taxpayers are required to obtain and supply a taxpayer identification number (TIN) for each qualifying child who has attained the age of 1 as of the close of the taxable year of the taxpayer.

In order to claim the EITC, the taxpayer must complete and attach a separate schedule to his or her income tax return. In addition to the TIN requirement discussed above, this schedule will include the name and age of any qualifying children. The Secretary may also require adequate proof of the existence of health insurance where the taxpayer has claimed the supplemental EITC for health insurance (e.g., the policy number of the insurance or the employer identification number of the insurance company).

The Internal Revenue Service is to develop special procedures to notify taxpayers who have not claimed the EITC of their potential eligibility for the credit.

Credit for health insurance premiums: A credit is available to taxpayers for qualified health insurance expenses that includes coverage for a qualifying child. The taxpayer may elect not to receive the health credit. In addition, the health credit is refundable, but not on an advance basis.

Qualified health insurance expenses for which the credit is available are amounts paid during the taxable year for health insurance that includes coverage for one or more qualifying children (as defined for purposes of the EITC). These expenses include those relating to the cost of coverage (i.e., premium cost) only. Thus, expenses such as co-payments or deductibles under the insurance coverage, as well as other out-of-pocket medical expenses, are not eligible for the credit as qualified health insurance expenses. In addition, qualified health insurance expenses do not include amounts paid by an employee who contributes to his or her employer-sponsored health plan on a pre-tax basis (i.e., through a plan described in sec. 125). Qualified health expenses do include such employee contributions if made on an after-tax basis.

The calculation of the child health credit is generally the same as the calculation of the EITC. Thus, the same eligibility criteria and income phase-in and phase-out requirements apply. However, there is no family size adjustment with respect to the health credit.

The maximum amount of the credit is calculated based on a percentage of earned income. When fully phased in, the credit percentage of the credit is 5.5 percent of earned income (up to the maximum amount of creditable earned income in effect for the EITC) and the phaseout rate is 3.9 percent. The credit is phased in so that the credit percentage is 1.1 percent for 1991, 2.475 percent for 1992, 2.5 percent for 1993, and 5.5 percent for 1994 and thereafter. The phase-out percentage is 0.8 percent in 1991, 1.8 percent in 1992 and 1993, and 3.9 percent in 1994 and thereafter.

The maximum credit after application of the phase-out requirement is limited to no more than the actual cost of coverage to the taxpayer for family coverage. Thus, the credit is limited to the lesser of the maximum amount of the credit as phased out with respect to the taxpayer and the actual qualified health insurance expenses.

The amount of expenses against which the credit is allowed reduces the amount of expenses for which the medical expense deduction may be allowed (sec. 213). A similar rule applies with respect to the amount of health insurance expenses upon which the deduction for health insurance costs for self-employed individuals (sec. 162(l)) may be based.

Treatment of credit for means-tested programs: The EITC (including the child health insurance portion) shall not be taken into account as income (for the month in which such refund or payment is made or any month thereafter) or as a resource (for the month in which such refund or payment is made or the following month) for the purpose of determining the eligibility or amount of benefit of such individual for AFDC, Medicaid, SSI, and for low-income housing programs. In addition, effective January 1, 1991, the EITC may not be counted as income for purposes of applying the AFDC gross income limit for applicants and recipients of AFDC. A State may waive any AFDC overpayment based on the failure to count the EITC toward the gross income limit between October 1, 1989, and December 31, 1990.

Dependent care credit

The dependent care credit is made refundable, except that taxpayers with AGI in excess of $28,000 are not entitled to any refundable portion of the credit. As under present law, the full amount of credit is available to offset tax liability. Ninety percent of the remaining credit amount may then be received as a refund. Dependent care expenses paid, reimbursed, or subsidized by the Federal or a State and local government are generally not eligible for the credit.

For purposes of determining the amounts of credit that are refundable and nonrefundable, other credits and deductions are applied before the dependent care credit, except for the EITC which is applied after the dependent care credit.

For example, assume a taxpayer has tax liability of $70 after the application of all credits and deductions except the dependent care credit and the EITC. The taxpayer has $100 of dependent care credit (prior to application of the limit on refundability), and $150 of earned income tax credit. The taxpayer offsets $70 of tax liability with the dependent care credit. Of the remaining $30 of dependent care credit, $27 (90 percent of $30) may be obtained as a refund while all of the $150 of the EITC is refundable.

Public Awareness Program

The Secretary of the Treasury is to establish a taxpayer awareness program to inform the taxpaying public of the availability of the earned income, dependent care, and health insurance credit.

Study of Advance Payments

Require the Comptroller General of the United States, in conjunction with the Secretary of the Treasury, to conduct a study of an advance payment system for earned income, dependent care and health insurance premium credits to determine (1) the effectiveness; (2) the manner in which to alleviate complexity, if any, for small business; and (3) any other problems in administration. The study shall include an analysis of why there is a low rate of participation in the advance payment program.

Effective Date

The provision is effective for taxable years beginning after December 31, 1990.

The public awareness program provision is effective for the first day of the first calendar year following date of enactment.

The study of the advance payment system is due to the Senate Committee on Finance and the House Committee on Ways and Means no later than one year after enactment.

SUBTITLE D. REVENUE-RAISING PROVISIONS

Excise Taxes

1. Increase Excise Taxes on Distilled Spirits, Beer, and Wine (secs. 7401 and 7408 of the bill and secs. 5001, 5041, and 5051 of the Code).

Present Law

Under present law, the following alcoholic beverages are subject to excise taxes at the rates indicated:

Beverage	Tax imposed
Distilled spirits	$12.50 per proof gallon.
Beer	$9.00 per barrel generally[35]
Still wines:	
Up to 14 percent alcohol	$0.17 per wine gallon.
14 to 21 percent alcohol	$0.67 per wine gallon.
21 to 24 percent alcohol[36]	$2.25 per wine gallon.
Artificially carbonated wines	$2.40 per wine gallon.

[35] The tax rate is $7.00 per barrel for certain small brewers.

[36] Wines containing more than 24 percent alcohol are taxed as distilled spirits.

Reasons for Change

The committee determined that it is appropriate to increase excise taxes on distilled spirits, beer, and wine. The excise tax on distilled spirits was increased by $2.00 per proof gallon in 1985 (the only increase since 1951), and the excise taxes on beer and wine were last increased in 1955. Despite the 1985 increase in the distilled spirits rate, the effective rate of all of the alcoholic beverage excise taxes is significantly lower than it was in 1951 (distilled spirits) or in 1955 (beer and wine). Therefore, increases in these taxes are appropriate to restore the Federal excise tax base for alcoholic beverages. The committee also was aware of substantial differences among the different alcoholic beverages in the present-law effective tax rates on alcohol content. The increased rates are designed to ameliorate these differences in part.

In deciding to increase alcoholic beverage excise taxes, the committee took note of numerous studies demonstrating that the direct and indirect social costs from alcohol consumption are far greater than the revenues currently generated from alcoholic beverage excise taxes. Government spending for highway safety, public health, and welfare are all increased by alcohol consumption. Moreover, alcohol consumption imposes substantial costs on society from accidents, disease, and reduced worker performance. Thus, increasing the alcoholic beverage excise taxes could help to place some of the costs of alcohol consumption on alcohol users and could reduce consumption among teenagers.

Explanation of Provisions

Increase in tax rates

The bill provides for the following excise tax rate changes:

(1) Increase the distilled spirits tax rate by $1.20 per proof gallon, from $12.50 per proof gallon to $13.70 per proof gallon.[37]

(2) Double the tax rate on beer from $9.00 per barrel (16 cents per six pack) to $18.00 per barrel (32 cents per six pack).

(3) Increase the tax rate on wine with up to 14 percent alcohol content (commonly referred to as table wine) from $0.17 per wine gallon (3 cents on a 750-milliliter bottle) to $1.07 per wine gallon (21 cents on a 750-milliliter bottle).

(4) Increase the tax rate on wine with 14 to 21 percent alcohol content (commonly referred to as fortified wine) from $0.67 per wine gallon (13 cents on a 750-milliliter bottle) to $1.57 per wine gallon (31 cents on a 750-milliliter bottle).

(5) Increase the tax rate on wine with 21 to 24 percent alcohol content from $2.25 per wine gallon (45 cents on a 750-milliliter bottle) to $3.15 per wine gallon (63 cents on a 750-milliliter bottle).

(6) Increase the tax rate on artificially carbonated wine from $2.40 per wine gallon (48 cents on a 750-milliliter bottle) to $3.30 per wine gallon (66 cents on a 750-milliliter bottle).

Small producer exception

The bill provides that small domestic breweries may claim a credit of $11.00 per barrel (i.e., the difference between the $18.00 per barrel rate provided for by the bill and the present-law $7 per barrel rate) on the first 30,000 barrels of beer produced during a calendar year. The credit is phased out for breweries with total production during the calendar year between 45,000 and 75,000 barrels. Similarly, small domestic wineries are entitled to a credit of 90 cents per wine gallon (the difference between the increased tax rates on wines provided for by the bill and the present-law rates) on the first 100,000 gallons of wine produced during a calendar year. The credit is phased out for wineries with total production during the calendar year between 150,000 and 250,000 gallons.[38]

Effective Date

The rate increases are effective on January 1, 1991, with floor stocks taxes being imposed on that date (including articles in foreign trade zones).

2. Increase Tobacco Excise Taxes (secs. 7402 and 7408 of the bill and sec. 5701 of the Code).

Present Law

The following is a listing of the Federal excise taxes imposed on tobacco products under present law:

Article	Tax imposed
Cigars:	
Small cigars	$0.75 per thousand.
Large cigars	8.5% of suggested wholesale price, up to $20 per thousand.
Cigarettes:	
Small cigarettes	$8.00 per thousand (16 cents per pack of 20 cigarettes).
Large cigarettes	$16.80 per thousand.
Cigarette papers	$0.005 per 50 papers.
Cigarette tubes	$0.01 per 50 tubes.
Chewing tobacco	$0.08 per pound.
Snuff	$0.24 per pound.
Pipe tobacco	$0.45 per pound.

Reasons for Change

The committee determined that it is appropriate to increase excise taxes on tobacco products. The present tobacco excise taxes generally are imposed at flat rates rather than being adjusted to reflect inflation. Despite an increase in 1982 in cigarette excise tax rates (the only such increase since 1951), the effective rate of tobacco excise taxes is lower today than it was in 1951. Therefore, increases in these taxes are appropriate to restore the Federal excise tax base for tobacco products.

In deciding to increase tobacco excise taxes, the committee took note of the fact that the U.S. Surgeon General and the Department of Health and Human Services have identified cigarette smoking as the single most significant source of premature death in the United States.[39] In addition, studies have indicated that billions of dollars of additional health costs and lost income are smoking related. Thus, increasing the tobacco excise taxes could help to place some of the costs of tobacco consumption on tobacco users, is consistent with other Federal Government policies to discourage smoking because of the associated health hazards, and could reduce smoking by the young.

Explanation of Provision

In general

The bill increases by 25 percent the current excise taxes on all tobacco products, including cigarettes, cigars, chewing tobacco, snuff, and pipe tobacco (e.g., increase the tax on a pack of 20 small cigarettes from 16 cents to 20 cents per pack), effective January 1, 1991. Further, the bill increases by the same dollar amount as the previous 25-percent increase the excise taxes on all tobacco products (e.g., increase the tax on a pack of 20 small cigarettes from 20 cents to 24 cents per pack), effective January 1, 1993. Floor stocks taxes are imposed at the time of each rate increase (including articles in foreign trade zones).

Specific tax rate increases

The following table shows the specific tobacco excise tax rates under the bill as of January 1, 1991:

Article	Tax rate (January 1, 1991)
Cigars:	
Small cigars	$0.9375 per thousand.
Large cigars	10.625% of suggested wholesale price, up to $25 per thousand.
Cigarettes:	
Small cigarettes	$10.00 per thousand (20 cents per pack of 20 cigarettes).
Large cigarettes	$21.00 per thousand.
Cigarette papers	$0.00625 per 50 papers.
Cigarette tubes	$0.0125 per 50 tubes.
Chewing tobacco	$0.10 per pound.
Snuff	$0.30 per pound.
Pipe tobacco	$0.5625 per pound.

[37] Conforming amendments are made to the tax as currently applied to certain other products (e.g., alcohol in imported perfumes).

[38] The Treasury Department is granted authority to prescribe regulations to prevent the small brewery and winery credits from benefiting any person who produces more than 75,000 barrels of beer or 250,000 gallons of wine.

[39] *See* Department of Health and Human Services, Report to the Congress, *Smoking and Health: A National Status Report*, 2nd Ed., 1990.

The following table shows the specific tobacco excise tax rates under the bill as of January 1, 1993:

Article	Tax rate (January 1, 1993)
Cigars:	
Small cigars	$1.125 per thousand.
Large cigars	12.75% of suggested wholesale price, up to $30 per thousand.
Cigarettes:	
Small cigarettes	$12.00 per thousand (24 cents per pack of 20 cigarettes).
Large cigarettes	$25.20 per thousand.
Cigarette papers	$0.0075 per 50 papers.
Cigarette tubes	$0.015 per 50 tubes.
Chewing tobacco	$0.12 per pound.
Snuff	$0.36 per pound.
Pipe tobacco	$0.675 per pound.

Effective Date

The first rate increase described above is effective on January 1, 1991. The second rate increase described above is effective on January 1, 1993.

3. Expand ozone-depleting chemicals excise tax (sec. 7403 of the bill and sec. 4682 of the Code)

Present Law

In general

An excise tax is imposed on certain ozone-depleting chemicals sold or used by the manufacturer, producer, or importer. Imported products also are subject to tax if any ozone-depleting chemical was used as an input in the manufacture or production of such product. The amount of tax is determined by multiplying a base tax amount by an "ozone-depleting factor."

A reduced rate of tax is provided for chemicals used in rigid foam insulation, and for Halon-1211, Halon-1301, and Halon-2402, for calendar years 1990-1993. The tax does not apply to feedstock chemicals used in the production or manufacture of other ozone-depleting or non-ozone-depleting chemicals. The tax also does not apply to any ozone-depleting chemical which is diverted or recovered in the United States as part of a recycling process. Certain exports of ozone-depleting chemicals are exempt from tax.

Ozone-depleting chemicals

Ozone-depleting chemicals which are subject to tax are: CFC-11; CFC-12; CFC-113; CFC-114; CFC-115; Halon-1211; Halon-1301; and Halon-2402.

The chemicals subject to tax are those identified as ozone-depleting under the Montreal protocol as in effect on September 14, 1989. Subsequent changes to the list of ozone-depleting chemicals under the Montreal protocol will not change the list of chemicals subject to tax without Congressional action.

Base tax amount

For calendar years 1990 and 1991, the base tax amount is $1.37 per pound of ozone-depleting chemical; for 1992, the base tax amount is $1.67 per pound; and for 1993 and 1994, the base tax amount is $2.65 per pound. For calendar years after 1994, the base tax amount is increased by $0.45 per pound per year. A floor stocks tax applies upon each tax increase date occurring before 1995.

Reasons for Change

In June of 1990, the Montreal Protocol on Substances that Deplete the Ozone Layer was amended to expand the list of controlled chemicals and to make other changes. The list of controlled chemicals was expanded to include carbon tetrachloride, methyl chloroform, CFC-13, CFC-111, CFC-112, CFC-211, CFC-212, CFC-213, CFC-214, CFC-215, CFC-216, and CFC-217. The committee believes it is appropriate to conform the list of taxable chemicals to the list of chemicals controlled under the Montreal protocol, as adjusted and revised.

Explanation of Provision

The bill adds carbon tetrachloride, methyl chloroform, CFC-13, CFC-111, CFC-112, CFC-211, CFC-212, CFC-213, CFC-214, CFC-215, CFC-216, and CFC-217 to the list of chemicals taxed under section 4681 effective January 1, 1991. Consequently, an excise tax is imposed on these chemicals when sold or used by the manufacturer, producer, or importer. The bill also imposes a tax on imported products if any ozone-depleting chemical was used as an input in the manufacture or production of such product. The amount of tax is determined by multiplying the base tax amount applicable to the calendar year by an "ozone-depleting factor."

The base tax rate is phased in for the newly taxed chemicals. For calendar years 1991 and 1992, the base tax rate is $1.37 per pound. For calendar year 1993, the base tax rate is $1.67 per pound. For calendar year 1994, the base tax rate is $3.00 per pound. For calendar year 1995, the base tax rate is $3.10 per pound. For calendar years after 1995, the base tax rate is to increase by $0.45 per pound as under present law.

The ozone-depleting factors of the newly taxed chemicals are:

Chemical	*Ozone-depleting factor*
carbon tetrachloride	1.1
methyl chloroform	0.1
CFC-13	1.0
CFC-111	1.0
CFC-112	1.0
CFC-211	1.0
CFC-212	1.0
CFC-213	1.0
CFC-214	1.0
CFC-215	1.0
CFC-216	1.0
CFC-217	1.0

The bill directs the Secretary of the Treasury to promulgate regulations which provide a limited exception for exports of these newly taxed chemicals. Such exception is to be comparable to the present law export exemption for other taxable chemicals, except that it is to be based on production and consumption data from calendar year 1989 rather than 1986.

In addition, as under current law, newly taxed chemicals held for sale or use (including taxable chemicals in foreign trade zones) will be subject to a floor stocks tax on all tax increase dates prior to January 1, 1995, including January 1, 1991.

Effective Date

These amendments are effective for newly taxable chemicals sold or used on or after January 1, 1991.

4. Increase Highway and Motorboat Fuels Excise Taxes (sec. 7404 of the bill and secs. 4041, 4081, 4091, and 4101 of the Code).

Present Law

Federal excise taxes generally are imposed on gasoline (9 cents per gallon) and special motor fuels (9 cents per gallon) used in highway transportation and motorboats. In addition, a Federal excise tax is imposed on diesel fuel (15 cents per gallon) used in highway transportation. The 9-cents-per-gallon taxes on gasoline and special motor fuels and the 15-cents-per-gallon tax on diesel fuel are scheduled to expire after September 30, 1993.

Exemptions from some or all of these taxes are provided for fuels sold for export, for use in farming, for use by State and local governments, for use by nonprofit educational organizations, for use in off-highway business (e.g., in rail transportation), and for certain other uses.

A 6-cents-per-gallon exemption is provided from these taxes for certain fuels blended with alcohol, e.g., gasohol. The alcohol fuels exemption is scheduled to expire after September 30, 1993.

Amounts equivalent to the revenues from the highway fuels taxes and motorboat fuels taxes are dedicated to the Highway Trust Fund and the Aquatic Resources Trust Fund, respectively. Amounts equal to 1 cent per gallon of the highway motor fuels taxes are set aside for the mass transit account of the Highway Trust Fund.

Persons subject to the gasoline and diesel fuel taxes are required to register with the Secretary of the Treasury before they incur any tax liability (sec. 4101). The Secretary also may require such registrants to post bond.

Reasons for Change

In light of the continuing dependence of the United States on foreign petroleum products, and the volatility of petroleum prices recently, the committee believes domestic consumption of petroleum should be reduced. The committee believes that an increase in motor fuels taxes will reduce domestic consumption, which will both promote greater energy self-sufficiency and reduce atmospheric pollution.

The committee further is concerned about the continued presence of large federal deficits. Increasing these excise taxes has the combined benefit of raising revenue to reduce the deficit while encouraging energy self-sufficiency. In recognition of the country's infrastructure needs and the large budget deficit, the committee believes that the revenues from the increased rates should be divided between the appropriate trust funds and general revenues.

The committee recognizes that increasing the highway taxes will be a greater burden on those States that pay more into the Highway Trust Fund than they receive back in highway program funding. Therefore, the committee has agreed that the highway tax rate increases must be accompanied by an assurance that each State will receive each year highway account apportionments and allocations equal to 95 percent of its contributions to that account attributable to the rate increases.

The committee also believes that it is important to insure parity among fuels used by competing transportation industries. Thus, the committee believes that railroad fuel users should share in the deficit reduction portion of the tax increase.

In addition, the committee believes it is appropriate to use the additional funds dedicated to the Aquatic Resources Trust Fund to fund a Wetlands Restoration Account to be used to preserve, protect, enhance, and restore wetlands.

Finally, the committee believes that additional reporting and registration can improve compliance in gasoline tax collection. The committee is granting the Secretary expanded authority to require such reporting and registration.

Explanation of Provisions

The bill increases the present highway (including gasohol) and motorboat fuels taxes by 4 cents per gallon, effective on December 1, 1990, an additional 5 cents per gallon on July 1, 1991, and an additional 0.5 cents per gallon on January 1, 1992. It also imposes a 2-cents-per-gallon tax on fuels used in rail transportation, effective December 1, 1990, an additional 2.5-cents-per-gallon tax on July 1, 1991, and an additional 0.25 cents-per-gallon tax on January 1, 1992.

Except as indicated above for fuels used in rail transportation, fuels used in off-highway uses, use in farming, by States and local governments, by school buses, and by other persons whose use is fully exempt from the present highway and motorboat fuels taxes are not subject to the increased rates. Certain intercity buses are subject to a maximum fuels tax of 3.1 cents per gallon (including the tax for the Leaking Underground Storage Trust Fund). The excise tax exemption for gasohol made from ethanol and qualified fuel ethanol is reduced to 5.5 cents per gallon (4.0 cents in the case of partially exempt ethanol fuels), as described in part B. 1. b.

All of the revenues from the tax on fuels used in rail transportation and the amounts attributable to the reduction in the excise tax exemption for gasohol made from ethanol are retained in the general fund. The revenues derived each year from one-half of the increases in the highway and motorboat fuel tax rates are dedicated to the Highway Trust Fund and Aquatic Resources Trust Fund, respectively; the revenues derived from the remaining half of the increases in the highway and motorboat fuel rates are retained in the general fund. Twenty percent of the amounts attributable to increased revenues dedicated to the Highway Trust Fund are set aside for the mass transit account of that Trust Fund.

Revenues from the increased rates that are dedicated to the Aquatic Resources Trust Fund are to be deposited in a new Wetlands Restoration Account in the Aquatic Resources Trust Fund, to be expended to carry out the creation, restoration, protection, enhancement, and conservation, of wetlands upon enactment of, and as provided in, qualified authorizing legislation substantially identical to the Coastal Wetlands Planning, Protection and Restoration Act as passed by the Senate on August 2, 1990.

The bill provides that no amounts shall be expended from the Highway Trust Fund for the Federal-aid highway programs with respect to receipts attributable to the rate increases provided in this bill unless each State receives apportionments and allocations for certain Federal-aid highway programs equal to at least 95 percent of the percentage of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund, other than the Mass Transit Account, as a result of the increased rates.

The present-law motor fuels tax rates and exemptions are extended through September 30, 1995; the increases in the tax rates (both the Trust Fund and deficit reduction portions) also expire after that date. However, the present-law (October 1, 1993) expiration of Highway Trust Fund expenditure authority is retained.

Section 4101 is amended to require registration with the Secretary of such persons as the Secretary may by regulation prescribe. The Secretary is given authority to issue regulations which prescribe the manner, form, terms, and conditions of registration and to specify how the registration may be used. To the extent necessary to permit effective administration, the Secretary is authorized to disclose the name and registration number of each registrant and the address of each terminal owned by each registrant who is subject to tax under subtitle D of the Code.

Pursuant to regulations, the Secretary is authorized to require, as a condition of registration, that registrants post a bond in such sum as the Secretary determines appropriate and agree to the imposition a lien on such property (or rights to property) of such person as the Secretary determines appropriate. The Secretary must release a lien in connection with a transfer of the property if a bond in an appropriate amount is furnished. The Secretary must respond not later than 90 days after the request for release of a lien in connection with the transfer of the property.

Persons registered as terminal operators, and from whose terminal gasoline is removed, are required to make a return, at such time and in such form as the Secretary may by regulations prescribe. The report must specify with respect to removals (a) the name, address, and registration number of the owner of the gasoline (or of the owner of record in such cases the Secretary deems appropriate), (b) the amount of gasoline removed, and (c) such other information as the Secretary may require.

Effective Date

The excise tax provisions are effective on December 1, 1990. The compliance provisions are effective on January 1, 1991. Floor stocks taxes are imposed on December 1, 1990, July 1, 1991, and January 1, 1992 on inventories (including inventories in foreign trade zones) held on those dates on which tax at the old rates has been paid or that previously were exempt but which are taxed under the bill, e.g., fuels held for use in rail transportation.

5. Increase Airport and Airway Trust Fund Excise Taxes (sec. 7405 of the bill and secs. 4261, 4271, 4283, 4091, 4041(c), 6427(f), and 9502 of the Code)

Present Law

Tax rates: Excise taxes which are imposed on air transportation for transfer to the Airport and Airway Trust Fund are (1) an 8-percent tax on air passenger transportation, (2) a 5-percent tax on air freight, (3) a $6 per passenger tax on international departures, (4) a tax of 12 cents per gallon on gasoline used in noncommercial aviation, and (5) a tax of 14 cents per gallon on nongasoline (jet) fuels used in noncommercial aviation. These taxes are scheduled to expire after December 31, 1990.

Tax reduction trigger: Under present law, the aviation excise taxes generally will be reduced by 50 percent (except for the departure tax and the gasoline tax)[40] beginning on January 1, 1991, if the appropriations from the Trust Fund for fiscal years 1989 and 1990 for airport improvements, facilities and equipment, and research, engineering, and development were less than 85 percent of the total amounts authorized for these programs. (The amounts actually appropriated for these programs for fiscal years 1989 and 1990 were 80.7 percent of the amounts authorized.) Thus, if the aviation excise taxes are extended, the tax reduction trigger will go into effect on January 1, 1991.

Limit on Trust Fund use for FAA operations and maintenance: Funding for Federal Aviation Administration (FAA) operations and maintenance from the Trust Fund is limited to 50-percent of the total amount appropriated for airport improvements, facilities and equipment, and research, engineering, and development (R&D) for fiscal years 1988-1990. In addition, if the fiscal year appropriated amount is less than the amount authorized for these programs, the amount available from the Trust Fund for operations and maintenance is limited further by 200 percent of the amount of such shortfall. This two-for-one penalty applies through fiscal year 1992. FAA operations and maintenance and other aviation-related expenses not specifically paid from the Trust Fund are financed by general revenues.[41]

Reasons for Change

The committee determined that the aviation excise taxes should be extended beyond 1990, that the aviation tax reduction trigger should be repealed, and that certain of the aviation excise taxes should be increased in order to continue to pay for the necessary Federal airport and airway capacity and safety expenditures.

Explanation of Provisions

Extension of current taxes: The bill extends the current Airport and Airway Trust Fund excise taxes for 5 years (January 1, 1991 through December 31, 1995).

Increase in tax rates: Also for the 5-year period, January 1, 1991-December 31, 1995, the bill increases the taxes on the air passengers and air freight to 10 percent and 6.25 percent, respectively. The taxes on noncommercial aviation fuels are increased to 15 cents per gallon for gasoline and to 17.5 cents per gallon for jet fuel. The international air departure tax, which was increased to $6 on January 1, 1990, remains at $6.

Tax reduction trigger: The aviation tax reduction trigger is repealed.

Use of revenues: Revenues from the current and increased aviation taxes will continue to go into the Airport and Airway Trust Fund through 1995.

Effective Date

The provisions are effective generally on January 1, 1991. For the air passenger and air cargo taxes, the increase in taxes are effective for transportation beginning after December 31, 1990, but only for tickets or fares paid after that date.

6. Increase the Harbor Maintenance Excise Tax (sec. 7406 of the bill and sec. 4461 of the Code).

Present Law

A harbor maintenance tax is imposed on the use of U.S. ports. The tax is 0.04 percent of the value of commercial cargo loaded or unloaded at U.S. ports. The tax generally applies to commercial ship passenger fares, except for certain ferry boats. Revenues from the tax are transferred to the Harbor

[40] The tax on noncommercial aviation gasoline would be reduced from 12 cents to the basic Highway Trust Fund tax rate of 9 cents per gallon on gasoline (under sec. 4081).

[41] On October 11, 1990, the Senate Committee on Commerce, Science, and Transportation approved S. 3094 (Airport Capacity Act of 1990). S. 3094 provides increased Trust Fund authorizations for fiscal years 1991 and 1992. It provides no specific percentage limit from the Trust Fund for FAA operations and maintenance expenditures for fiscal years 1991 and 1992, and does not change the present-law two-for-one penalty for FAA operations and maintenance expenditures from the Trust Fund.

Maintenance Trust Fund to help pay for Federal harbor maintenance costs.

The tax does not apply to (1) cargo shipped between a U.S. mainland port and Alaska, Hawaii, or a U.S. possession for ultimate use or consumption therein; (2) cargo shipped between Alaska, Hawaii, or a U.S. possession (or between two possessions) for ultimate use or consumption therein; and (3) cargo loaded and unloaded within Alaska, Hawaii, or a U.S. possession. This exception does not apply to cargo destined for foreign consumption or to crude oil cargo shipped to or from Alaska. The tax also does not apply to cargo donated for foreign use.

The authorizing statute currently permits Trust Fund expenditures of up to 40 percent of eligible harbor maintenance and related costs.

Reasons for Change

The committee concluded that the increased harbor maintenance tax proposed in the President's fiscal 1991 budget should be enacted because revenues from the current 0.04-percent tax do not cover all the Federal expense relating to harbor maintenance and dredging.

Explanation of Provision

The bill increases the harbor maintenance tax to 0.125 percent of the value of commercial cargo or passenger fare. Also, the authorizing statute is modified to permit Trust Fund expenditures of up to 100 percent of eligible harbor maintenance and related costs.

Effective Date

The provision is effective on January 1, 1991.

7. Reimpose the Leaking Underground Storage Tank Trust Fund Tax (sec. 7407 of the bill and sec. 4081(d)(2) of the Code).

Present Law

Prior to September 1, 1990, a tax of 0.1 cent per gallon was imposed on gasoline, diesel fuel, special motor fuels, aviation fuel, and fuels used on inland waterways. Amounts equivalent to the revenues from this tax were deposited in the Leaking Underground Storage Tank Trust Fund. The 0.1 cent tax was terminated on August 31, 1990, after the Fund reached a statutory ceiling of $500 million of net revenue. If the ceiling had not been reached, the tax was scheduled to expire after December 31, 1991.

Reasons for Change

The committee believes that the clean-up of underground storage tanks remains a high priority and that a 0.1 cent per gallon contribution to the Leaking Underground Storage Tank Trust Fund continues to be warranted.

Explanation of Provision

The bill reimposes the Leaking Underground Storage Tank Trust Fund tax, extends the tax through December 31, 1995, and eliminates the Trust Fund revenue ceiling.

Effective Date

The provision is effective on December 1, 1990.

8. Luxury Excise Tax (sec. 7409 of the bill and new secs. 4001-4011 of the Code).

Present Law

No luxury excise taxes are imposed under present law. Although a number of luxury items were subject to various excise taxes in the past, those excise taxes were repealed in the Excise Tax Reduction Act of 1965.

Reasons for Change

The committee believes that it is appropriate to impose an excise tax on certain luxury goods.

Explanation of Provision

Imposition of tax

The bill imposes a 10-percent excise tax on the portion of the retail price of the following items that exceeds the thresholds specified below:

(1) Automobiles above $30,000: An automobile is any passenger vehicle manufactured primarily for use (as well as sold primarily for use or actually used predominantly) on public streets, roads, and highways that is rated at 6,000 pounds unloaded gross vehicle weight or less. This includes trucks and vans, except that only trucks and vans with a loaded gross vehicle weight of 6,000 pounds or less are subject to this tax. Limousines are subject to this tax regardless of weight. Also, the tax does not apply to the sale or leasing of any passenger vehicle for use by the purchaser or lessee exclusively (other than a de minimis amount) in the active conduct of a trade or business of transporting persons or property for compensation or hire. Thus, for example, the tax will apply to a vehicle purchased by a business and used to transport its employees or officers. The trade or business of transporting persons or property for compensation or hire does not include the leasing or rental of an automobile without a hired driver.

(2) Boats and yachts above $100,000: Boats and yachts that are used exclusively (other than a de minimis amount) in a trade or business (except for entertainment or recreation purposes, including the trade or business of providing entertainment or recreation) are exempt from this tax. In addition, boats and yachts that are used exclusively in the trade or business of commercial fishing or of transporting persons or property for compensation or hire are exempt from this tax. The transporting of persons or property for compensation or hire includes transportation by a cruise ship (regardless of destination) or by a boat chartered with a pilot. These may be exempt from the tax provided that the other conditions for exemption are met.

(3) Aircraft above $250,000: The tax applies to aircraft above $250,000, with exceptions for: aircraft used exclusively (other than a de minimis amount) in the trade or business of transporting persons or property for hire; cropdusters; certain helicopters used exclusively in transporting individuals, equipment, or supplies in the exploration, development or removal of oil, gas, or hard minerals, or in planting or cutting of trees; and aircraft used exclusively for flight training purposes.

A special rule also applies to aircraft at least 80 percent of the use of which is in a trade or business. The tax must be paid upon the purchase of these aircraft; after a period of one full year, the taxpayer who purchased such an aircraft and who can demonstrate that at least 80 percent of the use of the aircraft was in a trade or business during the preceding 12 month period, may claim a refund for the tax that was paid.

(4) Jewelry above $5,000: The tax applies on an item-by-item basis. Custom fabrication of jewelry (from new or used materials) also is subject to this tax. Repairs and slight modifications to jewelry are not subject to this tax. Consequently, adding a clasp to a necklace is not subject to a tax. Watches are included as jewelry.

(5) Furs above $5,000: The tax applies to items made from fur or in which fur is a major component. The tax does not apply to leather or to artificial fur.

Special rules

Tax applicable only to newly manufactured items: This tax applies only to the first retail sale (for a purpose other than resale) after manufacture, production or importation of items subject to the tax. It does not apply to subsequent sales of these items. Thus, for example, if a jeweler sells a new brooch (or a new brooch manufactured from used materials) for $10,000, that item is subject to this tax. If, however, the jeweler sells an antique brooch for $10,000, that item is not subject to this tax.

Collection and deposit of tax: In general, the retailer must collect the tax and remit it to the IRS in accordance with the rules generally applicable to excise taxes.

Anti-abuse rules: An anti-abuse rule prevents businesses from briefly using items subject to this tax in their trade or business and then selling them (or converting them to personal use) a short time thereafter as a way of avoiding this tax. An additional anti-abuse rule prevents the avoidance of the tax on automobiles, boats, yachts and aircraft through separate purchases of major component parts. Thus, for example, if the taxpayer purchases a sailboat from a distant boatyard without an inboard motor or mast, and purchases and has installed locally the inboard motor and mast, those purchases would be aggregated for purposes of this tax. The installer must collect the tax due and remit it to the IRS.

Special rule for leases: A special rule applies to the leasing of boats and aircraft (as well as long-term leases of passenger vehicles) by a person in the trade or business of leasing. These lessors do not pay the tax on their purchase of these items; instead, their leasing of these items is treated as a sale (parallel to present law excise tax rules). Thus, a pro-rata portion of the tax is due on each lease payment, unless the lease payment is being made by a person who would be exempt from the tax (because of the nature of the use of the item) if the person owned the item.

Exemptions: In addition to the other exemptions from this tax, the tax on automobiles, boats, yachts, and aircraft does not apply to the sale of those items to the Federal government or a State or local government for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities or to any person for use exclusively in providing emergency medical services.

Determination of price: The retail sales price is the price paid by the retail customer, including any charge incident to placing the article in condition ready for use (such as preparation charges, dealer add-ons, and delivery charges). Retail sales taxes (if separately stated) are excluded. The retail sales price is determined without subtraction for any trade-in. Thus, the total price paid (whether paid in cash, in a trade-in, or otherwise) is the retail sale price. The manufacturer's suggested retail price (if any) is not the basis on which the price is computed. Significant variation from general retail market prices of comparable items may, however, be considered by IRS to be an indication of an attempt to avoid the tax. Similarly, the IRS may consider published guides to the value of used property (such as automobile "blue books") in considering whether the value of used property ex-

changed for the new items subject to tax was understated so as to reduce improperly the amount of luxury excise tax paid.

Tax applicable to imports: This tax applies to all items subject to the tax upon their importation into the United States (regardless of whether the item was used outside the United States prior to importation), unless the item is being imported by someone in the trade or business for subsequent retail sale or leasing (in which instance the subsequent retail sale or lease would be subject to tax). Thus, for example, the tax is imposed on the retail value of a passenger vehicle (whether new or used) that an individual imports for personal use.

Tax inapplicable to exports: This tax does not apply to exported items.

Effective Date

This tax applies to retail sales occurring on or after January 1, 1991. In general, the date on which a sale occurs is to be determined in accordance with existing rules for Federal excise taxes on heavy duty trucks. Thus, in general, a sale will be considered to occur upon the passage of title (regardless of when the contract for sale was or is executed or the purchase price was or is paid). The tax expires after December 31, 1999.

9. Extension of the telephone excise tax (sec. 7410 of the bill and sec. 4251 of the Code); Modification of collection period (sec. 7410 of the bill and sec. 6302 of the Code); Exemption Certificates (sec. 7410 of the bill and sec. 4253 of the Code)

Present Law

Imposition of tax

A 3-percent excise tax is imposed on amounts paid for local and toll (long-distance) telephone service and teletypewriter exchange service. The tax is collected by the provider of the service from the consumer (business and personal service). The tax is scheduled to expire after December 31, 1990.

Collection of tax

Under present law, the telephone tax billed to the customer in a semi-monthly period is considered to be collected from the customer during the second following semi-monthly period. Such tax must be deposited in a Federal Reserve Bank or other authorized depository within 3 banking days after the end of the semi-monthly period for which the tax is considered collected. (Rev. Proc. 76-45, 1976-2 C.B. 668).

Telephone tax exemption certificates

Exemptions from the telephone excise tax are provided for international organizations, the American Red Cross, servicemen in combat zones, nonprofit hospitals and educational organizations, State and local governments, and certain communications services furnished to news services for use in collection or dissemination of news services (except local telephone service to news services). Other exemptions include amounts paid for installation charges, certain calls from coin-operated telephones, and private communications systems (*e.g.*, certain dedicated lines leased to a single business user (sec. 4253)).

Under regulations, those claiming exemption are generally required to file annual exemption certificates (Treas. Reg. 49.4253-11).

Reasons for Change

The committee believes it is inappropriate to permit an existing revenue source to expire when the Federal government's financing needs are great. In addition, the committee believes it is important to have timely deposit of tax receipts and that accelerating collection of the telephone excise tax imposes no significant additional cost burden on the service providers charged with collecting the tax.

Elimination of the requirement for certain exempt organizations to file annual exemption certificates will reduce the administrative burden of filing the exemption certificates.

Explanation of Provisions

Extension of tax

The 3-percent telephone excise tax is permanently extended.

Collection of tax

Under the bill, the tax for a semi-monthly period is considered collected during the first week of the second following semi-monthly period. The tax is required to be deposited within 3 banking days after the end of the week for which such tax is considered to be collected.

Telephone tax exemption certificates

Under the provision, those communications service recipients exempt from the tax on communications (telephone) services by reason of being a qualified international organization, the American National Red Cross, nonprofit hospital, nonprofit educational organization, or a State or local government are relieved of having to file a certificate of exemption annually. Instead, such communications service recipients are granted a continuing exemption, after providing to the service provider a new, one-time statement (in a manner provided by the Secretary) certifying that the service recipient is entitled to such exemption. Should the service recipient no longer qualify for exemption or should the information on which the original exemption was based change, the service recipient must inform the service provider (who would collect the tax) within 30 days of such change in circumstances.

Effective Dates

The extension of the tax is effective on January 1, 1991. The change in the collection of the tax is effective with respect to taxes considered collected for semi-monthly periods beginning after December 31, 1990. The change in filing of exemption certificates is effective for any claim for exemption made after the date of enactment. (Any annual exemption certificate effective on the date of enactment remains effective until the end of its annual period.)

Other Revenue-Increase Provisions

1. Amortization of Policy Acquisition Expenses of Insurance Companies (secs. 7411-7413 and 7415 of the bill and secs. 848, 56(g)(4)(F), 807(e), 832(b)(4) and 6655 of the Code).

Present Law

Treatment of life insurance companies

In general

A life insurance company is taxed at corporate rates on its life insurance company taxable income. Life insurance company taxable income is life insurance gross income reduced by life insurance deductions. A stock life insurance company is also taxed, at corporate rates, on any distributions from a pre-1984 policyholders' surplus account.

Life insurance gross income is the sum of (1) premiums, (2) decreases in certain reserves, and (3) other amounts generally includible by a taxpayer in gross income. For this purpose, premiums consist of the gross amount of premiums and other consideration received on insurance and annuity contracts reduced by return premiums paid to policyholders, such as on the cancellation of a policy, and premiums and other consideration paid to another insurer on indemnity reinsurance.

Life insurance companies are allowed deductions for (1) claims and benefits accrued and losses incurred (whether or not ascertained) during the taxable year on insurance and annuity contracts, (2) net increases in reserves, (3) policyholder dividends, (4) dividends received by the company (limited to the company's share), (5) operation losses, (6) consideration paid for assumption reinsurance, and (7) policyholder dividend reimbursements paid to another insurance company under a reinsurance agreement. In addition, life insurance companies are allowed other deductions generally allowable to corporate taxpayers in computing taxable income, subject to certain modifications.

Treatment of policy acquisition expenses

A life insurance company generally is required to compute its taxable income using an accrual method of accounting, or (to the extent permitted in Treasury regulations), using a combination of an accrual method of accounting with another permissible method (but not the cash method). To the extent not inconsistent with Federal income tax accounting rules and other Federal tax rules applicable to life insurance companies, all computations, however, are to be made in a manner consistent with the manner required for purposes of the annual statement approved by the National Association of Insurance Commissioners.

In determining net income from operations for purposes of the annual statement, in general, life insurance companies may deduct commissions and other selling expenses for the year in which incurred. Thus, for purposes of determining life insurance company taxable income under the regular tax, policy acquisition expenses generally are not subject to an amortization requirement.

In the case of certain reinsurance transactions, however, present law requires the reinsuring company to capitalize ceding commissions and amortize them over the useful life of the asset rather than permitting a current deduction for ceding commissions.[42]

Corporate alternative minimum tax treatment

Under the adjusted current earnings provision of the corporate alternative minimum tax, in the case of a life insurance company, acquisition expenses are capitalized and amortized generally in accordance with the treatment generally required under generally accepted accounting principles. In general, acquisition expenses that both vary with, and are primarily related to, the production of new business must be amortized under current generally accepted accounting principles (unlike under annual statement accounting rules).

Treatment of property and casualty insurance companies

In general

A property and casualty company (i.e., an insurance company other than a life insurance company) is subject to tax at corporate rates on its taxable income. A property and

[42] *Colonial American Life Insurance Co.* v. *Commissioner*, 109 S. Ct. 2408 (June 15, 1989), and Rev. Proc. 90-36 (indemnity reinsurance); Treas. Reg. sec. 1.817-4(d)(2) (assumption reinsurance).

casualty insurance company calculates its taxable income by reducing gross income by allowable deductions. In general, allowable deductions include ordinary and necessary business expenses, interest, taxes, and certain other specified items.

In determining its gross income, in general, the company includes (1) investment income and underwriting income, (2) gains from the sale or disposition of property, and (3) all other items constituting gross income under rules of inclusion generally applicable to all taxpayers, with special rules for certain mutual fire or flood insurance companies.

Underwriting income of a property and casualty insurance company for Federal income tax purposes means the premiums earned on insurance contracts during the taxable year less losses incurred and expenses incurred.

Losses incurred generally include losses paid during the taxable year plus the increase in discounted unpaid losses for the year. The deduction for losses incurred is reduced by 15 percent of the company's tax-exempt interest and of the deductible portion of dividends received (with special rules for dividends from affiliates).

Expenses incurred means all expenses shown on the company's annual statement, and generally is calculated as the sum of expenses paid during the taxable year, plus the increase in unpaid expenses during the year.

Premiums earned generally means gross premiums written on insurance contracts during the taxable year (less return premiums and premiums paid for reinsurance), minus a portion of the increase in unearned premiums during the taxable year.

Reduction in unearned premium reserve

In determining premiums earned, the company's deduction for the increase in unearned premiums is reduced by 20 percent.[43] This amount is intended to represent the allocable portion of expenses incurred in generating the unearned premiums.

Life insurance reserves of property and casualty insurance companies that are included in unearned premium reserves are not subject to the 20 percent reduction rule. Such life insurance reserves include reserves for noncancellable or guaranteed renewable accident and health insurance contracts.

Treatment of policy acquisition expenses

Although property and casualty insurance companies are required to reduce the amount of the unearned premium reserve by a fraction intended to represent the allocable portion of expenses incurred in generating the unearned premiums, such companies are not subject to an amortization requirement (either for regular tax or for corporate alternative minimum tax purposes) with respect to policy acquisition expenses.

Reasons for Change

The committee believes that the present-law treatment of expenses incurred in connection with the acquisition of insurance contracts causes mismeasurement of the income of insurance companies. Policy acquisition expenses arise in connection with acquiring a stream of premium and investment income that is earned over a period well beyond the year the expenses are incurred. It is a well-established principle of the tax law that costs of acquiring an asset with a useful life beyond the taxable year are amortized over the life of the asset.

One method of addressing this mismeasurement of income is to require insurance companies to (1) identify specifically each item of expense that relates to the acquisition or renewal of insurance contracts, (2) allocate each item of expense to particular contracts (or blocks of contracts), and (3) recover the expenses so allocated over the estimated life of the contracts in proportion to the total premium and investment income that is estimated to be realized under the contracts. This amortization method is used in determining income under generally accepted accounting principles (GAAP).

GAAP does not provide a specific period or method for amortizing identified expenses with respect to particular types of insurance contracts, but rather permits some flexibility (for example, GAAP does not require taking into account investment income under the insurance contract in all cases in determining the appropriate amortization schedule). This treatment leaves considerable flexibility to the taxpayer as to the proper GAAP treatment of particular items of expense and as to the proper amortization period and method.

The committee carefully considered such an amortization method but rejected it for several reasons. The committee determined that it would be extremely difficult to provide well-defined rules that would provide certainty and uniform treatment of similarly situated taxpayers. The committee was also concerned that such an amortization method would be inordinately complex. In addition, it would impose costly recordkeeping burdens on many insurance companies and would cause difficult administrative and enforcement problems.

The committee believes that substantial improvement in the accurate measurement of income of insurance companies could be accomplished while at the same time maintaining a simple system for determining amortizable policy acquisition expenses. Accordingly, the committee believes that policy acquisition expenses should be determined as a percentage of total premiums (net of reinsurance premiums) designed to approximate the expenses for each year that are attributable to new and renewed insurance contracts in each of several broad categories of business.

The committee recognizes that this approach to the amortization of policy acquisition expenses does not measure actual policy acquisition expenses. However, the committee believes that the advantage of retaining a theoretically correct approach is outweighed by the administrative simplicity of this proxy approach. Further, the committee believes that the levels of amortizable amounts obtained under this proxy approach should, in most cases, understate actual acquisition expenses and, therefore, taxpayers should not suffer an undue detriment through the use of a proxy approach such as that adopted in the bill.

The committee considered various alternative methods of determining the amount of acquisition expenses to be amortized by the parties to a reinsurance contract under a simplified amortization system that is based on total premiums. One alternative is to require only the ceding company in a reinsurance transaction to amortize acquisition expenses with respect to the reinsured contract (i.e., the amount of amortizable acquisition expenses would be determined as a percentage of gross premiums). This alternative may be criticized on the grounds that in certain reinsurance transactions the ceding company has transferred an income-producing asset to the reinsurer, and, consequently, acquisition expenses should not continue to be amortized by the ceding company. This criticism would apply to most assumption reinsurance transactions.

A second alternative is to reduce the amount of acquisition expenses to be amortized by the ceding company based on the amount of the reinsurance premium and to require the reinsurer to amortize acquisition expenses based on the amount of such reinsurance premium. (The reinsurance premium under this alternative could be determined net of policyholder dividends and return premiums receivable by the ceding company under the reinsurance contract or net of all payments receivable by the ceding company under the reinsurance contract (including ceding commissions and accrued claims)). This alternative may be criticized for imposing an amortization requirement on the reinsurer in certain reinsurance transactions where the income-producing asset has been retained by the ceding company, and, consequently, acquisition expenses should not be amortized by the reinsurer. This criticism would apply to most yearly renewable term reinsurance transactions.

Under a third alternative, different rules could apply based on the nature of the reinsurance agreement. For example, in the case of assumption reinsurance, the reinsurer could be required to amortize acquisition expenses based on the full amount of the reinsurance premium, while in the case of indemnity reinsurance, only the ceding company could be required to amortize all or a significant portion of acquisition expenses with respect to the reinsured contract. This alternative could be criticized as introducing complexity into an amortization system a principal advantage of which is its simplicity.

At least with respect to reinsurance agreements entered into after the effective date of the amortization provision, it can be argued that the parties to a reinsurance transaction will negotiate a price for the contract that reflects the relative burden of the amortization requirement borne by each party. Thus, in assessing the various alternatives for dealing with reinsurance under a simplified amortization system, consideration must also be given to the treatment of reinsurers that are not subject to the amortization requirement, especially if the amortizable acquisition expenses are transferred to the reinsurer in a reinsurance transaction.

For example, if the amortizable acquisition expenses are transferred to the reinsurer, a foreign reinsurer that is not subject to Federal income tax with respect to the reinsurance premium (or to foreign tax in its country of residence that is substantially similar) may be provided a competitive advantage over a domestic reinsurer that is subject to Federal income tax with respect to such reinsurance premium. This is similar to the competitive advantage enjoyed by a foreign primary insurer which also is not subject to Federal income tax on premiums received because it sells life insurance in the United States through independent agents. Furthermore, under such an alternative, a

[43] A decrease in unearned premiums for the taxable year is includible in the company's income. The amount of the decrease is also reduced by 20 percent under this rule. In addition, 20 percent of the unearned premium reserve outstanding at the end of the most recent taxable year beginning before January 1, 1987, is included ratably in income, for taxable years beginning after December 31, 1986, and before January 1, 1993.

domestic insurance company may attempt to avoid the amortization requirement through purported reinsurance transactions entered into with foreign reinsurers that are not subject to the amortization requirement.

One method of addressing these potential problems is to adopt a special rule that requires the ceding company to amortize all of the acquisition expenses with respect to a reinsured contract if the reinsurer is not subject to Federal income tax on the premiums payable under the reinsurance contract. By treating reinsurance transactions entered into with domestic reinsurers more favorably than reinsurance transactions entered into with foreign companies that are not subject to Federal income tax, however, this approach may potentially be inconsistent with U.S. income tax treaties, in which case it must be determined whether the treaty or this provision is to control.

An alternative approach that may also address the problems raised by foreign reinsurers is to reduce the amount of acquisition expenses to be amortized by the ceding company based on the amount of reinsurance premiums payable net of all payments receivable by the ceding company under the reinsurance contract (including ceding commissions and accrued claims). Under such an approach, the reinsurer would be required to amortize acquisition expenses based on the amount of reinsurance premiums receivable net of all amounts payable by the reinsurer under the reinsurance contract (including ceding commissions and accrued claims). This approach may limit the competitive advantage afforded foreign reinsurers by reducing the amount of acquisition expenses that are transferred by the ceding company to the foreign reinsurer.

As an alternative, consideration could be given to increasing the one-percent excise tax on certain premiums paid to foreign reinsurers, insofar as that tax applies to the reinsurance of life, sickness, or accident insurance, or annuity contracts (sec. 4371(3)).[44] By not applying such an increase to treaty country residents, however, competitive disadvantages for domestic insurance companies would continue to inhere in a provision treating reinsurance premiums alike whether or not paid to companies subject to U.S. tax.

Assuming that any increase in the excise tax rate is not applied to treaty country residents, and in view of the absence of anti-conduit protection in the U.K. treaty, consideration could be given to the adoption of an anti-conduit rule by internal U.S. law. Absent such a rule, and given the absence of an excise tax on premiums paid to U.K. reinsurers, a significant amount of insurance placed with U.K. companies could effectively be reinsured with tax haven residents subject to significantly less tax than any U.S. company or any treaty country resident.[45] Therefore, consideration could be given to an anti-conduit rule under which the excise tax would be collected on premiums paid to residents of certain countries with a treaty waiver of the excise tax; the benefit of the treaty waiver would be obtained through a refund mechanism. Under this mechanism, the IRS could offset against the refund U.S. excise taxes owed on premiums paid by the treaty country resident to companies not resident in a treaty waiver jurisdiction. Alternatively, the company resident in the treaty country could obtain the present-law exemption (without the necessity of going through a refund procedure) if the company agreed to collect applicable U.S. excise taxes on premiums it pays to any resident of a country with no treaty waiver.

The committee believes that it is not appropriate to apply the amortization requirement to pension plan contracts, because such contracts are widely sold by companies other than those subject to the amortization provision. The committee determined that it would be unfair in this instance to treat sellers of the same products differently, especially if the result would be to give non-insurance company financial intermediaries a tax-created competitive advantage in what is considered an extremely competitive market.

In determining the treatment of accident and health insurance contracts under the provision, the committee believes that similar types of contracts should be treated similarly, regardless of whether the issuing company is a life insurance company or a property and casualty insurance company. Therefore, the committee bill provides that noncancellable or guaranteed renewable accident and health insurance contracts are subject to the amortization provision without regard to whether they are issued by a life insurance company or by a property and casualty insurance company.

Cancellable accident and health insurance contracts issued by a property and casualty company are subject to a present-law reduction of unearned premium reserves for such contracts by 20 percent, rather than requiring that policy acquisition expenses be amortized. Although the 20-percent reduction approach may be less accurate than amortization of policy acquisition costs over a longer period, the committee nevertheless believes that cancellable accident and health insurance contracts issued by a life insurance company should receive the same tax treatment under the bill as such contracts issued by a property and casualty insurance company already receive under present law.

The committee is concerned that some property and casualty insurance companies may be taking the position that their reserves for noncancellable or guaranteed renewable accident and health insurance contracts are neither calculated in accordance with the rules for calculating life insurance reserves, nor subject to the 20-percent reduction applicable to unearned premium reserves of property and casualty companies. The committee believes that it is appropriate to restate and clarify the rule of present law that such reserves for such accident and health insurance contracts are calculated under the rules for calculating life insurance reserves.

Finally, the committee believes that, in light of the addition of the requirement that policy acquisition expenses be amortized under the regular tax, the provision of present law requiring amortization of acquisition expenses of life insurance companies under the adjusted current earnings provision of the corporate alternative minimum tax creates unneeded complexity. The committee believes that this minimum tax rule should not be needed if the treatment of policy acquisition expenses is made more accurate by the bill's changes to the regular tax calculation of insurance company income with respect to policy acquisition expenses. Therefore, the complexity of retaining a second and different scheme for amortizing acquisition expenses outweighs any marginal additional accuracy of income measurement, and this minimum tax rule is repealed for future taxable years by the bill.

Explanation of Provision

Amortization requirement in general

The bill requires insurance companies to amortize policy acquisition expenses on a straight-line basis over a period of 120 months beginning with the first month in the second half of the taxable year. Policy acquisition expenses are defined for each of several categories of insurance contracts as a percentage of total premiums (net of reinsurance premiums) for that category of contract. The bill provides separate categories for annuity contracts, for group life insurance contracts and noncancellable or guaranteed renewable accident and health insurance contracts, and for all other life insurance contracts. A reinsurance contract is treated in the same manner as the contract reinsured for this purpose. Both life insurance companies and property and casualty insurance companies are subject to the capitalization and amortization requirement with respect to specified insurance contracts.

Policy acquisition expenses

In general

The bill provides that policy acquisition expenses required to be capitalized and amortized are determined, for any taxable year, for each category of specified insurance contracts, as a percentage of the net premiums for the taxable year on specified insurance contracts in that category. The bill provides for three categories of specified insurance contracts: (1) annuity contracts, (2) group life insurance contracts (and noncancellable or guaranteed renewable accident and health insurance contracts), and (3) other specified insurance contracts that are not included in the other categories. The percentages for each of the categories are as follows:

	Percent
Annuities	1.85
Group life and noncancellable or guaranteed renewable accident and health	2.20
Other life	8.30

The bill provides that the amount of amortizable premium acquisition expenses for

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[44] This tax, as well as the excise tax on other premiums paid to foreign insurers and reinsurers, is waived in present U.S. treaties with the United Kingdom, Cyprus, France, Hungary, Italy, Romania, and the U.S.S.R., and is also waived in treaties expected shortly to enter into force with Finland, Germany, India, and Spain. Generally, these treaty waivers include an anti-conduit rule denying the benefit of the exemption to premiums covering risks that are reinsured with a person not entitled to a similar treaty exemption. Notably, however, the United Kingdom treaty has no anti-conduit rule.

[45] For example, Bermuda, a recognized insurance center, imposes no income tax. It is understood that, outside of underwriters at Lloyd's of London, a major U.K. insurance group, the IRS has not been effective in persuading U.K. insurers to enter into closing agreements under which they would assist the United States in collecting the U.S. excise tax on premiums paid by U.K. insurers to non-exempt reinsurers. In a recent report the Treasury Department stated:

"Although representatives of the U.K. insurance industry have asserted that U.K. companies do not "front" premiums for non-exempt companies in a significant volume, there is no practical way for the IRS to determine the extent of such foreign-to-foreign reinsurance activity or to collect tax in the absence of voluntary payments by U.K. insurers." Department of the Treasury, *Report to Congress on the Effect on U.S. Reinsurance Corporations of the Waiver by Treaty of the Excise Tax on Certain Reinsurance Premiums* 10 (March 1990).

any taxable year may not exceed the insurance company's general deductions for the year. General deductions are the deductions provided in part VI of subchapter B of the Code (generally, itemized deductions) and in part I of subchapter D of the Code (generally, deductions with respect to pension, profit-sharing or stock bonus plans).

Net premiums

In general: The amounts required to be capitalized and amortized under the provision are expressed as percentages of net premiums. Net premiums are defined under the bill as the excess of (1) the gross amount of premiums and other consideration on specified insurance contracts, over (2) return premiums on such contracts and premiums and other consideration incurred for reinsurance of such contracts.

The rules of section 803(b) apply for purposes of determining net premiums. Thus, the gross amount of premiums and other consideration includes advance premiums, deposits, fees, assessments, consideration in respect of assuming liabilities under contracts not issued by the taxpayer, and the amount of policyholder dividends reimbursable to the taxpayer by a reinsurer in respect of reinsured policies. Return premiums generally do not include policyholder dividends, except in the case of premiums or other consideration returned to another life insurance company in respect of indemnity reinsurance.

In determining net premiums under the proposal, section 808(e) (relating to policyholder dividends that increase cash surrender value or other benefits, or reduce the contract premium) does not apply. Thus, amounts described in section 808(e) that otherwise would be included in net premiums because they are treated as paid to the policyholder and returned by the policyholder to the company as a premium are not included in net premiums under the bill.

The bill also provides that other similar items that are treated as paid by the insurance company and returned by the policyholder as a premium, without the actual receipt or accrual of a new premium payment by the company, also are not included in net premiums. Similar items are waived premiums (where, under a rider, premiums otherwise payable are waived if the policyholder becomes disabled, but the company is treated as paying a benefit and receiving a premium equal to the waived premium), surrender of paid-up additions (where the policyholder surrenders paid-up additions to pay premiums due on the contract) and supplementary contracts (where the policyholder elects a settlement option other than lump sum and the election is treated as the payment of a death benefit by the company and payment of premiums to the company). In these cases, the policyholder has previously paid premiums that were included in net premiums (for the cost of the rider or of the paid-up additions or of the original contract), and the company does not receive new premiums (or incur new commissions or similar acquisition expenses) on the transaction. It is intended that the rule not be used as a mechanism to reduce artificially the amounts included in net premiums, and the Treasury Department is encouraged to provide appropriate anti-abuse rules in regulations.

Deduction for negative net premiums: The bill provides that, if the amount of net premiums is negative for a taxable year with respect to a particular category, the amount that must be capitalized for the taxable year with respect to the other categories is reduced (but not below zero). The amount of the reduction is the applicable percentage (for the category) of the amount by which net premiums for the category are negative for the year. If the amount of the reduction exceeds the amount required to be capitalized for the year in the other categories, the excess amount reduces (but not below zero) the unamortized balance of premium acquisition expenses, in all categories, required to be capitalized in prior taxable years (starting with the most recent year).

Treatment of reinsurance transactions: In determining the consideration incurred for reinsurance of specified insurance contracts, for purposes of calculating the ceding company's net premiums (as well as the reinsurer's net premiums), the bill provides that the rules of section 803(b) apply. Thus, the ceding company's net premiums include the amount of policyholder dividends reimbursable to the ceding company by a reinsurer in respect of reinsured contracts. As under present law, policyholder dividends include excess interest, premium adjustments and experience-rated refunds.

The committee is concerned about the use of reinsurance to avoid or lessen the impact of the amortization requirement. For this reason, a special rule is provided for certain reinsurance transactions. Under this rule, premiums and other consideration incurred for reinsurance are to be taken into account in determining net premiums only to the extent that the premiums and other consideration are includible in the gross income of a person subject to tax under Subchapter L or under Chapter 1 by reason of Subpart F of Part III of Subchapter N.

It is believed that this rule may generally be consistent with existing tax treaties. For example, the provision does not deny a deduction for reinsurance premiums paid to a foreign person. Rather, the provision affects the timing of a deduction for an amount of acquisition expenses, without regard to whether the costs are incurred by making a payment to a foreign or domestic person. It is intended that this rule not apply if there is found to be a conflict with a treaty.

In addition, it is intended that the Internal Revenue Service exercise the authority provided by section 845 to make adjustments that are necessary to reflect properly the income of any person that is a party to a reinsurance agreement. For example, the Internal Revenue Service is encouraged to exercise this authority to prevent an insurance company from transferring amortizable acquisition expenses to a reinsurer that has excess net operating losses.

Specified insurance contracts

In general: The bill defines specified insurance contracts as any life insurance, annuity, or noncancellable accident and health insurance contract (including any life insurance or annuity contract combined with noncancellable accident and health insurance). Guaranteed renewable accident and health insurance as defined under present law is treated in the same manner as noncancellable accident and health insurance. Term insurance is intended to be included in specified contracts. Reinsurance contracts generally are treated in the same manner as the reinsured contract, except as otherwise provided.

Specified insurance contracts do not include any pension plan contract (within the meaning of section 818(a)). Specified insurance contracts also do not include any flight insurance or similar contract.

The bill provides three categories of specified insurance contracts for purposes of determining the percentage of net premiums that constitute amortizable policy acquisition expenses.

Group life insurance contracts and noncancellable accident and health insurance contracts: A group life insurance contract is defined as any contract that (1) covers a group of individuals defined by reference to employment relationship, membership in an organization, or similar factor, (2) the premiums for which are determined on a group basis, and (3) the proceeds of which are payable to or for the benefit of persons other than the employer of the insured (or other institutional owner of the contract).

Premiums are considered to be determined on a group basis if, for example, there is a single contract covering the group and the premiums are not individually rated but rather are group rated. Merely waiving a requirement for individual medical histories does not cause a life insurance contract to be a group contract. It is also intended that group contracts not include an insurance contract providing coverage of members of the same family.

It is intended that credit life insurance contracts be included in the group life insurance category to the extent that such contracts qualify as group contracts under the definition provided in the bill. The fact that payments made under a credit life insurance contract are made directly to the creditor of the insured does not, by itself, mean that the contract is not a group contract, so long as the amount of the indebtedness is reduced by the insurance proceeds.

Noncancellable or guaranteed renewable accident and health insurance contracts are defined as under present law.

Annuity contracts: The category of annuity contracts includes all annuity contracts within the meaning of present law.

Other specified insurance contracts: All other specified insurance contracts are included in the remaining category of contracts. Generally, combinations of different types of specified insurance contracts are treated as other specified insurance contracts, unless the combination is of two types of insurance in the same category, in which case the combination contract is considered to be in that category.

Special rule for qualified foreign contracts: The bill provides an exception to the definition of specified insurance contracts for qualified foreign contracts. Qualified foreign contracts are consequently not subject to the capitalization and amortization requirement with respect to policy acquisition expenses under the bill.

Further, in the case of a qualified foreign contract, the repeal of the adjusted current earnings provision of the corporate alternative minimum tax with respect to capitalization and amortization of acquisition expenses of life insurance companies does not apply. Rather, the present-law adjusted current earnings rule requiring capitalization and amortization of such expenses generally in accordance with generally accepted accounting principles remains in effect.

A qualified foreign contract for this purpose is any contract issued by a foreign life insurance branch (which has its principal place of business in a foreign country) of a domestic life insurance company, if certain additional requirements are met. The additional requirements are that the contract is issued on the life or health of a resident of the foreign country, the domestic life insurance company was required by the foreign country (as of the time it began operations in that country) to operate there through a

branch, and the foreign country is not contiguous to the United States. A reinsurance contract that reinsures a qualified foreign contract is not treated as a qualified foreign contract.

Special rules for certain small companies

The bill provides a shorter amortization period of 60 months, rather than the generally applicable 120 months, for the first $5 million of amortizable policy acquisition expenses of an insurance company. The availability of the 60-month amortization period is phased out ratably (on a dollar-for-dollar basis) as amortizable policy acquisition expenses increase from $10 million to $15 million. Thus, for example, an insurance company with $11 million of amortizable policy acquisition expenses for the taxable year may amortize $4 million of such expenses over a 60-month period. For purposes of determining the amount of amortizable policy acquisition expenses under this rule, all members of a controlled group of corporations (as defined in section 1563(a), with modifications) are treated as one. The 60-month amortization period does not apply to any policy acquisition expenses for any taxable year that are attributable to premiums or other consideration under any reinsurance contract.

In addition, for any company that meets the definition of a small life insurance company, the bill repeals the amortization requirement under the adjusted current earnings provision of the corporate alternative minimum tax for the entire period the requirement is in effect (taxable years beginning after December 31, 1989).

A small life insurance company is a life insurance company that has assets of less than $500 million at the close of the taxable year. Except for real property and stock, which are valued at fair market value, an asset is treated as having a value equal to its adjusted Federal income tax basis for purposes of determining gain. Interest in partnerships or trusts are not treated as assets of the company. Rather, a company is treated as owning its proportionate share of the assets of any partnership or trust in which it has an interest. For purposes of determining assets, all insurance companies that are members of the same controlled group (determined under section 1563(a) with certain modifications) are treated as one company.

Regulatory authority to adjust capitalization amounts

The bill provides regulatory authority to the Treasury Department to provide a separate category for a type of insurance contract, with a percentage applicable to the category, under certain circumstances. The authority may be exercised if the Treasury Department determines that the deferral of policy acquisition expenses for the type of contract which would otherwise result under the provision is substantially greater than the deferral of acquisition expenses that would have resulted if actual acquisition expenses (including indirect expenses) and the actual useful life for the type of contract had been used. In making this determination, it is intended that the amount of a reserve for a contract not be taken into account.

If the authority is exercised, the Treasury Department is required to adjust the percentage that would otherwise have applied to the category that included the type of contract, so that the exercise of the authority does not result in a decrease in the amount of revenue received under this chapter by reason of the amortization provision for any fiscal year.

Treatment of ceding commissions in reinsurance transactions

The bill repeals the present-law requirement that reinsurers amortize ceding commissions in certain reinsurance transactions.[46] Thus, ceding commissions incurred by a reinsurer on or after September 30, 1990, under any reinsurance contract are not required to be capitalized and amortized under the provisions of present law. Rather, the amortization rules contained in the bill apply.

Repeal of minimum tax treatment of acquisition expenses

The bill repeals the requirement, under the adjusted current earnings provision of the corporate alternative minimum tax, that life insurance companies capitalize and amortize acquisition expenses in accordance with the treatment generally required under generally accepted accounting principles.

Treatment of cancellable accident and health insurance contracts of life insurance companies

The bill requires life insurance companies to reduce by 20 percent their deduction for the increase in reserves for unearned premiums and premiums received in advance with respect to contracts other than life insurance, annuity and noncancellable accident and health insurance contracts. The contracts with respect to which the 20-percent reduction rule applies include cancellable accident and health insurance contracts. In the case of a decrease in reserves for unearned premiums and premiums received in advance with respect to such contracts, the resulting income inclusion is also reduced by 20 percent. This rule conforms the treatment of reserves for cancellable accident and health insurance contracts of life insurance companies with the treatment of such reserves with respect to the same type of contracts of property and casualty insurance companies.

The bill also provides for the inclusion in income of 20 percent of the closing balance of the life insurance company's unearned premium reserve and reserve for premiums received in advance, with respect to such contracts, as of the last day of the first taxable year beginning before September 30, 1990. This income is includible ratably (3⅓ percent per year) over the 6-year period beginning with the first taxable year beginning on or after September 30, 1990. If the taxpayer ceases to be a life insurance company, any such amount not yet included in income must be included in income in the year preceding the year of cessation.

Treatment of life insurance reserves of property and casualty insurance companies

The bill clarifies that reserves for noncancellable accident and health insurance contracts of property and casualty companies are to be determined under the present-law rules applicable to life insurance companies. Thus, reserves for such contracts are treated like reserves for other types of contracts of property and casualty companies that meet the definition of life insurance reserves, and are calculated under the life insurance reserve rules of section 807.

Waiver of estimated tax penalties

The bill also waives additions to tax under section 6655 with respect to any underpayment of estimated tax for any period before March 16, 1991, amortization requirement to the extent the underpayment was created or increased by the provisions described above.

Effective Date

Capitalization and amortization requirement

The requirement that policy acquisition expenses be capitalized and amortized applies to taxable years ending on or after September 30, 1990. The bill provides that the capitalization is not to be treated as a change in method of accounting. Accordingly, no amount is included in income and spread in accordance with the section 481(a) rules generally applicable to changes in method of accounting.

A transitional rule is provided in the case of a taxable year that includes September 30, 1990. The rule is intended to ensure that only net premiums attributable to that fraction of the taxable year that occurs on and after that date are subject to the capitalization and amortization requirement. The bill provides that the amount taken into account as the net premiums (or in determining negative net premiums) with respect to any category of specified insurance contracts is the portion of the net premiums that bears the same ratio to the net premiums for the taxable year as the ratio of the number of days in such taxable year that occur on or after September 30, 1990, bears to the total number of days in such taxable year.

Repeal of minimum tax treatment of acquisition expenses

The repeal of the adjusted current earnings rule under the minimum tax with respect to acquisition expenses of life insurance companies (other than certain small companies and qualified foreign contracts) generally applies to taxable years beginning on or after September 30, 1990. The minimum tax rule first became effective only for taxable years beginning after December 31, 1990; the bill has the effect of applying it only for the acquisition expenses allocable to the portion of such a taxable year that occurs before September 30, 1990. The bill provides that in the case of a taxable year that includes September 30, 1990, the amount of acquisition expenses capitalized (and the amount amortizable) under the minimum tax rule is the amount that bears the same ratio to the total amount of acquisition expenses for the taxable year as the number of days in the taxable year before September 30, 1990, bears to the total number of days in the taxable year.

Treatment of cancellable accident and health insurance contracts of life insurance companies

The provision relating to the 20-percent reduction in certain reserves of life insurance companies applies to taxable years beginning on or after September 30, 1990.

Treatment of life insurance reserves of property and casualty insurance companies

The provision clarifying the treatment of reserves for noncancellable or guaranteed renewable accident and health insurance contracts of life insurance companies applies to taxable years beginning on or after September 30, 1990. No inference is intended with respect to prior law.

2. Treatment of Salvage and Subrogation of Property and Casualty Insurance Companies (secs. 7414 and 7415 of the bill and secs. 832(b)(5) and 6655 of the Code).

[46] *Colonial American Life Insurance Co.* v. *Commissioner*, supra, and Rev. Proc. 90-36 (indemnity reinsurance); Treas. Reg. sec. 1.817-4(d)(2) (assumption reinsurance).

Present Law

A property and casualty insurance company, in determining its underwriting income for Federal income tax purposes, may deduct losses incurred. The deduction for losses incurred includes losses paid during the year and the increase in discounted unpaid losses for the year. Present law requires paid losses to be reduced by the increase in salvage (including subrogation claims) recoverable. Since 1947, Treasury regulations have provided an exception to the requirement that paid losses be reduced by salvage, if under applicable State law or State insurance rules the salvage may not be treated as an asset for statutory accounting purposes. This regulatory exception was removed, in temporary Treasury regulations originally promulgated December 30, 1987, but the effective date of the temporary regulations has been deferred several times, and the temporary regulations at present are technically in effect for taxable years beginning after December 31, 1989.

Reasons for Change

The committee believes that the income of a property and casualty company is mismeasured if estimated salvage is not taken into account in calculating both the unpaid loss reserve deduction and the deduction for paid losses. For unpaid loss reserve deductions, although the deduction is allowed for an estimated amount of the loss payment, when the loss has been incurred but not yet paid, the offsetting amount of salvage is not accounted for until a later time, when it is actually recovered. Thus, the loss deduction is overstated. The same mismeasurement of income occurs when a deduction for a paid loss is not reduced by the estimated amount of salvage that has not yet been recovered. Therefore, the bill requires estimated salvage to be taken into account in determining both paid and unpaid losses.

Explanation of Provision

Under the bill, the deduction allowed to property and casualty insurance companies for losses incurred, both paid and unpaid, is reduced by estimated recoveries of salvage (including subrogation claims) attributable to such losses, whether or not the salvage is treated as an asset for statutory accounting purposes. The bill provides that losses incurred by a property and casualty insurance company are computed as follows. First, the amount of paid losses is reduced by the amount of salvage recovered during the year. Second, the increase in unpaid losses on life insurance contracts, and the increase in discounted unpaid losses, for the taxable year is added to the first amount. Third, the increase in estimated salvage and reinsurance recoverable for the taxable year is subtracted from the sum of the first and second amounts.

The Treasury Department is required to issue regulations providing for discounting of salvage taken into account under the provision. In lines of business where the pattern of recovery of salvage generally resembles the loss payment pattern for the line of business (under the present-law rules for discounting of unpaid losses), an appropriate method of discounting salvage would be to apply the loss payment pattern for the line of business in determining a salvage recovery pattern. In certain lines of business, salvage will typically be recovered much later than the time of payment of losses. It is intended that in discounting estimated salvage recoverable in such lines of business, the period for the recovery of salvage in that line of business be used, rather than the period used in the loss payment pattern for that line of business. For example, if a company providing fidelity and surety coverage recovers salvage pursuant to a 10-year recovery pattern, the company would apply a 10-year discounting period in taking into account estimated salvage for that line of business.

In general, it is intended that discounting of estimated salvage recoverable follow industry-wide periods and patterns (as under the present-law rules for discounting unpaid losses), unless the Treasury determines that it is appropriate to allow the taxpayer to elect to use its historical experience in determining a salvage recovery pattern. Such an election should not be available except to taxpayers whose historical experience is statistically significant (within the meaning of the similar election provided under the loss discounting rules enacted in the 1986 Act).

Pending the issuance of regulations or other Treasury guidance with respect to discounting of estimated salvage recoverable, it is anticipated that taxpayers will compute discounted salvage in accordance with the foregoing principles, and the rules for determining the applicable interest rate for discounting unpaid losses.

The bill also waives additions to tax under section 6655 with respect to any underpayment of estimated tax for any period before March 16, 1991, to the extent the underpayment was created or increased by the treatment of salvage under the bill.

Effective Date

The provision applies for taxable years beginning after December 31, 1989.

The bill provides a partial "fresh start", i.e., a permanent forgiveness of income that would otherwise be includable in gross income with respect to salvage recoverable as of the effective date of the provision. To accomplish this, the change is treated as a change in the taxpayer's method of accounting, but 23 percent of the amount of the adjustment that would ordinarily be included in income over a period of years is forgiven under the bill.

The amount of the adjustment is the discounted amount of estimated salvage recoverable as of the close of the last taxable year beginning before January 1, 1990.

The bill further provides a special income forgiveness rule for companies that have been taking estimated salvage into account in determining the deduction for losses incurred in taxable years beginning before January 1, 1990. For these companies, the bill provides that 23 percent of the discounted amount of estimated salvage recoverable as of the close of the last taxable year beginning before January 1, 1990, is allowed as a deduction ratably over the first 4 taxable years beginning after December 31, 1989. This income forgiveness is unrelated to accurate income measurement and is intended solely to treat companies that have been taking estimated recoverable salvage into account in determining losses incurred in the same manner as companies that have not been taking estimated salvage recoverable into account.

It is intended that taxpayers not be permitted to overstate the amount of the adjustment. Under the bill, if for any taxable year beginning after December 31, 1989, the full amount of the adjustment determined without regard to discounting exceeds the sum of (1) the amount of salvage recovered taken into account for the taxable year and for any preceding taxable year beginning after December 31, 1989, attributable to losses incurred for an accident year beginning before 1990, and (2) the undiscounted amount of estimated salvage recoverable as of the close of the taxable year on account of such pre-1990 losses, then a portion of the excess is included in gross income for such taxable year. The portion is determined by applying the ratio of the full amount of the adjustment (determined on a discounted basis) to the full amount of the adjustment (determined without regard to discounting).

A portion of the amount of the adjustment is required to be taken into account ratably over 4 taxable years, unless under the principles of Rev. Proc. 84-74, 1984-2 C.B. 736, the adjustment is required to be taken into account over a shorter period or at a different rate. This portion is 77 percent. The committee intends that with respect to this portion of the adjustment, net operating losses will be allowed to offset the adjustment, tax credit carryforwards will be allowed to offset any tax attributable to the adjustment, and, for purposes of determining liability for estimated taxes, the adjustment will be included in income ratably throughout the year in question.

The bill also provides that the earnings and profits of an insurance company for its first taxable year beginning after December 31, 1989, is increased by 77 percent of the amount of the adjustment. In addition, the bill provides that for purposes of sections 56, 902, 953(c)(1), and 960, 77 percent of the amount of the adjustment is taken into account under the general principles that apply under section 481 in determining earnings and profits.

3. Compliance Provisions

a. Suspension of statute of limitations during proceedings to enforce certain summonses (sec. 7421 of the bill and sec. 6503 of the Code)

Present Law

The statute of limitations for most tax returns (whether corporate or individual) is three years. The IRS and the taxpayer can together agree to extend the statute of limitations, either for a specified period of time or indefinitely. The taxpayer may terminate an indefinite agreement to extend the statute of limitations by providing notice to the IRS on the appropriate form. Because of the complexity of the issues involved, the IRS frequently cannot complete an audit of a corporate tax return within the statutorily specified three-year period.

During an audit, the IRS frequently requests informally that the taxpayer provide additional information necessary to arriving at a fair and accurate audit adjustment, if any adjustment is warranted. Not all taxpayers cooperate by providing the requested information on a timely basis. In some cases the IRS is compelled to seek information by issuing an administrative summons. Such a summons will not be enforced by judicial process unless the Government (as a practical matter, the Department of Justice) seeks and obtains an order for enforcement in Federal court. In addition, a taxpayer may petition in court to have an administrative summons quashed where this is permitted by statute (for example, under sections 6038A(e)(4) or 7609(b)(2)).

Reasons for Change

It is inappropriate for the statute of limitations to continue to run during the period of time that a taxpayer and the IRS are in court litigating the issue of whether the taxpayer must comply with an IRS summons. Continued running of the statute of limitations during the period of litigation

over whether the taxpayer must comply with an IRS summons could, in some instances, cause taxpayers to prolong the litigation over a procedural dispute so that little or no time remains in the statute of limitations for examination of the substantive issues raised by positions taken on the tax return.

At the same time, it is also appropriate to provide safeguards to taxpayers attempting to comply with an IRS summons. Thus, the statute of limitations may only be suspended in limited circumstances.

Explanation of Provision

In general, the bill tolls the statute of limitations during the period of time that the taxpayer and the IRS are in court litigating the issue of whether the taxpayer must comply with a specific type of summons issued by the IRS (called, for purposes of this provision, a "designated summons").

The IRS may issue a designated summons, which must be issued at least 60 days before the day on which the period for assessment of tax for the year in question (including any extensions) would otherwise expire. A designated summons may be issued by the IRS only once for any taxable year of a taxpayer.

The statute of limitations is suspended for the period that commences when a lawsuit is brought in court to either enforce or quash the designated summons and ends on the date there is a final resolution of the summoned person's response to the summons. For these purposes, the term "final resolution" means the same as it does in section 7609(e)(2)(B). In general, this means that no court proceeding remains pending and that the summoned person has complied with the summons to the extent required by the court. If a court requires additional compliance to any extent with the summons, the statute of limitations is suspended for an additional 120 days after final resolution of the summoned person's response. If additional compliance is not required, the assessment period would in no event expire until the 60th day after that final resolution. This provision is designed to preserve the ability of the IRS to conclude the audit and assess any taxes that may be due regardless of the length of time that it might take to obtain judicial resolution of the summons enforcement lawsuit.

These rules for suspending the statute of limitations also apply with respect to any summons issued to any person during the 30-day period following the issuance of the designated summons, so long as the subsequent summons pertains to the same tax return as the designated summons. This is necessary because, for example, a designated summons may be issued to a corporation that cannot respond adequately on the grounds that the summoned information is in the control of a shareholder; a summons to the shareholder for the same information would be necessary to obtain the summoned information. Thus, the statute of limitations is tolled during the course of any enforcement litigation over the subsequent summons.

Effective Date

This provision applies to any tax (regardless of whether imposed before, on, or after the date of enactment) if the statute of limitations for the assessment of the tax has not expired on the date of enactment.

b. Apply accuracy-related penalty more effectively to section 482 adjustments (sec. 7422 of the bill and sec. 6662 of the Code)

Present Law

Valuation questions are frequently central to disputes between taxpayers and the IRS involving section 482. Substantial valuation overstatements are subject to penalty. A substantial valuation overstatement occurs if the value of any property claimed on a tax return is 200 percent or more of the amount determined to be correct. The penalty is 20 percent of the understatement of tax attributable to the substantial valuation overstatement. No penalty is imposed if it is shown that there was reasonable cause for the underpayment and that the taxpayer acted in good faith.

Reasons for Change

There are a number of difficulties in applying the present-law penalties in disputes involving section 482. First, the percentage of the value that is overstated is often not as high as 200 percent, although the total of the taxes in dispute because of valuation overstatements is often millions of dollars per taxable year. Second, valuation misstatements in the section 482 area are often attributable to services as well as property, even though only misstatements with respect to property are subject to the penalty. Third, some section 482 adjustments are attributable to undervaluations, although the present-law penalty applies only to overvaluations.

Several modifications are to be made to the present-law penalty to target it more effectively to situations involving section 482 issues.

Explanation of Provision

The present-law valuation overstatement penalty is extended to apply to specified valuation misstatements in connection with section 482. First, the penalty applies to the understatement of tax attributable to a net section 482 transfer price adjustment for the taxable year that exceeds $10,000,000. The net section 482 transfer price adjustment is the net increase in taxable income for a taxable year that results from all adjustments under section 482 in the transfer price of any property or services.

Second, the penalty also will apply in instances where the transfer price claimed on the return is 200 percent or more (or 50 percent or less) of the amount determined to be the correct transfer price under section 482.

Third, as under present law, the penalty is doubled in cases of gross valuation misstatements (where the dollar amount described above exceeds $20,000,000 or the percentages described above are 400 percent or more (or 25 percent or less)).

The reasonable cause exception in present law also applies to these modifications.

Effective Date

The provision is effective for taxable years ending after the date of enactment.

c. Treatment of persons providing services (sec. 7423 of the bill and sec. 6103 of the Code)

Present Law

Tax returns and return information are confidential, and may not be disclosed without statutory authorization. Unauthorized disclosure is punishable upon conviction by a fine of up to $5,000, a prison sentence of not more than 5 years (or both) (sec. 7213), or, in addition, a private lawsuit for damages (sec. 7431).

The IRS is permitted to disclose returns and return information to other persons to the extent necessary in connection with the processing, storage, transmission, and reproduction of such returns.

Reasons for Change

It is important to safeguard the rights of all taxpayers by ensuring that everyone to whom the IRS discloses returns and return information be subject to penalty for unauthorized disclosures of that confidential information.

Explanation of Provision

The bill provides that persons who provide services to the IRS and to whom the IRS discloses returns and return information pursuant to section 6103, are subject to the same penalties for unauthorized disclosure as are IRS employees. No inference is intended that these persons were not subject to these penalties for unauthorized disclosure prior to this amendment.

Effective Date

The provision is effective on the date of enactment.

d. Application of 1989 information reporting and related amendments to open years (sec. 7424 of the bill and sec. 6038A of the Code)

Present Law

Information reporting and maintenance

Any corporation that is 25-percent owned by one foreign person and is either a domestic corporation or a foreign corporation that conducts a trade or business in the United States (a "reporting corporation") must furnish the IRS with such information as the Secretary may prescribe, with respect to taxable years beginning after July 10, 1989, regarding transactions carried out directly or indirectly with certain foreign persons treated as related to the reporting corporation ("reportable transactions") (sec. 6038A(a)). A related person for this purpose includes a 25-percent shareholder as well as any person that is treated as related within the meaning of sections 267(b), 707(b)(1), or 482. Current Treasury regulations require the annual filing of an information return reporting related-party transactions.[47]

A reporting corporation is also required to maintain (or cause another person to maintain), at the location, in the manner, and to the extent prescribed by regulations, any records deemed appropriate to determine the correct tax treatment of reportable transactions with respect to taxable years beginning after July 10, 1989 (sec. 6038A(a)).

Application of U.S. legal process to foreign persons

The statutory scope of general IRS summons authority extends to certain persons that are not themselves subject to tax in the United States. In addition, the Code provides that in order to avoid the consequences of the noncompliance rule (discussed below) with respect to certain reportable transactions for taxable years beginning after July 10, 1989, each foreign person that is a related party of a reporting corporation must agree to authorize the latter to act as its agent in connection with any request or summons by the IRS to examine records or produce testimony related to any reportable transaction, solely for the purpose of determining the tax liability of the reporting corporation (sec. 6038A(e)(1)). Thus, assuming authorization is given, an IRS examination request or summons with

[47] Treas. Reg. sec. 1.6038A-1. However, the regulation has yet to be amended to reflect the broader definition of a related party resulting from the amendments to section 6038A contained in the Omnibus Budget Reconciliation Act of 1989.

respect to related-party transactions involving a U.S. taxpayer (including a 25-percent foreign-owned foreign corporation engaged in a trade or business in the United States) can be served on related foreign persons through such a U.S. taxpayer.

Sanctions for noncompliance

Monetary penalty

Failure to furnish the IRS with information or to maintain records with respect to a taxable year beginning after July 10, 1989 as required under section 6038A(a) and (b) is subject to a monetary penalty of $10,000, and additional penalties are imposed if the failure continues more than 90 days after the IRS notifies the taxpayer of the failure (sec. 6038A(d)). The additional penalties are $10,000 for each 30-day period (or fraction thereof) during which the failure continues after the 90th day following IRS notification. An exception from liability for the monetary penalty exists in cases where the taxpayer demonstrates to the satisfaction of the Secretary that reasonable cause exists for the failure to furnish required information or maintain required records (sec. 6038A(d)(3)).

Noncompliance rule

Failure of a related party to designate a reporting corporation as its agent for accepting service of process in connection with reportable transactions (as discussed above), or, under certain circumstances, noncompliance with IRS summonses in connection with reportable transactions, can result in the application of the noncompliance rule in computing tax liability with respect to a taxable year beginning after July 10, 1989. For certain payments to related parties in connection with reportable transactions, this rule permits the IRS to allow the reporting corporation only those deductions and amounts of cost of goods sold as shall be determined by the Secretary in the Secretary's sole discretion, based on any information in the knowledge or possession of the Secretary or on any information that the Secretary may choose to obtain through testimony or otherwise (sec. 6038A(e)).

Prior law

The information reporting and related requirements described above reflect provisions of the Omnibus Budget Reconciliation Act of 1989 ("the 1989 Act") amending the prior-law provisions of Code section 6038A. The 1989 Act amendments apply only to taxable years beginning after July 10, 1989. Therefore, for example, the IRS cannot use the provisions contained in those amendments to obtain information in a future examination of an open taxable year beginning before July 11, 1989.

The information reporting and related requirements applicable to taxable years beginning before July 11, 1989 are less extensive than those described above. For those years, the requirement to file an information return reporting all transactions with related foreign persons only applied to corporations that were 50-percent owned by a foreign person. Relatedness for those years is defined as relatedness only within the meaning of sections 267(b), 707(b)(1), or 482. Noncompliance with this reporting requirement is subject to an initial penalty of $1,000, plus additional $1,000 penalties (up to a maximum of $24,000) for each 30-day period (beginning 90 days after IRS notification) that the failure remains or remained outstanding. The provisions of section 6038A effective for those years do not include the record-maintenance requirement, the agency-designation requirement for service of process, or the special noncompliance rule discussed above.

Reasons for Change

The committee believes that, in future tax return audits of transactions between 25-percent foreign-owned companies and related parties, the IRS should have examination tools in addition to those available prior to the 1989 Act amendments. The committee believes that, equipped with only those prior-law tools, the IRS was often seriously overmatched by taxpayers and their representatives, and by related parties, who on occasion attempted to delay or defeat efforts to obtain foreign-based records or the testimony of foreign-based persons relevant to the examination. As more fully described in the committee's report on the 1989 Act, the 1989 amendments to the prior section 6038A provisions were highly desirable as a result of problems in several relevant areas.[48] These problems included the practical difficulties of enforcing summonses against foreign persons, the shortcomings of foreign record maintenance requirements (if any), the practical opportunities for engaging in non-arm's-length transactions with parties related below the 50-percent level, the inadequacy of applicable sanctions under prior law (as compared both to the amount of tax liability at stake and to the comparable penalties in the case of a foreign person claiming deductions against U.S. taxable income (*see* secs. 882(c)(2) and 874)), and the concern that some courts may not have given appropriate deference to the Secretary's determination of the proper allocation or apportionment of items of income and expense under section 482.

The committee believes that it is appropriate to provide the IRS with similar tools for all future examinations and disputes regarding transactions between corporations that file U.S. tax returns and their related parties, regardless of the taxable year involved. The committee generally does not believe that it would be appropriate to apply the sanctions of the 1989 Act amendments to acts (or failures to act) that occurred in good faith before the effective date of the 1989 Act. However, the committee believes that any future acts or failures to act should be subject to similar sanctions, regardless of whether they involve the examination or adjustment of tax liability for a taxable year beginning before, on, or after July 10, 1989.

Explanation of Provision

The bill generally extends the application of the 1989 Act amendments to the information reporting and related provisions of section 6038A so that they apply to future acts (and failures to act) without regard to the taxable year involved.[49]

First, the bill applies the 1989 Act amendments to any requirement to furnish information under section 6038A(a) (as amended by the 1989 Act), if the time for furnishing such information is after the date of enactment of the bill, without regard to the starting date of the taxable year to which the information relates. Under the bill, therefore, the increased monetary penalty applies to a failure to furnish information that occurs after enactment of the bill.[50] For example, if Treasury regulations under section 6038A(a) and (b) require taxpayers to provide information about taxable years beginning before July 11, 1989, and the time for providing that information (under such regulations) is after the date of enactment of this bill, the monetary penalty for failure to comply with those requirements will be $10,000, rather than $1,000 as under present law.

The bill further provides that in the case of any failure with respect to a tax year beginning before July 11, 1989, which failure first occurs on or before the date of enactment of the bill but continues after date of enactment, the bill's $10,000 monetary penalty for continued failures, which applies to each 30-day period (or fraction thereof) during which such failure continues after the expiration of the 90-day period following notice by the Secretary of the initial failure, applies to such 30-day periods beginning after date of enactment. Thus, a failure to provide information required under the section 6038A(a) and (b) regulations currently applicable to taxable years beginning before July 11, 1989, which failure continues beyond expiration of the 90-day period following notice by the Secretary of the initial failure, will be subject to the $10,000 penalty for each 30-day period or fraction thereof that begins after date of enactment of the bill during which the failure continues. By contrast, the $1,000 penalty under current law would have applied only to the first twenty-four 30-day periods of the failure's continuation.

Next, the bill applies the 1989 Act amendments to any requirement under section 6038A(a) (as amended by the 1989 Act) to maintain records that were in existence at any time on or after March 20, 1990, without regard to the tax year involved. Under the bill, therefore, the increased monetary penalty applies to a failure to maintain records (as well as a failure to furnish information) that occurs after enactment of the bill, even if the records required to be maintained relate to taxable years beginning before July 11, 1989, so long as the records were in existence at any time on or after March 20, 1990.[51]

Under the bill the 1989 Act amendments apply, in addition, to any requirement to authorize a corporation to act as a limited agent under section 6038A(e)(1) (as amended by the 1989 Act) if the time for authorizing such action is after the date of enactment of the bill, without regard to the tax year involved. The bill also applies the 1989 Act amendments to the information reporting and related provisions of section 6038A to any summons issued after the date of enactment of the bill, without regard to the tax year involved. Thus, under the bill the Secretary may apply the noncompliance rule in computing tax liability with respect to a taxable year beginning before July 11, 1989. Failure to designate an agent in ac-

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[48] "Explanation of Provisions Approved by the Committee on October 3, 1989," Senate Finance Committee Print, 101st Cong., 1st Sess. 112-13 (October 12, 1989); *see also* H.R. Rep. 101-386, 101st Cong., 2d Sess. 594-95 (1989)).

[49] The provision does not affect the application of section 6038A under present law (as amended by the 1989 Act) to taxable years beginning after July 10, 1989.

[50] As under current law as it applies to years covered by the 1989 amendments to section 6038A, the increased monetary penalty applies only if the taxpayer is unable to demonstrate to the satisfaction of the Secretary that reasonable cause exists for the failure to furnish required information or maintain required records.

[51] Inasmuch as the bill does not affect the application of section 6038A under present law (as amended by the 1989 Act), the provisions of section 6038A continue to apply to taxable years beginning after July 10, 1989, irrespective of the date on which any summoned records were or were not in existence.

cordance with such rules as the Secretary may prescribe, or failure to substantially comply with a summons that calls for records the maintenance of which is required under section 6038A(a) and (b) regulations (unless the summons has been quashed), may therefore result, under the bill, in computation of taxable income for such a year using only those deductions and amounts of cost of goods sold as are determined by the Secretary in the Secretary's sole discretion, based on any information in the knowledge or possession of the Secretary or on any information that the Secretary may obtain through testimony or otherwise.

In the case of a taxable year beginning before July 11, 1989, the committee does not intend by this bill to authorize imposition of the noncompliance rule for a failure to produce summoned records that did exist prior to March 20, 1990, but no longer existed on March 20, 1990, where those records are shown to have been discarded in the ordinary course of business prior to March 20, 1990. The committee understands that this bill, unlike the 1989 Act, generally authorizes the Secretary to impose sanctions for failures to produce records necessarily created in years prior to the advent of the record maintenance rules of section 6038A(a) as amended by the 1989 Act and by the bill. The committee is aware that no regulations have yet been issued or proposed that would set forth those rules. The committee further understands that failures to produce records may be the result of prior acts that may be subject to existing sanctions under titles 18 or 26 of the U.S. Code. The committee does not intend, by this bill, to alter the Government's ability to impose such sanctions. Moreover, no inference is intended to be drawn from this bill with regard to what requirements or sanctions are in fact applicable under present law to the preservation or destruction of records prior to March 20, 1990. However, the committee does not intend to permit the Secretary to penalize taxpayers under the noncompliance rule of section 6038A(e) for acts with respect to prior years that would not have been subject to penalty at the time they were taken, either under enacted or pending legislation.

Effective Date

The provision is effective as described above.

e. Information reporting by foreign corporations engaged in U.S. business (sec. 7425 of the bill and sec. 6038C of the Code).

Present Law

In general

A foreign corporation that is engaged in a trade or business within the United States during the taxable year is subject to U.S. income tax on its taxable income which is effectively connected with the conduct of that trade or business (sec. 882(a)(1)). A foreign corporation is also subject to a flat 30-percent branch profits tax on its "dividend equivalent amount," which is a measure of the U.S. effectively connected earnings of the corporation that are removed in any year from the conduct of its U.S. trade or business.

In determining the taxable income of a foreign corporation, gross income includes only gross income which is effectively connected, whether derived from sources within or without the United States (sec. 882(a)(2)), and deductions generally are allowed only to the extent they are connected with such effectively connected gross income (sec. 882(c)(1)). For this purpose, deductible expenses (other than interest expense) are allocated and apportioned to effectively connected gross income under the same rules that are applicable for allocating and apportioning the expenses of U.S. persons between U.S. and foreign sources (Treas. Reg. sec. 1.882-4(c)). With respect to computing deductible interest expense, regulations generally require that the worldwide liabilities of the foreign corporation be taken into consideration in determining which liabilities are treated as "U.S.-connected liabilities," that amount being based on a specified percentage of the corporation's U.S. effectively connected assets. Deductible interest expense is determined by multiplying the amount of such U.S.-connected liabilities by one or more average rates of interest (Treas. Reg. sec. 1.882-5). A foreign corporation is also subject to a branch level interest tax, which amounts to a flat 30 percent of the interest deducted by the foreign corporation in computing its U.S. effectively connected income but not paid by the U.S. trade or business.

Information reporting and maintenance

Verification of deductible expenses

A foreign corporation may claim the benefit of deductions and credits only if it files or causes to be filed with the Secretary a true and accurate return in the manner prescribed in subtitle F of the Code, which return includes all the information deemed necessary by the Secretary for the calculation of those deductions or credits (sec. 882(c)(2)). A foreign corporation that claims deductions from effectively connected gross income is subject to certain rules for providing information with respect to those expenses. Under regulations, if a foreign corporation is requested to do so by the IRS district director, it must furnish information, in English if so requested, sufficient to establish that the corporation is entitled to the deductions in the amounts claimed. The information must be submitted in a form suitable to permit verification of the deductions claimed (Treas. Reg. sec. 1.882-4(c)(2)).

Transactions with certain related persons

Under present law, any foreign corporation that conducts a trade or business in the United States and that is 25-percent owned by one foreign person (in terms defined by the Code, a "25-percent foreign-owned" corporation that is also a "reporting corporation") must furnish the IRS with such information as the Secretary may prescribe, with respect to taxable years beginning after July 10, 1989, regarding transactions carried out directly or indirectly with certain foreign persons treated as related to the reporting corporation ("reportable transactions") (sec. 6038A(a)). A related person for this purpose includes a 25-percent shareholder as well as any person that is treated as related within the meaning of sections 267(b), 707(b)(1), or 482. Current Treasury regulations require the annual filing of an information return reporting related-party transactions.[52] A reporting corporation is also required to maintain (or cause another person to maintain), at the location, in the manner, and to the extent prescribed by regulations, any records deemed appropriate to determine the correct tax treatment of reportable transactions with respect to taxable years beginning after July 10, 1989 (sec. 6038A(a)).

Sanctions For Noncompliance

If a foreign corporation fails to sufficiently produce the information requested by the IRS for purposes of verifying its deductions under Treasury Regulation section 1.882-4(c)(2), the IRS may in its discretion disallow, in full or in part, any of the deductions claimed.[53]

Failure to furnish the IRS with information or to maintain records with respect to a taxable year beginning after July 10, 1989 as required under section 6038A(a) and (b) is subject to a monetary penalty of $10,000, and additional penalties are imposed if the failure continues more than 90 days after the IRS notifies the taxpayer of the failure (sec. 6038A(d)). The additional penalties are $10,000 for each 30-day period (or fraction thereof) during which the failure continues following the 90th day after IRS notification. An exception from liability for the monetary penalty exists in cases where the taxpayer demonstrates to the satisfaction of the Secretary that reasonable cause exists for the failure to furnish required information or maintain required records (sec. 6038A(d)(3)).

Prior law

The information reporting and related requirements described above reflect provisions of the Omnibus Budget Reconciliation Act of 1989 ("the 1989 Act") amending the prior-law provisions of Code section 6038A. The 1989 Act amendments apply only to taxable years beginning after July 10, 1989.

The information reporting and related requirements applicable to taxable years beginning before July 11, 1989 are less extensive than those described above. For those years, the requirement to file an information return reporting all transactions with related foreign persons only applied to corporations that were 50-percent owned by a foreign person. Relatedness for those years is defined as relatedness only within the meaning of sections 267(b), 707(b)(1), or 482. Noncompliance with this reporting requirement is subject to an initial penalty of $1,000, plus additional $1,000 penalties (up to a maximum of $24,000) for each 30-day period (beginning 90 days after IRS notification) that the failure remains or remained outstanding.

The provisions of section 6038A effective for those years do not include the record-maintenance requirement.

Application of U.S. legal process to foreign persons

In general

The statutory scope of general IRS summons authority extends to records outside the United States,[54] and to persons that are

[52] Treas. Reg. sec. 1.6038A-1. However, the regulation has yet to be amended to reflect the broader definition of a related party resulting from the amendments to section 6038A contained in the Omnibus Budget Reconciliation Act of 1989.

[53] An equivalent discretion applies under section 482; a determination by the Secretary as to that allocation or apportionment of items of income and expense among commonly controlled persons which clearly reflects income or prevents the evasion of taxes must be sustained absent a showing or abuse of the Commissioner's discretion. *Paccar, Inc.* v. *Commissioner*, 85 T.C. 754, 787 (1985), *aff'd*, 849 F.2d 393 (9th Cir. 1988).

[54] *E.g., First National City Bank v. Internal Revenue Service*, 271 F.2d 616 (2d Cir. 1959), *cert. denied*, 361 U.S. 948 (1960). However, judicial enforceability of such a summons depends on a variety of circumstances, such as the legality under foreign law of requiring the production of the documents. *Id.* at 619-20. In a case where a U.S. court obtains jurisdiction over a corporation by virtue of the location of a branch physically located within the court's geographical sphere of influence, another relevant circumstance may be whether any

not themselves subject to tax in the United States. In addition, the Code provides that in order to avoid the consequences of the noncompliance rule (discussed below) with respect to certain reportable transactions for taxable years beginning after July 10, 1989, each foreign person that is a related party of a reporting corporation (as described above) must agree to authorize the latter to act as its agent in connection with any request by the IRS to examine records or produce testimony related to any reportable transaction, solely for the purpose of determining the tax liability of the reporting corporation (sec. 6038A(e)(1)). Thus, assuming authorization is given, an IRS examination request or summons with respect to related-party transactions involving a U.S. taxpayer (including a 25-percent foreign-owned foreign corporation engaged in a trade or business in the United States) can be served on related foreign persons through those U.S. taxpayers.

Sanctions for noncompliance

Failure of a related party to designate a reporting corporation as its agent for accepting service of process in connection with reportable transactions (as discussed above), or, under certain circumstances, noncompliance with IRS summonses in connection with reportable transactions, can result in the application of the noncompliance rule in computing tax liability with respect to a taxable year beginning after July 10, 1989. For certain payments to related parties in connection with reportable transactions, this rule permits the IRS to allow the reporting corporation only those deductions and amounts of cost of goods sold as shall be determined by the Secretary in the Secretary's sole discretion, based on any information in the knowledge or possession of the Secretary or on any information that the Secretary may obtain through testimony or otherwise (sec. 6038A(e)).

Reasons for Change

Introduction

The committee believes that for many purposes, a foreign corporation doing business in the United States (for example, through a U.S. branch) should be subject to tax treatment that is the same as, or analogous to, the tax treatment that would apply to a foreign corporation operating in the United States through a U.S. subsidiary. For example, a U.S. corporation (or a foreign corporation engaged in a U.S. business) that is wholly owned by a widely-held foreign corporation is subject to the section 6038A provisions with respect to transactions with parties related either to itself or to the foreign parent corporation. The committee believes that the 1989 Act significantly enhanced the effect of those provisions on compliance, and the committee believes that a U.S. branch of a widely-held foreign corporation (including a foreign corporation none of whose shareholders holds 25 percent or more of its stock), as well as any other foreign corporation, should be subject to those same compliance provisions with respect to transactions with parties related to the foreign corporation.

The committee further believes that the issues arising in connection with related party transactions of a 25-percent foreign-owned U.S. corporation are analogous to those arising in connection with the fundamental tax issues arising on the U.S. tax return of a foreign corporation: namely, which of the items of gross income of a foreign corporation are effectively connected with the conduct of a trade or business in the United States; which deductions are connected with U.S.-effectively connected income; and the underlying amounts of the items that must be allocated and apportioned between the United States trade or business and the other trades or businesses of the taxpayer. Records underlying these issues can be expected to be located abroad, just as the records of foreign related parties that engage in reportable transactions with 25-percent foreign-owned U.S. corporations will typically be located abroad. The 1989 Act amendments to section 6038A should be particularly helpful, in the committee's view, in providing IRS access to books, records, or other information in the custody of a foreign person during the course of examining the related party transactions of the taxpayers to which section 6038A pertains. However, it has come to the committee's attention that the 1989 Act failed to fully address the problems of determining the tax liability of foreign corporations operating trades or businesses in the United States, and that absent additional statutory changes, these problems may continue to prevent the IRS from obtaining in a timely manner information relevant to determining the U.S. income tax liability of those branches. The committee considers it appropriate to provide the IRS similar tools to obtain relevant information in the case of foreign corporations operating trades or business in the United States as in the case of related party transactions that are subject to the provisions of section 6038A.

Computation of effectively connected taxable income

The IRS often needs to obtain foreign-based documentation or the testimony of foreign-based persons in order to properly apply substantive tax rules (e.g., section 482) to related party transactions on the U.S. tax return of a 25-percent foreign-owned U.S. corporation. The committee understands that the IRS also often needs such documentation or testimony in order to properly determine the amount, for example, of executive and general administrative expenses, research and development expenses, interest, or other expenses incurred outside the United States for the purposes of the foreign corporation as a whole, that is connected with U.S.-effectively connected income of the corporation. The committee understands that a large proportion of the U.S.-effectively connected income of all foreign persons is comprised of the U.S.-effectively connected income of foreign banks, and that the largest deduction of these taxpayers is the deduction for interest, which, under the applicable substantive tax rules (*see* Treas. Reg. sec. 1.882-5), must be computed on the basis of the corporation's worldwide liabilities, interest expense, and in some cases, assets.

As another example, foreign-based documentation or the testimony of foreign-based persons may be required by the IRS to properly determine the location of assets from which a particular item of income is derived, to determine the location of the activities that contributed to the realization of such income, or to determine the location of the trade or business through which assets or income were accounted for (*see* sec. 864(c)(2) through (5)). Such documentation or testimony also may be required by the IRS to properly examine a foreign corporation's U.S. tax return where the foreign corporation claims that income from the sale of personal property is foreign source income not subject to tax because an office or other fixed place of business of the taxpayer in a foreign country materially participated in the sale (*see* Code secs. 865(e)(2)(B) and 864(c)(4)(B)(iii)). Generally, in any case where documents or the testimony of persons located abroad bear on U.S.-effectively connected income, or relate to deductions or other items connected with that income, the IRS needs such documentation or testimony to determine the amounts of those items that are includible on the U.S. tax return of the foreign corporation.

Applicable procedural rules

The committee is concerned that present law governing the procedures for obtaining access to those foreign-based documents or testimony of foreign-based persons relevant to the foregoing substantive tax issues is not adequate to ensure access in a timely and effective manner. If the IRS is to rely on information reporting and record maintenance in such a case, then the committee believes that the penalty for failure to carry out those reporting and maintenance functions should be no less substantial than those applicable to analogous failures of 25-percent foreign-owned U.S. corporations regarding their related party transactions. Moreover, where the IRS is not provided with adequate data to properly discharge its examination function, even after issuance of an administrative summons, the committee believes that it is appropriate (as in the analogous case of a 25-percent foreign-owned corporation regarding its related party transactions) to permit the Secretary to draw the conclusions from the available data in his sole discretion.

The committee understands that a foreign corporation doing business in the United States will be subject to the jurisdiction of Federal courts. Thus, in seeking enforcement of a summons issued to such a corporation, the IRS may rely upon judicial orders (and associated contempt powers) of the Federal courts. Nevertheless, the committee is concerned that the theoretical existence of legal jurisdiction does not necessarily produce meaningful access to information as a practical matter.

When this committee considered amendments to section 6038A in 1989, it also recognized that the theoretical existence of legal jurisdiction to issue a summons does not guarantee the practical ability to enforce it successfully.[55] This recognition was based, in part, on the results of *United States* v. *Toyota Motor Corp.*[56] In *Toyota*, the court ultimately ruled that a Japanese parent corporation was subject to the jurisdiction of the court in a summons enforcement action because of its ties to the United States. However, the summons could not be enforced with respect to certain concededly relevant documents, because they had been discarded in the normal course of business[57]—a course of business presumably

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individual at the branch has the power to direct employees at foreign locations to provide the summoned material. *Compare Ings v. Ferguson*, 282 F.2d 149, 152 (2d Cir. 1960) *and Cates v. LTV Aerospace Corp.*, 480 F.2d 620 (5th Cir. 1973), *with Michelman v. Hanil Bank, Ltd. (In re Jee)*, 104 Bankr. 289 (Bankr. C.D. Cal. 1989).

[55] *See* "Explanation of Provisions Approved by the Committee on October 3, 1989," Senate Finance Committee Print, 101st Cong., 1st Sess. 112 (October 12, 1989) (hereinafter "Finance Committee explanation").

[56] 561 F. Supp. 354 (C.D. Cal.) (memorandum opinion), 569 F. Supp. 1158 (C.D. Cal. 1983), cited in Finance Committee explanation, *supra*, at 112.

[57] 569 F. Supp. at 1161.

normal because their retention was no longer required under foreign recordkeeping standards. Subsequent to enactment of the 1989 Act, the committee learned of similar practical impediments to meaningful IRS access to documents and testimony relevant to the tax liabilities of foreign corporations on their U.S. operations.

First, one of the key problems presented by the *Toyota* case may be equally present in the case of the branch operation; that is, if foreign record retention practices differ from U.S. practices, a valid summons for documents held by a home office or foreign branch may be rendered useless to the IRS. Accordingly, it is necessary to ensure that foreign-based records relevant to the determination of U.S. tax liability remain available for U.S. tax purposes notwithstanding different retention practices otherwise applicable in the home country (or other countries in which the corporation operates).

Second, even if foreign-based records are not discarded, the practical ability of Federal courts to enforce compliance with a summons may be limited in the case of a corporation whose responsible employees are located outside the United States. In general, if a corporation fails to comply with a Federal court order, the court may seek to compel compliance by holding responsible corporate officers or employees in contempt.[58] In the case of a U.S. corporation, those responsible persons will typically be located within the United States. However, in the case of a U.S. branch of a foreign corporation, the responsible officers and employees will generally be located outside the United States, and thus as a practical matter beyond the contempt powers of a Federal court. While a court could choose to hold in contempt a lower-ranked employee present in the United States, a court might also balk at doing so, where that employee is acting under the direction of senior personnel. Moreover, a court could possibly choose not to enforce the summons against the corporation, on the same grounds.[59]

Third, the effect of contrary provisions of foreign law is highly uncertain. Where U.S. and foreign requirements conflict, courts have tended to engage in a balancing test, weighing the interests of the two sovereigns in the observance of their respective laws.[60] Under such an analysis, it is conceivable that a court might limit IRS access to necessary information based on foreign bank secrecy or similar rules.[61]

Fourth, the committee believes that just as section 882(c)(2) conditions the allowance to a foreign corporation of ordinary deductions and credits on full compliance with applicable filing requirements, it is appropriate to apply no less stringent sanctions in cases where the foreign corporation fails to comply with applicable requirements to support the correctness of the amounts shown on the return in the course of examination.

In light of the foregoing, the committee believes that the IRS should be equipped with the same information gathering tools and penalties in auditing the issues relating to the computation of effectively connected taxable income of a foreign corporation, as it does in auditing the related party transactions on the return of a 25-percent foreign-owned corporation. In particular, the committee believes that provisions of section 6038A, as enhanced by the 1989 Act amendments, are appropriate to apply in determining the U.S. effectively connected income of all foreign corporations.

Explanation of Provision

In general

The bill adds new section 6038C to the Internal Revenue Code. The new provision subjects all foreign corporations that carry on trades or businesses in the United States to information reporting and record maintenance rules that are similar to the present-law rules contained in section 6038A applicable to certain 25-percent foreign-owned corporations.[62] While under section 6038A these rules are generally applicable only to furnishing information, maintaining records, and complying with summonses pertaining to related party transactions, and then only when the foreign corporation is 25-percent foreign-owned, under new section 6038C these rules apply to related party transactions in the case of any foreign corporation with a U.S. trade or business, whether or not the foreign corporation is 25-percent foreign-owned. In addition, under new section 6038C these rules apply to information, records, and summonses regarding such other information as the Secretary may prescribe by regulations relating to any item not directly connected with such a related party transaction. Thus, under the bill the gathering of information and the maintenance of records relevant to the computation of taxable income effectively connected with that U.S. trade or business are subjected to information reporting and record maintenance rules comparable to those of the 1989 Act that apply to certain related party transactions only.[63] Inasmuch as the purpose of the bill is to obtain generally equivalent access to relevant information irrespective of the location of the information, recognizing the unique tax administration problems presented where the location of the information, as well as the seat of management (as is often the case with a foreign corporation), is outside the United States, the committee believes that the provision does not discriminate against foreign corporations in violation of any treaties.

Information reporting and record maintenance

Under the bill, a foreign corporation that is engaged in a U.S. trade or business during the taxable year is required to furnish information at such time and in such manner as the Secretary may prescribe in regulations. This information includes the same information as is required to be furnished by 25-percent foreign owned corporations under section 6038A(b) with respect to related-party transactions, as well as other information as prescribed by the Secretary in regulations relating to any other item related to the determination of the foreign corporation's tax liability. For example, it is anticipated that this "other information" may include, but not be limited to, information regarding the allocation and apportionment of deductible expenses (including the computation of the deductible interest expense) to the U.S. branch of a foreign corporation. In addition, the bill requires all foreign corporations that carry on business in the United States to maintain (or cause another to so maintain) at the location, in the manner, and to the extent prescribed in regulations records necessary to determine the corporation's tax liability. The committee generally expects that the Secretary will use this authority to require furnishing of information, and maintenance of records, bearing on the allocation of amounts between the United States and foreign countries.

The bill specifies that the monetary penalty provisions of present-law section 6038A(d) shall apply to failures to furnish information or maintain records as described in the previous paragraph. That is, if a foreign corporation engaged in a U.S. trade or business fails to furnish information required by the Secretary or fails to maintain (or cause another to maintain) the records specified in regulations, then the corporation will be assessed a penalty of $10,000 per taxable year with respect to which a failure occurs. Moreover, if the Secretary notifies a foreign corporation of such a failure and the failure continues for more than 90 days after the notification, then an additional $10,000 penalty will be assessed for each 30-day period, or fraction thereof, during which the failure continues following the expiration of the 90-day period. Finally, a reasonable cause exception similar to the present-law section 6038A(d)(3) exception applies.

Enforcement of IRS requests for information

The bill provides that in order to avoid the consequences of the noncompliance rule (discussed below) with respect to transactions between any foreign corporation engaged in a U.S. trade or business and a foreign person related to that corporation, the related foreign person must agree to authorize the foreign corporation to act as its limited agent in the United States solely for purposes of applying Code sections 7602, 7603, and 7604 relating to any request by the Secretary to examine records of the related person or produce testimony by the related person with respect to any such transaction, or with respect to any summons issued by the Secretary for such records or testimony. The bill defines a related person as any person who is related within the meaning of section 267(b) or 707(b)(1) to the foreign corporation or to a 25-percent foreign shareholder of the corporation, and any other person that is related to the corporation under the rules of section 482. The

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[58] *E.g., United States v. Rylander*, 460 U.S. 752 (1983).

[59] *Cf. Ings v. Ferguson*, 282 F.2d at 152 ("There may be a serious question as to whether the manager of a New York Agency would have the power to direct the officers of a Canadian bank to send Canadian branch bank records out of the country in violation of a prohibitory statute and an opinion of counsel to that effect.").

[60] *See e.g., Societe Internationale pour Participations Industrielles et Commerciales v. Rogers*, 357 U.S. 197 (1958); *United States v. Vetco, Inc.*, 691 F.2d 1281 (9th Cir.), *cert. denied*, 454 U.S. 1098 (1981); *United States v. First National Bank of Chicago*, 699 F.2d 341 (7th Cir. 1983).

[61] *See e.g., First National City Bank v. Internal Revenue Service*, 271 F.2d 616 (2d Cir. 1959), *cert. denied*, 361 U.S. 948 (1960); *Laker Airways Ltd. v. Pan American World Airways*, 607 F. Supp. 324 (S.D.N.Y. 1985); *In re Equitable Plan Co.*, 185 F. Supp. 57 (S.D.N.Y.), *mod'd, Ings v. Ferguson*, 282 F.2d 149 (2d Cir. 1960).

[62] The committee intends that the legislative history bearing on the meaning of 1989 Act amendments to section 6038A generally serve as guidance to the meaning of section 6038C.

[63] As a technical and conforming change, the bill removes foreign corporations engaged in U.S. trades or businesses from the application of Code section 6038A, effective with the effective date of new section 6038C, in order to prevent any overlapping application of the provisions of that section with the provisions of new section 6038C.

bill expressly limits the agency relationship between a foreign corporation and its related party so that any appearance of persons or production of records under this provision will not subject such persons or records to legal process for any purpose other than determining the correct U.S. income tax treatment of transactions between the foreign corporation and the related party.

The noncompliance rule provided under the bill permits the Secretary to determine, in his sole discretion, the treatment of the transaction or the amount and treatment of any such item, based on any information in the knowledge or possession of the Secretary or on any information that the Secretary may obtain through testimony or otherwise. This rule applies in cases where the following three conditions are met: the Secretary issues a summons to a foreign corporation to produce (either directly or as an agent for a related foreign person) any records or testimony with respect to any transaction or other item necessary to determine the corporation's proper income tax liability; the summons is neither quashed in a proceeding begun not later than the 90th day after issuance of the summons, nor determined to be invalid in an enforcement proceeding; and the foreign corporation fails to substantially comply with the summons in a timely manner (and has been informed of such noncompliance in the form of a notice from the Secretary sent via certified or registered mail). This sanction for noncompliance applies whether or not the Secretary has begun a judicial proceeding for enforcement of the summons. The noncompliance rule applies if the foreign corporation fails to maintain (or cause another person to maintain) the records required under the recordkeeping provisions of the bill and due to such failure, a summons for such information is quashed under a proceeding described above or the foreign corporation is unable to provide the records requested in a summons. The noncompliance sanction similarly applies to a case where a related foreign person fails to authorize the foreign corporation to act as its agent under the provisions discussed in the preceding paragraph.

Judicial review

To ensure that the noncompliance rules with respect to a summons are only applied when the summons is properly issued by the IRS, the bill permits prompt judicial review of a summons, as in the case of a summons concerning a related party transaction of a 25-percent foreign-owned U.S. corporation. The bill thus permits persons that receive a summons related to the examination of a reportable transaction to petition a Federal court to quash the summons, not later than the 90th day after such summons is mailed. In the event that the recipient does not file such a petition and also fails to comply with the summons, the IRS (as under present law) may bring an action to enforce the summons. If a summons in connection with an IRS examination of any reportable transaction is subject to a timely petition to quash, the statute of limitations on the taxable year(s) at issue will be suspended during the pendency of the judicial action to quash the summons, and will expire not earlier than 90 days after the conclusion of such action.

In order to establish with finality the validity of a summons, the obligations imposed on the recipient by the summons, and the applicability of sanctions for noncompliance with the summons, a taxpayer may file a timely petition to quash the summons or defend an IRS action to enforce the summons. Under the bill, these are a taxpayer's sole methods of preventing application of the noncompliance rule for noncompliance with a summons. Therefore, if a summons is not quashed (whether because a petition to quash was unsuccessful, an action to enforce was successful, or simply because no judicial action was initiated), the noncompliance rule may be applied by the IRS irrespective of any collateral or subsequent judicial opinion (e.g., in the U.S. Tax Court) concerning the validity of the summons.

The fact that compliance with the summons would lead to the imposition of civil or criminal penalties on the reporting corporation (or a related party) under any foreign law will not constitute grounds for either quashing or refusing to enforce the summons.

Effective Date

The bill generally applies the section 6038C provisions to future acts (and failures to act) without regard to the taxable year involved.[64]

First, the bill applies the section 6038C provisions to any requirement to furnish information under section 6038C(a), if the time for furnishing such information is after the date of enactment of the bill, without regard to the starting date of the taxable year to which the information relates. Under the bill, therefore, the monetary penalty applies to a failure to furnish information that occurs after enactment of the bill. For example, if Treasury regulations under section 6038C(a)(1) and (b) require taxpayers to provide information about a taxable year, and the time for providing that information is after the date of enactment of this bill, the monetary penalty for failure to comply with those requirements will be $10,000.

Next, the bill applies the section 6038C provisions to any requirement under section 6038C(a) to maintain records that were in existence at any time on or after March 20, 1990, without regard to the tax year involved. Under the bill, therefore, the $10,000 monetary penalty applies to a failure to maintain records (or a 30-day period of continued failure after lapse of the 90-day period following notice of the failure), as well as to furnish information, that occurs after enactment of the bill, so long as the records were in existence at any time on or after March 20, 1990.[65]

Under the bill the section 6038C provisions apply, in addition, to any requirement to authorize a corporation to act as a limited agent under section 6038C(d)(1) if the time for authorizing such action is after the date of enactment of the bill, without regard to the tax year involved. The bill also applies the section 6038C provisions to any summons issued after the date of enactment of the bill, without regard to the tax year involved. Failure to designate an agent in accordance with such rules as the Secretary may prescribe, or failure to substantially comply with a summons that calls for records the maintenance of which is required under section 6038C(a) and (b) regulations, may therefore result, under the bill, in computation of taxable income for any taxable year involved, applying to the transaction or item involved the treatment determined by the Secretary in the Secretary's sole discretion, based on any information in the knowledge or possession of the Secretary or on any information that the Secretary may choose to obtain through testimony or otherwise.

In the case of a taxable year not subject to the present law provisions of section 6038A, the committee does not intend by this bill to authorize imposition of the noncompliance rule for a failure to produce summoned records that did exist prior to March 20, 1990, but no longer existed on March 20, 1990, where those records are shown to have been discarded in the ordinary course of business prior to March 20, 1990. The committee understands that this bill generally authorizes the Secretary to impose sanctions for failures to produce records necessarily created in years prior to the advent of the record maintenance rules of either present law section 6038A(a) or new section 6038C as contained in this bill. The committee also is aware that no regulations have yet been issued or proposed that would set forth those rules. The committee further understands that failures to produce records may be the result of prior acts that were and are subject to existing sanctions under titles 18 or 26 of the U.S. Code. The committee does not intend by this bill to alter the Government's ability to impose such sanctions. Moreover, no inference is intended to be drawn from this bill with regard to what requirements or sanctions are in fact applicable under present law to the preservation or destruction of records prior to March 20, 1990. However, the committee does not intend to permit the Secretary to penalize taxpayers under the noncompliance rule of section 6038C(d) for acts with respect to prior years that would not have been subject to penalty at the time they were taken, either under enacted or pending legislation.

f. Studies and other administrative matters (sec. 7426 of the bill).

Present Law

In the Tax Reform Act of 1986, Congress stated that a comprehensive study of intercompany pricing rules should be conducted by the Internal Revenue Service and that careful consideration should be given to whether the existing regulations could be modified in any respect. Such a study was issued by the Treasury and IRS in October 1988. Changes to the regulations are yet to be proposed. In addition, in the Revenue

[64] The bill does not affect the application of section 6038A under present law (as amended by the 1989 Act) to foreign corporations in the case of past acts (and failures to act).

[65] The committee is aware that there may be some foreign corporations, engaged in a U.S. trade or business, that for taxable years beginning prior to July 11, 1989 were subject to section 6038A(a) information reporting requirements under section 6038A as it existed prior to the 1989 Act, and to the accompanying $1,000 monetary penalties applicable to failure (and certain continued failures) to provide the required information. If any such corporation is subject to a monetary penalty for each relevant 30-day period (or fraction thereof) of continuation, after the date of enactment of this bill, of an original failure to provide information, the time for which was prior to the date of enactment of this bill, the committee intends that the provisions of the bill apply to each 30-day period beginning after date of enactment during which the failure continues. Thus, a failure to provide information required under the section 6038A(a) and (b) regulations currently applicable to taxable years beginning before July 11, 1989, which failure continues beyond expiration of the 90-day period following notice by the Secretary of the initial failure, will be subject to the $10,000 penalty for each 30-day period or fraction thereof that begins after date of enactment of the bill during which the failure continues. By contrast the $1,000 penalty under current law would have applied to only the first twenty-four 30-day periods of the failure's continuation.

Reconciliation Act of 1989, a legislative intention was expressed that the IRS report on its efforts to audit U.S. taxpayers that are subsidiaries of or otherwise related to foreign corporations. It was intended that such a report be submitted to Congress within five years after the 1989 Act amendments to section 6038A took effect.

Reasons for Change

Certain factual issues, and certain possible administrative or statutory improvements, regarding the administration of related party transfer pricing rules using the arm's length standard have been brought to the committee's attention. The committee believes these matters require further study or procedural revision by the Treasury Department and the Internal Revenue Service.

Explanation of Provision

The bill provides for a report to be made by the Secretary of the Treasury or his delegate regarding the effectiveness of the compliance provisions contained in this part of the bill (described above) in increasing compliance with Code section 482, the use of advanced determination agreements with respect to section 482 issues, possible additional statutory provisions or administrative changes to assist the IRS in increasing compliance with section 482, and coordination of the administration of section 482 with the administration of similar provisions of foreign tax laws and of domestic non-tax laws.

The committee expects that in discussing levels of compliance with section 482, the IRS will report on the amounts of section 482 adjustments (proposed or collected), providing separate figures for adjustments in so-called "inbound" cases (generally, those involving deductions or other payments going to foreign persons) and adjustments in outbound cases. The committee intends that considerations of changes to assist IRS in increasing compliance with section 482 include in particular recommendations for affording the Service better access to, and more effective use of, data on comparable transactions between unrelated parties, including parties unrelated to the taxpayer. The committee also expects that such considerations may include an analysis of the impact that the Tax Court's practices concerning discovery have on compliance with section 482. With respect to coordination of section 482 administration with that of other laws, the committee expects that the report will describe coordination efforts between U.S. and foreign tax agencies, and those between the IRS and other Federal agencies that administer related, non-tax laws.

The committee expects that in connection with the study of administrative changes described above, the IRS will modify its current regulations with respect to priorities in applying the various regulatory methods (e.g., comparable uncontrolled price method, resale price method, cost plus method) for determining an arm's length price for tangible property transfers, to the extent such priorities are not reasonably justified. In addition, the committee expects that the IRS will modify its Forms 5471 and 5472 to the extent deemed appropriate to ensure that adequate documentation or other information regarding the taxpayer's related party pricing policy or methods are provided to the IRS on those forms or can be made available to the IRS in a timely manner.

Effective Date

The bill provides for this report, along with such recommendations as the Secretary may deem advisable, to be submitted to the House Committee on Ways and Means and the Senate Committee on Finance no later than March 1, 1992.

4. Use of Excess Pension Plan Assets (secs. 7431-7435 of the bill and sec. 4980 and new sec. 420 of the Code).

Present Law

Under present law, pension plan assets generally may not revert to an employer prior to the termination of the plan and the satisfaction of all plan liabilities. Certain procedural requirements also must be met. Any assets that revert to the employer upon such termination are includible in the gross income of the employer and subject to a 15-percent excise tax (sec. 4980).

Subject to certain limitations, an employer may under present law make deductible contributions to a defined benefit pension plan up to the full funding limitation. The full funding limitation is generally defined as the excess, if any, of (1) the lesser of (a) the accrued liability under the plan and (b) 150 percent of the plan's current liability, over (2) the lesser of (a) the fair market value of the plan's assets, and (b) the actuarial value of the plan's assets.

Under present law, a pension plan may provide medical benefits to retirees through a section 401(h) account that is part of such plan. The assets of a pension plan may not be transferred to a section 401(h) account without disqualifying the pension plan, subjecting the amounts transferred to income tax and the reversion excise tax, and violating title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA).

Reasons for Change

The committee believes it is appropriate to provide a temporary rule allowing employers to transfer assets set aside for pension benefits to a section 401(h) account for retiree health benefits as long as the security of employees' pension benefits is not thereby threatened.

The excise tax on reversions was originally enacted because the Congress believed that it was appropriate to limit the tax incentives available to an employer that maintains a pension plan. Congress recognized that contributions to such plans, as well as the earnings on such contributions, are intended to provide for the pension benefits of plan participants. To the extent that amounts in such plans are not used for pension purposes, Congress believed that the tax treatment of reversions should recognize that the tax on earnings on pension funds is deferred and, thus, the benefits of this treatment should be recaptured. In many cases, a 15-percent excise tax is not sufficient to recapture the tax benefits received. Therefore, the committee believes it is appropriate to increase the excise tax to better approximate the tax benefits of the income deferral. The committee also believes it is appropriate to structure the excise tax to provide an incentive for an employer terminating a defined benefit plan to maintain a qualified retirement plan following the termination or to provide benefit increases to plan participants before terminating the plan.

Explanation of Provisions

Reversions of excess pension assets

In general

Under the bill, the rate of the reversion excise tax is either 40 percent or 20 percent. The applicable rate depends, in part, on the actions of the employer in connection with the plan termination. The excise tax rate is 40 percent if the employer (1) does not establish or maintain a qualified replacement plan following the plan termination, or (2) provide certain pro-rata benefit increases in connection with the plan termination. If the employer maintains a qualified replacement plan or provides certain pro-rata benefit increases, the reversion excise tax rate is 20 percent. In addition, the excise tax is 20 percent in the case of an employer who, as of the plan termination date, is in bankruptcy liquidation under chapter 7 of title 11 of the United States Code or in liquidation under similar proceedings under State law.

Qualified replacement plan

The reversion tax is 20 percent if the employer establishes a qualified replacement plan in connection with the plan termination or maintains a qualified replacement plan following the plan termination. A qualified replacement plan is a qualified plan maintained by the employer which meets (1) a participation requirement, (2) an asset transfer requirement, and (3) in the case of a qualified replacement plan that is a defined contribution plan, certain allocation requirements. A qualified replacement plan can be either a defined contribution plan or a defined benefit pension plan. The Secretary of the Treasury may provide that 2 or more plans may be treated as 1 plan for purposes of determining whether there is a qualified replacement plan.

The participation requirement is satisfied if substantially all of the active participants in the terminated plan who are employees of the employer after the plan termination are active participants in the replacement plan. This requirement is designed to ensure that participants who were accruing benefits under the terminating plan continue to earn benefits under the replacement plan.

The asset transfer requirement is satisfied if, prior to any employer reversion, assets equal to 20 percent of the maximum reversion that could be received are transferred directly from the terminated plan to the replacement plan.

The amount required to be transferred is reduced by the amount of the present value of increases in participants' (including both active and nonactive participants) vested accrued benefits that are made pursuant to a plan amendment adopted during the 60-day period ending on the date of plan termination and which take effect on the termination date. Any such increases in vested benefits must, of course, comply with the normally applicable qualification requirements.

In the case of a replacement plan that is a defined contribution plan, the transferred assets (and income thereon) are required to be (1) allocated to participants and beneficiaries in the plan year in which the transfer occurs, or (2) credited to a suspense account and allocated from that account no less rapidly than ratably over a period not to exceed 7 years (including the year of the transfer). Income credited on assets in the suspense account is to be allocated no less rapidly than ratably over the remainder of the 7-year period.

Transferred assets (and income thereon) are treated as annual additions when allo-

cated to participant accounts for purposes of the limits on contributions and benefits (sec. 415). The 7-year allocation period can be extended only to the extent that such limits prevent the allocation from taking place during such period. In determining whether such limits preclude transferred assets from being allocated, it is intended that transferred assets are treated as the first annual additions allocated to participant accounts for any year. Amounts that cannot be allocated during such period due to the application of the section 415 limits on contributions and benefits are to be relocated to other plan participants at the end of the period. If all remaining amounts cannot be allocated due to application of the limits on contributions and benefits such amounts are to be allocated as soon as possible consistent with such limits and before any other amounts can be allocated.

In the event that the replacement plan terminates before the assets in the suspense account have been allocated, the remaining amount is to be allocated as of the termination date to participant accounts. Any amount that cannot be so allocated to a participant due to the limitations on contributions and benefits is to be reallocated to other participants. If such limits preclude the allocation of the entire amount remaining in the suspense account, then the amount that cannot be allocated is treated as an employer reversion and subject to the reversion excise tax and includible in gross income. Of course, in the case of a newly established plan, the present-law permanence requirement may in some circumstances adversely affect the qualified status of the plan if it is terminated before the end of the 7-year period.

Amounts transferred to a qualified replacement plan are not includible in the gross income of the employer and are not subject to the excise tax on reversions. The employer is not entitled to a deduction for amounts transferred to a qualified replacement plan.

The following example illustrates the application of the asset transfer rule. Assume that Employer A terminates a defined benefit pension plan and that, after satisfaction of all plan liabilities, the remaining assets in the plan are $100x. $20x is transferred to a defined contribution plan of the employer that qualifies as a qualified replacement plan. No benefit increases are provided in connection with the plan termination. The $20x transferred to the qualified replacement plan is not includible in the gross income of the employer nor subject to the reversion excise tax. The employer is liable for an excise tax of $16x [.20 x ($100x - $20x)], and $80x is includible in the gross income of the employer.

Pro-rata benefit increases

The reversion excise tax is also 20 percent if the employer provides certain pro-rata benefit increases to plan participants (including both active and nonactive participants) as part of the plan termination transaction. Under this rule, the vested accrued benefits of all participants under the terminating plan must be increased effective as of the termination date so that the total present value of increased benefits (determined on a termination basis) is at least 15 percent of the maximum employer reversion which could be received. The present value of the increase in the nonforfeitable benefit of each participant is to be equal to the amount which bears the same ratio to the total present value of benefit increases as the participant's nonforfeitable accrued benefit bears to the total nonforfeitable accrued benefits under the terminated plan. In no event can the aggregate increase in the nonforfeitable accrued benefits of nonactive participants as of the termination date exceed 40 percent of the minimum benefit increase possible under the provision. Benefit increases that would exceed this 40 percent limitation are to be allocated among the active plan participants on a pro-rata basis.

For purposes of the provision, a nonactive participant is (1) a participant in pay status as of the termination date, (2) a beneficiary who has a vested benefit under the terminated plan as of the termination date, or (3) a participant who has a vested right to a benefit under the plan as of the termination date and who separated from service during the period beginning 3 years before the termination date and ending on the date of final distribution of plan assets.

All benefit increases and allocations of transferred assets made in accordance with the provision are subject to the limitations on contributions and benefits (sec. 415) and the nondiscrimination rules (sec. 401(a)(4)), as well as other generally applicable qualification rules.

Under present law, the limitations on contributions and benefits are phased in over 10 years of plan participation. The Secretary of the Treasury has the authority to provide that this rule applies separately with respect to each change in benefit structure of a plan. The Secretary has provided that this rule generally applies to all changes in benefit structures, including benefit increases on plan termination (I.R.S. Notice 89-45). The bill provides that, except as provided by the Secretary of the Treasury in the future, the 10-year rule does not apply to benefit increases pursuant to the provisions of the bill, if the benefit increases do not discriminate in favor of highly compensated employees. It is intended that the Secretary may apply a more stringent test under this provision than the general nondiscrimination rule (sec. 401(a)(4)).

Fiduciary duties

The bill provides that certain of the reversion excise tax provisions create specific fiduciary obligations under ERISA if an employer elects to establish or maintain a qualified replacement plan or to increase benefits pursuant to the reversion excise tax rules. These specific duties are in addition to the generally applicable fiduciary obligations. These specific duties apply only if the employer elects to establish or maintain a qualified replacement plan or provide benefit increases under the excise tax rules; the employer may elect to pay the 40-percent excise tax.

Under the bill, if the employer elects to establish a qualified replacement plan, a fiduciary of the terminating plan is required to discharge his or her fiduciary duties under titles I and IV of ERISA in accordance with the asset transfer provisions (with respect to transfer of assets from the terminating plan). If the employer elects to increase benefits under the excise tax provisions, the fiduciary of the terminating plan is required to discharge his or her fiduciary duties in accordance with the benefit increase provisions of the excise tax rules. Similarly, a fiduciary of a qualified replacement plan is required to discharge his or her fiduciary duties under titles I and IV of ERISA in accordance with the participation requirement, the transfer provision with respect to receipt of assets from the terminating plan, and the allocation requirements with respect to participants in the qualified replacement plan. These duties relate to the excise tax provisions as in effect on January 1, 1991.

The bill also amends title IV of ERISA to provide that the ability of the employer to obtain residual assets is subject to the fiduciary requirements described above and the excise tax provisions.

Transfer of excess pension plan assets to retiree health accounts

In general

Under the bill, qualified transfers of excess assets are permitted from the pension assets in a defined benefit pension plan (other than a multiemployer plan) to the section 401(h) account that is a part of such plan. The assets transferred are not includible in the gross income of the employer and are not subject to the excise tax on reversions. The defined benefit pension plan does not fail to satisfy the qualification requirements (sec. 401(a)) solely on account of the transfer and does not violate the present-law requirement that medical benefits under a section 401(h) account be subordinate to the retirement benefits under the plan. In addition, the transfer is not a prohibited transaction and does not violate other specific fiduciary requirements of title I of ERISA.

In order to qualify for the treatment described above (i.e., to be a qualified transfer): (1) except with respect to a special rule for 1990 expenses, a transfer of assets to a section 401(h) account may be made only once in any taxable year of the employer and may be made only in taxable years beginning after December 31, 1990, and before January 1, 1996; (2) the transferred assets (and income thereon) are required to be used to pay certain retiree health benefit liabilities; (3) certain vesting requirements must be satisfied; (4) certain minimum benefit requirements must be satisfied; and (5) the amount transferred cannot exceed certain limits. Notice of the transfer must also be provided. The transfer may not contravene any other provision of law.

The special rule for 1990 provides that a transfer is treated as a qualified transfer if the transfer (1) is made with respect to current retiree health liabilities for the employer's first taxable year beginning after December 31, 1989, (2) is made before the earlier of (a) the due date (including extensions) of the employer's tax return for such taxable year or (b) the date the return is filed, and (3) does not exceed the employer's expenditures for current retiree health liabilities for such taxable year. The employer may make 2 qualified transfers in the 1991 taxable year if one of the transfers is for 1990 expenses. If an employer transfers assets for 1990 expenses, then additional vesting requirements apply. The employer's otherwise allowable deductions for the 1990 taxable year are reduced by the amount of the qualified transfer made to reimburse 1990 expenses.

Use of transferred assets

Assets transferred in a qualified transfer (and any income thereon) are required to be used to pay qualified current retiree health liabilities (either directly or through reimbursement) for the taxable year of the transfer. In general, qualified current retiree health liabilities are defined as the amount of retiree health benefits (including administrative expenses) which would have been deductible by the employer with re-

spect to applicable health benefits provided during the taxable year, determined as if the benefits were provided directly by an employer on a cash accounting basis. Transferred amounts are generally required to benefit all participants in the pension plan who are entitled upon retirement to receive retiree medical benefits (other than key employees) through the section 401(h) account. Retiree health benefits of key employees (sec. 416(i)(1)) may not be paid (directly or indirectly) out of transferred assets.

Amounts not used to pay qualified retiree health liabilities for the taxable year of the transfer are to be returned at the end of the taxable year to the general assets of the plan. Amounts so transferred are not includible in the gross income of the employer, but are subject to the 20-percent excise tax on reversions. The 40-percent reversion tax does not apply.

Vesting requirements

In order for the transfer to be qualified, accrued retirement benefits under the pension plan must be nonforfeitable as if the plan terminated on the date of transfer. In addition, the benefits of plan participants who separated from service before the transfer but during the one-year period preceding the transfer also must be nonforfeitable as if the plan terminated immediately before the separation from service.

In the case of a transfer pursuant to the special rule for 1990, the vesting requirement is satisfied if, with respect to any participant who separated from service during the 1990 taxable year, the participant's vested benefits are recomputed as if the plan had terminated immediately before the participant's separation from service.

Minimum cost requirement

An employer that makes a transfer to a section 401(h) account under the proposal is to maintain employer-provided retiree health expenditures for covered retirees at a minimum dollar level for the taxable year of the transfer and the following 4 taxable years. The minimum level is equal to the higher of the applicable employer cost for each of the 2 taxable years preceding the year of the transfer. If a taxable year is in 2 or more overlapping minimum cost periods, the requirement is to be applied by taking into account the highest applicable cost.

The applicable employer cost for a year is generally determined by dividing (1) the qualified current retiree health liabilities for the year, by (2) the number of individuals who (immediately before the transfer or, if there was no transfer, as of the end of the taxable year) were entitled to pension benefits under the plan and retiree health benefits. For this purpose qualified current retiree health liabilities are determined without reduction for liabilities previously funded. Each health plan or arrangement under which applicable health benefits are provided are required to contain the minimum cost requirement. An employer is permitted to apply the minimum cost requirement under the bill separately with respect to those covered retirees who are eligible for medicare and those that are not.

The minimum cost requirement is illustrated by the following examples.

Example 1.—Assume Employer A maintains a defined benefit pension plan that contains a section 401(h) account, and the employer makes a qualified transfer to the 401(h) account in taxable year 1991. In taxable years 1989 and 1990, qualified current retiree health liabilities (determined as described above) were $200,000 and $250,000, respectively. In such years, the number of pension plan participants entitled to receive retiree health benefits was 200.

The applicable employer cost is $1,000 ($200,000 divided by 200) for the 1989 taxable year and is $1,250 ($250,000 divided by 200) for 1990. Thus, the minimum employer cost of health benefits that must be provided to covered retirees is $1,250, for taxable years 1991 through 1995 (if no further transfers occur).

Example 2.—Same as Example 1, except that the applicable cost for the 1991 taxable year is $1,500 and the employer makes a qualified transfer in 1992. The minimum benefit requirement for taxable years 1992 through 1996 is therefore $1,500 (unless further transfers occur that result in a higher applicable cost).

Limits on amounts transferable

The maximum amount of excess assets that may be transferred in a taxable year cannot exceed the amount reasonably estimated to be the amount the employer will pay out of the section 401(h) account during the taxable year for qualified current retiree health liabilities. In determining the amount that may be transferred, the employer is to consider earnings that will be attributable to such assets subsequent to the transfer.

The amount of qualified current retiree health liabilities is generally reduced to the extent that the employer has previously made a contribution to a section 401(h) account or a welfare benefit fund (e.g., voluntary employees' beneficiary association (VEBA)) relating to the same liabilities. The portion of existing reserves in a welfare benefits fund that relate to qualified current retiree health liabilities is determined on a pro-rata basis or in accordance with such rules as the Secretary of the Treasury may prescribe.

The retired employees who may be taken into account in calculating qualified current retiree health liabilities are limited to those who are eligible for retirement benefits under the defined benefit pension plan containing the separate account and eligible for retiree health benefits (other than key employees).

Definition of excess assets

Under the proposal, excess assets are defined to be the excess of the value of plan assets (calculated as under the full funding limitation) over the greater of (1) the lesser of (a) 150 percent of current liability or (b) the accrued liability under the plan, or (2) 125 percent of current liability. Thus, for example, in the case of a plan subject to the accrued liability full funding limitation, the value of assets remaining in the pension plan following a transfer must be at least the greater of the plan's accrued liability and 125 percent of current liability. The calculation of excess assets is generally made as of the most recent valuation date preceding the transfer. However, if the fiduciary knows or has reason to know that use of the most recent plan valuation date will not accurately reflect any increased liabilities the plan may experience during the year (e.g., if benefit increases will take effect or early retirement incentives may be offered) a transfer based on the most recent plan valuation date may not be consistent with the fiduciary duties of title I of ERISA.

Other limitations

The employer is not entitled to a deduction when amounts are transferred into the section 401(h) account or when such amounts (or income on such amounts) are used to pay retiree health benefits. No deduction or contribution is allowed the employer for the provision of retiree health benefits (whether directly, through a 401(h) account, or a welfare benefit fund) except to the extent that the total of such payments for qualified current retiree health liabilities exceed the amount transferred to the section 401(h) account (including any income thereon). An employer may not make after December 31, 1990, any contributions to a health benefits account or a welfare benefit fund with respect to qualified current retiree health liabilities for which transferred assets (and income thereon) are required to be used under the proposal until after such assets (and income) have been totally expended from the account.

Assets transferred after the valuation date for the plan year (and income thereon) are required to be treated, for purposes of the full funding limitation, as plan assets as of the valuation date for the next year. The transfer is to be treated as a net experience loss for funding purposes, except that the amortization period is 10 years rather than 5 years.

Fiduciary rules

A transfer made in accordance with the provision is not a violation of the fiduciary duties under ERISA.

Notice

The bill amends title I of ERISA to require that notice of a proposed transfer be provided to the Secretary of Treasury, the Secretary of Labor, plan participants, and employee representatives (if any) at least 60 days prior to the transfer.

Effective Date

The provision permitting the transfer of excess pension assets to pay current retiree health benefits is effective for transfers occurring in taxable years beginning after December 31, 1990, and before January 1, 1996.

The provisions relating to reversions apply to reversions occurring after September 30, 1990, other than (1) in the case of plans subject to title IV of ERISA, reversions pursuant to a termination, notice of which was provided under such title to participants (or if no participants, the Pension Benefit Guaranty Corporation) on or before such date, and (2) in the case of plans not subject to title IV of ERISA, but subject to title I, a notice of intent to reduce future benefit accruals was provided to plan participants on or before such date.

5. Certain Corporate Tax Provisions.

a. Impose corporate tax on divisive transactions in connection with certain changes of ownership (sec. 7441 of the bill and sec. 355 of the Code).

Present Law

Tax-free divisive transactions in general

A corporation generally must recognize gain on the sale or distribution of appreciated property, including stock of a subsidiary. However, distributions of subsidiary stock in divisive transactions governed by section 355 are tax-free to both the distributing corporation and to the distributee shareholders.

A distribution generally is tax-free under section 355 if, among other requirements, the following principal requirements are met: (1) the transaction is not used as a device for the distribution of earnings and profits; (2) the distributing corporation and the controlled corporation each are engaged immediately after the distribution in the

active conduct of a trade or business, and meet certain 5-year requirements regarding the active conduct of the business before the transaction; (3) all of the controlled corporation's stock is distributed, or at least 80 percent is distributed and the retention of the balance does not have as a principal purpose the avoidance of Federal income tax; (4) the transaction satisfies a corporate business purpose requirement; and (5) the shareholders have continuity of proprietary interest after the transaction.

If the applicable requirements are met, a corporation with one or more subsidiaries or divisions, each conducting active businesses, generally may distribute any or all of them as separate corporations to its shareholders under section 355 without recognizing corporate-level gain on the appreciation in the value (if any) of the subsidiaries or divisions incorporated for this purpose. The distribution is not required to be pro-rata to all shareholders; the distributee shareholders in a non-pro-rata distribution normally surrender stock of the distributing corporation equal in value to the stock they receive in the distribution.

The distributee shareholders apportion their basis in the stock of the distributing corporation that they held prior to the distribution between the new subsidiary stock received and any stock of the distributing corporation that they retain. As a result, subject to the continuity of proprietary interest requirement, a shareholder that has recently acquired stock of the distributing corporation may obtain a basis in the stock of any subsidiary distributed in a section 355 transaction that is significantly in excess of the distributing corporation's basis in such stock.

Present law imposes a 5-year holding period requirement for any corporate distributee that has acquired 80 percent of the stock of a corporation ("target"), unless the stock was acquired solely in nontaxable transactions. If the 5-year holding period is not met, distributions of lower-tier subsidiaries by the target corporation will not be tax-free under section 355.[66]

The five-year holding period rule does not apply, however, so long as the purchaser is not a corporation, or the purchaser acquired less than 80 percent of the distributing corporation's stock. It is unclear what circumstances will cause the transaction to be treated as if the purchaser of the stock had purchased the subsidiary directly in a taxable transaction.[67]

Reasons for Change

The committee is concerned that some corporate taxpayers may attempt, under present-law rules governing divisive transactions, to dispose of subsidiaries in transactions that resemble sales, or to obtain a fair market value stepped-up basis for any future dispositions, without incurring corporate-level tax. The avoidance of corporate level tax is inconsistent with the repeal of the *General Utilities* doctrine as part of the Tax Reform Act of 1986.[68]

Under the present-law rules, individual purchasers, or corporate purchasers of less than 80 percent, of the stock of a parent corporation may attempt to utilize section 355 to acquire a subsidiary (or a division incorporated for this purpose) from the parent without the parent incurring any corporate-level tax. The purchaser may acquire stock of the parent equal in value to the value of the desired subsidiary or division, and later surrender that stock for stock of the subsidiary, in a transaction intended to qualify as a non-pro-rata tax-free divisive transaction. Alternatively, the transaction might be structured as a surrender of the parent stock by all shareholders other than the acquiror, in exchange for a distribution (intended to be tax-free) of all subsidiaries or activities other than those the acquiror desires.

In addition, a non-corporate purchaser, or a corporate purchaser of less than 80 percent of the stock of another corporation, may attempt to utilize section 355 to obtain a stepped up fair market value basis in a subsidiary of an acquired corporation, enabling a subsequent disposition of that subsidiary without a corporate-level tax.[69]

The provisions for tax-free divisive transactions under section 355 were a limited exception to the repeal of the *General Utilities* doctrine, intended to permit historic shareholders to continue to carry on their historic corporate businesses in separate corporations. The committee believes that the benefit of tax-free treatment should not apply where the divisive transaction, combined with a stock purchase resulting in a change of ownership, in effect results in the disposition of a significant part of the historic shareholders' interests in one or more of the divided corporations.

The present-law provisions granting tax-free treatment at the corporate level are particularly troublesome because they may offer taxpayers an opportunity to avoid the general rule that corporate-level gain is recognized when an asset (including stock of a subsidiary) is disposed of. The committee is especially concerned about the possibility for the distributing corporation to avoid corporate-level tax on the transfer of a subsidiary. Therefore, although the provision does not affect shareholder treatment if section 355 is otherwise available, it does impose tax at the corporate level, in light of the potential avoidance of corporate tax on what is in effect a sale of a subsidiary.

The bill is not intended to limit in any way the continuing Treasury Department authority to issue regulations to prevent the avoidance of the repeal of the *General Utilities* doctrine through any provision of law or regulations, including section 355.

Explanation of Provision

In general

The bill generally requires recognition of corporate-level gain (but does not require recognition by the distributee shareholders) on a distribution of subsidiary stock qualifying under section 355 if, immediately after the distribution, a shareholder holds a 50-percent or greater interest in the distributing corporation or a distributed subsidiary that is attributable to stock that was acquired by purchase (as defined in the bill) within the preceding 5-year period. Thus, for example, under the provision, the distributing corporation will recognize gain on the stock of a distributed subsidiary, if a person purchases distributing corporation stock, and within 5 years, 50-percent or more of the subsidiary stock is distributed to that person in exchange for the purchased stock. The distributing corporation will recognize gain as if it had sold the distributed subsidiary to the distributee at its fair market value.

In determining whether a person holds a 50 percent or greater interest, related persons are treated as one person. Thus, for example, a corporation and its more than 50-percent-owned subsidiary (or a husband and wife) are treated as one person for this purpose. The related party rules applied for this purpose are the rules of sections 707(b)(1) and 267(b), substituting 10 percent for 50 percent.

In addition, persons acting pursuant to a plan or arrangement with respect to acquisitions of stock in the distributing or any controlled corporation are treated as one person for purposes of determining whether a shareholder holds a 50-percent or greater interest.

Attribution from entities and "deemed purchase" rule

In determining whether a person holds stock in any corporation, the rules of section 318(a)(2) shall apply, substituting 10 percent for 50 percent in section 318(a)(2)(C). If any person acquires by purchase an interest in an entity and any stock held by such entity is considered held by such person under the foregoing attribution rules, such person is treated as acquiring such stock by purchase on the date of the purchase of the interest in the entity. Under these rules, a person who is treated as holding stock by virtue of an interest in an entity is treated as acquiring such stock, for purposes of the 5-year rule of the provision, on the later of the date the stock is treated as acquired by the entity or the date the person acquired the interest in the entity.

Disqualified distribution

The bill provides for recognition of gain by the distributing corporation in the case of a disqualified distribution of stock or securities in a controlled corporation. For this

[66] Congress enacted this provision in 1987 in connection with a provision explicitly denying the use of the consolidated return regulations by certain 80-percent corporate acquirors to obtain a fair market value basis for subsequent "bust-up" dispositions of target subsidiaries (so-called "mirror transactions").

[67] In certain situations, it has been held that a shareholder who recently purchased stock may not be treated as an historic shareholder in a tax-free reorganization, but rather as a purchaser in a taxable transaction. *See, e.g., Yoc Heating v. Commissioner*, 61 T.C. 168 (1973). On the other hand, in another context (under rule in effect prior to the Tax Reform Act of 1986, permitting certain nonliquidating distributions to be tax-free to the distributing corporation), it has been held that step transaction concepts need not always apply to cause a distribution of a subsidiary to a new stockholder, in exchange for his recently purchased stock, to be treated as a taxable sale of the subsidiary by the corporation to that new stockholder. *Esmark, Inc. v. Commissioner*, 90 T.C. 171 (1988), aff'd per curiam, 886 F.2d 1318 (7th Cir. 1989).

[68] The Tax Reform Act of 1986 (the "1986 Act") extended the rule requiring corporate recognition of gain on distributions or sales of appreciated property to liquidating and nonliquidating distributions to the extent they had not been taxed under prior law, thus repealing the so-called *General Utilities* doctrine (*see General Utilities & Operating Co.* v. *Helvering*, 296 U.S. 200 (1935)). Although the 1986 Act retained certain exceptions to the rule in the case of limited corporate restructurings, it also granted the Treasury Department regulatory authority to prevent the avoidance of the purposes of the rules taxing corporate sales or distributions of appreciated property through any provision of law or regulations (including section 355). The Treasury Department has issued certain regulations exercising this authority in connection with certain aspects of the consolidated return regulations. To date, however, no regulations have been issued addressing the application of the repeal of the *General Utilities* doctrine to the tax-free distribution provisions of section 355.

[69] Such transactions are similar to the so-called "mirror transactions" that Congress addressed in 1987.

purpose, a disqualified distribution is any section 355 distribution if, immediately after the distribution, any person holds disqualified stock in either the distributing corporation or any distributed controlled corporation constituting a 50-percent or greater interest in such corporation.

Disqualified stock

The bill defines disqualified stock to include any stock in the distributing corporation or any controlled corporation acquired by purchase (as defined in the bill) after October 9, 1990 and during the 5-year period ending on the date of the distribution. In addition, disqualified stock includes stock in any controlled corporation received in the distribution, to the extent attributable to distributions on stock in the distributing corporation acquired by purchase after October 9, 1990 and during the 5-year period ending on the date of the distribution.

Thus, for example, if a person acquires by purchase a 20 percent interest in the stock of a corporation and a 10 percent interest in the stock of its subsidiary, and 40 percent or more of the stock of the subsidiary is distributed to him within 5 years in exchange for his 20 percent interest in the distributing corporation, then under the provision the distributing corporation must recognize gain with respect to the distributed stock of the subsidiary because all 50 percent of the stock of the subsidiary held by such person is disqualified stock.

Fifty percent or greater interest

The bill provides that a 50-percent or greater interest means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of all shares of all classes of stock. Whether a shareholder owns a 50-percent or greater interest is determined immediately following the distribution of stock (whether to that shareholder, or to other shareholders). In applying the 50-percent or greater ownership test, all stock that the shareholder acquires after the effective date by purchase, as that term is defined for purposes of this provision, is taken into account

Acquisition by purchase

Stock is generally considered acquired by purchase for purposes of this provision if it is acquired in any transaction in which the acquiror's basis of the stock is not determined in whole or in part by reference to the adjusted basis of such stock in the hands of the person from whom acquired and is not determined under section 1014(a). Thus, for example, stock acquired in a section 1032 contribution to capital would be acquired by purchase. Further, stock acquired by a partner in a section 732(b) distribution from a partnership is acquired by purchase because the partner's basis in the stock is determined by reference to the partner's basis in the liquidated partnership interest.

Except as provided in regulations, stock is not generally considered acquired by purchase if it is acquired in an exchange to which section 351, 354, 355 or 356 applies. As one example, assume that A has owned stock of P for more than 5 years and acquires distributing corporation stock and boot in exchange for his P stock in a statutory merger qualifying under section 368(a)(1)(A). The committee intends that the Secretary may issue regulations providing that the distributing corporation stock acquired by A will be treated as acquired by purchase to the extent of the gain recognized by A in the merger. Similarly, if A had instead acquired the stock of P within 5 years of the merger by purchase, to the extent gain is not recognized in the merger, A may be treated as acquiring the distributing stock by purchase at the time A purchased his P stock (or, in appropriate cases, at the time of the merger).

Stock acquired in an exchange to which section 351 applies is treated as acquired by purchase to the extent that such stock is acquired in exchange for any cash, cash item, marketable security, or debt of the transferor.

If stock is acquired in a carryover basis transaction (including a gift, tax-free reorganization or liquidation, contribution to a partnership, or distribution of property from a partnership under section 732(a)) from a transferor who, directly or indirectly, acquired the stock by purchase, the acquiror is generally considered to have acquired the stock by purchase on the date that the transferor actually acquired it by purchase. However the time of the purchase could be later in some circumstances. As one example, the time of purchase could be later under the "deemed purchase" rules described above, if the stock is acquired in a carryover basis transaction from an entity whose holdings were attributed to the acquiror and the acquiror had acquired his interest in the entity by purchase at a date later than the date the entity was considered to have purchased the stock. As another example, to the extent gain is recognized in a carryover basis transaction any stock treated as purchased under regulations may be treated as acquired by purchase at the time of the transaction.

The Treasury department has authority to exclude transactions from the definition of a purchase to the extent consistent with the purposes of the provision.

Five-year period

Gain is recognized under the provision in the case of a section 355 distribution within 5 years after a shareholder acquires stock by purchase (if the shareholder meets the 50-percent or more ownership test immediately after the distribution). The 5-year period is consistent with the 5-year active business requirement and the 5-year limitation period applicable to 80-percent-or-more corporate acquirors, and reflects the committee's belief that an acquisition by purchase and a distribution of subsidiary stock within 5 years may reasonably be considered to be related transactions that, in economic substance, are the equivalent of the sale of the subsidiary stock.

Under the bill, for purposes of determining whether stock is acquired during the 5-year period ending on the date of the distribution, the holding period of such stock is reduced for any period in which the holder's risk of loss with respect to such stock is directly or indirectly substantially diminished by any device or transaction, including: a short sale; the holding by any person of a put, a call, or any other option; the use of any special class of stock; or any device limiting risk from any portion of the activities of the corporation. It is expected that all the facts and circumstances relating to the stock and the corporate activities, as well as any other arrangements related to the stockholdings, will be scrutinized to determine whether the holder's risk of loss has been diminished.

If stock grants special rights or bears special risks with respect to the earnings or the other aspects of less than all of the activities of a corporation, such stock shall be considered to diminish substantially the holder's risk of loss with respect to some of the activities of the corporation for purposes of this provision and the holding period of such stock shall be suspended. One example of such stock is so-called "tracking stock" that grants particular rights or bears particular risks with respect to the earnings or other attributes of less than all the activities of a corporation or any of its subsidiaries.

If a person acquires shares of more than one class of stock, some but not all of which has a suspended holding period, it is expected that the respective values of such shares will be closely scrutinized to assure that the purposes of this section are not avoided by allocation of more or less than fair market value to shares of any class of stock.

Regulatory authority

The Treasury Department has general regulatory authority to prevent the avoidance of the purposes of the provision through any means, including through the use of related persons, pass-thru or intermediary entities, options, or other arrangements.

In determining whether a shareholder has acquired by purchase a 50-percent or greater interest, it is intended that pursuant to the Treasury Department's general regulatory authority to prevent avoidance of the provision, an option to acquire stock may be treated as exercised if that would cause the shareholder to have a 50-percent or greater interest. Thus, as one example, if a person acquires 10 percent of the stock of a distributing corporation by purchase within five years prior to a pro-rata distribution of the subsidiary, and at the time of the distribution or immediately thereafter the person has an option to acquire another 40 percent of the distributed subsidiary, the person may be deemed to have acquired by purchase 50 percent of the stock of the subsidiary for purposes of the provision and the distribution would be a disqualified distributuion taxed at the corporate level. The same result would follow if the option were to acquire another 40 percent of the stock of the distributing rather than the distributed corporation.

The purposes of the provision are not generally violated if there is a distribution of a controlled corporation within 5 years of an acquisition by purchase and the effect of the distribution is neither (i) to increase ownership in the distributing corporation or any controlled corporation by persons who have directly or indirectly acquired stock within the prior five years, nor (ii) to provide a basis step-up with respect to the stock of any controlled corporation.

For example, assume that an acquiror acquires by purchase 60 percent of corporation P, which has a first-tier and a second-tier subsidiary. Further assume that within 5 years after the acquiror's 60-percent acquisition of P corporation, the first-tier subsidiary distributes all the stock of the second-tier subsidiary to P in a transaction otherwise qualifying under section 355. Although the distribution would be a disqualified distribution under the basic operation of the provision, it is expected that regulations will provide that the provision does not apply to require the first-tier subsidiary to recognize corporate-level gain on the distribution. However, if the second-tier subsidiary were further distributed pro-rata to all of P's shareholders, so that the 60-percent acquiror obtained a stepped-up basis in the stock of the subsidiary immediately after

the distribution, then corporate level gain would be recognized on the distribution of the subsidiary to its shareholders. Similarly, if the second-tier subsidiary were distributed to the acquiror in redemption of its P stock, corporate level gain would be recognized on that distribution.

By contrast, assume that 50 percent of the P stock is owned by a corporation ("Newco"), the remaining P stock is owned by unrelated persons, and A purchases all the stock of Newco from the Newco shareholders. If within 5 years of A's purchase Newco exchanges its P stock for stock of the first-tier subsidiary of P, P would recognize corporate-level gain on the distribution because A's indirect interest in the P subsidiary was increased as a result of the distribution.

Effective Date

The provision applies to distributions of stock after October 9, 1990. In determining whether the distribution occurs within 5 years after stock is acquired by purchase, only stock acquired by purchase after October 9, 1990 is taken into account.

Transitional relief is provided if the acquisition of stock by purchase after October 9, 1990 (including the subsequent distribution to the holder of the stock) is pursuant to a binding written contract (including a binding contract evidenced through a corporate charter, stock certificate, or other corporate instruments governing the terms of stock) in effect on October 9, 1990, and at all times thereafter before such acquisition. Transitional relief is also provided if the acquisition of stock by purchase after October 9, 1990 is pursuant to a tender offer filed with the Securities and Exchange Commission before October 10, 1990, or pursuant to an offer the material terms of which were described in a written public announcement before October 10, 1990, which was the subject of a prior filing with the Securities and Exchange Commission, and which is subsequently filed with the Securities and Exchange Commission before January 1, 1991. It is intended that such a tender offer be in effect at the time of the acquisition. Stock with respect to which transitional relief is provided under these rules is treated as acquired before October 10, 1990.

b. Modify treatment of preferred stock issued with a redemption premium (sec. 7442 of the bill and sec. 305 of the Code).

Present Law

Treatment of preferred stock issued with a redemption premium

A stockholder is deemed to receive constructive distributions with respect to preferred stock if the stock may be redeemed after a specified time at a price that exceeds the issue price by more than a reasonable redemption premium. Under the present regulations, a redemption premium is considered to be reasonable if it is in the nature of a penalty for a premature redemption and if such premium is not in excess of the amount the corporation would be required to pay for the right to make such premature redemption under market conditions existing at the time of issuance. In addition, the regulations state that a redemption premium not in excess of 10 percent of the issue price on stock that is not redeemable for 5 years from the date of issue is considered to be reasonable (Treas. Reg. sec. 1.305-5(b)(2)).

If preferred stock is considered to have an unreasonable redemption premium, the portion of the premium that is considered to be unreasonable is deemed to be distributed to the preferred stockholder ratably over the time during which such stock cannot be called for redemption. Thus, if preferred stock that is issued with an unreasonable redemption premium also is callable throughout its term, no part of the premium is included in the holder's income until redemption (even if such call right is never exercised).

Treatment of debt issued with original issue discount

If a debt instrument is issued with a stated redemption price at maturity in excess of its issue price, such instrument is considered to be issued with original issue discount (OID). An instrument is not considered to have OID if the stated redemption price at maturity of the instrument exceeds its issue price by an amount that is less than the product of: (1) one-quarter of one percent of the stated redemption price and (2) the number of complete years to maturity. The holder of an OID instrument includes the amount of OID in gross income over the term of the instrument on an economic accrual basis.

Reasons for Change

The committee believes that income from a financial instrument that is payable on a deferred basis generally is better measured by requiring the accrual of such income on an economic basis over the period during which payment is deferred. Accordingly, the committee believes that the economic accrual rules applicable to debt instruments issued with OID also should generally apply to certain preferred stock issued with a redemption premium if the stock will be redeemed, or if it can reasonably be assumed that the stock will be redeemed, on a fixed date. Also, the committee believes that certain preferred stock issued with a redemption premium resembles debt issued at a discount.

The committee believes that it is appropriate to allow a higher threshold for purposes of determining whether callable preferred stock is subject to these new rules because the decision to redeem the stock rests with the issuer, and not the holder, of the stock.

Explanation of Provision

General rule

The bill generally requires the entire amount of a redemption premium on certain preferred stock to be treated as being distributed to the holders of such preferred stock on an economic accrual basis over the period that the stock is outstanding (the economic accrual rule). An instrument generally will be considered to have a redemption premium for this purpose if the redemption price at maturity exceeds the issue price by an amount that equals or exceeds the product of: (1) one-quarter of one percent of the redemption price and (2) the number of complete years to maturity (the OID de minimis rule).

The economic accrual rule and the OID de minimis rule apply to preferred stock that is subject to a mandatory redemption or that is puttable by the holder. The redemption premium on preferred stock that is subject to a mandatory redemption or that is puttable will not fail to be subject to the economic accrual rule and the OID de minimis rule merely because the stock is also callable at the issuer's option.

The committee understands that Treasury regulations will provide special rules consistent with the OID rules in order to determine the maturity date and price of puttable preferred stock.[70]

Special rules for callable preferred stock

In general, the OID de minimis rule will not apply to preferred stock that is callable solely at the option of the issuer (unless such stock is subject to a mandatory redemption or is puttable). Nonetheless, the economic accrual rule will apply to the entire call premium on such stock if such premium is considered to be unreasonable under regulations in effect without regard to this provision. In such cases, except as provided in regulations, the entire call premium will be accrued over the period of time during which the preferred stock cannot be called for redemption.

Stock that is subject to mandatory redemption (or is puttable) and is also callable would be tested under both the OID de minimis rule and the rule of the regulations in effect without regard to this provision (i.e., the mandatory redemption or put premium would be tested under the OID de minimis rule and the call premium would be tested under regulations in effect without regard to this provision). If one or more of the premiums is less than the amount considered de minimis under such tests, then accrual would not be required for such premium or premiums. If more than one premium exceeds the applicable de minimis rule, the committee intends that regulations will provide rules for appropriate accrual.

Other matters

The committee does not intend to limit the authority of the Secretary and the IRS regarding the proper treatment of redemption premiums on preferred stock. Thus, the Secretary may determine what constitutes a redemption premium (or a disguised redemption premium). For example, if at the time of issuance of cumulative preferred stock there is no intention for dividends to be paid currently, the IRS may treat such dividends as a disguised redemption premium. In addition, the Secretary may treat stock that, in form, is merely callable as being subject to a mandatory redemption or a put if the existence of other arrangements effectively require the issuer to redeem the stock.

The committee intends that the economic accrual and OID de minimis rules generally apply as described above as of the effective date of the bill without regard to when the regulations are amended to reflect such rules. Except as provided herein, the committee does not intend to limit the authority of the Secretary to promulgate regulations relating to the accrual of redemption premiums on callable preferred stock. The committee expects such regulations to be prospective.

Effective Date

The provision is effective for stock issued on or after October 10, 1990, unless issued pursuant to a binding written contract in effect on that date and at all times thereafter until such issuance, or pursuant to an SEC or similar state registration statement

[70] For example, present proposed regulations provide that the holder of a debt instrument with a put option that was issued for cash or publicly traded property will be presumed to exercise such option if the total yield on the instrument determined assuming that the holder exercises the put option exceeds the total yield on the instrument determined assuming that the holder does not exercise the option. (Prop. reg. sec. 1.1272-1(f)(4)(iii)).

filed before such date and the stock is issued within 90 days of the filing.

c. Expand and clarify information reporting and allocation rules for certain acquisitions (sec. 7443 of the bill and secs. 1060 and 338 of the Code).

Present Law

Information reporting rules

Special allocation and information reporting rules apply to applicable asset acquisitions (sec. 1060). An applicable asset acquisition means any transfer (1) of assets which constitute a trade or business and (2) with respect to which the transferee's basis is determined wholly by reference to the consideration paid for the assets.

For purposes of determining the transferee's basis in the assets and the transferor's gain or loss, the transferee and transferor must allocate the consideration received among the classes of assets transferred in accordance with the residual method. Pursuant to this allocation method, any consideration paid in excess of the fair market value of all assets (other than goodwill and going concern value) is allocated to nonamortizable goodwill or going concern value. The transferor and transferee also must report information concerning the amount of consideration and its allocation among the assets transferred.

The information reporting rules of section 1060 do not apply to an acquisition of a trade or business which is structured as a stock acquisition if the transferee does not elect under section 338 to treat the stock purchase as an asset acquisition for tax purposes. It is unclear, however, whether these reporting rules would apply to such a stock acquisition if a section 338 election or a section 338(h)(10) election [71] is made.

Taxpayers required to report consistent positions

Courts apply different standards in determining whether a party to a sale of a business can assert an allocation of consideration to assets that is inconsistent with the allocation contained in a written agreement. The Third Circuit has held that a party to a contract allocating a portion of the purchase price to a covenant not to compete can "challenge the tax consequences of his agreement as construed by the Commissioner only by adducing proof which in an action between the parties to the agreement would be admissible to alter that construction or to show its unenforceability because of mistake, undue influence, fraud, duress, etc." *Commissioner* v. *Danielson*, 378 F.2d 771, 775 (3d Cir.), *cert. denied*, 389 U.S. 858 (1967). In a similar situation, the Second Circuit required the parties to adduce "strong proof" in order to refute the price assigned by the sale contract to a covenant not to compete. *See Ullman* v. *Commissioner*, 264 F.2d 305, 308 (2d Cir. 1959).

Reasons for Change

The committee is aware that the allocation of consideration among the assets transferred in a transaction continues to be a troublesome area of the tax law in those situations in which the existing reporting and allocation rules do not apply. The committee believes that extending the rules to certain situations to which they do not currently apply will tend to reduce controversies between the IRS and taxpayers. In addition, extending the rules may diminish some of the "whipsaw" potential that results when the parties' allocations for tax reporting purposes are inconsistent.

Furthermore, the committee believes that is necessary to clarify the application of the reporting and allocation rules of section 1060 to stock purchases that are treated as asset purchases under section 338.

Finally, the committee believes it is appropriate to bind the parties to a transaction to any written agreement they reach regarding the allocation of the consideration to, or fair market value of, any of the specific asset(s) transferred. In such cases, the committee believes that taxpayers should not be allowed to take positions that are inconsistent with their written agreements.

Explanation of Provisions

Information reporting rules

The committee intends that the reporting and allocation rules of section 1060 not apply in any case in which a stock purchase is treated as an asset purchase under section 338. Thus, except as noted below, section 1060 is inapplicable even if an actual asset purchase of the same assets would constitute an applicable asset acquisition.

The bill provides that in the case of a stock purchase where a section 338(h)(10) election is made, the purchasing corporation and the selling consolidated group must report information with respect to the consideration received in the transaction at such times and in such manner as may be provided in regulations promulgated under section 338. The reporting rules apply regardless of whether the transaction constitutes an applicable asset acquisition within the meaning of section 1060.

In addition, the bill provides that where a person holds at least 10 percent of the value of an entity (immediately before the transaction) and both transfers an interest in the entity and, in connection therewith, enters into an employment contract, covenant not to compete, royalty or lease agreement or other agreement with the transferee, such person and the transferee must report information concerning the transaction at such time and in such manner as the Secretary may require. These reporting rules apply regardless of whether the transaction constitutes an applicable asset acquisition within the meaning of section 1060 or whether, in the case of a stock purchase, a section 338 election is made. In determining whether a person holds at least 10 percent of an entity, the constructive ownership rules of section 318 (or similar principles in cases involving interests other than stock) will apply. In addition, the reporting rules will apply if a person who is related to the 10-percent owner (within the meaning of section 267(b) or section 707(b)(1)) enters into the agreement with the transferee.

Taxpayers required to report consistent positions

The bill provides that a written agreement regarding the allocation of consideration to, or the fair market value of, any of the assets in an applicable asset acquisition will be binding on both parties for tax purposes, unless the parties are able to refute the allocation or valuation under the standards set forth in the *Danielson* case. The parties are bound only with respect to the allocations or valuations actually provided in the agreement. Thus, the parties are bound to any written partial allocation or valuation. The committee intends that the Secretary may require reporting regarding any such agreements.

The committee does not intend to restrict in any way the ability of the IRS to challenge the taxpayers' allocation to any asset or to challenge the taxpayers' determination of the fair market value of any asset by any appropriate method, particularly where there is a lack of adverse tax interests between the parties.

Effective Date

The provisions are effective for acquisitions on or after October 10, 1990, unless pursuant to a binding written contract in effect before and on that date and at all times thereafter until the acquisition.

d. Expand the definition of a corporate equity reduction transaction for purposes of limiting certain NOL carrybacks (sec. 7444 of the bill and sec. 172(m) of the Code)

Present Law

The ability of a C corporation to obtain refunds of taxes paid in prior years by carrying back net operating losses (NOLs) is limited in cases where the losses are created by interest deductions allocable to a corporate equity reduction transaction ("CERT"). A CERT includes the acquisition of 50 percent or more of the vote or value of the stock of another corporation. However, a CERT does not include the acquisition of the stock of another corporation (1) that, immediately before the acquisition, was a subsidiary of an affiliated group, or (2) with respect to which an election under section 338 was made to treat the stock acquisition as an asset acquisition.

Reasons for Change

Corporations generally are allowed to carry back NOLs in order to smooth out the swings in taxable income that can result when business cycles overlap taxable yearends or from unexpected financial reverses. Present law limits the ability of an acquired corporation to carry back the interest expense component of an NOL arising after a CERT because the leveraging involved in the CERT substantially alters the nature of the corporation and is not related to a natural business cycle or an unexpected financial reversal. The committee believes that these aspects of leveraging are present in all debt-financed CERTs, including the acquisition of a subsidiary corporation of an affiliated group. In addition, where a subsidiary corporation is acquired from an affiliated group, the sale proceeds may not necessarily remain in corporate solution. This results because the selling group may distribute the proceeds to its individual shareholders, thus reducing aggregate corporate equity.

Explanation of Provision

The bill repeals the exception to the definition of a CERT relating to the acquisition of the stock of another corporation which, immediately the acquisition, was a member of an affiliated group (other than the parent of such group). Thus, the bill expands the definition of a CERT to include the acquisition of 50 percent or more of the vote or value of the stock of any corporation, regardless of whether the corporation was a member of an affiliated group (unless an election under section 338 was made to treat the acquisition as an acquisition of assets).

Effective Date

The provision is effective for acquisitions on or after October 10, 1990, unless pursuant to a binding written contract in effect

[71] Section 338(h)(10) permits a selling consolidated group to elect to treat a sale of its 80-percent-controlled subsidiary as a sale of the subsidiary's assets. The selling consolidated group recognizes gain or loss attributable to the deemed asset sale, but not with respect to the stock sale.

before and on such date and at all times thereafter until such acquisition.

e. Clarify treatment of debt exchanges (sec. 7445 of the bill and secs. 108 and 1275 of the Code).

Present Law

Income from the cancellation of indebtedness

In general: Gross income includes income from the cancellation of indebtedness (COD). Taxpayers in title 11 cases and insolvent debtors generally exclude COD from income but reduce tax attributes by the amount of COD created on the discharge of debt. The amount of COD excluded from income by an insolvent debtor not in a title 11 case cannot exceed the amount by which the debtor is insolvent. For all taxpayers, the amount of COD generally is the difference between the adjusted issue price of the debt being cancelled and the amount used to satisfy such debt. The COD rules generally apply to the exchange of an old obligation for a new obligation, including a modification of the old debt that is treated as an exchange (a debt-for-debt exchange).

Treatment of stock-for-debt exchanges: For purposes of determining COD, if a debtor corporation transfers stock to a creditor in satisfaction of debt, the corporation is treated as having satisfied the debt with an amount of money equal to the fair market value of the stock. However, taxpayers in title 11 cases and insolvent debtors generally may issue stock in satisfaction of debt without creating COD (the stock-for-debt exception).[72] The stock-for-debt exception does not apply in certain de minimis cases. Specifically, the exception does not apply to the issuance of nominal or token shares of stock or with respect to the issuance of stock to an unsecured creditor where the ratio of the value of the stock received by such creditor to the amount of the creditor's debt discharged by such stock in a workout is less than 50 percent of a similar ratio computed for all unsecured creditors participating in the workout. (Sec. 108(e)(8)).

Original issue discount rules

The issuer of a debt instrument with original issue discount (OID) generally accrues and deducts the discount, as interest, over the term of the instrument on an economic accrual basis. The holder of an OID instrument also includes the amount of OID in income on an economic accrual basis. Original issue discount is the excess of the stated redemption price at maturity over the issue price of a debt instrument. For purposes of the OID rules, the issue price of a debt instrument that is issued for property generally is determined by reference to fair market value if either the debt instrument or the property for which it was issued is publicly traded. (Sec. 1273(b)(3)). If neither the debt instrument nor the property for which it is issued is publicly traded, the issue price of the instrument generally is its stated principal amount, provided the instrument has adequate stated interest. If the debt instrument lacks adequate stated interest, the issue price of the instrument generally is determined by using the applicable Federal rate to discount all payments due under the instrument. (Sec. 1274). Finally, for debt-for-debt exchanges in a reorganization, the issue price of a new debt instrument is not less than the adjusted issue price of the old debt instrument. (Sec. 1275(a)(4)). In certain other cases, issue price is equal to stated redemption price at maturity. (Sec. 1273(b)(4)).

Reasons for Change

The committee is aware that taxpayers take various positions as to whether and how these OID and other rules apply for purposes of determining COD. With respect to exchanges that qualify as reorganizations, taxpayers with net operating losses, or in title 11 or similar proceedings, may take the position that the OID rules do not apply, so that COD is created. In such exchanges, taxpayers in other situations may take the position that the OID rules do apply, so that no COD is created.

The committee believes that the rules for determining the amount of COD created on a debt-for-debt exchange need to be clarified in order to provide guidance to taxpayers, to ensure similar treatment for taxpayers undertaking similar transactions, and to prevent taxpayers from selectively choosing the tax treatment for a transaction. The committee further believes that the amount of COD created on a debt-for-debt exchange is properly determined by comparing the adjusted issue price of the old obligations being discharged to the issue price of the new obligations, and that the OID rules, as modified by the bill, provide the appropriate framework for determining the issue price of a new obligation.

The committee also believes that the present-law stock-for-debt exception relating to the recognition of COD by bankrupt and insolvent taxpayers should not apply to the issuance of certain preferred stock that resembles debt. Accordingly, the committee believes that in such instances, rules similar to the rules applicable to debt-for-debt exchanges should apply.

Explanation of Provisions

Debt-for-debt exchanges

Treatment of issuers: The provision provides explicit rules for determining the amount of COD created in a debt-for-debt exchange and how the OID rules apply in such a situation. No inference is intended as to the proper treatment of debt-for-debt exchanges under prior law.

Under the provision, for purposes of determining the amount of COD of a debtor that issues a new debt instrument in satisfaction of an old debt, such debtor will be treated as having satisfied the old debt with an amount of money equal to the issue price of the new debt.[73] For this purpose, the issue price of the new obligation will be determined under the general rules applicable to debt instruments issued for property (i.e., secs. 1273(b) and 1274). For debt instruments subject to section 483 (rather than section 1274), the issue price as determined under section 1273(b)(4) is reduced to exclude unstated interest for purposes of determining COD.

In addition, the reorganization exception in section 1275(a)(4) of the OID rules is repealed. Thus, either or both COD or OID may be created in a debt-for-debt exchange that qualifies as a reorganization, so long as the exchange qualifies as a realization event under section 1001 for the holder. The provision does not change the present-law rules of sections 354, 355, or 356 regarding the amount of gain or loss recognized or not recognized in a reorganization.

Thus, if either the old or the new obligation in a debt-for-debt exchange is publicly traded, the issue price of the new obligation will be the fair market value of the publicly-traded obligation. If neither obligation is publicly traded, the issue price of the new obligation will be its stated principal amount, unless the new obligation does not have adequate stated interest. In such case, the issue price generally is determined by using the applicable Federal rate to discount all payments due under the new obligation.

Example 1: A corporation issued for $1000 a bond that provided for annual coupon payments based on a market rate of interest. The bond is publicly traded. Some time later, when the old bond is worth $600, the corporation exchanges the old bond for a new bond that has a stated redemption price at maturity of $750. The exchange is treated as a realization event under section 1001. Under the bill, the new bond will have an issue price of $600 (the fair market value of the old bond) and deductible OID of $150 ($750 stated redemption price at maturity less $600 issue price) and the corporation will have COD of $400 ($1000 adjusted issue price of the old bond less $600 issue price of the new bond). Such results will occur whether or not the exchange qualifies as a reorganization.

Treatment of the holder: The repeal of section 1275(a)(4) will be applicable to the holder as well as the issuer of the new debt instrument for purposes of determining the issue price of the new debt instrument received in a debt-for-debt exchange.

Example 2: Assume the holder of the old bond in Example 1 above had recently purchased such bond for $600. Even if the debt-for-debt exchange qualifies as a reorganization, the holder will have an issue price of $600 and includible OID of $150 with respect to the new bond.

Stock-for-debt exchanges

The provision also repeals the stock-for-debt exception for title 11 cases and insolvent debtors for taxpayers that issue disqualified stock in exchange for debt. For this purpose, disqualified stock is any stock with a stated redemption price and that either is subject to a fixed redemption date, is callable by the issuer, or is puttable by the holder. In addition, disqualified stock will not be considered to be stock for purposes of the de minimis rule of section 108(e)(8).

Thus, under the bill, taxpayers in title 11 cases or insolvent taxpayers that issue disqualified stock in discharge of debt generally will reduce their tax attributes by the amount by which the adjusted issue price of the debt discharged exceeds the fair market value of that stock. In the case of an insolvent taxpayer not in a title 11 case, the amount of COD in excess of the amount of insolvency, if any, will be included in gross income in accordance with present-law rules governing the taxation of COD.

Effective Date

The provision generally is effective for debt-for-debt or stock-for-debt exchanges occurring on or after October 10, 1990. The provision does not apply to an exchange that is pursuant to a binding written contract in effect before October 10, 1990, and

[72] The IRS has recently published a ruling that holds that the stock-for-debt exception can apply only to the extent of the redemption price and liquidation preference of preferred stock issued for debt. (Rev. Rul. 90-87, issued October 2, 1990).

[73] In any case in which an old debt instrument is exchanged by the holder for a new debt instrument, or in which the terms of an old debt instrument are modified so as to constitute an exchange by the holder, the debtor is treated as having issued a new debt instrument in satisfaction of an old debt instrument.

all times thereafter. The provision does not apply to an exchange that is pursuant to a tender offer or exchange offer filed with the Securities and Exchange Commission before October 10, 1990. The provision does not apply to an exchange that is pursuant to a transaction the material terms of which were described in a written public announcement before October 10, 1990, and which was the subject of a prior filing with the Securities and Exchange Commission, and which is subsequently filed with the Securities and Exchange Commission before January 1, 1991.

In addition, the provision does not apply to an exchange resulting from a proceeding in a title 11 or similar case that had been filed before October 10, 1990.

6. Employment Tax Provisions

a. Increase dollar limitation on amount of wages and self-employment income subject to the Medicare hospital insurance payroll tax (sec. 7451 of the bill and sec. 3121 of the Code).

Present Law

As part of the Federal Insurance Contributions Act (FICA), a tax is imposed on employees and employers up to a maximum amount of employee wages. The tax is comprised of two parts: old-age, survivor, and disability insurance (OASDI) and Medicare hospital insurance (HI). For wages paid in 1990 to covered employees, the HI tax rate is 1.45 percent on both the employer and the employee on the first $51,300 of wages and the OASDI tax rate is 6.2 percent on both the employer and the employee on the first $51,300 of wages.

Under the Self-Employment Contributions Act of 1954 (SECA), a tax is imposed on an individual's self-employment income. The self-employment tax rate is the same as the total rate for employers and employees (i.e., 2.9 percent for HI and 12.40 percent for OASDI). For 1990, the tax is applied to the first $51,300 of self-employment income and, in general, the tax is reduced by any wages for which employment taxes were withheld during the year.

The cap on wages and self-employment income subject to FICA and SECA taxes is indexed to changes in the average wages in the economy. In 1991, the amount of wages or self-employment income subject to the tax is projected to be $54,300.

Reasons for Change

The committee believes that increasing the cap on wages and self-employment income subject to tax with respect to HI will improve the progressivity of the tax system. In addition, increased revenues under the bill will provide necessary funding for the Hospital Insurance Trust Fund and will enhance its long-term solvency.

Explanation of Provision

The bill increases the cap on wages and self-employment income considered in calculating HI tax liability to $89,000. As under present law, for years beginning after 1991, this cap is indexed to changes in the average wages in the economy. The OASDI wage cap remains at the level provided under present law.

Effective Date

The provision is effective on January 1, 1991.

b. Extending Medicare coverage of, and application of hospital insurance tax to, all State and local government employees (sec. 7452 of the bill and sec. 3121 of the Code).

Present Law

Before enactment of the Consolidated Omnibus Reconciliation Act of 1985 (COBRA), State and local workers were covered under Medicare only if the State and the Secretary of Health and Human Services entered into a voluntary agreement providing for such coverage. In COBRA, the Congress extended Medicare coverage (and the corresponding hospital insurance (HI) payroll tax) on a mandatory basis to State and local government employees (other than students) hired after March 31, 1986.

For wages paid in 1990 to Medicare-covered employees, the total HI tax rate is 2.9 percent of the first $51,300 of wages. The tax is divided equally between the employer and the employee.

Reasons for Change

The committee believes Medicare coverage should be extended to all employees of State and local governments.

Explanation of Provision

The bill requires coverage of all employees of State and local governments under Medicare without regard to the employee's date of hire. The 2.9 percent HI payroll tax rate would be phased in with respect to newly covered State and local government employees so that the tax rate is 1.6 percent in 1992; 2.7 percent in 1993; and 2.9 percent in 1994 and thereafter. The present-law student exception is retained with respect to students employed in public schools, colleges, and universities. Coverage may, as under present law, continue to be provided to such individuals at the option of the State government.

In the case of certain employees who are required to pay the HI tax and who meet certain other requirements, State and local service prior to the effective date of this provision is deemed to have been covered by the HI tax for purposes of determining Medicare eligibility. Prior State and local service is counted regardless of whether such service was continuous.

Under the provision, the HI trust fund would be reimbursed from the general fund of the Treasury for any additional cost arising by reason of this provision.

The Secretary of Health and Human Services is required to provide a process by which employees could provide evidence of prior State and local governmental service if such service is necessary to qualify for coverage under the program.

Effective Date

The provision is effective with respect to services performed after December 31, 1991.

c. Extend social security retirement coverage (OASDI) to State and local government employees not covered by a public employee retirement program (sec. 7453 of the bill and sec. 3121 of the Code)

Present Law

Employees of State and local governments are covered under social security by voluntary agreements entered into by the States with the Secretary of Health and Human Services (HHS). After a State has entered into such an agreement, it may decide, or permit its political subdivisions to decide, whether to include particular groups of employees under the agreement. All States have entered into such agreements. The extent of coverage is high in some States and limited in others. Nationally, about 72 percent of State and local workers are covered by social security.

With certain exceptions, a State has broad latitude to decide which groups of State and local employees are covered under its agreement. In some cases in which States have elected not to provide coverage, a part of the workforce does not participate in any public retirement plan.

For 1990, the social security (Old Age, Survivors, and Disability Insurance) tax rate is 6.2 percent of covered wages up to $51,300 and is imposed on both the employer and employee (for a total of 12.40 percent).

Reasons for Change

Certain employees of State and local governments have no retirement protection either from social security or a public retirement system. Many of these individuals are low-paid individuals with limited or intermittent work experience and, therefore, social security coverage will provide important disability, survivorship, and retirement protection.

Explanation of Provision

The bill requires social security (Old Age, Survivors, and Disability Insurance) coverage for State and local workers who are not covered by a retirement system in conjunction with their employment for the State or local government and subjects the wages of such employees to the OASDI portion of the tax under the Federal Insurance Contributions Act (FICA). An exception is provided for students employed in public schools, colleges, and universities, for whom coverage may continue to be provided at the option of the State government. This exception maintains parallel coverage rules for students employed by public educational institutions and those employed by private schools, colleges, and universities.

A retirement system is defined as under the definition of retirement system in the Social Security Act (42 U.S.C. sec. 418(b)(4)). Thus, a retirement system is defined as a pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof.

Whether an employee is a member (i.e., is a participant) of a retirement system is based upon whether that individual actually participates in the program. Thus, whether an employee participates is not determined by whether that individual holds a position that is included in a retirement system. Instead, that individual must actually be a member of the system. For example, an employee whose job classification is of a type that ordinarily is entitled to coverage, is not a member of a retirement system if he or she is ineligible because of age or service conditions contained in the plan and, therefore, is required to be covered under Social Security. Similarly, if participation in the system is elective, and the employee elects not to participate, that employee does not participate in a system for purposes of this rule, and is to be covered under the Social Security system.

The Secretary of the Treasury, in conjunction with the Social Security Administration, is required to issue guidance in order to implement the purposes of this provision.

Effective Date

The provision is effective with respect to services performed after December 31, 1991.

d. Extend Federal Unemployment Tax (FUTA) Surtax (sec. 7454 of the bill and sec. 3301 of the Code).

Present Law

The Federal Unemployment Tax Act (FUTA) imposes a gross employer tax of 6.2 percent on the first $7,000 paid annually to

each employee. Employers in States meeting certain requirements and with no overdue Federal loans are eligible for a full 5.4 percentage point credit, making the basic net FUTA tax rate 0.8 percent. This 0.8-percent tax rate has a permanent component of 0.6 percent and a temporary component of 0.2 percent. The 0.2-percent surtax is scheduled to expire for wages paid after 1990.

Reasons for Change

The committee believes that it is appropriate to extend the 0.2-percent FUTA surtax for 5 years.

Explanation of Provision

The bill extends the 0.2-percent surtax imposed on employers under the Federal Unemployment Tax Act (FUTA) through 1995.

Effective Date

The provision is effective with respect to wages paid on or after January 1, 1991.

e. Increase in railroad retirement tier 2 payroll taxes (sec. 7455 of the bill and secs. 3201, 3211, and 3221 of the Code).

Present Law

Railroad employers, employees, and employee representatives are subject to a payroll tax to fund tier 2 railroad retirement benefits. The tax rate is 4.90 percent for employees, 16.10 percent for employers, and 14.75 percent for employee representatives. In 1990, the tax is imposed on wages up to a maximum of $38,100. In 1991, this wage base is projected to increase to $40,500.

Reasons for Change

The committee believes that an increase in the tier 2 payroll tax will improve the long-term solvency of the Railroad Retirement Account.

Explanation of Provision

The provision increases the Tier 2 tax rate by 0.10 percent for employees (for a total rate of 5.00 percent), 0.30 percent for employers (for a total rate of 16.40 percent), and 0.30 percent for employee representatives (for a total rate of 15.05 percent).

Effective Date

The provision applies to compensation paid after December 31, 1990, in the case of the employer-level tax and to compensation received after December 31, 1990, in the case of the employee and employee representatives taxes.

f. One-year Extension of General Fund Transfers to Railroad Retirement Tier 2 Trust Fund (sec. 7456 of the bill and sec. 3201 of the Code).

Present Law

The proceeds from the taxation of railroad retirement Tier 2 benefits are transferred from the General Fund of the Treasury into the Railroad Retirement Account. This transfer applies only to proceeds from the taxation of benefits that are received prior to October 1, 1990. Proceeds from the taxation of benefits received after this date will remain in the General Fund.

Reasons for Change

The Commission on Railroad Retirement Reform, established pursuant to the 1987 budget reconciliation legislation, submitted its final report on September 14, 1990, making numerous recommendations concerning the structure and financing of the railroad retirement program. In order to allow time for Congress to review this report and determine whether any of its recommendations should be implemented, the committee believes it is appropriate to continue for an additional year the provisions for transfer to the trust fund of the proceeds from the taxation of tier 2 benefits.

Explanation of Provision

The transfer of proceeds from the taxation of railroad retirement tier 2 benefits from the General Fund into the Railroad Retirement Account is extended for one year, to apply to benefits received prior to October 1, 1991. The continuation of this transfer is estimated to result in an additional deposit into the Railroad Retirement Account of $190 million.

Effective Date

The provision is effective with respect to benefits received after September 30, 1990, and before October 1, 1991.

g. Railroad Retirement Tier 1 tax rate determined by reference to the Federal Insurance Contributions Act (FICA) tax rate (sec. 7457 of the bill and sec. 3111 of the Code).

Present Law

Prior to 1984, the railroad retirement tier 1 tax was imposed at a rate determined by cross-reference to the Federal Insurance Contributions Act (FICA) under which Social Security taxes are imposed. The tier 1 tax rate is identical to the combined tax rate under the old-age, survivors, and disability insurance and the hospital insurance tax (OASDHI). Since 1983, the tier 1 tax rate has been specified numerically in the Railroad Retirement Tax Act rather than by cross-reference to the FICA tax rate.

Reasons for Change

The committee believes that uniformity and simplicity are improved under the provision.

Explanation of the Provision

The bill amends the Railroad Retirement Tax Act to provide that the tier 1 tax rate is determined by cross-reference to the FICA tax rate.

Effective Date

The provision is effective with date of enactment.

h. Payroll tax deposit stabilization (sec. 7458 of the bill and sec. 6302(g) of the Code).

Present Law

Treasury regulations have established the system under which employers deposit income taxes withheld from employees' wages and FICA taxes. The frequency with which these taxes must be deposited increases as the amount required to be deposited increases.

Employers are required to deposit these taxes as frequently as eight times per month, provided that the amount to be deposited equals or exceeds $3,000. These deposits must be made within three banking days after the end of the eighth-monthly period.

Effective August 1, 1990, employers who are on this eighth-monthly system are required to deposit income taxes withheld from employees' wages and FICA taxes by the close of the applicable banking day (instead of by the close of the third banking day) after any day on which the business cumulates an amount to be deposited equal to or greater than $100,000 (regardless of whether that day is the last day of an eighth-monthly period).

For 1990, the applicable banking day is the first. For 1991, the applicable banking day is the second. For 1992, the applicable banking day is the third. For 1993 and 1994, the applicable banking day is the first. The Treasury Department is given authority to issue regulations for 1995 and succeeding years to provide for similar modifications to the date by which deposits must be made in order to minimize unevenness in the receipts effects of this provision.

Reasons for Change

The committee believed that it was appropriate to simplify this provision by making the deposit rules uniform for all years.

Explanation of Provision

The bill requires that deposits equal to or greater than $100,000 must be made by the close of the next banking day for all years. Thus, no change from present law is necessary for calendar year 1990, but for calendar years 1991 and 1992 deposits are accelerated. The regulatory authority provided to the Treasury Department is repealed.

Effective Date

The provision is effective for amounts required to be deposited after December 31, 1990.

7. Limitation on Itemized Deductions (secs. 7461 and 7463 of the bill, secs. 57(a)(6) and 213 of the Code, and new sec. 68 of the Code).

Present Law

General Rules for Itemized Deductions

Under present law, individuals who do not elect the standard deduction may claim itemized deductions (subject to certain limitations) for certain nonbusiness expenses incurred during the taxable year. Among these deductible expenses are unreimbursed medical expenses, casualty and theft losses, charitable contributions, qualified residence interest, a portion of personal interest (10 percent in 1990; zero thereafter), State and local income and property taxes, moving expenses, unreimbursed employee business expenses, and certain other miscellaneous expenses.

Certain itemized deductions are allowed only to the extent that the amount of the expense incurred during the taxable year exceeds a specified percentage of the taxpayer's adjusted gross income (AGI). Unreimbursed medical expenses for care of the taxpayer and the taxpayer's spouse and dependents are deductible only to the extent that the total of such expenses exceeds 7.5 percent of the taxpayer's AGI. Nonbusiness casualty or theft losses are deductible only to the extent that the amount of the loss arising from each casualty or theft exceeds $100 and only to the extent that total casualty and theft losses exceed 10 percent of the taxpayer's AGI. Unreimbursed employee business expenses and certain other miscellaneous itemized deductions are deductible only to the extent that the total of such expenses and deductions exceeds two percent of the taxpayer's AGI.

Deduction for Contribution of Appreciated Property

In computing taxable income, a taxpayer generally is allowed to deduct the fair market value of property contributed to a charitable organization.[74] In the case of a

[74] The amount of the deduction allowable for a taxable year with respect to a charitable contribution may be reduced depending on the type of property contributed, the type of charitable organization to which the property is contributed, and the income of the taxpayer (secs. 170(b) and 170(e)). Special rules also limit the amount of a charitable contribution deduction to less than the contributed property's fair market value in cases of contributions of inventory or other ordinary income property and short-term capital gain property.

charitable contribution of tangible personal property, however, a taxpayer's deduction for regular tax purposes is limited to the adjusted basis in such property if the use by the recipient charitable organization is unrelated to the organization's tax-exempt purpose (sec. 170(e)(1)(B)(i)).

For purposes of computing alternative minimum taxable income (AMTI), the deduction for charitable contributions of capital gain property (real, personal, or intangible) is disallowed to the extent that the fair market value of the property exceeds its adjusted basis.

Deduction for Cosmetic Surgery

For purposes of the medical expense deduction, eligible "medical care" expenses are defined as amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body (sec. 213(d)(1)(A)). The Internal Revenue Service (IRS) has interpreted "medical care" as including procedures that permanently alter any structure of the body, even if the procedure generally is considered to be an elective, purely cosmetic treatment (such as removal of hair by electrolysis and face lift operations).[75] For purposes of the medical expense deduction, the IRS generally does not distinguish between procedures which are medically necessary and those which are purely cosmetic.

Reasons for Change

The committee determined that it is appropriate to impose a limitation on otherwise deductible expenses of individual taxpayers with AGI exceeding $100,000. The higher an individual's AGI, the less likely it is that an otherwise deductible expense will significantly affect the individual's ability to pay income taxes. Thus, the committee believes that the goal of personalizing the Federal income tax based on each individual's ability to pay taxes is enhanced by adoption of a rule that imposes some limitation on deductibility of amounts paid (other than medical expenses, casualty and theft losses, and investment interest) by high-income individuals, yet generally allows full deductibility at the margin.

Although it is appropriate to adopt a general limitation on itemized deductions applicable to upper-income individuals, the committee believes there is special need to encourage donations to charitable and educational institutions of tangible articles with unique cultural or educational value (such as works of art and manuscripts). Therefore, the committee determined that, for purposes of computing alternative minimum taxable income, taxpayers should be allowed to claim the same deduction for charitable contributions of tangible personal property as is allowed for regular tax purposes. This change will provide an additional incentive for taxpayers to donate certain tangible personal property, the use of which is related to the donee's tax-exempt purpose.

In addition, the committee determined that expenses for cosmetic surgery and other similar procedures should not be eligible for the medical expense deduction, unless the procedure is necessary to ameliorate a deformity arising from a congenital abnormality, a personal injury resulting from an accident or trauma, or disfiguring disease. Expenses for purely cosmetic procedures that are not medically necessary are, in essence, voluntary personal expenses, which like other personal expenditures (e.g., food and clothing) generally should not be deductible in computing taxable income.

Explanation of Provisions

General Limitation on Itemized Deductions

The bill provides that total otherwise allowable itemized deductions (other than medical expenses, casualty and theft losses, and investment interest) are reduced by an amount equal to five percent of the amount of a taxpayer's AGI in excess of $100,000.[76] In no event, however, are total otherwise allowable itemized deductions (excluding medical expenses, casualty and theft losses, and investment interest) reduced by more than 80 percent. The provision applies only to individual taxpayers and not to an estate or trust.

In computing the amount of the reduction of total itemized deductions under the provision, all present-law limitations applicable to such deductions first are applied and the otherwise allowable total amount of deductions then is reduced pursuant to the provision. For purposes of the alternative minimum tax, itemized deductions which are otherwise allowed in computing AMTI are not reduced by the provision (i.e., the cutback amount determined for regular tax purposes is disregarded in calculating AMTI). For purposes of determining the tax treatment of State income tax refunds and other similar payments, the present-law tax benefit rule applies.

For example, a taxpayer with AGI of $250,000 and $90,000 of otherwise allowable itemized deductions ($20,000 of which are medical expenses, casualty and theft losses, and investment interest) would have itemized deductions reduced by $7,500 [5% X ($250,000−$100,000)]. If such a taxpayer's AGI increased above $1,220,000 and itemized deductions remained the same, the taxpayer would still be able to deduct a total of $14,000 of itemized deductions other than medical expenses, casualty and theft losses, and investment interest [20% X ($90,000−$20,000)].

Deduction for Contributions of Appreciated Tangible Personal Property

For purposes of computing alternative minimum taxable income, the present-law rule that treats as a tax preference item the amount of appreciation with respect to a charitable contribution of capital gain property (sec. 57(a)(6)) is repealed in the case of a contribution of tangible personal property. Thus, if a taxpayer makes a charitable contribution of tangible personal property (other than inventory or other ordinary income property, or short-term capital gain property), the use of which is related to the donee's tax-exempt purpose, the taxpayer is entitled to claim a deduction for both regular tax and alternative minimum tax purposes in the amount of the property's fair market value (subject to present-law percentage limitations). Contributions of inventory or other ordinary income property and short-term capital gain property continue to be governed by present-law rules.

Denial of Deduction for Unnecessary Cosmetic Surgery

The bill provides that expenses paid for cosmetic surgery or other similar procedures are not deductible medical expenses, unless the surgery or procedure is necessary to ameliorate a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or disfiguring disease. For purposes of this provision, cosmetic surgery is defined as any procedure which is directed at improving the patient's appearance and does not meaningfully promote the proper function of the body or prevent or treat illness or disease.

Thus, under the provision, procedures such as hair removal electrolysis, hair transplants, lyposuction, and face lift operations generally are not deductible. In contrast, expenses for procedures that are medically necessary to promote the proper function of the body and only incidentally affect the patient's appearance or expenses for treatment of a disfiguring condition arising from a congenital abnormality, personal injury or trauma, or disease (such as reconstructive surgery following removal of a malignancy) continue to be deductible under present-law rules.

Effective Date

The provisions are effective for taxable years beginning after December 31, 1990.

8. Deny Deduction for Certain Interest Paid by Corporations to the IRS on Tax Obligations (sec. 7462 of the bill and new sec. 163(k) of the Code).

Present Law

In general, corporations are allowed an income tax deduction for all interest paid or accrued, including interest on tax obligations.

Individuals are not permitted to deduct personal interest. For this purpose, personal interest includes interest on underpayments of the individual's income taxes, even if all or a portion of the individual's income is attributable to a trade or business.

Reasons for Change

The committee believes that it is appropriate to deny a deduction for certain interest paid by corporations to the IRS on underpayments relating to any type of Federal tax.

Explanation of Provision

The bill denies corporations a deduction for interest economically accruing after 30 days after the earlier of the furnishing of a notice of proposed deficiency (commonly called a 30-day letter) or the furnishing of a statutory notice of deficiency issued pursuant to section 6212 (commonly called a 90-day letter). In the case of an underpayment of a tax other than an income tax, a notice provided by the IRS that is similar to these notices is treated similarly.

This rule applies regardless of whether the corporation is on a cash basis or accrual basis, or when the interest is paid or deemed paid. The present-law procedures (described in section 4 of Rev. Proc. 84-58, as modified by Announcements 86-108 and 86-114) permitting a taxpayer to make a remittance of contested tax and interest thereon after a deficiency notice has been provided, while continuing to contest the asserted deficiency in Tax Court, would not be changed.

The Secretary has the authority to credit the amount of any overpayment against any liability under the Code (sec. 6402). To the extent a portion of tax due is satisfied by a credit of an overpayment, no interest is imposed on that portion of the tax (sec. 6601(f)). The Secretary should implement the most comprehensive crediting procedures under section 6402 that are consistent with sound administrative practice.

[75] *See* Rev. Rul. 82-111, 1982-1 C.B. 48; Rev. Rul. 76-332, 1976-2 C.B. 81).

[76] The threshold amount is $50,000 in the case of a separate return filed by a married individual within the meaning of section 7703. The threshold amounts are not indexed for inflation.

Effective Date

The provision is effective for interest economically accruing on or after January 1, 1991, regardless of the taxable period (if any) to which the underlying tax may relate.

SUBTITLE E—OTHER PROVISIONS

1. Extend IRS User Fees (sec. 7471 of the bill and sec. 10511 of the Revenue Act of 1987).

Present Law

The Internal Revenue Service (IRS) provides written responses to questions of individuals, corporations, and organizations relating to their tax status or the effects of particular transactions for tax purposes. The IRS responds to these inquiries through the issuance of letter rulings, determination letters, and opinion letters. The IRS charges a fee for most requests for a letter ruling, determination letter, opinion letter, or other similar ruling or determination. The fee charged may vary depending on the type of request, although the legislation specifies minimum average fees for each type of request. The legislation that requires the establishment of this fee program provides that it is not to apply to requests made after September 29, 1990.

Reasons for Change

The committee believes that the relatively small number of persons that request letter rulings, determination letters, and opinion letters should continue to pay for the benefit of these services. Consequently, the committee believes that the IRS program that requires the payment of a fee for most requests for a letter ruling, determination letter, opinion letter, or other similar ruling or determination should be permanently extended without change.

Explanation of Provision

The bill permanently extends the IRS program that requires the payment of a fee for most requests for a letter ruling, determination letter, opinion letter, or other similar ruling or determination.

Effective Date

The provision applies to requests made after September 29, 1990. The IRS may collect the fee for requests made after September 29, 1990, and on or before the date that is 30 days after the date of enactment at such time as the IRS may determine in its discretion. The fee for any request made more than 30 days after the date of enactment must be collected in advance.

2. Increase in the Permanent Public Debt Limit (Sec. 7472 of the bill and sec. 3101 of title 31, USC)

Present Law

The permanent statutory limit of the public debt is $3,122.7 billion, which was enacted on November 8, 1989. At the time it was enacted, it was hoped that the limit provided sufficient borrowing authority to the Administration to meet its borrowing needs through September 30, 1990.

A temporary increase in the public debt limit was enacted on August 9, 1990 (P.L. 101-350), to meet increased borrowing needs through October 2, 1990, by which time Congress anticipated having a reliable estimate of borrowing needs for the next fiscal year. At present, the temporary limit has been extended through October 19, 1990.

Reasons for Change

H. Con. Res. 310, which is the concurrent resolution setting forth the congressional budget for fiscal years 1991 through 1995, instructs the committee to provide legislation to increase the permanent statutory limit on the public debt by an amount that does not exceed $1,900 billion. This instruction also is consistent with the summit agreement reached by representatives of the Congress and the Administration to increase the permanent public debt limit for a period of five years.

Explanation of Provision

The committee bill increases the existing permanent debt limit with additional borrowing authority of up to $1,900 billion. The increase complies with the instructions for implementing the reconciliation bill which were given to the committee in the congressional budget resolution.

Effective Date

The provision is effective on the date of enactment.

3. Increase in Refund Review Threshold for Reports Submitted to the Joint Committee on Taxation (sec. 7473 of the bill and sec. 6405 of the Code).

Present Law

No refund or credit in excess of $200,000 of any income tax, estate or gift tax, or certain other specified taxes, may be made until 30 days after the date a report on the refund is provided to the Joint Committee on Taxation (sec. 6405). A report is also required in the case of certain tentative refunds. Additionally, the staff of the Joint Committee on Taxation conducts post-audit reviews of large deficiency cases and other select issues.

Reasons for Change

The committee believes that it is appropriate to increase the refund review threshold, which has been set at $200,000 since 1976. Increasing it will accelerate the issuance of refunds between $200,000 and $1,000,000 to the taxpayers involved. In addition, this increase will free up significant resources of both the Internal Revenue Service and the staff of the Joint Committee on Taxation, without materially impairing the ability to monitor problems in the administration of the tax laws.

Explanation of Provision

The bill increases the threshold above which refunds must be submitted to the Joint Committee on Taxation for review from $200,000 to $1,000,000. The staff of the Joint Committee on Taxation would continue to exercise its existing statutory authority to conduct a program of expanded post-audit reviews of large deficiency cases and other select issues, and the IRS is expected to fully cooperate in this expanded program.

Effective Date

The provision is effective on the date of enactment, except that the higher threshold does not apply to a refund or credit with respect to which a report was made before the date of enactment.

III—REVENUE TABLE PREPARED BY THE JOINT COMMITTEE ON TAXATION

BUDGET RECONCILIATION—REVENUE PROPOSALS AS APPROVED BY THE SENATE COMMITTEE ON FINANCE ON OCTOBER 13, 1990—FISCAL YEARS 1991–1995

[In Billions of Dollars]

Item	Effective	1991	1992	1193	1994	1995	1991–95
A. Extend expiring provisions through 12/3/91:[1]							
1. Foreign allocation of R&D		−.5	−.3				−.8
2. Research and experimentation tax credit[2]		−.6	−.4	−.1	−.1	([3])	−1.2
3. Employer-provided educational assistance (include graduate students)		−.3	−.1				−.4
4. Employer-provided group legal services		−.1	([3])				−.1
5. Targeted jobs tax credit		−.1	−.1	([3])	([3])	([3])	−.3
6. Business energy tax credits (solar, geothermal, and ocean thermal property)		−0.1	([3])	([4])	([4])	([4])	−0.1
7. Low-income housing credit (with modifications)		(−.2)	4	4	4	4	−1.9
8. Mortgage revenue bonds and mortgage credit certificates		([3])	−.1	−.1	−.1	−.1	−0.4
9. Qualified small-issue manufacturing bonds		([3])	−.1	−.1	−.1	−.1	−.3
10. Health insurance for self-employed (25% deduction)		−.3	−.1				−.4
11. Orphan drug tax credit		([5])	([5])	([5])	([5])	([5])	([3])
Subtotals, extension of expiring provisions		−2.1	−1.5	−.8	−.6	−.6	−5.6
Other tax incentives:							
1. Energy incentives:							
a. Extend nonconventional fuels tax credit (section 29) permanently and expand to tight sands gas	1/1/91	([3])	−.1	−.2	−.3	−.4	−1.0
b. Tax incentives for ethanol production	1/1/91	([6])	([6])	([3])	−.1	−.1	−.2
c. 15% credit for enhanced oil recovery costs[7]	1/1/91	([3])	([3])	([3])	−.1	−.1	−.2
d. Percentage depletion amendments	1/1/91	([3])	([3])	−.1	−.1	−.1	−.3
e. Exploratory drilling credit and preference cutback[7]	1/1/91	−.2	−.3	−.3	−.3	−.3	−1.4
f. Reduce AMT preference for percentage depletion on stripper wells[7]	1/1/91	([3])	−.1	−.1	−.1	−.1	−.4
2. Additional small business incentives:							
a. Modify estate freeze rules (section 2036(c))	10/9/90	0.1	([3])	−0.1	−0.2	−0.3	−0.5
b. Public accommodations expenditures:							
i. Disabled persons access tax credit (50%/$5,000)[8]	D/oE	([3])	−.1	−.1	−.1	−.1	−.4
ii. Lower cap on section 190 expensing to $15,000	D/oE	([6])	−.1	−.1	−.1	−.1	−.4
c. Increase section 179 expensing to $14,000	1/1/91	−.5	−.8	−.6	−.4	−.3	−2.7
Subtotals, other tax incentives		−0.6	−1.3	−1.4	−1.6	−1.7	−6.6

BUDGET RECONCILIATION—REVENUE PROPOSALS AS APPROVED BY THE SENATE COMMITTEE ON FINANCE ON OCTOBER 13, 1990—FISCAL YEARS 1991–1995—Continued

[In Billions of Dollars]

Item	Effective	1991	1992	1193	1994	1995	1991–95
C. Progressivity enhancement proposals:							
Increase EITC and provide other credits in latest Senate child care offer[9]	1/1/91	—.1	—2.1	—3.0	—4.3	—7.4	—16.9
D. Deficit reduction provisions:							
1. Provisions affecting itemized deductions:							
a. Limitation on itemized deductions of high-income taxpayers[10]	1/1/91	—.9	—6.3	—6.5	—7.4	—8.4	—29.5
b. Eliminate AMT preference for charitable contributions of certain tangible personal property	1/1/91	(3)	(3)	(3)	(3)	(3)	—0.1
c. Eliminate medical deduction for cosmetic surgery	1/1/91	(4)	.1	.1	.1	.1	0.3
2. Motor fuels tax (4 cents; 9 cents after 7/1/91; 9½ cents after 1/1/92) [11]	12/1/90	4.6	9.6	9.4	9.5	9.5	42.6
3. Increase tobacco excise taxes by 4 cents per pack in 1991 and by 4 cents per pack in 1993	1/1/91	.6	.8	1.5	1.5	1.5	5.9
4. Increase beer, wine, and distilled spirits excise taxes [12]	1/1/91	1.4	2.0	1.9	1.9	1.9	9.1
5. Impose 10% luxury excise tax [13]	1/1/91	.2	.4	.5	.5	.5	2.1
6. Expand ozone-depleting chemical excise tax [14]	1/1/90	1/1/91	.1	.1	.1	.1	0.5
7. Extend Leaking Underground Storage Tank (LUST) Trust Fund excise tax (5 years)	12/1/90	.1	.1	.1	.1	.1	0.6
8. Increase Airport Trust Fund aviation excise taxes (5 years) [15]	1/1/91	1.3	2.3	2.5	2.7	3.0	11.8
9. Increase harbor maintenance excise tax	1/1/91	.3	.3	.4	.4	.4	1.8
10. Loss deductions and salvage values for insurance companies	1/1/90	.3	.2	.2	.2	.2	1.1
11. Amortize insurance policy deferred acquisition expenses (DAC)	9/30/90	1.5	1.7	1.7	1.6	1.5	8.0
12. Adopt tax compliance provisions including certain provisions from S. 2410	3/20/90	(6)	(6)	.1	.1	.1	.3
13. Retiree health with reversion excise increase and asset cushion requirement [16]	1/1/91	.5	.2	.2	.1	(6)	1.0
14. Corporate interest disallowance	1/1/91	3.5	.2	.2	.1	.1	4.1
15. Business tax provision:							
a. Expand and clarify reporting and allocation rules for certain asset acquisitions	10/10/90	(6)	(6)	(6)	(6)	(6)	.1
b. Require accrual of redemption premium for certain preferred stock	10/10/90	(6)	.1	.1	.1	.1	.4
c. Expand application of CERT rules to subsidiary acquisitions	10/10/90	(6)	.1	.1	.1	.1	.4
d. Require recognition of corporate-level gain in certain divisive corporate transactions (5-year limitation period)	10/10/90	(6)	(6)	(6)	(6)	(6)	.2
e. Clarify treatment of debt exchanges	10/10/90	.1	.1	.1	(6)	(6)	.3
16. Extend IRS user fees (permanen)t [17]	9/30/90	(6)	(6)	(6)	(6)	(6)	.2
17. Extend Medicare (HI) tax to all State and local employees [18]	1/1/92		.7	1.4	1.6	1.6	5.2
18. Extend Social Security (OASDI) to State and local employees not participating in a public employee retirement system [19]	1/1/92		1.4	2.1	2.2	2.4	8.1
19. FUTA surtax (5 years) [17]	1/1/91	.8	1.1	1.1	1.2	1.2	5.4
20. Increase railroad retirement payroll taxes [17]		(6)	(6)	(6)	.1	.1	.2
21. Payroll tax deposit stabilization		1.0	2.2	—3.2			
22. Extend telephone excise tax and modify collection period	1/1/91	1.6	2.6	2.8	2.9	3.1	13.1
23. Increase Medicare (HI) wage cap to $89,000	1/1/91	1.3	4.1	4.2	4.5	4.8	19.0
Subtotals, deficit reduction provisions		20.3	36.8	34.1	39.1	40.9	171.2
E. Other provisions:							
Increase JCT refund review threshold	D/o/E						
Grand totals		17.5	31.9	28.9	32.6	31.2	142.1

(1) All estimates assume full restoration of tax benefits for 1990.
(2) Credit rate is retained at current level of 20%; base limitation is retained at current level of 50%.
(3) Loss of less than $50 million.
(4) Gain of less than $10 million.
(5) Loss of less than $10 million.
(6) Gain of less than $50 million.
(7) Tax incentive begins phasing out as price of crude oil reaches $28 per barrel (adjusted for inflation). The estimate in the revenue table is based on current Congressional Budget Office (CBO) macro-economic forecast which projects crude oil prices in the range of $18 to $23 per barrel during FY 1991–95.
(8) Provide maximum $5,000 per year credit for 50% of eligible expenditures to make public accommodations accessible to disabled persons; limited to small businesses.
(9) Estimate reflects a combination of increased EITC (with modifications to adjust for family size, to enhance compliance, and to add a credit for health insurance) and 90% refundable dependent care credit. Total cost equals $5.0 billion provided in Budget Summit Agreement, plus $11.9 billion of tax credits contained in the latest Senate offer on child care (Conference on H.R. 3).
(10) Disallow itemized deductions in an amount equal to 5% of AGI in excess of $100,000 for single returns, $100,000 for joint returns, and $100,000 for head of household returns. Proposal does not apply to medical expenses, casualty losses, or investment interest. Disallowance under the proposal cannot exceed 80% of otherwise deductible itemized deductions subject to the proposal.
(11) 50% of motor fuels tax increase dedicated to deficit reduction; 50% dedicated to highway trust fund (20% of this portion to be allocated to mass transit account). Railroads will pay 50% of increase in rates; revenue increase dedicated to deficit reduction. Each State to receive Highway account apportionments and allocations equal to at least 95% of its contribution attributable to increased revenue.
(12) Increase distilled spirits by $1.20 (to $13,0/proof gallon); double beer to 32 cents/6-pack ($18/barrel); increase table wine to 21 cents/bottle ($1.07/gallon); maintaining current differential for fortified wines; with small winery/brewery exemption.
(13) Tax applies to specific newly-manufactured items with retail prices above the following thresholds: automobiles—$30.000; private boats and yachts—$100,000; jewelry—$5,000; furs—$5,000; and airplanes—$250,000. If an 80% business use test is satisfied for airplanes, the tax may be refunded by claiming it on the tax return for the year following purchase; this is allowed only if business use can be demonstrated to be 80% for that year. Tax is 10% of purchase price in excess of thresholds.
(14) The tax with respect to the new chemicals subject to the tax is phased in as follows: 1991—$1.37, 1992—$1.37, 1993—$1.67, 1994—$3.00, 1995—$3.10.
(15) This estimate is presented relative to the CBO baseline which assumes extension of the Airport and Airway Trust Fund (AATF) taxes with the tax reduction trigger in effect. The estimate reflects the effects both of removing the trigger and of increasing the rates of certain of the AATF taxes by 25% as proposed in the President's budget. The tax revenues to the Airport and Airway Trust Fund.
(16) Permit certain tax-free transfers of excess pension assets to pay retiree health benefits. (Revenue effect in billions: 1991—$0.5; 1992—$0.3; 1993—$02.; 1994—$0.2; 1995—$0.1; 1991–95 Totals—$1.3.) Generally effective for reversions after Septembo, 1990, increase the reversion excise tax to 20%. If the employer does not transfer 20% of the reversion to a qualified replacement plan or provide certain benefit increases to plan participants and retirees of at least 15% of the reversion, the reversion tax is 40%. (Revenue effect in billions: 1991—Loss of less than $50 million; 1992—$0.1; 1993—$0.1; 1994—$0.1; 1995—$0.1; 1991–95 Total—$0.3.)
(17) Estimate provided by CBO.
(18) HI rate—0.8% in 1992, 1.35% in 1993, 1.45% in 1994 and thereafter.
(19) The Budget Summit Agreement assumed that $4.0 billion of this revenue source would be used for Social Security Act outlays. These outlay amounts are reflected in Title VI.

Notes: Details may not add to totals due to rounding. Interaction between or among items has not been taken into account for the purpose of this table. D/o/E in "Effective" column—Date of enactment.

SUMMARY OF DISTRIBUTIONAL EFFECTS, BY INCOME CATEGORY; [1] BUDGET RECONCILIATION—REVENUE PROPOSALS—AS APPROVED BY THE SENATE COMMITTEE ON FINANCE ON OCTOBER 13, 1990

[1990 income levels]

Income category [2]	Change in Federal taxes [1 3]		Federal taxes under present law [4]		Federal taxes under proposal [1 4]		Effective tax rates	
	Billions	Percent	Billions	Percent	Billions	Percent	Present law percent	Proposal percent
Less than $10,000	$0.0	0.0	$14.2	1.6	$14.2	1.6	13.3	13.3
10,000 to 20,000	—1.4	—2.1	65.8	7.6	64.4	7.3	15.6	15.2
20,000 to 30,000	2.8	2.7	102.5	11.9	105.3	11.9	18.4	18.9
30,000 to 40,000	3.2	2.8	115.8	13.4	119.0	13.5	20.0	20.6
40,000 to 50,000	2.5	2.8	87.9	10.2	90.3	10.2	21.4	22.0
50,000 to 75,000	3.2	1.9	172.8	20.0	176.0	19.9	24.7	25.2
75,000 to 100,000	1.7	2.5	66.5	7.7	68.2	7.7	25.8	26.5
100,000 to 200,000	3.6	3.5	104.4	12.1	108.0	12.2	26.2	27.1
200,000 and over	$5.0	3.7	133.3	15.4	138.2	15.6	25.2	26.1
Total, all taxpayers	$20.5	2.4	$863.2	100.0	$883.7	100.0	21.8	22.3

[1] Distributional analysis includes effects from the Budget Summit Agreement, as modified by the Senate Finance Committee Budget Reconciliation-Revenue Proposals, with respect to beer, wine and distilled spirits taxes, tobacco tax, energy tax, telephone tax, increase in HI wage cap, limitation on itemized deductions, individual AMT component of oil and gas production incentives, expand section 179 expensing, inclusion of latest Senate child care offer, and increase in the EITC. Analysis does not take into account effects from changes in taxpayer behavior.

[2] The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] inside buildup on life insurance, [4] workers' compensation, [5] nontaxable Social Security benefits, [6] deductible contributions to individual retirement accounts, [7] the minimum tax preferences, and [8] net losses in excess of minimum tax preferences from passive business activities.

[3] Estimates of total tax liability presented in distributions will not match estimated changes in receipts because of differing time periods (CY 1990 vs. FY 1991–95), because of varying patterns of fiscal year receipts.

[4] Distributions represent combined effects of individual income taxes, payroll taxes, Federal excise taxes, and estate and gift taxes. For the purpose of distributions, the full burden of payroll taxes is assigned to employees. Excise taxes are assumed to be borne fully by individuals either directly through purchase of the taxed commodity or indirectly through higher prices on all commodities as businesses pass along these added costs. Because of the uncertainty concerning the incidence of the corporate income tax, it is excluded from this table. Information in table excludes individuals who are dependents of other taxpayers.

Source: Joint Committee on Taxation.

IV—Cost Estimate of the Congressional Budget Office

SENATE FINANCE: RECONCILIATION PROVISIONS—SUBTITLES A THROUGH E

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995	Total 1991–95
Direct spending provisions only:						
Subtitle A—Income Security including child care 10/16	−23	24	64	94	134	292
Subtitle B—Medicare	−4,156	−7,486	−10,219	−12,563	−14,845	−49,269
Subtitle C—Medicaid Program—QMB's to 133% poverty	26	−126	−207	−228	−399	−934
Subtitle D—Trade Provisions	1	−571	−561	−567	−589	−2,288
Subtitle E—Pension Benefit Guarantee Corporation	−120	−130	−130	−130	−130	−640
Total	−4,272	−8,289	−11,053	−13,394	−15,829	−52,839

V—Vote of Committee in Approving the Submission

The Committee on Finance approved the reconciliation submission by a vote of 15 ayes to 5 nays.

VI—Additional Views

Additional Views of Senators William L. Armstrong and Steve Symms

Look out America! Congress is getting up a head of steam to raise taxes and neither facts nor reality seem able to slow it down. What will certainly slow down further if the Congress continues down this path is: our economy.

The Finance Committee has contributed to this headlong plunge by deciding that what this country needs is a $142.1 billion tax increase, $11.3 billion in additional taxes disguised as spending cuts, and $5.3 billion in additional, *new* spending. Combined with the other elements in the budget, less than one-quarter of the budget represents real savings or improved efficiencies in government programs.

In addition, under the original Budget Summit Agreement the various committees of Congress were directed to raise about $116.2 billion in various user fees. These additional tax increases are cleverly hidden because they are scored as spending reductions.

When combined with the user fee increases, the Finance Committee's explicit and disguised tax increases bring the total tax increase to $269.6 billion, one of the largest tax increases in our Nation's history. And it comes at a time when our economy is already struggling. Battered by a credit crunch and the recent run-up in oil prices as a result of the Iraqi invasion of Kuwait, the economy is slipping into a recession. The recession may be over in a year, or it may last much longer. The recession may be a gentle slowdown in growth, or a precipitous collapse like the recession in the early 1980s. But a recession is clearly at hand.

There is no defensible economic theory which says the correct policy in a recession is to raise taxes. Not from the left, not from the right, not from the past, nor from the present. Not one.

The monetarist, supply-side, and neoclassical schools all tell us the correct response to a recession is to cut spending to free up resources for more productive uses and to cut taxes to reduce the straightjacket government imposes on investment, work, and growth.

Even the now-discredited Keynsian school tells us to increase spending and to cut taxes, exactly the opposite of what the Finance Committee is reporting out.

The one prescription each of these schools agree on is that the correct policy in a recession is to cut taxes, not to raise them.

So, what ghost of a theory is propelling these Halloween tax increases through the Finance Committee and the rest of Congress? The evidence points to the Depression economics of Herbert Hoover. In 1932, following the collapse of the stock market and in the clear signs of recession, Herbert Hoover decided the best policy was to get the Nation's fiscal house in order by raising taxes. Mr. Hoover, a fine man, was tragically mistaken, as events quickly proved.

The expectation at the time was that the tax increase would relax the strain on the credit markets created by the policies of the Federal Reserve and thereby reduce interest rates. Congress, while spending months wrangling over the details of the tax increase, did not question the need for such an increase. While many factors contributed to the Great Depression, no one questions that the Hoover tax increase made a bad situation worse. Yet here we are getting ready to repeat the tragic mistake of 1932.

Today's argument (and that may be too strong a word) for increasing taxes traces its intellectual heritage directly to the Hoover tax increase. The full statement of this argument runs as follows: Raising taxes in a recession is necessary to cut the budget deficit and thereby lower interest rates.

There are two fatal flaws with this theory. First, a tax increase is not needed to reduce the budget deficit. If we simply hold this year's spending at last year's levels, the deficit would fall by about $76 billion. That is, even without a tax increase we could cut the deficit by nearly twice the amount proposed in the Budget Summit Agreement, and we could do so without a single cut in spending.

The second flaw is the idea that cutting the budget deficit by $40 billion will lower interest rates. The effect on interest rates of reducing the deficit by a few tens of billions of dollars in the context of a $5 trillion economy, and a global economy many times that size, is like a pebble's waves on the ocean surface.

Proponents of the interest rate argument are not even consistent. Even with a deficit reduction package of $40 billion, the budget deficit is expected to increase by about $130 billion from fiscal year 1990 to fiscal year 1991. This means that if interest rates are affected significantly by the budget deficit, they would be driven upward by the Budget Agreement targets, not downward. If proponents of the interest rate theory really considered their argument in detail, in the face of a recession it would be irresponsible of them to accept a paltry $40 billion deficit reduction package.

We find ourselves in this predicament because the Congress convinced the White House that the only way to deal with the budget was to convene a Summit. The sole purpose of the Summit was to hide the budget deliberation from the public eye and to allow proposals to be advanced and adopted without the public knowing whose fingerprints were on them. The secret Summiteers did not have the courage of their convictions to defend their ideas in public debate, so they sought the shelter of anonymity.

The Agreement was presented to the Congress on a take-it-or-leave-it basis. The President and the Senate Majority Leader went on television to encourage the American people to voice their support for the package. The American people expressed themselves, all right. Overwhelmingly, the calls received by Congress were in strong opposition to the Budget Agreement. Despite the exceptional efforts of the secret Summiteers, the Agreement went down to defeat in the House of Representatives. It was a take-it-or-leave it deal, and the American people shouted: Leave it!

The package put together in the Finance Committee has been accurately described as the Budget Summit Agreement with softened edges. In fact, the leadership of the Finance Committee took the Budget Summit Agreement as its starting point and then began a Committee mini-summit.

The Committee leadership has met numerous times, all behind closed doors. Members caucused numerous times, all behind closed doors. The package was then presented to the whole Committee for discussion and informal markup, again behind closed doors, and with a clear leadership understanding that member's amendments would be opposed—the fix was in.

These informal discussions are not necessarily or always bad. But there comes a point where public hearings, and public discussion and debate are essential to safeguard the democratic process. When virtually the entire legislative process is done out of public view, it not only conflicts with our national values and traditions, but it breeds the kinds of legislative disasters for which the Congress is rightly scolded. The reconciliation tax bill the Committee has reported out may turn out to be one of the best

examples of a late-night, closed-doors disaster that we have seen.

The rallying cry of the tax and spend crowd has become: Tax The Rich. Many people, though certainly not all, agree with the ability-to-pay proposition, i.e. that the wealthy should pay a higher total tax relative to their income than should middle-income taxpayers and that middle income taxpayers should pay more than lower-income taxpayers. But it is fair to wonder if enough isn't already enough.

As the table below describes, when measured by income levels, under our current tax system the top 1% of taxpayers earn 13.4% of all income and pay 24.8% of the Federal income tax. The top 5% of all taxpayers earn 28% of the total income and pay 44.8% of the tax. The top half of all taxpayers earn 86.4% of all income and pay 94.6% of the tax. A tax system in which the top half of all taxpayers already pay almost 95% of the tax while the bottom half pays about 5% is not merely progressive, it is punitive.

[In percent]

Income percentile	Percentage of total income earned	Percentage of total tax paid
1	13.4	24.8
5	28.0	44.8
50	86.4	94.6

While the package the Finance Committee is reporting out isn't as extreme as other proposals floating around the Capitol, it clearly achieves the tax-the-rich goal. For example, the package includes a provision that reduces by 5% of their adjusted gross income the itemized deductions that may be taken by individuals with incomes over $100,000.

The effect of this provision, much like the effect of the so-called bubble (which results from phasing out personal exemptions and the 15% tax rate for upper-income individuals) is to increase the effective top tax rate by about 1.67 percentage points. The effective top income tax rate, therefore, has been raised from 33% to almost 35%. Ironically, after all the opposition from the White House over the bubble and preserving the existing tax rate structure, the Finance Committee has managed to slip in a higher tax rate.

The charities are strongly opposed to this proposal, and for good reason. For, although the 5% limit is low enough so as not to affect most individuals' decisions as to whether and how much to give, it is not hard to read the writing on the wall. Over time, the 5% rate will be raised, first to 8%, then to 10%, then to 50%, and so forth. And while the rate increases, the threshold will fall to $90,000, then to $75,000, and so on. And with each change, more and more Americans will become discouraged by the tax treatment of charitable giving.

The rich are also the primary target of the tax on luxury items. There is no policy reason to support this new tax. It is just a convenient means to hit up higher-income individuals for another $2.1 billion. These are not so much luxury taxes as envy taxes; it is the codification of covetousness.

The Finance Committee has given upper middle income taxpayers a higher tax rate as well. Currently, both employers and employees pay a 1.45% Hospital Insurance (HI) tax on gross wages to fund Medicare, along with a 6.2% tax to fund Social Security. In each case, only the first $51,300 of wage income is subject to tax under current law.

Under the Finance Committee proposal, the wage cap for the HI tax is raised to $89,000. Since the employee pays all of his tax and much or all of the employer's share of the tax, this proposal is equivalent to raising the income tax rate of a *very* large number of taxpayers from 28% to almost 31%, and another tax rate increase is slipped in through the back door to raise $19 billion.

The rich aren't the only ones offered the opportunity to pay for Congress' inability to restrain spending. For example, even though the price at the pump for a gallon of gas has increased over 27 cents since the Iraqi invasion, the Finance Committee has decided to raise an additional $42.6 billion by more than doubling the gas tax.

The gas tax was originally levied under a compact with the American people that the funds raised would be placed into the Highway Trust Fund to be spent on transportation infrastructure such as highways, bridges, tunnels, and mass transit. The Hooverites on the Finance Committee have broken this compact because only half of the money raised by the gas tax increase goes into the Trust Fund, the other half goes to deficit reduction.

Having broken faith with taxpayers, the Committee may be criticized as well for counting the taxes that are deposited into the Trust Fund as deficit reduction. Clearly, taxes raised to be spent will eventually be spent, and so it is disingenuous to count the increased inflow into the Trust Fund as deficit reduction.

One of the biggest tax increases on businesses falls on the life insurance industry. Whatever the technical merits of the proposal, the effect of this $8 billion revenue grab is nearly to double the industry's taxes overnight.

According to the Finance Committee, the rich would seem to be anyone who works for a living, drives a car, has a small business, drinks wine or smokes cigarettes, buys life insurance or works for a life insurance company, or has a telephone.

As if taxpayers were not punished enough, the Finance Committee has also included a provision giving the Internal Revenue Service a bigger stick to use on corporate taxpayers who have the gaul to contest an IRS agent's claim for additional taxes. Under current law, if a taxpayer contests a claim and ultimately loses to the IRS, interest is charged on the outstanding amount. These interest charges are normal costs of doing business and may be deducted from a corporation's taxable income.

The Finance Committee has decided that corporate taxpayers should not be allowed to deduct these interest charges, effectively raising the rate of interest from around 12% to around 18%. Not only does this further tilt the balance in a dispute in the IRS' favor, but it sets a dangerous precedent for eventually disallowing interest as a normal business expense.

Some Senators intone gravely that we may be playing "Russian Roulette" with the economy if we don't get our budget deficit under control by raising taxes. The reality, however, is that this package is the economic version of the Dark Ages medical practice of bleeding the patient to effect a cure. Applying the tax leeches to the American economy may well worsen the biggest budget buster of all—recession. And next year we could be facing a budget dilemma that makes this year's deliberations look like a cake walk.

WILLIAM L. ARMSTRONG.
STEVE SYMMS.

COMMITTEE ON GOVERNMENTAL AFFAIRS

BUDGET RECONCILIATION RECOMMENDATIONS

Pursuant to H. Con. Res. 310, the Congressional Budget Resolution Conference Report, the Committee on Governmental Affairs has approved legislation which is projected to reduce the Fiscal Year (FY) 1991 budget deficit by approximately $2.165 billion, and reduce the Federal deficit by approximately $14.350 billion over five years (in fiscal years 1991–1995). These savings are achieved through Federal general government and pension and postal reforms, including the elimination of the Civil Service lump sum retirement option.

ELIMINATION OF RETIREMENT LUMP-SUM CREDIT

The Committee has approved legislation that would implement President Bush's FY 1991 budget proposal to eliminate the lump-sum retirement credit that certain federal and postal employees elect to receive upon retirement. Under the terms of the reconciliation agreement, the lump-sum credit would be eliminated November 1, 1990.

An employee who elects retirement and the lump-sum benefit by October 31, 1990, would receive 50 percent of the amount of the lump-sum credit at the time of retirement, and 50 percent of the amount of the lump-sum credit on the date 12 months after the date on which the lump-sum credit would otherwise have been paid. The remainder of the lump-sum credit shall be payable with interest.

The CBO estimates that elimination of this retirement option will reduce the Federal budget deficit by $1.23 billion in FY 1991 alone, and by $8.05 billion in FY 1991–1995.

FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM

Postal Service and D.C. Government

The Committee has approved legislation that would implement President Bush's FY 1991 budget proposal to require the United States Postal Service to pay Federal Employee Health Benefit (FEHB) costs for annuitants and their survivors who retired between June 30, 1971 (the date of the Postal Reorganization) and October 1, 1986, and to require the District of Columbia Government to pay the FEHB costs of its retirees (and their survivors).

Under current law, the Postal Service is required to pay the employer's share of FEHB costs for annuitants (and their survivors) who retired after September 30, 1986. Most Postal Service annuitants retired between 1971 and 1986. Their benefits are currently paid by the taxpayers as opposed to the Postal Service.

The CBO estimates that this transfer of liability for premium payments will reduce the deficit by $726 million in FY 1991 and $4.431 billion in fiscal years 1991–1995.

Non-Medicare Eligible Annuitants

For the 1990 Budget Summit, the Office of Management and Budget (OMB) included a proposal to apply Medicare hospital and physician payment limits to payments to providers of services to FEHBP annuitant enrollees who are age 65 and older but not eligible for Medicare. The Committee has approved legislation that would implement the OMB proposal for hospital payments.

The proposal to apply Medicare limits to non-Medicare annuitants over 65 would reduce expenditures for FEHBP hospital claims. If this is the case, savings will be realized initially through reduced outlays (in-

creased reserves) of the FEHBP Trust Fund. Then, when premiums are negotiated for 1992 and beyond, additional savings will accrue to the Government because the premium reduction will reduce the Government's premium share (as calculated by using the Big Six formula). However, while the aggregate effect on enrollees' premium payments might be to reduce them, the distributional effect of the proposal is uncertain.

The CBO estimates that enactment of this proposal will reduce the deficit by $190 million in Fiscal Year 1991 and by $1.53 billion over the next five fiscal years.

FEHB State Premium Taxes

Under current law, FEHB insurance carriers are required to pay state premium taxes. These taxes are built into the program's premium base. Exempting carriers from paying this tax would result in a premium reduction (which of course, reduces the Government's share).

The Committee recommendation would exempt the Federal Employees Health Benefits Program from state premium tax requirements in a manner similar to the exemption presently applicable to the Federal Employee's Life Insurance Fund. It is estimated that enactment of this proposal will reduce the deficit by $31 million in FY 1991 and $155 million over the next 5 fiscal years.

GENERAL GOVERNMENT REFORM

The Committee has approved legislation that includes the text of H.R. 5450, the Computer Matching and Privacy Protection Act Amendments of 1990. The Administration supports enactment of the measure. This bill marks two changes to the Computer Matching and Privacy Protection Act of 1988. First, the bill changes the period of time required by law to notify recipients of Federal benefit programs about the results of a computer match prior to taking adverse action against individuals. Second, the bill creates an alternative to independent verification requirements set up by the 1988 law in limited circumstances.

The 1988 Act established procedures for Federal and State agencies to follow when conducting computer matches using Federal information subject to the Privacy Act. These computer matches are generally used to check the eligibility of individuals to receive government benefits, like Food Stamps and AFDC. The law requires adequate due process protection for individuals, particularly that prior to taking adverse action against an individual based on the results of a match, the agency must wait 30 days after giving notice. This gives the individual an opportunity to contest the results of the match. The law also requires the agency to take steps to independently verify the results of the match prior to taking adverse action.

Prior to the law's enactment, several state agencies administering AFDC, Medicaid and Food Stamps programs—which generally had had a 10 day notice-and-wait period—expressed concern that the 30 day period would result in overpayments to individuals who did not qualify for benefits. These overpayments would then have to be recouped by the agency. States also expressed concern about the costs they would incur from having to independently verify certain information received from the Federal Government.

Accordingly, the bill modifies the notice and wait provision by allowing the agency to use the notice and wait period of the underlying benefit program before taking adverse action based on a computer match result. If the underlying program has no notice and wait requirement, the 30 day period contained in the original law is retained.

The bill also provides for an alternative means of verifying information for purposes of complying with the law. The bill allows adverse action to be taken without independent verification if the Data Integrity Board of the agency providing the information determines that the information is limited only to identification of the individual (such as name and SS number), and that there is a high degree of confidence that the information in the records provided by the agency is accurate.

The CBO estimates that enactment of these provisions will produce a five-year cost savings of $270 million.

H.R. 3139

The Committee has approved legislation that includes the text of H.R. 3139, the Portability of Benefits for Department of Defense Nonappropriated Fund Employees Act of 1989. The Department of Defense (DoD) has nearly 200,000 nonappropriated fund (NAF) employees who work in the military morale, welfare, and recreation work force. The FY 89 Defense Authorization Act required DoD to reorganize the nonappropriated fund work force, which would cause up to 6,000 NAF employees to be converted to the civil service and up to 2,000 civil service employees to be converted to nonappropriated fund status.

H.R. 3139 will allow the affected employees to make these changes without a loss in pay or benefits, such as retirement, leave, and health and life insurance. The bill allows service as a NAF employee to be creditable as Federal service for purposes of: determining the order or retention during a reduction-in-force; computing the period of service used for determining eligibility for a periodic step increase; and determining the number of years of service applicable for accrual of annual leave.

The bill allows all annual leave, sick leave, and home leave of a NAF employee who moves to a civil service position to be transferred without limit. Likewise, all annual leave, sick leave, and home leave of a civil service employee who moves to a NAF position will be transferred without limit.

The CBO estimates that enactment of these provisions will produce a $6 million dollar savings in FY 91, with a five year savings of $30 million.

Reforms in the Health Benefits Program

Section 8007 includes four specific legislative reforms in the Federal Employees Health Benefits Program (FEHBP).

Section 8007(a) amends section 8902 of title 5, United States Code, by adding a new subsection (n). The new subsection directs that contracts for health benefits insurance under service benefit plans, indemnity benefit plans, and employee organization plans must require carriers to implement hospitalization cost-containment measures and establish incentives to encourage compliance with the measures implemented. Comprehensive medical plans are intentionally excluded from coverage of this new provision since the cost-containment measures envisioned by the amendment are inherent in the operation of those types of plans.

New section 8902(n)(1), subparagraphs (A) through (D), enumerate specific cost-containment measures which must be included in those implemented by the carrier in any contract for benefits. The specific measures are directed primarily toward pre-admission certification in non-emergency situations and large-case management.

Section 8007(b) amends section 8909(a) of title 5, United States Code, to require tighter management controls in disbursement of moneys from the Employees Health Benefits Fund (Benefits Fund). The amendment requires that payments made from the Benefits Fund to plans participating in the letter-of-credit account disbursement method be made only on a checks-presented basis (as defined by the Department of the Treasury). Consequently, plans would receive transfers of money only when actually needed by the plans to honor plan checks as they are presented for payment. Under existing practice, some plans have received transfers of money upon receipt of claims rather than issuance of beneficiary or provider payments.

Section 8007(d) amends section 8910 of title 5, United States Code, to add a new subsection (d). The new subsection requires the Office of Personnel Management, in consultation with the Department of Health and Human Services, to develop and implement a system through which health benefits plan carriers will be able to identify Medicare-eligible FEHBP annuitants. Establishment of this system will ensure that payments under coordination of benefits with Medicare do not exceed the present or future statutory maximums which physicians may charge Medicare beneficiaries.

Section 8007(e) sets forth the effective date for all amendments made by section 8002 as January 1, 1991. The amendments will apply with respect to all contract years beginning on or after that date.

U.S. SENATE,
COMMITTEE ON THE JUDICIA RY,
Washington, DC, October 12, 1990.

Hon. JIM SASSER,
Chairman, Committee on the Budget,
Washington, DC.

Hon. PETE V. DOMENICI,
Ranking Minority Member,
Committee on the Budget,
Washington, DC.

DEAR JIM AND PETE: Pursuant to your letter of October 7, 1990, requesting the Committee on the Judiciary to submit $91 million in reconciliation recommendations, please note the attached description.

The Subcommittee on Patents, Trademarks, and Copyrights has prepared a detailed explanation and legislative language which outlines the revenues to be realized through Patent and Trademark Officer user fee increases authorized by subsections (a) and (b) of sections 41 of title 35, United States Code.

We hope these recommendations will be helpful to you during the consideration of the reconciliation bill.

Sincerely,

STROM THURMOND,
Ranking Member.
JOSEPH R. BIDEN, Jr.,
Chairman.

OMNIBUS BUDGET RECONCILIATION ACT

SENATE JUDICIARY COMMITTEE REPORT LANGUAGE

Section 01 imposes a surcharge, during fiscal years 1991 through 1995, on certain Patent and Trademark Office fees in order to fully fund the operations of the Office in fiscal years 1991 through 1995. Currently, the Trademark functions are 100% financed through user fees and the Patent Office is approximately two-thirds user fees.

According the Congressional Budget Office, the deficit reduction target of $91 million will be met through a surcharge of 56 percent on applications for patents and the patent issuance and maintenance fees. The Patent and Trademark Office will be entitled to use the surcharge for its authorized activities and operations.

The surcharge shall be effective on the date of enactment of this Act, notwithstanding the requirements of section 41(g) of title 35, United States Code, and section 31 of the Trademark Act of 1946, as amended (15 U.S.C. 1113) that require publication sixty days before fees may be effective. This is necessary so that the Office can put the new fees into effect immediately.

U.S. SENATE, COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, DC, October 12, 1990.

Hon. JAMES SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR CHAIRMAN SASSER: The Senate Labor and Human Resources reported its reconciliation recommendations to the Senate Budget Committee this morning. The Legislative language of these recommendations is attached.

The recommendations achieved savings in entitlement programs and new revenues totalling $3.48 billion for fiscal years 1991-1995. The Senate Labor Committee reconciliation recommendations comply with the instructions of the Senate Budget Committee.

This letter will serve as the official transmittal of the reconciliation recommendations to the Senate Budget Committee.

Sincerely,

EDWARD M. KENNEDY,
Chairman, Senate Labor and Human Resources Committee.

REPORT LANGUAGE ON EDUCATION PORTIONS OF BUDGET RECONCILIATION

In conducting the appeals process described in Section 10102, the Committee expects the Secretary to review each school on a case-by-case basis. In the situation of an institution that is appealing on the basis of the miscalculation of default rate, it is the Committee's intent that such review be conducted in an expeditious manner with the total review time exceeding no more than 30 days.

In conducting a review under the condition of mitigating circumstances described in Section —, it is the Committee's intent that the Secretary review a number of factors including the socio-economic status of the students served by the institution as indicated by the number of students who receive Pell Grants, the progress made by the institution in reducing the number or dollar value of defaulted loans, the economic health and general state of employment in the region, the historic mission of the school, and the successful completion and job placement of students. The Committee intends that these criteria be reflected in regulations published in the Federal Register no later than June 1, 1991.

Finally, the Committee wishes to note that the action taken in last year's Budget Reconciliation eliminating the SLS Program from high default schools has resulted in extensive savings. Continuation of the 30% cut-off trigger continues under this budget agreement through FY 1992 and lowers to a 25% cut-off level in the subsequent years.

COMMITTEE REPORT LANGUAGE: LABOR-RELATED PENALTIES CHAPTER OF RECONCILIATION

This chapter is an integral element of the Labor and Human Resources Committee's reconciliation package, both from a budget standpoint as well as from a policy standpoint. The policy justifications for the changes in penalties for violations of health and safety laws are discussed in detail below.

As a budgetary matter, the Budget Committee has instructed the Committee on Labor and Human Resources to produce nearly $3.5 billion in deficit reduction over the next five years. The Budget Committee also mandated that a significant portion of that deficit reduction must come from a net increase in new revenues—$840 million over five years. According to the Congressional Budget Office, the proposed changes in this chapter raise more than $1.1 billion in new revenues. The nearly $300 million in reduced revenues that result from the pension asset reversion chapter of this title offset some of these new penalty revenue gains. But the net revenue increase results in full compliance with our instructions from the Budget Committee. In addition, the penalties affected by this chapter are solely within the jurisdiction of the Labor and Human Resources Committee and do not affect the jurisdiction of any other committee.

MSHA Penalties

The Federal Mine Safety and Health Act of 1977 (30 U.S.C. 820(a)) provides for a civil penalty of not more than $10,000 against an operator for each violation of a mandatory health or safety standard or other violation of the Act. According to the Department of Labor, civil penalties were first assessed by the Mine Safety and Health Administration (MSHA) under the Federal Coal Mine Health and Safety Act of 1969. The Department has indicated that there has been no increase in the $10,000 maximum civil penalty since 1969.

While the statutory maximum has remained unchanged for two decades, the cost of living (as measured by the consumer price index) has increased by over 300 per cent. Inflation has decimated the deterrent effect of this penalty. In real terms, the current mine safety civil penalty ceiling is now less than $3,000. In order to restore the civil penalty ceiling to its original level, the Committee must at least triple the maximum penalty. Thus the Committee has agreed to increase the maximum penalty from $10,000 to $30,000.

OSHA Penalties

The Occupational Safety and Health Act of 1970 (29 U.S.C. 666) authorizes a number of civil penalties: fines up to $10,000 for each willful or repeated violation of the Act; fines up to $1,000 for each serious or other-then-serious violation; fines up to $1,000 for each violation of the posting requirements; and fines up to $1,000 for each violation of the posting requirements; and fines up to $1,000 per day beyond a stated abatement date for failure to correct a violation. The maximum civil penalties under the OSH Act have never been increased. Like the civil penalties for mine safety violations, OSH Act civil penalties, in real dollar terms, have been reduced dramatically by inflation. Simply to keep pace with inflation, the OSH Act maximum civil penalties must be increased more than threefold.

Merely returning OSH Act civil penalties to their original 1970-level, however, will not correct the woefully inadequate enforcement history of the Occupational Safety and Health Administration (OSHA). In recent years, this Committee has conducted extensive oversight hearings on OSHA civil and criminal enforcement efforts. One major conclusion from those hearings is that OSHA has not lived up to its stated purposes: to "assure so far as possible every working man and woman in the nation safe and healthful working conditions." The penalties assessed are not large enough to force employers to comply with the law. For example, according to the General Accounting Office, in fiscal year 1988, the average assessed penalty for a serious violation was only $261.

In an effort to provide civil penalties with "real teeth", the Committee has increased the existing maximum penalty levels by five times. Under the Committee's approach, the maximum allowable penalties will be : $50,000 for each willful or repeated violation; $5,000 for each serious or other-than-serious violation; $5,000 for each violation of the posting requirements; and $5,000 per each day beyond a stated abatement date for failure to correct a violation.

These amounts are discretionary ceilings. In practice, most fines imposed are a mere fraction of the maximum penalty. For example, at the Film Recovery Systems company, workplace conditions were so egregious that a corporate executive was convicted for murder under state law in the death of a worker. Yet the penalty imposed by OSHA was only $2,400. In order to ensure that violators are in fact fined at an effective level, the Committee has adopted mandatory minimum penalties for certain OSH Act violations. Mandatory minimum penalties are relatively common in federal law. The President's Council on Integrity and Efficiency, in a 1988 study of federal civil money penalties, listed several dozen statutory provisions containing mandatory minimum penalties. For example, the civil penalty for smuggling merchandise by airplane in violation of the customs laws is twice the value of the merchandise, "but not less than $10,000." 19 U.S.C. 1590(c).

The new mandatory OSH Act minimum penalties are scaled to reflect the nature of the violation—higher penalties for more egregious offenses. The mandatory minimums are: $5,000 for a willful violation; $1,000 for a repeated violation; $500 for a serious violation and $100 for an other-than-serious violation. These mandatory minimum penalties are penalty floors and they are not intended to become penalty ceilings. The Committee expects OSHA to issue fines well above these mandatory minimum levels when the violation warrants such a penalty. But the Committee notes that these mandatory minimum levels are for initial, assessed penalties. OSHA's current ability to settle particular cases at below the initial assessed penalty level remains unchanged by this provision.

But even if Congress requires effective civil penalties, this is still not enough to ensure meaningful compliance with the OSH Act. The Department of Labor's own Inspector General has testified that criminal sanctions under the OSH Act are "essential" to deter "needless injuries and death." The Inspector General declared that achieving a "credible deterrent" through criminal enforcement, including incarceration, "is the only way to achieve broad-based compliance with the law."

The current criminal penalties under the OSH Act are painfully inadequate. The Department of Labor has acknowledged that the current criminal penalty levels have reduced incentives for the Justice Department to prosecute violations aggressively. Moreover, the Justice Department has indicated

in writing that it welcomes increased criminal sanctions under the OSH Act.

In order to create a credible deterrent, the Committee has agreed to increase the minimum incarceration penalties for the current criminal offenses under the OSH Act as follows: (1) for willfull violation of an OSH Act health or safety standard that causes the death of a worker, from six months to 10 years for a first conviction and from one year to 20 years for a second conviction; (2) for providing advance notice of any inspection under the OSH Act, from six months to 2 years; and (3) for knowingly making a false statement in any document required under the OSH Act, from six months to one year. In addition, the Committee has agreed to create a new criminal sanctions for willful violation of the OSH Act that causes serious bodily injury to an employee with a maximum prison term of 5 years for a first conviction, 10 years for a second conviction. The new sanction includes a definition of "serious bodily injury" that is consistent with current statutory definitions and court interpretations of that term.

The Committee also makes clear that for any criminal offense under the OSH Act, a fine in accordance with section 3571 of title 18 of the United States Code may be imposed in lieu of or in addition to a term of imprisonment. Under that section, the maximum fine that may be imposed is determined by the category of crime committed, which in turn is determined by the maximum term or imprisonment authorized. Thus the maximum prison term is integrally linked to the maximum criminal fine allowed. According to the Congressional Budget Office, the changes in OSH Act criminal penalties "would result in increased revenue to the federal government in fiscal years 1991 to 1995".

With regard to any fines imposed upon individual directors, officers or agents of an employer for criminal violations of the OSH Act, the Committee provides that such individuals shall not be allowed to rely on the assets of the employer to pay the fines. Thus individuals who are responsible for willful disregard of workplace safety and health standards will be prevented from passing on the costs of their criminal acts to the corporate entity.

Finally, the Committee expressly preserves the right of state and local law enforcement authorities to bring criminal prosecutions under state or local law. The criminal sanctions in the OSH Act should not displace general criminal sanctions in state or local law, including such crimes as murder, reckless homicide or assault.

Employer Pension Reversions and Transfers to Retiree Health Benefits

As part of the original bi-partisan Budget agreement, the Labor and Tax Committees of the Senate and House of Representatives were directed to amend current law to permit employers to make limited transfers of "excess" pension plan assets to retiree health benefit accounts and to limit the ability of employers to terminate pension plans and take tax-deferred assets. The Budget Resolution adopted by the Congress included the deficit reduction amounts resulting from enactment of these provisions. Enactment of these provisions is expected to raise approximately $500 million in fiscal year 1991 and $1 billion in fiscal years 1991-1995.

Employer Pension Reversions

Both of these pension policy issues have been the source of considerable Committee consideration and debate over the past several years. Since 1984, the Committee has been concerned that the practice of terminating pension plans and recapturing "excess" assets seriously undermines and jeopardizes workers, retirement benefits. During each of the past several Congresses, the Committee has reported out legislation to protect the pension benefits of workers and retirees in cases where employers terminate pension plans to recover so-called "excess" pension assets.

The employer pension reversion phenomenon has raised fundamental concerns about the funding of, and tax-preferred treatment accorded to, employer-sponsored pension plans. Prior to enactment of the Employee Retirement Income Security Act of 1974 (ERISA), the overwhelming majority of pension plans did not contain sufficient funds to meet workers' promised retirement benefits. Because the termination of numerous underfunded pension plans left tens of thousands of workers with little or no retirement benefits, Congress included strong tax incentives to employers to assure the adequate funding of pension plans.

By the early 1980's, Congress had succeeded in its goal as the majority of the nation's pension plans became well-funded. The unexpectedly strong stock market and high investment returns further increased the amount of assets accumulating in pension plans. (Although pension plans may be "overfunded" at a given point in time based upon current obligations, the so-called "excess" assets are needed to meet the future retirement obligations of the plan.) During this time, mergers and takeovers became prevalent. This widespread corporate restructuring created a need for ready cash. The assets in pension plans posed an attractive and financially lucrative means of financing for corporate transactions.

Initially, the government questioned the legality of employer attempts to terminate pension plans and raid the assets. But in 1984, the Reagan administration, after much employer lobbying, reversed its position and permitted the practice. As a result, tens of thousands of employers terminated their pension plans. The retirement security of millions of workers and retirees was destroyed. Congressional committees, including this committee, began to look into these transactions and the effect on workers and retirees. The growing realization that the Federal Government was subsidizing pension plan terminations because of the tax-deferred treatment of pension plan contributions and the interest earned, led Congress to enact a 10% excise tax on employer reversions in 1986. The excise tax was increased to 15% in 1988.

Study after study has demonstrated that workers, retirees, and taxpayers are harmed by pension plan raiding. Following a plan termination, current workers generally receive lower future pension benefits, retirees are less likely to receive cost of living adjustments, the Federal Government loses significant tax revenue and the Pension Benefit Guaranty Corporation, which insures pension plans, has increased exposure as a result of less well-funded pension plans. The findings of the Committee are more fully detailed and explained in S. Rept. No. 101-294 on S. 685, the Employee Pension Protection Act.

The Committee has long believed legislation is needed to protect the pension benefits of workers and retirees before employers may recover pension assets. Most recently, the Committee favorably reported S. 685, the Employee Pension Protection Act, to protect workers and retirees in employer reversion transactions. The provisions adopted by the Committee in this Budget Reconciliation Act take a comparable approach to protect the interests of all parties in pension plan assets. The goals of the Committee are two-fold: first, to reduce the incentive to employers to terminate pension plans as a means to financing other corporate needs; and second, to ensure that the interests of workers, retirees and the Federal Government are fairly protected before a company may gain access to pension plan assets.

The provisions adopted by the Committee on Labor and Human Resources, as part of the Budget Reconciliation Act, amend ERISA and the Internal Revenue Code to protect the interests of workers and the Federal Government in the following manner.

First, in order to recoup some of the revenue lost by the Federal Government due to the tax-deferred treatment provided to pension plan contributions and the interest earned thereon, the excise tax on employer reversions is increased to 20%. A recent General Accounting Office report concluded that the excise tax would need to be increased to 40% to fully recapture the value of the tax benefits realized by the employer as a result of the special tax treatment of plan contributions and the interest earned thereon. The Committee believes that a 20% excise tax is a reasonable amount of recovery to the Federal Government if accompanied by sufficient additional protections for the interests of workers and retirees.

Second, in order to protect the benefits promised to workers and retirees, the Act requires the employer to either set aside a portion of the excess assets for the benefit of the workers in another pension plan or provide benefit increases to workers and retirees. Specifically, the employer must either (a) transfer 20% of the "excess" assets to a replacement pension plan to be used to provide pension benefits to the workers or (b) provide benefit increases with a present value equal to 15% of the "excess" assets to both the active workers and retirees.

If the employer chooses option (a), the assets must be transferred either to a defined benefit or to a defined contribution pension plan covering substantially all of the active participants in the terminated pension plan. The assets transferred may only be used to provide pension benefits under the replacement plan. The employer may reduce the amount of assets transferred if benefit increases are provided during the 60 day period preceding the termination. Such increases must be provided on a nondiscriminatory pro rata basis. Previously agreed-upon increases, such as increases scheduled to occur under a collective bargaining agreement, shall not offset the amount required to be transferred. Nonactive participants may be included in any benefit increase.

Although employers are not required to include retired workers in the replacement plan or use any of the transferred assets for the benefit of retired employees, the Committee encourages employers to make every effort to take the retirement needs and security of retired workers into consideration. Retired workers live on fixed benefits that are constantly being eroded by inflation. Historically, employers have used "excess" pension assets to provide cost of living adjustments to retirees. As a result of the "le-

galization" of pension raiding in 1984, the incidence of retiree inflation adjustments has declined. In addition, the instability of the insurance market has increased the riskiness of pension annuity contracts, leaving retirees in an even more vulnerable position.

If the employer chooses to provide benefit increases through alternative (b), nonactive participants must be included. No less than 15% of the maximum amount that the employer could receive as an employer reversion may be used for benefit increases. Current workers must receive immediate increases in their future benefits and retired participants and beneficiaries must receive immediate increases in their annuities or otherwise distributed benefits. No more than 40% of assets may be used for benefit increases to nonactive participants.

If an employer fails to comply with the above requirements, an additional 20% excise tax must be paid to the federal government. The committee expects that few employers will fall into this category. It is in the long-term financial interest of employers to provide a basic level of protection to workers and retirees, rather than contributing additional funds to the federal government. The only exception to this additional excise tax is in the event the employer is in financial distress and thus being forced to liquidate its operations under chapter 7 of the U.S. Bankruptcy Code. Although the Committee is concerned that the workers and retirees are being asked to sacrifice some of their retirement benefits for companies in financial distress, it is likely that the same workers and retirees are the major creditors of the liquidating employer. Where there are limited amounts of available assets, the immediate salary and other benefit needs of workers and retirees also are of significant importance. The Committee remains troubled by this regrettable circumstance where in any event the workers and retirees are harmed. The Committee is aware that the termination of the pension plan may occur in other circumstances of financial restructuring, such as reorganization under chapter 11 of the U.S. Bankruptcy Code. Where the company will remain viable, the retirement security of the workers and retirees remains imperative. The bankruptcy trustee should make every effort to provide a replacement pension plan for the workers and utilize the pension plan assets to meet the future retirement needs of the workers and retirees.

The option either to transfer or increase benefits is set at percentages of 20% and 15% because those are the percentages that are consistent with the Committee's Budget Reconciliation instruction. A majority of the members of the Committee support stronger protection for workers and prefer requiring either that 30% be transferred to another pension plan or that 25% be used to provide benefit increases to workers and retirees. In the event that the other Committees of jurisdiction include higher levels of protection, the Labor Committee will support the stronger amounts of worker protection.

The amendments to ERISA make clear that these provisions are subject to the full weight of the fiduciary responsibility requirements of the law. It is the relevant fiduciary's responsibility to ensure that the requirements of this Act are satisfied as well as accomplished in conformity with the existing fiduciary obligations of ERISA. As under ERISA, fiduciaries are personally liable for breach of these provisions and participants have the right to sue to ensure compliance and redress violations of the law.

Transfers to Retiree Health Benefits

The second change in current law made by this Act is the provision permitting employers to transfer certain "excess" pension assets to meet their existing retiree health benefit obligations for a limited period of time. Under current law, employers may pre-fund their pension benefit obligations on a tax-deferred basis and pension plan assets may only be used to provide retirement benefits. Health benefit plans are not provided tax-deferred pre-funding treatment under current law.

As health care costs have rapidly escalated, employers have vigorously lobbied for some form of health benefit pre-funding. The Financial Accounting Standards Board will soon require retiree health benefit liabilities be reported on financial balance sheets. The new requirement further increases the pressure from employers to permit some pre-funding of these obligations. In light of the current budget deficit, general tax-deferred pre-funding of health benefits is not a realistic option. The Committee has decided to provide short-term relief by permitting employers to use "excess" pension assets, on a tax-free basis, to diminish their current retiree health benefit obligations.

Many members of Congress are sympathetic to the need to provide funding for health benefits. But allowing the use of pension assets for this purpose is deeply troubling. This change in longstanding pension policy involves the crucial determination of whether pension plans actually contain "excess" pension assets. Even if pension plans contain assets in excess of their *current* obligations, these assets are needed to meet *future* retirement benefits. The difference between terminations and transfers is that under a transfer the pension plan remains in existence. Therefore, workers still retain their plans and continue to earn future benefits. But the security of the pension funds may be seriously jeopardized in the event of a recession or change in the financial status of the employer. Balancing the health care needs of workers and retirees against their retirement needs is a difficult if not impossible dilemma for Congress.

With these concerns in mind, the Committee has reluctantly agreed to provide employers the ability to use pension plan assets to fund their retiree health benefit expenses for a limited period of time and provided certain minimum pension and health benefit protections are met. Employers may not automatically transfer pension plan assets. The ability and decision to transfer is fully subject to the existing provisions of ERISA and other laws. Employers under a collective bargaining obligation must negotiate over the transfer. Employers also are subject to other laws such as laws which establish requirements for the payment of wages and benefits for government contractors.

In order to protect pension plan participants and the health of the pension plan, certain pension protections are required. Pension assets may only be transferred if the pension plan is fully funded under current law. Generally, pension plans are fully funded at 150% of current liability. Plans funded based upon accrued liability may transfer assets in excess of 125% of current liability.

Assets may be transferred into a retiree health benefits account under section 401(h) of the Internal Revenue Code only for the same participants of the pension plan. All participants in the pension plan must be 100% vested in their accrued benefits as of the date of the transfer. All participants and the government must be notified 60 days in advance of a transfer.

The transfer is subject to the fiduciary responsibility requirements of ERISA. It is the obligation of the fiduciary to ensure that the funding status of the pension plan is not jeopardized in any way. The transfer must be made solely in the interest of all participants and beneficiaries, must be conducted in a prudent manner, and must be in accordance with the terms of the pension plan. Fiduciaries are personally liable for their actions and participants have the right to sue if any of the provisions of this Act or other laws are not met.

In order to provide some protection to the health benefits promised to retirees, health benefits may not be reduced for a five year period subsequent to a transfer. Any assets transferred in excess of existing retiree health benefit expenses must be returned to the pension plan. The transfer provision expires after December 31, 1995. After such date, pension plan assets may only be used to provide retirement benefits to workers and retirees.

Pension Benefit Guaranty Corporation Premium Increase

The bipartisan Budget agreement and the modified Budget Resolution adopted by Congress assume an increase in the annual premiums paid to the PBGC sufficient to reduce the federal deficit by $120 million in fiscal year 1991 and $640 million in fiscal years 1991–1995.

Currently, employers pay a flat premium of $16 a year for each participant covered by a single-employer defined benefit pension plan that is insured by the PBGC. In addition, employers sponsoring underfunded pension plans pay a variable premium of $6 for every $1000 of underfunding, up to a cap of $34.

After many years of insufficient premiums, the PBGC premium was substantially increased in 1985 and again in 1987. The PBGC has maintained a deficit in almost every year of its existence. The 1985 and 1987 increases were calculated to provide the PBGC with adequate resources to meet its long-term potential obligations. In fact, the 1987 increase assumed that the PBGC would be liable for the pension plans of the LTV Corporation which were underfunded by approximately $2 billion. Since that time, as a result of a Supreme Court decision, the PBGC has been relieved of this significant financial burden. Presently, although the PBGC is underfunded by approximately $1 billion and has potential future liabilities between $30–40 billion, its financial status is fairly stable.

The Committee is concerned that the need for an additional premium increase at this time has not been demonstrated. The instruction to raise the premium is solely based on deficit reduction. This is the first time that the Committee has been isntructed to increase PBGC premiums in the absence of a demonstrated need for an increase.

In order to achieve the required level of deficit reduction, the Committee Budget Reconciliation provisions increase the flat PBGC premium to $19, increase the variable premium to $9 for every $1000 of underfunding, and raise the variable cap to $53.

This premium increase retains the current premium structure.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, October 12, 1990.

Hon. JIM SASSER,
Chairman,
Hon. PETE V. DOMENICI,
Ranking minority member,
Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR JIM AND PETE: Pursuant to section 4(a) of House Concurrent Resolution 310, the Concurrent Resolution on the Budget for Fiscal Year 1991, and action of the Committee at an October 12, 1990, meeting, the Committee on Veterans' Affairs is submitting to the Budget Committee the enclosed legislation and report recommending budget savings. The reconciliation instructions contained in section 4(c)(10) of H. Con. Res. 310 require this Committee to report changes in laws within this Committee's jurisdiction sufficient to reduce outlays for veterans' programs by $620 million in fiscal year 1991 and $3.35 billion in fiscal years 1991-1995.

In order to meet these requirements, our Committee, by voice vote, makes numerous recommendations, all of which are explained in the enclosed report language. In light of the savings levels required, we believe that these recommendations would make savings in the most appropriate areas.

We also have enclosed a cost estimate prepared by the Congressional Budget Office.

Estimated savings resulting from enactment of the legislation we are submitting would exceed the five-year total of $3.35 billion in required reconciliation savings by $2.71 billion. According to CBO estimates, the Committee legislation would achieve net savings of $6.059 billion in outlays over fiscal years 1991 through 1995.

Sincerely,

ALAN CRANSTON,
Chairman.
FRANK H. MURKOWSKI,
Ranking minority member.

TITLE XI—BUDGET RECONCILIATION RECOMMENDATIONS OF THE COMMITTEE ON VETERANS' AFFAIRS.

INTRODUCTION

Section 4(c)(10) of the Concurrent Resolution on the Budget for Fiscal Year 1991 (H. Con. Res. 310) requires the Senate Committee on Veterans' Affairs to submit to the Senate Committee on the Budget recommendations for changes in laws within the jurisdiction of the Committee on Veterans' Affairs that in FY 1991 would reduce outlays by $620 million and outlays in FYs 1991-1995 by $3.35 billion.

On October 12, 1990, the Committee met in open session and by voice vote agreed to recommend legislative provisions that would yield savings of $648 million in FY 1991 and a total of $6.05 billion in FYs 1991-1995.

SUBTITLE A—COMPENSATION AND PENSION

Limitation on Compensation Benefits for Incompetent Veterans Having Estates

Section 11001 of the Committee legislation, which is derived from Administration-requested legislation (S. 2499) would amend section 3203 of title 38, United States Code, so as to limit the amount of accumulated disability compensation payments made to an incompetent veteran which could be inherited by nondependent heirs of the veteran. To achieve this the legislation would provide that, whenever the estate of such a veteran without dependents exceeds $25,000, no further payments of compensation would be made until the estate is reduced to $10,000. The $25,000 limitation would be applied in any case in which an incompetent veteran has neither a spouse, dependent child, nor dependent parent. It would also provide for a lump-sum payment to the veterans of any benefits withheld, should the veteran regain competence for more than 90 days.

Under current law, the amount of funds derived from disability compensation which may accumulate in the estate of an incompetent veteran without dependents is virtually unrestricted, except during period when the veteran is institutionalized at government expense. During such periods of institutionalization, benefit payments are stopped if the veteran's estate exceeds $1,500.

There is also no restriction in Federal law on who may inherit such funds upon the veteran's death. Inheritance of funds accumulated in veterans' estates is subject to the laws of the various States and territories of the United States. While these laws vary as to the specific classes of relatives to inherit when a person dies intestate, all permit inheritance by nondependent heirs. Under section 3202(e) of title 38, only in the absence of any heir recognized by State law do funds held by an incompetent veteran's fiduciary derived form VA benefits (which would otherwise escheat to the State) revert to the federal government.

The Committee legislation would limit the amount of funds which could be inherited by nondependent individuals. This provision would not diminish the amount of money used for the care and maintenance of incompetent veterans and would result in significant savings. Loss of home or possessions would be avoided by the exception of residence and personal effects from the estate limit. There should be no adverse impact on the day-to-day life of the veteran, only on the size of the estate under the fiduciary's control.

This provision would take effect as of November 1, 1990.

Savings

According to CBO, the enactment of section 11001 would result in savings of $125 million in outlays in FY 1991 and total savings of $778 million in outlays in FYs 1991-1995.

Elimination of Presumption of Total Disability in Determination of Pension for Certain Veterans

Section 11002 of the reconciliation legislation would amend section 105(a) of title 38 so as to eliminate the provision in current law pursuant to which a veteran is considered to be permanently and totally disabled for VA pension eligibility purposes at age 65.

Under current law, veterans with specified service during periods of war are eligible for a needs-based pension from VA if they are "permanently and totally disabled" from non-service-connected disabilities and meet certain income tests. Under section 502(a) of title 38, a veteran who is 65 years of age or older is considered to be permanently and totally disabled.

The current VA regulation, section 4.17 of title 38, Code of Federal Regulations, relating to disability ratings for pension, establishes certain disability percentage requirements for ages below 65, which take into account the veteran's age as well as actual disabilities. Thus, on the attainment of age 55, a veteran with a 60-percent rating for one or more disabilities, can be rated as permanently and totally disabled; the requirement at age 60 through 64 is a 50-percent rating.

If this provision is enacted, a veteran seeking VA pension will not be presumed to be permanently and totally disabled simply by virtue of attaining any given age. While the Committee anticipates that the Secretary will set in regulations appropriate guidelines as to the level of disability required for veterans age 65 or over in order to be considered permanently and totally disabled for pension purposes, the Committee expects that there will be an affirmative determination regarding the veteran's disability.

The CBO cost estimate assumes that VA will continue its practice of issuing regulations relating to disability ratings for pension benefits, which take into account the veteran's age as well as actual disabilities.

This provision would take effect as of November 1, 1990. It would not apply to those veterans who are now receiving VA pension.

Savings

According to CBO, enactment of section 11002 would result in savings of $17 million in outlays in FY 1991 and total savings of $313 million in outlays in FYs 1991-1995.

Reduction in Pension for Veterans Receiving Medicaid-Covered Nursing Home Care

Section 11003 of the Committee legislation would limit monthly pension payments to $90 for Medicaid-eligible recipients of a VA pension who are in nursing homes participating in Medicaid—except for those who are in State veterans homes.

Under current law, veterans in nursing homes at VA expense who have no dependents have their pension benefits reduced to a maximum of $90 a month after the third month of care but veterans in nursing homes under Medicaid do not have their pension benefits reduced.

Veterans who are receiving VA pension who are in nursing homes under Medicaid are required to apply their VA pension toward the cost of their nursing home care. These payments reduce considerably the costs to the Medicaid program of paying for nursing home care for eligible individuals and, because the pension payments are used to pay for nursing home care, they do not benefit the veteran directly. Because Medicaid is a federally-aided program and the federal-government funds the VA pension program, the end result of this situation is that the federal government funds a very large share of medicaid nursing-home care for VA pensioners.

In a July, 1987, report entitled "VA Pensions to Medicaid Nursing Home Residents Should Be Reduced", the General Accounting Office recommended that Congress amend title 38 to require that VA pension for veterans and their survivors who enter a nursing home under Medicaid be reduced. The report concluded that reducing a Medicaid-eligible nursing-home resident's VA pension would not adversely affect a veteran's access to nursing home care and would result in substantial savings to the federal government.

Savings

According to CBO, the enactment of section 11003 would save $22 million in outlays in FY 1991 and $539 million in outlays in FYs 1991-1995.

Ineligibility of Remarried Surviving Spouses for Reinstatement of Dependency and Indemnity Compensation or Pension Upon Becoming Single

Section 11004 of the Committee legislation would amend section 103(d) of title 38 so as to preclude a surviving spouse of a veteran who has remarried and subsequently

become single from regaining eligibility for dependency and indemnity compensation (DIC) or pension benefits.

Under current law, a surviving spouse of a veteran who died from a service-connected cause, or a needy surviving spouse of a veteran of wartime service who died from a non-service-connected cause, and who remarries, loses eligibility for DIC or VA needs-based pension during the period of the remarriage. However, that eligibility is reinstated when the remarriage is terminated by death or divorce. Likewise under current law, such a surviving spouse who lives with another person and holds himself or herself out openly as that person's spouse is barred from receiving DIC or pension while living with such person. Upon termination of that arrangement, the surviving spouse again becomes eligible.

This provision in the reconciliation legislation would bar these categories of surviving spouses from gaining renewed eligibility for DIC or pension benefits. Under the provision, any claim for reinstated benefits filed prior to November 1, 1990, would not be affected.

Savings

According to CBO, section 11004 would result in savings of $19 million in outlays in FY 1991 and total savings of $374 million in outlays in FYs 1991-1995.

Limitation on Cost-of-Living Increases in Compensation Rates

Section 11005 of the reconciliation legislation provides that the cost-of-living adjustment (COLA) for disability compensation and dependency and indemnity compensation for fiscal year 1991 will be adjusted. Specifically, the increases are to be rounded down to the next lower dollar amount and, because such rounding down would not affect the COLA for veterans rated 20 percent disabled or less, the provision would reduce those COLAs by $1 per month each. The COLA—which currently CBO estimates to be 4.5 percent—will be effective on the same date as the COLA increases provided to Social Security recipients and VA pension beneficiaries.

Savings

According to CBO, section 11005 would result in savings of $18 million in outlays in FY 1991 and total savins of $113 million in outlays in FYs 1991-1995.

SUBTITLE B—HEALTH CARE

Medical-Care Cost Recovery

Section 11011 of the Committee legislation would amend section 629 of title 38 so as to expand VA's program of recovery from health insurance companies of the reasonable cost to VA of furnishing medical care for non-service-connected disabilities. Under this provision, VA would be authorized to recover such costs in the cases of insured service-connected-disabled veterans receiving care for their non-service-connected conditions.

Under current law, VA may collect from a third party the reasonable cost of medical care it furnishes for certain nonservice-connected disabilities to the same extent that a provider other than a department or agency of the United States would be eligible to receive payment from that third party. In the cases of all veterans, section 629 applies to non-service-connected disabilities which are covered under (a) a workers' compensation law, (b) a State law concerning no-fault automobile insurance, or (c) a State or local program of compensation for victims of a crime of personal violence. In the cases of veterans who have no service-connected disabilities, VA may attempt to recover the cost of all medical care from their health insurers. Funds collected from third parties are deposited in the Treasury as miscellaneous receipts and can be used neither to reduce or offset annual appropriations for VA nor to cover immediate expenses incurred by collection efforts. Aside from the three State programs listed above, VA may not seek to recover costs of care from the third parties covering veterans with any service-connected disability.

The Committee legislation would expand VA's medical-care cost recovery program by authorizing collections from third parties for the care provided to all service-connected-disabled veterans for their non-service-connected conditions.

The Committee legislation would also establish a new Medical Care Cost Recovery Fund (MCCRF), into which amounts collected under section 629 and copayments by veterans for certain non-service-connected care (as described below in the discussion of sections 11012 and 11013 of the Committee legislation) would be deposited. This fund would be used only to cover costs incurred by VA in connection with billing and collection efforts. The Secretary of Veterans Affairs would make to the Treasury payments of the amount by which collections deposited in the MCCRF exceed the costs of conducting the program of billing and collections.

In order to establish the MCCRF with a workforce of 800 full-time employee equivalents (the employment level proposed by the Administration), the Committee bill provides for the Secretary to transfer $25 million to the MCCRF from VA's Loan Guaranty Revolving Fund (LGRF) and for the first $25 million collected by VA in FY 1991 to be credited to the LGRF. The Committee expects this advance to be repaid completely during the first quarter of FY 1991.

The Committee notes that it views this provision for making this inter-fund advance an extraordinary one that is necessary to ensure that billing and collection activities under the MCCRF are funded immediately and that, as a consequence, the maximum deficit-reduction effort is achieved. In fact, without such a provision ensuring that the funds are available to initiate MCCRF operations, CBO has advised the Committee that the provision establishing the MCCRF would not be credited with any savings. The Committee does not intend to make a regular practice of such transfers.

The provisions of section 11011 would take effect as of October 1, 1990.

Savings

According to CBO, the enactment of section 11011 would result in savings of $113 million in outlays in fiscal year 1991 and a total savings of $990 million in outlays in fiscal years 1991 to 1995.

Copayments for Medications

Section 11012 of the Committee legislation would require VA to charge a $2 copayment for each 30-day supply of medication for all non-service-connected veterans for the treatment of any disabilities or conditions and for veterans with service-connected disabilities rated at 0 to 40 percent for the treatment of non-service-connected disabilities or conditions. A veteran would be required to pay $2 for each 30-day supply of each medication. This provision would apply to both prescription drugs and over-the-counter medications.

Current law contains no provision for charging copayments for supply of medication. The Committee legislation would require certain veterans to defray part of the cost of their medications, but would still enable them to receive medications for a fee that is considerably lower than that charged by most alternative sources.

The Committee urges the Secretary to maximize collections under this provision by adopting a policy of making collections at the time medications are provided.

Savings

According to CBO, the enactment of section 11012 would result in savings of $66 million in outlays is FY 1991 and total saving of $411 million in outlays in fiscal years 1991 to 1995.

Modification of Health-Care Categories and Copayments

Section 11013 of the Committee legislation would amend sections 610, 612, and 622 of title 38 to (1) eliminate the distinction between so-called Category B and C veterans; (2) establish, for the purposes of copayments, two groups of veterans, one of which would not be required to pay copayments for hospital, nursing home, or outpatient care, and the other of which would be charged copayments for those services as a condition of receiving VA care; and (3) add to the existing copayments for hospital and nursing home care daily copayments for such care.

Under section 622(b)(1) of title 38, Category B veterans are those who are not entitled to hospital or nursing home care and whose annual incomes fall within specified levels. Those Category B levels for a veteran with no dependents are not less than $17,241 but not more than $22,986. In the case of a veteran with one dependent, the levels are less than $20,689 but not more than $28,733. Further increases are made for each additional dependent. Under current law, these veterans are eligible for, but not entitled to, VA care and they make no copayments.

Category C veterans are those who are not entitled to hospital or nursing home care and whose annual incomes exceed the applicable Category B upper limits. Except in cases of emergency, Category C veterans are eligible for VA health care only upon agreement prior to admission to make the required copayments. Under section 610(f)(3), the copayment requirement for the first 90 days of hospital care in a 365-day period is the amount of the annual inpatient Medicare deductible (currently $628). The copayment for each additional 90 days (or fraction thereof) after the initial 90 days of such care during that 365-day period is the amount equivalent to one-half the annual inpatient Medicare deductible. For nursing home care, the copayment is the amount of the inpatient Medicare deductible for each 90 days of such care (or fraction thereof) during a given 365-day period. Under section 612(f), the copayment requirement for outpatient care is equivalent to 20 percent of the average cost of an outpatient visit throughout the VA system during the current year. This copayment is currently $26 per visit.

Section 612(f) also provides that no veteran may be required to pay an outpatient copayment which would result in the veteran making total payments to VA, including any for hospital or nursing home care, that would in any 90-day period exceed the Medicare deductible or in any 365-day period exceed an amount equal to four times the Medicare deductible.

Section 11013 of the Committee legislation would modify current law by merging Category B and Category C veterans into one group that is subject to copayment requirements and by adding copayments for each day of care. Thus, for hospital care, veterans whose incomes are above the current Category B threshold and who are not otherwise entitled to hospital care would be required to pay a copayment of $10 for each day of care plus the amount of the Medicare annual inpatient deductible for the first 90 days in a 365-day period or one-half of that amount for each succeeding 90-day period in that 365-day period. For nursing home care, these veterans would be required to pay a copayment of $5 for each day of care plus the amount of the Medicare inpatient deductible for each 90 days of care. For outpatient care, all veterans whose incomes are above the threshold and who are not otherwise entitled to outpatient care under section 612(a) would be charged a per visit copayment in the amount of 20 percent of the average cost of a VA outpatient visit during the calendar year in which the services are furnished, and the existing caps in copayments for outpatient care would be eliminated.

The Committee urges the Secretary to maximize collections under this provision by adopting a policy of making collections at the time care is provided.

The amendments made by section 11013 would take effect as of October 31, 1990.

Savings

According to CBO, enactment of section 11013 would result in savings of $35 million in outlays in fiscal year 1991 and total savings of $217 million in outlays in fiscal years 1991 to 1995.

SUBTITLE C—EDUCATIONAL AND VOCATIONAL ASSISTANCE

Interterm Reduction of Educational Assistance

Section 11021 of the Committee legislation would amend chapter 30 (the All-Volunteer Force Educational Assistance Program), chapter 32 (Post-Vietnam Era Veterans' Educational Assistance), and chapter 35 (Survivors' and Dependents' Educational Assistance) of title 38, and chapter 106 (Educational Assistance for Members of the Selected Reserve) of title 10, United States Code, so as to reduce the amount of educational assistance payable under these chapters to an eligible individual for a period of less than 30 days between semesters, quarters, or other academic terms. The amount of the monthly benefit payable would be reduced for the duration of the period between academic terms to one-third of the amount that would otherwise be payable to an eligible individual. A reduction would not be required for any period of less than seven days.

Currently, under section 1780 of title 38, eligible veterans and other eligible persons participating in VA educational assistance programs continue to receive benefits without reduction for periods between academic terms if this interval does not exceed one full calendar month. If the interval is for more than a month, educational assistance is discontinued for the period between the terms.

The costs of administration of section 11021 would be paid for out of VA's Readjustment Benefits account. The amendments made by this section would take effect on November 1, 1990.

Savings

According to CBO, the enactment of section 11021 would result in savings of $33 million in outlay in FY 1991 and total savings of $262 million in outlays in FYs 1991-1995.

Elimination of Vocational Rehabilitation Benefits for Certain Disabled Veterans

Section 11022 of the Committee legislation would amend sections 1502 and 1517 of title 38, United States Code, so as to limit eligibility for chapter 31 training and rehabilitation benefits to veterans with service-connected disabilities rated at 30 percent or more.

Under Chapter 31 of title 38 all veterans with compensable service-connected disabilities who have an employment handicap are entitled to rehabilitation services and assistance necessary to enable them to achieve maximum independence in daily living and, to the maximum extent feasible, to become employable and to obtain and maintain suitable employment. Thus, the effect of the proposed legislation would be to eliminate this entitlement of those who have disabilities rated as 10 or 20 percent disabling.

The amendments made by this section would take effect on November 1, 1990.

Savings

According to CBO, the enactment of section 11022 would result in saving of $30 million in outlays in FY 1991 and total savings of $312 million in outlays in FYs 1991-1995.

SUBTITLE D—HOME LOAN GUARANTIES

Election of Claim Under Guaranty of Manufactured Home Loans

Section 11022 of the Committee's reconciliation legislation would authorize VA to accept a claim on a loan on a manufactured home from a lender as soon as the lender is notifed of VA's resale price.

Section 1812(c)(3) of title 38 specifies that when a VA-guaranteed loan on a manufactured home terminates in default, payment on the guaranty may be made only after the liquidation of the security property. Thus, in such a default, VA must satisfy the guaranty by paying the lender the difference between the veteran's debt and the resale price of the manufactured home, up to the maximum amount of the guaranty.

The provision in reconciliation legislation would amend section 1812 so as to authorize VA, on the election of the holder of the loan, to pay the lender's claim based on VA's estimate of the resale value of the property, without waiting for the resale to occur. Any loss or profit on the actual resale would be borne by the lender.

Savings

According to CBO, section 11031 would result in savings of $4 million in outlays in FY 1991 and total savings of $14 million in outlays in FYs 1991-1995.

Increase in Certain Loan Origination Fees

Section 11032 of the reconciliation legislation would increase, for the balance of FY 1991, the current loan origination fee by .75 percent. Under this change, the basic fee set forth in section 1829(a) of title 38 would increase from 1.25 percent of the total loan amount to 2.0 percent of such amount for loans closed before September 30, 1990.

The Committee has retained the incentive in current law—in sections 1829(2) (b) and (c)—for veterans who make downpayments of 5 and 10 percent. Thus, the fee would be 1.50 percent for veterans making a downpayment of 5 percent or more and 1.25 percent for those who make downpayments of 10 percent or more on other than manufactured-home loans.

Section 11032 also continues the current exemption for disabled veterans and their surviving spouses from payment of the loan fee and would require the government to pay the fees for those borrowers.

Savings

According to CBO, enactment of section 11032 would result in savings of $94 million in outlays in FY 1991 and total savings of $402 million in outlays in FYs 1991-1995.

SUBTITLE E—BURIAL BENEFITS AND GRAVE MARKERS

Limitation of Burial Plot Allowance

Section 11041 of the Committee legislation would amend section 903(b) of title 38 so as to revise the eligibility for the $150 plot allowance, which VA currently pays on behalf of certain deceased veterans. Under current law, this benefit is paid for a veteran who is not buried in a national cemetery and who was, at the time of death, (a) either in receipt of compensation (or but for the receipt of retirement pay would have been entitled to compensation), or in receipt of VA needs-based pension, (b) was discharged or released from active military, naval, or air service for disability incurred in the line of duty, or (c) was a veteran of any war. Under section 903(b)(1) of title 38, if an eligible veteran is buried (without charge for the cost of a plot or interment) in a State veterans cemetery which has the same criteria for burial as a national cemetery, VA may pay the $150 plot allowance directly to the State. The Committee legislation would continue to allow plot allowances to be paid to State veterans cemeteries for the interment of any veteran who meets the current eligibility criteria for that benefit, but would limit eligibility for the plot allowance to the cases of veterans who, at the time of death, are eligible for burial benefits under section 902(a) of title 38.

Savings

According to CBO, the enactment of section 11041 would result in savings of $27 million in outlays in FY 1991 and total savings of $147 million in outlays in FYs 1991-95.

Elimination of Headstone Allowance

The Committee legislation would eliminate VA's authority, under section 906(d) of title 38, to provide reimbursement for the cost of acquiring a headstone or gravemarker for a deceased veteran who is eligible for burial in a national cemetery but is buried in a cemetery other than a national cemetery. The amount of reimbursement that VA is authorized to pay may not exceed the average actual cost that VA pays for acquiring headstones and markers, which is currently approximately $80.

Savings

According to CBO, the enactment of section 11042 would result in savings of $3 million in outlays in FY 1991 and total savings of $19 million in outlays in FYs 1991-95.

SUBTITLE F—MISCELLANEOUS

Use of Internal Revenue Service and Social Security Administration Data for Income Verification

Section 11051 of the reconciliation legislation would amend paragraph (7) of section 6103(l) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(l)(7))—relating to disclosures of certain third-party and self-employment tax information (from the Commissioner of Social Security or the Secre-

tary of the Treasury) to Federal, State, and local agencies administering certain programs under the Social Security Act (essentially Supplemental Security Income, Aid to Families With Dependent Children, and Medicaid), the Food Stamp Act of 1977, or the unemployment compensation program for purposes of income verification—so as to require disclosure to VA of (a) such information for purposes of determining eligibility for VA needs-based pension programs under chapter 15 of title 38 or any other law administered by VA, needs-based parents' dependency and indemnity compensation provided under section 415 of title 38, and VA health-care services based on income status under sections 610(a) (1)(I) and (2), 610(b), and 612(a)(2)(B) of title 38, and (b) only wage and self-employment information from such returns for purposes of determining eligibility for compensation paid, pursuant to section 4.16 of title 38, Code of Federal Regulations, at the total-disability-rating level based on an individual determination of unemployability.

Section 11051 is substantively identical to section 710 of S. 2100 as reported by the Committee on July 19 and to section 704 of S. 13 as reported on September 13, 1989, which is discussed in detail in the report accompanying S. 13 (S. Rept. No. 101-126, pages 297-303).

Savings

According to CBO, the enactment of section 11051 would result in savings of $28 million in outlays in FY 1991 and total savings of $787 million in outlays in FYs 1991-1995.

Line of Duty

Section 11052 of the reconciliation legislation would amend section 105(a) of title 38 so as to provide that injuries or diseases incurred during active service which are a result of willful misconduct or the abuse of alcohol or drugs will not be considered to have been incurred in the line of duty and thus would not be compensable by VA as service connected.

Under current law, direct or primary effects of willful misconducted may not be compensated as service connected. However, under VA regulations (section 3.301 of title 38, Code of Federal Regulations), organic diseases and disabilities which are a secondary result of the chronic use of alcohol or of drugs are not considered to be caused by willful misconduct. The Committee legislation is designed to change that result.

A VA White Paper discussing a legislative proposal having the same objective commented on the practical effects of such a provision. The text of that White Paper follows:

Effect of Proposed Amendment to Section 105(a)

Legislation has been proposed which would amend section 105(a) of title 38, United States Code, to provide that injuries or diseases incurred during active service which are the secondary effects of willful misconduct will not be considered to have been incurred in the line of duty. We have been asked to comment on the practical effects of such a provision.

Under current law (38 U.S.C. § 105(a)), an injury or disease incurred in active service is deemed to have been incurred in the line of duty unless the injury or disease was the result of the veteran's own willful misconduct. Eligibility for compensation (38 U.S.C. § 310) and nonservice connected pension (38 U.S.C. § 521(a)) includes a requirement that the underlying disability (or disabilities) not be the result of the veteran's willful misconduct. VA has generally held that alcoholism and drug addition, standing alone, cannot be service-connected disabilities. *See, e.g.*, 38 C.F.R. § 3.301(c)(3) (drug addiction); Admin. Dec. 988 (Aug. 13, 1964) (alcoholism).

VA regulations interpreting 38 U.S.C. § 105(a) hold that organic diseases and disabilities which are a secondary result of the chronic use of alcohol as a beverage or of drugs (and injections coinciding with the infection of drugs) are not considered of willful misconduct origin. (38 C.F.R. § 3.301(c)(2)-(3)). In addition, the residuals of venereal disease are not considered to be of willful misconduct origin. (38 C.F.R. § 3.301(c)(1)).

The primary effect of the proposed legislative change would be a new rule regarding the secondary effects of alcohol and drug use: organic diseases and disabilities which are a secondary result of the chronic use of alcohol as a beverage or of drugs (and infections coinciding with the injection of drugs) *would* be considered of willful misconduct origin under the proposed amendment to 38 U.S.C. § 105(a).

We see a small effect with respect to service-connected rulings. In order to be service-connected, a secondary disability must be diagnosed during active military service, manifest itself within the proper time frame under 38 U.S.C. § 312, or be secondary to a service-connected disability. Because of the long period of time that it usually takes for the secondary effects of alcoholism or drug abuse to manifest, few veterans are found to have these conditions in service or within the presumptive period. If the secondary effects of in-service drug abuse or alcoholism manifest themselves after the presumptive period, service connection cannot be granted because they are not secondary to a service-connected condition.

On the other hand, the secondary effects of alcoholism or drug abuse can give rise to eligibility for nonservice-connected pension. The disability requirements under 38 U.S.C. § 521 do not require service-connected disability.

With respect to AIDS, because venereal disease is not per se willful misconduct under 38 U.S.C. § 105(a) and 38 C.F.R. § 3.301(c)(1), the proposed amendment would not prohibit eligibility for compensation or pension based on sexual transmission. The amendment would only bar benefits based on AIDS secondary to drug abuse.

Section 11052 would take effect with respect to line of duty determinations made on or after November 1, 1990.

Savings

According to CBO, the enactment of section 11052 would result in savings of $10 million in outlays in FY 1991 and total savings of $334 million in outlays in FYs 1991-1995.

Reporting of Social Security Numbers by Claimants and Uses of Death Information by the Department of Veterans Affairs

Section 11053 of the Committee legislation would require mandatory disclosure of claimants' and dependents' Social Security numbers (SSNs) in all claims for VA disability and death benefits. Under this provision, VA also would be required to compare its records regarding recipients of VA compensation or pension benefits with records of the Department of Health and Human Services to determine whether any such VA beneficiaries are deceased.

Chairman Cranston, at the request of the Administration, introduced legislation (S. 1110) on June 1, 1989, which would require the disclosure of SSNs to VA in all claims for disability and death benefits. At that time, the Committee believed that VA had not provided adequate justification for this requirement and in an August 27, 1990, letter from Chairman Cranston, the Committee requested additional information justifying VA's need for the SSNs of VA-benefit recipients. That letter, and VA's September 26, 1990, response, follow:

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, August 27, 1990.

Hon. EDWARD J. DERWINSKI,
Secretary of Veterans Affairs,
Washington, DC.

DEAR ED: On June 1, 1989, at the requst of the Administration, I introduced S. 1110, which would amend seciton 3001 of title 38 to authorize VA to require disclosure of claimants' and dependents' Social Security numbers (SSNs) in all claims for VA disability and death benefits. Congress declined to include S. 1110 in veterans legislation enacted last year because the Committee believed that VA had not shown the report on S. 13 (S. Rept. No. 101-126, pages 98-100), the Committee directed that you report to the Committee:

(1) the nature and extent of any abuses VA has discovered through use of names and other indentifying information of claimants, beneficiaries, and dependents in the cases of compensation and pension benefits as to which VA now lacks authority to require SSNs, and (2) in the case of each such benefit, the estimated number of cases in which VA believes SSNs are necessary to identify claimants, beneficiaries, and dependents in income verification processes, along with the estimated average monthly dollar amounts of the benefits involved.

Unfortunately the information that the Committee sought to obtain was not provided. In order for the Committee to have the opportunity to consider S. 1110 before the end of the current Congress, I would appreciate receiving responses to these questions before Congress reconvenes on September 10. If you have any questions regarding this matter, please have your staff contact Michael W. Cogan, Associate Counsel of the Committee, at 224-9126.

Thank you, Ed, for your cooperation on this and other matters relating to the administration of veterans programs.

With warm regards,

Cordially,

ALAN CRANSTON,
Chairman.

THE SECRETARY
OF VETERANS AFFAIRS,
Washington, DC, September 26, 1990.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am pleased to reply to your August 27, 1990 request for information justifying our need for the Social Security numbers of VA-benefit recipients to ensure proper payment levels. I have enclosed a reponsive paper prepared by the Chief Benefits Director. We would appreciate whatever support you can lend our proposal.

Sincerely yours,

EDWARD J. DERWINSKI.

Mandatory Disclosure of Social Security Numbers

Senator Cranston has requested information as to (1) the nature and extent of any

abuses VA has discovered through the use of names of other identifying beneficiary information in the cases of compensation and pension benefits as to which VA now lacks authority to require SSNs, and (2) in the case of each such benefit, the estimated number of cases in which VA believes SSNs are necessary to identify beneficiaries in income verification processes, along with the estimated average monthly dollar amounts of the benefits involved.

The protocols we use for our data matching programs make it almost impossible to provide the type of data requested by Senator Cranston. For due process and privacy reasons, during computer matches we do not accept or provide data on a beneficiary unless we are absolutely confident that the individual in our file is the individual on the matching file. We do not match on name alone. Depending upon the nature of records against which the match is being made, there may or may not be date of birth or some identifying information other than a social security number. If, during the matching process, any discrepancy is found in the name and/or other identifying data, or if there is no identifying information except the name, the case is placed in the "unable to match" category. Thus, no data is obtained to verify eligibility or payment amount, and we have no means of determining the nature or extent of the problems or abuses in such cases.

The vast majority of our pension cases contain a social security number. Approximately 200,000 (8.0 percent) of the service-connected death and disability cases, however, lack this critical identifer. A study recently completed by the General Accounting Office illustrates one of the problems these cases present.

On July 27, 1990, GAO issued a report (entitled "VA Needs Death Information From Social Security To Avoid Erroneous Payments (GAO/HRD-90-119)") which recommended that Congress authorize VA to require social security numbers of all veterans and their survivors as a condition for eligibility for either compensation or pension benefits. During its study GAO matched VA's 3.5 million payment records for April 1989 against death information kept by the Social Security Administration and identified several hundred deceased veterans who had active compensation or pension awards. VA is doing a claims folder review of approximately 1,600 of these cases (about one-third of the cases GAO tentatively identified). To date, 563 folders have been reviewed. In all but 77 cases, the regional office of jurisdiction had received notice of the beneficiary's death and terminated payments in the interim since April 1989. The 77 cases still in payment status involved service-connected death or disability benefits. Overpayments in these compensation and DIC cases totaled $456,000, an average of $6,039 per case. No pension cases were found to still be in payment status, in large part because the annual VA/SSA data match and the requirement for submission of an annual eligibility verification report served as mechanisms to ensure that the regional office obtained notice of the beneficiary's death. Over the years VA has used the annual SSA data match to identify needs-based with missing or incorrect social security numbers. Current regulations allow VA to require such beneficiaries to disclose their correct social security numbers.

At recent meetings, representatives of the Retired Pay Centers for the various military service branches again emphasized the importance and value of social security numbers in the VA/DOD data matches. In the past, millions of dollars in overpayments occurred each year because VA and the service departments could not identify cases in which a veteran was receiving compensation and retired pay or drill pay concurrently. Today, for those records which contain a social security number, these overpayments have all but been eliminated by on-going data matches.

We believe that our current data matching programs amply demonstrate the advantages that can be achieved when the beneficiary's social security number is a part of the claims record. Mandatory disclosure of this information for all beneficiaries would permit VA to improve current matches and provide a solid basis for additional matches.

Savings

Enactment of section 11053 would result in savings of $4 million in outlays in FY 1991 and total savings of $47 million in outlays for FYs 1991-1995.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 12, 1990.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for the Reconciliation recommendations of the Committee on Veterans Affairs, as ordered transmitted to the Senate Committee on the Budget, October 12, 1990.

The estimates included in the attached table represent the 1991-1995 effects on the federal budget and on the budget resolution baseline of the Committee's legislative proposals affecting spending. CBO understands that the Committee on the Budget will be responsible for interpreting how savings contained in these legislative proposals measure against the budget resolution reconciliation instructions.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
Director.

TITLE XI: PROVISIONS REDUCING SPENDING IN PROGRAMS WITHIN THE JURISDICTION OF THE SENATE COMMITTEE ON VETERANS' AFFAIRS

[Outlays in millions of dollars]

Section		1991	1992	1993	1994	1995	5-year total
	Direct spending savings:						
11001.	Limit compensation to certain veterans with estates	−125	−154	−160	−166	−173	−778
11002.	Eliminate pension disability presumption at age 65	−17	−39	−60	−89	−108	−313
11003.	Reduce pension to Medicaid nursing home residents	−22	−84	−131	−163	−139	−539
11004.	End benefits for remarried surviving spouses	−19	−45	−72	−107	−131	−374
11005.	Round down 4.5 percent COLA and cut 10 to 20 percent by $1	−18	−23	−24	−25	−23	−113
11011.	Medical care cost recovery	−113	−192	−218	−227	−240	−990
11012.	$2 medication copayment	−66	−78	−83	−89	−95	−411
11013.	Modify medical care categories and copayment requirements	−35	−41	−44	−47	−50	−217
11021.	Reduce education benefits between terms	−33	−44	−53	−61	−71	−262
11022.	Limit vocational rehabilitation to veterans rated 30 percent or more	−30	−70	−70	−71	−71	−312
11031.	File MHLP claims prior to resale	−4	−4	−3	−2	−1	−14
11032.	Increase loan fees by 0.75 percentage point	−94	−130	−104	−49	−25	−402
11041.	Limit plot allowance	−27	−30	−30	−30	−30	−147
11042.	Eliminate headstone allowance	−3	−4	−4	−4	−4	−19
11051.	Pension income verification	−28	−140	−195	−208	−216	−787
11052.	Secondary effects of willful misconduct	−10	−35	−63	−100	−126	−334
11053.	Require SSN's and match death records	−4	−7	−9	−12	−15	−47
	Direct spending total	−648	−1,120	−1,323	−1,450	−1,518	−6,059
	Authorizations:						
11002.	Eliminate pension disability presumption at age 65	2	2	2	2	20	10
11011.	Add 300 FTEE to collection activity of MCCR fund	0	9	9	9	10	37
11013.	Modify medical care categories and copayment requirements	−70	−82	−89	−96	−104	−441
11053.	Require SSN's and match death records	1	*	*	*	*	1
	Total authorizations	−67	−71	−78	−85	−92	−393
	Net Federal budget impact	−715	−1,191	−1,401	−1,535	−1,610	−6,452
	Impact on State governments	22	84	131	163	139	539

ADDITONAL VIEWS OF SENATOR ALAN CRANSTON

As Chairman of the Committee on Veterans' Affairs, I am pleased that the Committe has met its reconciliation instructions under the budget resolution by adopting the basic provisions I developed in consultation with the other members of the Committee. However, I am extremely disappointed that the Committee adopted by a 6-5 vote the amendment proposed by the Committee's Ranking Minority Member, Senator Murkowski, striking the expiration dates for various provisions that were incorporated in my proposed package. This will mean that the savings in veterans programs over the next five years will *exceed* our reconciliation instructions by *$2.7 billion.* My original proposal asked veterans to shoulder their assigned share of the deficit-reduction burden; deletion of the expiration dates means veterans will shoulder 80 percent *more* than their share.

In preparing legislation to meet our reconciliation targets, our Committee had to contend with greatly reduced first-year savings for almost all of the reconciliation provisions because we already are two weeks into FY 1991 and start-up time is necessary to implement the great majority of these program changes. This problem in achieving first-year savings was such a difficult impediment that no combination of program changes suggested in the Budget Summit Agreement would have satisfied the instructions given to our Committee. Thus, in order to meet our first-year savings, we had to make so many, and such extensive, program changes that our Committee far exceeded its required five-year savings target—as I noted above, by $2.7 billion.

There are very few provisions in this package that I would recommend in the absence of reconciliation requirements and the great need to reduce the federal deficit this year and in coming years.

Most of these provisions will affect veterans directly. These are the same men and women who served their country once and are willing, once again, to do their share to help make our nation stronger. This is a group that is used to making sacrifices. But their past service and sacrifices also place a burden on us to minimize the impact of these budget cuts.

That is why I cannot agree with those who contend that exacting an extra $2.7 billion from veterans programs over the next five years will be a great "bonus" for the U.S. Treasury.

That is why my proposed legislation included termination dates. These "sunset" dates would have accomplished very beneficial results.

First, they would have given the Committee and the Congress opportunities to reevaluate the provisions in the near future. If the experinece of a year or two showed that a provision is not too onerous on veterans or damaging to programs, the Congress easily could reauthorize it. If, on the other hand, a particular change proved destructive or unfair, it could expire without any adverse budget impact on the Committee's legislative efforts.

It is not difficult to imagine the painful effects of many of these provisions. For example, one provision, which I reluctantly agreed to include only in order to meet the very tough first-year requirements, would cut off disability compensation payments to an incompetent veteran with an estate worth $25,000 or more until the value of the veteran's estate dips to $10,000. This would require certain veterans to liquidate their life-time savings. Also, it could be particularly harsh for those whose personal-care expenses exceed their compensation benefits. After their estates are reduced to $10,000 in an accelerated fashion and their compensation benefits are resumed, their meager resources would continue to shrink. Another questionable provision would cut off disability compensation to veterans for cirrhosis of the liver resulting from alcohol consumption during military service, which VA considers "willful misconduct", rather than a disease. The requirement for a $2 copayment for each 30-day supply of medications may prove onerous for some of the poorest veterans, who are over-represented in the VA medical-care system. These and other provisions are controversial and, while they might be justifiable for a short-term trial period, they will be extremely difficult, as a practical matter, to terminate unless they are enacted with an expiration date. Legislation that terminates a permanent cost-saving provision—even one that proves to be unwise—stands little chance of enactment unless it includes offsetting, new savings.

Second, the flexibility to reauthorize the provisions or let them expire would have given the Committee an opportunity to continue certain savings and apply them to other, higher-priority veterans' programs if that is desirable and prudent. Without the sunset dates, the entire $6.059 billion in deficit-reduction will become part of the "baseline" and unavailable to offset the costs of desirable improvements in veterans benefits.

A further example of an unwise failure to provide an expiration date is the 0.75-percentage-point increase in VA's home loan guaranty fee—from 1.25 percent to 2 percent—a 60-percent increase. The only reason I proposed this increase was to enable the Committee to meet its first-year savings requirement. With the elimination of this provision's end-of-FY-1991 expiration date, it has now become a permanent form of taxation which, if enacted, will result in thousands of veterans not using their loan-guaranty entitlement. I find that most regrettable.

In summary, I believe that the amendment deleting the sunset provisions in the reconciliation package transforms the legislation I proposed from a carefully crafted set of program changes, tailored to meet our Committee's assigned responsibilities, into an onerous penalty on those who have done so much for our Nation. The result is an unfortunate distortion of the intent of our reconciliation instructions that takes unfair advantage of the breadth of the cuts we had to make in order to meet our first-year savings requirements.

Mr. DOMENICI addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. Mr. President, as I understand it, when we finished yesterday the leadership and managers had agreed that Senator GRAHAM from Florida would offer the next amendment.

Is the Senator ready?

Mr. GRAHAM. The Senator from Florida is ready.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Florida.

AMENDMENT NO. 3024

(Purpose: To prescribe standards for determining whether to provide deposit insurance)

Mr. GRAHAM. Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 3024.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of title II, add the following:

SEC. . DETERMINATION TO PROVIDE DEPOSIT INSURANCE.

Section 4 of the Federal Deposit Insurance Act (12 U.S.C. 1814) is amended—

(1) by amending subsection (b) to read as follows:

"(b) CERTIFICATION BY OTHER BANKING AGENCIES.—Every national bank which is authorized to commence or resume the business of banking, and which is engaged in the business of receiving deposits other than trust funds as herein defined, and every noninsured national nonmember bank which becomes a member of the Federal Reserve System, and every noninsured State bank which is converted into a national member bank or which becomes a member of the Federal Reserve System, and which is engaged in the business of receiving deposits other than trust funds as herein defined, shall be an insured depository institution upon—

"(1) application to the Corporation; and

"(2) receipt by the Corporation of a certificate which is issued to the Corporation by the Comptroller of the Currency in the case of a national member bank which is authorized to commence or resume the business of banking or a State bank which is converted into a national member bank, or by the Board of Governors of the Federal Reserve System in the case of a national nonmember bank or a State bank which becomes a member of the Federal Reserve System, and which meets the requirements of subsection (d), unless insurance is denied by the Board of Directors.";

(2) by redesignating subsections (c) and (d) as subsections (i) and (j), respectively; and

(3) by inserting after subsection (b) the following new subsections:

"(c) INTERIM NATIONAL BANKING ASSOCIATIONS.—In the case of any interim national bank that is chartered by the Comptroller of the Currency and will not open for business, such bank shall be an insured depository institution upon the issuance of such bank's charter by the Comptroller.

"(d) CERTIFICATE REQUIREMENTS.—Any certificate issued to the Corporation under subsection (b) shall state that the bank is authorized to transact the business of banking in the case of a national member bank, or is a member of the Federal Reserve System in the case of a State bank which is converted into a national member bank, or a national nonmember bank or a State bank which becomes a member of the Federal Reserve System, and that consideration has been

given to the factors enumerated in section 6 of this Act.

"(e) REVIEW REQUIREMENTS.—In reviewing any certificate and application referred to in subsection (b), the Board of Directors shall consider the factors described in paragraphs (1), (2), (3), (4), (5), and (7) of section 6 of this Act in determining whether to deny insurance.

"(f) NOTICE OF DENIAL OF APPLICATION.—If the Board of Directors, after giving due deference to the determination of the Comptroller of the Currency or the Board of Governors of the Federal Reserve System, as appropriate, with respect to such factors, does not concur in the determination of the Comptroller or the Board of Governors, as appropriate, the Board of Directors shall promptly notify the Comptroller or the Board of Governors, as appropriate, that insurance has been denied, giving specific reasons in writing for the Corporation's determination with reference to the factors described in paragraphs (1), (2), (3), (4), (5), and (7) of section 6, and no insurance shall be granted.

"(g) VOTING REQUIREMENTS.—The authority of the Board of Directors to make any determination to deny insurance under this subsection may not be delegated by the Board of Directors and any such determination may be made only upon a vote of ¾ of all members of the Board of Directors (excluding the Comptroller of the Currency in the case of a national member bank which is authorized to commence or resume the business of banking or a State bank which is converted into a national member bank).

"(h) CONTINUATION OF INSURANCE UPON BECOMING A MEMBER BANK.—In the case of an insured bank which is admitted to membership in the Federal Reserve System or an insured State bank which is converted into a national member bank, such application and certificate shall not be required, and the bank shall continue as an insured bank.".

Mr. GRAHAM. Mr. President, we are gathered here together to deal with a challenge to America. That challenge is to bring some order and discipline to our Federal fiscal house. It, however, is not the only challenge that our Nation faces. One of the other major challenges is to assure the continued stability of our financial institutions.

It is ironic, Mr. President, that in the legislation before us we are proposing to raise approximately $130 billion in new taxes over the period from now until 1995—$130 billion in new taxes. In 1989, we funded $50 billion to the savings and loan bailout program. This year we have been asked by the Resolution Trust Corporation and other Federal regulators to increase that by an additional $117 billion, so that in 2 years—1989-90—we will have provided funding of $167 billion for the savings and loan bailout. That figure is not the end of it.

Prior to 1989, there was substantial cost incurred by the Federal Government in the closure of thrift institutions. Part of that closure took the form of special tax benefits and other financial obligations of the Federal Government which will be paid out into the years in the future.

I regret to say that I do not believe that the $117 billion that we will be providing in 1990 represents the last appropriation, Mr. President. We know that it will not represent the last cost because most of the $167 billion is being financed. We borrow the money. We do not pay the money. Therefore, there will be interest charges in some cases for as long as 30 years. It is based on those calculations that the estimated total cost of the savings and loan bailout is in excess of $500 billion.

But I come back to the $167 billion hard figure that we have appropriated in 1989, and no doubt will in 1990, which represents more than the total new taxes the American taxpayer will pay between now and 1995 under this proposal. So that every time an American goes to fill up their tank with gas, they are making a contribution toward the savings and loan bailout. Every time the Social Security recipient sees his or her check slightly smaller than it would have been, they can understand that that was a function of the savings and loan bailout. Every time an American drinks a beer or smokes a cigarette, they are making a contribution toward the savings and loan bailout. So an enormous part of our fiscal crisis is the instability in our financial institutions. It is for that reason that I am offering this amendment.

The problems of the thrift industry have now seeped over into our commercial banks.

On July 15 of this year, the Chairman of the Federal Deposit Insurance Corporation, the Federal agency with responsibility for insuring commercial banks, and since 1989 thrifts, said that the insurance fund that protects the deposits of United States banks is "under considerable stress" and "would be in trouble were the Nation to suffer a serious recession."

That is the environment in which we are operating. It is in that environment, Mr. President, that I offer this as the first of two amendments which goes to a gap in our current system. The gap is that we now require the Federal Deposit Insurance Corporation to extend insurance coverage to all nationally chartered banks without regard to their financial solidity. We no longer do this, as of 1989, relative to thrifts. That is, the bank insurance agency can make an independent determination as to whether a chartered institution, chartered by the Federal Government or by a State, meets its standards, the insurance agency standards, of being an appropriate risk for the fund to insure.

FDIC, the Federal Deposit Insurance Corporation, has had that same power as it relates to State-chartered banks. The gap in the system is as to nationally chartered banks. And so it was on July 31 of this year, speaking before the Senate Banking Committee, that Chairman Bill Seidman of the Federal Deposit Insurance Corporation said, "As a basic principle the insurer should decide which institutions it insures and that is the ultimate protection that ought to be afforded to the taxpayer."

So we have that now with the savings and loans. We do not have that with the banks. As a matter of principle, the insurer should determine what institutions qualify for insurance. That is the amendment that is currently before the Senate.

It would extend to the Federal Deposit Insurance Corporation independent authority to make an insurer's judgment as to whether a national chartered bank is being operated in a way that poses an undue risk to the fund and, if so, to deny insurance coverage.

This is not a fenceable loophole.

In 1983 and 1984 the Comptroller of the Currency chartered over 200 new institutions; many of these were institutions which previously had been State chartered, and they transferred to a Federal charter.

Many of those institutions were in States such as Texas which were overbanked, and where there was considerable question about the solidity of those formerly State chartered banks that were now moving into the Federal system.

The FDIC had no authority to deny insurance to those newly federally chartered banks, many of which have now contributed to the fact that for 2 and 3 years the Federal Deposit Insurance Corporation has been running downstream in terms of its resources.

The Federal Deposit Insurance Corporation, because of the unusual number of bank failures, is now at the lowest point in its history; whereas, the law requires it to have 1.25 percent of insurance to deposits covered, it is now 1.7 percent of deposits covered and declining. It is estimated that the fund will suffer further losses in this year.

We had an instance close to the Nation's Capital, a major Washington-based bank; the National Bank of Washington has recently come under FDIC supervision because of its practices that resulted in it being required to be into conservatorship.

The analysis of this bank was conducted by the GAO. One of the findings of the official of the General Accounting Office, assistant director Richard Fogel, was that the $500 million cost of closing the National Bank of Washington indicates that:

> The Federal regulators did not act soon enough to ensure that the cost of the insurance fund would be minimized.

Mr. Fogel went on to say that:

> The Office of the Comptroller of the Currency, which oversees national banks, must do a better job of protecting the fund.

Mr. President, this is just one example that we, as those responsible in the Congress for the overall structure of our financial institutions, cannot place our total reliance on the Office of the Controller of the Currency to be sensitive to both his regulatory and chartering responsibilities for national banks and the solvency of the Federal Deposit Insurance Fund.

This amendment would split those functions and allow the FDIC to make an independent judgment for national banks as it does for State chartered banks, and since 1989 for State and federally chartered thrifts.

Mr. President, this amendment sounds so rational that one might question why are you arguing this; why is this not agreed to? I do not know what arguments will be made. I will be prepared to listen and respond. But I would like to suggest a couple.

These were arguments that were made at the time that this was considered in reconciliation at the Senate Banking Committee. One is that it will cause the FDIC to lose premium money.

The FDIC will not collect premiums from those institutions on which it terminates coverage because they are considered to be too great a risk to the fund. Let me restate that argument. The argument is that this amendment is inappropriate because it would cause the FDIC to lose premium dollars, the premium dollars of those institutions which the FDIC determines to have placed too great a risk on the fund.

The absurdity of that argument is I hope apparent. The very purpose of allowing the fund to make that independent judgment and terminate coverage is because while the premium dollars will be foregone, what is also being foregone is a much greater financial risk of having to step in and assume financial responsibility for the institution.

It is for reasons like that, Mr. President, that we have had this enormous collapse in the thrift industry, and are now concerned about the status of our commercial banks.

The second argument against this will be germaneness. This is not germane. Mr. President, this is the bill that was given to us approximately 24 hours ago. I do not know how many hundreds or thousands of pages this bill contains. I have reviewed some of this proposal, the budget reconciliation. I can tell you that if this provision is not germane, there are hundreds of pages in this reconciliation document that are not germane.

I raise the further question: What is germaneness? If germaneness is, is this relevant to the purposes we are about, what could be more relevant than the purposes we are about than to try to suture the Nation's financial house? What could be more relevant to what we are about than to attempt to avoid another $167 billion bill to the American taxpayer as a result of failures in the commercial banks given our recent experience of failures to properly give oversight to our Nation's thrift industry? Is that not what we are about?

If that is the definition of our purpose, then I urge the adoption of this amendment. Thank you.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. SASSER. Mr. President, the amendment of the Senator from Florida would permit the FDIC to deny insurance to newly chartered national banks. The FDIC presently has authority with respect to State-chartered banks but does not have that authority with regard to national banks. This proposal would allow the FDIC to effectively stop the chartering of a national bank that the FDIC believes to be operated in an unsafe and unsound manner.

Like the Senator's amendment on risk-based premiums, I believe the amendment to be meritorious. But I also have to say that it is not appropriate for the reconciliation bill. This is part of the debate on the deposit insurance reform, and other bank regulatory issues that are to take place next year.

I might also add that the Congressional Budget Office does not believe there will be any budget savings as a result of this proposal. This amendment will not therefore reduce the deficit. It has nothing to do with deficit reform. It is essentially a regulatory reform measure which may be meritorious, I can see, but certainly we ought not to be placing it this morning on a budget reconciliation bill.

Mr. President, at the appropriate time I will make the appropriate motion.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. DOMENICI addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator fron New Mexico.

Mr. DOMENICI. Will the Senator yield 5 minutes?

Mr. SASSER. I yield 5 minutes to the distinguished Senator from New Mexico.

Mr. DOMENICI. I gather that is off the time the chairman has in opposition to the amendment; is that correct?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. DOMENICI. Mr. President, I want to say to my friend from Florida that from what I understand Chairman Seidman, whom I gather most people involved in this kind of problem have a great deal of respect for, as I understand it—and I do not know this personally, I hear it from Senator GARN, the ranking member of the committee of jurisdiction—Chairman Seidman is not asking Congress to give him these powers today. In fact, as the chairman has indicated, this amendment does not belong on a reconciliation bill.

I know that does not sound terribly fair to my friend from Florida. But the truth of the matter is, the reconciliation bill is a privileged bill.

It has a lot of limitations on debate, germaneness. The very reason is that it is an exceptional activity provided for by statute to reduce the deficit. We are not really engaged in trying to get all of the good substantive law in the waning moments of the Congress, that we have not been able to do, and put them in a reconciliation bill. That is not to say that this is not meritorious. It may be. It sounds to me like it might be.

But I concur with the chairman of our committee that if Chairman Seidman, of the FDIC, says there is ample time to do this, we can do it next year in the normal legislative process. That is how we ought to do it.

I understand it will be said this is a small measure, this is not doing an extreme violence. But it is really more than a principle. We just ought not be bringing pieces of legislation that have not cleared committees, however meritorious, and bring them to the floor and offer them to a bill like this, which has various constraints that change our rules with reference to debate, with reference to amendments, with reference to how much time we have.

I will join with the chairman when he sees fit to state to the Senate the fact that this amendment is subject to a point of order because it is not germane. Mr. President, this amendment is not as defined in the Budget Act and in reconciliation bills. It is not germane under that precedent and that body of rules that govern this kind of legislation.

I thank the chairman for yielding time to the Senator from New Mexico.

The ACTING PRESIDENT pro tempore. Who yields time?

The Chair recognizes the Senator from Florida.

Mr. GRAHAM. If no one else seeks time on this matter, I will close at this time and conclude my remarks.

If the managers could do likewise, I would be willing to yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Do managers yield back the remainder of their time?

Mr. SASSER. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. SASSER. I was distracted. What was the matter before the Chair?

The ACTING PRESIDENT pro tempore. The Senator from Florida is pre-

pared to yield back the remainder of his time.

Mr. SASSER. I am prepared to yield back the time.

Mr. President, let me forbear on that for a moment. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SASSER. Mr. President, I am prepared to yield back all of my time if the distinguished Senator from Florida is prepared to yield back his time.

Mr. GRAHAM. Mr. President, after I complete my closing remarks, I will yield back all the remaining time of the Senator.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Florida.

Mr. GRAHAM. Mr. President, as I anticipated, the arguments against this are, first, that the CBO does not count this as being a budget deficit savings. In fact, I have heard that they have counted this as being a budget deficit loss because there will be some premium dollars not collected as a result of termination of coverage for those institutions that the FDIC might determine to be inappropriate to insure; and, second, that this is not germane, but germane to a bill whose purpose it is to reduce the Federal deficit.

Mr. President, the context of this bill is that the Banking Committee has been considering the question of the status of the Federal Deposit Insurance Corporation Fund for several months. When the decision was made to incorporate some provisions of the effort to assist the fund into the reconciliation, other provisions which were held to be not germane or could not demonstrate that they would make a contribution to deficit reduction were left out. This was one of those children left at the hospital delivery room and not brought home to join the family of FDIC assistance.

I believe, Mr. President, that those reasons go to the core of why this process is such a charade. If you raise or extend an insurance program and thereby increase or extend the time period for the collection of premiums, that gains you points with the scores of the budget reconciliation.

As an example, we have in this bill extensions of premiums for housing programs, administered under the Federal Housing Administration, which count positively toward reducing the budget deficit. What is not pointed out is that those very housing programs in some cases are billions of dollars insolvent, have tens of thousands of properties unsold, foreclosed, in their inventory, and where every time we extend to more people the opportunity to participate, it is more likely that we are going to add to that insolvency rather than reduce it.

Yet under the absurd way in which we calculate budget deficit reduction, that counts. That extension of premiums to those potentially insolvent individuals and institutions reduces our budget deficit because we do not have to face that, we do not have to pay the price of that profligate activity until some later point.

I would not be surprised if 5, 6, 7 years ago people were standing as we are today, saying the budget deficit is going to be lower because we are extending the premiums for the then Federal Savings and Loan Insurance Corporation. We are going to collect millions of dollars of additional premiums because new institutions are being chartered, institutions are expanding their deposit base, and therefore expanding the number of premium dollars that we pay into the fund.

It was not until today that we got the bill for that activity. That bill was $50 billion in 1989; it is $117 billion in 1990. It was more after 1989, and it is going to be a lot more after 1990.

Yet, we are saying today, with a similar argument, that we should not count this as a budget matter because it will reduce premium income, in spite of the fact the very purpose of this is to save money downstream by cutting off those institutions which their ilk contributed to the savings and loan debacle, and which a continuation of insurance will cause a commercial bank debacle.

Mr. President, we also said this is not germane in some fanciful manner, and I note we are about to take up as an aside a 106-page amendment, which is budget process, sometime between now and whenever the 20 hours for debate on this matter runs out. I assume that is going to surface and be offered.

That is going to have even a more refined definition of germaneness, which will further remove this process from reality into the never-never-land of budget reconciliation dreamers. If there is anything that is germane to the economic well-being of America, if there is anything that is germane to the continued financial solvency of our commercial banks, if there is anything that is germane to avoiding another $500 billion to the American taxpayers because a Federal insurance fund has failed, what could it be, Mr. President, other than a proposal that will say that we will no longer mandate that our insurance fund covers these excessively risky institutions.

Mr. President, what we are saying here would be analogous to saying to one of the large insurance firms in your State, Wausaw, that it had to insure every building, every business, every activity in a particular community of America without regard to the riskiness of that activity to the fund itself. I do not believe that Wausaw would continue in business very long if it operated under that type of mandate.

The Federal Savings and Loan Insurance Corporation is not in business any more because, up until 1989, it essentially had operated under that kind of mandate. Are we going to make a decision today that we are going to put the Federal Deposit Insurance Corporation that stands behind every deposit in America in commercial banks up to $100,000 in a similar state of vulnerability, as we pray at the altar of false germaneness?

Mr. President, it would be my intention, if it is suggested that there is a point of order against this amendment, to move to waive that point of order.

I yield the floor and yield back the remainder of my time.

Mr. CHAFEE. Mr. President, I would like to make a few remarks regarding the amendment to waive the Budget Act proposed by my distinguished colleague from Florida, Senator GRAHAM.

This amendment would allow the Federal Deposit Insurance Corporation [FDIC] to deny insurance coverage to nationally chartered banks that are determined to be unsound. The FDIC currently has the authority to exclude troubled thrift institutions from its insurance coverage, but it may not exclude similarly troubled nationally chartered banks.

I support the idea behind this proposal: Federal deposit insurance needs to be reformed. If the FDIC had the ability to exercise some discretion in its insurance coverage over the past several years, the cost of the savings and loan bailout would not now be approaching $500 billion.

On September 27, FDIC Chairman William Seidman reported to the House Banking Subcommittee that the insurance fund is under increased stress. He indicated that insurance reform should be a top order of business for the next Congress. The Treasury, the General Accounting Office, and the Congressional Budget Office are all exploring the options available for reforming Federal deposit insurance.

Federal insurance reform, however, is too important to be hastily debated on the Senate floor in the closing hours of the 101st Congress. As much as I am inclined to support this amendment, I do not wish to see a piecemeal approach to such complex legislation. Both the chairman and the ranking member of the Senate Banking Committee have indicated that reform will be the committee's No. 1

priority next year. Therefore, I believe it best to address this critical issue in a forum without the time constraints inherent to this reconciliation package.

And finally, Mr. President, I would like to impress upon my colleagues on the Banking Committee that a number of important issues need to be addressed next year. Along with deposit insurance reform, I hope that the committee will consider legislation similar to the Competitive Equality Banking Act that was approved by the Senate in 1987. This bill would have strengthened our Nation's financial institutions, allowing them to compete more effectively in the world market. I look forward to working with the committee in the future.

The ACTING PRESIDENT pro tempore. The question occurs on the amendment.

Mr. SASSER. Mr. President, pursuant to section 305(b)(2) of the Congressional Budget Act, I raise a point of order against the amendment offered by the Senator from Florida on the basis of germaneness.

Mr. GRAHAM. Mr. President, I move that this amendment be considered, section 305(b)(2) of the Budget Act notwithstanding.

The ACTING PRESIDENT pro tempore. The question occurs on the motion.

The ACTING PRESIDENT pro tempore. There is 1 hour of debate equally divided.

Mr. GRAHAM. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. Do the Senators yield back their time?

Who yields time?

Mr. METZENBAUM. Mr. President, did the Chair indicate whether there was a sufficient second?

The ACTING PRESIDENT pro tempore. There is a sufficient second.

Mr. SASSER. Mr. President, how much time does the Senator from Florida control?

Mr. GRAHAM. Mr. President, if the managers are prepared to yield back their time, I am prepared to yield back my time.

Mr. SASSER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. SASSER. Mr. President, I am constrained to object momentarily.

The ACTING PRESIDENT pro tempore. Objection is heard.

The clerk will resume the call of the roll.

The bill clerk resumed the call of the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, we apparently are in a period in which further consultation is required before we proceed to vote on the preceding amendment.

I ask unanimous consent that the current amendment, the amendment pending before the Senate, be set aside for the purpose of my offering a second amendment which is related to the same topic as the amendment that we have been debating, and that the amendment which I have previously offered not lose its position on the calendar.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. GORE. Reserving the right to object, if I understand the request, Mr. President, the Senator from Florida is asking unanimous consent to offer a second amendment while the motion to waive the point of order on the first amendment is still pending?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. GORE. How much time is allocated under the rules for debate on the second amendment?

The ACTING PRESIDENT pro tempore. If it is a first-degree amendment, it will be 2 hours equally divided.

Mr. SASSER. Mr. President, I suggest to my colleagues that we accede to the request of the Senator from Florida. If we do not, the Senator from Florida has an additional hour in which to discuss the question of germaneness. If we can set this amendment aside, move forward with his second amendment and dispose of it, I am hopeful that we can then return to this first amendment without further debate and dispose of it.

Mr. GORE. I withdraw my reservation, Mr. President.

Mr. DOMENICI. Reserving the right to object, Mr. President, might I ask, so that there will be no misunderstanding, is it the intention that we set aside the motion to waive so that the Senator can offer a second amendment? We are not setting aside anything else? There is pending a motion to waive, which is a motion by the Senator from Florida. Is that correct? If that is not correct, I object.

Mr. SASSER. I say to the distinguished Senator that is my understanding.

The ACTING PRESIDENT pro tempore. That is the Chair's understanding.

Mr. DOMENICI. Parliamentary inquiry. Let us assume that we do this and the Senator offers his second amendment, will the first matter that comes before the Senate, absent unanimous consent, be the motion that we are setting aside, once he has completed his debate and all time has been yielded back on the second amendment?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. DOMENICI. Further parliamentary inquiry. Is the second amendment of the Senator from Florida subject to amendment?

The ACTING PRESIDENT pro tempore. It would be subject to amendment.

Mr. DOMENICI. I ask unanimous consent that it not be subject to amendment.

The ACTING PRESIDENT pro tempore. Does the Senator from Florida modify his unanimous-consent request?

Mr. GRAHAM. To request that the amendment which I hope to soon offer not be subject to amendment?

The ACTING PRESIDENT pro tempore. Correct.

Mr. GRAHAM. I accept that modification.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. Might I further ask the Senator, does the Senator intend, if this unanimous-consent agreement is granted, that he will work with the managers to perhaps relinquish some of the time? I am not asking at this point that there be such an agreement, but we do not intend to use 2 hours.

Mr. GRAHAM. I say to my good friend from New Mexico, I think the discussion on the first amendment took approximately 15 to 20 minutes. I anticipate this will take the same or less.

Mr. DOMENICI. Further parliamentary inquiry, Mr. President. By granting this unanimous consent, the second amendment of the Senator from Florida is still subject to a point of order for lack of germaneness? The unanimous-consent agreement does not waive that. Is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. DOMENICI. I have no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRAHAM. Am I correct in understanding the effect of adopting this series of unanimous-consent requests would be that the first amendment which I offered, which was then subject to a point of order and then to a motion to waive that point of order, would be the pending business before

the Senate at the conclusion of consideration of the amendment which it is my intention to now offer? Is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. GRAHAM. Second, am I correct, Mr. President, that after offering my second amendment, if there is a point of order directed against it I will be allowed to offer another motion, relevant to my second amendment, to waive the point of order; is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

AMENDMENT NO. 3025

(Purpose: To provide for risk assessment for deposit insurance)

Mr. GRAHAM. Mr. President, with those understandings, I send to the desk my second amendment, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 3025.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of title II, add the following:

SEC. . RISK-BASED ASSESSMENTS.

Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by adding at the end the following new paragraph:

"(10) ASSESSMENTS BASED ON RISK CRITERIA ALLOWED.—

"(A) ESTABLISHMENT OF RISK CRITERIA.—Notwithstanding any other provision of this subsection, the Corporation may establish criteria for measuring and determining the degree to which any insured depository institution poses a risk to the Bank Insurance Fund or the Savings Association Insurance Fund.

"(B) AMOUNT OF ASSESSMENT MAY BE BASED ON RISK.—The amount which the Corporation may assess against any insured depository institution under paragraph (1) in any year may be determined by the Corporation on the basis of the Corporation's evaluation, in accordance with the criteria established under subparagraph (A), of the degree to which such institution poses a risk to the Bank Insurance Fund or the Savings Association Insurance Fund.

"(C) RANGE OF ASSESSMENTS.—In the exercise of the Corporation's authority under subparagraph (B), the Corporation may establish a scale under which the amount assessed against any insured depository institution reflects the degree of risk posed by such institution.

"(D) FACTORS TO BE CONSIDERED.—The determination by the Corporation under this paragraph of the risk presented by a depository institution shall be based on the evaluation by the Corporation of the financial condition of such institution, the extent of compliance by such institution with laws and regulations applicable to such institution's operations, the capability and experience of the management of such institution, the overall operating soundness of such insured institution, and such other factors as the Corporation may determine to be relevant to such determination.".

Mr. GRAHAM. Mr. President, in order to make my contribution toward expeditious consideration of this and other matters before the Senate this morning, I will not repeat the first section of the speech that I gave on the first amendment. It is all relevant to the second amendment. That is, it deals with the fundamental question of the solidity of financial institutions as part of our overall desire for a more rational national financial house.

This second amendment authorizes the Federal Deposit Insurance Corporation to develop a risk-based insurance system.

What is a risk-based insurance system? A risk-based system is what we all know as a fundamental part of any insurance system. If you are a good driver, you pay lower premiums than a driver who has had a series of drunk driving arrests. If you are my age, you pay higher life insurance rates than my children pay for life insurance. If you operate a risky business, you pay higher premiums than that individual who operates a more tranquil enterprise.

A basic principle of insurance is linking the risk to what it costs to transfer that risk to a third person. We do not have that basic principle of insurance as it relates to our Federal Deposit Insurance Corporation. We charge the same premium to every thrift in America, the most prudent to the most profligate. We charge the same premium to every commercial bank in America, the most widely speculative to the most hard rock conservative.

Again, Mr. President, we paid a heavy price for that. We created a situation in which we privatized profits and socialized losses. In the savings and loan institutions there was tremendous incentive to engage in highly leveraged, highly speculative activities. If you were lucky, if the dice came up the way you would like them to, you could make enormous profits. If they came out as snake eyes, the Federal taxpayer picked up the bill. And we have $167 billion of that bill just in the last 2 years.

What this bill would do is authorize the Federal Deposit Insurance Corporation to develop a series of standards for risk, as any insurance company would do, and to vary the premiums charged to the institutions that it insures based on that assessment of risk.

This proposal has been before the Congress on several occasions. In 1988 I offered an amendment to move to a risk-based insurance program. We discussed it during the debate on FIRREA. It is now 7 years later and we have not done it. I propose, in concert with the objectives of our effort which is to reduce the Federal budget deficit, that we take this opportunity to do so now.

I quoted earlier in the discussion of amendment 1 some statements made by the chairman of the Federal Deposit Insurance Corporation, Chairman Seidman. Let me do so again.

On July 15, 1990, Chairman Seidman made the comments I alluded to earlier about the stress under which the Federal Deposit Insurance Corporation found itself in the face of continued losses and the possibility of further financial fractures within the commercial banking system.

In March 1989, Chairman Seidman stated that he felt that the FDIC should have the authority to develop a risk-based insurance system. I wish we had acted at his request in March 1989. Failing to do so, I hope we will not miss the opportunity to do so now.

Again, what will the arguments be against this? The arguments will be the same two as we heard before. We cannot demonstrate this is going to contribute to a reduction of the Federal budget deficit; we cannot demonstrate with methematical perfection that by imposing some economic additional requirement on riskier financial institutions, that that will rebound to the financial benefit of the U.S. Treasury.

I suggest if we went to a mathematics class we probably could not come up with a formula that would result in that showing. If your next class was a logic class, you could easily be convinced that there is a relationship between Federal policy relative to the manner in which financial institutions which are insured by the Federal Government are operated, and the potential risk to the U.S. taxpayers. If you went to the history class you would have an opportunity to read a very long chapter—or now an increasing shelf of books—on the cost to the American taxpayer of adopting a policy that socialized losses and privatized profits.

Again, the question of germaneness will probably be raised; and again the question, if it is not germane, is how to avoid, to minimize, to moderate the impact of a collapse or a serious fissure in our commercial banking system. What is germane to the issue of the long-term fiscal health of America?

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Utah. Who yields time?

Mr. SASSER. Mr. President, may I inquire, does the Senator from Utah rise in opposition?

Mr. GARN. I rise in opposition. I would need time from the Senator from New Mexico. Will the Senator from New Mexico yield me 5 minutes?

The ACTING PRESIDENT pro tempore. Time is controlled by the Sena-

tor from Tennessee and the Senator from Florida.

Mr. SASSER. Let me say to the distinguished Senator from Utah, I will be pleased to yield him some time. May I inquire of the Senator how much time he might require?

Mr. GARN. Five minutes will be more than adequate.

Mr. SASSER. I yield 5 minutes to the Senator from Utah.

Mr. GARN. Mr. President, Senator GRAMM has two amendments. One would authorize the FDIC to impose risk-based deposit insurance premiums; the other amendment would give the FDIC the authority to deny insurance to the national banks and State-chartered banks. Both these amendments have strong arguments in their favor. I happen to agree on the substance with the amendment of the Senator from Florida.

At least a decade before the Senator from Florida came to this body, I proposed similar amendments and I am disappointed they have not been enacted. But now is not the time—the reconciliation package before the Senate today is not the context—in which to vote on these proposals.

Last year when we enacted FIRREA we directed the Treasury Department to conduct a comprehensive study of deposit insurance reform and report to the Congress in early 1991. The Treasury Department currently is working on that study and is committed to finish it before the congressionally mandated deadline. The Treasury has said the study will be completed before the end of this year.

Banking Committee Chairman RIEGLE and I have committed ourselves to take up banking deposit insurance reform as one of the first orders of business in the next Congress. That will be the proper context in which to address the issues raised by Senator GRAHAM. Bill Seidman has supported risk-based premiums. He supported the authority we are talking about in these amendments. He has also said the FDIC should have the authority to deny deposit insurance to national banks and the State member-chartered banks, but even Chairman Seidman is not asking Congress to give him these powers today. We have checked with the FDIC yesterday afternoon and confirmed that Chairman Seidman does not believe this reconciliation package is the appropriate vehicle in which to address these deposit insurance reform issues.

Chairman Seidman sent word today that he believes it would be more appropriate to address these issues next year in the context of comprehensive reform. I believe we should listen to Chairman Seidman. He does not need or seek the authorities contained in the Graham amendments now. He thinks we should wait and address these issues next year.

I do not know what basis we have for overriding the judgment of Chairman Seidman on these issues. I do not wish to argue the merits, because the Senator from Florida is absolutely correct; both of the things he is talking about should be done. But there are a lot of other issues in deposit insurance reform. Certainly I hope this Congress has learned from the great problem of the S&L crisis.

But it should be done in the context of an overall comprehensive bill. I am absolutely committed to that.

The Senator from Florida has listened to me in the Senate Banking Committee ad nauseum about how we must reform deposit insurance. I am committed to that. I am sure Chairman RIEGLE is committed to that. In fact, I know he is. These are but two issues of many that must be addressed. There are others that I want to see enacted, but I would not be proposing them on a piecemeal basis.

I want it to be made very clear I do not oppose the Senator from Florida on the substance. Again, he is correct. These are changes that need to be made. This is not the place on the reconciliation bill, and I will do everything I can as part of any comprehensive bill to see that both of these amendments are enacted.

For that reason, I am disappointed that we are not looking at an entire package standing by itself, but in the context of this budget crisis and Chairman Seidman's opinion, I must oppose both of these amendments today. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. SASSER. Mr. President, the Senator from Florida offers an amendment this morning which I think is meritorious. Risk-based premiums are a good idea and banks that make mortgage loans to first-time homebuyers obviously should not pay the same for deposit insurance as banks that go out and make loans to corporate raiders or junk bond artists or make loans to Donald Trump. Unfortunately, that is how the system works presently. If you take a lot of risk, or if you take little or no risk, it makes no difference. Banks pay the same for deposit insurance no matter what business principles they use to operate.

No private insurance company would operate this way. If it did, it would not stay in business very long. Yet, that is precisely what the FDIC does.

There is a so-called moral hazard, I think, at work here. It is really hazardous for a bank, some could argue, to be prudential or moral. It costs the same in premiums for a bank to engage in high-risk lending as to make home mortgage loans. There is no reward for making loans that put the insurance fund less at risk.

This is a worthy concept. I agree with the Senator from Florida, but I must say that this budget reconciliation bill is neither the time nor the place for this particular argument.

Congress has mandated that the Treasury Department and the Federal Deposit Insurance Corporation conduct a massive study of the deposit insurance reform. The report is due in February 1991. The issues will be examined by the Banking Committee next year.

I might say, Mr. President, that according to the Congressional Budget Office, this amendment will not, in their estimation, reduce the deficit. The Congressional Budget Office can score no savings from this proposal.

In another area, Mr. President, I want to say that I, again, appreciate the effort of the Senator from Florida in the area of changing the FDIC's concepts. Indeed, they are changes in the FDIC that I myself would wholeheartedly support. For instance, I think we need to support the assessing of insurance premiums on foreign deposits that are held by U.S. banks. The recent failure of the National Bank of Washington does, indeed, show that foreign deposits in American banks are, in fact, insured even though no premiums are paid on them. This is most unfair to the smaller banks across the country. Our banks in the State of Tennessee must pay a premium on all deposits that they hold because they hold virtually no foreign deposits. Yet, large money center banks—the Bank of Washington was an example of sorts—hold foreign deposits and pay no premiums on them. So small banks must pay proportionately more in insurance premiums than do larger banks.

As strongly as I feel about the unfairness of the nonassessment on foreign deposits, I recognize that the question is related to the issue of deposit insurance reform. We are waiting for the FDIC and the Treasury to complete their comprehensive report on deposit insurance. This report is not due until February. For us to act any sooner on these complex regulatory issues would be premature.

I might also add, CBO scores assessing foreign deposits as raising $2 billion over 5 years. So I think this is something we certainly need to pursue on another day on other legislation. Conversely, CBO does not score any savings on the amendments that the Senator from Florida is offering, although I must say I think they are good public policy, and I commend the Senator for his view in these areas. But I must again conclude that these particular matters have no place on a reconciliation bill.

Mr. GRAHAM addresses the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

Mr. GRAHAM. Mr. President, are there any others under the time con-

trolled by the Senator from Tennessee who wish to speak on this matter? If not, I would like to close.

Mr. SASSER. Mr. President, I note the arrival of the Senator from Illinois who had indicated he wishes to speak briefly on this particular issue. We know of his eloquence in this Chamber and we always look forward to his arrival and his addresses, and I say that quite seriously. I ask the Senator how much time he requires.

Mr. DIXON. I think 3 minutes will be satisfactory.

Mr. SASSER. I thank the Senator, and I yield 3 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DIXON. Mr. President, I regret very much the necessity to rise against this amendment offered by my warm friend, the Senator from Florida. I have legislation now pending calling for risk-based deposit insurance. We have given about a year's study to that proposition, and it is an extremely complicated and difficult problem that needs a lot of attention by the jurisdictional committee, the Banking Committee.

When my friend was prepared to offer this amendment in the committee a week or so ago, at that time I expressed my view to my colleagues on the committee that we should be cautious in proceeding on this. Treasury and FDIC are both doing very substantial studies on this issue right now.

I assure every one of my colleagues in the U.S. Senate that risk-based insurance premiums and risk-based deposit insurance for the FDIC system are under very serious and earnest consideration in the Banking Committee of the U.S. Senate right now and will probably consume all of next year with many hundreds of hours of serious hearings and very detailed examination of the issue by every single solitary member of the committee.

I have the highest personal regard for my colleague from Florida. I think he is on the right track. I intend ultimately to work as hard as I can to accomplish risk-based deposit insurance for the system, but this is not the time to do it on this bill. The time to do it is after careful consideration next year. I hope to work in concert with my colleague from Florida next year to accomplish this purpose.

For now, I simply say to my colleagues, I urge them to not go into this very serious field at this point in time until the committee has had adequate time to carefully analyze what Treasury says, what FDIC says, a bill that is in right now by this Senator, another bill that is in right now by the chairman of the committee, the distinguished Senator from Michigan. I believe my colleague from Florida, as well, has legislation. All of it ought to receive careful analysis. I urge my colleagues—I regret this very much—to reject this amendment at this time until such time as this whole matter can receive our analysis in the appropriate jurisdictional committee.

Mr. RIEGLE. Mr. President, I rise to oppose the waiver of the point of order on the amendment offered by Senator GRAHAM to give the FDIC authority to create a risk-based deposit insurance system. I do this even though I believe the idea has considerable merit. Our thrift deposit insurance system has required a huge injection of public funds, and our bank insurance fund has been shrinking because of large recent losses. Many of these losses reflect undue risk-taking by financial institutions.

Risk-based insurance would reduce the incentives for such risk-taking by depository institutions.

But the precise structure of such authority needs further careful consideration. It should be included in a deposit insurance reform bill next year. I have included similar language in a bill, S. 3103, that I introduced similar language in a bill, S. 3103, that I introduced last month. But that is not, and was not, intended to be the last word on the subject.

Senator DIXON has introduced a well-thought-out bill on deposit insurance reform which focuses heavily on this issue. The committee needs to examine that bill thoroughly.

In addition, the Treasury is developing a major report on deposit insurance which will include this issue. It is expected by year-end. Congress requested this study and we should have the opportunity to read and study it before acting.

The FDIC does not need legislation to start thinking now about exactly how it would wish to implement such a provision. And it would violate the Byrd rule because it is extraneous to the reconciliation process. The Banking Committee will take up this issue early in the next session, and I believe we will do a better job of it by considering it in the context of a broader group of deposit insurance reforms.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. GRAHAM. Mr. President, are there any others who wish to use the time of the Senator from Tennessee?

Mr. SASSER. Mr. President, are there others wishing to speak on the Graham amendment, I see no others wishing to speak in opposition at the present time.

Mr. GRAHAM. If not, Mr. President, I would be prepared to yield back the remainder of my time at the conclusion of my closing remarks if the Senator from Tennessee would be likewise so willing.

Mr. SASSER. Mr. President, I would prefer to hear the Senator's closing remarks and make a decision at that time. I know of his eloquence and persuasiveness, and I might have to rebut some of the points that he raises.

Mr. GRAHAM. I admire the Senator from Tennessee's sagacity in allowing himself the time to endeavor to overcome what will be a very persuasive set of comments I am about to make. But before I proceed to those comments, will the Senator from Tennessee yield for a question?

Mr. SASSER. I will yield to the Senator from Florida for a question.

Mr. GRAHAM. Mr. President, under the Budget Act, the Senator mentioned that the Congressional Budget Office in scoring this amendment did not score it as having any budget reduction consequence?

Mr. SASSER. I am advised that that is the case.

Mr. GRAHAM. If this amendment has been offered as the Senator from Utah indicated when he first proposed it 10 years ago, in 1980, and it had been scored under the Congressional Budget Office, what budget reduction impact would it have had then?

Mr. SASSER. There is really no way of assessing that. In other words, the Congressional Budget Office makes a projection based on expectation and experience and facts they have before them at a particular time. In 20/20 hindsight, if this amendment had been instituted 10 years ago, there is no doubt that it would have saved the Federal Deposit Insurance Corporation a substantial amount of money.

Mr. GRAHAM. The question is, would CBO in 1980 in all likelihood have given the same scoring to this amendment as it apparently has done in 1990, and that is zero?

Mr. SASSER. I can only speculate on that but my conjecture would be in the affirmative, yes.

Mr. GRAHAM. I thank the Senator.

Mr. President, I think we have just heard the most compelling argument for this amendment. The Senator from Utah said that 10 years ago, in 1980, before we had a $500 billion S&L debacle, had this same amendment, which without question would have gone to a central cause of the collapse, that is, the privatization of profits and the socialization of losses, had this been offered 10 years ago, we would have had exactly the same point of order made against it as we are going to have this morning and, that is, it is not germane because it does not contribute to the reduction of the Federal budget deficit.

I want you to tell every truckdriver when they pull up to the pump and pay several dollars more in Federal gasoline tax, every one of which is going to go to pay off the S&L collapse, that this was not germane and irrelevent to them.

If we adopt the Senate plan—and I hope we will not—which will reduce Social Security checks by virtue of in-

creasing cost to Medicare beneficiaries, I want you to tell every one of those older Americans when they pick up their check and see that it has fewer dollars then they had anticipated, I want to you tell them that their dollars are going to pay off a nongermane, nonconsequential, does not count against the Federal budget deficit collapse of the savings and loan institutions.

Of course, it makes a difference. Of course, it is germane in every way except the fantasy land in which we deal with this charade of a budget process.

Mr. President, the Senator from Utah said that he offered this in 1980, and it was not accepted. I did not get here until 1987. But in 1988, July 27, to be exact, I offered this amendment right here. It was not adopted. In 1989, this proposal was presented as part of the savings and loan reform program.

If I could quote, Mr. President, from the American Banker of March 3, 1989, under the headline "Plan for Risk-Based Insurance Premium Dropped."

Mr. President, I ask unanimous consent this article be printed at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRAHAM. The article states:

A provision authorizing risk-based deposit insurance premiums was dropped at the last minute from the President's plan to restructure the savings and loan industry, said Federal Deposit Insurance Corporation Chairman L. William Seidman.

The risk-based premium would have given the FDIC the ability to assess higher premiums against banks and thrifts pursuing risky activities, said Mr. Seidman in testimony Thursday before the Senate Budget Committee. He said he will ask the Congress to restore the provision.

That was in 1989, Mr. President. Congress in its ill-wisdom did not restore that provision. So we have now been a decade, a decade and hundreds of billions of dollars later and what is the argument that we are getting? We are proceeding too quickly. We need to delay and study. We need to think about it some more. We need to let some more institutions fail. We need to continue to encourage improvident behavior because we do not want to be charged with being too expeditious.

Mr. President, I find that an absolutely unacceptable abdication of responsibility.

Yes, it is true that the modest mouse that we were able to produce in last year's savings and loan bailout bill as it relates to the risk-based insurance was to direct the Treasury to do the study. I will tell you, as the prime sponsor of the provision, it was hard to get that in the bill.

Now we are being told we should not do anything about this fire until that study is available.

Mr. President, I am going to make a prediction with almost total certainty of its accuracy, and I will challenge anyone to question this. That is, in the final analysis, if and when, after a decade of delay, we adopt risk-based insurance, we are going to do so by directing the FDIC to develop a system to do it. They are the people who have the responsibility. They are the WAUSAU insurance agency of financial institution insurance. They are the people with the expertise to fashion a plan. They are the ones who, when we finally get around to it, are going to be given that responsibility.

So the question today is not whether we are going to direct the FDIC to do it but when are we going to direct them to do it, and how much time will elapse before we finally get a system that makes some sense.

It has been said that Mr. Seidman has said let us wait, do not proceed forward, let us hold.

Mr. Seidman did not have to tell us today in October 1990 what his position was. He told us in March 1989 what his position was. His position is that in spite of the action of his own administration being that, he came to Congress and asked for risk-based insurance premiums. That was—What?—18 months ago.

Mr. President, Mr. Seidman is a good soldier. He is not going to come up here and say, in the face of a budget reconciliation that has been hammered out over the better part of a half year between the administration and congressional leaders that he thinks it should be dumped on, that it is inadequate. That is not the Bill Seidman that all of us who have grown to know and respect know the man to be. Of course, he is going to be a good soldier. But his record is clear. Eighteen months ago he told us to do this. He urged us to do this. I say today we ought to respond and not a day later.

Mr. President, in conclusion, what frustrates me about this whole process is that we have become such captives of our own spiderweb of process. The Senator from Tennessee made some remarks that, well, you do not have risk-based insurance because, well, the law says that we do not have risk-based insurance. We do not have it because the law says every institution from the most conservative financial institution in Leary, GA, to the most profligate institution in some other unnamed State, will pay the same premium.

We do not care that the institution in Leary, GA, knows its neighbors, knows its community, has had a long, solid record of lending to help the farmers, the small business people, and citizens of that community be able to do the things that are important to them. We do not care that this other institution, which is owned by some fly-by-night speculator who just got in the business in order to use the institution for his own purposes, is now putting the insurance fund into which the Leary, Georgias of America are contributing at enormous risk.

In this very bill we are proposing to raise the insurance premium on that bank in Leary, GA, and every other well-run bank in America by about 20, 30 percent on top of a major 60 percent rise which has just gone into effect by FDIC. Yet we are going to charge the same rates to the institutions which are driving us to further financial collapse.

Mr. President, this is an aside. This was a bonus, this column that I read and which I will ask unanimous consent to appear in the RECORD. But it goes to another point of this budget charade. We say that we are putting forward a budget document, all these hundreds of pages, that is going to save us $500 billion over 5 years, $40 billion this year. Approximately $130 billion of that saving is supposed to be in increased taxes.

To calculate how much change in the tax law will result in changes in actual dollars coming into the Treasury, you have to make some economic assumptions; how much will the economy grow, what will the rate of interest be, what will inflation be, employment, all those factors which determine what a law that talks about a percentage of tax, number of pennies per gallon, how much actual dollars it will bring into the Treasury.

We have decided to use—and apparently this is another constraint of this charade of the budget process—the economic assumptions that the President predicated his budget on back in January. The Presiding Officer knows these numbers better than I, but I believe they contain such things as in 1993 our Nation will be growing at a GNP rate of approximately 3.6 percent.

Today we probably are close to zero percent GNP growth. But in 2 years we are going to be at 3.6. It says that interest rates on short-term borrowing will be at less than 5 percent in 2 years. Today it is about 8 percent. Those are just two examples of the economy foundation upon which this $500 billion supposed reduction in the Federal deficit is predicated.

Who was the principal author of those economic assumptions? Who looked through the economic periscope deep into our Nation's economic future to make a determination of what numbers to use? It was the Director of the Office of Management and Budget, Richard Darman. It is based on his economic sensitivity, his professionalism, his candor, that we

are going to be representing to the American people that we are going to reduce the Federal budget deficit by $500 billion in the next 5 years.

With that background, Mr. President, let me share with you some comments made in the American Banker of March 3, 1989 by the same Richard Darman relative to another area in which he had to make some economic projections, and that was what would the S&L bailout cost. What would be its impact on the American taxpayer? In that a key question was how much of this cost was going to be paid by the industry and how much is going to be paid by you, the American taxpayer?

The key part of that was how strong would the industry be? How much would it be able to show? If you will remember, Mr. President, it was just about a year ago we were debating the S&L bailout bill. It was represented that the total cost to the American taxpayer would be $50 billion because the industry was going to be able to carry a substantial amount of the cost of this bailout.

Let me just continue quoting from this article, March 3, 1989.

Elsewhere on Capitol Hill, Office of Management and Budget Director Richard Darman told the Senate Banking Committee that it is reasonable to assume that thrift industry deposits will grow at 7% as projected in the plan.

However, Sen. Richard Shelby, D-Ala., noted that the thrift industry has been losing rather than gaining deposits, and asked if revenue projections based on deposit premiums could be expected to hold up.

Mr. Darman said the industry historically has grown at 8.8% a year and traditional patterns would resume once a rescue package is enacted.

Mr. President, that is the man's judgment upon whom this $500 billion budget deficit program is predicated.

As Senator SHELBY had prophesied, rather than growing at 7 percent, the industry has continued to contract. Rather than the American taxpayers paying $50 billion to the S&L bailout, this year alone we have another bill of $117 billion. That may give some people some confidence that they can stand on this floor and represent that we are going to make a $500 billion contribution to a America's budget deficit. It gives me no confidence.

Mr. President, I believe that we are facing a serious, serious problem, and we are trying to give ourselves bigger and bigger shots of Novocaine in order to cover that problem.

Today, at this moment, we have an opportunity to deal with one dimension of that. It is not the world; it is not the silver bullet; it certainly is not the totality of the program. But it is not important enough to the time of this Senate to be able to vote and say to the Federal Deposit Insurance Corporation, as my first amendment would do, "You do not have to—by Federal law, you are no longer shackled, chained, obligated, to ensure every nationally chartered bank in this country if in your independent judgment it would be improvident to do so." But we are so chained that we cannot make that simple statement of policy.

Mr. President, as my second amendment would do, are we so restricted, are we so enmeshed in our own construction of process that we cannot make the simple statement the Federal Deposit Insurance Corporation should act as any other insurance agency and link the amount of premium charged to the amount of risk assumed?

Those are two simple statements. I guess they are too simple. They are not germane. They do not have anything to do with reducing the Federal budget deficit. They are not relevant to the CBO calculation of cost to the budget.

Those will be very satisfying statements to make at the little beautiful square in Leary, GA, Mr. President, as the farmers drive by in their trucks to pay higher gasoline costs. You can say the $130 billion or $167 billion, $500 billion over 30 years you are going to pay the S&L's, that is not germane and that is not relevant; the fact that every one of your tax dollars for the next 5 years is going to go to pay for it is something we do not recognize having existed.

You can tell the lady who comes to the post office in Leary to pick up her Social Security check, and looks at it and says: Oh, my goodness, this check is about $5 or $6 less than I thought it was going to be; I see it is because my Medicare premiums have gone up.

Tell her it is inconsequential; it is not germane. CBO did not calculate that. Unfortunately, we had to take your $5 and ship it out to some wealthy wheeler-dealer who took advantage of the national policy of privatizing profits and insuring the loss in the financial system. She will be very happy as she considers the quality of her national leadership.

Mr. President, I urge that, in any sense of rationality of what it is we are trying to do today, we adopt these two amendments.

[From American Banker, Mar. 3, 1989]

EXHIBIT 1

PLAN FOR RISK-BASED INSURANCE PREMIUM DROPPED

(By Jim McTague and Robert M. Garsson)

WASHINGTON.—A provision authorizing risk-based deposit insurance premiums was dropped at the last minute from the President's plan to restructure the savings and loan industry, said Federal Deposit Insurance Corp. Chairman L. William Seidman.

The risk-based premium would have given the FDIC the ability to assess higher premiums against banks and thrifts pursuing risky activities, said Mr. Seidman in testimony Thursday before the Senate Budget Committee. He said he will ask Congress to restore the provision.

Under the Bush plan, bank deposit insurance premiums will rise from the current level of 8.33 basis points to 12 basis points the next year and to 15 basis points thereafter. Thrifts would see premiums increase from 21 basis points to 23 basis points for five years. Beginning Jan. 1, 1994, the rate would drop to 18 basis points.

Mr. Seidman said the bank fund eventually might reach a point where premiums could be lowered below 15 basis points.

Elsewhere on Capitol Hill, Office of Management and Budget Director Richard Darman told the Senate Banking Committee that it is reasonable to assume that thrift industry deposits will grow at 7% as projected in the plan.

However, Sen. Richard Shelby, D-Ala., noted that the thrift industry has been losing rather than gaining deposits, and asked if revenue projections based on deposit premiums could be expected to hold up.

Mr. Darman said the industry historically has grown at 8.8% a year and traditional patterns would resume once a rescue package is enacted.

Even if growth drops to 4%, Mr. Darman said, the rescue package will cost only an additional $1.2 billion over five years and $4.7 billion over 10 years.

Thrifts have lost about $12 billion in deposits so far this year.

The PRESIDING OFFICER (Mr. FOWLER). Does the Senator from Florida yield back the remainder of his time?

Mr. GRAHAM. The Senator from Florida, with the same caution that was previously exercised by the Senator from Tennessee, and desiring to have the opportunity to close on his amendment, would do so at the conclusion of the rebuttal of the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. I yield back the remainder of my time.

Mr. GRAHAM. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired.

Mr. SASSER. Mr. President, I raise a point of order under section (d)(1)(A) of the Byrd rule against the amendment of the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I move that my amendment be considered, the Budget Act and the Byrd rule notwithstanding. And, Mr. President, I ask for the yeas and nays on the motion to waive the Budget Act and the Byrd rule, for purposes of considering this amendment.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. Was a yea-and-nay vote requested on the previous motion?

Mr. SASSER. Yes.

The PRESIDING OFFICER. The yeas and nays were ordered on the previous motion.

Mr. DOMENICI. Does it not take unanimous consent to get this yea-and-nay vote?

The PRESIDING OFFICER. It would not require unanimous consent.

Mr. DOMENICI. I thank the Chair.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I would be pleased to yield if I knew what the distinguished Senator was going to say.

Mr. METZENBAUM. It is for the purpose of making inquiry of the managers of the bill as to whether they would be willing to have these two votes at 12 o'clock.

Mr. DOMENICI. I yield off our time. We have more time than the other side.

The PRESIDING OFFICER. The chair will restate, the time is controlled by the Senator from Tennessee, [Mr. SASSER] and the Senator from Florida, [Mr. GRAHAM]. The Senator from New Mexico may yield time off the bill.

Mr. DOMENICI. That is what I did, and I apologize for not making it clear. I want to accommodate for the inquiry, and it is off our time on the bill.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. I ask the managers—I know one Member missed a plane and is coming in—whether there would be any objection to having unanimous consent to have the vote at 12 o'clock and then at 12:15?

Mr. SASSER. Mr. President, I am under the impression that the Member who was having a problem with the plane is here and has landed and is on his way to the Chamber, I was advised by the Cloakroom.

Mr. METZENBAUM. If I may add one other point the Senator from Ohio wants to vote on these and every amendment. He did not want to get into this, but a member of my staff is being buried at 11 o'clock. I want to run out to that funeral, and I have a personal interest.

If it disturbs the rest of the Members of the Senate, I will say go ahead without my vote. If it is not inconvenient, I would appreciate it. I am not trying to delay the Senate. In fact, I want to see the Senate move forward.

Mr. SASSER. Mr. President, I have no objection.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the motion to waive the Byrd rule.

Mr. SASSER. Mr. President, has the Senator from Florida yielded back all of his time?

Mr. GRAHAM. I have.

Mr. SASSER. Has all time been yielded back?

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Which of the two Graham amendments are we going to be voting on; No. 1 or No. 2?

I understand it is a motion to waive the budget. Which amendment is the motion to waive the budget on?

The PRESIDING OFFICER. It is Graham amendment No. 3025, which is the second Graham amendment, which the Senator from Florida has called risk assessment of the deposit insurance.

The Senator from Florida.

Mr. GRAHAM. It was my understanding that we would vote on these in the order they were offered, which is the first vote would take place on the motion to waive the Budget Act for purposes of the amendment allowing FDIC to deny any insurance, and the second would be on the motion to waive on the risk-based insurance system.

The PRESIDING OFFICER. Will the Senator suspend for a moment so the Chair may consult the parliamentarian?

As the Chair understands the parliamentary situation, the first vote will occur on the motion to waive on the pending amendment, which is the amendment offered by the Senator from Florida to provide for risk assessments for deposit insurance. It is the Senator's amendment No. 2. If they were called to order, it would bring it back to the underlying amendment. That is not the case of the first vote that would occur on the motion to waive.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the motion to waive the Budget Act be in the order, the first vote be on the motion to waive the Budget Act for purposes of allowing consideration of the amendment on denial of FDIC insurance; and the second would be on the motion to waive the Budget Act of purposes of considering the amendment on risk-based FDIC insurance.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is all time now yielded back on the first amendment?

Mr. SASSER. Mr. President, following the rollcall vote on the two Graham amendments, I ask unanimous consent that we go then to a Jeffords resolution, which will require approximately 10 minutes, and then we will move to a Gore amendment.

Mr. BUMPERS. Will the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Will the Jeffords resolution require a rollcall?

Mr. JEFFORDS. Mr. President, not in my judgment. That assumes that all goes as I expect it will.

Mr. METZENBAUM. Would the request include a limitation as to the 10 minutes or just a hope?

Mr. DOMENICI. A hope.

Mr. JEFFORDS. A sincere hope.

Mr. DOMENICI. But it is germane.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. DOMENICI. Reserving the right to object, when the chairman said we are going to vote on the amendments of the distinguished Senator from Florida, I believe he intended to say the motion not the amendments.

Mr. SASSER. That is correct.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

All time has been yielded back.

Mr. GORE. Parliamentary inquiry. Under the unanimous-consent request just agreed to, after the Senate acts on the Jeffords resolution, the amendment by the Senator from Tennessee and the Senator from Maryland would then be in order, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. GORE. Was there a time limitation in that unanimous-consent request?

The PRESIDING OFFICER. There was not.

Mr. DOMENICI. Mr. President, it is my understanding that the amendment would not be in order, but rather the amendment would be before the Senate; he could call it up. We are not sure the amendment is in order. The amendment may be subject to a point of order.

Mr. GORE. Mr. President, parliamentary inquiry. It was not my intent to address the point of order which might be raised against the Gore-Mikulski amendment. I was simply seeking to establish that it would be the order of business before the Senate to then turn to that amendment. We will have a discussion later on the point of order.

The PRESIDING OFFICER. The Chair's understanding of the unanimous-consent agreement adoped by the Senate was that the junior Senator from Tennessee may offer that amendment in the order in which the unanimous consent was agreed to.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. It is my under-

standing that the Gore amendment, which we all understand and have seen, would not, under this order, be subject to an amendment under this unanimous-consent agreement; is that correct?

The PRESIDING OFFICER. The unanimous-consent request by the Senator from Tennessee would not preclude an amendment being offered.

Mr. DOMENICI. I ask unanimous consent that it not be subject to a second-degree amendment.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. METZENBAUM. Regular order, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act on the amendment No. 3024 offered by the Senator from Florida. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. BOSCHWITZ] is necessarily absent.

The yeas and nays resulted—yeas 41, nays 58, as follows:

[Rollcall Vote No. 279 Leg.]

YEAS—41

Adams	Graham	Metzenbaum
Akaka	Grassley	Mikulski
Biden	Harkin	Moynihan
Bradley	Hatfield	Nickles
Bryan	Hollings	Nunn
Bumpers	Kassebaum	Pressler
Burdick	Kasten	Reid
Cohen	Kerrey	Robb
Conrad	Kerry	Rockefeller
D'Amato	Lautenberg	Simon
DeConcini	Levin	Specter
Dodd	Lieberman	Wallop
Exon	Mack	Wirth
Gore	McCain	

NAYS—58

Armstrong	Fowler	Mitchell
Baucus	Garn	Murkowski
Bentsen	Glenn	Packwood
Bingaman	Gorton	Pell
Bond	Gramm	Pryor
Boren	Hatch	Riegle
Breaux	Heflin	Roth
Burns	Heinz	Rudman
Byrd	Helms	Sanford
Chafee	Humphrey	Sarbanes
Coats	Inouye	Sasser
Cochran	Jeffords	Shelby
Cranston	Johnston	Simpson
Danforth	Kennedy	Stevens
Daschle	Kohl	Symms
Dixon	Leahy	Thurmond
Dole	Lott	Warner
Domenici	Lugar	Wilson
Durenberger	McClure	
Ford	McConnell	

NOT VOTING—1

Boschwitz

The PRESIDING OFFICER (Mr. GLENN). Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

The amendment of the Senator from Florida, No. 3024, is not germane. The point of order is sustained. The amendment falls.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, in light of the vote on amendment No. 1, I ask unanimous consent to vitiate the previously ordered vote on my amendment No. 2.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The question is on agreeing to the motion to waive.

May we have order in the Senate, please? The Chair is uncertain of the last vote. We are going to pose the question again. May we have order in the Senate, please?

The question is on the motion to waive.

The motion to waive was rejected.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. SASSER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I wonder if the Senator from Tennessee will yield for two questions as to procedure?

Mr. SASSER. Mr. President, I yield to the Senator from Florida for the purpose of a question.

Mr. GRAHAM. Two questions, Mr. President. The first one relates to the bill that is currently before us. It is my understanding that the staff of the Budget Committee has reviewed the reconciliation bill for purposes of germaneness and has found provisions that have been incorporated in this bill to be subject to a point of order. Is it the intention of the chairman of the committee to offer an amendment to strike those nongermane provisions from this reconciliation bill?

Mr. SASSER. That is unclear at the present time, I say to the Senator from Florida. But it is the right of any Senator to offer an amendment to strike or a motion to strike any item that he or she considers to be nongermane.

Mr. GRAHAM. Before I ask my second question, I comment that that is a distressful answer because, obviously, having just received this approximately 25 hours ago, individual Senators are not in a position to do that type of analysis. If the committee does not come forward, we are going to end up with a double standard that proposals that I think are meritorious, as the one I just offered, not being incorporated and other proposals which may or may not be meritorious but are subject to the same germaneness rule would stay in the bill. I suggest that is a fundamental unfairness.

And that goes to the second question. I understand at some point before the 20 hours are up, we are going to have an amendment which will represent some significant modifications to the current budget and Gramm-Rudman-Hollings law; is that correct?

Mr. SASSER. There will be a so-called enforcement package to this reconciliation bill that will be offered by the leadership that will make some changes with regard to the impact of Gramm-Rudman-Hollings and other legislation.

Could we have order, Mr. President?

The PRESIDING OFFICER. The Senate will not proceed until we are in order.

Mr. SASSER. I thank the Chair.

To continue with the Senator from Florida, that leadership amendment is presently being xeroxed and will be made available to Members within just a very few moments.

Mr. GRAHAM. Mr. President, to comment on that, that also distresses me. I recognize the complexity of this matter, but I think the current process that we have, as has just been demonstrated, is a fraud. I think it requires serious attention. We have now, what, less than 4 or 5 hours left? We have not yet received what last night was a 106-page amendment covered with inter-lineations which is purported to be the new budget process for the future. I suggest that that is going to be considered under less than acceptable circumstances, and we are likely to be ratifying with even greater complexities, nuances, convolutions, further budget processes that will prevent us from dealing intelligently with the financial needs of the country. So I would raise now my concern for the timing in which this amendment is going to be presented to us and the lack of a capacity that for most Senators will have to give any intelligent scrutiny to this matter.

Mr. SASSER. Mr. President, I regret that the Senator from Florida chooses to use words such as "fraud." I do not think he means to imply that any Member of this body would try to perpetuate a fraud on any other Member.

What is occurring is we are operating under very expedited time procedures, expedited time procedures that are brought about partly by the failure of this body to be able to agree on a budget reconciliation. Here we are in the second or third week in October taking up a budget reconciliation bill that should have been passed months and months ago.

These enforcement measures have been under discussion for months with representatives of the administration, representatives of the minority, the

various budget summiteers; the distinguished chairman of the Appropriations Committee has had significant input into it, as has the distinguished chairman of the Finance Committee. They have been inspected by the distinguished chairman of the Rules Committee.

We are just now resolving one or two or three issues that have been outstanding for some period of time, and this will be available, is available now for the distinguished Senator's inspection. It is not unusual that we act on legislation around here in which every Senator has not read every jot and title in every line of a piece of legislation.

So I say that this is available for the distinguished Senator from Florida to inspect and I urge him to look it over.

The PRESIDING OFFICER. Amendment No. 3025 by the Senator from Florida [Mr. GRAHAM] does not produce a change in either outlays or revenues and therefore is an extraneous provision under subsection D(1)(a) of section 20,001 of the Budget Reconciliation Act of 1985, as amended. The point of order is well taken. The amendment falls.

Under the previous order, the Senator from Vermont [Mr. JEFFORDS] is recognized to offer an amendment.

Mr. DOMENICI. Mr. President, before the distinguished Senator commences, might I be recognized?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. On my time on the bill.

I understand we have a process where the Senator from Vermont is going to offer an amendment and then the junior Senator from Tennessee. We did ask that the amendment of the junior Senator from Tennessee not be subject to amendment. When I made that unanimous-consent request, I did not ask the same with reference to the Jeffords amendment. I request that it not be subject to amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOMENICI. I thank the Chair.

AMENDMENT NO. 3026

Mr. JEFFORDS. Mr. President, I have an amendment. The amendment is No. 2. It is the short version.

The PRESIDING OFFICER. Is there objection?

Mr. JEFFORDS. Mr. President, I offer the amendment.

The PRESIDING OFFICER. Is there objection to the request by the Senator from New Mexico that would prohibit a second-degree amendment? Without objection, it is so ordered.

The Senator from Vermont.

Mr. JEFFORDS. Mr. President, this is an important amendment and fortunately will be accepted on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 3026.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. KERRY). Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following

SECTION —.

(a) FINDINGS.—The Congress finds and declares that—

(1) in order to have a comprehensive program to reduce pollution and reduce our dependence on foreign oil, it is important to coordinate programs relating to the production of automobiles and the production of fuels;

(2) the achievement of long-term energy security for the United States is essential to the health of the national economy, the well-being of our citizens, and the maintenance of national security;

(3) the displacement of energy derived from imported oil with alternative fuels will help to achieve energy security and improve air quality;

(4) transportation uses account for more than 60 percent of the oil consumption of the Nation; and

(5) the Nation's security, economic, and environmental interests require that the Federal Government should assist clean-burning, nonpetroleum transportation fuels to reach a threshold level of commercial application and consumer acceptability at which they can successfully compete with petroleum based fuels.

SEC. 2. RESOLUTION.

It is the sense of the Senate that it is in the national interest to enhance energy security and promote environmental protection through the gradual replacement of gasoline with cleaner, domestic nonpetroleum energy sources, and

The Secretary of energy should analyze the potential of, and report to Congress on, the technical feasibility of replacing, by 1998 and 2005, ten percent and thirty percent respectively, of our national transportation fuel with alternative and other domestic sources of energy.

Mr. JEFFORDS. I think it is important that while we are on this important piece of legislation we also give some consideration to the impact the Middle East crisis will have as the days unfold. The purpose of my amendment is to hopefully allow us to be in position when we return next spring to be able to devise a plan that will get us off of the dependency on oil from the Middle East.

It is a relatively simple amendment that I am offering and yet its ramifications could be quite dramatic. What my amendment does very simply is it says that we should take a look at a program that will get us in a position where we can use our indigenous resources, to be able to substitute our motor fuels for indigenous resources such that we can on an increasing percentage get rid of more and more of the imported oils and necessity for our motor fuels.

The Middle East is not something that is going to go away. We thought it was. We had a crisis in the mid-1970's and we at that time considered all sorts of options we should consider to get us in a position where we would no longer be dependent upon imported oil. For instance, the amendment I am offering today was offered at that time. It had over 100 cosponsors in the House. It passed out of two full committees and one subcommittee in an effort to have a program to get us out of that dependency. However, OPEC folded in the sense of its ability to control oil and we ended up with that program not being approved.

What this program say is that we have enough indigenous resources in this Nation with the proper program to manufacture our own motor fuels and that we should do this.

Now, how do we do this? Well, we tried a program in the 1970's which did not work, and I want to make sure people understand this is not that kind of a program. We mandated a supply. We said let us create a Synfuels Corporation to produce a synthetic substance to get rid of the need for the importation. That failed, it failed miserably because you cannot mandate a supply and make it work unless you have huge subsidies.

My program goes the opposite direction; it says we will mandate the demand. We will reassure those who want to manufacture or to produce something that will replace the imported oil that there will be a market for it.

Now, it also will work in concert with the clean air bill for the program I have proposed, which was printed on Tuesday in the RECORD, says we should also give extra incentive to those fuels which are cleaner so that at the same time we get ourselves off of the dependency of Mideastern oil we will have distribution systems available to enable us also to have the clean fuels necessary to also clean up the air.

I have discussed this with the Energy Committee personnel and I believe that it is acceptable to them.

I would also like to ask unanimous consent to add Senator CONRAD BURNS as a cosponsor of this amendment.

I would be happy to at this point yield to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Thank you, Mr. President, I thank the Senator for yielding the floor at this point.

I ask unanimous consent that I be added as original cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, the Senator is exactly correct in the

thrust of this amendment. I think it is a useful addition as an expression of the determination of the Senate to do something positive about energy supply in this country.

Just because it happens to be good energy policy does not mean we should not do this. It is good energy policy. It is also good environmental policy in a whole variety of different ways.

These kinds of fuels help us meet the objectives of the Clean Air Act, whether it is the existing law or the proposal which has already passed and is in conference between the Senate and the other body. It is also good farm policy as well; if we can get ethanol production moved into our liquid fuels in this country, we do something very positive for the farmers of this country in creating new markets for produce that they would like to sell on the market at a profit.

It is also very good foreign policy because it reduces dependence upon imported oil. The Senator is exactly right with respect to our problems as we confront Saddam Hussein, and Iraq in Kuwait, and in the Persian Gulf area.

We do not need to redebate all the questions and all the reasons why we have troops in Saudi Arabia today, because I think everyone understands it is not just the oil. It is a combination of oil and a reckless, ruthless leader in Iraq. But without those two things happening at the same time, our troops would not be there.

Energy policy ought to be directed toward reducing our vulnerability, reducing the economic outflow of money, as we have too great a dependence upon foreign oil, imported energy supplies.

It is good economic policy for this country to reduce the balance of payments deficit. This is one of the ways to do it. For a whole lot of reasons, we ought to be moving more positively and affirmatively in this field.

I wish we had been able to legislate more positively and affirmatively in this field, but this is not the time and the place to do the legislation, but is certainly the time and place for us to assert our willingness, our determination, and our intention to move in that direction.

I commend the Senator for bringing this matter to the attention of the Senate today. I wholeheartedly support this amendment in the form of a Senate resolution. I hope the Senate will adopt it without any dissent, and I hope further than that, that the Senate will move toward this kind of a policy in the legislation which must inevitably be passed.

I thank the Senator for yielding. I am delighted to be a cosponsor of this amendment.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I would like to associate myself with the words of Senator JEFFORDS and of course my friend from Idaho, Senator MCCLURE.

Just a couple of months ago we were in the Middle East, and over there if there is one thing that absolutely glared at me it was one of these days we are going to be able to get on an airplane and go over there and visit our money. That is irrespective of what Saddam Hussein did. We maybe sent him a thank you card for letting the alarm go off.

In agriculture this is good farm policy. Because I will tell you this right now, we are running into problems on farm income. We have to have some way or some outlet that we can turn this powerful fuel of biomass, and ethanol and, yes, we talk about ethanol and clean coal technology—the mix of everything. But basically it makes good farm policy because if we only produced for the domestic market, in wheat alone, it would only be a third of our production which would be used in this country. We are producing that much in this country. It is a tremendous resource that is going to waste.

We can power every car, every truck, every train in this country with what we produce from agriculture.

You know, there was an old lady who said how did the farmers get along a long time ago; what about their costs? I said, well, they produced their own energy. It was horsepower. They produced the grass. The energy was from the feed. The energy was produced on the farm. Let us take that same philosophy and do it with this country, because we can do it.

I congratulate Senator JEFFORDS for this sense of the Senate. I, too, hope there is no dissent here. It is time that this Nation becomes independent with its energy resources, and it takes a mix. But this will be, Mr. President, one of the great parts of weaning us off fossil fuel and petroleum.

I thank you. I yield the floor.

Mr. JEFFORDS. I thank the Senator from Montana for his comments. I agree with him wholeheartedly. I especially want to thank the Senator from Idaho for his comments. I only wish he would be here next year with us in order to bring about an affirmative end to what we are starting here today.

Let me briefly summarize where we are and then I would be happy to yield the floor.

I want to point out that my bill puts us on a course of being energy independent by ensuring the demand, that is the critical part, with no budget cost. It will also enhance our ability to reduce pollution through the availability of cleaner fuels. It will create thousands of new jobs by shifting tens of billions of dollars toward alternative and replacement fuels production.

That money that we are now shipping to the Middle East and elsewhere will be here in this country. It will provide revenues through the many industries created to supply the replacement fuels. It will reduce agricultural program costs by increasing the demand for ethanol. The variety of fuels that will compete for this market will help coal regions, natural gas regions, as well as the regions that produce fuels from shale or tar sand.

The guaranteed demand will attract capital necessary to stimulate the production of these fuels. Market forces subject to environmental standards will select the least costly options that uses the market forces.

Mr. President, replacement fuels are means by which we will extricate ourselves from a multitude of problems brought on by our dependency on imported oil. My program offers a cost-effective method for promoting the commercial development of these domestic resources.

There are the resources. We have the ability to remove ourselves from the dependency upon the oil which we are now importing, the dilemma we are in in the Middle East. It is important that we not allow ourselves to continue the position of being dependent on the oil from the Middle East and subjecting our young people, not just now but in the decades ahead, to having to go over in order to ensure that supply is available.

I yield the floor.

Mr. DOMENICI. Mr. President, parliamentary inquiry. How much time does the Senator from Vermont have?

The PRESIDING OFFICER. The Senator has 48 minutes and 16 seconds.

Mr. DOMENICI. I support his resolution. I wonder if the Senator would yield 3 minutes.

Mr. JEFFORDS. I am happy to yield to the Senator.

Mr. DOMENICI. Let me say to the distinguished Senator from Vermont that the idea encapsulated in this resolution is indeed one that could solve America's energy problem because this country is not energy short. What we are short of is oil and what we are short of is the kind of fuel that will permit our transportation in the United States to function, and principally our individual transportation; not exclusively, but principally.

Well over 65 percent of the oil that is imported and used in America goes to transportation needs. Clearly there is a way to substitute other components, other kinds of liquid energy for the refined oil product.

We have always been subject to the problem that in producing new kinds of energy we are vulnerable to the vagaries of oil. What the Senator is suggesting is we set a demand proportion on that fuel to come from other than

oil-refined products. If that happened to be all from the United States, and I hope it is, then that new demand component would set up its own competitiveness. So while it might be high at the beginning, it would be merged and meshed with gasoline, as I understand it, oil-related gasoline, and used in a mixture that was adequate.

Eventually we would have a competition and a market for that new percentage that comes from other sources. It could be liquid coal, it could be ethanol from agricultural products. This resolution merely says this is what we ought to be doing. I think it is.

I am not so sure when we get down to the details in legislation that people will not find all kinds of excuses and reasons that we should not or could not. But I believe it is an idea whose time has come. I thank the Senator for offering it. I support it.

Mr. JEFFORDS. Mr. President, I am happy to yield back the balance of my time, unless someone else wishes to speak.

The PRESIDING OFFICER. Does the majority manager yield back his time?

Mr. SASSER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 3026) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, under the previous unanimous-consent request, the Senator from Tennessee will be now recognized for an amendment.

I ask unanimous consent that following consideration of the amendment of the distinguished Senator from Tennessee, the pending business be a sense-of-the-Senate resolution to be offered by Senators NUNN and BOREN.

Will the Chair withhold the ruling a moment?

Let me state, Mr. President, for the benefit of the distinguished ranking member, who was distracted momentarily, that I have propounded a unanimous-consent request to the Chair requesting that, at the conclusion of the amendment offered by the distinguished Senator from Tennessee, the pending business of the Senate then become a sense-of-the-Senate resolution to be offered by Senators BOREN and NUNN, and that the sense-of-the-Senate resolution not be subject to amendment.

Mr. DOMENICI. Mr. President, reserving the right to object, let me say to my friend who is here on the floor from Georgia, I need a couple minutes to check it out. It seems plausible to me and the thing we ought to do. If I get concurrence, I will ask Senator GORE to yield so I can then agree with the consent.

The PRESIDING OFFICER. The Chair asks the Senator from Tennessee, does he mean a sense-of-the-Senate amendment or sense-of-the-Senate resolution?

Mr. SASSER. Sense-of-the-Senate amendment. I apologize to the Chair. I misspoke myself.

Mr. DOMENICI. Mr. President, I just have received confirmation that so long as the unanimous consent includes that it is not subject to further amendment and includes a time limit; is there one?

Mr. NUNN. One hour.

Mr. DOMENICI. Equally divided.

Mr. NUNN. That will be sufficient for us.

Mr. DOMENICI. We have no objection.

The PRESIDING OFFICER. Without objection, it so ordered.

The Senator from Tennessee is recognized.

AMENDMENT NO. 3027

(Purpose: To provide substitute revenue provisions)

Mr. GORE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. GORE], for himself, Ms. MIKULSKI, Mr. KERRY, and Mr. BIDEN, proposes an amendment numbered 3027.

Mr. GORE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 7461 of the bill and insert the following:

SEC. 7461. ELIMINATION OF PROVISION REDUCING MARGINAL TAX RATE FOR HIGH-INCOME TAXPAYERS.

"(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)), a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $32,450	15% of taxable income.
Over $32,450 but not over $78,400.	$4,867.50, plus 28% of the excess over $32,450.
Over $78,400	$17,733.50, plus 33% of the excess over $78,400.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $26,050	15% of taxable income.
Over $26,050 but not over $67,200.	$3,907.50, plus 28% of the excess over $26,050.
Over $67,200	$15,429,50, plus 33% of the excess over $67,200.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $19,450	15% of taxable income.
Over $19,450 but not over $47,050.	$2,917.50, plus 28% of the excess over $19,450.
Over $47,050	$10,645.50, plus 33% of the excess over $47,050.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $16,225	15% of taxable income.
Over $16,225 but not over $39,200.	$2,433.75, plus 28% of the excess over $16,225.
Over $39,200	$8,866.75, plus 33% of the excess over $39,200.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $5,450	15% of taxable income.
Over $5,450 but not over $14,150.	$817.50, plus 28% of the excess over $5,450.
Over $14,150	$3,253.50, plus 33% of the excess over $14,150.

(b) REPEAL OF PHASEOUT.—

(1) IN GENERAL.—Section 1 is amended by striking subsection (g) (relating to phaseout of 15-percent rate and personal exemptions).

"(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 1(f)(6) (relating to adjustments for inflation) is amended by striking "subsection (g)(4),".

(c) 28 PERCENT MAXIMUM CAPITAL GAINS RATE.—Subsection (j) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(J) MAXIMUM CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the amount of the net capital gain, or

"(ii) the amount of taxable income taxed at a rate below 28 percent, plus

"(B) a tax of 28 percent of the amount of taxable income in excess of the amount determined under paragraph (1).

"(2) COORDINATION WITH SECTION 1202 DEDUCTION.—For purposes of paragraph (1), the amount of the net capital gain shall be reduced by the sum of—

"(A) the amount allowable as a deduction under section 1202(a)(1), plus

"(B) the amount of the qualified gain (as defined in section 1202(c)) for the taxable year to the extent taken into account under section 1202(c)(1) for the taxable year."

(d) TECHNICAL AMENDMENTS.—

(1)(A) Subsection (f) of section 1 is amended—

(i) by striking "1988" in paragraph (1) and inserting "1990", and

(ii) by striking "1987" in paragraph (3)(B) and inserting "1989".

(B) Subparagraph (B) of section 32(i)(1) is amended by striking "1987" and inserting "1989".

(C) Subparagraph (C) of section 41(e)(5) is amended—

(i) by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subpargraph (B) thereof" before the period at the end of clause (i),

(ii) by striking "1987" in clause (ii) and inserting "1989", and

(iii) by adding at the end of clause (ii) the following new sentence: "Such substitution shall be in lieu of the substitution under clause (i).".

(D) Subparagraph (B) of section 63(c)(4) is amended by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end.

(E) Clause (ii) of section 135(b)(2)(B) is amended by striking ", determined by substituting 'calendar year 1989' for 'calendar year 1987' in subparagraph (B) thereof".

(F) Subparagraph (B) of section 151(d)(3) is amended by striking "1987" and inserting "1989".

(G) Clause (ii) of section 513(h)(2)(C) is amended by inserting ", by sustituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end.

(2) Section 1 is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (g) and (h), respectively.

(3) Subsection (j) of section 59 is amended—

(A) by striking "section 1(i)" each place it appears and inserting "section 1(g)", and

(B) by striking "section 1(i)(3)(B)" in paragraph (2)(C) and inserting "section 1(g)(3)(B)".

(4) Paragraph (4) of section 691(c) is amended by striking "1(j)" and inserting "1(h)".

(5)(A) Clause (i) of section 904(b)(3)(D) is amended by striking "subsection (j)" and inserting "subsection (h)".

(B) Subclause (I) of section 904(b)(3)(E)(iii) is amended by striking "section 1(j)" and inserting "section 1(h)".

(6) Clause (iv) of section 6103(e)(1)(A) is amended by striking "section 1(j)" and inserting "section 1(g)".

(7)(A) Subparagraph (A) of section 7518(g)(6) is amended by striking "1(j)" and inserting "1(h)".

(B) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act, 1936 is amended by striking "1(j)" and inserting "1(h)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7461A. INCREASE IN RATE OF INDIVIDUAL ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subparagraph (A) of section 55(b)(1) (relating to tentative minimum tax) is amended by striking "21 percent" and inserting "25 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1990.

SEC. 7461B. SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000.

(a) GENERAL RULE.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000

"Sec. 59B. Surtax on section 1 tax.
"Sec. 59C. Surtax on minimum tax.
"Sec. 59D. Special rules.

"SEC. 59B. SURTAX ON SECTION 1 TAX.

"In the case of an individual who has taxable income for the taxable year in excess of $1,000,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 10 percent of the amount which bears the same ratio to the tax imposed under section 1 (determined without regard to this section) as—

"(1) the amount by which the taxable income of such individual for such taxable year exceeds $1,000,000, bears to

"(2) the total amount of such individual's taxable income for such taxable year.

"SEC. 59C. SURTAX ON MINIMUM TAX.

"In the case of an individual who has alternative minimum taxable income for the taxable year in excess of $1,000,000, the amount of the tentative minimum tax determined under section 55 for such taxable year shall be increased by 2.5 percent of the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds $1,000,000.

"SEC. 59D. SPECIAL RULES.

"(a) SURTAX TO APPLY TO ESTATES AND TRUSTS.—For purposes of this part, the term 'individual' includes any estate or trust taxable under section 1.

"(b) TREATMENT OF MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$500,000' for '$1,000,000'.

"(c) COORDINATION WITH OTHER PROVISIONS.—The provisions of this part—

"(1) shall be applied after the application of section 1(h), but

"(2) before the application of any other provision of this title which refers to the amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $1,000,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7461C. 6-CENT INCREASE IN MOTOR FUEL TAXES.

Notwithstanding any provision of, or amendment made by, section 7405 of this Act (relating to increase and extension of highway-related taxes and trust fund) or any provision of the Internal Revenue Code of 1986, the following tax rates shall be effective for any period beginning or or after January 1, 1991:

(1) TAX ON GASOLINE.—The Highway Trust Fund financing rate and the deficit reduction rate under section 4081(a)(2)(B) shall be 12 cents a gallon and 3 cents a gallon (3.5 cents a gallon in the case of gasohol containing ethanol), respectively.

(2) TAX ON DIESEL FUEL.—The Highway Trust Fund financing rate and the diesel fuel deficit reduction rate under section 4091(b) shall be 18 cents a gallon and 3 cents a gallon (3.5 cents a gallon in the case of any mixture of diesel if at least 10 percent of such mixture is ethanol), respectively.

(3) TAX ON FUEL USED IN TRAINS.—The rate of tax on fuel used in trains under sections 4041(a)(3) and 4093(c) shall be 3 cents per gallon.

SEC. 7461D. PART B PREMIUM.

Section 1839(e)(1) of the Social Security Act (42 U.S.C. 1395r(e)(1)), as amended by section 6161 of this Act, is further amended by striking "and for each month after December 1992 and before January 1996".

SEC. 7461E. PART B DEDUCTIBLE.

Section 1833(b) of the Social Security Act (42 U.S.C. 1395l), as amended by section 6162 of this Act, is further amended by striking "for calendar years before 1991 and after 1995, and $150 for years after 1990 and before 1996".

SEC. 7461F. COINSURANCE FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 13951), as amended by section 6163 of this Act, is further amended—

(1) in subsection (a)(1)(D)(i)), by inserting "in the case of such tests for which payment is made on an assignment-related basis, or" after "100 percent,",

(2) in subsection (a)(2)(D)(i), by inserting "in the case of such tests for which payment is made on an assignment-related basis, to a provider having an agreement under section 1866, or" after "100 percent,", and

(3) in subsection (b)(3), by inserting "(A) under subsection (a)(1)(D) or (a)(2)(D)(i) on an assignment-related basis, or to a provider having an agreement under section 1866, or (B)" after "under this part".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to clinical diagnostic laboratory tests performed on or after January 1, 1991.

Mr. GORE. Mr. President, the Senator from Maryland [Ms. MIKULSKI] and I, are offering this amendment in behalf of ourselves and our original cosponsors, the Senator from Massachusetts [Mr. KERRY]; and the Senator from Delaware [Mr. BIDEN].

Let me say in beginning my comments on this amendment something which I said briefly last evening. I deeply respect what the two leaders are attempting to do in bringing the Finance Committee bill and the reconciliation package to a successful conclusion.

Let me repeat my commitment, Mr. President. Regardless of what happens on this amendment, which I care deeply about, I will support the leadership package. I think it is extremely important that the package pass, that we go to a conference with the House,

that that conference committee produce a bill that is acceptable to this body and to the other body, that it be sent to the President, and that he approve it.

I recognize fully that if that long, complicated process is going to work, we have to pay careful attention at each step along the way to the need for a sufficient consensus to allow the process to continue.

I am concerned about the conference committee and what will come out of the conference committee. I believe, Mr. President, that a majority of Senators in this body would like to see an outcome which distributes the burden of cuts and taxes fairly, in a manner that does not rule off limit increases in the rate of taxation to those who are most fortunate in our society, who are now paying a rate somewhat lower than Americans who make slightly less than they do, a marginal rate.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. GORE. I will be happy to yield.

Mr. DOMENICI. I do not want my comments to interrupt the Senator's remarks. We are getting in a situation where time is important, and we know Senator METZENBAUM cannot be back before 12:30.

I wonder if the Senator will entertain the idea of having a time agreement so that we could vote no later than 12:30?

Mr. GORE. That is perfectly acceptable. I have consulted with my cosponsor, and we have said all along that a time limit would be agreeable to us, and 1 hour equally divided seems fair.

Mr. DOMENICI. I will say to my good friend from Tennessee, in the event we can do better, and do it in less time, we can call up another amendment and not insist on a vote. We would hope we could do the opposition in less than a half hour.

So I ask unanimous consent that the time be 1 hour equally divided, and whatever the vote is, it occur no sooner than 12:30.

The PRESIDING OFFICER. Is there objection?

Mr. GORE. Mr. President, reserving the right to object, may I ask if the distinguished Senator from New Mexico will amend the request to make it that we have an up or down vote on the amendment?

Mr. DOMENICI. No; I cannot do that. In fact, I was just going to make sure that my unanimous consent did not waive the right to move to raise a point of order on the amendment.

We cannot do that. Of course, the Senator does not have to agree on the time, either.

Mr. GORE. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GORE. Mr. President, I withdraw my objection to the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Tennessee has the floor.

Mr. GORE. Mr. President, I was just saying a moment ago that I am concerned about the outcome from the conference committee, and I am convinced that a majority of Senators in this body, having heard from the President that new taxes are necessary, as well as cuts in spending, now face the question of how to distribute the burden of that new taxation.

I am convinced that a majority of Senators believe in their own minds that it is no longer fair to hold the so-called bubble as a sacrosanct item not subject to change. We have already heard a discussion of the bubble, and it is not my intention to go back over familiar ground.

But just to recap briefly the basic raw facts, the top effective rate of 33 percent comes back down for those making roughly more than $200,000 a year. And if in this measure we are going to raise taxes on lots of people in the United States, why should we continue to respect this mistaken anomaly in the present tax law which affords a special privilege to the wealthiest citizens in our country?

It is interesting to note that many of those who are in that category do not object to the principle of fairness being asserted here. It is the White House which is asserting that principle over the objections of some who would benefit from it. I just think that it makes good sense. If taxes are going to be raised, then the burden should be distributed fairly.

Mr. President, let me also say at the start of this statement, having given my commendation to the two leaders, I want to single out the majority leader because he has made these same points repeatedly for the last 4 years and has been the single most effective advocate of the point of view that this so-called bubble ought to be eliminated. I think all of us understand that the majority leader and the distinguished chairman of the Finance Committee and some others, perhaps, felt bound to support the package which came out of the Finance Committee, notwithstanding the fact that their own personal view is that they would like to see something like the Gore-Mikulski amendment adopted.

I hope that a great many Senators, hopefully a majority, will say in their vote on this amendment that they would like the conference committee to burst the bubble and they would like to reduce the impact now being proposed on Medicare patients who will be asked to pay a great deal more if the Finance Committee package passes unamended.

Mr. President, I would also like to offer the highest praise to the chairman of the Budget Committee, my friend and colleague from Tennessee, Senator JIM SASSER. He has brought to this process critical leadership, endless energy, and a deep commitment to making Government work at a time when our country desperately needs men and women who will exercise that commitment with the kind of dedication Senator SASSER has shown. We are all in his debt and grateful for his service and dedication.

I would also like to compliment the Senator from New Mexico, my friend, Senator DOMENICI. I share with him the conviction that we are right to make deficit reduction our first priority. But in figuring ways to cut the deficit, I also agree that we cannot ignore the most important factor in any budget equation—the American people, working and middle-class families, seniors, and others who are already paying more than their fair share in taxes.

This amendment really poses a very simple question. Having accepted the need for sacrifice, here we have a chance to reorder the priorities a little bit and ask those who are the wealthiest in our society to pay the same tax rate as those who are making a little bit less than they do. And we use that money in this amendment to reduce the impact on Medicare recipients. We would also, incidentally, slightly cut back on the gas tax increase. But the principal focus of this is to reduce the impact on Medicare patients. All of the numbers boil down to that simple question. Do we want to ask senior citizens in the hospital to pay more so the wealthiest in our society can pay less? That is the question.

I do not want to ask the Medicare patients to pay more so that the wealthiest in our society can pay less. I do not want to tell senior citizens in Tennessee or anywhere else that they should pay more for health care so that those who are most fortunate in our society can get an unjustified tax break. It is just plain wrong, and it is a mistake that this amendment would correct.

Let me tell you what is not in this amendment. It does not include other changes in law relating to farm programs or relating to other programs. It does not include any change in the current practice of indexation to avoid bracket creep. People have different views on that. This amendment does not address that. It is very simple and very clear. It bursts the bubble with the accompanying provisions on the alternative minimum increase and the surcharge discussed earlier, and the money is used to reduce the impact on Medicare recipients and to slightly decrease the planned rise in the gasoline tax.

I believe it is only fair, Mr. President. I really hope that our colleagues on both sides of the aisle will take a good, hard look at this. I do not think it is subject to the criticism that has been made about some other amendments, that it kills the package, that it undermines the agreement. I do not think it does. I really believe that a vote for this amendment is the best and most effective way to influence the outcome in the conference committee.

Mr. President, I will have more to say about this amendment, but on this occasion, I would like to pause now and say that I am very, very proud and honored to be joined by my cosponsor, the distinguished Senator from Maryland [Ms. MIKULSKI] in proposing this amendment. I now yield to her such time as she may consume.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Thank you very much, Mr. President.

I rise today to join with Senator GORE in proposing an amendment to bring more fairness to the deficit reduction package.

Mr. President, I would also like to ask that the Senator from Kansas, a member of the other party, be added as a cosponsor. She must be in her own conference committee meeting and cannot join us on the floor.

Mr. President, I ask unanimous consent that Senator KASSEBAUM be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, we need a new budget. There is no doubt about that. But we also need a new attitude on how we approach the budget process.

Mr. President, I believe that good government must listen to the people and the story of their lives. The message from the people has been loud and clear. They want a budget that cares about them and their day-to-day needs. They want a budget with real savings. They want a budget that does not forget what it means to live from paycheck to paycheck. They want us to be here not to worry about keeping our job; they want us to be here to worry about doing our job.

Last week I came to the U.S. Senate and spoke out on the budget and said that I had just left the bedside of my mother, who had been admitted to the hospital on an emergency basis. She sent me here to save Medicare. Mr. President, I was with my mother this morning. God and the Sisters of Mercy have taken good care of my mother, and I am happy to announce that she is off the critical care list. She asked me if the budget was off the critical care list and how are we doing. I said, "Mom, today we are going to offer an amendment that is going to save Medicare."

It is not only that I have talked with my own mom, I have talked with moms and dads who are worried about their future.

They are struggling to make sure their kids have a good education, a safe neighborhood. Seniors who spent their lifetimes contributing to this country's success want to enjoy their retirement and security. But then they see us asking them to pay more and more for Medicare. These moms and dads and grannies and grandpops know what it means to work hard. They are asking us to make Government work just as hard for them. Not more Government, but more effective Government.

When we focus on this budget we must represent the values of Main Street, not the values of Wall Street. We must stand for hard work, thrift and opportunity; not glitz and greed and lavish spending.

The world is unraveling and the economy is fading. We must lead with policies that attach consequences to behavior. Let us give good-guy bonuses to the people who put something back in our society; the people who go by the rules and make the extra effort.

I want this budget to reflect three principles: Burden sharing; that every American must pay his or her fair share. No gimmicks, we need real savings. And we have to get a dollar's worth of Government services for a dollar's worth of taxes. We want Air Force planes that fly. We want welfare reform that works.

Mr. President, I join in proposing this amendment because it takes these principles and puts them into policy. The Gore-Mikulski amendment makes sure that all Americans pay their fair share. It raises revenue by creating a 33-percent tax rate for those who make over 200 grand.

I think if you have the opportunity in this country to make $200,000, then you ought to accept the responsibility and make sure this Government works.

It adds a 10 percent surcharge on the megarich who make over $1 million a year.

It says that Leona Helmsley, Donald Trump, and Mike Tyson should pay their fair share just like the folks watching the World Series tonight in Baltimore. It makes sure the rich cannot escape paying taxes with smoke and mirrors. It says to the people who want to spend more on lawyers to avoid taxes then they pay in taxes, that they have to pay their share.

What I like about this amendment is we come up with the revenue in a responsible way that makes sure we do not increase Medicare payments. We do not raise the deductible. We do not raise the copayment. We do not tax the sick. We tax those who are well, and more than well off.

We cut 3½ cents off the gas tax, which is important to commuters, to watermen, to farmers. By eliminating the proposed limit on itemized deductions, we make sure we encourage charitable giving and do not freeze the deduction on local property tax.

We have heard a lot about fairness. Fairness means we give the American people a budget that makes sense and one that does not make the middle-class poor and the poor poorer. This amendment stands for these values, values for the 1990's.

I intend to vote to keep the Government going. Whether my amendment is agreed to or it fails, I will vote for final passage. It is this Senator's job to make sure Government keeps going and Government works.

I have respect for the leadership, the majority leader, the minority leader, the Budget Committee people, Senator BYRD of the Appropriations Committee, who has made the process work. I now want to do my best to make sure the Government works. When my name is called I will vote "aye" for this amendment and later on then I will vote "aye" to make sure Government keeps on doing its job.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. GORE. Mr. President, how much time remains to the proponents of the amendment?

The PRESIDING OFFICER. Eleven minutes.

Mr. GORE. I have several requests for time. I would like to yield to the distinguished Senator from Maine [Mr. COHEN] for 2 minutes.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, I am going to support this amendment. There are provisions in the amendment I do not agree with, namely the continuation of the gas tax. I believe that this is a tax that ought not to be imposed at this time, given the high price of gasoline we are already experiencing.

Nonetheless, this is a great improvement over what is currently pending as far as the Finance Committee package is concerned in that it distributes the deficit reduction responsibilities in a more equitable fashion.

I like particularly the provision dealing with Medicare. We have focused upon Medicare as being one of the principal sources of reducing the deficit simply because it is growing. Why is Medicare program growing? We have more people who are growing older and in need of services such as those discussed by the Senator from Maryland for her mother. Thank goodness we have the technology available. It is expensive, but it is also available to help make those declining years be at least more endurable and

more enduring. I think it is wrong for us to shift the burden to the elderly and say they have to absorb higher copayments and higher premiums. It is wrong to tell the hospitals they have to absorb more. The hospitals are having a difficult time right now.

Last year in the State of Maine, Medicare reimbursements to hospitals fell more than $70 million short of actual costs. Maine hospitals absorbed another $10 million in Medicaid shortfalls and many millions more in costs for uncompensated care. People were treated, but the hospitals had to absorb the costs.

I think the proposal offered by my colleagues from Maryland and Tennessee moves in the right direction. Even though I might disagree with a specific provision in the gas tax, I intend to support it.

The PRESIDING OFFICER. Who yields time? The Senator from Tennessee.

Mr. GORE. I yield 5 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I thank the distinguished Senator from Tennessee. I am pleased to be an original cosponsor of the amendment of both the Senator from Tennessee and the Senator from Maryland.

I voted against the budget resolution originally because of the inherent unfairness I saw in it. I have said since the beginning: In trying to further the interests of the citizens of Massachusetts I was going to try to find not only a budget that had real deficit reduction with real targets; but also one that was fair to our region and fair to the people of Massachusetts who have suffered enormously over the course of the last couple of years.

I believe the Gore-Mikulski amendment would be a great improvement in terms of the fairness of this resolution to our citizens. It would burst the bubble, impose a 10-percent surtax on millionaires, and also increase the current alternative minimum tax.

The revenues we gain by doing this are going to be used for purposes that I agree with and think are of great importance. One, is reducing the gasoline tax. We have already had a huge increase in gasoline prices in Massachusetts. Two, is eliminating the burden on the elderly imposed by cuts in Medicare.

Most important, when you measure this bill by looking at where people on the lower- and middle-income scale come out, this package is not fair. It is patently unfair to be asking the lower- and middle-income earner to be the ones to carry the largest burden. I was amazed in the original budget agreement to see how the distribution of its impact would fall. I was amazed to see that those over $100,000 would wind up paying less of a percentage of increase than those at lesser rates of income. It was contrary to a fundamental principle of fairness that we have always espoused in this country and one to which I am firmly committed.

The approach in our amendment eliminates over $17 billion of the unfair Medicare cuts. Mr. President, we can't sit back and let the elderly shoulder the burden of a deficit they did not create.

Mr. President, a number of amendments have been proposed on the floor to deal with the question of the bubble. One of them, last night, was Senator CONRAD's amendment, which was very similar to this. I voted against the Conrad amendment because the Conrad amendment took $7 billion of the revenue that it saved and reduced the level of the agricultural cuts from the $15 billion level. I supported those cuts in agricultural subsidies and do not want to see them restored. I believe those cuts are important. I thought it was wrong, in the name of fairness, to do so little to reduce the burden on the elderly in order to increase agricultural subsidies, which I believe ought to be decreased.

So this is the better approach. This approach is more fair. This approach is one that addresses the needs of our older citizens, it addresses the needs of our low- and middle-income citizens. And it simultaneously has fairness, for it asks those who earn the greatest amounts of money in this country to share better—not all of it—but to share better the burden of reducing this deficit.

All we have to do is look at the figures of the last few years in this country. In the last decade, the average after-tax income of the poorest fifth of American households will have fallen 5 percent by the end up of this year. Meanwhile, the richest fifth will have realized a 33-percent gain in after-tax income, and the richest 1 percent will have seen an incredible gain of 87 percent.

We have had a tremendous increase in the division between rich and poor in recent years, possibly the greatest widening of this gap in the history of this Nation.

I believe that the Gore-Mikulski amendment is an appropriate and proper way to try to redress that division while giving a proper definition of fairness to this effort, of reducing the deficit. It makes the wealthiest Americans pay their fair share. It eliminates the increased cost of Medicare to the elderly. And it cuts the regressive gasoline tax.

Mr. President, I urge my colleagues to join me in supporting this important effort at fairness and I yield back such time as remains to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. GORE. Mr. President, how much time remains to the proponents?

The PRESIDING OFFICER. Four minutes.

Mr. GORE. I yield 3 minutes to the distinguished Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. AKAKA. Mr. President, I rise in strong support of this revenue-neutral amendment offered by my distinguished colleagues, Senator GORE and Senator MIKULSKI. I am supporting this as a necessary alternative to the Finance Committee package because it brings us much closer to the more equitable plan adopted by the House. It takes the right steps toward reducing the Federal deficit in a manner that is fairer for the middle class and the elderly.

It seeks to remove the burden placed on elderly and disabled Medicare beneficiaries and scales back the gasoline tax.

It is wrong to say this amendment is an attack on the wealthy. I do not see how anyone can oppose fair taxes on those earning more than $200,000 a year. This amendment ensures that the wealthiest few pay their fair share. By piercing the tax bubble, the measure would return equity and fairness to our tax structure.

The amendment rejects proposals that seek to increase out-of-pocket payments by elderly and disabled Medicare recipients. By removing all of the new additional burdens—particularly the 100-percent increase in the part B deductible, the measure would ensure that the elderly, especially low-income beneficiaries, are not pushed over the poverty line.

Mr. President, a key provision of this amendment that directly affects Hawaii's consumers is a rollback of the gasoline tax to 6 cents a gallon. The Finance Committee proposal would double the current 9½ cents a gallon tax to 18½ cents. We already pay a higher toll at the gas pump than any other State. To ask that Hawaii residents shoulder further increases in gasoline prices is out of the question. We know that lower and middle income families use more of their income to pay for gasoline than wealthier drivers.

Again, the issue is fairness. And again, this proposal gives us a program that remedies the dramatic shift in the tax burden during the 1980's. I hope this amendment fares better than the Conrad amendment yesterday.

Thank you, Mr. President.

I yield back my time.

The PRESIDING OFFICER. The Senator from Tennessee is recognized with 1 minute remaining.

Mr. GORE. Mr. President, I would like to reserve my remaining minute.

The PRESIDING OFFICER. The senior Senator from Tennessee controls time in opposition.

Mr. SASSER. Mr. President, I am advised that the distinguished minority leader may wish to speak on this amendment. In anticipation of his arrival, I suggest the absence of a quorum, to be charged equally against both sides.

Mr. GORE. Mr. President, in light of the quorum, since we have 1 minute and the opponents have 30 minutes, I wonder if I might reserve the 60 seconds remaining to our side to close the debate?

Mr. SASSER. I think that is fair, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SHELBY). Without objection, it is so ordered.

Mr. SASSER. Mr. President, I have listened with interest to the debate on the amendment offered by the distinguished Senator from Tennessee and the distinguished cosponsor, the Senator from Maryland.

I must say, Mr. President, that I find myself in total agreement with the motives behind the offering of this particular amendment. I also agree with the distinguished sponsors that a raise in the rate on upper-income taxpayers is certainly preferable to a 9-cent gasoline tax. I also agree with the distinguished sponsors that a 10-percent surcharge on those with an adjusted gross income of more than $1 million is certainly preferable to raising the deductibles on Medicare beneficiaries.

I remind the Chair and my colleagues that during the debate on the 1986 tax reform bill, I along with the distinguished majority leader, Senator MITCHELL of Maine, argued long and hard and we thought persuasively, but apparently not persuasive enough, that that 1986 tax reform bill ought to have a higher bracket. We argued and attempted to persuade our colleagues that it should have had a 35-percent tax bracket aimed at the wealthiest taxpayers.

The Senate chose not to accept our arguments on that particular occasion. The Senate chose to go ahead and adopt the 1986 tax reform bill with much lower brackets, leaving the tax bracket on the wealthier taxpayers, those who make over $200,000, at a 28-percent level. I say to my colleagues that is precisely the reason I voted against the 1986 tax reform bill, because I felt the wealthiest of the wealthy were not being asked to pay their fair share in the operation of this Government.

I predicted right here in 1986 that within just a very short period of time the wealthy and their agents and highly paid lobbyists would be right back seeking tax breaks for the wealthy; that we were not going to buy them off simply by giving them a 28-percent tax rate. I was precisely correct because some of the stormiest debates both in this body and around this town over the past 2 years have taken place around the question of capital gains, a capital gains tax cut that I submit would go to the wealthiest in our society.

So I agree with the amendment offered by my friend and colleague from Tennessee. I agree with the amendment offered by the distinguished Senator from Maryland. I think it is a Hobson's choice that many of us are faced with today. Those of us who are supporting this budget reconciliation bill are faced with the choice of either supporting it, and keeping it intact, and achieving the $40 billion in deficit reduction in the first year, $500 billion in deficit reduction over 5 years, or unwinding it by adopting these very attractive, equitable, and I think fair amendments that are being offered.

It is a painful choice, I know, for many of us to make on this side of the aisle. It is a particularly painful choice for this Senator. But in the final analysis I believe that it is in the best interests of our country to get the deficit reduction package presently pending before this body adopted intact, to take that package to conference, and hopefully more equity can be put into the package during the course of the conference, and perhaps when it emerges from conference those of us who supported the package here will feel that our efforts have been more than rewarding.

Mr. President, I say once again to my friend from Tennessee, and my colleague and Senator from Maryland, that I have no disagreement with the amendment that they offer today, but some of us are bound to support this deficit reduction package because we see that as the only way to move this economy forward. And this is the first step that we must take to reduce the staggering deficits that are essentially bleeding the Federal Treasury. In the long run, I believe that the adoption of this deficit reduction package is imperative.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. SASSER. I yield for a question. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has remaining 20 minutes and 26 seconds.

Mr. METZENBAUM. Mr. President, I commend the Senator from Tennessee for his candor in indicating he would like to vote for this amendment; also for his candor in recognizing that the vote for it creates problems as far as passing the ultimate bill.

I wonder whether the Senator from Tennessee can give some of us who are concerned with the whole issue of progressivity the whole question of the wealthy paying more of the tax burden, that out of that conference committee we can anticipate that there will be more movement in the direction of the House bill.

Frankly, many of us are disappointed in the Senate bill. We understand how the Senate bill came into being. But having said that, we are now called upon to have a wish and a hope and a prayer that the Senate conferees will do that which so many of us think should be done.

We are concerned—I speak for myself, but I think I reflect the views of many others—that the President, sitting out there saying, "Do not increase the taxes on the wealthy" is going to pervade that conference committee, and this Senator believes we ought to pass what we should pass, do our job, send it to the President, and let him do anything he wants.

But I wonder what assurances the Senator can give those of us who want to be supportive of the leadership in the Senate but also have a concern about the unfairness and the inequity that we believe is present in the Senate package and we believe is better reflected in the House package?

Mr. SASSER. I say to my distinguished friend from Ohio, the majority leader is present on the floor. I believe that the majority leader, who will be an active participant in the conference, could give the Senator a more accurate appraisal than I could give him at this time.

I defer to the majority leader in response to the question.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. It must be stated at the outset in all candor, as I am sure the Senator realizes, having been in many conferences himself, that no person can give ironclad assurances in advance of a conference with respect to the outcome of the conference. The Senator is aware of that. He has participated in many conferences.

We do not yet even know who the House conferees will be. We do not know precisely which areas they will be prepared to compromise on, or not compromise on.

So all that can be done is to state an intention of what we hope will occur. And that arises out of our present situation and the whole record which we have with respect to these issues.

I happen to be somewhat familiar with an amendment to raise the tax

rate because I was the first Member of the U.S. Senate to propose that. I daresay I have proposed it more often, and discussed it more frequently, than any other Member of the Senate, including the Senator from Ohio, the Senator from Tennessee, and the Senator from Maryland. No one should misunderstand what my hope, intentions, and views are.

But I also recognize that we must deal with the reality of the situation in which we find ourselves, and that is that the President has said he will veto any legislation that includes a 33-percent rate on the highest income individuals. Therefore we are confronted with this dilemma.

We have three tax measures to keep in mind; three. We have current law. We all know what current law does or does not do. I believe, as the Senator from Ohio, the Senator from Tennessee, the Senator from Maryland, and think it is not sufficiently progressive. We would like to make it more progressive, and the only question is how much more progressive and can it be accomplished.

The second measure to consider is the Senate bill being debated today. That is clearly far more progressive than current law. It raised $53 billion from persons in the upper income brackets, through raising the health insurance wage cap from $51,300 to $89,000, and by limiting deductions on those whose adjusted gross incomes exceed $100,000. By definition those only apply to taxpayers above those levels. So there can be no dispute that if the Senate bill became law, it would make the Tax Code more progressive than it is now, not as progressive as the Senator from Ohio would like, not as progressive as I would like, but more progressive than it is now.

Then the third measure we are considering is the amendment of the Senators from Tennessee and Maryland. That would make the Tax Code, if it became law, still more progressive than either the current law or the Senate bill.

But the reality is, as we all know, that this amendment cannot and will not become law because the President has stated clearly, consistently, and unequivocally that he will veto any bill which raises the top rate to 33 percent on the highest-income taxpayer. That is the President's position.

Mr. GORE addressed the Chair.

Mr. MITCHELL. Let me complete my answer.

I do not agree with the President. I think he is wrong. I have said so publicly not once, not dozens, but hundreds of times. But that is the reality, and this is America, where a law does not become a law unless the President signs it or unless we override his veto. And I think my colleagues will agree we do not have the votes in the Senate to override the President's veto.

Mr. GORE. Mr. President, will the Senator yield?

Mr. MITCHELL. If I can finish my answer. I apologize for the length.

The Senator from Ohio raises questions. So, therefore, in reality, we have two choices. We either do not pass a bill in this Senate, in which case we have the current tax law; or we pass the Senate bill as is, or improved in conference, to the extent that we can improve it, which is more progressive than current law.

So I say to the Senator from Ohio and my very good friends, the Senators from Tennessee and Maryland, if this amendment is adopted, the certain result is that we end up with the current law, which is significantly less progressive than what we are trying to do in the Senate bill, or the Senate bill improved. It comes back to the same old question: Do you want to make a statement or do you want to make a law?

Adoption of this amendment makes a statement, but it produces a result that is directly contrary to the intention of the amendment. Rejection of the amendment permits us to pass the Senate bill, to go to conference, to do the very best we can to produce the most fair, progressive result that we can, and try to get that into law so that we have this increase in progressivity, which is substantial.

People may disagree. Remember, this amendment takes with one hand from the wealthy by raising the top rate to 33 percent and raises the surcharge, but then it gives it back to them by eliminating the limitation on deductions, which raises $29 billion from those whose incomes exceed $100,000. The net effect is to make it more progressive. But the difference between the Senate bill and this bill in progressivity is less than the difference between current law and the Senate bill.

So my colleagues have to decide, those who favor progressivity, whether to risk getting two-thirds of a loaf because we want to make a statement about the full loaf, knowing that we cannot have the full loaf.

Even though we disagree strongly with the President, even though we think the President is wrong, even though we think he ought to sign into law a bill that imposes a third rate of 33 percent on those with very high incomes in our society, even though we feel that very deeply, we know for a fact it will not happen.

The question is, in the real world, do we take a substantial improvement in progressivity even though it is less than we want? That is the question. We cannot guarantee a result out of conference, but we are going to do the best we can to produce the best result.

Mr. GORE. Mr. President, will the Senator yield?

Mr. MITCHELL. I do not have the floor.

Mr. METZENBAUM. Mr. President, I think the Senator from Ohio has the floor.

The PRESIDING OFFICER. The time has expired on the amendment.

Mr. GORE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GORE. Under the prior unanimous-consent request, I believe 1 minute remaining to the proponents has been reserved?

The PRESIDING OFFICER. The Senator is correct.

Mr. MITCHELL. Mr. President, since I gave what I apologize for as an unnecessarily long answer to the Senator's question—I wanted to lay the picture out in full detail—I want to ask whether we have some time off the bill to permit others to speak on this. In effect, I gave my speech in response to the question.

The PRESIDING OFFICER. The leader can yield himself time on the bill.

Mr. MITCHELL. I do not want to yield myself time. I ask the managers if they want to yield to Senators PACKWOOD, BENTSEN, and others who might want to speak on this. I regretfully used up too much time.

Mr. GORE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GORE. If a point of order is made and this Senator moves to waive the Budget Act for consideration of this amendment, will there be additional time to discuss these matters?

The PRESIDING OFFICER. The debate on the motion to proceed on the motion to waive would be limited to 1 hour.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I just checked, just so we will know, I think the majority has about 50 minutes and we have about 3 hours. I want to be fair; I have already told the majority leader and Senator SASSER that I will try to be.

But Senator PACKWOOD desires to speak on this amendment, and there is no time left in opposition. He wants to speak, I assume, in opposition.

Mr. PACKWOOD. I do.

Mr. DOMENICI. I want to yield the Senator off the bill to speak in opposition to the amendment.

Mr. BENTSEN. Mr. President, if the Senator will yield, I would also like 10 minutes to speak in opposition to the amendment off of the bill itself.

Mr. DOMENICI. I will yield that. Following Senator PACKWOOD, Senator BENTSEN will have 10 minutes from the Senator from New Mexico to speak.

The PRESIDING OFFICER. Who seeks recognition?

Who yields time?

Mr. PACKWOOD. Will the Senator yield 20 minutres?

Mr. DOMENICI. I thought I had. I so yield.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I want to talk both procedurally and substantively on the amendment, if I might. What the majority leader said procedurally is absolutely correct. I talked with Governor Sununu within the last hour. If the amendment that passed the House becomes the conference report and it is sent to the President, it will be vetoed. If the amendment offered by the Senator from Maryland and the Senator from Tennessee becomes the bill, it will be vetoed. The veto will be sustained, and we will not have succeeded in reducing the deficit.

The President will veto the bill; the veto will be sustained; and we will be deadlocked on the budget again. I do not know whether that means we will have the sequester and shut the Government down or not. Or if we are adjourned, whether the President will call us back immediately.

The majority leader is absolutely right as to the effect of adopting the pending amendment. There will be no bill. That is the procedure as to where we are now, and no one should have any mistake in their mind about that.

But I want to talk about the substance, and in particular the taxation of the wealthy, progressivity, the 1986 Tax Reform Act, and the direction we should be going in terms of taxing the wealthy.

It was a short time ago, and I guess our memories are short, when the scandal in this country was not over the tax rates. The tax rates were relatively high. Just 10 years ago, the income tax rate on the rich was 70 percent. But remember the stories. Every year, the Internal Revenue Service put out a press release, going about as follows: The Internal Revenue Service announced last year that 522 Americans made over a half million dollars a year and paid no taxes. Yes, zero taxes. It did not matter that the tax rate was 70 percent. Some wealthy people did not pay any taxes. And recall General Dynamics and General Electric: They made record profits, but paid zero taxes.

So it did not matter that the tax rates were high. The wealthy knew how to escape paying taxes legally. Why? Because Congress was pressured to make exceptions from the rate, so that people would undertake activities thought to be desirous but would not otherwise be undertaken with the rate that high.

Let me explain in a simple illustration how it works. The rate used to be 90 percent. Former President Regan remembers that well; he was in that bracket in World War II when we put the rates at 90 percent.

Let us assume for purposes of illustration a 90-percent tax rate on all income. And assume someone makes $200,000 in a year. From that, deduct some passive losses—I will explain what these are—and various other deductions. Taxable income goes down to $20,000, because all these legally allowed deductions have been deducted from the income. We then levy a 90-percent rate on the $20,000 and we collect $18,000 in taxes on the person's $200,000 income.

However, we discovered that we could cut the tax rates rather dramatically by eliminating many of these deductions and at the same time increase the taxes on the rich. Let us now take the same example. Instead of a 90-percent tax rate, let us say that you eliminated all deductions and you had a rate of 20 percent. That person making $200,000 would now pay $40,000 at a 20 percent tax rate instead of $18,000, because we got rid of the deductions.

So you can raise taxes on the rich either by raising the rates or by eliminating the deductions. The problem with high rates is that they encourage every lobbying group, every special interest group, if you want to call them that—although I do not mean the term pejoratively—to come in and make a plea that their particular special interest is so critical to the Nation that they should be excused from the rates in one form or another.

I mentioned the term passive losses. Passive losses sometimes are called paper losses. Depreciation on real estate would be a passive loss. In 1981, we mistakenly lowered the depreciation on real estate to a 15-year life. This was ridiculous. A building has a much longer life than that. But under the tax law real estate was depreciated as if at the end of 15 years it was worth nothing. This means that one-fifteenth of the cost of real estate could be deducted from your income every year, although you knew the valve of the real estate was not depreciating that much. The result was to allow you to offset these paper losses against what tax lawyers call active income.

Say you are a wealthy doctor in Boston or a wealthy lawyer in New York and you invest in a tax shelter. All you had to do in those days was look at the ads in the Wall Street Journal and invest in a share of a recording contract or a cattle ranch or all kind of things that you knew were going to lose money from the standpoint of paper losses. Then you would offset those paper losses against your actual income that you made practicing medicine or practicing law, and you got your taxable income down to zero. That was the scandal.

So in 1986, in the tax reform bill, we, in essence, got rid of the deduction for paper losses or tax shelters. We put in an iron-clad minimum tax. We had not had an effective minimum tax before. We had a minimum tax on the books, but there were so many exemptions to it that people could still pay nothing. And we eliminated the lower tax rates for capital gains.

But I want to put it again in perspective as to what we were talking about then and now and where the big money was. In 1986, by eliminating the passive loss deduction, in 1986 dollars, we picked up about $36 billion over 5 years. By tightening the minimum tax, individual and corporate, we picked up another $30 billion; $66 billion in all.

Today, when we are arguing about capital gains, depending upon whose figures you believe, it either raises $11 to $12 billion or loses $11 to $12 billion over the next 5 years. But that is no comparison against the $66 billion 5 years ago that we picked up by eliminating the loopholes.

When we debated this at the summit, we decided that we would prefer to go the route of taxing the rich by further eliminating deductions. And in this bill we have very clearly done that. The majority leader made reference to the fact that if you make over $100,000 a year, you lose some of your deductions. This raises about $30 billion and all of it is raised from people who make over $100,000 a year. I do not know if you want to argue if that is rich or not. It seems rich to me. But it all comes from that income group.

So let us not argue about who wants to tax the rich more or less. You can tax them in one of two ways. My hesitancy in taxing them by going up on the rates is that it will inevitably lead to start having exemptions from the rates. We will then restore exemptions from the rates which basically favor people who itemize, who are more likely to be upper income than lower income. And from time to time the arguments will be made that the rich are not paying much because we have exemptions. So we had better raise the rates again. And again we will raise the rates and again we will increase the deductions.

People talk about a simple income tax. If you want to eliminate all itemized—personal—deductions, such as State and local income-tax deductions, charitable deductions, real estate property deductions, you could have a simple tax return that you could fill out on a postcard, staple your check to it, and send it in. You could have a low rate of about 14 percent of incomes starting at $20,000—below that, you would be excused from tax—and going to a top rate of around 22 or 23 per-

cent on incomes above $65,000. You would get no itemized deductions.

Under that system, the rich would pay more in revenues to the Government than they pay today. It is understandable why. About 70 percent of the people do not take itemized deductions now.

Whether we eliminate deductions or do not eliminate deductions to those people it does not make any difference. The people who take deductions are at the higher end of the income scale. And if you eliminate their deductions, they pay more in revenue.

So we could do that if we wanted, and you would never have to hire a CPA to do your income tax. You would simply add up what you made for the year, go down the chart until you come to your income, go across to the percentage, and pay it. Then you would fill out the check, staple it to the postcard, and send it in. So that is why I am opposed to going up on the rates. I am not opposed to taxing the wealthy.

Now, the next issue. Who is wealthy and how much did the wealthy pay. All of us in this Senate know when you speak to any group—I do not care how much money they make—they do not think they are wealthy. So let us just talk about people with incomes of $100,000 or $200,000 without calling them wealthy.

How much should a person who makes total gross income of $200,000 pay to all of the governments in the United States, Federal, State and local? Thirty percent, forty percent, fifty percent, sixty percent? I think that is a fair debate. And I have asked that question to audiences. I have yet to find an audience that thinks anybody should pay more than half of all of the money they make to all of the governments combined. More likely the answer is, well, it is not fair that you should have to pay more than 30 or 40 percent total to all governments.

I will use my own State of Oregon. Oregon has a high State income tax. In Oregon, after you reach $10,000 on a joint return, you pay our top tax rate, which is 9 percent. It is a relatively high rate at a very low threshold. So if you adopt a 33-percent rate for the wealthy in Oregon—again, let us say over $100,000 or $200,000, wherever you want to set it—and you pay Oregon's 9 percent income tax, you are now paying 42 percent of income in taxes, not counting any Social Security taxes, gasoline taxes, real property taxes, or local taxes you may pay. I am not here to defend whether that is enough or not enough. But I find we do not often argue it on that basis, as to how much taxes should be. I am not in that income category. I never expect to be in that income category. I am perfectly happy with my job here, and hope I stay here for the remainder of my career.

I am intrigued with the majority party and the method they want to tax the rich. I have talked with enough of them now to realize this is a political gambit, not a financial gambit. They well know that you can tax the rich without increasing the rates. But in the public's mind, they see that a high tax rate is equated with a tax on the rich. It is a wonderful political maneuver, because it is much more difficult to explain taxing the rich by eliminating deductions than by raising the rate. Even if the rich will not pay the high rate.

So, time and again when we were at the budget summit at Andrews Air Force Base and the further budget negotiations here, the majority party in the House and the Senate kept coming back to the symbolism of the rates. I do not mind arguing the fact and debating how much the rich should pay, but it was the symbolism of the rates that was most important.

A classic example we talked about at Andrews Air Force Base was means testing the Medicare part B premium. There are two parts to Medicare. Part A pays the hospitals and part B pays the doctors, as a general statement.

Part A is financed by a 1.45-percent tax on your wages which is matched by your employer. That just about pays for the hospital part of Medicare. At the rate we are going, that part of Medicare will be bankrupt by the end of the century, but it is in the black now.

Part B is the doctors. This is voluntary. You do not have to take part B coverage. You can opt out of it. But almost 99 percent of the people on Social Security participate in it for a very specific reason. The part B coverage costs, today, approximately $1,200 a year to buy. Social Security participants, if they choose to participate in part B—and I emphasize they do not have to—pay about $300 of that cost and the general taxpayer pays about $900.

This is not funded by your Social Security tax. The general taxpayer puts up about $900 as subsidy. The total cost is approaching $40 billion a year and it is taken from the general taxpayer—every man, woman, and child who works in this country making $15,000, $20,000, $25,000, $30,000 a year. That money is shifted over to pay this roughly $40 billion in subsidies on Medicare part B.

Is there any wonder that 99 percent of the people participate? They don't have to, but do my colleagues think they could go out and buy a policy with comparable coverage for the $300 a year they are currently paying? Of course not.

What we thought of doing at Andrews Air Force Base was to means test the part B premium—that is, the rich would have to pay more for Medicare part B than the poor. One of the ideas we thought of was that if a person has $100,000 of retirement income outside of Social Security—they would have to have about $1 million in assets to generate $100,000 in retirement income—how about making them pay 100 percent of the cost of part B, making them pick up the $900? That is the way we could have taxed the rich.

No, we could not get that. We could not get that because it is not as symbolic as a higher tax rate.

So what we are going to do instead is tax everyone who makes $15,000, $20,000, $25,000, $30,000, $35,000 in this country, roughly $40 billion a year, so that somebody who has $100,000 of retirement income can get a $900-a-year subsidy from everybody else.

Had we said that the part B premium would be a sliding scale up as your income increased, so those at $100,000 retirement income paid 100 percent, we could have picked up between $26 and $30 billion from taxing upper income people. But it is not as symbolic as the rate. Never mind that the rich will not pay higher tax rates.

So this debate on this particular issue is not a debate on taxing the rich. It is a debate as to whether the proponents of this amendment can force this through the Senate, can force it through the conference between the House and the Senate, and can force the President to veto it. Make no mistake, the President will veto it and the veto will be sustained. Then the elections can be held with the Democrats attempting to complain that the Government is in chaos because a sequester has occurred and people have been laid off because the Republicans would not tax the rich.

Only the Democrats in the House made a slip. I do not know if they grasped what they were doing or not, because in their proposal to raise the rates to 33 percent they did one other thing that really reveals what it is they want to do. They delayed for 1 year—and if you delay it for 1 year, you are going to delay it year after year—what we call indexing the tax brackets. We put this indexing in the Tax Code in 1981. What used to happen before 1981, was bracket creep caused by inflation. Inflation in 1979, 1980, 1981 was 10, 11, 12 percent.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. Mr. President, I yield 5 additional minutes to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, if you made $20,000 one year and there was 10-percent inflation, for your employer to keep you even, he had to pay you $2,000 more, $22,000 total. But if the tax rate on $20,000 was 22 percent and the tax rate on $22,000 was 25 percent, you got pushed up to a higher

bracket. You did not have any more money. Inflation put you up there, but you paid more in taxes.

We got rid of that in 1981 by indexing for inflation the income levels for each tax rate. In 1986, we also indexed the $2,000 personal and dependency deductions. This prevents you from being pushed into higher tax brackets and pay more than is fair for you to pay.

The Democratic proposal in the House eliminates that. Here is the interesting hook. For the rich in this country, this type of indexing has already been eliminated. The so-called bubble does this by eliminating the benefit of the 15-percent tax rate and the personal exemptions when someone's income goes over a certain amount in the Tax Code. When your income reaches a certain point, you pay a flat 28 percent and have no dependency deductions.

So what the House did—a 1-year freeze on tax indexing—has no effect on the rich. Their rate brackets and deductions are not indexed. The effect of the bubble is to eliminate them. So what the House effectively did by freezing the indexing is to raise the taxes on everybody in this country, whether they make $10,000, $20,000, $30,000, $40,000, except the rich. And that tells what it is they want to do and it is: Tax and tax; spend and spend; elect and elect; and try to hide it under the rubric of, "we are taxing the rich."

We can tax the rich any way we want. We can raise rates. We can lower deductions. That is not hard to do. But it does not produce enough money. Unfortunately, there are not enough rich in this country. We could confiscate all of their income—take 100 percent of over $100,000 income—and it would not be enough to balance the budget for 1 year. At the end of that I think it is gone because nobody is going to make over $100,000 again if they have to give it all to the Federal Government.

So, in order to get the money the House Democrats wanted to spend, they had to tax everybody and attempt to hide the fact under the rubric of "we are taxing the rich." So, on the substance, that is what this debate is about.

I will conclude by saying on the procedure, if my colleagues want to pass a bill the President will sign, if my colleagues want to reduce this deficit some $42 billion next year, and roughly $500 billion accumulated over the 5 years, they have to turn down the amendment that is presently pending.

Turn the amendment down both on the substance and on the procedure.

If we want to have a serious debate about taxing the rich and how much the rich should pay, let us have it. I am for taxing them more. But let us not do it by raising the rates so we get back into the spiral of, "please give us exemptions from the rates," and then we raise the rates again, and then they say "please give us further exemptions from the rates," and we do it until we are back at 50 percent, and 70 percent, and then 90-percent rates. And the rich end up paying nothing because of the exemptions and deductions. I thank the Chair.

Mr. KOHL. Mr. President, yesterday I spoke about the need to make the Senate's deficit reduction package more progressive. We have to ask more from those most able to pay. We have to ask more from those who gained the most from the debt-driven policies of the 1980's. I supported Senator CONRAD's amendment last night because it shifted burdens in line with these principles. And I support the amendment of Senators MIKULSKI and GORE for the same reasons.

Like many of my colleagues, I am concerned about the depth of the proposed Medicare cuts. No one in this body would seek to penalize the elderly or support a policy designed to impoverish the frail elderly. We have an obligation, I believe, to do all that we can to assure access to health care and a retirement of dignity and honor.

However, we have numerous obligations, and this legislation is about balancing and fulfilling them. I support the amendment of the Senators from Tennessee and Maryland because I believe it does a better job of balancing than does the Senate package. But I want to make it clear that no package we have seen today does this perfectly, or even near perfectly.

Yesterday, the distinguished President pro tempore spoke eloquently of the responsibilities and obligations facing us. In that speech, he reminded us of those whose needs are not represented in this budget, those who do not have high-powered lobbyists combing the corridors of the Capitol today. He spoke of the future heirs of this Nation, of the children who will inherit this crippling debt if we do not act courageously and responsibly. In a way that only our distinguished colleague from West Virginia can do, he pricked the consciences of all who listened.

I am concerned for our working families, their children, and the children of their children, Mr. President. They will pay the highest price if we fail to reduce the deficit. And to eliminate the deficit, we will have to ask something for everyone. My one concern with the amendment before us now is that it does not ask for anything from Medicare beneficiaries.

Medicare is the second fastest growing piece of our budget, and a full 75-percent of the Part B Program is paid for out of general funds. Medicare, on its own, represents a full 6-percent of the Federal budget. The current $75 deductible is a mere $25 more than it was in 1963 when Medicare was created. It is not unreasonable to seek some savings in the beneficiary side of this program, but the bill before us seeks too much.

The amendment before us, in my view, seeks too little. It is designed to hold Medicare beneficiaries harmless. In the long term, given the rising costs of the program and the range of needs we face, I do not believe that is a viable policy. Everyone has to contribute something to deficit reduction, or no one will be willing to contribute anything. In that context, I would use some of the revenues generated in different ways: certainly to reduce the cuts in Medicare, but also to achieve other important policy goals too.

But while I do not endorse every element of the amendment, I do endorse the notion that we ought not ask Medicare beneficiaries to make a greater sacrifice than we are asking the most fortunate in our society to make. That is a matter of simple fairness. On those grounds, I will support the amendment.

Mr. BRADLEY. Mr. President, I will vote for this amendment because I believe that the wealthiest members of our society should bear a relatively larger burden of deficit reduction than middle income families. The amendment accomplishes this by adding a 33-percent rate to the individual income tax as well as a 10-percent surtax on taxpayers with incomes above $1 million. It uses the revenues from these changes to restore funds to medicare. This is a fairer outcome than what was produced by the Senate Finance Committee bill, which I do not support.

However, I wish to correct a widespread misperception about the so-called bubble which the distinguished sponsor of this amendment seems to share. Contrary to the statement of the distinguished Senator from Tennessee, the bubble is neither unfair nor unprogressive. Certainly it does not reward the rich as too many of my colleagues seem to believe.

The bubble results from phasing out the advantages of the 15-percent rate and the personal exemptions for those in the top income bracket. As a consequence, the wealthiest Americans pay a flat 28-percent rate on every dollar of their income. Taxpayers in the bubble pay less than 28 percent—between 20 percent and 25 percent. The bubble is a consequence of the Congress' desire to reconcile two competing demands: the demand for a rate no higher than 28 percent on the one hand, and the damand for a progressive tax structure on the other. The bubble is the mechanism by which both demands are accommodated.

Nor is the bubble even as anomalous as some of its critics contend. Bubbles occur whenever tax benefits are

phased out, yet few complaints are heard. If my colleagues want a bubble to worry about, I would urge them to focus their attention on the bubble at the bottom of the income scale rather than the one at the top. I refer of course to the earned income tax credit. Doubtless many people would be surprised to learn that low-income taxpayers who are eligible for this benefit have a marginal tax rate of 25 percent rather than the nominal 15-percent rate in the Tax Code. The following example illustrates why this is so:

MARGINAL TAX RATE OF INDIVIDUAL IN PHASEOUT RANGE FOR THE EARNED INCOME CREDIT

A tax credit equal to 14% of earned income is available to eligible individuals. In 1989, the maximum credit was $910. If the taxpayer's earned income or adjusted gross income exceeded $10,250, however, the allowable credit was reduced by 10% of such excess. The allowable credit was completely eliminated for a taxpayer with income in excess of $19,340.

Thus, for a taxpayer whose income increased within the phaseout band (from $10,250 to $19,340), the marginal tax rate was more than the nominal 15% income tax bracket. The following example shows the effect of the credit phaseout on the marginal tax rate of a 1989 joint return when earned income of $15,200 is increased by $1,000. The marginal rate becomes 25%.

	Base case	Base case with $1,000 additional income
Earned income	$15,200	$15,200
Additional income		1,000
Adjusted gross income	15,200	16,200
Standard deduction	[5,200]	[5,200]
Personal exemptions (2)	[4,000]	[4,000]
Taxable income	6,000	7,000
Tax at 15 percent	900	1,050
Earned income credit, per IRS tables	[413]	[313]
Net tax liability	487	737

Note.—Marginal tax rate on additional $1,000 of income: ($737 − $487 = $250 ÷ $1,000 = 25%).

Since the EITC is in the code for the express purpose of encouraging low-income families to choose work over welfare, and since there is general agreement that high marginal tax rates, especially for those at the bottom of the income scale, are a disincentive to work, perhaps those of my colleagues who have lavished so much time and attention on the rich people's bubble could deploy their energies to mitigating the poor people's bubble.

In sum, Mr. President, the bubble is essentially irrelevant to the debate over whether wealthy taxpayers should pay a higher rate of tax. That is an entirely separate issue from the progressivity of the existing tax system. I believe that if taxes are to be raised, the rich must pay their fair share and a 33-percent rate is one way of achieving that goal. Provided of course the rate increase on ordinary income is not coupled with a reduction in the rate on capital gains. That combination, which the Senate will have a chance to vote on later today, will not only not enhance the progressivity of the tax system but will actually diminish it. So I would hope that those of my colleagues who care about fairness will resist that amendment when the time comes.

Finally Mr. President, while I support this rate increase amendment, my strong preference would be to close loopholes first and go to rate hikes as a last resort. The best incentive is the lowest tax rate on income, whether it comes from labor or capital. Higher rates just encourage the proliferation of loopholes. That is why we had tax reform: to get rid of the loopholes and the tax shelters that distort investments and enable the wealthy to avoid paying their fair share. Unfortunately the pending legislation moves in the opposite direction. Instead of closing loopholes, it adds them, which is one reason why I will vote against final passage.

Mr. BRYAN. Mr. President, the hour is late in this Congress and the Nation has no budget. The massive Federal deficit looms over our economy. Each day brings bad economic news of further weakening. Far away, in the deserts of Arabia, an American expeditionary force of almost a quarter of a million men and women are poised on the brink. This is a time for action, not words.

On October 2, President George Bush spoke to the Nation in a televised address on the perils of the deficit, and the need to pass a deficit reduction package.

He said: "Here at home there's another threat, a cancer gnawing away at our Nation's health. That cancer is the budget deficit."

President Bush is right, the deficit is gnawing away at our economy. The decade of the 1980s saw an explosion of national debt as the Federal Government attempted a massive fiscal experiment with our economy called "supply side economics." This theory made the nonsensical claim that you could reduce revenue, and increase spending, and still balance the budget.

The American people are now getting the bill for this colossal failure. Paying for this massive run up in debt, that is paying the interest on the Treasury bonds, now amounts to the fastest growing part of the Federal budget. In a few years, left unchecked by a deficit reduction package, paying interest on the debt will be the second largest item of the budget.

The deficit is not only a disaster for Government finance, it is a massive transfer of wealth from the American people to foreign interests and the wealthy. It is not the average American small businessman, truck driver, or senior citizen, who purchases the billions of dollars in American treasury bonds issued each month. No, it is the representatives of Japan, Middle East oil barons, and large financial institutions. Because the American Government failed to bring the deficit under control in the 1980s, our children will owe this money into the next century.

The effort to disguise the failure of the Presidency and the Congress to deal with deficit has led to the plundering of the Social Security Trust Fund. There is no pile of hard earned cash sitting in a vault awaiting use for the workers of today, for the retirement tomorrow. In a massive slight of hand, the Federal Government takes the Social Security Trust Fund and uses the funds for daily expenses. The Senior Senator from New York, Senator MOYNIHAN, aptly describes this process in one word: embezzlement.

To stop this embezzlement, one of the first bills I introduced was a bill to take the Social Security Trust Fund off budget. I also supported Senator MOYNIHAN'S effort to roll back the Social Security tax increase.

Borrowing from abroad, transferring working peoples' money to financiers, raiding the Social Security Trust Fund, weakening our economy, this and more is the legacy of the 1980's.

Now we are engaged in a great debate on how to reduce this deficit. The year began with President Bush's State of the Union Address in which he said we had made "real progress" on the deficit. Yet if there was a failure of leadership at the start of the year, by mid year the crushing reality of the deficit had a sobering effect on all but the most obstinate.

The economic statistics pointing to economic weakening and recession appeared to becoming a reality. Whole regions of America slipped into recession. In once vibrant New England, the economy plunged into recession, with housing values falling so far that a whole new sector of the financial industry was imperiled.

No longer able to ignore the growing signs of economic peril, President Bush and the congressional leadership came together at the budget summit.

Hindsight, always preferable, may indicate that putting together a deficit reduction package in a closed door summit may not be the best way to educate the public about the tough issues involved. There are those who hold that view now, but it should be pointed out, that the chorus of voices now criticizing the summit process were virtually silent when the summit was convened.

The budget summit produced a compromise, that reached the important goal of $500 billion deficit reduction over 5 years, with $40 billion in deficit reduction in the first year.

There is much to criticize in the summit agreement. I think the summit agreement did not spread the

burden of deficit reduction fairly, but held those making more than $200,000 relatively harmless compared to the middle class. The original budget summit agreement was particularly hard on the elderly, forcing increases in the Medicare premium and raising the deductible. Those living in the Western United States were hurt by the heavy reliance on gasoline taxes to raise revenue.

By protecting those who are wealthy, earning more than $200,000 a year, the budget summit agreement failed the important test of spreading the burden of deficit reduction to everyone.

There is now before the Senate, the Gore-Mikulski amendment which does a much better job of spreading the burden of deficit reduction. Under this amendment, the elderly are spared the increase in Medicare premiums and increased deductibles. Moreover the amendment reduces the gasoline tax increase, not as much as I would like, but it is reduced. An additional benefit of the Gore-Mikulski amendment, is that it does not delay the indexing of income taxes next year.

Under this plan the wealthy will pay more, so that the middle class and the elderly do not have to pay the wealthy's share of the tax bill.

This is my preference, along with increased restraint on Federal spending. Yet, this may fail, for a variety of reasons.

Though our individual preferences for deficit reduction may fail, we should keep our eye on the goal, not just how we reach the goal. If every Senator in this chamber voted only for the package he preferred, and not for a compromise, we would doom any effort to reduce the defict.

President Bush told the Nation at the beginning of this month: "If we fail to enact this agreement, our economy will falter, markets may tumble, and recession will follow."

Tumbling markets, a faltering economy and recession is what is at stake, and here is where we find out who really wants to govern America rather than hold office. We are all against the deficit, and are willing to make speeches in a vain attempt to talk the deficit away. Unfortunately, deficits are invulnerable to the medicine of speeches by politicians. Now is the time for some leadership, whatever the individual political risk. A deficit reduction package should pass the Congress and be sent to the President's desk for signature.

Mr. LEVIN. Mr. President, I believe that the reconciliation bill asks too much of middle income taxpayers, who are having a hard time making ends meet, at the same time that it does not ask enough of the wealthiest members of our society, who benefited the most from the decade of the 1980's. That is why I oppose the gasoline tax increase in this bill. It is the wrong tax at the wrong time.

The Gore-Mikulski amendment would improve the reconciliation bill by eliminating the additional burdens that are placed on Medicare recipients by the provisions in this bill. This amendment would also "burst the income tax bubble" so that the highest income taxpayers would pay the highest marginal income tax rate. I have long supported doing that. Fundamental fairness requires no less.

However, the Gore-Mikulski amendment includes a 6-cent gasoline tax increase. Although this is less than the amount in the reconciliation bill, it is still, even at 6 cents, the wrong tax at the wrong time. That is why I will vote against the Gore-Mikulski amendment. However, I will support the amendment which Senator HARKIN intends to offer to raise the taxes on those with incomes over $1 million and reduce the Medicare cuts in this bill.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER (Mr. BURDICK). The Senator from Texas.

Mr. BENTSEN. Mr. President, what we are trying to do is take care of a decade of indulgence, a decade when we wrote $150 billion and more in hot checks year after year, piling on the debt for future generations. But now those hot checks are coming due. I can recall seeing a kid with a T-shirt that said, "How can I be broke? I still have checks." That has been the attitude that we have seen for a dozen years now.

Last year, I walked out of the budget summit meeting and said there was too much blue smoke and mirrors, too much creative accounting; that it would not work. Time has proven that right. We did not have too much trouble putting together a solution last time because the agreement did not call for a credible cut.

It was tough this time putting the budget together because we have done a credible cut. We are talking about some $40 billion in the first year. We are talking about $500 billion over the next 5 years. We have had 5 months of negotiation in the budget summit, and 11 days of intensive negotiation in the Finance Committee between Republicans and Democrats.

I went down and visited with the President to talk to him about a 33-percent rate. We had some indecision in the White House for a while as to whether he would or whether he would not support that proposal, depending on which day. We restructured the plan to try to accommodate for that.

Do I think the wealthy should pay more in this country? Yes, I do. I watched what happened when we looked at the last decade as to who gained income and who did not. I looked at the average family, middle-income family from the 40-percent quintile to the 60-percent quintile. Average family incomes increased by 3 percent. The top six-tenths of 1 percent increased by 87 percent. Ability to share the burden, and capability of paying taxes has to be a part of the consideration.

I think we ought to break the bubble. I think the top rate ought to be 33 percent. I think that is the way to address the problem, but the President of the United States says he will not sign such legislation. My good friend, the ranking member of the committee, has said that just within the last few hours, he has been told that the President would veto such legislation.

This is a compromise. So we came through the back door to try to see that those who are best able to share this burden of cutting this deficit pay their fair share. I must say I think most of them are ready to and expect to.

So we took itemized deductions and wiped those out to the extent they exceed 5 percent of adjusted gross income for those people over $100,000. We brought together a package that raises some $29 billion with that proposal. Then we took the health insurance payroll tax, which is at a 1.45-percent rate on the first $50,000 or so of income. I originally proposed raising that cap to $125,000. We finally compromised at $89,000, a substantial increase, and picked up some $19 billion in that process. Then we put a tax on luxury goods. When we finished, we had an increase of over $50 billion that hit those who could best afford it in this country.

It is a compromise, trying to put a package together. Here we have had almost 16 hours of debate. It is not a perfect bill, but a bill I think that will do the job and increase the progressivity of our tax system.

As I look at what we brought out of the summit, with those with the lowest income having an increase in taxes of some 7 percent, and those at the top having an increase in their taxes of 1.7 percent, I note that that is not the case with the one we brought out of the Finance Committee. We had 15 out of 20 members of that committee, bipartisan, a majority of both sides, vote for this compromise. But it has progressivity. Instead of a 1.7-percent increase for those who are the wealthiest, it is now 3.7 percent. Instead of a 7-percent increase on the poorest, it is zero. They are held harmless. Those are the positive things that have been accomplished with this package.

We are up against tight deadlines. What we have tried to do is put together a package the President would sign. We have substantial divergence from what has come out of the House, and we will go into conference and, ob-

viously, we will accommodate to each side to a degree. There will be give and take, and we will end up with something that is in between these two pieces of legislation. It will not be easy to settle those differences in the time period that we have left.

We can go on making partisan points against each other; Republicans against Democrats and Democrats against Republicans. But I must tell my colleagues I think the American people are fed up with it. They want us to put the country first above that partisanship and to bring out a package that is equitable and will start turning this deficit around.

We are playing a high-stakes game if we have a veto; the President will be playing one and so will the Congress. We will have to turn the Government off again or resort to sequester with all the problems that go with it. It is a high-stakes game because the financial markets of the world will decide we cannot handle our economy; that we have lost control, that the democratic process in this country is not working any more; that we are in political paralysis and in economic chaos.

How will those other countries react to it? We have seen a precipitous drop in Japan's stock market and some of their banks are having serious problems. With the interest rates in Japan escalating and the change in the prime, they say, "Maybe we better invest at home. We have seen a lessening of the value of the dollar. As we buy the securities of America, we have seen the value of those go down as fast as the interest rates go up, so it is a bad buy to us."

Or we turn to the West Germans, who have just taken in East Germany. They are going to spend billions and billions of dollars trying to bring up the standard of living there to that of West Germany. They will say, "We have a need for our capital here. We have invested in those U.S. dollars and we have seen them depreciate as related to the mark; there is more stability here at home." We want to establish beachheads in those Eastern European countries. Now is the time to invest there. And then there's Europe, EC '92; how do you compete for those funds?

The only way we can compete for capital is if we have a serious credible cut in this deficit. We do it now. We do not go through another veto, and we do not turn off the Government again, and we do not go to sequester. When we get into one of this kind of negotiation, we cannot operate in an ivory tower; we do not get perfect equity. None of us gets to write his own version of this piece of legislation. It is the compromise of a democratic system.

I think the time has come to pull this thing together. I like many of the things in the piece of legislation of my friend from Tennessee, and I have argued for them, talked about them and supported them, and I would like to do the things on Medicare.

When we started out at Andrews, do my colleagues know what they were arguing for? $117 billion worth of cuts in Medicare. Finally we agreed on $60 billion. Then in the committee we cut it back to $50 billion. One of the things the Senator has in his proposal is not to take the deductible to $150. The deductible is $75. It was $50 in 1965 when it was put in. But what we are talking about here is suddenly doubling it to $150 over a year.

May I have 3 more minutes on the bill?

Mr. DOMENICI. Three additional minutes.

Mr. BENTSEN. So, we turned around and said for the near-poor, for those who are going to have a tough time making the $150 deductible, we will expand the assistance already provided to them to help pay for it out of Medicaid. At the present time we have about 4 million low-income beneficiaries for whom Medicaid covers the Medicare premiums, deductibles, and cost sharing, and this bill will expand that number by some 700,000.

So my friends, this is a compromise piece of legislation, but one that increases progressivity substantially above what came out of the summit and one which does not have some of the problems that we have seen in the House piece of legislation. Let us go to conference and pick the best of each bill and put together a package that we think Democrats and Republicans can get behind, and let us get control of the economic destiny of this country again.

I yield.

Mr. METZENBAUM. Mr. President, will the Senator from New Mexico yield?

Mr. BENTSEN. I could yield for a question if I have any time left.

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. METZENBAUM. We appreciate all the Senator has said, but we are concerned as to what is going to happen in the conference. This amendment moves in the direction we are concerned about. We know the Senator has been in negotiations. Frankly, we have not heard the Senator indicate whether or not he is prepared to move forward on progressivity, whether or not it will move more toward the House bill, and that is concerning us.

Mr. BENTSEN. Let me say to my good friend from Ohio that I made it very clear that we would move and try to pick the best of each, and that there would be a compromise between us, and that has to mean increased progressivity as far as I am concerned.

Now, as to how far one goes, how can you say ahead of a negotiation? There is no way we can do that. I have been in many negotiations with the Ways and Means Committee in the House and they are tough negotiations, but reaching that kind of compromise will be the objective.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. The Senator from Tennessee has 30 seconds remaining.

Mr. GORE. Mr. President, it will be my intention, if a point of order is made, to move to waive the Budget Act for consideration of this amendment. It will not be my intention nor that of my cosponsor, to use all of the time allotted under that procedure. We will have some brief statements in the nature of closing statements, but we will not attempt to use the entire time.

The PRESIDING OFFICER. Time has expired on the amendment.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, before I yield time off the bill, off this side, I want to ask my friend from Tennessee, I am getting a lot of inquiries from Senators about how much time remains on the overall process, and we are down into a couple hours, a little more than that. We have a lot of things that we are going to try to do and a lot of people to accommodate.

I wonder if the Senator is willing now to agree that there would be 10 minutes on a side on the motion that he will make once I make a point of order.

Mr. GORE. If the Senator will yield, we have had several requests for time. We would be prepared to agree to 15 minutes on a side.

Mr. DOMENICI. I make such a request.

The PRESIDING OFFICER (Mr. SIMON). Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, pursuant to section 305(b)(2) of the Budget Act, I raise a point of order that the pending amendment is not germane.

Mr. GORE. Mr. President, I move to waive the Budget Act for consideration of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive.

Who yields time?

Mr. GORE addressed the Chair.

Mr. DOMENICI. I wonder if we might get the yeas and nays, I ask my friend from Tennessee. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GORE. Mr. President, I yield myself 5 minutes.

I ask unanimous consent that the Senator from Nevada [Mr. BRYAN] be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORE. Mr. President, I would like to talk right off the bat about the debate we have just heard. I was extremely proud of the statement made by my senior colleague from Tennessee, Senator SASSER. In his generous comments about the substance of the amendment, he also exercised leadership in his role as chairman of the Budget Committee in explaining the reasons why he and the majority leader, Senator MITCHELL, and the chairman of the Finance Committee, Senator BENTSEN, who made a fine statement on his own behalf, all three are obligated by virtue of their roles to oppose the amendment, even though they agree with the substance of it. I understand that. I am proud of their leadership roles, especially that of my colleague from Tennessee. I want to acknowledge that.

I would also like to reiterate something the majority leader referred to in his statement, and that is he has played the lead role in attempting to inject more progressivity by virtue of a 33-percent rate and the elimination of the bubble. I acknowledged that earlier. All of us in this body know that.

I would like to take issue with one statement he made. He has made the statement when I felt it was valid. But he said on this occasion the choice is between making a statement or making a law.

Mr. President, my cosponsor and I are participating in the process by which a law is going to be made. Laws are not made only by a few leaders, the majority leader, the Republican leader, negotiating an agreement and then the rest of us sit here and either vote yes or no. Laws are made in the process this body is very familiar with, and that process in this case will include a conference committee. We are participating in that process.

I hope this amendment passes. It will require 60 votes to pass because it requires 60 votes to waive the point of order that was just made. If 60 Members of this body vote in favor of this amendment, that in itself will be a strong message to the conference committee and to the President that the outcome has to be more progressive. Then the same negotiation with the President will take place that is going to take place in any event except the Congress will have a stronger hand.

Now, what if 51 Members of this body vote in favor of our amendment?

In this procedural situation 51 votes will not be enough to pass the amendment over the point of order. Mr. President, if 51 Members vote for this amendment, it will affect the process by which this law is being made, and it will serve notice to the conference committee and to the President that we want a more progressive outcome.

We have heard on numerous occasions here that the President will veto anything with a 33-percent rate. I have not heard the President say that. I have heard the President make contradictory statements, one of which was he will veto the House bill. I heard that. This is not the House bill. I heard him complain about suspending indexing. This amendment does not suspend indexing.

I heard him say to a distinguished Member of the other body, a Republican, who visited him at 10 o'clock in the morning one day last week, that he would accept a 33-percent rate. Then, a few hours later, after visiting with a few distinguished Members of this body from the Republican side, he had his press spokesman issue a statement that directly contradicted his earlier endorsement of the 33-percent rate. We have, in other words, had some recent evidence that President Bush is capable of changing his mind about the kind of outcome he will deem acceptable.

Mr. President, a few Saturdays ago I had an early morning breakfast in my home town of Carthage, TN.

Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER (Mr. DODD). Without objection, it is so ordered.

Mr. GORE. I had breakfast with the members of the 1175th quartermasters unit, men and women who had just been called up to go to Saudi Arabia and participate in the deployment of our forces there. I supported the President in his decisions on that matter. But here we stand with 200,000 soldiers in the deserts of Saudi Arabia prepared to make sacrifices in behalf of our country. The senior citizens here at home are being asked to make sacrifices of a different sort. Motorists who pay gasoline taxes are being asked to make sacrifices of a different sort. I am prepared to vote for those.

But the President is going to tell us that it is too much of a sacrifice for those who are the best off in our society to pay a 33-percent tax rate, the same marginal tax rate paid by those who make just less than $200,000 a year? I cannot believe that, Mr. President.

The statement was made that this is a political statement. It is not intended as a political statement. It is intended to change the law and, failing that, to influence the conference committee to give us a final bill that is more progressive and more fair. That will involve negotiations with the President. But I believe very deeply that those negotiations will be more successful in the event the President understands the strong feelings on this matter.

Mr. President, in conclusion, this amendment keeps our commitment to seniors and meets our responsibility to control the deficit. It says very clearly that the people who can least afford it will not be forced to pay the tab. It says we are not going to ask seniors to pick up the tab after the administration chose the restaurant.

Mr. President, I yield to my distinguished cosponsor of this amendment, my colleague and friend of long standing, the Senator from Maryland [Ms. MIKULSKI].

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, as we wrap up this debate, I just want to say this. I am here today to speak for the middle class. In speaking for the middle class, they have no more to give, no more to give. They are either tuition poor, or they are mortgage poor; or they are poor because they do not have a long-term care policy, and they are taking care of their mothers and fathers.

They have no more to give because they pay high property taxes, they pay high health insurance, and they pay for their car insurance. When they get to their bottom line, they have no more to give.

We have two parents working now because they need to out of economic desperation. Our middle class is shrinking.

Mr. President, regardless of what we do on this amendment, all subsequent amendments and so on, let us remember the middle class in this country has no more to give. The poor have nothing to give. So let us go and get it from those who have it.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GORE. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator has 5 minutes and 11 seconds. The opposition has 15 minutes.

Mr. GORE. Mr. President, I have two additional requests for time but I would prefer to have a back and forth if there are speakers on the other side.

Mr. DOMENICI. Mr. President, how much time does the Senator have?

The PRESIDING OFFICER. The Senator has 5 minutes and 11 seconds.

Mr. DOMENICI. I yield all of my time in opposition other than 5 minutes. I reserve 5 minutes. I yield the rest.

Mr. GORE. Mr. President, I yield 2 minutes to the distinguished Senator from Iowa [Mr. HARKIN].

The PRESIDING OFFICER. The Senator from Iowa is recognized for 2 minutes.

Mr. HARKIN. Mr. President, I hoped I could get more time. I will

seek more time later today. However, this Senator has to be chairing a conference committee on labor, health, human services and education appropriations. At some point later today I hope to get the floor to describe an amendment that I will be offering if the Gore-Mikulski amendment does not pass.

I want to make it clear that I support the Gore-Mikulski amendment because it moves this country in the right direction. The distinguished Senator from Maryland says it moves us toward fairness, but just in case, I will have an amendment later that will do much the same as what the Gore-Mikulski amendment does; it will simply impose a surtax of 18 percent on the income tax paid on taxable income over $1 million a year. That would move that top rate up to 33 percent for people making over $1 million a year. Then it would completely take out the increase in the part B deduction.

So, Mr. President, I thank the Senator from Tennessee for giving me this time. I want to say that, as he said earlier, we have seen the President change his course of direction innumerable times. Now I believe is the time for us to set the President straight on the course of making the superrich in this country pay their fair share, ease the burden on the middle class, and do not take it out of the hides of our elderly, the people who can least afford it, those who are living on Social Security, the average one getting $560 a month. They have to pay increased gasoline taxes too. They have to pay higher heating bills this winter. They have to pay more for their food and everything else.

The increase in the part B deductible represents a cut of over one-half of their increased cost-of-living adjustment under Social Security. I would like to know how many Senators here would like to have their pay increases coming down the pike cut in half. Well, that is what we are asking the elderly to do. That is why I am supporting the Gore amendment, because we are asking those who can least afford it to pay for the mess left by the rich who had the party in the 1980's.

I say let us make the rich pay for their own party they had during the last decade.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. BIDEN. Mr. President, will the Senator yield 1 minute?

Mr. GORE. The Senator from Delaware had earlier requested 2 minutes. I yield 2 minutes to the Senator from Delaware.

Mr. BIDEN. Mr. President, I will be necessarily brief. A lot of us end up supporting the same measure sometimes for different reasons. I do not think this has much to do with soaking the rich. Nor do I think it has to do with how we would feel about whether or not a pay increase which is coming down the pike is cut in half. From this Senator's perspective, it has nothing to do with that.

It has to do with the fact that we have a lousy job to do. It seems to me that there are two issues. First, how are we going to raise half a trillion dollars over the next 5 years in order to reduce the deficit, to allow the economy not to go into a complete nosedive, and to have growth in the economy? Second, how you do it with some equity and fairness. I cosponsored this amendment because it does just that. There is still a hit on the Medicare sector of $32.1 billion. It is not from the elderly directly, but from benefit providers. There is still a 6 cents per gallon gasoline tax increase in here. And it leaves the overall goal of $500 billion in deficit reduction over 5 years unchanged.

What it does do, Mr. President, is bring some equity back into the process. Senator MIKULSKI said it well, in my view: Middle-income taxpayers have had it. They are bound by debt, whether it is tuition or mortgages or auto insurance or health insurance. They cannot give any more.

So we are not asking to soak anybody. All we are asking in here is to see to it that people who make joint incomes over about $185,000 pay the same marginal rate as those who make under $185,000. It's that simple. Today, you make $175,000 joint income, you pay the marginal rate of 33 percent. But if you make $250,000, you pay at a marginal rate of 28 percent. For the sake of fairness, the higher income person should not be paying a lower rate.

Last, this amendment has a surtax on millionaires. I support this. And I ask unanimous consent to print in the RECORD an article by Lester Thurow which I believe supports my view in favor of a more equitable solution to the deficit problem.

There being no objection, the article ordered to be printed in the RECORD, as follows:

THE BIG LIE THAT CAUSED THE BUDGET CATASTROPHE

(By Lester C. Thurow)

In 1980 the American electorate embarked on a grand experiment—supply-side economics. Ten years later, that experiment continues to warp the political process. Its enduring influence explains why Congress and President Bush found it so difficult to reach any budget agreement at all; why the failed agreement was so peculiarly shaped; and why the public, nourished on a decade of false promises, seems unwilling to make even modest sacrifices to assure the nation's economic future.

In the current economic climate almost any solid deficit-reduction package would be welcome. Still it is remarkable that the initial deal struck last week would aggravate the very features of the current tax system that seemed most generally objectionable to tax experts and the public: Its "small business growth incentives" would offer new tax dodges to the wealthy—who had supposedly traded away their shelters for the much lower tax rates provided by the 1986 tax reform; its tax-deduction limit would worsen, rather than eliminate, the disreputable "bubble" feature which grants the very, very rich lower marginal income tax rates, and hence lower capital-gains tax rates than those faced by the merely well-to-do taxpayers; and it would increase the relative tax burden borne by low- and moderate-income taxpayers. All this in a package endorsed by Democratic leaders who claimed to have tax fairness as their top concern.

What explains the persistence of supply-side mythology? From where comes its power to so constrain American politics?

When America first jumped on the supply-side bandwagon, people felt, rightly, that the economic performance of the 1970s was unacceptable. The political and military affronts in Tehran were compounded by the vision of a chained economic giant wilting in the face of Japanese and German competition.

A GNP growth rate of 2.8 percent was unacceptable when compared with the 4.1 percent growth rate of the 1960s. That dismal record was compounded by an even more important measure of economic performance, productivity growth—the rate at which a nation is becoming more efficient and hence more affluent. The 1960s' growth rate of 2.9 percent had fallen to only 1.4 percent in the 1970s. Such a decline meant that instead of doubling every 24 years, America's standard of living would take 50 years to double—each generation could no longer expect to have a standard of living twice that of its parents. Facing these facts Americans were willing to try something new and different.

Supply-side economics, as enunciated by President Reagan and later embraced by Bush, promised that lower taxes on upper income groups would stimulate savings and hence permit more investment—the argument used by Bush to advance his capital-gains tax cut proposals in the recent budget summit. Higher investment would lead to higher growth. In addition to restoring economic vigor and rebuilding international competitiveness, higher growth would accomplish two other important objectives—without asking for painful sacrifice from anybody.

First, with a larger economy, government tax revenue could go up even though tax rates had been reduced. In 1981 Reagan promised that the federal budget would be balanced in 1985 without having to make significant spending reductions. Second, although most of the tax cuts would go to high-income individuals (it was they who had the capacity to save more), higher growth would lead to better paying jobs for middle- and low-income Americans. In the short run their total tax rates would go up—for 80 percent of the population the extra payroll taxes they would be asked to pay to fund Social Security would be larger than the income tax cuts they would get. But with higher earnings they would in the end benefit. All gain, no pain.

Politically supply-side economics delivered the goods—three presidential elections have been won using it—but economically it has not delivered on any of its promises.

Where higher GNP growth was promised, lower growth was delivered—2.6 percent

over the decade of the 1980s. In 1990 the economy is stalled on the lip of a recession, just where it was in 1980. Because of the debt and banking problems built up during the 1980s, any recession in the 1990s will produce levels of bankruptcy not seen since the Great Depression. Even without a recession, middle-class wealth is melting away as housing prices fall in much of the nation in reaction to the debt excesses of the 1980s.

Instead of growing faster, productivity slowed down—1.2 percent during the 1980s. In 1989 productivity actually declined. There is only darkness visible at the end of the productivity tunnel.

Savings rates plunged. In the last four years of the 1970s, American families saved 7 percent of their disposable income; in the last four years of the 1980s, they saved only 4 percent. The rich saved nothing from their tax cuts. In contrast, the Japanese saved 15.7 percent of their income in the past 12 months.

If total national savings (a measure that includes corporate savings and government dissavings) is examined, savings fell from 17.4 percent of GNP in the last four years of the 1970s to 11.3 percent of GNP in the last four years of the 1980s. As a result, in 1989 Japanese investments in plant and equipment per worker were three times as large as those in the United States.

At the beginning of the decade the United States had a small surplus in its trading accounts ($1.5 billion in 1980 and $8.2 billion in 1981). At the end of the decade it recorded a current-account deficit of $129 billion in 1988 and $110 billion in 1989. What was a competitive problem at the beginning of the decade was a competitive disaster at the end of the decade.

In 1981 the United States was the world's largest creditor nation with net assets totaling $141 billion. Every year the rest of the world paid interest, dividends, and profit to Americans. By 1989 the United States had become the world's largest net debtor nation with debts totaling $620 billion. Where Americans used to get, they now give.

The federal deficit did not, of course, vanish in 1985. In the year ahead, the deficit is estimated to be $254 billion and rising if last week's deficit reduction proposals are passed by Congress ($294 billion if they are not) and over $300 billion if the Social Security surpluses are excluded from the totals, as they ought to be. A budget summit that reduces the deficit by $40 billion is essentially the equivalent of Nero fiddling while Rome burns. The difference is that Nero wanted to burn Rome so that he could rebuild it—the Roman Colosseum was his. Unfortunately there is no evidence that the current fiddlers have any real rebuilding in mind.

President Bush is fond of saying that "we have more will than wallet." He has it exactly backwards. Our GNP after correcting for inflation is four times as large as it was in 1947 when we were paying to rebuild the world after World War II. Our per capita GNP is 2.3 times as large. We can afford to do what must be done abroad; we can afford to do what must be done at home.

America is not an over-taxed country. In 1989, Americans paid fewer taxes as a percentage of GNP (about 30 percent) than the citizens in any other industrial country. Taxpayers in 22 industrial countries, including the Japanese and the Germans, paid more. Moreover, there are places where the budget can be cut without harm. Based on the performance of other countries (far lower spending levels: for better performances when it comes to health and longevity), substantially less could be spent on health care if the system were fundamentally reorganized. The events in Eastern Europe mean that big defense cuts can occur while still maintaining our ability to fight wars in the Third World. America has more than 2 million troops; fewer than 200,000 are in the Middle East.

The American problem is will—not wallet. In a democracy, will depends upon leadership and in the United States that means presidential leadership. It isn't leadership to spend months arguing that a capital-gains tax cut is the most important issue facing the American economy.

Whatever one believes about the growth-enhancing aspects of a capital-gains tax cut—or other "tax incentives"—everyone agrees that they leave more after-tax income in the hands of the wealthiest. In the last decade America has already had a heavy dose of that kind of "sacrifice."

Recently the U.S. Census Bureau confirmed that inequality in the distribution of income had increased substantially in the last decade. Every statistic points in the same direction. In the decade of the 1980s, the average real income of the top 5 percent of the population rose from $120,253 to $148,438. At the same time the average real income of the poorest 20 percent fell from $9,990 to $9,431. After-tax measure of income would report an even wider gap. As the income share of the top 20 percent rose in the 1980s, the income share of each of the bottom four quintiles was falling—the lower the quintile the bigger the decline. Despite a 21-percent rise in the real per capita GNP, the average real hourly wages of rank-and-file workers fell 5 percent. Those promised good jobs for middle- and low-income Americans did not appear.

If the income share of the rich is rising at the expense of the rest of the population (it is), if government is directly altering its policies to augment the income share of the rich (it has), if the campaign contributions of special interests increasingly dominate the political process (they do), if fewer and fewer middle- and lower-income individuals vote (it's happening), America is, under the cover of supply-side economics, rapidly moving towards becoming (dare we say it openly?) a plutocracy.

Unfortunately history tells us that as a social and governmental system, plutocracy does not for long work.

Mr. BIDEN. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I want Senators who have not yet had an opportunity to present their amendments to know that from the best I can tell, there are about 40 minutes remaining on the majority side on the whole bill and about 2 hours and 10 minutes remaining on the Republican side on the whole bill.

The only thing that does not count is the time that we take to vote. Everything else counts, including quorum calls. So I would very much appreciate it, speaking only for myself, if those who follow with amendments would agree to as short a time as is humanly possible so we can accommodate as many Senators as possible in this timeframe.

I yield the remainder of my 5 minutes to the distinguished Republican whip, the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 5 minutes.

Mr. CONRAD. Mr. President, will the Senator yield before we go to that just for a question?

Mr. DOMENICI. I am pleased to.

Mr. CONRAD. The question will be directed to the two bill managers. Is there any list formulated on amendments remaining? I have an amendment, and I would be willing to take a very short time agreement, 15 minutes equally divided, something like that, and be part of an attempt to expedite this.

Mr. SASSER. I say to our friend from North Dakota that there is no list, although there are, as I understand it, approximately 15 amendments that may not still be pending. I am not sure how many of those our colleagues will seek to call up.

There is an order entered now to take up the Nunn-Boren amendment following the disposition of the amendment of the distinguished Senator from Tennessee and the distinguished Senator from Maryland. But there is no list, per se.

Mr. CONRAD. Would it be possible to make a unanimous-consent request that the Conrad amendment follow the Nunn-Boren amendment, with a very tight time agreement?

The PRESIDING OFFICER. The Senator from New Mexico has the floor.

Mr. DOMENICI. If we could save time, if we could, I might say to my good friend, there are a number of Senators who have had no amendments. The distinguished Senator has had a very lengthy opportunity to address his most significant amendment.

We will try our best on our side to come up with a list while the Nunn amendment is going. Let me say, however, I greatly appreciate the Senator's willingness to significantly reduce the time, and I thank him for that and hope I can accommodate them.

The PRESIDING OFFICER. The Chair will state that the Senator has 22 minutes remaining on the time.

Mr. SIMPSON. If the last colloquy is part of that, it should not be.

Mr. DOMENICI. I yield what I have remaining off the bill sufficient to give the Senator from Wyoming 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming is recognized for 5 minutes.

Mr. SIMPSON. Mr. President, I appreciate the action of the Senator from New Mexico. I have been listening with fascination to this debate. I thought, of course—that is, if you are on the side of the angeles—that Sena-

tor PACKWOOD said things that were just beautifully appropriate.

It is fascinating to hear the horror stories of how Ronald Reagan and George Bush got us here. Do you really believe the American people think that? They do not at all. The reason they do not think that is for a very simple reason: Because the Congress was largely controlled by the Democrats during the years when that happened. The Republicans had a brief swing at it, and it was a lot of fun for a while, trying to be responsible. You quickly learn the people who are responsible here and those who do the heavy lifting and those who are always ready to do the long haul.

So this did not happen to us by the hand of Presidents. It happened right here in this Chamber. It happened by a Democrat-controlled Congress. That is how it happened. People are going to figure that out. It is good that all of this stuff came up with 3 weeks to go before the election—because we will have the time to tell the honest story by then.

I ask you to go look at the original debate on the Tax Reform Act in the U.S. House of Representatives and the U.S. Senate in 1986. It was a dazzler, and Democrat after Democrat rose at that time and said: "This is the greatest tax reform package we have ever had; we finally stuck it to the rich; and we also took good care of the middle class". And now this is the same thing they are talking about today, and this is the same Tax Reform Act. Come on. Read what they said about this package. Go read it.

Then here's another terrible distortion as floated in the great world of Washington—I do not know how much we will hear about Medicare anymore, because in the great world of Washingtonese, what we really did to Medicare part B is give it an 11½ percent increase and in our budget effort we cut it back to only a 10-percent increase. And that is called a cut in Washingtonese. Come on.

Let me tell you, Medicare part B premium is going up $3.90 a month. And if we had not done anything at all, it would still go up $3 a month. If you want to really help "old Joe Six-Pack"—I hope somebody can answer this for me—how do you think Joe Six-Pack feels about paying 75 percent of the premium on part B, and yet he does not get a single nickel's worth of benefits? Go ask him that; because only 25 percent of the entire premium on part B is paid by the beneficiary of the services. The taxpayer paying 75 percent of the premium gets no benefit whatsoever. Fair?

Ms. MIKULSKI. Mr. President, will the Senator yield?

Mr. SIMPSON. I have only 5 minutes; I will soon conclude.

Ms. MIKULSKI. Did the Senator ask the question?

Mr. SIMPSON. The Senator will have the opportunity to respond after I conclude.

Ms. MIKULSKI. I know how Joe Six-Pack feels.

Mr. SIMPSON. That is fine; we both like good engagement. We both give as good as we get in here. Let us review the issue of Joe Six-Pack, when the lady from Maryland may have the time remaining. I only have 5 minutes.

May I inform you all again here is what is really occurring. The beneficiary, under part B premium, is paying the sum of 25 percent, and the remaining 75 percent of that premium is being paid solely by the average taxpayer in America and he or she are not getting one single thing out of what they pay for part B premiums.

And that is the way it is, folks, whether it is in a bar in Baltimore or in the Long Horn Saloon in Meeteetse. That is the way it is. You cannot do this job with demagoguery. You have to go cast tougher votes.

Here we are now 2½ weeks from the election. I am very pleased about that because in 2½ weeks, we will be able to explain to the American people that the mysterious "bubble" was put in the Tax Reform Act by some thoughtful Democrats. We will explain to them that that tax reform bill was done by some thoughtful Democrats and Republicans and it was done to seal loopholes of the rich and to make all corporations pay their taxes. That is what we said we did.

And then to sit here and listen to the dismantling of it all in this extraordinary way, and also to watch the indexing disappear that takes place in the House proposal, and it is elimination of indexing that is tearing Joe Six-Pack up. He cannot index anymore, and for 1 solid year he then is going to lose about 31 billion bucks. I would love to hear the Democrats' explanation of that one. We will have 2½ weeks out on the road to discuss it.

I guess what it really comes down to is this. If you are going to just talk the talk and never walk the walk, then put part of your own pay raise on the table. Where is your cut? I would like to see somebody step up to the plate. I happen to have personnally done that. I have turned back 20 grand this year. So let us hear the cheers over there from somebody on that other side of the aisle. Put your money where your mouth is.

And if you really believe in this game, then get in there and cut your own salary. I have done that now for 2½ years. I mail a yearly check back to the U.S. Treasury. Let us hear from the advocates about that one. That is called toadying up to the bar and laying your money on the line.

The PRESIDING OFFICER. The Senator from Tennessee has 33 seconds remaining.

Mr. GORE. I yield my remaining time to the Senator from Ohio.

Mr. METZENBAUM. I thank the Senator from Tennessee.

Mr. President, 535 Members, were elected on their own to the Congress of the United States. For 2 years now all we have heard is, "If you do not do this, I will veto the bill." Whether it had to do with child care or minimum wage or civil rights or senior citizens or clean air or balancing the budget by taxing the wealthy, the President is telling the Congress how we have to act.

I believe this bill has something implicit in it, that it is time for us to stand up and send the President a bill that we think is right and let him do anything he wants with it. I am sick and tired of hearing the President every night on TV telling the people of this country, "If they do not do it my way, I am going to veto it." Let him veto it. I think the people understand what the issues are all about. He wants to protect the wealthy, and the rest of us would like to come up with a decent, balanced-budget bill.

The PRESIDING OFFICER. All times has expired.

The question is on agreeing to the motion to waive the Budget Act for consideration of amendment No. 3027, offered by the junior Senator from Tennessee. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 45, nays 55—as follows:

[Rollcall Vote No. 280 Leg.]

YEAS—45

Adams	Ford	Lautenberg
Akaka	Fowler	Leahy
Baucus	Glenn	Lieberman
Biden	Gore	Metzenbaum
Bingaman	Graham	Mikulski
Boschwitz	Grassley	Moynihan
Bradley	Harkin	Pell
Bryan	Hatfield	Pressler
Bumpers	Heflin	Reid
Burdick	Jeffords	Riegle
Cohen	Kassebaum	Sanford
Conrad	Kennedy	Sarbanes
Cranston	Kerrey	Simon
DeConcini	Kerry	Specter
Exon	Kohl	Wirth

NAYS—55

Armstrong	Gorton	Nickles
Bentsen	Gramm	Nunn
Bond	Hatch	Packwood
Boren	Heinz	Pryor
Breaux	Helms	Robb
Burns	Hollings	Rockefeller
Byrd	Humphrey	Roth
Chafee	Inouye	Rudman
Coats	Johnston	Sasser
Cochran	Kasten	Shelby
D'Amato	Levin	Simpson
Danforth	Lott	Stevens
Daschle	Lugar	Symms
Dixon	Mack	Thurmond
Dodd	McCain	Wallop
Dole	McClure	Warner
Domenici	McConnell	Wilson
Durenberger	Mitchell	
Garn	Murkowski	

The PRESIDING OFFICER. On this vote, the yeas are 45; the nays are 55. Three-fifths of the Senators present and voting having voted in the negative, the motion to waive the Budget Act is rejected.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. GORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia is recognized for the purpose of offering an amendment.

Mr. NUNN. Mr. President, what is the time allocated on this amendment?

The PRESIDING OFFICER. The Senator from Georgia has 60 minutes equally divided.

Mr. SASSER. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senator from Georgia.

Mr. NUNN. Mr. President, I yield so much time as my colleague from Oklahoma needs to present the amendment on behalf of himself, myself, and others. I yield 10 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. METZENBAUM. Will the Senator from Oklahoma be willing to yield to me for the purpose of raising a point of order on an extraneous matter in my own bill? I will be raising a point of order to knock out a portion of the bill that is in the budget bill. It is noncontroversial. I think everybody is in agreement.

Mr. BOREN. Let me inquire.

Mr. METZENBAUM. It will take 2 minutes.

Mr. BOREN. Has this request been cleared with the leadership?

Mr. METZENBAUM. I do not think there is any objection with the leadership.

Mr. DOMENICI. Mr. President, I object. We are trying to work it out. I do agree he has a proper point of order, but we are trying to work with other Senators on the same issue. Under the unanimous-consent agreement, I do not believe it is in order for him to raise the point of order now.

Mr. METZENBAUM. I asked unanimous consent.

Mr. DOMENICI. I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Oklahoma is recognized for 10 minutes.

AMENDMENT NO. 3028

Mr. BOREN. On behalf of myself, Senator NUNN of Georgia, Senator LIEBERMAN of Connecticut, and GRAHAM of Florida, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. BOREN], for himself, Mr. NUNN, Mr. LIEBERMAN, and Mr. GRAHAM, proposes an amendment numbered 3028.

At the end of title VII, insert:

SEC. . SENSE OF SENATE WITH RESPECT TO GROWTH AND SAVINGS INCENTIVES.

(a) FINDINGS.—The Senate finds that—

(1) the President and Congressional leaders have worked diligently to fashion a broad bipartisan budget;

(2) any budget package should pass the following three tests to truly serve the national interest:

(A) first, it must be fair—the heaviest burden should not be placed on those least able to bear it;

(B) second, it should help rebuild our economic strength and make us better able to compete in world markets so that we will have jobs for the next generation of Americans; and

(C) third, it should provide savings and investment incentives to the middle income people of this country—those who work on our farms and in our factories, and create our small businesses; for they are the backbone of America.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Senate conferees should work towards a final budget package that meets these three important tests by increasing the tax rate on incomes above $200,000 by an amount sufficient to—

(1) allow middle income Americans, those with family incomes below $100,000, to set aside up to $1,000 of their income in individual retirement accounts to be used not only for their retirement but also to provide for education and medical expenses and for first-time home purchases;

(2) reduce the tax on capital gains for designated amounts over a lifetime to provide incentives for Americans, with special incentives for middle-income Americans, to make long-term investments that create jobs, reduce America's growing dependence on borrowing from abroad, and increase the productivity and competitiveness of our Nation; and

(3) reduce the proposed increase in gasoline excise taxes.

Mr. BOREN. Mr. President, I want to lay before my colleagues the reasons for this amendment. It is well-known the Senator from Georgia, Senator NUNN and I had planned to offer an amendment which would write these changes into law as an amendment to the pending leadership package. We all understand the pressures that are operating on us and the need to move this piece of legislation forward so that we can avoid the chaos of another shutdown of Government. We also have strong sympathy for the burdens that are placed upon those in leadership positions at this particular time. We also recognize, Mr. President, that the final package will have to be written in any event by a conference committee. And so Senator NUNN and I and Senator LIEBERMAN and Senator GRAHAM felt it would be more appropriate, as the final decisions will have to be made in the conference committee, for us to send instead a strong signal from this body to our conferees to encourage them to work toward the objectives that have been outlined in our original amendment.

Mr. President, I would like to summarize what our original amendment would have done.

I ask unanimous consent that the text of the original amendment be printed in the RECORD at this point.

There being no objection, the amendments ordered to be printed in the RECORD, as follows:

At the end of title VII of the bill insert the following new subtitle:

Subtitle ____—Growth and Savings Incentives

PART I—REDUCTION IN CAPITAL GAINS TAX

SEC. ____. REDUCTION IN CAPITAL GAINS TAX FOR INDIVIDUALS.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end thereof the following new section:

"SEC. 1202. VARIABLE CAPITAL GAINS DEDUCTION FOR INDIVIDUALS.

"(a) IN GENERAL.—If an individual has a net capital gain for any taxable year, there shall be allowed as a deduction an amount equal to the sum of the amounts determined by applying the applicable percentages to the appropriate categories of gain under the table contained in subsection (b).

"(b) COMPUTATION OF CREDIT.—

"(1) IN GENERAL.—The amount of the deduction under subsection (a) shall be computed as follows:

"In the case of:	The applicable percentage is:
5-year gain	39.4
6-year gain	42.4
7-year gain	45.4
8-year gain	48.4
9-year gain	51.4
10-year gain	54.4

"(2) SPECIAL RULE WHERE LIFETIME CAPITAL GAINS EXCEED $600,000.—

"(A) IN GENERAL.—If the net capital gain to which this section applies for any taxable year, when added to the aggregate amount of net capital gain taken into account under this section by the taxpayer for prior taxable years ending after October 16, 1990, exceeds $600,000, paragraph (1) shall be applied to such excess by reducing each of the percentages under the table contained in paragraph (1) by 15 percentage points.

"(B) SPECIAL RULES.—For purposes of this paragraph—

"(i) JOINT RETURNS.—The amount of the net capital gain taken into account under this section on a joint return for any taxable year shall be allocated equally between the spouses for purposes of determining the limitation under subparagraph (A) for any succeeding taxable year.

"(ii) ALLOCATION OF LIMIT.—If the limitation under subparagraph (A) applies only to a portion of net capital gain for any taxable year, such limitation shall be allocated ratably among the categories of gain specified in the table contained in paragraph (1).

"(c) NET CAPITAL GAIN.—For purposes of this section—

"(1) 10-YEAR GAIN.—The term '10-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the amount of net capital gain which would be computed for any taxable year if,

in determining net long-term capital gain for such taxable year, only capital assets held by the taxpayer for more than 10 years at the time of the sale or exchange were taken into account.

"(2) 9-YEAR GAIN.—The term '9-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, reduced by 10-year gain, or

"(B) the amount of net capital gain which would be computed for any taxable year if, in determining net long-term capital gain for such taxable year, only capital assets held by the taxpayer for more than 9 years but not more than 10 years at the time of the sale or exchange were taken into account.

"(3) 8, 7, 6, AND 5-YEAR GAIN.—The terms '8, 7, 6, and 5-year gain' mean the amount determined under paragraph (2)—

"(A) by substituting '8, 7, 6, or 5 years' for '9 years' and '9, 8, 7, or 6 years' for '10 years', respectively, in subparagraph (B) thereof, and

"(B) by reducing the amount determined under subparagraph (A) thereof for categories with a longer holding period than the category for which the determination is being made.

"(d) SECTION NOT TO APPLY TO CERTAIN TAXPAYERS.—No deduction shall be allowed under this section to—

"(1) a married individual (within the meaning of section 7703) filing a separate return for the taxable year, or

"(2) an estate or trust.

"(e) SPECIAL RULES.—

"(1) DEDUCTION AVAILABLE ONLY FOR SALES OR EXCHANGES AFTER OCTOBER 16, 1990.—The amount of the net capital gain taken into account under this section shall not exceed the amount of the net capital gain determined by only taking into account gains and losses from sales and exchanges which are properly taken into account for the portion of the taxable year occurring after October 16, 1990.

"(2) TRANSITIONAL RULE.—In the case of any taxable year beginning before January 1, 1991, the applicable percentages in the table contained in subsection (b)(1) shall be reduced to reflect a maximum rate of tax under section 1 of 28 percent rather than 33 percent.

"(3) SPECIAL RULE FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying this section with respect to any pass-thru entity, the determination of when the sale or exchange occurs shall be made at the entity level.

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru-entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund."

(b) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof)."

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(c) MINIMUM TAX.—Section 56(b)(1) is amended by adding at the end thereof the following new subparagraph:

"(F) CAPITAL GAINS DEDUCTION DISALLOWED.—The deduction under section 1202 shall not be allowed."

(d) REPEAL OF SECTION 1(j).—

(1) IN GENERAL.—Subsection (j) of section 1 is hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (4) of section 691(c) is amended by striking "1(j)".

(B)(i) Subparagraph (B) of section 904(b)(2) is amended by striking so much of such subparagraph as precedes clause (i) and inserting the following:

"(B) SPECIAL RULE WHERE CORPORATE CAPITAL GAIN RATE DIFFERENTIAL.—In the case of a corporation for any taxable year for which there is a capital gain rate differential—".

(ii) Subparagraph (D) of section 904(b)(3) is amended to read as follows:

"(D) CAPITAL GAIN RATE DIFFERENTIAL.—There is a capital gain rate differential for any taxable year in the case of a corporation if any rate of tax imposed by section 11, 511, or 831 (a) or (b) (whichever applies) exceeds the alternative rate of tax under section 1201(a) (determined without regard to the last sentence of section 11(b)(1))."

(iii) Subparagraph (E) of section 904(b)(3) is amended by striking clauses (ii) and (iii) and inserting the following:

"(ii) HIGHEST APPLICABLE TAX RATE.—For purposes of clause (i), the term 'highest applicable tax rate' means the highest rate of tax specified in section 11(b).

"(iii) ALTERNATIVE TAX RATE.—For purposes of clause (i), the term 'alternative tax rate' means the alternative rate of tax under section 1201(a)."

(e) CONFORMING AMENDMENTS.—

(1) Section 62(a) is amended by inserting after paragraph (13) the following new paragraph:

"(14) CAPITAL GAINS DEDUCTION.—The deduction allowed by section 1202."

(2) Clause (ii) of section 163(d)(4)(B) is amended by inserting ", reduced by the amount of any deduction allowable under section 1202 attributable to gain from such property" after "investment".

(3) Section 170(e)(1)(B) is amended by inserting "(in the case of a taxpayer other than a corporation, the percentage of such gain equal to 100 percent minus the percentage deduction of such gain under section 1202(a))" after "the amount of gain".

(4)(A) Section 172(d)(2) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(5)(A) Section 221 (relating to cross reference) is amended to read as follows:

"SEC. 221. CROSS REFERENCES.

"(1) For deduction for net capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 is amended by striking "reference" in the item relating to section 221 and inserting "references".

(6) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for net capital gain). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(7) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The deduction under section 1202 (relating to deduction for net capital gain) shall not be taken into account."

(8) Paragraph (4) of section 691(c) is amended by striking "1201, and 1211" and inserting "1201, 1202, and 1211".

(9) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 (relating to deduction for net capital gain) and" after "except that".

(10) Section 1402(i)(1) is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply."

(11)(A) Subparagraph (A) of section 7518(g)(6) is amended by striking the last sentence and inserting the following:

"With respect to any portion of any nonqualified withdrawal made out of the capital gain account during any taxable year, the rate of tax taken into account under the preceding sentence in the case of a taxpayer other than a corporation shall not exceed 20 percent (or, in the case of a corporation, if section 1201(a) applies to the taxable year,

the rate of tax taken into account under the preceding sentence shall not exceed 34 percent)."

(B) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act, 1936, is amended by striking the last sentence and inserting the following:

"With respect to any portion of any nonqualified withdrawal made out of the capital gain account during any taxable year, the rate of tax taken into account under the preceding sentence in the case of a taxpayer other than a corporation shall not exceed 20 percent (or, in the case of a corporation, if section 1201(a) of such Code applies to the taxable year, the rate of tax taken into account under the preceding sentence shall not exceed 34 percent)."

(f) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1202. Capital gains deduction for noncorporate taxpayers."

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending after October 16, 1990.

(2) TREATMENT OF COLLECTIBLES.—The amendment made by subsection (b) shall apply to dispositions after October 16, 1990.

PART II—SAVINGS INCENTIVES

SEC. _____. ACTIVE PARTICIPANTS ALLOWED DEDUCTION FOR 50 PERCENT OF CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) GENERAL RULE.—Paragraph (1) of section 219(g) (relating to limitation on deduction of active participants in certain pension plans) is amended to read as follows:

"(1) IN GENERAL.—If (for any part of any plan year ending with or within a taxable year) an individual or the individual's spouse is an active participant, the amount allowed as a deduction under subsection (a) for such taxable year shall be the sum of—

"(A) 100 percent of the amount which would have been allowable for such taxable year if each of the dollar limitations contained in subsections (b)(1)(A) and (c)(2) were reduced (but not below zero) by the amount determined under paragraph (2), plus

"(B) in the case of a taxpayer whose adjusted gross income for the taxable year does not exceed $100,000, 50 percent of the excess of—

"(i) the amount which would have been allowable for such taxable year without regard to this subsection, over

"(ii) the amount determined under subparagraph (A)."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (o) of section 408 is amended by striking paragraphs (1), (2), and (3) and inserting the following:

"(1) IN GENERAL.—Qualified nondeductible contributions may be made on behalf of an individual to an individual retirement plan.

"(2) QUALIFIED NONDEDUCTIBLE CONTRIBUTIONS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified nondeductible contribution' means the portion of any contribution for a taxable year beginning after December 31, 1990, to an individual retirement plan which is not allowable as a deduction under section 219 solely by reason of subsection (g)(1) thereof.

"(B) YEARS BEFORE 1991.—The term 'qualified nondeductible contribution' includes any contribution to an individual retirement plan for any taxable year beginning before January 1, 1991, which was a designated nondeductible contribution (as defined in this subsection as in effect for taxable years beginning before January 1, 1991).

"(C) TAXPAYER MAY ELECT TO TREAT DEDUCTIBLE CONTRIBUTIONS AS NONDEDUCTIBLE.—If a taxpayer elects not to deduct any contribution which (without regard to this subparagraph) is allowable as a deduction under section 219, such contribution shall be treated as a qualified nondeductible contribution.

"(3) TIME WHEN CONTRIBUTION MADE.—In determining for which taxable year a contribution is made, the rules of section 219(f)(3) shall apply."

(2) Paragraph (7) of section 219(f) is amended by striking "408(o)(2)(B)(ii)" and inserting "408(o)(2)(C)".

(3) Sections 408(o)(4) and 6693(b) are each amended by striking "designated nondeductible" each place it appears (including in any heading) and inserting "qualified nondeductible".

(4)(A) The section heading for section 6693 is amended by striking "DESIGNATED" and inserting "QUALIFIED".

(B) The item relating to section 6693 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "designated" and inserting "qualified".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions for taxable years beginning after December 31, 1990.

SEC. _____. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS MAY BE USED WITHOUT PENALTY TO PURCHASE FIRST HOMES OR TO PAY HIGHER EDUCATION OR CATASTROPHIC ILLNESS EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended—

(1) by striking "(B)," in subparagraph (D), and

(2) by adding at the end thereof the following new subparagraph:

"(E) DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR FIRST HOME PURCHASES OR EDUCATIONAL EXPENSES.—The following distributions to an individual from an individual retirement plan:

"(i) FIRST-TIME HOMEBUYERS.—Qualified first-time homebuyer distributions (as defined in paragraph (6)).

"(ii) HIGHER EDUCATION EXPENSES.—Distributions to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year."

(b) DEFINITIONS.—Section 72(t) is amended by adding at the end thereof the following new paragraphs:

"(6) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(E)(i)—

"(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by a first-time homebuyer from an individual retirement plan to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence for such individual.

"(B) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(C) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies.

"(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If—

"(i) any amount is paid or distributed from an individual retirement plan to an individual for purposes of being used as provided in subparagraph (A), and

"(ii) by reason of a delay in the acquisition of the residence, the requirements of subparagraph (A) cannot be met,

the amount so paid or distributed may be paid into another individual retirement plan as provided in section 408(d)(3)(A)(i) without regard to section 408(d)(3)(B), and, if so paid into such other plan, such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

"(7) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(E)(ii)—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

at an eligible educational institution (as defined in section 135(c)(2)).

"(B) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after the date of the enactment of this Act in taxable years ending after such date.

PART III—REVENUE PROVISION

SEC. . ELIMINATION OF PROVISION REDUCING MARGINAL TAX RATE FOR HIGH-INCOME TAXPAYERS.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)), a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $32,450	15% of taxable income.
Over $32,450 but not over $78,400.	$4,867.50, plus 28% of the excess over $32,450.
Over $78,400	$17,733.50, plus 33% of the excess over $78,400.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $26,050	15% of taxable income.
Over $26,050 but not over $67,200.	$3,907.50, plus 28% of the excess over $26,050.
Over $67,200	$15,429.50, plus 33% of the excess over $67,200.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $19,450	15% of taxable income.
Over $19,450 but not over $47,050.	$2,917.50, plus 28% of the excess over $19,450.
Over $47,050	$10,645.50, plus 33% of the excess over $47,050.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $16,225	15% of taxable income.
Over $16,225 but not over $39,200.	$2,433.75, plus 28% of the excess over $16,225.
Over $39,200	$8,866.75, plus 33% of the excess over $39,200.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $5,450	15% of taxable income.
Over $5,450 but not over $14,150.	$817.50, plus 28% of the excess over $5,450.
Over $14,150	$3,253.50, plus 33% of the excess over $14,150."

(b) REPEAL OF PHASEOUT.—

(1) IN GENERAL.—Section 1 is amended by striking subsection (g) (relating to phaseout of 15-percent rate and personal exemptions).

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 1(f)(6) (relating to adjustments for inflation) is amended by striking "subsection (g)(4),".

(c) REPEAL OF SECTION 1(j).—

(1) IN GENERAL.—Section 1 is amended by striking subsection (j) (relating to maximum capital gains rate).

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (4) of section 691(c) is amended by striking "1(j)".

(B)(i) Subparagraph (B) of section 904(b)(2) is amended by striking so much of such subparagraph as precedes clause (i) and inserting the following:

"(B) SPECIAL RULE WHERE CORPORATE CAPITAL GAIN RATE DIFFERENTIAL.—In the case of a corporation for any taxable year for which there is a capital gain rate differential—".

(ii) Subparagraph (D) of section 904(b)(3) is amended to read as follows:

"(D) CAPITAL GAIN RATE DIFFERENTIAL.—There is a capital gain rate differential for any taxable year in the case of a corporation if any rate of tax imposed by section 11, 511, or 831 (a) or (b) (whichever applies) exceeds the alternative rate of tax under section 1201(a) (determined without regard to the last sentence of section 11(b)(1))."

(iii) Subparagraph (E) of section 904(b)(3) is amended by striking clauses (ii) and (iii) and inserting the following:

"(ii) HIGHEST APPLICABLE TAX RATE.—For purposes of clause (i), the term 'highest applicable tax rate' means the highest rate of tax specified in section 11(b).

"(iii) ALTERNATIVE TAX RATE.—For purposes of clause (i), the term 'alternative tax rate' means the alternative rate of tax under section 1201(a)."

(C) Subparagraph (A) of section 7518(g)(6) is amended by striking "1(j) or".

(D) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act, 1936 is amended by striking "1(j) or".

(d) TECHNICAL AMENDMENTS.—

(1)(A) Subsection (f) of section 1 is amended—

(i) by striking "1988" in paragraph (1) and inserting "1990", and

(ii) by striking "1987" in paragraph (3)(B) and inserting "1989".

(B) Subparagraph (B) of section 32(i)(1) is amended by striking "1987" and inserting "1989".

(C) Subparagraph (C) of section 41(e)(5) is amended—

(i) by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end of clause (i),

(ii) by striking "1987" in clause (ii) and inserting "1989", and

(iii) by adding at the end of clause (ii) the following new sentence: "Such substitution shall be in lieu of the substitution under clause (i).".

(D) Subparagraph (B) of section 63(c)(4) is amended by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end.

(E) Clause (ii) of section 135(b)(2)(B) is amended by striking ", determined by substituting 'calendar year 1989' for 'calendar year 1987' in subparagraph (B) thereof".

(F) Subparagraph (B) of section 151(d)(3) is amended by striking "1987" and inserting "1989".

(G) Clause (ii) of section 513(h)(2)(C) is amended by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end.

(2) Section 1 is amended by striking subsection (h) and redesignating subsection (i) as subsection (g).

(3) Subsection (j) of section 59 is amended—

(A) by striking "section 1(i)" each place it appears and inserting "section 1(g)", and

(B) by striking "section 1(i)(3)(B)" in paragraph (2)(C) and inserting "section 1(g)(3)(B)".

(4) Clause (iv) of section 6103(e)(1)(A) is amended by striking "section 1(j)" and inserting "section 1(g)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

On page 1, line 17 of section 7405 of the bill (relating to increase and extension of highway-related taxes and trust fund), strike "13.75" and insert "12.75".

On page 1, line 22 of such section, strike "4.75" and insert "3.75".

On page 1, line 23 of such section, strike "5.25" and insert "4.25".

On page 3, lines 1 and 2 of such section, strike "(12.1 cents during December 1990)".

On page 4, line 17 of such section, strike "7.75" and insert "6.75".

On page 4, line 21 of such section, strike "7.75" and insert "6.75".

On page 5, line 16 of such section, strike "11" and insert "10.5".

On page 5, line 17 of such section, strike "13.75" and insert "12.75".

On page 5, line 19 of such section, strike "5" and insert "4.5".

On page 5, line 19 of such section, strike "7.75" and insert "6.75".

On page 5, line 24 of such section, strike "13.5" and insert "12.5".

On page 5, line 25 of such section, strike "13.75" and insert "12.75".

On page 6, line 2 of such section, strike "7.5" and insert "6.5".

On page 6, line 2 of such section, strike "7.75" and insert "6.75".

On page 6, line 8 of such section, strike "2" and insert "1.5".

On page 6, line 8 of such section, strike "2.5" and insert "2".

On page 6, line 9 of such section, strike "4.75" and insert "3.75".

On page 6, line 9 of such section, strike "5.25" and insert "4.25".

On page 6, line 15 of such section, strike "4.5" and insert "3.5".

On page 6, line 15 of such section, strike "5" and insert "4".

On page 6, line 16 of such section, strike "4.75" and insert "3.75".

On page 6, line 16 of such section, strike "3.75" and insert "4.25".

On page 7, line 11 of such section, strike "4.75" and insert "3.75".

On page 7, line 11 of such section, strike "5.25" and insert "4.25".

On page 7, line 16 of such section, strike "19.75" and insert "18.75".

On page 8, line 1 of such section, strike "4.75" and insert "3.75".

On page 8, line 7 of such section, strike "4.75" and insert "3.75".

On page 8, line 12 of such section, strike "4.75" and insert "3.75".

On page 8, line 15 of such section, strike "2" and insert "1.5".

On page 8, line 15 of such section, strike "4.75" and insert "3.75".

On page 8, line 19 of such section, strike "4.5" and insert "3.5".

On page 8, line 19 of such section, strike "4.75" and insert "3.75".

On page 8, line 23 of such section, strike "4.75" and insert "3.75".

On page 9, line 2 of such section, strike "4.75" and insert "3.75".

On page 9, line 5 of such section, strike "2" and insert "1.5".

On page 9, line 5 of such section, strike "4.75" and insert "3.75".

On page 9, line 8 of such section, strike "4.5" and insert "3.5".

On page 9, line 8 of such section, strike "4.75" and insert "3.75".

On page 9, line 14 of such section, strike "4.75" and insert "3.75".

On page 9, between lines 22 and 23 of such section, insert the following:

In the case of fuel sold for use after November 30, 1990, and before July 1, 1991, the preceding sentence shall be applied by substituting '1.5 cents' for '3.75 cents'; in the case of fuel sold for use after June 30, 1991, and before January 1, 1992, the preceding sentence shall be applied by substituting '3.5 cents' for '3.75 cents'.

On page 11, line 2 of such section, strike "13.75" and insert "12.75".

On page 11, line 3 of such section, strike "15.28" and insert "14.17".

On page 11, line 11 of such section, strike "13.75" and insert "12.75".

On page 14, line 21 of such section, strike "17" and insert "16.5".

On page 14, line 21 of such section, strike "19.75" and insert "18.75".

On page 15, line 1 of such section, strike "11" and insert "10.5".

On page 15, line 1 of such section, strike "13.75" and insert "12.75".

On page 15, line 3 of such section, strike "12.22" and insert "11.67".

On page 15, line 3 of such section, strike "15.28" and insert "14.17".

On page 15, line 9 of such section, strike "19.5" and insert "18.5".

On page 15, line 9 of such section, strike "19.75" and insert "18.75".

On page 15, line 13 of such section, strike "13.5" and insert "12.5".

On page 15, line 13 of such section, strike "13.75" and insert "12.75".

On page 15, line 15 of such section, strike "15" and insert "13.89".

On page 15, line 15 of such section, strike "15.28" and insert "14.17".

On page 15, line 20 of such section, strike "2" and insert "1.5".

On page 15, line 20 of such section, strike "2.5" and insert "2".

On page 15, line 21 of such section, strike "4.75" and insert "3.75".

On page 15, line 21 of such section, strike "5.25" and insert "4.25".

On page 16, line 1 of such section, strike "4.5" and insert "3.5".

On page 16, line 1 of such section, strike "5" and insert "4".

On page 16, line 2 of such section, strike "4.75" and insert "3.75".

On page 16, line 2 of such section, strike "5.25" and insert "4.25".

On page 23, line 15 of such section, strike "4" and insert "3".

On page 23, line 17 of such section, strike "5" and insert "4".

On page 27, line 12 of such section, strike "2" and insert "1.5".

On page 27, line 14 of such section, strike "2.5" and insert "2".

Mr. BOREN. Mr. President, under our original amendment, we would have increased the marginal tax rate on those with incomes at the highest levels above $180,000 a year to 33 percent. That would have raised approximatley $44 billion in revenues. We would have expended those revenues in the following way: we would have reduced the proposed gasoline tax increase by 2 cents. That utilizes $10 billion of the $44 billion that would have been raised by our original amendment.

Second, we would have established the right of all families with incomes of $100,000 or less to have individual retirement accounts, tax-free savings accounts, allowing them to set aside up to $1,000 per year per person or $2,000 for a working couple and a family each year into a savings account. That savings account, tax-free savings account, could have been used not only for retirement but it could also be used for nonpenalty withdrawals for educational expenses of the children in that family, for first-home purchases, and for unusual and necessary medical expenses.

That individual retirement account or tax-free savings account for middle Americans would have cost $10 billion in revenue. Under our original plan, the remaining $24 billion of revenue would have been used in the following way: we would have established a lifetime amount of $600,000 in capital gains against which individuals who held property for at least 5 years would have been given a maximum tax rate of 20 percent, and those that held property for 10 years or more, or assets for 10 years or more, would have been given a 15-percent rate. This targeted the greatest amount of incentive, the greatest benefit in the capital gains tax reduction to those people in this country who are really creating the jobs, the small business people, the farmers of our country who would therefore in amounts up to $600,000 in capital gains in a lifetime be able to get the lowest possible rates.

In addition, we would have encouraged long-range investment by all Americans under our plan by providing a maximum 25-percent rate on capital gains for assets held for 5 years or more for any American without regard to a cap or a 20-percent rate for assets held for 10 years or more. That program would have cost approximately $24 billion.

Mr. President, so that my colleagues might know the effect that we would have had if that amendment had been adopted today on the income distribution of tax burden, I want to insert into the RECORD a tax distribution chart prepared by the Joint Committee on Taxation for the current plan now before us versus the Boren-Nunn proposal.

Under the current plan now before us, for example, tax rates, effective tax rates, on all taxation for those with incomes of $50,000 to $75,000 is 25.2 percent; $75,000 to $100,000, 26.5 percent; $100,000 to $200,000, 27.1 percent; $200,000 or over falling back to 26.1 percent.

And so while we have an improvement over the current law in terms of distributing the tax burden, those between $75,000 and $200,000 still have, even under this proposal pending before us, a higher marginal tax rate or an overall tax rate than those making $200,000 or more.

By contrast, the Boren-Nunn proposal gives us a completely progressive result. For those $50,000 to $75,000, the tax rate would be 24.8; $75,000 to $100,000, 26 percent; $100,000 to $200,000, 26.5 percent; and $200,000 or over, 27 percent—a perfect glidepath, progressivity. In no instance would those above $200,000 under our proposal be paying a lower effective total tax rate than those with incomes under 200,000.

I ask unanimous consent that both the Joint Tax Committee distributional table for the current plan before us and the distributional table for the Boren-Nunn proposal be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

SENATE FINANCE COMMITTEE—SUMMARY OF DISTRIBUTIONAL EFFECTS, BY INCOME CATEGORY (1) BUDGET RECONCILIATION—REVENUE PROPOSALS

[1990 income levels]

Income category [2]	Change in Federal taxes (1)(3)		Federal taxes under present law (4)		Federal taxes under proposal (1)(4)		Effective tax rates	
							Present law	Proposal
	Billions	Percent	Billions	Percent	Billions	Percent	Percent	Percent
Less than $10,000	$0.0	0.0	$14.2	1.6	$14.2	1.6	13.3	13.3
$10,000 to $20,000	−1.5	−2.3	65.8	7.6	64.3	7.3	15.6	15.2
$20,000 to $30,000	2.8	2.7	102.5	11.9	105.3	11.9	18.4	18.9
$30,000 to $40,000	3.2	2.8	115.8	13.4	119.0	13.5	20.0	20.6
$40,000 to $50,000	2.5	2.8	87.9	10.2	90.3	10.2	21.4	22.0
$50,000 to $75,000	3.2	1.9	172.8	20.0	176.0	19.9	24.7	25.2
$75,000 to $100,000	1.7	2.5	66.5	7.7	68.2	7.7	25.8	26.5
$100,000 to $200,000	3.6	3.5	104.4	12.1	108.0	12.2	26.2	27.1
$200,000 and over	5.0	3.7	133.3	15.4	138.2	15.6	25.2	26.1

SENATE FINANCE COMMITTEE—SUMMARY OF DISTRIBUTIONAL EFFECTS, BY INCOME CATEGORY (1) BUDGET RECONCILIATION—REVENUE PROPOSALS—Continued

[1990 income levels]

Income category [2]	Change in Federal taxes (1)(3)		Federal taxes under present law (4)		Federal taxes under proposal (1)(4)		Effective tax rates	
							Present law	Proposal
	Billions	Percent	Billions	Percent	Billions	Percent	Percent	Percent
Total, all taxpayers	20.3	2.4	863.2	100.0	883.5	100.0	21.8	22.3

[1] Distributional analysis includes effects from the Budget Summit Agreement, as modified by the Senate Finance Committee Budget Reconciliation-Revenue Proposals, with respect to beer, wine, and distilled spirits taxes, tobacco tax, energy tax, telephone tax, increase in HI wage cap, limitation on itemized deductions, individual AMT component of oil and gas production incentives, expand section 179 expensing, and increase in the EITC. Analysis does not take into account effects from changes in taxpayer behavior.

[2] The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] inside buildup on life insurance, [4] workers' compensation, [5] nontaxable social security benefits, [6] deductible contributions to individual retirement accounts, [7] the minimum tax preferences, and [8] net losses in excess of minimum tax preferences from passive business activities.

[3] Estimates of total tax liability presented in distributions will not match estimated changes in receipts because of differing time periods (CY 1990 vs. FY 1991–95), because of varying patterns of fiscal year receipts.

[4] Distributions represents combined effects of individual income taxes, payroll taxes, Federal excise taxes, and estate and gift taxes. For the purpose of distributions, the full burden of payroll taxes is assigned to employees. Excise taxes are assumed to be borne fully by individuals either directly through purchase of the taxed commodity or indirectly through higher prices on all commodities as businesses pass along these added costs. Because of the uncertainty concerning the incidence of the corporate income tax, it is excluded from this table. Information in table excludes individuals who are dependents of other taxpayers.

SUMMARY OF DISTRIBUTIONAL EFFECTS, BY INCOME CATEGORY (1)(2) BUDGET RECONCILIATION—REVENUE PROPOSALS AS APPROVED BY THE SENATE COMMITTEE ON FINANCE ON OCTOBER 13, 1990, INCLUDING PROVISIONS OF A POSSIBLE BOREN AMENDMENT

[1990 income levels]

Income category [3]	Change in Federal taxes (1)(4)		Federal taxes under present law (5)		Federal taxes under proposal (1)(5)		Effective tax rates	
							Present law	Proposal
	Billions	Percent	Billions	Percent	Billions	Percent	Percent	Percent
Less than $10,000	−$0.1	−1.0	$14.2	1.6	$14.1	1.6	13.3	13.2
$10,000 to $20,000	−1.6	−2.5	65.8	7.6	64.2	7.3	15.6	15.2
$20,000 to $30,000	2.3	2.2	102.5	11.9	104.8	11.9	18.4	18.8
$30,000 to $40,000	2.5	2.2	115.8	13.4	118.4	13.4	20.0	20.5
$40,000 to $50,000	1.8	2.0	87.9	10.2	89.7	10.2	21.4	21.9
$50,000 to $75,000	0.8	0.5	172.8	20.0	173.6	19.7	24.7	24.8
$75,000 to $100,000	0.4	0.6	66.5	7.7	67.0	7.6	25.8	26.0
$100,000 to $200,000	1.2	1.2	104.4	12.1	105.6	12.0	26.2	26.5
$200,000 and over	9.7	7.3	133.3	15.4	143.0	16.2	25.2	27.0
Total, all taxpayers	17.0	2.0	863.2	100.0	880.2	100.0	21.8	22.2

[1] Distributional analysis includes effects from the Senate Finance Committee Approved Budget Reconciliation-Revenue Proposals, including provisions from a possible Boren Amendment, with respect to beer, wine, and distilled spirits taxes, tobacco tax, energy tax, telephone tax, increase in HI wage cap, limitation on itemized deductions, individual AMT component of oil and gas production incentives, expand section 179 expensing, inclusion of latest Senate child care offer, 33% top rate, capital gains exclusion, limited IRA expansion, and increase in the EITC.

[2] This analysis does not take into account additional taxes paid as a result of increased capital gains realizations. (See "Explanation of Methodology Used to Estimate Proposals Affecting the Taxation of Income from Capital Gains," Staff of the Joint Committee on Taxation (JCS–12–90), March 27, 1990, pp. 46–48.)

[3] The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] inside buildup on life insurance, [4] workers' compensation, [5] nontaxable social security benefits, [6] deductible contributions to individual retirement accounts, [7] the minimum tax preferences, and [8] net losses in excess of minimum tax preferences from passive business activities.

[4] Estimates of total tax liability presented in distributions will not match estimated changes in receipts because of differing time periods (CY 1990 vs. FY 1991–95), because of varying patterns of fiscal year receipts, and because changes in taxpayer behavior with respect to capital gains are not reflected in this distribution.

[5] Distributions represent combined effects of individual income taxes, payroll taxes, Federal excise taxes, and estate and gift taxes. For the purpose of distributions, the full burden of payroll taxes is assigned to employees. Excise taxes are assumed to be borne fully by individuals either directly through purchase of the taxed commodity or indirectly through higher prices on all commodities as businesses pass along these added costs. Because of the uncertainty concerning the incidence of the corporate income tax, it is excluded from this table. Information in table excludes individuals who are dependents of other taxpayers.

Mr. BOREN. Mr. President, let me summarize what we are now saying in this sense-of-the-Senate resolution.

What we are saying in this resolution now before the Senate is that we should encourage our conferees to take action to make sure the final plan that comes out of conference is fair; that we do not end up putting more of a burden on middle America than we are putting on those with incomes over $200,000 a year.

We are saying something else that is exceedingly important. We are also saying that in addition to addressing this problem of the deficit, as we work on the largest budget package that has come before this Senate in many years, we should not miss this opportunity to also do something to make this country more able to compete in the world marketplace, to encourage economic growth, to encourage improvement in productivity so that the next generation of Americans will have jobs and will have a future with a high quality of living and a high standard of living.

Mr. President, if we miss the opportunity now to do something to change our tax policy, to bring it into line with sound economic policy, we may not have another such opportunity in this decade as we get ready to go into the next century.

We have all come to understand—and I have seen it acutely as chairman of the Intelligence Committee—that the leadership role for the United States in the next century more than on our military strength is going to depend upon our economic strength and our social strength in this country.

When the cold war began we had nine of the 10 biggest banks in the world; now we do not have any of the top 20. When the cold war began we had a 68-percent share of world markets; now we have less than 18-percent share of the world markets. The Japanese have a higher per capita income, and in 1992 the Europeans will have a larger combined market than we will have in this country.

Mr. President, we must do something to restore and rebuild the economic strength of this country. We can take a giant step forward by bringing down the budget deficits and reducing the need for the importation of foreign capital in this country, and the sell-off of America to people outside the country, out from under the next generation.

But we must do more. We must also have a solid plan that will encourage more investment, increases of savings in this country, to get the cost of capital down to the margin to make ourselves competitive, to restore America's productivity.

We should encourage our conferees to come forward with a balanced plan to do just that. That is what we are saying here. We have not tried to put anyone in a box. We have not tried to put anyone on the spot. We have not tried to pull the rug out from under our leaders.

We are saying the Senate should go on record to our conferees to encourage them by raising the rate of tax on those with incomes of $200,000 a year or more to raise enough revenue so that we can first of all give some relief to middle Americans. These are the people paying most of the bill, receiving the smallest amount of benefits

under our current tax system, and even under the plan now before us.

These are the people who make just enough—very often two-wage-earner families—that their children do not qualify for scholarships to go to college. They earn just enough that they do not qualify for subsidized housing. They earn just enough that they do not qualify for any special help for their medical expenses. In fact, all they get are not benefits, but they get the privilege of paying the bills with little help coming back to them.

Mr. President, if there is any group of Americans who are forgotten, it is this group of Americans. We often focus our attention, as we should, on the underprivileged of our society, on those at the bottom end, in poverty, on those that perhaps cannot help themselves.

There is a lot of attention given to special interest groups, highly organized all over this country, who protect the tax breaks for the wealthy. Who has been standing up for those middle Americans who are footing the bill, who are paying for our Government and getting the least in return? It is time that we did something for them.

It is time we changed these distribution charts so they do not end up, two-wage-earner families, with family incomes of $50,000 to $75,000, they do not end up paying nearly all of the bill, the highest rate, and getting no benefits back.

Children of these people are not going to qualify, for example, for scholarships and help to go to college. The least we can do is allow these families to be able to set aside tax for each year up to $1,000 per person so that they can meet those responsibilities themselves, so that they can have, for example, an amount of money saved to help send their children to school or to help take care of medical emergencies. That is the least we can do for middle America.

Mr. President, we must do something here to encourage middle America; we must send a message that we understand their problems, and the burdens that they are bearing. This is fair. It will not only help middle America, it will help increase the savings rate of this country. And by also reducing the gasoline tax by another 2 cents, we put more progressivity into this package.

We give the American people to understand be all of us who are asked to sacrifice, and no one group more than its fair share.

At the same time we also encourage long-range investment in this country—capital gains reductions, not for speculators, not for the Milkens and Boeskys who simply shuffle around assets in this country, not those who want to buy a share of stock, turn around, sell it 6 months or a year later and turn a profit.

We give under our plan a capital gains break to encourage only those that engage in long-range investment a 20-percent rate for those that hold for 10 years or more and a 25-percent rate for those that hold for 5 years or more.

This one encourages long-range investment. It will get down the cost of capital in this country, help us get back part of our competitive edge in world markets.

Finally, we craft and we target this package in the sense of the resolution to give the lowest capital gains rate especially to that group of people in our country who are really creating the most jobs—small businesses, farmers, and others—by saying that amount of up to $600,000 in a lifetime should get the lowest capital gains rate of all, 15 percent on assets held for 10 years or more.

When you look at where the jobs are being created in this country, they are coming from small business. Large business in this country over the last decade had a net loss of jobs. To increase employment in this country, the millions of new jobs that have been added have been added in net terms by the small businesses of this country, by people who are starting businesses anew, and then seeing them grow, create employment, by the small farmers of this country.

What this amendment would say to them, this sense-of-the-Senate resolution would say to them is we want to recognize and reward what you are doing to help the economy of this country, we want to encourage people to start new small businesses and be innovative, and therefore to a maximum amount of $600,000 for a lifetime in capital gains, if you build that small business, if you build that small farm, you are going to get the lowest rate, in this case 15 percent, under our plan for those small businesses and those farms that have built up over a lifetime of achievement.

(Ms. MIKULSKI assumed the chair.)

Mr. BOREN. Madam President, this is a package I think that is good for America. I think it is appropriate for us at this time to send this kind of message to our conferees. Let us not miss this opportunity to deal in a responsible way with the deficit problem.

I salute those on both sides of the aisle, the leaders on both sides who have been so responsible in trying to put together this package. But let us also seize the opportunity to do something to create economic growth in this country, to help get us past this bad time in which a recession appears to be beginning in our country, and to look forward to create jobs for the next generation.

I urge my colleagues to join in a bipartisan spirit and help us adopt this resolution, this expression of encouragement to our conferees.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Georgia.

Mr. NUNN. Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 16 minutes and 20 seconds.

Mr. NUNN. Madam President, I thank my colleague from Oklahoma. He has outlined this proposal, and has done it very well. He has made what I think is the case that is not made very often around here but should be made every day, that is middle America is the heart and soul of our economic productivity in this country.

We have a lot of protection for our low-income people, and we should. We have an awful lot of debate about whether the brackets should go up for those at the very highest tier of income in this country. Those are legitimate debates. But I think it is time for us to settle that debate.

We have been urged in this resolution to take out the word rate so we would simply say we will not compromise on people. I think that would be inadvisable because at some point we have to decide that issue, and I see this as a vote to decide it now.

We have to decide whether we are going to sacrifice the economy of our country, the fiscal condition of our country, our trade position, our interest rates, on an obsession to keep a rate down at a level that never should have been there to begin with. For the first time in the income tax history that I am familiar with, we have a situation where the rates when they reach a certain point of income start going down so that those who have more income are paying less on their incremental income than those below them in the income bracket.

I think it is time for us to face that issue. I think it is time for us also to face the issue that we do not have the kind of incentives in our Tax Code that middle America needs to save money and to provide for the education of their children and the kind of incentives they need for their retirement savings.

That is what we are trying to do. We are trying to repair some of the damage and some of the inequities that flowed from the 1986 tax bill and, even before that, the 1981 tax bill. We are also trying to do it in a way that is compatible with economic growth.

We have a lot of debate around here about how much taxes should be increased or revenue increased. We have a lot of debate about how much spending should be cut and which spending account should be hit. What we do not

talk nearly enough about is economic growth.

The aspect in both of these packages, both the Senate package and the House package, that is now missing, is any real emphasis on economic growth.

And one of the things I think we all are aware of, and I know those who head the Budget Committee are aware of it more than any of us, no matter what we do in the deficit package and how legitimate it is—and I think it is legitima for the first time in 10 years, it is going to be legitimate—no matter what we do in terms of reducing the expenditures of our Nation, no matter what we do in terms of increasing the projected revenues of our Nation, unless we have economic growth continuing, the deficit of this country is going to go up. I think that is the missing part of this debate.

We have to encourage people to save money. We have to encourage people to invest in capital assets. We also have to then encourage people to go ahead and sell assets that they would like to sell, but are not going to sell. They are going to be locked into those assets because of the tax rate which we have on people who held assets 10 or 20 years.

If we want to do something about the real estate and savings and loan debacle and the peril of financial institutions, we better start thinking about incentives here and we better figure out a way to do it in the near term.

Madam President, some people spend an awful lot of time talking about economic growth, but it always turns out that the way they want economic growth is to give the people in the very highest brackets the most benefits and hope that it will stimulate the economy as it moves down.

I think it is time to try another route. I think it is time for us to try giving the people in the middle income brackets an incentive to save and invest and watch what will happen, because I think middle America is the heart of this economy. The middle-income people are the most productive of people. The small businesses create the most jobs in our economy. They pay the most taxes. And as the Senator from Oklahoma said so well: Unfortunately, too many times they make just enough money not to qualify for most of the Federal programs. I think our national tax policy has to recognize that.

I do not want to take too much time today because others want to speak, but I think those who are worried about tax rates and never want to move off the 28 percent, and never want to close the bubble, ought to consider what President Ronald Reagan said in May 1985 when he was introducing his ideas for tax reform at that time. He said, and I quote the former President:

We would take a giant step toward an ideal system replacing the present tax code with a simple 3 bracket system with tax rates of 15 percent, 25 percent, and 35 percent. Only taxable income above $70,000 would be taxed at the highest third, the highest rate of 35 percent; no matter how much you earn you would pay 35 cents on any dollar to uncle Sam. That is the top 35 percent.

That was President Reagan. I find it really puzzling that some of our colleagues will not vote for 1 single percent above 28 percent, when the 28-percent bracket, as we all know, helped create the bubble. That now means that the marginal rate for people between $70,000 a year in income and $185,000 a year, their marginal rate is higher than those people who are making $200,000; $400,000; $500,000; $700,000; and $1 million a year. It does not make sense now. It did not make sense then.

We have a chance to correct that inequity and to continue to have incentives for people in those brackets, because they will have incentives if you believe Ronald Reagan and what he said when he introduced his package. I think it is time for us to face that, to acknowledge the errors that were made in 1986—there were some good things in that reform package, but to acknowledge the errors—and at the same time, do something about middle-income America and our economic growth in this country.

It is very important that we understand that we are moving toward a recession. We had better think about what we do in this package toward that. Otherwise, the promise of reduced deficits will become an illusion.

Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I assume I am controlling the time in opposition?

Mr. SASSER. That is correct.

The PRESIDING OFFICER. The Senator controls the time if the Senator from Tennessee favors the amendment?

Mr. SASSER. Yes, Madam President; the Senator from New Mexico, I understand, will control the time in opposition to the Nunn-Boren amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, let me just state to the Senate, I understand that in opposition we have Senator ROTH, who wants to speak for about 10 minutes; and we probably will yield back time so we can get on with things. I yield myself 3 minutes.

First, let me say that I have to oppose the amendment, simply because we have been busy trying to put together a package of deficit reduction proposals, including revenue measures and other savings, reforms, and the like, for nigh on 5 months. And every time we got to a point where we could not move ahead, it had to do with this issue. If not precisely, almost.

It was capital gains; no capital gains; raise the brackets; do not raise them. Frankly, I believe that we would be performing a rather idle act to tell our conferees to do what we know will not succeed.

We have defeated a number of amendments on the basis that if we went to conference with those, there is no way to get a deficit reduction package.

Having said that, I say to my good friend from Georgia and the senior Senator from Oklahoma, it is refreshing—I have already stated my position and why I must be there, but let me say to them—it is refreshing to hear two U.S. Senators talk about the lack of growth and sustained productivity as a major American problem. We are blissfully thinking that because America has succeeded in the past, we are just going to continue competing in this world; our productivity is going to continue upwards; inflation is going to come down.

I am very appreciative, as one Senator, that two Senators talked about the fact that we ought to seriously look at what we can do to make America have a better chance of producing jobs, investment, and growth.

When I first became involved as a designated negotiator, I had objectives. I think they were the same as the President's: Get the deficit down as much as possible in a way that is least damaging to the American economy; reform the budget process so whatever you do is believed by the American people. We hope to do that before the day is out today. Next was to do what we could to enhance America's competitiveness and opportunity to grow, invest and save.

What we are going to end up with is part of the package. We are going to get the deficit down substantially, hopefully. They may get interest rates down, and by cutting the deficit that much, we may be encouraging savings because we will not be spending savings on debt, at least to the extent that we reduce the deficit. I am very hopeful that will happen. The research and development tax credit and a few of the others that are in the package indeed are necessary.

I do not believe it is possible now to get something as significant as a real workplace capital gains in this package. I personally would like to see that happen. I do not believe it will happen.

I close by saying, with reference to the Tax Code and all the talk about the rich and the poor, I want to thank the distinguished Senator from Oregon, Senator PACKWOOD, for his very enlightening remarks this morning. I hope people listened to them.

They were not filled with cliches. They were filled with the reality of why we were enthusiastic and excited on both sides of the aisle when the Tax Code that is now the law, with the two brackets, was adopted, bipartisan and with very large votes. The enthusiasm was tremendous because we had true reform.

I do not quite understand how it has turned so bad, so quickly. I do not really think it has.

But with that, let me suggest that there are two Senators who want to speak, and I am going to yield 10 minutes to Senator ROTH and 10 minutes to Senator BRADLEY, in that order, and I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Madam President, it is with great reluctance that I rise to oppose the amendment offered by the distinguished Senators from Oklahoma and Georgia. It is with reluctance, because there is much in it with which I agree. I, too, am happy to hear them talk about responding IRA's, a fight that I have helped lead in the Finance Committee. But, unfortunately, that will not even be in conference between the Finance Committee and the House Ways and Means Committee.

But as much as I admire the work of these two gentleman, I have to say that I strongly oppose any increase in taxes. When we talk about growth and jobs and opportunity, it absolutely makes no sense, no sense at all, to be raising taxes on the American people. And that is what these proposals are doing the economy is stagnant.

Mr. President, two recent editorials offer some truth about the budget debacle and the proclivity of Congress to raise taxes almost at whim. The first ran yesterday in the Washington Post. It was an editorial by David Broder, who debunked the myth of fairness—the strange myth liberal spenders use to play one class of Americans against the other—as if all are not bound to lose by a tax increase.

The second editorial, in today's Wall Street Journal, complements the Broder piece by reporting that Americans are seeing through the myth. On Tuesday, the Civil Rights Commission voted in support of a resolution warning that the current thrust of the budget could cause economic difficulties for minorities, women, and the disabled. The Commission requested, "on behalf of America's disadvantaged, no general spending increase and no general tax increases. Instead, the Commission would freeze spending at the fiscal 1990 level."

When are the big spenders in Congress going to wake up and smell the coffee? They want to play Santa Claus, but they want someone else to pay the bills. Why? Because there is one fundamental truth in America: Santa Claus makes people happy, the IRS does not. Fortunately, the people are beginning to revolt. Because in the end, the big spenders are not even playing Santa Claus right. According to the Broder editorial, "People are sick and tired of paying taxes and getting nothing in return. They're convinced Government isn't working. The schools don't educate, the streets aren't safe, and traffic gets worse all the time. And yet there are still people who want them to pay more taxes!"

Of course, the big spenders belly up to bar, they smile and say: "But well spare the middle class. We're only going to make the upper class pay its fair share." That is bunk. I know it. The taxpayer knows it. And what is most insulting is the big spenders know it, too. They know that if they took every dollar from American families and individudals earning over $200,000 a year, they could not keep Government running a single month. They know that only 5 percent of taxpaying families and individuals earn over $70,000 a year—far too few to finance the liberals' free-wheeling ways.

No matter what they say, no matter how nicely they smile and how convincing their pleas—taxes will be raised on middle America. It is that simple. The bill passed by House liberals last night does not even try to hide the fact. By delaying indexing, the big spenders increase taxes on middle American families by $300 annually—and that is just the beginning. It does not even include the other tax increases that will lower their standard of living. And lest we grow complacent—or the American taxpayer is lulled into a false sense of security—that the Senate bill will redeem the middle class, let us make no mistake; it will not. It is going to hit the middle class too. In fact, a likely scenario is that the worst of both bills will emerge from conference between the House and Senate.

The Senate leadership made it very clear on television last Sunday that, when the conference convenes, all bets are off. There are no guarantees that the Senate leadership will even defend the Senate bill and that they will not tip-toe toward the House plan—a tip-toe that will end up a tap dance on the taxpayer's forehead. It is outrageous.

The simple fact is the liberal Democrats have declared war on the American family. They are not out to soak the rich. Even the Senate bill has tax breaks for certain industries.

Mr. NUNN. Will the Senator yield for just a moment on my time?

Mr. ROTH. Yes. I am happy to yield.

Mr. NUNN. Madam President, the Senator is making a good case against the House bill, but he has not said anything about this amendment, because this amendment basically makes the rates on people that make over $180,000 a year the same as the rates on people that already make between $70,000 and $180,000 a year. This amendment is revenue neutral. It does not raise taxes on anybody one penny if they make under $180,000 a year, but it helps them with incentives and it lowers the gasoline tax.

So I ask the Senator, is he talking about this amendment or is he talking about the House bill?

Mr. ROTH. Let me answer my distinguished friend and colleague. I am opposed to any tax increase. And in that sense, I am in opposition to his resolution.

Mr. NUNN. If the Senator will yield further.

Mr. ROTH. I would like to, if I could, finish my statement. As I said, there is much in the Senator's proposal that I appreciate and support. But, unfortunately, IRA's will not even be in conference. The main point I am trying to make here—and if I have any time at the end, I will be happy to continue the dialog—but the simple fact is the liberal Democrats have declared war on the American family. They are not out to soak the rich. Even the Senate bill has tax breaks for certain industries. Of course the big spenders want the voter to think they are aiming at the rich, but they are going to hit the target they really want—the middle class. And our economy is going to look like something designed by Bart Simpson and Stephen King. The only thing is Bart Simpson might be smarter and Stephen King certainly is not that sadistic.

The way out of this deficit is to cut spending. Neither the House nor the Senate bill addresses this in any responsible way. The way out of this deficit is to eliminate waste, fraud, and abuse. Neither bill addresses this—period. The way out of this deficit is to create incentives for economic growth—to protect the American family, the workplace, the competitive well-being of our country. Both bills move in the exact opposite direction. They are antifamily, antibusiness, anticompetitiveness.

That is why I stand firm in my position that is supported by millions of Americans who see the big spending freight train coming through the tunnel—no new taxes.

Madam President, just let me say, with respect to the resolution before us, that, of course, it raises taxes. As I said, I think raising taxes at this juncture when our economy is, at best, stagnant makes absolutely no economic sense. We are running the risk of tipping this economy into a recession. And so I do not care how well motivated the proposal is, we should have no new taxes at this time.

I strongly agree we ought to be doing something about individual savings. I support what the distinguished Senator from Georgia and the Senator

from Oklahoma are doing. But they are not included in this legislation at any time. So it will not be a matter for conference.

Let me point out in 1986, when the Senate backed off of the IRA, I finally got the Senate to yield to the House, to agree we would not undercut or cutback on IRA's. The House would not let us agree with their position.

What I am saying is, as much as I support what Senator NUNN is proposing, I see absolutely no change, no opportunity for IRA's to be strengtnened and expanded in the coming conference.

Madam President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Senator from New Jersey is recognized for 10 minutes.

Mr. BRADLEY. Madam President, I rise in opposition to the resolution, although I am very appreciative that the distinguished Senators from Oklahoma and Georgia did not offer an amendment but are only offering a sense-of-the-Senate resolution.

There have been any number of misstatements during the last several weeks about the so-called bubble. They were repeated today. I think there are just one or two points to make.

Never did someone filing a joint return, earning between $74,000 and $155,000, pay more taxes or pay a higher average tax rate than someone earning more than $155,000. Opponents of the bubble constantly mix up marginal tax rates with average tax rates. Unfortunately they do not make that admission.

I ask unanimous consent that an article from Tax Notes of October 2, 1989, an article from the New York Times of April 29, 1990, and an article from the May 15, 1990, Wall Street Journal be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Tax Notes, Oct. 2, 1989]

COMMENTARY: THE BUBBLE IS NO "ANOMALY"

(By Byrle M. Abbin)

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(The opinions expressed in Viewpoint do not necessarily reflect the opinions of Tax Analysts.

(Viewpoint is open to any person who wishes to express an opinion on tax or fiscal policy. It is our hope that the opinions expressed in this column will contribute to the development of a sound and administrable system of taxation. Please address submissions to the editor.)

The written press as well as the air waves recently have become overcrowded with rhetoric relating to the 33 percent marginal tax rate. Frequently, as part of this rhetoric, the term "anomaly" has been used to describe the tax rate applied to single filers with taxable incomes between $44,900 and at least $93,130, and to joint returns with incomes between $74,850 and $155,320. This 33 percent rate is often referred to as the "bubble" because it applies to a limited band of income, after which a 28 percent rate is applied. Unfortunately, politicians, pundits, and even financial analysts discussing this situation tend to confuse marginal tax rates with effective tax rates, and they imply, by the use of these terms "anomaly" and "bubble," that the middle-income taxpayers subject to the 33 percent rate are somehow being treated unfairly in comparison to higher-income taxpayers whose top marginal tax rate is 28 percent. The erroneous impression that is left is that these 33 percent taxpayers pay a higher percentage of their income to the government than do those with more income. The misconception, simply put, is that people do not pay marginal tax rates; rather, they pay taxes in cold hard cash.

In analyzing the significance of the "bubble" and arguments to correct this alleged "anomaly," it is important to recognize initially that, for those with taxable incomes above the threshold levels, the 28 percent tax rate is taxed on all taxable income. In contrast taxpayers with incomes below that level apply a 15 percent tax rate to a portion of their taxable income (the first $18,550 for single individuals and the first $30,950 for joint returns), and may also deduct personal exemptions of $2,000 for each exemption, including dependents. The purpose of the 33 percent rate is to ensure that the benefits of the 15 percent rate and deductions for personal exemptions eventually are denied to higher-income taxpayers who are then subject to a 28 percent average tax rate on all their income. It is, as the technicians like to say, a means for "phasing out" the 15 percent rate and personal exemptions and "phasing in" the 28 percent rate.

It must be clearly understood that in no event will those in a middle-income category ever pay tax at a higher average rate than those at the highest income levels. Rather, middle-income taxpayers would pay at less than the 28 percent rate. Consider a family with $50,000 of taxable income, after deducations other than two personal exemptions. Their 1989 Federal income tax would be $8,864, reflecting an average tax rate of 17.7 percent. Next, consider another family with a taxable income (before exemptions) of $150,000. In their case, the tax would be $40,414, for an average rate of 26.9 percent. A similar family making $250,000 of taxable income (before personal exemptions) will pay a tax of $70,000 or, on average, 28 percent of each dollar of income. Different tax rates would apply to different bands of income but the family with the highest income would incur the highest tax rate and would pay the most tax.

The fact that Congress chose in the 1986 Tax Reform Act to use a five percent surtax (33 percent less 28 percent) to implement its decision to deny the benefit of a 15 percent tax bracket and personal exemptions to some high-income taxpayers is not anomalous. Indeed, it is quite common to encounter phaseouts of tax benefits as a means to achieve a tax policy objective and, in this case, it was a technically clever way of doing so.

In fact, phaseouts often are used to accomplish social or political goals in the tax system. Many of these can seem, at first impression, to be as arbitrary and "unjust" as the 33 percent "bubble" when their underlying purpose is ignored. For example, generally a retired individual receives Social Security payments tax free. However, if his or her income exceeds a certain level, a portion of those Social Security payments becomes subject to tax. When coupled with the fact that benefits are reduced when earned income exceeds a specified level, the total tax (including lost Social Security benefits) can be as high as 71 percent of incremental earnings. Similarly, those who benefit from the earned income credit will find their additional earnings between $9,850 and $18,570 taxed at a marginal twenty-five percent rate—the basic 15 percent rate plus an additional 10 percent effective tax due to the phaseout of the credit.

Other items that could as easily be characterized as "anomalies" that modify the effective tax rate based on the level of income include the disallowance of those itemized deductions that do not exceed a certain percentage of adjusted gross income—such as deductions for medical expenses and casualty losses. In addition, the phaseout of the allowable deduction under the passive activity loss rules for real estate rental losses from properties that the taxpayer actively manages, effectively raises the tax rate for individuals whose adjusted gross income exceeds $100,000. In fact, the combination of phaseouts, phaseins, and floors, can cause an individual's marginal tax rate to be higher under the 1986 tax act than it was before 1987, when the top tax rate was 50 percent. Moreover, due to the 1986 tax act's limitations on investment interest deductions and passive activity losses, many individuals have found their total taxes have increased even though tax rates were reduced significantly.

There is a host of examples that could be cited, showing that marginal rate can far exceed the 15 percent/28 percent structure adopted in 1986. However, this would only obscure the fact that taxpayers pay taxes and not rates. That is where the focus in this debate should be—on effective as rates and total tax.

This analysis is intended neither to justify nor criticize the tax rate structure Congress has ordained or will adopt. Rather, my aim is to bring a semblance of factual understanding into a process that has become politicized through the use of buzz words and pejoratives like "anomalies" and bubbles"—characterizations that have been cast about as if they create verity.

[From the New York Times, Apr. 29, 1990]

OVERSIZED TAXES FOR THE MIDDLE CLASS?

(By Norman Ornstein)

One of Washington's annual springtime rites is the required Congressional budget resolution. This year, the debate will encompass many things, but a centerpeice will be the proposal by many leading figures in Congress to raise tax rates for the rich, starting with the infamous "bubble." The bubble is, of course, the anomaly in the income tax code that has marginal tax rates rising to 33 percent for taxpayers at roughly the $75,000 level, then dropping back down to 28 percent for those with incomes over roughly $200,000.

On the surface, this seems like a perverse artifact of the Tax Reform Act of 1986, enacted simply to punish upper-middle-income taxpayers and reward their wealthier counterparts. Those calling for the bubble's abolishment say we should simply extend the 33 percent marginal rate to the upper income levels. But the fact is that the bubble was put in place for a very good reason—it does not reward the rich.

When reformers created the new, simplified system, their goal was to move from 14 separate marginal tax rates to two—15 percent for lower income, and 28 percent for upper income—while moving poor Americans off the tax rolls entirely. To keep the fair share of the tax burden on the highest-income groups in America, they eliminated or reduced many of the loopholes the wealthy had been using in the old system. They went further, however. They moved to eliminate from wealthier taxpayers both the benefit of the personal exemption and the advantages of the 15 percent rate for the first $32,400 in income.

They could have done so without any rigmarole in rates—by having complicated tables to phase out both the personal exemption and the lower rate, adding to the headaches of taxpayers and the bills of tax accountants. In the spirit of simplification, the reformers, perhaps naively, chose the bubble. The end result of the bubble is that the richest taxpayers have no personal exemptions and pay a flat 28 percent on all their taxable income, with no 15 percent rate at all. Although taxpayers with incomes between $75,000 and $200,000 do pay a higher marginal tax rate, they also retain some of the benefits of the personal exemption and the 15 percent rate, and thus have lower average tax rates than the rich. In other words, the bubble actually adds to the progressiveness of the tax system.

Not realizing the widespread confusion that would result when the discussion turned to average tax rates versus marginal tax rates, reformers left themselves open to the attacks that have become so common. But the bubble does raise the tax bills of wealthy taxpayers and over time will add even more to their relative tax burden.

Congress and the President may well make the public policy decision to raise the taxes of the richest Americans. But if they decide to do so, it should be with a full understanding of why tax reform tried to create the most simplified rate structure it could, and why and how the so-called bubble fits in with its philosophy and spirit. That, so far, has not been a part of the debate.

[From the Wall Street Journal, May 15, 1990]

DON'T POP THE BUBBLE

(By Byrle M. Abbin)

As White House officials and House and Senate negotiators begin their deficit cutting budget "summit" today, the federal tax system seems to be one of the targets in their cross-hairs. And at the center of the bull's-eye is the "bubble"—the 33% marginal tax rate on some middle-income taxpayers.

Democratic leaders are entering the summit claiming that they are determined to pop the bubble in the name of fairness and simplicity by extending a 33% tax rate that allegedly falls on middle-income taxpayers to "the rich." But intentional or not, this is a delusion. The Democratic leadership is using public confusion over the difference between average and marginal tax rates as a reason to impose a tax increase on the American economy and to undo the 1986 tax reform.

TWO RATES

Ironically, the bubble exists because Congress wanted to introduce more progressivity into the 1986 tax reform. That reform set two marginal tax rates, 15% and 28%. In order not to treat upper income taxpayers too generously, however, Congress decided to deny taxpayers with the highest incomes the benefit of the 15% rate on their first increments of income.

So, at certain levels of taxable income—between $44,900 and $93,130 for single filers and between $74,850, and $155,320 for joint filers—the benefits of the 15% rate are phased out. This is accomplished by applying a 5% surcharge to this band of income. A taxpayer whose income level falls within the band must pay back some, but not all the benefit received from the 15% rate. A taxpayer whose taxable income is above this income band gets no benefit from the lower rate.

In addition, that taxpayer's personal exemptions are also taken back by extending the surcharge to income above the band. Once the tax benefit ($560 per exemption) has been fully negated, the surcharge no longer exists and the 28% tax rate resumes. But all of this refers only to marginal tax rates—the rate on each additional dollar. Nobody's average tax rate ever exceeds 28 cents on every taxable dollar of income, before personal exemptions.

So, three marginal rates exist, but, as the chart shows, no taxpayer ever pays an effective or average rate of tax of more than 28%. Unfortunately, many people find it hard to grasp this concept: The bubble may be the first major tax provision ever repealed simply because it was hard to explain why and how it works.

Clearly, as the chart again shows, it is incorrect to suggest that those upper middle-income taxpayers subject to a 33% marginal tax rate on a portion of their income are being treated unfairly compared to higher-income taxpayers who pay a flat rate of 28% on all their income. The higher the income level the more "pain" there is from the additional tax.

There is no lower-bracket loophole for the "rich," as some have maintained; the "rich" in fact pay a higher effective tax than do the middle-income taxpayers subject to the bubble. In fact, the bubble actually augments the progressivity of the tax code.

The hue and cry over the bubble has failed, curiously, to direct attention to the rate structure that its detractors intend to replace it with. As one listens to Democratic leaders bemoan the decline of progressivity in the federal tax system during the 1980s, it becomes quite apparent that their true objective is not simply to eliminate the confusion created by the phaseouts and surtaxes of the 1986 tax reform.

Instead, it seems that the bubble poppers want to make 33% the effective rate for taxpayers with the highest incomes. If so, the bubble won't go away: It will just float upward to apply at a higher level of income. Applying a third rate of 33% to the current rate structure and retaining the current phaseouts would mean that taxpayers over a certain level of income would find every dollar, not just the marginal dollars, of their taxable income subject to a 33% tax rate. Meanwhile with the 5% surtax still in place, upper middle income taxpayers would find themselves facing yet another bubble—but this time of 38%, not 33%.

Efforts to eliminate the bubble have been brewing for some time, and though defeated, they remain on the tax legislative agenda. The idea lingers on partly because of widespread ignorance of the probable impact of the bubble's elimination. Any plan to pop the bubble would probably impose sizeable increases in tax rates on many taxpayers. One likely result of those higher rates would be increased political pressure to reverse the basic tradeoff of lower rates for a broader tax base that formed the foundation of the Tax Reform Act of 1986.

The plan the House of Representatives considered last September would create such pressures. The plan would have created three marginal rates, of 15%, 28% and 33%. It was defeated then, but some Democrats would like the White House to consider it again now. The effect of the adoption of this plan would be to increase the average tax rate above the 28% level, so that it would approach, though never actually hit, 33% for taxpayers with the highest incomes.

"NOT A TAX"

For a family of four, the tax increase would kick in at about $200,000 of taxable income. For those taxpayers, this simple "correction"—"in correcting that, we are not creating a new tax" said Speaker Thomas Foley in September—would be traumatic. The Joint Tax Committee staff estimates the proceeds of the "correction" at $4.2 billon in fiscal 1991 and $44.3 billion over the next five years. That's no correction—that's a tax increase.

Fairness and clarity, if they are indeed the purposes of the bubble-poppers, don't require more revenue. Bubble popping does not have to be code for soaking the rich. Instead, current law could be replaced with three marginal rates, but the income levels at which the 28% and 33% marginal rates apply would be adjusted so that no more and no less revenue would be raised than is raised under current law. The fact that this option is not being taken seriously is a sure sign that the bubble poppers are interested in something other than fixing the technical quirks of the tax system.

Mr. BRADLEY. One last comment on the bubble, and that is the so-called bubble between $74,000 and $155,000 on the joint returns is not the only bubble in the Tax Code. There is another bubble in the earned income tax credit at the low end of the scale where any number of people who are near poor are paying a marginal rate at 25 percent, higher than people just a few thousand dollars higher in income. There is also a bubble in the phaseout of the IRA, between $40,000 and $50,000; a higher marginal rate in that category of income, above lower.

The point to be made—and I think the chart I submitted illustrates that—is a couple earning under $155,000 never pays a 28-percent rate. It is always lower than a 28-percent rate. Above, you pay a 28-percent rate.

Madam President, my concern here with this amendment does not relate only to the higher rate, it envisions a 33-percent rate. I just voted for a higher rate of tax on people who earn more money. I am prepared to support a higher rate of tax.

The thing that concerns me is the inclusion of a capital gains cut in any package that comes out of the conference. The reason that bothers me is on several levels. On one level it is the simple fact that the people who benefit most from this cut are people at the very high income levels.

Let us talk about a few statistics. There are 107 million taxpayers in the country and of that, about 15 million take capital gains. So it is about a 14-percent number.

Who benefits from the capital gains? The people earning between zero and $20,000 get 2 percent of all capital gains for an average capital gain of about $5. People earning $220,000 or more get 65 percent of all capital gains with an average capital gain of $16,000.

It even gets worse than this. If we look at income levels we see the higher we go in income, the more the total income comes from capital gains. For example, if you earn between $200,000 and $500,000, 14 percent of your total income comes from capital gains. On the other hand, if you earn between $500,000 and $1 million, 21 percent of your income comes from capital gains. If you earn $1 million or more, 35 percent of your income comes from capital gains.

Therefore, it should not surprise people that the individuals who benefit most from a capital gains cut are the individuals who have most of their income in capital gains. It bewilders me why the top 1 percent of income earners, who have an average income of $972,000, need a $27,000 tax cut, which is what would come from the enactment of an exclusion at 15 percent, particularly when we look at people earning under $80,000 who would get an average capital gains cut of $59.

Madam President, it is extremely clear the beneficiaries here are the people who earn the highest amount of income. As I said, people who earn over $200,000 receive 65 percent of all capital gains. People who earn over $1 million take 35 percent of their income in capital gains, that is $350,000.

In summary, on the equity point, this capital gains cut does not affect a lot of people. It affects only about 15 million of the 107 million taxpayers in the country. It is a small number of taxpayers that it affects. It goes disproportionately to people who earn more than $200,000. And again that should not be a surprise because they take 35 percent of their income over $1 million in capital gains. That should not be a surprise to anyone when we look at who owns the assets in the country.

If we look at the stock in the country, the top 1 percent of income earners in the country own 58 percent of the stock. The top 1 percent of the income earners in the country own 49 percent of the bonds. The top 1 percent of the income earners in the country earn 51 percent of the business assets. And that top 1 percent has an average net worth of 43,443,000.

It should not be surprising, and the statistics clearly demonstrate, that the prime beneficiary from a capital gains cut will be those who are making more than $200,000.

The amendment envisions a rate going to 33 percent. Let us take that $1 million individual, who makes $1 million, and 35 percent of it comes from capital gains and the rest comes from ordinary income. So he makes $650,000 in ordinary income and he has a 5-percent increase in tax from 28 to 33. So he will pay $32,500 more in tax.

However, on the $350,000 in capital gains, he gets a 13-percent cut under the Senator's amendment; if he holds the stock for longer than 10 years, the 15 percent rate. The result is even with a tax rate of 33 percent and a capital gains cut at 15 percent, the individual who makes more than $1 million comes out in terms of saved taxes $13,000 ahead.

Mr. BOREN. Will the Senator yield for a question on my time?

Mr. BRADLEY. Certainly.

Mr. BOREN. Madam President, I ask the Senator—I am doing this on the time of the Senator from Georgia—if he is aware of the fact that the package which we are proposing is not only capital gains only on long-term held investments, and also with a lower exclusion for those under $600,000, but it also is a cut in the gasoline tax and also gives IRA's—the right for people in the middle income to save to educate their children.

If he looked at this chart which I had printed in the RECORD, under current law, the current tax law according to the Joint Tax Committee, the effective tax rates for people above $200,000 a year is 25.2 percent. It is higher, it is 25.8 and 26.2 for those people between $75,000 and $200,000.

In other words, current law has a higher effective tax rate on people who have combined family incomes of $75,000 than it does those over $200,000. Whereas under our package, according to joint tax, we go to a 27-percent rate on those above $200,000 and less than that on those that are below, on all income categories below, because we finally do something for the middle income people and for the small business people.

I wonder if he opposes that portion of our plan which allows these people who do not qualify for scholarships for their kids' education just because they earn a little bit too much, to finally be able to save for it?

Mr. BRADLEY. I certainly approved the Senator's efforts to cut the gasoline tax. I think that is very good. In fact if we did that but did not cut the capital gains tax, this chart the Senator is showing to the Senate would even be more progressive.

The point of my comments is to say that we should not be cutting the capital gains tax in this package because it disproportionately benefits people who are over $200,000 a year who take 65 percent of the capital gains.

But let me go on and address the economic aspects of the capital gains issue. It is frequently described as the answer to all our economic problems. We passed the capital gains, and we have the savings and loan crisis; we pass capital gains, and we have booming economic growth, et cetera.

I happen to think the best tack is the lowest possible rate of tax on all income. I think that it is important to treat all income the same. If you look at what has happened since 1986, savings is up, business fixed investment is up, industrial equipment investment is up, and up substantially. Business industrial equipment, for example, is up 19 percent since 1986. From 1981 to 1986, it dropped 8 percent. Fixed business investment is up 6 percent. From 1981 to 1986, it was up only 2 percent.

So things seem to be working. Why is that so? I would argue that that is so because as a result of the 1986 act, there is improved efficiency in the economy. People invest money to make money, not to lose money for tax purposes. The result is, you get a bigger punch for economic growth.

If we put back in a capital gains tax, we are then going to be moving back to an inefficient, wasteful tax shelter system in which people will be fighting over existing wealth and figuring out how to game the tax system instead of investing in growth industries for new wealth. That really is the difference here. Do we want new wealth and growth or do we want to fight over the existing wealth?

What happens in this country too frequently is, we fight over the existing wealth.

The PRESIDING OFFICER. The time of the Senator from New Jersey has expired.

Mr. BRADLEY. I ask unanimous consent for 5 additional minutes.

Mr. DOMENICI. Before I do that, and I probably will, I want to make a point how much time we have left on the whole bill with 15 or 20 amendments. How much time remains on this side and how much on the majority side?

The PRESIDING OFFICER. On this side, it is 5 minutes and a few seconds. On the other side, it is 7 minutes and a few seconds.

Mr. DOMENICI. I am sorry, total time left on the bill.

The PRESIDING OFFICER. If the Senators will withhold. It is so noisy in the Chamber with the variety of other conversations taking place.

Will the Senator from New Mexico state his question?

Mr. DOMEMICI. How much time remains on the Republican side on the entire bill and how much on the Democratic side?

The PRESIDING OFFICER. If all time on the amendment is used, it will be approximately an hour and 45 minutes for the Republicans and only 9 minutes left for the Democrats.

Mr. DOMENICI. I regret to say to my good friend I will yield only 2 minutes, if he can use 2 minutes.

Mr. BRADLEY. I thank the distinguished Senator.

I think the result of the 1986 act, the lower rates, the improved efficiency have kept this economy out of the recession. What concerns me about the bill is that it raises $170 billion but gives a lot back in the form of special breaks to this industry and that industry. The result is going to be increased taxes and reduced economic efficiency, which is my fear, and will be a drag on the economy and pull us into a recession.

If I can briefly summarize other arguments and try to refute them on the capital gains and other issues, it is savings investment, venture capital incentive. The fact is it increases the deficit. By the Senator's own comments, this will increase the deficit by $24 billion. That drives up interest rates and cost of capital, far more than you would get from a marginal capital gains cut. Venture capital, 1987, the year after we ended the capital gains special rate, we had the highest venture capital investment in our history. In the last 10 years, venture capital has gone from $3 to $30 billion.

Finally, some of the bigger investments in venture capital. Pension funds, universities, et cetera, are tax exempt and therefore a cut in capital gains will not help them at all.

So, Madam President, I simply argue that we should have low rates, we should not change the code and we should reduce the budget deficit. The plan envisioned in this amendment would raise rates, would increase the budget deficit, would reduce efficiency, would not stimulate new investment and would be grossly inequitable because the big benefit would go to that seven-tenths of a percent of the population that earns more than $200,000 and gets 65 percent of the capital gains.

The PRESIDING OFFICER. The Senator from New Jersey has used all of his time.

The remaining time, I say to the Senator from New Mexico, is 2 minutes 58 seconds. The Senator from Tennessee, the manager, has 7 minutes 26 seconds. This is on the amendment.

Mr. DOMENICI. I suggest the absence of a quorum and ask that the time be charged equally.

The PRESIDING OFFICER. Is the time charged to the amendment?

Mr. DOMENICI. The time is charged to the amendment as far as my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. How much time remains?

The PRESIDING OFFICER. For the proponents, 7 minutes, 26 seconds; for the opponents, 2 minutes, 58 seconds.

Mr. BURNS. Mr. President, I realize that this is just a sense of the Senate resolution and that it is nonbinding. However, I find the concept behind it unacceptable.

It is like winning a shopping spree at the local grocery store. You know the kind of contest where you win the opportunity to spend 5 minutes in a grocery store and whatever you can throw in your cart is free.

Today, Mr. President, the Senate has an opportunity to pass an amendment to say that this is the concept we want to base this budget agreement on. We want to give everyone who makes less than $100,000 a $1,000 tax break for savings. How many people will take advantage of this? How much will it cost? The resolution does not say.

We want to reduce the capital gains tax. To what rate? Over what period of time? Who gets the break? How much will this cost? The resolution does not say.

And finally we will reduce the increase in the gasoline tax. By how much? The resolution does not say.

This sense of the Senate does not set any parameters. All of the provisions are good provisions. I would vote to give some savings incentives. I would vote to reduce the capital gains tax. And I would vote to reduce the gas tax.

The problem here is that there are no parameters. How much will this cost? We do not care; the owner of the grocery store is paying.

Mr. LEVIN. Mr. President, I support the Boren-Nunn amendment because it expresses the sense of the Senate in favor of modifying the reconciliation bill so that it is fairer to middle-income taxpayers. It expresses the sense of the Senate that the proposed increase in the gasoline tax should be reduced. I believe that it should be reduced to zero because a gasoline tax increase is the wrong tax at the wrong time. It would be possible to reduce the reconciliation bill's increase in the gasoline tax to zero and to take steps toward achieving the other objectives in this resolution by increasing the maximum income tax rate on taxpayers making over $200,000 to 35 percent.

The authors of the resolution have assured me that a reduction to zero is consistent with the wording of this resolution.

Mr. KERRY. Mr. President, I rise to discuss the Boren-Nunn sense of the Senate resolution.

First and foremost, I would like to express my support for introducing greater progressivity into the Tax Code. As we struggle to rebound from the excesses of the decade just past, we must strive to ensure that the burden of deficit reduction is fairly shared. Mr. President, any budget that I can support must be fair to working families.

The approach proposed by Senators BOREN and NUNN would restore progressivity by bursting the bubble. Bursting the bubble could generate about $50 billion over 5 years.

I fully support this measure in the sense of the Senate resolution that would increase the marginal tax rate of the wealthiest Americans to the level that we tax upper middle income Americans. In fact, I voted for this measure in several other amendments.

Mr. President, I also support many of the uses to which the Senators propose to spend the new revenues. This is because these revenues are given back to middle and lower income Americans and, therefore, progressivity is enhanced.

In this resolution, half of the revenues, Mr. President, are given back to lower and middle income Americans. And this half makes the Tax Code fairer than it would be under the proposed reconciliation package, and I support that.

Half of this half would go to reducing the proposed increase in gasoline taxes. And this is something that I support. The people of Massachusetts deserve a break. Having just experienced a spike in gasoline prices due to the events in the Persian Gulf and due to an increase in State gasoline taxes, they cannot handle yet another increase. That is why I voted for the Symms amendment last night to completely eliminate the gas tax increase.

The other half of this half would go to allowing individuals to make tax-free contributions to IRA accounts and withdraw the funds for retirement, catastrophic illness, education, and the first-time purchase of homes. I am a long-time supporter of this as a way to encourage savings and of giving average middle income Americans a break. I hope the conferees can also find a way to include this provision in the final budget bill.

My problem with the resolution, Mr. President, is how the other half is used.

I have worked long and hard for a targeted capital gains tax cut. The need for Congress to undertake measures that would encourage growth is obvious. With growth slowing and

international competiveness eroding, we must act to encourage savings and stimulate productive investment. And I believe that a carefully targeted capital gains tax cut would do just that.

However, I cannot support the version of the capital gains tax cut as articulated by the authors of the Boren-Nunn amendment.

I cannot support this tax cut because it will not effectively encourage investment. It proposes a lifetime limit to income eligible for a lower capital gains tax rate. And even this lower tax rate is not low enough; it is not as low as what I propose in my bill.

Instead of targeting investors and giving them incentive to invest in small, growth-oriented companies, the proposal would diffuse investments much more broadly and into a wide variety of types of investments.

The result, then, of this particular proposal could be to give away as much as $20 billion in tax cuts to wealthy and upper income Americans. In doing so, it is also doubtful that it would produce any significant growth.

It is for these reasons that I must withhold support for this proposed tax cut and instead continue to support my own targeted capital gains plan.

I have worked diligently for several years to provide a tax incentive for highly targeted tax incentives aimed directly at small, growth companies. My legislation would dramatically reduce capital gains but solely for long-term investment in such capital-starved small growth companies. This proposal would cost only a small fraction of the revenue that this proposal would suggest is necessary. I want a targeted growth incentive in the reconciliation bill. I have urged such a provision on the majority leader and on the chairman of the Finance Committee. I have done everything one Senator can to enact such a provision. But this proposal is not consistent with that concept.

As described by the sponsors and as specified in their earlier amendment upon which this amendment is based, this provision would encourage the conferees to use $20 billion in revenues generated by increased taxes on the wealthy to return these revenues to them in another form.

Therefore, as much as I agree with and have voted for cuts in the gas tax, as much as I agree with the need to increase IRA's, and as much as I agree that a highly targeted, and extremely deep, capital gains cut specifically for small growth companies is needed, I cannot support an amendment that would suggest that as much as $20 billion in new revenues go to a very broad and expensive reduction in the overall capital gains tax.

Mr. NUNN. Madam President, the Senator from Florida [Mr. GRAHAM] had wanted to say a few words on behalf of this amendment. I do not know whether he is here. I do not want to hold up our colleagues. I will be prepared to yield back the time, but I would not want to foreclose his opportunity to speak as a cosponsor of this amendment.

Madam President, while we are waiting to see if the Senator from Florida would like to make a statement, let me just say that the Senator from Delaware [Mr. ROTH] talked about all the things that are wrong with taxes. Without deciding whether he is correct or not, that has nothing to do with this amendment. The question is, which taxes? This amendment will help guide the conference, if it is agreed to.

The PRESIDING OFFICER. If the Senator from Georgia will withhold. It is difficult to hear the Senator because of other conversations going on. The Senator may proceed.

Mr. NUNN. I thank the Chair. This amendment, Madam President, has no effect in terms of raising taxes. This amendment decides which taxes are more equitable and which taxes will do more for our economy and middle income people.

I do not understand an argument from someone who says they do not want to raise taxes when this amendment lowers taxes on gasoline from what it would otherwise be, lowers taxes on middle income investments and lowers taxes on middle income savings. The ones who pay more taxes to pay for that are those who make over $180,000 a year.

I do not understand that argument. I think the Senator from Delaware was arguing against the House bill. I hope he will be persuaded to vote for this amendment if he is against taxes. It is just a question of whether you want to vote for higher income people paying more taxes, paying the same rate that those between $70,000 and $180,000 pay, in order to lower taxes on middle income savings and middle income investments in the lower income brackets so they can educate their children and, in the case of young people, apply it to their first home.

I am also puzzled by the Senator from New Jersey who is quite an expert in this area who ignores in his argument the entire chart that shows this amendment is more progressive than the current law, which he is defending. That is the analysis. If the Senator disagrees with the analysis, perhaps he can tell us where it is wrong. The Joint Committee on Taxation analysis is that the bill is more progressive by far and more progressive than the current law the Senator is defending.

I do not understand the arguments against the amendment. I urge my colleagues to support the amendment as an indication to the conference that there is a consensus in this body. I think this could be an important indication to the conference about how we can solve this problem we are in, in terms of coming out with a consensus that people can support.

So I urge my colleagues to vote for this amendment. Madam President, I do not see the Senator from Florida.

Mr. BRADLEY. Will the Senator allow me to answer?

Mr. NUNN. I will be glad to yield.

Mr. BRADLEY. I simply say that if the interest is progressivity—and I would applaud that to mean the intent of the sponsors—the amendment would be even more progressive, even more progressive, if you eliminated the exclusion for capital gains which is, of course, the objective of my comments. All of the interest in having growth and all of the interest in having lower taxes on middle income I fully subscribe. I am very dubious about the growth effect of lower capital gains and I am quite skeptical of the distributional analysis as to who benefits from capital gains because the amendment is structured in a way that makes it very difficult to get excellent revenue estimates.

Mr. NUNN. One thing we know, if the Senator will yield, we know who is going to pay for it, and that is the people who make over $200,000 a year. There is no doubt about that. So it cannot help but be progressive if people below that get any of it.

Madam President, I would yield back the remainder of my time if the Senator from New Mexico is so prepared.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time on the amendment?

Mr. DOMENICI. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 44, nays 56—as follows:

[Rollcall Vote No. 281 Leg.]

YEAS—44

Baucus	DeConcini	Helms
Bentsen	Dodd	Hollings
Bond	Exon	Inouye
Boren	Ford	Jeffords
Breaux	Fowler	Johnston
Bryan	Gorton	Kasten
Burdick	Graham	Kohl
Coats	Harkin	Levin
Cranston	Hatfield	Lieberman
D'Amato	Heflin	Lott
Daschle	Heinz	McCain

McConnell	Pressler	Specter
Nickles	Reid	Wilson
Nunn	Shelby	Wirth
Pell	Simon	

NAYS—56

Adams	Garn	Moynihan
Akaka	Glenn	Murkowski
Armstrong	Gore	Packwood
Biden	Gramm	Pryor
Bingaman	Grassley	Riegle
Boschwitz	Hatch	Robb
Bradley	Humphrey	Rockefeller
Bumpers	Kassebaum	Roth
Burns	Kennedy	Rudman
Byrd	Kerrey	Sanford
Chafee	Kerry	Sarbanes
Cochran	Lautenberg	Sasser
Cohen	Leahy	Simpson
Conrad	Lugar	Stevens
Danforth	Mack	Symms
Dixon	McClure	Thurmond
Dole	Metzenbaum	Wallop
Domenici	Mikulski	Warner
Durenberger	Mitchell	

So the amendment (No. 3028) was rejected.

Mr. SASSER. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, in the interest of expediting the business of the Senate this afternoon, and in an effort to accommodate as many Senators as possible, I am going to propound a unanimous-consent request in a moment.

Mr. President, also in an effort to be evenhanded and balance off the amendments on either side of the aisle, I might say that we have had, I think, three or four straight amendments on our side of the aisle here. We are going to propound a unanimous-consent request that will go back and forth.

UNANIMOUS-CONSENT AGREEMENT

Mr. SASSER. Mr. President, at this time, I ask unanimous consent that the Senator from Ohio [Mr. METZENBAUM] be recognized for a time not to exceed 3 minutes, for the purpose of offering points of order regarding OSHA criminal penalties; that upon disposition of the points of order raised by Mr. METZENBAUM, Senator HATCH will be recognized to offer an amendment in the form of a motion to strike OSHA penalties; and that there be 30 minutes equally divided and controlled in the usual form; that no amendments thereto be in order; that upon disposition of the Hatch amendment, Senators HOLLINGS and HEINZ will be recognized for a time not to exceed 10 minutes for calling up and disposing of an amendment; and upon disposition of the Hollings-Heinz amendment, that Senator STEVENS be recognized for 3 minutes for the purpose of making a point of order pursuant to the Byrd rule.

Mr. President, I make this unanimous-consent request in an effort to expedite our business and to dispose of these matters just as quickly as possible, so that we can conserve additional time for other Senators wishing to call up their amendments.

Mr. President, I also ask unanimous consent that no amendments to the language proposed to be stricken by Senator HATCH be considered.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Mr. President, reserving the right to object, and I shall not object, I would just like to say that the exercise that we have been going through here for the last day and a half, and probably going on into the wee hours of the morning, at the rate we are going, I think it is not wise. It is not the proper way to set policy.

I would like to just make a suggestion that maybe the majority leader and the Republican leader should recess this body for an hour at an appropriate time, if we can get some agreement, to get the two caucuses together to see if we could not come up with some kind of an agreement on limitation.

Certainly those on this side have offered more amendments than those on the other side. It is possible, as a matter of suggestion to the people who are struggling to move this along, that maybe we could come to some agreement in the caucuses to limit the number of amendments?

Could we have order please?

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order. Those who have discussions other than before the Senate, please adjourn to the Cloakroom.

Mr. EXON. I simply say, Mr. President, that because of the critical situation, this is not the time for dilly-dallying; this is not the time to be offering, in my opinion, a whole series of amendments. This Senator would like to offer a freeze amendment that I have offered frequently in the past with the help of other Senators. I am withholding that because I believe, under the present situation, it would be a meaningless gesture on my part and just confuse and delay the process further.

I am just appealing to all of those who want to offer amendments, for whatever the cause, to hold that back a little bit in the interest of trying to do something under the critical situation that the leadership is faced with and with the time constraints that we have.

I make that suggestion. Maybe it will not work. But something along that line is going to have to come to pass or we are going to find ourselves hung up once again with no Government over the weekend.

The PRESIDING OFFICER. The Senator from Tennessee has propounded a unanimous-consent request. Are there objections?

Mr. DOMENICI. Reserving the right to object, might I explain to my fellow Senators, this is by no means an effort to dispose of the amendments. This takes care of four Senators who have been requesting to be recognized. We have about an hour left and we have asked those Senators to reduce their time. One major amendment is 10 minutes. We would like to get on these, and we will start a list for those that follow. This is not conclusive; we are going to have some more, and we will start working on them, but we would like to get on with these.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object, and I might object, this Senator has been waiting for 2 days to get recognized to offer an amendment. I know what is going on. I know people do not want this amendment, but it is going to come up. I am going to offer this amendment. Under the rules when all time expires, I can offer it. Obviously, there will be no time for discussion. I just hope, in the interest of fairness, that this Senator will at least get recognized. I have been waiting 2 days. My name was first on the list that was published yesterday to offer that amendment, and somehow that list got put aside.

I keep hearing these unanimous consents come up to recognize different people for different amendments. I might not object if I could get included in that. Give me about 20 minutes, equally divided, or 30 minutes, equally divided, on my amendment and I probably will not object. But it seems quite unfair that other people can step in and get a unanimous-consent request to go ahead when this Senator's name was the first on the list yesterday.

Mr. HOLLINGS. If the distinguished Senator will yield, we have been waiting 2 years.

The PRESIDING OFFICER. Senators will please withhold. The Senate is not in order. The Senate is not in order. Senators at the rear of the Chamber, please adjourn to the cloakroom.

The Senator from Iowa.

Mr. HARKIN. Reserving the right to object, may I inquire of the distinguished chairman of the Budget Committee if Harkin-Riegle, and a whole list of other people that are on this amendment, SIMON, MIKULSKI, HATFIELD, DECONCINI, GRAHAM, and others, if we could have our amendment listed there, too?

Mr. SASSER. If the Senator would allow us to proceed here—we are simply burning up time on the bill discussing these matters—if the Senator will allow us to proceed here, then we will attempt to accommodate the Senator from Iowa, and any other Sena-

tors who have amendments here, within the time that is left.

But I point out to my colleagues that we have wasted about 5 to 10 minutes here just discussing back and forth. Let us get going on this under this unanimous-consent request, then let us meet with the Senator from Iowa and any other Senator to work out a unanimous-consent request under which they can proceed. It appears to me that is the logical way to move.

Mr. HARKIN. If the distinguished chairman will yield further, I am just counting up the time that this unanimous consent is going to take and how much time is left on the bill. May we be informed of that? After all of this discussion—you have a half-hour on the Hatch amendment, and some other time in here—how much time is going to be left on the bill?

Mr. SASSER. We have a half-hour on the Hatch amendment, 3 minutes for Senator METZENBAUM, 10 minutes for Senators HOLLINGS and HEINZ, 3 minutes for Senator STEVENS. That is going to leave us, I think, adequate time to take up two or three other amendments if Senators will be reasonable about the time that they wish to discuss them.

But we can continue to stand here and talk about how we are going to proceed and use up all the time, I submit, Mr. President.

Mr. HARKIN. Mr. President, again, if the distinguished chairman can assure me that I will get at least 20 minutes, 10 per side, to offer my amendment, I will not object. But, like I said, I have been waiting 2 days now. I cannot seem to even get that much time. I would like to have a half-hour, but I understand the time constraints. If I could have 20 minutes, that would be fine.

Mr. SASSER. Mr. President, at this juncture I cannot assure any Senator how much time they would be allowed. We will do our best to accommodate the Senator from Iowa. But Senator DOMENICI and I have about five or six other Senators who are coming in here wanting time on their amendments, and they are saying that they have had their amendments at the desk and filed since the reconciliation bill was taken up.

Mr. DOMENICI. Mr. President, I wonder if Senator HARKIN would do this for us. Senator HATCH has just agreed that he would reduce his time to 10 minutes on each side, instead of 30. And if the Senator would let us proceed, we will work with him and Senator NICKLES, who have been waiting the longest, and see what we can do and follow it up as soon as we can.

Mr. HARKIN. With that good-faith assurance, I withdraw my objection.

Mr. D'AMATO. Mr. President, reserving the right to object, there are some extremely onerous provisions that are in this bill.

The PRESIDING OFFICER. The Senator will please suspend. The Senate is not in order. The Senate will be in order.

The Senator from New York.

Mr. D'AMATO. There are some extremely onerous provisions in this bill, Mr. President, that have absolutely nothing to do with budget reconciliation. It talks about airport expansion, slots, noise. As a matter of fact, it goes from page 65 of the bill to page 104. I think probably it contains more in there than any other provision, even, that does deal with reconciliation. This Senator has attempted to work with the administration and with others. I do not believe, in the short period of time that is left, we are going to be able to do that. I am going to say that I want to serve notice now, and I have indicated to the authors of this legislation, I am going to move to strike, and I hope that the administration and the leadership will be supportive of this effort. I do not want to get caught in a situation where we are down at the end, where, at 11 o'clock at night or 12 o'clock at night, everybody is running every which way. I would like to be assured we are going to have an opportunity. I do not mind an orderly flow. That is why I mention that to the managers of the bill.

Mr. SASSER. We will attempt to work it out with the distinguished Senator from New York.

Mr. D'AMATO. So I am in no way precluded. I hope we do not get in a situation where we find ourselves with the clock ticking at 10 o'clock or 9 o'clock, and I hope that I am going to have that opportunity.

Mr. SASSER. I say to my friend from New York, it is not going to be that late because we do not have that much time left. But I am sure the Senator is aware that, even if we run out of time, any Senator who has an amendment filed can call it up at that time or make a motion to strike. You are not precluded from doing that.

So, Mr. President, I renew at this time my unanimous-consent request in order that we can get started and get underway.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

POINT OF ORDER: BYRD RULE PAGE 1017, LINE 5, THROUGH PAGE 1018, LINE 19; PAGE 1018, LINE 22, THROUGH PAGE 1019, LINE 18

Mr. METZENBAUM. Mr. President, I rise to raise the point of order at this time against two particular provisions, on page 1017, line 5, through page 1018, line 19, and on page 1018, line 22, through page 1019, line 18. The point of order is that these two provisions violate section (D)(1)(d) of the Byrd rule. We have been discouraged from including extraneous matters unrelated to deficit reduction.

I should point out that the matters that I am urging be stricken from the bill are matters that are in the Labor Committee's title of the bill. They are in my proposals. I agree with the leaders that we should discourage extraneous matters in this package.

We consulted with the Budget Committee experts before including the OSHA criminal penalty provisions in the reconciliation package. Based on the revenue estimate by the Congressional Budget Office, those experts indicated that the criminal penalty provisions were not extraneous under the Byrd rule. But I understand this may be a close question. I want to support the leaders in their effort to keep extraneous provisions out of this package; therefore I am willing to put the question to the Chair and to abide by the Chair's ruling.

If the Chair rules that the OSHA criminal penalty provisions of subtitle B of title X of this bill are extraneous, this Senator will not challenge that ruling.

Therefore I raise a point of order that the OSHA criminal penalty provisions, page 1017, line 5, to page 1019, line 18, not including lines 20 to 21 on page 1018, are extraneous provisions because the budget impact is merely incidental to the nonbudget aspects of the proposal under section D(1)(d) of the Byrd rule, which is section 20001 D(1)(d) of the Consolidated Omnibus Reconciliation Act of 1987.

The PRESIDING OFFICER. Without objection, the two points of order will be resolved together by the Chair, in conjunction.

Mr. METZENBAUM. I am sorry, I did not hear the Chair.

The PRESIDING OFFICER. Without objection, the two points of order will be resolved together, in conjunction.

The Chair sustains the point of order on the basis that the budgetary savings are incidental to the provision.

Mr. METZENBAUM. I thank the Chair. I yield the floor.

The PRESIDING OFFICER. Under the previous order the Senator from Utah is recognized.

AMENDMENT NO. 3032

(Purpose: To strike provisions relating to minimum penalty levels under the Occupational Safety and Health Act of 1970)

Mr. HATCH. Mr. President, I send an amendment to the desk on behalf of Mr. PRYOR and Mr. KERREY of Nebraska, Mr. COATS, Mr. NICKLES, Mr. COCHRAN, and myself, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself, Mr. PRYOR, Mr. KERREY, Mr. COATS, Mr. NICKLES, and Mr. COCHRAN, proposes an amendment numbered 3032.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1016, lines 17 through 19, strike ", but not less than $5,000 for each willful violation and not less than $1,000 for each repeated violation";

On page 1016, lines 22 and 23, strike ", but not less than $500 for each such violation"; and

On page 1017, lines 1 and 2, strike ", but not less than $100 for each such violation"

Mr. HATCH. Mr. President, on behalf of Senators PRYOR, KERREY, COATS, NICKLES, COCHRAN, and myself, I send an amendment to the desk and ask for its immediate consideration.

I ask unanimous consent that reading of the amendment be waived.

Mr. President, the motion-to-strike I am offering at this time addresses a very important policy issue which I believe cannot be ignored in our haste to reach a budget agreement.

In the budget package before us, there is a provision which would establish, for the first time, minimum penalties which must be assessed for violations of the Occupational Safety and Health Act. The issue is an unprecedented expansion of the Occupational Safety and Health Act. I am not sure that we have adequately considered the significance of this policy shift.

Under section 17 of the Occupational Safety and Health Act, "any individual who willfully or repeatedly violates the requirements * * * of the Act * * * may be assessed a civil penalty of not more than $10,000 for each violation." That is current law.

This proposal would expand this to require a mandatory minimum penalty.

Requiring a minimum penalty would be especially onerous for small businesses who cannot afford the time and expense of challenging the penalty in settlement conferences—which would be the only way for the employer to have the penalty reduced.

I suggest that we stop for a moment before accepting this proposal on face value and ask ourselves why Congress did not include penalty floors when enacting the Occupational Safety and Health Act in 1970.

I maintain that there were some excellent reasons for excluding mandatory floors then and that the same reasons apply today.

Not that many years ago, there was widespread agreement across the country that OSHA was a miserable failure. Organized labor critized the agency for being totally ineffective; small businesses classified the agency as the most abusive in the Federal Government.

What had OSHA done to deserve this reputation? The answer is that at least then, OSHA fostered confrontation rather than cooperation—the product of their workplace visits was to initiate a drawn-out legal process rather than to institute changes that would contribute to the safety and health of workers.

Today, OSHA has earned new respect from workers, labor leaders, and businesspersons alike.

Perhaps there is disagreement over priorities, but no one doubts the sincerity of OSHA efforts to promote cooperation—cooperation which leads to the more rapid abatement of workplace hazards. Such cooperation has not come without a conscious effort. Through hard work and mutual trust, OSHA has created an atmosphere in which small businesses across the Nation no longer think of OSHA as a dirty word. This change in attitude serves everyone well.

That frames the policy issue we face today. The provisions for minimum OSHA penalties in this reconciliation bill asks us to trade rapid abatement of workplace hazards for revenue increases. Currently, OSHA has discretion to assess penalties based on the circumstances, as well as the severity of the violation. Setting floors on penalties will tie OSHA's hands and their enforcement effectiveness.

The bottom line is that the flexibility to assess penalty levels is essential to OSHA's ability to tailor their enforcement efforts to the circumstances at hand. And, in doing so, OSHA is able to avoid confrontation and ill-will in favor of cooperation and rapid abatement.

Now, I do not want anyone to confuse minimum penalty floors with OSHA going light on businesses who violate standards. In fact, just let me share a few of the press releases which have crossed my desk in the last few months dealing with OSHA's handling of businesses who violate the act:

This release is dated April 19, 1990. It reads: "Dole Proposes More Than $6 Million in Penalties."

Here is a release dated November 1, 1989. It reads: "Dole Announces Record $7.3 Million in Proposed OSHA Penalties."

Does that sound like an agency who wants to go lightly on businesses who violate standards and place the safety and health of workers in jeopardy?

Lastly, Mr. President, I want to make it clear that the institution of any penalty floors and the criminalization of OSHA is a small business issue. Let me read a letter from the National Federation of Independent Business which explains why this is the case and why small business organizations such as the NFIB will be key voting this motion to strike.

The Labor Committee provisions in the reconciliation package are likely to include the establishment of minimum OSHA fines, and criminal penalties. These changes are blatantly unfair to small businesses and are likely to result in a marked deterioration in workplace safety.

The ability to negotiate fines is vital to small businesses and OSHA. Often, high penalties do not fit the crime. In other cases, targeting limited resources toward abatement is more important than fining businesses.

The original purpose behind OSHA penalties was to improve the health and safety of American workers—not to raise revenue. If safety is still the goal, inflexible penalties will destroy further progress.

This letter from John J. Motley III, vice president of Federal Governmental Relations at the National Federation of Independent Business ends as follows:

I urge you to support amendments to delete the above changes in OSHA penalties. Votes on these amendments will be considered Key Small Business Votes for the 101st Congress.

The issue here is much more than revenue gain. The issue is whether we will today make a sweeping policy change in OSHA which will influence how it is able to perform its job in the future.

Mr. President, the Labor Committee can meet its reconciliation instructions without these floors, and without jeopardizing the progress being made to improve safety and health in the workplace.

In closing, Mr. President, last night, I received a statement of administration policy relevant, in part, to this issue. Let me read from this document:

The Senate bill raises the ceilings on most OSHA and MSHA fines, and makes certain safety and health violations of OSHA a criminal offense. While the Administration has agreed that some increase in OSHA and MSHA fines may be acceptable, it strongly objects to provisions that would include floors in the amount of fines that may be levied and would criminalize certain OSHA violations. If the floors on fines and the OSHA criminal provisions are included in the version of the bill that is submitted to the President for signature, the President's senior advisors would recommend that the bill be vetoed.

My amendment covers nothing more than those areas addressed in this SAP. And, because the Labor and Human Resources Committee's reconciliation instructions are not violated by this amendment, there is no consequence other than to rid this package of major, unprecedented expansions of OSHA law which are not needed to satisfy the goals of deficit reduction.

With passage of this amendment, the Labor Committee still meets our reconciliation instructions.

Mr. President, with out losing my rights to the floor, I yield 2 minutes to the distinguished Senator from Arkansas.

Mr. PRYOR. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

The Senator from Arkansas is recognized for 2 minutes.

Mr. PRYOR. I thank the chair for recognizing me and I thank my good friend from Utah for yielding for just a very short time—2 to 3 minutes.

What we have just done by Senator Metzenbaum of Ohio raising the point of order about the extraneous matter in this bill, is to remove the criminal sanctions—the new criminal sanctions, senators—that were imposed in this legislation and give new authorities to the OSHA inspectors to provide a new system, of guilt and penalties, and expand those penalties even to members of the boards of directors of companies where there are violations of OSHA laws.

I join with the distinguished Senator from Utah in taking this a step further. It says in the amendment of the Senator that in this legislation the minimum floor will be removed now from the civil penalties. For example, if an inspector find a violation, the minimum floor is $5,000. He has to charge that business $5,000, rather than, if it is a minor violation, perhaps $300.

The amendment of the Senator from Utah clarifies that and eliminates this floor. The problem with the amendment of the Senator from Utah that I am a cosponsor of, is that I wish it went further and addressed the five fold increase in penalties. It is my fear—not necessarily in this amendment but in the legislation before us—we are going to create a new wave of OSHA inspectors who are revenue agents raising revenue, and a new generation of bounty hunters, who are going to be out there attempting to meet financial quotas and financial demands to comply with the Budget Act.

Next year when we can get this issue extricated from this 1,600 pages of budget morass, I am going to attempt, and I hope my colleagues are going to attempt, to study this issue to see if we cannot roll back these severe penalties that this legislation imposes upon business.

I wish the amendment went further. I think if we do not agree to the amendment we are going to absolutely wreck hundreds and hundreds of small businesses out there because many agents of OSHA are going to be established and hit with a quota and mandated figures that they should raise.

I applaud the Senator from Utah for this amendment. I am proud to be a cosponsor of it, and I think it is at least a step in the right direction.

Next year, early in the year, I hope we can complete some other steps to see exactly how high these penalties should be. Frankly, I think they are going to be too high. I wish we could lower them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Utah controls 11 minutes 9 seconds.

Mr. HATCH. We had agreed to reduce the time down to 10 minutes, and I asked 2 minutes to be given to the distinguished Senator from Arkansas.

I would like to have at least 8 minutes left.

The PRESIDING OFFICER. The Senator from Utah asked unanimous consent for 8 minutes?

Mr. HATCH. Both sides only have 10 minutes on this. I would like to have 8 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. SASSER. Reserving the right to object. I did not hear the unanimous consent.

Mr. HATCH. As I understood it, we agreed to divide 20 minutes equally. I yielded 2 minutes to the distinguished Senator from Arkansas, but he went a little longer than that. The Chair did not rule. I would at least like to have 8 minutes left because I have to yield some time to the distinguished Senator from Oklahoma as well, and then the other side, of course, has 10 minutes as well.

Mr. SASSER. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Utah controls 8 minutes.

Mr. HATCH. I am delighted to yield 3 minutes to the distinguished Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my friend and colleague, Senator HATCH, and join with him as a cosponsor to strike the minimum penalties under the OSHA provisions. This language was originally going to strike both the civil and criminal penalties under the bill. However, the Senator from Ohio has just stricken the criminal provisions by point of order. They need to be stricken. We should not put criminal penalties in this bill, so I am glad they were taken out. That was a very serious objection of mine which I discussed last night. I will not repeat that discussion.

We should not try to set criminal penalties in this bill. We also should not have the increase in civil penalties that we have in this bill. In the amendment that Senator HATCH, Senator PRYOR, and I have, we eliminate at least the minimum penalties. That is a giant step in the right direction. We should not have minimum penalties in this bill such as $100 for what we call "other than serious violations." That can amount to a fine for trash on the floor.

Did my colleagues know that OSHA issued thousands of those citations, I think 60,000 to 90,000 of "other than serious," and we are going to say that each citation has to be for $100. On most of the citations last year, OSHA said "no penalty", just clean up the trash or do what needs to be done to comply.

Mr. President, I ask unanimous consent that documents relating to OSHA inspection activity and the penalties they assessed, together with a detailed statement be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Do we want to have OSHA running around the country now trying to raise a lot of money? Under this bill we say that OSHA and MSHA will raise over $1 billion in 5 years. Do my colleagues know how much money they raised last year? Last year, 1989, OSHA assessed penalties of $66 million. They adjusted those down to $51 million. And $22 million is still being contested.

So their net for 1989 was $26 million, but in this bill we say we are going to raise over $200 million a year. We are going to increase the fines and penalty by five times.

That is absurd. We will have OSHA inspectors going out and having to assess unbelievable penalties. And these regulations are not comprehensible.

This is one volume. OSHA field inspectors take this with them. They have to have six; six volumes of regulations to implement so-called safety standards.

I am interested in OSHA doing a good job to increase safety in America's workplaces, but frankly, Mr. President, if we do not reduce the assessments, penalties, and fines under this provision, we will have small businesses either being put out of business, or small business harassed by the Department of Labor. Instead of really working together to make changes, to make adjustments, to eliminate some of the problems in the workplace, they are going to be in court because they are going to be assessed and they are going to be fighting those assessments. We will increase litigation between the Department of Labor and employers. That is not satisfactory to this Senator. We are going to have to redress this and change these penalties that are called for in this legislation. OSHA will not be able to raise a billion dollars under this provision over the next 5 years. It will not happen.

Several statements have been made on the floor today regarding the removal of minimum penalties under the Occupational Safety and Health Act. The opponents of striking the minimum penalties have told stories of tragic situations where employees are injured or killed as a result of negligence on behalf of the employer.

I listen with great sympathy and sadness to these terrible stories where employees are injured. As a manufacturer, I felt a strong responsibility to provide a safe workplace for my em-

ployees. I think most employers are very serious about ensuring the safety of the workplace.

My colleagues from Massachusetts and Ohio have argued that employees are being injured and maimed at the workplace, and employers are not being penalized adequately. The Senator from Ohio described a situation where a woman lost her hands in a machine which the employer neglected to provide certain safety precautions.

Senators should not be misled to believe that this amendment would prohibit OSHA from fining employers under these egregious situations. This amendment simply strikes the minimum penalties or so-called floor. It does not effect the maximum penalties which may be assessed against an employer. OSHA can still penalize the employer up to five times the current penalties under law.

For example, in the situation that my colleague from Ohio described, if the employer were cited for a willful violation of the OSHA safety standards, OSHA could fine the employer up to $50,000 per violation. This amendment does not prevent the maximum penalization of employers in these egregious situations.

Instead, this amendment would strike the provision which sets a new floor for OSHA penalties. Under current law, OSHA often cites a company for a violation and does not fine the employer if he comes into compliance. This situation works well because in many cases, the violation is not likely to cause death or serious injury, but simply is classified as "other than serious." OSHA issues 60 to 90 thousand of these a year and always requires correction but usually does not fine the employer.

For example, if the worksite contains debris. OSHA would issue a citation but generally no penalty. Another example is an employer who lawfully maintains medical records of an employee and makes those records available to the employee but fails to give the employee the name of the person to contact to obtain the record. This is a violation of the Act and was cited 671 times in fiscal year 1990. The violation was corrected in each case but fines were generally not issued.

Another example. The employer maintained a log of injuries but was one day late in recording the occupational injury. He recorded the injury on the 7th day following the injury instead of the 6th day as required. OSHA issued a citation and assured that the process was corrected but again did not fine the company.

Let us look at our goal here. Our goal is not to harass and eventually wipe out small businesses. Instead the goal is to provide a safe environment for employees. These minimum penalties will not further safety and health in the workplace. Instead, they will simply unduly burden small business, without necessarily making gains in workplace safety.

EXHIBIT 1

FEDERAL OSHA INSPECTION ACTIVITY

[Fiscal year 1986–90]

	All industries					
	1986	1987	1988	1989	1990	Percent change 1986–90
Total inspections	64,335	61,466	58,354	54,557	44,355	−31.0
Safety	54,499	51,744	46,797	43,947	35,542	−34.8
Health	9,836	9,722	11,557	10,610	8,813	−10.4
Accidents	1,484	1,458	1,529	1,346	1,324	−10.8
Complaints	9,084	9,743	12,155	11,836	10,603	+16.7
(Percent complaints)	(14.1)	(15.9)	(20.8)	(21.7)	(23.9)	
Construction	34,859	35,456	30,997	28,800	23,626	−33.2
(Percent construction)	(54.2)	(57.7)	(53.1)	(52.8)	(53.3)	
Manufacturing	20,689	17,384	16,889	15,412	11,856	−42.7
(Percent)	(32.2)	(28.3)	(28.9)	(28.2)	(26.7)	
Violations cited [1]	128,940	137,038	154,884	184,620	172,635	+33.9
S/W/R/FtA/ viols	39,811	42,816	61,791	94,768	111,373	+179.8
(Percent S/W/R/FtA)	(30.9)	(31.2)	(39.9)	(51.3)	(64.5)	
Other viols	89,129	94,222	93,093	89,852	61,262	−31.3
Viols per inspection [1]	2.0	2.2	2.7	3.4	3.9	+95.0
S/W/R/FtA viols/insp [1]	0.6	0.7	1.1	1.7	2.5	+316.7
Hours/safety insp	10	11	12	14	15	+50.0
Hours/health insp	31	32	29	34	36	+16.1

[1] Violations cited in a given year are not necessarily related to the inspections conducted in that year. Thus, data for violations per inspection may not be entirely accurate for a given year, but the year-to-year trend in violations per inspection should hold true.

[2] Fiscal year 1990 estimates reflect data as of Sept. 28, 1990.

PENALTIES ASSESSED, ADJUSTED, CONTESTED, AND REMITTED FOR CASES INITIATED IN FISCAL YEAR 1986–90

[In millions of dollars]

	1986	1987	1988	1989	1990 [1]	Percent change 1986–90
Assessed	19.2	41.1	52.9	66.3	49.9	+160
Adjusted	11.8	20.3	31.5	51.4	40.6	+244
Percent reduction	39	51	40	23	19	−50
Contested penalties and assessment cases	0.7	3.2	7.1	22.3	12.6	+1,700
Remitted	10.1	16.0	22.2	26.0	18.1	+79

[1] Fiscal year 1990 estimates reflect data as of Oct. 1, 1990.

Data on penalty adjustments change continually as contested cases are resolved—a process that can take years for. The collection process can take even longer.

Notes.—The above data on penalties assessed, adjusted, remitted, and contested are given for the year of initiation of the inspection associated with the penalties in question.

Source: OMDS Penalty Assessment Analysis Report dated Oct. 9, 1990

The Department of Labor is opposed to the establishment of minimum penalties (floors) under the OSH Act.

(1) *The recommended floors reduce OSHA's flexibility in dealing with an employer who has violated the OSH Act.*

In adopting the OSH Act Congress intended that OSHA have flexibility in issuing civil penalties. No floors were established and OSHA is required to consider such factors as the employers citation history, the seriousness of the violation and size of the company. Monetary *maximum* penalties under the Act are thus available to OSHA for purposes of deterrence and punishment. The current OSH Act has a range of maximum penalties graduating from $1,000 for the other than serious or serious violations to $10,000 for repeat violations or willful violations. In 1989 OSHA, in fact, proposed a range of fines from $0 to over $7 million (USX) for violations of the OSH Act. *Minimum* penalties would not appear to be necesary to assure that the more serious violations are addressed by OSHA so as to accomplish the objectives of the Act.

Further, OSHA's enforcement program is not only aimed at punishment and deterrence it is aimed at abatement of hazards and agreements which assure protection of the workers. OSHA will often through settlement reduce a penalty if the company agrees to the plan that will enhance long term worker safety and health at the facility.

Further, under current law, a company is not required to abate a hazard until final resolution of the case. The proposed minimums will reduce OSHA's flexibility in abating hazards and in all probability delay abatement of hazards.

Flexibility Example:

A small beryllium copper casting company was cited for a willful violation of the Act. The company allowed molten material to fall into water creating steam which burned an employee. OSHA proposed a willful penalty of $10,000.00 The company and OSHA settled on the following: The company would (1) pay a $2,000 penalty; (2) implement the following (not specifically required by the Act)—(a) preventive equipment maintenance program (b) written operating procedures (c) a comprehensive training program; and (3) redesign its entire process to eliminate hazards.

OSHA believes it achieved much more for worker safety and health at this facility with this agreement than it would have with an inflexible $5,000 minimum penalty (as required by the Senate Labor proposal.)

(2) *The level of the proposed minimums is unnecessarily burdensome to small business.*

This is contrary to the past intent of Congress as expressed in the OSH Act. Congress intended that OSHA have flexibility and certainly did not intend that OSHA put a small business out of business. Currently OSHA is required under the Act to consider many factors including the size of a business in proposing and assessing civil penalties. Currently OSHA may propose a penalty level for a small business which it considers adequate punishment or deterrent but which may be less than the minimum level proposed in the Senate Labor package.

Two minimum penalty levels in the Senate Labor Committee floors which are particularly inappropriate for small business are the willful penalty of $5,000 and the other than serious penalty of $100.

An example of the willful penalty proposals effect on small business follows:

A small sawmill business was cited for a willful violation of the OSH Act. The company did not have a written hazard communication program for the employees (although the company did have information on the workplace chemicals available to its employees). The company had 20 employees at the worksite. OSHA proposed a penalty of $1,000 and settled for $500 and correction of the hazard. The company agreed not to contest.

Under the Senate Committee Proposal, the minimum penalty would be $5,000.00. Such penalties are likely to be contested proving costly to OSHA but more importantly delaying abatement of the hazard. Further, such a penalty may be inappropriately burdensome to a small company as the one above.

Another category which has inappropriate minimums is the "other than serious".

OSHA cites for "other than serious" when there is a violation of the Act but the violation is not likely to cause death or serious injury. OSHA issues 60 to 90 thousand of these a year and always requires correction but usually does not fine the employer.

"Other than Serious" Examples:

1. A worksite contains debris. OSHA would issue a citation but generally no penalty.

2. An employer lawfully maintains medical records of an employee and makes those records available to the employee but fails to give the employee the name of the person to contact to obtain the record. This is a violation of the Act and was cited 671 times in FY 1990. The violation was corrected in each case but fines were generally not issued.

3. The employer maintained a log of injuries but was one day late in recording an occupational injury. He recorded the injury on the 7th day following the injury instead of the 6th day as required. OSHA issued a citation and assured that the process was corrected but again did not fine the company.

All of these "other than serious" violations of the Act which are not likely to cause death or serious injury would require a $100 fine under the proposed Senate Committee bill. This poses an unnecessary burden on a small business and is not likely to promote an OSHA/employer relationship which furthers safety and health in the workplace.

The result of the Senate proposal may in fact backfire with regard to safety and health in that OSHA inspectors may avoid issuing appropriate citations (and following up on the hazard).

The PRESIDING OFFICER. The time yielded to the Senator has expired.

The Senator from Utah.

Mr. HATCH. The Senator from Nebraska, Mr. EXON, is a cosponsor and I yield 1 minute.

Mr. EXON. I thank my friend and colleague. I am pleased to be a cosponsor of this amendment. Time and time again on this floor, we have had discussions with regard to what we do and do not do to penalize small businesses, in particular, and large businesses as well. The amendment that has been offered by the Senator from Utah is the minimum action we should take at this time, and I hope we can take it swiftly. The very concept of trying to balance the Federal budget by increasing fines in this fashion not only is unconscionable, it is unworkable. I hope we swiftly agree to this amendment. I thank my friend for yielding time.

Mr. HATCH. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I ask unanimous consent that no amendments be in order to the Hollings-Heinz amendment, to follow that on the list.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, the amendment that is being urged by the distinguished Senator from Utah and others would reduce the committee-reported savings by $300 million over 5 years. The bill that was reported out of the Labor Committtee was scored as saving $1.1 billion. We are now down to $800 million, and $1.1 billion beyond the committee's instruction for civil penalties and that met their instruction. Now we are reducing the savings. These penalties at the $1.1 billion level were assumed, I might say, in the original summit agreement. Everybody agreed on it: The administration, the Representatives of both Houses of both parties.

They have been around for a long time, and the question here is the same as it has been on other amendments that have been debated today: Are we simply going to jettison savings, throw them away and increase the deficit because we do not happen to agree with a particular policy?

The committees have already modified their policy without a major budget loss by eliminating criminal penalties. And that is as it should be. We have no disagreement with that. Let us not open the floodgate now and let $300 million escape here to be followed by $1 billion somewhere 15 minutes from now, and $2 or $3 billion 30 minutes from now, and before we know it, this package is going to be severely reduced. I urge my colleagues to consider the financial and fiscal implications of the amendment being proposed by the Senator from Utah.

Mr. NICKLES. Will the Senator yield for a point?

Mr. SASSER. No, I will not yield. We are running out of time.

Mr. HATCH. Will the Senator yield to me on this point?

The PRESIDING OFFICER. The Senator from Tennessee has the floor.

Mr. HATCH. Will the Senator yield just for a question?

Mr. SASSER. Just for one quick question.

Mr. METZENBAUM. On whose time?

Mr. HATCH. Let me do it as quickly as I can.

Mr. METZENBAUM. On whose time?

Mr. HATCH. I only have 4 minutes left.

As I understand it, it is simple mathematics. The budget committee reconciliation instructions required the Labor Committee to reduce the deficit by $3.480 billion over 5 years. The committee bill produces a total of $3.788 billion, or a surplus of $308 million over 5 years. That is what is in our instructions. Simply stated, then, the reductions in revenue which would result from the elimination of the penalty floors covered by this amendment would total $279 million. That is less than the $308 million surplus. In other words, absent the penalty floors, we would still fall below our instruction by $29 million.

Mr. SASSER. Let me respond, and then I will yield to the Senator from Ohio. We have a double account. The Labor Committee and the Finance Committee are counting the same thing. We cannot count the same savings twice, I say to my distinguished friend from Utah.

Let me yield now to the distinguished Senator from Ohio.

Mr. METZENBAUM. How much time is left?

The PRESIDING OFFICER. The Senator from Tennessee has 6 minutes 27 seconds.

Mr. METZENBAUM. I ask I be allocated half that time and the remainder to Senator KENNEDY.

The PRESIDING OFFICER. The Senator from Tennessee so allocates.

Mr. METZENBAUM. Mr. President, OSHA civil penalties are included in reconciliation because they are necessary to meet the Labor Committee's budget instruction. The Budget Committee instructed the Labor Committee to do it. In order to help meet that instruction, we raised OSHA civil penalty ceilings by five times and instituted mandatory minimums.

But this is more than just a matter of budget policy. It is the right thing to do. It is about saving the lives and limbs of America's workers.

These changes to not target small business. The penalties only impact employers who break the law. I understand it is politically convenient to beat up on OSHA or to suggest that somebody is going to be hurt unnecessarily, but these are people who are violating the law. Let us be honest. What you are really saying is "Let's beat up on America's workers and do not ask the employers to have any responsibility in connection with violations of the law."

Civil penalties have never been adjusted in the 20-year history of OSHA. That means it is now cheaper to violate the law than it is to obey the law. Everyone who has looked at this program agrees we must increase OSHA civil penalties. The inspector general at the Department of Labor insists that we must increase penalties to stop needless injuries and deaths. The General Accounting Office recently completed a study documenting the need to increase deterrence, including higher OSHA civil penalties. Penalties of 20 years ago are not credible today.

The current civil penalty structure is an embarrassment that produces gross injustices. Under the current system, a steel mill in Pennsylvania was cited for serious violations but fined only $1,000 when a worker was literally boiled alive when he was doused with scalding water. I challenge my colleagues to explain to that man's widow that the current fine structure is fair.

Under the current system, OSHA cited a contractor for eight violations

when a scaffold collapsed killing a young worker. The total civil fine imposed, $800. You tell me that we should not be raising it. I challenge my colleagues to explain to that young man's family in Kansas that current civil penalties are too onerous.

Under the current system, an auto parts maker in Michigan was cited for willful and repeated violations when a stamping machine chopped a woman's hands off: she has no hands any more. If the employer installed a safety device in the machine as previously ordered by inspectors, that mother of three children would have her hands today. The total civil fine that the employer paid in the case—the magnificent sum of $100. I challenge my colleagues to look that worker in the eye and tell her, without hands, that current OSHA civil fines are a burden on law-abiding employers.

There are thousands of cases like these every year and you come to the floor and say the burden is too great on employers. I ask you to talk to those employees who have lost their arms and to the families of workers who lost their lives. By eliminating floors, we lose nearly $300 million in revenues over 5 years. We cannot, we must not eliminate the mandatory minimums. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Massachusetts is recognized.

Mr. KENNEDY. I will be glad to respond. Can I go now or before I hear the arguments of the proponent?

Mr. HATCH. I yield to the Senator from Vermont.

Mr. JEFFORDS. Mr. President, I want to speak in support of the amendment, although I did agree with the Senator from Ohio that we needed to increase the maximum penalties because inflation had put them in a situation where they were somewhat ridiculous, compared to the seriousness. I also supported criminal penalties. I do not support them in this bill, and I do not support the minimum if it is not necessary to reach our quota that we had before our committee. As I understand it, it is not necessary to do so because by doing that, by putting the minimums in here we allow substantial penalties for trivial things.

In my mind, we will interfere with the process of trying to reconcile differences between business and OSHA. If we err, we should err on the side of tampering as little as possible with these very basic problems that we have to deal with in this particular area. So I urge that the Hatch amendment be adopted.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. How much time do I have?

The PRESIDING OFFICER. Two minutes 54 seconds.

Mr. HATCH. In sum, Mr. President, this is the small business amendment of the year. Penalty floors of $5,000, $1,000, and so forth are going to drive small businesses wild. They cannot afford to defend this type of thing in legal proceedings. Minimum penalties cut away the flexibility that OSHA needs to be able to do its job.

I can tell you right now last year OSHA, under its egregious policy, penalized several businesses in the multimillion dollar range. They are not loathe to do that when it is appropriate. The thing that caused OSHA to fall into despise a few years ago is that it had forsaken the cooperative spirit Congress envisioned it to be, and had turned into a burdensome bureaucracy that interfered with small business. OSHA had turned cooperation into confrontation. Nothing can be worse than what they are trying to do here because a return to confrontation is what we will accomplish if we knock these floors away. And for what? We are within the committee's budget reconciliation instructions by eliminating these senseless penalty floors.

The statement I read into the RECORD from the National Federation of Independent Businesses covers this matter about as well as it can be covered by saying that this is a detrimental approach toward small business. This amendment will alleviate that detrimental approach.

I have to tell you, OSHA has a good role to play in ensuring workplace safety and health. And, it does play a good role with positive results. It penalizes those who should be penalized. But, now it has the flexibility to tailor those penalties to the circumstances. Workplaces all over America are benefiting from the cooperative spirit OSHA has worked to achieve. Small business people are not oppressed and abused like they were before this type of cooperation started. It is working now, but, the reconciliation package would jeopardize that by mandating unreasonable penalties that are going to be assessed, must be assessed in every case. What I am saying is that the small business person does not have the power, the money, the means or the force to be able to do anything about it.

So it just forces the bureaucracy to once again put us back to the situation 20 years ago, or 10 years ago when everybody, every small business person hated OSHA. The days when OSHA did not work for us, but against us. The days when everybody fought everything, and in the end, what happened was small business was crushed into a noncooperative spirit.

This is what my amendment is trying to prevent. This amendment will help to do that. It is the small business amendment, and I think everybody here ought to stop and consider that.

I hope our colleagues will look at this particular issue and realize it does not deserve to pass. It does not deserve to be in this reconciliation bill. And, frankly, we ought to stop it right now, particularly since we can do so without falling below our reconciliation instructions.

I reserve the remainder of my time.

Mr. NICKLES. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Tennessee has yielded the remainder of his time to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I understand there are 3 minutes remaining.

The PRESIDING OFFICER. Two minutes fifty seconds.

Mr. KENNEDY. First of all, Mr. President, the chairman of the Budget Committee has made it very clear that the Labor and Human Resources Committee is not in compliance with its budget instructions if we knock out these various floors for OSHA civil penalties.

Second, where did the Human Resources Committee find the savings necessary to comply with its instructions? We had to do it by penalizing every young person in America who is on a student loan program. You cannot have it both ways. If you knock out $300 million in revenues here, it is going to be paid for in another way and it is going to be taken out on the backs of the young men and women of this country, make no mistake about it.

We are talking about minimum civil penalties for those employees who are violating the law—not innocent individuals, but violators of the law. I dispute the statement of the Senator from Utah that the record in this country in terms of workplace health and safety and loss of life has improved in the last 5 years. It has not, and the record shows it.

What we are talking about are minimum penalties for serious violations, willful violations, repeated violations of minimal health and safety standards—violations which can and do cost workers their health and even their lives.

Mr. President, the minimum penalties specified here are only the amounts that must be assessed when OSHA finds a violation. We are not preventing the agency from settling cases for lower amounts. This is the initial assessment. Once a fine is assessed, the agency retains discretion as to how it is going to eventually get a settlement.

The fact is that current OSHA penalties amount to a minor slap on the wrist for those businesses in this country that willfully, seriously, knowingly, repeatedly violate minimum health and safety standards, and as has been

pointed out in this debate, in the 20 years since OSHA was enacted, we have not adjusted the penalties prescribed in the act. The issue is, are we serious about protecting American workers or are we not?

Mr. President, those who are prepared to strike these minimum penalties have failed to offer any proposal as to how we can come up with additional revenue or savings to offset the loss of revenue from striking these provisions other than by taking it out of the hides of young people by making even deeper cuts in our student loan program. This is irresponsible. It is simply irresponsible to say "I insist that you cut this $300 million in revenues out of the budget package and I do not have anything to suggest about how to make it up."

Mr. President, I withhold the remainder of my time.

Mr. HATCH. Mr. President, I have 28 seconds.

It is not irresponsible. The administration agrees and in their statement of the administration policy they say they will veto the bill over something like this. They base this statement on fact; this type of an approach takes away flexibility from an agency that used to be terrible and now is functioning well. Like me, the administration fears OSHA will be made terrible again if this amendment does not pass.

I hope everybody who cares anything about small business will look at the issue of minimum penalties for what they will really do. If they will, I think they will be voting with us and helping us to stop this type of tragedy from occurring.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HATCH. I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield back his time?

Mr. KENNEDY. I am prepared to yield it back.

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. All time has been yielded back.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

APPOINTMENT OF CONFEREES—S. 2834

The PRESIDING OFFICER. Under the agreement of October 16, the Chair appoints the following as conferees on the part of the Senate on the intelligence authorization bill: Mr. BOREN, Mr. NUNN, Mr. HOLLINGS, Mr. BRADLEY, Mr. CRANSTON, Mr. DECONCINI, Mr. METZENBAUM, Mr. GLENN, Mr. COHEN, Mr. HATCH, Mr. MURKOWSKI, Mr. SPECTER, Mr. WARNER, Mr. D'AMATO, and Mr. DANFORTH; from the Committee on Armed Services, Mr. EXON and Mr. THURMOND.

OMNIBUS BUDGET RECONCILIATION ACT OF 1990

The Senate continued with the consideration of the bill.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I move to table the amendment of the Senator from Utah.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. CONRAD). The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 21, nays 79, as follows:

[Rollcall Vote No. 282 Leg.]

YEAS—21

Adams	Harkin	Mikulski
Akaka	Inouye	Mitchell
Bradley	Kennedy	Moynihan
Burdick	Kerry	Pell
Cranston	Lautenberg	Riegle
Dodd	Lieberman	Sarbanes
Gore	Metzenbaum	Simon

NAYS—79

Armstrong	Ford	McClure
Baucus	Fowler	McConnell
Bentsen	Garn	Murkowski
Biden	Glenn	Nickles
Bingaman	Gorton	Nunn
Bond	Graham	Packwood
Boren	Gramm	Pressler
Boschwitz	Grassley	Pryor
Breaux	Hatch	Reid
Bryan	Hatfield	Robb
Bumpers	Heflin	Rockefeller
Burns	Heinz	Roth
Byrd	Helms	Rudman
Chafee	Hollings	Sanford
Coats	Humphrey	Sasser
Cochran	Jeffords	Shelby
Cohen	Johnston	Simpson
Conrad	Kassebaum	Specter
D'Amato	Kasten	Stevens
Danforth	Kerrey	Symms
Daschle	Kohl	Thurmond
DeConcini	Leahy	Wallop
Dixon	Levin	Warner
Dole	Lott	Wilson
Domenici	Lugar	Wirth
Durenberger	Mack	
Exon	McCain	

So the motion to table the amendment (No. 3032) was rejected.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, I ask unanimous consent to vitiate the yeas and nays on the underlying amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 3032) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, under a preceding order, we were to yield to the Senator from South Carolina, but before doing so, could I yield for 30 seconds to the Senator from Wisconsin for a unanimous-consent request?

The PRESIDING OFFICER. The Senator will suspend for one moment. The Senator from Tennessee has yielded to the Senator from Wisconsin for 30 seconds. If we could have order in the Chamber so the Senator from Wisconsin can be heard.

The Senator from Wisconsin.

CHANGE OF VOTE

Mr. KOHL. Mr. President, on the vote on the amendment offered by Senators NUNN and BOREN, I was recorded in the negative. I ask unanimous consent to change my vote and be recorded in the affirmative. It will make no change in terms of the outcome of the vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(The foregoing tally has been corrected to reflect the change.)

Mr. KOHL. Mr. President, I was obviously troubled by this amendment. I initially voted against it and then asked unanimous consent to change my vote and be recorded in the affirmative. I would like to briefly explain why.

I had previously voted for an increased tax on the most wealthy Americans and for a reduction in the gasoline tax that would hit so many middle-income Americans. So the issue on this vote revolved around capital gains.

I have always favored some form of a capital gains differential. But when I initially cast my vote, I was under the impression that this amendment, like so many capital gains proposals, would gave undue advantages to the richest among us. When I had the opportunity to study the specific language of the amendment, however, it became clear to me that the capital gains break is targeted so that its benefit would go primarily to Americans who were realizing a one-time gain through the sale of a single asset, like a farm or a home or small business, which they had held for several years. This was not, then, an attempt to help out stock speculators or those who simply churn their investments in an effort to gain a

quick profit without doing much for the economy as a whole.

Since the benefits of the proposal are narrowly targeted and will serve to primarily help middle-income Americans, I believe this amendment deserves our support.

In closing, I want to indicate that my support for any capital gains provision which may come back from the conference on this bill or come before the Senate at some future date will depend on the degree to which it is carefully targeted and restricted so that its benefits do not flow excessively to the very richest among us.[S18OC0-M3]{S15777}among us.

AMENDMENT NO. 3033

(Purpose: To exclude the Social Security trust funds from the deficit calculation)

Mr. HOLLINGS. Mr. President, on behalf of Senator HEINZ, Senator MOYNIHAN, and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina, [Mr. HOLLINGS], for himself, Mr. HEINZ, Mr. MOYNIHAN, Mr. MCCAIN, Mr. PRESSLER, Mr. MCCONNELL, Mr. GRAHAM, and Mr. GRASSLEY, proposes an amendment numbered 3033.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . SOCIAL SECURITY PRESERVATION ACT.

(a) SHORT TITLE.—This section may be cited as the "Social Security Preservation Act".

(b) DEFINITION OF DEFICIT.—(1) The second sentence of paragraph (6) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) is repealed.

(2) Section 275(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) is amended by striking out "and the second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution)".

(c) SOCIAL SECURITY ACT.—Subsection (a) of section 710 of the Social Security Act is amended by striking "shall not be included in the totals of the budget" and inserting "shall not be included in the budget deficit or any other totals of the budget".

(d) EFFECTIVE DATE.—The amendments made by subsections (b) and (c) shall apply with respect to fiscal years beginning after September 30, 1990.

Mr. HOLLINGS. Mr. President, the Senate at long last gets the opportunity to vote on taking the Social Security trust fund off budget. This is a simple measure with an all-important public purpose: to preserve the integrity of the Social Security trust fund by removing the huge Social Security surpluses from calculations of the budget for purposes of Gramm-Rudman-Hollings.

This amendment passed by a bipartisan 20 to 1 vote in the Budget Committee 2 months ago. If signed into law, it will move us one giant step closer to exposing the true size and scale of the Federal budget deficit and attaining truth in budgeting. Unmasking the true deficit is, in turn, the essential precondition for rallying public support behind a meaningful effort to reduce the deficit through significant spending cuts and tax increases. And, ultimately, the only way to truly protect and preserve the Social Security trust fund surpluses is to balance the budget and, indeed, begin to run the Government in the black.

The fact is that more than half of the annual Federal budget deficit is now hidden from public attention due to accounting tricks and quirks. To illustrate the problem, I would note that on July 16, Office of Management and Budget Director unveiled a reestimated, midyear fiscal 1991 deficit projection which he claimed to be $168.8 billion, excluding the megabillions to be spent on the S&L bailout. Mr. Darman's $168.9 billion figure depends on two things. First, it depends on counting off budget upward to $100 billion in S&L bailout spending in 1991, which is by no means a foregone conclusion inasmuch as, under current law, all future S&L spending will in fact be counted on budget. Second, it depends on counting on-budget the huge Social Security trust fund surplus. In other words, the game is this: Anything that decreases the deficit is counted on-budget, and anything that increases the deficit is put off. However, if we take the honest approach of putting S&L bailout expenses on-budget while putting the Social Security surpluses off-budget, then we see that the true fiscal year 1991 deficit estimate is closer to $400 billion—more than two times bigger than Mr. Darman's fanciful $168.8 billion.

Mr. President, in all the great jambalaya of frauds surrounding the budget, surely the most reprehensible is the systematic and total ransacking of the Social Security trust fund in order to mask the true size of the deficit. As we all know, the Social Security payroll tax has become a money machine for the U.S. Treasury, generating fantastic revenue surpluses in excess of the costs of the Social Security program. Excess Social Security tax revenues were $65 billion in 1990 alone—boosted by yet another rise in the Social Security tax rate this past January 1. In fiscal year 1991, the surplus will be $73 billion. By 1993, the annual Social Security surplus will soar to $95 billion. The surplus will be $484 billion over the 5 years of this bill.

The public fully supported enactment of hefty new Social Security taxes in 1983 to ensure the retirement program's long-term solvency and credibility. The promise was that today's huge surpluses would be set safely aside in a trust fund to provide for baby-boomer retirees in the next century.

Well, look again. The Treasury is siphoning off every dollar of the Social Security surplus to meet current operating expenses of the Government. By thus reducing the deficit, we mask the true enormity of the Federal budget crisis while creating the illusion that Congress and the administration are actually doing something about deficits.

The hard fact is that, in the next century, the Social Security system will find itself paying out vastly more in benefits than it is taking in through payroll taxes. And the American people will wake up to the reality that those IOUs in the trust fund vault are a 21st century version of Confederate war bonds.

Of course, the Treasury would have the option of raising taxes to repay the astronomical sums we have borrowed from the trust fund. But that would be a brazen rip-off of working Americans, many of whom will be retirees obliged to pay a second time for the benefits they have already earned.

On the other hand, if the Treasury wimps out and chooses not to raise taxes to reimburse the trust fund, then there will be no alternative but to slash Social Security benefits. The most likely scenario is that Social Security payments would be turned into just another means-tested welfare program for the very poor; if you make more than, say, $15,000 per year, then forget about collecting any Social Security benefits.

Any way you slice it, it is lousy public policy to borrow massively from the Social Security trust fund with no credible plan for reimbursement. Of course, the immediate damage from this approach is that it allows us to mask the true scale of the Federal budget deficit, thus making it easier for us politicians to sit on our hands.

Now, Mr. President, objection was heard in the Budget Committee that removing Social Security surpluses from the deficit calculations would make the fiscal year 1991 Gramm-Rudman-Hollings target unreachable. Several Senators issued apocalyptic warnings that my bill would destroy Gramm-Rudman-Hollings because it does not provide for an extension of the Gramm-Rudman-Hollings deficit-reduction timetable. Yet, as a practical matter, this issue is now moot. The budget summit agreement, and now the House and Senate reconciliation bills, have ended any hope or expectation that we will balance the budget in the foreseeable future. Indeed, we no longer even talk about deficit targets.

Instead, we talk about endlessly fudgeable spending-reduction targets, which means we can reach the spending-reduction target even though the deficit doubles, yet we can still say we have made the hard choices and done our job. I say this is all the more reason to protect Social Security by means of this amendment. With all restraints now gone, we have a special obligation now to safeguard the Social Security trust fund.

Mr. President, in our casual embezzling from the trust fund, we have committed a gross breach of faith with the American people. Social Security is perhaps the most successful social program ever enacted by the Federal Government. Without question, it is the most effective antipoverty program in history. Social Security is not charity or welfare. On the contrary, it is a supplementary retirement fund that workers pay for with their hard-earned money.

However, let's be under no illusions that this bill would put an end to the ransacking of the Social Security trust fund. It does not. Trust fund surpluses, which by law can be invested only in Government securities, will continue to be spent to meet the operating expenses of the Government. The only way to prevent the trust fund moneys from being spent in this manner is to change the law to permit investment of Social Security moneys in nongovernmental equity, a policy change I do not now recommend. However, this bill will indirectly act to safeguard the Social Security trust fund by increasing the pressure to tackle the deficits in a meaningful, dramatic way. After all, there is one sure-fire way to protect the Social Security surpluses: balance the Federal budget.

Mr. President, I say it is time to stop playing games with Social Security and the Government's finances. It is time to use honest budget numbers and to make honest budget choices. By all means, let us begin by putting Social Security truly in trust and totally off budget.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. Mr. President, I yield 2 minutes to Senator HEINZ, from Pennsylvania, and then I will yield to the distinguished Senator from New York.

Mr. HEINZ. Mr. President, I ask unanimous consent that Senator COATS and Senator KASTEN be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I have spoken here on the floor about how our addiction to deficit spending has gotten us into the habit of misappropriating the Social Security trust funds, and its annual surpluses to cover up and hide the truth about the real size of the Federal budget deficit. I have shown, as these charts once again illustrate, how much faster our national debt is growing than what we report as our deficits.

In just the last 4 years—our national debt has grown by some $376 billion more than the deficits that we tell people ought to add up to our debt.

Mr. President, the vote we are about to have is more than a vote to stop this annual game of deficit deception. This is a vote to demonstrate once and for all this Chamber's commitment to milions of aged and disabled Americans who depend on Social Security for their retirement.

This is a vote to protect the Social Security trust funds for future generations who are now paying in.

This is a vote to end the diversion of Social Security trust funds to a purpose for which they were never intended.

Finally, this is a vote for making truth in budgeting the standard upon which Republicans and Democrats and the American people may and will rely as we make the decisions we must for them.

SOCIAL SECURITY TRUST FUND SURPLUSES

Mr. President, later today we will be presented with a leadership amendment. That amendment as contemplated by the budget summit is deeply flawed. It fails to remove the Social Security Trust Funds—the OASDI Program and its finances as a whole, from the budget and the budget process.

The Heinz-Hollings amendment we offer today will demonstrate once and for all this Chamber's commitment to millions of aged and disabled Americans who depend on Social Security benefits in retirement. It is an amendment designed as well to ensure that America regains its fiscal integrity and reenters the world market place as the engine of economic growth and opportunity we want our country to be.

The amendment that Senator HOLLINGS and I are proposing, would separate the Social Security surpluses, cash and interest, from the deficit reduction calculations, would protect the trust fund for future generations, end the practice of using these surpluses to hide annual deficits, and reduce and hopefully eliminate the public debt currently held by corporations, institutions, and most of all and increasingly, foreign investors.

This effort today is part of a larger understanding—a thoroughgoing orchestrated effort—to make truth in budgeting the standard against which Republicans and Democrats alike consider a budget and every budget.

This reconciliation bill came forth with a plan that included taking only a part of Social Security out of the Gramm-Rudman-Hollings deficit calculations. It is a plan that only saves half a loaf. The other half—the large and growing interest payments that Social Security earns on its investments—is still missing. Mr. President the purpose of our amendment is to safeguard the whole loaf. We have skirted the challenge of true budget reform for almost a decade now, preferring to nickel and dime away our children's and grandchildren's future in lieu of making some hard political choices on spending and taxes. This occurred despite a recommendation from the Senate Finance Committee to exclude all Social Security funds, both revenues and expenditures, from the calculation of the deficit.

I ask now what should be a purely rhetorical question, that is: Are we going to move ahead with real budget reform, or continue the political coward's charade of blessing the budget with our right hand while we doctor the books with the left? I say it should be rhetorical, but having asked it here and before numerous committees on more occasions than I can—or care to—recount, I remain doubtful. We have yet to move ahead, despite mounting evidence that through our lack of initiative, like the Lilliputians, we immobilize the mighty Gulliver of our economy with ever-lengthened lines of debt.

With each morning headline and each nightly news report, the fiscal quagmire this country is in deepens. Although the final figure has not been released, the Office of Management and Budget's mid-session review predicted that our fiscal year 1990 baseline deficit was $218.5 billion—$118.5 billion more than the Gramm-Rudman-Hollings target and $94.7 billion more than the deficit predicted by the President's budget for fiscal year 1991.

We are already bent—and bent totally out of shape by the burden of this debt. Last year's interest payments alone—over $180 billion—will not go to help the poor without health insurance, or to build roads, or to cancer research or national defense or better schools. Those dollars go to investors, bankers, and the wealthy here and abroad. Mr. President, that $180 billion dedicated to interest on the national debt is more than the Federal Government plans to spend for farm aid, housing, education, unemployment compensation, veterans' benefits, the post office and highways—combined. I repeat, combined.

There are times when a nation might spend beyond income. Times when debt is an outcome of necessity. There are times of financial famine, when extraordinary expenditures are required to provide basic services. Or times of foreign conflict, when freedom hangs on the ability to mobilize

quickly and effectively. The debt we are amassing today comes from neither; it is driven simply by a political expediency whose guiding principle is not how to help our country but how to get through the next election with the greatest possible personal or partisan success.

Our failure to address the budget deficit has cost us and will continue to cost us real economic growth, the sort of growth we need to guarantee a prosperous future for ourselves and our children. The world economy is a competitive place, and we have not been keeping up with the competition. Since 1970, we have consistently run a trade deficit. In 1988, our trade deficit was $137 billion, money that flows overseas to the benefit of foreign investors. These same investors then turn around and buy Treasury bills—investing in Government debt—and we wind up paying interest on the money we lost overseas becaue of the trade deficit. In 1989, $394 billion of our national debt was held by foreigners, and we paid them $33 billion in interest alone, one-sixth of the total interest paid on the national debt that year. Who's to blame for our failure to manufacture good quality, affordable merchandise in this country? Who has forced our manufacturing industries, once the envy of the world, to either shut down or open up factories overseas? We, the Congress of the United States, have allowed our crucial heavy industries to suffer because we have continued to run tremendous deficits and have allowed an unconscionable Federal debt burden to accumulate.

The reason Japan exports so many cars to the United States is not because Japanese engineers are any smarter than our engineers or that Japanese workers work any harder than our workers. Our workers are the most productive in the world, but our car manufacturers and other heavy industries lack one competitive advantage that Japan has: cheap capital. Capital is the life-blood of any industrialized nation, and Japan has plenty of it. Why? Because the Japanese Government runs a budget surplus and Japanese individuals and businesses save and invest their capital in growth-creating businesses. In the 1980's, Japan and other industrialized nations have reduced their budget deficits and are, in some cases, running budget surpluses. In 1988, the Japanese ran a surplus representing 0.2 percent of Japanese gross domestic product; our budget deficit was 2.1 percent of our gross domestic product. At the same time, these countries have increased net national savings. For example, from 1984 to 1987, the Japanese net national savings rate was 17.4 percent; for the United States, the rate is 3.6 percent, almost five times less.

By running tremendous budget deficits, we force the American Government to borrow heavily in the private capital markets. This makes it more expensive for our growth-producing industries to attract the capital they need to invest in new plants and equipment or research and development. In the 1980's, U.S. short-term and long-term interest rates have consistently been almost twice as high as comparable Japanese rates. Because American industry is saddled with twice the interest costs of Japanese industry, our productivity growth has slowed while Japan's had increased. In 1950, Japan's rate of productivity growth was only 15.2 percent of ours; by 1988, it had increased to 71.5 percent. At this rate, the Japanese economy will soon produce as much work product per worker as the United States economy; when that happens, it will be difficult to catch up without a traumatic restructuring of our economy and trade practices.

But the debt we face today is not a product of necessity, but of egregious fiscal management, of inflated expectations—and yes, of our own inability to make difficult choices. It reflects a laissez faire attitude toward the long-term economic well being and survival of this Nation, when we ought to show a determination to preserve the best of what we have and build for yet a better future. A case in point, Mr. President, is that just 10 years from now, depending on economic assumptions, as much as 40 percent of all non-Social Security revenues will be required to make interest payments on debt alone.

That, Mr. President, is the good news. The truth is that Congress, by counting the old-age, survivors and disability income trust funds as part of general revenues, radically distorts the actual financial health of this Nation by pretending that the money paid in by workers to Social Security will never be paid out. Just in fiscal year 1990 alone, this trick allowed us to pretend that our deficit was $59 billion smaller than it actually was.

It is important to remember that the reserves accumulating in the trust fund are not just protection against a potential rainy day for Social Security. They are the actuarial projections set forth in 1983 program reforms for a flood of retirees with the aging of the baby boom in the next century.

As we know, these surpluses do not exist as real cash. They represent deposits to the U.S. Treasury which are immediately credited to the Social Security trust funds. Since the U.S. Treasury has the use of the cash, they immediately start paying interest on these balances. Similarly, the interest is never transferred to the trust funds as cash, but is, like the original deposits, credited to the Social Security trust fund accounts by the Treasury. And, in turn, since the Treasury again has the use of the cash they would otherwise have paid, interest is earned on the interest credited. While these are the realities of U.S. law, making the U.S. Treasury our Government's single payee and payor and handler of cash, and the requirement the trust funds always be invested, the figures, even if all only on paper, are no less real. After all, the laws we make in this body are only on paper. They are no less real for that, either.

Since 1983, when we may have saved the Social Security goose, we have systematically proceeded to melt down and pawn the golden egg. It doesn't take a financial wizard to tell us that spending these reserves on today's bills does not bode well for tomorrow's retirees.

Congress didn't originally intend to mislead or deceive the American public when it enacted Gramm-Rudman-Hollings, Mr. President, We may plead innocent to malice aforethought, but must stand guilty of conscious deceit in present practice. We have willfully put off tough choices and attempted to make ourselves look good by spending someone else's money—that of the American worker's today and that of our retirees of tomorrow.

We have dealt in half truths for too long. We have dammed up the river of future investment capital in an ocean of debt. We have all but sucked dry the retirement security of generations in our thirst for new spending in an era of drought of new revenues.

It is time for this administration and this Congress to acknowledge the whole truth of our budget crisis and to build a bipartisan solution based on that truth. This means, for starters, that we remove the Social Security Trust Funds from all budget calculations beginning with the fiscal year 1991 budget.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HOLLINGS. I yield to the distinguished Senator from New York.

Mr. MOYNIHAN. Mr. President, earlier this year, the Senator from Pennsylvania described what is being done with the Social Security trust funds as embezzlement. I do not think he can use that word in the future if this amendment does not pass because embezzlement will have become legal. I have nothing more to say.

Mr. HOLLINGS. Mr. President, on consideration of this particular matter earlier this spring, the Budget Committee voted, by a vote of 20 to 1, to favorably report Calendar No. 812, S. 2999 by our distinguished chairman of the Budget Committee, Senator SASSER. It has been, as we said earlier, the work of a couple of years. I have additional cosponsors who are coming forward by the moment. I ask unani-

mous consent that Senator SANFORD, Senator LEVIN, Senator KERRY, Senator JEFFORDS, Senator DECONCINI, Senator SIMON, Senator RIEGLE, Senator BRADLEY, and Senator KASTEN be added as cosponsors of the particular measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I yield to the Senator from Wisconsin.

Mr. KASTEN. I thank the Senator from South Carolina for yielding. I simply want to say that I would like to be added as a cosponsor of this amendment, and I congratulate and commend people on all sides of this debate. We are not quite where Senator MOYNIHAN would want us to be, and that is to also reduce the FICA tax. We might be there some day. This is a very important step. In fact, I proposed the first bill that would both reduce the payroll tax—and take Social Security out of the budget. My bill—the Social Security Integrity and Tax Reduction Act—would have reduced the FICA tax over 3 years, and strengthen the trust fund by removing it from the deficit calculation. We are spending far more than we need for Social Security. Instead of using those funds to mask the deficit, we ought to give them back to the small businesses and working families who earned it. I commend all who have been involved.

Mr. HOLLINGS. I thank the distinguished Senator from Wisconsin. I ask unanimous consent that he be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator's time has expired.

Mr. HOLLINGS. Mr. President, we are willing to yield back the time on our side.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SANFORD. Mr. President, in March 1988, when I introduced legislation to remove Social Security from the deficit calculations, most people thought this was a radical notion. I am delighted that attitudes about the misusing of Social Security trust funds have changed, and I am proud to be an original cosponsor of this important measure. Senators HOLLINGS', MOYNIHAN's, and HEINZ's able leadership on this issue has helped generate nearly unanimous support for it.

There are excellent reasons for protecting Social Security by removing it from the Gramm-Rudman deficit calculations. This is a giant step forward, but it falls short of getting us to an honest accounting of the Federal budget. The misuse of Social Security reserves, including interest earned by the trust funds, is a significant and rapidly growing part of the coverup.

However, removing Social Security alone will not prevent the White House and Congress from continuing to conceal a significant part of annual debt increase, it simply reduces the amount we can conceal. Another giant step needed to prevent the creative accounting of other Federal retirement programs and interest earned by them.

During the past decade nearly $1 trillion of debt increase has been excluded from our deficit calculations. We have fooled the public into believing that our annual deficits were declining while, all the time, our annual debt increases—our real deficits—have been climbing. This misleading of the public must stop.

A truly honest accounting of the Federal budget requires the use of a deficit figure that fairly reflects annual debt increase. Redefining deficit as such, without the use of any Federal retirement programs, is our next giant step.

Mr. DOMENICI. Mr. President, I support taking Social Security out of the budget deficit calculation, and I support the Heinz-Hollings-Moynihan amendment. I want to protect the Social Security system, for today's retirees and the retirees of the next century. But I have some concerns with the amendent we adopted today.

INTEREST IS A BOOKKEEPING ENTRY

Interest payments to the Social Security trust funds are paper transactions within the Government. No funds are actually transferred, and there is no direct impact on the amount the Government must borrow from private markets.

A Government surplus or deficit is measured by transactions with the public: The difference between receipts from the public and outlays to the public. Interest payments that are merely bookkeeping entries within the Government do not in any way affect the amount of funds paid to or received from the public. As a result, keeping interest on-budget in no way masks the deficit.

INTEREST OFF-BUDGET MEANS MORE DEFICIT REDUCTION

The issues involved with taking Social Security, including interest, out of the budget deficit are not as simple, or painless, as they seem, or as the sponsors of this measure have suggested.

If we take interest off-budget, then we have to come up with more deficit reduction. And that means only one of two things: More taxes or more spending cuts.

And I note that the amendment adopted today does not in any way acknowledge that we have to get additional deficit reduction: The budget targets are not revised nor is Gramm-Rudman-Hollings extended to ensure a balanced non-Social Security budget. We will face a 1992 sequester cut of about $27 bilion simply because we decided to take interest out of the budget without revising the Gramm-Rudman-Hollings targets.

We should consider whether or not we want the American people to make additional sacrifices—more spending cuts or more taxes—so that we can claim we have taken these paper transactions out of the deficit.

Given the difficulty we are having with the current budget, I'm not sure we can agree on more deficit reduction at this time. But in any event, excluding the cash Social Security surpluses from the deficit captures two-thirds of the total surpluses going to Social Security over the next 5 years.

Mr. HEINZ. Mr. President, I ask unanimous consent the Senator from Maine [Mr. COHEN] be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. We yield back our time and ask for the call of the roll.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from New York.

Mr. MOYNIHAN. Mr. President, may I note, not for the first time, no one rises to oppose these measures.

The PRESIDING OFFICER. Is all time yielded back?

Mr. SASSER. Mr. President, may I ask who is controlling the time in opposition?

The PRESIDING OFFICER. The Senator from Tennessee would control that time, unless he favors the amendment.

Mr. SASSER. Mr. President, I know of no one who wishes to speak.

I see the distinguished ranking member of the Budget Committee is on the floor.

Mr. DOMENICI. I do not care to speak. I will put a statement in. Are we out of time?

Mr. SASSER. No, we have time, I say to my friend from New Mexico. We simply had no one who wished to speak, which is a rare occurrence on this floor.

Mr. DOMENICI. That is rare. I will just put a statement in explaining what I think this does ultimatley in terms of deficits, and the need for additional revenues and/or budget cuts.

Mr. SASSER. I thank the Senator from New Mexico.

Mr. President, we yield all time in opposition.

The PRESIDING OFFICER. All time is yielded back. There being no further debate, the question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced, yeas 98, nays 2, as follows:[S18OC0-M4]{S15781}follows:

[Rollcall Vote No. 283 Leg.]

YEAS—98

Adams	Baucus	Biden
Akaka	Bentsen	Bingaman

Bond	Gorton	Metzenbaum
Boren	Graham	Mikulski
Boschwitz	Gramm	Mitchell
Bradley	Grassley	Moynihan
Breaux	Harkin	Murkowski
Bryan	Hatch	Nickles
Bumpers	Hatfield	Nunn
Burdick	Heflin	Packwood
Burns	Heinz	Pell
Byrd	Helms	Pressler
Chafee	Hollings	Pryor
Coats	Humphrey	Reid
Cochran	Inouye	Riegle
Cohen	Jeffords	Robb
Conrad	Johnston	Rockefeller
Cranston	Kassebaum	Roth
D'Amato	Kasten	Rudman
Danforth	Kennedy	Sanford
Daschle	Kerrey	Sarbanes
DeConcini	Kerry	Sasser
Dixon	Kohl	Shelby
Dodd	Lautenberg	Simon
Dole	Leahy	Simpson
Domenici	Levin	Specter
Durenberger	Lieberman	Stevens
Exon	Lott	Symms
Ford	Lugar	Thurmond
Fowler	Mack	Warner
Garn	McCain	Wilson
Glenn	McClure	Wirth
Gore	McConnell	

NAYS—2

Armstrong	Wallop

So, the amendment (No. 3033) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SASSER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If we can have order in the Chamber so Senators can be heard.

The Senator from Idaho.

Mr. McCLURE. Mr. President, I ask unanimous consent to be listed as an original cosponsor of the amendment just agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Alaska is to be recognized. The Senator from Alaska.

Mr. STEVENS. Mr. President, there is a provision in the reconciliation bill that deals with the Tongass National Forest. It is a bill that previously passed the Senate and is in conference with the House. I voted for that bill, and we are working in conference trying to work this out.

I see the distinguished charman of the Energy Committee here now. I think he will verify the fact there are ongoing negotiations on that bill in conference.

There is another section of this bill that does deal with revenues, and it repeals a direct appropriation of $40 million. It is properly in this bill. The Tongass National Forest provision in my judgment is not properly in the bill. It is a matter that is in conference represented by bills that have passed each House that are not totally in agreement. But the provisions of this bill that do not relate to revenues should not be in this bill. I do not want to take a great deal of time of the Senate in discussing the matter. I am hopeful that the Senate will agree with the point of order I am going to raise under the Byrd rule.

The matter is in the House version of the bill. So without regard to what we do here now, the conference on this reconciliation bill will have the subject matter before it, and if we are able to get an agreement on the matter in the other conference, I would have no objection to placing the matter here so it could be readily and quickly approved in this process and obviate the necessity of having another conference report come to the floor.

I think it is unfair to have it resolved under the time restrictions and the constraints that apply to this bill. We do not have time to properly debate such a matter when it comes back from conference under this bill. I again call attention to the Senate the fact this matter is in conference on this reconciliation bill because the House operates under different rules, and it is in the House bill.

POINT OF ORDER: BYRD RULE SECTION 4003 THROUGH SECTION 4016, PAGE 107 THROUGH PAGE 124

Mr. STEVENS. Mr. President, pursuant to section 20,001 of the consolidated Omnibus Reconciliation Act, I raise a point of order that section 4003 through section 4016 appearing on pages 107 through 124 of this bill pending before the Senate now is an extraneous provision. This provision violates subparagraph D(1)(a) of that statute that I quoted because it does not produce a change in outlays or revenues and is subject to a point of order under the Byrd rule.

Mr. JOHNSTON. Mr. President, parliamentary inquiry. If this same matter is in the House bill, then is it not the right of the conferees on this bill to bring back this precise bill in a conference report?

The PRESIDING OFFICER (Mr. BRYAN). It would be within the authority of the conferees to include this material in the conference report submitted to the Senate.

Mr. JOHNSTON. Mr. President, if I may be recognized.

The PRESIDING OFFICER. The Senator is recognized.

Mr. JOHNSTON. Mr. President, I urge Senators not to bring the matter to a vote. The Parliamentarian, as I understand it, will rule with the distinguished Senator from Alaska. The distinguished Senators from Alaska, Senators STEVENS and MURKOWSKI, are working with us on a conference committee. They have been working in good faith on the other conference committee on the Tongass bill, and I am very hopeful—in fact, I am absolutely insistent—that we get a bill this year. I believe that both Senators from Alaska will help us do that. But in any event, we are giving up no rights at all, as I appreciate it, by not seeking to overturn this point of order by overruling the ruling of the Chair. So I will not ask for a rollcall on this matter.

Mr. STEVENS. The Senator from Louisiana stated it as I understand it. No one gives up any rights by taking it out of the bill at this time. It is within the province of the conferees to bring the matter back because it is in the House bill. There would also be remedies available to the Senators from Alaska if it does come back, and I think everyone realizes it. There is just no reason to debate it twice and to face the question of controversy over the points of order.

I appreciate what my friend from Louisiana said. I do hope the Chair will rule in favor of the point of order.

Mr. WIRTH. Mr. President, very briefly, I wanted to associate myself with both the question and the remarks made by the distinguished chairman of the Energy Committee and the senior Senator from Alaska. I should point out for the record and for our colleagues we are very close to reaching agreement in the conference just related to the Tongass. We have been working on this for a long time. The hope is that we will have that resolved and do it through that regular process.

The distinguished chairman of the Energy Committee has pointed out, however, if something comes afoul, we still have available the reconciliation vehicle for finally solving the Tongass situation. I do not believe we are going to have to do that. Everybody is working in concert on this. We are very close to reaching agreement on the Tongass, and I think everybody will be happy when that happens; we will not have to have Tongass again and again and again debated on the floor.

I thank the Chair. I thank the distinguished senior Senator from Alaska.

Mr. STEVENS. Mr. President, the Senator from Colorado is correct. We do hope that we can through our mutual efforts resolve this issue. I remind the Senate that except in one instance the Senate has never voted to approve a wilderness designation in any State of the Union where both Senators opposed that designation. This issue may come up when the bill comes back. It is not here now. But we reserve our rights to attack that should it happen. I hope it does not happen, Mr. President. We want this issue settled. It is jeopardizing one of the major industries of our State and a second new and brilliant industry which is the tourist industry that we fully well appreciate. We believe that we can resolve it if all Members of Congress wish to do so.

Does my colleague wish to comment?

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The junior Senator from Alaska [Mr. MURKOWSKI] is recognized.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I want to tell my colleagues that I too feel very optimistic about the likelihood of achieving a compromise on the Tongass. We have had many hearings before the Senate Energy and Natural Resources Committee. We have had field hearings in Alaska. We have had deliberations with the Southeast Conference, Southeast Conference 1 and 2. We have had the input from the State of Alaska, the Governor of the State of Alaska.

I remind my colleagues that this bill passed the Senate unanimously, or virtually unanimously, by a vote of 99 to zero. That was the Senate bill. So clearly Senators have had a chance to express their position on the Senate bill which passed out of the Energy Committee. We are working in good faith because the senior Senator and I feel it is time to bring to an end the question on the Tongass. We have had certainly the support of the chairman, the senior Senator from Louisiana, and we feel in good faith we can achieve a workable compromise that will maintain the viability of the industry and still address the concerns of many of the local communities in Alaska.

I thank the Chair and I thank my colleague.

The PRESIDING OFFICER. The provision cited by the senior Senator from Alaska [Mr. STEVENS] contains no budgetary effect and therefore violates subsection D(1)(a) of the Byrd rule. The point of order is sustained. The cited provisions are stricken from the bill.

Mr. STEVENS. I thank the Chair.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. STEVENS. Is it necessary to reconsider such an action?

The PRESIDING OFFICER. It is not subject to a motion to reconsider.

AMENDMENT NO. 3034

(Purpose: To reduce the proposed increase in the statutory limit on the public debt by $1,579,000,000)

Mr. NICKLES. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for himself, Mr. CONRAD, and Mr. COATS, proposes an amendment numbered 3034.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 488, line 15, is amended by striking "1,900,000,000,000" and inserting in lieu thereof "$321,000,000,000".

UNANIMOUS-CONSENT AGREEMENT

Mr. SASSER. Mr. President, I ask unanimous consent that the following amendments be considered under the following time limitations; that they be considered in the following order, and that, if the time that is allocated to these amendments exceeds the time remaining, the time be expanded to include all amendments. The amendments are as follows:

An amendment by Senator NICKLES which will consume 5 minutes;

An amendment by Senator HARKIN which will consume 11 minutes;

An amendment by Senator GRASSLEY which will consume 5 minutes;

An amendment by Senator D'AMATO which will consume 5 minutes;

An Inouye-Kasten amendment that will consume 10 minutes;

A Lieberman-Glenn amendment that will consume 5 minutes;

A Durenberger amendment consuming 2 minutes;

A Symms amendment consuming 4 minutes;

A Stevens amendment consuming 2 minutes; and

A Metzenbaum amendment consuming 4 minutes;

The PRESIDING OFFICER. Is there objection?

Mr. SHELBY. Mr. President, I wonder if the distinguished Senator from Tennessee would include an amendment and give me 5 minutes. I have reserved at the desk. I do not know if I will offer the amendment, but I do want to protect my options.

Mr. SASSER. If I might inquire, is this the Senator's amendment relative to——

Mr. SHELBY. The one I talked to the manager about, and I know negotiations have been going on to work that out.

Mr. SASSER. Will the Senator settle for 2 minutes? We do not have any time.

Mr. SHELBY. I will do that.

Mr. SASSER. Mr. President, I ask unanimous consent further that the time be expanded an additional 2 minutes to consider a possible amendment by the Senator from Alabama [Mr. SHELBY].

Mr. FORD. Reserving the right to object, Mr. President, I ask the distinguished floor manager, will all of these amendments be subject to a vote?

Mr. SASSER. All of these amendments are, and I intend to add to this unanimous-consent request a request that the votes be stacked. I amend the unanimous-consent request, Mr. President, to request that the first six amendments, the Nickles, Harkin, Grassley, D'Amato, Inouye-Kasten, and Lieberman-Glenn amendments be stacked, that the original vote on the Nickles amendment consume 15 minutes, and thereafter the rollcalls be limited to 10 minutes on the remaining amendments.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Further reserving the right to object, Mr. President, this would mean that approximately 30 minutes from now they will go to the six stacked votes?

Mr. SASSER. Let me count it up. In approximately 30 minutes we would have six stacked votes.

Mr. FORD. I am trying to figure out the time.

Mr. SASSER. The original vote would consume 15 minutes and thereafter the remaining votes would consume 10 minutes.

Mr. CONRAD. Mr. President, reserving the right to object, I ask the leaders who have presented the list of pending amendments if I could be included on this list under a 5-minute time agreement.

Mr. SASSER. Mr. President, will the distinguished Senator settle for 2 minutes?

Mr. CONRAD. That is fine.

Mr. SASSER. I ask unanimous consent to modify the previous unanimous-consent request to include a Conrad amendment which would consume 2 minutes.

Mr. DOMENICI. Mr. President, might I inquire of the distinguished chairman. When he stated the times, is it fair to assume that means equally divided?

Mr. SASSER. Time would be equally divided. I am also advised that there is a request to amend the unanimous-consent request to add a Levin amendment that would consume 3 minutes.

Mr. DOMENICI. Mr. President, I am familiar with most of the amendments. But I am not familiar with what the so-called Metzenbaum amendment is or the Levin amendment. I wonder if somebody might tell me what they are.

Mr. SASSER. Senator Metzenbaum is on the floor. Perhaps he could give us a quick 10-second overview.

Mr. METZENBAUM. The Metzenbaum amendment is to take the cap off HI.

Mr. McCLURE. Reserving the right to object; parliamentary inquiry. Is the proposed unanimous-consent request that the vote on each be up or down on the amendment?

Mr. SASSER. No.

The PRESIDING OFFICER. That has not been included in the request by the floor manager.

Mr. McCLURE. I request to know what the understanding is then. Are we going to have it? Because the request, as stated, would say it is up or

down. I respectfully say to the Chair I believe that is the form of the request. If it is to be otherwise, I think it has to be specifically stated.

If it is indeed the purpose of the managers to have a vote either on a motion to table or on a point of order or otherwise, I think it would have to be stated in the unanimous-consent request. Until it is, I might be constrained to object. But I assume the managers are willing to tell us what it is they intend to do with respect to these amendments.

Mr. SASSER. Mr. President, quite frankly, we cannot advise the Senator from Idaho with any degree of precision as to what will occur on each and every one of these amendments. Some of these amendments will be open to objection for point of order, raising a point of order, or a motion to strike.

Mr. DOMENICI. I wonder if the chairman might modify his request and state that these may be subject to points of order or may be tabled.

Mr. SASSER. I so modify the unanimous-consent request.

Mr. STEVENS. Reserving the right to object, these amendments are subject to amendment?

Mr. SASSER. These amendments would not be subject to amendment.

Mr. STEVENS. Is the leadership amendment subject to amendment?

Mr. SASSER. The leadership amendment is not included in this group of amendments that we seek to offer.

Mr. STEVENS. Thank you.

The PRESIDING OFFICER. The floor manager, the Senator from Tennessee, proposed a unanimous-consent request. Hearing no objection, the request is agreed to.

Mr. SASSER. I thank the Chair.

Mr. NICKLES. Mr. President, on behalf of myself, Senator CONRAD, Senator COATS, I have an amendment which would greatly reduce the increase in the debt limit extension that is now provided in the bill.

If my colleagues would look on page 488 of the bill, line 15, there is a provision that bothered this Senator. I expect it would bother many Senators, and it certainly would bother a lot of taxpayers. It is an extension or an increase in the Federal debt limit of $1.9 trillion—not billion, not million—trillion. A trillion has 12 zeroes in it. This bill would increase the Federal debt limit from a little over $3 trillion to over $5 trillion.

My guess is—and I am not sure where they came up with the $1.9 trillion figure—my guess is that it must have been what some experts were estimating as the increase necessary for increased debt limit for the next 5 years.

I think that would be a serious mistake, a serious procedural mistake. In many cases we have used the debt limit as a vehicle for making changes, budgetary changes. As a matter of fact, Gramm-Rudman was originally passed, if I remember, on a debt limit increase.

Mr. President, my amendment would do this: it would reduce the debt limit increase from $1.9 trillion to $321 billion, the same as the House passed on July 31, 1990.

That is what is anticipated would be necessary to get us through the remainder of this fiscal year. That is an increase from the temporary debt limit of $249 billion; and an increase from the permanent debt ceiling of $321 billion.

I might show my colleagues as well, in past legislative action, the present debt limit: in 1981 we reached $1 trillion; by 1986, we crossed $2 trillion; and by 1989, we crossed $3 trillion. Under the reconciliation package, if we do not change it, we will cross $5 trillion by passage of this bill.

I might also show my colleagues that for past increases in the statutory debt limit, most of them have been less than $100 billion, on occasion, $200 or $300 billion. This increase as I proposed would be a 1-year increase. If we do not pass this legislation, we will have an increase of $1.9 trillion, the largest increase in the debt limit in our Nation's history by a factor of about 6.

So I urge my colleagues to support the amendment.

Also, Mr. President, I ask unanimous consent to print in the RECORD tables which include historical budget data dealing with outlays, the percentage growth of outlays and revenues, and increases in Federal debt.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

FEDERAL DEBT-LIMIT INCREASES IN THE 1980's

[In billions of dollars]

Date of change	Statutory debt-limit	Dollar change	Percent change
December 1980	935.1	N/A	N/A
February 1981	985.0	50	5
September 1981	999.8	15	2
September 1981	1,079.8	80	8
June 1982	1,143.1	63	6
September 1982	1,290.2	147	13
May 1983	1,389.0	99	8
November 1983	1,490.0	101	7
May 1984	1,520.0	30	2
July 1984	1,573.0	53	3
October 1984	1,823.8	251	16
November 1985	1,903.8	80	4
December 1985	2,078.7	175	9
August 1986	2,111.0	32	2
October 1986	2,300.0	189	9
May 1987	2,320.0	20	1
July 1987	2,320.0	0	0
August 1987	2,352.0	32	1
September 1987	2,800.0	448	19
August 1989	2,870.0	70	3
November 1989	3,122.7	253	9
August (temporary) 1990	3,195.0	72	2
Nickles amendment (increase from 3,122.7)	3,444.0	321	10
Reconciliation (increase from 3,122.7)	5,022.7	1,900	61

On July 31, 1990, the House of Representatives passed H.R. 5355, a bill which would raise the statutory limit on the debt to $3.444 trillion.

Worsening economic and technical conditions will ultimately cause this limit to fall short of its goal of providing borrowing authority through the end of fiscal year 1991.

Source: Office of U.S. Senator Don Nickles.

HISTORICAL BUDGET DATA

Year	Total outlays	PY Chg (percent)	Percent of GNP	Total receipts	PY Chg (percent)	Percent of GNP	Federal Deficit	PY Chg (percent)	Percent of GNP	Gross national product
1970	195,649	NA	20	192,807	NA	19	2,842	NA	0	990,200
1971	210,172	7	20	187,139	−3	18	23,033	710	2	1,055,900
1972	230,681	10	20	207,309	11	18	23,373	1	2	1,153,100
1973	245,707	7	19	230,799	11	18	14,908	−36	1	1,281,400
1974	269,359	10	19	263,244	14	19	6,135	−59	0	1,416,500
1975	332,332	23	22	279,090	6	18	53,242	768	3	1,522,500
1976	371,779	12	22	298,060	7	18	73,719	38	4	1,698,200
1977	409,203	10	21	355,559	19	18	53,644	−27	3	1,933,000
1978	458,729	12	21	399,561	12	18	59,168	10	3	2,171,800
1979	503,464	10	21	463,302	16	19	40,162	−32	2	2,447,800
1980	590,920	17	22	517,112	12	19	73,808	84	3	2,670,600
1981	678,209	15	23	599,272	16	20	78,936	7	3	2,986,400
1982	745,706	10	24	617,766	3	20	127,940	62	4	3,139,100
1983	808,327	8	24	600,562	−3	18	207,764	62	6	3,321,900
1984	851,781	5	23	666,457	11	18	185,324	−11	5	3,687,700
1985	946,316	11	24	734,057	10	19	212,260	15	5	3,952,400
1986	990,258	5	24	769,091	5	18	221,167	4	5	4,180,900
1987	1,003,830	1	23	854,143	11	19	149,687	−32	3	4,430,200
1988	1,064,044	6	22	908,954	6	19	155,090	4	3	4,792,200
1989	1,142,600	7	22	990,700	9	19	152,100	−2	3	5,201,000
RTC FUNDED ON-BUDGET										
1990	1,262,500	10	23	1,044,000	5	19	218,500	44	4	5,486,000
1991 [1]	1,384,700	10	24	1,121,400	7	19	263,300	21	5	5,807,000
1991 [2]	1,360,800	8	23	1,137,600	9	20	223,200	2	4	5,807,000

HISTORICAL BUDGET DATA—Continued

Year	Total outlays	PY Chg (percent)	Percent of GNP	Total receipts	PY Chg (percent)	Percent of GNP	Federal Deficit	PY Chg (percent)	Percent of GNP	Gross national product
RTC FUNDED OFF-BUDGET										
1990	1,207,700	6	22	1,044,000	5	19	163,700	8	3	5,486,000
1991 [1]	1,287,400	7	22	1,121,400	7	19	166,000	1	3	5,807,000
1991 [2]	1,263,500	5	22	1,137,600	9	20	125,900	−23	2	51807,000

[1] 1991 Baseline (Summit estimates).
[2] 1991 Summit agreement (Summit estimate).
1990 OMB Mid-session estimates.
Source: Office of U.S. Senator Don Nickles.

FEDERAL DEBT ANALYSIS—1940 TO 1991

End of fiscal year	Gross Federal debt	Annual dollar change	Annual percent change	Debt held by the Government	Annual dollar change	Annual percent change	Debt held by the public	Annual dollar change	Annual percent change	Debt subject to the debt-limit	Annual dollar change	Annual percent change
1940	50,696	N/A	N/A	7,924	N/A	N/A	42,772	N/A	N/A	43,219	N/A	N/A
1941	57,531	6,835	13	9,308	1,384	17	48,223	5,451	13	49,494	6,275	15
1942	79,200	21,669	38	11,447	2,139	23	67,753	19,530	40	74,154	24,660	50
1943	142,648	63,448	80	14,882	3,435	30	127,766	60,013	89	140,469	66,315	89
1944	204,079	61,431	43	19,283	4,401	30	184,796	57,030	45	208,077	67,608	48
1945	260,123	56,044	27	24,941	5,658	29	235,182	50,386	27	268,671	60,594	29
1946	270,991	10,868	4	29,130	4,189	17	241,861	6,679	3	268,932	261	0
1947	257,149	(13,842)	−5	32,810	3,680	13	224,339	(17,522)	−7	255,767	(13,165)	−5
1948	252,031	(5,118)	−2	35,761	2,951	9	216,270	(8,069)	−4	250,381	(5,386)	−2
1949	252,610	579	0	38,288	2,527	7	214,322	(1,948)	−1	250,965	584	0
1950	256,853	4,243	2	37,830	(458)	−1	219,023	4,701	2	255,382	4,417	2
1951	255,288	(1,565)	−1	40,962	3,132	8	214,326	(4,697)	−2	253,284	(2,098)	−1
1952	259,097	3,809	1	44,339	3,377	8	214,758	432	0	257,233	3,949	2
1953	265,963	6,866	3	47,580	3,241	7	218,383	3,625	2	264,220	6,987	3
1954	270,812	4,849	2	46,313	(1,267)	−3	224,499	6,116	3	269,379	5,159	2
1955	274,366	3,554	1	47,750	1,437	3	226,616	2,117	1	272,348	2,969	1
1956	272,693	(1,673)	−1	50,537	2,787	6	222,156	(4,460)	−2	270,619	(1,729)	−1
1957	272,252	(441)	0	52,932	2,395	5	219,320	(2,836)	−1	269,120	(1,499)	−1
1958	279,666	7,414	3	53,330	398	1	226,336	7,016	3	275,395	6,275	2
1959	287,465	7,799	3	52,854	(566)	−1	234,701	8,365	4	282,419	7,024	3
1960	290,525	3,060	1	53,685	921	2	236,840	2,139	1	283,827	1,408	0
1961	292,648	2,123	1	54,291	606	1	238,357	1,517	1	286,308	2,481	1
1962	302,928	10,280	4	54,918	627	1	248,010	9,653	4	295,374	9,066	3
1963	310,324	7,396	2	56,346	1,428	3	253,978	5,968	2	302,923	7,549	3
1964	316,059	5,735	2	59,210	2,864	5	256,849	2,871	1	308,583	5,660	2
1965	322,318	6,259	2	61,540	2,330	4	260,778	3,929	2	314,126	5,543	2
1966	328,498	6,180	2	64,784	3,244	5	263,714	2,936	1	316,293	2,167	1
1967	340,445	11,947	4	73,819	9,035	14	266,626	2,912	1	323,143	6,850	2
1968	368,685	28,240	8	79,140	5,321	7	289,545	22,919	9	348,534	25,391	8
1969	365,769	(2,916)	−1	87,661	8,521	11	278,108	(11,437)	−4	356,107	7,573	2
1970	380,921	15,152	4	97,723	10,062	11	283,198	5,000	2	372,600	16,493	5
1971	408,176	27,255	7	105,139	7,416	8	303,037	19,839	7	398,650	26,050	7
1972	435,936	27,760	7	113,559	8,420	8	322,377	19,340	6	427,751	29,101	7
1973	466,291	30,355	7	125,381	11,822	10	340,910	18,533	6	458,264	30,513	7
1974	483,893	17,602	4	140,194	14,813	12	343,699	2,789	1	475,181	16,917	4
1975	541,925	58,032	12	147,225	7,031	5	394,700	51,001	15	534,207	59,026	12
1976	628,970	87,045	16	151,566	4,341	3	477,404	82,704	21	621,556	87,349	16
1977	706,398	77,428	12	157,295	5,729	4	549,103	71,699	15	699,963	78,407	13
1978	776,602	70,204	10	169,477	12,182	8	607,125	58,022	11	772,691	72,728	10
1979	828,923	52,321	7	189,207	19,730	12	639,716	32,591	5	827,615	54,924	7
1980	908,503	79,580	10	199,212	10,005	5	709,291	69,575	11	908,723	81,108	10
1981	994,298	85,795	9	209,507	10,295	5	784,791	75,500	11	998,818	90,095	10
1982	1,136,798	142,500	14	217,560	8,053	4	919,238	134,447	17	1,142,913	144,095	14
1983	1,371,164	234,366	21	240,115	22,555	10	1,131,049	211,811	23	1,377,953	235,040	21
1984	1,564,110	192,946	14	264,159	24,044	10	1,299,951	168,902	15	1,572,975	195,022	14
1985	1,816,974	252,864	16	317,612	53,453	20	1,499,362	199,411	15	1,823,775	250,800	16
1986	2,120,082	303,108	17	383,919	66,307	21	1,736,163	236,801	16	2,110,975	287,200	16
1987	2,345,578	225,496	11	457,444	73,525	19	1,888,134	151,971	9	2,336,014	225,039	11
1988	2,600,753	255,175	11	550,508	93,064	20	2,050,245	162,111	9	2,586,869	250,855	11
1989	2,866,188	265,435	10	676,860	126,352	23	2,189,328	139,083	7	2,829,770	242,901	9
1990	3,206,100	339,912	12	807,200	130,340	19	2,399,000	209,672	10	3,162,700	332,930	12
1991	3,521,500	315,400	10	948,400	141,200	17	2,573,000	174,000	7	3,478,600	315,900	10

Mr. SYMMS. Mr. President, the reconciliation bill increases the limit on the amount of public debt by $1.9 trillion. This outrageous amount, which is either the biggest, or one of the biggest debt increases in America's history, is expected to make it unnecessary for the Congress to raise the debt limit for a number of years. The amendment we have introduced to this bill would increase the public debt limit. That is, we lower the amount by which the debt limit could increase.

We introduce this amendment for two reasons. First, because we feel it is important that all Members of Congress face the effects of our deficits on the national debt on a reasonably frequent and tangible basis.

Our second reason for proposing this amendment relates to the great freedoms we enjoy in the Senate. As we all know, the periodic increase in the debt limit offers Senators an attempt to alter the Nation's tax code. And as we have seen, despite assurances that are given along the way, Senators have precious little opportunity to obtain a fair and reasonable vote on the Senate floor on tax matters during the reconciliation process.

The bill as written would foreclose for some years this most rare and important opportunity for Senators on both sides of the aisle to achieve their tax policy objectives. Our amendment would reestablish a more normal schedule for increasing the debt limit and would, therefore, preserve Senators' ability to legislate.

The PRESIDING OFFICER. The Chair will inform the Senator from Oklahoma the time allocated to him has expired.

Under the previous order, the Senator from Tennessee [Mr. SASSER] is recognized.

Mr. SASSER. Mr. President, the provision which the distinguished Senator from Oklahoma opposes would be a provision which will allow a 5-year debt limit ceiling. And what this would mean in essence is that the Senate would not have to vote every year on extending the debt limit ceiling.

We all know what happens over here. The debt limit bill comes up; the

leadership puts it off until the last minute, for good reason. There are hundreds of amendments that are held out to tack onto this must legislation. The result is that the Senate, on many occasions, works all night long for hours and passes all kinds of legislation, I submit, Mr. President, without the careful analysis that this legislation would ordinarily receive.

Raising that debt limit has become, unhappily, over the past half century or longer, more or less a mechanical routine, something that occurs every year that the Federal Government is in operation. So we are simply unduly complicating things if we go back to the Senator's proposal that we do it for 1 year. We want a 5-year debt limit ceiling because we are passing a 5-year reconciliation bill that will save $500 billion over 5 years. Then at the end of 5 years, when the 5-year provision is expired, then we can look at the debt and make provisions at that particular time.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. SASSER. I am delighted to yield to the distinguished Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me just say this is really a matter for the Senators to decide. The distinguished Senator from Oklahoma makes a point that he would prefer that we vote on the debt limit every year, so he has come up with the best estimate of the public debt increase over the next year.

Those who worked on this package thought that we ought to make an estimate of both the new debt over the next 5 years and the amount of public debt that results by investing trust accounts. And we estimated it.

And we said rather than meet each year and do it, use a 5-year estimate, $500 billion of which is new debt for the unified budget, for the public activities that we budget for. The rest is because we are investing trust fund accounts, and that causes public debt to increase. As you invest them, the debt goes up because you owe them.

If the Senate wants to do it every year, they ought to vote for the Senator from Oklahoma. If they want to say let us not do this every year, let us take a longer look, a longer period of time, then they ought not vote for him.[S18OC0-M5]{S15785}for him.

The PRESIDING OFFICER. All time has expired.

Under the previous order, the Senator from Iowa [Mr. HARKIN] is recognized.

AMENDMENT NO. 3035

(Purpose: To reinstate the $75 Medicare part B deductible and to impose a surtax on income over $1,000,000)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. RIEGLE, Mr. SIMON, Mr. BRYAN, Ms. MIKULSKI, Mr. KENNEDY, Mr. AKAKA, Mr. HATFIELD, Mr. DECONCINI, Mr. GRAHAM, and Mr. ADAMS, proposes an amendment numbered 3035.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 6162 and insert the following new section:

SEC. 6162. SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000.

(a) GENERAL RULE.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000

"Sec. 59B. Surtax on section 1 tax.
"Sec. 59C. Surtax on minimum tax.
"Sec. 59D. Special rules.

"SEC. 59B. SURTAX ON SECTION 1 TAX.

"In the case of an individual who has taxable income for the taxable year in excess of $1,000,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 18 percent of the amount which bears the same ratio to the tax imposed under section 1 (determined without regard to this section) as—

"(1) the amount by which the taxable income of such individual for such taxable year exceeds $1,000,000, bears to

"(2) the total amount of such individual's taxable income for such taxable year.

"SEC. 59C. SURTAX ON MINIMUM TAX.

"In case of an individual who has alternative minimum taxable income for the taxable year in excess of $1,000,000, the amount of the tentative minimum tax determined under section 55 for such taxable year shall be increased by 18 percent of the amount which bears the same ratio to the amount of such tentative minimum tax (determined without regard to this section) as—

"(1) the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds $1,000,000, bears to

"(2) the total amount of such taxpayer's alternative minimum taxable income for such taxable year.

"SEC. 59D. SPECIAL RULES.

"(a) SURTAX TO APPLY TO ESTATES AND TRUSTS.—For purposes of this part, the term 'individual' includes any estate or trust taxable under section 1.

"(b) TREATMENT OF MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$500,000' for '$1,000,000'.

"(c) COORDINATION WITH OTHER PROVISIONS.—The provisions of this part—

"(1) shall be applied after the application of section 1(j), but

"(2) before the application of any other provision of this title which refers to the amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $1,000,000.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

Mr. HARKIN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator is entitled to 5½ minutes under the previous order.

Mr. DOMENICI. I wonder if the distinguished Senator will permit me to make a request so that somebody will manage the bill in my stead.

Mr. HARKIN. Not on my time. I don't have much.

Mr. DOMENICI. Not the Senator's time. I designate Senator DANFORTH of Missouri to manage the time and the subject matter on our side.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Iowa [Mr. HARKIN] may proceed for 5½ minutes under the previous order.

Mr. HARKIN. Mr. President, I am offering this amendment on behalf of myself and Senator RIEGLE as well as Senators SIMON, ADAMS, BRYAN, MIKULSKI, KENNEDY, AKAKA, HATFIELD, DECONCINI, and GRAHAM.

Mr. President, our amendment is very simple and straightforward. It would ease the burden in this package on the elderly sick and ask the richest of the rich to pay a fairer share. Specifically, it would eliminate the doubling of the Medicare part B deductible from $75 to $150 called for in the bill and replace those revenues with that derived from imposing a surcharge of 18 percent on the income tax paid on taxable income over $1 million a year. This would mean a tax rate of 33 percent on taxable income over $1 million a year.

The basic elements of our amendment were adopted by the House. So what we are proposing is nothing new. In fact, our amendment results in an effective tax rate of 2.6 percent less on this income than the bill passed by the House.

Our amendment is supported by most of the major groups representing older Americans and American workers including: Families USA, the National Council of Senior Citizens, the AFL-CIO, the United Autoworkers, the National Committee to Preserve Social Security and Medicare, National Council on the Aging, and the Older Women's League.

Mr. President, our amendment is about fairness. Older Americans are already overburdened with high health care costs. As this chart clearly shows, over the past decade, the elderly have been forced to pay more and more out of their own pockets for the health care they need. Their out-of-

pocket costs have more than tripled since 1977, leaping from $712 to $2,394 in 1988. Because increases in the cost of medical care have outpaced increases in Social Security benefits, seniors are now forced to spend a larger percentage of their incomes on needed health care than they did before Medicare was established. As this chart indicates, while seniors spent about 15 percent of their budget on medical care in 1965, the year Medicare was enacted, they are spending over 18 percent of their incomes today. Our senior citizens are being saddled with an ever-increasing burden of health care costs; most are already paying more than they can afford. Let's take a look at a typical older American—an elderly widow living alone. She's 75, just lost her husband of 50 years and is just starting to have some increased medical needs. In Iowa, the average widow receives $526 a month in Social Security benefits and has little other source of support besides this. She stretches every dollar to make ends meet, carefully planning out a budget for food, utilities, medical care and other necessities down to the dollar. Yet, because of rising heating costs and several trips to the doctor, she is having to cut back on other necessities even further. To this elderly widow, the $75 increase in the deductible before Medicare starts to help pay her doctor bills, would mean the choice between going to the doctor when she's sick or buying the food she needs. For her, $75 is more than 2 weeks worth of groceries or a month's worth of needed medications. For her, and literally millions of older Americans like her, our cold budget numbers can mean the difference between making it and not.

The woman I described is fairly typical. The average older Iowan living alone has an income of $9,000 a year or $750 a month. For about two-thirds of older Iowans, their monthly Social Security check—which average $560—is their main source of income. The increased Medicare payments called for in the reconciliation bill would effectively cut the average older American's Social Security cost of living adjustment by more than half. And the deductible increase in particular hits the sickest and poorest senior citizens the hardest. Those most unable to pay are asked to pay more.

Mr. President, on the other end of the spectrum, there is group of Americans which has gotten off over the past decade with not paying its fair share. We raise the funds to reduce the burden on the elderly sick by providing a surcharge on the super rich—on the taxes they pay on their income over a million dollars a year. This small group of millionaires, decamillionaires and billionaires has benefited the most from the tax policy of the past decade. As this chart clearly shows, over the past decade, the richest of the rich have gotten richer and at the same time have paid dramatically less in taxes. The top 1 percent of American earners have nearly doubled their real income since 1977, rising some 96.2 percent—96.2 percent. Over the same period, their tax rate has decreased 23.2 percent.

This other chart dramatically shows the unfair drop in the richest of the rich's share of the tax burden. While middle income Americans will pay $8.4 billion more in total taxes this year than if the effective tax rate was what it was in 1977, the richest 1 percent of Americans will pay $39 billion less.

Mr. President, our amendment is not even talking about all of those in the top 1 percent. The average person in the top 1 percent of income doesn't make half of what he or she would need to make to be touched by this amendment. Although the average person in the top 1 percent of income in our country makes $549,000 per year, after tax breaks allowed under the Tax Code, such a person has a taxable income of a mere $400,000, less than half the income level required to be touched by our amendment. We are talking about the superrich—those who earn, after all of their deductions, exclusions, and other benefits and loopholes that their accountant can find, more than $1 million in a single year. And we are talking about increasing their effective tax rate on income over a million from 28 percent to about 33 percent. Let's take a look at some of the people our amendment would affect and how it will affect them.

Who are we talking about taxing? One group is top executives of major companies.

Some make more than $10 million per year. Their families live on at least $200,000 per week.

And they include:

The head of Reebok International, who had a total salary and compensation from the company of $14,606,000 in 1989. Now, we are not talking about any additional income on his outside investments, just salary and compensation and stock from that company. That is $280,000 per week;

The head of BHC Industries, with salary and compensation of $13,687,000;

The head of Freeport-McMoran, with $13,517,000 in salary and compensation; and

The head of Coca-Cola, with $10,814,000 in salary and compensation.

Will this tax mean that they don't buy a spare $10,000 watch? Perhaps. But, I think that is better than some elderly citizens cutting back on heat in the winter and a good breakfast in the morning. We have a chance to choose and I believe that the very rich, making a million dollars a year should pay more and the elderly sick should have a smaller portion of the burden.

The wealthiest Americans are those billionaires in our country, people whose assets are in excess of $1 billion, not million, billion.

These are people whose incomes are usually in excess of $100 million per year.

I believe these individuals can be asked to contribute a little more in order to hold down costs for the elderly. Instead of having elderly people making $11,000 per year pay more for Medicare.

These billionaires, on average, are making $11,000 per hour. Can they afford to pay an extra 5 percent? I think that they can.

I don't think this is going to pinch their lifestyles unduly.

So Mr. President, this amendment just asks for a little more fairness. Plain and simple. It says that those who have benefited the most over the past decade should be asked to pay a little bit more so that the elderly sick can get a little relief.

Now some may argue, Well, older people need to pay their fair share. They should pay something toward deficit reduction. First, the elderly are not exempted from all of the increases called for in this bill. There's no age 65 cutoff on the gas tax. They pay just like everyone else. Second, the fact is that even without the higher deductible on Part B, seniors would still be paying about $10 billion more in Medicare costs over the next 5 years than they would under current law. They will see their premiums and copayments rise. The elderly are already paying more than their fair share. Let's not add to their burdens.

Mr. President. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 42 seconds remaining.

Mr. HARKIN. Senator HATFIELD wished to speak on this. I reserve the remainder of my time.

The PRESIDING OFFICER. Under the previous order the Senator from Missouri [Mr. DANFORTH] is recognized with 5½ minutes under his control.

Mr. DANFORTH. Mr. President, charts have blossomed on the floor of the Senate. A chart is your passport to get on the floor these days, and I am not going to be outdone by anybody. I have 5½ minutes to talk about four charts. But I think that the four charts are very, very illuminating and, as a matter of fact, I am very proud of my four charts. They go to the question of the cost of health care, which is the basic problem that is before us, and it is going to be before us for a long time to come.

Mr. President, the first chart shows the average annual growth of Federal outlays in various components of the various budgets by the decade begin-

ning in the 1970's. As you can see, Mr. President, the orange bar, which is health care, grew in the 1970's 15.9 percent, compared to a total growth of Federal spending of 11.7 percent. In the 1980's, health care grew at 10.5 percent, exceeded only by interest on the national debt, 10.5, compared to a total growth in Federal spending annually of 7.7.

Projected by the Congressional Budget Office for the first 5 years of the 1990's, health care, which is the orange bar here, 10.9 percent; second is Social Security, 6.3 percent; total increase, 4.7 percent. This is the problem of the Federal budget in general.

Now, Mr. President, a very interesting chart indicating that by the year 2007, Medicare will become the largest single item in the Federal budget, passing Social Security in the year 2007, passing national defense a few years before that.

The third chart. The question is, how fast are deductibles rising? The first deductible in 1965, when we first had Medicare, was $50. the present deductible is $75. The Finance Committee's bill would increase it to $150. If we had indexed for inflation, the Consumer Price Index, the original $50 deductible in 1965 would increase not to $150 under this bill, but to $225. If we indexed if for the medical consumer price index, the deductible would not be $150 under this bill but $275. The deductible increase has far from kept up with inflation much less medical inflation.

The final chart. Over the next 5 years, which is the period that we are talking about in this budget, the entire pie here is the total increase projected cost of Medicare. Under what we are talking about in this legislation, a total of $20.9 billion will be paid for by the elderly. Part of that is the deductible in part A, part of it is the deductible and the coinsurance and the premiums in part B. The total increase in the health care costs to the beneficiaries over this 5-year period of time is $20.9 billion, but the total cost to everybody else, that is, the people on the work force who are paying the payroll tax and the Treasury, under part B is $73.5 billion.

Now, the point that is made by the advocates of this amendment is that this green slice of the total pie is too large. They want to reduce, maybe cut in half, this green slice of the pie. I think that this is a pretty fair deal for the beneficiaries under Medicare, and I think the real problem we have to deal with is the cost of Medicare.

How much time do I have remaining Mr. President?

The PRESIDING OFFICER. The Senator has 54 seconds remaining.

Mr. DANFORTH. I yield that to the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I rise to speak to another controversial and frequently misunderstood area, the Medicare Program. You have all probably heard budget-related concerns expressed by your aged constituents over alleged cuts in the Medicare Program. Unfortunately, the term "cuts" as the average person understands it and as budgeteers use it are two different things. When we talk inside the Beltway about cuts in Medicare we mean reductions in increases in areas such as provider payments, not reductions in benefits or services. This is poorly understood outside of Washington and has raised false alarms among our older citizens who fear wrongly that we are retrenching on our commitment to the Medicare Program. The fact is we are taking important steps to sustain the future viability of the program. The truly unfortunate aspect of this is that these needed policy changes have to be done on the annual budget bill, which causes them to get caught up in deficit reduction rhetoric, rather than being evaluated on their own merits.

For instance, the Finance Committee package takes serious steps to constrain aggregate spending increases for hospital and physician services, while improving reimbursement and access to primary care, community health centers and the services of health professionals practicing in rural areas. We also took initiatives to correct inequities in how certain classes of providers are treated under the program and to give beneficiaries greater protection with respect to how certain benefits are administered. These include phasing out unsupportable differentials in prospective payments to rural and urban hospitals; eliminating the arbitrary 210-day limit on hospice benefits for the terminally ill; authorizing assitance in the home for certain end-stage renal disease beneficiaries on home dialysis. The list of improvements is extensive.

Further, a number of us collaborated on the first major reform in a decade of standards regulating the sale to beneficiaries of private insurance benefits that are supplementary to Medicare. These are widely known as Medigap policies. Our proposals will help make sure that beneficiaries receive better value when they purchase wrap-around policies, and be better able to make valid price and benefit comparisons. We also worked to address problems plaguing the prepaid health care contracting program in order to improve the availability of managed care options for Medicare beneficiaries.

Unfortunately, these substantial successes have been virtually obliterated by debate over budget summit proposals that would impose higher cost-sharing on beneficiaries. Turning to the major issue of beneficiary contributions to the program, I have thought long and hard about what I think is appropriate and equitable in the areas of premiums, deductibles and copayments. But first, a little history is in order. Since its inception in 1966, the Medicare Program has been divided into two parts—one mandatory and one voluntary. The mandatory part is part A or the hospital insurance benefit. This is financed through payroll taxes on current workers. In 1989, 136 million workers contributed $68.4 billion in payroll taxes to the HI trust fund. This financed $60.8 billion in hospital services for 33 million eligible beneficiaries. It is important to understand that no significant changes to part A were proposed as part of the budget summit agreement, nor in the Senate package.

However, changes were proposed to part B or the supplementary medical insurance portion of the Medicare Program. This is the part that protects against the cost of doctors and other types of medical bills. Enrollment in part B is voluntary and purchase of the coverage is analogous to purchase of yearly, renewable term insurance. It is a popular program—in 1989, 32 million beneficiaries were enrolled or over 98 percent of the eligible population.

Part B is financed from premiums paid by the aged, disabled and chronic renal disease enrollees and from the general revenues. The hybrid financing makes it an odd specimen, part social insurance and part private insurance. But make no mistake, it is just as subject to the pressures of health care inflation as any private insurance package. The premium rate is derived annually based upon projected part B costs for the coming year. Originally, the premium was set to cover one-half of the costs of the program for the aged. Subsequent law changes linked increases in the premium to the percentage by which cash benefits were increased under the COLA provisions of the Social Security Program. As a result of this formula, premium income, which originally financed half of the costs of part B has seriously declined to less than 25 percent of total program income. The current premium is $28.60 a month or $343.20 a year.

In addition, beneficiaries have to meet a deductible of $75.00. This deductible has changed only once (from $50 to $75) in 25 years! How many private insurance packages can make the same claim? I would bet none, in this era of rising health care costs and increased cost-sharing by insureds. In fact, according to the U.S. Department of Labor, over 30 percent of employees covered under employer-based health benefit plans had deductibles greater than $150.

But let us return to the Medicare Program and look more closely at what has happened. Since 1965, part B spending per enrollee has increased a

whopping 1,370 percent. The premium increases have lagged behind considerably in real terms, growing only 850 percent. The deductible has grown only 50 percent. Let me highlight what this really means. If the deductible had kept pace in value with that of the benefit, it would now be nearly nine times higher than it is, or $736, not $75. If the premium had kept pace, it would be over $700 a year, not $343.

If we acted now in accordance with what the founders of the Medicare Program thought was fair and reasonable, these are the kinds of numbers we would be talking about. But, we are not. Instead, we are proposing truly modest increases by setting the premium contribution at 25 percent and by raising the deductible to $150. In my mind, these are not deficit reduction changes, but legitimate changes that are entirely consistent with the original intent and structure of the Medicare Program.

It is also important to keep in mind that as a group, the elderly have experienced the greatest gains in real income—about a 14-percent rise—over the last decade. Despite this, there are many aged people who live on very low incomes. Therefore, we have improved protection for beneficiaries at or below the poverty line for whom even these modest increases are difficult. Over the past few years, we have used the Medicaid Program as a vehicle for protecting what are known as qualified Medicare beneficiaries through the concept of the Medicare buy-in. Under this program, the Federal Government and the States share in the costs of relieving low-income beneficiaries of their Medicare cost-sharing liabilities.

Mr. President, I congratulate my colleague, Senator DANFORTH, not for his colorful presentation, but for his sense of realism. We are not doing a deductible on medicare here to cut the deficit. We are doing a deductible on Medicare because it is the only time we can do Medicare. This is the only time we can improve the Medicare Program for the 33 million elderly in America.

The reality of those charts show us that, while the percentage of the $75 deductible has remained the same for 14 years for 33 million elderly, it has gone up by almost 1000 percent, on the average, for all working Americans. We are just trying to make this an insurance program which it is supposed to reflect some of the realities and to protect the elderly of America from the usual deductibles that you see in all other health insurance plans.

So I urge opposition to this amendment. I am in favor of tabling it.

The PRESIDING OFFICER. The Chair informs the Senator from Missouri that the time allocated to him has expired.

The Senator from Iowa has 2 seconds remaining under this control.

Mr. SASSER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged against the Senator from Iowa.

The PRESIDING OFFICER. Without objection, it is so ordered. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. I yield to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa [Mr. HARKIN] is recognized for 42 seconds.

Mr. FOWLER. Mr. President, may we have order?

The PRESIDING OFFICER. Senators are urged to carry on their conversations in the cloakroom or off the floor so the Senator may be heard.

Mr. HARKIN. Let me state for the record, the last thing I want to do is cause anyone any discomfort here on the floor or put anyone in any bad position or situation. But I must say I feel very strongly about this. I feel this is an amendment that really speaks for itself and one which, I believe, can give direction or guidance to the conferees and one which I believe has the support of the largest crosssection of the American populous. If I did not believe so, I would not have offered the amendment in good faith.

But I do believe this is something that this body ought to speak on very loudly. I hope Senators can support it because it does speak about basic fairness and equality in our society.

Mr. RIEGLE. Mr. President, I am very concerned about the impact of Medicare cuts on senior citizens and disabled persons. The total Medicare cuts are $51 billion over 5 years. The Senate Finance Committee package has $34 billion in cuts to providers. In addition, this package takes $17 billion directly out of the pocket's of beneficiaries by raising the part B deductible for doctor bills to $150 per year, an increase of $75; maintaining the part B premium at 25 percent of program costs; and imposing a 20-percent coinsurance for labs fees.

One of the most problematic Medicare cuts is the increase in the part B deductible. Medicare beneficiaries would have to pay $150 out of their own pockets before Medicare would pay for their doctor bills. This is twice the current level of $75 a year.

Increasing the part B deductible hurts only those Medicare beneficiaries who are sick and require health care. Seventy-five percent of seniors are expected to pay the full deductible every year because of their immediate health care needs. It takes needed out-of-pocket income away from our Nation's sick seniors and disabled people in the same way as a cut in the Social Security COLA.

Our proposal would eliminate the increase in the part B deductible. This would be offset by imposing a small surtax on taxable income over $1 million a year, making this amendment budget neutral. The amendment would reduce the Medicare cuts by $6.2 billion over 5 years.

The Medicare Program has been cut more than any single domestic program in recent years. Changes to Medicare enacted over the past 6 years are projected to be almost $12 billion. Additional excessive cuts in Medicare will undermine the system, reducing quality of care and potentially limiting the availability of health care to people.

A $75 per year increase in the part B deductible will adversely affect seniors, and particularly low-income persons. The projected average yearly Social Security COLA increase is about $325. The part B deductible increase translates to an over 20 percent COLA cut for a person paying the full deductible. Congress would not be able to get enacted a COLA cut of that degree. As I stated earlier, 75 percent of seniors are expected to pay the full deductible of $150 per year.

The cost to the average senior citizen under the Medicare part B program has been growing over the last 20 years. Seniors already lose part of their Social Security benefit to high Medicare costs. The current total out-of-pocket costs for seniors—$803 a year—is greater than an average monthly Social Security check of $600. This reduces the average total Social Security benefit by 11 percent a year. Social Security is the major source of income for the majority of seniors in this country. Social Security provides over one-half of total income for 61 percent of beneficiaries and contributes almost all of the income, 90 percent or more, for one-fourth of Medicare beneficiaries.

Low-income people will be more adversely affected by these cuts. They are more likely to rely on Social Security. In the finance bill, we accelerate Medicaid coverage for those below poverty by 1 year and give States the option to cover seniors with incomes up to 125 percent of the poverty line. This option is not enough. Only 210,000 near poor seniors are anticipated to receive benefits. There are, however, 2.3 million near poor seniors with incomes above poverty but less than 125 percent of the poverty level. The House requires Medicaid coverage, with full Federal financing, for low-income seniors with incomes up to 125 percent of the poverty level. I fully expect us in the Senate-House conference to come out with greater

protections for this especially vulnerable group.

Mr. President, these increased Medicare costs will also lead to increased Medigap premiums for the majority of seniors who purchase Medigap insurances to supplement their Medicare benefit. If these provisions are enacted, it will be even more critical that we enact Medigap consumer protection provisions that the Finance Committee has been developing.

The Finance package includes provisions to prevent fraud and abuse in the Medigap supplemental health insurance market. It prohibits the sale of policies that duplicate benefits and provides stronger enforcement mechanisms than currently exist. A provision I authored to simplify the Medigap insurance market is also included. Simplification would result in standard alternatives across States so seniors can compare policies and get the most value for their money. Currently, there are hundreds of competing, nonidentical policies which consumers cannot evaluate. My provision simplifies a confusing and complicated system.

Mr. President, we are substituting for these cuts a surcharge that would raise the bracket for taxpayers with taxable incomes above $1 million. It would create a new marginal tax rate for these individuals of only 33 percent. As you can see, the tax rate on those earning more than $1 million is still 3 percent below the 36.3 percent amount in the House bill as a result of their imposition of a surcharge.

This proposal is more like bursting the bubble, but at $1 million. The wording in this amendment with respect to whom the surcharge would apply is the same as that contained in the House reconciliation bill. Individuals, estates, and those subject to the alternative minimum tax [AMT] would be treated as in the House bill.

In the name of fairness and equity, this amendment should be passed. Some say that this amendment sticks it to the rich. This represents a slight and modest tax increase on the wealthiest people in our society and reduces the burden placed on many in our society who can least afford cuts in Medicare.

Mr. SIMPSON. Mr. President, I feel compelled to rise and detail my opposition to this proposal—even though I know that it is undoubtedly one big political winner, because I want it known exactly what we're talking about here. On the surface, what could make more sense than something like this: "Tax the rich. They've got the money, those rotten bums. They can bail us out of our predicament. Why should any of the rest of us suffer?"

There is a very inescapable reason why the rest of us are going to have to suffer, and it is called the national debt. Has anyone missed that point? Remember that it is 3½ trillion bucks that we have to repay; $196 billion in interest is what we expect to pay in this coming fiscal year alone.

Does anyone here actually believe that the Nation's problem is solely one of insufficient taxation of the rich? I have been down here before with all of the facts and figures showing that total confiscation of all of the wealth of all of the people earning more than $100,000 would run the country for about 4½ months. Let's here make a more relevant comparison, directly pertaining to the proposal presented by the Senator from Iowa. That proposal is to apply a 10 percent surtax on taxable income over $1 million. Why stop there? Why not just take it all if that is the problem?

Let's take a look at that: Let's take all of the money of those evil millionaires, and multiply our surcharge intake tenfold; instead of $7.6 billion, we'll take all of that money in excess of an income of $1 million and bring in $76 billion and that assumes, of course, that nothing changes that even though we're going to take all of that money past $1 million, all of those people will continue to work and earn just as they are expected to now—hardly realistic. What a joke.

So how far have we then come? Have we paid off our debt? Not exactly. We would have enough revenue to run the Government for 21 days—3 weeks. So hear that? That is not going to help us avoid having to make those tough choices in other parts of the budget.

If we really intend to get the deficit under control, we are going to have to face facts about where our money is going—48 percent of our spending is now going into some form of entitlements—and that share is rising rapidly.

I want that so clearly understood that is where the money is. And—and this is crucial—that spending all has increases built right into the law. Prior to the budget summit, the Federal Government planned to increase its spending on Medicare at a rate of 11.6 percent per year. The summit agreement would have trimmed that to 10 percent.

Only in Washington is a 10-percent increase in annual spending called a cut. But we do call it a cut and so the media has a field day, blasting our victimization of the elderly and demanding that the rich pay their fair share so that that does not have to happen. But something does have to happen—there are rich elderly, too—and they now can have 75 percent of their Medicare payments subsidized by Joe—and Josie—Six Pack. Forget taxing the rich—some of that money is paying the rich. You cannot balance a budget by refusing to touch spending which is going up at twice the rate of inflation. No amount of taxation can keep up with that. You can't stay even, much less achieve deficit reduction.

Given that situation it is absolutely amazing that entitlements were sheltered to the degree that they were in the budget summit, they accounted for only 23.8 percent of the deficit reduction, despite being 48 percent of our current spending—and that, I remind my colleagues, would have only been a $119 billion savings from planned increases—not a cut in any honest sense.

This is what we have before us on Medicare—$49 billion in savings over 5 years—and $32 billion of that is completely in the area of reductions to health-care providers—not to recipients. Cuts pertaining to beneficiaries make up only $17 billion of that amount—slightly more than one-third. How would beneficiaries actually be affected? Part B premiums now stand to go up by an amount of—zero in 1991, zero in 1992, $3.20 in 1993, and a total of $9.80 by 1995. Nine dollars and eighty cents over 5 years. Just for comparison, assume you get $5,000 a year annually from Social Security. If you received only a 3-percent cost-of-living adjustment every year for 5 years, your annual income would have increased by nearly $800 by 1995. Your Medicare premiums, part B, voluntary Medicare premiums, would have gone up by only $9.80.

In addition, Medicare part B deductibles would be increased from $75, where it has been since 1982, to $150. That is what is being proposed. Compare that to what our grandchildren will face if we do not cut into entitlements. We in Congress have taken away $757 billion in annual spending under Gramm-Rudman-Hollings law and we say, you can't touch this, even in the event of a sequester. Well, just what are we going to touch? This amendment would remove a cut and add a tax—a tax on the rich.

Mr. President, I recall that, in December 1987, we faced a vote on whether agricultural corporations with gross receipts over $50 million should be required to switch to the accrual method of accounting, that is, whether they should stop being treated as family farms and thereby stop receiving millions of dollars in tax benefits. The Joint Tax Committee estimated that tabling that amendment cost $300 million in revenue over 3 years—revenue that we are now having to make up for in part with cuts in agriculture. The Senator from Iowa, now indignant and passionate over insufficient taxation of the rich, voted to table that measure and to give these huge agribusinesses a huge tax break at the eventual expense of the little guy family farmers.

So sometimes we forget about when and how we're defending the rich. I

want to ask my colleagues who they think the rich are. We're down here speaking about how Donald Trump and Leona Helmsley need to pay their fair share, unless, presumably, they use Medicare. At least those rich are not paid their salaries from the vaults of the Federal Treasury. On February 1 of this year the Senate passed a salary increase that raised our annual pay to $98,400. That was up from $89,500 where we had raised it in March 1987. Prior to that, Senate salaries were $77,400 a year, and given the pressures on the Federal budget I think that is quite a plenty. And I proved that by returning my pay increases every year to the U.S. Treasury, over $20,000 in this year alone. I write that check personally and it goes right back into the Treasury of the U.S. Government.

The people right here on this floor of the Senate complaining about the rich are being paid $98,400 every year by—yes—none other than Joe and Josie Six Pack. How many of those people out there in the real world do you think are earning $98,400 a year? Only about 2 percent of all of the individuals in the United States have incomes as high as $75,000, and that includes salary, Government benefits, or any other income, only 2 percent. That sounds like a pretty good definition of the rich to me, the top 2 percent of America's salary earners, we are earning what that group was earning before our salary hikes. But we passed those through and I accept responsibility for my part in that process, but I didn't take the bucks. Now that is in the pot of expenditures that we can't touch. That big money machine which is the U.S. Government is taxing Joe Six Pack and paying out that money to someone else, without regard for any demonstrated need. And all of those expenses are untouchable.

It is time that they ceased to be untouchable. We made some very slight progress with this budget package in slowing the snowballing of entitlements expenses. This is not the time to now undo even that small progress. It is time, however, to stop kidding the American people, to stop pretending that our debt can be paid without reforming the entitlements system in some way, means-testing on COLA's or however else. I want to ask my colleagues one question: What do they think is going to happen if we have increases in Medicare expenses of 11.6 percent a year forever? And similar increases in Social Security and other entitlements programs? Does anyone here on this floor really believe that we can just let that juggernaut keep rolling along forever? What is their answer to that terrible problem? Tax the rich? If we can't even effect a modest deceleration of entitlements spending, I can tell you with absolute certainty that we will not—no never—solve our deficit problem—whether we raise taxes or not. What are we doing to ourselves and more importantly to the people who sent us here? That is the real and only question. I strongly oppose this amendment and I respectfully ask my colleagues to do the same.

Mr. KENNEDY. Mr. President, as this amendment demonstrates, the budget reconciliation package raises numerous concerns about how the Nation will be able to meet the basic challenges that face us. Health care for the elderly is one of the most important of these challenges, but there are many others in areas such as education, housing and the homeless, and crime and drug abuse.

In my view, the reconciliation package places needless restrictions on our ability to meet these challenges. For the next 3 years, it puts separate caps on the amount of funds that can be allocated for each of the three broad categories of discretionary spending—defense, foreign aid, and domestic programs. If we want to fund a major new initiative, we must reduce some other program within the same category.

One obvious result of the separate caps is to prevent reductions in defense from being used to pay for initiatives in other areas such as education.

We have a drug problem that is ravaging our communities and threatening every American family; 37 million Americans have no health insurance coverage. The AIDS crisis has infected one and a half million Americans and threatens to bankrupt health institutions in major cities and rural areas across the country.

We have schools where half of the children never graduate. Early childhood education is an important tool—yet only a quarter of eligible children are served by Head Start—one of the most successful programs.

Millions of children suffer because decent child care is beyond the reach of most working families. Middle-income families are being priced out of higher education.

Yet the wealthiest Americans have seen their taxes decline, and we spend billions of dollars on cold war weapons that demonstrates our mislead priorities. It is essential, as we move ahead to implement whatever budget aggreement is enacted, that we avoid unreasonable restrictions on our ability to allocate our limited resources to the areas where the challenges are greatest.

The Medicare portion of the budget summit agreement was an unfair attempt, one again, to make every elderly American the scapegoat for the enormous budget deficits we face. The Finance Committee package, while making some improvements over the summit agreement, would still place too heavy a burden on Medicare beneficiaries.

Under the summit agreement, Medicare would have been cut by $60 billion over the next 5 years. Nearly half of these cuts—$28 billion would come from beneficiaries by increasing the part B deductible, linking the part B premium to 30 percent of program costs, and requiring a copayment for laboratory costs. The Finance Committee package reduces that burden somewhat by approximately a third, raising $17.6 billion from beneficiaries, but it is still grossly unfair to millions of senior citizens.

The Medicare part B deductible is the amount that elderly and disabled beneficiaries pay out of their own pocket for physician services. Under current law, this deductible is $75 a year. The budget summit agreement would double this level to $150, and the Senate Finance Committee proposal adopts the same increase. That increase leaves the elderly with a difficult choice. They will have to ask themselves in the future whether they are "$150 sick" before they decide to see a doctor. As a result, many will delay seeking health care they need.

The elderly currently spend 19 percent of their income on health care, compared to less than 6 percent for the average American. Moreover, the elderly have moderate incomes that are, on average, lower than the general population.

Another factor we must consider is the increasing cost of private Medigap coverage. Last year, many plans imposed increases of up to 40 percent on elderly policy holders. It adds insult to injury for Congress to increase the Medicare deductible. Eighty percent of the elderly have secondary coverage with either Medicaid or Medigap, but 20 percent of the elderly rely solely on Medicare for their health care protection.

For a decade, one of the highest priorities of Reagan and Bush administrations has been to increase the share of the part B premium. When the Medicare Program started, the premium was set at 50 percent of program costs. In 1976, because health care inflation had outpaced general inflation, Congress passed legislation capping the premium increase at the percentage increase in the Social Security COLA.

As a result of this cap, the share of part B program costs paid by beneficiaries declined to 25 percent by 1982. The Reagan administration made numerous attempts to restore the tie between the premium and program costs, and to raise the share of the program covered by the premium. Congress never adopted the full increases that President Reagan requested—which went as high as raising the premium to 35 percent of program

costs. Beginning with the budget reconciliation bill in 1982, however, Congress and the administration did adopt a series of temporary measures keeping the premium from falling below 25 percent of program costs.

The budget summit agreement proposed to raise the linkage to 30 percent. The current proposals by the House and Senate continue the temporary 25-percent rule. I disagree with this policy. I urge the Senate to let this rule expire, and return the part B premium to its linkage with the Social Security COLA.

The House package is preferable. It includes only $10 billion in beneficiary savings. It increases the deductible to $100, and the part B premium is held to 25 percent of program costs.

All three of the budget packages include an increase in the taxable limit for the Medicare payroll tax, the so-called HI tax. Under the summit agreement, the cap would be increased to $73,000 and raising $12.8 billion over the next 5 years. Under the Senate plan, the cap would be raised to $89,000, raising $19 billion. The House Democratic package would increase the cap to $100,000, raising $22 billion.

The HI tax is clearly regressive. There is no justification for any cap at all. Raising the cap even further would be good tax policy, and using these revenues to offset Medicare beneficiary cuts would represent good health policy as well.

I join with Senator HARKIN in the amendment that he is offering to the Senate package. I would prefer to go even further, by providing full protection at least for low-income elderly citizens against additional Medicare cost-sharing, and delinking part B premiums and program costs. But this amendment is an important step in easing the burden placed on the elderly by any increase in the part B deductible, and it will keep the deductible at its level under current law, $75. These reductions in the burden on the elderly will be offset by applying a surtax on the wealthiest Americans. This amendment means greater fairness for our senior citizens, and I urge the Senate to approve it.

I ask unanimous consent that a table indicating the revenue raised by increasing the cap on the HI tax to various levels may be printed in the RECORD.

I hope the Senate-House conferees will consider the alternative of raising the HI cap as a means of easing the burden on Medicare beneficiaries.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

REVENUE RAISED BY RAISING THE HI TAXABLE CAP FROM CURRENT LEVEL ($54,300 in 1991)

[In billions of dollars]

	Fiscal year—					5-year
	1991	1992	1993	1994	1995	
$73,000	0.9	2.7	2.9	3.1	3.3	12.8
Budget Summit						
$89,000	1.3	4.0	4.3	4.6	4.8	19.0
Finance						
$90,000	1.3	4.1	4.3	4.6	4.9	19.3
$100,000	1.5	4.7	5.0	5.3	5.6	22.0
Rostenkowski Plan						
$110,000	1.7	5.1	5.5	5.8	6.2	24.2
$120,000	1.8	5.5	5.9	6.2	6.6	26.1
$125,000	1.8	5.7	6.1	6.4	6.8	26.8
$150,000	2.3	6.4	6.8	7.3	7.7	30.6
Repeal	3.5	9.9	10.5	11.3	12.0	47.2

Source: Estimates from the Congressional Budget Office.

Mr. HATFIELD. Mr. President, during the past several months, I have been unable to support the budget agreements we have considered because a disproportionate share of the budget-cutting burden has been placed on the elderly. I cannot—and I will not—stand by and watch this Congress balance the budget on the backs of one of the most vulnerable segments of our population.

In my mind, Medicare and Social Security are nonnegotiable items. Period. End of statement. The integrity of these programs must be guaranteed. This amendment to eliminate the $75 per year increase in the Medicare part B deductible contained in this budget package is the bottom line for me.

Put simply, this amendment is absolutely essential to the health and well-being of our Nation, and I am pleased to add my support and cosponsorship to it.

Under this omnibus budget reconciliation bill, Medicare beneficiaries would have to pay $150 out of their own pockets before Medicare would pay their doctor bills. This means an increase of $75 per year for our senior citizens—an increase of 100 percent. This increase will have a disastrous effect on our elderly—particularly the hundreds of thousands of whom live at or below the poverty line.

To them, Mr. President, this deductible increase has the effect of a Social Security COLA cut in excess of 20 percent, for a person paying the full deductible.

Why Mr. President? Why should this burden fall unequally on our elderly? Many of my constituents ask me why Medicare seems to be easy prey for cuts every budget cycle. The reason, of course, is that the sheer size of the program makes it an attractive target. We all know that entitlement programs are growing by leaps and bounds, seemingly out of control. But instead of attacking the easy target for cuts, we must responsibly address the question of cost-containment. That's not what this package does.

I know, Mr. President, that the future growth predictions for Medicare are disturbing. If current growth trends continue, by the year 2004 the Medicare budget will equal the size of the defense budget of $300 billion; by the year 2012, medicare spending will exceed the combined budgets of the Social Security Administration and the Department of Defense; and by the year 2040, our entire GNP will go to Medicare.

As these alarming figures show, the issue of cost-containment cannot go unaddressed any longer. Instead of sacrificing our elderly, we must responsibly take action to reduce costs by strengthening our knowledge and our approaches to human needs.

I stand before my colleagues today as an advocate for the cost control which comes through medical research. Only through our investment in medical research can we find preventative treatments and cures which will reduce the future costs of health care. I have consistently fought for increased medical research funding and have been successful in obtaining increases for research on Alzheimer's disease and other aging-related ailments.

This year has been one of tremendous progress on these fronts. The Comprehensive Alzheimers Assistance, Research and Education Act [CARE], which I introduced with Senators METZENBAUM, GRASSLEY, and HARKIN, has been unanimously reported by the Senate Labor Committee and is awaiting floor action. This bill calls for a significant increase in funding for both research and support for caregivers. While this is pending, however, the Senate Appropriations Committee has moved forward in its commitment to addressing this devastating illness. This year alone, the Senate has provided $377 million for research at the National Institute on Aging—an increase of $138 million over last year.

In addition, Senator HARKIN and I introduced the "Independence for Older Americans Act" calling for a $1 billion increase in the federal research investment for all diseases and injuries which affect the elderly. I am pleased that a scaled down version of this legislation has also been reported from the Senate Labor Committee and will soon be considered on the floor.

In addition to key support for these efforts, the Senate Appropriations Committee has provided increased support for the timely processing of Medicare claims. Funding has increased by $475 million since 1986 to ensure that the needs of the elderly are met in the most effective and efficient manner possible.

This year alone, the Senate provided $15 million above the President's request—and $144 million over the 1990 funding level—to ensure that Medicare claims receive prompt and adequate attention.

Mr. President, I have laid out all these programs and initiatives to make a point: We have been moving forward. We've made tremendous progress this year—we've made a real commitment to the health and security of this Nation's older citizens. But this omnibus reconciliation bill is about to take us backward.

More to the point, it moves our senior citizens backward. Back into poverty—and back into the fear of not knowing how to make ends meet from 1 week to the next. That is clearly the wrong direction to take and the adoption of this amendment will correct it.

The PRESIDING OFFICER. The Chair informs the Senator his time has expired.

Mr. SASSER. Mr. President, I ask unanimous consent that the distinguished majority leader be recognized and the time not be charged against the amendments to follow.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, this will be the third time in less than 24 hours in which we voted on substantially the same issue. How many times is the Senate going to be asked to vote on the same issue? How many more Senators are going to craft amendments which are very attractive and which will require the Senate to go back over the same issue over and over and over again?

The Conrad amendment and the Gore amendment raised substantially the same issue that is raised here today. We are trying to get through this bill and get to the conference and complete action by the deadline of midnight tomorrow.

This is an attractive amendment. Who would not be attracted to the notion of imposing higher tax on those above a certain level and using the funds to reduce the cost of medicare to the beneficiaries? But we have to get a bill passed. We have to get this job done. I hope and pray that this is the last time we are going to vote on this issue, because it is the third time we are voting on this issue. And we have already disposed of it.

The Senate has spoken. I have made my views very clear. I say to the Senator from Iowa and other Senators, I agree with the thrust of these amendments. Once again, we face the same question we face so often in this body: Do we want to make a statement or do we want to make a law? I choose to make a law. For that, I am prepared to oppose amendments which I believe have merit because I know that the effect of their approval will be the opposite of that which is intended.

So I ask all Senators to join me in making clear for the third and last time that we want to finish action on this bill, we want to complete action on this bill, and we are going to refuse to waive the Budget Act for this purpose.

I understand the deeply held conviction of the Senator from Iowa. He is my friend and I have the greatest respect for him, but we have already decided this issue twice before. I do not see any reason why we have to keep on deciding the same issue in a slightly different form over and over again.

So with the greatest of respect and with the greatest of reluctance because I like the idea presented, I have been the principal advocate and the most outspoken Member of the Senate expressing the view that those whose incomes are the highest in our society should pay a high rate of taxation. That is not going to be the case.

So I urge my colleagues to join in refusing to waive this budget point of order and let us get on with the business before us and let us complete action on this bill tonight so that we can get to conference, get a conference report and complete action on that by tomorrow midnight. I thank my colleagues.

POINT OF ORDER: CONGRESSIONAL BUDGET ACT

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized.

Mr. SASSER. Pursuant to 305(b)(2) of the Budget Act, I raise a point of order that the pending amendment by the Senator from Iowa is not germane and I ask for the yeas and nays. I vitiate the request for the yeas and nays, Mr. President.

The PRESIDING OFFICER. The request is so noted. The point of order is raised.

The Senator from Iowa [Mr. HARKIN] is recognized.

Mr. HARKIN. Mr. President, I move to waive the point of order and ask for the yeas and nays.[S18OC0-B676]{S15792}and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. If the Senator will suspend, the vote will occur under the previous order in sequence as originally requested pursuant to the unanimous-consent agreement.

Under the previous order, the Senator from Iowa [Mr. GRASSLEY] is recognized for a period of 2½ minutes.

AMENDMENT NO. 3036

(Purpose: To impose a limitation on the implementation and collection of certain user fees)

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 3036.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 58, between lines 2 and 3, insert the following:

(c) CARGO PREFERENCE USER FEES.—(1) No user fee shall be collected pursuant to subsection (a) unless the Secretary has first established and implemented a system for the collection, for each of the fiscal years 1991 through 1995, plus an amount sufficient to compensate for inflation for that period, of user fees on United States-flag commercial vessels which win cargo preference shipment contracts pursuant to section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1241(b)), section 901b of the Merchant Marine Act, 1936 (46 U.S.C. 1241f), the Joint Resolution entitled "Joint Resolution requiring agricultural or other products to be shipped in vessels of the United States where the Reconstruction Finance Corporation or any other instrumentality of the Government finances the exporting of such products", approved March 26, 1934 (46 U.S.C. 1241-1), or section 2631 of title 10, United States Code.

(2) Each such user fee established pursuant to paragraph (1) shall be an amount equal to 25 percent of the difference between the lowest foreign bid offered and the bid accepted by the shipping agency. Amounts received by the United States Government under this subsection shall be deposited into the general fund of the Treasury as offsetting receipts as follows: 20 percent as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities, and 80 percent as offsetting receipts of the original shipping Federal agency and ascribed to such agency's activities.

(3) Notwithstanding any other provision of law, in no case shall a cargo preference bid be accepted and contracted for pursuant to any law or provision thereof referred to in paragraph (1) of this subsection at over 200 percent the lowest foreign-flag bid.

The PRESIDING OFFICER. The Senator has 2½ minutes.

Mr. GRASSLEY. Mr. President, my amendment limits section 301 which deals with Coast Guard user fees. It directs the Secretary, as he establishes and implements a system for collection of user fees applied to vessels enjoying the benefits of the Coast Guard, to establish a system that assures U.S.-flag ships that carry what is called cargo preference first actually is forced to pay a user fee that cannot simply be passed back to the U.S. taxpayer through increased rates charged to Government agencies and, two, requires a user fee of 25 percent of the Government subsidy called cargo preference to parallel the 25-percent cut that this budget package is forcing upon the American farmer.

Of these revenues that we are going to collect, 20 percent will be directed to offset the receipts of the department in which the Coast Guard is operating. The remaining 80 percent of these particular user fees will be di-

rected to the Federal agency responsible for shipping the cargo. So in the case of Public Law 480, farm and food shipments, user fees collected would go back to the U.S. Department of Agriculture at a rate of 80 percent.

This will offset the deficit reductions required of our farm programs. This will require a fair share from shipowners and seafarers, many of whom make $142,000 in working a mere 6 months. In the case of the cargo sent by the Military Sealift Command, 80 percent of the user fee revenues would be directed back to the Military Sealift Command for revenues for sealift needs, like additional Government vessels, upkeep, or whatever.

Finally, my amendment assures that real deficit reduction is achieved through my amendment as well as through the underlying bill's provisions by plugging a gaping loophole that presently, without my amendment, allows U.S.-flag vessels to pass on to the Government the Government's own user fee.

That is ridiculous under this law the way it is before us. As it stands now, there is no teeth in any law that purports to require user fees from U.S.-flag vessels. That is why the DOD is forced to pay $70,000 to ship what could have been shipped at $6,000. That is why a company called IMCO was able to charge during the entire year of 1989, $289 per ton for what could have been shipped for $40 a ton.

Mr. President, I want to echo comments made yesterday by my colleague from North Dakota, Senator CONRAD.

Our farmers are taking an unfair hit by this budget package—four times as great as any other cut made in any other program.

The commonly held view is that agriculture is bring cut by 25 percent, but, in fact, because the differing nature of the budget baseline for agriculture, the real budget cut for agriculture is not 25 percent, it is 40 percent.

And, indeed, as Senator CONRAD stated, farm cuts at this level could very well mean the devastation of tens of thousands of family farms, particulary if CBO's predictions are accurate that real net farm income could drop by 21 percent regardless of any farm support cuts.

Senator CONRAD noted specifically farm cuts are four times the cuts imposed on defense.

But I can cite one program—a purely special interest subsidy—that has contributed not one dime to budget reduction.

This is a backdoor, hidden subsidy which serves one class of citizens—seafarers and shipowners.

I am submitting for the RECORD data I received from the Maritime Administration. You will see that captains of U.S.-flag vessels make $142,000 for working a mere 6 months. That is an annual rate of over $280,000. That puts them among the wealthiest Americans in the Nation. It puts them in the top 1 percent of the salary earners.

And it's all because of the American taxpayer and a budgetary atrocity called cargo preference.

I warned farmers would be asked to take deep cuts in their subsidies when we debated the farm bill. I offered an amendment that would have provided real savings to the Government by limiting how much U.S.-flag companies can charge for carrying cargo for the Government. My amendment would have saved at least $500 million over 5 years—that's a half a billion dollars that would have been used to buffer the blow to our farmers.

But my amendment was sabotaged with another that did nothing to reduce the deficit, it merely shifted the costs to taxpayers to a different program. In fact, the amendment would actually increase the cost of the cargo preference by adding the cost of interest from Treasury borrowing necessary to pay for this scheme.

Mr. President, U.S. shipowners and U.S. seafarers should not be treated as a privileged class. Their subsidies should be subject to the budget cuts, just like those affecting farmers.

Mr. President, my amendment is to section 301—Coast Guard user fees.

For anyone who understands cargo preference, it is plain to see that this section which calls for the Secretary to establish and implement a system of user fees for vessels benefiting from Coast Guard activities, this section is a sham and will unlikely produce any net revenues for the Coast Guard.

Why? Because whatever we charge U.S.-flag vessels in user fees, will simply be passed on to U.S. taxpayers by increasing what U.S.-flag vessels charge to carry our Government impelled cargoes.

Subsection 3 of my amendment plugs that loophole.

Subsections 1 and 2 addresses the question of equity—equity of requiring seafarers and shipowners to sacrifice just like farmers are sacrificing.

And although Senator CONRAD has pointed out farmers are being cut 40 percent, I am giving seafarers a break—they'll only have to pitch in at 25 percent—the farm cut estimate more widely accepted.

Mr. President, I have cleared this with the Parliamentarian, and my amendment was found to be germane.

It is not only germane, it is a necessity if the Coast Guard is ever expected to raise that $200 million in revenues in a way that will provide a net deficit reduction, instead of letting the revenues slip out the other door back into seafarers and shipowners pockets through increased cargo preference charges to the Government.

Mr. President, based upon CBO cost estimates and Maritime Administration statistics, we will be subsidizing seafaring jobs supported by cargo preference to a tune of $2 million per job during the next 5 years.

This is outrageous.

On September 10, U.S. News reported that U.S.-flag vessels were exploiting our Persian Gulf sitution by gouging the Government $70,000 to ship cargoes that could have been shipped for $6,000. That's immoral! That makes the oil company gouging look like petty theft.

It is going to come to a stop. And my amendment is a good first step.

Mr. President, I would like to share with my colleagues the item I mentioned found in the September 10, 1990, publication of U.S. News & World Report.

Entitled "Unpatriotic Profits", U.S. News reported that, and I quote,

> The Pentagon is miffed at what it feels is profiteering by operations of two U.S. cargo ships. Because the Navy is required to use American bottoms before contracting with foreign-owned ships, it paid two U.S. carriers $70,000 to send war materials to the Gulf. The comparable foreign bid: $6,000.

Unquote.

What this article was exposing is the wastefulness, taxpayer rip-off called cargo preference. Cargo preference assures a monopoly for U.S.-flag vessels over Government impelled cargoes.

Cargo preference is a subsidy which allows U.S.-flag merchant marine to enjoy Uncle Sam's open checkbook over which no one has any control.

So in the case mentioned earlier, if a U.S.-flag company wants to charge $70,000 to ship what otherwise could be shipped for $6,000, that's OK with Congress. If they want to charge American taxpayers even more, that's OK, too.

Now isn't it ironic that a Congress made up of Senators and Congressmen who have built their political careers on bashing Defense waste—what they call the gold-plated weapons, the $1,800 toilet seats, the $400 hammers, and so on, these same people get so uncomfortable and defensive when you suggest it's time to reform cargo preference?

What was exposed by U.S. News is unfortunately commonplace. It is unfortunately completely unrelated to the possible increased demand for cargo shipments because of our Desert Shield operations in the Persian Gulf.

These unpatriotic profits and profiteering are just as shameful as that related to oil company gouging.

And this gouging occurs year in and year out.

For example, let me share with my colleagues a typical case of price gouging during fiscal year 1989. There is a U.S.-flag company called IMCO. The Military Sealift Command, at my request, provided me with the data on

how much IMCO has charged the U.S. taxpayer for its shipping services.

IMCO charged Military Sealift Command an average of $267 per measurement ton during fiscal year 1989.

The cost of similar service by foreign flag ships was $40 per measurement ton.

Now, why is it OK to let taxpayers be gouged with "gold plated cargo service" but not for "gold plated weapons"? Both, after all, are items purchased in the name of national defense?

Mr. President, I am submitting for the RECORD a copy of a recent Congressional Budget Office cost estimate of cargo preference. It reveals that during the years from fiscal year 1991 through fiscal year 1995, taxpayers will be gouged to the tune of $4.185 billion.

In view of the fact that according to Maritime Administration data, cargo preference supports a mere 2,024 seafaring jobs, that mean that taxpayers are going to pay $2 million per seafaring job, or billet as they are called.

For those wondering, the remaining 8,000 seafaring jobs are supported by the Jones Act which draws a hidden subsidy directly from the private sector through its monopoly, and the rest are supported by what is called "operating differential subsidies" which cost taxpayers around $200 million per year.

Because of the outrageous, hidden subsidy called cargo preference, U.S.-flag seafarers enjoy some of the highest wages and benefits in the world. I am submitting for the RECORD a copy of the wage and benefits for two typical classes of maritime vessels.

As you will note, a captain can earn over $142,000 for a mere 6 months of work. That amounts to over $284,000 per year per job or billet.

But like those $1,800 toilet seats, they are worth every penny, right?

Not hardly.

Mr. President, in 1982, the Office of Management and Budget produced a staff review entitled "U.S. Maritime Programs and Policy." Among other things, OMB concluded that, and I quote:

National security arguments provide little justification for provision of public assistance to the merchant marine industries.

HIGH PRICE LABOR

Mr. President, numerous reports over the years have underscored the high cost of U.S.-flag seafarers. Vice Adm. Kent Carroll in the early 1980's testified that one of the major reasons for the decline of our U.S.-flag merchant marine is the unreasonably high cost of union seafarers. He testified that it costs over $300,000 per year to cover the salary and benefits of a master of a U.S.-flag vessel, while a Navy captain in charge of an aircraft carrier was only getting $70,000 in salary and benefits.

Are union seafarers still paid enormous amounts? The answer is absolutely!

Mr. President, I ask unanimous consent to insert for the RECORD a copy of a table including the crew wages and fringe benefit costs for seafarers. I received this list from MARAD's Administrator, Warren Leback. I would just like to point out to my colleagues the costs associated with a master of a class A-3 vessel. The total per month cost of a master for an employer is $26,030. That comes out to $312,360 per year. Now this is not the highest paid job or billet, the master of an A-4 vessel, the largest, most powerful vessel class, costs even more.

But what does a master make per month? This chart reveals that the "W-2 wage" of a master equals $11,914 per month. Now, some of my colleagues will argue that the master billet is shared by two seafarers, that a single seafaring master does not actually work the whole year—instead, he usually works only 6 months.

This is suppose to lead us to believe that the master's W-2 wage is only $71,484 per year.

That is still pretty good money considering you only have to work 6 months out of the year, and then vacation for 6 months or get another job for 6 months to earn a little more income.

But Mr. President, you will note from the chart that U.S.-flag operators also have to cover the costs of a fringe benefit plan which is even more costly per month than the monthly W-2 wage.

MARAD officials explain that within this fringe benefit package are vacation benefits. These so-called vacation benefits provide a typical master the same per day salary for 28 days of vacation for every 30 days of work.

Amazing! $140,000 for 6 months work!

How in the world can our U.S.-flag operators afford to pay for this?

The fact is they can't, so Uncle Sam pays for it through hidden subsidies like cargo preference and subsidies such as the ODS's.

I ask unanimous consent that additional materials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEAR COLLEAGUE: Maritime officials produced the following chart. As you can see, the "A-3" Master makes $11,914 per month in wages. He will typically work 6 months out of the year, and collect the same amount of money on a per diem basis as "vacation benefits." The Master typically earns 29 days of vacation for every 30 days of work, so the "A-3" Master listed below would earn over $142,000 in wages alone for a mere 6 months of work.

OCEAN-GOING COMMERCIAL FLEET PAY CLASS A3 and B CREW WAGES AND FRINGE BENEFIT COSTS PER MONTH BILLET

[In thousands of dollars]

Crew		Job title	W-2 Wage range		Employer cost fringe benefit plan		Total cost to employer	
A3	B		A3	B	A3	B	A3	B
1	1	Master	11,914	7,515	14,116	8,346	26,030	15,861
1	1	Chief	8,198	5,511	7,531	5,931	15,730	11,443
1	1	2nd mate	6,283	4,310	6,519	5,406	12,803	9,716
1	1	3rd mate	5,687	3,969	5,754	4,879	11,442	8,849
1	1	CF. Eng	11,649	7,297	14,214	8,082	25,864	15,380
1	1	1st A.E	8,198	5,511	7,531	5,932	15,730	11,443
1	1	2nd A.E	7,433	4,310	6,736	5,406	14,168	9,716
1	1	3rd A.E	6,667	3,969	5,939	4,879	12,606	8,849
1	1	Radio E	5,879	5,879	7,386	7,386	13,264	13,264
1	1	Bosun	4,210	3,577	2,167	1,767	6,368	5,346
5	5	A B	3,742	3,196	1,904	1,677	28,234	23,104
2	2	Gen. Util	3,636	3,094	1,847	1,636	10,968	9,547
1	2	Q.M.E.D	4,466	3,476	2,296	1,717	6,762	10,387
1	1	Std/cook	4,446	3,577	2,296	1,767	6,762	5,345
1	1	Chf. Cook	3,992	3,273	2,039	1,615	6,032	4,889
1	2	Utility	3,406	1,956	1,723	1,351	5,130	6,616
21	23							

NOTES:

1. The cost to the taxpayer of all wages and fringe benefits for the selected representative vessel types on a monthly basis ranges between $218,000 and $172,000.
2. Measured as a daily average cost per job, and ignoring the variation between high paid and low paid job categories, the range for the selected types is $346 to $229.
3. While vessel types "A3" and "B" are representative of a broad cross-section of the privately-owned U.S.-flag merchant fleet, there are both larger and smaller vessels in the fleet. No allowance has been made for either employer payroll taxes or employee income taxes. Take-home pay is substantially less than the "W-2 Wages" (gross pay).
4. The amounts shown in the last column, "Total Cost to Employer," are reduced, on average, by the amount of operating-differential subsidy shown in the response to question five ($8,800).

Source: Maritime Administration.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 24, 1990.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC

DEAR SENATOR: As you requested, the Congressional Budget Office has prepared an estimate of potential savings that might be realized from the termination of certain maritime programs and policies. They include (1) direct operating differential subsidy [ODS] payments and (2) cargo preference requirements imposed on most federal agencies.

As shown in the table below, the government spends about $1 billion annually to carry out these programs. Saving this amount, however, would be difficult in the short term. Operating differential subsidies, which cost around $200 million a year, are long-term contractual commitments of the government, and their elimination undoubtedly would result in litigation against the government. Furthermore, elimination of the subsidies or preference requirements probably would undermine the financial viability of a number of shippers who have received loans guaranteed by the federal government. Defaults on such loans could offset much of the savings that would otherwise result.

OPERATING DIFFERENTIAL SUBSIDIES

These are paid by the Maritime Administration (MarAd), under long-term contracts with U.S.-flag operators, to compensate for the lower operating costs of foreign-flag competitors. The CBO baseline includes no new contracts over the next five years, and spending under existing ODS contracts is projected to decline gradually as contracts expire. Baseline outlays average about $200 million a year over the 1991-1995 period and total spending could be as much as $2 billion over the remaining life of the program.

CARGO PREFERENCE

Under law, a large percentage of government-financed cargoes must be shipped on U.S.-flag vessels, often resulting in increased federal costs to the extent that the rates charged by U.S.-flag carriers exceed those of foreign competitors. The vast majority of costs associated with this requirement are borne by the Department of Defense [DOD], the Department of Agriculture [USDA], and MarAd.

ESTIMATED COST OF OPERATING DIFFERENTIAL SUBSIDIES AND CARGO PREFERENCE REQUIREMENTS

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995	1991-1995
Operating differential subsidies	225	205	195	175	180	980
Cargo Preference:						
Defense Cargoes	650	650	650	650	650	3,250
Agricultural Shipments [1]	135	150	150	150	150	735
Other major Federal shippers	40	40	40	40	40	200
Subtotal, cargo preference	835	840	840	840	840	4,185
Total	1,050	1,045	1,035	1,015	1,020	5,165

[1] Includes cargo preference and ocean freight differential costs incurred by USDA. About $50 million a year of these costs are reimbursed by MarAd through its ocean freight differential account.

Current law requires DoD to ship virtually 100 percent of its freight on U.S.-flag vessels. The costs of complying with this requirement appear to have dropped over the last 10 years, but still amount to between $600 million and $700 million a year, accounting for most cargo preference costs. If the agency were required instead to choose the lowest-cost carrier, much of this cost could be eliminated.

At least 75 percent of all agricultural shipments must be rserved for U.S.-flag carriers, adding $135 million to $150 million a year to the costs of the foreign assistance programs carried out under Public Law 480 and Section 416 of the Agricultural Act of 1949. USDA covers two-thirds of all resulting cost increases, including direct compensation for any ocean freight differential on concessional exports (Title I of Public Law 480). MarAd is required to reimburse USDA for the final one-third of cargo preference costs through its ocean freight differential (OFD) account. For this purpose, the agency borrows $45 million to $50 million a year from the U.S. Treasury.

Repealing cargo preference and requiring the use of the lowest-cost shipper would reduce the cost of shipping agricultural commodities by $135 million to $150 million a year. Savings would be about $90 million a year on Title I exports and $45 million to $60 million a year on donated shipments.

Most other nondefense agencies are subject to varying cargo preference requirements. Of these, only foreign assistance programs carried out by the Agency for International Development (AID) and oil shipments for the Department of Energy's strategic petroleum reserve incur any substantial costs on ocean freight. The elimination of cargo preference requirements for these agencies would result in savings of about $40 million a year. Other federal agencies incur higher costs to ship supplies, household goods and other government-owned cargoes, but the amount of such costs is relatively small and impossible to identify with available accounting data.

The costs shown in the table represent potential gross savings in each directly affected program or account. The government would realize such savings only if all agencies were to accept the lowest bid for ocean transportation, whether a U.S. or foreign carrier, and if appropriations were reduced correspondingly. Most of the potential savings are in appropriated programs.

In order to determine the net budget impact of eliminating these programs, effects on related federal spending would have to be considered. For example, CBO expects that terminating ODS contracts and/or cargo preference requirements would result in additional defaults on outstanding loans guaranteed by MarAd's federal ship financing fund. (Operators receiving ODS payments have $412 million in outstanding guaranteed loans; we don't know how much is owed by other cargo preference beneficiaries.) Similarly, Congressional action on cargo preference but not ODS contracts could result in the transfer of some subsidy costs to the remaining program. CBO is not able to estimate such effects at this time, but they are likely to be considerable.

BASIS OF ESTIMATES

For purposes of this analysis, CBO has assumed that no major programmatic changes are initiated by MarAd or other affected federal agencies over the five-year period. Major changes in defense policy could, for example, affect cargo preference costs. It is further assumed that average freight differentials on all cargoes remain at current levels.

Cargo preference costs are extremely difficult to identify or predict. Ocean freight costs vary significantly by the type of goods transported as well as the size and destination of each shipment. Even on similar shipments, rates fluctuate widely over short time periods. Further complicating the analysis is the fact that cargo preference costs incurred by most federal agencies are buried within general operating accounts and are rarely broken out precisely on a timely basis. CBO has based its analysis of cargo preference costs on the most recent data it would obtain for most major federal shippers.

If you wish further details on this estimate, we will be pleased to provide them. The CB staff contact is Deborah Reis, who can be reached at 226-2860

Sincerely,

ROBERT D. REISCHAUER,
Director.

[From the Des Moines Register, Oct. 11, 1990]

SCUTTLE CARGO PREFERENCE

Once again America's maritime industry is eating into food aid intended for the world's hungry. Earlier, U.S. merchant ships made fat profits from donated food being sent to starving Ethiopla. Now, they're taking a cut out of emergency food relief for Poland.

A large chunk of the $108 million in emergency food relief that the United States is sending to Poland will be devoured by the cargo preference—a law that requires most U.S. food aid to be shipped on American merchant vessels, which charge more than foreign ships.

The first shipment of U.S. sorghum to Poland, for instance, is costing about $85 a ton for shipping, compared to the estimated world rate of about $25 a ton. Every extra dollar spent on shipping eats into the amount that can be spent for food, and industry analysts estimate that one-third to one-half of the food aid for Poland will go for shipping. Those estimates may be high, but there's no doubt that the cargo preference will reduce the amount of food getting to Poland's bare cupboards.

The cargo preference amounts to a subsidy for the dwindling and non-competitive U.S. merchant fleet. Its alleged purpose is to keep a U.S. merchant marine intact in case of war, but the subsidy has more to do with the political power and PAC donations of the ship owners and maritime unions than any real military need.

The law requires that cargo being shipped from one U.S. harbor to another be carried in American ships with American crews. In addition, it requires that 75 percent of U.S. food aid shipped abroad be carried on American ships.

With a captive market, the American ships virtually can name their own price, and they can afford to pay their crews well. The average U.S. merchant seaman is reported to be paid $325 a day in salary and fringe benefits, about four times what foreign crew members are paid.

The biggest critics of the cargo preference are farmers, whose exports are reduced by the shipping subsidies. Backers of the shipping subsidy note the irony of criticism coming from farmers, whose subsidies cost

taxpayers many times more than the cargo preference.

But the question isn't the size of subsidies, it's whether they're justified. Maritime subsidies are looking more and more dubious, if the merchant marine is going to be needed in wartime, the nation might be better served by an efficient competitive, modern fleet than by an obsolete one that has grown lazy behind subsidies.

Moreover, the cargo preference looks bad. It has the appearance of reducing the amount of food being sent to hungry people and of subsidizing one industry (shipping) at the expense of another (agriculture). If Congress insists on propping up the merchant marine, it should be done with direct subsidies, rather than by a cargo preference that slices into food relief.

Yet the movement in Congress is not to reform the cargo preference, but to expand it. A provision of this year's foreign aid bill would require countries receiving U.S. cash assistance to spend it on U.S. goods and to ship half of them on U.S. ships. The cargo preference now applies only to U.S. commodity assistance, not cash aid.

At the least, the expansion of the preference should be stricken from the foreign-aid bill. Sneaking through a fattening of an already questionable cargo preference is inexcusable.

U.S. MARITIME PROGRAMS AND POLICY: AN OMB STAFF REVIEW

EXECUTIVE SUMMARY

The purpose of this paper is to review current direct and indirect assistance to the maritime industry and the basic economic and national security rationales traditionally used to justify such assistance.

Since 1936, the Federal Government has spent over $9 billion in direct subsidies for U.S.-flag ship operations and ship construction in U.S. yards to help these industries compete with their foreign counterparts. Fifty-seven percent ($5.2 billion) was spent during the 1970–1980 period under the policies established within the Merchant Marine Act of 1970. In addition, the Federal Government has provided indirect assistance to the maritime industry in the forms of loan guarantees, tax deferments and preference for carrying government impelled cargo at a total cost of approximately $400-500 million a year.

Such assistance is provided to fulfill a number of public policy objectives established in the Merchant Marine Act of 1936, as amended in 1970. This study examines whether or not the public policy objectives set out in the 1970 Act are being met. Further, since many of the public policy objectives are premised on the notion that a U.S.-flag merchant marine industry is required to enhance the national economy and to provide sealift for national security purposes, an in-depth review of the economic and national security rationales traditionally used to justify Federal assistance to the merchant marine industry is also included. The major conclusions are presented below:

MAJOR CONCLUSIONS

The objectives established in the Merchant Marine Act of 1970 of maintaining or increasing the market share for U.S.-flag liner, non-liner and tanker operations have not been achieved. The U.S.-flag share of the non-liner vessel markets continued to decrease through the 1970's. While the U.S. share of liner shipping as a percentage of total liner tons increased over the 70's, the U.S. share of the total value of liner cargo decreased from 28 to 27 percent. Also, during this period the U.S. share of the world liner container fleet tonnage dropped from 45 to 20 percent.

The objective of stimulating efficiency in the U.S. merchant marine industries has not been achieved. U.S. crew sizes aboard subsidized vessels continue to exceed the crews used by major foreign maritime industries on comparable vessels.

In addition, even after establishing a wage index system in the 1970 Act to bring down crew costs relative to other U.S. workers, U.S. crew wage costs continue to be the highest in the world, often twice as high as the foreign competition. U.S. shipbuilding costs continue to be among the highest in the world, with a cost differential between U.S. and foreign costs exceeding 50 percent for many commercial vessels.

Economic justifications for Federal assistance to the merchant marine industries are weak. Balance of payments, employment and public revenue benefits derived from the subsidy programs are all negligible when viewed in the context of the national economy and contributions to the national economy of non-subsidized industries. While the industry and MARAD have attempted to quantify economic benefits, fundamental flaws of past analyses have not been addressed. Recent analyses fail to distinguish the proportion of the direct and indirect economic benefits that are attributable to the subsidies. In additon, they do not take into account the opportunity costs or potential benefits foregone as a result of resources being utilized in the shipping and shipbuilding industries. When all factors are considered, little evidence is available on economic grounds which would justify the provision of public support to the shipping and shipbuilding industries.

National security arguments provide little justification for provision of public assistance to the merchant marine industries. Navy ship construction, private ship overhaul and repair work are sufficient to maintain the shipbuilding and repair mobilization base determined to be required in case of a national emergency. For the U.S. shipping industry it is somewhat more difficult to translate the National Security findings of this report into specific recommendations regarding public assistance. Most of the major arguments advanced in support of assisting the U.S. merchant marine for national security reasons are seriously flawed. In a short term war, (less than 30 days) the U.S.-flag merchant marine fleet as currently configured is not likely to have an impact on the outcome because vessels do not have the speed nor are they the type of vessels likely to be required. In a longer term conflict, the presence of a U.S.-flag fleet does provide a margin of safety not exactly duplicated in non-U.S. sources of sealift. However, there is no basis for believing that non-U.S. flag sealift resources would not be available for U.S. use in times of war or peace. Much of the world's free world tonnage is controlled by U.S. allies. The seriousness of the risks the merchant marine may assist the nation to avoid are impossible to measure with accuracy. While there is little evidence that these risks are very great, ultimately, a willingness to assume any national security risk is a question of political judgment.

There is a need for change in the current structure of Federal assistance to the U.S. maritime industry. It is the recommendation of this study that the Department of Transportation review and redefine national goals and objectives for the U.S. maritime industry. If a direct subsidy program is advisable, approaches to improve the efficacy of the current program must be exmained.

The PRESIDING OFFICER. The Senator from Tennessee [Mr. SASSER] is recognized.

Mr. SASSER. May I inquire how much time remains?

The PRESIDING OFFICER. The Senator has 2½ minutes under his control.

Mr. DOMENICI. Will the Senator yield 1 minute? Might I ask the distinguished Senator from Iowa a question? I read the amendment. Perhaps it was not the right amendment in that the Senator said some of this money was earmarked.

Mr. GRASSLEY. Yes.

Mr. DOMENICI. The amendment I was looking at did not have any earmarking. Does he raise user fees and then dedicate them to something in some part of Government?

Mr. GRASSLEY. We direct that 20 percent of it goes to the agency, the Coast Guard, and 80 percent goes to the agency that shapes, like in the case of the U.S. Department of Agriculture, shipping Public Law 480. Eighty percent of that money that comes in through the 25 percent fee would go back to the U.S. Department of Agriculture to offset the cost to the Government.

Mr. DOMENICI. I am not sure whether the amendment is germane or if it is in order. I did not understand it.

Mr. GRASSLEY. It follows the same language in the Senator's bill.

Mr. DOMENICI. We will review it. What I read, I did not find that language in it.

I yield the remainder of the time to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I yield all time back.

The PRESIDING OFFICER. The Senator from Tennessee having yielded back the time under his control, under the previous order, the Senator from New York, Mr. D'AMATO, is recognized for a period of 2½ minutes.

Mr. D'AMATO. Mr. President, I ask unanimous consent that time be expanded to 5 minutes because this is a regional matter and I have the Senators from New Jersey, plus Senator MOYNIHAN. I understood that I was going to get 5 minutes. I did not realize it would be divided by 2½ minutes.

The PRESIDING OFFICER. Is there objection to the Senator's request?

Mr. SASSER. I did not hear the request.

The PRESIDING OFFICER. The Senator has requested his time be expanded from 2½ minutes to 5 minutes.

Mr. SASSER. I object.

Mr. D'AMATO. If I might renew that request and say to the managers

of the bill, it was pointed out when I made an inquiry as to an opportunity to raise the point of order pursuant to the appropriate section, I was to get 5 minutes. I have Senators from New Jersey, as well as the Senator from New York, Senator MOYNIHAN, who would like to speak to this. I tried to be accommodating and went along with the unanimous-consent request when people asked for 20 minutes, 40 minutes, an hour.

The PRESIDING OFFICER. The Chair informs the Senator from New York, to control the time allotted to him he must send the amendment to the desk for consideration.

Mr. SASSER. Mr. President, I suggest to my friend from New York, I would like very much to accommodate him, but we have before us 10 more amendments. We have worked out this time agreement, and if we give additional time to the Senator from New York, why should we not give additional time to all the other Senators and their 10 amendments? At some point, we have to lay this reconciliation bill to rest.

We have a leadership amendment coming up tonight that is going to consume at least 2 hours. At some point, we have to go to conference on this bill tonight. The tax writing committees are going to conference on it tonight. As much as I would like to accommodate my very good friend from New York, I simply cannot at the present time.

Mr. D'AMATO. Mr. President, I am sorry that the manager of the bill feels that way. Of course, I intend then to raise objections when unanimous-consent requests come along for any extension of time, if that is the way we are going to play this game.

Mr. FOWLER. Regular order, Mr. President.

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. President, pursuant to section 2——

The PRESIDING OFFICER. The Chair informs the Senator from New York that the document that has been sent to the desk is not in the form of an amendment.

Mr. D'AMATO. That is correct. It is a point of order, Mr. President.

POINT OF ORDER: THE BYRD RULE

Mr. D'AMATO. Mr. President, pursuant to section 2001 of the consolidated Omnibus Reconciliation Act, I raise a point of order that subtitle B of chapter 3, page 64, line 11 through page 105, line 16, violates subparagraph D(1)(a) of the statute because it does not produce a change in either outlays or revenues. That is known as the Byrd rule point of order. I raise that, Mr. President.

The PRESIDING OFFICER. The Chair inquires, is there objection to the Senator proceeding under a point of order as opposed to an amendment?

Mr. FORD. Reserving the right to object, is this the part that the Senator announced a few moments ago in the aviation portion that the Senator was going to make a point of order on?

Mr. D'AMATO. Yes.

Mr. FORD. I object.

The PRESIDING OFFICER. Objection is noted.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator is authorized to offer an amendment.

The Senator from New Mexico [Mr. DOMENICI] is recognized.

Mr. DOMENICI. Mr. President, that is a mistake, and we have to fix it. Everybody knew he was going to make a point of order. When we listed them, we had points of order, and we had motions and amendments, and everyone knew he was going to make a point of order. I think it is unfair to deny him the right to make a point of order. We have a very minimal amount of time. We ought to give him that right.

For those who are so certain they are going to win this matter, let me suggest I will make the point of order when the bill is finished. There is nothing to preclude me from doing that. I think he ought to be able to. He has an interest. He has a right to make a point of order. Everybody knows what it is. He is right. Those who want to defeat it can make a motion, but it is subject to a point of order and everybody knows that.

Mr. FORD. Mr. President, I do not know what the procedure is, but I was under the impression that the distinguished Senator from New York was going to have an amendment and that was the unanimous consent. He and I have been talking about the problem he has with the bill. He announced he was going to make a point of order but he gets unanimous consent for an amendment, and I was surprised.

I had nothing else I could do because I have a substitute I would like to put in, so then the Senator can make a point of order against the substitute, because I have worked with half a dozen Senators or more to try to correct their problems. So I was caught as a matter of surprise and my objection was only because of the ruling of the Chair.

Now, if the Senator will allow me, the Senator can make a point of order now. Anyone can make a point of order at end of bill.

I apologize if I created any problems, but I was here expecting an amendment and I get a point of order. That was the unanimous-consent agreement, Mr. President. I think the Chair is absolutely correct.

Mr. DOMENICI. Will the Senator from New York yield?

Mr. D'AMATO. Certainly.

Mr. DOMENICI. Mr. President, I want to take full responsibility for that error. We were working with a lot of Senators about complicated issues. We were standing up here marking them. I knew he wanted to make a point of order. In the unanimous consent, we stated his request in error. I believe he ought to be permitted to make his point of order. That does not take away anyone's rights. All we have to do is move that we waive the Budget Act. We have been doing that all along.

I ask unanimous consent that the Senator from New York be granted the time he had in the unanimous consent to make the point of order that he just made.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Reserving the right to object, I have a parliamentary inquiry. And I ask the distinguished Senator from New Mexico if he would listen to me for just a moment.

Mr. DOMENICI. Sure. Of course.

Mr. FORD. I would like to have the objection laid against the substitute, or the modification, rather than what is in the bill. I have given the distinguished Senator from New York a copy of my modification, and I have not tried to be cute or funny in any way as it relates to this. So rather than doing that, I would like to have the opportunity to lay my modification down and then let him make the point of order against that and I will move to waive the Budget Act. Then we can have an up-and-down vote. I thought that was the procedure unless the Senator as he read the language would have agreed to the modification.

So if we could move that some way around, I say to my good friend from New Mexico, so I could have my way, I expect that is a way to untangle us here if he would use his prerogative.

Mr. DOMENICI. Mr. President, this is an issue that obviously pertains to the big cities of America and big airports. It does not pertain to New Mexico. I have no way of knowing whether this is a fair proposal to the Senator from New York.

Let me suggest again there is nothing in that unanimous-consent agreement which precludes the Senator from New York from making a point of order. He may not make it now because the Chair may rule he cannot. But he can make it sometime before this bill is finished.

I submit to you, either let him do it now in some orderly, understandable, fair manner or it will be made sometime before this bill is finished, and I submit to my good friend from Kentucky he will not have any time to submit his substitute. He will send it to the desk and it will be voted on, unless he gets time, and I submit this

Senator will object to giving him time unless we decide we are going to give the Senator from New York time. We can do it either way.

Let us move on to the next amendment and maybe we can talk about it.

Mr. D'AMATO. Mr. President, when I raised the point of order I did not realize No. 1, that I needed unanimous consent for that. I think if one checks the record you will find I do not need unanimous consent for that. And even if, indeed, it was put down on the list in error that I was going to have an amendment, the fact is I raised a point of order.

I would like to inquire of the Chair, is my raising a point of order at that time appropriate or not? I do not believe there is anything that precludes me from raising a point of order.

The PRESIDING OFFICER. The Chair would inform the Senator from New York that the ruling of the Chair as previously given is affirmed based upon the construct of the unanimous-consent request which was specifically cast in the format of an amendment.

Mr. D'AMATO. Let me raise this point. I do not believe there is anything in that consent agreement that precludes a point of order from being raised, is there? If there is not, when I am recognized I can raise a point of order. There is nothing in that agreement to preclude me from raising a point of order.

The PRESIDING OFFICER. The Chair would inform the Senator, as the Chair interprets the unanimous-consent request that the Chair has before it, it spoke specifically and exclusively to the following amendments. So based upon the request——

Mr. D'AMATO. Correct. But does that preclude a point of order?

The PRESIDING OFFICER. It does under the terms of the unanimous-consent agreement.

Mr. SASSER. Mr. President, I would like to suggest we return to the regular order, but before doing so perhaps we could set aside the question that has been raised by the Senator from New York and in the interim this whole thing could be refashioned in such a way that it would treat all parties fairly, including the Senator from Kentucky and the Senator from New York and others.

Mr. DOMENICI. Mr. President, I do not agree with the ruling of the Chair, but the Chair has ruled. I do not desire to appeal at this point. Somebody might; if they would like to, they could. But I want to repeat, this Senator deserves the right to make his point of order in the sequence and with some debate. If we wait until the end of the bill, he is not going to have time.

I want to remind everyone there is going to be a lot of unanimous-consent requests made between now and 9:30 tonight, a lot of them. Just remember, fairness is fairness. What is good for the goose is good for the gander.

You may proceed.

Mr. SASSER. Regular order, Mr. President.

The PRESIDING OFFICER. Under the previous order, the Senators from Hawaii and Wisconsin, Senators INOUYE and KASTEN, are recognized for purposes of offering an amendment.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin, pursuant to the previous order, is recognized for a period of 5 minutes.

AMENDMENT NO. 3037

(Purpose: To exclude charitable contributions from the overall limitation on itemized deductions)

Mr. KASTEN. Mr. President, I call up the amendment which is at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN], for himself, Mr. INOUYE, Mr. METZENBAUM and D'AMATO, proposes an amendment numbered 3037.

Mr. KASTEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 25 of part VII of subtitle D of title VII of the bill, strike "and" and all that follows through page 2, line 2 and insert:

"(3) the deduction under section 170 (relating to charitable, etc. contributions and gifts), and

"(4) the deduction under section 165(a) for losses described in section 165(c)(3).

Mr. KASTEN. Mr. President, I ask that Mr. METZENBAUM and Mr. D'AMATO be included as original cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KASTEN. Mr. President, the Finance Committee portion of the reconciliation bill imposes a limitation on itemized deduction. Specifically, it disallows the amount of the deductions equal to 5 percent of adjusted gross income in excess of $100,000 for single and head of household returns.

So in effect it would raise the tax bill for upper income taxpayers. But this is the key of the amendment: in an effort to increase taxes, this provision imposes a tax on charitable contributions. Let me repeat: This provision imposes a new tax on charitable contributions.

The amendment that I have sent to the desk, along with Senator INOUYE and others, would remove the charitable tax deduction from the across-the-board 5-percent floor on itemized deductions.

When a taxpayer's tax bill goes up, as it will under the floor on itemized deductions, the taxpayer will lessen the out of pocket impact of the tax bill by reducing his or her charitable contributions.

Taxpayers have relatively no control over a number of itemized deductions. For example, the mortgage deduction or State and local tax deductions would not be necessarily in the greatest control of the taxpayer. But the tax on charitable contributions, the amount of charitable contributions, is something that they have particular control on.

This provision would greatly lessen the impact of their increased taxes. This is a tax on a broad array of charitable causes including the protection of the environment, health research, food programs for the homeless, schools, colleges, housing for senior citizens, and a myriad of other activities that enrich our society.

I would like to call to the attention of my colleagues a letter from a group called Independent Sector, which is a group of charitable organizations to encourage giving, volunteering. This amendment is supported by the American Cancer Society, United Way, Council on Education, Heart Association, Girl Scouts, Red Cross, et cetera.

I ask unanimous consent that the complete letter be made a part of the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

INDEPENDENT SECTOR,
October 18, 1990.

Hon. ROBERT W. KASTEN, Jr.,
U.S. Senate,
Washington, DC.

DEAR BOB: The following organizations strongly support the Kasten-Inouye Amendment to drop the charitable deduction from the across-the-board proposal to put a five percent floor on itemized deductions.

American Cancer Society.
United Way of America.
American Council on Education.
American Heart Association.
United States Catholic Conference.
Girl Scouts of America.
Evangelical Lutheran Church in America.
American Red Cross.
Association of Junior Leagues.
CARE.
Catholic Charities USA.
Council of Jewish Federations.
National Association of Independent Schools.
Baptist Joint Committee of the Baptist General Convention.
YMCA of the USA.
National Association of Evangelicals.
American Lung Association.
Family Research Council.
United Methodist Foundation.
Family Service America.
Boys Clubs of America.

These organizations are joined by the 700 Members of INDEPENDENT SECTOR (list attached), all of whom strongly support the Kasten-Inouye Amendment.

Sincerely,

BRIAN O'CONNELL.

INDEPENDENT SECTOR VOTING MEMBERS, SEPTEMBER 24, 1990

AAFRC Trust for Philanthropy.
Aask America Aid to Adoption of Special Kids.
ACCESS: Networking in the Public Interest.
Accountants for the Public Interest.
The Advertising Council.
Advocacy Institute.
Aetna Foundation, Inc.
Affiliated Leadership League of and For the Blind of America.
African Wildlife Foundation, Inc.
Aga Khan Foundation U.S.A.
Aid Association for Lutherans.
Aid to Artisans, Inc.
Alcoa Foundation.
Horatio Alger Association for Distinguished Americans.
Alliance of Independent Colleges of Art.
Allied-Signal Inc.
The ALS Association.
America the Beautiful Fund.
American Arts Alliance.
American Association for Higher Education.
American Association for Museum Volunteers.
American Association for the Advancement of Science.
American Association of Collegiate Registrars & Admissions Officers.
American Association of Community and Junior Colleges.
American Association of Fund-Raising Counsel, Inc.
American Association of Homes for the Aging.
American Association of Museums.
American Association of University Women.
American Bible Society.
American Cancer Society.
American Citizens Concerned for Life.
American Committee on Africa.
American Council for the Arts.
American Council of Learned Societies.
American Council on Alcoholism.
American Council on Education.
American Craft Council.
American Diabetes Association, Inc.
American Ditchley Foundation.
American Express Foundation.
American Farmland Trust.
American Fisheries Society.
American Foundation for the Blind, Inc.
American Heart Association.
American Humane Association.
American Humanics, Inc.
American Institute for Cancer Research.
American Jewish World Service.
American Leadership Forum.
American Library Association.
American Lung Association.
American Museum of Natural History.
American ORT Federation, Inc.
American Public Radio.
American Red Cross.
American Stock Exchange, Inc.
American Symphony Orchestra League.
American Wildlands.
American Woman's Economic Development Corporation.
American Youth Hostels.
Americans for Indian Opportunity.
Amigos de las Americas.
Amoco Foundation, Inc.
Apple Computer, Inc.
Arca Foundation.
ARCO Foundation.
ARCS Foundation, Inc.
ARROW, Inc.
Arthritis Foundation.
Arts for America, The National Assembly of Local Arts Agencies.
Aspen Institute for Humanistic Studies.
The ASPIRA Association, Inc.
Association for Public Broadcasting.
Association for Retarded Citizens of the United States.
Association for Volunteer Administration.
Association of Advanced Rabbinical & Talmudic Schools (AARTS).
Association of American Colleges.
Association of American Universities.
Association of American University Presses.
Association of Art Museum Directors.
Association of Black Foundation Executives.
Association of Episcopal Colleges.
Association of Governing Boards of Universities and Colleges.
Association of Hispanic Arts, Inc.
Association of Jesuit Colleges and Universities.
Association of Junior Leagues International, Inc.
Association of Performing Arts Presenters.
Association of Science Technology Centers.
Association of Voluntary Action Scholars.
AT&T Foundation.
The Atlantic Philanthropic Service Co., Inc.
Mary Reynolds Babcock Foundation.
Ball Brothers Foundation.
Battle Creek Community Foundation.
The Bauman Foundation.
Beatrice Foundation.
Bell Atlantic Corporation.
BellSouth Corporation.
Benton Foundation.
Beverly Foundation.
Beyond War.
Big Brothers/Big Sisters of America.
Bing Fund Corp.
Blandin Foundation.
Boeing Company.
Borden Foundation, Inc.
Boston Foundation.
Boston Globe Foundation, Inc.
Botwinick-Wolfensohn Foundation.
Boy Scouts of America.
Boys Clubs of America.
BP America, Inc.
Otto Bremer Foundation.
Bridgeport Area Foundation, Inc.
Bristol-Myers Squibb Foundation Inc.
Brother's Brother Foundation.
Brunswick Foundation, Inc.
Edyth Bush Charitable Foundation, Inc.
The Bush Foundation.
The Business Enterprise Trust.
Patrick and Aimee Butler Foundation.
Cabot Corporation Foundation.
California Association of Nonprofits.
California Community Foundation.
Call for Action, Inc.
Camp Fire, Inc.
Cancer Care Inc.
CARE, Inc.
Carnegie Corporation of New York.
Carnegie Foundation for the Advancement of Teaching.
Carter Hawley Hale.
Catalyst.
Caterpillar Foundation.
Catholic Charities USA.
CBS Inc.
Center for Corporate Public Involvement.
Center for Creative Leadership.
Center for Creative Management.
Center for Foreign Journalists.
Center for Non-Profit Corporations.
Center for Policy Alternatives.
Center for Public Resources.
Center for Research in Ambulatory Health Care Administration.
Center for the New Leadership.
Center for the Study of the Presidency.
Center for Women Policy Studies.
Center for Prevent Handgun Violence.
Champion International Corporation.
Chase Manhattan Bank, N.A.
Chesapeake Bay Foundation.
Chesebrough-Pond's Inc.
Chevron U.S.A., Inc.
Chicago Community Trust.
Chicago Tribune Charities.
Child Care Action Campaign.
Child Welfare League of America.
Children's Aid International.
Children's Hospice International.
Children's Research Institute of California.
Chorus America (APVE).
Christian Blind Mission International.
Christian Church Foundation.
Christian College Coalition.
Christian Ministries Management Association.
Chrysler Corporation Fund.
Church Women United.
Citicorp/Citibank.
Citizen Action Fund/Citizens /Fund.
Citizens' Scholarship Foundation of America.
Edna McConnell Clark Foundation.
The Cleveland Foundation.
Clorox Company Foundation.
Close Up Foundation.
The Coca-Cola Company.
CODEL—Coordination in Development, Inc.
College and University Personnel Association.
College Board.
Colonial Wlliamsburg Foundation.
Colorado Association of Nonprofit Organizations.
The Colorado Trust.
Columbia Foundation.
Columbus Foundation.
Comerica Incorporated.
Commonwealth Fund.
Community Foundation for Southeastern Michigan.
Community Foundation of Greater, Washington, DC.
Conference of National Park Cooperating Associations.
Connecticut Mutual Life Insurance Company.
The Conservation Fund.
Consortium for the Advancement of Private Higher Education.
Continental Corporation Foundation.
Coors Brewing Company.
Corning Glass Works Foundation.
Coro Foundation/Eastern Center.
Corporation for Enterprise Development.
Council for Advancement and Support of Education.
Council for American Private Education.
Council for Community-Based Development.
Council for the Advancement of Citizenship.
Council of Better Business Bureaus/Philanthropic Advisory Service.
Council of Independent Colleges.
Council of Jewish Federations.
Council of Michigan Foundations.
Council on Economic Priorities.
Council on Foundations.
Council on International and Public Affairs.
Council on Library Resources, Inc.
S.H. Cowell Foundation.

Cowles Media Company/Cowles Media Foundation.
CPC International, Inc.
Cystic Fibrosis Foundation.
Charles A. Dana Foundation, Inc.
Dance/USA.
Dayton Hudson Foundation.
Deafness Research Foundation.
Defenders of Wildlife.
Denver Foundation.
Development Training Institute, Inc.
Geraldine R. Dodge Foundation.
Dole Foundation for Employment of Persons with Disabilities.
Gaylord and Dorothy Donnelley Foundation.
R.R. Donnelley & Sons Co.
William H. Donner Foundation Inc.
Donors Forum of Chicago.
Dow Chemical Company Foundation.
The Herbert H. and Grace A. Dow Foundation.
Joseph Drown Foundation.
Ducks Unlimited.
Duke Endowment.
E.I. duPont de Nemours and Company.
The Durfee Foundation.
Dyson Foundation.
Eastman Kodak Company.
Eaton Corporation.
Ecolab Inc.
Economic Education for Clergy, Inc.
Education Commission of the States.
El Pomar Foundation.
Elderhostel.
Elderworks, Inc.
Enterprise Foundation.
Environmental Defense Fund.
Environmental Law Institute.
Epilepsy Foundation of America.
The Equitable Foundation, Inc.
Evangelical Council for Financial Accountability (ECFA).
Evangelical Lutheran Church in America.
Exxon Corporation.
Maurice Falk Medical Fund.
Family Service America.
Fannie Mae Foundation.
Federation of Parents and Friends of Lesbians and Gays, Inc.
Federation of State Humanities Councils.
Feminist Press.
First Bank System Foundation.
First Nonprofit Risk Pooling Trust.
The Ford foundation.
Ford Motor Company Fund.
Foreign Policy Association.
Forty Plus Educational Center, Inc.
The Foundation Center.
Foundation for Advancements in Science and Education.
Foundation for American Communications.
Foundation for Exceptional Children.
Foundation for Independent Higher Education.
Foundation for Teaching Economics.
Foundation for the Carolinas.
Foundation for the Peoples of the South Pacific, Inc.
Freedom from Hunger Foundation.
The Fresh Air Fund.
The fuller Foundation.
Fund for an OPEN Society.
The Fund for New Jersey.
Fund for Theological Education, Inc.
Gannett Foundation, Inc.
GE Foundation.
GenCorp Foundation Inc.
General Conference of Seventh-day Advertists.
General Federation of Women's Clubs.
General Foods Corporation.
General Mills Foundation.
General Motors Foundation.
General Service Foundation.
The Wallace Alexander Gerbode Foundation.
J. Paul Getty Trust.
Giraffe Project.
Girl Scouts of the U.S.A.
Girls Incorporated.
Global Fund for Women.
Richard & Rhoda Goldman Fund.
Morris Goldseker Foundation of Maryland, Inc.
Goodwill Industries of America, Inc.
Goodyear Tire & Rubber Company.
Edwin Gould Foundation for Children.
Grandmakers in Health.
Lucile & Robert H. Grie Charity Fund.
Grotto Foundation.
GTE Foundation.
John Simon Guggenheim Memorial Foundation.
George Gund Foundation.
Alan Guttmacher Institute.
Miriam and Peter Haas Fund.
Walter and Elise Haas Fund.
Evelyn and Walter Haas, Jr. Fund.
Habitat for Humanity, Inc.
Hallmark Corporate Foundation.
Luke B. Hancock Foundation.
James G. Hanes Memorial Fund/Foundation.
Mary W. Harriman Foundation.
Hartford Insurance Group Foundation.
Hawaii Community Foundation.
Charles Hayden Foundation.
Edward W. Hazen Foundation.
Healing Community.
William Randolph Hearst Foundations.
Hermann Trust.
Heublein Foundation.
The William and Flora Hewlett Foundation.
High-Scope Educational Research Foundation.
Hillhaven Foundation.
Hillman Foundation, Inc.
Conrad N. Hilton Foundation.
Hispanic Policy Development Project.
Hispanics in Philanthropy.
Hitachi Foundation.
Hoffmann-LA Roche Foundation.
Hogg Foundation for Mental Health.
Honeywell Foundation.
The Hospital for Special Surgery.
Hudson-Webber Foundation.
Human Life International.
Hunt Foundation.
Huntington's Disease Society of America.
Hyams Foundation (Godfrey M. Hyams Trust).
IBM Corporation.
IMPACT II.
Independent Research Libraries Association.
Indochina Resource Action Center (IRAC).
Institute of Educational Leadership.
Institute for Nonprofit Organization Management.
Institute of the Future.
Institute of Current World Affairs.
Intel Foundation.
InterAction (American Council for Voluntary International Action).
The International Association of Lions Clubs.
International Association of Psycho Social Rehabilitation Service.
International Christian Youth Exchange.
International Development Conference.
The International Exchange Association.
International Paper Company Foundation.
International Primate Protection League.
International Women's Health Coalition.
INTERPHIL (International Standing Conference on Philanthropy).
Interracial Council for Business Opportunity.
The James Irvine Foundation.
Ittleson Foundation, Inc.
J.M. Foundation.
Jerome Foundation.
The Jewett Foundation.
Johnson & Johnson.
Johnson Foundation, Inc.
Christian A. Johnson Endeavor Foundation.
Robert Wood Johnson Foundation.
Joint Action in Community Service, Inc. (JACS).
Joint Center for Political and Economic Studies.
Joint Council on Economic Education.
Josephson Institute for the Advancement of Ethics.
Jostens Foundation, Inc.
The Joyce Foundation.
Alexander Julian Foundation.
Junior Achievement Inc.
Junior Engineering Technical Society (JETS).
JWB.
Henry J. Kaiser Family Foundation.
Kaman Corporation.
W.K. Kellogg Foundation.
Harris and Eliza Kempner Fund.
John F. Kennedy Library Foundation.
Charles F. Kettering Foundation.
Carl B. & Florence E. King Foundation.
Kiplinger Foundation.
Kmart Corporation.
Knight Foundation.
KPMG Peat Marwick.
The Kresge Foundation.
Samuel H. Kress Foundation.
Albert Kunstadter Family Foundation.
Land Stewardship Project.
The Land Trust Alliance, Inc.
Laubach Literacy Action.
League of Women Voters Education Fund.
Sara Lee Foundation.
Leukemia Society of America, Inc.
Lilly Endowment, Inc.
Eli Lilly and Company.
Lincoln Filene Center.
Literacy Volunteers of America, Inc.
Little Brothers-Friends of the Elderly.
Little Caesar Enterprises.
Local Initiatives Support Corporation.
Los Angeles Women's Foundation.
Lubrizol Foundation.
Lupus Foundation.
Lutheran Brotherhood Foundation.
Lutheran Educational Conference of North America.
Lutheran Resources Commission.
Lyndhurst Foundation.
John D. and Catherine T. MacArthur Foundation.
Josiah Macy, Jr. Foundation.
Make-A-Wish Foundation of America.
March of Dimes Birth Defects Foundation.
Marin Community Foundation.
John and Mary R. Markle Foundation.
MATHCOUNTS Foundation/NSPE Education Foundation.
Matsushita Electroc Corporation of America.
Mayo Foundation.
Catherine McAuley Housing Foundation.
McConnell Foundation.
Robert R. McCormick Charitable Trust.
McGregor Fund.
McKesson Foundation, Inc.
McKinley Associates, Inc.
The Meadows Foundation.

Medina Foundation.
Richard King Mellon Foundation.
Memorial Sloan-Kettering Cancer Center.
The John Merck Fund.
Merrill Lynch & Co. Foundation, Inc.
Metropolitan Atlanta Community Foundation.
Metropolitan Life Foundation.
Metropolitan Museum of Art.
Mexican American Legal Defense and Educational Fund.
Eugene and Agnes E. Meyer Foundation.
John Milton Society for the Blind.
The Minneapolis Foundation.
Minnesota Council of Nonprofits.
Minnesota Mutual Foundation.
Mobil Oil Corporation.
Monsanto Fund.
Montgomery Street Foundation.
Mothers Against Drunk Driving.
Mothers Embracing Nuclear Dissarmament (MEND).
Stewart R. Mott Charitable Trust.
Charles Stewart Mott Foundation.
Muscular Dystrophy Association.
Museum Trustee Association.
Muskegon County Coucil Foundation.
Mutual Benefit Life.
Mutual of America Life Insurance Company:
Mutual of New York.
Myasthenia Gravis Foundation.
NAACP Legal Defense and Educational Fund.
National 4-H Council.
National Academy Public Administration.
National Action Council for Minorities in Engineering (NACME).
National Alliance for Research on Schizophrenia and Depression.
National Alliance for the Mentally Ill.
National Alliance of Business.
National Alliance to End Homelessness.
National Artists Equity Association.
National Assembly of National Volunteer Health and Social Welfare Organization, Inc.
National Assembly of State Arts Agencies (NASAA).
National Association for Hospital Development.
National Association for the Advancement of Colored People.
National Association for Visually Handicapped.
National Association of Community Action Agencies.
National Association of Homes for Children.
National Association of Independent Colleges and Universities.
National Association of Independent Schools.
National Association of Latino Elected & Appointed Officials (NALEO).
National Association of Partners in Education
National Association of Schools of Art and Design.
National Association of Schools of Dance.
National Association of Schools of Music.
National Association Schools of Public Affairs and Administration.
National Association Schools of Theatre.
National Association of United Methodist Foundation.
National Association on Drug Abuse Problems, Inc.
National Association in Colorado Springs.
National Audubon Society.
National Board for Professional Teaching Standards.
National Catholic Development Conference, Inc.
National Center for Learning Disabilities (NCLD).
National Charities Information Bureau, Inc.
National Civic League, Inc.
National Committee for Adoption, Inc.
National Committee for Responsive Philanthropy.
National Committee for the Prevention of Child Abuse.
National Concilio of America.
National Congress for Community Economic Development.
National Congress of Parents and Teachers.
National Consumers League, Inc.
National Corporate Fund for Dance, Inc.
National Corporate Theatre Fund.
National Council for International Visitors.
National Council for Research on Women.
National Council of La Raza.
National Council of Private Agencies for the Blind (NCPAB).
National Council of the Churches of Christ in the USA.
National Council of Alcoholism, Inc.
National Down Syndrome Society.
National Easter Seal Society, Inc.
National Education Association.
National Executive Service Corps.
National Federation for Neighborhood Diversity.
National Federation of Business & Professional Women's Clubs.
National FFA Foundation.
National Fish and Wildlife Foundation.
National Foundation for Cancer Research
National Fund for Medical Education.
National Geographic Society Education Foundation.
National Headache Foundation.
National Health Council.
National Health Foundation.
National Hispanic Scholarship Fund.
National Home Library Foundation.
National Hospice Organization.
National Humanities Alliance.
National Indian Youth Council.
National Institute for Dispute Resolution.
National Leadership Coalition on AIDS.
National Likotek Center.
National Low Income Housing Coalition.
National Medical Enterprises, Inc.
National Medical Fellowships, Inc.
National Military Family Association.
National Multiple Sclerosis Society.
National Neighborhood Coalition.
National Network of Runaway and Youth Services, Inc.
National Park Foundation.
National Parks & Conservation Association.
National Press Foundation, Inc.
National Primary Care Institute.
National Psoriasis Foundation.
National Public Radio.
National Puerto Rican Coalition, Inc.
National Puerto Rican Forum, Inc.
National Retiree Volunteer Center.
National Society for Internships and Experiential Education.
National Society of Fund Raising Executives.
National Stroke Association.
National Sudden Infant Death Syndrome Foundation, Inc.
National Tay-Sachs & Allied Diseases Association, Inc.
National Trust for Historic Preservation.
National Urban Fellows, Inc.
National Urban League.
National Victim Center.
National Wildflower Research Center.
National/United Service Agencies (N/USA).
Native American Rights Fund.
Natural Resources Defense Council.
Nature Conservancy.
New Hampshire Charitable Fund.
New Haven Foundation.
New World Foundation.
The New York Community Trust.
New York Life Insurance Co.
New York Times Company Foundation, Inc.
NIPSCO Industries.
Nonprofit Coordinating Committee of New York.
The Nord Family Foundation.
Northwest Area Foundation.
NOW Legal Defense and Education Fund.
NYNEX Foundation.
Oakleaf Foundation.
OICs of America, Inc.
Open Space Institute.
OPERA America.
Organization of Chinese American Women.
Outward Bound, Inc.
Pacific Telesis Foundation.
David and Lucile Packard Foundation.
Palm Beach County Community Foundation.
Paramount Communications.
Parent Action.
J.C. Penney Company, Inc.
People-to-People Health Foundation.
Pew Charitable Trusts.
Pfizer Foundation, Inc.
Phelps-Stokes Fund.
Philip Morris Companies, Inc.
The Pillsbury Foundation.
Piton Foundation.
The Pittsburgh Foundation.
The Planetary Society.
Planned Parenthood Federation of America.
Polaroid Foundation, Inc.
Population Council.
Population Resource Center.
PPG Industries, Inc.
Premier Industrial Foundation.
Presidential Classroom for Young Americans.
Prince Charitable Trust.
The Principal Financial Group.
Prison Fellowship Ministries.
The Progressive Corporation.
Project SEED.
Prudential Foundation.
Public Affairs Council.
Public Agenda Foundation.
Puerto Rican Legal Defense and Education Fund, Inc.
Quest International.
Rainbow Research, Inc.
Ray Foundation.
Raychem Corporation.
Raytheon Company.
Reader's Digest Foundation.
Reading is Fundamental, Inc.
Recording for the Blind.
Reinberger Foundation.
Religion in American Life.
Renewable Natural Resources Foundation.
Retirement Research Foundation.
Charles H. Revson Foundation.
Sid W. Richardson Foundation.
Richland County Foundation of Mansfield, Ohio.
RJR Nabisco, Inc.
Rochester Area Foundation.
Rockefeller Brothers Fund.
Rockefeller Family & Associates.
Rockefeller Family Fund.
Rockefeller Foundation.

Rockwell International.
Rohm and Haas Company.
Rosenberg Foundation.
SAFECO Insurance Companies.
The Saint Paul Companies, Inc.
Saint Paul Foundation.
Salvation Army.
San Francisco Foundation.
Save the Children Federation, Inc.
Schering-Plough Corporation.
Dr. Scholl Foundation.
The School For Field Studies.
Scientists' Institute for Public Information.
Scott Paper Company Foundation.
Scripps-Howard Foundation.
Seafirst Bank.
Sears Roebuck and Co. Sears/Coldwell Banker/Dean Witter/A.
The Seaver Institute.
Second Harvest.
70001 Training and Employment Institute.
Shell Oil Company Foundation.
Sherwin-Williams Company
Shubert Foundation.
Sierra Club.
The Sierra Foundation.
The Lois and Samuel Silberman Fund.
Melvin Simon & Associates, Inc.
Harry Singer Foundation.
The Skillbuilders Fund.
Skillman Foundation.
Alfred P. Sloan Foundation.
The Christopher D. Smithers Foundation.
Smithsonian Institution.
John Ben Snow Foundation, Inc.
Southern Education Foundation.
Special Libraries Association.
The Spencer Foundation.
Spunk Fund, Inc.
Starlight Foundation.
W. Clement & Jessie V. Stone Foundation.
Aaron Straus and Lillie Straus Foundation, Inc.
Levi Strauss Foundation
Student Conservation Association, Inc.
The Studio Museum in Harlem.
Subaru of America Foundation.
Sun Microsystems, Inc.
Support Centers of America.
Synergos Institute.
Syntex Corporation.
Taconic Foundation, Inc.
Tandy Corporation.
Anne Burnett Tandy and Charles D. Tandy Foundation.
The Taubman Company, Inc.
TCF Foundation.
Tenneco Inc.
Texaco Philanthropic Foundation Inc.
Theatre Communications Group, Inc.
3M.
Time Warner Inc.
Travelers Aid International.
Trident Community Foundation.
The Trilateral Commission.
Trust for Public Land.
TRW Foundation.
Union National Bank.
Union Pacific Foundation.
United Jewish Appeal.
United Leukodystrophy Foundation.
United Negro College Fund, Inc.
United States Catholic Conference.
United States-China Educational Institute.
United Way of America.
US News & World Report.
US West Foundation.
USO World Headquarters.
USX Foundation Inc.
Vellore Christian Medical College Board (USA), Inc.
Visiting Nurse Associations of America.
VOLUNTEER—The National Center.
Volunteers of America.
Volvo North America Corporation.
Izaak Walton League of America.
Warner-Lambert Company.
Washington Center.
Washington Council of Agencies.
Washington Post Company.
Weingart Foundation.
The Wellness Community—National.
Wells Fargo Foundation.
Westinghouse Electric Corporation.
Weyerhaeuser Company Foundation.
Weyerhaeuser Family Foundation, Inc.
Mrs. Giles Whiting Foundation.
Whitman Corporation.
Amherst H. Wilder Foundation.
Wisconsin Energy Corporation Foundation, Inc.
Women and Foundations/Corporate Philanthropy.
Women's Action Alliance, Inc.
Women's Equity Action League (WEAL).
Women's Research & Education Institute.
Robert W. Woodruff Foundation, Inc.
Woods Charitable Fund, Inc.
Greater Worcester Community Foundation, Inc.
World Federation for Mental Health.
World Resources Institute.
World Vision, Inc.
World Wildlife Fund & The Conservation Foundation.
Wyman Youth Trust.
Xerox Corporation.
YMCA of the USA.
Young Life Foundation.
Youth Opportunities Corp.
Youth Service America.
YWCA of the USA.
Zellerbach Family Fund.

Total Members: 738.
Foundations: 185.
Corporations: 145.
Voluntaries: 408.

Mr. KASTEN. I reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BENTSEN. Mr. President, let me tell you what the problem is. This one costs $2.5 billion. We are on the razor's edge right now with the $500 billion limit. This throws the bill totally out of compliance. If there ever was a killer amendment, this one is it. I urge you strongly to defeat this amendment.

Mr. KASTEN. How much time is remaining?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. KASTEN. I thank the Chair.

I do not want the Senator to yield. I simply want to point out that we are in a very difficult position here to determine what the effect on charitable contributions is going to be if they are in fact taxed. Someone makes an assumption that the charitable contributions of a group of people will be the same whether they are taxed or not taxed. I think they are going to go down, not up.

I do not think there is any way that we can determine whether this is going to cost $30 million a year, which is what the independent group says it is, or whether it is going to cost $50 million a year, which is what one of the estimates from joint tax is, because joint tax assumes that notwithstanding the fact there is going to be a tax on charitable contributions people are going to contribute exactly the same amount.

I believe the people are going to contribute less. We can make up this revenue. This is a very, very weak revenue estimate. Charitable deductions are different from any other deduction. They result in no personal gain for the taxpayer. It simply makes no sense to tax money that is given away to serve public purposes.

We really cannot determine the effect of the revenue estimate because I believe the people will reduce their charitable contributions if we impose this unfair tax.

Mr. MITCHELL addressed the Chair.

Mr. SASSER. I yield the time as the majority leader may consume up to the time on this amendment.

Mr. MITCHELL. Mr. President, we have heard a lot of talk these past 2 days about the need to have a fair contribution by the very wealthy. This amendment would give to those making more than $100,000 a year $2.5 billion off the amount in the bill. It would result in the middle class paying more than those at the top of the income scale.

This amendment, if it is passed, means that those making $20,000 to $30,000, $30,000 to $40,000, $40,000 to $50,000 all would be asked to pay more than those making over $100,000 a year.

No one who has expressed a concern in this Senate over the past 2 days, either in words or in a vote, for the amount to be contributed by those at the top can possibly vote for this amendment.

If you feel that the bill's major deficiency is that it does not assess those at the top enough, this amendment subtracts from their contribution by $2.5 billion. And it renders the bill out of compliance, offers no offset. It is a direct gift of $2.5 billion to those at the very top of the income scale.

Once again, we have before us the proposition that the only way to advance a desirable social goal in our society is to cut taxes for those at the very top of the income scale. That is the effect here. Nobody make any mistake about it. The amount to be taken, the amount of contribution from those at the top is greater than those in the middle, under this bill, as it stands.

If you adopt this amendment, this again becomes a "soak the middle class" bill because what it says is we cannot even ask those above $100,000 or $200,000 or $1 million a year to make a contribution even equal to the middle class.

The bill asks for more from those at the top, not more enough to satisfy many Senators.

This amendment, if adopted, would say once again the American middle class is a group that is going to be asked to pay the most because we want to take it easy on those at the top. It is a desirable objective, certainly. We are all for the Girl Scouts. But the effect of it will be that we reduce the burden on those at the top by $2.5 billion.

If a Senator here feels that the wealthy in this country are paying too much under this bill, that we are asking too great a sacrifice of those who make more than $100,000 a year, then you ought to vote for this amendment. By definition, this amendment only applies to taxpayers over $100,000 a year; no one else benefits, no other taxpayer benefits from this amendment because the deduction limitation begins at $100,000 a year and up.

So that is the issue. If you think this bill poses too big a burden, asks too much of those making more than $100,000 a year, then you should support this amendment because this reduces the burden on those making more than $100,000 a year by $2.5 billion.

It throws the bill out of compliance, we do not meet the deficit reduction targets, and no alternative is sought. Let me tell you, when an alternative does come now or in future, it will be on the middle class. And once again we will ask the middle class of America, those making $30,000, $40,000, $50,000 a year to make up for the tax breaks that we have given to those making more than $100,000 a year.

I do not think we should start down that road now. I urge the defeat of this amendment.

Mr. BUMPERS. Mr. President, will the distinguished leader yield for a question?

Mr. MITCHELL. I yield.

Mr. BUMPERS. Does the Senate bill provide for limitation of deductions on people who make over $100,000; is that the adjusted gross income?

Mr. MITCHELL. Yes, it is.

Mr. BUMPERS. Normally, someone who would reach $100,000——

The PRESIDING OFFICER. The Chair interrupts. The time in the control of those who oppose this amendment has expired.

Mr. BUMPERS. Mr. President, I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator may proceed.

Mr. BUMPERS. So your normally adjusted gross income of $100,000 means you have to make close to $150,000; is that not correct?

Mr. MITCHELL. That is correct.

Mr. BUMPERS. Second question: what is the limitation on deductions in the Senate bill?

Mr. MITCHELL. For a person whose adjusted gross income is $150,000, that means an income in gross of about $200,000 a year. The effect on that person's tax liability is $1,400.

We are to believe that persons making $200,000 a year, if you affect his or her tax liability by $1,400, they are going to start changing charitable contributions?

I submit that is an insult to those Americans at that level of income who will, should, and ought to continue making contributions to the Girl Scouts and the other charities.

Mr. BUMPERS. That was my point. I cannot imagine people who are charitable givers refusing to contribute for such a minor disallowance of a contribution. But collectively, of course, it adds up to $2½ billion.

The majority leader's point is well taken. I will not belabor it further, Mr. President.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has a minute and a half.

Mr. KASTEN. Mr. President, let me first of all say there are no wealthy taxpayers coming to us asking us to change the law to help them. The people who are behind the Kasten-Inouye amendment are the American Cancer Society, United Way, et cetera, et cetera, et cetera. I ask each of you, which of these groups—Boys' Clubs of America, Family Services, National Association of Evangelicals—who are these people? Are these people the very rich?

No. These people are delivering their services. It is not the very wealthy saying, "We do not want to be taxed." Since 1917, when we first started itemizing deductions—1917—we have never, never in the United States of America taxed the contribution. This is the first time. We are plowing new ground.

If we can say 5 percent is good, maybe 10 percent is better, maybe 20 percent is better. Let us really tax them. It is not the wealthy who came and are behind this amendment. What we are saying is a large number of groups—I have a list of 700 different private organizations, voluntary organizations. They go from organizations that we all know very well to ones we have not heard of.

President Bush has referred to the efforts of charitable causes as a thousand points of light. In efforts to tax the rich, we should not dim the efforts of those who give. We are, for the first time since 1917, taxing charitable contributions, changing that threshold back and forth, changing the amount.

We are making the wrong decision by introducing the taxation of charitable contributions.

Mr. President, I ask unanimous consent that a factsheet on charitable contributions deduction be printed in the RECORD.

There being no objection, the factsheet was ordered to be printed in the RECORD, as follows:

PRO AND CON ARGUMENTS RELATED TO DROPPING CHARITABLE DEDUCTIONS FROM THE ACROSS-THE-BOARD-PROPOSAL TO LIMIT ITEMIZED DEDUCTIONS

OPPOSITION ARGUMENTS

Charitable giving has continued to increase after the 1986 Tax Reform Act, showing that charities' prediction of doom was wrong.

The 1986 Tax Reform Act had a negative impact on charitable giving. The Tax Reform Act ended the charitable deduction for nonitemizers and included gifts of appreciated property in the Alternative Minimum Tax. Information from the American Association of Fund-raising Counsel, on per capita giving, showed that individual giving increased by only 1.4 percent in 1987 and 3.2 percent in 1988. By contrast, it increased 11.2 percent in 1986 and 8.7 percent in 1985—the two years leading up to tax reform.

Total charitable giving by individuals also provides something of a barometer to judge the impact of the 1986 Tax Reform Act on giving. It is less precise because it doesn't provide direct information regarding behavior of individuals. However, total charitable giving by individuals also suggests that the Tax Reform Act of 1986 slowed charitable giving. Total contributions by individuals increased by only $1.7 billion (2.5 percent) in 1987, and $2.9 billion (4.2 percent in 1988). By comparison, in the two years leading up to the Tax Reform Act of 1986, total giving by individuals increased by $5.4 billion (9.9 percent) in 1985, and $7.2 billion (12.1 percent) in 1986.

The average increase in total charitable contributions was $2.3 billion a year in 1987 and 1988. By contrast, the average total increase was $6.3 billion a year in 1985 and 1986. This $4 billion reduction in 1986 and 1987 represents a very significant amount of charitable giving.

The increases in giving that we have seen since tax reform in 1986 obviously would have been much higher had Congress not ended, in 1986, the charitable deduction for nonitemizers and had Congress not included gifts of appreciated property in the alternative minimum tax.

The proposed floor on itemized deductions affects those with incomes of $100,000 or more. Upper-income individuals are particularly sensitive to changes in tax policy when they make their decision regarding the amount they will give to charity. In 1985 and 1986, prior to the 1986 Tax Reform Act, those with incomes of $1 million or more showed a surge in giving per average return of 43 percent. After the 1986 Tax Act there was a decline in contributions of 53 percent from tax years 1986 to 1987.

If we drop "charitable" out of the across-the-board package, state and local taxes and mortgage interest will expect and deserve the same treatment.

The charitable deduction is different from any other tax deduction. The taxpayer who gives money to charity for a public interest activity no longer has it for his own use.

The charitable deduction is thus a kind of voluntary tax. The taxpayer, rather than the government, decides on the amount of the tax and to what public purposes it will be devoted. It makes no sense to tax money that is given away to serve public purposes. Such action simply defeats the purpose of encouraging people to support those causes and services that they think are important.

Charitable deduction is a uniquely efficient way for government to encourage voluntary contributions for public purposes. It permits the exercise of a full range of individual choices by the taxpayer about what public purposes to support. It does so, instead of absorbing the same amount into the public treasury and distributing it, only for those purposes and proportions that government chooses.

It is very clear that charitable deductions are different from other deductions. They result in no personal gain for the taxpayer. And for that they reason deserve to be dropped from the across-the-board proposal to tax itemized deductions.

How will we make up the revenue that will be lost by dropping charitable out of the package?

The Joint Committee on Taxation has not provided revenue estimates regarding how the $29 billion to be gained from the across-the-board limitation on itemized deductions will be distributed among the deductions for state and local taxes, mortgage interest and charitable contributions. However, information from the Office of Policy Development suggests that the revenue loss from dropping charitable contributions from the proposal will be exceedingly small. Under a three percent floor, their estimate is that one-tenth of 1 percent of all charitable giving would be affected. That amounts to $96 million. Assuming a marginal tax rate of 28 percent, the loss to Treasury would be, at the most, about $26 million annually. It seems to me that is a *very* modest amount for the federal government to give up in order to keep the charitable deduction safe.

If charitable deductions would be affected only modestly, why should anyone be concerned?

There is reason to be concerned that when a taxpayer's tax bill goes up, as it will under the floor on itemized deductions, the taxpayer will lessen the out-of-pocket impact of the tax bill by reducing somewhat his or her charitable contributions.

ARGUMENTS TO BE MADE IN SUPPORT OF NO FLOOR ON CHARITABLE DEDUCTIONS

Who benefits from giving to charitable causes?

A broad array of services benefit from the increased giving for charitable causes, including protection for the environment, health research, food programs for the homeless, schools and colleges, refugee crises counseling, youth services, civil rights, hospitals, community and international development, the arts, housing for senior citizens and the myriad of activities in the public interest that enrich our society and protect its people.

A floor sets a very bad precedent.

A month ago, when Congress and the Administration proposed a three percent cap on all itemized deductions, including charitable, we opposed the idea in principle because it would tax money freely given to serve public purposes. We also opposed it because of our concern that a three percent floor would soon become five percent, then 10 percent, and ultimately the charitable deduction would go the same route as the medical deduction, eroding away to nothing. It is clear that our fears were justified. The ink was barely dry on the three percent floor under discussion in the House, when the Senate Finance Committee supported a five percent floor.

Gains from charitable giving compared to revenue lost to Treasury.

In 1989, individuals contributed $96 billion to a wide variety of services and causes that serve public purposes. The "cost" to Treasury was $13 billion—for the tax deductions individuals claimed for those $96 billion in contributions. Obviously that represents a great bargain for the nation and one that should be carefully protected from inroads such as the proposed floor on charitable tax deductions.

Cuts in federal spending for human services.

Government relies heavily on nonprofit organizations to deliver publicly-financed services. However, for the period 1982-90, nonprofit organizations lost $33 billion in federal support that they would have had available had FY 1980 spending levels been maintained. That amount is exclusive of Medicare and Medicaid. From 1982 to 1990, the inflation adjusted value of federal spending in the six budget functions of greatest concern to nonprofit organizations, exclusive of Medicare and Medicaid, declined a cumulative total of $120 billion compared to what would have been spent had 1980 spending levels been maintained.

Economic pressures on nonprofit service.

A key indicator of the economic pressure on nonprofit services is the extent to which these organizations have dipped into reserves to keep programs going. In 1977, nonprofits, in the aggregate, maintained an average reserve of about 25 percent of annual expenditures—a three-month reserve. By 1987, that reserve had dropped down to one percent of annual expenditures or about three and one half days of operative funds. If the pressure on contributors continues, it seems likely that a number of nonprofits could sharply curtail activities or fold—thereby increasing social costs.

Mr. INOUYE. Mr. President, today Senator KASTEN and I offer an amendment to the omnibus budget reconciliation bill which would exempt charitable contributions from the new limits on itemized deductions. We wish to remove charitable contributions from the 5-percent reduction on allowable tax deductions for certain taxpayers because of the negative impact it would have on those who give voluntarily to charity for a public interest activity.

The charitable deduction is perhaps the most unique and beneficial incentive in the Tax Code, and has been national policy since 1917.

The charitable deduction is different from any other tax deduction. The taxpayer who gives money to charity for a public interest activity no longer has it for his or her own use. The charitable deduction, therefore, is a kind of a voluntary tax. The taxpayer, rather than the Government, decides the amount of the tax and to what public purposes it will be devoted. It makes no sense to tax money that is given away to serve public purposes.

One of the consequences of increased taxes is that the taxpayer will lessen the out-of-pocket impact of the increase by reducing his or her charitable contribution. Our amendment would concede to the taxpayer that yes, we will have to raise your taxes, but, if you contribute to a charitable cause the increase on your taxes will not be levied on the charitable contributions. This is a small concession to increased taxes that would show support for charitable giving. The 5-percent disallowance would apply to all other itemized deductions, but would not apply to any charitable contribution.

It is very clear that the charitable deduction is different from other deductions. The charitable deduction in no way results in personal gain for the taxpayer. For that reason, the charitable deduction should be dropped from the across-the-board proposal to tax itemized deductions.

The revenue loss from dropping charitable contributions from the proposal would be exceedingly small. It is estimated that under a 5-percent floor, little more than one-tenth of 1 percent of all charitable giving would be affected. The loss to the Treasury would be slightly more than $27 million annually. While we are aware of the need for new taxes in this time of extreme budget austerity, we believe that this is a very modest amount for the Federal Government to give up in order to nurture charitable contributions.

In 1986 Congress ended the deduction for 72 million Americans who do not itemize their taxes. Senator KASTEN and I have introduced a bill to restore the deduction to nonitemizers. Congress may make another mistake by making an inroad on charitable deductions for itemizers with this 5 percent floor proposal.

Federal support to private, nonprofit organizations was reduced by $26.7 billion dollars from fiscal year 1982 to 1988. I feel that it is important to support charitable and nonprofit organizations at a time when Federal support is diminishing. President Bush speaked highly of our Nation's charitable organizations, referring to them as a Thousand Points of Light. Let us, at least, support charitable organizations by not hindering their efforts to raise funds privately. Without such support, these Thousand Points of Light will go out.

The PRESIDING OFFICER. All time has expired on this amendment.

Under the previous order, the Senator from Connecticut is recognized.

POINT OF ORDER: CONGRESSIONAL BUDGET ACT

Mr. SASSER. Mr. President, if the Senator will yield before proceeding to the Senator from Connecticut, I raise a point of order under the Budget Act, section 310(D), against the amendment offered by the Senator from Wisconsin.

Mr. KASTEN. Mr. President, I move to waive the relevant parts of the Budget Act, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote on the motion to waive the Budget Act will occur in the sequence of the order.

The Senator from Connecticut may now proceed.

AMENDMENT NO. 3038

(Purpose: To amend the Internal Revenue Code of 1986 to extend to 10 years the period of limitation of collection after assessment)

Mr. LIEBERMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself, Mr. GLENN, Mr. LEVIN, Mr. KOHL, Mr. AKAKA, Mr. DODD, and Mr. CONRAD, proposes an amendment numbered 3038.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . 10-YEAR PERIOD OF LIMITATION ON COLLECTION AFTER ASSESSMENT.

(a) IN GENERAL.—Subsection (a) of section 6502 of the Internal Revenue Code of 1986 (relating to collection after assessment) is amended—

(1) by striking "6 years" in paragraph (1) and inserting "10 years", and

(2) by striking "6-year period" in paragraph (2) and inserting "10-year period".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to levels made, proceedings begun, or agreements made after the date of the enactment of this Act, with respect to assessments made after such date or assessments pending on such date (determined without regard to the amendments made by this section).

Mr. LIEBERMAN. Mr. President, may I suggest with some modesty that I believe this amendment, proposed by Senator GLENN and me, ought to be supported by everyone, and it is unique among the amendments that have been introduced today. This amendment can raise as much as $600 million in the next 5 years, and it asks nothing more of law-abiding, taxpaying citizens of America. Further, it does not change at all the underyling tax structure in the reconciliation bill.

This amendment would raise substantial revenues over the 5-year period addressed in this reconciliation bill, and it would raise those revenues from businesses and individuals who have received tax assessments and notices—people who know they owe taxes, but have not paid them. To be fair to all of the honest, taxpaying citizens in this country, we must not let our rights to collect these overdue taxes slip through our fingers.

The events of the last few weeks have demonstrated the importance of this change in the law. This reconciliation bill confronts us with the awful reality of having to raise taxes in order to deal with the budget crisis. In these circumstances, few things could be more important than our ability to collect taxes that are admittedly owed to the Federal Government but are not being paid.

In August, the Senate Governmental Affairs Committee, under Senator GLENN's chairmanship, examined the growing backlog of IRS "accounts receivable", that is the backlog of uncollected taxes. These accounts receivable have grown from $26 billion in fiscal year 1983 to over $60 billion in fiscal year 1989. I realize that some accounts are mistakenly included in this figure, but it is clear that we are simply not collecting tens of billions of dollars in taxes that are indisputably owed to the Government, and the amount is growing. When accrued interest and penalties are included, current IRS accounts receivable are over $95 billion and are expected to be over $100 billion by the end of 1991.

One of the most disturbing consequences of this growth in accounts receivable is that more and more delinquent taxes become uncollectable each year, as the applicable statute of limitations expires. Under current law, once an assessment of taxes is made, the Government has 6 years to initiate collection proceedings, or it can lose its right to collect. In 1989, $2.1 billion in accounts receivable became uncollectible because the statute of limitations expired. According to GAO, when interest and penalties are included, the amount of money owed to the Government that simply went out of our reach in 1989 was actually $5.6 billion.

How can we ask honest, hard-working, taxpaying Americans to pay more taxes, when every year the Government is losing its right to collect billions of dollars owed by people who have not paid their taxes? We must take steps to correct this problem.

This amendment would extend the statute of limitations for collection of assessed taxes from 6 years to 10 years. This would help the IRS to stem the hemorrhaging of expiring accounts under the statute of limitations. The bill would cost nothing, and would leave the IRS free to structure its enforcement efforts as it sees fit. But it would give the agency more time to go after tax cheats whose debts to the Government would otherwise become uncollectible.

The IRS has unofficially estimated that extending the statute of limitations to 10 years would enable collection of well over $500 million in additional revenue in fiscal years 1991-95. The General Accounting Office believes that these figures underestimate the amount of additional revenue that could be collected, because the IRS calculations assume a continued 5 percent growth in expiring accounts receivable, when in fact, expiring accounts have grown by approximately 20 percent in recent years. Assuming growth of 20 percent, GAO estimates that over $600 million in additional revenues could be collected by fiscal year 1995. Recently, the Joint Committee on Taxation offered a preliminary estimate that the extension of the statute of limitations would raise revenues of up to $250 million over this 5-year period. Mr. President, there may be disagreement as to how much revenue this amendment would raise, but all concerned agree that it will raise revenue.

Mr. President, this amendment is fair. The extended statute of limitations would apply to those amendments as to which the current limitations period is running, but it would not apply to those assessments as to which the current statute of limitations has already expired. More importantly, the bill offers some measure of fairness to the people in this country who do pay their taxes, people who are not in a position to get a tremendous windfall merely because an overburdened IRS cannot go after them quickly enough.

I hope my colleagues will support this amendment. It could enable the Government to collect hundreds of millions of dollars over the next 5 years, money which could contribute to reducing the deficit or reducing the need for more taxes.

I yield to the Senator from Ohio for further comment.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I support this amendment by Senator LIEBERMAN very strongly. It gains revenue. At the same time, it gets the tax deadbeats, scofflaws, and chiselers who already owe taxes and do not pay them. In 1983, we lost $26 billion; in 1989, we lost $60 billion to delinquent taxes in that year.

If you add currently not collectibles to that, it comes up to a total of $96 billion, when you add in the unpaid tax interests and penalties. But the statute of of limitations runs out, and we cannot go after these people. Because we have no longer authority to do it, it is no longer available for collection because of this 6-year limit.

In 1983, we lost $600 million; in 1989, we lost $21 billion because of the statute of limitations

We tried to get more IRS agents a couple weeks ago here on the Treasury-postal appropriations, and we failed because of procedural matters here.

But, Mr. President, this, I submit to my colleagues, is a revenue generator. As Senator LIEBERMAN has said, the IRS has said $500 million over the next 5 years; GAO says $600 million. The Joint Committee on Taxation says $250 million.

Mr. President, we do this by getting the cheapskates and truants, and I ask everybody to join this posse. Go get them, and get some money at the same time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President I am in a position where, frankly, I am not on the committee of jurisdiction, and I have no idea whether we ought to accept this or not. It sounds good. I am not going to oppose it.

It seems to me, however, that the administration has some objections. I have not been privileged to speak with them about it, having not had time, nor have they sought me out. Not that I should. Frankly, I am going to leave this up to the Senate.

This extends the statute of limitations for certain businesses and individuals who have received assessment notices, and the statute goes from 6 years to 10.

This must be a little bit more onerous than it appears on the surface, but I am not going to resist it to any degree. Well, I am not going to resist it very hard here, anyway. We will let the Senate decide.

Mr. REID. Mr. President, for the record, I would like to make it clear that I am opposed to the amendment passed tonight that extends the statute of limitations on the collection of income taxes from 6 to 10 years.

The PRESIDING OFFICER. A minute and 15 seconds remains to the Senator from New Mexico if he wishes to use it.

Mr. DOMENICI. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, we proceed, then——

Mr. SASSER. Mr. President, before proceeding to a rollcall vote on the Nickles amendment, all time has been yielded back on the Grassley amendment, and I would ask the distinguished Senator from New Mexico, is he agreeable—if I could have his attention—is the distinguished Senator from New Mexico agreeable to a voice vote on the Grassley amendment, as well as the Lieberman amendment?

Mr. DOMENICI. Nobody has asked for the yeas and nays.

Mr. SASSER. As well as the Lieberman-Glenn amendment.

Mr. DOMENICI. I have no objection to voice voting Senator GRASSLEY's amendment or the Lieberman-Glenn amendment.

Mr. SASSER. Mr. President, I move to table the Nickles amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. SASSER. Mr. President, I request the yeas and nays on the Nickles amendment.

The PRESIDING OFFICER. Is there a sufficient second? There now is a sufficient second.

The yeas and nays were ordered.

Mr. SASSER. Mr. President, point of clarification. I intended to make a motion to table the Nickles amendment. Is that the matter that is pending at the present time?

The PRESIDING OFFICER. That is the pending question.

Mr. SASSER. I thank the Chair.

Mr. DOMENICI. Mr. President, I understand debate is not in order, but I ask unanimous consent to inquire for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Before we start voting on the tabling motion, could we not voice vote the two amendments that we have heretofore agreed would not require votes?

Mr. SASSER. I say to my friend from New Mexico, that is what I set out to do.

The PRESIDING OFFICER. What is the Senate's pleasure?

Mr. DOMENICI. I ask unanimous consent that the pending tabling motion be set aside and that we proceed to voice vote the Grassley amendment and the amendment of the distinguished Senators LIEBERMAN and GLENN.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

AMENDMENT NO. 3036

The PRESIDING OFFICER. The question is on agreeing to the Grassley amendment.

The amendment (No. 3036) was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3038

The PRESIDING OFFICER. The question is on agreeing to the Lieberman-Glenn amendment.

The amendment (No. 3038) was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3034

The PRESIDING OFFICER. The question recurs on the motion to table the amendment of the Senator from Oklahoma.

Mr. DOMENICI. Mr. President, I ask unanimous consent to inquire for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. What is the sequence of votes that we now have? Could either the Chair or the chairman state that?

Mr. SASSER. As I understand it, Mr. President, we will have a——

The PRESIDING OFFICER. If the Senator will suspend. The Chair requests order in the Senate. There is a lot going on in the Senate. There needs to be order so that the Chair and the Parliamentarian and all Senators may follow closely.

The Senator may proceed.

Mr. SASSER. Mr. President, I defer to the Parliamentarian to indicate the sequence of votes.

The PRESIDING OFFICER. The first vote will be on the motion to table the Nickles amendment. Should the motion carry, then the following order will be the motion to waive the Budget Act with respect to the Harkin amendment. Once the Harkin amendment is disposed of, the question will be on the motion to waive the point of order of the Budget Act on the Kasten amendment.

That being perfectly clear, the question is on agreeing to the motion to table the amendment of the Senator from Oklahoma [Mr. NICKLES].

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced, yeas 0, nays 100, as follows:

[Rollcall Vote No. 284 Leg.]

YEAS—0

NAYS—100

Adams	Fowler	McConnell
Akaka	Garn	Metzenbaum
Armstrong	Glenn	Mikulski
Baucus	Gore	Mitchell
Bentsen	Gorton	Moynihan
Biden	Graham	Murkowski
Bingaman	Gramm	Nickles
Bond	Grassley	Nunn
Boren	Harkin	Packwood
Boschwitz	Hatch	Pell
Bradley	Hatfield	Pressler
Breaux	Heflin	Pryor
Bryan	Heinz	Reid
Bumpers	Helms	Riegle
Burdick	Hollings	Robb
Burns	Humphrey	Rockefeller
Byrd	Inouye	Roth
Chafee	Jeffords	Rudman
Coats	Johnston	Sanford
Cochran	Kassebaum	Sarbanes
Cohen	Kasten	Sasser
Conrad	Kennedy	Shelby
Cranston	Kerrey	Simon
D'Amato	Kerry	Simpson
Danforth	Kohl	Specter
Daschle	Lautenberg	Stevens
DeConcini	Leahy	Symms
Dixon	Levin	Thurmond
Dodd	Lieberman	Wallop
Dole	Lott	Warner
Domenici	Lugar	Wilson
Durenberger	Mack	Wirth
Exon	McCain	
Ford	McClure	

So the motion to lay on the table amendment No. 3034 was rejected.

Mr. NICKLES. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order.

The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (No. 3034) was agreed to.

Mr. NICKLES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3035 MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the motion of the Senator from Iowa to waive the Budget Act on his amendment, No. 3035. The yeas and nays have been ordered, and the clerk will call the roll.

The PRESIDING OFFICER (Mr. ROBB). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 49, nays 51, as follows:

[Rollcall Vote No. 285 Leg.]

YEAS—49

Adams	Graham	McConnell
Akaka	Grassley	Metzenbaum
Baucus	Harkin	Mikulski
Biden	Hatfield	Pell
Bingaman	Heflin	Pressler
Boschwitz	Hollings	Reid
Bradley	Jeffords	Riegle
Bryan	Johnston	Rockefeller
Burdick	Kennedy	Sanford
Cohen	Kerrey	Sarbanes
Conrad	Kerry	Shelby
Cranston	Kohl	Simon
D'Amato	Lautenberg	Specter
DeConcini	Leahy	Warner
Dixon	Levin	Wilson
Exon	Lieberman	
Gore	McCain	

NAYS—51

Armstrong	Ford	Mitchell
Bentsen	Fowler	Moynihan
Bond	Garn	Murkowski
Boren	Glenn	Nickles
Breaux	Gorton	Nunn
Bumpers	Gramm	Packwood
Burns	Hatch	Pryor
Byrd	Heinz	Robb
Chafee	Helms	Roth
Coats	Humphrey	Rudman
Cochran	Inouye	Sasser
Danforth	Kassebaum	Simpson
Daschle	Kasten	Stevens
Dodd	Lott	Symms
Dole	Lugar	Thurmond
Domenici	Mack	Wallop
Durenberger	McClure	Wirth

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 51; three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The motion to waive having failed, the Chair is prepared to rule the amendment of the Senator from Iowa proposes a surtax on individuals with taxable incomes in excess of $1 million. Since there is nothing in the bill on the tax rate for individuals, the amendment is not germane and falls under section 305(B)(2) of the Budget Act.

Mr. KASTEN. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

AMENDMENT NO. 3037 MOTION TO WAIVE THE BUDGET ACT

Mr. KASTEN. Parliamentary inquiry. What is the pending business?

The PRESIDING OFFICER. Under the previous order, the pending business is the motion by the Senator from Wisconsin to waive section 310(d)(2) of the Budget Act.

Mr. KASTEN. Mr. President, what is the 5-year deficit effect of the Kasten-Inouye amendment?

The PRESIDING OFFICER. The Chair informs the Senator that he will attempt to obtain the information from the Budget Committee.

Mr. KASTEN. Mr. President, the Senate is not in order.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Chair informs the Senator from Wisconsin that to exclude charitable contributions from the overall limitations on deductions that may be taken from those whose incomes exceed $100,000 would result in an estimated revenue loss of $2.5 billion.

Mr. KASTEN. Mr. President, I have a further inquiry of the Chair.

Mr. President, out of 5-year savings in S. 3209 is the reconciliation bill below or above the instructions?

The PRESIDING OFFICER. The Chair is not in a position to respond to the Senator's inquiry. Under the previous order——

Mr. KASTEN. Parliamentary inquiry. What is the situation? Are the 5-year savings in the reconciliation bill before us above or below the instructions?

The PRESIDING OFFICER. The Chair is informed by the Parliamentarian that under the previous action the Finance Committee would fail to meet its instructions.

Several Senators called for regular order.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive section 310(d)(2) of the Budget Act, proposed by the Senator from Wisconsin.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The Chair reminds Senators that a 10-minute vote has been previously agreed to.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 39, nays 61, as follows:

[Rollcall Vote No. 286 Leg.]

YEAS—39

Akaka	Heflin	Nickles
Armstrong	Helms	Pressler
Bond	Hollings	Roth
Burns	Humphrey	Sanford
Coats	Inouye	Shelby
Cochran	Jeffords	Simon
D'Amato	Kassebaum	Specter
Exon	Kasten	Stevens
Garn	Lott	Symms
Gorton	Mack	Thurmond
Grassley	McCain	Wallop
Hatch	McConnell	Wilson
Hatfield	Metzenbaum	Wirth

NAYS—61

Adams	Dodd	Lugar
Baucus	Dole	McClure
Bentsen	Domenici	Mikulski
Biden	Durenberger	Mitchell
Bingaman	Ford	Moynihan
Boren	Fowler	Murkowski
Boschwitz	Glenn	Nunn
Bradley	Gore	Packwood
Breaux	Graham	Pell
Bryan	Gramm	Pryor
Bumpers	Harkin	Reid
Burdick	Heinz	Riegle
Byrd	Johnston	Robb
Chafee	Kennedy	Rockefeller
Cohen	Kerrey	Rudman
Conrad	Kerry	Sarbanes
Cranston	Kohl	Sasser
Danforth	Lautenberg	Simpson
Daschle	Leahy	Warner
DeConcini	Levin	
Dixon	Lieberman	

The PRESIDING OFFICER. On this vote, the yeas are 39, the nays are 61. Three-fifths of Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The amendment of the Senator from Wisconsin would result in a loss of revenues over 5 years of $2.5 billion. This would result in having insufficient savings attributed to the Finance Committee. Therefore, the amendment is out of order under section 310(d)(2) of the Budget Act.

Mr. SASSER. Mr. President, could we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. SASSER. I thank the Chair.

Mr. President, I ask unanimous consent that the votes on any remaining amendments that were offered under the previous order be stacked to occur after time has expired on all of the stacked amendments. I further ask unanimous consent that the rollcall vote on the first amendment have a 15-minute duration and thereafter the remaining rollcall votes have a 10-minute duration.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Reserving the right to object.

Mr. D'AMATO. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SASSER. May I inquire of the Senator?

Mr. METZENBAUM. I was merely trying to get an explanation of exactly what he was saying. I wanted to be clear.

Mr. SASSER. Let me make myself clear. What I am requesting is that the votes on the remaining amendments be stacked, just as the votes on the preceding amendments that we voted on were stacked, rather than having an amendment go to 2 mintues and then a rollcall and an amendment for 2 minutes and a rollcall, et cetera.

Mr. METZENBAUM. I have no objection.

Does the Senator intend to stack those amendments that will be offered after the time has run out? Is that his plan, as well?

Mr. SASSER. There are amendments to be offered after time has run out on which there will be not debate. There is an amendment, as I understand it, by the Senator from Kentucky [Mr. FORD], an amendment by the Senator from Ohio [Mr. METZENBAUM], and perhaps an amendment by the Senator from South Dakota [Mr. PRESSLER].

The PRESIDING OFFICER. Objection having been heard, under the previous order, the Senator from Minnesota [Mr. DURENBERGER] will be recognized.

Mr. SASSER. Mr. President, the amendment by the Senator from Minnesota [Mr. DURENBERGER] will not be offered. He has chosen to withdraw that. So the next amendment to be considered is the amendment of the Senator from Idaho [Mr. SYMMS].

The PRESIDING OFFICER. The Senator from Idaho [Mr. SYMMS] is recognized.

Mr. DOMENICI. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. We have time agreements on these amendments, but we do not have them stacked, is that correct? They will just be sequential?

The PRESIDING OFFICER. The Senator is correct. There are time agreements but there is no order to stack.

Mr. DOMENICI. I wonder, to convenience the Senators and try to get this where we could block the votes, if we could not try to accommodate the distinguished Senator from New York.

Mr. D'AMATO. If I might address an inquiry to the managers and then have an opportunity, depending on whether the managers agree, to confer, and I have conferred with two of my colleagues. I believe that the Senator from Kentucky, Senator FORD, would offer a modification to section 305; that is, that section which deals entirely with the language as it affects airports. The Senator from New York would then be recognized to raise a point of order, and we would have 10 minutes to be equally divided. I already have 5 minutes, supposedly, on an amendment which I withdrew. I think, in the interest of time, it would eliminate two points of order, because I will at some point in time raise a point of order to that section 305, which is in the bill at this point in time. The Senator will undoubtedly submit a modification or an amendment if my point of order is sustained. We will have another point of order raised to his amendment, which will necessitate another vote.

So I suggest to the managers, if they can accommodate us in that way, we would save time. We would have one vote on the point of order as it relates to section 305, as modified by my distinguished colleague, section 301, that dealing with airports.

Mr. SASSER. Mr. President, I previously stated to the Senator from New York that we would work to accommodate him in any way that we could within the framework of also accommodating the Senator from Kentucky [Mr. FORD]. Now, we have a whole bunch of amendments here and many Senators have agreed to 2 minutes, 4 minutes, et cetera. In an effort to accommodate the Senator from New York, I ask if he could not agree to 5 minutes on a side, and we would have to get unanimous consent also to extend the time.

Mr. D'AMATO. That is fine. So we understand the title we are talking about is title III, subtitle B, airport capacity, an entire subtitle, chapters 1 through 7. The point of order will lie to the modification submitted to this subtitle when Senator FORD submits his amendment.

Mr. DOMENICI. Mr. President, I suggest to my friend from New York, maybe we could just proceed with the first amendment. How much time do we have on that?

Mr. SASSER. Four minutes.

Mr. DOMENICI. Why do we not try to go with that and then why do we not try to work out a proposed unanimous consent with Senators FORD and D'AMATO.

Mr. SASSER. Mr. President, I renew my previous unanimous-consent request with regards to stacking the votes.

Mr. STEVENS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Tennessee [Mr. SASSER] is recognized to propound a unanimous-consent request.

Mr. SASSER. Mr. President, I simply renew my previous unanimous-consent request that all amendments be stacked and voted on after the time is expired on the last amendment with the first amendment consuming 15 minutes of rollcall vote and the amendments thereafter consuming 10 minutes per rollcall vote.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object. How much time remains on the reconciliation process?

The PRESIDING OFFICER. All time under the reconciliation act has expired. Unanimous consent agreements exist on a number of individual amendments.

Mr. STEVENS. Is there a unanimous-consent request on the leadership amendment yet?

The PRESIDING OFFICER. There is not at this time.

Mr. STEVENS. And the existing agreements for the time limits on these amendments——

How much time is that,

The PRESIDING OFFICER. The total is about 19 minutes.

Mr. STEVENS. I thank the Chair.

The PRESIDING OFFICER. Is there objection? If not, the unanimous-consent request by the Senator from Tennessee is agreed to.

AMENDMENT NO. 3039

(Purpose: To deposit all increased motor fuel taxes (other than taxes on railroads) into the Highway Trust Fund)

Mr. SYMMS. Mr. President, I call up an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS], for himself, Mr. BURDICK, and Mr. BURNS, proposes an amendment numbered 3039.

Mr. SYMMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 30 of subpart B of part I of subtitle D of title VII of the bill, between lines 20 and 21 insert the following:

(1) EFFECTIVE RATES OF TAX.—Notwithstanding the amendments made by subsections (a) and (b) of this section, for purposes of the Internal Revenue Code of 1986—

(1) the Highway Trust Fund financing rate is—

(A) 13 cents per gallon for periods beginning after November 30, 1990, and ending before July 1, 1991,

(B) 18 cents per gallon for periods beginning after June 30, 1991, and ending before January 1, 1992, and

(C) 18.5 cents per gallon for periods beginning after December 31, 1991,

(2) the deficit reduction financing rate is 0 cents per gallon for periods beginning after November 30, 1990, and

(3) paragraph (8) of subsection (k) of this section (relating to floor stocks) shall not apply.

The PRESIDING OFFICER. The Senator will suspend. The Senate is not in order. The Senator from Idaho has the floor and deserves to be heard.

Mr. SYMMS. Mr. President, the discussion on the gas tax was thoroughly

aired yesterday. I have had many people from this town today tell me they had vote counts; we had over 50 votes prepared to strike the gas tax. We did not get to that vote. I thank all Senators who were helpful in our efforts yesterday.

But as a fallback position, this amendment will put all motor fuel taxes that are in this bill—4.75 cents per gallon to be assessed—in the trust fund. The 4.75 cents per gallon to be assessed against the railroads will continue to go into the general fund.

This Senator made it clear I do not think we should be raising fuel taxes, but if we are going to, we should put it in the Federal highway trust fund.

The Finance Committee proposal to put half the motor fuels in the trust fund, if adopted, will be the first violation of the user-fee principle which has been the backbone of our highway program since 1956.

Mr. President, I want to make this point very clear and then I will close and yield to some of my colleagues: If the motor fuel taxes are to be raised for deficit reduction, they score for deficit reduction the highway trust fund, just as they would if they put them in the general fund. There is no deficit reduction logic that requires putting any of these user fees in the general fund. I know the opponents will say there will be pressure later on to spend this money. I only say that may well be that there will be pressure, but it would only be honest pressure from the public.

I ask unanimous consent that a letter from ATAC, American Transportation Advisory Council and the some 36 organizations that support my amendment, that I am sure my colleagues have all been contacted about, be printed in the RECORD at this point; and the position of the American Road & Transportation Builders Association be printed in RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN TRANSPORTATION ADVISORY COUNCIL,
October 15, 1990.

Hon. Steven D. Symms,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: The American Transportation Advisory Council (ATAC) consists of over seventy organizations and associations actively engaged in the transportation construction industry. All of us are vitally concerned with the approach currently being taken to solve the budget deficit crisis. Of particular note is the proposal to raise the federal gasoline and diesel fuel taxes for deficit purposes.

For more than 34 years, motor fuel taxes paid by highway users have financed the nation's highway improvement programs and in recent years, urban mass transit grants. The success of the Federal-aid Highway Program is due, in large measure, to the user financing mechanism of the Highway Trust Fund. The public supports road programs because they can see the benefits gained from the payment of the federal and state motor fuel taxes. With surface transportation needs growing at an alarming rate, sufficient investment must be made if our transportation system is to provide the level of service which Americans demand and on which the national economy depends.

A motor fuels tax increase for deficit reduction would destroy the most equitable and dependable source of transportation development funding. It would remove the link between the user-pay concept and transportation improvement work seen by business and the motoring pubic.

The American Transportation Advisory Council urges you to at least keep the faith with the motoring pubic by placing all of the revenue from the 9.5 cents-per-gallon increase in the federal motor fuels tax proposed by the Finance Committee in the Highway Trust Fund. Revenue accruing to this trust fund will be scored for deficit reduction if allowed to accumulate in the Highway Trust Fund based on federal accounting principles. If there must be a motor fuels increase for deficit reduction, the integrity of the Highway Trust Fund must be maintained so as to meet this nation's future highway needs.

Please support efforts on the Senate floor during debate on the tax portion of the reconciliation bill which would provide for all highway related motor fuels revenue going into the Highway Trust Fund.

Respectfully submitted,

American Road and Transportation Builders Association, Associated General Contractors of America, Construction Industry Manufacturers Association, National Asphalt Pavement Association, Associated Builders and Contractors, Salt Institute, Virginia Road and Transportation Builders Association, Wilbur Smith Associates, American Concrete Pipe Association, American Society of Civil Engineers, United Bus Owners of America, National Moving and Storage Association, International Bridge Tunnel and Turnpike Association, The Road Information Program, National Waterways Conference, Better Roads and Transportation Council, American Consulting Engineers Council, National Society of Professional Engineers, National Utility Contractors Association, Washington Representative, Florida Department of Transportation, American Trucking Associations, National Redi Mixed Concrete Association, National Stone Association, Highway Users Federation, Associated Equipment Distributors, Portland Cement Association, International Road Federation, Contech Construction Products, American Bus Association, National Coal Association, Parsons Brinckerhoff, Asphalt Institute, American Public Works Association, National Association of Counties, Art Cameron Associates, American Public Transit Association, Donohue Associates, U.S. Chamber of Commerce, National Aggregates Association.

POSITION OF THE AMERICAN ROAD AND TRANSPORTATION BUILDERS ASSOCIATION ON THE TREATMENT OF THE MOTOR FUEL EXCISES DURING SENATE CONSIDERATION OF THE BUDGET DEFICIT LEGISLATION

(1) ARTBA categorically opposes the diversion and use of federal highway user fees for any non-transportation purpose—including deficit reduction.

(2) If, however, there is absolutely no alternative to including the motor fuel excises in a deficit reduction plan, we believe that any new revenue derived from federal highway user fees and excises should be placed in the Highway Trust Fund for the express purpose of financing needed transportation capital improvements.

In this regard, ARTBA urges support of a floor amendment to the budget legislation that will be offered by Sen. Symms. The Symms Amendment would assure that all new revenue generated by the federal motor fuel excises is credited to the Highway Trust Fund.

In the least, recognizing the enormous unmet capital needs on the Federal-aid Highway System, the budget legislation should contain a provision guaranteeing that any portion of the motor fuels excise increase not now credited to the Highway Trust Fund is automatically credited to the trust fund no later than October 1, 1995.

(3) A freeze on Federal Highway Program spending over a two- to five-year period is unacceptable, given the nation's serious and growing transportation capital needs. The Congress must recognize these needs and provide assurance in the deficit reduction legislation that increased highway spending will be achieved during the period 1991-1995.

RATIONALE FOR SENATE SUPPORT OF THE ARTBA POSITION

According to the U.S. Department of Transportation's 1989 report to Congress, more than 40 percent of the mileage and almost a third of the bridges on the Federal Highway System are in imminent need of repair or replacement. DOT says a sustained 20-year, $40 billion per year investment is necessary to meet identified capital needs on the Federal Highway System alone. FY 1990 federal highway spending totalled just over $14 billion.

Diverting highway user fee revenue from the trust fund would deny the nation the economic benefits that can be derived from increased capital expenditures on transportation infrastructure improvements: creation of millions of American jobs and improved productivity, long-term corporate profits and increased private investment through greater efficiencies in transportation for the business sector.

According to the White House Office of Management & Budget, in terms of deficit reduction scoring, budget goals could be met—in an accounting sense—by putting all new federal highway user fee revenue in the trust fund account.

Congress and the Administration would still retain control over trust fund outlays.

The 1995 end-of-year cash balance in the Highway Trust Fund could be viewed as an investment in future program expansion to meet transportation infrastructure needs once the economy and deficit situation has stabilized.

This "investment in the future" would be consistent with the President's comments in releasing the Administration's National Transportation Policy Statement in March and comments in his September 11 address to Congress that all new taxes that are part of a deficit reduction package should "not threaten economic growth."

In terms of equity, the proposal under consideration in the Senate asks American motorists, truckers and the Federal Highway Program to shoulder a disproportionate

share of the deficit reduction revenue burden:

The proposed 9.5 cents-per-gallon increase in federal motor fuel excises represents 30% of the total proposed new revenue—by far, the single, largest source of new revenue.

On September 28, the U.S. House of Representatives passed H. Con. Res. 362 by voice vote, which explicitly recognizes the nation's transportation infrastructure capital needs. The resolution states "Highway and aviation user fees should continue to be dedicated to these [Highway and Airport/Airways] Trust Funds and should not be used for deficit reduction purposes."

Two-hundred-fifty-one members of the House are co-signers of H. Res. 41, which also denounces use of the federal motor fuel excises for deficit reduction purposes.

According to numerous opinion surveys taken in recent months—most recently a survey commissioned by ARTBA September 19-20—three out of four Americans oppose the use of the federal gasoline tax for deficit reduction purposes. In fact, 55% of respondents to the ARTBA-commissioned survey said they would be "less likely" to reelect a member of Congress who voted to increase the federal gas tax for deficit reduction.

On October 9, the Small Business Legislative Council, a permanent Washington coalition of 105 associations representing 4.5 million small businesses across the nation, adopted a policy position urging Congress to direct all funds raised through any increase in the federal motor fuel taxes to transportation improvements.

On October 15, over three dozen members of the American Transportation Advisory Council—including the U.S. Chamber of Commerce—signed a letter to Congress urging that all funds raised through any increase in the federal motor fuel excises be placed in the Highway Trust Fund.

OCTOBER 16, 1990.

Mr. SYMMS. I yield 1 minute to my colleague from Vermont.

The PRESIDING OFFICER. The Senator my remaining time.

Mr. SYMMS. I yield my remaining time.

The PRESIDING OFFICER. That is 53 seconds.

Mr. JEFFORDS. I want to speak strongly in favor of this amendment. First I think it is imperative we do not allow these funds to go out of the trust fund. Lord knows what the tax will be if we allow it to go into the general fund as time progresses.

Second, we have incredible infrastructure needs in this Nation. The rules do not allow us to amend the trust fund here but we can easily broaden the purposes of the trust fund if excess funds are there with respect to highway purposes to take care of such things as water systems and sewage systems or the ports or whatever else it is we need in this fashion. We can hold it in the trust fund so we do not violate any of the budget requirements here, so we do have the funds there to use for those incredible infrastructure needs which are fast approaching us.

Mr. SYMMS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BURNS. Mr. President, I want to rise to express my strong support for this amendment offered by my good friend Senator SYMMS of which I am a cosponsor. This amendment will ensure that all new revenues raised by the 9½-cent increase in the motor fuels tax will go to the highway trust fund to be spent on our unmet highway needs.

In my State of Montana, we rely on our highways and secondary roads heavily. There are few forms of alternative transportation in Montana. I have heard some say that an increase in the motor fuels tax is good energy policy because it discourages people from driving. Well, that may be true in Washington, DC, and New York City where people can take the bus and the subway, but in Montana people do not have those options.

People drive in Montana because they have to; it is often the only way to get form point A to point B. Any gas tax hits them particularly hard, especially given the fact that Montana's State gas tax is the second highest in the Nation at 20 cents per gallon.

Montana's 1,200-mile interstate system was completed in 1988. It cost $1.2 billion and took 30 years to complete. Many portions of these roads now need to be repaired and reconstructed. In addition, Montana's 2,300 miles of primary roads need a considerable amount of work. The State started a reconstruction trust fund in 1983 in order to address a shortfall in Federal funds and to reverse the deterioration of Montana's highways.

The needs are clearly there, Mr. President, and the States need help. They can not do it all, and they will have an especially hard time if we raise the Federal motor fuels tax and diminish their ability to raise the State motor fuels tax.

It is for these reasons that I support Senator SYMM'S amendment. Let's maintain the integrity of the highway trust fund.

Mr. LAUTENBERG. Mr. President, I rise to support the amendment of the Senator from Idaho.

I do not support the use of gas tax revenues for deficit reduction. With the caps on domestic discretionary spending that are part of the budget summit agreement, that is what will happen to the gas tax revenues.

But, since efforts to reduce or strike the gas tax increase have not succeeded, the question now becomes where the revenues raised through that increase will go. The least we should do is to score the gas tax revenues to the highways and transit trust funds.

I want to make it clear that I am not opposed to a gas tax increase, in whatever form it may come. As I outlined in my statement on the previous amendment of the Senator from Idaho yesterday, I am opposed to an increase in the gas tax if it is to be used for a purpose other than for what it was intended—improving our crumbling infrastructure.

With this amendment, we would at least be putting this money where we might be able to get at it, someday. This amendment would place all the revenues raised through the gas tax increase into the highway and transit trust funds. There is still no way that we could spend it all given the limits on domestic discretionary spending. But, at least it would be there for the future.

Again, Mr. President, I want to make sure that we all understand this: The increase in the gas tax is going to deficit reduction. The budget agreement counts all of the new revenues coming in as reductions in the deficit, and assumes none of the gas tax revenues will be spent out.

So, everyone should know that this money is not going to be spent, at least not for the next few years. If the Symms amendments succeeds, all of the $43 billion raised by the gas tax will be put in the trust fund. But there is no way, for the duration of the budget agreement, that we will be able to spend $43 billion in new money for the bridges that are falling; or for the transit systems that our urban systems so desperately need; or for the repair of our highways; or for the construction of safety improvements.

But, by adopting this amendment, we recognize that this $43 billion belongs to our Nation's infrastructure. Someday, we will be able to lay claim to it to improve our highways and our transit systems.

The PRESIDING OFFICER. Who yields time? The Chair recognizes the Senator from Texas.

Mr. BENTSEN. I make the point of order that it is extraneous under the Byrd rule and it has no budgetary effect.

The PRESIDING OFFICER. the Senator would have to yield back all time in opposition before the point of order would be heard.

Mr. BENTSEN. I will withhold, then.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Who is controlling the time in opposition to the Senator from Idaho? Mr. President, I yield to the distinguished Senator from Texas, what time I have remaining.

Mr. BENTSEN. Mr. President, we have been through this fight before.

The PRESIDING OFFICER. The Senator will please suspend. The Senator from Tennessee did not have his microphone working when he made a

remark. The Chair was unclear what his request was.

Mr. SASSER. Mr. President, I requested that all remaining time that I might control be allocated to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Chair thanks the Senator. The Senator from Texas is recognized for up to 1 minute and 20 seconds.

Mr. BENTSEN. Mr. President, we had that agreement in the Finance Committee, and I tried very hard to put the amount of money that came off the gasoline tax into the highway trust fund. I felt very strongly about that. The gasoline tax has a very disproportionate effect on the people who drive cars in my State. However, we were not able to convince the majority in that regard, and we lost the point.

So what we are talking about once again is the deal breaker. It is something that is unacceptable. To be refighting this one, at this late hour, really is not at all necessary. Therefore, Mr. President, I yield back the remainder of my time and make the point of order.

The PRESIDING OFFICER. All time is yielded back.

POINT OF ORDER: THE BYRD RULE

Mr. BENTSEN. I make the point of order that it is extraneous under the Byrd rule and has no budgetary effect.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho [Mr. SYMMS].

Mr. SYMMS. Mr. President, I move to waive the Budget Act for the purposes of considering this amendment. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the Senate now takes up amendment proposed by the Senator from Alaska [Mr. STEVENS].

The Chair recognizes the Senator from Tennessee [Mr. SASSER].

Mr. SASSER. Apparently the Senator from Alaska is not in the Chamber at the present time. So I suggest we move on to the next amendment and allow the distinguished Senator from Alaska to reclaim his time, should he reappear.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment to be proposed by the Senator from Alaska is temporarily laid aside.

Under the previous order the next amendment in order would be amendment to be offered by the Senator from Ohio [Mr. METZENBAUM] with a time limit of 4 minutes, equally divided. The Chair recognizes the Senator from Ohio, [Mr. METZENBAUM].

AMENDMENT NO 3040

(Purpose: To amend the Internal Revenue Code of 1986 to reinstate the windfall profit tax on domestic crude oil)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], for himself, Mr. LIEBERMAN, and Mr. COHEN, proposes an amendment numbered 3040.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title VII, insert the following new section:

SEC. . REINSTATEMENT OF WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL.

(a) IN GENERAL.—Subtitle D of the Internal Revenue Code of 1986 (relating to excise taxes) is amended by inserting after chapter 44 the chapter 45 (relating to windfall profit tax on domestic crude oil) of such Code as in effect on the day before the date of enactment of Public Law 100-418.

(b) TAX ONLY TO APPLY TO MAJOR OIL COMPANIES.—Section 4986 of such Code (as added by subsection (a)) is amended by striking "An" and inserting "In the case of an integrated oil company (as defined in section 4995(b)(3)), an".

(c) MODIFICATION OF COMPUTATION OF TAX.—

(1) Section 4987(b) of such Code (as added by subsection (a)) is amended to read as follows:

"(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a)—

"(1) the applicable percentage shall be 40 percent in the case of tier 1 oil, and

"(2) the applicable percentage shall be zero in the case of any other oil."

(2) Section 4989(b)(1)(B) of such Code (as so added) is amended by striking "June 30, 1979" and inserting "September 30, 1990".

(3) Section 4989 of such Code (as so added) is amended by striking subsections (c) and (d) and inserting:

"(c) BASE PRICE.—For purposes of this chapter, the base price for any tier of oil is $25."

(d) REPEAL OF TERMINATION OF TAX.—

(1) Section 4990 of such Code (as added by subsection (a)) is repealed.

(2) The table of sections for subchapter A of chapter 45 of such Code (as so added) is amended by striking the item relating to section 4990.

(e) MODIFICATION OF CATEGORIES.—

(1) Paragraph (2) of section 4991(e) of such Code (as added by subsection (a)) is amended by adding at the end thereof the following new sentence: "Such term shall not include any oil produced from a well drilled before August 1, 1990, and shall not include any oil produced from a well drilled on or after such date on any property the principal value of which has been demonstrated by prospecting or exploration or discovery work."

(2)(A) Section 4991(b) of such Code (as so added) is amended by striking paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5).

(B) Section 4994 of such Code (as so added) is amended by striking subsection (c).

(f) TAX NOT DEDUCTIBLE.—Section 164(a) (as amended by subsection (g)) is amended by striking paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5).

(g) CONFORMING AMENDMENTS.—Section 1941(b) of the Omnibus Trade and Competitiveness Act of 1988 (and the amendments made by such section) are hereby repealed, and the Internal Revenue Code of 1986 shall be applied and administered as if such section (and amendments) had never been enacted.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to oil removed from the premises in calendar months beginning after the date of the enactment of this Act.

SEC. . MOTOR FUELS TAX REDUCTION TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

"SEC. . MOTOR FUELS TAX REDUCTION TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Motor Fuels Tax Reduction Trust Fund', consisting of any amount appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Motor Fuels Tax Reduction Trust Fund amounts equivalent to 100 percent of the taxes received in the Treasury under chapter (relating to windfall profit tax on crude oil). Amounts shall be made available to the Trust Fund on a quarterly basis.

"(c) EXPENDITURES FROM TRUST FUND.—

"(1) IN GENERAL.—Amounts in the Motor Fuels Tax Reduction Trust Fund shall be available to offset and reduce the amounts of additional taxes levied pursuant to sections 7405(a) and 7405(b) of the Omnibus Budget Reconciliation Act of 1990.

"(2) DETERMINATION OF OFFSET.—On or before January 1, 1991, and on or before the first day of the first and third calendar quarters of each year thereafter, the Secretary of the Treasury shall issue projections of the amounts that would be collected pursuant to sections 7405(a) and 7405(b) of the Omnibus Budget Reconciliation Act of 1990 during the upcoming two calendar quarters. To the extent that funds are available, the Secretary shall then transfer from the Trust Fund such funds as he projects would be collected during the upcoming two calendar quarters pursuant to sections 7405(a) and 7405(b) of the Omnibus Budget Reconciliation Act of 1990. These transferred funds shall be placed in the general fund and in any applicable trust funds in the same proportion as they would have been collected under operation of sections 7405(a) and (b). The Secretary shall then reduce the taxes that would otherwise be levied pursuant to sections 7405(a) and (b) during the upcoming two calendar quarters by a corresponding amount."

(c) CONFORMING CHANGES.—

(1) For the purposes of 23 U.S.C. 157 amounts transferred from the Motor Fuels Tax Reduction Trust Fund shall not be included.

(2) In Section 9503(b)(1), in subsection (G) strike the period and insert in lieu thereof a

comma, and insert the following new subsection:

"(H) section (relating to transfers from the Motor Fuels Tax Reduction Trust Fund)."

(d) CLERICAL AMENDMENT.—The table of sections for such Subchapter A is amended by adding at the end the following new item:

"Sec. . Motor Fuels Tax Reduction Trust Fund."

Mr. METZENBAUM. Mr. President, this amendment is sent to the desk on behalf of myself, Senator LIEBERMAN, and Senator COHEN. In substance it is a windfall profit tax, having to do with the top 30 oil companies in the country.

I need not tell my colleagues that preinvasion, the oil prices in this country were $20 a barrel. Yesterday they were $36.72 a barrel. Gasoline prices in my own State and here have gone from about $1, $1.05 to about $1.35 a gallon.

If we look at earnings of the oil companies, I am pretty well convinced they were reaping it in. One oil company's earnings were eight times greater for the third quarter of 1990, eight times greater than they were in 1989. Another one was five times greater than they were in 1989.

Let me explain this particular proposal. It would provide—Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. METZENBAUM. Of this tax, 40 percent would apply only to prices of oil over $25 a barrel.

It would be applicable only to the 30 major oil companies and it would be applicable only to old, that is known oil. It would not be applicable to newly discovered oil. It would produce $7 billion in 1991, and it would be used to reduce gasoline and diesel fuel taxes. The tax would not apply to new oil that was discovered since August 1, 1990, nor to independent drillers, nor to stripper wells, nor the strategic petroleum reserve nor the naval petroleum reserve. Thirty major oil companies in this country produce 80 percent of the U.S. crude oil. The estimated revenues from this windfall profit tax would be $7.5 billion in 1991 and about $37 billion in the 5-year period. That assumes production of about 2.3 billion barrels of oil during that period. It assumes a sale price of $35 a barrel, but the amount of income to go from about $7 billion to $11 billion in 1 year if the price were $40 a barrel or it would go to $55 billion over the 5-year period if the price of oil is $40 per barrel.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. SASSER. How much time do I have, Mr. President?

The PRESIDING OFFICER. Two minutes.

Mr. SASSER. I yield 2 minutes to the distinguished Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I might have misheard and misunderstood. I inquired as to what Senator METZENBAUM's amendment was going to be. I wrote down on a list and so did other people, an HI cap. I thought that is what it was, but it is not. That is all right. It is a windfall profit tax. I do not understand it yet. But, frankly, it is obviously not in order. I do not think tonight on this bill is the time to be raising the windfall profit tax that no one understands and no one has seen. I ask a parliamentary inquiry. Has the time of the Senator from Ohio expired?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Does the Senator from Texas desire to say anything on this?

Mr. BENTSEN. Mr. President, I just say to my friend from Ohio, the windfall profit tax did not work before and it will not work in the future. And as a matter of domestic energy security, a windfall profit tax is the wrong step to take at this time. It would discourage domestic energy production and development and contribute to the growth of the Nation's costly reliance on foreign oil imports. According to an analysis prepared by the Congressional Research Service in 1988, the prior law windfall profit tax reduced domestic production by between 780 million and 1.6 billion barrels of oil during the period between 1980 and 1986. The effect of such a reduction in domestic production was to increase the Nation's foreign oil imports. According to the CRS analysis the domestic production lost as a result of the windfall profit tax constituted an average of between 8 and 16 percent of all U.S. oil imports during those years. I would expect that the imposition of a new windfall profit tax would cause repetition of this situation.

Mr. President, I assume also this amendment is subject to a point of order to the extent it is not germane to this piece of legislation. Frankly, it comes to me as quite a surprise. I understood from the Senator that he was going to address the HI cap.

Mr. METZENBAUM. May I respond?

The PRESIDING OFFICER. The Senator from New Mexico retains the floor.

Mr. DOMENICI. If he responds briefly.

Mr. METZENBAUM. Mr. President, the Senator from New Mexico and the Senator from Texas are both correct. Originally, up until 5 minutes ago, it was my intention to offer the HI cap. The majority leader prevailed upon me not to go forward with that. This I intended to offer and made it clear to the manager on this side it would be offered after all the time had expired. I had a right to do so, but instead of offering the HI cap, I offered this. I did not intend to take the Senator by surprise. I apologize if I did.

The PRESIDING OFFICER. All the time has expired. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I accept the explanation but I am not really at all convinced, as I have not been part of these kind of unanimous-consent agreements in the past where this has occurred. It may be appropriate, but I really do not believe it is, although I will say there is probably good faith here.

POINT OF ORDER: THE BUDGET ACT

Mr. DOMENICI. Mr. President, pursuant to 305(b)(2) of the Budget Act, I raise a point of order that the pending amendment is not germane.

The PRESIDING OFFICER. Point of order is heard.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I think it is germane. It raises money. It reduces the deficit even further.

The PRESIDING OFFICER. The Chair reminds the Senator debate is not in order on a point of order.

Mr. METZENBAUM. Also it would reduce gasoline and diesel fuel taxes.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

MOTION TO WAIVE THE BUDGET

Mr. LIEBERMAN. I move to waive the Budget Act to allow consideration of this amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

A request has been made for the yeas and nays. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the vote will occur in order after the amendment offered by the Senator from Idaho. Under this order, the Chair recognizes the Senator from Connecticut [Mr. LIEBERMAN].

Mr. LIEBERMAN. Mr. President, I, too, was surprised by the order in taking it up.

Mr. LIEBERMAN. Mr. President, today we are asking the average American to shoulder an enormous burden in order to help reduce the deficit and protect our economy. This burden is necessary in part because of the high oil prices resulting from Iraq's invasion of Kuwait. Yet, we are asking the oil industry that is benefiting from the

Persian Gulf crisis to contribute nothing.

The American Automobile Association reported this week that the cash price of regular, self serve, unleaded gasoline at the pump in America is now $1.38 a gallon. That is over 30 cents a gallon higher than the price on August 1, 1990, the day before Iraq invaded Kuwait. Crude oil prices in this same period have virtually doubled.

Are these price increases justified? I say no. I say that because supplies of oil on the world market are at or near record levels. And increased production of oil is coming close to making up the amount of oil lost because of the invasion of Kuwait and the embargo of Iraq. There is no supply and demand reason for these rapid and huge increases in prices. That's not just my conclusion; it is the conclusion of many experts, including members of the administration. And just this week, a representative of the International Energy Agency was quoted as saying this about the price of oil on world markets:

It is a political phenomenon and not a supply-demand fundamental which drives the market. Physical shortages do not explain present price fluctuations.

What these artificially high prices create is an opportunity for outrageous profits. The third quarter earnings reports are beginning to come out. The Oryx Energy Co., an oil producer, announced this week an astonishing increase of more than 700 percent increase in its earnings for the third quarter of this year. Saloman Bros. estimated that third-quarter profits for domestic oil firms at 60 percent higher than last year and 50 percent higher for international firms. Yesterday, Occidental's oil producing division showed a 400-percent increase in its profitability over last year. When prices double, but costs of production stay virtually the same, the result is extraordinary windfall profits. There is nothing wrong with profits—the human desire to make them helps drive our economy. The problem we have here is that the oil profits are not only unfairly exhorbitant, but are inflicting a great wound on our economy.

Look at the news today about the Consumer Price Index. It is up eight-tenths of 1 percent for the second month in a row. If that continues, inflation will approach double-digit levels. The main reason for the big jump in inflation is the increases in the cost of oil. Energy prices rose 5.6 percent in September, which is the highest level ever recorded by the CPI since it began more than 30 years ago. In August and September combined, gasoline prices rose by 17.9 percent, and fuel oil went up an astonishing 33.7 percent.

Oil industry executives proudly say that the high price of oil is simply the free market at work. As the trucker driving an 18 wheeler if the free market is working for him. Ask the airlines that have to raise fares and lose business if the free market is working for them. Ask the factory worker who has to drive back and forth to work every day and fill up his tank a couple times of week if the free market is working for him.

If this is a free market at work, it is certainly not a fair market. Citing the mantra of the "free market" is no excuse for ignoring the toll that the market sometimes exacts. I am as strong a supporter of free markets as anyone in this Chamber, but that does not mean that there is not a role for the government in cleaning up when markets go out of control and make a mess of our economy. If the system of oil pricing can throw our economy into recession, which it is threatening to do, if it has not already, we should not just shrug our shoulders. Something is wrong, and something must be done.

Today, we can begin to do something about the high price of oil. Doubling the Federal tax on gasoline will not help the American people. They are being drowned by high gas prices, and when they look to government for help, all we seem to do is throw them a cement block.

I believe we must do something to make use of the enormous profits of the oil industry. There is a lot of talk about burden sharing in the wake of the Persian Gulf crisis. It is time we had some burden sharing right here at home. That is why I support Senator METZENBAUM's proposal to enact a windfall profit tax to force the oil industry to contribute some of the record profits it is reaping as a result of Iraq's aggression.

The base price for this tax would be set at $25 per barrel, which is approximately the average price of crude oil over the 18 months prior to July 1990. That base price assures that producers will not be subject to the windfall profit tax if the oil markets crash again. Moreover, this base price is indexed to rise with inflation. This will be a 40 percent tax on old oil produced by major oil companies only.

This amendment introduces the concept of fairness to the oil industry. We have a right to demand that oil companies contribute more to the American economy, particularly in this time of economic crisis—a crisis they are making worse. In this reconciliation package alone it is proposed that oil producers be granted additional subsidies of $2.2 billion over the next 5 years. Let us balance those subsidies with something for the average working people of America. Let's balance them with a windfall profit tax.

This amendment also provides that all revenues gained from the windfall profit tax be used to offset the gasoline and diesel taxes in this reconciliation bill. This will help alleviate the burden placed on the working men and women of America, and will make this reconciliation package less regressive. It will help ensure that the American people will not be subjected to both high oil prices and a high gas tax.

The PRESIDING OFFICER. Under the previous order, the Senate now turns to the amendment to be offered by the Senator from Alabama.

The Senator from Tennessee.

Mr. SASSER. Mr. President, according to the list I have, the next amendment was to be an amendment offered by the Senator from North Dakota [Mr. CONRAD].

The PRESIDING OFFICER. The Chair has his amendment as the one following. If that is in order, we will take that amendment up at this time.

Mr. SASSER. I apologize to the Chair. The Chair is correct. The distinguished Senator from Alabama has withdrawn his amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn from the unanimous-consent request agreement. Under the previous order, the Senate will now take up an amendment to be offered by the Senator from North Dakota [Mr. CONRAD] with time allocated 2 minutes to be equally divided. The Senator from North Dakota.

AMENDMENT NO. 3041

(Purpose: To provide savings provisions)

Mr. CONRAD. Mr. President, in the reconciliation package, the committees were asked to produce $246.2 billion in savings as part of the $500 billion package. In fact, the committees produced $252.5 billion of savings or $6.3 billion more than the instructions.

The PRESIDING OFFICER. The Chair informs the Senator that he must send an amendment to the desk.

Mr. CONRAD. I apologize. I thought the amendment was at the desk.

I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] proposes an amendment numbered 3041.

Mr. CONRAD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title I of the bill, insert the following new section:

SEC. . AGRICULTURAL SUPPORT PROGRAMS.

(a) IN GENERAL.—Notwithstanding any provision of, or amendment made by, this Act—

(1) the base reduction percentage for the 1991 crop of wheat, feed grains, upland

cotton, and rice under section 1101(c) of this Act shall be 5 percent; and the base reduction percentage for each of the 1992 through 1995 crops of wheat, feed grains, upland cotton, and rice under section 1101(c) of this Act shall be 10 percent

(2) in calculating deficiency payments for each of the 1991 through 1995 crops of wheat, feed grains, and rice under section 1102(a) of this Act, the payment rate for a crop shall be the amount by which the established price for the crop exceeds the higher of—

(A) the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary of Agriculture; or

(B) the loan level determined for the crop; and

(3) the amount of the dairy assessment provided for in section 1105(b) of this Act shall be 7 cents per hundredweight during the period beginning January 1, 1991, and ending August 31, 1995.

(b) VETERANS PROGRAM AMENDMENTS.—Sections 11012 and 11032 of this Act, and the amendments made by such sections, shall not take effect.

Mr. CONRAD. Mr. President, of the $6.3 billion over the instructions, two committees, Agriculture and the Veterans Committee, have produced 80 percent of those savings. This amendment simply strikes $5.6 billion of the $6.3 billion of savings over the instructions. We have done that improve the fairness of the package. I emphasize to my colleagues once again, agriculture took a disproportionate hit. Forty percent in real terms is the cut to agriculture.

The PRESIDING OFFICER. the Senator's time has expired.

Mr. CONRAD. I ask my colleagues to look favorably on this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. I ask unanimous consent that an article entitled "N.D. Farmers Could Lose Millions" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Grand Forks (ND) Herald, Oct. 18, 1990]

N.D. FARMERS COULD LOSE MILLIONS

(By Philip Brasher)

WASHINGTON.—The budget-squeezed farm bill could cost North Dakota farmers millions of dollars in income next year, at a time when a bumper crop worldwide has pushed wheat prices to Depression levels.

Cuts in federal price supports will cost North Dakota 25 percent of its government farm subsidies, drive down land prices and push many struggling farmers out of business, said Dwight Aakre, an economist at North Dakota State University.

Sen. Kent Conrad, D-N.D., who made a last-ditch attempt Wednesday on the Senate floor to soften the blow, predicted that North Dakota would lose more than 30 percent of its government farm support.

House and Senate negotiators finished rewriting the 1990 farm bill Tuesday to accomplish $13.6 billion in spending cuts required by a deficit-reduction plan for the next five years.

"The hope is that will be offset by increases in the marketplace, but at this point I don't see that as likely to happen," Aakre said Wednesday.

North Dakota got $470 million in government farm payments in 1989, mostly in crop subsidies. That represented about 17 percent of its total agricultural income of $2.8 billion that year, and that is a small share, Aakre said.

Normally, federal payments account for about a quarter of farm earnings, Aakre said. Direct farm income, in turn, accounts for about 10 percent of the gross state product.

The compromise farm bill is designed to save money and drive U.S. agriculture toward a more free-market policy—by reducing the acres eligible for subsidies and giving farmers flexibility to rotate crops in response to market demands.

However, experts say the new freedom will be of less use to Great Plains wheat farmers because of the limited number of crops they can plant.

A farmer in North Dakota who normally plants 1,000 acres to wheat would lose $5,200 because of a 15 percent reduction in subsidized acres required by the farm bill.

On top of that, the legislation requires wheat farmers to idle another 15 percent of their land in 1991 because of overproduction this year that has driven wheat prices down to near $2 a bushel.

"It is sad to see the president and bipartisan leaders (of Congress) willing to abandon this country's commitment to our family farmers," said Rep. Byron Dorgan, D-N.D.

"This farm bill is guaranteed to drive farm income down and restrict farmers' access to affordable credit," said Randolph Nodland, a Dunn Center, N.D., grain farmer who is president of the National Family Farm Coalition.

The bill could unintentionally handicap some of its stiffened environmental measures by encouraging producers to drop out of the farm program, Nodland said.

Mr. SASSER. Mr. President, I respond to the distinguished Senator simply by saying that if the Senate chooses to adopt the amendment offered by the distinguished Senator from North Dakota, we will simply be reducing the deficit reduction in this overall package by $6 billion. I do not believe the Senate wants to do that. We have rejected time after time, today and yesterday, motions to strike specific provisions that simply took money out of the deficit reduction package and did not replace it with anything else.

So, Mr. President, I urge the Senate to stand by its previous judgments on these matters and vote to defeat the amendment offered by my friend from North Dakota.

Mr. CONRAD. Will the chairman yield for a question?

The PRESIDING OFFICER. The Chair reminds the Senator from North Dakota that the time has expired.

Mr. CONRAD. I ask unanimous consent to ask one question.

The PRESIDING OFFICER. Is there objection?

Mr. SASSER. Mr. President, how much time does the Senator from Tennessee have?

The PRESIDING OFFICER. The time of both Senators has expired. Is there a request for a recorded vote?

Mr. CONRAD. I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The Chair again asks is there a sufficient second on the request for the yeas and nays?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote will be taken in accordance with the previous unanimous-consent order. The Chair recognizes the Senator from New Mexico, Senator DOMENICI.

Mr. DOMENICI. Mr. President, parliamentary inquiry. If the Conrad amendment is subject to a point of order, may the point of order be raised prior to the rollcall vote, for which the yeas and nays have been ordered?

The PRESIDING OFFICER. On the Senator's request for information on the point of order, the response would be in the affirmative.

Mr. DOMENICI. I thank the Chair.

Mr. CONRAD. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. CONRAD. I am told that the reconciliation—in fact I have it here—shows that we are $6.3 billion over the instructions. I have been told that there has been no ruling by the Parliamentarian previously on whether in fact a point of order would lie. Is it the understanding of this Senator that the Parliamentarian has now ruled that in fact a point of order would lie?

The PRESIDING OFFICER. The Chair informs the Senator that to this date there has been no such ruling.

Mr. CONRAD. I thank the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan is recognized next to offer an amendment. At this time the Chair recognizes the Senator from Michigan [Mr. LEVIN] to offer an amendment with 3 minutes to be equally divided.

AMENDMENT NO. 3042

(Purpose: To express the sense of the Senate in favor of fairness and deficit reduction)

Mr. LEVIN. Mr. President, there is an amendment at the desk. I now ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 3042:

At the appropriate place in the bill add the following new section:

SEC. . SENSE OF THE SENATE WITH RESPECT TO FAIRNESS AND DEFICIT REDUCTION.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate conferees should work towards a final budget package that establishes a 35-percent income tax

rate for taxpayers making in excess of $200,000 and does not delay indexing of the Internal Revenue Code and does not increase the income tax rates for any other taxpayers and uses the revenue raised ($60.4 billion) to:

(1) eliminate any increase in the gasoline tax ($42.6 billion), and

(2) eliminate any changes in current law with respect to Medicare premium payments or Medicare deductibles ($14.1 billion).

Mr. LEVIN. Mr. President, this sense-of-the-Senate resolution, unlike any prior amendment or sense-of-the-Senate resolution, urges our conferees to totally eliminate the gas tax, No. 1, and to pay for it and also to pay for another important feature by increasing the rate, the income tax rate, for people over $200,000 to a 35-percent rate.

The second thing this amendment does is that it puts the Senate on record against the delay of indexing, and third and most significant, this same amount of revenue that can be achieved by raising the top income tax rate to 35 percent for family incomes of more than $200,000. I ask unanimous consent that I have 15 additional seconds.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LEVIN. This additional amount of revenue which would be achieved by having a 35-percent bracket would eliminate any changes in the current law with respect to Medicare premium payments or Medicare deductible. So we can get rid of the cuts in Medicare. We can totally get rid of the gas tax with a 35-percent bracket.

Mr. President, the reconciliation bill before us asks too little of the wealthiest members of our society, who benefited the most during the decade of the 1980's, and too much from middle-income Americans, who struggled to barely keep even or fell behind. At a time when middle-income taxpayers saw their effective tax rates increase, the wealthiest 1 percent of the taxpayers saw their effective tax rates decline by almost 15 percent.

The reconciliation bill before us does not reverse that trend. Its increase in the gasoline tax is the wrong tax at the wrong time. It asks middle- and low-income taxpayers to carry a disproportionate share of the deficit reduction burden. In addition, the bill's substantial cutbacks in Medicare seek substantial deficit reduction from among those who are the least able to afford it.

The amendment that I am offering could help make this bill a more progressive deficit reduction bill and could help make the Tax Code a more progressive Tax Code. It expresses the sense of the Senate that the Senate conferees should work to totally eliminate the gasoline tax increase from the bill as well as to eliminate the higher Medicare premiums and deductibles contained in the bill. It would make up the revenue by increasing the income tax rate to 35 percent on taxpayers making over $200,000. It would make clear that the conferees should work against any increase in income tax rates on any other taxpayers and work against the delay in indexing of the Tax Code.

Mr. President, this amendment represents fairness and responsible deficit reduction. I urge its support.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time in opposition?

The Chair recognizes the Senator from Tennessee [Mr. SASSER].

Mr. SASSER. Mr. President, I see no one wishing to speak in opposition, so I would yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. LEVIN. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The amendment will be voted in accordance with the previous unanimous-consent order.

Under the previous order, the Senator from Alaska has his time reserved to take up his amendment. His amendment would be in order at this time.

Mr. STEVENS. Mr. President, I thank the Chair.

I have conferred with the managers of the bill. I want to state regretfully that this Senator has tried now for 2 years to get the Finance Committee to consider the question of the Student Loan Program of the State of Alaska and an IRS ruling that affects that.

It is not possible to get that bill out of committee. It is not possible to raise the bill at this time because, I am informed, it does under Joint Tax Committee scoring cause a loss of some $6 to $15 million over 5 years. It is, I think, an unfortunate situation.

I hope the Senate is listening because it is this Senator's hope to return after this election for another 6 years, and I do not intend to witness another reconciliation bill handled in this fashion again. And as long as I am here, there will be no more unanimous-consent requests dealing with a procedure such as we are going through now.

Some 7,000 students in my State will now have to pay retroactive taxes plus interest on a program that was designed to give them a student loan based upon a forgiveness concept if they came back to my State for employment after they graduated. They would not have to pay the State back 50 percent of the money they borrowed if they returned to Alaska and remained in the State for several years beyond graduation. That was our form of a scholarship program.

IRS has now said that the forgiveness benefits are taxable because Alaska's program does not technically fall within the current student loan forgiveness exemption. That is a strained interpretation. I had hoped to be able to get to that now. I am informed, as I indicated, that it would be subject to a point of order. I certainly can read the handwriting on the wall and I shall not offer the amendment now.

But I am even reserving my right to object for the balance of the evening to unanimous-consent requests. I want the Senate to understand that. I think this is a very strained procedure. This is the first tax bill this year. This subject has not been before the Finance Committee for a year, and these students now will pay taxes they should not have to pay because the Senate and the Congress of the United States are acting in October on a bill that should have been considered before the summer recess. I do not offer the amendment.

Mr. DOMENICI. Mr. President, might I say to the Senator from Alaska, I have also tried my best today to help the Senator with this problem. I think he knows that. We cannot do anything about it. It requires action on the part of the Finance Committee. I want to tell the Senator that I cannot do anything about that either, but I do think he has a very meritorious case, and I wish there was some way we could solve it even now.

I think perhaps the Senator ought to suggest to some of those going to conference it is a very small item and very bad policy, unfair. Maybe it can be resolved some way before we return here, if we do, with a conference report.

Mr. STEVENS. Mr. President, if I have any time left, I thank the Senator from New Mexico. I have just read the Senate leadership package that will be offered. I call it to the attention of the Senate in terms of the power of that provision that will bar future Senators from trying similarly to seek justice for citizens under this procedure. It is very unfair, extremely unfair. I for one do not like to see it at all, particularly coming from a small State.

In the House some States have as many as 40 Members. We have one. We represent the largest State in the Union with some of the most difficult problems of the Federal Government and we are forced it try to deal with them under 2 minutes restriction and points of order based upon rulings of the JCT which, in my opinion, are nonsense.

I commend to you the leadership package in terms of the future power of the CBO and the Director of the

Office of Management and Budget. We will address that later tonight.

AMENDMENT NO 3039 MOTION TO WAIVE THE BYRD RULE

The PRESIDING OFFICER (Mr. LIEBERMAN), Under the previous order, the question is on agreeing to the Symms motion to waive the Byrd rule.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 48, nays 52, as follows:

[Rollcall Vote No. 287 Leg.]

YEAS—48

Armstrong	Graham	Mack
Baucus	Grassley	McCain
Bond	Harkin	McClure
Bryan	Hatch	McConnell
Burdick	Hatfield	Moynihan
Burns	Helms	Nickles
Coats	Hollings	Pressler
Cochran	Humphrey	Reid
Cohen	Jeffords	Roth
Conrad	Kasten	Shelby
D'Amato	Kerrey	Simpson
Daschle	Kerry	Specter
Dixon	Lautenberg	Symms
Exon	Levin	Wallop
Ford	Lieberman	Warner
Garn	Lott	Wilson

NAYS—52

Adams	Durenberger	Murkowski
Akaka	Fowler	Nunn
Bentsen	Glenn	Packwood
Biden	Gore	Pell
Bingaman	Gorton	Pryor
Boren	Gramm	Riegle
Boschwitz	Heflin	Robb
Bradley	Heinz	Rockefeller
Breaux	Inouye	Rudman
Bumpers	Johnston	Sanford
Byrd	Kassebaum	Sarbanes
Chafee	Kennedy	Sasser
Cranston	Kohl	Simon
Danforth	Leahy	Stevens
DeConcini	Lugar	Thurmond
Dodd	Metzenbaum	Wirth
Dole	Mikulski	
Domenici	Mitchell	

The PRESIDING OFFICER. If there are no other Senators wishing to vote, on this question, there are 48 yeas and 52 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion fails.

The Chair rules that the amendment of the Senator from Idaho will have no budgetary effect and, therefore, is extraneous of section 31(a) of the Byrd rule.

The point of order is well taken and the amendment falls.

AMENDMENT NO. 3040

MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. Under the previous order, the question now occurs on the Lieberman motion to waive section 305(b)(2) of the Budget Act on the Metzenbaum amendment.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The yeas and nays resulted—yeas 33, nays 67, as follows:

[Rollcall Vote No. 288 Leg.]

YEAS—33

Adams	Hollings	Mikulski
Akaka	Jeffords	Mitchell
Biden	Kasten	Moynihan
Bradley	Kennedy	Packwood
Cohen	Kerry	Pell
Cranston	Kohl	Reid
D'Amato	Lautenberg	Riegle
DeConcini	Leahy	Roth
Dodd	Levin	Sanford
Harkin	Lieberman	Sarbanes
Hatfield	Metzenbaum	Simon

NAYS—67

Armstrong	Exon	McClure
Baucus	Ford	McConnell
Bentsen	Fowler	Murkowski
Bingaman	Garn	Nickles
Bond	Glenn	Nunn
Boren	Gore	Pressler
Boschwitz	Gorton	Pryor
Breaux	Graham	Robb
Bryan	Gramm	Rockefeller
Bumpers	Grassley	Rudman
Burdick	Hatch	Sasser
Burns	Heflin	Shelby
Byrd	Heinz	Simpson
Chafee	Helms	Specter
Coats	Humphrey	Stevens
Cochran	Inouye	Symms
Conrad	Johnston	Thurmond
Danforth	Kassebaum	Wallop
Daschle	Kerrey	Warner
Dixon	Lott	Wilson
Dole	Lugar	Wirth
Domenici	Mack	
Durenberger	McCain	

The PRESIDING OFFICER. If no other Senator wishes to vote, on this question, the yeas are 33, the nays are 67. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The Chair rules the amendment of the Senator from Ohio is not germane, the point is well taken, and the amendment falls.

Mr. SYMMS. May we have order, Mr. President.

The PRESIDING OFFICER. Under the previous order the Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. Is the Conrad amendment pending?

The PRESIDING OFFICER. Under the previous order the question will next occur on the Conrad amendment. The Senator is correct.

POINT OF ORDER: THE BUDGET ACT

Mr. DOMENICI. Pursuant to section 310(d)2 of the Budget Act I raise the point or order. The amendment would reduce outlay savings for the Agriculture Committee below the level provided in the instructions and the amendment would not make compensating outlay reductions or revenue increases.

The PRESIDING OFFICER. A point of order has been raised. The Chair recognizes the Senator from North Dakota [Mr. CONRAD].

Mr. CONRAD. Might we have order in this Chamber?

The PRESIDING OFFICER. The Senator is correct. The Senate will come to order. Will the Senators please clear the aisles.

Mr. CONRAD. I make parliamentary inquiry if a point of order does lie?

The PRESIDING OFFICER. The Chair would be prepared to rule that a point of order would be well taken.

Mr. CONRAD. In that case, Mr. President, I would move to vitiate the yeas and nays. I do so with regret because, I say to my colleagues again, that I think agriculture——

Mr. DOMENICI. May we have order, Mr. President?

Mr. CONRAD. Has taken a disproportionate hit and I urge the conferees to do what they can in the conference. With that I would vitiate the yeas and nays.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment of the Senator from North Dakota, the Chair rules, will reduce savings achieved by the Committee on Agriculture below the level instructed in the budget resolution without making offsetting savings in other provisions or raising revenues. The point of order is, therefore, well taken and the amendment falls.

AMENDMENT NO. 3042

The PRESIDING OFFICER. Under the previous order the question now is on agreeing to the amendment of the Senator from the State of Michigan, amendment No. 3042. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced, yeas 44, nays 56, as follows:

[Rollall Vote No. 289 Leg.]

YEAS—44

Adams	Harkin	Metzenbaum
Akaka	Hatfield	Mikulski
Baucus	Heflin	Mitchell
Biden	Hollings	Pell
Bingaman	Inouye	Pressler
Bryan	Johnston	Pryor
Bumpers	Kassebaum	Reid
Cohen	Kennedy	Riegle
Daschle	Kerrey	Sanford
DeConcini	Kerry	Sarbanes
Dodd	Kohl	Sasser
Exon	Lautenberg	Shelby
Ford	Leahy	Simon
Gore	Levin	Wilson
Graham	Lieberman	

NAYS—56

Armstrong	Domenici	McConnell
Bentsen	Durenberger	Moynihan
Bond	Fowler	Murkowski
Boren	Garn	Nickles
Boschwitz	Glenn	Nunn
Bradley	Gorton	Packwood
Breaux	Gramm	Robb
Burdick	Grassley	Rockefeller
Burns	Hatch	Roth
Byrd	Heinz	Rudman
Chafee	Helms	Simpson
Coats	Humphrey	Specter
Cochran	Jeffords	Stevens
Conrad	Kasten	Symms
Cranston	Lott	Thurmond
D'Amato	Lugar	Wallop
Danforth	Mack	Warner
Dixon	McCain	Wirth
Dole	McClure	

So the amendment (No. 3042) was rejected.

Mr. SASSER. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MODIFICATIONS TO TITLE III, SUBTITLE A

Mr. SASSER. Mr. President, I ask unanimous consent that the distinguished Senator from Kentucky [Mr. FORD], now be recognized to offer an amendment to title III, subtitle A, chapters 1 through 7 of the bill, and that there be 10 minutes equally divided between the distinguished Senator from Kentucky [Mr. Ford], and the distinguished Senator from New York [Mr. D'AMATO], and that immediately after all time on the amendment of Senator FORD has expired, Senator D'AMATO will be recognized to make a point of order against the subtitle in the amendment.

Mr. FORD. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

The Senator from Kentucky.

Mr. FORD. And I will not object. A parliamentary inquiry, Mr. President. I am changing certain sections, changing the language and basically a modification. Does this have to be recognized as an amendment or can it be a modification of that section of the legislation?

The PRESIDING OFFICER. The Senator is informed it would take unanimous consent to modify the underlying language.

Mr. FORD. Mr. President, I ask unanimous consent then, further unanimous consent that I be allowed to modify that section rather than amend it.

The PRESIDING OFFICER. Is there objection?

Mr. D'AMATO. Reserving the right to object, and I do not object, I want to ascertain that as the unanimous consent has been submitted, under the point of order that I will raise, if that point of order is sustained, is it my understanding that the entire section as modified would fall?

The PRESIDING OFFICER. The Senator is correct.

Mr. D'AMATO. I have no objection.

Mr. DOMENICI. Reserving the right to object.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I do not understand then what the unanimous consent—wherever we have amendment, we are not going to have an amendment?

Mr. FORD. It would be a modification then. That was drafted by the Senator's people. It changes from amendment to modification.

Mr. DOMENICI. One further point of inquiry. The unanimous consent clearly intended that the point of order lie against the subtitle and the modification. Is that correct, I ask the Chair?

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. I would have to defer to the Senator from Kentucky because the unanimous-consent request was drafted in consultation with the Senator from Kentucky and the Senator from New York.

Mr. FORD. Yes. That is correct.

Mr. DOMENICI. I think it was stated——

Mr. FORD. One point of order will be sufficient.

Mr. DOMENICI. I have no objection. I want to thank everyone for working it out between the Senator from New York and the other Senators who have an interest.

The PRESIDING OFFICER. Without objection then, the unanimous-consent request of the Senator from Kentucky is agreed to.

Is there any objection to the unanimous consent of the Senator from Tennessee? The Chair hears none, and it is so ordered.

Mr. FORD. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The language will be so modified.

The modification is as follows:

In section 322(2), strike "have impeded" and all that follows and insert in lieu thereof "could impede the national air transportation system;".

Amend section 331 to read as follows:

SEC. 331. NATIONAL AVIATION NOISE POLICY.

(a) The Secretary of Transportation shall, by regulation, not later than October 1, 1991, develop and articulate a National Aviation Noise Policy which takes into account the Findings and Determinations and provisions of this chapter.

(b) The National Aviation Noise Policy shall include the establishment of a date or dates for the phasing out of Stage 2 technology aircraft as part of a comprehensive national noise management scheme. The national noise management scheme must include a detailed economic analysis of the impact of any phaseout date on competition in the airline industry, and may provide, by regulation, for the allocation and distribution of Stage 2 operating rights during the phaseout period in a manner determined by the Secretary to be economically efficient.

Amend section 332 to read as follows:

SEC. 332. NOISE AND ACCESS RESTRICTION REVIEWS.

(a) The National Aviation Noise Policy shall require the establishment of a program for adequate public notice and comment opportunities on local airport noise or access restrictions that first became effective after October 1, 1990, that were negotiated or executed agreements as of October 1, 1990, or where the FAA has already found a working group to examine the noise impact of air traffic control procedure changes.

(b) No airport noise or access restriction on the operation of a Stage 3 certificated aircraft, or on a Stage 2 certificated aircraft weighing less than 75,000 pounds, including but not limited to—

(1) any restriction as to noise levels generated on either a single event or cumulative basis;

(2) any limit, direct or indirect, on the total number of State 3 aircraft operations;

(3) any noise budget or noise allocation program which would include Stage 3 aircraft;

(4) any restriction imposing limits on hours of operations; and

(5) any other limit on Stage 3 aircraft,

shall be effective unless it has been agreed to by the airport proprietor and all aircraft operators, or until it has been submitted to the Federal Aviation Administration pursuant to an airport operator's request for approval and approved in accordance with the program.

(c) No airport noise or access restriction proposed after October 1, 1990, could include a restriction on operations with other than Stage 3 aircraft, unless the airport operator publishes the proposed noise or access restriction at least 180 days prior to the effective date of the restriction and prepares—

(1) an analysis of the anticipated or actual costs and benefits of the existing or proposed noise regulation;

(2) a description of alternative regulations;

(3) a description of the alternative measures considered not involving aircraft restrictions, and a comparison of the costs and benefits of such alternative measures to the costs and benefits of the proposed noise or access regulation.

(d) The Administrator shall not approve a noise or access restriction applying to Stage 3 aircraft operations unless the Administrator finds the following conditions to be supported by substantial evidence;

(1) the proposed restriction is reasonable, nonarbitrary, and nondiscriminatory;

(2) the proposed restriction is reasonable, nonarbitrary, and nondiscriminatory;

(3) the proposed restriction is not inconsistent with maintaining the safe and efficient utilization of the navigable airspace;

(4) the proposed restriction does not conflict with any existing Federal statute or regulation;

(5) there has been an adequate opportunity for public comment with respect to the regulation;

(6) consideration of alternative means of minimizing or otherwise managing noise was reasonable; and

(7) such other factors as the Administrator deems appropriate to the national air transportation system, as determined by rulemaking.

(e) Sponsors of facilities operating under noise or access restrictions on Stage 3 operations that first became effective after October 1, 1990, shall not be eligible for grants authorized by section 505 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2204) 90 days after the date on which the Secretary promulgates the final rule called for under section 331 of this Act, unless the restrictions have been agreed to by the airport proprietor and airport operators or the Administrator has approved the restriction under this title, or the restriction has been rescinded.

(f) The Administrator may reevaluate any noise restrictions previously approved under subsection (d) upon the request of any aircraft operator able to demonstrate to the satisfaction of the Administrator that there has been a change in the noise environment of the affected airport pursuant to the criteria established under subsection (d) and that a review and reevaluation of the benefits and costs of the previously approved noise regulation is therefore justified.

(g) The Administrator shall establish by regulation procedures under which the evaluation provided in subsection (f) shall be accomplished. Such evaluation shall not occur less than two years after a determination under subsection (d)(2) has been made.

(h) Except to the extent required by the application of the provisions of this section, nothing in this Act shall be deemed to eliminate or supersede existing law with respect to restrictions by local authorities on operation of Stage 2 aircraft.

Strike section 334.

Amend section 335 to read as follows:

SEC. 335. LIMITATION ON AIRPORT IMPROVEMENT PROGRAM REVENUE.

Except as specified in subsection (a), under no conditions shall any airport receive revenues under the provisions of the Airport and Airway Improvement Act of 1982, or impose or collect a passenger facility charge, unless the Administrator assures that the airport is not imposing any noise or access restriction not in compliance with this chapter.

In section 342, amend paragraphs (6) and (7) of added section 1113 of the Federal Aviation Act of 1958 to read as follows:

"(6) No passenger facility charge shall be approved for imposition prior to the adoption by regulation of a national aviation noise policy in accordance with the provisions of title III Act and, in no event, prior to such date at which the uncommitted balance contained in the Airport and Airway Trust Fund is less than $5,000,000,000.

"(7) Authority for the approval of any new passenger facility charge, or the modification of any existing charge, shall terminate in the event that appropriations fail to be made to fund at least 90 percent of each amount authorized for essential air service and the airport improvement program during any fiscal year. Further, all authority to approve any passenger facility charge shall terminate at any time funds are spent from this Act except as authorized by this Act.

Strike section 352.

Amend section 353 to read as follows:

AIR CARRIER SPECIAL AUTHORIZATIONS

SEC. 353.(a)(1) Not later than 60 days after the date of enactment of this Act, the Administrator shall by rule create, at Washington National Airport, a pool of 30 daily air carrier special authorizations which shall be spread evenly throughout the day from the hour 0700 to the hour 2200 and shall be available only to air carriers that—

(A) will utilize such special authorizations to conduct operations with turbojet aircraft or any aircraft having a certificate maximum seating capacity of 75 or more; and

(B) hold fewer than 12 existing slots at Washington National Airport.

(2) Such special authorizations shall be created and allocated in such a manner that the actual number of daily operations does not exceed the total number of authorized daily operations at Washington National Airport as provided in subpart K of part 93 of title 14, Code of Federal Regulations.

(3) Such special authorizations shall be allocated by lottery and in such a manner that, to the maximum extent practicable, all such air carriers have an equal number of slots and special authorizations overall at Washington National Airport. No such air carrier shall receive a special authorization under this subsection which gives that carrier more than 12 slots and special authorizations overall at Washington National Airport.

(4) If such special authorizations remain unused after such air carriers have had an opportunity to obtain them, the remaining authorizations may only be made available to air carriers that have fewer than 12 slots at Washington National Airport.

(5) Each such special authorization shall be public property and its use shall represent a nonpermanent operating privilege within the exclusive control and jurisdiction of the Secretary and the Administrator. Any such privilege may be withdrawn, recalled, or reallocated by the Secretary for reasons of aviation safety, airspace efficiency, the enhancement of competition in air transportation, or any other matter in the public interest and in accordance with the public convenience and necessity.

(6) If the holder of an air carrier special authorization fails to initiate use of the authorization within 60 days after receiving the authorization or thereafter fails to use the authorization in accordance with rules for use of existing air carrier slots, the authorization shall be withdrawn and, if appropriate, be reallocated to another air carrier as provided in this subsection.

(b)(1) Not later than 60 days after the date of enactment of this Act, the Administrator shall by rule create, at LaGuardia National Airport, a pool of 30 daily air carrier special authorizations which shall be spread evenly throughout the day and shall be available only to air carriers that—

(A) will utilize such special authorizations to conduct operations with turbojet aircraft or any aircraft having a certificate maximum seating capacity of 75 or more; and

(B) hold fewer than 12 existing slots at La Guardia National Airport.

(2) Such special authorizations shall be allocated by lottery and in such a manner that, to the maximum extent practicable, all such air carriers have an equal number of slots and special authorizations overall at La Guardia National Airport. No such air carrier shall receive a special authorization under this subsection which gives that carrier more than 12 slots and special authorizations overall at La Guardia National Airport.

(3) If such special authorizations remain unused after such air carriers have had an opportunity to obtain them, the remaining authorizations may only be made available to air carriers that have fewer than 12 slots at La Guardia National Airport.

(4) Each such special authorization shall be public property and its use shall represent a nonpermanent operating privilege within the exclusive control and jurisdiction of the Secretary and the Administrator. Any such privilege may be withdrawn, recalled, or reallocated by the Secretary for reasons of aviation safety, airspace efficiency, the enhancement of competition in air transportation, or any other matter in the public interest and in accordance with the public convenience and necessity.

(5) If the holder of an air carrier special authorization fails to initiate use of the authorization within 60 days after receiving the authorization or thereafter fails to use the authorization in accordance with rules for use of existing air carrier slots, the authorization shall be withdrawn and, if appropriate, be reallocated to another air carrier as provided in this subsection.

Amend section 354 to read as follows:

HIGH DENSITY TRAFFIC AIRPORT RULES

SEC. 354. (a)(1) On January 1, 1991, the Administrator shall initiate a review of the provisions of subparts K and S of part 93 of title 14, Code of Federal Regulations. The review shall evaluate the impact of such provisions on aviation safety and ground congestion at each of the high density traffic airports.

(2) Not later than January 1, 1992, the Administrator shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives regarding the findings of the review initiated under paragraph (1) and any recommendations to be taken in light of those findings.

(b)(1) On January 1, 1991, the Secretary shall initiate a review of the provisions of subparts K and S of part 93 of title 14, Code of Federal Regulations. The review shall evaluate—

(A) the impact of such provisions on airline competition and how such provisions have facilitated, and continue to facilitate, new entry at such airports; and

(B) methods by which the public can benefit financially from the provision of slots to carriers and how much revenue or other financial benefit can be generated by each such method.

(2) Not later than January 1, 1992, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives regarding the findings of the review initiated under paragraph (1) and any recommendations to be taken in light of those findings.

Strike sections 376 and 377.

Mr. FORD. Mr. President, I understand now that I have 5 minutes?

The PRESIDING OFFICER. The Senator is correct.

Mr. FORD. I would like to yield myself 2 minutes and I would like to yield the distinguished Senator from Missouri [Mr. DANFORTH], the remainder of the time.

My colleagues, this section of the bill has been studied about as much as any. Let me briefly go through it in the short 2 minutes that I have.

The Secretary of Transportation will establish a national noise policy by October 1, 1991, which includes a total phaseout of the noisy stage 2 aircraft. The Secretary of Transportation will establish rules for the imposition of a passenger facility charge on origin and destination passengers; authorizes FAA, F&E, and R&D programs for 2 years; creates university air transportation centers where we begin to try to train pilots and we are going to need about 100,000 new pilots by the year 2000; creates a set-aside for the military airports. There are a lot of forts and camps that are being closed down and those that have airport facilities will be turned in to the community so they might develop their own airports; requires an environmental impact statement for the east coast plan.

In the modification, Mr. President, it grandfathers in existing noise plans up until October 1, 1990. Any plan that was in place has been grandfathered in; no restrictions on stage 3 aircraft unless agreed to by all users or approved by FAA. DOT is to set the

phaseout of the stage 2 aircraft. Slots applies to LaGuardia and National; requires increased air carrier authorizations to accommodate new entrants; airline merger language has been stricken.

The PRESIDING OFFICER. The time allocated to the Senator has expired.

Mr. FORD. Fifteen seconds, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. The U.S. Conference of Mayors, administration, airlines, air cargo, and others have endorsed the position now as modified.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. Mr. President, I would like to yield 2 minutes to my distinguished colleagues from New Jersey, Senator LAUTENBERG and Senator BRADLEY.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise in support of the motion of the Senator from New York.

I do so for two reasons. First, because the legislation has nothing to do with deficit reduction, and does not belong on reconciliation.

Second, I support this point of order because the legislation would have devastating impacts on efforts to control aviation noise in my State; and through the repeal of the high density rule, it could lead to diminished safety and increasing delays in air travel.

Aircraft noise is an issue that must be dealt with. But the provision contained in this reconciliation bill is not the way to do it.

We in New Jersey have been living with the problem of aircraft noise for some time. New Jerseyans were the victims of a massive change in air traffic patterns made by the FAA.

Those changes came with no notification, no public hearings, and no assessment of the environmental impacts.

Since 1987, when these changes went into effect, I have been working to get some relief for my constituents. It has been tough going. It took a year just to get the FAA to admit that there was a problem.

It has been a frustrating process, for me, and for those whose lives have been disrupted by the roar of jets overhead.

But, we have started to make some progress. A key part of this has been getting the Port Authority of New York and New Jersey, which operates the major airports in our metropolitan area, to start working constructively with us.

We are not talking about drastic steps that would cripple aviation, or interfere with interstate commerce.

We are talking about reasonable and needed measures that could help restore some quality of life to residents of the densely populated State and region.

That could mean more stage 3 jets, and fewer of the older, noisier stage 2 planes.

Currently, less than half of the fleet serving Newark International is stage 3.

When we consider that a stage 3 plane can be half as noisy as a stage 2 plane, the tremendous benefits that would result from increasing the number of stage 3 aircraft are apparent.

Mr. President, we need a national aviation noise policy.

In fact, I have called for one, through the fiscal year 1991 transportation appropriations report.

But, a noise policy should be developed as part of a deliberative process, with public input, and without bias. The measure included by the Commerce Committee in reconciliation does not take that approach.

It prejudges the outcome; it says that it should be national policy to preempt local controls, even in the absence of any real Federal controls.

And it says that if an airport is not willing to play ball, it is not going to get Federal funding.

That is not a policy that my constituents can live with.

It's not a policy that we should be mandating through a reconciliation bill.

This legislation would also eliminate the FAA's high density rule.

That's something that the FAA—the agency charged with ensuring the safety and efficiency of our aviation system—does not support.

It would mean trying to shoehorn in more traffic into an area that's already overburdening the air traffic control system.

This is legislation that should be considered through the normal authorization process. I hope that we'll have that opportunity, so that these issues might be worked out then. But, I must oppose the inclusion of this legislation on reconciliation.

The high density rule was adopted to cap the number of operations at several key airports: Chicago O'Hare, Washington National, and JFK and LaGuardia in New York. It was adopted to keep operations at those airports at a safe level.

Since the rule was adopted, not much has changed. If anything, we might say that things have gotten worse.

This provision would eliminate the rule; but not at all four airports. It would exempt National Airport.

So, that leaves us with three airports that would be impacted by this provision.

Let me make this clear: None of these airports has asked for this. They could petition the FAA to let them out of the high density rule. But none has. And, I can assure my colleagues, that the two airports in my region do not want this legislation.

Mr. President, the high density rule has its problems. Now is not the time to review them.

But, without the rule—or some other solution, which we are not about to develop on this bill—we'd see real chaos in our skies.

Just yesterday, Senator D'AMATO and I were working to get some help for air traffic controllers in our region. These men and women oversee some of the most complex airspace in the world.

And they are doing it with fewer than half of the full performance level controllers that even the FAA says there should be.

This is, to say the least, a difficult job. But this provision would make it worse.

It would remove the restrictions on how many flights could come in and out of JFK and LaGuardia.

It would mean more and more planes that these controllers would have to guide, and keep apart.

They simply cannot handle the burden. So, we will have one of two results: First—and worst—if could mean diminished safety, as these air traffic sectors become overloaded.

Or, it could mean tremendous delays, as controllers simply keep planes away from the region until they can be safely handled.

And, my colleagues should not think that this is just a New York-New Jersey problem. Our aviation system is a national system. When planes start backing up over our airports, it's going to back up all over the country.

Planes will be sitting on the ground, waiting for clearance, in Chicago, Denver, and Dallas.

Neither of these options is acceptable. And they should not be forced on us through this reconciliation bill.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. Senator BRADLEY I think seeks recognition, and Senator MOYNIHAN.

Mr. BRADLEY. Mr. President, the FAA has in no way earned the spending powers that this legislation has given them. A case in point is the east coast plan that has hit the State of New Jersey very hard in the last 3 years.

The FAA has been totally unresponsive to local initiative and local inquiry for some relief from the extended loud noise that is roaring over the State of New Jersey today. Therefore, I will join the distinguished Senator from New York in his point of order.

This is not the time for us to ratify a national noise policy to be conducted by the FAA. They have not proven in my view worthy of that increased au-

thority. I hope that they will demonstrate a willingness to work more fully with local agencies and local citizen groups who are so grossly offended by the increased noise over our region.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Who yields time?

Mr. D'AMATO. I yield 1 minute.

Mr. MOYNIHAN. Mr. President, this is an atrocious measure to be on a budget reconciliation bill. It affects three airports in the country, O'Hare, La Guardia, and Kennedy. La Guardia is the most congested airport in the Nation. The theoretical object is to increase the number of flights. It cannot be done. There are no more minutes in the hour.

The only thing it will do is increase delays. It will increase the cost of airlines, it will increase the cost to the public, and it will make matters worse for New York, New Jersey, and Connecticut. I do not understand why it is in this bill.

The PRESIDING OFFICER. Who yields time?

Mr. FORD. Mr. President, I yield as much time as I have left to the distinguished Senator from Missouri.

Mr. President, I yield myself 1 minute.

Mr. President, as we understand this legislation, it will reduce the noise by 75 percent. There are now under this bill expected $40 billion of purchases of new stage aircraft that will make things so much quieter. This will be done on a national scale.

We now have over 440 different ordinances, And aircraft, airlines, and air carriers do not know exactly when to get in, when to get out, or what aircraft they can take. It is about time we started doing something on a national level.

I yield the remainder of my time to the Senator from Missouri.

Mr. DANFORTH. I thank the Senator from Kentucky. I really only have one point to make. That is this particular provision is absolutely essential to the administration's transportation policy. This is the single biggest objective of Secretary Skinner in his tenure as Secretary of Transportation. He has worked on this very hard. I have spoken with him any number of times, as has Senator FORD, and Senator FORD has been a terrific leader in this effort. Secretary Skinner, together with OMB, have both discussed this matter with me. It is a top priority with the administration. My hope is that we would support this provision.

The most important aspect of it is the passage of the facility charge. It permits airports around the country to be able to have the capital construction budgets that are necessary to provide the infrastructure for the future. I do not see how they are going to be able to have that infrastructure to provide for air transportation for America's future without that PFC. That is the very heart of this particular provision. It is essential as far as air transportation is concerned. It is certainly essential as far as administration policy is concerned.

Mr. DURENBERGER. Mr. President, I rise today in support of the motion to invoke the Byrd rule to strike the extraneous aviation provisions within the budget reconciliation bill.

First of all, I have deep reservations over making substantial national aviation policy revisions on a budget reconciliation. While I am appreciative of the extensive last-minute efforts that have been made to fashion acceptable aviation provisions during the last few days, there simply has not been time to adequately address all the legitimate concerns that need to be considered.

One of the provisions included in the aviation section of the reconciliation bill is language that would create a national aviation policy. This language would have far reaching consequences for the millions of Americans living beneath the landing and takeoff flight paths of our Nation's airports. In many communities, the pending aviation noise legislation would effectively preempt existing local aviation noise controls. Even worse, this legislation would essentially preclude communities from being a relevant participant in the process of devising and implementing aviation noise restrictions.

Regrettably, congressional consideration of the national aviation noise policy did not begin until less than 4 weeks ago when my distinguished colleague and Chair of the Senate Aviation Subcommittee introduced S. 3094. Some of the measures embedded in S. 3094 also exist as separate bill pending before the Senate and have followed the proper and fair procedure for the consideration of legislation. Other provisions, including the national aviation noise policy, have not had sufficient and indispensable legislative deliberations required to create good public policy.

While the other Chamber hastily convened a hearing on the aviation noise issue, this Chamber held no such hearing on the highly controversial issue of federalizing aviation noise controls. In fact, the Senate has not held a hearing on this issue in more than a decade. However, a careful review of the testimony that was presented to members of the other chamber suggest that Americans have a great desire to participate in the process of establishing a workable and effective national aviation policy. However, the aviation noise provision currently included in reconciliation take action before most citizens have had an opportunity to scrutinize and analyze the ramification of the proposed language. I think we unwisely short-circuit the democratic process if we act before the people have had a chance to respond.

Furthermore, I know that several of my colleagues share my irritation that the national aviation noise policy legislation is being moved without the input of the Senate Environment and Public Works Committee. The Senate Environment and Public Works Committee has jurisdiction over several elements of the aviation noise issue and should have the opportunity to provide its input on the matter.

In conclusion, I cannot sanction the attaching of a major reauthorization to reconciliation such legislation deserves and demands the requisite public debate and careful examination needed to fashion regulations which the American public will accept. Millions of Americans live beneath the flight paths of our Nation's airports and they deserve to have their concerns heard and considered before this legislation is enacted. While I acknowledge that my colleagues have tried to placate these concerns by permitting local input into the regulation process that follows enactment of this legislation, that indulgence will give short shrift to the concerns of these citizens.

Mr. LEVIN. Mr. President, I would like to ask the Senator from Kentucky, the sponsor of the National Aviation Noise Policy provisions in the reconciliation bill, whether it is correct that section 332 of the bill, the noise and access restriction provisions, does not apply to airport noise or access restrictions at Detroit Metro Airport because of the unique circumstances at that airport which have caused the FAA to form a working group to examine the noise impact of air traffic control procedures there.

Mr. FORD. The Senator from Michigan is correct.

Mr. LEVIN. I thank my distinguished colleague for this clarification and for his work on this matter.

Mr. GRAMM. I am concerned about the provision in the Ford substitute which creates 30 new special authorizations at National Airport. Is it the intention of the sponsor that the special operating rights at National Airport be withdrawn from the slot holdings of existing carriers?

Mr. FORD. No, this provision is not designed to result in the withdrawal of any slots of a carrier currently serving Washington National. If necessary, the language would be modified in conference to ensure that result.

Mr. SARBANES. Mr. President, I want to express my strong support for removing the national noise policy provisions in the Airport Capacity Act of 1990 from the budget reconciliation bill, and I would like to outline my reasons for strongly opposing the inclu-

sion of this initiative in that legislation.

First, I do not feel that such a major initiative impacting on hundreds of cities and communities throughout America should be considered this way. No hearings were held in the Senate Committee on Commerce, Science, and Transportation, and this provision was added at the last minute to the reconciliation bill without careful scrutiny in the committee. In fact, the bill was only recently drafted and was introduced as S. 3094 on September 24, 1990—just a few weeks ago.

Second, this legislation has far-reaching ramifications for cities and towns throughout the country. Many of these communities have already been through the long, and often painful process of developing comprehensive noise standards for their airports. Frequently, these plans involved balancing the economic development interests of those communities and the desire to provide a healthy environment free of noise pollution and the congestion associated with large airport projects. In some instances, the development of these noise plans took years of planning, public hearings, and even changes in design and location of runways, terminals, and access roads.

Third, this initiative would change very basic assumptions about the role of the Federal Aviation Administration in the airport noise question. The FAA has generally left the adoption of noise restrictions up to individual airports. The FAA may sue an airport if it regards the airport's noise control program as unfair or discriminatory; however, the FAA has done so in only a limited number of cases. One can generalize about the FAA's role by saying that the FAA has not contested noise restrictions adopted by airports including those whose expansion plans have been financed by FAA funding.

Since 1968, the United States has pursued a comprehensive national policy of abating aircraft noise at its source using both statutory and regulatory programs. By January 1, 1988, this policy had resulted in the complete elimination of all large so-called stage 1 aircraft from the U.S. commercial aviation fleet.

The effectiveness of this policy is clearly evidenced by the fact that between 1980 and 1985, approximately 1 million individuals previously exposed to unacceptable levels of aircraft noise found themselves residing outside shrinking airport noise zones around this Nation's commercial airports. For all its technical detail and mandated Federal review of local airport noise abatement plans, this legislation retreats from existing Federal source noise control in its failure to announce as a national goal the establishment of a date certain for the phaseout of stage 2 aircraft. The best this legislation can muster is a vague reference to the possible phasing out of stage 2 technology aircraft. If we had taken that approach in 1968, source noise control as a national policy would have a hollow ring to it.

Baltimore-Washington International Airport, a State-owned facility, has been in the process of developing a comprehensive noise abatement plan. The Maryland Department of Transportation has held hours of public hearings on their plan and worked closely with local community groups. Those community groups have not always agreed with the actions or proposals of the State, and I have tried to play a role in keeping the dialog open between the government and the citizens living near the airport. I can tell you, however, despite the serious problems some communities have with the State's noise plan, they all oppose this bill. They certainly do not want the Federal Aviation Administration in Washington making the decisions about noise restrictions at their local airport.

Let me quote for a minute from a General Accounting Office study of September 1990 on the Aviation Noise issue. It says:

> Leaving the responsibility for noise regulation to the airports has some advantages. Airports vary greatly in how sensitive their neighbors are to noise. One airport may be under great pressure to reduce noise from its neighbors, and may be willing to suffer a substantial reduction in service in order to reduce noise. Other airports may place a greater value on high service levels than on noise reduction, and may favor a less restrictive noise policy. Leaving noise regulation to the airports allows each airport to tailor its noise policy to its own individual situation. The benefits of noise reduction are greatest when the noise reduction is concentrated on airports that are most sensitive to noise.

Finally, I salute the chairman of the Aviation Subcommittee, Senator FORD, and my colleague from Virginia, Senator ROBB, for their positive efforts to ensure that the existing noise standards at Washington's National Airport would be maintained. I opposed passage of the 1986 Act, at least partially, based on my deep concern about a loss of local control over aircraft noise generated by National Airport. I am concerned that the integrity of that law be maintained including retention of the high density rule and the ability to retain the existing nighttime curfew.

This legislation is not good public policy. It has been sprung on the Senate without careful consideration in the committee. It has had no hearings. It ought to be removed from the reconciliation package and defeated. Mr. President, I support Senator D'AMATO's motion against this section of the bill.

Mr. RIEGLE. Mr. President, for people who live near airports, excessive noise is an all too real intrusion into their lives. As air travel and air shipping increase, there is greater pressure to expand routes and build bigger airports. This development can worsen the problem of airport noise if effective steps are not taken. I strongly believe that we need to address this matter fairly so citizens are not subjected to unacceptable noise levels. In doing this, it is vital that these matters be worked out with the needs of citizens directly affected firmly in mind.

We have a special situation in my State of Michigan that points to the need for consistent policy by the Federal Aviation Administration [FAA]. Less than a year ago, flight patterns were altered at Detroit Metro Airport creating a tremendous noise problem for tens of thousands of people in the area. Right now, citizens are working with the FAA and local authorities to resolve the aviation noise problems in the Detroit area. Progress is being made at the local level.

As originally introduced, the Aviation Capacity Act did not adequately allow those who are involved with an FAA working group to develop a policy that best meets the needs of their communities. Without the important changes in the proposal, discussions going on in my home State of Michigan would have been cut off, preventing interested citizens from resolving noise problems in a way that effectively meets the needs of their particular communities.

I am pleased that this proposal will now enable this process to continue in the Detroit area and I thank the distinguished chairman of the Aviation Subcommittee, Senator FORD, for responding to the concerns of many Senators.

Mr. FORD. Mr. President, do we have any time left?

The PRESIDING OFFICER. The Senator from Kentucky has 4 seconds.

Mr. FORD. The House has already placed like language in their legislation. We ought to have something to offer or we will be in real trouble.

Mr. D'AMATO. Mr. President, let me put it quite simply. This is a reauthorization of a major bill, the Airport Capacity Act. Has anyone here discussed these issues? Have we discussed what the noise situation is going to be in your community, what your local governments can do? Have we really discussed what the density as it relates to slots going into America's most congested airport is going to do?

Who is pushing it? What airlines are going to be benefited? How come? Let me ask you something. Are the residents of New York and New Jersey, and the other environs less considered as it relates to these standards than National? If you are looking at Virginia, it is OK. We have to make sure we are protected, that they can close the airport.

If you do not live there, if you live on the south shore of Long Island, or some other place, do not worry about it.

This legislation does not belong here. This nonsense about the most important thing that the administration is doing does not change the correctness of it.

PFC's, passenger facility charges; blackmail. Skinner called up all the airports and had all his minions doing it. You want that; you had better vote for this.

Why did you not put it in here freestanding? The House has it in. You would have reconciliation.

We slow slots to LaGuardia. We open up the noise levels. We open the density levels. What kind of nonsense? Are we going to yield to that?

POINT OF ORDER

Mr. D'AMATO. Mr. President, pursuant to the unanimous-consent decree, I cite section 2001 of the Consolidated Omnibus Reconciliation Act. I raise a point of order that title III, subtitle (b), and all those chapters in this provision violate subparagraph (D)(1)(a) of the statutes because it does not produce a change in outlays of revenue.

POINT OF ORDER; THE BYRD RULE

Mr. FORD. Mr. President, I move to waive the Byrd rule and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to waive the Byrd rule. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. LAUTENBERG). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 69, nays 31, as follows:

[Rollcall Vote No. 290 Leg.]

YEAS—69

Adams	Fowler	Mack
Akaka	Garn	McCain
Bentsen	Glenn	McClure
Bingaman	Gore	McConnell
Bond	Gorton	Mitchell
Boren	Grassley	Nickles
Breaux	Harkin	Nunn
Bryan	Hatch	Packwood
Bumpers	Hatfield	Pressler
Burdick	Heflin	Pryor
Burns	Heinz	Reid
Byrd	Helms	Riegle
Cochran	Humphrey	Robb
Cohen	Inouye	Rockefeller
Conrad	Johnston	Sanford
Danforth	Kassebaum	Shelby
Daschle	Kasten	Simon
DeConcini	Kennedy	Specter
Dixon	Kerrey	Stevens
Dodd	Kohl	Symms
Dole	Levin	Thurmond
Exon	Lott	Warner
Ford	Lugar	Wirth

NAYS—31

Armstrong	Graham	Murkowski
Baucus	Gramm	Pell
Biden	Hollings	Roth
Boschwitz	Jeffords	Rudman
Bradley	Kerry	Sarbanes
Chafee	Lautenberg	Sasser
Coats	Leahy	Simpson
Cranston	Lieberman	Wallop
D'Amato	Metzenbaum	Wilson
Domenici	Mikulski	
Durenberger	Moynihan	

The PRESIDING OFFICER (Mr. LAUTENBERG). Are there any other Senators in the Chamber who have yet to vote?

If not, on this vote, the yeas are 69, the nays are 31. Three-fifths of Senators duly chosen and sworn having voted in the affirmative, the motion to waive the Byrd rule is agreed to. The point of order falls.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. SASSER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Therefore, the point of order falls.

Mr. SASSER. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. What is the inquiry?

Mr. SASSER. Mr. President, time has expired on all amendments on which we had debate scheduled by unanimous consent.

May I ask the Chair if there are other amendments to be considered now that would not be debated under the rules? I say that hoping, Mr. President, against hope that there are no other amendments to be considered.

Mr. PRESSLER. Mr. President, I have an amendment.

The PRESIDING OFFICER. In response to the manager of the bill, all time for debatable motions has elapsed.

AMENDMENT NO. 3044

(Purpose: To reduce the pay of Members of Congress corresponding to the percentage reduction of the pay of Federal employees who are furloughed or otherwise have a reduction of pay resulting from a sequestration order)

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from South Dakota, [Mr. PRESSLER], for himself, Mr. GRASSLEY, and Mr. LEVIN, proposes an amendment numbered 3044.

Mr. PRESSLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following new section:

SEC. . REDUCTION OF PAY OF MEMBERS OF CONGRESS.

(a) REDUCTION IN PAY.—For each month during fiscal year 1991 in which, by reason of a furlough or other employment action necessitated by a sequestration order under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902), the total amount of the pay paid to any Federal employee is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law, the rate of pay payable to a Member of Congress shall be reduced to the rate of pay established for such Member pursuant to law.

(b) COMPUTATION OF REDUCED PAY.—The rate of pay payable to a Member of Congress for any month referred to in subsection (a) shall be equal to the amount determined by multiplying the rate of pay established for such Member pursuant to law by the percentage reported to Congress for such month under subsection (c)(1)(D).

(c) DETERMINATION OF PERCENTAGE FOR COMPUTATION OF REDUCED PAY.—(1) No later than the first day of each month in fiscal year 1991, the Director of the Office of Management and Budget shall—

(A) determine whether, for a reason described in subsection (a), the total amount of the pay paid to any Federal employee in that month is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law;

(B) estimate the average of the percentages that would result by dividing the monthly equivalent of the annual rate of pay established for each such Federal employee pursuant to law into the total amount projected to be paid such Federal employee for such month;

(C) aggregate the percentages determined under subparagraph (B) for Federal employees for each agency and determine the highest average percentage for any agency; and

(D) transmit to Congress a written report containing the average computed under subparagraph (C).

(2) The Office of Management and Budget may use a statistical sampling method to make the estimates and determinations under paragraph (1).

(3) For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code.

(d) APPLICATION TO OTHER FEDERAL LAWS.—For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposed any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(e) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this section and shall apply to the first applicable pay period of members of Congress or Executive officers and employees occurring on or after October 1, 1990. If the date of enactment of this section is after October 1, 1990, and the provisions of this section become applicable in the reduction of pay of members of Congress or Executive officers and employees, all reductions which would have occurred if this section had been enacted as provided in

subsection (b) and the amount of such reduction shall be recovered for the remaining pay periods for fiscal year 1991.

(f) APPLICATION TO EXECUTIVE OFFICERS.—The provisions of this section and the computations as they apply to the reduction under subsection (b) shall apply to the rate of pay for the Vice President, and any executive officer at a position level V or above of the Executive Schedule under sections 5311 through 5317 of title 5, United States Code, any executive officer or employee in the Executive Office of the President who on the date of the enactment of this section is paid at a pay rate equal to or above of the pay rate for a position at level V or above of the Executive Schedule under sections 5311 through 5317 of title 5, United States Code.

Mr. PRESSLER. I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota.

So the amendment (No. 3044) was agreed to.

Mr. PRESSLER. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. May I inquire of the Chair, are there any other amendments pending?

The PRESIDING OFFICER. Are there any other amendments pending?

The majority leader.

Mr. MITCHELL. Mr. President, there being no response to the inquiry by the distinguished manager regarding any further amendments, I will in a moment request consideration of the one remaining leadership amendment dealing with budget process reform.

There being no other amendments, I now ask unanimous consent that no amendments other than the leadership amendment on budget process reform be in order.

Mr. STEVENS. Reserving the right to object, does that include secondary amendments to the leadership package?

Mr. MITCHELL. No. I suggested no other amendments than this amendment.

Mr. STEVENS. Germane amendments to that amendment would be in order?

The PRESIDING OFFICER. The Senator from Alaska cannot be heard.

Mr. STEVENS. I am sorry, I was asking the leader, if I may, would germane amendments to the leadership amendment be in order?

Mr. MITCHELL. Not if my request were granted. Obviously if the Senator——

Mr. STEVENS. I will wait.

Mr. MITCHELL. So there is no misunderstanding. Mr. President, I withhold the request.

Just so there is no misunderstanding, approval of the request as stated would foreclose amendments other than the Budget Process Reform Act and also foreclose second-degree amendments to that act.

If the Senator objects to one or both of those provisions, he obviously should so state.

Mr. STEVENS. I have no objection to the former. For the time being I would like to reserve on the latter until there is an explanation of at least a couple of the portions of that amendment.

Mr. MITCHELL. Then, Mr. President, I modify my request to ask unanimous consent that there be no amendments in order other than the Budget Process Reform Act and germane second-degree amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, Members of the Senate, the hour is late. I know all Senators are weary from weeks in which we have been engaged in this process. There remains this one additional amendment which is a very important amendment. It is the budget process reform provisions that have been worked out through several weeks of negotiation.

I know many Members of the Senate have a keen interest in and concern about these provisions. Under the rules by which we deal with the reconciliation bill there is no time remaining for debate. I have consulted with the distinguished Republican leader, with the managers, with several interested and concerned Senators. It is my belief that an amendment of this magnitude warrants a period of debate and discussion and the opportunity for Senators to ask questions or express their views about it. So I will momentarily propound a unanimous-consent request, asking that there be 1 hour of debate on this amendment so any Senator who wishes to ask questions or to express a view on it will be free to do so.

I suggest that time period not arbitrarily, but after having consulted with a large number of Senators who have expressed an interest in this matter. It is conceivable, indeed likely, that I did not, personally, reach everyone because I am not aware of each Senator who may be interested in this. But I made an effort to contact as many as possible and consulted with as wide a range as possible. In view of the hour I believe, as do most of the Senators with whom I conferred, that this would be an appropriate time period.

Accordingly, Mr. President, I ask unanimous consent that there now be a period for 1 hour of debate on the Budget Process Reform Act amendment which I will now send to the desk in behalf of myself, Senator DOLE, Senator SASSER, Senator DOMENICI, Senator BYRD, and Senator BENTSEN and ask for its immediate consideration.

Mr. STEVENS. Reserving the right to object.

Mr. MITCHELL. Let me separate the two so that Senators will have a chance to express objection.

AMENDMENT NO. 3046

(Purpose: To reform the budget process)

Mr. MITCHELL. Mr. President, I send the amendment to the desk and ask for its immediate consideration, and I withhold the unanimous-consent request with respect to the time for debate on the amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for himself, Mr. DOLE, Mr. SASSER, Mr. DOMENICI, Mr. BYRD and Mr. BENTSEN, proposes an amendment numbered 3046.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I thank the majority leader for giving us this opportunity to discuss the matter. I know the Senator from North Carolina and I do. I see other Senators standing.

Mr. MITCHELL. If the Senator will yield, I have not yet obtained unanimous consent to 1 hour for debate. I wonder if I might do that, if it is the Senator's intention to discuss the matter. I wanted to make certain Senators had an opportunity to express objection to it.

I now ask unanimous consent that there be a period——

Mr. PRESSLER. Reserving the right to object, is it possible if a Senator has questions, say to the chairman of the Finance Committee, that he can enter into a colloquy? That time will be divided? During the hour, how will one obtain time?

Mr. MITCHELL. I am going to ask the time be controlled and divided in the usual form by the distinguished chairman and ranking member, the managers of the bill.

I will state my request.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. I would like to speak on it. I also have a secondary amendment. Is that included in the 1 hour?

Mr. MITCHELL. I did not have a chance to complete my request. I intend to cover that in my request, if I might complete it, and then give the opportunity to any Senator to object if he wishes to do so.

Mr. President, I ask unanimous consent that there be 1 hour for debate on the amendment with the time to be equally divided and controlled in the usual form; and that there be 30 min-

utes equally divided and controlled in the usual form for debate on any second-degree amendment which may be offered to the amendment.

Mr. JOHNSTON. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the hour is late and there could be unlimited second-degree amendments. We could be here past 2 a.m. just by Senators who put in second-degree amendments. I hope we will not have to stay here all night long. We have been here a long time.

Mr. MITCHELL. Mr. President, as the Senator knows, my original unanimous-consent request would have precluded second-degree amendments. Objection was heard to that. I am attempting to accommodate that. I want to modify or amend my request that any second-degree amendments be germane. I stated it in my initial request. I do not believe I stated it in this latter reiteration.

Mr. STEVENS. Reserving the right to object, and I have great respect for the leader, as the Senate knows. This is the most far-reaching nongermane amendment that is subject to a point of order I have ever seen. It is a procedure that further complicates the procedure that we have now gone through in October on a process that should have been completed by May.

I am being respectful to my friend by saying I think if we could have a period of discussion to find out what the intent of the leadership is with regard to this package, we may not have any amendments, and it may well be that the leadership may see fit to modify it itself to avoid such amendments.

I do not have any amendments in mind myself at this time. I do have a series of questions. I think others have questions.

We are grateful to all who have been part of the leadership group in negotiating this package, but I saw it for the first time this afternoon and I have spent 2 hours reading it. Maybe I am dilatory in that, but that is when I received it from my staff. It has raised a series of questions with me, and I do not mean to prolong this matter.

I would like to have some answers to questions as to what is intended with regard to some of the powers that are conferred upon the Office of Management and Budget and the Budget Director and how these triggers would impact particular processes under these caps that are outlines.

My colleagues, I think, understand it full well. I am not trying to delay. I urge the leader to let us have the debate period without any amendments in order at all and then see if any of us want amendments later on. Maybe we can work it out that way.

Mr. MITCHELL. Mr. President, I appreciate the concern of my friend, the distinguished Senator from Alaska, and share that concern. This is a far-reaching measure. That is why I am attempting to accommodate the interest of those Senators who want to have time to debate it. Under the rule, there would be no time for that purpose. The objective of this unanimous-consent request is to create a period of time for such discussion which would not otherwise exist.

I would also say while I did not attend meetings involving budget process reform at any stage during this process—from our side that was left entirely to the distinguished chairmen of the relevant committees—I am acutely aware from my meetings in the summit that this is of critical importance to the President. Over and over again I was told directly by the President's top negotiators that budget process reform was an essential condition to the President of any budget legislative package. The distinguished ranking member is here and if I am incorrect in that regard, I would welcome to stand corrected. But I have been under the impression what we are doing here is attempting to accommodate the President's request by proceeding with this package of reforms.

Mr. DOMENICI. Will the majority leader yield for a second?

Mr. MITCHELL. Yes.

Mr. DOMENICI. Mr. President, for a moment, I will speak to this side of the aisle, and then I will speak generally. Over the past 3 months as this package of tax increases, entitlement changes, and reductions in 5 years of discretionary accounts, principally defense, I do not know how many of my colleagues have asked, will there be a new process to make sure we get what we bargained for? I do not know how many said, if you do not give us that, you can rest assured the package is not going to pass.

We tried. That is what this is. I think by the time we are finished discussing it, we will be able to convince you that while it is different, it truly renders this package rather credible, not only from our eyes but from the public's eyes. We can expect the deficit reduction that we vote for, in terms of the various cuts, taxes, changes, and the like, will be achieved.

Might I say to all the Senators, I think a very similar package has been adopted by the House. So for those who think it is extremely different from anything we have ever had, it is only somewhat different. They have adopted it with a couple of changes, but for the most part, it is part of their reconciliation package.

In fact, I think I know a couple of areas where we differ and we can probably talk about those, or we will talk about them in conference, if we ever get this matter through, and I hope we do.

I might say from this side of the aisle, I heard from at least 10 Senators who said they were not going to vote for substantial deficit reduction unless the budget processes were reformed to assure we got what we bargained for. I think we tried that, and I look forward to sharing with you what we achieved.

There were about five Senators involved from both sides of the aisle, about five House Members, and ultimately 10 or 15 Members from each side, along with the OMB Director and whatever experts we had here. We did the best we could, and I think it is a good package.

I thank the majority leader.

Mr. MITCHELL. Mr. President, I renew my request.

The PRESIDING OFFICER (Mr. HARKIN). Is there objection to the request of the majority leader?

Mr. STEVENS. Is this the request for no amendments?

Mr. MITCHELL. No, it is the request for 1 hour of debate on the pending amendment and 30 minutes on any germane second-degree amendment that is offered thereto.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. I thank my colleagues.

If I might just state before yielding to the distinguished Senator from New York that I hope we can complete action on this within a reasonable period and leave for the night. I implore my colleagues to permit us to complete action at a reasonable hour this evening. We have a very long day tomorrow with appropriations bills pending and we hope at some point to get back a conference report on this measure. So I thank my colleagues for their cooperation.

Mr. DECONCINI. Will the majority leader yield for a question?

Mr. MITCHELL. Certainly.

Mr. DECONCINI. Will the majority leader pursue or consider having a vote on this tomorrow?

Mr. MITCHELL. No.

[Laughter.]

Mr. DECONCINI. I take it the majority leader would like staying here until midnight tonight.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, there has been a request for time from this side of the aisle, and it has been represented to the Senator from Tennessee that the Senator from New York was requesting 10 minutes.

Mr. MOYNIHAN. Correct.

Mr. SASSER. I yield 10 minutes to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 10 minutes.

Mr. MOYNIHAN. I thank the chairman of the committee. I thank the President.

Mr. President, we are told that this is a bill to reform the budget process. And if that is not an oxymoron, we have not heard one in this Chamber since Senator Russell graced our aisles.

This bill of momentous consequence appeared on our desks this afternoon. I obtained a copy at 11:25. A 122-page bill that changes the way the Government works, and the Senate works, and we have never seen it.

We are told by the majority leader, our friend, that it was the result of several weeks of negotiation. We learned from the distinguished ranking member of the Budget Committee that there were, count them, five Senators involved. I assume I have reason to believe that this negotiation took place in an armed military base behind barbed wire some distance from the the Capitol. Further, that last-minute changes were made by the Budget Director at the White House during an all-night meeting determining whether the President would come down to give his assent.

If I can say from my deep knowledge of Roman history acquired from the novels of Robert Graves, I have come to the conclusion that it is a mistake for Senators to allow themselves to be taken off to a military base, put under armed guard, and told to write legislation.

There were no hearings. There has been no debate. There has been no consideration. The distinguished Senator from Alaska got it at 7 o'clock this evening. I claim the earliest arrival. I stood down by the Xerox machine and at 11:25 I got my hot copy in my hands. We have no idea what is in this. I will tell you a few things.

First, Mr. President, 5 years ago on this floor I stood and, as a bill of this kind was being written in the Republican cloakroom, the first budget process reform, the Gramm-Rudman legislation, I said, "Never, not ever in our wildest imagination have we thought that such a device would be used to force unconsidered and in my view ill-considered legislation in the Congress. No hearings have been held on this proposal. No definition settled, no real understanding of what is involved. Indeed, the legislation changes hourly." Just as there are in here, you will be interested to know, new budget targets for 5 years.

I have an important announcement to make. Things are getting worse in our country. Since we first enacted this mode of legislation, we have always known that in 5 years time we would have a balanced budget. Not this year, not next year, but in 5 years. Zero.

In 1986 we set the targets which led us up to 1991; zero. Again, in 1988 we set the targets, set it up to 1993; zero. We are now at the first zero and we find in this bill, that, no, the deficit is not zero; it is $242 billion. I have to report to the Senate that in 5 years time this time it is not zero anymore, it is $62 billion.

Now we propose to divide our budget into three parts. The defense spending authorization part actually goes up each year for 3 years. International affairs, a minimum $20 billion, stays there, with no opportunity taken to use a peace dividend in world affairs, much less domestic affairs. The Pentagon is getting all it wants, even at the end of the cold war. Yes, it is over. The Secretary of State keeps telling us. The President keeps telling us that. But their defense budget rises. As Helen Dewar wrote in the Washington Post this morning, "not one weapon system of the cold war disappeared from this budget."

I have 40 years of my life in that era, and I do not have to apologize, I, hope for the views I had then. But that was then. This is now. But not according to this measure.

There cannot be five Members of this body who have read more than three pages of this amendment. I say to you, Mr. President, we do not know what we are doing accepting this one thing. We are letting the legislative process disappear from this body.

The New York Times after the Senators returned under guard, or at least by military vehicle, from Fort Andrews, spoke of government by cabal. How else do you describe the measure of this consequence? Never printed, never seen until the day of enactment on which point we are assured it has been agreed to in another place, unspecified; by other persons, unnamed, excepting that it is important to the President.

I give you just one item. I will not keep you long because I have not a great deal to say about a bill which I have scarcely read and only dimly understand. But how do you like this? Remember, we were told in the State of the Union message do not mess around with Social Security. Which really meant let us, let me spend it as if it were general revenue. There is a little item here. Anything you want to do on any subject, if it spends any money, takes 60 votes, forever now. Forever.

But with respect to Social Security, there is one additional nice provision here. Under this leadership legislation, changes to the financing of Social Security would also be subject to that ubiquitous 60-vote point of order, and this is—now I quote, Mr. President—this may be as much as anybody in the Senate learns about this legislation tonight so I ask my friends to listen. This point of order obtains "without regard to whether such changes increase, decrease or have no impact on the outlays of and income to such program." Whether it increases outlays, decreases outlays or has no effect, you need 60 votes even to consider it.

That is a gag on the Senate. This legislation is filled with such provisions. It is taking away the Senate's prerogative. There was something deeply symbolic about the President taking our people away to a military base, keeping them there until they had agreed, and then giving them the right to return to Capitol Hill in something less than the stature with which they left.

I do not speak as to any individual, but can this really be done to U.S. Senators? Given legislation at noon today and told to enact it, forever. Enact it in the evening and no votes, no amendments, no discussion, no hearings, not even having it printed. Why do we do this? I will tell you why we do this. We do this to reelect the President. That was his price of letting our Senators free.

First of all, we increased the debt ceiling by $1.9 trillion. That means 5 years with no debt ceiling discussions, none of those inconvenient discussions of what are you doing with that money? How much are you borrowing? Where did it all go? Five years. No more of that during the first term. For 3 years in this world of sequester, sequester, sequester, for 3 years no sequesters. Let us see, 1991, 1992, 1993. That is it, 1993, 1994 all the sequesters you want. No sequester now. Like in Alice it was jam yesterday and jam tomorrow, never jam today.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. MOYNIHAN. No, the Senator will not yield for any question. I have never been asked about this before. It is too late to ask me now.

Mr. President, if you want to reelect, if you want to reelect——

Mr. BYRD. Mr. President, may we have order in the galleries as well as in the Chamber.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. The Chair has responsibility to maintain order in the galleries as well as in the Chamber.

The PRESIDING OFFICER. There will be no outbursts from the galleries.

Mr. MOYNIHAN. I appreciate the intervention.

The PRESIDING OFFICER. Will the Senator please desist just a moment. The Chair will remind the Senator that the 10 minutes yielded to the Senator have expired.

Mr. MOYNIHAN. Might I have 10 seconds?

The PRESIDING OFFICER. Does the Senator from Tennessee yield

more time to the distinguished Senator from New York?

Mr. MOYNIHAN. Ten seconds.

Mr. SASSER. Yes, Mr. President.

The PRESIDING OFFICER. How much time did the Senator yield?

Mr. MOYNIHAN. Ten seconds.

Mr. SASSER. I would be pleased to yield 1 minute to the Senator from New York.

Mr. MOYNIHAN. One minute.

I thank the Senator.

Mr. President, we are in the process of diminishing the legislative role of the Senate at the behest of the President. If you would like to diminish the national election process as well, here we have it. This is a bill to reelect the President of the United States by statute. All that could be done is done. It is too late. You will have done it. God save the President. Thank you, Mr. President.

Mr. DOMENICI. Mr. President, will the Senator from Tennessee yield 1 minute; half a minute?

Mr. SASSER. I say to my friend from New Mexico, of course I would be pleased to yield to him. I have a number of Senators on our side who want to speak.

Mr. DOMENICI. I want to make a clarification. It will take me 30 seconds.

The PRESIDING OFFICER. If the Senator will suspend, the Senator from New Mexico controls one-half hour of time.

Mr. DOMENICI. I will take 30 seconds.

I just want to say to my fellow Senators the Social Security provisions that the distinguished Senator from New York has talked about are current law. We codified them in this amendment because the Finance Committee made the request. They are current law.

Mr. SASSER. Mr. President, on our side of the aisle there have been requests from a number of Senators to speak. The distinguished Senator from North Carolina [Mr. SANFORD] has requested 5 minutes, as has the distinguished Senator from Florida [Mr. GRAHAM], as has the distinguished Senator from South Carolina [Mr. HOLLINGS]; 5 minutes for each of those Senators, and the distinguished Senator from Arkansas has not requested——

Mr. PRYOR. I would like to request time or at least ask a question.

Mr. SASSER. Does the Senator wish time or to ask a question?

Mr. PRYOR. If I may have 5 minutes of questions.

Mr. SASSER. The distinguished Senator from Arkansas is allocated 5 minutes, and that eats up the 30 minutes on our side of the aisle.

Mr. SIMON. Mr. President, if I may ask the Senator, the chairman of the Budget Committee, I thought I had 5 minutes in there.

Mr. SASSER. As a matter of fact, the distinguished Senator from Illinois has 5 minutes.

Let us recapitulate here. I have allocated out more time than I actually can allocate, I say to my friend. I say to the distinguished Senator from Arkansas that I had Senator SIMON on the list prior to the distinguished Senator requesting time. Perhaps the Senator from Illinois would be good enough to split his time with the distinguished Senator from Arkansas.

Mr. SIMON. If I may respond to the Chairman, I will be offering a second-degree amendment. I will not take 30 minutes. I would be pleased to give some of that to the Senator from Arkansas.

Mr. PRYOR. I thank the Senator from Illinois.

Mr. SANFORD addressed the Chair.

Mr. SASSER. I yield 5 minutes to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 5 minutes.

Mr. SANFORD. Mr. President, there are a great many things about this bill that ought to bring rejection. The Senator from New York has certainly made the case very well on most of the points. I want to simply emphasize one point primarily, and then maybe a couple of secondary points.

For the past several years I have been bothered by one major factor in the budget; that is, that we did not know what the figures were. The public did not know what the real deficits were. Somehow we managed to cover up the true deficits. All the time, for 10 years, when we claimed we were reducing deficits we were actually increasing the true deficits, piling up an unprecedented national debt—the largest in the history of both this Nation and the world.

I think that has to stop. I think we have to have honesty in our budget. I think the people must know the honest figures if we expect the support of the people in dealing with the deficits.

Mr. SASSER. If the distinguished Senator from North Carolina will yield for a quick question?

Mr. SANFORD. Yes.

Mr. SASSER. The distinguished Senator will be pleased to——

Mr. SANFORD. I am well aware of that section.

Mr. SASSER. I ask him if he does know that in the package before us we have——

Mr. SANFORD. Yes. I am going to come to that. I was going to say we had a little bit of honesty in here.

Mr. SASSER. We included the provision that he has supported for a number of years here. We think that is a welcome addition to the package.

Mr. SANFORD. I think it is the best thing in this amendment. But we come to this 5-year plan, Mr. President, and we proclaim loudly that we are going to take $500 billion off the budget deficit, $500 billion in reductions of deficits, and at the same time over that 5-year period we are going to be adding $1.4 trillion, $1.6 trillion, $1.9 trillion, depending on whose figures you take to the debt.

I think this is something that we simply cannot permit to go on for 5 years. We must come to terms with this deficit and this debt. To lull ourselves for 5 more years of complacency I think would be a great tragedy.

I can see the day when the big limousines do not pull up to the Federal Reserve building, and our bonds do not get bought. If that happens, 1929 is going to look like a church picnic. We are going to have the worst kind of financial disaster that could be imagined.

So I think it would be a great mistake if we saw this as a 5-year plan, and if we permitted a President or ourselves to talk about this 5-year plan as getting at our problem in a substantial way.

I thank the chairman for both putting into this bill and mentioning that the debt increase will be considered a measure of the deficit. However, I do not think that the debt increase is a measure of deficit. I think the debt increase is the deficit, and the sooner we admit it, the sooner we get honest, the sooner we will get on with solving this problem so we will not bankrupt and wreck this country.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Let me yield 5 minutes to the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 5 minutes.

Mr. GRAHAM. Mr. President, physicians train so that first you diagnose the patient, attempt to understand the problem, and then you prescribe. I would suggest if you look at a diagnosis of Gramm-Rudman-Hollings over the last 5 years you would find these as some of the problem areas: First, it has not contributed to credible deficit reduction. That is shown by the fact that we have had unprecedented addition to our national debt during the same period of time that we have had Gramm-Rudman-Hollings.

I suggest that the reason why we have not had credible deficit reduction has been in part because so many items were off budget; that we did not count.

We did not count, for instance, a substantial amount of the S&L bailout costs last year. We do not count those things that occur after the magic date when the window was closed and all spending no longer counts for the cal-

culation of Gramm-Rudman. We have no effective postenactment enforcement mechanisms.

Most States which have a balanced budget constitutional amendment require some kind of combination of executive and legislative action to reduce spending in the event that fiscal patterns are leading toward an imbalanced budget. We do not have that with Gramm-Rudman-Hollings.

So what is our prescription to this diagnosis? Our prescription is to eliminate for all practical purposes the deficit targets. We no longer are talking about attempting to reduce the deficit. We are now talking about reducing spending, maintaining our spending within certain ceiling levels.

I will make with the highest sense of confidence the statement that if we adopt this approach tonight, we will have deficits in the next 3 years that will make even the deficits of the last 10 years pale in comparison. There will be no discipline in our spending, there will be no discipline in our overall deficit posture, because the only thing we will be looking at are the spending ceilings.

The revenue falls below expectations because of unrealistic economic ambitions, and I believe this whole program is built upon those. We will have burgeoning deficits. There is no sequester to provide any minimal restraint in the event of those burgeoning deficits.

The ceiling limits on spending are not transferable among categories. There will be no disincentive not to spend up to the ceiling because there are no opportunities to, for instance, find new domestic programs that justify greater spending by saving spending on the defense side. Enormous loopholes.

How many people realize that in this provision, we are about to vote effectively for Egyptian debt relief, Polish debt relief, and completely a blank check for Operation Desert Shield? All of those are going to be outside the spending limits, outside the deficit targets, since there are no deficit targets.

Mr. President, when this century opened, there was a country which many people thought would be the great country of the 20th century; it had beautiful land, it had cultured people, it had tremendous possibilities. It was at that time the sixth largest economy in the world.

Today, that country is the 65th economy in the world. It struggles with one of the largest debts and one of the most broken economies in the world. That country is Argentina. And it fell from grace in 90 years, in large part because it did not have a capacity to exercise some discipline, some sense of vision, some direction, to its national purpose.

I am concerned that by adopting provisions such as this before us tonight we are about to move even further down the path of Argentina, and it saddens me that our generation of Americans should be the generation that will take that step.

I imagine that this is going to pass. I can count, not as well as everyone in here, but well enough to see that there is a majority of votes for this. I do not think this is going to be one of our proudest hours, and I believe we will have ample opportunity to be well advised of the ill wisdom of the decision that we are about to make.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I yield 5 minutes to the junior Senator from the State of Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mr. GRAMM. Mr. President, I wondered if our time here tonight was well spent. The distinguished Senator from New York has told us that on this vote we reelect the President. If we do that, we are doing the Lord's work, and I rejoice in being part of it.

Mr. President, we have had a reference here to the budget process being an oxymoron.

Mr. President, I submit if we went out to any household in America we would find that they had a budget process, and that budget process would not be an oxymoron. I submit that in any business in America, be it large or small, they have a budget process that is not an oxymoron.

In fact, we stand on the single spot in the United States of America where budget process is an oxymoron, and as a result we are the laughing stock of the Nation.

Mr. President, it is interesting that after all of these remarks, we are finally debating, in my humble opinion, the one part of the bill that I know is in the interest of the people who do the work, and pay the taxes, and pull the wagon in this country.

Mr. President, let me outline the so-called outrages we are talking about in this amendment. The first outrage is that we have three caps on spending each year for 3 years, and what the cap says is if you violate that cap, 15 days after you pass the spending bill there is an across-the-board adjustment that cuts spending back to the level that you said in law that you would adopt.

Mr. President, if that were submitted to a vote of the working people of this country, it would be adopted by an overwhelming margin.

I hear our colleagues say there is no enforcement, there is no sequester. Mr. President, we have more sequesters in this bill, more enforcement in this bill by far than we have ever had before. We have three caps that are absolutely enforced with a mandatory offset. We have a sequester for the first time on entitlements and underperforming funding measures. We have the Gramm-Rudman sequester process strengthened with an ironclad enforcement.

Mr. President, what we are trying to do here is to do something that we have all been concerned about. It is easy to make promises, it is easy to write budgets. It is very hard to live up to those promises in those budgets. There is no ironclad guarantee. You cannot build legislatively a four-sided fort where you can draw the drawbridge up and go back to sleep. But what we have here is the strongest process we have ever had before, a stone wall to our back in the gunfight of those who really want to do something about spending.

Mr. President, I have heard the language stretched to the breaking point, but how anybody could possibly believe that by having binding constraints on spending, we move this great Republic toward the financial crises of Argentina, I find that totally incomprehensible, and obviously I do not believe it to be the case.

Let me say, Mr. President, that the current vehicle that we operate on, as imperfect as it is has worked. Let me remind my colleagues that before 1985, when on the floor of the Senate we adopted the Gramm-Rudman-Hollings balanced budget law, the 20 years prior to the adoption of that law saw Federal spending grow by 11 percent a year.

With all of its failings since that law went into effect, Federal spending has grown by half of that rate. The Federal Government was spending 23.9 percent of GNP the day that law passed. Today the Federal Government is spending 22.4 percent of GNP.

And let me let you in on a secret. With this agreement fully enforced, with moderate growth at least 80 percent of the level we have achieved in the last 6 years, Government spending as a percentage of GNP in 1995, at the end of that fiscal year, will be 18.3 percent, 24 percent smaller than it was when Gramm-Rudman-Hollings was enacted in 1985.

Mr. President, I ask for 1 additional minute.

Mr. STEVENS. Is the Senator going to save time for those who want to ask questions?

Mr. DOMENICI. I yield 1 additional minute, and say to the Senator I clearly intend to.

The PRESIDING OFFICER. The Senator is recognized for 1 additional minute.

Mr. GRAMM. Mr. President, we do not have a perfect device in front of us. We have a device that is aimed at trying to deal with runaway entitlements; we have a device aimed at trying to control spending and help us

live up to the commitment that we make in this bill.

It is not a perfect process. But it is a dramatic improvement over any enforcement process that we have had ever in the Congress of the United States of America.

I believe that of all we do here, if this reconciliation bill ultimately becomes law, that the greatest impact by far will be the changes we make in the budget process tonight.

I yield back the remainder of my time.

The PRESIDING OFFICER. The time has expired.

Who yields time?

Mr. SASSER. I yield 5 minutes to the distinguished Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I am most struck this evening by the tremendous change, the shocking change, in our procedures. Heretofore, since 1974, whenever we finally got a budget determined, settled upon, we would immediately forward it over to the Congressional Budget Office to get their estimations. Not so with this one. As the Senator from New York said, you could not find this blooming amendment until late this afternoon. I heard rumors about it. I wondered how the S&L bailout was treated, and I wondered about Social Security, and I wondered about many other critical elements. Then, in one fell swoop, we are presented with a 126-page amendment.

Under this leadership amendment, you can forget about the Congressional Budget Office. The fellow who is going to oversee all the enforcement that the Senator from Texas talks about is the same guy, Richard Darman, who told us less than a year ago that we would have a $100 billion deficit, and we ended up with $262 billion. Now, this amendment says don't worry about deficit targets, and it quote-unquote "holds harmless" huge chunks of Federal spending.

Well, that reminds me of the insurance company looking for a slogan, Capital Life: "We'll surely pay, if the small print on the back doesn't take it away." They are going to hold harmless. Well, you know who is going to see to it that the Administration's pet projects are held harmless. That is the Director of OMB, armed with his fairy dust economic and technical misestimates. So OMB will now be in the driver's seat.

I am really amazed that some of the very people who are so outspoken and dogged about defending the prerogatives of the U.S. Congress have now yielded over to the executive branch this massive discretion and power. The Republican minority takes total control.

Mr. President, this amendment presents us with a formula for a gridlocked Congress and a do-nothing Government for the next 5 years. It also grants three-way veto authority to a willful minority in Congress. Take your pick from the Sununu veto, the DOLE veto, and the Darman veto. The Sununu White House can exercise the traditional constitutional veto requiring 67 votes for override. The distinguished Republican leader, Senator DOLE, has his own veto power under the provision requiring a 60-vote point of order for any bill exceeding the spending caps. And Dick Darman has yet a third veto option by virtue of OMB's authority under the terms of this package to rule unilaterally on whether a given bill violates the spending caps.

Meanwhile, the Senate Budget Committee will be reduced to automatic pilot. It will be stripped of any meaningful role in establishing budget priorities, and will quickly fall into irrelevance.

What we have here, as the Senator from New York says, is a statutory enactment of the reelection of the President. That is all they had in mind.

You do not see Senators jumping up over there on the other side of the aisle. They know that they are holding four aces. They say hush your mouth; if we can get this in here, we have a hammerlock on the government for 5 years. They don't have to worry anymore about November 6 and how many seats they can pick up, because this gives them minority control from the White House, and particularly with this so-called budget process reform.

It is a scandal, if you study it closely. They put the S&L bailout mostly on budget because the deficit levels don't matter under this new budget regime.

This amendment essentially guts the original focus of Gramm-Rudman-Hollings. Heretofore, Gramm-Rudman-Hollings has been premised on specific targets aimed at achieving a balanced budget. That is now gone. In its place, this amendment talks only about targets for proposed savings. In other words, in 1991 we only have to reach the proposed savings of $40 billion, and no one is supposed to notice or care that the deficit skyrockets to $253 billion. By 1995, the last year of this plan, even the wildly optimistic OMB projection foresees a $63 billion deficit—even after raiding the trust funds, factoring in rosy economic assumptions, and excluding the S&L bailout costs. A more accurate deficit projection for 1995 would be closer to $200 billion. In other words, the deficit can continue to grow unchecked in each and every year of this agreement, but as long as we reach our target for proposed savings, then we get to claim that we did our job. Perhaps nothing more clearly illustrates the inadequacy and sham of this approach.

That is scandalous, I can tell my colleagues here right now. I have worked in this field as long as anyone in this U.S. Congress and I am ashamed of this particular thing.

I thank the distinguished chair.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. I ask the distinguished Senator from New Mexico if he has anyone on his side of the aisle who wishes to speak?

Mr. DOMENICI. We have the distinguished Senator from Alaska, who desires to use some time to ask questions, I assume.

How much time does the Senator from New Mexico have?

The PRESIDING OFFICER. There are 23 minutes and 46 seconds remaining to the Senator from New Mexico.

Mr. DOMENICI. What is the desire of my colleague?

Mr. STEVENS. I do not wish to use the time if there are people who wish to ask questions. I can get time on an amendment, and intend to do so, if it is necessary. I do have some questions. I will be pleased to have some time to ask them now.

Mr. DOMENICI. We can do it either way. I want a little time to explain this as I see it, but it is not urgent. Why does the Senator not direct his questions to me?

Mr. STEVENS. I will wait.

Mr. DOMENICI. I yield myself 5 minutes.

I am sure others are going to do a much better job of explaining this package. I see the distinguished chairman of the Appropriations Committee, Senator BYRD, who spent untold hours on this process. I just want to tell my colleagues, I really do not believe that he would be part of many of the things that have been alleged about this package. It is inconceivable to me that he would have turned over the power of the Congress and the U.S. Senate to the White House, the U.S. House, or anyone.

Having said that, let me tell Senators about the background on this process reform proposal. We were unable to get our business done early in the year because we could not get budgets through this place and through the U.S. House. We had a crisis and we were languishing. We were going to get nothing done.

The President of the United States said in sequence: Let us put everything on the table, and let us try to solve this problem. Ten days later that was not enough. He did what was right. He said revenues are on the table; taxes.

That set in motion a process of trying to get together on the budget of the United States, with three groups participating: The House, the Senate, and the President and his people, with Democrats and Republicans participating.

We set an agenda. Let us reduce the deficit. Let us see what we can do with

entitlements. Let us see what we can do with revenues.

We put a great big red mark, let us reform the budget processes. So we can tell the public that what we have produced is more credible than the past.

With that background, negotiations went on for a long, long time. The Budget Committee held hearings on budget reform and budget packages while that was going on. And all kinds of ideas were there.

What we decided to do essentially in this package seems complex, but is simple. We said we are going to try to have a 5-year plan. That is point No. 1. Point No. 2, we are going to try to divide the Federal Government into discretionary appropriations, entitlements, and revenues. We said let us have a 5-year plan on discretionary appropriations for this country. The distinguished chairman will better explain what happened there, how it all will work, and his support for what was done.

But we set actual numbers, budget authority, and outlays for the next 5 years for all of the discretionary programs combined. Then we broke it down each year into defense, discretionary domestic, and foreign. And we set numbers for each one and said for the first 3 years those targets are binding, both the big one cumulatively, and each one under it.

For the last 2 years, only the cumulative target is binding.

What does binding mean? Binding means that when you are through appropriating you have met the target. And, if you have not, no bill, no line item veto, no rescissions. Instead, the entire sum of appropriated accounts, take whatever small cut or large cut across the board that is required because you broke the targets.

I do not think that is a terribly onerous provision. In fact I think it is calculated to make the American people believe that over the next 5 years we will achieve $184 billion in discretionary savings, most of which comes out of defense.

Then we said, third, let us have pay-as-you-go for entitlements in the future. If someone wants to put new entitlements in they have to pay for them and they have to be budgetary neutral or there is a point of order. I do not know what is wrong with that. I think that is pretty good.

That is new. I think it is pretty healthy.

Then we said we ought to extend the Gramm-Rudman-Hollings for 5 years and see if we can get close to zero, and we recognize some shortcomings of Gramm-Rudman-Hollings. We modify it annually for the first 3 years, if the economics change, or if technicals change.

Those who are interested in budget language will know that we are really trying not to punish the appropriations for failures to meet the targets. And we are trying not to sequester appropriations based on economic changes that cause the sequester numbers to change. We did that.

We then put in credit reform that everybody is telling us we must do. We took Social Security off budget just like Senator HEINZ and Senator HOLLINGS asked us to do. And, from what I can tell there may be some other parts that are details, but that essentially is it. And anyone who says this is not a better process than we have had in the past, and that it is calculated to do this package in rather than to make it enforceable, I truly do not believe they have looked at it. We would be pleased to discuss it more with them.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, let me just say a few things here. I think the distinguished ranking member has done an excellent job in generally outlining the parameters of the package. But let me just answer a couple of things that have been said.

First, with regard to whether or not hearings have been held on this matter, there were 2 days of hearings, joint hearings between the Governmental Affairs Committee and the Budget Committee, several months ago. Some Members who are critical of this package here this evening testified at those hearings and some of the suggestions that they offered at those hearings are included in this particular budget reform package.

We held a markup in the Senate Budget Committee in which certain portions of this package were discussed there, not as parts of this package but as parts of other Member's views of how the budget process could be improved.

Some of those items have been incorporated here. As the distinguished ranking member from New Mexico said, the concept of the Senator from South Carolina and others to take Social Security off budget and out from under the calculation of the Gramm-Rudman-Hollings targets has been done.

We now see for the first time OMB starting to tell us precisely what the deficits are with three different sets of numbers. One with Social Security and RTC, with Social Security counted to offset the deficit and with RTC off budget; then they come with another set of numbers that show us with Social Security now off budget, with RTC on budget, and so on. So we get a fair picture of precisely what the deficit actually is. There are a number of provisions in here that Members have suggested.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SASSER. How much time did I yield myself?

The PRESIDING OFFICER. All of the time of the Senator has expired.

Mr. SASSER. Mr. President, I ask unanimous consent that I be allowed to proceed for an additional 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for an additional 3 minutes.

Mr. SASSER. Mr. President, I think the distinguished chairman of the Appropriations Committee would be the one to discuss some of these matters. But to suggest that the distinguished chairman of the Appropriations Committee, ROBERT C. BYRD, and the distinguished chairman of the Senate Finance Committee, LLOYD BENTSEN, and the majority leader, Senator MITCHELL, and even myself were taken off to some military base and hoodwinked, that we did not know what we were doing, that ROBERT C. BYRD was taken advantage of by someone who manipulated the rules, that suggestion is absolutely laughable. If I have ever known one individual who knew the rules, and knew how to write them, and knew how to interpret them for the advantage of the U.S. Senate, and those he represents in the U.S. Senate, I think we would all have to agree it is the distinguished Senator from West Virginia [Mr. BYRD].

One of the interesting things we are going to find in this budget package that we present here this evening is that no longer can OMB come forward with one set of economic assumptions in January and predict the deficit is going to be so much in January, allow us to mark up a budget to that particular deficit number, and then come along 3 or 4 months later and say the economic assumptions have changed since we submitted our budget. And now you the Congress have to make that up and you have to reduce the deficit about three or four times more than we had it reduced in the administration's budget.

From now on, under this particular budget document, we will all be singing off the same sheet of music. We will all be using the same economic assumptions to arrive at what deficit savings need to be made.

Mr. President, I think that pretty will covers some of the points I wanted to make. Do we have other Senators who wish to be recognized on the other side of the aisle?

Mr. ADAMS. Is the Senator proceeding to answer questions?

Mr. SASSER. If the Senator will withhold, we have a number of other Senators who have requested time. Senator SIMON, I see, is on his feet. At the appropriate time, Mr. President, I am going to ask for some additional time for the distinguished chairman of the Appropriations Committee.

Mr. HOLLINGS. Parliamentary inquiry. I do not want to be presumptuous. A point of order under 305(b)(2) can be made at the expiration of the hour; is that correct? I make that parliamentary inquiry.

The PRESIDING OFFICER. A point of order can be made at that time.

Mr. HOLLINGS. When is that time? I think it has to be made before the perfecting amendment. That is why I make the inquiry here. I am not trying to cut anybody off, but then I do not want to be told it is too late.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HOLLINGS. It has expired?

Mr. SASSER. Will the Senator withhold?

Mr. HOLLINGS. I withhold. The Senator from New Mexico probably has some time left.

The PRESIDING OFFICER. The Senator from New Mexico has 17 minutes remaining.

Mr. STEVENS. Mr. President, will the Senator yield me 5 minutes?

Mr. DOMENICI. I yield the Senator from Alaska 5 minutes.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, keeping in mind the problem the Senator from South Carolina has mentioned, and realizing after that point of order there still are potential second-degree amendments, I want to ask some questions that might be relevant to our consideration of that point of order which I know will be made.

Let me just ask the Members who are managing this proposition this question: We have in this proposal, for instance, a new concept. It is called a look-back sequester on November 15. The sequester is part of existing law already, but this look-back concept is new. I think the Senator from Texas and the Senator from New Mexico might be able to tell us. As I understand it, the results of the fiscal year that preceded that November 15 would be reviewed by the Director of OMB and he would look to see what deficit overage had occurred in the previous fiscal year, not the one coming ahead, as is the case in current law.

Today we have an initial sequester on October 1 where you actually look ahead, take a snapshot of the projected deficit and see what might happen. But this is a look-back concept.

I want to ask this question: Suppose we had another S&L type failure. As I see it right now, that has cost us somewhere between $165 billion and $195 billion, or at least that is the estimate now. Suppose the OMB Director sees that another crisis of that sort took place in September and he had to listen to the Secretary of Treasury, as we did; and say, we need more money, billions more money.

As I read this, November 15 comes and the Director of OMB says, there is at least a $165 billion deficit that you have not taken care of. What happens under this look back? As I understand it, there will be an automatic sequester; am I wrong? Will there not be an automatic sequester if he finds that? We are out of session and there is an across-the-board cut somewhere.

Mr. DOMENICI. The Senator's question had to do with an S&L type of problem.

Mr. STEVENS. An S&L type loss. It is a loss that was not projected in any of the budget process caused by legislation that was passed in the preceding year.

Mr. DOMENICI. Let me say to the Senator in response to this question, and other Senators, what we are doing here. There was a constant concern that the sequester process penalized the appropriated accounts. That is what we were worried about, that at the end of the year, if you breached your targets, you looked and said, "Well, what can we cut?" Gramm-Rudman defined the pool. The pool was half comes out of defense and half comes out of discretionary. So we said, how can we make other parts of the budget more responsible for breaking the budget, breaking the targets, and this concept applies to entitlements. It is applied at the end of the year. If the entitlements exceed their targets——

Mr. STEVENS. Respectfully now, the Senator gave me 5 minutes. What happens under this law if there is an unexpected loss of $165 billion to $195 billion when the Budget Director looks at the results on November 15?

Mr. DOMENICI. I say to the Senator, I cannot answer easily because I am trying to tell you that the minisequester you are referring to will only be impacted if the entitlements do increase because of policy changes. If something else causes it to be over, like economics, this does not apply.

Mr. STEVENS. That is what I thought. As a matter of fact, it does not take care of an S&L type loss at all. So the next year we come around and guess what he tells us? You have to pay interest on $165 billion you did not take care of and, by the way, boys, now you must take care of this. You must take care of it. You must reduce discretionary accounts; you must reduce defense spending. We are on a balanced-budget concept, are we not? Does this not presume a balanced-budget concept?

Mr. DOMENICI. I say to my colleague, it takes everything we know that was going to occur and everything that we could project, and on those projections, and given the economics we used that gets to balance under OMB in 5 years. If you are concerned about a sequester occurring because of an S&L crisis, then I would tell the Senator, or the OMB Director, having to cut something because of that kind of S&L crisis, it is not there. The Gramm-Rudman targets are automatically adjusted in the first 3 years, including interest.

Mr. STEVENS. I want to tell my colleagues that this proposal will not take care of an S&L-type crisis automatically; is that right? Is that the answer?

Mr. DOMENICI. It will not take care of it automatically. We are not going to go to a sequester because of it under the Gramm-Rudman targets, if that is what you have in mind as automatically. It will not. But we intended it not. This was intentional. We did not want to have a sequester of the appropriated accounts based upon an S&L crisis. That is why we worked so hard.

Mr. STEVENS. I thought one of the reasons we were here on a 5-year plan was to try to find a budget plan that would, in fact, take care of the S&L crisis we have now. At the end of the 5 years, theoretically we have made up for this, have we not?

Mr. DOMENICI. Absolutely correct.

Mr. STEVENS. This plan does not take care of the main problem we have today.

Mr. DOMENICI. The Senator was asking about an unknown S&L crisis. All that we have funded and know about are in this budget, taken care of, and we meet the targets.

Mr. STEVENS. I accept that answer, and I will comment on it later if I offer an amendment.

Let me ask about the multiyear aspect. If we look at this proposal, this is now a multiyear prospect. It strikes out 2 years and inserts 4 years. Would someone explain that to me? Why do we have to have a 4-year concept in the permanent law now in dealing with this? I will be glad to give the correct page. If you look at page 35, you have planning levels for each of 2 years, you knocked that out and you insert in place of that 4 years. We do not have the advantage of a full text. We have a series of amendments that deal with existing law. We have not had time to compare this really to existing law. I do not understand the necessity for having a 4-year planning level in a budget package that I thought was dealing with 5 years.

Mr. DOMENICI. This is 1 year, the year we are doing plus 4 equals 5 and that is how we got to 5.

Mr. STEVENS. Does this not set up 4 years out? Next year will we not be dealing with 4 years again?

Mr. DOMENICI. Next year we will be dealing with 3 additional years, as far as the mandatory targets.

Mr. STEVENS. Is the answer that by 1995 then we do not have a Budget Act? What happens in the succeeding years in terms of planning? We are knocking out a 2-year planning process

and putting in a 4-year planning process. What kind of planning cycle do we have now if this passes?

Mr. DOMENICI. We have this year and 4 years and when these targets and these provisions expire, we have the Budget Act. And we have met our targets.

Mr. STEVENS. Where is that Budget Act after the end of the 5 years? Where is it?

Mr. DOMENICI. It is still substantive law.

Mr. STEVENS. But this is changing the substantive law, Mr. President.

Mr. DOMENICI. Were we to have brought 6 years in—not the Senator from Alaska—some would say it is too long. We brought in a 5-year plan. Some even think that is too long. Some think we cannot plan beyond 2. We think with the flexibility we have provided that we can plan for 5.

Mr. STEVENS. Answer me another question. I am sorry to perplex my friend and to confuse this matter. Again, I read a summary of the budget summit agreement that was given to us, and I find that the amendment as offered tonight is nowhere like the summary. For instance, there is no automatic reconciliation instruction for revenue decreases in this proposal I can find. It is out now, right? Things we read were going to be here are not here.

Mr. DOMENICI. I think I know a little bit about this and if I sound confused I apologize, but I do not think that is the document that explains this bill. I think that is the document that explains the so-called summit agreement and I think we changed it, but I am not sure of that.

Let me ask the Senator about page 39 of the amendment.

Mr. DOMENICI. Let me see that.

Mr. STEVENS. "To the extent that a concurrent resolution on the budget specifies and directs matters described in paragraphs (1), (2), or (4), the concurrent resolution shall specify and direct deficit reduction for the 5 years covered by the concurrent resolution in amounts equal to or greater than five times that specified and directed for the first year covered for each committee directed." Is that permanent law? Is it every year we are dealing with 5 years from now on?

Mr. DOMENICI. When we write a budget resolution, we cover the first year and write a resolution that covers four additional years, so it is a 5-year budget resolution. And we do that every year. So if we write one next year, it will be for 1 year longer than this budget agreement. What we have talked about in this bill is to make certain new provisions binding for those 5 years.

Mr. STEVENS. That is what I am talking about next. Are they binding for the full 5 years in the enactment now? Under what conditions can Congress change.

Mr. DOMENICI. That is right.

Mr. STEVENS. What does it take to change this 3 years out?

Mr. DOMENICI. You have to change the law. There are many things that you can change with 60 votes.

Mr. STEVENS. It takes a supermajority to change any of it, right?

Mr. DOMENICI. For much of it.

Mr. STEVENS. Any of it.

Mr. DOMENICI. You can change the law and you can change much of it by supermajority.

Let me also say, Mr. President, intentionally—and I want all Senators to know—we intentionally made reconciliation bills 5-year bills and they will be measured on their 5-year impact, not 1 year as in the past, because you used to put big savings in the first year and none in the outyears.

Mr. ADAMS. Will the Senator from New Mexico yield for a question?

Mr. STEVENS. Mr. President, I believe I have almost exhausted my time. I will have some amendments. I might make some comments about the matter. I say most respectfully, the people who have been involved in this process have my absolute admiration and respect. I just really fear this process because here we are late in the session. One of the things I have concerns about is the schedule that says the next Congresses will do things by April 15, by May 30. It has never been done. I think one-third of the votes we have cast this year have been votes related to the restrictions we put on ourselves to try to perform and what is the result? We have not performed. We find out that we have had an S&L crisis that has crippled the banking industry, harmed a great many people. We did not even know it was going on. And now this proposal before us would not solve a similar problem if it came upon the country.

I do not understand why we should go through the process and call it reform when it is a procedural nightmare that we are dealing with in this bill.

The chairman of our Appropriations Committee I think has protected domestic spending in a way that is herculean and we have tried our best to make certain that the defenses of this country will be protected under this also, and entitlements need protection. I do not question that. What I question is why a group of grown people need to put parameters around themselves and their future colleagues in order to do our job and to do it right.

Mr. ADAMS addressed the Chair.

The ACTING PRESIDENT pro tempore. Does the Senator from New Mexico yield time to the Senator from Washington?

Mr. ADAMS. Will the Senator from New Mexico yield me 2 minutes?

The ACTING PRESIDENT pro tempore. The Senator from New Mexico has 2 minutes remaining.

Mr. DOMENICI. How much time do I have remaining?

The ACTING PRESIDENT pro tempore. Two minutes remaining.

Mr. DOMENICI. I have 2 minutes only.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico has 2 minutes.

Mr. DOMENICI. Have arrangements been made for Senator BYRD to have some time?

Mr. SASSER. Do I have any time remaining?

The ACTING PRESIDENT pro tempore. The Senator does not.

Mr. SASSER. Pardon?

The ACTING PRESIDENT pro tempore. The Senator does not have any time remaining.

Mr. ADAMS. Then if the Senator would yield me 30 seconds.

Mr. DOMENICI. I yield 30 seconds.

Mr. ADAMS. I just want the Senator to know—the Senator is an old friend and dear friend—I am so deeply offended by this document that I cannot now vote for this whole process. I cannot tell you—and I am saying what the Senator from Alaska did—whether this is permanent law or what the budget process was, which was a rulemaking part of the process of the two Houses of Congress. That is what it was, rulemaking. And yet as I understand this, as the Senator from Alaska just stated, for 5 years we have passed a permanent law that removes from the Congress of the United States its powers, its rulemaking power capacity, concurrent resolutions, and established permanent law which controls all budget and appropriation processes. I am deeply offended by it.

I thank the Senator for the 30 seconds.

Mr. SASSER. Mr. President, parliamentary inquiry.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. SASSER. Parliamentary inquiry. The Senator from South Carolina, I believe, is on the verge of making——

Mr. HOLLINGS. A point of order at the chairman's volition. I am not trying to preempt anybody. At the appropriate time.

Mr. SASSER. Following the point of order on the motion to waive, we will have 30 minutes, will we not?

Mr. HOLLINGS. All time has expired on the first degree?

The ACTING PRESIDENT pro tempore. Thirty minutes will be available should the point of order not be sustained and should second-degree amendments be proposed.

Mr. PRYOR. Mr. President, I am sorry; I did not hear the ruling of the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

Mr. PRYOR. I am sorry; I did not hear the ruling of the Chair as to the point of order.

The ACTING PRESIDENT pro tempore. No point of order has been made.

Mr. SASSER. Parliamentary inquiry, Mr. President.

Mr. HOLLINGS. All time has expired.

Mr. SASSER. There will be time for debate available on the motion to waive.

The ACTING PRESIDENT pro tempore. There is no time provided for on the motion to waive.

Mr. HOLLINGS. Point of order, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico controls the time.

Mr. DOMENICI. Mr. President, might I say to the Senator from Washington, I will try my best, if I have an opportunity, to dissuade the Senator from his views. I do not believe they are right.

Mr. ADAMS. If this is a part of the rulemaking power, this is appropriate.

Mr. DOMENICI. I will go over it in detail with the Senator.

Let me ask, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. Forty seconds.

Mr. DOMENICI. I wonder if the Senate would consider yielding an additional 10 minutes to the distinguished chairman of the Appropriations Committee.

Mr. SIMON. Parliamentary inquiry.

Mr. DOMENICI. I ask unanimous consent that the chairman of the Appropriations Committee, Senator BYRD, have 10 minutes.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I apologize. I want to hear the chairman of the Appropriations Committee, but this is monumental and I would like the opportunity to ask at least five or six questions after a while. When will that opportunity be available to a Senator, let us say to the junior Senator from Arkansas, to be specific?

The ACTING PRESIDENT pro tempore. The Senator can ask questions only if those controlling time are prepared to yield time for that purpose. Senator BYRD has 10 minutes.

Mr. BYRD. Mr. President, I have 10 minutes. I yield to the Senator to ask them.

Mr. PRYOR. Mr. President, during World War II in order to save gasoline—I am old enough to remember that. A lot of our colleagues are not—little signs were posted on the highways and byways that said, "Is this trip necessary?" My question is, is it necessary that we have a budget reform package of this magnitude in order to move this reconciliation bill that I am supporting on to the House of Representatives to a conference? Is it necessary that we have this package?

Mr. BYRD. May I say, Mr. President, this package of 123 pages is not budget reform. This contains the entire package that has to do with taxes, entitlements, discretionary spending, et cetera, et cetera. This is not all budget reform. As a matter of fact, references to the budget reform process is a misnomer. This is not budget reform.

What we have here is an agreement, and provisions whereby we will enforce those provisions. This is not the budget.

Mr. PRYOR. If the distinguished chairman would also follow with me on pages 11, 12, and 13. I am deeply concerned that our acceptance of this amendment tonight of 120 pages is going to vastly change a system by which we might, for example, forgive the debt of Israel, or for an Arab republic, or of Egypt. That is on page 12. I am wondering if that adds to our deficit. I think that we are really walking off into some waters that we are not sure about.

I wonder if the Chairman could explain this area.

Mr. BYRD. Mr. President, the problem here is we do not have enough time.

May we have order?

The PRESIDING OFFICER. We will have order in the Senate.

Mr. BYRD. We do not have enough time. That is our problem. These are serious questions. Most of them I think ought to be answered. We cannot do that in this limited time.

Let me try to answer the one question of the Senator. With reference to writing off of debts, of Egypt, or Israel, or whatever; would the Senator ask his question again?

Mr. PRYOR. Yes. I am wondering if the process is being changed or if we are permitting ourselves or even allowing the President to write off these debts without congressional consent.

Mr. BYRD. No, no, no, no. That is not being changed. Furthermore, let me say this. The provisions that are in this package protect the Appropriations Committee from having such writing off of debts, if it is agreed to; if such a writing off is agreed to. A vote on this does not ipso facto agree to writing off the debt.

But if it is the position of the Senate and the House that those debts for Egypt and Poland should be written off, they will not be charged against the international discretionary spending cap. Otherwise, if we had foreign operations and domestic discretionary, all as a single fundible item, and the decision was to cancel Israeli debt, and then someone offered an amendment to cancel the debt of Turkey, to cancel many of those debts could have impinged upon domestic discretionary spending. Under this amendment domestic discretionary spending is not penalized if international spending exceeds the cap.

So the protections are in here that will assure us that if the Senate and the House should make those decisions they will not be charged against domestic discretionary spending of the Appropriations Committee. Those protections are there, and they are important.

I am not sure I answered the Senator's question.

Mr. PRYOR. I once again am not challenging——

Mr. BYRD. No. No.

Mr. PRYOR. The distinguished President pro tempore. There is no person in this body who has more respect, as our friend from Tennessee, Senator SASSER, has said, and has said Senator DOMENICI. In no way am I even suggesting that the Senator is trying to give away any powers of this Senate. There is no greater protector of this body in this institution. But may I once again ask this question?

Mr. BYRD. Yes.

Mr. PRYOR. On page 14, section (E), top of the page, this relates to Operation Desert Shield costs, costs meaning no incremental costs directly associated with increases in operations in the Middle East, and do not consider costs that would be experienced by the Department of Defense as part of its normal operations absent Operation Desert Shield.

Is there an interpretation of this that a layman like myself might understand?

Mr. BYRD. Mr. President, the administration at the summit wanted to include Desert Shield in the regular appropriations process. And the question was how do we know how much Desert Shield will cost in fiscal year 1990. The answer was, well, we would predict that it would cost $15 billion.

My position throughout that conference was that whatever Desert Shield costs, it will be outside this appropriation, the regular process. It would not be charged against the defense allocation, and it will not be charged against the domestic discretionary; it would be done in a supplemental appropriation.

Mr. SASSER. Will the Senator yield?

Mr. BYRD. Yes.

Mr. SASSER. The funding for Operation Desert Shield would be treated as an ordinary emergency supplemental appropriations bill.

Mr. PRYOR. It would have to be appropriated by the House and Senate.

Mr. SASSER. It would have to be appropriated. It would have to be an emergency, subject to hearings, and acted upon by the Appropriations Committee.

The distinguished chairman of the Appropriations Committee was seeking to protect the Senate and the Congress from having the administration come in here and ask for massive sums of additional defense money without proving this was indeed an emergency under the provisions of an emergency supplemental bill. There would be hearings. There would be offsets from other funds collected from Saudi Arabia, et cetera.

Mr. PRYOR. Mr. President, I am going to sit down because I am embarrassed keeping the distinguished chairman up answering these questions.

Mr. BYRD. Mr. President, let me say to the distinguished Senator that his questions are important indeed. He should not be embarrassed by keeping my attention here or keeping me on my feet.

The position I took and the result of this agreement the way it is written is that the administration would have to come before the Appropriations Committee and request a supplemental appropriation for any amounts that result from Desert Shield.

I took the position that it ought to come by way of the appropriations process so that the Appropriations Committee can conduct hearings, receive testimony, and find out how much other countries are contributing to Desert Shield.

We have no way of seeing how much they are going to contribute. We have no way of knowing what the costs are going to be. We cannot predict what is going to happen in the desert.

Therefore, if the administration wants to make requests for Desert Shield, let the administration come before the Senate and House, before the Appropriations Committee, request its supplementals, and submit the facts and let the Senate and House make a judgment thereon. It will be outside this process, so the Senate and the House are fully protected insofar as Desert Shield is concerned.

That was an excellent question, and I hope I have helped the Senator.

Mr. PRYOR. I thank the Senator.

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, how much time is remaining?

The ACTING PRESIDENT pro tempore. The time of the Senator from West Virginia has expired. The Senator from New Mexico has 15 seconds.

Mr. MITCHELL. Mr. President, in view of the importance of this matter and the fact that several Senators have very serious and appropriate concerns about it, I ask unanimous consent that the Senator from West Virginia be recognized to respond to questions and to comment on this matter for an additional 30 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

Mr. PRYOR. Mr. President, I would like to ask the distinguished chairman if we are assuming a new obligation for a 5-year period that we have not had, before we vote on this amendment. Are we creating a new 5-year commitment or an obligation?

Mr. BYRD. Commitment for what, may I ask?

Mr. PRYOR. Commitment for a new, for example, system of budgets, a new Gramm-Rudman-Hollings, and this is Gramm-Rudman-Hollings II. What are we committing ourselves to in the outyears with the adoption of this amendment?

Mr. BYRD. What we are talking about here, insofar as my part is concerned, is discretionary enforcement. We are not talking about budget process reform.

I know where that term got started. The President had much to say about the need for budget process reform. It was all this suggestion that there be a line-item veto, that there be enhanced rescissions, and so on and so on. That was called budget process reform.

We do not have that in here. What we have here are provisions that will enable us to enforce the agreement which we have entered into. Whether or not that agreement bears the final stamp of the Senate and the House remains to be seen. But I feel that if we are going to try to deal with this deficit, we are going to have to do it in a bipartisan way and we are not going to be able to deal with it unless we have Republicans and Democrats and the President on board.

And, consequently, I feel that if I got a commitment out of the administration, let us say to hold appropriations harmless for economic and technical miscalculations, then I have a commitment to do something, also. This cannot be a one-way street.

May I say to my friends, there is no need to worry about Robert Byrd giving away the powers, the authority, the constitutional prerogatives—I could not give that away if I would—of this body. And all this talk about, well, they were taken over to Andrews Field over there and the President took them over there, and they were put under armed guard, and they were kept there and they were not allowed to come home until the President gave his approval, and then he let them come home—Mr. President, that is ludicrous.

I have heard a lot of ludicrous statements here. Of all the ridiculosity that I have ever been exposed to, I have heard it throughout these summit hearings. And all these subtle knifings at those who went over to the summit, I get a little sick and tired of it.

We have a song down in West Virginia, "I Am Looking for the Bully of the Town." Let me say nobody bullies this Senator, not here in this Chamber, not in the conference, nor on the street at midnight. I have had experts try to twist this arm—Lyndon B. Johnson—and I said no. I can say no to any man living, and I get tired of these little subtle cynicisms and darts that are cast at the summit hearings.

If there is a Senator here who wants to say that to me directly, let him speak. Nobody is going to bully this Senator: the President, a Senator, or anyone else. If I am wrong, I will be the first to say I am wrong. But we did our best over there, and it is said that we had those meetings over there and we have not had any conferences since.

We have had many conferences that did not occur over at Andrews. They occurred before we went to Andrews; they occurred since we went to Andrews. I have been here at night, late at night; Senator SASSER has been here; Senator BENTSEN; Senator MITCHELL; I can name them one by one. We were here when you folks were sleeping.

It is easy to pick. Anybody can ask questions. That is the reason we Senators always have the advantage over the witnesses who appear before our committees. It is easy to ask questions. It is difficult to answer them, and it is easy to pick. But I think he that picks ought to be a little more careful how he addresses his criticism.

This Senator is not knowingly ever going to permit any shift of power from this branch, and if there is any Senator who thinks I will, let him stand and say so to me now, call my name. All of these veiled needles and daggers, I get a little tired of them. Anybody can pick and anybody can find fault.

I just heard so much of it, and these poor devils who went over there and stayed over there at night—I did not stay all night; I have a wife that has to stay at the house by herself with my little dog Billy. But I get a little tired of those who went home at night and slept continuing to find fault with something that those of us who did our best to do our duty and uphold this body and its prerogatives and its powers and its traditions—I get a little tired of these veiled criticisms.

Mr. ADAMS. May I ask a question now?

Mr. BYRD. No. Let me just finish, and then I will be happy to.

It has been said now. Does the Senator have any other questions? May I say to the Senator I was not directing my remarks to him.

Mr. PRYOR. I appreciate that. I was beginning to wonder. I might say, Mr. President, the great President pro tempore was getting awfully close. But

I understand exactly what the distinguished Senator, my good friend, was saying.

Mr. President, I am going to make a 30-second observation, if I might, and I am going to sit down. And there will probably be questions.

That observation is this: Gramm-Rudman-Hollings has been referred to many times tonight on this floor in this debate, the difference in Gramm-Rudman-Hollings and maybe some changes we are making in the budget. Gramm-Rudman-Hollings, whether we agree or disagree with the outcome, in my opinion, is one of the great debates we had in this Senate Chamber in the 12 years I have been here. It was over a weekend. It was just us, and we really looked at the priorities of how to do what we needed to do. I voted for it.

I must say, and I say this in respect, Mr. President, to every person, I say this in respect to the Senator from West Virginia, the Senator from Tennessee, the Senator from New Mexico, and everyone who has been involved in this process, and I have been involved as of late—I am on the Finance Committee and I voted out the package—but the Senator is right; we do not have the time to find out what we are doing.

I trust the Senator from West Virginia. If I vote for this amendment, to be honest with you, it will be for one and only one reason, and that is because the Senator helped to craft it, and I do not think he is going to sell us out, and I do not think he is going to give away the power or the authorities.

I wish we had more time, I say to my friend, and with that, I will yield the floor and I thank the Senator for granting me the privilege.

(Mr. DASCHLE assumed the chair.)

Mr. BYRD. Mr. President, I wish I had more time, too. I can appreciate the concerns the Senators have. I can appreciate the frustration that I have presented this package late. I can understand all that.

I do not understand everything that is in the package. But a good bit of it deals in areas that are under the jurisdiction of the Finance Committee or other committees of the Budget Committee.

I am sure that each of us has an understanding of the areas which were ours to debate but not the other areas. I can fully appreciate the frustration of the Senator. I wish we could take the time and answer all the questions. But some of it we will have to accept on faith, and I am accepting some of it on faith as well. I do not know. I hope it will work, but who is to know?

I yield to Senator ADAMS.

Mr. ADAMS. Mr. President, I say to the Senator, he is my very good friend, and he is one of the great experts on the Senate. Many of us are concerned because we received this this afternoon. One of the reasons I left the Chamber was to go through and read it. I have never said to any Member the summit did not work. I have said nothing about them. I have said nothing about the budget process because I felt that it had changed since I was the first chairman and came into the rulemaking power.

The questions that we have, Senator PRYOR is correct, cannot be answered in a short period of time. We are going to pass this. We have been placed up against the wall as happened in 1982. And that is going to occur.

I am sorry if I in any way gave you the impression that my sense of outrage and frustration was directed toward you or any other Member of this body. There is a great change that occurs here, I say to the Senator. We now have in law, that will have to be signed by the President, a series of limitations on the power of this Congress. I have read the last part that says it is rulemaking power. But the first portions of this that state what the limits are by various categories will be in law, just as your protections are in law.

I compliment you for separating Desert Shield. I see your fine hand through this as I read it in the short period of time that I had. I compliment you on protecting us against the Egyptian forgiveness potential, because this document is a mixture of rulemaking power and of law. In the reconciliation process, it is almost impossible for some of us, even though we have worked with the budget process, to know which parts are law in the reconciliation bill and which parts are rulemaking power.

For 5 years we have taken the position, as I read this document, that the Budget Committee will have three separate categories and cannot exceed those categories without the signature of the President. It is a secondary type of veto which goes beyond the veto of individual bills. It is a veto in the aggregate. It is cleverly done, and it is very well done because it means that all revenues that come in beyond what we anticipate will flow immediately to pay on the deficit. I think it is a very clever plan.

I do not accuse you or any other Member of giving away the powers of the Senate. You made an agreement. It is an agreement which we in 1974 were trying to fight off Nixon who was impounding the money by saying the President should stay out of our business. We will send the bills over and you will sign them or veto them. I am not directing anything toward you or any other Member because I respect what you did there. I simply am stating that what this Senator sees, and it is a short view that I have had an opportunity to make, is that we now have the President in the budget process.

The second thing is we tried to fight off OMB. We did not want to accept their projections. They are now accepted in here. Those are projections which came over in the Presidential document, and I am referring to the pages up to page 18 in the budget of the President. They are always political documents. You and I have seen those. I have helped draft some of them. The economic assumptions, the economic projections are all of that nature.

I do not mean to prolong this debate. I am not even going to debate it because I do not think there is time and I do not think I could do it justice, and I would not attempt to interfere with what the people who have worked on it have done. I think we should go to a vote.

I simply wanted, as one Senator, to say what I felt in my heart about it and explain why I was going to vote the way I did. And if my tongue was sharper than it should have been, I apologize to you and the other Members for that.

But it is not something that we can study for weeks. I do not intend to. I do not intend to debate it any further. I hope we will vote right now because I think the Members have their minds made up, and I think this will go on different lines than an intellectual debate.

So I ask no further questions of Senator BYRD, but I wanted him to know what my position was, why I had taken it, and why I am concerned about the separation of powers. And I know, God willing, you would do everything in your power and have, and I respect particularly what you have done for discretionary spending and its protection. I am concerned about the fact that the levels for defense are higher than they are for domestic spending and remain higher during the whole 5-year period. But if that is the will of the body, then we should pass this—it is 20 minutes of 12—and not spend any more time discussing it.

I thank you very much for giving me the time and I thank you, Mr. President, for letting me say what I had to say.

Mr. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 13 minutes 40 seconds.

Mr. BYRD. Mr. President, if we could have order in the Senate, and we will have order before I start using my 13 minutes.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. I suppose the best way for me to proceed is to attempt to read into the RECORD a short statement here. Perhaps it will help to answer some of the questions that have been

asked and some that would be asked. So let me try that.

It is important to remember that the provisions contained in this amendment to enforce the 5-year deficit reduction targets that are provided for in this budget agreement are not permanent. They do not displace the Gramm-Rudman-Hollings targets, which have been left in place as a further control on spending and in order to keep us aware of the size of the budget deficit.

For fiscal years 1991, 1992, and 1993, there will be three caps on discretionary appropriations: One cap on budget authority and outlays for defense, one cap on budget authority and outlays for international, and a cap on domestic discretionary budget authority annual outlays.

These caps are ceilings, they are not floors. There was an attempt to make them floors. Some of the earlier discussions, as I understood them, would have made them floors, also. How a number can be both a ceiling and a floor and expect to achieve budgetary cuts I cannot understand. So they are not ceilings and floors. They are ceilings, not floors. This means that Congress is not required to fund up to the levels allowed for in the cap.

To the extent that the funding levels enacted are below the caps, the savings will go toward deficit reduction. If funding for any of the three categories exceeds its cap, a sequester will occur to bring spending for that category back into conformance with the cap. The distinguished Senator from Alaska was asking questions on that point.

The device of a cap puts a real lid on the spending, and the three separate caps protect each category from being raided by another category. I do not want to see domestic discretionary raided by foreign operations. Because the Senate, in its unwisdom, may march down one day and because a certain popular amendment is offered, we fall all over ourselves to vote yes on that amendment and we relieve a particular country of its debt and it comes out of domestic discretionary spending.

So I want to protect domestic discretionary. And all Senators, especially those who are subcommittee chairmen on appropriations, ought to have some appreciation of the fact that their chairman did everything he could do to protect discretionary spending so that the various subcommittees can have higher allocations and not have those allocations wiped out because a Senator offers an amendment 1 day here and the Senate, because of special interest groups or whatever, votes for that amendment. And then we find it has wiped out our allocations.

Like the distinguished Senator from South Carolina, he needed some additional money allocated to him to carry out certain important programs which are beneficial to the country. I saw to it that he would have some additional money and I said to him in the conference, you will get them and I will prove to you that they are in there; I am going to see that you get them. And I did. He did not have to come out here on the floor and move to waive the Budget Act. He did not have to come out here and attempt to raise the allocation through a 60-vote waiver. I got it through this process that we worked out over in Andrews, and many nights over in the other side of the Capitol, and nights down in my office. Not under guard; not tipping our hat to any President, saying may I go, Mr. President? When may I return?

And I should think that we would appreciate the fact that some did their best and did some good.

I said to Mr. Sununu, we are nobody's underlings. May I say, I am not very persuaded by Senators who are always ready to criticize what somebody else does. What everybody else does is wrong. I do not apologize for my work over at the summit or here in the Capitol. There is nothing hidden. I do not have anything hidden in this. And I am as loyal to the Senate, as loyal to the flag and as loyal to the Constitution as any other Senator here in this Chamber now, any who has ever sat in this Chamber or any who will ever grace this Chamber.

I can understand the honest, sincere, conscientious questions that Senators have about this packet. I understand that. But I turn a deaf ear to the constant naysayers who can do nothing but find fault and pick and pick and pick. Nobody's plan is right but their plan; nothing will work but whatever they suggest. And I say let them vote against the packet. They probably will not vote for it anyhow.

If funding for any of the three categories exceeds its cap, a sequester will occur to bring spending for that category back into conformance with the cap.

As I said, this protects each category from being raided by another.

The amendments should preclude sequesters for fiscal years 1991, 1992, and 1993, so long as congressional action remains within the caps for discretionary appropriations and achieves the policy goals set forth in the agreement with respect to deficit reduction.

Unlike previous years, across-the-board reductions in discretionary operations will likely not occur in fiscal years 1991, 1992, and 1993 simply because of mistakes made by OMB such as economic and technical miscalculations or inaccurate forecasts. This means that Congress will be able to proceed with its budget and appropriations processes each year with greater assurance that, as long as congressional action comports with the agreement, no sequesters should occur.

In addition, executive branch agencies can better plan their annual spending programs without the uneasiness and the disruption that the threats of sequesters cause. If we live up to the deficit reductions called for in this package in entitlement savings and revenues and stay within our appropriations caps, there should be no sequester for fiscal years 1991, 1992, and 1993.

I do not like sequesters. There are some who would like to have them every year. I do not like them and I do not think that we have written anything in here that will assure the reelection of President Reagan, or Reagan-Bush, or whoever it may be. That was not my interest in going to the summit, leaving my wife over at the house by herself until 12, 1, 2 or 3 o'clock in the morning. That is not my interest: in reelecting Mr. Bush.

Mr. Bush had the courage at least to say that he was wrong in the campaign when he had said no taxes. He saw the real world when he took the oath and he changed his mind. That takes some courage.

But I do not like sequesters and I think we have to raise our sights just a little bit above partisan politics here.

Of course I want my party to win in the congressional elections. Of course I want a Democratic President in the White House. But there is something more important than that to this Senator, that is what happens to our country. It is being torn apart and it is time we quit thinking about ourselves and think about our country and our children. Try to avoid these sequesters. Just get on with the job.

Of course the national debt is going to be higher if we accept this, but it will be $500 billion less, we hope. Of course it is going to be higher. But what would it be if we did not have this package?

This is a vital improvement to current law under which discretionary appropriations for such activities such as law enforcement, education, water projects, research and development, highways, transit, VA medical care and so forth, are required to suffer across-the-board cuts if the Gramm-Rudman-Hollings deficit target is missed because of the faulty economic and technical estimates.

As I pointed out in my remarks to the Senate last evening, domestic discretionary spending has not contributed to the increased deficit. In fact these programs have been cut, as I pointed out, by a cumulative total of $326 billion, under baseline, in the past 10 years. This change eliminates—the change we are talking about now—eliminates mindless cuts to domestic programs that help to educate our children and protect our citi-

zens, or to defense programs at a time when we may be at war in the Middle East, so long as we live up to the requirements of this agreement.

The amendment will place the burden of meeting the deficit reductions called for in the agreement upon all the committees of jurisdiction, not just upon the Appropriations Committee. Upon all committees of jurisdiction.

Unlike existing law, those committees that violate this agreement will be forced to pay a penalty for their shortfall. That is all committees, not just the Appropriations Committee. All committees will have a stake in making this agreement work.

Now, what do we want to do? Do we want to enter into an agreement today and then break it tomorrow? An agreement is an agreement. A handshake is a handshake, back where I live. And if we make an agreement I expect to keep my part and I expect the other fellow to keep his. That just did not become my credo yesterday.

In addition, the agreement will allow a mechanism for both the President and Congress to provide funding for unforeseen emergencies — earthquakes, hurricanes and so forth— without having such costs trigger a sequester. Last year we had two sets of disasters, hurricane Hugo and the California earthquake.

OMB ruled that a portion of the appropriations that were made for these disasters was discretionary. For example, the $1 billion appropriation that was made to repair the bridges and highways that were destroyed in the earthquake was treated as discretionary spending. This $1 billion caused the Appropriations Committee to exceed its allocation, but we escaped a sequester because this was a disaster that occurred after the October 15 sequester date.

The PRESIDING OFFICER. The Chair informs the Senator his time has expired.

Mr. BYRD. I ask unanimous consent to proceed for such time as I may need.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Well, Mr. President.

Mr. BYRD. Do not worry, this Senator will end it.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

Mr. BYRD. I thank you for your nice card that I received today. [Laughter.]

Your very nice card about the item that I helped you with in the Interior appropriations bill. [Laughter.]

Mr. CHAFEE. I had that in mind as I rose to my feet. [Laughter.]

The reason I rose was I thought I wanted to assist you in any way I could in an extension of the time you wanted. [Laughter.]

Mr. BYRD. I say to the Senator, wait until next year and he will write me a bigger card. I thank the Senator.

Under this agreement, disasters will be treated as mandatory spending and will not cause a sequester, no matter when they occur. And that might occur in my State, it may occur in your State or any State.

It is sound policy; it is good common sense. As I have already indicated, the administration sought to have Desert Shield funded in the regular fiscal year 1991 Defense appropriations bill. I opposed that approach because it would have hidden the costs of Desert Shield in the DOD baseline which would have meant from then on Defense would have had a blank check, a blank check, and those Senators who are so concerned about how much Defense is spending, and how we should cut Defense might take careful note of that. Desert Shield will not become a part of the baseline which would go on and on, as inflation goes up. This would have made it very difficult to keep a separate accounting of Desert Shield appropriations. Under this agreement, Desert Shield spending will be treated as a separate supplemental appropriations. This will enable Congress to carefully scrutinize the administration's request for Desert Shield appropriations and will prevent DOD from getting a blank check by assuring necessary funds will be made available.

This agreement also strongly encourages the administration to secure commitments from our allies to pay their fair share of Desert Shield costs. I understand Saudi Arabia, for example, has increased oil profits from this crisis to the tune of $10 billion since August 2 because of the rise in oil prices. Perhaps it is more than $10 billion.

Overall, I believe this enforcement package, not budget reform process, this enforcement package is necessary. I think it is fair to us. If I did not think so, I would not sign on.

At the same time, I think the administration is committed also. I cannot have it all my way, nor do I expect the administration to have it all their way. It does not do injustice to the delicate balance of power between the executive and legislative branches, but it does provide the teeth to keep us faithful to this bipartisan agreement.

Mr. President, I thank the Members of the Senate.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. BYRD. Yes.

Mr. JOHNSTON. Do I understand that there is a fence for a period of 3 years between that part of 050 which goes to energy, water, discretionary non-Defense and Defense?

Mr. BYRD. There is a fence for Defense, for international and for domestic discretionary.

Mr. JOHNSTON. And that lasts for 3 years?

Mr. BYRD. 1991 and 1992 and 1993.

Mr. JOHNSTON. After that, the targets under this are for 5 years, but that fence lasts 3 years.

Mr. BYRD. Only for 3 years. After that, everything is fungible.

Mr. JOHNSTON. The assumptions, the economic assumptions, I understand are locked into these targets so that if the economic assumptions at least for the next fiscal year should change, that they do not affect the targets? Will the Senator explain that mechanism?

Mr. BYRD. The easy answer is, that is correct. And that did not come easy, may I say.

Mr. JOHNSTON. Do those assumptions last beyond the 1 year? Are they locked in?

Mr. BYRD. For the 3 years, 1991, 1992 and 1993, appropriations will be held harmless for economic and technical miscalculations.

Mr. JOHNSTON. That is for succeeding years, next fiscal year those assumptions are already made and they are only made for 1 year by this document; is that correct?

Mr. SASSER. I say to the chairman, might I amplify in response to the Senator's questions? We have to change our mindset a little bit, I will say to the Senator. The economic assumptions themselves become irrelevant for the 3 years.

What the Senate and the Congress has bound itself to do with the administration is to reduce the deficit by a set amount for 3 years. Therefore, thanks largely to Senator BYRD's work, the economic and technical assumptions become almost irrelevant. In other words, we are safeguarded from those in the sense that if the economy should deteriorate or if the administration should have faulty economic or technical assumptions, then the appropriated accounts would not have to pay the penalty. We are simply committed to a set amount of deficit reduction for 3 years.

Mr. JOHNSTON. And, in effect, we would really not need a budget resolution for a period of 3 years; in fact, we will have that for 3 years.

Mr. BYRD. We should have the budget resolution as well. This does not eliminate the requirement for a budget resolution.

Mr. JOHNSTON. But we will be given the operative numbers for that budget resolution.

Mr. BYRD. We know what the allocations will be now under the budget resolution.

Mr. SASSER. If the Senator will allow me to amplify more on that. We will need a budget resolution because the agreement itself provides for new programs. In other words, we may institute a new entitlement program, but

we must pay as we go. If we institute a new entitlement program in the budget resolution then the program will also have to be paid for and the budget resolution would be a vehicle for providing either for a new mandatory program which would have to pay for itself either by increased revenues or by cutting spending in other entitlement programs or for a new domestic program which would be paid for either by raising funds through the budget resolution by directing the Finance Committee to do that or by cutting another program elsewhere.

Mr. JOHNSTON. If we adopt some form of a budget package here that is assumed to raise a certain amount of money over a period of, or reduce spending by a certain amount of money over a period of years, is that the kind of assumption that is then locked in for 3 years, or do we come back and find out exactly how much money you did raise under your taxes and have to readjust from year to year?

Mr. SASSER. If the Senator will permit me.

Mr. BYRD. Please.

Mr. SASSER. The enactment of the reconciliation bill itself locks in the deficit reduction amounts that we are committed to for the 3-year period.

Mr. SASSER. For that reason, the Gramm-Rudman-Hollings targets for those 3 years will become simply advisory because we meet our commitment, if we reduce the deficit the first year by $40 billion figure and the corresponding figure for the second year and the corresponding figure for the third year.

Mr. JOHNSTON. You do not come in and reestimate—if we adopt this tax package or a tax package which is deemed today to satisfy those requirements of the 3 years, then you do not check again next year to find out that a deteriorated economy had actually resulted and less taxes had been collected.

Mr. SASSER. That is correct. Thanks again to the distinguished chairman of the Appropriations Committee, we are held harmless for technical mis-estimates and economics. For example, if there is a faulty estimate of the amount of revenue that would be produced or if there is a deterioration in the economy which would produce a revenue loss, then the appropriated accounts would not be held liable by that by way of sequester as long as they met the deficit reduction amounts that they had agreed to.

Mr. JOHNSTON. My final question is: What this package will give us is, first of all, budget peace and, second, budget certainty, so that we will not have to fight these battles and be here on October 1 wondering whether we are going to meet the new fiscal year; we will have all that information early enough so that we will be able to plan with certainty, will not have to come back and redo what we did the previous year but will have budget peace, is that correct?

Mr. BYRD. I hope that will be the result. Nobody can foresee what is going to happen in the Middle East. Nobody can see what is going to happen with respect to recession or depression. But as best we can we have protected the legislative process, and we have made it possible for the Appropriations Committees to act with some certainty and to be able to proceed with some certainty so that we can deal with the infrastructure and the investment deficit to which I attempted to address my remarks last evening.

There will still be sequesters if certain things happen. There can still be a Gramm-Rudman-Hollings sequester if we reach the targets and there can be the sequesters that may occur in the appropriations process. If we do not live up to our part of the agreement and we exceed our allocations in domestic discretionary, whatever, then there will be a sequester that will be across the board for discretionary spending. I hope that we can discipline ourselves. We always like to vote for these measures that increase spending. At the same time we want to reduce the deficit.

Mr. STEVENS. Mr. President, will the Senator yield there?

Mr. BYRD. Yes.

Mr. STEVENS. I am sorry to interrupt, but that is precisely the question I was going to get to with the first amendment I was going to offer. It is getting very late. I am not going to do that.

I would like to ask this question. The Senator said now several times if we live up to the deadlines in this proposal, sequester would not take place. I recall the Senator from Texas made that same comment when we supported Gramm-Rudman-Hollings, and I was going to call attention to the two schedules that start on page 73 of the amendment that deal with specific deadlines for the Congressional Budget Office, the Senate Budget Committee, the concurrent resolution deadline, annual appropriations bills to commence by May 15, to be finished by September 30.

The Senator from West Virginia is my great friend. I am sure we all know that, and I am delighted to work with him on this process. As I understand it, there is no discipline implied in the whole process yet for the Congress as a whole to meet those deadlines, but there is a severe worry and fear in this Senator's mind that we are going to live through 5 more years of threatened sequesters on the appropriations process because other committees have not in fact done what they are supposed to do.

Why not build into this proposal now some sort of a mechanism to assure that the Budget Committee will report its concurrent resolution on April 1, that we will start appropriations bills through the House on April 15? We waited until after August for our appropriations bills this year and every year but once since Gramm-Rudman-Hollings passed we have not had the appropriations bills to act on before the summer recess.

Now, my good friend has been inconvenienced by that and the whole Senate has. Why can we not have some mechanism built into the system for discipline on the part of the rest of the Congress in dealing with these deadlines?

Mr. BYRD. Mr. President, there is discipline here. The Senator is pointing to the fact that there are times when we cannot get budget resolutions out and enacted and agreed to by the other body so that the appropriations process can begin in the Senate. The House can proceed under its rule but the Senate cannot.

Mr. President, if I may have the attention of distinguished chairman of the Budget Committee, there is no way we can assure that he can get a resolution out of his committee. He has a difficult time in his committee. Give him four or five or six additional members over there who will support him and he will get that resolution out.

Mr. STEVENS. Mr. President——

Mr. BYRD. Wait. Let me finish. We do have discipline here. We are providing that within the appropriations process if the domestic discretionary exceeds its allocation, if defense exceeds its allocations, if foreign operations exceeds its allocation, and as a result the overall allocations for domestic discretionary, let us say, are above the allocations, then there will be a sequester, there will be a sequester of domestic discretionary, and it will go entirely across the board, across every one of the 10 appropriations subcommittees with jurisdiction over domestic discretionary programs. That should help us to discipline ourselves.

When I come out here and offer an amendment, it may be good for my subcommittee but every other subcommittee chairman should view that amendment with some jaundice in his eye saying, well, if that results in a sequester down the road, if that results in raising the allocation, domestic discretionary, Senator BYRD's subcommittee is not the only one that is going to have to pay for it. My subcommittee is going to have to pay an equal percentage. So there is that self-discipline built into this process. The same would be true with regard to defense and government ops.

Mr. STEVENS. Mr. President, I appreciate the Senator's comment. I think we have come through a process now, particularly this year, where to some people sequester was a crutch. They voted for things that they knew we could not afford, knowing full well that sequester would come along and take them away. As I look at the developments in the world with the European Community coming along, the great changes in Europe, the whole concept of our domestic finance problems, one of the great fears this Senator has is that revenues will not be there that are in these projections. If they are not there, it is my understanding sequester is going to become a reality no matter whether we do our job or not. Am I wrong?

Mr. BYRD. Two points. If the Gramm-Rudman-Hollings figure is exceeded, there will be a sequester, just as we have now—50 percent discretionary, 50 percent defense.

Mr. STEVENS. What if revenues are not up?

Mr. BYRD. Then the Appropriations Committee will be held harmless. There are categorical sequesters here: one on entitlements, and one on discretionary spending. So that discretionary spending does not have to take all of the brunt anymore. Last year the appropriations took the brunt for $4 billion because certain other committees did not meet their requirements under reconciliation.

They did not meet; they did not fulfill their instructions. So we took it. The majority leader told us in his office. And Senator SASSER was there. The chairman of House Ways and Means was there, Mr. ROSTENKOWSKI. Mr. BENTSEN and others were there. The majority leader says we have this problem. We are $4 billion short. I can tell you the exact words I said to the majority leader. It did not take me 30 seconds to do it. I have seen a lot of Senators around here hem and haw, hem and haw, when they are asked to bleed a little bit. I said to the majority leader, I do not like it, but if that is what it takes, we will absorb it; $4 billion.

Do you think I had forgotten that when I went to the summit? No. I said if other committees don't meet their targets the revenue raising falls down, let those committees take their cut. I believe Senator BENTSEN supports that 100 percent. If it is entitlements, then they are entitlements. Do not put it back on our domestic discretionary spending. So there will be that categorical sequester, may I say to my friend.

Mr. STEVENS. Mr. President, speaking to the distinguished chairman of the Appropriations Committee, let me say I do not see anything in here that takes care of the problem that I am trying to address; that is, if revenues are not raised, according to the projections, and the Director of the Office of Management and Budget makes the finding on November 15 that there is a deficit because of the failure of the systems to produce the kind of revenue that was anticipated, is not there going to be a sequester because of that failure of revenues, and will that not fall on both entitlements and domestic spending—and defense?

Mr. DOMENICI. Mr. President, will the distinguished chairman yield, and I will try to respond?

One of the big changes that was effected in this agreement—and I want to say to the Senator from West Virginia, all of us kind of lost in our explanations the forest from the trees. The Senator from West Virginia brought it back when he said we are trying to enforce an agreement.

This is a 5-year effort. That is what we agreed to. We did two things: first, with reference to Gramm-Rudman-Hollings and Gramm-Rudman-Hollings targets, that is what the Senator from Alaska is worried about.

Mr. STEVENS. No. This Senator is worried about the failures of revenues in the future, and I do not see anything here that takes care of it, I tell the Senator frankly.

Mr. DOMENICI. If the Senator will just let me finish, the reason he is worried about revenues not reaching where they ought to be is because they create a deficit. You do not meet the target until you are going to have a Gramm-Rudman sequester. That is why he is worried about it.

Because the distinguished Senator from West Virginia insisted, and he won, the first 3 years of Gramm-Rudman-Hollings and the sequester under this agreement is changed significantly, and perhaps I could explain how it has changed.

First, the target is fixed but it is altered annually based upon real economics and technical adjustments. One of those real economic aspects is the revenues. The reason revenues are down is because we are using old economics and we have a fixed target.

Remember the fixed target only had a $10 billion float. The $10 billion float was to take care of economic errors, technical errors, and overages. There is no float left because you do not need it because every year for the first 3 years of the agreement the target is fixed. Because economics and technicals are out of our control and are readjusted each year based on economics, the chances of having a sequester if we do our job are very minimal.

The savings that are permanent all occur when we pass this reconciliation bill tonight, and when we live up to the targets under appropriations.

So what could go wrong would be economics that might be off, or technical adjustments, and in the first 3 years we protected against it. I think that is a fair statement. Those who were there—Senator GRAMM, is that a fair statement?

I thank the chairman for yielding.

Mr. BYRD. Mr. President, some of the questions that are being asked are under the jurisdiction of the Finance Committee.

Mr. BINGAMAN. Mr. President, if I can address a question to the Chairman of the Appropriations Committee.

The PRESIDING OFFICER. The Senator from West Virginia retains the floor.

Mr. BYRD. I do not intend to hold the floor longer. I want Senators to have an adequate opportunity to ask questions. I think they are entitled to that. I do not want to impose on the Senate if it seems that I am doing that.

The PRESIDING OFFICER. The Chair would inform the Senator that as soon as he gives up the floor all time has expired.

Mr. BYRD. I thank the Chair.

Mr. BINGAMAN. Mr. President, could I address a question to the Chairman of the Appropriations Committee?

As I understand the provisions that we have in here, additional technical revisions on page 11 essentially provide that the Director of OMB has the authority to allow certain increased funding in a limited number of cases without that increased funding counting against the deficit, counting as increasing the deficit.

The specifics that I wanted to ask about is with regard to the item that is at the bottom of page 12 where we essentially provide that the Director of OMB can make reestimates to cover any amount appropriated in 1990 or 1991 calendar years to forgive debts of Egypt or Poland. In the case of Egypt it is the foreign military sales indebtedness. I think I understand that. That would then not be counted against the deficit.

Mr. BYRD. The Senator is correct. That is to hold us harmless in appropriations in case it is enacted.

Mr. BINGAMAN. If there were any other forgiveness of debt for any other country, Israel, Turkey, any country, that would then count against the deficit and would require a reduction in expenditures in the foreign account or in the domestic account?

Mr. BYRD. Domestic discretionary would be held harmless. That would come out of international discretionary, if spending in that category were in excess of the international cap.

Mr. BINGAMAN. That would come out of foreign ops if we forgave the debt for any country except Egypt and Poland?

Mr. BYRD. The Senator is correct.

Mr. BINGAMAN. I thank the Senator.

Mr. LEVIN. Will the chairman yield for a question?

Mr. BYRD. I am glad to yield for a question.

Mr. LEVIN. I think the Senator from West Virginia has pointed out eloquently in recent days that domestic discretionary spending has gone down in real terms over the last decade. I think nobody in this body has done more to try to protect domestic discretionary spending than my friend from West Virginia. I commend him on it.

One of the things that troubles me about this is that if next year or the year after, despite the herculean efforts of the chairman—I think successful efforts—of the Appropriations Committee to have a higher level of domestic discretionary spending, if in the next Congress we decide, those of us that are here to transfer money, for instance, from defense, at the level indicated here, to domestic discretionary or vice versa, that we could not do so.

Mr. BYRD. I would oppose that.

Mr. LEVIN. Pardon?

Mr. BYRD. I would oppose that.

Mr. LEVIN. My question is, Am I correct in saying that if next year or the year after, that instead of wanting a budget authority of $291 billion for defense and $191 billion for domestic discretionary, we wanted to move $5 billion from defense to domestic discretionary, or vice versa, that we could not do so under this?

Mr. BYRD. You could do so. A point of order could be raised, and if the Senate were able to get the 60 votes to waive the point of order, it could be done.

Mr. LEVIN. Am I correct, though, if done even with 60 votes, it would put the account above the cap and therefore require a sequester?

Mr. BYRD. The Senator is correct.

Mr. LEVIN. That seems to me to be tying our hands in advance to numbers, which again let me commend the chairman of the Appropriations Committee because I know how hard he worked to get a reasonable number for the discretionary domestic accounts. So I am not in any way being critical of the effort; quite the opposite.

But we still may want to transfer more into our domestic programs from defense in 1992 or 1993, or vice versa. We always have to allow for that possibility, and we cannot do so. Our priorities are backed into for 3 years by this, and I must say in frankness—and we talked about this—that I am very troubled by that effort.

Mr. BYRD. We cannot have it both ways. We cannot have it both ways. We cannot protect the discretionary and build a fence and say no trespassing, and at the same time, if we are going to have an agreement and the administration is part of the agreement, and I am part of it and the other Senators who participated, we cannot have it both ways.

I wanted to protect domestic discretionary from the predatory raids that are being made on domestic discretionary. The only way that we can protect domestic discretionary is to at the same time have some fences that will protect the other two categories.

Mr. LEVIN. This Senator will agree we cannot have it both ways. My problem is we should have it neither way. We should not attempt in this Congress to say for 1991 and 1992 what those numbers are, and there cannot be a transfer from any of those three accounts to any of the other three.

Mr. BYRD. If I could by a wave of my hand produce the solutions absolutely perfect to me, I would have done it.

Mr. LEVIN. I think the Senator did it in years 4 and 5, if I may so, if you do have that.

Mr. BYRD. That is fungible; that is true. Let us suppose, when it is fungible, suppose a Senator offers an amendment to forgive the debts in 1994 or 1995, let us say, of Turkey or Israel. If it is fungible, does the Senator know what category is going to pay part of the price for that? Ordinarily, if it is fungible, a portion will come out of domestic discretionary.

Mr. LEVIN. It is a matter of present with me; whatever the transfer is in years 4 or 5, we permit it. But in years 1, 2, and 3, we do not. I do not think we can appropriately prohibit the future Congress from transferring money from one priority of this Nation to another.

Mr. BYRD. We cannot prohibit a future Congress from coming in and changing this.

Mr. LEVIN. No. They can change the law if in fact they can get the votes to do so.

Mr. BYRD. That is right.

Mr. LEVIN. Which in the Senate requires 60 votes.

Mr. BYRD. We do not have to wait to future Congress. If this Congress were not able to end, this Congress even itself could break it. I would oppose that. There is an agreement.

As to the fungibility of the last 2 years, may I say to the distinguished Senator, the Senator can thank summiteers for making that fungible. The administration wanted it solid, across the board, for 5 years. But we have made it fungible for the third, fourth, and fifth.

But I will say to the distinguished Senator, I think that by protecting discretionary, domestic discretionary, as we are doing, we are striking a blow for liberty for the United States of America and its infastructure, physical and human.

The administration wanted to freeze domestic discretionary spending for a year. That would have put us $39 billion below the baseline. He backed off a little bit and said: How about 6 months? That would have been $19 billion below baseline.

Where we are now, we are above baseline. We can reverse the trends. I hope we can reverse this trend in cutting away at the infrastructure of this country. But in order to do that, when you are dealing with another party, I cannot have it all my way. I would like to have had it differently, but I think I got a little better than 50 percent of the bargain, and otherwise we would not have had any bargain.

Mr. LEVIN. I thank the Senator.

Mr. BYRD. I thank the distinguished Senator, and I appreciate his concern. I believe if he had been the fly on the wall watching that summit, he would be there tonight saying: Well, I think it is a pretty good package.

It is the best that we could expect under the circumstances. You cannot forget that we are dealing with a situation in this country here where everybody is going to have to hurt a little bit. It cannot be painless.

Mr. SIMON. If the chairman of the Appropriations Committee will yield, just to respond briefly to my friend from Michigan, I would have an amendment very shortly, I hope, that would get rid of the 60-vote fence that is there. That, I think, would make it easier to make that transition.

Mr. LEVIN. If the Senator will yield, and I know he does not have the floor.

Mr. SIMON. I do not have the floor.

Mr. LEVIN. If my friend from West Virginia will yield, I do not believe an amendment that simply eliminates the 60-vote requirement will cure the problem.

Mr. SIMON. It does not cure it, but it helps.

Mr. LEVIN. Not if not allowed to transfer the money from one account to another. For if in the process there, you put more money in the account that is capped, it leads to automatic sequester. Elimination of the 60-vote requirement does not cure that problem.

Mr. SIMON. We will get into it shortly.

Mr. BYRD. I know the distinguished Senator from South Carolina wishes to make a point of order. I will sit down shortly. Does the Senator from Florida have a question?

Mr. GRAHAM. I am concerned about the question of the deficit as we have defined it during Gramm-Rudman-Hollings, which is the difference between spending and revenue.

Under the current law, we are supposed to be at a deficit for fiscal year 1991 for $64 billion. Under this bill, the deficit for 1991 will be $242 billion.

My question is, What happens if we do not meet the $242 billion figure? We know what happens under the current law, because that is why we had a

weekend sequester a couple weeks ago, and we are faced with the prospect of substantial reductions in Government spending to come into compliance or near compliance with the $65 billion figure.

What happens if we end up with a substantially greater deficit than $242 billion? What is the discipline that will go into effect?

Mr. BYRD. If it is beyond the control of Congress that that is breached, it will not be a sequester.

Mr. GRAHAM. So if, for instance, the recession that many people think we are in or heading toward were to result in——

Mr. BYRD. Gramm-Rudman allows an exemption, if there are two successive quarters.

Mr. GRAHAM. If serious decline in revenues or if other external events cause that deficit to be greater than $242 billion, there is no consequence in terms of mandatory restrictions; is that correct?

Mr. BYRD. It depends on what causes the severe decline in the revenue. If it is caused by a number of things beyond the control of the Congress, we would not be held responsible. If it is the fault of Congress, then there would be sequester.

Mr. GRAHAM. I guess my concern is, to put this in a sense of a family, if you had a family, and let us say the main source of income was real estate commissions. They are living on a level of $50,000 a year that was their spending ceiling because that is what they had been taking in.

Now it gets to a tough year in the real estate business. Instead of having commissions of $50,000, you only have commissions of $35,000. The family would have to make some adjustments to bring its spending from its traditional levels down to what would accommodate this new reality of family income.

If we were that family and had a sudden differential or spread between our traditional spending levels—what we hoped and expected and what the new reality of our income is—what are we going to do?

Mr. BYRD. Mr. President, I say to the Senator we cannot operate like a family, No. 1. No. 2, this is an agreement whereby, if we live up to our part of what is expected, we hope to be able to cut the deficit by $40 billion this year and $500 billion over the period of 5 years. Now that is about the best we could do. Let me respond, then I am going to sit down. That is about the best we can do. That was discussed at the beginning of the summit. And if anybody wanted to cut it $1 trillion, it was felt that would push this country off the precipice into a recession or even a depression.

So that was the figure that was decided upon as being prudent and realistic and efficacious. And that is what we are striving to do here. That is a pretty good-sized step. And if we live up to our part of the agreement, we hope to achieve it and, if something happens beyond our control, then we will be held harmless on appropriations.

Mr. GRAHAM. It seems to me that puts a tremendous amount of obligation on us to have confidence that the economic assumptions upon which we are entering this are realistic to conservative. That is, if we start with economic assumptions that are unlikely to be realized, then we have a suspicion we are going into this transaction but the results are not going to be as they appear on page 3.

What are the economic assumptions upon which the maximum deficit reductions for the 3 years that we are about to enter are predicated?

Mr. BYRD. That falls a little out of my purview.

Mr. SASSER. As I indicated earlier, I think, in response to a question of the Senator from Louisiana, for the first 3 years, the Gramm-Rudman-Hollings targets are merely advisory. We are not seeking to hit those targets at all. All we are seeking to do and all we pledge to do under this agreement is simply to reduce the deficit by a set amount over 3 years.

If the economy declines precipitiously or falls out from under us, we are still just obligated to reduce the deficit by those set amounts over 3 years. Clearly, if there is a severe economic downturn, then all bets are off and there has to be some sort of change in policy emanating from the executive branch in conjunction with the legislative branch.

Mr. GRAHAM. Let me ask the question a little different way. Are the economic assumptions upon which these maximum deficit targets, are they the same economic assumptions that OMB utilized in its——

Mr. SASSER. If I could interrupt the Senator, I think I could shorten it. The economic assumptions on which these deficit numbers are grounded in this budget agreement are based on the latest CBO economic assumptions. And that would be as late as June. We have not received any new CBO economic assumptions since then, although we expect some in the not too distant future. These deficit numbers are not based on the OMB economic assumptions that some were criticizing a few weeks ago.

Mr. GRAHAM. Does the staff in the committee have a set of those CBO economic assumptions?

Mr. SASSER. I am sure they could be furnished to the Senator; yes.

Mr. BYRD. Mr. President, I thank all Senators for their attention. I will shortly yield. I thank those who asked questions. I thank the distinguished majority leader and Republican leader. I thank all other Senators who have been very patient.

I feel we have gone some distance in attempting to allay the concerns of the Senators. I think Senators who have listened to this debate, although I would not give it much of anything like 75 percent or above a grade C in my responses, at least I think they feel that I share their frustrations and their concerns, and perhaps they may be a little bit overly excited. All this is not going to Hades in a handbasket if I can help it.

What we have done, I think we have protected the legislative branch, protected the appropriations process. There has not been any shift of power to the executive branch from the legislative here. We simply have an agreement and we are attempting to enforce it. That requires some discipline on our part.

In the final analysis, we hope that this will redound to the good interests of the American people. There will not be an opportunity to debate the point of order. There will not be an opportunity to debate the waiver of the point of order.

I would like, while I retain the floor, to yield to the majority leader if he has something to say.

Mr. MITCHELL. Mr. President, I thank the distinguished President pro tempore and chairman of the Appropriations Committee for what I think has been a most informative discussion here this evening. I, who sat through much of the budget summit process, learned a great deal from it and I know that all the other Senators did. I also thank him for the tremendous effort he put into the preparation of this agreement, as he puts it very succinctly, a way to enforce an agreement.

It is my hope, Mr. President, that we can now bring this to a conclusion. I hope that every Senator feels he or she has had ample opportunity to express his or her views, ask questions, and understand it. There comes a time when we simply have to take action and complete that action. I hope we can do that shortly, I say to the chairman. I hope all Members of the Senate are prepared to vote. I know the distinguished Senator from North Carolina is prepared to make a point of order, and I understand the chairman will move to waive that point of order.

I urge my colleagues to join us in the motion to waive the point of order. This is an essential part of this agreement. This is a deficit reduction package which includes reduction over a 5-year period, and this is the means by which we attempt to ensure that the reduction will occur over a 5-year period. Obviously, no one of us can fully foresee with great precision what is going to occur next year, let alone 5

years from now. This is the best effort, by very experienced and knowledgeable persons, to accomplish that objective led specifically by the distinguished chairman of the Appropriations Committee and others.

I hope we can now bring it to a conclusion, and I hope our colleagues will join us in waiving the point of order so that we can proceed to approve this, approve the deficit reduction package, and get moving toward completion of this effort.

Mr. BYRD. Mr. President, I have not yielded the floor yet. I simply want to thank the majority leader. I want to express to my colleagues my deep concern if this point of order should not be waived. I think this is a critical decision, the waiving of this point of order. And I hope we will vote to waive.

I thank all Senators. I thank the distinguished Senator from South Carolina for his patience.

Mr. HOLLINGS. I raise the point of order, Mr. President, under section 305(b), the point of order of germaneness.

The PRESIDING OFFICER. The Senator from Tennessee.

MOTION TO WAIVE THE BUDGET ACT

Mr. SASSER. Mr. President, pursuant to section 904(b) of the Congressional Budget Act of 1974 I move to waive section 305(b) of the Budget Act for consideration of this amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMON. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SIMON. Yes, I have been waiting all evening to have a very brief amendment and a very brief explanation.

At what point? Do we vote first on the motion and then the amendments are in order? Is that the procedure?

The PRESIDING OFFICER. If the motion to waive prevails, the amendment will remain in order and subject to amendment.

Mr. SIMON. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The yeas and nays resulted—yeas 75, nays 25, as follows:

[Rollcall Vote No. 291 Leg.]

YEAS—75

Akaka	Bumpers	Danforth
Armstrong	Burdick	Daschle
Baucus	Burns	Dixon
Bentsen	Byrd	Dodd
Biden	Chafee	Dole
Bond	Coats	Domenici
Boren	Cochran	Durenberger
Boschwitz	Cohen	Ford
Breaux	Cranston	Fowler
Bryan	D'Amato	Garn
Glenn	Kerrey	Pell
Gore	Leahy	Pressler
Gorton	Lieberman	Pryor
Gramm	Lott	Reid
Grassley	Lugar	Robb
Harkin	Mack	Rockefeller
Hatfield	McCain	Rudman
Heflin	McClure	Sasser
Heinz	McConnell	Simpson
Helms	Mikulski	Stevens
Inouye	Mitchell	Symms
Jeffords	Murkowski	Thurmond
Johnston	Nickles	Wallop
Kasten	Nunn	Warner
Kennedy	Packwood	Wilson

NAYS—25

Adams	Humphrey	Roth
Bingaman	Kassebaum	Sanford
Bradley	Kerry	Sarbanes
Conrad	Kohl	Shelby
DeConcini	Lautenberg	Simon
Exon	Levin	Specter
Graham	Metzenbaum	Wirth
Hatch	Moynihan	
Hollings	Riegle	

The PRESIDING OFFICER. On this vote there are 75 yeas and 25 nays. Three-fifths of the Senators duly chosen and sworn, having voted in the affirmative, the motion is agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KOHL. Mr. President, tonight I reluctantly voted against the leadership amendment. I say reluctantly, because I believe that those who put this package together did so in good faith. I believe that they had the best interests of the Nation and of the Senate in mind. And I honestly appreciate their efforts.

However, as I understand it, this amendment fundamentally changes how the Senate goes about budgeting for the operations of the Federal Government. Where in years past, we tried—often without result—to match our expenditures with our receipts, now we will focus on preset spending ceilings. These ceilings are written into law. They won't change with economic circumstances, with the unforeseen needs of the Government, or with the changing priorities of this body.

I am afraid that this new way of budgeting separates our spending decisions from our bottom line. And in my opinion, this represents policy both irrational and dangerous.

No business or no family could run its operations on the basic principles we adopted tonight. Firms, banks, multinational corporations, even other countries, must look both to how much money they have coming and how much money they have going out. In the long run, the two sides of this equation have to match up. Only the United States—because it is large and powerful and vital to the world economy—has been able to get away with piling up debt year after year after year. And even the United States, with all its power and importance and vitality, has started to reach the limits of how much it can borrow.

Yet, by adopting the leadershp amendment, we have denied that we are coming to the dangerous end of our enormous line of credit. This amendment says that it is the budget policy of the United States to ignore what we add to the debt each year as long as we hit certain preset spending targets. Budget policy will no longer be fiscal policy—it will no longer be an overall decision about how much the U.S. Government should borrow from the private sector. Budget policy will be appropriations policy: how can we keep within the spending caps we've set—no matter how unrealistic, unresponsive, or irresponsible they are.

And I am concerned, Mr. President, that this amendment separates, in the minds of the American people and of the Congress, Federal spending from Federal receipts. That is exactly what President Reagan did when he told the American people that they could have lower taxes and higher defense spending. He told the American people that they didn't have to pay for the benefits they received. He separated taxes and spending.

And look where that policy has brought us. We face, as David Stockman faced 10 years ago, $200 billion deficits as far as the eye can see. We face a national debt that will grow to $6 billion in the 5 years that this deficit reduction agreement covers. And, we face many more years of tough budget choices.

This is not the time to budget by separating spending from revenues. We cannot stop focusing on the bottom line—even if it will make it easier to enforce this important deficit reduction agreement. The bottom line is our primary responsibility, and because the leadership amendment ignores that, I could not support it.

Mr. SASSER. Mr. President, for the information of Senators, we are nearing the end of this long road. There is one amendment that has been cleared on both sides which the managers will accept. Senator SIMON from Illinois wishes 3 minutes to explain the amendment and then I believe we are ready to go to final passage.

Mr. President, I yield the floor.

AMENDMENT NO. 3047

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I offer an amendment on behalf of Senator BRADLEY and myself.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Illinois, [Mr. SIMON], for himself and Mr. BRADLEY, proposes an amendment numbered 3047.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, beginning on line 18, strike all through line 12 on page 11.

Mr. SIMON. Mr. President, if I may have the attention of my colleagues, I have serious concerns about what we are doing. This amendment that I understand is going to be accepted modifies those concerns a little. Under the present procedure, it takes 60 votes to transfer between the three categories. I think that is a mistake. I think 51 Members of this body ought to be able to do that. I am concerned because of the numbers that we write in here. For the first time we are saying, for example, in Defense, function 050, budget authority for the fiscal year 1993 is going to be $292 billion, for fiscal year—the outlays are going to be $292 billion. I do not think anyone here has the foggiest idea what our needs are going to be.

After World War II, we reduced defense spending 90 percent in 3 years. We now have studies that show that that is one of the main reasons our economy took off.

I am not suggesting that we are living in a world where we can do that, but maybe former Secretary of Defense Robert McNamara was right when he suggested we could go down 10 percent a year and significantly improve the economy of our country. I think the great threat to us today is what is happening to our economy. It is not the Soviet threat. And yet these numbers do not reflect that.

Anyway, the amendment that Senator BRADLEY and I are offering——

Mr. MOYNIHAN. Order, Mr. President.

Mr. SIMON. I appreciate the Senator in the bow tie helping me out.

What this amendment permits is a little greater flexibility, and I appreciate the consideration of the managers.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, does the Senator yield back the time?

Mr. SASSER. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Illinois.

The amendment (No. 3047) was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote.

Mr. SASSER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, we have yielded back all time, so I urge adoption of the leadership amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3046) was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SUPERFUND

Mr. LAUTENBERG. Mr President, as chairman of the Subcommittee on Superfund, Ocean and Water Protection, the effective functioning of the Superfund Program is always a concern to me. Since this program was renewed in 1986, our subcommittee has performed a strong oversight role. In 1989, I issued a comprehensive report, Cleaning up the Nation's Cleanup Program, on ways to improve the Superfund Program based on several years of subcommittee hearings and investigations.

Mr. President, the first 5 years of the Superfund Program were a profound disappointment. While I still have concerns with EPA's implementation of the program, EPA has done a better job since the reauthorization. Administrator Reilly, in response to concerns I raised about the program, undertook a 90-day review of the program shortly after he assumed his position in 1989. This review resulted in a plan for improving the program, which included a number recommendations from my report on Superfund. While I have not agreed with Administrator Reilly in every measure, to say the least, he has worked to improve the program. In turn, I have worked hard as a member of the Appropriations Committee to secure adequate funding for Superfund and as Superfund Subcommittee chairman to recommend ways to improve the program's implementation.

Mr. President, I was deeply involved in the last Superfund reauthorization process. I remember vividly the damage caused to the program by the disruption in funding that occurred. Indeed, I was the author of several short-term interim funding measures to keep things going. While we did keep a skeletal program going, we lost valuable personnel, cleanups were delayed, contracts were threatened, and it was unclear that the program would survive.

Therefore, Mr. President, when the budget summit developed the concept of a 5-year budget and deficit reduction program, it seemed to me that it made sense, to avoid disruption in the Superfund Program, to include a Superfund tax and authorization extension in the budget package so that Superfund did not fall victim to future budget fights. The budget package is a 5-year package. I sought a 5-year extension on the Superfund tax and spending authorization. To this end, after consultation and discussion with EPA, the environmental community, industry representatives, and my colleagues, I initiated letters to the chairman and ranking minority member of the Senate Finance Committee asking them to consider a 5-year funding extension as part of the reconciliation process. In this I was joined by Senators BURDICK, CHAFEE, and DURENBERGER. I also introduced legislation to accomplish this goal, which Senators BURDICK, CHAFEE, and DURENBERGER joined in cosponsoring. Mr. President, I ask unanimous consent that the letters and text of the bill, S. 3182, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC, October 8, 1990.

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As the Finance Committee considers its reconciliation measure, we would urge you to include the necessary provision to extend the current Superfund tax and general revenue structure for an additional five years from its current expiration date of December 31, 1991.

We believe such an extension is essential to avoid a repetition of the funding disruptions that occurred during the last reauthorization of Superfund. While we believe the Environmental Protection Agency (EPA) must continue the effort to make vigorous improvements in the operation of the program, we also believe that the program is currently performing at a level that is significantly improved from its early years. In addition, the EPA's publicly acknowledged commitments through the Administrator's Superfund Management Review issued last year, suggest an improved effort at achieving greater qualitative and quantitative results from the program.

As the Superfund Reauthorization process begins, we believe an extension of the current funding structure coupled with continuing Congressional oversight and EPA commitment to a well-managed program can provide steady progress in the program during the period required to consider fully any necessary legislative improvement. Providing for the extension at this time would avoid the possible slow-down in the program beginning in FY 91 that might be made necessary, according to EPA staff, by a lack of certainty of funding sources for the years following.

We appreciate your consideration of our request.

Sincerely,

DAVE DURENBERGER,
Ranking Minority Member, Subcommittee on Superfund, Ocean, and Water Protections.
JOHN H. CHAFEE,
Ranking Minority Member, Committee on Environment and Public Works.
FRANK R. LAUTENBERG,

Chairman, Subcommittee on Superfund, Ocean, and Water Protection.

QUENTIN N. BURDICK,
Chairman, Committee on Environment and Public Works.

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC, October 8, 1990.

Hon. BOB PACKWOOD,
Ranking Minority Member, Committee on Finance, U.S. Senate, Washington, DC.

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DAVE DURENBERGER,
Ranking Minority Member, Subcommittee on Superfund, Ocean, and Water Protection.

JOHN H. CHAFEE,
Ranking Minority Member, Committee on Environment and Public Works.

FRANK R. LAUTENBERG,
Chairman, Subcommittee on Superfund, Ocean, and Water Protection.

QUENTIN N. BURDICK,
Chairman, Committee on Environment and Public Works.

S. 3182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENVIRONMENTAL LAW EXTENSION.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended as follows:

(1) subsection (a) is amended by inserting immediately after "Reauthorization Act of 1986," the following: "and $8,500,000,000 for the period commencing October 17, 1991, and ending September 30, 1996,";

(2) subsection (c)(11) is amended by inserting immediately after "1986," the following: "and during the 5-fiscal-year period commencing October 1, 1991,";

(3) subsection (c)(12) is amended by deleting "and 1991" and inserting in lieu thereof "1991, 1992, 1993, 1994, 1995, and 1996";

(4) subsection (m) is amended by deleting "1990 and 1991" and inserting in lieu thereof the following: "1990, 1991, 1992, 1993, 1994, 1995, and 1996";

(5) subsection (n)(1) is amended by deleting "and 1991" and inserting in lieu thereof "1991, 1992, 1993, 1994, 1995, and 1996";

(6) subsection (n)(2)(E) is amended to read as follows:

"(E) For each of the fiscal years 1991, 1992, 1993, 1994, 1995, and 1996, $35,000,000.";

(7) subsection (n)(3) is amended by deleting "and 1991" and inserting in lieu thereof the following: "1991, 1992, 1993, 1994, 1995, and 1996"; and

(8) subsection (p)(1) is amended by inserting immediately after "(E) For fiscal year 1992, $212,500,000.", the following:

"(F) For fiscal year 1992, $212,500,000.
"(G) For fiscal year 1993, $212,500,000.
"(H) For fiscal year 1994, $212,500,000.
"(I) For fiscal year 1995, $212,500,000.
"(J) For fiscal year 1996, $212,500,000.".

SEC. 2. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 4611(e) of the Internal Revenue Code of 1986 (relating to application of hazardous substance superfund financing rate) is amended—

(1) by striking "1992" each place it appears in paragraphs (1) and (3)(B) and inserting "1997",

(2) by striking "1989" in paragraph (2) and inserting "1994",

(3) by striking "1990" each place it appears in paragraph (2) and inserting "1995",

(4) by striking "1991" each place it appears in paragraph (2) and (3)(A) and inserting "1996", and

(5) by inserting "after December 31, 1991, and" before "before January" in paragraph (3)(B).

(b) CONFORMING AMENDMENTS.—

(1) Section 59A(e)(1) of the Internal Revenue Code of 1986 (relating to application of environmental tax) is amended by striking "1992" and inserting "1997".

(2) Section 4661(b) of such Code (relating to amount of tax on certain chemicals) is amended by striking "1992" and inserting "1997".

(3) Section 9507(d)(3)(B) of such Code (relating to authority to borrow) is amended by striking "1991" and inserting "1996".

(4) Section 517(b) of the Superfund Revenue Act of 1986 (relating to authorization of appropriations) is amended—

(A) by striking "and" at the end of paragraph (4), and

(B) by inserting after paragraph (5) the following new paragraphs:

"(6) 1992, $250,000,000,
"(7) 1993, $250,000,000,
"(8) 1994, $250,000,000,
"(9) 1995, $250,000,000, and
"(10) 1996, $250,000,000,".

Mr. LAUTENBERG. Mr. President, I intend to continue the effort to push EPA to improve its implementation of the current law, while at the same time beginning in the next Congress to consider ways to improve the law. Since the goal of both oversight and reauthorization is to improve the operation of the Superfund Program, it simply does not make sense to allow the program's funds to run out during such efforts.

Mr. President, the Finance Committee was unable to include a Superfund extension in their reconciliation bill. Mr. President, I look forward to working with the distinguished chairman of the Finance Committee to extend funding for the Superfund Program next year, as we have already discussed several times. I appreciate the Senator's interest in this regard and his assurances that he is also interested in avoiding disruptions in the Superfund Program and moving early next year to consider such legislation.

Mr. BENTSEN. Mr. President, I appreciate the leadership of the Senator from New Jersey, the chairman of the Superfund Subcommittee, in working for the effective operation of the Superfund Program. As the former ranking minority member of the Senate Environment and Public Works Committee, I worked with the Senator from New Jersey on the Superfund reauthorization of 1986, and I share his concern and commitment. I strongly support the continued funding of the Superfund Program, and I am committed to moving legislation early next year that will prevent any interruption in the Superfund Program.

Mr. LAUTENBERG. Mr. President, I thank the Senator from Texas for his concern and commitment to early action of the Superfund funding question. It is essential that Congress take these steps. To prevent disruption in the program while Congress considers the extension next year, as a member of the Senate Subcommittee on VA, HUD, and independent agencies, I have been working to provide as much funding as possible under the tough constraints of the budget for the Superfund Program. Despite some tough constraints, and a woefully inadequate proposed EPA budget from the President, we were able to provide about $1.61 billion for Superfund for Fiscal Year 1991, which would be the largest appropriation for the program to date. In addition, in an effort to lessen any disruptive effects that might occur as we come closer to the expiration of the taxing authority, I authored a provision in the Senate appropriations bill, which was adopted in conference, that will use all the remaining authorized general revenues, about $861 million, for the Fiscal Year 1991 Superfund appropriation. By using such general revenues in Fiscal Year 1991, I

was able to provide what is, in effect, a cushion for Fiscal Year 1992, against the effects of the tax expiring. This appropriations provision will free up about $861 million in tax revenues received through December 31, 1991 for use in Fiscal Year 1992. While this is not a sufficient amount fully to fund the program, it should help mitigate potential disruption as Congress considers the tax extension.

Mr. GLENN. Mr. President, I rise today to discuss our attempt to reduce the deficit.

In recent weeks we have seen extraordinary forces at work in our republic. Months of negotiations conducted between congressional leaders and representatives of the White House were concluded with a summit agreement as the fiscal year ended.

That summit agreement would have reduced the deficit but its savings in mandatory or entitled programs depended upon severe cuts in Medicare. It required new taxes, half from increases in regressive excise taxes. The burden of these cuts and taxes would have fallen on lower and middle income Americans.

The President asked Americans to support the summit agreement. A firestorm of popular opposition was unleashed. Reeling from the outcry, the President was unable to rally a majority of his troops and the House of Representatives rejected the summit agreement. Failing to provide the necessary legislation to keep the Government operating, the Government closed over the Columbus Day weekend. Suffering from a major loss, the President vacillated and slipped into an uncertain and unclear leadership role.

The Congress, determined to act, returned to the budget process, passed a budget resolution setting the broad outlines of a deficit reduction plan, and directed congressional committees to achieve budget savings.

The committees have now presented their work in this budget reconciliation package before us today.

These recent events were not the result of an immediate crisis. Rather, they are the culmination of a decade of failed leadership and shortsighted policy.

We began in 1981 by enacting supply side economic policies offered by a popular President elected in a landslide. The plan to cut taxes by 25 percent, increase defense spending, and balance the budget simply did not add up. Realistic budgets were not forthcoming from the administration. With deficits and debt rising at an alarming rate, the Congress resorted to gimmicks like Gramm-Rudman-Hollings. Promises to reduce the deficit were made through budget summit agreements based on unrealistic economic assumptions.

Much of the argument centered on whether or not the Federal Government spends too much or taxes too little. Clearly wasteful and unnecessary Federal programs must be eliminated. It is my view, however, that most important Federal programs have broad popular support. The politically popular position for too long has been no new taxes, no real spending cuts, and a skyrocketing deficit.

The Nation's economy has been put through a decade-long Alice-in-Wonderland claim of continued prosperity that was actually a credit card binge, adding an additional two and a half trillion dollars of debt to the one trillion existent just 10 years ago. That's a tragic epitaph for the claims and excesses of supply side economics.

I believe that any realistic deficit reduction effort requires a combination of spending cuts and additional revenue. I thought we had turned that corner this year.

Mr. President, in a sense, we are suffering from our own success. Because of our failure to act, the American people are not convinced of the danger of rising deficits. After years of putting this problem off, we just cannot slip into the back room, hammer out an agreement, make a short television speech, and expect the American people to understand that deficits are important, that deficits must be reduced, that deficit reduction is painful and costly, and that we intend to do something about it.

Our role as lawmakers should be and ultimately must be to critically identify our problems and provide realistic solutions. To continually bend in the political wind shirks our responsibilities.

The proposal before us is a step in the right direction, but at the same time we are compounding our problems. It does reduce the deficit. No one doubts that the deficit will increase without action. We promise $500 billion in deficit reduction, yet I suspect we will fall short. The economic assumptions alone ensure that.

I understand that we operate in the world of compromise and practice the art of the possible. A few days ago, the senior Senator from Arkansas, Senator BUMPERS, asked why it is that he is always being asked to sacrifice his values and his principles in the U.S. Senate? I share his sentiments. We are asked to support particular provisions that we oppose in order to achieve a higher purpose. But, promising more than we know we can deliver undermines our credibility.

Of paramount concern in today's debate is the fairness of deficit reduction. Who shall bear the burden? I am concerned about the lack of progressivity in the tax provisions. I am concerned about whose program will be cut. I am also concerned about how my State is affected.

I believe that higher taxes should be paid by those who are most able to afford those increases. I support a progressive tax system. Those with higher incomes have benefited by reductions in taxes as deficits increased. Regressive tax proposals contributed to the failure of the summit agreement. Although this plan is not as progressive as I would like, it is progressive. Those who make more pay more.

I oppose many provisions in this budget reconciliation bill. In fact there is a lot in this package that I don't like. I oppose Medicare cuts that hurt the elderly, tax breaks for the oil and gas industry, requiring State and local employees in my State who already have a retirement and health plan to pay Medicare taxes, and a regressive gas tax. Nevertheless, it is a vast improvement over the budget summit agreement.

I believe that we have been called upon to provide needed leadership. We have the responsibility to listen to our citizens and to reflect their views. But in the end we must make the difficult decisions. While I am critical of some of its provisions, the Committee on Finance has a package that a majority can support.

Because we face a devastating sequester as the alternative, I believe we must pass the bipartisan reconciliation measure produced by the Finance Committee. I am hopeful that the conference committee will provide more progressive revenue provisions and that the President will act in the best interest of the Nation and approve the final bill. In that spirit, I will vote in favor of this package.

ENERGY SECURITY PACKAGE

Mr. DOMENICI. Mr. President, one section of the reconciliation bill includes a $3.5 billion energy security package to encourage domestic production of oil and gas.

This is an important part of our deficit reduction effort because the price of oil has a direct impact on the economy. It affects potential growth, and inflation. It is a significant factor in both our Federal and trade deficit. Oil is responsible for 28 percent of our trade deficit.

Mr. Alan Greenspan, the Federal Reserve Board's chairman, told Congress on September 19 that a sustained oil price of $30 per barrel would knock 1 percentage point off America's GNP growth in 1991. He also testified that a $30 oil price would add 1½ percentage points to inflation in 1991.

One percent less growth in 1991 would increase the Federal deficit by $6 billion in the first year and continue to have a ripple effect for several years, adding as much as $79 billion over a 5-year period to our national debt.

If we experience $40 dollar a barrel oil, it would increase inflation by 3 to 4

percent and cost us 2 percent in real growth.

This would constrain the Federal Reserve's freedom to ease interest rates as fears of inflation grow.

While this energy incentives package isn't a perfect offset for higher oil prices, and while it may not be significant enough in and of itself to influence world prices, it is a step in the right direction. The goal of this energy package of incentives is to revive American domestic production.

It has provisions to maintain stripper oil production, to enhance production from wells already drilled and to explore for new resources. It includes incentives for oil and for natural gas.

The package of incentives has the flexibility to be judiciously frugal under high price scenarios and prudently effective in low price scenarios.

I want to commend the chairman of the committee for his hard work on this package of incentives. The budget summit agreement included a similar package. It is long overdue policy for the country.

The specific energy provisions include extending section 29, the nonconventional fuels credit for coalbed methane—coal seam—and restores the credit for tight sands gas. This is gas that is difficult to drill. Thirty States have nonconventional fuel production potential.

In my State of New Mexico, the coalbed methane, alone, could double New Mexico's natural gas reserves. We also have an abundance of tight sands gas. Because of this tremendous resource I introduced the first bill last Congress to restore the tight sands credit when a Supreme Court decision rendered the credit inoperable. Earlier in this Congress, S. 425 and S. 2288 were introduced to restore the tight sands credit and to extend the credit.

I am very pleased that the package also includes a 15-percent investment tax credit for enhanced oil recovery.

The United States has produced more oil than any other nation in history, but unless new technologies are rapidly installed, the United States will leave behind twice as much in known reservoirs as it has ever produced from them. We are leaving behind 70 percent of the oil when we drain proven fields using primary oil recovery techniques.

Of this massive 340 billion barrel resources, as much as 76 billion barrels could be made economically producible using technologies that we have developed, or that could be developed, within the next decade.

Economic recovery of this oil presupposes use of existing wells, but the accelerating rate of well plugging could eliminate access to as much as two-thirds of the remaining oil by 1995.

EOR clearly has a significant but time-sensitive potential. To maximize it, it is essential to maintain the stripper well production. This package addresses both types of production.

Last year I introduced S. 828, the Enhanced Oil Recovery Tax Act. It was cosponsored by Senators BOREN, DOLE, NICKLES, WALLOP, JOHNSTON, BINGAMAN, GARN, MCCLURE, GRAMM, BUMPERS, COCHRAN, BURDICK, LOTT, HATCH, STEVENS, and CONRAD. This bill was the basis for the EOR provisions contained in this package.

The approach taken in the original bill was to combine the 10-percent tax credit with a depletion allowance. The incentives were limited to "pay back," that is the point at which a project has produced and sold enough oil to recoup all investments and operating costs associated with the EOR production.

For as little as 35 cents per barrel, this bill would have added as much as 10 billion barrels of oil to our domestic reserves over the life of the EOR projects.

You never get to enact provisions exactly as you wish. And tax policy becomes even more difficult when it is revenue-estimate driven. I would have preferred a combination tax credit and depletion allowance for EOR. However, I fully support the EOR provisions in this package. They are very significant and will add to our energy security. I believe the Finance Committee should be commended for making the hard decisions necessary to go forward with this package.

Under the provisions included in this reconciliation bill, the 15-percent EOR credit would apply to tangible property which is an integral part of the project; intangible drilling and development costs and the cost of tertiary injectants.

The 15-percent investment tax credit is price sensitive and phases out when the price of oil is in the $28 to $34 range. During periods of high prices the incentive is not available. However, the incentive serves as a safety net if prices fall. Since EOR projects are long-term investments, this safety net is very important to encourage producers to financially commit to EOR projects. This is especially important in uncertain times with volatile oil prices such as we find ourselves now.

This bill includes important incentives for strippers. It repeals the transfer rule for properties transferred after October 12, 1990. The transfer rule is a disincentive for independents to take over properties owned by integrated producers. It is a disincentive that denies an independent producer percentage depletion on properties that have changed ownership if the chain of title runs from an integrated producer to an independent producer. Since independents often have lower operating costs, it makes economic sense for an independent to develop or maintain a property. However, the current law the Tax Code was penalizing this economic fact of life. I am very pleased this bill repeals this disincentive.

The bill also increases the net income limitation from 50 percent to 100 percent. Increasing the income limitation to 100 percent would double the amount of percentage depletion that an independent could take on a property.

The variable price floor is an insurance policy against lower prices and provides percentage depletion up to 25 percent for marginal wells under low price scenarios—$10 to $19 dollars per barrel. For every $1 the price of oil drops below $20 per barrel, the current law 15-percent percentage depletion increases by 1 percent.

At the same time that we are maintaining the production we have, and are taking steps to encourage additional production from wells already drilled using enhanced oil recovery techniques, we also need to explore for new reserves.

This bill provides a 15-percent exploratory drilling credit.

The bill also provides some breathing space for producers who are in the alternative minimum tax situation.

Mr. President, I ask unanimous consent that a factsheet on the energy security package be printed in the RECORD. I also ask that several tables listing States where this production comes from be printed in the RECORD following my remarks. And last, I ask that an Op-Ed piece dealing with enhanced oil recovery be printed in the RECORD.

Thank you, Mr. President.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE ENERGY SECURITY PACKAGE

CURRENT DOMESTIC ENERGY SITUATION

U.S. dependence on foreign oil has risen substantially in the past five years. In 1985, approximately one-quarter of our oil was imported. Today, we are importing virtually one-half of our oil, with trends pointing to further future increases.

This dependence on foreign oil is a dangerous dependence; the current situation in the Persian Gulf makes this clear. But beyond that, it translates into an economic dependence that creates a tremendous burden on the economy. Last year, for example, energy imports totaled (on a net basis) $43 billion—comparable to 40 percent of our $108 billion net merchandise trade deficit.

U.S. oil production has plunged to its lowest level in 28 years, and domestic exploratory drilling for oil has declined by almost 60 percent in the last 5 years. The number of domestic oil producers has fallen from some 13,000 to less than 5,000 over the last decade.

In addition, 1989 was the fourth consecutive year in which the U.S. rig count average fell below 900. This compares with the average of 1,800 rigs during the past 46 years.

In 1989, domestic crude oil production had its steepest annual decline in history: it declined 553,000 barrels per day. At the same

time, total petroleum imports reached a ten-year high, averaging nearly eight million barrels per day.

ENERGY PACKAGE—GENERAL

This energy security package is designed to be judiciously frugal under high price scenarios. Except for a couple of rule changes, there are no oil and gas incentives if $40 oil continues. Most of the tax benefits included in the package phase-out when prices exceed $28 and are completely phased-out at $34 per barrel.

The package is also prudently effective in low price scenarios. The variable price floor for marginal production doesn't trigger until the price of oil drops below $20 per barrel.

The package could increase U.S. domestic oil and gas production by as much as a half million barrels per day. A half million barrels of additional production is equivalent to ¾ of what the U.S. previously imported from Iraq.

More importantly, the package has the potential to add substantially to domestic energy reserves. It has been estimated that the package could increase domestic reserves by as much as 8.6 billion barrels, an increase in domestic oil and gas reserves of one-third. This is more than the total amount of crude oil discovered over the past decade.

Adding to U.S. domestic production by these magnitudes will have an impact at the gas pump.

The cost of this package is $3.5 billion over 5 years. Operation Desert Shield has cost approximately $3.5 billion in just 2 and one half months.

Some members have asked why, this Deficit Reduction package should include tax incentives for domestic production of oil and gas.

Oil prices have a very direct impact on the economy. It affects potential growth and inflation. It is a significant factor in both our federal and trade deficit. This package is one step toward addressing this inescapable relationship.

Mr. Alan Greenspan, the Fed's chairman, told Congress on September 19, that a sustained oil price of $30 would knock one percentage point off America's GNP growth in 1991. Greenspan also stated that a $30 oil price would add 1½ to 2 percentage points to inflation in 1991.

One percent less growth in 1991 would increase the federal deficit by $6 billion in the first year and continue to have a ripple effect for several years. It could add as much as $79 billion in total to our national debt over the five year period.

COMPONENTS OF THE PACKAGE

Extension of the Section 29 credit for nonconventional fuels production, including tight sands gas: This tax credit has the potential of expanding substantially the reserves of natural gas in the United States. It has been estimated that an extension of the credit could add 500 billion cubic feet of natural gas a year by the year 2000. This could reduce our need for imported oil by about 230,000 barrels of oil equivalent per day. Also, there is tight sands potential in 20 states (with current production in 16 states); thus the credit would benefit a wider number of regions (see attached table).

Incentives to encourage the use of enhanced oil recovery: The potential reserve additions available through enhanced oil recovery (EOR) are quite substantial: conventional oil recovery techniques leave 65% to 70% of the oil in the ground, and it is estimated that recovery of only 10% of the remaining in-place oil through EOR would more than double the nation's proven reserves.

Provisions that would reduce the abandonment of marginal properties: Nearly three-quarters of all producing oil wells in the U.S. are stripper wells. Strippers account for 15 percent of total U.S. crude oil production. One barrel of oil meets the average daily needs of about six families. Stripper wells fulfill the oil needs of about 7.5 million U.S. households. Stripper well abandonments have been reported to have increased from 7,000 in 1979 to over 17,000 in 1988. As a matter of domestic energy security, it is important to stop abandonment of marginal wells: once a well is abandoned, the oil is normally lost forever, and enhanced oil recovery on the property becomes less likely. The package provides several provisions which would maximize the production from marginal properties and reduce the abandonment of marginal wells.

Exploratory drilling credits: This would encourage the addition of substantial new domestic reserves through increased exploratory drilling activities. In recent years, exploratory drilling has declined sharply—almost 60 percent over the last five years. The number of independent oil producers, who have historically drilled the majority of exploratory wells, have fallen from nearly 13,000 in the early 1980's to less than 5,000 by 1989. To further encourage reserve-increasing drilling, a limited reduction in the intangible drilling cost minimum tax preference is also provided.

Extension of the alcohol fuels credits and gas tax exemption: To encourage the use of alternative fuels. In addition, provisions are modified to include a special credit and exemption for small producers.

STATES AFFECTED BY OIL PRODUCTION INCENTIVES—OCTOBER 17, 1990

Enhanced oil recovery:

Alabama, Alaska, Arkansas, California, Colorado, Florida, Illinois, Indiana, Kentucky, Kansas, Louisiana, Michigan, Mississippi, Montana, Nebraska, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Utah, West Virginia, and Wyoming.

Stripper wells:

Alabama, Arizona, Arkansas, California, Colorado, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Montana, Nebraska, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, and Wyoming.

STATES AFFECTED BY NATURAL GAS PRODUCTION INCENTIVES—OCTOBER 17, 1990

Tight Sands Formation:

Alabama, Alaska, Arkansas, Colorado, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Utah, Virginia, West Virginia, and Wyoming.

Coal Seam Methane Gas:

Alabama, Alaska, Arizona, Arkansas, California, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Mississippi, Montana, Nebraska, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Utah, Virginia, West Virginia, Washington, and Wyoming.

Devonian Shale:

Indiana, Illinois, Kentucky, Michigan, New York, Ohio, Pennsylvania, and West Virginia.

[From the Albuquerque Journal, July 31, 1989]

OIL INCENTIVE PROMISES TREBLE DIVIDENDS

(By Senator Pete Domenici)

America, with its boom and bust mentality, has forgotten about the energy crises. Few Americans realize that our dependence on imported energy has risen to more than 40 percent and is predicted to reach 50 percent in the near future. With our nuclear industry in intensive care, we are running out of options.

Nevertheless, we are at least left with the option of doing better with what we have—namely increasing production from existing oil wells through enhanced recovery techniques. We could get from 25 to 33 percent in additional production from many wells.

With a carefully targeted federal tax incentive-style investment of 35 cents a barrel, enhanced oil recovery could add nearly 12 billion barrels to the U.S. reserve base.

At the same time, we could reduce the risk of tanker spills along our coastline and on the high seas. Instead, we are importing 24 billion barrels per year that is transported by tanker—3,400 tanker shipments annually.

If the risk of tanker spills is too high when the U.S. is experiencing a 40 percent foreign oil dependence, the future only holds graver risks because dependence is continuing to grow.

If the risks of overdependence on foreign oil and damage to the environment are not reason enough to encourage enhanced recovery techniques, another argument is the effect oil imports have on our trade deficit.

Last year, the gap between what we produced and what we consumed accounted for $35.2 billion or 29 percent of our trade deficit. Experts predict that within 10 years we could have an annual oil import bill ranging from $150 billion to $200 billion. That amount is greater than our total trade deficit today, raising serious questions about our ability to reduce the deficit.

The Department of Energy has estimated that if the Enhanced Oil Recovery Act of 1989 were enacted, we could reduce the deficit as much as $50 for every dollar the Treasury forgoes through tax incentives for enhanced recovery.

Conventional well-drilling techniques leave behind as much as 70 percent of the oil. We know how to extract much of the remaining oil. Injecting steam or carbon dioxide primes the pump so that more oil flows from each well.

Without this advanced technology, we will continue to face the same problems that plague our energy industry today: low and unpredictable prices, and ineffective tax policy. The combination yields inadequate rates of return when companies analyze enhanced recovery projects, so oil fields are being abandoned long before the oil has been depleted.

Once a well is abandoned, enhanced recovery becomes much more expensive, if not impossible. In 1987, 18,241 wells were abandoned—almost three times the number closed down in 1980. The trend is clear. The longer we wait, the fewer wells we will have to enhance.

We can't do anything about the unpredictability of OPEC, but it is time for the tax writing committees to examine policy on oil and gas production.

Much of our energy tax policy was crafted in response to the oil embargoes and price spikes of the 1970s. Such policy is not valid during times of surplus and low prices.

Over the past 70 years, and particularly the last 20, tax laws have chipped away at and eliminated many of the safeguards necessary to make sure we only tax "income" earned from the extraction of oil and gas. Instead, I believe our federal tax laws are taxing the energy industry's capital. We are cannibalizing the capital structure of this country's resource base. This is bad tax policy and terrible energy policy.

The Enhanced Oil Recovery Tax Act of 1989 is basically a tax credit and depletion allowance for enhanced recovery projects. To make the incentives efficient, I would make them available only for the "incremental oil"—oil that would not be produced except for the enhanced recovery techniques. I would limit the capital recovery incentives so that once a producer sold enough oil to recoup his investment, the incentives would be eliminated.

Greater energy independence is reason enough to enact this law. Combined with environmental protection and trade deficit reduction, enhanced oil recovery can make a significant step for America.

Mr. KERRY. Mr. President, all of us recognize the critical importance of reducing the budget deficit and moving as rapidly as possible toward a balanced Federal budget. We all know that doing so requires tough choices. Since I came to the Senate in 1985, I have done everything I can to move us in that direction. I was the first Democratic Senator from the Northeast to cosponsor the Gramm-Rudman-Hollings bill as an important step in that direction. I have voted against budget resolutions, reconciliation bills, and appropriations measures over the years when I believed that they were inconsistent with achieving real deficit reduction and did not reflect the values and priorities of the people of Massachusetts. I have always been willing to make the tough choices on deficit reduction, but I have always refused to make the wrong choices for the people of Massachusetts.

In September, when after months of negotiations with the administration produced no budget summit agreement, I urged our leaders to abandon that process and to come to the floors of the House and Senate and begin to debate and decide on our priorities in the forum designed in our Constitution for this to occur. My frustration was echoed on both sides of the aisle, with the minority leader publicly suggesting that the White House negotiators appeared to be in no hurry.

Finally, with time running out, a summit agreement was reached, brought to the House floor and defeated by a majority vote of Republicans and Democrats alike. That flawed agreement led to the speedy passage of a budget resolution which, while more vague than the original proposal, still failed to meet the criteria by which I must judge any Federal budget. Therefore, I voted against it.

As I indicated at that time, I must apply three criteria to any budget in making my decision:

First, it must be fair to the working people of Massachusetts. It must not discriminate against our region of the country. It must not continue or increase the burden on the middle-class families of our State and unfairly benefit those with substantial wealth.

Second, it must be consistent with the expansion of the Massachusetts economy and recovery from the serious recession that we are currently in.

Third, it must have real, substantial multiyear reductions and abandon the recent practice of phony budgets with rosy economic assumptions and gimmicky short-term measures predominating.

Unfortunately, the budget resolution which came before the Senate failed to meet these criteria and, therefore, I voted against it.

First, the budget resolution increased taxes too much while cutting spending too little and held little prospect for reducing waste and mismanagement. More specifically, it required increased tax revenues of approximately $135 billion, with no assurance that low- and middle-class families would not be forced to pay the heaviest share of this burden. It also included spending reductions in defense that were much too small. In fact, if the resolution had accepted the Senate or House Budget Committee's recommended defense cuts, we could have reduced the proposed tax increase by from $26 billion to $62 billion. Finally, larger reductions in excessive subsidies on agriculture, to businesses conducted on public lands, and in loopholes for oil and gas and other businesses could have produced savings and reduced the need to raise taxes.

I have maintained that I would only consider tax increases as a last resort, after spending had been squeezed hard, loopholes had been plugged and mismanagement had been dramatically reduced. Obviously, this has not occurred, and the budget resolution I opposed would not move us sufficiently in that direction.

Second, the reductions required by the budget resolution in the entitlement area were very likely to produce major cuts in Medicare and in essential benefit programs for our veterans. It is simply unfair to exact an excessive share of the pain of deficit reduction from the elderly, many struggling to make ends meet on fixed incomes, and veterans who deserve our gratitude, not the budget axe.

Third, while many of the details were left to be filled in by the congressional committees, the President indicated that he would push for a final budget that closely reflected the ill-fated and ill-advised original budget agreement. Since that agreement was unfair to Massachusetts and our working families, I was highly skeptical of the final product of such a process.

The budget resolution was passed despite my opposition. It created the framework within which the Senate produced the reconciliation bill that has been presented to us today. However, as I suspected, this reconciliation bill could not rise above and overcome the fundamental flaws that afflicted the framework document, the budget resolution. It is much like building a house. If the blueprint is defective, the chances are slim that the house produced will be satisfactory, and that is the case with this reconciliation bill.

It does not reduce excessive spending in defense, on agriculture and in other areas sufficiently.

It does not close unnecessary tax loopholes adequately.

It does not reduce waste and mismanagement as it should.

It does not distribute the burden of taxation as fairly as it should by asking more of those that have great wealth and less of those who already pay a great deal when compared to their income.

It does not fairly impose the burden of reduction on all States and regions of this country.

It does not adequately reflect the special needs and living requirements of the elderly and our veterans.

As a result, it does not pass the test of fairness to the people of Massachusetts, their values and priorities that I must apply in reaching my decision on the reconciliation bill. I will, therefore, vote against it.

I want to reduce the deficit. I have been willing, as I indicated earlier, to make the "tough choices," but the reconciliation bill makes the "wrong choices" for Massachusetts and the Nation.

I understand how hard it is to produce a budget that we all can support.

I understand that our leaders had to fashion a proposal that they believed could pass.

I commend them for the difficult and thankless task to which they have devoted themselves so generously.

I believe that they have produced a better budget than what was produced in the budget summit. For this I am grateful.

For example, I am pleased that the Medicare costs to our elderly have been reduced somewhat.

I am pleased that some modest improvement in progressivity is included compared to the original budget agreement.

I am pleased with the expansion of the earned income tax credit.

I am pleased with the child health care package.

And I am pleased that the 2-cent tax on heating oil has been discarded.

And there are a few other provisions that are improvements. I am pleased that I was able to help change these provisions.

But, better just is not good enough. This reconciliation bill is seriously flawed.

For example, the tax increases proposed remain excessive and regressive. Excessive reliance on the gas tax, for instance, without increasing taxes significantly on the very wealthy leaves us with a tax system that is unfair. This is a fundamental problem.

The Medicare provisions would increase the deductible from $75 to $150 in 1991 and other costs to the elderly for this health care would also increase. The veterans cuts remain excessive and unfair.

The mandating of Medicare for State and local government employees hits Massachusetts governments especially hard, as it does their workers. It would cost our State and local governments $150 million each year and our workers a similar amount.

The Medicare provisions would add a significant burden to hospitals in my State already under serious financial stress and reduce resources to Massachusetts teaching hospitals by approximately $28 million.

The tax incentives provided for oil and gas production are excessive and unnecessary, particularly in the period of rapid run-ups in oil prices.

The failure of this budget to include a targeted incentive for investment in small, new ventures—the source of important job and income growth in the Nation—and desperately needed in Massachusetts is a major failing.

I also believe that the Commerce Committee's decision to require the Coast Guard to begin to charge user fees, without any specific requirement for equity in the fee structure is unwise and, potentially very unfair.

And these are only a few of the litany of problems I could recite that make it impossible for me to support this measure.

During our debate on this bill I have also tried to make it better. I have supported amendments to reduce regressive gasoline taxes, to reduce unfair Medicare cuts, and to pay for these cuts by increasing taxes on the wealthiest of our citizens. I have voted to take Social Security off-budget to protect the integrity of the trust fund and reduce its use of artificially suggesting that the Federal deficit is less than it really is. And I have supported several other amendments intended to make this measure more fair. But despite these efforts, this reconciliation bill simply does not meet the criteria that I must apply on behalf of the people of my State.

I hope and pray that the final product produced in conference with the House and in negotiations with the President will be a big improvement over the bill before us tonight. But, I am a realist. I know that the die was cast with passage of the budget resolution. And while I can hope for a miracle, and work for change, I am not optimistic that we will ultimately enact a budget with which I am pleased. But I intend to do everything I can to make it better. For while better may not be good enough for my support, it is preferable to the current reconciliation bill which I must oppose.

Mr. PELL. Mr. President, I am opposed to the budget plan before the Senate and will vote against it.

There are three main problems with this deficit reduction proposal:

It relies too much on increased taxes and places too much of the tax burden on the elderly and on the average taxpayer and family.

It fails to do enough to control spending.

It poses a very real danger to our economy at a time when we are sliding toward a recession.

During consideration of this bill in the Senate I voted to eliminate the immediate increase in gasoline excise taxes. I voted to reduce or eliminate the increased costs that would be imposed on the elderly in the Medicare program. And I voted to shift the burden of taxes from middle-income Americans to the wealthy. All of those proposed changes were defeated.

We should remember that the objectives of this budget plan—to reduce the deficit in 1991 by $40 billion and over 5 years by a total of $500 billion—were established in negotiations with the White House months ago. Since that time the evidence has grown steadily that our national economy is slowing and is in danger of sliding into an actual recession.

It is just plain bad economics to impose a heavy tax increase at a time when the economy is slowing down. Indeed, most economists agree that at a time like this it would be best to reduce taxes. With the size of our Federal deficit, we probably cannot reduce taxes, but we should certainly think twice about imposing heavy new tax burdens.

For all of these reasons I am opposed to the budget plan presented to us in the Senate.

Mr. DIXON. Mr. President, it is fashionable in this town to talk about crisis. In fact, crisis may be one of Washington's most overused words. Issues don't seem to count unless they are "crisis" issues. So we are here today to deal with the budget crisis, the deficit crisis, and the national debt crisis.

But are we really facing a crisis? Many people do not seem to think so. After all, our national debt has tripled in the last 10 years. We have run huge deficits, and this year's deficit will likely be the largest in history. Yet the American economy has grown steadily since 1982, and many of the catastrophic effects of ever-increasing budget deficits that were predicted have not yet come to pass. Many voters, therefore, see this as a phony crisis, and they think Congress and the President have created this artificial event without good reason.

I have to agree that crisis is probably not the word to describe our budget problems, but I also have to say that the problems are very real. It is true that the world would not end if we did not enact this bill this week. It is also true that we have to act, that we are running out of time to act, that the consequences of our past failure to act are growing, and that these consequences affect all Americans.

Our current national debt is over $3.2 trillion. Now, that is a very, very large number. It is also a number that is without any real meaning; numbers that big are just too abstract. Two comparisons, however, may help put that number into some kind of perspective.

First, think of the debt compared to American savings. Paying off the national debt today would require wiping out every checking account, every savings account, every certificate of deposit, and every other account held by every single American and by every single American business at all of our nation's banks, savings and loans, and credit unions—Every single dollar.

Second, think of the debt compared to the Government's income. The U.S. Government has a lot of income—over $1 trillion this year. Our debt, though, is over three times our income. Now, the general rule of thumb used by mortgage lenders is that the maximum mortgage a family can get is about 2½ to 3 times their income. Our national debt exceeds that level, which means that, if you think of the United States as a single-family home, we do not have a large enough income to be able to afford it.

What makes the situation even worse is that much of our debt is not long-term mortgage-like debt. Instead, a large part of it is like credit card debt—very short-term debt.

And how are we paying this short-term debt? The answer is simple—by issuing more debt. This is like a family using its mastercard to make the minimum monthly payment on the visa bill.

Americans know that if they use one credit card to make the monthly payment on another one, they are seriously financially overextended. An overextended credit card user can keep the house of cards from collapsing for a while, but eventually, the credit cards max out, and the ability to keep borrowing evaporates.

The U.S. Government is approaching that point. And while we have advantages that the ordinary American

does not have—we can print money to pay the debt—the consequences facing the country are not less severe than the consequences facing individual borrowers who drown themselves in debt.

Individuals who cannot pay their debts are forced into bankruptcy. They lose the ability to borrow, and bankruptcy usually means that their standard of living declines precipitously.

Countries are somewhat different. They can go on inflating the currency—paying off debts with cheap, inflated dollars—and by offering higher and higher interest rates. Even countries, however, can eventually have trouble borrowing. A number of overextended Third World countries have lost access to the international lending community. The United States is not to that point, but it is worth noting that Japan, which has been the main foreign purchaser of United States debt over the last several years, is dramatically cutting back its lending to the United States. And while that may sound satisfying to U.S. economic nationalists, it is not good for our economy.

That leads me to my next point, Mr. President, which is that this massive debt load has consequences that affect all Americans.

The Government's huge and growing borrowing demand has resulted in interest rates that are very high by historical standards. Interest rates declined in the early 1980's as the Federal Reserve Board wrung inflation out of the economy. However, real interest rates, that is, interest rates adjusted for inflation, did not decline. What that means is that borrowing became more expensive. What that means, to use just one concrete example, is that homebuyers have had to buy smaller homes than they otherwise would, because money that could have been spent on more house was being spent on interest instead.

The debt has also hurt our economy by using up so much of our savings pool. Money that should have gone into productive investments went instead into Government bonds. The result of that is lower growth and fewer jobs.

Many Americans—in all likelihood, most Americans—think they are better off now than they were in the 1970's. It is true that in some ways we are better off. Inflation, for example, is clearly lower. Our economy, however, grew faster, on average in the muchmaligned 1970's than it did in the last 10 years. Productivity growth also declined in the last 10 years. What these abstractions mean is that the average American is worse off. Improvement in the standard of living for the average American slowed, and for many Americans, stopped altogether. For more and more Americans, the only way to make ends meet was to have two wage-earner families. And for a growing number of young families, the American dream of home ownership seemed to be drifting out of reach.

All of these problems are related to our failure to deal with the Federal budget deficits, but they are not the only consequences. We also need to consider the things debt has prevented our Nation from buying, like: cleaner air and water; hazardous waste cleanup; up-to-date, repaired roads and bridges; health care assistance for Americans that need it; child care programs for families with both parents working; and better education assistance.

In short, deficits have hurt and are hurting every American in many ways. Not addressing this issue simply increases the pain now, and will make the pain even greater when we do eventually act—and if we do not act voluntarily, we will eventually be forced to act. We therefore must find a way to get our deficits under control.

Some people argue, Mr. President, that the solution to the deficit problem is simple—cut spending. There are a number of things to say about that solution. The first is that Congress has cut spending.

I could give many, many examples of program cuts, but let me mention just two. I serve on the banking, housing, and Urban Affairs Committee. The two largest spending programs under that committee's jurisdiction are mass transit and housing. In my time in the Senate, mass transit spending has been cut by over 40 percent, and Federal housing programs have been cut by roughly 80 percent. These are not cuts from some theoretical baseline that makes assumptions involving continuing program growth. These are the cuts from the actual 1980 spending levels—cuts of billions and billions of dollars.

A second answer involves the magnitude of spending cuts involved. If, for example, we attempted to balance the budget this year by simply cutting spending, we would have to eliminate:

The Department of Agriculture including the basic price support programs, food stamps, and every other agriculture and nutrition program;

The Department of Commerce, including the weather bureau;

The Department of Education;

The Department of Energy, including the strategic petroleum reserve;

The Department of the Interior;

The Department of Justice, including the FBI and all Federal prisons;

The Department of Labor;

The Department of State;

The Department of Transportation, including all air traffic controllers, all highway and transit spending, and the Coast Guard;

The Department of Housing and Urban Development;

The Environmental Protection Agency;

NASA;

Customs and the Bureau of Alcohol, Tobacco and Firearms;

The Small Business Administration; and

All of the so-called alphabet agencies, including the CIA, the Federal Trade Commission, the Financial Regulators, the Federal Communications Commission and numerous other agencies.

Even this group of cuts only balances the budget if there are also substantial cuts in the defense budget. And even with the Defense cuts, the budget is not balanced if Social Security taxes and spending are taken out of the budget, or if the cost of closing insolvent savings and loans is included.

Yet a third answer is that there are some things we cannot cut and some things we should not cut. We cannot, for example, cut interest, the most rapidly growing part of our budget. We are currently spending roughly $250 billion on interest alone, if the interest paid to Social Security and the other trust funds is included. This is about 50 per cent of the entire amount the Federal Government receives from the individual income tax.

Think of that! Half of every Americans' income taxes goes to paying interest, and we don't have any choice about interest. Our only choice is to pay it. And the only real way to reduce it is to reduce Federal debt.

While we must pay interest, we must not cut Social Security. Social Security is a compact with the American people. Cutting Social Security benefits would mean breaking that compact, and that is something I know the Congress will not do. I know the American people would never want us to do such a thing.

Further spending cuts can be accomplished, but the truth is that, if the costs like interest that must be paid are exempted, and programs like Social Security that should be exempted are exempted, the budget cannot be balanced via spending cuts alone in any reasonable time frame without causing terrible pain to the American economy, and without terminating many programs and activities that are critically important to Americans.

The only way to reduce Federal deficits that will work, therefore, is a gradual package of spending cuts and revenue increases. That is what the budget summit tried to do. That is what the reconciliation package before the Senate now tries to do.

I know raising taxes is painful, just as I know that going to a debt councilor or a bankruptcy judge is painful. I also know, however, that its like going to the dentist—waiting makes things worse.

Though it may be painful to act now, it will be much more painful not to act. The deeper in the hole we let ourselves get, the greater the sacrifice that will eventually be required to dig ourselves out.

If any further demonstration is needed that some revenue must be part of any serious deficit reduction package, it was provided during consideration of the reconciliation bill by the House of Representatives. The House Republicans attempted to offer an amendment that basically left out any additional revenues. Their amendment was declared out of order, however, because it did not reduce deficits by the amount the President requested. Even the House Republicans could not produce a 5-year package of spending cuts alone that they thought was workable that reduces deficits by $40 billion in 1991 and $500 billion over 5 years, which is what Congress and the President have committed to do.

Therefore, Mr. President, what we have before us today is a package that contains both spending cuts and some additional revenues. There is a lot that I do not like about this package. Even its most ardent proponents recognize that it has serious flaws. I know, however, that it is the only package that has any hope of passing this body.

I will therefore vote to send this legislation to conference, in the hope that the package that emerges from the conference with the House of Representatives will be fair and equitable to working Americans and disadvantaged Americans, and that the final legislation will ensure that our most well-off citizens carry their just share of the burdens required.

Let me conclude by restating what I said at the outset. While this may not be a deficit crisis yet, unless we start to act now, we will face one in the future. Our past failures to get the deficit under control have hurt every American and have damaged the American economy. Solving the problem entails hard choices and real pain. Anyone who has been living beyond his or her means by borrowing knows there is a day of reckoning, and that dealing with the debt means real financial pain.

We are rapidly approaching that day of reckoning. The only way to avoid very serious pain then is to begin to endure a little pain now. That is why enactment of a deficit reduction package is so important. That is why we must act.

We need to act in a manner that is as fair and as equitable as possible. We need to act in a way that minimizes any potential risks to our economy. But we must act. There really is no other choice.

SUPERFUND

Mr. DURENBERGER. Mr. President I had intended to offer an amendment that would have extended for 5 years the current tax levied to finance the Superfund hazardous waste cleanup program. However, I know that the leadership will not be able to support this amendment because, like many other amendments, it could violate the germaneness provisions of the Budget Act.

Mr. President, I have supported the leadership in trying to keep this reconciliation bill clean because the need to get this bill enacted into law is critical for the future health of this economy. However, I want to express my concern about what will happen to the Superfund cleanup program unless the Superfund tax is extended as soon as possible.

If Congress does not extend the Superfund tax at the beginning of next year, EPA program cleanup operations are sure to be slowed, and in some cases delayed for many months.

I have asked EPA for some figures on the financial status of Superfund. The agency's numbers show that almost all of the $1.5 billion in tax revenue raised each year will be used up by the end of the 1991 fiscal year. At that time, there will be less than a $30 million balance in the trust.

If the Superfund tax is not extended, early next year EPA will start making short-term contingency plans to husband scarce resources. They will not be able to enter into any long-term cleanup contracts. Their budgeting and planning for future activities will be severely hampered.

The last time that we sought to reauthorize Superfund, it took us three years to get the job done. And Superfund almost collapsed for the lack of revenues and appropriations. Cleanups were delayed; contracts were threatened, and Senior staff were looking for new jobs. Work that was in the pipeline literally stopped because of the protracted controversy over funding. Some projects took 18 months to resume. And because contracts could not be signed, relationships with contractors were severely strained. What's more, responsible parties withheld settling with EPA because they thought they could get a legislative reprieve from liability, with the result that cleanup work was further delayed.

Mr. President, I hope we do not repeat the mistakes we made in 1986. We need an extension of the Superfund and I hope that the leadership will make this a top priority, at the earliest possible time, for the next Congress.

Mr. BENTSEN, Mr. President, I appreciate the distinguished Senator's concern about the ability of the Environmental Protection Agency to fulfill its obligations next year under the Superfund Law. I have previously indicated my strong support for continued funding of the Superfund program and I am committed to moving legislation early next year that ensures no interruption of the cleanup program.

Mr. SIMPSON. Mr. President, I feel compelled to rise and detail my opposition to this proposal—even though I know that it is undoubtedly one big political winner—because I want it known exactly what we are talking about here. On the surface, what could make more sense than something like this—"Tax the rich, they've got the money, those roitten bums. They can bail us out of our predicament. Why should any of the rest of us suffer?"

There is a very inescapable reason why the rest of us are going to have to suffer, and it is called the national debt. Has anyone missed that point? Remember that it is $3½ trillion that we have to repay; $196 billion in interest is what we expect to pay in this coming fiscal year alone?

Does anyone here actually believe that the Nation's problem is solely one of insufficient taxation of the rich? I have been down here before with all of the facts and figures showing that total confiscation of all of the wealth of all of the people earning more than $100,000 would run the country for about 4½ months. Let's here make a more relevant comparison, directly pertaining to the proposal presented by the Senator from Iowa. That proposal is to apply a 10 percent surtax on taxable income over $1 million, why stop there? Why not just take it all if that is the problem?

Let's take a look at that—let's take all of the money of those evil millionaires, and multiply our surcharge intake tenfold—instead of $7.6 billion, we'll take all of that money in excess of an income of $1 million and bring in $76 billion—and that assumes, of course, that nothing changes—that even though we're going to take all of that money past $1 million, all of those people will continue to work and earn just as they are expected to now, hardly realistic! What a joke.

So how far have we then come? Have we paid off our debt? Not exactly. We would have enough revenue to run the Government for 21 days, 3 weeks! So hear that, that is not going to help us avoid having to make those tough choices in other parts of the budget.

If we really intend to get the deficit under control, we are going to have to face facts about where our money is going, 48 percent of our spending is now going into some form of entitlements, and that share is rising rapidly.

I want that so clearly understood, that is where the money is. And this is crucial, that spending all has increases built right into the law. Prior to the budget summit, the Federal Government planned to increase its spending on Medicare at a rate of 11.6 percent

per year, the summit agreement would have trimmed that to 10 percent.

Only in Washington is a 10 percent increase in annual spending called a cut. But we do call it a cut and so the media has a field day, blasting our victimization of the elderly and demanding that the rich pay their fair share so that that does not have to happen. But something does have to happen, there are rich elderly too and they now can have 75 percent of the Medicare payments subsidized by Joe and Josie Sixpack. Forget taxing the rich, some of that money is paying the rich. You cannot balance a budget by refusing to touch spending which is going up at twice the rate of inflation. No amount of taxation can keep up with that. You can't stay even, much less achieve deficit reduction.

Given that situation it is absolutely amazing that entitlements were sheltered to the degree that they were in the budget summit, they accounted for only 23.8 percent of the deficit reduction, despite being 48 percent of our current spending and that, I remind my colleagues, would have only been a $119 billion savings from planned increases, not a cut in any honest sense.

This is what we have before us on Medicare, $49 billion in savings over 5 years and $32 billion of that is completely in the area of reductions to health care providers, not to recipients. Cuts pertaining to beneficiaries make up only $17 billion of that amount, slightly more than one-third. How would beneficiaries actually be affected? Part b premiums now stand to go up by an amount of zero in 1991; zero in 1992; $3.20 in 1993; and a total of $9.80 by 1995—$9.80 over 5 years. Just for comparison, assume you get $5,000 a year annually from Social Security. If you received only a 3-percent cost-of-living adjustment every year for 5 years, your annual income would have increased by nearly $800 by 1995. Your Medicare premiums part b, voluntary Medicare premiums, would have gone up by only $9.80.

In addition, Medicare part b deductibles would be increased from $75, where it has been since 1982, to $150. That is what is being proposed. Compare that to what our grandchildren will face if we do not cut into entitlements. We in Congress have taken away $757 billion in annual spending under Gramm-Rudman-Hollings law and we say you can't touch this, even in the event of a sequester. Well, just what are we going to touch? This amendment would remove a cut and add a tax, a tax on the rich.

I want to ask my colleagues who they think the rich are? We're down here speaking about how Donald Trump and Leona Helmsley need to pay their fair share unless, presumably, they use Medicare. At least those rich are not paid their salaries from the vaults of the Federal Treasury. On February 1, of this year, the Senate passed a salary increase that raised our annual pay to $98,400. That was up from $89,500 where we had raised it in March of 1987. Prior to that, Senate salaries were $77,400 a year—and given the pressures on the Federal budget I think that is quite a plenty. And I proved that by returning my pay increases every year to the U.S. Treasury, over $20,000 in this year alone. I write that check personally and it goes right back into the Treasury of the U.S. Government.

The people right here on this floor of the Senate complaining about the rich are being paid $98,400 every year by, yes, none other than Joe and Josie Sixpack. How many of those people out there in the real world do you think are earning $98,400 a year? Only about 2 percent of all of the individuals in the United States have incomes as high as $75,000 and that includes salary, government benefits, or any other income, only 2 percent. That sounds like a pretty good definition of the rich to me, the top 2 percent of America's salary earners, we are earning what that group was earning before our salary hikes. But we passed those through and I accept responsibility for my part in that process but I didn't take the bucks. Now that is in the pot of expenditures that we can't touch. That big money machine which is the U.S. Government is taxing Joe Sixpack and paying out that money to someone else, without regard for any demonstrated need. All of those expenses are untouchable.

It is time that they ceased to be untouchable. We made some very slight progress with this budget package in slowing the snowballing of entitlements expenses. This is not the time to now undo even that small progress. It is time, however, to stop kidding the American people, to stop pretending that our debt can be paid without reforming the entitlements system in some way, means-testing on COLA's or however else. I want to ask my colleagues one question, What do they think is going to happen if we have increases in medicare expenses of 11.6 percent a year forever? Similar increases in Social Security and other entitlements programs? Does anyone here on this floor really believe that we can just let that juggernaut keep rolling along forever? What is their answer to that terrible problem? Tax the rich if we can't even effect a modest deceleration of entitlements spending, I can tell you with absolute certainty that we will not, no never, solve our deficit problem, whether we raise taxes or not. What are we doing to ourselves and more importantly to the people who sent us here? That is the real and only question. I strongly oppose this amendment and I respectfully ask my colleagues to do the same.

DISALLOWANCE OF DEDUCTIONS FOR INTEREST ON TAX DEFICIENCIES PROVISION

Mr. SYMMS. Mr. President, the bill before the Senate today contains a proposal which penalizes taxpayers for innocent underpayments, IRS delays, and unexpected changes in the law. The proposed nondeductibility of interest charges would apply to all deficiencies, including those for which the taxpayer bears no fault whatsoever. Substantial penalties already exist for fraudulent, negligent, and undisclosed aggressive tax positions. This proposal covers not only those positions, but also the remaining universe of innocent and inadvertent underpayments. The nondeductibility penalty would apply in cases where the IRS changed its position between the time of filing and the time of audit, and where prior case law was reversed in the interim. Plus, the penalty increases whenever the IRS is slow in concluding a tax audit.

This proposal piles penalty on penalty, and fails to distinguish innocent underpayments from cases of fraud and negligence. It abandons all attempts to relate interest charges to commercial reality and forces corporations to pay junk bond rates to the IRS.

The proposal could have a variety of unintended and undesirable administrative consequences. In some cases, it would increase incentives to pay an assessed tax and file a refund claim, thus depriving the IRS and taxpayers access to the tax court and its special expertise, and requiring a doubling of tax returns for each year—one original and one amended, seeking the refund. In other cases, there could be greater incentives for taxpayers to fight all the way through litigation to try and avoid all interest charges rather than settle, thus clogging an already strained IRS caseload. It would also make taxpayers unlikely to grant extensions of expiring statutes of limitations, cutting off IRS audit time and decreasing audit quality.

Finally, Mr. President, this proposal would unfairly impact smaller, less affluent taxpayers, the proverbial "little guy" who invariably gets screwed by big brother IRS. The big corporate taxpayer can afford to hold out and fight it out with the IRS, particularly when there are big bucks involved. Thus, big corporation borrows from major banker friend on its rather large line of credit if it can, maybe even at the expense of its credit rating, pays the disputed tax liability, proceeds to deduct the interest it pays friendly banker from its tax return, and then takes the case to Federal District Court which does not have the efficient and extensive expertise of the tax court and then litigates the

heck out of it infinitum at great expense to the Government, resulting in extensive court backlogs. This forces borrowing at the time of a major credit crunch and the corporation will have no reason not to litigate.

Meanwhile our little friend, the average business taxpayer who is being hounded by the IRS and who does not have a rather large line of credit with anyone and who therefore cannot come up with the money to pay the IRS alleged deficiency is faced with a real dilemma. He can fight the IRS in the tax court and end up losing his interest deductions on final settlement or he can sell off assets to pay the tax and take it to district court for a refund. Mr. President, you can bet the farm that if this taxpayer does the latter, he will fight to the death with the IRS until he wins. Again, the courts are tied up at great Government expense.

This is a bad idea whose time has not and should not come. It is unfair, irrational, ill-conceived and, quite frankly, will lose money in the long run through vastly increased administrative and legal costs borne by both the Government and the American taxpayer. This could end up being a major loser for the Treasury in the long run—oh well—the highways to hell have always been paved with good intentions.

Mr. President, I ask unanimous consent that a statement to the congressional leadership from the American Bar Association be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Statement to the Congressional Leadership, the House Ways and Means Committee, the Senate Finance Committee, the Treasury Department, and the Office of Management and Budget

PROPOSED DISALLOWANCE OF CORPORATE DEDUCTION FOR INTEREST ON TAX DEFICIENCIES

SUMMARY

This statement is presented on behalf of the Section of Taxation. It has not been approved by the House of Delegates or the Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the position of the Association.

The Section of Taxation strongly recommends rejection of the proposal, set out in the Budget Summit Agreement and the Ways and Means Committee decisions released October 12, to disallow the corporate income tax deduction for interest on tax deficiencies.

Disallowance of this deduction would strongly encourage corporate taxpayers to truncate administrative proceedings to resolve tax disputes with the Internal Revenue Service, pay asserted tax deficiencies as soon as possible to stop the running of interest, and proceed to court for adjudication of disputed items. At present, the great preponderance of such disputes are resolved at the IRS administrative level. That process works to the advantage of both the government and corporate taxpayers. It would be significantly undermined by the proposed disallowance rule.

The present tax litigation system allows management of approximately 95% of tax disputes at the trial level by the Tax Court. The proposed deduction disallowance would create powerful incentive for corporate taxpayers to litigate their tax cases in the district courts or the Claims Court. It would thereby cause a large shift of tax litigation from the Tax Court, often the forum permitting the most efficient disposition of tax controversies, to the already overburdened district courts and the Claims Court.

Because interest on tax overpayments is taxable to corporations, the proposed deduction disallowance rule would create many possibilities for whipsawing corporate taxpayers. If, for example, the IRS determines a deduction allowable, but attributable to a different year from that claimed by the taxpayer, the interest owing the government by virtue of the shift will be nondeductible, but the interest owing the taxpayer will be taxable. These and other such opportunities for creating nondeductible and taxable interest from the same item exist where there is no dispute whatever about the substantively proper tax treatment of the item in question.

The interest disallowance proposal presents other serious problems. Particularly because of its major impact on tax administration, its considerable and undesirable change of the present system for tax litigation, and the serious imbalances arising from whipsaw possibilities, the Section of Taxation strongly recommends rejection of the proposal.

ANALYSIS

Disallowing the Deduction for Interest on Corporate Tax Deficiencies Would Disrupt Tax Administration

In large corporate cases, the Internal Revenue Service frequently does not begin, much less complete, an audit before the normal statute of limitations expires. Nonetheless, almost all large corporations routinely agree to extend the statute of limitations to enable the IRS to complete a thorough audit. In many cases, audits may not be complete for many years after the statute of limitations otherwise would have expired. After an audit report is issued to the taxpayer, there is a substantial likelihood of IRS appellate consideration, which may take more years to complete, with further extensions of the statute of limitations. The appellate procedure, however, results in a resolution of most tax disputes without litigation. Naturally, interest on any tax deficiency continues to accrue during the entire process.

While the Tax Reform Act of 1986 disallowed individuals' reductions for "personal interest," and Temporary Treasury regulations treat individual interest as "personal" even where it arises from tax deficiencies attributable to business income,[1] corporations differ from individuals in essential tax respects. Corporations are pure business entities, and because all of their expenditures are thefore business expenditures, there is no occasion to distinguish between business and personal expenditures, as there is with individuals. Moreover, because of the practical nature of corporate tax audits—unlike individual audits—tax deficiency interest is commonly in the nature of an ordinary and necessary expense of doing business, in principle deductible without regard to the special Internal Revenue Code deduction for interest.

Disallowing the deduction for this interest would increase the effective interest rate by more than 50% (assuming a 34% tax rate). The state tax impact would make this rate increase even greater. Such an increase in the cost of money would lead corporate taxpayers to refuse extensions of the statute of limitations.

The result would be potentially chaotic for tax administration and for the IRS. The Service does not have sufficient agents to conduct audits on a current basis. Examinations would have to be far less thorough. Resolutions of issues based on an incomplete factual background usually work to the government's disadvantage. A further and severe consequence would be to remove the resolution of most corporate tax controversies from the traditional administrative process designed for that purpose to the more confrontational setting and procedures of litigation.

The Proposal Would Create Large and Undesirable Changes in the Long-Established System for Civil Tax Litigation

Disallowance of the interest deduction will strongly discourage corporate taxpayers from delaying payment and litigating in the Tax Court, which was created for the sole purpose of resolving tax controversies. Instead, such taxpayers ordinarily will pay the disputed tax and sue for refunds in the district courts or the Claims Court.[2] The Tax Court now manages approxiamtely 95 percent of all civil tax cases at the trial level. The shift in the situs of litigation will, therefore, be large. The district courts in particular are already overburdened with litigation, and an inundation of tax cases now handled by the Tax Court would create great difficulties and even further delays in district court dockets.

Disallowing the Deduction for Interest on Tax Deficiencies Will "Whipsaw" Taxpayers

There will be an especially inequitable consequence of denying deductions for interest on tax deficiencies. Many tax adjustments involve merely the timing of an income item or deduction, and others involve allocation of tax items between related corporations. Interest on tax overpayments is taxable income. As a consequence, if the interest deduction is denied, many corporations will be "whipsawed." That is, they will have to pay *nondeductible* interest from the year of the tax increase, but they will receive *taxable* interest from the year of the corresponding tax reduction. The same effect will occur when tax items are moved between related corporations.

[1] Treas. Reg. § 1.163-9T(b)(2)(A).

[2] Taxpayers are allowed to make deposits of tax to cut off further interest accruals, while still extending the statute of limitations and preserving Tax Court jurisdiction. *See* Rev. Proc. 84-58, 1984-2 C.B. 501. They are also allowed to make payments of disputed tax, while preserving the jurisdiction of the Tax Court, if they make the payments *after* the IRS issues its formal Notice of Deficiency.

Deposits of tax are not frequently made, however, because deposits are returned without interest, and the taxpayer is given no credit for the time the government held the deposit when any interest on taxes is computed later. Further, the proposed deduction disallowance rule will provide a strong incentive for corporate taxpayers to pay disputed taxes as soon as possible—commonly before the formal Notice of Deficiency is issued—and they will thereby forfeit their right to litigate the dispute in the Tax Court.

Enforcement of the Disallowance Rule Will Be Difficult

Interest is deductible by corporations, with only minor exceptions, because for them interest is always business-related. If interest on tax deficiencies becomes nondeductible, corporations will have substantial incentive to reorganize their financing arrangements, obtaining funds from other sources to pay tax deficiencies as soon as possible. This interest will be deductible.[3] Because corporate financing is often complex, involving borrowing from different sources at different rates of interest for a range of purposes, any statutory or regulatory effort to deal with the problem is likely to prove, at the very least, exceedingly difficult to administer. Hence, if corporate deductions for interest on tax deficiencies are disallowed, the real losers would be the IRS administrative resolution process, the Tax Court litigation system, distressed taxpayers with insufficient credit to borrow from third parties, and unwary taxpayers who fall into the trap.

Disallowing the Deduction Would Constitute a New and Inappropriate Penalty

Disallowing the corporate interest deduction would be, in effect, a new penalty, imposed without regard to fault and based mainly upon the length of time it takes to solve the controversy. In the consideration of penalty reform last year, the Internal Revenue Service prepared a massive Report on Civil Tax Penalties. This Report considered and rejected both "no fault" penalties and the use of interest charges and other time-value-of-money concepts in computing penalties. In both cases, the Service concluded that such penalties would be unfair to taxpayers attempting to comply with tax laws in good faith. These conclusions were correct in 1989, and they remain correct today.

Congress adopted these conclusions last year when it reformed the entire structure of penalties under the Internal Revenue Code. The Congressional evaluation of the issue was sound then. It ought to be preserved this year.

Corporations Should Be Permitted To Continue To Deduct Interest on Tax Deficiencies Even Though Individuals Are Not

Individuals have been denied deductions for "personal interest"—interpreted by Temporary Treasury regulations as including tax deficiencies attributable to business income—since the Tax Reform Act of 1986. If the Treasury interpretation is correct, it may seem fair to deny these deductions to corporations as well. But the real world differences between corporations and individuals, both as taxpayers and as borrowers, amply justify this deduction for corporations, even though it is denied to individuals.[4]

Corporations and individuals are subject to vastly different income tax regimes. The differences reflect the fact that corporations are pure business entities. For corporations, unlike individuals, there is no need to distinguish between personal and business expenditures, because corporations have no personal expenditures.

In practice, the tax administration system also affects individuals and corporations differently. For nearly all individuals, a tax audit is an infrequent, isolated event. For corporations, however, audits are likely to be frequent. For many large corporations, tax audits take place on a virtually continuous basis, and for several tax years at once. Thus, for corporations the interest expense on tax deficiencies is in the nature of an ordinary and necessary expense of doing business.

CONCLUSION

Disallowing corporate deductions for interest on tax deficiencies would cause major problems for Internal Revenue Service tax administration and the national court system. It would produce serious inequities for corporations, and it is not justified by the treatment of individual interest. On these grounds, the Section of Taxation strongly recommends that the proposal not be included in the deficit reduction package.

THE GORE-MIKULSKI AMENDMENT

Mr. PELL. Mr. President, I voted to waive the Budget Act to permit consideration of the amendment to the reconciliation bill offered by the Senator from Tennessee, Senator GORE and the Senator from Maryland, Senator MIKULSKI.

The amendment would make significant improvements in the fairness of the tax package included in the deficit reduction plan, by reducing the tax burden on the elderly and on the average taxpayer and increasing the share of deficit reduction costs to be borne by wealthier taxpayers. It is for that reason that I support the amendment.

I should note, however, that even with the Gore-Mikulski amendment there would remain serious problems, including a gasoline tax increase even though it would be smaller as a result of the Gore-Mikulski amendment. For this reason I reserve final judgment on approval of the overall budget plan.

ACCELERATED DEATH BENEFITS FOR THE TERMINALLY ILL

Mr. LIEBERMAN. Mr. President, many victims of terminal illness suffer not only from the disease itself, but from the overwhelming economic consequences of their condition. AIDS patients and those stricken with cancer often lose their jobs. Their health care costs mount. They can't pay their rent. Some become homeless or are forced to forgo life-sustaining or life-improving care. The tragedy of their illness is compounded by the tragedy of economic ruin.

In the past year many life insurance companies have been offering people an advance on their death benefits in the event of a terminal illness to ensure that they will have funds available to pay health care costs, mortgage payments, living expenses, and, in general, allow them to live their final months with dignity and as comfortably as possible. Insurance commissioners in 43 States have now approved the addition of accelerated death benefits to life insurance policies, thereby providing the terminally ill with critical financial resources in their final months.

While death benefits are excluded from income tax under current law, the law needs to be clarified with respect to the payment of accelerated death benefits to the terminally ill. In addition, because the right to receive accelerated death benefits does not significantly alter the fundamental terms or economics of the policy, clarification is needed that the addition of the accelerated death benefit provision, at no cost, will not cause the policies to fail to be treated as life insurance policies for tax purposes.

Mr. President, I understand that the procedures surrounding this budget reconciliation bill have precluded the consideration of the clarification of this tax issue which is important to thousands of terminally ill people throughout the country. I would ask the chairman of the Finance Committee, Mr. BENTSEN, if, at the earliest possible date, his committee could consider this needed and worthwhile tax clarification.

Mr. BENTSEN. Mr. President, I am aware of the accelerated death benefits issue and of its importance for those Americans affected. Let me say to the Senator from Connecticut that I applaud his efforts in helping the terminally ill and I assure him that I will look closely at this issue as soon as possible in the next Congress.

THE DAC PERCENTAGES

Mr. PRYOR. Mr. President, a great deal of concern has been expressed by the Members of this Chamber over the $8 billion to be raised from the life insurance industry and its millions of policyholders through the so-called DAC proposal. A number of our colleagues are concerned that an increase in the tax of up to 50 percent on some companies is excessive, and might threaten the financial vitality of some of those companies.

As you know, at least 13 members of the Committee on Finance were prepared to offer an amendment during committee deliberations to lower the applicable DAC percentages. Unfortunately, our ability to act on this important issue was affected by our inability to receive official revenue estimates on certain compliance measures.

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[3] Interest on this borrowing will be deductible as it accrues, even if it is not paid currently. By contrast, under the law as it now exists, interest on tax deficiencies is deductible only (1) after the amounts of the deficiency and the interest are determined, or (2) if the tax is contested, the taxpayer remits the tax and interest to the Service and does not designate the remittance as a deposit in the nature of a cash bond. Rev. Rul. 89-6, 1989-1 C.B. 119. Thus, this process would actually accelerate interest deductions.

[4] There is little relevant legislative history on this part of the 1986 Act. One explanation frequently advanced for including interest on income tax deficiencies in the general denial of the individual interest deduction, however, is that, if an individual borrowed from a third party to pay an income tax liability, the interest on such a loan would be for a personal and therefore nondeductible purpose. This rationale has no relevance in the corporate context, since corporations generally make only business expenditures, and since there is no distinction between personal and other types of corporate interest deductions.

From my conversations with the chairman, Mr. President, I know that he shares many of the same concerns. I think I speak for many of my colleagues when I urge him during conference to attempt to lower the applicable DAC percentages as much as possible.

Mr. BENTSEN. Mr. President, I want to thank the Senator from Arkansas for his work in this area and assure him and the other members of this Chamber that I intend to make an effort, to the extent possible, to reduce the applicable DAC percentages for the life insurance industry.

THE DAC PERCENTAGES

Mr. SYMMS. Mr. President, I understand that the so-called DAC provisions of the bill will increase the tax on the life insurance industry by about $8 billion over the years 1991-95. I am opposed to the DAC proposal. It was not thoroughly considered, no hearings were held by either the House or the Senate. It is arbitrary and its arbitrariness will undoubtedly harm some companies and do so to the advantage of their competitors.

As proposed in this bill the DAC tax has immediate oppressive consequences for hundreds of active life insurance companies. It will seriously impact their ability to keep operating. In its current form it could bankrupt scores of companies which are already queasy due to their holdings of junk bonds and real estate.

Now is not the time to load up the taxes of the life insurance industry. The proposed tax has nothing to do with deferred acquistion costs. It is simply a flat-out annual gross premiums tax making the life insurance industry the only industry subject to tax both on gross revenues and full net operating income. This is especially unfair with respect to existing fixed premium contracts since the companies cannot price the new taxes into their product.

Five major property and casualty insurance companies which also sell a considerable amount of life insurance have recently been listed by citizens watch as companies which have poor investment portfolios and, should we experience several small or one or two major natural disasters, could go into bankruptcy. Now is not the time to hammer these companies and this industry with a DAC. After our savings and loan crisis, and our bank failures, we do not need the Government trying to kick the teeth out of the life insurance industry.

The life insurance industry has been singled out to shoulder a disproportionate share of the corporate tax burden in this budget agreement.

No other industry in America is forced by Congress to absorb an annual Federal income tax increase of nearly 50 percent.

By denying life insurance companies a current deduction for their selling expenses, a death blow is dealt to the small independent insurance salesman.

The life insurance industry will have to absorb an unfair 6 percent of the new taxes in this budget package. The President said that the burden of this tax package should be fair for any one group and should not be excessive for any one group. This new tax more than exceeds that definition of fairness.

The problem with this DAC tax is that it is simply a revenue raising proposal. The budget negotiators could not find the $8 billion anywhere else so they took it out of the insurance industry. Life insurance tax rates are in line with other segments of the financial community and in many cases, higher.

A DAC proposal will make life insurance products noncompetitive. The increased cost on life insurance to consumers will cause many to not save for their future and not to invest in the future of America.

In short, this proposal only reduces the financial protection and retirement savings available for American families. It reduces savings available for long-term investment in our economy and results in fewer jobs in the life insurance business.

The new DAC tax has been lowered from $16 billion to $8 billion as proponents point out and we are supposed to convince that industry how sympathetic the Congress has been in halving the original proposal. Mr. President, half of a bad proposal, a proposal which should not have been proposed at all, is still half of a bad deal—which is not made right by cutting it back. Half of the wrong medicine is still the wrong medicine and will perhaps only make the patient a little less sick—but half the wrong medicine can also kill the patient.

I believe this proposal should be dropped from the bill or at a minimum significantly reduced. We should revisit the insurance tax issue next year in the next Congress with full hearings and all options explored for creating a fair and equitable system for the entire industry, both mutual companies and stock insurance companies.

FLOOR STOCKS TAX PROVISION

Mr. FORD. First, I would like to thank my colleague for his assistance in reforming the method for applying the floor stocks tax on tobacco products contained in the Finance Committee budget reconciliation package. As the chairman knows, the floor stocks tax provision enacted in 1982 exempted retailers from the tax, which had an unintended detrimental impact on tobacco distributors. I also appreciate my colleague's assistance in extending the payment time for the floor stocks tax.

However, my constituents, particularly my small distributors, remain concerned that the method for assessing the tax is burdensome. The so-called snapshop assessment, which taxes the distributor's inventory as of a certain date, forces distributors to minimize their inventory as of the specified date. This causes a potential clog in the chain of distribution system, distributors are unable to pass along the cost of the tax and effectively must fund the tax themselves. Because the operating margin is so small in this business, the distributor often must borrow the funds to meet the floor stocks tax obligation.

I would ask the chairman to continue his efforts to ensure equitable treatment of retailers and distributors and to delay payment of the floor stocks tax. In addition, I would appreciate his consideration of alternative methods of assessing this tax which would avoid the disruption in distribution that occurs when distributors, and now retailers, are forced to minimize inventory.

Would the chairman be willing to consider this situation in conference on the budget reconciliation measure?

Mr. BENTSEN. As the Senator knows, I am aware of this situation and sympathetic to the problems faced by distributors. As he notes, the Finance Committee bill makes considerable progress on that point. Although it is unclear what the revenue impact of such a change would be, I appreciate the Senator's raising this issue at this time, and will review this provision of the conference with the House on this measure.

Mr. FORD. I thank my distinguished colleague for his continued willingness to work on this issue.

FISCAL YEAR 1991 BUDGET RECONCILIATION ACT AND HEALTH MEASURES

Mr. McCAIN. Mr. President, I rise in opposition to the 1991 Budget Reconciliation Act.

This bill, just like the budget summit agreement that failed on October 5, shortsightedly contains the largest tax increase in history. I opposed the budget because, as you probably already know too well, the average American taxpayer already works until May 5 of every year to pay his or her tax bill. Never before have taxpayers had to work for the Government for such a long time, and yet the Democrats in Congress are trying to force a tax increase on us so that they can spend more.

It is discouraging and almost frightening to realize that, inspite of the tax increases of the 1980's—yes, tax increases—Congress has heaped $1.6 trillion on to the national debt. That is bigger than our national budget has ever been. And, yet, when Congress sits down at the bargaining table to

cut the deficit, the first proposal is the easy way out—a tax increase.

That's why these summits between congressional leaders and the President never work. We have had 6 tax-increasing budget summits since 1983, but the deficit fell only in years when there was no summit and no new taxes. History shows that in deals that supposedly swap tax increases for cuts in spending, the spending cuts never materialize. Foist a heavier tax burden on the American public and Congress just uses the new taxes for new spending on programs we don't need or want.

Moreover, not since World War II have we raised taxes to over 19.6 percent of GNP—as the current package certainly will—without tipping the economy into recession. We cannot justify a tax increase. Annual tax collections are already a third higher now than in the 1960's and 1970's but spending has grown even faster.

As far as I am concerned, we need to eliminate waste, inefficiency, and mismanagement before we even consider raising taxes. This package is 0 for 3, and yet the Democrats are still pushing for the largest tax increase in history? As far as I am concerned, the budget process is completely broke and never has it been more obvious. We need a line-item veto, like the one I have introduced and have been working to enact along with over 40 public interest groups and citizens action organizations. We need a balance budget amendment and a host of other reform measures—none of which are included in this bill.

I am strongly committed to deficit reduction, and I am as worried as any parent or grandparent about the legacy this profligacy will leave, but I do not think we have to compromise our economic well-being when there are so many programs that we can eliminate or restructure.

With regard to this bill, I am also concerned that it contains proposals that result in reducing benefits for Medicare beneficiaries and dramatically increasing their out-of-pocket health care costs. There is no question that health care costs are rising at phenominal rates—and have been for some number of years now. But, in my opinion, dramatically increasing seniors out-of-pocket costs and failing to do serious reforms to slow the growth of health care costs will only ensure that we are back in their pockets looking for more again next year.

In addition, I am concerned that the ultimate effect of capping domestic spending growth at 4 percent will have on Medicare premiums and deductibles for our Nation's elderly. If I understand this concept correctly, when health care costs rise in the double digits next year, as they have been for nearly 10 years now, we will have to either increase premiums paid by the elderly or reduce services—both of which will have negative consequences on our Nation's elderly, who are trying to make ends meet on a fixed income.

Lastly, I am concerned that this bill does not truly take Social Security off-budget and out of the budget deficit calculations. For some time, Mr. President, I have been advocating taking the reserves in the Social Security trust funds off-budget and out of the budget deficit calculations. I believe we must do so in order to be honest about our Nation's budgetary situation and to protect the trust funds so that it might be there to provide benefits for both today's retirees and tomorrow's. It is for that reason that I am joining with Senators HEINZ and HOLLINGS an amendment to this bill to take Social Security off-budget and out of the budget deficit calculations.

Even though I have some very serious problems with this budget reconciliation bill, for the reasons I have just outlined, there are a number of provisions—in the health area, particularly—that I strongly support. In fact, I am not only a strong supporter of these proposals, I helped author some of them. I would just like to briefly touch on a couple of them.

First, I am pleased to see that this bill proposes elimination of the urban/rural differential in Medicare payments to hospitals. For several years now, I have been arguing that the policy of paying rural hospitals less than urban hospitals for the same service just does not make sense. The reason being that about the only thing that is cheaper for a rural hospital, than an urban hospital, is land. In fact, many things are much more costly for rurals than urbans. For example, the recruitment and retention costs for nurses and doctors can often exceed those of an urban facility. The equipment needs of urban and rural hospitals are the same. But, often it costs more in a rural area to get equipment repaired because the parts aren't right at hand. And, in many cases, a rural hospital may have to pay for travel, if not lodging, for the repair person if he or she has to travel far in coming to the facility. We have been narrowing the differential for a coupie of years now. I am pleased to see that this package bites the bullet and finally eliminates the differential—something which I believe should have been done long ago.

Second, I am pleased this package contains an expansion of the hospice program under Medicare. This program is a critical care option for those in our population who become critically ill. I have long been an advocate and supporter of the hospice program. In fact, I have proposed that the expansion contained in the now repealed Medicare Catastrophic Coverage Act be restored. The expansion contained in this package is a much needed benefit for a very critically ill segment of our population, who deserve our assistance in providing them with affordable care and a comfortable, caring environment in which to spend their remaining days.

Third, I applaud the Finance Committee for including the text of two bills I sponsored—one with Senator HEINZ and the other with Senator BENTSEN—to improve the care for those with end stage renal disease, and make the care more readily available.

One of the provisions will provide Medicare reimbursement for home use of the drugs necessary to the stability of an individual with end stage renal disease.

The second provision will restore Medicare coverage of staff-assisted home dialysis services for those who are too sick to go into a facility to get dialyzed, cannot provide the service for themselves at home, or simply are unable to physically get to a facility. I am particularly pleased that this provision was included, as last year Congress overreacted to an abuse of the previous staff-assisted benefit by eliminating the benefit all together—rather than dealing with the specific abuse of the benefit. This led a number of very sick individuals to be placed in a life threatening situation where they could not get care. I personally intervened on behalf of a number of Arizonans in this situation, in terms of helping them get care. And, as a result, joined with Senator HEINZ in offering a bill to fix the problem—restoring the beneift for those who truly need it. And, it is this proposal that has been incorporated in this package.

Fourth, I am pleased to see that the Finance Committee included in this budget reconciliation a proposal that I offered with Senator DANFORTH to require that hospitals inform their patients of living wills and medical directives upon their admission for care. In my view, this is a very important proposal.

It is shocking to most Americans that were you to go into a hospital for an operation, and something were to go wrong and you ended up in a persistent vegitative state, that care would most likely not be discontinued—even at the request of a loved one—unless you had formally made your wishes known before hand. And, it must have been done in the form of a formal living will and an advanced medical directive. This has been the subject of a number of lawsuits. As uncomfortable a subject as this is, I believe it is important that Americans are educated about this issue, and I believe that one of the appropriate places and times is on admission to a hospital.

Again, Mr. President, I am not able to in good conscience vote for this bill

because of my very strong concerns about the tax and spend thrust of this bill and the fact that it does not include any serious budget reforms. Having said that, I wanted it to be known that there are some provisions in this package that I am in very strong support of.

BUDGET RECONCILIATION: CHILD CARE

Mr. DURENBERGER. Mr. President, a lot of attention has been paid to how this budget package affects the rich, how it affects the poor, how it affects truckers and farmers, and most of all how it affects seniors. Very little time has been spent asking ourselves what this package does for children and perhaps more importantly, what our inability to reduce the budget deficit means for our children and our grandchildren.

No one talks about the fact that every 53 minutes an American child dies because of poverty, that every 47 seconds a child is abused or neglected, every 26 seconds a child runs away from home, and everyday 719 babies are born with low birth weight. No one talks about how we have so neglected children in this country that they now make up the poorest segment of our society.

Mr. President, we are failing our children, and failing our future. It is time to think about those who cannot speak for themselves and to think about what is best for this country by reaffirming our commitment to the value we place on children and the well-being of future generations.

It is this reason, Mr. President, that I am pleased that, at the last moment, agreement was reached to add to Reconciliation a compromise agreement between President Bush and the Senate leadership on child care. For almost 3 years now we have been battling back and forth on the issue of child care. All this time, the children of this country have been waiting.

I believe the package before us today is a good one. I say this as the only member in the Senate on both committees which worked on this legislation. I had serious concerns that it did not go far enough on parental choice, that it was bureaucratic in nature, and that it set stringent standards that many family day care providers wouldn't be able to meet. I was also the author of the Ford-Durenberger amendment that lifted the restrictions on participation by religious institutions—institutions that provide over one-third of all child care in this country.

But to the credit and dedication of Senator DODD, Senator HATCH, and President Bush, the compromise before us is a very good one and will provide a solid foundation for assisting families with their child care needs into the next century. The compromise is two-fold. The overall proposal provides just over $15 billion over 5 years for child care split 80-20 between tax credits and direct block grants. That is 80 percent direct money into parents pockets to assist with child care of their choice. The tax proposal includes three proposals one of which eliminates the bias within the current dependent care tax credit by making it refundable. Another amends the Earned Income Tax Credit Program to account for family size and a third establishes a new family health insurance credit.

Another portion of the proposal establishes a new block grant program of which at least 10 percent is reserved to improve the quality of child care—an area that 97 percent of parents recently surveyed said was their top priority. Another 10 percent of this will be reserved for early childhood development programs and latchkey programs. The remaining 75 percent of the funds will be reserved for direct assistance, either through grants, contracts or certificates to assist low-income families meet their child care needs. Overall this new block grant streamlines a lot of the bureaucracy of the original proposal while maintaining the ability of States to establish a quality child care program in their state.

The time for action is long overdue. The need to help families is just too great to go another year without addressing this problem. In my State of Minnesota alone, 4,800 working families are on county waiting lists for the state sliding-fee program. Many of the social service workers are advising low-income families to go on AFDC—where we guaranteed child care assistance as part of the Family Support Act—to get child care. This is simply wrong.

So, Mr. President, I want to thank my good friends from Connecticut and Utah for their many hours of work to ensure that our children do not have to wait another year. And I am pleased that inclusion of this proposal is a step forward out of the "Me Generation" and giving something to the future.

BUDGET RECONCILIATION

Mr. JEFFORDS. Mr. President, like all of my colleagues, I have been watching the budget deliberations closely over the past few weeks. I have been impressed by the long hours that so many people have devoted to this issue and the willingness to put forward unpopular proposals, which, in the case of some of them, is the nicest thing that can be said about them.

I commend the work of the two leaders, Senator DOLE and Senator MITCHELL. They have had the unique honor of being urged by their membership to work out a deal only to be castigated for cutting a deal behind closed doors. We are like the character in the movie "Casablanca" who expressed shock at the casino's gambling just before being handed his winnings.

The summit agreement, despite all the hemming and hawing and gnashing of teeth, was a good start. Congress and the White House committed to real and substantial spending cuts over the next 5 years. I stop a bit short of crediting the agreement with $500 billion in deficit reduction. The economic assumptions seem a bit beyond wishful thinking.

But as a practical and political matter, I do not think we are going to get a very different mix of spending cuts and revenue increases than those contained in the budget summit agreement and subsequent proposals. I can support those goals, and I think it is incumbent on any Senator or any proposal to stick to the same targets, $40 billion in savings next year and $500 billion over 5 years.

Despite my problems with this piece or that piece of the budget summit agreement, I would have voted for it. As we all know, that agreement was just an outline. It was and is up to us to fill in the blanks.

That said, I do not think we should be bound to every single proposal that the summit or the summiteers or the tax committees have seen fit to make.

My job is to represent the people of Vermont, not please people in Washington. In representing Vermonters, I have no illusions that I will please them. They do not want their taxes increased, and they do not want worthwhile Government services reduced. But I think they understand the need for some combination of the two in order to get the deficit under control. All they ask, indeed all Americans ask in general, is that the burden be shared fairly.

I think the specifics of the budget summit agreement fell short of being fair. Quite frankly, the budget summit produced some lousy decisions. We do not need tax breaks for oil producers, especially at a time when oil is at $40 a barrel. And we do not need to tax home heating oil when prices are skyrocketing and Government support for low income fuel purchases is dropping like a stone. And we do not need to take it out of the hides of Medicare recipients.

I am not saying Medicare should be immune from spending restraint. But it need not bear the brunt of entitlement savings. Nor should we have stuck it to the unemployed by delaying their unemployment checks. Few enough people qualify for unemployment as it is; the 2-week delay would have exacerbated the problem.

As a general matter, I was disappointed by the allocation of spending reductions. Agriculture and other accounts took a relatively large cut, while defense and foreign aid went virtually untouched.

While I support the exclusion of the cost of Operation Desert Shield from

the budget calculations due to the uncertainty of the gulf situation, I do not understand why the negotiators did not take advantage of the changes in world climate to ask the military to contribute its share to deficit reduction.

Unfortunately, the resolution enshrined the level of spending recommended by the Senate Armed Services Committee and ignored the considerably lower House of Representatives numbers. The summiteers have preempted the normal legislative process that, in this case, would probably have resulted in lower spending figures than those contained in this agreement. During Senate consideration of the defense bill, I supported several amendments that would have reduced spending for the B-2 bomber and SDI. A substantial number of my Senate colleagues agreed with these cuts, and it was assumed that spending would be cut in some categories during negotiations with the House.

It is high time the Pentagon realizes that the clash of military might is giving way worldwide to the clash of economic might and the advantages of moral leadership. The whole point of this budget agreement is to restore the economic health of the Nation. This is where our national strength is most in need of resuscitation. Tying up our resources with a commitment to buy more military hardware in fiscal years 1992-95 instead of investing in economic development and human capital is inviting international irrelevance.

But perhaps most important were the proposed tax increases. I may be dating myself, but I am one Republican who believes the tax code should be progressive. I suppose it is good politics to suggest the other guy's proposal is raising taxes while mine is not. But they all raise taxes. The question is how they go about it.

They all seem to share in common a propensity to tax through the back door. We are faced with a veritable feast of excise taxes—on gas, beer, cigarettes, telephones—you name it. We'll disallow some deductions, and stick it to the insurance industry. For a while we were even going to slap an excise tax on $9,000 fur coats until we decided that they were a staple, not a luxury.

Vermonters do not like taxes anymore than anyone else. But I think they do want us to be straightforward. Rather than a covey of little taxes hiding in the underbrush, I think they want to know who is going to pay what to solve the deficit. Maybe that is only to take a bead on us, but that is their due.

We can only estimate at who will bear the burden; whether the rich, the poor, or the middle class. Various studies have been produced to show the progressivity of the various proposals. Not knowing the assumptions that have gone into such studies, I am reluctant to comment on their absolute value. But I suspect, and have seen no evidence to the contrary, that they do give us a relative perspective between the competing proposals.

By this standard, the budget summit agreement flunks, and the Senate Finance package gets only a C. Nobody is going to graduate with high honors, but several of the other proposals under consideration offer more progressive alternatives.

Do I want to soak the rich? Of course not. But if somebody's going to get wet, I would rather it be the rich than the poor.

I am not convinced that a slight increase in the marginal tax rates of those people making $200,000 or more a year will reduce their efforts to try to make more money.

Lord knows Congress did not cut short its pay raise to avoid the 33-percent bracket.

Thus I support extending the 33 percent tax bracket, or "bursting the bubble." If the couple making under $100,000 can live with it, so can the couple making more than $200,000. In my judgment, this proposal makes more sense, for the people of Vermont and the country.

It certainly makes more sense than the alternatives. Although the conventional wisdom is that the Northeast is a "winner" under a gas tax, Vermont is a big loser. We are the second most rural State in the Nation. Mass transit is almost nonexistent as we simply do not have the population density to support it. People have to drive long distances just to get to work, to the store, or to the doctor.

What is worse, the wisdom of the summiteers was to change the highway trust fund formula and divert half the new receipts from the gas tax away from the trust fund. Simply put, that is highway robbery. With roads cracking and bridges crumbling we sure as heck do not need to rob money from the highway trust fund.

That is not to say that I or anyone embrace all the particulars of one package or another. I think we should extend the expiring revenue provisions contained in the Senate Finance proposal. The Mortgage Revenue Bond Program, the educational assistance deduction, the research credit, the alternative energy credit—they are all valuable and I support almost every one of them. The child care provisions, while they leave an awful lot to be desired, are on balance positive changes.

But taken as a whole, I think the Finance Committee package taxes too much through the back door and asks too much of Americans with moderate means. I hope the conference report which we will be faced with in the next few days will bring a greater degree of fairness to the tax code, and to the sacrifices that the public must make. That is the least I owe to my constituents, and we owe to the American people.

INCOME TAX RATES AND LIMITATIONS ON ITEMIZED DEDUCTIONS

Mr. MOYNIHAN. Mr. President, the bill provision which limits itemized deductions for taxpayers with incomes above $100,000 is a subterfuge, a deception.

The claim is made by many that the Senate bill does not raise the income tax rate. It does—by disguise. For those taxpayers in the bubble already paying at the 33 percent rate, the deduction limitation raises their tax rate by almost 2 percentage points—1.65 percent. For those higher income taxpayers above the bubble, paying at 28 percent, the itemized deduction limitation raises their tax rate by 1.4 percent—to 29.4 percent.

The bubble is exacerbated—it is double bubble. It creates a large relative tax increase for taxpayers caught in the bubble as compared to wealthier taxpayers above the bubble. For example, a couple earning $150,000 that loses deductions under this proposal will pay taxes on the additional taxable income at the rate of 33 percent, whereas a couple making $500,000 will pay taxes on the additional income at a rate of 28 percent. This makes the inequities of the bubble worse.

To repeat: income tax rates go up under the Senate bill; but only in a way that is difficult to see. This kind of deception is not worthy of this body. It is designed to give cover to some, who want to be able to claim that we aren't raising the tax rate. We are, and no one should claim otherwise.

When you limit the deduction for State and local taxes, you violate a sacred principle against double taxation. You also violate federalism. Should we really be so willing to sacrifice these principles in order to make the claim—patently false—that we have'nt raised rates.

If we take the approach of limiting deductions, even by 5 percent for high income taxes, we will soon make a further encroachment. This is clearly a case of the "camel's nose under the tent." Look at what's happened already: the budget summit called for a 3-percent disallowance of deductions, 2 weeks later we are already at 5 percent.

There is a serious marriage penalty in the proposal. The 5-percent limitation applies when income exceeds $100,000. The threshold is $100,000, regardless of whether it is a single person making $100,000 or a married couple together making $100,000.

Finally, Mr. President, the complexity of this proposal should not be overlooked. Some itemized deductions—some, not all, and you have to check which—are not allowed. Investment

interest, yes. Casualty losses, yes. Medical expenses, yes. But State and local taxes, no. Home mortgage interest, no. Charitable contributions, no. And this disallowance only applies for some taxpayers, if income exceeds a certain point. And then what? You have to figure out how much they are disallowed. How much? Five percent of the amount by which income exceeds $100,000. And people wonder how it is that the Internal Revenue Code has doubled in length since the early 1970's. And this complexity serves absolutely no useful purpose—save the political one of being able to claim, if one is audacious enough, that income tax rates haven't been raised. We should have more respect for the intelligence of the American taxpayer.

Mr. LEVIN. Mr. President, I oppose the motion to waive the Budget Act in order to consider the Mitchell/Dole amendment. In addition to a general concern about consideration of a substantial and far-reaching amendment such as this one with relatively little debate, I have at least two specific concerns.

First, I believe that it is unwise to "bake-in" spending priorities for the next 3 years, as is done in this amendment. The enormous changes throughout the world in the past year should warn us about the dangers of establishing such levels so far in advance.

Second, this amendment renders the Gramm-Rudman discipline toothless for the next 3 years. The looseness of the budget process set up by this amendment will lead to even greater deficits, I'm afraid.

Mr. LAUTENBERG. Mr. President, I am going to vote against the budget plan now before the Senate.

Mr. President, the need for deficit reduction is apparent to all. It is urgent. It is critical. We must do something to get control of our country's debt and our Nation's future. And we must do it soon.

I am committed to reducing our deficit and I have supported proposals to do so. Just this year, we in the Senate Budget Committee developed a budget resolution that would have reduced the deficit by about $54 billion in fiscal year 1991. That is significantly more than the $40 billion called for in the summit agreement.

Reducing the deficit is vital. But it is equally important that we do so in a forward-thinking, growth-promoting, and fair manner. As serious a disease as the deficit is, we should not accept a treatment that makes other societal problems even worse.

Mr. President, I am opposed to this bill because it lacks fairness. It penalizes middle class, working Americans. Penalizes the elderly. And penalizes the future of our country.

Mr. President, ordinary, middle class people in my State of New Jersey are adjusting to a significant change in the State tax structure. Our economy is struggling. Working New Jerseyans are hard pressed to pay their mortgages. Hard pressed to save for their children's education. Hard pressed to keep their heads above water.

Mr. President, when these people hear that the President and some in Congress want to reduce the deficit they agree. But when they are asked to carry the lion's share of the load with taxes that are targeted at them, they get angry. Very angry. And, Mr. President, so do I.

Mr. President, the average American family has suffered under an increasingly regressive tax system for too long. Over the past decade, much of the burden of paying taxes has been shifted—from the rich to the middle class. It is an outrageous development with unpleasant results.

According to one recent study, the wealthiest 1 percent of the population—those with incomes of $549,000 each—will pay an average of $82,196 less in Federal tax this year compared to what they would have paid under the tax system in effect before 1978. That works out to a 36-percent tax cut. Meanwhile, Mr. President, 9 out of 10 other Americans have had their taxes increased.

The cost of the huge tax breaks for the wealthy, Mr. President, are enormous. In 1990 alone, according to that study, the breaks given to the top 1 percent of the population are costing the Treasury $85 billion.

Think about that, Mr. President. We are looking at a plan that claims to achieve $40 billion in deficit reduction in the first year—$40 billion through things like higher taxes on gas. And cuts in Medicare for our elderly.

Yet if instead we treated the richest of the rich the same way they were treated about 13 years ago, we reportedly could have reduced the deficit more than twice as much as this plan provides.

Mr. President, I am not advocating a return to the tax policies of 13 years ago. But I think these statistics show that the Reagan tax cuts left us with a legacy of inequity. And this bill keeps much of that inequity locked in place.

Mr. President, this bill is better than the summit agreement. It is somewhat more progressive. But it still places too high a tax burden on the middle class. We can do better. And the Democrats in the House have shown us one way how. For example, the Senate plan would increase taxes on those with incomes between $40,000 and $50,000 by 2.8 percent. By contrast, the House Democratic plan would involve a much smaller 0.8 percent increase for these people.

One of the reasons why the House package treats the middle class more fairly, is that it asks the richest of the rich to pay their fair share as well. The House bill asks those with incomes of $200,000 or more to pay 63 percent of the tax increase, according to one study, while asking those with incomes under $50,000 to pay 11 percent of the increase. Yet the bill before us today asks those wealthy Americans to bear only 24 percent of the tax increase, while those with incomes under $50,000 must pay 34 percent of the increase, more than three times the relative share in the House package.

Mr. President, enough already. The middle class has been squeezed for too long. It is time to stand up for them. It is time to make the Tax Code more fair. And this package falls far short.

In fact, Mr. President, not only does this package propose additional taxes on the middle class, it also includes needless tax breaks for special business or financial interests. While average Americans would pay more for their gas, the energy industry would actually get significant new tax breaks—$3.5 billion worth of tax breaks.

Mr. President, how can we in good conscience ask hard pressed middle class families to pay more to commute to work, more to drive their children to school, more to drive to the supermarket for food. And then turn around and give a huge tax break to big oil companies?

Mr. President, that's not fair. It is not right. And I am not going to support it.

Mr. President, I am also particularly concerned about the Medicare cuts that are included in this bill. We have been swinging the budget ax at Medicare for years. And if we approve the kind of cuts called for in this agreement, it is our senior citizens who will be bloodied.

A $50 billion cut in Medicare, Mr. President, is a significant cut. It will have a real impact on New Jersey's hospitals, which are already strained to the breaking point. And it places new burdens on those people who happen to be both elderly and sick.

Mr. President, it does not make sense to target these people for such deep cuts. Many of them are already struggling. Millions live week to week, on fixed incomes, with little or no financial security.

So, Mr. President, it is obvious this agreement is unfair to working, middle class Americans. And also unfair to senior citizens.

It also clouds the future of this country.

Mr. President, while the tax burden has been shifted from the rich to the middle class over the past decade, there has been another important shift. We have taken enormous resources away from initiatives designed to help ordinary Americans at home. And shifted piles of money to the Pentagon.

Let us get a little perspective, Mr. President. In 1980, at the heart of the cold war, soon after the Soviet Union had invaded Afghanistan, this country spent a total of $134 billion on defense.

Under the plan before us today, not even including the costs of Operation Desert Shield, defense spending would be locked in for 1991 at $298 billion. Then, on top of that, add another $11.5 billion for our operations in the Middle East.

So we have gone from $134 billion to almost $310 billion in just 10 years. Mr. President, even taking inflation into account, that's an enormous increase.

But while spending on the Pentagon has exploded, what has happened to those programs that are designed to help Americans build strength at home, with their families, in their neighborhoods, in their towns and cities.

Well, Mr. President, 10 years ago domestic discretionary spending constituted 23 percent of the Federal budget. Today it constitutes 11.9 percent. We have seen real cuts in education, in housing, in community development. We have failed to maintain our physical infrastructure, and we continue to neglect the needs of America's infants and children.

In a nutshell, Mr. President, we have underinvested in this Nation's future. While we have continued to build more excess into our military machine.

That has got to change. The American people know that.

But this administration wants to freeze these skewed priorities into place. And that is what this bill does. While barely cutting defense, it places virtually insurmountable procedural obstacles on future efforts to shift priorities from defense to domestic programs. That, Mr. President, is unacceptable.

So, Mr. President, we have a budget plan before us that hits working, middle class Americans and the elderly disproportionately. That gives wasteful tax breaks to favored special interests. That continues overfunding of the Pentagon and underinvesting in America's future. And that locks all this into concrete for several years.

Mr. President, that is why I cannot support this plan.

Let me add, Mr. President, that I have voted for amendments to this package that were defeated, but that would have improved the bill and moved it toward the type of legislation I could support. For example, I supported an amendment offered by the distinguished Senator from Tennessee [Mr. GORE], which would have reduced the tax burden on the middle class, reduced the Medicare cuts included in this bill, and asked the wealthiest Americans to bear a larger share of the tax burden. Similarly, I supported an amendment by the distinguished Senator from Iowa [Mr. HARKIN], which would have eliminated the increase in the Medicare deductible, and asked millionaires to pay a modest surcharge to pay for it.

Unfortunately, one of the most significant elements of this bill, the language reforming the budget process, was made available to most Senators only a few hours ago. As a result, most Members could not possibly be familiar with its details and there has been very little public input.

Mr. President, this is a terrible way to set national priorities. How can it be that in a democracy, the total amount of spending for domestic and defense programs, the fundamental direction of the Government, is being set for the next 3 years with so little debate and improvements?

Mr. President, as strongly as I disagree with the substance of this bill, I know the majority leader, the chairmen of the Appropriations and Budget Committees, and others have worked long and hard on an agreement with the administration. I also know that many believe that the Congress has to go along with the essence of that agreement in order to ensure that the President will sign the bill.

Respectfully, though, I must say that I see matters differently. The summit agreement has been repudiated by the American people and their Representatives in the Congress. It has been repudiated strongly, unambiguously, and in a bipartisan fashion. There is no question about that.

So, Mr. President, I simply disagree that we in Congress still owe an allegiance to that summit agreement. I think Congress should stand up for what we believe in. I think we should stand up for fairness. If we do, the American people will back us up.

Mr. DURENBERGER. Mr. President, it is not easy to come to the floor of the Senate and cast a vote in favor of raising taxes on the American people. Nor was it easy for the President to turn away from his campaign pledge not to raise taxes. But the President and the members of the Senate and the House were not elected to make only the easy decisions and to turn away from the difficult choices. The faith of the American people in their government, sorely tested in recent weeks, can only be preserved if we are willing to make the hard choices that the times demand. And today is one of those days when hard choices can no longer be avoided.

Mr. President, this country is facing a crisis of governance. Our ability to finance the social, economic, and defense needs of our country is being seriously undermined. For nearly a generation, we have lived on credit. Our national debt tripled in the past decade. We opted to pass on to our children and our children's children the fiscal profligacy that historians will judge us by. But the credit card economy cannot sustain itself forever. The time of paying up our bills, meeting our obligations, and getting this fiscal house in order has arrived.

Make no mistake, the tax and spending reduction package that we will shortly be voting on represents but a single step toward restoring budget solvency and sanity to the Federal Government. It is surely not the last time that we will be called upon to approve reductions in Federal spending and increases in revenues. As I interpret the numbers in this budget, it appears to me that we will need to have a budget reconciliation bill next year, and the year after, and the year after for as far as the eye can see. For there is no doubt in this Senator's mind that after accumulating more than $3 trillion in debt, we are not going to make real progress toward a balanced budget by a single stroke of a pen on a 5-year $500 billion budget bill.

Just look at the deficit targets we are aiming to reach over the next 5 years: $205 billion in 1991; $197 billion in 1992; $169 billion in 1993; $111 billion in 1994, and $63 billion in 1995. If you add up the numbers and look at the realties of this package, what you see is that the deficits that will accumulate over the next 5 years will total more than $745 billion. In other words, we will add at least three quarters of a trillion dollars in additional debt to the already staggering 1990 Federal debt of $3.2 trillion.

Mr. President, the numbers I have just quoted are the best case numbers. They take into account a set of economic assumptions that assumes that short-term Treasury rates will decline to 5.7 percent in 1992 and then fall to 4.4 percent in 1994. They assume economic growth of 3.8 percent in 1992, 4.1 percent in 1993, and 3.7 percent in 1994. I hope we achieve those results. But I certainly am not confident that that will be the outcome. Five year budget forecasts are notoriously inaccurate. They fail to account for minor adjustments in economic trends that when factored into a 5 trillion dollar economy can produce swings in the budget deficit of $100 billion to $200 billion.

Just look at this year's economic forecasting. At the beginning of the year, we were presented with a set of numbers which suggested that with some minor revenue and programmatic changes, the fiscal year 1991 budget deficit would be $64 billion. Five months later, in May, those numbers were out the window. By July, the Congressional Budget Office was projecting that the fiscal year 1990 budget deficit would be $195 billion, and the fiscal year 1991 deficit would be $232 billion. Now in October, CBO has indicated to my staff that the $195

billion projection made in July is, in reality, closer to $220 billion, and the fiscal year 1991 deficit could be over a quarter trillion dollars. So as far as I am concerned, the economic assumptions underlying this budget have little, if any, credibility. What this package is, is simply a down payment. Even if this package is adopted, we're not even close to being out of the woods as far as the Federal budget deficit is concerned and we're certainly not going to come close to balancing the budget in the next 5 years.

Mr. President, the staggering deficit numbers I have just described tell only one-half of the story. If we really want to give the American public an honest look at the size of this deficit, we need look only to the 5-year debt ceiling extension that we in the Finance Committee approved as part of this package. At the end of 5 years, if all goes well under this budget agreement, the national debt of the United States will have increased from $3.2 trillion to just over $5 trillion. And the reason for this huge increase in debt is because we continue to use "pay-as-you-go" trust fund program surpluses to mask the true size of the Federal budget deficit.

For more than 2 years, many members of this body, especially Senators MOYNIHAN and HEINZ, have tried to bring about a sense of "Truth in Budgeting," by getting Congress to exclude the Social Security surpluses from calculating the Gramm-Rudman targets. This budget agreement takes a step in that direction, but it does not go far enough. The proposed Gramm-Rudman targets exclude Social Security operating surpluses. But interest accrued by the Social Security trust funds are not deemed a part of the operating surpluses. As a result, interest that should be credited to the trust fund is being included in the operating budget of the Government for purposes of the Gramm-Rudman targets. This is just another example of the type of fiscal chicanery that leaves everyone in the country with a sense of cynicism about how Washington avoids honestly dealing with its fiscal responsibilities.

Moreover, Mr. President, if we excluded all Federal Government trust fund surpluses—Social Security, Medicare part A-Hospital, the Highway Trust Fund, the Airport Trust Fund—from the Federal Government's operating budget, the real deficit, the actual shortfall between revenues for general funding and the actual costs of operating the Federal Government would exceed $300 billion, not the $205 billion figures used in this budget. According to CBO's July analysis, the deficit excluding all trust funds would be $367 billion in fiscal year 1991, $379 billion in 1992, $345 billion in 1993, $309 billion in 1994 and $315 billion in 1995. Clearly, the package in front of us will barely dent this extraordinary shorfall in revenue.

Mr. President, is this the best deficit-reduction package that Congress would develop in the face of this fiscal crisis? I think the answer to that question is No. We should have cut spending more. In fact, what this budget deficit package labels reduced spending is nothing more than the peace dividend minus Desert Shield, along with the usual—in this case $37.6 million—in medical provider cuts, and new taxes styled in the fashion of new user fees. In my view it is not a programmatic spending cut when we collect fees for agricultural quarantine and inspection services; it is not a spending cut when we increase premiums paid for flood insurance; it is not a spending cut when we establish a 500-percent increase in the level of civil penalties that can be imposed on businesses that violate OSHA; it is not a spending cut when we raise FHA fees; it is not a spending cut when we establish new fees for oversight of the rail safety program; it is not a spending cut when we collect new fees to pay for the U.S. Travel and Tourism Administration. Mr. President, the list goes on and on. The point is that we are really not cutting spending to the degree that many believe is necessary. We are just augmenting the costs of programs.

Mr. President, I think this package should have relied less heavily on regressive excise taxes. We should have asked wealthy beneficiaries of Federal entitlement programs to pay a larger share of the cost of those programs. And we should have relied more heavily on changes in the income tax base and left excise taxes to the hard pressed State and local governments who are everyday being required to do more with fewer and fewer resources. But we are not going to rewrite this package on the floor of the Senate tonight. The time for making tough choices is here and now, and although I do not like this package, I think it is the best we can do at this late stage in the budget process and I am going to vote for it.

But, Mr. President, this is the last time that this Senator is going to go along with a budget package that is essentially the product of budget summit negotiations. After Black Monday in 1987, I went along with a 2-year budget summit package that revised the Gramm-Rudman targets and supposedly put us on track for a balanced budget by 1993. I went along with last year's budget summit package. And I will go along with this year's package because the choice between a $100 billion sequester, a complete shutdown of the Government, and chaos in the financial markets, is simply not a choice. We have a gun to our heads and we must act responsibly.

When we marked up the reconciliation bill in the Finance Committee early last Saturday morning, I said "I hope next year it will be different." My colleague from Pennsylvania, JOHN HEINZ, leaned over to me and said: "It will be—— It will be worse." Mr. President, he may be right. He may have been referring only to the fiscal and economic difficulties that face our country, or he may have meant the process which has worried us all.

Mr. President, for the past 6 years, I have held the view that the budget deficit is the No. 1 problem facing this country. Some economists and some elected officials have suggested otherwise. Some have suggested that deficits do not matter; others that we can grow our way out of the deficit, and that hard choices on reducing spending or raising revenues can be put off forever. And over the past 6 years, the American public has heard so many things about the deficit that they no longer know who to believe. Is it any wonder that the President and the majority leader were unable to convince the public to support the summit package when they went on national television 2 weeks ago? The public has just become confused on what the deficit means and are understandably reluctant to pay more money into Washington without any assurance that we will husband their resources with care.

Mr. President, this is probably the worst time for us to have to raise taxes. The economy is teetering on the verge of recession. Oil prices are fueling an inflationary spiral that could bring us back to the days in the late 1970's when this economy stagnated under the weight of stagflation. Financial institutions are holding back on lending, making it far more difficult for businesses to expand operations. But if we do not pass this package, if we do not make a credible effort to reduce the deficit, then this economy could face a shock that will take the remainder of the decade to remedy.

Foreigners are more and more reluctant to purchase our Government's debt. We cannot raise interest rates at this time without throwing the economy into a severe tailspin. We cannot afford the luxury of increasing Federal spending to counteract the slowdown in the economy. The only choice we have is to convince the financial markets that we are serious about starting down the road to deficit reduction by adopting this package. That will help ease the pressure on the Federal Reserve and make it more likely that the FED can reduce interest rates.

Mr. President, the budget deficit is not simply a matter of restoring confidence to the markets. It is not simply a matter of how many T-bills are issued each week. The budget deficit is a noose around the neck of every

elected official who sees social inequities that can only be resolved by a greater financial commitment from Washington. What I am talking about is the 37 million people in this country who have no health insurance. What I am talking about is the problem of long-term care for the elderly and the disabled. What I am talking about is an infrastructure network that is crumbling throughout most regions of this country.

We were elected not to merely sift and sort through thousands of Federal programs to find creative ways to reduce the cost of Government. Mr. President, I think we were elected to help provide a better quality of life to all Americans. That means financial access to health care for everyone; that means freedom from the fear of debilitating and prolonged illness. That will take commitment, and that will take money. The budget deficit is the biggest obstacle to these important policy changes.

Mr. President, if we are to achieve real substantial reductions in the deficit and improvements in Federal programs, we must make a commitment to reviewing from top to bottom every Federal program. That includes Medicare; that includes Social Security; that includes HUD, that includes the Defense Department; that includes the Small Business Administration, and that includes all the spending we do through the Tax Code. For too long we have allowed for business as usual in this body. Every year, we extend every expiring tax break. We never debate them for more than a minute. We extend financing for all the agencies in this town, and then we find more money to create new agencies.

If we are going to achieve what I would call "Perestroika on the Potomac," then I would suggest that the committees of the Congress, along with the administration make this commitment to the American public: Next year we will revisit every program that the Federal Government operates and we will eliminate, not reduce the level of growth, but eliminate unnecessary spending from top to bottom. Otherwise we will be facing budget crisis after budget crisis for the remainder of this decade until the American people finally heed the call, and will throw all of us out of our jobs.

PRESCRIPTION DISCOUNTS UNDER MEDICAID

Mr. HATCH. Mr. President, I rise today to address that part of the reconciliation bill that pertains to prescription drug discounts under Medicaid.

Although comprising only 40 or so pages of this extremely complex bill, the drug-discount provision has an important and far-reaching impact. After a great deal of work stretching over many months, Senators BENTSEN, PACKWOOD, PRYOR, RIEGLE, and the entire Finance Committee are to be congratulated for fashioning legislation that—while certainly not perfect—would be able to achieve substantial savings for the Medicaid Program in an equitable, nonpunitive manner. I do not believe we can do much more without adopting punitive measures that are not necessary to accomplish the required savings.

The legislation is not exactly what I would like, it is not precisely what Senator PRYOR would like, it is not all that patients would like, it is certainly not what the research-based pharmaceutical industry would like—but it is, as it stands, something that most of us can and should support.

Of most importance, the Finance Committee plan would provide greater access for Medicaid patients to FDA-approved drugs than would the House version. New drugs would be available immediately to Medicaid patients upon approval by the Food and Drug Administration. These drugs would not be subject to prior approval and would remain fully available for at least 12 months before States could consider placing restrictions on them.

Also of utmost importance, the Finance Committee plan, unlike the House version of the legislation, would prohibit the imposition of formularies, restructive lists of drugs. Thus, Medicaid patients would have access to FDA-approved drugs and would not be prohibited from being reimbursed for necessary medicines.

Rebates would be required for both generic and brand name drugs. It is anticipated that these rebate provisions would save the Federal Government almost $2 billion in Medicaid expenses over 5 years. The Finance Committee plan would accomplish the required budgetary savings without many of the dangerous provisions of earlier versions, such as therapeutic substitution, the dispensing of a different chemical to a patient than the chemical prescribed by the patient's physician.

The plan also would accomplish the required budgetary savings without taking the dangerous step of forcing price controls on manufacturers, which could easily impede investment in pharmaceutical research and development.

In addition, the Finance Committee plan, unlike the House version of the Medicaid drug discount plan, would not demand rebates from the pharmaceutical industry far in excess of the amount needed to achieve the required budgetary savings. The House version would demand such rebates to expand the Medicaid Program in areas totally unrelated to pharmaceuticals.

For many years, Mr. President, I have followed the intertwined issues of drug prices and drug development. In 1984, I was privileged to be a part of the most significant efforts in recent history to obtain lower prescription drug prices for the American people. This law, the Drug Price Competition and Patent Term Restoration Act of 1984, also know as Hatch-Waxman, cleared away many of the legal and regulatory roadblocks to the marketing of low-price generic drugs.

This act cut the costs of drugs without undercutting innovation. It provided consumers access to lower-cost drugs that are bioequivalent to the pioneer drug once the patent on the pioneer expires. It maintained incentives for pharmaceutical companies, which have continued their investment in research and development. Patents on more than 70 drugs, representing $5.5 billion in sales in the year 1985 alone, have expired since 1984. Brand name drugs typically lose half of their market to generic products within 2 years after patent expiration. And, brand name drugs with annual sales of $10 billion are scheduled to go off patent between 1991 and 1995.

I refer to this because I believe the legislation before us is consistent with, and builds on, the very solid achievements of the Hatch-Waxman Act. Thus, very real savings would be achieved to the Medicaid Program as a result of the substantial rebates that drug manufacturers would be required to pay. But the rebate program would be implemented in such a way as to preserve the incentives for continued pharmaceutical research and development—the key to conquering disease and improving health. At the same time, the legislation would prohibit the States from adopting restrictive formularies and would improve the access of Medicaid patients to new drugs.

In short, Mr. President, the legislation would achieve a delicate balance between cutting program costs, improving the access of Medicaid patients to needed medicines, and preserving the incentives necessary to encourage continued pharmaceutical research and development. We should support what has been accomplished by the diligent efforts of Senators BENTSEN, PACKWOOD, PRYOR, and RIEGLE and the entire Finance Committee—and not mar a delicate balance that would produce substantial Medicaid savings in an equitable way. I, for one, would strongly oppose any change that would restrict the access of Medicaid patients to drugs or treat manufacturers in a more severe and unfair manner.

EXEMPTING REPORTING CORPORATIONS FROM CERTAIN REQUIREMENTS UNDER SECTION 6038A(a)

Mr. DOLE. Mr. President, would the Chairman encourage the Treasury Department to consider including in regulations under section 6038A(a) a de minimis rule generally exempting a qualifying reporting corporation from

the recordkeeping and agency requirements and related monetary and noncompliance penalties so long as the IRS is free to reimpose those requirements in any case where it believes that they are appropriate for the proper administration of the tax laws.

Mr. BENTSEN. Yes, I would encourage the Treasury Department to include such a de minimis rule in its regulations under section 6038A(a).

PROPERTY SUBJECT TO TRANSFER TAX

Mr. DASCHLE. Mr. President, as Senator BENTSEN knows I introduced a bill in the last session to repeal section 2036(c), and introduced with you S. 3113, which would repeal section 2036(c) and replace it with rules that would more accurately value property subject to transfer tax. Therefore, I am delighted that the Finance Committee included the provision regarding section 2036(c) in its budget reconciliation package. I am concerned, however, with possible inferences that could be made by the IRS or courts from a paragraph in the Senate Finance Committee report. That paragraph is part of the section entitled "Selected Transfer Tax Consequences of Estate Freeze Transactions Without Regard to Section 2036(c)." The paragraph states that the failure to exercise certain rights "in an arm's-length manner may give rise to a gift." The report then cites several IRS private rulings for that proposition. I understand that the issue of whether or not a deemed transfer results when certain rights are not exercised, such as the right to declare noncumulative dividends by a controlling shareholder, is very controversial. Am I correct in my understanding that the committee did not intend to express an opinion as to the correctness of the IRS rulings that were cited?

Mr. BENTSEN. The Senator is correct in his interpretation of the committee report. The committee did not intend to express any opinion whether, under the law, without regard to section 2036(c), rights, such as the right to noncumulative dividends or the right to convert shares from one class to another, had to be exercised even if there were good, arm's-length reasons for not exercising them.

THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990

Mr. KOHL. Mr. President, on the few occasions over the past few weeks that I have been able to leave Washington and get back to the real world, my constituents have consistently asked me one question: "What in the world is going on down there?

And you know, Mr. President, I actually think there is a way to explain some of it.

I cannot explain why we allow amendments to be voted on after only 2 minutes of debate. And I cannot explain why we sometimes vote, over and over again, on the same issue. And I certainly cannot explain some of the rules we use to decide if we will vote on the merits of an issue or some procedural question which allows us to avoid the substance of the question.

But I can explain why, over the last 4 or 5 months we have had some of the best minds in our country, some of the best people in our country, sitting around in little rooms in the Capitol and big rooms at Andrews Air Force Base arguing about what to do. And I can explain why, when after arguing all that time, the House of Representatives—Republicans and Democrats alike—rejected it.

I think are a couple of things that explain what we have seen.

First, we have never done anything like it before. For the past 10 years politicians denounced the deficit, but did nothing real about it. Every once and a while when Congress thought that people were seeing through the speeches, they would pass, or reform, Gramm-Rudman-Hollings—a process designed to force us to be responsible—but then spend most of their time figuring out where the loopholes were so they could evade its requirements. Now, after 10 years at the dance, our feet have developed blisters, the band is striking the set, and the lights are going out. But even in the dark we have finally come to see the disaster we have created.

David Stockman once predicted that the Reagan economic policy would result in "$200 billion deficits as far as the eye can see." Who would have throught he was being an optimist?

Given the reality of the disaster we have created, we finally decided to do something about it this year. The President who told people to read my lips started to read the handwriting on the wall and revenues were on the table. We were able to agree on the broad shape of a package: $500 billion in deficit reduction over 5 years, a reasonable mix between revenue increases on one hand and domestic and defense spending cuts on the other. This package is not the ultimate answer to our deficit problem. It will not eliminate the deficit. It will reduce the rate at which the deficit increases even if it does not reduce the annual deficits we develop. Even with those limitations, however, this is a significant and real and important step.

Second, the people trying to fashion a comprehensive deficit package represented different regions of the country, different political parties, and different wings within those parties. One of the reasons we slipped into the deficit disaster is that over the past 10 years Democrats surrendered their identity. Oh, we fought around the edges of Reaganomics but the huge margins which supported the 1981 tax cuts which started us sinking into a sea of red ink testifies to our termidity as a party. The overwhelming support for the defense spending increases which pushed us below the bottom line further blurred our identity. Throughout the decade, we went along. And we got budgets—oh yes, we got budgets. We just didn't get any sense of fiscal sanity.

This year, Democrats began to assert a point of view. When taxes were put on the table, we did not just ask "How much?" We asked "Who would pay?" And we did not like the answer we got. And some Republicans did not like the questions: They wanted to return to the "no new taxes-free lunch" doctrine of the past decade. Obviously, I believe that my party, the Democratic Party, was taking the right approach to the problem. But my point is not to praise one philosophy, it is simply to point out that there were many philosophies represented in those meetings and many perspectives identified in those negotiations. And no single philosophy, no single perspective, no single point of view had the power to prevail. There came a time when basic values and beliefs clashed: The President wanted a capital gains proposal which was too rich for my blood; the Democrats wanted a progressive tax system which the President feared would bleed the rich dry. And there was no way to bridge that gap, no way to paper over those differences—and no way for one side to prevail over the other.

So the package we have before us is a compromise. It has all the strengths and weaknesses of a compromise. It has no clear philosophic center other than the goal of $500 billion in 5 years. It is not easy to achieve that goal without a consistent set of economic assumptions and human values. So it took time to cobble something together. It makes no one happy, but it may satisfy 51 percent of the Congress—and it may serve the interest of 100 percent of America even while it offends every special interest in the country.

Third, without being partisan, I think it took us months and months to come up with this package because we didn't have strong Presidential leadership. The President started out with no new taxes, then everything was on the table, then new revenues were needed, then capital gains were required while changes in the rates were unacceptable, and then—and then who knew where he stood. There is blame to be placed on the Congress—there is no question about that, no debate about it—but one of the reasons we delayed consideration of the budget resolution is because we agreed to the President's request that we negotiate with him at the summit. And those negotiations replaced congressional consideration of the budget.

In addition to the failure of Presidential leadership, we also had a gen-

eral failure of political courage. I do not believe that the rejection of the original budget summit agreement by the House of Representatives represented a failure of courage; I think it demonstrated a great deal of wisdom. I would have voted against that agreement too. I think we got a better package, both here and in the House, as a result of that rejection. But as we looked at the new and improved packages more closely, we found some very old flaws: All the hidden special interest legislation, all the disguised tax breaks for this group or that, all the buried spending programs for one special project or another. We put a package together to save our Nation and scattered through it sections designed to ensure our reelections. And that makes this package less attractive than it ought to be.

Finally, Mr. President, what bothers me is the nagging fear that these weakness are endemic to the politics we practice today. Until the American people demand better, this is the best we will do. I am not satisfied with it. I am not pleased with it. But it is a small step in the right direction. And I am willing to start walking in the direction it points.

ADMINISTRATION OF LUXURY TAX

Mr. DOLE. Mr. President, I would like to ask a question of the distinguished chairman of the Finance Committee relating to the collection and refund of the luxury tax as it applies to aircraft used in business.

As I understand the 10-percent excise tax on luxury items, an aircraft costing over $250,000 and used at least 80 percent of the time for business purposes is not subject to the new tax. However, the tax is, nevertheless, imposed when the purchaser takes title to the aircraft. The purchaser then would apply for a refund of the tax on its tax return for the year following the purchase.

It would seem to me that the purchaser in this circumstance should be able to offset its estimated income tax payments for the excise tax that has been paid. Unless such an offset were allowed, the Government would be able to hold substantial amounts of withheld tax for as long as 20 months even though no tax liability exists.

Such an offset would have no adverse impact on compliance because the offset would not change the business use test in any way. It would simply assure that taxpayers would not be denied the use of their money in circumstances where no excise tax liability exists.

Would the distinguished chairman be able to give assurance that the Finance Committee's intent is to allow taxpayers in these circumstances to offset the excise tax against their estimated income tax liability?

Mr. BENTSEN. The Republican leader has made a reasonable point. It is intended that the new excise tax refund may be used to offset estimated tax liability. However, such offset does not abrogate the requirement that the taxpayer show that the 80-percent business use test has been met in order for the excise tax liability not to apply.

REBATES TO BE PRICE ADJUSTMENTS

Mr. RIEGLE. Mr. President, I understand it was the intent of the Senate Committee on Finance that rebates made directly from the automobile manufacturer to the retail customer that are specified in the sales agreement be excluded from the taxable sale price for purposes of the luxury tax. It was our intent to consider such rebates as price adjustments and would be deducted from the sale price. Am I correct in my understanding?

Mr. BENTSEN. The Senator is correct in his understanding of the committee's intent.

Mr. PACKWOOD. That is my understanding of the provision.

Mr. RIEGLE. I thank the Senators for their clarification of this matter.

OMNIBUS BUDGET RECONCILIATION ACT OF 1991

Mr. McCLURE. Mr. President, the provisions in S. 3209, the Omnibus Budget Reconciliation Act of 1991, within the jurisdiction of the Energy and Natural Resources Committee include changes in the existing law to achieve reductions in outlays and increase in receipts necessary to achieve and exceed the committee's reconciliation instruction for fiscal year 1991 and fiscal years 1991 through 1995. Title IV achieves direct spending savings of $91 million in fiscal year 1991 and $398 million for fiscal years 1991 through 1995.

S. 3209 incorporates the text from two bills previously reported by the committee and passed by the Senate. Title IV of the pending measure contains the provisions include in the Tongass Timber Reform Act, H.R. 987, as passed by the Senate on June 13, 1990. This measure achieves direct spending savings of $28 million in fiscal year 1991 and $204 million for fiscal years 1991 through 1995.

Title IV of S. 3209 also contains the text of S. 83, as initially passed by the Senate on July 20, 1989, with three modifications. The changes made to S. 83 by the committee will result in savings of $63 million in fiscal year 1991 and $194 million for fiscal years 1991 throught 1995. This has been accomplished.

First, by postponing until 1996 payments in lieu of taxes to the States in which the enrichment facilities are located;

Second, by limiting spending by the new corporation and mandating payment by the corporation of dividends to the Treasury; and

Third, by assessing a fee of 0.2 mills per kilowatt hour of electricity generated to be paid each fiscal year from 1991 through 1995 each licensee of a civilian nuclear reactor.

What is unreasonable, however, is that in order to receive an aggregate direct spending savings of $194 million from fiscal years 1991 through 1995, it was necessary to collect $527 million. This situation results principally from scoring rules imposed on the reconciliation process which differentiate between direct spending and discretionary appropriations.

Current uranium enrichment expenditures and receipts are treated as discretionary appropriations and revenues for the purpose of the congressional budget process. As such their budgetary treatment is assigned to the Appropriations Committee.

However, by the simple act of establishing a Federal corporation a major portion, $331 million, or what are now classified as discretionary appropriations are reclassified as direct spending. This difference in direct spending occurs without any change in the operation of the uranium enrichment enterprise itself. It occurs exclusively from the scoring rules imposed on the reconciliation process. Consequently it must be offset by increased revenues.

So, in order to achieve direct spending savings of $194 million for the purpose of reconciliation it is necessary to impose a fee that will raise $527 million. And, if that is not bad enough, while the full savings in budget outlays and revenues from the uranium enrichment provisions in S. 3209 are $813 million, the committee is only able to obtain credit for $194 million in direct spending under the rules imposed on the budget reconciliation process. This is absurd.

The only consolation is that the full $527 million in fees will be deposited in a decontamination and decommissioning fund within the Treasury which would be subject to appropriations. These fees are to be used to establish a base reserve of funds for eventual use by the Corporation to cover that portion of its decontamination and decommissioning costs which are attributable to services performed for commercial customers.

Mr. President, the overall objective of the measure is to restructure the Department of Energy's uranium enrichment enterprise in order for it to be able to function in a more businesslike and competitive manner. In addition, the legislation will revitalize a severly depressed domestic uranium mining industry, and assign appropriate funding responsibilities for cleanup of active uranium mill tailing sites. S. 83 will ensure adequate long-term domestic supplies of uranium at competitive prices to meet the requirements of commercial nuclear powerplants in the United States.

It is this commercial business which guarantees that the enriched uranium required for our vital defense program—notably, 150 nuclear submarines—can be produced at a reasonable cost to the Government. If the enrichment enterprise were to lose its commercial customers, the cost of supplying our defense establishment would be astronomical.

Unfortunately, the rapidly changing enriched uranium market will eventually result in the demise of our enrichment enterprise if the entity does not respond appropriately. For example, Russia is freeing up the enrichment capacity it previously had dedicated to weapons production and in its thirst for hard currency, is offering enriched uranium on the spot market at prices far below those of our enrichment enterprise. No one questions that our uranium enrichment enterprise is severely constrained in its ability to meet such market challenges. Unlike its more progressive, business-oriented foreign counterparts, it cannot rapidly make adjustments in its practices to maintain its competitiveness. The U.S. enrichment business—such as it is—is on the skids because it has been strangled by congressional policy mistakes and the budget and appropriations process.

Title IV of S. 3209, which contains the text of S. 83 as earlier passed by the Senate, will not only remedy these problems but, coupled with the amendments made by the committee in its budget reconciliation recommendation, will result in significant savings in direct spending over the next 5 years.

Inclusion of S. 83 as amended by the committee will in fact produce multiple benefits. Not only is it an integral part of the committee's total budget savings package, but it is also a critical first step in revamping our uranium enrichment enterprise, arresting its decline, and redirecting it onto a path that will produce future monetary benefits to the Treasury instead of drains on taxpayer dollars.

Mr. President, in this Congress S. 83 has overwhelmingly passed the Senate twice: Once on July 20, 1989, as S. 83; and most recently in S. 2415 on September 26, 1990. In addition, the Committee on Energy and Natural Resource reported S. 3085 which contains the provisions of S. 83 as passed earlier by the Senate. And once again the Senate is being asked to consider this matter which first passed the Senate in the 100th Congress on May 30, 1988, as S. 2097.

For the legislative history on this measure I refer my colleagues to Senate Report 101-60 and the Senate's debate on S. 83 on July 20, 1989. I also ask unanimous consent that the text of my remarks from that date be inserted in the RECORD at this point as part of this debate.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

COMPREHENSIVE URANIUM ENRICHMENT ACT OF 1989

The availability of competitive, domestic uranium supplies for nuclear electric power generation is critical to the provision of reliable electric supplies to all American consumers. Today the Senate once again considers legislation to revitalize the Federal governments uranium enrichment enterprise and domestic uranium production, generally. During the 100th Congress, the Senate passed similar legislation to S. 83.

I am pleased to join my colleagues in support of S. 83. which restructures the Department of Energy's uranium enrichment enterprise in order for it to be able to function in a more businesslike and competitive manner. In addition the legislation will revitalize a severely depressed domestic uranium mining industry, and assign appropriate funding responsibilities for cleanup of active uranium mill tailing sites.

During the last Congress, the Committee on Energy and Natural Resources, as well as the Senate as a whole, spent a great deal of time on this matter. Had it not been for the lateness of the "hour", I am sure we would have been able to work out a final package with the House.

Instead, we are here once again to consider revised legislation which reflects discussions with the Bush Administration. In essence, S. 83 is the final version of last year's attempt to restructure the Federal government's uranium enrichment enterprise. However, changes have been incorporated to reflect S. 847, as proposed by the Bush Administration.

No one questions that our uranium enrichment enterprise is severely constrained in its ability to respond to today's market challenges. S. 83 will ensure adequate long-term domestic supplies of uranium to meet the requirements of the more than one-hundred commercial nuclear power plants in the United States. These reactors will burn more than two billion pounds of uranium over their operational lives. In addition, S. 83 will ensure reliable sources of uranium for vital U.S. defense programs—notably, 150 nuclear submarines. By any standard, uranium is a critical strategic material.

U.S. ENRICHMENT CORPORATION

The U.S. enrichment "business"—such as it is—is strangled by the Congressional budget and appropriations processes. It cannot easily make any short-term adjustments or long-term commitments. And, it basically is unable to effectively compete with its more progressive, business-oriented counterparts around the world. We are rapidly losing customers to competition from abroad.

Mr. President, Title I of S. 83 creates the U.S. Enrichment Corporation to manage the Federal enrichment program. The Corporation is charged to operate as a continuing, commercial enterprise, on a profitable and efficient basis.

For more than 20 years the United States had a worldwide monopoly on uranium enrichment services. The Federal government has provided these enrichment services on a timely, reliable and competitive basis.

But the Department of Energy is rapidly losing customers to competition from abroad. Some of this competition may, in fact, be subsidized. I am also concerned that once Russia frees up its enrichment capacity previously dedicated to weapons production enrichment that it will, in its thirst for hard currency, subsidize foreign uranium sales.

In recent times, the Department has not had the necessary flexibility to adjust to changing international market conditions. S. 83 will change the situation; it enables the United States' enrichment enterprise to once again be competitive. I am confident that when the present uranium enterprise has been restructured under S. 83 that it will be able to re-establish the United States as the world's principal supplier of uranium enrichment services.

When the United States was the sole supplier of such services it was able to effectively promote its nonproliferation policies by preventing other countries from developing the capability to produce weapons' grade nuclear materials. If we are going to continue to be effective in that regard, the United States must be able to provide foreign customers with assurances that it will continue to be a reliable, competitive supplier of uranium enrichment services. S. 83 thus establishes an independent Federal corporation.

The power of the Corporation is vested solely in an Administrator, to be appointed by the President and confirmed by the Senate. Because the Committee and the Administration are concerned the Corporation be operated as much like a private corporation as feasible, the legislation establishes a corporate advisory board. The Corporate Board is to review the Corporation's policies and advise the Administrator and the Secretary.

While the Corporation and its Administrator are under the general supervision of the Secretary of Energy, the Secretary's authority over the Corporation is limited to matters involving the Nation's common defense and security, and matters involving health, safety and the environment. In all other respects the Corporation would operate as an independent Federal Corporation, including with respect to all fiscal matters, such as the declaration of dividends. In this regard, it is intended that the Corporation be free from the restraints of Federal budgetary and appropriations processes.

But more importantly, it is not intended that any officer or employee of the executive branch—including the Director of the Office of Management and Budget and the Secretary—either directly or indirectly exercise any authority over the Administrator. Rather, it is intended that the Administrator and the Corporation be free to manage its activities. For example, in determining the fiscal needs of the Corporation, the Administrator is required to retain such funds as are needed for the furtherance of the Corporation's functions, such as research and development, capital investments, and the establishment of cash reserves.

The Corporation is structured so as to provide the Administrator maximum flexibility to operate the Corporation in a businesslike manner; however, until the enterprise is privatized S. 83 preserves some degree of accountability to the Executive Branch and the Congress.

In this regard, the bill provides for a report by the Administrator setting forth his recommendations for the eventual transfer of the functions and assets of the Corporation to private ownership.

It was the judgment of the Committee that privatization should be a two step procedure, the first step being the creation of an independent entity that would hold title to the assets of the Federal enrichment enterprise and would operate those facilities

on a "commercial" basis. Once the "economic viability" of the Federal uranium enrichment enterprise is established it will be feasible to fully privatize the Corporation, for example, through the sale of stock.

However, if the Corporation is to be privatized, any associated enrichment facilities are going to have to be licenced by the Nuclear Regulatory Commission, as provided for in S. 83. The bill anticipates that the NRC's regulations providing for such licensure will reflect, and, to the extent feasible, be consistent with applicable regulations of the other Federal regulatory agencies regarding matters within their jurisdiction and not within the jurisdiction of the NRC.

The bill also anticipates that this licensure process will be initiated by the Corporation while it still is under Federal ownership and control. The possibility exists that significant costs may be incurred in licensing the existing facilities only to find that when privatization occurs it is accompanied by the construction and licensure of new facilities. This possibility, which could affect the "economic viability" of the Federal enrichment enterprise and, in turn, our success in its eventually privatization, should be considered during the licensure process.

Over the years the Federal government has invested considerable funds in facilities to provide these services, which have been priced at cost, as required by law. Under S. 83, the Corporation is to set commercial enrichment prices on the basis of the competitive world market for uranium services. Over the long-term, the goals of the Corporation are to be recovery of costs and profitability and to be competitive with foreign suppliers of enrichment services. Whether or not the Corporation's operations are being conducted in a business like manner, consistent with these goals, is to be judged over the long-term. It is anticipated that such prices, over the long-term, will include the base costs of providing such commercial enrichment services reflecting eventual costs of decontamination and decommissioning as well as the needs of the contingency reserves, research and development, etc.

By comparison, enrichment services provided to the Department of Energy are to be priced so as to recover on an annual basis the actual base costs of providing such services. In any given year such prices cannot exceed the average commercial prices. However, should this limitation not permit full recovery of the actual base costs of providing enrichment services to the Department, the Corporation is to price future services so as to recover any such unrecovered base costs.

Mr. President, at this point in my remarks, I would like to address the matter of the value of the Federal assets that will be transferred to the Corporation and any outstanding debt owed by the Corporation to the Treasury.

When an attempt was made by the Atomic Energy Commission in the 1970's to price these services at higher than cost, the Congress specifically rejected the attempt. In both 1970 and 1971, the GAO confirmed that the pricing methods employed by the Atomic Energy Commission were appropriate and in compliance with the Atomic Energy Act.

Thus we find ourselves in the situation that between 1969 and 1986 total appropriations for the Federal uranium enrichment program were $18.4 billion. The program, in turn, collected $16.6 billion in revenues for services provided to defense and commercial customers. Therefore, there remains a net appropriation of $1.8 billion over this period. However, this figure includes an estimated $1.638 billion in costs incurred in providing enrichment services to defense programs, that were not recovered and, arguably, are owed the Department of Energy as the provider of enrichment services to itself, in the capacity of a customer. If an adjustment is made of these unrecovered defense expenditures—or unrecovered costs—this figure becomes $364 million.

S. 83 characterizes this amount as debt, although it is actually unrecovered defense expenditures or costs. The value of the assets themselves are reflected in the Corporation's stock which is retained by the Secretary of the Treasury.

VOLUNTARY OVERFEEDING PROGRAM

The second issue that is dealt with by the legislation addresses the viability of our domestic uranium mining industry. In order to ensure an adequate long-term supply of domestic uranium, S. 83 encourages the use of supplies of domestic uranium by requiring the Enrichment Corporation to establish a five-year voluntary overfeeding program. The program would permit a commercial enrichment customer to supply greater amounts of uranium for use in the enrichment process than necessary to meet their order. Because of the availability of these additional quantities of uranium, the costs associated with meeting such customer's order is thus reduced because of reduced electricity requirements in providing such enrichment services. Under the program the commercial customer would receive a credit for the dollar savings resulting from the reduced power requirements.

Among the benefits of the program are reduced enrichment costs for commercial enrichment customers and an accelerated utilization of current inventories. Thus a market will be stimulated for new supplies of uranium. In this regard, the legislation also requires that all future Federal government purchases or uranium shall be domestic uranium from domestic producers.

In addition, the legislation vests the Secretary of Energy with a continuing responsibility for the domestic uranium industry. This includes a responsibility to encourage the export of domestic uranium.

URANIUM MILL TAILINGS RECLAMATION

Now, let me turn a moment to the third issued treated in S. 83, that is, funding for uranium mill tailings reclamation. While I view this title of the bill as being the least controversial, I did want to impress upon my colleagues its importance in terms of getting the reclamation job accomplished, and the fairness with which we have allocated the costs of this reclamation effort.

When Congress passed the Uranium Mill Tailings Reclamation Act of 1978, we had no idea of the extent of regulatory requirements that would be attached to the task of cleaning up mill tailings sites. In fact, we did not know anything about these regulations until just a few years ago, when the Environmental Protection Agency finally issued the regulations. The regulations turned out to be far more stringent than anyone could have imagined, and will cost nearly $1 billion to accomplish, according to DOE estimates. So we find ourselves in a situation where the industry has generated almost 200 million tons of mill tailings well before the regulations were known, at a customer price that did not and could not have reflected such exorbitant cleanup costs.

That same industry, now nearly extinct, should not and could be held totally liable for these unanticipated costs, when it is in fact the customers who, under normal circumstances, would have paid this cost in the original price of the ore.

S. 83, within title II, allocates the costs of this reclamation between the mining industry and the Federal government. The legislation creates a program to reimburse licensees of uranium and thorium mill sites for the cost of reclamation of thorium and uranium mill tailings generated as an incident of sales to the Federal government for defense purposes. At the time these sales occurred, possible hazards from the tailings were not recognized and no reclamation was required by the government procurement contracts.

The legislation authorized $300 million as the Federal contribution for reclamation, decommissioning and other remedial action costs. Reimbursement to licensees is not to exceed $4.50 a ton for the tailings generated under Federal contracts unless excess funds remain at the end of the program. If there are excess funds, the Secretary of Energy may reimburse in excess of $4.50 a ton in those cases where costs exceed this limit. However, acceptance of the Federal funds is to be the exclusive remedy.

More importantly, I should note that the provisions of this title are vital to the accomplishment of this cleanup effort, which we would all agree is an environmentally sound objective.

CONCLUSION

Mr. President, this legislation must be enacted in order to ensure the availability of competitive, domestic uranium supplies for nuclear electric power generation. This will in turn provide a reliable electric supply to American consumers and meet the needs of the Department of Defense. This measure will revitalize a severely depressed domestic uranium mining industry and would restructure the uranium enrichment activities of the Department of Energy into a Federal corporation that can function in a business-like and competitive manner.

Mr. McCLURE. Mr. President, I urge support for title IV of the Omnibus Budget Reconciliation Act of 1991 as reported by the Committee on Energy and Natural Resources.

THE BUDGET RECONCILIATION BILL

Mr. GORTON. Mr. President, when the budget summit produced a bipartisan agreement after months of torturous negotiations, I announced my willingness to support the compromise. Clearly, there were portions that I did not support, most particularly more taxes and drastic cuts in agriculture and Medicare. However, for all of its shortcomings, the budget summit proposal would have set in motion a process for real budget discipline. For the first time in a long time, Federal spending would not be permitted to grow uncontrollably. And, Congress finally would break itself of the tax and spend mentality that had dominated the faulty fiscal policy of its Democratic leadership.

At that time, I commended our congressional leaders for rising above partisan differences to create a truly remarkable product. Despite the rather obvious political liabilities inherent in any bipartisan compromise, I was will-

ing to embrace it as the best possible solution under the circumstances and was willing to say so to my constituents.

After the demise of the budget summit proposal, this body passed an alternative Democratic budget resolution which allowed as much as $10 billion more in taxes and $10 billion less in spending cuts. At that time, I expressed my deep misgivings about the lack of spending discipline in that budget resolution—discipline that had been marginal even in the bipartisan budget summit agreement. I had little faith that a budget resolution, drafted by Democrats and interpreted by committees controlled by Democrats, would result in anything other than more taxes and less spending discipline.

Well, Mr. President, it turns out my fears were more than justified. When compared to the budget summit package, the reconciliation bill taxes the American people more and cuts spending less. It calls for $152 billion in new taxes, $12 billion more than the summit package. At the same time, the reconciliation bill cuts only $110 billion form mandatory spending programs, $9 billion less than the summit agreement. Moreover, many of the so-called cuts in spending are nothing more than new user fees. Although I do not specifically object to user fees, I cannot condone disguising new fees, which more appropriately should be called taxes, as spending cuts.

Mr. President, I cannot support this reconciliation bill. It is primarily new and permanent taxes coupled with week promises for mild spending restraint. It simply does not represent progress toward the goal of spending restraint and fiscal discipline. It was created by a Democratic-controlled Congress that is still fully wed to the tax and spend policies that brought us to this point of fiscal chaos. Simply put, the American people deserve better.

Mr. RIEGLE. Mr. President, after a great deal of consideration, I have decided not to support this budget package. While it is clear that major deficit reduction is long overdue, I have many concerns about the course that is charted by this particular piece of legislation.

While this package is better than the one put forward by the summitters, I am still very concerned that it will place an undue burden on middle- and low-income Americans and on our senior citizens. The increase in the Medicare deductible would be the equivalent of a 20-percent cut in the COLA for an average older person on Social Security. The increase in the gas tax hits hard at the average working person at a time when they have already seen huge increases in the amount they must pay for gasoline. It asks less of a sacrifice from those with high incomes than it does of those of more modest means. In short, it is not the direction I think we should be heading in.

I am particularly concerned about continuing efforts to jury-rig the Gramm-Rudman-Hollings approach to budgeting. This system, which has already been adjusted once, has failed to bring about a balanced budget. Instead, it has led to many successful efforts to find ways around its constraints, and to mask the true nature of the budget problems we face. The proposal we have before us creates a whole new maze of across-the-board cuts—a budgetary approach most of us said should never be implemented because it cuts good programs and bad ones indiscriminately—and provides a whole new set of incentives to find clever ways to avoid facing our budgetary problems head-on.

It is clear that we must move forward to enact a budget. The proposal advanced by the House of Representatives is a major improvement over this bill. It reduces the cost to senior citizens, cuts the gas tax, and extends a more fair share of the overall cost of reducing the deficit to those who are able to pay. I would strongly urge the conferees on this package to move toward the House package. Until we make substantial improvements, I cannot in good faith support the package that we have in front of us today.

Mr. DODD. Mr. President, I rise to express my support for the fiscal year 1991 omnibus budget reconciliation resolution.

The reconciliation resolution is imperfect—but an improvement on the budget summit agreement of October 7. The solid deficit reduction it provides, the clarification of government priorities, and the fairness of the burden sharing more than outweigh its flaws.

The resolution preserves the overall summit agreement on deficit reduction. It is the largest deficit reduction package ever considered by the Congress, including deficit reduction of some $40 billion in fiscal year 1991 and $500 billion over fiscal years 1991 through 1995.

Mr. President, the budget clock is ticking. At the present time, we face a crisis—a crisis in Government, a crisis in the economy, and a crisis in confidence in the institution of government itself.

Our Government is paralyzed, and across this country American citizens are outraged. Rightfully so.

If this were a European parliament, the government already would have resigned in disgrace.

America is saying, "Enough already." After 10 years of debate, phony budgets, soaring deficits, and political indulgence, the Government is imploding.

Our country must have a national budget, which means compromises must be made. If we don't enact a reconciliation bill, the growing deficit and the ongoing paralysis in budgetmaking will continue to erode our ability to govern.

Once and for all, we must begin erasing the Federal deficit that has plagued this country for the past 10 years. Now is the time to end this fiscal insanity.

Mr. President, this is a fair and balanced package. It is a compromise package. It represents tough choices. It will involve some sacrifice. But it is real and it is right.

As I said earlier, it is not a perfect reconciliation bill. But in my 16 years in the Congress, I have yet to see the perfect budget plan. Every Senator who wants to vote against it can say it does not do something exactly the way that Senator would like to see it done.

This budget plan isn't perfect to this Senator either. But it is a real beginning toward serious deficit reduction. This budget will help us address the problems of the next century and put our Nation back on track. This budget truly is about our Nation's future: Without a solution to our budget crisis, we will continue mortgaging our children's future.

Mr. President, a budget is not simply an accounting document; it should reflect the priorities for our Nation.

We not only need to have the deficit reduced—we also must invest in the next generation.

In that regard, I would like to highlight a few of the improvements that have occurred since the budget summit agreement. I am particularly delighted that the bill incorporates a two-part approach to Federal assistance to meet the child-care needs of millions of families across the Nation—a grant program to States fashioned by the Labor Committee and an expansion of tax credits developed by the Finance Committee.

As my colleagues know, a great deal of time, energy, and deliberation have gone into developing child care legislation. During the 1988 Presidential campaign, George Bush announced his support for child care. Everyone agreed that we needed child care legislation—but we lacked consensus on what that legislation should look like. On June 23, 1989—15 months ago—the Senate passed S. 5, the ABC bill, after 8 days of heated debate. Subsequently, the House passed its version of child care legislation, and since that time the Senate, the House and the administration have debated the best way to meet the child-care needs of the Nation.

Over the weekend, with the encouragement of the distinguished majority leader, for the first time we reached agreement on a new and expanded

Federal role in child care. The bipartisan agreement is a fair and balanced approach that will make quality child care more available and affordable.

Millions of latchkey children are home alone every day. Around the country, child care waiting lists grow longer and longer. For parents lucky enough to find a place, it costs an average of $3,000 a year to send one child to full-time child care. I am very pleased that our reconciliation bill, by including the bipartisan child-care agreement, will go a long way toward helping these children and families.

I am also pleased that the Finance Committee package includes a substantial improvement in Medicaid coverage, especially for poor children.

Millions of children have no health insurance today. The Finance Committee legislation would address this problem by extending Medicaid coverage to children up through age 18 whose families have incomes below 100 percent of the poverty line, phasing in the coverage over the next 13 years. The legislation also would grant States the option of raising the Medicaid income limit above the poverty line for children through age 18 as well.

Mr. President, I am also pleased about the greater fairness in burden sharing in this bill as compared to the budget summit agreement.

I had serious reservations about the tax provisions in the budget summit agreement. Simply put, they were too regressive. Under the summit agreement, the Federal tax burdens of the poorest one-fifth of U.S. households would have increased 11.1 percent. The tax burdens of households in the middle of the income spectrum would have risen 3.3 percent. But among the wealthiest one-fifth of households, the tax burden would have climbed just 2.1 percent, and, among the richest 1 percent of all Americans, the tax increase would have been only 1.7 percent.

The summit agreement was regressive for two principal reasons. First, nearly half of its total tax increase would have come from higher energy and excise taxes. Such taxes consume a larger share of the income of low- and middle-income people than of those who are more affluent. Second, the summit agreement contained lucrative new tax breaks for wealthy individuals who made investments in certain small- and medium-sized businesses. Those tax breaks would have offset much of the tax increase that would otherwise have been imposed on upper-income households.

By expanding the earned income tax credit for the poor and reducing the tax breaks for the rich, the bill significantly increases the progressivity of this package over the summit package. Thus, the bill would cut taxes by 2.3 percent for those earning between $10,000 and $20,000 a year. Higher earning taxpayers would have their taxes raised between 1.9 and 3.7 percent, with those earning more than $200,000 hit the hardest.

Finally, with respect to taxes, I am pleased that the package drops the provision of the summit agreement that called for a 2-cents-per-gallon tax on home heating oil, a tax that would have had an adverse impact on the citizens of the Northeast.

As I stated earlier, Mr. President, there are still provisions in this legislation that I believe need to be improved before the process is finished.

The first of those involves the Medicare program. While I am pleased that the beneficiary reductions in the Finance Committee package are considerably smaller than those in the summit agreement, I am nevertheless concerned that the finance package retains the Medicare deductible increase and eliminates the 3-year phase-in of that deductible. I also would have preferred that the package include some protections for low-income elderly and disabled Medicare beneficiaries.

Finally, I am concerned about the unfair singling out of the insurance industry for an enormous corporate income tax increase. While the industry is very important to the State of Connecticut, it is equally important to the Nation and I am deeply concerned about the impact of the huge tax increases contained in this bill.

I would like to make several points about the insurance company tax increases.

First, Members should be aware that the insurance industry is the only industry that is being singled out for a corporate income tax increase in this bill. There are some minor corporate provisions relating to compliance, loopholes, and interest on tax deficiencies, but these are much smaller than the insurance increase, and their impact is widely spread among all corporations. Only insurance suffers a special industry increase in its corporate income taxes.

Second, the insurance tax increase in the Senate bill is actually higher than in the House bill in two regards. Thus, the Senate bill includes a one-time income speedup for property and casualty companies that the House bill does not. Let me make it clear—both bills would increase so-called salvage and subrogation taxes. However, the House bill would increase them by some $600 million over 5 years while the Senate bill would be nearly twice that amount, at roughly $1.1 billion over the same period.

In addition, the Senate bill also denies a greater amount of deductions than the House does under the proposal to capitalize so-called deferred acquisition costs, or DACS, for life insurance companies. While the overall DAC revenue number of $8 billion over 5 years is the same in both bills—an amount that is roughly half the largest number discussed at the summit—the Senate bill provides higher taxes for companies generally, in order to finance revisions that benefit only some companies. While the revenue number indicates that this is an $8 billion DAC proposal, for the companies that do not qualify for special small company or other relief, it is just the same as a $15 billion DAC, and that is a huge tax increase by any standard.

Third, the measures raising the industry's taxes consist principally of speeding up income and delaying deductions in ways that do not apply to other industries. This is not a case of finding some industry that somehow escaped tax reform. To the contrary, there was a major tax increase for life insurance in a comprehensive 1984 reform bill and a major tax increase for property and casualty insurance in the 1986 Tax Reform Act.

The bill we are considering today adds another nearly $2 billion a year to industry burdens on top of those earlier changes.

Mr. President, I am deeply concerned about the consequences of these increases. In the first instance, companies will increase some prices and cut some costs and dividends. However, the industry will not be able to pass all the added costs through to consumers and stockholders, so the rest will have to come from industry surplus.

I do not want to say the sky is falling here, but we are in an environment today that should lead us to question the wisdom of exposing insurance industry surplus to a significant new tax cost. This month, one of the biggest companies in the industry, headquartered in my state, took an enormous charge against earnings and cut its dividend in reaction to the collapse in the real estate market. We have congressional inquiries about safety and solvency. We have consumer groups raising questions about the same issues. We have an economic situation that is placing enormous strains on all financial institutions in this country, at great risk to the customer and to the taxpayer.

In the midst of this overall industry and economic situation, we are sticking the industry with a huge tax increase. From both a fairness and a solvency standpoint, I am deeply concerned about this increase. But I want to make clear that under both the Senate and House bills, the industry will experience a significant increase in taxes. I believe that is unfortunate but it is a fact of life. My plea is a narrower one. I urge my colleagues on the Finance Committee to blend the two bills in ways that will reduce these unfortunate impacts as much as possible.

Mr. President, in sum, the bill we are debating tonight is a budget plan that continues to have flaws but one that is dramatically improved over the original budget summit and one that I can support. I have pointed out some key areas where I believe it falls short of good public policy and I hope the conferees will move in the direction of the House-passed bill in these areas, which I think is far fairer.

Mr. President, it is time that we act. I think it's important to move this package now so that we don't tax everyone's patience along with everything else.

RECONCILIATION

Mr. KASTEN. Mr. President, I oppose this reconciliation bill primarily because it would impose the second largest tax increase in our history at a time when the U.S. economy is on the verge of recession.

Let me emphasize a point that was made by the distinguished senior Senator from Colorado, Senator ARMSTRONG: There is no economic theory which argues for a tax increase during a period of economic weakness.

From a supply-side standpoint, there has never been a tax increase designed that could encourage businesses and people to work, save, produce, and invest more. Keynesian economists would argue that a tax increase reduces consumption and aggregate demand which in turn dampens GNP growth and job creation.

I think we should learn from history. The last time taxes were raised in the midst of a recession was in the 1930's, when President Herbert Hoover imposed tarriff and tax rate increases on the U.S. economy. What happened? These tax increases reduced real incomes and production, turning a mild recession into the Great Depression.

I believe that any tax increase is antigrowth, antisavings, antijobs, and anti-investment. A tax increase will lower the standard of living and reduce opportunities for most Americans.

This budget plan represents what I call cart-before-the-horse economics. Instead of providing pro-growth tax incentives to avoid recession, it imposes a massive tax increase which will only worsen the recession and widen the Federal budget deficit.

Furthermore, it seems that many in Congress and the media have focused almost entirely on the question of how to raise taxes on the American people rather than on the more important question of how to control the growth rate of Government spending.

We ought to be pursuing policies—like cutting the capital gains tax—to increase economic growth, investment, job creation, and most important of all, economic opportunity.

Let me read from a release by the U.S. Commission on Civil Rights which Senator SYMMS pointed out this morning:

U.S. COMMISSION ON CIVIL RIGHTS RAISES CONCERNS ABOUT FEDERAL BUDGET DEFICIT-REDUCTION EFFORT

The U.S. Commission on Civil Rights urges the President and Congress, in their efforts to reduce the federal deficit, to be fully cognizant of the importance of continued economic growth to the advancement of civil rights in this country. In bad economic times, black and Hispanic unemployment rates rise the fastest. In good times, a tight labor market encourages employers to cast a wider net when hiring, thus breaking barriers that have traditionally prevented minorities, women and persons with disabilities from gaining better paying jobs. Civil rights laws can do little to expand opportunities for members of historically disadvantaged groups when opportunities for all Americans shrink. Strong economic growth is important for creating a climate for effective civil rights policies.

Strong economic growth can also be a powerful force for cutting the federal deficit. A growing economy means more and better paying jobs, which expands the tax base. Policies that encourage savings and entrepreneurial initiative create a growth dividend which will reduce the deficit.

The Commission recognizes that deficit-spending can stifle economic growth, and encourages deficit-reduction efforts.

However, plans for balancing the budget that would also reduce the incentives for individuals to work, save, and invest are likely to be self-defeating. This is the great danger in trying to control the deficit through new taxes.

We therefore call on the President and Congress to adopt only those deficit-reducing proposals consistent with economic growth. Specifically, we recommend freezing real total government expenditure at the fiscal 1990 level.

The Commission recommends that the President and Congress focus on developing policies that will spur both general economic growth and, in particular, growth in the depressed urban and rural areas of our nation. For those who live, work and invest in the depressed areas of our inner cities, for example, we urge cutting the capital gains tax rate to zero, establishing enterprise zones, and other social and job-creating initiatives to help restore economic prosperity to these areas. Overwhelmingly, the residents of these areas suffer the legacy of past discrimination and the limitations of current civil rights laws and policies to promote equality of opportunities. Policies to stimulate growth in depressed areas would not only foster the economic opportunities of residents of these communities, but would benefit many other Americans by helping to realize the full potential of our nation's wealth. Economic growth is not a panacea for this nation's civil rights problems, but economic stagnation will surely exacerbate them. Progress toward eliminating these problems can be accelerated by sustained economic growth and, equally important, aggressive enforcement of all civil rights laws and effective programs to provide educational and economic opportunities to those who have been denied.

In summary, we request, on behalf of America's disadvantaged, no general spending increase and no general tax increase.

Unfortunately, Mr. President, this package does not include growth incentives. It will not expand economic opportunity. In fact, it may in the end reduce opportunities for the disadvantaged in our society.

Let me remind my colleagues that tax revenues are already projected to increase by $397.8 billion between 1990 and 1995. I believe this flood of new tax revenue—an average of $80 billion each year—is more than enough for Congress to meet the Nation's true priorities and trim the budget deficit as well.

Mr. President, I would like to say a few words about the House Democrat tax increase alternative which suspends inflation-indexing of income taxes. This provision represents $30 billion tax increase on middle-income families, plain and simple.

Indexing prevents people from being pushed into higher tax brackets. It prevents automatic tax increases on working families.

According to the Treasury Department, a married couple with two children and income of $34,000 would pay $313.50 more in taxes under the Democratic House provisions suspending inflation adjustments. Similarly a single person with no dependents and an income of $21,000 would pay $151.50 in new taxes under the Democratic plan.

I think this plan proves that liberal schemes always end up soaking the middle-class. History proves that so-called progessive tax theories do not work. People in Eastern Europe and even in the Soviet Union are abandoning punitive taxes in favor of lower taxes on individual inititative. Raising income tax rates in the name of fairness ends up reducing opportunities for all.

We will have an opportunity to vote on the House plan at some point during this debate. I would urge my colleagues to reject this approach, an approach that most of world is in the process of abandoning.

We ought to reject all tax increases period. History shows that higher taxes simply lead to higher spending, not deficit reduction. Every $1 dollar in new taxes leads to $1.52 in new spending.

I believe that President Bush ought to immediately renew his "no-new-taxes" pledge, veto this reconciliation bill, and manage the Federal Government under some kind of modified sequester or across-the-board spending limitation which reduces the deficit by $40 billion in fiscal year 1991.

In this way, we could achive real deficit reduction without raising taxes and damaging our economy.

Mr. BENTSEN. Mr. President, this deficit reduction bill is a product of 5 months of bipartisan negotiations between the President and the Congress. It has been closely negotiated during the past 11 days in key Senate committees, including the Finance Committee where it received broad, biparti-

san support. It has been debated for almost 20 hours here on the floor of the Senate.

Putting this package together has not been an artistic or a public relations success. We have operated under tight deadlines. There have been mixed signals and missed opportunities from the White House. But in the forum I know best—in the Senate Finance Committee—Republicans and Democrats have worked hard together to produce reasonable, compromise legislation that meets the targets of deficit reduction, deserves the support of the Senate, and merits the approval of the White House.

This is not a perfect package; not the way I would have designed it in an ideal world. Every Senator on this floor has his or her own list of priorities in deficit reduction; some of us would like to burst the bubble and take the top rate to 33 percent for the wealthiest six-tenths of 1 percent of Americans. Some of us would like to see less pressure on Medicare, more money available for child health care. Some of us would like to get rid of the gasoline excise tax. All of us would like to make some change, some shift in the burden.

Unfortunately, Mr. President, we are not in some ivory tower writing a textbook on tax equity and deficit reduction. We are doing our best to deal with a $500 billion problem that poses a clear danger to America's economic future. We are up against tight deadlines. We are operating in a politically sensitive area only weeks before the election. We must reach a compromise with the House, and we must produce a package the President will sign—or risk economic chaos and political paralysis.

So we have compromised. We put together a package that has broad, bipartisan support—15 out of 20 Senators in the Finance Committee. We have a package with strong leadership support, as we have seen during this debate. But even more important, we have produced a deficit reduction agreement that is fair, and that does the job, that is realistic and effective.

I would ask my colleagues to remember that this deficit reduction summit has been running for 5 months; it has almost broken down on several occasions. Deadlines have been extended, positions have changed, problems have been solved. Today we have an opportunity to move this process toward resolution; we have a once-in-a-decade chance to start repairing the damage incurred by a decade of deficits and neglect.

It would be nice if we could find an easy, painless, universally popular way to deal with the consequences of a national debt that has tripled in the past 10 years. Unfortunately, one thing we have learned over the past 5 months is that 500 billion dollars' worth of deficit reduction requires an element of sacrifice from all Americans. We can't duck the sacrifice, but we can seek to assure that it is fairly distributed and designed to do minimal damage to our economy.

The compromise, bipartisan deficit reduction before the Senate meets those objectives. It is not what the White House wants; it is not what the House of Representatives want; it is not what individual Senators would like to see, but it is the basis for compromise and agreement. It is clearly our best hope to avoid sequestration or another shutdown of the Government. It is our best hope to send a signal to our creditors and trading partners and to Wall Street that America is serious about tackling the deficit dilemma and putting our economy on a firm footing.

We have been debating this compromise for over 30 hours. Senators on both sides of the aisle understand it is a substantial improvement on the summit agreement. It meets the targets established at the summit. It is a compromise, not a thumb-in-the-eye political statement. And—when all is said and done—it is our best hope to resolve this impasse on a basis that is fair to all Americans, rich and poor, urban and rural, Republicans and Democrats.

Mr. President, I have said on several occasions that this deficit reduction package is a product of compromise. You don't achieve compromise under difficult and politically dangerous circumstances without a large measure of good will and shared concern about what is right for America. We have seen that good will and shared concern on the Finance Committee and among the leadership of the Senate—from the minority and from the majority. I would like to thank the leaders and my colleagues on the Finance Committee for their patience and hard work and their determination to do what is right, even when it is not easy.

During the past 10 days we have established a pattern of bipartisan cooperation and compromise. We have met the challenges head on. We have offered up honest answers to the very real problem of the deficit. Today the Senate has an opportunity to continue that process, to move it along by approving the deficit reduction package before you.

Mr. President, this is the most important item of legislation to come before the 101st Congress. It deserves the support of every Senator who is concerned about America's future as the most powerful and prosperous nation in the world.

Mr. BRADLEY. Mr. President, I wish first of all to express my deep appreciation and admiration to the leaders of this body who have worked so hard over many months and passed so many obstacles to bring us here today. We all recognize the absolute necessity that we bring our revenues and our spending back in line over the next 5 years.

It is unfortunate that the artificial deadlines and the self-imposed guillotine of the Gramm-Rudman process made deficit reduction into a short-term, internal crisis. "Why can't Congress get a budget?", our constituents ask, and getting a budget—any budget—has become our only object. Our real mandate is to develop a budget for the United States for the next 5 years. That is more than a matter of making the spending and revenues add up right. The budget debate provides both the opportunity and the obligation to think about what our priorities as a nation should be over 5 years. I am voting against this bill because I believe the answer to the question of whether we got our priorities right is, "No."

One of our first priorities in the next 5 years must be to continue and to build on our dramatically changed relationship with the Soviet Union. That country is now committed to withdrawing all its armed forces from central Europe within the next few years. It is cutting support for its old clients in Cuba, Vietnam, and North Korea. Its deteriorating economy will force a deeper retreat from military purposes and prevent it from resuming imperial quests at least until the next century. Although Soviet or Russian military power will remain a long-term concern, it will not generate threats in the 1990's comparable to those we faced in the 1980's. We can safely concentrate on the many other challenges America faces, such as the threat Iraq poses to the oil fields of the Persian Gulf, and we can safely discard unduly expensive weapons systems designed to counter Soviet threats.

This budget package continues to waste taxpayers' money on such military luxuries as the B–2 bomber and oversized naval forces for 5 more years. For 5 years we will continue to squander our resources on the threats of the past, instead of reassessing our national defense to anticipate the actual threats to American security interests in the future. And this bill compounds these wrong-headed priorities by making it impossible procedurally to shift defense savings to critical domestic priorities in coming years.

A second priority in reducing the deficit must be to keep taxes low and fair for middle-income families. This package raises taxes on middle-income families, and it does so in order to give away new tax breaks for wealthy oil and energy investors. That's wrong and it's unfair.

We should reduce the deficit by closing tax loopholes, not by opening new ones. Under this plan, families earning $20,000 to $30,000 a year would pay

more. Families earning $30,000 to $40,000 would pay even more. These are not well-off families. They face extraordinary burdens in our complex society. It's one thing to ask these families to make some sacrifices for the purpose of reducing the deficit. It's quite another thing, though, to ask them to make huge sacrifices so that we can put more money in the pockets of wealthy investors already benefiting from high oil prices. This provision of the package skews our priorities for the present as well as for the future.

This package does not recognize our top priority of defense cuts. It raises taxes on the middle class but instead of using that revenue to reduce the deficit, it squanders part of it on new revenue-losing provisions to benefit healthy industries and wealthy people. Beside these problems, this package places an undue portion of the burden of deficit-cutting on those least able to bear it—senior citizens dependent on Medicare.

Raising the deductible for Medicare is not a solution to the problem of high health care costs. It will not, as some have argued, discourage large numbers of people from using unnecessary health services. It is simply a tax on being sick. Similarly, the increased Medicare premium is simply a higher tax on the elderly. While Medicare cuts might be some part of a balanced deficit-reduction package, senior citizens dependent on this limited program should not be the first place we look for money and they should not bear an unreasonable portion of the cost of balancing the budget. There is no place for this unfairness in our Nation's priorities for the next 5 years.

Finally, Mr. President, this package assumes continuation of the ill-advised Gramm-Rudman guidelines for 5 more years, with additional restrictions that will make it more difficult to use the peace dividend. The ghost of our last failed deficit reduction plan haunts this one. For 5 more years, we will be driven into bad policy decisions and gridlock by furlough notices and threatened cutoffs of vital services. Mr. President, if there is one thing we should have learned from this entire experience with the budget, it is that artificial crises make bad policy. As only a very few of us realized in 1985, no rigid formula or magic procedure will reduce the deficit for us. Only cautious choices that recognize our long-term national priorities can lead us to a fiscally sound future.

I understand how deeply we need a budget, and one that reduces the deficit by at least this amount. I have listened to those who say that this package is better than any other we could hope to pass. But I cannot accept that this is the proper path for our Nation over the next 5 years. For 5 years, taxes would be higher to pay for loopholes for the rich and for the oil industry. Indeed 170 B taxes, in part, to finance loopholes that will make the economy less efficient and the combination of high taxes and increased economic inefficiency could pull us into a recession. For 5 years, the middle class would make sacrifices while the military continued to squander resources on obsolete weapons and defense systems that don't address our security needs. For 5 years, senior citizens who need help with health care costs would pay for the largest portion of whatever deficit reduction we do achieve. For 5 years we'd continue to borrow for the RTC openended if we pass the comparison legislation that will follow this budget.

This may be the best plan for tomorrow, to avoid another shutdown of the Government. But it is not the best plan for 5 years. We can do much better. I will vote against this budget and offer my help in the effort to write a budget that reflects our priorities for the future.

Mr. GRASSLEY. Mr. President, last night I voted against this reconciliation package for several reasons, which I would like to outline:

First, too many taxes for an economy on the verge of a possible recession.

Second, too many taxes vis-a-vis the spending cuts in the overall package.

Third, too many taxes for already financially strapped families.

fourth, too many taxes for rural America, many parts of which have just rebounded from recession.

Fifth, too many taxes for lower- and middle-income Americans.

Sixth, too much of a cut, proportionally, in agriculture.

Seventh, too little of a cut in the defense budget.

Eighth, concerns about the ability of lower income beneficiaries to pay for the higher medicare costs and for rural hospitals to cope with the lower reimbursements.

What might my alternative be, Mr. President? In May, I supported the $43 billion package voted out of the Senate Budget Committee. I was the only Republican to do so. That plan was larger than this one. it was balanced. It was fair. And we should have voted on that plan last night instead of the one that passed.

Having expressed my position on this bill, and having provided what in my view is a better alternative, let me proceed to what I consider to be the real issue, Mr. President. The real issue is that we, as a Congress, have failed to administer our constitutional responsibilities of making government work for the people of this country. We're now trying to do in 3 weeks and just before an election what we normally do in 9 months. We abdicated our responsibility for the sake of a summit because we thought there would be political cover in doing so.

Well, in doing so, Mr. President, we have created not political cover, but a political crisis. We have brought this country to the brink of paralysis. It is my sincere hope that we have learned a few things in all this and that the country emerges from the experience unscathed. At a minimum, I hope we have learned the evils of budget summitry, and that we never, ever again engage in an end-run around the budget process.

I hope we can throw this exercise in budget summitry into the dust bin of history. Better yet, maybe we should put it in a brass lamp, cork it up, and drop it at the bottom of the ocean. Walting until the last minute to do anything around here just weeks before an election is a prescription for disaster. Sure, we started this summit back in the spring. But we knew even back then that an agreement by the August recess target was unrealistic, and that that would mean going up to D-day in October trying to bite the bullet just before elections.

Mr. President, the fiscal process this year has left an indelible black mark on the affairs of the 101st Congress. it is a heck of a way to close the session before going home to face our constituents. people across this country have watched our work these past weeks in utter amazement. Tourists crowded these galleries and watched in shock. We should bury the memories of our work here this year. If we had to write an epitaph for what we have done, it should read like this: "Dust to dust, ashes to ashes, and summits to hades."

Mr. President, I urge my colleagues to oppose this bill.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. SASSER. Mr. President, I ask unanimous consent that H.R. 5835, be deemed as having been considered and amended by striking all after the enacting clause and insert in lieu thereof the language of S. 3209, as amended, to be considered as having been read for the third time and that the Senate proceed without intervening action or debate to a vote on passage.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

Mr. SYMMS. Mr. President, are the yeas and nays ordered on final passage?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. SYMMS. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 46, as follows:

[Rollcall Vote No. 292 Leg.]

YEAS—54

Bentsen	Domenici	Mitchell
Bingaman	Durenberger	Moynihan
Bond	Ford	Murkowski
Boren	Fowler	Nunn
Boschwitz	Garn	Packwood
Breaux	Glenn	Pryor
Bryan	Gore	Reid
Bumpers	Hatch	Robb
Burdick	Heinz	Rockefeller
Byrd	Inouye	Rudman
Chafee	Jeffords	Sarbanes
Cochran	Kassebaum	Sasser
Cranston	Kennedy	Simpson
Danforth	Kohl	Specter
Daschle	Leahy	Stevens
Dixon	Lugar	Thurmond
Dodd	McClure	Warner
Dole	Mikulski	Wirth

NAYS—46

Adams	Grassley	McCain
Akaka	Harkin	McConnell
Armstrong	Hatfield	Metzenbaum
Baucus	Heflin	Nickles
Biden	Helms	Pell
Bradley	Hollings	Pressler
Burns	Humphrey	Riegle
Coats	Johnston	Roth
Cohen	Kasten	Sanford
Conrad	Kerrey	Shelby
D'Amato	Kerry	Simon
DeConcini	Lautenberg	Symms
Exon	Levin	Wallop
Gorton	Lieberman	Wilson
Graham	Lott	
Gramm	Mack	

So the bill (H.R. 5835), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 5835) entitled "An Act to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1991" do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1990".

SEC. 2. TABLE OF CONTENTS.

Title I—Committee on Agriculture, Nutrition, and Forestry.
Title II—Committee on Banking, Housing, and Urban Affairs.
Title III—Committee on Commerce, Science, and Transportation.
Title IV—Committee on Energy and Natural Resources.
Title V—Committee on Environment and Public Works.
Title VI—Committee on Finance—Spending Reductions.
Title VII—Committee on Finance—Revenues.
Title VIII—Committee on Governmental Affairs.
Title IX—Committee on the Judiciary.
Title X—Committee on Labor and Human Resources.
Title XI—Committee on Veterans Affairs.

TITLE I—COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Reconciliation Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1001. Short title; table of contents.

SUBTITLE A—COMMODITY PROGRAMS

Sec. 1101. Triple base for deficiency payments.
Sec. 1102. Calculation of deficiency payments.
Sec. 1103. Acreage reduction programs for 1991 through 1995 crops of wheat, feed grains, upland cotton, and rice.
Sec. 1104. Oilseed price support.
Sec. 1105. Dairy assessments.
Sec. 1106. Loan origination fees and program service fees.
Sec. 1107. Producer reserve program for wheat and feed grains.
Sec. 1108. Payment of interest on certificates.

SUBTITLE B—OTHER AGRICULTURAL PROGRAMS

Sec. 1201. Authorization levels for REA loans.
Sec. 1202. Authorization levels for FmHA loans.
Sec. 1203. APHIS inspection user fee on international passengers.
Sec. 1204. International sanctions.

Subtitle A—Commodity Programs

SEC. 1101. TRIPLE BASE FOR DEFICIENCY PAYMENTS.

(a) IN GENERAL.—The Secretary of Agriculture (hereafter in this title referred to as the "Secretary", unless the context otherwise requires), in making available to producers deficiency payments otherwise authorized by law for each of the 1992 through 1995 crops of wheat, feed grains, upland cotton, and rice, shall compute the amount of such payments by multiplying—

(1) the payment rate; by

(2) the payment acres for the crop (as determined under subsection (b)); by

(3) the farm program payment yield for the crop for the farm.

(b) PAYMENT ACRES.—For purposes of subsection (a)(2), payment acres for a crop shall be—

(1) the number of acres planted to the crop for harvest within the number of acres obtained by multiplying—

(A) the crop acreage base for the crop for the farm; by

(B) one minus the base reduction percentage (as determined under subsection (c)); less

(2) the quantity of reduced acreage (as determined under subsection (d)(1)).

(c) BASE REDUCTION PERCENTAGE.—For purposes of subsection (b)(1)(B), the base reduction percentage shall be 15 percent for each of the 1992 and 1995 crops.

(d) REDUCED AND PERMITTED ACREAGE.—

(1) REDUCED ACREAGE.—For purposes of subsection (b)(2), the quantity of reduced acreage for a crop shall be the number of acres devoted to conservation uses that is determined by multiplying—

(A) the crop acreage base; by

(B) the percentage reduction required by the Secretary under an acreage limitation program announced by the Secretary.

(2) PERMITTED ACREAGE.—The remaining acreage is hereafter in this section referred to as "permitted acreage".

(e) PLANTING COMMODITIES ON PERMITTED ACREAGE.—The Secretary shall permit producers on a farm to plant on permitted acreage for which the producers do not receive deficiency payments—

(1) program crops (wheat, feed grains, cotton, or rice);

(2) oilseeds (soybeans, sunflower, canola, rapeseed, safflower, flaxseed, or any other oilseeds the Secretary may designate) or industrial or experimental crops; and

(3) any other crop, except any fruit or vegetable crop (including potatoes and dry edible beans) not designated as an industrial or experimental crop by the Secretary.

(f) LOAN ELIGIBILITY.—Producers on a farm who devote permitted acreage (for which the producers do not receive deficiency payments) to program crops or oilseeds described in paragraphs (1) and (2) in subsection (e) shall be eligible for loans under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) with respect to the program crop produced on such acreage.

SEC. 1102. CALCULATION OF DEFICIENCY PAYMENTS.

(a) 12-MONTH AVERAGE.—For purposes of calculating deficiency payments for each of the 1991 through 1995 crops of wheat, feed grains, and rice, the payment rate for a crop shall be the amount by which the established price for the crop exceeds—

(1) in the case of wheat and feed grains, the higher of—

(A) the lesser of—

(i) the national weighted average market price received by producers during the marketing year for the crop, as determined by the Secretary; or

(ii) the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus 10 cents per bushel for wheat and 7 cents per bushel for feed grains; or

(B) the loan level determined for the crop; and

(2) in the case of rice, the higher of—

(A) the lesser of—

(i) the national average market price received by producers during the marketing year for the crop, as determined by the Secretary; or

(ii) the national average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus 27 cents per hundredweight; or

(B) the loan level determined for the crop.

(b) ADJUSTMENT FOR BARLEY.—For the purposes of determining the payment rate for deficiency payments for each of the 1991 through 1995 crops of barley, the Secretary shall include feed barley prices and malting barley prices in the computation of the national weighted average market price for barley, except that the Secretary shall exclude the portion of average malting barley prices received by producers that exceeds prices received by producers for feed barley by more than $0.50 per bushel.

SEC. 1103. ACREAGE REDUCTION PROGRAMS FOR 1991 THROUGH 1995 CROPS OF WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE.

(a) MINIMUM PERCENTAGE REDUCTIONS.—Except as provided in subsection (b), the Secretary shall announce an acreage limitation program for—

(1) each of the 1991 through 1995 crops of wheat under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm for the crop reduced by—

(A) in the case of the 1991 crop of wheat, not less than 15 percent;

(B) in the case of the 1992 crop of wheat, not less than 6 percent;

(C) in the case of the 1993 crop of wheat, not less than 5 percent;

(D) in the case of the 1994 crop of wheat, not less than 7 percent; and

(E) in the case of the 1995 crop of wheat, not less than 5 percent;

(2) each of the 1991 through 1995 crops of corn, grain sorghum, and barley under which the acreage planted to the respective feed grain for harvest on a farm would be limited to the respective feed grain crop acreage base for the farm for the crop reduced by not less than 7½ percent;

(3) each of the 1991 through 1995 crops of oats under which the acreage planted to oats for harvest on a farm would be limited to the oat crop acreage base for the farm for the crop, reduced by not less than 0 percent;

(4) each of the 1992 through 1995 crops of upland cotton under which the acreage planted to upland cotton for harvest on a farm would be limited to the upland cotton crop acreage base for the farm for the crop reduced by—

(A) in the case of the 1992 crop of upland cotton, not less than 15 percent; and

(B) in the case of each of the 1993, 1994, and 1995 crops of upland cotton, not less than 20 percent; and

(5) each of the 1992 through 1995 crops of rice under which the acreage planted to rice for harvest on a farm would be limited to the rice crop acreage base for the farm for the crop reduced by—

(A) in the case of the 1992 crop of rice, not less than 18½ percent;

(B) in the case of the 1993 crop of rice, not less than 15 percent;

(C) in the case of the 1994 crop of rice, not less than 14 percent; and

(D) in the case of the 1995 crop of rice, not less than 10 percent.

(b) STOCKS-TO-USE RATIO.—Notwithstanding any other provision of law, subsection (a) shall not apply to a crop if the Secretary estimates for such crop that the stocks-to-use ratio will be less than—

(1) in the case of wheat, 34 percent;

(2) in the case of corn, grain sorghum, and barley, 20 percent;

(3) in the case of upland cotton, 30 percent; and

(4) in the case of rice, 16 percent.

SEC. 1104. OILSEED PRICE SUPPORT.

(a) IN GENERAL.—Subject to subsection (b), in providing price support for oilseeds (soybeans, sunflower, canola, rapeseed, safflower, flaxseed, or any other oilseeds the Secretary may designate), the Secretary shall support the price of each of the 1991 through 1995 crops of—

(1) oilseeds at a level of not less than $5.50 per bushel;

(2) sunflower, canola, rapeseed, safflower, and flaxseed at a level of not less than $0.097 per pound; and

(3) other oilseeds at such level as the Secretary determines will take into account the historical price relationship between each type of oilseeds and soybeans, the prevailing loan level for soybeans, and the historical meal oil content of each type of oilseeds and soybeans.

(b) ADJUSTMENT.—

(1) SOYBEANS.—Notwithstanding subsection (a), if the Secretary estimates, not later than September 30 of the year previous to the year in which the crop of soybeans is harvested that the stocks-to-use ratio for any of the 1991 through 1995 crops of soybeans will be over 7.5 percent, the Secretary may establish the loan level for the crop at $5.00 per bushel.

(2) OTHER OILSEEDS.—If the Secretary adjusts the loan level for a crop of soybeans under paragraph (1), the Secretary shall make a corresponding adjustment in the loan level for sunflower seeds, canola, rapeseed, safflower, flaxseed, and any other oilseed designated by the Secretary under subsection (a).

SEC. 1105. DAIRY ASSESSMENTS.

(a) IN GENERAL.—The Secretary shall provide for a reduction in the price received by producers for all milk produced in the United States and marketed for commercial use.

(b) AMOUNT.—The amount of the reduction under subsection (a) in the price received by producers shall be 10 cents per hundredweight during the period beginning January 1, 1991, and ending August 31, 1995.

(c) ADMINISTRATION.—The funds represented by the reduction in price, required under this section to be applied to the marketings of milk by a producer, shall be collected and remitted to the Commodity Credit Corporation, at such time and in such manner as prescribed by the Secretary, by each person making payment to a producer for milk purchased from the producer, except that in the case of a producer who markets milk of the producer's own production directly to consumers, the funds shall be remitted directly to the Corporation by the producer.

SEC. 1106. LOAN ORIGINATION FEES AND PROGRAM SERVICE FEES.

(a) SUGAR, HONEY, PEANUTS, AND TOBACCO.—Effective for each of the 1991 through 1995 crops of sugar beets, sugarcane, honey, peanuts, and tobacco, the Secretary shall charge the producer a loan origination fee for a price support loan for such crops equal to 3 percent of the amount of the loan.

(b) WOOL.—Effective for each of the 1991 through 1995 marketing years for wool and mohair, in connection with making price support available for such marketing years, the Secretary shall charge producers of wool and mohair a program service fee equal to not more than 1 percent of the amount of the payment rate for wool and mohair for such marketing year as provided under the National Wool Act of 1954 (7 U.S.C. 1781 et seq.).

SEC. 1107. PRODUCER RESERVE PROGRAM FOR WHEAT AND FEED GRAINS.

(a) IN GENERAL.—In carrying out any producer reserve program for wheat and feed grains otherwise authorized by law, the Secretary shall formulate and administer such a producer storage program under which producers of wheat and feed grains will be able to store wheat and feed grains when the commodities are in abundant supply, extend the time period for the orderly marketing of the commodities, and provide for adequate carryover stocks to ensure a reliable supply of the commodities as provided in this section.

(b) TERMS OF PROGRAM.—

(1) PRICE SUPPORT LOANS.—In carrying out such a program, the Secretary shall provide original or extended price support loans for wheat and feed grains under terms and conditions designed to encourage producers to store wheat and feed grains for extended periods of time whenever the supply of wheat and feed grains are in abundant supply, as determined by the Secretary, or whenever the price of wheat or feed grains is less than 110 percent of the loan rate established under this title for wheat and feed grains.

(2) LEVEL OF LOANS.—Loans made under such a program shall not be less than the then current level of support under the wheat and feed grain programs established under this title.

(3) OTHER TERMS AND CONDITIONS.—Under such a program, the Secretary shall provide for—

(A) loans with a maturity of not less than 3 years, with extensions as warranted by market conditions;

(B) a rate of interest as provided under subsection (c); and

(C) payments to producers for storage as provided in subsection (d).

(4) REGIONAL DIFFERENCES.—The Secretary shall ensure that producers are afforded a fair and equitable opportunity to participate in the program established under this section, taking into account regional differences in the time of harvest.

(c) INTEREST CHARGES.—

(1) LEVYING OF INTEREST.—The Secretary may charge interest on loans under such a program whenever the price of wheat or feed grains is equal to or exceeds the then current established price for the commodities.

(2) 90-DAY PERIOD.—If interest is levied on the loans under paragraph (1), the interest may be charged for a period of 90 days after the last day on which the price of wheat or feed grains was equal to or in excess of the then current established price for the commodities.

(3) RATE OF INTEREST.—The rate of interest charged participants in such a program shall not be less than the rate of interest charged by the Commodity Credit Corporation by the United States Treasury, except that the Secretary may waive or adjust the interest as the Secretary considers appropriate to effectuate the purposes of this section.

(d) STORAGE PAYMENTS.—

(1) IN GENERAL.—The Secretary shall provide storage payments to producers for storage of wheat or feed grains under such a program in such amounts and under such conditions as the Secretary determines appropriate to encourage producers to participate in such a program.

(2) TIMING.—The Secretary shall make storage payments available to participants in such a program at the end of each quarter.

(3) DURATION.—The Secretary may cease making storage payments whenever the price of wheat or feed grains is equal to or exceeds the then current established price for the commodities, and for any 90-day period immediately following the last day on which the price of wheat or feed grains was equal to or in excess of the then current established price for the commodities.

(e) EMERGENCIES.—Notwithstanding any other provision of law, the Secretary may require producers to repay loans under such a program, plus accrued interest and such other charges as may be required by regulation prior to the maturity date thereof, if the Secretary determines that emergency conditions exist that require that the commodity be made available in the market to meet urgent domestic or international needs and the Secretary reports the determination and the reasons for the determination to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate at least 14 days before taking the action.

(f) QUANTITY OF COMMODITIES IN PROGRAM.—The Secretary may establish maximum quantities of wheat and feed grains that may receive loans and storage payments under such a program as follows:

(1) The maximum quantities may not be established at less than 300 million bushels of wheat and 600 million bushels of feed grains.

(2) The maximum quantities may not be established at more than—

(A) 30 percent of the estimated total domestic and export usage of wheat during the marketing year for the crop of wheat, as determined by the Secretary; and

(B) 15 percent of the estimated total domestic and export usage of feed grains during the marketing year for the crop, as determined by the Secretary.

(3) Notwithstanding paragraph (2), the Secretary may establish the upper limits at higher levels, not in excess of 110 percent of the levels established in paragraph (2), if the Secretary determines that the higher limits are necessary to achieve the purposes of such a program.

(g) ANNOUNCEMENT OF PROGRAM.—

(1) TIME OF ANNOUNCEMENT.—The Secretary shall announce the terms and conditions of such a producer storage program as far in advance of making loans as practicable.

(2) CONTENT OF ANNOUNCEMENT.—In the announcement, the Secretary shall specify the quantity of wheat or feed grains to be stored under such a program that the Secretary determines appropriate to promote the orderly marketing of the commodities.

(h) RECONCENTRATION OF GRAIN.—The Secretary may, with the concurrence of the owner of grain stored under such a program, reconcentrate all such grain stored in commercial warehouses at such points as the Secretary considers to be in the public interest, taking into account such factors as transportation and normal marketing patterns. The Secretary shall permit rotation of stocks and facilitate maintenance of quality under regulations that assure that the holding producer or warehouseman shall, at all times, have available for delivery at the designated place of storage both the quantity and quality of grain covered by the producer's or warehouseman's commitment.

(i) MANAGEMENT OF GRAIN.—Whenever grain is stored under such a program, the Secretary may buy and sell at an equivalent price, allowing for the customary location and grade differentials, substantially equivalent quantities of grain in different locations or warehouses to the extent needed to properly handle, rotate, distribute, and locate the commodities that the Commodity Credit Corporation owns or controls. The purchases to offset sales shall be made within 2 market days following the sales. The Secretary shall make a daily list available showing the price, location, and quantity of the transactions.

(j) USE OF COMMODITY CERTIFICATES.—Notwithstanding any other provision of law, if a producer has substituted purchased or other commodities for the commodities originally pledged as collateral for a loan made under such a program, the Secretary may allow a producer to repay the loan using a generic commodity certificate that may be exchanged for commodities owned by the Commodity Credit Corporation, if the substitute commodities have been pledged as loan collateral and redeemed only within the same county.

SEC. 1108. PAYMENT OF INTEREST ON CERTIFICATES.

Section 107E of the Agricultural Act of 1949 (7 U.S.C. 1445b-4) is amended by adding at the end the following new subsection:

"(c)(1) Except as provided in paragraph (2), the Secretary shall pay interest on the cash redemption of a commodity certificate issued by the Secretary to a producer who holds the certificate for at least 150 days.

"(2) This subsection shall not apply to a commodity certificate issued under the export enhancement program or the marketing promotion program.".

Subtitle B—Other Agricultural Programs

SEC. 1201. AUTHORIZATION LEVELS FOR REA LOANS.

(a) IN GENERAL.—Subject to the other provisions of this section and notwithstanding any other provision of law, for each of fiscal years 1991 through 1995, loans may be insured in accordance with the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) from the Rural Electrification and Telephone Revolving Fund established under section 301 of such Act (7 U.S.C. 931) in amounts equal to the following levels:

(1) For fiscal year 1991, $896,000,000.

(2) For fiscal year 1992, $932,000,000.

(3) For fiscal year 1993, $969,000,000.

(4) For fiscal year 1994, $1,008,000,000.

(5) For fiscal year 1995, $1,048,000,000.

(b) REDUCTION.—Notwithstanding any other provision of law, for each of fiscal years 1991 through 1995, the Administrator of the Rural Electrification Administration shall reduce the amounts otherwise made available for insured loans made from the Rural Electrification and Telephone Revolving Fund by—

(1) $224,000,000 for fiscal year 1991;

(2) $234,000,000 for fiscal year 1992;

(3) $244,000,000 for fiscal year 1993;

(4) $256,000,000 for fiscal year 1994; and

(5) $267,000,000 for fiscal year 1995.

(c) MANDATORY LEVELS.—Notwithstanding any other provision of law, the Administrator shall insure loans at the levels authorized by this section for each of fiscal years 1991 through 1995.

(d) GUARANTEED LOANS.—Notwithstanding any other provision of law, in carrying out the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), the Administrator shall increase the amounts otherwise made available to guarantee loans made by legally organized lending agencies. The loans shall be guaranteed at 99 percent of the principal amount of the loan.

SEC. 1202. AUTHORIZATION LEVELS FOR FmHA LOANS.

(a) IN GENERAL.—Subject to the other provisions of this section and notwithstanding any other provision of law, for each of fiscal years 1991 through 1995, real estate and operating loans may be insured, made to be sold and insured, or guaranteed in accordance with subtitles A and B, respectively, of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) from the Agricultural Credit Insurance Fund established under section 309 of such Act (7 U.S.C. 1929) in amounts equal to the following levels:

(1) For fiscal year 1991, $4,175,000,000, of which not less than $827,000,000 shall be for farm ownership loans under subtitle A of such Act.

(2) For fiscal year 1992, $4,343,000,000, of which not less than $861,000,000 shall be for farm ownership loans under subtitle A of such Act.

(3) For fiscal year 1993, $4,516,000,000, of which not less than $895,000,000 shall be for farm ownership loans under subtitle A of such Act.

(4) For fiscal year 1994, $4,697,000,000, of which not less than $931,000,000 shall be for farm ownership loans under subtitle A of such Act.

(5) For fiscal year 1995, $4,885,000,000, of which not less than $968,000,000 shall be for farm ownership loans under subtitle A of such Act.

(b) APPORTIONMENT OF INSURED AND GUARANTEED LOANS.—Subject to subsection (c), the amounts set forth in subsection (a) shall be apportioned as follows:

(1) For fiscal year 1991—

(A) $1,019,000,000 for insured loans, of which not less than $83,000,000 shall be for farm ownership loans; and

(B) $3,156,000,000 for guaranteed loans, of which not less than $744,000,000 shall be for guarantees of farm ownership loans.

(2) For fiscal year 1992—

(A) $1,060,000,000 for insured loans, of which not less than $87,000,000 shall be for farm ownership loans; and

(B) $3,283,000,000 for guaranteed loans, of which not less than $774,000,000 shall be for guarantees of farm ownership loans.

(3) For fiscal year 1993—

(A) $1,102,000,000 for insured loans, of which not less than $90,000,000 shall be for farm ownership loans; and

(B) $3,414,000,000 for guaranteed loans, of which not less than $805,000,000 shall be for guarantees of farm ownership loans.

(4) For fiscal year 1994—

(A) $1,147,000,000 for insured loans, of which not less than $94,000,000 shall be for farm ownership loans; and

(B) $3,550,000,000 for guaranteed loans, of which not less than $837,000,000 shall be for guarantees of farm ownership loans.

(5) For fiscal year 1995—

(A) $1,192,000,000 for insured loans, of which not less than $97,000,000 shall be for farm ownership loans; and

(B) $3,693,000,000 for guaranteed loans, of which not less than $871,000,000 shall be for guarantees of farm ownership loans.

(c) TRANSFER OF FUNDS FROM INSURED TO GUARANTEED LOANS.—Notwithstanding any other provision of law, for each of fiscal years 1991 through 1995, the Secretary shall—

(1) reduce the amounts otherwise made available for insured loans made from the Agricultural Credit Insurance Fund by—

(A) $319,000,000 for fiscal year 1991;

(B) $460,000,000 for fiscal year 1992;

(C) $602,000,000 for fiscal year 1993;

(D) $697,000,000 for fiscal year 1994; and

(E) $792,000,000 for fiscal year 1995; and

(2) use the funds made available from the reduction made in paragraph (1) in the available amount of insured loans in each of the fiscal years to guarantee loans made from the Fund.

(c) MANDATORY LEVELS.—Notwithstanding any other provision of law, the Secretary shall make or insure loans at the levels authorized by this section for each of fiscal years 1991 through 1995.

SEC. 1203. APHIS INSPECTION USER FEE ON INTERNATIONAL PASSENGERS.

(a) IN GENERAL.—The Secretary may prescribe and collect fees to cover the cost of providing agricultural quarantine and inspection services in connection with the arrival at a port in the customs territory of the United States, or the preclearance or preinspection at a site outside the customs territory of the United States, of an international passenger.

(b) TREASURY.—Any person who collects a fee under this section shall remit the fee to the Treasury of the United States prior to the date that is 31 days after the close of the calendar quarter in which the fee is collected.

(c) AGRICULTURAL QUARANTINE INSPECTION USER FEE ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a no-year fund, to be known as the "Agricultural Quarantine Inspection User Fee Account"

(hereafter in this section referred to as the "Account"), for the use of the Secretary of Agriculture for quarantine or inspection services under this section.

(2) AMOUNTS IN ACCOUNT.—

(A) DEPOSITS.—All fees collected under this subsection shall be deposited in the Account.

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated amounts in the Fund for use by the Secretary of Agriculture for quarantine or inspection services.

(d) ADJUSTMENT IN FEE AMOUNTS.—The Secretary shall adjust the amount of the fees to be assessed under this section to reflect the cost to the Secretary in—

(1) administering this section;

(2) carrying out the activities at ports in the customs territory of the United States and preclearance and preinspection sites outside the customs territory of the United States in connection with the provision of agricultural quarantine inspection services; and

(3) maintaining a reasonable balance in the Account.

SEC. 1204. INTERNATIONAL SANCTIONS.

Notwithstanding any other provision of law, title XXIII of S. 2830 (as passed by the Senate on July 27, 1990) shall have no force and effect.

TITLE II—COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Subtitle A—Federal Deposit Insurance Premiums

Sec. 2001. Short title.
Sec. 2002. FDIC authorized to increase assessment rates as necessary to protect insurance funds.
Sec. 2003. FDIC authorized to make mid-year adjustments in assessment rates.
Sec. 2004. FDIC authorized to set designated reserve ratio as necessary in face of significant risk of substantial losses to insurance fund.
Sec. 2005. FDIC authorized to borrow from Federal Financing Bank.
Sec. 2006. Priority of certain claims.

Subtitle B—FHA Mortgage Insurance

Sec. 2101. FHA ceiling.
Sec. 2102. Reverse mortgage insurance.
Sec. 2103. Actuarial soundness for the mutual mortgage insurance fund.
Sec. 2104. Risk-based periodic mortgage insurance premium.
Sec. 2105. Mortgagor equity in the basic FHA home mortgage insurance program.
Sec. 2106. Mutual mortgage insurance fund distributions.

Subtitle C—Mortgage Assignments

Sec. 2201. Amendment to section 221(g)(4) of the National Housing Act.

Subtitle D—Crime and Flood Insurance Programs

Sec. 2301. Crime insurance program.
Sec. 2302. Flood insurance program.

TITLE II—COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Subtitle A—Federal Deposit Insurance Premiums

SEC. 2001. SHORT TITLE.

This Act may be cited as the "FDIC Premium Act of 1990".

SEC. 2002. FDIC AUTHORIZED TO INCREASE ASSESSMENT RATES AS NECESSARY TO PROTECT INSURANCE FUNDS.

(a) BANK INSURANCE FUND.—Section 7(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(C)) is amended to read as follows:

"(C) ASSESSMENT RATE FOR BANK INSURANCE FUND MEMBERS.—

"(i) IN GENERAL.—The assessment rate for Bank Insurance Fund members shall be the greater of 0.15 percent or such rate as the Board of Directors, in its sole discretion, determines to be appropriate—

"(I) to maintain the reserve ratio at the designated reserve ratio; or

"(II) if the reserve ratio is less than the designated reserve ratio, to increase the reserve ratio to the designated reserve ratio within a reasonable period of time.

"(ii) FACTORS TO BE CONSIDERED.—In making any determination under clause (i), the Board of Directors shall consider the Bank Insurance Fund's expected operating expenses, case resolution expenditures, and income, the effect of the assessment rate on members' earnings and capital and on the safety and soundness of the financial system, and such other factors as the Board of Directors may deem appropriate.

"(iii) MINIMUM ASSESSMENT.—Notwithstanding clause (i), the assessment shall not be less than $1,000 for each member in each year.".

(b) SAVINGS ASSOCIATION INSURANCE FUND.—Section 7(b)(1)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(D)) is amended to read as follows:

"(D) ASSESSMENT RATE FOR SAVINGS ASSOCIATION INSURANCE FUND MEMBERS.—

"(i) IN GENERAL.—The assessment rate for Savings Association Insurance Fund members shall be the greater of 0.15 percent or such rate as the Board of Directors, in its sole discretion, determines to be appropriate—

"(I) to maintain the reserve ratio at the designated reserve ratio; or

"(II) if the reserve ratio is less than the designated reserve ratio, to increase the reserve ratio to the designated reserve ratio within a reasonable period of time.

"(ii) FACTORS TO BE CONSIDERED.—In making any determination under clause (i), the Board of Directors shall consider the Savings Association Insurance Fund's expected operating expenses, case resolution expenditures, and income (not including anticipated Treasury payments), the effect of the assessment rate on members' earnings and capital and on the safety and soundness of the financial system, and such other factors as the Board of Directors may deem appropriate.

"(iii) MINIMUM ASSESSMENT.—Notwithstanding clause (i), the assessment shall not be less than $1,000 for each member in each year.

"(iv) TRANSITION RULE.—Until December 31, 1997, the assessment rate for Savings Association Insurance Fund members shall not be less than the following:

"(I) From January 1, 1990, through December 31, 1990, 0.208 percent.

"(II) From January 1, 1991, through December 31, 1993, 0.23 percent.

"(III) From January 1, 1994, through December 31, 1997, 0.18 percent.".

(c) CLERICAL AMENDMENTS REFLECTING $1,000 MINIMUM ASSESSMENT PROVISIONS OF CURRENT LAW.—Section 7(b)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)) is amended—

(1) by inserting "or subparagraph (C)(iii) or (D)(iii) of subsection (b)(1)" after "subsection (c)(2)"; and

(2) in clauses (i) and (ii), by inserting "the greater of $500 or an amount" before "equal to the product of".

SEC. 2003. FDIC AUTHORIZED TO MAKE MID-YEAR ADJUSTMENTS IN ASSESSMENT RATES.

(a) ASSESSMENT RATES.—Section 7(b)(1)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(A)) is amended to read as follows:

"(A) ASSESSMENT RATES PRESCRIBED.—

"(i) AUTHORITY TO SET RATES.—Subject to clause (iii), the Corporation shall set assessment rates for insured depository institutions at such times as the Corporation, in its sole discretion, determines to be appropriate.

"(ii) RATE FOR EACH FUND TO BE SET INDEPENDENTLY.—The Corporation shall fix the assessment rate of Bank Insurance Fund members independently from the assessment rate for Savings Association Insurance Fund members.

"(iii) DEADLINE FOR ANNOUNCING RATE CHANGES.—The Corporation shall announce any change in assessment rates.—

"(I) for the semiannual period beginning on January 1 and ending on June 30, not later than the preceding November 1; and

"(II) for the semiannual period beginning on July 1 and ending on December 31, not later than the preceding May 1.".

(b) ASSESSMENT PROCEDURES.—Section 7(b)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)), as amended by section 2(c) of this Act, is amended—

(1) by striking "annual" each time it appears;

(2) in clause (i)(I), by inserting "during that semiannual period" after "member"; and

(3) in clause (ii)(I), by inserting "during that semiannual period" after "member".

(c) CONFORMING AMENDMENT ON TIMING OF ASSESSMENT CREDITS.—Section 7(d)(1)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)(A)) is amended to read as follows:

"(A) The Corporation shall prescribe and publish the aggregate amount to be credited to insured depository institutions—

"(i) in the semiannual period beginning on January 1 and ending on June 30, not later than the preceding November 1; and

"(ii) in the semiannual period beginning on July 1 and ending on December 31, not later than the preceding May 1.".

SEC. 2004. FDIC AUTHORIZED TO SET DESIGNATED RESERVE RATIO AS NECESSARY IN FACE OF SIGNIFICANT RISK OF SUBSTANTIAL LOSSES TO INSURANCE FUND.

Section 7(b)(1)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(B)) is amended—

(1) by striking ", not exceeding 1.50 percent," each time it appears;

(2) in clause (iii)—

(A) by inserting "and" at the end of subclause (I);

(B) by striking subclauses (II) and (III); and

(C) by redesignating subclause (IV) as subclause (II); and

(3) in clause (iv)—

(A) by inserting "and" at the end of subclause (I);

(B) by striking subclauses (II) and (III); and

(C) by redesignating subclause (IV) as subclause (II).

SEC. 2005. FDIC AUTHORIZED TO BORROW FROM FEDERAL FINANCING BANK.

Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended—

(1) in the heading, by striking "SEC. 14." and inserting:

"SEC. 14. BORROWING AUTHORITY.

"(a) BORROWING FROM TREASURY.—";

(2) in subsection (a), as designated by paragraph (1)—

(A) by striking "this section" each time it appears and inserting "this subsection", and

(B) by striking "The Corporation may employ such funds" and inserting "The Corporation may employ any funds obtained under this section only"; and

(3) by adding after subsection (a), as amended by paragraph (2), the following new subsection:

"(b) BORROWING FROM FEDERAL FINANCING BANK.—The Corporation is authorized to issue and sell the Corporation's obligations to the Federal Financing Bank established by the Federal Financing Bank Act of 1973. The Federal Financing Bank is authorized to purchase and sell the Corporation's obligations on terms and conditions determined by the Federal Financing Bank.".

SEC. 2006. PRIORITY OF CERTAIN CLAIMS.

(a) IN GENERAL.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following:

"(p) PRIORITY OF CERTAIN CLAIMS.—(1) Subject to paragraph (2), in any proceeding brought by the Corporation related to any claim acquired under this section or section 12 or 13 against an insured depository institution's director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to an insured depository institution, any suit, claim, or cause of action brought by the Corporation shall have priority over any suit, claim, or cause of action asserted against that person by a depositor, creditor, or shareholder of the insured depository institution other than a suit, claim, or cause of action asserted by a Federal agency (other than the Corporation) or the United States.

"(2)(A) If the Corporation is notified in writing of the commencement of a suit, claim, or cause of action asserted by a depositor, creditor, or shareholder of an insured depository institution in a proceeding described in paragraph (1), a suit, claim, or cause of action of the Corporation shall not have priority under paragraph (1) unless—

"(i) not later than 180 days after the date on which the Corporation receives the notice, or if the Corporation acquires its claim after receipt of the notice, not later than 180 days after the date on which the Corporation acquires its claim, the Corporation files with the court a statement that the Corporation intends to pursue potential claims against the insured depository institution's director, officer, employee, agent, attorney, accountant, appraiser, or other person employed by or providing services to the insured depository institution and is diligently pursuing its claims; and

"(ii) not later than 1 year after the date on which the Corporation receives the notice (or, if the Corporation acquires its claim after receipt of the notice, not later than 1 year after the date on which the Corporation acquires its claim), the Corporation files suit, unless the court enlarges the time for filing suit pursuant to subparagraph (B).

"(B)(i) If the Corporation requests an enlargement of time to file a suit described in subparagraph (A)(ii), the court shall extend the period for the Corporation to commence its proceeding unless the court finds that the prejudice that would result to a person's ability to prove the person's claim that would result from a grant of the requested enlargement of time would outweigh the harm to the Government that would result from a denial of the requested enlargement of time.

"(ii) In making a finding under clause (i), the court shall consider the diligence with which the Corporation is investigating its claim.

"(3) The priority of the Corporation shall apply both to the prosecution of any suit, claim, or cause of action, and to the execution of any subsequent judgment resulting from such suit, claim, or cause of action.

"(4) This subsection shall not be construed to afford the Corporation priority as to an asset that is adjudicated to be unavailable to satisfy any subsequent judgment obtained by the Corporation as a result of its suit, claim, or cause of action.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall not apply to suits, claims, or causes of action of depositors, creditors, or shareholders commenced before the date of enactment of this Act.

Subtitle B—FHA Mortgage Insurance

SEC. 2101. FHA CEILING.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking "150 percent (185 percent until October 31, 1990) of the dollar amount specified" and inserting the following: "185 percent of the dollar amount specified".

SEC. 2102. REVERSE MORTGAGE INSURANCE.

(a) LIMITATION ON INSURANCE AUTHORITY AND MAXIMUM AMOUNT INSURED.—Section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking "1991" and inserting "1993", and by striking the second sentence and inserting the following: "The total number of mortgages insured under this section may not exceed 25,000.".

(b) TYPES OF LOANS.—Section 255(d) of the National Housing Act (12 U.S.C. 1715z-20(d)) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(9) provide for future payments to the mortgagor based on accumulated equity (minus any applicable fees and charges), according to the method that the mortgagor shall select from among the methods under this paragraph, by payment of the amount—

"(A) based upon a line of credit;

"(B) on a monthly basis over a term specified by the mortgagor;

"(C) on a monthly basis over a term specified by the mortgagor and based on a line of credit;

"(D) on a monthly basis over the tenure of the mortgagor;

"(E) on a monthly basis over the tenure of the mortgagor and based upon a line of credit; or

"(F) on any other basis that the Secretary considers appropriate; and

"(10) provide that the mortgagor may convert the method of payment under paragraph (9) to any other method during the term of the mortgage, except that for fixed rate mortgages, the Secretary may prescribe regulations limiting convertability under this paragraph.".

(c) LIMITATION ON LIABILITY OF MORTGAGOR.—Section 255(d)(7) of the National Housing Act (12 U.S.C. 1715z-20(d)(7)) is amended by striking subparagraph (A) and inserting the following new subparagraph:

"(A) the net sales proceeds from the dwelling that are subject to the mortgage (based upon the amount of the accumulated equity selected by the mortgagor subject to the mortgage, as agreed upon by the mortgagor and mortgagee); or".

SEC. 2103. ACTUARIAL SOUNDNESS FOR THE MUTUAL MORTGAGE INSURANCE FUND.

Section 205 of the National Housing Act (12 U.S.C. 1711) is amended by adding the following new subsections at the end thereof:

"(e)(1) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of at least 1.25 percent within 18 months of the date of enactment of this subsection, and shall ensure that at least this ratio is maintained at all times thereafter. If the Secretary determines that the Fund does not have a capital ratio of at least 1.25 percent at any time from the date of enactment of this subsection, the Secretary shall, at least annually, report to the Congress on the financial status of the Fund, advise the Congress of any administrative measures being taken to attain and maintain a capital ratio of at least 1.25 percent, and make any legislative recommendations that the Secretary deems appropriate.

"(2) The Secretary shall endeavor to ensure that the Mutual Mortgage Insurance Fund attains and maintains a capital ratio of at least 2 percent. Beginning 3 years from the date of enactment of this subsection, the Secretary shall report annually to the Congress on the financial status of the Mutual Mortgage Insurance Fund and efforts to meet the capital ratio goal of at least 2 percent.

"(3) For purposes of this subsection—

"(A) the term 'capital' means the economic net worth of the Mutual Mortgage Insurance Fund, as determined by the Secretary under the annual audit required by section 538 of this Act;

"(B) the term 'economic net worth' means the current cash available to the Fund, plus the net present value of all future cash inflows and outflows expected to result from the outstanding mortgages in the Fund;

"(C) the term 'capital ratio' means the ratio of capital to unamortized insurance-in-force; and

"(D) the term 'unamortized insurance-in-force' means the Secretary's estimate of the remaining obligation on outstanding mortgages which are obligations of the Mutual Mortgage Insurance Fund.

"(f) The Secretary shall annually conduct an independent actuarial study of the Mutual Mortgage Insurance Fund.

"(g) If the independent annual actuarial study of the Mutual Mortgage Insurance Fund required under subsection (f) shows that the Mutual Mortgage Insurance Fund is not meeting the following principles of operation:

"(1) maintaining an adequate capital ratio as defined in subsections (e)(1) and (e)(2); and

"(2) Meeting the needs of first-time homebuyers by providing access to mortgage credit; and

"(3) Avoiding the problems of adverse selection by establishing premiums related to the probability of homeowner default; and

"(4) Minimizing the risk to the Fund and to homeowners from homeowner default;

then the Secretary may propose through regulation and implement any adjustments to the insurance premiums referred to in section 203(c), or any other program requirements established by the Secretary, as is necessary to achieve these principles. As soon as the Secretary determines that a premium or other change is appropriate under the preceding sentence, the Secretary shall immediately notify Congress of the proposed change and the reasons for it. Such premium change shall take effect not earlier than 90

days following such notification, unless Congress acts during such time to prevent it.".

SEC. 2104. RISK-BASED PERIODIC MORTGAGE INSURANCE PREMIUM.

Section 203(c) of the National Housing Act (12 U.S.C. 1709(c)) is amended by adding at the end thereof the following:

"Notwithstanding any other provision of law, the Secretary may require payment on mortgages which are obligations of the Mutual Mortgage Insurance Fund of an additional premium charge on a periodic basis as determined by the Secretary to be consistent with sound actuarial practice and taking into account high loan-to-value ratios. Such determination shall be in accordance with the findings of the annual actuarial study of the Mutual Mortgage Insurance Fund required under section 205(e). The additional premium charge may not exceed an amount equivalent to one-half of 1 percent per year of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments, and may be required (A) for up to 15 years if the initial loan-to-value ratio of the mortgage is greater than 95 percent, (B) for up to 10 years if the initial loan-to-value ratio is equal to or less than 95 percent but equal to or greater than 93 percent, and (C) for up to 4 years if the initial loan-to-value ratio is less than 93 percent but greater than or equal to 90 percent. The Secretary may establish a periodic premium rate higher than that referred to in the preceding sentence if necessary to achieve actuarial soundness. The Secretary shall not require payment of an additional premium charge where the initial loan-to-value ratio of the mortgage is less than 90 percent. For purposes of this paragraph, the premium charges shall not be included in the determination of the initial loan-to-value ratio of the mortgage.".

SEC. 2105. MORTGAGOR EQUITY IN THE BASIC FHA HOME MORTGAGE INSURANCE PROGRAM.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by inserting at the end thereof the following new paragraph.

"Notwithstanding any other provision of this paragraph, a mortgage may not have a principal obligation in excess of 98 percent of the appraised value of the property (97 percent, in the case of a mortgage with an appraised value in excess of $50,000), plus the amount of the mortgage insurance premium paid at the time the mortgage is insured. For purposes of the preceding sentence, 'appraised value' shall be the amount set forth in the written statement required by section 226, or a similar amount determined by the Secretary if section 226 does not apply.".

SEC. 2106. MUTUAL MORTGAGE INSURANCE FUND DISTRIBUTIONS.

Section 205 of the National Housing Act (12 U.S.C. 1711) is amended by adding at the end the following:

"(h) In determining whether there is a surplus for distribution to mortgagors under this section, the Secretary shall take into account the actuarial status of the entire Fund.".

Subtitle C—Mortgage Assignments

SEC. 2201. AMENDMENT TO SECTION 221(g)(4) OF THE NATIONAL HOUSING ACT.

Section 221(g)(4) of the National Housing Act (12 U.S.C. 1715l) is amended by adding after subparagraph (B) the following:

"(C)(i) In lieu of accepting assignment of the original credit instrument and the mortgage securing the same under subparagraph (A) in exchange for receipt of debentures, the Secretary shall arrange for the sale of the beneficial interests in the mortgage loan through an auction and sale of the (I) mortgage loans, or (II) participation certificates, or other mortgage-backed obligations in a form acceptable to the Secretary (herein referred to as 'participating certificates', unless the mortgagee can demonstrate that the auction and sale is less economically advantageous to it than the receipt of debentures. The Secretary shall arrange the auction and sale at a price, to be paid to the mortgagee, of par plus accrued interest to the date of sale. The sale price would also include the right to a subsidy payment described in subsection (c).

"(ii)(I) The Secretary shall conduct a public auction to determine the lowest interest rate necessary to accomplish a sale of the beneficial interests in the original credit instrument and mortgage securing such a credit instrument.

"(II) A mortgagee who elects to assign his mortgage must provide the Secretary and persons bidding at the auction a description of the characteristics of the original credit instrument and mortgage securing the original credit instrument to include, but not be limited to: principal mortgage balance; original stated interest rate; service fees; real estate and tenant characteristics; the level and duration of applicable Federal subsidies; and any other information determined by the Secretary to be appropriate. The Secretary shall also provide the status of this property with respect to provisions in the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act with respect to eligibility to prepay mortgage, whether the owner has filed an Intent to Prepay or a Plan of Action under the Emergency Low Income Housing Preservation Act of 1987 or under any subsequent Act; and the details with respect to incentives provided in the Emergency Low Income Housing Preservation Act of 1987 or under any subsequent Act in lieu of exercising prepayment rights.

"(III) The Secretary shall, upon receipt of the information in subclause (II), promptly advertise for an auction and publish such mortgage descriptions in advance of the auction. For administrative simplicity, the Secretary may wait up to 6 months to conduct the auction, but under no circumstances may the Secretary conduct an auction before 2 months after receiving the mortgagee's written notice of intent to assign its mortgage to the Secretary.

"(IV) The lowest interest rate bid for such purchase by a bidder determined by the Secretary to be acceptable shall be accepted by the Secretary and published in the Federal Register. Settlement for the sale of the credit instrument and the mortgage underlying the credit instrument shall occur within 30 business days of the date winning bidders are selected in the auction.

"(V) If no bids are received or if the bids that are received are not acceptable to the Secretary, the mortgage shall retain all rights under this section to assign the mortgage loan to the Secretary.

"(iii) As part of the auction process, the Secretary shall agree to provide a monthly interest subsidy payment from the General Insurance Fund to the holder of the original credit instrument and the mortgage securing such a credit instrument (and its assigns who are approved mortgagees). The subsidy payment shall be paid on the first day of each month in an amount equal to the difference between the stated interest due on the mortgage loan and the lowest interest rate necessary to accomplish a sale of the Participation Certificates for the then unpaid principal balance plus accrued interest on the mortgage loan. Each interest subsidy payment shall be treated by the holder of the mortgage as interest paid on the mortgage. Such interest subsidy payment shall be provided until the earlier of—

"(I) the maturity date of the loan;

"(II) prepayment of the mortgage loan in accordance with the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act, where applicable; or

"(III) default and full payment of insurance benefits on the mortgage loan by the Federal Housing Administration.

"(iv) The Secretary shall require that the loans presented for assignment be auctioned with servicing rights as whole loans and as participating certificates with servicing retained by the current servicer, except that the Secretary may determine if the inclusion of servicing rights in the sale will prove beneficial to the financial interests of the Federal Government.

"(v) To the extent practicable, the Secretary shall encourage State Housing Finance Agencies, nonprofit organizations, and organizations representing the tenants of the property for which the mortgage is being sold, or some other qualified mortgagee participating in a Plan of Action described in the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act to participate fully in the auction and subsidy mechanism, described in clauses (ii) and (iii).

"(vi) The Secretary shall implement the requirements imposed by this subparagraph within 30 days from the date of enactment and not be subject to the requirement of prior issuance of regulations in the Federal Register. The Secretary shall issue regulations implementing this section within 6 months of enactment.

"(vii) Nothing in this subparagraph shall diminish or impair the low income use restrictions applicable to the project under the original regulatory agreement or the revised agreement entered into pursuant to the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act, if any, or other agreements for the provision of Federal assistance to the housing or its tenants.

"(viii) The provisions of this subparagraph expire effective October 1, 1995. Not later than January 31 of each year, the Secretary shall transmit to this Congress a report that includes: the number of mortgages auctioned and sold and their value, the amount of subsidies committed to this program, the number of mortgages transferred to preferred mortgagees, the ability of the Secretary to coordinate this program with the incentives provided under the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act, and the costs and benefits derived from this program for the Federal Government.".

Subtitle D—Crime and Flood Insurance Programs

SEC. 2301. CRIME INSURANCE PROGRAM.

(a) EXTENSION OF GENERAL AUTHORITY.—Section 1201(b) of the National Housing Act (12 U.S.C. 1749bbb(b)) is amended by striking "September 30, 1991" in the matter preceding paragraph (1) and inserting "September 30, 1995".

(b) CONTINUATION OF EXISTING CONTRACTS.—Section 1201(b)(1) of the National Housing Act (12 U.S.C. 1749bbb(b)(1)) is amended by

striking "September 30, 1992" and inserting "September 30, 1996".

(c) EXTENSION OF LIMITATION ON PREMIUMS.—Section 542(c) of the Housing and Community Development Act of 1987 (12 U.S.C. 1749bbb-10c note) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

SEC. 2302. FLOOD INSURANCE PROGRAM.

(a) EXTENSION OF GENERAL AUTHORITY.—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(b) EXTENSION OF EMERGENCY PROGRAM.—Section 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4056(a)) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(c) EXTENSION OF LIMITATION ON PREMIUMS.—Section 541(d) of the Housing and Community Development Act of 1987 (42 U.S.C. 4015 note) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(d) EXTENSION OF EROSION PROVISIONS.—Section 1306(c)(7) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(7)) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(e) INCLUSION OF COSTS IN PREMIUMS.—

(1) ESTIMATES OF PREMIUM RATES.—Section 1307(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(a)) is amended—

(A) in paragraph (1)(B)(i), by striking "and" at the end;

(B) in paragraph (1)(B)(ii), by inserting "and" after the comma at the end;

(C) in paragraph (1)(B), by inserting at the end the following new clause:

"(iii) any remaining administrative expenses incurred in carrying out the flood insurance and floodplain management programs (including the costs of mapping activities under section 1360) not included under clause (ii), which shall be recovered by a fee charged to policyholders and such fee shall not be subject to any agents' commission, company's expense allowances, or State or local premium taxes,"; and

(D) in paragraph (2), by inserting after "title" the following: ", and which, together with a fee charged to policyholders that shall not be not subject to any agents' commission, company expenses allowances, or State or local premium taxes, shall include any administrative expenses incurred in carrying out the flood insurance and floodplain management programs (including the costs of mapping activities under section 1360)".

(2) ESTABLISHMENT OF CHARGEABLE PREMIUM RATES.—Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015) is amended—

(A) in subsection (b)—

(i) by striking "and" at the end of paragraph (2);

(ii) by redesignating paragraph (3) as paragraph (4); and

(iii) by inserting after paragraph (2), the following new paragraph:

"(3) adequate, together with the fee under paragraph (1)(B)(iii) or (2) of section 1307(a), to provide for any administrative expenses of the flood insurance and floodplain management programs (including the costs of mapping activities under section 1360), and"; and

(B) by striking subsection (d) and inserting the following new subsection:

"(d) With respect to any chargeable premium rate prescribed under this section, a sum equal to the portion of the rate that covers any administrative expenses of carrying out the flood insurance and floodplain management programs which have been estimated under paragraphs (1)(B)(ii) and (1)(B)(iii) of section 1307(a) or paragraph (2) of such section (including the fees under such paragraphs), shall be paid to the Director. The Director shall deposit the sum in the National Flood Insurance Fund established under section 1310.".

(3) NATIONAL FLOOD INSURANCE FUND.—Section 1310(a)(4) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)(4)) is amended to read as follows:

"(4) to the extent approved in appropriations Acts, to pay any administrative expenses of the flood insurance and floodplain management programs (including the costs of mapping activities under section 1360); and".

(4) ADMINISTRATIVE EXPENSES.—Section 1375 of the National Flood Insurance Act of 1968 (42 U.S.C. 4126) is amended by striking "program" and all that follows and inserting the following: "and floodplain management programs authorized under this title may be paid with amounts from the National Flood Insurance Fund (as provided under section 1310(a)(4)), subject to approval in appropriations Acts.".

(5) EXCEPTION TO LIMITATION ON PREMIUM INCREASES.—Notwithstanding section 541(d) of the Housing and Community Development Act of 1987 (42 U.S.C. 4015 note) (as amended by this section), the premium rates charged for flood insurance under any program established pursuant to the National Flood Insurance Act of 1968 may be increased by more than 10 percent during fiscal year 1991, except that any increase in such rates not resulting from the inclusion in chargeable premium rates of administrative expenses of the flood insurance and floodplain management programs (pursuant to the amendments made by this subsection) may not exceed 10 percent.

TITLE III—COMMERCE, SCIENCE, AND TRANSPORTATION

Subtitle A—User Fees

SEC. 3001. COAST GUARD USER FEES.

(a) IN GENERAL.—Notwithstanding the provisions of section 2110 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating (hereinafter in this section referred to as the "Secretary") shall establish and implement a system for the collection, commencing October 1, 1990, of $200,000,000 for each of the fiscal years 1991 through 1995, plus an amount sufficient to compensate for inflation for that period, in receipts from payments by users of direct or indirect services provided by the Coast Guard. Amounts received by the United States Government under this section shall be deposited into the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.

(b) APPLICATION.—Any fees for indirect services established under this section shall apply only to vessels operating in navigable waters where the Coast Guard has an established presence.

(c) CARGO PREFERENCE USER FEES.—(1) No user fee shall be collected pursuant to subsection (a) unless the Secretary has first established and implemented a system for the collection, for each of the fiscal years 1991 through 1995, plus an amount sufficient to compensate for inflation for that period, of user fees on United States-flag commercial vessels which win cargo preference shipment contracts pursuant to section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1241(b)), section 901b of the Merchant Marine Act, 1936 (46 U.S.C. 1241f), the Joint Resolution entitled "Joint Resolution requiring agricultural or other products to be shipped in vessels of the United States where the Reconstruction Finance Corporation or any other instrumentality of the Government finances the exporting of such products", approved March 26, 1934 (46 U.S.C. 1241-1), or section 2631 of title 10, United States Code.

(2) Each such user fee established pursuant to paragraph (1) shall be an amount equal to 25 percent of the difference between the lowest foreign bid offered and the bid accepted by the shipping agency. Amounts received by the United States Government under this subsection shall be deposited into the general fund of the Treasury as offsetting receipts as follows: 20 percent as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities, and 80 percent as offsetting receipts of the original shipping Federal agency and ascribed to such agency's activities.

(3) Notwithstanding any other provision of law, in no case shall a cargo preference bid be accepted and contracted for pursuant to any law or provision thereof referred to in paragraph (1) of this subsection at over 200 percent the lowest foreign-flag bid.

SEC. 3002. RAILROAD SAFETY USER FEES.

The Federal Railroad Safety Act of 1970 is amended by inserting immediately after section 215 (45 U.S.C. 445) the following new section:

"USER FEES

"SEC. 216. (a)(1) The Secretary shall establish a schedule of fees to be assessed to railroads, in reasonable relationship to criteria such as revenue ton-miles, track miles, passenger miles, revenues, other relevant factors, or an appropriate combination thereof.

"(2) The Secretary shall establish procedures for the collection of such fees. The Secretary may use the services of any Federal, State, or local agency or instrumentality to collect such fees, and may reimburse such agency or instrumentality a reasonable amount for such services.

"(3) Fees established under his section shall be assessed to railroads subject to this title and shall approximate, as provided in subsection (d) of this section, the costs of administering this title and all other Federal laws relating to railroad safety and railroad noise control.

"(b) The Secretary shall assess and collect fees described in subsection (a) of this section with respect to each fiscal year before the end of such fiscal year.

"(c) All fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts and ascribed to the railroad safety activities of the Secretary.

"(d) Fees established by the Secretary under subsection (a) of this section shall be assessed after September 30, 1990. Fees assessed in the fiscal year beginning on October 1, 1990, shall total no more than $20,000,000; fees assessed in the fiscal year beginning on October 1, 1991, shall total no more than $37,000,000; fees assessed in the fiscal year beginning on October 1, 1992, shall total no more than $37,000,000; fees assessed in the fiscal year beginning on October 1, 1993, shall total no more than $38,000,000; and fees assessed in the fiscal year beginning on October 1, 1994, shall total no more than $38,000,000. Beginning

on October 1, 1992, the fees assessed shall at least equal the appropriations made for the activities described in subsection (a)(3) of this section, but at no time shall the aggregate of fees assessed for any fiscal year under this section exceed 105 percent of the aggregate of appropriations made for such fiscal year for activities to be funded by such fees.".

SEC. 303. UNITED STATES TRAVEL AND TOURISM FACILITATION FEE.

The International Travel Act of 1961 (22 U.S.C. 2121 et seq.) is amended by adding at the end the following new section:

"SEC. 306. (a) In addition to any other fees authorized by law, the Secretary, on a calendar quarterly basis beginning January 1, 1991, shall charge and collect from each commercial airline and passenger ship line transporting passengers to the United States, a United States Travel and Tourism Administration Faciliation Fee. The Secretary shall charge each commercial airline and passenger ship line an amount equal to one dollar multipled by the number of non-excluded passengers arriving at ports of entry in the customs territory of the United States from foreign countries, possessions, or territories aboard commercial aircraft or commercial passenger ships of that airline or passenger ship line during that calendar quarter. For purposes of determining the fee amount, the Secretary shall exclude passengers—

"(1) who are arriving only for immediate and continuous transmit through the United States to a destination outside the customs territory of the United States;

"(2) whose journey originated in Canada, Mexico, a territory or possession of the United States, Saint Pierre, Miquelon, Cuba, the Dominican Republic, Haiti, Bermuda, the Bahamas, Barbados, Jamaica, the Windward and Leeward Islands, Trinidad, Martinique, and other British, French, and Netherlands territories or possessions in or bordering on the Caribbean Sea; or

"(3) whose journey originated in the United States and is limited to Canada, Mexico, a territory or possession of the United States, Saint Pierre, Miquelon, Cuba, the Dominican Republic, Haiti, Bermuda, the Bahamas, Barbados, Jamaica, the Windward and Leeward Islands, Trinidad, Martinique, and other British, French, and Netherlands territories or possessions in or bordering on the Caribbean Sea.

"(b) Each commercial airline and passenger ship line shall remit the fee charged by the Secretary under subsection (a) of this section, in United States dollars, no later than 31 days after the close of the calendar quarter of the arrival of the passengers on which the fee is based.

"(c) The Secretary shall deposit the fees received pursuant to subsection (b) of this section in the general fund of the Treasury as offsetting receipts and ascribed to the travel and tourism activities of the Secretary.

"(d) Beginning on October 1, 1992, the aggregate amounts collected for the fee charged under this section shall at least equal the appropriations made for the travel and tourism activities of the Secretary under this Act, but at no time shall the aggregate of amounts collected for any fiscal year under this section exceed 105 percent of the aggregate of appropriations made for such fiscal year for activities to be funded by such fees. The formula for determining the fee amount under subsection (a) of this section may be modified by the Secretary as necessary to comply with the requirements of this section.

"(e) Subsections (a) through (d) of this section shall become effective thirty days after the date of enactment of this section: Provided, That no fee shall be charged for any passenger transported pursuant to a document or ticket purchased prior to that date. Subsection (f) of this section shall be effective upon enactment.

"(f) The Secretary may prescribe such rules and regulations as may be necessary to carry out the provisions of this section.".

SEC. 304. NOAA USER FEES.

Section 409 of the Act of November 17, 1988 (15 U.S.C. 1534), is amended—

(1) in subsection (a) by striking "archived" and all that follows and inserting in lieu thereof "and information and products derived therefrom collected and/or achieved by the National Oceanic and Atmospheric Administration.";

(2) in subsection (b)(1)—

(A) by inserting ", information, and products" immediately after "data" the first place it appears;

(B) by striking "data is" and inserting in lieu thereof "data, information, and products are";

(3) in subsection (b)(2)—

(A) by inserting ", information, or products" immediately after "data" the first place it appears;

(B) by striking "data exchange basis" and inserting in lieu thereof "basis of exchanging such data, information, and products";

(4) by adding at the end of subsection (b) the following new paragraph:

"(3) The Secretary shall waive the assessment of the fees authorized by subsection (a) as necessary to continue to provide weather warnings, watches, forecasts, and similar products and services essential to the mission of the National Oceanic and Atmospheric Administration.";

(5) by amending paragraph (1) of subsection (d) to read as follows:

"(1) The initial schedule of fees established by the National Environmental Satellite, Data, and Information Service shall remain in effect for the three-year period beginning on the date that the fees under that schedule take effect.";

(6) in subsections (e) and (f)(1), by inserting "by the National Environmental Satellite, Data, and Information Service" immediately after "under this section" each place it appears; and

(7) in subsection (g), by inserting immediately before the period at the end the following: "; including the authority of the Secretary pursuant to section 1307 of title 44, United States Code.".

Subtitle B—Airport Capacity

PART 1—SHORT TITLE; FINDINGS

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the "Airport Capacity Act of 1990".

SEC. 3102. FINDINGS.

The Congress finds that—

(1) aviation noise management is crucial to the continued increase in airport capacity;

(2) community noise concerns have led to uncoordinated and inconsistent restrictions on aviation which could impede the national air transportation system;

(3) a noise policy must be implemented at the national level;

(4) local interest in aviation noise management shall be considered in determining the national interest;

(5) community concerns can be alleviated through the technology aircraft, combined with the use of revenues, including those available from passenger facility charges, for noise management;

(6) federally controlled revenues can help resolve noise problems and carry with them a responsibility to the national airport system;

(7) a precondition to the establishment or collection of a passenger facility charge shall be the establishment by the Secretary of Transportation of a national noise policy;

(8) revenues derived from a passenger facility charge may be applied to noise management and increased airport capacity;

(9) provisions of subpart S of part 93 of title 14, Code of Federal Regulations (known as the "buy-sell rule"), which allow a public right to be used as a private asset, not only restrict competition at the four airports whose use is controlled through slots but also can impede competition in air transportation throughout the northeastern and midwestern United States;

(10) passengers pay higher fares at slot controlled airports than at other airports;

(11) increasing the number of slots at high density traffic airports will make it easier for carriers not already engaged in regular operations at those airports to achieve regular operations; and

(12) improvements in the air traffic control system since the initiation of slot controls, including new technology and new methods of regulating air traffic, necessitate a complete review of the practice of using slots to control access to high density traffic airports.

CHAPTER 2—AUTHORIZATION OF APPROPRIATIONS

SEC. 323. FAA FACILITIES AND EQUIPMENT.

That (a) section 506(a)(1) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2205(a)(1) is amended—

(A) by striking "and" immediately after "October 1, 1989,"; and

(B) by inserting immediately before the period at the end of the first sentence the following: "$14,625,200,000 for fiscal years ending before October 1, 1991, and $17,625,200,000 for fiscal years ending before October 1, 1992".

SEC. 324. FAA RESEARCH, ENGINEERING AND DEVELOPMENT.

(a) Section 506(b)(2) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2205(b)(2)) is amended—

(1) in subparagraph (B)(vii), by striking "and";

(2) in subparagraph (C), by striking the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end of the following new subparagraph:

"(4) for fiscal year 1991, $260,000,000, and for fiscal year 1992, $260,000,000.".

(b) Section 506(b)(4) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2205(b)(4)) is amended—

(1) in subparagraph (A), by striking "and 1990" and inserting in lieu thereof "1990, 1991, and 1992"; and

(2) in subparagraph (B), by striking "and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

(c) Section 506(d) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2205(d)) is amended by striking "and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

SEC. 325. FAA OPERATIONS.

For necessary expenses of the Administration for which there is no other specific authorization of appropriations, there is authorized to be appropriated $4,088,000,000

for fiscal year 1991 and $4,412,600,000 for fiscal year 1992.

PART 3—NATIONAL AVIATION NOISE POLICY

SEC. 3201. NATIONAL AVIATION NOISE POLICY.

(a) The Secretary of Transportation shall, by regulation, not later than October 1, 1991, develop and articulate a National Aviation Noise Policy which takes into account the Findings and Determinations and provisions of this chapter.

(b) The National Aviation Noise Policy shall include the establishment of a date or dates for the phasing out of Stage 2 technology aircraft as part of a comprehensive national noise management scheme. The national noise management scheme must include a detailed economic analysis of the impact of any phaseout date on competition in the airline industry, and may provide, by regulation, for the allocation and distribution of Stage 2 operating rights during the phaseout period in a manner determined by the Secretary to be economically efficient.

SEC. 3202. NOISE AND ACCESS RESTRICTION REVIEWS.

(a) The National Aviation Noise Policy shall require the establishment of a program for adequate public notice and comment opportunities on local airport noise or access restrictions that first became effective after October 1, 1990, that were negotiated or executed agreements as of October 1, 1990, or where the FAA has already formed a working group to examine the noise impact of air traffic control procedure changes.

(b) No airport noise or access restriction on the operation of a Stage 3 certificated aircraft, or on a Stage 2 certificated aircraft weighing less than 75,000 pounds, including but not limited to—

(1) any restriction as to noise levels generated on either a single event or cumulative basis;

(2) any limit, direct or indirect, on the total number of State 3 aircraft operations;

(3) any noise budget or noise allocation program which would include Stage 3 aircraft;

(4) any restriction imposing limits on hours of operations; and

(5) any other limit on Stage 3 aircraft,

shall be effective unless it has been agreed to by the airport proprietor and all aircraft operators, or until it has been submitted to the Federal Aviation Administration pursuant to an airport operator's request for approval and approved in accordance with the program.

(c) No airport noise or access restriction proposed after October 1, 1990, could include a restriction on operations with other than Stage 3 aircraft, unless the airport operator publishes the proposed noise or access restriction at least 180 days prior to the effective date of the restriction and prepares—

(1) an analysis of the anticipated or actual costs and benefits of the existing or proposed noise regulation;

(2) a description of alternative regulations;

(3) a description of the alternative measures considered not involving aircraft restrictions, and a comparison of the costs and benefits of such alternative measures to the costs and benefits of the proposed noise or access regulation.

(d) The Administrator shall not approve a noise or access restriction applying to Stage 3 aircraft operations unless the Administrator finds the following conditions to be supported by substantial evidence:

(1) the proposed restriction is reasonable, nonarbitrary, and nondiscriminatory;

(2) the proposed restriction does not create an undue burden on interstate or foreign commerce;

(3) the proposed restriction is not inconsistent with maintaining the safe and efficient utilization of the navigable airspace;

(4) the proposed restriction does not conflict with any existing Federal statute or regulation;

(5) there has been an adequate opportunity for public comment with respect to the regulation;

(6) consideration of alternative means of minimizing or otherwise managing noise was reasonable; and

(7) such other factors as the Administrator deems appropriate to the national air transportation system, as determined by rulemaking.

(e) Sponsors of facilities operating under noise or access restrictions on Stage 3 operations that first became effective after October 1, 1990, shall not be eligible for grants authorized by section 505 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2204) 90 days after the date on which the Secretary promulgates the final rule called for under section 331 of this Act, unless the restrictions have been agreed to by the airport proprietor and airport operators or the Administrator has approved the restriction under this title, or the restriction has been rescinded.

(f) The Administrator may reevaluate any noise restrictions previously approved under subsection (d) upon the request of any aircraft operator able to demonstrate to the satisfaction of the Administrator that there has been a change in the noise environment of the affected airport pursuant to the criteria established under subsection (d) and that a review and reevaluation of the benefits and costs of the previously approved noise regulation is therefore justified.

(g) The Administrator shall establish by regulation procedures under which the evaluation provided in subsection (f) shall be accomplished. Such evaluation shall not occur less than two years after a determination under subsection (d)(2) has been made.

(h) Except to the extent required by the application of the provisions of this section, nothing in this Act shall be deemed to eliminate or supersede existing law with respect to restrictions by local authorities on operation of Stage 2 aircraft.

SEC. 3203. FEDERAL LIABILITY FOR NOISE DAMAGES.

In the event of a disapproval of a proposed noise or access restriction, the Federal Government shall assume liability for noise damages only to the extent that a taking has occurred as a direct result of such disapproval. Action for the resolution of such a case shall be brought solely in the United States Claims Court.

SEC. 3204. PRIVATE RIGHT OF ACTION.

An aircraft operator may commence a civil action against an airport proprietor for the purpose of protecting its rights under this part, in any United States District Court without regard to citizenship or amount in controversy.

SEC. 3205. LIMITATION ON AIRPORT IMPROVEMENT PROGRAM REVENUE.

Except as specified in subsection (a), under no conditions shall any airport receive revenues under the provisions of the Airport and Airway Improvement Act of 1982, or impose or collect a passenger facility charge, unless the Administrator assures that the airport is not imposing any noise or access restriction not in compliance with this chapter.

SEC. 3206. NOISE COMPATIBILITY PROGRAM.

No proposal for the imposition of a passenger facility charge shall be approved by the Secretary if the airport has not conducted an airport noise compatibility program pursuant to section 104(b) of the Aviation Safety and Noise Abatement Act of 1979.

PART 4—PASSENGER FACILITY CHARGES

SEC. 3301. DEFINITIONS.

For purposes of this part the following definition applies: The term "eligible airport-related project" means—

(1) a project for airport development under the Airport and Airway Improvement Act of 1982;

(2) a project for airport planning under such Act;

(3) a project for terminal development described in section 513(b) of such Act;

(4) a project for airport noise capability planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979;

(5) a project to carry out noise compatibility measures which are eligible for assistance under section 104 of the Aviation Safety and Noise Abatement Act of 1979 without regard to whether or not a program has been approved for such measures under such section; and

(6) a project for construction of gates and related areas at which passengers are enplaned or deplaned.

SEC. 3302. AUTHORIZATION FOR IMPOSITION.

Section 1113 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1513) is amended by the addition of a new subsection:

"(e) EXCEPTION FOR IMPOSITION OF PASSENGER FACILITY CHARGES.—(1) Notwithstanding the above limitations the Secretary of Transportation is hereby authorized to establish by regulation a program for the imposition of approved passenger facility charges by any airport proprietor to finance eligible projects.

"(2) Passenger facility charges shall be imposed only as approved by the Secretary of Transportation and shall be approved only in full dollar amounts not to exceed three dollars per passenger. They shall remain in effect only during such periods as are necessary to pay for such specific projects as are identified to support their imposition.

"(3) Passenger facility charges shall be collected only from revenue passengers originating or terminating their travel at the airport imposing such a charge.

"(4) No proposal for the imposition of a passenger facility charge shall be approved by the Secretary of Transportation unless:

"(A) The airport proprietor seeking to impose the passenger facility charge certifies, in writing, that airport users and the general public have been provided with: a minimum of seventy-five days advance notice of the proposal; a full and detailed description of the project intended to be financed; a detailed financial plan for full funding of the specific project; and an opportunity to meet with the airport proprietor to present their views. On the basis of such advance notification and information the airport proprietor shall solicit the approval or disapproval of the airport users and the general public and shall advise the Secretary of Transportation of any disagreements with the proposed imposition of a passenger facility charge and the reasons supporting such disagreement.

"(B) In the event that no disagreement is registered, the Secretary shall approve the passenger facility charge.

"(C) In the event that disagreement is registered with reference to a project otherwise eligible for funding under the provisions of the Airport and Airway Improvement Act of 1982, the Secretary shall approve such passenger facility charge unless the Secretary finds by substantial evidence that it would not significantly benefit airport security, safety, noise mitigation, or capacity.

"(D) The Secretary shall establish, by appropriate rule, the procedures under which a disagreement is registered and an appeal heard under subsection (c).

"(E) In the event that disagreement is registered with reference to a project to build airport gates, the Secretary shall not approve such passenger facility charge unless he finds by substantial evidence that the project is justified by the need to increase capacity at the facility or facilities affected. Under no circumstances shall any gates constructed, improved, or repaired with passenger facility charges under this paragraph be subject to long-term leases for periods exceeding 10 years, or to majority in interest clauses.

"(F) No other projects other than those defined in this title may be financed by a passenger facility charge.

"(5) Any proposal to amend a project supported by an approved passenger facility charge necessitating an upward adjustment of project financing costs shall be treated as a new proposal for the imposition of a passenger facility charge and submitted for approval.

"(6) No passenger facility charge shall be approved for imposition prior to the adoption by regulation of a national aviation noise policy in accordance with the provisions of title III of this Act and, in no event, prior to such date at which the uncommitted balance contained in the Airport and Airway Trust Fund is less than $5,000,000,000.

"(7) Authority for the approval of any new passenger facility charge, or the modification of any existing charge, shall terminate in the event that appropriations fail to be made to fund at least 90 percent of each amount authorized for essential air service and the airport improvement program during any fiscal year. Further, all authority to approve any passenger facility charge shall terminate at any time funds are spent from this Act except as authorized by this Act.

"(8)(A) Revenues derived from collection of a fee by an airport proprietor pursuant to this subsection shall not be treated as airport revenues for the purpose of establishing rates, fees and charges pursuant to any contract between such airport and an air carrier.

"(B) Except as otherwise provided in subparagraph (C) hereof, such airport shall not include the portion of the capital costs of any project paid for from such passenger facility charge revenues in the rate base, by means of depreciation, amortization or otherwise, in establishing fees, rates and charges for air carriers.

"(C) With respect to any project for terminal development, for gates and related areas, or for any facility which is occupied or utilized by one or more air carriers on an exclusive or preferential basis, the rates, fees and charges payable by air carriers which use such facilities shall be no less than the rates, fees and charges paid by carriers using similar facilities at the airport which were not financed with revenues derived from collection of a fee pursuant to this subsection.

"(D) Except as provided in this subsection, nothing contained in this Act shall be construed as endorsing or authorizing the unilateral abrogation, abridgement or alteration of any existing contract or lease provision in place at any airport.

"(9) Any passenger facility charge approved for imposition under this Act shall be collected by the air carrier or its agent selling such transportation and shall be paid to the airport imposing such a charge in accordance with regulations to be issued by the Secretary of Transportation. Such charge shall be separately identified on any ticket sold for such transportation as a local passenger facility charge. The Secretary of Transportation shall provide by regulation for the full and complete compensation of air carriers based upon a uniform fee which reflects their average cost for their collection and handling costs.

"(10) The Secretary of Transportation shall require that any airport imposing a passenger facility charge maintain the funds derived as a result in a separate and identifiable account which, for the purpose of this Act, shall be subject to the same record, audit and examination requirements imposed upon airport improvement program revenues by section 518 of the Airport and Airway Improvement Act of 1982.

"(11) No State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) shall levy or collect any tax on or with respect to any commercial aircraft flight, or any activity or service on board such flight, if such flight neither takes off nor lands in such state or jurisdiction".

SEC. 3303. SPONSOR ASSURANCES INCLUDING MINORITY AND SMALL BUSINESS PARTICIPATION.

Section 511(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2210) is amended by after the word title striking ", " and inserting "or passenger facility charge project,".

SEC. 3304. PREFORMANCE OF CONSTRUCTION WORK INCLUDING MINIMUM RATES OF WAGES AND VETERANS PREFERENCE.

Section 515 of the Airport and Airway Improvement Act of 1982, (49 U.S.C. App. 2214) is amended—

(1) in subsection (a) by inserting "or passenger facility charge project" after "title";

(2) in subsection (b) by inserting "or passenger facility charge project" after "title";

(3) in subsection (c) by inserting "or passenger facility charge project" after "title";

PART 5—PURCHASE, SALE, LEASE, AND OTHER TRANSFER OF SLOTS DEFINITIONS

SEC. 3351. As used in this part, the term—

(1) "Administrator" means the Administrator of the Federal Aviation Administration.

(2) "Air carrier" has the meaning given that term in section 101(3) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301(3)).

(3) "High density traffic airport" means the Kennedy International Airport, New York, New York; LaGuardia National Airport, New York, New York; O'Hare International Airport, Chicago, Illinois; or Washington National Airport, Washington, District of Columbia.

(4) "New entrant carrier" means an air carrier, including a commuter operator, that holds fewer than 12 slots at the relevant airport.

(5) "Secretary" means the Secretary of Transportation.

(6) "Slot" means the operational authority to conduct one landing or takeoff operation, under instrument flight rules, each day during a specific period at an airport.

AIR CARRIER SPECIAL AUTHORIZATIONS

SEC. 3352. (a)(1) Not later than 60 days after the date of enactment of this Act, the Administrator shall by rule create, at Washington National Airport, a pool of 30 daily air carrier special authorizations which shall be spread evenly throughout the day from the hour 0700 to the hour 2200 and shall be available only to air carriers that—

(A) will utilize such special authorizations to conduct operations with turbojet aircraft or any aircraft having a certificate maximum seating capacity of 75 or more; and

(B) hold fewer than 12 existing slots at Washington National Airport.

(2) Such special authorizations shall be created and allocated in such a manner that the actual number of daily operations does not exceed the total number of authorized daily operations at Washington National Airport as provided in subpart K of part 93 of title 14, Code of Federal Regulations.

(3) Such special authorizations shall be allocated by lottery and in such a manner that, to the maximum extent practicable, all such air carriers have an equal number of slots and special authorizations overall at Washington National Airport. No such air carrier shall receive a special authorization under this subsection which gives that carrier more than 12 slots and special authorizations overall at Washington National Airport.

(4) If such special authorizations remain unused after such air carriers have had an opportunity to obtain them, the remaining authorizations may only be made available to air carriers that have fewer than 12 slots at Washington National Airport.

(5) Each such special authorization shall be public property and its use shall represent a nonpermanent operating privilege within the exclusive control and jurisdiction of the Secretary and the Administrator. Any such privilege may be withdrawn, recalled, or reallocated by the Secretary for reasons of aviation safety, airspace efficiency, the enhancement of competition in air transportation, or any other matter in the public interest and in accordance with the public convenience and necessity.

(6) If the holder of an air carrier special authorization fails to initiate use of the authorization within 60 days after receiving the authorization or thereafter fails to use the authorization in accordance with rules for use of existing air carrier slots, the authorization shall be withdrawn and, if appropriate, be reallocated to another air carrier as provided in this subsection.

(b)(1) Not later than 60 days after the date of enactment of this Act, the Administrator shall by rule create, at La Guardia National Airport, a pool of 30 daily air carrier special authorizations which shall be spread evenly throughout the day and shall be available only to air carriers that—

(A) will utilize such special authorizations to conduct operations with turbojet aircraft or any aircraft having a certificate maximum seating capacity of 75 or more; and

(B) hold fewer than 12 existing slots at La Guardia National Airport.

(2) Such special authorizations shall be allocated by lottery and in such a manner that, to the maximum extent practicable, all such air carriers have an equal number of

slots and special authorizations overall at La Guardia National Airport. No such air carrier shall receive a special authorization under this subsection which gives that carrier more than 12 slots and special authorizations overall at La Guardia National Airport.

(3) If such special authorizations remain unused after such air carriers have had an opportunity to obtain them, the remaining authorizations may only be made available to air carriers that have fewer than 12 slots at La Guardia National Airport.

(4) Each such special authorization shall be public property and its use shall represent a nonpermanent operating privilege within the exclusive control and jurisdiction of the Secretary and the Administrator. Any such privilege may be withdrawn, recalled, or reallocated by the Secretary for reasons of aviation safety, airspace efficiency, the enhancement of competition in air transportation, or any other matter in the public interest and in accordance with the public convenience and necessity.

(5) If the holder of an air carrier special authorization fails to initiate use of the authorization within 60 days after receiving the authorization or thereafter fails to use the authorization in accordance with rules for use of existing air carrier slots, the authorization shall be withdrawn and, if appropriate, be reallocated to another air carrier as provided in this subsection.

HIGH DENSITY TRAFFIC AIRPORT RULES

SEC. 3353. (a)(1) On January 1, 1991, the Administrator shall initiate a review of the provisions of subparts K and S of part 93 of title 14, Code of Federal Regulations. The review shall evaluate the impact of such provisions on aviation safety and ground congestion at each of the high density traffic airports.

(2) Not later than January 1, 1992, the Administrator shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives regarding the findings of the review initiated under paragraph (1) and any recommendations to be taken in light of those findings.

(b)(1) On January 1, 1991, the Secretary shall initiate a review of the provisions of subparts K and S of part 93 of title 14, Code of Federal Regulations. The review shall evaluate—

(A) the impact of such provisions on airline competition and how such provisions have facilitated, and continue to facilitate, new entry at such airports; and

(B) methods by which the public can benefit financially from the provision of slots to carriers and how much revenue or other financial benefit can be generated by each such method.

(2) Not later than January 1, 1992, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives regarding the findings of the review initiated under paragraph (1) and any recommendations to be taken in light of those findings.

PART 6—UNIVERSITY AIR TRANSPORTATION CENTERS

SEC. 3401. (a) UNIVERSITY AIR TRANSPORTATION CENTERS.—

(1) GRANTS FOR ESTABLISHMENT AND OPERATION.—The Administrator of the Federal Aviation Administration (hereinafter referred to as the "Administrator") is authorized to make grants to one or more nonprofit institutions of higher learning to establish and operate one university air transportation center in each of the ten Federal regions which comprise the Standard Federal Regional Boundary System.

(2) RESPONSIBILITIES.—The responsibilities of each university air transportation center established under this subsection shall include, but not be limited to, the conduct of research concerning airspace and airport planning and design, airport capacity enhancement techniques, human performance in the air transportation environment, aviation safety and security, the supply of trained air transportation personnel including pilots and mechanics, and other aviation issues pertinent to developing and maintaining a safe and efficient air transportation system, and the interpretation, publication, and dissemination of the results of such research.

(3) APPLICATION.—Any nonprofit institution of higher learning interested in receiving a grant under this subsection shall submit to the Administrator an application in such form and containing such information as the Administrator may require by regulation.

(4) SELECTION CRITERIA.—The Administrator shall select recipients of grants under this subsection on the basis of the following criteria:

(A) The extent of which the needs of the State in which the applicant is located are representative of the needs of the Federal region for improved air transportation services and facilities.

(B) The demonstrated research and extension resources available to the applicant for carrying out this subsection.

(C) The capability of the applicant to provide leadership in making national and regional contributions to the solution of both long-range and immediate air transportation problems.

(D) The extent to which the applicant has an established air transportation program.

(E) The demonstrated ability of the applicant to disseminate results of air transportation research and educational programs through a statewide or regionwide continuing education program.

(G) The projects which the applicant proposes to carry out under the grant.

(5) MAINTENANCE OF EFFORT.—No grant may be made under this section in any fiscal year unless the recipient of such grant enters into such agreements with the Administrator as the Administrator may require to ensure that such recipient will maintain its aggregate expenditures from all other sources for establishing and operating a university air transportation center and related research activities at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this Act.

(6) FEDERAL SHARE.—The Federal share of a grant under this subsection shall be 50 percent of the costs of establishing and operating the university air transportation center and related research activities carried out by the grant recipient.

(7) RESEARCH ADVISORY COMMITTEE.—

(A) Section 312(f)(2) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1353(f)(2) is amended by adding at the end of the following new sentence: "In addition, the committee shall coordinate the research and training to be carried out by the university air transportation centers established under the Airport Capacity Act of 1990, disseminate the results of such research, act as a clearinghouse between such centers and the air transportation industry, and review and evaluate programs carried out by such centers.".

(B) Section 312(f)(3) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1353(f)(3) is amended by striking "20" and inserting in lieu thereof "30"; and by striking the last sentence and inserting in lieu thereof the following: "The Administrator in appointing the members of the committee shall ensure that the university air transportation centers, universities, corporations, associations, consumers, and other government agencies are represented.".

(b) AUTHORITY.—Section 312(c) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1353(c)) is amended by inserting immediately after the third sentence the following: "The Administrator shall undertake or supervise research programs concerning airspace and airport planning and design, airport capacity enhancement techniques, human performance in the air transportation environment, aviation safety and security, the supply of trained air transportation personnel including pilots and mechanics, and other aviation issues pertinent to developing and maintaining a safe and efficient air transportation system.".

PART 7—MISCELLANEOUS

SEC. 3451. SEVERABILITY.

If any provision of this Act (including an amendment made by this Act), or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 3452. AUXILIARY FLIGHT SERVICE STATION PROGRAM.

(a) GENERAL RULE.—The Secretary of Transportation shall develop and implement a system of manned auxiliary flight service stations. The auxiliary flight service stations shall supplement the services of the planned consolidation to 61 automated flight service stations under the flight service station modernization program. Auxiliary flight service stations shall be located in areas of unique weather or operational conditions which are critical to the safety of flight.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall report to Congress with the plan and schedule for implementation of this section.

SEC. 3453. MILITARY AIRPORT PROGRAM.

(a) DECLARATION OF POLICY.—Section 502(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201(a) is further amended—

(1) by striking "and" at the end of paragraph (12);

(2) by striking the period at the end of paragraph (13) and inserting "; and "; and

(3) by adding at the end the following:

"(14) special emphasis should be placed on the conversion of appropriate former military air bases to civil use and on the identification and improvement of additional joint-use facilities.".

(b) SET-ASIDE—Section 508(d) of such Act (49 U.S.C. App. 2204(d) is amended by striking paragraph (5) and inserting the following:

"(5) MILITARY AIRPORT SET-ASIDE—Not less than one-half of one percent of the funds made available under section 505 in each of fiscal years 1991 and 1992 shall be distributed during such fiscal year to sponsors of current or former military airports designated by the Secretary under subsection (f) of this

section for the purpose of developing current and former military airports to improve the capacity of the national air transportation system.

"(6) REALLOCATION.—If the Secretary determines that he will not be able to distribute the amount of funds required to be distributed under paragraph (1), (2), (3), (4), or (5) of this subsection for any fiscal year because the number of qualified applications submitted in compliance with this title is insufficient to meet such amount, the portion of such amount the Secretary determines will not be distributed shall be available for obligation during such fiscal year for other airports and for other purposes authorized by section 505 of this title.".

(c) DESIGNATION OF FORMER MILITARY AIRPORTS.—Section 508 of such Act is further amended by adding at the end the following new subsection:

"(f) DESIGNATION OF CURRENT OR FORMER MILITARY AIRPORTS.—

"(1) DESIGNATION.—The Secretary shall designate not more than 5 current or former military airports for participation in the grant program established under subsection (d)(5) and this subsection. At least 2 such airports shall be designated within 6 months after the date of the enactment of this subsection and the remaining airports shall be designated for participation no later than September 30, 1992.

"(2) SURVEY.—The Secretary shall conduct a survey of current and former military airports to identify which ones have the greatest potential to improve the capacity of the national air transportation system. The survey shall also identify the capital development needs of such airports in order to make them part of the national air transportation system and shall identify which capital development needs are eligible for grants under section 505. The survey shall be completed by September 30, 1991.

"(3) LIMITATION.—In selecting airports for participation in the program established under subsection (d)(5) and this subsection and in conducting the survey under paragraph (2), the Secretary shall consider only those current or former military airports whose conversion in whole or in part to civilian commercial or reliever airport as part of the national air transportation system would enhance airport and air traffic control system capacity in major metropolitan areas and reduce current and projected flight delays.

"(4) PERIOD OF ELIGIBILITY.—An airport designated by the Secretary under this subsection shall remain eligible to participate in the program under subsection (d)(5) and this subsection for the 5 fiscal years following such designation. An airport that does not attain a level of enplaned passengers during such 5 fiscal year period which qualifies it as a small hub airport as defined as of January 1, 1990, or reliever airport may be redesignated by the Secretary for participation in the program for such additional fiscal years as may be determined by the Secretary.

"(5) ADDITIONAL FUNDING.—Notwithstanding the provisions of section 513(b), not to exceed $3,000,000 per airport of the sums to be distributed at the discretion of the Secretary under section 507(c) for any fiscal year may be used by the sponsor of a current or former military airport designated by the Secretary under this subsection for construction, improvement, or repair of terminal building facilities, including terminal gates used by aircraft for enplaning and deplaning revenue passengers. Under no circumstances shall any gates constructed, improved, or repaired with Federal funding under this paragraph be subject to long-term leases for periods exceeding 10 years or majority in interest clauses.".

SEC. 3454. EXPANDED EAST COAST PLAN.

(a) ENVIRONMENTAL IMPACT STATEMENT.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall issue an environmental impact statement pursuant to the National Environmental Policy Act of 1969 on the effects of changes in aircraft patterns over the State of New Jersey caused by implementation of the Expanded East Coast Plan.

(b) AIR SAFETY INVESTIGATION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall conduct an investigation to determine the effects on air safety of changes in aircraft flight patterns over the State of New Jersey caused by implementation of the Expanded East Coast Plan.

(c) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to Congress a report containing the results of the environmental impact statement and investigation conducted pursuant to this section. Such report shall also contain such recommendations for modification of the Expanded East Coast Plan as the Administrator considers appropriate or an explanation of why modification of such plan is not appropriate.

(d) IMPLEMENTATION OF MODIFICATIONS.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall implement modifications to the Expanded East Coast Plan recommended under subsection (c).

SEC. 3455. DECLARATION OF POLICY.

Section 502(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201) is amended—

(1) in paragraph (5) by inserting ", including as they may be applied between category and class of aircraft" after "discriminatory practices"; and

(2) in paragraph (13) by inserting "and should not unjustly discriminate between categories and classes of aircraft" after "attempted".

SEC. 3456. CERTIFICATE TRANSFERS.

Section 401(h) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1371(h)) is amended—

(1) by redesignating the existing text as paragraph (1); and

(2) by adding at the end of the following new paragraph:

"(2) The Secretary of Transportation shall, upon any such transfer, certify to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives that the transfer is consistent with the public interest.

"(3) For purposes of this subsection, a transfer of a certificate is consistent with the public interest if that transfer does not adversely affect:

(A) the viability of each of the carriers involved in the transfer;

(B) competition in the domestic airline industry, and

(C) the trade position of the United States in the international air transportation market.".

SEC. 3457. SENSITIVE SECURITY INFORMATION.

Section 316(d)(2) of the Federal Aviation Act of 1958 (49 App. 1357(d)(2)) is amended—

(1) by inserting "security or" immediately before "research and development activities"; and

(2) by striking "subsection" and inserting in lieu thereof "title".

SEC. 3458. REPORTS.

Section 107 (b) and (c) of the Federal Aviation Act of 1958 (49 App. 1307 (b) and (c)) is amended by striking "each April 1 thereafter" each place it appears and inserting in lieu thereof "through April 1, 1990".

SEC. 3459. ATLANTIC CITY AIRPORT.

Section 312 of the Airport and Airway Safety and Capacity Expansion Act of 1987 (101 Stat. 1528) is repealed.

SEC. 3460. NATURAL DISASTER REGULATION.

The Federal Aviation Act of 1958 is amended by adding immediately after section 612 the following:

"SAFETY REGULATION

"SEC. 613. (a) NATIONAL DISASTER AREAS.—Prior to the expiration of the 180-day period following the date of the enactment of this section, the Administrator of the Federal Aviation Administration, for safety and humanitarian reasons, shall issue such regulations as may be necessary to prohibit or otherwise restrict aircraft overflights of any inhabited area which has been declared a national disaster area in the State of Hawaii.

"(b) EXCEPTIONS.—Regulations issued pursuant to subsection (a) shall not be applicable in the case of aircraft overflights involving an emergency or a legitimate scientific purpose.

"(c) STATUS OF STUDIES.—On or before the expiration of the 90-day period following the date of the enactment of this section, the Administrator of the Federal Aviation Administration shall report to the Congress on the status of the studies and reports required by Public Law 100-91 (101 Stat. 674 et seq.).".

TITLE IV—COMMITTEE ON ENERGY AND NATURAL RESOURCES

Subtitle A—Tongass Timber Reform

SEC. 4001. SHORT TITLE AND DEFINITION.

This subtitle may be cited as the "Tongass Timber Reform Act".

SEC. 4002. TO REQUIRE ANNUAL APPROPRIATIONS FOR TIMBER MANAGEMENT ON THE TONGASS NATIONAL FOREST.

The Alaska National Interest Lands Conservation Act (Public Law 96-487, hereinafter in this subtitle referred to as "ANILCA") is hereby amended by deleting section 705(a) (16 U.S.C. 539d(a)) in its entirety and inserting in lieu thereof the following:

"SEC. 705. (a) Subject to appropriations, other applicable law, and the requirements of the National Forest Management Act of 1976 (Public Law 94-588), except as provided in subsection (d) of this section, the Secretary shall seek to provide a supply of timber from the Tongass National Forest which (1) meets the annual market demand for timber from such forest and (2) meets the market demand from such forest for each planning cycle.".

"(d) All provisions of section 6(k) of the National Forest Management Act of 1976 (16 U.S.C. 1604(k)) shall apply to the Tongass National Forest except that the Secretary need not consider economic factors in the identification of lands not suited for timber production.".

Subtitle B

SEC. 4110. SHORT TITLE.—This subtitle may be cited as the "Uranium Enrichment Act of 1990".

SEC. 4111. DELETION OF SECTION 161 v.—Subsection 161 v. of the Atomic Energy Act of 1954, as amended, is deleted and the remaining subsections are relettered accordingly.

SEC. 4112. REDIRECTION OF THE URANIUM ENRICHMENT ENTERPRISE OF THE UNITED STATES.—The Atomic Energy Act of 1954, as amended (42 U.S.C. 2011-2296) is further amended by—

a. inserting at the commencement thereof after the words "ATOMIC ENERGY ACT OF 1954":

"TITLE I—ATOMIC ENERGY";

and

b. adding at the end thereof the following:

"TITLE II—UNITED STATES ENRICHMENT CORPORATION

"CHAPTER 21. FINDINGS

"SEC. 1101. FINDINGS.—The Congress of the United States finds that:

"a. The enrichment of uranium is essential to the national security and energy security of the United States.

"b. A competitive, well-managed and efficient enrichment enterprise provides important economic benefits to the United States and contributes to a highly favorable foreign trade balance.

"c. A strong United States enrichment enterprise promotes United States nonproliferation policies by requiring accountability for United States enriched uranium.

"d. The operation of uranium enrichment facilities must meet high standards for environmental health and safety.

"e. The operation and management of a uranium enrichment enterprise requires a commercial business orientation in order to engender customer support and confidence, and customers, rather than the taxpayers at large, should bear the costs of commercial uranium enrichment services.

"f. The optimal level of expenditures for the uranium enrichment enterprise fluctuates and cannot be accurately predicted or efficiently financed if subject to annual authorization and appropriation.

"g. Flexibility is essential to adapt business operations to a competitive marketplace.

"h. The events of the recent past, including the emergence of foreign competition, have brought new and unforeseen forces to bear upon the management and operation of the Government's uranium enrichment enterprise.

"i. The present operation of the uranium enrichment enterprise must be changed so as to further the national interest in the enterprise and respond to the competitive demand placed upon it by market forces, while continuing to meet the paramount objective of ensuring the Nation's common defense and security.

"CHAPTER 22. DEFINITIONS, ESTABLISHMENT OF CORPORATION AND PURPOSES

"SEC. 1201. DEFINITIONS.—For the purpose of this title:

"a. The term 'Secretary' means the Secretary of Energy.

"b. The term 'Department' means the Department of Energy of the United States.

"c. The term 'Administrator' means the chief executive officer of the United States Enrichment Corporation.

"d. The term 'Corporation' means the United States Enrichment Corporation.

"e. The term 'Corporate Board' means the appointed members of the official advisory panel appointed by the President pursuant to section 1503 of this title.

"f. The term 'uranium enrichment' means the separation of uranium of a given isotopic content into two components, one having a higher percentage of a fissile isotope and one having a lower percentage.

"g. The term 'remedial action' has the same meaning as defined in section 120(24) of the Comprehensive Environmental Response, Compensation and Liability Act.

"h. The term 'decontamination and decommissioning' means those activities undertaken to decontaminate and decommission inactive facilities that have residual radioactive or mixed radioactive and hazardous chemical contamination.

"SEC. 1202. ESTABLISHMENT OF THE CORPORATION:

"a. There is hereby created a body corporate to be known as the 'United States Enrichment Corporation'.

"b. The Corporation shall—

"(1) be established as a wholly owned Government corporation subject to the Government Corporation Control Act, as amended (31 U.S.C. 9101-9109), except as otherwise provided herein; and

"(2) be an agency and instrumentality of the United States.

"SEC. 1203. PURPOSES.—The Corporation is created for the following purposes—

"(1) to acquire feed material for uranium enrichment, enriched uranium, the Department's uranium previously set aside for commercial purposes, and the Department's uranium enrichment and related facilities;

"(2) to operate, and as required by business conditions, to expand or construct facilities for uranium enrichment or both;

"(3) to market and sell enriched uranium and uranium enrichment and related services to—

"(A) the Department for governmental purposes; and

"(B) qualified domestic and foreign persons;

"(4) to conduct research and development as required to meet corporate objectives for the purpose of identifying, evaluating, improving and testing processes for uranium enrichment;

"(5) to operate, as a commercial enterprise, on a profitable and efficient basis; in order to maximize the long term economic value of the Corporation to the United States Government including the payment of dividends to the Treasury as a return on the United States Government investment;

"(6) to conduct the business as a self-financing corporation and eliminate the need for appropriations or other sources of Government financing after enactment of this title;

"(7) to maintain a reliable and economical domestic source of enrichment services;

"(8) to conduct its activities in a manner consistent with the health and safety of the public;

"(9) to continue to meet the paramount objectives of ensuring the Nation's common defense and security (including consideration of United States policies concerning nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy); and

"(10) to take all other lawful action in furtherance of the foregoing purposes.

"CHAPTER 23. CORPORATE OFFICES

"SEC. 1301. CORPORATE OFFICES.—The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

"CHAPTER 24. POWER AND DUTIES OF THE CORPORATION

"SEC. 1401. SPECIFIC CORPORATE POWERS AND DUTIES.—The Corporation—

"a. shall perform uranium enrichment or provide for uranium to be enriched by others at facilities of the Corporation; contracts in existence as of the date of enactment of this title between the Department and persons under contract to perform uranium enrichment and related services at facilities of the Department shall continue in effect as if the Corporation, rather than the Department, had executed these contracts;

"b. shall conduct, or provide for the conduct of, research and development activities related to the isotopic separation of uranium as the Corporation deems necessary or advisable for purposes of maintaining the Corporation as a continuing, commercial enterprise operating on a profitable and efficient basis;

"c. may acquire or distribute enriched uranium, feed material for uranium enrichment or depleted uranium in transactions with—

"(1) persons licensed under sections 53, 63, 103, or 104 of title I in accordance with the licenses held by such persons;

"(2) persons in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I; or

"(3) as otherwise authorized by law;

"d. may—

"(1) enter into contracts with persons licensed under section 53, 63, 103, or 104 of title I for such periods of time as the Corporation may deem necessary or desirable, to provide uranium or uranium enrichment and related services; and

"(2) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I or as otherwise authorized by law;

"e. shall sell to the Department as provided in this title, and without regard to section 57 e. of title I or the provisions of section 1535 of title 31, United States Code, such amounts of uranium or uranium enrichment and related services as the Department may determine from time to time are required: (1) for the Department to carry out Presidential direction and authorizations pursuant to section 91 of title I; and (2) for the conduct of other Department programs;

"f. may grant licenses, both exclusive and nonexclusive, for the use of patent and patent applications owned by the Corporation, and establish and collect charges, in the form of royalties or otherwise, for utilization of Corporation-owned facilities, equipment, patents, and technical information of a proprietary nature pertaining to the Corporation's activities.

"SEC. 1402. GENERAL POWERS OF THE CORPORATION.—In order to accomplish the purposes of this title, the Corporation—

"a. shall have perpetual succession unless dissolved by Act of Congress;

"b. may adopt, alter, and use a corporate seal, which shall be judicially noticed;

"c. may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings;

"d. may indemnify the Administrator, officers, attorneys, agents and employees of the Corporation for liabilities and expenses in-

curred in connection with their corporate activities;

"e. may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the power granted to it by law may be exercised and enjoyed;

"f. (1) may acquire, purchase, lease, and hold real and personal property including patents and proprietary data, as it deems necessary in the transaction of its business, and sell, lease, grant, and dispose of such real and personal property, as it deems necessary to effectuate the purposes of this title and without regard to the Federal Property and the Administrative Services Act of 1949, as amended;

"(2) Purchases, contracts for the construction, maintenance, or management and operation of facilities and contracts for supplies or services, except personal services, made by the Corporation shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Corporation shall determine to be adequate to insure notice and an opportunity for competition: Provided, That advertising shall not be required when the Corporation determines that the making of any such purchase or contract without advertising is necessary in the interest of furthering the purposes of this title, or that advertising is not reasonably practicable;

"g. with the consent of the agency or government concerned, may utilize or employ the services or personnel of any Federal Government agency, or any State or local government, or voluntary or uncompensated personnel to perform such functions on its behalf as may appear desirable;

"h. may enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation;

"i. may determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and other provisions of law specifically applicable to wholly owned Government corporations;

"j. notwithstanding any other provision of law, and without need for further appropriation, may use monies, unexpended appropriations, revenues and receipts from operations, amounts received from obligations issued and other assets of the Corporation in accordance with section 1505, without fiscal year limitation, for the payment of expenses and other obligations incurred by the Corporation in carrying out its functions under, and within the requirements of, this title; and shall not be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code;

"k. may settle and adjust claims held by the Corporation against other persons or parties and claims by other persons or parties against the Corporation;

"l. may exercise, in the name of the United States, the power of eminent domain for the furtherance of the official purposes of the Corporation;

"m. shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

"n. may define appropriate information as 'Government Commercial Information' and exempt such information from mandatory release pursuant to section 552(b)(3) of title 5, United States Code, when it is determined by the Administrator that such information if publicly released would harm the Corporation's legitimate commercial interests or those of a third party;

"o. may request, and the Administrator of General Services, when requested, shall furnish the Corporation such services as he is authorized to provide agencies of the United States;

"p. may accept gifts or donations of services, or of property, real, personal, mixed, tangible or intangible, in aid of any purposes herein authorized; and

"q. may execute, in accordance with its bylaws, rules and regulations, all instruments necessary and appropriate in the exercise of any of its powers.

"r. shall pay any settlement or judgment entered against it from the Corporation's own funds and not from the judgment fund (31 U.S.C. 1304). The provisions of the Federal Tort Claims Act (28 U.S.C. 1346(b) and 2671 et seq.) shall not apply to any claims arising from the activities of the Corporation after the effective date of this title: Provided, That this subsection shall not apply to liability or claims arising from a nuclear incident, if such incident occurs prior to the licensing of the Corporation's existing Gaseous Diffusion Facilities under section 1601 of this title.

"SEC. 1403. CONTINUATION OF CONTRACTS, ORDERS, PROCEEDINGS, AND REGULATIONS:

"a. Except as provided elsewhere in this title, all contracts, agreements, and leases with the Department, and licenses, and privileges that have been afforded to the Department prior to the date of the enactment of this title and that relate to uranium enrichment, including all enrichment services contracts, power purchase contracts, and the December 18, 1987, settlement agreement with the Tennessee Valley Authority regarding payment of capacity charges under the Department's two power contracts with the Tennessee Valley Authority, shall continue in effect as if the Corporation had executed such contracts, agreements, or leases or had been afforded such licenses and privileges.

"b. As related to the functions vested in the Corporation by this title, all orders, determinations, rules, regulations and privileges of the Department shall continue in effect and remain applicable to the Corporation until modified, terminated, superseded, set aside or revoked by the Corporation, by any court of competent jurisdiction, or by operation of law unless otherwise specifically provided in this title.

"c. Except as provided elsewhere in this title, the transfer of functions related to and vested in the Corporation by this title shall not affect proceedings judicial or otherwise, relating to such functions which are pending at the time this title takes effect, and such proceedings shall be continued with the Corporation, as appropriate.

"SEC. 1404. LIABILITIES.—Except as provided elsewhere in this title, all liabilities attributable to operation of the uranium enrichment enterprise prior to the date of the enactment of this title shall remain direct liabilities of the Government of the United States; with regard to any claim seeking to impose such liability, section 1403 shall not be applicable and the United States shall be represented by the Department of Justice.

"CHAPTER 25. ORGANIZATION, FINANCE AND MANAGEMENT

"SEC. 1501. ADMINISTRATOR:

"a. The management of the Corporation shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation. The Administrator shall be a person who, by reason of professional background and experience is specially qualified to manage the Corporation: Provided, however, That upon enactment of this title, the President shall appoint an existing officer or employee of the United States to act as Administrator until the office is filled.

"b. The Administrator—

"(1) shall be the chief executive officer of the Corporation and shall be responsible for the management and direction of the Corporation. The Administrator shall establish the offices, appoint the officers and employees of the Corporation (including attorneys), and define their responsibilities and duties. The Administrator shall appoint other officers and employees as may be required to conduct the Corporation's business;

"(2) shall serve a term of six years but may be reappointed;

"(3) shall, before taking office, take an oath to faithfully discharge the duties thereof;

"(4) shall have compensation determined by the President based upon the recommendation of the Secretary and the Corporate Board as provided in section 1503(c), except that in the absence of such determination compensation shall be set at Executive Level I, as prescribed in section 5312 of title 5, United States Code;

"(5) shall be a citizen of the United States;

"(6) shall designate an officer of the Corporation who shall be vested with the authority to act in the capacity of the Administrator in the event of absence or incapacity; and

"(7) may be removed from office only by the President and only for neglect of duty or malfeasance in office. The President shall communicate the reasons for any such removal to both Houses of Congress at least thirty days prior to the effective date of such removal.

"c. (1) The Secretary shall exercise general supervision over the Administrator only with respect to the activities of the Corporation involving—

"(A) the Nation's common defense and security; and

"(B) health, safety and the environment.

"(2) The Administrator shall be solely responsible for the exercise of all powers and responsibilities that are committed to the Administrator under this title and that are not reserved to the Secretary under paragraph (1), and, notwithstanding the provisions of section 9104(a)(4) of title 31, United States Code, including the setting of the appropriate amount of, and paying, any dividend under section 1506(c) and all other fiscal matters.

"SEC. 1502. DELEGATION.—The Administrator may delegate to other officers or employees powers and duties assigned to the Corporation in order to achieve the purposes of this title.

"SEC. 1503. CORPORATE BOARD.—There is hereby established a Corporate Board appointed by the President which shall consist of five members, one of whom shall be designated as chairman. Members of the Corporate Board shall be individuals possessing high integrity, demonstrated accomplishment and broad experience in management and shall have strong backgrounds in science, engineering, business or finance. At least one member of the Corporate Board

shall be, or previously have been, employed on a full-time basis in managing an electric utility:

"a. (1) The specific responsibilities of the Corporate Board shall be to—

"(A) review the Corporation's policies and performance and advise the Administrator and the Secretary on these matters; and

"(B) advise the Administrator and the Secretary on any other such matters concerning the Corporation as may be referred to the Corporate Board.

"(2) The Board shall have the right to recommend removal of the Administrator. In the event such recommendation is made, it shall be transmitted to the President by the Secretary, together with the Secretary's own recommendation on removal of the Administrator.

"b. Members of the Board shall be provided access to all significant reports, memoranda, or other written communications generated or received by the Corporation. At the request of the Board, the Corporation shall make available to the Board all financial records, reports, files, papers, and memoranda of, or in use by, the Corporation.

"c. When appropriate, the Corporate Board may make recommendations to the Secretary concerning the compensation to be received by the Administrator and up to ten officers of the Corporation who may receive compensation in excess of Executive Level II as provided in section 1504(a). The Secretary shall transmit such recommendations to the President together with the Secretary's own recommendations concerning compensation. In the event that less than three members of the Corporate Board are in office, recommendations concerning compensation may be made by the Secretary alone. The President shall have the power to enter into binding agreements concerning compensation to be received by the Administrator during his term of office and by the ten officers described in section 1504(a) during their term of employment, regardless of any recommendations received or not received under this title.

"d. Except for initial appointments, members of the Corporate Board shall serve five-year terms. Each member of the Corporate Board shall be a citizen of the United States. No more than three members of the Board shall be members of any one political party. Of those first appointed, the chairman shall serve for the full five-year term; one member shall serve for a term of four years; one shall serve for a term of three years; one shall serve for a term of two years; and one shall serve for a term of one year.

"e. Upon expiration of the initial term, each Corporate Board member appointed thereafter shall serve a term of five years. Upon the occurrence of a vacancy on the Board, the President shall appoint an individual to fill such vacancy for the remainder of the applicable term. Upon expiration of a term, a Board member may continue to serve up to a maximum of one year or until a successor shall have been appointed and assumed office, whichever occurs first.

"f. The members of the Corporate Board in executing their duties shall be governed by the laws and regulations regarding conflicts of interest, but exempted from other provisions and authority prescribed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2).

"g. The Corporate Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly. The Administrator or his representative shall attend all meetings of the Corporate Board.

"h. The Corporation shall compensate members of the Corporate Board at a per diem rate equivalent to Executive Level III, as defined in section 5314 of title 5, United States Code, in addition to reimbursement of reasonable expenses incurred when engaged in the performance of duties vested in the Corporate Board. Any Corporate Board member who is otherwise a Federal employee shall not be eligible for compensation above reimbursement for reasonable expenses incurred while attending official meetings of the Corporation.

"i. (1) The Corporate Board shall report at least annually to the Administrator on the performance of the Corporation and the issues that, in the opinion of the Board, require the attention of the Administrator. Any such report shall include such recommendations as the Board finds appropriate. A copy of any report under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate and to the Speaker of the House of Representatives.

"(2) Within ninety days after the receipt of any report under this subsection the Administrator shall respond in writing to such report and provide an analysis of such recommendations of the Board contained in the report. Such response shall include plans for implementation of each recommendation or a justification for not implementing such recommendation. A copy of any response under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources and to the Speaker of the House of Representatives.

"SEC. 1504. EMPLOYEES OF THE CORPORATION.—Officers and employees of the Corporation shall be officers and employees of the United States:

"a. The Administrator shall appoint all officers, employees and agents of the Corporation as are deemed necessary to effect the provisions of this title without regard to any administratively imposed limits on personnel, and any such officer, employee or agent shall only be subject to the supervision of the Administrator. The Administrator shall fix all compensation in accordance with the comparable pay provisions of section 5301 of title 5, United States Code, with compensation levels not to exceed Executive Level II, as defined in section 5313 of title 5, United States Code: Provided, That the Administrator may, upon recommendation by the Secretary and the Corporate Board as provided in section 1503(c) and approval by the President, appoint up to ten officers whose compensation shall not exceed an amount which is 20 per centum less than the compensation received by the Administrator, but not less than Executive Level II. The Administrator shall define the duties of all officers and employees and provide a system of organization inclusive of a personnel management system to fix responsibilities and promote efficiency. The Corporation shall assure that the personnel function and organization is consistent with the principles of section 2301(b) of title 5, United States Code, relating to merit system principles. Officers and employees of the Corporation shall be appointed, promoted and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

"b. Any Federal employee hired before January 1, 1984, who transfers to the Corporation and who on the day before the date of transfer is subject to the Federal Civil Service Retirement System (subchapter III of chapter 83 of title 5, United States Code) shall remain within the coverage of such system unless he or she elects to be subject to the Federal Employees' Retirement System. For those employees remaining in the Federal Civil Service Retirement System, the Corporation shall withhold pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in chapter 83 of title 5, United States Code. Employment by the Corporation without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. Any employee of the Corporation who is not within the coverage of the Federal Civil Service Retirement System shall be subject to the Federal Employees' Retirement System (chapter 84 of title 5, United States Code). The Corporation shall withhold pay and make such payments as are required under that retirement system. Further:

"(1) Any employee who transfers to the Corporation under this section shall not be entitled to lump sum payments for unused annual leave under section 5551 title 5, United States Code, but shall be credited by the Corporation with the unused annual leave at the time of transfer.

"(2) An employee who does not transfer to the Corporation and who does not otherwise remain a Federal employee shall be entitled to all the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Corporation of work substantially similar to that performed by the employee for the Department.

"c. This section does not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment in the Government on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicap conditions.

"d. Officers and employees of the Corporation shall be covered by chapter 73 of title 5, United States Code, relating to suitability, security and conduct.

"e. Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the Department or the executive branch of the Government of the United States shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Corporation in accordance with the provisions of this title.

"f. The provisions of sections 3323(a) and 8344 of title 5, United States Code, or any other law prohibiting or limiting the reemployment of retired officers or employees or the simultaneous receipt of compensation and retired pay or annuities, shall not apply to officers and employees of the Corporation who have retired from or ceased previous government service prior to April 28, 1987.

"SEC. 1505. TRANSFER OF PROPERTY TO THE CORPORATION.—In order to enable the Corporation to exercise the powers and duties vested in it by this title:

"a. The Secretary, as requested by the Administrator, is authorized and directed to

transfer without charge to the Corporation all of the Department's right, title, or interest in and to, real or personal properties owned by the Department, or by the United States but under control or custody of the Department, which are related to and materially useful in the performance of the functions transferred by this title, including but not limited to the following—

"(1) production facilities for uranium enrichment inclusive of real estate, buildings and other improvements at production sites and their related and supporting equipment: Provided, That facilities, real estate, improvements and equipment related to the Oak Ridge Gaseous Diffusion Plant in Oak Ridge, Tennessee, and to the gas centrifuge enrichment program shall not transfer under this paragraph except for diffusion cascades and related equipment needed by the Corporation for replacement parts: Provided further, That any enrichment facilities retained by the Department shall not be used to enrich uranium in competition with the Corporation. This paragraph shall not prejudice consideration of any site as a candidate site for future expansion or replacement of uranium enrichment capacity;

"(2) at such time subsequent to the year 2000 as the Secretary determines that the Oak Ridge Gaseous Diffusion Plant should be decommissioned or decontaminated, or both, the Secretary shall convey without charge equipment and facilities relating to the Oak Ridge Gaseous Diffusion Plant not transferred in paragraph (1) to the Corporation;

"(3) facilities, equipment, and materials for research and development activities related to the isotopic separation of uranium by the gaseous diffusion technology;

"(4) the Department's stocks of preproduced enriched uranium, but excluding stocks of highly enriched uranium: Provided, That approximately two metric tons of the Department's highly enriched uranium shall be loaned to the Corporation as required for working inventory;

"(5) the Department's stocks of feed materials for uranium enrichment except for the quantities allocated to the national defense activities of the Department as of the date of enactment;

"(A) the Department's stockpile of enrichment tails existing as of the date of enactment, shall remain with the Department; and

"(B) stocks of feed materials which remain the property of the Department under paragraph (5) shall remain in place at the enrichment plant sites. The Corporation shall have access to and use of these feed materials provided such quantities as are used are replaced, or credit given, if use by the Department is subsequently needed.

"(6) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases to the extent these items concern the Corporation's functions and activities, except those items required for programs and activities of the Department and those items specifically excluded by this subsection.

The transfer authorized by this section is not subject to the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act.

"b. The Secretary is authorized and directed to grant to the Corporation without charge the Department's rights and access to the Atomic Vapor Laser Isotope Separation, hereinafter referred to as 'AVLIS', technology and to provide on a reimbursable basis and at the request of the Corporation, the necessary cooperation and support of the Department to assure the commercial development and deployment of AVLIS or other technologies in a manner consistent with the intent of this title.

"c. The Secretary is authorized and directed to grant the Corporation without charge, to the extent necessary or appropriate for the conduct of the Corporation's activities, licenses to practice or have practiced any inventions or discoveries (whether patented or unpatented) together with the right to use or have used any processes and technical information owned or controlled by the Department.

"d. The Secretary is directed, without need of further appropriation, to transfer to the Corporation the unexpended balance of appropriations and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which are related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

"e. The President is authorized to provide for the transfer to the Corporation of the use, possession, and control of such other real and personal property of the United States which is reasonably related to the functions performed by the Corporation. Such transfers may be made by the President without charge as he may from time to time deem necessary and proper for achieving the purposes of this title.

"f. Title to depleted uranium resulting from the enrichment services provided to the Department by the Corporation shall remain with the Department.

"SEC. 1506. CAPITAL STRUCTURE OF THE CORPORATION:

"a. Upon commencement of operations of the Corporation, all liabilities then chargeable to unexpended balances of appropriations transferred under section 1505 shall become liabilities of the Corporation.

"b. (1) The Corporation shall issue capital stock representing an equity investment equal to the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for fiscal year 1987, modified to reflect continued depreciation and other usual changes that occur up to date of transfer. The Secretary of the Treasury shall hold such stock for the United States: Provided, That all rights and duties pertaining to management of the Corporation shall remain vested in the Administrator as specified in section 1501.

"(2) The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States unless such disposition is specifically authorized by Federal law enacted after enactment of this title.

"c. The Corporation shall pay into miscellaneous receipts of the Treasury of the United States or such other fund as provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. The Corporation shall pay such dividends out of earnings, unless there is an overriding need to retain these funds in furtherance of other corporate functions including but not limited to research and development, capital investments and establishment of cash reserves.

"d. The Corporation shall repay within a twenty-year period the amount of $364,000,000 into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law with interest on the unpaid balance from the date of enactment of this title at a rate equal to the average yield on twenty-year Government obligations as determined by the Secretary of the Treasury on the date of enactment of this title. The money required to be repaid under this subsection is hereinafter referred to as the 'Initial Debt'.

"e. Receipt by the United States of the stock issued by the Corporation (including all rights appurtenant thereto) together with repayment of the Initial Debt and the fees established under section 1701.c shall constitute the sole recovery by the United States of previously unrecovered costs that have been incurred by the United States of uranium enrichment activities prior to enactment of this title.

"SEC. 1507. BORROWING:

"a. (1) The Corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as 'bonds') in an amount not exceeding $2,500,000,000 outstanding at any one time to assist in financing its activities and to refund such bonds. The principal of and interest on said bonds shall be payable from revenues of the Corporation.

"(2) Notwithstanding any other provision of law, the Corporation may pledge and use its revenues for payment of the principal of and interest on said bonds, for purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve funds and other funds which may be similarly pledged and used, to such extent and in such manner as it may deem necessary or desirable.

"(3) Notwithstanding any other provision of law, the Corporation is authorized to enter into binding convenants with the holders of said bonds—and with the trustee, if any—under any indenture, resolution, or other agreement entered into in connection with the issuance thereof with respect to the establishment of reserve funds and other funds, stipulations concerning the subsequent issuance of bonds, and such other matters, not inconsistent with this title, as the Corporation may deem necessary or desirable to enhance the marketability of said bonds.

"(4) Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payments of the principal thereof or interest thereon be guaranteed by, the United States.

"b. Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than thirty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of the Corporation in such manner and at such times and redemption premiums, may be entitled to such priorities of claim on the Corporation's revenues with respect to principal and interest payments, and shall be subject to such other terms and conditions, as the Corporation may determine: Provided, That at least fifteen days before selling each issue of bonds hereunder (exclusive of any commitment shorter than one year) the Corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and expected rates of interest of the proposed issue in the fullest detail possible. The Corporation shall not be subject to the provisions of section 9108 of title 31, United States Code. The Corporation shall be deemed part of an executive department or an independent estab-

lishment of the United States for purposes of the provisions of section 78c(c) of title 15, United States Code.

"c. Bonds issued by the Corporation hereunder shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the bonds of the Corporation acquired by them under this section: Provided, That the Corporation shall not issue or sell any bonds to the Federal Financing Bank.

"SEC. 1508. PRICING:

"a. For purposes of maximizing the long-term economic value of the Corporation to the United States Government, the Corporation shall establish prices for its products, materials and services provided to customers other than the Department on a basis that will, over the long term, allow it to recover its costs for providing the products, materials and services; repay the Initial Debt; recover costs of decontamination, decommissioning and remedial action; and attain the normal business objectives of a profitmaking Corporation.

"b. The Corporation shall establish prices for low assay enrichment services and other products, materials, and services provided the Department on a basis that will allow it to recover its costs on a yearly basis for providing such low assay enrichment services, products, materials, and services, including depreciation and the cost of decontamination, decommissioning and remedial action, but excluding repayment of the Initial Debt and profit. In establishing such prices, the base charge paid by the Department in any given year shall not exceed the average base charge paid by customers other than the Department: Provided, however, That if the imposition of such average base charges as a limitation on the base charge paid by the Department in a given year does not permit the Corporation to fully recover its costs for providing such products, materials and services to the Department then, in subsequent years, the Corporation shall include such unrecovered costs in its prices charged the Department. Base charge shall mean the amount paid by a customer per separative work unit for low assay enrichment services during a given year (exclusive of any credits received under a voluntary overfeeding program), less the portion of such amount which represents the cost of decontamination and decommissioning and remedial action. The average base charge paid by customers other than the Department shall be determined by dividing the estimated total dollar amount of low assay enrichment services sales to customers other than the Department during a given year by the estimated amount of separative work units sold to customers other than the Department during that year. Adjustments between estimated and actual amounts shall be made upon receipt of actual sales data.

"c. The Corporation shall establish prices to the Department for high assay enrichment services on a basis that will allow it to recover its costs, on a yearly basis, for providing the products, materials or services, including depreciation and the costs of decontamination, decommissioning, and remedial action concerning enrichment property, but excluding repayment of the Initial Debt and profit. If the Department does not request any enrichment services in a given year, the Department shall reimburse the Corporation for costs required to maintain the minimum level of operation of the high assay production facility.

"d. (1) In accordance with the cost responsibilities defined in paragraphs (3) and (4), the Corporation beginning in fiscal year 1996 shall recover from its customers other than the Department in the prices and charges established in accordance with subsection (a), amounts that will be sufficient to pay for the costs of decommissioning, decontamination and remedial action for the various property of the Corporation, including property transferred under section 1505(a) at any time. The Corporation shall begin recovering such costs in prices and charges to the Department at such time as this title takes effect. Such costs shall be based on the point in time that such decommissioning, decontamination and remedial action are to be undertaken and accomplished: Provided, That by the year 2000 the Corporation shall have recovered and deposited in the Uranium Enrichment Decontamination and Decommissioning Corporate Fund and the Uranium Enrichment Decontamination and Decommissioning Base Fund 50 per centum of the estimated total costs of decontamination and decommissioning of all property transferred or to be transferred to the Corporation under section 1505, including the Oak Ridge Gaseous Diffusion Plant.

"(2) In order to meet the objective defined in paragraph (1), the Corporation shall periodically estimate the anticipated or actual costs of decommissioning and decontamination. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including, but not limited to, any changes in applicable environmental requirements. Such estimates shall be reviewed at least every two years.

"(3) For purposes of enabling the Corporation to meet the objective defined in paragraph (1) with respect to the Oak Ridge Gaseous Diffusion Plant, the Secretary shall periodically estimate the anticipated costs of decontamination and decommissioning and the time at which such decontamination and decommissioning is to be accomplished. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including but not limited to, any changes in applicable environmental requirements. The Secretary shall review such estimates every two years and convey this information to the Corporation.

"(4) With respect to property that has been used in the production of low-assay separative work,

"(A) The costs of decommissioning, decontamination and remedial action that shall be recoverable from customers or persons other than the Department in prices, charges and fees shall be in the same ratio to the total costs of decommissioning, decontamination and remedial action for the property in question as the production of separative work over the life of such property for commercial customers bears to the total production of separative work over the life of such property.

"(B) All other costs of decommissioning, decontamination and remedial action for such property shall be recovered in prices and charges to the Department.

"(5) With respect to property that has been used solely in the production of high-assay separative work, all costs of decommissioning, decontamination and remedial action shall be recovered in prices and charges to the Department.

"SEC. 1509. AUDITS.—In fiscal years during which an audit is not performed by the Comptroller General in accordance with the provisions of section 9105 of title 31, United States Code, the financial transactions of the Corporation shall be audited by an independent firm or firms of nationally recognized certified public accountants who shall prepare such audits using standards appropriate for commercial corporate transactions. The fiscal year of the Corporation shall conform to the fiscal year of the United States. The General Accounting Office shall review such audits annually, and to the extent necessary, cause there to be a further examination of the Corporation using standards for commercial corporate transactions. Such audits shall be conducted at the place or places where the accounts of the Corporation are established and maintained. All books, financial records, reports, files, papers, memoranda, and other property of, or in use by, the Corporation shall be made available to the person or persons authorized to conduct audits in accordance with the provisions of this section.

"SEC. 1510. REPORTS:

"a. The Corporation shall prepare an annual report of its activities. This report shall contain—

"(1) a general description of the Corporation's operations;

"(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends; and

"(3) copies of audit reports prepared in conformance with section 1509 of this title and the provisions of the Government Corporation Control Act, as amended.

"b. A copy of the annual report shall be provided to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the appropriate committees of the House of Representatives. Such reports shall be completed not later than ninety days following the close of each fiscal year and shall accurately reflect the financial position of the Corporation at fiscal year end, inclusive of any impairment of capital or ability of the Corporation to comply with the provisions of this title.

"SEC. 1511. CONTROL OF INFORMATION:

"a. The term 'Commission' shall be deemed to include the Corporation wherever such term appears in section 141 and subsections a. and b. of section 142 of title I.

"b. No contracts or arrangements shall be made, nor any contract continued in effect, under section 1401, 1402, 1403, or 1404, unless the person with whom such contract or arrangement is made, or the contractor or prospective contractor, agrees in writing not to permit any individual to have access to Restricted Data, as defined in section 11 y. of title I, until the Office of Personnel Management shall have made an investigation and report to the Corporation on the character, associations, and loyalty of such individual, and the Corporation shall have determined that permitting such person to have access to restricted data will not endanger the common defense and security.

"c. The restrictions detailed in subsections b., c., d., e., f., g., and h., of section 145 of title I shall be deemed to apply to the Corporation where they refer to the Commission or a majority of the members of the Commission, and to the Administrator where they refer to the General Manager.

"d. The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Corporation's activities. To the extent

consistent with the other provisions of this section, the Corporation shall make available to any of such committees all books, financial records, reports, files, papers, memoranda, or other information possessed by the Corporation upon receiving a request for such information from the chairman of such committee.

"e. Whenever the Corporation submits to the President, or the Office of Management and Budget, any budget, legislative recommendation, testimony, or comments on legislation, prepared for submission to the Congress, the Corporation shall concurrently transmit a copy thereof to the appropriate committees of Congress.

"f. The Corporation shall have no power to control or restrict the dissemination of information other than as granted by this or any other law.

"SEC. 1512. PATENTS AND INVENTIONS:

"a. The term 'Commission' shall be deemed to include the Corporation wherever such term appears in section 152, 153b. (1), and 158 of title I. The Corporation shall pay such royalty fees for patents licensed to it under section 153 b. (1) of title I as are paid by the Department under that provision. Nothing in title I or this title shall affect the right of the Corporation to require that patents granted on inventions, that have been conceived or first reduced to practice during the course of research or operations of, or financed by the Corporation, be assigned to the Corporation.

"b. The Department shall notify the Corporation of all reports heretofore or hereafter filed with it under subsection 151 c. of title I and all applications for patents heretofore or hereafter filed with the Commissioner of Patents of which the Department has notice under subsection 151 d. of title I or otherwise, whenever such reports or applications involve matters pertaining to the functions or responsibilities of the Corporation in accordance with this title. The Department shall make all such reports available to the Corporation, and the Commissioner of Patents shall provide the Corporation access to all such applications. All reports and applications to which access is so provided shall be kept in confidence by the Corporation, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress.

"c. The Corporation, without regard for any of the conditions specified in paragraph 153 c. (1), (2), (3), or (4) of title I, may at any time make application to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when such patent has not been declared to be affected with the public interest under subsection 153 b. (1) of title I and when use of such patent is within the Corporation's authority. Any such application shall constitute an application under subsection 153 c. of title I subject, except as specified above, to all the provisions of subsections 153 c., d., e., f., g., and h., of title I.

"d. With respect to the Corporation's functions under this title, section 158 of title I shall be deemed to include the Corporation within the phrase, 'any other licensee' in the first sentence thereof and within the phrase 'such licensee' in the second sentence thereof.

"e. The Corporation shall not be liable directly or indirectly for any damages or financial responsibility with respect to secrecy orders imposed under section 181 of title 35, United States Code, through 187.

"f. The Corporation shall not be liable or responsible for any payments made or awards under subsection 157 b.(3) of title I, or any settlements or judgments involving claims for alleged patent infringement except to the extent that any such awards, settlements or judgments are attributable to activities of the Corporation after the effective date of this title.

"g. The Corporation shall keep currently informed as to matters affecting its rights and responsibilities under chapter 13 of title I as modified by this section and shall take all appropriate action to avail itself of such rights and satisfy such responsibilities. The Department in discharging its responsibilities under chapter 13 of title I shall exercise diligence in informing the Corporation of matters affecting the responsibilities and jurisdiction of the Corporation and seeking and following as appropriate the advice and recommendation of the Corporation in such matters.

"CHAPTER 26. LICENSING, TAXATION, AND MISCELLANEOUS PROVISIONS

"SEC. 1601. LICENSING:

"a. Notwithstanding any other provision of law, with respect solely to facilities, equipment and materials for activities related to the isotopic separation of uranium by the gaseous diffusion technology at facilities in existence as of the date of enactment of this title, the Corporation and its contractors are hereby exempted from the licensing requirements and prohibitions of sections 57, 62, 81 and other provisions of title I, to the same extent as the Department and its contractors are exempt in regard to the Department's own functions and activities. Such exemption shall remain in effect unless and until the Corporation and its contractors receive all necessary licenses for such facilities, equipment and materials as are required under title I.

"b. Within two years of the enactment of this title, the Commission shall promulgate regulations or issue other regulatory guidance under title I for the licensing of facilities described in subsection (a) that employ the gaseous diffusion technology.

"c. Within one year after the promulgation of regulations or the issuance of other regulatory guidance under subsection (b), the Corporation and its contractors shall make necessary applications for and otherwise seek to obtain such licenses as will remove the exemption provided under subsection (a). As part of its application, the Corporation shall submit an Environmental Impact Statement in accordance with the requirements of the National Environmental Policy Act. The Commission shall adopt this statement to the extent practicable under the National Environmental Policy Act. In preparing such statement, the Corporation, and in making any licensing decision, the Commission, shall not consider the need for such facilities, alternatives to such facilities, or the costs compared to the benefits of such facilities. The Commission shall act on licensing requests by the Corporation in a timely manner.

"d. The Corporation shall not transfer or deliver any source, special nuclear or byproduct materials or production or utilization facilities, as defined in title I, to any person who is not properly qualified or licensed under the provisions of title I.

"e. The Corporation shall be subject to the regulatory jurisdiction of the Commission and the Department of Transportation with respect to the packaging and transportation of source, special nuclear and byproduct materials.

"SEC. 1602. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES:

"a. In order to render financial assistance to those States and localities in which the facilities of the Corporation are located, beginning in fiscal year 1996, the Corporation is authorized and directed to make payments to State and local governments as provided in this section. Such payments shall be in lieu of any and all State and local taxes on the real and personal property, activities, and income of the Corporation. All property of the Corporation its activities and income are expressly exempted from taxation in any manner or form by any State, county, or other local government entity. The activities of the Corporation for this purpose shall include the activities of organizations pursuant to cost-type contracts with the Corporation to manage, operate, and maintain its facilities. The income of the Corporation shall include income received by such organizations for the account of the Corporation. The income of the Corporation shall not include income received by such organizations for their own accounts and such income shall not be exempt from taxation.

"b. Beginning in fiscal year 1996, the Corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the State and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making such determinations, the Corporation shall be guided by the following criteria:

"(1) Amounts paid shall not exceed the tax payments that would be made by a private industrial corporation owning similar facilities and engaged in similar activities at the same location: Provided, however, That there shall be excluded any amount that would be payable as a tax on net income.

"(2) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

"(3) No amount shall be included to the extent that any tax unfairly discriminates against the class of taxpayers of which the Corporation would be a member if it were a private industrial corporation, compared with other taxpayers or classes of taxpayers.

"(4) Following the commencement of payments in fiscal year 1996, no payment made to any taxing authority for any period shall be less than the payments which would have been made to such taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1505 and which would have been attributable to the ownership, management operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately to the enactment of this title.

"c. Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable: Provided, That no payment shall be made to the extent that the tax would apply to a period prior to fiscal year 1996.

"d. The determination by the Corporation of the amounts due hereunder shall be final and conclusive.

"SEC. 1603. MISCELLANEOUS APPLICABILITY OF TITLE I:

"a. Any references to the term 'Commission' or to the Department in sections 105 b., 110 a., 161 c., 161 k., 161 q., 165 a., 221 a., 229, 230, and 232 of title I shall be deemed to include the Corporation.

"b. Section 188 of title I shall apply to licensed facilities of the Corporation. For purposes of applying such section to facilities of the Corporation:

"(1) The term 'Commission' shall be deemed to refer to the Secretary;

"(2) There shall be no requirement for payment of just compensation to the Corporation, and receipts from operation of the facility in question shall continue to accrue to the benefit of the Corporation; and

"(3) The Secretary shall have the discretion to determine how and by whom the facility in question will be operated.

"SEC. 1604. COOPERATION WITH OTHER AGENCIES.—The Corporation is empowered to use with their consent the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis and on a similar basis to cooperate with such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of State, territorial, municipal or other local agencies.

"SEC. 1605. APPLICABILITY OF ANTITRUST LAWS:

"a. The Corporation shall conduct its activities in a manner consistent with the policies expressed in the antitrust laws, except as required by the public interest.

"b. As used in this subsection, the term 'antitrust laws' means:

"(1) The Act entitled: 'An Act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890 (15 U.S.C. 1-7), as amended;

"(2) The Act entitled, 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914 (15 U.S.C. 12-27), as amended;

"(3) Sections 73 and 74 of the Act entitled, 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,' approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

"(4) The Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"SEC. 1606. NUCLEAR HAZARD INDEMNIFICATION.—The Administrator shall have the same authority to indemnify the contractors of the Corporation as the Secretary has to indemnify contractors under section 170 d. of title I. Except that with respect to any licenses issued to the Corporation by the Commission, the Commission shall treat the Corporation and its contractors as its licensees for the purposes of section 170 of this Act.

"SEC. 1607. INTENT.—It is hereby declared to be the intent of this title to aid the Corporation in discharging its responsibilities under this title by providing it with adequate authority and administrative flexibility to obtain necessary funds with which to assure the maximum achievement of the purposes hereof as provided herein, and this title shall be construed liberally to effectuate such intent.

"SEC. 1608. REPORT:

"a. Three years after enactment of this title or January, 1993, whichever is later, the Administrator shall submit to the President and to Congress an interim report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. Five years after enactment of this title, the Administrator shall submit to the President and the Congress a final report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. If the Administrator, in the final report, recommends such transfers, the report shall include a plan for implementation of the transfers.

"b. Within one hundred and eighty days after receipt of the final report under subsection (a), the President shall transmit to Congress his recommendations regarding the report, including a plan for implementation of any transfers recommended by the President and any recommendations for legislation necessary to effectuate such transfers.

"CHAPTER 27. DECONTAMINATION AND DECOMMISSIONING

"SEC. 1701. ESTABLISHMENT:

"a. ESTABLISHMENT OF CORPORATE FUND.—(1) There is hereby established in the Treasury of the United States an account of the Corporation to be known as the Uranium Enrichment Decontamination and Decommissioning Corporate Fund (hereinafter referred to in this chapter as the Corporate 'Fund'). In accordance with section 1402(j), such account and any funds deposited therein, shall be available to the Corporation for the exclusive purpose of carrying out the purposes of this chapter.

"(2) The Corporate Fund shall consist of:

"(A) Amounts paid into it by the Corporation in accordance with section 1702. a.; and

"(B) Any interest earned under subsection (b)(2).

"b. ADMINISTRATION OF CORPORATE FUND.—(1) The Secretary of the Treasury shall hold the Corporate Fund and, after consultation with the Corporation, annually report to the Congress on the financial condition and operations of the Corporate Fund during the preceding fiscal year.

"(2) At the direction of the Corporation, the Secretary of the Treasury shall invest amounts contained within such Fund in obligations of the United States:

"(A) Having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund, as determined by the Corporation; and

"(B) Bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to such obligations.

"(3) At the request of the Corporation, the Secretary of the Treasury shall sell such obligations and credit the proceeds to the Corporate Fund.

"c. ESTABLISHMENT OF FEE AND BASE FUND.—(1) Beginning in fiscal year 1991 and lasting through fiscal year 1995, each licensee of a civilian nuclear power reactor shall pay a fee of .20 mills per kilowatt hour of net electricity generated by such reactor. Such fee shall be collected by the Corporation and is established for purposes of reimbursing the Corporation for the costs of decontaminating and decommissioning uranium enrichment facilities of the Corporation which costs are attributable to the provision of separative work and other enrichment products, materials and services to commercial customers prior to the enactment of this title.

"(2) There is hereby established in the Treasury of the United States an account of the Corporation to be known as the Uranium Enrichment Decontamination and Decommissioning Base Fund (hereinafter referred to in this chapter as the 'Base Fund'). Notwithstanding any other provision of law, the Base Fund and all monies deposited therein shall be subject to appropriation and shall be made available exclusively to the Corporation for purposes of carrying out the purposes of this chapter.

"(3) The Base Fund shall consist of:

"(A) Amounts paid into it by the Corporation in accordance with section 1702.b.; and

"(B) Any interest earned under subsection d.(2).

"d. ADMINISTRATION OF BASE FUND.—(1) The Secretary of the Treasury shall hold the Base Fund and annually report to the Congress on the financial condition and operations of the Base Fund during the preceding fiscal year.

"(2) The Secretary of the Treasury shall invest amounts contained within such Base Fund in obligations of the United States:

"(A) Having maturities determined by the Secretary of the Treasury, in consultation with the Corporation to be appropriate to the needs of the Base Fund; and

"(B) Bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to such obligations.

"(3) The Secretary of the Treasury shall sell such obligations and credit the proceeds to the Base Fund as made necessary by appropriations out of the Base Fund to the Corporation.

"SEC. 1702. DEPOSITS.—a. Within sixty days of the end of each fiscal year, the Corporation shall make a payment into the Corporate Fund in an amount equal to the costs of decontamination and decommissioning that have been recovered during such fiscal year by the Corporation in its prices and charges established in accordance with section 1508 for products, materials, and services.

"b. As soon as practicable following enactment of this title, the Corporation shall establish procedures for the collection and payment of fees established under section 1701.c. Such fees shall be paid by licensees on a quarterly basis during each fiscal year and upon receipt by the Corporation shall be deposited in the Base Fund.

"SEC. 1703. PERFORMANCE AND DISBURSEMENTS:

"a. When the Corporation determines that particular property should be decommissioned or decontaminated, or both, or with respect to the Oak Ridge Gaseous Diffusion Plant at such time as the plant is conveyed to the Corporation, the Corporation shall enter into a contract for the performance of such decommissioning and decontamination.

"b. The Corporation shall pay for the costs of such decommissioning and decontamination out of amounts contained within the Corporate Fund and such amounts as are appropriated to it out of the Base Fund.

SEC. 4113. TREATMENT OF THE CORPORATION AS BEING PRIVATELY-OWNED FOR PURPOSES OF THE APPLICABILITY OF ENVIRONMENTAL AND OCCUPATIONAL SAFETY LAWS.—The United States Enrichment Corporation shall be subject to Federal, State and local environmental laws and the Occupational Safety and Health Act (29 U.S.C. 651-678) to the same extent as is the Department of Energy as of the date of

enactment. After four years from the date of enactment of this title, the United States Enrichment Corporation shall become subject to such laws to the same extent as a privately-owned corporation, unless the President determines that additional time is necessary to achieve the purposes of title II of the Atomic Energy Act of 1954, as amended.

SEC. 4114. MISCELLANEOUS PROVISIONS.—(a) Section 9101(3) of title 31, United States Code (relating to the definition of "wholly-owned Government corporation") is amended by adding at the end of the following: "(N) United States Enrichment Corporation.".

(b) In subsection 41 a. of the Atomic Energy Act of 1954, as amended, the word "or" appearing before the numeral "(2)" is deleted, a semicolon is substituted for a period at the end of the subsection and the following new paragraph is added: "or (3) are owned by the United States Enrichment Corporation.".

(c) In subsection 53 c. (1) of the Atomic Energy Act of 1954, as amended, the word "or" is inserted before the word "grant" and the phrase "or through the provision of production or enrichment services" is deleted in both places where it appears in such subsection.

(d) The Atomic Energy Act of 1954, as amended, is further amended:

(1) By adding before the period at the end of the definition of the term "production facility" in section 11 v. a colon and the following: "Provided, however, That as the term is used in chapters 10 and 16 of this Act, other than with respect to export of a uranium enrichment production facility, it shall not include any equipment or device, or important component part especially designed therefor, capable of separating the isotopes of uranium or enriching uranium in the isotope 235";

(2) By striking the period at the end of section 161 b. and adding the following: "; in addition, the Commission shall prescribe such regulations or orders as may be necessary or desirable to promote the Nation's common defense and security with regard to control, ownership or possession of any equipment or device, or important component part especially designed therefor, capable of separating the isotopes of uranium or enriching uranium in the isotope 235;";

(3) By striking the phrase "section 103 or 104" in section 41 a. (2) and inserting in lieu thereof "this title"; and

(4) In section 236 by striking the word "or" following paragraph (2) and adding after paragraph (3) "or (4) any uranium enrichment facility licensed by the Commission;".

(5) In section 318(1) by striking the period after "activities" and by adding the following:

"(D) any facility owned by the United States Enrichment Corporation.".

(e) Subsection 905(g)(1) of title II, United States Code, is amended to include "United States Enrichment Corporation" at the end thereof.

(f) Section 306 of title III of the Energy and Water Development Appropriations Act, 1988, Public Law 100-202, is repealed.

SEC. 4115. LIMITATION ON EXPENDITURES.—(a) Notwithstanding any other provision of law, for fiscal year 1991 total expenditures of the United States Enrichment Corporation other than payments in lieu of taxes and intragovernmental transfers shall not exceed $1,289,000,000 and the Corporation shall pay into miscellaneous receipts of the Treasury of the United States dividends in the amount of at least $21,000,000.

(b) Notwithstanding any other provision of law, during fiscal years 1992 through 1995 total expenditures of the United States Enrichment Corporation other than payments in lieu of taxes and intragovernmental transfers shall not exceed an amount which is $323,000,000 less than total receipts from commercial customers during such years, and during such years the Corporation shall pay into miscellaneous receipts of the Treasury of the United States dividends in the amount of at least $323,000,000.

SEC. 4116. SEVERABILITY.—In any provision of this subtitle, or the application of any provisions to any entity, person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, the remainder of this subtitle, or the application of the same shall not be thereby affected.

SEC. 4117. EFFECTIVE DATE.—Except as otherwise provided, all provisions of this subtitle shall take effect on the day following the end of the first full fiscal year quarter following the enactment of this act; Provided, however, That the Administrator or Acting Administrator of the United States Enrichment Corporation may immediately exercise the management responsibilities and powers of subsection 1501 (a) of the Atomic Energy Act of 1954, as amended by this Act and previous Acts.

Subtitle C

CHAPTER 1—SHORT TITLE, FINDINGS AND PURPOSE, DEFINITIONS

SEC. 4201. TITLE.

This subtitle may be cited as the "Uranium Security and Tailings Reclamation Act of 1989".

SEC. 4202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds for purposes of this subtitle that—

(1) the United States uranium industry has long been recognized as vital to United States energy independence and as essential to United States national security, but has suffered a drastic economic setback, including a 90 per centum reduction in employment, closure of almost all mines and mills, more than a 75 percent drop in production, and a permanent loss of uranium reserves;

(2) during the remainder of this century approximately 20 per centum of United States electricity is expected to be produced from uranium fueled powerplants owned by domestic electric utilities;

(3) the United States has been the leading uranium producing nation and holds extensive proven reserves of natural uranium that offer the potential for secure sources of future supply;

(4) a variety of economic factors, policies of foreign governments, foreign export practices, the discovery and development of low cost foreign reserves, new Federal regulatory requirements, and cancellation of nuclear powerplants have caused most United States producers to close or suspend operations over the past six years and have resulted in the domestic uranium industry being found "not viable" by the Secretary under provisions of the Atomic Energy Act of 1954, as amended;

(5) providing assistance to the domestic uranium industry is essential to—

(A) preclude an undue threat from foreign supply disruptions that could hinder the Nation's common defense and security,

(B) assure an adequate long-term supply of domestic uranium for the Nation's nuclear power program to preclude an undue threat from foreign supply disruptions or price controls, and

(C) aid in the Nation's balance-of-trade payments through foreign sales;

(6) the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901-7942);

(A) was enacted to provide for the reclamation and regulation of uranium and thorium mill tailings; and

(B) did not provide for a Federal contribution for the reclamation of tailings at uranium and thorium processing sites which were generated pursuant to Federal defense contracts;

(7) the owners of licensees of active uranium and thorium sites and the Federal Government have each benefited from uranium and thorium produced at the active sites, and it is equitable that they share in the costs of reclamation, decommissioning and other remedial actions at the commingled sites; and

(B) the creation of an assured system of financing will greatly facilitate and expedite reclamation and remedial actions at active uranium and thorium processing sites.

(b) PURPOSE.—It is the purpose of Chapters 2 and 3 of this subtitle to—

(1) ensure an adequate long-term supply of domestic uranium for the Nation's common defense and security and for the Nation's nuclear power program;

(2) provide assistance to the domestic uranium industry; and

(3) establish, facilitate, and expedite a comprehensive system for financing reclamation and other remedial action at active uranium and thorium processing sites.

SEC. 4203. DEFINITIONS.

For purposes of this subtitle—

(1) the term "active site" means—

(A) any uranium or thorium processing site, including the mill, containing by-product material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, as amended, or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium or thorium derived from ore—

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978; or

(iii) for which an application for renewal or issuance was pending on, or after January 1, 1978; and

(B) any other real property or improvement on such real property that is determined by the Commission to be—

(i) in the vicinity of such site; and

(ii) contaminated with residual byproduct material;

(2) the term "byproduct material" has the meaning given such term in section 11 e. (2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014(e)(2));

(3) the term "civilian nuclear power reactor" means any civilian nuclear powerplant required to be licensed under section 103 or section 104 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2133);

(4) the term "Corporation" means the United States Enrichment Corporation established under section 1202 of title II of the Atomic Energy Act of 1954, as amended;

(5) the term "Department" means the Department of Energy;

(6) the term "domestic uranium" means any uranium that has been mined in the United States including uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in situ recovery, leaching, and

ion recovery, or recovered from phosphoric acid manufactured in the United States;

(7) the term "domestic uranium producer" means a person or entity who produces domestic uranium and who has, to the extent required by State and Federal agencies having jurisdiction, licenses and permits for the operation, decontamination, decommissioning, and reclamation of sites, structures and equipment;

(8) the term "enrichment tails" means uranium in which the quantity of the U-235 isotope has been depleted in the enrichment process;

(9) the term "reclamation, decommissioning, and other remedial action" includes work, including but not limited to disposal work, accomplished in order to comply with all applicable requirements, including but not limited to those established pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, as amended, or where appropriate, with requirements established by a State that is a party to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021). The term shall also include work at an active site prior to the date of enactment of this act accomplished in order to comply with the foregoing requirements;

(10) the term "Secretary" means the Secretary of Energy;

(11) the terms "source material" and "special nuclear material" have the meaning given such terms in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014); and

(12) the term "tailings" means the wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

CHAPTER 2—URANIUM REVITALIZATION

SEC. 4210. VOLUNTARY OVERFEED PROGRAM.

(a) The Corporation shall establish, for a period of not less than five years commencing at the beginning of fiscal year 1992, a voluntary overfeeding program which shall be made available to the Corporation's enrichment services customers. The term "overfeeding" means the use of uranium in the enrichment process in excess of the amount required at the transactional tails assay.

(b) The Corporation shall encourage its enrichment services customers to participate in the voluntary overfeeding program as provided in this section. Uranium supplied by the enrichment customer shall be used by the Corporation for voluntary overfeeding in the enrichment process to reduce the amount of power required to produce the enriched uranium ordered by the enrichment services customer. The dollar savings resulting from the reduced power requirements shall be credited to the enrichment services customer.

(c) In the event an enrichment services customer does not elect to provide uranium for voluntary overfeeding to be used to process its enrichment order, the Corporation shall establish a method for such uranium to be voluntarily supplied by other enrichment services customer(s) which have expressed to the Corporation an interest in participating in such a program and the Corporation shall credit the resulting dollar savings realized from the reduced power requirements to the enrichment services customer(s) providing the uranium.

(d) An enrichment services customer providing uranium for voluntary overfeeding shall certify to the Corporation that such uranium is domestic uranium which has been actually produced by a domestic uranium producer after the enactment of this Act or domestic uranium actually produced by a domestic uranium producer before the enactment of this Act and held by it without sale, transfer or redesignation of the origin of such uranium on a DOE/NRC form 741.

(e) Within ninety days of the date of enactment of this Act, the Corporation shall establish procedures to implement this program. Such procedures shall include, but not be limited to, delivery reporting and certification requirements, and provisions for failure to comply with the requirements of the voluntary overfeeding program. The determination of the voluntary overfeeding credit and sufficient data to support such determination shall be available to the Corporation's enrichment services customers and to qualified domestic producers.

SEC. 4211. NATIONAL STRATEGIC URANIUM RESERVE.

There is hereby established the National Strategic Uranium Reserve under the direction and control of the Secretary. The Reserve shall consist of 50,000,000 pounds of natural uranium contained in stockpiles or inventories currently held by the United States for defense purposes. Effective on the date of enactment of this Act, use of the Reserve shall be retricted to military purposes and Government research. Use of the Department's stockpile of enrichment tails existing on the date of enactment of this Act shall be restricted to military purposes.

SEC. 4212. RESPONSIBILITY FOR THE INDUSTRY.

(a) The Secretary shall have a continuing responsibility for the domestic uranium industry, and shall take any action, which he determines to be appropriate under existing law, to encourage the use of domestic uranium; Provided, however, That the Secretary, in fulfilling this responsibility, shall not use any supervisory authority over the Corporation. The Secretary shall report annually to the appropriate committees of Congress on action taken with respect to the domestic uranium industry, including action to promote the export of domestic uranium pursuant to paragraph (b) of this section.

(b) ENCOURAGE EXPORT.—The Department, with the cooperation of the Department of Commerce, the United States Trade Representative and other governmental organizations, shall encourage the export of domestic uranium. Within one hundred and eighty days of the date of enactment of this Act the Secretary shall develop recommendations and implement government programs to promote the export of domestic uranium.

SEC. 4213. GOVERNMENT URANIUM PURCHASES.

(a) After the date of enactment of this Act, the United States of America, its agencies and instrumentalities, shall only have the authority to enter into contracts or orders for the purchase of uranium which is (1) of domestic origin and (2) is purchased from domestic uranium producers: Provided, That this section shall not affect purchases under a contract for delivery of a fixed amount of uranium entered into before the date of enactment of this Act.

(b) Subsection (a) shall not apply to the Tennessee Valley Authority.

SEC. 4214. SECRETARY'S AUTHORITY TO MAKE REGULATIONS.

The Secretary shall issue appropriate regulations to implement the purposes of this subtitle.

CHAPTER 3—REMEDIAL ACTION FOR ACTIVE PROCESSING SITES

SEC. 4220. REMEDIAL ACTION PROGRAM.

(a) IN GENERAL.—Except as provided in subsection (b), the costs of decontamination, decommissioning, reclamation, and other remedial action at an active uranium or thorium processing site shall be borne by persons licensed under section 62 or 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2091, 2111) for any activity at such site which results or has resulted in the production of byproduct material.

(b) REIMBURSEMENT.—

(1) IN GENERAL.—The Secretary shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) for such portion of the reclamation, decommissioning and other remedial action costs described in such subsection as are—

(A) determined by the Secretary to be attributable to tailings generated as an incident of sales to the United States; and

(B) incurred by such licensee not later than December 31, 2002.

(2) AMOUNT.—

(A) TO INDIVIDUAL ACTIVE SITE URANIUM LICENSEES.—The amount of reimbursement paid to any licensee under paragraph (1) shall be determined by the Secretary in accordance with regulations issued pursuant to section 221 and shall not exceed an amount equal to $4.50 multiplied by the dry short tons of tailings located at the site as of the effective date of this subtitle and generated as an incident of sales to the United States.

(B) TO ALL ACTIVE SITE URANIUM LICENSEES.—Payments made under paragraph (1) to active site uranium licensees shall not in the aggregate exceed $270,000,000.

(C) TO THORIUM LICENSEES.—Payments made under paragraph (1) to the licensee of the active thorium site shall not exceed $30,000,000.

(D) INFLATION ESCALATION INDEX.—The amounts in subsections (A), (B), and (C) of this section shall be increased annually based upon an inflation index. The Secretary shall determine the appropriate index to apply.

(E) ADDITIONAL REIMBURSEMENT.—Provided however, (i) the Secretary shall determine as of July 31, 2005, whether the amount authorized to be appropriated in section 4222, when considered with the $4.50 per dry short ton limit on reimbursement, exceeds the total cost reimbursable to the licensees of active sites for reclamation, decommissioning and other remedial action; and (ii) if the Secretary determines there is an excess, the Secretary may allow reimbursement in excess of $4.50 per dry short ton on a prorated basis at such sites that reclamation, decommissioning and other remedial action costs for tailings generated as an incident of sales to the United States exceed the $4.50 per dry short ton limitation.

SEC. 4221. REGULATIONS.

The Secretary shall issue regulations governing reimbursement under section 4220. An active uranium or thorium processing site owner shall apply for reimbursement hereunder by submitting a statement for the amount of reimbursement, together with reasonable documentation in support thereof, to the Secretary. Any such statement for reimbursement, supported by reasonable documentation, shall be approved by the Secretary and reimbursement therefor shall be made in a timely manner subject only to the limitations of section 4220.

SEC. 4222. AUTHORIZATION.

There is authorized to be appropriated for purposes of this chapter not more than $300,000,000 increased annually as provided in section 4220 based upon an inflation index as determined by the Secretary.

TITLE V—COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

SEC. 5001. FEES OF THE ENVIRONMENTAL PROTECTION AGENCY.—(a) The Administrator of the Environmental Protection Agency shall assess and collect fees and charges for services and activities carried out pursuant to the statutes which are administered by the Agency in the amount of $22,000,000 for the fiscal year 1991, and $33,000,000 in each of the fiscal years 1992, 1993, 1994, and 1995. Such sums shall be in addition to the sums the Agency is collecting for services or activities upon the date of enactment of this Act. The amount of any fee or charge assessed pursuant to this section shall be established by rule after notice and opportunity for public comment. Publicly owned wastewater treatment works shall not be required to pay a fee associated with discharge permits required pursuant to section 402 of the Federal Water Pollution Control Act.

(b) Except as may otherwise be specifically provided by law with regard to fees and charges, and their deposit and retention, any fees and charges established and collected by the Administrator of Environmental Protection Agency pursuant to this section or other statutes administered by the Agency shall be deposited in a special fund in the United States Treasury which thereafter shall be available for appropriation, to remain available until expended, to carry out the Agency's activities for which the fee or charge is made.

NUCLEAR REGULATORY COMMISSION USER FEES AND ANNUAL CHARGES

SEC. 5002. (a) AMENDMENT TO ATOMIC ENERGY ACT.—Chapter 19 of the Atomic Energy Act of 1954 (42 U.S.C. 2015 et seq.) is amended by adding at the end the following new section:

"SEC. 292. USER FEES AND ANNUAL CHARGES.

"(a) ANNUAL ASSESSMENT.—

"(1) AMOUNT.—Except as provided in subparagraph (3), the Nuclear Regulatory Commission (hereinafter in this section referred to as the Commission) shall annually assess and collect such fees and charges as are described in subsections (b) and (c) in an amount that approximates 100 percent of the budget authority for the Commission's Salaries and Expenses in the fiscal year in which such assessment is made, less any amount appropriated to the Commission from the Nuclear Waste Fund in such fiscal year.

"(2) FIRST ASSESSMENT.—The first assessment shall be made not later than September 30, 1991, and shall be based on the Commission's Salaries and Expenses budget authority for fiscal year 1991.

"(3) LAST ASSESSMENT.—The last assessment of annual charges as described in subsection (c) shall be made not later than September 30, 1995, and shall be based on the Commission's Salaries and Expenses budget authority for fiscal year 1995.

"(b) FEES FOR SERVICE OR THING OF VALUE.—Pursuant to section 9701 of title 31, United States Code, any person who receives a service or thing of value from the Commission shall pay fees to cover the Commission's costs in providing any such service or thing of value.

"(c) ANNUAL CHARGES.—

"(1) PERSONS SUBJECT TO CHARGE.—Any person who holds a license from the Commission may be required to pay, in addition to the fees set forth in subsection (b), an annual charge.

"(2) AGGREGATE AMOUNT OF CHARGES.—The aggregate amount of the annual charge collected from all persons described in paragraph (1) shall equal an amount that approximates 100 percent of the budget authority for the Commission's Salaries and Expenses in the fiscal year in which such charge is collected, less any amount appropriated to the Commission from the Nuclear Waste Fund and the amount of fees collected under subsection (b) in such fiscal year.

"(3) AMOUNT PER LICENSEE.—The Commission shall establish, by rule, a schedule of charges fairly and equitably allocating the aggregate amount of charges described in paragraph (2) among the licensees described in paragraph (1). To the maximum extent practicable, the charges shall have a reasonable relationship to the cost of providing regulatory services and may be based on the allocation of the Commission's resources among licensees or classes of licensees described in paragraph (1).

"(d) DEFINITION.—As used in this section, 'Nuclear Waste Fund' means the fund established pursuant to section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c))."

(b) REPEAL.—Title VII of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272), as amended, is amended by striking subtitle G. This repeal shall become effective upon promulgation of the Nuclear Regulatory Commission's final rule implementing section 292 of the Atomic Energy Act of 1954.

(c) TABLE OF CONTENTS.—The table of contents of the Atomic Energy Act of 1954 is amended by adding after the term relating to section 291 the following new item:

"Sec. 292. User fees and annual charges."

SEC. 5003. RECREATION USER FEES AT WATER RESOURCES DEVELOPMENT AREAS ADMINISTERED BY THE DEPARTMENT OF THE ARMY.

(a) The second sentence of section 210 of the Flood Control Act of 1968 (82 Stat. 746; 16 U.S.C. 4604-3) is amended to read:

"Notwithstanding section 460 of the Land and Water Conservation Fund Act of 1965, as amended (78 Stat. 897; 16 U.S.C. 4604-6a(b)), the Secretary of the Army is authorized to charge fees for the use of specialized recreation sites and facilities, including, but not limited to, improved campsites, swimming beaches, and boat launching ramps; however, the Secretary shall not charge fees for the use or provision of drinking water, wayside exhibits, general purpose roads, overlook sites, toilet facilities, or general visitor information. The fees shall be deposited into the special Treasury account for the Corps of Engineers that was established by section 460 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4604-6a(b))."

(b) Section 4 of the Land and Water Conservation Fund Act of 1965, as amended (78 Stat. 897; 16 U.S.C. 4604-4(a)), as further amended by deleting the next to the last sentence of subsection (b).

TITLE VI—NON-REVENUE PROVISIONS OF THE COMMITTEE ON FINANCE

SEC. 6000. AMENDMENT OF THE SOCIAL SECURITY ACT, TABLE OF CONTENTS.

(a) AMENDMENT OF THE SOCIAL SECURITY ACT.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

(b) TABLE OF CONTENTS.—

TITLE VI—NON-REVENUE PROVISIONS OF THE COMMITTEE ON FINANCE

Sec. 6000. Amendment of the Social Security Act; table of contents.

Subtitle A—Income Security

PART I—CHILD SUPPORT ENFORCEMENT

Sec. 6001. IRS intercept for non-AFDC families.

Sec. 6002. Commission on interstate child support.

PART II—SUPPLEMENTAL SECURITY INCOME

Sec. 6010. Continuation of medicaid eligibility under section 1619(b) past age 65.

Sec. 6011. Exclusion from income of impairment-related work expenses.

Sec. 6012. Treatment of royalties and honoraria as earned income.

Sec. 6013. Evaluation by pediatrician in child disability determinations.

Sec. 6014. Concurrent SSI and food stamp applications by institutionalized individuals.

Sec. 6015. Reimbursement for vocational rehabilitation services furnished during certain months of nonpayment of supplemental security income benefits.

Sec. 6016. Certain non-cash contributions received by recipients of SSI benefits excluded from income.

Sec. 6017. Certain trusts not to be counted as a resource available to the recipient; trust not income in month in which it is established.

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PART III—AID TO FAMILIES WITH DEPENDENT CHILDREN

Sec. 6020. Optional monthly reporting and retrospective budgeting.

Sec. 6021. Children receiving foster care maintenance or adoption assistance payments not treated as member of family unit for purposes of determining eligibility for, or amount of, AFDC benefit.

Sec. 6022. Elimination of term legal guardian.

Sec. 6023. Reporting of child abuse and neglect.

Sec. 6024. Disclosure of information about AFDC applicants and recipients authorized for purposes directly connected to State foster care and adoption assistance programs.

Sec. 6025. Repatriation.

Sec. 6026. Good cause exception to required cooperation for transitional child care benefits.

Sec. 6027. Technical correction regarding penalty for failure to participate in JOBS program.

Sec. 6028. Technical correction regarding AFDC-UP eligibility requirements.

Sec. 6029. Technical amendments to national commission on children.

Sec. 6030. Family support act demonstration projects.

Sec. 6031. Study of JOBS programs operated by Indian tribes and Alaska Native organizations.

Sec. 6032. Proposed emergency assistance and AFDC special needs regulations.

PART IV—CHILD WELFARE AND FOSTER CARE; CHILD CARE
Sec. 6040. Clarification of terminology relating to administrative costs.
Sec. 6041. Section 427 triennial reviews.
Sec. 6042. Independent living initiatives.
Sec. 6043. Grants to States for child care.
PART V—OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE
Sec. 6050. Continuation of disability benefits during appeal.
Sec. 6051. Repeal of special disability standard for widows and widowers.
Sec. 6052. Dependency requirements applicable to a child adopted by a surviving spouse.
Sec. 6053. Representative payee reforms.
Sec. 6054. Fees for representation of claimants in administrative proceedings.
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Sec. 6056. Demonstration projects relating to accountability for telephone service center communications.
Sec. 6057. Telephone access to the Social Security Administration.
Sec. 6058. Amendments relating to Social Security account statements.
Sec. 6059. Trial work period during rolling five-year period for all disabled beneficiaries.
Sec. 6060. Continuation of benefits on account of participation in a non-State vocational rehabilitation program.
Sec. 6061. Limitation on new entitlement to special age-72 payments.
Sec. 6062. Elimination of advanced crediting to the trust funds of Social Security payroll taxes and revenues from taxation of Social Security benefits.
Sec. 6063. Elimination of eligibility for retroactive benefits for certain individuals eligible for reduced benefits.
Sec. 6064. Consolidation of old methods of computing primary insurance amounts.
Sec. 6065. Suspension of dependent's benefits when the worker is in an extended period of eligibility.
Subtitle B—Medicare
PART 1—PROVISIONS RELATING ONLY TO PART A
Sec. 6101. Reductions in payments for capital-related costs of inpatient hospital services.
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Sec. 6262. Medicaid respite demonstration project extended.
Sec. 6263. Demonstration project to provide Medicaid coverage for HIV-positive individuals, and certain pregnant women determined to be at risk of contracting the HIV virus.
Sec. 6264. Mental health facility certification demonstration project.
Sec. 6265. Optional State Medicaid disability determinations independent of the Social Security Administration.
Sec. 6266. Medically needy income levels for certain member families.
Sec. 6267. Medicaid spenddown option.
Sec. 6268. Limitation on disallowances or deferral of Federal financial participation for certain inpatient psychiatric hospital services for individuals under age 21.
Sec. 6269. 5-year extension of certain waiver.
Sec. 6270. Medicaid long-term care insurance demonstration project.
Sec. 6271. Medicaid coverage of alcoholism and drug dependency treatment services.
Sec. 6272. Home and community-based waivers.
Sec. 6273. Medicaid provisions relating to health maintenance organizations.
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Sec. 6501. Child Care and Development Block Grant.

Subtitle A—Income Security

PART I—CHILD SUPPORT ENFORCEMENT

SEC. 6001. IRS INTERCEPT FOR NON-AFDC FAMILIES.

(a) AUTHORITY OF STATES TO REQUEST WITHHOLDING OF FEDERAL TAX REFUNDS FROM PERSONS OWING PAST DUE CHILD SUPPORT.—Section 464(a)(2)(B) (42 U.S.C. 664(a)(2)(B)) is amended by striking ", and before January 1, 1991" before the period.

(b) WITHHOLDING OF FEDERAL TAX REFUNDS AND COLLECTION OF PAST DUE CHILD SUPPORT ON BEHALF OF DISABLED CHILD OF ANY AGE, AND OF SPOUSAL SUPPORT INCLUDED IN ANY CHILD SUPPORT ORDER.—Section 464(c) (42 U.S.C. 664(c)) is amended—

(1) in paragraph (2), by striking "minor child." and inserting "qualified child (or a qualified child and the parent with whom the child is living if the same support order includes support for the child and the parent).''; and

(2) by adding at the end the following:

"(3) For purposes of paragraph (2), the term 'qualified child' means a child—

"(A) who is a minor; or

"(B)(i) who, while a minor, was determined to be disabled under title II or XVI; and

"(ii) for whom an order of support is in force.".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall take effect on January 1, 1991.

SEC. 6002. COMMISSION ON INTERSTATE CHILD SUPPORT.

Section 126 of the Family Support Act of 1988 (Public Law 100-485) is amended—

(1) in subsection (d)—

(A) by striking "1990" in paragraph (1) and inserting "1991"; and

(B) by striking "May 1, 1991" in paragraph (2) and inserting "May 1, 1992";

(2) in subsection (e), by adding at the end thereof the following new paragraph:

"(5)(A) Individuals may be appointed to serve the Commission without regard to the provisions of title 5 that govern appointments in the Competitive Service, without regard to the Competitive Service, and without regard to the Classification System in chapter 53 of title 5, United States Code. The Chairman of the Commission may fix the compensation of the Executive Director at a rate that shall not exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

"(B) The Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the Competitive Service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(C) On the request of the Chairperson of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section without regard to section 3341 of title 5, United States Code."; and

(3) in subsection (f)(1), by striking "July 1, 1991" and inserting "July 1, 1992".

PART II—SUPPLEMENTAL SECURITY INCOME

SEC. 6010. CONTINUATION OF MEDICAID ELIGIBILITY UNDER SECTION 1619(b) PAST AGE 65.

(a) IN GENERAL.—Paragraph (1) of section 1619(b) (42 U.S.C. 1382h(b)) is amended in the matter preceding subparagraph (A) by striking "under age 65".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to benefits payable for months beginning after the date of the enactment of this Act.

SEC. 6011. EXCLUSION FROM INCOME OF IMPAIRMENT-RELATED WORK EXPENSES.

(a) IN GENERAL.—Section 1612(b)(4)(B)(ii) (42 U.S.C. 1382a(b)(4)(B)(ii)) is amended by striking "(for purposes of determining the amount of his or her benefits under this title and of determining his or her eligibility for such benefits for consecutive months of eligibility after the initial month of such eligibility)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to benefits payable for calendar months beginning after the date of the enactment of this Act.

SEC. 6012. TREATMENT OF ROYALTIES AND HONORARIA AS EARNED INCOME.

(a) IN GENERAL.—Section 1612(a) (42 U.S.C. 1382a(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (C), by striking "; and" at the end of the subparagraph and inserting a semicolon; and

(B) by inserting after subparagraph (D) the following new subparagraph:

"(E) any royalty which is earned in connection with any publication of the work of an individual or any portion of any honorarium which is received for services rendered; and"; and

(2) in subparagraph (F) of paragraph (2), by inserting before the period ", other than royalties described in paragraph (1)(E) of this subsection".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for months beginning on or after the first day of the 18th calendar month following the month in which this Act is enacted.

SEC. 6013. EVALUATION BY PEDIATRICIAN IN CHILD DISABILITY DETERMINATIONS.

Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)) is amended by adding at the end the following new subparagraph:

"(H) In making determinations with respect to disability of a child under the age of 18 under this title, the Secretary shall make reasonable efforts to ensure that a qualified pediatrician or other individual who specializes in a field of medicine appropriate to the disability of such child (as determined by the Secretary) evaluates the case of such child.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to determinations made in or after the sixth month beginning after the date of the enactment of this Act.

SEC. 6014. CONCURRENT SSI AND FOOD STAMP APPLICATIONS BY INSTITUTIONALIZED INDIVIDUALS.

Section 1631(m) (42 U.S.C. 1383(m)) is amended by striking the second sentence and inserting the following new sentence: "The Secretary and the Secretary of Agriculture shall develop a procedure under which an individual who applies for supplemental security income benefits under this subsection shall also be permitted to apply at the same time for participation in the food stamp program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).".

SEC. 6015. REIMBURSEMENT FOR VOCATIONAL REHABILITATION SERVICES FURNISHED DURING CERTAIN MONTHS OF NONPAYMENT OF SUPPLEMENTAL SECURITY INCOME BENEFITS.

(a) IN GENERAL.—(1) Section 1615(d) (42 U.S.C. 1382d(d)) is amended by inserting immediately after the first sentence the following: "In such cases the reimbursement may include costs incurred for any month for which the individual received a benefit under this title (including assistance pursuant to section 1619(b)), received a federally administered State supplementary payment, or was ineligible (for a reason other than cessation of disability or blindness) to receive a benefit pursuant to section 1611, an agreement under section 1616(a), section 1619, and an agreement under section 212(b) of Public Law 93-66, but only for months prior to the thirteenth consecutive month of ineligibility.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective on the date of the enactment of this Act and shall apply to claims for reimbursement pending on or after such date.

SEC. 6016. CERTAIN NON-CASH CONTRIBUTIONS RECEIVED BY RECIPIENTS OF SSI BENEFITS EXCLUDED FROM INCOME.

(a) CONTRIBUTIONS (OTHER THAN CASH PAID DIRECTLY TO THE RECIPIENT) MADE TO OBTAIN SOCIAL SERVICES OR FOR MAINTENANCE OF HOME.—(1) Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(A) by striking "and" at the end of paragraph (15);

(B) by striking the period at the end of paragraph (16) and inserting a semicolon; and

(C) by inserting after paragraph (16) the following;

"(17) contributions other than cash paid directly to the recipient which are not in the form of food, clothing, or shelter, or may not be used to obtain food, clothing, or shelter and are for the purchase of—

"(A) any service, including those which are—

"(i) designed to assist an eligible individual who has any physical or mental impairment to function in society on a level comparable to that of an individual who is not so impaired; and

"(ii) provided by a recognized social services or educational agency, whether governmental or private, and whether nonprofit or operated for profit;

"(B) vocational rehabilitation services;

"(C) private medical insurance coverage where the private insurer is to be the first payor;

"(D) medical care;

"(E) transportation;

"(F) educational services (including continuing adult education, postsecondary education, and vocational education), including books, tuition, laboratory fees, and any other costs related to education except those for room and board;

"(G) personal assistance or attendant care services; or

"(H) services or equipment related to the quality and liveability of the individual's shelter and which are not for the purposes of rent, mortgage, real property taxes, garbage collection and sewerage services, water, heating fuel, electricity, or gas; but permissible contributions include—

"(i) payment for telephone services;

"(ii) payment for repairs to shelter;

"(iii) payment for repairs or replacement of heating source in shelter; and

"(iv) purchase of any appliance, if such purchase will not result in the individual's household goods exceeding the amount which has been determined by the Secretary to be reasonable under section 1613(a)(2)(A).".

(2) The amendments made by paragraph (1) shall apply to determinations of income made in months following the date of the enactment of this Act.

(b)(1) RULES GOVERNING CIRCUMSTANCES UNDER WHICH CONTRIBUTION OF A SHELTER IS TO BE COUNTED AS INCOME.—Section 1612(a)(2) (42 U.S.C. 1382a(a)(2)) is amended—

(A) in subparagraph (E), by striking "; and" and inserting ", except that receipt of any sum or property as a result of inheritance, gift, or support shall be treated as income only in the month in which the individual legally has access to the funds to use for the individual's own benefit;";

(B) in subparagraph (F), by striking the period and inserting "; and"; and

(C) by inserting at the end the following:

"(G) the value of an ownership interest in a shelter received, but the value of such interest shall be included in income only in the month of receipt and pursuant to the following rules:

"(i) If the individual resides in the shelter at the time of the conveyance, the limitations established by the Secretary for presuming a maximum value for in-kind support shall apply.

"(ii) If the individual does not reside in the shelter at the time of the conveyance, the full value of the interest shall be income in the month of receipt.".

(2) The amendments made by paragraph (1) shall apply to determinations of income made in or after the sixth month beginning after the date of the enactment of this Act.

SEC. 6017. CERTAIN TRUSTS NOT TO BE COUNTED AS A RESOURCE AVAILABLE TO THE RECIPIENT; TRUST NOT INCOME IN MONTH IN WHICH IT IS ESTABLISHED.

(a) CIRCUMSTANCES UNDER WHICH TRUST CREATED FOR BENEFIT OF RECIPIENT SHALL NOT BE COUNTED AS A RESOURCE.—Section 1613(a) (42 U.S.C. 1382b(a)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting ", and"; and

(3) by inserting after paragraph (8) the following:

"(9) any amount set aside in a trust or similar legal device, either by the individual or on behalf of the individual, for the purpose of providing assistance to the individual, so long as the individual does not have access to the assets of the trust. An individual does not have access to assets held in a trust if the trustee, and not the individual, has the discretion to determine when such assets ought to be distributed to or for such individual and the amount of any such distribution. The authority for discretion by the trustee to use the assets of the trust for the support and maintenance of the individual, or to supplement any benefits available to the individual under title XVI or other public benefits, shall not mean that the individual has access to these assets. The fact that the trustee is also the representative payee for the individual or relative of the individual shall not be construed as causing trust assets to be accessible to the individual if all the other requirements of this subsection are satisfied.".

(b) CREATION OF TRUST NOT TO BE COUNTED AS INCOME IN MONTH OF CREATION; LATER PLACEMENT OF FUNDS OR PROPERTY IN THE TRUST ALSO NOT COUNTED AS INCOME.—(1) Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(A) by striking "and" at the end of the paragraph (16),

(B) by striking the period at the end of the paragraph (17) added by section 6016(a)(1)(C) of this Act and inserting "; and"; and

(C) by inserting after the paragraph (17) added by section 6016(a)(1)(C) of this Act the following:

"(18) any funds or other property placed in a trust for the benefit of the individual over which the individual has no discretion as to use shall not be treated as income either at the time of creation of the trust or if placed in the trust after its creation.".

(2) The amendments made by paragraph (1) shall apply to determinations of income made in or after the sixth month beginning after the date of the enactment of this Act.

SEC. 6018. NOTIFICATION OF CERTAIN INDIVIDUALS ELIGIBLE TO RECEIVE RETROACTIVE BENEFITS.

In notifying individuals of their eligibility to receive retroactive benefits under Sullivan v. Zebley, 110 S. Ct. 2658 (1990), the Secretary shall include written notice, in language that is easily understandable, explaining—

(1) the 6-month limitation on the exclusion from resources under section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7));

(2) the potential effects under title XVI of the Social Security Act, attributable to the receipt of such payment, including—

(A) potential discontinuation of eligibility; and

(B) potential reductions in the amount of benefits;

(3) the possibility of establishing a supplemental security income (SSI) special needs trust account that—

(A) designates the individual for whom such payment is made as the beneficiary; and

(B) may not be considered as income or resources for the purposes of this title; and

(4) that legal assistance in establishing such a trust may be available through legal referral services offered by a State or local bar association, or through the Legal Services Corporation.

PART III—AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 6020. OPTIONAL MONTHLY REPORTING AND RETROSPECTIVE BUDGETING.

(a) OPTIONAL MONTHLY REPORTING.—Section 402(a)(14) (42 U.S.C. 602(a)(14)) is amended—

(1) by striking "with respect to" and all that follows through "(A) provide" and insert "provide, at the option of the State and with respect to such category or categories as the State may select and identify in its State plan (A)";

(2) by striking "(with the prior approval of the Secretary in recent work history and earned income cases)"; and

(3) by striking "upon a determination" and all that follows through "paragraph".

(b) OPTIONAL RETROSPECTIVE BUDGETING.—Section 402(a)(13) (42 U.S.C. 602(a)(13)) is amended by striking all that precedes subparagraph (A) and inserting the following:

"(13) at the option of the State, provide that—".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to reports pertaining to, or aid payable for, months beginning in or after October 1990.

SEC. 6021. CHILDREN RECEIVING FOSTER CARE MAINTENANCE OR ADOPTION ASSISTANCE PAYMENTS NOT TREATED AS MEMBER OF FAMILY UNIT FOR PURPOSES OF DETERMINING ELIGIBILITY FOR, OR AMOUNT OF, AFDC BENEFIT.

(a) IN GENERAL.—Part A of title IV (42 U.S.C. 601 et seq.) is amended by inserting after section 408 the following new section:

"EXCLUSION FROM AFDC UNIT OF CHILD FOR WHOM FEDERAL, STATE, OR LOCAL FOSTER CARE MAINTENANCE OR ADOPTION ASSISTANCE PAYMENTS ARE MADE.

"SEC. 409. Notwithstanding any other provision of this title, a child with respect to whom foster care maintenance payments or adoption assistance payments are made under part E or under State or local law shall not, for the period for which such payments are made, be regarded as a member of a family for purposes of determining the amount of benefits of the family under this part, and the income and resources of such child shall be excluded from the income and resources of a family under this part unless, in the case of a child with respect to whom adoption assistance payments are so made, such exclusion would reduce the benefits of the family under this part.".

(b) CONFORMING REPEAL.—Section 478 (42 U.S.C. 678) is hereby repealed.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and the repeal made by subsection (b) shall take effect on the first day of the first month beginning after the date that is 6 months after the date of the enactment of this Act.

SEC. 6022. ELIMINATION OF TERM LEGAL GUARDIAN.

(a) IN GENERAL.—Section 402(a)(39) (42 U.S.C. 602(a)(39)) is amended—

(1) by striking "or legal guardian"; and

(2) by striking "or legal guardians".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 6023. REPORTING OF CHILD ABUSE AND NEGLECT.

(a) CONCERNING AFDC APPLICANTS AND RECIPIENTS.—

(1) IN GENERAL.—Section 402(a)(16) (42 U.S.C. 602(a)(16)) is amended to read as follows:

"(16) provide that the State agency will—

"(A) report to an appropriate agency or official, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving aid under part B or this part under circumstances which indicate that the child's health or welfare is threatened thereby; and

"(B) provide such information with respect to a situation described in subparagraph (A) as the State agency may have;".

(2) CONFORMING AMENDMENTS.—Section 402(a)(9) (42 U.S.C. 602(a)(9)) is amended—

(A) in subparagraph (C), by striking "and"; and

(B) by inserting ", and (E) reporting and providing information pursuant to paragraph (16) to appropriate authorities with respect to known or suspected child abuse or neglect" before the 1st semicolon.

(b) CONCERNING RECIPIENTS OF FOSTER CARE OR ADOPTION ASSISTANCE.—

(1) IN GENERAL.—Section 471(a)(9) (42 U.S.C. 671(a)(9)) is amended to read as follows:

"(9) provide that the State agency will—

"(A) report to an appropriate agency or official, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving aid under part B

or this part under circumstances which indicate that the child's health or welfare is threatened thereby; and

"(B) provide such information with respect to a situation described in subparagraph (A) as the State agency may have;".

(2) CONFORMING AMENDMENTS.—Section 471(a)(8) (42 U.S.C. 671(a)(8)) is amended—

(A) in subparagraph (C), by striking "and"; and

(B) by inserting ", and (E) reporting and providing information pursuant to paragraph (9) to appropriate authorities with respect to known or suspected child abuse or neglect" before the 1st semicolon.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 6024. DISCLOSURE OF INFORMATION ABOUT AFDC APPLICANTS AND RECIPIENTS AUTHORIZED FOR PURPOSES DIRECTLY CONNECTED TO STATE FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Section 402(a)(9)(A) (42 U.S.C. 602(a)(9)(A)) is amended by striking "or D" and inserting ", D, or E".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 6025. REPATRIATION.

(a) IN GENERAL.—Section 1113 of the Social Security Act (42 U.S.C. 1313), as amended by section 140 of the Customs and Trade Act of 1990 (Public Law 101-382) is amended—

(1) in subsection (d), by striking "on or after October 1, 1989" and inserting "after September 30, 1991"; and

(2) by adding at the end thereof the following new subsection:

"(e)(1) The Secretary may accept on behalf of the United States gifts, in cash or in kind, for use in carrying out the program established under this section. Gifts in the form of cash shall be credited to the appropriation account from which this program is funded, in addition to amounts otherwise appropriated, and shall remain available until expended.

"(2) Gifts accepted under paragraph (1) shall be available for obligation or other use by the United States only to the extent and in the amounts provided in appropriation Acts.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective for fiscal years beginning after September 30, 1989.

SEC. 6026. GOOD CAUSE EXCEPTION TO REQUIRED COOPERATION FOR TRANSITIONAL CHILD CARE BENEFITS.

(a) IN GENERAL.—Section 402(g)(1)(A)(vi)(II) (42 U.S.C. 602(g)(1)(A)(vi)(II)) is amended by inserting ", without good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the child for whom child care is to be provided" before the period.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 6027. TECHNICAL CORRECTION REGARDING PENALTY FOR FAILURE TO PARTICIPATE IN JOBS PROGRAM.

(a) IN GENERAL.—Section 407(b)(1)(B)(iii) (42 U.S.C. 607(b)(1)(B)(iii)) is amended—

(1) before the dash, in the matter preceding subclause (I), by striking "child or relative specified in subsection (a)" and inserting "parent described in subparagraph (A)(i) and to any spouse of such parent (unless such spouse is participating in a program under part F)"; and

(2) in subclause (I), by striking "if and for so long as such child's parent described in subparagraph (A)(i)" and inserting "if and for so long as such parent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 6028. TECHNICAL CORRECTION REGARDING AFDC-UP ELIGIBILITY REQUIREMENTS.

(a) IN GENERAL.—Section 407(d)(1) (42 U.S.C. 607(d)(1)) is amended—

(1) by striking "a calendar quarter (A)" and inserting "(A) a calendar quarter";

(2) by striking "or" at the end of subparagraph (A); and

(3) by inserting ", and (C) a calendar quarter ending before October 1990 in which such individual participated in a community work experience program under section 409 (as in effect immediately before October 1, 1990) or the work incentive program established under part C (as in effect immediately before such date)" before the semicolon.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 6029. TECHNICAL AMENDMENTS TO NATIONAL COMMISSION ON CHILDREN.

Section 1139(d) (42 U.S.C. 1320b-9(d)) is amended in the matter preceding paragraph (1), by striking "an interim report no later than March 31, 1991, and a final report no later than September 30, 1990" and inserting "an interim report no later than September 30, 1990, and a final report no later than March 31, 1991".

SEC. 6030. FAMILY SUPPORT ACT DEMONSTRATION PROJECTS.

Section 505 of the Family Support Act of 1988 is amended—

(1) in subsection (a), by inserting "in each of the fiscal years 1990, 1991, and 1992," before "shall"; and

(2) in subsection (e), by striking "September 30, 1989" and inserting "September 30 of the fiscal year specified in the agreement described in subsection (a)".

SEC. 6031. STUDY OF JOBS PROGRAMS OPERATED BY INDIAN TRIBES AND ALASKA NATIVE ORGANIZATIONS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States (hereafter in this section referred to as the "Comptroller") shall conduct a study of the implementation of section 482(i) of the Social Security Act (42 U.S.C. 682(i)) relating to job opportunities and basic skills training programs (hereafter in this section referred to as "JOBS programs") operated by Indian tribes and Alaskan Native organizations (as defined in paragraph (5) of such section 482(i)).

(b) REQUIREMENTS FOR STUDY.—In conducting the study described in subsection (a) the Comptroller shall—

(A) identify any problems associated with the implementation of section 482(i) of the Social Security Act; and

(B) assess (to the extent practicable) the effectiveness of the JOBS programs operated by Indian tribes and Alaskan Native organizations.

(c) REPORT.—Upon completion of the study described in subsection (a), the Comptroller shall submit a report to the appropriate committees of the Congress that includes—

(A) a summary of the findings of the study; and

(B) recommendations with respect to proposed legislation or changes in administrative policy to improve the effectiveness of JOBS programs conducted pursuant to section 482(i) of the Social Security Act.

SEC. 6032. PROPOSED EMERGENCY ASSISTANCE AND AFDC SPECIAL NEEDS REGULATIONS.

Subsection (c) of section 8005 of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "1990" and inserting "1991".

PART IV—CHILD WELFARE AND FOSTER CARE

SEC. 6040. CLARIFICATION OF TERMINOLOGY RELATING TO ADMINISTRATIVE COSTS.

(a) IN GENERAL.—Paragraph (3) of section 474(a) (42 U.S.C. 674(a)(3)) is amended by inserting "provision of child placement services and for the" before "proper and efficient".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 6041. SECTION 427 TRIENNIAL REVIEWS.

(a) AMENDMENTS TO SECTION 10406 OF OBRA 1989.—Section 10406 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 627 note) is amended—

(1) by striking "1991" and inserting "1992";

(2) by striking "1990" and inserting "1991"; and

(3) in the section heading, by striking "1990" and inserting "1991".

(b) CONFORMING AMENDMENT.—The item relating to section 10406 in the table of contents appearing immediately after section 10000 of such Act is amended by striking "1990" and inserting "1991".

SEC. 6042. INDEPENDENT LIVING INITIATIVES.

(a) IN GENERAL.—Subparagraph (C) of section 477(a)(2) (42 U.S.C. 677(a)(2)) is amended—

(1) by inserting "who has not attained age 21" after "may at the option of the State also include any child"; and

(2) by striking ", but such child" and all that follows through "care".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments made under part E of title IV of the Social Security Act for fiscal years beginning with fiscal year 1991.

SEC. 6043. GRANTS TO STATES FOR CHILD CARE.

(a) RULES GOVERNING PROVISION OF CHILD CARE TO ELIGIBLE FAMILIES.—Section 402 (42 U.S.C. 602) is amended by adding at the end the following:

"(i)(1) Each State agency may, to the extent that it determines that resources are available, provide child care in accordance with paragraph (2) to any low income family that the State determines is not eligible for aid under the State plan approved under this part, needs such care in order to work, and would be at risk of becoming eligible for aid under the State plan approved under this part if such care were not provided.

"(2) The State agency may provide child care pursuant to paragraph (1) by—

"(A) providing such care directly;

"(B) arranging such care through providers by use of purchase of service contracts or vouchers;

"(C) providing cash or vouchers in advance to the caretaker relative in the family;

"(D) reimbursing the caretaker relative in the family; or

"(E) adopting such other arrangements as the agency deems appropriate.

"(3)(A) A family provided with child care under paragraph (1) shall contribute to such care in accordance with a sliding scale for-

mula established by the State agency based on the family's ability to pay.

"(B) The State agency shall make payment for the cost of child care provided under paragraph (1) with respect to a family in an amount that is the lesser of—

"(i) the actual cost of such care; and

"(ii) the applicable local market rate (as determined by the State in accordance with regulations issued by the Secretary).

"(4) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for the care) under this subsection—

"(A) shall not be treated as income or as a deductible expense for purposes of any other Federal or federally assisted program that bases eligibility for or amount of benefits upon need; and

"(B) may not be claimed as an employment-related expense for purposes of the credit under section 21 of the Internal Revenue Code of 1986.

"(5) Amounts expended by the State agency for child care under paragraph (1) shall be treated as amounts for which payment may be made to a State under section 403(n) only to the extent that—

"(A) such amounts are, subject to paragraph (3)(B), within such limits as the State may prescribe;

"(B) the care involved meets applicable standards of State and local law; and

"(C) the entity providing the care allows parental access.

"(6)(i) Each State shall prepare reports annually, beginning with fiscal year 1993, on the activities of the State carried out with funds made available under section 403(n).

"(ii) The State shall make copies of each report required by this paragraph available for public inspection within the State, shall transmit a copy of each such report to the Secretary, and shall provide a copy of each such report, on request, to any interested public agency.

"(iii) The Secretary shall annually compile the State reports transmitted to the Secretary pursuant to clause (ii), and submit such annual compilation to the Congress.

"(B) Each report prepared and transmitted by a State under subparagraph (A) shall set forth with respect to child care services funded under section 403(n)—

"(i) showing separately for center-based child care services, group home child care services, family child care services, and relative care services the number of children who received such services, and the average cost of such services;

"(ii) the criteria applied in determining eligibility or priority for receiving services, and sliding fee schedules;

"(iii) the child care licensing and regulatory (including registration) requirements in effect in the State with respect to each type of service specified in clause (i); and

"(iv) the enforcement policies and practices in effect in the State which apply to licensed and regulated child care providers (including providers required to register).

"(C) Within 12 months after the date of the enactment of this subsection, the Secretary shall establish uniform reporting requirements for use by the States in preparing the information required by this paragraph, and make such other provision as may be necessary or appropriate to ensure that compliance with this subsection will not be unduly burdensome on the States.

"(D) The Secretary shall issue an interim report on the matters described in subparagraphs (A) and (B) with respect to fiscal year 1992, based on information made available by the States.".

(b) PAYMENTS TO STATES.—Section 403 (42 U.S.C. 603) is amended by adding at the end the following:

"(n)(1) In addition to any payment under subsection (a) or (l), each State shall be entitled to payment from the Secretary of an amount equal to the lesser of—

"(A) the Federal medical assistance percentage (as defined in section 1905(b)) of the expenditures by the State in providing child care pursuant to section 402(i) for any fiscal year; and

"(B) the amount determined under paragraph (2) with respect to the State for the fiscal year.

"(2)(A) The limitation determined under this paragraph with respect to a State for any fiscal year is the amount that bears the same ratio to the amount specified in subparagraph (B) for such fiscal year as the number of children residing in the State in the second preceding fiscal year bears to the number of children residing in the United States in the second preceding fiscal year.

"(B) The amount specified in this subparagraph is—

"(i) $65,000,000 for fiscal year 1991;

"(ii) $65,000,000 for fiscal year 1992;

"(iii) $65,000,000 for fiscal year 1993;

"(iv) $65,000,000 for fiscal year 1994; and

"(v) $65,000,000 for fiscal year 1995, and for each fiscal year thereafter.".

(c) INCREASE AND EXTENSION OF GRANTS TO STATES TO IMPROVE CHILD CARE LICENSING AND REGISTRATION REQUIREMENTS, AND TO MONITOR CHILD CARE PROVIDED TO CHILDREN RECEIVING AFDC.—Section 402(g)(6)(D) (42 U.S.C. 602(g)(6)(D)) is amended by inserting ", and $35,000,000 for each of fiscal years 1992, 1993, and 1994" before the period.

(e) COORDINATION WITH OTHER PROGRAMS FOR CHILDREN.—Section 402(g)(7) (42 U.S.C. 602(g)(7)) is amended by inserting "and subsection (i)" after "this subsection".

(f) EFFECTIVE DATE.—Except as otherwise expressly provided, the amendments made by this section shall take effect on October 1, 1990.

PART V—OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

SEC. 6050. CONTINUATION OF DISABILITY BENEFITS DURING APPEAL.

Subsection (g) of section 223 (42 U.S.C. 423(g)) is amended—

(1) in paragraph (1)(i), in the matter following subparagraph (C), by inserting "or" after "hearing,", and by striking "pending, or (iii) June 1991." and inserting "pending."; and

(2) by striking paragraph (3).

SEC. 6051. REPEAL OF SPECIAL DISABILITY STANDARD FOR WIDOWS AND WIDOWERS.

(a) IN GENERAL.—Section 223(d)(2) (42 U.S.C. 423(d)(2)) is amended—

(1) in subparagraph (A), by striking "(except a widow, surviving divorced wife, widower, or surviving divorced husband for purposes of section 202(e) or (f))";

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) CONFORMING AMENDMENTS.—

(1) The third sentence of section 216(i)(1) (42 U.S.C. 416(i)(1)) is amended by striking "(2)(C)" and inserting "(2)(B)".

(2) Section 223(f)(1)(B) (42 U.S.C. 423(f)(1)(B)) is amended to read as follows:

"(B) the individual is now able to engage in substantial gainful activity; or".

(3) Section 223(f)(2)(A)(ii) of such Act (42 U.S.C. 423(f)(2)(A)(ii)) is amended to read as follows:

"(ii) the individual is now able to engage in substantial gainful activity, or".

(4) Section 223(f)(3) of such Act (42 U.S.C. 423(f)(3)) is amended by striking "therefore—" and all that follows and inserting "therefore the individual is able to engage in substantial gainful activity; or".

(5) Section 223(f) of such Act is further amended, in the matter following paragraph (4), by striking "(or gainful activity in the case of a widow, surviving divorced wife, widower, or surviving divorced husband)" each place it appears.

(c) TRANSITIONAL RULES RELATING TO MEDICAID AND MEDICARE ELIGIBILITY.—

(1) DETERMINATION OF MEDICAID ELIGIBILITY.—Section 1634(d) (42 U.S.C. 1383c(d)) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by striking "(d) If any person—" and inserting "(d)(1) This subsection applies with respect to any person who—";

(C) in subparagraph (A) (as redesignated), by striking "as required" and all that follows through "but not entitled" and inserting "being then not entitled";

(D) in subparagraph (B) (as redesignated), by striking the comma at the end and inserting a period; and

(E) by striking "such person shall" and all that follows and inserting the following new paragraph:

"(2) For purposes of title XIX, each person with respect to whom this subsection applies—

"(A) shall be deemed to be a recipient of supplemental security income benefits under this title if such person received such a benefit for the month before the month in which such person began to receive a benefit described in paragraph (1)(A), and

"(B) shall be deemed to be a recipient of State supplementary payments of the type referred to in section 1616(a) of this Act (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93-66) if such person received such a payment for the month before the month in which such person began to receive a benefit described in paragraph (1)(A),

for so long as such person (i) would be eligible for such supplemental security income benefits, or such State supplementary payments, in the absence of benefits described in paragraph (1)(A), and (ii) is not entitled to hospital insurance benefits under part A of title XVIII.".

(2) INCLUSION OF MONTHS OF SSI ELIGIBILITY WITHIN 5-MONTH DISABILITY WAITING PERIOD AND 24-MONTH MEDICARE WAITING PERIOD.—

(A) WIDOW'S BENEFITS BASED ON DISABILITY.—Section 202(e)(5) (42 U.S.C. 402(e)(5)) is amended—

(i) in subparagraph (B), by striking "(i)" and "(ii)" and inserting "(I)" and "(II)", respectively;

(ii) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(iii) by inserting "(A)" after "(5)"; and

(iv) by adding at the end the following new subparagraph:

"(B) For purposes of paragraph (1)(F)(i), each month in the period commencing with the first month for which such widow or surviving divorced wife is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section

212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), shall be included as one of the months of such waiting period for which the requirements of subparagraph (A) have been met.".

(B) WIDOWER'S BENEFITS BASED ON DISABILITY.—Section 202(f)(6) (42 U.S.C. 402(f)(6)) is amended—

(i) in subparagraph (B), by striking "(i)" and "(ii)" and inserting "(I)" and "(II)", respectively;

(ii) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(iii) by inserting "(A)" after "(6)"; and

(iv) by adding at the end the following new subparagraph:

"(B) For purposes of paragraph (1)(F)(i), each month in the period commencing with the first month for which such widower or surviving divorced husband is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), shall be included as one of the months of such waiting period for which the requirements of subparagraph (A) have been met.".

(C) MEDICARE BENEFITS.—Section 226(e)(1) (42 U.S.C. 426(e)(1)) is amended—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(ii) by inserting "(A)" after "(e)(1)"; and

(iii) by adding at the end the following new subparagraph:

"(B) For purposes of subsection (b)(2)(A)(iii), each month in the period commencing with the first month for which an individual is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) of this Act (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), shall be included as one of the 24 months for which such individual must have been entitled to widow's or widower's insurance benefits on the basis of disability in order to become entitled to hospital insurance benefits on that basis.".

(d) DEEMED DISABILITY FOR PURPOSES OF ENTITLEMENT TO WIDOW'S AND WIDOWER'S INSURANCE BENEFITS FOR WIDOWS AND WIDOWERS ON SSI ROLLS.—

(1) WIDOW'S INSURANCE BENEFITS.—Section 202(e) (42 U.S.C. 402(e)) is amended by adding at the end the following new paragraph:

"(9) An individual shall be deemed to be under a disability for purposes of paragraph (1)(B)(ii) if such individual is eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), for the month for which all requirements of paragraph (1) for entitlement to benefits under this subsection (other than being under a disability) are met.".

(2) WIDOWER'S INSURANCE BENEFITS.—Section 202(f) (42 U.S.C. 402(f)) is amended by adding at the end the following new paragraph:

"(9) An individual shall be deemed to be under a disability for purposes of paragraph (1)(B)(ii) if such individual is eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93-66), for the month for which all requirements of paragraph (1) for entitlement to benefits under this subsection (other than being under a disability) are met.".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section (other than paragraphs (1) and (2)(C) of subsection (c)) shall apply with respect to monthly insurance benefits for months after December 1990 for which applications are filed on or after January 1, 1991, or are pending on such date. The amendments made by subsection (c)(1) shall apply with respect to medical assistance provided after December 1990. The amendments made by subsection (c)(2)(C) shall apply with respect to items and services furnished after December 1990.

(2) APPLICATION REQUIREMENTS FOR CERTAIN INDIVIDUALS ON BENEFIT ROLLS.—In the case of any individual who—

(A) is entitled to disability insurance benefits under section 223 of the Social Security Act for December 1990 or is eligible for supplemental security income benefits under title XVI of such Act, or State supplementary payments of the type referred to in section 1616(a) of such Act (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93-66), for January 1991,

(B) applied for widow's or widower's insurance benefits under subsection (e) or (f) of section 202 of the Social Security Act during 1990, and

(C) is not entitled to such benefits under such subsection (e) or (f) for any month on the basis of such application by reason of the definition of disability under section 223(d)(2)(B) of the Social Security Act (as in effect immediately before the date of the enactment of this Act), and would have been so entitled for such month on the basis of such application if the amendments made by this section had been applied with respect to such application,

for purposes of determining such individual's entitlement to such benefits under subsection (e) or (f) of section 202 of the Social Security Act for months after December 1990, the requirement of paragraph (1)(C)(i) of such subsection shall be deemed to have been met.

SEC. 6052. DEPENDENCY REQUIREMENTS APPLICABLE TO A CHILD ADOPTED BY A SURVIVING SPOUSE.

(a) IN GENERAL.—Section 216(e) (42 U.S.C. 416(e)) is amended in the second sentence—

(1) by striking "at the time of such individual's death living in such individual's household" and inserting "either living with or receiving at least one-half of his support from such individual at the time of such individual's death"; and

(2) by striking "; except" and all that follows and inserting a period.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits payable for months after December 1990, but only on the basis of applications filed after December 31, 1990.

SEC. 6053. REPRESENTATIVE PAYEE REFORMS.

(a) IMPROVEMENTS IN THE REPRESENTATIVE PAYEE SELECTION AND RECRUITMENT PROCESS.—

(1) AUTHORITY FOR CERTIFICATION OF PAYMENTS TO REPRESENTATIVE PAYEES.—

(A) TITLE II.—Section 205(j)(1) (42 U.S.C. 405(j)) is amended to read as follows:

"REPRESENTATIVE PAYEES

"(j)(1) If the Secretary determines that the interest of any individual under this title would be served thereby, certification of payment of such individual's benefit under this title may be made, regardless of the legal competency or incompetency of the individual, either for direct payment to the individual, or for his or her use and benefit, to another individual or organization with respect to whom the requirements of paragraph (2) have been met (hereinafter in this subsection referred to as the individual's 'representative payee'). If the Secretary or a court of competent jurisdiction determines that a representative payee has misused any individual's benefit paid to such representative payee pursuant to this subsection or section 1631(a)(2), the Secretary shall promptly revoke certification for payment of benefits to such representative payee pursuant to this subsection and certify payment to an alternate representative payee or to the individual.".

(B) TITLE XVI.—

(i) IN GENERAL.—Section 1631(a)(2)(A) (42 U.S.C. 1383(a)(2)(A)) is amended to read as follows:

"(A)(i) Payments of the benefit of any individual may be made to any such individual or to the eligible spouse (if any) of such individual or partly to each.

"(ii) Upon a determination by the Secretary that the interest of such individual would be served thereby, or in the case of any individual or eligible spouse referred to in section 1611(e)(3)(A), such payments shall be made, regardless of the legal competency or incompetency of the individual or eligible spouse, to another individual who, or to a qualified organization (as defined in subparagraph (D)(ii)) which, is interested in or concerned with the welfare of such individual and with respect to whom the requirements of subparagraph (B) have been met (in this paragraph referred to as such individual's 'representative payee') for the use and benefit of the individual or eligible spouse.

"(iii) If the Secretary or a court of competent jurisdiction determines that the representative payee of an individual or eligible spouse has misused any benefits which have been paid to the representative payee pursuant to clause (ii) or section 205(j)(1), the Secretary shall promptly terminate payment of benefits to the representative payee pursuant to this subparagraph, and provide for payment of benefits to the individual or eligible spouse or to an alternative representative payee of the individual or eligible spouse.".

(ii) CONFORMING AMENDMENTS.—Section 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is amended—

(I) in clause (i), by striking "a person other than the individual or spouse entitled to such payment" and inserting "representative payee of an individual or spouse";

(II) in clauses (ii), (iii), and (iv), by striking "other person to whom such payment is made" each place it appears and inserting "representative payee"; and

(III) in clause (v)—

(aa) by striking "person receiving payments on behalf of another" and inserting "representative payee"; and

(bb) by striking "person receiving such payments" and inserting "representative payee".

(2) PROCEDURE FOR SELECTING REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—

(i) TITLE II.—Section 205(j)(2) (42 U.S.C. 405(j)(2)) is amended to read as follows:

"(2)(A) Any certification made under paragraph (1) for payment of benefits to an individual's representative payee shall be made on the basis of—

"(i) an investigation by the Secretary of the person to serve as representative payee, which shall be conducted in advance of such certification and shall, to the extent practicable, include a face-to-face interview with the person to serve as representative payee, and

"(ii) adequate evidence that such certification is in the interest of such individual (as determined by the Secretary in regulations).

"(B)(i) As part of the investigation referred to in subparagraph (A)(i), the Secretary shall—

"(I) require the person being investigated to submit documented proof of the identity of such person, unless information establishing such identity has been submitted with an application for benefits under this title or title XVI,

"(II) verify such person's social security account number (or employer identification number),

"(III) determine whether such person has been convicted of a violation of section 208 or 1632, and

"(IV) determine whether certification of payment of benefits to such person has been revoked pursuant to this subsection or payment of benefits to such person has been terminated pursuant to section 1631(a)(2)(A)(iii) by reason of misuse of funds paid as benefits under this title or title XVI.

"(ii) The Secretary shall establish and maintain 2 centralized files, which shall be updated periodically and which shall be in a form which renders them readily retrievable by each servicing office of the Social Security Administration. Such files shall consist of—

"(I) a list of the names and social security account numbers (or employer identification numbers) of all persons with respect to whom certification of payment of benefits has been revoked on or after January 1, 1991, pursuant to this subsection, or with respect to whom payment of benefits has been terminated on or after such date pursuant to section 1631(a)(2), by reason of misuse of funds paid as benefits under this title or title XVI, and

"(II) a list of the names and social security account numbers (or employer identification numbers) of all persons who have been convicted of a violation of section 208, 1107(a), 1128B, or 1632.

"(C)(i) Benefits of an individual may not be certified for payment to any other person pursuant to this subsection if—

"(I) such person has previously been convicted as described in subparagraph (B)(i)(III),

"(II) except as provided in clause (ii), certification of payment of benefits to such person under this subsection has previously been revoked as described in subparagraph (B)(i)(IV), or payment of benefits to such person pursuant to section 1631(a)(2)(A)(ii) has previously been terminated as described in section 1631(a)(2)(B)(ii)(IV), or

"(III) except as provided in clause (iii), such person is a creditor of such individual who provides such individual with goods or services for consideration.

"(ii) The Secretary shall prescribe regulations under which the Secretary may grant exemptions to any person from the provisions of clause (i)(II) on a case-by-case basis if such exemption is in the best interest of the individual whose benefits would be paid to such person pursuant to this subsection.

"(iii) Clause (i)(III) shall not apply with respect to any person who is a creditor referred to therein if such creditor is—

"(I) a relative of such individual if such relative resides in the same household as such individual,

"(II) a legal guardian or legal representative of such individual,

"(III) a facility that is licensed or certified as a care facility under the law of a State or a political subdivision of a State,

"(IV) a person who is an administrator, owner, or employee of a facility referred to in subclause (III) if such individual resides in such facility, and the certification of payment to such facility or such person is made only after good faith efforts have been made by the local servicing office of the Social Security Administration to locate an alternative representative payee to whom such certification of payment would serve the best interests of such individual, or

"(V) an individual who is determined by the Secretary, on the basis of written findings and under procedures which the Secretary shall prescribe by regulation, to be acceptable to serve as a representative payee.

"(iv) The procedures referred to in clause (iii)(V) shall require the individual who will serve as representative payee to establish, to the satisfaction of the Secretary, that—

"(I) such individual poses no risk to the beneficiary,

"(II) the financial relationship of such individual to the beneficiary poses no substantial conflict of interest, and

"(III) no other more suitable representative payee can be found.

"(D)(i) Subject to clause (ii), if the Secretary makes a determination described in the first sentence of paragraph (1) with respect to any individual's benefit and determines that direct payment of the benefit to the individual would cause substantial harm to the individual, the Secretary may defer (in the case of initial entitlement) or suspend (in the case of existing entitlement) direct payment of such benefit to the individual, until such time as the selection of a representative payee is made pursuant to this subsection.

"(ii)(I) Except as provided in subclause (II), any deferral or suspension of direct payment of a benefit pursuant to clause (i) shall be for a period of not more than 1 month.

"(II) Subclause (I) shall not apply in any case in which the individual is, as of the date of the Secretary's determination, legally incompetent or under the age of 15.

"(iii) Payment pursuant to this subsection of any benefits which are deferred or suspended pending the selection of a representative payee shall be made to the individual or the representative payee as a single sum or over such period of time as the Secretary determines is in the best interest of the individual entitled to such benefits.

"(E)(i) Any individual who is dissatisfied with a determination by the Secretary to certify payment of such individual's benefit to a representative payee under paragraph (1) or with the designation of a particular person to serve as representative payee shall be entitled to a hearing by the Secretary to the same extent as is provided in subsection (b), and to judicial review of the Secretary's final decision as is provided in subsection (g).

"(ii) In advance of the certification of payment of an individual's benefit to a representative payee under paragraph (1), the Secretary shall provide written notice of the Secretary's initial determination to certify such payment. Such notice shall be provided to such individual, except that, if such individual—

"(I) is under the age of 15,

"(II) is an unemancipated minor under the age of 18, or

"(III) is legally incompetent,

then such notice shall be provided solely to the legal guardian or legal representative of such individual.

"(iii) Any such notice shall be clearly written in language that is easily understandable to the reader, shall identify the person to be designated as such individual's representative payee, and shall explain to the reader the right under clause (i) of such individual or such individual's legal guardian or legal representative—

"(I) to appeal a determination that a representative payee is necessary for such individual,

"(II) to appeal the designation of a particular person to serve as the representative payee of such individual, and

"(III) to review the evidence upon which such designation is based and submit additional evidence.".

(ii) TITLE XVI.—Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) is amended to read as follows:

"(B)(i) Any provision made under subparagraph (A) for payment of benefits to the representative payee of an individual or eligible spouse shall be made on the basis of—

"(I) an investigation by the Secretary of the person to serve as representative payee, which shall be conducted before such payment, and shall, to the extent practicable, include a face-to-face interview with the person; and

"(II) adequate evidence that such payment is in the interest of the individual or eligible spouse (as determined by the Secretary in regulations).

"(ii) As part of the investigation referred to in clause (i)(I), the Secretary shall—

"(I) require the person being investigated to submit documented proof of the identity of such person, unless information establishing such identity was submitted with an application for benefits under title II or this title;

"(II) verify the social security account number (or employer identification number) of such person;

"(III) determine whether such person has been convicted of a violation of section 208 or 1632; and

"(IV) determine whether payment of benefits to such person has been terminated pursuant to subparagraph (A)(ii)(II), and whether certification of payment of benefits to such person has been revoked pursuant to section 205(j), by reason of misuse of funds paid as benefits under title II or this title.

"(iii) Benefits of an individual may not be paid to any other person pursuant to subparagraph (A)(ii) if—

"(I) such person has previously been convicted as described in clause (ii)(III);

"(II) except as provided in clause (iv), payment of benefits to such person pursuant to subparagraph (A)(ii) has previously been

terminated as described in clause (ii)(IV), or certification of payment of benefits to such person under section 215(j) has previously been revoked as described in section 215(j)(2)(B)(i)(IV); or

"(III) except as provided in clause (v), such person is a creditor of the individual who provides the individual with goods or services for consideration.

"(iv) The Secretary shall prescribe regulations under which the Secretary may grant an exemption from clause (iii)(II) to any person on a case-by-case basis if such exemption would be in the best interest of the individual or eligible spouse whose benefits under this title would be paid to such person pursuant to subparagraph (A)(ii).

"(v) Clause (iii)(III) shall not apply to any person who is a creditor of the individual if the creditor is—

"(I) a relative of the individual if such relative resides in the same household as such individual;

"(II) a legal guardian or legal representative of the individual;

"(III) a facility that is licensed or certified as a care facility under the law of a State or a political subdivision of a State;

"(IV) a person who is an administrator, owner, or employee of a facility referred to in subclause (III) if the individual resides in the facility, and the payment of benefits under this title to the facility or the person is made only after good faith efforts have been made by the local servicing office of the Social Security Administration to locate an alternative representative payee to whom the payment of such benefits would serve the best interests of the individual; or

"(V) an individual who is determined by the Secretary, on the basis of written findings and under procedures which the Secretary shall prescribe by regulation, to be acceptable to serve as a representative payee.

"(vi) The procedures referred to in clause (v)(V) shall require the individual who will serve as representative payee to establish, to the satisfaction of the Secretary, that—

"(I) such individual poses no risk to the beneficiary;

"(II) the financial relationship of such individual to the beneficiary poses no substantial conflict of interest; and

"(III) no other more suitable representative payee can be found.

"(vii) Subject to clause (viii), if the Secretary makes a determination described in subparagraph (A)(ii) with respect to any individual's benefit and determines that direct payment of the benefit to the individual would cause substantial harm to the individual, the Secretary may defer (in the case of initial entitlement) or suspend (in the case of existing entitlement) direct payment of such benefit to the individual, until such time as the selection of a representative payee is made pursuant to this subparagraph.

"(viii)(I) Except as provided in subclause (I), any deferral or suspension of direct payment of a benefit pursuant to clause (vii) shall be for a period of not more than 1 month.

"(II) Clause (I) shall not apply in any case in which the individual or eligible spouse is, as of the date of the Secretary's determination, legally incompetent or under the age of 15 years.

"(ix) Payment pursuant to this subparagraph of any benefits which are deferred or suspended pending the selection of a representative payee shall be made—

"(I) to the representative payee upon such selection; and

"(II) as a single payment, or over such period as the Secretary determines is in the best interests of the individual entitled to such benefits.

"(x) Any individual who is dissatisfied with a determination by the Secretary under subparagraph (A)(ii) to pay such individual's benefits under this title to a representative payee, or with the selection of a particular person to be the representative payee of the individual, shall be entitled to a hearing by the Secretary, and to judicial review of the Secretary's final decision, to the same extent as is provided in subsection (c).

"(xi) Before the first payment of an individual's benefit to a representative payee under subparagraph (A)(ii), the Secretary shall provide written notice of the Secretary's initial determination to so make the payment. Such notice shall be provided to—

"(I) the legal guardian or legal representative of the individual, if the individual has not attained the age of 15 years, is an unemancipated minor who has not attained the age of 18 years, or is legally incompetent; or

"(II) the individual, in any other case.

"(xii) Any notice referred to in clause (xi) shall be clearly written in language that is easily understandable to the reader, identify the person selected to be the representative payee of the individual, and explain to the reader the right under clause (x) of the individual or the legal guardian or legal representative of the individual—

"(I) to appeal a determination that a representative payee is necessary for the individual;

"(II) to appeal the selection of a particular person to be the representative payee of the individual; and

"(III) to review the evidence upon which the selection is based and submit additional evidence.".

(B) REPORT ON FEASIBILITY OF OBTAINING READY ACCESS TO CERTAIN CRIMINAL FRAUD RECORDS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with the Attorney General of the United States and the Secretary of the Treasury, shall study the feasibility of establishing and maintaining a current list, which would be readily available to local offices of the Social Security Administration for use in investigations undertaken pursuant to section 205(j)(2) or 1631(a)(2)(B) of the Social Security Act, of the names and social security account numbers of individuals who have been convicted of a violation of section 495 of title 18, United States Code. The Secretary of Health and Human Services shall, not later than July 1, 1992, submit the results of such study, together with any recommendations, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(3) PROVISION FOR COMPENSATION OF QUALIFIED ORGANIZATIONS SERVING AS REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—

(i) TITLE II.—Section 205(j) (42 U.S.C. 405(j)) is amended by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

"(4)(A) A qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee pursuant to this subsection if such fee does not exceed the lesser of—

"(i) 10 percent of the monthly benefit involved, or

"(ii) $25.00 per month.

Any agreement providing for a fee in excess of the amount permitted under this subparagraph shall be void and shall be treated as misuse by such organization of such individual's benefits.

"(B) For purposes of this paragraph, the term 'qualified organization' means any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee and which, in accordance with any applicable regulations of the Secretary—

"(i) regularly provides services as the representative payee, pursuant to this subsection or section 1631(a)(2), concurrently to 5 or more individuals,

"(ii) demonstrates to the satisfaction of the Secretary that such agency is not otherwise a creditor of any such individual, and

"(iii) was in existence on October 1, 1988.

"(C) Any qualified organization which knowingly charges or collects, directly or indirectly, any fee in excess of the maximum fee prescribed under subparagraph (A) or makes any agreement, directly or indirectly, to charge or collect any fee in excess of such maximum fee, shall be fined in accordance with title 18, United States Code.

"(D) This paragraph shall cease to be effective on January 1, 1994.".

(ii) TITLE XVI.—Section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended—

(I) by redesignating subparagraph (D) as subparagraph (E);

(III) by inserting after subparagraph (C) the following:

"(D)(i) A qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee pursuant to subparagraph (A)(ii) if the fee does not exceed the lesser of—

"(I) 10 percent of the monthly benefit involved, or

"(II) $25.00 per month.

Any agreement providing for a fee in excess of the amount permitted under this clause shall be void and shall be treated as misuse by the organization of the individual's benefits under this title.

"(ii) For purposes of this subparagraph, the term 'qualified organization' means any community-based nonprofit social service agency which—

"(I) is bonded or licensed in each State in which the agency serves as a representative payee;

"(II) in accordance with any applicable regulations of the Secretary—

"(aa) regularly provides services as a representative payee pursuant to subparagraph (A)(ii) or section 205(j)(4) concurrently to 5 or more individuals;

"(bb) demonstrates to the satisfaction of the Secretary that such person is not otherwise a creditor of any such individual; and

"(cc) was in existence on October 1, 1988.

"(iii) Any qualified organization which knowingly charges or collects, directly or indirectly, any fee in excess of the maximum fee prescribed under clause (i) or makes any agreement, directly or indirectly, to charge or collect any fee in excess of such maximum fee, shall be fined in accordance with title 18, United States Code.

"(iv) This subparagraph shall cease to be effective on January 1, 1994.".

(B) STUDIES AND REPORTS.—

(i) REPORT BY SECRETARY OF HEALTH AND HUMAN SERVICES.—Not later than January 1, 1993, the Secretary of Health and Human

Services shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the number and types of qualified organizations which have served as representative payees and have collected fees for such service pursuant to any amendment made by subparagraph (A), and

(ii) REPORT BY COMPTROLLER GENERAL.—Not later than July 1, 1992, the Comptroller General of the United States shall conduct a study of the advantages and disadvantages of allowing qualified organizations serving as representative payees to charge fees pursuant to the amendments made by subparagraph (A) and shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of such study.

(4) STUDY RELATING TO FEASIBILITY OF SCREENING OF INDIVIDUALS WITH CRIMINAL RECORDS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of the feasibility of determining the type of representative payee applicant most likely to have a felony or misdemeanor conviction, the suitability of individuals with prior convictions to serve as representative payees, and the circumstances under which such applicants could be allowed to serve as representative payees. The Secretary shall transmit the results of such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than July 1, 1992.

(5) EFFECTIVE DATES.—

(A) USE AND SELECTION OF REPRESENTATIVE PAYEES.—The amendments made by paragraphs (1) and (2) shall take effect July 1, 1991, and shall apply only with respect to—

(i) certifications of payment of benefits under title II of the Social Security Act to representative payees made on or after such date; and

(ii) provisions for payment of benefits under title XVI of such Act to representative payees made on or after such date.

(B) COMPENSATION OF REPRESENTATIVE PAYEES.—The amendments made by paragraph (3) shall take effect January 1, 1992, and the Secretary of Health and Human Services shall prescribe initial regulations necessary to carry out such amendments not later than such date.

(b) IMPROVEMENTS IN RECORDKEEPING AND AUDITING REQUIREMENTS.—

(1) IMPROVED ACCESS TO CERTAIN INFORMATION.—

(A) IN GENERAL.—Section 205(j)(3) (42 U.S.C. 605(j)(3)) is amended—

(i) by striking subparagraph (B);

(ii) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively;

(iii) in subparagraph (D) (as so redesignated), by striking "(A), (B), (C), and (D)" and inserting "(A), (B), and (C)"; and

(iv) by adding at the end the following new subparagraphs:

"(E) The Secretary shall maintain a centralized file, which shall be updated periodically and which shall be in a form which will be readily retrievable by each servicing office of the Social Security Administration, of—

"(i) the address and the social security account number (or employer identification number) of each representative payee who is receiving benefit payments pursuant to this subsection or section 1631(a)(2), and

"(ii) the address and social security account number of each individual for whom each representative payee is reported to be providing services as representative payee pursuant to this subsection or section 1631(a)(2).

"(F) Each servicing office of the Administration shall maintain a list, which shall be updated periodically, of public agencies and community-based nonprofit social service agencies which are qualified to serve as representative payees pursuant to this subsection or section 1631(a)(2) and which are located in the area served by such servicing office.".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect October 1, 1992, and the Secretary of Health and Human Services shall take such actions as are necessary to ensure that the requirements of section 205(j)(3)(E) of the Social Security Act (as amended by subparagraph (A) of this paragraph) are satisfied as of such date.

(2) STUDY RELATING TO MORE STRINGENT OVERSIGHT OF HIGH-RISK REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of the need for a more stringent accounting system for high-risk representative payees than is otherwise generally provided under section 205(j)(3) or 1631(a)(2)(C) of the Social Security Act, which would include such additional reporting requirements, record maintenance requirements, and other measures as the Secretary considers necessary to determine whether services are being appropriately provided by such payees in accordance with such sections 205(j) and 1631(a)(2).

(B) SPECIAL PROCEDURES.—In such study, the Secretary shall determine the appropriate means of implementing more stringent, statistically valid procedures for—

(i) reviewing reports which would be submitted to the Secretary under any system described in subparagraph (A), and

(ii) periodic, random audits of records which would be kept under such a system,

in order to identify any instances in which high-risk representative payees are misusing payments made pursuant to section 205(j) or 1631(a)(2) of the Social Security Act.

(C) HIGH-RISK REPRESENTATIVE PAYEE.—For purposes of this paragraph, the term "high-risk representative payee" means a representative payee under section 205(j) or 1631(a)(2) of the Social Security Act (42 U.S.C. 405(j) and 1383(a)(2), respectively) (other than a Federal or State institution) who—

(i) regularly provides concurrent services as a representative payee under such section 205(j), such section 1631(a)(2), or both such sections, for 5 or more individuals who are unrelated to such representative payee,

(ii) is neither related to an individual on whose behalf the payee is being paid benefits nor living in the same household with such individual,

(iii) is a creditor of such individual, or

(iv) is in such other category of payees as the Secretary may determine appropriate.

(D) REPORT.—The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study, together with any recommendations, not later than July 1, 1992. Such report shall include an evaluation of the feasibility and desirability of legislation implementing stricter accounting and review procedures for high-risk representative payees in all servicing offices of the Social Security Administration (together with proposed legislative language).

(3) DEMONSTRATION PROJECTS RELATING TO PROVISION OF INFORMATION TO LOCAL AGENCIES PROVIDING CHILD AND ADULT PROTECTIVE SERVICES.—

(A) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall implement a demonstration project under this paragraph in all or part of not fewer than 2 States. Under each such project, the Secretary shall enter into an agreement with the State in which the project is located to make readily available, for the duration of the project, to the appropriate State agency, a listing of addresses of multiple benefit recipients.

(B) LISTING OF ADDRESSES OF MULTIPLE BENEFIT RECIPIENTS.—The list referred to in subparagraph (A) shall consist of a current list setting forth each address within the State at which benefits under title II, benefits under title XVI, or any combination of such benefits are being received by 5 or more individuals. For purposes of this subparagraph, in the case of benefits under title II, all individuals receiving benefits on the basis of the wages and self-employment income of the same individual shall be counted as 1 individual.

(C) APPROPRIATE STATE AGENCY.—The appropriate State agency referred to in subparagraph (A) is the agency of the State which the Secretary determines is primarily responsible for regulating care facilities operated in such State or providing for child and adult protective services in such State.

(D) REPORT.—The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning such demonstration projects, together with any recommendations, not later than July 1, 1992. Such report shall include an evaluation of the feasibility and desirability of legislation implementing the programs established pursuant to this paragraph on a permanent basis.

(E) STATE.—For purposes of this paragraph, the term "State" means a State, including the entities included in such term by section 210(h) of the Social Security Act (42 U.S.C. 410(h)).

(c) REPORTS TO THE CONGRESS.—

(1) IN GENERAL.—

(A) TITLE II.—Section 205(j)(5) (as so redesignated by subsection (a)(3)(A)(i) of this section) is amended to read as follows:

"(5) The Secretary shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this subsection, including the number of cases in which the representative payee was changed, the number of cases discovered where there has been a misuse of funds, how any such cases were dealt with by the Secretary, the final disposition of such cases, including any criminal penalties imposed, and such other information as the Secretary determines to be appropriate.".

(B) TITLE XVI.—Section 1631(a)(2)(E) (42 U.S.C. 1383(a)(2)(E)), as so redesignated by subsection (a)(3)(A)(ii)(I) of this section, is amended to read as follows:

"(E) The Secretary shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this paragraph, including—

"(i) the number of cases in which the representative payee was changed;

"(ii) the number of cases discovered where there has been a misuse of funds;

"(iii) how any such cases were dealt with by the Secretary;

"(iv) the final disposition of such cases (including any criminal penalties imposed); and

"(v) such other information as the Secretary determines to be appropriate.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to annual reports issued for years after 1991.

(3) FEASIBILITY STUDY REGARDING INVOLVEMENT OF DEPARTMENT OF VETERANS AFFAIRS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services, in cooperation with the Secretary of Veterans Affairs, shall conduct a study of the feasibility of designating the Department of Veterans Affairs as the lead agency for purposes of selecting, appointing, and monitoring representative payees for those individuals who receive benefits paid under title II or XVI of the Social Security Act and benefits paid by the Department of Veterans Affairs. Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report setting forth the results of such study, together with any recommendations.

SEC. 6054. FEES FOR REPRESENTATION OF CLAIMANTS IN ADMINISTRATIVE PROCEEDINGS.

(a) IN GENERAL.—

(1) TITLE ii.—Subsection (a) of section 206 (42 U.S.C. 406(a)) is amended—

(A) by inserting "(1)" after "(a)";

(B) in the fifth sentence, by striking "Whenever" and inserting "Except as provided in paragraph (2)(A), whenever"; and

(C) by striking the sixth sentence and all that follows through "Any person who" in the seventh sentence and inserting the following:

"(2)(A) In the case of a claim of entitlement to past-due benefits under this title, if—

"(i) an agreement between the claimant and another person regarding any fee to be recovered by such person to compensate such person for services with respect to the claim is presented in writing to the Secretary prior to the time of the Secretary's determination regarding the claim,

"(ii) the fee specified in the agreement does not exceed the lesser of—

"(I) 25 percent of the total amount of such past-due benefits (as determined before any applicable reduction under section 1127(a)), or

"(II) $4,000, and

"(iii) the determination is favorable to the claimant,

then the Secretary shall approve that agreement at the time of the favorable determination, and (subject to paragraph (3)) the fee specified in the agreement shall be the maximum fee. The Secretary may from time to time increase the dollar amount under clause (ii)(II) to the extent that the rate of increase in such amount, as determined over the period since January 1, 1991, does not at any time exceed the rate of increase in primary insurance amounts under section 215(i) since such date. The Secretary shall publish any such increased amount in the Federal Register.

"(B) For purposes of this subsection, the term 'past-due benefits' excludes any benefits with respect to which payment has been continued pursuant to section 223(g).

"(C) In the case of a claim with respect to which the Secretary has approved an agreement pursuant to subparagraph (A), the Secretary shall provide the claimant and the person representing the claimant a written notice of—

"(i) the dollar amount of the past-due benefits (as determined before any applicable reduction under section 1127(a)) and the dollar amount of the past-due benefits payable to the claimant,

"(ii) the dollar amount of the maximum fee which may be charged or recovered as determined under this paragraph, and

"(iii) a description of the procedures for review under paragraph (3).

"(3)(A) The Secretary shall provide by regulation for review of the amount which would otherwise be the maximum fee as determined under paragraph (2) if, within 15 days after receipt of the notice provided pursuant to paragraph (2)(C)—

"(i) the claimant, or the administrative law judge or other adjudicator who made the favorable determination, submits a written request to the Secretary to reduce the maximum fee, or

"(ii) the person representing the claimant submits a written request to the Secretary to increase the maximum fee.

Any such review shall be conducted after providing the claimant, the person representing the claimant, and the adjudicator with reasonable notice of such request and an opportunity to submit written information in favor of or in opposition to such request. The adjudicator may request the Secretary to reduce the maximum fee only on the basis of evidence of the failure of the person representing the claimant to represent adequately the claimant's interest or on the basis of evidence that the fee is clearly excessive for services rendered.

"(B)(i) In the case of a request for review under subparagraph (A) by the claimant or by the person representing the claimant, such review shall be conducted by the administrative law judge who made the favorable determination or, if the Secretary determines that such administrative law judge is unavailable or if the determination was not made by an administrative law judge, such review shall be conducted by another person designated by the Secretary for such purpose.

"(ii) In the case of a request by the adjudicator for review under subparagraph (A), the review shall be conducted by the Secretary or by an administrative law judge or other person (other than such adjudicator) who is designated by the Secretary.

"(C) Upon completion of the review, the administrative law judge or other person conducting the review shall affirm or modify the amount which would otherwise be the maximum fee. Any such amount so affirmed or modified shall be considered the amount of the maximum fee which may be recovered under paragraph (2). The decision of the administrative law judge or other person conducting the review shall not be subject to further review.

"(4)(A) Subject to subparagraph (B), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Secretary shall, notwithstanding section 205(i), certify for payment out of such past-due benefits (as determined before any applicable reduction under section 1127(a)) to such attorney an amount equal to the maximum fee, but not in excess of 25 percent of such past-due benefits (as determined before any applicable reduction under section 1127(a)).

"(B) The Secretary shall not in any case certify any amount for payment to the attorney pursuant to this paragraph before the expiration of the 15-day period referred to in paragraph (3)(A) or, in the case of any review conducted under paragraph (3), before the completion of such review.

"(5) Any person who".

(2) TITLE XVI.—Paragraph (2)(A) of section 1631(d) (42 U.S.C. 1383(d)(2)(A)) is amended to read as follows:

"(2)(A) The provisions of section 206(a) (other than paragraphs (2)(B) and (4) thereof) shall apply to this part to the same extent as they apply in the case of title II, and in so applying such provisions 'section 1631(g)' shall be substituted for 'section 1127(a)'.".

(b) PROTECTION OF ATTORNEY'S FEES FROM OFFSETTING SSI BENEFITS.—Subsection (a) of section 1127 (42 U.S.C. 1320a-6(a)) is amended by adding at the end the following new sentence: "A benefit under title II shall not be reduced pursuant to the preceding sentence to the extent that any amount of such benefit would not otherwise be available for payment in full of the maximum fee which may be recovered from such benefit by an attorney pursuant to section 206(a)(4).".

(c) LIMITATION OF TRAVEL EXPENSES FOR REPRESENTATION OF CLAIMANTS AT ADMINISTRATIVE PROCEEDINGS.—Section 201(j) (42 U.S.C. 401(j)), section 1631(h) (42 U.S.C. 1383(h)), and section 1817(i) (42 U.S.C. 1395i(i)) are each amended by adding at the end the following new sentence: "The amount available for payment under this subsection for travel by a representative to attend an administrative proceeding before an administrative law judge or other adjudicator shall not exceed the maximum amount allowable under this subsection for such travel originating within the geographic area of the office having jurisdiction over such proceeding.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to determinations made on or after January 1, 1991, and to reimbursement for travel expenses incurred on or after January 1, 1991.

SEC. 6055. APPLICABILITY OF ADMINISTRATIVE RES JUDICATA; RELATED NOTICE REQUIREMENTS.

(a) IN GENERAL.—

(1) TITLE II.—Section 205(b) of the Social Security Act (42 U.S.C 405(b)) is amended by adding at the end the following new paragraph:

"(3)(A) A failure to timely request review of an initial adverse determination with respect to an application for any benefit under this title or an adverse determination on reconsideration of such an initial determination shall not serve as a basis for denial of a subsequent application for any benefit under this title if the applicant demonstrates that the applicant, or any other individual referred to in paragraph (1), failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information, relating to the consequences of reapplying for benefits in lieu of seeking review of an adverse determination, provided by any officer or employee of the Social Security Administration or any State agency acting under section 221.

"(B) In any notice of an adverse determination with respect to which a review may

be requested under paragraph (1), the Secretary shall describe in clear and specific language the effect on possible entitlement to benefits under this title of choosing to reapply in lieu of requesting review of the determination.".

(2) TITLE XVI.—Section 1631(c)(1) (42 U.S.C 1383(c)(1)) is amended—

(A) by inserting "(A)" after "(c)(1)"; and

(B) by adding at the end the following:

"(B)(A) A failure to timely request review of an initial adverse determination with respect to an application for any payment under this title or an adverse determination on reconsideration of such an initial determination shall not serve as a basis for denial of a subsequent application for any payment under this title if the applicant demonstrates that the applicant, or any other individual referred to in paragraph (1), failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information, relating to the consequences of reapplying for payments in lieu of seeking review of an adverse determination, provided by any officer or employee of the Social Security Administration.

"(B) In any notice of an adverse determination with respect to which a review may be requested under paragraph (1), the Secretary shall describe in clear and specific language the effect on possible entitlement to payments under this title of choosing to reapply in lieu of requesting review of the determination.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to adverse determinations made on or after January 1, 1991.

SEC. 6056. DEMONSTRATION PROJECTS RELATING TO ACCOUNTABILITY FOR TELEPHONE SERVICE CENTER COMMUNICATIONS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall develop and carry out demonstration projects designed to implement the accountability procedures described in subsection (b) in each of not fewer than 3 telephone service centers operated by the Social Security Administration. Telephone service centers shall be selected for implementation of the accountability procedures as they would operate in conjunction with the service technology most recently employed by the Social Security Administration. Each such demonstration project shall commence not later than 180 days after the date of the enactment of this Act and shall remain in operation for not less than 1 year and not more than 3 years.

(b) ACCOUNTABILITY PROCEDURES.—

(1) IN GENERAL.—During the period of each demonstration project developed and carried out by the Secretary of Health and Human Services with respect to a telephone service center pursuant to subsection (a), the Secretary shall provide for the application at such telephone service center of accountability procedures consisting of the following:

(A) In any case in which a person communicates with the Social Security Administration by telephone at such telephone service center and provides in such communication his or her name, address, and such other identifying information as the Secretary determines necessary and appropriate for purposes of this subparagraph, the Secretary must thereafter promptly provide such person a written receipt which sets forth—

(i) the name of any individual representing the Social Security Administration with whom such person has spoken in such communication,

(ii) the date of the communication,

(iii) a description of the nature of the communication,

(iv) any action that an individual representing the Social Security Administration has indicated in the communication will be taken in response to the communication, and

(v) a description of the information or advice offered in the communication by an individual representing the Social Security Administration.

(B) Such person must be notified during the communication by an individual representing the Social Security Administration that, if adequate identifying information is provided to the Administration, a receipt described in subparagraph (A) will be provided to such person.

(C) A copy of any receipt required to be provided to any person under subparagraph (A) must be—

(i) included in the file maintained by the Social Security Administration relating to such person, or

(ii) if there is no such file, otherwise retained by the Social Security Administration in retrievable form until the end of the 5-year period following the termination of the project.

(2) EXCLUSION OF CERTAIN ROUTINE TELEPHONE COMMUNICATIONS.—The Secretary may exclude from demonstration projects carried out pursuant to this section routine telephone communications which do not relate to potential or current eligibility or entitlement to benefits.

(c) REPORT.—

(1) IN GENERAL—The Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report on the progress of the demonstration projects conducted pursuant to this section, together with any related data and materials which the Secretary may consider appropriate. The report shall be submitted not later than 90 days after the termination of the project.

(2) SPECIFIC MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall—

(A) assess the costs and benefits of the accountability procedures,

(B) identify any major difficulties encountered in implementing the demonstration project, and

(C) assess the feasibility of implementing the accountability procedures on a national basis.

SEC. 6057. TELEPHONE ACCESS TO THE SOCIAL SECURITY ADMINISTRATION.

(a) REQUIRED MINIMUM LEVEL OF ACCESS TO LOCAL OFFICES.—In addition to such other access by telephone to offices of the Social Security Administration as the Secretary of Health and Human Services may consider appropriate, the Secretary shall maintain access by telephone to local offices of the Social Security Administration at the level of access generally available as of September 30, 1989.

(b) TELEPHONE LISTINGS.—The Secretary shall make such requests of local telephone utilities in the United States as are necessary to ensure that the listings subsequently maintained and published by such utilities for each locality include the address and telephone number for each local office of the Social Security Administration to which direct telephone access is maintained under subsection (a) in such locality. Such listing may also include information concerning the availability of a toll-free number which may be called for general information.

(c) REPORT BY SECRETARY.—Not later than January 1, 1993, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report which—

(1) assesses the impact of the requirements established by this section on the Social Security Administration's allocation of resources, workload levels, and service to the public, and

(2) presents a plan for using new, innovative technologies to enhance access to the Social Security Administration, including access to local offices.

(d) GAO REPORT.—Not later than 90 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate describing the level of telephone access by the public to the local offices of the Social Security Administration.

(e) EFFECTIVE DATE.—Subsections (a) and (b) shall take effect on April 1, 1991.

SEC. 6058. AMENDMENTS RELATING TO SOCIAL SECURITY ACCOUNT STATEMENTS.

(a) IN GENERAL.—Section 1142 of the Social Security Act (42 U.S.C. 1320b-13), as added by section 10308 of the Omnibus Budget Reconciliation Act of 1989 (103 Stat. 2485), is amended—

(1) by striking "sec. 1142." and inserting "sec. 1143."; and

(2) in subsection (c)(2), by striking " a biennial" and inserting "an annual".

(b) DISCLOSURE OF ADDRESS INFORMATION BY INTERNAL REVENUE SERVICE TO SOCIAL SECURITY ADMINISTRATION.—

(1) IN GENERAL.—Section 6103(m) of the Internal Revenue Code of 1986 (relating to disclosure of taxpayer identity information) is amended by adding at the end the following new paragraph:

"(7) SOCIAL SECURITY ACCOUNT STATEMENT FURNISHED BY SOCIAL SECURITY ADMINISTRATION.—Upon written request by the Commissioner of Social Security, the Secretary may disclose the mailing address of any taxpayer who is entitled to receive a social security account statement pursuant to section 1143(c) of the Social Security Act, for use only by officers, employees or agents of the Social Security Administration for purposes of mailing such statement to such taxpayer.".

(2) SAFEGUARDS.—Section 6103(p)(4) of such Code (relating to safeguards) is amended, in the matter following subparagraph (f)(iii), by striking "subsection (m)(2), (4), or (6)" and inserting "paragraph (2), (4), (6), or (7) of subsection (m)".

(3) UNAUTHORIZED DISCLOSURE PENALTIES.—Paragraph (2) of section 7213(a) of such Code (relating to unauthorized disclosure of returns and return information) is amended by striking "(m)(2), (4), or (6)" and inserting "(m)(2), (4), (6), or (7)".

SEC. 6059. TRIAL WORK PERIOD DURING ROLLING FIVE-YEAR PERIOD FOR ALL DISABLED BENEFICIARIES.

(a) IN GENERAL.—Section 222(c)(42 U.S.C. 422(c)) is amended—

(1) in paragraph (4)(A), by striking ", beginning on or after the first day of such period," and inserting "in any period of 60 consecutive months,"; and

(2) by striking paragraph (5).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1992.

SEC. 6060. CONTINUATION OF BENEFITS ON ACCOUNT OF PARTICIPATION IN A NON-STATE VOCATIONAL REHABILITATION PROGRAM.

(a) IN GENERAL.—Section 225(b) (42 U.S.C. 425(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) such individual is participating in an approved program of vocational rehabilitation services, and"; and

(2) in paragraph (2), by striking "Commissioner of Social Security" and inserting "Secretary".

(b) PAYMENTS AND PROCEDURES.—Section 1631(a)(6) (42 U.S.C. 1383(a)(6)) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) such individual is participating in an approved program of vocational rehabilitation services, and"; and

(2) in subparagraph (B), by striking "Commissioner of Social Security" and inserting "Secretary".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to benefits payable for months after the eleventh month following the month in which this Act is enacted and shall apply only with respect to individuals whose blindness or disability has or may have ceased after such eleventh month, as determined by the Secretary of Health and Human Services.

SEC. 6061. LIMITATION ON NEW ENTITLEMENT TO SPECIAL AGE-72 PAYMENTS.

(a) IN GENERAL.—Section 228(a)(2) (42 U.S.C. 428(a)(2)) is amended by striking "(B)" and inserting "(B)(i) attained such age after 1967 and before 1972, and (ii)".

(b) EFFECTIVE DATE—.The amendment made by subsection (a) shall apply with respect benefits payable on the basis of applications filed after the date of the enactment of this Act.

SEC. 6062. ELIMINATION OF ADVANCED CREDITING TO THE TRUST FUNDS OF SOCIAL SECURITY PAYROLL TAXES AND REVENUES FROM TAXATION OF SOCIAL SECURITY BENEFITS.

(a) IN GENERAL.—Section 201(a) (42 U.S.C. 401(a)) is amended—

(1) in the first sentence following clause (4)—

(A) by striking "monthly on the first day of each calendar month" both places it appears and inserting "from time to time";

(B) by striking "to be paid to or deposited into the Treasury during such month" and inserting "paid to or deposited into the Treasury"; and

(2) in the last sentence, by striking "Fund;" and inserting "Fund. Notwithstanding the preceding sentence, in any month for which the Secretary of the Treasury determines that the assets of either such Trust Fund would otherwise be inadequate to meet such Fund's obligations, the Secretary of the Treasury shall transfer to such Trust Fund on the first day of such month the amount which would have been transferred to such Fund under this section as in effect on October 1, 1990; and".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on the first day of the month following the month in which this Act is enacted.

SEC. 6063. ELIMINATION OF ELIGIBILITY FOR RETROACTIVE BENEFITS FOR CERTAIN INDIVIDUALS ELIGIBLE FOR REDUCED BENEFITS.

(a) IN GENERAL.—Section 202(j)(4) (42 U.S.C. 402(j)(4)) is amended—

(1) in subparagraph (A), by striking "if the effect" and all that follows and inserting "if the amount of the monthly benefit to which such individual would otherwise be entitled for any such month would be subject to reduction pursuant to subsection (q).."; and

(2) in subparagraph (B), by striking clauses (i) and (iv) and by redesignating clauses (ii), (iii), and (v) as clauses (i), (ii), and (iii), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to applications for benefits filed on or after January 1, 1991.

SEC. 6064. CONSOLIDATION OF OLD METHODS OF COMPUTING PRIMARY INSURANCE AMOUNTS.

(a) CONSOLIDATION OF COMPUTATION METHODS.—

(1) IN GENERAL.—Section 215(a)(5) (42 U.S.C. 415(a)(5)) is amended—

(A) by striking "For purposes of" and inserting "(A) Subject to subparagraphs (B), (C), (D) and (E), for purposes of";

(B) by striking the last sentence; and

(C) by adding at the end the following new subparagraphs:

"(B)(i) Subject to clauses (ii), (iii), and (iv), and notwithstanding any other provision of law, the primary insurance amount of any individual described in subparagraph (C) shall be, in lieu of the primary insurance amount as computed pursuant to any of the provisions referred to in subparagraph (D), the primary insurance amount computed under subsection (a) of section 215 as in effect in December 1978, without regard to subsection (b)(4) and (c) of such section as so in effect.

"(ii) The computation of a primary insurance amount under this subparagraph shall be subject to section 104(j)(2) of the Social Security Amendments of 1972 (relating to the number of elapsed years under section 215(b)).

"(iii) In computing a primary insurance amount under this subparagraph, the dollar amount specified in paragraph (3) of section 215(a) (as in effect in December 1978) shall be increased to $11.50.

"(iv) In the case of an individual to whom section 215(d) applies, the primary insurance amount of such individual shall be the greater of—

"(I) the primary insurance amount computed under the preceding clauses of this subparagraph, or "(II) the primary insurance amount computed under section 215(d).

"(C) An individual is described in this subparagraph if—

"(i) paragraph (1) does not apply to such individual by reason of such individual's eligibility for an old-age or disability insurance benefit, or the individual's death, prior to 1979, and

"(ii) such individual's primary insurance amount computed under this section as in effect immediately before the date of the enactment of the Omnibus Budget Reconciliation Act of 1990 would have been computed under the provisions described in subparagraph (D).

"(D) The provisions described in this subparagraph are—

"(i) the provisions of this subsection as in effect prior to the enactment of the Social Security Amendments of 1965, if such provisions would preclude the use of wages prior to 1951 in the computation of the primary insurance amount,

"(ii) the provisions of section 209 as in effect prior to the enactment of the Social Security Act Amendments of 1950, and

"(iii) the provisions of section 215(d) as in effect prior to the enactment of the Social Security Amendments of 1977.

"(E) For purposes of this paragraph, the table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be revised as provided by subsection (i) for each year after 1978.".

(2) COMPUTATION OF PRIMARY INSURANCE BENEFIT UNDER 1939 ACT.—

(A) DIVISION OF WAGES BY ELAPSED YEARS.—Section 215(d)(1) (42 U.S.C. 415(d)(1)) is amended—

(i) in subparagraph (A), by inserting "and subject to section 104(j)(2) of the Social Security Amendments of 1972" after "thereof"; and

(ii) by striking "(B) For purposes" in subparagraph (B) and all that follows through clause (ii) of such subparagraph and inserting the following:

"(B) For purposes of subparagraphs (B) and (C) of subsection (b)(2) (as so in effect)—

"(i) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual—

"(I) shall, in the case of an individual who attained age 21 prior to 1950, be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after the year in which the individual attained age 20, or 1936 if later, and prior to the earlier of the year of death or 1951, except that such divisor shall not include any calendar year entirely included in a period of disability, and in no case shall the divisor be less than one, and

"(II) shall, in the case of an individual who died before 1950 and before attaining age 21, be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after the second year prior to the year of death, or 1936 if later, and prior to the year of death, and in no case shall the divisor be less than one; and

"(ii) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual who either attained age 21 after 1949 or died after 1949 before attaining age 21, shall be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after 1949 and prior to 1951.".

(B) CREDITING OF WAGES TO YEARS.—Clause (iii) of section 215(d)(1)(B) (42 U.S.C. 415(d)(1)(B)(iii)) is amended to read as follows:

"(iii) if the quotient exceeds $3,000, only $3,000 shall be deemed to be the individual's wages for each of the years which were used in computing the amount of the divisor, and the remainder of the individual's total wages prior to 1951 (I) if less than $3,000, shall be deemed credited to the computation base year (as defined in subsection (b)(2) as in effect in December 1977) immediately preceding the earliest year used in computing the amount of the divisor, or (II) if $3,000 or more, shall be deemed credited, in $3,000 increments, to the computation base year (as so defined) immediately preceding the earliest year used in computing the amount of the divisor and to each of the computation base years (as so defined) consecutively preceding that year, with any remainder less than $3,000 being credited to the computation base year (as so defined) immediately preceding the earliest year to which a full $3,000 increment was credited; and".

(C) APPLICABILITY.—Section 215(d) is further amended—

(i) in paragraph (2)(B), by striking "except as provided in paragraph (3),";

(ii) by striking paragraph (2)(C) and inserting the following:

"(C)(i) who becomes entitled to benefits under section 202(a) or 223 or who dies, or

"(ii) whose primary insurance amount is required to be recomputed under paragraph (2), (6), or (7) of subsection (f) or under section 231."; and

(iii) by striking paragraphs (3) and (4).

(3) CONFORMING AMENDMENTS.—

(A) Section 215(i)(4) (42 U.S.C. 415(i)(4)) is amended in the first sentence by inserting "and as amended by section 6064 of the Omnibus Budget Reconciliation Act of 1990" after "as then in effect".

(B) Section 203(a)(8) (42 U.S.C. 403(a)(8)) is amended in the first sentence by inserting "and as amended by section 6064 of the Omnibus Budget Reconciliation Act of 1990," after "December 1978" the second place it appears.

(C) Section 215(c) (42 U.S.C. 415(c)) is amended by striking "This" and inserting "Subject to the amendments made by section 6064 of the Omnibus Budget Reconciliation Act of 1990, this".

(D) Section 215(f)(7) (42 U.S.C. 415(f)(7)) is amended by striking the period at the end of the first sentence and inserting ", including a primary insurance amount computed under any such subsection whose operation is modified as a result of the amendments made by section 6064 of the Omnibus Budget Reconciliation Act of 1990".

(E)(i) Section 215(d) (42 U.S.C. 415(d)) is further amended by redesignating paragraph (5) as paragraph (3).

(ii) Subsections (a)(7)(A), (a)(7)(C)(ii), and (f)(9)(A) of section 215 of such Act (42 U.S.C. 415) are each amended by striking "subsection (d)(5)" each place it appears and inserting "subsection (d)(3)".

"(iii) Section 215(f)(9)(B) (42 U.S.C. 415(f)(9)(B)) is amended by striking "subsection (a)(7) or (d)(5)" each place it appears and inserting "subsection (a)(7) or (d)(3)".

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply with respect to the computation of the primary insurance amount of any insured individual in any case in which a person becomes entitled to benefits under section 202 or 223 on the basis of such insured individual's wages and self-employment income for months after the 18-month period following the month in which this Act is enacted, except that such amendments shall not apply if any person is entitled to benefits based on the wages and self-employment income of such insured individual for the month preceding the initial month of such person's entitlement to such benefits under section 202 or 223.

(B) RECOMPUTATIONS.—The amendments made by this subsection shall apply with respect to any primary insurance amount upon the recomputation of such primary insurance amount if such recomputation is first effective for monthly benefits for months after the 18-month period following the month in which this Act is enacted.

(b) BENEFITS IN CASE OF VETERANS.—Section 217(b) (42 U.S.C. 417(b)) is amended—

(1) in the first sentence of paragraph (1), by striking "Any" and inserting "Subject to paragraph (3), any"; and

(2) by adding at the end the following new paragraph:

"(3)(A) The preceding provisions of this subsection shall apply for purposes of determining the entitlement to benefits under section 202, based on the primary insurance amount of the deceased World War II veteran, of any surviving individual only if such surviving individual makes application for such benefits before the end of the 18-month period after the month in which the Omnibus Budget Reconciliation Act of 1990 was enacted.

"(B) Subparagraph (A) shall not apply if any person is entitled to benefits under section 202 based on the primary insurance amount of such veteran for the month preceding the month in which such application is made.".

(c) APPLICABILITY OF ALTERNATIVE METHOD FOR DETERMINING QUARTERS OF COVERAGE WITH RESPECT TO WAGES IN THE PERIOD FROM 1937 TO 1950.—

(1) APPLICABILITY WITHOUT REGARD TO NUMBER OF ELAPSED YEARS.—Section 213(c) (42 U.S.C. 413(c)) is amended—

(A) by inserting "and 215(d)" after "214(a)"; and

(B) by striking "except where—" and all that follows and inserting the following: "except where such individual is not a fully insured individual on the basis of the number of quarters of coverage so derived plus the number of quarters of coverage derived from the wages and self-employment income credited to such individual for periods after 1950.".

(2) APPLICABILITY WITHOUT REGARD TO DATE OF DEATH.—Section 155(b)(2) of the Social Security Amendments of 1967 is amended by striking "after such date".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply only with respect to individuals who—

(A) make application for benefits under section 202 of the Social Security Act after the 18-month period following the month in which this Act is enacted, and

(B) are not entitled to benefits under section 227 or 228 of such Act for the month in which such application is made.

SEC. 6065. SUSPENSION OF DEPENDENT'S BENEFITS WHEN THE WORKER IS IN AN EXTENDED PERIOD OF ELIGIBILITY.

(a) IN GENERAL.—Section 223(e) (42 U.S.C. 623(e)) is amended by—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following new paragraph:

"(2) No benefit shall be payable under section 202 on the basis of the wages and self-employment income of an individual entitled to a benefit under subsection (a)(1) of this section for any month for which the benefit of such individual under subsection (a)(1) is not payable under paragraph (1).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to benefits for months after the date of the enactment of this Act.

Subtitle B—Medicare

PART 1—PROVISIONS RELATING ONLY TO PART A

SEC. 6101. REDUCTIONS IN PAYMENTS FOR CAPITAL-RELATED COSTS OF INPATIENT HOSPITAL SERVICES.

(a) IN GENERAL.—Section 1886(g)(3)(A)(v) (42 U.S.C. 1395ww(g)(3)(A)(v)) is amended by striking "September 30, 1990" and inserting "September 30, 1991, and by 10 percent for payments attributable to portions of cost reporting periods or discharges (as the case may be) occurring during the period beginning October 1, 1991 and ending September 30, 1995."

(b) EXEMPTION FOR RURAL PRIMARY CARE HOSPITALS.—Section 1886(g)(3)(B) (42 U.S.C. 1395ww(g)(3)(B)) is amended by striking "1886(d)(5)(D)(iii))." and inserting "1886(d)(5)(D)(iii) or a rural primary care hospital (as defined in subsection (mm)(1))."

(c) PROSPECTIVE PAYMENT FOR CAPITAL.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)) is amended—

(1) by inserting at the end of subparagraph (A) the following: "Payment under such system shall be determined in a manner that assures that the expected aggregate payments for such capital-related costs for discharges occurring during fiscal year 1992 are not greater or less than those that would have been made for portions of cost reporting periods occurring during fiscal year 1992, taking into account the reductions specified in paragraph (3)(A)(v)."; and

(2) by inserting after subparagraph (B)(iv) the following sentence: "Notwithstanding clause (i), such system may provide for continuation of payment for fixed capital on a reasonable cost basis, subject to reductions in paragraph (3)(A)(v).".

SEC. 6102. PROSPECTIVE PAYMENT HOSPITALS.

(a) CHANGES IN HOSPITAL UPDATE FACTORS.—

(1) IN GENERAL.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(A) by striking "and" at the end of subclause (V);

(B) in subclause (VI)—

(i) by striking "1991" and inserting "1994", and

(ii) by redesignating such subclause as subclause (IX); and

(C) by inserting after subclause (V) the following new subclauses:

"(VI) for fiscal year 1991, the market basket percentage increase minus 2.0 percentage points for hospitals in all areas,

"(VII) for fiscal year 1992, the market basket percentage increase minus 1.5 percentage points for hospitals in all areas,

"(VIII) for fiscal year 1993, the market basket percentage increase minus 1.4 percentage points for hospitals in all areas, and".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to payments for discharges occurring on or after January 1, 1991.

(b) PHASE-OUT OF SEPARATE AVERAGE STANDARDIZED AMOUNTS.—

(1) IN GENERAL.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)), as amended by subsection (a)(1), is further amended—

(A) in subclause (VI), by striking "in all areas," and inserting "in a large urban or other urban area, and the market basket percentage increase for hospitals located in a rural area,";

(B) in subclause (VII), by striking "in all areas," and inserting "in a large urban or other urban area, and the market basket percentage increase for hospitals located in a rural area,";

(C) in subclause (VIII), by striking "in all areas, and" and inserting "in a large urban or other urban area, and the market basket percentage increase for hospitals located in a rural area,";

(D) in subclause (IX)—

(i) by striking "1994" and inserting "1995", and

(ii) by redesignating such subclause as subclause (X); and

(E) by inserting after subclause (VIII) the following new subclause:

"(IX) for fiscal year 1994, the market basket percentage increase for hospitals located in a large urban or other urban area, and such percentage increase for hospitals located in a rural area as will provide for a reduction of ½ (compared to fiscal year 1993) in the percentage difference between the average standardized amount deter-

mined under subsection (d)(3)(A) for hospitals located in an urban area (other than a large urban area) and such average standardized amount for hospitals located in a rural area,".

(2) CONFORMING AMENDMENTS.—Section 1886(d) (42 U.S.C. 1395ww(d)) is amended in paragraph (3)(A)—

(A) in clause (ii), by striking "the Secretary" and inserting "and ending on or before September 30, 1994, the Secretary",

(B) by redesignating clause (iii) as clause (iv), and

(C) by inserting after clause (ii) the following new clause:

"(iii) (I) For discharges occurring in the fiscal year beginning on October 1, 1994, the average standardized amount for hospitals located in a rural area shall equal the average standardized amount for hospitals located in an other urban area.

"(II) For discharges occurring in a fiscal year beginning on or after October 1, 1995, the Secretary shall compute an average standardized amount for hospitals located in a large urban area and for hospitals located in other areas within the United States and within each region equal to the respective average standardized amount computed for the previous fiscal year under this subparagraph increased by the applicable percentage increase under subsection (b)(3)(B)(i) with respect to hospitals located in the respective areas for the fiscal year involved.";

(D) in paragraph (3)(B), by striking "for hospitals located in an urban area and for hospitals located in a rural area" and by striking "for hospitals located in such respective area";

(E) in paragraph (3)(D)(i)—

(i) in the matter preceding subclause (I), by striking "an urban area (or," and all that follows through "area)," and inserting "a large urban area, and

(ii) in subclause (I), by striking "an urban area" and inserting "a large urban area"; and

(F) in paragraph (3)(D)(ii), by striking "a rural area" each place it appears and inserting "other areas".

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to payments for discharges occurring on or after January 1, 1991, and the amendments made by paragraph (2) shall apply to payments for discharges occurring on or after October 1, 1994.

(c) PHASE-IN OF AREA WAGE INDEX UPDATE FOR FISCAL YEAR 1991.—

(1) AREA WAGE INDEX.—Subject to the last sentence of section 1886(d)(3)(E) of the Social Security Act, for purposes of determining the amount of payment made to a hospital under part A of title XVIII of the Social Security Act for the operating costs of inpatient hospital services, the Secretary of Health and Human Services, in adjusting such amount under such section to reflect the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage index, shall—

(A) for discharges occurring during fiscal year 1991, apply a combined area wage index consisting of—

(i) 75 percent of the area wage index determined using the survey of the 1988 wages and wage-related costs of hospitals in the United States conducted under such section, and

(ii) 25 percent of the area wage index applicable to the hospital for discharges occurring during fiscal year 1990, as determined using the survey of the 1984 wages and wage-related costs of hospitals in the United States conducted under such section; and

(B) for discharges occurring during fiscal year 1992 and fiscal year 1993, apply the area wage index otherwise applicable to the hospital under such section for discharges occurring during such fiscal year.

(2) STUDY OF HOSPITAL OCCUPATIONAL MIX AND WAGE INDEX COMPUTATION.—The Prospective Payment Assessment Commission (hereinafter referred to as the "Commission") shall examine State level and other available data measuring earnings and paid hours of employment by occupational category of workers employed by hospitals. The examination shall include analysis of the impact of variation in occupational mix on the computation of the area wage index (as computed under section 1886 (d)) of the Social Security Act. Based on the findings of this analysis, the Commission shall include in its March 1991 report recommendations regarding the feasibility and desirability of modifying the wage index computation to take into account occupational mix. In considering alternative computations or adjustments to the wage index, the Commission shall examine and take into account variation in occupational mix resulting from differences in State codes and requirements.

SEC. 6103. REDUCTION IN INDIRECT MEDICAL EDUCATION PAYMENTS.

(a) INDIRECT MEDICAL EDUCATION PAYMENTS REDUCED.—

(1) Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(A) in subclause (I), by striking "1.89" and inserting in lieu thereof "1.68"; and

(B) in subclause (II), by striking "1.43" and inserting in lieu thereof "1.28".

(2) Section 1886(d)(3)(C)(ii) (42 U.S.C. 1395ww(d)(3)(C)(ii)) is amended—

(A) in subclause (I)—

(i) by striking "1985 and" and inserting in lieu thereof "1985,", and

(ii) by inserting "and by section 6103 of the Omnibus Budget Reconciliation Act of 1990" after "1987"; and

(B) in subclause (II)—

(i) by striking "1985 and" and inserting in lieu thereof "1985,", and

(ii) by inserting "and by section 6103 of the Omnibus Budget Reconciliation Act of 1990" after "1987".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for discharges occurring on or after January 1, 1991.

SEC. 6104. PPS EXEMPT HOSPITALS.

(a) DEADLINES FOR REVIEW AND DECISION.—(1) Section 1816(f) (42 U.S.C. 1395h(f)) is amended—

(A) by striking "(1)" and "(2)" and inserting "(A)" and "(B)";

(B) by striking "(f)" and inserting "(f)(1)"; and

(C) by striking "Such standards and criteria" and all that follows and inserting the following:

"(2) The standards and criteria established under paragraph (1) shall include—

"(A) with respect to claims for services furnished under this part by any provider of services other than a hospital—

"(i) whether such agency or organization is able to process 75 percent of reconsiderations within 60 days (except in the case of fiscal year 1989, 66 percent of reconsiderations) and 90 percent of reconsiderations within 90 days, and

"(ii) the extent to which such agency or organization's determinations are reversed on appeal; and

"(B) with respect to applications for a recojsideration of the target amount applicable under section 1886(b) to a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B))—

"(i) if such agency or organization receives a completed application, whether such agency or organization is able to process such application not later than 60 days after the application is filed, and

"(ii) if such agency or organization receives an incomplete application, whether such agency or organization is able to return the application with instructions on how to complete the application not later than 60 days after the application is filed.".

(2) Section 1886(b)(4)(A) (42 U.S.C. 1395ww(b)(4)(A)) is amended by adding at the end the following new sentence: "The Secretary shall announce a decision on any request for an exemption, exception, or adjustment under this paragraph not later than 180 days after receiving a completed application for such exemption, exception, or adjustment, and shall include in such decision a detailed explanation of the grounds on which such request was approved or denied.".

(b) STANDARDS FOR ASSIGNMENT OF NEW BASE PERIOD.—Section 1886(b)(4) (42 U.S.C. 1395ww(b)(4)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) In determining under subparagraph (A) whether to assign a new base period which is more representative of the reasonable and necessary cost to a hospital of providing inpatient services, the Secretary shall take into consideration—

"(i) changes in applicable technologies, medical practices, or case mix severity that increase the hospital's costs;

"(ii) whether increases in wages and wage-related costs in the geographic area in which the hospital is located substantially exceed the average of the increases in such costs paid by hospitals in the United States; and

"(iii) such other factors as the Secretary considers appropriate in determining increases in the hospital's costs of providing inpatient services.".

(c) GUIDANCE TO INTERMEDIARIES AND HOSPITALS.—The Administrator of the Health Care Financing Administration shall provide guidance to agencies and organizations performing functions pursuant to section 1816 of the Social Security Act and to hospitals that are not subsection (d) hospitals (as defined in section 1886(d)(1)(B) of such Act) to assist such agencies, organizations, and hospitals in filing complete applications with the Administrator for exemptions, exceptions, and adjustments under section 1886(b)(4)(A) of such Act.

(d) EFFECTIVE DATES.—The amendments made by subsection (a) shall take effect on the effective date of the next regular publication of such standards, and the amendments made by subsections (b) and (c) shall take effect upon enactment of this Act.

SEC. 6105. EXPANSION OF HOSPICE BENEFIT.

(a) IN GENERAL.—Section 1812 (42 U.S.C. 1395d) is amended—

(1) in subsection (a)(4), by striking "90 days each" and all that follows through "with respect to" and inserting the following: "90 days each, a subsequent period of 30 days, and a subsequent extension period with respect to"; and

(2) in subsection (d)—

(A) in paragraph (1), by striking "90 days each" and all that follows through "lifetime" and inserting the following: "90 days each, a subsequent period of 30 days, and a subsequent extension period during the individual's lifetime", and

(B) in paragraph (2)(B), by striking "a 90- or 30-day period," and inserting "a 90- or 30-day period or a subsequent extension period,".

(b) CONFORMING AMENDMENT.—Section 1814(a)(7)(A) (42 U.S.C. 1395f(a)(7)(A)) is amended—

(1) in clause (i), by striking "and" at the end;

(2) in clause (ii), by striking the semicolon at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(iii) in a subsequent extension period, the medical director or physician described in clause (i)(II) recertifies at the beginning of the period that the individual is terminally ill;".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to care and services furnished on or after January 1, 1990.

SEC. 6106. MISCELLANEOUS AND TECHNICAL AMENDMENTS RELATING TO PART A.

(a) EXTENSIONS OF WAIVERS OF LIABILITY FOR SKILLED NURSING FACILITIES AND HOSPICES.—

(1) SKILLED NURSING FACILITIES.—The second sentence of section 9126(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking "October 31, 1990" and inserting "December 31, 1995".

(2) HOSPICES.—Section 9305(f)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "November 1, 1990" and inserting "December 31, 1995".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect on the date of the enactment of this Act.

(b) DESIGNATIONS OF CERTAIN HOSPITALS AS RURAL PRIMARY CARE HOSPITALS.—

(1) PRIORITY IN DISCRETIONARY DESIGNATIONS GIVEN TO HOSPITALS AFFILIATED WITH A RURAL HEALTH NETWORK IN A PARTICIPATING STATE.—Section 1820(i)(2)(C) (42 U.S.C. 1395i-4(i)(2)(C)) is amended by adding at the end the following new sentence: "In designating facilities as rural primary care hospitals under this subparagraph, the Secretary shall give preference to facilities that have entered into an agreement described in subsection (g)(2) with a rural health network located in a State receiving a grant under subsection (a)(1).".

(2) ELIGIBILITY OF CERTAIN CLOSED HOSPITALS.—Section 1820(f)(1)(B) (42 U.S.C. 1395i-4(f)(1)(B)) is amended by striking "hospital," and inserting the following: "hospital (or, in the case of a facility that closed during the 12-month period that ends on the date the facility applies for such designation, at the time the facility closed),".

(3) ELIGIBILITY OF OTHER FACILITIES AS RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(1)(F) (42 U.S.C. 1395i-4(f)(1)(F)) is amended by inserting before the period at the end ", or meets such substitute criteria limiting the number of inpatient beds and the hours of inpatient care as the State may impose with the approval of the Secretary".

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1), (2), and (3) shall take effect on the date of the enactment of this Act.

(c) RESPONSIBILITIES AND REPORTING REQUIREMENTS OF PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.—Section 1886 (42 U.S.C. 1395ww) is amended—

(1) in subsection (d)(4)(D), by striking the last sentence;

(2) in subsection (e)(2)—

(A) by striking "recommendations to the Secretary" and inserting "recommendations to the Secretary and Congress";

(B) by inserting "(A)" after "(2)" and by adding at the end the following new subparagraphs:

"(B) In order to promote the efficient and effective delivery of high-quality health care services, the Commission shall, in addition to carrying out its functions under subsection (d)(4)(D) and subparagraph (A), study and make recommendations for each fiscal year to the Secretary and the Congress regarding changes in each existing reimbursement policy under this title under which payments to an institution are based upon prospectively determined rates and the development of new institutional reimbursement policies under this title, including recommendations relating to—

"(i) payments during such fiscal year under the prospective payment system established under this section for determining payments for the operating costs of inpatient hospital services, including changes in the number of diagnosis-related groups used to classify inpatient hospital discharges under subsection (d), adjustments to such groups to reflect severity of illness, and changes in the methods by which hospitals are reimbursed for capital-related costs; and

"(ii) additional payments made to hospitals under subsection (d), including payments made—

"(I) to hospitals located in large urban areas;

"(II) to hospitals located in rural areas, including regional referral centers and sole community hospitals;

"(III) for the indirect costs of medical education;

"(IV) for hospitals serving a disproportionate share of low-income patients; and

"(V) for discharges described in subsection (d)(5)(A).

"(C) The Commission, by not later than June 1 of each year (beginning with calendar year 1991), shall submit a report to the Congress examining the American health care system including issues related to—

"(i) trends in health care costs;

"(ii) the financial condition of hospitals including the level of payments made to hospitals under this title;

"(iii) trends in utilization of health care services; and

"(iv) new and innovative methods utilized by private employers and insurers to constrain growth in health care related costs.

"(D) The Commission shall include in its annual recommendations under subparagraph (B) recommendations on major revisions to the hospital payment system including revisions of the prospective payment system or other modifications to payment methods under this title for hospital outpatient services, and recommendations with regard to payments to hospitals exempt from the prospective payment system, to skilled nursing facilities, and for home health services.";

(3) in subsection (e)(3)(A) by striking the period at the end and inserting the following: ", together with any other recommendations under paragraph (2)(B) that are applicable to institutional reimbursements under this title in that fiscal year.";

(4) in subsection (e)(4)—

(A) by striking "(4)" and inserting "(4)(A)", and

(B) by adding at the end the following new subparagraph:

"(B) In addition to the recommendation made under subparagraph (A), the Secretary shall, taking into consideration the recommendations of the Commission under paragraph (2)(B), recommend for each fiscal year (beginning with fiscal year 1992) other appropriate changes in each existing reimbursement policy under this title under which payments to an institution are based upon prospectively determined rates.";

(5) in subsection (e)(5)—

(A) by striking "recommendation" each place it appears and inserting "recommendations", and

(B) by adding at the end the following new sentence: "To the extent that the Secretary's recommendations under paragraph (4) differ from the Commission's recommendations for that fiscal year, the Secretary shall include in the publication referred to in subparagraph (A) an explanation of the Secretary's grounds for not following the Commission's recommendations."; and

(6) in subsection (e)(6)(G) by striking clause (i) and by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

(d) PROPAC STUDY OF MEDICAID PAYMENTS TO HOSPITALS.—The Prospective Payment Assessment Commission (hereafter in this subsection referred to as the "Commission") shall conduct a study of hospital payment rates under State medicaid programs established under title XIX of the Social Security Act. The Commission shall specifically examine in such study the level of hospital reimbursement under title XIX programs, the relationship between these payments and payments made to hospitals under title XVIII of the Social Security Act, and the financial condition of affected hospitals, with particular attention to hospitals in urban areas which treat large numbers of title XIX recipients and other low-income individuals. By no later than October 1, 1991, the Commission shall submit a report to Congress on such study and shall include such recommendations as the Commission deems appropriate.

(e) UPDATE OF ROUTINE SERVICE COSTS OF SKILLED NURSING FACILITIES.—

(1) IN GENERAL.—Section 6024 of the Omnibus Budget Reconciliation Act of 1989 is amended by adding at the end the following new sentence: "The Secretary shall update such costs under such section for cost reporting periods beginning on or after October 1, 1989, by using cost reports submitted by skilled nursing facilities for cost reporting periods ending not earlier than January 31, 1988, and not later than December 31, 1988.".

(2) 2-YEAR UPDATES REQUIRED.—Section 1888(a) (42 U.S.C. 1395yy(a)) is amended by inserting before the period at the end of the matter following such subsection the following: ", and shall, for cost reporting periods beginning on or after October 1, 1992 and every 2 years thereafter, provide for an update to the per diem cost limits described in this subsection".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

(f) CLARIFICATION OF SECRETARIAL WAIVER AUTHORITY.—

(1) IN GENERAL.—Section 6003 of the Omnibus Budget Reconciliation Act of 1989 is amended by adding at the end the following:

"(k) CLARIFICATION OF WAIVER AUTHORITY.—The Secretary of Health and Human Services (in this subsection referred to as the

"Secretary") is authorized to waive such provisions of title XVIII of the Social Security Act as are necessary to conduct any demonstration project for limited-service rural hospitals with respect to which the Secretary has entered into an agreement before the date of the enactment of this Act.".

(2) NURSING HOME DEMONSTRATIONS.—Section 6901(d)(3)(B) of the Omnibus Budget Reconciliation Act of 1989 is amended to read as follows:

"(B) The Secretary may also waive the survey and certification requirements described in subparagraph (A) to the extent the Secretary determines is necessary to carry out a pilot demonstration project in Wisconsin and demonstration projects in other States (relating to testing an approved alternative survey and certification process) as part of a nursing home prospective case-mix payment demonstration project.".

(3) EFFECTIVE DATE.—The amendment made by paragraphs (1) and (2) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

(g) GEOGRAPHIC CLASSIFICATION REVIEW BOARD.—(1) For purposes of section 1886(d)(10)(C)(ii) (42 U.S.C. 1395ww(d)(10)(C)(ii)), an application of a subsection (d) hospital submitted to the Secretary under such clause shall be considered to have been submitted by the first day of the preceding fiscal year under such clause if it is submitted within 60 days of the date of publication of the guidelines described in subparagraph (D)(i) of such section.

(2) Section 1886(d)(10) is amended—

(A) in subparagraph (B)(i) by striking "representatives" and inserting "representative";

(B) in subparagraph (B)(i) by striking "1 member shall be a member of the Prospective Payment Assessment Commission, and at least"; and

(C) in subparagraph (C)(iii)(II) by striking the first two sentences and inserting in lieu thereof the following: "Appeal of decisions of the Board shall be subject to the provisions of 5 U.S.C. section 557b".

(h) REVIEW OF HOSPITAL REGULATIONS WITH RESPECT TO RURAL HOSPITALS.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Secretary of Health and Human Services shall review the requirements in regulations developed pursuant to section 1861(e) of the Social Security Act to determine which requirements could be made less administratively and economically burdensome for hospitals defined in section 1886(d)(1)(B) of the Social Security Act that are located in a rural area as defined in section 1886(d)(2)(D) of the Social Security Act without diminishing the quality of care provided by such hospitals to individuals entitled to receive benefits under part A of title XVIII of the Social Security Act. Such review shall specifically include standards related to staffing requirements.

(2) REPORT.—The Secretary of Health and Human Services shall report to Congress by April 1, 1992, on the results of the review conducted under subsection (a), and include conclusions on which regulations, if any, should be modified with respect to hospitals located outside a metropolitan statistical area as described in subsection (a).

(i) MEDICARE NURSING HOME REFORM PROVISIONS.—

(1) NURSE AIDE TRAINING AMENDMENTS.—

(A) NO COMPLIANCE ACTIONS BEFORE EFFECTIVE DATE OF FINAL REGULATIONS—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall not take (and shall not continue) any action against a State under section 1864 of the Social Security Act on the basis of the State's failure to meet the requirement of section 1819(e)(1)(A) of such Act before the effective date of final regulations, issued by the Secretary, establishing requirements under section 1819(f)(2)(A)(iv)(I) of such Act, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirement before such effective date.

(B) PART TIME NURSE AIDES NOT ALLOWED DELAY IN TRAINING.—Section 1819(b)(5)(A) (42 U.S.C. 1395i-3(b)(5)(A)) is amended—

(i) by striking ", temporary, per diem, or other";

(ii) by inserting "(i)" after "(A)";

(iii) by redesignating clauses "(i)" and "(ii)" as subclauses "(I)" and "(II)" respectively; and

(iv) by adding at the end the following:

"(ii) EXCEPTION.—A skilled nursing facility must not use on a temporary, per diem, or on any other than a full-time basis any individual as a nurse aide in the facility on or after October 1, 1990, unless the individual meets the requirements described in subclauses (I) and (II) of clause (i).".

(B) CLARIFICATION OF PERMISSIBLE CHARGES FOR TRAINING OF AIDES NOT YET EMPLOYED BY A FACILITY.—Section 1819(f)(2)(A)(iv)(II) (42 U.S.C. 1395i-3(f)(2)(A)(iv)(II)) is amended by striking "such program" and inserting "such program, except, that on accredited nonfacility based program may impose such charges on individuals who are not presently employed by a nursing facility or who have not yet had an offer for future employment at such a facility".

(C) NURSE AIDE REGISTRY.—

(i) IN GENERAL.—Section 1819(b)(5)(C) (42 U.S.C. 1395i-3(b)(5)(C)) is amended by adding at the end thereof the following new sentence: "In the case of an individual who a nursing facility is considering employing as a nurse aide and who the facility has reason to believe is from a State other than the State in which the facility is located, such a facility shall not use such an individual as a nurse aide unless the facility has inquired concerning such individual of the State registry established under subsection (e)(2)(A) of the State from which such facility has reason to believe such individual resided".

(ii) DEEMED AIDES TO BE INCLUDED ON REGISTRY.—Section 1819(e)(2)(A) (42 U.S.C. 1395i-3(e)(2)(A)) is amended by striking "individuals" and inserting "individuals (including those individuals deemed under section 6901 (b)(4) (B), (C), and (D) of the Omnibus Budget Reconciliation Act of 1989 to have satisfied the training and competency evaluation program requirements under this section)".

(2) MISCELLANEOUS AND TECHNICAL AMENDMENTS.—

(A) RESIDENT ACCESS TO CLINICAL RECORDS.—Section 1819(c)(1)(A)(iv) (42 U.S.C. 1395i-3(c)(1)(A)(iv)) is amended by inserting before the period at the end the following: "and access to current clinical records of the resident promptly upon reasonable request (as defined by the Secretary) by the resident or resident's legal representative".

(B) MAINTAINING REGULATORY STANDARDS FOR CERTAIN NURSING AND RELATED SERVICES.—The Secretary shall provide that any regulations promulgated by the Secretary with respect to nursing and related services described in clauses (ii), (iv), and (v) of section 1819(b)(4)(A) of the Social Security Act, are comparable or more strict in terms of requirements for such services that such regulations for such services were prior to the enactment of the Omnibus Budget Reconciliation Act of 1987.

(C) STUDY.—The Secretary shall conduct a study on the hiring and dismissal practices of nursing facilities with respect to social workers, dieticians, activities professionals, and medical records practitioners, and report to Congress by January 1, 1993, on whether facilities have on their staffs, persons with significantly different credentials as a result of new regulations that became effective October 1, 1990, and the impact of staff composition on quality of care.

(D) CLARIFICATION OF STATE RESPONSIBILITY TO DETERMINE COMPETENCY.—Section 1819(f)(2)(B) (42 U.S.C. 1395i-3(f)(2)(B)) is amended, in the second sentence, by inserting "(through subcontract or otherwise)" after "may not delegate".

(E) OMBUDSMAN PROGRAM COORDINATION WITH STATE MEDICAID AND SURVEY AND CERTIFICATION AGENCIES.—Section 1819(g)(5)(B) (42 U.S.C. 1395i-3(g)(5)(B)) is amended to read as follows:

"(B) NOTICE TO OMBUDSMAN.—Each State agency with an agreement with the Secretary under this section shall enter into a written agreement with the Office of the State Long-Term Care Ombudsman (as defined by the Older Americans Act), to provide for information exchange, case referral, and prompt notification of the office of any adverse action to be taken against a nursing facility.".

(F) ADDITIONAL REQUIREMENTS WITH RESPECT TO MEDICARE NURSE STAFFING WAIVERS.—Section 1819(b)(4)(C)(ii) (42 U.S.C. 1395i-3(b)(4)(C)(ii)) is amended by adding at the end thereof the following: "The Secretary shall provide notice of the waiver to the appropriate State and substate long-term care ombudsman, to the protection and advocacy system and other appropriate State and private agencies, and shall ensure that a nursing facility that is granted such a waiver is required to make reasonable efforts to notify present and prospective residents of the facility (or a guardian or legal representative of such residents) of the waiver.".

(G) STUDY ON STAFFING REQUIREMENTS IN SKILLED NURSING FACILITIES.—The Secretary shall conduct a study and report to Congress no later than January 1, 1992, on the appropriateness of establishing minimum caregiver to resident ratios and minimum supervisor to caregiver ratios for skilled nursing facilities receiving payments under title XVIII of the Social Security Act. If the Secretary determines that the establishment of such minimum ratios is advisable, the Secretary shall specify in the report provided for in this subsection appropriate ratios or standards.

(H) PERIOD FOR RESIDENT ASSESSMENT.—Section 1819(b)(3)(C)(i)(I) (42 U.S.C. 1395i-3(b)(3)(C)(i)(I)) is amended by striking "4 days" and inserting "14 days".

(I) QUALIFICATION OF MEDICARE FACILITIES TO PROVIDE NURSE AIDE TRAINING AND COMPETENCY EVALUATION.—Section 1819(f)(2) (42 U.S.C. 1395i-3(f)(2)) is amended—

(i) in subparagraph (B)(iii), by amending subclause (I) to read as follows:

"(I) offered by or in a skilled nursing facility described in subparagraph (C), or"; and

(ii) by adding after subparagraph (B) the following new subparagraph:

"(C) SKILLED NURSING FACILITIES INELIGIBLE TO OFFER PROGRAMS.—A skilled nursing facility shall be ineligible to offer a program under this paragraph—

"(i) if at any time on or after October 1, 1988, the Secretary or a State agency administering a program under title XIX terminated or terminates the facility's provider agreement under this title or title XIX, until after the end of a period of at least two years following reinstatement, during which period—

"(I) no survey or investigation finds any deficiencies warranting termination, and

"(II) at least one standard survey is conducted pursuant to subsection (g); or

"(ii) if the facility—

"(I) received a notice of termination of its provider agreement under this title or title XIX from the Secretary or a State agency at any time during the one-year period ending September 30, 1990; or

"(II) is found, pursuant to a standard survey or investigation under subsection (g) or section 1919(g), to have deficiencies resulting in a civil monetary penalty in excess of $5,000 denial of payment, or appointment of temporary management pursuant to subsection (h)(2)(B) or to section 1919(h)(2)(A), until after the completion of a subsequent standard survey under subsection (g) which finds no such deficiencies.".

(J) RETRAINING REQUIRED.—Section 1819(b)(5)(D) (42 U.S.C. 1395i-3(b)(5)(D)) is amended by inserting before the period the following: ", or a new competency evaluation program".

(K) CHARGES FOR NURSE AID TRAINING.—Section 1819(f)(2)(A)(iv) (42 U.S.C. 1395i-3(f)(2)(A)(iv)) is amended by adding the following at the end:

"(III) For individuals employed or under contract for employment as a nurse aide within 12 months after successful completion of a nonfacility-based, State-approved nurse aide training and competency evaluation program, the State must ensure that the costs incurred by such individuals for such programs are reimbursed to such individuals.".

(3) EFFECTIVE DATES.—The amendments made by this section shall take effect as if they were included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

(j) NO RESTANDARDIZING FOR RECENT ADJUSTMENTS.—

(1) ADJUSTMENTS UNDER OBRA 1989.—Section 1886(d)(2)(C)(iv) (42 U.S.C. 1395ww(d)(2)(C)(iv)) is amended by striking the period at the end and inserting the following: ", except that the Secretary shall not exclude additional payments under such paragraph made as a result of the enactment of section 6003(c) of the Omnibus Budget Reconciliation Act of 1989.".

(2) EFFECTIVE DATE.—The amendment made by subparagraph (D)(i) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

PART 2—PROVISIONS RELATING ONLY TO PART B

Subpart A—Payment for Physicians' Services

SEC. 6111. REDUCTION IN PAYMENTS FOR OVERVALUED PROCEDURES.

(a) PREVIOUSLY IDENTIFIED PROCEDURES.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end the following:

"(16)(A) In determining the reasonable charge for a physicians' service specified in paragraph (14)(C)(i) and furnished during 1991, the prevailing charge for such service shall not exceed the prevailing charge otherwise recognized for such service for the period during 1990 beginning on April 1, reduced by 15 percent or, if less, one-third of the percent (if any) by which such prevailing charge exceeds the locally-adjusted reduced prevailing amount (as determined under subparagraph (B)(i)) for the service.

"(B) For purposes of this paragraph:

"(i) The 'locally-adjusted reduced prevailing amount' for a locality for a physicians' service is equal to the product of—

"(I) the reduced national weighted average prevailing charge for the service (specified in clause (ii)), and

"(II) the adjustment factor (specified in clause (iii)) for the locality for the service.

"(ii) The 'reduced national weighted average prevailing charge' for a physicians' service is equal to the national weighted average prevailing charge for the service (specified in subparagraph (C)(i)) reduced by the percentage change (specified in subparagraph (C)(ii)) for the service.

"(iii) The 'adjustment factor' for a locality for a physicians' service is the sum of—

"(I) the practice expense component percent (divided by 100) for the service specified in paragraph (14)(B)(iii)(I), multiplied by the geographic practice cost index value specified for the locality in paragraph (14)(C)(iv), and

"(II) 1 minus the practice expense component percent (divided by 100) for the service, multiplied by the geographic work index value specified for the locality in Addendum C to the Model Fee Schedule for Physician Services (published on September 4, 1990, 55 Federal Register pp. 36238-36243).

"(C) For purposes of this paragraph:

"(i)(I) The 'national weighted average prevailing charge' specified in this clause, for a physicians' service specified in paragraph (14)(C)(i), is the national weighted average prevailing charge for the service in 1989 as determined by the Secretary using the best data available.

"(II) For purposes of determining the national weighted average prevailing charge for a service under subclause (I), the Secretary shall adjust the prevailing charge for the service for each locality by the adjustment factor (specified in subparagraph (B)(iii)) for that locality.

"(ii) The 'percent change' specified in this clause, for a physicians' service specified in clause (i), is the percent change specified in paragraph (14)(C)(iii).".

(b) UNSURVEYED SURGICAL AND TECHNICAL PROCEDURES.—Section 1842(b), as amended by subsection (a) (42 U.S.C. 1395u(b)), is further amended by adding at the end the following new paragraph:

"(17)(A) In determining the reasonable charge for all physicians' services other than physicians' services specified in subparagraph (B) furnished during 1991, the prevailing charge otherwise recognized for a locality shall be reduced by 4 percent.

"(B) For purposes of subparagraph (A), the physicians' services specified in this subparagraph are as follows:

"(i) Radiology, anesthesia and physician pathology services, and physicians' services specified in paragraph (14)(C)(i).

"(ii) Primary care services specified in subsection (i)(4), hospital inpatient medical services (HCPCS codes 90200 through 90292), consultations (HCPCS codes 90600 through 90654), preventive medicine visits (HCPCS codes 90750 through 90754), emergency care facility services (HCPCS codes 99062 through 99065), and critical care services (HCPCS codes 99160 through 99174).

"(iii) Partial, simple and subcutaneous mastectomy (HCPCS codes 19160 through 19180); tendon sheath injections and small joint arthrocentesis (HCPCS codes 20550 through 20610); femoral fracture and trochanteric fracture treatments (HCPCS codes 27230 through 27248); endotracheal intubation (HCPCS code 31500); thoracentesis (HCPCS code 32000); thoracostomy (HCPCS codes 32020 through 32036); lobectomy (HCPCS codes 32485 through 32490); aneurysm repair (HCPCS codes 35022 through 35111); enterectomy (HCPCS code 44115); colectomy (HCPCS code 44151); cholecystectomy (HCPCS code 47612); cystourethroscopy (HCPCS code 52340); transurethral fulguration and resection (HCPCS codes 52606 and 52620); sacral laminectomy (HCPCS code 63011); tympanoplasty with mastoidectomy (HCPCS codes 69643 and 69645); and ophthalmoscopy (HCPCS codes 92225, 92250, and 92260).".

SEC. 6112. RADIOLOGY SERVICES.

(a) REDUCTION IN FEE SCHEDULE.—Section 1834(b)(4) (42 U.S.C. 1395m(b)(4)) is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D) 1991 FEE SCHEDULES.—For radiologist services (other than portable X-ray services) furnished under this part during 1991, the conversion factors used in a locality under this subsection shall be determined as follows:

"(i) NATIONAL WEIGHTED AVERAGE CONVERSION FACTOR.—

"(I) The Secretary shall estimate the national weighted average of the conversion factors used under this subsection for services furnished for the period during 1990 beginning April 1 using the best available data.

"(II) For purposes of determining the national average conversion factor under subclause (I), the Secretary shall adjust the conversion factor for each locality by the adjustment factor (specified in clause (iii)) for that locality.

"(ii) REDUCED NATIONAL WEIGHTED AVERAGE.—The national weighted average estimated under clause (i) shall be reduced by 12 percent.

"(iii) LOCAL ADJUSTMENT.—Subject to clause (iv), the conversion factor to be applied to the professional or technical component of a service in a locality is the sum of—

"(I) the product of (aa) the portion of the reduced national weighted average conversion factor computed under clause (ii) which is attributable to physician work, and (bb) the geographic work index value for the locality (specified in Addendum C to the Model Fee Schedule for Physician Services (published on September 4, 1990, 55 Federal Register pp. 36238-36243)); and

"(II) the product of (aa) the remaining portion of the reduced national weighted average conversion factor computed under clause (ii), and (bb) the geographic practice cost index value specified in section 1842(b)(14)(C)(iv) for the locality.

In applying this clause with respect to the professional component of a service, 80 percent of the conversion factor shall be considered to be attributable to physician work, and with respect to the technical component of the service, 35 percent shall be considered to be attributable to physician work.

"(iv) MAXIMUM REDUCTION.—The conversion factor to be applied to a locality under this subparagraph to the professional or technical component of a service shall not be reduced by more than 8 percent below the conversion factor applied in the locality under subparagraph (C) to such component.

"(v) TREATMENT OF GLOBAL FEES.—In applying this subparagraph in the case of a global fee for a service that includes a professional and a technical component, the conversion factor to be applied is the sum of the conversion factors for the professional and technical components of the service computed separately.".

(b) REDUCTION IN PREVAILING CHARGE LEVEL FOR OTHER RADIOLOGY SERVICES.—

(1) IN GENERAL.—In applying part B of title XVIII of the Social Security Act, the prevailing charge for physicians' services, furnished during 1991, which are radiology services may not exceed the fee schedule amount established under section 1834(b) of such Act with respect to such services.

(2) EXCEPTION.—Paragraph (1) shall not apply to radiology services which are subject to section 6105(b) or 6108(b) of the Omnibus budget Reconciliation Act of 1989.

(c) SPECIAL RULE FOR NUCLEAR MEDICINE SERVICES.—

(1) PAYMENT FOR SERVICES FURNISHED IN 1990 AND 1991.—Section 6105(b) of the Omnibus Budget Reconciliation Act of 1989 is amended—

(A) by inserting "after March 31, 1990, and before January 1, 1992" after "furnished", and

(B) by striking all after "Act" the second place it appears and inserting ", there shall be substituted for the fee schedule otherwise applicable a fee schedule based on ⅓ on the fee schedule computed under such section (without regard to this subsection) and ⅔ on 101 percent of the 1988 prevailing charge for such services.".

(2) ADJUSTED HISTORICAL PAYMENT BASIS.—Section 1848(a)(2)(D) (42 U.S.C. 1395w-4(a)(2)(D)) is amended—

(A) in clause (ii) by inserting ", but excluding nuclear medicine services that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989" after "section 1834(b)(6))", and

(B) by adding at the end the following:

"(iii) NUCLEAR MEDICINE SERVICES.—In applying clause (i) in the case of physicians' services which are nuclear medicine services that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989, there shall be substituted for the weighted average prevailing charge the amount provided under such section.".

(3) Section 1848(b)(2)(A) is amended by striking "section 1834(b)(6)" and inserting "section 1834(b)(6), but excluding nuclear medicine services".

(4) For purposes of determining the "fee schedule amount" under section 1848(a) of the Social Security Act (42 U.S.C. 1395w-4(a)) for nuclear medicine services furnished on or after January 1, 1992, the Secretary of Health and Human Services shall apply relative values determined in accordance with the methodology utilized for other physicians' services and may not apply the relative values developed for such services under the fee schedule established under section 1834(b) of such Act.

(d) EXTENSION OF SPLIT BILLING RULE FOR INTERVENTIONAL RADIOLOGISTS.—Section 6105(c) of the Omnibus Budget Reconciliation Act of 1989 is amended by inserting "or 1991" after "1990" each place it appears.

(e) LIMITATION ON ADJUSTMENTS.—For radiologist services furnished during 1991 for which payment is made under section 1834(b) of the Social Security Act—

(1) a carrier may not make any adjustment, under section 1842(b)(3)(B) of such Act, in the payment amount for the service under section 1834(b) on the basis that the payment amount is higher than the charge applicable, for a comparable service and under comparable circumstances, to the policyholders and subscribers of the carrier,

(2) no payment adjustment may be made under section 1842(b)(8) of such Act, and

(3) section 1842(b)(9) of such Act shall not apply.

(f) ESTABLISHMENT OF FLOOR.—Section 1834(b)(4), as amended by subsection (a), is further amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G) and inserting after subparagraph (D) the following:

"(E)(i) For purposes of determining payments for radiologist services furnished under this part during 1991 (and the adjusted historical payment basis (as defined in section 1848(a)(2)(D)) for such services, the Secretary shall establish a locality-specific conversion factor floor that is equal to 80 percent of the national weighted average of the conversion factors used under this subsection for radiologist services furnished during the 9-month period beginning April 1, 1990 (as determined by the Secretary using the best data available), adjusted in the manner described in subparagraph (D)(iii) for the locality.

"(ii) The conversion factor used under this subsection for services furnished in a locality during 1991 (and the adjusted historical payment basis used under section 1848) may not be less than the floor established under clause (i) for the locality.".

SEC. 6113. ANESTHESIA SERVICES.

(a) REDUCTION IN FEE SCHEDULE.—Section 1842(q)(1) (42 U.S.C. 1395u(q)(1)) is amended—

(1) by inserting "(A)" after "(q)(1)", and

(2) by adding at the end the following new subparagraph:

"(B) For physician anesthesia services furnished under this part during 1991, the conversion factor used in a locality under this subsection shall be determined as follows:

"(i)(I) The Secretary shall estimate the national weighted average of the conversion factors used under this subsection for physician anesthesia services furnished during 1990 after March 31 using the best available data.

"(II) For purposes of determining the national average conversion factor under subclause (I), the Secretary shall adjust the conversion factor for each locality by the adjustment factor (specified in clause (iii)) for that locality.

"(ii) The national weighted average estimated under clause (i) shall be reduced by 4 percent.

"(iii) Subject to clause (iv), the conversion factor to be applied in a locality is the sum of—

"(I) the product of (aa) the portion of the reduced national weighted average conversion factor computed under clause (ii) which is attributable to physician work and (bb) the geographic work index value for the locality (specified in Addendum C to the Model Fee Schedule for Physician Services (published on September 4, 1990, 55 Federal Register pp. 36238-36243)); and

"(II) the product of (aa) the remaining portion of the reduced national weighted average conversion factor computed under clause (ii) and (bb) the geographic practice cost index value specified in section 1842(b)(14)(C)(iv) for the locality.

In applying this clause, 70 percent of the conversion factor shall be considered to be attributable to physician work.

"(iv) The conversion factor to be applied to a locality under this subparagraph shall not be reduced by more than 15 percent below the conversion factor applied in the locality for the period during 1990 beginning April 1.".

(b) EXTENSION OF REDUCTION FOR SUPERVISION OF CONCURRENT SERVICES.—Subparagraphs (A) and (B) of section 1842(b)(13) (42 U.S.C. 1395u(b)(13)) are each amended by striking "1991" and inserting "1996".

(c) ESTABLISHMENT OF FLOOR.—Section 1842(q)(1), as amended by subsection (a), is further amended by adding at the end the following:

"(C)(i) For purposes of determining payments for physician anesthesia services furnished under this part during 1991 (and the adjusted historical payment basis (as defined in section 1848(a)(2)(D)) for such services, the Secretary shall establish a locality-specific conversion factor floor that is equal to 75 percent of the national weighted average of the conversion factors used under this subsection for physician anesthesia services furnished during the 9-month period beginning April 1, 1990 (as determined by the Secretary using the best data available), adjusted in the manner described in subparagraph (B)(iii) for the locality.

"(ii) The conversion factor used under this subsection for services furnished in a locality during 1991 (and the adjusted historical payment basis used under section 1848) may not be less than the floor established under clause (i) for the locality.".

SEC. 6114. PATHOLOGY SERVICES.

(a) REDUCTION IN PAYMENTS FOR PHYSICIAN PATHOLOGY SERVICES.—

(1) IN GENERAL.—Subject to paragraph (2), in determining the reasonable charge under part B of title XVIII of the Social Security Act for physician pathology services furnished on or after January 1, 1991, the prevailing charge for such service shall be 96 percent of the prevailing charge otherwise used under such part for services furnished during 1990 after March 31 (taking into account the amendments made by this Act).

(2) LIMITATION.—The prevailing charge for the technical and professional components of a physician pathology service furnished by a physician through an independent laboratory shall not be reduced pursuant to paragraph (1) to the extent that such reduction would reduce such prevailing charge below 115 percent of the prevailing charge for the professional component of such service when furnished by a hospital-based physician in the same locality. For purposes of the preceding sentence, an independent laboratory is a laboratory that is independent of a hospital and separate from the attending or consulting physicians' office.

(b) REPEAL OF PATHOLOGY FEE SCHEDULE.—

(1) Subsection (f) of section 1834 (42 U.S.C. 1395m) is repealed.

(2) Section 1833(a)(1)(J) (42 U.S.C. 1395l(a)(1)) is amended by striking "or physician pathology services" and by striking "or section 1834(f), respectively".

(3) Section 4050 of the Omnibus Budget Reconciliation Act of 1987 is repealed.

(c) ADJUSTMENT.—(1) The Secretary of Health and Human Services shall provide for an appropriate adjustment to payments under section 1848(a) of the Social Security Act (42 U.S.C. 1395w-4(a)) to reflect the technical component of furnishing physician pathology services through an independent laboratory. The adjustment shall apply to services furnished on or after January 1, 1992.

(2) For purposes of paragraph (1), the term "independent laboratory" means a laborato-

ry that is independent of a hospital and separate from the attending or consulting physician's office.

SEC. 6115. UPDATE FOR PHYSICIANS' SERVICES.

(a) PERCENTAGE INCREASE IN MEI FOR 1991 AND CUSTOMARY AND PREVAILING CHARGES DURING 1991.—

(1) IN GENERAL.—Section 1842(b)(4)(E) (42 U.S.C. 1395u(b)(4)(E)) is amended by adding at the end the following new clause:

"(v) For purposes of this part for items and services furnished in 1991, the percentage increase in the MEI is—

"(I) 0 percent for services (other than primary care services), and

"(II) 2.0 percent for primary care services (as defined in subsection (i)(4)).".

(2) LIMITING UPDATE IN CUSTOMARY CHARGES.—Section 1842(b)(4)(B) (42 U.S.C. 1395u(b)(4)(B)) is amended by adding at the end the following new clause:

"(iv) In determining the reasonable charge under paragraph (3) for physicians' services (other than primary care services, as defined in subsection (i)(4)) furnished during 1991, the customary charges shall be the same customary charges as were recognized under this section for the 9-month period beginning April 1, 1990. In a case in which subparagraph (F) applies (relating to new physicians) so as to limit the customary charges of a physician during 1990 to a percent of prevailing charges, the previous sentence shall not prevent such limit on customary charges under such subparagraph from increasing in 1991 to a higher percent of such prevailing charges.".

(c) VOLUME PERFORMANCE STANDARDS.—Section 1848(f)(2) (42 U.S.C. 1395w-4(f)(2)) is amended—

(1) in subparagraph (A) by striking "the performance standard factor (specified in subparagraph (B))" and inserting "1 percentage point for fiscal year 1991, 1½ percentage points for fiscal year 1992, and 2 percentage points for each succeeding fiscal year", and

(2) by striking subparagraph (B) and inserting the following:

"(B) Notwithstanding subparagraph (A), the performance standard rate of increase for a category of physicians' services (as defined in paragraph (5)) for fiscal year 1991 shall be the sum of—

"(i) the Secretary's estimate of the rate of increase in expenditures for all physicians' services for portions of calendar years occurring in such fiscal year (determined without regard to the amendments made by the Omnibus Budget Reconciliation Act of 1990), and

"(ii) the Secretary's estimate of the percentage increase or decrease in expenditures for the category of services involved that will result from changes in law and regulations,

reduced by 2.0 percentage points.".

SEC. 6116. NEW PHYSICIANS.

(a) EXTENSION OF CUSTOMARY CHARGE LIMIT FOR 1991.—Section 1842(b)(4)(F) (42 U.S.C. 1395u(b)(4)(F)) is amended by adding at the end the following: "For the second and third calendar years during which the first sentence of this subparagraph no longer applies, the Secretary shall set the customary charge at a level no higher than 90 and 95 percent, respectively, of the prevailing charge for the service.".

(b) APPLICATION UNDER FEE SCHEDULE.—Section 1848(a) (42 U.S.C. 1395w-4(a)) is amended by adding at the end the following new paragraph:

"(4) TREATMENT OF NEW PHYSICIANS.—In the case of physicians' services furnished by a physician before the end of the physician's first full calendar year of furnishing services for which payment may be made under this part, and during each of the 3 succeeding years, the fee schedule amount to be applied shall be 80 percent, 85 percent, 90 percent, and 95 percent, respectively, of the fee schedule amount applicable to physicians who are not subject to this paragraph. The preceding sentence shall not apply to primary care services or services furnished in a rural area (as defined in section 1886(d)(2)) that is designated under section 322(a)(1)(A) of the Public Health Service Act as a health manpower shortage area.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1991.

SEC. 6117. ASSISTANTS AT SURGERY.

(a) PHYSICIANS AS ASSISTANTS-AT-SURGERY.—Section 1848(i) (42 U.S.C. 1395w-4(i)) is amended by adding at the end the following:

"(2) ASSISTANTS-AT-SURGERY.—In the case of a surgical service furnished by a physician, if payment is made separately under this part for the services of a physician serving as an assistant-at-surgery, such payment shall not exceed 16 percent of the amount otherwise determined under this section (or for 1991 under section 1842(b)(3)) for the global surgical service involved.".

(b) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to services furnished on or after January 1, 1991.

SEC. 6118. ADVANCE DETERMINATIONS BY CARRIERS.

(a) IN GENERAL.—Section 1842 (42 U.S.C. 1395u) is amended by inserting after subsection (n) the following:

"(o)(1)(A) A carrier shall determine in advance whether an item or service is not allowable under section 1862(a)(1) if the item or service has been listed by the Secretary under paragraph (2).

"(B)(i) A carrier may in accordance with procedures established by the Secretary, determine in advance whether an item or service is not allowable under section 1862(a)(1) if—

"(I) the item or service is furnished or ordered by a physician described under paragraph (3),

"(II) the carrier notifies the physician as to the kinds of items or services that will be subject to advance determination, and

"(III) the carrier provides a general notice for entities likely to furnish the kinds of items or services described in the notification under subclause (II) that are ordered by the physician.

"(ii) A carrier may determine in advance whether an item is not allowable under section 1862(a)(1) if—

"(I) the item is furnished by an entity described under paragraph (4), and

"(II) the carrier notifies the entity as to the kinds of items that will be subject to advance determination.

"(C) The preceding subparagraphs do not apply—

"(i) to the kinds of items and services in an area that are under review by a utilization and quality control peer review organization, or

"(ii) in cases of a medical emergency or under such other circumstances as the Secretary may specify.

"(2) The Secretary may list specific expensive items or services that the Secretary finds should be subject to advance determination.

"(3) Items and services furnished or ordered by a particular physician are subject to paragraph (1)(B)(i) if—

"(A) a substantial number of items or services furnished or ordered by the physician have been found not to be allowable under section 1862(a)(1), or

"(B) a carrier has identified a pattern of overutilization resulting from the performance or ordering practices of the physician, has so informed the physician, and has afforded the physician an opportunity to respond.

"(4) Items furnished by a particular entity are subject to paragraph (1)(B)(ii) if—

"(A) a substantial number of items furnished by the entity have been found not to be allowable under section 1862(a)(1), or

"(B) a carrier has identified a pattern of overutilization resulting from the business practices of the entity, has so informed the entity, and has afforded the entity an opportunity to respond.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective with respect to items and services furnished on or after January 1, 1991.

SEC. 6119. LIMITATION ON BENEFICIARY LIABILITY.

Section 1848(g)(2)(A) (42 U.S.C. 1395w-4(g)(2)(A)) is amended by adding at the end thereof the following:

"In the case of evaluation and management services (as specified in section 1842(b)(17)(B)(ii)), the preceding sentence shall be applied by substituting '50 percent' for '25 percent'.".

SEC. 6120. STATEWIDE FEE SCHEDULE AREAS FOR PHYSICIANS' SERVICES.

(a) IN GENERAL.—Notwithstanding section 1848(j)(2) of the Social Security Act (42 U.S.C. 1395w-4(j)(2)), in the case of a State that meets the requirements specified in subsection (b) on or before April 1, 1991, the Secretary of Health and Human Services (Secretary) shall treat the State as a single fee schedule area for purposes of determining—

(1) the adjusted historical payment basis (as defined in section 1848(a)(2)(D) of such Act (42 U.S.C. 1395w-4(a)(2)(D))), and

(2) the fee schedule amount (as referred to in section 1848(a) (42 U.S.C. 1395w-4(a)) of such Act),

for physicians' services (as defined in section 1848(j)(3) of such Act (42 U.S.C. 1395w-4(j)(3))) furnished on or after January 1, 1992.

(b) REQUIREMENTS.—The requirements specified in this subsection are that (on or before April 1, 1991) there are written expressions of support for treatment of the State as a single fee schedule area (on a budget-neutral basis) from—

(1) each member of the congressional delegation from the State, and

(2) organizations representing urban and rural physicians in the State.

(c) BUDGET NEUTRALITY.—Notwithstanding section 1842(b)(3) of such Act (42 U.S.C. 1395u(b)(3)), the Secretary shall provide for treatment of a State as a single fee schedule area (as described in subsection (a)) in a manner that ensures that total payments for physicians' services (as so defined) furnished by physicians in the State during 1992 are not greater or less than total payments for such services would have been but for such treatment.

(d) CONSTRUCTION.—Nothing in this section shall be construed as limiting the availability (to the Secretary, the appropriate agency or organization with a contract under section 1842, or physicians in a State) of otherwise applicable administrative procedures for modifying the fee schedule area

or areas in the State after implementation of subsection (a) with respect to the State.

SEC. 6121. TECHNICAL CORRECTIONS RELATING TO PHYSICIAN PAYMENT.

(a) COMPARABILITY AND INHERENT REASONABLENESS ADJUSTMENTS.—

(1) Section 1842(b)(3)(B) (42 U.S.C. 1395u(b)(3)(B)) is amended by inserting ", subject to section 1848(i)(2)," after "such charge will be reasonable and".

(2) Section 1848(i) is amended by adding at the end the following new paragraph:

"(3) NO COMPARABILITY ADJUSTMENT.—For physicians' services (including radiology and anesthesia services) for which payment under this part is determined under this section—

"(A) a carrier may not make any adjustment in the payment amount under section 1842(b)(3)(B) on the basis that the payment amount is higher than the charge applicable, for a comparable service and under comparable circumstances, to the policyholders and subscribers of the carrier,

"(B) no payment adjustment may be made under section 1842(b)(8), and

"(C) section 1842(b)(9) shall not apply.".

(b) ALLOWING PERIODIC RECOMPUTATION OF GPCI.—Section 1848(e)(1) (42 U.S.C. 1395w-4(e)(1)) is amended by adding at the end the following new subparagraph:

"(C) PERIODIC RECOMPUTATION OF INDICES.—The Secretary shall, from time to time, recompute the indices established under this paragraph based on the formula described in subparagraph (A) to reflect the most recent data available.".

(c) OVERVALUED PROCEDURES.—

(1) Section 1842(b)(14) of the Social Security Act (42 U.S.C. 1395u(b)(14)) is amended—

(A) in subparagraph (B)(iii)(I), by striking "practice expense ratio for the service (specified in table #1 in the Joint Explanatory Statement referred to in subparagraph (C)(i))" and inserting "practice expense component (percent), divided by 100, specified in Appendix A (pages 187 through 194) of the Report of the Medicare and Medicaid Health Budget Reconciliation Amendments of 1989, prepared by the Subcommittee on Health and the Environment of the Committee on Energy and Commerce, House of Representatives (Committee Print 101-M, 101st Congress, 1st Session) for the service";

(B) in subparagraph (B)(iii)(II), by striking "practice expense ratio" and inserting "practice expense component (percent), divided by 100";

(C) in subparagraph (C)(i), by striking "physicians' services specified in table #2 in the Joint Explanatory Statement of the Committee of Conference submitted with the Conference Report to accompany H.R. 3299 (the 'Omnibus Budget Reconciliation Act of 1989'), 101st Congress," and inserting "procedures listed (by code and description) in the Overvalued Procedures List for Finance Committee, Revised September 20, 1989, prepared by the Physician Payment Review Commission";

(D) in subparagraph (C)(iii), by striking "The 'percent change' specified in this clause, for a physicians' service specified in clause (i), is the percent change specified for the service in table #2 in the Joint Explanatory Statement" and inserting "The 'percentage change' specified in this clause, for a physicians' service specified in clause (i), is the percent difference (but expressed as a positive number) specified for the service in the list"; and

(E) in subparagraph (C)(iv), by striking "such value specified for the locality in table #3 in the Joint Explanatory Statement referred to in clause (i)" and inserting "the Geographic Overhead Costs Index specified for the locality in table 1 of the September 1989 Supplement to the Geographic Medicare Economic Index: Alternative Approaches (prepared by the Urban Institute and the Center for Health Economics Research)".

(2) Section 1842(b)(4)(E)(iv)(I) of such Act (42 U.S.C. 1395u(b)(4)(E)(iv)(I)) is amended by striking "Table #2" and all that follows through "101st Congress" and inserting "the list referred to in paragraph (14)(C)(i)".

(3) The amendments made by paragraphs (1) and (2) apply to services furnished after March 1990.

(d) MVPS AS MULTIPLICATIVE, NOT ADDITIVE.—Section 1848(f)(2)(A) (42 U.S.C. 1395w-4(f)(2)(A)) is amended—

(1) in the matter preceding clause (i) by striking "sum" and inserting "product";

(2) in clauses (i) through (iv)—

(A) by inserting "1.00 plus (" before "the Secretary's" each place it appears, and

(B) by inserting ") divided by 100" before the comma at the end of each clause; and

(3) in the matter following clause (iv), by striking "reduced" and inserting "minus 1.0 percentage point, multiplied by 100, and reduced".

(e) ELIMINATION OF RESTRICTION ON INCORPORATION OF TIME IN VISIT CODES.—Section 1848(c)(4) (42 U.S.C. 1395w-4(c)(4)) is amended by striking "only for services furnished on or after January 1, 1993".

(f) TREATMENT OF PRICE INCREASE IN DETERMINING PERFORMANCE STANDARD RATES OF INCREASE.—Section 1848(f)(2)(A)(iv) (42 U.S.C. 1395w-4(f)(2)(A)(iv)) is amended by inserting "including changes in law and regulations affecting the percentage increase described in clause (i)" after "law or regulations".

(g) MISCELLANEOUS FEE SCHEDULE CORRECTIONS.—

(1) CHANGES IN SECTION 1848.—Section 1848 (42 U.S.C. 1395w-4) is amended—

(A) in subsection (c), by redesignating the second paragraph (3), and paragraphs (4) and (5), as paragraphs (4) through (6), respectively;

(B) in subsection (c)(4), as redesignated by subparagraph (C), is amended by striking "subsection" and inserting "section";

(C) in subsection (d)(1)—

(i) in subparagraph (A)—

(I) by inserting "(or factors)" after "conversion factor" each place it appears in the subparagraph, and

(II) by striking "subparagraph (C)" and inserting "paragraph (3)"; and

(ii) in subparagraph (C)—

(I) in clause (i), by striking "(or factors)"; and

(II) in clause (ii), by inserting "the conversion factor (or factors) which will apply to physicians' services for the following year and" before "the update (or updates)", and by striking "the following" and inserting "such";

(D) in subsection (d)(2)(A)—

(i) in the matter preceding clause (i) by striking "services" the first place it appears and inserting "services (as defined in subsection (f)(5)(A))";

(ii) in clause (i) by inserting "for the services involved" after "section 1842(b)(3)"; and

(iii) in clause (ii)—

(I) by striking "all physicians' services (as defined in subsection (f)(5)(A))" and inserting "the services involved"; and

(II) by striking "all such physicians'" and inserting "such"; and

(iv) in the last sentence by striking "proportion of HMO enrollees" and inserting "proportion of individuals who are enrolled under this part who are HMO enrollees";

(E) in subsection (d)(2)(E)(ii)(I), by inserting "payments for" after "under this part for";

(F) in subsection (d)(3)(B)—

(i) in clause (i)—

(I) by striking "update for" and inserting "update for a category of physicians' services for"; and

(II) by striking "physicians' services (as defined in subsection (f)(5)(A))" and inserting "services in such category";

(ii) in clause (ii)—

(I) by inserting "more than" after "decrease of"; and

(II) in subclause (I), by striking "more than";

(G) in subsection (f)(1)—

(i) in subparagraph (A), by striking "each category" and inserting "each category and group";

(ii) in subparagraph (C) by striking "all physicians' services and for"; and

(iii) in subparagraph (D)(i) by striking "calendar years" and inserting "portions of calendar years";

(H) in subsection (f)(2)(A)—

(i) in the matter preceding clause (i)—

(I) by striking "each" and inserting "the"; and

(II) by striking "increase" and inserting "increase for a category of physicians' services";

(ii) in subsection (f)(2)(A)(i), by striking "physicians' services (as defined in subsection (f)(5)(A))" and inserting "services in such category";

(iii) in subsection (f)(2)(A) (iii) by striking "physicians' services" and inserting "services in such category"; and

(iv) in subsection (f)(2)(A)(iv) by striking "physicians' services (as defined in subsection (f)(5)(A)" and inserting "services in such category";

(I) in subsection (f)(4)—

(i) in subparagraph (A)—

(I) by striking "paragraph (B)" and inserting "subparagraph (B)"; and

(II) by striking "after" and all that follows through "1991"; and

(ii) in subparagraph (B) by striking "congress specifically approves the plan" and inserting "specifically approved by law".

(J) in subparagraphs (A) and (B) of subsection (g)(2), by inserting "other than radiologist services subject to section 1834(b)," after "during 1991," and after "during 1992,", respectively;

(K) in subsection (i)(1)(A) by striking "historical payment basis (as defined in subsection (a)(2)(C)(i))" and inserting "adjusted historical payment basis (as defined in subsection (a)(2)(D)(i))"; and

(L) in subsection (j)(1), by striking ", and such other" and all that follows through the period and inserting "(as defined by the Secretary) and all other physicians' services.".

(2) MISCELLANEOUS.—

(A) Effective as if included in the Omnibus Budget Reconciliation Act of 1989, section 6102(e)(4) of such Act is amended by striking "rate determined" after "prevailing charge".

(B) Effective January 1, 1991, section 1842(b)(3)(G) is amended by striking "subsection (j)(1)(C)" and inserting "section 1848(g)(2)".

(C) Section 1842(b)(12)(A)(ii)(II) is amended by striking ", as the case may be".

(D) Section 1833(a)(1)(H) is amended by striking ", as the case may be".

(E) Section 6102(e)(11) of the Omnibus Budget Reconciliation Act of 1989 is amended by inserting "of Health and Human Services" after "Secretary".

(h) REPEAL OF REPORTS NO LONGER REQUIRED.—

(1) Subsection (b) of section 4043 of the Omnibus Budget Reconciliation Act of 1987 is repealed.

(2) Subsection (c) of section 4048 of such Act is repealed.

(3) Section 4049(b)(1) of such Act is amended by striking ", and shall report" and all that follows up to the period at the end.

(4) Section 4056(a)(1) of such Act, as redesignated by section 411(f)(14) of the Medicare Catastrophic Coverage Act of 1988, is amended by striking the last sentence.

(5) Section 4056(b)(2) of such Act is amended by striking the second sentence.

(i) ADJUSTMENT OF EFFECTIVE DATES.—Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987—

(1) section 4048(b) of such Act is amended by striking "January 1, 1989" and inserting "March 1, 1989", and

(2) section 4049(b)(2) of such Act is amended by striking "January 1, 1989" and inserting "April 1, 1989".

SEC. 6122. BILLING FOR SERVICES OF SUBSTITUTE PHYSICIAN.

(a) UNDER MEDICARE.—Section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended—

(1) by striking "and" before "(C)", and

(2) by striking "involved." and inserting "involved, and (D) in the case of services furnished (during a period that does not exceed 14 continuous days in the case of an informal reciprocal arrangement or 90 continuous days (or such longer period as the Secretary may provide) in the case of an arrangement involving per diem or other fee-for-time compensation) by, or incident to the services of, one physician to the patients of another physician who submits the claim for such services, payment shall be made to the physician submitting the claim (as if the services were furnished by, or incident to, the physician's services), but only if the claim identifies (in a manner specified by the Secretary) the physician who furnished the services.".

(b) UNDER MEDICAID.—Section 1902(a)(32) (42 U.S.C. 1396a(a)(32))—

(1) by striking "and" before "(B)",

(2) by inserting "and" at the end of subparagraph (B), and

(3) by adding at the end the following:

"(C) in the case of services furnished (during a period that does not exceed 14 continuous days in the case of an informal reciprocal arrangement or 90 continuous days (or such longer period as the Secretary may provide) in the case of an arrangement involving per diem or other fee-for-time compensation) by, or incident to the services of, one physician to the patients of another physician who submits the claim for such services, payment shall be made to the physician submitting the claim (as if the services were furnished by, or incident to, the physician's services), but only if the claim identifies (in a manner specified by the Secretary) the physician who furnished the services.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after the date of the enactment of this Act.

SEC. 6123. STUDY OF PREPAYMENT MEDICAL REVIEW SCREENS.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct a study of the effect of the release of prepayment medical review screen parameters on physician billings for the services to which the parameters apply.

(b) LIMITATIONS.—The study shall be based upon the release of the screen parameters at a minimum of six carrier sites.

(c) REPORT.—The Secretary shall report the results of the study to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate not later than October 1, 1992.

SEC. 6124. UTILIZATION SCREENS FOR PHYSICIAN VISITS IN REHABILITATION HOSPITALS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall revise the utilization screen established pursuant to section 4085(h) of the Omnibus Budget Reconciliation Act of 1987 to apply to all physician visits to an inpatient of a rehabilitation hospital or unit. Such screen shall reflect a standard of physician care that is comparable to the standard of physician care recognized for inpatients of acute care hospitals and units, particularly with respect to the frequency of visits by an attending physician. The Secretary shall provide that the provisions of this section shall be implemented in a manner that provides that expenditures are not greater or lesser than they would have been but for the enactment of the provisions of this section.

SEC. 6125. STUDY OF HIGH VOLUME PAYMENT ADJUSTMENT.

(a) IN GENERAL.—(1) The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct a study of the feasibility and desirability of adjusting payments to individual physicians performing a high volume of a particular procedure in order to reflect the economies of scale afforded by volume.

(2) Taking into account the potential impact of such an adjustment on the medicare program costs and patient access to necessary services, the Commission shall report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on—

(A) the types of services or procedures for which such an adjustment would be appropriate,

(B) options for implementing such an adjustment,

(C) appropriate exceptions to such an adjustment, and

(D) appropriate safeguards to ensure access by medicare beneficiaries to necessary services.

(b) DEADLINES FOR REPORT.—The Secretary shall submit the report required by subsection (a) on or before July 1, 1992.

Subpart B—Payments for Other Items and Services

SEC. 6130. HOSPITAL OUTPATIENT SERVICES.

(a) REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS.—Section 1861(v)(1)(S)(ii)(I) of the Social Security Act (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking "fiscal year 1990" and inserting "during the period beginning on October 1, 1989, and ending September 30, 1991 and by 10 percent for portions of cost reporting periods occurring during the period beginning on October 1, 1991 and ending September 30, 1995".

(b) REDUCTION IN REASONABLE COSTS OF HOSPITAL OUTPATIENT SERVICES.—Section 1861(v)(1)(S)(ii) of such Act (42 U.S.C. 1395x(v)(1)(S)(ii)) is amended—

(1) in subclause (II), by striking "1886(d)(5)(D)(iii))." and inserting "1886(d)(5)(D)(iii)), a rural primary care hospital (as defined in subsection (mm)(1)), or a hospital designated under section 1820(e) as an essential access community hospital.";

(2) in subclause (III)—

(A) by striking "subclause (I)" and inserting "subclauses (I) and (II)", and

(B) by striking "capital-related" and inserting "the";

(3) by redesignating subclauses (II) and (III) as subclauses (III) and (IV); and

(4) by inserting after subclause (I) the following new subclause:

"(II) The Secretary shall reduce the reasonable cost of outpatient hospital services (other than the capital-related costs of such services) otherwise determined pursuant to section 1833(a)(2)(B)(i)(I) by 5 percent for payments attributable to portions of cost reporting periods during the period beginning on October 1, 1990, and ending December 31, 1995.".

(c) EXTENSION OF ASC BLEND AMOUNTS FOR EYE AND EYE AND EAR SPECIALTY HOSPITALS.—The last sentence of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) is amended by striking "in fiscal year 1989 or fiscal year 1990" and inserting "on or after October 1, 1988, and before September 30, 1993".

SEC. 6131. CLINICAL DIAGNOSTIC LABORATORY SERVICES.

(a) CAP ON ANNUAL FEE SCHEDULE INCREASES.—Section 1833(h)(2)(A)(ii) (42 U.S.C. 1395l(h)(2)(A)(ii)) is amended—

(1) by striking "any other provision of this subsection" and inserting "clause (i)";

(2) by striking "and" at the end of subclause (I);

(3) by striking the period at the end of subclause (II) and inserting ", and"; and

(4) by adding at the end the following new subclause:

"(III) the annual adjustment in the fee schedules under clause (i) for 1991 shall be a 2 percent increase.".

(b) REDUCTION IN NATIONAL CAP.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

(1) by striking "and" at the end of clause (ii);

(2) in clause (iii), by inserting "and before January 1, 1991," after "1989,";

(3) by striking the period at the end of clause (iii) and inserting ", and"; and

(4) by adding at the end the following new clause:

"(iv) after December 31, 1990, is equal to 90 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

SEC. 6132. DURABLE MEDICAL EQUIPMENT.

(a) DEVELOPMENT AND APPLICATION OF NATIONAL LIMITS ON FEES.—

(1) INEXPENSIVE AND ROUTINELY PURCHASED DURABLE MEDICAL EQUIPMENT AND ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—Paragraphs (2) and (3) of section 1834(a) (42 U.S.C. 1395m(a)) are each amended—

(A) in subparagraph (B)(i), by striking "or" at the end;

(B) by striking clause (ii) of subparagraph (B) and inserting the following:

"(ii) in 1991 is the sum of (I) 67 percent of the local payment amount for the item or device computed under subparagraph (C)(i)(I) for 1991, and (II) 33 percent of the national limited payment amount for the item or device computed under subparagraph (C)(ii) for 1991;

"(iii) in 1992 is the sum of (I) 33 percent of the local payment amount for the item or

device computed under subparagraph (C)(i)(II) for 1992, and (II) 67 percent of the national limited payment amount for the item or device computed under subparagraph (C)(ii) for 1992; and

"(iv) in 1993 and each subsequent year is the national limited payment amount for the item or device computed under subparagraph (C)(ii) for that year."; and

(C) by adding at the end the following new subparagraph:

"(C) COMPUTATION OF LOCAL PAYMENT AMOUNT AND NATIONAL LIMITED PAYMENT AMOUNT.—For purposes of subparagraph (B)—

"(i) the local payment amount for an item or device for a year is equal to—

"(I) for 1991, the amount specified in subparagraph (B)(i) for 1990 increased by the covered item increase for 1991, and

"(II) for 1992, the amount determined under this clause for the preceding year increased by the covered item increase for 1992; and

"(ii) the national limited payment amount for an item or device for a year is equal to—

"(I) for 1991, the local payment amount determined under clause (i) for such item or device for that year, except that the national limited payment amount may not exceed 100 percent of the weighted average of all local payment amounts determined under such clause for such item for that year and may not be less than 85 percent of the weighted average of all local payment amounts determined under such clause for such item, and

"(II) for each subsequent year, the amount determined under this clause for the preceding year increased by the covered item increase for such subsequent year.".

(2) MISCELLANEOUS ITEMS AND OTHER COVERED ITEMS.—Section 1834(a)(8) (42 U.S.C. 1395m(a)(8)) is amended—

(A) in subparagraph (A)(ii)—

(i) by striking "or" at the end of subclause (I);

(ii) in subclause (II)—

(I) by striking "1991 or", and

(II) by striking "the percentage increase" and all that follows through the period and inserting "the covered item increase for the year.";

(iii) by redesignating subclause (II) as subclause (III); and

(iv) by inserting after subclause (I) the following new subclause:

"(II) in 1991, equal to the local purchase price computed under this clause for the previous year, increased by the covered item increase for 1991, and decreased by the percentage by which the average of the purchase prices on claims submitted for all items described in paragraph (7) exceeds 110 percent of the average of the reasonable charges on claims paid for the items during the 6-month period ending with December 1986; or";

(B) by amending subparagraph (B) to read as follows:

"(B) COMPUTATION OF NATIONAL LIMITED PURCHASE PRICE.—With respect to the furnishing of a particular item in a year, the Secretary shall compute a national limited purchase price—

"(i) for 1991, equal to the local purchase price computed under subparagraph (A)(ii) for the item for the year, except that such national limited purchase price may not exceed 100 percent of the weighted average of all local purchase prices for the item computed under such subparagraph for the year, and may not be less than 85 percent of the weighted average of all local purchase prices for the item computed under such subparagraph for the year; and

"(ii) for each subsequent year, equal to the amount determined under this clause for the preceding year increased by the covered item increase for such subsequent year.";

(C) in subparagraph (C)—

(i) by striking "regional purchase price" each place it appears and inserting "national limited purchase price",

(ii) by striking "and subject to subparagraph (D)",

(iii) in clause (ii)—

(I) by striking "75" and inserting "67"; and

(II) by striking "25" and inserting "33", and

(iv) in clause (iii)—

(I) in subclause (I), by striking "50" and inserting "33" and striking "subparagraph (A)(ii)(II)" and inserting "subparagraph (A)(ii)(III)"; and

(II) in subclause (II), by striking "50" and inserting "67"; and

(D) by striking subparagraph (D).

(3) OXYGEN AND OXYGEN EQUIPMENT.—Section 1834(a)(9) (42 U.S.C. 1395m(a)(9)) is amended—

(A) in subparagraph (A)(ii)(II), by striking "the percentage increase" and all that follows through the period and inserting "the covered item increase for the year.";

(B) by amending subparagraph (B) to read as follows:

"(B) COMPUTATION OF NATIONAL LIMITED MONTHLY PAYMENT RATE.—With respect to the furnishing of an item in a year, the Secretary shall compute a national limited monthly payment rate equal to—

"(i) for 1991, the local monthly payment rate computed under subparagraph (A)(ii)(II) for the item for the year, except that such national limited monthly payment rate may not exceed 100 percent of the weighted average of all local monthly payment rates computed for the item under such subparagraph for the year, and may not be less than 85 percent of the weighted average of all local monthly payment rates computed for the item under such subparagraph for the year; and

"(ii) for each subsequent year, equal to the amount determined under this clause for the preceding year increased by the covered item increase for such subsequent year.";

(C) in subparagraph (C)—

(i) by striking "regional monthly payment rate" each place it appears and inserting "national limited monthly payment rate",

(ii) in clause (ii)—

(I) by striking "75" and inserting "67"; and

(II) by striking "25" and inserting "33", and

(iii) in clause (iii)—

(I) in subclause (I), by striking "50" and inserting "33"; and

(II) in subclause (II), by striking "50" and inserting "67" and striking "subparagraph (B)(i)" and inserting "subparagraph (B)(ii)"; and

(D) by striking subparagraph (D).

(4) DEFINITION.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

"(14) COVERED ITEM INCREASE.—In this subsection, the term 'covered item increase' means, for 1991 and each subsequent year, the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year.".

(5) CONFORMING AMENDMENT.—Section 1834(a)(12) (42 U.S.C. 1395m(a)(12)) is amended by striking "defined for purposes of paragraphs (8)(B) and (9)(B)".

(b) LIMITATION ON MONTHLY RECOGNIZED RENTAL AMOUNTS FOR MISCELLANEOUS ITEMS.—Section 1834(a)(7)(A)(i) (42 U.S.C. 1395m(a)(7)(A)(i)) is amended—

(1) by striking "for each such month" and inserting "for each of the first 3 months of such period"; and

(2) by striking the semicolon at the end and inserting the following: ", and for each of the remaining months of such period is 7.5 percent of such purchase price;".

(c) FREEZE IN REASONABLE CHARGES FOR ENTERAL AND PARENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT DURING 1991.—In determining the amount of payment under part B of title XVIII of the Social Security Act for enteral and parenteral nutrients, supplies, and equipment furnished during 1991, the charges determined to be reasonable with respect to such nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such items for 1990.

(d) OXYGEN RETESTING.—Section 1834(a)(5) (42 U.S.C. 1395m(a)(5)) is amended—

(1) in subparagraph (A), by striking "(B) and (C)" and inserting "(B), (C), and (E)"; and

(2) by adding at the end the following new subparagraph:

"(E) RECERTIFICATION FOR PATIENTS RECEIVING HOME OXYGEN THERAPY.—In the case of a patient receiving home oxygen therapy services who, at the time such services are initiated, has an initial arterial blood gas value at or above a partial pressure of 55 or an arterial oxygen saturation at or above 89 percent (or such other values or saturations as the Secretary may specify), no payment may be made under this part for such services after the expiration of the 60-day period that begins on the date the patient first received such services unless the patient's attending physician certifies that, on the basis of a followup test of a patient's arterial blood gas value or arterial oxygen saturation conducted during the final 15 days of such 60-day period, there is a medical need for the patient to continue to receive such services.".

(e) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to items furnished on or after January 1, 1991.

(2) The amendments made by subsection (d) shall apply to patients who first receive home oxygen therapy services on or after January 1, 1991.

SEC. 6133. ORTHOTICS AND PROSTHETICS.

(a) MAINTAINING CURRENT PAYMENT METHODOLOGY.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(h) PAYMENT FOR PROSTHETIC DEVICES AND ORTHOTICS AND PROSTHETICS.—

"(1) GENERAL RULE FOR PAYMENT.—

"(A) IN GENERAL.—Payment under this subsection for prosthetic devices and orthotics and prosthetics shall be made in a lump-sum amount for the purchase of the item in an amount equal to 80 percent of the payment basis described in subparagraph (B).

"(B) PAYMENT BASIS.—Except as provided in subparagraph (C), the payment basis described in this subparagraph is the lesser of—

"(i) the actual charge for the item; or

"(ii) the amount recognized under paragraph (2) as the purchase price for the item.

"(C) EXCEPTION FOR CERTAIN PUBLIC HOME HEALTH AGENCIES.—Subparagraph (B)(i) shall

not apply to an item furnished by a public home health agency (or by another home health agency which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low income) free of charge or at nominal charges to the public.

"(D) EXCLUSIVE PAYMENT RULE.—This subsection shall constitute the exclusive provision of this title for payment for prosthetic devices, orthotics, and prosthetics under this part or under part A to a home health agency.

"(2) PURCHASE PRICE RECOGNIZED.—For purposes of paragraph (1), the amount that is recognized under this paragraph as the purchase price for prosthetic devices, orthotics, and prosthetics is the amount described in subparagraph (C) of this paragraph, determined as follows:

"(A) COMPUTATION OF LOCAL PURCHASE PRICE.—Each carrier under section 1842 shall compute a base local purchase price for the item as follows:

"(i) The carrier shall compute a base local purchase price for each item equal to the average reasonable charge in the locality for the purchase of the item for the 12-month period ending with June 1987.

"(ii) The carrier shall compute a local purchase price, with respect to the furnishing of each particular item—

"(I) in 1989 and 1990, equal to the base local purchase price computed under clause (i) increased by the percentage increase in the consumer price index for all urban consumers (United States city average) for the 6-month period ending with December 1987, or

"(II) in 1991, 1992 or 1993, equal to the local purchase price computed under this clause for the previous year increased by the applicable percentage increase for the year.

"(B) COMPUTATION OF REGIONAL PURCHASE PRICE.—With respect to the furnishing of a particular item in each region (as defined by the Secretary), the Secretary shall compute a regional purchase price—

"(i) for 1992 and for 1993, equal to the average (weighted by relative volume of all claims among carriers) of the local purchase prices for the carriers in the region computed under subparagraph (A)(ii)(II) for the year, and

"(ii) for each subsequent year, equal to the regional purchase price computed under this subparagraph for the previous year increased by the applicable percentage increase for the year.

"(C) PURCHASE PRICE RECOGNIZED.—For purposes of paragraph (1) and subject to subparagraph (D), the amount that is recognized under this paragraph as the purchase price for each item furnished—

"(i) in 1989, 1990, or 1991, is 100 percent of the local purchase price computed under subparagraph (A)(ii);

"(ii) in 1992, is the sum of (I) 75 percent of the local purchase price computed under subparagraph (A)(ii)(II) for 1991, and (II) 25 percent of the regional purchase price computed under subparagraph (B) for 1991;

"(iii) in 1993, is the sum of (I) 50 percent of the local purchase price computed under subparagraph (A)(ii)(II) for 1992, and (II) 50 percent of the regional purchase price computed under subparagraph (B) for 1992; and

"(iv) in 1994 or a subsequent year, is the regional purchase price computed under subparagraph (B) for that year.

"(D) RANGE ON AMOUNT RECOGNIZED.—The amount that is recognized under subparagraph (C) as the purchase price for an item furnished—

"(i) in 1991, may not exceed 125 percent, and may not be lower than 85 percent, of the average of the purchase prices recognized under such subparagraph for all the carrier service areas in the United States in that year; and

"(ii) in a subsequent year, may not exceed 120 percent, and may not be lower than 90 percent, of the average of the purchase prices recognized under such subparagraph for all the carrier service areas in the United States in that year.

"(3) APPLICABILITY OF CERTAIN PROVISIONS RELATING TO DURABLE MEDICAL EQUIPMENT.—Subparagraphs (A) and (B) of paragraph (10), paragraph (11), and paragraph (12) of subsection (a) shall apply to prosthetic devices, orthotics, and prosthetics in the same manner as such provisions apply to covered items under such subsection.

"(4) DEFINITIONS.—In this subsection—

"(A) the term 'applicable percentage increase' means—

"(i) for 1991, 0 percent, and

"(ii) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year;

"(B) the term 'prosthetic devices' has the meaning given such term in section 1861(s)(8), except that such term does not include parenteral and enteral nutrition nutrients, supplies, and equipment; and

"(C) the term 'orthotics and prosthetics' has the meaning given such term in section 1861(s)(9).".

(b) CONFORMING AMENDMENTS.—(1) Section 1832(a)(2) (42 U.S.C. 1395k(a)(2)) is amended—

(A) in subparagraphs (A) and (B), by striking "subparagraph (G)" each place it appears and inserting "subparagraph (G) or subparagraph (I)";

(B) by striking "and" at the end of subparagraph (G);

(C) by striking the period at the end of subparagraph (H) and inserting "; and"; and

(D) by adding at the end the following new subparagraph:

"(I) prosthetic devices and orthotics and prosthetics (described in section 1834(h)(4)) furnished by a provider of services or by others under arrangements with them made by a provider of services.".

(2) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking ", and (L)" and inserting ", (L)"; and

(B) by striking "subparagraph and (N)" and inserting the following: "subparagraph, (M) with respect to prosthetic devices and orthotics and prosthetics (as defined in section 1834(h)(4)), the amounts paid shall be the amounts described in section 1834(h)(1), and (N)".

(3) Section 1833(a) (42 U.S.C. 1395l(a)) is amended—

(A) in paragraph (2), in the matter before subparagraph (A), by striking "and (H)" and inserting "(H), and (I)";

(B) by striking "and" at the end of paragraph (5);

(C) by striking the period at the end of paragraph (6) and inserting "; and"; and

(D) by adding at the end the following new paragraph:

"(7) in the case of prosthetic devices and orthotics and prosthetics (as described in section 1834(h)(4)), the amounts described in section 1834(h).".

(4) Section 1834(a) (42 U.S.C. 1395m(a)), is amended—

(A) in the heading, by striking ", Prosthetic Devices, Orthotics, and Prosthetics";

(B) in paragraph (2)(A), by striking "(13)(A)" and inserting "(13)";

(C) in paragraph (6) by inserting "or prosthetic devices, and orthotics and prosthetics described in subsection (h)" after "or (5)"; and

(D) in paragraph (13), by striking "means—" and all that follows and inserting the following: "means durable medical equipment (as defined in section 1861(n)), including such equipment described in section 1861(m)(5)), but does not include intraocular lenses or medical supplies (including catheters, catheter supplies, ostomy bags, and supplies related to ostomy care) furnished by a home health agency under section 1861(m)(5).".

(c)(1) PROHIBITION ON REGULATIONS.—Notwithstanding any other provision of law, except as provided in paragraph (2), the Secretary of Health and Human Services (referred to in this subsection as the "Secretary") may not issue any regulation that changes the coverage of conventional eye wear furnished to individuals (enrolled under part B of title XVIII of the Social Security Act) following cataract surgery with an intraocular lens (IOL) implant.

(2) EXCEPTION.—Paragraph (1) does not apply to any regulation issued for the sole purpose of implementing sections 1861(s)(8) and 1862(a)(7) of the Social Security Act (as amended by paragraph (3)).

(3) CLARIFYING COVERAGE OF POST-CATARACT EYEGLASSES.—

(A) Section 1861(s)(8) (42 U.S.C. 1395x(s)(8)) is amended by inserting after "devices" the following ", and including one pair of corrective eyeglasses provided with intraocular lenses following cataract surgery".

(B) Section 1862(a)(7) (42 U.S.C. 1395y(a)(7)) is amended by inserting after "eyeglasses" the first place it appears the following: "(other than eyeglasses described in section 1861(s)(8))".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to prosthetic devices, orthotics, and prosthetics furnished on or after January 1, 1991.

Subpart C—Miscellaneous Provisions

SEC. 6140. COMMUNITY MENTAL HEALTH CENTERS.

(a) PARTIAL HOSPITALIZATION SERVICES.—(1) Section 1861(ff)(3) (42 U.S.C. 1395x(ff)(3)) is amended—

(A) by striking "(3)" and inserting "(3)(A)";

(B) by striking "outpatients" and inserting "outpatients or by a community mental health center (as defined in subparagraph (B)),"; and

(C) by adding at the end the following new subparagraph:

"(B) For purposes of subparagraph (A), the term 'community mental health center' means an entity—

"(i) providing the services described in section 1916(c)(4) of the Public Health Service Act; and

"(ii) meeting applicable licensing or certification requirements for community mental health centers in the State in which it is located.".

(2)(A) Section 1832(a)(2) (42 U.S.C. 1395k(a)(2)), as amended by section X124(b)(1), is amended—

(i) by striking "and" at the end of subparagraph (G);

(ii) by striking the period at the end of subparagraph (H) and inserting "; and"; and

(iii) by adding at the end the following new subparagraph:

"(I) partial hospitalization services provided by a community mental health center (as described in section 1861(ff)(2)(B)).".

(B) Section 1866(e) (42 U.S.C. 1395cc(e)) is amended by striking "include a clinic" and all that follows through the period and inserting the following: "include—

"(1) a clinic, rehabilitation agency, or public health agency if, in the case of a clinic or rehabilitation agency, such clinic or agency meets the requirements of section 1861(p)(4)(A) (or meets the requirements of such section through the operation of section 1861(g)), or if, in the case of a public health agency, such agency meets the requirements of section 1861(p)(4)(B) (or meets the requirements of such section through the operation of section 1861(g)), but only with respect to the furnishing of outpatient physical therapy services (as therein defined) or (through the operation of section 1861(g)) with respect to the furnishing of outpatient occupational therapy services; and

"(2) a community mental health center (as defined in section 1861(ff)(3)(B)), but only with respect to the furnishing of partial hospitalization services (as described in section 1861(ff)(1)).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to partial hospitalization services provided on or after April 1, 1991.

(b) COVERAGE OF MENTAL HEALTH PROFESSIONAL SERVICES.—(1) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended by the Omnibus Budget Reconciliation Act 1989, is amended—

(A) by striking "and" at the end of subparagraph (M);

(B) by adding "and" at the end of subparagraph (N); and

(C) by adding at the end of the paragraph the following new subparagraph:

"(O) qualified mental health professional services;".

(2) Section 1833 (42 U.S.C. 1395l) is amended—

(A) in subsection (a)(1) by inserting after subparagraph (L) the following new subparagraph: ", (M) with respect to qualified mental health professionals under section 1861(s)(2)(O), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph.",

(B) in subsection (p), by amending the first sentence to read as follows:

"(p) In case of—

"(1) certified nurse-midwife services;

"(2) qualified psychologists services;

"(3) clinical social worker services; and

"(4) qualified mental health professionals services,

for which payment may be made under this part only pursuant to subparagraphs (L), (M), (N), and (O) of section 1861(s)(2), respectively, payment may only be made under this part for such services on an assignment-related basis.".

(3) Section 1861 (42 U.S.C. 1395x), as amended by subsection (a), is amended by inserting after subsection (ii) the following new subsection:

"(jj)(1) The term 'qualified mental health professionals services' means such services and such services and supplies furnished as an incident to services furnished by a marriage and family therapist (as defined in paragraph (2)), or a psychiatric nurse (as defined in paragraph (3)) on-site at a community mental health center (as defined in subsection (ff)), and such services that are necessarily furnished off-site (other than at an off-site office of such therapist, nurse, or counselor) as part of a treatment plan because of the inability of the individual furnished such services to travel to the center by reason of physical or mental impairment, because of institutionalization, or because of similar circumstances of the individual, which the marriage and family therapist, psychiatric nurse, or clinical mental health counselor is legally authorized to perform under State law (or the regulatory mechanism provided by State law) as would otherwise be covered if furnished by a physician or as an incident to a physician's services.

"(2) The term 'marriage and family therapist' means an individual who—

"(A) possesses a minimum of a masters degree in a field related to marriage and family therapy.

"(B) after obtaining such degree has performed at least 2 years of supervised clinical experience in the field of marriage and family therapy; and

"(C)(i) is licensed or certified by the State in which such services are performed as a marriage and family therapist, married, family and child counselor, or is licensed under a similar professional title; or

"(ii) in the case of an individual in a State which does not provide for licensing or certification, is eligible for clinical membership in a national professional association that recognized credentials for clinical membership for marriage and family therapists (as determined by the Secretary).

"(3) The term 'psychiatric nurse' means an individual who—

"(A) is licensed to practice professional nursing by the State in which such individual practices nursing;

"(B) performs such psychiatric nursing services as are authorized under the law of the State in which such individual practices psychiatric nursing; and

"(C)(i) possesses a minimum of a masters degree in nursing with a specialization in psychiatric and mental health nursing or a related field; or

"(ii) possesses a minimum of a masters degree in a related field from an accredited educational institution and is certified as a psychiatric nurse by a duly recognized national professional nurse organization, as determined by the Secretary, or is eligible to receive such certification.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed on or after January 1, 1991.

SEC. 6141. EXTENSION OF ALZHEIMER'S DISEASE DEMONSTRATION PROJECTS.

Section 9342 of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) in subsection (c)(1), by striking "3 years" and inserting "5 years", and

(2) in subsection (d)(1), by striking "third year" and inserting "fourth year".

SEC. 6142. CERTIFIED REGISTERED NURSE ANESTHETISTS.

Section 1833(l) (42 U.S.C. 1395l) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after "(1)"; and

(B) by adding at the end the following:

"(B) In establishing the fee schedule under this paragraph the Secretary may utilize a system of time units, a system of base and time units, or any appropriate methodology.

"(C) The provisions of this subsection shall not apply to certain services furnished in certain hospitals in rural areas under the provisions of section 9320(k) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 6132 of the Omnibus Budget Reconciliation Act of 1989.";

(2) by striking the second sentence of paragraph (2); and

(3) by striking paragraph (4) and inserting the following:

"(4)(A) Except as provided in subparagraphs (C) and (D), in determining the amount paid under the fee schedule under this subsection for services furnished on or after January 1, 1991, by a certified registered nurse anesthetist who is not medically directed—

"(i) the conversion factor shall be—

"(I) for services furnished in 1991, $15.50,

"(II) for services furnished in 1992, $15.75,

"(III) for services furnished in 1993, $16.00,

"(IV) for services furnished in 1994, $16.25,

"(V) for services furnished in 1995, $16.50,

"(VI) for services furnished in 1996, $16.75, and

"(VII) for services furnished in calendar years after 1995, the previous year's conversion factor increased by the update determined under section 1848(d)(3) for physician anesthesia services for that year;

"(ii) the payment areas to be used shall be the fee schedule areas used under section 1848 (or, in the case of services furnished during 1991, the localities used under section 1842(b)) for purposes of computing payments for physicians' services that are anesthesia services;

"(iii) the geographic adjustment factors to be applied to the conversion factor under clause (i) for services in a fee schedule area or locality is—

"(I) in the case of services furnished in 1991, the geographic work index value and the geographic practice cost index value specified in section 1842(q)(1)(B) for physicians' services that are anesthesia services furnished in the area or locality, and

"(II) in the case of services furnished after 1991, the geographic work index value, the geographic practice cost index value, and the geographic malpractice index value used for determining payments for physicians' services that are anesthesia services under section 1848,

with 70 percent of the conversion factor treated as attributable to work and 30 percent as attributable to overhead for services furnished in 1991 (and the portions attributable to work, practice expenses, and malpractice expenses in 1992 and thereafter being the same as is applied under section 1848).

"(B)(i) Except as provided in clause (ii) and subparagraph (D), in determining the amount paid under the fee schedule under this subsection for services furnished on or after January 1, 1991, by a certified registered nurse anesthetist who is medically directed, the Secretary shall apply the same methodology specified in subparagraph (A).

"(ii) The conversion factor used under clause (i) shall be—

"(I) for services furnished in 1991, $10.50,

"(II) for services furnished in 1992, $10.75,

"(III) for services furnished in 1993, $11.00,

"(IV) for services furnished in 1994, $11.25,

"(V) for services furnished in 1995, $11.50,

"(VI) for services furnished in 1996, $11.70, and

"(VII) for services furnished in calendar years after 1996, the previous year's conversion factor increased by the update deter-

mined under section 1848(d)(3) for physician anesthesia services for that year.

"(C) Notwithstanding subclauses (I) through (V) of subparagraph (A)(i)—

"(i) in the case of a 1990 conversion factor that is greater than $16.50, the conversion factor for a calendar year after 1990 and before 1996 shall be the 1990 conversion factor reduced by the product of the last digit of the calendar year and one-fifth of the amount by which the 1990 conversion factor exceeds $16.50; and

"(ii) in the case of a 1990 conversion factor that is greater than $15.49 but less than $16.51, the conversion factor for a calendar year after 1990 and before 1996 shall be the greater of—

"(I) the 1990 conversion factor, or

"(II) the conversion factor specified in subparagraph (A)(i) for the year involved.

"(D) In no case may the conversion factor used to determine payment for services in a fee schedule area or locality under this subsection, as adjusted by the adjustment factors specified in subparagraphs (A)(iii), exceed the conversion factor used to determine the amount paid for physicians' services that are anesthesia services in the area or locality.".

SEC. 6143. FEDERALLY QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS.

(a) COVERAGE.—Section 1861(s)(2)(E) (42 U.S.C. 1395x(s)(2)(E)) is amended by inserting "and Federally qualified health center services" after "rural health clinic services".

(b) SERVICES DEFINED.—Section 1861(aa) (42 U.S.C. 1395x(aa)) is amended—

(1) in the heading, by adding at the end the following: "AND FEDERALLY QUALIFIED HEALTH CENTER SERVICES",

(2) in paragraph (3), by striking "paragraphs (1) and (2)" and inserting "the previous provisions of this subsection" and by redesignating such paragraph and paragraph (4) as paragraph (5) and (6), respectively, and

(3) by inserting after paragraph (2) the following new paragraphs:

"(3) The term 'Federally qualified health center services' means services of the type described in subparagraphs (A) through (C) of paragraph (1) when furnished to an individual (who is not an inpatient) and, for this purpose, any reference to a rural health clinic or a physician described in paragraph (2)(B) is deemed a reference to a Federally qualified health center or a physician at the center, respectively.

"(4) The term 'Federally qualified health center' means an entity which—

"(A)(i) is receiving a grant under section 329, 330, or 340 of the Public Health Service Act and which requests the Secretary to reimburse it as a Federally qualified health center, or

"(ii)(I) is receiving funding from such a grant under a contract with the recipient of such a grant, and (II) meets the requirements to receive a grant under section 329, 330, or 340 of such Act;

"(B) based on the recommendation of the Health Resources and Services Administration within the Public Health Service, is determined by the Secretary to meet the requirements for receiving such a grant; or

"(C) was treated by the Secretary, for purposes of part B, as a comprehensive Federally funded health center as of January 1, 1990.".

(c) PAYMENTS.—

(1) IN GENERAL.—Section 1832(a)(2)(D) (42 U.S.C. 1395k(a)(2)(D)) is amended by inserting "(i)" after "(D)" and by inserting "and (ii) Federally qualified health center services" after "rural health clinic services".

(2) EXCLUSION FROM PAYMENT REMOVED.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) in paragraph (2), by inserting ", except in the case of Federally qualified health center services" before the semicolon at the end, and

(B) in paragraph (3), by inserting ", in the case of Federally qualified health center services, as defined in section 1861(aa)(3)," after "1861(aa)(1),".

(3) PRRB REVIEW.—Section 1878 (42 U.S.C. 1395oo) is amended by adding at the end the following new subsection:

"(j) In this section, the term 'provider of services' includes a rural health clinic and a Federally qualified health center.".

(d) CONFORMING AMENDMENTS.—Section 1861 (42 U.S.C. 1395x) is further amended—

(1) in subsection (s)(2)(H)(i) and (s)(2)(K), by striking "subsection (aa)(3)" and "subsection (aa)(4)" each place either appears inserting "subsection (aa)(5)" and "subsection (aa)(6)", respectively, and

(2) in subsection (aa)(1)(B), by striking "paragraph (3)" and inserting "paragraph (5)".

(e) TEMPORARY WAIVER OF RHC STAFFING REQUIREMENTS.—Section 1861(aa) (42 U.S.C. 1395x(aa)) is further amended by adding at the end the following new paragraph:

"(7)(A) The Secretary shall waive for a 1-year period the requirements of paragraph (2) that a rural health clinic employ a physician assistant, nurse practitioner or certified nurse midwife or that such clinic require such providers to furnish services at least 50 percent of the time that the clinic operates for any facility that requests such waiver if the facility demonstrates that the facility has been unable, despite reasonable efforts, to hire a physician assistant, nurse practitioner, or certified nurse-midwife in the previous 90-day period.

"(B) The Secretary may not grant such a waiver under subparagraph (A) to a facility if the request for the waiver is made less than 6 months after the date of the expiration of any previous such waiver for the facility.

"(C) A waiver which is requested under this paragraph shall be deemed granted unless such request is denied by the Secretary within 60 days after the date such request is received.".

(f) EFFECTIVE DATE.—(1) Subject to paragraph (2), the amendments made by this section shall apply to services furnished on or after January 1, 1991.

(2) In the case of a Federally qualified health center that has elected, as of January 1, 1990, under part B of title XVIII of the Social Security Act, to have the amount of payments for services under such part determined on a reasonable-charge basis, the amendment made by subsection (c)(1) shall only apply on and after such date (not earlier than January 1, 1991) as the center may elect.

SEC. 6144. SEPARATE PAYMENT UNDER PART B FOR SERVICES OF CERTAIN HEALTH PROFESSIONALS.

(a) SERVICES OF CERTAIN HEALTH PROFESSIONALS NOT TO BE INCLUDED IN INPATIENT HOSPITAL SERVICES.—Section 1861(b) (42 U.S.C. 1395x(b)) is amended—

(1) in paragraph (3), by striking "(including clinical psychologist (as defined by the Secretary))", and

(2) in paragraph (4), by striking everything after "intern" and inserting ", services described by subsection (s)(2)(K)(i), certified nurse-midwife services, qualified psychologist services, and services of a certified registered nurse anesthetist; and".

(b) SERVICES OF CERTAIN HEALTH PROFESSIONALS NOT TO BE BILLED THROUGH PROVIDERS OF SERVICES.—Section 1832(a)(2)(B)(iii) (42 U.S.C. 1395k(a)(2)(B)(iii)) is amended to read as follows:

"(iii) services described by section 1861(s)(2)(K)(i), certified nurse-midwife services, qualified psychologist services, and services of a certified registered nurse anesthetist;".

(c) CONFORMING AMENDMENTS.—

(1) Section 1862(a)(14) (42 U.S.C. 1395y) is amended—

(A) by striking "or are services of a certified registered nurse anesthetist", and

(B) by inserting after "this paragraph)" a comma and the following: "services described by section 1861(s)(2)(K)(i), certified nurse-midwife services, qualified psychologist services, and services of a certified registered nurse anesthetist,".

(2) The matter in section 1866(a)(1)(H) (42 U.S.C. 1395x(a)(1)(H)) preceding clause (i) is amended by inserting after "and other than" the following: "services described by section 1861(s)(2)(K)(i), certified nurse-midwife services, qualified psychologist services, and".

(d) EFFECTIVE DATE.—The amendments made by the preceding subsections apply to services furnished on or after January 1, 1991.

SEC. 6145. NEW TECHNOLOGY IOL'S.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall develop and implement a process under which interested parties may request review by the Secretary of the appropriate reimbursement under section 1833(i)(2)(A)(iii) of the Social Security Act with respect to a class of new technology intraocular lenses. For purposes of the preceding sentence, an intraocular lens may not be treated as a new technology lens unless it has been approved by the Food and Drug Administration.

(b) EVALUATION BASED UPON MEDICAL BENEFITS.—In determining whether to provide an adjustment of payment with respect to a particular lens under subsection (a), the Secretary shall take into account whether use of the lens is likely to result in reduced risk of intraoperative or postoperative complication or trauma, accelerated postoperative recovery, reduced induced astigmatism, improved postoperative visual acuity, more stable postoperative vision, or other comparable clinical advantages.

(c) NOTICE AND COMMENTS.—

(1) NOTICE.—The Secretary shall publish notice in the Federal Register from time to time (but no less often than once each year) a list of the requests that the Secretary has received for review under this section.

(2) COMMENT.—The Secretary shall provide for a 60-day comment period on the notice under paragraph (1). The Secretary shall publish a notice of his determination with respect to intraocular lenses listed in the notice within 120 days after the close of the comment period.

SEC. 6146. RURAL NURSING INCENTIVES.

(a) COVERAGE OF SERVICES.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (L);

(2) by adding "and" at the end of subparagraph (M); and

(3) by adding at the end thereof the following new subparagraph:

"(P) nurse practitioner or clinical nurse specialist services;".

(b) SERVICES DEFINED.—Section 1861 (42 U.S.C. 1395x) is amended by inserting after subsection (jj) the following new subsection:

"NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST SERVICES

"(kk)(1) The term 'nurse practitioner or clinical nurse specialist services' means services provided by a nurse practitioner or clinical nurse specialist (as defined in paragraph (2)) in a rural area (as defined in paragraph (3)) which the nurse practitioner or clinical nurse specialist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed.

"(2) The term 'nurse practitioner or clinical nurse specialist' means an individual who—

"(A) is a registered nurse and is licensed to practice nursing in the State in which the nurse practitioner or clinical nurse specialist services are performed; and

"(B)(i) holds a master's degree in nursing or a related field from an accredited educational institution, or

"(ii) is certified as a nurse practitioner or clinical nurse specialist by a duly recognized professional nurses association.

"(3) The term 'rural area' means any area outside a metropolitan statistical area (as defined by the Office of Management and Budget).".

(c) DIRECT PAYMENT FOR SERVICES.—Section 1832(a)(2)(B) (42 U.S.C. 1395k(a)(2)(B)) is amended—

(1) by striking "and" at the end of clause (ii); and

(2) by adding at the end of clause (iii) the following new clause:

"(iv) nurse practitioner or clinical nurse specialist services;".

(d) AMOUNT OF PAYMENT FOR SERVICES.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (M);

(2) by adding "and" at the end of subparagraph (N); and

(3) by adding at the end thereof the following new subparagraph: "(O) in the case of nurse practitioner or clinical specialist services under section 1861(s)(2)(P), the amounts paid shall be an amount equal to 100 percent of 75 percent of the prevailing charge (or, in the case of services furnished after 1991, the amount determined under section 1848(a)) in area for the service for participating physicians and such payment shall be made only on an assignment-related basis;".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished on or after January 1, 1991.

PART 3—PROVISIONS RELATING TO PARTS A AND B

SEC. 6150. END STAGE RENAL DISEASE SERVICES.

(a) MAINTENANCE OF CURRENT RATES THROUGH 1992.—Section 9335(a)(1) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 6203(a)(1)(A) of the Omnibus Budget Reconciliation Act of 1989, is amended—

(1) by striking "and before October 1, 1990" and inserting "and before October 1, 1993"; and

(2) by striking "equal to" and inserting "not less than".

(b) PROPAC STUDY ON ESRD COMPOSITE RATES.—

(1) IN GENERAL.—

(A) STUDY.—The Prospective Payment Assessment Commission (in this subsection referred to as the "Commission") shall conduct a study to determine the costs and services and profits associated with various modalities of dialysis treatments provided to end stage renal disease patients provided under title XVIII of the Social Security Act.

(B) RECOMMENDATIONS.—Based on information collected for the study described in subparagraph (A), the Commission shall make recommendations to Congress regarding the method or methods and the levels at which the payments made for the facility component of dialysis services by providers of service and renal dialysis facilities under title XVIII of the Social Security Act should be established for dialysis services furnished during fiscal year 1993 and the methodology to be used to update such payments for subsequent fiscal years. In making recommendations concerning the appropriate methodology the Commission shall consider—

(i) hemodialysis and other modalities of treatment,

(ii) the appropriate services to be included in such payments,

(iii) the adjustment factors to be incorporated including facility characteristics, such as hospital versus free-standing facilities, urban versus rural, size and mix of services,

(iv) adjustments for labor and nonlabor costs,

(v) comparative profit margins for all types of renal dialysis providers of service and renal dialysis facilities,

(vi) adjustments for patient complexity, such as age, diagnosis, case mix, and pediatric services, and

(vii) efficient costs related to high quality of care and positive outcomes for all treatment modalities.

(2) REPORT.—Not later than June 1, 1992, the Commission shall submit a report to the Committee on Finance of the Senate, and the Committees on Ways and Means and Energy and Commerce of the House of Representatives on the study conducted under paragraph (1)(A) and shall include in the report the recommendations described in paragraph (1)(B), taking into account the factors described in paragraph (1)(B).

(3) ANNUAL REPORT.—The Commission, not later than March 1 before the beginning of each fiscal year (beginning with fiscal year 1993) shall report its recommendations to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives on an appropriate change factor which should be used for updating payments for services rendered in that fiscal year. The Commission in making such report to Congress shall consider conclusions and recommendations available from the Institute of Medicine.

(c) SELF-ADMINISTERED ERYTHROPOIETIN.—(1) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(A) by striking "and" at the end of subparagraph (O);

(B) by adding "and" at the end of subparagraph (P); and

(C) by adding at the end the following new subparagraph:

"(Q) erythropoietin for home dialysis patients competent to use such drug without medical or other supervision with respect to the administration of such drug, subject to methods and standards established by the Secretary by regulation for the safe and effective use of such drug, and items related to the administration of such drug;".

(2)(A) Section 1881(b)(11) (42 U.S.C. 1395rr(b)) is amended—

(i) by striking "(11)" and inserting "(11)(A)", and

(ii) by adding at the end the following new subparagraph:

"(B) Erythropoietin (including self-administered erythropoietin (as described in section 1861(s)(2)(Q)), when provided to a patient determined to have end stage renal disease, shall not be included as a dialysis service for purposes of payment under any prospective payment amount or comprehensive fee established under this section, and payment for such item shall be made separately—

"(i) in the case of erythropoietin provided by a physician, in accordance with section 1833; and

"(ii) in the case of erythropoietin provided by a provider of services or a renal dialysis facility, in an amount specified by the Secretary.".

(B) Section 1881(b) (42 U.S.C. 1395rr(b)) is further amended—

(i) in paragraph (1)—

(I) by striking "and (B)" and inserting "(B), and

(II) by striking "equipment." and inserting "equipment, and (C) payments to a supplier of home dialysis supplies and equipment that is not a provider of services, a renal dialysis facility, or a physician for self-administered erythropoietin as described in section 1861(s)(2)(Q) if the Secretary finds that the patient receiving such drug from such a supplier can safely and effectively administer the drug (in accordance with the applicable methods and standards established by the Secretary pursuant to such section).";

(ii) in paragraph (2)(A), by striking "(2)(A)" and inserting "(2)(A)(i)"; and

(iii) in paragraph (11)(B), as added by subparagraph (A)—

(I) by striking "(B)" and inserting "(B)(i)",

(II) by redesignating clauses (i) and (ii) as subclauses (I) and (II), and

(III) by adding at the end the following new clause:

"(ii) Notwithstanding clause (i), the amount payable to a supplier of home dialysis supplies and equipment that is not a provider of services, a renal dialysis facility, or a physician for erythropoietin shall be determined in the same manner as the amount payable to a renal dialysis facility for such item.".

(d) EFFECTIVE DATE.—The amendments made by subsection (c) shall apply to items and services furnished on or after January 1, 1991.

SEC. 6151. STAFF-ASSISTED HOME DIALYSIS.

(a) IN GENERAL.—Section 1861(s)(2)(F) (42 U.S.C. 1395x(s)(2)(F)) is amended by striking "self-care" and all that follows through "and institutional" and inserting "home dialysis support services, home hemodialysis staff assistance, and institutional".

(b) PAYMENT FOR COSTS OF ASSISTANT SERVICES.—

(1) IN GENERAL.—Section 1881(b) of such Act (42 U.S.C. 1395rr(b)(1)) is amended—

(A) in paragraph (1)—

(i) by striking "self-care home dialysis support services" and inserting "home dialysis support services"; and

(ii) by striking "and routine" and inserting "services of a staff assistant provided to an individual described in subsection (h)(3) which are furnished by a provider of services or facility, and routine";

(B) in paragraph (4), by amending subparagraph (A) to read as follows: "Pursuant to agreements with approved providers of services and renal dialysis facilities, the Sec-

retary may make payments to such providers and facilities for the cost of home dialysis supplies and equipment and home dialysis support services furnished to patients whose home dialysis is under the direct supervision of such provider or facility, and home hemodialysis staff assistance furnished to patients described in subsection (h)(3) whose home hemodialysis is under the direct supervision of a provider of services or a renal dialysis facility on the basis of the method established under paragraph (7).''; and

(C) in paragraph (5)—

(i) by inserting ''(A)'' after ''paragraph (4)''; and

(ii) by amending clause (iv) to read as follows:

''(iv) the services of a trained home hemodialysis staff assistant (as described in subsection (h)(2)) to individuals described in subsection (h)(3);''.

(2) ESTABLISHING PAYMENT RATE.—Section 1881(b)(7) of such Act (42 U.S.C. 1395rr(b)(7)) is amended—

(A) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively;

(B) by inserting ''(A)'' after the paragraph designation; and

(C) by adding at the end the following new subparagraph:

''(B)(i) The Secretary shall provide by regulation for a method of determining prospectively the amount of payment to be made for home hemodialysis staff assistance furnished by a provider of services or a renal dialysis facility with respect to a maintenance dialysis episode.

''(ii) The amount of payment determined under clause (i) shall be in addition to the amount determined under subparagraph (A) on the basis of a rate based on a single composite weighted formula (in this subparagraph referred to as the 'composite rate').

''(iii) The amount of payment determined under clause (i) shall be the product of the rate determined under clause (iv) with respect to a provider of services or a renal dialysis facility and the factor by which the labor portion of the rate determined under subparagraph (A) is adjusted for area differences in wage levels.

''(iv) The rate determined under this clause, with respect to a provider of services or renal dialysis facility, shall equal the amount obtained by subtracting—

''(I) 2/2 of the labor portion of the composite rate applicable to the provider or facility (as adjusted to reflect area differences in wage levels), from

''(II) the product of the national median hourly wage for a home hemodialysis staff assistant and the national median time expended in the provision of home hemodialysis staff assistant services (taking into account time expended in travel and predialysis patient care).

''(v) For purposes of clause (iv)(II)—

''(I) the national median hourly wage for a home hemodialysis staff assistant and the national median average time expended for home hemodialysis staff assistant services shall be determined annually on the basis of the most recent data available, and

''(II) the national median hourly wage for a home hemodialysis staff assistant shall be the sum of 65 percent of the national median hourly wage for a licensed practical nurse and 35 percent of the national median hourly wage for a registered nurse.''.

(c) DEFINITION AND CRITERIA RELATED TO STAFF ASSISTED HOME HEMODIALYSIS SERVICES.—Section 1881 of such Act (42 U.S.C. 1395rr) is further amended by adding at the end the following new subsection:

''(h)(1) For purposes of this title, the term 'home hemodialysis staff assistance' means the following services provided by a home hemodialysis staff assistant (as described in paragraph (2)) through a provider of services or a renal dialysis facility to an eligible patient (as described in paragraph (3)):

''(A) Technical assistance with the operation of a hemodialysis machine in the patient's home and with such patient's care during in-home hemodialysis.

''(B) Administration of medications within the patient's home to maintain the patency of the extra corporeal circuit.

''(2) For purposes of this title, the term 'home hemodialysis staff assistant' means those individuals who—

''(A) have met minimum qualifications as specified by the Secretary; and

''(B) meet the minimum qualifications as specified under the law of the State in which the home hemodialysis staff assistant is providing services.

''(3) For purposes of this title, an 'eligible patient' means those individuals who—

''(A)(i) a physician certifies as being confined to a bed or wheelchair and who cannot transfer themselves from a bed to a chair, or

''(ii) have serious medical conditions (as specified by the Secretary) which would be exacerbated by traveling to and from a dialysis facility; and

''(B) are eligible for ambulance transportation to receive routine maintenance dialysis treatments, and, based on the medical condition of the patient, there is reasonable expectation that such transportation will be used by the patient for a period of at least 6 consecutive months, such that the cost of ambulance transportation can reasonably be expected to meet or exceed the cost of home hemodialysis staff assistance as provided under subsection (b)(4); and

''(C) have no spouse, relative, or other care-giver who either lives with the individual or comes to such individual's home periodically and who is willing and able to assist the individual with home hemodialysis; and

''(D) the Secretary certifies annually as meeting the requirements of this paragraph.

''(4) A resident of a skilled nursing facility, under this title, shall not for purposes of this subsection be considered an 'eligible patient' as defined in paragraph (3).''.

(d) CONFORMING AMENDMENT.—Section 1881(b)(9) of such Act (42 U.S.C. 1395rr(b)(9)) is amended by striking ''self-care''.

(e) EFFECTIVE DATE.—

(1) The amendments made by this section shall become effective (if at all) in accordance with the provisions of paragraph (2).

(2)(A)(i) The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall establish a demonstration project to begin January 1, 1991, to test the cost-effectiveness of furnishing home hemodialysis staff assistance (as defined in section 1881(h)(1) of the Social Security Act) to eligible patients (as defined in section 1881(h)(3) of such Act) in accordance with the amendments made by this section.

(ii) Any individual who, on the date of the enactment of this Act, is receiving staff assistance under the experimental authority provided under section 1881(f)(2) of the Social Security Act shall be deemed to be an eligible patient for purposes of clause (i).

(B) The number of eligible patients participating in the demonstration project established under subparagraph (A) may not exceed 550 during any month, except that one eligible patient may be admitted to the demonstration for each individual ceasing to participate in the project in any month.

(C) The Secretary may implement the demonstration project established under subparagraph (A) on a nationwide basis or at specific sites.

(D) The demonstration project established under subparagraph (A) shall continue through December 31, 1993 (or the date that occurs the same number of days after such date as elapsed between January 1, 1991 and the first day on which services were furnished under the project).

(E)(i) The Secretary shall transmit a report of preliminary findings under the demonstration project to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate not later than January 15, 1993.

(ii) The Secretary shall transmit a final report of findings under the demonstration project to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate not later than December 31, 1993.

(iii) If the Secretary determines that it is not cost-effective to furnish home dialysis staff assistance, the demonstration project under this subsection shall terminate as of December 31, 1993.

(F) Any individual participating in the demonstration project established under subparagraph (A) as of December 31, 1993 (or the later date described in subparagraph (D)) shall continue to be eligible for home hemodialysis staff assistance after such date on the same terms and conditions as applied under the demonstration project.

SEC. 6152. MEDICARE AS SECONDARY PAYER.

(a) EXTENSION OF TRANSFER OF DATA.—

(1) Section 1862(b)(5)(C)(iii) (42 U.S.C. 1395y(b)(5)(C)(iii)) is amended by striking ''September 30, 1991'' and inserting ''September 30, 1995''.

(2) Section 6103(l)(12)(F) of the Internal Revenue Code of 1986 is amended—

(A) in clause (i), by striking ''September 30, 1991'' and inserting ''September 30, 1995'';

(B) in clause (ii)(I), by striking ''1990'' and inserting ''1994''; and

(C) in clause (ii)(II), by striking ''1991'' and inserting ''1995''.

(b) EXTENSION OF APPLICATION TO DISABLED BENEFICIARIES.—Section 1862(b)(1)(B)(iii) (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended by striking ''January 1, 1992'' and inserting ''October 1, 1995''.

(c) TEMPORARY EXTENSION OF ESRD PERIOD.—

(1) IN GENERAL.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended to read as follows:

''(C) INDIVIDUALS WITH END-STAGE RENAL DISEASE.—

''(i) A group health plan (as defined in subparagraph (A)(v)) may not take into account that an individual is entitled to benefits under this title solely by reason of section 226A during the 12-month period that begins with the earlier of—

''(I) the first month in which the individual becomes entitled to benefits under part A under the provisions of section 226A, or

''(II) in the case of an individual who receives a kidney transplant, the first month in which the individual would be eligible for benefits under part A (if the individual had

filed an application for such benefits) under the provisions of section 226A(b)(1)(B).

"(ii) A group health plan (as so defined) may not differentiate in the benefits it provides between individuals having end-stage renal disease and other individuals covered by such plan on the basis of the existence of end-stage renal disease, the need for renal dialysis, or in any other manner. The preceding sentence shall not prohibit a plan from taking into account that an individual is entitled to benefits under this title solely by reason of section 226A during a period occurring before or after the 12-month period described in clause (i).

"(iii) Effective for items and services furnished on or after February 1, 1991, and before January 1, 1996 (with respect to periods beginning on or after February 1, 1990), clauses (i) and (ii) shall be applied by substituting '24-month' for '12-month' each place it appears.".

(2) STUDY.—(A) The Comptroller General shall study and report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on the impact of the application of clause (iii) of section 1862(b)(1)(C) of the Social Security Act (42 U.S.C. 1395y(b)(1)(C)) on individuals entitled to benefits under title XVIII of such Act by reason of section 226A of such Act. The report shall include information relating to—

(i) the number (and geographic distribution) of such individuals for whom medicare is secondary,

(ii) the amount of savings to the medicare program achieved annually by reason of the application of such clause,

(iii) the effect on access to employment, and employment-based health insurance, for such individuals and their family members (including coverage by employment-based health insurance of cost-sharing requirements under medicare after such employment-based insurance becomes secondary),

(iv) the effect on the amount paid for each dialysis treatment under employment-based health insurance, and

(v) the effect on cost-sharing requirements under employment-based health insurance (and on out-of-pocket expenses of such individuals) during the period for which medicare is secondary.

(B) The Comptroller General shall submit a preliminary report under this subsection not later than January 1, 1993, and a final report not later than January 1, 1995.

(d) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of the enactment of this Act.

(2)(A) The amendment made by subsection (a)(2)(B) shall apply to requests made on or after the date of the enactment of this Act.

(B) Section 1862(b)(1)(C)(i)(I) of the Social Security Act, as amended by subsection (c), and section 1862(b)(1)(C)(iii) of such Act, as added by such subsection, shall apply to periods beginning on or after February 1, 1990.

(C) The amendments made by subsection (d) shall be effective—

(i) on January 1, 1992, with respect to individuals described in clause (ii) of subparagraph (A) of the paragraph added by paragraph (d)(1) who are covered by group health plans contributed to or sponsored by employers with 1,000 or more employees and with respect to all individuals described in clause (ii) of subparagraph (A) of such paragraph;

(ii) on January 1, 1993, with respect to individuals covered by group health plans contributed to or sponsored by employers with 100 or more employees; and

(iii) on January 1, 1994, with respect to all other individuals.

SEC. 6153. HEALTH MAINTENANCE ORGANIZATIONS.

(a) REQUIREMENTS WITH RESPECT TO ACTUARIAL EQUIVALENCE OF AAPCC.—(1) Not later than January 1, 1992, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall submit a proposal to Congress that provides for a modified payment method for organizations with a risk contract under section 1876(g) of the Social Security Act that is more accurate than the current payment methodology in predicting the actual service utilization and annual medical expenditures of the beneficiary population enrolled in a specific organization.

(2) The proposal shall include—

(A)(i) recommendations on modifying the current adjusted average per capita cost formula, by adding predictors of medical utilization such as health status adjustors or prior utilization measures; or

(ii) recommendations for a new payment methodology as an alternative to the adjusted average per capita cost;

(B) data to support any recommended changes in payment methodology for organizations with risk contracts under section 1876(g) of the Social Security Act; and

(C) data demonstrating that any proposed or revised payment methodology under this section is effective in explaining at least 15 percent of the variation in health care utilization and costs (as certified by the American Academy of Actuaries) among individuals enrolled in such organizations.

(3) Not later than March 1, 1992, the Secretary shall cause to have published in the Federal Register a proposed rule providing for the implementation of the payment methodology specified in the proposal submitted pursuant to paragraph (1).

(4) Not later than May 1, 1992, the Comptroller General shall review the proposal and recommendations made pursuant to paragraphs (1) and (2), and shall report to Congress on appropriate modifications in such payment methodology.

(5) Taking into account the recommendations made pursuant to paragraph (2), on or after August 1, 1992, the Secretary shall issue a final rule implementing a payment methodology that meets the requirements of paragraph (1), effective for contract years beginning on or after January 1, 1993.

(b) WAIVER OF 50-50 REQUIREMENT WITH RESPECT TO CERTAIN ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary may waive the requirements of section 1876(f) of the Social Security Act with respect to an organization with a risk contract (as described in section 1876(g) of such Act) that—

(A)(i) has demonstrated profitability for the 3 most recent consecutive contract years; or

(ii) if such organization is a new organization the parent company of such organization demonstrates to the satisfaction of the Secretary that the solvency of such new organization is assured;

(B)(i) has had a risk contract in effect under section 1876(g) of the Social Security Act for at least 3 years; or

(ii) if such organization is a new organization, the parent company of such organization has at least 5 years of experience in operating a health maintenance organization and two years experience in operating an organization with a risk contract under section 1876(g) of the Social Security Act in two or more States;

(C)(i) has a total enrollment of at least 100,000 enrollees (including but not limited to individuals enrolled under title XVIII of such Act); or

(ii) in the case of a new organization, the organization and any affiliated organizations have at least 100,000 of such enrollees;

(D)(i) has no significant quality problems (as determined by the Secretary) identified by internal or external quality review; and

(ii) the organization agrees to an annual quality review conducted by the Secretary;

(E) has agreed to fund an annual membership satisfaction survey to be conducted by an independent survey firm that—

(i) measures satisfaction of enrollees of such organization drawn from 3 population groups including—

(I) the enrolled medicare membership;

(II) medicare members who have been discharged from a hospital within a previous 30-day period; and

(III) former medicare members; and

(ii) reports such surveys to the Secretary; and

(F) has agreed to, within the amount charged the beneficiary under section 1876(e), provide special services that are uniquely targeted towards elderly individuals receiving benefits under title XVIII of such Act and which are not routinely provided to such individuals and which include—

(i) a multi-disciplinary geriatric assessment (performed by a social worker, physician and a nurse, each who have either a specialty in geriatrics or have completed a geriatric training program) that provides for each new beneficiary enrolled after the date the waiver is approved—

(I) a plan to manage specific medical conditions;

(II) objective criteria that measure—

(aa) impairment of activities of daily living (including toileting, eating, mobility, bathing, continence, and dressing); and

(bb) cognitive impairment; and

(ii) with respect to individuals who are determined to be dependent in 3 or more areas related to activities of daily living for at least 3 months (as described in clause (i)(II)) home and community based long-term care services (nonmedical services provided to prevent or delay an individual entitled to benefits under title XVIII of the Social Security Act from entering a nursing facility) that provide at least one of the following:

(I) Homemaker or chore services.

(II) Personal care services.

(III) Adult day health care.

(IV) Meals on wheels.

(V) Respite care.

(VI) Lifeline telephone assistance.

(VII) Transportation.

(VIII) Geriatric case management.

(IX) Rehabilitation and home adaptation.

(X) Special health education programs targeted to the elderly.

(XI) Geriatric mental health services.

(2) DURATION OF WAIVER.—A waiver under this subsection shall be approved for a 3-year period. The additional benefits (described in paragraph (1)) shall be made available to eligible enrollees of an organization (described in paragraph (1)) for a period of at least 3 years.

(3) REVIEW AND WITHDRAWAL BY THE SECRETARY.—The Secretary shall review an organization's compliance with the terms of the waiver described in this subsection on an annual basis. The Secretary may withdraw

any waiver for an organization which the Secretary finds fails to comply with the provisions of this subsection.

(4) EVALUATION AND REPORT.—The Secretary shall evaluate the cost and impact of any waiver granted under this subsection, including any impact on the financial viability of an organization granted such a waiver, and shall report to Congress, no later than 2 years after the date of enactment of this section on whether any changes should be made to the enrollment requirement described in section 1876(f) of the Social Security Act.

(c) TEMPORARY WAIVER FOR RELATED ENTITIES.—

(1) For purposes of section 1876(f), the Secretary may combine the enrolled membership of an organization that meets the requirements described in paragraph (2) with the enrollment of an HMO or CMP that has a contract under section 1876 of the Social Security Act for 2 years.

(2) An organization described in this paragraph must—

(A) be related to the organization contracting under this section through common ownership and control;

(B) provide services in the same geographic area through essentially the same physicians and providers as the contracting organization;

(C) utilize a functionally integrated quality assurance program; and

(D) use common grievance procedures, claims, processing systems, common management, and administrative services.

(d) PHYSICIAN INCENTIVE PAYMENTS.—

(1) IN GENERAL.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(8)(A) Each contract with an eligible organization under this section shall provide that the organization may not operate any physician incentive plan (as defined in subparagraph (B) unless the following requirements are met:

"(i) No specific payment is knowingly made under the plan directly to a physician or physician group as an inducement to withhold or limit medically necessary services provided with respect to an identifiable individual enrolled with the organization.

"(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

"(I) provides stop-loss protection (or a risk corridor) for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians in the group or under the plan that share the risk and the number of individuals enrolled with the organization who receive services from the physician or the physician group,

"(II) conducts periodic surveys of individuals enrolled or previously enrolled with the organization to determine the degree to which such individuals have access to services provided by the organization and are satisfied with the quality of such services, and

"(III) has an internal quality assurance program that addresses issues of under utilization.

"(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

"(B) In this paragraph, the term 'physician incentive plan' means any contractual compensation arrangement between an eligible organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization.".

(2) PENALTIES.—Section 1876(i)(6)(A)(vi) (42 U.S.C. 1395mm(i)(6)(A)(vi)) is amended by striking "(g)(6)(A);" and inserting "(g)(6)(A) or paragraph (8);".

(3) REPEAL OF PROHIBITION.—Section 1128A(b)(1) (42 U.S.C. 1320a-7a(b)(1)) is amended—

(A) by striking ", an eligible organization" and all that follows through "1903(m)",

(B) by adding "and" at the end of subparagraph (A),

(C) by striking subparagraph (B),

(D) by redesignating subparagraph (C) as subparagraph (B), and

(E) by striking "or organization".

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply with respect to contract years beginning on or after January 1, 1992, and the amendments made by paragraph (3) shall take effect on the date of the enactment of this Act.

(e) WAIVER OF CERTAIN HMO REQUIREMENTS.—

(1) IN GENERAL.—With respect to Managed Care, Inc., an affiliate of CHP, the medical group affiliated with Long Island Jewish Medical Center, such group may include the enrollees of a State licensed health maintenance organization for whom CHP has agreed to assume full financial risk for provision of hospital and physician services for purposes of meeting the risk contracting requirements that at least one-half of the enrolled membership of an eligible organization consists of individuals who are not entitled to benefits under titles XVIII or XIX of the Social Security Act (as described in section 1876(f)(1) of the Social Security Act) and the requirement that such organizations have an enrollment of at least 5,000 members (as described in section 1876(g)(1) of such Act). The members of the health maintenance organization with whom Managed Care, Inc., has an agreement may not be considered for purposes of meeting any such requirements with respect to any other risk contract described in section 1876 of the Social Security Act.

(2) DURATION.—The waiver granted under this subsection shall expire 2 years after the date of enactment of this Act.

(f) APPLICATION OF NATIONAL COVERAGE DECISIONS ON RISK CONTRACTS.—

(1) IN GENERAL.—Section 1876(c)(2) (42 U.S.C. 1395mm(c)(2)) is amended—

(A) by redesignating clauses (i) and (ii) and subparagraphs (A) and (B) as subclauses (I) and (II) and clauses (i) and (ii), respectively;

(B) by inserting "(A)" after "(2)"; and

(C) by adding at the end the following new subparagraph:

"(B) If there is a national coverage determination made in the period beginning on the date of an announcement under subsection (a)(1)(A) and ending on the date of the next announcement under such subsection that is projected to result in a significant change in the costs to the organization or providing the benefits that are the subject of such national coverage determination (and that has not been taken into account in determining the per capita rate of payment specified in the announcement)—

"(i) such determination shall not apply to risk contracts under this section until the first contract year that begins after the end of such period; and

"(ii) if such coverage determination provides for coverage of additional benefits or under additional circumstances, subsection (a)(6) shall not apply to payment for such additional benefits or benefits provided under such additional circumstances during the period specified in clause (i), unless other-wise required by law.".

(2) CONFORMING AMENDMENT.—Section 1876(a)(6) of such Act is amended by striking "subsection (c)(7)" and inserting "subsections (c)(2)(B)(ii) and (c)(7)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to national coverage determinations made on or after September 7, 1990.

(g) PERMITTING CONTINUOUS ENROLLMENT OF CERTAIN INDIVIDUALS.—

(1) IN GENERAL.—Section 1876(a)(1)(E) (42 U.S.C. 1395mm(a)(1)(E)) is amended—

(A) by striking "(E)" and inserting "(E)(i)"; and

(B) by adding at the end the following new clause:

"(ii) The Secretary may make retroactive adjustments under clause (i) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls (and signs a written statement of enrollees' rights provided under subsection (c)(3)(E)) with an eligible organization (which has a risk contract under this section) under a health benefit plan operated, sponsored, or contributed to, by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the plan under this section, except that for purposes of making such retroactive adjustments under this clause, such period may not exceed 90 days.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to individuals enrolling with an eligible organization (which has a risk contract under section 1876 of the Social Security Act) under a health benefit plan operated, sponsored, or contributed to, by the individual's employer or former employer (or the employer or former employer of the individual's spouse) on or after January 1, 1991.

(h) EXTENSION OF WAIVERS FOR SOCIAL HEALTH MAINTENANCE ORGANIZATIONS.—Section 4018(b)(1) of the Omnibus Budget Reconciliation Act of 1987 is amended by striking "September 30, 1992" and inserting "December 31, 1995".

(i) STUDY OF CHIROPRACTIC SERVICES.—

(1) The Secretary shall conduct a study of the extent to which health maintenance organizations with contracts under section 1876 of the Social Security Act (42 U.S.C. 1395mm) make available to enrollees entitled to benefits under title XVIII of such Act chiropractic services that are covered under such title.

(2) The study shall examine the arrangements under which such services are made available and the types of practitioners furnishing such services to such enrollees.

(3) The study shall be based on contracts entered into or renewed on or after January 1, 1991, and before January 1, 1993.

(4) The Secretary shall issue a final report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on the results of the study not later than January 1, 1993. The report shall include recommendations with respect to any legislative and regulatory changes that the Secretary determines are necessary to ensure access to such services.

SEC. 6154. PEER REVIEW ORGANIZATIONS.

(a) STANDARDS FOR IMPOSING SANCTIONS.—Section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended—

(1) by inserting "and, if appropriate, after the practitioner or person has been given a reasonable opportunity to enter into and complete a corrective action plan (which may include remedial education) agreed to by the organization, and has failed successfully to complete such plan," after "concerned,", and

(2) by inserting after the second sentence the following: "In determining whether a practitioner or person has demonstrated an unwillingness or lack of ability substantially to comply with such obligations, the Secretary shall consider the practitioner's or person's unwillingness or lack of ability, during the period before the organization submits its report and recommendations, to enter into and successfully complete a corrective action plan.".

(b) CLARIFICATION OF LIMITATION ON LIABILITY.—Section 1157(b) (42 U.S.C. 1320c-6(b)) is amended—

(1) by inserting "organization having a contract with the Secretary under this part and no" after "No",

(2) by striking "by him", and

(3) by striking "he has exercised due care" and inserting "due care was exercised in the performance of such duty, function, or activity".

(c) INVOLVEMENT OF OPTOMETRISTS AND PODIATRISTS.—Section 1154 (42 U.S.C. 1320c-3) is amended—

(1) in subsection (a)(7)(A)(i) by inserting ", optometry, and podiatric medicine" after "dentistry", and

(2) in subsection (c) by striking "or dentistry" each place it appears and inserting ", dentistry, optometry, or podiatric medicine".

(d) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to initial determinations made under section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c-5(b)(1)) on or after January 1, 1991.

(2) The amendments made by subsection (b) shall become effective on the date of the enactment of this Act.

(3) The amendments made by subsection (c) shall apply to contracts entered into on or after the date of the enactment of this Act.

SEC. 6155. IMPROVEMENTS IN AND SIMPLIFICATION OF MEDIGAP POLICIES.

(a) SIMPLIFICATION OF MEDIGAP POLICIES.—Section 1882 (42 U.S.C. 1395ss) is amended—

(1) in subsection (b)(1)(B), by striking "through (4)" and inserting "through (5)";

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (3),

(B) by striking the period at the end of paragraph (4) and inserting "; and", and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) meets the requirements of subsection (o).", and

(3) by adding at the end the following new subsections:

"(o) The requirements of this subsection are as follows:

"(1) Each medicare supplemental policy shall provide for coverage of a group of benefits consistent with standards established pursuant to subsection (p)(2).

"(2) If the medicare supplemental policy provides for coverage of a group of benefits other than the core group of basic benefits identified pursuant to subsection (p)(2)(B), the issuer of the policy must make available to the individual a medicare supplemental policy with only such core group of basic benefits.

"(3) The issuer of the policy has provided, before the sale of the policy, a summary information sheet which describes the benefits (including any optional benefits) under the policy, the average ratio of benefits provided to premiums collected for the most recent 3-year period in which the policy is in effect (or, for a policy that has not been in effect for 3 years, the average ratio of benefits provided to premiums collected that is expected during the 3rd year of the policy) and which allows a direct comparison of benefits and prices among policies.

"(4) In the case of a benefit for which the premium attributable to that benefit is at least 75 percent of the nominal value or maximum payout of such benefit, the insurer shall disclose to any potential buyer the premium and the maximum payout of the benefit.

"(5)(A) Each medicare supplemental policy shall be guaranteed renewable.

"(B) If the medicare supplemental policy is terminated by the group policyholder and is not replaced as provided under subparagraph (D), the issuer shall offer certificateholders an individual medicare supplemental policy which (at the option of the certificateholder)—

"(i) provides for continuation of the benefits contained in the group policy, or

"(ii) provides for such benefits as otherwise meets the requirements of this section.

"(C) If an individual is a certificateholder in a group medicare supplemental policy and the individual terminates membership in the group, the issuer shall—

"(i) offer the certificateholder the conversion opportunity described in subparagraph (B), or

"(ii) at the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

"(D) If a group medicare supplemental policy is replaced by another group medicare supplemental policy purchased by the same policyholder, the succeeding issuer shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

"(6)(A) A medicare supplemental policy may not deny a claim for losses incurred for a preexisting condition more than 6 months after the effective date of coverage and may not define a preexisting condition as a condition for which medical advice was given or treatment was recommended by or received from a physician more than 6 months before the effective date of coverage.

"(B) If a medicare supplemental policy or certificate replaces another such policy or certificate, any period under the policy or certificate being replaced during which claims were denied by reason of a preexisting condition, exclusion period, rating period, elimination period, or probationary period shall be credited toward any such period under the new policy or certificate.

"(p)(1) The standards established pursuant to this subsection (in this subsection and subsection (t) referred to as 'medicare supplemental insurance simplification standards' or 'simplification standards') shall include—

"(A) limitations on the benefits that may be offered under a medicare supplemental policy consistent with paragraphs (2) and (3) of this subsection,

"(B) uniform language and format to be used with respect to such benefits for the purposes described in subsection (o)(3), and

"(C) transitional requirements consistent with paragraph (4).

"(2) The simplification standards established pursuant to this subsection shall provide—

"(A) for such groups of basic benefits, or additional, optional benefits, as may be appropriate taking into account the considerations specified in paragraph (3) and the requirements of the succeeding subparagraphs;

"(B) for identification of a core group of basic benefits which includes only the minimum benefits required of a medicare supplemental policy (as of the date of the enactment of this subsection and not including payment of any deductibles); and

"(C) that, subject to paragraph (5)—

"(i) if the simplification standards provide for medicare supplemental insurance benefits to be offered as a core group of basic benefits plus a defined list of optional additional benefits to be offered to consumers on an optional basis, then the total number of defined optional additional benefits offered shall not exceed 10;

"(ii) if the simplification standards provide for medicare supplemental insurance benefits to be offered through defined benefit packages or policies, then the total number of different benefit packages (counting the core group of basic benefits and counting each combination of benefits that may be offered as a separate benefit package) that may be established shall not exceed 10; and

"(iii) if the simplification standards provide for medicare supplemental insurance benefits to be offered through defined benefits that the insurer packages as it deems appropriate, the total number of packages offered by an insurer cannot exceed 4, and the total number of benefits to be packaged may not exceed 10.

"(3) The limitations on benefits under paragraph (2) shall, to the extent possible—

"(A) provide for benefits that offer consumers the ability to purchase the benefits that are available in the market as of the date of the enactment of this subsection; and

"(B) balance the objectives of (i) simplifying the market to facilitate direct comparison of prices and benefits among policies, (ii) avoiding adverse selection, (iii) providing consumer choice, and (iv) promoting market stability.

"(4) The transitional requirements of this paragraph are that the simplification standards shall not apply in the case of a medicare supplemental policy which was issued to a policyholder before the effective date of such standards.

"(5)(A) Except as provided in subparagraph (B), no State with a regulatory program approved under subsection (b)(1) may provide for or permit the grouping of benefits (or language or format with respect to such benefits) under a medicare supplemental policy unless such grouping meets the applicable simplification standards.

"(B)(i) The State may, upon application by an insurer, waive the requirements of this subsection to permit the issuance and sale of a medicare supplemental policy which does not comply with the applicable simplification standards in order to offer new or innovative benefits as part of the policy. Any such new or innovative benefits shall be offered in a manner as approved by the State, which is consistent and practical-

ly achievable under the simplification standards. Such new or innovative benefits may include benefits that are not otherwise available and are cost-effective.

"(6)(A) Except as provided in subparagraph (B), this subsection shall not be construed as preventing a State from restricting the groups of benefits that may be offered in medicare supplemental policies in the State.

"(B) A State with a regulatory program approved under subsection (b)(1) may not restrict under subparagraph (A) the offering of a medicare supplemental policy consisting only of the core group of benefits described in paragraph (2)(B).

"(7) The Secretary may waive the application of simplification standards in regard to the limitation of benefits described in paragraph (1)(A) in those States that on the date of enactment of this subsection had in place an alternative simplification program.

"(8) By not later than 4 years after the date of enactment of this subsection, the Comptroller General shall submit to Congress a report describing the impact of the program on consumer protection, health benefit innovation and value of innovative benefits, consumer choice, and health care costs and shall include in the report such recommendations on the appropriate roles of the Association, States, and the Secretary in carrying out such a program as he deems appropriate.".

(b) REQUIRING APPROVAL OF STATE FOR SALE IN THE STATE.—

(1) IN GENERAL.—Section 1882(d)(4)(B) (42 U.S.C. 1395ss(d)(4)(B)) is amended by striking the second sentence.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to policies mailed, or caused to be mailed, on and after July 1, 1991.

(c) PREVENTING DUPLICATION.—

(1) IN GENERAL.—Subsection (d)(3) of section 1882 (42 U.S.C. 1395ss) is amended—

(A) in subparagraph (A)—

(i) by striking "Whoever knowingly sells" and inserting "It is unlawful for a person to sell or issue",

(ii) by striking "substantially",

(iii) by inserting "or title XIX" after "other than this title",

(iv) by striking ", shall be fined" and inserting ". Whoever violates the previous sentence shall be fined", and

(v) by striking "$5,000" and inserting "$25,000"; and

(B) by amending subparagraph (B) to read as follows:

"(B)(i) It is unlawful for a person to issue or sell a medicare supplemental policy to an individual entitled to benefits under part A or enrolled under part B, whether directly, through the mail, or otherwise, unless—

"(I) the person obtains from the individual, as part of the application for the issuance or purchase and on a form described in subclause (II), a written statement signed by the individual stating, to the best of the individual's knowledge, what medicare supplemental policies the individual has, from what source, and whether the individual has applied for and been determined to be entitled to any medical assistance under title XIX, whether as a qualified medicare beneficiary (as described in section 1905(p)(1)) or otherwise, and

"(II) the written statement is accompanied by a written acknowledgment, signed by the seller of the policy, of the request for and receipt of such statement.

The written acknowledgment under subclause (II) does not constitute verification or affirmation by (or on behalf of) the seller or issuer of the truth of any information supplied by an individual in the written statement described in subclause (I).

"(ii) The statement required by clause (i) shall be made on a form that—

"(I) states that a medicare-eligible individual does not need more than one medicare supplemental policy,

"(II) states that individuals 65 years of age or older may be eligible for benefits under the State medicaid program under title XIX and that such individuals who are entitled to benefits under that program usually do not need a medicare supplemental policy and that benefits and premiums under any such policy shall be suspended upon request of the policyholder during the period of entitlement to benefits under such title, and

"(III) includes any telephone number established under section 1889, as well as the address and local telephone number of any counseling program offered by (or with the assistance of) the State, under its State insurance department, or under a State agency on aging for individuals considering purchase of a medicare supplemental policy and the address and local telephone number of the State medicaid office.

"(iii)(I) Except as provided in subclauses (II) and (III), if the statement required by clause (i) is not obtained or indicates that the individual has another medicare supplemental policy or indicates that the individual is entitled to any medical assistance under title XIX, the sale of such a policy shall be considered to be a violation of subparagraph (A).

"(II) Subclause (I) shall not apply in the case of an individual who has another policy, if the individual indicates in writing, as part of the application for purchase, that the policy being purchased replaces such other policy and indicates an intent to terminate the policy being replaced when the new policy becomes effective and the issuer or seller certifies in writing that such policy will not, to the best of the issuer or seller's knowledge, duplicate coverage (taking into account any such replacement).

"(III) Subclause (I) also shall not apply if a State medicaid plan under title XIX pays the premiums for the policy, or pays less than an individual's (who is described in section 1905(p)(1)) full liability for medicare cost sharing as defined in section 1905(p)(3)(A).

"(iv) Whoever issues or sells a medicare supplemental policy in violation of this subparagraph shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both, and, in addition to or in lieu of such a criminal penalty, is subject to a civil money penalty of not to exceed $25,000 for each such failure.".

(2) SUSPENSION OF POLICIES DURING RECEIPT OF MEDICAID BENEFITS.—Section 1882(o) (42 U.S.C. 1395ss(o)), as added by subsection (a), is amended by adding at the end the following new paragraph:

"(7) Each medicare supplemental policy shall provide that benefits and premiums under the policy shall be suspended at the request of the policyholder for the period in which the policy or certificate holder indicates that the policy or certificate holder has applied for and been determined to be entitled to medical assistance under title XIX. If such suspension occurs and if the policy or certificate holder loses entitlement to such medical assistance, coverage under such policy shall be automatically reinstituted (effective as of the date of termination of such entitlement) under terms described in subsection (n)(6)(A)(ii) if the policy or certificate holder receives notice of loss of such entitlement from the policy or certificate holder within 90 days after the date of such loss.".

(3) CONFORMING AMENDMENT.—Section 1882(d)(5) is amended by inserting "(3)(B)," after "(3)(A),".

(4) INCREASE IN OTHER CIVIL MONEY PENALTIES.—Paragraphs (1) and (4)(A) of section 1882(d) of such Act are amended by striking "$5,000" and inserting "$25,000".

(d) LOSS RATIOS AND REFUND OF PREMIUMS.—

(1) IN GENERAL.—Section 1882 (42 U.S.C. 1395ss) as amended by subsection (a), is further amended—

(A) in subsection (c), by amending paragraph (2) to read as follows:

"(2) meets the requirements of subsection (q);";

(B) by striking the sentence following subsection (c)(4); and

(C) by adding at the end the following new subsection:

"(q)(1) A medicare supplemental policy or health insurance policy may not be issued or sold in any State unless—

"(A) the policy can be expected (as estimated for the entire period for which rates are computed to provide coverage, on the basis of incurred claims experience and earned premiums for such periods and in accordance with accepted actuarial principles and practices and standards developed by the National Association of Insurance Commissioners) to return to policyholders in the form of aggregate benefits provided under the policy, at least 75 percent of the aggregate amount of premiums collected in the case of group policies and at least 65 percent in the case of individual policies; and

"(B) the issuer of the policy provides for the issuance of a proportional refund, or a credit against future premiums of a proportional amount, based on the premium paid and in accordance with paragraph (3), of the amount of premiums received necessary to assure that the ratio of aggregate benefits provided to the aggregate premiums collected (net of such refunds or credits) complies with the expectation required under subparagraph (A).

For purposes of applying subparagraph (A) only, policies issued as a result of solicitations of individuals through the mails or by mass media advertising (including both print and broadcast advertising) shall be deemed to be individual policies.

"(2)(A) Paragraph (1)(B) shall be applied with respect to each type of policy by policy number. Paragraph (1)(B) shall not apply to a policy with respect to the first 2 years in which it is in effect. The Comptroller General, in consultation with the National Association of Insurance Commissioners, shall submit to Congress a report containing recommendations on adjustments in the percentages under paragraph (1)(A) that may be appropriate in order to apply paragraph (1)(B) to the first 2 years in which policies are effective.

"(B) A refund or credit required under paragraph (1)(B) shall be made to each policyholder insured under the applicable policy as of the last day of the year involved.

"(C) Such a refund or credit shall include interest from the end of the policy year involved until the date of the refund at a rate as specified by the Secretary for this purpose from time to time which is not less than the

average rate of interest for 13-week Treasury notes.

"(D) For purposes of this paragraph and paragraph (1)(B), refunds or credits against premiums due shall be made, with respect to a policy year, not later than the third quarter of the succeeding policy year.

"(3) The provisions of this subsection do not preempt a State from requiring a higher percentage than that specified in paragraph (1)(A).

"(4) The Comptroller General shall periodically, not less often than once every 3 years, perform audits with respect to the compliance of medicare supplemental policies with the requirements of paragraph (1) and shall report the results of such audits to the State involved and to the Secretary.".

(2) ASSURING ACCESS TO LOSS RATIO INFORMATION.—Section 1882(b)(1)(C) (42 U.S.C. 1395ss(b)(1)(C)) is amended by striking the semicolon at the end and inserting a comma and the following:

"and that a copy of each such policy, the most recent premium for each such policy, and a listing of the ratio of benefits provided to premiums collected for the most recent 3-year period for each such policy issued or sold in the State is maintained and made available to interested persons;".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to policies sold or issued more than 1 year after the date of the enactment of this Act.

(e) IMPLEMENTATION OF PROCESS TO APPROVE PREMIUM INCREASES.—Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by adding "and" at the end of subparagraph (E);

(3) by adding at the end thereof the following new subparagraph:

"(F) provides for a process for approving or disapproving proposed premium increases with respect to such policies, and establishes a policy for the holding of public hearings prior to approval of a premium increase,".

(f) MEDICARE SELECT POLICIES.—

(1) Section 1882 (42 U.S.C. 1395ss) as amended by subsection (d), is further amended by adding at the end the following:

"(r) If a policy meets the NAIC Model Standards except that benefits under the policy are restricted to items and services furnished by certain entities (or reduced benefits are provided when items or services are furnished by other entities), the policy shall nevertheless be treated as meeting those standards if—

"(1) full benefits are provided for items and services furnished through a network of entities which have entered into contracts with the issuer of the policy;

"(2) full benefits are provided for items and services furnished by other entities if the services are medically necessary and immediately required because of an unforeseen illness, injury, or condition and it is not reasonable given the circumstances to obtain the services through the network;

"(3) the network offers sufficient access; and

"(4) the issuer of the policy has arrangements for an ongoing quality assurance program for items and services furnished through the network.".

(2) Section 1882(c)(1) (42 U.S.C. 1395ss(c)(1)) is amended by inserting "(except as otherwise provided by subsection (r))" before the semicolon.

(3) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) (as amended by subsection (e) of this Act) is further amended—

(A) in subparagraph (A), by inserting ", except as otherwise provided by subparagraph (G)" before the semicolon;

(B) by striking "and" at the end of subparagraph (E);

(C) by inserting "and" at the end of subparagraph (F); and

(D) by adding after subparagraph (F) the following:

"(G) in the case of a policy that meets the standards under subparagraph (A) except that benefits under the policy are limited to items and services furnished by certain entities (or reduced benefits are provided when items or services are furnished by other entities), provides for the application of requirements equal to or more stringent than the requirements under subsection (r),".

(4)(A) Section 1882 (42 U.S.C. 1395ss) as amended by paragraph (1), is further amended by adding at the end the following:

"(s) The Secretary may enter into a contract with an entity whose policy has been certified under subsection (r) or has been approved by a State under subsection (b)(1)(G) to determine whether items and services (furnished to individuals entitled to benefits under this title and under that policy) are not allowable under section 1862(a)(1). Payments to the entity shall be in such amounts as the Secretary may determine, taking into account estimated savings under contracts with carriers and fiscal intermediaries and other factors that the Secretary finds appropriate. Paragraph (1), the first sentence of paragraph (2)(A), paragraph (2)(B), paragraph (3)(C), paragraph (3)(D), and paragraph (3)(E) of section 1842(b) shall apply to the entity.".

(B) The first sentence of section 1154(a)(4)(B) (42 U.S.C. 1320c-3(a)(4)(B)) is amended by inserting "(or subject to review under section 1882(s))" after "section 1876".

(g) CLARIFICATION CONCERNING MEDICARE HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.—The first sentence of section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by inserting before the period the following: ", nor any such policy or plan under a contract under section 1876".

(h) MONITORING OF STATE MEDIGAP PROGRAMS.—

(1) REVIEW BY SECRETARY.—Section 1882 (42 U.S.C. 1395ss) as amended by subsection (f), is further amended—

(A) in subsection (b)(1), in the matter following subparagraph (G), by striking "Panel" and inserting "Secretary";

(B) in subsection (b)(1), by adding at the end the following: "If the Secretary finds that a State regulatory program no longer meets the standards and requirements of this paragraph, before making a final determination, the Secretary shall provide the State an opportunity to adopt such a plan of correction as would permit the State to continue to meet such standards and requirements."; and

(C) in subsection (g)(2)(B), by inserting "and whose regulatory program the Secretary finds continues to meet the standards and requirements of subsection (b)(1)" before the period.

(2) REPORTING BY STATES.—Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)), as amended by subsection (f), is further amended—

(A) by striking "and" at the end of subparagraph (F);

(B) by inserting "and" at the end of subparagraph (G);

(C) by inserting after subparagraph (G) the following:

"(H) reports to the Secretary on the implementation and enforcement of standards and requirements of this paragraph at intervals established by the Secretary,"; and

(D) by adding at the end the following new sentence: "The report required under subsection (H) shall include information on loss ratios of policies sold in the State, frequency and types of instances in which policies approved by the State fail to meet the standards of this paragraph, actions taken by the State to bring such policies into compliance, and information regarding State programs implementing consumer protection provisions, and such further information as the Secretary in consultation with the National Association of Insurance Commissioners, may specify.".

(i) DISCLAIMER FOR UNAPPROVED POLICIES.—Section 1882(d) (42 U.S.C. 1395ss(d)) is amended—

(1) in paragraph (5), by striking "and (4)(A)" and inserting "(4)(A), (4)(B), and (5)",

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

"(5)(A) If an insurer issues a Medicare supplemental policy in a State without an approved regulatory program, and for which the Secretary has determined that the State does not provide consumer protection as great as would be offered under an approved program, and if that policy does not have a certification in effect under subsection (a), the insurer shall—

"(i) cause to be prominently displayed in at least 12 point type on any advertisement for that policy on each page of the outline of coverage for the policy described in section 1882(o)(3), and on the first page of the policy, the following statement: 'This policy has not been certified by the Secretary of the United States Department of Health and Human Services as meeting Federal requirements for Medicare supplemental policies.'; and

"(ii) require the purchaser to sign the following statement: 'I understand that this policy has not been certified by the Secretary of the United States Department of Health and Human Services as meeting Federal requirements for Medicare supplemental policies.'.

"(B) An insurer shall be subject to a civil monetary penalty not to exceed $25,000 for each violation of any requirement of subparagraph (A).".

(j) ADOPTION OF NEW STANDARDS.—Section 1882 (42 U.S.C. 1395ss), as amended by subsection (f), is further amended by adding at the end the following:

"(t)(1)(A) If within 9 months after the date of enactment of this subsection, the National Association of Insurance Commissioners revises the NAIC Model Regulation previously promulgated for purposes of this section to incorporate all the requirements and standards of subsections (o), (p), (q), and (r), and other changes in law made by the Omnibus Budget Reconciliation Act of 1990, then subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policyholders on and after the date specified in paragraph (3), as if the reference to the Model Regulation adopted on June 6, 1979, included a reference to the NAIC simplification standards.

"(B) If the Association does not promulgate NAIC simplification standards within the 9-month period specified in paragraph (1), the Secretary shall promulgate, not later than 9 months after the end of such period,

revised Federal model standards to incorporate all the requirements and standards of subsections (o), (p), (q), and (r), and other changes in law made by the Omnibus Budget Reconciliation Act of 1990, and subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policyholders on and after the date specified in subparagraph (C), as if the reference to the Model Regulation adopted on June 6, 1979, included a reference to the revised Federal model standards.

"(C)(i) Subject to clause (ii), the date specified in this paragraph for a State is the date the State adopts the NAIC simplification standards or the Federal simplification standards or 1 year after the date the Association or the Secretary first adopts such standards, whichever is earlier.

"(ii) In the case of a State which the Secretary identifies, in consultation with the Association, as—

"(I) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet the NAIC or Federal simplification standards, but

"(II) having a legislature which is not scheduled to meet in 1991 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1991. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

"(2) By not later than 2 years after the date of enactment of this subsection, the Secretary shall report to the Congress on the adoption of the standards and requirements of this section, including the identification of those States which do and do not have regulatory programs that meet the requirements of this section, and the reasons for the failure of any States to adopt some or all of the standards and requirements of this section.

"(3) In promulgating simplification standards under subsection (p)(1), the Association or Secretary shall consult with a working group composed of representatives of issuers of medicare supplemental policies, consumer groups, medicare beneficiaries, and other qualified individuals. Such representatives shall be selected in a manner so as to assure balanced representation among the interested groups.

"(4)(A) Every 3 years the Secretary shall, in consultation with the NAIC, evaluate the appropriateness of new or innovative benefits offered pursuant to subsection (p)(5)(B), and determine whether the incorporation of such new or innovative benefits into the simplification standards would further the purposes of such standards. If within 90 days after a request from the Secretary, the Association—

"(i) makes a determination that modification of the NAIC or Federal simplification standards is appropriate; and

"(ii) modifies the NAIC or Federal simplification standards to include such additional group of benefits (including accompanying language and format with respect to such benefits),

subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policyholders on or after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979 included a reference to the NAIC or Federal simplification standards as modified. If the Association fails to make a determination with respect to appropriateness of modifying the NAIC or Federal simplification standards, then the Secretary may make such determination and may modify the NAIC or Federal simplification standards to include such additional benefits (including accompanying language and format with respect to such benefits) as may be appropriate. In such a case, subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policyholders on or after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979 included a reference to the NAIC or Federal simplification standards as modified.

"(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts the modifications to the NAIC or Federal simplification standards or 1 year after the date the Association or the Secretary first adopts the modifications to such standards, except that, in the case of a State that the Secretary identifies, in consultation with the Association, as—

"(i) requiring State legislation (other than appropriating funds) in order for medicare supplemental policies to meet the modified NAIC or Federal simplification standards, but

"(ii) having a legislature which is not scheduled to meet within the 1-year period after the date the Association or Secretary first adopts the modifications to such standards,

the date specified in this subparagraph is the first day of the first calendar year after the close of the first legislative session of the State legislature that begins after the date the Association or the Secretary first adopts such modifications. For the purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the legislative session shall be deemed to be a separate regular session of the State legislature.

"(5) If benefits under this title are changed and the Secretary determines, in consultation with the Association, that changes in the simplification standards are needed to reflect such changes in benefits, the provisions for the modification of simplification standards outlined in paragraph (4)(A) will be applied.".

(k) HEALTH INSURANCE INFORMATION, COUNSELING, AND ASSISTANCE GRANTS.—

(1) GRANTS.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall make grants to States that submit applications to the Secretary that meet the requirements of this subsection for the purpose of providing information, counseling, and assistance relating to the procurement of adequate and appropriate health insurance coverage to individuals who are eligible to receive benefits under title XVIII of the Social Security Act (hereafter in this section referred to as "eligible individuals"). The Secretary shall prescribe regulations to establish a minimum level of funding for a grant issued under this section.

(2) GRANT APPLICATIONS.—(A) In submitting an application under this subsection, a State may consolidate and coordinate an application that consists of parts prepared by more than one agency or department of such State.

(B) As part of an application for a grant under this section, a State shall submit a plan for a State-wide health insurance information, counseling, and assistance program. Such program shall—

(i) establish or improve upon a health insurance information, counseling, and assistance program that provides counseling (including direct counseling) and assistance to eligible individuals in need of health insurance information, including—

(I) information that may assist individuals in obtaining benefits and filing claims under titles XVIII and XIX of the Social Security Act;

(II) policy comparison information for medicare supplemental policies (as described in section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1)) and information that may assist individuals in filing claims under such medicare supplemental policies;

(III) information regarding long-term care insurance; and

(IV) information regarding other types of health insurance benefits that the Secretary determines to be appropriate;

(ii) in conjunction with the health insurance information, counseling, and assistance program described in clause (i), establish a system of referral to appropriate Federal or State departments or agencies for assistance with problems related to health insurance coverage (including legal problems), as determined by the Secretary;

(iii) provide for a sufficient number of staff positions (including volunteer positions) necessary to provide the services of the health insurance information, counseling, and assistance program;

(iv) provide assurances that staff members (including volunteer staff members) of the health insurance information, counseling, and assistance program have no conflict of interest in providing the services described in clause (i);

(v) provide for the collection and dissemination of timely and accurate health care information to staff members (including volunteer staff members) of the health insurance information, counseling, and assistance program and regular staff meetings and continuing education programs for the purpose of informing the staff of current developments in legal and economic issues relating to the provision of health insurance;

(vi) provide for training programs for staff members (including volunteer staff members);

(vii) provide for the coordination of the exchange of health insurance information between the staff of departments and agencies of the State government and the staff of the health insurance information, counseling, and assistance program;

(viii) make recommendations concerning consumer issues and complaints related to the provision of health care to agencies and departments of the State government and the Federal Government responsible for providing or regulating health insurance;

(ix) establish an outreach program to provide the health insurance information and counseling described in clause (i) and the assistance described in clause (ii) to eligible individuals; and

(x) demonstrate, to the satisfaction of the Secretary, an ability to provide the counseling and assistance required under this subsection.

(3) SPECIAL GRANTS.—(A) A State that is conducting a health insurance information, counseling, and assistance program that is substantially similar to a program described in paragraph (2)(B), shall, as a requirement for eligibility for a grant under this section,

demonstrate, to the satisfaction of the Secretary, that such State shall maintain the activities of such program at least at the level that such activities were conducted immediately preceding the date of the issuance of any grant during the period of time covered by such grant under this section and that such activities will continue to be maintained at such level.

(B) If the Secretary determines that the existing health insurance information, counseling, and assistance program is substantially similar to a program described in paragraph (2)(B), the Secretary may waive some or all of the requirements described in paragraph (2)(B), and issue a grant to the State for the purpose of increasing the number of services offered by the health insurance information, counseling, and assistance program, experimenting with new methods of outreach in conducting such program, or expanding such program to geographic areas of the State not previously served by the program.

(4) CRITERIA FOR ISSUING GRANTS.—In issuing a grant under this section, the Secretary shall consider—

(A) the commitment of the State to carrying out the health insurance information, counseling, and assistance program described in paragraph (2)(B), including the level of cooperation demonstrated—

(i) by the office of the chief insurance regulator of the State, or the equivalent State entity;

(ii) other officials of the State responsible for overseeing insurance plans issued by nonprofit hospital and medical service associations; and

(iii) departments and agencies of such State responsible for—

(I) administering funds under title XIX of the Social Security Act, and

(II) administering funds appropriated under the Older Americans Act;

(B) the population of eligible individuals in such State as a percentage of the population of such State; and

(C) in order to ensure the needs of rural areas in such State, the relative costs and special problems associated with addressing the special problems of providing health care information, counseling, and assistance to the rural areas of such State.

(5) ANNUAL STATE REPORT.—A State that receives a grant under paragraph (3) or (4) shall, not later than 180 days after receiving such grant, and annually thereafter, issue an annual report to the Secretary that includes information concerning—

(A) the number of individuals served by the State-wide health insurance information, counseling and assistance program of such State;

(B) an estimate of the amount of funds saved by the State, and by eligible individuals in the State, in the implementation of such program; and

(C) the problems that eligible individuals in such State encounter in procuring adequate and appropriate health care coverage.

(6) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this section, and annually thereafter, the Secretary shall issue a report to the Committee on Finance of the Senate, the Special Committee on Aging of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on Energy and Commerce of the House of Representatives, and the Select Committee on Aging of the House of Representatives that—

(A) summarizes the allocation of funds authorized for grants under this section and the expenditure of such funds;

(B) summarizes the scope and content of training conferences convened under subsection (f);

(C) outlines the problems that eligible individuals encounter in procuring adequate and appropriate health care coverage;

(D) makes recommendations that the Secretary determines to be appropriate to address the problems described in subparagraph (C); and

(E) in the case of the report issued 2 years after the date of enactment of this section, evaluates the effectiveness of counseling programs established under this program, and makes recommendations regarding continued authorization of funds for these purposes.

(7) AUTHORIZATION OF APPROPRIATIONS FOR GRANTS.—There are authorized to be appropriated, in equal parts from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund, $10,000,000 for each of fiscal years 1991, 1992, and 1993, to fund the grant programs described in this subsection.

(l) MEDICARE AND MEDIGAP INFORMATION BY TELEPHONE.—(1) Title XVIII (42 U.S.C. 1395 et seq.) is amended by inserting after section 1888 the following:

"MEDICARE AND MEDIGAP INFORMATION BY TELEPHONE

"SEC. 1889. The Secretary shall provide information via a toll-free telephone number on the programs under this title and on medicare supplemental policies as defined in section 1882(g)(1) (including the relationship of State programs under title XIX to such policies).".

(2) The Secretary is authorized to conduct demonstration projects in up to 5 States for the purpose of establishing statewide toll-free telephone numbers for providing information on medicare benefits, medicare supplemental policies available in the State, and benefits under the State medicaid program.

SEC. 6156. TECHNICAL AND MISCELLANEOUS PROVISIONS RELATING TO PARTS A AND B.

(a) EXTENSIONS OF EXPIRING AUTHORITIES.—

(1) PROHIBITION OF PAYMENT CYCLE CHANGES.—Notwithstanding any other provision of law, the Secretary of Health and Human Services is not authorized to issue, after the date of the enactment of this Act, any final regulation, instruction, or other policy change which is primarily intended to have the effect of slowing down or speeding up claims processing, or delaying payment of claims, under title XVIII of the Social Security Act.

(2) WAIVER OF LIABILITY FOR HOME HEALTH AGENCIES.—Section 9305(g)(3) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "November 1, 1990" and inserting "December 31, 1995".

(b) APPLICATION OF HOSPITAL WAGE INDEX TO HOME HEALTH AGENCIES.—

(1) IN GENERAL.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended to read as follows:

"(iii) In establishing limits under this subparagraph for portions of a cost reporting period occurring during a fiscal year, the Secretary shall utilize a wage index equal to the area wage index applicable under section 1886(d)(3)(E) during the fiscal year to hospitals located in the geographic area in which the home health agency is located, in updating the wage index for establishing such limits the Secretary shall provide that payments to home health agencies will be no greater or lesser than such payments would have been without regard to the update of such wage index.".

(2) TRANSITION PROVISION.—Notwithstanding section 1861(v)(1)(L)(iii) of the Social Security Act, the Secretary of Health and Human Services shall, in determining the limits of reasonable costs under title XVIII of such Act with respect to services furnished by a home health agency for portions of a cost reporting period occurring during a fiscal year, utilize a wage index equal to—

(A) for portions of cost reporting periods beginning on or after July 1, 1991, and on or before June 30, 1992, a combined area wage index consisting of—

(i) 67 percent of the area wage index applicable under section 1861(v)(1)(L)(iii) of such Act to such home health agency, determined using the survey of the 1982 wages and wage-related costs of hospitals in the United States conducted under such section, and

(ii) 33 percent of the area wage index applicable under section 1886(d)(3)(E) of such Act to hospitals located in the geographic area in which the home health agency is located for discharges occurring during the fiscal year, determined using the survey of the 1988 wages and wage-related costs of hospitals in the United States conducted under such section; and

(B) for portions of cost reporting periods beginning on or after July 1, 1992, and on or before June 30, 1993, a combined area wage index consisting of—

(i) 33 percent of the area wage index applicable under section 1861(v)(1)(L)(iii) of such Act to such home health agency, determined using the survey of the 1982 wages and wage-related costs of hospitals in the United States conducted under such section, and

(ii) 67 percent of the area wage index applicable under section 1886(d)(3)(E) of such Act to hospitals located in the geographic area in which the home health agency is located for discharges occurring during the fiscal year, determined using the survey of the 1988 wages and wage-related costs of hospitals in the United States conducted under such section; and

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to home health agency cost reporting periods beginning on or after July 1, 1993.

(c) RECOGNITION OF COSTS OF HOSPITAL SUPPORTED NURSING AND ALLIED HEALTH EDUCATIONAL PROGRAMS AS ALLOWABLE REASONABLE COSTS.—

(1) IN GENERAL.—(A) Beginning on or after October 1, 1990, all costs related to clinical training, as defined by the Secretary, on a hospital's premises for a hospital supported education program and which are incurred by a hospital or by an educational institution related to the hospital by common ownership or common control, shall be considered costs incurred for approved educational activities for purposes of section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)). Subject to subparagraph (B), such costs shall be allowable to a hospital on a reasonable cost basis and shall be considered to be pass-through costs under title XVIII of such Act. An education program shall be deemed to be hospital supported if the program is—

(i) an approved nursing or allied health education program;

(ii) is not a hospital operated program; and

(iii) the hospital participates in the program in conjunction with an educational institution.

(B) For purposes of subparagraph (A), section 1886(a)(4) of the Social Security Act,

and section 1861(v) of such Act, costs relating to a hospital supported education program shall be deemed to be reimbursable—

(i) only to the extent that the proportion of costs claimed by a hospital for a hospital supported education program (which proportion shall be expressed as a ratio, the numerator of which is the dollar amount of support given by the hospital to the school in the specific 12-month period covered by the hospital's cost report and the denominator of which is the total allowable costs for inpatients hospital services irrespective of how such costs are paid under this title) are not greater than such proportion of costs claimed by such hospital (subject to the review described in paragraph (2)), in the cost reporting period prior to the cost reporting period beginning on or after October 1, 1990;

(ii) only if the hospital is receiving a benefit for the support it furnishes to such program through the provision of clinical services by nursing or allied health students incidental to their training, or the hospital hires graduates from the hospital supported education program; and

(iii) only to the extent that the cost is less than the cost the hospital would be expected to incur were such a hospital to operate its own similar program.

(2) SPECIAL AUDIT RULE.—For purposes of paragraph (1)(B)(i), the Secretary's determination of the initial proportion of costs (that is, those costs claimed in the cost reporting period prior to the cost reporting period beginning on or after October 1, 1990) shall be accomplished by a special audit (or other appropriate mechanism), which audit (or mechanism) shall ensure that each hospital has appropriately reported its level of support during such period.

(3) PROHIBITION ON RECOUPMENT OF CERTAIN NURSING AND ALLIED EDUCATIONAL COSTS.—(A) The Secretary of Health and Human Services (hereinafter referred to as the "Secretary") shall not disallow, recoup from, or otherwise reduce or adjust payments under title XVIII of the Social Security Act to hospitals with respect to claims by a hospital on its medicare costs reports for cost reporting periods beginning on or after October 1, 1983, and before October 1, 1990, relating to hospital supported education programs on the grounds that the costs of such programs were not allowable costs or were included in the definition of "operating costs of inpatient services" pursuant to section 1886(a)(4) of such Act, so that no passthrough of such costs was permitted under that section.

(B) The Secretary shall provide that if any disallowance, recoupment, adjustment, or reduction in payments described in subparagraph (A) has occurred prior to the date of enactment of this Act, such actions shall be reversed and any necessary refunds or administrative adjustments shall be promptly made.

(3) CONFORMING AMENDMENT.—(A) Section 6205(a) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "(a)" and the subsection heading.

(B) Section 6205(b) of such Act is hereby repealed.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as requiring the Secretary of Health and Human Services to modify those existing regulations or instructions which pertain to the determination of reasonable costs for a hospital-operated education program.

(d) CASE MANAGEMENT DEMONSTRATION PROJECTS RESUMED.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall resume the 3 case management demonstration projects described in paragraph (2) and approved under section 425 of the Medicare Catastrophic Coverage Act of 1988 (in this subsection referred to as "MCCA").

(2) PROJECT DESCRIPTIONS.—The demonstration projects referred to in paragraph (1) are—

(A) the project proposed to be conducted by Providence Hospital for case management of the elderly at risk for acute hospitalization as described in Project No. 18-P-99379/5-01;

(B) the project proposed to be conducted by the Iowa Foundation for Medical Care to study patients with chronic congestive conditions to reduce repeated hospitalizations of such patients as described in Project No. P-99399/4-01; and

(C) the project proposed to be conducted by Key Care Health Resources, Inc., to examine the effects of case management on 2,500 high cost medicare beneficiaries as described in Project No. 18-P-99396/5.

(3) TERMS AND CONDITIONS.—The demonstration projects resumed pursuant to paragraph (1) shall be subject to the same terms and conditions established under section 425 of MCCA. In determining the 2-year duration period of a project resumed pursuant to paragraph (1), the Secretary may not take into account any period of time for which the project was in effect under section 425 of MCCA.

(e) TREATMENT OF CERTAIN HOSPITALS WITH RESPECT TO PAYMENTS FOR GRADUATE MEDICAL EDUCATION COSTS.—Section 1886(h)(2) (42 U.S.C. 1395ww(h)(2)) is amended—

(1) by inserting "(i)" after "(E)"; and

(2) by adding at the end of subparagraph (E) the following new clause:

"(ii) In the case of a hospital which did have an approved medical residency training program for a cost reporting period beginning during fiscal year 1984, but which made a commitment to substantially expand its program that was not fully reflected in costs incurred during cost reporting periods beginning in such fiscal year, such hospital may request the use of an alternative cost reporting period other than that which began during fiscal year 1984 for purposes of determining the average amount recognized as reasonable medical education costs of the hospital for each full-time equivalent resident. The Secretary shall review each such request and determine whether it would be appropriate to provide for an FTE resident amount based on an alternative cost reporting period, based on approved FTE resident amounts for comparable programs. If the Secretary approves a request under this clause, payments based on alternative cost reporting periods for a hospital described under this clause, shall begin for the first cost reporting period for which the Secretary determines the hospital has substantially implemented its program expansion.".

(f) HCFA SERVICE FELLOWS PROGRAM.—

(1) IN GENERAL.—Section 1117 (42 U.S.C. 1317) is amended—

(A) by inserting "; HCFA SERVICE FELLOWS PROGRAM" at the end of the heading,

(B) by inserting "(a)" after "SEC. 1117.", and

(C) by adding at the end the following new subsection:

"(b)(1) The Administrator may establish an HCFA Service Fellows Program under which up to 10 individuals from the private sector or academia who have demonstrated exceptional competence or highly specialized skills or knowledge may conduct healthcare related research, studies, and investigations within the Health Care Financing Administration.

"(2) Qualified individuals may be appointed by the Administrator (without regard to rules respecting appointments, classification, and pay rates in the competitive service) to serve as HCFA Service Fellows for a period of not to exceed 2 years (which may, in individual cases under exceptional circumstances, be extended for up to 2 additional years).

"(3) Individuals appointed as HCFA Service Fellows shall not be included in any determination of the number of full-time equivalent employees of the Department for the purpose of any limitation on the number of such employees established by any law.

"(4) The Administrator is not authorized to expend more than $750,000 annually on the costs of the HCFA Service Fellows Program (including the costs of salaries under the program)".

(g) SELF-REFERRAL TECHNICAL.—(1) Section 1877(b) (42 U.S.C. 1395nn(b)) is amended by redesignating paragraph (4) as paragraph (5) and inserting after paragraph (3) the following:

"(4) SERVICES UNRELATED TO INVESTMENT INTEREST OR COMPENSATION ARRANGEMENT.—In the case of clinical laboratory services furnished by a hospital pursuant to a referral by a physician who has a financial relationship with the hospital that does not involve the provision of such services.".

(2) The amendment made by paragraph (1) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

SEC. 6157. LIVING WILLS AND OTHER ADVANCE DIRECTIVES.

(a) MEDICARE PROVIDER AGREEMENTS.—

(1) IN GENERAL.—Section 1866 (42 U.S.C. 1395cc(a)(1)) is amended—

(A) in subsection (a)(1)—

(i) by striking "and" at the end of subparagraph (O),

(ii) by striking the period at the end of subparagraph (P) and inserting ", and", and

(iii) by inserting after subparagraph (P) the following new subparagraph:

"(Q) in the case of hospitals, skilled nursing facilities, home health agencies, and hospice programs, to comply with the requirement of subsection (f) (relating to maintaining written policies and procedures respecting advance directives).", and

(B) by inserting after subsection (e) the following new subsection:

"(f)(1) For purposes of subsection (a)(1)(Q) and sections 1819(c)(1)(E), 1833(r), 1876(c)(8), and 1891(a)(6), the requirement of this subsection is that a provider of services or prepaid or eligible organization (as the case may be) maintain written policies and procedures with respect to all adult individuals receiving medical care by or through the provider or organization—

"(A) to provide written information to each such individual concerning—

"(i) an individual's rights under State law (whether statutory or as recognized by the courts of the State) to make decisions concerning such medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives (as defined in paragraph (3)), and

"(ii) the policies of the provider or organization respecting the implementation of such rights;

"(B) to inquire of an individual (or a family member) whether the individual has executed an advance directive and document in the individual's medical record the response to the inquiry;

"(C) not to condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive;

"(D) to ensure compliance with requirements of State law respecting advance directives at facilities of the provider or organization; and

"(E) to provide (individually or with others) for education for staff on issues concerning advance directives.

Subparagraph (C) shall not be construed as requiring the provision of care which conflicts with an advance directive.

"(2) In this subsection, the term 'advance directive' means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law and relating to the provision of such care when the individual is incapacitated.".

(2) APPLICATION TO PREPAID ORGANIZATIONS.—

(A) ELIGIBLE ORGANIZATIONS.—Section 1876(c) (42 U.S.C. 1395mm(c)) is amended by adding at the end the following new paragraph:

"(8) A contract under this section shall provide that the eligible organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).".

(B) OTHER PREPAID ORGANIZATIONS.—Section 1833 (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(r) The Secretary may not provide for payment under subsection (a)(1)(A) with respect to an organization unless the organization provides assurances satisfactory to the Secretary that the organization meets the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).".

(3) CONFORMING AMENDMENTS.—

(A) Section 1819(c)(1) (42 U.S.C. 1395i-3(c)(1)) is amended by adding at the end the following new subparagraph:

"(E) INFORMATION RESPECTING ADVANCE DIRECTIVES.—A skilled nursing facility must comply with the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).".

(B) Section 1891(a) (42 U.S.C. 1395bbb(a)) is amended by adding at the end the following:

"(6) The agency complies with the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).".

(4) EFFECTIVE DATES.—

(A) The amendments made by paragraphs (1) and (3) shall apply with respect to services furnished on or after the first day of the first month beginning more than 1 year after the date of the enactment of this Act.

(B) The amendments made by paragraph (2) shall apply to contracts under section 1876 of the Social Security Act and payments under section 1833(a)(1)(A) of such Act as of the first day of the first month beginning more than 1 year after the date of the enactment of this Act.

(b) MEDICAID STATE PLAN REQUIREMENTS.—

(1) IN GENERAL.—Section 1902 (42 U.S.C. 1396a(a)) is amended—

(A) in subsection (a)—

(i) by striking "and" at the end of paragraph (52),

(ii) by striking the period at the end of paragraph (53), and

(iii) by inserting after paragraph (53) the following new paragraphs:

"(54) provide that each hospital, nursing facility, provider of home health care or personal care services, hospice program, or health maintenance organization (as defined in section 1903(m)(1)(A)) receiving funds under the plan shall comply with the requirement of subsection (s); and

"(55) provide that the State, acting through a State agency, association, or other private entity, develop a written description of the law of the State (whether statutory or common law) concerning advance directives that would be distributed by providers under the requirements of subsections."; and

(B) by adding at the end the following new subsection:

"(s)(1) For purposes of subsection (a)(54) and sections 1903(m)(1)(A) and 1919(c)(2)(E), the requirement of this subsection is that a provider or organization (as the case may be) maintain written policies and procedures with respect to all adult individuals receiving medical care by or through the provider or organization—

"(A) to provide information to each such individual concerning—

"(i) an individual's rights under State law (whether statutory or as recognized by the courts of the State) to make decisions concerning such medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives (as defined in paragraph (3)), and

"(ii) the hospital's written policies respecting the implementation of such rights;

"(B) to document in the individual's medical record whether or not the individual has executed an advance directive;

"(C) not to condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive;

"(D) to ensure compliance with requirements of State law respecting advance directives; and

"(E) to provide (individually or with others) for education for staff and the community on issues concerning advance directives.

Subparagraph (C) shall not be construed as requiring the provision of care which conflicts with an advance directive.

"(2) In this subsection, the term 'advance directive' means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law and relating to the provision of such care when the individual is incapacitated.".

(2) CONFORMING AMENDMENTS.—

(A) Section 1903(m)(1)(A) (42 U.S.C. 1396b(m)(1)(A)) is amended—

(i) by inserting "meets the requirement of section 1902(s)" after "which" the first place it appears, and

(ii) by inserting "meets the requirement of section 1902(a) and" after "which" the second place it appears.

(B) Section 1919(c)(2) of such Act (42 U.S.C. 1396r(c)(2)) is amended by adding at the end the following new subparagraph:

"(E) INFORMATION RESPECTING ADVANCE DIRECTIVES.—A nursing facility must comply with the requirement of section 1902(s) (relating to maintaining written policies and procedures respecting advance directives).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to services furnished on or after the first day of the first month beginning more than 1 year after the date of the enactment of this Act.

(c) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall conduct a study or enter into an agreement with a private entity to conduct a study and submit a report to Congress with respect to the implementation of directed health care decisions. Such study shall—

(A) evaluate the experience of practitioners, providers, and government regulators in complying with the provisions of this section;

(B) assess the awareness and utilization of advance directives as a result of this section;

(C) investigate methods of encouraging reciprocity among States in the enforcement of advance directives;

(D) report on the manner in which treatment decisions are made in the absence of an advance directive; and

(E) make such recommendations for legislation as may be appropriate to carry out the purposes of this Act.

(2) EFFECTIVE DATE.—The study and report provided for in this subsection shall be submitted to Congress no later than the date which is 4 years after the date of enactment of this section.

(d) PUBLIC EDUCATION CAMPAIGN.—

(1) IN GENERAL.—The Secretary, no later than 6 months after the date of enactment of this section, shall develop and implement a national campaign to inform the public of the option to execute advance directives and of a patient's right to participate and direct health care decisions.

(2) DEVELOPMENT AND DISTRIBUTION OF INFORMATION.—The Secretary shall develop or approve nationwide informational materials that would be distributed by providers under the requirements of this section, to inform the public and the medical and legal profession of each person's right to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment, and the existence of advance directives.

(3) PROVIDING ASSISTANCE TO STATES.—The Secretary shall assist appropriate State agencies, associations, or other private entities in developing the State-specific documents that would be distributed by providers under the requirements of this section. The Secretary shall further assist appropriate State agencies, associations, or other private entities in ensuring that providers are provided a copy of the documents that are to be distributed under the requirements of the section.

(4) DUTIES OF SECRETARY.—The Secretary shall mail information to Social Security recipients, add a page to the medicare handbook with respect to the provisions of this section, and provide for and install a nationwide, toll-free informational number to provide State agencies, private entities, and medicare and medicaid eligible individuals with information regarding the option to execute advance directives and the rights of individuals under the provisions of this section.

PART 4—PROVISIONS RELATING TO PREMIUMS, DEDUCTIBLES, AND COINSURANCE

SEC. 6161. PART B PREMIUM.

Section 1839(e) is amended by inserting "and for each month after December 1992

and before January 1996" after "January 1991" each time it appears.

SEC. 6162. CHANGE IN PART B DEDUCTIBLE.

Section 1833(b) (42 U.S.C. 1395l) is amended by inserting after "$75" the following: "for calendar years before 1991 and after 1995, and $150 for years after 1990 and before 1996".

SEC. 6163. 20 PERCENT COINSURANCE FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended—

(1) in subsection (a)(1)(D)(i)), by striking "in the case of" and all that follows through "basis, or",

(2) in subsection (a)(2)(D)(i), by striking "in the case of" and all that follows through "1866, or", and

(3) in subsection (b)(3), by striking "(A) under subsection (a)(1)(D)" and all that follows through "(B)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to clinical diagnostic laboratory tests performed on or after January 1, 1991.

Subtitle C—Medicaid

PART I—PRESCRIPTION DRUG DISCOUNTS

SEC. 6201. REIMBURSEMENT FOR PRESCRIBED DRUGS UNDER MEDICAID.

(a) IN GENERAL.—

(1) DENIAL OF FEDERAL FINANCIAL PARTICIPATION UNLESS REBATE AGREEMENTS AND DRUG USE REVIEW IN EFFECT.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended—

(A) by striking the period at the end of paragraph (9) and inserting "; or", and

(B) by inserting after paragraph (9) the following new paragraph:

"(10) with respect to covered outpatient drugs of a manufacturer dispensed in any State unless, (A) except as provided in section 1927(a)(3), the manufacturer complies with the rebate requirements of section 1927(a) with respect to the drugs so dispensed in all States, and (B) effective January 1, 1993, the State provides for drug use review in accordance with section 1927(g).".

(2) PROHIBITING STATE PLAN DRUG ACCESS LIMITATIONS FOR DRUGS COVERED UNDER A REBATE AGREEMENT.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) by striking "and" at the end of paragraph (52),

(B) by striking the period at the end of paragraph (53) and inserting "; and", and

(C) by inserting after paragraph (53) the following new paragraph:

"(54)(A) provide that, any formulary or similar restriction (except as provided in section 1927(d)) on the coverage of covered outpatient drugs under the plan shall permit the coverage of covered outpatient drugs of any manufacturer which has entered into and complies with an agreement under section 1927(a), which are prescribed for a medically accepted indication (as defined in subsection 1927(k)(6)), and

"(B) comply with the reporting requirements of section 1927(b)(2)(A) and the requirements of subsections (d) and (g) of section 1927.".

(3) REBATE AGREEMENTS FOR COVERED OUTPATIENT DRUGS, DRUG USE REVIEW, AND RELATED PROVISIONS.—Title XIX of the Social Security Act is amended by redesignating section 1927 as section 1928 and by inserting after section 1926 the following new section:

"PAYMENT FOR PRESCRIBED DRUGS

"SEC. 1927. (a) REQUIREMENT FOR REBATE AGREEMENT.—

"(1) IN GENERAL.—In order for payment to be available under section 1903(a) for covered outpatient drugs of a manufacturer, the manufacturer must have entered into and have in effect a rebate agreement described in subsection (b) with the Secretary, on behalf of States (except that, the Secretary may authorize a State to enter directly into agreements with manufacturer). If a manufacturer has not entered into such an agreement before January 1, 1991, such an agreement, subsequently entered into, shall not be effective until the first day of the calendar quarter that begins more than 60 days after the date the agreement is entered into.

"(2) EFFECTIVE DATE.—Paragraph (1) shall first apply to drugs dispensed under this title on or after January 1, 1991.

"(3) AUTHORIZING PAYMENT FOR DRUGS NOT COVERED UNDER REBATE AGREEMENTS.—Paragraph (1), and section 1903(i)(10)(A), shall not apply to the dispensing of a single source drug or innovator multiple source drug if (A) the State has made a determination that the availability of the drug is essential to the health of beneficiaries under the State plan for medical assistance; and (B)(i) the physician has obtained approval for use of the drug in advance of its dispensing in accordance with a prior authorization program described in subsection (d), or (ii) the Secretary has reviewed and approved the State's determination under subparagraph (A).

"(4) EFFECT ON EXISTING AGREEMENTS.—In the case of a rebate agreement in effect between a State and a manufacturer on the date of the enactment of this section, such agreement, for the initial agreement period specified therein, shall be considered to be a rebate agreement in compliance with this section with respect to that State, if the State agrees to report to the Secretary any rebates paid pursuant to the agreement. If the State establishes to the satisfaction of the Secretary that the agreement provides for rebates that are at least as large as the rebates otherwise required under this section, and the State agrees to report any rebates under the agreement to the Secretary, the agreement shall be considered to be a rebate agreement in compliance with the section for the renewal periods of such agreement.

"(b) TERMS OF REBATE AGREEMENT.—

"(1) PERIODIC REBATES.—

"(A) IN GENERAL.—A rebate agreement under this subsection shall require the manufacturer to provide, to each State plan approved under this title, a rebate each calendar quarter (or periodically in accordance with a schedule specified by the Secretary) in an amount specified in subsection (c) for covered outpatient drugs of the manufacturer dispensed under the plan during the quarter (or such other period as the Secretary may specify). Such rebate shall be paid by the manufacturer not later than 30 days after the date of receipt of the information described in paragraph (2) for the period involved.

"(B) OFFSET AGAINST MEDICAL ASSISTANCE.—Amounts received by a State under this section (or under an agreement authorized by the Secretary under subsection (a)(1) or an agreement described in subsection (a)(4)) in any quarter shall be considered to be a reduction in the amount expended under the State plan in the quarter for medical assistance for purposes of section 1903(a)(1).

"(2) STATE PROVISION OF INFORMATION.—

"(A) STATE RESPONSIBILITY.—Each State agency under this title shall report to each manufacturer not later than 60 days after the end of each calendar quarter and in a form consistent with a standard reporting format established by the Secretary, information on the total number of dosage units of each covered outpatient drug dispensed under the plan during the quarter, and shall promptly transmit a copy of such report to the Secretary.

"(B) AUDITS.—A manufacturer may audit the information provided (or required to be provided) under subparagraph (A). Adjustments to rebates shall be made to the extent that information indicates that utilization was greater or less than the amount previously specified.

"(C) NOTICE TO SECRETARY.—Each State agency shall notify the Secretary within 30 days after the date each rebate is received under this section.

"(3) MANUFACTURER PROVISION OF PRICE INFORMATION.—

"(A) IN GENERAL.—Each manufacturer with an agreement in effect under this section shall report to the Secretary—

"(i) not later than 30 days after the last day of each quarter (beginning on or after January 1, 1991), on the average manufacturer price (as defined in subsection (k)(1)) and, effective for quarters beginning on or after January 1, 1994 (for single source drugs and innovator multiple source drugs), the manufacturer's best price (as defined in subsection (c)(2)(B)) for covered outpatient drugs for the quarter, and

"(ii) not later than 30 days after the date of entering into an agreement under this section on the average manufacturer price (as defined in subsection (k)(1)) as of October 1, 1990 for each of the manufacturer's covered outpatient drugs.

"(B) VERIFICATION SURVEYS OF AVERAGE MANUFACTURER PRICE.—The Secretary may survey wholesalers and manufacturers that directly distribute their covered outpatient drugs, when necessary, to verify average manufacturer prices reported under subparagraph (A). The Secretary may impose a civil monetary penalty in an amount not to exceed $10,000 on a wholesaler, manufacturer, or direct seller, if the wholesaler, manufacturer, or direct seller of a covered outpatient drug refuses a request for information about charges or prices by the Secretary in connection with a survey under this subparagraph or knowingly provides false information. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(C) PENALTIES.—

"(i) FAILURE TO PROVIDE TIMELY INFORMATION.—In the case of a manufacturer with an agreement under this section that fails to provide information required under subparagraph (A) on a timely basis, the amount of the rebate required under the agreement shall be increased by $10,000 for each day in which such information has not been provided, and, if such information is not reported within 90 days of the deadline imposed, the agreement shall be suspended for services furnished after the end of such 90-day period and until the date such information is reported (but in no case shall such suspension be for a period of less than 30 days).

"(ii) FALSE INFORMATION.—Any manufacturer with an agreement under this section that knowingly provides false information is subject to a civil money penalty in an amount not to exceed $100,000 for each item of false information. Such civil money penalties are in addition to other penalties as may be prescribed by law. The provisions of section

1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(D) CONFIDENTIALITY OF INFORMATION.—Notwithstanding any other provision of law, information disclosed by manufacturers or wholesalers under this paragraph is confidential and shall not be disclosed by the Secretary or a State agency (or contractor therewith) in a form which discloses the identity of a specific manufacturer or wholesaler, except as the Secretary determines to be necessary to carry out this section and to permit the Comptroller General to review the information provided.

"(4) LENGTH OF AGREEMENT.—

"(A) IN GENERAL.—A rebate agreement shall be effective for an initial period of no less than 1 year and shall be automatically renewed for a period of no less than one year unless terminated under subparagraph (B).

"(B) TERMINATION.—

"(i) BY THE SECRETARY.—The Secretary may provide for termination of a rebate agreement for violation of the requirements of the agreement or other good cause shown. Such termination shall not be effective earlier than 60 days after the date of notice of such termination. The Secretary shall provide, upon request, a manufacturer with a hearing concerning such a termination, but such hearing shall not delay the effective date of the termination.

"(ii) BY A MANUFACTURER.—A manufacturer may terminate a rebate agreement under this section for any reason. Any such termination shall not be effective until such period after the date of the notice as the Secretary may provide (but not beyond the term of the agreement).

"(iii) EFFECTIVENESS OF TERMINATION.—Any termination under this subparagraph shall not affect rebates due under the agreement before the effective date of its termination.

"(C) DELAY BEFORE REENTRY.—In the case of any rebate agreement with a manufacturer under this section which is terminated, another such agreement with the manufacturer (or a successor manufacturer) may not be entered into until a period of 1 calendar quarter has elapsed since the date of the termination, unless the Secretary finds good cause for an earlier reinstatement of such an agreement.

"(c) AMOUNT OF REBATE.—

"(1) BASIC REBATE FOR SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE DRUGS.—Except as otherwise provided in this subsection, the amount of the rebate to a State for a calendar quarter (or other period specified by the Secretary) with respect to single source drugs and innovator multiple source drugs shall be equal to the product of—

"(A)(i) for quarters (or periods) beginning after December 31, 1990, and before January 1, 1994, 15 percent of the average manufacturer price for each dosage form and strength of such drugs (after deducting customary prompt payment discounts) for the quarter (or other period), and

"(ii) for quarters (or other periods) beginning after December 31, 1993, the greater of—

"(I) the difference between the average manufacturer price for a drug and 85 percent of such price, or

"(II) the difference between the average manufacturer price for a drug and the best price (as defined in paragraph (2)(B)) for such quarter (or period) for such drug, and

"(B) the number of units of such form and dosage dispensed under the plan under this title in the quarter (or other period) reported by the State under subsection (b)(2).

"(2) ADDITIONAL REBATE FOR SINGLE SOURCE AND INNOVATOR MULTIPLE SOURCE DRUGS.—(A) The Secretary shall establish a method of adjusting the basic rebate specified under paragraph (1) for single source and innovator multiple source drugs of a manufacturer to ensure that a manufacturer's prices for such drugs to a State plan approved under this title, determined on an aggregate weighted average basis, using the average manufacturer price for each such drug, do not increase by a percentage that is greater than the increase in the Consumer Price Index for all urban consumers (U.S. average) from October 1, 1990 to the month before the beginning of the calendar quarter (or other period) involved.

"(B) In this subsection, the term 'best price' means, with respect to a single source drug or innovator multiple source drug of a manufacturer, the lowest price available from the manufacturer to any wholesaler, retailer, nonprofit entity, or governmental entity within the United States (excluding depot prices of any agency of the Federal Government). The best price shall be inclusive of cash discounts, free goods, volume discounts, and rebates (other than rebates under this section) and shall be determined without regard to special packaging, labeling, or identifiers on the dosage form or product or package, and shall not take into account prices that are merely nominal in amount.

"(3) REBATE FOR OTHER DRUGS.—The amount of the rebate to a State for a calendar quarter (or other period specified by the Secretary) with respect to covered outpatient drugs (other than single source drugs and innovator multiple source drugs) shall be equal to the product of—

"(A) 12 percent of the average manufacturer price for each dosage form and strength of such drugs (after deducting customary prompt payment discounts) for the quarter (or other period), and

"(B) the number of units of such form and dosage dispensed under the plan under this title in the quarter (or other period) reported by the State under subsection (b)(2).

"(d) LIMITATIONS ON COVERAGE OF DRUGS.—

"(1) PERMISSABLE RESTRICTIONS.—(A) Except as provided in paragraph (6), but subject to paragraph (5), a State may subject to prior authorization any covered outpatient drug.

"(B) A State may exclude or otherwise restrict coverage of a covered patient drug if—

"(i) the prescribed use is not for a medically accepted indication (as defined in (k)(6));

"(ii) the drug is contained in the list referred to in paragraph (2); or

"(iii) the drug is subject to such restrictions pursuant to an agreement between a manufacturer and a State authorized by the Secretary under subsection (a)(1) or in effect pursuant to subsection (a)(4).

"(2) LIST OF DRUGS SUBJECT TO RESTRICTION.—The following drugs or classes of drugs, or their medical uses, may be excluded from coverage or otherwise restricted:

"(A) Agents when used for anorexia or weight gain that are not approved for such use by the FDA.

"(B) Agents when used to promote fertility.

"(C) Agents when used for cosmetic purposes or hair growth.

"(D) Agents when used for the symptomatic relief of cough and colds.

"(E) Agents when used to promote smoking cessation.

"(F) Prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations.

"(G) Nonprescription drugs.

"(H) Covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee.

"(I) Drugs described in section 107(c)(3) of the Drug Amendments of 1962 and identical, similar, or related drugs (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations ('DESI' drugs)).

"(J) Barbiturates.

"(3) UPDATE OF DRUG LISTINGS.—The Secretary shall (except with respect to new drugs approved by the FDA for the first 12 months following the date of approval of such drugs shall not be subject to being listed in paragraph (2) under the provisions of this paragraph), by regulation, periodically update the list of drugs described in paragraph (2) or classes of drugs, or their medical uses, which the Secretary, in consultation with the Commissioner of the Food and Drug Administration, has determined to be of marginal clinical value to beneficiaries, or, based on data collected by a State's medical assistance program's surveillance and utilization review program, to be subject to clinical abuse or inappropriate use.

"(4) INNOVATOR MULTIPLE-SOURCE DRUGS.—Innovator multiple-source drugs shall be treated as under otherwise applicable law and regulation.

"(5) PRIOR AUTHORIZATION PROGRAMS.—A State plan under this title may not require, as a condition of coverage or payment for a covered outpatient drug for which Federal financial participation is available in accordance with this section, the approval of the drug before its dispensing for any medically accepted indication (as defined in subsection (k)(6)) unless the system providing for such approval—

"(A) is available to physicians at least 10 hours each weekday, and provides for appropriate accommodations for obtaining prior authorization during other times;

"(B) provides response by telephone or other telecommunication device within 24 hours of a request for prior authorization; and

"(C) except with respect to the drugs on the list referred to in paragraph (2), provides for the dispensing of at least a 72-hour supply of a covered outpatient prescription drug in an emergency situation (as defined by the Secretary).

"(6) TREATMENT OF NEW DRUGS.—A State may not exclude for coverage, subject to prior authorization, or otherwise restrict any new biological or drug approved by the Food and Drug Administration after the date of enactment of this section, for a period of 1 year after such approval.

"(7) OTHER PERMISSIBLE RESTRICTIONS.—A State may impose limitations, with respect to all such drugs in a therapeutic class, on the minimum or maximum quantities per prescription or on the number of refills, provided such limitations are necessary to discourage waste.

Nothing in this section shall restrict the ability of a State to address individual instances of fraud or abuse in any manner authorized under the Social Security Act.

"(8) DELAYED EFFECTIVE DATE.—The provisions of paragraph (5) shall become effective with respect to drugs dispensed under this title on or after July 1, 1991.

"(e) DENIAL OF FEDERAL FINANCIAL PARTICIPATION IN CERTAIN CASES.—The Secretary

shall provide that no payment shall be made to a State under section 1903(a) for an innovator multiple-source drug dispensed on or after July 1, 1991, if, under applicable State law, a less expensive noninnovator multiple source drug (other than the innovator multiple-source drug) could have been dispensed consistent with such law.

"(f) PHARMACY REIMBURSEMENT.—

"(1) PAYMENT TO PHARMACISTS.—

"(A) IN GENERAL.—Beginning fiscal year 1991 and ending September 30, 1993, each State plan under this title shall provide, after the end of each fiscal year and a lump-sum payment, for a payment to pharmacies dispensing covered outpatient drugs under this title during the fiscal year.

"(B) AMOUNT OF PAYMENT.—The amount of the payment under this subsection for any fiscal year to a pharmacist shall bear the same ratio to 5 percent of the total amount of rebates received under this section by the State in the fiscal year involved, as the ratio of the number of prescriptions filled by the pharmacy under this title in the fiscal year bears to the total of such number for all pharmacies in the State in the fiscal year, and will be made within 60 days after the end of each fiscal year.

"(2) NO REDUCTIONS IN REIMBURSEMENT LIMITS.—Prior to April 1, 1993, no changes may be made by the Secretary or a State to the formula used to determine the reimbursement limits in effect under this title as of August 1, 1990, which would result in a reduction in the limit relative to either the ingredient cost portion or the dispensing fee portion of the formula, for covered outpatient drugs.

"(3) ESTABLISHMENT OF UPPER PAYMENT LIMITS.—HCFA shall establish Federal upper limits for all multiple source drugs for which the FDA has rated three or more therapeutically and pharmaceutically equivalent, regardless of whether all such additional formulations are rated as such.

"(g) DRUG USE REVIEW.—

"(1) IN GENERAL.—

"(A) In order to meet the requirement of section 1903(i)(10)(B), a State shall provide, by not later than January 1, 1993, for a drug use review program described in paragraph (2) for covered outpatient drugs in order to assure that prescriptions (i) are appropriate, (ii) are medically necessary, and (iii) are not likely to result in adverse medical results. The program shall be designed to educate physicians and pharmacists to identify and reduce the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists, and patients, or associated with specific drugs or groups of drugs, as well as potential and actual severe adverse reactions to drugs including education on therapeutic appropriateness, overutilization and underutilization, appropriate use of generic products, therapeutic duplication, drug-disease contraindications, drug-drug interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse/misuse.

"(B) The program shall assess data on drug use against predetermined standards, consistent with the following:

"(i) compendia which shall consist of the following:

"(I) American Hospital Formulary Service Drug Information;

"(II) United States Pharmacopeia-Drug Information; and

"(III) American Medical Association Drug Evaluations; and

"(ii) the peer-reviewed medical literature.

"(C) The Secretary, under the procedures established in section 1903, shall pay to each State an amount equal to 75 per centum of so much of the sums expended by the State plan during calendar years 1991 through 1993 as the Secretary determines is attributable to the statewide adoption of a drug use review program which conforms to the requirements of this subsection.

"(D) States shall not be required to perform additional drug use reviews with respect to drugs dispensed to residents of nursing facilities which are in compliance with the drug regimen review procedures prescribed by the Secretary for such facilities in regulations implementing section 1919, currently at section 483.60 of title 42, Code of Federal Regulations.

"(2) DESCRIPTION OF PROGRAM.—Each drug use review program shall meet the following requirements for covered outpatient drugs:

"(A) PROSPECTIVE DRUG REVIEW.—(i) The State plan shall provide for a review of drug therapy before each prescription is filled or delivered to an individual receiving benefits under this title, typically at the point-of-sale or point of distribution. The review shall include screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including interactions with nonprescription or over-the-counter drugs), incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse/misuse. Each State shall use the compendia and literature referred to in paragraph (1)(B) as its source of standards for such review.

"(ii) As part of the State's prospective drug use review program under this subparagraph applicable State law shall establish standards for counseling of individuals receiving benefits under this title by pharmacists which includes at least the following:

"(I) A reasonable effort must be made by the pharmacist to counsel such individual or caregiver of such individual face-to-face whenever possible, and otherwise to do so by telephone.

"(II) The pharmacist must offer to discuss with each individual receiving benefits under this title or caregiver of such individual (in person, whenever practicable, or through access to a telephone service which is toll-free for long-distance calls) who presents a prescription, matters which in the exercise of the pharmacist's professional judgment (consistent with State law respecting the provision of such information), the pharmacist deems significant including the following:

"(aa) The name and description of the medication.

"(bb) The route, dosage form, dosage, route of administration, and duration of drug therapy.

"(cc) Special directions and precautions for preparation, administration and use by the patient.

"(dd) Common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur.

"(ee) Techniques for self-monitoring drug therapy.

"(ff) Proper storage.

"(gg) Prescription refill information.

"(hh) Action to be taken in the event of a missed dose.

"(III) A reasonable effort must be made by the pharmacist to obtain, record, and maintain at least the following information regarding individuals receiving benefits under this title:

"(aa) Name, address, telephone number, date of birth (or age) and gender.

"(bb) Individual history where significant, including disease state or states, known allergies and drug reactions, and a comprehensive list of medications and relevant devices.

"(cc) Pharmacist comments relevant to the individuals drug therapy.

Nothing in this clause shall be construed as requiring a pharmacist to provide consultation when a individual receiving benefits under this title or caregiver of such individual refuses such consultation.

"(B) RETROSPECTIVE DRUG USE REVIEW.—The program shall provide, through its mechanized drug claims processing and information retrieval systems (approved by the Secretary under section 1903(r)) or otherwise, for the ongoing periodic examination of claims data and other records in order to identify patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists and individuals receiving benefits under this title, or associated with specific drugs or groups of drugs.

"(C) APPLICATION OF STANDARDS.—The program shall, on an ongoing basis, assess data on drug use against explicit predetermined standards (using the compendia and literature referred to in subsection (1)(B) as the source of standards for such assessment) including but not limited to monitoring for therapeutic appropriateness, overutilization and underutilization, appropriate use of generic products, therapeutic duplication, drug-disease contraindications, drug-drug interactions, incorrect drug dosage or duration of drug treatment, and clinical abuse/misuse and, as necessary, introduce remedial strategies, in order to improve the quality of care and to conserve program funds or personal expenditures.

"(D) EDUCATIONAL PROGRAM.—The program shall, through its State drug use review board established under paragraph (3), either directly or through contracts with accredited health care educational institutions, State medical societies or State pharmacists associations/societies or other organizations as specified by the State, and using data provided by the State drug use review board on common drug therapy problems, provide for active and ongoing educational outreach programs (including the activities described in paragraph (3)(C)(iii) of this subsection) to educate practitioners on common drug therapy problems with the aim of improving prescribing or dispensing practices.

"(3) STATE DRUG USE REVIEW BOARD.—

"(A) ESTABLISHMENT.—Each State shall provide for the establishment of a drug use review board (hereinafter referred to as the 'DUR Board') either directly or through a contract with a private organization.

"(B) MEMBERSHIP.—The membership of the DUR Board shall include health care professionals who have recognized knowledge and expertise in one or more of the following:

"(i) The clinically appropriate prescribing of covered outpatient drugs.

"(ii) The clinically appropriate dispensing and monitoring of covered outpatient drugs.

"(iii) Drug use review, evaluation, and intervention.

"(iv) Medical quality assurance.

The membership of the DUR Board shall be made up at least ⅓ but no more than 51 percent practicing physicians and at least ⅓ practicing pharmacists.

"(C) ACTIVITIES.—The activities of the DUR Board shall include but not be limited to the following:

"(i) Retrospective DUR as defined in section (2)(B).

"(ii) Application of standards as defined in section (2)(C).

"(iii) Ongoing interventions for physicians and pharmacists, targeted toward therapy problems or individuals identified in the course of retrospective drug use reviews performed under this subsection. Intervention programs shall include, in appropriate instances, at least:

"(I) information dissemination sufficient to ensure the ready availability to physicians and pharmacists in the State of information concerning its duties, powers, and basis for its standards;

"(II) written, oral, or electronic reminders containing patient-specific or drug-specific (or both) information and suggested changes in prescribing or dispensing practices, communicated in a manner designed to ensure the privacy of patient-related information;

"(III) use of face-to-face discussions between health care professionals who are experts in rational drug therapy and selected prescribers and pharmacists who have been targeted for educational intervention, including discussion of optimal prescribing, dispensing, or pharmacy care practices, and follow-up face-to-face discussions; and

"(IV) intensified review or monitoring of selected prescribers or dispensers.

The Board shall re-evaluate interventions after an appropriate period of time to determine if the intervention improved the quality of drug therapy, to evaluate the success of the interventions and make modifications as necessary.

"(D) ANNUAL REPORT.—Each State shall require the DUR Board to prepare a report on an annual basis. The State shall submit a report on an annual basis to the Secretary which shall include a description of the activities of the Board, including the nature and scope of the prospective and retrospective drug use review programs, a summary of the interventions used, an assessment of the impact of these educational interventions on quality of care, and an estimate of the cost savings generated as a result of such program. The Secretary shall utilize such report in evaluating the effectiveness of each State's drug use review program

"(h) ELECTRONIC CLAIMS MANAGEMENT.—

"(1) IN GENERAL.—In accordance with chapter 35 of title 44, United States Code (relating to coordination of Federal information policy), the Secretary shall encourage each State agency to establish, as its principal means of processing claims for covered outpatient drugs under this title, a point-of-sale electronic claims management system, for the purpose of performing online, real time eligibility verifications, claims data capture, adjudication of claims, and assisting pharmacists (and other authorized persons) in applying for and receiving payment.

"(2) ENCOURAGEMENT.—In order to carry out paragraph (1)—

"(A) for calendar quarters during fiscal years 1991 and 1992, expenditures under the State plan attributable to development of a system described in paragraph (1) shall receive Federal financial participation under section 1903(a)(3)(A)(i) (at a matching rate of 90 percent) if the State acquires, through applicable competitive procurement process in the State, the most cost-effective telecommunications network and automatic data processing services and equipment; and

"(B) the Secretary may permit, in the procurement described in subparagraph (A) in the application of part 433 of title 42, Code of Federal Regulations, and parts 95, 205, and 307 of title 45, Code of Federal Regulations, the substitution of the State's request for proposal in competitive procurement for advance planning and implementation documents otherwise required.

"(i) ANNUAL REPORT.—

"(1) IN GENERAL.—Not later than May 1 of each year the Secretary shall transmit to the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Aging of the Senate and the House of Representatives a report on the operation of this section in the preceding fiscal year.

"(2) DETAILS.—Each report shall include information on—

"(A) ingredient costs paid under this title for single source drugs, multiple source drugs, and nonprescription covered outpatient drugs;

"(B) the total value of rebates received and number of manufacturers providing such rebates;

"(C) how the size of such rebates compare with the size of rebates offered to other purchasers of covered outpatient drugs;

"(D) the effect of inflation on the value of rebates required under this section; and

"(E) trends in prices paid under this title for covered outpatient drugs.

"(j) EXEMPTION OF ORGANIZED HEALTH CARE SETTINGS.—(1) Health Maintenance Organizations that operate drug formularies or drug formulary systems specifically designed to provide outpatient prescription drug benefits, including those organizations that contract under section 1903(m), are not subject to the requirements of this section.

"(2) The State plan shall provide that hospitals providing medical assistance under such plan that such hospitals which bill the plan no more than the hospital's acquisition costs for covered outpatient drugs are not subject to the requirements of this section.

"(3) Nothing in this subsection shall be construed as providing that amounts for covered outpatient drugs paid by the institutions described in this subsection should not be taken into account for purposes of determining the best price as described in subsection (c).

"(k) DEFINITIONS.—In this section—

"(1) AVERAGE MANUFACTURER PRICE.—The term 'average manufacturer price' means, with respect to a covered outpatient drug of a manufacturer for a calendar quarter, the average price paid to the manufacturer for the drug in the United States by wholesalers for drugs distributed to the retail pharmacy class of trade.

"(2) COVERED OUTPATIENT DRUG.—Subject to the exceptions in paragraph (3), the term 'covered outpatient drug' means—

"(A) of those drugs which are treated as prescribed drugs for purposes of section 1905(a)(12), a drug which may be dispensed only upon prescription (except as provided in paragraph (5)), and—

"(i) which is approved for safety and effectiveness as a prescription drug under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act or which is approved under section 505(j) of such Act;

"(ii)(I) which was commercially used or sold in the United States before the date of the enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

"(iii)(I) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for all conditions of use prescribed, recommended, or suggested in its labeling; and

"(B) a biological product, other than a vaccine which—

"(i) may only be dispensed upon prescription,

"(ii) is licensed under section 351 of the Public Health Service Act, and

"(iii) is produced at an establishment licensed under such section to produce such product; and

"(C) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act.

"(3) LIMITING DEFINITION.—The term 'covered outpatient drug' does not include any drug, biological product, or insulin provided as part of, or as incident to, and in the same setting as, any of the following (and for which payment may be made under this title as part of payment for the following and not as direct reimbursement for the drug):

"(A) Inpatient hospital services.

"(B) Hospice services.

"(C) Dental services, except that drugs for which the State plan authorizes direct reimbursement to the dispensing dentist are covered outpatient drugs.

"(D) Physician office visits.

"(E) Outpatient hospital emergency room visits.

"(F) Outpatient surgical procedures.

Such term also does not include any such drug or product which is used for a medical indication which is not a medically accepted indication.

"(4) NONPRESCRIPTION DRUGS.—If a State plan for medical assistance under this title includes coverage of prescribed drugs as described in section 1905(a)(12) and permits coverage of drugs which may be sold without a prescription (commonly referred to as 'over-the-counter' drugs), if they are prescribed by a physician (or other person authorized to prescribe under State law), such a drug shall be regarded as a covered outpatient drug.

"(5) MANUFACTURER.—The term 'manufacturer' means any entity which is engaged in—

"(A) the production, preparation, propagation, compounding, conversion, or processing of prescription drug products, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or

"(B) in the packaging, repackaging, labeling, relabeling, or distribution of prescription drug products.

Such term does not include a wholesale distributor of drugs or a retail pharmacy licensed under State law.

"(6) MEDICALLY ACCEPTED INDICATION.—The term 'medically accepted indication' means any use for a covered outpatient drug which is approved under the Federal Food, Drug, and Cosmetic Act, which appears in peer-reviewed medical literature or which is accepted by one or more of the following compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluations, and the United States Pharmacopeia-Drug Information.

"(7) MULTIPLE SOURCE DRUG; INNOVATOR MULTIPLE SOURCE DRUG; NONINNOVATOR MULTIPLE SOURCE DRUG; SINGLE SOURCE DRUG.—

"(A) DEFINED.—

"(i) MULTIPLE SOURCE DRUG.—The term 'multiple source drug' means, with respect to a calendar quarter, a covered outpatient drug (not including any drug described in paragraph (5)) for which there are 2 or more drug products which—

"(I) are rated as therapeutically equivalent (under the Food and Drug Administration's most recent publication of 'Approved Drug Products with Therapeutic Equivalence Evaluations'),

"(II) except as provided in subparagraph (B), are pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C) and as determined by the Food and Drug Administration, and

"(III) are sold or marketed in the State during the period.

"(ii) INNOVATOR MULTIPLE SOURCE DRUG.—The term 'innovator multiple source drug' means a multiple source drug that was originally marketed under an original new drug application approved by the Food and Drug Administration.

"(iii) NONINNOVATOR MULTIPLE SOURCE DRUG.—The term 'noninnovator multiple source drug' means a multiple source drug that is not an innovator multiple source drug.

"(iv) SINGLE SOURCE DRUG.—The term 'single source drug' means a covered outpatient drug which is produced or distributed under an original new drug application approved by the Food and Drug Administration, including a drug product marketed by any cross-licensed producers or distributers operating under the new drug application.

"(B) EXCEPTION.—Subparagraph (A)(i)(II) shall not apply if the Food and Drug Administration changes by regulation the requirement that, for purposes of the publication described in subparagraph (A)(i)(I), in order for drug products to be rated as therapeutically equivalent, they must be pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C).

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) drug products are pharmaceutically equivalent if the products contain identical amounts of the same active drug ingredient in the same dosage form and meet compendial or other applicable standards of strength, quality, purity, and identity;

"(ii) drugs are bioequivalent if they do not present a known or potential bioequivalence problem, or, if they do present such a problem, they are shown to meet an appropriate standard of bioequivalence; and

"(iii) a drug product is considered to be sold or marketed in a State if it appears in a published national listing of average wholesale prices selected by the Secretary, provided that the listed product is generally available to the public through retail pharmacies in that State.

"(8) STATE AGENCY.—The term 'State agency' means the agency designated under section 1902(a)(5) to administer or supervise the administration of the State plan for medical assistance.".

(b) FUNDING.—

(1) DRUG USE REVIEW PROGRAMS.—Section 1903(a)(3) (42 U.S.C. 1936b(a)(3)) is amended—

(A) by striking "plus" at the end of subparagraph (C) and inserting "and", and

(B) by adding at the end the following new subparagraph:

"(D) 75 percent of so much of the sums expended by the State plan during a quarter in 1991, 1992, or 1993, as the Secretary determines is attributable to the statewide adoption of a drug use review program which conforms to the requirements of section 1927(g); plus".

(2) TEMPORARY INCREASE IN FEDERAL MATCH FOR ADMINISTRATIVE COSTS.—The per centum to be applied under section 1903(a)(7) of the Social Security Act for amounts expended during calendar quarters in fiscal year 1991 which are attributable to administrative activities necessary to carry out section 1927 (other than subsection (g)) of such Act shall be 75 percent, rather than 50 percent; after fiscal year 1991, the match shall revert back to 50 percent.

(c) DEMONSTRATION PROJECTS.—

(1) PROSPECTIVE DRUG UTILIZATION REVIEW.—

(A) The Secretary of Health and Human Services shall provide, through competitive procurement by not later than January 1, 1992, for the establishment of at least 10 statewide demonstration projects to evaluate the efficiency and cost-effectiveness of prospective drug utilization review (as a component of on-line, real-time electronic point-of-sales claims management) in fulfilling patient counseling and in reducing costs for prescription drugs.

(B) Each of such projects shall establish a central electronic repository for capturing, storing, and updating prospective drug utilization review data and for providing access to such data by participating pharmacists (and other authorized participants).

(C) Under each project, the pharmacist or other authorized participant shall assess the active drug regimens of recipients in terms of duplicate drug therapy, therapeutic overlap, allergy and cross-sensitivity reactions, drug interactions, age precautions, drug regimen compliance, prescribing limits, and other appropriate elements.

(D) Not later than January 1, 1994, the Secretary shall submit to Congress a report on the demonstration projects conducted under this paragraph.

(2) DEMONSTRATION PROJECT ON COST-EFFECTIVENESS OF REIMBURSEMENT FOR PHARMACISTS' COGNITIVE SERVICES.—

(A) The Secretary of Health and Human Services shall conduct a demonstration project to evaluate the impact on quality of care and cost-effectiveness of paying pharmacists under title XIX of the Social Security Act, whether or not a drug is dispensed, for drug use review services. For this purpose, the Secretary shall provide for no fewer than 5 demonstration sites in different States and the participation of a significant number of pharmacists.

(B) Not later than January 1, 1995, the Secretary shall submit a report to the Congress on the results of the demonstration project conducted under subparagraph (A).

(d) STUDIES.—

(1) STUDY OF DRUG PURCHASING AND BILLING ACTIVITIES OF VARIOUS HEALTH CARE SYSTEMS.—

(A) The Comptroller General shall conduct a study of the drug purchasing and billing practices of hospitals, other institutional facilities, and managed care plans which provide covered outpatient drugs in the medicaid program. The study shall compare the ingredient costs of drugs for medicaid prescriptions to these facilities and plans and the charges billed to medical assistance programs by these facilities and plans compared to retail pharmacies.

(B) The study conducted under this subsection shall include an assessment of—

(i) the prices paid by these institutions for covered outpatient drugs compared to prices that would be paid under this section,

(ii) the quality of outpatient drug use review provided by these institutions as compared to drug use review required under this section, and

(iii) the efficiency of mechanisms used by these institutions for billing and receiving payment for covered outpatient drugs dispensed under this title.

(C) By not later than May 1, 1991, the Comptroller General shall report to the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary"), the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Aging of the Senate and the House of Representatives on the study conducted under subparagraph (A).

(2) REPORT ON DRUG PRICING.—By not later than May 1 of each year, the Comptroller General shall submit to the Secretary, the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Aging of the Senate and House of Representatives an annual report on changes in prices charged by manufacturers for prescription drugs to the Department of Veterans Affairs, other Federal programs, retail and hospital pharmacies, and other purchasing groups and managed care plans.

(3) STUDY ON PRIOR APPROVAL PROCEDURES.—

(A) The Secretary, acting in consultation with the Comptroller General, shall study prior approval procedures utilized by State medical assistance programs conducted under title XIX of the Social Security Act, including—

(i) the appeals provisions under such programs; and

(ii) the effects of such procedures on beneficiary and provider access to medications covered under such programs.

(B) By not later than December 31, 1991, the Secretary and the Comptroller General shall report to the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Aging of the Senate and the House of Representatives on the results of the study conducted under subparagraph (A) and shall make recommendations with respect to which procedures are appropriate or inappropriate to be utilized by State plans for medical assistance.

(4) STUDY ON REIMBURSEMENT RATES TO PHARMACISTS.—

(A) The Secretary shall conduct a study on (i) the adequacy of current reimbursement rates to pharmacists under each State medical assistance programs conducted under title XIX of the Social Security Act; and (ii) the extent to which reimbursement rates under such programs have an effect on beneficiary access to medications covered and pharmacy services under such programs.

(B) By not later than December 31, 1991, the Secretary shall report to the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Aging of the Senate and the House of Representatives on the results of the study conducted under subparagraph (A).

(5) STUDY OF PAYMENTS FOR VACCINES.—The Secretary of Health and Human Services shall undertake a study of the relationship between State medical assistance plans and Federal and State acquisition and reimbursement policies for vaccines and the accessibility of vaccinations and immunization to children provided under this title. The Secretary shall report to the Congress on the Study not later than one year after the date of the enactment of this Act.

(6) STUDY ON APPLICATION OF DISCOUNTING OF DRUGS UNDER MEDICARE.—The Comptroller General shall conduct a study examining methods to encourage providers of items and services under title XVIII of the Social Security Act to negotiate discounts with suppliers of prescription drugs to such providers. The Comptroller General shall submit to Congress a report on such study no later than 1 year after the date of enactment of this subsection.

PART II—PURCHASE OF PRIVATE INSURANCE

SEC. 6211. STATES REQUIRED TO PAY PREMIUMS, DEDUCTIBLES, AND COINSURANCE FOR PRIVATE HEALTH INSURANCE COVERAGE FOR MEDICAID BENEFICIARIES WHERE COST EFFECTIVE.

(a) STATE PLAN REQUIREMENT.—Section 1902(a) (42 U.S.C. 1396a(a)), as amended by section 6201, is further amended—

(1) by striking "and" at the end of paragraph (53);

(2) by striking the period at the end of paragraph (54) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(55) meet the requirements of section 1928 (relating to payment of premiums, deductibles, and coinsurance for private health insurance).".

(b) DESCRIPTION OF REQUIREMENT.—Title XIX (42 U.S.C. 1396 et seq.), as amended by section 6201, is further amended—

(1) by redesignating section 1928 as section 1929; and

(2) by inserting after section 1927 the following new section:

"PAYMENT OF PREMIUMS FOR PRIVATE HEALTH INSURANCE

"SEC. 1928. (a) REQUIREMENT.—Notwithstanding any other provision of this title, each State plan approved under this title shall provide that with respect to individuals eligible for medical assistance under this title that the State shall pay premiums, deductibles, and coinsurance for private health insurance policies (as defined in subsection (d)) on behalf of such individuals and, where appropriate, the individuals' family members, when it is cost effective to do so.

"(b) DETERMINATION OF COST EFFECTIVENESS.—The Secretary shall promulgate regulations providing criteria for determining cost effectiveness for purposes of this section. In promulgating regulations under this subsection the Secretary shall consider:

(1) the duration of the time period to be considered by States in determining cost effectiveness;

(2) whether States in determining cost effectiveness, may base such determination on individual circumstances or actuarial categories, and, if based on actuarial categories whether States should be permitted to categorize actuarial groups on the basis of diagnosis; and

(3) the circumstances under which States should pay premiums, deductibles, and coinsurance for non-medicaid eligible family members of individuals eligible for medical assistance under this title.

"(c) SCOPE OF COVERAGE.—Each State shall ensure that as part of its State plan approved under this title that where the State makes payments for premiums, deductibles, or coinsurance for private health insurance coverage on behalf of an individual who is eligible for medical assistance under this section, that if such private health coverage does not cover an item or service or does not cover an item or service to the same extent as such item or service is covered under the State plan approved under this title that the State shall provide under such State plan any additional benefits necessary to provide such individual with coverage as comprehensive in amount, duration, and scope as medical assistance provided under the State plan approved under this title.

"(d) PRIVATE HEALTH INSURANCE DEFINED.—For purposes of this section, the term 'private health insurance policy' includes employment-related health insurance, group health insurance, membership in private health maintenance organizations, or such other private health insurance as the Secretary may specify.".

(c) CONFORMING AMENDMENTS.—

(1) LIMITATION ON AMOUNT, DURATION, AND SCOPE OF BENEFITS MODIFIED.—Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (E)—

(A) by striking "and" at the end of subdivision (IX);

(B) by inserting "and" at the end of subdivision (X); and

(C) by adding at the end the following new subdivision:

"(XI) the making available of medical assistance to cover the costs of premiums, deductibles, and coinsurance for certain individuals for private health coverage as described in section 1928 shall not, by reason of paragraph (10), require the making available of any such benefits or the making available of services of the same amount, duration, and scope of such private coverage to any other individuals;".

(2) PREMIUMS INCLUDED AS MEDICAL ASSISTANCE.—Section 1905(a) (42 U.S.C. 1396d(a)) is amended—

(A) by striking "and" at the end of paragraph (21);

(B) by redesignating paragraph (22) as paragraph (23); and

(C) by inserting after paragraph (21) the following new paragraph:

"(22) premiums, deductibles, and coinsurance for private health insurance coverage where cost effective (as provided in section 1928); and".

(d) EFFECTIVE DATE.—(1) The amendments made by this section shall become effective with respect to payments for calendar quarters beginning on or after January 1, 1991.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

PART III—LOW-INCOME ELDERLY

SEC. 6221. 1-YEAR ACCELERATION OF AND INCREASE IN OPTION AMOUNT FOR BUY-IN OF PREMIUMS AND COST SHARING FOR INDIGENT MEDICARE BENEFICIARIES.

(a) OPTION UP TO 133 PERCENT OF POVERTY LINE.—Section 1905(p)(2)(A) (42 U.S.C. 1396d(p)(2)(A)) is amended by striking "100" and inserting "133".

(b) REQUIRED 1-YEAR ACCELERATION TO 100 PERCENT OF POVERTY LINE.—Section 1905(p)(2) (42 U.S.C. 1396d(p)(2)) is further amended—

(1) in subparagraph (B)—

(A) by adding "and" at the end of clause (ii);

(B) in clause (iii), by striking "95 percent, and" and inserting "100 percent."; and

(C) by striking clause (iv); and

(2) in subparagraph (C)—

(A) in clause (iii), by striking "90" and inserting "95";

(B) by adding "and" at the end of clause (iii);

(C) in clause (iv), by striking "95 percent, and" and inserting "100 percent."; and

(D) by striking clause (v).

(c) EFFECTIVE DATE.—(1) The amendment made by subsection (a) and, except as provided in paragraph (2), the amendments made by subsection (b) shall become effective with respect to payments for calendar quarters beginning on or after January 1, 1991.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 6222. DELAY IN COUNTING SOCIAL SECURITY COLA INCREASES UNTIL NEW POVERTY GUIDELINES IMPLEMENTED.

(a) IN GENERAL.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)) is amended—

(1) in subparagraph (B) of paragraph (1), by inserting ", except as provided in paragraph (2)(D) of this subsection," after "supplementary security income program"; and

(2) by adding at the end of paragraph (2) the following new subparagraph:

"(D)(i) In making a determination or redetermination of income under this subsection for a transition month (as defined in clause (ii) of this subparagraph) for an individual who is eligible to receive insurance benefits under title II of this Act, such deter-

mination or redetermination shall exclude any amount of income attributable to a cost-of-living increase in the level of monthly insurance benefits under title II (as described in section 215(i)) received or anticipated to be received for that calendar year for which the determination or redetermination is made.

"(ii) For purposes of this subparagraph, the term 'transition month' means each month in a calendar year during a period beginning January 1 and ending the last day of the month in which the State agency implements the annual revision of the official poverty line (as described in subparagraph (A)) published during that calendar year.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to determinations or redeterminations of income for months beginning on or after January 1, 1991.

PART IV—CHILD HEALTH

SEC. 6231. MEDICAID CHILD HEALTH PROVISIONS.

(a) PHASED-IN MANDATORY COVERAGE OF CHILDREN UP TO 100 PERCENT OF POVERTY LEVEL.—

(1) IN GENERAL.—Section 1902 (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(10)(A)(i)—

(i) by striking "or" at the end of subclause (V),

(ii) by striking the semicolon at the end of subclause (VI) and inserting ", or", and

(iii) by adding at the end the following new subclause:

"(VII) who are described in subparagraph (D) of subsection (l)(1) and whose family income does not exceed the income level the State is required to establish under subsection (l)(2)(C) for such a family;";

(B) in subsection (a)(10)(A)(ii)(IX), by striking "or clause (i)(VI)" and inserting ", clause (i)(VI), or clause (i)(VII)";

(C) in subsection (l)—

(i) in subparagraph (C) of paragraph (1) by inserting "children" after "(C)";

(ii) by striking subparagraph (D) of paragraph (1) and inserting the following:

"(D) children born after September 30, 1983, who have attained 6 years of age but have not attained 19 years of age,";

(iii) by striking subparagraph (C) of paragraph (2) and inserting the following:

"(C) For purposes of paragraph (1) with respect to individuals described in subparagraph (D) of that paragraph, the State shall establish an income level which is equal to 100 percent of the income official poverty line described in subparagraph (A) applicable to a family of the size involved.";

(iv) in paragraph (3) by inserting ", (a)(10)(A)(i)(VII)," after "(a)(10)(A)(i)(VI)";

(v) in paragraph (4)(A), by inserting "or subsection (a)(10)(A)(i)(VII)" after "(a)(10)(A)(i)(VI)"; and

(vi) in paragraph (4)(B), by striking "or (a)(10)(A)(i)(VI)" ", and inserting "(a)(10)(A)(i)(VI), or (a)(10)(A)(i)(VII)"; and

(D) in subsection (r)(2)(A), by inserting "(a)(10)(A)(i)(VII)," after "(a)(10)(A)(i)(VI),".

(2) CONFORMING AMENDMENT TO QUALIFIED CHILDREN.—Section 1905(n)(2) (42 U.S.C. 1396d(n)(2)) is amended by striking "age of 7 (or any age designated by the State that exceeds 7 but does not exceed 8)" and inserting "age of 19".

(3) ADDITIONAL CONFORMING AMENDMENTS.—

(A) Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended—

(i) by striking "1902(a)(10)(A)(i)(IV)," and inserting "1902(a)(10)(A)(i)(III), 1902(a)(10)(A)(i)(IV), 1902(a)(10)(A)(i)(V),", and

(ii) by inserting "1902(a)(10)(A)(i)(VII)," after "1902(a)(10)(A)(i)(VI),".

(B) Subsections (a)(3)(C) and (b)(3)(C)(i) of section 1925 of such Act (42 U.S.C. 1396r-6), as amended by section 6411(i)(3) of the Omnibus Budget Reconciliation Act of 1989, are each amended by inserting "(i)(VII)," after "(i)(VI)".

(4) EFFECTIVE DATE.—(A) The amendments made by this subsection apply (except as otherwise provided in this subsection) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1991.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this subsection, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(b) OPTIONAL COVERAGE OF CHILDREN WITH INCOME BELOW 185 PERCENT OF THE POVERTY LEVEL.—

(1) FLEXIBILITY ON INCOME LIMIT.—Section 1902, as amended by subsection (a) of this section, is amended—

(A) in subclauses (VI) and (VII) of subsection (a)(10)(A)(i), by inserting "minimum" before "income level",

(B) in subsection (l)(2)(B), by striking "133 percent" and inserting "a percentage (established by the State, which is not less than 133 percent and not more than 185 percent)"; and

(C) in subsection (l)(2)(C), by striking "100 percent" and inserting "a percentage (established by the State, which is not less than 100 percent and not more than 185 percent)".

(2) FLEXIBILITY ON AGE.—Section 1902(l)(1) of such Act is amended—

(A) by striking "and" at the end of subparagraph (C),

(B) by inserting "and" at the end of subparagraph (D), and

(C) by adding at the end thereof the following:

"(E) at the option of the State, children born after October 1, 1983, who have attained 6 years of age but have not attained 19 years of age or a lesser age as selected by the State,".

(3) EFFECTIVE DATE.—(A) The amendments made by this subsection shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1991.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this subsection, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c)(1) CONTINUOUS ELIGIBILITY FOR MEDICAID BENEFITS FOR A PERIOD OF 1 YEAR PROVIDED FOR INFANTS BORN TO MEDICAID ELIGIBLE WOMEN.—Section 1902(e)(4) (42 U.S.C. 1396a(e)(4)) is amended—

(A) in the first sentence, by striking "and the woman remains eligible for such assistance" and inserting "if the woman would have remained eligible for such assistance were it not for the termination of her pregnancy or post-partum period"; and

(B) in the second sentence—

(i) by striking "unless" and inserting "if"; and

(ii) by striking "expires" and inserting "expires no new application for such child shall be required".

(2) EFFECTIVE DATE.—(A) The amendment made by paragraph (1), shall become effective with respect to eligibility determinations for medical assistance under title XIX of the Social Security Act on or after July 1, 1991.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this subsection, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(d) ADJUSTMENT IN PAYMENT FOR HOSPITAL SERVICES FURNISHED TO LOW-INCOME CHILDREN.—

(1) IN GENERAL.—Section 1902 (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

"(s) In order to meet the requirements of subsection (a)(54), the State plan must provide that payments to hospitals under the plan for inpatient hospital services furnished to infants who have not attained the age of 1 year, and to children who have not attained the age of 19 years and who receive such services in a disproportionate share hospital described in section 1923(b)(1), shall—

"(1) if made on a prospective basis (whether per diem, per case, or otherwise) provide for an outlier adjustment in payment amounts for medically necessary inpatient hospital services involving exceptionally high costs or exceptionally long lengths of stay,

"(2) not be limited by the imposition of day limits with respect to the delivery of such services to such individuals, and

"(3) not be limited by the imposition of dollar limits (other than such limits resulting from prospective payments as adjusted pursuant to paragraph (1)) with respect to the delivery of such services to any such in-

dividual who has not attained their first birthday (or in the case of such an individual who is an inpatient on his first birthday until such individual is discharged).".

(2) CONFORMING AMENDMENT.—Section 1902(a) (42 U.S.C. 1396a(a)), as amended by section 6211(a), is further amended—

(A) by striking "and" at the end of paragraph (54);

(B) by striking the period at the end of paragraph (55) and by inserting "; and"; and

(C) by inserting after paragraph (56) and before the end matter the following new paragraph:

"(56) provide, in accordance with subsection (s), for adjusted payments for certain inpatient hospital services.".

(3) PROHIBITION ON WAIVER.—Section 1915(b) (42 U.S.C. 1396n(b)) is amended in the matter preceding paragraph (1) by inserting "(other than subsection (s))" after "Section 1902".

(4) EFFECTIVE DATE.—(A) The amendments made by this subsection shall become effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1991.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this subsection, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

PART V—HOME AND COMMUNITY-BASED SERVICES

SEC. 6241. HOME AND COMMUNITY-BASED CARE AS OPTIONAL SERVICE.

(a) PROVISION AS OPTIONAL SERVICE.—Section 1905(a) (42 U.S.C. 1396d(a)), as amended by section 6201, is further amended—

(1) by striking "and" at the end of paragraph (22);

(2) by redesignating paragraph (23) as paragraph (24); and

(3) by inserting after paragraph (22) the following new paragraph:

"(23) home community care (to the extent allowed and as defined in section 1929) for functionally disabled elderly individuals; and".

(b) HOME AND COMMUNITY CARE FOR FUNCTIONALLY DISABLED ELDERLY INDIVIDUALS.—Title XIX (42 U.S.C. 1396 et seq.) as amended by section 6211 is further amended—

(1) by redesignating section 1929 as section 1930; and

(2) by inserting after section 1928 the following new section:

"HOME AND COMMUNITY CARE FOR FUNCTIONALLY DISABLED ELDERLY INDIVIDUALS

"SEC. 1929. (a) HOME AND COMMUNITY CARE DEFINED.—In this title, the term 'home and community care' means one or more of the following services furnished to an individual who has been determined, after an assessment under subsection (c), to be a functionally disabled elderly individual, furnished in accordance with an individual community care plan (established and periodically reviewed and revised by a qualified community care case manager under subsection (d)):

"(1) Homemaker/home health aide services.

"(2) Chore services.

"(3) Personal care services.

"(4) Nursing care services provided by, or under the supervision of, a registered nurse.

"(5) Respite care.

"(6) Training for family members in managing the individual.

"(7) Adult day health services.

"(8) In the case of an individual with chronic mental illness, day treatment or other partial hospitalization, psychosocial rehabilitation services, and clinic services (whether or not furnished in a facility).

"(9) Such other home and community-based services (other than room and board) as the Secretary may approve.

"(b) FUNCTIONALLY DISABLED ELDERLY INDIVIDUAL DEFINED.—

"(1) IN GENERAL.—In this title, the term 'functionally disabled elderly individual' means an individual who—

"(A) is 65 years of age or older,

"(B) is determined to be a functionally disabled individual under subsection (c), and

"(C) subject to section 1902(f) (as applied consistent with section 1902(r)(2)), is receiving supplemental security income benefits under title XVI (or under a State plan approved under title XVI) or, at the option of the State, is described in section 1902(a)(10)(C).

"(2) TREATMENT OF CERTAIN INDIVIDUALS PREVIOUSLY COVERED UNDER A WAIVER.—(A) In the case of a State which—

"(i) at the time of its election to provide coverage for home and community care under this section has a waiver approved under section 1915(c) or 1915(d) with respect to individuals 65 years of age or older, and

"(ii) subsequently discontinues such waiver, individuals who were eligible for benefits under the waiver as of the date of its discontinuance and who would, but for income or resources, be eligible for medical assistance for home and community care under the plan shall, notwithstanding any other provision of this title, be deemed a functionally disabled elderly individual for so long as the individual would have remained eligible for medical assistance under such waiver.

"(B) In the case of a State which, as of December 31, 1990, had in effect a waiver under section 1115 that provides under the State plan under this title for personal care services for functionally disabled individuals, the term 'functionally disabled elderly individual' may include, at the option of the State, an individual who—

"(i) is 65 years of age or older or is disabled (as determined under the supplemental security income program under title XVI);

"(ii) is determined to meet the test of functional disability applied under the waiver as of such date; and

"(iii) meets the resource requirement and income standard that apply in the State to individuals described in section 1902(a)(10)(A)(ii)(V).

"(3) USE OF PROJECTED INCOME.—In applying section 1903(f)(1) in determining the eligibility of an individual (described in section 1902(a)(10)(C)) for medical assistance for home and community care, a State may, at its option, provide for the determination of the individual's anticipated medical expenses (to be deducted from income) over a period of up to 6 months.

"(c) DETERMINATIONS OF FUNCTIONAL DISABILITY.—

"(1) IN GENERAL.—In this section, an individual is 'functionally disabled' if the individual—

"(A) is unable to perform without substantial assistance from another individual at least 2 of the following 3 activities of daily living: toileting, transferring, and eating; or

"(B) has a primary or secondary diagnosis of Alzheimer's disease and is (i) unable to perform without substantial human assistance (including verbal reminding or physical cueing) or supervision at least 2 of the following 5 activities of daily living: bathing, dressing, toileting, transferring, and eating; or (ii) cognitively impaired so as to require substantial supervision from another individual because he or she engages in inappropriate behaviors that pose serious health or safety hazards to himself or herself or others.

"(2) ASSESSMENTS OF FUNCTIONAL DISABILITY.—

"(A) REQUESTS FOR ASSESSMENTS.—If a State has elected to provide home and community care under this section, upon the request of an individual who is 65 years of age or older and who meets the requirements of subsection (b)(1)(C) (or another person on such individual's behalf), the State shall provide for a comprehensive functional assessment under this subparagraph which—

"(i) is used to determine whether or not the individual is functionally disabled,

"(ii) is based on a uniform minimum data set specified by the Secretary under subparagraph (C)(i), and

"(iii) uses an instrument which has been specified by the State under subparagraph (B).

No fee may be charged for such an assessment.

"(B) SPECIFICATION OF ASSESSMENT INSTRUMENT.—The State shall specify the instrument to be used in the State in complying with the requirement of subparagraph (A)(iii) which instrument shall be—

"(i) one of the instruments designated under subparagraph (C)(ii); or

"(ii) an instrument which the Secretary has approved as being consistent with the minimum data set of core elements, common definitions, and utilization guidelines specified by the Secretary in subparagraph (C)(i).

"(C) SPECIFICATION OF ASSESSMENT DATA SET AND INSTRUMENTS.—The Secretary shall—

"(i) not later than July 1, 1991—

"(I) specify a minimum data set of core elements and common definitions for use in conducting the assessments required under subparagraph (A); and

"(II) establish guidelines for use of the data set; and

"(ii) by not later than July 1, 1991, designate one or more instruments which are consistent with the specification made under subparagraph (A) and which a State may specify under subparagraph (B) for use in complying with the requirements of subparagraph (A).

"(D) PERIODIC REVIEW.—Each individual who qualifies as a functionally disabled elderly individual shall have the individual's assessment periodically reviewed and revised not less often than once every 12 months.

"(E) CONDUCT OF ASSESSMENT BY INTERDISCIPLINARY TEAMS.—An assessment under subparagraph (A) and a review under subpara-

graph (D) must be conducted by an interdisciplinary team designated by the State. The Secretary shall permit a State to provide for assessments and reviews through teams under contracts—

"(i) with public organizations; or

"(ii) with nonpublic organizations which do not provide home and community care or nursing facility services and do not have a direct or indirect ownership or control interest in, or direct or indirect affiliation or relationship with, an entity that provides, community care or nursing facility services.

"(F) CONTENTS OF ASSESSMENT.—The interdisciplinary team must—

"(i) identify in each such assessment or review each individual's functional disabilities and need for home and community care, including information about the individual's health status, home and community environment, and informal support system; and

"(ii) based on such assessment or review, determine whether the individual is (or continues to be) functionally disabled.

The results of such an assessment or review shall be used in establishing, reviewing, and revising the individual's ICCP under subsection (d)(1).

"(G) APPEAL PROCEDURES.—Each State which elects to provide home and community care under this section must have in effect an appeals process for individuals adversely affected by determinations under subparagraph (F).

"(d) INDIVIDUAL COMMUNITY CARE PLAN (ICCP).—

"(1) INDIVIDUAL COMMUNITY CARE PLAN DEFINED.—In this section, the terms 'individual community care plan' and 'ICCP' mean, with respect to a functionally disabled elderly individual, a written plan which—

"(A) is established, and is periodically reviewed and revised, by a qualified case manager after a face-to-face interview with the individual or primary caregiver and based upon the most recent comprehensive functional assessment of such individual conducted under subsection (c)(2);

"(B) specifies, within any amount, duration, and scope limitations imposed on home and community care provided under the State plan, the home and community care to be provided to such individual under the plan, and indicates the individual's preferences for the types and providers of services; and

"(C) may specify other services required by such individual.

An ICCP may also designate the specific providers (qualified to provide home and community care under the State plan) which will provide the home and community care described in subparagraph (B).

"(2) QUALIFIED CASE MANAGEMENT ENTITY DEFINED.—In this section, the term 'qualified case management entity' means a nonprofit or public agency or organization which—

"(A) has experience or has been trained in establishing, and in periodically reviewing and revising, individual community care plans and in the provision of case management services to the elderly;

"(B) is responsible for (i) assuring that home and community care covered under the State plan and specified in the ICCP is being provided, (ii) visiting each individual's home or community setting where care is being provided not less often than once every 90 days, and (iii) informing the elderly individual or primary caregiver on how to contact the case manager if service providers fail to properly provide services or other similar problems occur;

"(C) in the case of a nonpublic agency, does not provide home and community care or nursing facility services and does not have a direct or indirect ownership or control interest in, or direct or indirect affiliation or relationship with, an entity that provides, home and community care or nursing facility services;

"(D) has procedures for assuring the quality of case management services that includes a peer review process;

"(E) completes the ICCP in a timely manner and reviews and discusses new and revised ICCPs with elderly individuals or primary caregivers; and

"(F) meets such other standards, established by the Secretary, as to assure that—

"(i) such a manager is competent to perform case management functions;

"(ii) individuals whose home and community care they manage are not at risk of financial exploitation due to such a manager; and

"(iii) meets such other standards as the State may establish.

"(3) APPEALS PROCESS.—Each State which elects to provide home and community care under this section must have in effect an appeals process for individuals who disagree with the ICCP established.

"(e) CEILING ON PAYMENT AMOUNTS AND MAINTENANCE OF EFFORT.—

"(1) CEILING ON PAYMENT AMOUNTS.—Payments may not be made under section 1903(a) to a State for home and community care provided under this section in a quarter to the extent that the medical assistance for such care in the quarter exceeds 50 percent of the product of—

"(A) the average number of individuals in the quarter receiving such care under this section;

"(B) the average per diem rate of payment which the Secretary has determined (before the beginning of the quarter) will be payable under title XVIII (without regard to coinsurance) for extended care services to be provided in the State during such quarter; and

"(C) the number of days in such quarter.

"(2) MAINTENANCE OF EFFORT.—

"(A) ANNUAL REPORTS.—As a condition for the receipt of payment under section 1903(a) with respect to medical assistance provided by a State for home and community care, the State shall report to the Secretary, with respect to each Federal fiscal year (beginning with fiscal year 1990) and in a format developed or approved by the Secretary, the amount of funds obligated by the State (including funds obligated by localities in the State) with respect to the provision of home and community care to the elderly in that fiscal year.

"(B) REDUCTION IN PAYMENT IF FAILURE TO MAINTAIN EFFORT.—If the amount reported under subparagraph (A) by a State with respect to a fiscal year is less than the amount reported under subparagraph (A) with respect to fiscal year 1989, the Secretary shall provide for a reduction in payments to the State under section 1903(a) in an amount equal to the difference between the amounts so reported.

"(f) MINIMUM REQUIREMENTS FOR HOME AND COMMUNITY CARE.—

"(1) REQUIREMENTS.—Home and Community care provided under this section must meet such requirements for individuals' rights and quality as are published or developed by the Secretary under subsection (k). Such requirements shall include—

"(A) the requirement that individuals providing care are competent to provide such care; and

"(B) the rights specified in paragraph (2).

"(2) SPECIFIED RIGHTS.—The rights specified in this paragraph are as follows:

"(A) The right to be fully informed in advance, orally and in writing, of the care to be provided, to be fully informed in advance of any changes in care to be provided, and (except with respect to an individual determined incompetent) to participate in planning care or changes in care. In cases of incompetence, these same rights shall apply to the primary caregiver or family member.

"(B) The right to voice grievances with respect to services that are (or fail to be) furnished without discrimination or reprisal for voicing grievances, and to be told how to complain to State and local authorities.

"(C) The right to confidentiality of personal and clinical records.

"(D) The right to privacy and to have one's property treated with respect.

"(E) The right to refuse all or part of any care and to be informed of the likely consequences of such refusal.

"(F) The right to education or training for oneself and for members of one's family or household on the management of care.

"(G) The right to be free from physical or mental abuse, corporal punishment, and any physical or chemical restraints imposed for purposes of discipline or convenience and not included in an individual's ICCP.

"(H) The right to be fully informed orally and in writing of the individual's rights.

"(I) Any other rights established by the Secretary.

"(g) MINIMUM REQUIREMENTS FOR SMALL COMMUNITY CARE SETTINGS.—

"(1) SMALL COMMUNITY CARE SETTINGS DEFINED.—In this section, the term 'small community care setting' means—

"(A) a nonresidential setting that serves more than 2 and less than 8 individuals; or

"(B) a residential setting in which more than 2 and less than 8 unrelated adults reside and in which personal services (other than merely board) are provided in conjunction with residing in the setting.

"(2) MINIMUM REQUIREMENTS.—A small community care setting in which community care is provided under this section must—

"(A) meet such requirements as are published or developed by the Secretary under subsection (k);

"(B) meet the requirements of paragraphs (1)(A), (1)(C), (1)(D), (3), and (6) of section 1919(c), to the extent applicable to such a setting;

"(C) inform each individual receiving community care under this section in the setting, orally and in writing at the time the individual first receives community care in the setting, of the individual's legal rights with respect to such a setting and the care provided in the setting;

"(D) meet any applicable State or local requirements regarding certification or licensure;

"(E) meet any applicable State and local zoning, building, and housing codes, and State and local fire and safety regulations; and

"(F) be designed, constructed, equipped, and maintained in a manner to protect the health and safety of residents.

"(h) MINIMUM REQUIREMENTS FOR LARGE COMMUNITY CARE SETTINGS.—

"(1) LARGE COMMUNITY CARE SETTING DEFINED.—In this section, the term 'large community care setting' means—

"(A) a nonresidential setting in which more than 8 individuals are served; or

"(B) a residential setting in which more than 8 unrelated adults reside and in which

personal services are provided in conjunction with residing in the setting in which home and community care under this section is provided.

"(2) MINIMUM REQUIREMENTS.—A large community care setting in which community care is provided under this section must—

"(A) meet such requirements as are published or developed by the Secretary under subsection (k);

"(B) meet the requirements of paragraphs (1)(A), (1)(C), (1)(D), (3), and (6) of section 1919(c), to the extent applicable to such a setting;

"(C) inform each individual receiving community care under this section in the setting, orally and in writing at the time the individual first receives home and community care in the setting, of the individual's legal rights with respect to such a setting and the care provided in the setting; and

"(D) meet the requirements of paragraphs (2) and (3) of section 1919(d) (relating to administration and other matters) in the same manner as such requirements apply to nursing facilities under such section; except that, in applying the requirement of section 1919(d)(2) (relating to life safety code), the Secretary shall provide for the application of such life safety requirements (if any) that are appropriate to the setting.

"(3) DISCLOSURE OF OWNERSHIP AND CONTROL INTERESTS AND EXCLUSION OF REPEATED VIOLATORS.—A community care setting—

"(A) must disclose persons with an ownership or control interest (including such persons as defined in section 1124(a)(3)) in the setting; and

"(B) may not have, as a person with an ownership or control interest in the setting, any individual or person who has been excluded from participation in the program under this title or who has had such an ownership or control interest in one or more community care settings which have been found repeatedly to be substandard or to have failed to meet the requirements of paragraph (2).

"(i) SURVEY AND CERTIFICATION PROCESS.—

"(1) CERTIFICATIONS.—

"(A) RESPONSIBILITIES OF THE STATE.—Under each State plan under this title, the State shall be responsible for certifying the compliance of providers of home and community care and community care settings with the applicable requirements of subsections (f), (g) and (h). The failure of the Secretary to issue regulations to carry out this subsection shall not relieve a State of its responsibility under this subsection.

"(B) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall be responsible for certifying the compliance of State providers of home and community care, and of State community care settings in which such care is provided, with the requirements of subsections (f), (g) and (h).

"(C) FREQUENCY OF CERTIFICATIONS.—Certification of providers and settings under this subsection shall occur no less frequently than once every 12 months.

"(2) REVIEWS OF PROVIDERS.—

"(A) IN GENERAL.—The certification under this subsection with respect to a provider of home or community care must be based on a periodic review of the provider's performance in providing the care required under ICCP's in accordance with the requirements of subsection (f).

"(B) SPECIAL REVIEWS OF COMPLIANCE.—Where the Secretary has reason to question the compliance of a provider of home or community care with any of the requirements of subsection (f), the Secretary may conduct a review of the provider and, on the basis of that review, make independent and binding determinations concerning the extent to which the provider meets such requirements.

"(3) SURVEYS OF COMMUNITY CARE SETTINGS.—

"(A) IN GENERAL.—The certification under this subsection with respect to community care settings must be based on a survey. Such survey for such a setting must be conducted without prior notice to the setting. Any individual who notifies (or causes to be notified) a community care setting of the time or date on which such a survey is scheduled to be conducted is subject to a civil money penalty of not to exceed $2,000. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a). The Secretary shall review each State's procedures for scheduling and conducting such surveys to assure that the State has taken all reasonable steps to avoid giving notice of such a survey through the scheduling procedures and the conduct of the surveys themselves.

"(B) SURVEY PROTOCOL.—Surveys under this paragraph shall be conducted based upon a protocol which the Secretary has provided for under subsection (k).

"(C) PROHIBITION OF CONFLICT OF INTEREST IN SURVEY TEAM MEMBERSHIP.—A State and the Secretary may not use as a member of a survey team under this paragraph an individual who is serving (or has served within the previous 2 years) as a member of the staff of, or as a consultant to, the community care setting being surveyed (or the person responsible for such setting) respecting compliance with the requirements of subsection (g) or (h) or who has a personal or familial financial interest in the setting being surveyed.

"(D) SPECIAL SURVEYS OF COMPLIANCE.—Where the Secretary has reason to question the compliance of a community care setting with any of the requirements of subsection (g) or (h), the Secretary may conduct a survey of the setting and, on the basis of that survey, make independent and binding determinations concerning the extent to which the setting meets such requirements.

"(4) INVESTIGATION OF COMPLAINTS AND MONITORING OF PROVIDERS AND SETTINGS.—Each State and the Secretary shall maintain procedures and adequate staff to investigate complaints of violations of applicable requirements imposed on providers of community care or on community care settings under subsections (f), (g) and (h).

"(5) INVESTIGATION OF ALLEGATIONS OF INDIVIDUAL NEGLECT AND ABUSE AND MISAPPROPRIATION OF INDIVIDUAL PROPERTY.—The State shall provide, through the agency responsible for surveys and certification of providers of home or community care and community care settings under this subsection, for a process for the receipt, review, and investigation of allegations of individual neglect and abuse (including injuries of unknown source) by personnel providing such care or in such setting and of misappropriation of individual property by such personnel. Such process shall provide for documentation of findings relating to such allegations with respect to an individual, for inclusion of any brief statement of the individual disputing such findings, and for inclusion, in any disclosure of such findings, of such brief statement (or of a clear and accurate summary thereof).

"(6) DISCLOSURE OF RESULTS OF INSPECTIONS AND ACTIVITIES.—

"(A) PUBLIC INFORMATION.—Each State, and the Secretary, shall make available to the public—

"(i) information respecting all surveys, reviews, and certifications made under this subsection respecting providers of home or community care and community care settings, including statements of deficiencies,

"(ii) copies of cost reports (if any) of such providers and settings filed under this title,

"(iii) copies of statements of ownership under section 1124, and

"(iv) information disclosed under section 1126.

"(B) NOTICES OF SUBSTANDARD CARE.—If a State finds that—

"(i) a provider of home or community care has provided care of substandard quality with respect to an individual, the State shall make a reasonable effort to notify promptly (I) an immediate family member of each such individual and (II) individuals receiving home or community care from that provider under this title, or

"(ii) a community care setting is substandard, the State shall make a reasonable effort to notify promptly (I) individuals receiving community care in that setting, and (II) immediate family members of such individuals.

"(C) ACCESS TO FRAUD CONTROL UNITS.—Each State shall provide its State medicaid fraud and abuse control unit (established under section 1903(q)) with access to all information of the State agency responsible for surveys, reviews, and certifications under this subsection.

"(j) ENFORCEMENT PROCESS FOR PROVIDERS OF COMMUNITY CARE.—

"(1) STATE AUTHORITY.—

"(A) IN GENERAL.—If a State finds, on the basis of a review under subsection (i)(2) or otherwise, that a provider of home or community care no longer meets the requirements of this section, the State may terminate the provider's participation under the State plan and may provide in addition for a civil money penalty. Nothing in this subparagraph shall be construed as restricting the remedies available to a State to remedy a provider's deficiencies. If the State finds that a provider meets such requirements but, as of a previous period, did not meet such requirements, the State may provide for a civil money penalty under paragraph (2)(A) for the period during which it finds that the provider was not in compliance with such requirements.

"(B) CIVIL MONEY PENALTY.—

"(i) IN GENERAL.—Each State shall establish by law (whether statute or regulation) at least the following remedy: A civil money penalty assessed and collected, with interest, for each day in which the provider is or was out of compliance with a requirement of this section. Funds collected by a State as a result of imposition of such a penalty (or as a result of the imposition by the State of a civil money penalty under subsection (i)(3)(A)) may be applied to reimbursement of individuals for personal funds lost due to a failure of home or community care providers to meet the requirements of this section. The State also shall specify criteria, as to when and how this remedy is to be applied and the amounts of any penalties. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the penalties and shall provide for the imposition of incrementally more severe penalties for repeated or uncorrected deficiencies.

"(ii) DEADLINE AND GUIDANCE.—Each State which elects to provide home and community care under this section must establish the civil money penalty remedy described in clause (i) applicable to all providers of community care covered under this section. The Secretary shall provide, through regulations or otherwise by not later than July 1, 1990, guidance to States in establishing such remedy; but the failure of the Secretary to provide such guidance shall not relieve a State of the responsibility for establishing such remedy.

"(2) SECRETARIAL AUTHORITY.—

"(A) FOR STATE PROVIDERS.—With respect to a State provider of home or community care, the Secretary shall have the authority and duties of a State under this subsection, except that the civil money penalty remedy described in subparagraph (C) shall be substituted for the civil money remedy described in paragraph (1)(B)(i).

"(B) OTHER PROVIDERS.—With respect to any other provider of home or community care in a State, if the Secretary finds that a provider no longer meets a requirement of this section, the Secretary may terminate the provider's participation under the State plan and may provide, in addition, for a civil money penalty under subparagraph (C). If the Secretary finds that a provider meets such requirements but, as of a previous period, did not meet such requirements, the Secretary may provide for a civil money penalty under subparagraph (C) for the period during which the Secretary finds that the provider was not in compliance with such requirements.

"(C) CIVIL MONEY PENALTY.—If the Secretary finds on the basis of a review under subsection (i)(2) or otherwise that a home or community care provider no longer meets the requirements of this section, the Secretary shall impose a civil money penalty in an amount not to exceed $10,000 for each day of noncompliance. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a). The Secretary shall specify criteria, as to when and how this remedy is to be applied and the amounts of any penalties. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the penalties and shall provide for the imposition of incrementally more severe penalties for repeated or uncorrected deficiencies.

"(k) SECRETARIAL RESPONSIBILITIES.—

"(1) PUBLICATION OF INTERIM REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall publish, by December 1, 1991, a proposed regulation that sets forth interim requirements, consistent with subparagraph (B), for the provision of home and community care and for community care settings, including—

"(i) the requirements of subsection (c)(2) (relating to comprehensive functional assessments, including the use of assessment instruments), of subsection (d)(2)(E) (relating to qualifications for qualified case managers), of subsection (f) (relating to minimum requirements for home and community care), of subsection (g) (relating to minimum requirements for small community care settings), and of subsection (h) (relating to minimum requirements for large community care settings, and

"(ii) survey protocols (for use under subsection (i)(3)(A)) which relate to such requirements.

"(B) MINIMUM PROTECTIONS.—Interim requirements under subparagraph (A) and final requirements under paragraph (2) shall assure, through methods other than reliance on State licensure processes, that individuals receiving home and community care are protected from neglect, physical and sexual abuse, financial exploitation, inappropriate involuntary restraint, and the provision of health care services by unqualified personnel in community care settings.

"(2) DEVELOPMENT OF FINAL REQUIREMENTS.—The Secretary shall develop, by not later than October 1, 1992—

"(A) final requirements, consistent with paragraph (1)(B), respecting the provision of appropriate, quality home and community care and respecting community care settings under this section, and including at least the requirements referred to in paragraph (1)(A)(i), and

"(B) survey protocols and methods for evaluating and assuring the quality of community care settings.

The Secretary may, from time to time, revise such requirements, protocols, and methods.

"(3) NO DELEGATION TO STATES.—The Secretary's authority under this subsection shall not be delegated to States.

"(4) NO PREVENTION OF MORE STRINGENT REQUIREMENTS BY STATES.—Nothing in this section shall be construed as preventing States from imposing requirements that are more stringent than the requirements published or developed by the Secretary under this subsection.

"(l) DEEMING AND WAIVER.—

"(1) DEEMING.—Area agencies on aging as defined in the Older Americans Act (Public Law 100-175) are considered public agencies for purposes of this section.

"(2) WAIVER.—

"(A) States may waive the requirement that a nonpublic agency not provide home and community care or nursing facility services and do not have a direct or indirect ownership or control interest in, or direct or indirect affiliation or relationship with, an entity that provides, community care or nursing facilities for nonprofit agencies located in an area that is not an urbanized area (as defined by the Bureau of the Census).

"(B) States may waive the requirement of section 1902(a)(1) (related to State wideness) for a program of home and community care under this section.

"(m) LIMITATION ON AMOUNT OF EXPENDITURES AS MEDICAL ASSISTANCE.—

"(1) AUTHORIZATION.—The amount of funds that may be expended as medical assistance to carry out the purposes of this section shall be for fiscal year 1991, $10,000,000, for fiscal year 1992, $20,000,000, for fiscal year 1993, $40,000,000, for fiscal year 1994, $70,000,000, and for fiscal years thereafter such sums as provided by Congress.

"(2) ALLOCATION OF FUNDS.—The funds identified for each fiscal year (1991, 1992, 1993, 1994, and 1995) will be allocated to each State in the proportion of the amount of Federal expenditures made available to the State for fiscal year 1989 (as reported on line 6 of the four quarterly form HCFA-64 expenditure reports) to the sum of Federal expenditures for all States, excluding the territories.".

(c) PAYMENT FOR HOME AND COMMUNITY CARE.—

(1) REASONABLE AND ADEQUATE PAYMENT RATES.—Section 1902 (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(13)—

(i) by striking "and" at the end of subparagraph (D),

(ii) by inserting "and" at the end of subparagraph (E), and

(iii) by adding at the end the following new subparagraph:

"(F) for payment for home and community care (as defined in section 1929(a) and provided under such section) through rates which are reasonable and adequate to meet the costs of providing care, efficiently and economically, in conformity with applicable State and Federal laws, regulations, and quality and safety standards;"; and

(B) in subsection (h), by adding before the period at the end the following: "or to limit the amount of payment that may be made under a plan under this title for home and community care".

(2) DENIAL OF PAYMENT FOR CIVIL MONEY PENALTIES, ETC.—Section 1903(i)(8) of such Act (42 U.S.C. 1396b(i)(8)) is amended by inserting "(A)" after "medical assistance" and by inserting before the semicolon at the end the following: "or (B) for home and community care to reimburse (or otherwise compensate) a provider of such care for payment of a civil money penalty imposed under this title or title XI or for legal expenses in defense of an exclusion or civil money penalty under this title or title XI if there is no reasonable legal ground for the provider's case".

(d) CONFORMING AMENDMENTS.—

(1) Section 1902(j) (42 U.S.C. 1396a(j)) is amended by striking "(21)" and inserting "(22)".

(2) Section 1902(a)(10)(C)(iv) (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by striking "through (20)" and inserting "through (21)".

(e) EFFECTIVE DATES.—

(1) Except as provided in this subsection, the amendments made by this section shall apply to home and community care furnished on or after July 1, 1991, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2)(A) The amendments made by subsection (c)(1) shall apply to home and community care furnished on or after July 1, 1991, or, if later, 30 days after the date of publication of interim regulations under section 1929(k)(1).

(B) The amendment made by subsection (c)(2) shall apply to civil money penalties imposed after the date of the enactment of this Act.

(f) WAIVER OF PAPERWORK REDUCTION, ETC.—Chapter 35 of title 44, United States Code, and Executive Order 12291 shall not apply to information and regulations required for purposes of carrying out this Act and implementing the amendments made by this Act.

SEC. 6242. COMMUNITY SUPPORTED LIVING ARRANGEMENTS SERVICES.

(a) PROVISION AS OPTIONAL SERVICE.—Section 1905(a) (42 U.S.C. 1396d(a)) as amended by section 6211 (Home and Community Care) is further amended—

(1) by striking "and" at the end of paragraph (23);

(2) by redesignating paragraph (24) as paragraph (25); and

(3) by inserting after paragraph (23) the following new paragraph:

"(24) community supported living arrangements services (to the extent allowed and as defined in section 1930).".

(b) COMMUNITY SUPPORTED LIVING ARRANGEMENTS.—Title XIX (42 U.S.C. 1396 et seq.) as amended by section _____ (Home and Community Care) is further amended—

(1) by redesignating section 1930 as section 1931; and

(2) by inserting after section 1929 the following new section:

"COMMUNITY SUPPORTED LIVING ARRANGEMENTS SERVICES

"Sec. 1930. (a) COMMUNITY SUPPORTED LIVING ARRANGEMENTS SERVICES.—In this title, the term 'community supported living arrangements services' means one or more of the following services provided in a State eligible to provide services under this section (as defined in subsection (d)) to assist a developmentally disabled individual (as defined in subsection (b)) in activities of daily living necessary to permit such individual to live in an integrated living environment (as defined in subsection (c)) furnished in a community supported living arrangement setting:

"(1) Personal assistance.

"(2) Training and habilitation services (necessary to assist the individual in achieving increased integration, independence and productivity).

"(3) 24-hour emergency assistance (as defined by the Secretary).

"(4) Assistive technology.

"(5) Adaptive equipment.

"(6) Other services (as approved by the Secretary, except those services described in subsection (g)).

"(b) DEVELOPMENTALLY DISABLED INDIVIDUAL DEFINED.—In this title the term, 'developmentally disabled individual' means an individual who as defined by the Secretary is described within the term 'mental retardation and related conditions' as defined in regulations as in effect on July 1, 1990, and who is residing with the individual's family or legal guardian or in an integrated living environment (as defined in subsection (c)) in which no more than 3 other recipients of services under this section are residing and without regard to whether or not such individual is at risk of institutionalization (as defined by the Secretary).

"(c) INTEGRATED LIVING ENVIRONMENT DEFINED.—In this title the term 'integrated living environment' means an environment located in a neighborhood which—

"(1) is representative of residential neighborhoods in the community; and

"(2) is populated primarily by individuals other than a developmentally disabled individual (as defined in this section).

"(d) CRITERIA FOR SELECTION OF PARTICIPATING STATES.—The Secretary shall develop criteria to review the applications of States submitted under this section to provide community supported living arrangement services. The Secretary shall provide in such criteria that during the first 5 years of the provision of services under this section that no less than 4 and no more than 8 States shall be allowed to receive Federal financial participation for providing the services described in this section.

"(e) QUALITY ASSURANCE.—A State selected by the Secretary to provide services under this section shall in order to continue to receive Federal financial participation for providing services under this section be required to establish and maintain a quality assurance program, that provides that—

"(1) the State will certify and survey providers of services under this section (such surveys to be unannounced and average at least 1 a year);

"(2) the State will adopt standards for survey and certification that include—

"(A) minimum qualifications and training requirements for provider staff;

"(B) financial operating standards; and

"(C) a consumer grievance process;

"(3) the State will provide a system that allows for monitoring boards consisting of providers, family members, consumers, and neighbors; and

"(4) the State will establish reporting procedures to make available information to the public.

The Secretary shall not approve a quality assurance plan under this subsection and allow a State to continue to receive Federal financial participation under this section unless the State provides for public hearings on the plan prior to adoption and implementation of its plan under this subsection.

"(f) MAINTENANCE OF EFFORT.—States selected by the Secretary to receive Federal financial participation to provide services under this section shall maintain current levels of spending for such services in order to be eligible to continue to receive Federal financial participation for the provision of such services under this section.

"(g) EXCLUDED SERVICES.—No Federal financial participation shall be allowed for the provision of the following services under this section:

"(1) Room and board.

"(2) Cost of prevocational, vocational and supported employment.

"(h) WAIVER OF REQUIREMENTS.—The Secretary may waive such provisions of this title as necessary to carry out the provisions of this section including the following requirements of this title—

"(1) comparability of amount, duration, and scope of services;

"(2) statewideness; and

"(3) freedom of choice of providers.

"(i) TREATMENT OF FUNDS.—Any funds expended under this section for medical assistance shall be in addition to funds expended for any existing services covered under the State plan, including any waiver services for which an individual receiving services under this program is already eligible.

"(j) LIMITATION ON AMOUNTS OF EXPENDITURES AS MEDICAL ASSISTANCE.—The amount of funds that may be expended as medical assistance to carry out the purposes of this section shall be for fiscal year 1991, $5,000,000, for fiscal year 1992, $10,000,000, for fiscal year 1993, $20,000,000, for fiscal year 1994, $35,000,000, and for fiscal years thereafter such sums as provided by Congress.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to community supported living arrangements services furnished on or after July 1, 1991, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) APPLICATION PROCESS.—The Secretary of Health and Human Services shall provide that the applications required to be submitted by States under this section shall be received and approved prior to the effective date specified in paragraph (1).

SEC. 6243. MEDICAID COVERAGE OF PERSONAL CARE SERVICES OUTSIDE THE HOME.

(a) IN GENERAL.—Section 1905(a)(7) (42 U.S.C. 1396d(a)(7)) is amended by striking "services" and inserting "services including personal care services (A) prescribed by a physician for an individual in accordance with a plan of treatment, (B) provided by an individual who is qualified to provide such services and who is not a member of the individual's family, (C) supervised by a registered nurse, and (D) furnished in a home or other location; but not including such services furnished to an inpatient or resident of a nursing facility, such as adult day care settings or congregate living arrangements".

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective with respect to home health care services provided on or after January 1, 1991 and shall expire with respect and services provided on or after December 31, 1993.

PART VI—NURSING HOME REFORM

SEC. 6251. MEDICAID NURSING HOME REFORM PROVISIONS.

(a) NURSE AIDE TRAINING AMENDMENTS.—

(1) NO COMPLIANCE ACTIONS BEFORE EFFECTIVE DATE OF FINAL REGULATIONS.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall not take (and shall not continue) any action against a State under section 1904 of the Social Security Act on the basis of the State's failure to meet the requirement of section 1919(e)(1)(A) of such Act before the effective date of final regulations, issued by the Secretary, establishing requirements under section 1919(f)(2)(A)(ii)(I) of such Act, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirement before such effective date.

(2) PART-TIME NURSE AIDES NOT ALLOWED DELAY IN TRAINING.—Section 1919(b)(5)(A) (42 U.S.C. 1396r(b)(5)(A)) is amended—

(A) by striking ", temporary, per diem, or other";

(B) by inserting "(i)" after "(A)";

(C) by redesignating clauses "(i)" and "(ii)" as subclauses "(I)" and "(II)" respectively; and

(D) by adding at the end the following:

"(ii) EXCEPTION.—A nursing facility must not use on a temporary, per diem, or on any other than a full-time basis any individual as a nurse aide in the facility on or after January 1, 1991, unless the individual meets the requirements described in clause (i) (I) and (II).".

(3) EXTENSION OF ENHANCED MATCH RATE UNTIL OCTOBER 1, 1990.—Section 1903(a)(2)(B) (42 U.S.C. 1396b(a)(2)(B)) is amended by striking "July 1, 1990" and inserting "October 1, 1990".

(4) CLARIFICATION OF PERMISSIBLE CHARGES FOR TRAINING OF AIDES NOT YET EMPLOYED BY A FACILITY.—Section 1919(f)(2)(A)(iv)(II) (42 U.S.C. 1396r(f)(2)(A)(iv)(II)) is amended by striking "such program" and inserting "such program, except that an accredited, nonfacility based program may impose such charges on individuals who are not presently employed by a nursing facility or who have not yet had an offer for future employment at such a facility".

(5) REIMBURSEMENT TO CERTAIN INDIVIDUALS TRAINED PRIOR TO EMPLOYMENT.—Add to section 1919(f)(2)(A)(iv) a new subclause (III) as follows:

"(III) For individuals employed or under contract for employment as a nurse aide within 12 months after successful completion of a nonfacility-based, State-approved nurse aide training and competency evaluation program, the State must ensure that the costs incurred by such individuals for such programs are reimbursed to such individuals.

(6) CLARIFICATION OF STATE RESPONSIBILITY TO DETERMINE COMPETENCY.—Section 1919(f)(2)(B) (42 U.S.C. 1396r(f)(2)(B)) is amended, in the second sentence, by inserting "(through subcontract or otherwise)" after "may not delegate".

(7) NURSE AIDE REGISTRY.—

(A) IN GENERAL.—Section 1919(b)(5)(C) (42 U.S.C. 1396r(b)(5)(C)) is amended by adding at the end the following new sentence: "In the case of an individual who a nursing facility is considering employing as a nurse aide and who the facility has reason to be-

lieve is from a State other than the State in which the facility is located, such a facility shall not use such an individual as a nurse aide unless the facility has inquired concerning such individual of the State registry established under subsection (e)(2)(A) of the State from which such facility has reason to believe such individual resided".

(B) DEEMED AIDES TO BE INCLUDED ON REGISTRY.—Section 1919(e)(2)(A) (42 U.S.C. 1396r(e)(2)(A)) is amended by striking "individuals" and inserting "individuals (including those individuals deemed under section 6901(b)(4) (B), (C), and (D) of the Omnibus Budget Reconciliation Act of 1989 to have satisfied the training and competency evaluation program requirements under this section)".

(8) RETRAINING OF NURSE AIDES NOT EMPLOYED.—Section 1919(b)(5)(D) (42 U.S.C. 1396r(b)(5)(D)) is amended by striking the period and inserting the following ", or a new competency evaluation program.".

(9) FACILITIES INELIGIBLE TO OFFER TRAINING PROGRAMS.—Section 1919(f)(2) (42 U.S.C. 1396(f)(2)) is amended—

(A) in subparagraph (B)(iii), by amending subclause (I) to read as follows:

"(I) offered by or in a nursing facility described in subparagraph (C), or"; and

(B) by adding after subparagraph (B) the following new subparagraph:

"(C) NURSING FACILITIES INELIGIBLE TO OFFER PROGRAMS.—A nursing facility shall be ineligible to offer a program under this paragraph—

"(i) if at any time on or after October 1, 1988, the State agency or the Secretary terminated or terminates the facility's provider agreement under this title or title XVIII, until after the end of a period of at least two years following reinstatement, during which period—

"(I) no survey or investigation finds any deficiencies warranting termination, and

"(II) at least one standard survey is conducted pursuant to subsection (g); or

"(ii) if the facility—

"(I) received a notice of termination of its provider agreement under this title or title XVIII from the State agency or the Secretary at any time during the one-year period ending September 30, 1990, or

"(II) is found, pursuant to a standard survey or investigation under subsection (g) or section 1819(g), to have deficiencies resulting in a civil money penalty in excess of $5,000, denial of payment, or appointment of temporary management pursuant to subsection (h)(2)(A) or to section 1819(h)(2)(B), until after the completion of a subsequent standard survey under subsection (g) which finds no such deficiencies.".

(b) PREADMISSION SCREENING AND RESIDENT REVIEW.—

(1) NO DELEGATION OF AUTHORITY TO CONDUCT SCREENING AND REVIEWS.—Section 1919 (42 U.S.C. 1396r) is amended—

(A) in subsection (b)(3)(f), by adding at the end the following:

"A State mental health authority and a State mental retardation or developmental disability authority may not delegate (by subcontract or otherwise) their responsibilities under this subparagraph to a nursing facility (or to an entity that has a direct or indirect affiliation or relationship with such a facility).."; and

(B) in subsection (e)(7)(B), by adding at the end the following new clause:

"(iv) PROHIBITION OF DELEGATION.—A State mental health authority, a State mental retardation or developmental disability authority, and a State may not delegate (by subcontract or otherwise) their responsibilities under this subparagraph to a nursing facility (or to an entity that has a direct or indirect affiliation or relationship with such a facility).".

(2) NO COMPLIANCE ACTIONS BEFORE EFFECTIVE DATE OF FINAL REGULATIONS.—The Secretary shall not take (and shall not continue) any action against a State under section 1904 or section 1919(e)(7)(D) of the Social Security act on the basis of the State's failure to meet the requirement of section 1919(e)(7)(A) of such Act before the effective date of final regulations, issued by the Secretary, establishing minimum criteria under section 1919(f)(8)(A) of such Act, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirement before such effective date.

(3) REVISION OF ALTERNATIVE DISPOSITION PLANS.—Section 1919(e)(7)(E) (42 U.S.C. 1396r(e)(7)(E)) is amended by adding at the end the following: "The State may revise such an agreement, subject to the approval of the Secretary, before April 1, 1991, but only if, under the revised agreement, all residents subject to the agreement who do not require the level of services of such a facility are discharged from the facility by not later than April 1, 1994".

(4)(A) STATE REPORTS REQUIRED.—Section 1919(e)(7)(C) (42 U.S.C. 1396r(e)(7)(C)) is amended by adding at the end the following new clause:

"(iv) ANNUAL REPORT.—Each State shall report to the Secretary annually concerning the number and disposition of residents described in each of clauses (ii) and (iii).".

(B) SUMMARY OF REPORTS.—Section 4215 of the Omnibus Budget Reconciliation Act of 1987 is amended by adding at the end the following new sentence: "Each such report shall also include a summary of the information reported by States under section 1919(e)(7)(C)(iv) of such Act".

(5) DEFINITION OF MENTALLY ILL.—Section 1919(e)(7)(G)(i) (42 U.S.C. 1396r(e)(7)(G)(i)) is amended—

(A) by striking "primary or secondary" and all that follows through "3rd edition)" and inserting "serious mental illness (as defined by the Secretary in consultation with the National Institute of Mental Health)",

(B) by inserting before the period "or a diagnosis (other than a primary diagnosis) of dementia and a primary diagnosis that is not a serious mental illness".

(6) SUBSTITUTION OF "SPECIALIZED SERVICES" FOR "ACTIVE TREATMENT".—Sections 1919(b)(3)(F) and 1919(e)(7) (42 U.S.C. 1396r(b)(3)(F), 1396r(e)(7)) are each amended by striking "active treatment" and "ACTIVE TREATMENT" each place either appears and inserting "specialized services" and "SPECIALIZED SERVICES", respectively.

(7) CLARIFICATION WITH RESPECT TO ADMISSIONS AND READMISSION FROM A HOSPITAL.—Section 1919 (42 U.S.C. 1396r) is amended—

(A) in subsection (b)(3)(F), by striking "A nursing facility" and by inserting "Except as provided in clauses (ii) and (iii) of subsection (e)(7)(A), a nursing facility"; and

(B) in subsection (e)(7)(A)—

(i) by redesignating the first 2 sentences as clause (i) with the following heading (and appropriate indentation):

"(i) IN GENERAL.—", and

(ii) by adding at the end the following:

"(ii) CLARIFICATION WITH RESPECT TO CERTAIN READMISSIONS.—The preadmission screening program under clause (i) need not provide for determinations in the case of the readmission to a nursing facility of an individual who, after being admitted to the nursing facility, was transferred for care in a hospital.

"(iii) EXCEPTION FOR CERTAIN HOSPITAL DISCHARGES.—The preadmission screening program under clause (i) shall not apply to the admission to a nursing facility of an individual—

"(I) who is admitted to the facility directly from a hospital after receiving acute inpatient care at the hospital,

"(II) who requires nursing facility services for the condition for which the individual received care in the hospital, and

"(III) whose attending physician has certified, before admission to the facility, that the individual is likely to require less than 30 days of nursing facility services.".

(c) FACILITY STAFFING.—

(1) STANDARDS FOR CERTAIN PROFESSIONAL SERVICES.—The Secretary shall conduct a study on the hiring and dismissal practices of nursing facilities with respect to social workers, dieticians, activities professionals, and medical records practitioners, and report to Congress by January 1, 1993, on whether facilities have on their staffs, persons with significantly different credentials as a result of new regulations that became effective October 1, 1990, and the impact of staff composition on quality of care.

(2) ADDITIONAL REQUIREMENTS WITH RESPECT TO MEDICAID NURSE STAFFING WAIVERS.—Section 1919(b)(4)(C)(ii) (42 U.S.C. 1369r(b)(4)(C)(ii)) is amended—

(A) by striking "and" at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and by inserting in lieu thereof a comma; and

(C) by adding at the end thereof the following new subclauses:

"(IV) the State agency granting a waiver of such requirement provide notice of the waiver to the appropriate State and substate long-term care ombudsman, to the protection and advocacy system and other appropriate State and private agencies; and

"(V) a nursing facility that is granted such a waiver by a State is required to make reasonable efforts to notify present and prospective residents of the facility (or a guardian or legal representative of such residents) of the waiver.".

(3) STUDY ON STAFFING REQUIREMENTS IN NURSING FACILITIES.—The Secretary shall conduct a study and report to Congress no later than January 1, 1992, on the appropriateness of establishing minimum caregiver to resident ratios and minimum supervisor to caregiver ratios for nursing facilities receiving payments under a State plan under title XIX of the Social Security Act. If the Secretary determines that the establishment of such minimum ratios is advisable, the Secretary shall specify in the report provided for in this subsection appropriate ratios or standards.

(d) MISCELLANEOUS.—

(1) DELAY IN REQUIREMENT FOR REMEDIES.—Section 1919(h)(2)(B)(i) (42 U.S.C. 1396r(h)(2)(B)(i) is amended by striking "October 1, 1989" and inserting "April 1, 1991".

(2) RESIDENT ACCESS TO CLINICAL RECORDS.—Section 1919(c)(1)(A)(iv) (42 U.S.C. 1396r(c)(1)(A)(iv)) is amended by inserting before the period at the end the following: "and access to current clinical records of the resident promptly upon reasonable request (as defined by the Secretary) by the resident or resident's legal representative".

(3) OMBUDSMAN PROGRAM COORDINATION WITH STATE MEDICAID AND SURVEY AND CERTIFI-

CATION AGENCIES.—Section 1919(g)(5)(B) (42 U.S.C. 1396r(g)(5)(B)) deleted and replaced with:

"(B) NOTICE TO OMBUDSMAN.—Each State agency with an agreement with the Secretary under this section shall enter into a written agreement with the Office of the State Long-Term Care Ombudsman (as defined by the Older Americans Act), to provide for information exchange, case referral, and prompt notification of the office of any adverse action to be taken against a nursing facility.".

(4) PERIOD FOR RESIDENT ASSESSMENT.—Section 1919(b)(3)(C)(i)(I) (42 U.S.C. 1396r(b)(3)(C)(i)(I) is amended by striking "4 days" and inserting "14 days".

(e) EFFECTIVE DATES.—(1) Except as provided in paragraphs (2) and (3), the amendments made by this section are effective on April 1, 1991.

(2) Paragraphs (1), (3), and (9) of subsection (a); paragraphs (2), (3), and (7) of subsection (b); paragraph (2) of subsection (c); and paragraphs (1) and (4) of subsection (d) are effective as if included in the Omnibus Budget Reconciliation Act of 1987.

(3) Subsections (b)(4), (c)(1), and (c)(3) are effective upon enactment.

PART VII—MISCELLANEOUS AND TECHNICAL PROVISIONS

SEC. 6261. DEMONSTRATION PROJECTS TO STUDY THE EFFECT OF ALLOWING STATES TO EXTEND MEDICAID COVERAGE TO CERTAIN LOW-INCOME FAMILIES NOT OTHERWISE QUALIFIED TO RECEIVE MEDICAID BENEFITS.

(a) DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—(A) The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall enter into agreements with at least 3 and no more than 4 States for the purpose of conducting demonstration projects to study the effect on access to, and costs of, health care of eliminating the categorical eligibility requirement for medicaid benefits for certain low-income individuals.

(B) In entering into agreements with States under this section the Secretary shall provide that at least 1 and no more than 2 of the projects are conducted on a substate basis, and that such projects target areas which contain a high percentage of racial or ethnic minorities.

(2) REQUIREMENTS.—(A) The Secretary may not enter into an agreement with a State to conduct a project unless the Secretary determines that—

(i) the project can reasonably be expected to improve access to health insurance coverage for the uninsured;

(ii) with respect to projects for which the statewideness requirement has not been waived, the State provides, under its plan under title XIX of the Social Security Act, for eligibility for medical assistance for all individuals described in subparagraphs (A), (B), (C), and (D) of paragraph (1) of section 1902(l) of such Act (based on the State's election of certain eligibility options the highest income standards and, based on the State's waiver of the application of any resource standard);

(iii) eligibility for benefits under the project is limited to individuals in families with income below 150 percent of the income official poverty line;

(iv) if the Secretary determines that it is cost-effective for the project to utilize employer coverage (as described in section 1925(b)(4)(D) of the Social Security Act), the project must require an employer contribution and benefits under the State plan under title XIX of such Act will continue to be made available to the extent they are not available under the employer coverage;

(v) the project provides for coverage of benefits consistent with subsection (b); and

(vi) the project only imposes premiums, coinsurance, and other cost-sharing consistent with subsection (c).

(B) The Secretary may waive the requirements of clause (ii) of this paragraph with respect to those projects described in subparagraph (B) of paragraph (1).

(3) PERMISSIBLE RESTRICTIONS.—A project may limit eligibility to individuals whose assets are valued below a level specified by the State. For this purpose, any evaluation of such assets shall be made in a manner consistent with the standards for valuation of assets under the State plan under title XIX of the Social Security Act for individuals entitled to assistance under part A of title IV of such Act. Nothing in this section shall be construed as requiring a State to provide for eligibility for individuals for months before the month in which such eligibility is first established.

(4) EXTENSION OF ELIGIBILITY.—A project may provide for extension of eligibility for medical assistance for individuals covered under the project in a manner similar to that provided under section 1925 of the Social Security Act to certain families receiving aid pursuant to a plan of the State approved under part A of title IV of such Act.

(5) WAIVER OF REQUIREMENTS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may waive such requirements of title XIX of the Social Security Act as may be required to provide for additional coverage of individuals under projects under this section.

(B) NONWAIVABLE PROVISIONS.—Except with respect to those projects described in subparagraph (B) of paragraph (1), the Secretary may not waive, under subparagraph (A), the statewideness requirement of section 1902(a)(1) of the Social Security Act or the Federal medical assistance percentage specified in section 1905(b) of such Act.

(b) BENEFITS.—

(1) IN GENERAL.—Except as provided in this subsection, the amount, duration, and scope of medical assistance made available under a project shall be the same as the amount, duration, and scope of such assistance made available to individuals entitled to medical assistance under the State plan under section 1902(a)(10)(A)(i) of the Social Security Act.

(2) LIMITS ON BENEFITS.—

(A) REQUIRED.—Except with respect to those projects described in subparagraph (B) of paragraph (1), no medical assistance shall be made available under a project for nursing facility services or community-based long-term care services (as defined by the Secretary) or for pregnancy-related services. No medical assistance shall be made available under a project to individuals confined to a State correctional facility, county jail, local or county detention center, or other State institution.

(B) PERMISSIBLE.—A State, with the approval of the Secretary, may limit or otherwise deny eligibility for medical assistance under the project and may limit coverage of items and services under the project, other than early and periodic screening, diagnostic, and treatment services for children under 18 years of age.

(3) USE OF UTILIZATION CONTROLS.—Nothing in this subsection shall be construed as limiting a State's authority to impose controls over utilization of services, including preadmission requirements, managed care provisions, use of preferred providers, and use of second opinions before surgical procedures.

(c) PREMIUMS AND COST-SHARING.—

(1) NONE FOR THOSE WITH INCOME BELOW THE POVERTY LINE.—Under a project, there shall be no premiums, coinsurance, or other cost-sharing for individuals whose family income level does not exceed 100 percent of the income official poverty line (as defined in subsection (g)(1)) applicable to a family of the size involved.

(2) LIMIT FOR THOSE WITH INCOME ABOVE THE POVERTY LINE.—Under a project, for individuals whose family income level exceeds 100 percent, but is less than 150 percent, of the income official poverty line applicable to a family of the size involved, the monthly average amount of premiums, coinsurance, and other cost-sharing for covered items and services shall not exceed 3 percent of the family's average gross monthly earnings.

(3) INCOME DETERMINATION.—Each project shall provide for determinations of income in a manner consistent with the methodology used for determinations of income under title XIX of the Social Security Act for individuals entitled to benefits under part A of title IV of such Act.

(d) DURATION.—Each project under this section shall commence not later than July 1, 1991 and shall be conducted for a 3-year period; except that the Secretary may terminate such a project if the Secretary determines that the project is not in substantial compliance with the requirements of this section.

(e) LIMITS ON EXPENDITURES AND FUNDING.—

(1) IN GENERAL.—(A) The Secretary in conducting projects shall limit the total amount of the Federal share of benefits paid and expenses incurred under title XIX of the Social Security Act to no more than $12,000,000 in each of fiscal years 1991, 1992, and 1993, and to no more than $4,000,000 in fiscal year 1994.

(B) Of the amounts appropriated under subparagraph (A), the Secretary shall provide that no more than one-third of such amounts shall be used to carry out the projects described in paragraph (1)(B) of subsection (a) (for which the statewideness requirement has been waived).

(2) NO FUNDING OF CURRENT BENEFICIARIES.—No funding shall be available under a project with respect to medical assistance provided to individuals who are otherwise eligible for medical assistance under the plan without regard to the project.

(3) NO INCREASE IN FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—Payments to a State under a project with respect to expenditures made for medical assistance made available under the project may not exceed the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act) of such expenditures.

(f) EVALUATION AND REPORT.—

(1) EVALUATIONS.—For each project the Secretary shall provide for an evaluation to determine the effect of the project with respect to—

(A) access to, and costs of, health care,

(B) private health care insurance coverage, and

(C) premiums and cost-sharing.

(2) REPORTS.—The Secretary shall prepare and submit to Congress an interim report on the status of the projects not later than January 1, 1993, and a final report containing such summary together with such further recommendations as the Secretary may

determine appropriate not later than January 1, 1995.

(g) DEFINITIONS.—In this section:

(1) The term "income official poverty line" means such line as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

(2) The term "project" refers to a demonstration project under subsection (a).

SEC. 6262. MEDICAID RESPITE DEMONSTRATION PROJECT EXTENDED.

Section 9414 of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) by amending subsection (e) to read as follows:

"(e) DURATION.—The project under this section may continue until September 30, 1992."; and

(2) in subsection (d), by striking the last sentence and inserting in lieu thereof the following new sentence: "For the period beginning October 1, 1990, and ending September 30, 1992, Federal payments for the project shall not exceed amounts expended under the project in the preceding fiscal year.".

SEC. 6263. DEMONSTRATION PROJECT TO PROVIDE MEDICAID COVERAGE FOR HIV-POSITIVE INDIVIDUALS, AND CERTAIN PREGNANT WOMEN DETERMINED TO BE AT RISK OF CONTRACTING THE HIV VIRUS.

(a) IN GENERAL.—Not later than 3 months after the date of the enactment of this Act, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall provide for 2 demonstration projects to be administered by States that submit an application under this section, through programs administered by the States under title XIX of the Social Security Act. Such demonstration projects shall provide coverage for the services described in subsection (c) to individuals—

(1) whose income and resources do not exceed the maximum allowable amount for eligibility for any individual in any category of disability under the State plan under section 1902 of the Social Security Act, and who have tested positive for the presence of HIV virus (without regard to the presence of any symptoms of AIDS or opportunistic diseases related to AIDS); or

(2) who are pregnant women with multiple medical and psychosocial needs who have not attained the age of 19, and are determined to be at risk of HIV infection because of substance abuse.

(b) SERVICES AVAILABLE UNDER A DEMONSTRATION PROJECT.—(1) The medical assistance made available to individuals described in section 1902(a)(10)(A) of the Social Security Act shall be made available to individuals described in subsection (a) who receive services under a demonstration project under such paragraph.

(2) A demonstration project under subsection (a) shall provide services in addition to the services described in paragraph (1) which shall be limited only on the basis of medical necessity or the appropriateness of such services. To the extent not provided as described in paragraph (1), such additional services shall include—

(A) general and preventative medical care services (including inpatient, outpatient, residential and hospice care);

(B) prescription drugs, including drugs for the purposes of preventative health care services;

(C) counseling and social services;

(D) substance abuse treatment services (including services for multiple substances abusers);

(E) home care services (including assistance in carrying out activities of daily living);

(F) case management;

(G) health education services;

(H) respite care for caregivers; and

(I) dental services.

(c) AGREEMENTS WITH STATES.—(1) Each State conducting a demonstration project under subsection (a) shall enter into an agreement with hospitals submitting applications to the State, whereby the State shall agree to pay each such hospital for the services provided under subsection (b) and not later than 12 months after the commencement of a demonstration project, institute a system of monthly payment to each such hospital based on the average per capita cost of the services described in subsection (c) provided to individuals described in paragraphs (1) and (2) of subsection (a).

(2) A demonstration project described in subsection (a) shall be limited to an enrollment of not more than 200 individuals.

(3) A demonstration project conducted under subsection (a) shall commence not later than 9 months after the date of the enactment of this Act and shall terminate on the date that is 3 years after the date of commencement.

(d) FEDERAL SHARE OF COSTS.—The Federal share of the cost of services described in paragraph (3) furnished under a demonstration project conducted under paragraph (1) shall be determined by the otherwise applicable Federal matching assistance percentage pursuant to section 1905(b) of the Social Security Act.

(e) WAIVER OF REQUIREMENTS OF THE SOCIAL SECURITY ACT.—The Secretary may waive such requirements of the Social Security Act as the Secretary determines to be necessary to carry out the purposes of this section.

SEC. 6264. MENTAL HEALTH FACILITY CERTIFICATION DEMONSTRATION PROJECT.

(a) The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall establish, in consultation with the Council on Accreditation of Services for Families and Children, the Joint Commission on Accreditation of Healthcare Organizations, the Commission on Accreditation of Rehabilitation Facilities, the Association of Health Facilities Licensure and Certification Directors, the National Governors Association, the National Association of State Mental Health Program Directors, Protection and Advocacy Systems, organizations representing consumers and recipients of services under title XIX of the Social Security Act, and other interested parties, criteria for authorizing accrediting bodies to determine facility compliance with standards established or authorized under this title and conduct a 5-State, 3-year demonstration program in which certification to participate in the program may be granted to mental health facilities, as defined in subsection (e), based upon a finding by such accrediting bodies that a mental health facility is in compliance with standards established or authorized under title XIX of the Social Security Act.

(b)(1) Prior to initiating such demonstration program, the Secretary shall establish such criteria that ensure, at a minimum, that—

(A) in addition to routine accreditation reviews, there are annual unannounced visits to evaluate continued compliance with accreditation standards, and such accrediting body shall submit its report to appropriate Government agencies;

(B) the public and State licensure and certification officials have prompt access to all documents describing the findings of inspection by accreditation teams and confidential information pertaining to client or patient names has been deleted prior to release of these documents;

(C) health and safety deficiencies shall be fully documented and reported to State licensure and certification authorities immediately upon being discovered;

(D) complaints filed by recipients of covered services, their advocates, or the general public that may affect continued compliance with accreditation standards shall be investigated promptly by the accrediting body;

(E) complaints not related to accreditation standards and all complaints related to health and safety shall be reported to the appropriate State and local authorities in a timely manner;

(F) any changes in a facility's accreditation status shall be reported to State licensure and certification officials; and

(G) periodic unannounced inspections by State licensing and certification officials take place to evaluate compliance with conditions of participation in this title.

(2) The Secretary shall, in developing criteria, also address types of standards, reporting requirements, duration of accreditation, and other considerations.

(c) The Secretary shall publish proposed criteria developed pursuant to subsection (b) in the Federal Register not later than 9 months from the date of enactment of this section, and shall provide not more than 90 days for public comment on the proposed criteria.

(d) Not later than 180 days prior to termination of the demonstration program established in subsection (a), the Secretary shall submit a report to the Committee on Finance of the Senate evaluating the accreditation process, including—

(1) the extent to which—

(A) accrediting bodies and facilities have participated in the program;

(B) facilities have complied with standards;

(C) there has been an impact on care and access to services; and

(D) problems with, and prospects for, collaboration between accreditation bodies and State survey and certification officials where quality problems have been documented, and with respect to facilities where complaints have been filed by consumers or their advocates; and

(2) such recommendations as the Secretary deems appropriate.

(e) The term "mental health facilities", or "facility" shall mean for purposes of this demonstrative project only, a facility or part of a facility which provides, in an organized setting, outpatient mental health services, outpatient substance abuse and alcoholism services, residential treatment services for children, or day treatment services for children.

SEC. 6265. OPTIONAL STATE MEDICAID DISABILITY DETERMINATIONS INDEPENDENT OF THE SOCIAL SECURITY ADMINISTRATION.

(a) IN GENERAL.—Section 1902 (42 U.S.C. 1396a) as amended by section 6201 is further amended by adding at the end the following new subsection:

"(t)(1) A State plan may provide for the making of determinations of disability or blindness for the purpose of determining eligibility for medical assistance under the State plan by the single State agency or its designee, and make medical assistance available to individuals whom it finds to be

blind or disabled and who are determined otherwise eligible for such assistance during the period of time prior to which a final determination of disability or blindness is made by the Social Security Administration with respect to such an individual. In making such determinations, the State must apply the definitions of disability and blindness found in section 1614(a) of the Social Security Act.".

(b) STUDY OF MEDICAID DISABILITY DEFINITION.—(1) The General Accounting Office shall conduct a study of the appropriateness of the use of the definition of disability and blindness (including the durational requirement) found in section 1614(a) of the Social Security Act for purposes of eligibility for medical assistance under title XIX of the Social Security Act.

(2) By no later than January 1, 1992, the GAO shall submit a report to Congress and to the Secretary of Health and Human Services on its study and shall include its recommendations, if any.

SEC. 6266. MEDICALLY NEEDY INCOME LEVELS FOR CERTAIN MEMBER FAMILIES.

(a) IN GENERAL.—For purposes of section 1903(f)(1)(B) of the Social Security Act, for payments made before, on, or after the date of the enactment of this Act, a State described in subparagraph (B) may use, in determining the "highest amount which would ordinarily be paid to a family of the same size" (under the State's plan approved under part A of title IV of such Act) in the case of a family consisting only of one individual and without regard to whether or not such plan provides for aid to families consisting only of one individual, an amount reasonably related to the highest money payment which would ordinarily be made under such a plan to a family of two without income or resources.

(b) STATES COVERED.—Subparagraph (A) shall only apply to a State the State plan of which (under title XIX of the Social Security Act) as of June 1, 1989, provided for the policy described in such subparagraph. For purposes of the previous sentence, a State plan includes all the matter included in a State plan under section 2373(c)(5) of the Deficit Reduction Act of 1984 (as amended by section 9 of the Medicare and Medicaid Patient and Program Protection Act of 1987).

SEC. 6267. MEDICAID SPENDDOWN OPTION.

Section 1903(f)(2) (42 U.S.C. 1396b(f)(2)) is amended by—

(1) inserting "(A)" after "(2)"; and

(2) by adding before the period at the end the following: "or, (B) at State option, an amount paid by such family, at the family's option, to the State, provided that the amount, when combined with prior months' incurred bills, is sufficient to meet the applicable income limitation described in paragraph (1). The amount of State expenditures for which Federal medical assistance payments is available under subsection (a)(1) will be reduced by amounts collected pursuant to this subparagraph."

SEC. 6268. LIMITATION ON DISALLOWANCES OR DEFERRAL OF FEDERAL FINANCIAL PARTICIPATION FOR CERTAIN INPATIENT PSYCHIATRIC HOSPITAL SERVICES FOR INDIVIDUALS UNDER AGE 21.

(a) IN GENERAL.—(1) If the Secretary of Health and Human Services makes a determination that a psychiatric facility has failed to comply with certification of need requirements for inpatient psychiatric hospital services for individuals under age 21 pursuant to section 1905(h) of the Social Security Act, and such determination has not been subject to a final judicial decision, any disallowance or deferral of Federal financial participation under such Act based on such determination shall only apply to the period of time beginning with the first day of noncompliance and ending with the date by which the psychiatric facility develops documentation (using plan of care or utilization review procedures) of the need for inpatient care with respect to such individuals.

(2) Any disallowance of Federal financial participation under title XIX of the Social Security Act relating to the failure of a psychiatric facility to comply with certification of need requirements—

(A) shall not exceed 25 percent of the amount of Federal financial participation for the period described in paragraph (1); and

(B) shall not apply to any fiscal year before the fiscal year that is 3 years before the fiscal year in which the determination of noncompliance described in paragraph (1) is made.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to disallowance actions that are pending or for which there has not been a final judicial decision as of the date of the enactment of this Act.

SEC. 6269. 5-YEAR EXTENSION OF CERTAIN WAIVER.

(a) IN GENERAL.—Section 507 of the Family Support Act of 1988 is amended by striking "1991" and inserting "1996".

(b) CONFORMING AMENDMENT.—Section 1903(m)(6)(A) (42 U.S.C. 1396b(m)(6)(A)) is amended by striking "State of New Jersey" and inserting "States of New Jersey and Minnesota".

SEC. 6270. MEDICAID LONG-TERM CARE INSURANCE DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall provide for a demonstration project in the States of Indiana, Illinois, Wisconsin, Oregon, California, Connecticut, Massachusetts, Missouri, New York, and New Jersey. Such project shall allow individuals with income and resources above eligibility levels for receipt of medical assistance under title XIX of the Social Security Act to receive long-term care benefits under the State plan for medical assistance under such Act if such an individual purchases a State approved long-term care insurance policy covering long-term care for a period preceding such an individual's eligibility for medical assistance under title XIX of the Social Security Act.

(b) WAIVER OF CERTAIN REQUIREMENTS.—The Secretary in providing for the demonstration project described in subsection (a), may waive the following requirements in title XIX of the Social Security Act with respect to such projects.

(1) Sections 1901, 1902(a)(10) (A) and (C), 1903(a)(1), and 1903(f), relating to categorical and income eligibility limits.

(2) Sections 1902(a)(10) (A) and (D), relating to amount, duration, and scope of services; and to diagnosis, type of illness, or condition.

(3) Section 1902(a)(10)(E), relating to qualified medicaid beneficiaries.

(4) Section 1902(a)(23), relating to freedom of choice.

(5) Section 1902(a)(1), relating to statewideness.

(6) Sections 1902(a)(10), matter following (E) and 1902(a)(17), relating to comparability.

(7) Section 1902(a)(14), relating to premiums.

(8) Section 1902(a)(18), relating to liens and recovery of assets.

(9) Sections 1902(50) and (51), relating to personal needs allowance, protection community spouse, and transfer of assets.

(c) STATE ASSURANCES.—The States conducting demonstration projects under this section shall provide asssurances to the Secretary that—

(1) the estimated average per capita and aggregate expenditures for long-term care services for individuals under the waiver will not exceed estimated average per capita and aggregate expenditures for such services for such individuals under the State plan in the absence of the waiver;

(2) it will continue to make long-term care services available under the plan to any individual who would be entitled to long-term care services under the plan as in effect before the waiver (except to the extent that subsequent Federal legislation specifically requires changes in eligibility for such services under the plan);

(3) it will not approve a long-term care insurance policy unless it meets standards at least as stringent as those set forth in the National Association of Insurance Commissioners (NAIC) Long-Term Care Insurance Model Act as of June 1989; and

(4) expenditures for long-term care services provided to individuals participating in the projects after the expiration of the projects shall be shared by the State and Federal governments in accordance with title XIX formulae in force at the time.

(d) APPLICATION, DURATION, AND ELIGIBILITY.—

(1) The Secretary shall enter into an agreement with the States described in subsection (a) for the purpose of conducting demonstration projects as described in this section. The Secretary shall award such demonstrations in a budget neutral manner.

(2) The Secretary shall either approve or disapprove the application of the State to participate in a demonstration project described in this section within 90 days of receipt of such application. If the Secretary disapproves an application of a State described in subsection (a) to conduct a demonstration project under this section, the Secretary shall within 30 days of such disapproval notify the State of the reasons for such disapproval and allow the State to correct any deficiencies and allow the State to resubmit a corrected application which the Secretary shall approve if it meets the requirements of this section.

(3) The demonstration project under this section shall be for an initial period of 5 years. The Secretary shall provide for renewal of those demonstration projects for an additional 5 years which the Secretary determines have met the requirements of this section.

(4) An individual who participates in a demonstration project under this section shall remain eligible for long-term care services under the State plan after the expiration of such project.

(e) ANNUAL STATE REPORTS.—The States shall annually (during the duration of such projects) report to the Secretary on—

(1) the number of individuals enrolled in the demonstration projects in such States;

(2) the number of enrollees actually receiving long-term care services under such demonstration projects (whether through long-term care insurance or medical assistance under title XIX of the Social Security Act);

(3) the number of enrollees actually receiving long-term care in the form of medical assistance; and

(4) the number and type (commercial, not for profit and HMO) characteristics of pri-

vate insurers with policies approved by the States under the demonstration projects.

(f) SECRETARY'S REPORT.—The Secretary shall report to Congress on the demonstration project established under this section not later than 4 years after the date of enactment of this section. Such report shall summarize and analyze information reported by the State under subsection (e), and shall evaluate the cost effectiveness of the demonstration project and make recommendations with respect to the desirability and appropriateness of authorizing any State to make long-term care services available on a similar basis.

SEC. 6271. MEDICAID COVERAGE OF ALCOHOLISM AND DRUG DEPENDENCY TREATMENT SERVICES.

Section 1905(a) of the Social Security Act is amended by adding at the end the following new sentence: "No service (including counseling) shall be excluded from the definition of 'medical assistance' solely because it is provided as a treatment service for alcoholism or drug dependency.".

SEC. 6272. HOME AND COMMUNITY-BASED WAIVERS.

(a) TREATMENT OF ROOM AND BOARD.—Subsections (c)(1) and (d)(1) of section 1915 of the Social Security Act (42 U.S.C. 1396n) are each amended by adding at the end the following: "For purposes of this subsection, the term 'room and board' shall not include an amount established under a method determined by the State to reflect the portion of costs of rent and food attributable to an unrelated personal caregiver who is residing in the same household with an individual who, but for the assistance of such caregiver, would require admission to a hospital, nursing facility, or intermediate care facility for the mentally retarded.".

(b) TREATMENT OF DECERTIFIED FACILITIES.—Notwithstanding any other provision of law, an intermediate care facility for the mentally retarded that has been decertified or excluded from participation in the medical assistance program established under title XIX of the Social Security Act shall be treated as a facility providing care "the cost of which could be reimbursed" under a State plan for purposes of determining whether to approve a waiver under section 1915(c)(1) of such Act and whether an individual is eligible for care under such a waiver.

(c) ADJUSTMENT TO 1915(d) CEILING TO TAKE INTO ACCOUNT THE ADDED COSTS OF OBRA 87.—Section 1915(d)(5)(B)(iv) (42 U.S.C. 1396n(d)(5)(B)(iv)) is amended by striking "this title" the first place it appears and inserting "this title whose provisions become effective on or after such date".

(d) CHANGES TO FREEDOM OF CHOICE WAIVERS.—Section 1915(c)(3) and (d)(3) (42 U.S.C. 1396n(c)(3) and (d)(3)) are each amended—

(1) by striking "and section" and inserting "section"; and

(2) by inserting after "community)", "and the requirements of section 1902(a)(23) (relating to restricting the recipient's choice of providers), insofar as such requirements relate to the provision of case management services, where the State provides assurances satisfactory to the Secretary that such a restriction will not substantially limit the recipient's access to such services".

SEC. 6273. MEDICAID PROVISIONS RELATING TO HEALTH MAINTENANCE ORGANIZATIONS.

(a) PHYSICIAN INCENTIVE PAYMENTS.—Section 1903(m)(5) is amended by adding at the end of subparagraph (B) the following new subparagraph:

"(C)(i) If an organization with a contract under section 1903(m) knowingly makes a direct and specific individual payment to a physician as an inducement to withhold or limit a specific medically necessary service to an identifiable patient, the organization shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $25,000 for each determination.

"(ii) The provisions of section 1876(i)(8) shall apply to health maintenance organizations with a contract under this subsection in the same manner and to the same extent as to health maintenance organizations with a contract under section 1876.".

(b) MEDICAID ENROLLMENT WAIVER.—

(1) GENERAL WAIVER AUTHORITY.—The Secretary shall approve waivers of the 75 percent enrollment requirement (described in section 1903(m)(2)(A)(i) of the Social Security Act) after the Secretary provides for—

(A) a study of situations where the 75–25 percent enrollment requirement (described in section 1903(m)(2)(A)(i) of the Social Security Act) is not practical or where alternative safeguards or procedures to private enrollment and oversight could be used to assure that prepaid health care organizations provide quality care and are fiscally sound;

(B) publication in the Federal Register by April 1, 1991, for review and comment a set of minimum standards that prepaid organizations must meet to be considered eligible for the waiver described in this paragraph and the terms under which such waivers will be approved; and

(C) publication of revised standards and terms as a final notice.

(2) TERM OF AND RENEWAL OF WAIVERS.—A waiver under this section shall initially be approved for three years; the Secretary shall provide terms for the renewal of such waivers.

SEC. 6274. STATE FLEXIBILITY IN IDENTIFYING AND PAYING DISPROPORTIONATE SHARE HOSPITALS.

(a) IN GENERAL.—Section 1923(b)(1) (42 U.S.C. 1396r-4(b)(1)) is amended by—

(1) striking the period at the end of subparagraph (B) and inserting "or instead of (A) or (B)"; and

(2) adding after subparagraph (B) the following new subparagraph:

"(C) the hospital meets other criteria specified by the State which identify hospitals serving a disproportionate number of low income patients with special needs, so long as all hospitals determined to be disproportionate share hospitals include, at the State's option, hospitals which meet one of the following—

"(i) the conditions specified in subparagraph (A) or (B); or

"(ii) any criteria specified in an amendment to the State plan which was submitted to and approved by the Secretary prior to May 1, 1989.".

(b) DIFFERENT PAYMENT LEVELS.—Section 1923 (42 U.S.C. 1396r-4) is amended in the matter following subsection (c) by adding after the last sentence the following: "Nothing in this section shall prohibit a State from establishing different payment adjustments for different types of hospitals that are defined or deemed to be disproportionate share hospitals provided that the amount of each payment adjustment is reasonably related to the costs or proportion of services provided to medicaid or low-income patients, and that either—

"(A) the amount of each payment adjusted is equal to or greater than the minimum adjustment amount as specified in subsection (c); or

"(B) the aggregate amount of payment adjustments under the plan for disproportionate share hospitals (as defined under a State plan approved by the Secretary prior to December 22, 1987) is not less than the aggregate amount of payment adjustments otherwise required to be made if paragraph (1) or (2) of subsection (c) applied.".

(c) CONFORMING AMENDMENT.—Section 1923(c)(2) (42 U.S.C. 1396r-4(c)(2)) is amended by inserting after "State" "or the hospital's low-income utilization rate (as defined in paragraph (b)(3))".

SEC. 6275. EXTENSION OF PROVISION ON VOLUNTARY CONTRIBUTIONS AND PROVIDER-SPECIFIC TAXES.

Section 8431 of the Technical and Miscellaneous Revenue Act of 1988 is amended by striking "December 31, 1990" and inserting "September 30, 1991".

SEC. 6276. PROHIBITION ON WAIVING REASONABLE AND ADEQUATE PAYMENT RATES.

(a) IN GENERAL.—Section 1915(b) (42 U.S.C. 1396n(b)) is amended in the matter preceding paragraph (1) by inserting "(other than subsection (a)(13)(A))" after "section 1902".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to calendar quarters beginning on or after January 1, 1991.

Subtitle D—Trade Provisions

PART I—CUSTOMS USER FEES

SEC. 6301. CUSTOMS USER FEES.

(a) EXTENSION OF EFFECTIVE PERIOD FOR FEES.—Paragraph (3) of section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1991" and inserting "1995".

(b) ADJUSTMENT OF FEES.—Paragraph (9) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(9)) is amended to read as follows:

"(9)(A) For the processing of merchandise that is formally entered or released during any fiscal year, a fee in an amount equal to 0.17 percent ad valorem, unless adjusted under subparagraph (B).

"(B)(i) The Secretary of the Treasury may adjust the ad valorem rate specified in subparagraph (A) for merchandise that is formally entered or released during any fiscal year beginning after September 30, 1991, to an ad valorem rate (but not to a rate of more than 0.19 percent nor less than 0.15 percent) that would, if charged, offset the salaries and expenses that will likely be incurred by the Customs Service in the processing of such entries and releases during that fiscal year.

"(ii) In determining the amount of any adjustment under clause (i), the Secretary of the Treasury shall take into account whether there is a surplus or deficit in the fund established under section 613A of the Tariff Act of 1930 with respect to the provision of customs services for the processing of formal entries and releases of merchandise.

"(iii) An adjustment may not be made under clause (i) with respect to the fee charged during any fiscal year unless the Secretary of the Treasury—

"(I) not later than 30 days after the date of the enactment of the Act providing regular appropriations for the Customs Service for that fiscal year, publishes a notice of intent to adjust the fees under this paragraph and the amount of such adjustment;

"(II) provides a period of not less than 30 days for public comment following publication of the notice described in subclause (I);

"(III) during the 30-day period beginning after the date of the publication of the notice described in subclause (I), consults with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the proposed adjustment; and

"(IV) no earlier than the expiration of the 30-day public comment period and the 30-day consultation period, publishes in the Federal Register notice of the final determination regarding the adjustment of fees.

"(iv) The 30 days referred to in clause (iii)(III) shall be computed by excluding—

"(I) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

"(II) any Saturday and Sunday, not excluded under subclause (I), when either House is not in session.

"(v) An adjustment made under this subparagraph is effective with respect to formal entries and releases made on or after the 15th calendar day after the date of publication of the notice required under clause (iii)(IV) and before the first day of the next fiscal year.

"(vi) Any fee charged under this paragraph, whether or not adjusted under this subparagraph, is subject to the limitations in subsection (b)(8)(A).".

(c) AGGREGATION OF MERCHANDISE PROCESSING FEES.—Section 111(f)(1)(B) of the Customs and Trade Act of 1990 (Public Law 101-382) is amended by striking out "determined in" and inserting "currently in effect under".

(d) CUSTOMS SERVICE ADMINISTRATION.—Section 113 of the Customs and Trade Act of 1990 is amended—

(1) by inserting "and" after the semicolon at the end of subsection (a)(1);

(2) by striking out the semicolon at the end of subsection (a)(2) and inserting a period;

(3) by striking out paragraphs (3), (4), and (5) of subsection (a); and

(4) by striking out "Committees referred to in subsection (a)(5)" in subsection (b) and inserting "the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate".

(e) MERCHANDISE PROCESSING FEES FOR CERTAIN SMALL AIRPORTS.—

(1) IN GENERAL.—Section 13031(b)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)) is amended—

(A) by inserting "and subsection (a)" in subparagraph (B) before the colon; and

(B) by inserting "other than an airport through which less than 25,000 informal entries are cleared annually" in subparagraph (B)(ii) before the end period.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in section 111 of the Customs and Trade Act of 1990.

PART II—TECHNICAL CORRECTIONS

SEC. 6311. TECHNICAL AMENDMENTS TO THE HARMONIZED TARIFF SCHEDULE.

(a) REDESIGNATIONS.—Each subheading of the Harmonized Tariff Schedule of the United States that is listed in column A is redesignated as the subheading listed in column B opposite such column A subheading:

Column A	Column B
5111.20.60	5111.20.90
5111.30.60	5111.30.90
5111.90.70	5111.90.90
5112.19.10	5112.19.20
5112.19.60	5112.19.90
5112.90.60	5112.90.90
6116.10.50	6116.10.40
6116.93.20	6116.93.30
6116.99.60	6116.99.90
6216.00.23	6216.00.25
6216.00.29	6216.00.30
6216.00.47	6216.00.45
6702.90.40	6702.90.35
6702.90.60	6702.90.65
8712.00.10	8712.00.15
8712.00.20	8712.00.25
8712.00.30	8712.00.35
8714.94.20	8714.94.15
8714.94.50	8714.94.60
9022.90.80	9022.90.90
9603.10.20	9603.10.25
9603.10.70	9603.10.90

(b) MISCELLANEOUS AMENDMENTS.—The Harmonized Tariff Schedule of the United States is further amended as follows:

(1) The article descriptions for subheadings 6116.10.10, 6116.92.10, 6116.93.10, 6116.99.30, 6216.00.10, 6216.00.34, and 6216.00.44 are each amended to read as follows: "Other gloves, mittens, and mitts, principally designed for sports use, including ski and snowmobile gloves, mittens, and mitts".

(2) The superior heading to subheadings 8712.00.25 and 8712.00.35 (as redesignated by subsection (a)) is amended by striking out "65" and inserting "63.5".

(3) Heading 9902.30.07 is amended by striking out "2929.90.10" and inserting "2929.10.40".

(4) Heading 9902.30.08 is amended by striking out "2907.29.30" and inserting "2907.19.50".

(5) Heading 9902.30.42 is amended by striking out "19532-03-07" and inserting "19532-03-7".

(6) The article description for heading 9902.30.56 is amended by striking out "hydroxethyl" and inserting "hydroxyethyl".

(7) Heading 9902.30.83 (as enacted by section 388 of the Customs and Trade Act of 1990) is redesignated as heading 9902.31.11 and, as so redesignated, is amended by striking out "piperadinyl" and inserting "piperidinyl".

(8) Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

(9) Heading 9902.84.83 is amended by striking out "(A,C,E,IL)" and inserting "(A,C,CA,E,IL)".

(10) Heading 9902.87.14 is amended by striking out "brakes," the first place it appears.

(c) EFFECTIVE DATE.—

(1) Subject to paragraphs (2) and (3), the amendments made by subsections (a) and (b) apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 1, 1990.

(2) Any amendment made by subsection (a) or (b) to a provision of the Harmonized Tariff Schedule of the United States that was the subject of an amendment made by title III of the Customs and Trade Act of 1990 shall—

(A) be treated as applying to that provision as established or amended by such title III; and

(B) if the amendment made by such title III has retroactive application under section 485(b) of such Act, be treated as applying with respect to entries made after the relevant applicable date (as defined in paragraph (2)(A) of such section 485(b)).

(3) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer before April 1, 1991, any entry—

(A) which was made after December 31, 1988, and before October 1, 1990; and

(B) with respect to which there would have been a lesser duty if any amendment made by subsection (b)(1) applied to such entry;

shall be liquidated or reliquidated as though such amendment applied to such entry.

SEC. 6312. TECHNICAL AMENDMENTS TO CERTAIN CUSTOMS LAWS.

(a) CUSTOMS FORFEITURE FUND.—

(1) Paragraph (5) of section 121 of the Customs and Trade Act of 1990 is repealed and subsection (f) of section 613A of the Tariff Act of 1930 shall be applied as if the amendment made by such paragraph (5) had not been enacted.

(2) Paragraph (2) of such section 613A(f) (as in effect after the application of paragraph (1)) is amended to read as follows:

"(2)(A) Subject to subparagraph (B), there are authorized to be appropriated from the Fund not to exceed $20,000,000 for each fiscal year to carry out the purposes set forth in subsections (a)(3) and (b) for such fiscal year.

"(B) Of the amount authorized to be appropriated under subparagraph (A), not to exceed the following shall be available to carry out the purposes set forth in subsection (a)(3):

"(i) $14,855,000 for fiscal year 1991.

"(ii) $15,598,000 for fiscal year 1992.".

(b) CERTAIN ENTRIES.—Section 484 of the Customs and Trade Act of 1990 (Public Law 101-382) is amended by striking out "1801-000027" and inserting "1801-7-000027".

(c) EFFECTIVE DATE.—The provisions of this section take effect August 21, 1990.

Subtitle E—Pension Benefit Guarantee Corporation Premiums

SEC. 6401. INCREASE IN PREMIUM RATES.

(a) INCREASE IN BASIC PREMIUM.—

(1) IN GENERAL.—Clause (i) of section 4006(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended by striking "for plan years beginning after December 31, 1987, an amount equal to the sum of $16" and inserting "for plan years beginning after December 31, 1990, an amount equal to the sum of $19".

(2) CONFORMING AMENDMENT.—Section 4006(c)(1)(A) of such Act (29 U.S.C. 1306(c)(1)(A)) is amended by adding at the end thereof the following new clause:

"(iv) with respect to each plan year beginning after December 31, 1987, and before January 1, 1991, an amount equal to $16 for each individual who was a participant in such plan during the plan year, and".

(b) INCREASE IN ADDITIONAL PREMIUM.—Section 4006(a)(3)(E) of such Act (29 U.S.C. 1306(a)(3)(E)) is amended—

(1) by striking "$6.00" in clause (ii) and inserting "$9.00", and

(2) by striking "$34" in clause (iv)(I) and inserting "$53".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1990.

Subtitle F—Child Care and Development Block Grant

SEC. 6501. CHILD CARE AND DEVELOPMENT BLOCK GRANT.

Chapter 8 of subtitle A of title IV of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) is amended—

(1) by redesignating subchapters C, D, and E, as subchapters D, E, and F, respectively; and

(2) by inserting after subchapter B the following new subchapter:

"Subchapter C—Child Care and Development Block Grant

"SEC. 658A. SHORT TITLE.

"This subchapter may be cited as the 'Child Care and Development Block Grant Act of 1990'.

"SEC. 658B. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subchapter, $750,000,000 for fiscal year 1991, $825,000,000 for fiscal year 1992, $925,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.

"SEC. 658C. ESTABLISHMENT OF BLOCK GRANT PROGRAM.

"The Secretary is authorized to make grants to States in accordance with the provisions of this subchapter.

"SEC. 658D. LEAD AGENCY.

"(a) DESIGNATION.—The chief executive officer of a State desiring to receive a grant under this subchapter shall designate, in an application submitted to the Secretary under section 658E, an appropriate State agency that complies with the requirements of subsection (b) to act as the lead agency.

"(b) DUTIES.—

"(1) IN GENERAL.—The lead agency shall—

"(A) administer, directly or through other State agencies, the financial assistance received under this subchapter by the State;

"(B) develop the State plan to be submitted to the Secretary under section 658E(a);

"(C) in conjunction with the development of the State plan as required under subparagraph (B), hold at least one hearing in the State to provide to the public an opportunity to comment on the provision of child care services under the State plan; and

"(D) coordinate the provision of services under this subchapter with other Federal, State and local child care and early childhood development programs.

"(2) DEVELOPMENT OF PLAN.—In the development of the State plan described in paragraph (1)(B), the lead agency shall consult with appropriate representatives of units of general purpose local government. Such consultations may include consideration of local child care needs and resources, the effectiveness of existing child care and early childhood development services, and the methods by which funds made available under this subchapter can be used to effectively address local shortages.

"SEC. 658E. APPLICATION AND PLAN.

"(a) APPLICATION.—To be eligible to receive assistance under this subchapter, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall by rule require, including—

"(1) an assurance that the State will comply with the requirements of this subchapter; and

"(2) a State plan that meets the requirements of subsection (c).

"(b) PERIOD COVERED BY PLAN.—The State plan contained in the application under subsection (a) shall be designed to be implemented—

"(1) during a 3-year period for the initial State plan; and

"(2) during a 2-year period for subsequent State plans.

"(c) REQUIREMENTS OF A PLAN.—

"(1) LEAD AGENCY.—The State plan shall identify the lead agency designated under section 658D.

"(2) POLICIES AND PROCEDURES.—The State plan shall:

"(A) PARENTAL CHOICE OF PROVIDERS.—Provide assurances that—

"(i) the parent or parents of each eligible child within the State who receives or is offered child care services for which financial assistance is provided under this subchapter, other than through assistance provided under paragraph (3)(C), are given the option either—

"(I) to enroll such child with a child care provider that has a grant or contract for the provision of such services; or

"(II) to receive a child care certificate as defined in section 658P(2);

"(ii) in cases in which the parent selects the option described in clause (i)(I), the child will be enrolled with the eligible provider selected by the parent to the maximum extent practicable; and

"(iii) child care certificates offered to parents selecting the option described in clause (i)(II) shall be of a value commensurate with the subsidy value of child care services provided under the option described in clause (i)(I);

except that nothing in this subparagraph shall require a State to have a child care certificate program in operation prior to October 1, 1991.

"(B) UNLIMITED PARENTAL ACCESS.—Provide assurances that procedures are in effect within the State to ensure that child care providers who provide services for which assistance is made available under this subchapter afford parents unlimited access to their children and to the providers caring for their children, during the normal hours of operation of such providers and whenever such children are in the care of such providers.

"(C) PARENTAL COMPLAINTS.—Provide assurances that the State maintains a record of substantiated parental complaints and makes information regarding such parental complaints available to the public on request.

"(D) CONSUMER EDUCATION.—Provide assurances that consumer education information will be made available to parents and the general public within the State concerning licensing and regulatory requirements, complaint procedures, and policies and practices relative to child care services within the State.

"(E) COMPLIANCE WITH STATE AND LOCAL REGULATORY REQUIREMENTS.—Provide assurances that—

"(i) all providers of child care services within the State for which assistance is provided under this subchapter comply with all licensing or regulatory requirements (including registration requirements) applicable under State and local law; and

"(ii) providers within the State that are not required to be licensed or regulated under State or local law are required to be registered with the State prior to payment being made under this subchapter, in accordance with procedures designed to facilitate appropriate payment to such providers, and to permit the State to furnish information to such providers, including information on the availability of health and safety training, technical assistance, and any relevant information pertaining to regulatory requirements in the State, and that such providers shall be permitted to register with the State after selection by the parents of eligible children and before such payment is made.

This subparagraph shall not be construed to prohibit a State from imposing more stringent standards and licensing or regulatory requirements on child care providers within the State that provide services for which assistance is provided under this subchapter than the standards or requirements imposed on other child care providers in the State.

"(F) ESTABLISHMENT OF HEALTH AND SAFETY REQUIREMENTS.—Provide assurances that there are in effect within the State, under State or local law, requirements designed to protect the health and safety of children that are applicable to child care providers that provide services for which assistance is made available under this subchapter. Such requirements shall include—

"(i) the prevention and control of infectious diseases (including immunization);

"(ii) building and physical premises safety; and

"(iii) minimum health and safety training appropriate to the provider setting.

Nothing in this subparagraph shall be construed to require the establishment of additional health and safety requirements for child care providers that are subject to health and safety requirements in the categories described in this subparagraph on the date of enactment of this subchapter under State or local law.

"(G) COMPLIANCE WITH STATE AND LOCAL HEALTH AND SAFETY REQUIREMENTS.—Provide assurances that procedures are in effect to ensure that child care providers within the State that provide services for which assistance is provided under this subchapter comply with all applicable State or local health and safety requirements as described in subparagraph (F).

"(H) REDUCTION IN STANDARDS.—Provide assurances that if the State reduces the level of standards applicable to child care services provided in the State on the date of enactment of this subchapter, the State shall inform the Secretary of the rationale for such reduction in the annual report of the State described in section 658K.

"(I) REVIEW OF STATE LICENSING AND REGULATORY REQUIREMENTS.—Provide assurances that not later than 18 months after the date of the submission of the application under section 658E, the State will complete a full review of the law applicable to, and the licensing and regulatory requirements and policies of, each licensing agency that regulates child care services and programs in the State unless the State has reviewed such law, requirements, and policies in the 3-year period ending on the date of the enactment of this subchapter.

"(J) SUPPLEMENTATION.—Provide assurances that funds received under this subchapter by the State will be used only to supplement, not to supplant, the amount of Federal, State, and local funds otherwise expended for the support of child care services and related programs in the State.

"(3) USE OF BLOCK GRANT FUNDS.—

"(A) GENERAL REQUIREMENT.—The State plan shall provide that the State will use the amounts provided to the State for each fiscal year under this subchapter as required under subparagraphs (B) and (C).

"(B) CHILD CARE SERVICES.—Subject to the reservation contained in subparagraph (C), the State shall use amounts provided to the State for each fiscal year under this subchapter for—

"(i) child care services, that meet the requirements of this subchapter, that are provided to eligible children in the State on a sliding fee scale basis using funding methods provided for in section 658E(c)(2)(A), with priority being given for services pro-

vided to children of families with very low family incomes (taking into consideration family size) and to children with special needs; and

"(ii) activities designed to improve the affordability, availability and quality of child care, and to expand the range of choices of child care services available to parents.

"(C) ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE AND TO INCREASE THE AVAILABILITY OF EARLY CHILDHOOD DEVELOPMENT AND BEFORE- AND AFTER-SCHOOL CARE SERVICES.—The State shall reserve 25 percent of the amounts provided to the State for each fiscal year under this subchapter to carry out activities designed to improve the quality of child care (as described in section 658G) and to provide before- and after-school and early childhood development services (as described in section 658H).

"(4) PAYMENT RATES.—

"(A) IN GENERAL.—The State plan shall provide assurances that payment rates for the provision of child care services for which assistance is provided under this subchapter are sufficient to ensure equal access for eligible children to comparable child care services in the State or substate area that are provided to children whose parents are not eligible to receive assistance under this subchapter or for child care assistance under any other Federal or State programs. Such payment rates shall take into account the variations in the costs of providing child care in different settings and to children of different age groups, and the additional costs of providing child care for children with special needs.

"(B) CONSTRUCTION.—Nothing in this paragraph shall be construed to create a private right of action.

"(5) SLIDING FEE SCALE.—The State plan shall provide that the State will establish and periodically revise, by rule, a sliding fee scale that provides for cost sharing by the families that receive child care services for which assistance is provided under this subchapter.

"(d) APPROVAL OF APPLICATION.—The Secretary shall approve an application that satisfies the requirements of this section.

"SEC. 658F. LIMITATIONS ON STATE ALLOTMENTS.

"(a) NO ENTITLEMENT TO CONTRACT OR GRANT.—Nothing in this subchapter shall be construed—

"(1) to entitle any child care provider or recipient of a child care certificate to any contract, grant or benefit; or

"(2) to limit the right of any State to impose additional limitations or conditions on contracts or grants funded under this subchapter.

"(b) CONSTRUCTION OF FACILITIES.—

"(1) IN GENERAL.—No funds made available under this subchapter shall be expended for the purchase or improvement of land, or for the purchase, construction, or permanent improvement (other than minor remodeling) of any building or facility.

"(2) SECTARIAN AGENCY OR ORGANIZATION.—In the case of a sectarian agency or organization, no funds made available under this subchapter may be used for the purposes described in paragraph (1) except to the extent that renovation or repair is necessary to bring the facility of such agency or organization into compliance with health and safety requirements referred to in section 658E(c)(2)(F).

"SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.

"A State that receives financial assistance under this subchapter shall use not less than 40 percent of the amounts reserved by such State under section 658E(c)(3)(C) for each fiscal year for one or more of the following:

"(1) RESOURCE AND REFERRAL PROGRAMS.—Operating directly or providing financial assistance to private nonprofit organizations or public organizations (including units of general purpose local government) for the development, establishment, expansion, operation, and coordination of resource and referral programs specifically related to child care.

"(2) GRANTS OR LOANS TO ASSIST IN MEETING STATE AND LOCAL STANDARDS.—Making grants or providing loans to child care providers to assist such providers in meeting applicable State and local child care standards.

"(3) ESTABLISHMENT AND IMPROVEMENT OF STANDARDS.—Establishing and improving State and local child care standards and requirements.

"(4) MONITORING OF COMPLIANCE WITH LICENSING AND REGULATORY REQUIREMENTS.—Improving the monitoring of compliance with, and enforcement of, State and local licensing and regulatory requirements (including registration requirements).

"(5) TRAINING.—Providing training and technical assistance in areas appropriate to the provision of child care services, such as training in health and safety, nutrition, first aid, the recognition of communicable diseases, child abuse detection and prevention, and the care of children with special needs.

"(6) COMPENSATION.—Improving salaries and other compensation paid to full- and part-time staff who provide child care services for which assistance is provided under this subchapter.

"SEC. 658H. EARLY CHILDHOOD DEVELOPMENT AND BEFORE- AND AFTER-SCHOOL SERVICES.

"(a) IN GENERAL.—A State that receives financial assistance under this subchapter shall use not less than 40 percent of the amounts reserved by such State under section 658E(c)(3)(C) for each fiscal year to establish or expand and conduct, through the provision of grants or contracts, early childhood development and before- and after-school child care programs.

"(b) PROGRAM DESCRIPTION.—Programs that receive assistance under this section shall—

"(1) in the case of early childhood development programs, consist of services that are not intended to serve as a substitute for compulsory academic programs but that are intended to provide an environment that enhances the educational, social, cultural, emotional, and recreational development of children; and

"(2) in the case of before- and after-school child care programs—

"(A) be provided Monday through Friday, including school holidays and vacation periods other than legal public holidays, to children attending early childhood development programs, kindergarten, or elementary or secondary school classes during such times of the day and on such days that regular instructional services are not in session; and

"(B) not be intended to extend or replace the regular academic program.

"(c) PRIORITY FOR ASSISTANCE.—In awarding grants and contracts under this section, the State shall give the highest priority to geographic areas within the State that are eligible to receive grants under section 1006 of the Elementary and Secondary Education Act of 1965, and shall then give priority to—

"(1) any other areas with concentrations of poverty; and

"(2) any areas with very high or very low population densities.

"SEC. 658I. ADMINISTRATION AND ENFORCEMENT.

"(a) ADMINISTRATION.—The Secretary shall—

"(1) coordinate all activities of the Department of Health and Human Services relating to child care, and, to the maximum extent practicable, coordinate such activities with similar activities of other Federal entities;

"(2) collect, publish and make available to the public a listing of State child care standards at least once every 3 years; and

"(3) provide technical assistance to assist States to carry out this subchapter, including assistance on a reimbursable basis.

"(b) ENFORCEMENT.—

"(1) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this subchapter and the plan approved under section 658E(c) for the State, and shall have the power to terminate payments to the State in accordance with paragraph (2).

"(2) NONCOMPLIANCE.—

"(A) IN GENERAL.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds that—

"(i) there has been a failure by the State to comply substantially with any provision or requirement set forth in the plan approved under section 658E(c) for the State; or

"(ii) in the operation of any program for which assistance is provided under this subchapter there is a failure by the State to comply substantially with any provision of this subchapter;

the Secretary shall notify the State of the finding and that no further payments may be made to such State under this subchapter (or, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected.

"(B) ADDITIONAL SANCTIONS.—In the case of a finding of noncompliance made pursuant to subparagraph (A), the Secretary may, in addition to imposing the sanctions described in such subparagraph, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this subchapter, and disqualification from the receipt of financial assistance under this subchapter.

"(C) NOTICE.—The notice required under subparagraph (A) shall include a specific identification of any additional sanction being imposed under subparagraph (B).

"(3) ISSUANCE OF RULES.—The Secretary shall establish by rule procedures for—

"(A) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this subchapter; and

"(B) imposing sanctions under this section.

"SEC. 658J. PAYMENTS.

"(a) IN GENERAL.—Subject to the availability of appropriations, a State that has an application approved by the Secretary under section 658E(d) shall be entitled to a payment under this section for each fiscal year in an amount equal to its allotment under section 658O for such fiscal year.

"(b) METHOD OF PAYMENT.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary may make payments to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

"(2) LIMITATION.—The Secretary may not make such payments in a manner that prevents the State from complying with the requirement specified in section 658E(c)(3).

"(c) SPENDING OF FUNDS BY STATE.—Payments to a State from the allotment under section 658O for any fiscal year may be expended by the State in that fiscal year or in the succeeding fiscal year.

"SEC. 658K. ANNUAL REPORT AND AUDITS.

"(a) ANNUAL REPORT.—Not later than December 31, 1992, and annually thereafter, a State that receives assistance under this subchapter shall prepare and submit to the Secretary a report—

"(1) specifying the uses for which the State expended funds specified under paragraph (3) of section 658E(c) and the amount of funds expended for such uses;

"(2) containing available data on the manner in which the child care needs of families in the State are being fulfilled, including information concerning—

"(A) the number of children being assisted with funds provided under this subchapter, and under other Federal child care and preschool programs;

"(B) the type and number of child care programs, child care providers, caregivers, and support personnel located in the State; and

"(C) salaries and other compensation paid to full- and part-time staff who provide child care services;

"(3) describing the extent to which the affordability and availability of child care services has increased;

"(4) if applicable, describing, in either the first or second such report, the findings of the review of State licensing and regulatory requirements and policies described in section 658E(c), including a description of actions taken by the State in response to such reviews;

"(5) containing an explanation of any State action, in accordance with section 658E, to reduce the level of child care standards in the State, if applicable; and

"(6) describing the standards and health and safety requirements applicable to child care providers in the State, including a description of State efforts to improve the quality of child care;

during the period for which such report is required to be submitted.

"(b) AUDITS.—

"(1) REQUIREMENT.—A State shall, after the close of each program period covered by a application approved under section 658E(d) audit its expenditures during such program period from amounts received under this subchapter.

"(2) INDEPENDENT AUDITOR.—Audits under this subsection shall be conducted by an entity that is independent of any agency administering activities that receive assistance under this subchapter and be in accordance with generally accepted auditing principles.

"(3) SUBMISSION.—Not later than 30 days after the completion of an audit under this subsection, the State shall submit a copy of the audit to the legislature of the State and to the Secretary.

"(4) REPAYMENT OF AMOUNTS.—Each State shall repay to the United States any amounts determined through an audit under this subsection not to have been expended in accordance with this subchapter, or the Secretary may offset such amounts against any other amount to which the State is or may be entitled under this subchapter.

"SEC. 658L. REPORT BY SECRETARY.

"Not later than July 31, 1993, and annually thereafter, the Secretary shall prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report that contains a summary and analysis of the data and information provided to the Secretary in the State reports submitted under section 658K. Such report shall include an assessment, and where appropriate, recommendations for the Congress concerning efforts that should be undertaken to improve the access of the public to quality and affordable child care in the United States.

"SEC. 658M. LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES.

"(a) SECTARIAN PURPOSES AND ACTIVITIES.—No financial assistance provided under this subchapter, pursuant to the choice of a parent under section 658E(c)(2)(A)(i)(I) or through any other grant or contract under the State plan, shall be expended for any sectarian purpose or activity, including sectarian worship or instruction.

"(b) TUITION.—With regard to services provided to students enrolled in grades 1 through 12, no financial assistance provided under this subchapter shall be expended for—

"(1) any services provided to such students during the regular school day;

"(2) any services for which such students receive academic credit toward graduation; or

"(3) any instructional services which supplant or duplicate the academic program of any public or private school.

"SEC. 658N. NONDISCRIMINATION.

"(a) RELIGIOUS NONDISCRIMINATION.—

"(1) CONSTRUCTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), nothing in this section shall be construed to modify or affect the provisions of any other Federal law or regulation that relates to discrimination in employment on the basis of religion.

"(B) EXCEPTION.—A sectarian organization may require that employees adhere to the religious tenets and teachings of such organization, and such organization may require that employees adhere to rules forbidding the use of drugs or alcohol.

"(2) DISCRIMINATION AGAINST CHILD.—

"(A) IN GENERAL.—A child care provider (other than a family child care provider) that receives assistance under this subchapter shall not discriminate against any child on the basis of religion in providing child care services.

"(B) NON-FUNDED CHILD CARE SLOTS.—Nothing in this section shall prohibit a child care provider from selecting children for child care slots that are not funded directly with assistance provided under this subchapter because such children or their family members participate on a regular basis in other activities of the organization that owns or operates such provider.

"(3) EMPLOYMENT IN GENERAL.—

"(A) PROHIBITION.—A child care provider that receives assistance under this subchapter shall not discriminate in employment on the basis of the religion of the prospective employee if such employee's primary responsibility is or will be working directly with children in the provision of child care services.

"(B) QUALIFIED APPLICANTS.—If two or more prospective employees are qualified for any position with a child care provider receiving assistance under this subchapter, nothing in this section shall prohibit such child care provider from employing a prospective employee who is already participating on a regular basis in other activities of the organization that owns or operates such provider.

"(C) PRESENT EMPLOYEES.—This paragraph shall not apply to employees of child care providers receiving assistance under this subchapter if such employees are employed with the provider on the date of enactment of this subchapter.

"(4) EMPLOYMENT AND ADMISSION PRACTICES.—Notwithstanding paragraphs (1)(B), (2), and (3), if assistance provided under this subchapter, and any other Federal or State program, amounts to 80 percent or more of the operating budget of a child care provider that receives such assistance, the Secretary shall not permit such provider to receive any further assistance under this subchapter unless the grant or contract relating to the financial assistance, or the employment and admissions policies of the provider, specifically provides that no person with responsibilities in the operation of the child care program, project, or activity of the provider will discriminate against any individual in employment, if such employee's primary responsibility is or will be working directly with children in the provision of child care, or admissions because of the religion of such individual.

"(b) EFFECT ON STATE LAW.—Nothing in this subchapter shall be construed to supersede or modify any provision of a State constitution or State law that prohibits the expenditure of public funds in or by sectarian institutions, except that no provision of a State constitution or State law shall be construed to prohibit the expenditure in or by sectarian institutions of any Federal funds provided under this subchapter.

"SEC. 658O. AMOUNTS RESERVED; ALLOTMENTS.

"(a) AMOUNTS RESERVED.—

"(1) TERRITORIES AND POSSESSIONS.—The Secretary shall reserve not to exceed one half of 1 percent of the amount appropriated under this subchapter in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands to be allotted in accordance with their respective needs.

"(2) INDIANS TRIBES.—The Secretary shall reserve not more than 3 percent of the amount appropriated under section 658B in each fiscal year for payments to Indian tribes and tribal organizations with applications approved under subsection (c).

"(b) STATE ALLOTMENT.—

"(1) GENERAL RULE.—From the amounts appropriated under section 658B for each fiscal year remaining after reservations under subsection (a), the Secretary shall allot to each State an amount equal to the sum of—

"(A) an amount that bears the same ratio to 50 percent of such remainder as the product of the young child factor of the State and the allotment percentage of the State bears to the sum of the corresponding products for all States; and

"(B) an amount that bears the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment percentage of the State

bears to the sum of the corresponding products for all States.

"(2) YOUNG CHILD FACTOR.—The term 'young child factor' means the ratio of the number of children in the State under 5 years of age to the number of such children in all States as provided by the most recent annual estimates of population in the States by the Census Bureau of the Department of Commerce.

"(3) SCHOOL LUNCH FACTOR.—The term 'school lunch factor' means the ratio of the number of children in the State who are receiving free or reduced price lunches under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) to the number of such children in all the States as determined annually by the Department of Agriculture.

"(4) ALLOTMENT PERCENTAGE.—

"(A) IN GENERAL.—The allotment percentage for a State is determined by dividing the per capita income of all individuals in the United States, by the per capita income of all individuals in the State.

"(B) LIMITATIONS.—If an allotment percentage determined under subparagraph (A)—

"(i) exceeds 1.2 percent, then the allotment percentage of that State shall be considered to be 1.2 percent; and

"(ii) is less than 0.8 percent, then the allotment percentage of the State shall be considered to be 0.8 percent.

"(C) PER CAPITA INCOME.—For purposes of subparagraph (A), per capita income shall be—

"(i) determined at 2-year intervals;

"(ii) applied for the 2-year period beginning on October 1 of the first fiscal year beginning on the date such determination is made; and

"(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

"(c) PAYMENTS FOR THE BENEFIT OF INDIAN CHILDREN.—

"(1) GENERAL AUTHORITY.—From amounts reserved under subsection (a)(2), the Secretary may make grants to or enter into contracts with Indian tribes or tribal organizations that submit applications under this section, for the planning and carrying out of programs or activities consistent with the purposes of this subchapter.

"(2) APPLICATIONS AND REQUIREMENTS.—An application for a grant or contract under this section shall provide that:

"(A) COORDINATION.—The applicant will coordinate, to the maximum extent feasible, with the lead agency in the State or States in which the applicant will carry out programs or activities under this section.

"(B) SERVICES ON RESERVATIONS.—In the case of an applicant located in a State other than Alaska, California, or Oklahoma, programs and activities under this section will be carried out on the Indian reservation for the benefit of Indian children.

"(C) REPORTS AND AUDITS.—The applicant will make such reports on, and conduct such audits of, programs and activities under a grant or contract under this section as the Secretary may require.

"(3) CONSIDERATION OF SECRETARIAL APPROVAL.—In determining whether to approve an application for a grant or contract under this section, the Secretary shall take into consideration—

"(A) the availability of child care services provided in accordance with this subchapter by the State or States in which the applicant proposes to carry out a program to provide child care services; and

"(B) whether the applicant has the ability (including skills, personnel, resources, community support, and other necessary components) to satisfactorily carry out the proposed program or activity.

"(4) THREE-YEAR LIMIT.—Grants or contracts under this section shall be for periods not to exceed 3 years.

"(5) DUAL ELIGIBILITY OF INDIAN CHILDREN.—The awarding of a grant or contract under this section for programs or activities to be conducted in a State or States shall not affect the eligibility of any Indian child to receive services provided or to participate in programs and activities carried out under a grant to the State or States under this subchapter.

"(d) DATA AND INFORMATION.—The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

"(e) REALLOTMENTS.—

"(1) IN GENERAL.—Any portion of the allotment under subsection (b) to a State that the Secretary determines is not required to carry out a State plan approved under section 658E(d), in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

"(2) LIMITATIONS.—

"(A) REDUCTION.—The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out a State plan approved under section 658E(d).

"(B) REALLOTMENTS.—The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this subsection.

"(3) AMOUNTS REALLOTTED.—For purposes of any other section of this subchapter, any amount reallotted to a State under this subsection shall be considered to be part of the allotment made under subsection (b) to the State.

"(f) DEFINITION.—For the purposes of this section, the term 'State' includes only the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 658P. DEFINITIONS.

"As used in this subchapter:

"(1) CAREGIVER.—The term 'caregiver' means an individual who provides a service directly to an eligible child on a person-to-person basis.

"(2) CHILD CARE CERTIFICATE.—The term 'child care certificate' means a certificate (that may be a check or other disbursement) that is issued by a State or local government under this subchapter directly to a parent who may use such certificate only as payment for child care services. Nothing in this subchapter shall preclude the use of such certificates for sectarian child care services if freely chosen by the parent. For purposes of this subchapter, child care certificates shall not be considered to be grants or contracts.

"(3) ELEMENTARY SCHOOL.—The term 'elementary school' means a day or residential school that provides elementary education, as determined under State law.

"(4) ELIGIBLE CHILD.—The term 'eligible child' means an individual—

"(A) who is less than 13 years of age;

"(B) whose family income does not exceed 75 percent of the State median income for a family of the same size; and

"(C) who—

"(i) resides with a parent or parents who are working or attending a job training or educational program; or

"(ii) is receiving, or needs to receive, protective services and resides with a parent or parents not described in clause (i).

"(5) ELIGIBLE CHILD CARE PROVIDER.—The term 'eligible child care provider' means—

"(A) a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

"(i) is licensed, regulated, or registered under State law as described in section 658E(c)(2)(E); and

"(ii) satisfies the State and local requirements, including those referred to in section 658E(c)(2)(F);

applicable to the child care services it provides; or

"(B) a child care provider that is 18 years of age or older who provides child care services only to eligible children who are, by affinity or consanguinity, or by court decree, the grandchild, niece, or nephew of such provider, if such provider is registered and complies with any State requirements that govern child care provided by the relative involved.

"(6) FAMILY CHILD CARE PROVIDER.—The term 'family child care provider' means one individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in a private residence.

"(7) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given it in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b)).

"(8) LEAD AGENCY.—The term 'lead agency' means the agency designated under section 658B(a).

"(9) PARENT.—The term 'parent' includes a legal guardian or other person standing in loco parentis.

"(10) SECONDARY SCHOOL.—The term 'secondary school' means a day or residential school which provides secondary education, as determined under State law.

"(11) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services unless the context specifies otherwise.

"(12) SLIDING FEE SCALE.—The term 'sliding fee scale' means a system of cost sharing by a family based on income and size of the family.

"(13) STATE.—The term 'State' means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(14) TRIBAL ORGANIZATION.—The term 'tribal organization' has the meaning given it in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c)).

"SEC. 658Q. PARENTAL RIGHTS AND RESPONSIBILITIES.

"Nothing in this subchapter shall be construed or applied in any manner to infringe on or usurp the moral and legal rights and responsibilities of parents or legal guardians.

"SEC. 658R. SEVERABILITY.

"If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the invalidity shall

not affect other provisions of applications of this subchapter which can be given effect without regard to the invalid provision or application, and to this end the provisions of this subchapter shall be severable.".

TITLE VII—REVENUE PROVISIONS

SEC. 7100. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Revenue Reconciliation Act of 1990".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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SEC. 7101. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) EXTENSION.—Paragraph (5) of section 864(f) (relating to allocation of research and experimental expenditures) is amended to read as follows:

"(5) YEARS TO WHICH RULE APPLIES.—This subsection shall apply to the taxpayer's first two taxable years beginning after August 1, 1989, and on or before August 1, 1991."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after August 1, 1989.

SEC. 7102. RESEARCH CREDIT.

(a) EXTENSION.—Subsection (h) of section 41 (relating to credit for increasing research activities) is amended—

(1) by striking "December 31, 1990" each place it appears and inserting "December 31, 1991", and

(2) by striking "January 1, 1991" each place it appears and inserting "January 1, 1992".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 7110 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2).

(2) Subparagraph (D) of section 28(b)(1) is amended by striking "December 31, 1990" and inserting "December 31, 1991".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 7103. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "September 30, 1990" and inserting "December 31, 1991".

(b) REPEAL OF LIMITATION ON GRADUATE LEVEL ASSISTANCE.—Section 127(c)(1) is amended by striking the last sentence.

(c) CONFORMING AMENDMENT.—Subsection (a) of section 7101 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2).

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1989.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1990.

SEC. 7104. GROUP LEGAL SERVICES PLANS.

(a) IN GENERAL.—Subsection (e) of section 120 (relating to amounts received under qualified group legal services plans) is amended by striking "September 30, 1990" and inserting "December 31, 1991".

(b) CONFORMING AMENDMENT.—Subsection (a) of section 7102 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 7105. TARGETED JOBS CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 51(c) is amended by striking "September 30, 1990" and inserting "December 31, 1991".

(b) AUTHORIZATION.—Paragraph (2) of section 261(f) of the Economic Recovery Act of 1981 is amended by striking "fiscal year 1982" and all that follows through "necessary" and inserting "each fiscal year such sums as may be necessary".

(c) EFFECTIVE DATES.—

(1) CREDIT.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after September 30, 1990.

(2) AUTHORIZATION.—The amendment made by subsection (b) shall apply to fiscal years beginning after 1990.

SEC. 7106. ENERGY INVESTMENT CREDIT FOR SOLAR, GEOTHERMAL, AND OCEAN THERMAL PROPERTY.

The table contained in section 46(b)(2)(A) (relating to energy percentage) is amended by striking "Sept. 30, 1990" in clauses (viii), (ix), and (x) and inserting "Dec. 31, 1991".

SEC. 7107. LOW-INCOME HOUSING CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Subsection (o) of section 42 (relating to low-income housing credit) is amended—

(A) by striking "1990" each place it appears in paragraph (1) and inserting "1991", and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) EXCEPTION FOR BOND-FINANCED BUILDINGS IN PROGRESS.—For purposes of paragraph (1)(B), a building shall be treated as placed in service before 1992 if—

"(A) the bonds with respect to such building are issued before 1992,

"(B) the taxpayer's basis in the project (of which the building is a part) as of December 31, 1991, is more than 10 percent of the taxpayer's reasonably expected basis in such project as of December 31, 1993, and

"(C) such building is placed in service before January 1, 1994."

(2) CONFORMING AMENDMENT.—Subsection (a) of section 7108 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to calendar years after 1989.

(b) ADDITIONAL AMENDMENTS.—

(1) CLARIFICATION OF TENANT RIGHTS OF 1ST REFUSAL.—Section 42(i) is amended—

(A) by redesignating paragraph (8) as paragraph (7), and

(B) by striking "the tenants of such building" in such paragraph and inserting "the tenants (in cooperative form or otherwise) or resident management corporation of such building or by a qualified nonprofit organization (as defined in subsection (h)(5)(C)) or government agency".

(2) MONITORING NONCOMPLIANCE.—Clause (iv) of section 42(m)(1)(B) is amended to read as follows:

"(iv) which provides a procedure that the agency (or an agent or other private contractor of such agency) will follow in monitoring for noncompliance with the provisions of this section and in notifying the Internal Revenue Service of such noncompliance which such agency becomes aware of."

(3) TREATMENT OF SECTION 515 RENTS.—Subparagraph (B) of section 42(g)(2) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by inserting after clause (iii) the following new clause:

"(iv) does not include any rental payment to the owner of the unit to the extent such owner pays an equivalent amount to the Farmers' Home Administration under section 515 of the Housing Act of 1949."

(4) QUALIFIED CENSUS TRACT DETERMINATIONS WHERE DATA NOT AVAILABLE.—Subclause (I) of section 42(d)(5)(C)(ii) is amended by adding at the end thereof the following new sentence: "If the Secretary of Housing and Urban Development determines that sufficient data for any period are not available to apply this clause on the basis of census tracts, such Secretary shall apply this clause for such period on the basis of enumeration districts."

(5) EXCEPTION TO CREDIT DENIAL FOR MODERATE REHABILITATION ASSISTANCE.—

(A) IN GENERAL.—Paragraph (2) of section 42(c) is amended by adding at the end thereof the following new sentence: "Such term does not include any building with respect to which moderate rehabilitation assistance is provided, at any time during the compliance period, under section 8(e)(2) of the United States Housing Act of 1937 (other than assistance under the Stewart B. McKinney Homeless Assistance Act of 1988 (as in effect on the date of the enactment of this sentence))."

(B) CONFORMING AMENDMENT.—Paragraph (1) of section 42(b) is amended by striking the last sentence.

(6) AFDC RECIPIENT STUDENTS NOT TO DISQUALIFY UNIT.—Subparagraph (D) of section 42(i)(3) is amended to read as follows:

"(D) CERTAIN STUDENTS NOT TO DISQUALIFY UNIT.—A unit shall not fail to be treated as a low-income unit merely because it is occupied by an individual who is—

"(i) a student and receiving assistance under title IV of the Social Security Act, or

"(ii) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws."

(7) PASSIVE LOSS RULES NOT TO APPLY TO REHABILITATION CREDIT WITH RESPECT TO LOW-INCOME CREDIT BUILDING.—

(A) Subparagraph (C) of section 469(i)(3) is amended—

(i) by inserting before the period "or which is attributable to the rehabilitation investment credit (within the meaning of section 48(o)) with respect to a building for which a credit is determined under section 42 for such year", and

(ii) by striking "CREDIT" in the heading and inserting "CREDIT AND FOR REHABILITATION CREDIT ON LOW-INCOME CREDIT BUILDING".

(B) Subparagraph (B) of section 469(i)(3) is amended by striking "In the case" and inserting "Except as provided in subparagraph (C), in the case".

(8) INTERMEDIARY COSTS CONSIDERED AT EVALUATION STAGE.—

(A) IN GENERAL.—Subparagraph (B) of section 42(m)(2) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", and", and by adding at the end thereof the following:

"(iii) the percentage of the housing credit dollar amount used for project costs other than the cost of intermediaries.

Clause (iii) shall not be applied so as to impede the development of projects in hard-to-develop areas."

(B) CONFORMING AMENDMENT.—Subparagraph (B) of section 42(m)(1) is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(9) 10-YEAR RULE NOT TO APPLY TO ACQUISITION OF CERTAIN SINGLE-FAMILY RESIDENCES.—Clause (ii) of section 42(d)(2)(D) is amended by striking "or" at the end of subclause (III), by striking the period at the end of subclause (IV) and inserting ", or", and by adding at the end thereof the following new subclause:

"(V) of a single-family residence by any individual who owned and used such residence for no other purpose than as his principal residence."

(10) APPLICATION OF NONPROFIT SET-ASIDE.—Section 42(h)(5) is amended—

(A) by inserting "own an interest in the project (directly or through a partnership) and" after "nonprofit organization is to" in subparagraph (B),

(B) by striking "and" at the end of clause (i) of subparagraph (C), by redesignating clause (ii) of such subparagraph as clause (iii), and by inserting after clause (i) of such subparagraph the following new clause:

"(ii) such organization is determined by the State housing credit agency not to be affiliated with or controlled by a for-profit organization; and", and

(C) by inserting "ownership and" before "material participation" in subparagraph (D).

(11) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by this subsection shall apply to—

(i) determinations under section 42 of the Internal Revenue Code of 1986 with respect to housing credit dollar amounts allocated from State housing credit ceilings for calendar years after 1990, or

(ii) buildings placed in service after December 31, 1990, to the extent paragraph (1) of section 42(h) of such Code does not apply

to any building by reason of paragraph (4) thereof.

(B) TENANT RIGHTS, ETC.—The amendments made by paragraphs (1), (6), and (9) shall take effect on the date of the enactment of this Act.

(C) MONITORING.—With respect to the amendment made by paragraph (2), subparagraph (A) of this paragraph shall apply by substituting "1991" for "1990" each place it appears.

(D) PASSIVE LOSS.—

(i) Except as provided in clause (ii), the amendments made by paragraph (7) shall apply to property placed in service after December 31, 1990, in taxable years ending after such date.

(ii) In the case of a taxpayer who holds an indirect interest in property described in clause (i), the amendments made by paragraph (7) shall apply only if such interest is acquired after December 31, 1990.

SEC. 7108. QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 143(a)(1) (defining qualified mortgage bond) is amended by striking "September 30, 1990" each place it appears and inserting "December 31, 1991".

(b) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 (relating to interest on certain home mortgages) is amended by striking "September 30, 1990" and inserting "December 31, 1991".

(c) RECAPTURE PROVISION.—Paragraph (3)(A) of section 4005(h) of the Technical and Miscellaneous Revenue Act of 1988 (relating to effective dates) is amended by striking "1990" and inserting "1991".

(d) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after September 30, 1990.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after September 30, 1990.

SEC. 7109. QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) (relating to termination dates) is amended by striking "September 30, 1990" and inserting "December 31, 1991".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after September 30, 1990.

SEC. 7110. HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "September 30, 1990" and inserting "December 31, 1991".

(b) CONFORMING AMENDMENT.—Subsection (a) of section 7107 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 7111. EXPENSES FOR DRUGS FOR RARE CONDITIONS.

(a) IN GENERAL.—Subsection (e) of section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking "December 31, 1990" and inserting "December 31, 1991".

(b) CONFORMING AMENDMENT.—Section 28(b)(1) is amended by striking subparagraph (D).

Subtitle B—Tax Incentives

PART I—ENERGY INCENTIVES

SEC. 7201. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM NONCONVENTIONAL SOURCE.

(a) CREDIT MADE PERMANENT.—Section 29(f)(1) of the Internal Revenue Code of 1986 (relating to application of section) is amended—

(1) by striking "and before January 1, 1991," in clauses (i) and (ii) of subparagraph (A), and

(2) by striking ", and before January 1, 2001" in subparagraph (B).

(b) MODIFICATION WITH RESPECT TO GAS FROM TIGHT FORMATIONS.—

(1) IN GENERAL.—Subparagraph (B) of section 29(c)(2) of such Code is amended to read as follows:

"(B) SPECIAL RULES FOR GAS FROM TIGHT FORMATIONS.—The term 'gas produced from a tight formation' shall only include gas from a tight formation—

"(i) which, as of April 20, 1977, was committed or dedicated to interstate commerce (as defined in section 2(18) of the Natural Gas Policy Act of 1978, as in effect on the date of the enactment of this clause), or

"(ii) which is produced from a well drilled after such date of enactment."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to gas produced after December 31, 1990.

SEC. 7202. CREDIT FOR SMALL PRODUCERS OF ETHANOL; MODIFICATION OF ALCOHOL FUELS CREDIT.

(a) ALLOWANCE OF CREDIT.—Section 40(a) (relating to alcohol used as fuel) is amended—

(1) by striking the end period in paragraph (2) and inserting ", plus", and

(2) by adding at the end thereof the following new paragraph:

"(3) in the case of an eligible small ethanol producer, the small ethanol producer credit."

(b) SMALL ETHANOL PRODUCER CREDIT.—Subsection (b) of section 40 is amended—

(1) by redesignating paragraph (4) as paragraph (5),

(2) by inserting after paragraph (3) the following new paragraph:

"(4) SMALL ETHANOL PRODUCER CREDIT.—

"(A) IN GENERAL.—The small ethanol producer credit of any eligible small ethanol producer for any taxable year is 10 cents for each gallon of qualified ethanol fuel production of such producer.

"(B) QUALIFIED ETHANOL FUEL PRODUCTION.—For purposes of this paragraph, the term 'qualified ethanol fuel production' means any alcohol which is ethanol which is produced by an eligible small ethanol producer, and which during the taxable year—

"(i) is sold by such producer to another person—

"(I) for use by such other person in the production of a qualified mixture in such other person's trade or business (other than casual off-farm production),

"(II) for use by such other person as a fuel in a trade or business, or

"(III) who sells such ethanol at retail to another person and places such ethanol in the fuel tank of such other person, or

"(ii) is used or sold by such producer for any purpose described in clause (i).

"(C) LIMITATION.—The qualified ethanol fuel production of any producer for any taxable year shall not exceed 15,000,000 gallons.

"(D) ADDITIONAL DISTILLATION EXCLUDED.—The qualified ethanol fuel production of any producer for any taxable year shall not include any alcohol which is purchased by the producer and with respect to which such person increases the proof of the alcohol by additional distillation."; and

(3) by striking "AND ALCOHOL CREDIT" in the heading for such subsection and inserting ", ALCOHOL CREDIT, AND SMALL ETHANOL PRODUCER CREDIT".

(c) DEFINITIONS AND SPECIAL RULES FOR ELIGIBLE SMALL ETHANOL PRODUCER CREDIT.—Section 40 is amended by adding at the end thereof the following new subsection:

"(g) DEFINITIONS AND SPECIAL RULES FOR ELIGIBLE SMALL ETHANOL PRODUCER CREDIT.—For purposes of this section—

"(1) ELIGIBLE SMALL ETHANOL PRODUCER.—The term 'eligible small ethanol producer' means a person who, at all times during the taxable year, has a productive capacity for alcohol (as defined in subsection (d)(1)(A) without regard to clauses (i) and (ii)) not in excess of 20,000,000 gallons.

"(2) AGGREGRATION RULE.—For purposes of the 15,000,000 gallon limitation under subsection (b)(4)(C) and the 20,000,000 gallon limitation under paragraph (1), all members of the same controlled group of corporations (within the meaning of section 267(f)) and all persons under common control (within the meaning of section 52(b) but determined by treating a 50 percent or greater interest as a controlling interest) shall be treated as 1 person.

"(3) PARTNERSHIP, S CORPORATIONS, AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, the limitations contained in subsection (b)(4)(C) shall be applied at the entity level and at the partner or similar level.

"(4) ALLOCATION.—For purposes of this subsection, in the case of a facility in which more than 1 person has an interest, productive capacity shall be allocated among such persons in the same manner as production is allocated.

"(5) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary—

"(A) to prevent the credit provided for in subsection (a)(3) from directly or indirectly benefiting any person with a direct or indirect productive capacity of more than 20,000,000 gallons of alcohol during the taxable year, or

"(B) to prevent any person from directly or indirectly benefiting with respect to more than 15,000,000 gallons during the taxable year."

(d) ALCOHOL NOT USED AS FUEL.—

(1) IN GENERAL.—Section 40(d)(3) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) PRODUCER CREDIT.—If—

"(i) any credit was determined under this section, and

"(ii) any person does not use such fuel for a purpose described in subsection (b)(4)(B), then there is hereby imposed on such person a tax equal to 10 cents a gallon for each gallon of such alcohol."

(2) CONFORMING AMENDMENT.—Section 40(d)(3)(D), as redesignated by paragraph (1), is amended by striking "subparagraph (A) or (B)" and inserting "subparagraph (A), (B), or (C)".

(e) REDUCED CREDIT FOR ETHANOL BLENDERS.—

(1) IN GENERAL.—Section 40, as amended by subsection (c), is amended by adding at the end thereof the following new subsection:

"(h) REDUCED CREDIT FOR ETHANOL BLENDERS.—In the case of any alcohol mixture credit or alcohol credit with respect to any alcohol which is ethanol—

"(1) subsections (b)(1)(A) and (b)(2)(A) shall be applied by substituting '55 cents' for '60 cents';

"(2) subsection (b)(3) shall be applied by substituting '40 cents' for '45 cents' and '55 cents' for '60 cents'; and

"(3) subparagraphs (A) and (B) of subsection (d)(3) shall be applied by substituting '55 cents' for '60 cents' and '40 cents' for '45 cents'."

(2) CONFORMING AMENDMENT.—Section 40(b) is amended by inserting ", and except as provided in subsection (h)" in the matter preceding paragraph (1) thereof.

(f) TERMINATION.—Subsection (e) of section 40 is amended to read as follows:

"(e) TERMINATION.—

"(1) IN GENERAL.—This section shall not apply to any sale or use—

"(A) for any period after December 31, 2000, or

"(B) for any period before January 1, 2001, during which the Highway Trust Fund financing rate under section 4081(a)(2) is not in effect.

"(2) NO CARRYOVERS TO CERTAIN YEARS AFTER EXPIRATION.—If this section ceases to apply for any period by reason of paragraph (1), no amount attributable to any sales or uses before the first day of such period may be carried under section 39 by reason of this section (treating the amount allowed by reason of this section as the first amount allowed by this subpart) to any taxable year beginning after the second taxable year beginning after the taxable year in which such first day occurs."

(g) CONFORMING AMENDMENTS TO TARIFF SCHEDULE.—

(1) Heading 9901.00.50 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended—

(A) by striking "15.85¢" each place it appears and inserting "14.53¢", and

(B) by striking out the date in the effective period column and inserting "Before 10/1/2000, except that the rate for articles described in this heading shall not apply during any period before 10/1/2000 during which the Highway Trust Fund financing rate under section 4081(a)(2) of the Internal Revenue Code of 1986 is not in effect."

(2) Heading 9901.00.52 of the Harmonized Tariff Schedule of the United States is amended by striking out "The earlier of 12/31/92, or the date on which Treasury regulation § 1.40-1 is withdrawn or declared invalid." in the effective period column and inserting: "Before the earlier of 10/1/2000, or the date on which Treas. Reg. § 1.40-1 is withdrawn or declared invalid, except that the rate for articles described in this heading shall not apply during any period before 10/1/2000 during which the Highway Trust Fund financing rate under section 4081(a)(2) of the Internal Revenue Code of 1986 is not in effect."

(h) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to alcohol produced, and sold and used, in taxable years beginning after December 31, 1990.

(2) The amendments made by subsection (g) shall apply to articles entered or withdrawn from warehouse on or after January 1, 1991.

SEC. 7203. TAX CREDIT TO INCREASE DOMESTIC ENERGY EXPLORATION AND PRODUCTION.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to general business credits) is amended by adding at the end thereof the following new section:

"SEC. 43. DOMESTIC ENERGY EXPLORATION AND PRODUCTION CREDIT.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for any taxable year an amount equal to 15 percent of the sum of—

"(1) the qualified enhanced oil recovery costs, plus

"(2) the qualified exploratory costs,

of the taxpayer for such taxable year.

"(b) PHASE-OUT OF CREDIT AS CRUDE OIL PRICES INCREASE.—

"(1) IN GENERAL.—The amount of the credit allowable under subsection (a) shall be reduced by an amount which bears the same ratio to the amount of such credit (determined without regard to this paragraph) as—

"(A) the amount by which the reference price for the calendar year preceding the calendar year in which the taxable year begins exceeds $28, bears to

"(B) $6.

"(2) REFERENCE PRICE.—For purposes of this subsection, the term 'reference price' means, with respect to any calendar year, the reference price determined for such calendar year under section 29(d)(2)(C).

"(3) INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—The $28 amount under paragraph (1)(A) for any taxable year beginning in a calendar year after 1991 shall be equal to the product of—

"(i) $28, multiplied by

"(ii) the inflation adjustment factor for such calendar year.

"(B) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to any calendar year, a fraction the numerator of which is the GNP implicit price deflator for the preceding calendar year and the denominator of which is the GNP implicit price deflator for 1990. For purposes of the preceding sentence, the term 'GNP implicit price deflator' means the first revision of the implicit price deflator for the gross national product as computed and published by the Secretary of Commerce. Not later than April 1 of any calendar year, the Secretary shall publish the inflation adjustment factor for the preceding calendar year.

"(4) CARRYBACKS AND CARRYFORWARDS.—This subsection shall not apply to any carryback or carryforward to the taxable year under section 39.

"(c) QUALIFIED COSTS.—For purposes of this section—

"(1) QUALIFIED ENHANCED OIL RECOVERY COSTS.—

"(A) IN GENERAL.—The term 'qualified enhanced oil recovery costs' means any of the following:

"(i) Any amount paid or incurred during the taxable year for tangible property—

"(I) which is an integral part of a qualified enhanced oil recovery project, and

"(II) with respect to which depreciation (or amortization in lieu of depreciation) is allowable under this chapter.

"(ii) Any intangible drilling and development costs—

"(I) which are paid or incurred in connection with a qualified enhanced oil recovery project, and

"(II) with respect to which the taxpayer may make an election under section 263(c) for the taxable year.

"(iii) Any qualified tertiary injectant expenses which are paid or incurred in connection with a qualified enhanced oil recovery project and for which a deduction is allowable under section 193 for the taxable year.

"(B) QUALIFIED ENHANCED OIL RECOVERY PROJECT.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified enhanced oil recovery project' means any project—

"(I) which involves the application (in accordance with sound engineering principles) of 1 or more tertiary recovery methods (as defined in section 193(b)(3)) which can reasonably be expected to result in more than an insignificant increase in the amount of crude oil which will ultimately be recovered,

"(II) which is located within the United States (within the meaning of section 638(1)), and

"(III) with respect to which the date on which the injection of liquids, gases, or other matter first begins is after December 31, 1990.

"(ii) CERTIFICATION.—A project shall not be treated as a qualified enhanced oil recovery project unless the operator submits to the Secretary (at such times and in such manner as the Secretary provides) a certification from a petroleum engineer that the project meets (and continues to meet) the requirements of clause (i).

"(C) AT-RISK LIMITATION.—For purposes of determining qualified enhanced oil recovery costs, rules similar to the rules of section 46(c)(8), section 46(c)(9), and section 47(d)(1) shall apply.

"(2) QUALIFIED EXPLORATORY COSTS.—

"(A) IN GENERAL.—The term 'qualified exploratory costs' means intangible drilling and development costs of a taxpayer other than an integrated oil company which—

"(i) the taxpayer may elect to deduct as expenses under section 263(c), and

"(ii) are paid or incurred in connection with the drilling of an exploratory well located in the United States (within the meaning of section 638(1)).

"(B) EXPLORATORY WELL.—The term 'exploratory well' means any of the following oil or gas wells:

"(i) An oil or gas well which is completed (or if not completed, with respect to which drilling operations cease) before the completion of any other well which—

"(I) is located within 1.25 miles from the well, and

"(II) is capable of production in commercial quantities,

"(ii) An oil or gas well which is not described in clause (i) but which has a completion depth which is at least 800 feet below the deepest completion depth of any well within 1.25 miles which is capable of production in commercial quantities.

"(iii) An oil or gas well which is not described in clause (i) or (ii) but which is completed into a new reservoir.

A well shall not be treated as an exploratory well unless the operator submits to the Secretary (at such time and in such manner as the Secretary may provide) a certification from a petroleum engineer that the well is described in one of the preceding clauses.

"(C) CERTAIN COSTS NOT INCLUDED.—The term 'qualified exploratory costs' shall not include any cost paid or incurred—

"(i) in constructing, acquiring, transporting, erecting, or installing an offshore platform, or

"(ii) after the installation of the production string of casing begins.

"(D) INTEGRATED OIL COMPANY.—For purposes of this paragraph, the term 'integrated oil company' means, with respect to any taxable year, any producer of crude oil to whom subsection (c) of section 613A does not apply by reason of paragraph (2) or (4) of section 613A(d).

"(e) OTHER RULES.—

"(1) DISALLOWANCE OF DEDUCTION.—Any deduction allowable under this chapter for any costs taken into account in computing the amount of the credit allowed under sub-

section (a) shall be reduced by the amount of such credit attributable to such costs.

"(2) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed."

(b) ADDITION TO GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Section 38(b) (defining current year business credit) is amended by striking "plus" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", plus", and by adding at the end thereof the following new paragraph:

"(6) the domestic energy exploration and production credit under section 43(a)."

(2) CARRYBACKS.—Section 39(d) is amended by adding at the end thereof the following new paragraph:

"(5) NO CARRYBACK OF ENERGY EXPLORATION AND PRODUCTION CREDIT BEFORE 1991.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 43 (relating to domestic energy exploration and production credit) may be carried to a taxable year beginning before January 1, 1991."

(c) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 43. Domestic energy exploration and production credit."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 1990.

(2) SPECIAL RULE FOR SIGNIFICANT EXPANSION OF PROJECTS.—For purposes of section 43(c)(1)(B)(i)(III) of the Internal Revenue Code of 1986 (as added by subsection (a)), any significant expansion after December 31, 1990, of a project begun before January 1, 1991, shall be treated as a new project begun after December 31, 1990.

SEC. 7204. PERCENTAGE DEPLETION PERMITTED AFTER TRANSFER OF PROVEN PROPERTY.

(a) IN GENERAL.—Subsection (c) of section 613A (relating to limitations on percentage depletion in the case of oil and gas wells) is amended by striking paragraphs (9) and (10) and by redesignating paragraphs (11), (12), and (13) as paragraphs (9), (10), and (11), respectively.

(b) TECHNICAL AMENDMENT.—Paragraph (11) of section 613A(c), as redesignated by subsection (a), is amended by striking subparagraphs (C) and (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after October 11, 1990.

SEC. 7205. NET INCOME LIMITATION ON PERCENTAGE DEPLETION INCREASED FROM 50 PERCENT TO 100 PERCENT OF PROPERTY NET INCOME FOR OIL AND NATURAL GAS WELLS.

(a) IN GENERAL.—The second sentence of subsection (a) of section 613 (relating to percentage depletion) is amended by inserting "(100 percent in the case of oil and gas properties)" after "50 percent".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 613A(c)(7) is amended by striking "50-percent" and inserting "taxable income".

(2) Section 614(d) is amended by striking "50 percent" and inserting "taxable income".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7206. INCREASE IN PERCENTAGE DEPLETION ALLOWANCE FOR MARGINAL PRODUCTION.

(a) IN GENERAL.—Paragraph (6) of section 613A(c) is amended to read as follows:

"(6) OIL AND NATURAL GAS RESULTING FROM MARGINAL PRODUCTION.—

"(A) IN GENERAL.—Except as provided in subsection (d) and subparagraph (B), the allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to—

"(i) so much of the taxpayer's average daily marginal production of domestic crude oil as does not exceed the taxpayer's depletable oil quantity (determined without regard to paragraph (3)(A)(ii)), and

"(ii) so much of the taxpayer's average daily marginal production of domestic natural gas as does not exceed the taxpayer's depletable natural gas quantity (determined without regard to paragraph (3)(A)(ii)),

and the applicable percentage shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of that section.

"(B) ELECTION TO HAVE PARAGRAPH APPLY TO PRO RATA PORTION OF MARGINAL PRODUCTION.—If the taxpayer elects to have this subparagraph apply for any taxable year, the rules of subparagraph (A) shall apply to the average daily marginal production of domestic crude oil or domestic natural gas of the taxpayer to which paragraph (1) would have applied without regard to this paragraph.

"(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term 'applicable percentage' means the percentage (not greater than 25 percent) equal to the sum of—

"(i) 15 percent, plus

"(ii) 1 percentage point for each whole dollar by which $20 exceeds the reference price for crude oil for the calendar year preceding the calendar year in which the taxable year begins.

For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year, the reference price determined for such calendar year under section 29(d)(2)(C).

"(D) MARGINAL PRODUCTION.—The term 'marginal production' means domestic crude oil or domestic natural gas which is—

"(i) produced during any taxable year from a well which is a stripper well for the calendar year in which the taxable year begins, or

"(ii) heavy oil.

"(E) STRIPPER WELL.—For purposes of this paragraph, the term 'stripper well' means, with respect to any calendar year, any well with respect to which the average daily production of domestic crude oil or domestic natural gas during such calendar year is 15 barrel equivalents or less.

"(F) HEAVY OIL.—For purposes of this paragraph, the term 'heavy oil' means domestic crude oil produced from any property if such crude oil had a weighted average gravity of 20 degrees API or less (corrected to 60 degrees Fahrenheit).

"(G) AVERAGE DAILY MARGINAL PRODUCTION.—For purposes of this subsection—

"(i) the taxpayer's average daily marginal production of domestic crude oil or natural gas for any taxable year shall be determined by dividing the taxpayer's aggregate marginal production of domestic crude oil or natural gas, as the case may be, during the taxable year by the number of days in such taxable year, and

"(ii) in the case of a taxpayer holding a partial interest in the production from any property (including any interest held in any partnership), such taxpayer's production shall be considered to be that amount of such production determined by multiplying the total production of such property by the taxpayer's percentage participation in the revenues from such property.

"(H) ALLOCATION OF INCOME AND DEDUCTIONS.—For purposes of applying any limitation based on taxable income from a property—

"(i) such limitation shall be applied separately with respect to marginal production and other production, and

"(ii) items of income deductions (and other appropriate items) shall be allocated to such production in proportion to gross income during the taxable year from such production."

(b) CONFORMING AMENDMENTS.—Section 613A(c)(3)(A) is amended—

(1) by striking clause (ii) and inserting:

"(ii) except in the case of a taxpayer making an election under paragraph (6)(B), the taxpayer's average daily marginal production for the taxable year.", and

(2) by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7207. SPECIAL ENERGY DEDUCTION FOR MINIMUM TAX.

(a) IN GENERAL.—Section 56 (relating to adjustments in computing alternative minimum taxable income) is amended by adding at the end thereof the following new subsection:

"(h) ADJUSTMENT BASED ON ENERGY PREFERENCES.—

"(1) IN GENERAL.—In computing the alternative minimum taxable income of any taxpayer other than an integrated oil company for any taxable year beginning after 1990, there shall be allowed as a deduction an amount equal to the lesser of—

"(A) the alternative tax energy preference deduction, or

"(B) 40 percent of alternative minimum taxable income determined without regard to the deduction allowable under this subsection and the alternative tax net operating loss deduction under subsection (a)(4).

"(2) PHASE-OUT OF DEDUCTION AS OIL PRICES INCREASE.—The amount of the deduction under paragraph (1) (determined without regard to this paragraph) shall be reduced (but not below zero) by the amount which bears the same ratio to such amount as—

"(A) the excess of the reference price of crude oil for the calendar year preceding the calendar year in which the taxable year begins over $28, bears to

"(B) $6.

For purposes of this paragraph, the reference price for any calendar year shall be determined under section 29(d)(3)(C) and the $28 amount under subparagraph (A) shall be adjusted at the same time and in the same manner as under section 43(b)(3).

"(3) ALTERNATIVE TAX ENERGY PREFERENCE DEDUCTION.—For purposes of paragraph (1), the term 'alternative tax energy preference deduction' means an amount equal to the sum of—

"(A) in the case of the intangible drilling cost preference, an amount equal to the sum of—

"(i) 75 percent of the portion of such preference attributable to qualified exploratory costs, plus

"(ii) 15 percent of the excess (if any) of—

"(I) such preference, over

"(II) the portion of such preference attributable to qualified exploratory costs, plus

"(B) 50 percent of the marginal production depletion preference.

"(4) INTANGIBLE DRILLING COST PREFERENCE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'intangible drilling cost preference' means the amount by which alternative minimum taxable income would be reduced if it were computed without regard to section 57(a)(2) and subsection (g)(4)(D)(i).

"(B) PORTION ATTRIBUTABLE TO QUALIFIED EXPLORATORY COSTS.—For purposes of subparagraph (A), the portion of the intangible drilling cost preference attributable to qualified exploratory costs is an amount which bears the same ratio to the intangible drilling cost preference as—

"(i) the qualified exploratory costs of the taxpayer for the taxable year, bear to

"(ii) the total intangible drilling and development costs with respect to which the taxpayer may make an election under section 263(c) for the taxable year.

"(5) MARGINAL PRODUCTION DEPLETION PREFERENCE.—For purposes of this subsection, the term 'marginal production depletion preference' means the amount by which alternative minimum taxable income would be reduced if it were computed as if section 57(a)(1) and subsection (g)(4)(G) did not apply to any allowance for depletion determined under section 613A(c)(6).

"(6) DEFINITIONS.—For purposes of this subsection, any term used in this subsection which is also used in section 43 shall have the same meaning as when used in such section.

"(7) REGULATIONS.—The Secretary may by regulation provide for appropriate adjustments in computing taxable income, alternative minimum taxable income, or adjusted current earnings for any taxable year following a taxable year for which a deduction was allowed under this subsection to ensure that no double benefit is allowed by reason of such deduction."

(b) CONFORMING AMENDMENTS.—

(1) Section 56(d)(1)(A) is amended to read as follows:

"(A) the amount of such deduction shall not exceed the excess (if any) of—

"(i) 90 percent of alternative minimum taxable income determined without regard to such deduction and the deduction under subsection (h), over

"(ii) the deduction under subsection (h), and".

(2) Section 59(a)(2)(A)(ii) is amended by inserting "and the alternative tax energy preference deduction under section 56(h)" after "deduction".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7208. REDUCE POLLUTION AND DEPENDENCE ON FOREIGN OIL

(a) FINDINGS.—The Congress finds and declares that—

(1) in order to have a comprehensive program to reduce pollution and reduce our dependence on foreign oil, it is important to coordinate programs relating to the production of automobiles and the production of fuels;

(2) the achievement of long-term energy security for the United States is essential to the health of the national economy, the well-being of our citizens, and the maintenance of national security;

(3) the displacement of energy derived from imported oil with alternative fuels will help to achieve energy security and improve air quality;

(4) transportation uses account for more than 60 percent of the oil consumption of the Nation; and

(5) the Nation's security, economic, and environmental interests require that the Federal Government should assist clean-burning, nonpetroleum transportation fuels to reach a threshold level of commercial application and consumer acceptability at which they can successfully compete with petroleum based fuels.

SEC. 7208A. RESOLUTION.

It is the sense of the Senate that it is in the national interest to enhance energy security and promote environmental protection through the gradual replacement of gasoline with cleaner, domestic nonpetroleum energy sources, and

The Secretary of Energy should analyze the potential of, and report to Congress on, the technical feasibility of replacing, by 1998 and 2005, ten per cent and thirty per cent respectively, of our national transportation fuel with alternative and other domestic sources of energy.

PART II—SMALL BUSINESS INCENTIVES

Subpart A—Treatment of Estate Tax Freezes

SEC. 7209. REPEAL OF SECTION 2036(c).

(a) IN GENERAL.—Section 2036 (relating to transfers with retained life estate) is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(b) CONFORMING AMENDMENTS.—

(1) Section 2207B is amended—

(A) by striking subsection (b) and redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively,

(B) by striking "subsections (a) and (b)" in subsection (c) (as so redesignated) and inserting "subsection (a)", and

(C) by striking "subsections (a), (b), and (c)" in subsection (c) (as so redesignated) and inserting "subsections (a) and (b)".

(2) Section 2501(d) is amended by striking paragraph (3).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of property transferred after December 17, 1987.

SEC. 7210. SPECIAL VALUATION RULES.

(a) IN GENERAL.—Subtitle B is amended by adding at the end thereof the following new chapter:

"CHAPTER 14—SPECIAL VALUATION RULES

"Sec. 2701. Special valuation rules in case of transfers of certain interests in corporations or partnerships.

"Sec. 2702. Special valuation rules in case of transfers of interests in trusts.

"Sec. 2703. Certain rights and restrictions disregarded.

"Sec. 2704. Treatment of certain restrictions and lapsing rights.

"SEC. 2701. SPECIAL VALUATION RULES IN CASE OF TRANSFERS OF CERTAIN INTERESTS IN CORPORATIONS OR PARTNERSHIPS.

"(a) VALUATION RULES.—

"(1) IN GENERAL.—Solely for purposes of determining whether a transfer of an interest in a corporation or partnership to (or for the benefit of) a member of the transferor's family is a gift (and the value of such transfer), the value of any right which is—

"(A) described in subparagraph (A) or (B) of subsection (c)(1), and

"(B) under any applicable retained interest that is retained by the transferor or an applicable family member immediately after the transfer,

shall be treated as being zero.

"(2) EXCEPTIONS FOR MARKETABLE INTERESTS, ETC.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any right conferred by an applicable retained interest if—

"(i) market quotations are readily available (as of the date of the transfer) for such interest on an established securities market,

"(ii) such interest is of the same class as the transferred interest,

"(iii) such interest would be of the same class as the transferred interest but for nonlapsing differences in voting power (or, in the case of an interest in a partnership, nonlapsing differences with respect to management and limitations on liability), or

"(iv) such interest is proportionally the same as the transferred interest with respect to all rights other than voting power.

Clause (iii) shall not apply to any interest in a partnership if the transferor or an applicable family member has the right to alter the liability of the transferee of the transferred property. Except as provided by the Secretary, any difference described in clause (iii) which lapses by reason of State law shall be treated as a nonlapsing difference for purposes of such clause.

"(B) CUMULATIVE DISTRIBUTION RIGHTS.—Paragraph (1) shall not apply to a distribution right with respect to which the distributions are cumulative and which has a preference upon liquidation, except that for purposes of determining the value of the retained interest to which such right relates, the determination as to whether the cumulative distributions can reasonably be expected to be timely paid shall be made without regard to whether the person retaining the interest possesses control over the entity.

"(3) MINIMUM VALUATION OF JUNIOR EQUITY.—

"(A) IN GENERAL.—In the case of a transfer described in paragraph (1) of a junior equity interest in a corporation or partnership, such interest shall in no event be valued at an amount less than the value which would be determined if the total value of all of the junior equity interests in the entity were equal to 10 percent of the sum of—

"(i) the total value of all of the equity interests in such entity, plus

"(ii) the total amount of indebtedness of such entity to the transferor (or an applicable family member).

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) JUNIOR EQUITY INTEREST.—The term 'junior equity interest' means common stock or, in the case of a partnership, any partnership interest under which the rights as to income and capital are junior to the rights retained by the transferor.

"(ii) EQUITY INTEREST.—The term 'equity interest' means stock or any interest as a partner, as the case may be.

"(4) EXCEPTION FOR MARKETABLE TRANSFERRED INTERESTS.—This subsection shall not apply to the transfer of any interest in an entity if market quotations are readily available (as of the date of the transfer) for such interest on an established securities market.

"(b) TRANSFER TAX TREATMENT OF CUMULATIVE BUT UNPAID DISTRIBUTIONS.—

"(1) IN GENERAL.—If a taxable event occurs with respect to any distribution right to which subsection (a)(1) does not apply by

reason of subsection (a)(2)(B), the following shall be increased by the amount determined under paragraph (2):

"(A) The taxable estate of the transferor in the case of a taxable event described in paragraph (3)(A)(i).

"(B) The taxable gifts of the transferor for the calendar year in which the taxable event occurs in the case of a taxable event described in paragraph (3)(A) (ii) or (iii).

"(2) AMOUNT OF INCREASE.—

"(A) IN GENERAL.—The amount of the increase determined under this paragraph shall be the excess (if any) of—

"(i) the value of the distributions payable during the period beginning on the date of the transfer under subsection (a)(1) and ending on the date of the taxable event determined as if—

"(I) all such distributions were paid on the date payment was due, and

"(II) all such distributions were reinvested by the transferor as of the date of payment at a yield equal to the discount rate used in determining the value of the applicable retained interest described in subsection (a)(1), over

"(ii) the value of the distributions paid during such period computed under clause (i) on the basis of the time when such distributions were actually paid.

"(B) LIMITATION ON AMOUNT OF INCREASE.—

"(i) IN GENERAL.—The amount of the increase under subparagraph (A) shall not exceed the applicable percentage of the excess (if any) of—

"(I) the value of the junior equity interests in the entity (determined as of the date of the taxable event), over

"(II) the value of such interests (determined as of the date of the transfer to which subsection (a)(1) applies).

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is the percentage determined by dividing—

"(I) the fair market value of the interests in the entity (other than junior equity interests) held by the transferor (determined as of the date of the taxable event), by

"(II) the fair market value of all interests in the entity other than junior equity interests (determined as of such time).

"(iii) DEFINITIONS.—For purposes of this subparagraph, the terms 'junior equity interest' and 'equity interest' have the meanings given such terms by subsection (a)(3)(B).

"(C) GRACE PERIOD.—For purposes of subparagraph (A), any payment of any distribution during the 4-year period beginning on its due date shall be treated as having been made on such due date.

"(3) TAXABLE EVENTS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'taxable event' means any of the following:

"(i) The death of the transferor if the applicable retained interest conferring the distribution right is includible in the estate of the transferor.

"(ii) The transfer of such applicable retained interest.

"(iii) At the election of the taxpayer, the payment of any distribution after the period described in paragraph (2)(C), but only with respect to the period ending on the date of such payment.

"(B) EXCEPTION WHERE SPOUSE IS TRANSFEREE.—

"(i) DEATHTIME TRANSFERS.—Subparagraph (A)(i) shall not apply to any interest includible in the gross estate of the transferor if a deduction with respect to such interest is allowable under section 2056 or 2106(a)(3).

"(ii) LIFETIME TRANSFERS.—A transfer to the spouse of the transferor shall not be treated as a taxable event under subparagraph (A)(ii) if such transfer does not result in a taxable gift by reason of—

"(I) any deduction allowed under section 2523, or

"(II) consideration for the transfer provided by the spouse.

"(iii) SPOUSE SUCCEEDS TO TREATMENT OF TRANSFEROR.—If an event is not treated as a taxable event by reason of this subparagraph, the transferee spouse or surviving spouse (as the case may be) shall be treated in the same manner as the transferor in applying this subsection with respect to the interest involved.

"(4) SPECIAL RULES FOR APPLICABLE FAMILY MEMBERS.—

"(A) FAMILY MEMBER TREATED IN SAME MANNER AS TRANSFEROR.—For purposes of this subsection, an applicable family member shall be treated in the same manner as the transferor with respect to any distribution right retained by such family member to which subsection (a)(1) does not apply by reason of subsection (a)(2)(B).

"(B) TRANSFER TO APPLICABLE FAMILY MEMBER.—In the case of a taxable event described in paragraph (3)(A)(ii) involving the transfer of an applicable retained interest to an applicable family member, the applicable family member (other than the spouse of the transferor) shall be treated in the same manner as the transferor in applying this subsection to distributions accumulating with respect to such interest after such taxable event.

"(5) TRANSFER TO INCLUDE TERMINATION.—For purposes of this subsection, any termination of an interest shall be treated as a transfer.

"(c) APPLICABLE RETAINED INTERESTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'applicable retained interest' means any interest in an entity which confers—

"(A) a distribution right, but only if, immediately after the transfer described in subsection (a)(1), the transferor and applicable family members hold (after application of subsection (e)(3)) interests in such entity representing control of the entity, or

"(B) a liquidation, put, call, or conversion right.

"(2) CONTROL.—For purposes of paragraph (1)—

"(A) CORPORATIONS.—In the case of a corporation, the term 'control' means the holding of interests representing at least 50 percent (by vote or value) of the stock of the corporation.

"(B) PARTNERSHIPS.—In the case of a partnership, the term 'control' means—

"(i) the holding of interests representing at least 50 percent of the capital or profits interests in the partnership, or

"(ii) in the case of a limited partnership, the holding of any interest as a general partner.

"(d) DISTRIBUTION AND OTHER RIGHTS.—For purposes of this section—

"(1) DISTRIBUTION RIGHT.—

"(A) IN GENERAL.—The term 'distribution right' means—

"(i) in the case of a corporation, a right to distributions from the corporation with respect to its stock, and

"(ii) in the case of a partnership, a right to distributions from the partnership with respect to the partner's interest in the partnership.

"(B) EXCEPTIONS.—The term 'distribution right' does not include—

"(i) any junior equity interest (as defined in subsection (a)(3)(B)(i)),

"(ii) any liquidation, put, call, or conversion right, or

"(iii) any guaranteed payment described in section 707(c).

"(2) LIQUIDATION, ETC. RIGHTS.—

"(A) IN GENERAL.—The term 'liquidation, put, call, or conversion right' means any liquidation, put, call, or conversion right, or any similar right, the exercise or nonexercise of which affects the value of the transferred interest.

"(B) EXCEPTION FOR FIXED RIGHTS.—The term 'liquidation, put, call, or conversion right' does not include any liquidation, put, call, or conversion right, or any similar right, which must be exercised at a specific time and at a specific amount.

"(C) TREATMENT OF CERTAIN RIGHTS TO CONVERT PREFERRED INTO COMMON.—The term 'liquidation, put, call, or conversion right' does not include any right which—

"(i) is a right to convert into a fixed number (or a fixed percentage) of the same class of interest in a corporation as the transferred interest in such corporation under subsection (a)(1) (or would be of the same class but for nonlapsing differences in voting power),

"(ii) is nonlapsing,

"(iii) is subject to proportionate adjustments for splits, combinations, reclassifications, and similar changes in the capital stock, and

"(iv) is subject to adjustments similar to the adjustments under subsection (b) for accumulated but unpaid distributions.

A rule similar to the rule of the preceding sentence shall apply in the case of partnerships.

"(e) OTHER DEFINITIONS AND RULES.—For purposes of this section—

"(1) MEMBER OF THE FAMILY.—The term 'member of the family' means, with respect to any transferor—

"(A) the transferor's spouse,

"(B) a lineal descendant of the transferor or the transferor's spouse, and

"(C) the spouse of any such descendant.

"(2) APPLICABLE FAMILY MEMBER.—The term 'applicable family member' means, with respect to any transferor—

"(A) the transferor's spouse,

"(B) an ancestor of the transferor or the transferor's spouse, and

"(C) the spouse of any such ancestor.

"(3) ATTRIBUTION RULES.—

"(A) INDIRECT HOLDINGS.—An individual shall be treated as holding any interest to the extent such interest is held indirectly by such person through a corporation, partnership, trust, or other entity. If any individual is treated as holding any interest by reason of the preceding sentence, any transfer which results in such interest being treated as no longer held by such individual shall be treated as a transfer of such interest.

"(B) CONTROL.—For purposes of subsection (c)(1), an individual shall be treated as holding any interest held by a brother or a sister of such individual or by any lineal descendant of such individual.

"(4) EFFECT OF ADOPTION.—A relationship by legal adoption shall be treated as a relationship by blood.

"(5) CERTAIN CHANGES TREATED AS TRANSFERS.—Except as provided in regulations, a redemption, recapitalization, contribution to capital, or other change in the capital structure of a corporation or partnership shall be treated as a transfer of an interest in such entity to which this section applies if the taxpayer or an applicable family member—

"(A) receives an applicable retained interest in such entity pursuant to such redemption, recapitalization, contribution to capital, or other change, or

"(B) under regulations, otherwise holds, immediately after the transfer, an applicable retained interest in such entity.

"(6) ADJUSTMENTS.—Under regulations prescribed by the Secretary, if there is any subsequent transfer, or inclusion in the gross estate, of any interest which was valued under the rules of subsection (a), appropriate adjustments shall be made for purposes of chapter 11 or 12 to reflect the amount of any prior taxable gift made by the transferor or decedent by reason of such valuation.

"SEC. 2702. SPECIAL VALUATION RULES IN CASE OF TRANSFERS OF INTERESTS IN TRUSTS.

"(a) VALUATION RULES.—

"(1) IN GENERAL.—Solely for purposes of determining whether a transfer of an interest in a trust to a member of the transferor's family is a gift (and the value of such transfer), the value of any interest in such trust retained by the transferor or any applicable family member (as defined in section 2701(e)(2)) shall be determined as provided in paragraph (2).

"(2) VALUATION OF RETAINED INTERESTS.—

"(A) IN GENERAL.—The value of any retained interest which is not a qualified interest shall be treated as being zero.

"(B) VALUATION OF QUALIFIED INTEREST.—The value of any retained interest which is a qualified interest shall be determined under section 7520.

"(3) EXCEPTIONS.—

"(A) IN GENERAL.—This subsection shall not apply to any transfer—

"(i) to the extent such transfer is an incomplete transfer, or

"(ii) if such transfer involves the transfer of an interest in a trust all the property in which consists of a personal residence to be used by persons holding term interests in such trust.

"(B) INCOMPLETE TRANSFER.—For purposes of subparagraph (A), the term 'incomplete transfer' means any transfer which would not be treated as a gift whether or not consideration were received for such transfer.

"(b) QUALIFIED INTEREST.—For purposes of this section, the term 'qualified interest' means—

"(1) any interest which consists of the right to receive fixed amounts payable not less frequently than annually,

"(2) any interest which consists of the right to receive amounts which are payable not less frequently than annually and are a fixed percentage of the fair market value of the property in the trust (determined annually), and

"(3) any noncontingent remainder interest if all of the other interests in the trust consist of interests described in paragraph (1) or (2).

"(c) CERTAIN PROPERTY TREATED AS HELD IN TRUST.—For purposes of this section—

"(1) IN GENERAL.—The transfer of an interest in property with respect to which there is 1 or more term interests shall be treated as a transfer of an interest in a trust.

"(2) JOINT PURCHASES.—If 2 or more members of the same family acquire interests in any property described in paragraph (1) in the same transaction (or a series of related transactions), the person (or persons) acquiring the term interests in such property shall be treated as having acquired the entire property and then transferred to the other persons the interests acquired by such other persons in the transaction (or series of transactions). Such transfer shall be treated as made in exchange for the consideration (if any) provided by such other persons for the acquisition of their interests in such property.

"(3) TERM INTEREST.—The term 'term interest' means—

"(A) a life interest in property, or

"(B) an interest in property for a term of years.

"(4) VALUATION RULE FOR CERTAIN TERM INTERESTS.—If the nonexercise of rights under a term interest in tangible property would not have a substantial effect on the valuation of the remainder interest in such property—

"(A) subparagraph (A) of subsection (a)(2) shall not apply to such term interest, and

"(B) the value of such term interest for purposes of applying subsection (a)(1) shall be the amount which the holder of the term interest establishes as the amount for which such interest could be sold to an unrelated third party.

"(d) TREATMENT OF TRANSFERS OF INTERESTS IN PORTION OF TRUST.—In the case of a transfer of an income or remainder interest with respect to a specified portion of the property in a trust, only such portion shall be taken into account in applying this section to such transfer.

"SEC. 2703. CERTAIN RIGHTS AND RESTRICTIONS DISREGARDED.

"(a) GENERAL RULE.—For purposes of this subtitle, the value of any property shall be determined without regard to—

"(1) any option, agreement, or other right to acquire or use the property at a price less than the fair market value of the property (without regard to such option, agreement, or right), or

"(2) any restriction on the right to sell or use such property.

"(b) EXCEPTIONS.—Subsection (a) shall not apply to any option, agreement, right, or restriction which meets each of the following requirements:

"(1) It is a bona fide business arrangement.

"(2) It is not a device to transfer such property to members of the decedent's family for less than full and adequate consideration for money or money's worth.

"(3) Its terms are comparable to similar arrangements entered into by persons in an arms' length transaction.

"SEC. 2704. TREATMENT OF CERTAIN RESTRICTIONS AND LAPSING RIGHTS.

"For purposes of this subtitle, the value of any property shall be determined—

"(1) without regard to any restriction other than a restriction which by its terms will never lapse, and

"(2) in the case of property includible in the gross estate of any decedent other than under section 2039, by assuming that any right which was held by such decedent with respect to such property and which effectively lapsed on the death of such decedent continues and can be exercised by the estate of such decedent."

(b) EXTENSION OF STATUTE OF LIMITATIONS.—Subsection (c) of section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new paragraph:

"(9) GIFT TAX ON CERTAIN GIFTS NOT SHOWN ON RETURN.—If any gift of property the value of which is determined under section 2701 or 2702 (or any increase in taxable gifts required under section 2701(b)) is required to be shown on a return of tax imposed by chapter 12 (without regard to section 2503(b)), and is not shown on such return, any tax imposed by chapter 12 on such gift may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time. The preceding sentence shall not apply to any item not shown as a gift on such return if such item is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item."

(c) CONFORMING AMENDMENT.—The table of chapters for subtitle B is amended by adding at the end thereof the following item:

"CHAPTER 14. SPECIAL VALUATION RULES."

(d) STUDIES.—The Secretary of the Treasury shall conduct a study of—

(1) the prevalence and type of options and agreements used to distort the valuation of property for purposes of subtitle B of the Internal Revenue Code of 1986, and

(2) other methods using discretionary rights to distort the value of property for such purposes.

The Secretary shall, not later than December 31, 1992, report the results of such study, together with such legislative recommendations as the Secretary considers necessary, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(e) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) IN GENERAL.—The amendments made by subsection (a)—

(i) to the extent such amendments relate to sections 2701 and 2702 of the Internal Revenue Code of 1986 (as added by such amendments), shall apply to transfers after October 8, 1990,

(ii) to the extent such amendments relate to section 2703 of such Code (as so added), shall apply to—

(I) agreements, options, rights, or restrictions entered into or granted after October 8, 1990, and

(II) agreements, options, rights, or restrictions which are substantially modified after October 8, 1990, and

(iii) to the extent such amendments relate to section 2704 of such Code (as so added), shall apply to restrictions or rights (or limitations on rights) created after October 8, 1990.

(B) EXCEPTION.—For purposes of subparagraph (A)(i), with respect to property transferred before October 9, 1990—

(i) any failure to exercise a right of conversion,

(ii) any failure to pay dividends, and

(iii) any failure to exercise other rights specified in regulations,

shall not be treated as a subsequent transfer.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to gifts after October 8, 1990.

Subpart B—Additional Incentives

SEC. 7211. INCREASE IN LIMITATION ON EXPENSING UNDER SECTION 179.

(a) GENERAL RULE.—Paragraph (1) of section 179(b) (relating to dollar limitation) is amended by striking "$10,000" and inserting "$14,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1990.

SEC. 7212. CREDIT FOR COST OF PROVIDING NONDISCRIMINATORY PUBLIC ACCOMMODATIONS FOR DISABLED INDIVIDUALS.

(a) GENERAL RULE.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credits, etc.) is amended by adding at the end thereof the following new section:

"SEC. 30. EXPENDITURES TO PROVIDE NONDISCRIMINATORY PUBLIC ACCOMMODATIONS TO DISABLED INDIVIDUALS.

"(a) GENERAL RULE.—If an eligible small business elects to have this section apply to any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to 50 percent of so much of the eligible public accommodations access expenditures for the taxable year as exceed $250 but do not exceed $10,250.

"(b) LIMITATION BASED ON TAX LIABILITY.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and any section in this subpart having a lower number or letter designation than this section, over

"(2) the tentative minimum tax for the taxable year.

"(c) CARRYBACK AND CARRYFORWARD OF UNUSED CREDIT.—

"(1) IN GENERAL.—If the amount of the credit allowable under subsection (a) for any taxable year exceeds the limitation contained in subsection (b) (hereafter in this subsection referred to as the 'unused credit year') such excess shall be—

"(A) a public accommodations credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(B) a public accommodations credit carryforward to each of the 15 taxable years following the unused credit year,

and shall be added to the credit allowable under subsection (a) for such taxable year.

"(2) AMOUNT CARRIED TO EACH YEAR.—

"(A) ENTIRE AMOUNT CARRIED TO FIRST YEAR.—The entire amount of an unused credit year shall be carried to the earliest of the 18 taxable years to which (by reason of paragraph (1)) such credit may be carried.

"(B) AMOUNT CARRIED TO OTHER 17 YEARS.—The amount of the unused credit shall be carried to each of the other 17 taxable years to the extent that such unused credit may not be taken into account under subsection (a) by reason of paragraph (3).

"(3) LIMITATION.—The amount of the unused credit which may be added under paragraph (1) for any taxable year shall not exceed the amount by which the limitation under subsection (b) exceeds the sum of—

"(A) the credit allowable under subsection (a) for such taxable year, plus

"(B) the amounts which, by reason of this subsection, are added to the amount allowed for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(4) TAXABLE YEARS BEFORE DATE OF ENACTMENT.—No public accommodations credit may be carried back to a taxable year ending on or before the date of the enactment of this section.

"(d) ELIGIBLE SMALL BUSINESS.—For purposes of this section, the term 'eligible small business' means a person—

"(1) which has gross receipts for the preceding taxable year not exceeding $4,000,000, or

"(2) in the case of a person with such receipts exceeding $4,000,000, which employs not more than 30 full-time employees during such preceding taxable year.

For purposes of paragraph (2), an employee shall be considered full-time if such employee is employed at least 30 hours per week for 20 or more calendar weeks in the taxable year.

"(e) ELIGIBLE PUBLIC ACCOMMODATIONS ACCESS EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible public accommodations access expenditures' means amounts paid or incurred by the taxpayer—

"(A) for the purpose of removing architectural, communication, or transportation barriers which prevent a public accommodation operated by the taxpayer from being accessible to, or usable by, an individual with a disability, or

"(B) for providing auxiliary aids and services to an individual with a disability who is an employee of, or using, a public accommodation operated by the taxpayer.

"(2) EXPENSES IN CONNECTION WITH NEW CONSTRUCTION ARE NOT ELIGIBLE.—The term 'eligible public accommodations access expenditures' shall not include amounts described in paragraph (1)(A) which are paid or incurred in connection with any facility first placed in service after the date of the enactment of this section.

"(3) EXPENDITURES MUST MEET STANDARDS.—The term 'eligible public accommodations access expenditures' shall not include any amount unless the taxpayer establishes, to the satisfaction of the Secretary, that the resulting removal of any barrier (or the provision of any auxiliary aids and services) meets the standards promulgated by the Secretary with the concurrence of the Architectural and Transportation Barriers Compliance Board and set forth in regulations prescribed by the Secretary.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) DISABILITY, ETC.—The terms 'disability', 'public accommodation', and 'auxiliary aids and services' have the same respective meanings as when used in the Americans With Disabilities Act of 1990 (as in effect on the date of the enactment of this section).

"(2) CONTROLLED GROUPS.—

"(A) IN GENERAL.—All members of the same controlled group of corporations (within the meaning of section 52(a)) and all persons under common control (within the meaning of section 52(b)) shall be treated as 1 person for purposes of this section.

"(B) DOLLAR LIMITATION.—The Secretary shall apportion the dollar limitation under subsection (a) among the members of any group described in subparagraph (A) in such manner as the Secretary shall by regulations prescribe.

"(3) PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership, the limitation under subsection (a) shall apply with respect to the partnership and each partner. A similar rule shall apply in the case of an S corporation and its shareholders.

"(4) SHORT YEARS.—The Secretary shall prescribe such adjustments as may be appropriate for purposes of paragraphs (1) and (2) of subsection (d) if the preceding taxable year is a taxable year of less than 12 months.

"(5) GROSS RECEIPTS.—Gross receipts for any taxable year shall be reduced by returns and allowances made during such year.

"(6) TREATMENT OF PREDECESSORS.—The reference to any person in paragraphs (1) and (2) of subsection (d) shall be treated as including a reference to any predecessor.

"(7) DENIAL OF DOUBLE BENEFIT.—In the case of any property with respect to which a credit amount is determined under this section—

"(A) any deduction or credit allowed under any other provision of this chapter shall be reduced by the amount of such credit, and

"(B) the adjusted basis of such property shall be reduced by the amount of such credit.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end thereof other following new item:

"Sec. 30. Expenditures to provide nondiscriminatory public accommodations to disabled individuals."

(c) DEDUCTION REDUCED FOR ARCHITECTURAL AND TRANSPORTATION BARRIER REMOVAL EXPENSES.—Section 190(c) (relating to expenditures to remove architectural and transportation barriers to the handicapped and elderly) is amended by striking "$35,000" and inserting "$15,000".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to expenditures made after the date of the enactment of this Act.

(2) SUBSECTION (c).—The amendment made by subsection (c) shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle C—Modifications of Earned Income Credit

SEC. 7301. MODIFICATIONS OF EARNED INCOME TAX CREDIT.

(a) IN GENERAL.—So much of section 32 (relating to earned income credit) as precedes subsection (d) thereof is amended to read as follows:

"SEC. 32. EARNED INCOME.

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the sum of—

"(1) the basic earned income credit, and

"(2) the health insurance credit.

"(b) COMPUTATION OF CREDIT.—For purposes of this section—

"(1) BASIC EARNED INCOME CREDIT.—

"(A) IN GENERAL.—The term 'basic earned income credit' means an amount equal to the credit percentage of so much of the taxpayer's earned income for the taxable year as does not exceed $5,714.

"(B) LIMITATION.—The amount of the basic earned income credit allowable to a taxpayer for any taxable year shall not exceed the excess (if any) of—

"(i) the credit percentage of $5,714, over

"(ii) the phaseout percentage of so much of the adjusted gross income (or, if greater the earned income) of the taxpayer for the taxable year as exceeds $9,000.

"(C) PERCENTAGES.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (ii), the percentages shall be determined as follows:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	20.5	14.6
2 or more qualifying children	22.5	16.1

"(ii) TRANSITION PERCENTAGES.—

"(I) For taxable years beginning in 1991, the percentages are:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	15.3	10.9
2 or more qualifying children	15.7	11.2

"(II) For taxable years beginning in 1992, the percentages are:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	15.95	11.4
2 or more qualifying children	16.55	11.8

"(III) For taxable years beginning in 1993, the percentages are:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	17.25	12.3
2 or more qualifying children	18.25	13.0

"(2) HEALTH INSURANCE CREDIT.—

"(A) IN GENERAL.—The term 'health insurance credit' means an amount determined in the same manner as the basic earned income credit except that—

"(i) the credit percentage shall be equal to 5.5 percent, and

"(ii) the phaseout percentage shall be equal to 3.9 percent.

"(B) LIMITATION BASED ON HEALTH INSURANCE COSTS.—The amount of health insurance credit determined under subparagraph (A) for any taxable year shall not exceed the amounts paid by the taxpayer during the taxable year for insurance coverage—

"(i) which constitutes medical care (within the meaning of section 213(d)(1)(C)), and

"(ii) which includes at least 1 qualifying child.

For purposes of this subparagraph, the rules of section 213(d)(6) shall apply.

"(C) SUBSIDIZED EXPENSES.—A taxpayer may not take into account under subparagraph (B) any amount to the extent that—

"(i) such amount is paid, reimbursed, or subsidized by the Federal Government, a State or local government, or any agency or instrumentality thereof; and

"(ii) the payment, reimbursement, or subsidy of such amount is not includible in the gross income of the recipient.

"(D) ELECTION NOT TO TAKE CREDIT.—A taxpayer may elect for any taxable year not to claim the health insurance credit.

"(E) TRANSITION RULES.—In the case of taxable years beginning before 1994, the percentages under subparagraph (A) shall be determined as follows:

"In the case of taxable years beginning in:	The credit percentage is:	The phaseout percentage is:
1991	1.1	0.8
1992	2.475	1.8
1993	2.5	1.8

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'eligible individual' means any individual who has a qualifying child for the taxable year.

"(B) QUALIFYING CHILD INELIGIBLE.—If an individual is the qualifying child of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall not be treated as an eligible individual for any taxable year of such individual beginning in such calendar year.

"(C) 2 OR MORE ELIGIBLE INDIVIDUALS.—If 2 or more individuals would (but for this subparagraph and after application of subparagraph (B)) be treated as eligible individuals with respect to the same qualifying child for taxable years beginning in the same calendar year, only the individual with the highest adjusted gross income for such taxable years shall be treated as an eligible individual with respect to such qualifying child.

"(D) EXCEPTION FOR INDIVIDUAL CLAIMING BENEFITS UNDER SECTION 911.—The term 'eligible individual' does not include any individual who claims the benefits of section 911 (relating to citizens or residents living abroad) for the taxable year.

"(2) EARNED INCOME.—

"(A) The term 'earned income' means—

"(i) wages, salaries, tips, and other employee compensation, plus

"(ii) the amount of the taxpayer's net earnings from self-employment for the taxable year (within the meaning of section 1402(a)), but such net earnings shall be determined with regard to the deduction allowed to the taxpayer by section 164(f).

"(B) For purposes of subparagraph (A)—

"(i) the earned income of an individual shall be computed without regard to any community property laws,

"(ii) no amount received as a pension or annuity shall be taken into account, and

"(iii) no amount to which section 871(a) applies (relating to income of nonresident alien individuals not connected with United States business) shall be taken into account.

"(3) QUALIFYING CHILD.—

"(A) IN GENERAL.—The term 'qualifying child' means, with respect to any taxpayer for any taxable year, an individual—

"(i) who bears a relationship to the taxpayer described in subparagraph (B),

"(ii) except as provided in subparagraph (B)(iii), who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

"(iii) who meets the age requirements of subparagraph (C), and

"(iv) with respect to whom the taxpayer meets the identification requirements of subparagraph (D).

"(B) RELATIONSHIP TEST.—

"(i) IN GENERAL.—An individual bears a relationship to the taxpayer described in this subparagraph if such individual is—

"(I) a son or daughter of the taxpayer, or a descendant of either,

"(II) a stepson or stepdaughter of the taxpayer, or

"(III) an eligible foster child of the taxpayer.

"(ii) MARRIED CHILDREN.—Clause (i) shall not apply to any individual who is married as of the close of the taxpayer's taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable year with respect to such individual (or would be so entitled but for paragraph (2) or (4) of section 152(e)).

"(iii) ELIGIBLE FOSTER CHILD.—For purposes of clause (i)(III), the term 'eligible foster child' means an individual not described in clause (i) (I) or (II) who—

"(I) the taxpayer cares for as the taxpayer's own child, and

"(II) has the same principal place of abode as the taxpayer for the taxpayer's entire taxable year.

"(iv) ADOPTION.—For purposes of this subparagraph, a child who is legally adopted, or who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer, shall be treated as a child by blood.

"(C) AGE REQUIREMENTS.—An individual meets the requirements of this subparagraph if such individual—

"(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins,

"(ii) is a student (as defined in section 151(c)(4)) who has not attained the age of 24 as of the close of such calendar year, or

"(iii) is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year.

"(D) IDENTIFICATION REQUIREMENTS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if—

"(I) the taxpayer includes the name and age of each qualifying child (without regard to this subparagraph) on the return of tax for the taxable year, and

"(II) in the case of an individual who has attained the age of 1 year before the close of the taxpayer's taxable year, the taxpayer includes the taxpayer identification number of such individual on such return of tax for such taxable year.

"(ii) INSURANCE POLICY NUMBER.—In the case of any taxpayer with respect to which the health insurance credit is allowed under subsection (a)(2), the Secretary may require a taxpayer to include an insurance policy number or other adequate evidence of insurance in addition to any information required to be included in clause (i).

"(iii) OTHER METHODS.—The Secretary may prescribe other methods for providing the information described in clause (i) or (ii).

"(E) ABODE MUST BE IN THE UNITED STATES.—The requirements of subparagraphs (A)(ii) and (B)(iii)(II) shall be met only if the principal place of abode is in the United States.

"(4) COORDINATION WITH HOUSING PROGRAMS.—For purposes of—

"(A) the United States Housing Act of 1937,

"(B) section 101 of the Housing and Urban Development Act of 1965, and

"(C) section 235 and 236 of the National Housing Act,

the term 'income' does not include the amount of any individual's credit under this section."

(b) ADVANCE PAYMENT OF CREDIT.—Subparagraphs (B) and (C) of section 3507(c)(2) are amended to read as follows:

"(B) if the employee is not married, or if no earned income eligibility certificate is in effect with respect to the spouse of the employee, shall treat the credit provided by section 32 as if it were a credit—

"(i) of not more than the credit percentage under section 32(b)(1)(C) for an eligible individual with 1 qualifying child of earned

income not in excess of the amount of earned income taken into account under section 32(a)(1), which

"(ii) phases out between the amount of earned income at which the phaseout begins under section 32(b)(1)(B)(ii) and the amount of income at which the credit under section 32(a)(1) phases out for an eligible individual with 1 qualifying child, or

"(C) if an earned income eligibility certificate is in effect with respect to the spouse of the employee, shall treat the credit as if it were a credit determined under subparagraph (B) by substituting ½ of the amounts of earned income described in such subparagraph for such amounts."

(c) COORDINATION WITH DEDUCTIONS.—

(1) MEDICAL DEDUCTION.—Section 213(e) is amended to read as follows:

"(e) EXCLUSION OF AMOUNTS FOR WHICH CREDIT ALLOWED.—For purposes of this section, any expenses with respect to which a credit is allowed under section 21 or 32(a)(2) shall not be treated as an expense for medical care."

(2) SELF-EMPLOYED INDIVIDUALS.—Section 162(l), as amended by subtitle A, is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) COORDINATION WITH HEALTH INSURANCE PREMIUM CREDIT.—Paragraph (1) shall not apply to any amount taken into account in computing the amount of the credit allowed under section 21.".

(d) CONFORMING AMENDMENTS.—Section 32(i)(2) is amended—

(1) by striking "or (ii)" in subparagraph (A)(1) thereof, and

(2) by striking clause (ii) of subparagraph (B) thereof and redesignating clause (iii) of subparagraph (B) thereof as clause (ii).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7302. DEPENDENT CARE CREDIT MADE REFUNDABLE.

(a) IN GENERAL.—Section 21 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) CREDIT REFUNDABLE TO LOW AND MODERATE INCOME TAXPAYERS.—

"(1) IN GENERAL.—Except as provided in section 6401(b)(3), for purposes of this title, in the case of an applicable taxpayer, the credit allowable under subsection (a) for any taxable year shall be treated as a credit allowable under subpart C of this part.

"(2) APPLICABLE TAXPAYER.—For purposes of this subsection, the term 'applicable taxpayer' means a taxpayer whose adjusted gross income for the taxable year does not exceed $28,000.

"(3) COORDINATION WITH MINIMUM TAX.—A rule similar to the rule of section 32(h) shall apply with respect to the portion of any credit to which this subsection applies."

(b) LIMITATION ON REFUNDABLE PORTION.—Section 6401(b) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR SECTION 21(f).—

"(A) IN GENERAL.—The amount of the overpayment determined under paragraph (1) shall be reduced by 10 percent of the portion of such overpayment attributable to the credit allowed under section 21 and treated as allowable under subpart C of part IV of subchapter A of chapter 1 by reason of section 21(f).

"(B) ORDERING RULE.—For purposes of subparagraph (A), paragraph (1) shall be treated as having been applied as if the amount of tax described in such paragraph (if any) was first reduced by the portion of the credit described in paragraph (1)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7303. STUDY OF ADVANCE PAYMENTS.

(a) IN GENERAL.—The Comptroller General of the United States shall, in consultation with the Secretary of the Treasury, conduct a study of advance payments required by section 3507 of the Internal Revenue Code of 1986 to determine—

(1) the effectiveness of the advance payment system (including an analysis of why so few employees take advantage of such system), and

(2) the manner in which such system can be implemented to alleviate administrative complexity, if any, for small business, and

(3) if there are any other problems in the administration of such system.

(b) REPORT.—Not later than 1 year after the date of the enactment of this title, the Comptroller shall report the results of the study conducted under subsection (a), together with any recommendations, to the Committee on Finance of the United States Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 7304. PROGRAM TO INCREASE PUBLIC AWARENESS.

Not later than the first day of the first calendar year following the date of the enactment of this subtitle, the Secretary of the Treasury, or the Secretary's delegate, shall establish a taxpayer awareness program to inform the taxpaying public of the availability of the credit for dependent care allowed under section 21 of the Internal Revenue Code of 1986 and the earned income credit and child health insurance under section 32 of such Code. Such public awareness program shall be designed to assure that individuals who may be eligible are informed of the availability of such credit and filing procedures. The Secretary shall use public service and paid commercial advertising, direct-mail contact, and any other appropriate means of communication to carry out the provisions of this section.

SEC. 7305. EXCLUSION FROM INCOME AND RESOURCES OF EARNED INCOME TAX CREDIT UNDER TITLES IV, XVI, AND XIX OF THE SOCIAL SECURITY ACT.

(a) EXCLUSIONS UNDER TITLE IV.—(1) Section 402(a)(7)(B) (42 U.S.C. 602(a)(7)(B)) is amended—

(1) by striking "or" before "(iii)"; and

(2) by inserting before the semicolon ", or (iv) for the month of receipt and the following month any refund of Federal income taxes made to such family by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income credit), and any payment made to such family by an employer under section 3507 of such Code (relating to advance payment of earned income credit)".

(3) Section 402(a)(18) (42 U.S.C. 602(a)(18)) is amended by inserting "or 8(A)(viii)" after "other than paragraph 8(A)(v)".

(b) EXCLUSIONS UNDER TITLE XVI.—(1) Section 1612(b) (42 U.S.C. 1382a(b)), as amended by sections 6016 and 6017 of this Act, is further amended—

(A) by striking "and" at the end of paragraph (17);

(B) by striking the period at the end of paragraph (18) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(19) any refund of Federal income taxes made to such individual (or such spouse) by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to such individual (or such spouse) by an employer under section 3507 of such Code (relating to advance payment of earned income credit).".

(2) Section 1613(a) (42 U.S.C. 1382b(a)), as amended by section 6017 of this Act, is further amended—

(A) by striking "and" at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(10) for the month of receipt and the following month, any refund of Federal income taxes made to such individual (or such spouse) by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to such individual (or such spouse) by an employer under section 3507 of such Code (relating to advance payment of earned income credit).".

(c) EXCLUSIONS UNDER TITLE XIX.—Pursuant to section 1902(a)(17) of the Social Security Act (42 U.S.C. 1396a(a)(17)), the Secretary of Health and Human Services shall promulgate regulations to exempt from any determination of income and resources (for the month of receipt and the following month) under title XIX of the Social Security Act any refund of Federal income taxes made to an individual by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to an individual by an employer under section 3507 of such Code (relating to advance payment of earned income credit).

(d) AFDC WAIVER OF OVERPAYMENT.—For the purposes of paragraph (18) of section 402(a) (42 U.S.C. 602(a)), a State agency designated under a State plan under such section 402(a) may waive any overpayment of aid that resulted from the receipt by a family of a refund of Federal income taxes by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit) or any payment made to such family by an employer under section 3507 of such Code (relating to advance payment of earned income credit) during the period beginning on December 1, 1989, and ending on January 1, 1990.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) though (c) shall apply to determinations of income or resources made for any period after December 31, 1990.

SEC. 7306. COORDINATION WITH REFUND PROVISION.

For purposes of section 1324(b)(2) of title 31 of the United States Code, sections 21 and 32 of the Internal Revenue Code of 1986 (as amended by this Act) shall be considered to be credit provisions of the Internal Revenue Code of 1954 enacted before January 1, 1978.

Subtitle D—Revenue-Raising Provisions

PART I—EXCISE TAXES

Subpart A—Taxes Related to Health and the Environment

SEC. 7401. INCREASE IN EXCISE TAXES ON DISTILLED SPIRITS, WINE, AND BEER.

(a) DISTILLED SPIRITS.—

(1) IN GENERAL.—Paragraphs (1) and (3) of section 5001(a) (relating to rate of tax on distilled spirits) are each amended by striking "$12.50" and inserting "$13.70".

(2) TECHNICAL AMENDMENT.—Paragraphs (1) and (2) of section 5010(a) (relating to credit

for wine content and for flavors content) are each amended by striking "$12.50" and inserting "$13.70".

(b) WINE.—

(1) TAX INCREASES.—

(A) WINES CONTAINING NOT MORE THAN 14 PERCENT ALCOHOL.—Paragraph (1) of section 5041(b) (relating to rates of tax on wines) is amended by striking "17 cents" and inserting "$1.07".

(B) WINES CONTAINING MORE THAN 14 (BUT NOT MORE THAN 21) PERCENT ALCOHOL.—Paragraph (2) of section 5041(b) is amended by striking "67 cents" and inserting "$1.57".

(C) WINES CONTAINING MORE THAN 21 (BUT NOT MORE THAN 24) PERCENT ALCOHOL.—Paragraph (3) of section 5041(b) is amended by striking "$2.25" and inserting "$3.15".

(D) ARTIFICIALLY CARBONATED WINES.—Paragraph (5) of section 5041(b) is amended by striking "$2.40" and inserting "$3.30".

(2) CREDIT FOR SMALL DOMESTIC PRODUCERS.—Section 5041 is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c) CREDIT FOR SMALL DOMESTIC PRODUCERS.—

"(1) ALLOWANCE OF CREDIT.—Except as provided in paragraph (2), in the case of a person who produces not more than 250,000 wine gallons of wine during the calendar year, there shall be allowed as a credit against any tax imposed by this title (other than chapters 2, 21, and 22) of 90 cents per wine gallon on the 1st 100,000 wine gallons of wine described in subsection (b) which are removed during such year for consumption or sale and which have been produced at qualified facilities in the United States.

"(2) REDUCTION IN CREDIT.—The credit allowable by paragraph (1) shall be reduced (but not below zero) by 1 percent for each 1,000 wine gallons of wine produced in excess of 150,000 wine gallons of wine during the calendar year.

"(3) TIME FOR DETERMINING AND ALLOWING CREDIT.—The credit allowable by paragraph (1)—

"(A) shall be determined at the same time the tax is determined under subsection (a) of this section, and

"(B) shall be allowable at the time any tax described in paragraph (1) is payable as if the credit allowable by this subsection constituted a reduction in the rate of such tax.

"(4) CONTROLLED GROUPS.—Rules similar to rules of section 5051(a)(2)(B) shall apply for purposes of this subsection.

"(5) DENIAL OF DEDUCTION.—No deduction under chapter 1 shall be allowed with respect to any amount of tax reduced by a credit allowable under this subsection.

"(6) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to prevent the credit provided in this subsection from benefiting any person who produces more than 250,000 wine gallons of wine during a calendar year.

"(7) ALLOWANCE OF CREDIT AGAINST INCOME TAX.—For allowance of credit against the tax imposed by subtitle A, see section 30A."

(3) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 5041 is amended by striking "shown in subsection (b)" and inserting "applicable under subsection (b) after the application of subsection (c)".

(B) Paragraph (3) of section 5061(b) is amended to read as follows:

"(3) section 5041(e),".

(c) BEER.—

(1) IN GENERAL.—Paragraph (1) of section 5051(a) (relating to imposition and rate of tax on beer) is amended by striking "$9" and inserting "$18".

(2) CREDIT FOR SMALL DOMESTIC BREWERIES.—Paragraph (2) of section 5051(a) is amended to read as follows:

"(2) CREDIT FOR SMALL DOMESTIC BREWERIES.—

"(A) ALLOWANCE OF CREDIT.—In the case of a brewer who produces not more than 75,000 barrels of beer during the calendar year, there shall be allowed as a credit against any tax imposed by this title (other than chapters 2, 21, and 22) of $11 per barrel on the 1st 30,000 barrels of beer which are removed in such year for consumption or sale and which have been brewed or produced by such brewer at qualified breweries in the United States.

"(B) REDUCTION IN CREDIT.—The credit allowable by subparagraph (A) shall be reduced (but not below zero) by $11 for each barrel of beer brewed or produced in excess of 45,000 barrels of beer during the calendar year.

"(C) TIME FOR DETERMINING AND ALLOWING CREDIT.—The credit allowable by subparagraph (A)—

"(i) shall be determined at the same time the tax is determined under paragraph (1) of this subsection, and

"(ii) shall be allowable at the time any tax described in subparagraph (A) of this paragraph is payable as if the credit allowable by this paragraph constituted a reduction in the rate of such tax.

"(D) CONTROLLED GROUPS.—In the case of a controlled group, the 75,000 and 45,000 barrel quantities specified in subparagraphs (A) and (B) shall be applied to the controlled group, and the 30,000 barrel quantity specified in subparagraph (A) shall be apportioned among the brewers who are component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term 'controlled group' has the meaning assigned to it by subsection (a) of section 1563, except that for such purposes the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' in each place it appears in such subsection. Under regulations prescribed by the Secretary, principles similar to the principles of the preceding 2 sentences shall be applied to a group of brewers under common control where 1 or more of the brewers is not a corporation.

"(E) DENIAL OF DEDUCTION.—No deduction under chapter 1 shall be allowed with respect to any amount of tax reduced by a credit allowable under this subsection.

"(F) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to prevent the credit provided in this paragraph from benefiting any person who produces more than 75,000 barrels of beer during a calendar year.

"(G) ALLOWANCE OF CREDIT AGAINST INCOME TAX.—For allowance of credit against the tax imposed by subtitle A, see section 30A."

(d) ALLOWANCE OF CREDIT AGAINST INCOME TAX.—

(1) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by section 7212, is further amended by adding at the end thereof the following new section:

"SEC. 30A. SMALL DOMESTIC PRODUCERS OF WINE AND BEER.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the amount of the credit allowed under section 5041(c) or 5051(a)(2) not otherwise taken as a credit against any other tax.

"(b) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and any section in this subpart having a lower number or letter designation than this section, over

"(2) the tentative minimum tax for the taxable year.

"(c) CARRYFORWARD OF UNUSED CREDIT.—If the amount of the credit allowable under subsection (a) exceeds the limitations contained in subsection (b), such excess shall be carried to the succeeding taxable year (and subject to the limitations in subsection (b)) added to the credit allowable under subsection (a) for such succeeding taxable year."

(2) CONFORMING AMENDMENT.—The table of sections for such subpart A is amended by adding at the end thereof the following new item:

"Sec. 30A. Small domestic producers of wine and beer."

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

(f) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—

(A) IN GENERAL.—In the case of any tax-increased article—

(i) on which tax was determined under part I of subchapter A of chapter 51 of the Internal Revenue Code of 1986 or section 7652 of such Code before January 1, 1991, and

(ii) which is held on such date for sale by any person,

there shall be imposed a tax at the applicable rate on each such article.

(B) APPLICABLE RATE.—For purposes of subparagraph (A), the applicable rate is—

(i) $1.20 per proof gallon in the case of distilled spirits,

(ii) 90 cents per wine gallon in the case of wine described in paragraph (1), (2), (3), or (5) of section 5041(b) of such Code, and

(iii) $9 per barrel in the case of beer.

In the case of a fraction of a gallon or barrel, the tax imposed by subparagraph (A) shall be the same fraction as the amount of such tax imposed on a whole gallon or barrel.

(C) TAX-INCREASED ARTICLE.—For purposes of this subsection, the term "tax-increased article" means distilled spirits, wine described in paragraph (1), (2), (3), or (5) of section 5041(b) of such Code, and beer.

(2) EXCEPTION FOR SMALL DOMESTIC PRODUCERS.—In the case of wine held by the producer thereof on January 1, 1991, if the rate of tax under section 5041 of such Code on such wine would have been determined after the application of subsection (c) thereof (as added by this section) had the amendments made by subsection (b) applied to all wine removed during 1990, the rate of tax imposed by paragraph (1) on such wine shall be the amount equal to the excess (if any) of—

(A) the rate of tax which would have been so determined after the application of such subsection (c), over

(B) the rate of tax actually determined on such wine under section 5041 of such Code.

A similar rule shall apply to beer held by the producer thereof. For purposes of this paragraph, an article shall not be treated as held

by the producer if title thereto had at any time been transferred to any other person.

(3) EXCEPTION FOR CERTAIN SMALL WHOLESALE OR RETAIL DEALERS.—No tax shall be imposed by paragraph (1) on tax-increased articles held on January 1, 1991, by any dealer if—

(A) the aggregate liquid volume of tax-increased articles held by such dealer on such date does not exceed 500 wine gallons, and

(B) such dealer submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(4) CREDIT AGAINST TAX.—Each dealer shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to—

(A) $288 to the extent such taxes are attributable to distilled spirits,

(B) $270 to the extent such taxes are attributable to wine, and

(C) $87 to the extent such taxes are attributable to beer.

Such credit shall not exceed the amount of taxes imposed by paragraph (1) with respect to distilled spirits, wine, or beer, as the case may be, for which the dealer is liable.

(5) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding any tax-increased article on January 1, 1991, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before June 30, 1991.

(6) CONTROLLED GROUPS.—

(A) CORPORATIONS.—In the case of a controlled group—

(i) the 500 wine gallon amount specified in paragraph (3), and

(ii) the $288, $270, and $87 amounts specified in paragraph (4),

shall be apportioned among the dealers who are component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(B) NONINCORPORATED DEALERS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of dealers under common control where 1 or more of such dealers is not a corporation.

(7) OTHER LAWS APPLICABLE.—

(A) IN GENERAL.—All provisions of law, including penalties, applicable to the comparable excise tax with respect to any tax-increased article shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by the comparable excise tax.

(B) COMPARABLE EXCISE TAX.—For purposes of subparagraph (A), the term "comparable excise tax" means—

(i) the tax imposed by section 5001 of such Code in the case of distilled spirits,

(ii) the tax imposed by section 5041 of such Code in the case of wine, and

(iii) the tax imposed by section 5051 of such Code in the case of beer.

(8) DEFINITIONS.—For purposes of this subsection—

(A) IN GENERAL.—Terms used in this subsection which are also used in subchapter A of chapter 51 of such Code shall have the respective meanings such terms have in such part.

(B) PERSON.—The term "person" includes any State or political subdivision thereof, or any agency or instrumentality of a State or political subdivision thereof.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(9) TREATMENT OF IMPORTED PERFUMES CONTAINING DISTILLED SPIRITS.—For purposes of this subsection, any article described in section 5001(a)(3) of such Code shall be treated as distilled spirits; except that the tax imposed by paragraph (1) shall be imposed on a wine gallon basis in lieu of a proof gallon basis. To the extent provided by regulations prescribed by the Secretary, the preceding sentence shall not apply to any article held on January 1, 1991, on the premises of a retail establishment.

SEC. 7402. INCREASE IN EXCISE TAXES ON TOBACCO PRODUCTS.

(a) CIGARS.—Subsection (a) of section 5701 is amended—

(1) by striking "75 cents per thousand" in paragraph (1) and inserting "$1.125 per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)", and

(2) by striking "equal to" and all that follows in paragraph (2) and inserting "equal to—

"(A) 10.625 percent of the wholesale price but not more than $25 per thousand on cigars removed during 1991 or 1992, and

"(B) 12.75 percent of the wholesale price but not more than $30 per thousand on cigars removed after 1992."

(b) CIGARETTES.—Subsection (b) of section 5701 is amended—

(1) by striking "$8 per thousand" in paragraph (1) and inserting "$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)", and

(2) by striking "$16.80 per thousand" in paragraph (2) and inserting "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)".

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 is amended by striking "1/2 cent" and inserting "0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)".

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 is amended by striking "1 cent" and inserting "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)".

(e) SMOKELESS TOBACCO.—Subsection (e) of section 5701 is amended—

(1) by striking "24 cents" in paragraph (1) and inserting "36 cents (30 cents on snuff removed during 1991 or 1992)", and

(2) by striking "8 cents" in paragraph (2) and inserting "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)".

(f) PIPE TOBACCO.—Subsection (f) of section 5701 is amended by striking "45 cents" and inserting "67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles removed after December 31, 1990.

(h) FLOOR STOCKS TAXES ON TOBACCO PRODUCTS.—

(1) IMPOSITION OF TAX.—On articles described in section 5701 of the Internal Revenue Code of 1986 manufactured in or imported into the United States which are removed before any tax-increase date and held on such date for sale by any person, there shall be imposed the following taxes:

(A) SMALL CIGARS.—On cigars, weighing not more than 3 pounds per thousand, 18.75 cents per thousand.

(B) LARGE CIGARS.—On cigars, weighing more than 3 pounds per thousand, 2.125 percent of the wholesale price but not more than $5 per thousand.

(C) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, $2 per thousand.

(D) LARGE CIGARETTES.—On cigarettes weighing more than 3 pounds per thousand, $4.20 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(E) CIGARETTE PAPERS.—On each book or set of cigarette papers containing more than 25 papers, 0.125 cent for each 50 papers or fractional part thereof; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarette papers, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette paper.

(F) CIGARETTE TUBES.—On cigarette tubes, 0.25 cent for each 50 tubes or fractional part thereof; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarette tubes, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette tube.

(G) SNUFF.—On snuff, 6 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(H) CHEWING TOBACCO.—On chewing tobacco, 2 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(I) PIPE TOBACCO.—On pipe tobacco, 11.25 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound."

(2) EXCEPTION FOR CERTAIN AMOUNTS OF CIGARETTES.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on cigarettes held on any tax-increase date by any person if—

(i) the aggregate number of cigarettes held by such person on such date does not exceed 30,000, and

(ii) such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this subparagraph.

For purposes of this subparagraph, in the case of cigarettes measuring more than 6½ inches in length, each 2¾ inches (or fraction thereof) of the length of each shall be counted as one cigarette.

(B) AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES.—To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph (1) on cigarettes held for retail sale on any tax-increase date by any person in any vending machine. If the Secretary so provides with respect to any person, the Secretary may reduce the 30,000 amount in subparagraph (A) and the $60 amount in paragraph (4) with respect to such person.

(3) EXCEPTION FOR ARTICLES OTHER THAN CIGARETTES.—No tax shall be imposed by paragraph (1) on any article described in section 5701 of such Code (other than cigarettes) held on any tax-increase date by any person if the aggregate amount of such arti-

cle held by such person on such date does not result in a tax imposed by paragraph (1) of such article exceeding $60.

(4) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes on each article imposed by paragraph (1) an amount equal to $60. Such credit shall not exceed the amount of taxes imposed by paragraph (1) for which such person is liable. With respect to any article described in section 5701 of such Code (other than cigarettes), the Secretary may increase the dollar amount of the credit allowed under this paragraph in the administration of this subsection.

(5) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigarettes on any tax-increase date to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the 1st June 30 following the tax-increase date.

(6) DEFINITIONS.—For purposes of this subsection—

(A) TAX-INCREASE DATE.—The term "tax-increase date" means January 1, 1991, and January 1, 1993.

(B) OTHER DEFINITIONS.—Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the respective meanings such terms have in such section.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(7) CONTROLLED GROUPS.—Rules similar to the rules of section 7401(f)(6) shall apply for purposes of this subsection.

(8) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701.

SEC. 7403. ADDITIONAL CHEMICALS SUBJECT TO TAX ON OZONE-DEPLETING CHEMICALS.

(a) GENERAL RULE.—

(1) The table set forth in section 4682(a)(2) (defining ozone-depleting chemical) is amended by adding at the end thereof the following new items:

"Carbon tetrachloride	.tetrachloromethane
Methyl chloroform	...1,1,1-trichloroethane
CFC-13	CF3Cl
CFC-111	C2FCl5
CFC-112	C2F2Cl4
CFC-211	C3FCl7
CFC-212	C3F2Cl6
CFC-213	C3F3Cl5
CFC-214	C3F4Cl4
CFC-215	C3F5Cl3
CFC-216	C3F6Cl2
CFC-217	C3F7Cl."

(2) The table set forth in section 4682(b) is amended by adding at the end thereof the following new items:

"Carbon tetrachloride	1.1
Methyl chloroform	0.1
CFC-13	1.0
CFC-111	1.0
CFC-112	1.0
CFC-211	1.0
CFC-212	1.0
CFC-213	1.0
CFC-214	1.0
CFC-215	1.0
CFC-216	1.0
CFC-217	1.0."

(b) SEPARATE APPLICATION OF EXPORT CREDIT LIMIT FOR NEWLY LISTED CHEMICALS.—Paragraph (3) of section 4682(d) is amended by adding at the end thereof the following new subparagraph:

"(C) SEPARATE APPLICATION OF LIMIT FOR NEWLY LISTED CHEMICALS.—

"(i) IN GENERAL.—Subparagraph (B) shall be applied separately with respect to newly listed chemicals and other chemicals.

"(ii) APPLICATION TO NEWLY LISTED CHEMICALS.—In applying subparagraph (B) to newly listed chemicals—

"(I) subparagraph (B) shall be applied by substituting '1989' for '1986' each place it appears, and

"(II) clause (i)(II) thereof shall be applied by substituting for the regulations referred to therein any regulations (whether or not prescribed by the Secretary) which the Secretary determines are comparable to the regulations referred to in such clause with respect to newly listed chemicals.

"(iii) NEWLY LISTED CHEMICAL.—For purposes of this subparagraph, the term 'newly listed chemical' means any substance which appears in the table contained in subsection (a)(2) below Halon-2402."

(c) SEPARATE BASE TAX AMOUNT FOR NEWLY LISTED CHEMICALS.—Subparagraphs (B) and (C) of section 4681(b)(1) are amended to read as follows:

"(B) BASE TAX AMOUNT.—

"(i) INITIALLY LISTED CHEMICALS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1995 with respect to any ozone-depleting chemical other than a newly listed chemical (as defined in section 4682(d)(3)(C)) is the amount determined under the following table for such calendar year:

"Calendar Year	Base Tax Amount
1990 or 1991	$1.37
1992	1.67
1993 or 1994	2.65.

"(ii) NEWLY LISTED CHEMICALS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1996 with respect to any ozone-depleting chemical which is a newly listed chemical (as so defined) is the amount determined under the following table for such calendar year:

"Calendar Year	Base Tax Amount
1991 or 1992	$1.37
1993	1.67
1994	3.00
1995	3.10.

"(C) BASE TAX AMOUNT FOR LATER YEARS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use of an ozone-depleting chemical during a calendar year after the last year specified in the table under subparagraph (B) applicable to such chemical shall be the base tax amount for such last year increased by 45 cents for each year after such last year."

(d) OTHER AMENDMENTS.—

(1) The last sentence of section 4682(c)(2) is amended by inserting "(other than methyl chloroform)" after "ozone-depleting chemical".

(2) Paragraph (3) of section 4682(h) is amended by striking "April 1" and inserting "June 30".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and uses after December 31, 1990.

(f) DEPOSITS FOR 1ST QUARTER OF 1991.—No deposit of any tax imposed by subchapter D of chapter 38 of the Internal Revenue Code of 1986 on any substance treated as an ozone-depleting chemical by reason of the amendment made by subsection (a)(1) shall be required to be made before April 1, 1991.

Subpart B—User-Related Taxes

SEC. 7405. INCREASE AND EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUND.

(a) INCREASE IN TAX ON GASOLINE.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) (relating to rate of tax) is amended—

(A) by striking "and" at the end of clause (i),

(B) by striking the period at the end of clause (ii) and inserting ", and", and

(C) by adding at the end thereof the following new clause:

"(iii) the deficit reduction rate."

(2) RATES OF TAX.—Subparagraph (B) of section 4081(a)(2) is amended—

(A) by striking "9 cents a gallon, and" and inserting "13.75 cents a gallon,",

(B) by striking the period at the end of clause (ii) and inserting ", and", and

(C) by adding at the end thereof the following new clause:

"(iii) the deficit reduction rate is 4.75 cents (5.25 cents in the case of gasohol containing ethanol) a gallon ."

(3) 15-CENT LIMIT ON TAX ON GASOLINE USED IN NONCOMMERCIAL AVIATION.—

(A) RATES OF TAX AFTER DECEMBER 31, 1990, AND BEFORE JULY 1, 1991.—Paragraph (3) of section 4041(c) is amended by striking "12 cents a gallon over the Highway Trust Fund financing rate" and inserting "15 cents a gallon over the sum of the Highway Trust Fund financing rate and the deficit reduction financing rate".

(B) REFUND ON TAX.—

(i) Section 6427 is amended by striking subsections (m) and (o) and by redesignating subsections (n), (p), (q), and (r) as subsections (m), (n), (o), and (p), respectively.

(ii) Subsection (o) of section 6427 (as redesignated by clause (i)) is amended to read as follows:

"(o) GASOLINE USED IN NONCOMMERCIAL AVIATION.—Except as provided in subsection (k), if gasoline is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(2)), the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the excess of the aggregate amount of tax paid under section 4081 on the gasoline so used over an amount equal to 15.1 cents (12.1 cents during December 1990) multiplied by the number of gallons of gasoline so used."

(iii) Paragraph (1) of section 6427(i) is amended by striking "or (q)" and inserting "or (o)".

(iv) Clause (i) of section 6427(i)(2)(A) is amended by striking "and (q)" and inserting "and (o)".

(v) The amendments made by this subparagraph shall take effect on December 1, 1990.

(C) REPEAL OF TAX AFTER JUNE 30, 1991.—

(i) Subsection (c) of section 4041 is amended by striking paragraphs (2) and (3) and by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

(ii) Paragraph (3) of section 4041(c), as redesignated by clause (i) is amended by striking "paragraphs (1) and (2)" and inserting "paragraph (1)".

(iii) Paragraph (2) of section 6421(f) is amended by striking "section 4041(c)(4)" and inserting "section 4041(c)(2)".

(iv) The amendments made by this subparagraph shall take effect on July 1, 1991.

(5) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4081(c) is amended—

(i) by striking "applied by" and all that follows through "in the case" and inserting "applied by substituting rates which are 10/9th of the otherwise applicable rates under subsection (a)(2) in the case", and

(ii) by adding at the end thereof the following: "For purposes of this subsection, in the case of the Highway Trust Fund financing rate, the otherwise applicable rate is 7.75 cents a gallon."

(B) Paragraph (2) of section 4081(c) is amended by striking "at a rate equivalent to 3 cents" and inserting "at a Highway Trust Fund financing rate equivalent to 7.75 cents".

(C) Subparagraph (A) of section 9503(c)(2) is amended by adding at the end thereof the following new sentence:

"The amounts payable from the Highway Trust Fund under this subparagraph shall be determined by taking into account only the Highway Trust Fund financing rate applicable to any fuel."

(6) RATES OF TAX FOR GASOLINE REMOVED AFTER NOVEMBER 30, 1990, AND BEFORE JANUARY 1, 1992.—Section 4081 is amended by adding at the end thereof the following new subsection:

"(e) RATES OF TAX FOR GASOLINE REMOVED AFTER NOVEMBER 30, 1990, AND BEFORE JANUARY 1, 1992.—

"(1) HIGHWAY TRUST FUND FINANCING RATES.—

"(A) In the case of gasoline removed after November 30, 1990, and before July 1, 1991—

"(i) subsection (a)(2)(B)(i) shall be applied by substituting '11 cents' for '13.75 cents', and

"(ii) subsection (c) shall be applied by substituting '5 cents' for '7.75 cents' each place it appears.

"(B) In the case of gasoline removed after June 30, 1991, and before January 1, 1992—

"(i) subsection (a)(2)(B)(i) shall be applied by substituting '13.5 cents' for '13.75 cents', and

"(ii) subsection (c) shall be applied by substituting '7.5 cents' for '7.75 cents' each place it appears.

"(2) DEFICIT REDUCTION RATE.—

"(A) In the case of gasoline removed after November 30, 1990, and before July 1, 1991, subsection (a)(2)(B)(iii) shall be applied by substituting '2 cents (2.5 cents in the case of gasohol containing ethanol)' for '4.75 cents (5.25 cents in the case of gasohol containing ethanol)'.

"(B) In the case of gasoline removed after June 30, 1991, and before January 1, 1992, subsection (a)(2)(B)(iii) shall be applied by substituting '4.5 cents (5 cents in the case of gasohol containing ethanol)' for '4.75 cents (5.25 cents in the case of gasohol containing ethanol)'."

(7) EFFECTIVE DATE.—Except as otherwise provided in this subsection, the amendments made by this subsection shall apply to gasoline removed (as defined in section 4082 of the Internal Revenue Code of 1986) after November 30, 1990.

(b) INCREASE IN OTHER TAXES.—

(1) DEFICIT REDUCTION RATE.—

(A) Clause (i) of section 4091(b)(1)(A) is amended by inserting "and the diesel fuel deficit reduction rate" after "financing rate".

(B) Subsection (b) of section 4091 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) DIESEL FUEL DEFICIT REDUCTION RATE.—For purposes of paragraph (1), the diesel fuel deficit reduction rate is 4.75 cents a gallon (5.25 cents a gallon in the case of any mixture of diesel if at least 10 percent of such mixture is ethanol)."

(2) INCREASE IN HIGHWAY TRUST FUND FINANCING RATE.—Paragraph (2) of section 4091(b) is amended by striking "15 cents" and inserting "19.75 cents".

(3) INCREASE IN TAX ON SPECIAL MOTOR FUELS.—Paragraph (2) of section 4041(a) is amended by striking "of 9 cents a gallon" and by inserting at the end thereof the following new sentence:

"The rate of the tax imposed by this paragraph shall be the sum of the Highway Trust Fund financing rate and the deficit reduction rate in effect under section 4081 at the time of such sale or use."

(4) 4.75-CENT TAX TO APPLY TO FUEL USED IN TRAINS.—

(A) Paragraph (2) of section 4093(c) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) 4.75-CENT TAX ON FUEL USED IN TRAINS.—In the case of fuel sold for use in a diesel-powered train, with respect to the tax imposed by section 4091(b)(1)(A), paragraph (1) shall apply only to the excess of such tax over 4.75 cents per gallon. In the case of fuel sold for use after November 30, 1990, and before July 1, 1991, the preceding sentence shall be applied by substituting '2 cents' for '4.75 cents'; in the case of fuel sold for use after June 30, 1991, and before January 1, 1992, the preceding sentence shall be applied by substituting '4.5 cents' for '4.75 cents'."

(B) Subsection (l) of section 6427 is amended by adding at the end thereof the following new paragraph:

"(4) 4.75-CENT TAX ON FUEL USED IN TRAINS.—In the case of fuel used in a diesel-powered train, with respect to the tax imposed by section 4091(b)(1)(A), paragraph (1) shall apply only to the excess of such tax over 4.75 cents per gallon. In the case of fuel used after November 30, 1990, and before July 1, 1991, the preceding sentence shall be applied by substituting '2 cents' for '4.75 cents'; in the case of fuel used after June 30, 1991, and before January 1, 1992, the preceding sentence shall be applied by substituting '4.5 cents' for '4.75 cents'."

(C) Section 4041(a) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) TAX ON DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 4.75 cents a gallon on any liquid (other than any product taxable under section 4081)—

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

"(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such liquid under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if there was a taxable sale of such liquid under section 4091."

(D) Paragraph (4) of section 9503(b) is amended to read as follows:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2)—

"(A) there shall be taken into account the taxes imposed by sections 4041, 4081, and 4091 only to the extent attributable to section 4041(c) and the Highway Trust Fund financing rates and 20 percent of the deficit reduction rate under such sections.

"(B) there shall not be taken into account the taxes imposed by section 4041(a)(3) or 4091 on any diesel fuel used in a diesel-powered train."

(5) INCREASES IN TAXES NOT TO APPLY TO INTERCITY BUSES.—Subparagraph (A) of section 6427(b)(2) is amended by striking "shall not exceed 12 cents" and inserting "shall be 3.1 cents per gallon less than the aggregate rate at which tax was imposed on such fuel by section 4041 or 4091, as the case may be".

(6) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4091(c) is amended—

(i) by striking "9 cents" and inserting "13.75 cents" and by striking "10 cents" and inserting "15.28 cents", and

(ii) by striking "shall be 1/9 cent per gallon" and inserting "and the diesel fuel deficit reduction rate shall be 10/9th of the otherwise applicable such rates under subsection (b)".

(B) Paragraph (2) of section 4091(c) is amended by striking "9 cents" and inserting "13.75 cents".

(C) Paragraph (1) of section 4041(a) is amended by striking "of 15 cents a gallon" and by inserting before the last sentence the following new sentence:

"The rate of the tax imposed by this paragraph shall be the sum of the Highway Trust Fund financing rate and the diesel fuel deficit reduction rate in effect under section 4091 at the time of such sale or use."

(D) Subparagraph (A) of section 4041(b)(2) is amended to read as follows:

"(A) IN GENERAL.—In the case of—

"(i) qualified methanol fuel, the Highway Trust Fund financing rate applicable under subsection (a)(2) shall be 6 cents per gallon less than the otherwise applicable rate under such subsection,

"(ii) qualified ethanol fuel, the deficit reduction financing rate applicable under subsection (a)(2) shall be the otherwise applicable rate under such subsection plus 0.5 cent per gallon, and

"(iii) qualified methanol or ethanol fuel, subsection (d)(1) shall be applied by substituting '0.05 cent' for '0.1 cent' with respect to sales and uses to which clause (i) or (ii) applies.".

(E) Paragraph (1) of section 4041(k) is amended by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

"(A) with respect to liquids containing any alcohol other than ethanol, the Highway Trust Fund financing rates under paragraphs (1) and (2) of subsection (a) shall be 6 cents per gallon less than the otherwise applicable rates under such paragraphs,

"(B) with respect to liquids containing ethanol, the deficit reduction financing rates under paragraphs (1) and (2) of subsection (a) shall be the otherwise applicable rates under such paragraphs plus 0.5 cent per gallon, and".

(F) Section 4041(m)(1) is amended by striking subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting before subparagraph (C) the following new subparagraphs:

"(A) with respect to partially exempt methanol, the Highway Trust Fund financing rate applicable under subsection (a)(2) shall be 4.5 cents per gallon less than the otherwise applicable rate under such subsection,

"(B) with respect to partially exempt ethanol, the deficit reduction financing rate applicable under subsection (a)(2) shall be the otherwise applicable rate under such subsection plus 0.5 cent per gallon, and".

(G) Subsection (d) of section 9502 is amended by adding at the end thereof the following new paragraph:

"(4) TRANSFERS FOR REFUNDS AND CREDITS NOT TO EXCEED TRUST FUND REVENUES ATTRIBUTABLE TO FUEL USED.—The amounts payable from the Airport and Airway Trust Fund under paragraph (2) or (3) shall not exceed the amounts required to be appropriated to such Trust Fund with respect to fuel so used."

(H) Subparagraph (D) of section 9503(c)(4) is amended by striking "(to the extent attributable to the Highway Trust Fund financing rate)" and by inserting before the period ", but only to the extent such taxes are attributable to the Highway Trust Fund financing rates under such sections".

(7) RATES OF TAX FOR DIESEL FUEL AFTER NOVEMBER 30, 1990, AND BEFORE JANUARY 1, 1992.—Section 4091 is amended by adding at the end thereof the following new subsection:

"(e) RATES OF TAX FOR DIESEL FUEL AFTER NOVEMBER 30, 1990, AND BEFORE JANUARY 1, 1992.—

"(1) HIGHWAY TRUST FUND FINANCING RATES.—

"(A) In the case of diesel fuel on which tax is imposed after November 30, 1990, and before July 1, 1991—

"(i) subsection (b)(2) shall be applied by substituting '17 cents' for '19.75 cents', and

"(ii) subsection (c) shall be applied by substituting—

"(I) '11 cents' for '13.75 cents' each place it appears, and

"(II) '12.22 cents' for '15.28 cents'.

"(B) In the case of diesel fuel on which tax is imposed after June 30, 1991, and before January 1, 1992—

"(i) subsection (b)(2) shall be applied by substituting '19.5 cents' for '19.75 cents', and

"(ii) subsection (c) shall be applied by substituting—

"(I) '13.5 cents' for '13.75 cents' each place it appears, and

"(II) '15 cents' for '15.28 cents'.

"(2) DIESEL FUEL DEFICIT REDUCTION RATE.—

"(A) In the case of diesel fuel on which tax is imposed after November 30, 1990, and before July 1, 1991, subsection (b)(4) shall be applied by substituting '2 cents a gallon (2.5 cents a gallon' for '4.75 cents a gallon (5.25 cents a gallon'.

"(B) In the case of diesel fuel on which tax is imposed after June 30, 1991, and before January 1, 1992, subsection (b)(4) shall be applied by substituting '4.5 cents a gallon (5 cents a gallon' for '4.75 cents a gallon (5.25 cents a gallon'.'"4.5 cents' for '4.75 cents'."

(8) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on December 1, 1990.

(c) EXTENSION OF TAXES.—The following provisions are each amended by striking "1993" each place it appears and inserting "1995":

(1) Section 4041(a)(4) (relating to tax on diesel and special fuels), as redesignated by subsection (b)(4)(C).

(2) Section 4051(c) (relating to tax on heavy trucks and trailers sold at retail).

(3) Section 4071(d) (relating to tax on tires and tread rubber).

(4) Section 4081(d)(1) (relating to gasoline tax).

(5) Section 4091(b)(6)(A) (relating to diesel fuel tax), as redesignated by section 13211(b).

(6) Sections 4481(e), 4482(c)(4), and 4482(d) (relating to highway use tax).

(d) EXTENSION OF EXEMPTIONS.—

(1) Paragraph (3) of section 4041(f) (relating to exemptions for farm use) is amended by striking "1993" and inserting "1995".

(2) The last sentence of section 4041(g) (relating to other exemptions) is amended by striking "1993" and inserting "1995".

(3) Subsection (a) of section 4221 (relating to certain tax-free sales) is amended by striking "1993" and inserting "1995".

(4) Subsection (g) of section 4483 (relating to termination of exemptions for highway use tax) is amended by striking "1993" and inserting "1995".

(5) Section 6420 (relating to gasoline used on farms) is amended by striking subsection (h) and by redesignating subsection (i) as subsection (h).

(6)(A) Section 6421 (relating to gasoline used for certain nonhighway purposes, etc.) is amended by striking subsection (i) and by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(B) Subsections (a) and (b) of section 6421 are each amended by striking "subsection (j)" and by inserting "subsection (i)".

(7) Paragraph (5) of section 6427(g) (relating to advance repayment of increased diesel fuel tax) is amended by striking "1993" and inserting "1995".

(e) EXTENSION OF REDUCED RATES OF TAX ON FUELS CONTAINING ALCOHOL.—The following provisions are each amended by striking "1993" each place it appears and inserting "2000, or if earlier for any period before January 1, 2000, during which the Highway Trust Fund financing rate under section 4081(a)(2) is not in effect":

(1) Section 4041(b)(2)(C) (relating to qualified methanol and ethanol fuel).

(2) Section 4041(k)(3) (relating to fuels containing alcohol).

(3) Section 4081(c)(4) (relating to gasoline mixed with alcohol).

(4) Subsections (c) and (d) of section 4091 (relating to diesel fuel and aviation fuel mixed with alcohol and aviation fuel used to produce certain alcohol fuels).

(5) Section 6427(f)(3) (relating to fuels used to produce certain alcohol fuels).

(f) OTHER PROVISIONS.—

(1) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking "1993" each place it appears and inserting "1995", and

(B) by striking "1994" each place it appears and inserting "1996".

(2) INSTALLMENT PAYMENTS OF HIGHWAY USE TAX.—Section 6156(e)(2) (relating to installment payments of tax on use of highway motor vehicles) is amended by striking "1993" and inserting "1995".

(g) EXTENSION OF DEPOSITS INTO TRUST FUND.—

(1) IN GENERAL.—Subsection (b), and paragraphs (2), (3), and (4) of subsection (c), of section 9503 (relating to the Highway Trust Fund) are each amended—

(A) by striking "1993" each place it appears and inserting "1995", and

(B) by striking "1994" each place it appears and inserting "1996".

(2) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-11) is amended—

(A) by striking "1993" and inserting "1995", and

(B) by striking "1994" each place it appears and inserting "1996".

(h) INCREASE IN TRANSFERS TO MASS TRANSIT ACCOUNT.—

(1) IN GENERAL.—Paragraph (2) of section 9503(e) is amended by striking "1 cent" and inserting "1.95 cents".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to amounts attributable to taxes imposed on or after December 1, 1990.

(3) TAXES IMPOSED BEFORE JANUARY 1, 1991.—

(A) In the case of taxes imposed after November 30, 1990, and before July 1, 1991, paragraph (2) of section 9503(e) of the Internal Revenue Code of 1986 shall be applied by substituting "1.4 cents" for "1.95 cents".

(B) In the case of taxes imposed after June 30, 1991, and before January 1, 1992, paragraph (2) of section 9503(e) of the Internal Revenue Code of 1986 shall be applied by substituting "1.9 cents" for "1.95 cents".

(i) ESTABLISHMENT OF WETLANDS FUND ACCOUNT.—

(1) IN GENERAL.—Section 9504 (relating to aquatic resources trust fund) is amended—

(A) by striking "and" at the end of subsection (a)(2)(A),

(B) by striking the period at the end of subsection (a)(2)(B) and inserting ", and",

(C) by inserting after subsection (a)(2)(B) the following new subparagraph:

"(C) a Wetlands Fund Account.",

(D) by inserting "Wetlands Fund Account," before "Boat Safety Account" in subsection (d), and

(E) by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

"(d) EXPENDITURES FROM WETLANDS FUND ACCOUNT.—Amounts in the Wetlands Fund Account shall be available, as provided by appropriation Acts, for making expenditures to carry out the purposes of any law which is substantially identical to sections 4 through 8 of S. 1731 of the 101st Congress as passed the Senate on August 2, 1990."

(2) TRANSFER OF NEW MOTORBOAT FUEL TAXES TO ACCOUNT.—Section 9503(c)(4) (relating to transfers from the trust fund for motorboat fuel taxes), as amended, is further amended—

(A) by inserting ", at the rates in effect before December 1, 1990" after "1995" in subparagraph (A)(i), and

(B) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and inserting after subparagraph (C) the following new paragraph:

"(D) TRANSFER TO WETLANDS FUND ACCOUNT.—Any amount received in the Highway Trust Fund—

"(i) which is attributable to motorboat fuel taxes, and

"(ii) which is not transferred from the Highway Trust Fund under subparagraphs (A), (B), or (C),

shall be transferred by the Secretary from the Highway Trust Fund into the Wetlands Fund Account in the Aquatics Resources Trust Fund."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on December 1, 1990.

(j) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—In the case of gasoline and diesel fuel on which tax was imposed under section 4081 or 4091 of such Code before any tax-increase date (other than gasoline on which tax is imposed under section 4041(c)(2) of such Code) and

which is held on such date by any person, there is hereby imposed a floor stocks tax on such gasoline and diesel fuel.

(2) RATE OF TAX.—The rate of the tax imposed by paragraph (1) shall be—

(A) 4 cents per gallon in the case of the tax imposed on December 1, 1990,

(B) 5 cents per gallon in the case of the tax imposed on July 1, 1991, and

(C) 0.5 cent per gallon in the case of the tax imposed on January 1, 1992.

(3) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding gasoline or diesel fuel on any tax-increase date to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before—

(i) May 31, 1991, in the case of the tax imposed on December 1, 1990,

(ii) September 15, 1991, in the case of the tax imposed on July 1, 1991, and

(iii) June 30, 1992, in the case of the tax imposed on January 1, 1992.

(4) DEFINITIONS.—For purposes of this subsection—

(A) TAX-INCREASE DATE.—The term "tax-increase date" means December 1, 1990, July 1, 1991, and January 1, 1992.

(B) HELD BY A PERSON.—Gasoline and diesel fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(C) GASOLINE.—The term "gasoline" has the meaning given such term by section 4082 of such Code.

(D) DIESEL FUEL.—The term "diesel fuel" has the meaning given such term by section 4092 of such Code.

(E) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(5) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to gasoline or diesel fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 or 4091 of such Code, as the case may be, is allowable for such use.

(6) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by paragraph (1) on gasoline or diesel fuel held in the tank of a motor vehicle or motorboat.

(7) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1)—

(i) on gasoline held on any tax-increase date by any person if the aggregate amount of gasoline held by such person on such date does not exceed 4,000 gallons, and

(ii) on diesel fuel held on any tax-increase date by any person if the aggregate amount of diesel fuel held by such person on such date does not exceed 2,000 gallons.

The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (5).

(C) CONTROLLED GROUPS.—For purposes of this paragraph, rules similar to the rules of paragraph (5) of section 13201(e) of this Act shall apply.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code in the case of gasoline and section 4091 in the case of diesel fuel shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081 or 4091.

(8) TRANSFER OF PORTION OF FLOOR STOCKS REVENUE TO HIGHWAY TRUST FUND.—For purposes of determining the amount transferred to the Highway Trust Fund, the tax imposed by paragraph (1) shall be treated as imposed at a Highway Trust Fund financing rate to the extent of—

(A) 2 cents per gallon in the case of the tax imposed on December 1, 1990,

(B) 2.5 cents per gallon in the case of the tax imposed on July 1, 1991, and

(C) 0.25 cent per gallon in the case of the tax imposed on January 1, 1992.

(k) AMENDMENTS RELATING TO IMPROVED ENFORCEMENT OF GASOLINE TAX.—

(1) REPORTING REQUIREMENTS.—Section 4082 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(c) REPORTING REQUIRED OF TERMINAL OPERATORS.—

"(1) IN GENERAL.—Each person—

"(A) who is registered (or is required to be registered) under section 4101 as a terminal operator, and

"(B) from whose terminal gasoline is removed,

shall make a return (at such time and in such form as the Secretary may by regulations prescribe).

"(2) SPECIFIC REPORT REQUIREMENTS.—The report described in paragraph (1) shall specify—

"(A) the name, address, and registration number under section 4101 of the owner (or the owner of record in such cases as the Secretary deems appropriate) of the gasoline,

"(B) the amount of gasoline removed, and

"(C) such other information as the Secretary may require."

(2) REGISTRATION AND BOND.—

(A) IN GENERAL.—Section 4101 is amended to read as follows:

"SEC. 4101. REGISTRATION AND BOND.

"(a) REGISTRATION.—Each person—

"(1) before incurring any liability for tax under section 4091, or

"(2) required by the Secretary as the Secretary determines to be necessary to carry out this part,

shall register with the Secretary at such time, in such manner and form, and subject to such terms and conditions, as the Secretary may by regulations prescribe. A registration under this subsection may be used only in accordance with regulations prescribed under this subsection. Rules similar to the rules of section 4222(c) shall apply for purposes of this subsection.

"(b) BONDS AND LIENS.—Under regulations prescribed by the Secretary, the Secretary may require, as a condition of permitting any person to be registered under subsection (a), that such person—

"(1) give a bond in such sum as the Secretary determines appropriate, and

"(2) agree to the imposition of a lien on such property (or rights to property) of such person as the Secretary determines appropriate.

If a lien is imposed pursuant to paragraph (2), the Secretary shall release such lien in connection with a transfer of the property if there is furnished to the Secretary (and accepted by the Secretary) a bond in such sum as the Secretary determines appropriate. The Secretary shall respond to any request to release a lien imposed pursuant to paragraph (2) in connection with a transfer of the property not later than 90 days after the date the request for such a release is made."

(B) DISCLOSURE PERMITTED OF REGISTRATION INFORMATION.—Subsection (k) of section 6103 (relating to disclosure of certain returns and return information for tax administration purposes) is amended by adding at the end thereof the following new paragraph:

"(7) DISCLOSURE OF NAMES AND REGISTRATION NUMBERS FOR ADMINISTRATION OF EXCISE TAXES.—The name, address, and registration number of any person registered with the Secretary under subtitle D may be disclosed to the extent necessary to permit the effective administration of such subtitle. In the case of the tax imposed by section 4081, the terminals owned by such person may also be disclosed."

(3) CONFORMING AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 32 is amended by inserting "and special rules" in the item relating to section 4082.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1991.

SEC. 7405A. INCREASE AND EXTENSION OF AVIATION-RELATED TAXES AND TRUST FUND; REPEAL OF REDUCTION IN RATES.

(a) INCREASE IN RATES ON TRANSPORTATION.—

(1) TRANSPORTATION OF PERSONS.—Subsections (a) and (b) of section 4261 are each amended by striking "8 percent" and inserting "10 percent".

(2) TRANSPORTATION OF PROPERTY.—Subsection (a) of section 4271 is amended by striking "5 percent" and inserting "6.25 percent".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transportation beginning after December 31, 1990, but shall not apply to amounts paid on or before such date.

(b) INCREASE IN RATES ON FUEL.—

(1) NONCOMMERCIAL AVIATION JET FUELS.—Paragraph (3) of section 4091(b) is amended by striking "14 cents" and inserting "17.5 cents".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4041(c) is amended by striking "14 cents" and inserting "17.5 cents".

(B)(i) Subparagraph (B) of section 4041(k)(1), as redesignated by section 13211 of this Act, is amended to read as follows:

"(B) subsection (c) shall be applied by substituting '3.5 cents' for '17.5 cents' and '3 cents' for '15 cents'."

(ii) Subparagraph (B) of section 4041(m)(1) is amended to read as follows:

"(B) subsection (c) shall be applied by substituting '3.5 cents' for '17.5 cents' and '3 cents' for '15 cents'."

(C)(i) Paragraphs (1) and (2) of section 4091(d) are amended to read as follows:

"(1) IN GENERAL.—The Airport and Airway Trust Fund financing rate shall be—

"(A) 3.5 cents per gallon in the case of the sale of any mixture of aviation fuel if—

"(i) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and

"(ii) the aviation fuel in such mixture was not taxed under subparagraph (B), and

"(B) 3.89 cents per gallon in the case of the sale of aviation fuel for use (at the time of

such sale) in producing a mixture described in subparagraph (A).

In the case of a sale described in subparagraph (B), the Leaking Underground Storage Tank Trust Fund financing rate shall be ⅛ cent per gallon.

"(2) LATER SEPARATION.—If any person separates the aviation fuel from a mixture of the aviation fuel and alcohol on which tax was imposed under subsection (a) at the Airport and Airway Trust Fund financing rate equivalent to 3.5 cents per gallon by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such aviation fuel. The amount of tax imposed on any sale of such aviation fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel."

(ii) The heading for subsection (d) of section 4091 is amended by striking "EXEMPTION FROM" and inserting "REDUCED RATE OF".

(3) Subsection (f) of section 6427 is amended to read as follows:

"(f) GASOLINE, DIESEL FUEL, AND AVIATION FUEL USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

"(1) IN GENERAL.—Except as provided in subsection (k), if any gasoline, diesel fuel, or aviation fuel on which tax was imposed by section 4081 or 4091 at the regular tax rate is used by any person in producing a mixture described in section 4081(c), 4091(c)(1)(A), or 4091(d)(1)(A) (as the case may be) which is sold or used in such person's trade or business the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

"(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.

"(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any gasoline, diesel fuel, or aviation fuel with respect to which an amount is payable under subsection (d), (e), or (l) of this section or under section 6420 or 6421.

"(4) TERMINATION.—This subsection shall not apply with respect to any mixture sold or used after September 30, 2000, or if earlier for any period before January 1, 2000, during which the Highway Trust Fund financing rate under section 4081(a)(2) is not in effect."

(4) EFFECTIVE DATES.—The amendments made by this subsection shall take effect on January 1, 1991.

(5) FLOOR STOCKS TAXES.—

(A) IMPOSITION OF TAX.—In the case of gasoline or aviation fuel on which tax was imposed under section 4041(c)(2) or 4091 of the Internal Revenue Code of 1986 before January 1, 1991, and which is held on such date by any person, there is hereby imposed a floor stocks tax on such gasoline or fuel.

(B) RATE OF TAX.—The rate of the tax imposed by subparagraph (A) shall be—

(i) 3 cents per gallon in the case of gasoline, and

(ii) 3.5 cents per gallon in the case of aviation fuel.

(C) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(i) LIABILITY FOR TAX.—A person holding gasoline or aviation fuel on January 1, 1991, to which the tax imposed by this paragraph applies shall be liable for such tax.

(ii) METHOD OF PAYMENT.—The tax imposed by this paragraph shall be paid in such manner as the Secretary shall prescribe.

(iii) TIME FOR PAYMENT.—The tax imposed by this paragraph shall be paid on or before June 30, 1991.

(D) DEFINITIONS.—For purposes of this paragraph—

(i) HELD BY A PERSON.—Gasoline or aviation fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(ii) GASOLINE.—The term "gasoline" has the meaning given such term by section 4082 of such Code.

(iii) AVIATION FUEL.—The term "aviation fuel" has the meaning given such term by section 4092(a) of such Code.

(iv) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(E) EXCEPTION FOR EXEMPT USES.—The tax imposed by this paragraph shall not apply to fuel held by any person exclusively for any use which is a nontaxable use (as defined in section 6427(l) of such Code).

(F) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this paragraph, apply with respect to the floor stock taxes imposed by this paragraph to the same extent as if such taxes were imposed by such section 4091.

(c) EXTENSION OF TAXES AND TRUST FUND.—

(1) TRANSPORTATION TAXES.—Sections 4261(g) and 4271(d) are each amended by striking "January 1, 1991" and inserting "January 2, 1996".

(2) FUEL TAXES.—

(A) Subparagraph (B) of section 4091(b)(6) (as redesignated by section 13211(b)) is amended by striking "January 2, 1991" and inserting "January 2, 1996".

(B) Paragraph (5) of section 4041(c) is amended by striking "December 31, 1990" and inserting "December 31, 1995".

(3) DEPOSITS INTO TRUST FUND.—Subsection (b) of section 9502 (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes) is amended by striking "January 1, 1991" each place it appears and inserting "January 1, 1996".

(4) CONFORMING AMENDMENT.—Section 9502(b)(2) is amended by inserting "and the deficit reduction financing rate" after "rate".

(d) REPEAL OF REDUCTION IN RATES.—

(1) Section 4283 (relating to reduction in aviation related taxes in certain cases) is hereby repealed.

(2) The table of sections for part III of subchapter C of chapter 33 is amended by striking the item relating to section 4283.

(3) Subsection (c) of section 4041 is amended by striking paragraph (6).

SEC. 7405B. SENSE OF THE SENATE.

It is the sense of the Senate that the conferees be instructed to adjust the taxes imposed by sections 4041(a)(3) or 4091 on any diesel fuel used on a diesel-powered train so that such taxes will not exceed the increases to taxes imposed under sections 4041, 4081 and 4091 (other than on trains) which will not be dedicated to the Highway Trust Fund.

SEC. 7406. INCREASE IN HARBOR MAINTENANCE TAX.

(a) IN GENERAL.—Subsection (b) of section 4461 is amended by striking "0.04 percent" and inserting "0.125 percent".

(b) HARBOR MAINTENANCE COSTS.—Section 210(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2238(a)) is amended by striking paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) up to 100 percent of the eligible operations and maintenance costs assigned to commercial navigation of all harbors within the United States, including all necessary dredged material management and disposal costs, including studies, monitoring, structures required for disposal, and any alternative method of disposal."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

SEC. 7407. EXTENSION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.

(a) IN GENERAL.—Paragraph (2) of section 4081(d) is amended to read as follows:

"(2) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—The Leaking Underground Storage Tank Trust Fund financing rate under subsection (a)(2) shall not apply after December 31, 1995."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on December 1, 1990.

SEC. 7408. FLOOR STOCKS TAX TREATMENT OF ARTICLES IN FOREIGN TRADE ZONES.

Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) or any other provision of law, any article which is located in a foreign trade zone on the effective date of any increase in tax under the amendments made by this part, part I, or part IV shall be subject to floor stocks taxes imposed by such parts if—

(1) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(2) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

Subpart C—Taxes on Luxury Items

SEC. 7409. TAXES ON LUXURY ITEMS.

(a) IN GENERAL.—Chapter 31 (relating to retail excise taxes) is amended by redesignating subchapters A and B as subchapters B and C, respectively, and by inserting before subchapter B (as so redesignated) the following new subchapter:

"SUBCHAPTER A—CERTAIN LUXURY ITEMS

"Part I. Imposition of taxes.

"Part II. Rules of general applicability.

"PART I. IMPOSITION OF TAXES

"Subpart A. Passenger vehicles, boats, and aircraft.
"Subpart B. Jewelry and furs.
"Subpart A—Passenger Vehicles, Boats, and Aircraft
"Sec. 4001. Passenger vehicles.
"Sec. 4002. Boats.
"Sec. 4003. Aircraft.
"Sec. 4004. Rules applicable to subpart A.

"SEC. 4001. PASSENGER VEHICLES.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

"(b) PASSENGER VEHICLE.—

"(1) IN GENERAL.—For purposes of subsection (a), the term 'passenger vehicle' means any 4-wheeled vehicle—

"(A) which is manufactured primarily for use on public streets, roads, and highways, and

"(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

"(2) SPECIAL RULES.—

"(A) TRUCKS AND VANS.—In the case of a truck or van, paragraph (1)(B) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'.

"(B) LIMOUSINES.—In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

"(c) EXCEPTIONS FOR TAXICABS, ETC.—The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

"SEC. 4002. BOATS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any boat a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $100,000.

"(b) EXCEPTIONS.—The tax imposed by this section shall not apply to the sale of any boat for use by the purchaser exclusively in the active conduct of—

"(1) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(2) any other trade or business unless the boat is to be used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement, or recreation.

"SEC. 4003. AIRCRAFT.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any aircraft a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $250,000.

"(b) AIRCRAFT.—For purposes of this section, the term 'aircraft' means any aircraft—

"(1) which is propelled by a motor, and

"(2) which is capable of carrying 1 or more individuals.

"(c) EXCEPTIONS.—The tax imposed by this section shall not apply to the sale of any aircraft for use by the purchaser exclusively—

"(1) in the aerial application of fertilizers or other substances,

"(2) in the case of a helicopter, in a use described in paragraph (1) or (2) of section 4261(e),

"(3) in a trade or business of providing flight training, or

"(4) in a trade or business of transporting persons or property for compensation or hire.

"(d) REFUND AND CREDIT OF TAX RESULTING FROM BUSINESS EXPERIENCE.—Any tax paid by a purchaser of any aircraft under this section may be refunded or credited to the purchaser, without interest, if after the 12-month period beginning on the date of purchase, such purchaser demonstrates to the satisfaction of the Secretary that 80 percent of the use of such aircraft during such period was in the purchaser's trade or business. Such refund or claim shall be filed with the purchaser's return with respect to income taxes under subtitle A, the due date of which first occurs after such period.

"SEC. 4004. RULES APPLICABLE TO SUBPART A.

"(a) EXEMPTION FOR LAW ENFORCEMENT USES, ETC.—No tax shall be imposed under this subpart on the sale of any article—

"(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or

"(2) to any person for use exclusively in providing emergency medical services.

"(b) SEPARATE PURCHASE OF ARTICLE AND PARTS AND ACCESSORIES THEREFOR.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—Except as provided in paragraph (2), if—

"(A) the owner, lessee, or operator of any article taxable under this subpart (determined without regard to price) installs (or causes to be installed) any part or accessory on such article, and

"(B) such installation is not later than the date 6 months after the date the article was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

"(2) LIMITATION.—The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

"(A) the sum of—

"(i) the price of such part or accessory and its installation,

"(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

"(iii) the price for which the passenger vehicle, boat, or aircraft was sold, over

"(B) $30,000 ($100,000 in the case of a boat or $250,000 in the case of an aircraft).

"(3) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory, or

"(B) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the taxable article does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

"(4) INSTALLERS SECONDARILY LIABLE FOR TAX.—The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

"(c) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF ARTICLES PURCHASED TAX-FREE.—

"(1) IN GENERAL.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any article by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such article is resold by the purchaser or such purchaser makes a substantial non-exempt use of such article,

then such sale or use of such article by such purchaser shall be treated as the 1st retail sale of such article for a price equal to its fair market value at the time of such sale or use.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means any use of an article if the 1st retail sale of such article is not taxable under this subchapter by reason of such use.

"Subpart B—Jewelry and Furs

"Sec. 4006. Jewelry.
"Sec. 4007. Furs.

"SEC. 4006. JEWELRY.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any jewelry a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $5,000.

"(b) JEWELRY.—For purposes of subsection (a), the term 'jewelry' means all articles commonly or commercially known as jewelry, whether real or imitation, including watches.

"(c) MANUFACTURE FROM CUSTOMER'S MATERIAL.—If—

"(1) a person who in the course of a trade or business produces jewelry from material furnished directly or indirectly by a customer, and

"(2) the jewelry so manufactured is for the use of, and not for resale by, such customer,

the delivery of such jewelry to such customer shall be treated as the 1st retail sale of such jewelry for a price equal to its fair market value at the time of such delivery.

"SEC. 4007. FURS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of the following articles a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $5,000:

"(1) Articles made of fur on the hide or pelt.

"(2) Articles of which such fur is a major component.

"(b) MANUFACTURE FROM CUSTOMER'S MATERIAL.—If—

"(1) a person who in the course of a trade or business produces an article of the kind described in subsection (a) from fur on the hide or pelt furnished, directly or indirectly, by a customer, and

"(2) the article is for the use of, and not for resale by, such customer,

the delivery of such article to such customer shall be treated as the 1st retail sale of such article for a price equal to its fair market value at the time of such delivery.

"PART II—RULES OF GENERAL APPLICABILITY

"Sec. 4011. Definitions and special rules.

"SEC. 4011. DEFINITIONS AND SPECIAL RULES.

"(a) 1ST RETAIL SALE.—For purposes of this subchapter, the term '1st retail sale' means the 1st sale, for a purpose other than resale, after manufacture, production, or importation.

"(b) USE TREATED AS SALE.—

"(1) IN GENERAL.—If any person uses an article taxable under this subchapter (including any use after importation) before the 1st retail sale of such article, then such person shall be liable for tax under this subchapter in the same manner as if such article were sold at retail by him.

"(2) EXEMPTION FOR FURTHER MANUFACTURE.—Paragraph (1) shall not apply to use of an article as material in the manufacture or production of, or as a component part of, another article taxable under this subchapter to be manufactured or produced by him.

"(3) COMPUTATION OF TAX.—In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) LEASES CONSIDERED AS SALES.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the lease of an article (including any renewal or any extension of a lease or any subsequent lease of such article) by any person shall be considered a sale of such article at retail.

"(2) SPECIAL RULES FOR CERTAIN LEASES OF PASSENGER VEHICLES, BOATS, AND AIRCRAFT.—

"(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE.—The sale of a passenger vehicle, boat, or aircraft to a person engaged in a leasing or rental trade or business of the article involved for leasing by such person in a qualified lease shall not be treated as the 1st retail sale of such article.

"(B) QUALIFIED LEASE.—For purposes of subparagraph (A), the term 'qualified lease' means—

"(i) any lease in the case of a boat or an aircraft, and

"(ii) any long-term lease (as defined in section 4052) in the case of any passenger vehicle.

"(C) SPECIAL RULES.—In the case of a qualified lease of an article which is treated as the 1st retail sale of such article—

"(i) DETERMINATION OF PRICE.—The tax under this chapter shall be computed on the lowest price for which the article is sold by retailers in the ordinary course of trade.

"(ii) PAYMENT OF TAX.—Rules similar to the rules of section 4217(e)(2) shall apply.

"(iii) NO TAX WHERE EXEMPT USE BY LESSEE.—No tax shall be imposed on any lease payment under a qualified lease if the lessee's use of the article under such lease is an exempt use (as defined in section 4004(c)) of such article.

"(d) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State, territory, or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee,

"(iii) the value of any component of such article if—

"(I) such component is furnished by the 1st user of such article, and

"(II) such component has been used before such furnishing, and

"(C) the price shall be determined without regard to any trade-in.

Subparagraph (B)(iii) shall not apply for purposes of the taxes imposed by sections 4006 and 4007.

"(2) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

"(e) PARTS AND ACCESSORIES SOLD WITH TAXABLE ARTICLE.—Parts and accessories sold on, in connection with, or with the sale of any article taxable under this subchapter shall be treated as part of the article.

"(f) PARTIAL PAYMENTS, ETC.—In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2), and of section 4216(d), shall apply for purposes of this subchapter."

(b) EXEMPTION FOR EXPORTS.—

(1) The material preceding paragraph (1) of section 4221(a) is amended by striking "section 4051" and inserting "subchapter A or C of chapter 31".

(2) Subsection (a) of section 4221 is amended by adding at the end thereof the following new sentence: "In the case of taxes imposed by subchapter A of chapter 31, paragraphs (1), (3), (4), and (5) shall not apply."

(c) EXEMPTION FOR SALES TO THE UNITED STATES.—Section 4293 is amended by inserting "subchapter A of chapter 31," before "section 4041".

(d) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking "section 4053(a)(6)" and inserting "section 4001(c), 4002(b), 4003(c), 4004(a), or 4053(a)(6)".

(2) Paragraph (1) of section 4221(d) is amended by striking "the tax imposed by section 4051" and inserting "taxes imposed by subchapter A or C of chapter 31".

(3) Subsection (d) of section 4222 is amended by striking "sections 4053(a)(6)" and inserting "sections 4001(c), 4002(b), 4003(c), 4004(a), 4053(a)(6)".

(e) CLERICAL AMENDMENT.—The table of subchapters for chapter 31 is amended to read as follows:

"Subchapter A. Certain luxury items.

"Subchapter B. Special fuels.

"Subchapter C. Heavy trucks and trailers."

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect after December 31, 1990, and before January 1, 2000.

Subpart D—Telephone Tax

SEC. 7410. PERMANENT EXTENSION OF TELEPHONE EXCISE TAX.

(a) IN GENERAL.—Paragraph (2) of section 4251(b) is amended by striking "percent;" and all that follows through the period and inserting "percent."

(b) TIME FOR DEPOSIT OF TELEPHONE EXCISE TAXES.—Section 4251 is amended by adding at the end thereof the following new subsection:

"(d) TIME FOR DEPOSIT OF TAXES.—If, under regulations prescribed by the Secretary, a person is required to make deposits of any tax imposed by this section with respect to amounts considered collected by such person during any semi-monthly period, such deposits shall be made not later than the third day (not including Saturdays, Sundays, or legal holidays) after the close of the first week of the second semi-monthly period following the period to which such amounts relate."

(c) ONE-TIME FILING OF TELEPHONE EXCISE TAX EXEMPTION CERTIFICATES.—Section 4253 is amended by adding at the end thereof the following new subsection:

"(k) FILING OF EXEMPTION CERTIFICATES.—

"(1) IN GENERAL.—In order to claim an exemption under subsection (c), (h), (i), or (j), a person shall provide to the provider of communications services a statement (in such form and manner as the Secretary may provide) certifying that such person is entitled to such exemption.

"(2) DURATION OF CERTIFICATE.—Any statement provided under paragraph (1) shall remain in effect until—

"(A) the provider of communications services has actual knowledge that the information provided in such statement is false, or

"(B) such provider is notified by the Secretary that the provider of the statement is no longer entitled to an exemption described in paragraph (1).

If any information provided in such statement is no longer accurate, the person providing such statement shall inform the provider of communications services within 30 days of any change of information."

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall take effect on January 1, 1991.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to the payment of taxes considered collected for semi-monthly periods beginning after December 31, 1990.

(3) SUBSECTION (c).—

(A) IN GENERAL.—The amendment made by subsection (c) shall apply to any claim for exemption made after the date of the enactment of this Act.

(B) DURATION OF EXISTING CERTIFICATES.—Any annual certificate of exemption effective on the date of the enactment of this Act shall remain effective until the end of the annual period.

PART II—INSURANCE PROVISIONS

Subpart A—Provisions Related to Policy Acquisition Costs

SEC. 7411. CAPITALIZATION OF POLICY ACQUISITION EXPENSES.

(a) GENERAL RULE.—Part III of subchapter L of chapter 1 (relating to provisions of general application) is amended by adding at the end thereof the following new section:

"SEC. 848. CAPITALIZATION OF CERTAIN POLICY ACQUISITION EXPENSES.

"(a) GENERAL RULE.—In the case of an insurance company—

"(1) specified policy acquisition expenses for any taxable year shall be capitalized, and

"(2) such expenses shall be allowed as a deduction ratably over the 120-month period beginning with the first month in the second half of such taxable year.

"(b) 5-YEAR AMORTIZATION FOR FIRST $5,000,000 OF SPECIFIED POLICY ACQUISITION EXPENSES.—

"(1) IN GENERAL.—Paragraph (2) of subsection (a) shall be applied with respect to so much of the specified policy acquisition expenses of an insurance company for any taxable year as does not exceed $5,000,000 by substituting '60-month' for '120-month'.

"(2) PHASE-OUT.—If the specified policy acquisition expenses of an insurance company exceed $10,000,000 for any taxable year, the $5,000,000 amount under paragraph (1) shall be reduced (but not below zero) by the amount of such excess.

"(3) SPECIAL RULE FOR MEMBERS OF CONTROLLED GROUP.—In the case of any controlled group—

"(A) all insurance companies which are members of such group shall be treated as 1 person for purposes of this subsection, and

"(B) the amount to which paragraph (1) applies shall be allocated among such companies in such manner as the Secretary may prescribe.

For purposes of the preceding sentence, the term 'controlled group' means any controlled group of corporations as defined in section 1563(a); except that subsections (a)(4) and (b)(2)(D) of section 1563 shall not apply, and subsection (b)(2)(C) of section 1563 shall not apply to the extent it excludes a foreign corporation to which section 842 applies.

"(4) EXCEPTION FOR ACQUISITION EXPENSES ATTRIBUTABLE TO CERTAIN REINSURANCE CONTRACTS.—This subsection shall not apply to any specified policy acquisition expenses for any taxable year which are attributable to premiums or other consideration under any reinsurance contract.

"(c) SPECIFIED POLICY ACQUISITION EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'specified policy acquisition expenses' means, with respect to any taxable year, so much of the general deductions for such taxable year as does not exceed the sum of—

"(A) 1.85 percent of the net premiums for such taxable year on specified insurance contracts which are annuity contracts,

"(B) 2.2 percent of the net premiums for such taxable year on specified insurance contracts which are group life insurance contracts or noncancellable accident and health insurance contracts, and

"(C) 8.3 percent of the net premiums for such taxable year on specified insurance contracts not described in subparagraph (A) or (B).

"(2) GENERAL DEDUCTIONS.—The term 'general deductions' means the deductions provided in part VI of subchapter B (sec. 161 and following, relating to itemized deductions) and in part I of subchapter D (sec. 401 and following, relating to pension, profit sharing, stock bonus plans, etc.).

"(d) NET PREMIUMS.—For purposes of this section—

"(1) IN GENERAL.—The term 'net premiums' means, with respect to any category of specified insurance contracts set forth in subsection (c)(1), the excess (if any) of—

"(A) the gross amount of premiums and other consideration on such contracts, over

"(B) return premiums on such contracts and premiums and other consideration incurred for reinsurance of such contracts.

The rules of section 803(b) shall apply for purposes of the preceding sentence.

"(2) AMOUNTS DETERMINED ON ACCRUAL BASIS.—In the case of an insurance company subject to tax under part II of this subchapter, all computations entering into determinations of net premiums for any taxable year shall be made in the manner required under section 811(a) for life insurance companies.

"(3) TREATMENT OF CERTAIN POLICYHOLDER DIVIDENDS AND SIMILAR AMOUNTS.—Net premiums shall be determined without regard to section 808(e) and without regard to other similar amounts treated as paid to, and returned by, the policyholder.

"(4) SPECIAL RULE FOR CERTAIN REINSURANCE.—Premiums and other consideration incurred for reinsurance shall be taken into account under paragraph (1)(B) only to the extent such premiums and other consideration are includible in the gross income of an insurance company taxable under this subchapter or are subject to tax under this chapter by reason of subpart F of part III of subchapter N.

"(e) CLASSIFICATION OF CONTRACTS.—For purposes of this section—

"(1) SPECIFIED INSURANCE CONTRACT.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'specified insurance contract' means any life insurance, annuity, or noncancellable accident and health insurance contract (or any combination thereof).

"(B) EXCEPTIONS.—The term 'specified insurance contract' shall not include—

"(i) any pension plan contract (as defined in section 818(a)),

"(ii) any flight insurance or similar contract, and

"(iii) any qualified foreign contract (as defined in section 807(e)(4) without regard to paragraph (5) of this subsection).

"(2) GROUP LIFE INSURANCE CONTRACT.—The term 'group life insurance contract' means any life insurance contract—

"(A) which covers a group of individuals defined by reference to employment relationship, membership in an organization, or similar factor,

"(B) the premiums for which are determined on a group basis, and

"(C) the proceeds of which are payable to (or for the benefit of) persons other than the employer of the insured, an organization to which the insured belongs, or other similar person.

"(3) TREATMENT OF GUARANTEED RENEWABLE CONTRACTS.—The rules of section 816(e) shall apply for purposes of this section.

"(4) TREATMENT OF REINSURANCE CONTRACT.—A contract which reinsures another contract shall be treated in the same manner as the reinsured contract.

"(f) SPECIAL RULE WHERE NEGATIVE NET PREMIUMS.—

"(1) IN GENERAL.—If for any taxable year there is a negative capitalization amount with respect to any category of specified insurance contracts set forth in subsection (c)(1)—

"(A) the amount otherwise required to be capitalized under this section for such taxable year with respect to any other category of specified insurance contracts shall be reduced (but not below zero) by such negative capitalization amount, and

"(B) such negative capitalization amount (to the extent not taken into account under subparagraph (A))—

"(i) shall reduce (but not below zero) the unamortized balance (as of the beginning of such taxable year) of the amounts previously capitalized under subsection (a) (beginning with the amount capitalized for the most recent taxable year), and

"(ii) to the extent taken into account as such a reduction, shall be allowed as a deduction for such taxable year.

"(2) NEGATIVE CAPITALIZATION AMOUNT.—For purposes of paragraph (1), the term 'negative capitalization amount' means, with respect to any category of specified insurance contracts, the percentage (applicable under subsection (c)(1) to such category) of the amount (if any) by which—

"(A) the amount determined under subparagraph (B) of subsection (d)(1) with respect to such category, exceeds

"(B) the amount determined under subparagraph (A) of subsection (d)(1) with respect to such category.

"(g) TREATMENT OF CERTAIN CEDING COMMISSIONS.—Nothing in any provision of law (other than this section) shall require the capitalization of any ceding commission incurred on or after September 30, 1990, under any reinsurance contract.

"(h) SECRETARIAL AUTHORITY TO ADJUST CAPITALIZATION AMOUNTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may provide that a type of insurance contract will be treated as a separate category for purposes of this section (and prescribe a percentage applicable to such category) if the Secretary determines that the deferral of acquisition expenses for such type of contract which would otherwise result under this section is substantially greater than the deferral of acquisition expenses which would have resulted if actual acquisition expenses (including indirect expenses) and the actual useful life for such type of contract had been used.

"(2) ADJUSTMENT TO OTHER CONTRACTS.—If the Secretary exercises his authority with respect to any type of contract under paragraph (1), the Secretary shall adjust the percentage which would otherwise have applied under subsection (c)(1) to the category which includes such type of contract so that the exercise of such authority does not result in a decrease in the amount of revenue received under this chapter by reason of this section for any fiscal year.

"(i) TREATMENT OF QUALIFIED FOREIGN CONTRACTS UNDER ADJUSTED CURRENT EARNINGS PREFERENCE.—For purposes of determining adjusted current earnings under section 56(g), acquisition expenses with respect to contracts described in clause (iii) of subsection (e)(1)(B) shall be capitalized and amortized in accordance with the treatment generally required under generally accepted accounting principles as if this subsection applied to such contracts for all taxable years.

"(j) TRANSITIONAL RULE.—In the case of any taxable year which includes September 30, 1990, the amount taken into account as the net premiums (or negative capitalization amount) with respect to any category of specified insurance contracts shall be the amount which bears the same ratio to the amount which (but for this subsection) would be so taken into account as the number of days in such taxable year on or after September 30, 1990, bears to the total number of days in such taxable year."

(b) REPEAL OF SPECIAL TREATMENT OF ACQUISITION EXPENSES UNDER MINIMUM TAX.—Paragraph (4) of section 56(g) is amended by striking subparagraph (F) and redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter L of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 848. Capitalization of certain policy acquisition expenses."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to taxable years ending on or after September 30, 1990. Any capitalization required by reason of such amendments shall not be treated as a change in method of accounting for purposes of the Internal Revenue Code of 1986.

(2) SUBSECTION (b).—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years beginning on or after September 30, 1990, except that, in the case of a small insurance company, such amendment shall apply to taxable years beginning after December 31, 1989. For purposes of this paragraph, the term "small insurance company" means any insurance company which meets the requirements of section 806(a)(3) of the Internal Revenue Code of 1986; except that paragraph (2) of section 806(c) of such Code shall not apply.

(B) SPECIAL RULES FOR YEAR WHICH INCLUDES SEPTEMBER 30, 1990.—In the case of any taxable year which includes September 30, 1990, the amount of acquisition expenses which is required to be capitalized under section 56(g)(4)(F) of the Internal Revenue Code of 1986 (as in effect before the amendment made by subsection (b)) by a company which is not a small insurance company shall be the amount which bears the same ratio to the amount which (but for this subparagraph) would be so required to be capitalized as the number of days in such taxable year before September 30, 1990, bears to

the total number of days in such taxable year. A similar reduction shall be made in the amount amortized for such taxable year under such section 56(g)(4)(F).

SEC. 7412. TREATMENT OF CERTAIN NONLIFE RESERVES OF LIFE INSURANCE COMPANIES.

(a) GENERAL RULE.—Subsection (e) of section 807 (relating to special rules for computing reserves) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR TREATMENT OF CERTAIN NONLIFE RESERVES.—

"(A) IN GENERAL.—The amount taken into account for purposes of subsection (a) and (b) as—

"(i) the opening balance of the items referred to in subparagraph (C), and

"(ii) the closing balance of such items,

shall be 80 percent of the amount which (without regard to this subparagraph) would have been taken into account as such opening or closing balance, as the case may be.

"(B) TRANSITIONAL RULE.—

"(i) IN GENERAL.—In the case of any taxable year beginning on or after September 30, 1990, and on or before September 30, 1996, there shall be included in the gross income of any life insurance company an amount equal to 3⅓ percent of such company's closing balance of the items referred to in subparagraph (C) for its most recent taxable year beginning before September 30, 1990.

"(ii) TERMINATION AS LIFE INSURANCE COMPANY.—Except as provided in section 381(c)(22), if, for any taxable year beginning on or before September 30, 1996, the taxpayer ceases to be a life insurance company, the aggregate inclusions which would have been made under clause (i) for such taxable year and subsequent taxable years but for such cessation shall be taken into account for the taxable year preceding such cessation year.

"(C) DESCRIPTION OF ITEMS.—For purposes of this paragraph, the items referred to in this subparagraph are the items described in subsection (c) which consist of unearned premiums and premiums received in advance under insurance contracts not described in section 816(b)(1)(B)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning on or after September 30, 1990.

SEC. 7413. TREATMENT OF LIFE INSURANCE RESERVES OF INSURANCE COMPANIES WHICH ARE NOT LIFE INSURANCE COMPANIES.

(a) GENERAL RULE.—Paragraph (4) of section 832(b) (defining premiums earned) is amended by striking "section 807, pertaining" and all that follows down through the period at the end of the first sentence which follows subparagraph (C) and inserting "section 807.".

(b) TECHNICAL AMENDMENT.—Subparagraph (A) of section 832(b)(7) is amended—

(1) by striking "amounts included in unearned premiums under the 2nd sentence of such subparagraph" and inserting "insurance contracts described in section 816(b)(1)(B)", and

(2) by striking "such amounts into account" and inserting "such contracts into account".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after September 30, 1990.

Subpart B—Treatment of Salvage Recoverable

SEC. 7414. TREATMENT OF SALVAGE RECOVERABLE.

(a) GENERAL RULE.—Subparagraph (A) of section 832(b)(5) (defining losses incurred) is amended to read as follows:

"(A) IN GENERAL.—The term 'losses incurred' means losses incurred during the taxable year on insurance contracts computed as follows:

"(i) To losses paid during the taxable year, deduct salvage and reinsurance recovered during the taxable year.

"(ii) To the result so obtained, add all unpaid losses on life insurance contracts plus all discounted unpaid losses (as defined in section 846) outstanding at the end of the taxable year and deduct all unpaid losses on life insurance contracts plus all discounted unpaid losses outstanding at the end of the preceding taxable year.

"(iii) To the results so obtained, add estimated salvage and reinsurance recoverable as of the end of the preceding taxable year and deduct estimated salvage and reinsurance recoverable as of the end of the taxable year.

The Secretary shall by regulations provide that the amounts referred to in clause (iii) shall be determined on a discounted basis in accordance with procedures established in such regulations."

(b) CONFORMING AMENDMENT.—Subsection (g) of section 846 is amended by adding "and" at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

(2) AMENDMENTS TREATED AS CHANGE IN METHOD OF ACCOUNTING.—

(A) IN GENERAL.—In the case of any taxpayer who is required by reason of the amendments made by this section to change his method of computing losses incurred—

(i) such change shall be treated as a change in a method of accounting,

(ii) such change shall be treated as initiated by the taxpayer, and

(iii) such change shall be treated as having been made with the consent of the Secretary.

(B) ADJUSTMENTS.—In applying section 481 of the Internal Revenue Code of 1986 with respect to the change referred to in subparagraph (A)—

(i) only 77 percent of the net amount of adjustments (otherwise required by such section 481 to be taken into account by the taxpayer) shall be taken into account, and

(ii) the portion of such net adjustments which is required to be taken into account by the taxpayer (after the application of clause (i)) shall be taken into account over a period not to exceed 4 taxable years beginning with the taxpayer's 1st taxable year beginning after December 31, 1989.

(3) TREATMENT OF COMPANIES WHICH TOOK INTO ACCOUNT SALVAGE RECOVERABLE.—In the case of any insurance company which took into account salvage recoverable in determining losses incurred for its last taxable year beginning before January 1, 1990, 23 percent of the discounted amount of estimated salvage recoverable as of the close of such last taxable year shall be allowed as a deduction ratably over its 1st 4 taxable years beginning after December 31, 1989.

(4) SPECIAL RULE FOR OVERESTIMATES.—If for any taxable year beginning after December 31, 1989—

(A) the amount of the section 481 adjustment which would have been required without regard to paragraph (2) and any discounting, exceeds

(B) the sum of the amount of salvage recovered taken into account under section 832(b)(5)(A)(i) for the taxable year and any preceding taxable year beginning after December 31, 1989, attributable to losses incurred with respect to any accident year beginning before 1990 and the undiscounted amount of estimated salvage recoverable as of the close of the taxable year on account of such losses,

23 percent of such excess (adjusted by the discount rate used in determining the amount of salvage recoverable as of the close of the last taxable year of the taxpayer beginning before January 1, 1990) shall be included in gross income for such taxable year.

(5) EFFECT ON EARNINGS AND PROFITS.—The earnings and profits of any insurance company for its 1st taxable year beginning after December 31, 1989, shall be increased by the amount of the section 481 adjustment which would have been required but for paragraph (2). For purposes of applying sections 56, 902, 952(c)(1), and 960 of the Internal Revenue Code of 1986, earnings and profits of a corporation shall be determined by applying the principles of paragraph (2)(B).

Subpart C—Waiver of Estimated Tax Penalties

SEC. 7415. WAIVER OF ESTIMATED TAX PENALTIES.

No addition to tax shall be made under section 6655 of the Internal Revenue Code of 1986 for any period before March 16, 1991, with respect to any underpayment to the extent such underpayment was created or increased by any provision of this part.

PART III—COMPLIANCE PROVISIONS

SEC. 7421. SUSPENSION OF STATUTE OF LIMITATIONS DURING PROCEEDINGS TO ENFORCE CERTAIN SUMMONSES.

(a) GENERAL RULE.—Section 6503 (relating to suspension of running of period of limitation) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) EXTENSION IN CASE OF CERTAIN SUMMONSES.—

"(1) IN GENERAL.—If any designated summons is issued by the Secretary with respect to any return of tax, the running of any period of limitations provided in section 6501 on the assessment of such tax shall be suspended—

"(A) during any judicial enforcement period—

"(i) with respect to such summons, or

"(ii) with respect to any other summons which is issued during the 30-day period which begins on the date on which such designated summons is issued and which relates to the same return as such designated summons, and

"(B) if the court in any proceeding referred to in paragraph (3) requires any compliance with a summons referred to in subparagraph (A), during the 120-day period beginning with the 1st day after the close of the suspension under subparagraph (A).

If subparagraph (B) does not apply, such period shall in no event expire before the 60th day after the close of the suspension under subparagraph (A).

"(2) DESIGNATED SUMMONS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'designated summons' means any summons issued for purposes of determining the amount of any tax imposed by this title if—

"(i) such summons is issued at least 60 days before the day on which the period prescribed in section 6501 for the assessment of such tax expires (determined with regard to extensions), and

"(ii) such summons clearly states that it is a designated summons for purposes of this subsection.

"(B) LIMITATION.—A summons which relates to any return shall not be treated as a designated summons if a prior summons which relates to such return was treated as a designated summons for purposes of this subsection.

"(3) JUDICIAL ENFORCEMENT PERIOD.—For purposes of this subsection, the term 'judicial enforcement period' means, with respect to any summons, the period—

"(A) which begins on the day on which a court proceeding with respect to such summons is brought, and

"(B) which ends on the day on which there is a final resolution as to the summoned person's response to such summons."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any tax (whether imposed before, on, or after the date of the enactment of this Act) if the period prescribed by section 6501 of the Internal Revenue Code of 1986 for the assessment of such tax (determined with regard to extensions) has not expired on such date of the enactment.

SEC. 7422. ACCURACY-RELATED PENALTY TO APPLY TO SECTION 482 ADJUSTMENTS.

(a) GENERAL RULE.—Subsection (e) of section 6662 (defining substantial valuation overstatement under chapter 1) is amended to read as follows:

"(e) SUBSTANTIAL VALUATION MISSTATEMENT UNDER CHAPTER 1.—

"(1) IN GENERAL.—For purposes of this section, there is a substantial valuation mis statement under chapter 1 if—

"(A) the value of any property (or the adjusted basis of any property) claimed on any return of tax imposed by chapter 1 is 200 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be), or

"(B)(i) the price for any property or services claimed on any such return in connection with any transaction between persons described in section 482 is 200 percent or more (or 50 percent or less) of the amount determined under section 482 to be the correct amount of such price, or

"(ii) the net section 482 transfer price adjustment for the taxable year exceeds $10,000,000.

"(2) LIMITATION.—No penalty shall be imposed by reason of subsection (b)(3) unless the portion of the underpayment for the taxable year attributable to substantial valuation misstatements under chapter 1 exceeds $5,000 ($10,000 in the case of a corporation other than an S corporation or a personal holding company (as defined in section 542)).

"(3) NET SECTION 482 TRANSFER PRICE ADJUSTMENT.—For purposes of this subsection, the term 'net section 482 transfer price adjustment' means, with respect to any taxable year, the net increase in taxable income for the taxable year (determined without regard to any amount carried to such taxable year from another taxable year) resulting from adjustments under section 482 in the transfer price for any property or services. For purposes of the preceding sentence, rules similar to the rules of the last sentence of section 55(b)(2) shall apply."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 6662(b) is amended to read as follows:

"(3) Any substantial valuation misstatement under chapter 1."

(2) Subparagraph (A) of section 6662(h)(2) is amended to read as follows:

"(A) any substantial valuation misstatement under chapter 1 as determined under subsection (e) by substituting—

"(i) '400 percent' for '200 percent' each place it appears,

"(ii) '25 percent' for '50 percent', and

"(iii) '$20,000,000' for '$10,000,000',".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 7423. TREATMENT OF PERSONS PROVIDING SERVICES.

(a) GENERAL RULE.—Subsection (n) of section 6103 (relating to certain other persons) is amended—

(1) by striking "and the programming" and inserting "the programming", and

(2) by inserting after "of equipment," the following "and the providing of other services,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 7424. APPLICATION OF AMENDMENTS MADE BY SECTION 7403 OF REVENUE RECONCILIATION ACT OF 1989 TO TAXABLE YEARS BEGINNING ON OR BEFORE JULY 10, 1989.

(a) GENERAL RULE.—The amendments made by section 7403 of the Revenue Reconciliation Act of 1989 shall apply to—

(1) any requirement to furnish information under section 6038A(a) of the Internal Revenue Code of 1986 (as amended by such section 7403) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any requirement under such section 6038A(a) to maintain records which were in existence on or after March 20, 1990,

(3) any requirement to authorize a corporation to act as a limited agent under section 6038A(e)(1) of such Code (as so amended) if the time for authorizing such action is after the date of the enactment of this Act, and

(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began. Such amendments shall also apply in any case to which they would apply without regard to this section.

(b) CONTINUATION OF OLD FAILURES.—In the case of any failure with respect to a taxable year beginning on or before July 10, 1989, which first occurs on or before the date of the enactment of this Act but which continues after such date of enactment, section 6038A(d)(2) of the Internal Revenue Code of 1986 (as amended by subsection (c) of such section 7403) shall apply for purposes of determining the amount of the penalty imposed for 30-day periods referred to in such section 6038A(d)(2) which begin after the date of the enactment of this Act.

SEC. 7425. OTHER REPORTING REQUIREMENTS.

(a) GENERAL RULE.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6038B the following new section:

"SEC. 6038C. INFORMATION WITH RESPECT TO FOREIGN CORPORATIONS ENGAGED IN U.S. BUSINESS.

"(a) REQUIREMENT.—If a foreign corporation (hereinafter in this section referred to as the 'reporting corporation') is engaged in a trade or business within the United States at any time during a taxable year—

"(1) such corporation shall furnish (at such time and in such manner as the Secretary shall by regulations prescribe) the information described in subsection (b), and

"(2) such corporation shall maintain (at the location, in the manner, and to the extent prescribed in regulations) such records as may be appropriate to determine the liability of such corporation for tax under this title as the Secretary shall by regulations prescribe (or shall cause another person to so maintain such records).

"(b) REQUIRED INFORMATION.—For purposes of subsection (a), the information described in this subsection is—

"(1) the information described in section 6038A(b), and

"(2) such other information as the Secretary may prescribe by regulations relating to any item not directly connected with a transaction for which information is required under paragraph (1).

"(c) PENALTY FOR FAILURE TO FURNISH INFORMATION OR MAINTAIN RECORDS.—The provisions of subsection (d) of section 6038A shall apply to—

"(1) any failure to furnish (within the time prescribed by regulations) any information described in subsection (b), and

"(2) any failure to maintain (or cause another to maintain) records as required by subsection (a),

in the same manner as if such failure were a failure to comply with the provisions of section 6038A.

"(d) ENFORCEMENT OF REQUESTS FOR CERTAIN RECORDS.—

"(1) AGREEMENT TO TREAT CORPORATION AS AGENT.—The rules of paragraph (3) shall apply to any transaction between the reporting corporation and any related party who is a foreign person unless such related party agrees (in such manner and at such time as the Secretary shall prescribe) to authorize the reporting corporation to act as such related party's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to any request by the Secretary to examine records or produce testimony related to any such transaction or with respect to any summons by the Secretary for such records or testimony. The appearance of persons or production of records by reason of the reporting corporation being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of any transaction between the reporting corporation and such related party.

"(2) RULES WHERE INFORMATION NOT FURNISHED.—If—

"(A) for purposes of determining the amount of the reporting corporation's liability for tax under this title, the Secretary issues a summons to such corporation to produce (either directly or as an agent for a related party who is a foreign person) any records or testimony,

"(B) such summons is not quashed in a proceeding begun under paragraph (4) of section 6038A(e) (as made applicable by paragraph (4) of this subsection) and is not determined to be invalid in a proceeding begun under section 7604(b) to enforce such summons, and

"(C) the reporting corporation does not substantially comply in a timely manner with such summons and the Secretary has sent by certified or registered mail a notice

to such reporting corporation that such reporting corporation has not so substantially complied,

the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which such summons relates (whether or not the Secretary begins a proceeding to enforce such summons). If the reporting corporation fails to maintain (or cause another to maintain) records as required by subsection (a), and by reason of that failure, the summons is quashed in a proceeding described in subparagraph (B) or the reporting corporation is not able to provide the records requested in the summons, the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which the records relate.

"(3) APPLICABLE RULES.—If the rules of this paragraph apply to any transaction or item, the treatment of such transaction (or the amount and treatment of any such item) shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

"(4) JUDICIAL PROCEEDINGS.—The provisions of section 6038A(e)(4) shall apply with respect to any summons issued under paragraph (2)(A); except that subparagraph (D) of such section shall be applied by substituting 'transaction or item' for 'transaction'.

"(e) DEFINITIONS.—For purposes of this section, the terms 'related party', 'foreign person', and 'records' have the respective meanings given to such terms by section 6038A(c)."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6038A(a) is amended by striking "or is a foreign corporation engaged in trade or business within the United States".

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6038B the following new item:

"Sec. 6038C. Information with respect to foreign corporations engaged in U.S. business."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) any requirement to furnish information under section 6038C(a) of the Internal Revenue Code of 1986 (as added by this section) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any requirement under such section 6038C(a) to maintain records which were in existence on or after March 20, 1990,

(3) any requirement to authorize a corporation to act as a limited agent under section 6038C(d)(1) of such Code (as so added) if the time for authorizing such action is after the date of the enactment of this Act, and

(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began.

SEC. 7426. STUDY OF SECTION 482.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall conduct a study of the application and administration of section 482 of the Internal Revenue Code of 1986. Such study shall include examination of—

(1) the effectiveness of the amendments made by this part in increasing levels of compliance with such section 482,

(2) use of advanced determination agreements with respect to issues under such section 482,

(3) possible legislative or administrative changes to assist the Internal Revenue Service in increasing compliance with such section 482, and

(4) coordination of the administration of such section 482 with similar provisions of foreign tax laws and with domestic nontax laws.

(b) REPORT.—Not later than March 1, 1992, the Secretary of the Treasury or his delegate shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

PART IV—EMPLOYER REVERSIONS

Subpart A—Treatment of Reversions of Qualified Plan Assets to Employers

SEC. 7431. INCREASE IN REVERSION TAX.

Section 4980(a) (relating to tax on reversion of qualified plan assets to employer) is amended by striking "15 percent" and inserting "20 percent".

SEC. 7432. ADDITIONAL TAX IF NO REPLACEMENT PLAN.

(a) IN GENERAL.—Section 4980 is amended by adding at the end thereof the following new subsection:

"(d) INCREASE IN TAX FOR FAILURE TO ESTABLISH REPLACEMENT PLAN OR INCREASE BENEFITS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '40 percent' for '20 percent' with respect to any employer reversion from a qualified plan unless—

"(A) the employer establishes or maintains a qualified replacement plan, or

"(B) the plan provides benefit increases meeting the requirements of paragraph (3).

"(2) QUALIFIED REPLACEMENT PLAN.—For purposes of this subsection, the term 'qualified replacement plan' means a qualified plan established or maintained by the employer in connection with a qualified plan termination (hereinafter referred to as the 'replacement plan') with respect to which the following requirements are met:

"(A) PARTICIPATION REQUIREMENT.—Substantially all of the active participants in the terminated plan who remain as employees of the employer after the termination are active participants in the replacement plan.

"(B) ASSET TRANSFER REQUIREMENT.—

"(i) 20 PERCENT CUSHION.—A direct transfer from the terminated plan to the replacement plan is made before any employer reversion, and the transfer is in an amount equal to the excess (if any) of—

"(I) 20 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, over

"(II) the amount determined under clause (ii).

"(ii) REDUCTION FOR INCREASE IN BENEFITS.—The amount determined under this clause is an amount equal to the present value of the aggregate increases in the nonforfeitable accrued benefits under the terminated plan of any participants (including nonactive participants) pursuant to a plan amendment which—

"(I) is adopted during the 60-day period ending on the date of termination of the qualified plan, and

"(II) takes effect immediately on the termination date.

"(iii) TREATMENT OF AMOUNT TRANSFERRED.—In the case of the transfer of any amount under clause (i)—

"(I) such amount shall not be includable in the gross income of the employer,

"(II) no deduction shall be allowable with respect to such transfer, and

"(III) such transfer shall not be treated as an employer reversion for purposes of this section.

"(C) ALLOCATION REQUIREMENTS.—

"(i) IN GENERAL.—In the case of any defined contribution plan, the portion of the amount transferred to the replacement plan under subparagraph (B)(i) is—

"(I) allocated under the plan to the accounts of participants in the plan year in which the transfer occurs, or

"(II) credited to a suspense account and allocated from such account to accounts of participants no less rapidly than ratably over the 7-plan-year period beginning with the year of the transfer.

"(ii) COORDINATION WITH SECTION 415 LIMITATION.—If, by reason of any limitation under section 415, any amount credited to a suspense account under clause (i)(II) may not be allocated to a participant before the close of the 7-year period under such clause—

"(I) such amount shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants by reason of any such limitation, shall be allocated to the participant as provided in section 415.

"(iii) TREATMENT OF INCOME.—Any income on any amount credited to a suspense account under clause (i)(II) shall be allocated to accounts of participants no less rapidly than ratably over the remainder of the period determined under such clause (after application of clause (ii)).

"(iv) UNALLOCATED AMOUNTS AT TERMINATION.—If any amount credited to a suspense account under clause (i)(II) is not allocated as of the termination date of the plan—

"(I) such amount shall be allocated to the accounts of participants as of such date, except that any amount which may not be allocated by reason of any limitation under section 415 shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants under subclause (I) by reason of such limitation, such portion shall be treated as an employer reversion to which this section applies.

"(3) PRO RATA BENEFIT INCREASES.—

"(A) IN GENERAL.—The requirements of this paragraph are met if a plan amendment to the terminated plan is adopted in connection with the termination of the plan which provides pro rata increases in the nonforfeitable accrued benefits of all participants (including nonactive participants) which—

"(i) have an aggregate present value not less than 15 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, and

"(ii) take effect immediately on the termination date.

"(B) PRO RATA INCREASE.—For purposes of subparagraph (A), a pro rata increase is an increase in the present value of the nonforfeitable accrued benefit of each participant (including nonactive participants) in an amount which bears the same ratio to the aggregate amount determined under subparagraph (A)(i) as—

"(i) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to

"(ii) the aggregate present value of nonforfeitable accrued benefits of the terminated plan (as so determined).

Notwithstanding the preceding sentence, the aggregate increases in the nonforfeitable accrued benefits of nonactive participants shall not exceed 40 percent of the aggregate amount determined under subparagraph (A)(i) by substituting 'equal to' for 'not less than'.

"(4) COORDINATION WITH OTHER PROVISIONS.—

"(A) LIMITATIONS.—A benefit may not be increased under paragraph (2)(B)(ii) or (3)(A), and an amount may not be allocated to a participant under paragraph (2)(C), if such increase or allocation would result in a failure to meet any requirement under section 401(a)(4) or 415.

"(B) TREATMENT AS EMPLOYER CONTRIBUTIONS.—Any increase in benefits under paragraph (2)(B)(ii) or (3)(A), or any allocation of any amount (or income allocable thereto) to any account under paragraph (2)(C), shall be treated as an annual benefit or annual addition for purposes of section 415.

"(C) 10-YEAR PARTICIPATION REQUIREMENT.—Except as provided by the Secretary, section 415(b)(5)(D) shall not apply to any increase in benefits by reason of this subsection to the extent that the application of this subparagraph does not discriminate in favor of highly compensated employees (as defined in section 414(q)).

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) NONACTIVE PARTICIPANT.—The term 'nonactive participant' means an individual who—

"(i) is a participant in pay status as of the termination date,

"(ii) is a beneficiary who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, or

"(iii) is a participant not described in clause (i) or (ii)—

"(I) who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, and

"(II) whose service, which was creditable under the terminated plan, terminated during the period beginning 3 years before the termination date and ending with the date on which the final distribution of assets occurs.

"(B) PRESENT VALUE.—Present value shall be determined as of the termination date and on the same basis as liabilities of the plan are determined on termination.

"(C) REALLOCATION OF INCREASE.—Except as provided in paragraph (2)(C), if any benefit increase is reduced by reason of the last sentence of paragraph (3)(A)(ii) or paragraph (4), the amount of such reduction shall be allocated to the remaining participants on the same basis as other increases (and shall be treated as meeting any allocation requirement of this subsection).

"(D) AGGREGATION OF PLANS.—The Secretary may provide that 2 or more plans may be treated as 1 plan for purposes of determining whether there is a qualified replacement plan under paragraph (2).

"(6) SUBSECTION NOT TO APPLY TO EMPLOYER IN BANKRUPTCY.—This subsection shall not apply to an employer who, as of the termination date of the qualified plan, is in bankruptcy liquidation under chapter 7 of title 11 of the United States Code or in similar proceedings under State law."

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT.—

(1) FIDUCIARY RESPONSIBILITY.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end thereof the following new subsection:

"(d)(1) If, in connection with the termination of a single-employer plan, an employer elects to establish or maintain a qualified replacement plan, or to increase benefits, as provided under section 4980(d) of the Internal Revenue Code of 1986, a fiduciary shall discharge the fiduciary's duties under this title and title IV in accordance with the following requirements:

"(A) In the case of a fiduciary of the terminated plan, any requirement—

"(i) under section 4980(d)(2)(B) of such Code with respect to the transfer of assets from the terminated plan to a qualified replacement plan, and

"(ii) under section 4980(d)(2)(B)(ii) or 4980(d)(3) of such Code with respect to any increase in benefits under the terminated plan.

"(B) In the case of a fiduciary of a qualified replacement plan, any requirement—

"(i) under section 4980(d)(2)(A) of such Code with respect to participation in the qualified replacement plan of active participants in the terminated plan,

"(ii) under section 4980(d)(2)(B) of such Code with respect to the receipt of assets from the terminated plan, and

"(iii) under section 4980(d)(2)(C) of such Code with respect to the allocation of assets to participants of the qualified replacement plan.

"(2) For purposes of this subsection—

"(A) any term used in this subsection which is also used in section 4980(d) of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section, and

"(B) any reference in this subsection to the Internal Revenue Code of 1986 shall be a reference to such Code as in effect on January 1, 1991."

(2) CONFORMING AMENDMENTS.—

(A) Section 404(a)(1)(D) of such Act (29 U.S.C. 1104(a)(1)(D)) is amended by striking "or title IV" and inserting "and title IV".

(B) Section 4044(d)(1) of such Act (29 U.S.C. 1344(d)(1)) is amended by inserting ", section 404(d) of this Act, and section 4980(d) of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "paragraph (3)".

SEC. 7433. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subpart shall apply to reversions occurring after September 30, 1990.

(b) EXCEPTION.—The amendments made by this subpart shall not apply to any reversion after September 30, 1990, if—

(1) in the case of plans subject to title IV of the Employee Retirement Income Security Act of 1974, a notice of intent to terminate under such title was provided to participants (or if no participants, to the Pension Benefit Guaranty Corporation) before October 1, 1990, or

(2) in the case of plans subject to title I (and not to title IV) of such Act, a notice of intent to reduce future accruals under section 204(h) of such Act was provided to participants in connection with the termination before October 1, 1990.

Subpart B—Transfers to Retiree Health Accounts

SEC. 7434. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) IN GENERAL.—Part I of subchapter D of chapter 1 (relating to pension, profit-sharing, and stock bonus plans) is amended by adding at the end thereof the following new subpart:

"Subpart E—Treatment of Transfers to Retiree Health Accounts

"Sec. 420. Transfers of excess pension assets to retiree health accounts.

"SEC. 420. TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

"(a) GENERAL RULE.—If there is a qualified transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to a health benefits account which is part of such plan—

"(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of subsection (a) or (h) of section 401 solely by reason of such transfer (or any other action authorized under this section),

"(2) no amount shall be includible in the gross income of the employer maintaining the plan solely by reason of such transfer,

"(3) such transfer shall not be treated—

"(A) as an employer reversion for purposes of section 4980, or

"(B) as a prohibited transaction for purposes of section 4975, and

"(4) the limitations of subsection (d) shall apply to such employer.

"(b) QUALIFIED TRANSFER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer—

"(A) of excess pension assets of a defined benefit plan to a health benefits account which is part of such plan in a taxable year beginning after December 31, 1990,

"(B) which does not contravene any other provision of law, and

"(C) with respect to which the plan meets—

"(i) the use requirements of subsection (c)(1),

"(ii) the vesting requirements of subsection (c)(2), and

"(iii) the minimum benefit requirements of subsection (c)(3).

"(2) ONLY 1 TRANSFER PER YEAR.—

"(A) IN GENERAL.—No more than 1 transfer with respect to any plan during a taxable year may be treated as a qualified transfer for purposes of this section.

"(B) EXCEPTION.—A transfer described in paragraph (4) shall not be taken into account for purposes of subparagraph (A).

"(3) LIMITATION ON AMOUNT TRANSFERRED.—The amount of excess pension assets which may be transferred in a qualified transfer shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the taxable year of the transfer for qualified current retiree health liabilities.

"(4) SPECIAL RULE FOR 1990.—

"(A) IN GENERAL.—Subject to the provisions of subsection (c), a transfer shall be treated as a qualified transfer if such transfer—

"(i) is made after the close of the taxable year preceding the employer's first taxable year beginning after December 31, 1990, and before the earlier of—

"(I) the due date (including extensions) for the filing of the return of tax for such preceding taxable year, or

"(II) the date such return is filed, and

"(ii) does not exceed the expenditures of the employer for qualified current retiree health liabilities for such preceding taxable year.

"(B) REDUCTION IN DEDUCTION.—The amount of the deductions otherwise allowable under this chapter to an employer for the taxable year preceding the employer's

first taxable year beginning after December 31, 1990, shall be reduced by the amount of any qualified transfer to which this paragraph applies.

"(C) COORDINATION WITH REDUCTION RULE.—Subsection (e)(1)(B) shall not apply to a transfer described in subparagraph (A).

"(5) EXPIRATION.—No transfer in any taxable year beginning after December 31, 1995, shall be treated as a qualified transfer.

"(c) REQUIREMENTS OF PLANS TRANSFERRING ASSETS.—

"(1) USE OF TRANSFERRED ASSETS.—

"(A) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) shall be used only to pay qualified current retiree health liabilities (other than liabilities of key employees not taken into account under subsection (e)(1)(D)) for the taxable year of the transfer (whether directly or through reimbursement).

"(B) AMOUNTS NOT USED TO PAY FOR HEALTH BENEFITS.—

"(i) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) which are not used as provided in subparagraph (A) shall be transferred out of the account to the transferor plan.

"(ii) TAX TREATMENT OF AMOUNTS.—Any amount transferred out of an account under clause (i)—

"(I) shall not be includible in the gross income of the employer for such taxable year, but

"(II) shall be treated as an employer reversion for purposes of section 4980 (without regard to subsection (d) thereof).

"(C) ORDERING RULE.—For purposes of this section, any amount paid out of a health benefits account shall be treated as paid first out of the assets and income described in subparagraph (A).

"(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).

"(B) SPECIAL RULE FOR 1990.—In the case of a qualified transfer described in subsection (b)(4), the requirements of this paragraph are met with respect to any participant who separated from service during the taxable year to which such transfer relates by recomputing such participant's benefits as if subparagraph (A) had applied immediately before such separation.

"(3) MINIMUM COST REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the cost maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer.

"(B) APPLICABLE EMPLOYER COST.—For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by dividing—

"(i) the qualified current retiree health liabilities of the employer for such taxable year determined—

"(I) without regard to any reduction under subsection (e)(1)(B), and

"(II) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer at the end of the taxable year, by

"(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

"(C) ELECTION TO COMPUTE COST SEPARATELY.—An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

"(D) COST MAINTENANCE PERIOD.—For purposes of this paragraph, the term 'cost maintenance period' means the 5 taxable year period beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more overlapping cost maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.

"(d) LIMITATIONS ON EMPLOYER.—For purposes of this title—

"(1) DEDUCTION LIMITATIONS.—No deduction shall be allowed—

"(A) for the transfer of any amount to a health benefits account in a qualified transfer (or any retransfer to the plan under subsection (c)(1)(B)),

"(B) for qualified current retiree health liabilities paid out of the assets (and income) described in subsection (c)(1), or

"(C) for any amounts to which subparagraph (B) does not apply and which are paid for qualified current retiree health liabilities for the taxable year to the extent such amounts are not greater than the excess (if any) of—

"(i) the amount determined under subparagraph (A) (and income allocable thereto), over

"(ii) the amount determined under subparagraph (B).

"(2) NO CONTRIBUTIONS ALLOWED.—An employer may not contribute after December 31, 1990, any amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to qualified current retiree health liabilities for which transferred assets are required to be used under subsection (c)(1).

"(e) DEFINITION AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED CURRENT RETIREE HEALTH LIABILITIES.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified current retiree health liabilities' means, with respect to any taxable year, the aggregate amounts (including administrative expenses) which would have been allowable as a deduction to the employer for such taxable year with respect to applicable health benefits provided during such taxable year if—

"(i) such benefits were provided directly by the employer, and

"(ii) the employer used the cash receipts and disbursements method of accounting.

For purposes of the preceding sentence, the rule of section 419(c)(3)(B) shall apply.

"(B) REDUCTIONS FOR AMOUNTS PREVIOUSLY SET ASIDE.—The amount determined under subparagraph (A) shall be reduced by any amount previously contributed to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) to pay for the qualified current retiree health liabilities. The portion of any reserves remaining as of the close of December 31, 1990, shall be allocated on a pro rata basis to qualified current retiree health liabilities.

"(C) APPLICABLE HEALTH BENEFITS.—The term 'applicable health benefits' mean health benefits or coverage which are provided to—

"(i) retired employees who, immediately before the qualified transfer, are entitled to receive such benefits upon retirement and who are entitled to pension benefits under the plan, and

"(ii) their spouses and dependents.

"(D) KEY EMPLOYEES EXCLUDED.—If an employee is a key employee (within the meaning of section 416(i)(1)) with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing qualified current retiree health liabilities for such taxable year or in calculating applicable employer cost under subsection (c)(3)(B).

"(2) EXCESS PENSION ASSETS.—The term 'excess pension assets' means the excess (if any) of—

"(A) the amount determined under section 412(c)(7)(A)(ii), over

"(B) the greater of—

"(i) the amount determined under section 412(c)(7)(A)(i), or

"(ii) 125 percent of current liability (as defined in section 412(c)(7)(B)).

The determination under this paragraph shall be made as of the most recent valuation date of the plan preceding the qualified transfer.

"(3) HEALTH BENEFITS ACCOUNT.—The term "health benefits account" means an account established and maintained under section 401(h).

"(4) COORDINATION WITH SECTION 412.—In the case of a qualified transfer to a health benefits account—

"(A) any assets transferred in a plan year after the valuation date for such year (and any income allocable thereto) shall, for purposes of section 412(c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(B) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) for the first plan year after the plan year in which such transfer occurs in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the pension plan under subsection (c)(1)(B)), except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(b) CONFORMING AMENDMENT.—Section 401(h) is amended by inserting ", and subject to the provisions of section 420" after "Secretary".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers in taxable years beginning after December 31, 1990.

SEC. 7435. APPLICATION OF ERISA TO TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) EXCLUSIVE BENEFIT REQUIREMENT.—Section 403(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1103(c)(1)) is amended by inserting ", or under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "insured plans)".

(b) FIDUCIARY DUTIES.—Section 404(a)(1) of such Act (29 U.S.C. 1104(a)(1)) is amended by inserting "and subject to section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)," after "4044,".

(c) EXEMPTIONS FROM PROHIBITED TRANSACTIONS.—Section 408(b) of such Act (29 U.S.C.

1108(b)) is amended by adding at the end thereof the following new paragraph:

"(13) Any transfer in a taxable year beginning before January 1, 1996, of excess pension assets from a defined benefit plan to a retiree health account in a qualified transfer permitted under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)."

(d) FUNDING LIMITATIONS.—Section 302 of such Act (29 U.S.C. 1082) is amended by redesignating subsection (g) as subsection (h) and by adding at the end thereof the following new subsection:

"(g) QUALIFIED TRANSFERS TO HEALTH BENEFIT ACCOUNTS.—For purposes of this section, in the case of a qualified transfer (as defined in section 420 of the Internal Revenue Code of 1986)—

"(1) any assets transferred in a plan year after the valuation date for such year (and any income allocable thereto) shall, for purposes of subsection (c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(2) the plan shall be treated as having a net experience loss under subsection (b)(2)(B)(iv) for the first plan year after the plan year in which such transfer occurs in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the plan under section 420(c)(1)(B) of such Code), except that such subsection shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(e) NOTICE REQUIREMENTS.—

(1) IN GENERAL.—Section 101 of such Act (29 U.S.C. 1021) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) NOTICE OF TRANSFER OF EXCESS PENSION ASSETS TO HEALTH BENEFITS ACCOUNTS.—

"(1) NOTICE TO PARTICIPANTS.—Not later than 60 days before the date of a qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the administrator of the plan shall notify (in such manner as the Secretary may prescribe) each participant and beneficiary under the plan of such transfer. Such notice shall include information with respect to the amount of excess pension assets, the portion to be transferred, the amount of health benefits liabilities to be funded with the assets transferred, and the amount of pension benefits of the participant which will be vested immediately after the transfer.

"(2) NOTICE TO SECRETARIES, ADMINISTRATOR, AND EMPLOYEE ORGANIZATIONS.—

"(A) IN GENERAL.—Not later than 60 days before the date of any qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the employer maintaining the plan from which the transfer is made shall provide the Secretary, the Secretary of the Treasury, the administrator, and each employee organization representing participants in the plan a written notice of such transfer. A copy of any such notice shall be available for inspection in the principal office of the administrator.

"(B) INFORMATION RELATING TO TRANSFER.—Such notice shall identify the plan from which the transfer is made, the amount of the transfer, a detailed accounting of assets projected to be held by the plan immediately before and immediately after the transfer, and the current liabilities under the plan at the time of the transfer.

"(C) AUTHORITY FOR ADDITIONAL REPORTING REQUIREMENTS.—The Secretary may prescribe such additional reporting requirements as may be necessary to carry out the purposes of this section.

"(3) DEFINITIONS.—For purposes of paragraph (1), any term used in such paragraph which is also used in section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991) shall have the same meaning as when used in such section."

(2) PENALTIES.—

(A) Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by inserting "or section 101(e)(1)" after "section 606".

(B) Section 502(c)(3) of such Act (29 U.S.C. 1132(c)(3)) is amended—

(i) by inserting "or who fails to meet the requirements of section 101(e)(2) with respect to any person" after "beneficiary" the first place it appears, and

(ii) by inserting "or to such person" after "beneficiary" the second place it appears.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified transfers under section 420 of the Internal Revenue Code of 1986 made after the date of the enactment of this Act.

PART V—CORPORATE PROVISIONS

SEC. 7441. RECOGNITION OF GAIN BY DISTRIBUTING CORPORATION IN CERTAIN SECTION 355 TRANSACTIONS.

(a) GENERAL RULE.—Section 355 (relating to distribution of stock and securities of a controlled corporation) is amended by striking subsection (c) and inserting the following new subsections:

"(c) TAXABILITY OF CORPORATION ON DISTRIBUTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no gain or loss shall be recognized to a corporation on any distribution to which this section (or so much of section 356 as relates to this section) applies and which is not in pursuance of a plan of reorganization.

"(2) DISTRIBUTION OF APPRECIATED PROPERTY.—

"(A) IN GENERAL.—If—

"(i) in a distribution referred to in paragraph (1), the corporation distributes property other than qualified property, and

"(ii) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then gain shall be recognized to the distributing corporation as if such property were sold to the distributee at its fair market value.

"(B) QUALIFIED PROPERTY.—For purposes of subparagraph (A), the term 'qualified property' means any stock or securities in the controlled corporation.

"(C) TREATMENT OF LIABILITIES.—If any property distributed in the distribution referred to in paragraph (1) is subject to a liability or the shareholder assumes a liability of the distributing corporation in connection with the distribution, then, for purposes of subparagraph (A), the fair market value of such property shall be treated as not less than the amount of such liability.

"(3) COORDINATION WITH SECTIONS 311 AND 336(A).—SECTIONS 311 AND 336(A) SHALL NOT APPLY TO ANY DISTRIBUTION REFERRED TO IN PARAGRAPH (1).

"(d) RECOGNITION OF GAIN ON CERTAIN DISTRIBUTIONS OF STOCK OR SECURITIES IN CONTROLLED CORPORATION.—

"(1) IN GENERAL.—In the case of a disqualified distribution, any stock or securities in the controlled corporation shall not be treated as qualified property for purposes of subsection (c)(2) of this section or section 361(c)(2).

"(2) DISQUALIFIED DISTRIBUTION.—For purposes of this subsection, the term 'disqualified distribution' means any distribution to which this section (or so much of section 356 as relates to this section) applies if, immediately after the distribution—

"(A) any person holds disqualified stock in the distributing corporation which constitutes a 50-percent or greater interest in such corporation, or

"(B) any person holds disqualified stock in the controlled corporation (or, if stock of more than 1 controlled corporation is distributed, in any controlled corporation) which constitutes a 50-percent or greater interest in such corporation.

"(3) DISQUALIFIED STOCK.—For purposes of this subsection, the term 'disqualified stock' means—

"(A) any stock in the distributing corporation acquired by purchase after October 9, 1990, and during the 5-year period ending on the date of the distribution, and

"(B) any stock in any controlled corporation—

"(i) acquired by purchase after October 9, 1990, and during the 5-year period ending on the date of the distribution, or

"(ii) received in the distribution to the extent attributable to distributions on stock described in subparagraph (A).

"(4) 50-PERCENT OR GREATER INTEREST.—For purposes of this subsection, the term '50-percent or greater interest' means stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of shares of all classes of stock.

"(5) AGGREGATION RULES.—

"(A) IN GENERAL.—For purposes of this subsection, a person and all persons related to such person (within the meaning of 267(b) or 707(b)(1)) shall be treated as one person. For purposes of the preceding sentence, sections 267(b) and 707(b)(1) shall be applied by substituting '10 percent' for '50 percent' each place it appears.

"(B) PERSONS ACTING PURSUANT TO PLANS OR ARRANGEMENTS.—If two or more persons act pursuant to a plan or arrangement with respect to acquisitions of stock in the distributing corporation or controlled corporation, such persons shall be treated as one person for purposes of this subsection.

"(6) PURCHASE.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'purchase' means any acquisition but only if—

"(i) the basis of the property acquired in the hands of the acquirer is not determined (I) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or (II) under section 1014(a),

"(ii) except as provided in regulations, the property is not acquired in an exchange to which section 351, 354, 355, or 356 applies, and

"(iii) the property is not acquired in any other transaction described in regulations.

"(B) CERTAIN 351 EXCHANGES TREATED AS PURCHASES.—The term 'purchase' includes any acquisition of stock in an exchange to which section 351 applies to the extent such stock is acquired in exchange for—

"(i) any cash or cash item,

"(ii) any marketable security, or

"(iii) any debt of the transferor.

"(C) CARRYOVER BASIS TRANSACTIONS.—If—

"(i) any person acquires stock from another person who acquired such stock by purchase (as determined under this paragraph with regard to this subparagraph), and

"(ii) the adjusted basis of such stock in the hands of such acquirer is determined in whole or in part by reference to the adjusted basis of such stock in the hands of such other person,

such acquirer shall be treated as having acquired such stock by purchase on the date it was so acquired by such other person.

"(7) SPECIAL RULE WHERE SUBSTANTIAL DIMINUTION OF RISK.—

"(A) IN GENERAL.—If this paragraph applies to any stock for any period, the running of the 5-year period set forth in subparagraph (A) or (B)(i) of paragraph (3) (whichever applies) shall be suspended during such period.

"(B) STOCK TO WHICH SUSPENSION APPLIES.—This paragraph applies to any stock for any period during which the holder's risk of loss with respect to such stock is (directly or indirectly) substantially diminished by—

"(i) an option,

"(ii) a short sale,

"(iii) any special class of stock,

"(iv) any device limiting risk from any portion of the activities of the corporation, or

"(v) any other device or transaction.

"(8) ATTRIBUTION FROM ENTITIES.—

"(A) IN GENERAL.—Paragraph (2) of section 318(a) shall apply in determining whether a person holds stock in any corporation (determined by substituting '10 percent' for '50 percent' in subparagraph (C) of such paragraph (2)).

"(B) DEEMED PURCHASE RULE.—If—

"(i) any person acquires by purchase an interest in any entity, and

"(ii) such person is treated under subparagraph (A) as holding any stock by reason of holding such interest,

such stock shall be treated as acquired by purchase by such person on the date of the purchase of the interest in such entity.

"(9) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations to prevent the avoidance of the purposes of this subsection through the use of related persons, pass-thru entities, options, or other arrangements."

(b) TECHNICAL AMENDMENTS.—Subsection (c) of section 361 is amended by adding at the end thereof the following new paragraph:

"(5) CROSS REFERENCE.—

"For provision providing for recognition of gain in certain distributions, see section 355(d)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after October 9, 1990.

(2) TRANSITIONAL RULES.—For purposes of subparagraphs (A) and (B)(i) of section 355(d)(3) of the Internal Revenue Code of 1986 (as amended by subsection (a)), an acquisition shall be treated as occurring on or before October 9, 1990 if—

(A) such acquisition is pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition,

(B) such acquisition is pursuant to a tender or exchange offer filed with the Securities and Exchange Commission on or before October 9, 1990, or

(C) such acquisition is pursuant to an offer—

(i) the material terms of which were described in a written public announcement on or before October 9, 1990,

(ii) which was the subject of a prior filing with the Securities and Exchange Commission, and

(iii) which is subsequently filed with the Securities and Exchange Commission before January 1, 1991.

SEC. 7442. MODIFICATIONS TO REGULATIONS ISSUED UNDER SECTION 305(c).

(a) GENERAL RULE.—Subsection (c) of section 305 (relating to certain transactions treated as distributions) is amended by adding at the end thereof the following new sentence: "Regulations prescribed under the preceding sentence shall provide that—

"(1) where the issuer of stock is required to redeem the stock at a specified time or the holder of stock has the option to require the issuer to redeem the stock, a redemption premium resulting from such requirement or option shall be treated as reasonable only if the amount of such premium does not exceed the amount determined under the principles of section 1273(a)(3),

"(2) a redemption premium shall not fail to be treated as a distribution (or series of distributions) merely because the stock is callable, and

"(3) in any case in which a redemption premium is treated as a distribution (or series of distributions), such premium shall be taken into account under principles similar to the principles of section 1272(a)."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to stock issued after October 9, 1990.

(2) EXCEPTION.—The amendment made by subsection (a) shall not apply to any stock issued after October 9, 1990, if—

(A) such stock is issued pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such issuance, or

(B) such stock is issued pursuant to a registration or offering statement filed on or before October 9, 1990, with a Federal or State agency regulating the offering or sale of securities and such stock is issued before the date 90 days after the date of such filing.

SEC. 7443. MODIFICATIONS TO SECTION 1060.

(a) EFFECT OF ALLOCATION AGREEMENTS.—Subsection (a) of section 1060 (relating to special allocation rules for certain asset allocations) is amended by adding at the end thereof the following new sentence: "If in connection with an applicable asset acquisition, the transferee and transferor agree in writing as to the allocation of any consideration, or as to the fair market value of any of the assets, such agreement shall be binding on both the transferee and transferor unless the Secretary determines that such allocation (or fair market value) is not appropriate."

(b) INFORMATION REQUIRED IN CASE OF CERTAIN TRANSFERS OF INTEREST IN ENTITIES.—

(1) IN GENERAL.—Section 1060 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) INFORMATION REQUIRED IN CASE OF CERTAIN TRANSFERS OF INTERESTS IN ENTITIES.—

"(1) IN GENERAL.—If—

"(A) a person who is a 10-percent owner with respect to any entity transfers an interest in such entity, and

"(B) in connection with such transfer, such owner (or a related person) enters into an employment contract, covenant not to compete, royalty or lease agreement, or other agreement with the transferee,

such owner and the transferee shall, at such time and in such manner as the Secretary may prescribe, furnish such information as the Secretary may require.

"(2) 10-PERCENT OWNER.—For purposes of this subsection—

"(A) IN GENERAL.—The term '10-percent owner' means, with respect to any entity, any person who holds 10 percent or more (by value) of the interests in such entity immediately before the transfer.

"(B) CONSTRUCTIVE OWNERSHIP.—Section 318 shall apply in determining ownership of stock in a corporation. Similar principles shall apply in determining the ownership of interests in any other entity.

"(3) RELATED PERSON.—For purposes of this subsection, the term 'related person' means any person who is related (within the meaning of section 267(b) or 707(b)(1)) to the 10-percent owner."

(2) TECHNICAL AMENDMENT.—Clause (x) of section 6724(d)(1)(B) is amended by striking "section 1060(b)", and inserting "subsection (b) or (e) of section 1060".

(c) INFORMATION REQUIRED IN SECTION 338(h)(10) TRANSACTIONS.—Paragraph (10) of section 338 is amended by adding at the end thereof the following new subparagraph:

"(C) INFORMATION REQUIRED TO BE FURNISHED TO THE SECRETARY.—Under regulations, where an election is made under subparagraph (A), the purchasing corporation and the common parent of the selling consolidated group shall, at such times and in such manner as may be provided in regulations, furnish to the Secretary the following information:

"(i) The amount allocated under subsection (b)(5) to goodwill or going concern value.

"(ii) Any modification of the amount described in clause (i).

"(iii) Any other information as the Secretary deems necessary to carry out the provisions of this paragraph."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to acquisitions after October 9, 1990.

(2) BINDING CONTRACT EXCEPTION.—The amendments made by this section shall not apply to any acquisition pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition.

SEC. 7444. MODIFICATION TO CORPORATION EQUITY REDUCTION LIMITATIONS ON NET OPERATING LOSS CARRYBACKS.

(a) REPEAL OF EXCEPTION FOR ACQUISITIONS OF SUBSIDIARIES.—Clause (ii) of section 172(m)(3)(B) (relating to exceptions) is amended to read as follows:

"(ii) EXCEPTION.—The term 'major stock acquisition' does not include a qualified stock purchase (within the meaning of section 338) to which an election under section 338 applies."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to acquisitions after October 9, 1990.

(2) BINDING CONTRACT EXCEPTION.—The amendment made by subsection (a) shall not apply to any acquisition pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition.

SEC. 7445. ISSUANCE OF DEBT OR STOCK IN SATISFACTION OF INDEBTEDNESS.

(a) ISSUANCE OF DEBT INSTRUMENT.—

(1) Subsection (e) of section 108 (relating to general rules for discharge of indebtedness) is amended by adding at the end thereof the following new paragraph:

"(11) INDEBTEDNESS SATISFIED BY ISSUANCE OF DEBT INSTRUMENT.—

(A) IN GENERAL.—For purposes of determining income of a debtor from discharge of indebtedness, if a debtor issues a debt instrument in satisfaction of indebtedness, such debtor shall be treated as having satisfied the indebtedness with an amount of money equal to the issue price of such debt instrument.

(B) ISSUE PRICE.—For purposes of subparagraph (A), the issue price of any debt instrument shall be determined under sections 1273 and 1274. For purposes of the preceding sentence, section 1273(b)(4) shall be applied by reducing the stated redemption price of any instrument by the portion of such stated redemption price which is treated as interest for purposes of this chapter."

(2) Subsection (a) of section 1275 is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) LIMITATION ON STOCK FOR DEBT EXCEPTION.—

(1) IN GENERAL.—Subparagraph (B) of section 108(e)(10) is amended to read as follows:

"(B) EXCEPTION FOR CERTAIN STOCK IN TITLE 11 CASES AND INSOLVENT DEBTORS.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any transfer of stock of the debtor (other than disqualified stock)—

"(I) by a debtor in a title 11 case, or

"(II) by any other debtor but only to the extent such debtor is insolvent.

"(ii) DISQUALIFIED STOCK.—For purposes of clause (i), the term 'disqualified stock' means any stock with a stated redemption price if—

"(I) such stock has a fixed redemption date,

"(II) the issuer of such stock has the right to redeem such stock at one or more times, or

"(III) the holder of such stock has the right to require its redemption at one or more times."

(2) CONFORMING AMENDMENT.—Paragraph (8) of section 108(e) is amended by adding at the end thereof the following new sentence:

"Any stock which is disqualified stock (as defined in paragraph (10)(B)(ii)) shall not be treated as stock for purposes of this paragraph."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to debt instruments issued, and stock transferred, after October 9, 1990, in satisfaction of any indebtedness.

(2) EXCEPTIONS.—The amendments made by this section shall not apply to any debt instrument issued, or stock transferred, in satisfaction of any indebtedness if such issuance or transfer (as the case may be)—

(A) is in a title 11 or similar case (as defined in section 368(a)(3)(A) of the Internal Revenue Code of 1986) which was filed on or before October 9, 1990,

(B) is pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such issuance or transfer,

(C) is pursuant to a tender or exchange offer filed with the Securities and Exchange Commission on or before October 9, 1990, or

(D) is pursuant to a transaction—

(i) the material terms of which were described in a written public announcement on or before October 9, 1990,

(ii) which was the subject of a prior filing with the Securities and Exchange Commission, and

(iii) which is subsequently filed with the Securities and Exchange Commission before January 1, 1991.

PART VI—EMPLOYMENT TAX PROVISIONS

SEC. 7451. INCREASE IN DOLLAR LIMITATION ON AMOUNT OF WAGES SUBJECT TO HOSPITAL INSURANCE TAX.

(a) HOSPITAL INSURANCE TAX.—

(1) IN GENERAL.—Paragraph (1) of section 3121(a) is amended—

(A) by striking "contribution and benefit base (as determined under section 230 of the Social Security Act)" each place it appears and inserting "applicable contribution base (as determined under subsection (x))", and

(B) by striking "such contribution and benefit base" and inserting "such applicable contribution base".

(2) APPLICABLE CONTRIBUTION BASE.—Section 3121 is amended by adding at the end thereof the following new subsection:

"(x) APPLICABLE CONTRIBUTION BASE.—For purposes of this chapter—

"(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—For purposes of the taxes imposed by sections 3101(a) and 3111(a), the applicable contribution base for any calendar year is the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(2) HOSPITAL INSURANCE.—For purposes of the taxes imposed by section 3101(b) and 3111(b), the applicable contribution base is—

"(A) $89,000 for calendar year 1991, and

"(B) for any calendar year after 1991, the applicable contribution base for the preceding year adjusted in the same manner as is used in adjusting the contribution and benefit base under section 230(b) of the Social Security Act."

(b) SELF-EMPLOYMENT TAX.—

(1) IN GENERAL.—Subsection (b) of section 1402 is amended by striking "the contribution and benefit base (as determined under section 230 of the Social Security Act)" and inserting "the applicable contribution base (as determined under subsection (k))".

(2) APPLICABLE CONTRIBUTION BASE.—Section 1402 is amended by adding at the end thereof the following new subsection:

"(k) APPLICABLE CONTRIBUTION BASE.—For purposes of this chapter—

"(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—For purposes of the tax imposed by section 1401(a), the applicable contribution base for any calendar year is the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(2) HOSPITAL INSURANCE.—For purposes of the tax imposed by section 1401(b), the applicable contribution base for any calendar year is the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(c) RAILROAD RETIREMENT TAX.—Clause (i) of section 3231(e)(2)(B) is amended to read as follows:

"(i) TIER 1 TAXES.—

"(I) IN GENERAL.—Except as provided in subclause (II) of this clause and in clause (ii), the term 'applicable base' means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(II) HOSPITAL INSURANCE TAXES.—For purposes of applying so much of the rate applicable under section 3201(a) or 3221(a) (as the case may be) as does not exceed the rate of tax in effect under section 3101(b), and for purposes of applying so much of the rate of tax applicable under section 3211(a)(1) as does not exceed the rate of tax in effect under section 1401(b), the term 'applicable base' means for any calendar year the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(d) TECHNICAL AMENDMENT.—

(1) Paragraph (3) of section 6413(c) is amended to read as follows:

"(3) SEPARATE APPLICATION FOR HOSPITAL INSURANCE TAXES.—In applying this subsection with respect to—

"(A) the tax imposed by section 3101(b) (or any amount equivalent to such tax), and

"(B) so much of the tax imposed by section 3201 as is determined at a rate not greater than the rate in effect under section 3101(b), the applicable contribution base determined under section 3121(x)(2) for any calendar year shall be substituted for 'contribution and benefit base (as determined under section 230 of the Social Security Act)' each place it appears."

(2) Sections 3122 and 3125 are each amended by striking "contribution and benefit base limitation" each place it appears and inserting "applicable contribution base limitation".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to 1991 and later calendar years.

SEC. 7452. EXTENDING MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, ALL STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) IN GENERAL.—

(1) APPLICATION OF HOSPITAL INSURANCE TAX.—Section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking subparagraphs (C) and (D).

(2) COVERAGE UNDER MEDICARE.—Section 210(p) of the Social Security Act (42 U.S.C. 410(p)) is amended by striking paragraphs (3) and (4).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services performed after December 31, 1991.

(b) TRANSITION IN TAX RATES.—In applying sections 3101(b) and 3111(b) of the Internal Revenue Code to service which, but for the amendment made by subsection (a), would not constitute employment for purposes of such sections and which is performed—

(1) after December 31, 1991, and before January 1, 1993, the percentage of wages rate of tax under such sections shall be 0.8 percent (instead of 1.45 percent), and

(2) after December 31, 1992, and before January 1, 1994, the percentage of wages rate of tax under such sections shall be 1.35 percent (instead of 1.45 percent).

(c) TRANSITION IN BENEFITS FOR STATE AND LOCAL GOVERNMENT EMPLOYEES AND FORMER EMPLOYEES.—

(1) IN GENERAL.—

(A) EMPLOYEES NEWLY SUBJECT TO TAX.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual who performs services during the calendar quarter beginning January 1, 1992, the wages for which are subject to the tax imposed by section 3101(b) of the Internal Revenue Code of 1986 only because of the amendment made by subsection (a), the individual's medicare qualified State or local government employment (as defined in subparagraph (B)) performed before January 1, 1992, shall be considered to be "employment" (as defined for purposes of title II of such Act), but only for purposes of providing the individual (or another person) with entitlement to hospital insurance benefits under part A of title XVIII of such Act for months beginning with January 1992.

(B) MEDICARE QUALIFIED STATE OR LOCAL GOVERNMENT EMPLOYMENT DEFINED.—In this paragraph, the term "medicare qualified State or local government employment"

means medicare qualified government employment described in section 210(p)(1)(B) of the Social Security Act (determined without regard to section 210(p)(3) of such Act).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year on account of—

(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of paragraph (1),

(B) the additional administrative expenses resulting or expected to result therefrom, and

(C) any loss in interest to such Trust Fund resulting from the payment of those amounts,

in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.

(3) INFORMATION TO INDIVIDUALS WHO ARE PROSPECTIVE MEDICARE BENEFICIARIES BASED ON STATE AND LOCAL GOVERNMENT EMPLOYMENT.—Section 226(g) of the Social Security Act (42 U.S.C. 426(g)) is amended—

(A) by redesignating clauses (1) through (3) as clauses (A) through (C), respectively,

(B) by inserting "(1)" after "(g)", and

(C) by adding at the end the following new paragraph:

"(2) The Secretary, in consultation with State and local governments, shall provide procedures designed to assure that individuals who perform medicare qualified government employment by virtue of service described in section 210(a)(7) are fully informed with respect to (A) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of title XVIII, (B) the requirements for and conditions of such eligibility, and (C) the necessity of timely application as a condition of becoming entitled under subsection (b)(2)(C), giving particular attention to individuals who apply for an annuity or retirement benefit and whose eligibility for such annuity or retirement benefit is based on a disability.".

SEC. 7453. COVERAGE OF CERTAIN STATE AND LOCAL EMPLOYEES UNDER SOCIAL SECURITY.

(a) EMPLOYMENT UNDER OASDI.—Paragraph (7) of section 210(a) of the Social Security Act (42 U.S.C. 410(a)(7)) is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

(3) by adding at the end the following new subparagraph:

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system (as defined in section 218(b)(4)) of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 211(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self employment;".

(b) EMPLOYMENT UNDER FICA.—Paragraph (7) of section 3121(b) of the Internal Revenue Code of 1986 is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

(3) by adding at the end the following new subparagraph:

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system (as defined in section 218(b)(4)) of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 1402(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self-employment;".

(c) MANDATORY EXCLUSION OF CERTAIN EMPLOYEES FROM STATE AGREEMENTS.—Section 218(c)(6) of the Social Security Act (42 U.S.C. 418(c)(6)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

(3) by adding at the end the following new subparagraph:

"(F) service described in section 210(a)(7)(F) which is included as 'employment' under section 210(a).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after December 31, 1991.

SEC. 7454. EXTENSION OF FUTA SURTAX.

(a) IN GENERAL.—Section 3301 (relating to rate of FUTA tax) is amended—

(1) by striking "1988, 1989, and 1990" in paragraph (1) and inserting "1988 through 1995", and

(2) by striking "1991" in paragraph (2) and inserting "1996".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid after December 31, 1990.

SEC. 7455. INCREASE IN TIER 2 RAILROAD RETIREMENT TAXES.

(a) TAX ON EMPLOYEES.—Subsection (b) of section 3201 of the Internal Revenue Code of 1986 (relating to rate of tax) is amended by striking "4.90 percent" and inserting "5 percent".

(b) TAX ON EMPLOYEE REPRESENTATIVES.—Paragraph (2) of section 3211(a) of such Code (relating to rate of tax) is amended to read as follows:

"(2) TIER 2 TAX.—In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to 15.05 percent of the compensation received during any calendar year by such employee representative for services rendered by such employee representative."

(c) TAX ON EMPLOYERS.—Subsection (b) of section 3221 of such Code (relating to rate of tax) is amended by striking "16.10 percent" and inserting "16.4 percent".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to compensation received after December 31, 1990.

(2) EMPLOYER TAX.—The amendment made by subsection (c) shall apply to compensation paid after December 31, 1990.

SEC. 7456. TRANSFER TO RAILROAD RETIREMENT ACCOUNT.

(a) IN GENERAL.—Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) of the Internal Revenue Code of 1986, revenue increase transferred to certain railroad accounts) is amended by striking "1990" and inserting "1991".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on September 30, 1990.

SEC. 7457. TIER 1 RAILROAD RETIREMENT TAX RATES EXPLICITLY DETERMINED BY REFERENCE TO SOCIAL SECURITY TAXES.

(a) TAX ON EMPLOYEES.—Subsection (a) of section 3201 of the Internal Revenue Code of 1986 (relating to rate of tax) is amended—

(1) by striking "following" and inserting "applicable", and

(2) by striking "employee:" and all that follows and inserting "employee. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 for the calendar year."

(b) TAX ON EMPLOYEE REPRESENTATIVES.—Paragraph (1) of section 3211(a) of such Code (relating to rate of tax) is amended—

(1) by striking "following" and inserting "applicable", and

(2) by striking "representative:" and all that follows and inserting "representative. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 and subsections (a) and (b) of section 3111 for the calendar year."

(c) TAX ON EMPLOYERS.—Subsection (a) of section 3221 of such Code (relating to rate of tax) is amended—

(1) by striking "following" and inserting "applicable", and

(2) by striking "employer:" and all that follows and inserting "employer. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3111 for the calendar year."

SEC. 7458. DEPOSITS OF PAYROLL TAXES.

(a) IN GENERAL—Subsection (g) of section 6302 is amended to read as follows:

"(g) DEPOSITS OF SOCIAL SECURITY TAXES AND WITHHELD INCOME TAXES.—If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21 and 24 on the basis of eighth-month periods, such person shall make deposits of such taxes on the 1st banking day after any day on which such person

has $100,000 or more of such taxes for deposit."

(b) TECHNICAL AMENDMENT.—Paragraph (2) of section 7632(b) of the Revenue Reconciliation Act of 1989 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts required to be deposited after December 31, 1990.

PART VII—MISCELLANEOUS PROVISIONS

SEC. 7461. OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.

(a) IN GENERAL.—Part I of subchapter B of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 68. OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.

"(a) GENERAL RULE.—In the case of an individual whose adjusted gross income exceeds the applicable amount, the amount of the itemized deductions otherwise allowable for the taxable year shall be reduced by the lesser of—

"(1) 5 percent of the excess of adjusted gross income over the applicable amount, or

"(2) 80 percent of the amount of the itemized deductions otherwise allowable for such taxable year.

"(b) APPLICABLE AMOUNT.—For purposes of this section, the term 'applicable amount' means $100,000 ($50,000 in the case of a separate return by a married individual within the meaning of section 7703).

"(c) EXCEPTION FOR CERTAIN ITEMIZED DEDUCTIONS.—For purposes of this section, the term 'itemized deductions' does not include—

"(1) the deduction under section 213 (relating to medical, etc. expenses),

"(2) any deduction for investment interest (as defined in section 163(d)), and

"(3) the deduction under section 165(a) for losses described in section 165(c)(3).

"(d) COORDINATION WITH OTHER LIMITATIONS.—This section shall be applied after the application of any other limitation on the allowance of any itemized deduction.

"(e) EXCEPTION FOR ESTATES AND TRUSTS.—This section shall not apply to any estate or trust."

(b) COORDINATION WITH MINIMUM TAX.—Paragraph (1) of section 56(b) is amended by adding at the end thereof the following new subparagraph:

"(F) SECTION 68 NOT APPLICABLE.—Section 68 shall not apply."

(c) MINIMUM TAX TREATMENT OF CERTAIN CHARITABLE CONTRIBUTIONS OF APPRECIATED PROPERTY.—Section 57(a)(6)(A) is amended by inserting "(other than tangible personal property)" after "capital gain property".

(d) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 68. Overall limitation on itemized deductions."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7462. DISALLOWANCE OF DEDUCTION FOR INTEREST ON UNPAID CORPORATE TAXES.

(a) GENERAL RULE.—Section 163 (relating to interest) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) DISALLOWANCE OF DEDUCTION FOR INTEREST ON UNPAID CORPORATE TAXES.—

"(1) IN GENERAL.—In the case of a corporation, no deduction shall be allowed under this subtitle for any interest—

"(A) paid or accrued under subtitle F on any underpayment of tax imposed by this title or on any other liability arising under this title, and

"(B) attributable to periods after the 30th day following the earlier of—

"(i) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent, or

"(ii) the date on which the deficiency notice under section 6212 is sent.

"(2) NOTICE FOR TAXES OTHER THAN INCOME TAXES.—In the case of any underpayment of tax imposed by this title other than under chapter 1, or any other liability imposed by this title not relating to chapter 1, paragraph (1)(B) shall be applied by reference to any letter or notice provided by the Secretary which is similar to the letter or notice described in paragraph (1)(B)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to interest attributable to periods after December 31, 1990.

SEC. 7463. DENIAL OF DEDUCTION FOR UNNECESSARY COSMETIC SURGERY.

(a) IN GENERAL.—Section 213(b) (relating to limitation with respect to medicine and drugs) is amended to read as follows:

"(b) LIMITATIONS.—

"(1) MEDICINE AND DRUGS.—An amount paid during the taxable year for medicine or a drug shall be taken into account under subsection (a) only if such medicine or drug is a prescribed drug or is insulin.

"(2) COSMETIC SURGERY.—

"(A) IN GENERAL.—An amount paid during the taxable year for cosmetic surgery or other similar procedures shall not be taken into account under subsection (a), unless the surgery or procedure is necessary to ameliorate a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or disfiguring disease.

"(B) DEFINITION.—For purposes of this paragraph, the term 'cosmetic surgery' means any procedure which is directed at improving the patient's appearance and does not meaningfully promote the proper function of the body or prevent or treat illness or disease."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1990.

Subtitle E—Other Provisions

SEC. 7471. TAX-RELATED USER FEES MADE PERMANENT.

(a) IN GENERAL.—Section 10511(c) of the Omnibus Budget Reconciliation Act of 1987 is amended by striking "and before September 30, 1990".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on September 29, 1990, except that no advance payment shall be required for any fee for any requests filed after September 29, 1990, and before the 30th day after the date of the enactment of this Act.

SEC. 7472. PUBLIC DEBT LIMIT EXTENSION.

The public debt limit as set forth in subsection (b) of section 3101 of title 31, United States Code, shall be increased by so much of an amount not exceeding $321,000,000,006, as is necessary.

SEC. 7473. REPORTS OF REFUNDS AND CREDITS.

(a) IN GENERAL.—Section 6405 (relating to reports of refunds and credits) is amended—

(1) by striking "$200,000" in subsection (a) and inserting "$1,000,000"; and

(2) by striking "$200,000" in subsection (b) and inserting "$1,000,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that such amendments shall not apply with respect to any refund or credit with respect to which a report has been made before the date of the enactment of this Act.

TITLE VIII—CIVIL SERVICE AND POSTAL SERVICE PROGRAMS

SEC. 8001. ELIMINATION OF LUMP-SUM CREDIT FOR INDIVIDUALS ELECTING ALTERNATIVE FORMS OF ANNUITIES.

(a) ELIMINATION OF LUMP-SUM CREDIT.—(1) Sections 8343a and 8420a of title 5, United States Code, are repealed.

(2)(A) The table of sections for chapter 83 of title 5, United States Code, is amended by striking out the item relating to section 8343a.

(B) The table of sections for chapter 84 of title 5, United States Code, is amended by striking out the item relating to section 8420a.

(3) Section 8424(a) of title 5, United States Code, is amended by striking out "Except as provided in section 8420a, payment" and inserting in lieu thereof "Payment".

(4) Section 807(e) of the Foreign Service Act of 1980 (22 U.S.C. 4047(e)) is repealed.

(5) Section 294 of the Central Intelligence Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is repealed.

(6) The provisions of this subsection shall be effective on and after November 2, 1990, and (except as provided under subsection (b)) shall apply to any annuity payable to an employee or Member with a commencement date on or after November 2, 1990 in accordance with regulations prescribed by the Office of Personnel Management.

(b) LUMP-SUM CREDIT FOR ALTERNATIVE FORMS OF ANNUITIES ON OR BEFORE NOVEMBER 1, 1990.—(1) Notwithstanding any other provision of law, the provisions of section 4005 of the Omnibus Budget Reconciliation Act of 1989 shall apply to any lump-sum credit payable to an employee or Member pursuant to the election of an alternative form of annuity by such employee or Member under section 8343a or section 8420a of title 5, United States Code, if the annuity of such employee or Member commences on or before November 1, 1990.

(2) Notwithstanding any other provision of law, the provisions repealed under subsection (a) (4) and (5) shall apply to any lump-sum credit payable to an employee (to which such provisions would otherwise apply) if the annuity of such employee commences on or before November 1, 1990.

(c) DEFINITIONS.—For purposes of this section, the terms "lump-sum credit", "employee", and "Member" each has the meaning given such term by section 8331 or section 8401 of title 5, United States Code, as appropriate.

SEC. 8002. UNITED STATES POSTAL SERVICE CONTRIBUTIONS FOR CERTAIN EMPLOYEE AND ANNUITANT HEALTH BENEFITS.

Section 8906(g)(2) of title, 5, United States Code, is amended to read as follows:

"(2) The Government contributions authorized by this section for health benefits for an annuitant shall be paid by—

"(A) the United States Postal Service, in the case of annuitant whose eligibility for an annuity is based on a separation from service with the Postal Service on or after June 30, 1971, or who is a survivor of such

an annuitant or a survivor of an employee who died while employed by the Postal Service on or after June 30, 1971; or

"(B) the government of the District of Columbia, in the case of an annuitant whose eligibility for an annuity is based on a separation from service with such government, or who is a survivor of such an annuitant or a survivor of an employee who died while employed by such government."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1990, and shall apply with respect to amounts payable for periods beginning on or after that date.

SEC. 8003. PROHIBITION OF CERTAIN TAXATION ON PAYMENTS FROM THE EMPLOYEES' HEALTH BENEFITS FUND.

Section 8909 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f)(1) No tax, fee, or other monetary payment may be imposed directly or indirectly on a carrier or an underwriting or plan administration subcontractor of an approved health benefit plan by any State, the District of Columbia, or the Commonwealth of Puerto Rico, or by any political subdivision or other governmental authority thereof, with respect to payments made from the Fund.

"(2) Paragraph (1) of this subsection shall not be construed to exempt any carrier or underwriting or plan administration subcontractor of an approved health benefits plan from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by such carrier or underwriting or plan administration subcontractor from business conducted under this chapter, if that tax, fee, or payment is applicable to a broad range of business activity.".

SEC. 8004. COMPUTER MATCHING OF FEDERAL BENEFITS INFORMATION AND PRIVACY PROTECTION.

(a) SHORT TITLE.—This section may be cited as the "Computer Matching and Privacy Protection Amendments of 1990".

(b) VERIFICATION REQUIREMENTS AMENDMENT.—(1) Subsection (p) of section 552a of title 5, United States Code, is amended to read as follows:

"(p) VERIFICATION AND OPPORTUNITY TO CONTEST FINDINGS.—(1) In order to protect any individual whose records are used in a matching program, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual, as a result of information produced by such matching program, until—

"(A)(i) the agency has independently verified the information; or

"(ii) the Data Integrity Board of the agency, or in the case of a non-Federal agency the Data Integrity Board of the source agency, determines in accordance with guidance issued by the Director of the Office of Management and Budget that—

"(I) the information is limited to identification and amount of benefits paid by the source agency under a Federal benefit program; and

"(II) there is a high degree of confidence that the information provided to the recipient agency is accurate;

"(B) the individual receives a notice from the agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and

"(C)(i) the expiration of any time period established for the program by statute or regulation for the individual to respond to that notice; or

"(ii) in the case of a program for which no such period is established, the end of the 30-day period beginning on the date on which notice under subparagraph (B) is mailed or otherwise provided to the individual.

"(2) Independent verification referred to in paragraph (1) requires investigation and confirmation of specific information relating to an individual that is used as a basis for an adverse action against the individual, including where applicable investigation and confirmation of—

"(A) the amount of any asset or income involved;

"(B) whether such individual actually has or had access to such asset or income for such individual's own use; and

"(C) the period or periods when the individual actually had such asset or income.

"(3) Notwithstanding paragraph (1), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during any notice period required by such paragraph.".

(2) Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall publish guidance under subsection (p)(1)(A)(ii) of section 552a of title 5, United States Code, as amended by this Act.

(c) LIMITATION ON APPLICATION OF VERIFICATION REQUIREMENT.—Section 552a(p)(1)(A)(ii)(II) of title 5, United States Code, as amended by section 2, shall not apply to a program referred to in paragraph (1), (2), or (4) of section 1137(b) of the Social Security Act (42 U.S.C. 1320b-7), until the earlier of—

(1) the date on which the Data Integrity Board of the Federal agency which administers that program determines that there is not a high degree of confidence that information provided by that agency under Federal matching programs is accurate; or

(2) 30 days after the date of publication of guidance under section 2(b).

SEC. 8005. APPLICATION OF CERTAIN MEDICARE LIMITS TO FEDERAL EMPLOYEE HEALTH BENEFITS ENROLLEES AGE 65 OR OLDER.

(a) FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.—Section 8904 of title 5, United States Code, is amended by inserting "(a)" before the first sentence and by adding at the end of the section the following new subsection:

"(b)(1) A plan, other than a prepayment plan described in section 8903(4) of this title, may not provide benefits, in the case of any retired enrolled individual who is age 65 or older and is not covered to receive medicare hospital and insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), to pay a charge imposed by any health care provider, for inpatient hospital services which are covered for purposes of benefit payments under this chapter and part A of title XVIII of the Social Security Act, to the extent that such charge exceeds applicable limitations on hospital charges established for medicare purposes under section 1886 of the Social Security Act (42 U.S.C. 1395ww). Hospital providers who have in force participation agreements with the Secretary of Health and Human Services consistent with sections 1814(a) and 1866 of the Social Security Act (42 U.S.C. 1395f(a) and 1395cc), whereby the participating provider accepts medicare benefits as full payment for covered items and services after applicable patient copayments under section 1813 of such Act (42 U.S.C. 1395e) have been satisfied, shall accept equivalent benefit payments and enrollee copayments under this chapter as full payment for services described in the preceding sentence. The Office of Personnel Management shall notify the Secretary of Health and Human Services if a hospital is found to knowingly and willfully violate this subsection on a repeated basis and the Secretary may invoke appropriate sanctions in accordance with section 1866(b)(2) of the Social Security Act (42 U.S.C. 1395cc(b)(2)) and applicable regulations.

"(2) Notwithstanding any other provision of law, the Secretary of Health and Human Services and the Director of the Office of Personnel Management, and their agents, shall exchange any information necessary to implement this subsection.".

(b) EFFECTIVE DATES.—The amendments made by this section apply to inpatient hospital admissions that occur on and after October 1, 1990.

SEC. 8006. PORTABILITY OF BENEFITS FOR EMPLOYEES CONVERTING TO THE CIVIL SERVICE SYSTEM.

(a) SHORT TITLE.—This section may be cited as the "Portability of Benefits for Nonappropriated Fund Employees Act of 1990".

(b) DEFINITIONAL AMENDMENT.—Section 2105(c) of title 5, United States Code, is amended—

(1) by amending paragraph (1) to read as follows:

"(1) laws administered by the Office of Personnel Management, except—

"(A) section 7204;

"(B) as otherwise specifically provided in this title;

"(C) the Fair Labor Standards Act of 1938; or

"(D) for the purpose of entering into an interchange agreement to provide for the noncompetitive movement of employees between such instrumentalities and the competitive service; or"; and

(2) in paragraph (2), by striking "chapter 84" and inserting "chapter 84 (except to the extent specifically provided therein)".

(c) AMENDMENT RELATING TO ORDER OF RETENTION.—Section 3502(a)(C) of title 5, United States Code, is amended to read as follows:

"(C) is entitled to credit for—

"(i) service rendered as an employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Allotment Act or of a committee or association of producers described in section 10(b) of the Agricultural Adjustment Act; and

"(ii) service rendered as an employee described in section 2105(c) if such employee moves or has moved, on or after January 1, 1987, without a break in service of more than 3 days, from a position in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard to a position in the Department of Defense or the Coast Guard, respectively, that is not described in section 2105(c).".

(d) AMENDMENT RELATING TO PAY ON A CHANGE OF POSITION.—Section 5334 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(g) An employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) who moves, without a break in service of more than 3 days, to a position in the Department of Defense or the Coast Guard, respectively, that is subject to this subchapter, may have such employee's ini-

tial rate of basic pay fixed at the minimum rate of the appropriate grade or at any step of such grade that does not exceed the highest previous rate of basic pay received by that employee during the employee's service described in section 2105(c). In the case of a nonappropriated fund employee who is moved involuntarily from such nonappropriated fund instrumentality without a break in service of more than 3 days and without substantial change in duties to a position that is subject to this subchapter, the employee's pay shall be set at a rate (not above the maximum for the grade, except as may be provided for under section 5365) that is not less than the employee's rate of basic pay under the nonappropriated fund instrumentality immediately prior to so moving.".

(e) AMENDMENT RELATING TO PERIODIC STEP INCREASES.—Section 5335 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(g) In computing periods of service under subsection (a) in the case of an employee who moves without a break in service of more than 3 days from a position under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) to a position under the Department of Defense or the Coast Guard, respectively, that is subject to this subchapter, service under such instrumentality shall, under regulations prescribed by the Office, be deemed service in a position subject to this subchapter.".

(f) AMENDMENT RELATING TO GRADE AND PAY RETENTION.—Section 5365(b) of title 5, United States Code, is amended by adding at the end the following:

"Individuals with respect to whom authority under paragraph (2) may be exercised include individuals who are moved without a break in service of more than 3 days from employment in nonappropriated fund instrumentalities of the Department of Defense or the Coast Guard described in section 2105(c) to employment in the Department of Defense or the Coast Guard, respectively, that is not described in section 2105(c).".

(g) AMENDMENT RELATING TO PAY FOR ACCUMULATED AND ACCRUED LEAVE.—Section 5551(a) of title 5, United States Code, is amended by adding at the end the following new sentence: "For the purposes of this subsection, movement to employment described in section 2105(c) shall not be deemed separation from the service in the case of an employee whose annual leave is transferred under section 6308(b).".

(h) AMENDMENTS RELATING TO TRANSFERS BETWEEN POSITIONS UNDER DIFFERENT LEAVE SYSTEMS.—Section 6308 of title 5, United States Code, is amended—

(1) by inserting "(a)" before "The annual"; and

(2) by adding at the end the following new subsection:

"(b) The annual leave, sick leave, and home leave to the credit of a nonappropriated fund employee of the Department of Defense or the Coast Guard described in section 2105(c) who moves without a break in service of more than 3 days to a position in the Department of Defense or the Coast Guard, respectively, that is subject to this subchapter shall be transferred to the employee's credit. The annual leave, sick leave, and home leave to the credit of an employee of the Department of Defense or the Coast Guard who is subject to this subchapter and who moves without a break in service of more than 3 days to a position under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively, described in section 2105(c), shall be transferred to the employee's credit under the nonappropriated fund instrumentality. The Secretary of Defense or the Secretary of Transportation, as appropriate, may provide for a transfer of funds in an amount equal to the value of the transferred annual leave to compensate the gaining entity for the cost of a transfer of annual leave under this subsection.".

(i) AMENDMENTS TO INCLUDE ADDITIONAL SERVICE FOR LEAVE ACCRUAL PURPOSES.—(1) Section 6312 is amended to read as follows:

"§ 6312. Accrual and accumulation for former ASCS county office and nonappropriated fund employees

"(a) Credit shall be given in determining years of service for the purpose of section 6303(a) for—

"(1) service as an employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Allotment Act or of a committee or an association of producers described in section 10(b) of the Agricultural Adjustment Act; and

"(2) service under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) by an employee who has moved without a break in service of more than 3 days to a position subject to this subchapter in the Department of Defense or the Coast Guard, respectively.

"(b) The provisions of subsections (a) and (b) of section 6308 for transfer of leave between leave systems shall apply to the leave systems established for such county office employees and employees of such Department of Defense and Coast Guard nonappropriated fund instrumentalities, respectively.".

(2) The item relating to section 6312 in the table of sections for chapter 63 of title 5, United States Code, is amended to read as follows:

"6312. Accrual and accumulation for former ASCS county office and nonappropriated fund employees.".

(j) Amendments Relating to the Civil Service Retirement System.—(1) Section 8331 of title 5, United States Code, is amended—

(A) by striking "and" at the end of paragraph (1)(J);

(B) by inserting "and" after the semicolon at the end of paragraph (1)(K);

(C) by inserting after paragraph (1)(K) the following new paragraph:

"(L) an employee described in section 2105(c) who has made an election under section 8347(p)(1) to remain covered under this subchapter;";

(D) in paragraph (1)(ii), by striking the matter following "Government employees" through the semicolon and inserting "(besides any employee excluded by clause (x), but including any employee who has made an election under section 8347(p)(2) to remain covered by a retirement system established for employees described in section 2105(c));"; and

(E) in paragraph (7), by striking "and Gallaudet College;" and inserting "Gallaudet College, and, in the case of an employee described in paragraph (1)(L), a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c);".

(2) Section 8347 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(p)(1) Under regulations prescribed by the Office of Personnel Management, an employee of the Department of Defense or the Coast Guard who—

"(A) has not previously made or had an opportunity to make an election under this subsection;

"(B) has 5 or more years of civilian service creditable under this subchapter; and

"(C) moves, without a break in service of more than 3 days, to employment in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively, described in section 2105(c),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered as an employee under this subchapter during any employment described in section 2105(c) after such move.

"(2) Under regulations prescribed by the Office of Personnel Management, an employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, described in section 2105(c), who—

"(A) has not previously made or had an opportunity to make an election under this subsection;

"(B) is a vested participant in a retirement system established for employees described in section 2105(c), as the term 'vested participant' is defined by such system;

"(C) moves, without a break in service of more than 3 days, to a position in the Department of Defense or the Coast Guard, respectively, that is not described in section 2105(c); and

"(D) is excluded from coverage under chapter 84 by section 8402(b),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered, during any subsequent employment as an employee as defined in section 2105(a) or section 2105(c), by the retirement system applicable to such employee's current or most recent employment described in section 2105(c) rather than be subject to this subchapter.".

(k) AMENDMENTS RELATING TO THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—(1) Section 8401 of title 5, United States Code, is amended—

(A) in paragraph (11)—

(i) by striking "and" at the end of subparagraph (A);

(ii) by inserting "and" after the semicolon at the end of subparagraph (B);

(iii) by inserting after subparagraph (B) the following new subparagraph:

"(C) an employee described in section 2105(c) who has made an election under section 8461(n)(1) to remain covered under this chapter;";

(iv) by striking "or" at the end of clause (ii);

(v) by inserting "or" after the semicolon at the end of clause (iii); and

(vi) by inserting after clause (iii) the following new clause:

"(iv) an employee who has made an election under section 8461(n)(2) to remain covered by a retirement system established for employees described in section 2105(c);"; and

(B) in paragraph (15), by striking "and Gallaudet College;" and inserting ", Gallaudet College, and, in the case of an employee described in paragraph (11)(C), a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c);".

(2) Section 8461 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(n)(1) Under regulations prescribed by the Office, an employee of the Department of Defense or the Coast Guard who—

"(A) has not previously made or had an opportunity to make an election under this subsection;

"(B) has 5 or more years of civilian service creditable under this chapter; and

"(C) moves, without a break in service of more than 3 days, to employment in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively, described in section 2105(c),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered as an employee under this chapter during any employment described in section 2105(c) after such move.

"(2) Under regulations prescribed by the Office, an employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c), who—

"(A) has not previously made or had an opportunity to make an election under this subsection;

"(B) is a vested participant in a retirement system established for employees described in section 2105(c), as the term 'vested participant' is defined by such system;

"(C) moves, without a break in service of more than 3 days, to a position in the Department of Defense or the Coast Guard, respectively, that is not described by section 2105(c); and

"(D) is not eligible to make an election under section 8347(p),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered, during any subsequent employment as an employee as defined by section 2105(a) or section 2105(c), by the retirement system applicable to such employee's current or most recent employment described by section 2105(c) rather than be subject to this chapter.".

(l) AMENDMENTS RELATING TO HEALTH BENEFITS.—Section 8901(3)(A) of title 5, United States Code, is amended—

(1) by striking "or" at the end of clause (ii);

(2) by inserting "or" after the semicolon at the end of clause (iii); and

(3) by inserting after clause (iii) the following new clause:

"(iv) on an immediate annuity under a retirement system established for employees described in section 2105(c), in the case of an individual who elected under section 8347(p)(2) or 8461(n)(2) to remain subject to such a system;".

(m) APPLICABILITY.—(1) The amendments made by this section shall apply with respect to any individual who, on or after January 1, 1987—

(A) moves without a break in service of more than 3 days from employment in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard that is described in section 2105(c) of title 5, United States Code, to employment in the Department of Defense or the Coast Guard, respectively, that is not described in such section 2105(c); or

(B) moves without a break in service from employment in the Department of Defense or the Coast Guard that is not described in such section 2105(c) to employment in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively, that is described in such section 2105(c).

(2) The Secretary of Defense, the Secretary of Transportation, the Director of the Office of Personnel Management, and the Executive Director of the Federal Retirement Thrift Investment Board, as applicable, shall take such actions as may be practicable to ensure that each individual who has moved as described under paragraph (1) on or after January 1, 1987, and before the date of enactment of this Act, receives the benefit of the amendments made by this section as if such amendments had been in effect at the time such individual so moved. Each such individual who wishes to make an election of retirement coverage under the amendments made by subsection (j) or (k) of this section shall complete such election within 180 days after the date of enactment of this Act.

(n) CLARIFYING PROVISIONS RELATING TO TREATMENT OF INDIVIDUALS ELECTING TO REMAIN SUBJECT TO THEIR FORMER RETIREMENT SYSTEM.—(1) For the purpose of this section, the term "nonappropriated fund instrumentality" means a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, described in section 2105(c) of title 5, United States Code.

(2)(A) If an individual makes an election under section 8347(p)(1) of title 5, United States Code, to remain covered by subchapter III of chapter 83 of such title, any nonappropriated fund instrumentality thereafter employing such individual shall deduct from such individual's pay and contribute to the Thrift Savings Fund such sums as are required for such individual in accordance with section 8351 of such title.

(B) Notwithstanding subsection (a) or (b) of section 8432 of title 5, United States Code, any individual who, as of the date of enactment of this Act, becomes eligible to make an election under section 8347(p)(1) of such title may, within 30 days after such individual makes an election thereunder in accordance with section 13(b), make any election described in section 8432(b)(1)(A) of such title.

(3)(A) If an individual makes an election under section 8461(n)(1) of title 5, United States Code, to remain covered by chapter 84 of such title, any nonappropriated fund instrumentality thereafter employing such individual shall deduct from such individual's pay and shall contribute to the Thrift Savings Fund the funds deducted, together with such other sums as are required for such individual under subchapter III of such chapter.

(B) Notwithstanding subsection (a) or (b) of section 8432 of title 5, United States Code, any individual who, as of the date of enactment of this Act, becomes eligible to make an election under section 8461(n)(1) of such title may, within 30 days after such individual makes an election thereunder in accordance with section 13(b), make any election described in section 8432(b)(1)(A) of such title.

(4) If an individual makes an election under section 8347(p)(2) or 8461(n)(2) of title 5, United States Code, to remain covered by a retirement system established for employees described in section 2105(c) of such title, any Government agency thereafter employing such individual shall, in lieu of any deductions or contributions for which it would otherwise be responsible with respect to such individual under chapter 83 or 84 of such title, make such deductions from pay and such contributions as would be required (under the retirement system for nonappropriated fund employees involved) if it were a nonappropriated fund instrumentality. Any such deductions and contributions shall be remitted to the Department of Defense or the Coast Guard, as applicable, for transmission to the appropriate retirement system.

SEC. 8007. FEDERAL EMPLOYEE HEALTH BENEFITS REFORM.

(a) HOSPITALIZATION-COST-CONTAINMENT MEASURES.—Section 8902 of title 5, United States Code, is amended by adding at the end the following:

"(n) A contract for a plan described by section 8903(1), (2), or (3), or section 8903a, shall require the carrier—

"(1) to implement hospitalization-cost-containment measures, including measures—

"(A) for verifying the medical necessity of any proposed treatment or surgery;

"(B) for determining the feasibility or appropriateness of providing services on an outpatient rather than on an inpatient basis;

"(C) for determining the appropriate length of stay (through concurrent review or otherwise) in cases involving inpatient care; and

"(D) involving cases management, if the circumstances so warrant; and

"(2) to establish incentives to encourage compliance with measures under paragraph (1).".

"(b) IMPROVED CASH MANAGEMENT.—Section 8909(a) of title 5, United States Code, is amended by adding at the end (as a flush left sentence) the following:

"Payments from the Fund to a plan participating in a letter-of-credit arrangement under this chapter shall, in connection with any payment or reimbursement to be made by such plan for a health service or supply, be made only on a checks-presented basis (as defined under regulations of the Department of the Treasury).".

(c) IMPROVED COORDINATION WITH MEDICARE.—Section 8910 of title 5, United States Code, is amended by adding at the end the following:

"(d) The Office, in consultation with the Department of Health and Human Services, shall develop and implement a system through which the carrier for an approved health benefits plan described by section 8903 or 8903a will be able to identify those annuitants or other individuals covered by such plan who are entitled to benefits under part A or B of title XVIII of the Social Security Act in order to ensure that payments under coordination of benefits with Medicare do not exceed the statutory maximums which physicians may charge Medicare enrollees.".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective as of January 1, 1991, and shall apply with respect to contract years beginning on or after that date.

SEC. 8008. 10-YEAR PERIOD OF LIMITATION ON COLLECTION AFTER ASSESSMENT.

(a) In general.—Subsection (a) of section 6502 of the Internal Revenue Code of 1986 (relating to collection after assessment) is amended—

(1) by striking "6 years" in paragraph (1) and inserting "10 years", and

(2) by striking "6-year period" in paragraph (2) and inserting "10-year period".

(b) Effective Date.—The amendments made by subsection (a) shall apply to levies made, proceedings begun, or agreements made after the date of the enactment of this

Act, with respect to assessments made after such date or assessments pending on such date (determined without regard to the amendments made by this section).

TITLE IX—COMMITTEE ON THE JUDICIARY

SEC. 9001. PATENT AND TRADEMARK OFFICE USER FEES.

(a) SURCHARGES.—There shall be a surcharge, during fiscal years 1991 through 1995, of 56 percent, rounded by standard arithematic rules, on all fees authorized by subscriptions (a) and (b) of section 41 of title 35, United States Code.

(b) USE OF SURCHARGES.—Notwithstanding section 3302 of title 31, United States Code, beginning in fiscal year 1991, all surcharges collected by the Patent and Trademark Office shall be credited to a separate account established in the Department of Treasury and ascribed to the Patent and Trademark activities of the Department of Commerce as offsetting receipts, to be available only to the Patent and Trademark Office to the extent provided in advance in appropriations acts for all authorized activities and operations of the Office, and to remain available until expended.

(c) REVISIONS.—In fiscal years 1991 through 1995, surcharges established under subsection (a) may be revised periodically by the Commissioner of Patents and Trademarks, subject to the provisions of section 553 of title 5, United States Code, in order to ensure that the following amounts, of patent and trademark user fees are collected.

(1) $91,000,000 in fiscal year 1991.
(2) $95,000,000 in fiscal year 1992.
(3) $99,000,000 in fiscal year 1993.
(4) $103,000,000 in fiscal year 1994.
(5) $107,000,000 in fiscal year 1995.

(d) REPEAL.—Section 105(a) of Public Law 100-703 (102 Stat. 4675) is repealed.

(e) REPORT ON FEES.—The Commissioner of Patents and Trademarks shall study the structure of all fees collected by the Patent and Trademark Office and, not later than May 1, 1991, shall submit to the Congress a report on all fees to be collected by the office in fiscal years 1992 through 1995. The report shall include a proposed schedule of fees that would distribute the surcharge provided by subsection (a) among all fees collected by the office, and recommendations for any statutory changes that may be necessary to implement the proposals contained in the report.

SEC. 9002. FEDERAL AGENCY STATUS.

For the purposes of Federal law, the Patent and Trademark Office shall be considered a Federal Agency. In particular, the Patent and Trademark Office shall be subject to all Federal laws pertaining to the procurement of goods and services that would apply to a Federal agency using appropriated funds, including the Federal Property and Administrative Services Act of 1949 and the Office of Federal Procurement Policy Act.

SEC. 9003. EFFECT ON OTHER LAW.

Except for section 6001(d), nothing in this title affects the provisions of Public Law 100-703 (102 Stat. 4674 and following).

TITLE X—LABOR

SEC. 10001. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Labor Reconciliation Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 10001. Short title and table of contents.
Subtitle A—Education Provisions
Sec. 10101. Initial disbursement and endorsement requirements.
Sec. 10102. Ineligibility based on high default rates.
Sec. 10103. Ability to benefit.
Sec. 10104. Maximum loan amounts.
Sec. 10105. Amendments to bankruptcy laws.
Sec. 10106. Sunset provision.
Subtitle B—Labor-Related Penalties
Sec. 10201. Occupational safety and health.
Sec. 10202. Mine safety and health.
Subtitle C—Employee Retirement Income
PART 1—TREATMENT OF REVERSIONS OF QUALIFIED PLAN ASSETS TO EMPLOYERS.
Sec. 10301. Increase in Reversion Tax.
Sec. 10302. Requirement of Replacement Plan for Portion of Excess Assets.
Sec. 10303. Effective Date.
PART 2—TRANSFERS TO RETIREE HEALTH ACCOUNTS
Sec. 10311. Transfer of excess pension assets to retiree health accounts.
Sec. 10312. Application of ERISA to transfers of excess pension assets to retiree health accounts.
PART 3—PREMIUM RATES
Sec. 10321. Increase in premium rates.

Subtitle A—Education Provisions

SEC. 10101. INITIAL DISBURSEMENT AND ENDORSEMENT REQUIREMENTS.

(a) AMENDMENT.—Section 428G(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078-7(b)(1)) is amended to read as follows:

"(b) INITIAL DISBURSEMENT AND ENDORSEMENT REQUIREMENTS.—

"(1) FIRST YEAR STUDENTS.—The first installment of the proceeds of any loan made, insured, or guaranteed under this part that is made to a student borrower who is entering the first year of an undergraduate program of postsecondary education, and who has not previously obtained a loan under this part, shall not (regardless of the amount of such loan or the duration of the period of enrollment) be endorsed by the eligible institution until 30 days after the borrower begins a course of study but may be delivered to the eligible institution prior to the end of the 30-day period.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for loans made on or after the date of enactment to cover periods of instruction beginning on or after January 1, 1991.

SEC. 10102. INELIGIBILITY BASED ON HIGH DEFAULT RATES.

(a) IN GENERAL.—Section 435(a) of the Higher Education Act of 1965 (20 U.S.C. 1085(a)) is amended by adding at the end the following new paragraph:

"(3) INELIGIBILITY BASED ON HIGH DEFAULT RATES.—(A) An institution whose cohort default rate, as defined in section 435(m), is equal to or greater than the threshold specified in subparagraph (B) for each of the three immediately preceding fiscal years for which data are available shall not be eligible to participate in a program under this title unless, within 30 days of receiving notification from the Secretary of the loss of eligibility under this paragraph, the institution appeals the loss of its eligibility to the Secretary. Upon appeal, the Secretary may permit such institution to continue to participate in a program under this title if the institution demonstrates to the satisfaction of the Secretary that—

"(i) the Secretary's calculation of its cohort default rate is not accurate, and that recalculation would reduce its cohort default rate for any of the three fiscal years below the threshold level specified in subparagraph (B); or

"(ii) there are, in the judgment of the Secretary, exceptional mitigating circumstances that would make the application of this paragraph inequitable, except that, during the pendency of an appeal based in whole or in part upon this clause, the Secretary may suspend the eligibility of the institution in accordance with his authority to take emergency actions under section 487(c)(1)(E).

"(B) For purposes of subparagraph (A), the threshold level for each of the three fiscal years immediately preceding—

"(i) fiscal year 1991 is 40 percent;

"(ii) fiscal year 1992 is 30 percent; and

"(iii) fiscal year 1993 and each succeeding fiscal year is 25 percent.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective July 1, 1991.

SEC. 10103. ABILITY TO BENEFIT.

(a) IN GENERAL.—Section 484(d) of the Higher Education Act of 1965 (20 U.S.C. 1091(d)) is amended—

(1) by redesignating subparagraphs (A) and (B) of paragraph (3) as clauses (i) and (ii), respectively;

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(3) by inserting "(1)" before "A student who is admitted";

(4) by designating the second sentence of paragraph (1) (as designated by paragraph (3) of this subsection) as paragraph (2); and

(5) by adding at the end the following new paragraph:

"(3) In order for a student who is admitted on the basis of ability to benefit from the education or training offered to be eligible for any loan under part B of this title, the student shall, prior to enrollment, pass an independently administered examination approved by the Secretary.".

(b) CONFORMING AMENDMENT.—Section 481(b) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) is amended in the fourth sentence by inserting ", except in accordance with section 484(d) of this Act," after "shall not".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective for any loan made not earlier than the date of enactment of this Act to cover a period of instruction beginning not earlier than January 1, 1991.

SEC. 10104. MAXIMUM LOAN AMOUNTS.

(a) EFFECTIVE DATE EXTENSION.—Paragraph (2) of section 2003(b) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "1991" and inserting "1996".

(b) MAXIMUM LOAN AMOUNTS.—Paragraph (1) of section 428A(b) of the Higher Education Act of 1965 (20 U.S.C. 1078-1(b)) is amended by striking "9 consecutive" and inserting "7 consecutive".

SEC. 10105. AMENDMENTS TO BANKRUPTCY LAWS.

(a) AUTOMATIC STAY AND PROPERTY OF THE ESTATE.—

(1) ACTION BY AN AGENCY.—Section 362(b) of title 11, United States Code, is amended—

(A) in paragraph (12), by striking "or" at the end;

(B) in paragraph (13), by striking the period at the end and inserting a semicolon; and

(C) by inserting immediately following paragraph (13) the following new paragraphs:

"(14) under subsection (a) of this section, of any action by an accrediting agency re-

garding the accreditation status of the debtor as an educational institution;

"(15) under subsection (a) of this section, of any action by a State licensing body regarding the licensure of the debtor as an educational institution; or

"(16) under subsection (a) of this section, of any action by a guaranty agency, as defined in section 435(j) of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) or the Secretary of Education regarding the eligibility of the debtor to participate in programs authorized under such Act.".

(2) ELIGIBILITY TO PARTICIPATE IN HIGHER EDUCATION PROGRAMS.—Section 541(b) of title 11, United States Code, is amended—

(A) in paragraph (1), by striking "or" at the end;

(B) in paragraph (2), by striking the period at the end and inserting a semicolon and "or"; and

(C) by adding at the end the following new paragraph:

"(3) any eligibility of the debtor to participate in programs authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.; 42 U.S.C. 2751 et seq.), or any accreditation status or State licensure of the debtor as an educational institution.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall be effective on the date of enactment of this Act.

(b) TREATMENT OF CERTAIN EDUCATION LOANS IN BANKRUPTCY PROCEEDINGS.—

(1) DISCHARGE.—Section 1328(a)(2) of title 11, United States Code, is amended by striking "section 523(a)(5)" and inserting "paragraph (5) or (8) of section 523(a)".

(2) COMMENCED CASES.—The amendment made by paragraph (1) shall not apply to any case under the provisions of title 11, United States Code, commenced before the date of the enactment of this Act.

SEC. 10106. SUNSET PROVISION.

The amendments made by this subtitle shall cease to have effect on September 30, 1996.

Subtitle B—Labor-Related Penalties

SEC. 10201. OCCUPATIONAL SAFETY AND HEALTH.

(a) IN GENERAL.—Section 17 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 666) is amended—

(1) in subsection (a), by striking "$10,000 for each violation" and inserting "$50,000 for each violation";

(2) in subsection (b), by striking "$1,000 for each such violation" and inserting "$5,000 for each such violation";

(3) in subsection (c), by striking "$1,000 for each such violation" and inserting "$5,000 for each such violation";

(4) in subsection (d), by striking "$1,000" and inserting "$5,000";

(5) in subsection (j) (as redesignated), by striking "$1,000" and inserting "$5,000"; and

SEC. 10202. MINE SAFETY AND HEALTH.

Section 110(a) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 820(a)) is amended by striking "$10,000" and inserting "$30,000".

Subtitle C—Employee Retirement Income

PART 1—TREATMENT OF REVERSIONS OF QUALIFIED PLAN ASSETS TO EMPLOYERS

SEC. 10301. INCREASE IN REVERSION TAX.

Section 4980(a) of the Internal Revenue Code of 1986 (relating to tax on reversion of qualified plan assets to employer) is amended by striking "15 percent" and inserting "20 percent".

SEC. 10302. REQUIREMENT OF REPLACEMENT PLAN FOR PORTION OF EXCESS ASSETS.

(a) IN GENERAL.—Section 4980 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(d) INCREASE IN TAX FOR FAILURE TO ESTABLISH REPLACEMENT PLAN OR INCREASE BENEFITS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '40 percent' for '20 percent' with respect to any employer reversion from a qualified plan unless—

"(A) the employer establishes or maintains a qualified replacement plan, or

"(B) the plan provides benefit increases meeting the requirements of paragraph (3).

"(2) QUALIFIED REPLACEMENT PLAN.—For purposes of this subsection, the term 'qualified replacement plan' means a qualified plan established or maintained by the employer in connection with a qualified plan termination (hereinafter referred to as the 'replacement plan') with respect to which the following requirements are met:

"(A) PARTICIPATION REQUIREMENT.—Substantially all of the active participants in the terminated plan are active participants in the replacement plan.

"(B) ASSET TRANSFER REQUIREMENT.—

"(i) 20 PERCENT CUSHION.—A direct transfer from the terminated plan to the replacement plan is made before any employer reversion in an amount equal to the excess (if any) of—

"(I) 20 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, over

"(II) the amount determined under clause (ii).

"(ii) REDUCTION FOR INCREASE IN BENEFITS.—The amount determined under this clause is an amount equal to the present value of the aggregate increases in the nonforfeitable accrued benefits under the terminated plan of any participants (including nonactive participants) pursuant to a plan amendment which—

"(I) is adopted during the 60-day period ending on the date of termination of the qualified plan, and

"(II) takes effect immediately on the termination date.

"(iii) TREATMENT OF AMOUNT TRANSFERRED.—In the case of the transfer of any amount under clause (i)—

"(I) such amount shall not be includible in the gross income of the employer,

"(II) no deduction shall be allowable with respect to such transfer, and

"(III) such transfer shall not be treated as an employer reversion for purposes of this section.

"(C) ALLOCATION REQUIREMENTS.—

"(i) IN GENERAL.—In the case of any defined contribution plan, the portion of the amount transferred to the replacement plan under subparagraph (B)(i) is—

"(I) allocated under the plan to the accounts of participants in the plan year in which the transfer occurs, or

"(II) credited to a suspense account and allocated from such account to accounts of participants no less rapidly than ratably over the 7-plan-year period beginning with the year of the transfer (or, if any limitation under section 415 applies, the period allowable under such section).

"(ii) TREATMENT OF INCOME.—Any income on any amount credited to a suspense account under clause (i)(II) shall be allocated to accounts of participants no less rapidly than ratably over the remainder of the period determined under such clause.

"(iii) UNALLOCATED AMOUNTS AT TERMINATION.—If any amount credited to a suspense account under clause (i)(II) is not allocated as of the termination date of the plan—

"(I) such amount shall be allocated to the accounts of participants as of such date, except that any amount which may not be allocated by reason of any limitation under section 415 shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants under subclause (I) by reason of such limitation, such portion shall be treated as an employer reversion to which this section applies.

"(3) BENEFIT INCREASES.—The requirements of this paragraph are met if either of the following requirements are met:

"(A) PRO RATA INCREASE IN BENEFITS.—

"(i) IN GENERAL.—A plan amendment to the terminated plan is adopted in connection with the termination of the plan which provides pro rata increases in the nonforfeitable accrued benefits of all participants (including nonactive participants) which—

"(I) have an aggregate present value not less than 15 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, and

"(II) take effect immediately on the termination date.

"(ii) PRO RATA INCREASE.—For purposes of clause (i), a pro rata increase is an increase in the nonforfeitable accrued benefit of each participant (including nonactive participants) in an amount which bears the same ratio to the aggregate amount determined under clause (i)(I) as—

"(I) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to

"(II) the aggregate present value of nonforfeitable accrued benefits of the terminated plan (as so determined).

Notwithstanding the preceding sentence, the aggregate increases in the nonforfeitable accrued benefits of nonactive participants shall not exceed 40 percent of the aggregate amount determined under clause (i)(I).

"(B) BENEFIT INCREASE OF 20 PERCENT OR GREATER.—The aggregate present value of the increases in nonforfeitable accrued benefits described in paragraph (2)(B)(ii) is 20 percent or more of the maximum amount which the employer could receive as an employer reversion without regard to this subsection.

"(4) COORDINATION WITH OTHER PROVISIONS.—

"(A) LIMITATIONS.—A benefit may not be increased under paragraph (2)(B)(ii) or (3)(A), and an amount may not be allocated to a participant under paragraph (2)(C), if such increase or allocation would result in a failure to meet any requirement under section 401(a)(4) or 415.

"(B) TREATMENT AS EMPLOYER CONTRIBUTIONS.—Any increase in benefits under paragraph (2)(B)(ii) or (3)(A), or any allocation of any amount (or income allocable thereto) to any account under paragraph (2)(C), shall be treated as an employer contribution for purposes of section 415.

"(C) 10-YEAR PARTICIPATION REQUIREMENT.—Except as provided by the Secretary, section 415(b)(5)(D) shall not apply to any increase in benefits by reason of this subsection to the extent that the application of this subparagraph does not discriminate in favor of highly compensated employees (as defined in section 414(q)).

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) NONACTIVE PARTICIPANT.—The term 'nonactive participant' means an individual who—

"(i) is a participant in pay status as of the termination date,

"(ii) is a beneficiary who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, or

"(iii) is a participant not described in clause (i) or (ii)—

"(I) who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, and

"(II) whose service, which was creditable under the terminated plan, terminated during the period beginning 3 years before the termination date and ending with the date on which the final distribution of assets occurs.

"(B) PRESENT VALUE.—Present value shall be determined as of the termination date and on the same basis as liabilities of the plan are determined on termination.

"(C) REALLOCATION OF INCREASE.—Except as provided in paragraph (2)(C), if any benefit increase is reduced by reason of the last sentence of paragraph (3)(A)(ii) or paragraph (4), the amount of such reduction shall be allocated to the remaining participants on the same basis as other increases (and shall be treated as meeting any allocation requirement of this subsection).

"(D) AGGREGATION OF PLANS.—The Secretary may provide that 2 or more plans may be treated as 1 plan for purposes of determining whether there is a qualified replacement plan under paragraph (2).

"(6) SUBSECTION NOT TO APPLY TO EMPLOYER IN BANKRUPTCY.—This subsection shall not apply to an employer who, as of the termination date of the qualified plan, is in bankruptcy liquidation under chapter 7 of title 11 of the United States Code."

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT.—

(1) FIDUCIARY RESPONSIBILITY.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end the following new subsection:

"(d)(1) If, in connection with the termination of a single-employer plan, an employer elects to establish or maintain a qualified replacement plan, or to increase benefits, as provided under section 4980(d) of the Internal Revenue Code of 1986, a fiduciary shall discharge the fiduciary's duties under this title and title IV in accordance with the following requirements:

"(A) In the case of a fiduciary of the terminated plan, any requirement—

"(i) under section 4980(d)(2)(B) of such Code with respect to the transfer of assets from the terminated plan to a qualified replacement plan, and

"(ii) under section 4980(d)(2)(B)(ii) or 4980(d)(3) of such Code with respect to any increase in benefits under the terminated plan.

"(B) In the case of a fiduciary of a qualified replacement plan, any requirement—

"(i) under section 4980(d)(2)(A) of such Code with respect to participation in the qualified replacement plan of active participants in the terminated plan,

"(ii) under section 4980(d)(2)(B) of such Code with respect to the receipt of assets from the terminated plan, and

"(iii) under section 4980(d)(2)(C) of such Code with respect to the allocation of assets to participants of the qualified replacement plan.

"(2) For purposes of this subsection—

"(A) any term used in this subsection which is also used in section 4980(d) of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section, and

"(B) any reference in this subsection to the Internal Revenue Code of 1986 shall be a reference to such Code as in effect on January 1, 1991."

(2) CONFORMING AMENDMENTS.—

(A) Section 404(a)(1)(D) of such Act (29 U.S.C. 1104(a)(1)(D)) is amended by striking "or title IV" and inserting "and title IV".

(B) Section 4044(d)(1) of such Act (29 U.S.C. 1344(d)(1)) is amended by inserting ", section 404(d) of this Act, and section 4980(d) of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "paragraph (3)".

SEC. 10303. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this part all apply to reversions occurring after September 30, 1990.

(b) EXCEPTION.—The amendments made by this part shall not apply to any reversion after September 30, 1990, if—

(1) in the case of plans subject to title IV of the Employee Retirement Income Security Act of 1974, a notice of intent to terminate under such title was provided to participants (or if no participants, to the Pension Benefit Guaranty Corporation) before October 1, 1990, or

(2) in the case of plans subject to title I (and not to title IV) of such Act, a notice of intent to reduce future accruals under section 204(h) of such Act was provided to participants in connection with the termination before October 1, 1990.

PART 2—TRANSFERS TO RETIREE HEALTH ACCOUNTS

SEC. 10311. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) IN GENERAL.—Part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (relating to pension, profit-sharing, and stock bonus plans) is amended by adding at the end the following new subpart:

"Subpart E—Treatment of Transfers to Retiree Health Accounts

"Sec. 420. Transfers of excess pension assets to retiree health accounts.

"SEC. 420. TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

"(a) GENERAL RULE.—If there is a qualified transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to a health benefits account which is part of such plan—

"(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of subsection (a) or (h) of section 401 solely by reason of such transfer (or any other action authorized under this section),

"(2) no amount shall be includible in the gross income of the employer maintaining the plan solely by reason of such transfer,

"(3) such transfer shall not be treated—

"(A) as an employer reversion for purposes of section 4980, or

"(B) as a prohibited transaction for purposes of section 4975, and

"(4) the limitations of subsection (d) shall apply to such employer.

"(b) QUALIFIED TRANSFER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer—

"(A) of excess pension assets of a defined benefit plan to a health benefits account which is part of such plan in a taxable year beginning after December 31, 1990,

"(B) which does not contravene any other provision of law, and

"(C) with respect to which the plan meets—

"(i) the use requirements of subsection (c)(1),

"(ii) the vesting requirements of subsection (c)(2), and

"(iii) the minimum benefit requirements of subsection (c)(3).

"(2) ONLY 1 TRANSFER PER YEAR.—

"(A) IN GENERAL.—No more than 1 transfer with respect to any plan during a taxable year may be treated as a qualified transfer for purposes of this section.

"(B) EXCEPTION.—A transfer described in paragraph (4) shall not be taken into account for purposes of subparagraph (A).

"(3) LIMITATION ON AMOUNT TRANSFERRED.—The amount of excess pension assets which may be transferred in a qualified transfer shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the taxable year of the transfer for qualified current retiree health liabilities.

"(4) SPECIAL RULE FOR 1990.—

"(A) IN GENERAL.—Subject to the provisions of subsection (c), a transfer shall be treated as a qualified transfer if such transfer—

"(i) is made after the close of the taxable year preceding the employer's first taxable year beginning after December 31, 1990, and before the earlier of—

"(I) the due date (including extensions) for the filing of the return of tax for such preceding taxable year, or

"(II) the date such return is filed, and

"(ii) does not exceed the expenditures of the employer for qualified current retiree health liabilities for such preceding taxable year.

"(B) REDUCTION IN DEDUCTION.—The amount of the deductions otherwise allowable under this chapter to an employer for the taxable year preceding the employer's first taxable year beginning after December 31, 1990, shall be reduced by the amount of any qualified transfer to which this paragraph applies.

"(C) COORDINATION WITH REDUCTION RULE.—Subsection (e)(1)(B) shall not apply to a transfer described in subparagraph (A).

"(5) EXPIRATION.—No transfer in any taxable year beginning after December 31, 1995, shall be treated as a qualified transfer.

"(c) REQUIREMENTS OF PLANS TRANSFERRING ASSETS.—

"(1) USE OF TRANSFERRED ASSETS.—

"(A) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) shall be used only to pay qualified current retiree health liabilities (other than liabilities of key employees not taken into account under subsection (e)(1)(D)) for the taxable year of the transfer (whether directly or through reimbursement).

"(B) AMOUNTS NOT USED TO PAY FOR HEALTH BENEFITS.—

"(i) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) which are not used as provided in subparagraph (A) shall be transferred out of the account to the transferor plan.

"(ii) TAX TREATMENT OF AMOUNTS.—Any amount transferred out of an account under clause (i)—

"(I) shall not be includible in the gross income of the employer for such taxable year, but

"(II) shall be treated as an employer reversion for purposes of section 4980.

"(C) ORDERING RULE.—For purposes of this section, any amount paid out of a health benefits account shall be treated as paid first out of the assets and income described in subparagraph (A).

"(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).

"(B) SPECIAL RULE FOR 1990.—In the case of a qualified transfer described in subsection (b)(4), the requirements of this paragraph are met with respect to any participant who separated from service during the taxable year to which such transfer relates by recomputing such participant's benefits as if subparagraph (A) had applied immediately before such separation.

"(3) MINIMUM BENEFIT REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if each health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the benefit maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer.

"(B) APPLICABLE EMPLOYER COST.—For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by dividing—

"(i) the qualified current retiree health liabilities of the employer for such taxable year determined—

"(I) without regard to any reduction under subsection (e)(1)(B), and

"(II) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer, by

"(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

"(C) ELECTION TO COMPUTE COST SEPARATELY.—An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

"(D) BENEFIT MAINTENANCE PERIOD.—For purposes of this paragraph, the term 'benefit maintenance period' means the 5 taxable year period beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more overlapping benefit maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.

"(d) LIMITATIONS ON EMPLOYER.—For purposes of this title—

"(1) DEDUCTION LIMITATIONS.—No deduction shall be allowed—

"(A) for the transfer of any amount to a health benefits account in a qualified transfer (or any retransfer to the plan under subsection (c)(1)(B)),

"(B) for qualified current retiree health liabilities paid out of the assets (and income) described in subsection (c)(1), or

"(C) for any amounts to which subparagraph (B) does not apply and which are paid for qualified current retiree health liabilities for the taxable year to the extent such amounts are not greater than the excess (if any) of—

"(i) the amount determined under subparagraph (A) (and income allocable thereto), over

"(ii) the amount determined under subparagraph (B).

"(2) NO CONTRIBUTIONS ALLOWED.—An employer may not contribute after December 31, 1990, any amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to qualified current retiree health liabilities for which transferred assets are required to be used under subsection (c)(1).

"(e) DEFINITION AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED CURRENT RETIREE HEALTH LIABILITIES.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified current retiree health liabilities' means, with respect to any taxable year, the aggregate amounts (including administrative expenses) which would have been allowable as a deduction to the employer for such taxable year with respect to applicable health benefits provided during such taxable year if—

"(i) such benefits were provided directly by the employer, and

"(ii) the employer used the cash receipts and disbursements method of accounting.

For purposes of the preceding sentence, the rule of section 419(c)(3)(B) shall apply.

"(B) REDUCTIONS FOR AMOUNTS PREVIOUSLY SET ASIDE.—The amount determined under subparagraph (A) shall be reduced by any amount previously contributed to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) to pay for the qualified current retiree health liabilities.

"(C) APPLICABLE HEALTH BENEFITS.—The term 'applicable health benefits' mean health benefits which are provided to—

"(i) former employees who, immediately before the qualified transfer, are entitled to receive benefits through the account by reason of their participation under the plan, and

"(ii) their spouses and dependents.

"(D) KEY EMPLOYEES EXCLUDED.—If an employee is a key employee (within the meaning of section 416(i)(1)) with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing qualified current retiree health liabilities for such taxable year.

"(2) EXCESS PENSION ASSETS.—The term 'excess pension assets' means the excess (if any) of—

"(A) the amount determined under section 412(c)(7)(A)(ii), over

"(B) the greater of—

"(i) the amount determined under section 412(c)(7)(A)(i), or

"(ii) 125 percent of current liability (as defined in section 412(c)(7)(B)).

The determination under this paragraph shall be made as of the most recent valuation date of the plan preceding the qualified transfer.

"(3) HEALTH BENEFITS ACCOUNT.—The term "health benefits account" means an account established and maintained under section 401(h).

"(4) COORDINATION WITH SECTION 412.—In the case of a qualified transfer to a health benefits account—

"(A) any assets transferred in a plan year after the valuation date for such year shall, for purposes of section 412(c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(B) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) for the plan year in which such transfer occurs in an amount equal to the amount of such transfer, except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(b) CONFORMING AMENDMENT.—Section 401(h) of the Internal Revenue Code of 1986 is amended by inserting ", and subject to the provisions of section 420" after "Secretary".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers in taxable years beginning after December 31, 1990.

SEC. 10312. APPLICATION OF ERISA TO TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) EXCLUSIVE BENEFIT REQUIREMENT.—Section 403(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1103(c)(1)) is amended by inserting ", or under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "insured plans)".

(b) FIDUCIARY DUTIES.—Section 404(a)(1) of such Act (29 U.S.C. 1104(a)(1)) is amended by inserting "and subject to section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)," after "4044,".

(c) EXEMPTIONS FROM PROHIBITED TRANSACTIONS.—Section 408(b) of such Act (29 U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

"(13) Any transfer in a taxable year beginning before January 1, 1996, of excess pension assets from a defined benefit plan to a retiree health account in a qualified transfer permitted under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)."

(d) FUNDING LIMITATIONS.—Section 302 of such Act (29 U.S.C. 1082) is amended by redesignating subsection (g) as subsection (h) and by adding at the end the following new subsection:

"(g) QUALIFIED TRANSFERS TO HEALTH BENEFIT ACCOUNTS.—For purposes of this section, in the case of a qualified transfer (as defined in section 420 of the Internal Revenue Code of 1986)—

"(1) any assets transferred in a plan year after the valuation date for such year shall, for purposes of subsection (c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(2) the plan shall be treated as having a net experience loss under subsection (b)(2)(B)(iv) for the plan year in which such transfer occurs in an amount equal to the amount of such transfer, except that such subsection shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(e) NOTICE REQUIREMENTS.—

(1) IN GENERAL.—Section 101 of such Act (29 U.S.C. 1021) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) NOTICE OF TRANSFER OF EXCESS PENSION ASSETS TO HEALTH BENEFITS ACCOUNTS.—

"(1) NOTICE TO PARTICIPANTS.—Not later than 60 days before the date of a qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the administrator of the plan shall notify (in such manner as the Secre-

tary may prescribe) each participant and beneficiary under the plan of such transfer. Such notice shall include information with respect to the amount of excess pension assets, the portion to be transferred, the amount of health benefits liabilities to be funded with the assets transferred, and the amount of pension benefits of the participant which will be vested immediately after the transfer.

"(2) NOTICE TO SECRETARIES, ADMINISTRATOR, AND EMPLOYEE ORGANIZATIONS.—

"(A) IN GENERAL.—Not later than 60 days before the date of any qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the employer maintaining the plan from which the transfer is made shall provide the Secretary, the Secretary of the Treasury, the administrator, and each employee organization representing participants in the plan a written notice of such transfer. A copy of any such notice shall be available for inspection in the principal office of the administrator.

"(B) INFORMATION RELATING TO TRANSFER.—Such notice shall identify the plan from which the transfer is made, the amount of the transfer, a detailed accounting of assets projected to be held by the plan immediately before and immediately after the transfer, and the current liabilities under the plan at the time of the transfer.

"(C) AUTHORITY FOR ADDITIONAL REPORTING REQUIREMENTS.—The Secretary may prescribe such additional reporting requirements as may be necessary to carry out the purposes of this section.

"(3) DEFINITIONS.—For purposes of paragraph (1), any term used in such paragraph which is also used in section 420 of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section."

(2) PENALTIES.—

(A) Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by inserting "or section 101(e)(1)" after "section 606".

(B) Section 502(c)(3) of such Act (29 U.S.C. 1132(c)(3)) is amended—

(i) by inserting "or who fails to meet the requirements of section 101(e)(2) with respect to any person" after "beneficiary" the first place it appears, and

(ii) by inserting "or to such person" after "beneficiary" the second place it appears.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified transfers under section 420 of the Internal Revenue Code of 1986 made after the date of the enactment of this Act.

PART 3—PREMIUM RATES

SEC. 10321. INCREASE IN PREMIUM RATES.

(a) INCREASE IN BASIC PREMIUM.—

(1) IN GENERAL.—Clause (i) of section 4006(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended by striking "for plan years beginning after December 31, 1987, an amount equal to the sum of $16" and inserting "for plan years beginning after December 31, 1990, an amount equal to the sum of $19".

(2) CONFORMING AMENDMENT.—Section 4006(c)(1)(A) of such Act (29 U.S.C. 1306(c)(1)(A)) is amended by adding at the end the following new clause:

"(iv) with respect to each plan year beginning after December 31, 1987, and before January 1, 1991, an amount equal to $16 for each individual who was a participant in such plan during the plan year, and".

(b) INCREASE IN ADDITIONAL PREMIUM.—Section 4006(a)(3)(E) of such Act (29 U.S.C. 1306(a)(3)(E)) is amended—

(1) by striking "$6.00" in clause (ii) and inserting "$9.00", and

(2) by striking "$34" in clause (iv)(I) and inserting "$53".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1990.

TITLE XI—VETERANS

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Subtitle A—Compensation and Pension

SEC. 11001. COMPENSATION BENEFITS FOR INCOMPETENT VETERANS HAVING ESTATES.

(a) IN GENERAL.—Section 3203 of title 38, United States Code, is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c), the following new subsection (d):

"(d)(1) In any case in which a veteran having neither spouse, child, nor dependent parent is rated by the Secretary in accordance with regulations as being incompetent and the value of the veteran's estate exceeds $25,000, further payment of compensation to which the veteran would otherwise be entitled may not be made until the value of such estate is reduced to less than $10,000.

"(2)(A) Subject to subparagraph (B) of this paragraph, if a veteran denied payment of compensation pursuant to paragraph (1) of this subsection is subsequently rated as being competent, the Secretary shall pay to the veteran a lump sum equal to the total of the compensation which was denied the veteran pursuant to such paragraph. The Secretary shall make the lump-sum payment after the end of 90 days following the date of the competency rating.

"(B) A lump-sum payment shall not be made under this paragraph to a veteran who, within such 90-day period, dies or is again rated by the Secretary as being incompetent.

"(3) The costs of administering this subsection shall be paid for from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

"(4) For the purposes of this subsection, the term 'veteran's estate' means the market value (exclusive of the value of any mortgages or encumbrances) of all real and personal property owned by a veteran other than a principal residence and other personal effects suitable to, and consistent with, such veteran's reasonable mode of living, as determined by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to payments of compensation for months after October 1990.

SEC. 11002. ELIMINATION OF PRESUMPTION OF TOTAL DISABILITY IN DETERMINATION OF PENSION FOR CERTAIN VETERANS.

(a) ELIMINATION OF PRESUMPTION.—Section 502(a) of title 38, United States Code, is amended by striking out "sixty-five years of age or older or".

(b) APPLICABILITY.—The amendment made by subsection (a) shall take effect with respect to veterans who, on November 1, 1990, are not receiving pension under laws administered by the Secretary of Veterans Affairs.

SEC. 11003. REDUCTION IN PENSION FOR VETERANS RECEIVING MEDICAID-COVERED NURSING HOME CARE.

(a) IN GENERAL.—Section 3203 of title 38, United States Code, as amended by section 11001, is further amended by adding at the end the following:

"(g)(1) For the purposes of this subsection—

"(A) the term 'Medicaid plan' means a State plan for medical assistance referred to in section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)); and

"(B) the term 'nursing facility' means a nursing facility described in section 1919 of such Act (42 U.S.C. 1396r).

"(2) If a veteran having neither spouse nor child is covered by a Medicaid plan for services furnished such veteran by a nursing facility, no pension in excess of $90 per month shall be paid to or for the veteran for any period after the month of admission to such nursing facility.

"(3) Notwithstanding any provision of title XIX of the Social Security Act, the amount of the payment paid a nursing facility pursuant to a Medicaid plan for services furnished a veteran may not be reduced by any amount of pension permitted to be paid such veteran under paragraph (2) of this subsection.

"(4) A veteran is not liable to the United States for any payment of pension in excess of the amount permitted under this subsection that is paid to or for the veteran by reason of the inability or failure of the Secretary to reduce the veteran's pension under

this subsection unless such inability or failure is the result of a willful concealment by the veteran of information necessary to make a reduction in pension under this subsection.

"(5) The costs of administering this subsection shall be paid for from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on November 1, 1990.

SEC. 11004. INELIGIBILITY OF REMARRIED SURVIVING SPOUSES FOR REINSTATEMENT OF DEPENDENCY AND INDEMNITY COMPENSATION UPON BECOMING SINGLE.

(a) IN GENERAL.—Section 103(d) of title 38, United States Code, is amended—

(1) in paragraph (2), by inserting "(other than dependency and indemnity compensation or pension)" after "benefits"; and

(2) in paragraph (3), by striking out "shall not apply" and inserting in lieu thereof "shall apply only to dependency and indemnity compensation and to pension".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to persons remarrying after October 30, 1990.

SEC. 11005. POLICY REGARDING COST-OF-LIVING INCREASES IN COMPENSATION RATES.

(a) POLICY.—The fiscal year 1991 cost-of-living adjustments in the rates of compensation payable under chapter 11 of title 38, United States Code, and of the dependency and indemnity compensation payable under chapter 13 of such title will be no more than a 4.5-percent increase, all increases will be rounded down to the next lower dollar, and the increases for disabilities rated at 10 percent and at 20 percent shall be $1 less than the amount equal to a 4.5-percent increase.

(b) PROVISION NOT AUTHORITY TO INCREASE RATES.—Subsection (a) shall not be construed to increase or to authorize the Secretary of Veterans Affairs to increase the rates of compensation and of dependency and indemnity compensation referred to in such subsection.

Subtitle B—Health Care

SEC. 11011. MEDICAL-CARE COST RECOVERY.

(a) APPLICABILITY.—Section 629(a)(2) of title 38, United States Code, is amended—

(1) by striking out "or" at the end of clause (C);

(2) by striking out the period at the end of clause (D) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new clause:

"(E) for which care and services are furnished under this chapter to a veteran who—

"(i) has a service-connected disability; and

"(ii) is entitled to care (or payment of the expenses of care) under a health-plan contract.".

(b) MAXIMUM AMOUNT RECOVERABLE.—Clause (B) of section 629(c)(2) of such title is amended by striking out "in accordance with the prevailing rates at which the third party makes payments under comparable health-plan contracts with" and inserting in lieu thereof "if provided by".

(c) ESTABLISHMENT OF MEDICAL-CARE COST RECOVERY FUND.—Section 629(g) of such title is amended to read as follows:

"(g)(1) There is established in the Treasury a fund to be known as the Department of Veterans Affairs Medical-Care Cost Recovery Fund (hereafter referred to in this section as the 'Fund').

"(2) Amounts recovered or collected under this section shall be credited to the Fund.

"(3) Sums in the Fund shall be available to the Secretary for the following:

"(A) Payment of necessary expenses for the identification, billing, and collection of the cost of care and services furnished under this chapter, including—

"(i) the costs of computer hardware and software, word processing and telecommunications equipment, other equipment, supplies, and furniture;

"(ii) personnel training and travel costs;

"(iii) personnel and administrative costs for attorneys in the Office of General Counsel of the Department and for support personnel of such office;

"(iv) other personnel and administrative costs; and

"(v) the costs of any contract for identification, billing, or collection services.

"(B) Payment of the Secretary for reasonable charges, as determined by the Secretary, imposed for (i) services and utilities (including light, water, and heat) furnished by the Secretary, (ii) recovery and collection activities under this section, and (iii) administration of the Fund.

"(C) Payment of costs related to the administration and collection of payments required under section 610(f) of this title for hospital care or nursing home care, under section 612(f) of this title for medical services, and under section 622A of this title for medications.

"(4) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts an amount equal to the amount of the unobligated balance remaining in the Fund at the close of business on September 30 of the preceding year minus any part of such balance that the Secretary of Veterans Affairs determines is necessary to defray, during the fiscal year in which the deposit is made, the expenses, payments, and costs described in paragraph (3).".

(d) TRANSFER TO FUND.—

(1) AMOUNT TO BE TRANSFERRED.—The Secretary of the Treasury shall transfer $25,000,000 from the Department of Veterans Affairs Loan Guaranty Revolving Fund to the Department of Veterans Affairs Medical-Care Cost Recovery Fund established by section 629(g) of title 38, United States Code (as amended by subsection (c)). The amount so transferred shall be available until the end of September 30, 1991, for the support of the equivalent of 800 full-time employees and other expenses described in paragraph (3) of such section.

(2) REIMBURSEMENT OF LOAN GUARANTY REVOLVING FUND.—Notwithstanding section 629(g) of title 38, United States Code (as amended by subsection (c)), the first $25,000,000 recovered or collected by the Department of Veterans Affairs during fiscal year 1991 as a result of third-party medical recovery activities shall be credited to the Department of Veterans Affairs Loan Guaranty Revolving Fund.

(3) THIRD-PARTY MEDICAL RECOVERY ACTIVITIES DEFINED.—For the purposes of this subsection, the term "third-party medical recovery activities" means recovery and collection activities carried out under section 629 of title 38, United States Code.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 1, 1990.

SEC. 11012. COPAYMENT FOR MEDICATION.

(a) COPAYMENT REQUIRED.—

(1) IN GENERAL.—Subchapter III of chapter 17 of title 38, United States Code, is amended by inserting after section 622 the following new section:

"§ 622A. Copayment for medication

"(a) The Secretary shall require a veteran (other than a veteran with a service-connected disability rated 50 percent or more) to pay the United States $2 for each 30-day supply of medication furnished such veteran under this chapter on an outpatient basis for the treatment of a non-service-connected disability or condition. If the initial amount supplied is less than a 30-day supply, the amount of the charge may not be reduced.

"(b) Amounts collected under this section shall be credited to the Department of Veterans Affairs Medical-Care Cost Recovery Fund.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 622 the following new item:

"622A. Copayment for medication.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to medications furnished to a veteran after October 31, 1990.

SEC. 11013. MODIFICATION OF HEALTH-CARE CATEGORIES AND COPAYMENTS.

(a) INPATIENT CARE.—Section 610 of title 38, United States Code, is amended—

(1) in subsection (a)(1)(I), by striking out "622(a)(1)" and inserting in lieu thereof "622(a)";

(2) by amending paragraph (2) of subsection (a) to read as follows:

"(2) In the case of a veteran who is not described in paragraph (1) of this subsection, the Secretary may, to the extent resources and facilities are available, furnish hospital care and nursing home care to a veteran which the Secretary determines is needed for a non-service-connected disability, subject to the provisions of subsection (f) of this section.";

(3) in subsection (f), by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) The Secretary may not furnish hospital care or nursing home care under this section to a veteran who is eligible for such care under subsection (a)(2) of this section unless the veteran agrees to pay to the United States the applicable amount determined under paragraph (2) of this subsection.

"(2)(A) A veteran who is furnished hospital care or nursing home care under this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such care shall be liable to the United States for an amount equal to the lesser of—

"(i) the cost of furnishing such care, as determined by the Secretary, or

"(ii) the amount equal to the sum of the amount determined under paragraph (3) of this subsection plus an amount equal to $10 for every day the veteran receives hospital care, and $5 for every day the veteran receives nursing home care.

"(B) Effective on January 1 of each year, the amounts in effect under clause of subparagraph (A) shall be increased by the percentage increase (if any) in the Consumer Price Index of all Urban Consumers (as published by the Bureau of Labor Statistics of the Department of Labor) for the 12-month period ending on the previous November 30."; and

(4) in subparagraphs (A) and (B) of subsection (f)(3), by striking out "(2)(B)" each place it appears and inserting in lieu thereof "(2)(A)(ii)".

(b) OUTPATIENT CARE.—Subsection (f) of section 612 of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out "610(a)(2)(B)" and inserting in lieu thereof "610(a)(2)";

(2) by striking out paragraphs (3), (4), and (6); and

(3) by redesignating paragraphs (5) and (7) as (3) and (4), respectively.

(c) INCOME THRESHOLDS.—

(1) IN GENERAL.—Subsection (a) of section 622 of title 38, United States Code, is amended—

(A) in paragraph (1)—

(i) by striking out "(1)" at the beginning of the subsection;

(ii) by redesignating clauses (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(iii) by striking out "Category A threshold" in paragraph (3), as so redesignated, and inserting in lieu thereof "applicable income threshold amount under subsection (b)"; and

(B) by striking out paragraph (2).

(2) CALENDAR YEAR 1990.—Subsection (b) of such section is amended to read as follows:

"(b)(1) For purposes of subsection (a)(3), the income threshold amount for the calendar year beginning on January 1, 1990, is—

"(A) $17,240 in the case of a veteran with no dependents; and

"(B) $20,688 in the case of a veteran with one dependent, plus $1,150 for each additional dependent.

"(2) For a calendar year beginning after December 31, 1990, the amounts in effect for purposes of this subsection shall be the amounts in effect for the preceding calendar year as adjusted under subsection (c) of this section.".

(3) TECHNICAL AMENDMENT.—Subsection (c) of such section is amended by striking out "paragraphs (1) and (2) of".

(4) ABILITY DETERMINATION.—Paragraph (2) of subsection (d) of such section is amended to read as follows:

"(2) A determination described in this paragraph is a determination that, for purposes of subsection (a)(3) of this section, a veteran's attributable income is not greater than the amount determined under subsection (b) of this section.".

(5) HARDSHIP.—Subsection (e) of such section is amended—

(A) in paragraph (1), by striking out "the Category A threshold or the Category B threshold, as appropriate" and inserting in lieu thereof "the applicable income threshold amount under subsection (b) of this section"; and

(B) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) A veteran is described in this paragraph for the purposes of subsection (a) of this section if—

"(A) the veteran has an attributable income greater than the applicable income threshold amount under subsection (b) of this section; and

"(B) the current projections of such veteran's income for the current year are that the veteran's income for such year will be substantially below the applicable income threshold amount under subsection (b).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to hospital care and medical services received after October 31, 1990.

Subtitle C—Educational and Vocational Assistance

SEC. 11021. INTERTERM REDUCTION OF EDUCATIONAL ASSISTANCE.

(a) ALL VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM.—

(1) BASIC EDUCATIONAL ASSISTANCE.—

(A) IN GENERAL.—Section 1415 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) Except as provided in paragraph (2) of this subsection, the amount of monthly basic educational assistance payable under this subchapter to an individual for a period described in clause (B) or (C) of section 1780(a) of this title shall be reduced to ⅓ of the last rate of such monthly assistance paid or payable to the individual for the semester, quarter, or other academic term immediately preceding the period. In no event, however, shall an individual be paid educational assistance for any such period if the individual was enrolled on a less than half-time basis at the end of the semester, quarter, or other term immediately preceding the period.

"(2) A reduction is not required under paragraph (1) of this subsection for any period of less than 7 days.

"(3) In the computation of the amount of the basic educational assistance under paragraph (1) of this subsection, any fraction of a dollar equal to 50¢ or more shall be rounded to the next higher dollar, and any fraction of a dollar less than 50¢ shall be rounded to the next lower dollar.".

(B) TECHNICAL AMENDMENT.—Subsection (a) of such section is amended by striking out "subsections (b) and (c)" and inserting in lieu thereof "subsections (b), (c), (d), and (e)".

(2) SUPPLEMENTAL EDUCATIONAL ASSISTANCE.—Section 1422 of such title is amended by adding at the end the following new subsection:

"(c)(1) Except as provided in paragraph (2) of this subsection, the amount of monthly supplemental educational assistance payable under this subchapter to an individual for a period described in clause (B) or (C) of section 1780(a) of this title shall be reduced to ⅓ of the last rate of such monthly assistance paid or payable to the individual for the semester, quarter, or other academic term immediately preceding the period. In no event, however, shall an individual be paid supplemental educational assistance for any such period if the individual was enrolled on a less than half-time basis at the end of the semester, quarter, or other term immediately preceding the period.

"(2) A reduction is not required under paragraph (1) of this subsection for any period of less than 7 days.

"(3) In the computation of the amount of the supplemental educational assistance under paragraph (1) of this subsection, any fraction of a dollar equal to 50¢ or more shall be rounded to the next higher dollar, and any fraction of a dollar less than 50¢ shall be rounded to the next lower dollar.".

(b) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE.—Section 1631 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) Except as provided in paragraph (2) of this subsection, the amount of monthly benefit payable under this chapter to an individual for a period described in clause (B) or (C) of section 1780(a) of this title shall be reduced to ⅓ of the last rate of such monthly benefit paid or payable to the individual for the semester, quarter, or other academic term immediately preceding the period. In no event, however, shall an individual be paid such benefit for any such period if the individual was enrolled on a less than half-time basis at the end of the semester, quarter, or other term immediately preceding the period.

"(2) A reduction is not required under paragraph (1) of this subsection for any period of less than 7 days.

"(3) In the computation of the amount of the monthly benefit payment under paragraph (1) of this subsection, any fraction of a dollar equal to 50¢ or more shall be rounded to the next higher dollar, and any fraction of a dollar less than 50¢ shall be rounded to the next lower dollar.".

(c) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.—Section 1732 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) Except as provided in paragraph (2) of this subsection, the amount of the monthly educational assistance allowance payable under this chapter to an individual for a period described in clause (B) or (C) of section 1780(a) of this title shall be reduced to ⅓ of the last rate of such monthly assistance allowance paid or payable to the individual for the semester, quarter, or other academic term immediately preceding the period. In no event, however, shall an individual be paid an educational assistance allowance for any such period if the individual was enrolled on a less than half-time basis at the end of the semester, quarter, or other term immediately preceding the period.

"(2) A reduction is not required under paragraph (1) of this subsection for any period of less than 7 days.

"(3) In the computation of the amount of the educational assistance allowance under paragraph (1) of this subsection, any fraction of a dollar equal to 50¢ or more shall be rounded to the next higher dollar, and any fraction of a dollar less than 50¢ shall be rounded to the next lower dollar.".

(d) EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE.—Section 2131 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h)(1) Except as provided in paragraph (2) of this subsection, the amount of the monthly educational assistance allowance payable under this chapter to an individual for a period described in clause (B) or (C) of section 1780(a) of title 38 shall be reduced to ⅓ of the last rate of such monthly assistance allowance paid or payable to the individual for the semester, quarter, or other academic term immediately preceding the period. In no event, however, shall an individual be paid an educational assistance allowance for any such period if the individual was enrolled on a less than half-time basis at the end of the semester, quarter, or other term immediately preceding the period.

"(2) A reduction is not required under paragraph (1) of this subsection for any period of less than 7 days.

"(3) In the computation of the amount of the educational assistance allowance under paragraph (1) of this subsection, any fraction of a dollar equal to 50¢ or more shall be rounded to the next higher dollar, and any fraction of a dollar less than 50¢ shall be rounded to the next lower dollar.".

(e) ADMINISTRATIVE COSTS.—The costs of administering sections 1415(e), 1422(c), 1631(f), and 1732(f) of title 38, United States Code (as added by this section), and section 2131(h) of title 10, United States Code (as added by this section), shall be paid for from amounts available to the Department of Veterans Affairs for the payment of readjustment benefits.

SEC. 11022. ELIMINATION OF VOCATIONAL REHABILITATION BENEFITS FOR CERTAIN DISABLED VETERANS.

(a) IN GENERAL.—Section 1502(1)(A) of title 38, United States Code, is amended by inserting "at a rate of 30 percent or more" after "compensable" both places it appears.

(b) SAVINGS PROVISION.—In the case of any person who is participating in a rehabilitation program under chapter 31 of title 38, United States Code, on the date of the enactment of this Act, the amendment made by subsection (a) shall not affect the eligibility of such person to continue to participate in such program for so long as there is no break in such person's participation in such program after such date.

Subtitle D—Home Loan Guaranties

SEC. 11031. ELECTION OF CLAIM UNDER GUARANTY OF MANUFACTURED HOME LOANS.

(a) IN GENERAL.—Paragraph (3) of section 1812(c) of title 38, United States Code, is amended to read as follows:

"(3)(A) The Secretary's guaranty may not exceed the lesser of (i) the lesser of $20,000 or 40 percent of the loan, or (ii) the maximum amount of the guaranty entitlement available to the veteran as specified in paragraph (4) of this subsection.

"(B) A claim under the Secretary's guaranty shall, at the election of the holder of a loan, be made—

"(i) by application to the Secretary within a reasonable time after the receipt by such holder of an appraisal by the Secretary of the value of the security for the loan; or

"(ii) after liquidation of the security for the loan, by the filing of an accounting with the Secretary.

"(C) If the holder of a loan applies for payment of a claim under clause (i) of subparagraph (B) of this paragraph, the amount of such claim payable by the Secretary shall be the lesser of—

"(i) the amount equal to the excess, if any, of the loan balance over the value of the appraisal referred to in such subclause; or

"(ii) the amount equal to the excess, if any, of the amount of the guaranty over the value of such appraisal.

"(D) If the holder of a loan files for payment of a claim under clause (ii) of subparagraph (B) this paragraph, the amount of such claim payable by the Secretary shall be the lesser of—

"(i) the amount equal to the excess, if any, of the loan balance over the amount of the liquidation or loan proceeds; or

"(ii) the amount equal to the excess, if any, of the amount of the guaranty over the amount of the liquidation or resale proceeds.

"(E) In any accounting filed pursuant to subparagraph (B)(ii) of this subsection, the Secretary shall permit to be included therein accrued unpaid interest from the date of the first uncured default to such cutoff date as the Secretary may establish, and the Secretary shall allow the holder of the loan to charge against the liquidation or resale proceeds accrued interest from the cutoff date established to such further date as the Secretary may determine and such costs and expenses as the Secretary determines to be reasonable and proper.

"(F) The liability of the United States under the guaranty provided for by this paragraph shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to claims filed with the Secretary of Veterans Affairs on or after the date of the enactment of this Act.

SEC. 11032. INCREASE IN CERTAIN LOAN FEES.

(a) INCREASED FEE PERCENTAGES.—Section 1829(b)(1) of title 38, United States Code, is amended—

(1) in the matter above clause (A), by striking out "1.25 percent" and inserting in lieu thereof "2 percent";

(2) in clause (B), by striking out "0.75 percent" and inserting in lieu thereof "1.5 percent"; and

(3) in clause (C), by striking out "0.50 percent" and inserting in lieu thereof "1.25 percent".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to housing loans guaranteed, insured, or made under chapter 37 of title 38, United States Code, on or after the date of the enactment of this Act.

Subtitle E—Burial Benefits and Grave Markers

SEC. 11041. ELIGIBILITY FOR BURIAL PLOT ALLOWANCE.

(a) IN GENERAL.—Section 903 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c) The Secretary may not pay a plot or interment allowance under clause (2) of subsection (b) for any veteran whose eligibility for such allowance is based on such veteran's status as a veteran of any war.".

(b) EFFECTIVE DATE.—Subsection (c) of section 903 of title 38, United States Code (as added by subsection (a)), shall take effect with respect to deaths occurring after October 30, 1990.

SEC. 11042. ELIMINATION OF HEADSTONE ALLOWANCE.

(a) IN GENERAL.—Section 906 of title 38, United States Code, is amended—

(1) by striking out subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to deaths occurring after October 30, 1990.

Subtitle F—Miscellaneous

SEC. 11051. USE OF INTERNAL REVENUE SERVICE AND SOCIAL SECURITY ADMINISTRATION DATA FOR INCOME VERIFICATION.

(a) DISCLOSURE OF TAX INFORMATION.—

(1) IN GENERAL.—Subparagraph (D) of section 6103(l)(7) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended—

(A) by striking out "and" at the end of clause (vi);

(B) by striking out the period at the end of clause (vii) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new clause:

"(viii)(I) any needs-based pension provided under chapter 15 of title 38, United States Code, or any other law administered by the Secretary of Veterans Affairs;

"(II) parents' dependency and indemnity compensation provided under section 415 of title 38, United States Code;

"(III) health-care services furnished under section 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B) of such title; and

"(IV) compensation pursuant to a rating of total disability awarded by reason of inability to secure or follow a substantially gainful occupation as a result of a service-connected disability, or service-connected disabilities, not rated as total (except that, in such cases, only wage and self-employment information may be disclosed).".

(2) CLERICAL AMENDMENT.—The heading of paragraph (7) of section 6103(l) of such Code is amended by striking out "OR THE FOOD STAMP ACT OF 1977" and inserting in lieu thereof ", THE FOOD STAMP ACT OF 1977, OR TITLE 38, UNITED STATES CODE".

(b) USE OF INCOME INFORMATION FOR NEEDS-BASED PROGRAMS.—

(1) USE FOR NEEDS-BASED PROGRAMS.—Chapter 53 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 3117. Use of income information from other agencies: notice and verification

"(a) The Secretary shall notify each applicant for a benefit or service described in subsection (c) of this section that income information furnished by the applicant to the Secretary may be compared with information obtained by the Secretary from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986. The Secretary shall periodically transmit to recipients of such benefits and services additional notifications of such matters.

"(b) The Secretary may not, by reason of information obtained from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986, terminate, deny, suspend, or reduce any benefit or service described in subsection (c) of this section until the Secretary takes appropriate steps to verify independently information relating to the following:

"(1) The amount of the asset or income involved.

"(2) Whether such individual actually has (or had) access to such asset or income for the individual's own use.

"(3) The period or periods when the individual actually had such asset or income.

"(c) The benefits and services described in this subsection are the following:

"(1) Needs-based pension benefits provided under chapter 15 of this title or any other law administered by the Secretary.

"(2) Parents' dependency and indemnity compensation provided under section 415 of this title.

"(3) Health-care services furnished under sections 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B) of this title.

"(4) Compensation pursuant to a rating of total disability awarded by reason of inability to secure or follow a substantially gainful occupation as a result of a service-connected disability, or service-connected disabilities, not rated as total.

"(d) In the case of compensation described in subsection (c)(4) of this section, the Secretary may independently verify or otherwise act upon wage or self-employment information referred to in subsection (b) of this section only if the Secretary finds that the amount and duration of the earnings reported in that information clearly indicate that the individual may no longer be qualified for a rating of total disability.

"(e) The Secretary shall inform the individual of the findings made by the Secretary on the basis of verified information under subsection (b) of this section, and shall give the individual an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility for the benefit or service involved.

"(f) The Secretary shall pay the expenses of carrying out this section from amounts available to the Department for the payment of compensation and pension.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3117. Use of income information from other agencies: notice and verification.".

(c) NOTICE TO CURRENT BENEFICIARIES.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall notify individuals who (as of the date of the enactment of this Act) are applicants for or recipients of the benefits described in subsection (c) (other than paragraph (3)) of section 3117 of title 38, United States Code (as added by subsection (b)), that income information furnished to the Secretary by such applicants and recipients may be compared with information obtained by the Secretary from the Secretary of Health and Human Services or the Secretary of the Treasury under clause (viii) of section 6103(l)(7)(D) of the Internal Revenue Code of 1986 (as added by subsection (a)).

(2) DEADLINE FOR NOTICE.—Notification under paragraph (1) shall be made not later than 90 days after the date of the enactment of this Act.

(3) LIMITATION UNTIL NOTICE MADE.—The Secretary of Veterans Affairs may not obtain information from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 (as added by subsection (a)) until notification under paragraph (1) is made.

SEC. 11052. LINE OF DUTY.

(a) ELIMINATION OF COMPENSATION FOR SECONDARY EFFECTS OF MISCONDUCT.—Title 38, United States Code, is amended—

(1) in section 105(a), by striking out "the result of the person's own willful misconduct" in the first sentence and inserting in lieu thereof "a result of the person's own willful misconduct or abuse of alcohol or drugs";

(2) in section 310, by striking out "the result of the veteran's own willful misconduct" and inserting in lieu thereof "a result of the veteran's own willful misconduct or abuse of alcohol or drugs"; and

(3) in section 331, by striking out "the result of the veteran's own willful misconduct" and inserting in lieu thereof "a result of the veteran's own willful misconduct or abuse of alcohol or drugs".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to line of duty determinations made on or after November 1, 1990.

SEC. 11053. REPORTING OF SOCIAL SECURITY NUMBERS BY CLAIMANTS AND USES OF DEATH INFORMATION BY THE DEPARTMENT OF VETERANS AFFAIRS.

(a) MANDATORY REPORTING OF SOCIAL SECURITY NUMBERS.—Section 3001 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) Any person who applies for or is in receipt of any compensation or pension benefit under laws administered by the Secretary shall, if requested by the Secretary, furnish the Secretary with the social security number of such person and the social security number of any dependent or beneficiary on whose behalf, or based upon whom, such person applies for or is in receipt of such benefit. A person is not required to furnish the Secretary with a social security number for any person to whom a social security number has not been assigned.

"(2) The Secretary shall deny the application of or terminate the payment of compensation or pension to a person who fails to furnish the Secretary with a social security number required to be furnished pursuant to paragraph (1) of this subsection. The Secretary may thereafter reconsider the application or reinstate payment of compensation or pension, as the case may be, if such person furnishes the Secretary with such social security number.

"(3) The costs of administering this subsection shall be paid for from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.".

(b) REVIEW OF DEPARTMENT OF HEALTH AND HUMAN SERVICES DEATH INFORMATION TO IDENTIFY DECEASED RECIPIENTS OF COMPENSATION AND PENSION BENEFITS.—

(1) IN GENERAL.—Chapter 53 of title 38, United States Code, as amended by section 11051(b), is further amended by adding at the end the following new section:

"§ 3118. Review of Department of Health and Human Services death information

"(a) The Secretary shall periodically compare Department of Veterans Affairs information regarding persons to or for whom compensation or pension is being paid with Department of Health and Human Services death information for the purposes of—

"(1) determining whether any such persons are deceased;

"(2) ensuring that such payments to or for any such persons who are deceased are terminated in a timely manner; and

"(3) ensuring that collection of overpayments of such benefits resulting from payments after the death of such persons is initiated in a timely manner.

"(b) The Department of Health and Human Services death information referred to in subsection (a) of this section is death information available to the Secretary from or through the Secretary of Health and Human Services, including death information available to the Secretary of Health and Human Services from a State, pursuant to a memorandum of understanding entered into by such Secretaries.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter, as amended by section 11051(b), is further amended by adding at the end the following:

"3118. Review of Department of Health and Human Services death information.".

TITLE XII—BUDGET PROCESS REFORM ACT OF 1990

SEC. 12001. SHORT TITLE.

This title may be cited as the "Budget Process Reform Act of 1990".

SEC. 12002. TABLE OF CONTENTS.

TITLE XII—BUDGET PROCESS REFORM ACT OF 1990

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Subtitle N—Exercise of Rulemaking Powers

Sec. 12701. Exercise of rulemaking powers.

Subtitle A—Deficit Reduction

SEC. 12051. DEFICIT TARGETS.

(a) DEFINITION OF MAXIMUM DEFICIT.—Section 3(7) of the Congressional Budget Act of

1974 is amended by striking subparagraphs (F), (G), and (H), and inserting the following:

"(F) with respect to the fiscal year beginning October 1, 1990, $242,000,000,000;

"(G) with respect to the fiscal year beginning October 1, 1991, $219,000,000,000;

"(H) with respect to the fiscal year beginning October 1, 1992, $165,000,000,000;

"(I) with respect to the fiscal year beginning October 1, 1993, $86,000,000,000; and

"(J) with respect to the fiscal year beginning October 1, 1994, $62,000,000,000; or

with respect to each such fiscal year, such revised amounts as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(E) of that Act.".

(b) BUDGET ESTIMATES AND DETERMINATIONS.—Section 251(a)(1) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 is amended—

(1) in subparagraph (A), by inserting after "such fiscal year" the following: "(and each other fiscal year beginning after the date of the report under this section for which section 3(7) of the Congressional Budget Act of 1974 sets forth maximum deficit amounts)";

(2) in subparagraph (C), by striking "and" at the end thereof; and

(3) by inserting at the end thereof the following new subparagraphs:

"(E)(i) in calendar years 1991 and 1992, estimate the necessary revisions to the maximum deficit amounts (for each fiscal year beginning after the date of the report under this section for which section 3(7) of the Congressional Budget Act of 1974 sets forth maximum deficit amounts) caused solely by—

"(I) changes in the budgetary accounting for credit and in the definition of 'budget authority', and

"(II) economic and technical changes, which shall equal—

"(aa) the deficit in the budget baseline set forth pursuant to paragraph (6) of this subsection, minus

"(bb)(aaa) the net deficit increase (if any) caused by laws (as estimated at the time of enactment of such laws and submitted under section 252A(d) or 252B(e)) enacted after the date of enactment of the Omnibus Budget Reconciliation Act of 1990 (adjusting for any sequestration), and

"(bbb) the maximum deficit amount as it existed immediately before the issuance of the report, and

"(ii) in calendar year 1993, estimate the revisions to the maximum deficit amounts (for each fiscal year beginning after the date of the report under this section for which section 3(7) of the Congressional Budget Act of 1974 sets forth maximum deficit amounts) caused by only changes in the budgetary accounting for credit; and

"(F) estimate the necessary revisions to the defense, international, and domestic discretionary spending allocations set forth in section 12052 of the Omnibus Budget Reconciliation Act of 1990 for each appropriate fiscal year caused solely by—

"(i) changes in the budgetary accounting for credit and in the definition of 'budget authority', and

"(ii) changes in forecasted inflation using only changes in the forecast of the fiscal year average of the estimated gross national product fixed-weight price deflator.".

SEC. 12052. DISCRETIONARY SPENDING LIMITS.

(a) AGGREGATE ALLOCATIONS FOR DEFENSE.—The levels of budget authority and outlays for fiscal years 1991, 1992, and 1993 for discretionary spending within major functional category 050 (National Defense) shall be—

(1)(A) for fiscal year 1991:

(i) new budget authority, $288,918,000,000,

(ii) outlays, $297,660,000,000,

(B) for fiscal year 1992:

(i) new budget authority, $291,643,000,000,

(ii) outlays, $295,744,000,000, and

(C) for fiscal year 1993:

(i) new budget authority, $291,785,000,000,

(ii) outlays, $292,686,000,000; or

(2) with respect to each such fiscal year, such revised level as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(F) of that Act.

(b) AGGREGATE ALLOCATIONS FOR INTERNATIONAL AFFAIRS.—The levels of budget authority and outlays for fiscal years 1991, 1992, and 1993 for discretionary spending within major functional category 150 (International Affairs) shall be—

(1)(A) for fiscal year 1991:

(i) new budget authority, $20,100,000,000,

(ii) outlays, $18,600,000,000,

(B) for fiscal year 1992:

(i) new budget authority, $20,500,000,000,

(ii) outlays, $19,100,000,000, and

(C) for fiscal year 1993:

(i) new budget authority, $21,400,000,000,

(ii) outlays, $19,600,000,000; or

(2) with respect to each such fiscal year, such revised level as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(F) of that Act.

(c) AGGREGATE ALLOCATIONS FOR DOMESTIC DISCRETIONARY SPENDING.—The levels of total budget authority and outlays for fiscal years 1991, 1992, and 1993 for all discretionary spending in categories other than major functional categories 050 (National Defense) and 150 (International Affairs) shall be—

(1)(A) for fiscal year 1991:

(i) new budget authority, $182,700,000,000,

(ii) outlays, $198,100,000,000,

(B) for fiscal year 1992:

(i) new budget authority, $191,300,000,000,

(ii) outlays, $210,100,000,000, and

(C) for fiscal year 1993:

(i) new budget authority, $198,300,000,000,

(ii) outlays, $221,700,000,000; or

(2) with respect to each such fiscal year, such revised level as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(F) of that Act.

(d) AGGREGATE ALLOCATIONS FOR DISCRETIONARY SPENDING.—The levels of budget authority and outlays for fiscal years 1994 and 1995 for discretionary spending shall be—

(1)(A) for fiscal year 1994:

(i) new budget authority, $510,800,000,000,

(ii) outlays, $534,800,000,000, and

(B) for fiscal year 1995;

(i) new budget authority, $517,700,000,000,

(ii) outlays, $540,800,000,000, or

(2) with respect to each such fiscal year, such revised level as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(F) of that Act.

(e) BUDGET RESOLUTIONS.—

(1) HOUSE OF REPRESENTATIVES.—The Committee on the Budget of the House of Representatives shall report a concurrent resolution on the budget for fiscal years 1992, 1993, 1994, and 1995 pursuant to section 301 of the Congressional Budget Act of 1974, in accordance with the appropriate levels of budget authority and budget outlays for major functional category 050 (National Defense) and for all discretionary spending in categories other than major functional category 050 as set forth in subsections (a), (b), and (c).

(g)(1) ADDITIONAL TECHNICAL REVISIONS.—Notwithstanding any other provision of law, the Director of the Office of Management and Budget shall make technical reestimates (in addition to those that the Director may make pursuant to section 251(a)(1)(E) and 251(a)(1)(F) of the Balanced Budget and Emergency Deficit Reduction Act of 1985) to allow increased funding in the following amounts, and such amounts shall be added to the allocations under section 12052 and shall not be counted as increasing the deficit for purposes of sections 251, 252, 252A, and 252B of the Balanced Budget and Emergency Deficit Control Act of 1985—

(A) in addition to any other amounts under this paragraph, for each of fiscal years 1992 and 1993, in the amounts of—

(i) up to 0.021 percent of the total of budget authority in the allocations in subsections (a), (b), and (c) (together), for fiscal years 1991, 1992, and 1993 (together), for defense discretionary spending budget authority under subsection (a); and

(ii) up to 0.079 percent of the total of budget authority in the allocations made in subsections (a), (b), and (c) (together) for fiscal years 1991, 1992, and 1993 (together), for international affairs discretionary spending budget authority under subsection (b);

(iii) 0.1 percent of the total of budget authority in the allocations in subsections (a), (b), and (c) (together), for fiscal years 1991, 1992, and 1993 (together), for domestic discretionary spending budget authority under subsection (c);

(B) in addition to any other amounts under this paragraph, the estimated costs of an appropriation enacted in calendar year 1990 or 1991 that forgives the Arab Republic of Egypt's Foreign Military Sales indebtedness to the United States and any part of the Government of Poland's indebtedness to the United States;

(C) in the addition to any other amounts under this paragraph, the amount provided by an appropriation enacted in fiscal year 1992 to purchase Special Drawing Rights from the International Monetary Fund as part of its Ninth General Review of Quotas;

(D) in addition to any other amounts under this paragraph, amounts not to exceed the following for the Internal Revenue Service compliance initiative to be provided to raise additional revenues from increased Internal Revenue Service compliance—

(i) for fiscal year 1991:

(I) new budget authority, $191,000,000,

(II) outlays, $183,000,000,

(ii) for fiscal year 1992:

(I) new budget authority, $172,000,000,

(II) outlays, $169,000,000,

(iii) for fiscal year 1993:

(I) new budget authority, $183,000,000,

(II) outlays, $179,000,000,

(iv) for fiscal year 1994:

(I) new budget authority, $187,000,000,

(II) outlays, $183,000,000, and

(v) for fiscal year 1995:

(I) new budget authority, $188,000,000,

(II) outlays, $184,000,000; and

the prior-year outlays resulting from these appropriations of budget authority; and

(E) in addition to any other amounts under this paragraph, such amounts as the President designates as emergency requirements in a request for appropriations and that the Congress so designates in statute.

Emergency Desert Shield costs mean those incremental costs directly associated with the increase in operations in the Middle East and do not include costs that would be experienced by the Department of Defense as part of its normal operations absent Operation Desert Shield.

(2) Notwithstanding any other provision of law, concurrent resolutions on the budget for fiscal years 1992, 1993, 1994, and 1995 under section 301 or 304 of the Congressional Budget Act of 1974 may set forth levels consistent with allocations increased by—

(A) the budget authority amounts in subparagraph (A) and by the composite outlays per category consistent with them; and

(B) the budget authority and outlay amounts in subparagraph (B), (C), (D), (E), and (F).

(h)(1) FURTHER ADDITIONAL TECHNICAL REVISIONS.—(1) Notwithstanding any other provision of law, the Director of the Office of Management and Budget may make technical reestimates (in addition to those that the Director may make pursuant to section 251(a)(1)(E) and 251(a)(1)(F) of the Balanced Budget and Emergency Deficit Reduction Act of 1985, but solely due to outlays exceeding the amount of outlays set forth in subsections (a), (b), and (c), resulting from changes between outlays estimated for enacted budget authority and the spendout rate assumed in the relationship between budget authority and outlays set forth in subsections (a), (b), and (c), less any outlays used pursuant to subsections (g)(1)(A) to allow increased funding in the following amounts and such amounts shall not be counted as increasing the deficit under sections 251, 252, 252A, and 252B of the Balanced Budget and Emergency Deficit Control Act of 1985—

(A) for each of fiscal years 1991, 1992, and 1993, in the amounts of—

(i) $2,500,000,000 for defense discretionary spending outlays under subsection (a);

(ii) $1,500,000,000 for international affairs discretionary spending outlays under subsection (b); and

(iii) $2,500,000,000 for domestic discretionary spending outlays under subsection (c); and

(B) for each of fiscal years 1994 and 1995, in the amount of $6,500,000,000 for discretionary spending outlays under subsection (d).

SEC. 12053. DISCRETIONARY SPENDING LIMIT SEQUESTRATION.

(a) DATE OF FINAL ORDER.—

(1)(A) The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(i) in section 251(c)(1), by striking "October 10" and inserting "November 10";

(ii) in section 253, by striking "November 15" and inserting "December 15";

(iii) in section 252(b)(1), by striking "October 15" and inserting "November 15";

(iv) in section 252(c)(2)(D), by striking "October 20" and inserting "November 20"; and

(v) in section 257(c)(2), by striking "October 15" and inserting "November 15".

(B) The amendments made by this paragraph shall take effect beginning in calendar year 1991.

(b) SPENDING CATEGORY SEQUESTER.—Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting after section 252 the following:

"SEC. 252A. DISCRETIONARY SPENDING LIMIT SEQUESTRATION.

"(a) REPORTING OF EXCESS.—

"(1) ESTIMATES AND DETERMINATIONS.—The Directors shall, with respect to each appropriations Act—

"(A) determine the aggregate budget levels of outlays that may be anticipated as a result of the enactment of such appropriations Act—

"(i) for the defense, international affairs, and domestic discretionary categories as set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 in fiscal years 1991, 1992, and 1993; and

"(ii) for discretionary spending as set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 in fiscal years 1994 and 1995; and

"(B) determine whether such Appropriations Act causes the aggregate allocation for budget authority or outlays in section 12502 of the Omnibus Budget Reconciliation Act of 1990 (as revised under that section and section 251(a)(1)(F) of this Act) to be exceeded.

"(2) REPORT.—Based on the determinations required in paragraph (1), the Directors of the Congressional Budget Office and the Office of Management and Budget shall each report to the President not later than 5 days after the enactment of an appropriations Act identifying the amount of any budget authority or outlay excess in any spending category set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 resulting from the enactment of the appropriations Act, estimating the aggregate amount of budget authority or outlay reductions in the spending category necessary to eliminate the excess, and specifying by account within the spending category the budget baseline from which reductions are taken and the amounts and percentages by which such accounts must be reduced during such fiscal year in order to make the reductions required by this section.

"(b) SEQUESTER ORDER.—Based on the report the Director of the Office of Management and Budget issued pursuant to subsection (a), the President shall issue a sequester order (making reductions uniformly across each nonexempt account, and within each account, uniformly across each program, project, and activity) applicable to any spending category in excess of the allocation limit for such category 15 days after the enactment of the appropriation Act appropriating amounts in excess of allocation limits (or on November 15, if the date of enactment is after June 30 or before November 1 of the fiscal year for which such Act makes appropriations).

"(c) ECONOMIC AND TECHNICAL ASSUMPTIONS.—Under this section, the Director of the Office of Management and Budget shall use the same economic and technical assumptions as used by the budget submitted by the President for the appropriate fiscal year under section 1105 of title 31, United States Code.

"(d) OMB ESTIMATES.—Within 5 calendar days after the enactment of any appropriations Act, the Director of the Office of Management and Budget shall submit to the Senate and the House of Representatives an estimate of the amount of change in budget authority, outlays, or receipts (if any) in each fiscal year through fiscal year 1995 resulting from that legislation. Those estimates shall be made using the same economic and technical assumptions as used by the budget submitted by the President for the appropriate fiscal year under section 1105 of title 31, United States Code.".

(c) CONFORMING CHANGES.—The Balanced Budget and Deficit Reduction Act of 1985 is amended—

(1) in section 251(a)(3)(B), by inserting after "and 257," the following: "and after having made such reductions, if any, as may be required by sections 252A and 252B,";

(2) in section 251(a)(6)—

(A) by amending subparagraphs (C) and (D) to read as follows:

"(C) in the case of all accounts to which subparagraph (A) does not apply, assuming appropriations at the levels set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 (as adjusted under that section and section 251(a)(1)(F) of this Act), except assuming such lower levels in annual appropriations or continuing appropriations that have been enacted before the date of the report for the entire fiscal year that are enacted at a lower level, when appropriations have been enacted covering all subcommittees covered by the relevant category;

"(D) assuming that any sequester under section 252B that will be ordered on November 15 has been put into effect before the snapshot date;";

(3) in section 252(a)(1), by inserting after "251(a)(2)(B)," the following: "and after having ordered such reductions, if any, as may be required by sections 252A and 252B,";

(4) in section 252(a)(4), by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—Notwithstanding section 257(7), the net amount of deficit increase caused by laws enacted after November 15 of the previous calendar year and before October 1 (as estimated at the time of enactment of such laws and submitted under section 252A(d) or 252B(e)), after taking effect any sequestration during that period, shall be withheld in amounts equal to those that would be sequestered if the appropriate sequester orders under this section, section 252A, and section 252B were issued on October 1, pending the issuance of final order under those sections, and shall be permanently sequestered or reduced in accordance with those final orders upon the issuance of those final orders.";

(5) in section 252(a)(4)(B)(ii)—

(A) by striking "order under subsection (b)" and inserting "orders under subsection (b) and section 252B"; and

(B) by striking "2 percent" and inserting "4 percent"; and

(6) in section 256(d)(1)(B), by striking "2 percent" and inserting "4 percent".

SEC. 12054. RESTORATION OF FUNDS SEQUESTERED.

(a) ORDER RESCINDED.—Upon the enactment of this Act, the orders issued by the President on August 25, 1990, and October 15, 1990, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 are rescinded.

(b) AMOUNTS RESTORED.—Any action taken to implement the orders referred to in subsection (a) shall be reversed, and any sequesterable resource that has been reduced or sequestered by such orders is restored, revived, or released and shall be available to the same extent and for the same purpose as if the orders had not been issued.

SEC. 12055. CONFORMING CHANGES.

(a) EXPIRATION.—Section 275(b)(1) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 is amended by striking "1993" and inserting "1995".

(b) MARGIN.—The Balanced Budget and Emergency Deficit Reduction Act of 1985 is amended—

(1) in section 251(a)(1)(B), by striking "$10,000,000,000 (zero in the case of fiscal year 1993)" and inserting "the margin";

(2) in section 251(a)(2), by striking $10,000,000,000 (zero in the case of fiscal year 1993)" and inserting "the margin"; and

(3) in section 257, by amending paragraph (10) to read as follows:

"(10) The term 'margin' means zero with respect to each of fiscal years 1991, 1992, and 1993, and $15,000,000,000 with respect to each of fiscal years 1994 and 1995.".

Subtitle B—Pay-As-You-Go

SEC. 12101. PAY-AS-YOU-GO PROVISIONS IN BUDGET RESOLUTIONS.

Section 301(b) of the Congressional Budget Act of 1974 is amended—

(1) in paragraph (3), by striking "and";

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) set forth pay-as-you-go procedures whereby—

"(A) budget authority and outlays may be allocated to a committee for legislation that increases funding for entitlement and mandatory spending programs within its jurisdiction if that committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in the concurrent resolution on the budget, the enactment of such legislation will not increase the deficit (by virtue of either deficit reduction in the bill or previously passed deficit reduction) in the resolution for the first fiscal year covered by the concurrent resolution on the budget, and will not increase the total deficit for the period of fiscal years covered by the concurrent resolution on the budget;

"(B) upon the reporting of legislation pursuant to subparagraph (A), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the chairman of the Committee on the Budget of the Senate or the House of Representatives (as the case may be) may file with the Senate or the House of Representatives (as the case may be) appropriately revised allocations under section 302(a) and revised functional levels and aggregates to carry out this paragraph;

"(C) such revised allocations, functional levels, and aggregates shall be considered for the purposes of this Act as allocations, functional levels, and aggregates contained in the concurrent resolution on the budget; and

"(D) the appropriate committee shall report appropriately revised allocations pursuant to section 302(b) of this Act to carry out this paragraph; and".

SEC. 12102. PAY-AS-YOU-GO SEQUESTRATION.

(a) REPORTS.—Section 251(a)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "estimating the aggregate amount of required outlay reductions" and inserting "estimating the amount of required mandatory outlay reductions under section 252B and the aggregate amount of required outlay reductions".

(b) MANDATORY REDUCTIONS.—The Balanced Budget and Emergency Deficit Reduction Act of 1985 is amended by adding after section 252 the following new section:

"SEC. 252B. ENFORCING PAY-AS-YOU-GO.

"(a) FISCAL YEARS 1992-1995 ENFORCEMENT.—The purpose of this section is to assure that any legislation enacted after the date of enactment of this section that affects direct spending or receipts that increases the deficit in any fiscal year covered by this Act will trigger an offsetting sequestration.

"(b) SEQUESTRATION; LOOK-BACK.—On November 15 of each fiscal year, there shall be a sequestration pursuant to subsection (d) to offset the amount of any net deficit increase in that fiscal year or the prior fiscal year caused by all direct spending and receipts legislation enacted after the date of enactment of this section (after adjusting for any sequestration of direct spending accounts in a prior year). The Director of OMB shall calculate the amount of net deficit increase, if any, in each such fiscal year by adding—

"(1) all estimates of the effect of direct spending and receipts legislation on the deficit published under subsection (d) applicable to each such fiscal year; and

"(2) the estimated amount of deficit reduction applicable to each such fiscal year resulting from the prior year's sequestration, if any, as published in the Director of OMB's final sequestration report for that year.

"(c) ELIMINATING A DEFICIT INCREASE.—(1) Actions to reduce direct spending accounts shall be taken in the following order:

"(A) All reductions in automatic spending increases specified in section 257(1) shall be made.

"(B) If additional reductions in direct spending accounts are required to be made, the maximum reduction permissible under sections 256(c) (guaranteed student loans) and 256(f) (foster care and adoption assistance) shall be made.

"(C) If additional reductions in direct spending accounts are required to be made, each remaining nonexempt mandatory account shall be reduced by the uniform percentage necessary to make the reductions in direct spending required except that—

"(i) the medicare program specified in section 256(d) shall not be reduced by more than 4 percent; and

"(ii) the uniform percent applicable to all other programs under this paragraph shall be increased (if necessary) to a level sufficient to achieve the required reduction in direct spending.

"(2) For purposes of this subsection, accounts shall be assumed to be at the level in the budget baseline determined under section 251(a)(6).

"(d) OMB ESTIMATES.—Within 5 calendar days after the enactment of any direct spending or receipts legislation, the Director of OMB shall submit to the Senate and the House of Representatives an estimate of the amount of change in the deficit in each fiscal year through fiscal year 1995 resulting from that legislation. Those estimates shall be made using the same economic and technical assumptions as used by the budget submitted by the President for the appropriate fiscal year under section 1105 of title 31, United States Code.".

Subtitle C—Social Security Trust Fund

SEC. 12151. EXCLUSION OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM DEFICIT AMOUNTS.

(a) DEFINITION OF DEFICIT.—Section 3(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the second sentence.

(b) SOCIAL SECURITY ACT.—Section 710(a) of the Social Security Act is amended by striking "shall not be included in the totals of the budget" and inserting "shall not be included in the budget deficit or any other totals of the budget".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to fiscal years beginning with fiscal year 1991.

SEC. 12152. SOCIAL SECURITY FIREWALL AND POINT OF ORDER.

(a) EXCLUSION FROM RECONCILIATION PROCESS.—Section 310(g) of the Congressional Budget Act of 1974 is amended by striking beginning with "that contains recommendations" and all that follows through the period and inserting: "that changes the old-age, survivors, and disability program established under title II of the Social Security Act or its financing without regard to whether such changes increase, decrease, or have no impact on the outlays of and income to such program.".

(b) EXCLUSION OF SOCIAL SECURITY FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following: "The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.".

(c) CONCURRENT RESOLUTION ON THE BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding after paragraph (5) the following new paragraphs:

"(6) Social Security outlays, which for purposes of this title shall be composed of outlays of the old-age, survivors, and disability insurance program established under title II of the Social Security Act; and

"(7) Social Security revenues, which for purposes of this title shall be composed of revenues of the old-age, survivors, and disability insurance program established under title II of the Social Security Act and the related provisions of the Internal Revenue Code of 1986.".

(d) POINT OF ORDER.—Section 301(i) is amended by adding at the end thereof the following new paragraph:

"(3) It shall not be in order in the Senate to consider any concurrent resolution on the budget as reported to the Senate that would decrease the difference between Social Security revenues and Social Security outlays in any of fiscal years covered by the concurrent resolution.".

(e) COMMITTEE ALLOCATIONS.—

(1) Section 302(a)(2) of the Congressional Budget Act of 1974 is amended by inserting "Social Security outlays," after "budget outlays,".

(2) Section 302(f)(2) of the Congressional Budget Act of 1974 is amended by inserting before the period the following: "or provides for Social Security outlays in excess of the appropriate allocation of Social Security outlays under subsection (a)".

(3) Section 302(f)(2) of such Act is further amended by adding at the end thereof the following: "In applying this paragraph—

"(A) estimated Social Security outlays shall be deemed to be reduced by the excess of estimated Social Security revenues (in-

cluding Social Security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this paragraph is applied) over the appropriate level of Social Security revenues specified in the most recently adopted concurrent resolution on the budget; and

"(B) estimated Social Security outlays shall be deemed increased by the shortfall of estimated Social Security revenues (including Social Security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this paragraph is applied) below the appropriate level of Social Security revenues specified in the most recently adopted concurrent resolution on the budget.

The Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under subsection (a) and revised functional levels and aggregates to reflect the application of the preceding sentence. Such revised allocations, functional levels, and aggregates shall be considered as allocations, functional levels, and aggregates contained in the most recently agreed to concurrent resolution on the budget, and the appropriate committees shall report revised allocations pursuant to subsection (b).".

(f) POINT OF ORDER UNDER SECTION 311.—Section 311(a) of the Congressional Budget Act of 1974 is amended—

(1) by inserting "or Social Security outlays" after "total budget outlays";

(2) by inserting "(or Social Security revenues to be less than the appropriate level of Social Security revenues)" after "total revenues"; and

(3) by adding at the end thereof the following: "In applying this subsection—

"(A)(i) estimated Social Security outlays shall be deemed to be reduced by the excess of estimated Social Security revenues (including those provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) over the appropriate level of Social Security revenues specified in the most recently agreed to concurrent resolution on the budget;

"(ii) estimated Social Security revenues shall be deemed to be increased to the extent that estimated Social Security outlays are less (taking into account the effect of the bill, resolution, amendment, or conference report to which this subsection is being applied) than the appropriate level of Social Security outlays in the most recently agreed to concurrent resolution on the budget; and

"(B)(i) estimated Social Security outlays shall be deemed to be increased by the shortfall of estimated Social Security revenues (including Social Security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) below the appropriate level of Social Security revenues specified in the most recently adopted concurrent resolution on the budget; and

"(ii) estimated Social Security revenues shall be deemed to be reduced by the excess of estimated Social Security outlays (including Social Security outlays provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) above the appropriate level of Social Security outlays specified in the most recently adopted concurrent resolution on the budget.

The chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) and revised functional levels and aggregates to reflect the application of the preceding sentence. Such revised allocations, functional levels, and aggregates shall be considered as allocations, functional levels, and aggregates contained in the most recently agreed to concurrent resolution on the budget, and the appropriate Committees shall report revised allocations pursuant to section 302(b)."

(g) LONG-RANGE ACTUARIAL ESTIMATES.—Title II of the Social Security Act is amended by adding at the end thereof the following new section:

"ACTUARIAL EVALUATION OF LEGISLATION

"SEC. 234. (a)(1) The Secretary shall prepare and transmit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives an actuarial analysis of the 75-year effect of legislation affecting the programs established by this title—

"(A) when it appears that such legislation is likely to be acted upon by the Congress, or

"(B) upon the request of a Member of the United States Senate.

"(2) The estimate required by paragraph (1) shall, at a minimum, display the change in long-range balance under each of the alternative sets of assumptions used in the most recent report of the Board of Trustees pursuant to section 201(c)(2). Each such estimate shall bear a certification by the Chief Actuary of the Social Security Administration as to whether or not the techniques and methodology used in its preparation are generally accepted within the actuarial profession and whether or not the assumptions and resulting cost estimates are reasonable. Upon receipt of an actuarial analysis described in this subsection, the chairman of the Committee on Finance shall file such analysis with the Senate.

"(b)(1) It shall not be in order in the Senate to consider any measure or amendment that would modify the program established by this title (or the revenue provisions that provide funding for such program), unless—

(A) the Committee on Finance has submitted to the Senate the actuarial analysis described in subsection (a) with respect to such bill, resolution, amendment, or conference report, or

(B) the Senate has agreed by unanimous consent or by motion described in paragraph (2) to dispense with such actuarial analysis.

"(2) A motion described in paragraph (1)(B) shall not be considered to be agreed to unless it receives the affirmative vote of three-fifths of the membership of the Senate duly chosen and sworn, except that such a motion shall be considered approved upon an affirmative vote of a majority of Senators present and voting if—

"(A) an actuarial analysis was requested from the Secretary more than 72 hours before the motion is voted on (or 24 hours if such motion relates to an amendment in the first degree to a bill dealing with Social Security other than a Committee amendment or 1 hour if the motion relates to an amendment in the second degree to an amendment or a bill dealing with Social Security); and

"(B) such analysis has not been provided by the Secretary.".

Subtitle D—Multiyear Budgeting to Ensure Permanent Savings

SEC. 12201. MULTIYEAR BUDGETING.

(a) APPROPRIATE LEVELS.—Section 301(a) of the Congressional Budget Act of 1974 is amended in the matter before paragraph (1) by striking "planning levels for each of the two" and inserting "for each of the 4".

(b) DECLARATION OF PURPOSE.—Section 2(2) of that Act is amended by striking "each year".

(c) CONCURRENT RESOLUTION ON THE BUDGET.—

(1) Section 301(b)(3) of that Act is amended by striking "for such fiscal year" and inserting "for any one of the fiscal years covered by the concurrent resolution".

(2) Section 301(e) of that Act is amended—

(A) in the first sentence by striking "for each fiscal year"; and

(B) in paragraph (6) by striking "such fiscal year" and inserting "the first fiscal year covered by the concurrent resolution";

(3) Paragraphs (1) and (2) of section 301(f) of that Act are amended by striking "for the fiscal year beginning after the date on which such Economic Report is received by the Congress" each place it appears.

(4) Section 301(i)(1)(A) of that Act is amended—

(A) by striking "for a fiscal year"; and

(B) by striking "for such fiscal year" the first place it appears and inserting "for the first fiscal year".

(d) COMMITTEE ALLOCATIONS.—

(1) Paragraphs (1) and (2) of section 302(a) of that Act are amended by inserting "for each fiscal year in such resolution" after "estimated allocation" each place it appears.

(2) Section 302(b) of that Act is amended—

(A) in paragraph (1) by inserting after "to it" the following: "for the first fiscal year"; and

(B) in paragraph (2)—

(i) by inserting after "(2)" the following: "for"; and

(ii) by striking all after "statement" through the period and inserting the following: ", for purposes of subsections (c) and (f), the allocation made pursuant to subsection (a) shall constitute the allocation pursuant to this subsection.".

(3) Section 302(c) of that Act is amended—

(A) by inserting after "for a fiscal year" each place it appears the following: "or fiscal years"; and

(B) by inserting after "for such fiscal year" each place it appears the following: "or fiscal years".

(4) Section 302(f)(1) of that Act is amended by—

(A) striking "for a fiscal year"; and

(B) striking "such fiscal year" each place it appears in the matter preceding subparagraph (A) and inserting the following: "the first fiscal year covered by the resolution and for the period including the first fiscal year and the following 4 fiscal years".

(5) Section 302(f)(2) of that Act is amended by—

(A) striking "for a fiscal year"; and

(B) striking "such outlays or authority" inserting the following: "the appropriate outlays and authority for the first fiscal year covered by the resolution and for the period including the first fiscal year and the following 4 fiscal years".

(e) SECTION 303 POINT OF ORDER.—Section 303(a) of that Act is amended in the matter following paragraph (5) by inserting after "budget for such fiscal year" the following: "(for committees covered by section 302(b)(2)) or budget for which such fiscal year is the first fiscal year covered (for committees covered by section 302(b)(1))".

(f) PROCEDURES FOR CONSIDERATION OF BUDGET RESOLUTIONS.—Subsections (a)(3) and (b)(3) of section 305 of that Act are amended by striking "for a fiscal year".

(g) REPORTS AND SUMMARIES OF CONGRESSIONAL BUDGET ACTIONS.—

(1)(A) Section 308(a)(1) of that Act is amended—

(i) in the matter preceding subparagraph (A) by inserting after "fiscal year" the following: "(or fiscal years)";

(ii) in subparagraph (A) by inserting after "fiscal year" the following: "(or fiscal years)"; and

(iii) in subparagraph (C) by inserting after "such fiscal year" the following: "(or fiscal years)".

(B) Section 308(a)(2) of that Act is amended by inserting after "fiscal year" the following: "(or fiscal years)".

(2) Section 308(b)(1) of that Act is amended—

(A) by striking "for a fiscal year" in the first sentence and inserting "for each fiscal year covered by a concurrent resolution on the budget"; and

(B) by striking "such fiscal year" in the second sentence and inserting "the first fiscal year covered by the appropriate concurrent resolution".

(h) RECONCILIATION PROCESS.—Section 310(a) of that Act is amended—

(1) by inserting after "shall" in the matter preceding paragraph (1) the following: "(for at least 3 fiscal years)";

(2) in paragraph (1) by striking "such fiscal year" each place it appears and inserting the following: "such fiscal years"; and

(3) by adding at the end thereof the following:

"To the extent that a concurrent resolution on the budget specifies and directs matters described in paragraphs (1), (2), or (4), the concurrent resolution shall specify and direct deficit reduction for the 5 years covered by the concurrent resolution in amounts equal to or greater than 5 times that specified and directed for the first year covered for each committee directed.".

(i) SECTION 311 POINT OF ORDER.—

(1) Section 311(a) of that Act is amended—

(A) by striking "for a fiscal year";

(B) by inserting "for the first fiscal year" after "set forth" the first place it appears;

(C) by striking "budget for such fiscal year" and inserting "budget covering such fiscal year";

(D) by inserting "for the first fiscal year covered by the resolution and for the period including the first fiscal year plus the following 4 fiscal years" after "set forth" the second place it appears; and

(E) by striking "deficit for such fiscal year" and inserting "deficit for the first fiscal year covered by the resolution".

(2) Section 311(b) of that Act is amended by inserting after "such fiscal year" each place it appears the following: "(or fiscal years)".

(j) BILLS PROVIDING NEW SPENDING AUTHORITY.—Section 401(b)(2) of that Act is amended by inserting after "for such fiscal year" the second place it appears the following: "(or fiscal years)".

SEC. 12202. PRESIDENT'S BUDGET TO ADDRESS OUTYEARS.

(a) PRESIDENTS' BUDGET TO ADDRESS OUTYEARS.—Section 1105(f) of title 31, United States Code, is amended—

(1) in paragraph (1) by inserting after "such fiscal year" each time it appears "and the 4 fiscal years after that year";

(2) in paragraph (2) by inserting after "any fiscal year" the following: "(including the 4 fiscal years after the fiscal year for which the budget is submitted)"; and

(3) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) DETAIL OF PRESIDENTS' BUDGETS.—The second sentence of section 1104(b) of title 31, United States Code, is amended by striking "fiscal year 1950" and inserting "fiscal year 1990 submitted on January 9, 1989".

SEC. 12203. STRENGTHENING THE PROHIBITION OF SPENDING BEFORE BUDGETING.

Section 303(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the first sentence.

Subtitle E—Credit Reform

SEC. 12251. CREDIT REFORMS.

The Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

"TITLE XI—CREDIT REFORM

"SHORT TITLE

"SEC. 1100. This title may be cited as the 'Federal Credit Reform Act of 1990'.

"PURPOSES

"SEC. 1101. The purposes of this title are to—

"(1) measure accurately the costs of Federal credit programs;

"(2) place the cost of credit programs on a budgetary basis equivalent to other Federal spending;

"(3) encourage the delivery of benefits in the form most appropriate to the needs of beneficiaries;

"(4) improve the allocation of resources among credit programs and between credit and other spending programs;

"(5) provide for the coordinated accounting and review of Federal credit programs by the Congressional Budget Office and Office of Management and Budget;

"(6) enhance the ability of the Committees on the Budget and the Committees on Appropriations of the Senate and the House of Representatives to analyze and review of Federal credit programs; and

"(7) modify the legislative and executive budgetary processes to carry out these purposes.

"DEFINITIONS

"SEC. 1102. For purposes of this title—

"(1) The term 'Federal agency' means an executive department, an independent Federal establishment, or a corporation or other entity established by the Congress that is owned in whole or in part by the United States. The term does not include the Board of Governors of the Federal Reserve System or the College Construction Loan Insurance Association.

"(2) The term 'direct loan' means a disbursement of funds by the Federal Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. The term includes the purchase of, or participation in, a loan made by another lender. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims or the price support loans of the Commodity Credit Corporation. For the purpose of carrying out this title, direct loans may be grouped and treated as a single loan as agreed to by the Director and the head of the affected agency.

"(3) The term 'direct loan obligation' means a binding agreement entered into by a Federal agency for the Government under which the Federal agency agrees to make a direct loan when specified conditions are fulfilled by the borrower.

"(4) The term 'loan guarantee' means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions. For the purposes of carrying out the provisions of this title, loan guarantees may be grouped and treated as a single loan as agreed to by the Director and the head of the affected agency.

"(5) The term 'loan guarantee commitment' means a binding agreement entered into by a Federal agency for the Government under which the Federal agency agrees to guarantee a loan when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

"(6)(A) The term 'cost to the Government' means—

"(i) the estimated long-term net cost to the Government of a direct loan or loan guarantee, calculated on a net present value basis; and

"(ii) the cost to the Government resulting from any change or modification in direct or guaranteed loan contract terms that results or will result in additional expenditures by the Government or loss of receipts to the Government.

"(B) In determining the amount of cost to the Government of a direct loan or loan guarantee, the estimator shall take into account—

"(i) any cash flows to or from the Government resulting from the terms and conditions of the direct loan obligation or guarantee commitment, including those resulting from—

"(I) direct outlays,

"(II) repayments (of principal or interest),

"(III) interest payments,

"(IV) interest receipts,

"(V) fees charged by (or on behalf of) the Government,

"(VI) the term to maturity,

"(VII) the payment schedule,

"(VIII) defaults in repayments,

"(IX) delays in repayments,

"(X) prepayments,

"(XI) forbearance and restructuring rights,

"(XII) grace periods,

"(XIII) penalties,

"(XIV) recoveries from the liquidation of collateral, and

"(XV) degree of guarantee;

"(ii) the likelihood (based on analysis of historical data) of deviations from the terms and conditions of the direct loan or loan guarantee, including those resulting from—

"(I) changes in the payment schedule,

"(II) defaults in repayments,

"(III) delays in repayments,

"(IV) prepayments,

"(V) forbearance and restructuring rights,

"(VI) grace periods,

"(VII) penalties,

"(VIII) recoveries from the liquidation of collateral, and

"(IX) degree of guarantee; and

"(iii) where historical data is not available or adequate, private market analogues, adjusted to estimate the cost to the Government.

"(C) The cost to the Government shall not include administrative costs.

"(7) The term 'subsidy account' means the budget account or accounts into which subsidies are appropriated to cover the cost to the Government of a direct loan or loan guarantee program.

"(8) The term 'financing account' means the budget account or accounts associated with each subsidy account that—

"(A) provides the non-subsidized funding to non-Government borrowers for Govern-

ment direct loans obligated on or after October 1, 1991;

"(B) provides direct loans to borrowers and, in accordance with agency loan agreements, makes claim payments for guaranteed loans in default and serves as a reserve for agency loan guarantee commitments made on or after October 1, 1991; and

"(C) receives payments of principal, interest, fees, and premiums from or on behalf of borrowers and subsidy payments from subsidy accounts for direct loans obligated or loan guarantees committed on or after October 1, 1991.

If an appropriated account includes both direct loans and loan guarantees, the affected agency shall maintain separate financing accounts for each.

"(9) The term 'liquidating account' means the budget account or accounts that—

"(A) provides the funding for direct loans obligated prior to October 1, 1991;

"(B) disburses loans to borrowers and, in accordance with agency loan agreements, makes claim payments for guaranteed loans in default for direct loans and guaranteed loans obligated prior to October 1, 1991; and

"(C) receives payments of principal, interest, fees, and premiums from on or on behalf of borrowers for all direct loans or loan guarantees obligated prior to October 1, 1991.

"(10) The term 'Director' means the Director of the Office of Management and Budget.

"OMB AND CBO ANALYSIS, COORDINATION, AND REVIEW

"SEC. 1103. (a) IN GENERAL.—The Director shall be responsible for coordinating estimates by Federal agencies required by this title.

"(b) ESTIMATES OF COST TO THE GOVERNMENT BY THE DIRECTOR.—With regard to direct loans and loan guarantees, the Director shall—

"(1) estimate the cost to the Government, or require estimates to be made by the Federal agencies, for each new direct loan and loan guarantee or for groups of similar new direct loans and loan guarantees, taking into account the factors specified in section 1102(6);

"(2) estimate the cost to the Government, or require estimates to be made by the Federal agencies, for changes or modification in the provisions of existing direct loan and loan guarantee agreements that result in increased cost to the Government;

"(3) if estimates of the cost to the Government are made by the Director, furnish the appropriate Federal agency with the estimates in a timely fashion;

"(4) require timely uniform reporting from Federal agencies on the actual long-term cost to the Government of direct loans and loan guarantees, calculated on a basis prescribed by the Director and consistent with this title, and on loan performance and borrower characteristics;

"(5) in the case of a program for which historical data is inadequate to determine the cost to the Government, oversee the development and implementation of systems that will make the collection and maintenance of credit data adequate in the future;

"(6) monitor due diligence debt collection efforts;

"(7) assess Federal agency performance; and

"(8) otherwise study and undertake improvements in Federal agency credit management.

"(c) DEVELOPMENT OF ESTIMATES.—

"(1) IN GENERAL.—In developing estimate criteria to be used by Federal agencies, the Director shall, in cooperation with the Director of Congressional Budget Office—

"(A) coordinate the development of accurate data on historical performance of loans and guarantees; and

"(B) review historical budget data and issue guidelines for the agencies to follow to develop the best possible broad estimates of adjustments that would convert aggregate historical budget data to credit reform accounting.

"(2) CONSULTATION WITH CONGRESS.—The Director shall also consult with the chairmen and ranking members of the Committees on the Budget and the Committees on Appropriations of the Senate and the House of Representatives in developing criteria under paragraph (1).

"(d) REVISION OF CRITERIA.—Any change by the Director in the criteria for estimating developed pursuant to subsection (c) may be made only after consultation with the Director of the Congressional Budget Office, and the chairmen and ranking members of the Committees on the Budget and Appropriations of the Senate and the House of Representatives.

"(e) ADMINISTRATIVE COSTS.—The Director and the Director of the Congressional Budget Office shall analyze differences in long-term administrative costs for credit programs versus grant programs and, 6 months after the date of enactment of this title and when appropriate thereafter, propose changes to Congress for incorporating administrative costs in the credit reform accounting process.

"DIRECT LOAN PROGRAMS

"SEC. 1104. (a) AGENCY BUDGET PROPOSAL.—For each fiscal year, beginning with fiscal year 1992, each Federal agency shall include in its budget proposal and submission to Congress—

"(1) the planned level of new direct loan obligations; and

"(2) the estimated cost to the Government associated with the proposed direct loan obligations.

"(b) DIRECT LOAN OBLIGATIONS.—On or after October 1, 1991, a Federal agency shall not enter into a direct loan obligation unless—

"(1) an appropriation has been made to the Federal agency for the cost to the Government; or

"(2) a limitation is enacted in an annual appropriations Act on the use of funds otherwise available to the Federal agency for the cost to the Government.

"(c) COST TO THE GOVERNMENT OF DIRECT LOAN OBLIGATION.—

"(1) ESTIMATE OF COST.—At the time a direct loan obligation is incurred, the Federal agency shall obtain an estimate of the cost to the Government of the loan from the Director or, at the discretion of the Director, shall make such an estimate based upon guidelines established by the Director.

"(2) BUDGET TREATMENT.—For the purposes of section 1501 of title 31, United States Code—

"(A) the amount of an estimate made under paragraph (1) shall constitute an obligation of the subsidy account to pay to the financing account; and

"(B) the face value of the direct loan shall constitute an obligation of the financing account.

"(d) PAYMENT OF COST TO THE GOVERNMENT.—The cost to the Government associated with a direct loan as determined in subsection (c) shall be paid from the subsidy account into the financing account as the loan is disbursed.

"(e) MODIFICATION.—No direct loan agreement may be modified in a manner that increases the cost to the Government (except modifications within the terms of the loan contract that had already been included in calculating the cost to the Government at the time the agreement was entered into) unless the added cost to the Government is appropriated, obligated out of existing subsidy appropriations, or, in the case of entitlement accounts, charged against the 302(a) and 302(b) allocations of the committee making the modification. In calculating the costs of altering a direct loan the calculation shall include the current estimates of the direct loan's present value.

"(f) ELIGIBILITY AND ASSISTANCE.—Nothing in this title shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by a direct loan.

"LOAN GUARANTEE PROGRAMS

"SEC. 1105. (a) AGENCY BUDGET PROPOSAL.—For each fiscal year, beginning with fiscal year 1992, each Federal agency authorized to make loan guarantee commitments shall include in its budget proposal and submission to Congress—

"(1) the level of new loan guarantee commitments; and

"(2) the estimated cost to the Government associated with the proposed loan guarantee commitments.

"(b) LOAN GUARANTEE.—On or after October 1, 1991, a Federal agency shall not guarantee a loan unless—

"(1) an appropriation has been made to the Federal agency for the cost to the Government, or

"(2) a limitation is enacted in an annual appropriations Act on the use of funds otherwise available to the Federal agency for the cost to the Government.

"(c) COST TO THE GOVERNMENT OF LOAN GUARANTEE.—

"(1) IN GENERAL.—At the time a loan guarantee commitment is made, the Federal agency shall obtain an estimate of the cost to the Government of the loan guarantee from the Director or, at the discretion of the Director, shall make an estimate of the cost to the Government based upon guidelines provided by the Director.

"(2) OBLIGATION.—The amount of an estimate made under paragraph (1) shall constitute an obligation of the Federal agency for the purposes of section 1501 of title 31, United States Code.

"(d) PAYMENT OF COST TO THE GOVERNMENT.—The cost to the Government associated with a loan guarantee determined under subsection (c) shall be paid from the subsidy account into the financing account at the time the underlying guaranteed loan is disbursed.

"(e) MODIFICATION.—No loan guarantee agreement may be modified in a manner that would increase the cost to the Government (except modifications within the terms of a loan contract that had already been included in calculating the cost to the Government at the time the agreement was entered into) unless the added cost to the Government is appropriated, obligated out of existing subsidy appropriations, or is charged against the 302(a) and 302(b) allocations of the committee making the modifications. In calculating the costs of modifying loan guarantee agreements, the calculation shall include the current estimates of the loan guarantee's present value.

"(f) REINSURANCE.—Nothing in this title shall be construed as authorizing or requiring the purchase of reinsurance for a Federal guarantee from private insurers.

"(g) ELIGIBILITY AND ASSISTANCE.—Nothing in this title shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by, a loan guarantee.

"AGENCY RESPONSIBILITIES

"SEC. 1106. The head of each Federal agency authorized to make or guarantee loans covered by this title shall—

"(1) provide the Director in a timely fashion with information about the Federal agency's direct loan or loan guarantee programs sufficient to enable the Director to calculate the estimated cost to the Government, or shall, as required by the Director, estimate the cost to the Government in accordance with the Director's guidance;

"(2) request annual appropriations, or limitations on funds otherwise available, for the subsidies attributable to that Federal agency's direct loan or loan guarantee programs in each fiscal year;

"(3) carry out the Federal agency's direct loan or loan guarantee programs within the lesser of—

"(A) applicable appropriations Act limitations on direct loan obligations or loan guarantee commitments; or

"(B) annual appropriations or funds otherwise available to cover cost to the Government for the program; and

"(4) maintain reserves in a financing account to cover loan guarantee defaults, which reserves in the financing account shall be treated as uninvested funds.

"BUDGETARY TREATMENT

"SEC. 1107. (a) DIRECT LOAN COST TO THE GOVERNMENT.—For the purposes of chapter 11 of title 31, United States Code, and of titles III and IV of this Act, in the case of any direct loan made by a Federal agency on or after October 1, 1991, the cost to the Government shall be treated as an obligation of the subsidy account. The cost to the Government shall be included in the budget function of the direct loan program.

"(b) LOAN GUARANTEE COST TO THE GOVERNMENT.—For the purposes of chapter 11 of title 31, United States Code, and of titles III and IV of this Act, in the case of any loan guarantee commitment made by a Federal agency on or after October 1, 1991, the cost to the Government shall be treated as an obligation of the account charged with the subsidy payment. The cost to the Government shall be included in the budget function of the guaranteed loan program.

"(c) CREDIT FINANCING ACTIVITIES.—

"(1) For the purposes of chapter 11 of title 31, United States Code, and of titles III and IV of this Act, financing requirements of Federal credit programs in excess of costs to the Government paid by a Federal agency shall be chargeable to a financing account for each program. Financing requirements of direct loans or loan guarantees made or obligated on or after October 1, 1991, shall also be treated as obligations of the financing accounts. Such financing transactions shall be recorded in a budget function entitled 'credit financing activities'. The Antideficiency Act shall apply to the financing accounts.

"(2) Amounts recorded in the budget function entitled 'credit financing activities' pursuant to this subsection shall not be included—

"(A) for purposes of determining, in accordance with sections 301(i) and 311(a) of this Act, whether the maximum deficit amount for a fiscal year has been exceeded;

"(B) for purposes of other points of order under section 311 of this Act;

"(C) for purposes of reconciliation under section 310 of this Act; or

"(D) for purposes of allocations and points of order under section 302 of this Act.

"(3) Transactions in the financing account shall be treated as a means of financing of the Government.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1108. (a) DIRECT LOAN OBLIGATIONS.—There are authorized to be appropriated to each Federal agency otherwise authorized to make obligations for direct loans, such sums as may be necessary to pay the cost to the Government associated with proposed direct loan obligations and the costs of administering direct loans.

"(b) LOAN GUARANTEE COMMITMENTS.—There are authorized to be appropriated to each Federal agency otherwise authorized to make guaranteed loan commitments, such sums as may be necessary to pay the cost to the Government associated with proposed loan guarantee commitments and the costs of administering loan guarantees.

"(c) TREASURY NOTES FINANCING.—If at any time the monies available in its financing account are insufficient to enable the head of the Federal agency to discharge its responsibilities under this title, the head of a Federal agency shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and containing such terms and conditions, as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the head of such agency from monies otherwise available to its financing account or from appropriations made pursuant to subsection (d). Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the date of issuance of such notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued under this subsection and for that purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations.

"(d) LIQUIDATING OBLIGATIONS.—

"(1) If funds are insufficient to liquidate obligations of the financing account incurred under subsection (c), for the purposes of titles III and IV of this Act, the Director or the Federal agency as designated by the Director shall estimate the level of funds needed to meet those obligations. If at any time it is determined that funds are insufficient to repay those obligations, under subsection (c), there are authorized to be appropriated such sums as are necessary to repay those obligations.

"(2) To the extent that the resources of the financing account exceed those needed to liquidate obligations of the account or to maintain actuarially determined reserve requirements, the excess funds shall be transferred to the general fund of the Treasury. Such transfers shall be made from time to time, but at least once a year.

"(3) The Director shall include detailed descriptions of the financial condition of the financing accounts in the President's annual budget submission under section 1105 of title 31 of the United States Code.

"(e) AUTHORIZATION OF APPROPRIATIONS FOR SALARIES AND EXPENSES.—There are authorized to be appropriated to the Director such sums as may be necessary for the salaries and expenses incurred to carry out the responsibilities of the Director under this title.

"TREATMENT OF DEPOSIT INSURANCE AND AGENCIES AND OTHER INSURANCE PROGRAMS

"SEC. 1109. (a) IN GENERAL.—

"(1) The provisions of this title shall not apply to the credit and insurance activities of the credit activities of the Federal Deposit Insurance Corporation, National Credit Union Administration, Resolution Trust Corporation, Pension Benefit Guaranty Corporation, National Flood Insurance, Insurance Development Fund, Crop Insurance, or to the credit or other activities of the Tennessee Valley Authority.

"(2) The Director of the Office of Management and Budget and the Director of the Congressional Budget Office shall each study whether the accounting for Federal insurance programs, including deposit insurance programs, should be on a cash basis. Each Director shall report findings and recommendations to the President and the Congress by September 30, 1991.

"(3) For the purposes of paragraph (2) the Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate these studies.

"(b) ELIGIBILITY AND ASSISTANCE.—Nothing in this section shall be construed to change the responsibility of the entities that administer the programs described in subsection (a) to determine the terms and conditions of eligibility for, or the amount of assistance provided by those entities.

"EFFECT ON OTHER LAWS

"SEC. 1110. (a) FEDERAL AGENCY AUTHORITY.—Nothing in this title shall be construed as limiting the authority of any Federal agency to enter into agreements to make or to guarantee loans under statutes that were in effect prior to the date of enactment of this title or that may be enacted subsequently. All such agreements shall be contingent upon meeting the requirements of this title.

"(b) EFFECT ON OTHER LAWS.—This title shall supersede, modify, or repeal any provision of law enacted prior to the date of enactment of this title to the extent such provision is inconsistent with this title. Nothing in this title shall be construed to establish a credit limitation on any Federal loan or loan guarantee program.

"(c) CREDITING OF COLLECTIONS.—Collections resulting from direct loans obligated or loan guarantees committed prior to October 1, 1991, shall be credited to the liquidating accounts of Federal agencies. Amounts so credited shall be available, to the same extent that they were available prior to the date of enactment of this title, to liquidate obligations arising from such direct loans obligated or loan guarantees committed prior to October 1, 1991, including repayment of any obligations held by the Secretary of the Treasury or the Federal Financing Bank. The unobligated balances of such accounts that are in excess of current needs shall be transferred to the general fund of the Treasury. Such transfers shall be made from time to time but, at least once each year.

"IMPLEMENTATION FOR FISCAL YEAR 1992

"SEC. 1111. (a) IN GENERAL.—Beginning with the President's budget submission to

Congress for fiscal year 1992, the President shall include, in the Budget Appendix, an estimate for the cost to the Government, as defined in section 1102(6), of all Federal direct loan and loan guarantee authority by program and by account.

"(b) BUDGET COMMITTEES.—At the time of the President's budget submission to Congress, the Director shall provide the Committees on the Budget of both the Senate and the House of Representatives and the Congressional Budget Office with a document explaining the methodology used in development of the Director's cost to the Government estimates for direct loan and loan guarantee programs. Upon request by the Committees on the Budget of both the Senate or the House of Representatives or the Congressional Budget Office, the Director shall provide additional documentation, as required, regarding the cost to the Government estimates included in the Budget Appendix.

"(c) CONGRESSIONAL BUDGET OFFICE.—

"(1) IN GENERAL.—Beginning on January 1, 1991, the Congressional Budget Office shall include a cost to the Government estimate of direct loan or loan guarantee authority provided for in all reported bills.

"(2) EXISTING RESPONSIBILITY.—Paragraph (1) does not eliminate or modify any responsibility of the Congressional Budget Office to make cost estimates under the law in effect prior to the effective date of this title.".

SEC. 12252. EFFECT ON CONGRESSIONAL BUDGET ACT AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—(1) Section 3(2) of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following: "The term includes the cost to the Government for direct loan and loan guarantee programs, as those terms are defined by title XI".

(2) Section 3 of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following:

"(11) GOVERNMENT-SPONSORED ENTERPRISE.—The term 'government-sponsored enterprise' means a corporate entity created by a law of the United States that—

"(A)(i) is a Federally chartered organization as provided in statute;

"(ii) is privately owned, as evidenced by capital stock owned by private entities or individuals;

"(iii) is under the direction of a board of directors, a majority of which is elected by private owners;

"(iv) is a financial institution with power to—

"(I) make loans or loan guarantees for limited purposes such as to provide credit for specific borrowers or one sector; and

"(II) raise funds by borrowing or to guarantee the debt of others in unlimited amounts; and

"(B)(i) does not exercise powers that are reserved to the Government as sovereign (such as the power to tax, to levy compulsory fees, regardless of whether such fees are to finance goods or services, or to regulate interstate commerce);

"(ii) does not have the power to commit the Government financially (but it may be a recipient of a loan guarantee commitment made by the Government); and

"(iii) has employees whose salaries and expenses are paid by the enterprise and are not Federal employees subject to title 5 of the United States Code.".

(b) POINT OF ORDER.—Section 402 of the Congressional Budget Act of 1974 is amended—

(1) by redesignating subsection (b) as (c);

(2) in subsection (a), by striking "(b)(1)" and inserting "(c)"; and

(3) by inserting after subsection (a) the following new subsection:

"(b) POINT OF ORDER.—It shall not be in order in either the Senate or the House of Representatives to consider any appropriation bill or joint resolution providing continuing appropriations, or authorizing legislation creating or modifying credit programs that are not subject to appropriation of credit authority, or any amendment thereto, or any conference report thereon, or any motion in relation thereto, that provides new credit authority that does not also provide an appropriation for the cost to the Government of such new credit authority as required by title XI.".

(c) POINT OF ORDER FOR FISCAL YEAR 1991.—Section 302(f)(2) of the Congressional Budget Act of 1974 is amended by inserting after "new budget authority" the following: "or new credit authority". The amendment made by this subsection shall take effect on January 1, 1991.

(d) SUNSET OF POINT OF ORDER IN FISCAL YEAR 1992.—(1) Section 302 of the Congressional Budget Act is amended—

(A) in subsection (a)(1)—

(i) by striking "total entitlement authority, and total credit authority" and inserting "and total entitlement authority";

(ii) by striking "such entitlement authority, or such credit authority" and inserting "or such entitlement authority"; and

(iii) by striking "entitlement authority, and credit authority" and inserting "and entitlement authority";

(B) in subsection (a)(2), by striking "total budget outlays, total new budget authority and new credit authority" and inserting "total budget outlays and total new budget authority";

(C) in subsection (b)(1)(A), by striking "budget outlays, new budget authority, and new credit authority" and inserting "budget outlays and new budget authority";

(D) in subsection (c)—

(i) in paragraph (1), by inserting "or" at the end thereof; and

(ii) by striking "or (3) new credit authority for a fiscal year;"; and

(E) in subsection (f)(1)—

(i) by striking "year, new entitlement authority effective during such fiscal year, or new credit authority for such fiscal year," and inserting "year or new entitlement authority effective during such fiscal year,"; and

(ii) by striking "authority, new entitlement authority, or new credit authority" and inserting "authority or new entitlement authority".

(2) The amendments made by this subsection shall take effect for fiscal years beginning after September 30, 1991.

(e) BALANCED BUDGET ACT.—Section 255(g) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end thereof the following new paragraph:

"(3) The financing account or accounts (as defined by section 1102(8)) and the activities of those accounts shall be exempt from reduction under any order issued pursuant to this part, except to the extent that a reduction in subsidies or loan limitations would result in a reduction in the financing amount or amounts.".

SEC. 12253. TABLE OF CONTENTS.

The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following:

"TITLE XI—CREDIT REFORM

"Sec. 1100. Short title.
"Sec. 1101. Purposes.
"Sec. 1102. Definitions.
"Sec. 1103. OMB and CBO analysis, coordination, and review.
"Sec. 1104. Direct loan programs.
"Sec. 1105. Loan guarantee programs.
"Sec. 1106. Agency responsibilities.
"Sec. 1107. Budgetary treatment.
"Sec. 1108. Authorization of appropriations.
"Sec. 1109. Treatment of deposit insurance agencies.
"Sec. 1110. Effect on other laws.
"Sec. 1111. Implementation for fiscal year 1992.".

SEC. 12254. GOVERNMENT-SPONSORED ENTERPRISES.

(a) TREASURY REPORT.—

(1) On or before April 30, 1991, the Secretary of the Treasury shall submit to the Senate and the House of Representatives a report—

(A) making an objective assessment of the financial safety and soundness of the Government-sponsored enterprises;

(B) assessing the adequacy of the existing regulatory structure for Government-sponsored enterprises; and

(C) assessing the risk of financial exposure to the Federal Government posed by Government sponsored enterprises.

(2)(A) Each Government-sponsored enterprise shall provide full and prompt access to the Secretary to its books and records, and shall promptly provide any other information requested by the Secretary.

(B) In conducting the studies under this section, the Secretary may request information from, or the assistance of, any Federal department or agency authorized by law to supervise the activities of any Government-sponsored enterprise.

(C)(i) The Secretary shall determine and maintain the confidentiality of any book, record, or information made available under this section in a manner generally consistent with the level of confidentiality established for the material by the Government-sponsored enterprise involved.

(ii) The Department of Treasury shall be exempt from section 552 of title 5, United States Code, with respect to any book, record, or information made available under this section and determined by the Secretary to be confidential. This exemption shall continue to apply to any such book, record, or information provided to a nationally recognized rating organization or another Federal agency.

(iii) Any officer of employee of the Department of the Treasury shall be subject to the penalties set forth in section 1906 of title 18, United States Code, if—

(I) by virtue of this employment of official position, he has possession of or access to any book, record, or information made available under this section and determined by the Secretary to be confidential under clause (i); and

(II) he discloses the material in any manner other than—

(aa) to an officer or employee of the Department of Treasury; or

(bb) pursuant to the exception set forth in such section 1906.

(b) CONGRESSIONAL BUDGET OFFICE REPORT.—

(1) On or before April 30, 1991, the Director of the Congressional Budget Office shall submit to the Senate and the House of Representatives a report—

(A) giving that Office's perspective on—

(i) the types of risk that each Government-sponsored enterprise assumes;

(ii) ways in which the Congress can improve its understanding of these risks; and

(iii) the risks to the budget posed by Government-sponsored enterprises;

(B) evaluating the adequacy of current Government-sponsored enterprise supervision and regulation with respect to risk management; and

(C) presenting alternative models of oversight, with particular emphasis on the costs and benefits of each alternative on the Federal Government and to Government-sponsored-enterprise-supported beneficiaries.

(2)(A) The Director of Congressional Budget Office shall determine and maintain the confidentiality of any book, record, or information made available under this subsection in a manner generally consistent with the level of confidentiality established for the material by the Government-sponsored enterprise involved.

(B) The Congressional Budget Office shall be exempt from section 603 of title 2, United States Code, with respect to any book, record, or information made available under this subsection and determined by the Director to be confidential under subparagraph (A).

(c) STUDY AND LEGISLATION.—It is the sense of Congress that the Committees of jurisdiction over Government-sponsored enterprises in the Senate and the House of Representatives shall—

(1) study the administration's Government sponsored enterprise proposals, which include—

(A) requiring triple-A ratings for Government-sponsored enterprises;

(B) establishing the Department of the Treasury as a separate regulator of Government-sponsored enterprises for safety and soundness; and

(C) imposing regulatory sanctions on Government-sponsored enterprises that fail to achieve a triple-A rating within 5 years;

(2) consult with the administration, the Government-sponsored enterprises, and the Congressional Budget Office regarding the administration's proposals; and

(3) report by September 15, 1991, to the Senate or the House of Representatives, as the case may be, as appropriate, legislation to—

(A) ensure the financial soundness of Government-sponsored enterprises; and

(B) minimize the possibility that any Government-sponsored enterprise might require future Federal assistance.

(d) LEGISLATIVE CONSIDERATION.—It is the sense of Congress that if the Committees of jurisdiction over Government-sponsored enterprises in the Senate and the House of Representatives fail to report the legislation required by subsection (c) by September 15, 1991, then the Leadership of the Senate and the House of Representatives shall provide for consideration of and a vote on or in relation to legislation improving the financial safety and soundness of Government-sponsored enterprises before the end of the First Session of the 102nd Congress.

Subtitle F—Budget Timetable

SEC. 12301. BUDGET TIMETABLE.

Section 300 of the Congressional Budget Act of 1974 is amended to read as follows:

"TIMETABLE

"SEC. 300. (a) IN GENERAL.—Except as provided in subsection (b), the timetable for the Congressional budget process is as follows:

"On or before:	*Action to be completed:*
January 27	*Congressional Budget Office submits its baseline report to Budget Committees and issues its initial Gramm-Rudman-Hollings report to Office of Management and Budget and the Congress.*
February 1	*President submits the executive branch's budget request. Office of Management and Budget issues its initial report to the President and the Congress. President issues initial order and transmits to the Congress a detailed message regarding the initial order.*
March 1	*Congressional Budget Office submits its reestimate of the President's budget to the Committees on Appropriations and on the Budget request and committees submit their views and estimates to Budget Committees.*
April 1	*Senate Budget Committee reports concurrent resolution on the budget.*
April 15	*Congress completes action on concurrent resolution on the budget.*
May 15	*Annual Appropriations bills may be considered in the House.*
September 30	*Congress completes action on appropriations legislation and completes action on reconciliation legislation in odd-numbered years.*
October 1	*Fiscal year begins and any initial order becomes effective.*
November 10	*Congressional Budget Office issues its revised report to Office of Management and Budget and the Congress.*
November 15	*Office of Management and Budget issues its revised report to the President and the Congress. President issues final order (which becomes effective immediately).*
November 30	*President transmits to the Congress a detailed message regarding the final order.*
December 15	*Comptroller General issues compliance report.*

"(b) IN YEARS A NEW PRESIDENT TAKES OFFICE.—In years in which a new President (who had not been President on January 19) takes office on January 20, the timetable for the Congressional budget process is as follows:

"On or before:	Action to be completed:
January 27	Congressional Budget Office submits its baseline report to Budget Committees.
March 10	Congressional Budget Office issues its initial Gramm-Rudman-Hollings report to Office of Management and Budget and the Congress.
March 15	President submits the executive branch's budget request. Office of Management and Budget issues its initial report to the President and the Congress. President issues initial order and transmits to the Congress a detailed message regarding the initial order.
April 15	Congressional Budget Office submits its reestimate of the President's budget to the Committees on Appropriations and on the Budget request and committees submit their views and estimates to Budget Committees.
May 1	Senate Budget Committee reports concurrent resolution on the budget.
May 15	Congress completes action on concurrent resolution on the budget.
June 1	Annual Appropriations bills may be considered in the House.
September 30	Congress completes action on appropriations legislation and completes action on reconciliation legislation.
October 1	Fiscal year begins and any initial order becomes effective.
November 10	Congressional Budget Office issues its revised report to Office of Management and Budget and the Congress.
November 15	Office of Management and Budget issues its revised report to the President and the Congress. President issues final order (which becomes effective immediately).
November 30	President transmits to Congress a detailed message regarding the final order.
December 15	Comptroller General issues compliance report.".

Subtitle G—Early Initial Gramm-Rudman-Hollings Reports

SEC. 12351. EARLY INITIAL GRAMM-RUDMAN-HOLLINGS REPORTS.

(a) GRAMM-RUDMAN-HOLLINGS.—The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in section 251(a)(1)(A), by striking "as of August 15 of the calendar year in which such fiscal year begins";

(2) in section 251(a)(2)(A), by striking "August 20" and inserting "January 27";

(3) in section 251(a)(2)(B), by striking "August 25" and inserting "February 1";

(4) in section 251(a)(2)(C), by striking clauses (iii) and (iv);

(5) in section 251(a)(3)(A)(ii), by striking "paragraph" and inserting "part";

(6) in section 251(a)(3)(A)(ii)(II), by striking "in the case of an initial report submit-

ted under subsection (a), August 15, and in the case of a final report submitted under subsection (c),";

(7) in section 251(c)(1)(A), by striking "August 15 of" and inserting "the snapshot date for the Director's report pursuant to subsection (a) for";

(8) in section 252(a)(1), by striking "August 25" and inserting "February 1";

(9) in section 252(a)(5), by striking "Not later than the 15th day beginning after the President issues an" and inserting "Along with any"; and

(10) in section 252(b)(2), by striking "August 15 of" and inserting "the snapshot date for the Director's report pursuant to section 251(a) for".

(b) CONGRESSIONAL BUDGET ACT.—The Congressional Budget Act of 1974 is amended—

(1) in section 202(f)(1), by striking "February 15" and inserting "January 27";

(2) in section 202(f)(1), by striking "and any changes in such levels based on proposals in the budget request submitted by the President for such fiscal year";

(3) in section 202(f), by adding at the end thereof the following new paragraph:

"(4) On or before March 1 of each year (or April 15 of a year to which section 300(b) applies), the Director shall submit to the Committees on the Budget of the Senate and the House of Representatives a report setting forth the Director's analysis of the proposals in the budget request submitted by the President for the fiscal year beginning October 1 of that year."; and

(4) in section 301(d), by striking "February 25" and inserting "March 1".

(c) TITLE 31 OF THE UNITED STATES CODE.—Section 1105(a) of title 31, United States Code, is amended by striking "the first Monday after January 3" and inserting "February 1".

SEC. 12352. PRESIDENTS' BUDGET REQUEST TO USE GRAMM-RUDMAN-HOLLINGS RULES.

Section 1105(f) of title 31, United States Code, is amended—

(1) in paragraph (1) by inserting before the period "(and as revised on the date of that budget under section 251(a)(1)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985) using budget estimates made in accordance with section 251(a)(6) of that Act";

(2) in paragraph (2) by inserting before the comma "(and as revised on the date of that budget under section 251(a)(1)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985) using budget estimates made in accordance with section 251(a)(6) of that Act"; and

(3) by striking paragraphs (3) and (4) and redesignating paragraph (5) as paragraph (3).

Subtitle H—Strengthening the Byrd Rule on Extraneous Matter in Reconciliation

SEC. 12401. STRENGTHENING THE BYRD RULE.

(a) STRENGTHENING THE BYRD RULE.—Section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended—

(1) in subsection (a)—

(A) by inserting after "(a)" the following: "IN GENERAL.—";

(B) by inserting after "1974" the following: "(whether that bill or resolution originated in the Senate or the House) or section 254(a) of the Balanced Budget and Emergency Deficit Control Act of 1985";

(2) in subsection (d) by inserting after "(d)" the following: "EXTRANEOUS PROVISIONS.—";

(3) in subsection (d)(1)(A) by inserting before the semicolon "(but a provision in which outlay decreases or revenue increases exactly offset outlay increases or revenue decreases shall not be considered extraneous by virtue of this subparagraph)";

(4) in subsection (d)(1)(D) by striking "and" after the semicolon;

(5) in subsection (d)(1)(E), by striking the period at the end thereof and inserting "; and";

(6) in subsection (d)(1) by adding at the end thereof the following new subparagraph:

"(F) a provision shall be considered extraneous if it violates section 310(f).";

(7) in subsection (d)(2), by inserting after "A" the first place it appears the following: "Senate-originated"; and

(8) by adding at the end thereof the following new subsections:

"(e) EXTRANEOUS MATERIALS.—Upon the reporting or discharge of a reconciliation bill or resolution pursuant to section 310 in the Senate, and again upon the submission of a conference report on such a reconciliation bill or resolution, the Committee on the Budget of the Senate shall submit for the record a list of material considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E) of this section to the instructions of a committee as provided in this section. The inclusion or exclusion of a provision shall not constitute a determination of extraneousness by the Presiding Officer of the Senate.

"(f) GENERAL POINT OF ORDER.—Notwithstanding any other law or rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a bill, resolution, amendment, motion, or conference report violate this section. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some of the provisions (including provisions of an amendment, motion, or conference report) against which the Senator raised the point of order, then only those provisions (including provisions of an amendment, motion, or conference report) against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this section. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

"(g) DETERMINATION OF LEVELS.—For purposes of this section, the levels of new budget authority, budget outlays, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.".

(b) TRANSFER OF BYRD RULE.—(1) Section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by subsection (a), is transferred to the end of part A of title III of the Congressional Budget Control Act of 1974, and designated as section 313 of that Act.

(2) Section 313 of the Congressional Budget Control Act of 1974 is amended by—

(A) adding at the beginning thereof the following center heading:

"EXTRANEOUS MATTER IN RECONCILIATION LEGISLATION";

(B) striking subsection (b), subsection (c), and the last sentence of subsection (a); and

(C) redesignating subsections (d) (e), (f), and (g) as subsections (b), (c), (d) and (e), respectively.

(3) Subsection (a) of the first section of Senate Resolution 286 (99th Congress, 1st Session), as amended by Senate Resolution 509 (99th Congress, 2d Session) is enacted as subsection (c) of section 313 of the Congressional Budget Act of 1974.

(4) Section 313 of the Congressional Budget Act of 1974 is amended—

(A) in subsections (a), (b)(1)(A), and (c), by striking "of the Congressional Budget Act of 1974";

(B) in subsection (a), by striking "(d)" and inserting "(b)";

(C) in subsection (b)(2)(C), by adding "or" at the end thereof;

(D) in subsection (c), by striking "when" and inserting "When";

(E) in subsection (c)(1), by striking "(d)(1)(A) or (d)(1)(D) of section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985" and inserting "(b)(1)(A), (b)(1)(B), (b)(1)(D), (b)(1)(E), or (b)(1)(F)"; and

(F) in subsection (c)(2), by striking "this resolution" and inserting "this subsection".

(5) The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item for section 312 (as added by section 12606(c)) the following new item:

"Sec. 313. Extraneous matter in reconciliation legislation.".

Subtitle I—Budget Submissions in New Administrations

SEC. 12451. REQUIREMENT FOR NEW PRESIDENT'S BUDGETS.

Section 1105(a) of title 31, United States Code, is amended by striking "February 5 in 1986" and inserting "March 15 in any year in which a new President takes office on January 20, not having been President on January 19".

SEC. 12452. DEADLINES IN YEARS WHEN A NEW PRESIDENT TAKES OFFICE.

(a) CONGRESSIONAL BUDGET ACT.—The Congressional Budget Act of 1974 is amended—

(1) in section 301(a), by inserting after "April 15 of each year" the following: "(or May 15 in a year to which section 300(b) applies";

(2) in section 301(d), by striking "February 25 of each year" and inserting "March 1 of each year (or April 15 in a year to which section 300(b) applies"; and

(3) in section 303(b), by inserting after "May 15 of any calendar year" the following: "(or June 1 in a year to which section 300(b) applies".

(b) BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in section 251(a)(2)(A), by striking "October 15, 1987, in the case of fiscal year 1988" and inserting "March 10 in a year to which section 300(b) of the Congressional Budget Act of 1974 applies";

(2) in section 251(a)(2)(B), by striking "October 20, 1987, in the case of fiscal year 1988" and inserting "March 15 in years when section 300(b) of the Congressional Budget Act of 1974 is in effect"; and

(3) in section 252(a)(1), by striking "October 20, 1987, in the case of the fiscal year 1988" and inserting "March 15 in a year to

which section 300(b) of the Congressional Budget Act of 1974 applies".

Subtitle J—Repeal of Superseded Deadlines

SEC. 12501. SUPERSEDED DEADLINES AND CONFORMING CHANGES.

(a) IN GENERAL.—The Congressional Budget Act of 1974 is amended—

(1) in section 305, by—

(A) striking subsection (d); and

(B) redesignating subsection (e) as subsection (d);

(2) by repealing section 307; and

(3) in section 310, by—

(A) striking subsection (f); and

(B) redesignating subsection (g) as subsection (f).

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the item for section 307 and inserting the following:

"Sec. 307. Repealed.".

Subtitle K—Standardization of Points of Order

SEC. 12551. STANDARDIZATION OF LANGUAGE REGARDING POINTS OF ORDER.

(a) IN GENERAL.—The Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) in section 311(a)—

(A) in the matter before paragraph (1), by striking "providing new budget authority for such fiscal year, providing new entitlement authority effective during such fiscal year, or reducing revenues for such fiscal year,"; and

(B) by striking ", if—" and paragraphs (1), (2), and (3) and inserting "that";

(2)(A) in section 302(c), by striking "bill or resolution, or amendment thereto" and inserting "bill, resolution, amendment, motion, or conference report";

(B) in section 302(f)(2), by striking "bill or resolution (including a conference report thereon), or any amendment to a bill or resolution" and inserting "bill, resolution, amendment, motion, or conference report";

(C) in section 303(a), by striking "bill or resolution (or amendment thereto)" and inserting "bill, resolution, amendment, motion, or conference report";

(D) in section 306, by striking "bill or resolution, and no amendment to any bill or resolution" and inserting "bill, resolution, amendment, motion, or conference report";

(E) in section 311(a), by—

(i) striking "bill, resolution, or amendment" and inserting "bill, resolution, amendment, motion, or conference report"; and

(ii) striking "or any conference report on any such bill or resolution";

(F) in section 401(a), by—

(i) striking "bill, resolution, or conference report" and inserting "bill, resolution, amendment, motion, or conference report"; and

(ii) striking "(or any amendment which provides such new spending authority)";

(G) in section 401(b)(1), by—

(i) striking "bill or resolution" and inserting "bill, resolution, resolution of ratification, amendment, motion, or conference report"; and

(ii) striking "(or any amendment which provides such new spending authority)"; and

(H) in section 402(a), by—

(i) striking "bill, resolution, or conference report" and inserting "bill, resolution, amendment, motion, or conference report"; and

(ii) striking "or any amendment";

(3) in section 302(f)(2), by striking "outlays or new budget authority" and inserting "outlays, new budget authority, or new spending authority (as defined in section 401(c)(2))";

(4) in section 303(a), by—

(A) amending paragraph (4) to read as follows:

"(4) new spending authority (as defined in section 401(c)(2)) for a fiscal year;";

(B) striking the comma at the end of paragraph (5) and inserting "; or"; and

(C) adding at the end thereof the following new paragraph:

"(6) outlays,";

(5) in section 401(a), by striking "(A) or (B)" both times it appears and inserting "(A), (B), or (D)";

(6) in section 401(c), by striking the last sentence;

(7) in section 401(d), by striking "Subsections (a) and" and inserting "Subsection"; and

(8) in section 402(b), by inserting after "including" the following: "(but not limited to)".

(b) POINTS OF ORDER AGAINST AMENDMENTS BETWEEN THE HOUSES.—

(1) Part A of title III of the Congressional Budget Act of 1974 as amended by section 12401(b), is amended by adding at the end thereof the following new section:

"EFFECTS OF POINTS OF ORDER

"SEC. 314. POINTS OF ORDER AGAINST AMENDMENTS BETWEEN THE HOUSES.—Each provision of this Act that establishes a point of order against an amendment also establishes a point of order against an amendment between the Houses. If a point of order under this Act is raised in one House against an amendment between the Houses, and the Presiding Officer sustains the point of order, the effect shall be the same as if that House had disagreed to the amendment.

"(b) EFFECT OF A POINT OF ORDER ON A BILL IN THE SENATE.—In the Senate, if the Chair sustains a point of order against a bill, the Chair shall then send the bill to the committee of appropriate jurisdiction for further consideration.".

(2) The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item for section 313 (as added by section 12401(b)(5)) the following new item:

"Sec. 314. Effect of points of order.".

(c) ADJUSTMENT OF ALLOCATIONS AND AGGREGATES TO REFLECT CHANGES PURSUANT TO SECTION 310(c).—Section 310(c) of the Congressional Budget Act of 1974 is amended by—

(1) inserting "(1)" before "Any committee";

(2) redesignating subparagraphs (A) and (B) of paragraph (1) as clauses (i) and (ii), respectively;

(3) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(4) inserting at the end thereof the following new paragraph:

"(2)(A) Upon the reporting to the Committee on the Budget of a recommendation that shall be deemed to have complied with such directions solely by virtue of this subsection, the chairman of the Committee on the Budget may file with the reporting committee's House appropriately revised allocations under section 302(a) and revised functional levels and aggregates to carry out this subsection.

"(B) Upon the submission to the Senate or the House of a conference report recommending a reconciliation bill or resolution in which a committee shall be deemed to have complied with such directions solely by virtue of this subsection, the chairmen of the Committees on the Budget may file with their respective Houses appropriately revised allocations under section 302(a) and revised functional levels and aggregates to carry out this subsection.

"(C) Allocations, functional levels, and aggregates revised pursuant to this paragraph shall be considered to be allocations, functional levels, and aggregates contained in the concurrent resolution on the budget pursuant to section 301.

"(D) Upon the filing of revised allocations pursuant to this paragraph, the reporting Committee shall report revised allocations pursuant to section 302(b) to carry out this subsection.".

(d) RECONCILIATION INSTRUCTIONS.—Section 310(a)(4) of the Congressional Budget Act of 1974 is amended by inserting after "(3)" the following: "(including a direction to achieve deficit reduction)".

SEC. 12552. DEFINITIONS.

(a) BUDGET AUTHORITY.—Section 3(2) of the Congressional Budget Act of 1974 is amended to read as follows:

"(12) BUDGET AUTHORITY.—

"(A) IN GENERAL.—The term 'budget authority' means the authority provided by Federal law to incur financial obligations, including the following:

"(i) provisions of law that make funds available for obligation and expenditure, including the authority to obligate and expend the proceeds of offsetting receipts or offsetting collections from the public;

"(ii) borrowing authority, which means authority granted to a Federal entity to borrow and obligate and expend the borrowed funds, including through the issuance of promissory notes or other monetary credits;

"(iii) contract authority, which means the making of funds available for obligation but not for expenditure; and

"(iv) offsetting collections as negative budget authority, and the reduction thereof as positive budget authority.

Such term includes transactions classified as means of financing the deficit.

"(B) ESTIMATES OF BUDGET AUTHORITY.—Budget authority may be definite (in which statute specifies the numerical amount) or indefinite (and, therefore, subject to estimate), and includes contingent budget authority determined to exist.

"(C) LIMITATIONS ON BUDGET AUTHORITY.—Any amount that is precluded from obligation in a fiscal year by a provision of law (such as a limitation or a benefit formula) shall not be budget authority in that year.

"(D) NEW BUDGET AUTHORITY.—The term 'new budget authority' means, with respect to a fiscal year—

"(i) budget authority that first becomes available for obligation in that year, including budget authority that becomes available in that year as a result of a reappropriation; or

"(ii) a change in any account in the availability of unobligated balances of budget authority carried over from a prior year, resulting from a provision of law first effective in that year;

and includes a legislated change in the estimated level of new budget authority provided in indefinite amounts by existing law.".

(b) ENTITLEMENT AUTHORITY.—Section 3(9) of the Congressional Budget Act of 1974 is amended to read as follows:

"(19) ENTITLEMENT AUTHORITY.—

"(A) The term 'entitlement authority' means any provision of law that has the effect of requiring the Government to make

payments (including payments to any Government account) regardless of the amount of budget authority that may be available to make those payments, including any entitlement authority estimated to exist.

"(B) Except as provided in subparagraph (C), if a provision of law that requires the Government to make payments is limited by any other provision of law to the amount available budget authority (by providing pro rata reductions in payments, changes in eligibility, changes in employment, or through other means), then entitlement authority does not exist.

"(C) For purposes of paragraph (B), subchapter II of chapter 13 of title 31 of the United States Code shall not be considered a provision of law that limits entitlement authority to the amount of available budget authority.

"(D) The term 'new entitlement authority' means any legislation creating entitlement authority (or altering existing entitlement authority that was enacted before the date of adoption of the most recently agreed-to budget resolution, and includes legislation that has the effect of changing the estimated level of entitlement authority created in indefinite amounts of existing law.".

(c) GERMANENESS.—Section 305(b)(2) of the Congressional Budget Act of 1974 is amended by inserting after the second sentence the following: "An amendment shall not be germane unless it complies with the precedents of the Senate, deals with the same subject matter as the matter to which it is germane, and is within the same committee jurisdiction as the matter to which it is germane".

Subtitle L—Codification of Budget Process Provisions

SEC. 12601. GENDER NEUTRALITY.

(a) CONGRESSIONAL BUDGET ACT.—The Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) in section 201(a)(2), by striking "him" and inserting "the Deputy Director";

(2) in section 201(a)(2), by striking "his fitness to perform his duties" and inserting "fitness to perform the duties of the office of Director";

(3) in section 201(a)(3)—

(A) by striking "his successor" in both places it appears and inserting "a successor";

(B) by striking "him" and inserting "that Deputy Director";

(4) in section 201(d)—

(A) by striking "he" and inserting "the Director";

(B) by striking "his duties and functions" and inserting "the duties and functions of the office of Director";

(5) in section 303(c)(2), by striking "his" and inserting "the minority leader's";

(6) in section 305(b)(2), by striking "his" and inserting "the minority leader's";

(7) in section 305(c)(3), by striking "his" both times it appears and inserting "the minority leader's";

(8) in section 305(c)(4), by striking "his" and inserting "the minority leader's";

(9) in section 1012(a)(1), by striking "he" and inserting "the President";

(10) in section 1014(b)(2)(B), by striking "his" and inserting "the Comptroller General's";

(11) in section 1014(c), by striking "him" and inserting "the Comptroller General";

(12) in section 1014(e)(1)(A), by striking "he" and inserting "the President";

(13) in section 1015(b), by striking "his" and inserting "the Comptroller General's";

(14) in section 1016, by striking "of his own selection" and inserting "that the Comptroller General selects";

(15) in section 1017(d)(2), by striking "his" and inserting "the minority leader's";

(16) in section 1017(d)(6), by striking "his" both times it appears and inserting "the minority leader's"; and

(17) in section 1017(d)(7), by striking "his" and inserting "the minority leader's".

(b) OMB REPORTS.—Section 251(a)(2)(B)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "his estimate" and inserting "the estimate of the Director of OMB".

(c) MILITARY PERSONNEL FLEXIBILITY.—Section 251(d)(3)(C) of such Act is amended by striking "he" and inserting "the President".

(d) PROCEDURES IN THE EVENT OF RECESSION.—Section 254(a)(4)(C)(iii) of such Act is amended by striking "his" and inserting "the minority leader's".

SEC. 12602. REPEAL OF OBSOLETE PROVISIONS.

(a) CONGRESSIONAL BUDGET ACT OF 1974.—The Congressional Budget Act of 1974 is amended—

(1) in section 301(i)(2), by

(A) striking "(A)";

(B) striking subparagraph (B); and

(C) striking "(C) For purposes of the application of subparagraph (B), the" and inserting "(3) The";

(2) in section 311(a), by striking "that—" and subparagraph (A) and (B) through "fiscal year 1989;" and inserting "that exceeds the maximum deficit amount for such fiscal year under section 3(7),"; and

(3) in section 401(d), by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).

(b) GRAMM-RUDMAN-HOLLINGS.—The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in section 251(a)(1)(A), by striking "(or as of October 10, 1987, in the case of fiscal year 1988)";

(2) in section 251(a)(2)(B)(iii), by striking "except fiscal year 1988)";

(3) in section 251(a)(2)(B)(iv), by striking "(except fiscal year 1988)";

(4) in section 251(a)(2)(B)(iv), by striking the second sentence;

(5) in section 251(a)(2)(C)—

(A) by striking clause (iii);

(B) in clause (iv) by striking "For fiscal year 1989 and subsequent fiscal years, to the extent that the report submitted by the President for such fiscal year" and inserting "To the extent that the report submitted by the President for a fiscal year"; and

(C) by redesignating clause (iv) as clause (iii);

(6) in section 251(a)(3)(A)(i) by—

(A) striking "be—" and subclauses (I) and (II); and

(B) striking "(III) for fiscal year 1990, 1991, 1992, or 1993," and inserting "be";

(7) in section 251(a)(3)(A)(i), by striking "The unachieved deficit reduction shall be $23,000,000,000 in the case of fiscal year 1988 and $36,000,000,000 in the case of fiscal year 1989, minus the net deficit reduction in the budget baseline for such fiscal year, but such unachieved deficit reduction shall not exceed $23,000,000,000 in the case of fiscal year 1988 or $36,000,000,000 in the case of fiscal year 1989.";

(8) in section 251(a)(3)(A)(ii), by striking "means—(I) for fiscal year 1988, in the case of an initial report submitted under subsection (a), October 10, 1987, and in the case of a final report submitted under subsection (c), the latest possible date before its submission; (II) for fiscal year 1989 and subsequent fiscal years," and inserting "means";

(9) in section 251(a)(6)(D)(i), by—

(A) striking clause (I);

(B) striking "(II) in the case of fiscal year 1989 and subsequent fiscal years—"; and

(C) redesignating divisions (aa) and (bb) as subclauses (I) and (II), respectively;

(10) in section 251(c)(1), by striking "November 15 of fiscal year 1988 and on October 10 of subsequent fiscal years," and inserting "November 10,";

(11) in section 251(c)(1)(A), by striking "(or after October 10, 1987, in the case of the fiscal year 1988),";

(12) in section 251(c)(2), by striking "November 20 of fiscal year 1988 and on October 15 of subsequent fiscal years," and inserting "November 15,";

(13) in section 251(d)(3)(C), by striking "October 10, 1987, in the case of fiscal year 1988, or";

(14) in section 251(d)(3)(C), by striking "in the case of any subsequent fiscal year,";

(15) in section 252(a)(6), by—

(A) striking subparagraph (A); and

(B) striking "(B) FISCAL YEARS 1989–1993.—";

(16) in section 252(a)(6), by striking "the fiscal year 1989 or any subsequent fiscal year" and inserting "any fiscal year";

(17) in section 252(a)(6)(F), by striking "and paid land diversion payments";

(18) in section 252(b)(1), by striking "(or on November 20, 1987, in the case of fiscal year 1988)";

(19) in section 252(b)(2), by striking "(or October 10, 1987, in the case of fiscal year 1988)";

(20) in section 252(c)(2)(D), by striking "November 25, 1987, for fiscal year 1988 or, in the case of any subsequent fiscal year, before";

(21) in section 253, by striking "(or December 15, 1987, in the case of fiscal year 1988)"; and

(22) in section 254(b)(1)(E), by striking "and for fiscal year 1988 or 1989, exceed the amount of the estimated deficit for such fiscal year based on laws and regulations in effect on January 1 of the calendar year in which such fiscal year begins as measured using the budget baseline specified in section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 minus $23,000,000,000 for fiscal year 1988 or $36,000,000,000 for fiscal year 1989;".

SEC. 12603. STANDARDIZATION OF ADDITIONAL DEFICIT CONTROL PROVISIONS.

(a) Section 904 of the Congressional Budget Act of 1974 is amended—

(1) by amending subsection (c) to read as follows:

"(c) WAIVER.—Sections 305(b)(2), 305(c)(4), 306, 904(c), and 904(d) may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. Sections 301(i), 302(c), 302(f), 304(b), 310(d)(2), 310(f), 311(a), 313 of this Act and sections 252(c)(2)(H)(ii), 252(c)(2)(H)(iv), 252(c)(2)(F)(ii), 252(c)(2)(G)(ii), 254(a)(4)(D), 254(b)(1)(E), 254(b)(2)(A), and 258(b)(3)(C)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn."; and

(2) in subsection (d) by inserting at the end thereof the following: "An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 305(b)(2), 305(c)(4), 306, 904(c), and 904(d). An affirmative vote

of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 301(i), 302(c), 302(f), 304(b), 310(d)(2), 310(f), 311(a), 313 of this Act and sections 252(c)(2)(H)(ii), 252(c)(2)(H)(iv), 252(c)(2)(F)(ii), 252(c)(2)(G)(ii), 254(a)(4)(D), 254(b)(1)(E), 254(b)(2)(A), 258(b)(3)(C)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985".

(b) Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subparagraph (C), by striking the final word "and";

(2) in subparagraph (D), by striking the final period and inserting "; and"; and

(3) by inserting at the end thereof the following new subparagraph:

"(E) the second sentence of section 904(c) of the Congressional Budget and Impoundment Control Act of 1974 and the final sentence of section 904(d) of that Act."

SEC. 12604. CODIFICATION OF PROVISION REGARDING REVENUE ESTIMATES.

(a) REDESIGNATION.—Section 201 of the Congressional Budget Act of 1974 is amended by redesignating subsection (f) as subsection (g).

(b) TRANSFER.—The text of section 273 of the Balanced Budget and Emergency Deficit Control Act of 1985 is transferred to section 201 of the Congressional Budget Act of 1974 and is designated as subsection (f)(1).

(c) CONFORMING CHANGES.—Section 201(f) of the Congressional Budget Act of 1974 (as redesignated by subsection (b)) is amended by—

(1) striking "this title and the Congressional Budget and Impoundment Control Act of 1974" and inserting "this Act"; and

(2) inserting "REVENUE ESTIMATES.—(1)" before the first sentence.

SEC. 12606. CODIFICATION OF RULES REGARDING SAVINGS TRANSFERS BETWEEN FISCAL YEARS.

(a) TRANSFER.—The text of section 202 of Public Law 100-119 is transferred to the end of part A of title III of the Congressional Budget Control Act of 1974 and designated as section 312 of that Act.

(b) STRENGTHENING THE PROHIBITION OF COUNTING YEAR-TO-YEAR SHIFTS.—Section 312 of the Congressional Budget Control Act of 1974 is amended to read as follows:

"PROHIBITION OF COUNTING AS SAVINGS THE TRANSFER OF GOVERNMENT ACTIONS FROM ONE YEAR TO ANOTHER

"SEC. 312. Any provision of an appropriations Act, regulation, or administrative action that has the effect of transferring an outlay, receipt, or revenue of the United States from one fiscal year to an adjacent fiscal year when compared to baseline estimating assumptions (including a law, regulation, or administrative action restricting the flow of outlays that would cause such a transfer, such as an outlay cap) shall not be treated as reducing the deficit or producing net deficit reduction in any fiscal year for purposes of this Act or the Balanced Budget and Emergency Deficit Control Act of 1985.".

(c) TABLE OF CONTENTS.—The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item for section 311 the following new item:

"Sec. 312. Prohibition of counting as savings the transfer of Government actions from one year to another.".

SEC. 12608. TECHNICAL REVISIONS OF GRAMM-RUDMAN-HOLLINGS.

The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in section 251(a)(6)(B)—

(A) by striking "and" the last time it appears; and

(B) by inserting before the final semicolon the following: ", and that subsidies under section 8 of the Housing Act of 1937 shall be renewed for equal durations and in similar form to existing subsidies";

(2) in section 251(a)(6)(J), by striking "and" at the end thereof;

(3) in section 251(a)(6)(K) by adding "and" at the end thereof; and

(4) in section 251(a)(6), by inserting after subparagraph (K) the following new subparagraph:

"(L) assuming that spending will be adjusted appropriately for the decennial census.";

(5) in section 252(f)(2), by striking subparagraph (B) and inserting the following:

"(B) Upon enactment of a full-year appropriation (including a continuing appropriation for the full year) for the account, the full amount of the sequestration specified by the final order, reduced by the sum of—

"(i) amounts previously sequestered, and

"(ii) savings achieved by such appropriation measure when the amount enacted is less than the budget baseline for such account,

shall be sequestered, except that the sum shall not exceed the amount specified in the final order for the account.";

(6) in section 257(11) by inserting at the end thereof the following new paragraph:

"(V) the accounts (or portions of accounts) set forth on the list entitled 'Accounts Which Are Mandatory or Which Have Discretionary and Mandatory Splits and Are Scored to the Appropriations Committee' that is attached to the 'Scorekeeping Guidelines for the Bipartisan Budget Agreement of April 14, 1989';

(7) in section 251(d)(3)(C) by striking "Congress" and inserting "Senate and the House of Representatives";

(8) in section 252(c)(2)—

(A) in subparagraph (F)(ii) by striking "insofar as they relate to major function 050 (national defense)." and inserting ". For the purposes of this clause, an amendment shall be considered to be relevant if it relates to function 050 (national defense)."; and

(B) in subparagraph (F)(iii) by—

(i) striking "22" and inserting "XXII";

(ii) striking "resolution, and all" and inserting "resolution. In the House of Representatives, all";

(iii) striking "is privileged in the Senate and is not debatable." and inserting "is not debatable. The joint resolution is privileged in the Senate."; and

(iv) striking "The motion is not subject to amendment" and inserting "In the House of Representatives, the motion is not subject to amendment";

(C) in subparagraph (H)(ii) by—

(i) striking "insofar as they relate to major function 050 (national defense)";

(ii) inserting after "in order in the Senate." the following: "For the purposes of this clause, an amendment shall be considered to be relevant if it relates to function 050 (national defense)."; and

(iii) striking "the majority leader and the minority leader (or their designees)." and inserting ", and controlled by, the mover and the majority leader (or their designees), except that in the event that the majority leader favors the amendment, motion, or appeal, the minority leader (or the minority leader's designee) shall control the time in opposition to the amendment, motion, or appeal.";

(D) in subparagraph (H)(iii) by inserting after "previously amended" the following: ", so long as the amendment makes or maintains mathematical consistency";

(E) in subparagraph (I), by inserting "pending" after "House, and the disposition of any";

(F) in subparagraph (L)(ii)(II)(bb)—

(i) by striking "it" and inserting "the Senate joint resolution";

(ii) by inserting "House" after "passed the";

(9) in section 254(a)—

(A) in paragraph (1)(B), by striking "the Department of Commerce preliminary reports of actual real economic growth (or any subsequent revision thereof)" and inserting "the most recent of advance, preliminary, and final reports of the Department of Commerce of actual real economic growth";

(B) in paragraph (2)(A), in paragraph (1) of the quoted material, by striking "and 311(a)" and inserting "310(d), 311(a), 313(b)(1)(B), and 313(b)(1)(E)";

(C) in paragraph (2)(A), in paragraph (2) of the quoted matter, by striking "and 311(a) (except insofar as it relates to section 3(7))" and inserting "310(d), 311(a) (except insofar as it relates to section 3(7)), 313(b)(1)(B), and 313(b)(1)(E)";

(D) in paragraph (2)(A), in the quoted matter following paragraph (2) of the quoted material, by striking "resolution" and inserting "resolution, but shall suspend any initial order that was issued under section 252(a) of that Act if the final order for the same fiscal year has not yet been issued by the date of the enactment of this joint resolution"; and

(E) in paragraph (4)(C), by striking the text of clause (i) and inserting "In the Senate, the joint resolution under this clause is privileged. It shall not be in order to move to reconsider the vote by which the motion to proceed to the consideration of the joint resolution is agreed to or disagreed to.";

(10) in section 251(e), by striking "preceding provisions of this section" and inserting "provisions of this part";

(11) in section 258—

(A) in subsection (a), by inserting "or provide an alternative to reduce the deficit" after "section 252";

(B) in subsection (b)(2) by—

(i) striking "22" and inserting "XXII";

(ii) inserting "the joint resolution is" after "The motion is highly privileged in the House of Representatives; and";

(iii) striking "The motion is not subject to amendment" and inserting "In the House of Representatives, the motion is not subject to amendment";

(C) in subsection (b)(3)(C)(ii)—

(i) by striking "or relevant"; and

(ii) by striking "the majority leader and the minority leader (or their designees)," and inserting ", and controlled by, the mover and the majority leader (or their designees), except that in the event that the majority leader favors the amendment, motion, or appeal, the minority leader (or the minority leader's designee) shall control the time in opposition to the amendment, motion, or appeal.";

(D) in subsection (b)(4), by inserting "pending" after "any";

(E) in subsection (b)(7)(B)(ii)(II) by—

(i) striking "it" and inserting "the Senate joint resolution"; and

(ii) inserting "House" after "passed the";

(12) in section 256(a)(2), by adding at the end thereof the following: "For the purposes of a sequester in a fiscal year, no withholding from obligation or expenditure shall be made from programs financed through special or trust funds in excess of the sequester percentage for such fiscal year.";

(13) in section 256(f), by adding before the last sentence the following: "No State's matching payments from the Federal Government for foster care maintenance payments or for adoption assistance maintenance payments may be reduced by a percentage exceeding the domestic sequester percentage.";

(14) in section 275, by adding at the end thereof the following new subsection:

"(d) REGULATORY ACTIONS.—Administrative actions implementing a sequester for a fiscal year shall not be effective to the extent that they are promulgated within 90 days of the close of the fiscal year.";

(15) in section 256(a), by adding at the end thereof the following new paragraphs:

"(3) MATCHING RATES.—Except as specifically provided in this Act, no reduction may be made to a Federal matching rate to implement a sequester.

"(4) SEQUESTRATION WITHIN EACH PROGRAM, PROJECT, OR ACTIVITY.—Administrative actions implementing a sequester for a budget account shall be limited to reducing the budgetary resources for each program, project, or activity in that account, and allocating the post-sequester base thereto. To the extent that formula allocations differ at different levels of budgetary resources for a program, project, or activity, the sequester reduction is to be taken in a manner consistent with the program allocation formulas in the substantive law.";

(16) in section 251(a)(5) by inserting after "laws enacted by," the following: "treaties ratified by,";

(17) in section 251(c)(1)(A) by inserting after "laws enacted" the following: ", treaties ratified,";

(18) in section 252(b)(2) by inserting after "laws enacted" the following: ", treaties ratified,"; and

(19) in section 257, by adding at the end thereof the following new paragraph:

"(12) The term 'deficit excess' means the amount by which the projected deficit for the fiscal year will exceed the maximum deficit amount for that fiscal year.".

SEC. 12609. CODIFICATION OF PRECEDENT WITH REGARD TO CONFERENCE REPORTS AND AMENDMENTS BETWEEN HOUSES.

Section 305(c) of the Congressional Budget Act 1974 is amended—

(1) in paragraph (1)—

(A) by striking the first sentence; and

(B) by inserting after "consideration of the conference report" the following: "on any concurrent resolution on the budget"; and

(2) in paragraph (2), by inserting "(or a message between Houses)" after "conference report" each place it appears.

SEC. 12610. CONFORMING CHANGE TO TITLE 31.

(a) LIMITATIONS ON EXPENDING AND OBLIGATING.—Section 1341(a)(1) of title 31 of the United States Code is amended—

(1) in subparagraph (A), by striking the final word "or";

(2) in subparagraph (B)—

(A) by striking "law" and inserting "an Act of Congress"; and

(B) by striking the final period and inserting a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

"(C) make or authorize an expenditure or obligation of funds required to be sequestered under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985; or

"(D) involve either government in a contract or obligation for the payment of money required to be sequestered under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(b) LIMITATION ON VOLUNTARY SERVICES.—Section 1342 of title 31 of the United States Code is amended—

(1) by striking "law" and inserting "an Act of Congress"; and

(2) by inserting at the end thereof the following: "As used in this section, the term 'emergencies involving the safety of human life or the protection of property' does not include ongoing, regular functions of government the suspension of which would not imminently threaten the safety of human life or the protection of property.".

Subtitle M—Budget Disclosure

SEC. 12651. DEBT INCREASE AS MEASURE OF DEFICIT.

(a) FINDINGS.—The Congress makes the following findings:

(1) While the annual deficits, as defined under current law, appear to be decreasing, the Federal debt continues to increase annually by significantly greater amounts.

(2) Displaying the increase in the debt as a measure of the deficit would illuminate this discrepancy.

(b) DEBT INCREASE AS MEASURE OF DEFICIT.—

(1) Section 1105 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) In the budget submission transmitted pursuant to subsection (a), the President shall prominently display, for all fiscal years covered by that budget submission, a heading entitled 'Debt Increase as Measure of Deficit' in which the President shall set forth the amounts by which the debt subject to limit (in section 3101 of title 31, United States Code) has increased or would increase in each of the relevant fiscal years.".

(2) Section 301(a) of the Congressional Budget Act of 1974, as amended by section 12152(c) is amended—

(A) in paragraph (6), by striking "and" at the end thereof;

(B) in paragraph (7), by striking the period at the end thereof and inserting: "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(8) a heading entitled 'Debt Increase as Measure of Deficit' in which the concurrent resolution shall set forth the amounts by which the debt subject to limit (in section 3101 of title 31 of the United States Code) has increased or would increase in each of the relevant fiscal years.".

SEC. 12652. CONTINGENT LIABILITIES OF THE FEDERAL GOVERNMENT.

(a) PRESIDENT'S BUDGET.—Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(26) a disclosure of contingent liabilities of the Federal Government, in at least the detail that would be required if the Government were a private enterprise complying with generally accepted accounting principles.".

(b) CONGRESSIONAL BUDGET ACT OF 1974.—Section 202(f)(1) of the Congressional Budget Act of 1974 is amended by inserting before the period at the end thereof the following: ", as well as a disclosure of contingent liabilities of the Federal Government, in at least the detail that would be required if the Government were a private enterprise complying with generally accepted accounting principles".

SEC. 12653. DISPLAY OF FEDERAL RETIREMENT TRUST FUND BALANCES.

(a) PRESIDENT'S BUDGET.—Section 1105 of title 31, United States Code, as amended by section 12651(b)(1), is amended by adding at the end thereof the following new subsection:

"(h) In the budget submission transmitted pursuant to subsection (a), the President shall prominently display, for the fiscal year covered by that budget submission, a heading entitled 'Display of Federal Retirement Trust Fund Balances' in which the President shall set forth the balances of the Federal retirement trust funds.".

(b) CONGRESSIONAL BUDGET ACT OF 1974.—Section 301(a) of the Congressional Budget Act of 1974, as amended by section 12651(b)(2), is amended—

(1) in paragraph (7), by striking "and" at the end thereof;

(2) in paragraph (8), by striking the period at the end thereof and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(9) a heading entitled 'Display of Federal Retirement Trust Fund Balances' in which the concurrent resolution shall set forth the balances of the Federal retirement trust funds.".

Subtitle N—Exercise of Rulemaking Powers

SEC. 12701. EXERCISE OF RULEMAKING POWERS.

This Act and the amendments made by this Act, other than those relating to the activities of the executive and judicial branches of the Government, are enacted by the Congress—

(1) as an exercise of rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of the House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as they relate to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

TITLE XIII—SOCIAL SECURITY PRESERVATION

SEC. 1301. SOCIAL SECURITY PRESERVATION ACT.

(a) SHORT TITLE.—This section may be cited as the "Social Security Preservation Act".

(b) DEFINITION OF DEFICIT.—(1) The second sentence of paragraph (6) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) is repealed.

(2) Section 275(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) is amended by striking out "and the second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution)".

(c) SOCIAL SECURITY ACT.—Subsection (a) of section 710 of the Social Security Act is amended by striking "shall not be included in the totals of the budget" and inserting "shall not be included in the budget deficit or any other totals of the budget".

(d) EFFECTIVE DATE.—The amendments made by subsections (b) and (c) shall apply with respect to fiscal years beginning after September 30, 1990.

TITLE XIV—REDUCTION OF PAY FOR MEMBERS

SEC. 1401. REDUCTION OF PAY OF MEMBERS OF CONGRESS.

(a) REDUCTION IN PAY.—For each month during fiscal year 1991 in which, by reason of a furlough or other employment action necessitated by a sequestration order under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902), the total amount of the pay paid to any Federal employee is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law, the rate of pay payable to a Member of Congress shall be reduced to the rate of pay established for such Member pursuant to law.

(b) COMPUTATION OF REDUCED PAY.—The rate of pay payable to a Member of Congress for any month referred to in subsection (a) shall be equal to the amount determined by multiplying the rate of pay established for such Member pursuant to law by the percentage reported to Congress for such month under subsection (c)(1)(D).

(c) DETERMINATION OF PERCENTAGE FOR COMPUTATION OF REDUCED PAY.—(1) No later than the first day of each month in fiscal year 1991, the Director of the Office of Management and Budget shall—

(A) determine whether, for a reason described in subsection (a), the total amount of pay paid to any Federal employee in that month is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law;

(B) estimate the average of the percentages that would result by dividing the monthly equivalent of the annual rate of pay established for each such Federal employee pursuant to law into the total amount projected to be paid such Federal employee for such month;

(C) aggregate the percentages determined under subparagraph (B) for Federal employees for each agency and determine the highest average percentage for any agency; and

(D) transmit to Congress a written report containing the average computed under subparagraph (C).

(2) The Office of Management and Budget may use a statistical sampling method to make the estimates and determinations under paragraph (1).

(3) For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code.

(d) APPLICATION TO OTHER FEDERAL LAWS.—For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposed any requirement or limitation, on the basis of a rate of salary or basic pay, the ratedf salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(e) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this section and shall apply to the first applicable pay period of members of Congress or Executive officers and employees occurring on or after October 1, 1990. If the date of enactment of this section is after October 1, 1990, and the provisions of this section become applicable in the reduction of pay of members of Congress or Executive officers and employees, all reductions which would have occurred if this section had been enacted as provided in subsection (b) and the amount of such reduction shall be recovered for the remaining pay periods for Fiscal Year 1991.

(f) APPLICATION TO EXECUTIVE OFFICERS.—The provisions of this section and the computations as they apply to the reduction under subsection (b) shall apply to the rate of pay for the Vice President, and any executive officer at a position level V or above of the Executive Schedule under sections 5311 through 5317 of title 5, United States Code, any executive officer or employee in the Executive Office of the President who on the date of the enactment of this section is paid at a pay rate equal to or above the pay rate for a position at level V or above of the Executive Schedule under Sections 5311 through 5317 of title 5, United States Code.

Mr. SASSER. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate insist upon its amendment and request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

There being no objection, the Presiding Officer (Mr. DASCHLE) appointed from the Committee on Agriculture, Nutrition, and Forestry: Mr. LEAHY, Mr. PRYOR, Mr. BOREN, Mr. KERREY, Mr. LUGAR, Mr. DOLE, and Mr. COCHRAN;

From the Committee on Banking, Housing, and Urban Affairs: Mr. RIEGLE, Mr. CRANSTON, Mr. DODD, Mr. HEINZ, and Mr. D'AMATO;

From the Committee on the Budget: Mr. SASSER, Mr. FOWLER, and Mr. DOMENICI;

From the Committee on Commerce, Science and Transportation: Mr. HOLLINGS, Mr. INOUYE, Mr. FORD, Mr. EXON, Mr. BREAUX, Mr. ROCKEFELLER, Mr. KERRY, Mr. DANFORTH, Mr. PACKWOOD, Mr. STEVENS, Mr. KASTEN, Mr. MCCAIN, and Mr. BURNS;

From the Committee on Energy and Natural Resources: Mr. JOHNSTON, Mr. BUMPERS, Mr. FORD, Mr. MCCLURE, and Mr. DOMENICI;

From the Committee on Environment and Public Works: Mr. BURDICK, Mr. MOYNIHAN, Mr. MITCHELL, Mr. BAUCUS, Mr. GRAHAM, Mr. CHAFEE, Mr. SIMPSON, Mr. SYMMS, and Mr. DURENBERGER;

From the Committee on Finance: Mr. BENTSEN, Mr. MOYNIHAN, Mr. BOREN, Mr. MITCHELL, Mr. PRYOR, Mr. ROCKEFELLER, Mr. PACKWOOD, Mr. DOLE, Mr. ROTH, Mr. DANFORTH, and Mr. CHAFEE;

From the Committee on Governmental Affairs: Mr. GLENN, Mr. SASSER, Mr. PRYOR, Mr. ROTH, and Mr. STEVENS;

From the Committee on the Judiciary: Mr. DECONCINI, Mr. LEAHY, and Mr. HATCH;

From the Committee on Labor and Human Resources: Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. DODD, Mr. HATCH, Mrs. KASSEBAUM, and Mr. JEFFORDS;

From the Committee on Veterans Affairs: Mr. CRANSTON, Mr. DECONCINI, Mr. ROCKEFELLER, Mr. MURKOWSKI, and Mr. SIMPSON conferees on the part of the Senate.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

GREAT LAKES WATER QUALITY IMPROVEMENT ACT

Mr. JEFFORDS. Mr. President, I join my colleagues in support of this important bill to enhance efforts to protect our valuable national water resources. In particular, I am pleased that provisions of a bill I had introduced along with Senators LEAHY, MOYNIHAN and D'AMATO, S. 2074, has been included in the final package.

S. 2074, the Lake Champlain Special Designation Act, is an important bill that will be a valuable tool in bringing together the various State, Federal and private interests to strengthen and consolidate efforts to protect Lake Champlain. Situated at the border of Vermont, New York and Canada, this international jewel is the sixth largest freshwater lake in the United States, and is sometimes thought of as the "west coast of New England."

Lake Champlain is a beautiful and picturesque water body lying in the fertile Champlain Valley. It sits in the shadow of the Green Mountains to the east and the Adirondack Mountains to the west. Beneath its beauty, however, lie signs of environmental stress that threaten its environmental integrity. Given the lake's regional and national significance, it is incumbent upon the various Federal agencies to coordinate activities, in harmony with State and local interests, to preserve Lake Champlain's splendor.

The significance of the Champlain basin region is underscored by its recent designation as an International

Biosphere Reserve by the United Nations Educational, Scientific, and Cultural Organization—the fourth largest reserve of its kind in the world and unique in that it includes densely populated areas in addition to its natural beauty.

This lake is not only invaluable to the people of Vermont and New York, but also to the people of Quebec and millions of others who come to the Lake Champlain region to enjoy this beautiful resource. In the past, the lake has been a prominent commercial transportation corridor, and more recently it has served as host to increasing recreational uses. Much of the drinking water supply for the people in the Champlain region comes from the lake. Most important, it is an integral and irreplaceable part of the New England lifestyle enjoyed by many people and envied by many more.

To investigate the status of the water quality in Lake Champlain, the Senate Environment and Public Works Subcommittee on Water Resources, Transportation, and Infrastructure held a hearing in Burlington, VT and Plattsburgh, NY on June 28, 1989. Chairman MOYNIHAN and I heard testimony from Federal, State and local officials, scientists and individuals representing groups involved in lake protection efforts.

Witnesses from the State of Vermont included the commissioner of environmental conservation, the commissioner of agriculture and the chairman of the senate natural resources committee. Witnesses from the State of New York included the regional director of the Department of Environmental Conservation, the executive director of the Adirondack Park Agency and the executive director of the Governor's Commission on the Adirondacks in the 21st century.

Federal representatives included the District Director of the Agricultural Stabilization and Conservation Service and the State Conservationist of the Soil Conservation Service. Additional witnesses included the cochair of the Governors' Bistate Citizen Advisory Committee on Lake Champlain, the executive director of the Lake Champlain Committee, a park specialist from the Adirondack Council and the mayor of Plattsburgh.

Two primary points were raised repeatedly at these hearings. First, there is a lack of historical and contemporary data on the lake. Second, a greater coordination between the State and Federal agencies and the Canadian Government is necessary.

But it is also worth noting State, Federal, and international initiatives that reinforce this consensus, including its recent recognition as an international biosphere reserve by UNESCO. Public Law 83-566 established the LaPlatte River Watershed project, a Federal, State, local cooperative effort to address and monitor source pollution sources.

In 1988, Vermont, New York, and Quebec signed a memorandum of understanding on environmental cooperation for Lake Champlain. Vermont was among the first States to have its Nonpoint Source Management Program approved by the EPA, and Vermont and New York are currently conducting a basin-wide phosphorus management program with assistance from EPA.

On February 6, 1990, in an effort to consolidate and build upon existing programs, and to create new methods to address sources affecting water quality within the Lake Champlain basin, I was joined by Senators LEAHY, MOYNIHAN, and D'AMATO in introducing S. 2074, the Lake Champlain Special Designation Act.

This bill proposed to establish an EPA program office within the Lake Champlain basin, convene a management conference to develop a plan for the basin, establish new EPA authorities and expand activities of the Departments of Agriculture and Interior within the basin.

The provisions of title III incorporate much of the body of S. 2074. The EPA Administrator is to convene a management conference within 90 days of enactment, with members of the conference representing various Federal, State, local, and private interests. The management conference is charged with developing a pollution prevention, control and restoration plan.

TItle III envisions that the EPA Administrator will make staff available to the Lake Champlain management conference. At a minimum, one full-time professional staff person from EPA region I and one full-time staff person from region II should be detailed to implement the Lake Champlain Designation Act and its coordinating mechanisms. It is my hope that these staff persons will be located within the Lake Champlain basin to aid in the implementation of this act and to conduct regular and periodic meetings with other members of the management conference and to interact with other interested parties.

Title III recognizes that research on Lake Champlain has already begun. In formulating a comprehensive research program, the management conference is encouraged to identify and use existing Lake Champlain research projects and data bases; identify research needs; and establish a comprehensive data base to meet the objectives of the Act.

In addition to the activities outlined in the development of a pollution prevention, control, and restoration plan under section 120(e), the management conference should, at a minimum, make recommendations concerning any commission relating to Lake Champlain; examine the impact of growth and development on water quality in the basin; and examine the impact of water quality degradation on cultural resources that are an important part of the region's history.

Some components of the plan already exist or will be completed soon. As with the research program, these existing efforts should be used in the management conference's deliberations and incorporated into the final plan to avoid duplication of efforts and unnecessary expenditures.

The Administrator will make grants to public and private agencies and organizations for the purpose of supporting work necessary for the development of the plan, and to maintain long-term research efforts necessary to establish a comprehensive data base for the Lake Champlain basin. The Administrator is to consult with the Technical Advisory Committee and the Lake Champlain Research Consortium in developing and multidiscplinary environmental research program for the basin, giving priority to funding recommended these groups.

In issuing grants pursuant to paragraph (f) of this section, the Administrator may fund demonstration and pilot projects for purposes to assessing the feasibility of such projects as mitigation techniques. The Administrator may also fund joint requests by the States of Vermont and New York.

In general, it is my desire that funds appropriated to the EPA should be evenly distributed on an annual basis between the management conference, Grant Program, and Research Program. However, I recognize that appropriations distributions will, and in some cases should, vary to meet annual priorities within the three program areas.

The importance of the lake to both the United States and Canada was recognized by the signing of the memorandum of understanding by Governors Kunin and Cuomo and Quebec's Premier Bourassa. While this is a significant step toward correcting the environmental problems of the lake, much more is needed to preserve this valuable resource. That is why I am pleased that the Senate is moving quickly to pass this important legislation.

The overall water quality of the lake remains good, but this will not continue to be the case if we simply retain our present practices. With luck, we will not see catastrophic events poison Lake Champlain, but without incorporating prudent measures, we may see a gradual demise of equally devastating consequences.

Finally, understanding its problems and effectively implementing a pollution reduction program at Lake Champlain could serve as an example for cleaning other lakes throughout the

country. I urge my colleagues to support this bill to further the protection and preservation one of America's finest resources.

EMERGENCY SERVICES AND TRAUMA CARE IMPROVEMENT ACT OF 1990

Mr. COCHRAN. Mr. President, I am pleased that the Senate is considering S. 15, "The Emergency Services and Trauma Care Improvement Act of 1990." The author, Senator CRANSTON, has been seeking passage of this legislation for several years and should be commended for his determination and persistence.

As a cosponsor of S. 15, I recognize the need for Federal assistance to the States to develop statewide trauma systems to provide a continuum of care from initial injury detection through treatment in a designated hospital appropriately equipped to treat a particular patient injury.

Like many other States, Mississippi currently lacks a statewide trauma system, and most ambulance services take all emergency patients to the closest hospital, regardless of its adequacy to provide care for those patients. Mississippi health care providers, however, recently agreed to develop a statewide trauma system upon designation of specific hospitals to care for trauma victims, and timely passage of S. 15 this year would assist their efforts.

Senator CRANSTON has agreed to accept an amendment I have proposed which I believe improves one section of the bill. The formula for distributing funds in this bill is based 80 percent on a State's population and 20 percent on its geographic area. Aside from the amount distributed through the formula, 15-percent of the yearly appropriation is set aside for competitive grants for special projects for rural communities to enable them to participate in a trauma network with adequate basic emergency medical services, such as transportation and communication services. States must apply on behalf of individual communities for this set-aside money.

It would be preferable to set up this set-aside money in a manner which allows States with large rural populations to receive more of the money in the initial grant received by each State, rather than rely on a set-aside benefiting only those States awarded through the competitive process. As currently written, the set-aside simply creates another grant process a rural State must go through in order to get additional dollars with no guarantee of getting that money through a competitive process.

In lieu of the two step, competitive process incorporated in the current rural set-aside language, my amendment would require that the 15 percent set-aside money be disbursed to the States through a formula based on the State's share of the total U.S. rural population. A State wishing to receive a grant under this section will merely include its request for assistance in its application for the basic trauma grant moneys, thereby avoiding having to go through an additional application process.

The implementation of a statewide trauma system is just as expensive in rural States as in urban States, and the formula modification I have suggested would better address the special needs of rural communities.

I thank the distinguished Senator from California and his staff for working with me to make this change in the bill.

EMERGENCY MEDICAL SERVICES AND TRAUMA CARE IMPROVEMENT ACT OF 1990

Mr. WILSON. Mr. President, I rise in support of S. 15, the Emergency Medical Services and Trauma Care Improvement Act.

S. 15, of which I am an original cosponsor, will help to remove the barriers and overcome the problems that, in many parts of the country, prevent the delivery of quick and efficient emergency medical services and it will provide incentives for States and localities to establish well-coordinated regionalized trauma care systems that would enable severely injured individuals to receive highly specialized trauma care as rapidly as possible following their injury.

Most importantly, Mr. President, S. 15, unlike its House companion bill, H.R. 1602, seeks to defray a portion of uncompensated trauma care costs of certain financially stressed hospitals.

S. 15 goes a long way to increase and improve trauma care delivery by providing funds and services to encourage States and localities to increase and/or expand much needed trauma care facilities and programs.

I would note, though, Mr. President, that there are some trauma care facilities that are so financially stressed that they may not survive to be in the regional integrated trauma networks S. 15 will create. These are the trauma care centers along our southern border.

Border area facilities—already struggling with uncompensated care losses associated with uninsured patients, inadequate reimbursement, and drug- and crime-related injuries—face the additional financial challenge of caring for large numbers of undocumented trauma victims.

A number of trauma centers in the border counties of Texas, Arizona, New Mexico, Florida, and California are at the financial breaking point.

The situation in the southern part of my State of California is troubling. In Los Angeles—which has the Nation's biggest undocumented alien population—10 of the county's 23 trauma centers originally in the county network when it was established in 1983 have shut their doors. In San Diego, the six county trauma centers are threatened by losses of over $9 million a year.

Similar situations exist in Texas, Arizona, and New Mexico, as well as Florida. It may well be that any State which has trauma centers serving a significant number of undocumented persons have, or shortly will have, the same problem.

These truma centers are struggling through no fault of their own but through the fault of the Federal Government's inability to control the Nation's borders.

Mr. President, if our Nation's trauma centers along the border are to survive, they need direct, immediate financial relief. I have offered legislation—the Trauma Care Alien Compensation Act of 1990—to provide critically needed financial assistance to truma centers treating a disproportionate number of undocumented aliens.

The special circumstances of border trauma care facilities are acknowledged by the Senate Committee on Labor and Human Resources in its report on S. 15. I would like to quote for the RECORD the relevant committee report language:

> The committee recognizes that many trauma centers located in counties that border Mexico face and additional financial challenged—caring for undocumented trauma victims. Many trauma centers in the border counties of Texas, Arizona, New Mexico and California, as well as Florida, are experiencing serious financial losses because of large numbers of undocumented persons needing trauma care. The burden of such uncompensated losses poses a threat to the economic viability of border area trauma centers. Therefore, to help ensure that the critical care provided by border area trauma care centers continues, the committee recommends that the States involved give full consideration to these unique problems in making determinations for reimbursement for uncompensated trauma care under section 5(a) of the bill.

While S. 15 cannot solve the problem of controlling our borders and it cannot solve trauma care centers' uncompensated care problems, Mr. President, it can try to keep open the doors of some of the trauma facilities hit hardest by uncompensated care until Congress comes up with a more long-term approach to the problem.

Mr. President, trauma care centers take their responsibility to save lives and provide the best care possible to their communities very seriously.

With S. 15, Congress can take an important step in helping to support trauma facilities in their effort to provide the critical, life and death care upon which we all—insured and unin-

sured, rich and poor, U.S. citizen and undocumented worker—rely.

I hope Members will join me in supporting this measure.

RETIREMENT OF DOUGLAS B. HESTER

Mr. SHELBY. Mr. President, Douglas B. Hester, the legislative counsel of the Senate, plans to retire at the end of the 101st Congress.

Mr. Hester has spent his entire professional career as a lawyer in the office of the legislative counsel, having been appointed as an attorney in that office on February 19, 1952. With almost 39 years of service, he has served substantially longer in the office than any other individual who ever worked in that office. Upon his appointment as legislative counsel of the Senate on March 1, 1980, Mr. Hester became the 11th individual ever to hold that position.

A native of my State of Alabama, Mr. Hester attended the University of Alabama where he received his B.S. degree in 1950 and his law degree in 1952. While at the University of Alabama Law School, he was elected to membership in the Farah Order of Jurisprudence, and served on the Alabama law review as board member, case note editor, and business manager; he was a member of Phi Alpha Delta Legal Fraternity and Omicron Delta Kappa.

Mr. Hester joined the U.S. Army on December 15, 1945, and was honorably discharged with the rank of sergeant on June 7, 1947; he subsequently served as a reservist in the U.S. Navy from October 1947 to October 1952.

Although for most of his Senate career Mr. Hester specialized in Social Security, Medicare, Medicaid, social welfare, and public health laws, he worked for a number of years in the fields of labor law and veterans' laws. In addition, he was involved for lesser periods in a number of other fields, including immigration law, civil rights, education, and taxation.

Mr. Hester is married to the former Melissa Hood Fuller, of Athens, GA, whom he met while she was employed by the late Senator Richard B. Russell. They have two children, Carlotta Marie Hester and Benjamin Alexander Hester.

While Mr. Hester has not disclosed specific plans as to what he will do after leaving Senate service, it is to be anticipated that he will remain active in his profession. He is a member of the bar in Alabama and in the District of Columbia and, in addition to his membership in the integrated bar associations of these jurisdictions, he is a member of the Bar Association of the District of Columbia and the Federal Bar Association.

I want to express my personal appreciation and that of my colleagues for Mr. Hester's dedicated service to the U.S. Senate. His departure will leave a large void in the office of legislative counsel; however, we wish him well in his future endeavors and hope that he takes time to enjoy his retirement with his family.

AMBASSADOR ARMITAGE ADDRESSES UNITED STATES-PHILIPPINES RELATIONS

Mr. INOUYE. Mr. President, my good friend Ambassador Richard L. Armitage, special negotiator for the Philippine Bases Negotiations, recently addressed the special relationship between the Philippines and the United States. I believe that the negotiations on the fate of our bases in the Philippines are integral to the future of United States military power in the Pacific region, and it is important that all of us have an understanding of the issues involved. Ambassador Armitage's statement is one of the finest summaries of the history of our relations with the Philippines.

Mr. President, I commend this speech to my colleagues and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

SPEECH OF AMBASSADOR ARMITAGE

Mr. Foreign Secretary, distinguished members of the Philippine delegation, colleagues and friends, citizens of the Philippines:

On behalf of the American delegation I thank you for the warmth of your welcome. It is indeed a pleasure to resume our deliberations with Filipino colleagues whose patriotism, professionalism and good will lend a great sense of dignity and a sound seriousness of purpose to these proceedings. As representatives of the democratic government of President Aquino, you represent the Filipino people. And, needless to say, this democratic government enjoys the full support of the United States.

Much has been said and written about the hard choices faced by the Philippines concerning the future of United States facilities on Philippine military bases. My own reading of history, particularly the complex history of Philippine-American relations, reinforces in my own mind the difficulties faced by Filipinos as they try to sort this out and do what is right for their country. I believe that most Filipinos, notwithstanding the ups and downs of our 92-year relationship, like Americans and respect the United States. By the same token, American friendship and respect for the Philippines run deep. We share a democratic heritage, and America's support for democratic government in the Philippines will not waver. Yet these sentiments do not necessarily answer or remove the question of whether a continued United States military presence is good for the Philippines.

It is obvious that this question will not and cannot be decided by the U.S. Special Negotiator. All I can do is acknowledge, out of respect for the complex history that binds our two peoples, that the question is indeed a fair one. I can only suggest that the answer will, in the end, be dictated in the main by the issue of sovereignty. I do not believe any citizen of this country could accept a Philippine-United States military relationship inconsistent with the sovereignty of the Philippines.

Sovereignty, in my view, is as much an attitude, a state of mind, as it is an empirical fact. Although one dictionary defines the word as "enjoying autonomy, independent, self-governing," no nation is literally sovereign in the sense that it can act, even within its own borders, without any reference or regard whatsoever to other nations. International linkages of communications and commerce make national boundaries less impenetrable than they might have been a century ago. In this century America's relative isolation from the outside world has been transformed to an inundation of ideas, goods, services and social developments that we Americans hardly even think to label as foreign. Yet these ties that bind the United States across the seas, ties we would loosen only at our peril, in no way undermine our bedrock belief that we are masters in our own house.

For all countries the principle is exactly the same. To the extent that Filipinos do not believe themselves to be masters in their own house, and to the extent a U.S. military presence accounts for that belief, it would seem to be incumbent on the leaders of this country to do something about it. I know this is a matter of serious debate within the Philippines, and I will not presume to suggest how it should be resolved. What is crystal clear to me is that if we agree upon a relationship providing for some measure of United States military presence on Philippine bases, the new relationship will, by definition, explicitly acknowledge the Filipinos as masters in their own house. A lesser result is not even open for discussion. The very fact that your democratically elected government will choose whether or not U.S forces will remain is, in and of itself, a celebration of independence and sovereignty. The very fact that you can choose whether or not to remain an ally of the United States and an equal partner in maintaining regional peace and security should be evidence enough of autonomy, independence and self-government. That which is chosen is but a detail—albeit an important one—of foreign policy.

Regardless of how these discussions turn out, together we should honor and reaffirm those aspects of our shared history in which we can both take pride, and jettison those elements of our common legacy that only promote ill-will and misunderstanding. Friendship between the Philippines and the United States is what must last, and friendship can only exist in the context of equality, mutual respect and, above all, self-respect.

In its dealings with the United States in the twentieth century, the Philippines has chosen a course of evolution instead of revolution. This evolutionary process continues today. Your patience, steadfastness and, above all, your friendship and loyalty impose upon the United States the duty to help insure that Filipinos in the twenty-first century feel proud of the course charted by their countrymen in this century. We have no option but to take this duty seriously, for what is at stake is nothing less than the future of our relationship as nations and peoples.

It is clear to me that the days of a very large presence of United States sailors and airmen in the Philippines are coming to an end. What remains for us to determine is

the rate at which this presence will be reduced and the nature of the security relationship our two governments wish to pursue during and after this transitional period.

I believe that even the most ardent opponents of the U.S. presence on your bases will agree, if only privately, that a sudden liquidation of that presence can only be destructive. In the here-and-now of people trying to earn a living and countries trying to adjust to a changing world, the differences between, say, twelve months and twelve years are monumental. The Philippines and United States have but one opportunity to make, voluntarily, such a fundamental restructuring of this vital relationship. Let us take time to do it right. Let us be your partners in managing the changes.

Let us give the Filipino employees at these facilities adequate time to adjust to new circumstances, while at the same time taking into account United States regional responsibilities. Let us give the armed forces of the Philippines adequate time to deal with the insurgency and take on greater responsibilities for the territorial defense of this republic as well as a greater voice in the security of this region of the world.

Equally, let us give the United States military appropriate time to restructure, and give the Filipino business community adequate time to replicate the management of some of the vital services performed by these facilities. But do so in a way which does not penalize your American allies. Let us give our friends in this region adequate time to adjust to a world in which superpower rivalry is being replaced, it seems, by the proliferation of regional powers seeking domination of their respective neighborhoods.

When the transition is complete, and the new Filipino-American partnership has graduated from the negotiating table to a fully developed reality, let us bequeath one final blessing on the generation of citizens in both countries who will inherit the fruits of our labors, for better or worse. Let the electorate of the 21st century decide whether or not they believe a continued U.S. presence will be helpful.

We Americans have drawn from the well of Philippine friendship many times in the past. We are back again, hopeful that we are seen in this country as a people capable also of giving—giving of respect, friendship and loyalty. Regardless of how we are viewed, however, we know our Filipino counterparts will be guided not by sentiment but by the requirements of their country and its citizens. I believe that between these requirements and the desires of the United States there are no fundamental differences. If I am wrong about this, then I am wrong about much more than bases. By the same token, if I am right about this, then I am right about much more than bases. All in all, I'd rather be right.

Thank you, Mr. Foreign Secretary. This concludes my statement.

TRIBUTE TO PETER J. COYLE

Mr. BOSCHWITZ. Mr. President, Peter Coyle, who for the past 3 years has served on both my personal and small business committee staffs, is returning to Minnesota next week. He will be sorely missed.

Pete came to work for me as a legislative assistant in the fall of 1987. He has had responsibility for numerous issues including taxes, civil rights, trade, pensions, campaign finance reform, minimum wage, parental leave and small business. When I became the ranking minority member of the Small Business Committee, Pete became my minority staff director and chief counsel on the committee. Even after assuming these new duties, he continued his previous LA responsibilities.

Pete is politically savvy and I have relied on him for counsel on many important issues. I will be losing a dedicated employee, but I certainly wish him the best in his new position with Teltech, Inc. in Minneapolis. Pete will be serving as counsel and heading up their new government affairs office.

My best wishes to Pete, his wife, Sandy, and their two young sons, Christopher and Daniel, in their new endeavors in Minnesota.

Thank you, Mr. President. I yield the floor.

A TRIBUTE TO BARBARA BOGGS SIGMUND

Mr. THURMOND. Mr. President, I rise today to pay tribute to the memory of Barabara Boggs Sigmund, who passed away recently. Mrs. Sigmund was the mayor of Princeton, NJ, and a woman of character, compassion and courage, as well as a fine public servant. She will be greatly missed.

Mrs. Sigmund was the daugther of my longtime friends Representative LINDY BOGGS and her late husband, Representative Hale Boggs. She was born in New Orelans, but grew up in Washington, DC amid the milieu of national politics.

She was a graduate of the Manhattanville College of the Sacred Heart in New York. As a young woman, her professional life was varied and interesting. She served on the White House staff during the Kennedy administration and also worked as a teacher.

Mrs. Sigmund married Princeton political science professor Paul E. Sigmund in 1964 and became active in local politics in New Jersey. She was a member of the Princeton Borough Council and the Mercer County Board of Freeholders.

In 1982, she ran unsuccessfully for the Democratic nomination to the U.S. Senate, and was the opponent of James Florio for the Democratic gubernatorial nomination in 1989. She was elected mayor of Princeton in 1984.

Over the years, I have had the opportunity to work closely with both Lindy and Hale Boggs. During that time I came to know their daughter as a woman of strength and integrity. She was a fine wife and mother, a conscientious public servant and a loyal friend. Her life brought joy to many people, and her death represents a loss for us all. I join with her many friends and admirers in mourning her passing.

Mr. President, Nancy and I would like to extend our deepest sympathy to her mother, Representative BOGGS; her husband, Paul E. Sigmund; her three sons, Paul, David and Stephen; her sister, Cokie Roberts; and her brother, Thomas Hale Boggs at this difficult time.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President I rise to inform my colleagues that today marks the 2,042d day that Terry Anderson has been held captive in Beirut.

An article in yesterday's Washington Post, "Hostage Release Rumored," reports that the Syrian Government is making progress in its efforts to gain the release of Western hostages held in Lebanon. The article cites a Beirut newspaper, As-Safir, in which Lebanese Agriculture Minister Mohsen Dalloul Claims, "The question of the hostages is about to come to an end."

Mr. President, I ask unanimous consent that the above mentioned article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOSTAGE RELEASE RUMORED

BEIRUT—Lebanese Agriculture Minister Mohsen Dalloul was quoted as saying Syrian President Hafez Assad's government has "achieved progress in its efforts to gain the release of Western hostages held by pro-Iranian extremists.

"The question of the hostages is about to come to an end. Our Syrian brothers are carrying out contacts and have achieved progress," Dalloul, a pro-Syrian Shiite Moslem, was quoted as saying by the leftist Beirut newspaper As-Safir.

DEATH OF BRIG. GEN. WILLIAM L. MULLINS, USAF

Mr. SYMMS. Mr. President, I am sad to bring to the attention of our colleagues that Air Force Brig. Gen. William L. Mullins died in a recent airplane crash. General Mullins was a friend and patriot, and I will miss him greatly. He served his country tirelessly from the day he entered the U.S. Military Academy, throughout his distinguished, and highly decorated service in Vietnam, until he retired from the military in 1979. He then went on to a successful career with General Dynamics. He loved his country, and flying, he was one of the lucky people, able to blend his passions with his careers. Mr. President, I am confident Mrs. Florine Lucy Mullins, and their two sons, Dan and Todd, will be in the thoughts and prayers of our colleagues. I would ask unanimous consent that this notice printed in the Washington Times, be entered into the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Oct. 2, 1990]

WILLIAM H.L. MULLINS, 55, RETIRED AIR FORCE GENERAL

Retired Air Force Brig. Gen. William H.L. Mullins, 55, a vice president of General Dynamics Corp., died in a plane crash Sept. 29 in Chatham, Mass. He lived in Alexandria.

Gen. Mullins, who was the passenger in a restored P-51 Mustang fighter plane of World War II vintage, was visiting Cape Cod for a golf tournament.

George F. Enhorning, 63, of Wolcott, Conn., who also died in the crash, was the pilot. The accident is being investigated by the Federal Aviation Administration.

A native of Independence, Mo., Gen. Mullins was a 1957 graduate of the U.S. Military Academy. He was also a graduate of the Air Command and Staff College and the National War College.

In 1966, he received a master's degree in business administration from the University of Arizona.

A fighter pilot stationed in Japan from 1959 to 1961, he was also a heavily decorated Vietnam War veteran. While stationed in Thailand, he flew 146 combat missions, 116 of them over North Vietnam.

Gen. Mullins was the recipient of five Distinguished Flying Crosses, 13 Air Medals and a Bronze Star.

His last military assignment was as deputy director of legislative liaison in the office of the secretary of the Air Force.

Gen. Mullins retired in 1979 and joined General Dynamics as its deputy director of legislative affairs. In 1980, he was named staff vice president for legislative affairs.

Gen. Mullins became corporate vice president of the St. Louis-based defense contractor in 1986 and worked out of its Crystal City offices.

He was a National Security Industrial Association board member and a member of the National Democratic Club. He was also a member of the Capitol Hill, Burning Tree and Belle Haven country clubs.

Gen. Mullins is survived by his wife of 26 years, Florine Lucy Magnani Mullins; two sons, Air Force Lt. Dan Mullins of Mississppi and Todd Mullins of Alexandria.

Services will be at 3 p.m. tomorrow at Fort Myer Post Chapel, with burial in Arlington National Cemetery. The family suggests that expressions of sympathy be in the form of contributions to the Arthritis Foundation.

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
John Ziolkowski:									
United States	Dollar				2,420.00				2,420.00
Switzerland	Franc	2,197.30	1,505.00					2,197.30	1,505.00
Total			1,505.00		2,420.00				3,925.00

PATRICK J. LEAHY,
Chairman, Committee on Agriculture, Nutrition, and Forestry, Aug. 1, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Robert M. Walker:									
Spain	Dollar		150.00						150.00
Italy	Dollar		1,088.00		490.88				1,578.88
Federal Republic of Germany	Dollar		408.00						408.00
United States	Dollar				2,476.93				2,476.93
Timothy Rieser:									
Haiti	Gourde	360	50.00					360	50.00
Frederick S. Kenney:									
Cote D'Ivoire	Franc	431,540	1,533.00					431,540	1,533.00
Senegal	Franc	135,600	480.00					135,600	480.00
Mazie R. Mattson:									
South Korea	Won	411,840	585.00					411,840	585.00
Japan	Yen	109,759	696.00					109,759	696.00
United States	Dollar				1,592.00				1,592.00
Richard L. Collins:									
South Korea	Won	411,840	585.00					411,840	585.00
Japan	Yen	109,759	696.00					109,759	696.00
Charles J. Houy:									
South Korea	Won	549,120	780.00					549,120	780.00
Japan	Yen	109,759	696.00					109,759	696.00
United States	Dollar				1,974.00				1,974.00
Joseph H. Kimmitt:									
South Korea	Won	549,120	780.00					549,120	780.00
Japan	Yen	109,759	696.00					109,759	696.00
United States	Dollar				1,974.00				1,974.00
J. Keith Kennedy:									
South Korea	Won	411,840	585.00					411,840	585.00
Japan	Yen	36,586	232.00					36,586	232.00
United States	Dollar				1,705.26				1,705.26
Senator Ted Stevens:									
South Korea	Won	411,840	585.00					411,840	585.00
Japan	Yen	36,586	232.00					36,586	232.00
United States	Dollar				1,705.26				1,705.26
Senator Daniel K. Inouye:									
South Korea	Won	411,840	585.00					411,840	585.00
Japan	Yen	109,759	696.00					109,759	696.00
Gary C. Barbour:									
Japan	Yen	216,763	1,370.61	99,020	309.96			315,783	1,680.57

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1990—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Total			13,508.61		12,228.29				25,736.90

ROBERT C. BYRD,
Chairman, Committee on Appropriations, Aug. 1, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
John E. Mansfield:									
Japan	Yen	143,382	906.62	25,520	161.36	71,500	452.00	240,402	1,519.98
United States	Dollar				2,892.00				2,892.00
Senator John McCain:									
Czechoslovakia	Dollar		244.00						244.00
Marshall A. Salter:									
Czechoslovakia	Dollar		244.00						244.00
Total			1,394.62		3,053.36		452.00		4,899.98

SAM NUNN,
Chairman, Committee on Armed Services, July 3, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Karen Marsden:									
Canada	Dollar	448.06	381.00					448.06	381.00
United States	Dollar				202.40				202.40
Lamar Smith:									
India	Rupee	13,235	765.00					13,235	765.00
United States	Dollar				3,680.00				3,680.00
Total			1,146.00		3,882.40				5,028.40

DON RIEGLE,
Chairman, Committee on Banking, Housing, and Urban Affairs,
June 29, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Patricia J. Beneke:									
Japan	Yen	140,986	891.47	49,020	309.96	63,342	400.52	253,348	1,601.95
United States	Dollar				2,892.00				2,892.00
William B. Conway:									
Japan	Yen	156,667	990.62	49,020	309.96	63,342	400.52	269,029	1,701.10
United States	Dollar				2,892.00				2,892.00
Richard Grundy:									
Japan	Yen	180,073	1,138.62	49,020	309.96	63,342	400.52	292,435	1,849.10
United States	Dollar				2,892.00				2,892.00
Cheryl Moss:									
Japan	Yen	181,971	1,150.62	49,020	309.96	63,342	400.52	294,333	1,861.10
United States	Dollar				2,892.00				2,892.00
Donald F. Santa:									
Japan	Yen	175,645	1,110.62	49,020	309.96	63,342	400.52	288,007	1,821.10
United States	Dollar				2,892.00				2,892.00
Janice Dunn Lee:									
Japan	Yen	193,041	1,220.62	49,020	309.96	63,342	400.52	305,403	1,931.10
United States	Dollar				2,892.00				2,892.00
Total			6,502.57		19,211.76		2,403.12		28,117.45

J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources,
June 13, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Dan Berkovitz:									
South Korea	Won	688,350	975.00	19,760.94	27.99			708,110.94	1,002.99
Japan	Yen	174,063	1,100.62					174,063	1,100.62
United States	Dollar				2,892.00				2,892.00
Paul Carothers:									
Japan	Yen	197,311	1,247.62					197,311	1,247.62
United States	Dollar				2,892.00				2,892.00
Robert Hurley:									
Japan	Yen	216,763	1,370.62					216,763	1,370.62
United States	Dollar				2,892.00				2,892.00
Carolyn Jourdan:									
South Korea	Won	688,350	975.00	72,000	101.99			760,350	1,076.99
Japan	Yen	216,763	1,370.62					216,763	1,370.62
United States	Dollar				2,892.00				2,892.00
David Strauss:									
South Korea	Won	688,350	975.00	72,000	101.99			760,350	1,076.99
Japan	Yen	216,763	1,370.62					216,763	1,370,62
David Strauss:									
United States	Dollar				2,892.00				2,892.00
Steven Shimberg:									
England	Pound	512.67	884.00					512.67	884.00
United States	Dollar				658.00				658.00
Total				10,269.10		15,349.97			25,619.07

QUENTIN BURDICK,
Chairman, Committee on Environment and Public Works,
July 11, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John H. Chafee:									
Germany	Deutsche mark	1,025.10	603.00					1,025.10	603.00
Hungary	Forint	11,369	174.00					11,369	174.00
Poland	Zloty	20,045	211.00					20,045	211.00
	Dollar		290.00						290.00
Czechoslovakia	Dollar		392.00						392.00
Ireland	Pound	117.72	186.00					117.72	186.00
Robert D. Kyle:									
Switzerland	Franc	1,159.79	825.00					1,159.79	825.00
United States	Dollar				702.00				702.00
Senator John Heinz									
Belgium	Franc	8,696	253.00					8,696	253.00
United States	Dollar				2,425.40				2,425.40
Total			2,934.00		3,127.40				6,061.40

LLOYD BENTSEN,
Chairman, Committee on Finance, July 18, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384–22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Terry Sanford:									
Costa Rica	Colon	48,136	547.00					48,136	547.00
Guatemala	Quetzal	446.25	105.00					446.25	105.00
Belize	Dollar	294	147.00					294	147.00
Gerykd Christianson:									
Poland	Zloty	6,372,000	657.00					6,372,000	657.00
United States	Dollar				2,574.00				2,574.00
Barbara Larkin:									
Costa Rica	Colon	48,136	547.00					48,136	547.00
Honduras	Lempira	83	20.00					83	20.00
Guatemala	Quetzal	446.25	105.00					446.25	105.00
Belize	Dollar	294	147.00					294	147.00
John B. Ritch, III:									
Spain	Dollar		295.00						295.00
France	Franc	2,508	456.00					2,508	456.00
United States	Dollar				2,565.00				2,565.00
Barry Sklar:									
Costa Rica	Colon	39,513	448.00					39,513	448.00
Honduras	Lempira	278	68.00					278	68.00
Guatemala	Quetzal	382.50	90.00					382.50	90.00
Belize	Dollar	274	137.00					274	137.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384–22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1990—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Amendments to 1st quarter 1990:									
Horace Coleman:									
Korea	Won	516,000	750.00	38,300	55.67	13,461	19.56	567,761	825.23
Thailand	Baht	24,576	960.00	2,665	104.10	3,290	128.51	30,531	1,192.61
Hong Kong	Dollar	4,997.1	640.00	580	74.29	617.30	79.06	6,194.4	793.35
United States	Dollar				2,659.98				2,659.98
Tracy Usry:									
Korea	Won	516,00	750.00	41,087	59.71	26,490	38,50	583,577	848.21
Thailand	Baht	24,576	960.00	2,310	90.23	4,915	191.99	31,801	1,242.22
Hong Kong	Dollar	4,997.10	640.00	555	71.08	712.40	91.24	6,264,5	802.32
United States	Dollar				2,659.98				2,659.98
Total			8,469.00		10,914.04		548.86		19,931.90

CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, July 30, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1990

Name	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Arlen Specter				455.17					455.17
Michael Russell				317.23					317.23
David Holliday				1,714.98		4,963.80			6,678.78
Christopher Straub				1,397.56		3,921.00			5,318.56
Jonathan Chambers				948.00		3,459.80			4,407.80
John Elliff				223.00		3,192.00			3,415.00
John Nelson				223.00		3,192.00			3,415.00
John Despres				670.00		2,842.00			3,512.00
Marvin Ott				330.00		3,690.00			4,020.10
Senator Orrin Hatch				997.00		2,453.00			3,450.00
Marin Strmecki				997.00		2,453.00			3,450.00
Baruch Korff				997.00		2,453.00			3,450.00
Total				9,269.94		32,619.70			41,889.64

DAVID L. BOREN,
Chairman, Select Committee on Intelligence, June 28, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L 95–384—22 U.S.C. 1754(b), JOINT ECONOMIC COMMITTEE, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Patricia Ruggles:									
United States	Dollar				364.50				364.50
Canada	Dollar	320.16	276.00					320.16	276.00
Richard Kaufman:									
United States	Dollar				250.00				250.00
Germany	Deutsche mark	664.77	391.50					664.77	391.50
Total			667.50		614.50				1,282.00

LEE H. HAMILTON,
Chairman, Joint Economic Committee, July 17, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Orest Deychakiwsky:									
United States	Dollar		604.00		2,151.00				2,151.00
Bulgaria	Dollar								604.00
Denmark	Krone	19,258.40	3,040.00					19,258.40	3,040.00
David Evans:									
United States	Dollar				1,087.00				1,087.00
Yugoslavia	Dinar	7,909.20	676.00					7,909.20	676.00
John Finerty:									
United States	Dollar				1,835.00				1,835.00
Denmark	Krone	16,851.10	2,660.00					16,851.10	2,660.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1990—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jane S. Fisher:									
United States	Dollar				2,493.13				2,493.13
Denmark	Krone	24,073	3,800.00					24,073	3,800.00
Federal Republic of Germany	Deutsche mark	3,136.05	1,848.00					3,136.05	1,848.00
Robert A. Hand:									
United States	Dollar				628.00				628.00
Robert A. Hand:									
Federal Republic of Germany	Deutsche mark	2,352.04	1,386.00	104.00	61.18			2,456.04	1,447.18
Yugoslavia	Dinar	4,149.10	354.00					4,149.10	354.00
Heather Hurlburt:									
United States	Dollar				1,083.00				1,083.00
Romania	Dollar								1,171.50
Austria	Schilling	126,673.78	10,804.00					126,673.78	10,804.00
Judith Ingram:									
United States	Dollar		1,939.00						1,939.00
Romania	Dollar		1,171.50						1,171.50
Hungary	Forint	14,045.60	217.22					14,045.60	217.22
Denmark	Krone	35,932.12	5,672.00					35,932.12	5,672.00
R. Spencer Oliver:									
United States	Dollar				2,080.00				2,080.00
Denmark	Krone	6,081.60	960.00					6,081.60	960.00
United Kingdom	Pound	127.01	221.00					127.01	221.00
Erika Schlager:									
United States	Dollar				2,478.00				2,478.00
Denmark	Krone	28,887.60	4,560.00					28,887.60	4,560.00
Czechoslovakia	Dollar		902.00						902.00
Samuel G. Wise:									
United States	Dollar				2,083.00				2,083.00
Denmark	Krone	3,610.95	570.00					3,610.95	570.00
Czechoslovakia	Dollar		392.00						392.00
Total			39,837.72		17,918.31				57,756.03

DENNIS DeCONCINI,
Chairman, Commission on Security and Cooperation in Europe,
July 30, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE, FOR TRAVEL FROM MAY 31 TO JUNE 4, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Dennis DeConcini:									
United States	Dollar				4,010.00				4,010.00
Finland	Finnmark	906.90	231.00					906.90	231.00
Estonia	Dollar		438.00						438.00
Samuel G. Wise:									
United States	Dollar				1,145.00				1,145.00
Finland	Finnmark	906.90	231.00					906.90	231.00
Estonia	Dollar		438.00						438.00
Jane S. Fisher:									
United States	Dollar				3,621.00				3,621.00
Finland	Finnmark	906.90	231.00					906.90	231.00
Estonia	Dollar		438.00						438.00
Ann Banchoff:									
United States	Dollar				2,563.00				2,563.00
Finland	Finmark	906.90	231.00					906.90	231.00
Estonia	Dollar		438.00						438.00
Delegation expenses:									
Finland	Finnmark					800	201.41	800	201.41
Total			2,676.00		11,339.00		201.41		14,216.41

DENNIS DeCONCINI,
Chairman, Commission on Security and Cooperation in Europe,
July 30, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE, FOR TRAVEL APR. 6–12, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Dennis DeConcini:									
United States	Dollar				1,025.00				1,025.00
Yugoslavia	Dinar	5,466.60	459.37					5,466.60	459.37
Romania	Dollar		116.90						116.90
Jane S. Fisher:									
Yugoslavia	Dinar	2,200.30	184.90					2,200.30	184.90
Romania	Dollar		116.90						116.90
Robert A. Hand:									
Yugoslavia	Dinar	3,585.10	301.27					3,585.10	301.27

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE, FOR TRAVEL APR. 6–12, 1990—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Romania	Dollar		116.90						116.90
Judith Ingram:									
United States	Dollar				2,446.00				2,446.00
Yugoslavia	Dinar	6,259.70	526.03					6,259.70	526.03
Romania	Dollar		116.90						116.90
Jesse Jacobs:									
United States	Dollar				2,491.00				2,491.00
Yugoslavia	Dinar	4,600.30	386.57					4,600.30	386.57
Romania	Dollar		116.90						116.90
Samuel G. Wise:									
United States	Dollar				2,466.00				2,466.00
Yugoslavia	Dinar	6,279.70	527.70					6,279.70	527.70
Romania	Dollar		116.90						116.90
Total			3,087.24		8,428.00				11,515.24

DENNIS DeCONCINI,
Chairman, Commission on Security and Cooperation in Europe,
July 30, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), U.S. SENATE ARMS CONTROL OBSERVER GROUP, FOR TRAVEL FROM NOV. 26 TO DEC. 5, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Claiborne Pell:									
Austria	Schilling	4108	321.00					4108	321.00
Switzerland	Franc	638.19	398.00					638.19	398.00
Germany	Deutsche mark	880.05	490.01					880.05	490.01
France	Franc	2,549.80	418.00					2,549.80	418.00
Senator Ted Stevens:									
Austria	Schilling	4,428	346.00					4,428	346.00
Switzerland	Franc	638.19	398.00					638.19	398.00
United States	Dollar				1,646.90				1,646.90
Senator Richard G. Lugar:									
Austria	Schilling	4,428	346.00					4,428	346.00
Switzerland	Franc	638.19	398.00					638.19	398.00
Germany	Deutsche mark	1,009.35	562.00					1,009.35	562.00
France	Franc	2,549.80	418.00					2,549.80	418.00
Senator Jake Garn:									
Austria	Schilling	4,428	346.00					4,428	346.00
Switzerland	Franc	638.19	398.00					638.19	398.00
Germany	Deutsche mark	868.82	483.75					868.82	483.75
France	Franc	2,549.80	418.00					2,549.80	418.00
Senator John H. Chafee:									
Switzerland	Franc	605.41	377.56					605.41	377.56
Germany	Deutsche mark	745.34	415.00					745.34	415.00
France	Franc	2,549.80	418.00					2,549.80	418.00
England	Pound	108.17	169.00					108.17	169.00
United States	Dollar				565.00				565.00
Senator Paul S. Sarbanes:									
Austria	Schilling	4,428	346.00					4,428	346.00
Switzerland	Franc	638.19	398.00					638.19	398.00
Germany	Deutsche mark	1,009.35	562.00					1,009.35	562.00
France	Franc	2,549.80	418.00					2,549.80	418.00
Senator Daniel Moynihan:									
Federal Republic or Germany	Deutsche mark	1,009.35	562.00					1,009.35	562.00
United States	Dollar				1,971.00				1,971.00
Senator John W. Warner:									
Austria	Schilling	4,018.40	314.00					4,018.40	314.00
Switzerland	Franc	606.12	378.00					606.12	378.00
Germany	Deutsche mark	833.35	464.00					833.35	464.00
France	Franc	2,549.80	418.00					2,549.80	418.00
Senator Don Nickles:									
Austria	Schilling	4,108.80	321.00					4,108.80	321.00
Switzerland	Franc	598.10	373.00					598.10	373.00
Germany	Deutsche mark	874.70	487.00					874.70	487.00
France	Franc	2,549.80	418.00					2,549.80	418.00
Senator Richard Bryan:									
Austria	Schilling	4,428	346.00					4,428	346.00
Switzerland	Franc	500.30	312.00					500.30	312.00
Germany	Deutsche mark	854.90	476.00					854.90	476.00
France	Franc	2,549.90	418.00					2,549.80	418.00
John Aravosis:									
Austria	Schilling	4,428	346.00					4,428	346.00
Switzerland	Franc	638.19	398.00					638.19	398.00
Germany	Deutsche mark	1,009.35	562.00					1,009.35	562.00
France	Franc	2,549.80	418.00					2,549.80	418.00
George Ashworth:									
Austria	Schilling	4,208	328.82					4,208	328.82
Switzerland	Franc	638.19	398.00					638,19	398.00
Germany	Deutsche mark	869.35	484.05					869.35	484.00
France	Franc	2,549.80	418.00					2,549.80	418.00
Mira R. Barrata:									
Austria	Schilling	4,428	346.00					4,428	346.00
Switzerland	Franc	638.19	398.00					638.19	398.00
Germany	Deutsche mark	1,009.35	562.00					1,009.35	562.00
France	Franc	2,549.80	418.00					2,549.80	418.00
Robert G. Bell:									
Austria	Schilling	4,428	346.00					4,428	346.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), U.S. SENATE ARMS CONTROL OBSERVER GROUP, FOR TRAVEL FROM NOV. 26 TO DEC. 5, 1989—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Switzerland	Franc	638.19	398.00					638.19	398.00
Germany	Deutsche mark	1,009.35	562.00					1,009.35	562.00
France	Franc	2,549.80	418.00					2,549.80	418.00
Monica Chavez:									
Austria	Schilling	4,428	346.00					4,428	346.00
Switzerland	Franc	638.19	398.00					638.19	398.00
Germany	Deutsche mark	1,009.35	562.00					1,009.35	562.00
France	Franc	2,549.80	418.00					2,549.80	418.00
C. Richard D'Amato:									
Austria	Schilling	4,428	346.00					4,428	346.00
Switzerland	Franc	638.19	398.00					638.19	398.00
Germany	Deutsche mark	1,009.35	562.00					1,009.35	562.00
France	Franc	2,549.80	418.00					2,549.80	418.00
Scott Harris:									
Austria	Schilling	4,428	346.00					4,428	346.00
Switzerland	Franc	638.19	398.00					638.19	398.00
Germany	Deutsche mark	1,009.35	562.00					1,009.35	562.00
France	Franc	2,549.80	418.00					2,549.80	418.00
Kenneth Myers:									
Austria	Schilling	4,428	346.00					4,428	346.00
Switzerland	Franc	638.19	398.00					638.19	398.00
Germany	Deutsche mark	1,009.35	562.00					1,009.35	562.00
France	Franc	2,549.80	418.00					2,549.80	418.00
Jan Paulk:									
Austria	Schilling	4,428	346.00					4,428	346.00
Switzerland	Franc	638.19	398.00					638.19	398.00
Germany	Deutsche mark	1,009.35	562.00					1,009.35	562.00
France	Franc	2,549.80	418.00					2,549.80	418.00
Dan Stanley:									
Austria	Schilling	4,428	346.00					4,428	346.00
Switzerland	Franc	638.19	398.00					638.19	398.00
Germany	Deutsche mark	1,009.35	562.00					1,009.35	562.00
France	Franc	2,549.80	418.00					2,549.80	418.00
Delegation Expenses:									
Austria							5,767.87		5,767.87
Switzerland							6,048.58		6,048.58
Germany							8,140.75		8,140.75
France							6,044.13		6,044.13
Total			31,276.19		4,182.90		26,001.33		61,460.42

[1] Delegation expenses include direct payments and reimbursement to the State Department and the Department of Defense under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179, agreed to May 25, 1977.

GEORGE J. MITCHELL, Majority Leader.
CLAIBORNE PELL, Delegation Chairman.
ROBERT J. DOLE, Republican Leader.

June 26, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER, FROM APR. 1 TO JUNE 30, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Robert Dockery:									
United States	Dollar		620.76		666.00				1,286.76
Sally Walsh:									
Germany	Deutsche mark	1025.10	603.00					1025.10	603.00
Hungary	Forint	11,369	174.00					11,369	174.00
Poland	Zloty	2,004,500	211.00					2,004,500	211.00
	Dollar		290.00						290.00
Czechloslovakia	Dollar		392.00						392.00
Ireland	Pound	117.72	186.00					117.72	186.00
Senator Robert Kerrey:									
Hong Kong	Dollar	1,638	210.00					1,638	210.00
Thailand	Baht	13,680	528.00	9,033.33	346.88	1,220.15	47.58	23,933.48	922.46
Cambodia	Dollar		216.00						216.00
Vietnam	Dollar		132.00						132.00
United States	Dollar				2,663.00				2,663.00
Sheila Murphy:									
Hong Kong	Dollar	1,638	210.00					1,638	210.00
Thailand	Baht	13,680	528.00	9,033.33	346.88	1,220.15	47.58	23,933.48	922.46
Cambodia	Dollar		216.00						216.00
Vietnam	Dollar		132.00						132.00
United States	Dollar				2,663.00				2,663.00
William Shore:									
Hong Kong	Dollar	1,638	210.00					1,638	210.00
Thailand	Baht	13,680	528.00	9,033.33	346.99	1,220.15	47.58	23,933.48	922.46
Cambodia	Dollar		216.00						216.00
Vietnam	Dollar		132.00						132.00
United States	Dollar				2,663.00				2,663.00
Total			5,734.76		9,695.64		142.74		15,573.14

GEORGE J. MITCHELL,
Majority Leader, Sept. 12, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER, FROM APR. 1 TO JUNE 30, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Alfred Lehn:									
Canada	Dollar	79.19	68.15					79.19	68.15
Clarkson Hine:									
Canada	Dollar	79.19	68.15					79.19	68.15
Senator William V. Roth, Jr.:									
Iceland	Dollar		450.00						450.00
United States	Dollar				547.00				547.00
R. Ian Butterfield:									
Iceland	Dollar		620.00						620.00
United States	Dollar				1,197.00				1,197.00
Total			1,206.30		1,744.00				2,950.30

ROBERT J. DOLE,
Republican Leader, July 23, 1990.

S. 2830, THE 1990 FARM BILL

Mr. GORTON. Mr. President, earlier this week Members of the Senate and House completed the conference of the 1990 farm bill. Although I was not a member of the conference committee, I am a member of the Agriculture Committee which drafted this bill, and therefore understand the very difficult circumstances under which this bill had to be written and conferenced. In my opinion, given the budget, the conference committee did the best job possible in reconciling the bill.

The budget resolution passed by Congress required that $13.6 billion be cut from agriculture. This amount is over 25 percent of the $54 billion in the agriculture budget. It is these funds that provide the Nation's farmers with income support, and that allow consumers to purchase the lowest cost, safest food in the world. This budget has asked agriculture to continue to produce the abundant foods to which we have become accustomed, but weakens the foundation upon which the farmer's margin and stability is built. I do not support cuts in agriculture, but am pleased with the choices the conference committee made in determining where the savings would be found.

I polled the leaders of the agriculture community in my State prior to the final agriculture budget agreement. Overwhelmingly, in the wheat and barley industries, farmers chose the triple base option over a cut in target prices. Triple base will provide the farmer with an opportunity to recoup income that is lost in the budget cuts. Forecasting the effect of triple base on farm income is difficult. At the very least, though, the committee has given the farmer a chance instead of returning to the days of the early and mid-eighties when acreage reduction programs were at all-time highs, and the Government simply was taking money out of the farmer's pocket without giving the farmer a chance to earn back lost income.

Perhaps one of the most encouraging aspects of the farm bill is the provision relating to the calculation of barley deficiency payments. In the future, the barley deficiency payment will be based on the average market price of feed barley only, not both feed and malt barley. For Washington State barley growers, almost all of whom produce feed barley, this provision will correct an inequity to which they have been subject for far too long.

The assessment fee established by the conference committees in the dairy title will prevent further cuts in the dairy support price. While I am pleased that price cuts are avoided, I remain concerned about the effect this assessment will have on the dairy farmers in my State. Clearly, at some point, the U.S. Department of Agriculture must study a supply management program that will stabilize the market, protect the farmer, and continue to provide consumers with the best dairy products available.

The 1990 farm bill contains many excellent provisions. This bill makes major strides in the areas of research, grain quality, trade, and conservation. The new bill strengthens the constructive environmental goals of the 1985 farm bill. It gives increased emphasis to programs involving water quality, while also taking steps to improve the fairness of existing programs such as swampbuster.

Despite these clearly positive programs, Mr. President, I cannot overlook the tremendous cuts which have been made in agriculture. Mr. President, I have spoken with many leaders in the Washington State agricultural community. All of them are dismayed with a budget that places a disproportionate share of the mandated budget savings squarely on the shoulders of American agriculture. However, farmers are strong people and have weathered difficult times before. Those farmers in Washington State with whom I have spoken are attempting, as difficult as it may be, to look at the positives in the bill. I commend these people for their leadership and optimism.

Recognizing that all cuts are mandated, the members of the Washington Association of Wheat Growers, the Washington Barley Growers and the Washington State Dairy Federation, find some solace in the manner in which these so-called savings are found.

Today I spoke with Chris Laney, the president of the Washington Association of Wheat Growers. Chris said to me:

There will be repercussions and fallout from this bill. Within the context of the three choices available to us—which ranged from very bad to much worse—wheat and barley growers were provided the better option with which to work. I am encouraged that cuts in agriculture were more evenly distributed across all Federal programs. This bill will challenge agriculture to be more resourceful and innovative in the face of increased world competitiveness and ever thinner margins.

Stephen Naught, vice president of the National Barley Growers Association and a resident of Bickleton, WA passed his thoughts on to me. Stephen said:

The overall bill hurts grain growers, but the barley growers are very pleased with the barley provisions in the bill which recognize the inequities that existed from the 1981 and 1985 Farm Bills. I want to thank you for your leadership in the push to get the malting barley price excluded from the barley deficiency payment calculation. This provision will begin to put fairness back into play for barley growers. We hope this will stop the slide of barley acreage in the State of Washington. It will provide a small safety net for barley. I remain concerned about the future of agriculture, but the 1990 Farm Bill contains many good provisions.

Dan Coyne, the executive director of the Washington State Dairy Federation told me:

These cuts are tough. Dairy farmers are not happy. It is difficult for me to find anything positive in this bill. The cuts are going to lead to a major restructuring in the dairy industry. However, since the alternative to an assessment on dairy farmers was a drop in the support price provided by the government, I am glad that the Conference Committee chose the assessment route. An assessment is going to hurt, but a price cut would have further exposed the farmer and led to many, many more farmers going out of business.

Mr. President, agriculture is an important part of America's life, welfare, and economy. The cuts which face agriculture will challenge the industry, but I believe American farmers, who are the best in the world, will continue to provide the Nation with an abundant, safe food supply.

REPORT OF THE NATIONAL CENTER FOR EDUCATION AND THE ECONOMY

Mr. PELL. Mr. President, the National Center for Education and the Economy recently published an excellent report on the critical linkages between education, work force training, and our economy. That report, "America's Choice: High Skills or Low Wages!" is a prescient analysis of what will be demanded of our workers as we round out this decade and move into the next century. This report endorses my firmly-held belief that the investment we make in education is the principal factor in determining our future economic growth, strength and security.

This report was prepared by the Commission on the Skills of the American Workforce. It offers a bold strategy for improving our productivity as a nation through a strategic investment in education and training—one which focuses upon the needs and abilities of the noncollege bound. I have found it a very thought-provoking outline for how we get from point A to point B to produce the kind of worldclass work force that will maintain our competitive edge in the world economy. That objective was central to our work in the recent reauthorization of the Carl D. Perkins Vocational and Applied Technology Act. That act improves the linkage between vocational education and the workplace, requires training and education programs in areas where jobs are currently available, and mandates that training for all students be of the highest quality possible. To do anything less would be a disservice to our students, and a disservice to our Nation.

I commend the work of the Commission, and I would particularly like to recognize the considerable work of the Commission's Chair, Ira Magaziner. Mr. Magaziner is the president of SJS in Rhode Island. He is a nationally recognized expert on work force training issues, and he has been a powerful, moving force behind keeping Rhode Island's work force on the cutting edge of competition. The Commission is cochaired by former Secretaries of Labor William E. Brock and Ray Marshall.

I urge my colleagues to read—and to study—this report carefully. To my mind, no work is more urgent at present than the effort to increase the productivity of our industries and the growth of our economy. I commend Mr. Magaziner, Secretary Brock and Secretary Marshall, the members of the Commission, and their staff for their rich contribution to the discussion of how we craft the critically important strategy of improving the skills of our work force, and in turn strengthen our economy.

I ask unanimous consent that the executive summary of the Commission on the Skills of the American Workforce and the Washington Post editorial by former Secretaries Brock and Marshall regarding this landmark study be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Report of the Commission on the Skills of the American Work Force, June 1990]

AMERICA'S CHOICE: HIGH SKILLS OR LOW WAGES!

THE PROBLEM

Since 1969, real average weekly earnings in the United States have fallen by more than 12 percent. This burden has been shared unequally. The incomes of our top 30 percent of earners increased while those of the other 70 percent spiraled downward.

In many families, it now takes two people working to make ends meet, where one was sufficient in the past.

The United States is in the midst of the second longest economic expansion in its history. But that expansion is built largely on the fact that 50 percent of our population is employed compared with 40 percent in 1973. Forty million new jobs were created as the "baby boom" generation reached working age, and more women entered the workforce. More of us have been working so we produced more.

However, workforce growth will slow dramatically in the 1990's. We can no longer grow substantially just by adding new workers.

The key to maintaining, to say nothing of improving, our standard of living is productivity growth—more products and services from every member of the workforce.

But, during the past two decades, our productivity growth has slowed to a crawl. It now takes nearly three years to achieve the same productivity improvement we used to achieve in one year.

If productivity continues to falter, we can expect one of two futures. Either the top 30 percent of our population will grow wealthier while the bottom 70 percent becomes progressively poorer or we all slide into relative poverty together.

THE TASK

To ensure a more prosperous future, we must improve productivity and our competitive position. We cannot simply do this by using better machinery, because low wage countries can now use the same machines and can still sell their products more cheaply than we can.

The key to productivity improvement for a high wage nation lies in the third industrial revolution now taking place in the world. The steam engine and electric motor drove the first two industrial revolutions, causing profound changes in work organization. This boosted productivity, quality and living standards dramatically. The creation of the modern factory in the 1800's and mass production in the 1900's followed these technology breakthroughs.

The advent of the computer, high speed communication and universal education are heralding a third industrial revolution, a revolution the key feature of which is high performance work organization.

THE ORGANIZATION OF WORK IN AMERICA

The organization of America's workplaces today is largely modeled after the system of mass manufacture pioneered during the early 1900's. The premise is simple: Break complex jobs into a myriad of simple rote tasks, which the worker then repeats with machine-like efficiency.

The system is managed by a small group of educated planners and supervisors who do the thinking for the organization. They plan strategy, implement changes, motivate the workers and solve problems. Extensive administrative procedures allow managers to keep control of a large number of workers. This form of work organization is often referred to as the "Taylor" model.

Most employees under this model need not be educated. It is far more important that they be reliable, steady and willing to follow directions.

But in the world's best companies, new high performance work organizations are replacing this "Taylor" method. These companies are using a new approach to unleash major advances in productivity, quality, variety and speed of new product introductions.

Mass production methods will continue to produce high volume, inexpensive goods and services for a long time to come. But what the world is prepared to pay high prices and high wages for now is quality, variety and responsiveness to changing consumer tastes, the very qualities that the new methods of organizing work make possible.

"Tayloristic" methods are not well suited to these goals. Firms struggling to apply the traditional methods of work organization to more complex technologies, more frequent product introductions, increased quality requirements and proliferating product variety often create cumbersome and inefficient bureaucracies.

The new high performance forms of work organization operate very differently. Rather than increasing bureaucracy, they reduce it by giving front-line workers more responsibility. Workers are asked to use judgment and make decisions. Management layers disappears as front-line workers assume responsibility for many of the tasks—from quality control to production scheduling—that others used to do.

Work organizations like these require large investments in training. Workers' pay levels often rise to reflect their greater qualifications and responsibilities. But the productivity and quality gains more than offset the costs to the company of higher wages and skills development.

Despite these advantages, 95 percent of American companies still cling to old forms of work organization.

IS THERE A SKILLS SHORTAGE IN THE UNITED STATES?

Because most American employers organize work in a way that does not require high skills, they report no shortage of people who have such skills and foresee no such shortage. With some exceptions, the education and skill levels of American workers roughly match the demands of their jobs.

Our research did reveal a wide range of concerns covered under the blanket term of "skills." While businesses everywhere complained about the quality of their applicants, few talked about the kinds of skills acquired in school. The primary concern of more than 80 percent of employers was finding workers with a good work ethic and appropriate social behavior: "reliable," "a good attitude," "a pleasant appearance," "a good personality."

Most employers we interviewed do not expect their skill requirements to change. Despite the widespread presumption that advancing technology and the evolving service economy will create jobs demanding higher skills, only five percent of employers were concerned about a skills shortage. These were mainly large manufacturers, financial service organizations and communications companies.

The reason we have no skills shortage today is that we are using a turn-of-the-century work organization. If we want to compete more effectively in the global economy, we will have to move to a high productivity work organization.

HOW WE PREPARE OUR FRONT-LINE WORKERS FOR WORK

More than 70 percent of the jobs in America will not require a college education by the year 2000. These jobs are the backbone of our economy, and the productivity of workers in these jobs will make or break our economic future.

No nation has produced a highly qualified technical workforce without first providing its workers with a strong general education. But our children rank at the bottom on most international tests—behind children in Europe and East Asia, even behind children in some newly industrialized countries.

More than any other country in the world, the United States believes that natural ability, rather than effort, explains achievement. The tragedy is that we communicate to millions of students every year, especially to low-income and minority students, that we do not believe that they have what it take to learn. They then live up to our expectations, despite the evidence that they can meet very high performance standards under the right conditions.

Unlike virtually all of our leading competitors, we have no national system capable of setting high academic standards for the non-college bound or of assessing their achievement against those standards.

America may have the worst school-to-work transition system of any advanced industrial country. Students who know few adults to help them get their first job are left to sink or swim.

Only eight percent of our front-line workers receive any formal training once on the job, and this is usually limited to orientation for new hires or short courses on team building or safety.

The American post-secondary education and training system was never designed to meet the needs of our front-line workers. The system is a combination of education programs for full-time college students and short term training for the severely disadvantaged, and can be difficult to access. Because employers have not set training standards, few students can be sure that there is a market for the courses they pursue. Education is rarely connected to training and both are rarely connected to an effective job service function.

ANOTHER WAY

While the foreign nations we studied differ in economy and culture, they share an approach to the education and training of their workers and to high productivity work organization.

They insist that virtually all of their students reach a high educational standard. We do not.

They provide 'professionalized' education to non-college bound students to prepare them for their trades and to ease their school-to-work transition. We do not.

They operate comprehensive labor market systems which combine training, labor market information, job search and income maintenance for the unemployed. We do not.

They support company based training through general revenue or payroll tax based financing schemes. We do not.

They have national consensus on the importance of moving to high productivity forms of work organization and building high wage economies. We do not.

Our approaches have served us well in the past. They will not serve us well in the future.

THE CHOICE

Americans are unwittingly making a choice. It is a choice that most of us would probably not make were we aware of its consequences. Yet every day, that choice is becoming more difficult to reverse. It is a choice which undermines the American dream of economic opportunity for all. It is a choice that will lead to an America where 30 percent of our people may do well—at least for awhile—but the other 70 percent will see their dreams slip away.

The choice that America faces is a choice between high skills and low wages. Gradually, silently, we are choosing low wages.

We still have time to make the other choice—one that will lead us to a more prosperous future. To make this choice, we must fundamentally change our approach to work and education.

1. Problem: Two factors stand in the way of producing a highly educated workforce: We lack a clear standard of achievement and few students are motivated to work hard in school. One reason that students going right to work after school have little motivation to study hard is that they see little or no relationship between how well they do in school and what kind of job they can get after school. Other advanced industrial nations have stringent performance standards that virtually all students must meet at about age 16 and that directly affect their employment prospects.

Recommendation: A new educational performance standard should be set for all students, to be met by age 16. This standard should be established nationally and benchmarked to the highest in the world.

We propose that all American students meet a national standard of educational excellence by age 16, or soon thereafter. Students passing a series of performance based assessments that incorporate the standard would be awarded a Certificate of Initial Mastery.

Possession of the Certificate of Initial Mastery would qualify the student to choose among going to work, entering a college preparatory program or studying for a Technical and Professional Certificate, described below.

Creation of the Certificate of Initial Mastery standard would require a new approach to student performance assessment. We recommend the creation of new performance based examinations for which students can explicitly prepare. The assessment system would provide multiple opportunities for success rather than a single high stakes moment of possible failure. Most important, the examination, though set at a very high standard, is not intended as a sorting mechanism on the pattern of virtually all the major tests now in use. Our goal is to set a tough standard that almost everyone will reach, although not all at the same time.

Once created, this system would establish objective standards for students and educators, motivate students and given employers an objective means to evaluate the accomplishments of students.

2. Problem: More than 20 percent of our students drop out of high school—almost 50 percent in many of our inner cities. These dropouts go on to make up more than one third of our front-line workforce. Turning our backs on those dropouts, as we do now, is tantamount to turning our backs on our future workforce.

Recommendation: The states should take responsibility for assuring that virtually all students achieve the Certificate of Initial Mastery. Through the new local Employment and Training Boards, states, with federal assistance, should create and fund alternative learning environments for those who cannot attain the Certificate of Initial Mastery in regular schools.

All students should be guaranteed the educational attention necessary to attain the Certificate of Initial Mastery by age 16, or as soon as possible thereafter. Youth Centers should be established to enroll school dropouts and help them reach that standard. Federal, state and local funds should be raised or reallocated to finance these dropout recovery programs. Once the Youth Centers are created, children should not be permitted to work before the age of 18 unless they have attained the Certificate of Initial Mastery or are enrolled in a program to attain it.

3. Problem: Other industrial nations have multi-year career-oriented educational programs that prepare students to operate at a professional level in the workplace. Graduates of these programs have the skills to hit the ground running when they get their first full-time job at age 19 or 20. America prepares only a tiny fraction of its non-college bound students for work. As a result, most flounder in the labor market, moving from low paying job to low paying job until their mid-twenties, never being seriously trained.

Recommendation: A comprehensive system of Technical and Professional Certificates and associate's degrees should be created for the majority of our students and adult workers who do not pursue a baccalaureate degree.

Technical and Professional Certificates would be offered across the entire range of service and manufacturing occupations. A student could earn the entry-level occupation specific certificate after completing a two- to four-year program of combined work and study, depending upon the field. A sequence of advanced certificates, attesting to mastery of more complex skills, would be

available and could be obtained throughout one's career.

The Secretary of Labor should convene national committees of business, labor, education and public representatives to define certification standars for two- to four-year programs of professional preparation in a broad range of occupations. These programs should combine general education with specific occupational skills and should include a significant work component.

Students could pursue these programs at a wide variety of institutions accredited to offer them, including high schools, community colleges and proprietary schools. The system should be designed to make it possible for students to move easily between the Certificate programs and college.

A means should be established to ensure that all students can receive financing to pursue these programs.

4. Problem: The vast majority of American employers are not moving to high performance work organizations, nor are they investing to train their non-managerial employees for these new work organizations. The movement to high performance work organizations is more widespread in other nations, and training of front-line workers, funded in part by national assessments on employers or general public revenues, is commonplace.

Recommendation: All employers should be given incentives and assistance to invest in the further education and training of their workers and to pursue high productivity forms of work organization.

We propose a system whereby all employers will invest at least one percent of their payroll for the education and training of their workers. Those who do not wish to participate would contribute the one percent to a general training fund, to be used by states to upgrade worker skills. We further recommend that public technical assistance be provided to companies, particularly small business, to assist them in moving to higher performance work organizations.

5. Problem: The United States is not well organized to provide the highly skilled workers needed to support the emerging high performance work organizations. Public policy on worker training has been largely passive, except for the needs of a small portion of the severely disadvantaged population. The training system is fragmented wiht respect to policies, administration and service delivery.

Recommendation: A system of Employment and Training Boards should be established by Federal and state governments, together with local leadership, to organize and oversee the new school-to-work transition programs and training systems we propose.

We envision a new, more comprehensive system where skills devleopment and upgrading for the majority of our workers becomes a central aim of public policy.

The key to accomplishing these goals is finding a way to enable the leaders of our communities to take responsibility for building a comprehensive system that meets their needs. The local Employment and Training Boards for each major labor market would:

Take responsibility for the school-to-work and Youth Center-to-work transition for young people.

Manage and oversee the Youth Centers.

Manage and oversee a second chance system for adults seeking the Certificate of Initial Mastery.

Manage and oversee the system for awarding Technical and Professional Certificates at the local level.

Manage a labor market information system.

Manage and oversee the job service.

Coordinate existing programs.

The states would need to create a parallel structure to support the local Boards, coordinate statewide functions and establish state standards for their operation.

IN CONCLUSION

America is headed toward an economic cliff. We will no longer be able to put a higher proportion of our people to work to generate economic growth. If basic changes are not made, real wages will continue to fall, especially for the majority who do not graduate from four-year colleges. The gap between economic "haves" and "have nots" will widen still further and social tensions will deepen.

Our recommendations provide an alternative for America. We do not pretend that this vision will be easily accepted or quickly implemented. But we also cannot pretend that the status quo is an option. It is no longer possible to be a high wage, low skill nation. We have choices to make:

Do we continue to define educational success as "time in the seat," or choose a new system that focuses on the demonstrated achievement of high standards?

Do we continue to provide little incentive for non/college bound students to study hard and take tough subjects, or choose a system that will reward real effort with better pay and better jobs?

Do we continue to turn our backs on America's school dropouts, or choose to take responsibility for educating them?

Do we continue to provide unskilled workers for unskilled jobs, or train skilled workers and give companies incentives to deploy them in high performance work organizations?

Do we continue in most companies to limit training to a select handful of managers and professionals, or choose to provide training to front-line workers as well?

Do we cling to a public employment and training system fragmented by institutional barriers, muddled by overlapping bureaucracies and operating at the margins of the labor market, or do we choose a unified system that addresses itself to a majority of workers?

Do we continue to remain indifferent to the low wage path being chosen by many companies, or do we provide incentives for high productivity choices?

Taken together, the Commission's recommendations provide the framework for developing a high quality American education and training system, closely linked to high performance work organizations. The system we propose provides a uniquely American solution. Boldly executed, it has the potential not simply to put us on an equal footing with our competitors, but to allow us to leap ahead, to build the world's premier workforce. In so doing, we will create a formidable competitive advantage.

The status quo is not an option. The choice we have is to become a nation of high skill or one of low wages.

The choice is ours. It should be clear. It must be made.

[From the Washington Post, Sept. 3, 1990]

BUILDING A BETTER WORK FORCE

(By William E. Brock and Ray Marshall)

Labor Day, a recognition of the accomplishments of our nation's work force, also signals the return to school for millions of students. Unfortunately, these two events have little in common other than their placement on the calendar. The world of work and what one learns in school are more disconnected than ever in the United States.

This September, we have little to celebrate in this country. We continue to lose ground in many international markets, our real earnings and productivity growth have declined, our students rank at the bottom on international achievement tests and we all but ignore the one millon high school dropouts we "lose" every year.

Why?

Part of the problem is the American workplace, which is still based on a system of mass manufacture pioneered during the early 1900s. Under this system, complex jobs are broken into simple rote tasks that workers can repeat with machine-like efficiency; for many workers, an eighth-grade education is about all they need to do their jobs. For employers, financial success depends on keeping labor costs down; therefore, workers with high-level skills do not necessarily receive higher wages. Further, only 8 percent of America's front-line workers receive any formal on-the-job training.

The other part of the problem is our education system. It serves the needs of only 30 percent of our young people—those who proceed to college. The other 70 percent receive the worst job preparation in the developed world, even though it is they who will make or break our economic future.

To ensure a more prosperous future for all Americans, we need to make some fundamental changes in the workplace and in the schools. By the year 2000, more than 70 percent of American jobs will not require a college education—building a relationship between school and work is nothing short of an economic necessity.

As two former labor secretaries, we recently co-chaired the National Center on Education and the Economy's Commission on the Skills of the American Workforce, a group of leaders from business, labor, education and government gathered to study the future skills needs of our nation's non-college work force.

After months of research in businesses and in schools in the United States and in six foreign countries, the commission offered some ideas for change.

First, to meet global competition, the commission believes the United States must create an education performance standard—bench-marked to the highest in the world—to be met by all American students at age 16, the age at which young people can legally leave schools in most states. Students who meet the standard would qualify to enroll in a college-preparatory program, to begin studying for a skilled non-college occupation or even to enter the work force. However, those who did not meet the standard would be required to continue their education toward the performance standard as a condition for being allowed to work part-time before age 18.

Certain young people, for a variety of personal or societal reasons, do not do well in the present public school environment. Therefore, the commission also proposed alternative learning programs to recover

nearly all of our dropouts and help them meet this new educational standard. The programs would provide counseling and job-experience services, would combine work with studies and would interact closely with the business community.

At present, there is no consensus about how to prepare students for the world of work if they are not college bound. To accomplish this goal, the commission recommended a comprehensive system of technical training and certification for non-college professions. We used the word "professions" deliberately, because these certificate programs would set higher standards and reward higher skills in a range of occupations. This would be an opportunity for business and labor to work together to create anew the skilled crafts on which America was built.

These recommendations, together with those which would provide incentives for greater investment in the training of front-line workers by all employers, have the potential to once again build the world's premier work force.

This September, as our workers celebrate Labor Day and our students return to the classroom, we ought to be conscious of the choices we are making. Only when we begin to insist on a high-skills, high-wage economy—in our schools and in our companies—will our workers and students have cause for celebration.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to considering the following nominations: Calendar Order Nos. 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1048.

I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's actions; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Eugene L. Scassa, of Virginia, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belize.

Richard C. Brown, of Maryland, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Oriental Republic of Uruguay.

Michael Martin Skol, of Illinois, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Venezuela.

Edward P. Brynn, of Vermont, a career member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Burkina Faso.

Stephen H. Rogers, of Virginia, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Swaziland.

Arlene Render, of Virginia, a career member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of The Gambia.

Herbert Donald Gelber, of Florida, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mali.

Gordon L. Streeb, of Colorado, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zambia.

Harmon Elwood Kirby, of Ohio, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Togo.

Leonard H.O. Spearman, Sr., of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Lesotho.

James O. Mason, of Utah, to be Representative of the United States on the Executive Board of the World Health Organization.

The following named persons to be Representatives and Alternate Representatives of the United States of America to the Forty-fifth Session of the General Assembly of the United Nations:

Representatives:

Thomas R. Pickering, of New Jersey.

Alexander Fletcher Watson, of Massachusetts.

Alternate Representatives:

Jonathan Moore, of Massachusetts.

Jacob Stein, of New York.

Shirin R. Tahir-Kheli, of Pennsylvania.

Milton James Wilkinson, of New Hampshire.

Katherine D. Ortega, of New Mexico, to be an Alternate Representative of the United States of America to the Forty-fifth Session of the General Assembly of the United Nations.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Scott M. Spangler, of Arizona, to be an Assistant Administrator of the Agency for International Development, vice Charles L. Gladson, resigned.

BOARD FOR INTERNATIONAL BROADCASTING

Cheryl Feldman Halpern, of New Jesey, to be a Member of the Board for International Broadcasting for a term expiring April 28, 1991, vice Clair W. Burgener, term expired.

AFRICAN DEVELOPMENT FOUNDATION

William H.G. Fitzgerald, of the District of Columbia, to be a Member of the Board of Directors of the African Development Foundation for a term expiring February 9, 1996.

U.S. ADVISORY COMMISSION OF PUBLIC DIPLOMACY

The following named persons to be Members of the United States Advisory Commission on Public Diplomacy for terms expiring July 1, 1991:

William J. Hybl, of Colorado.

Richard B. Stone, of the District of Columbia.

FEDERAL TRADE COMMISSION

Roscoe Burton Starek III, of Illinois, to be a Federal Trade Commissioner for the term of seven years from September 26, 1990.

STATEMENT ON THE DOMINATION OF RICHARD C. BROWN

Mr. DOMENICI. Mr. President, I am pleased that the President has nominated and the Senate is about to confirm, Richard C. Brown, to represent the United States as an Ambassador in Montevideo, Uruguay. I am very happy to see a fellow New Mexican nominated for this important position.

A U.S. Ambassador is charged with enormous responsibilities ranging from serving as a personal representative of the U.S. Government to protecting and enhancing U.S. interests in areas such as economics, communications, human rights, and democratic values. Also, he is required to supervise all other U.S. Government agencies. Mr. President, this position requires strong leadership, great interpersonal communication skills, and superior management abilities which I feel Mr. Brown possesses.

Richard Brown, a career Foreign Service Officer, was born in Tulsa, OK, and shortly thereafter moved to Eunice, NM. Eunice is a small oil producing town of 2,600 people in southeastern section of the State. There he attended both elementary and high school, graduating first in his class. Mr. Brown is the first person from Eunice privileged with the opportunity to represent our country as a U.S. Ambassador. It isn't often that an ambassador comes from such a small community. His nomination demonstrates President Bush's thoroughly researched decision and I am sure that his two children, Tara and Justin, are extremely proud of their father's achievements.

Richard graduated from George Washington University where he received both his bachelors and masters degrees. He also attended the National Autonomous University of Mexico for a year of post-graduate study just prior to his entry into the Foreign Service. His determination and integrity throughout his education have driven him far today.

Richard entered the Department of State in 1963 directly from graduate school where he received a degree in international studies.

Spanning 27 years in five continents, Richard began his career as part of a special information retrieval project on Cuba. His leadership and enthusiasm have carried him far.

After serving in Vietnam as a development officer on loan to the Agency for International Development he shifted from Southeast Asia to Europe where he was assigned as a political of-

ficer at the American Consulate General in Barcelona.

Three years later he returned to Washington to become the Special Assistant to Assistant Secretary of State for Inter-American Affairs.

Richard then traveled to Brazil and spent 2 years as the head of the political section in Rio followed by 2 years as Principal Officer of the American Consulate in Recife. He was then sent to Port Louis, Maritius, to serve as the Embassy's Deputy Chief of Mission for 2 years. Upon completion of this tour, he was posted back in Washington DC where he seconded to the National Security Council to work on Latin American Affairs. He later was made Deputy Director of Central American Affairs in the Department of State, and, after 2 years there, enjoyed a year at the National War College at Fort McNair.

A 3-year stint in the Department in Caribbean Affairs followed. Mr. Brown was initially the Deputy of the office, but later became the Director following his direction of the Grenada Task Force leading up to and following the United States action in 1983. In July 1985, Richard was assigned to the American Embassy in Montevideo Uruguay as Deputy Chief of Mission Three years later he returned to Washington to become the Deputy Assistant Secretary of Defense for Inter-American Affairs in the Pentagon, a position he held until January 1990.

Richard has been very valuable in advocating the hemispheric trade concept between the United States and Central America. As a member of the Kissinger Commission on Central America, I am also committed to realize the tremendous potential of a United States, Mexico, Central America, and Canada free trade area.

Mr. President, I look forward to the confirmation of Richard Brown by the full Senate. This is another example of President Bush looking to New Mexico for strong leaders to place in his administration, and he has once again picked a man that will serve his administration and the United States very well.

STATEMENT ON THE NOMINATION OF EDWARD BRYNN

Mr. LEAHY. Mr. President, I rise today in support of President Bush's nomination of Edward Brynn as U.S. Ambassador to Burkina Faso. His nomination was favorably reported to the Senate by the Foreign Relations Committee on Tuesday, October 2, 1990.

Ed Brynn served on my staff during 1981 and 1982 when I was a member of the Senate Select Committee on Intelligence. Ed was an asset to our office—his honesty and sense of humor were appreciated by his coworkers. I knew that I could always count on his sound advice and wise counsel during those years.

Ed Brynn has served our country tirelessly. In addition to his Senate service, he saw duty in the Air Force, where he remains as a lieutenant colonel in the Reserves. Since joining the Foreign Service, he has had a distinguished career serving in Sri Lanka, Mali, and The Gambia. Following his 2 years in the Senate, Ed went on to represent the United States as Deputy Chief of Mission in Mauritania, the Comoros Islands, and Cameroon.

He was educated at Georgetown University, Stanford University, and Trinity College in Dublin. He received the Woodrow Wilson National and Dissertation Fellowships, and the National Defense Education Act Fellowship.

Mr. President, Ed has published two books on Irish history and several historical articles and papers, many of them on issues concerning Vermont, where he has a home in Chelsea waiting for him. He taught history at the Air Force Academy and the University of Colorado for 10 years. Ed also received the State Department's Meritorious and Superior Honor Awards and was the School of Foreign Service's Valedictorian in 1964.

Ed has distinguished himself as a scholar, a teacher, a solider, as well as a Foreign Service Officer. He has dedicated his life to his country and his planet in a search for international peace and understanding. At the same time that he has served this Nation so selflessly, he has also remained devoted to his family, as a fine example of a husband and father. I want to add a personal note. Ambassador Brynn and I grew up only a few blocks from each other in Montpelier, VT. Later, when I was in law school at Georgetown, he was in the undergraduate school studying foreign policy. We would travel back and forth to Vermont for school recesses and, in many ways, that relationship has never ended. The United States is fortunate to have Ed Brynn as an ambassador. Mr. President, as one who knows and respects Ed Brynn, I am proud to support his nomination as Ambassador to Burkina Faso.

STATEMENT ON THE NOMINATION OF KATHERINE D. ORTEGA

Mr. DOMENICI. Mr. President, I am pleased that the President has nominated and the Senate is about to confirm, Katherine D. Ortega, to be an Alternate Representative of the United States of America to the 45th Session of the General Assembly of the United Nations. It pleases me to see a fellow New Mexican being utilized for this very important position.

Katherine Davalos Ortega, the youngest of nine children, was born in Tularosa, NM and raised in Alamogordo, NM. She comes from a very traditional, conservative, Hispanic family. Her first language was Spanish. She did not learn English until she entered elementary school. She was the first member of her family to graduate from college.

Mrs. Ortega was an honors graduate of Eastern New Mexico University, Portales, NM, where she received her bachelor of arts degree in business and economics. She holds honorary doctor of law degrees from ENMU, New Mexico State University in Las Cruces and Kean College, New Jersey, as well as an honorary doctorate in social science from Villanova University, Pennsylvania.

In 1983 President Reagan appointed and the Senate confirmed Mrs. Ortega as the 38th Treasurer of the United States. She served until June 1989. As Treasurer, she had both management and policy responsibilities for three of the Department of Treasury's major bureaus: the U.S. Mint, the Bureau of Engraving and Printing, and the U.S. Savings Bonds Division. These bureaus had combined budgets in excess of $300 million and a work force of more than 4,000 persons. For her service to the Department of the Treasury, the Secretary presented her with the Alexander Hamilton Award, the Department's highest honor.

Prior to her appointment as Treasurer of the United States, Mrs. Ortega served as a Commissioner of the Copyright Royalty Tribunal as a member of the President's Advisory Committee on Small and Minority Business.

Mrs. Ortega was one of the highest-ranking Hispanics in the Reagan administration. Further, she is the second Hispanic woman to the important post of Treasurer.

Mrs. Ortega has an extensive background in banking and accounting. Before entering Government, Mrs. Ortega practiced with Peat, Marwick, Mitchell & Co., in Los Angeles. Also she served as vice president of the Pan American National Bank of Los Angeles, and then as the first woman president and director of the Santa Ana State Bank.

She currently serves on the board of directors of the Diamond Shamrock Corp., and is a member of the American Institute of Certified Public Accountants, and Executive Women in Government.

Mr. President, I look forward to the confirmation of Katherine Ortega by the full Senate. Once again President Bush has looked toward New Mexico in search of honest hard-working people to serve his administration and the United States.

STATEMENT ON THE NOMINATION OF BILL HYBL

Mr. WIRTH. Mr. President, Mr. William J. Hybl of Colorado Springs, CO, has been nominated to be a member of the U.S. Advisory Commission on Public Diplomacy. I have known Bill Hybl for several years and am impressed with his commitment to serve the people of Colorado Springs and this Nation as a whole. Bill is a man of

honesty and integrity, and a worthy recipient of this honor.

Bill Hybl is currently the chairman and chief executive officer for the El Pomar Foundation and vice chairman and member of the board of directors for the Broadmoor Hotel, Inc., in Colorado Springs. The El Pomar Foundation is the largest foundation in the Rocky Mountain Region and makes grants to those concerened with education, health care, the environment, human services and the arts. He is also a member of the board of directors for the U.S. Chamber of Commerce and the Colorado Association of Commerce and Industry.

Bill Hybl serves as president of the Air Force Academy Foundation which assists with major capital improvement projects for the Air Force Academy, including Falcon Stadium, the Eisenhower Golf Course, the Cadet Activities Center and the Goldwater Visitors' Center. In addition since 1986, Bill has been a civilian aide to the Secretary of the Army.

Bill Hybl's credentials are impeccable. I congratulate Bill on his nomination to the Advisory Commission on Public Diplomacy and urge my colleagues to confirm his nomination. I know that Bill will be an excellent member of this commission.

Mr. President, I ask unanimous consent that Bill Hybl's vita be printed in the RECORD.

There being no objection, the vita was ordered to be printed in the RECORD, as follows:

WILLIAM J. HYBL, COLORADO SPRINGS, CO.

Current employment:

El Pomar Foundation, Colorado Springs, Colorado, (1973-Present), Chairman and Chief Executive Officer Served as president for eight years, until August 1, 1989.

Broadmoor Hotel, Inc., Colorado Springs, Colorado, Vice Chairman/Board of Directors.

El Pomar Foundation has owned, and still maintains a substantial interest in the Broadmoor Hotel in Colorado Springs. El Pomar Foundation has other assets in Colorado and Kansas, and maintains a large, diversified equity portfolio.

El Pomar Foundation is the largest foundation in the Rocky Mountain Region, making grants in education, health care, the environment, human services and the arts.

Employment history

1981 (Jan.-Mar.), Special White House Counsel, Washington, DC. Advised on Administration transition matters associated with presidential personnel appointments, policy associated with the boycott of 1980 Olympic Games and other areas.

1972-1973, Member, Republican, Colorado House of Representatives, Vice Chairman, House Judiciary Committee, Involved with water policy, judicial reform and other legislative matters.

1970-1972 Assistant District Attorney, Fourth Judicial District, Colorado, Held the number two position in the District Attorney's office with a staff of 20 deputy district attorneys and 45 support personnel; served as Chief Administrative and Personnel Officer.

Corporate and business affiliations:

United States Chamber of Commerce, Washington, D.C., Board of Directors; Chairman, Public Affairs Committee.

The Chamber serves as the principle national spokesman for business and industry on domestic business issues and international trade efforts.

Colorado Association of Commerce and Industry, Denver, Colorado, Board Member.

Past Vice-Chairman and Executive Committee member, First National Bank of Colorado Springs, Colorado Springs, Colorado, Board of Directors.

Affiliated Bankshares of Colorado (A 29-bank holding company) Denver, Colorado, Board of Directors.

KN Energy Denver, CO, Board of Directors.

Civic Associations:

The Air Force Academy Foundation, Colorado Springs, Colorado, President, Board of Directors, Leadership involvement in major capital improvement projects for the Air Force Academy, which have included Falcon Stadium, Eisenhower Golf Course and the Cadet Activities Center. Chaired fund drive for the Goldwater Visitors' Center which opened May 1986, at the Academy.

National Junior Achievement of America, Secretary/Board of Directors.

Vail Valley Foundation, Vail, Colorado, Board of Trustees.

United States Olympic Committee, Asst. to USOC President.

American Council of Young Political Leaders, Washington, D.C., Board of Trustees.

Served as Secretary General and member of the Executive Committee of The Atlantic Alliance of Young Political Leaders. Have been Chairman and/or member of several American delegations to Portugal, Germany, The People's Republic of China and NATO. Served as Republican representative to the first round of French elections in 1981.

The Colorado College, Colorado Springs, Colorado, Vice Chairman, Board of Trustees.

Colorado Commission on the Bicentennial of the Constitution, Chairman of Commission by appointment of Governor 1985-1986.

Nature Conservancy (Colorado Chapter), Board of Trustees.

Education and Professional Credentials:

The Colorado College, BA.-1964 Sigma Phi Fraternity-President.

Interfraternity Council-President, Blue Key Honorary, Black and Gold Honorary.

University of Colorado Law School, J.D.-1967 Phi Alpha Delta Law Fraternity-President.

Admitted to practice law: United States Supreme Court, United States Court of Appeals, United States District Court, and United States Tax Court, State of Colorado.

Military:

1967-1969 United States Army, Captain, Army Security Agency stationed in Asmara, Ethiopia. Served as Operations Officer with 540 personnel attached to operational unit. Attended Infantry Officer's School at Fort Benning, Georgia and was Honor Graduate from the Army Security Agency School at Fort Devens, Massachusetts.

Awarded Army Commendation Medal.

Served as a Major, U.S. Army Reserve, Judge Advocate General Corps unitl 1978.

1986-Civilian Aide to Secretary of the Army (Colorado)

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination which was referred to the appropriate committee.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:15 p.m., a message from the House of Representatives announced that the House has passed the bill (S. 2834) to authorize appropriations for fiscal year 1991 for the intelligence activities of the U.S. Government, the Intelligence community staff, and the Central Intelligence Agency retirement and disability system, and for other purposes, with an amendment; it insists upon its amendment to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Permanent Select Committee on Intelligence: Mr. BEILENSON, Mr. MCCURDY, Mr. KASTENMEIER, Mr. ROE, Mr. MCHUGH, Mr. DWYER of New Jersey, Mr. WILSON, Mrs. KENNELLY, Mr. GLICKMAN, Mr. MAVROULES, Mr. RICHARDSON, Mr. SOLARZ, Mr. HYDE, Mr. LIVINGSTON, Mr. SHUSTER, Mr. COMBEST, Mr. BEREUTER, Mr. ROWLAND of Connecticut, and Mr. DORNAN of California.

From the Committee on Armed Services, for the consideration of Department of Defense tactical intelligence and related activities and section 504 of the House bill: Mr. ASPIN, Mr. SKELTON, and Mr. DICKINSON.

The message also announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 649. Joint resolution approving the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Czechoslovakia; and

H.J. Res. 676. Joint resolution waiving certain enrollment requirements with respect to any reconciliation bill or continuing resolution for the remainder of the One Hundred First Congress.

At 2:58 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 2846) to authorize and direct the Secretary of the Interior to conduct a study of the feasibility of establishing a unit of the National Park System to interpret and commemorate the origins, development, and progression of jazz in the United States, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 267) to authorize the Secretary of the Interior to convey certain lands in Idaho to Mr. and Mrs. Kennedy Blevins of Kuna, ID; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 3911. An act to amend title 5 of the United States Code to increase the allowance for services of attendants;

H.R. 4888. An act to improve navigational safety and to reduce the hazards to navigation resulting from vessel collisions with pipelines in the marine environment, and for other purposes;

H.R. 5506. An act to provide for the transfer of an existing United States memorial erected under the auspices of The American Legion, Inc., for the use and benefit of all American officers and enlisted personnel who served in World War I to the Department of Veterans Affairs, and for other purposes

H.R. 5657. An act to make technical amendments to the Veterans' Judicial Review Act;

H.J. Res. 587. Joint resolution committing to the private sector the responsibility for support of the Civil Achievement Award Program in Honor of the Office of Speaker of the House of Representatives; and

H.J. Res. 647. Joint resolution disapproving the recommendation of the President to extend nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China.

The message further announced that the Speaker makes the following modifications in the appointment of conferees in the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 358) entitled "An act to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States, and to provide for administrative naturalization, and for other purposes":

The conferees from the Committee on Education and Labor are also appointed for consideration of section 104 of the House amendment.

Mr. MOAKLEY is appointed as a conferee for consideration of section 324 of the House amendment, and modifications committed to conference.

At 6 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 3386) to prohibit the use of refrigerated motor vehicles for the transportation of solid waste, to prohibit the use of cargo tanks in providing motor vehicle transportation of food and nonfood products, and for other purposes; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3977. An act to protect and conserve the continent of Antarctica, and for other purposes.

At 6:26 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 677. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4257. An act to create the Supreme Court of the District of Columbia, and for other purposes; to the Committee on Governmental Affairs.

H.R. 5506. An act to provide for the transfer of an existing United States memorial erected under the auspices of the American Legion, Inc., for the use and benefit of all American officers and enlisted personnel who served in World War I to the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 5657. An act to make technical amendments to the Veterans' Judicial Review Act; to the Committee on Veterans' Affairs.

MEASURES PLACED ON THE CALENDAR

The following bill and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3977. An act to protect and conserve the continent of Antarctica, and for other purposes.

H.J. Res. 647. Joint resolution disapproving the recommendation of the President to extend nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China.

ENROLLED BILLS SIGNED

The ACTING PRESIDENT pro tempore (Mr. KOHL) announced that on today, October 18, 1990, he had signed the following enrolled bills which had previously been signed by the Speaker of the House:

H.R. 4757. An act to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police; and

H.R. 5579. An act to amend section 28(w) of the Mineral Leasing Act, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 17, 1990, he had presented to the President of the United States the following enrolled bills:

S. 1824. An act to amend the Education of the Handicapped Act to revise and extend the programs established in parts C through G of such act, and for other purposes;

S. 2167. An act to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act; and

S. 3127. An act to designate the Department of Veterans Affairs Medical Center in Albany, New York, as the "Samuel S. Stratton Department of Veterans Affairs Medical Center."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance, without amendment:

S.J. Res. 361. Joint resolution approving the extension of nondiscriminatory treatment (most favored nation treatment) to the products of Czechoslovakia (Rept. No. 101-537).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources with an amendment in the nature of a substitute and an amendment to the title:

S. 2521. A bill to exchange certain lands in the State of New Mexico, and for other purposes (Rept. No. 101-538).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources with an amendment in the nature of a substitute:

H.R. 3209. A bill to modify the boundaries of the Indiana Dunes National Lakeshore, and for other purposes (Rept. No. 101-539).

By Mr. BURDICK, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute;

S. 2637. A bill to amend the Toxic Substances Act to reduce the levels of lead in the environment, and for other purposes (Rept. No. 101-540).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry:

Keith D. Bjerke, of North Dakota, to be a Member of the Board of Directors of the Commodity Credit Corporation; and

Billy Ross Brown, of Mississippi, to be a Member of the Farm Credit Administration Board, Farm Credit Administration, for the term expiring October 13, 1994.

(The above nominations were reported with the recommedation that they

be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LAUTENBERG (for himself and Mr. LIEBERMAN):

S. 3218. A bill to establish an environmental marketing claims monitoring program, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN:

S. 3219. A bill to mandate a study of the effectiveness of the National Drug Strategy and to provide for an accounting of funds devoted to its implementation; to the Committee on Governmental Affairs.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, Mr. ROBB, Mr. HEINZ, and Mr. SPECTER):

S. 3220. A bill to assist in the restoration of the Chesapeake Bay and for other purposes; to the Committee on Environment and Public Works.

By Mr. BURNS (for himself, Mr. ARMSTRONG, Mr. HEFLIN, Mr. D'AMATO, Mr. GRASSLEY, Mr. HOLLINGS, Mr. DURENBERGER, Mr. INOUYE, and Mr. HELMS):

S.J. Res. 381. Joint resolution to designate November 2, 1990, as a national day of prayer for members of military forces and American citizens stationed or held hostage in the Middle East and for their families; to the Committee on the Judiciary.

By Mr. DIXON:

S.J. Res. 382. Joint resolution disapproving the recommendation of the President to extend nondiscriminatory treatment (most favored nation treatment) to the products of the People's Republic of China; to the Committee on Finance.

By Mr. HEINZ:

S.J. Res. 383. Joint resolution to designate November 16, 1990, as "National Federation of the Blind Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG (for himself and Mr. LIEBERMAN):

S. 3218. A bill to establish an environmental marketing claims monitoring program, and for other purposes; to the Committee on Environment and Public Works.

ENVIRONMENTAL MARKETING CLAIMS ACT

● Mr. LAUTENBERG. Mr. President, I rise today to introduce the Environmental Marketing Claims Act of 1990. I am pleased to be joined by Senator LIEBERMAN. This bill will require the EPA to establish uniform, accurate standards, and definitions for environmental marketing claims. In so doing, this bill will give consumers reliable and consistent guidance to help them compare environmental marketing claims. It will prevent the use of fraudulent, deceptive, and misleading environmental marketing claims, and encourage the development of innovative technologies and practices that favor natural resources conservation and environmental protection.

Mr. President, the United States is facing growing environmental problems like global warming, lack of landfill space, and air and water pollution. Today, more than ever, people realize one of the easiest and most effective ways they can help address these problems is through their consumer choices. National surveys have shown that 90 percent of American consumers would look for environmentally preferable products and pay more for them. Surveys also show that over 50 percent of American consumers would switch supermarkets to shop at one that offered environmentally sensitive products and practices.

American businesses realize the growing consumer demand for products that don't harm or are less harmful to the environment. They have responded with have a plethora of environmental claims on products and packages. Now, practically everywhere consumers look, they are bombarded with products claiming to be better for the environment.

Mr. President, instead of environmental consumerism, we are getting environmental confusion. When a product claims it is environmentally safe, what does that mean? Does that mean that it didn't use harmful materials or processes during manufacturing or that it was made from recycled materials, or that it is biodegradable? Does it mean all of these? Perhaps it means something else altogether.

There are other, more specific claims that have some meaning to consumers and have the potential to let the marketplace help in addressing environmental problems, but these claims are sometimes misused or misleading. A product labeled biodegradable for example, must ultimately end up in a place where there is air, sunlight, and microorganisms to break down the material for it to biodegrade. But most of the stuff we throw away in our trash cans never gets a chance to biodegrade because it goes to landfills that lack circulating air and sunlight necessary for biodegradation to occur.

Mr. President, I commend those manufacturers that honestly want to respond to consumer demand for environmentally preferable products. They, as much as anyone, want to play by a common set of rules. The American people want to see firms invest in equipment or processes that can back up environmental claims. But companies won't want to do it if their competitors can make the same claim without the same commitment.

Without any direction, the goodwilled consumer who wants to do something to protect our environment is being confused, misled, and sometimes deceived.

Mr. President, it is a basic role of government to establish common standards, measures, and definitions that will provide some common denominators by which competition can take place fairly in the free market. A free market depends on it.

A free market also depends on free and accurate information. Information is power. This legislation will empower consumers with the understanding about environmental claims they need to help protect the environment.

Mr. President, the Environmental Marketing Claims Act of 1990 will make sure that consumers are getting the truth about the environmental products they buy. This bill sets up an independent advisory board of environmentalists, consumer and industry representatives to advise the EPA on standards and definitions governing the use of environmental marketing claims.

The bill also sets forth criteria to be considered by the board and the EPA to ensure that environmental claims are based on the best scientific information available and that the same claims meet the same standards. When a manufacturer claims a product is made from recycled materials, consumers have the right to know whether it is made from 10 percent or 90 percent recycled materials and whether those materials are useful byproducts from manufacturing or whether they are postconsumer materials taken out of the waste stream.

By requiring the EPA to develop regulations based on the best available technology and the most recent scientific knowledge, this legislation will encourage the development of innovative technologies and practices to be adopted by industry in considering the environmental effects when producing products and packaging.

Mr. President, I have worked closely with States attorneys general, environmental groups, and industry representatives in developing this legislation. It builds on a recent resolution by the National Association of Attorneys General that calls on the Federal Government to establish uniform national guidelines for environmental marketing claims. A similar resolution was adopted earlier this year by the National Association of Consumer Agency Administrators. And it has the support of a variety of national environmental organizations.

Industry is ready for regulations governing environmental marketing claims that would allow industry to compete on a level playing field. Consumers are eager to get the information they need to make informed choices according to their environmental preferences. The time for Congress to act is now; before consumers get so

disillusioned that they won't believe any environmental claim they see.

Although it is late in the congressional session, we are introducing this bill now so that the Senate can act quickly on this legislation in the next session.

I urge my colleagues to support this legislation so that industry and consumers can act consistently and effectively to help protect our environment through the free and green marketplace.

I ask unanimous consent that a copy of the bill be printed in the RECORD as well as resolutions and letters of support.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3218

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Environmental Marketing Claims Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares that—

(1) the United States is facing growing environmental problems such as global climate change, waste disposal, and air and water pollution;

(2) environmental marketing claims convey information about products and influence purchasing decisions;

(3) national surveys have shown that over 90 percent of American consumers would pay more for environmentally preferable products;

(4) conveying accurate and reliable environmental information in environmental marketing claims will be of great use to the consumers willing to change their purchasing patterns;

(5) environmental marketing claims are largely unregulated and can be deceptive; and

(6) deceptive environmental marketing claims exploit genuine consumer concern and may confuse consumers so as to impede the effectiveness of the use of legitimate environmental marketing claims addressing environmental problems.

(b) PURPOSES.—The purposes of this act are to—

(1) prevent the use of fraudulent, deceptive, and misleading environmental marketing claims;

(2) empower consumers with reliable and consistent guidance to facilitiate value comparisons with respect to environmental marketing claims;

(3) establish uniform, accurate standards and definitions that reflect the best available manufacturing practices, products, and packaging;

(4) encourage the development of innovative technologies and practices to be adapted by manufacturers in considering the environmental effects when producing products and packages; and

(5) encourage both consumers and industry to adopt habits and practices that favor natural resource conservation and environmental protection.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "product" means any commodity, goods, or item distributed for promotional use, rent, lease, or sale through retail or wholesale sales agencies or instrumentalities for consumption or use,

(2) the term "package" means the coating, covering, container, or wrapping used during a product life cycle (including any outer container, wrapping, or label used in the retail display of any product);

(3) the term "life cycle" includes the—

(A) extraction;

(B) processing and manufacturing;

(C) transportation and distribution;

(D) use; and

(E) management as waste

of raw materials used in the manufacture of a product or package, and of the product or package, including the energy consumption associated with the activities described in subparagraphs (A) through (E);

(4) the term "environmental marketing claim" means any symbols or terms that are on a label, package, or product or that are used in promotion or advertising to inform consumers about the environmental impact or environmental attributes of a product or package during any part of its life cycle;

(5) the term "label" means any written, printed, or graphic material affixed, to appearing upon a product or package or appearing upon a shelf or display area that refers to a product or package;

(6) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(7) the term "end product" means only those items that are designed to be used until disposal; items designed to be used in production of a subsequent item are excluded;

(8) the term "post-consumer material" means only those products or packages generated by a business (as defined by the Administrator) or consumer (as defined by the Administrator) which have served their intended end uses, and which have been separated or diverted from solid waste except that such term shall not include wastes generated during the production of an end product;

(9) the term "preconsumer material" means waste generated during production which cannot be returned to the same production process, nor used by another company to make a product similar to the original product, nor used by the same parent company to manufacture a different product, and includes all wastes generated during the intermediate steps in producing an end product by succeeding companies;

(10) the term "secondary material" means any combination of preconsumer and postconsumer material.

SEC. 4. ENVIRONMENTAL LABELING REGULATORY PROGRAM.

The Administrator shall establish, by regulation, an environmental marketing claims regulatory program. The purpose of such a program shall be to carry out the provisions of this Act.

SEC. 5. INDEPENDENT ADVISORY BOARD.

(a) ESTABLISHMENT.—The Administrator, by regulation, shall establish not later than 180 days after the date of enactment of this Act, an Independent Advisory Board (hereafter in this Act referred to as the "Board") to advise and make recommendations to the Administrator, as provided in subsection (c), concerning the regulation of environmental marketing claims.

(b) MEMBERSHIP.—(1) The Board shall consist of 15 members, including 4 ex officio members, who shall be appointed by the Administrator as follows:

(A) 3 members who are recognized as consumer advocates, one of which is a recognized expert in marketing or consumer perception.

(B) 5 members representative of industry and manufacturing, including—

(i) 1 retailer;

(ii) 1 manufacturer;

(iii) 1 recognized waste management expert in the private sector; and

(iv) 1 end user of post-consumer materials.

(C) 3 members representative of environmental organizations, of which 1 member is a recognized expert in soil science or environmental toxicology.

(D) 2 members who shall serve ex officio who are officers or employees of State government, and of which—

(i) 1 member is recognized expert in consumer protection; and

(ii) 1 member who is recognized as a waste management, pollution reduction, or pollution prevention expert.

(E) 1 member who is an officer or employee of a local government and is engaged in pollution prevention or waste management or a municipal recycling program or consumer protection who shall serve ex officio.

(F) 1 member who is an officer or employee of the National Institute of Standards and Technology, who shall serve ex officio.

(2) Members of the Board serving ex officio shall have no vote.

(3) The Chairman of the Board shall be designated by the Administrator. The Board shall meet at the call of the Administrator or the Chairman.

(c) ADMINISTRATIVE MATTERS.—(1) The Board shall conduct its business in open meetings (subject to any requirement for privacy in personnel matters and review of confidential information under any provision of law), and may hold hearings to seek public comment and participation in formulating recommendations for the definitions and standards described in section 6(a).

(2) Members of the Board who are not otherwise employed by the Federal Government may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

(d) ANNUAL REPORT.—Not more than 180 days after the initial meeting of the Board, and annually thereafter, the Chairman of the Board shall submit to the Administrator a report that outlines the activities and recommendations of the Board relating to the items described in section (6). The initial report shall include the recommendations described in section 6(a).

SEC. 6. REGULATION OF ENVIRONMENTAL MARKETING CLAIMS.

(a) RECOMMENDATIONS BY THE BOARD.—Recommendations by the Board to the Administrator, shall include definitions and standards to be used in regulation environmental marketing claims on a national basis. In making such recommendations, the Board shall consider the requirements for final regulations described in subsection (b), and shall consider available studies, standards, and other information that the Chairman of the Board determines to be appropriate.

(b) FINAL REGULATIONS.—(1) The Administrator, after considering the recommendation of the Board described in subsection (a), shall not later than 18 months after the date of the enactment of this Act, promulgate final regulations governing the use of environmental marketing claims, including

statements to the effect that a product or package is—

(A) source reduced;

(B) refillable;

(C) reusable;

(D) recyclable;

(E) has a recycled content;

(F) compostable;

(G) ozone neutral;

(H) nontoxic; or

(I) otherwise related to an environmental impact or attribute (as determined by the Administrator).

(2) In promulgating the regulations described in paragraph (1), the Administrator shall ensure that an environmental marketing claims shall be related to a specific environmental impact or attribute (as determined and defined by the Administrator) in such a manner as to ensure that such environmental marketing claims is not false, misleading, or deceptive except that this shall not preclude the use of general environmental seals of approval awarded according to objective criteria that promote environmentally preferable products and packages (as determined by the Administrator).

(3) In promulgating the regulations described in paragraph (1), the Administrator shall ensure that with respect to an environmental marketing claim, such claim has been substantiated on the basis of the best available scientific information (as determined by the Administrator).

(4) In promulgating the regulations described in paragraph (1), the Administrator shall assign a product to a category or subcategory for the purpose of such regulations according to the following criteria:

(A) the composition of the product; and

(B) the packaging of the product.

(5) In establishing product categories for the purposes of the regulations, as described in paragraph (1), the Administrator may establish a category for a specific type of product, or many assign a product to a general category on the basis of the function of the product.

(6) In promulgating the regulations described in paragraph (1), the Administrator shall ensure that environmental marketing claims shall make a clear distinction between the product and any accompanying packaging unless the claim applies to both.

(7) The Administrator shall include the following requirements in the final regulations described in paragraph (1):

(A)(i) An environmental marketing claim relating to "recycled content" shall be used only in connection with a product or package containing postconsumer materials and, except as provided in clause (ii), the postconsumer materials shall equal a minimum rate of 25 percent prior to the year 2000, and a minimum rate of 50 percent (by weight) on or after the year 2000 of the product content or package composition.

(ii) Notwithstanding clause (i), an environmental marketing claim related to "recycled content" may be used in connection with a product or package that contains a percentage of postconsumer or secondary materials that is less than the percentage specified in clause (i), if a manufacturer, retailer, or distributor, or other person responsible for the use of such environmental marketing claim (as determined by the Administrator) includes in such claim a sentence (in which the terms described in the regulation promulgated under section 6 are displayed no more prominently than other words in the sentence) that states the percentage (by weight and by volume) of post-consumer and secondary materials used in such product or package.

(B) An environmental marketing claim relating to the "recyclable" nature of a product or package shall be used only in connection with a product or package for which a manufacturer, retailer, distributor, or other person responsible for the use of such environmental marketing claim (as determined by the Administrator), is able to demonstrate, to the satisfaction of the Administrator, that such product or package shall be recycled, at a minimum rate of 25 percent prior to the year 2000, and at a minimum rate of 50 percent on or after the year 2000.

(C) An environmental marketing claim relating to the "reusable" or "refillable" nature of a product or package shall be used only in connection with a product of package that is reused for the original purpose of the product or package, and average of 5 times or more (as determined by the Administrator).

(D) An environmental marketing claim relating to the "compostable" nature of a product or package shall be used only in connection with a product or package for which a manufacturer, retailer, distributor, or other person responsible for the use of such environmental marketing claim (as determined by the Administrator), is able to demonstrate, to the satisfaction of the Administrator, that—

(i) such product or package shall be composted, at a minimum rate of 25 percent prior to the year 2000 and at a minimum rate of 50 percent on or after the year 2000 of all such products or packages, in a solid waste disposal system (including a composting solid waste disposal system) in which the compostable nature of the product is a desirable and environmentally significant characteristic (as defined and determined by the Administrator); and

(ii) such product or package will not release toxic materials or any other materials that may otherwise be harmful to humans, other organisms or natural ecological processes (as defined and determined by the Administrator.)

(c) ADDITIONAL REGULATIONS.—(1) The Administrator may, at any time after the date of the promulgation of the regulations required under subsection (b), promulgate such additional regulations as the Administrator determines, on the bases of the criteria described in subparagraphs (A) and (B) of paragraph (2), to be necessary to carry out the purposes of this Act.

(2) In reviewing the regulations described in subsection (b), or in any additional regulations promulgated under this subsection, the Administrator shall determine whether it is appropriate to promulgate additional regulations to—

(A) reflect the best available use and the best available technology that will encourage higher performance levels in products and packaging in meeting the objective of reducing negative environmental impacts and improving environmental attributes; and

(B) reflect the most recent scientific and practical knowledge of technological advances and improvements (as determined by the Administrator) in manufacturing techniques and waste management.

(3) Not later than 3 years after the date of the promulgation of the final regulations described in subsection (b) or any additional regulations promulgated under this subsection, and every 3 years thereafter, the Administrator shall review such regulations.

(4)(A) An interested individual (including a representative of industry, and interested citizen, or a representative of an environmental organization), may petition the Administrator to initiate rulemaking procedures with respect to promulgating additional regulations under this section.

(B) Not later than 60 days after receiving a petition described in subparagraph (A), the Administrator shall determine whether to accept or deny the petition and shall publish the petition in the Federal Register, along with an explanation of the reasons for such determination.

SEC. 7. CERTIFICATION.

(a) FILING OF A CERTIFICATION.—Not later than 6 months after the date of the promulgation of any regulation under section 6, any manufacturer or any other person who intends to use an environmental marketing claim for which the Administrator has promulgated a regulation shall first submit a certification to the Administrator that the environmental marketing claim intended to be used meets the requirements of this Act. Such certification shall be in such form as the Administrator shall prescribe by regulation and shall contain such information as the Administrator determines to be appropriate.

(b) DISAPPROVAL OF CERTIFICATION.—The Administrator may, at any time, disapprove the certification provided under subsection (a) if the Administrator determines that the environmental marketing claim that the manufacturer or other person intends to use does not meet the requirements of the regulations promulgated under section 6 of this Act.

(c) RECERTIFICATION.—Any person using an environmental marketing claim shall resubmit a certification to the Administrator that the environmental marketing claim used meets the requirements of the Act if:

(1) changes have been made in the product or package that would affect its ability to meet the regulatory requirements of the environmental marketing claim previously used for such a product or package, or;

(2) new regulations have been promulgated under this Act relating to the environmental claim being used. Such recertification shall be submitted to the Administrator within 6 months of the occurrence of either event described in paragraphs (1) and (2) of this subsection.

SEC. 8. PROHIBITION.

It shall be unlawful for any person to: (a) fail or refuse to comply with—

(1) any regulations promulgated under section 6(b) of this Act; or

(2) any order issued by the Administrator to carry out any such regulation; or

(b) use any environmental marketing claim for which the Administrator has issued a regulation under section 6 if—

(1) the person has failed to file a certification as required by section 7; or

(2) the Administrator has disapproved a certification under section 7.

SEC. 9. PENALTIES.

(a) CIVIL.—(1) Any person who violates a provision of section 8 of this Act shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation. Each day such a violation continues shall, for the purpose of this subsection, constitute a separate violation of section 8 of this Act.

(2)(A) A civil penalty for a violation of section 8 of this Act shall be assessed by the Administrator by an order made on the record after opportunity (provided in accordance with this subparagraph) for a hearing in accordance with section 554 of title 5, United States Code. Before issuing

such an order, the Administrator shall give written notice to the person to be assessed a civil penalty under such order of the Administrator's proposal to issue such order and provide such person an opportunity to request, within 15 days of the date the notice is received by such person, such a hearing on the order.

(B) In determining the amount of a civil penalty, the Administrator shall take into account the nature, circumstances, extent, and the gravity of the violation, and with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior related violations, the degree of culpability, and such other matters as the Administrator determines to be appropriate.

(3) Any person who has requested a hearing with respect to the assessment of a civil penalty in accordance with paragraph (2)(A) and who is aggrieved by an order assessing the civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

(4) If a person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (3); or

(B) after a court in an action brought under paragraph (3) has entered a final judgment in favor of the Administrator,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day referred to in paragraph (3) or the date of such final judgement, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(b) CRIMINAL.—Any person who knowingly or willfully violates any provision of section 8 of this Act, shall, in addition to or in lieu of any civil penalty which may be imposed under subsection (a) of this section for such violation, be subject, upon conviction, to a fine of not more than $25,000 for each day of violation, or to imprisonment for not more than 1 year, or both.

(c)(1) The authorized fines provided in subsections (a) and (b) shall be adjusted for inflation every 5 years as provided in this subsection.

(2) Not later than December 1, 1993, and December 1 of each fifth calendar year thereafter, the Secretary shall prescribe and publish in the Federal Register a schedule of maximum authorized fines that shall apply for violations that occur after January 1 of the year immediately following such publication.

(3) The schedule of maximum authorized fines shall be prescribed by increasing the amounts in each of the subsections referred to in paragraph (1) by the cost-of-living adjustment for the preceding 5 years. Any increase determined under the preceding sentence shall be rounded to—

(A) in the case of penalties greater than $1,000 but less than or equal to $10,000, the nearest multiple of $1,000;

(B) in the case of penalties greater than $10,000 but less than or equal to $100,000, the nearest multiple of $5,000;

(C) in the case of penalties greater than $100,000 but less than or equal to $200,000, the nearest multiple of $10,000; and

(D) in the case of penalties greater than $200,000 the nearest multiple of $25,000.

(4) For purposes of this subsection:

(A) The term "Consumer Price Index" means the Consumer Price Index for all-urban consumers published by the Department of Labor.

(B) The term "cost-of-living adjustment for the preceding 5 years" means the percentage by which—

(i) the Consumer Price Index for the month of June of the calendar year preceding the adjustment; exceeds

(ii) the Consumer Price Index for the month of June preceding the date on which the maximum authorized fine was last adjusted.

SEC. 10. CITIZENS SUITS.

(a) IN GENERAL.—(1) Except as provided in subsection (b), any person may commence a civil action against—

(A) any person who is alleged to be in violation (including the Government of the United States, to the extent allowable by law); or

(B) the Administrator to compel the Administrator to carry out ministerial duties assigned to the Administrator under this Act.

(2) An civil action under this subsection shall be brought in the United States district court of the district in which the alleged violation occurred or in which the defendant resides or in which the defendant's principal place of business is located. The district courts of the United States shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties. The district court shall have jurisdiction to order all necessary injunctive relief and to impose any civil penalty.

(b) LIMITATIONS.—(1) No civil action may be commenced to restrain any violation of section 8 of this Act—

(A) before the expiration of 60 days after the plaintiff has given notice of such violation to—

(i) the Administrator; and

(ii) to the person who is alleged to have committed such violation;

(B) if the Administrator has commenced a proceeding for the issuance of an order to require compliance with the regulation or requirement and is diligently pursuing such proceeding or has issued an order to carry out the regulation or requirement described in section 8 and is diligently pursuing the enforcement of such order.

(C) if the Attorney General has commenced a civil action in a court of the United States to require compliance with the regulation, requirement, or order described in subparagraph (B) and is diligently prosecuting such civil action.

(2) No civil action may be commenced against the Administrator under subsection (a)(1)(B) before the expiration of a 60-day period after the plaintiff has given notice to the Administrator of the alleged failure of the Administrator to perform an act or duty which is the basis for such action.

(c) INTERVENTION.—(1) If a proceeding or civil action described in subsection (b) is commenced by the Administrator or the Attorney General after the giving of notice by a person (other than the Administrator of Attorney General) described in subsection (a), such person may intervene as a matter of right in such proceeding or action.

(2) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

(d) NOTICE.—Notice under this section shall be given in such a manner as the Administrator shall prescribe by regulation.

(e) ATTORNEYS' FEES AND COURT COSTS.—(1) The court, in issuing any final order in any action brought pursuant to subsection (a), may award costs of suit and reasonable fees for attorneys and experts witnesses if the court determines that such award is appropriate.

(g) CONSOLIDATION.—When two or more civil actions brought under subsection (a) involving the same defendant and the same issues or violations are pending in two or more judicial districts, such pending actions may be consolidated and tried in accordance with section 1407 of title 28, United States Code, and the rules promulgated pursuant to such section 1407.

SEC. 11. PUBLIC INFORMATION CAMPAIGN.

The Administrator shall conduct a public information and education campaign, including public service advertising, in order to enable consumers to—

(1) recognize environmental marketing claims regulated under this Act and be able to distinguish them from other environmental marketing claims,

(2) have information about the criteria used by the Administrator in establishimg standards and definitions for environmental marketing claims, and

(3) have a better understanding about the effects that products and packages can have on the environment.

SEC. 12. STATUTORY CONSTRUCTION.

(A) RIGHT TO SEEK ENFORCEMENT.—Nothing in section 10 shall restrict any right which any person (or class of persons) may have under any other statute or under common law to seek enforcement of any regulation promulgated under section 6 of this Act.

(b) ACTIONS AGAINST ADVERTISERS.—Nothing in this Act shall be construed so as to alter the right under any other provision of law or under common law of a person or government to commence an action against an advertiser related to the use of false or misleading environmental marketing claims.

(c) STANDARDS.—Nothing in this act shall be construed so as to prohibit a State from enacting and enforcing a standard or requirement with respect to the use of an environmental marketing claim that is more stringent than a standard or requirement relating to an environmental marketing claim established or promulgated under this Act.

SEC. 13. CONFORMING AMENDMENT.

Section 11 of the Fair Packaging and Labeling Act (15 U.S.C. 1460) is amended—

(1) by striking "or" at the end of subsection (b);

(2) by striking the period at the end of subsection (c) and inserting ", or"; and

(3) by adding at the end of the section the following new subsection:

"(d) the Enviromental Marketing Claims Act of 1990".

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

For the purposes of carrying out the provisions of this Act, there are authorized to be appropriated $10,000,000 for fiscal years 1991, 1992, and 1993.

CONSUMERS UNION,
Washington, DC, October 12, 1990.

Hon. FRANK LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: Consumers Union would like to thank and congratulate you on the introduction of your bill to establish a national standard for environmental marketing claims.

Increased concern with the environment has brought with it a host of confusing and sometimes misleading claims in the marketplace that products are "green" or environmentally "friendly". It is difficult and often impossible for consumers to sort out and evaluate these claims. Further, there is no official standard by which to judge the honesty and accuracy of environmental marketing claims and no specific charge to any governmental authority to prosecute those that are false, misleading or deceptive.

Your bill sets forth a proposal to establish appropriate standards that can serve both to guide marketers who would make such claims and agencies who would be responsible for preventing deception. We are happy to endorse the principles in your bill and look forward to working with you to see that these principles become law.

Sincerely,

MARK SILBERGELD,
Director.

NATURAL RESOURCES,
DEFENSE COUNCIL,
New York, NY, October 16, 1990.

Senator FRANK LAUTENBERG,
Senate Hart Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: As you are well aware, consumer products carrying misleading environmental claims have proliferated as the public interest in a clean environment has mounted. Regrettably, the federal government has been slow to respond to this problem. As a consequence, the American consumer has been left in the dark, forced to sort out confusing or misleading statements for him/herself. For at least these reasons, your truth in labeling initiative, the Environmental Marketing Claims Act of 1990, provides an essential tool now missing from the arsenal of consumer protection. The earth does not benefit from public relations or other symbolic measures. Moreover, upstanding American firms that show a true respect for our environment should not have to compete with unscrupulous marketeers who proffer misleading environmental claims. The passage of this initiative will truly benefit the environment and the economy. You should be applauded for your well thought-out initiative which we strongly endorse.

Best Regards,

ALLEN HERSHKOWITZ, Ph.D.
Senior Scientist.

ENVIRONMENTAL ACTION,
Washington, DC, October 17, 1990.

Senator FRANK LAUTENBERG,
Senate Hart Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: Environmental Action, Inc. is pleased to express its strong support for the Environmental Marketing Claims Act of 1990. This bill represents an effective, timely, and no-nonsense approach to the important issue of environmental marketing and the misuse of misleading environmental claims in advertising.

American consumers are more aware today than ever that they can make a contribution to environmental protection by exercising "environmental choice" at the supermarket check-out stand. Polls consistently find the majority of consumers willing to choose products on the basis of their environmental attributes.

Product manufacturers are racing to tap the buying power of the new American Green Consumer. But some have been more interested in the "green" of the dollar than the green of the earth. The past year has seen an explosion of false or misleading environmental claims designed to cash in on this new consumer awareness. Products with negligible levels of recycled material are labeled "recycled," plastic bags are labeled "degradable," and some aerosol products announce that they are "ozone-friendly."

Such terms are meaningless in the absence of standards governing their use. The Environmental Marketing Claims Act of 1990 directs the U.S. Environmental Protection Agency to set such standards at the national level. This bill builds on efforts already underway in states around the country to regulate the use of environmental claims on product labels or in advertising.

Environmental Action again congratulates you for taking the lead on this important issue. We strongly support passage of this bill.

Sincerely,

RUTH CAPLAN,
Executive Director.

STATE OF NEW YORK,
DEPARTMENT OF LAW,
New York, NY, October 17, 1990.

Re: Environmental Marketing Claims Act of 1990.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: I am writing to express my support for the Environmental Marketing Claims Act of 1990. Greenmarketing, the selling of the environment, is clearly becoming the marketing craze of the 1990's. As consumers become more conscious and concerned about the environmental impact of the products that they purchase, environmental issues drive their purchasing decision. Unfortunately, many companies are capitalizing on this genuine consumer concern by marketing products in a deceptive manner.

My office has been actively investigating companies that are engaging in deceptive and misleading environmental advertising. In June I filed suit against Mobil Chemical Corporation for making false claims about the alleged environmental benefits of its Hefty trash bag. Just today I announced a settlement that New York, together with nine other States, reached with the manufacturer of "Bunnies Biodegradable Disposable Diapers". Our agreement will require the company to immediately cease all advertisements which misleadingly claim that the diapers benefit the environment.

It is estimated that disposable diapers comprise as much as 2 percent of all municipal waste diposed of in landfills. Bunnies, by marketing their diapers as biodegradable, tried to exploit the interests of people who want the convenience of disposable diapers but are concerned about the waste problem they create. Although labeled "BIODEGRADABLE", Bunnies diapers, like any organic water, will take decades to degrade in our nation's landfills. Deceptive environmental claims like this are proliferating.

Consequently, there is clearly a real need for national standards for environmental marketing claims. In March of this year I endorsed a resolution of the National Association of Attorneys General calling on the Federal Trade Commission and the Environmental Protection Agency to work jointly with the States to develop uniform national guidelines for environmental advertising with input from environmental groups, consumer groups and members of the business community. This resolution was adopted unanimously.

Your proposed legislation provides a framework for such national standards. Further, by providing for both state and federal enforcement, I believe that this legislation can effectively put an end to deceptive environmental marketing.

Very truly yours,

ROBERT ABRAMS.

STATE OF MINNESOTA,
OFFICE OF THE ATTORNEY GENERAL,
October 17, 1990.

Re: Environmental Marketing Claims Act of 1990

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: I am writing on behalf of the Attorneys General of California, Massachusetts, Minnesota, Missouri and Texas to express support for the Environmental Marketing Claims Act of 1990. In December of 1989, we joined with the Attorneys General of several other states to form a Task Force to investigate the most recent marketing trend: the promotion of products as "environmentally friendly." Although we are excited about the potential of the "green revolution" to encourage the manufacture and use of products that are less harmful to the environment, we are concerned about the alarming rise in the number of confusing and misleading environmental claims.

As members of the Task Force, we have strongly advocated uniform national standards for environmental marketing claims. In March of this year, we joined with the other members of the Task Force to urge the National Association of Attorneys General to endorse a resolution calling on the Federal Trade Commission and the Environmental Protection Agency to work jointly with the states to develop uniform national guidelines for environmental marketing claims with input from environmental groups, consumer groups and members of the business community. The resolution was adopted unanimously.

Your proposed legislation provides a framework for this national regulation and standardization of environmental claims. We commend you for developing and sponsoring this important legislation. By providing for aggressive state and federal enforcement efforts, we believe that this legislation will greatly curtail the exploitation of consumers and the environment that results from confusing and deceptive environmental marketing claims.

Best regards,

HUBERT H. HUMPHREY III,
Attorney General.

[From the National Association of Consumer Agency Administrators, June 5-9, 1990, Phoenix, AZ]

RESOLUTION SUPPORTING DEVELOPMENT OF UNIFORM NATIONAL GUIDELINES FOR ENVIRONMENTAL CLAIMS IN ADVERTISING

Whereas American consumers are increasingly concerned about a wide array of

threats to the environment and are increasingly interested in changing their buying habits to contribute personally to the protection of that environment; and

Whereas, consumers are beginning to favor products they believe will help the environment; and

Whereas, many businesses have begun to advertise and labels products as "degradable", "recyclable", "recycled" or otherwise environmentally "safe", and

Whereas, these terms have no uniform precise meanings, which may create confusion and potential deception, and

Whereas, State Attorneys General have formed a task force to examine this issue, and whereas, consumer groups, environmental groups, manufacturers, retailers, and trade associations appear to agree on the need for uniform but flexible national guidelines to help ensure the honesty of environmental claims in marketing; now Therefore, be it

Resolved, That NACAA:

(1) Encourages the Federal Trade Commission and the United States Environmental Protection Agency to work with state, county and municipal consumer agencies to develop uniform national guidelines for environmental marketing claims. Furthermore, NACAA urges that input be sought from environmental groups, private consumer groups, business and industry;

(2) Authorizes its President to make these views known to the U.S. Congress, the Federal Trade Commission, the Environmental Protection Agency and other interested parties.

[From the National Association of Attorneys General, March 18-20, 1990, Washington, DC]

RESOLUTION SUPPORTING DEVELOPMENT OF UNIFORM NATIONAL GUIDELINES FOR ENVIRONMENTAL MARKETING CLAIMS

Whereas, American consumers are increasingly concerned about a wide array of threats to the environment and are increasingly interested in changing their daily lives to contribute personally to the preservation of that environment; and

Whereas, consumers are translating these attitudes into purchasing decisions and are beginning to seek out products they believe will help the environment; and

Whereas, many businesses have begun to advertise and label products in a fashion designed to promote them as "degradable," "recyclable," "recycled" or otherwise "environmentally friendly," but these terms have no fixed or widely understood meanings, and are sometimes used in ways that are confusing and potentially misleading; and

Whereas, a Public Forum on Environmental Marketing was conducted in St. Paul, Minnesota, on March 14 and 15, 1990 by Attorneys General Humphrey, Hanaway, Webster, and Spaeth, and representatives of Generals Abams, Shannon, Eikenberry and Mattox, as well as representatives of the Federal Trade Commission and Environmental Protection Agency, to hear testimony on the issues, problems, and potential abuses in the field of environmental marketing; and

Whereas, witnesses at the Forum, including representatives of manufacturers, retailers, environmental groups, trade associations and consumer groups, were virtually unanimous in urging the development of uniform but flexible national guidelines to help ensure the honesty of environmental claims in marketing; Now, therefore, be it

Resolved, That the National Association of Attorneys General:

(1) requests the Federal Trade Commission and the United States Environmental Protection Agency to work jointly with the states to develop uniform national guidelines for environmental marketing claims, with input from environmental and consumer groups, members of business and industry, trade associations and other interested parties; and

(2) authorizes its Executive Director and General Counsel to transmit these views to the Federal Trade Commission, Environmental Protectional Agency and other interested parties.●

By Mr. MOYNIHAN:

S. 3219. A bill to mandate a study of the effectiveness of the national drug strategy and to provide for an accounting of funds devoted to its implementation; to the Committee on Governmental Affairs.

ACCOUNTING OF FUNDS FOR IMPLEMENTING THE NATIONAL DRUG STRATEGY

● Mr. MOYNIHAN. Mr. President, on March 7, 1990, the Washington Post reported that the Air Force is paying $100,000 to study how jet noise affects pregnant horses. Should we not be paying at least as much attention to how crack cocaine affects pregnant welfare mothers? Mr. President, the Congress has never mandated a comprehensive study which would examine the totality of our antidrug efforts to determine what methods work best and are the most cost effective.

Today I am introducing legislation which requires such a study. In 1988 a Democratic Working Group on Drug Policy, which I had the honor of cochairing with our esteemed colleague Senator NUNN, developed a comprehensive approach to the drug epidemic which was sweeping the country. This approach divided the subject into problems related to controlling the demand for drugs and problems related to controlling the supply of illegal drugs. Demand and supply, but demand came first. This plan was written into law as the Anti-Drug Abuse Act of 1988.

I have long been skeptical of antidrug programs which place their primary emphasis on stopping the supply of drugs. Surely antisupply programs have their place, but we have consistently underestimated the lengths to which people will go to smuggle drugs into the United States. To take but one graphic example, in March of this year Avianca Flight 52 crashed on Long Island. Among the injured survivors were Antonio Zuluaga and Jose Figueroa. Both were found to have swallowed latex bags containing pure cocaine. Officials have said that they believe that the two were operating independently because the size and type of bags swallowed by the two differed. Customs officials at Kennedy Airport caught 60 persons trying to smuggle swallowed drugs into the country during the last 3 months of 1989 alone. Because of the difficulty of detecting this type of smuggling this number is doubtless a tiny fraction of the total number of such "mules" as they are known who entered New York during that period.

Moreover, drug officials do not even consider this a particularly serious form of smuggling. As Donald F. Kane, assistant chief of detectives in Nassau County explained, "The cartels deal in hundreds of thousands of pounds at a time. Not a quarter of a pound to a kilo"—the maximum amount one can swallow.

The point here is that the plan proposed by the Democratic Working Group embodied a broad approach. It included law enforcement and interdiction, but also emphasized the importance of providing treatment on request or application. I said at the outset that we should be devoting more attention to the effect of crack cocaine on pregnant mothers. And more attention to treatment for crack addiction. The need to evaluate the effectiveness of our efforts in these areas has recently been illustrated by a Government Accounting Office study titled "Drug Abuse: Research on Treatment May Not Address Current Needs". GAO concluded:

> Knowledge about drug abuse treatment is limited in significant ways. Knowledge concerning the effectiveness of drug abuse treatments is limited by the lack of recent large-scale evaluations of treatment programs and methodological shortcomings of existing evaluations.

It seems clear from this report that while we are now spending hundreds of millions of dollars on treatment research not enough has been done to determine the actual effectiveness of the various programs we are funding.

Recently the administration has issued a white paper which, for all practical purposes, rejects the specific, legislatively mandated goal of providing treatment on request. Director Bennett says that he thinks it is not "sensible" to put those seeking treatment "in the driver's seat." Of course, Congress wrote that goal into the law and it is not for Director Bennett to unilaterally decide to disregard it. But his hostility toward treatment on request is all the more reason that we should conduct a thorough, nonpartisan, scientific review of what actually works—dollar for dollar—and what does not.

This legislation is long overdue. As we approach and perhaps exceed the $10 billion level in annual drug program appropriations, it is high time that we ask the simple question: "What works?"

Let there be no mistake. This legislation is highly cost effective in its own right. Already we read headlines like the following: "Federal Funds for Drug Treatment Go Unspent, Official Says" and "DEA Cited for Wasteful

Purchases". This is perhaps inevitable when we increase levels of funding so rapidly. Surely the vast and rapid Reagan defense buildup led to similar wastefulness. If we are to succeed and to succeed in the shortest possible time in reducing the level of epidemic drug addiction in the United States, then we need to compare the various possible approaches and make intelligent, informed choices among the competing priorities. The study mandated by this legislation is the sine qua non of making these choices in an intelligent manner.

Research is an important part of the President's drug strategy, for which I commend him. I believe that more must be done in many areas, especially in encouraging pharmacological treatment research, but the President's reports have placed great emphasis on research and its role in identifying cost-effective strategies. However, I believe that we need a comprehensive review of all of our efforts. This legislation would require the Secretary of Health and Human Services to arrange for the National Academy of Sciences to conduct this study. It also provides for an annual audit report of our drug programs by the General Accounting Office.

Mr. President, I ask unanimous consent that a copy of the legislation and the three reports from the Washington Post which I have mentioned be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3219

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) there is great disagreement concerning the causes of the problem of epidemic drug addiction in the United States and about the most effective way to reduce it;

(2) one of the factors which most inhibits an effective response to the problem of epidemic drug addiction in the United States is the lack of accurate information concerning both the problem and the specific effectiveness of each individual element of the Nation's anti-drug effort;

(3) evaluating the effectiveness of the individual elements of the Federal program to reduce epidemic drug abuse requires accurately establishing cause and effect relationships concerning drug addiction;

(4) the United States has promulgated a National Drug Strategy pursuant to the requirements of the 1988 Anti-Drug Abuse Act and will devote many billions of dollars to anti-drug programs for many years to come; and

(5) it is in the interests of the Nation that these funds be spent as effectively as possible and that a permanent mechanism exist to audit their expenditure.

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) require a study of the effectiveness of federally funded anti-drug programs; and

(2) create a permanent auditing mechanism for federally funded anti-drug programs.

SEC. 3. STUDY OF ANTI-DRUG PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to as the "Secretary") shall enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation of the effectiveness in reducing drug addiction of the various components of the Federal anti-drug program, including—

(1) crop eradication;

(2) crop substitution;

(3) support for foreign law enforcement;

(4) interdiction, including a separate analysis of the effectiveness of the military services in the interdiction effort;

(5) education;

(6) treatment;

(7) support for local law enforcement;

(8) criminal justice system reforms; and

(9) research, including a separate analysis of effectiveness of pharmocological research and research into other types of medical treatments for drug addiction.

(b) METHODOLOGY.—The study described in subsection (a) shall to the maximum extent possible—

(1) control for the effects of broad societal changes unrelated to specific anti-drug initiatives, such as changing demographic patterns;

(2) separate the effects of each component of the Federal anti-drug program from the effects of other anti-drug initiatives;

(3) consider the extent to which the expenditure of Federal funds on job training, education, and other health, education, and welfare programs contribute to reducing epidemic drug addiction;

(4) study the cost-effectiveness of each component of the Federal anti-drug program, as well as the programs described in subsection (b)(3); and

(5) take into account the social and demographic factors which influence rates and forms of epidemic drug addiction and provide, where possible, information on the effectiveness of the various components of the Federal anti-drug program on various demographic subgroups within the population.

(c) REPORTING.—In conducting the study described in subsection (a), the National Academy of Sciences shall provide to the Secretary and the Congress—

(1) not later than 6 months after the date of enactment of this Act a detailed written description of the manner in which the study will be conducted, including a specific set of goals for the study;

(2) not later than 18 months after the date of enactment of this Act the preliminary results of the study; and

(3) not later than 2 years after the date of enactment of this Act the final results of the study.

(d) UPDATE OF STUDY.—The Secretary shall enter into appropriate arrangements with the National Academy of Sciences to update the results of the study described in subsection (a) every 2 years following the initial report.

(e) ASSISTANCE FROM FEDERAL AGENCIES.—Agencies of the Federal Government shall provide to the National Academy of Sciences such information as it may reasonably request for the purpose of conducting the study described in subsection (a).

SEC. 4. AUDIT BY THE GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—The General Accounting Office shall provide to the Congress on an annual basis an audit report concerning the management and expenditures of the component parts of the Federal anti-drug program.

(b) SEPARATE COMPONENTS.—The report described in (a) shall contain a separate section on each of the component parts of the Federal anti-drug program.

(c) ACCESS TO RECORDS.—In order to carry out the purposes of this section, the Comptroller General shall have such access to the records, files, personnel, and facilities of the Federal agencies involved in the Federal anti-drug program, including the military and intelligence services, as he considers necessary.

[From the Washington Post, Mar. 22, 1990]

FEDERAL FUNDS FOR DRUG TREATMENT GO UNSPENT, OFFICIAL SAYS

(By Michael Isikoff)

A top Bush administration antidrug official said yesterday that claims of large waiting lists for drug treatment may be exaggerated, noting that many publicly funded drug-treatment programs have not spent all of their available federal funds.

Beny Primm, director of the Department of Health and Human Services' new office for treatment improvement, said his first priority is to "get a better handle" on the actual needs for expanded drug treatment. "Until we do that, I do not feel more money should be spent for drug treatment," he said.

Primm made the comments at a news conference at which the National Association of State Alcohol and Drug Abuse Directors released a report concluding that only 13 percent of the 10.6 million Americans who need treatment for substance abuse are receiving it.

The report, based on estimates from officials in 41 states and the District, reignited a political debate over the Bush administration's spending in the drug war. Although the administration has proposed increasing the federal anti-drug budget by $1.1 billion this year to $10.6 billion, more than 70 percent of the total would be spent on law enforcement and interdiction, areas that critics charge are often futile and ultimately less effective than reducing demand through more treatment and education.

Jack Gustafson, president of the association of state alcohol and drug-abuse directors, said the lack of greater funding for substance-abuse treatment is "a tragedy for millions of people who need help."

In a statement issued later, Sen. Edward M. Kennedy (D-Mass.) called the association's report "an indictment of the misplaced priorities of the Bush administration" and said the nation needs "a balanced drug strategy—one that does not neglect the importance of treatment and prevention."

The association's report stated that drug addicts or alcoholics who lack the money to pay for private treatment wait an average of three weeks to get into a publicly funded outpatient program—enough time to cause many addicts to give up. For residential treatment, the average wait is 45 days, the survey found.

But Primm noted that the federal government had budgeted a special $100 million, two-year grant to help reduce waiting periods by making available up to 21,535 treatment "slots." He said, however, that some community-based programs slated to receive those funds, primarily in the Northeast, have yet to "draw down" the money, leaving more than 2,000 slots unallocated.

Gustafson said this is because of bureaucratic and contracting delays. But Primm said the failure of the programs to spend the money "shocks me" and "tells me that some of the reports relating to the demand for treatment were soft."

David Tell, deputy chief of staff for national drug policy director William J. Bennett, and drug-treatment funding has nearly doubled to $760 million over the past year and, as a result, "we are very close" to providing treatment for the approximately 2 million Americans who Bennett's office estimates need such treatment.

"The bottom line is federal drug treatment funding has taken off like a rocket since we've been here," Tell said. "And we've spilled a lot of blood to get that rocket up in the air."

DEA CITED FOR WASTEFUL PURCHASES—JUSTICE DEPARTMENT REPORT FINDS RULES IGNORED

(By Michael Isikoff)

The Drug Enforcement Administration has repeatedly violated federal procurement rules by awarding no-bid contracts, overpaying its suppliers and other procedural irregularities that cost the government hundreds of thousands of dollars, according to an audit by the Justice Department inspector general's office.

The audit, prepared for Attorney General Dick Thornburgh, found irregularities and waste in a wide variety of DEA contracts—including the purchase of satellite communications radios, data encryption devices, special breathing apparatus and other high-tech equipment being used in the drug war.

In one case, DEA paid a contractor $225,500 for three video cameras that were being installed on aircraft turrets—products the audit concludes should have cost the agency less than one-third that amount, or $7,230.

The report also concluded that DEA frequently ignored federal regulations requiring competitive bidding, failed to award contracts in a timely fashion and made "substantial omissions and errors" in reporting procurement information to the Justice Department.

DEA management "had not established and implemented adequate internal controls to protect the interest of the government," according to the report by acting inspector general Tony Moscato.

DEA spokesman Conn Dougherty said the agency will have no comment on the report until it completes formal, written responses due at the end of this month. But David Runkel, spokesman for Thornburgh, said "there has been a great deal of discussion with people at DEA" about the report and that the agency will take steps to ensure that the irregularities do not reoccur.

Nevertheless, the report raised new congressional concerns about DEA's management practices at a time the agency is slated to receive hefty budget increases. As part of the Bush administration's escalation of the anti-drug effort, DEA's budget is slated to jump to $700 million next year—a 27 percent increase over current levels.

In addition, the agency's administrator, John C. Lawn, will retire March 23 to become vice president of the New York Yankees, and the Bush administration has announced a wide-ranging search to find a replacement.

"Obviously, there is some bad management there," said Rep. Robert E. Wise Jr. (D-W.Va.), the chairman of the House government information, justice and agriculture subcommittee. "It concerns me."

Wise cited, as one example $150,000 in DEA contracts awarded in 1988 to provide Spanish language training to agents being sent to Latin America. DEA failed to follow department rules requiring written solicitation of bids because of the "unusual and compelling urgency" of the need—a justification the audit concludes was unwarranted since DEA had known for some time that its agents would need the training.

As part of the audit, the inspector general's office reviewed over $25 million in DEA contracts and purchase orders between fiscal 1986 and the first three months of fiscal 1989, which began Oct. 1, 1988. It identifies at least $567,000 in what it calls "unnecessary costs" on four contracts, including paying $279,000 too much for radio maintenance and $233,232 too much for data encryption equipment.

DEA could have realized savings amounting to even more than the excess costs identified had it adequately planned to meet its need and sought competitive bids, the report said. In one case, DEA awarded four sole-source contracts totaling $2.3 million to one company for a sophisticated satellite communications system, even though two other manufacturers had been identified as being capable of supplying the equipment.

Of 25 sole-source contracts reviewed by the auditors, 10 "could have been awarded competitively." the report states. "As a result, DEA may not have received the lower prices normally obtainable."

[From the Washington Post, Mar. 7, 1990]

AIR FORCE PAYING $100,000 TO STUDY HOW JET NOISE AFFECTS PREGNANT HORSES

GAINESVILLE, FL, March 6.—The Air Force is paying for a $100,000 study to determine how low-flying F-4 Phantom fighter jets may affect the health and behavior of pregnant horses kept near military bases.

Simulated bursts of jet noise will reverberate through barns to determine their effect on eight pregnant, thoroughbred and saddlebred horses, researchers at the University of Florida said. A control group of eight pregnant mares will not be exposed to the din.

"Heavily pregnant mares may be more susceptible to the stress of aircraft noise," said Dr. Michelle LeBlanc, a veterinarian and associate professor at the university's department of large animal clinical sciences. Next year, LeBlanc will continue the study using jets, she said.

The study is funded by the Air Force's unit of noise and sonic boom impact technology.●

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, Mr. ROBB, Mr. HEINZ, and Mr. SPECTER):

S. 3220. A bill to assist in the restoration of the Chesapeake Bay, and for other purposes; to the Committee on Environment and Public Works.

CHESAPEAKE BAY RESTORATION ACT

Mr. SARBANES. Mr. President, today I am introducing together with my colleagues from Maryland, Virginia, and Pennsylvania—Senators MIKULSKI, WARNER, ROBB, HEINZ, and SPECTER—legislation to reauthorize and enhance the Chesapeake Bay Program. This legislation, entitled the Chesapeake Bay Restoration Act of 1990, not only continues the tremendously successful program authorized in the 1987 Water Quality Act, but provides for an expansion and strengthening of the cooperative efforts to restore and protect the Chesapeake Bay. An identical bill is being introduced today in the House.

Why is this legislation needed? For two reasons. First, the existing authorization for the Chesapeake Bay Program, along with other Water Quality Act programs, expired on September 30, at the end of fiscal year 1990. The program along with other Water Quality Act programs are being continued through authorities and funding in the appropriations process. However, there is still much work that needs to be done on the bay and the need for a new authorization is clear and compelling. Second, with the signing of the Chesapeake Bay agreement in December 1987, the bay area jurisdictions and the Federal Government committed to an ambitious program to achieve improved water quality and living resources productivity. The bay area States have moved swiftly to enact legislation and dedicate funding to meet their commitments under the agreement. In order to assure effective implementation of the pact at the Federal level, it is essential that new authorities and resources be provided.

The Chesapeake Bay Restoration Act provides those new authorities and additional resources. It authorizes $20 million a year for the next 4 years for the Chesapeake Bay Program—an increase of $7 million over the previously authorized level. It establishes new initiatives to address key issues such as toxic pollution, the decline of the bay's living resources, and population growth and land use. This legislation reauthorizes the programs established in the 1987 Water Quality Act—a $3 million authorization for EPA to administer the program and a $10 million authorization for grants to the bay area States which has been used primarily for nonpoint source reduction efforts. In addition, this legislation authorizes the resources and guidance for the Federal agencies necessary to begin implementing the strategies called for under the 1987 bay agreement.

The legislation was carefully crafted over the past 7 months with the assistance of the bay area States—Maryland, Pennsylvania, and Virginia—and the District of Columbia, the Chesapeake Bay Commission, the Citizens Advisory Committee, the Scientific and Technical Advisory Committee, the Local Government Advisory Committee, the Alliance for the Chesapeake Bay, the Chesapeake Bay Foundation, the bay area congressional delegation, and many others. It represents a consensus on the highest priority needs as identified by the agencies

and organizations responsible for implementing the strategies and programs called for under the bay agreement. It is not intended as a catch-all bill which addresses every possible aspect of every Federal agency participation in the bay cleanup effort. Rather, it is intended to continue and improve upon the Chesapeake Bay Program that was authorized in the 1987 Clean Water Act.

We have come a long way since the first Chesapeake Bay agreement was signed in December 1983 initiating the cooperative Federal-State effort to clean up the bay. Over the past 7 years, remarkable progress has been made in laying the groundwork for the restoration, protection, and enhancement of the bay. An interstate and Federal-State management structure is in place, including memoranda of understanding between EPA and other major Federal agencies, outlining their responsibilities for the bay program. States have adopted far-reaching initiatives and activities that are now underway. The bay area congressional delegation has worked closely together and has been successful in obtaining funding for the Federal agencies involved in the bay program. There is strong public support and a high degree of cooperation and coordination among all parties. Indeed, the Chesapeake Bay Program has been heralded as a model for other estuaries throughout the country and, indeed, around the world.

There are encouraging signs that the bay is improving. Since 1985, phosphorus discharges from municipal treatment plants, industry and nonpoint sources into the bay have been reduced by 35 percent. This is a direct result of the phosphate detergent ban now in place in each State and the District of Columbia, new sewage treatment plant construction featuring processes for advanced phosphorus removal and the bay program's unique nonpoint source controls. Submerged aquatic vegetation [SAV], which provides critical habitat for the bay's living resources, has made a slow but steady comeback from dramatic declines in the 1960's and 1970's. This can be directly traced to improved water quality. Striped bass have also made a significant recovery from the depleted stocks of the early 1980's. This is a success that demonstrates that management controls can make a difference in the health of the bay's resources.

Despite these great efforts, it is clear that we have a long way to go before improvements to the bay's water quality and living resources will be readily apparent. Problems such as medical wastes washing up on the shores near Baltimore Harbor and Annapolis, oil spills that spread thousands of gallons across the bay, the spread of MSX and other deadly oyster diseases, toxic chemicals and nutrients that continue to pollute the bay's surface and bottom waters underscore the difficult challenge continuing to face the bay.

Addressing these serious problems will require a significant and sustained effort on the part of all participants, as well as significant financial resources. Although this legislation will not be considered in the closing days of this Congress, we wanted to introduce the bill this year to begin the discussion and to be prepared for consideration during the reauthorization of the Clean Water Act next year. We plan to reintroduce the bill at the beginning of the 102d Congress and will seek to have its provisions incorporated in the Clean Water Act. It is our hope that the measure which we are introducing today will set the course of efforts to protect and restore our national treasure, the Chesapeake Bay, over the next several years.

Mr. President, I ask unanimous consent that letters and statements from Governor Schaefer of Maryland, Governor Wilder of Virginia, and Governor Casey of Pennsylvania; the Chesapeake Bay Commission, and the Chesapeake Bay Foundation, in support of this legislation be included in the RECORD following my statement. I also ask that the text of the bill and a section-by-section analysis of the bill be made part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3220

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chesapeake Bay Restoration Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Chesapeake Bay is a national treasure and a resource of worldwide significance;

(2) the productivity and water quality of the Chesapeake Bay and its tributaries in recent years have been diminished by pollution, excessive sedimentation, shoreline erosion, the impacts of growth and development of population in the watershed, and other factors;

(3) the Chesapeake Bay Agreement established an institutional framework, including a Chesapeake Executive Council with oversight, to implement a series of goals, objectives, and commitments to protect, restore, and enhance the estuary's ecosystem;

(4) there is a need to expand and strengthen Federal support of research, monitoring, and management activities in the Bay in order to meet the goals, objectives, and commitments of the Chesapeake Bay Agreement, particularly in the areas of water quality; living resources; public information, education and participation; population growth, development, and governance;

(5) the United States Environmental Protection Agency should continue to lead a cooperative Federal initiative with the United States Army Corps of Engineers, United States Department of Agriculture, United States Department of the Interior, Department of Defense, National Oceanic and Atmospheric Administration, United States Coast Guard, and other Federal agencies in the effort to attain the goals embodied in the Chesapeake Bay Agreement, working with State and local authorities;

(6) the National Oceanic and Atmospheric Administration has an important role in the Bay restoration program through participation in Bay research, monitoring, assessment, and management studies and should continue these activities;

(7) the various research and monitoring programs related to the Chesapeake Bay should be closely coordinated to achieve improved water quality and living resources productivity;

(8) public information, education, and participation are essential to foster stewardship of the Bay's resources, to help identify and prioritize the Bay-related problems of each watershed or river basin, and to formulate goals and objectives for addressing these problems;

(9) there is a clear correlation between population growth and development, and environmental degradation in the Chesapeake Bay system and accurate and timely land use data is essential to plan for and manage growth and development and associated impacts on the Chesapeake Bay system and its living resources;

(10) the Federal Government has a special responsibility to ensure that its activities and programs are consistent with State and local efforts to improve the health of the Chesapeake Bay, and Federal facilities and programs must achieve the highest standards of environmental sensitivity and protection;

(11) the local government and citizens' role in the Chesapeake Bay clean-up effort is a vital component for attaining the goals of the Chesapeake Bay Agreement;

(12) the productivity, diversity, and abundance of living resources are the best ultimate measures of the Chesapeake Bay's condition and research and assessment programs directed toward monitoring and enhancing the condition of these resources should be accorded a high priority; and

(13) the fisheries of the Chesapeake Bay provide hundreds of millions of dollars in annual economic activity and thousands of related jobs for the region, and proper management of these vital fisheries resources must include consideration of both biological, environmental, and socioeconomic factors.

SEC. 3. PURPOSE.

It is the purpose of this Act to expand and strengthen the cooperative efforts to restore and protect the Chesapeake Bay and to achieve the goals embodied in the Chesapeake Bay Agreement.

SEC. 4. MANAGEMENT OF CHESAPEAKE BAY PROGRAM.

Section 117(a) of the Federal Water Pollution Control Act (33 U.S.C. 1267) is amended to read as follows:

"(a)(1) The Administrator of the Environmental Protection Agency shall continue the Chesapeake Bay Program as a member of and in cooperation with the Chesapeake Executive Council. The Administrator shall continue to lead and coordinate Federal agency participation in the Federal program.

"(2) The Administrator shall maintain in the Environmental Protection Agency a Chesapeake Bay Liaison Office, which shall provide support to the Chesapeake Executive Council in the following areas:

"(A) providing support and coordinating Federal, State, and local efforts to improve the water quality and living resources of the Chesapeake Bay;

"(B) assisting the Bay program signatories as requested in developing and implementing specific action plans, in cooperation with appropriate Federal, State, and local authorities, to carry out the responsibilities under the Chesapeake Bay Agreement;

"(C) coordinating actions of the Environmental Protection Agency with the actions of other Federal agencies and State and local authorities in developing strategies to improve the water quality and living resources of the Bay and obtain the support of these agencies and authorities in achieving the objectives of such agreement;

"(D) collecting and making available, through publications and other appropriate means, information pertaining to the environmental quality and living resources of the Bay; and

"(E) continuing to coordinate the systemwide monitoring and data collection program to assess the impact of natural and man-induced environmental changes on the water quality, habitat, and living resources of the Bay with particular emphasis on toxic pollutants and nutrient loadings.".

SEC. 5. CHESAPEAKE BAY PROGRAM SCIENCE, RESEARCH, MONITORING, AND DATA COLLECTION.

(a) The Administrator of the Environmental Protection Agency and the Administrator of the National Oceanic and Atmospheric Administration, in cooperation with the Chesapeake Executive Council, shall jointly implement comprehensive, coordinated science, research, monitoring, and data collection activities supporting the Chesapeake Bay Program.

(b) The Administrator of the National Oceanic and Atmospheric Administration shall direct relevant agency programs to be conducted in such a manner as to assist the cooperative, intergovernmental Chesapeake Bay Program to meet the commitments of the Chesapeake Bay Agreement. The Administrator of the National Oceanic and Atmospheric Administration shall—

(1) provide information about and insight into the processes that shape the Chesapeake Bay system and affect its living resources;

(2) consult with the Chesapeake Executive Council in establishing priorities for research, monitoring, modeling, other analysis and data gathering for programs that have applicability to the Chesapeake Bay system and its living resources; and

(3) consult with the Chesapeake Executive Council in assessing the abundance, health, harvest, and potential economic value of Chesapeake Bay fisheries and the socioeconomic costs and benefits of management alternatives; and

(4) establish and staff a local office for coordinating National Oceanic and Atmospheric Administration-wide activities related to the goals and objectives of the Chesapeake Bay Agreement.

(c) The Administrators of the Environmental Protection Agency and the National Oceanic and Atmospheric Administration shall jointly ensure that any project for which funds have been requested has undergone appropriate peer review to determine that it has acceptable scientific and technical merit.

(d) For the purpose of carrying out the provisions of this section, there is authorized to be appropriated $3,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994.

SEC. 6. BASINWIDE TOXICS REDUCTION.

(a) The Administrator of the Environmental Protection Agency shall, in cooperation with the Chesapeake Executive Council, implement the Comprehensive Basinwide Toxics Reduction Strategy which establishes basinwide goals and describes actions necessary to achieve a multijurisdictional approach for reducing toxic inputs to Chesapeake Bay and its watershed. The strategy addresses all pathways by which toxic substances can pollute the Chesapeake Bay's waters, habitats, and resources through basinwide implementation of innovative toxics reduction, prevention, and management actions.

(b) The Administrator shall undertake such research and monitoring activities as necessary to improve understanding of intermedia transfers, eventual fate and biological effects of toxics within the Bay watershed and shall develop and implement innovative toxics reductions and prevention programs.

(c) For the purpose of carrying out the provisions of this section, there is authorized to be appropriated to the Administrator of the Environmental Protection Agency $2,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994.

SEC. 7. POPULATION GROWTH AND DEVELOPMENT; LAND USE DATA INITIATIVE.

(a) The Administrator of the Environmental Protection Agency, in cooperation with the Chesapeake Executive Council and the National Oceanic and Atmospheric Administration, the United States Forest Service, the United States Soil Conservation Service, the United States Geological Survey, the Fish and Wildlife Service, and the Army Corps of Engineers, shall facilitate and expedite the development of a coordinated Chesapeake Bay watershed land use data base to provide information necessary to plan for and manage growth and development and associated impacts on the Chesapeake Bay system and its living resources.

(b) The data base shall incorporate resource inventories and analyses including the use of satellite and aerial imagery in conjunction with electronic geographic information systems for data storage, retrieval, and resource capability determination in order to evaluate different land use patterns on hydrological cycles, water quality, living resources, and other environmental features, and as an aid to making sound land use management decisions.

(c) The data base shall utilize a digital format that can be easily integrated into existing and developing planning and management programs and systems at Federal, State, and local agencies and institutions, so that it can have the greatest range of potential users and uses.

(d) The data base shall be approached as a model for application to the management of watersheds to protect aquatic environments, and its technical procedures shall be developed in a manner that will allow transfer to local and State governments and other areas of the nation and the world.

(e) Emphasis should be placed on the creation, maintenance, and use of an accessible, adaptable, and affordable data base in a manner that combines the best of available technology and data with the collective experience of the local, State, and Federal Governments and other major land use data suppliers and users.

(f) For the purposes of carrying out the provisions of this section, there is authorized to be appropriated $250,000 for fiscal year 1991, and $500,000 for each of the fiscal years 1992, 1993, and 1994.

SEC. 8. DEVELOPED LANDS INITIATIVE.

(a) The Administrator of the Environmental Protection Agency, in cooperation with the Chesapeake Executive Council, shall establish a demonstration program (hereafter called the "developed lands initiative") in order to address problems associated with urban and suburban runoff. The initiative shall—

(1) identify "developed areas" consisting of subwatersheds of urban and suburban land for the purpose of water quality monitoring;

(2) establish appropriate monitoring network responsive to storm events;

(3) ensure that data collected during the monitoring effort is compatible among the participating Bay States and the District of Columbia and is designed to support management decisions necessary to balance cost and technology for the benefit of the Chesapeake Bay cleanup;

(4) ensure that data collected identifies all major sources of pollution, including atmospheric deposition and pesticides, and shall be characterized according to their contribution to a watershed; and

(5) develop management strategies to address the identified stormwater impacts.

(b) For the purpose of carrying out the provisions of this section, there is authorized to be appropriated $500,000.

SEC. 9. CHESAPEAKE BAY COMPREHENSIVE LIVING RESOURCES PROGRAM.

(a) The Administrator of the Environmental Protection Agency, the Administrator of the National Oceanic and Atmospheric Administration, and the Director of the Fish and Wildlife Service, in cooperation with the Chesapeake Executive Council, shall implement a comprehensive, coordinated living resources program for the Chesapeake Bay and its watershed, to meet the commitments in the Chesapeake Bay Agreement.

(b) The program shall include monitoring, digital mapping, periodic assessments, development and implementation of management plans; and restoration and protection of habitats of commercially, recreationally, and ecologically valuable living resources.

(c) The program shall be designed as a national model for identifying, protecting, restoring, and managing estuarine living resources and the habitats upon which they depend.

(d) For the purpose of carrying out the provisions of this section, there is authorized to be appropriated $1,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994.

SEC. 10. STUDY OF CHESAPEAKE BAY PROTECTION PROGRAM.

(a) Not later than January 1, 1994, the Administrator of the Environmental Protection Agency, in cooperation with the Chesapeake Executive Council, shall complete a study and prepare a report to the Congress which shall address at least the following issues:

(1) evaluating implementation of the Chesapeake Bay Agreement including activities of the Federal Government and State and local authorities;

(2) determining whether Federal environmental programs and other activities adequately address the priority needs identified in the Chesapeake Bay Agreement;

(3) assessing priority needs as required by the Chesapeake Bay Program management

strategies and how the priorities are being met; and

(4) making recommendations for improved management of the Chesapeake Bay restoration program.

(b) There are authorized to be appropriated to the Administrator of the Environmental Protection Agency, to carry out this section, not to exceed $250,000.

SEC. 11. AUTHORIZATIONS.

(a) Section 117(d)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1267(d)(1)) is amended by deleting "and 1990" and inserting in lieu thereof "1990, 1991, 1992, 1993, and 1994".

(b) Section 117(d)(2) of the Federal Water Pollution Control Act is amended by deleting "and 1990" and inserting in lieu thereof "1990, 1991, 1992, 1993, and 1994".

(c) Moneys appropriated pursuant to the authorizations under this section shall remain available until expended.

SEC. 12. DEFINITIONS.

For the purposes of this Act the term—

(1) "Chesapeake Bay Program" means the regional, intergovernmental, cooperative effort to restore and protect the Chesapeake Bay system and its living resources. The Program is directed by the Chesapeake Executive Council in accordance with the Chesapeake Bay Agreement;

(2) "Chesapeake Bay Agreement" means the formal, voluntary agreements reached to achieve the goal of restoring and protecting the Chesapeake Bay system and its living resources. The first Agreement was signed in 1983. The second agreement was signed in 1987, by the Governors of Maryland, Pennsylvania, and Virginia, the mayor of the District of Columbia, the chairman of the tri-State Chesapeake Bay Commission, and the Administrator of the United States Environmental Protection Agency for the executive branch of the Federal Government. As used in this section, the term shall mean the existing agreements and any subsequent agreements that may be reached; and

(3) "Chesapeake Executive Council" means the signatories of the Chesapeake Bay Agreement.

CHESAPEAKE BAY RESTORATION ACT OF 1990
SECTION-BY-SECTION ANALYSIS

Section 1. Short Title: Establishes the title of the bill, the "Chesapeake Bay Restoration Act of 1990."

Section 2. Findings.

Section 3. Purpose:

States that the purpose of the Act is to expand and strengthen the cooperative efforts to restore and protect the Chesapeake Bay and to achieve the goals embodied in the Chesapeake Bay Agreement.

Section 4. Management of Chesapeake Bay Program:

Provides authority for EPA to continue to lead and coordinate Federal agency participation in the Chesapeake Bay Program, in cooperation with the Chesapeake Executive Council, and to maintain a Chesapeake Bay Liaison Office.

Directs the Chesapeake Bay Liaison Office to provide support and coordinate Federal, state and local efforts in developing strategies and action plans and conducting system-wide monitoring and assessment to improve the water quality and living resources of the Bay.

Section 5. Chesapeake Bay Program Science, Research, Monitoring, and Data Collection:

Directs the Administrators of EPA and NOAA to jointly implement a comprehensive, coordinated program for science, research, monitoring and data collection of the Bay and its watershed. Establishes a local office for coordinating NOAA activities in the Bay. Directs that appropriate peer review be undertaken to ensure scientific and technical merit of projects funded by this section. Authorizes $3 million annually for the activities in this section.

Section 6. Basinwide Toxics Reduction:

Authorizes $2 million annually for EPA to implement the Comprehensive Basinwide Toxics Reduction Strategy called for under the Bay Agreement, in cooperation with the Executive Council.

Section 7. Population Growth and Development:

Provides for development of a coordinated Chesapeake Bay watershed land use database, incorporating resource inventories and analyses in a digital format, to provide information necessary to plan for and manage growth and development and associated impacts on the Bay system. Authorizes $250,000 in fiscal 1991 and $500,000 annually in fiscal years 1992–4.

Section 8. Developed Lands Initiative.

Establishes a demonstration program to address problems associated with urban and suburban runoff. Directs EPA to identify areas within subwatersheds for water quality monitoring, establish a monitoring network, identify all major sources of pollution, and develop management strategies to address the identified stormwater impacts. Authorizes $500,000 for this section.

Section 9. Comprehensive Living Resources Program.

Authorizes $1 million annually to implement the comprehensive, coordinated living resources plan called for under the Bay Agreement.

Section 10. Study of Chesapeake Bay Protection Program.

Directs EPA to undertake an assessment of the Chesapeake Bay Program and evaluate implementation of the Bay Agreement. Also directs EPA to assess priority needs for the Bay and make recommendations for improved management of the program. Authorizes $250,000 for this study.

Section 11. Authorizations.

Continues the $13 million annual authorization under Section 117 of the Federal Water Pollution Control Act.

Section 12. Definitions.

STATEMENT ON FEDERAL CHESAPEAKE BAY LEGISLATION BY GOV. WILLIAM DONALD SCHAEFER

I want to commend Senator Sarbanes and all the Members of Congress who seized the initiative and put together this new legislation. The bill being introduced today marks the beginning of an important new chapter in the Chesapeake Bay clean up effort.

The Chesapeake Bay program has been a model for saving estuaries around the country. We have been successful in the Bay program because we never stand still; because we are never satisfied with the status quo; because we are constantly forging ahead; and because we work together in a strong federal-state partnership.

The time has come to take the next step. We must match the rhetoric about the need to clean up the Bay with the resources necessary to do the job. This legislation will give the federal government the resources needed to keep its promises.

Our efforts to restore the Bay took a giant leap forward in 1987 with the signing of the historic Chesapeake Bay Agreement. That Agreement strengthened the partnership between the Chesapeake Bay states and the federal government. It also set out ambitious goals for reducing pollution in the Bay. We have made much progress since then, but we still have a long way to go.

This legislation is the next step in our long march to restore and protect our nation's greatest estuary. The federal government took on many new responsibilities in the 1986 Bay Agreement. While the EPA and other federal government agencies have worked hard to meet those responsibilities, they need additional resources to meet their commitments.

This legislation will bring the federal contribution in line with its commitments. It will increase federal funding for many important Bay projects. It will boost federal support for our toxics clean up effort. And it pulls the federal government into our fight against pollution caused by urban and suburban runoff—which is a major problem throughout the Bay watershed.

Just last weekend we held a statewide Community Service Day in Maryland. Citizens from around the state helped pull litter and trash out of the Anacostia River, Rock Creek, and other tributaries that empty into the Bay. Citizens from throughout the Chesapeake Bay watershed want to clean up the Bay and they want to do it now.

We can all take pride in the progress we have made in cleaning up the Bay, but we must not become complacent. We must not look back on how far we have come. We must look forward at how much farther we still have to go.

So we are here today to look ahead and to open the next chapter in the Bay clean up effort. The next chapter calls for an expanded federal role in our fight to save the Chesapeake Bay. This bill will bring the federal government's contribution under the Bay Agreement in line with its commitments and improve coordination within the Bay program. I thank Senator Sarbanes and his Congressional colleagues for launching this initiative and I urge the quick adoption of this important legislation.

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR
Richmond VA, October 15, 1990.

Hon. PAUL S. SARBANES,
Member, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR SARBANES: As a member of the Chesapeake Executive Council and as the Governor of the Commonwealth of Virginia, I am committed to cleaning up the Chesapeake Bay, and I endorse the reauthorization bill you are introducing.

The Chesapeake Bay system is a regional and national resource that can be restored and protected only if we work together. The principal cooperative mechanism through which we will be able to attain the goal of a permanently healthy and productive Bay is the Chesapeake Bay Program.

Congress' dedication to the Bay has been critical in the successful evolution of this unique regional enterprise. Your support for reauthorization of the program will greatly assist the challenging process of restoration and protection.

With best wishes, I am

Very truly yours,

LAWRENCE DOUGLAS WILDER.

COMMONWEALTH OF PENNSYLVANIA,
OFFICE OF THE GOVERNOR,
Harrisburg, October 16, 1990.

Hon. PAUL S. SARBANES,
Member, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR SARBANES: I strongly support the proposed "Chesapeake Bay Restoration Act of 1990," to reauthorize the Chesapeake Bay Program. The proposed legisation is the product of extensive discussion and debate among all Chesapeake Bay states, including Pennsylvania.

The current federal mandate under Section 117 of the Clean Water Act was enacted before the 1987 Chesapeake Bay Agreement was signed. The time has come to update that legislation and build upon the federal-state partnership we established in the Bay Agreement.

Substantial progress has been made in cleaning up the Chesapeake Bay under the existing program, but much more needs to be done. This legisation marks an important new phase in the Chesapeake Bay Program. I have contacted Senator Heinz and Senator Specter to urge their support for the legislation.

Sincerely,

ROBERT P. CASEY.

CHESAPEAKE BAY FOUNDATION,
Annapolis, MD, October 12, 1990.

Hon. PAUL S. SARBANES,
U.S. Senate, Senate Dirksen Office Building, Washington, DC.

DEAR SENATOR SARBANES: I am writing to express the Chesapeake Bay Foundation's strong support for the Chesapeake Bay Restoration Act of 1990. As you know, CBF feels that the leadership of the State/Federal Chesapeake Bay Program is crucial for the restoration of the Bay. This legislation is essential to ensuring the continuation and enhancement of the Bay Program's efforts.

The legislation that has been drafted represents the consensus of the Bay community, including both government and non-government organizations; as a true consensus, it is a compromise among groups with different priorities and perspectives on the Bay and its problems. I view this bill as reflecting the best judgment of all of the participants in the Bay cleanup, and I am comfortable with it as it now stands. I do not see it as legislation reflecting any one senator or representative; I hope that the entire delegations of Virginia, Maryland, and Pennsylvania will sponsor it.

I am pleased the NOAA's role in the Bay cleanup will be explicitly recognized in this legislation. The establishment of a local NOAA office for the Chesapeake Bay is a necessary part of that commitment. Our view of the appropriations in this legislation is that they belong to the Chesapeake Bay, and not to any particular Federal or State agency. The Bay Program structure appears to be adequate for ensuring the wise use of the lands.

There is a tendency to consider environmental protection a luxury that the nation cannot afford during times of fiscal austerity. The Chesapeake Bay Restoration Act is not a luxury—it is our nation's recognition that if we cannot commit ourselves to Save the Bay, we will never learn how to live on this planet without destroying it. As important as the Bay is to those of us who live near it, it is also a critical national and international model for humanity's evolution from abuse to stewardship of our land and its resources. I urge you to co-sponsor and support this bill.

Very truly yours,

WILLIAM C. BAKER,
President.

CHESAPEAKE BAY COMMISSION,
Annapolis, MD, October 16, 1990.

Hon. PAUL S. SARBANES,
Senate Dirksen Office Building, Washington, DC.

DEAR SENATOR SARBANES: I am writing to express the Chesapeake Bay Commission's strong support for the Chesapeake Bay Restoration Act of 1990. The Chesapeake Bay Commission is a tri-state legislative advisory commission created to assist the General Assemblies of Maryland, Virginia and Pennsylvania in addressing Chesapeake Bay-related issues which are of mutual concern to the three member states. This congressional reauthorization and enhancement of the Chesapeake Bay Program is certainly one such issue.

The federal-state partnership which has been established through the Chesapeake Bay Program has become a model for environmental management throughout the country. It is essential that this structure be maintained and enhanced. Over the past several months, our Commission staff in Annapolis have been active participants in developing a consensus of the entire Bay community concerning the future needs and direction of this important program.

We believe this legislation represents a true consensus of governmental and nongovernmental organizations that are integrally involved in the Chesapeake Bay restoration and protection efforts. The bill includes important new federal initiatives in the areas of living resources protection, toxics research and population growth and development. These represent major areas in which we, the states, require additional federal assistance.

This legislation is vital to the continued success of our efforts to protect this national treasure, the Chesapeake Bay. It is an issue which I believe warrants and receives the full backing of citizens throughout the Chesapeake Bay watershed. I urge you to sign on as original sponsor of this measure.

Sincerely,

KENNETH J. COLE,
Chairman.

● Mr. WARNER. Mr. President, I am pleased to join as an original cosponsor of the Chesapeake Bay Restoration Act of 1990. This important legislation, which, among other things would reauthorize the Chesapeake Bay Program, is supported by a broad range of groups from States bordering the Chesapeake Bay.

Mr. President, as we introduce this legislation, my colleagues will recall the history of our efforts to "Save the Bay." It is worth reviewing that history at this time. Early in the eighties, research revealed that an increasing oxygen shortage had caused a decline in bay resources, including oysters, clams, and vegetation. This discovery led to the signing of the first Chesapeake Bay Agreement in 1983, which was designed to meet this threat to the environment.

In subsequent years Virginia, Maryland, Pennsylvania, the District of Columbia, and the Environmental Protection Agency [EPA] have forged an enviable partnership to restore and protect the Chesapeake Bay. The commitment exhibited by officials from these entities has helped to establish a firm foundation for achieving the goal of significantly improving the mangement of the bay.

On December 15, 1987, the Chesapeake Bay Executive Council, comprised of representatives from Virginia, Maryland, Pennsylvania, the District of Columbia, and EPA, signed the 1987 Chesapeake Bay Agreement. This agreement, which set specific goals and timetables for the bay's restoration, was designed to reverse the decline that has imperiled the Chesapeake Bay's status as a major source of jobs, seafood, recreation and regional culture.

The agreement set an important goal requiring a 40-percent reduction in nitrogen and phosphorous by the year 2000. According to reports, the nutrient reduction plan is being implemented and progress is being made in improving the bay's management.

Despite all of the progress that has been made to date, it is clear that more action is required. The Chesapeake Bay Restoration Act of 1990 represents a crucial step in that process.

In particular, the bill would provide much-needed authority for EPA to continue to lead and coordinate Federal agency participation in the Chesapeake Bay Program, in cooperation with the Chesapeake Executive Council. The bill also directs the Administration [NOAA] together to implement a comprehensive, coordinated program for science research, monitoring and data collection of the bay and its watershed. In addition, the bill would authorize funds to implement the comprehensive basinwide toxics reduction strategy called for under the bay agreement, provide for development of a coordinated Chesapeake Bay watershed land use data base, and establish a demonstration program to address problems associated with urban and suburban runoff. Finally, EPA is directed to undertake an assessment of the Chesapeake Bay Program and evaluate implementation of the bay agreement.

Mr. President, the legislation introduced today represents the consensus of many individuals who are knowledgeable about the methods of preserving the bay as a precious national resource: Those in the bay community, Federal, State and local governments, and many others, including nongovernment organizations. As is the case with any consensus agreement, this bill serves to reflect the best judgment of all participants.

The Governor of the Commonwealth of Virginia has strongly endorsed the Chesapeake Bay Restora-

tion Act. Virginia State officials were active participants in developing this proposal, and they tell me that they are pleased with the result.

Mr. President, I commend my Senate colleagues from Virginia, Maryland, and Pennsylvania for their work on this bill. In particular, I applaud the work of my colleague from Maryland, Senator SARBANES, for his leadership in working with officials from all of the bay States to bring this legislation to this point. I look forward to working with the members of these delegations to enact this legislation.●

● Ms. MIKULSKI. Mr. President, I'd like to thank my colleague, Senator SARBANES, for the hard work and effort he's put into the Chesapeake Bay Restoration Act of 1990. With Senator SARBANES' work on the authorizing committee, and my Chair on the Appropriations Subcommittee that funds, EPA, we're a one-two punch for the Chesapeake Bay. Together, we're working to protect and preserve Maryland's, and this region's, most valuable natural resource.

The Chesapeake Bay Restoration Act of 1990 builds on the Chesapeake Bay Agreement of 1987. The delegations—both House and Senate—of every State in the region have worked closely together to take a great step toward saving the Chesapeake Bay.

What this legislation means is that the Chesapeake Bay will be safe to swim in. Oysters and rockfish caught in the bay will be safe to eat—and the Chesapeake Bay watermen will be able to earn their living as they have always done.

This legislation means that docks and back yards won't wash away. It means that our children and their families will have a place to spend their weekends, or a resource to make a living from. It means that we care enough to preserve the Chesapeake Bay for them.

Mr. President, we've made a lot of promises on the Chesapeake Bay—promises made and promises kept. The Chesapeake Bay is in better health today than it was in 1987. Today, we say that the promise continues.

I am proud of our record—and of everyone who has pitched in to help. From the volunteers who go out and pick up trash on the beaches of the bay to the farmers who have cut back on fertilizers to reduce nonpoint source pollution, everyone has pitched in to help nonpoint source pollution, everyone has pitched in to help the Bay. The State of Maryland has done an outstanding job, and I want to take special note of their commitment.

And here in the Senate, I have been working to make sure that the Federal Government lives up to our end of the deal. I Chair the subcommittee that funds the EPA, the lead Federal Agency on Chesapeake Bay programs. Earlier this week, the conference committee on our spending bill for 1991 approved an increase in funding for the Chesapeake Bay Program to over $12 million.

We are also working to make sure that other Federal agencies do their fair share. NOAA will continue their vital studies on fisheries stocks, controlling contamination, monitoring algae, and tracking changes in crucial neighboring wetlands through LANDSAT. The Fish and Wildlife Service will continue to work to preserve the incredible and diverse fish and wildlife habitat that is part of the Chesapeake Bay system. And the National Park Service is being asked to identify areas of the shoreline on the bay which are ecologically sensitive or culturally significant.

Mr. President, I pledge to continue my efforts to make sure that programs to save the bay are funded. Through this effort, the legislation being introduced by my distinguished colleague the senior Senator from Maryland, the commitment of State and local officials, and the care and concern of all of the people who enjoy the bay, we will continue to improve the bay.●

● Mr. ROBB. Mr. President, I am pleased to cosponsor the Chesapeake Bay Restoration Act of 1990.

The legislation builds on the successful effort to clean up the bay, to which I have been committed since my term as Governor of Virginia from 1982 to 1986. Since 1983, when the first bay agreement was signed, we have made tremendous strides in restoring and preventing further deterioration of the bay. The bay initiative serves as a model of cooperation between State and Federal Governments attempting to save a vital natural and economic resource.

At the same time, as the population in each of our States grows, and the pressures to develop land increase, it is essential that we continue to push forward in the bay restoration effort.

The Chesapeake Bay agreements represent an important set of promises; the Federal funds proposed in this legislation would continue to provide the resources necessary to fulfill those promises.●

By Mr. BURNS (for himself, Mr. ARMSTRONG, Mr. HEFLIN, Mr. D'AMATO, Mr. GRASSLEY, Mr. HOLLINGS, Mr. DURENBERGER, Mr. INOUYE, and Mr. HELMS):

S.J. Res. 381. Joint resolution to designate November 2, 1990, as a national day of prayer for members of American military forces and American citizens stationed or held hostage in the Middle East, and for their families; to the Committee on the Judiciary.

NATIONAL DAY OF PRAYER FOR THE MIDEAST SITUATION

● Mr. BURNS. Mr. President, I rise today to introduce a joint resolution to designate November 2, 1990, as a national day of prayer for members of American military forces and American citizens stationed or held hostage in the Middle East, and for their families. I am introducing this resolution on behalf of myself and Senators ARMSTRONG, Mr. HEFLIN, Mr. D'AMATO, Mr. GRASSLEY, Mr. HOLLINGS, Mr. DURENBERGER, Mr. INOUYE, and Mr. HELMS.

This resolution was introduced yesterday in the House of Representatives by Representative DUNCAN from Tennessee, and it is something we hope to get enacted into law prior to adjournment. I would urge all my colleagues to look at this resolution and consider cosponsoring it.

In times of crisis, our great Nation has always sought the favor and mercy of God. In fact, the first proclamation of this nature was issued on March 30, 1863, by President Abraham Lincoln in the midst of the Civil War. The situation in Saudi Arabia has not escalated to the point of war, as we all know, and I do not mean to imply that it will.

Regardless of the outcome, our military forces and those being held against their will in the Middle East continue to face great hardships. They have all shown bravery and confidence in the face of danger, yet the need remains for prayer for their safety, strength for their families, and guidance for our National leaders.

I urge my colleagues to cosponsor this resolution so that we can get it passed and signed by the President before November 2.●

By Mr. DIXON:

S.J. Res. 382. Joint resolution disapproving the recommendation of the President to extend nondiscriminatory treatment—most-favored-nation treatment—to the products of the People's Republic of China; to the Committee on Finance.

DISAPPROVAL OF MOST-FAVORED-NATION TRADING STATUS FOR THE PEOPLE'S REPUBLIC OF CHINA

● Mr. DIXON. Mr. President, I rise today to reintroduce a joint resolution of disapproval of the President's recommendation to extend most-favored-nation status to the People's Republic of China.

This resolution is necessary because the laws applicable to nondiscriminatory trade treatment legislation have changed. The Customs and Tariffs Act, recently signed into law by the President, includes language on the process of dealing with joint resolutions.

The regime in China is just as undeserving today as it was after the brutal massacre of Chinese pro-democracy students and workers in Tiananmen Square for continued most-favored-nation status trade treatment. MFN is a preferential trade status conferred upon nations of the world by the

United States. We grant that status to deserving nations. The People's Republic of China is not deserving of continued MFN status.

Political repression, imprisonment of prodemocracy supporters, and religious persecution continue. The Chinese Government has not made the necessary significant steps toward political and economic reform. The regime in Beijing continues to pay little attention to the international calls for respect of human rights and freedom of expression.

Asia Watch, a human rights monitoring group, wrote about the continued repression in China in its August 1, 1990, edition of news from Asia Watch. In the article, entitled "China: Ongoing Repression," the group came to this conclusion about the situation in China:

Although China announced the release of significant numbers of political prisoners in May and June, many participants in the pro-democracy movement continue to be detained in jails or labor camps around the country. Many new arrests have taken place, and some released prisoners have been re-arrested even with the May-June releases, it is difficult to say that the human rights situation has undergone any major improvement since June 4, 1989, the date of the massacre at Tiananmen Square.

We must continue to pressure the Chinese to reform themselves, and make it clear that their failure to change will result in the removal of the People's Republic of China as a beneficiary of United States MFN trade status.●

ADDITIONAL COSPONSORS

S. 1140

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 1140, a bill to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

S. 1216

At the request of Mr. SIMON, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 1216, a bill to amend the National Labor Relations Act to give employers and performers in the live performing arts, rights given by section 8(e) of such act to employers and employees in similarly situated industries to give to such employers and performers the same rights given by sections 8 (f) of such act to employers and employees in the construction industry, and for other purposes.

S. 2602

At the request of Mr. METZENBAUM, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 2602, a bill to amend the Public Health Service Act to provide assistance for biomedical and health services research, treatment programs and for other purposes relating to Alzheimer's disease and related disorders.

S. 2925

At the request of Mr. DIXON, the name of the Senator from Montana [Mr. BURNS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Washington [Mr. GORTON], the Senator from Wisconsin [Mr. KASTEN], the Senator from Michigan [Mr. LEVIN], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 2925, a bill to authorize the minting and issuance of coins in commemoration of the quincentenary of the discovery of America and to authorize the payment of the proceeds of the sale of such coins to the Christopher Columbus Quincentenary Scholarship Foundation for the purpose of establishing a schoarship program, and for other purposes.

S. 2946

At the request of Mr. KENNEDY, the name of the Senator from New Jersey [Mr. BRADLEY] the Senator from Connecticut [Mr. LIEBERMAN] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 2946, a bill to amend the Public Health Service Act to revise and extend the program establishing the National Bone Marrow Donor Registry, and for other purposes.

S. 3025

At the request of Mr. GLENN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 3025, a bill to amend the titles 10 and 37, United States Code, to make members of the Armed Forces involved in Operation Desert Shield or similar operations eligible for certain benefits and to make members of the reserve components of the Armed Forces and retired members of the Armed Forces eligible for certain benefits when ordered to active duty in connection with a mobilization; and for other purposes.

S. 3069

At the request of Mr. JEFFORDS, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 3069, a bill to provide a method of locating private and Government research on environmental issues by geographic location.

S. 3185

At the request of Mr. KERREY, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 3185, a bill to establish an Education Capital Fund to assist local education reform efforts, and for other purposes.

SENATE JOINT RESOLUTION 347

At the request of Mr. BURNS, the name of the Senator from Tennessee [Mr. SASSER] and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of Senate Joint Resolution 347, a joint resolution designating April 7 through 13, 1991, as "National County Government Week."

SENATE JOINT RESOLUTION 374

At the request of Mr. PELL, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Joint Resolution 374, a joint resolution to declare it to be the policy of the United States that there should be a renewed and sustained commitment to Federal aid to elementary and secondary education.

SENATE RESOLUTION 338

At the request of Mr. SASSER, the name of the Senator from West Virginia [Mr. BYRD] and the Senator from Alabama [Mr. SHELBY] were added as cosponors of Senate Resolution 338, a resolution expressing the sense of the Senate that the Department of Commerce should utilize the statistical correction methodology to achieve a fair and accurate 1990 Census.

AMENDMENTS SUBMITTED

OMNIBUS BUDGET RECONCILIATION ACT

GRAHAM AMENDMENT NO. 3024

Mr. GRAHAM proposed an amendment to the bill (S. 3209) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1991, as follows:

At the end of title II, add the following:

SEC. . DETERMINATION TO PROVIDE DEPOSIT INSURANCE.

Section 4 of the Federal Deposit Insurance Act (12 U.S.C. 1814) is amended—

(1) by amending subsection (b) to read as follows:

"(b) CERTIFICATION BY OTHER BANKING AGENCIES.—Every national bank which is authorized to commence or resume the business of banking, and which is engaged in the business of receiving deposits other than trust funds as herein defined, and every noninsured national nonmember bank which becomes a member of the Federal Reserve System, and every noninsured State bank which is converted into a national member bank or which becomes a member of the Federal Reserve System, and which is engaged in the business of receiving deposits other than trust funds as herein defined, shall be an insured depository institution upon—

"(1) application to the Corporation; and

"(2) receipt by the Corporation of a certificate which is issued to the Corporation by the Comptroller of the Currency in the case of a national member bank which is authorized to commence or resume the business of banking or a State bank which is convered into a national member bank, or by the Board of Governors of the Federal Reserve System in the case of a national nonmember bank or a State bank which becomes a member of the Federal Reserve System, and which meets the requirements of subsection (d), unless insurance is denied by the Board of Directors.";

(2) by redesignating subsections (c) and (d) as subsections (i) and (j), respectively; and

(3) by inserting after subsection (b) the following new subsections:

"(c) INTERIM NATIONAL BANKING ASSOCIATIONS.—In the case of any interim national bank that is chartered by the Comptroller of the Currency and will not open for business, such bank shall be an insured depository institution upon the issuance of such bank's charter by the Comptroller.

"(d) CERTIFICATE REQUIREMENTS.—Any certificate issued to the Corporation under subsection (b) shall state that the bank is authorized to transact the business of banking in the case of a national member bank, or is a member of the Federal Reserve System in the case of a State bank which is converted into a national member bank, or a national nonmember bank or a State bank which becomes a member of the Federal Reserve System, and that consideration has been given to the factors enumerated in section 6 of this Act.

"(e) REVIEW REQUIREMENTS.—In reviewing any certificate and application referred to in subsection (b), the Board of Directors shall consider the factors described in paragraphs (1), (2), (3), (4), (5), and (7) of section 6 of this Act in determining whether to deny insurance.

"(f) NOTICE OF DENIAL OF APPLICATION.—If the Board of Directors, after giving due deference to the determination of the Comptroller of the Currency or the Board of Governors of the Federal Reserve System, as appropriate, with respect to such factors, does not concur in the determination of the Comptroller or the Board of Governors, as appropriate, the Board of Directors shall promptly notify the Comptroller or the Board of Governors, as appropriate, that insurance has been denied, giving specific reasons in writing for the Corporation's determination with reference to the factors described in paragraphs (1), (2), (3), (4), (5), and (7) of section 6, and no insurance shall be granted.

"(g) VOTING REQUIREMENTS.—The authority of the Board of Directors to make any determination to deny insurance under this subsection may not be delegated by the Board of Directors and any such determination may be made only upon a vote of ¾ of all members of the Board of Directors (excluding the Comptroller of the Currency in the case of a national member bank which is authorized to commence or resume the business of banking or a State bank which is converted into a national member bank).

"(h) CONTINUATION OF INSURANCE UPON BECOMING A MEMBER BANK.—In the case of an insured bank which is admitted to membership in the Federal Reserve System or an insured State bank which is converted into a national member bank, such application and certificate shall not be required, and the bank shall continue as an insured bank.".

GRAHAM AMENDMENT NO. 3025

Mr. GRAHAM proposed an amendment to amendment No. 3024 proposed by him to the bill S. 3209, supra, as follows:

At the end of title II, add the following:

SEC. . RISK-BASED ASSESSMENTS.

Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by adding at the end the following new paragraph:

"(10) ASSESSMENTS BASED ON RISK CRITERIA ALLOWED.—

"(A) ESTABLISHMENT OF RISK CRITERIA.—Notwithstanding any other provision of this subsection, the Corporatioin may establish criteria for measuring and determining the degree to which any insured depository institution poses a risk to the Bank Insurance Fund or the Savings Association Insurance Fund.

"(B) AMOUNT OF ASSESSMENT MAY BE BASED ON RISK.—The amount which the Corporation may assess against any insured depository institution under paragraph (1) in any year may be determined by the Corporation on the basis of the Corporation's evaluation, in accordance with the criteria established under subparagraph (A), of the degree to which such institution poses a risk to the Bank Insurance Fund or the Savings Association Insurance Fund.

"(C) RANGE OF ASSESSMENTS.—In the exercise of the Corporation's authority under subparagraph (B), the Corporation may establish a scale under which the amount assessed against any insured depository institution reflects the degree of risk posed by such institution.

"(D) FACTORS TO BE CONSIDERED.—The determination by the Corporation under this paragraph of the risk presented by a depository institution shall be based on the evaluation by the Corporation of the financial condition of such institution, the extent of compliance by such institution with laws and regulations applicable to such institution's operations, the capability and experience of the management of such institution, the overall operating soundness of such insured institution, and such other factors as the Corporation may determine to be relevant to such determination.".

JEFFORDS (AND OTHERS) AMENDMENT NO. 3026

Mr. JEFFORDS (for himself, Mr. MCCLURE and Mr. BURNS) proposed an amendment to the bill S. 3209, supra, as follows:

At the appropriate place, insert the following:

SEC. .

(a) FINDINGS.—The Congress finds and declares that—

(1) in order to have a comprehensive program to reduce pollution and reduce our dependence on foreign oil, it is important to coordinate programs relating to the production of automobiles and the production of fuels;

(2) the achievement of long-term energy security for the United States is essential to the health of the national economy, the well-being of our citizens, and the maintenance of national security;

(3) the displacement of energy derived from imported oil with alternative fuels will help to achieve energy security and improve air quality;

(4) transportation uses account for more than 60 percent of the oil consumption of the Nation; and

(5) the Nation's security, economic, and environmental interests require that the Federal Government should assist clean-burning, nonpetroleum transportation fuels to reach a threshold level of commercial application and consumer acceptability at which they can successfully compete with petroleum based fuels.

SEC. 2. RESOLUTION.

It is the sense of the Senate that it is in the national interest to enhance energy security and promote environmental protection through the gradual replacement of gasoline with cleaner, domestic nonpetroleum energy sources, and

The Secretary of Energy should analyze the potential of, and report to Congress on, the technical feasibility of replacing, by 1998 and 2005, 10 percent and 30 percent respectively, of our national transportation fuel with alternative and other domestic sources of energy.

GORE (AND OTHERS) AMENDMENT NO. 3027

Mr. GORE (for himself, Ms. MIKULSKI, Mr. KERRY, Mr. BIDEN, Mrs. KASSEBAUM, and Mr. BRYAN) proposed an amendment to the bill S. 3209, supra, as follows:

Strike section 7461 of the bill and insert the following:

SEC. 7461. ELIMINATION OF PROVISION REDUCING MARGINAL TAX RATE FOR HIGH-INCOME TAXPAYERS.

"(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)), a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $32,450	15% of taxable income.
Over $32,450 but not over $78,400.	$4,867.50, plus 28% of the excess over $32,450.
Over $78,400	$17,733.50, plus 33% of the excess over $78,400.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $26,050	15% of taxable income.
Over $26,050 but not over $67,200.	$3,907.50, plus 28% of the excess over $26,050.
Over $67,200	$15,429,50, plus 33% of the excess over $67,200.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $19,450	15% of taxable income.
Over $19,450 but not over $47,050.	$2,917.50, plus 28% of the excess over $19,450.
Over $47,050	$10,645.50, plus 33% of the excess over $47,050.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse

under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $16,225	15% of taxable income.
Over $16,225 but not over $39,200.	$2,433.75, plus 28% of the excess over $16,225.
Over $39,200	$8,866.75, plus 33% of the excess over $39,200.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $5,450	15% of taxable income.
Over $5,450 but not over $14,150.	$817.50, plus 28% of the excess over $5,450.
Over $14,150	$3,253.50, plus 33% of the excess over $14,150.

(b) REPEAL OF PHASEOUT.—

(1) IN GENERAL.—Section 1 is amended by striking subsection (g) (relating to phaseout of 15-percent rate and personal exemptions).

"(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 1(f)(6) (relating to adjustments for inflation) is amended by striking "subsection (g)(4),".

(c) 28 PERCENT MAXIMUM CAPITAL GAINS RATE.—Subsection (j) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(J) MAXIMUM CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the amount of the net capital gain, or

"(ii) the amount of taxable income taxed at a rate below 28 percent, plus

"(B) a tax of 28 percent of the amount of taxable income in excess of the amount determined under paragraph (1).

"(2) COORDINATION WITH SECTION 1202 DEDUCTION.—For purposes of paragraph (1), the amount of the net capital gain shall be reduced by the sum of—

"(A) the amount allowable as a deduction under section 1202(a)(1), plus

"(B) the amount of the qualified gain (as defined in section 1202(c)) for the taxable year to the extent taken into account under section 1202(c)(1) for the taxable year."

(d) TECHNICAL AMENDMENTS.—

(1)(A) Subsection (f) of section 1 is amended—

(i) by striking "1988" in paragraph (1) and inserting "1990", and

(ii) by striking "1987" in paragraph (3)(B) and inserting "1989".

(B) Subparagraph (B) of section 32(i)(1) is amended by striking "1987" and inserting "1989".

(C) Subparagraph (C) of section 41(e)(5) is amended—

(i) by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end of clause (i),

(ii) by striking "1987" in clause (ii) and inserting "1989", and

(iii) by adding at the end of clause (ii) the following new sentence: "Such substitution shall be in lieu of the substitution under clause (i).".

(D) Subparagraph (B) of section 63(c)(4) is amended by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end.

(E) Clause (ii) of section 135(b)(2)(B) is amended by striking ", determined by substituting 'calendar year 1989' for 'calendar year 1987' in subparagraph (B) thereof".

(F) Subparagraph (B) of section 151(d)(3) is amended by striking "1987" and inserting "1989".

(G) Clause (ii) of section 513(h)(2)(C) is amended by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end.

(2) Section 1 is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (g) and (h), respectively.

(3) Subsection (j) of section 59 is amended—

(A) by striking "section 1(i)" each place it appears and inserting "section 1(g)", and

(B) by striking "section 1(i)(3)(B)" in paragraph (2)(C) and inserting "section 1(g)(3)(B)".

(4) Paragraph (4) of section 691(c) is amended by striking "1(j)" and inserting "1(h)".

(5)(A) Clause (i) of section 904(b)(3)(D) is amended by striking "subsection (j)" and inserting "subsection (h)".

(B) Subclause (I) of section 904(b)(3)(E)(iii) is amended by striking "section 1(j)" and inserting "section 1(h)".

(6) Clause (iv) of section 6103(e)(1)(A) is amended by striking "section 1(j)" and inserting "section 1(g)".

(7)(A) Subparagraph (A) of section 7518(g)(6) is amended by striking "1(j)" and inserting "1(h)".

(B) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act, 1936 is amended by striking "1(j)" and inserting "1(h)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7461A. INCREASE IN RATE OF INDIVIDUAL ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subparagraph (A) of section 55(b)(1) (relating to tentative minimum tax) is amended by striking "21 percent" and inserting "25 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1990.

SEC. 7461B. SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000.

(a) GENERAL RULE.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000

"Sec. 59B. Surtax on section 1 tax.
"Sec. 59C. Surtax on minimum tax.
"Sec. 59D. Special rules.

"SEC. 59B. SURTAX ON SECTION 1 TAX.

"In the case of an individual who has taxable income for the taxable year in excess of $1,000,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 10 percent of the amount which bears the same ratio to the tax imposed under section 1 (determined without regard to this section) as—

"(1) the amount by which the taxable income of such individual for such taxable year exceeds $1,000,000, bears to

"(2) the total amount of such individual's taxable income for such taxable year.

"SEC. 59C. SURTAX ON MINIMUM TAX.

"In the case of an individual who has alternative minimum taxable income for the taxable year in excess of $1,000,000, the amount of the tentative minimum tax determined under section 55 for such taxable year shall be increased by 2.5 percent of the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds $1,000,000.

"SEC. 59D. SPECIAL RULES.

"(a) SURTAX TO APPLY TO ESTATES AND TRUSTS.—For purposes of this part, the term 'individual' includes any estate or trust taxable under section 1.

"(b) TREATMENT OF MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$500,000' for '$1,000,000'.

"(c) COORDINATION WITH OTHER PROVISIONS.—The provisions of this part—

"(1) shall be applied after the application of section 1(h), but

"(2) before the application of any other provision of this title which refers to the amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $1,000,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 7461C. 6-CENT INCREASE IN MOTOR FUEL TAXES.

Notwithstanding any provision of, or amendment made by, section 7405 of this Act (relating to increase and extension of highway-related taxes and trust fund) or any provision of the Internal Revenue Code of 1986, the following tax rates shall be effective for any period beginning on or after January 1, 1991:

(1) TAX ON GASOLINE.—The Highway Trust Fund financing rate and the deficit reduction rate under section 4081(a)(2)(B) shall be 12 cents a gallon and 3 cents a gallon (3.5 cents a gallon in the case of gasohol containing ethanol), respectively.

(2) TAX ON DIESEL FUEL.—The Highway Trust Fund financing rate and the diesel fuel deficit reduction rate under section 4091(b) shall be 18 cents a gallon and 3 cents a gallon (3.5 cents a gallon in the case of any mixture of diesel if at least 10 percent of such mixture is ethanol), respectively.

(3) TAX ON FUEL USED IN TRAINS.—The rate of tax on fuel used in trains under sections 4041(a)(3) and 4093(c) shall be 3 cents per gallon.

SEC. 7461D. PART B PREMIUM.

Section 1839(e)(1) of the Social Security Act (42 U.S.C. 1395r(e)(1)), as amended by section 6161 of this Act, is further amended by striking "and for each month after December 1992 and before January 1996".

SEC. 7461E. PART B DEDUCTIBLE.

Section 1833(b) of the Social Security Act (42 U.S.C. 1395l), as amended by section 6162 of this Act, is further amended by striking "for calendar years before 1991 and after 1995, and $150 for years after 1990 and before 1996".

SEC. 7461F. COINSURANCE FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l), as amended by section 6163 of this Act, is further amended—

(1) in subsection (a)(1)(D)(i)), by inserting "in the case of such tests for which payment is made on an assignment-related basis, or" after "100 percent,",

(2) in subsection (a)(2)(D)(i), by inserting "in the case of such tests for which payment is made on an assignment-related basis, to a provider having an agreement under section 1866, or" after "100 percent,", and

(3) in subsection (b)(3), by inserting "(A) under subsection (a)(1)(D) or (a)(2)(D)(i) on an assignment-related basis, or to a provider having an agreement under section 1866, or (B)" after "under this part".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to clinical diagnostic laboratory tests performed on or after January 1, 1991.

BOREN (AND OTHERS) AMENDMENT NO. 3028

Mr. BOREN (for himself, Mr. NUNN, Mr. LIEBERMAN, and Mr. GRAHAM) proposed an amendment to the bill S. 3209, supra, as follows:

At the end of title VII, insert:

SEC. . SENSE OF SENATE WITH RESPECT TO GROWTH AND SAVINGS INCENTIVES.

(a) FINDINGS.—The Senate finds that—

(1) the President and Congressional leaders have worked diligently to fashion a broad bipartisan budget;

(2) any budget package should pass the following three tests to truly serve the national interest;

(A) first, it must be fair—the heaviest burden should not be placed on those least able to bear it;

(B) second, it should help rebuild our economic strength and make us better able to compete in world markets so that we will have the jobs for the next generation of Americans; and

(C) third, it should provide savings and investment incentives to the middle income people of this country—those who work on our farms and in our factories, and create our small businesses; for they are the backbone of America.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Senate conferees should work towards a final budget package that meets these three important tests by increasing the tax rate of incomes above $200,000 by an amount sufficient to—

(1) allow middle income Americans, those with family incomes below $100,000, to set aside up to $1,000 of their income in individual retirement accounts to be used not only for the retirement but also to provide for education and medical expenses and for first-time home purchases;

(2) reduce the tax on capital gains for designated amounts over a lifetime to provide incentives for Americans, with special incentives for middle-income Americans, to make long-term investments that create jobs, reduce America's growing dependence on borrowing from abroad, and increase the productivity and competitiveness of our Nation; and

(3) reduce the proposed increase in gasoline excise taxes.

RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT

HEINZ (AND KOHL) AMENDMENTS NOS. 3029 AND 3030

(Ordered to lie on the table.)

Mr. HEINZ (for himself and Mr. KOHL) submitted two amendments intended to be proposed by them to the bill (H.R. 2567) entitled "Reclamation Projects Authorization and Adjustment Act of 1990", as follows:

AMENDMENT No. 3029

At the appropriate place, insert the following new section:

SEC. . COST FOR DELIVERY OF WATER USED TO PRODUCE THE CROPS OF CERTAIN AGRICULTURAL COMMODITIES.

Section 9 of the Reclamations Act of 1939 (43 U.S.C. 485h) is amended by inserting at the end thereof the following new subsection:

"(g)(1) All contracts entered into, renewed, or amended under authority of this section or any other provision of Federal reclamation law after—

"(A) 2 years after the date of enactment of this subsection shall require that the organization agree by contract with the Secretary to pay at least 50 percent of full cost for the delivery of water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provisions of the Agricultural Act of 1949; and

"(B) 4 years after the date of enactment of this subsection shall require that the organization agree by contract with the Secretary to pay at least full cost for the delivery of water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provisions of the Agricultural Act of 1949.

"(2) The Secretary shall announce the amount of the full cost payment for the succeeding year on or before July 1 of each year.

"(3) As used in this subsection, the term 'full cost' shall have the meaning given such term in paragraph (3) of section 202 of the Reclamation Reform Act of 1982.

"(4) This subsection shall not apply to—

"(A) any contract which provides for irrigation on individual Indian or tribal lands on which repayment is deferred pursuant to the Act of July 1, 1032 (47 Stat. 564; 25 U.S.C. 386(a), commonly referred to as the 'Levitt Act');

"(B) an amendment of any contract with any organization which, on the date of enactment of this subsection, is required pursuant to a contract with the Secretary as a condition precedent to the delivery of water to make cash contributions of at least 20 percent of the cost of construction of irrigation facilities concurrently with the construction of such facilities by the Secretary; and

"(C) any contract which carries out the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294; 100 Stat. 418).".

AMENDMENT No. 3030

At the appropriate place, insert the following new section:

SEC. . FAIR MARKET VALUE FOR SALES OF LAND.

(a) EFFECTIVE DATE.—Section 209(f)(2) of the Reclamation Reform Act of 1982 is amended by striking "the date of enactment of this Act," and inserting "October 12, 1982 but before the enactment of the Reclamation Reform Act Amendments of 1990".

(b) FAIR MARKET VALUE.—Section 209(f) of such Act is further amended by adding at the end the following:

"(3) In the case of disposals of excess lands, including such land not under recordable contracts, made on or after the enactment of the Reclamation Projects Authorization & Adjustment Act of 1990, the disposal of excess lands to nonexcess owners shall be for fair market value of the land, which shall be paid to excess owners except for the fair market value related to the delivery of irrigation water, which shall be deposited in the Treasury of the United States as miscellaneous receipts. Upon such disposal the title to these lands shall be freed of the burden of any limitations on subsequent sale values which might otherwise be imposed by the operation of section 46 of the Act entitled 'An Act to adjust water rights charges, to grant certain relief on the Federal irrigation projects, and for other purposes,' approved May 25, 1926 (43 U.S.C. 423e).".

FUTURES TRADING PRACTICES ACT

LEAHY (AND OTHERS) AMENDMENT NO. 3031

(Ordered to lie on the table.)

Mr. LEAHY (for himself, Mr. LUGAR, Mr. BOND, Mr. DODD, and Mr. HEINZ) submitted an amendment intended to be proposed by them to the bill (S. 1729) to amend the Commodity Exchange Act to reauthorize such act, and for other purposes, as follows:

At the appropriate place, insert the following new title:

TITLE —INTERMARKET COORDINATION

SEC. . MARGIN AUTHORITY OVER STOCK INDEX FUTURES.

(a) AUTHORITY OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM OVER MARGIN ON STOCK INDEX FUTURES.—

(1) IN GENERAL.—The Act (7 U.S.C. 1 et seq.) is amended by adding at the end the following new section:

"SEC. 24. AUTHORITY OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM OVER MARGIN ON STOCK INDEX FUTURES.

"(a) PURPOSE.—The Board of Governors of the Federal Reserve System has authority to prescribe rules and regulations with respect to margin for securities (other than exempted securities) and options on such securities under the Securities and Exchange Act of 1934 and has other important responsibilities with respect to credit, banking, and finance. Thus, the Board of Governors of the Federal Reserve System is well placed to—

"(A) exercise margin authority with respect to each segment of the overall interdependent market system for establishing prices for equity securities and related products—equity securities, futures, and related options;

"(B) assess the prudential impact of margin levels on the participants and institutions within each such segment;

"(C) assess the potential for systemic risk which may arise as a result of margin levels in any such segment;

"(D) take account, in any such assessment, of the respective roles and structure of margin in each segment and its impact on prudential risk; and

"(E) apply a consistent viewpoint on the nature and magnitude of systemic and prudential risk in making judgments with respect to margin in each such segment and its effect on the maintenance of orderly markets.

Congress therefore finds that it is appropriate and in the public interest to assign authority over margin for contracts of sale for future delivery of groups or indices of equity securities (and options thereon) to the Board of Governors of the Federal Reserve System, consistent with the authority which Congress has assigned to the Board to prescribe rules and regulations with respect to margin for securities (other than exempted securities) and options on such securities.

"(b) IN GENERAL.—The Board of Governors of the Federal Reserve System shall prescribe rules with respect to the margin that may be initially required and subsequently maintained on contracts of sale for future delivery of a group or index of equity securities (or options thereon).

"(c) STANDARDS.—In adopting such rules, such Board

"(1) shall consider—

"(A) the protection of the financial integrity of clearing organizations, contract markets, futures commission merchants, or related firms or financial institutions from default by participants in such markets on their payment or performance obligations;

"(B) the purposes of this section; and

"(C) the national public interest set forth in section 3; and

"(2) consistent with the purposes and standards of this section, may make appropriate provision with respect to (including special or different margin requirements for) transactions or positions engendering a lesser degree of prudential risk, including hedges, positions held by members of contract markets who have other forms of collateral available to cover their performance or payment obligations, spread or arbitrage positions, and other appropriate positions.

"(c) VIOLATIONS.—Except for purposes of sections 14 and 22, a failure to assess margin in accord with any rule or regulation of the Board of Governors of the Federal Reserve System adopted under this section shall be deemed a violation of this Act.

"(d) DELEGATION.—The Board, at its sole discretion and subject to such conditions as it may determine, may adopt rules pursuant to subsection (a) under which the margin therein required may be the amount specified by the rules of the respective designated contract market, provided that all such rules have been approved or amended by

"(1) the Board or,

"(2) not earlier than 30 months after the date of enactment of this section, the Commission under sections 5a(12) and 8a(7) if the Board, in its sole discretion and subject to such conditions as it may determine, so provides."

(2) CONFORMING AMENDMENTS.—(A) Section 2(a)(1)(A) (7 U.S.C. 2) is amended by inserting "and section 24" after "subparagraph (B) of this paragraph".

(B) Section 5a(12) is renumbered "5a(12)(A)" and is amended by inserting thereafter a new paragraph as follows:

"(B) notwithstanding any provision of subpart (A) and consistent with the standards and purposes of section 24, with respect to any rule of a contract market—

"(i) setting levels of margin for contracts of sale for future delivery on a group or index of equity securities (or options thereon) adopted pursuant to a rule of the Board of Governors of the Federal Reserve Board under Section 24 and

"(ii) where such rule of the Board of Governors of the Federal Reserve Board so provides,

the contract market shall inform the Commission of such rule immediately upon its adoption. The contract market may put such rule into effect without receiving prior approval of the Commission unless the Commission, at any time before or after such rule has been put into effect until ten days after receipt of such rule by the Commission, informs the contract market in writing of its determination to review such rule for approval. The Commission shall review such rule under the procedures of subpart (A)."

(C) Section 8a(7) is renumbered "8a(7)(i)" and is amended by inserting thereafter a new subsection 8a(7)(ii) as follows:

"(ii) notwithstanding the provisions of subpart (i)(C) and consistent with the standards and purposes of section 24, the Commission may alter or supplement rules setting levels of margin for contracts of sale for future delivery on a group or index of equity securities (or options thereon) adopted pursuant to a rule of the Board of Governors of the Federal Reserve Board under Section 24 if such rule of the Board of Governors of the Federal Reserve Board so provides. In acting under this subpart, the Commission shall comply with the procedures set forth in subpart (i)."

SEC. 2. HYBRID INSTRUMENTS.

(a) MODIFICATION OF REGULATION OF HYBRID INSTRUMENTS.—Section 2(a)(1)(B) (7 U.S.C. 2a) is amended by adding at the end the following new clause:

"(vi)(I) Except to the extent that such transactions are conducted on a designated contract market and involve contracts of sale of a commodity for future delivery (or options thereon) or accounts and agreements related to such transactions, this Act shall not apply to and the Commodity Futures Trading Commission shall have no jurisdiction with respect to transactions in or involving securities (as defined in section 2(1) of the Securities Act of 1933 of section 3(a)(10) of the Securities Exchange Act of 1934) (or any interest therein or based on the value thereof) where such transactions or instruments—

"(aa) do not impose mutual executory obligations between the parties;

"(bb) are not options on an instrument which imposes mutual executory obligations between the parties;

"(cc) are listed or traded on a national securities exchange or quoted through an automated inter-dealer quotation system operated by a securities self-regulatory organization, as defined in the Securities Exchange Act of 1934;

"(dd) are not contracts of sale for future delivery of a single security (or option thereon) except an exempted security under section 3 of the Securities Act of 1933 or section 3(a)(12) of the Securities Exchange Act of 1934 on the date of enactment of the Futures Trading Act of 1982 (other than a municipal security as defined in section 3(a)(29) of the Securities Exchange Act of 1934 on the date of enactment of the Futures Trading Act of 1982);

"(ee) with respect to instruments involving a group or index of securities, would not contravene the requirements of subclauses (ii)(I), (ii)(II), or (ii)(III),

"(ff) are not instruments of the type subject to regulation by the Commission by action of section 19 as of the date of enactment of this section; and

"(gg) are (AA) the subject of an effective registration statement under the Securities Act of 1933 or the Securities Exchange Act of 1934," or (BB) have been determined by the Securities and Exchange Commission to be securities within the meaning of section 2(1) of the Securities Act of 1933 or section 3(a)(10) of the Securities Exchange Act of 1934;

"(II) Any transaction conducted on a designated contract market (or accounts and agreements related thereto such transactions) excepted from the exclusion in subclause (I) shall be governed solely pursuant to this Act. Any transaction excluded under subclause (I) from the jurisdiction of the Commodity Futures Trading Commission shall not be a contract of sale for future delivery (or option thereon) and shall not be regulated pursuant to this Act.

"(III) Except as hereinabove provided with respect to the exclusive jurisdiction of the Commodity Futures Trading Commission, nothing contained in this subparagraph (vi) shall supercede or limit the jurisdiction at any time conferred on the Commodity Futures Trading Commission to designate a board of trade as a contract market for any contract of sale for future delivery of a commodity or an option thereon, which otherwise satisfies the requirements of this Act."

(b) EXEMPTIVE AUTHORITY OF COMMODITY FUTURES TRADING COMMISSION.—Section 4 (7 U.S.C. 6) is amended—

(1) in subsection (a), by striking "It shall be unlawful" and inserting "Unless exempted by the Commission pursuant to subsections (c) or (d), it shall be unlawful"; and

(2) by adding at the end the following new subsection:

"(c) In order to promote responsible economic or financial innovation and fair competition, the Commission by rule, regulation, or order may exempt any agreement, contract, or transaction or classes thereof (including any person or class of persons offering, entering into, or rendering advice with respect to, such agreement, contract, or transaction), either unconditionally or upon stated terms or conditions or for stated periods, from the prohibitions and other requirements of any provision of this Act, other than section 2(a)(1)(B), if the Commission determines, after notice and opportunity for hearing, that such exemption is necessary or appropriate in the public interest and that such agreements, contracts, or transactions:

"(A) Would be limited to appropriate parties;

"(B) Would be entered into for commercial or non-speculative purposes; and

"(C) Would not preclude the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under this Act.

"(d)(1) To the extent that any such instruments or sub-classes thereof may be considered contracts of sale for future delivery, and the Commission determines that such exemption is not contrary to the public interest, the Commission shall, by rule, regulation, or order, exempt from the prohibi-

tions and other requirements of this Act, including 2(a)(1)(B)—

"(i) swap agreements (as defined in section 101(49) of title 11, United States Code) that are subject to individual negotiation as to substantive terms beyond price and undertaken in connection with a line of business including financial intermediation or the hedging activities of the parties to the agreements, and

"(ii) demand deposits, time deposits, or transaction accounts within the meaning of 12 CFR 204.2(b)(1), (c)(1) and (e), respectively, whether indexed or otherwise, offered by a United States financial institution that is insured by a United States government agency or United States chartered corporation, or by a United States branch or agency of a foreign bank that is licensed under the laws of the United States and regulated, supervised and examined by United States federal authorities having regulatory responsibility for such financial institutions."

(2) Before adopting any exemption under subparagraph (1), the Commission shall provide notice and opportunity for comment.

"(3) For purposes of subparagraph (1)(A), "appropriate parties" include:

"(i) a bank or trust company (acting in an individual or fiduciary capacity);

"(ii) a savings and loan institution;

"(iii) an insurance company;

"(iv) a registered investment company under the Investment Company Act of 1940;

"(v) a commodity pool regulated under the Act;

"(vi) a corporation, partnership, proprietorship, organization, trust or institutional entity with net worth exceeding $1,000,000;

"(vii) an employee benefit plan with assets exceeding $1,000,000, or whose investment decisions are made by a bank, insurance company, investment adviser registered under the Investment Advisers Act of 1940, or a registered commodity trading advisor under the Act;

"(viii) any department or agency of the United States, and State or political subdivision thereof, or any foreign government or political subdivision thereof;

"(ix) a broker-dealer registered under the Securities Exchange Act of 1934;

"(x) a futures commission merchant, floor broker, or floor trader registered under the Act; or

"(xi) such other persons having the financial and other qualifications sufficient to assure fulfillment of the terms and conditions of the agreement, contract or transaction."

SEC. 3. DIRECTIVES REGARDING INTERMARKET ISSUES.

(a) IN GENERAL.—Not later than 1 year after the effective date of this Act, the Securities and Exchange Commission and the Commodity Futures Trading Commission, in consultation with the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System, shall each respectively—

(1) adopt such rules and regulations, issue such orders, and, subject to applicable requirements, approve such rules of the self-regulatory organizations and contract markets subject to their respective regulatory authority as may be necessary to strengthen the overall stability of domestic equity and equity derivative markets and maintain fair and orderly markets through the adoption and approval of appropriate coordinated "circuit breaker" mechanisms and similar requirements;

(2) establish (for all domestic equity and equity derivative markets) effective prohibitions on intermarket frontrunning, and require the self-regulatory organizations and contract markets subject to their respective regulatory authority as may be necessary to establish effective procedures for sharing price, trading, and enforcement data for the detection of intermarket frontrunning, fraud, and other violations;

(3) adopt (for all domestic equity and equity derivative markets) such rules and regulations, issue such orders, and approve, subject to applicable requirements, such rules of the self-regulatory organizations and contract markets subject to their respective regulatory authority as may be necessary to facilitate the establishment of linked or coordinated facilities for the clearance and settlement of transactions;

(4) adopt such rules and regulations, issue such orders, and, subject to applicable requirements, approve such rules of the self-regulatory organizations and contract markets and clearing organizations subject to their respective regulatory authority as may be necessary or appropriate to authorize the prompt implementation of systems for the cross-margining of intermarket positions and the use of such intermarket positions as security interest for loans and other extensions of credit; and

(5) establish policies with regard to the negotiation and development of international regulatory agreement and standards involving intermarket issues.

(b) OTHER ISSUES. The Securities and Exchange Commission and the Commodity Futures Trading Commission, in consultation with the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System, shall identify and address other intermarket issues as they arise.

(c) The Securities Exchange Commission and the Commodity Futures Trading Commission shall report to Congress on the actions they have taken under this section within 15 months after the effective date of this Act.

Mr. LEAHY. Mr. President, I am pleased to join with my colleagues, Senator LUGAR, Senator BOND, Senator DODD, and Senator HEINZ, in introducing an amendment on Intermarket Coordination. This amendment—developed by the joint leadership of the two committees of jurisdiction over futures and securities, the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Banking, Housing, and Urban Affairs Subcommittee on Securities—is a reasonable, workable compromise on a series of jurisdictional issues involving our Nation's financial markets. We intend to offer this amendment when the Senate considers S. 1729, the Futures Trading Practices Act of 1989, hopefully before we adjourn sine die.

I am concerned that if Senate action on S. 1729 and our compromise on Intermarket Coordination is delayed until next year, our financial markets will remain at substantial risk from trading abuse and sagging public confidence. We must move forward.

I ask unanimous consent that the text and a brief summary of our amendment be placed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPROMISE AMENDMENT ON INTERMARKET COORDINATION BY SENATORS LEAHY, LUGAR, BOND, DODD, AND HEINZ

The amendment has four principal features:

1. Federal oversight of margin for stock-index futures is assigned to the Board of Governors of the Federal Reserve System;

2. The CFTC's "exclusive" jurisdiction for futures products is modified to allow certain hybrid securities to trade either under the futures or the securities regulatory system;

3. The CFTC is granted exemptive power to allow certain new products to trade outside the futures regulatory system, and is directed to use that power with respect to swap agreements and certain bank certificates of deposit; and

4. The SEC and CFTC, in consultation with the Federal Reserve Board and Treasury, are directed to develop solutions to such intermarket issues as coordinated circuit breakers, intermarket fraud, and cross-margining.

MARGIN AUTHORITY FOR STOCK-INDEX FUTURES PRODUCTS

The amendment directs the Board of Governors of the Federal Reserve System to prescribe rules with respect to margin that may be initially required and subsequently maintained on contracts of sale for future delivery of a group or index of equity securities (and options thereon).

The Board of Governors of the Federal Reserve System currently has authority to prescribe rules and regulations with respect to margin for securities (other than exempted securities) and options on such securities under the Securities Exchange Act of 1934 and has other important responsibilities with respect to credit, banking, and finance. Thus, the Board of Governors of the Federal Reserve System is well placed to—

(A) exercise margin authority with respect to each segment of the overall inter-dependent market system for establishing prices for equity securities and related products—equity securities, futures, and related options;

(B) assess the prudential impact of margin levels on the participants and institutions within each such segment;

(C) assess the potential for systemic risk which may arise as a result of margin levels in any such segment;

(D) take account, in any such assessment, of the respective roles and structure of margin in each segment and its impact on prudential risk; and

(E) apply a consistent viewpoint on the nature and magnitude of systemic and prudential risk in making judgments with respect to margin in each such segment and its effect on the maintenance of orderly markets.

Congress therefore finds that it is appropriate and in the public interest to assign authority over margin for contracts of sale for future delivery of groups or indices of equity securities (and options thereon) to the Board of Governors of the Federal Reserve System, consistent with the authority which Congress has assigned to the Board to prescribe rules and regulations with respect to margin for securities (other than exempted securities) and options on such securities.

STANDARDS

In adopting margin rules for stock-index futures contracts and related options, the Board must consider—

(A) the protection of the financial integrity of clearing organizations, contract markets, futures commission merchants, or related firms or financial institutions from default by participants in such markets on their payment or performance obligations;

(B) the purposes of this section; and

(C) the national public interests of futures trading set forth in section 3 of the Commodity Exchange Act.

The Board may, consistent with the standards and purposes of this provision, make appropriate provision—including special or different margin requirements—for transactions or positions engendering a lesser degree of prudential risk. These could include hedges, positions held by members of contract markets who have other forms of collateral available to cover their performance or payment obligations, spread or arbitrage positions, and other appropriate positions.

Any failure to assess margin in accord with Board rule or regulation would be deemed a violation of the Commodity Exchange Act, subject to penalties and enforcement tools available under the Act.

DELEGATION

The Board, at its sole discretion and subject to such conditions as it may determine, is authorized to adopt rules under this provision under which the margin required may be the amount specified by the rules of the respective designated contract market, provided that all such rules have been approved or amended by such Board or, again at the Board's sole discretion and subject to such conditions as the Board may determine but no sooner than 30 months after the date of enactment, by the CFTC.

HYBRID INSTRUMENTS—NEW PRODUCTS

The amendment takes two significant steps to facilitate the introduction of innovative new financial products. First, it modifies the CFTC's "exclusive jurisdiction" for futures products to allow certain hybrid securities to trade either under the futures exchange or the securities regulatory systems. Second, it provides the CFTC with authority to exempt certain new products to trade outside the futures regulatory system.

EXCLUSIVITY

The amendment provides that certain securities-hybrid instruments may trade either on a futures exchange or a securities exchange. These would include securities-based products which—

1. do not impose mutual executory obligations between the parties;

2. are not options on an instrument which imposes mutual executory obligations between the parties;

3. are listed or traded on a national securities exchange or quoted through an automated inter-dealer quotation system operated by a securities self-regulatory organization;

4. are not futures contracts (or options thereon) on single stocks or municipal securities;

5. are not futures contracts (or options thereon) on narrow-based stock indices;

6. are not leverage contracts of the type currently regulated by the CFTC; and

7. are either the subject of an effective registration statement under federal securities statutes or have been determined to be securities by the Securities and Exchange Commission.

Transactions excluded from the jurisdiction of the Commodity Futures Trading Commission under this provision will not considered to be contracts of sale for future delivery (or options thereon) nor be regulated under the Commodity Exchange Act.

This provision thus reverses American Stock Exchange versus Chicago Mercantile Exchange, 883 F.2d 537 (7th cir, 1989) by allowing index participations and other hybrid financial instruments meeting the criteria of this provision to trade on securities exchanges or through NASDAQ under the regulatory umbrella of the SEC.

The phrase "mutual executory obligations" means an unconditional, legally binding contract between two parties. Thus, the phrase refers to the reciprocal, mirror image payment obligations of a traditional futures contract. Among other things, this phrase does not refer to the settlement obligations that exist as the result of normal settlement or when-issued trading in the securities markets or the determination to offset securities options, index participations, or similar products.

Leverage contracts of the type defined in the CFTC's Part 31 rules remain within the CFTC's exclusive jurisdiction. The reference to the "type" of leverage contract is designed to ensure that formalistic changes in the nature, structure, or characteristics of a contract—such as changing the duration from 10 years to 9 years—would not exempt the instrument from regulation as a leverage contract so long as the instrument is the functional equivalent of a leverage contract as regulated by the CFTC on the date of enactment of this bill.

This provision is not intended to diminish the scope of the so-called "Treasury amendment" which exempts certain transactions from coverage of the Commodity Exchange Act. For instance, transactions in government securities falling within the scope of the Treasury amendment would continue to be exempt from the Act by virtue of the Treasury amendment and without any need to meet the requirements of new section 2(a)(1)(B)(vi)(I).

EXEMPTIVE AUTHORITY

The amendment authorizes the CFTC, in order to promote responsible economic or financial innovation and fair competition to exempt from any provision of the Commodity Exchange Act (other than the Johnson-Shad Accord restrictions) any new product or group of products, either unconditionally or upon stated terms or conditions or for stated periods. Before acting, the Commission must determine after notice and comment that the exemption is necessary or appropriate in the public interest and that the new product:

(A) Would be limited to appropriate parties like banks, institutional investors, or other persons having the financial and other qualifications to fulfill the relevant obligations;

(B) Would be entered into for commercial or non-speculative purposes; and

(C) Would not preclude the Commission or any contract market from discharging its regulatory or self-regulatory duties.

SWAP AGREEMENTS AND CERTIFICATES OF DEPOSIT

In addition to the CFTC's general exemptive authority, the CFTC is directed to exempt swap agreements and certain hybrid bank products. To the extent that these instruments or any subclasses of these instruments may be considered futures contracts and such action is not contrary to the public interest, the amendment requires the Commission to exempt—

1. swap agreements that are subject to individual negotiation as to substantive terms beyond price and undertaken in connection with a line of business including financial intermediation or the hedging activities of the parties to the agreements, and

2. demand deposits, time deposits, or transaction accounts offered by insured, regulated financial institutions.

DIRECTIVES FOR SEC-CFTC COOPERATION

The amendment requires the CFTC and SEC, not later than 1 year after the effective date of this Act, in consultation with the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System, to take the steps needed to address a number of pressing inter-market issues—

(1) appropriate coordinated "circuit breaker" mechanisms and similar requirements;

(2) sharing price, trading, and enforcement data for the detection of intermarket front-running and other fraudulent activity;

(3) the establishment of linked or coordinated facilities for the clearance and settlement of transactions;

(4) the cross-margining of intermarket positions among specialists, market makers, and others and the use of such intermarket positions as security interest for loans and other extensions of credit;

(5) the development of international regulatory agreements and standards involving intermarket issues; and

(6) other intermarket issues which the agencies identify.

The SEC and CFTC must report to Congress on their actions under this section within 15 months.

OMNIBUS BUDGET RECONCILIATION ACT

HATCH (AND OTHERS) AMENDMENT NO. 3032

Mr. HATCH (for himself, Mr. COATS, Mr. NICKLES, Mr. COCHRAN, Mr. PRYOR, and Mr. KERREY) proposed an amendment to the bill S. 3209, supra, as follows:

On page 1016, lines 17 through 19, strike ", but not less than $5,000 for each willful violation and not less than $1,000 for each repeated violation";

On page 1016, lines 22 and 23, strike ", but not less than $500 for each such violation"; and

On page 1017, lines 1 and 2, strike ", but not less than $100 for each such violation".

HOLLINGS (AND OTHERS) AMENDMENT NO. 3033

Mr. HOLLINGS (for himself, Mr. HEINZ, Mr. MOYNIHAN, Mr. MCCAIN, Mr. PRESSLER, Mr. MCCONNELL, Mr. GRAHAM, Mr. MCCLURE, Mr. COHEN, Mr. GRASSLEY Mr. LEVIN, Mr. KERRY, Mr. JEFFORDS, Mr. DECONCINI, Mr. SIMON, Mr. RIEGLE, Mr. BRADLEY, and Mr. KASTEN) proposed an amendment to the bill S. 3209, supra, as follows:

At the appropriate place, insert the following:

SEC. . SOCIAL SECURITY PRESERVATION ACT.

(a) SHORT TITLE.—This section may be cited as the "Social Security Preservation Act".

(b) DEFINITION OF DEFICIT.—(1) The second sentence of paragraph (6) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) is repealed.

(2) Section 275(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) is amended by striking out "and the second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution)".

(c) SOCIAL SECURITY ACT.—Subsection (a) of section 710 of the Social Security Act is amended by striking "shall not be included in the totals of the budget" and inserting "shall not be included in the budget deficit or any other totals of the budget".

(d) EFFECTIVE DATE.—The amendments made by subsections (b) and (c) shall apply with respect to fiscal years beginning after September 30, 1990.

NICKLES AMENDMENT NO. 3034

Mr. NICKLES (for himself, Mr. CONRAD and Mr. COATS) proposed an amendment to the bill S. 3029, supra, as follows:

Page 488, line 15, is amended by striking "1,900,000,000,000" and inserting in lieu thereof "$321,000,000,000".

HARKIN (AND OTHERS) AMENDMENT NO. 3035

Mr. HARKIN (for himself, Mr. RIEGLE, Mr. SIMON, Mr. BRYAN, Ms. MIKULSKI, Mr. KENNEDY, Mr. AKAKA, Mr. HATFIELD, Mr. DECONCINI, Mr. GRAHAM, and Mr. ADAMS) proposed an amendment to the bill S. 3209, supra, as follows:

Strike section 6162 and insert the following new section:

SEC. 6162. SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000.

(a) GENERAL RULE.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000

"Sec. 59B. Surtax on section 1 tax.
"Sec. 59C. Surtax on minimum tax.
"Sec. 59D. Special rules.

"SEC. 59B. SURTAX ON SECTION 1 TAX.

"In the case of an individual who has taxable income for the taxable year in excess of $1,000,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 18 percent of the amount which bears the same ratio to the tax imposed under section 1 (determined without regard to this section) as—

"(1) the amount by which the taxable income of such individual for such taxable year exceeds $1,000,000, bears to

"(2) the total amount of such individual's taxable income for such taxable year.

"SEC. 59C. SURTAX ON MINIMUM TAX.

"In case of an individual who has alternative minimum taxable income for the taxable year in excess of $1,000,000, the amount of the tentative minimum tax determined under section 55 for such taxable year shall be increased by 18 percent of the amount which bears the same ratio to the amount of such tentative minimum tax (determined without regard to this section) as—

"(1) the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds $1,000,000, bears to

"(2) the total amount of such taxpayer's alternative minimum taxable income for such taxable year.

"SEC. 59D. SPECIAL RULES.

"(a) SURTAX TO APPLY TO ESTATES AND TRUSTS.—For purposes of this part, the term 'individual' includes any estate or trust taxable under section 1.

"(b) TREATMENT OF MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$500,000' for '$1,000,000'.

"(c) COORDINATION WITH OTHER PROVISIONS.—The provisions of this part—

"(1) shall be applied after the application of section 1(j), but

"(2) before the application of any other provision of this title which refers to the amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $1,000,000.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

GRASSLEY AMENDMENT NO. 3036

Mr. GRASSLEY proposed an amendment to the bill S. 3209, supra, as follows:

On page 58, between lines 2 and 3, insert the following:

(c) CARGO PREFERENCE USER FEES.—(1) No user fee shall be collected pursuant to subsection (a) unless the Secretary has first established and implemented a system for the collection, for each of the fiscal years 1991 through 1995, plus an amount sufficient to compensate for inflation for that period, of user fees on United States-flag commercial vessels which win cargo preference shipment contracts pursuant to section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1241(b)), section 901b of the Merchant Marine Act, 1936 (46 U.S.C. 1241f), the Joint Resolution entitled "Joint Resolution requiring agricultural or other products to be shipped in vessels of the United States where the Reconstruction Finance Corporation or any other instrumentality of the Government finances the exporting of such products", approved March 26, 1934 (46 U.S.C. 1241-1), or section 2631 of title 10, United States Code.

(2) Each such user fee established pursuant to paragraph (1) shall be an amount equal to 25 percent of the difference between the lowest bid offered and the bid accepted by the shipping agency. Amounts received by the United States Government under this subsection shall be deposited into the general fund of the Treasury as offsetting receipts as follows: 20 percent as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities, and 80 percent as offsettting receipts of the original shipping Federal agency and ascribed to such agency's activities.

(3) Notwithstanding any other provision of law, in no case shall a cargo preference bid be accepted and contracted for pursuant to any law or provision thereof referred to in paragraph (1) of this subsection at over 200 percent the lowest foreign-flag bid.

KASTEN (AND OTHERS) AMENDMENT NO. 3037

Mr. KASTEN (for himself, Mr. INOUYE, Mr. METZENBAUM, and Mr. D'AMATO) proposed an amendment to the bill S. 3209, supra, as follows:

On page 1, line 25 of part VII of subtitle D of title VII of the bill, strike "and" and all that follows through page 2, line 2 and insert:

"(3) the deduction under section 170 (relating to charitable, etc. contributions and gifts), and

"(4) the deduction under section 165(a) for losses described in section 165(c)(3).

LIEBERMAN (AND OTHERS) AMENDMENT NO. 3038

Mr. LIEBERMAN (for himself, Mr. GLENN, Mr. LEVIN, Mr. KOHL, Mr. AKAKA, Mr. DODD, and Mr. CONRAD) proposed an amendment to the bill S. 3209, supra, as follows:

At the appropriate place in the bill insert the following new section:

SEC. . 10-YEAR PERIOD OF LIMITATION ON COLLECTION AFTER ASSESSMENT.

(a) IN GENERAL.—Subsection (a) of section 6502 of the Internal Revenue Code of 1986 (relating to collection after assessment) is amended—

(1) by striking "6 years" in paragraph (1) and inserting "10 years", and

(2) by striking "6-years period" in paragraph (2) and inserting "10-year period".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to levies made, proceedings begun, or agreements made after the date of the enactment of this Act, with respect to assessments made after such date or assessments pending on such date (determined without regard to the amendments made by this section).

SYMMS (AND OTHERS) AMENDMENT NO. 3039

Mr. SYMMS (for himself, Mr. BURDICK and Mr. BURNS) proposed an amendment to the bill S. 3209, supra, as follows:

On page 30 of subpart B of part I of subtitle D of title VII of the bill, between lines 20 and 21 insert the following:

(1) EFFECTIVE RATES OF TAX.—Notwithstanding the amendments made by subsections (a) and (b) of this section, for purposes of the Internal Revenue Code of 1986—

(1) the Highway Trust Fund financing rate is—

(A) 13 cents per gallon for periods beginning after November 30, 1990, and ending before July 1, 1991,

(B) 18 cents per gallon for periods beginning after June 30, 1991, and ending before January 1, 1992, and

(C) 18.5 cents per gallon for periods beginning after December 31, 1991,

(2) the deficit reduction financing rate is 0 cents per gallon for periods beginning after November 30, 1990, and

(3) paragraph (8) of subsection (k) of this section (relating to floor stocks) shall not apply.

METZENBAUM (AND OTHERS) AMENDMENT NO. 3040

Mr. METZENBAUM (for himself, Mr. LIEBERMAN, and Mr. COHEN) proposed an amendment to the bill S. 3209, supra, as follows:

At the end of title VII, insert the following new section:

SEC. . REINSTATEMENT OF WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL.

(a) IN GENERAL.—Subtitle D of the Internal Revenue Code of 1986 (relating to excise taxes) is amended by inserting after chapter 44 the chapter 45 (relating to windfall profit tax on domestic crude oil) of such Code as in effect on the day before the date of the enactment of Public Law 100-418.

(b) TAX ONLY TO APPLY TO MAJOR OIL COMPANIES.—Section 4986 of such Code (as added by subsection (a)) is amended by striking "An" and inserting "In the case of an integrated oil company (as defined in section 4995(b)(3)), an".

(c) MODIFICATION OF COMPUTATION OF TAX.—

(1) Section 4987(b) of such Code (as added by subsection (a)) is amended to read as follows:

"(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a)—

"(1) the applicable percentage shall be 40 percent in the case of tier 1 oil, and

"(2) the applicable percentage shall be zero in the case of any other oil."

(2) Section 4989(b)(1)(B) of such Code (as so added) is amended by striking "June 30, 1979" and inserting "September 30, 1990".

(3) Section 4989 of such Code (as so added) is amended by striking subsections (c) and (d) and inserting:

"(c) BASE PRICE.—For purposes of this chapter, the base price for any tier of oil is $25."

(d) REPEAL OF TERMINATION OF TAX.—

(1) Section 4990 of such Code (as added by subsection (a)) is repealed.

(2) The table of sections for subchapter A of chapter 45 of such Code (as so added) is amended by striking the item relating to section 4990.

(e) MODIFICATION OF CATEGORIES.—

(1) Paragraph (2) of section 4991(e) of such Code (as added by subsection (a)) is amended by adding at the end thereof the following new sentence: "Such term shall not include any oil produced from a well drilled before August 1, 1990, and shall not include any oil produced from a well drilled on or after such date on any property the principal value of which has been demonstrated by prospecting or exploration or discovery work."

(2)(A) Section 4991(b) of such Code (as so added) is amended by striking paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5).

(B) Section 4994 of such Code (as so added) is amended by striking subsection (c).

(f) TAX NOT DEDUCTIBLE.—Section 164(a) (as amended by subsection (g)) is amended by striking paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5).

(g) CONFORMING AMENDMENTS.—Section 1941(b) of the Omnibus Trade and Competitiveness Act of 1988 (and the amendments made by such section) are hereby repealed, and the Internal Revenue Code of 1986 shall be applied and administered as if such section (and amendments) had never been enacted.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to oil removed from the premises in calendar months beginning after the date of the enactment of this Act.

SEC. . MOTOR FUELS TAX REDUCTION TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

"SEC. . MOTOR FUELS TAX REDUCTION TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Motor Fuels Tax Reduction Trust Fund', consisting of any amount appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Motor Fuels Tax Reduction Trust Fund amounts equivalent to 100 percent of the taxes received in the Treasury under chapter — (relating to windfall profit tax on crude oil). Amounts shall be made available to the Trust Fund on a quarterly basis.

"(c) EXPENDITURES FROM TRUST FUND.—

"(1) IN GENERAL.—Amounts in the Motor Fuels Tax Reduction Trust Fund shall be available to offset and reduce the amounts of additional taxes levied pursuant to sections 7405(a) and 7405(b) of the Omnibus Budget Reconciliation Act of 1990.

"(2) DETERMINATION OF OFFSET.—On or before January 1, 1991, and on or before the first day of the first and third calendar quarters of each year thereafter, the Secretary of the Treasury of the shall issue projections of the amounts that would be collected pursuant to sections 7405(a) and 7405(b) of the Omnibus Budget Reconciliation Act of 1990 during the upcoming two calendar quarters. To the extent that funds are available, the Secretary shall then transfer from the Trust Fund such funds as he projects would be collected during the upcoming two calendar quarters pursuant to sections 7405(a) and 7405(b) of the Omnibus Budget Reconciliation Act of 1990. These transferred funds shall be placed in the general fund and in any applicable trust funds in the same proportion as they would have been collected under operation of sections 7405(a) and (b). The Secretary shall then reduce the taxes that would otherwise be levied pursuant to sections 7405(a) and (b) during the upcoming two calendar quarters by a corresponding amount."

(c) CONFORMING CHANGES.—

(1) For the purposes of 23 U.S.C. 157 amounts transferred from the Motor Fuels Tax Reduction Trust Fund shall not be included.

(2) In Section 9503(b)(1), in subsection (G) strike the period and insert in lieu thereof a comma, and insert the following new subsection:

"(H) section — (relating to transfers from the Motor Fuels Tax Reduction Trust Fund)."

(d) CLERICAL AMENDMENT.—The table of sections for such Subchapter A is amended by adding at the end the following new item:

SEC. . MOTOR FUELS TAX REDUCTION TRUST FUND.

CONRAD AMENDMENT NO. 3041

Mr. CONRAD proposed an amendment to the bill S. 3209, supra, as follows:

At the end of title I of the bill, insert the following new section:

SEC. . AGRICULTURE SUPPORT PROGRAMS.

(a) IN GENERAL.—Notwithstanding any provision of, or amendment made by, this Act—

(1) the base reduction percentage for the 1991 crop of wheat, feed grains, upland cotton, and rice under section 1101(c) of this Act shall be 5 percent; and the base reduction percentage for each of the 1992 through 1995 crops of wheat, feed grains, upland cotton, and rice under section 1101(c) of this Act shall be 10 percent

(2) in calculating deficiency payments for each of the 1991 through 1995 crops of wheat, feed grains, and rice under section 1102(a) of this Act, the payment rate for a crop shall be the amount by which the established price for the crop exceeds the higher of—

(A) the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary of Agriculture; or

(B) the loan level determined for the crop; and

(3) the amount of the dairy assessment provided for in section 1105(b) of this Act shall be 7 cents per hundredweight during the period beginning January 1, 1991, and ending August 31, 1995.

(b) VETERANS PROGRAM AMENDMENTS.—Sections 11012 and 11032 of this Act, and the amendments made by such sections, shall not take effect.

LEVIN AMENDMENT NO. 3042

Mr. LEVIN proposed an amendment to the bill S. 3209, supra; as follows:

At the appropriate place in the bill add the following new section:

SEC. . SENSE OF THE SENATE WITH RESPECT TO FAIRNESS AND DEFICIT REDUCTION.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate conferees should work towards a final budget package that establishes a 35% income tax rate for taxpayers making in excess of $200,000 and does not delay indexing of the Internal Revenue Code and does not increase the income tax rates for any other taxpayers and uses the revenue raised ($60.4 billion) to:

(1) eliminate any increase in the gasoline tax ($42.6 billion), and

(2) eliminate any changes in current law with respect to Medicare premium payments or Medicare deductibles ($14.1 billion).

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1991

PRESSLER AMENDMENT NO. 3043

(Ordered to lie on the table.)

Mr. PRESSLER submitted an amendment intended to be proposed

by him to the bill (H.R. 5769) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes, as follows:

At the appropriate place, please insert the following: "*Provided further*, That hereafter the Cedar Pass Visitor Center at Badlands National Park, South Dakota, shall be known as the Ben Reifel Visitor Center.".

OMNIBUS BUDGET RECONCILIATION ACT

PRESSLER (AND GRASSLEY) AMENDMENT NO. 3044

Mr. PRESSLER (for himself and Mr. GRASSLEY) proposed an amendment to the bill S. 3209, supra, as follows:

At the appropriate place in the bill add the following new section:

SEC. REDUCTION OF PAY OF MEMBERS OF CONGRESS.

(a) REDUCTION IN PAY.—For each month during fiscal year 1991 in which, by reason of a furlough or other employment action necessitated by a sequestration order under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902), the total amount of the pay paid to any Federal employee is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law, the rate of pay payable to a Member of Congress shall be reduced to the rate of pay established for such Member pursuant to law.

(b) COMPUTATION OF REDUCED PAY.—The rate of pay payable to a Member of Congress for any month referred to in subsection (a) shall be equal to the amount determined by multiplying the rate of pay established for such Member pursuant to allow by the percentage reported to Congress for such month under subsection (c)(1)(D).

(c) DETERMINATION OF PERCENTAGE FOR COMPUTATION OF REDUCED PAY.—(1) No later than the first day of each month in fiscal year 1991, the Director of the Office of Management and Budget shall—

(A) determine whether, for a reason described in subsection (a), the total amount of the pay paid to any Federal employee in that month is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law;

(B) estimate the average of the percentages that would result by dividing the monthly equivalent of the annual rate of pay established for each such Federal employee pursuant to law into the total amount projected to be paid such Federal employee for such month;

(C) aggregate the percentages determined under subpargraph (B) for Federal employees for each agency and determine the highest average percentage of any agency; and

(D) transmit to Congress a written report containing the average computed under subparagraph (C).

(2) The Office of Management and Budget may use a statistical sampling method to make the estimates and determinations under paragraph (1).

(3) For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code.

(d) APPLICATION TO OTHER FEDERAL LAWS.—For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposed any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(e) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this section and shall apply to the first applicable pay period of members of Congress or Executive officers and employees occurring on or after October 1, 1990. If the date of enactment of this section is after October 1, 1990, and the provisions of this section become applicable in the reduction of pay of members of Congress or Executive officers and employees, all reductions which would have occurred if this section had been enacted as provided in subsection (6) and the amount of such reduction shall be recovered for the remaining pay periods for Fiscal Year 1991.

(f) APPLICATION TO EXECUTIVE OFFICERS.—The provisions of this section and the computations as they apply to the reduction under subsection (6) shall apply to the rate of pay for the Vice President, and any executive officer at a position level V or above of the Executive Schedule under sections 5311 through 5317 of title 5, United States Code, any executive officer or employee in the Executive Office of the President who on the date of the enactment of this section is paid at a pay rate equal to or above the pay rate for a position at level V or above of the Executive Schedule under Sections 5311 through 5317 of title 5, United States Code.

SHELBY AMENDMENT NO. 3045

(Ordered to lie on the table.)

Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 3209, supra, as follows:

On page 420, after line 15, insert:

SEC. . REPORTING REQUIREMENTS WITH RESPECT TO REAL PROPERTY TAXES AND INTEREST ON SELLER FINANCING.

(a) ITEMIZED REPORTING WITH RESPECT TO REAL PROPERTY TAXES.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050O. STATE AND LOCAL REAL PROPERTY TAXES.

"(a) STATEMENT TO BE FURNISHED TO PERSONS PAYING REAL PROPERTY TAXES.—If any State or local real property taxes include (whether separately stated or otherwise) any amount for fees, services, or other items for which a deduction is not allowable under section 164(a)(1), the officer or employee of the State or local government (or any instrumentality thereof) providing a bill or other statement to the person on whom such taxes are imposed shall include on such bill or statement—

"(1) a separate listing of the taxes, fees, services, or other items, and

"(2) a statement as to which of such items are deductible for Federal income tax purposes.

"(b) SEPARATE STATEMENTS FROM NOMINEES.—If any person—

"(1) includes on a statement to another person required under this title information with respect to State or local real property taxes paid by such person on behalf of such person, and

"(2) any portion of such taxes include items described in subsection (a),

such person shall include on such statement the information described in paragraphs (1) and (2) of subsection (a).".

(2) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050O. State and local real property taxes."

(b) INTEREST ON SELLER FINANCING.—

(1) IN GENERAL.—Section 6109 is amended by adding at the end thereof the following new subsection:

"(f) FURNISHING NUMBER FOR SELLER FINANCING.—

If—

"(1) any individual—

"(A) receives from any other individual interest aggregating $600 or more for any year on any mortgage, and

"(B) such individual is not required to file a return with respect to such interest under section 6050H.

such individual shall include the TIN of such other individual on the return of tax on which such interest is included, and

"(2) if any individual pays interest to another individual on any mortgage during a taxable year, such individual shall include the TIN of such other individual on the return of tax on which a deduction for such interest is claimed.".

(2) PENALTY.—Section 6724(d)(3) is amended by striking "and" at the end of subparagraph (C) by striking the period at the end of subparagraph (D) and inserting a comma and "and", and by adding at the end thereof the following new subparagraph:

"(E) the requirement of section 6109(f) that an individual include on the individual's return the TIN of any other individual to whom such individual pays, or from whom such individual receives, interest.".

(c) INCREASE MILEAGE REQUIREMENT FOR MOVING EXPENSE DEDUCTION.—

(1) Section 217(c)(1)(A) is amended by striking "3 * * *" after the word least, and inserting after the word least "100 * * *".

(d) 10-YEAR PERIOD OF LIMITATION ON COLLECTION AFTER ASSESSMENT.—

(1) IN GENERAL.—Subsection (a) of section 6502 of the Internal Revenue Code of 1986 (relating to collection after assessment) is amended—

(A) by striking "6 years" in paragraph (1) and inserting "10 years", and

(B) by striking "6-year period" in paragraph (2) and inserting "10-year period".

(2) EFFECTIVE DATE.—The amendments made by subsection (1) shall apply to levies made, proceedings begun, or agreements made after the date of the enactment of this Act, with respect to assessments made after such date of assessments pending on such date (determined without regard to the amendments made by this section).

(e) REDUCTION IN INSURANCE POLICY ACQUISITION EXPENSES REQUIRED TO BE AMORTIZED.—The Secretary of the Treasury shall reduce for each taxable year the percentages in subparagraphs (A), (B) and (C) of section 848(c)(1) of the Internal Revenue

Code of 1986 (as added by section 7411 of this Act) so that—

(1) the amount of Federal revenues collected during any fiscal year by reason of such section (without regard to this subsection) are reduced by an amount equal to the increase in Federal revenues for such fiscal year by reason of the amendments made by subsections (a), (b), (c), and (d) of this section, and

(2) the amount described in paragraph (1) is allocated ratably among each of such subparagraphs.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to bills or statements provided, or returns filed, after the date of enactment of this Act.

MITCHELL (AND OTHERS) AMENDMENT NO. 3046

Mr. MITCHELL (for himself, Mr. DOLE, Mr. SASSER, Mr. DOMENICI, Mr. BYRD, and Mr. BENTSEN) proposed an amendment to the bill S. 3209, supra, as follows:

At the end of the bill, insert the following new title:

TITLE XII—BUDGET PROCESS REFORM ACT OF 1990

SEC. 12001. SHORT TITLE.

This title may be cited as the "Budget Process Reform Act of 1990".

SEC. 12002. TABLE OF CONTENTS.

TITLE XII—BUDGET PROCESS REFORM ACT OF 1990

Sec. 12001. Short title.
Sec. 12002. Table of contents.

Subtitle A—Deficit Reduction

Sec. 12051. Deficit targets.
Sec. 12052. Discretionary spending limits.
Sec. 12053. Sequester of defense, domestic discretionary, and international discretionary accounts.
Sec. 12054. Restoration of funds sequestered.
Sec. 12055. Conforming changes.

Subtitle B—Pay-As-You-Go

Sec. 12101. Pay-as-you-go provisions in budget resolutions.
Sec. 12102. Pay-as-you-go sequestration.

Subtitle C—Social Security Trust Fund

Sec. 12151. Exclusion of Social Security trust funds when calculating maximum deficit amounts.
Sec. 12152. Social Security firewall and point of order.

Subtitle D—Multiyear Budgeting to Ensure Permanent Savings.

Sec. 12201. Multiyear budgeting.
Sec. 12202. President's budget to address out-years.
Sec. 12203. Strengthening the prohibition of spending before budgeting.

Subtitle E—Credit Reform

Sec. 12251. Credit reforms.
Sec. 12252. Effect on Congressional Budget Act and conforming amendments.
Sec. 12253. Table of contents.

Subtitle F—Budget Timetable

Sec. 12301. Budget timetable.

Subtitle G—Early Initial Gramm-Rudman-Hollings Reports

Sec. 12351. Early initial Gramm-Rudman-Hollings reports.
Sec. 12352. President's budget request to use Gramm-Rudman-Hollings rules.

Subtitle H—Strengthening the Byrd Rule on Extraneous Matter in Reconciliation

Sec. 12401. Strengthening the Byrd rule.

Subtitle I—Budget Submissions by New Presidents

Sec. 12451. Requirement for new President's budgets.
Sec. 12452. Deadlines in years when a new President takes office.

Subtitle J—Repeal of Superseded Deadlines

Sec. 12501. Superseded deadlines and conforming changes.

Subtitle K—Standardization of Points of Order

Sec. 12551. Standardization of language regarding points of order.
Sec. 12552. Definitions.

Subtitle L—Codification of Budget Process Provisions

Sec. 12601. Gender neutrality.
Sec. 12602. Repeal of obsolete provisions.
Sec. 12603. Standardization of additional deficit control provisions.
Sec. 12604. Codification of provision regarding revenue estimates.
Sec. 12606. Codification of rules regarding savings transfers between fiscal years.
Sec. 12608. Technical revisions of Gramm-Rudman-Hollings.
Sec. 12609. Codification of precedent with regard to conference reports and amendments between houses.
Sec. 12610. Conforming change to title 31.

Subtitle M—Budget Disclosure

Sec. 12651. Debt increase as measure of deficit.
Sec. 12652. Contingent liabilities of the Federal Government.
Sec. 12653. Display of Federal retirement trust fund balances.

Subtitle N—Exercise of Rulemaking Powers

Sec. 12701. Exercise of rulemaking powers.

Subtitle A—Deficit Reduction

SEC. 12051. DEFICIT TARGETS.

(a) DEFINITION OF MAXIMUM DEFICIT.—Section 3(7) of the Congressional Budget Act of 1974 is amended by striking subparagraphs (F), (G), and (H), and inserting the following:

"(F) with respect to the fiscal year beginning October 1, 1990, $242,000,000,000;

"(G) with respect to the fiscal year beginning October 1, 1991, $219,000,000,000;

"(H) with respect to the fiscal year beginning October 1, 1992, $165,000,000,000;

"(I) with respect to the fiscal year beginning October 1, 1993, $86,000,000,000; and

"(J) with respect to the fiscal year beginning October 1, 1994, $62,000,000,000; or

with respect to each such fiscal year, such revised amounts as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(E) of that Act.".

(b) BUDGET ESTIMATES AND DETERMINATIONS.—Section 251(a)(1) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 is amended—

(1) in subparagraph (A), by inserting after "such fiscal year" the following: "(and each other fiscal year beginning after the date of the report under this section for which section 3(7) of the Congressional Budget Act of 1974 sets forth maximum deficit amounts)";

(2) in subparagraph (C), by striking "and" at the end thereof; and

(3) by inserting at the end thereof the following new subparagraphs:

"(E)(i) in calendar years 1991 and 1992, estimate the necessary revisions to the maximum deficit amounts (for each fiscal year beginning after the date of the report under this section for which section 3(7) of the Congressional Budget Act of 1974 sets forth maximum deficit amounts) caused solely by—

"(I) changes in the budgetary accounting for credit and in the definition of 'budget authority', and

"(II) economic and technical changes, which shall equal—

"(aa) the deficit in the budget baseline set forth pursuant to paragraph (6) of this subsection, minus

"(bb)(aaa) the net deficit increase (if any) caused by laws (as estimated at the time of enactment of such laws and submitted under section 252A(d) or 252B(e)) enacted after the date of enactment of the Omnibus Budget Reconciliation Act of 1990 (adjusting for any sequestration), and

"(bbb) the maximum deficit amount as it existed immediately before the issuance of the report, and

"(ii) in calendar year 1993, estimate the revisions to the maximum deficit amounts (for each fiscal year beginning after the date of the report under this section for which section 3(7) of the Congressional Budget Act of 1974 sets forth maximum deficit amounts) caused by only changes in the budgetary accounting for credit; and

"(F) estimate the necessary revisions to the defense, international, and domestic discretionary spending allocations set forth in section 12052 of the Omnibus Budget Reconciliation Act of 1990 for each appropriate fiscal year caused solely by—

"(i) changes in the budgetary accounting for credit and in the definition of 'budget authority', and

"(ii) changes in forecasted inflation using only changes in the forecast of the fiscal year average of the estimated gross national product fixed-weight price deflator.".

SEC. 12052. DISCRETIONARY SPENDING LIMITS.

(a) AGGREGATE ALLOCATIONS FOR DEFENSE.—The levels of budget authority and outlays for fiscal years 1991, 1992, and 1993 for discretionary spending within major functional category 050 (National Defense) shall be—

(1)(A) for fiscal year 1991:
(i) new budget authority, $288,918,000,000,
(ii) outlays, $297,660,000,000,
(B) for fiscal year 1992:
(i) new budget authority, $291,643,000,000,
(ii) outlays, $295,744,000,000, and
(C) for fiscal year 1993:
(i) new budget authority, $291,785,000,000,
(ii) outlays, $292,686,000,000; or

(2) with respect to each such fiscal year, such revised level as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(F) of that Act.

(b) AGGREGATE ALLOCATIONS FOR INTERNATIONAL AFFAIRS.—The levels of budget authority and outlays for fiscal years 1991, 1992, and 1993 for discretionary spending within major functional category 150 (International Affairs) shall be—

(1)(A) for fiscal year 1991:
(i) new budget authority, $20,100,000,000,
(ii) outlays, $18,600,000,000,
(B) for fiscal year 1992:
(i) new budget authority, $20,500,000,000,

(ii) outlays, $19,100,000,000, and
(C) for fiscal year 1993:
(i) new budget authority, $21,400,000,000,
(ii) outlays, $19,600,000,000; or
(2) with respect to each such fiscal year, such revised level as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(F) of that Act.

(c) AGGREGATE ALLOCATIONS FOR DOMESTIC DISCRETIONARY SPENDING.—The levels of total budget authority and outlays for fiscal years 1991, 1992, and 1993 for all discretionary spending in categories other than major functional categories 050 (National Defense) and 150 (International Affairs) shall be—
(1)(A) for fiscal year 1991:
(i) new budget authority, $182,700,000,000,
(ii) outlays, $198,100,000,000,
(B) for fiscal year 1992:
(i) new budget authority, $191,300,000,000,
(ii) outlays, $210,100,000,000, and
(C) for fiscal year 1993:
(i) new budget authority, $198,300,000,000,
(ii) outlays, $221,700,000,000; or
(2) with respect to each such fiscal year, such revised level as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(F) of that Act.

(d) AGGREGATE ALLOCATIONS FOR DISCRETIONARY SPENDING.—The levels of budget authority and outlays for fiscal years 1994 and 1995 for discretionary spending shall be—
(1)(A) for fiscal year 1994:
(i) new budget authority, $510,800,000,000,
(ii) outlays, $534,800,000,000, and
(B) for fiscal year 1995;
(i) new budget authority, $517,700,000,000,
(ii) outlays, $540,800,000,000, or
(2) with respect to each such fiscal year, such revised level as the Office of Management and Budget shall estimate in its report under section 251(a)(2) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 in strict conformance with the provisions of section 251(a)(1)(F) of that Act.

(e) BUDGET RESOLUTIONS.—
(1) HOUSE OF REPRESENTATIVES.—The Committee on the Budget of the House of Representatives shall report a concurrent resolution on the budget for fiscal years 1992, 1993, 1994, and 1995 pursuant to section 301 of the Congressional Budget Act of 1974, in accordance with the appropriate levels of budget authority and budget outlays for major functional category 050 (National Defense) and for all discretionary spending in categories other than major functional caiegory 050 as set forth in subsections (a), (b), and (c).

(g)(1) ADDITIONAL TECHNICAL REVISIONS.—Notwithstanding any other provision of law, the Director of the Office of Management and Budget shall make technical reestimates (in addition to those that the Director may make pursuant to section 251(a)(1)(E) and 251(a)(1)(F) of the Balanced Budget and Emergency Deficit Reduction Act of 1985) to allow increased funding in the following amounts, and such amounts shall be added to the allocations under section 12052 and shall not be counted as increasing the deficit for purposes of sections 251, 252, 252A, and 252B of the Balanced Budget and Emergency Deficit Control Act of 1985—

(A) in addition to any other amounts under this paragraph, for each of fiscal years 1992 and 1993, in the amounts of—
(i) up to 0.021 percent of the total of budget authority in the allocations in subsections (a), (b), and (c) (together), for fiscal years 1991, 1992, and 1993 (together), for defense discretionary spending budget authority under subsection (a); and
(ii) up to 0.079 percent of the total of budget authority in the allocations made in subsections (a), (b), and (c) (together) for fiscal years 1991, 1992, and 1993 (together), for international affairs discretionary spending budget authority under subsection (b);
(iii) 0.1 percent of the total of budget authority in the allocations in subsections (a), (b), and (c) (together), for fiscal years 1991, 1992, and 1993 (together), for domestic discretionary spending budget authority under subsection (c);
(B) in addition to any other amounts under this paragraph, the estimated costs of an appropriation enacted in calendar year 1990 or 1991 that forgives the Arab Republic of Egypt's Foreign Military Sales indebtedness to the United States and any part of the Government of Poland's indebtedness to the United States;
(C) in the addition to any other amounts under this paragraph, the amount provided by an appropriation enacted in fiscal year 1992 to purchase Special Drawing Rights from the International Monetary Fund as part of its Ninth General Review of Quotas;
(D) in addition to any other amounts under this paragraph, amounts not to exceed the following for the Internal Revenue Service compliance initiative to be provided to raise additional revenues from increased Internal Revenue Service compliance—
(i) for fiscal year 1991:
(I) new budget authority, $191,000,000,
(II) outlays, $183,000,000,
(ii) for fiscal year 1992:
(I) new budget authority, $172,000,000,
(II) outlays, $169,000,000,
(iii) for fiscal year 1993:
(I) new budget authority, $183,000,000,
(II) outlays, $179,000,000,
(iv) for fiscal year 1994:
(I) new budget authority, $187,000,000,
(II) outlays, $183,000,000, and
(v) for fiscal year 1995:
(I) new budget authority, $188,000,000,
(II) outlays, $184,000,000; and
the prior-year outlays resulting from these appropriations of budget authority; and
(E) in addition to any other amounts under this paragraph, such amounts as the President designates as emergency requirements in a request for appropriations and that the Congress so designates in statute.
Emergency Desert Shield costs mean those incremental costs directly associated with the increase in operations in the Middle East and do not include costs that would be experienced by the Department of Defense as part of its normal operations absent Operation Desert Shield.
(2) Notwithstanding any other provision of law, concurrent resolutions on the budget for fiscal years 1992, 1993, 1994, and 1995 under section 301 or 304 of the Congressional Budget Act of 1974 may set forth levels consistent with allocations increased by—
(A) the budget authority amounts in subparagraph (A) and by the composite outlays per category consistent with them; and
(B) the budget authority and outlay amounts in subparagraph (B), (C), (D), (E), and (F).

(h)(1) FURTHER ADDITIONAL TECHNICAL REVISIONS.—(1) Notwithstanding any other provision of law, the Director of the Office of Management and Budget may make technical reestimates (in addition to those that the Director may make pursuant to section 251(a)(1)(E) and 251(a)(1)(F) of the Balanced Budget and Emergency Deficit Reduction Act of 1985, but solely due to outlays exceeding the amount of outlays set forth in subsections (a), (b), and (c), resulting from changes between outlays estimated for enacted budget authority and the spendout rate assumed in the relationship between budget authority and outlays set forth in subsections (a), (b), and (c), less any outlays used pursuant to subsections (g)(1)(A) to allow increased funding in the following amounts and such amounts shall not be counted as increasing the deficit under sections 251, 252, 252A, and 252B of the Balanced Budget and Emergency Deficit Control Act of 1985—
(A) for each of fiscal years 1991, 1992, and 1993, in the amounts of—
(i) $2,500,000,000 for defense discretionary spending outlays under subsection (a);
(ii) $1,500,000,000 for international affairs discretionary spending outlays under subsection (b); and
(iii) $2,500,000,000 for domestic discretionary spending outlays under subsection (c); and
(B) for each of fiscal years 1994 and 1995, in the amount of $6,500,000,000 for discretionary spending outlays under subsection (d).

SEC. 12053. DISCRETIONARY SPENDING LIMIT SEQUESTRATION.

(a) DATE OF FINAL ORDER.—
(1)(A) The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—
(i) in section 251(c)(1), by striking "October 10" and inserting "November 10";
(ii) in section 253, by striking "November 15" and inserting "December 15";
(iii) in section 252(b)(1), by striking "October 15" and inserting "November 15";
(iv) in section 252(c)(2)(D), by striking "October 20" and inserting "November 20"; and
(v) in section 257(c)(2), by striking "October 15" and inserting "November 15".
(B) The amendments made by this paragraph shall take effect beginning in calendar year 1991.

(b) SPENDING CATEGORY SEQUESTER.—Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting after section 252 the following:

"SEC. 252A. DISCRETIONARY SPENDING LIMIT SEQUESTRATION.

"(a) REPORTING OF EXCESS.—
"(1) ESTIMATES AND DETERMINATIONS.—The Directors shall, with respect to each appropriations Act—
"(A) determine the aggregate budget levels of outlays that may be anticipated as a result of the enactment of such appropriations Act—
"(i) for the defense, international affairs, and domestic discretionary categories as set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 in fiscal years 1991, 1992, and 1993; and
"(ii) for discretionary spending as set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 in fiscal years 1994 and 1995; and
"(B) determine whether such Appropriations Act causes the aggregate allocation for budget authority or outlays in section 12502 of the Omnibus Budget Reconciliation Act

of 1990 (as revised under that section and section 251(a)(1)(F) of this Act) to be exceeded.

"(2) REPORT.—Based on the determinations required in paragraph (1), the Directors of the Congressional Budget Office and the Office of Management and Budget shall each report to the President not later than 5 days after the enactment of an appropriations Act identifying the amount of any budget authority or outlay excess in any spending category set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 resulting from the enactment of the appropriations Act, estimating the aggregate amount of budget authority or outlay reductions in the spending category necessary to eliminate the excess, and specifying by account within the spending category the budget baseline from which reductions are taken and the amounts and percentages by which such accounts must be reduced during such fiscal year in order to make the reductions required by this section.

"(b) SEQUESTER ORDER.—Based on the report the Director of the Office of Management and Budget issued pursuant to subsection (a), the President shall issue a sequester order (making reductions uniformly across each nonexempt account, and within each account, uniformly across each program, project, and activity) applicable to any spending category in excess of the allocation limit for such category 15 days after the enactment of the appropriation Act appropriating amounts in excess of allocation limits (or on November 15, if the date of enactment is after June 30 or before November 1 of the fiscal year for which such Act makes appropriations).

"(c) ECONOMIC AND TECHNICAL ASSUMPTIONS.—Under this section, the Director of the Office of Management and Budget shall use the same economic and technical assumptions as used by the budget submitted by the President for the appropriate fiscal year under section 1105 of title 31, United States Code.

"(d) OMB ESTIMATES.—Within 5 calendar days after the enactment of any appropriations Act, the Director of the Office of Management and Budget shall submit to the Senate and the House of Representatives an estimate of the amount of change in budget authority, outlays, or receipts (if any) in each fiscal year through fiscal year 1995 resulting from that legislation. Those estimates shall be made using the same economic and technical assumptions as used by the budget submitted by the President for the appropriate fiscal year under section 1105 of title 31, United States Code.".

(c) CONFORMING CHANGES.—The Balanced Budget and Deficit Reduction Act of 1985 is amended—

(1) in section 251(a)(3)(B), by inserting after "and 257," the following: "and after having made such reductions, if any, as may be required by sections 252A and 252B,";

(2) in section 251(a)(6)—

(A) by amending subparagraphs (C) and (D) to read as follows:

"(C) in the case of all accounts to which subparagraph (A) does not apply, assuming appropriations at the levels set forth in section 12502 of the Omnibus Budget Reconciliation Act of 1990 (as adjusted under that section and section 251(a)(1)(F) of this Act), except assuming such lower levels in annual appropriations or continuing appropriations that have been enacted before the date of the report for the entire fiscal year that are enacted at a lower level, when appropriations have been enacted covering all subcommittees covered by the relevant category;

"(D) assuming that any sequester under section 252B that will be ordered on November 15 has been put into effect before the snapshot date;";

(3) in section 252(a)(1), by inserting after "251(a)(2)(B)," the following: "and after having ordered such reductions, if any, as may be required by sections 252A and 252B,";

(4) in section 252(a)(4), by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—Notwithstanding section 257(7), the net amount of deficit increase caused by laws enacted after November 15 of the previous calendar year and before October 1 (as estimated at the time of enactment of such laws and submitted under section 252A(d) or 252B(e)), after taking effect any sequestration during that period, shall be withheld in amounts equal to those that would be sequestered if the appropriate sequester orders under this section, section 252A, and section 252B were issued on October 1, pending the issuance of final order under those sections, and shall be permanently sequestered or reduced in accordance with those final orders upon the issuance of those final orders.";

(5) in section 252(a)(4)(B)(ii)—

(A) by striking "order under subsection (b)" and inserting "orders under subsection (b) and section 252B"; and

(B) by striking "2 percent" and inserting "4 percent"; and

(6) in section 256(d)(1)(B), by striking "2 percent" and inserting "4 percent".

SEC. 12054. RESTORATION OF FUNDS SEQUESTERED.

(a) ORDER RESCINDED.—Upon the enactment of this Act, the orders issued by the President on August 25, 1990, and October 15, 1990, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 are rescinded.

(b) AMOUNTS RESTORED.—Any action taken to implement the orders referred to in subsection (a) shall be reversed, and any sequesterable resource that has been reduced or sequestered by such orders is restored, revived, or released and shall be available to the same extent and for the same purpose as if the orders had not been issued.

SEC. 12055. CONFORMING CHANGES.

(a) EXPIRATION.—Section 275(b)(1) of the Balanced Budget and Emergency Deficit Reduction Act of 1985 is amended by striking "1993" and inserting "1995".

(b) MARGIN.—The Balanced Budget and Emergency Deficit Reduction Act of 1985 is amended—

(1) in section 251(a)(1)(B), by striking "$10,000,000,000 (zero in the case of fiscal year 1993)" and inserting "the margin";

(2) in section 251(a)(2), by striking $10,000,000,000 (zero in the case of fiscal year 1993)" and inserting "the margin"; and

(3) in section 257, by amending paragraph (10) to read as follows:

"(10) The term 'margin' means zero with respect to each of fiscal years 1991, 1992, and 1993, and $15,000,000,000 with respect to each of fiscal years 1994 and 1995.".

Subtitle B—Pay-As-You-Go

SEC. 12101. PAY-AS-YOU-GO PROVISIONS IN BUDGET RESOLUTIONS.

Section 301(b) of the Congressional Budget Act of 1974 is amended—

(1) in paragraph (3), by striking "and";

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) set forth pay-as-you-go procedures whereby—

"(A) budget authority and outlays may be allocated to a committee for legislation that increases funding for entitlement and mandatory spending programs within its jurisdiction if that committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in the concurrent resolution on the budget, the enactment of such legislation will not increase the deficit (by virtue of either deficit reduction in the bill or previously passed deficit reduction) in the resolution for the first fiscal year covered by the concurrent resolution on the budget, and will not increase the total deficit for the period of fiscal years covered by the concurrent resolution on the budget;

"(B) upon the reporting of legislation pursuant to subparagraph (A), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the chairman of the Committee on the Budget of the Senate or the House of Representatives (as the case may be) may file with the Senate or the House of Representatives (as the case may be) appropriately revised allocations under section 302(a) and revised functional levels and aggregates to carry out this paragraph;

"(C) such revised allocations, functional levels, and aggregates shall be considered for the purposes of this Act as allocations, functional levels, and aggregates contained in the concurrent resolution on the budget; and

"(D) the appropriate committee shall report appropriately revised allocations pursuant to section 302(b) of this Act to carry out this paragraph; and".

SEC. 12102. PAY-AS-YOU-GO SEQUESTRATION.

(a) REPORTS.—Section 251(a)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "estimating the aggregate amount of required outlay reductions" and inserting "estimating the amount of required mandatory outlay reductions under section 252B and the aggregate amount of required outlay reductions".

(b) MANDATORY REDUCTIONS.—The Balanced Budget and Emergency Deficit Reduction Act of 1985 is amended by adding after section 252 the following new section:

"SEC. 252B. ENFORCING PAY-AS-YOU-GO.

"(a) FISCAL YEARS 1992–1995 ENFORCEMENT.—The purpose of this section is to assure that any legislation enacted after the date of enactment of this section that affects direct spending or receipts that increases the deficit in any fiscal year covered by this Act will trigger an offsetting sequestration.

"(b) SEQUESTRATION; LOOK-BACK.—On November 15 of each fiscal year, there shall be a sequestration pursuant to subsection (d) to offset the amount of any net deficit increase in that fiscal year or the prior fiscal year caused by all direct spending and receipts legislation enacted after the date of enactment of this section (after adjusting for any sequestration of direct spending accounts in a prior year). The Director of OMB shall calculate the amount of net deficit increase, if any, in each such fiscal year by adding—

"(1) all estimates of the effect of direct spending and receipts legislation on the deficit published under subsection (d) applicable to each such fiscal year; and

"(2) the estimated amount of deficit reduction applicable to each such fiscal year resulting from the prior year's sequestration,

if any, as published in the Director of OMB's final sequestration report for that year.

"(c) ELIMINATING A DEFICIT INCREASE.—(1) Actions to reduce direct spending accounts shall be taken in the following order:

"(A) All reductions in automatic spending increases specified in section 257(1) shall be made.

"(B) If additional reductions in direct spending accounts are required to be made, the maximum reduction permissible under sections 256(c) (guaranteed student loans) and 256(f) (foster care and adoption assistance) shall be made.

"(C) If additional reductions in direct spending accounts are required to be made, each remaining nonexempt mandatory account shall be reduced by the uniform percentage necessary to make the reductions in direct spending required except that—

"(i) the medicare program specified in section 256(d) shall not be reduced by more than 4 percent; and

"(ii) the uniform percent applicable to all other programs under this paragraph shall be increased (if necessary) to a level sufficient to achieve the required reduction in direct spending.

"(2) For purposes of this subsection, accounts shall be assumed to be at the level in the budget baseline determined under section 251(a)(6).

"(d) OMB ESTIMATES.—Within 5 calendar days after the enactment of any direct spending or receipts legislation, the Director of OMB shall submit to the Senate and the House of Representatives an estimate of the amount of change in the deficit in each fiscal year through fiscal year 1995 resulting from that legislation. Those estimates shall be made using the same economic and technical assumptions as used by the budget submitted by the President for the appropriate fiscal year under section 1105 of title 31, United States Code.".

Subtitle C—Social Security Trust Fund

SEC. 12151. EXCLUSION OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM DEFICIT AMOUNTS.

(a) DEFINITION OF DEFICIT.—Section 3(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the second sentence.

(b) SOCIAL SECURITY ACT.—Section 710(a) of the Social Security Act is amended by striking "shall not be included in the totals of the budget" and inserting "shall not be included in the budget deficit or any other totals of the budget".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to fiscal years beginning with fiscal year 1991.

SEC. 12152. SOCIAL SECURITY FIREWALL AND POINT OF ORDER.

(a) EXCLUSION FROM RECONCILIATION PROCESS.—Section 310(g) of the Congressional Budget Act of 1974 is amended by striking beginning with "that contains recommendations" and all that follows through the period and inserting: "that changes the old-age, survivors, and disability program established under title II of the Social Security Act or its financing without regard to whether such changes increase, decrease, or have no impact on the outlays of and income to such program.".

(b) EXCLUSION OF SOCIAL SECURITY FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following: "The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.".

(c) CONCURRENT RESOLUTION ON THE BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding after paragraph (5) the following new paragraphs:

"(6) Social Security outlays, which for purposes of this title shall be composed of outlays of the old-age, survivors, and disability insurance program established under title II of the Social Security Act; and

"(7) Social Security revenues, which for purposes of this title shall be composed of revenues of the old-age, survivors, and disability insurance program established under title II of the Social Security Act and the related provisions of the Internal Revenue Code of 1986.".

(d) POINT OF ORDER.—Section 301(i) is amended by adding at the end thereof the following new paragraph:

"(3) It shall not be in order in the Senate to consider any concurrent resolution on the budget as reported to the Senate that would decrease the difference between Social Security revenues and Social Security outlays in any of fiscal years covered by the concurrent resolution.".

(e) COMMITTEE ALLOCATIONS.—

(1) Section 302(a)(2) of the Congressional Budget Act of 1974 is amended by inserting "Social Security outlays," after "budget outlays,".

(2) Section 302(f)(2) of the Congressional Budget Act of 1974 is amended by inserting before the period the following: "or provides for Social Security outlays in excess of the appropriate allocation of Social Security outlays under subsection (a)".

(3) Section 302(f)(2) of such Act is further amended by adding at the end thereof the following: "In applying this paragraph—

"(A) estimated Social Security outlays shall be deemed to be reduced by the excess of estimated Social Security revenues (including Social Security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this paragraph is applied) over the appropriate level of Social Security revenues specified in the most recently adopted concurrent resolution on the budget; and

"(B) estimated Social Security outlays shall be deemed increased by the shortfall of estimated Social Security revenues (including Social Security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this paragraph is applied) below the appropriate level of Social Security revenues specified in the most recently adopted concurrent resolution on the budget.

The Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under subsection (a) and revised functional levels and aggregates to reflect the application of the preceding sentence. Such revised allocations, functional levels, and aggregates shall be considered as allocations, functional levels, and aggregates contained in the most recently agreed to concurrent resolution on the budget, and the appropriate committees shall report revised allocations pursuant to subsection (b).".

(f) POINT OF ORDER UNDER SECTION 311.—Section 311(a) of the Congressional Budget Act of 1974 is amended—

(1) by inserting "or Social Security outlays" after "total budget outlays";

(2) by inserting "(or Social Security revenues to be less than the appropriate level of Social Security revenues)" after "total revenues"; and

(3) by adding at the end thereof the following: "In applying this subsection—

"(A)(i) estimated Social Security outlays shall be deemed to be reduced by the excess of estimated Social Security revenues (including those provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) over the appropriate level of Social Security revenues specified in the most recently agreed to concurrent resolution on the budget;

"(ii) estimated Social Security revenues shall be deemed to be increased to the extent that estimated Social Security outlays are less (taking into account the effect of the bill, resolution, amendment, or conference report to which this subsection is being applied) than the appropriate level of Social Security outlays in the most recently agreed to concurrent resolution on the budget; and

"(B)(i) estimated Social Security outlays shall be deemed to be increased by the shortfall of estimated Social Security revenues (including Social Security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) below the appropriate level of Social Security revenues specified in the most recently adopted concurrent resolution on the budget; and

"(ii) estimated Social Security revenues shall be deemed to be reduced by the excess of estimated Social Security outlays (including Social Security outlays provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) above the appropriate level of Social Security outlays specified in the most recently adopted concurrent resolution on the budget.

The chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) and revised functional levels and aggregates to reflect the application of the preceding sentence. Such revised allocations, functional levels, and aggregates shall be considered as allocations, functional levels, and aggregates contained in the most recently agreed to concurrent resolution on the budget, and the appropriate Committees shall report revised allocations pursuant to section 302(b)."

(g) LONG-RANGE ACTUARIAL ESTIMATES.—Title II of the Social Security Act is amended by adding at the end thereof the following new section:

"ACTUARIAL EVALUATION OF LEGISLATION

"SEC. 234. (a)(1) The Secretary shall prepare and transmit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives an actuarial analysis of the 75-year effect of legislation affecting the programs established by this title—

"(A) when it appears that such legislation is likely to be acted upon by the Congress, or

"(B) upon the request of a Member of the United States Senate.

"(2) The estimate required by paragraph (1) shall, at a minimum, display the change in long-range balance under each of the alternative sets of assumptions used in the

most recent report of the Board of Trustees pursuant to section 201(c)(2). Each such estimate shall bear a certification by the Chief Actuary of the Social Security Administration as to whether or not the techniques and methodology used in its preparation are generally accepted within the actuarial profession and whether or not the assumptions and resulting cost estimates are reasonable. Upon receipt of an actuarial analysis described in this subsection, the chairman of the Committee on Finance shall file such analysis with the Senate.

"(b)(1) It shall not be in order in the Senate to consider any measure or amendment that would modify the program established by this title (or the revenue provisions that provide funding for such program), unless—

(A) the Committee on Finance has submitted to the Senate the actuarial analysis described in subsection (a) with respect to such bill, resolution, amendment, or conference report, or

(B) the Senate has agreed by unanimous consent or by motion described in paragraph (2) to dispense with such actuarial analysis.

"(2) A motion described in paragraph (1)(B) shall not be considered to be agreed to unless it receives the affirmative vote of three fifths of the membership of the Senate duly chosen and sworn, except that such a motion shall be considered approved upon an affirmative vote of a majority of Senators present and voting if—

"(A) an actuarial analysis was requested from the Secretary more than 72 hours before the motion is voted on (or 24 hours if such motion relates to an amendment in the first degree to a bill dealing with Social Security other than a Committee amendment or 1 hour if the motion relates to an amendment in the second degree to an amendment or a bill dealing with Social Security); and

"(B) such analysis has not been provided by the Secretary.".

Subtitle D—Multiyear Budgeting to Ensure Permanent Savings

SEC. 12201. MULTIYEAR BUDGETING.

(a) APPROPRIATE LEVELS.—Section 301(a) of the Congressional Budget Act of 1974 is amended in the matter before paragraph (1) by striking "planning levels for each of the two" and inserting "for each of the 4".

(b) DECLARATION OF PURPOSE.—Section 2(2) of that Act is amended by striking "each year".

(c) CONCURRENT RESOLUTION ON THE BUDGET.—

(1) Section 301(b)(3) of that Act is amended by striking "for such fiscal year" and inserting "for any one of the fiscal years covered by the concurrent resolution".

(2) Section 301(e) of that Act is amended—

(A) in the first sentence by striking "for each fiscal year"; and

(B) in paragraph (6) by striking "such fiscal year" and inserting "the first fiscal year covered by the concurrent resolution";

(3) Paragraphs (1) and (2) of section 301(f) of that Act are amended by striking "for the fiscal year beginning after the date on which such Economic Report is received by the Congress" each place it appears.

(4) Section 301(i)(1)(A) of that Act is amended—

(A) by striking "for a fiscal year"; and

(B) by striking "for such fiscal year" the first place it appears and inserting "for the first fiscal year".

(d) COMMITTEE ALLOCATIONS.—

(1) Paragraphs (1) and (2) of section 302(a) of that Act are amended by inserting "for each fiscal year in such resolution" after "estimated allocation" each place it appears.

(2) Section 302(b) of that Act is amended—

(A) in paragraph (1) by inserting after "to it" the following: "for the first fiscal year"; and

(B) in paragraph (2)—

(i) by inserting after "(2)" the following: "for"; and

(ii) by striking all after "statement" through the period and inserting the following: ", for purposes of subsections (c) and (f), the allocation made pursuant to subsection (a) shall constitute the allocation pursuant to this subsection.".

(3) Section 302(c) of that Act is amended—

(A) by inserting after "for a fiscal year" each place it appears the following: "or fiscal years"; and

(B) by inserting after "for such fiscal year" each place it appears the following: "or fiscal years".

(4) Section 302(f)(1) of that Act is amended by—

(A) striking "for a fiscal year"; and

(B) striking "such fiscal year" each place it appears in the matter preceding subparagraph (A) and inserting the following: "the first fiscal year covered by the resolution and for the period including the first fiscal year and the following 4 fiscal years".

(5) Section 302(f)(2) of that Act is amended by—

(A) striking "for a fiscal year"; and

(B) striking "such outlays or authority" inserting the following: "the appropriate outlays and authority for the first fiscal year covered by the resolution and for the period including the first fiscal year and the following 4 fiscal years".

(e) SECTION 303 POINT OF ORDER.—Section 303(a) of that Act is amended in the matter following paragraph (5) by inserting after "budget for such fiscal year" the following: "(for committees covered by section 302(b)(2)) or budget for which such fiscal year is the first fiscal year covered (for committees covered by section 302(b)(1))".

(f) PROCEDURES FOR CONSIDERATION OF BUDGET RESOLUTIONS.—Subsections (a)(3) and (b)(3) of section 305 of that Act are amended by striking "for a fiscal year".

(g) REPORTS AND SUMMARIES OF CONGRESSIONAL BUDGET ACTIONS.—

(1)(A) Section 308(a)(1) of that Act is amended—

(i) in the matter preceding subparagraph (A) by inserting after "fiscal year" the following: "(or fiscal years)";

(ii) in subparagraph (A) by inserting after "fiscal year" the following: "(or fiscal years)"; and

(iii) in subparagraph (C) by inserting after "such fiscal year" the following: "(or fiscal years)".

(B) Section 308(a)(2) of that Act is amended by inserting after "fiscal year" the following: "(or fiscal years)".

(2) Section 308(b)(1) of that Act is amended—

(A) by striking "for a fiscal year" in the first sentence and inserting "for each fiscal year covered by a concurrent resolution on the budget"; and

(B) by striking "such fiscal year" in the second sentence and inserting "the first fiscal year covered by the appropriate concurrent resolution".

(h) RECONCILIATION PROCESS.—Section 310(a) of that Act is amended—

(1) by inserting after "shall" in the matter preceding paragraph (1) the following: "(for at least 3 fiscal years)";

(2) in paragraph (1) by striking "such fiscal year" each place it appears and inserting the following: "such fiscal years"; and

(3) by adding at the end thereof the following:

"To the extent that a concurrent resolution on the budget specifies and directs matters described in paragraphs (1), (2), or (4), the concurrent resolution shall specify and direct deficit reduction for the 5 years covered by the concurrent resolution in amounts equal to or greater than 5 times that specified and directed for the first year covered for each committee directed.".

(i) SECTION 311 POINT OF ORDER.—

(1) Section 311(a) of that Act is amended—

(A) by striking "for a fiscal year";

(B) by inserting "for the first fiscal year" after "set forth" the first place it appears;

(C) by striking "budget for such fiscal year" and inserting "budget covering such fiscal year";

(D) by inserting "for the first fiscal year covered by the resolution and for the period including the first fiscal year plus the following 4 fiscal years" after "set forth" the second place it appears; and

(E) by striking "deficit for such fiscal year" and inserting "deficit for the first fiscal year covered by the resolution".

(2) Section 311(b) of that Act is amended by inserting after "such fiscal year" each place it appears the following: "(or fiscal years)".

(j) BILLS PROVIDING NEW SPENDING AUTHORITY.—Section 401(b)(2) of that Act is amended by inserting after "for such fiscal year" the second place it appears the following: "(or fiscal years)".

SEC. 12202. PRESIDENT'S BUDGET TO ADDRESS OUT-YEARS.

(a) PRESIDENTS' BUDGET TO ADDRESS OUT-YEARS.—Section 1105(f) of title 31, United States Code, is amended—

(1) in paragraph (1) by inserting after "such fiscal year" each time it appears "and the 4 fiscal years after that year";

(2) in paragraph (2) by inserting after "any fiscal year" the following: "(including the 4 fiscal years after the fiscal year for which the budget is submitted)"; and

(3) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) DETAIL OF PRESIDENTS' BUDGETS.—The second sentence of section 1104(b) of title 31, United States Code, is amended by striking "fiscal year 1950" and inserting "fiscal year 1990 submitted on January 9, 1989".

SEC. 12203. STRENGTHENING THE PROHIBITION OF SPENDING BEFORE BUDGETING.

Section 303(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the first sentence.

Subtitle E—Credit Reform

SEC. 12251. CREDIT REFORMS.

The Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

"TITLE XI—CREDIT REFORM

"SHORT TITLE

"SEC. 1100. This title may be cited as the 'Federal Credit Reform Act of 1990'.

"PURPOSES

"SEC. 1101. The purposes of this title are to—

"(1) measure accurately the costs of Federal credit programs;

"(2) place the cost of credit programs on a budgetary basis equivalent to other Federal spending;

"(3) encourage the delivery of benefits in the form most appropriate to the needs of beneficiaries;

"(4) improve the allocation of resources among credit programs and between credit and other spending programs;

"(5) provide for the coordinated accounting and review of Federal credit programs by the Congressional Budget Office and Office of Management and Budget;

"(6) enhance the ability of the Committees on the Budget and the Committees on Appropriations of the Senate and the House of Representatives to analyze and review of Federal credit programs; and

"(7) modify the legislative and executive budgetary processes to carry out these purposes.

"DEFINITIONS

"SEC. 1102. For purposes of this title—

"(1) The term 'Federal agency' means an executive department, an independent Federal establishment, or a corporation or other entity established by the Congress that is owned in whole or in part by the United States. The term does not include the Board of Governors of the Federal Reserve System or the College Construction Loan Insurance Association.

"(2) The term 'direct loan' means a disbursement of funds by the Federal Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. The term includes the purchase of, or participation in, a loan made by another lender. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims or the price support loans of the Commodity Credit Corporation. For the purpose of carrying out this title, direct loans may be grouped and treated as a single loan as agreed to by the Director and the head of the affected agency.

"(3) The term 'direct loan obligation' means a binding agreement entered into by a Federal agency for the Government under which the Federal agency agrees to make a direct loan when specified conditions are fulfilled by the borrower.

"(4) The term 'loan guarantee' means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions. For the purposes of carrying out the provisions of this title, loan guarantees may be grouped and treated as a single loan as agreed to by the Director and the head of the affected agency.

"(5) The term 'loan guarantee commitment' means a binding agreement entered into by a Federal agency for the Government under which the Federal agency agrees to guarantee a loan when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

"(6)(A) The term 'cost to the Government' means—

"(i) the estimated long-term net cost to the Government of a direct loan or loan guarantee, calculated on a net present value basis; and

"(ii) the cost to the Government resulting from any change or modification in direct or guaranteed loan contract terms that results or will result in additional expenditures by the Government or loss of receipts to the Government.

"(B) In determining the amount of cost to the Government of a direct loan or loan guarantee, the estimator shall take into account—

"(i) any cash flows to or from the Government resulting from the terms and conditions of the direct loan obligation or guarantee commitment, including those resulting from—

"(I) direct outlays,

"(II) repayments (of principal or interest),

"(III) interest payments,

"(IV) interest receipts,

"(V) fees charged by (or on behalf of) the Government,

"(VI) the term to maturity,

"(VII) the payment schedule,

"(VIII) defaults in repayments,

"(IX) delays in repayments,

"(X) prepayments,

"(XI) forbearance and restructuring rights,

"(XII) grace periods,

"(XIII) penalties,

"(XIV) recoveries from the liquidation of collateral, and

"(XV) degree of guarantee;

"(ii) the likelihood (based on analysis of historical data) of deviations from the terms and conditions of the direct loan or loan guarantee, including those resulting from—

"(I) changes in the payment schedule,

"(II) defaults in repayments,

"(III) delays in repayments,

"(IV) prepayments,

"(V) forbearance and restructuring rights,

"(VI) grace periods,

"(VII) penalties,

"(VIII) recoveries from the liquidation of collateral, and

"(IX) degree of guarantee; and

"(iii) where historical data is not available or adequate, private market analogues, adjusted to estimate the cost to the Government.

"(C) The cost to the Government shall not include administrative costs.

"(7) The term 'subsidy account' means the budget account or accounts into which subsidies are appropriated to cover the cost to the Government of a direct loan or loan guarantee program.

"(8) The term 'financing account' means the budget account or accounts associated with each subsidy account that—

"(A) provides the non-subsidized funding to non-Government borrowers for Government direct loans obligated on or after October 1, 1991;

"(B) provides direct loans to borrowers and, in accordance with agency loan agreements, makes claim payments for guaranteed loans in default and serves as a reserve for agency loan guarantee commitments made on or after October 1, 1991; and

"(C) receives payments of principal, interest, fees, and premiums from or on behalf of borrowers and subsidy payments from subsidy accounts for direct loans obligated or loan guarantees committed on or after October 1, 1991.

If an appropriated account includes both direct loans and loan guarantees, the affected agency shall maintain separate financing accounts for each.

"(9) The term 'liquidating account' means the budget account or accounts that—

"(A) provides the funding for direct loans obligated prior to October 1, 1991;

"(B) disburses loans to borrowers and, in accordance with agency loan agreements, makes claim payments for guaranteed loans in default for direct loans and guaranteed loans obligated prior to October 1, 1991; and

"(C) receives payments of principal, interest, fees, and premiums from on or on behalf of borrowers for all direct loans or loan guarantees obligated prior to October 1, 1991.

"(10) The term 'Director' means the Director of the Office of Management and Budget.

"OMB AND CBO ANALYSIS, COORDINATION, AND REVIEW

"SEC. 1103. (a) IN GENERAL.—The Director shall be responsible for coordinating estimates by Federal agencies required by this title.

"(b) ESTIMATES OF COST TO THE GOVERNMENT BY THE DIRECTOR.—With regard to direct loans and loan guarantees, the Director shall—

"(1) estimate the cost to the Government, or require estimates to be made by the Federal agencies, for each new direct loan and loan guarantee or for groups of similar new direct loans and loan guarantees, taking into account the factors specified in section 1102(6);

"(2) estimate the cost to the Government, or require estimates to be made by the Federal agencies, for changes or modification in the provisions of existing direct loan and loan guarantee agreements that result in increased cost to the Government;

"(3) if estimates of the cost to the Government are made by the Director, furnish the appropriate Federal agency with the estimates in a timely fashion;

"(4) require timely uniform reporting from Federal agencies on the actual long-term cost to the Government of direct loans and loan guarantees, calculated on a basis prescribed by the Director and consistent with this title, and on loan performance and borrower characteristics;

"(5) in the case of a program for which historical data is inadequate to determine the cost to the Government, oversee the development and implementation of systems that will make the collection and maintenance of credit data adequate in the future;

"(6) monitor due diligence debt collection efforts;

"(7) assess Federal agency performance; and

"(8) otherwise study and undertake improvements in Federal agency credit management.

"(c) DEVELOPMENT OF ESTIMATES.—

"(1) IN GENERAL.—In developing estimate criteria to be used by Federal agencies, the Director shall, in cooperation with the Director of Congressional Budget Office—

"(A) coordinate the development of accurate data on historical performance of loans and guarantees; and

"(B) review historical budget data and issue guidelines for the agencies to follow to develop the best possible broad estimates of adjustments that would convert aggregate historical budget data to credit reform accounting.

"(2) CONSULTATION WITH CONGRESS.—The Director shall also consult with the chairmen and ranking members of the Committees on the Budget and the Committees on Appropriations of the Senate and the House of Representatives in developing criteria under paragraph (1).

"(d) REVISION OF CRITERIA.—Any change by the Director in the criteria for estimating developed pursuant to subsection (c) may be made only after consultation with the Director of the Congressional Budget Office, and the chairmen and ranking members of the Committees on the Budget and Appropriations of the Senate and the House of Representatives.

"(e) ADMINISTRATIVE COSTS.—The Director and the Director of the Congressional Budget Office shall analyze differences in long-term administrative costs for credit programs versus grant programs and, 6 months after the date of enactment of this title and when appropriate thereafter, propose changes to Congress for incorporating administrative costs in the credit reform accounting process.

"DIRECT LOAN PROGRAMS

"SEC. 1104. (a) AGENCY BUDGET PROPOSAL.—For each fiscal year, beginning with fiscal year 1992, each Federal agency shall include in its budget proposal and submission to Congress—

"(1) the planned level of new direct loan obligations; and

"(2) the estimated cost to the Government associated with the proposed direct loan obligations.

"(b) DIRECT LOAN OBLIGATIONS.—On or after October 1, 1991, a Federal agency shall not enter into a direct loan obligation unless—

"(1) an appropriation has been made to the Federal agency for the cost to the Government; or

"(2) a limitation is enacted in an annual appropriations Act on the use of funds otherwise available to the Federal agency for the cost to the Government.

"(c) COST TO THE GOVERNMENT OF DIRECT LOAN OBLIGATION.—

"(1) ESTIMATE OF COST.—At the time a direct loan obligation is incurred, the Federal agency shall obtain an estimate of the cost to the Government of the loan from the Director or, at the discretion of the Director, shall make such an estimate based upon guidelines established by the Director.

"(2) BUDGET TREATMENT.—For the purposes of section 1501 of title 31, United States Code—

"(A) the amount of an estimate made under paragraph (1) shall constitute an obligation of the subsidy account to pay to the financing account; and

"(B) the face value of the direct loan shall constitute an obligation of the financing account.

"(d) PAYMENT OF COST TO THE GOVERNMENT.—The cost to the Government associated with a direct loan as determined in subsection (c) shall be paid from the subsidy account into the financing account as the loan is disbursed.

"(e) MODIFICATION.—No direct loan agreement may be modified in a manner that increases the cost to the Government (except modifications within the terms of the loan contract that had already been included in calculating the cost to the Government at the time the agreement was entered into) unless the added cost to the Government is appropriated, obligated out of existing subsidy appropriations, or, in the case of entitlement accounts, charged against the 302(a) and 302(b) allocations of the committee making the modification. In calculating the costs of altering a direct loan the calculation shall include the current estimates of the direct loan's present value.

"(f) ELIGIBILITY AND ASSISTANCE.—Nothing in this title shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by a direct loan.

"LOAN GUARANTEE PROGRAMS

"SEC. 1105. (a) AGENCY BUDGET PROPOSAL.—For each fiscal year, beginning with fiscal year 1992, each Federal agency authorized to make loan guarantee commitments shall include in its budget proposal and submission to Congress—

"(1) the level of new loan guarantee commitments; and

"(2) the estimated cost to the Government associated with the proposed loan guarantee commitments.

"(b) LOAN GUARANTEE.—On or after October 1, 1991, a Federal agency shall not guarantee a loan unless—

"(1) an appropriation has been made to the Federal agency for the cost to the Government, or

"(2) a limitation is enacted in an annual appropriations Act on the use of funds otherwise available to the Federal agency for the cost to the Government.

"(c) COST TO THE GOVERNMENT OF LOAN GUARANTEE.—

"(1) IN GENERAL.—At the time a loan guarantee commitment is made, the Federal agency shall obtain an estimate of the cost to the Government of the loan guarantee from the Director or, at the discretion of the Director, shall make an estimate of the cost to the Government based upon guidelines provided by the Director.

"(2) OBLIGATION.—The amount of an estimate made under paragraph (1) shall constitute an obligation of the Federal agency for the purposes of section 1501 of title 31, United States Code.

"(d) PAYMENT OF COST TO THE GOVERNMENT.—The cost to the Government associated with a loan guarantee determined under subsection (c) shall be paid from the subsidy account into the financing account at the time the underlying guaranteed loan is disbursed.

"(e) MODIFICATION.—No loan guarantee agreement may be modified in a manner that would increase the cost to the Government (except modifications within the terms of a loan contract that had already been included in calculating the cost to the Government at the time the agreement was entered into) unless the added cost to the Government is appropriated, obligated out of existing subsidy appropriations, or is charged against the 302(a) and 302(b) allocations of the committee making the modifications. In calculating the costs of modifying loan guarantee agreements, the calculation shall include the current estimates of the loan guarantee's present value.

"(f) REINSURANCE.—Nothing in this title shall be construed as authorizing or requiring the purchase of reinsurance for a Federal guarantee from private insurers.

"(g) ELIGIBILITY AND ASSISTANCE.—Nothing in this title shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by, a loan guarantee.

"AGENCY RESPONSIBILITIES

"SEC. 1106. The head of each Federal agency authorized to make or guarantee loans covered by this title shall—

"(1) provide the Director in a timely fashion with information about the Federal agency's direct loan or loan guarantee programs sufficient to enable the Director to calculate the estimated cost to the Government, or shall, as required by the Director, estimate the cost to the Government in accordance with the Director's guidance;

"(2) request annual appropriations, or limitations on funds otherwise available, for the subsidies attributable to that Federal agency's direct loan or loan guarantee programs in each fiscal year;

"(3) carry out the Federal agency's direct loan or loan guarantee programs within the lesser of—

"(A) applicable appropriations Act limitations on direct loan obligations or loan guarantee commitments; or

"(B) annual appropriations or funds otherwise available to cover cost to the Government for the program; and

"(4) maintain reserves in a financing account to cover loan guarantee defaults, which reserves in the financing account shall be treated as uninvested funds.

"BUDGETARY TREATMENT

"SEC. 1107. (a) DIRECT LOAN COST TO THE GOVERNMENT.—For the purposes of chapter 11 of title 31, United States Code, and of titles III and IV of this Act, in the case of any direct loan made by a Federal agency on or after October 1, 1991, the cost to the Government shall be treated as an obligation of the subsidy account. The cost to the Government shall be included in the budget function of the direct loan program.

"(b) LOAN GUARANTEE COST TO THE GOVERNMENT.—For the purposes of chapter 11 of title 31, United States Code, and of titles III and IV of this Act, in the case of any loan guarantee commitment made by a Federal agency on or after October 1, 1991, the cost to the Government shall be treated as an obligation of the account charged with the subsidy payment. The cost to the Government shall be included in the budget function of the guaranteed loan program.

"(c) CREDIT FINANCING ACTIVITIES.—

"(1) For the purposes of chapter 11 of title 31, United States Code, and of titles III and IV of this Act, financing requirements of Federal credit programs in excess of costs to the Government paid by a Federal agency shall be chargeable to a financing account for each program. Financing requirements of direct loans or loan guarantees made or obligated on or after October 1, 1991, shall also be treated as obligations of the financing accounts. Such financing transactions shall be recorded in a budget function entitled 'credit financing activities'. The Antideficiency Act shall apply to the financing accounts.

"(2) Amounts recorded in the budget function entitled 'credit financing activities' pursuant to this subsection shall not be included—

"(A) for purposes of determining, in accordance with sections 301(i) and 311(a) of this Act, whether the maximum deficit amount for a fiscal year has been exceeded;

"(B) for purposes of other points of order under section 311 of this Act;

"(C) for purposes of reconciliation under section 310 of this Act; or

"(D) for purposes of allocations and points of order under section 302 of this Act.

"(3) Transactions in the financing account shall be treated as a means of financing of the Government.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1108. (a) DIRECT LOAN OBLIGATIONS.—There are authorized to be appropriated to each Federal agency otherwise authorized to make obligations for direct loans, such sums as may be necessary to pay the cost to the Government associated with proposed direct loan obligations and the costs of administering direct loans.

"(b) LOAN GUARANTEE COMMITMENTS.—There are authorized to be appropriated to each Federal agency otherwise authorized to make guaranteed loan commitments, such sums as may be necessary to pay the cost to the Government associated with proposed loan guarantee commitments and the costs of administering loan guarantees.

"(c) TREASURY NOTES FINANCING.—If at any time the monies available in its financing account are insufficient to enable the head of the Federal agency to discharge its responsibilities under this title, the head of a Federal agency shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and containing such terms and conditions, as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the head of such agency from monies otherwise available to its financing account or from appropriations made pursuant to subsection (d). Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the date of issuance of such notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued under this subsection and for that purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations.

"(d) LIQUIDATING OBLIGATIONS.—

"(1) If funds are insufficient to liquidate obligations of the financing account incurred under subsection (c), for the purposes of titles III and IV of this Act, the Director or the Federal agency as designated by the Director shall estimate the level of funds needed to meet those obligations. If at any time it is determined that funds are insufficient to repay those obligations, under subsection (c), there are authorized to be appropriated such sums as are necessary to repay those obligations.

"(2) To the extent that the resources of the financing account exceed those needed to liquidate obligations of the account or to maintain actuarially determined reserve requirements, the excess funds shall be transferred to the general fund of the Treasury. Such transfers shall be made from time to time, but at least once a year.

"(3) The Director shall include detailed descriptions of the financial condition of the financing accounts in the President's annual budget submission under section 1105 of title 31 of the United States Code.

"(e) AUTHORIZATION OF APPROPRIATIONS FOR SALARIES AND EXPENSES.—There are authorized to be appropriated to the Director such sums as may be necessary for the salaries and expenses incurred to carry out the responsibilities of the Director under this title.

"TREATMENT OF DEPOSIT INSURANCE AND AGENCIES AND OTHER INSURANCE PROGRAMS

"SEC. 1109. (a) IN GENERAL.—

"(1) The provisions of this title shall not apply to the credit and insurance activities of the credit activities of the Federal Deposit Insurance Corporation, National Credit Union Administration, Resolution Trust Corporation, Pension Benefit Guaranty Corporation, National Flood Insurance, Insurance Development Fund, Crop Insurance, or to the credit or other activities of the Tennessee Valley Authority.

"(2) The Director of the Office of Management and Budget and the Director of the Congressional Budget Office shall each study whether the accounting for Federal insurance programs, including deposit insurance programs, should be on a cash basis. Each Director shall report findings and recommendations to the President and the Congress by September 30, 1991.

"(3) For the purposes of paragraph (2) the Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate these studies.

"(b) ELIGIBILITY AND ASSISTANCE.—Nothing in this section shall be construed to change the responsibility of the entities that administer the programs described in subsection (a) to determine the terms and conditions of eligibility for, or the amount of assistance provided by those entities.

"EFFECT ON OTHER LAWS

"SEC. 1110. (a) FEDERAL AGENCY AUTHORITY.—Nothing in this title shall be construed as limiting the authority of any Federal agency to enter into agreements to make or to guarantee loans under statutes that were in effect prior to the date of enactment of this title or that may be enacted subsequently. All such agreements shall be contingent upon meeting the requirements of this title.

"(b) EFFECT ON OTHER LAWS.—This title shall supersede, modify, or repeal any provision of law enacted prior to the date of enactment of this title to the extent such provision is inconsistent with this title. Nothing in this title shall be construed to establish a credit limitation on any Federal loan or loan guarantee program.

"(c) CREDITING OF COLLECTIONS.—Collections resulting from direct loans obligated or loan guarantees committed prior to October 1, 1991, shall be credited to the liquidating accounts of Federal agencies. Amounts so credited shall be available, to the same extent that they were available prior to the date of enactment of this title, to liquidate obligations arising from such direct loans obligated or loan guarantees committed prior to October 1, 1991, including repayment of any obligations held by the Secretary of the Treasury or the Federal Financing Bank. The unobligated balances of such accounts that are in excess of current needs shall be transferred to the general fund of the Treasury. Such transfers shall be made from time to time but, at least once each year.

"IMPLEMENTATION FOR FISCAL YEAR 1992

"SEC. 1111. (a) IN GENERAL.—Beginning with the President's budget submission to Congress for fiscal year 1992, the President shall include, in the Budget Appendix, an estimate for the cost to the Government, as defined in section 1102(6), of all Federal direct loan and loan guarantee authority by program and by account.

"(b) BUDGET COMMITTEES.—At the time of the President's budget submission to Congress, the Director shall provide the Committees on the Budget of both the Senate and the House of Representatives and the Congressional Budget Office with a document explaining the methodology used in development of the Director's cost to the Government estimates for direct loan and loan guarantee programs. Upon request by the Committees on the Budget of both the Senate or the House of Representatives or the Congressional Budget Office, the Director shall provide additional documentation, as required, regarding the cost to the Government estimates included in the Budget Appendix.

"(c) CONGRESSIONAL BUDGET OFFICE.—

"(1) IN GENERAL.—Beginning on January 1, 1991, the Congressional Budget Office shall include a cost to the Government estimate of direct loan or loan guarantee authority provided for in all reported bills.

"(2) EXISTING RESPONSIBILITY.—Paragraph (1) does not eliminate or modify any responsibility of the Congressional Budget Office to make cost estimates under the law in effect prior to the effective date of this title.".

SEC. 12252. EFFECT ON CONGRESSIONAL BUDGET ACT AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—(1) Section 3(2) of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following: "The term includes the cost to the Government for direct loan and loan guarantee programs, as those terms are defined by title XI".

(2) Section 3 of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following:

"(11) GOVERNMENT-SPONSORED ENTERPRISE.—The term 'government-sponsored enterprise' means a corporate entity created by a law of the United States that—

"(A)(i) is a Federally chartered organization as provided in statute;

"(ii) is privately owned, as evidenced by capital stock owned by private entities or individuals;

"(iii) is under the direction of a board of directors, a majority of which is elected by private owners;

"(iv) is a financial institution with power to—

"(I) make loans or loan guarantees for limited purposes such as to provide credit for specific borrowers or one sector; and

"(II) raise funds by borrowing or to guarantee the debt of others in unlimited amounts; and

"(B)(i) does not exercise powers that are reserved to the Government as sovereign (such as the power to tax, to levy compulsory fees, regardless of whether such fees are to finance goods or services, or to regulate interstate commerce);

"(ii) does not have the power to commit the Government financially (but it may be a recipient of a loan guarantee commitment made by the Government); and

"(iii) has employees whose salaries and expenses are paid by the enterprise and are not Federal employees subject to title 5 of the United States Code.".

(b) POINT OF ORDER.—Section 402 of the Congressional Budget Act of 1974 is amended—

(1) by redesignating subsection (b) as (c);

(2) in subsection (a), by striking "(b)(1)" and inserting "(c)"; and

(3) by inserting after subsection (a) the following new subsection:

"(b) POINT OF ORDER.—It shall not be in order in either the Senate or the House of Representatives to consider any appropriation bill or joint resolution providing continuing appropriations, or authorizing legislation creating or modifying credit programs that are not subject to appropriation of credit authority, or any amendment thereto, or any conference report thereon, or any motion in relation thereto, that provides new credit authority that does not also provide an appropriation for the cost to the Government of such new credit authority as required by title XI.".

(c) POINT OF ORDER FOR FISCAL YEAR 1991.—Section 302(f)(2) of the Congressional Budget Act of 1974 is amended by inserting after "new budget authority" the following: "or new credit authority". The amendment made by this subsection shall take effect on January 1, 1991.

(d) SUNSET OF POINT OF ORDER IN FISCAL YEAR 1992.—(1) Section 302 of the Congressional Budget Act is amended—

(A) in subsection (a)(1)—

(i) by striking "total entitlement authority, and total credit authority" and inserting "and total entitlement authority";

(ii) by striking "such entitlement authority, or such credit authority" and inserting "or such entitlement authority"; and

(iii) by striking "entitlement authority, and credit authority" and inserting "and entitlement authority";

(B) in subsection (a)(2), by striking "total budget outlays, total new budget authority and new credit authority" and inserting "total budget outlays and total new budget authority";

(C) in subsection (b)(1)(A), by striking "budget outlays, new budget authority, and new credit authority" and inserting "budget outlays and new budget authority";

(D) in subsection (c)—

(i) in paragraph (1), by inserting "or" at the end thereof; and

(ii) by striking "or (3) new credit authority for a fiscal year;"; and

(E) in subsection (f)(1)—

(i) by striking "year, new entitlement authority effective during such fiscal year, or new credit authority for such fiscal year," and inserting "year or new entitlement authority effective during such fiscal year,"; and

(ii) by striking "authority, new entitlement authority, or new credit authority" and inserting "authority or new entitlement authority".

(2) The amendments made by this subsection shall take effect for fiscal years beginning after September 30, 1991.

(e) BALANCED BUDGET ACT.—Section 255(g) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end thereof the following new paragraph:

"(3) The financing account or accounts (as defined by section 1102(8)) and the activities of those accounts shall be exempt from reduction under any order issued pursuant to this part, except to the extent that a reduction in subsidies or loan limitations would result in a reduction in the financing amount or amounts.".

SEC. 12253. TABLE OF CONTENTS.

The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following:

"TITLE XI—CREDIT REFORM

"Sec. 1100. Short title.
"Sec. 1101. Purposes.
"Sec. 1102. Definitions.
"Sec. 1103. OMB and CBO analysis, coordination, and review.
"Sec. 1104. Direct loan programs.
"Sec. 1105. Loan guarantee programs.
"Sec. 1106. Agency responsibilities.
"Sec. 1107. Budgetary treatment.
"Sec. 1108. Authorization of appropriations.
"Sec. 1109. Treatment of deposit insurance agencies.
"Sec. 1110. Effect on other laws.
"Sec. 1111. Implementation for fiscal year 1992.".

SEC. 12254. GOVERNMENT-SPONSORED ENTERPRISES.

(a) TREASURY REPORT.—

(1) On or before April 30, 1991, the Secretary of the Treasury shall submit to the Senate and the House of Representatives a report—

(A) making an objective assessment of the financial safety and soundness of the Government-sponsored enterprises;

(B) assessing the adequacy of the existing regulatory structure for Government-sponsored enterprises; and

(C) assessing the risk of financial exposure to the Federal Government posed by Government sponsored enterprises.

(2)(A) Each Government-sponsored enterprise shall provide full and prompt access to the Secretary to its books and records, and shall promptly provide any other information requested by the Secretary.

(B) In conducting the studies under this section, the Secretary may request information from, or the assistance of, any Federal department or agency authorized by law to supervise the activities of any Government-sponsored enterprise.

(C)(i) The Secretary shall determine and maintain the confidentiality of any book, record, or information made available under this section in a manner generally consistent with the level of confidentiality established for the material by the Government-sponsored enterprise involved.

(ii) The Department of Treasury shall be exempt from section 552 of title 5, United States Code, with respect to any book, record, or information made available under this section and determined by the Secretary to be confidential. This exemption shall continue to apply to any such book, record, or information provided to a nationally recognized rating organization or another Federal agency.

(iii) Any officer or employee of the Department of the Treasury shall be subject to the penalties set forth in section 1906 of title 18, United States Code, if—

(I) by virtue of this employment of official position, he has possession of or access to any book, record, or information made available under this section and determined by the Secretary to be confidential under clause (i); and

(II) he discloses the material in any manner other than—

(aa) to an officer or employee of the Department of Treasury; or

(bb) pursuant to the exception set forth in such section 1906.

(b) CONGRESSIONAL BUDGET OFFICE REPORT.—

(1) On or before April 30, 1991, the Director of the Congressional Budget Office shall submit to the Senate and the House of Representatives a report—

(A) giving that Office's perspective on—

(i) the types of risk that each Government-sponsored enterprise assumes;

(ii) ways in which the Congress can improve its understanding of these risks; and

(iii) the risks to the budget posed by Government-sponsored enterprises;

(B) evaluating the adequacy of current Government-sponsored enterprise supervision and regulation with respect to risk management; and

(C) presenting alternative models of oversight, with particular emphasis on the costs and benefits of each alternative on the Federal Government and to Government-sponsored-enterprise-supported beneficiaries.

(2)(A) The Director of Congressional Budget Office shall determine and maintain the confidentiality of any book, record, or information made available under this subsection in a manner generally consistent with the level of confidentiality established for the material by the Government-sponsored enterprise involved.

(B) The Congressional Budget Office shall be exempt from section 603 of title 2, United States Code, with respect to any book, record, or information made available under this subsection and determined by the Director to be confidential under subparagraph (A).

(c) STUDY AND LEGISLATION.—It is the sense of Congress that the Committees of jurisdiction over Government-sponsored enterprises in the Senate and the House of Representatives shall—

(1) study the administration's Government sponsored enterprise proposals, which include—

(A) requiring triple-A ratings for Government-sponsored enterprises;

(B) establishing the Department of the Treasury as a separate regulator of Government-sponsored enterprises for safety and soundness; and

(C) imposing regulatory sanctions on Government-sponsored enterprises that fail to achieve a triple-A rating within 5 years;

(2) consult with the administration, the Government-sponsored enterprises, and the Congressional Budget Office regarding the administration's proposals; and

(3) report by September 15, 1991, to the Senate or the House of Representatives, as the case may be, as appropriate, legislation to—

(A) ensure the financial soundness of Government-sponsored enterprises; and

(B) minimize the possibility that any Government-sponsored enterprise might require future Federal assistance.

(d) LEGISLATIVE CONSIDERATION.—It is the sense of Congress that if the Committees of jurisdiction over Government-sponsored enterprises in the Senate and the House of Representatives fail to report the legislation required by subsection (c) by September 15, 1991, then the Leadership of the Senate and the House of Representatives shall provide for consideration of and a vote on or in relation to legislation improving the financial safety and soundness of Government-sponsored enterprises before the end of the First Session of the 102nd Congress.

Subtitle F—Budget Timetable

SEC. 12301. BUDGET TIMETABLE.

Section 300 of the Congressional Budget Act of 1974 is amended to read as follows:

"TIMETABLE

"SEC. 300. (a) IN GENERAL.—Except as provided in subsection (b), the timetable for the Congressional budget process is as follows:

"On or before:	Action to be completed:
January 27	Congressional Budget Office submits its baseline report to Budget Committees and issues its initial Gramm-Rudman-Hollings report to Office of Management and Budget and the Congress.
February 1	President submits the executive branch's budget request. Office of Management and Budget issues its initial report to the President and the Congress. President issues initial order and transmits to the Congress a detailed message regarding the initial order.

"On or before:	Action to be completed:
March 1	Congressional Budget Office submits its reestimate of the President's budget to the Committees on Appropriations and on the Budget request and committees submit their views and estimates to Budget Committees.
April 1	Senate Budget Committee reports concurrent resolution on the budget.
April 15	Congress completes action on concurrent resolution on the budget.
May 15	Annual Appropriations bills may be considered in the House.
September 30	Congress completes action on appropriations legislation and completes action on reconciliation legislation in odd-numbered years.
October 1	Fiscal year begins and any initial order becomes effective.
November 10	Congressional Budget Office issues its revised report to Office of Management and Budget and the Congress.
November 15	Office of Management and Budget issues its revised report to the President and the Congress. President issues final order (which becomes effective immediately).
November 30	President transmits to the Congress a detailed message regarding the final order.
December 15	Comptroller General issues compliance report.

"(b) IN YEARS A NEW PRESIDENT TAKES OFFICE.—In years in which a new President (who had not been President on January 19) takes office on January 20, the timetable for the Congressional budget process is as follows:

"On or before:	Action to be completed:
January 27	Congressional Budget Office submits its baseline report to Budget Committees.
March 10	Congressional Budget Office issues its initial Gramm-Rudman-Hollings report to Office of Management and Budget and the Congress.
March 15	President submits the executive branch's budget request. Office of Management and Budget issues its initial report to the President and the Congress. President issues initial order and transmits to the Congress a detailed message regarding the initial order.
April 15	Congressional Budget Office submits its reestimate of the President's budget to the Committees on Appropriations and on the Budget request and committees submit their views and estimates to Budget Committees.
May 1	Senate Budget Committee reports concurrent resolution on the budget.
May 15	Congress completes action on concurrent resolution on the budget.
June 1	Annual Appropriations bills may be considered in the House.
September 30	Congress completes action on appropriations legislation and completes action on reconciliation legislation.
October 1	Fiscal year begins and any initial order becomes effective.
November 10	Congressional Budget Office issues its revised report to Office of Management and Budget and the Congress.
November 15	Office of Management and Budget issues its revised report to the President and the Congress. President issues final order (which becomes effective immediately).
November 30	President transmits to Congress a detailed message regarding the final order.
December 15	Comptroller General issues compliance report.".

Subtitle G—Early Initial Gramm-Rudman-Hollings Reports

SEC. 12351. EARLY INITIAL GRAMM-RUDMAN-HOLLINGS REPORTS.

(a) GRAMM-RUDMAN-HOLLINGS.—The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in section 251(a)(1)(A), by striking "as of August 15 of the calendar year in which such fiscal year begins";

(2) in section 251(a)(2)(A), by striking "August 20" and inserting "January 27";

(3) in section 251(a)(2)(B), by striking "August 25" and inserting "February 1";

(4) in section 251(a)(2)(C), by striking clauses (iii) and (iv);

(5) in section 251(a)(3)(A)(ii), by striking "paragraph" and inserting "part";

(6) in section 251(a)(3)(A)(ii)(II), by striking "in the case of an initial report submitted under subsection (a), August 15, and in the case of a final report submitted under subsection (c),";

(7) in section 251(c)(1)(A), by striking "August 15 of" and inserting "the snapshot date for the Director's report pursuant to subsection (a) for";

(8) in section 252(a)(1), by striking "August 25" and inserting "February 1";

(9) in section 252(a)(5), by striking "Not later than the 15th day beginning after the President issues an" and inserting "Along with any"; and

(10) in section 252(b)(2), by striking "August 15 of" and inserting "the snapshot date for the Director's report pursuant to section 251(a) for".

(b) CONGRESSIONAL BUDGET ACT.—The Congressional Budget Act of 1974 is amended—

(1) in section 202(f)(1), by striking "February 15" and inserting "January 27";

(2) in section 202(f)(1), by striking "and any changes in such levels based on proposals in the budget request submitted by the President for such fiscal year";

(3) in section 202(f), by adding at the end thereof the following new paragraph:

"(4) On or before March 1 of each year (or April 15 of a year to which section 300(b) applies), the Director shall submit to the Committees on the Budget of the Senate and the House of Representatives a report setting forth the Director's analysis of the proposals in the budget request submitted by the President for the fiscal year beginning October 1 of that year."; and

(4) in section 301(d), by striking "February 25" and inserting "March 1".

(c) TITLE 31 OF THE UNITED STATES CODE.—Section 1105(a) of title 31, United States Code, is amended by striking "the first Monday after January 3" and inserting "February 1".

SEC. 12352. PRESIDENTS' BUDGET REQUEST TO USE GRAMM-RUDMAN-HOLLINGS RULES.

Section 1105(f) of title 31, United States Code, is amended—

(1) in paragraph (1) by inserting before the period "(and as revised on the date of that budget under section 251(a)(1)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985) using budget estimates made in accordance with section 251(a)(6) of that Act";

(2) in paragraph (2) by inserting before the comma "(and as revised on the date of that budget under section 251(a)(1)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985) using budget estimates made in accordance with section 251(a)(6) of that Act"; and

(3) by striking paragraphs (3) and (4) and redesignating paragraph (5) as paragraph (3).

Subtitle H—Strengthening the Byrd Rule on Extraneous Matter in Reconciliation

SEC. 12401. STRENGTHENING THE BYRD RULE.

(a) STRENGTHENING THE BYRD RULE.—Section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended—

(1) in subsection (a)—

(A) by inserting after "(a)" the following: "IN GENERAL.—";

(B) by inserting after "1974" the following: "(whether that bill or resolution originated in the Senate or the House) or section 254(a) of the Balanced Budget and Emergency Deficit Control Act of 1985";

(2) in subsection (d) by inserting after "(d)" the following: "EXTRANEOUS PROVISIONS.—";

(3) in subsection (d)(1)(A) by inserting before the semicolon "(but a provision in which outlay decreases or revenue increases exactly offset outlay increases or revenue decreases shall not be considered extraneous by virtue of this subparagraph)";

(4) in subsection (d)(1)(D) by striking "and" after the semicolon;

(5) in subsection (d)(1)(E), by striking the period at the end thereof and inserting "; and";

(6) in subsection (d)(1) by adding at the end thereof the following new subparagraph:

"(F) a provision shall be considered extraneous if it violates section 310(f).";

(7) in subsection (d)(2), by inserting after "A" the first place it appears the following: "Senate-originated"; and

(8) by adding at the end thereof the following new subsections:

"(e) EXTRANEOUS MATERIALS.—Upon the reporting or discharge of a reconciliation bill or resolution pursuant to section 310 in the Senate, and again upon the submission of a conference report on such a reconciliation bill or resolution, the Committee on the Budget of the Senate shall submit for the record a list of material considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E) of this section to the instructions of a committee as provided in this section. The inclusion or exclusion of a provision shall not constitute a determination of extraneousness by the Presiding Officer of the Senate.

"(f) GENERAL POINT OF ORDER.—Notwithstanding any other law or rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a bill, resolution, amendment, motion, or conference report violate this section. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some of the provisions (including provisions of an amendment, motion, or conference report) against which the Senator raised the point of order, then only those provisions (including provisions of an amendment, motion, or conference report) against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this section. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

"(g) DETERMINATION OF LEVELS.—For purposes of this section, the levels of new budget authority, budget outlays, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.".

(b) TRANSFER OF BYRD RULE.—(1) Section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by subsection (a), is transferred to the end of part A of title III of the Congressional Budget Control Act of 1974, and designated as section 313 of that Act.

(2) Section 313 of the Congressional Budget Control Act of 1974 is amended by—

(A) adding at the beginning thereof the following center heading:

"EXTRANEOUS MATTER IN RECONCILIATION LEGISLATION";

(B) striking subsection (b), subsection (c), and the last sentence of subsection (a); and

(C) redesignating subsections (d) (e), (f), and (g) as subsections (b), (c), (d) and (e), respectively.

(3) Subsection (a) of the first section of Senate Resolution 286 (99th Congress, 1st Session), as amended by Senate Resolution 509 (99th Congress, 2d Session) is enacted as subsection (c) of section 313 of the Congressional Budget Act of 1974.

(4) Section 313 of the Congressional Budget Act of 1974 is amended—

(A) in subsections (a), (b)(1)(A), and (c), by striking "of the Congressional Budget Act of 1974";

(B) in subsection (a), by striking "(d)" and inserting "(b)";

(C) in subsection (b)(2)(C), by adding "or" at the end thereof;

(D) in subsection (c), by striking "when" and inserting "When";

(E) in subsection (c)(1), by striking "(d)(1)(A) or (d)(1)(D) of section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985" and inserting "(b)(1)(A), (b)(1)(B), (b)(1)(D), (b)(1)(E), or (b)(1)(F)"; and

(F) in subsection (c)(2), by striking "this resolution" and inserting "this subsection".

(5) The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item for section 312 (as added by section 12606(c)) the following new item:

"Sec. 313. Extraneous matter in reconciliation legislation.".

Subtitle I—Budget Submissions in New Administrations

SEC. 12451. REQUIREMENT FOR NEW PRESIDENT'S BUDGETS.

Section 1105(a) of title 31, United States Code, is amended by striking "February 5 in 1986" and inserting "March 15 in any year in which a new President takes office on January 20, not having been President on January 19".

SEC. 12452. DEADLINES IN YEARS WHEN A NEW PRESIDENT TAKES OFFICE.

(a) CONGRESSIONAL BUDGET ACT.—The Congressional Budget Act of 1974 is amended—

(1) in section 301(a), by inserting after "April 15 of each year" the following: "(or May 15 in a year to which section 300(b) applies)";

(2) in section 301(d), by striking "February 25 of each year" and inserting "March 1 of each year (or April 15 in a year to which section 300(b) applies"; and

(3) in section 303(b), by inserting after "May 15 of any calendar year" the following: "(or June 1 in a year to which section 300(b) applies".

(b) BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in section 251(a)(2)(A), by striking "October 15, 1987, in the case of fiscal year 1988" and inserting "March 10 in a year to which section 300(b) of the Congressional Budget Act of 1974 applies";

(2) in section 251(a)(2)(B), by striking "October 20, 1987, in the case of fiscal year 1988" and inserting "March 15 in years when section 300(b) of the Congressional Budget Act of 1974 is in effect"; and

(3) in section 252(a)(1), by striking "October 20, 1987, in the case of the fiscal year 1988" and inserting "March 15 in a year to which section 300(b) of the Congressional Budget Act of 1974 applies".

Subtitle J—Repeal of Superseded Deadlines

SEC. 12501. SUPERSEDED DEADLINES AND CONFORMING CHANGES.

(a) IN GENERAL.—The Congressional Budget Act of 1974 is amended—

(1) in section 305, by—

(A) striking subsection (d); and

(B) redesignating subsection (e) as subsection (d);

(2) by repealing section 307; and

(3) in section 310, by—

(A) striking subsection (f); and

(B) redesignating subsection (g) as subsection (f).

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the item for section 307 and inserting the following:

"Sec. 307. Repealed.".

Subtitle K—Standardization of Points of Order

SEC. 12551. STANDARDIZATION OF LANGUAGE REGARDING POINTS OF ORDER.

(a) IN GENERAL.—The Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) in section 311(a)—

(A) in the matter before paragraph (1), by striking "providing new budget authority for such fiscal year, providing new entitlement authority effective during such fiscal year, or reducing revenues for such fiscal year,"; and

(B) by striking ", if—" and paragraphs (1), (2), and (3) and inserting "that";

(2)(A) in section 302(c), by striking "bill or resolution, or amendment thereto" and inserting "bill, resolution, amendment, motion, or conference report";

(B) in section 302(f)(2), by striking "bill or resolution (including a conference report thereon), or any amendment to a bill or resolution" and inserting "bill, resolution, amendment, motion, or conference report";

(C) in section 303(a), by striking "bill or resolution (or amendment thereto)" and inserting "bill, resolution, amendment, motion, or conference report";

(D) in section 306, by striking "bill or resolution, and no amendment to any bill or resolution" and inserting "bill, resolution, amendment, motion, or conference report";

(E) in section 311(a), by—

(i) striking "bill, resolution, or amendment" and inserting "bill, resolution, amendment, motion, or conference report"; and

(ii) striking "or any conference report on any such bill or resolution";

(F) in section 401(a), by—

(i) striking "bill, resolution, or conference report" and inserting "bill, resolution, amendment, motion, or conference report"; and

(ii) striking "(or any amendment which provides such new spending authority)";

(G) in section 401(b)(1), by—

(i) striking "bill or resolution" and inserting "bill, resolution, resolution of ratification, amendment, motion, or conference report"; and

(ii) striking "(or any amendment which provides such new spending authority)"; and

(H) in section 402(a), by—

(i) striking "bill, resolution, or conference report" and inserting "bill, resolution, amendment, motion, or conference report"; and

(ii) striking "or any amendment";

(3) in section 302(f)(2), by striking "outlays or new budget authority" and inserting "outlays, new budget authority, or new spending authority (as defined in section 401(c)(2))";

(4) in section 303(a), by—

(A) amending paragraph (4) to read as follows:

"(4) new spending authority (as defined in section 401(c)(2)) for a fiscal year;";

(B) striking the comma at the end of paragraph (5) and inserting "; or"; and

(C) adding at the end thereof the following new paragraph:

"(6) outlays,";

(5) in section 401(a), by striking "(A) or (B)" both times it appears and inserting "(A), (B), or (D)";

(6) in section 401(c), by striking the last sentence;

(7) in section 401(d), by striking "Subsections (a) and" and inserting "Subsection"; and

(8) in section 402(b), by inserting after "including" the following: "(but not limited to)".

(b) POINTS OF ORDER AGAINST AMENDMENTS BETWEEN THE HOUSES.—

(1) Part A of title III of the Congressional Budget Act of 1974 as amended by section 12401(b), is amended by adding at the end thereof the following new section:

"EFFECTS OF POINTS OF ORDER

"SEC. 314. POINTS OF ORDER AGAINST AMENDMENTS BETWEEN THE HOUSES.—Each provision of this Act that establishes a point of order against an amendment also establishes a point of order against an amendment between the Houses. If a point of order under this Act is raised in one House against an amendment between the Houses, and the Presiding Officer sustains the point of order, the effect shall be the same as if that House had disagreed to the amendment.

"(b) EFFECT OF A POINT OF ORDER ON A BILL IN THE SENATE.—In the Senate, if the Chair sustains a point of order against a bill, the Chair shall then send the bill to the committee of appropriate jurisdiction for further consideration.".

(2) The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item for section 313 (as added by section 12401(b)(5)) the following new item:

"Sec. 314. Effect of points of order.".

(c) ADJUSTMENT OF ALLOCATIONS AND AGGREGATES TO REFLECT CHANGES PURSUANT TO SECTION 310(c).—Section 310(c) of the Congressional Budget Act of 1974 is amended by—

(1) inserting "(1)" before "Any committee";

(2) redesignating subparagraphs (A) and (B) of paragraph (1) as clauses (i) and (ii), respectively;

(3) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(4) inserting at the end thereof the following new paragraph:

"(2)(A) Upon the reporting to the Committee on the Budget of a recommendation that shall be deemed to have complied with such directions solely by virtue of this subsection, the chairman of the Committee on the Budget may file with the reporting committee's House appropriately revised allocations under section 302(a) and revised functional levels and aggregates to carry out this subsection.

"(B) Upon the submission to the Senate or the House of a conference report recommending a reconciliation bill or resolution in which a committee shall be deemed to have complied with such directions solely by virtue of this subsection, the chairmen of the Committees on the Budget may file with their respective Houses appropriately revised allocations under section 302(a) and revised functional levels and aggregates to carry out this subsection.

"(C) Allocations, functional levels, and aggregates revised pursuant to this paragraph shall be considered to be allocations, functional levels, and aggregates contained in the concurrent resolution on the budget pursuant to section 301.

"(D) Upon the filing of revised allocations pursuant to this paragraph, the reporting Committee shall report revised allocations pursuant to section 302(b) to carry out this subsection.".

(d) RECONCILIATION INSTRUCTIONS.—Section 310(a)(4) of the Congressional Budget Act of 1974 is amended by inserting after "(3)" the following: "(including a direction to achieve deficit reduction)".

SEC. 12552. DEFINITIONS.

(a) BUDGET AUTHORITY.—Section 3(2) of the Congressional Budget Act of 1974 is amended to read as follows:

"(12) BUDGET AUTHORITY.—

"(A) IN GENERAL.—The term 'budget authority' means the authority provided by Federal law to incur financial obligations, including the following:

"(i) provisions of law that make funds available for obligation and expenditure, including the authority to obligate and expend the proceeds of offsetting receipts or offsetting collections from the public;

"(ii) borrowing authority, which means authority granted to a Federal entity to borrow and obligate and expend the borrowed funds, including through the issuance of promissory notes or other monetary credits;

"(iii) contract authority, which means the making of funds available for obligation but not for expenditure; and

"(iv) offsetting collections as negative budget authority, and the reduction thereof as positive budget authority.

Such term includes transactions classified as means of financing the deficit.

"(B) ESTIMATES OF BUDGET AUTHORITY.—Budget authority may be definite (in which statute specifies the numerical amount) or indefinite (and, therefore, subject to estimate), and includes contingent budget authority determined to exist.

"(C) LIMITATIONS ON BUDGET AUTHORITY.—Any amount that is precluded from obligation in a fiscal year by a provision of law (such as a limitation or a benefit formula) shall not be budget authority in that year.

"(D) NEW BUDGET AUTHORITY.—The term 'new budget authority' means, with respect to a fiscal year—

"(i) budget authority that first becomes available for obligation in that year, including budget authority that becomes available in that year as a result of a reappropriation; or

"(ii) a change in any account in the availability of unobligated balances of budget authority carried over from a prior year, resulting from a provision of law first effective in that year;

and includes a legislated change in the estimated level of new budget authority provided in indefinite amounts by existing law.".

(b) ENTITLEMENT AUTHORITY.—Section 3(9) of the Congressional Budget Act of 1974 is amended to read as follows:

"(19) ENTITLEMENT AUTHORITY.—

"(A) The term 'entitlement authority' means any provision of law that has the effect of requiring the Government to make payments (including payments to any Government account) regardless of the amount of budget authority that may be available to make those payments, including any entitlement authority estimated to exist.

"(B) Except as provided in subparagraph (C), if a provision of law that requires the Government to make payments is limited by any other provision of law to the amount available budget authority (by providing pro rata reductions in payments, changes in eligibility, changes in employment, or through other means), then entitlement authority does not exist.

"(C) For purposes of paragraph (B), subchapter II of chapter 13 of title 31 of the United States Code shall not be considered a provision of law that limits entitlement authority to the amount of available budget authority.

"(D) The term 'new entitlement authority' means any legislation creating entitlement authority (or altering existing entitlement authority that was enacted before the date of adoption of the most recently agreed-to budget resolution, and includes legislation that has the effect of changing the estimated level of entitlement authority created in indefinite amounts of existing law.".

(c) GERMANENESS.—Section 305(b)(2) of the Congressional Budget Act of 1974 is amended by inserting after the second sentence the following: "An amendment shall not be germane unless it complies with the precedents of the Senate, deals with the same subject matter as the matter to which it is germane, and is within the same committee jurisdiction as the matter to which it is germane".

Subtitle L—Codification of Budget Process Provisions

SEC. 12601. GENDER NEUTRALITY.

(a) CONGRESSIONAL BUDGET ACT.—The Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) in section 201(a)(2), by striking "him" and inserting "the Deputy Director";

(2) in section 201(a)(2), by striking "his fitness to perform his duties" and inserting "fitness to perform the duties of the office of Director";

(3) in section 201(a)(3)—

(A) by striking "his successor" in both places it appears and inserting "a successor";

(B) by striking "him" and inserting "that Deputy Director";

(4) in section 201(d)—

(A) by striking "he" and inserting "the Director";

(B) by striking "his duties and functions" and inserting "the duties and functions of the office of Director";

(5) in section 303(c)(2), by striking "his" and inserting "the minority leader's";

(6) in section 305(b)(2), by striking "his" and inserting "the minority leader's";

(7) in section 305(c)(3), by striking "his" both times it appears and inserting "the minority leader's";

(8) in section 305(c)(4), by striking "his" and inserting "the minority leader's";

(9) in section 1012(a)(1), by striking "he" and inserting "the President";

(10) in section 1014(b)(2)(B), by striking "his" and inserting "the Comptroller General's";

(11) in section 1014(c), by striking "him" and inserting "the Comptroller General";

(12) in section 1014(e)(1)(A), by striking "he" and inserting "the President";

(13) in section 1015(b), by striking "his" and inserting "the Comptroller General's";

(14) in section 1016, by striking "of his own selection" and inserting "that the Comptroller General selects";

(15) in section 1017(d)(2), by striking "his" and inserting "the minority leader's";

(16) in section 1017(d)(6), by striking "his" both times it appears and inserting "the minority leader's"; and

(17) in section 1017(d)(7), by striking "his" and inserting "the minority leader's".

(b) OMB REPORTS.—Section 251(a)(2)(B)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "his estimate" and inserting "the estimate of the Director of OMB".

(c) MILITARY PERSONNEL FLEXIBILITY.—Section 251(d)(3)(C) of such Act is amended by striking "he" and inserting "the President".

(d) PROCEDURES IN THE EVENT OF RECESSION.—Section 254(a)(4)(C)(iii) of such Act is amended by striking "his" and inserting "the minority leader's".

SEC. 12602. REPEAL OF OBSOLETE PROVISIONS.

(a) CONGRESSIONAL BUDGET ACT OF 1974.—The Congressional Budget Act of 1974 is amended—

(1) in section 301(i)(2), by

(A) striking "(A)";

(B) striking subparagraph (B); and

(C) striking "(C) For purposes of the application of subparagraph (B), the" and inserting "(3) The";

(2) in section 311(a), by striking "that—" and subparagraph (A) and (B) through "fiscal year 1989;" and inserting "that exceeds the maximum deficit amount for such fiscal year under section 3(7),"; and

(3) in section 401(d), by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).

(b) GRAMM-RUDMAN-HOLLINGS.—The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in section 251(a)(1)(A), by striking "(or as of October 10, 1987, in the case of fiscal year 1988)";

(2) in section 251(a)(2)(B)(iii), by striking "except fiscal year 1988)";

(3) in section 251(a)(2)(B)(iv), by striking "(except fiscal year 1988)";

(4) in section 251(a)(2)(B)(iv), by striking the second sentence;

(5) in section 251(a)(2)(C)—

(A) by striking clause (iii);

(B) in clause (iv) by striking "For fiscal year 1989 and subsequent fiscal years, to the extent that the report submitted by the President for such fiscal year" and inserting "To the extent that the report submitted by the President for a fiscal year"; and

(C) by redesignating clause (iv) as clause (iii);

(6) in section 251(a)(3)(A)(i) by—

(A) striking "be—" and subclauses (I) and (II); and

(B) striking "(III) for fiscal year 1990, 1991, 1992, or 1993," and inserting "be";

(7) in section 251(a)(3)(A)(i), by striking "The unachieved deficit reduction shall be $23,000,000,000 in the case of fiscal year 1988 and $36,000,000,000 in the case of fiscal year 1989, minus the net deficit reduction in the budget baseline for such fiscal year, but such unachieved deficit reduction shall not exceed $23,000,000,000 in the case of fiscal year 1988 or $36,000,000,000 in the case of fiscal year 1989.";

(8) in section 251(a)(3)(A)(ii), by striking "means—(I) for fiscal year 1988, in the case of an initial report submitted under subsection (a), October 10, 1987, and in the case of a final report submitted under subsection (c), the latest possible date before its submission; (II) for fiscal year 1989 and subsequent fiscal years," and inserting "means";

(9) in section 251(a)(6)(D)(i), by—

(A) striking clause (I);

(B) striking "(II) in the case of fiscal year 1989 and subsequent fiscal years—"; and

(C) redesignating divisions (aa) and (bb) as subclauses (I) and (II), respectively;

(10) in section 251(c)(1), by striking "November 15 of fiscal year 1988 and on October 10 of subsequent fiscal years," and inserting "November 10,";

(11) in section 251(c)(1)(A), by striking "(or after October 10, 1987, in the case of the fiscal year 1988),";

(12) in section 251(c)(2), by striking "November 20 of fiscal year 1988 and on October 15 of subsequent fiscal years," and inserting "November 15,";

(13) in section 251(d)(3)(C), by striking "October 10, 1987, in the case of fiscal year 1988, or";

(14) in section 251(d)(3)(C), by striking "in the case of any subsequent fiscal year,";

(15) in section 252(a)(6), by—

(A) striking subparagraph (A); and

(B) striking "(B) FISCAL YEARS 1989–1993.—";

(16) in section 252(a)(6), by striking "the fiscal year 1989 or any subsequent fiscal year" and inserting "any fiscal year";

(17) in section 252(a)(6)(F), by striking "and paid land diversion payments";

(18) in section 252(b)(1), by striking "(or on November 20, 1987, in the case of fiscal year 1988)";

(19) in section 252(b)(2), by striking "(or October 10, 1987, in the case of fiscal year 1988)";

(20) in section 252(c)(2)(D), by striking "November 25, 1987, for fiscal year 1988 or, in the case of any subsequent fiscal year, before";

(21) in section 253, by striking "(or December 15, 1987, in the case of fiscal year 1988)"; and

(22) in section 254(b)(1)(E), by striking "and for fiscal year 1988 or 1989, exceed the amount of the estimated deficit for such fiscal year based on laws and regulations in effect on January 1 of the calendar year in which such fiscal year begins as measured using the budget baseline specified in section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 minus $23,000,000,000 for fiscal year 1988 or $36,000,000,000 for fiscal year 1989;".

SEC. 12603. STANDARDIZATION OF ADDITIONAL DEFICIT CONTROL PROVISIONS.

(a) Section 904 of the Congressional Budget Act of 1974 is amended—

(1) by amending subsection (c) to read as follows:

"(c) WAIVER.—Sections 305(b)(2), 305(c)(4), 306, 904(c), and 904(d) may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. Sections 301(i), 302(c), 302(f), 304(b), 310(d)(2), 310(f), 311(a), 313 of this Act and sections 252(c)(2)(H)(ii), 252(c)(2)(H)(iv), 252(c)(2)(F)(ii), 252(c)(2)(G)(ii), 254(a)(4)(D), 254(b)(1)(E), 254(b)(2)(A), and 258(b)(3)(C)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn."; and

(2) in subsection (d) by inserting at the end thereof the following: "An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 305(b)(2), 305(c)(4), 306, 904(c), and 904(d). An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 301(i), 302(c), 302(f), 304(b), 310(d)(2), 310(f), 311(a), 313 of this Act and sections 252(c)(2)(H)(ii), 252(c)(2)(H)(iv), 252(c)(2)(F)(ii), 252(c)(2)(G)(ii), 254(a)(4)(D), 254(b)(1)(E), 254(b)(2)(A), 258(b)(3)(C)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985".

(b) Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subparagraph (C), by striking the final word "and";

(2) in subparagraph (D), by striking the final period and inserting "; and"; and

(3) by inserting at the end thereof the following new subparagraph:

"(E) the second sentence of section 904(c) of the Congressional Budget and Impoundment Control Act of 1974 and the final sentence of section 904(d) of that Act."

SEC. 12604. CODIFICATION OF PROVISION REGARDING REVENUE ESTIMATES.

(a) REDESIGNATION.—Section 201 of the Congressional Budget Act of 1974 is amended by redesignating subsection (f) as subsection (g).

(b) TRANSFER.—The text of section 273 of the Balanced Budget and Emergency Deficit Control Act of 1985 is transferred to section 201 of the Congressional Budget Act of 1974 and is designated as subsection (f)(1).

(c) CONFORMING CHANGES.—Section 201(f) of the Congressional Budget Act of 1974 (as redesignated by subsection (b)) is amended by—

(1) striking "this title and the Congressional Budget and Impoundment Control Act of 1974" and inserting "this Act"; and

(2) inserting "REVENUE ESTIMATES.—(1)" before the first sentence.

SEC. 12606. CODIFICATION OF RULES REGARDING SAVINGS TRANSFERS BETWEEN FISCAL YEARS.

(a) TRANSFER.—The text of section 202 of Public Law 100-119 is transferred to the end of part A of title III of the Congressional Budget Control Act of 1974 and designated as section 312 of that Act.

(b) STRENGTHENING THE PROHIBITION OF COUNTING YEAR-TO-YEAR SHIFTS.—Section 312 of the Congressional Budget Control Act of 1974 is amended to read as follows:

"PROHIBITION OF COUNTING AS SAVINGS THE TRANSFER OF GOVERNMENT ACTIONS FROM ONE YEAR TO ANOTHER

"SEC. 312. Any provision of an appropriations Act, regulation, or administrative action that has the effect of transferring an outlay, receipt, or revenue of the United States from one fiscal year to an adjacent fiscal year when compared to baseline estimating assumptions (including a law, regulation, or administrative action restricting the flow of outlays that would cause such a transfer, such as an outlay cap) shall not be treated as reducing the deficit or producing net deficit reduction in any fiscal year for purposes of this Act or the Balanced Budget and Emergency Deficit Control Act of 1985.".

(c) TABLE OF CONTENTS.—The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item for section 311 the following new item:

"Sec. 312. Prohibition of counting as savings the transfer of Government actions from one year to another.".

SEC. 12608. TECHNICAL REVISIONS OF GRAMM-RUDMAN-HOLLINGS.

The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in section 251(a)(6)(B)—

(A) by striking "and" the last time it appears; and

(B) by inserting before the final semicolon the following: ", and that subsidies under section 8 of the Housing Act of 1937 shall be renewed for equal durations and in similar form to existing subsidies";

(2) in section 251(a)(6)(J), by striking "and" at the end thereof;

(3) in section 251(a)(6)(K) by adding "and" at the end thereof; and

(4) in section 251(a)(6), by inserting after subparagraph (K) the following new subparagraph:

"(L) assuming that spending will be adjusted appropriately for the decennial census.";

(5) in section 252(f)(2), by striking subparagraph (B) and inserting the following:

"(B) Upon enactment of a full-year appropriation (including a continuing appropriation for the full year) for the account, the full amount of the sequestration specified by the final order, reduced by the sum of—

"(i) amounts previously sequestered, and

"(ii) savings achieved by such appropriation measure when the amount enacted is less than the budget baseline for such account,

shall be sequestered, except that the sum shall not exceed the amount specified in the final order for the account.";

(6) in section 257(11) by inserting at the end thereof the following new paragraph:

"(V) the accounts (or portions of accounts) set forth on the list entitled 'Accounts Which Are Mandatory or Which Have Discretionary and Mandatory Splits and Are Scored to the Appropriations Committee' that is attached to the 'Scorekeeping Guidelines for the Bipartisan Budget Agreement of April 14, 1989';

(7) in section 251(d)(3)(C) by striking "Congress" and inserting "Senate and the House of Representatives";

(8) in section 252(c)(2)—

(A) in subparagraph (F)(ii) by striking "insofar as they relate to major function 050 (national defense)." and inserting ". For the purposes of this clause, an amendment shall be considered to be relevant if it relates to function 050 (national defense).''; and

(B) in subparagraph (F)(iii) by—

(i) striking "22" and inserting "XXII";

(ii) striking "resolution, and all" and inserting "resolution. In the House of Representatives, all";

(iii) striking "is privileged in the Senate and is not debatable." and inserting "is not debatable. The joint resolution is privileged in the Senate."; and

(iv) striking "The motion is not subject to amendment" and inserting "In the House of Representatives, the motion is not subject to amendment";

(C) in subparagraph (H)(ii) by—

(i) striking "insofar as they relate to major function 050 (national defense)";

(ii) inserting after "in order in the Senate." the following: "For the purposes of this clause, an amendment shall be considered to be relevant if it relates to function 050 (national defense).''; and

(iii) striking "the majority leader and the minority leader (or their designees)." and inserting ", and controlled by, the mover and the majority leader (or their designees), except that in the event that the majority leader favors the amendment, motion, or appeal, the minority leader (or the minority leader's designee) shall control the time in opposition to the amendment, motion, or appeal.";

(D) in subparagraph (H)(iii) by inserting after "previously amended" the following: ", so long as the amendment makes or maintains mathematical consistency";

(E) in subparagraph (I), by inserting "pending" after "House, and the disposition of any";

(F) in subparagraph (L)(ii)(II)(bb)—

(i) by striking "it" and inserting "the Senate joint resolution";

(ii) by inserting "House" after "passed the";

(9) in section 254(a)—

(A) in paragraph (1)(B), by striking "the Department of Commerce preliminary reports of actual real economic growth (or any subsequent revision thereof)" and inserting "the most recent of advance, preliminary, and final reports of the Department of Commerce of actual real economic growth";

(B) in paragraph (2)(A), in paragraph (1) of the quoted material, by striking "and 311(a)" and inserting "310(d), 311(a), 313(b)(1)(B), and 313(b)(1)(E)";

(C) in paragraph (2)(A), in paragraph (2) of the quoted matter, by striking "and 311(a) (except insofar as it relates to section 3(7))" and inserting "310(d), 311(a) (except insofar as it relates to section 3(7)), 313(b)(1)(B), and 313(b)(1)(E)";

(D) in paragraph (2)(A), in the quoted matter following paragraph (2) of the quoted material, by striking "resolution" and inserting "resolution, but shall suspend any initial order that was issued under section 252(a) of that Act if the final order for the same fiscal year has not yet been issued by the date of the enactment of this joint resolution"; and

(E) in paragraph (4)(C), by striking the text of clause (i) and inserting "In the Senate, the joint resolution under this clause is privileged. It shall not be in order to move to reconsider the vote by which the motion to proceed to the consideration of the joint resolution is agreed to or disagreed to.";

(10) in section 251(e), by striking "preceding provisions of this section" and inserting "provisions of this part";

(11) in section 258—

(A) in subsection (a), by inserting "or provide an alternative to reduce the deficit" after "section 252";

(B) in subsection (b)(2) by—

(i) striking "22" and inserting "XXII";

(ii) inserting "the joint resolution is" after "The motion is highly privileged in the House of Representatives; and";

(iii) striking "The motion is not subject to amendment" and inserting "In the House of Representatives, the motion is not subject to amendment";

(C) in subsection (b)(3)(C)(ii)—

(i) by striking "or relevant"; and

(ii) by striking "the majority leader and the minority leader (or their designees)," and inserting ", and controlled by, the mover and the majority leader (or their designees), except that in the event that the majority leader favors the amendment, motion, or appeal, the minority leader (or the minority leader's designee) shall control the time in opposition to the amendment, motion, or appeal.";

(D) in subsection (b)(4), by inserting "pending" after "any";

(E) in subsection (b)(7)(B)(ii)(II) by—

(i) striking "it" and inserting "the Senate joint resolution"; and

(ii) inserting "House" after "passed the";

(12) in section 256(a)(2), by adding at the end thereof the following: "For the purposes of a sequester in a fiscal year, no withholding from obligation or expenditure shall be made from programs financed through special or trust funds in excess of the sequester percentage for such fiscal year.";

(13) in section 256(f), by adding before the last sentence the following: "No State's matching payments from the Federal Government for foster care maintenance payments or for adoption assistance maintenance payments may be reduced by a percentage exceeding the domestic sequester percentage.";

(14) in section 275, by adding at the end thereof the following new subsection:

"(d) REGULATORY ACTIONS.—Administrative actions implementing a sequester for a fiscal year shall not be effective to the extent that they are promulgated within 90 days of the close of the fiscal year.";

(15) in section 256(a), by adding at the end thereof the following new paragraphs:

"(3) MATCHING RATES.—Except as specifically provided in this Act, no reduction may be made to a Federal matching rate to implement a sequester.

"(4) SEQUESTRATION WITHIN EACH PROGRAM, PROJECT, OR ACTIVITY.—Administrative actions implementing a sequester for a budget account shall be limited to reducing the budgetary resources for each program, project, or activity in that account, and allocating the post-sequester base thereto. To the extent that formula allocations differ at different levels of budgetary resources for a program, project, or activity, the sequester reduction is to be taken in a manner consistent with the program allocation formulas in the substantive law.";

(16) in section 251(a)(5) by inserting after "laws enacted by," the following: "treaties ratified by,";

(17) in section 251(c)(1)(A) by inserting after "laws enacted" the following: ", treaties ratified,";

(18) in section 252(b)(2) by inserting after "laws enacted" the following: ", treaties ratified,"; and

(19) in section 257, by adding at the end thereof the following new paragraph:

"(12) The term 'deficit excess' means the amount by which the projected deficit for the fiscal year will exceed the maximum deficit amount for that fiscal year.".

SEC. 12609. CODIFICATION OF PRECEDENT WITH REGARD TO CONFERENCE REPORTS AND AMENDMENTS BETWEEN HOUSES.

Section 305(c) of the Congressional Budget Act 1974 is amended—

(1) in paragraph (1)—

(A) by striking the first sentence; and

(B) by inserting after "consideration of the conference report" the following: "on any concurrent resolution on the budget"; and

(2) in paragraph (2), by inserting "(or a message between Houses)" after "conference report" each place it appears.

SEC. 12610. CONFORMING CHANGE TO TITLE 31.

(a) LIMITATIONS ON EXPENDING AND OBLIGATING.—Section 1341(a)(1) of title 31 of the United States Code is amended—

(1) in subparagraph (A), by striking the final word "or";

(2) in subparagraph (B)—

(A) by striking "law" and inserting "an Act of Congress"; and

(B) by striking the final period and inserting a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

"(C) make or authorize an expenditure or obligation of funds required to be sequestered under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985; or

"(D) involve either government in a contract or obligation for the payment of money required to be sequestered under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(b) LIMITATION ON VOLUNTARY SERVICES.—Section 1342 of title 31 of the United States Code is amended—

(1) by striking "law" and inserting "an Act of Congress"; and

(2) by inserting at the end thereof the following: "As used in this section, the term 'emergencies involving the safety of human life or the protection of property' does not include ongoing, regular functions of government the suspension of which would not imminently threaten the safety of human life or the protection of property.".

Subtitle M—Budget Disclosure

SEC. 12651. DEBT INCREASE AS MEASURE OF DEFICIT.

(a) FINDINGS.—The Congress makes the following findings:

(1) While the annual deficits, as defined under current law, appear to be decreasing, the Federal debt continues to increase annually by significantly greater amounts.

(2) Displaying the increase in the debt as a measure of the deficit would illuminate this discrepancy.

(b) DEBT INCREASE AS MEASURE OF DEFICIT.—(1) Section 1105 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) In the budget submission transmitted pursuant to subsection (a), the President shall prominently display, for all fiscal years covered by that budget submission, a heading entitled 'Debt Increase as Measure of Deficit' in which the President shall set forth the amounts by which the debt subject to limit (in section 3101 of title 31, United States Code) has increased or would increase in each of the relevant fiscal years.".

(2) Section 301(a) of the Congressional Budget Act of 1974, as amended by section 12152(c) is amended—

(A) in paragraph (6), by striking "and" at the end thereof;

(B) in paragraph (7), by striking the period at the end thereof and inserting: "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(8) a heading entitled 'Debt Increase as Measure of Deficit' in which the concurrent resolution shall set forth the amounts by which the debt subject to limit (in section 3101 of title 31 of the United States Code) has increased or would increase in each of the relevant fiscal years.".

SEC. 12652. CONTINGENT LIABILITIES OF THE FEDERAL GOVERNMENT.

(a) PRESIDENT'S BUDGET.—Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(26) a disclosure of contingent liabilities of the Federal Government, in at least the detail that would be required if the Government were a private enterprise complying with generally accepted accounting principles.".

(b) CONGRESSIONAL BUDGET ACT OF 1974.—Section 202(f)(1) of the Congressional Budget Act of 1974 is amended by inserting before the period at the end thereof the following: ", as well as a disclosure of contingent liabilities of the Federal Government, in at least the detail that would be required if the Government were a private enterprise complying with generally accepted accounting principles".

SEC. 12653. DISPLAY OF FEDERAL RETIREMENT TRUST FUND BALANCES.

(a) PRESIDENT'S BUDGET.—Section 1105 of title 31, United States Code, as amended by section 12651(b)(1), is amended by adding at the end thereof the following new subsection:

"(h) In the budget submission transmitted pursuant to subsection (a), the President shall prominently display, for the fiscal year covered by that budget submission, a heading entitled 'Display of Federal Retirement Trust Fund Balances' in which the President shall set forth the balances of the Federal retirement trust funds.".

(b) CONGRESSIONAL BUDGET ACT OF 1974.—Section 301(a) of the Congressional Budget Act of 1974, as amended by section 12651(b)(2), is amended—

(1) in paragraph (7), by striking "and" at the end thereof;

(2) in paragraph (8), by striking the period at the end thereof and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(9) a heading entitled 'Display of Federal Retirement Trust Fund Balances' in which the concurrent resolution shall set forth the balances of the Federal retirement trust funds.".

Subtitle N—Exercise of Rulemaking Powers

SEC. 12701. EXERCISE OF RULEMAKING POWERS.

This Act and the amendments made by this Act, other than those relating to the activities of the executive and judicial branches of the Government, are enacted by the Congress—

(1) as an exercise of rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of the House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as they relate to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

TITLE XIII—SOCIAL SECURITY PRESERVATION

SEC. 1301. SOCIAL SECURITY PRESERVATION ACT.

(a) SHORT TITLE.—This section may be cited as the "Social Security Preservation Act".

(b) DEFINITION OF DEFICIT.—(1) The second sentence of paragraph (6) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) is repealed.

(2) Section 275(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) is amended by striking out "and the second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution)".

(c) SOCIAL SECURITY ACT.—Subsection (a) of section 710 of the Social Security Act is amended by striking "shall not be included in the totals of the budget" and inserting "shall not be included in the budget deficit or any other totals of the budget".

(d) EFFECTIVE DATE.—The amendments made by subsections (b) and (c) shall apply with respect to fiscal years beginning after September 30, 1990.

TITLE XIV—REDUCTION OF PAY FOR MEMBERS

SEC. 1401. REDUCTION OF PAY OF MEMBERS OF CONGRESS.

(a) REDUCTION IN PAY.—For each month during fiscal year 1991 in which, by reason of a furlough or other employment action necessitated by a sequestration order under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902), the total amount of the pay paid to any Federal employee is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law, the rate of pay payable to a Member of Congress shall be reduced to the rate of pay established for such Member pursuant to law.

(b) COMPUTATION OF REDUCED PAY.—The rate of pay payable to a Member of Congress for any month referred to in subsection (a) shall be equal to the amount determined by multiplying the rate of pay established for such Member pursuant to law by the percentage reported to Congress for such month under subsection (c)(1)(D).

(c) DETERMINATION OF PERCENTAGE FOR COMPUTATION OF REDUCED PAY.—(1) No later than the first day of each month in fiscal year 1991, the Director of the Office of Management and Budget shall—

(A) determine whether, for a reason described in subsection (a), the total amount of pay paid to any Federal employee in that month is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law;

(B) estimate the average of the percentages that would result by dividing the monthly equivalent of the annual rate of pay established for each such Federal employee pursuant to law into the total amount projected to be paid such Federal employee for such month;

(C) aggregate the percentages determined under subparagraph (B) for Federal employees for each agency and determine the highest average percentage for any agency; and

(D) transmit to Congress a written report containing the average computed under subparagraph (C).

(2) The Office of Management and Budget may use a statistical sampling method to make the estimates and determinations under paragraph (1).

(3) For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code.

(d) APPLICATION TO OTHER FEDERAL LAWS.—For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposed any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(e) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this section and shall apply to the first applicable pay period of members of Congress or Executive officers and employees occurring on or after October 1, 1990. If the date of enactment of this section is after October 1, 1990, and the provisions of this section become applicable in the reduction of pay of members of Congress or Executive officers and employees, all reductions which would have occurred if this section had been enacted as provided in subsection (b) and the amount of such reduction shall be recovered for the remaining pay periods for Fiscal Year 1991.

(f) APPLICATION TO EXECUTIVE OFFICERS.—The provisions of this section and the computations as they apply to the reduction under subsection (b) shall apply to the rate of pay for the Vice President, and any executive officer at a position level V or above of the Executive Schedule under sections 5311 through 5317 of title 5, United States Code, any executive officer or employee in the Executive Office of the President who on the date of the enactment of this section is paid at a pay rate equal to or above the pay rate for a position at level V or above of the Ex-

ecutive Schedule under Sections 5311 through 5317 of title 5, United States Code.

SIMON (AND OTHERS) AMENDMENT NO. 3047

Mr. SIMON (for himself, Mr. BRADLEY, Mr. KERRY, Mr. BIDEN, and Mr. MOYNIHAN) proposed an amendment to amendment No. 3046 proposed by Mr. MITCHELL (and others) to the bill S. 3209, supra, as follows:

On page 9, beginning on line 18, strike all through line 12 on page 11.

CORRECTIONS IN THE ENROLLMENT OF H.R. 4151

DODD AMENDMENT NO. 3048

Mr. MITCHELL (for Mr. DODD) proposed an amendment to the concurrent resolution (H. Con. Res. 381) to correct the enrollment of the bill H.R. 4151, supra, as follows:

At the end of the resolution, add the following: After section 122 of the bill, add the following new section:

"SEC. 123. EXTENDED HEAD START SERVICES.

"(a) DEFINITIONS.—Section 637 of the Head Start Act (42 U.S.C. 9832) is amended by adding at the end the following:

"(10) the term 'full calendar year' means all days of the year other than Saturday, Sunday, and a legal public holiday.

"(11) the term 'full-working-day' means not less than 10 hours per day."

"(b) EXTENDED HEAD START SERVICES.—Section 640 of the Head Start Act (42 U.S.C. 9835) is amended by adding at the end the following:

"(h) Each Head Start program may provide full-working-day Head Start Services to any eligible child throughout the full calendar year.".

INTERNATIONAL DATA IMPROVEMENT ACT OF 1990

HOLLINGS (AND EXON) AMENDMENT NO. 3049

Mr. MITCHELL (for Mr. HOLLINGS, for himself and Mr. EXON) proposed an amendment to the bill (S. 2516) to augment and improve the quality of international data compiled by the Bureau of Economic Analysis under the International Investment and Trade in Services Survey Act by allowing that agency to share statistical establishment list information compiled by the Bureau of the Census, and for other purposes, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Direct Investment and International Financial Data Improvements Act of 1990".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The United States Government collects substantial amounts of information from foreign owned or controlled business enterprises or affiliates operating in the United States.

(2) Additional analysis and presentation of this information is desirable to assist the public debate on the issue of foreign direct investments in the United States.

(3) Information collected from foreign owned or controlled firms by the Bureau of Economic Analysis has serious analytical limitations because it is largely collected on an "enterprise" basis that does not permit an adequate analysis by industry groupings.

(4) Statistical and analytic comparisons of the performance of foreign owned or controlled businesses operating within the United States with other business enterprises operating within the same industry can be accomplished under sections 2(b) and 5(c) of the International Investment and Trade in Services Survey Act, and under Executive Order Numbered 11961, without the need to collect additional information, by sharing with other authorized Government agencies the employer identification numbers maintained by the Bureau of Economic Analysis.

(5) Public disclosures of confidential business information collected by the United States Government relating to international direct investment flows could cause serious damage to the accuracy of the statistical data base.

(6) The General Accounting Office may have limited access to Government data on foreign direct investment.

SEC. 3. REPORT BY SECRETARY OF COMMERCE.

(a) ANNUAL REPORT ON FOREIGN DIRECT INVESTMENT IN THE UNITED STATES.—Not later than 6 months after the date of the enactment of this Act, and not later than the end of each 1-year period occurring thereafter, the Secretary of Commerce shall submit to the Committee on Energy and Commerce, the Committee on Ways and Means, and the Committee on Foreign Affairs of the House of Representatives, to the Committee on Commerce, Science, and Transportation of the Senate, and to the Joint Economic Committee of the Congress a report on the role and significance of foreign direct investment in the United States. Such report shall address the history, scope, trends, market concentrations, and effects on the United States economy of such investment. In addition, the Secretary of Commerce shall, if requested by any such committee, appear before that committee to provide testimony with respect to any report under this subsection.

(b) SOURCES OF DATA.—In preparing each report under subsection (a), the Secretary of Commerce, or the Secretary's designees, shall consider information collected by—

(1) the Bureau of Economic Analysis under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101 and following);

(2) the Bureau of the Census on industry, manufacturing, research and development, and trade, under title 13, United States Code;

(3) the Bureau of Labor Statistics pertaining to information collected under the International Investment and Trade in Services Survey Act, but only to the extent that such information is in a form that cannot be associated with, or otherwise identify, directly or indirectly, a person, including any enterprise or establishment;

(4) the Secretary of Commerce or the Secretary's designee pursuant to section 2 of Executive Order 11858 of May 7, 1975;

(5) the United States Department of Agriculture under the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3501 and following);

(6) the Department of the Treasury under section 6039C of the Internal Revenue Code of 1986 (26 U.S.C. 6039C), but only to the extent that such information is in a form that cannot be associated with, or otherwise identify, directly or indirectly, a person, including any enterprise or establishment;

(7) the Department of Energy under section 657(8) of the Department of Energy Organization Act (42 U.S.C 7267(8)), but only to the extent that such information is in a form that cannot be associated with, or otherwise identify, directly or indirectly, a person, including any enterprise or establishment;

(8) other Federal agencies not referred to in paragraphs (1) through (7), but only to the extent that such information is in a form that cannot be associated with, or otherwise identify, directly or indirectly, a person, including any enterprise or establishment;

(9) foreign governments and agencies thereof; and

(10) private sector sources.

(c) ANALYSES.—(1) The analysis in each report prepared under subsection (a) shall, to the extent of available data, compare business enterprises controlled by foreign persons with other business enterprises in the United States with respect to employment, market share, value added productivity, research and development, exports, imports, profitability, taxes paid, and investment incentives and services provided by State and local governments (including quasi-governmental entities).

(2) Each such analysis shall be done by significant industry sectors and geographical regions, except that information shall not be presented in a way in which any person, including any business enterprise or establishment, can be identified. The restriction contained in the preceding sentence on presentation of information does not apply to information that is obtained from foreign governments or agencies thereof and that has been published pursuant to the lawful disclosure of the information. To the extent that data are available, each such analysis shall include an analysis, together with current levels and trends, of the number and market share of business enterprises at least 10 percent of the voting securities or other evidences of ownership of which are owned or controlled by a foreign person, and of the number and market share of the establishments of such business enterprises, that are engaged substantially in the production or coproduction of any critical technologies included in the most recent plan submitted to the Congress under section 2368 of title 10, United States Code, or included in the most recent report submitted to the President under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976.

SEC. 4. REPORTS BY GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—The Comptroller General, to the extent permitted by law, including section 8 of this Act, is authorized to review the information described in section 3(b) for purposes of preparing the report required under subsection (b) of this section. Nothing in this section authorizes disclosure of any individually identifiable data or information in any form that can be associated with or otherwise identify, directly or indirectly,

any person, including any enterprise or establishment.

(b) REPORT.—Not later than 5 months after each report issued by the Secretary of Commerce under section 3, the Comptroller General of the United States shall submit to the Committee on Energy and Commerce, the Committee on Ways and Means, and the Committee on Foreign Affairs of the House of Representatives, to the Committee on Commerce, Science, and Transportation of the Senate, and to the Joint Economic Committee of the Congress a report—

(1) analyzing the report of the Secretary of Commerce;

(2) making recommendations for changes in the analysis done in the report due the following year under section 3;

(3) making recommendations for improving the collection by respective Federal agencies of data on foreign direct investment in the United States, including use of private sector data, and improving survey questionnaires to obtain useful and consistent information that avoids unnecessary redundancy among Federal agencies;

(4) reviewing the status and processes for reconciliation of data exchanged as required by this Act and the amendments made by this Act, and making any recommendations for improving and augmenting international financial data;

(5) making recommendations for possible additional policy coordination within the executive branch affecting foreign direct investment in the United States; and

(6) making recommendations for improvement of the coverage, industry classification, and consistency among Federal agencies of their respective surveys.

Reports under this subsection shall be issued only with respect ot the first 3 reports issued by the Secretary of Commerce under section 3.

(c) OTHER REVIEW AND REPORTS.—(1) The Comptroller General may, to the extent permitted by law, including section 5(c) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3104(c)) and section 8 of this Act, also review data and information at the Bureau of the Census, the Bureau of Labor Statistics, and the Bureau of Economic Analysis and from time to time report to the Committee on Energy and Commerce, the Committee on Ways and Means, and the Committee on Foreign Affairs of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and to the Joint Economic Committee of the Congress.

(2) The Comptroller General shall, in carrying out paragraph (1), comply with procedures relating to access to and disclosure of data and information established within the Federal statistical agencies referred to in paragraph (1), and maintain any and all individually identifiable data and information at the statistical agency where the information is reviewed.

(d) CONFIDENTIALITY; REVIEW BY OTHER AGENCIES.—In preparing any report under this section, the Comptroller General shall not—

(1) disclose any confidential business information or present any information in a way in which any person, including a business enterprise or establishment, can be identified; or

(2) combine, match, or use in any other way individually identifiable data or information maintained by any of the Federal statistical agencies referred to in subsection (c) with any other individually identifiable confidential data or information that is not collected by such statistical agencies.

Before issuing any such report, the Comptroller General shall in each instance submit the report to the head or heads of the agency or agencies from which confidential or identifiable information described in the precedng sentence was obtained. The agency or agencies concerned shall promptly review the report for the purpose of assuring that the confidentiality of such information and identity is maintained, and for any other purpose, and shall provide the Comptroller General with appropriate comments or other suggestions within 10 working days after receiving the report.

(e) RIGHT OF ACCESS.—The access by the Comptroller General to information under this Act shall be in conformity with section 716 of title 31, United States Code.

SEC. 5. ACCESS TO CENSUS DATA BY BUREAU OF ECONOMIC ANALYSIS.

(a) ACCESS TO DATA.—Title 13, United States Code, is amended by adding at the end the following:

"CHAPTER 10.—EXCHANGE OF CENSUS INFORMATION

"Sec. 401. Exchange of census information with Bureau of Economic Analysis.

"§ 401. Exchange of census information with Bureau of Economic Analysis.

"(a) EXCHANGE OF INFORMATION.—The Bureau of the Census shall exchange with the Bureau of Economic Analysis of the Department of Commerce information collected under this title, and under the International Investment and Trade in Services Survey Act, that pertains to any business enterprise that is operating in the United States, if the Secretary of Commerce determines such information is appropriate to augment and improve the quality of data collected under the International Investment and Trade in Services Survey Act. Information provided to the Bureau of Economic Analysis by the Bureau of the Census shall be only those data collected directly from respondents by the Bureau of the Census.

"(b) REQUESTS FOR INFORMATION.—The Director of the Bureau requesting information under this section shall make the request in writing and shall certify that the information will be used only for statistical activities performed to improve the quality of data collected under the authority of title 13, United States Code, and the International Investment and Trade in Services Survey Act.

"(c) DEFINITION.—As used in subsection (a), the terms 'business enterprise' and 'United States' have the meanings given those terms in section 3 of the International Investment and Trade in Services Survey Act.".

"(b) CONFORMING AMENDMENTS.—(1) The table of chapters at the beginning of title 13, United States Code, is amended by adding at the end the following:

"10. Exchange of census information 401".

"(2) Section 9(a) of title 13, United States Code, is amended by inserting after "section 8" the following: "or chapter 10".

SEC. 6. AMENDMENTS TO THE INTERNATIONAL INVESTMENT AND TRADE IN SERVICES SURVEY ACT.

"(a) PURPOSE.—Section 2(b) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3101(b)) is amended by inserting after "the impact of such investment and trade," in the first sentence the following: "to authorize the collection and use of information on direct investments owned or controlled directly or indirectly by foreign governments or persons,".

"(b) REPORTING REQUIREMENT.—Section 4(a)(5) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3103(a)(5)) is amended by inserting before the period the folowing: ", including, with respect to foreign direct investment in the United States, information on ownership by foreign governments of United States affiliates by country, and tables, on an aggregated basis, of business enterprises the ownership or control of which by foreign persons is more than 50 percent of the voting securities or other evidences of ownership of such enterprises, and business enterprises the ownership or control of which by foreign persons is 50 percent or less of the voting securities or other evidences of ownersip of such enterprises".

(c) BUREAU OF ECONOMIC ANALYSIS REPORT.—Section 4 of the International Investment and Trade in Services Survey Act (22 U.S.C. 3103) is amended by adding at the end the following new subsection:

"(h)(1) The President, or the designee of the President responsible for monitoring the impact of foreign investment in the United States, coordinating implementation of United States policy on investment, and investigating foreign acquisitions under section 721 of the Defense Production Act of 1950 (50 App. U.S.C. 2170), may request a report from the Bureau of Economic Analysis of the Department of Commerce. When such request is made in connection with an investigation under such section 721, the report shall be provided within 14 days after the request is made. When such request is not made in connection with an investigation under such section 721, the report shall be provided within 60 days after the request.

"(2) A report requested under paragraph (1) shall contain the best available information on the extent of foreign direct investment in a given industry, including a breakdown of total investment in the industry, and any foreign government investment in the industry, by country of the foreign owner, and any other information that the Bureau of Economic Analysis or such designee of the President considers relevant. The industry information provided shall be at the most detailed level available of Standard Industrial Classification, subject to the requirements of section 5.".

(d) ACCESS TO INFORMATION.—Section 5 of the International Investment and Trade in Service Survey Act (22 U.S.C. 3104) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) The Bureau of the Census of the Department of Commerce is authorized, for purposes of augmenting and improving the quality of data collected by the Bureau of the Census, to have, upon written request, access to data relating to business enterprises that is collected directly by the Bureau of Economic Analysis for purposes of this Act. The Bureau of Labor Statistics of the Department of Labor is authorized, for purposes of augmenting and improving the data collected by the Bureau of Labor Statistics, to have access, upon written request, to selected identification information on business enterprises and data on international services transactions, that is collected directly by the Bureau of Economic Analy-

sis for purposes of this Act. Officers and employees of the Bureau of the Census and the Bureau of Labor Statistics shall, for purposes of subsection (c), be deemed to be officials or employees designated to perform functions under this Act.".

(e) CONFORMING AMENDMENTS.—Section 5 of the International Investment and Trade in Services Survey Act is amended—

(1) in subsection (c)(2) by striking "(d)" and inserting "(e)"; and

(2) in subsection (e), as redesignated by subsection (d)(1) of this section, by inserting "or (d)" after "(c)".

SEC. 7. ACCOUNTABILITY FOR TIMELY REPORTING.

(a) AFFIRMATION BY A RESPONSIBLE OFFICER.—Section 5(b) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3104(b)) is amended by adding at the end the following:

"When a report under paragraph (2) is furnished under oath, such oat shall be by the officer of such person who is directly responsible for the maintenance and complication of such information, and shall certify that the report was prepared in accordance with this Act, is complete, and is to such officer's best knowledge and belief, substantially accurate, except in a case in which, in accordance with rules and regulations issued under this Act, estimates have been provided because data are not available from customary accounting records or precise data could not be obtained without undue burden, and the data subject to such estimates has been noted in the report.".

(b) CIVIL PENALTIES.—Section 6(a) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3105(a)) is amended by striking "may be subject to a civil penalty not exceeding $10,000" and inserting "shall be subject to a civil penalty of not less than $2,500, and not more than $25,000,".

SEC. 8. ACCESS TO INFORMATION; CONFIDENTIALITY.

(a) CONFIDENTIALITY.—(1) Those officers and employees who have access to information under this Act to which the provisions of section 9 of title 13, United States Code, apply must have been sworn, as provided for in section 23(c) of such title, to observe the limitations imposed by section 9(a) of such title and to be subject to the provisions of section 214 of such title to the same extent as such section applies to officers or employees of the Bureau of the Census.

(2) Only those officers and employees who have sworn to observe the provisions of section 5(c) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3104(c)) may have access under this Act to information to which such provisions apply, and such officers and employees are subject to the penalties for improper disclosure of such information provided in section 5(e) of that Act to the same extent as such section applies to officers or employees designated to perform functions under that Act.

(3) Those officers and employees referred to in paragraphs (1) and (2) of this section shall be subject to any other restriction or penalty imposed by law with respect to disclosure of information to which such officers or employees have access under this Act.

(b) VIOLATIONS AND PENALTIES.—Whoever is in possession of information made available to any department or agency by virtue of this Act or the amendments made by this Act and discloses the information in any form which can be associated with, or otherwise identify, any person, including any business enterprise or establishment, shall be fined not less than $2,500 nor more than $25,000 or imprisoned not more than 5 years, or both.

(c) UNLAWFUL ACCESS.—Whoever procures, by fraud, misrepresentation, or other unlawful act, access to information made available to any department or agency by virtue of this Act or the amendments made by this Act shall be fined not less than $2,500 nor more than $25,000 or imprisoned not more than 5 years, or both.

(d) INFORMATION IMMUNE FROM PROCESS.—Information obtained under this Act shall be immune from legal process and shall not be used as evidence or for any purpose in any Federal, State, or local government action, suit, or other administrative or judicial proceeding except as necessary to enforce requirements imposed by law on the collection of information, to enforce the provisions of subsections (b) and (c).

(e) IMPLEMENTATION.—(1) The Secretary of Commerce shall be responsible for the implementation of the exchange of information under this Act between the Bureau of the Census and the Bureau of Economic Analysis, and shall resolve any questions on access to information, data, or methodology that may arise between the Bureau of the Census and the Bureau of Economic Analysis, except that the Secretary shall not construe this section in a manner which would prevent the augmentation and improvement of the quality of international data collected under the International Investment and Trade in Services Survey Act. The Bureau of Economic Analysis and the Bureau of the Census shall agree in writing to the data to be shared under this Act.

(2) The Director of the Office of Management and Budget shall be responsible for the implementation of the exchange of information under this Act between the Bureau of Economic Analysis and the Bureau of Labor Statistics, and shall resolve any questions on access to information, data, or methodology that may arise between the Bureau of Economic Analysis and the Bureau of Labor Statistics, except that the Director shall not construe this section in a manner which would prevent the augmentation and improvement of the quality of international data collected under the International Investment and Trade in Services Survey Act.

SEC. 9. CONSTRUCTION OF THE ACT.

(a) IN GENERAL.—Nothing in this Act or the amendments made by this Act shall be construed to require any business enterprise or any of its officers, directors, shareholders, or employees, or any other person, to provide information beyond that which is required before the enactment of this Act.

(b) IMPLEMENTATION.—All departments and agencies implementing this Act and the amendments made by this Act shall, with respect to surveys or questionnaires used in such implementation—

(1) eliminate questions that are no longer necessary,

(2) cooperate with one another in order to ensure that questions asked are consistent among the departments and agencies, and

(3) develop new questions in order to obtain more refined statistics and analyses, consistent with the purposes of the provisions of law amended by this Act and the Paperwork Reduction Act of 1980.

SEC. 10. DEFINITIONS.

For purposes of this Act—

(1) the terms "foreign", "director investment", "international investment", "United States", "business enterprise", "foreign person", and "United States person" have the meanings given those terms in section 3 of the International Investment and Trade in Services Survey Act (22 U.S.C. 3102); and

(2) the term "foreign direct investment in the United States" means direct investment by foreign persons in any business enterprise that is a United States person.

ENVIRONMENTAL CLEANUP ACTIVITIES

METZENBAUM AMENDMENT NO. 3050

Mr. MITCHELL (for Mr. METZENBAUM) proposed an amendment to the bill (S. 3187) to address immediate problems affecting environmental cleanup activities, as follows:

On page 2, line 3, after "any surety who" insert the following: ", after October 16, 1990, and before January 1, 1993,".

On page 2, line 6, strike out the period after "bond" and insert the following: ", but only in connection with such activities or obligations.".

On page 3, line 18, strike out the quotation marks and the last period.

On page 3, after line 18, add the following: "(5) This subsection shall not apply to bonds executed before October 17, 1990, or after December 31, 1992.".

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full committee on Energy and Natural Resources.

The hearing will take place on Friday, October 19, 1990, at 2:30 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the nomination of Michael Joseph Bayer to be Federal Inspector of the Alaska Natural Gas Transportation System.

For further information, please contact Becky Murphy, at (202) 224-7562.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, October 18, 1990, at 3 p.m. to hold a closed Conference meeting with the House Intelligence Committee on Intelligence Matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on October

18, 1990, after the first Senate vote to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DICK RANDALL: A PORTRAIT

Mr. WALLOP. Mr. President, the October 15 edition of U.S. News & World Report contained an insightful portrait of one of Wyoming's unique conservationists, Dick Randall of Rock Springs.

The environmental writer Aldo Leopold unwittingly described Dick Randall in his foreword to "A Sand County Almanac" when he wrote:

Like wind and sunsets, wild things were taken for granted until progress began to do away with them. Now we face the question whether a still higher 'standard of living' is worth its cost in things natural, wild, and free. For us of the minority, the opportunity to see geese is more important than television, and the chance to find a pasqueflower is a right as inalienable as free speech.

Dick Randall and I have had our share of spirited debates over the years. Yet even when we disagree, I am moved by the integrity and passion of his arguments and the strength of his convictions. He teaches strangers and neighbors alike the importance of wild things. And because of the dedication of the Dick Randall's of the world, Aldo Leopold's minority is becoming a majority.

Mr. President, I ask that this well deserved tribute to my friend, Dick Randall, be printed in the CONGRESSIONAL RECORD.

The article follows:

[From U.S. News & World Report, Oct. 15, 1990]

ONE HUNTER'S EPIPHANY

(By Michael Satchell)

The male bobcat had been struggling in the steel jaws for several days when Dick Randall and his 11-year-old son Andy finally came along to check the trap line. Bloodied, dehydrated and spent, the animal was close to death. To a man who had killed thousands of creatures as a professional trapper and hunter, dispatching one more was a routine chore—a sharp blow to the head, perhaps a bullet, depending on how much life was left in the varmint. But not this time. "As we walked up, the cat took one furious leap at us," Randall remembers. "He hit the end of the chain, dropped down and died staring right at us. Andy whispered: 'Look, Dad. The light just went out in its eyes.'"

The incident illuminated a spark of deeply suppressed doubt in Randall's mind. It was one of those rare episodes when a person's closely held beliefs are transformed in one seminal moment—an instant, if you will, when he sees the light. Dick Randall had spent 10 years as a predator-control agent for the U.S. Fish and Wildlife Service, hunting coyotes, bobcats, bears and other species that prey on ranchers' livestock. No one knew more wildlife lore, or dispatched his prey more efficiently. "I never questioned that I was doing humanity a real favor," he says. "I was convinced that the killing was worthwhile." Until that moment.

Just after dawn recently, Randall bounced his Volkswagen camper over the washboard ruts of a dirt road in the Red Desert north of his home in the energy-bust town of Rock Springs, Wyo. The sun was barely up and there was dew on the Indian paintbrush, but already he had spotted a kestrel soaring in search of a meal, sent a brace of antelope streaking for the horizon and scared up jackrabbits galore. This harsh, 1,100-square-mile landscape of sand, sage and greasewood once was his killing field. But for the past 16 years, the 65-year-old Randall has sought to preserve wildlife rather than snuff it out.

A different kind of habitat. Randall is one of a legion of anonymous conservation foot soldiers, toiling for sheer love of the resource, who form the backbone of the movement to preserve the remains of wild America—and not just the picture-postcard scenery. Some environmentalists focus their efforts on crown-jewel areas like Yellowstone and Yosemite, or on high-profile threatened species like the grizzly or the spotted owl. To them goes most of the recognition.

Desert rats like Dick Randall are devoted to unglamorous but no less ecologically vital areas like the Wyoming outback. Here the rail-thin outdoorsman with the white flattop fights to protect his parched and gritty version of Eden. His efforts run the gamut from lobbying public officials to blocking habitat-destroying energy and mining projects, to leading school kids into the desert to show them not only wild horses and golden eagles but also the lowlier creatures.

He has them down on hands and knees to learn the difference between the tracks of kangaroo rats, mice, voles and other little sand critters. He shows them how a thin film of oil on a pond, caused by a dune buggy driven in a restricted area, wipes out a salamander population and upsets a miniature ecosystem. He teaches them about spadefoot toads that stay buried in the sand 11 months of the year. And he reveals the secrets of the Killpecker sand dunes.

In the shimmering, 100-degree noontime heat of a broiling high-plains summer, Randall will take them to the dunes that migrate east from western Wyoming to the Nebraska border. Digging down with the uncanny instinct of a desert dweller, he uncovers great slabs of ice beneath the baking sands. The ice cells are formed from windblown snow that accumulates on the leeward side of the dunes during the fierce winters. The con stantly migrating sand covers and insulates the ice until it is exposed by nature to melt and form pools that sustain waterfowl and other wildlife through drought periods. Sections of the Killpecker dunes are now under consideration for federal wilderness protection, thanks in part to Randall's congressional lobbying efforts as a field representative for the Defenders of Wildlife and, currently the Humane Society of the United States.

"Hooved locusts." He also shows visitors the rich and varied wildlife of the Rhode Island-size Red Desert, one of the largest unfenced, unprotected areas left in the Lower 48 states. On Black Rock butte, a birdwatcher interested in raptors can spot golden eagles, prairie falcons, great horned owls, harrier hawks, red tailed hawks, ferruginous hawks and kestrels as they soar in search of polecats, cottontails, gophers, prairie dogs and snakes. "I like the nooks and crannies of this desert," Randall says, pulling on his first bottle of afternoon Guinness and drawing on a Salem. "People drive through here and all they see is wasteland. But I try to get people to make friends with the desert and become aware of the threats. We're losing so much habitat to everything from energy development to cattle grazing. Those derned cows are hooved locusts."

Strange sentiments from a man who spent 10 years protecting livestock with the kind of efficiency that earned him the reputation as Uncle Sam's top coyote killer. He trapped them, poisoned them, stalked them on the ground and shot them from the air—42 in one 6-hour aerial onslaught that set a Wyoming state record. "Survived four plane crashes, two of 'em when I shot myself down," he chuckles. "Hit the propeller tip with 12-gauge BB shot." Randall counted some 4,000 coyotes he trapped and destroyed along with hundreds of bobcats and scores of black bears. He figures an equal number of coyotes died from strychnine, cyanide and other poisons he spread across the landscape, along with uncounted numbers of nontarget species like eagles, hawks, owls, foxes and skunks.

Burned alive. Randall's work gave him little pause except when it came to stuffing a coyote den with burning sagebrush. "Suffocating the pups was the theory, but they'd often scramble for cracks of light at the entrance. You could hear them howling when they hit the flames and burned alive." Later, the government equipped its hunters with a phosphorus-based compound called a den smoker, but the results were equally unpleasant. "The pups were likely to run into the chemical fire trying to get out. It would literally eat through tissue—hiss and smolder right into their guts when they were still clawing at the blocked entrance."

Today Randall is a vociferous opponent of the government's $29 million animal-damage-control program, which every year kills about 4.5 million birds and mammals deemed to be agricultural pests. Most are birds that raid fields or foul urban areas. Farmers like the program because it helps hold down their crop losses. But killing carnivores like coyotes, bears and mountain lions on the Western rangelands to protect lambs and calves is widely condemned by conservationists as futile and expensive. Last year in Wyoming, Randall's successors in the federal war on wildlife spent $181.82 for each animal killed. The $1.35 million cost of the Wyoming program was more than four times the value of sheep lost to predators. Sheep ranchers, Randall observes, could handle most of their predation problems by better use of herders and guard dogs.

Still, his rational arguments against the program pale next to his memories: Of coyotes taking up to two days to die after a gunpowder charge blasted cyanide into their mouths; of golden and bald eagles killed by his indiscriminate use of poisons; of trapping and shooting seven black bears in a single outing, knowing that only one

had killed livestock. Most of all, it is the vision of a bobcat awaiting death in a steel-jaw trap and a young boy seeing in its face what a father had been unable to comprehend. Randall says he still sees that cat's eyes.

DR. CLAUDIO BENEDI DOCUMENTS THE SOVIET GEOPOLITICAL STRATEGY IN CUBA

● Mr. SYMMS. Mr. President, Dr. Claudio Benedi is a good friend of mine. He helped me to achieve the passage of the Symms "Cuba Resolution" by Congress twice, in 1982, and again in 1984. I will never forget Claudio's help in my successful efforts to reaffirm the Monroe Doctrine and to support the rights and liberties of the oppressed Cuban People.

Claudio Benedi is the author of the "Benedi Doctrine," which condemns the institutionalized violations of human rights by totalitarian Communist regimes around the world, especially in Castro's Cuba. Moreover, Claudio has for a long time been in the forefront of those who denounce the Soviet military base in Cuba, in violation of the Kennedy-Khrushchev agreement.

Claudio is an expert on inter-American affairs, and for the last three decades he has been fighting for the security of America and for the freedom of Cuba. Claudio is known as "the Diplomatic Dean of the Organization of American States."

Mr. President, I ask that two documents be printed in the RECORD.

The first is the declaration of Dr. Benedi concerning the Soviet-Cuban geostrategic relationship, printed in the Diario Las Americas of Miami on May 2, 1990.

The second is the document presented by Dr. Manuel Antonio de Varona, president of the Junta Patriotica Cubana, and Dr. Claudio Benedi, Secretary for the Foreign Relations and Washington Representative of the Junta Patriotica Cubana, to the 20th Session of the General Assembly of the Organization of American States, at Asuncion, Paraguay, on June 4, 1990.

The documents follow:

[From the Diario Las Americas, May 2, 1990]

SOVIET UNION'S RELATIONS WITH CUBA ARE GEOSTRATEGIC, NOT ECONOMIC, DR. CLAUDIO BENEDI ASSERTS FROM WASHINGTON

(By Ariel Remos)

"Relations between the USSR and Cuba are not merely economic, but mainly and fundamentally geostrategic, for the maintenance—in fact—of the base that the Soviets have attained in Cuba for their penetration into the Western Hemisphere, 90 miles from the U.S.", asserted Dr. Claudio Benedi, representative of the Cuban Patriotic Board in Washington.

That is the reason that, according to Benedi, explains that "despite the totalitarian Stalinist regime that Castro insists in maintaining, its total economic failure, and his opposition—apparent or real—to reforms introduced in the structure of the communist system by Gorbachev, he will be granted this year, for one more year, an increase of 8.7% in economic and commercial aid, in comparison with the previous year, while they say that they sign a protocol for the next lustrum, that will be formalized in 1991".

According to Benedi, the importance of the fact is that, in accordance with statements made by the chief of the Soviet delegation that formalized the agreements with Cuba, Leonid Albakin, the commercial exchange with the island would be over $14,168 millions, which reaffirms the economical and military dependence that the Cuban regime has upon the USSR.

The interviewee recalled that, as columnist Patrick Buchanan recently affirmed in a recent article on Diario Las Americas, if the USSR needs investment capital, it should get ahold of the $5,000 annual millions that is given to Castro for the use of the island as a strategic base.

He likewise refers to the opinion of Senator Sam Nunn, chairman of the Armed Forces Committee in the U.S. Senate, who stated in Miami that "the Cuban economy is increasingly weakening, as a result of the reductions in the aid that it receives from the USSR, but (at the same time that it hurts the position of Castro) the possibility could exist that, as a compensation, Moscow will increase military aid" to Cuba.

He later detailed how the USSR uses the Cuban territory as a base for its warplanes and warships, as well as its main facilities, such as the Cienfuegos base, the espionage plant at Lourdes, where it has 6,000 troops and technicians, and 27,000 military personnel, a brigade organized as such and some airports intended for war activities.

The Soviets have provided Castro with 300 MiG 21s, 23s and 25s, and they have now furnished him MiG 29's.

Benedi says that the Cuban armed forces have a 15% of the population in arms, "one and a half million men and women, regular military and militias, in a country with 11 million inhabitants; but, who pays for that costly military machine? Not Castro exactly.

After analyzing the very grave economic situation of the USSR, which in the long run may influence a change in its programs of aid to countries such as Cuba, Benedi referred to a political event "of a great political transcendence for our Hemisphere". That is, the Vice-Minister for Foreign Affairs of the USSR, Victor Komplektov, upon his return from Managua, said to Pravda that the USSR will continue economic cooperation with Nicaragua, even with the new government, and Washington analysts say that it could be a precedent for other communist totalitarian regimes. "Diplomats stationed here, in the capital, affirm that the USSR, in view of the serious problems it is facing, could be seeking this kind of solutions for the Cuban case, in order to maintain its base in the unlikely case that there could be future cases such as Nicaragua's. Those who state that", Dr. Benedi ends, do not seem to know the Stalinist nature nor Castro's megalomaniac paranoia, nor the sufferings and struggles of the Cuban people for 31 years, inside & outside of Cuba, for their freedom".

JUNTA PATRIOTICA CUBANA,
AREA METROPOLITANA DE WASHINGTON,
Washington, DC, June 4, 1990.

Honorable Chairman of the Twentieth Ordinary Period of Sessions of the General Assembly of the Organization of American States (OAS):

Honorable Ministers of Foreign Relations:

Honorable Ambassadors and Representatives of the American States:

Distinguished Representatives of the Americas:

This General Assembly meets in historical moments for the Americas and for the world. For the Americas, because we are celebrating the Centennial of the Inter-American System, and for the world because of the unavoidable crisis of the totalitarian system of Marxist-Leninist socialism, that we expect to reach, in its full extension, the Stalinist redoubt in Cuba.

We, who have been born in the Cuban State, a member of this Honorable General Assembly, of the Inter-American System and of the Organization of American States (OAS) and directly concerned in our own right and affected by that which may be discussed or agreed upon in same, have the moral and legal duty of submitting to your learned consideration our position and denouncements to the effect that, as we suppose, linked by the same cause, they shall be taken into account by you.

The Cuban State is a part of the Inter-American System and of the OAS. What is excluded, now with a greater reason than yesterday, is the present government of Cuba, because of its being a Marxist-Leninist regime, totally incompatible with the Inter-American System. That incompatibility is still in force.

Cuba is a part of the Americas and it is linked to their fate. Said part is integrated in the whole, historically, geographically, politically, economically and ideologically, despite the fact that an extra-continental power (the Soviet Union) has tried to take it out of its geopolitics and geostrategy, through the use of a satellite government subjected to ideological servitude and to economic, political and military submission.

This Soviet Union's intervention in the internal affairs of the Americas, through its base in Cuba, has posed a challenge to the Continent of the Americas and produced a crisis in its institutions, values and principles, because of the overt and sneaky infiltration of the Marxists fifth column into the Inter-American power structures.

As we have already proven, we are not dealing with a super-structure of values, with an addition of principles nor with a mere reform; we are dealing with a subversive supplantation, with a displacement, with the destruction of the spiritual and material structures, in order to replace them with others that are alien to its history, its traditions and its culture. Marxists have understood it thus and, because of it, they have declared war on the Inter-American System, on the OAS and on those nations which represent those values and principles, and that is the reason why they attempt, by all means at their disposal, to introduce their Trojan Horse into the OAS, through the reinstatement of Castro's satellite Marxist-Leninist-Stalinist regime.

The historical sequence cannot be broken by grafting onto the heart of the Americas alien ideologies, such as Communism, whose impracticality and evil nature have been proven, one that destroys man, woman and peoples. That "tragic Utopia has made peo-

ples to retrocede to unprecedented levels in the history of humankind", as Pope John Paul II has stated.

This Twentieth General Assembly of the OAS has no jurisdiction or powers to allow the entry of Castro's Marxist-Leninist regime to the OAS, because it was not the OAS who separated the present government of Cuba from it, but the application of the Treaty of Rio, and besides this meeting not having been assembled in accordance with the Treaty of Rio, not all the countries who are members of the OAS are signatories to the Treaty of Rio.

It must be likewise pointed out that at the Eighth Consultation Meeting of the Foreign Relations Ministers, assembled in accordance with the Treaty of Rio, a Resolution was passed which declared Marxism-Leninism incompatible with the Inter-American System, and that said Resolution is still in force. Despite efforts to repeal it, it is still in force and it is still binding, since the modification of said Treaty, that was made in Costa Rica, has not taken effect because the necessary number of required states have not ratified it.

In the hundred years that the Inter-American System has lasted, a constant preoccupation, besides a basic and substantially fundamental principle has been, and continues to be, to protect the countries of this Hemisphere, as it was wished by Simon Bolivar, the Liberator; Jose Marti, U.S. President James Monroe and all exalted men & women of the Americas, from the intervention of an extra-continental power in their internal affairs. This principle and foundation of our regional organization and our political philosophy about the defense of sovereignty and freedom, self-determination and the dignity of the human person, has been violated by the Soviet Union through its satellite Castro. That is why to let satellite Castro enter into the OAS is tantamount to become an accomplice of the Soviet Union and of the evil Marxism-Leninism. Castro has just stated: "Marxism-Leninism or death", and that Marxism-Leninism is what is being attempted to introduce in the OAS, at a time when East European countries and other nations subjugated by the false Soviet Union are trying to erase every vestige of that "tragic Utopia". Those who attempt such a thing can be defined as suffering from political underdevelopment, political daltonism; they cannot see the red and black colors.

The Socialist Constitution of Cuba, dated February 24, 1976, in its preamble, literally reads: "Based upon proletarian internationalism, fraternal friendship, the assistance and cooperation of the Soviet Union . . ." It remains undoubtedly proven that Castro's Marxist-Leninist regime is a satellite of the Soviet Union, a lackey of Soviet imperialism. What would we say, honorable delegates and members of this Twentieth General Assembly of the OAS, if any of our Latin-American countries wrote into the preamble of its Constitution the same, but referring to the United States? How would you qualify it? The answer is obvious; therefore, if we are honest, let us apply it to the satellite regime of Castro in Cuba. Is that the satellite that someone may attempt to bring back to the OAS?

We must be consistent and follow the historical sequence and the traditions of the Americas, instead of defrauding the founders of our nations; that is why we believe that it is fundamental that we make reference to the indispensable background that irrefutably supports our petitions and denouncements.

We have proven that a regressive transculturation has taken place in Cuba. The values and principles upon which a civilized coexistence of the free nations of this Hemisphere is supported have been destroyed, and other, falsely called values, which run counter to the Cuban people's tradition, culture and history, have been imposed.

Besides the human violation, there has been in Cuba an institutional violation of human rights. The human violation is committed both in the totalitarian and authoritarian regimes, albeit in the former it is committed in a totalitarian manner, but the institutional violation (already known in the Americas and Europe as the "benedi doctrine") is only committed in the Marxist-Leninist regimes, because that kind of violation is intrinsic to such a system, which could not exist without it, because of its being a state totalitarian regime, in which the so-called State has all rights and individuals have none, vis-a-vis the State. The human person is left defenseless before the State. What is the State in communist regimes? The Communist Party. And, what is the Communist Party? A claque. And who rules that claque? The tyrant on duty. It was Stalin in the Soviet Union, and it is Castro in Cuba.

In the above mentioned Socialist Constitution, Article 61 provides the following:

"Article 61. None of the freedoms recognized for citizens may be practiced against that which is established by the Constitution and the laws, nor against the existence and purposes of the Socialist State, nor against the Cuban people's decision to build Socialism and Communism. Violation of this principle is punishable".

Only a naive or deluded person, or an accomplice of communism, would believe that in Cuba, under the Marxist-Leninist system, there could be any vestige of democracy. To this it must be added, mainly and fundamentally, that a military and strategic Soviet base is in Cuba.

We have proven that the relationship between the Soviet Union and Cuba is geostrategic and not merely economic. That is why some people wonder that the Soviet Union would continue to subsidize Castro and his economic and social disaster with over $5 billion annually. It is cheap for the Soviet Union to maintain its base within the heart of the Americas.

The Soviet Union entered the Americas through Cuba, and it has established there, in fact, a military, political, ideological and subversive base. It has there over 27,000 military personnel (during the so-called "missile crisis", in 1962, the Soviet Union already had 40,000 military personnel). Besides, it has a nuclear submarine base at Cienfuegos; an electronic base—the largest and most up-to-date outside of the Soviet Union—operated by 6,000 military and technicians, and it utilizes the whole of the Cuban territory for its warplanes and warships. All of the above entrails, besides an affront, a threat to the security and peace in the Americas.

In the Nuclear missile crisis, in 1962, satellite Castro imperiled the Cuban people to extermination in a nuclear conflict, only to serve the interests of the Soviet imperialism. Nowadays, the danger is repeated, in the "cursi et recursi" or History, as Vico would say. The Cuban people continues to be imperiled through the same or similar reasons, and a holocaust could take place.

There does not exist a state of law in Cuba, as it has been repeatedly stated by the Inter-American Commission on Human Rights, in whose Annual Reports to this General Assembly it has declared that in Cuba "There are maintained, therefore, the two main characteristics that have originated the lack of enforcement of civil and political rights: the non-existence of a state of law, since individuals are deprived of the recourses that would protect them from the actions of the state, and the lack of political alternatives for the population". There, where a state of law does not exist, cannot be any protection for human rights. Who would like to make that monstrous regime compatible with the Inter-American System?

Let us add to the former that the International Commission of Jurists, an organization attached to the United Nations, after an exhaustive study and investigation, stated: "The rule of law does not exist in Cuba". That statement is presently in full force. What accomplice of Marxist Socialism would dare to deny it?

There does not exist in Cuba the division of powers that is basic in the juridical and political structure of modern states, as Montesquieu declared. The Judiciary Power is submitted to the so-called National Assembly of the Popular Power, which is the same organism in charge of "approving" the regulations dictated by the hierarchy of the Communist Party, the true "power behind the throne". And the latter, in turn, is dictatorially ruled by the "maximum leader on duty". (Articles 70, 85, 86, 87 et sequitur, in the Constitution listed above.

On Articles 9 through 29, the division of powers is banished, private property rights are abolished, such as we understand them in the Western world, as well as the inviolability of the human person, freedom of education and all other rights recognized in the Americas about family, religion, etc. (Article 54)

On Article 52 the freedoms of expression and thought are eliminated. Press, radio and television are controlled by the Totalitarian State.

In the so-called "Socialist Legality", the principle of "analogy" (that had already been abolished in the civilized world and was re-established by Hitler) is enshrined.

There continues to exist in Cuba a continued pattern of violation of rights in their human dimension, and many Cuban political prisoners, both male and female, continue being given a "cruel, inhuman and degrading treatment", as the Inter-American Commission on Human Rights has repeatedly stated; but we must warn you about possible maneuvers of "improvement in the treatment of some prisoners" that such a regime might attempt, and some limited freedoms that could be granted, with preconceived objective of "bettering the image" of the Marxist-Leninist system and of its leaders in the Western World, in order to confound the naive and hide the fact that the basic substance of violations of human rights in a communist regime, both in institutional dimension and in the human dimension, are intrinsically united to the regime and inseparable from it. It is not a case of more or less freedom, nor of a partial improvement or alleviation of the treatment given to the Cuban political prisoners of both genders, but of the system proper, which must generate those violations in order to stay in power through terror and force.

The visit of Pope John Paul II has been cancelled for this year. Terror against the civilian population has been recrudesced and the dissidents have been threatened

with a modification of the Penal Code to include dissidence as a form of felonious treason punishable by the death penalty.

Since the end of World War II, the Inter-American System has been getting ready to face the challenge of international communism, to prevent the intervention of an extra-continental power (directly, the Soviet Union) in the internal affairs of the Americas. Let us review a brief summary of that preparation:

1. In 1947, the Treaty of Recip:ocal Assistance (Treaty of Rio) was approved, previous and similar to NATO (that is why the Treaty of Rio can be deemed as the NATO of the Americas). But we must underline that, while NATO was a deterrent in Europe to prevent communist expansion, the Treaty of Rio, debilitated by the ominous Kennedy-Khrushchev "understanding", could not prevent the Soviet Union from expanding its neo-colonialism and its imperialism to the Americas, through locating its base in Cuba.

2. In 1948, the juridical and political institution for the defense of the Americas was created: The Organization of American States (OAS). And it was not by coincidence that Fidel Castro and the communist agents infiltrated in the Americas tried to prevent the OAS from being created, by murdering Jorge Eliecer Gaytan and bringing about over 5,000 deaths and a great deal of destruction. But, despite that tragedy, the OAS was created to respond to the challenge. However, some leaders of the Americas, turning their backs to this tragic reality, have been weakening the OAS, creating parallel organizations that have diminished its efficiency and dynamism, upon usurping some of its functions. The OAS is what its states want it to be at a given time in its history. Thus, the organization is not to be blamed, but its members.

The United Nations Organization was created in 1945 and the OAS in 1948. Albeit the UNO is older, it has experienced basic reforms in its structure, despite its comprising the veto right that does exist in the OAS—in the latter, all member states enjoy a juridical equality—the OAS has experienced reforms, the latter being those of Buenos Aires and Cartagena de Indias and now, in the midst of present crisis and very untimely, instead of strengthening its present structures, which would be the wise thing to do, and fulfilling its treaties, covenants, agreements and resolutions in force, some are attempting to enter into a new process of reforms, with dubious or problematic results.

The Inter-American Conference, held in Caracas in 1954, to consider "the activities of the international communist movement, because of believing that it constitutes an intervention in the internal affairs of the Americas", formulated among others the following statement:

"That the domination or control over the political institutions of any of the American states on the part of the international Communist movement, having as its result the extension into the continent of the Americas of the political system of an extracontinental power, would constitute a threat against the political sovereignty and independence of the American states, and would endanger the peace of the Americas, thus requiring a consultation meeting to consider the adopting of pertinent measures in accordance with the treaties in force".

Nobody can deny that the international communist movement is in Cuba: "Marxism-Leninism or death". There is the imperative juridical, political and moral mandate, in order to act "in accordance with the treaties in force".

In the Seventh Consultation Meeting of Foreign Relations Ministers, assembled in accordance with the Treaty of Rio which is like the NATO of the Americas, in San Jose, Costa Rica, in August, 1960, it was agreed that:

"1. The intervention or threat of intervention, including a conditioned one, on the Part of an extra-continental power, in the internal affairs of any American republic is condemned, and we underline that the acceptance of the threat of intervention by an extra-continental power on the part of any American state, imperils the solidarity and security of the Americas, which obligates the Organization of American States (OAS) to condemn and reject it with an equal energy".

There are exemplified the case of satellite Castro and the intervention of an extra-continental power (the Soviet Union) in the internal affairs of the Americas, with a military, subversive, political, ideological, terrorist and economical base. How "energetically" are the present leaders of the Americas going to condemn and reject it?

In the Eighth Consultation Meeting of the Foreign Relations Ministers, assembled in accordance with the Treaty of Rio at Punta del Este, Uruguay, in 1962, a resolution was approved which, in our judgment, is the most important political statement in this Hemisphere for all of its history, in which it is declared that "the Marxist-Leninist doctrine is incompatible with the Inter-American System, and that the government that would declare itself—mind you that it reads 'the government'—a Marxist-Leninist one, is separated from the System". And, since the present government of Cuba has declared itself Marxist-Leninist, it is thus separated from the Inter-American System, from the OAS and from all of its organisms. The Cuban State continued, and it continues to be, a member of the System and of the OAS.

A Joint Resolution of the United States Congress (the Senate and the House of Representatives) was approved—now known as the "Cuba-Symms Resolution, because of Senator Steve Symms having been its advocate—whereby the United States obligated itself to fight together with the Organization of American States (OAS) and with freedom-loving Cubans to attain self-determination and freedom for the Cuban people.

On October 22, 1962, the so-called "Missile Crisis" took place in Cuba, because the Soviet Union learned that its base on the island was in danger and it placed its nuclear missiles there, not to protect the Castro's satellite regime, but its base. Whoever may think otherwise is a naive person or a useful idiot.

By virtue of the "Missile Crisis", the so-called "Kennedy-Khrushchev Understanding" was signed, a disastrous political mistake on the part of the United States, which violates the Monroe Doctrine, the Treaty of Rio, the OAS's Charter and the Cuban people's rights of sovereignty and freedom.

The force of the Monroe Doctrine, that had been so efficient to deter the European States from intervening in the internal affairs of the Americas, and through which the United States protected our Latin-American countries from the ambitions for conquest of the Europeans, including then-Russia, has now been debilitated and rendered useless to prevent Soviet penetration in Cuba and Nicaragua; in the latter, the Soviet Union maintains its power, although it may have surrendered government halfway.

One of the most outstanding leaders for democracy in Latin-America, our fraternal friend Dr. Romulo Betancourt, an illustrious Venezuelan descended from the Liberator, Simon Bolivar, charged the Stalinist tyrant Fidel Castro with attacking and violating the Venezuelan sovereignty. The Ninth Consultation Meeting of the Foreign Relations Ministers, on July 26, 1964, condemned the Castro regime as an aggressor and violator of the Venezuelan sovereignty. The next step ought to have been the application of the Treaty of Rio to the aggressor and violator. It was not done then, and that regime has continued, until this time, attacking and violating the sovereignty of the peoples of the Americas, as the President-elect of Costa Rica, Dr. Rafael Calderon, has stated, accusing Castro of intervening in the internal affairs of El Salvador by helping the Marxist-Leninist guerrillas. Those aggressions are consubstantial with the communist system implemented in Cuba.

"Pacta Sunt Servanda": One acts freely, but obligates oneself to the pact. The Cuban state has freely agreed with you the treaties, covenants, agreements and resolutions which are in force within the Inter-American System; that is why we now ask you to fulfill what you obligated yourselves to comply with.

Two nuclear plants are being built in Cuba, one of them precisely close to the Soviet submarine base in Cienfuegos. These plants are being built with the same Soviet technology that so noisily failed at Chernobyl, in the Soviet Union. They not only imperil the lives of Cubans, but are also a threat for the rest of the American States.

The satellite Castro, following orders from the Soviet Union, has refused to sign and ratify the Treaty of Tlatelolco on the Proliferation of Nuclear Weapons in Latin-America. With what purpose? The comments are obvious.

We have learned from reliable sources that 15% of the Cuban population, that is, one and a half million people, both men and women, in the regular military and the militias, are upon arms. Since the Cuban economy has been destroyed by the communist system, Castro could not pay for the mobilization of those forces. Who pays for the expenses of those enormous military forces in a country with little over 10 million people? The answer is obvious: The Soviet Union.

We know that the Soviet Union has sent its satellite Castro 300 MiG warplanes, among them MiG 23's and MiG 29's, the latter being the latest warplane in the arsenal of the Soviet Union. It has already sent 10 and it has promised another 36. What does the satellite Castro need a war arsenal of that magnitude for?

The KGB (Soviet secret political police) has long taken over the Cuban intelligence and espionage services, known as the DGI (Directorate General for Intelligence). It has been verified that the Soviet Union had done likewise in Nicaragua.

What we have nowdays in the Americas is a crisis of identity, that is fostered when there are governments that fail to support the principles and values that have given them life and, turning their backs to their traditions, culture and history, embrace ideologies that deny their transcendental values and their juridical and political principles.

There is identity among the nations of the Americas, and through that identity they make up an organic and regionally structured whole in a System that has given itself the juridical and political institutions capable of representing and defending it.

In order to attack and destroy the Americas, it is indispensable to attack and destroy the System based upon that identity and upon those principles, and that is exactly what is happening today. That is the challenge.

Understanding this, the extra-continental foreign forces that have infiltrated the Americas to subvert and destroy them, have begun by securing a base in Cuba and attempting to have another one in Nicaragua, and by devising a strategy to destroy the Inter-American System because of its absolute incompatibility, as well as tactics to fragment the OAS through separating the North from the South, or else trying to create parallel organisms.

The economic, political and social development—giving way to military interventions—in the last three decades, has been at times hampered, other times interrupted and in every case adversely influenced—the exodus of capital and skilled persons and the deactivation of national and foreign investments—by communist subversion, both urban and rural, sponsored by the Soviet Union through its satellite Castro and the Sandinista-Marxist movement of sub-satellite Daniel Ortega in Nicaragua.

The investments and assistance from the United States and the Western world are detouring towards the Eastern European countries that are rejecting communism because of its negative nature, instead of going to the Latin-American nations that want to bring communism, together with Castro, to the OAS.

The Inter-American System is theocentric and its values and principles comprise the belief in God, the full dignity of man and woman, their freedom, justice, peace and the idea that the resources existing in the Americas are at the service of the common good, administered by human beings for the benefit of men and women. The Inter-American System proclaims the unlimited respect to human rights, fraternity and brotherhood among men and women, vis-a-vis the class struggle, and love vis-a-vis hate; because of the above, it is incompatible with Marxism-Leninism, since the latter proclaims the barbarous practice of hate, instead of the Gospel of Love; the class struggle, state totalitarianism, militant atheism, the destruction of the sense of transcendence and the destruction of the human person; it is esentially anthropocentric.

Ideological pluralism—any euphemism used to cover the permissiveness that is an accomplice of Marxism-Leninism in the Americas—is a negation of democratic coexistence in the bosom of the Inter-American System. There cannot be any possible coexistence where all the attributes and conditions for coexistence are not given. We say "yes" to democratic pluralism, whereby representative democracy will be implemented—so many times mentioned in the OAS' Charter—whereby the people shall vote periodically, with full liberty, to elect its leaders in the plurality of democratic parties, which is the antithesis of Marxist-Leninist totalitarianism. There cannot be any reciprocity. What they want is not coexisting, but destroying our democratic system.

There is no ideologic pluralism in the Soviet Union or Cuba, nor was there any in the former communist-subjugated countries. In the former, those who advocate ideological pluralism are deemed as "deviationists" and severely punished. Could we have "the wolf taken into the chicken coop"?

Tomas Borge, the Nicaraguan old-guard Communist leader, was quoted as having stated that "there would be elections in Cuba for all positions, including that of President, and that independent political parties would be allowed". This was widely published in the media of the Americas, but he was immediately ordered by Moscow and Cuba to retract those statements, and he said that "he had been misinterpreted, that he meant that there would be 'elections' within the Communist Party in Cuba and that independent parties or movements would not be permitted". That happened last month. There is the categorical answer for the deluded, the naive and the accomplices, who say or believe that there could be democracy and freedom in Cuba under the Communist system, while the totalitarian Stalinist tyrant and the Soviet base are there. "Upon the confession of a party, evidence is not needed".

The Treaty of Tlatelolco on the proliferation of nuclear weapons in Latin-America, which is so important for the present and future of the Americas, has not been signed by satellite Castro. It is known that the Soviet Union has built a base for nuclear submarines at Cienfuegos, Cuba, which has been "visited" by warships capable of transporting and firing nuclear weapons. Now Castro is building nuclear plants, reportedly for "peaceful purposes". We believe that the Soviet Union, which signed the II Protocol of the Treaty of Tlatelolco, has violated it. Why has Castro not signed it?

The government of satellite Castro has been charged with being involved in the illegal narcotics traffic, lending its air space and territorial waters to facilitate said traffic between Latin-America and the United States. There are courts which have accused high-ranking officials of the communist regime of Cuba of being involved in the illegal narcotics traffic. A few days ago, Castro met at La Habana the lawyers of his partner in crime, former General Manuel Noriega, in trying "to contribute evidence" to defend his disgraced partner. Why is Castro trying to defend a corrupt and narco-trafficker dictator, such as Noriega? The answer is obvious.

The so-called "Cold War" has not ended in the Americas. In order for it to end, many things would have to happen, among them the following:

1. The return to the Soviet Union of the 27,000 Soviet military personnel who are presently in Cuba, the organized brigade with a force of 2,800 members, and the Soviet military technicians who are 6,000 strong, stationed at the electronic base of Villa Lourdes, La Habana. The dismantling of the nuclear submarine base installed at Cienfuegos. The return to the Soviet Union of the military personnel and "advisors" who are still in Nicaragua and with other subversive movements in the Americas.

2. The return to the Soviet Union of the nuclear and/or conventional weapons located in Cuba.

3. The breakup of the military and ideological and geostrategic submission links between Cuba and the Soviet Union.

4. The elimination of the communist system implemented by deceit, terror and force in Cuba.

5. The implementation of full freedom and democracy in Cuba.

6. The return to a free and democratic Cuba and of a government elected by the Cuban people in an internationally-supervised, secret and fair election, free from all fraud, to the Inter-American System and to the OAS.

7. The cessation of the subversive movement sponsored by the Soviet Union in several countries of Latin-America, such as El Salvador, Guatemala, Colombia, Peru, Chile, Brazil, Guyana, Suriname, Nicaragua and Honduras.

The Secretary General of the OAS, Ambassador Joao Clemente Baena Soares, in his eloquent speech of September 5, 1985, quoted the words of Joseph Stalin, the leader of Soviet communism: "Bring the machineguns. We are going to liquidate the diplomats". This quotation should be present in the reformist deliberations of this Assembly, because Castro is an imitator of Stalin.

With all of this background, Honorable Ministers of Foreign Relations and Honorable Ambassadors of the American States, we, who have been born in the Free Cuban State, which is a member of this General Assembly, of the Inter-American System and of the Organization of American States, on behalf of the free people of Cuba and representing the Cuban Patriotic Board, which encompasses the majority of the organizations in exile and within Cuba, declare:

1. That there cannot be any freedom in the Americas, as a whole, if it does not exist in each of its components. And Cuba is a part of the whole.

2. That there cannot be any democracy in the whole, which is made up by the Americas, if it does not exist in each of its components. Cuba, which is a part of the Americas, is presently subjugated by a totalitarian, tyrannical, Marxist-Leninist regime of a Stalinist nature, convicted and self-avowed.

3. That there cannot be any peace in the whole, if it does not exist in each of its components.

4. That the whole (the Americas) cannot be deemed as independent when one of its components (Cuba) is submitted to tributary and feudal servitude, in the condition of a geostrategic base for an extra-continental power (the Soviet Union).

5. There could happen a holocaust in Cuba worse than that of Romania, if the American States would not help the Cuban people and act in solidarity with same to prevent that. Jose Marti, the Apostle of Cuban Independence, stated: "Watching a crime in silence is tantamount to committing it". A crime is being committed in Cuba upon the Cuban people for the last 31 years, by a tyrant dressed in military garb who threatens, in his psychopathic megalomany, to stain with blood that country before surrendering the power to the legitimate representatives of the people.

6. the Organization of American States (OAS) is made up by free, equal, sovereign and independent nations; because of that, if a satellite government, "Marxist-Leninist to death"—as the Cuban government has stated—supported by an extra-continental power (the Soviet Union), endangers or tramples upon the rights of that state, the rest of the member states of the Inter-American System of the OAS have the moral and legal obligation, in compliance with the treaties, covenants, resolutions and agreements in force, to go to the defense of the subjugated state (Cuba) lest they shall incur, by their default, in the most serious mistake that History, in its day, shall condemn.

7. In accordance with the International Law of the Americas, this General Assembly is not competent to give entry to the present goverment of Cuba, because Castro was not separated from the Inter-American System and from the Organization of American States (OAS) by the OAS Charter, but by the Treaty of Reciprocal Assistance (the Treaty of Rio) and the Resolution approved reads that "the Marxist-Leninist doctrine is incompatible with the Inter-American System, and any government which identifies itself as Marxist-Leninist is separated from the System". And it continues to state that, "since the government of Cuba has identified as a Marxist-Leninist one, it is thus separated from the Inter-American System, from the OAS and from all organisms of the System".

"Either Cuba is saved, or the Americas shall be lost", as it was stated by that illustrious patriot and journalist, a former President of the Inter-American Press Society, Dr. Guillermo Martinez Marquez.

Honorable Chairman, Honorable Ministers of Foreign Relations and Honorable Ambassadors and Representatives of the Americas: We respectfully request that these denouncements be considered as made, that this document be circulated among the member States, and that action be consequently adopted. We are in the vanguard of that struggle and we still expect and trust that you shall act in solidarity with us and join us, as the patriots and statesmen of the last century did, to help several countries of the Americas to become independent. Cuba is fighting for its second independence and the whole of the Americas has committed its history and dignity of free nations with the Cuban people.

We remain your with the highest consideration and respect.

Dr. Manuel Antonio de Varona, Chariman, Cuban Patriotic Board, Former Prime Minister and Chairman of the Cuban Senate; Dr. José Ignacio Rasco, Secretary for Foreign Relations; Dr. Claudio F. Bened-Beruff, Washington Area Representative.

A SALUTE TO THE FIRST PROVIDENCE BOY SCOUT TROOP

● Mr. CHAFEE. Mr. President, on October 24 in the capital of Rhode Island, a gala celebration will mark the 80 continuous years of service of the First Providence Boy Scout Troop. I would like to salute today the 20 men who have served as Scoutmaster to the troop, the 16 men who attained the honored rank of Eagle Scout under their leadership, and the hundreds of parents, friends, and fellow Scouts who have made possible the troop's achievements throughout its remarkable history.

The First Providence Troop was organized in 1910 and listed 64 Scouts in its first charter. Five troops comprised the Rhode Island Boy Scouts in that year and all were on the steps of the state house when their flags were presented to the wife of the Governor on May 23, 1911. During that summer, the first summer camp devoted to Scouting was in operation on Prudence Island in Narragansett Bay. A source of great excitement for the boys was the transmission, while they were there, of the first wireless message ever dispatched from the island.

The approach of World War I brought national recognition to the Boy Scouts of our country, and the chartering of the organization as the Boy Scouts of America by Congress was accomplished on June 15, 1916. A year later, the Rhode Island Boy Scouts, including the First Providence Troop, voted to merge and become the Greater Providence Council, Boy Scouts of America.

The fundamental purpose of Scouting is

* * * to promote, through organization and cooperation with other agencies, the ability of boys to do things for themselves and others, to train them in Scoutcraft, and to teach them patriotism, courage, self reliance and kindred virtues, with emphasis on the Scout Oath:

On my honor I will do my best to do my duty to God and my country and to obey the Scout Law; to help other people at all times, to keep myself physically strong, mentally awake and morally straight.

These are the precepts the First Providence Troop, Boy Scouts of America has held fast, and has translated into action through 80 wonderful years. Many are the men, women, and children of Providence who could rise up in thanks to the Scouts for their many gifts of food and clothing and the countless acts of community service.

The leaders of the troop can be justificably proud, for the result of their selfless devotion to the youth of Rhode Island has been a host of "strong, mentally awake and morally straight" men. Today the troop's membership reflects a cross-section of the diverse population of my State—many of its members are newcomers to the United States—and in scouting, they are enthusiastically learning good citizenship and duty to their fellow Americans.

We join with the First Providence Troop in the hope that its thousands of alumni and friends will guide it toward the year 2010, when it may celebrate a century of Scouting.●

JOHN HOUTARI'S TRIBUTE TO THE INTERNATIONAL SPACE YEAR IN 1992

● Mr. DURENBERGER. Mr. President, in 1985, the Congress first proposed that 1992 be declared the International Space Year, commemorating the 500th anniversary of Columbus' voyage to the New World and the 35th anniversary of the International Geophysical Year that started the space age. Our dear friend, the late Senator Spark Matsunaga, introduced the International Space Year resolution during the 100th Congress, and on July 31, 1990, this proposal was finally approved.

A major focus of the International Space Year is global participation in space exploration. Poets such as T.S. Elliot have commented on the human drive to explore:

We shall not cease from exploration
And the end of all our exploring
Will be to arrive where we started
And know the place for the first time.

I am certain that space exploration will teach us a great deal about ourselves, and I am pleased that Congress has taken this step to foster worldwide support for space activities in 1992.

I am particularly proud of a constituent of mine, John Houtari of Zimmerman, MN, who has put his considerable energy and talents into promoting the International Space Year. Mr. Houtari has composed a poem, "First Steps," that represents the finest goals of cooperative space activities. I encourage my colleagues to consider this poem as the theme of the International Space Year. "First Steps," is an eloquent and fitting tribute to human efforts to reach beyond the boundaries of our planet.

Mr. President, I ask that Mr. Houtari's poem, "First Steps" be entered at this point in the RECORD.

The poem follows:

FIRST STEPS

(by John Huotari)

A shrine beneath a vivid sky
As sharp as broken glass,
Stands silent on a sunlit shore
Immune to seasons' change,
And footprints in its shadow lie,
All 'round its gleaming mass,
Imprinted there forever more,
Where none would think it strange.

Where wave will never wash away,
Where wind will never blow,
A precious jewel of history
Beyond our reverent reach,
So that our children's children may
Look back on us, and know
Our hungering for mystery,
Our legacy to each.

First footsteps in a brand new land
Too vast to comprehend,
Impressed in soil and soul, our claim
Recorded and enshrined,
And writ that all may understand,
Upon the altar's end,
These ringing words of hope: "We came
In peace for all Mankind."

This symbol on a blazing plain,
Beneath a crescent Earth,
A guiding beacon shall become
To every human mind.
And when we need no more remain
Upon our world of birth,
We'll say to those we meet: 'We come
In peace to All we find.'●

CIRCLES OF POISON

● Mr. PRYOR. Mr. President, Circle of poison has been an issue of lengthy debate and increasing scrutiny. It is a serious and contemporary issue that should not wait for any lengthy period of time before this body reaches a point of finality in its decision as to how we should resolve the differences that separate opposing sides of this matter.

Both the House and Senate Agriculture Committees have made gallant efforts to make a decision on how to break this circle. During the farm bill conference it was decided that consumers would best be served if more time was alloted for study of this issue. We reached this decision due to informative and impassioned arguments from several of our colleagues, especially chairman PATRICK LEAHY and Congressman PAT ROBERTS. I fully support this move.

As we continue to address the best way to resolve this contentious issue, I believe each of my colleagues and their staffs should open themselves to as much information as possible. I have a presentation from one of the most learned scholars on this subject, and would feel negligent if I did not offer it to this body for review and future use. Dr. Terry Lavy is a pesticide chemist and a professor at the University of Arkansas. Also, he is the director of the pesticide residue laboratory at the University of Arkansas. He is widely renowned in these fields, and his reputation precedes him wherever he travels. I hope you will find this interesting and helpful. I certainly have.

The presentation follows:

LET'S TAKE A GOOD LOOK BEFORE WE LEAP IMPORTANT PERSPECTIVES ON THE PESTICIDE ISSUE

(By Prof. Terry L. Lavy)

It is vital that no one minimize the importance of the decisions being made in this session of Congress with respect to policies on pesticide use and public perception of pesticides. As a University Professor with 28 years of experience in the scientific arena, I would be remiss in my duties if I did not share some of my research findings with you and the urgent concern that I have with respect to the direction some of our major legislation on pesticide matters may be about to take.

As a father of three, grandfather of four, and a nature enthusiast, I would have a difficult time living with myself if I felt that the following ideas and information that I am about to present, would in any way, lead to the deterioration of our environment or result in present or future adverse health effects on any human. It is my intent to present some of my research findings which appear to contrast significantly with what is so commonly portrayed in the popular press today. Although I have won national awards, authored a book and many scientific journal publications, seldom have my findings made exciting enough reading to merit publication in the national popular press.

I would be pleased to think that some of my research or that of my colleagues has assisted the American farmer in becoming the most efficient producer this world has ever experienced. What concerns me at this time is the possibility that we may be about to incur legislation and regulations that will take away this competitive advantage and at the same time put the American consumers in a position where they will be forced to pay exorbitant food prices for food of inferior quality.

The driving force that compels me to put this into writing is my interpretation of the results that I have gained from conducting research on pesticide residues for the past 28 years, the data I have collected while conducting pesticide applicator exposure studies over the past 12 years and my experience monitoring pesticides in ground water for the past 5 years. The popular concept that, as a result of the use of agricultural pesticides one should expect human health problems and a contaminated environment, is contrary to my findings and those of many other researchers working on the environmental fate of pesticides. It is my firm conviction that most researchers walking in my shoes would have formed conclusions similar to mine.

With the sophisticated analytical equipment available to researchers today, it is far easier to isolate and identify trace levels of pesticides than it is to understand the significance of those findings. If the trace level of pesticide occasionally found in water, soil, on food, or excreted from the body of exposed workers was resulting in sickness or presented a true health threat to a human, or posed a threat to the environment, then I would strongly recommend measures to eliminate the use of that pesticide.

Unfortunately the majority of the pesticides being lost or canceled today is the result of an ultra-restrictive atmosphere brought about by phobias regarding pesticides in general. It is important that Congress, EPA, and the concerned public be more informed concerning pesticide toxicity. All should know that the toxicity levels of different pesticides vary markedly and that both the toxicity of the pesticide and the extent of its dose govern any potential adverse health or environmental effects which may occur. It is ironic that the country that has been the real leader in the development, manufacture and use of pesticides and the country with the safest and most ample food supply in the world is now nearly ready to force a mass exodus of pesticide research and development from this country. It is important to take a close look at the data and interpretations responsible for the rigorous new re-registration requirements which have caused manufacturers to voluntarily remove their products from the marketplace. As the IR-4 liaison director for the State of Arkansas, I am shocked to see the loss of large numbers of pesticides which were only a short while ago available to those producing the food for the U.S. consumer. With the current restrictions in place, too many of the manufacturers of pesticides for the minor use crops (namely the fruits and vegetables that we have grown accustomed to consuming) are no longer seeking registration due to the high costs associated with the new regulations. When weighed against the limited returns they may expect from selling the relatively low amounts of these pesticides required for the production of food for humans, these manufacturers have deemed that efforts on their part would not be cost effective. It is essential that all understand that it is not the manufacturers who will be encountering the major loss, rather it is the American vegetable and fruit consumer. There is no evidence showing that the food safety guidelines governing pesticides which have been in place during the past 20 years have been detrimental to the health of the consuming public. Not only are we living longer, but incidences of cancer, with the major exception of lung cancer attributable to tobacco, have decreased. It is important to note that the use of pesticides has continued to increase during this period of time. One must question the wisdom of enacting extreme restrictive legislation just because it is currently the popular thing to do. Only when it can be scientifically shown that *real* adverse health effects are occurring due to the prescribed use of pesticides should changes in regulations be initiated.

Pesticide phobia and popularity at the polls seem to have replaced the quest for scientific information in the minds of too many influential people. If pesticides have and are causing health problems, it is our duty to remedy this situation. If not, we should carefully weigh the facts and consider whether we are prepared to have other countries whose workers are less knowledgeable about the proper use of pesticides producing our vegetables and fruit. The most logical location for the new production areas would be Mexico and Central America. The use of insecticides most probably would need to be increased due to the warmer temperatures which are more conducive to insect activity. Since we would have less control over the choice and amount of pesticide used, increased testing of the fresh produce would be required if we wish to know the pesticide levels in the fresh produce. It would be a gigantic task, if not an impossible one, to sample the fresh fruit and vegetables, have them extracted, and the materials quantified and identified in time to keep them off the market in case they are shown to contain a pesticide at a level above the tolerance limit. It is time we take a good look at our present method of operation and see if we really want to try to fix something that is not broken. It is time we create an economic and regulatory atmosphere which both allows and encourages the continued research, production and use of pesticides in the United States.

As a university researcher, over 96% of my research support has come from the public sector; my duties require that my publications reflect the results of my research findings regardless to whether these are positive or negative with respect to pesticides. As director of the pesticide residue research program at the University of Arkansas my research is designed to address potential problems associated with the use or misuse of pesticides.

In 1978 my laboratory was selected to conduct a research project in which we were to measure the extent of exposure occurring to workers whose duty required them to apply 2,4,5-T in the forest. We were selected since we had no vested interest in the outcome of the study, had the personnel required, and were equipped to analyze the samples. During the past 12 years our laboratory has conducted 12 different pesticide exposure studies with grant funds in excess of $1,000,000. None of this funding has come from any chemical manufacturer. More than 20 different pesticides have been included in these pesticide worker exposure studies that we have been asked to conduct.

Before we enter into a new study we routinely request EPA personnel to evaluate our protocols prior to initiating the study. In developing the protocol I have been fortunate to have excellent input from experts in academia, the regulatory arena as well as toxicologists and researchers from industry. Perhaps the unique feature of our research is the fact that we base our findings almost solely on absorbed dose data which we obtain from analyzing urine samples of potentially exposed workers. We feel it essential to make a total, complete urine collection from each worker prior to, during exposure and for at least four days following the

potential day of exposure. Since we deem it critical that only those workers normally engaged in the pesticide application process be a part of the field monitoring study, the research team goes to the field and collects the samples while the crews are performing their normal activities. Each worker is provided a new urine collection container daily and provided cash incentives for cooperating in proving the total sample. To ensure that no unexplained degradation can occur in samples prior to consequent analysis in the laboratory, blind fortified samples are prepared in the field. The analyst does not know in advance which are the fortified samples.

A typical detection limit for the parent compound or the urinary metabolite excreted is 10 to 100 g/ml as determined by gas chromatographic analysis.

Since pesticide applicators receive more exposure than all other workers, with the possible exception of those in the manufacturing plant, we have thus studied that group in society most likely to have received health threatening amounts of pesticide. In none of these 12 studies involving over 250 pesticide workers have we found a worker who has received a dose nearing a health-threatening level. The amount of pesticide received by a person who ingested a trace amount of pesticide in food or water is far less than the amount absorbed by the most heavily exposed workers.

Our studies have focused on measuring the amount of pesticide actually entering the body since the amount deposited on clothing or that remaining on the outside of the body has no effect on human health. We speak of this amount entering the body as the absorbed dose.

This next point in this discussion is perhaps the most important! My studies show that pesticides and/or their metabolites are readily excreted from humans via urine, and there is no evidence that they build up in the body. Unlike the earlier generation of chlorinated hydrocarbon insecticides which were deposited in fatty tissues of animals, all of the 11 pesticides evaluated in our human exposure studies have been found to be readily excreted in urine (see Table 1 for details).

Urinary excretion of the pesticide or its metabolite occurs readily and provides a convenient means of assessing the extent of exposure, if any, which has occurred. Results obtained from animal feeding trials or human volunteer studies provide information which allows us to evaluate the significance of the absorbed dose. By comparing the amount of the absorbed dose with data gathered from long-term animal feeding studies which establish No Observed Effect Levels (NOEL), it is possible to calculate the margin of safety associated with some workers applying the pesticide. The rate at which pesticides are excreted in urine from humans seems to parallel that observed by humans who consume asparagus, as evidenced by the smell of asparagine in urine within 60 minutes after eating it.

Scientists will never be able to effectively counter claims that "long-term effects of pesticide use are not known." The same claim can be made for chewing bubble gum, consuming beverages sweetened with saccharine, sunbathing, drinking chlorinated water, or eating peanut butter. Although in this country we have many freedoms, it is not possible to thoroughly evaluate the long-term effects of any one component since we do not pen humans up and feed them one diet for extended periods and carefully monitor all possible health effects.

It is essential that I state that I believe there are some real environmental-health issues that should be addressed. Disposal of toxic wastes, air pollution and the proper disposal of nuclear wastes are legitimate issues that merit the attention of congressmen, regulators, researchers and the public. We must permit our limited financial resources to be directed towards these real health issues. Evidence linking pesticides, when used at label recommended rates to human health problems is sparse to non-existent. The concept "if we are to err, let us err on the side of safety" when taken to extremes could play a major role in converting a once affluent society into a second-rate nation. It is difficult to know exactly how much testing is really necessary to protect human health without forcing an excessive burden ultimately on the U.S. taxpayer.

The recent statement by EPA which downgrades the potential health threat of asbestos to humans, vividly illustrates the need for enhanced scientific verification of items related to health. The millions of dollars spent on removing asbestos from schools and other public places could have been much more wisely spent. It is important to cry wolf only when there is a wolf. With respect to pesticides, it appears that we have become so enchanted with the thought of crying wolf that we are willing to undermine the economy of our country by making it impossible in the United States to continue producing the variety, quality, and quantity of food that we have in the past. In the absence of legal pesticides, food production, consumption practices and food prices would take on a new dimension in the United States. Before it is too late, let us all hope that informed citizens and legislators learn the real facts. It is important that scientific evidence be used to evaluate pesticides, their benefits and the misconceptions associated with occasionally finding trace levels in food or water.

Although I do not advocate the intentional consumption of pesticides, based on the results of my findings it is comforting to realize that our bodies have the capability to readily and quantitatively excrete them whether they enter as a result of our occupation or if we would happen to ingest them.

A supplement follows which contains toxicological information on some of the pesticides on which I have measured absorbed dose data for pesticide workers. Since the information is somewhat more technical than that in the preceding section, I have included it for those desiring some more specifics on the information presented above. Following the technical supplement is a discussion of the current state-of-the-art methodology and the implications associated with conducting pesticide applicator exposure studies involving humans.

* * * * *

TECHNICAL SUPPLEMENT

The common and technical names of the pesticides included in our worker exposure studies are listed in Table 1. Also included is the No Observed Effect Level (NOEL), the LD_{50} value and a listing of the margins of safety for the most highly exposed worker in each of the studies.

TABLE 1

Name		NOEL (mg/kg)	LD_{50} [1] (mg/kg)	Margin of Safety NOEL (mg/kg) absorbed dose (mg/kg)
Common	Technical			
2,4,5–T	2,4,5–T	[2] 20 (4)	300 (5)	[3] 322 (4)
2,4–D	2,4–D	24 (6)	375 (7)	[3] 272 (6)
Tordon	picloram	50 (6)	8,200 (5)	[3] 285 (6)
2,4–DP	dichlorprop	24 (6)	1,960 (5)	[3] 46,351 (6)
Benlate	benomyl	12.5 (7)	10,000 (7)	[4] 80,000 (8)
Modown	bifenox	12.5 (7)	6,400 (7)	[4] 5,070 (8)
Sevin	carbaryl	10.0 (7)	270 (7)	[4] 3,770 (8)
Captan	captan	25.0 (7)	9,000 (7)	[5] 0 (8)
Dursban	chlorpyrifos	0.3 (7)	137 (7)	[5] 0 (8)
Pydrin	fenvalerate	1.5 (7)	1,000 (7)	[5] 0 (8)
Roundup	glyphosate	30.0 (7)	4,320 (7)	[5] 0 (8)

[1] Acute oral rat study.
[2] Numbers in parentheses refer to references.
[3] This worst-case calculation assumes that the worker receives the same highest one day absorbed dose, each day of the year.
[4] This margin of safety calculation was based on the assumption that for each positive sample the worker had the potential for exposure over a 12-day period.
[5] No absorbed dose was found for any worker during an eleven-month worker exposure study.

In the case of 2,4–D, as shown in Table 1 the most highly exposed worker could have received an absorbed dose 272 times higher, before he would have received enough 2,4–D to reach the No Observed Effect Level as determined by long-term rate feeding trials in which the animal is fed that amount of pesticide daily. This margin of safety calculation is a worse-case situation since the worker receives exposure for only a limited time each year. For the compounds Captan, Dursban, Pydrin, and Roundup none of these materials or their metabolites were found in any of the over 1000 urine samples tested. Thus their margins of safety calculate out to be infinity since the denominator in the equation (absorbed dose) was 0. It was interesting that no Roundup was excreted in urine since gauze sample patches attached to the clothing of these workers contained significant amounts of Roundup. These urinary excretion values for Roundup are consistent with values observed in monkey exposure studies conducted by other researchers (1), in which applications made to the skin of monkeys showed that this herbicide has almost no ability to penetrate skin. Previous studies, primarily evaluating phenoxy compounds, showed that essentially all of these materials which enter the body, enter via the skin and not as a result of breathing vapors (2). Pharmacokinetic studies reveal that over 97% of the phenoxy herbicides absorbed into the body are excreted in urine within 7 days (3). The remaining portion appears to continue to be excreted at a similar rate.

IMPLICATIONS ASSOCIATED WITH CONDUCTING EXPOSURE STUDIES

Research involving human exposure studies has been interesting, stimulating, and challenging. One of the intriguing portions of my work has been the extreme interest shown by the media when they first learn of my studies. After it becomes clear that the results indicate no potential health effects, this interest fades. As I have indicated earlier, it was and is my intent to publish whatever results my findings show. What we have is a good news story which shows that human body can receive some pesticide exposure without suffering health effects since these materials are readily excreted via urine or feces.

Before I leave the impression that we have all of the answers with respect to the significance of the pesticide exposure, it is important that I clarify that point. In my

opinion there are some major data gaps that should be closed before we can fully interpret some of the data that I have collected. Specifically, the fact that we do not know the total fate and excretion pathways for many pesticides makes it difficult to quantitate the total dose received. For picloram and the phenoxy compounds, some excellent data have been obtained by feeding known amounts of low concentrations of these compounds to human volunteers and following their excretion pathways and kinetics. However, for 5 of the last 7 pesticides listed on Table 1, only data from sensitive test animals were available for calculations to quantify the amount of pesticide absorbed, as measured by urinary excretion. In the absence of human data, mass balance data from rat and other animal studies must be used to provide information regarding what percentage of the absorbed dose is excreted in urine.

Too large a portion of the research budget in the pesticide exposure area in recent years has been used to fund studies of a repetitive nature in which evaluation of the deposition of pesticides on patches or other parts of the body is the primary issue. In my opinion, EPA, FDA, NIH, CDC, and other agencies should place a much higher emphasis on funding studies which will definitively show the amount of pesticide entering the bodies of humans, determine the metabolic and excretion pathways, and ultimately, determine the health significance of these amounts which enter the body. Without this information one must continue to speculate about pesticide effects.

I realize it is much easier to make these requests than it is to conduct research of this nature. Legal implications and social attitudes make these research ventures difficult. Among possible alternatives, we may have the following options: (A) Animal studies can help provide some answers, but the argument can always be made that humans and other animals are not the same. (B) We could allow fear of pesticides to result in tighter restrictions on them, eventually resulting in a total ban. (C) Legislative exemptions could be made which would allow well-planned studies involving volunteers and low levels of pesticides to be conducted without fear of legal repercussions. Options A and C are the ones that should be considered.

There is much talk and a considerable amount of fear associated with exposure or potential exposure to pesticides, but there is a very important piece of information that seldom receives much attention. The biggest study in our history continues to go on every year in our farm communities. The pesticide materials that many people fear that they may be receiving in trace amounts, in food or water, are routinely being used in large quantities by pesticide applicators, farm workers and others associated with the agricultural community. What we are seeing is a success story! Very seldom are humans affected by using these pesticides when used according to label instructions, despite the fact that we know that this group of workers who mix and apply pesticides receive a much higher dose than others in our society. While conducting 12 exposure studies over the past 12 years involving over 250 people, I did not see or hear of any of these workers becoming ill due to the use of these materials. I am aware that some individuals are more sensitive to pesticides than are other people. The same statement can also be made for other items such as ragweed, antibiotics, cosmetics, or poison ivy.

If and when biological control measures are developed which can replace synthetic pesticides, this option should be considered. In the meantime, it is essential that the best science be used to provide answers that can allow us to maintain our ample high quality food supply, a good economic climate, and a protected environment and at the same time provide some clear answers to those who fear that pesticides may be harmful to their health. The results of my research, my awareness of hundreds to thousands of healthy farm workers and pesticide applicators who have used pesticides for 20 to 30 years with no known adverse health effects, and a knowledge of the literature regarding the type of information remove my fear of pesticides to human health—when these materials are used according to label instructions.

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FORT COLLINS RE-LEAF PROGRAM

● Mr. WIRTH. Mr. President, I am pleased to have the opportunity to share with my colleagues a unique and promising tree planting program taking place in Colorado. The Fort Collins Re-Leaf Program allows individuals to sponsor trees to be planted throughout the city.

As you know, trees not only enhance the beauty of our communities, they form a vital link in the environmental systems that sustain us. Trees are not simply a desirable addition to the landscape but a necessary element in nature's ecosystems. They absorb carbon dioxide from our atmosphere, which helps in the fight against air pollution and global warming.

The Fort Collins Re-Leaf is an urban forestry group drawing together land resources. Working closely with the city of Fort Collins Forestry Department, tree nurseries, local residents and organizations, Fort Collins Re-Leaf is dedicated to getting trees planted. A $5 donation to this worthy cause allows volunteers to plant one tree in Fort Collins.

With the help of this group 10,000 trees will be planted in Fort Collins over the next 3 years. Mr. President, I would like to commend Fort Collins Re-Leaf for its effort and promotion of tree planting.●

REPRESENTATIVE TONY HALL CARRIES ON THE LELAND TRADITION

● Mr. DURENBERGER. Mr. President, I was pleased to read an article the other day in Roll Call about the work my friend and colleague, TONY HALL, has done over the past year as he succeeded Representative Mickey Leland who died in a tragic plane crash on August 7, 1989, as chairman of the House Select Committee on Hunger.

I have had the pleasure of getting to know TONY through our weekly prayer breakfasts meetings and on a trip he and I and several others took last August to the Middle East and parts of Asia and Africa. On this trip, we met with government and religious leaders on an informal basis in an effort to learn more about their countries and to build personal relationships that might later lead to enhanced economic and political relations.

From country to country, from Syria to Pakistan, Nepal to India, we took away impressions of the nations we visited. The most dramatic impression made upon me during my trip was the poverty that still exists in almost all of the countries we visited. In fact, our group traveled to two of the five poorest countries in the world—Nepal and Bangladesh—nations with per capita GNP's under $200 a year.

So I was happy to read that TONY has been able to take what he learned from that trip and from many other contacts with poverty and hunger around the world and turn that into action through his work as chairman of the Select Committee on Hunger. And I commend him on stepping into the shoes of the late chairman and using his skills and experience to move forward in ending world hunger.

Mr. President, I ask that the text of the Roll Call article be printed in the RECORD following my remarks.

The article follows:

[From Roll Call, Sept. 27, 1990]

WITH DIFFERENT STYLE, HALL PURSUES SAME GOAL AS LELAND IN A YEAR AT HEAD OF HUNGER PANEL

By Karen Foerstel

Tomorrow marks the one-year anniversary of Rep. Tony Hall's (D-Ohio) ascension to the chair of the House Select Committee

on Hunger. Hall, who had headed the committee's international task force, succeeded Rep. Mickey Leland (D-Texas) who, along with three staffers, died in a tragic plane crash on Aug. 7 during a relief mission to Ethiopia.

Since, in the minds of many, Leland and the committee were one and the same, it's fair to ask how the panel has fared in his absence.

Members and staffers agree that the past 12 months have brought more success than was ever expected.

"Mickey would be very pleased with what we have done this year," said Rep. Doug Bereuter (R-Neb), who has served on the committee since it was first established in 1984. "Even though his leadership was sorely missed, his death created an added stimulus that we continue his cause."

Tony Gambino, director of the panel's international task force, agreed.

"At the very least, we wanted to go out and work twice as hard," Gambino said. "Leland's death happened over recess when there wasn't a lot to do. Having to come to work during that period, for me, that was the worst time of all. I'd look across to the seat where Hugh Johnson [one of the staffers killed in the crash] used to sit.

"But things changed very rapidly once Tony was named chairman," Gambino continued. "The committee is back into full swing. We were ready to go [last] September."

While the Hunger Committee has no formal legislative authority, during this past year it has pushed two freestanding measures through Congress.

One of the committee's bills, the WIC Services Restoration Act, sailed through both houses in just five days. The bill, which restored food allotments for women, infants, and children on the federal nutrition program, was signed by the President just one week later.

The committee was also responsible for a bipartisan resolution, passed by the House last month, which asked both sides in the Angolan civil war to put humanitarian needs above military goals and to provide hunger relief to the starving people of that southern African country. The bill marks one of the few times that Members supporting different factions in the war have united.

The committee's influence was also seen in the 1990 Farm Bill. Panel members sponsored the "Mickey Leland Domestic Hunger Prevention Act." the most significant overhaul of food-stamp policy in a decade, which eventually became part of the House-passed version of the Farm Bill. The Farm Bill is currently in conference.

The committee's success "has gone beyond my expectations," Hall told Roll Call. "The committee has been very aggressive. . . We hit the ground running."

Hall's success as chairman comes, at least in part, from his long tenure on the committee. He also has developed a solid working relationship with the committee's staff—no mean feat considering the dedication of many aides to Leland.

The majority of staffers remained on committee through the transition of power. One major staff change, however, was the departure of the panel's chief of staff, Miranda Katsoyannis, just one day after Hall's succession to chair. Katsoyannis was replaced by Hall's legislative director, Martin Rendon.

Over the past year, Hall has visited Panama and Peru to look at the hunger problems in those countries, but he has not returned to the Ethiopian refugee camps which Leland was visiting when his plane crashed into the side of a mountain.

The reason, said one aide, is that any Congressional trip to Ethiopia, which is in the midst of a civil war, could be used as a political tool by either side of the fighting. Hall, the aide said, has attempted to keep politics out of his work against hunger.

Rep. Leon Panetta (D-Calif), who ranks second in seniority to Hall on the committee, noted that between Leland and Hall "there is a difference in styles. Mickey was much more open in going out into the public. Tony is much more of an individual who works within the institution. He does that effectively because of his membership on the Rules Committee."

Rep. Byron Dorgan (D-ND), who also serves on the committee, agreed that there is a "difference in style, but not so much in results. Mickey was the center of attention. Tony, I think, is quieter," Dorgan said. "But I don't think there's any difference in commitment."

Said Hall: "We're different men, but we shared the same goal. . . . The committee can really fulfill a role in bringing an end to world hunger. We feel we're making a contribution and that gives you joy."●

LETTER FROM TUNISIAN AMBASSADOR

● Mr. BOSCHWITZ. Mr. President, I recently received a letter from the Ambassador of Tunisia in Washington. In his letter, he addresses two issues of concern—the current crisis in the Persian Gulf and an incident involving the arrest of alleged smugglers in Tunisia.

The Government of Tunisia has been a good friend of the United States for nearly 35 years. The Ambassador's letter puts forth an explanation of Tunisia's position on these issues.

The letter follows:

EMBASSY OF TUNISIA,
Washington, DC, October 16, 1990.

Hon. RUDY BOSCHWITZ,
U.S. Senate, Washington, DC.

DEAR SENATOR BOSCHWITZ: The Government of Tunisia is concerned about erroneous characterizations of its views on issues which have appeared in recent reports. I would like to take this opportunity to state clearly for the record my Government's position on these issues.

First, with respect to the Gulf crisis, on August 3, the Government of Tunisia voted for the resolution adopted by the Arab League Foreign Ministers meeting which condemned the Iraqi invasion of Kuwait. The Resolution also called for the immediate withdrawal of Iraqi forces and the return of the status quo in Kuwait as of August 2. The Iraqi invasion and holding of hostages are unacceptable in the Government of Tunisia.

The Government of Tunisia considers itself bound by the Security Council embargo against Iraq and is taking the necessary measures to enforce it, although the cost to the Tunisian economy is in the hundreds of millions of dollars. Included in this estimate are the following:

$30 million worth of goods already purchased by Iraq but not shipped. Most of these items have been manufactured to meet Iraqi specifications and standards and cannot be redirected to other markets:

Export credits to Iraq amount to $75 million, $25 million of which are past due;

Some $225 million in annual trade with Iraq, and $25 million with Kuwait;

A substantial loss of foreign exchange remitted by 5,000 Tunisians working in Kuwait and Iraq; and,

$550 million in Kuwait investments committed to Tunisia, three fifths of which is outstanding. Consequently, a number of projects have been suspended causing losses to hundreds of subcontractors as well as thousands of jobs.

These employment losses are in addition to those incurred by Tunisians returning from Kuwait and Iraq, swelling an already high unemployment rate of 14 percent.

Ultimately, the fear is that the effect of the Gulf crisis on the Tunisian economy will jeopardize the implementation of the Tunisian structural adjustment program embarked upon since 1986 in cooperation with the International Monetary Fund and the World Bank.

The Government of Tunisia respects Saudi Arabia's right, as a sovereign nation, to invite foreign forces to defend its territory but would prefer that this has not happened. While not favoring the introduction of foreign troops in the Gulf, the Government of Tunisia calls for their withdrawal as part of an overall diplomatic resolution of the crisis.

The Government of Tunisia seeks a peaceful settlement of the crisis. The stakes are so high and the consequences of a military conflagration so dire that Tunisia believes that no effort should be spared in exhausting whatever possibilities exist to resolve the crisis diplomatically. To this end President Ben Ali has recently dispatched special envoys to a number of countries, including the United States, to propose a set of ideas.

Tunisia's endeavors are in keeping with and in fulfillment of the principles embodied in the U.N. Security Council Resolution on the crisis. Tunisia considers the Iraqi withdrawal from Kuwait and the release of all hostages to be non-negotiable.

Tunisia and the United States share the common goal of ending the Iraqi occupation of Kuwait and re-establishing Kuwait's sovereignty, although we may differ on the method to achieve such a goal.

Secondly, I would like to clarify the record concerning recent allegations of the mistreatment of Tunisian Jews living in Djerba. On June 12, 1990, twenty nine individuals were arrested for gold and foreign currency smuggling. Of these individuals, five were Tunisian Jews. All arrests were made under a search warrant.

Jews and non-Jews were treated as Tunisians. No distinction was made on the basis of religion. This is important to Tunisia because religious tolerance is a basic belief in the Tunisian society. After being received by President Ben Ali, the Great Rabbi of Tunisia has issued a statement in which he denied the allegations of the mistreatment of Tunisian Jews.

It is also important to note that all the accused smugglers are being treated in accordance with the Tunisian due process and legal system. We pride ourselves on having a free and fair justice system. We remain committed to respecting and implementing the basic principles of human rights. The Government of Tunisia allows independent observers to operate and monitor allegations of human rights abuses. Amnesty Interna-

tional, for example, has had an active office in Tunisia since 1988.

Finally allow me, Senator, to thank you for providing me the opportunity to state my Government's views on these matters. Tunisia and the United States have enjoyed close and friendly relations and a shared commitment to democratic values. We continue to share that commitment and value our relationship with the United States. We do not believe that difference in tactics in the current Gulf crisis should seriously impact on these mutually beneficial ties and we look forward to continuing to have close and friendly relations.

With warm regards.

Sincerely yours,

ABDELAZIZ HAMZAOUI,
Ambassador of Tunisia.●

PRIDE AND PATRIOTISM IN SAUDI ARABIA

● Mr. SIMON. Mr. President, I have received a copy of a remarkable letter, written by a senior airman in Saudi Arabia to the eighth-grade students of Chippewa School in Des Plaines, IL, and sent to me by the students' teacher Jim Sorenson. Because I believe it deserves wider attention, I ask that the complete text be included in the CONGRESSIONAL RECORD.

Senior Airman Fernando Casillas describes in his letter his hopes and concerns and those of his colleagues in the United States Armed Forces in Saudi Arabia. He writes of the injustice of Saddam Hussein's aggression in Kuwait, his pride in role in the multinational efforts to free Kuwait, and his fervent hope that the impasse can be resolved without war. "Peace," he writes, "is the ultimate goal." Mr. President, this eloquent letter is well worth the attention of all the Members of this body as we deliberate on issues that touch on the crisis in the Persian Gulf.

The letter follows:

September 18, 1990.

My Dear friends at Chippewa J.H.:

Hello! My name is Senior Airman Fernando Casillas. Today I received your letters from Des Plaines. Even though they were addressed to the Army boys over here, I am very glad they were given to me. All of you are a great group, and I thank each one of you for including your lines of friendship and true American support. All of you are my new friends.

I am part of Operation Desert Shield with the U.S. Air Force unit of Aerial Refueling KC-135's from Griffiss AFB, New York. I have been here for three weeks now. Other refueling squadrons of stratotankers from all over the U.S. are here also. We, together with other Air Force aircraft units, Navy fighter aircraft, Marine Corps pilots, and Army helicopter units are here to help protect our friends, the Saudi Arabian people and help restore their home land to the Kuwaiti.

It is terribly unfortunate that grown-ups in this world act the way Saddam Hussein has acted. It does nothing but create tension and struggle for many innocent people.

This world is our home and we should always strive to live at peace with one another. When a situation like this crisis occurs, it is only right to help those in need, and I am glad to be a part of the world-wide effort to see this injustice become resolved.

Being in the military is a demanding and sometimes difficult duty, as many of you already know. But, the reward is priceless. Our American veterans, prisoners of past wars, those who have been missing in action, and our brothers, the unknown soldiers have, in days gone by, forged the freedom of our great home, America. They will not have their work, and their fight forgotten. Because we enjoy liberty and peace in the United States, I and my fellow service members continually do our work with much pride and enthusiasm. Helping to preserve our nation's security is an honorable and noble opportunity.

And now the world has looked to us for help. We must set the example. We cannot let this situation go unnoticed, not when the opportunity for every man's freedom still exists. Even though we are in a foreign land, I am glad we are here. Our families and our friends, such as yourselves, all depend on us to do a good job.

The probability of war does exist. War is always a tragic and horrible thing. I would like to see all of us go home soon, every single one of us. Nobody here wants to see the consequence of a battle. We all have people to go home to. It is our job, though, that keeps us here ready to fight a good fight. We have superior weapon technology. Our ground forces can't compare to the enemy's in number, but we are stronger and better. The world knows the calibur of the U.S. Armed Forces has never been better or stronger. But we are praying that none of the United Nations Allies will have to show and prove their strength in war. A solution is more important. Peace is the utmost goal.

That, my friends, is just about how every soldier, marine, seaman, and airman feels about being here. We want to make you proud of us. But we miss home a whole lot! Being away from all of you is tough and your letters help a great deal.

Let's see. Some of you really understand how it is to live out here in the desert. Our friend Amanda Kornacki knows that being away from the family for even a week is not easy. That is most certainly true, Amanda. Thanks for your best wishes!

Jimmy C knows what it's like to have a nice hot day. Pretty rough here, too, but we are getting used used to it slowly. Thanks, partner.

Thirteen year-old Jinay Thomas sends a "thanks" for us being in military. Thank you, J.T. for writing to us!

Lakeita Duncan is one of our many friends praying for us. We want to thank you for remembering us when you talk with God. That is very important. Thanks, Lakeita! We are praying, too.

Ron Magrow says he is lucky to have us protecting him and the U.S. We, too, are fortunate to have Ron write us to say that. See ya soon, Ron!

We all may just show up at Robert Mazur's house for some movies on the VCR he has. We miss catching the latest flick. Thanks for your letter, Robert, and make lots of pop corn, okay?!?

Michelle Marconi tells us that her dad was in the National Guard. She knows what it is like to have someone she loves in the military. Thanks, Michelle, for your letter! We wish that this thing was over, too.

Baseball fan and card collector, Jimmy Lokotkin, hopes there will not be a war. Jimmy, we will do our best to do as President Bush says. We don't want a war either. Keep your chin up, there, sport!

Tracey Owen wonders if we are lonesome. Well Tracey, we have each other. We are all buddies around here, the best team anyone's ever seen. We do miss everyone back home, though. You take care also, Tracey, and thanks for your special letter!

Jim Douvalakis asked if we were scared or nervous. Jim, often we stop and wonder, "How will I perform if I'm needed in battle." We can't help but feel scared sometimes, honestly. But when we are at work and two jets fly by, an American F-16 and a British cargo plane together, we know we are not alone. Thanks for your concern, Jim. We hope everything is well for you, too.

Rosa Tenuta, an 8th grader, at CJH, wonders about the kind of lifestyle in the Middle East. The Arab people are very different from us, Rosa. Their religion and family traditions are old, but very sacred to them. We respect them for their hospitality towards the U.S. military here. They are a gentle, friendly people Thanks for asking Rosa. Best of wishes from us to you!

Gina Linz is an active participator in her class's discussions on the Middle East. It is important, as Gina knows, to learn and communicate knowledge about the current events in today's world happenings. Thanks for your support, Gina! We want to definitely make it home safe!

Bonnie Weber, who recently celebrated her thirteenth birthday, is a social studies student who also likes L.A. as one of her favorite subjects. It is not easy being brave, but knowing people like you, Bonnie, are behind us all the way, then we always do our best. Thanks, Bonnie, for sending your letter!

Our friend Mandy Severson is sorry to hear of the situation over here. Mandy, we just want those people to get their homes back so we can go home, too. Thanks for the nice letter and for thinking about us, Mandy!

Mike Bronillette, who will be a freshman at Main West High next year, and who is proud of his hometown, knows it takes guts to do something difficult like this. This is true. Many people's lives are at stake, so we must be extremely cautious. And that does take guts, Mike. Do well in school there, big guy. Thanks for your letter.

Many of you wrote about the tornadoes that happened near your homes. I read about this in the Stars and Stripes newspaper, an overseas, military periodical. I am very sorry about this incident. It hurt me to know that many died and were injured. I understand it is always difficult losing loved ones, and the immense feeling of helplessness that can overcome you. It is these kinds of occurences that makes us realize just how much we depend and rely upon one another. We will always need each other, just like we needed your letters to help us feel better about being away from home.

I am very proud of all of you at Chippewa Junior High. Just knowing that a special group of young people in Des Plaines, Illinois, are thinking about us, caring about what goes on, and being our friends makes my life as a United States Air Force member much more rewarding.

For all of you who included a home address, I would like to have the chance to respond personally to each of you. I will do that in the following days. I work 12 hours a day and I write letters when I go off-duty. It may take a little while, but I promise to write back.

Oh! I almost forgot! I work on the KC-135 Stratotankers. Those are the refueling planes I told you about. I am an Avionics Systems Repair Specialist. I work on the various electronic systems on board the aircraft of the Strategic Air Command of the 8th Air Force. My regular duty station is at Griffiss AFB in New York, and it is there that I learned to be a technician on flight instruments, flight directors, auto-pilot systems and navigational equipment.

My training base was at Chanute in Rantoul, Illinois, so I am familiar with your home state. I spent the Fourth of July in Chicago in 1987, and I loved the countryside. The sky is its bluest and biggest in Illinois. There's no doubt about that.

Well, kids, I only have a few things I'd like to tell you before I close. Please be good students. I know you already are intelligent, bright, and growing minds just ready to take on the world. For that, I am very proud of you.

Don't forget that education is the most important, vital strength. You will be the leaders of our nation soon, and you will learn about peace and liberty from all of this.

Believe in yourselves. Dreams and goals are always yours for the taking. Take as many as you can hold and make them reality.

Be good students. Teachers are really neat people and they will always show you the right thing. Only students (you guys) work harder than they do.

Be good to one another. We are all on the same team. I'm on your team and all of you are my teammates. Together we will work things out if we help each other.

I would like to visit each of you soon. Maybe we can arrange to meet in the near future. Until then, remember—stay in school. Absolutely no drugs. Drugs are not cool and will only hurt our team.

Thanks again for your letters. Next time you guys write, tell us what you'd like to be someday.

When I finish my tour of duty in the Air Force I am going to be a teacher because I will always need guys like you.

Thanks again. We love you all!

SENIOR AIRMAN FERNANDO CASILLAS

P.S.—Please say "Hi!" to all your families and friends for me!

Sr. A. Fernando Casillas USAF 457699885 Operation Desert Shield General Delivery APO-NY-09854●

USED OIL ENERGY PRODUCTION ACT OF 1990

● Mr. WIRTH. Mr. President, each year an estimated 400 million gallons of used oil are dumped into the Nation's soil and water causing widespread environmental damage. Nearly all of this used oil could be re-refined or reprocessed into fuel or other petroleum products using existing petroleum industry capacity. Such a policy would not only reduce environmental damage, it would strengthen our national energy security by treating what has generally been considered a waste, as a valuable domestic energy resource. Used oil could thus supply the Nation with the equivalent of 10 million barrels of crude oil per year, roughly 1 week's output of the trans-Alaska pipeline.

Congress has long recognized the benefits of the reuse of certain waste materials, including their use for energy production. In 1975, the Congress enacted section 383 of the Energy Policy and Conservation Act (Public Law 94-163) which set forth a Federal policy designed to promote the reuse of used oil. This policy has helped develop fledgling industries in the reuse of used oil. However, significant economic and legal disincentives continue to exist for the expanded reuse of used oil.

First, the economies for used oil are marginal, because the price of the competing resource, crude oil, is subject to wide price swings. Low world crude oil prices have, at times, made the collection and reprocessing of used oil more expensive than producing products from crude oil. This economic uncertainty creates a disincentive to investment in the reuse of used oil—even though these disincentives cost us in terms of energy security and environmental quality.

The second disincentive to the reuse of used oil is a consequence of the fact that the Administrator of the Environmental Protection Agency is currently authorized to list used oil as a hazardous waste. Such an action would completely alter the regulatory framework governing the reuse of used oil and would open the entire used oil collection and reprocessing system to the legal liabilities set forth in the Solid Waste Disposal Act. Because of this possibility, business is understandably reluctant to invest in the collection and reuse of used oil. I understand that this is a controversial issue, but the record is clear—listing could deter our efforts to collect used oil.

In an effort to reduce these disincentives, the Committee on Energy and Natural Resources unanimously reported S. 2923, the Used Oil Energy Production Act of 1990, on September 28, 1990. It had been my hope that the Congress would be able to quickly adopt a policy of treating used oil as an energy resource, instead of a waste, and thereby increase our domestic energy supplies. The deployment of troops to Saudi Arabia gives an urgency to the implementation of such a policy.

The environmental benefits of such a policy are also compelling. By treating used oil as an energy resource, the Nation's petroleum industry would have an incentive to go out and collect the used oil that now contaminates our soil and water. By declaring used oil to be an energy resource, powerful market forces would be harnessed to respond to two important national objectives, energy security and environmental quality.

Unfortunately, yet understandably, the chairman of the Committee on Environment and Public Works wrote to the chairman of the Committee on Energy and Natural Resources to request sequential referral of this legislation, and to suggest that any action regarding used oil be made within the context of the Environment Committee's consideration of the Resource Conservation and Recovery Act [RCRA], next year.

I believe that we can work together to implement a policy of treating used oil as an energy resource, instead of a waste, without a great deal of complication. The situation, and the opportunity, presented by used oil is fundamentally different than that of other wastes. Used oil is generated by virtually every household in the Nation, and it has an energy value as high as, or higher, than crude oil.

I am pleased that staff from the Energy and Environment Committees have expressed a desire to work together, and to work swiftly to consider this issue next year—either as part of RCRA or independently if possible.

The issue of used oil is significantly different from other RCRA issues, and used oil offers unique opportunities to the Nation. I look forward to working with the Environment Committee on this issue. I recognize their expertise and encourage their contributions. However, it is my hope that we can fashion a proposal built around the idea of harnessing market forces to bring stable progress to our efforts to reuse used oil.

Mr. President, I believe the approach taken by S. 2923 to promote the reuse of used oil is good public policy. It is an initiative that should no longer be delayed. I plan to push this legislation again next year and I look forward to the support and contributions of all my colleagues, especially those on the Environment Committee.●

EMPLOYMENT SECURITY REFORM

● Mr. GRAHAM. Mr. President, it is my intention during the 102d Congress to introduce legislation to ensure the stability and effectiveness of the Federal-State employment security system. I would like to give my colleagues a little background on this proposal and invite their comments during the months ahead.

The legislation is based on principles adopted by the National Governors' Association and unanimously endorsed by the Governors in August 1988. The primary goal is to make urgently needed reforms to the Nation's unemployment insurance and employment service programs.

Employment security programs are powerful tools for helping employers and workers adapt to a rapidly changing workplace. These programs serve as an integral part of the Nation's

strategy for maintaining a skilled and productive work force.

Groups in which we have traditionally underinvested—minorities and women—are occupying an increasing share of the labor force, and, in fact, will be a majority of new entrants. We are experiencing a tighter labor market, and in many places, serious labor shortages. We must work to find quality jobs for our jobseekers and unemployed workers.

A strong employment security program will play a vital role in this effort. It is the only system that links all employment and training organizations, serves all populations, and promotes community economic development, while assisting individual workers.

This legislation is particularly important to me, as I am sure it will be to my 16 colleagues who are also former Governors. During my 8 years as Governor of Florida, I experienced firsthand the frustration of trying to run an employment security system with dwindling funds, while at the same time, knowing that employers in Florida were paying more than their fair share to ensure that we had adequate resources to run quality programs.

Firms in all of our States pay a special tax exclusively for the purpose of funding the operation of the unemployment insurance and employment service programs. As such, they expect States to efficiently pay unemployment benefits to laid-off workers, and to help facilitate a labor exchange. Yet, a large portion of the revenues accumulating from that tax remain in the U.S. Treasury and are not being used for the purpose for which they were collected.

Let me describe briefly the way this is affecting Florida. Since 1980, the number of businesses paying unemployment compensation taxes has increased by 48 percent. These firms are also, of course, eligible to receive services through the Job Service. This year, Florida will be providing unemployment compensation benefits to approximately one half million people, nearly 60 percent more than 10 years ago. All of these increases are inevitable for a State whose population has grown by 35 percent, according to preliminary census estimates.

Meanwhile, during the same 10 year period, funds to operate our employment security programs have not even kept pace with inflation, much less with the phenomenal growth in population. In 1987, Florida employers contributed nearly $160 million to finance administritive costs and the State received back only $65 million for this purpose; in 1988, they paid $169 million in unemployment taxes, but the State received back only $70 million.

Clearly no State can expect there to be a 100 percent correlation between what its employers pay and what it receives back in its allocation; such would undermine the insurance aspect of our system.

But the enormous discrepancy in Florida, and in most other States is unfair to both workers and employers, particularly in light of the surpluses in the dedicated trust fund.

The effect on other States is no less dramatic, and in fact, came to a head last year when unemployment rates increased beyond a level for which there was money for the States to effectively provide services to workers. Although there was an anticipated $1.76 billion surplus in the trust fund created exclusively to pay for the operation of employment security programs, the President did not request a supplemental appropriation to accommodate the shortfall of $90 million.

In the end, the Congress did enact a supplemental, as we have done repeatedly during the past decade, but these shortfalls are bound to persist as long as there is no effective link between unemployment levels and allocations to States. And relying on supplementals is not an effective or reliable way to ensure that the system can respond to fluctuations in unemployment levels.

In fact, we are, at this moment, experiencing the problem again for fiscal year 1991. When the President submitted this budget request in January, he estimated that the unemployment rate would be 5.3 percent; his budget request for employment security reflected that assumption. During his July midsession review, he revised the number up to 5.7 percent, and correspondingly, revised his budget request by nearly $91 million.

The recently enacted budget resolution is based on an even higher level of unemployment—6.1 percent—and the shortfall is estimated to be closer to $180 million for next year. Florida will be nearly $5 million short, and all of the States will suffer to some extent.

Without additional money to pay for processing higher levels of unemployment, offices across the country will shut down, workers will have to travel great distances to claim their unemployment benefits, and they will face significant delays.

Meanwhile, the Department of Labor predicts that the balance in the employment security administrative account alone, will be more than $3 billion at the end of fiscal year 1991. The Secretary anticipates a total of nearly $17 billion in the three Federal employment security accounts.

Essentially, what my bill does is to:

Guarantee that States will have adequate funds to provide services to unemployed workers, and individuals seeking employment. I propose to reform the administrative financing of the employment security system by ensuring that 90 percent of the funds employers pay exclusively to financing the operation of these programs, is returned to the States, and that 10 percent is allocated to the Department of Labor. Further, the bill establishes that each State will receive the higher of 80 percent of the amount its employers paid in employment security taxes, or the amount the State received in moneys to operate the programs for ES and UI during a base year, indexed for inflationary increases.

Identify core services—assessment, placement assistance, referral, information services, and temporary income maintenance—that employment security programs across the country should provide to unemployed workers and other job seekers.

Enhance opportunities for States to more effectively coordinate their employment insurance programs.

With this legislation, public employment programs throughout this Nation will be able to count on consistent and equitable funding to provide services to unemployed workers and Governors will have the flexibility to design and implement economic security programs that address State-specific situations.

At the same time, the legislation preserves the Federal-State partnership that presently exists, and is the basis of our country's safety net for unemployed workers.

The legislation I plan to offer is one way to address the problems plaguing the employment security system. I know there are other proposals on the table which utilize different mechanisms to achieve the same goals. I hope, over the next couple of months, to work with business and organized labor representatives, with the Governors and other State leaders, and with my colleagues here in the Senate to determine the best way to achieve our shared goal of ensuring that the employment security system is better equipped to meet the labor market realities of the 1990's and beyond.

I encourage my colleagues to work with me on this vital reform effort.●

H.R. 3386, THE SANITARY TRANSPORTATION OF FOOD ACT

● Mr. GORTON. Mr. President, it is with the greatest pleasure that I lend my wholehearted support to the Sanitary Transportation of Food Act. This vital legislation, which passed the House on Monday, is based upon my bill, S. 1751, introduced last year. My legislation was created in response to news reports of disgusting practices detailing unsanitary food transportation.

I would like to thank my constituents Jim and Rikki Pomerenke of Yakima and Sharon Sonner and Dave Helzer, formerly of Yakima, and now

residing in Hermiston, OR, for their courage in coming forward and sharing their experiences in the trucking industry with the public. I also would like to thank James Wallace of the Seattle Post-Intelligencer for his superb reporting of these practices. Together, they told a tale which was hard to believe. Dangerous liquid chemicals were being routinely hauled in the same tank truck which later carried edible liquids such as fruit juices. Often, the tank truck was not even cleaned between loads. Even more difficult to believe was that this practice was legal. My first reaction after reading this article was the same as every other person's I later talked with—there should be a law against such a dangerous, disgusting, and unhealthy practice. Fortunately, Mr. President, there now soon will be.

I also want to thank my good friend in the House, Congressman CLINGER who first introduced the House companion bill on this subject. Congressman CLINGER deserves our gratitude for moving this bill so quickly through the House and for focusing our attention on a closely related transportation practice addressed in this legislation. The bill not only pertains to the transportation of liquid foods in tank trucks but also to all foods that could potentially be at risk from food trucks which also haul garbage.

My thanks also are extended to Senator GORE who introduced a related bill in the Senate and to Senator EXON, the chairman of the Surface Transportation Subcommittee. Without the support and bipartisan cooperation from both of these gentleman, this legislation would not be ready for the President's approval. Mr. President, today marks an important chapter in our efforts to ensure that America's food supply is the safest in the world. I am delighted to have played a role in this regard.●

LINKING ISRAEL TO IRAQ IS WRONG

● Mr. BOND. Mr. President, for the past 2 months we have seen Saddam Hussein do his best to draw Israel into the gulf crisis—to link the invasion of Kuwait with the occupied territories, and to lay the blame for his heinous acts at the feet of the Israelis.

Though it is clear there is absolutely no factual base for the argument that Israel is somehow to blame for a disagreement between two Arab nations, there appear to be some willing to accept this view. As I have said many times—on this floor and elsewhere—we must not let Saddam achieve his goal. He must not be allowed to escape responsibility for his crimes. Unfortunately, much of the media and many political leaders have fallen into Saddam's trap and have made statements which appear to legitimize the linkage.

Yesterday I came across an article in the St. Louis Post-Dispatch which sheds some light on this issue and makes some points all of us should note. It was written by my good friend Stuart Raskas, a past president of the St. Louis chapter of the Anti-Defamation League of B'nai B'rith and a current commissioner of the national organization. Stuart has devoted a substantial amount of time over the years to studying Middle East issues and he brings an experienced viewpoint to the issue. I hope all of my colleagues will read this article.

I ask that immediately following my remarks, the article "Linking Israel to Iraq Is Wrong," be introduced in the RECORD.

The article follows:

[From the St. Louis Post-Dispatch, Oct. 18, 1990]

LINKING ISRAEL TO IRAQ IS WRONG

(By Stuart Raskas)

An incredible miscalculation of logic and ignoring of history appears to be taking place in the Middle East. The administration, the British foreign secretary and President Francois Mitterrand of France seem to be drawn to the insulting demands of Iraqi leader Saddam Hussein that any consideration of his withdrawing from Kuwait be linked to Israel and the Palestinians.

Who are we dealing with and how stupid can we get? There appears to be total ignorance of the first part and no limit to the second.

Who are our friends? Is it the regime of Saddam Hussein, who has gassed hundreds of his own citizens to death, butchered his own relatives whom he believed opposed him and whose troops tossed newborn babies in Kuwait on hospital floors to die so their incubators could be shipped to Iraq?

Maybe it is President Hafeza Assad of Syria, who has trained and harbored terrorists, including those responsible for Pan Am 103, and who some eight years ago liquidated more than 15,000 fellow Syrians in the town of Hama who were protesting his policies.

Maybe it is King Hussein, ruler of the fictional area called Jordan created in 1922 by the British Empire as a reward to Hussein's grandfather Abdullah for the Hashemite's help during World War I. This is the same Hussein who in 1970 murdered thousands upon thousands of Palestinians who were living in Jordan and rose against him. We should be aware that more Palestinians are living in Jordan today than any other group.

Maybe our friend is King Fahd of Saudi Arabia, that outstanding liberal head of a large ruling family, which does not allow the official practice of any religion but Islam in its country and holds public beheadings weekly for serious crimes but only limb removal for less serious crimes such as petty theft.

This is the group with whom we are dealing, with whom we are attempting to make peace in our time even if that time may only be 10 minutes. We have Neville Chamberlain to thank for the lesson and ourselves to blame for not learning it.

When the world is starving for leadership, our leaders are following paths that will lead to reward for aggression and feeding the insatiable appetite of diabolical tyrants who would blow away their own brothers with any weapon or chemical or germ at their disposal. This is not cheap verbiage or hypothication—they have already done it and have threatened more. What do we need to have happen to believe—more bombs on commercial airplanes or a missile attack with biological warheads?

To begin speaking of linkage between Iraq's massacre of Kuwait and the Israeli-Palestinian conflict is the start of the most blatant act of scapegoating in modern history. Perhaps when Saddam invaded Kuwait he really did it to rescue the Palestinians in the Gaza Strip. He is such a humanitarian that hundreds of thousands of refugees have fled to Jordan from Kuwait and Iraq, including many fellow Moslems. Those don't include the thousands left behind.

The real reason we have more than 200,000 of our armed forces in Iraq seems to have fallen between the cracks. It is because we need to protect the oil fields of Saudi Arabia and the emirates from being blown up or taken over by Saddam. True, it is in the national interest and the security of the West to protect the flow of oil, but it is also in the interest of the oil companies, which have for decades determined what is in our national interest.

In the middle '80s we were warned of an energy crisis in 1990 or 1991. These forecasters did not specify what would precipitate the crisis—after all, Saddam was still involved in his war with Iran and watching hundreds of thousands of his people being killed in battle, many under the age of 13.

What we should have been doing as a nation since the first crisis in 1973–74 was to have lessened our dependence on oil. This may not have been in the interests of the oil companies, but it certainly would have been in the national interest.

There are meaningful alternatives to our reliance on oil, and we need to be developing these alternatives without dealy. We have waited in the past because of the cost compared to the price of oil. How much more would that cost be than the more than $2 billion a month it is costing to have our troops in the Arabian desert?

Japan and our European allies, who depend on OPEC oil far more than we, should also be willing to participate in a noble attempt to release us from our bondage.

True leadership is rare and takes courage. We need to be strong now to prevent sapping our strength later. Let's hope our leaders have the ability to lead citizens who are fully informed and who will then have the will to bite the bullet temporarily to avoid taking the bullet later.●

STUDENT AMBASSADOR

● Mr. SIMON. Mr. President, recently, Hope Rentschler, the 17-year-old daughter of longtime friends of mine, took a trip to the Soviet Union as one of 30 student ambassadors on a program initiated some years ago by President Dwight D. Eisenhower.

She was there for 3 weeks, and while the observations are not the same as we might get from Henry Kissinger visiting the Soviet Union, they are insights into the daily life of people there.

These kinds of insights are important to understanding people.

I ask to place Hope Rentschler's comments from her journal of the trip to the Soviet Union into the RECORD at this point.

The journal follows:

EXCERPTS FROM A RUSSIAN JOURNAL

(By Hope S. Rentschler)

WEDNESDAY, JULY 18, 1990

Well, here I go! I'm on the plane to Washington, D.C. right now. It was sad leaving Mom and Dad—Mom was a bit teary, as was I. I can't believe I'm finally going after all this preparation. Despite my excitement, I'm kind of looking forward to having gone, and being back from my adventure. There's no doubt about going—it will be a spectacular experience. I am hoping to keep my mind open, and I'm going to really try to pick up as much and as many subtleties as possible about the culture and way of life in Russia. As I've said about a million times in the past few weeks, "It will be especially interesting with all that's going on right now in Russia." I'm so tired of talking, planning, anticipating—I just want to go there!

I'm excited to see Washington. I don't really remember it from my 8th grade trip. Now it's 11:16 p.m., and I'm sitting in my room at George Washington University. I went with Lynette, Julie, and Alissa to the Washington Monument, Vietnam Memorial, etc., and got an MIA bracelet for Lt. (JG) Robert A. Clark. I can't take it off until he is found.

THURSDAY, JULY 19

Up early, listened to two speakers who briefed us on what we could expect in Russia. Went to Capitol Hill to meet and have pictures taken with Congressmen Porter and Crane. We saw just about everything, and then toured the city by bus. It is beautiful. Seeing Congress in session and all the political figures today makes me want to go into politics. Or maybe journalism or communications. My future is all so confusing at this point. I'm excited to get to the USSR. I want to get on with this trip. The people in our group are definitely diverse and interesting. They all seem nice.

FRIDAY-SATURDAY, JULY 20–21—9:30 A.M.

I'm sitting on the floor with about 30 others and many bags in the Frankfurt Airport. I'm so tired and wiped out from lack of sleep. I feel weird being a foreigner here. The Germans can tell instantly if you're American. I think Europeans are fascinating. More subtle and more natural beauty than many Americans. Not as much fakeness with makeup, etc.

We're flying Aeroflot from here to Moscow. Isn't Aeroflot the one that's always hijacked? The flight takes three hours, and they don't serve food and drinks. I'm going to try to sleep the whole time.

We're in Moscow. Flight OK. Got to our hotel by bus. Now I'm in my room with Desiree, my roommate for now. I feel so out of touch. The room is cold and bare, and we share a bathroom with three other girls.

When we arrived, I carried my bag in, set it down, and slumped into a chair. This Russian man came up and yelled at me in Russian, literally pushed me out of my seat, and motioned for me to take my bag somewhere else. It was a bit scary.

The men I've seen so far are very cheesy and make faces and stare at us a lot. Even the guy who checked my passport winked at me. I don't like it.

We ate dinner in the hotel restaurant. There was a stack of hard bread in the center, a pitcher of water, a pot of tea, and these little round fruits that taste like sour plums. For our meal, we had cucumbers, onions, and tomatoes drowning in salad dressing, then white rice, and some sort of chicken-type meat, which I didn't eat.

I just washed some of my clothes in the sink, and they aren't much cleaner, but c'set la vie. The shower has no curtain, which makes for a very wet floor. Life goes on. I'm going to get everything I can out of these next 2½ weeks. We've been travelling for the last 48 hours, and bed feels so good.

SUNDAY, JULY 22

I discovered today my name in Russia is Nadirshta (Nadia for short). That's phonetic spelling. Natasha, who is 23 and attends Moscow State University, was one of our guides on a tour of Moscow. We talked a lot and got along very well. She told me so many fascinating things about Russia and the sights we were seeing. Hopefully, I'll see her again when we return to Moscow for several days at the end of our trip.

We saw such points of interest as the Kremlin, Red Square, and Lenin's tomb.

Now it is 1:05 a.m., and we are on a train to Leningrad. I'm in a compartment with Val, Matt, and Paul.

The Moscow train station smells really bad. I heard there are mites and such creatures skiddling around in the sheets of this bed. Help! Right now I'm having a sinking spell. I miss home lots. Everything here is so different. There's no decoration—everything is bare and plain. It's like one big prison. Well, if anyone ever questions my stamina. . . .

MONDAY, JULY 23

Last night was hell. I didn't sleep much. People drunk and screaming all night. We went first today to the Memorial Cemetery of Leningrad. We participated in a big ceremony honoring all the soldiers who died in World War II, which the Russians call the "patriotic war." There was an eternal flame with flowers around it to honor the dead. The graves were labelled only by year of death (no names), and they were great mounds of grass. I guess they dug huge holes and just dumped in body after body and covered them up. That's so sad. After 600,000 bodies were buried, they ran out of room. In total, about a million died. The Russians give such respect to these types of monuments. Natasha made a good point yesterday. She said she didn't like the way they only honored and focused on dead people and heroes. We do that in America, too. That's kind of sad.

We also went to the Peter & Paul Fortress, but I was so tired. I didn't get much out of it. It had very dark, scary cells to hold criminals. I would hate to be arrested and taken there.

Tonight we went to the ballet, Swan Lake. I liked it once I got into it. Alissa and I are sharing a room, nicer than in Moscow. It's near midnight and still light outside. I wrote 10 postcards. They'll probably arrive long after I'm home, but I feel relieved to get them done.

TUESDAY, JULY 24

Fun day. Went to Petrodvorets, summer home of Peter the Great. Beautiful gardens and fountains. After lunch, we met with the main Council running the City of Leningrad and got to ask questions. They support Boris Yeltsin, as do many Russians. They want to have U.S. friends and pen pals and were very enthusiastic about the USA. Tonight we had free time. We played cards, ate dinner, snacked in the room, and walked around the city. I keep forgetting I'm here. It just doesn't feel like I'm that far away.

WEDNESDAY, JULY 25

We went out with Scott and Seth tonight, two boys I know from school. It was amazing. We met them today at the Hermitage. It was so random! I was walking with our group, and all of a sudden I saw Seth. He screamed out "Hope!" Small world. It was great fun for me. Seth and Scott came back to the hotel, and Alissa and I went out to dinner with them. Mrs. (Barbara J.) Nohr (of Vernon Hills, one of the three teacher/leaders) let us go out. Surprised me, but they said we had been good kids up to now, and they trust us. Scott and Seth are on their own and having such a good time. I miss independence!

THURSDAY, JULY 26

We're sitting here, outside the Leningrad Youth Palace (our hotel), because last night someone broke into one of our caravan buses and stole the mirrors and stuff. The police are here making a report and we have to wait to depart for Novgorod. An hour and a half so far. The bus ride is four to six hours, but we have no plans when we get there, so we're not missing anything. I like our leaders more and more. They trust Alissa and me and think we're responsible.

Russia is a different world—it's so different here. We took a cab to the restaurant last night and the driver was going 120 kph (75 mph) in traffic on the city streets. It was a frightening experience. Back at the hotel. Long bus ride to Novgorod. We waited and waited. If I've learned anything at all so far, it has to be patience! Also, group stuff. Being with a group 24 hours a day is very trying, but I'm getting used to it.

Arrived at the hotel around 9:50 p.m. My room is OK. A TV that doesn't work and three beds, but only one roommate, Julie. That's cool.

Right now, I feel I'll be in Russia for the rest of my life. Thank God I won't! That would be horrible. Leaving America to spend your life in Russia. Yikes! I can't wait to go home, but I'm really glad I came. This is an experience *I'll never forget.* I'm so lucky I live where I do. No matter how things are at home, we'll never live like the people here do. I am so thankful for that. I never thought of it that way, but now I see everything differently. There is so much poverty here—that's all I've seen.

Everyone in cities lives in huge buildings that are so dirty, rundown, and awful. America seems like a royal land compared to this. It makes me mad, though, that we live like we do when there are people living in conditions like these. I wish we could do something about it. Maybe I can . . . we'll see.

All I eat is bread. Seriously, that's it. Actually, at dinner and sometimes lunch there is rice or potatoes, and I like both. Usually some mystery meat, too. I haven't eaten anything colored in so long, except what people brought from home. Time to read.

SATURDAY, JULY 28

I noticed today that women do a large part of the work here. I never really see men doing much of anything, except selling and trading at the Black Market. Women seem to have huge roles in the work that gets done here.

Tonight, some of us went to the "beach" and built a bonfire. It's not really a beach, but there is sand and a river, and it's as close as we're going to get. It was fun. Real togetherness.

SATURDAY, JULY 28

No water this morning, which means no shower. We left for the little town of Valday and arrived in the pouring rain. Alissa and I went into a grocery store. It was dirty, it smelled, there was barely any food, and there were people everywhere. We then went into a store that reeked of fish—yuck. To top it off, we saw a large dead rat at the side of the main street.

At a museum we visited, the guide talked about Russian women and how they were seen in the old days. Beauty focused on their eyes, not their measurements or bodies, as well as what they could do, like how well they could embroider things.

As we waited on our bus, we gave little things to Russian kids. They were like fish at feeding time. They'd swarm at the steps of the bus with their hands up, trying to grab anything we offered—pens, gum, postcards, pins, etc. It was so pitiful. They obviously had almost nothing.

On the "beach" again, we met a little Russian girl named Dasa playing with other Russian kids. She had the bluest eyes and dirtiest little face and clothes. We gave her bread and gum, and I got pictures of her.

As Bill said tonight, "Now I know why people pray and thank God for their food." Well said, eh? I can't wait to see Mom and Dad and my friends. I keep having daydreams about walking out of the gate door at O'Hare and seeing them and giving them big, huge hugs.

SUNDAY, JULY 29

We toured the Kremlin today, which was impressive, but our guide didn't speak much English, so we learned very little.

Five of us gathered in our room, and we talked about how far behind this country is. Even if people have enough money, there's nothing to buy. We have the feeling the government just doesn't care about its people.

MONDAY, JULY 30

After a long bus ride, we stopped in this small town to pick up some Russian teenagers who will be our hosts. This is where we'll be staying with Russian families. Alissa and I talked and exchanged gifts with one Russian girl about our age who boarded the bus and whose name sounded like Lerum. Soon she asked if we wanted to stay at her home. We were very pleased to accept her invitation.

We drove first to meet the Mayor of the little town, which was called Kalinin until recently, but is now Tver. He welcomed us warmly and spoke of the growing friendship between our two countries and the Russian and American people.

We left there on buses with our hosts for their homes. Lerum is pretty and doesn't wear too much makeup like most Russian women. Bill, Rick, Cricket, and Carrie are all staying in the building next to ours. Tonight, in Lerum's home, we talked, looked at family pictures, and exchanged little gifts. I gave her a little brush, nail polish, and some U.S. postcards.

Dinner was good, the best since I've been in Russia. The bread was soft and fresh. We had mashed potatoes, cucumbers, and tomatoes. For dessert, ice cream, and it was yummy, a real treat!

Then we went on a long walk all around the city and along the banks of the Volga River. The city is beautiful. When we returned, Lerum's mother had prepared tea and cookies. It was so sweet of her. After that, we played cards—21, which was fun.

Mothers do everything here. I kept offering to help, but they refused and acted as if I was crazy. Bill told me he started clearing dishes at his home, and the father said that was what women are for. Prehistoric!

Our "home" is in an apartment building with five floors, but we're on the first, thank God, because my bag is so heavy. There is a living room with TV, kitchen, our bedroom, and I think one other bedroom. The toilet is in a different little room than the sink and tub.

Many kids live with their grandparents. Lerum does, but her mother came to help with us and everything. This is her grandmother's apartment. Her parents live in another village, and her father is in the military. Weird, eh?

She has a boy friend who is 17 (she is 16) and at military school in Leningrad. He comes home only one month a year. How sad. She says they write lots of letters. They don't have a car or phone, and ride public transportation. She has taken 6 years of English, and she let me read her English book, which is similar to my French book.

In the book is a passage about how great Communism is. It says that because of Amendment 40 to the Russian Constitution (the one that guarantees people jobs for life), USSR doesn't have an unemployment problem like capitalist countries. Talk about propaganda!

I have a choice of staying here two or four nights. I want to stay four. After all, this is my first and last time staying in a Russian home. I'll never have this experience again—ever! So I'd better go for it!

TUESDAY, JULY 31

I learned my host's name is Lera, from Valeriya, last name Zakolyukina. The Russian accent makes it sound like Lerum. We are talking more, and she seems to be opening up a bit.

There was a dance tonight Soviet-American young people, which was all right. I sat outside and talked away the evening. When we arrived home. Lera's mother gave us hot milk, this cottage cheese-type stuff with jam, and a sort of apple pastry. All pretty good. Alissa developed an allergy to Lera's cat and went back to the hotel.

I get so pampered here it's great. Lera's mom did my laundry today. She is so sweet. Tonight, she brought in our Christmas card, which I gave her, and asked who everyone was, so I explained my very large and confusing family to Lera, who translated for her mother.

Women do everything in this country. I saw a woman paving a street today. No need for equal rights fighting here. These women have more equality than I'd want. Actually, that's not true. They are expected to do so much, but are treated with no respect. They are just "women," and therefore incompetent, and should be cleaning, etc. Yuck!

Everyone loves Boris Yeltsin. He's the new guy in the political hierarchy, and he's stepped down from the Communist Party. Smart guy!

This is too weird. I'm having such fun. My attitude is surprisingly positive. I'm not usually this happy and positive all the time. Maybe it's because I'll be home in a week.

WEDNESDAY, AUGUST 1

Our Illinois group went for plane rides over the city in groups of 12 in an Aeroflot mini-plane. It was awful. I nearly threw up. Inside the plane, it was about 150 degrees F. and smelled terrible. We sat on wooden benches facing each other, and most of the seat belts didn't work. We took off and landed on a runway in a grassy field. I was so scared and felt sick for a few hours afterwards.

Lunch with our Russian friends at the hotel. We stopped at a Berioska shop and I bought a beautiful lacquer address book, which I'll give to someone. Then I bought five men's caps for people at home. Next we all went on a party boat down the Volga River—music, dancing, many people, and a bar with cookies to buy. Lots of fun.

In the evening, we went to a folk dance performance, where the dancers, all dressed in costumes, danced for us and pulled us into the center to join them.

Went home with Lera and finally had dinner around 10. Lera asked me all about the house where we live, our cars, and such things. She is so sweet and kind. So is her mother. They treat me like a queen. It is nice to feel so special and wanted.

I'm psyched that I've survived so far and this has been such a positive experience.

THURSDAY, AUGUST 2

Museum day. We toured ethnic and samovar museums. Samovars are big, beautiful Russian tea urns, and we drank tea the Russian way. Pour tea from the cup into the saucer, dip a sugar cube in it, and slurp from there.

Later, we went far into the lovely countryside for a picnic. Thick woods overlooking a river and rolling prairie. Wonderful time: bonfire, frisbee, walking in the woods, snacking, mingling, and some even swam.

Home for dinner at Lera's. Lord, how I've eaten since we embarked on our homestay. After dinner, I gave Lera and her mother the presents I'd brought from home, including a handsome book of Chicago photos. I love giving people presents. It makes me so happy, even more than receiving them myself. We had a good talk about our schools. USSR has 11 grades and then college for 5 years. So it equals out, but is proportioned differently than in U.S. Tonight I pressed in my journal a rose from Alissa and a daisy from Bill. Nice of them.

FRIDAY, AUGUST 3

Today I gave a speech to the Mayor of Tver, thanking him in behalf of our group for the warm hospitality. I was very nervous, but got through it. It was an honor to be chosen to speak. We stood beneath a huge portrait of Lenin, still very much a hero here.

It was sad to say good-bye to our Russian friends. Lera's mom helped me carry my bag to the hotel. Lera said her mom liked me a lot, which made me feel good.

It is 11:15 p.m., and now I'm sitting in my room in Moscow with Alissa.

SATURDAY, AUGUST 4

This day in Moscow has been a blur. A convent this morning, and then shopping on Arbat Street. Bought lacquer things, earrings, a T-shirt. The street was lined with very European buildings. Many people singing and playing music on the street. We watched some Americans musicians for 45 minutes. The lead singer had a hippie look, with long. curly, black hair; he was cool and from San Francisco. We went to the Moscow Circus, which was O.K., but I dislike trained wild animals. It seems cruel to me.

Just learned that Iraq invaded Kuwait last Thursday. Kuwait asked the U.S. for help, and we don't know the response yet. Who knows what Bush will do? Scary.

SUNDAY, AUGUST 5

Went to a youth camp today. Played volleyball, soccer, and sang with Russian kids.

This camp is for kids 6-15 picked by local party leaders, and teaches Communism and "the Russian way" to the very young. It bothers me that this country starts brain washing its kids at such an early age.

Tomorrow's our last day. I'll miss everyone. After all, we've spent every waking minute together for the last three weeks. Our leaders—Mr. Malmquist, Mrs. Christiansen, and Mrs. Nohr—have really gotten cool in the past few days. They've loosened up and finally figured out that everything runs a lot smoother when we're happy campers.

Just learned from a man in the lobby that the U.S. and Russia sent troops into Kuwait. We're so out-of-touch here. I'm glad to be leaving, but I'm so very glad I came. I think I'll realize how much I learned after a few weeks at home and back in USA.

MONDAY, AUGUST 6

The last day was fun. Went to Red Square, and it was magnificent all lighted up, with the moon almost full.

This morning, we went to the famous Moscow McDonald's. We got in line at 9:20, it opened at 10, we were seated and eating by 10:30. Cool! My whole meal (fries, an apple pie, milkshake), plus three double cheeseburgers for Jon Alpert, was only 14 rubles (about $2.50). When we came out, the line stretched all the way around the block.

We have to be down in the lobby with our bags at 5:30 a.m. We'll have 24 hours of straight travel before arriving at O'Hare. Help! Home. Yea, whoopee!!

TUESDAY, AUGUST 7

Finally on our Pan Am flight to New York after a hellish day. The bus didn't show up at our Moscow hotel, we've had customs delays, temperature was subzero on the "wonderful" Aeroflot flight, etc. Then a long delay in Frankfurt, and we'll miss our connection in New York. Bummer!

Overall, this has been an incredible experience, and I've learned so much. I've learned a lot about myself and what I'm capable of. I learned that a good attitude can really help. I learned that it pays to be nice to as many people as you can stand—what goes around comes around, as they say. I've learned a lot about other countries and people, and that what I think is difficult or upsetting or unfair is nothing compared to what many people deal with on a daily basis.

I am really lucky to have what I have, to be free and not to be severely restricted in many ways. Russia is an interesting place to visit, but I don't think I'm cut out to live there. I could probably handle it, but I wouldn't enjoy it. I am thankful I have love, shelter and happiness with my family, wherever we live or whatever I have.

WEDNESDAY, AUGUST 8

I am home. We all cheered and clapped when we landed. When I got off the plane, I cried as I hugged Mom and Dad. Then Scott came up. I was so happy.

I stayed positive, and it obviously affected everyone else. Each note my friends wrote in this journal was so nice—everyone commented on my attitude. That makes me feel proud and grateful that I had that outlook. I survived, as I knew I would, and I feel much better about my own character as a result of my attitude toward the trip. I hope to keep my positive feelings and attitude forever. I will remember Russia and the people I spent 21 days with for the rest of my life.

I am lucky to live in America, but I am also glad I am not so sheltered that my life here is the only one I know. It's nice that Russia 1990 is a *past* experience and not a *present* one. I like talking about it and reflecting on it now. I can be much more objective now that I am not entangled in the whole drama.

All I have to say is thank God for my life, family, friends, love, and happiness. Amen.●

THE CONGRESSIONAL MEDAL OF HONOR

Mr. WARNER. Mr. President, I was extremely honored to have the privilege of participating in a recent program to honor those who hold the Medal of Honor, and to preview the first episode of a new television series entitled "The Medal of Honor."

On September 13, at the Army and Navy Club here in Washington, this new television series—a joint venture by U.S. News & World Report and the Buick Motor Division of General Motors—was introduced in a moving ceremony. I want to share with my colleagues a sense of the deep feelings which, I believe, were felt by all of us who were present.

The Medal of Honor recipients who were there included Capt. Maurice Britt, U.S. Army, retired; Mr. Walter Ehlers; and Lt. Col. Edward Michael, U.S. Air Force, retired; all of whom were featured in the first episode of the series. Other Medal of Honor recipients present were Mr. Paul W. Bucha; Rear Adm. Eugene B. Fluckey, U.S. Navy, retired; Col. Wesley L. Fox, U.S. Marine Corps; Capt. Thomas G. Kelley, U.S. Navy, retired; Col. Walter J. Marm, Jr., U.S. Army; Col. Charles P. Murray, Jr., U.S. Army, retired; Mr. Nicholas Oresko; Mr. Ronald Ray; Mr. Brian Thacker; and BMC J. Elliott Williams, U.S. Navy, retired.

It was a memorable experience to be in the presence of these extraordinary, humble Americans, whose gallantry in action helped assure our Nation's freedom.

I will take a few moments, Mr. President, to identify some of those responsible for this series and to provide some of the highlights from the ceremony.

Mr. Calvin H. Cobb, Jr., national president of the Navy League, presided over the ceremonies and reviewed the origin and history of the Medal of Honor. I quote from his remarks:

The Medal of Honor was born during the early days of the Civil War and came to represent the highest honor our Nation bestows on its soldiers. The Medal is a tribute to perhaps the only thing truly noble in war: the deliberate decision of one man to sacrifice himself so that others may live.

When it was my turn to speak, I quoted from Gen. Douglas MacArthur's remarks as he pinned the Medal of Honor on Maj. Richard Bong in December 1944:

Of all military attributes, that one which arouses the greatest admiration is courage. It is the basis of all successful military ventures. Our forces possess it to a high degree, and various awards are provided to show the public appreciation. The Congress of the United States has reserved to itself the honor of decorating those amongst all who stand out as the bravest of the brave.

Mr. Fred Drasner, chief executive officer of U.S. News & World Report, described the purpose of the series:

In one lifetime, we have gone from an age in which heroes were almost commonplace, to the day of the Anti-Hero, and now to a time of no hero. . . . we sincerely hope 'Medal of Honor' will serve as an inspiring example of what America can be at its best.

On behalf of the Buick Motor Division of General Motors, Mr. Jack W. Qualman, Jr., indicated how proud Buick was to sponsor the series and recognized the recipients of the Medal of Honor as follows:

Most especially, we are proud to recognize our honored guests. . . . The Medal of Honor recipients themselves, and their uncommon courage and extraordinary deeds. We also commend the 3,400 recipients that aren't with us tonight but who are, most assuredly, in our thoughts. To each, we offer our profound appreciation.

BMC J. Elliott Williams, USN (Ret), a Medal of Honor recipient himself and the president of the Congressional Medal of Honor Society, was cited for his invaluable assistance and support of the project.

Co-writer and director of the series, Mr. Patrick Duncan, described the extensive research that went into development of the series and noted how impressed he was by the character of the Medal of Honor winners.

I would like to recognize also Mr. Mortimer Zuckerman, chairman and editor-in-chief of U.S. News & World Report, and Mr. Michael Nolin, the producer of the series, whose contributions and support were essential to this achievement.

Lastly, I was especially touched by the remarks of Mr. Cliff Robertson, who will host the series on television. I will close with the reading of Mr. Robertson's remarks.

MEDAL OF HONOR

In the best of worlds—there would be no need for medals of war.

For there would be no wars.

There would be no need for wars, for civilization would be humane—charitable—and peaceful.

There might be, however, in this best of worlds a medal of the very highest order—that recognized man's capacity to love his fellow man—to sacrifice—to stand tallest in face of life's worst adversities.

A medal that would reflect his unstinting courage and character.

In that best of worlds—that warless world—things would be so different.

But not that medal—that highest medal.

For that medal would represent the same qualities of valor—of courage—and love for his fellow man—as this world's Congressional Medal of Honor.

Thank you, Mr. President.

INTERPARLIAMENTARY CONFERENCE ON THE GLOBAL ENVIRONMENT

Mr. MITCHELL. I ask unanimous consent that the final report of the Interparliamentary Conference on the Global Environment, as required by Senate Resolution 171, be printed as a Senate document and that 1,500 copies be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRECTION OF THE PERMANENT RECORD

Mr. MITHCELL. Mr. President I ask unanimous consent that the permanent RECORD be corrected to reflect that on Senate amendment 3020, Senator KOHL's name should appear immediately after the name of Senator LEVIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

HUMAN SERVICES REAUTHORIZATION ACT—CONFERENCE REPORT

Mr. MITHCELL. Mr. President, I submit a report of the committee of conference on H.R. 4151 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4151) to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, and the Community Services Block Grant Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 5, 1990.)

Mr. WILSON. Mr. President, I rise in support of the conference report on H.R. 4151, the Augustus F. Hawkins Human Services Reauthorization Act of 1990, but I must say I am very disappointed that the Senate conferees chose to recede to the House on what I believe to be a very critical program for some of our Nation's most vulnerable children.

The Health and Social Services for Students Act of 1990 would have provided much needed resources to local education agencies to fund programs which provide supportive health, mental health, and social services on the school site.

In this age of broken families, of alcohol abuse, drug abuse, and child abuse in the home, of neglect and worse by parents who are poor role models, we must provide the support and motivation our children so desperately need to become confident, caring adults possessed of both job and social skills.

While I believe our families must retain the primary responsibility for childrearing, in the absence of a family structure, this support will need to come from sources outside the home.

Too many of our children are falling through the cracks.

Each day in America, over 1,800 children are abused, 1,300 students drop out of high school, and 6 teenagers commit suicide. Each year in America, 1,300,000 children run away from home, and 3,200 of our children die at gunpoint.

That's not fair to our kids nor to society. We cannot afford to waste their talent and energy. If we do not provide them the proper tools to become productive adults, we face the high risk that their energy will be misdirected into lives of association with crime and drug gangs, or worse, if we fail to give them the necessary support, they may never reach their 18th birthday.

Though our Nation's schools are increasingly cast involuntarily into the role of being in loco parentis, this unwanted role is of extreme importance in getting vulnerable children the help they so critically need. Over half of a child's waking hours are spent at school.

In essence, the schools can serve as the focal point to provide the kind of assistance our children require to provide America with the kind of leadership she will need to solve the many challenges which the 21st century will present.

To assist school districts in creating the optimum child development environment, I worked with the Senator from Massachusetts, Senator KENNEDY, to refine an early proposal I had offered. The net result was the Health and Social Services for Students Act of 1990—a modest $20 million grant program to establish health and social service delivery hubs at school sites nationwide.

During Senate consideration of the Head Start reauthorization legislation, the Senate unanimously passed the Health and Social Services for Students Act as an amendment thereto.

Under the guide of false assertions that my amendment somehow authorized funding of abortions on school sites—there is not one dime of service funding in the act, and perhaps election year politics, it is no secret that I am a candidate for Governor in California—the conference committee chose not to approve the Wilson-Kennedy amendment as part of the conference report before us.

Mr. President, this may sound like sour grapes. It is not. It simply is an expression of increasing frustration with battles over committee turf and politically partisan actions.

Whether the House Democratic leadership's co-option of legislation I authored to provide funding to the successful DARE Antidrug Use Education Program or the Senate Labor and Human Resource Committee's need to claim for their own the issue to expand treatment to substance abusing pregnant women, one thing is clear. Odd forces are at work in Congress.

Mr. President, having said that let me just conclude by expressing my hope that the 102d Congress will look beyond partisanship and committee jurisdiction and pass much needed legislation to help our Nation's schools cope with the many problems children now bring to the classroom.

In the end, it is not the legislation's sponsor who wins, but rather it is America that wins. We will have provided the necessary support to our schools to produce confident, caring adults with much improved skills and self-esteem.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTING ENROLLMENT OF H.R. 4151

Mr. MITCHELL. I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 381, a concurrent resolution making corrections in the conference report on H.R. 4151.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 381) to correct the enrollment of the bill (H.R. 4251).

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

AMENDMENT NO. 3048

Mr. MITCHELL. Mr. President, on behalf of Senator DODD, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] for Mr. DODD, proposes an amendment numbered 3048.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of the resolution, add the following: After section 122 of the bill, add the following new section:

"SEC. 123. EXTENDED HEAD START SERVICES.

"(a) DEFINITIONS.—Section 637 of the Head Start Act (42 U.S.C. 9832) is amended by adding at the end the following:

"(10) the term 'full calendar year means all days of the year other than Saturday, Sunday, and a legal public holiday.

"(11) the term full-working-day means not less than 10 hours per day."

"(b) EXTENDED HEAD START SERVICES.—Section 640 of the Head Start Act (42 U.S.C. 9835) is amended by adding at the end of the following:

"(h) Each Head Start program may provide full-working-day Head Start Services to any eligible child throughout the full calendar year."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3048) was agreed to.

The PRESIDING OFFICER. If there are no further amendments, the question is on agreeing to the concurrent resolution.

So the concurrent resolution (H. Con. Res. 381), as amended, was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the concurrent resolution, as amended, was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INTERNATIONAL DATA IMPROVEMENT ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 797, S. 2516, the International Data Improvement Act of 1990.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2516) to augment and improve the quality of international data compiled by the Bureau of Economic Analysis under the International Investment and Trade in Services Survey Act by allowing that agency to share statistical establishment list information compiled by the Bureau of the Census, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 2516

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Data Improvement Act of 1990".

SEC. 2. AMENDMENT TO THE INTERNATIONAL INVESTMENT AND TRADE IN SERVICES SURVEY ACT.

Section 4(a) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3103(a)) is amended by striking [the] "and" at the end of paragraph (4); *by* striking the ['.'] *period* at the end of paragraph (5) and inserting in lieu thereof [';'] *"; and"*; and by adding [a new paragraph (6) to read as follows:] *at the end the following new paragraph:*

"(6) report to Congress on *(A)* the progress of the integration of statistical establishment list information from the Census Bureau as authorized under the International Data Improvement Act of 1990 with data collected pursuant to this Act and *(B)* the extent to which such integration permits a higher level of accuracy and a greater degree of analysis on direct investment and United States services trade.".

SEC. 3. BUREAU OF ECONOMIC ANALYSIS ACCESS TO CENSUS DATA FOR PURPOSES OF AUGMENTING AND IMPROVING THE QUALITY OF INTERNATIONAL DATA COLLECTED UNDER THE INTERNATIONAL INVESTMENT AND TRADE IN SERVICES SURVEY ACT.

(a) *AMENDMENT TO TITLE* 13, *UNITED STATES CODE.*—Title 13, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER [10] *11*—EXCHANGE OF STATISTICAL ESTABLISHMENT LIST INFORMATION

"Section

"401. Exchange and use of list information.
"402. Definition of statistical establishment list information and content.
"403. Sanctions, penalties, and immunity from process for purposes of this chapter.

["SEC. 401. EXCHANGE AND USE OF LIST INFORMATION.]

"§ 401. Exchange and use of list information

"(a) The Bureau of Economic Analysis and the Bureau of the Census shall exchange and use statistical establishment list information as defined in section 402 as the Secretary determines is appropriate to augment and improve the quality of international data collected under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101 et [seq.)—] *seq.), subject to the following requirements:*

"(1) List information provided to the Bureau of Economic Analysis shall be only those data collected directly from respondents by the Bureau of the Census under the authority granted to the Secretary by this title.

"(2) The Director of the Bureau requesting list information shall make the request in writing, and shall certify that the list shall be used only for statistical activities performed pursuant to statutory authority.

"(b) Notwithstanding any other provision of law, list information shall not be published or used in a way, except as authorized by this [chapter,] *title,* whereby any particular establishment or enterprise can be identified. Each Bureau shall establish and maintain adequate administrative, technical, and physical safeguards to ensure the integrity, confidentiality, and security of the list information.

["SEC. 402. DEFINITION OF STATISTICAL ESTABLISHMENT LIST INFORMATION AND CONTENT.]

"§ 402. Definition of statistical establishment list information and content

"(a) [DEFINITION.—]For purposes of this chapter, statistical establishment list information [("list information")] *('list information')* shall consist of data for any type of economic unit within the scope of the Standard Industrial Classification (SIC) that are maintained *by the Bureau of the Census and the Bureau of Economic Analysis* for statistical activities performed pursuant to statutory authority.

"(b) [CONTENT OF LIST INFORMATION.—] List information shall include the establishment and company name and address, the form of company organization, SIC code, company and establishment identifying numbers, and related business activity levels and operational codes.

["SEC. 403. SANCTIONS, PENALTIES AND IMMUNITY FROM PROCESS FOR PURPOSES OF THIS CHAPTER.]

"§ 403. Sanctions, penalties, and immunity from process for purposes of this chapter

"(a) Whoever, being in possession of exchanged list information, discloses the list information in any form except as specified in this [chapter] *title* shall be fined not more than $25,000 or imprisoned not more than five years, or both.

"(b) Whoever procures, by fraud, misrepresentation, or other unlawful act, access to exchanged list information shall be fined not more than $25,000 or imprisoned not more than five years, or both.

"(c) [IMMUNITY FROM LEGAL PROCESS: LIMITATIONS ON DISCLOSURE AND USE.] (1) List information shall be immune from legal process and shall not be used as evidence or for any purpose in any Federal, State, or local government action, [suit] *suit,* or other judicial or administrative proceeding except as necessary to enforce mandatory data collection requirements of agency surveys or the provisions of subsections (a) and (b) of this section.

"(2) List information shall not be disclosed pursuant to any Federal, [State] *State,* or local government law or regulation, including [the Freedom of Information Act (5 U.S.C. 552).".] *section 552 of title 5.".*

(b) [CONFORMING AMENDMENTS.—

[(1) The table of contents of title 13, United States Code, is amended by adding "Chapter 10—Exchange of Statistical Establishment List Information".

[(2) Section 9(a) of title 13, United States Code, is amended by striking the phrase "except as provided in section 8 of this title" and inserting in lieu thereof "except as provided in section 8 and chapter 10 of this title".]

(b) CONFORMING AMENDMENTS.—(1) The table of contents of title 13, United States Code, is amended by adding at the end the following:

"11. Exchange of Statistical Establishment List Information ..... 401".

(2) Section 9(a) of title 13, United States Code, is amended by inserting "and chapter 11 of this title" immediately after "except as provided in section 8 of this title".

SEC. 4. BUREAU OF ECONOMIC ANALYSIS REPORT ON FOREIGN DIRECT INVESTMENT.

(a) PURPOSE OF SURVEY ACT.—Section 2(b) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3101(b)) is amended by inserting "to provide for the collection and use of information on direct investments owned or controlled directly or indirectly by foreign governments," immediately after "such investment and trade,".

(b) PUBLICATION OF CERTAIN STATISTICAL INFORMATION.—Section 4(a)(5) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3103(a)(5)) is amended by inserting ", including, for foreign direct investment in the United States, information on foreign government ownership of United States affiliates by country" immediately after "(b) and (c)".

(c) BEA REPORT.—Section 4 of the International Investment and Trade in Services Survey Act (22 U.S.C. 3103) is amended by adding at the end the following new subsection:

"(h)(1) The President, or the designee of the President responsible for monitoring the impact of foreign investment in the United States, coordinating implementation of United States policy on investment, and investigating foreign acquisitions under section 721 of the Defense Production Act of 1950 (50 App. U.S.C. 2170), may request a report from the Bureau of Economic Analysis, Department of Commerce. When such request is made in connection with an investigation under such section 721, the report shall be provided within 14 days after the request is made. When such request is not made in connection with an investigation under such section 721, the report shall be provided within 60 days after the request.

"(2) A report requested under paragraph (1) shall contain the best available information on the extent of foreign direct investment in a given industry, including a breakdown of total investment in the industry, and any foreign government investment in the industry, by country of foreign owner, and any other information that the Bureau of Economic Analysis or such designee of the President considers relevant. The industry information provided shall be at the most detailed level available of Standard Industrial Classification, subject to the requirements of section 5.".

(d) CONSTRUCTION.—Nothing in this section, including amendments to the International Investment and Trade in Services Survey Act, shall be construed as a requirement that the Bureau of Economic Analysis, the Bureau of the Census, or any other agency, office, or department of the United States Government seek to obtain or disclose additional information in fulfilling the requirements of this section, or that a business enterprise or any of its officers, directors, shareholders, or employees provide additional information beyond that required to be provided prior to the date of enactment of this Act.

AMENDMENT NO. 3049

(Purpose: To make an amendment in the nature of a substitute)

Mr. MITCHELL. Mr. President, on behalf of Senators HOLLINGS and EXON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] (for Mr. HOLLINGS), (for himself and Mr. EXON] proposes an amendment numbered 3049.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Direct Investment and International Financial Data Improvements Act of 1990".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The United States Government collects substantial amounts of information from foreign owned or controlled business enterprises or affiliates operating in the United States.

(2) Additional analysis and presentation of this information is desirable to assist the public debate on the issue of foreign direct investments in the United States.

(3) Information collected from foreign owned or controlled firms by the Bureau of Economic Analysis has serious analytical limitations because it is largely collected on an "enterprise" basis that does not permit an adequate analysis by industry groupings.

(4) Statistical and analytic comparisons of the performance of foreign owned or controlled businesses operating within the United States with other business enterprises operating within the same industry can be accomplished under sections 2(b) and 5(c) of the International Investment and Trade in Services Survey Act, and under Executive Order Numbered 11961, without the need to collect additional information, by sharing with other authorized Government agencies the employer identification numbers maintained by the Bureau of Economic Analysis.

(5) Public disclosures of confidential business information collected by the United States Government relating to international direct investment flows could cause serious damage to the accuracy of the statistical data base.

(6) The General Accounting Office may have limited access to Government data on foreign direct investment.

SEC. 3. REPORT BY SECRETARY OF COMMERCE.

(a) ANNUAL REPORT ON FOREIGN DIRECT INVESTMENT IN THE UNITED STATES.—Not later than 6 months after the date of the enactment of this Act, and not later than the end of each 1-year period occurring thereafter, the Secretary of Commerce shall submit to the Committee on Energy and Commerce, the Committee on Ways and Means, and the Committee on Foreign Affairs of the House of Representatives, to the Committee on Commerce, Science, and Transportation of the Senate, and to the Joint Economic Committee of the Congress a report on the role and significance of foreign direct investment in the United States. Such report shall address the history, scope, trends, market concentrations, and effects on the United States economy of such investment. In addition, the Secretary of Commerce shall, if requested by any such committee, appear before that committee to provide testimony with respect to any report under this subsection.

(b) SOURCES OF DATA.—In preparing each report under subsection (a), the Secretary of Commerce, or the Secretary's designees, shall consider information collected by—

(1) the Bureau of Economic Analysis under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101 and following);

(2) the Bureau of the Census on industry, manufacturing, research and development, and trade, under title 13, United States Code;

(3) the Bureau of Labor Statistics pertaining to information collected under the International Investment and Trade in Services Survey Act, but only to the extent that such information is in a form that cannot be associated with, or otherwise identify, directly or indirectly, a person, including any enterprise or establishment;

(4) the Secretary of Commerce or the Secretary's designee pursuant to section 2 of Executive Order 11858 of May 7, 1975;

(5) the United States Department of Agriculture under the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3501 and following);

(6) the Department of the Treasury under section 6039C of the Internal Revenue Code of 1986 (26 U.S.C. 6039C), but only to the extent that such information is in a form that cannot be associated with, or otherwise identify, directly or indirectly, a person, including any enterprise or establishment;

(7) the Department of Energy under section 657(8) of the Department of Energy Organization Act (42 U.S.C 7267(8)), but only to the extent that such information is in a form that cannot be associated with, or otherwise identify, directly or indirectly, a person, including any enterprise or establishment;

(8) other Federal agencies not referred to in paragraphs (1) through (7), but only to the extent that such information is in a form that cannot be associated with, or otherwise identify, directly or indirectly, a person, including any enterprise or establishment;

(9) foreign governments and agencies thereof; and

(10) private sector sources.

(c) ANALYSES.—(1) The analysis in each report prepared under subsection (a) shall, to the extent of available data, compare business enterprises controlled by foreign persons with other business enterprises in the United States with respect to employment, market share, value added productivity, research and development, exports, imports, profitability, taxes paid, and investment incentives and services provided by State and local governments (including quasi-governmental entities).

(2) Each such analysis shall be done by significant industry sectors and geographical regions, except that information shall not be presented in a way in which any person, including any business enterprise or establishment, can be identified. The restriction contained in the preceding sentence on presentation of information does not apply to information that is obtained from foreign governments or agencies thereof and that has been published pursuant to the lawful disclosure of the information. To the extent that data are available, each such analysis shall include an analysis, together with current levels and trends, of the number and market share of business enterprises at least 10 percent of the voting secu-

rities or other evidences of ownership of which are owned or controlled by a foreign person, and of the number and market share of the establishments of such business enterprises, that are engaged substantially in the production or coproduction of any critical technologies included in the most recent plan submitted to the Congress under section 2368 of title 10, United States Code, or included in the most recent report submitted to the President under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976.

SEC. 4. REPORTS BY GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—The Comptroller General, to the extent permitted by law, including section 8 of this Act, is authorized to review the information described in section 3(b) for purposes of preparing the report required under subsection (b) of this section. Nothing in this section authorizes disclosure of any individually identifiable data or information in any form that can be associated with or otherwise identify, directly or indirectly, any person, including any enterprise or establishment.

(b) REPORT.—Not later than 5 months after each report issued by the Secretary of Commerce under section 3, the Comptoller General of the United States shall submit to the Committee on Energy and Commerce, the Committee on Ways and Means, and the Committee on Foreign Affairs of the House of Representatives, to the Committee on Commerce, Science, and Transportation of the Senate, and to the Joint Economic Committee of the Congress a report—

(1) analyzing the report of the Secretary of Commerce;

(2) making recommendations for changes in the analysis done in the report due the following year under section 3;

(3) making recommendations for improving the collection by respective Federal agencies of data on foreign direct investment in the United States, including use of private sector data, and improving survey questionnaires to obtain useful and consistent information that avoids unnecessary redundancy among Federal agencies;

(4) reviewing the status and processes for reconciliation of data exchanged as required by this Act and the amendments made by this Act, and making any recommendations for improving and augmenting international financial data;

(5) making recommendations for possible additional policy coordination within the executive branch affecting foreign direct investment in the United States; and

(6) making recommendations for improvement of the coverage, industry classification, and consistency among Federal agencies of their respective surveys.

Reports under this subsection shall be issued only with respect ot the first 3 reports issued by the Secretary of Commerce under section 3.

(c) OTHER REVIEW AND REPORTS.—(1) The Comptroller General may, to the extent permitted by law, including section 5(c) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3104(c)) and section 8 of this Act, also review data and information at the Bureau of the Census, the Bureau of Labor Statistics, and the Bureau of Economic Analysis and from time to time report to the Committee on Energy and Commerce, the Committee on Ways and Means, and the Committee on Foreign Affairs of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and to the Joint Economic Committee of the Congress.

(2) The Comptroller General shall, in carrying out paragraph (1), comply with procedures relating to access to and disclosure of data and information established within the Federal statistical agencies referred to in paragraph (1), and maintain any and all individually identifiable data and information at the statistical agency where the information is reviewed.

(d) CONFIDENTIALITY; REVIEW BY OTHER AGENCIES.—In preparing any report under this section, the Comptroller General shall not—

(1) disclose any confidential business information or present any information in a way in which any person, including a business enterprise or establishment, can be identified; or

(2) combine, match, or use in any other way individually identifiable data or information maintained by any of the Federal statistical agencies referred to in subsection (c) with any other individually identifiable confidential data or information that is not collected by such statistical agencies.

Before issuing any such report, the Comptroller General shall in each instance submit the report to the head or heads of the agency or agencies from which confidential or identifiable information described in the preceding sentence was obtained. The agency or agencies concerned shall promptly review the report for the purpose of assuring that the confidentiality of such information and identity is maintained, and for any other purpose, and shall provide the Comptroller General with appropriate comments or other suggestions within 10 working days after receiving the report.

(e) RIGHT OF ACCESS.—The access by the Comptroller General to information under this Act shall be in conformity with section 716 of title 31, United States Code.

SEC. 5. ACCESS TO CENSUS DATA BY BUREAU OF ECONOMIC ANALYSIS.

(a) ACCESS TO DATA.—Title 13, United States Code, is amended by adding at the end the following:

"CHAPTER 10.—EXCHANGE OF CENSUS INFORMATION

"Sec. 401. Exchange of census information with Bureau of Economic Analysis.

"§ 401. Exchange of census information with Bureau of Economic Analysis.

"(a) EXCHANGE OF INFORMATION.—The Bureau of the Census shall exchange with the Bureau of Economic Analysis of the Department of Commerce information collected under this title, and under the International Investment and Trade in Services Survey Act, that pertains to any business enterprise that is operating in the United States, if the Secretary of Commerce determines such information is appropriate to augment and improve the quality of data collected under the International Investment and Trade in Services Survey Act. Information provided to the Bureau of Economic Analysis by the Bureau of the Census shall be only those data collected directly from respondents by the Bureau of the Census.

"(b) REQUESTS FOR INFORMATION.—The Director of the Bureau requesting information under this section shall make the request in writing and shall certify that the information will be used only for statistical activities performed to improve the quality of data collected under the authority of title 13, United States Code, and the International Investment and Trade in Services Survey Act.

"(c) DEFINITION.—As used in subsection (a), the terms 'business enterprise' and 'United States' have the meanings given those terms in section 3 of the International Investment and Trade in Services Survey Act.".

"(b) CONFORMING AMENDMENTS.—(1) The table of chapters at the beginning of title 13, United States Code, is amended by adding at the end the following:

"10. Exchange of census information 401".

"(2) Section 9(a) of title 13, United States Code, is amended by inserting after "section 8" the following: "or chapter 10".

SEC. 6. AMENDMENTS TO THE INTERNATIONAL INVESTMENT AND TRADE IN SERVICES SURVEY ACT.

"(a) PURPOSE.—Section 2(b) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3101(b)) is amended by inserting after "the impact of such investment and trade," in the first sentence the following: "to authorize the collection and use of information on direct investments owned or controlled directly or indirectly by foreign governments or persons,".

"(b) REPORTING REQUIREMENT.—Section 4(a)(5) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3103(a)(5)) is amended by inserting before the period the following: ", including, with respect to foreign direct investment in the United States, information on ownership by foreign governments of United States affiliates by country, and tables, on an aggregated basis, of business enterprises the ownership or control of which by foreign persons is more than 50 percent of the voting securities or other evidences of ownership of such enterprises, and business enterprises the ownership or control of which by foreign persons is 50 percent or less of the voting securities or other evidences of ownersip of such enterprises".

(c) BUREAU OF ECONOMIC ANALYSIS REPORT.—Section 4 of the International Investment and Trade in Services Survey Act (22 U.S.C. 3103) is amended by adding at the end the following new subsection:

"(h)(1) The President, or the designee of the President responsible for monitoring the impact of foreign investment in the United States, coordinating implementation of United States policy on investment, and investigating foreign acquisitions under section 721 of the Defense Production Act of 1950 (50 App. U.S.C. 2170), may request a report from the Bureau of Economic Analysis of the Department of Commerce. When such request is made in connection with an investigation under such section 721, the report shall be provided within 14 days after the request is made. When such request is not made in connection with an investigation under such section 721, the report shall be provided within 60 days after the request.

"(2) A report requested under paragraph (1) shall contain the best available information on the extent of foreign direct investment in a given industry, including a breakdown of total investment in the industry, and any foreign government investment in the industry, by country of the foreign owner, and any other information that the Bureau of Economic Analysis or such designee of the President considers relevant. The industry information provided shall be at the most detailed level available of Standard Industrial Classification, subject to the requirements of section 5.".

(d) ACCESS TO INFORMATION.—Section 5 of the International Investment and Trade in Service Survey Act (22 U.S.C. 3104) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) The Bureau of the Census of the Department of Commerce is authorized, for purposes of augmenting and improving the quality of data collected by the Bureau of the Census, to have, upon written request, access to data relating to business enterprises that is collected directly by the Bureau of Economic Analysis for purposes of this Act. The Bureau of Labor Statistics of the Department of Labor is authorized, for purposes of augmenting and improving the data collected by the Bureau of Labor Statistics, to have access, upon written request, to selected identification information on business enterprises and data on international services transactions, that is collected directly by the Bureau of Economic Analysis for purposes of this Act. Officers and employees of the Bureau of the Census and the Bureau of Labor Statistics shall, for purposes of subsection (c), be deemed to be officials or employees designated to perform functions under this Act.".

(e) CONFORMING AMENDMENTS.—Section 5 of the International Investment and Trade in Services Survey Act is amended—

(1) in subsection (c)(2) by striking "(d)" and inserting "(e)"; and

(2) in subsection (e), as redesignated by subsection (d)(1) of this section, by inserting "or (d)" after "(c)".

SEC. 7. ACCOUNTABILITY FOR TIMELY REPORTING.

(a) AFFIRMATION BY A RESPONSIBLE OFFICER.—Section 5(b) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3104(b)) is amended by adding at the end the following:

"When a report under paragraph (2) is furnished under oath, such oat shall be by the officer of such person who is directly responsible for the maintenance and complication of such information, and shall certify that the report was prepared in accordance with this Act, is complete, and is to such officer's best knowledge and belief, substantially accurate, except in a case in which, in accordance with rules and regulations issued under this Act, estimates have been provided because data are not available from customary accounting records or precise data could not be obtained without undue burden, and the data subject to such estimates has been noted in the report.".

(b) CIVIL PENALTIES.—Section 6(a) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3105(a)) is amended by striking "may be subject to a civil penalty not exceeding $10,000" and inserting "shall be subject to a civil penalty of not less than $2,500, and not more than $25,000,".

SEC. 8. ACCESS TO INFORMATION; CONFIDENTIALITY.

(a) CONFIDENTIALITY.—(1) Those officers and employees who have access to information under this Act to which the provisions of section 9 of title 13, United States Code, apply must have been sworn, as provided for in section 23(c) of such title, to observe the limitations imposed by section 9(a) of such title and to be subject to the provisions of section 214 of such title to the same extent as such section applies to officers or employees of the Bureau of the Census.

(2) Only those officers and employees who have sworn to observe the provisions of section 5(c) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3104(c)) may have access under this Act to information to which such provisions apply, and such officers and employees are subject to the penalties for improper disclosure of such information provided in section 5(e) of that Act to the same extent as such section applies to officers or employees designated to perform functions under that Act.

(3) Those officers and employees referred to in paragraphs (1) and (2) of this section shall be subject to any other restriction or penalty imposed by law with respect to disclosure of information to which such officers or employees have access under this Act.

(b) VIOLATIONS AND PENALTIES.—Whoever is in possession of information made available to any department or agency by virtue of this Act or the amendments made by this Act and discloses the information in any form which can be associated with, or otherwise identify, any person, including any business enterprise or establishment, shall be fined not less than $2,500 nor more than $25,000 or imprisoned not more than 5 years, or both.

(c) UNLAWFUL ACCESS.—Whoever procures, by fraud, misrepresentation, or other unlawful act, access to information made available to any department or agency by virtue of this Act or the amendments made by this Act shall be fined not less than $2,500 nor more than $25,000 or imprisoned not more than 5 years, or both.

(d) INFORMATION IMMUNE FROM PROCESS.—Information obtained under this Act shall be immune from legal process and shall not be used as evidence or for any purpose in any Federal, State, or local government action, suit, or other administrative or judicial proceeding except as necessary to enforce requirements imposed by law on the collection of information, to enforce the provisions of subsections (b) and (c).

(e) IMPLEMENTATION.—(1) The Secretary of Commerce shall be responsible for the implementation of the exchange of information under this Act between the Bureau of the Census and the Bureau of Economic Analysis, and shall resolve any questions on access to information, data, or methodology that may arise between the Bureau of the Census and the Bureau of Economic Analysis, except that the Secretary shall not construe this section in a manner which would prevent the augmentation and improvement of the quality of international data collected under the International Investment and Trade in Services Survey Act. The Bureau of Economic Analysis and the Bureau of the Census shall agree in writing to the data to be shared under this Act.

(2) The Director of the Office of Management and Budget shall be responsible for the implementation of the exchange of information under this Act between the Bureau of Economic Analysis and the Bureau of Labor Statistics, and shall resolve any questions on access to information, data, or methodology that may arise between the Bureau of Economic Analysis and the Bureau of Labor Statistics, except that the Director shall not construe this section in a manner which would prevent the augmentation and improvement of the quality of international data collected under the International Investment and Trade in Services Survey Act.

SEC. 9. CONSTRUCTION OF THE ACT.

(a) IN GENERAL.—Nothing in this Act or the amendments made by this Act shall be construed to require any business enterprise or any of its officers, directors, shareholders, or employees, or any other person, to provide information beyond that which is required before the enactment of this Act.

(b) IMPLEMENTATION.—All departments and agencies implementing this Act and the amendments made by this Act shall, with respect to surveys or questionnaires used in such implementation—

(1) eliminate questions that are no longer necessary,

(2) cooperate with one another in order to ensure that questions asked are consistent among the departments and agencies, and

(3) develop new questions in order to obtain more refined statistics and analyses,

consistent with the purposes of the provisions of law amended by this Act and the Paperwork Reduction Act of 1980.

SEC. 10. DEFINITIONS.

For purposes of this Act—

(1) the terms "foreign", "director investment", "international investment", "United States", "business enterprise", "foreign person", and "United States person" have the meanings given those terms in section 3 of the International Investment and Trade in Services Survey Act (22 U.S.C. 3102); and

(2) the term "foreign direct investment in the United States" means direct investment by foreign persons in any business enterprise that is a United States person.

Mr. HOLLINGS. Mr. President, today the Senate is considering an amendment in the nature of a substitute to S. 2516, a bill reported by the Commerce Committee on August 30, 1990. I take this opportunity to review the committee's work as it relates to the Federal Government's collection of data on foreign direct investment.

The Senate Committee on Commerce, Science, and Transportation has a long record of legislative activity and oversight in the area of foreign investment in the United States. Under the able leadership of Senator INOUYE, the committee passed several bills in the 1970's and 1980's on this topic. In 1974, the seminal legislation in this field was written by the Senate Commerce Committee, Public Law 93-479, which authorized the Secretary of Commerce to conduct surveys on foreign direct and portfolio investment in the United States. In 1976, the Commerce Committee again passed legislation, Public Law 94-472, the International Investment Survey Act [Survey Act], to supplement the authority already granted to the Secretary of Commerce to collect regular and periodic information on foreign direct and portfolio investment in the United States and on U.S. investment abroad.

Again in 1978, the Commerce Committee acted on Public Law 95-381, to increase the authorization of appropriations for the Survey Act. In 1979, the committee reported legislation with an authorization for the Survey Act for fiscal years 1980 and 1981. In 1981, the committee passed legislation reauthorizing the Survey Act and directing the Secretary of Commerce to do benchmark surveys on foreign

direct investment in 1980, 1987 and every 5 years thereafter.

Since 1987, the Commerce Committee has been examining the U.S. Government's collection and analysis of information on foreign direct and portfolio investment under the International Investment and Trade in Services Survey Act. This examination began with the committee's deliberations on the omnibus trade bill in the 100th Congress.

The House Energy and Commerce Committee had passed, in 1987, an amendment offered by Congressman JOHN BRYANT, which required the filing of additional information of foreign investment with the Department of Commerce [DOC] and disclosure of investment information to the public. In July 1987, Senator HARKIN offered a similar amendment to the trade bill on the Senate floor. I opposed that amendment because the committee had not held hearings on the issue. The amendment was tabled, and the committee held hearings on the Bryant and Harkin amendments in March 1988.

Later, we faced the issue in a House-Senate conference on the trade bill. At that time, a compromise was suggested to the Byrant language—that compromise was suggested to the Bryant language—that compromise provided access by the General Accounting Office [GAO] to the information collected by DOC. I supported that compromise, but it failed because a majority of the conferees could not reach agreement. Ultimately, the Bryant amendment was dropped in conference. After the conference, the Bryant amendment was passed by the House as separate legislation. It came over to the Senate in the closing days of the 100th Congress and was referred to the Commerce Committee.

At the beginning of the 101st Congress, Congressman BRYANT and Senator HARKIN again introduced their legislative proposals with some changes, embodied in H.R. 5 and S. 289, respectively. The most significant changes related to the limits on disclosure of individual investor information. Instead of being publicly available, the information was limited to several specific groups of people.

Senator MURKOWSKI also introduced legislation in 1989 to permit DOC's Bureau of Economic Analysis [BEA], the office within DOC that does the surveys on foreign investment, to share information with the Committee on Foreign Investment in the United States [CFIUS] and to require BEA to collect and disseminate information on foreign governments' direct investments in the United States. The Commerce Committee held hearings on these bills in July 1989.

In April 1990, Senator EXON introduced legislation to require BEA to share data with the Census Bureau [Census]. This had been an idea strongly supported in testimony before the committee over the years. This data exchange would allow BEA to report data at a more detailed level and would allow BEA to check its enterprise, or companywide, data against Census' establishment, or plant level, data. A hearing was held on this legislation in July 1990, and the committee favorably reported the legislation with an amendment on July 31, 1990.

The bill reported by the committee this year included an amendment offered by Senators STEVENS and EXON, for Senator MURKOWSKI. This amendment requires BEA to do reports on investments in particular sectors upon the request of CFIUS. If CFIUS requests such a report during a review of a takeover under the Exon-Florio amendment, embodied in section 721 of the Defense Production Act, the report must be provided within 14 days. If the request is not made within that context, it must be provided within 60 days. This amendment reflected Senator MURKOWSKI's longstanding desire that CFIUS have the benefit of BEA's analysis, when needed, in an Exon-Florio review and investigation.

At the same time that the Senate Commerce Committee was working on S. 2516, the House Energy and Commerce Committee was considering several bills pending before that committee. One bill was introduced by Congressman LENT, the companion bill to S. 2516; another bill was introduced by Congressman SHARP and HAMILTON; and a third bill was introduced by Congressman BRYANT. Congressmen SHARP and LENT have been in negotiations for several weeks with the administration to come up with compromise language acceptable to the administration. H.R. 4520, the Sharp-Lent compromise, was ordered reported by the House Commerce Committee on October 2. After further talks with the administration, additional changes were made by the House Foreign Affairs Committee on October 11, and the resulting reported version is the one we are offering as a substitute today.

Let me outline for my colleagues the major provisions of this substitute.

First. The substitute requires the Secretary of Commerce to do an annual report to the Congress on the role and significance of foreign direct investment in the United States.

Second. The substitute authorizes GAO to review the information considered by the Secretary and submit a report to Congress—for the first 3 years—analyzing the Secretary's report, and making recommendations for improvement in the Federal Data Collection Program. GAO is also authorized to do other reports to the Congress from time to time. GAO is expressly prohibited from disclosing individual investment information or confidential business information to anyone. GAO must submit any reports to the statistical agencies involved for review of its compliance with this prohibition.

Third. The substitute directs an exchange of information between Census and BEA. This section tracks the central provisions of S. 2516.

Fourth. The substitute also authorizes DOC to collect and report information on foreign governments' investments in the United States. In addition, BEA is required to provide reports to CFIUS upon request. These two provisions reflect the language in Senator MURKOWSKI's amendment to S. 2516, adopted by the Senate Commerce Committee.

Fifth. The substitute authorizes the Bureau of Labor Statistics [BLS] at the Department of Labor to have access to certain information collected by BEA. This access will enable BLS, BEA, and Census to report more accurate, complete and timely information.

Sixth. Reports to BEA by foreign investors, if required to be furnished under oath, must be made by the officer who is directly responsible for the maintenance and compilation of the information, and that officer must certify that the report is accurate.

Seventh. Penalties for unlawful disclosure of information collected by BEA and Census are expanded.

These are all laudable changes; their primary purpose is to eliminate duplication and overlap from the Federal Government's collection of data on foreign direct investment. The House and Senate have held numerous hearings on this issue, and many of these changes have been suggested by witnesses and other experts over the years. It is my understanding that the administration has been closely consulted on this language and has no opposition to it.

Over the last 4 years, many Members of both bodies have worked diligently on legislation to improve the Government's Data Collection Program. Senator EXON has been a leader in this field, as the author of the Exon-Florio amendment to the 1988 Trade Act. He also has been instrumental in moving this bill to final passage in the Senate. Without his help, the provisions sought by the administration would not have been adopted. Congressman BRYANT started this review, and without his leadership and persistence, we would not be considering this legislation today. In addition, Senator MURKOWSKI and Congressman SHARP, LENT, and HAMILTON worked hard to come up with a good bill. This substitute amendment I offer today with my colleagues Senator EXON is a good package, and I urge its adoption.

Mr. EXON. Mr. President, earlier this year I introduced the Foreign Investment Analysis Act with Congressman LENT on behalf of the Bush administration. The legislation is cosponsored by Senators HATCH, BOREN, and SPECTER. The Senate Commerce Committee held a hearing on this legislation on July 19 and reported the bill to the full Senate on a unanimous voice vote on July 31.

I was honored to be asked by the Bush administration to introduce the International Data Improvement Act. The President and his administration merit congratulations for their recognition of the need to improve foreign investment data collection. This change from policy of the previous administration represents a dramatic victory for those of us in the Congress who have worked for so long on the foreign investment issue.

The International Data Improvement Act of 1990 puts forward a consensus position on this important issue. During the consideration of the bill in the Senate Commerce Committee, a helpful amendment was offered by Senator STEVENS on behalf of Senator MURKOWSKI to address the issue of foreign government investment and the preparation of background reports by the Bureau of Economic Analysis for the Committee on Foreign Investment in the United States.

The "good government" approach of the International Data Improvement Act will facilitate a more complete collection and analysis of foreign investment data without imposing new burdens on business or compromising the confidentiality of statistical information.

Our legislation would allow the Bureau of Economic Analysis [BEA] and the Bureau of the Census, both agencies of the U.S. Department of Commerce, to cooperate and share data on foreign investment. The information would be used for statistical analysis and the confidentiality of data submitted to both agencies would be strictly protected.

The fruits of this legislation will provide a constructive addition to the debate on the role that foreign ownership should play in the U.S. economy.

As the author of the Exon-Florio law which gave the President the power to investigate, and if necessary, stop foreign purchases of American companies in the national security sector, I am most concerned about the impact of foreign ownership on the national security.

As a senior member of the Commerce Committee and the Budget Committee, I am also concerned about the risk of selling off America's future prosperity. In response to those who pose the question, "Who is us?" When looking at the foreign investment issue, I say, in a capitalistic system, it matters a great deal who owns businesses, assets, and technologies. American economic policy must be concerned about the creation of American wealth and international economic leadership as well as the creation of American jobs.

The International Data Improvement Act will give policymakers a better understanding of the level of foreign ownership, which will help the Congress and President better craft economic policy. Among the policies encouraged by the public's concern about the increasing level of foreign ownership would be a better use of the Exon-Florio law, stronger efforts to reduce the Federal budget deficit, a more aggressive U.S. technology policy and active efforts to increase U.S. competitiveness.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the amendment.

The amendment (No. 3049) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is Shall it pass?

So the bill (S. 2516) as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENVIRONMENTAL CLEANUP ACTIVITIES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 960, S. 3187, regarding environmental cleanup activities.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3187) to address immediate problems affecting environmental cleanup activities.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3050

(Purpose: To make certain technical corrections)

Mr. MITCHELL. Mr. President, on behalf of Senator METZENBAUM, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] for Mr. METZENBAUM, proposes an amendment numbered 3050.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 3, after "any surety who" insert the following: ", after October 16, 1990, and before January 1, 1993,".

On page 2, line 6, strike out the period after "bond" and insert the following: ", but only in connection with such activities or obligations.".

On page 3, line 18, strike out the quotation marks and the last period.

On page 3, after line 18, add the following: "(5) This subsection shall not apply to bonds executed before October 17, 1990, or after December 31, 1992.".

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the amendment of the Senator from Ohio.

So the amendment (No. 3050) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed on.

Mr. LAUTENBERG. Mr. President, I rise to express my strong support for passage of this legislation. I commend the distinguished Senator from North Dakota, the chairman of the Environment and Public Works Committee, for his prompt action on this measure. The chairman and I, along with other members of the Environment and Public Works Committee, have worked to develop this bill to address a crisis facing Superfund—the unavailability of surety bonds, which already has limited competition for Superfund cleanup contracts, and may threaten to slow the program significantly.

For Superfund's federally funded cleanup construction contracts exceeding $25,000, the Government requires cleanup contractors to obtain bonding from sureties. Sureties which provide such bonding, in effect, guarantee the proper performance of the contract, as well as the payment of subcontractors.

Environmentalists, insurance associations, contractors, and members of organized labor have been talking to the staff of the Environment and Public Works Committee for the past several months about the impacts of surety unavailability. Starting several months ago, staff were presented with legislative proposals to address the problem.

After several months of discussion of the issue, and review of such proposals, on September 19, 1990, the Superfund, Ocean and Water Protection Subcommittee held a hearing on the

issue. The hearing showed that we have an immediate problem facing Superfund, a problem that should be addressed now. According to Superfund contractors, environmentalists, and the laborers who do the actual cleanup work, the lack of bonding is resulting in very few contractors being able to bid on certain contracts. And a recent EPA-commissioned report by the Corps of Engineers documents the concerns many have raised about the effect this can have on the Superfund Program.

EPA and others confirmed that we are already seeing less competition for Superfund cleanups. Less competition means higher prices for a program whose funds are already stretched too thin, and for a nation struggling to deal with a massive budget deficit.

Following up on the report EPA commissioned from the Corps of Engineers, and based on extensive staff discussions with all interested parties, the Environment and Public Works Committee on October 4, 1990, considered the bill before us today, which is designed to allow contractors and the Government to obtain the necessary bonding protections they need.

The bill—which is supported by the Sierra Club, the Environmental Defense Fund, the Laborers International Union of the AFL-CIO, the National Constructors Association, the Associated General Contractors of America, and the American Insurance Association—essentially clarifies two principles. First, where a surety steps into the shoes of a cleanup contractor, and takes over the cleanup work, the surety's liabilities and access to indemnification should be the same as the contractor's. Second, a surety's contractual liabilities should be only those obligations for which the surety contracts.

The consensus among the diverse groups supporting the bill suggests that these are two sensible, noncontroversial principles, consistent with the intent of currently applicable laws. These measures provide sureties with the certainty they need to re-enter the markup, and provide the Government with the protections it needs.

The bill does this, and it does it in a way that narrowly addresses the essential issues, without upsetting the scheme of current Federal or State law.

I understand that the Senator from Ohio will be offering amendments that will limit the application of this bill to the period starting October 17, 1990, and ending December 31, 1992. The amendments will still afford redress for the immediate problems I have discussed facing the Superfund Program over the next 2 years, but would envision that we review this approach during Superfund reauthorization.

Mr. President, the bill takes a sound approach necessary to respond to an immediate threat to the environmental cleanup effort, and I ask for its immediate adoption with the amendments of the Senator from Ohio.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 3187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS.

Section 119 of the Comprehensive, Environmental Response, Compensation, and Liability Act of 1980, as amended, is amended—

(1) by deleting the period at the end of subparagraph (B) in subsection (e)(2) and inserting "; and";

(2) by adding at the end of subparagraph (B) of subsection (e)(2) the following new subparagraph:

"(C) any surety who, after October 16, 1990, and before January 1, 1993, provides a bid, performance or payment bond to a response action contractor, and begins activities to meet its obligations under such bond, but only in connection with such activities or obligations."; and

(3) by adding at the end thereof the following new subsection:

"(g) SURETY BONDS.—

"(1) If under the Miller Act, 40 U.S.C. sections 270a-270f, surety bonds are required for any direct Federal procurement of any response action contract, they shall be issued in accordance with 40 U.S.C. sections 270a-270d.

"(2) If under applicable Federal law surety bonds are required for any direct Federal procurement of any response action contract, no right of action shall accrue on the performance bond issued on such response action contract to or for the use of any person other than the obligee named in the bond.

"(3) If under applicable Federal law surety bonds are required for any direct Federal procurement of any response action, unless otherwise provided for by the procuring agency in the bond, in the event of a default, the surety's liability on a performance bond shall be only for the cost of completion of the contract work in accordance with the plans and specifications less the balance of funds remaining to be paid under the contract, up to the penal sum of the bond. The surety shall in no event be liable on bonds to indemnify or compensate the obligee for loss or liability arising from personal injury or property damage whether or not caused by a breach of the bonded contract.

"(4) Nothing in this subsection shall be construed as preempting, limiting, superseding, affecting, applying to, or modifying any State laws, regulations, requirements, rules, practices or procedures. Nothing in this subsection shall be construed as affecting, applying to, modifying, limiting, superseding, or preempting any rights, authorities, liabilities, demands, actions, causes of action, losses, judgments, claims, statutes of limitation, or obligations under Federal or State law, which do not arise on or under the bond.

"(5) This subsection shall not apply to bonds executed before October 17, 1990, or after December 31, 1992.".

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RED ROCK CANYON NATIONAL CONSERVATION AREA

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 981, H.R. 4559, a bill to establish the Red Rock Canyon National Conservation Area.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill (H.R. 4559) to establish the Red Rock Canyon National Conservation Area, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Red Rock Canyon National Conservation Area Establishment Act of 1990".

SEC. 2. DEFINITIONS.

For the purposes of this Act, the term—

(a) "conservation area" means the Red Rock Canyon National Conservation Area established pursuant to section 3 of this Act;

(b) "public lands" has the meaning stated in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)); and

(c) "Secretary" means the Secretary of the Interior.

SEC. 3. ESTABLISHMENT OF THE CONSERVATION AREA.

(a) IN GENERAL.—(1) In order to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the area in southern Nevada containing and surrounding the Red Rock Canyon and the unique and nationally important geologic, archeological, ecological, cultural, scenic, scientific, wildlife, riparian, wilderness, endangered species, and recreation resources of the public lands therein contained, there is established the Red Rock Canyon National Conservation Area.

(2) The conservation area shall consist of approximately 83,100 acres as generally depicted on a map entitled "Red Rock Canyon National Conservation Area—Proposed" numbered VN-RRC-NCA-001 and dated June 1990.

(3) The map referred to in paragraph (2) shall be on file and available for inspection in the appropriate offices of the Bureau of Land Management, Department of the Interior.

(b) LEGAL DESCRIPTION.—(1) As soon as practicable after the date of enactment of this Act, the Secretary shall file a legal description of the conservation area established by subsection (a) with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United

States House of Representatives, and such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographic errors in the legal description.

(2) The legal description described in paragraph (1) shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, Department of the Interior.

(c) DISCREPANCIES.—In the case of any discrepancy between or among the map described in subsection (a), the amount of acreage stated in subsection (a), or the legal description filed by the Secretary pursuant to subsection (b), the map described in subsection (a) shall control any question concerning the boundaries of the conservation area.

SEC. 4. MANAGEMENT.

(a) IN GENERAL.—The Secretary, acting through the Director of the Bureau of Land Management, shall, subject to valid existing rights, manage the conservation area to conserve, protect, and enhance the resources described in section 3 in accordance with this Act, the Federal Land Policy and Management Act of 1976, and other applicable laws.

(b) HUNTING.—(1) Subject to paragraph (2), the Secretary shall permit hunting within the conservation area in accordance with the laws of the State of Nevada.

(2) The Secretary, after consultation with the Nevada Department of Wildlife, may issue regulations designating zones where and establishing when hunting shall not be permitted for reasons of public safety, administration, or public use and enjoyment.

(c) PREVENTIVE MEASURES.—Nothing in this Act shall preclude such measures as the Secretary deems necessary to prevent devastating fire or infestation of insects or disease within the conservation area.

(d) MECHANIZED VEHICLES.—Except when needed for administrative or emergency purposes, the use of mechanized vehicles in the conservation area shall be allowed only on roads and trails specifically designated for such use as provided in the management plan prepared pursuant to section 5.

(e) LIMITS ON VISITATION AND USE.—The Secretary may limit the visitation and use of the conservation area as the Secretary finds appropriate for the protection of the resources of the conservation area.

SEC. 5. MANAGEMENT PLAN.

(a) IN GENERAL.—(1) Within three full fiscal years following the fiscal year in which the data of enactment of this Act occurs, the Secretary shall develop and transmit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives a general management plan for the conservation area, which shall describe the appropriate uses and development of the conservation area consistent with the purposes of this Act.

(2) The management plan described in paragraph (1) shall be developed with full public participation and shall include—

(A) an implementation plan for a continuing program of interpretation and public education about the resources and values of the conservation area;

(B) a proposal for administrative and public facilities to be developed, expanded, or improved for the conservation area including the Red Rock Canyon visitors center, to accommodate visitors to the conservation area;

(C) a cultural resources management plan for the conservation area, prepared in consultation with the Nevada State Historic Preservation Officer, with emphasis on the preservation of the resources in the conservation area and the interpretive, educational and long-term scientific use of those resources, giving priority to the enforcement of the Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.) and the National Historic Preservation Act (16 U.S.C. 470 et seq.) within the conservation area;

(D) a wildlife resource management plan for the conservation area prepared in consultation with appropriate departments of the State of Nevada and using previous studies of the area; and

(E) a recreation management plan, including nonmotorized dispersed recreation opportunities for the conservation areas in consultation with appropriate departments of the State of Nevada.

(b) WILDERNESS STUDY AREAS.—Subject to section 7 of this Act, nothing in this Act is intended to alter the requirements of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), or section 5(a) of the National Forest and Public Lands of Nevada Enhancement Act of 1988 (102 Stat. 2751), as those requirements apply to the lands within or adjacent to the conservation area as of the date of enactment of this Act.

SEC. 6 ACQUISITIONS.

(a) IN GENERAL.—(1) Within the conservation area, and subject to the provisions of this section, the Secretary is authorized to acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange for Federal lands outside the conservation area, or transfer from another Federal agency with the concurrence of the head of the appropriate agency thereof.

(2) Lands or interests therein owned by the State of Nevada or a political subdivision thereof may be acquired by donation or exchange only.

(3) No privately owned lands or interests therein located within the conservation area may be acquired pursuant to this section except with the consent of the owner thereof.

(b) LAND EXCHANGES.—All exchanges pursuant to subsection (a) shall be made in a manner consistent with section 206 of the Federal Land Management and Policy Act of 1976 (43 U.S.C. 1716).

SEC. 7. WITHDRAWAL.

Except as specifically authorized by this Act, and subject to valid existing rights, all Federal lands within the conservation area and all lands and interests therein which are acquired by the United States after the date of enactment of this Act for inclusion in the conservation area are withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, patent under the mining laws, and from operation under the mineral leasing and geothermal leasing laws, and all amendments thereto.

SEC. 8. COOPERATIVE AGREEMENTS.

In order to encourage unified and cost-effective management and interpretation of natural and cultural resources in the conservation area, the Secretary is authorized and encouraged to enter into cooperative agreements with other Federal, State, and local agencies and nonprofit entities providing for the management and interpretation of natural and cultural resources in the conservation area.

SEC. 9. COORDINATED MANAGEMENT.

The Secretary shall coordinate the management of the conservation area with that of surrounding State and Federal lands in such a manner as best to meet the present and future needs of the American people.

SEC. 10. WATER.

(a) Within the conservation area designated by this Act, there is hereby reserved a quantity of water sufficient to fulfill the purposes for which the conservation area is established.

(b) The priority date of the water rights reserved in paragraph (a) shall be the date of enactment of this Act.

(c) The Secretary shall file a claim for the quantification of the water right reserved in paragraph (a) under the appropriate procedural requirements of law and shall take all steps necessary to protect such rights.

(d) The Federal water rights reserved by this Act shall be in addition to any water rights which may have been previously obtained by the United States for purposes other than for the conservation area.

(e) The Federal water rights reserved by this Act are specific to the conservation area designated by this Act. Nothing in this Act shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made pursuant thereto.

SEC. 11. NO BUFFER ZONES.

The Congress does not intend for the establishment of the conservation area to lead to the creation of protective perimeters or buffer zones around the conservation area. The fact that there may be activities or uses on lands outside the conservation area that would not be permitted in the conservation area shall not preclude such activities or uses on such lands up to the boundary of the conservation area to the extent consistent with other applicable law.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. REID. Mr. President, it is with great pleasure I note the passage of the bill to establish the Red Rock Canyon National Conservation Area. I applaud the efforts of the Upper Chamber and my distinguished colleagues. The passage of this bill represents the culmination of many, many months of hard work.

When I introduced the companion bill to H.R. 4559 in the Senate on April 19 of this year, I knew it would take a Herculean effort to bring this dream to fruition before the adjournment of the 101st Congress.

However, I felt so strongly about Red Rock Canyon, the precarious protection of its fragile age-old resources, and the growing need of the citizens of southern Nevada for outdoor recreation opportunities, I was compelled to seek and secure meaningful protection of the priceless natural treasures which lie within and around Red Rock Canyon.

As I pressed on in this endeavor, I was continually reminded of the words of Gaylord Nelson, the distinguished gentleman from Wisconsin and founder of Earth Day: "Right now and in

the long haul * * * no other issue is more relevant to the condition of human life than our resources."

And so with the passage of the Red Rock Canyon bill, we reaffirm our commitment to protection and wise use of the natural resources this great Nation is so blessed with. We take the imperative measure of conserving for our children and their children the crown jewel of Nevada's public lands, Red Rock Canyon. We are protecting one of America's great treasures.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 4559), as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

IMPROVING EMERGENCY MEDICAL SERVICES AND TRAUMA CARE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of H.R. 1602, a bill to improve emergency medical services and trauma care and that the Senate proceed to its immediate consideration, that all after the enacting clause be striken and the text of S. 15, as amended, be inserted in lieu thereof, the bill be read a third time and passed; the motion to reconsider be tabled; that the Senate insist on its amendment and request a conference with the House on the disagreeing votes of the two Houses and the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER appointed Mr. KENNEDY, Mr. PELL, and Mr. HATCH conferees on the part of the Senate.

AGE DISCRIMINATION CLAIMS ASSISTANCE ACT AMENDMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of H.R. 5794, a bill to amend the Age Discrimination Claims Assistance Act of 1988, that the Senate proceed to its immediate consideration, that it be read a third time and passed, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So, the bill (H.R. 5794) was passed.

Mr. METZENBAUM. Mr. President, every American should have a fair chance at his or her day in court. The Age Discrimination Claims Assistance Amendments of 1990 provide that fair chance. Two years ago, Senator MELCHER and I coauthored the Age Discrimination Claims Assistance Act. I was glad we were able to restore rights for older Americans, but angry that the Equal Employment Opportunity Commission had fallen asleep on the job, making our action necessary.

Now we have to bail out the EEOC again, for the second time in 3 years. This is an intolerable situation. The EEOC again has shirked its responsibilities, by failing to protect older workers and failing even to process their claims so they at least can protect themselves. The EEOC must not be allowed to continue its practice of negligently slamming the door on older workers and then expecting Congress to step in and restore their rights.

I am serving notice here that the EEOC must provide a permanent solution to this problem. If we do not see a permanent solution from the Commission within the next few months, I believe Congress will have to make significant changes in appropriation priorities and statutory direction for the agency. I hope that will not be necessary.

Mr. PRYOR. Mr. President, I am pleased to give my support to H.R. 5794, the Age Discrimination Claims Assistance Amendments [ADCAA] of 1990. Several months ago, as the Senate was considering the nomination of Clarence Thomas to be a Federal judge, I expressed concern that the Equal Employment Opportunity Commission [EEOC] documents submitted to the Judiciary Committee showed that over 1500 ADEA charges contracted out by the Commission to State fair employment practice agencies [FEPA's] for investigation had lapsed since ADCAA was passed.

The EEOC's defense for these lapsed cases was that the Commission has no control over the FEPA's. I said at that time that this is not a valid excuse. The EEOC contracts with FEPA's to investigate a range of employment discrimination cases filed at the State level. This contractual relationship presents a number of possible remedies for the EEOC if the FEPA's fail to perform. There is no reason why the EEOC cannot protect the rights of older workers whose claims are being handled by the FEPA's.

Mr. President, claimants who have lost rights under the ADEA because of the neglect of FEPA's or the EEOC deserve to have those rights restored. It is therefore essential for us to pass this important legislation and I am pleased to have given H.R. 5794 my full support.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator WILSON be recognized to address the Senate for 5 minutes, and that at the conclusion of his remarks, the Senate stand in recess under the order until 10:45 a.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING THE LEADERS

Mr. SIMPSON. Mr. President, I just want to commend the majority leader for his efforts during the day for what was a very tough process. I have watched him now. I serve with him on two committees. He is a splendid gentleman and there are many remarkable traits he possesses, but the greatest one is patience. He has ultimate patience. That serves him well in this remarkable arena.

I watched him today on an extraordinary measure. On our side of the aisle, we are very pleased to have participated in delivering one more than a majority, and on the Democratic side of the aisle 3 more than a majority. It is going to be very tenuous as we work on now, but I think the American people are expecting to see the final result. I think we can give that to them and it will be because of the Senator's skill and ability, and the skills of ROBERT DOLE, our minority leader. Both are to be gratefully commended for the splendid work today.

Mr. MITCHELL. I thank my friend and colleague, the distinguished Senator from Wyoming, for his courteous remarks, his gracious remarks. I say that it was a pleasure working with him. I know he was very involved in the effort to get the votes necessary to pass this important legislation. I am very grateful to him for that. And now one more big hurdle and then we will have the job done.

The PRESIDING OFFICER. Under the order, the Senator from California is recognized for 5 minutes.

THE BUDGET PACKAGE

Mr. WILSON. Mr. President, we have just taken action in the Senate to bring about deficit reduction. Notwithstanding the spirit of debate that has occupied many hours on this floor, there is no dispute from anyone on this floor as to the need for deficit reduction. We have been engaged in a

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heated debate about how it is best done.

And by a margin that has been noted as narrow, action has been taken that will allow the Senate to meet with House conferees, and it is still the hope of many that we will be able to see something that many can vote upon.

Again, the point is not the need for deficit reduction. That is beyond dispute. Our failure to achieve it costs us in many ways. The most obvious is that it costs money. It costs us increased debt service. But I have to say that the reason that many who are as fervent for deficit reduction as voted for it were prompted to vote against it has to do with the lack of pleasure that we see in the particular package and also the lack of certainty that it will lead to the kind of deficit reduction that is its expressed goal.

First of all, Mr. President, this package is, I am told, the largest tax increase in the history of the Senate. Despite all the talks about cutting spending, this package actually boasts spending by a minimum of $245 billion over the next 5 years. All of the so-called cuts are cuts in the projected increases over the next 5 years. The only real cuts, the only actual reductions are in defense spending.

Most notably, it will increase the tax on gasoline by 9.5 cents a gallon. This provision affects not only those who commute and use automobiles for work but even students who rely upon school buses. The National School Transportation Association estimates that the almost 10-cent increase would cost the Los Angeles Unified School District nearly $1 million a year.

This package includes taxes for men and women earning between $20,000 to $50,000 a year. The taxes will be raised by 3 percent. We have calculated that a police officer in Los Angeles earning $45,000 a year with a family of four can face about $2,900 in increased taxes over the period of 5 years as projected for this deficit reduction package.

I do not intend, Mr. President, to get into greater detail, but I think it is important to recognize where the impact actually will fall. Beyond that, I think we need to be assured, if we are going to increase taxes, they will in fact achieve the stated purpose of deficit reduction.

Mr. President, there are no assurances that Congress will not dip into the pocket of taxpayers to solve budget shortcomings in the future. Obviously, no Congress can bind a successor, but I have much more a concern prompted by our history. It does not allow me to be sanquine, that in fact, what we have done tonight will make the difference we all hope it will. All the tax hikes in the world will never balance the Federal budget unless some discipline, some restraint is imposed upon the congressional appetite for spending. That will be true even with the reforms, commendable reforms, to the budget process that have been added by this bill tonight. But otherwise without that check upon the appetite for spending, tax hikes will only encourage Congress to spend more and more. I look to history as an unhappy guide in that respect.

Congress told us in 1982 that a tax increase would give us new revenues to be used to reduce the deficit. We heard the same message in 1984 and in 1987 and in 1989, and yet each time Congress simply spent the extra money and the deficit grew and grew.

So I think we have to ask, Mr. President, why this year will be any different, though we all fervently hope it will.

If the budget of the Federal Government were an account with Visa or any other card issuer, we would find our credit long ago revoked. Congress has worked itself into a frenzy trying to figure out what little things are wrong with this budget, as if some minor adjustment could be made to turn this lemon into a plum.

We might ask, is not the proper question not what is wrong with this package but what is right? What is right is that the effort of many good people has gone into sincere, good faith efforts. In my judgment, they have not produced the correct formula. But even more important perhaps than that, Mr. President, is that there is a requirement that we not simply use new revenues for new spending—and there is no guarantee that will be the case.

I thank the Chair.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10:45 a.m. Friday, October 19; that following the prayer, the Journal of proceedings be deemed approved to date; the time of the two leaders be reserved for their use later in the day; that there be a period for the transaction of routine morning business to extend not beyond 11 a.m. with Senators permitted to speak therein and with Senator BIDEN to be recognized for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, at 11 a.m., the Senate will return to consideration of the Foreign Operations appropriations bill, H.R. 5114.

RECESS UNTIL 10:45 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess.

Thereupon, at 1:54 a.m., the Senate recessed until Friday, October 19, 1990, at 10:45 a.m.

NOMINATIONS

Executive nominations received by the Senate October 18, 1990:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DAVID A. KESSLER, OF NEW YORK, TO BE COMMISSIONER OF FOOD AND DRUGS, DEPARTMENT OF HEALTH AND HUMAN SERVICES (NEW POSITION—PUBLIC LAW 100-607).

CONFIRMATIONS

Executive nominations confirmed by the Senate October 19, 1990:

DEPARTMENT OF STATE

EUGENE L. SCASSA, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BELIZE.

RICHARD C. BROWN, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ORIENTAL REPUBLIC OF URUGUAY.

MICHAEL MARTIN SKOL, OF ILLINOIS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF VENEZUELA.

EDWARD P. BRYNN, OF VERMONT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BURKINA FASO.

STEPHEN H. ROGERS, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF SWAZILAND.

ARLENE RENDER, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THE GAMBIA.

HERBERT DONALD GELBER, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALI.

GORDON L. STREEB, OF COLORADO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ZAMBIA.

HARMON ELWOOD KIRBY, OF OHIO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TOGO.

LEONARD H. O. SPEARMAN, SR. OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF LESOTHO.

JAMES O. MASON, OF UTAH, TO BE REPRESENTATIVE OF THE UNITED STATES ON THE EXECUTIVE BOARD OF THE WORLD HEALTH ORGANIZATION.

THE FOLLOWING NAMED PERSONS TO BE REPRESENTATIVES AND ALTERNATE REPRESENTATIVES OF THE UNITED STATES OF AMERICA TO THE FORTY-FIFTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS:

REPRESENTATIVE:

THOMAS R. PICKERING, OF NEW JERSEY.

ALEXANDER FLETCHER WATSON, OF MASSACHUSETTS.

ALTERNATE REPRESENTATIVES:

JONATHAN MOORE, OF MASSACHUSETTS.

JACOB STEIN, OF NEW YORK.

SHIRIN R. TAHIR-KHELI, OF PENNSYLVANIA.

MILTON JAMES WILKINSON, OF NEW HAMPSHIRE.

KATHERINE D. ORTEGA, OF NEW MEXICO, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-FIFTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

SCOTT M. SPANGLER, OF ARIZONA, TO BE AN AS-

SISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

BOARD FOR INTERNATIONAL BROADCASTING

CHERYL FELDMAN HALPERN, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD FOR INTERNATIONAL BROADCASTING FOR A TERM EXPIRING APRIL 28, 1991.

AFRICAN DEVELOPMENT FOUNDATION

WILLIAM H.G. FITZGERALD, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING FEBRUARY 9, 1996.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR TERMS EXPIRING JULY 1, 1991:

WILLIAM J. HYBL, OF COLORADO.
RICHARD B. STONE, OF THE DISTRICT OF COLUMBIA.

FEDERAL TRADE COMMISSION

ROSCOE BURTON STAREK, III, OF ILLINOIS, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF SEVEN YEARS FROM SEPTEMBER 26, 1990.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Thursday, October 18, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We acknowledge, gracious God, that our thoughts and actions should be as one and that our voices and our deeds should both reflect our values and our purposes. Yet we admit that we too often do not act as we say nor do our deeds follow our words. We pray, almighty God, that what we say with our lips we may believe in our hearts, and all that we believe in our hearts, we may practice in our daily lives. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Maryland [Mr. MFUME] please come forward and lead the House in the Pledge of Allegiance.

Mr. MFUME led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills and joint resolutions of the House of the following titles:

H.R. 3888. An act to allow a certain parcel of land in Rockingham County, Virginia, to be used for a child care center;

H.R. 5749. An act to amend the Act entitled "An Act to incorporate the American University", approved February 24, 1893, to clarify the relationship between the Board of Trustees of the American University and the General Board of Higher Education and Ministry of the United Methodist Church;

H.J. Res. 214. Joint resolution designating the week of October 22 through October 28, 1990, as "Eating Disorders Awareness Week";

H.J. Res. 518. Joint resolution designating October 13 through 20, 1990, as "American Textile Industry Bicentennial Week";

H.J. Res. 525. Joint resolution designating November 18 through 24, 1990, as "National Family Caregivers Week";

H.J. Res. 566. Joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 19, 1990, as "National Military Families Recognition Day"; and

H.J. Res. 669. Joint resolution to salute and congratulate the people of Poland as they commemorate the two-hundredth anniversary of the adoption of the Polish Constitution on May 3, 1991.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 2059) entitled "An act to establish the Weir Farm National Historic Site in the State of Connecticut."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 2737) entitled "An act to require the Secretary of the Treasury to mint a silver dollar coin in commemoration of the thirty-eighth anniversary of the ending of the Korean War and in honor of those who served."

The message also announced that the Senate agrees to the amendments of the House to the joint resolution (S.J. Res. 158) entitled "Joint resolution designating October 22 through 28, as "World Population Awareness Week."

The message also announced that the Senate had passed a bill and joint resolution of the following titles, in which the concurrence of the House is requested:

S. 2362. An act to enhance the survivability and recovery of the insular areas from severe storms, and

S.J. Res. 154. Joint resolution to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920.

MODIFICATIONS IN APPOINTMENT OF CONFEREES ON S. 358, IMMIGRATION ACT OF 1990

The SPEAKER. Pursuant to the authority granted on October 17, the Chair makes the following modifications in conferee appointment for the Senate bill (S. 358) to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States and to provide for administrative naturalization, and for other purposes.

The conferees from the Committee on Education and Labor are also appointed for consideration of section 104 of the House amendment.

Mr. MOAKLEY is appointed a conferee for consideration of section 324 of the House amendment, and modifications committed to conference.

EXPLANATION OF OBJECTION

(Mr. HAWKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAWKINS. Mr. Speaker, the night before last I objected to the Panetta motion that would have stricken and did strike Head Start, and certainly the part of the program which pertains to child care, from the reconcilation package.

The membership did not really understand the issue at that time. We had no opportunity to explain it. For that reason, I did not call for a vote.

However, the situation is that the House-Senate conference named by the House Members, named by this body, did reach accommodation, did agree on a conference which was never acted upon. The Senate put their version of that package into the reconciliation resolution, and the attempt of the House Committee on Education and Labor to do likewise was turned down by the Panetta amendment. It was for that reason I objected at that time.

In my opinion, the present effort to balance the budget principally by cutting out vital domestic programs is counterproductive. I think it is the wrong way to go. I think a budget is a matter of spending as well as revenues, and to cut education, employment, and training is counterproductive and is not the way it should go. We should stop and look at the merit of programs and do on a piece-by-piece basis based upon merit. For that reason, I acted as I did.

DEFEAT AGRICULTURAL LEGISLATION

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARLENEE. Mr. Speaker, shall we call it an agricultural bill? Shall we call it the Kansas Plan? Shall we call it a consumer bill? Shall we call it a foreign giveaway? Shall we call it unilateral disarmament? Shall we call it George Bush's give to agricultural?

No, I think we should call it the greatest disaster ever written, collectively put together by a trade representative posing as a Secretary of Agriculture. The Secretary of Agriculture Clayton Yeutter got it all wrong. Producers said a bushel of wheat for a barrel of oil, not a bushel of oil for a gallon of gasoline.

This agricultural legislation should be soundly defeated in the conference report.

SHAME ON THE PRESIDENT

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, the sorry spectacle of Richard Darman this morning on television trying to defend taxing the middle class by saying that a gas tax is good, but changing the rate so that the wealthy get taxed is bad, is absolutely unbelievable. If anybody in America needs any more proof, all they need to do is to see Mr. Darman, together with what happened on Sunday when the Vice President of the United States said, on television, in front of the American public in response to a question as to whether or not the President was opposed to taxing the wealthy by raising rates, the answer was, "Yes, he is."

It is right there, folks, for all the world to see. What a sorry display of nonleadership. For 10 years, the decade of the 1980's was the decade of the wealthy getting wealthier and the middle class getting squeezed, and now when the Democrats want to do something about it, the Republicans cannot come up with a plan, the President defends the wealthy not being taxed, and all of the puppets, the ones not elected by this country, say it is not fair to tax the wealthy without taxing the middle class, and then come here and attack Members because we want to do something like freezing indexing for 1 year, which costs $1.25 a person for 85 percent of the taxpayers in this country.

What a sorry spectacle. Shame on the Presidency.

ON TITLE X ALLOW AMENDMENT FOR PARENTAL NOTIFICATION

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr Speaker, surprise, surprise. With about a week to 10 days left in the session I have just learned that the gentleman from California [Mr. WAXMAN] may bring up a 4-year reauthorization of the title X Domestic Family Planning Program, perhaps as early as Monday, under suspension of the rules. Mr. Speaker, consideration of this controversial program under suspension thereby precluding amendments to title X is absolutely unfair and does a grave disservice to every Member of this Chamber.

Mr. Speaker, on September 26, the Senate voted to approve parental notification on the companion bill. We can—and we should—do no less. Various polls show that over 80 percent of the American public support parental notification in cases of abortion for teenagers.

As a matter of fact a CBS-NY Times poll found that 83 percent of Americans support a law requiring "that at least one parent be told before a girl under 18 could have an abortion."

It is no secret, Mr. Speaker, that recipients of title X, including planned parenthood, perform counsel and refer for abortions for minors, without parental knowledge.

The number of abortions performed by planned parenthood is absolutely shocking and staggering. In 1 year alone, 1988, planned parenthood performed over 111,000 abortions, and referred young girls and women for another 100,000 abortions. Again, with no provision whatsoever for even parental notification.

Mr. Speaker, at a bare minimum, parents of minors should be aware that planned parenthood personnel and others are intending to do an abortion on their minor daughters.

Mr. Speaker, if H.R. 5693 is defeated on Monday, It will be because the bill's sponsors refused Members the right to amend it so as to include Senator ARMSTRONG's parental notification amendment.

WHY RAISE TAXES FOR ISRAEL GIVEAWAY?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, any Congress that will raise more taxes on the back of the American people, then give it away to foreign countries does not deserve a pay raise. It is time to tell it like it is.

Israel is already getting $3 billion from the American taxpayers, but that is not enough. Hidden in this budget is another $15 million for new ports in Israel, $180 million for oil, $42 million for missiles, $700 million for weapons, and to boot, Israel is to get all of their cash in the first 30 days which means we have to go out and borrow it, while we are raising taxes on mom and dad, to give it to Israel, who will reinvest it and make another $60 million out of our taxpayers accounts.

Now, I am going to be called anti-Semitic and everything, but enough is enough. Any Congress that will raise taxes on mom and dad and allow this does not deserve a pay raise. We were not elected to the British Parliament and Israel Knesset. We are elected to the Congress.

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INTRODUCTION OF LEGISLATION LIMITING REIMBURSEMENT BY THRIFT REGULATORS TO LARGE DEPOSITORS

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, a recent report profiling the Nation's largest savings and loan failures indicates that nearly 20 percent of the deposits at defunct thrifts now being reimbursed by taxpayer dollars are over the federally insured amount of $100,000 at year end of 1989. In fact, at seven of the surveyed thrifts the average jumbo account, which is receiving full reimbursement, contained more than $1 million.

These numbers refute the belief that taxpayers are bailing out small savers.

It is not just the small savers who are being rescued. Instead it is often the very wealthy whose brokers were pumping dollars into thrifts that had previously financed their risky investments.

It is not the intent of Congress to cover the losses of wealthy speculators in high risk investments and we must not let tax dollars be used in such a manner.

Please join me in supporting legislation I am introducing today which will prevent thrift regulators from reimbursing large depositors above the $100,000 figure, per account, except in those situations where to do so is the lowest cost method of meeting the Government's obligations in liquidating or selling the thrift.

SENATE BUDGET PROPOSAL BACK TO BUSINESS AS USUAL

(Mr. POSHARD asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. POSHARD. Mr. Speaker, my State of Illinois is the fifth largest State in the Nation. Think of all the things the fifth largest State in the Nation must provide: Education, transportation, conservation, welfare, everything, the fifth largest State in the Nation.

The budget of the State of Illinois this year is slightly in excess of $20 billion. The Federal deficit this year will require us to approach $200 billion in interest on our national debt.

Mr. Speaker, we could run 10 States the size of the fifth largest State in this Nation on just the interest we are paying on our national debt. That is criminal. That has to be stopped. It is time for deficit reduction, and the best option anywhere is the plan proposed by my colleague, the gentleman from

Illinois [Mr. ROSTENKOWSKI] and passed by this House 2 nights ago.

Please, I say to the President and the Senate, do not compromise this package. It is the fairest package for every single American.

HIGHER TAXES WOULD RAISE INTEREST RATES, GUARANTEE RECESSION

(Mr. BALLENGER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, at this time of economic anguish here in the United States, on the verge of a recession, the worst thing we can do is raise taxes. Your reconciliation package includes $93.6 billion in tax increases that will shrink credit, raise interest rates, and guarantee recession.

With layoffs occurring everywhere in the United States, you would think this sacrifice asked of the American people would be supported by a decrease in the size of the Federal Government. With our troops in the field, the only cuts in the Democrat package are in defense. The rest of the Government continues to grow.

This is obviously the opposite of what the American voter wants. I hope the voters recognize this before the election and before the depths of the recession created by this package.

THE RIGHT THING TO DO ON THE BUDGET

(Mr. HUTTO asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HUTTO. Mr. Speaker, there is much frustration throughout America and there is much frustration here in the Congress. We must get a budget. We started the process night before last, I think, with a good budget resolution.

When many of us voted against the resolution a week or so ago, and it went down overwhelmingly with votes on both sides of the aisle, two of the major points for voting against it were the hard hits on Medicare and our senior citizens, and also the onerous 10 cents a gallon on gasoline. We corrected that in the budget resolution which passed this House of Representatives night before last.

It appears that the other body does not want to do anything about the bubble and taxing the higher income and wealthier Americans.

I think most people feel that it is the right thing to do, to have an equitable distribution of this burden; so I hope that before we go home, that we will have done the right thing for all our constituents and place this burden where it belongs. None of us likes taxes, but we need to place it in the right places, and I believe this House has taken the right step in doing that. I hope the other body will follow through.

HOUSE REPUBLICANS SHOULD STAND TALL

(Mr. HEFLEY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, there is a lot of finger pointing that goes on around here about who wants more taxes. Let us look at reality for just a moment.

Article I, section 7, clause 1 of the Constitution states "All bills for raising revenue shall originate in the House of Representatives," the same body controlled by the Democratic Party for the past 36 years.

When the President called for a budget summit this year, it was the Democratic leadership that demanded additional taxes be considered as a condition of their participation;

Chairman of the House Ways and Means Committee, DAN ROSTENKOWSKI, has stated that raising income and excise taxes was the best solution he could find to balancing the budget;

Senator HOLLINGS, chairman of the Senate Commerce Committee, has called for instituting a 5-percent value added tax as a means of balancing the budget and getting our economy back on the right track; and

TOM FOLEY, Speaker of the House, and GEORGE MITCHELL, majority leader of the Senate, have repeatedly and strongly endorsed raising taxes.

Apparently, congressional leadership has an obsession with increasing taxes. When they speak of tightening belts, making the tough choices, and showing political courage, they are not talking about cutting spending, they are talking about raising taxes. We need to remind them that it does not take courage to spend someone else's money.

Earlier this summer, I cosponsored the Armey no new taxes resolution that was overwhelmingly adopted by my Republican colleagues. In that resolution, we promised to oppose any tax increase, regardless of what form it took and regardless of how many concessions we received in return. I intend to keep that promise, and I call on the rest of my colleagues to do the same.

THE CIVIL RIGHTS BILL AND QUOTAS

(Mr. WASHINGTON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. WASHINGTON. Mr. Speaker, this morning the President has the civil rights bill on his desk. Under American law, there is a universal standard. Whomever claims something to be true must prove that thing to be true, not claim it, prove it. If the civil rights bill is a quota bill, then why do not those who claim it is a quota bill prove that it is a quota bill and stop hiding behind that?

If there is a veto of this bill, I think the President, Mr. Speaker, should send a clear message to the American people. It would only take three or four sentences to explain how and under what circumstances this wonderful bill is a quota bill. In plain English, they ought to be able to prove it.

Mr. Thornburgh and Mr. Gray have between them, Mr. Speaker, 61 years of experience in practicing law. Surely they can come up with more than conclusions that this is a quota bill. Surely they can come up with three or four sentences, Mr. Speaker.

They are giving the President bad legal advice. There is no in between. There is no crying wolf.

The President has said, Mr. Speaker, that we should read his lips. He said he wants to sign a civil rights bill. There is only one man in the mirror, Mr. Speaker. His mouth moves so fast I cannot hear him, but I can see what he does, and what his actions do say that he does not want a civil rights bill, and what he does speaks so loudly, Mr. Speaker, I cannot hear what he says.

CORRECTING THE SYNAR AMENDMENT ON GRAZING

(Mr. RHODES asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I hope the Chair and the House do not mind if I change the subject for at least a brief moment.

On Monday the House considered the Synar amendment which affected grazing fees charged to graze cattle on BLM lands. I think many Members of this House based their vote on representations of fact that were inaccurate. Among the things that the gentleman from Oklahoma [Mr. SYNAR] used to press his argument were figures relating to grazing fees charged by States to allow grazing on State-owned lands, and among the States the gentleman quoted was the State of Arizona, where he said the State of Arizona charges $5.99 per animal unit month to graze on State lands.

Mr. Speaker, I am today inserting in the RECORD a letter from the commissioner of the Arizona State Land Department which states that in fact in 1990 the fee charged is $1.39 per animal unit month, and the highest fee ever charged since 1950 was $1.43.

I do not think the gentleman from Oklahoma [Mr. SYNAR] deliberately

misleads us. He ought to check into who gives him the facts that he represents to us.

INTRODUCTION TO DISAPPROVE ARMS SALE TO SAUDI ARABIA

(Mr. OBEY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, I take this time to simply notify the House that the gentleman from California [Mr. LEVINE] and I are today introducing legislation which would disapprove the administration's arms sale for Saudi Arabia, or at least significant portions of it.

I think there are two problems with the administration's sale. No. 1, the way it is designed, it will unquestionably fuel the arms race in the Middle East to an unprecedented degree.

Second, the administration, frankly, does not have a clue as to what its long-term plans are for dealing with the escalation of military weaponry in the Middle East. They have no idea of what the pressures are going to be on the foreign aid bill for additional increases in spending over the next 5 years because of that sale. Under those circumstances, I think it ought to be scaled back.

The focus of the items which we will try to disapprove will be on the items that have nothing whatsoever to do with the Desert Shield operation, weapons which will not even be delivered for a significant period of time after next year.

□ 1020

Mr. Speaker, I would urge Members to take a look at it and affix their signatures as cosponsors if they so desire. We have a very short period of time in which to try to disapprove that sale.

WHO IN AMERICA WILL BE FORCED TO CUT SPENDING?

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, I want to take just a moment this morning to show you two houses in America; one is the house of the typical American family of four and the other is the House of Representatives.

The budget debates in this town going on at this time can be boiled down to one basic question: Who in America will be forced to cut spending? The American family of four or the House of Representatives?

The fact is that earlier this week Congress decided that we needed to cut the spendable income of the American family of four by $639 a year so that the Congress of the United States could continue spending. How much? At least $132 billion in domestic discretionary spending.

What is that? That is the money where we parcel out the money we want for special projects in our districts.

We are going to have an election very soon. In that election I hope the American people decide it is time that this House, the House of Representatives, quit its drunken spending spree so that the American family can have income to spend on itself.

HOW MUCH BELT TIGHTENING WILL THERE BE?

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, I would like to engage the gentleman who just spoke on that question.

Yes, these are big figures. Yes, all of this is about belt-tightening. In order to ensure a $500 billion deficit reduction in the next 5 years, all of us are going to have to tighten our belts.

He brought out the average American family of 4. Well, the average American family of 4 will have to tighten its belt too. But it will only be by eight-tenths of 1 percent; eight-tenths of 1 percent of their take-home income after taxes.

You know, these are not scary figures. The lowest one-fifth of all of our people will do no belt-tightening. The top 1 percent who have $428,000 of taxable income, take-home income after taxes, will have to tighten their belts by 2.4 percent.

Mr. Speaker, I hope the American people will realize that all belt-tightening by everybody in our society will only be nine-tenths of 1 percent or less than 1 cent per dollar.

WAIVING CERTAIN ENROLLMENT REQUIREMENTS WITH RESPECT TO ANY RECONCILIATION BILL OR CONTINUING RESOLUTION FOR THE REMAINDER OF THE 101ST CONGRESS

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the joint resolution (H.J. Res. 676) waiving certain enrollment requirements with respect to any reconciliation bill or continuing resolution for the remainder of the 101st Congress.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the joint resolution as follows:

H.J. RES. 676

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HAND ENROLLMENT AUTHORIZATION.

(a) WAIVER OF CERTAIN LAWS WITH RESPECT TO PRINTING OF ENROLLED BILL OR JOINT RESOLUTION.—The provisions of sections 106 and 107 of title 1, United States Code, are waived with respect to the printing (on parchment or otherwise) of the enrollment of any reconciliation bill or continuing resolution of the One Hundred First Congress hereafter to be presented to the President.

(b) CERTIFICATION BY COMMITTEE ON HOUSE ADMINISTRATION.—The enrollment of the bill or joint resolution shall be in such form as the Committee on House Administration of the House of Representatives certifies to be a true enrollment.

SEC. 2. SUBSEQUENT PREPARATION AND CERTIFICATION OF PRINTED ENROLLMENT.

(a) PREPARATION.—

(1) IN GENERAL.—If a reconciliation bill or continuing resolution is presented to the President in the form of a hand enrollment pursuant to the authority of section 1 of this resolution, then upon the enactment of that bill or joint resolution the Clerk of the House of Representatives shall prepare a printed enrollment of the bill or joint resolution as in the case of a bill or joint resolution to which sections 106 and 107 of title 1, United States Code, apply.

(2) LIMITED STYLISTIC CORRECTIONS.—A printed enrollment prepared pursuant to paragraph (1) may, in order to conform to customary style of printed laws, include corrections in spelling, punctuation, indentation, type face, and type size and other necessary stylistic corrections to the hand enrollment. The printed enrollment shall include notations (in the margins or as otherwise appropriate) of all such corrections.

(b) TRANSMITTAL TO PRESIDENT.—A printed enrollment prepared pursuant to subsection (a) shall be signed by the presiding officer of each House of Congress as a correct printing of the hand enrollment and shall be transmitted to the President.

(c) CERTIFICATION BY PRESIDENT; LEGAL EFFECT.—Upon certification by the President that such printed enrollment is a correct printing of the hand enrollment, such printed enrollment shall be considered for all purposes as the original enrollment of the bill or joint resolution and as valid evidence of its enactment.

(d) ARCHIVES.—Such printed enrollment certified by the President under subsection (c) shall be transmitted to the Archivist of the United States, who shall preserve it with the hand enrollment. In preparing the bill or joint resolution for publication in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall use the printed enrollment certified by the President under subsection (c) in lieu of the hand enrollment.

(e) HAND ENROLLMENT DEFINED.—As used in this section, the term "hand enrollment" means the enrollment, as authorized by section 1, of a bill or joint resolution for presentment to the President in a form other than the printed form required by sections 106 and 107 of title 1, United States Code.

(f) RECONCILIATION BILL DEFINED.—As used in this section, the term "reconciliation bill" means a bill to provide for reconciliation pursuant to section 4 of the concurrent

resolution on the budget for fiscal year 1991.

(g) CONTINUING RESOLUTION DEFINED.—As used in this section, the term "continuing resolution" means a joint resolution making continuing appropriations for the fiscal year 1991.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DEMOCRATS—THE PARTY OF TAXES

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, the time for Democrat rhetoric is over. This week in Omaha, NE, the President said, and I quote:

> We are fighting against the majorities, the liberal majorities that control both Houses. We are fighting the entrenched tax-and-spend philosophy on Capitol Hill.

He was talking about the Democrats who control Congress. This week it was the Democrats who passed a huge tax bill on the working men and women of America.

This week the Democrats in Congress had a choice to either cut spending or raise your taxes; they chose to raise your taxes. This week the Democrats in Congress had a choice to either cut spending or cut Medicare; they chose to cut Medicare.

Let there be no mistake or confusion, the Democrats have always been the party of raising taxes. They always have been and always will be. Raising taxes was their goal from the beginning of the budget summit. Now they have gotten outright blatant and greedy in their desire to see Washington fattened, with the hard earned wages of all honest, working Americans.

We on the Republican side of the aisle take heart in our President who declared his intention of vetoing the Democrats tax and spend budget package.

Mr. Speaker, it is time that politicians in Washington get their hand out of the pockets of middle America. And let us stress again for the record that it was the Democrats who passed the tax budget with 228 votes. It was the Republicans by a vote of 164 who were against a tax bill. Let us be honest about which party is the party of taxes—the Democrats.

THE TAX PACKAGE WAS A TAX AND CUT SPENDING PACKAGE

(Mr. JACOBS asked and was given permission to address the House for 1 minute.)

Mr. JACOBS. Mr. Speaker, the budget package that passed was not a tax and spend package, it was a tax and cut spending package. Three-fourths of it cut spending and one-fourth taxes.

Mr. Speaker, this is the education administration. At least I have learned something. I pored over the Constitution and I cannot find that passage that says when there is a budget crunch you lay off nonessential personnel. That raises the question if they are nonessential what were they doing on the payroll in the first place?

One of the things the President found to be unessential was for the tourists to use the rest rooms a couple of weekends ago. I guess that is all right. That is a value judgment.

But could this possibly come from the same group who thinks that a toilet seat is worth $660?

Now weigh that and give it a little bit of thought. But when you come right up to it, closing down the Government, the bills are not due until the end of the month. It is not payday Tuesday. It is a Presidential weapon, not a Presidential duty.

THE BUDGET PACKAGE INCREASES TAXES OF MIDDLE INCOME FAMILIES

(Mr. SAXTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, the day before yesterday when this tax bill was passed, I stood at the podium and made the point that this is in fact a tax on the middle class. A working family with 2 children, this plan will cost $450 per year just in the increase in the income tax.

But you do not have to just believe me, listen to what the National Taxpayers Union had to say just this morning.

> The tax increase aimed at middle class taxpayers in the Democratic alternative would be caused by a one-year delay of the annual inflation adjustment of the personal exemption and the tax rate bracket amounts. It would cut the 1991 personal exemption from $2,200 to $2,050. the 28 percent tax rate bracket would begin at $32,450 of taxable income, instead of the $34,250 required under current law. Millions more middle class taxpayers would find themselves in the 28 percent tax rate bracket.

That is not fair, Mr. Speaker.

FIGHTING FURLOUGHS

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, time is running out. Another deadline is fast approaching. Come Saturday morning the Government might be shut down again. I am prepared to state right here that I will support the conference report that will emerge in the next 2 days. The reason is that our Government is in crisis. And I hope that everybody bites the bullet.

It is not going to be to all our liking, but the time has come to seriously stop some of this partisanship and think about the country. It is important too that President Bush be engaged in these negotiations.

Why is it so easy for him to negotiate with Gorbachev and not with the leaders of the Congress?

We have to deal with domestic budget issues. It is critical.

In my State of New Mexico, 23,000 Federal employees will be furloughed if we do not reach agreement. Countless others will lose their jobs.

Let us stop this partisanship, let us deal with the deficit, let us bite the bullet and most importantly, let's go home.

THE NEED FOR TAX INCREASES IS PERCEIVED DIFFERENTLY IN VARIOUS PARTS OF THE COUNTRY

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, we have been embroiled in a budget controversy here for a very long time, too long. This decision should have been made last spring.

I rise to share the response that I have had overwhelmingly from the people of Wyoming whom I am proud to represent.

The people of Wyoming want less government, not more. They want a budget program that controls the growth in government, not to guarantee growth by added taxes.

The need for massive tax increases is perceived differently in different parts of the country, particularly here within the beltway.

There are four groups that influence our thinking the most, it seems to me. One is agencies who do not believe they can possibly live another moment without a 10-percent increase each year.

Second, other groups have come to town specifically for the reason of raising the budget. They are the ones we see here within the beltway.

Third is the media which is offended by any sort of change in new building programs.

Finally, Members of this Congress who perceive that their political influence is improved by growing programs and increasing the size of government.

□ 1030

Mr. Speaker, we need less government, not more. We need to control growth, not increase taxes.

LET'S GO HOME

(Mr. BATES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BATES. Mr. Speaker, Thomas Wolfe wrote, "You can't go home again." I hope that is not the case for this House of Representatives.

I urge the budget conferees to support the Democratic plan put forth to them which does not cut Medicare and which taxes the rich. I urge the President to stop flip-flopping on his position, and I say, "Let's go home."

Mr. Speaker, if we do not do those things, I am afraid we are in for a long, cold winter.

BUDGET PROCESS REFORM ACT WILL MAKE AMERICANS PROUD OF CONGRESS ONCE AGAIN

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX. Mr. Speaker, it is today, October 18, half a month into our new fiscal year, and we still have not completed our budget process. The law requires that we have our budget here on the floor by April 15. It requires that our 13 appropriations bills and our reconciliation process be finished by the end of June.

Mr. Speaker, the reason we are in this budget mess is that the Congress is breaking the law. As a Republican, there is very little that I can do about this. The Speaker of the House and the Democratic majority have total control over what comes to the floor of this body, so what can we do? Can we arrest the Speaker and the chairman of our Democratic committees, put them in jail for violating the budget law? Can we appoint an independent counsel?

Over 100 Members of the House of Representatives have a better idea. We are original cosponsors of a bill that will be introduced within the next 24 hours, the Budget Process Reform Act of 1990. We will put teeth and enforcement in our deadlines and in our spending limits. We will put an end to Government shutdowns, last-minute continuing resolutions, and the embarrassing Keystone Kops handling of our Nation's finances. We will make the American people proud of their Congress once again.

THE FIGHT IS ABOUT FAIRNESS

(Mr. ESPY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ESPY. Again, Mr. Speaker, it looks as if we are headed for a Government shutdown. Now none of us really wants that to happen, but the American people really ought to understand that this is a 5-year package, and this debt reduction plan takes us well into the year 1995.

Moreover, Mr. Speaker, they ought to understand that this is a fundamental clash of principles between the two parties over how people will be treated over that period of time.

Now the Democrats do not want a shutdown, but neither, Mr. Speaker, do we want a shutout, shutout of the elderly, of the middle-income earners, under a regression tax plan that continues to favor the wealthy who have seen their taxes drop by 10 percent over the last 10 years while the tax burden on almost everyone else has increased over the same period of time by 28 percent.

So, Mr. Speaker, this is not about handouts, because two-thirds of this Democratic plan comes from spending reductions, but it is about handups. It is not about Government shutdowns, but it is about, rather, opening doors for the shutouts. This fight is about fairness, and that is what this fight is all about.

CHECK YOUR WALLET AND COUNT YOUR SPOONS

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute.)

Mr. ROHRABACHER. Brace yourselves, America. The Democrats are talking about tax the rich, and, when that kind of rhetoric is heard coming out of the Democrats, I say to my colleagues, "It's time to check your wallet and count your spoons."

Who do they mean by the rich? They mean anybody who earns over $20,000 because that is what is going to be paying the bill. They mean the people who are earning 30, to 35, to $40,000 because those people, the middle class, are going to be paying the largest portion of the $175 billion in new taxes the Democrats are trying to foist off on the American people.

Mr. Speaker, it is time to control spending. It is time to jump-start our economy and have some new wealth produced in our country because we have a growing economy, not to tax our country and tax our middle class into recession.

WE NEED TO TALK ABOUT LITTLE JESSICA

(Mr. SERRANO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SERRANO. Mr. Speaker, yesterday I had the unfortunate task of speaking to two parents, Mr. and Mrs. Guzman in my district to tell them their little daughter, Jessica, was in my prayers and in the prayers of all the Members of the House. Today's newspaper indicates that Jessica becomes the fourth child in my district found dead in the last 4 years, but we will spend the rest of this day and this week talking about budget deficits, interest rates, bonds, and trickle down economies, and we will not talk about Jessica. We will not have the courage to reopen the budget negotiation and put back every penny we took out of education and out of child care so that children like Jessica may live.

We have to wake up, my colleagues, with all due respect. This is the real America. This is the forgotten South Bronx. These are the poor who do not have an opportunity to grow up. Let us talk about deficits after we talk about the memory of Jessica.

DEMOCRATS SHOULD NOT TALK ABOUT FAIRNESS

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mr. ARMEY. Mr. Speaker, I will have to say for this Member, who generally has a high regard for and appreciation of the quality of workmanship of the Members on both sides of the aisle, that I am sick and tired of hearing the Democrats in this body talk about fairness. Any group of people that use their majority status to blatantly, callously, and maliciously deny the right to participate to the minority have no right to talk about fairness. It is a sense of common decency that is lacking and which made it possible for them to maliciously manipulate the rules and keep a no-tax alternative out of consideration on this floor and away from the view and the analysis of the American public while they rammed through a proposal that allowed them to tax all Americans more and to continue the spending programs that help them retain their majority.

For my money, Mr. Speaker, the next time a Democrat in this body talks about fairness, DICK ARMEY is going to stop listening.

SACRIFICING OUR CHILDREN TO PROTECT MILITARY-INDUSTRIAL COMPLEX

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. UNSOELD. Mr. Speaker, on October 16 a New York Times writer, William A. Niskans, wrote that at a meeting with some war hawks recently he was told that "We owe Saddam Hussein a favor. He saved us from the peace dividend."

Mr. Speaker, my heart cries out for the soul of this Nation. Is our military-industrial complex so greedy for tax-

payers' dollars that we are willing to sacrifice our brave young men and women shipped to the Persian Gulf in order to protect their appropriations?

Mr. Speaker, at what cost is the Nation selling its children?

BITE THE BULLET?

(Mr. JAMES asked and was given permission to address the House for 1 minute.)

Mr. JAMES. Mr. Speaker, $450 on a family of two increases in taxes; you are kidding, and then the plea is said: "Bite the bullet," when we are giving ourselves a 15-percent increase on our own staff, a 15-percent increase for our own staff.

I say, "Are you kidding? Do you realize we're on TV?"

I mean, Mr. Speaker, people do see what we say and remember some of what we say, and it is quite easy to look at our own budget and find that we are giving ourselves and our staffs more money for that purpose.

Incredible? Bite the bullet? Fifteen-percent increase on administrative staffs? Bite the bullet? That is unconscionable to stand up here and suggest that and then to suggest that the average taxpayer can bite the bullet and pay more taxes.

Just a few days ago it was submitted that the average taxpayer was not paying any taxes, and that is admitted by all. There is a tremendous tax increase on Mr. and Mrs. Middle Income. Tremendous.

DETERRENCE, ECONOMIC BLOCKAGE, NOT WAR, ARE TRUE OBJECTIVES OF SAUDI ARABIA MISSION

(Mr. KENNEDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY. Mr. Speaker, there has been increasing talk about the use of force to dislodge Saddam Hussein out of Kuwait. Even the Secretary-General of the United Nations alluded to the necessity for this type of action yesterday. These statements, however, bring into question the true objectives of the multilateral mission to Saudi Arabia.

As a deterrent force, the deployment was supposed to enhance the defensive capabilities of our allies in the region. It was supposed to promote a blockade that would work to economically weaken Iraq enough to compel the aggressor out of Kuwait. But by initiating military action to pressure Iraq, the potential use of force goes well beyond the original mandate of our presence in Saudi Arabia.

The American people do not want to go to war unnecessarily. Our troops and equipment make up over 80 percent of the multinational force structure, and when the bullets start to fly, 80 percent of the multinational casualities will be our young men and women. We are not there to instigate conflagration, we are there to deter aggression. There is no reason to catalyze the effects of an economic blockage by using force. Firing first without first being fired upon would only cause needless bloodshed.

□ 1040

A NIGHT OF INFAMY

(Mr. PURSELL asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. PURSELL. Mr. Speaker, it was a night of infamy last Thursday, October 4, when the budget summit resolution came to this House at 1:15 a.m., in the middle of the night. The Democratic budget resolution followed on October 7, 2:30 a.m., in the middle of the night.

The rule that would not allow consideration of the Pursell-Kasich Republican budget plan, was voted out of the Committee on Rules on October 15, at 1 a.m. in the middle of the night. The Democrats passed their own rule for their own plan, in the middle of the night.

So we have a World Series going on here in which we play only by the Democratic rules, in which they have waived the rules for the Budget Act 62 times in the 101st Congress.

We demand the same rules as the Democrats, just like the Cincinnati Reds and the Oakland A's must use in the World Series. The Democrats cannot even play fair and square on the same day that the civil rights bill is debated on the floor of the House. Can you believe that, America?

AMERICA CANNOT AFFORD COST OF CONGRESS' WASTEFUL SPENDING

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, yesterday Democrats on this floor admitted that their budget plan would raise the tax of a $35,000-a-year family by $2000 over 5 years, or $400 a year. That is $400 a year more on a two-earner family, where each earner is making $17,000.

Several Democrats indicated that $400 was not too much of a burden on that middle class family. Everyone should pay the cost of Government spending, they said.

In most families, $400 is a lot of money. In case some Members have forgotten, on our $95,000-a-year salaries, $400 is more than one-half of 1 week's pay on a $35,000 income.

The Democrats seem to think that middle America can afford to hand over half of the money they make this week to the Federal Government. Mr. Speaker, most families do not think they can afford the cost of Congress' wasteful spending.

INTRODUCTION OF THE AIRPORT SYSTEM PLANNING ACT OF 1990

(Mr. PACKARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PACKARD. Mr. Speaker, today I, along with Congressman NORM MINETA and several colleagues, will introduce the Airport System Planning Act of 1990.

Enactment of this legislation will improve our national airport system capacity through enhanced cooperation in the planning process. Currently, the Federal Aviation Administration [FAA] formulates aviation policy behind closed doors with no input from State and local governments, airport operators, private entities, and private citizens. We seek to change that to ensure that all interested parties are involved in the process.

A central theme of the bill is the development of performance measures so that we may accurately determine how our Nation's airports are functioning. All other modes of transportation are subject to performance review, it is time for the collection of adequate, accurate data on how our aviation system actually performs. Collection of this data will help identify where our system bottlenecks are. As we identify these bottlenecks, we can work to solve them.

We require, in an open door process, the formulation of two new airport system planning documents to replace the current [NPIAS] national plan for integrated airport systems. A strategic 20-year plan and a short range 5-year capital improvement plan [CIP] will be developed. These plans will identify needs and offer solutions to solve our Nation's capacity problems.

Mr. Speaker, I urge my colleagues to join me as original cosponsors of this vital legislation.

REMOVAL OF NAME OF MEMBER AS CO-SPONSOR OF H.R. 188

Mr. WASHINGTON. Mr. Speaker, I ask unanimous consent to have my name removed from cosponsorship of the bill, H.R. 188.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from Texas?

There was no objection.

DEMOCRATS SUPPORT SPENDING HABIT WITH TAXES

(Mr. DOUGLAS asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. DOUGLAS. Mr. Speaker, the tax package that was passed on Tax Tuesday in the House proves that the Democrats are the ones who want to raise your taxes. We had a choice to either cutting Medicare or reducing spending, and what did they do? They cut Medicare.

Middle income America, this week the Democrats had a choice of cutting spending or raising your taxes, and what did they do? They chose to raise your taxes.

We Republicans tried to bring to the floor a package that would not tax the economy into a recession, but would cut at the heart of the deficit problem, which is excess spending by the Democratic-controlled Congress.

The Democrats are addicted to spending, and they are supporting their habit with your tax dollars, middle America.

IN MICKEY LELAND'S MEMORY

(Mr. WASHINGTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WASHINGTON. Mr. Speaker, I would like to be the first to commend the Republic of Niger for their noble and selfless act of commemorating an individual who was not only a friend of mine but a member of this esteemed body. The person I refer to, of course, is my predecessor, the late Mickey Leland. The Republic of Niger will present the Order of Merit of Niger, the highest honor an individual may receive from the Republic of Niger, posthumously to Mickey at the Mickey Leland commemoration ceremony this fall. I have proudly agreed to join the list of honorary chairpersons for this commemoration ceremony.

The Government of Niger has also commissioned the Mickey Leland commemorative stamp which will recognize Mickey's work. Further, the Embassy is donating proceeds from the sale of the stamp to the Leland Foundation, which will continue to fight hunger and malnutrition throughout Africa and in the United States.

I have had the pleasure of meeting Ambassador Moumouni Adamou Djermakoye of Niger serveral times. Following each meeting, I left with the impression that the Government of Niger is a nation devoted to the strengthening of a meaningful and fulfilling two-way relationship with the United States. The presentation of the Mickey Leland commemorative stamp and the support of the Leland Foundation solidify this belief.

As a further example of how the Republic of Niger has made the improvement of relations with the United States a top priority, on September 11, the Embassy of Niger presented the Order of Merit of Niger to Ambassador Joseph Verner Reed, Chief of Protocol of the U.S. Department of State. The Republic of Niger and Ambassador Djermakoye remember Joseph Reed as the highest United States representative to the United Nations who became a true Africanist and brought the issues of concern to Africa to the attention of the United Nations and the United States. Ambassador Reed continues his support for Africa in biweekly briefings with the African diplomatic corps, and he is in constant communication with the African Ambassadors regarding United States-African policy issues.

Mr. Speaker, the Republic of Niger wants to give recognition and thanks to the individuals who have contributed so much to Africa. I welcome this spirit of recognition in an age where too often the nations of Africa are portrayed and misunderstood as coming with their hands out. This, most certainly, is not the case of the Republic of Niger.

DOES AMERICA WANT TO GO BACK TO JIMMY CARTER DAYS?

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute.)

Mr. BURTON of Indiana. Mr. Speaker, if you oppose new taxes, you are partisan. Partisan; "We must bite the bullet; we must tighten our belts."

Does that sound like Jimmy Carter or Jimmy Carter's days? This kind of rhetoric is designed to mask what the Democrat Party is doing. They want to increase taxes in the bill they just passed 2 nights ago by $180 billion, the largest tax increase in American history, a 5-percent increase on a person making $21,000 a year, a 6-percent increase in taxes on a person and his wife making $34,000 a year, and a $650 increase in taxes on a family of four making $43,000 a year.

That does not sound like a tax on the rich, does it? Do we really want to go back to the Jimmy Carter days? My colleagues, do we really want to go back to the Jimmy Carter days?

DEMOCRATS ROB THE RICH AND ROB THE POOR TO GIVE TO GOVERNMENT

(Mr. HANCOCK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANCOCK. Mr. Speaker, everyone has read the story of Robin Hood and his merry men. He made a reputation on taxing the rich and giving to the poor.

Washington, DC, is now the Sherwood Forest of the Potomac, except the Democrats are going to tax the rich and the poor, and keep it, to spend on the expansion of government and continue to take the very freedoms of the American taxpayers.

The American people are not stupid. They have read the other fairy tales, and they know the emperor has no clothes. The Democrat package is one of the largest tax increases in history on middle income taxpayers, and the voters know it.

□ 1050

DISAPPROVING EXTENSION OF MOST - FAVORED - NATION TREATMENT TO PEOPLE'S REPUBLIC OF CHINA

The SPEAKER pro tempore (Mr. MFUME). Pursuant to House Resolution 485 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 647).

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 647) disapproving the recommendation of the President to extend nondiscriminatory treatment—most-favored-nation treatment—to the products of the People's Republic of China with Mr. MCNULTY in the chair.

The Clerk read the title of the joint resolution.

The CHAIRMAN. Pursuant to the rule, the joint resolution is considered as read the first time.

The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes and the gentleman from New York [Mr. SOLOMON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I ask unanimous consent that I be allowed to yield 15 minutes of my time to the gentleman from Illinois [Mr. RUSSO], and that he control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. SOLOMON. Mr. Chairman, I ask unanimous consent that I be allowed to yield 15 minutes of my time to the distinguished gentleman from Minnesota [Mr. FRENZEL], the ranking Republican on the Budget Committee and a member of the Ways and Means Committee, and that he be allowed to control that time in opposition.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, House Joint Resolution 647 would rescind China's nondiscriminatory most-favored-nation status, effective 60 days after enactment. I urge my colleagues to oppose the resolution.

I understand the desire of Members of the House to send a strong message to the leadership of China—that we condemn the actions taken by those leaders against their own citizens in

June 1989 and since. However, I do not believe that cutting off China's MFN status hurts the leaders of China. They do not rely on trade with the United States for their livelihood. They do not rely on contacts with Americans to know what the world is like beyond the walls of their compound. Rather, the students and workers of China whose paychecks and knowledge of Western ways comes from contacts with American businesses and institutions would be hurt by such an action. It is no coincidence that those countries in Eastern Europe with the closest trade and economic ties with the United States and other Western countries—Poland, Hungary, and East Germany—were the first to overthrow their Communist regimes and push for market-oriented economic systems. Let us not isolate the people of China from America and its influences by cutting off vital trade and investment links with their country.

My colleagues will recall that last year, Congress approved a package of sanctions, many of which remain in effect today. Those carefully targeted sanctions have had an effect. China has released nearly 900 political prisoners; has lifted martial law; and has taken other steps to modestly improve the human rights climate. I will be the first to say that these steps are not enough. But I firmly believe that we have a much greater chance of pushing for change if we remain engaged in China. Cutting off China's MFN status will end once and for all the ability of the United States to have an impact on Chinese behavior.

I urge my colleagues to vote against House Joint Resolution 647 and preserve America's influence in China.

Mr. Chairman, I reserve the balance of my time.

Mr. SOLOMON. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, my bill, House Joint Resolution 647 would terminate most-favored-nation trade status for the People's Republic of China 60 days after the date of enactment.

Mr. Speaker, if the President believes a restoration of MFN is justified, he can so recommend to Congress in June of next year.

So what are we talking about? We are talking about taking away China's MFN trade status for a period of 6—perhaps 8—months, no more. Then the issue can be reconsidered. So this joint resolution hardly represents a radical move on our part, but it would send a necessary message to the angry old men who are hiding out in the so-called great hall of the people.

Mr. Chairman, I noted during the debate on the rule that the Jackson-Vanik amendment to the Trade Act of 1974 established a direct linkage between a country's human rights record and the normalization of trade relations between that country and the United States. There has never been a more important time than now to reinforce that linkage—China has been let off the hook for too long.

Mr. Chairman, for most of the past 10 years I served on the Foreign Affairs Committee, and I carried the water for President Reagan. I have carried the water for President Bush for many years, and I have supported both of these Presidents as they have sought to build bipartisan support for an American foreign policy that stresses self-determination, freedom, and human rights for all people of the world. I greatly respect President Bush, and I know just how hard he has worked at this, and what an expert he is on diplomacy. I know that he is in fact trying his best to get the Chinese Government to respect the freedom and rights of the Chinese people by extending to it the carrot of continued American trade privileges.

I also know, however, my colleagues, that while the President offers this carrot to the Communist Chinese to get them to improve their behavior toward their citizens, someone has to show that there is a stick out there in case they do not. And the fact is that they have not improved their relations at all with their own people.

They have violated the Jackson-Vanik amendment. As a matter of fact, a recent Associated Press story referred to the front page editorial in the People's Daily, the main paper in China, which essentially declared that the world was growing less and less concerned over the massacre conducted by the Chinese Government just a little over a year ago. It clearly applauded the Chinese ability to wait out the world's indignation without changing their own behavior or their own politics at all.

What a sad comment on that government's attitude toward what it did to hundreds if not thousands of its own unarmed citizens.

Many of us here in America are familiar with the old good cop-bad cop phrase. It describes an approach used by police agencies to get a criminal to admit that he is guilty. Well I stand before Members today to say that you and I on both sides of this aisle need to be the bad cop. We need to get the Communist Government of China to take a long look at itself, to admit to itself, to its people and to the world that yes, it did commit crimes and yes, the Chinese Communists today continue to commit unconscionable crimes, and yes, it must stop, and it must stop now; we can do it.

Mr. Speaker, we cannot stand by while thousands of Chinese people are imprisoned and hundreds are executed just because they want to be free like you and I. We cannot ignore the reports compiled by organizations like Asia Watch and Amnesty International.

My colleagues, read this. It will turn your stomach. It will make you cry over what is happening there.

I have here in my hand a recent report of the Asia Watch group which lists at least 1,000 Chinese citizens who were arrested after the Tiananmen Square and who are still imprisoned. Have we forgetten that? My fellow Members, have we so soon forgotten the feeling of injustice and tyranny that overwhelmed us as we saw films of tanks and troops mowing down and literally crushing innocent civilians who stood unarmed, pleading with their own army not to kill them?

The Chinese people have not forgotten, Mr. Chairman, and we should not forget either.

Neither should we stand idly by while the Chinese Government presents itself to the world as a reasonable partner in the effort to halt Saddam Hussein's aggression in the Middle East, but then turns around and secretly sells Iraq the chemicals it needs to manufacture nuclear weapons, missile fuel, and poison gas that could very well be used against our sons and daughters, American men and women, serving in the Persian Gulf and in Saudi Arabia today.

In fact, Mr. Speaker, China itself is engaged in long-term efforts to wipe out the independence and the culture of a smaller nation it invaded many years ago, just like Saddam Hussein invaded Kuwait.

□ 1100

I remind my fellow Members that Tibet and its people have suffered terribly under Chinese Communist repression.

Particularly in the last 2 years, hundreds of Tibetans have been killed for their courage in standing up for freedom for their long-oppressed nation.

Mr. Speaker, now is the time to pass this resolution, when the Chinese Government acts as it does now, imprisoning and executing protestors, cutting arm deals with Iraq, and patting itself on the back for outfoxing the rest of the world. How will it act when yet more time has passed and world attention is even less focused? Think of the crimes that took place last year in China, I guarantee Members that it will not respect democracy any more than it does now, and that would be a shame for the Members and a tragedy for all of China.

Join me in being a bad cop today, in a good cause, a very important cause. That cause is freedom and human rights for decent people. I urge Members to support the resolution.

Mr. Chairman, I reserve the balance of my time.

Mr. RUSSO. Mr. Chairman, I yield 6 minutes to the gentleman from Massa-

chusetts [Mr. MARKEY], one of the coauthors of the resolution of disapproval.

Mr. MARKEY. Mr. Chairman, I rise in support of the resolution of disapproval as a partner with the gentleman from New York [Mr. SOLOMON], and to basically make the point that this is not a liberal or conservative issue. This is not a Democrat or Republican issue. This is a fundamental human rights issue. This is a fundamental issue of what does the United States of America stand for? What do we believe in?

For many years, our country has been playing the China card. We have been turning a blind eye to activities going on inside of that country because we needed that country to isolate the Warsaw Bloc countries, to isolate Hungary and Czechoslovakia, or in East Germany and Poland and the Soviet Union. Now, in the 1990's when we turn over the China card, it is a deuce. We do not need any longer to tolerate the activities which have been going on in that country which violate the fundamental principles of our country in terms of who we engage in trading activities with, which we engage in activity with regard to military weapons.

So this time it is time for Members to take a stand, and this is the moment. The old era is gone. The cold war is over, and China, the China of despots of Tiananmen Square, the China tearing down the Goddess of Democracy in Tiananmen Square is the China of today, and we have to recognize that in our principles. The gentleman from New York [Mr. SOLOMON] and I have agreed over all these years on Jackson-Vanik on all the issues of human rights. These are not issues which have divided this body along Democrat and Republican lines. They are not issues to divide our country along liberal versus conservative lines. These are the issues that our country are united upon, and China does not deserve the respect, does not deserve the trade benefits which other countries in the world who abide by these principles deserve.

Now, Mr. Speaker, the gentleman from Pennsylvania [Mr. SCHULZE], the gentleman from Massachusetts [Mr. FRANK], the gentleman from North Carolina [Mr. ROSE], and I and many others have joined together in a bipartisan fashion to bring this resolution on to the floor. There is a very good reason for it. We should not be cozying up to the Chinese. We should start playing the Soviet cards against the Chinese by working with the Soviet Union and other nations to promote peaceful democratic change in China and to isolate the aging dictators in Beijing. We should be working with the Soviets and our European and Asian allies to bring China into the nuclear noproliferation regime, as the gentleman from New York [Mr. SOLOMON] said, and we should demonstrate the same kind of leadership that we are showing in the Persian Gulf by taking the initiative to put pressure on China to reform, and in pressing the rest of the world to join Members in doing likewise.

Right now, we have a totally inconsistent policy on MFN despite the fact that nearly 16,000 Soviet Jews are leaving the Soviet Union every month, every month 16,000. The U.S. still has not granted the Soviets MFN status because they have not formalized the legal structure which guarantees the right of freedom immigration which is required by Jackson-Vanik. In contrast, we waive Jackson-Vanik for the People's Republic of China, a country which does not permit its citizens to freely immigrate, which invalidated all passports and exit visas after Tiananmen Square, and which currently requires any Chinese citizen seeking to travel abroad to account for their performance during the events at Tiananmen Square. That is the standard.

I say it is time that we eliminated the inconsistency in United States application of Jackson-Vanik principles, let Members not hold to the Soviets for one standard and then waive that standard for the Chinese. Let Members be consistent and principled in our defense of free immigration and freedom of speech. By denying the extension of MFN status to the People's Republic of China, we demonstrate that America will no longer tolerate business as usual while the legitimate democratic aspirations of the Chinese people continue to be brutally and systematically suppressed. By dramatically raising tariffs on Chinese exports to the United States, reducing the People's Republic of China's access to hard currency and isolating China internationally, a denial of MFN status would put maximum pressure on the Chinese Government to institute a program of political reform and democraticization. We should not side with the butchers of Beijing. We should not equate them with the Havels of Czechoslovakia, with the Walesas of Poland. It is time for the United States to reform our policy, to be a more realistic reflection of the world as it exists today in 1990, and as we hope the 1990's to be. It is time for the United States to begin to crack down on the Chinese, and to begin to push the cause of democracy, freedom of immigration, freedom of speech within that country. It is within our power to do so. The world expects no less from the United States.

Mr. FRENZEL. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in very strong opposition to House Joint Resolution 647 which would disapprove the President's extension of MFN for China. I can understand the Members' desire to express their objection to actions at Tiananmen Square and elsewhere in the People's Republic of China. Obviously, the conduct of the Government of China is not something of which we approve, and many Members are going to be anxious to show just how much they disapprove of it by voting for this particular resolution.

However, I think we have to know that this is not a free vote for human rights which has no other consequences.

Over the years, Members of this body have ralled about increasing American exports and improving American competitiveness around the world, and at the same time have inflicted on our country such statutes as the Export Administration Act, and have tried to deny from time to time MFN to other countries.

The effects of these kinds of denials and restrictions of exports have tended to make America less competitive, to reduce American jobs in America, and to reduce American exports. What Members will do today when we vote for this has an important consequence. It is going to reduce American exports, reduce American jobs, and reduce American commercial opportunities abroad in a variety of ways.

Now, history has shown that these kinds of economic boycotts have never been successful. I would refer, first of all, to our invocation of Jackson-Vanik against the U.S.S.R. Since things have changed there and in Central Europe, the Russians have been operating essentially an open immigration policy. Certainly more open than it was previously. Yet, although they have been offered our MFN, they have not gotten around to accepting it yet, for which they only have to ratify the policy they now operate in law. It is quite obvious that MFN did not have any effect on that particular situation.

Another example, I think, is Romania, in which the closing down of MFN did not change the politics nor the policies in that particular country. In fact, it is true today, as it has been invariably historically true, that the only country in the world that shoots itself in the foot in order to tell the world how it feels about human rights, is the United States.

□ 1110

Consider our competitors in the Far East or in Europe. They pass fervent resolutions telling how much they abhor the Chinese conduct and how much they favor human rights, and then they immediately move into the countries in which we have declared embargoes, as this would try to do with China, and they laugh off the business that is now denied to America.

We are the only country in the world that has to prove how much we

are for human rights by shooting American business, American labor, and American exports in the foot.

Mr. Chairman, this is a most unwise policy. In simply driving a wedge between the United States and the People's Republic of China, we are not going to change the deportment of the People's Republic of China Government. We have a far better chance of changing Chinese conduct by negotiating and leaving our market relatively open to the Chinese as it is now.

We make an enormous mistake to close off our trade relationship. We make a mistake indeed also for the people of Hong Kong whom we claim we are trying to protect. Instead, what we will do is to deny the use of Hong Kong as an entrepot for China, and therefore only increase the uneasiness and concern of the people of Hong Kong.

Our friends in the business community have also pointed out that the strongest advocates of reform in China have been the provincial governments of south China. Those are the ones that are going to be most hurt if we foolishly, frivolously, improvidently and counterproductively pass the resolution of the distinguished gentleman from New York.

Mr. Chairman, I urge defeat of the resolution.

Mr. SOLOMON. Mr. Chairman, I yield 4 four minutes to the gentleman from Pennsylvania [Mr. SCHULZE], a member of the Committee on Ways and Means.

Mr. SCHULZE. Mr. Chairman, I rise in strong support of House Joint Resolution 647, and in opposition to granting most-favored-nation trading status for the People's Republic of China.

MFN trade benefits are reserved by law for countries that maintain or are moving toward free and open emigration policies. China's policy was never free and open, and has become even more restrictive since the Tiananmen Square massacre. On this basis alone, China's MFN status should be revoked.

First, China's Constitution does not even address the issue of the right of its citizens to emigrate. A May 1990 Library of Congress report states—and I quote:

> That Chinese citizens do not enjoy such a right under the Constitution, given the fact that it does not even accord them the right to freedom of residence.

Such a protection was guaranteed under the 1954 Constitution, but removed from the 1975, 1978 and 1982 Constitution, but removed from the 1975, 1978 and 1982 Constitutions.

On June 19, 1989, 2 weeks after Tiananmen, all previously issued exit permits and passports were simply invalidated by the Chinese Government. Then, reapplication and reissuance procedures were made more stringent to help police screen and apprehend suspected prodemocracy movement supporters.

Next, there are the two reports—a new requirement since Tiananmen—which must be filled out by exit permit and passport applicants. These reports describe the applicant's performance during Tiananmen and are expected to be confessional in nature. As confessional reports are leading to imprisonment, torture, and execution, rather than permission to leave China, this procedure is yet another way for the Chinese police to persecute prodemocracy supporters. Further, it clearly hampers free emigration and makes a mockery of our trade law.

The May Library of Congress report also notes the dramatic decrease of approvals of visa applications in Beijing and Shanghai. According to this report—and I quote: "The rate of rejection is the worst it has been in a long time." Between January and March of 1990, some 19,512 citizens of Beijing and Shanghai applied to leave the country. Only 15,085 people were granted approval to go abroad, which means that close to 25 percent were denied permission. Let me repeat—The rate of rejection of visa applications is the worst it has been in a long time. Do we really want to reward China for this?

And, how about the so-called cultivation fee that must be paid to the Government by students wishing to go abroad for self-financed graduate studies? Given that this fee amounts to what the average Chinese college graduate earns over 8 years, this obviously precludes free movement and open emigration.

Clearly, China's overall emigration policy contradicts freedom of emigration requirements set forth in our statutes even worse, China's harsh tactics simply do not reflect a nation that even cares about having a Jackson-Vanik consistent policy.

You will hear some people credit China for filling its annual United States immigration quota allotment. However, given that China has 1.1 billion inhabitants, filling a 20,000 immigrant visa quota is hardly proof of a free and open emigration policy.

In fact, having over one billion people allows the Chinese Government to keep pro democracy supporters imprisoned at home, while permitting less strident and relatively innocuous citizens to leave China. Then, ruthless Chinese leaders turn to the United States and say: "See, we filled your quota allotment. This proves we have free and open emigration." For the sake of those continuing their fight for freedom and democracy in China, I hope and pray that you, my colleagues, can see right through this.

We must pass this motion of disapproval and convince the Chinese leadership that Tiananmen Square, and the harsh emigration policies that keep the horror of Tiananmen alive, have not been forgotten in America.

Even if the President vetoes this measure, and we fail to override, at least the Chinese Government will understand that the ground it stands on in the eyes of Americans is very, very shaky. That is precisely the message Chinese leaders must be forced to see, and the kind of leverage we need to exert.

Please, in the name of democracy in China, in the words of our own 4th of July speeches and out of respect for those fighting to achieve it, vote for House Joint Resolution 647.

Mr. GIBBONS. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I thank the committee chairman for yielding me this time.

Mr. Chairman, I rise in opposition to this resolution which changes the most-favored-nation trade status of the People's Republic of China. In my judgment, it is not in the best interests of our Nation to distance ourselves from the Chinese just as they are emerging from a 40-year transition from a feudal society ruled by emperors to a modern state governed by pluralism. Time is required for such sweeping revolutions.

Like all freedom-loving Americans, I watched the carnage in Tiananmen Square last year. It repulsed me, the same as I am sure it appalled most Americans. That kind of brutality brings forth an emotional response—the complete rejection of China's authoritarian regime.

But President Bush's policy is a more reasoned one. I don't often agree with the President, but he is correct in his position toward China. His experience as the first American Ambassador to China and his role in the normalization of relations between the two countries has taught him the value of continuing dialog and commerce with the People's Republic of China.

One must visit China in order to fully understand the importance of this relationship. About 10 years ago, I had the opportunity to travel to the People's Republic of China on four separate occasions. Prior to my travel, I had little or no knowledge of the orient. When I arrived there, I found it such a contrast to the Untied States that I was reminded of the statement by Mark Twain that "East is East and West is West."

The American Revolution set the western world on a road toward democracy pretty quickly. China's revolution has taken a lot longer. In 1949, the Chinese first turned to communism as a vehicle for breaking with the corrupt and obsolete feudal regime that prevented China from entering the twentieth century.

A few decades later, they recognized the failure of communism—long before the Soviet Union—and turned toward the West to embrace a market-oriented economy.

But we must recognize after living under a feudal system for thousands of years, China cannot change overnight. Ten years, twenty years, or even fifty years is just a blink of the eye in Chinese history.

The Chinese are good business people, and some of their economic ventures over the past decade have been profitable for both the People's Republic of China and American companies. However, the Chinese have had little experience with the ideals of a democratic society. Their contact with American businesspeople, teachers, and public officials gives them exposure to the economic and political ways of the West.

China needs time to develop a political system that is more compatible with the values we subscribe to in democratic societies. The events in Tiananmen Square were tragic, but they did not shut the door on political transformation in China. It is in the best interest of both the United States and those pushing for change in China for us to maintain communications, to keep the door open for trade and dialog with the People's Republic of China. That opening will nourish these seeds of freedom that were sown during the last decade.

Mr. SOLOMON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. GILMAN], a member of the Committee of Foreign Affairs who has been very active in this for many years.

Mr. GILMAN. Mr. Chairman, I rise in strong support of the resolution offered by the gentleman from New York [Mr. SOLOMON]. And I want to commend him for his continuous outstanding leadership in calling attention to the atrocities in the People's Republic of China and Tibet. House Joint Resolution 647 calls for the disapproval of the recommendation of the President to extend nondiscriminatory treatment—most-favored-nation treatment—to the products of the People's Republic of China.

Mr. Chairman, the matter before us is not complex—it poses three questions that lead us to the same conclusion.

Question No. 1: Do we want business as usual with a country that has recently attempted to flagrantly violate the embargo against Iraq by entering into a secret deal to sell it 7 tons of a rare chemical lithium hydride, that, according to a recent Washington Post article, will enable it to make atom and hydrogen bombs, fuel for ballistic missiles and process poison gas?

Question No. 2: More than 150,000 American men and women are in the Saudi desert, a great many of them no more than 18 years old. Do we want business as usual with a nation that would turn its resources against them?

Question No. 3: The People's Republic of China has occupied Tibet for 40 years. The reports coming out of Tibet are grim. Tibetans are being shot at the border trying to come out. According to Asia Watch, the Chinese authorities have institutionalized a policy of merciless Tibetan repression. In a world adrift in violent so-called liberation movements, the Dalai Lama, a man of peace and the winner of the 1989 Nobel Peace Prize, has told his followers to pursue the path of nonviolence. Will we abandon this man of peace?

I hope my colleagues response to these questions is a loud "No." I know my colleagues understand the seriousness of what it means to continue to support the People's Republic of China.

If war breaks out in the Persian Gulf and there are American casualties, what do we say to our loved ones when they ask you why it was so important to grant most-favored-nation status to China? To a nation, supplying weapons and chemcials to our ememy—Saddam Hussein.

As far as the economic side of things are concerned, those of us here who sought severe sanctions in the past were told that the prodemocracy movement in the People's Republic of China and Tibet would be jeopardized and that the economic reforms and our opening up to the People's Republic of China had in fact had much to do with the movement. However, if this is true, then why aren't these same voices now telling us to block most-favored-nation status? After all the Wall Street Journal, the New York Times, Business Week, the Far Eastern Economic Review, the Washington Post, and other authoritative sources tell us that authorities in Beijing have recentralized banking, credit, production planning, material allocation, foreign trade and other important elements in the ecomony.

Accordingly, I urge my colleagues to support this measure to close the loop hole that will allow business as usual with the butchers of Tiananmen Square and the oppressors of Tibet.

Mr. RUSSO. Mr. Chairman, I yield 3 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I commend the gentleman from New York [Mr. SOLOMON] for bringing this resolution to the floor today. By his hard work and his leadership on this issue he has given us an opportunity once again in the House of Representatives to stand up as a bastion of democracy throughout the world.

Last year, at the beginning of this year when we had our fight to override the veto on the Chinese students legislation, the House of Representatives stood alone in sending a signal to the world that human rights were important to us and that people who fight for democracy will never be forgotten by us.

Mr. Chairman, we spend a great deal of money sending a message by Voice of America into China. When we do that, we lift people's hopes. Why do we do that if when they respond and speak out for democracy we then would turn our backs on them and say, "In a few years things will be okay and the government may change and trade will make it happen"?

Well, to those who say that trade will make it happen, I must say that I have not been one who has advocated isolating China. That has not been my goal. But I do not want the occasion to pass without responding to that, by saying for the past 10 years we have traded with China. In 1989 China crushed its children, its students in the streets simply because they had a dream, simply because they spoke up for democracy.

Frankly, Mr. Chairman, I thought it was going to be very difficult to come to this floor to disagree with the chairman of the Committee on Ways and Means, a person whose policies I support and for whom I have enormous support. But I shudder to hear him say that China had made progress since Tiananmen Square, that they had lifted martial law.

I thought have we not educated the Congress and our colleagues enough to know that they have not lifted martial law? Everybody who knows anything about China knows that was cosmetics, and bad cosmetics at that.

But there are other reasons why we should be denying Most Favored Nation status to China. They are based on our own policy and not really exlusively on the events of the past year.

First of all, most-favored-nation status goes to those countries which have a free market economy can only work in China if the Beijing Government allows it to.

Over the past year, however, Beijing has demonstrated its intention to weaken the free market and to silence calls for political reform.

MFN is not supposed to be extended to centralized economies unless that country has freedom of emigration. We are very strict about it when it comes to the Soviet Union.

Why is China any different?

We say to the Soviet Union, "Unless you have freedom to emigrate and not only in practice but that that freedom to emigrate is codified by your law, then you are not entitled to Most Favored Nation status," for China. There are those who say if we are to harsh with China, they may unilaterally cut

off MFN with us. I do not think so. They have a $6 billion trade advantage in trade with us this year, moving up to $10 billion with the United States.

They enjoy the benefits of our trade. We should at least be able to live up to our principles.

Mr. Chairman, more on this debate later as we proceed into the other legislation affecting our trade.

I want to close, though, by specifically praising Mr. SOLOMON for his leadership on this issue, and also my colleagues who have come to the floor today to speak out for some consistency in our policy when it comes to most-favored-nation status.

Mr. FRENZEL. Mr. Chairman, I yield 5 minutes to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, I rise in opposition to this resolution which would deny extension of most-favored-nation trade status to China.

I do so not because I condone human rights practices of the Chinese Government. Those practices are indeed reprehensible. They fly in the face of the movement toward freedom and democracy which has swept across most of the other Communist-bloc nations around the world. If I thought the denial of MFN status would bring about democracy in China, I would be leading the charge in favor of the resolution.

Unfortunately, history shows that when the United States does something unilaterally like this, it very seldom works. It may make us feel good at the time, but it does not change the other country's policy. Only unless there is a coordinated worldwide action is there any chance for success, and there is certainly none of that in this case.

What would happen, instead, if we deny MFN status is that we would deprive ourselves of about 6 billion dollars worth of business with China.

I have maybe a parochial interest in that because I have one of the really fine firms making the finest heavy machinery mining equipment in the world in Caterpillar Tractor Co. It averages maybe between $50 million a year in sales to China. That accounts for about 500 jobs currently.

It is noteworthy too that Caterpillar sales quadrupled after MFN first went into effect back in 1980, when we were expecting great things from China. As the distinguished gentleman from Arkansas pointed out, when we were there, there was much more of a move, much earlier, than the Soviet Union toward a private—or at least some semblance of a—market economy as distinguished from that of the Soviet or Communist system.

□ 1130

Mr. Chairman, MFN status indicates stability. Stability is essential for a good trading relationship. Every time the United States changes its trade policy for political purposes, we undermine our position as a reliable trading partner. As such, we not only lose business with the nation in question, but we also weaken our credibility overall, and the tragedy of it all is that other nations then come in and fill the void, and then we are cutting off our nose to spite our face.

Once markets are lost, it is hard to get them back. We imposed sanctions against the Soviet Union in the early 1980's as punishment for its policies against Poland; again, I must refer to parochial interests at home because Caterpillar lost the Russian market to Komatsu of Japan which sold pipe layers in abundance. I nearly lost my election because of the number of Caterpillar workers, 15,000, that were laid off, not because of that one sale, but because of the economic conditions at the time. But now we have better relations with the Russians, but Caterpillar has yet to recoup that market.

Now there is yet another reason to extend MFN status for China. The worst thing we can do for the cause of freedom in China is to isolate Chinese democrats from the influence of the United States. In isolation they can be smothered by the Communist hard liners. But if we stay in contact, the cause of democracy will be strengthened.

I expect that we will eventually see a new set of Chinese leaders and a greater respect for human rights in China, regardless of what we do on MFN, but if we deny ourselves the Chinese market now, it is likely to take much longer to get back into the ball game, so to speak, and we, the United States, are again going to be the big losers.

So, I would certainly want to encourage opposition to this resolution, but I am going to include with my remarks a letter from the Secretary of State, but I think one paragraph might very well be cited here in which he says:

A permanent member of the U.N. Security Council, China provided essential support for resolutions condemning Iraq and authorizing a trade embargo. China is also playing a constructive role in reaching a peaceful settlement in Cambodia. Actions which threaten important Chinese economic interests risk weakening Chinese cooperation on broader issues of interest to the U.S.

So, I think, as I indicated, I would hope Members would join some of us in opposing this ill-timed resolution.

The letter in its entirety is as follows:

THE SECRETARY OF STATE,
Washington, DC, October 16, 1990.

Hon. ROBERT H. MICHEL,
House of Representatives.

DEAR BOB: I am writing to express the Administration's strong concerns about two House bills dealing with China's MFN status, H.J. Res. 647 and H.R. 4939. If enacted, these bills could seriously damage U.S. economic, human rights and other foreign policy interests, including our interest in reaching a peaceful settlement in the Persian Gulf and Cambodia.

The withdrawal of China's MFN status, as mandated in H.J. Res 647, would have severe consequences for U.S. business, those Chinese who are working for a moderizing China open to the West, and Hong Kong's capitalist, free market economy, which depends heavily on the continuation of U.S.-China trade and investment. MFN provides the basis for everyday trade and not concessional treatment. It is essential for maintaining the commercial link in our bilateral relationship. The most powerful means we have for promoting positive change in China are to maintain the broadest possible range of people-to-people contacts. MFN helps us do that. For these reasons, if Congress passed H.J. Res. 647, the bill would be vetoed.

The Administration also opposes the enactment of H.R. 4939. We share the human rights objectives of the bill's authors. We are concerned, however, that explicit public linkage of MFN to human rights would harden China's posture and make it more difficult to achieve further progress. Our current approach has yielded significant positive results, including the lifting of material law, the release of almost 900 political detainees, and the depature of Fang Lizhi and his family. At a time when political tensions appear to be easing in China, it is all the more important for the President to have flexibility in determining how best to encourage further progress.

H.R. 4939 would also add new uncertainty to an already difficult commercial relationship with China. Additional MFN criteria invitably place U.S. companies at a competitive disadvantage with competitors in Europe, Japan and other industrial countries, which do not extend MFN on such a conditional basis. Furthermore, uncertainty about the U.S.-China commercial relationship would affect confidence in Hong Kong, where 50,000-60,000 residents are emigrating each year because of concerns about the territory's future.

The amendments to H.R. 4939 proposed by Representatives Pelosi, Wolf, Porter and Miller would only worsen the impact of the bill. The Administration opposes all four of them. If H.R. 4939 was made more restrictive by the addition of any of these amendments, the bill would be vetoed.

While aimed at addressing trade and human rights issues, H.J. Res. 647 and H.R. 4939 have implications for U.S. global interests as well. A permanent member of the U.N Security Council, China provided essential support for resolutions condemning Iraq and authorizing a trade embargo. China is also playing a constructive role in reaching a peaceful settlement in Cambodia. Actions which threaten important Chinese economic interests risk weakening Chinese cooperation on broader issues of interest to the U.S.

Sincerely yours,

JAMES A. BAKER III.

Mr. SOLOMON, Mr. Chairman, I only have 2 minutes left, and I think I have the right to close, so I would reserve the balance of my time.

The CHAIRMAN. The gentleman from New York [Mr. SOLOMON] has 2 minutes remaining, and the Chair is advised by the Parliamentarian that the gentleman from Florida [Mr. GIBBONS] has the right to close since he is representing the Chair of the committee that reported the bill to the floor.

Mr. SOLOMON. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, I thank the gentleman from New York [Mr. SOLOMON] for yielding, and, given the fact that the administration has not agreed yet to any conditions on extension of MFN to China at this time, I reluctantly rise in support of the gentleman's resolution.

Mr. RUSSO. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, after World War II, we gave the Japanese and the Germans tours of our factories. We then gave them the blueprints and the photographs to take home with them. We did not stop there. We gave them big loans, and then listen to this: We later would forgive those loans. Free. Now Japan and Germany have the factories and the jobs, and America has photographs and unemployment.

What is wrong. And where is this trade policy.

The only most-favored-nation status that should be debated at this day and age in America is the battleship called USS America, period. Not China.

Now I heard about opening up all these new markets with China. Who is kidding who? They pay wages of 17 cents an hour. That is like saying to the American corporations, "Come on over here and hire the Chinese. Leave America, like you've done with all the other tax laws of this country."

Mr. Chairman, this trade policy is like a revolving door; foreign imports in, American jobs out.

I am for this bill, and I am not for any more most-favored-nation talk at all, unless it is talk about America.

In addition, I would advise Congress to maybe think about that before the battleship America gets swallowed up on some rough seas. We cannot control the depths of that ocean and the power of those waves, but we could have our battleship in good order, and I think it is time to start thinking that way.

Mr. FRENZEL. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Iowa [Mr. LEACH], a member of the Committee on Foreign Affairs.

Mr. LEACH of Iowa. Mr. Chairman, while China has recently taken steps to improve relations with the United States and the international community, such as by cooperating on Cambodia and Iraq and in allowing leading dissident Fang Lizhi to leave the country, all Americans nevertheless remain morally outraged by the wanton brutality of Tiananmen. Likewise, we are all profoundly troubled with the high level of internal repression maintained by Beijing. By putting the brakes on reform, China's leaders have disappointed President Bush, the U.S. Congress, and the American people. As importantly, they have profoundly disserved the people of China.

Thus the larger issue confronting Congress in the debate over the extension of most-favored-nation status [MFN] to the People's Republic of China is not whether the aim of American policy should be to help promote a humanely governed China that plays a constructive role in world affairs. We are all agreed on that basic premise. The issue is one of means, not ends.

But here on Capitol Hill the question of how to achieve U.S. objectives has become symbolized for some by the President's decision to again extend the principle of nondiscrimination in trade, misdescribed by the misnomer "most-favored-nation," to China.

Extension of MFN status to China does not confer on Beijing a new and extraordinary benefit. China has enjoyed MFN trade status for a decade. Fully 178 other countries, including apartheid South Africa, all share this same status. In fact, the United States has never used revocation of MFN as the linchpin instrument of its global human rights policy. Rather, it has been a sanction of last resort.

Here it should be clearly understood that the sanctions imposed against China, such as the suspension of arms exports and the restrictions on lending from international financial institutions, are still in force. And the international free market also continues to apply the functional equivalent of economic sanctions against Beijing, as tourism and outside investment diminishes from a cataract to a trickle.

If the Congress narrowly looks at the precision of the Jackson-Vanik amendment and its emphasis on freedom of emigration, as well as the legislative history relating to the importance of observing fundamental human rights, a credible legal case could be made to terminate MFN.

On the other hand, if we examine the overarching purpose of the law, which is to move oppressive, nonmarket societies toward greater openness, then one would have grave doubts about revoking MFN at this time.

As President Bush has emphasized, however much we may be dissatisfied with the pace of reform in China, nobody wants to punish the Chinese people for the excesses of their government. Yet termination of MFN for China would have the perverse effect of most severely impacting on those elements we most want to support: the politically progressive and free enterprise sectors of China's society and economy.

Politicians in Washington too frequently assume that a bettering of world relations is likely to stem from government-to-government ties. Actually, businessmen and women, unelected people of commerce, are doing more to advance American values and to bring the world closer together than elected officials.

In an historically closed society like Communist China, the opening up of the economy has tended to open up politics, by importing Western values as well as people, while revoking MFN might close Beijing's door down even more firmly on political reform.

Indeed, revocation of MFN at this time would be counterproductive virtually across the board. It would torpedo the economy and scuttle the foundering confidence of Hong Kong. The 10 billion dollars' worth of American investments and exports to China would be jeopardized. In addition, our action would be dangerously unilateral. After all, no American ally is prepared to follow our lead.

In an era when the anxieties of geopolitical rivalry are becoming supplanted by the rigors of commercial competition, a quixotic policy of economic self-abnegation in the world's most populous country would appear to be of extraordinarily dubious strategic interest to the United States.

Revocation of MFN would also undermine the American objective of building a durable framework of relations with Beijing, whose foundations may yet be preserved at China's current leadership finally passes from the scene.

After all, if one asks what has differentiated American diplomacy toward China from others over the last 100 years it is that, with one abberrational break during the height of the cold war, we were the country that always stood for the open door to China and the Chinese people. As embodied in the historic open door notes, that policy meant fair trade with China and not letting a Western power be dominant or a group of Western powers be dominant. To the extent the open door resonates now in American foreign policy, it means trying to turn out China in a Chinese kind of way.

If we retract MFN, we will be replacing our "open door" policy with a "bolted door" approach, unilaterally opening China to the dominant influence of others or moving the world's largest country in an autarkic direction.

With regard to the ongoing power struggle in Beijing and the future of reform, we cannot confidently predict how revocation of MFN would affect Chinese leadership dynamics. But we might want to reflect soberly on one quotation from Mao Zedong. Chairman Mao once said, "To have an enemy in front of us, to have tension, is to our advantage."

In other words, as both Moscow and Washington have come to understand, foreign economic pressure on China strengthens the nationalist credentials of the Communist regime in Beijing and helps engender a xenophobic reaction on the mainland.

It is an indisputable fact of international politics that the United States does not possess the power to unilaterally compel progressive change in China. But it is a profound question of judgment whether it is wise for this Congress—perhaps seized by institutional hubris or forgetting that America is strongest when it respects the limits of its power—to take action that appears to validate hard-line Chinese propaganda against us.

In this regard, some critics of United States policy are advocating a "worse is better" approach to China. That is, ignoring George Kennan's axiom that "the greatest law of human history is its unpredictability," they glibly suggest the United States ought to strive to make things worse for Beijing so the Chinese people will overthrow the current regime and presumably be better off.

An historical analogy of some relevance here relates to a revolutionary circumstance in 1905, when a self-styled vanguard elite—led by Vladimir Lenin—gleefully agitated in favor of exacerbating the economic chaos in Russia because worse would be better for the Russian people. Russia was of course then governed by an autocratic, incompetent tsarist regime, for which few Americans brooked even a scintilla of sympathy.

But the question is, did it get better for the Russian people? For the last 75 years, worse got "worser" for the peoples of the Soviet Union. And so the Congress must ask itself: do we advance the march of human progress in China by deliberately making conditions worse for its 1.1 billion people and, in particular, worse for those free enterprise elements driving Chinese modernism?

In China today a taste for free enterprise economics has wetted Chinese appetites for a taste for free political advocacy. Modern economics is the basis for a profound challenge to medieval politics. Let's not reverse gears and allow medieval politics to become mirrored again in medieval economics, jeopardizing Chinese and world living standards.

Finally, and importantly, for those concerned with geopolitics, the Chinese have begun to move in an impressive, progressive direction, cooperating with the United States an Cambodia and in our Persian Gulf strategy, both circumstances involving security council cooperation where the Chinese hold veto power.

It would not be an exaggeration to suggest that straining United States-Chinese relations at this critical geostrategic juncture where the President wants to advance a "new world order" jeopardizes the Asian lives in Cambodia and United States lives in the Persian Gulf.

In addition, in recent months China has moved to seek normalcy, more pacific relations with Indonesia, Saudi Arabia, Singapore, the ASEAN alliance, and in particular has reversed diplomatic gears and begun to seek a diplomatic solution to the Spratly Islands dispute.

These foreign policy initiatives can not be ignored in the context of this resolution, however they, too, have enormous human rights implications.

I therefore support the President's extension of MFN to China not because it may be perceived to vindicate Chinese leadership, but because it helps the people against that very leadership. America's door to China mustn't be allowed to be slammed shut by a narrow ideological gerontocracy.

The President has made it abundantly clear that he would veto this legislation if passed. I urge its defeat.

Mr. RUSSO. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. YATRON], and I understand the gentleman from New York [Mr. SOLOMON] was to yield him 1 minute, also.

Mr. SOLOMON. Mr. Chairman, I yield 1 minute to my good friend and former chairman of my subcommittee, the gentleman from Pennsylvania [Mr. YATRON].

□ 1140

Mr. YATRON. Mr. Chairman, I thank the gentlemen for yielding time to me.

Mr. Chairman, I strongly support the passage of House Joint Resolution 647. I commend the gentleman from New York [Mr. SOLOMON] and the other sponsors for their leadership on this initiative.

Mr. Chairman, this is one of the most important pieces of human rights legislation we will consider this session. Since Iraq's invasion of Kuwait, China has escaped public scrutiny of its repressive human rights record. This resolution sends a clear message to Beijing that the American people have not forgotten Tiananmen Square or the massive human rights violations that followed.

For those who contend that denying most-favored-nation status will cause China to retreat into isolation, thereby making it difficult to promote reforms, I submit that our current policy of economic engagement has not deterred China from being one of the worst human rights violators in the world.

Mr. Chairman, this resolution says economic reforms must go hand in hand with democratic reforms. As the chairman of the House Foreign Affairs Subcommittee on Human Rights and International Organizations, I believe the passage of House Joint Resolution 647 would be entirely consistent with the policies our country has advocated over the years with respect to other human rights violators including the Soviet Union and Eastern Europe. In every one of those cases, U.S. policy was a success.

Mr. Chairman, anything less than continued economic pressure against the dictatorship in Beijing would be a blow to those who aspire to freedom in China, and I urge my colleagues to support this bill.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Chairman, this is the classic purist versus the practical argument. If there were not a human rights issue, there would be no argument at all. So the human rights issue is the key, and the question is how to get at it.

The United States has gotten at it in a variety of ways. Arms exports have been suspended; high level contracts are restricted; World Bank lending is down; high tech exports have been screened and are down; and deferred departure date for Chinese nationals to the United States has been extended.

There is one simple fact that we are dealing with here; there is a constant, regular, preordained history of failure using trade sanctions as an individual nation, unless the whole world does it.

A perfect example is South Africa. Unilaterally it does not work, unless the whole world does it, and they do. As far as Iraq is concerned, the reason they are working there is because everyone does it.

In the early 1980's, sanctions on exports of oil drilling took place against the Soviet Union. They just bought from the Europeans.

After Afghanistan, the same thing happened with agriculture. They just brought elsewhere.

MFN is a trade term, nondiscrimination. If we cut this, the Chinese cut us out. They want to deal with us. They do not want to deal with the Japanese, but they will.

The question is how much leverage does this give us with them? It gives us none, the reason being that we do not have anything special. They can buy anything they want from any other place in the world, and that will end our relationship with them and do us naught in our whole relationship, with an extremely important long-term friend.

Mr. GIBBONS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New Jersey [Mr. GUARINI].

Mr. GUARINI. Mr. Chairman, I rise in strong opposition to the resolution

to disapprove the extension of most favored nation status to China and I am talking about what is best for America.

With one-quarter of the world's population, China is an enormous market for the United States. It is our 10th largest trading partner. Since most favored nation was granted to China in 1980, our trade with China has grown fourfold—reaching $18 billion in 1989.

Hundreds of United States companies have invested billions of dollars in China. Their presence in the coastal provinces and in cities such as Shanghai has brought jobs for millions of Chinese workers, and fostered a growing spirit of entrepreneurship.

Revoking most-favored-nation status for China would not hurt the conservative elements of the Communist Party that are responsible for the human rights atrocities at Tiananmen Square. Rather, it would strengthen the repressive factions who have not supported an open door policy. It would hurt the very elements in China's society that have embraced economic reform.

If most favored nation were revoked, China would turn inward. In a closed society, there is little opportunity for reform. Through trade with China, we allow the exchange of ideas that lead to reform. We bring our countries closer together, we build greater trust, and we understand. We gain greater influence over political, economic and human rights policies.

If you look at Eastern Europe, those countries—Poland, Hungary, Czechoslovakia—which had the strongest ties with the West—were the first countries to shed their Communist shackles and embrace economic reforms. China will do likewise if we are patient.

We cannot dismiss lightly the atrocities which occurred at Tiananmen Square. But we should not be moving to isolate China. Rather, we should watch China more closely. We should make the extension of most-favored-nation conditional on the protection of human rights.

I strongly oppose this disapproval resolution, and I support the passage of H.R. 4939. That legislation conditions the extension of most-favored-nation status on China's reversal of its past pattern of human rights violations, the end of martial law, the easing of restrictions on the press, and the release of prisoners detained during the nonviolent protests in Tiananmen Square. These are the conditions that we should be supporting, not the end of most favored nation which would remove all of the leverage that we have to encourage the protection of human rights, and the development of freer economies and more democratic political systems.

I urge you to oppose this resolution.

Mr. GIBBONS. Mr. Chairman, I yield 1½ minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. I thank the gentleman for yielding.

Mr. Chairman, I urge the defeat of the Solomon resolution. We can never as Americans forgive the atrocities of Tiananmen Square, but we serve no constructive purpose today, my friends, by passing the Solomon amendment.

This resolution would hurt those who have the greatest stake in United States-China relations, the individuals and the businesses in southern China, which are the most reform-minded in that country. There are reform minded peoples who yearn for a better day, and I think we do them no service by playing into the hands of the hard liners, and I think the Solomon amendment unwittingly would.

Second, the gentleman from New York has made a very good point, and I want to repeat it for Members today, as someone who led the first Members from the House on a trade mission to China in 1979. The point the gentleman from New York made was simply this: if you look at what has happened in Eastern Europe, it was those countries who had the closest economic link with the United States that were first to throw off communism and totalitarian rule. You cannot introduce free market economics without liberalizing the political system of a country. Europe has taught us that; 1989 was a lesson in history on this point, and we will be breaking that lesson of history if we cut off relations with China in this way. Do not use this chopping block. Do not take this step. Defeat the Solomon amendment.

□ 1150

Mr. RUSSO. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Illinois [Mr. RUSSO] is recognized for up to 3 minutes.

Mr. RUSSO. Mr. Chairman, China does not deserve MFN status because of its restrictive emigration policies. Asia Watch and Amnesty International have both said that its emigration policy has become even more restrictive since the massacre last year at Tiananmen Square.

The Chinese Constitution does not guarantee freedom of emigration. It is ironic that this administration has asked the Soviet Union to codify an emigration law before it is granted MFN status. What does Gorbachev have to do to get MFN status, massacre his own citizens in Red Square like the Chinese did?

That is wrong. That is wrong.

To this day the Chinese Government continues to carry out secret executions of political prisoners. There are 10,000 or more political prisoners now being held in Chinese jails. There are numerous procedural and monetary barriers to the emigration of Chinese students and other groups. One requirement, a so-called cultivation fee, would require students to pay the equivalent of 8 years of pay in order to go abroad for self-financed graduate studies. That is how much they want their students to emigrate to the Western World.

My colleagues, religious persecution continues. Buddhist monks and nuns are being imprisoned and expelled.

China uses the 20 million prisoners in its jails to provide forced, unpaid labor to Chinese businesses, and some of the fruits of their labor reach American ports.

By supporting this corrupt regime in Beijing we tacitly endorse this practice.

I ask my colleagues to vote in favor of this resolution of disapproval, and I commend my good friends, the gentlelady from California [Ms. PELOSI], the gentleman from New York [Mr. SOLOMON], and the gentleman from Massachusetts [Mr. MARKEY] for a job well done.

Mr. Chairman, I yield whatever time I have left to the gentleman from Massachusetts [Mr. MARKEY].

The CHAIRMAN. The gentleman from Massachusetts [Mr. MARKEY] is recognized for 1 minute.

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, let me make this point: The Jackson-Vanik provision worked in the Soviet Union. It contributed mightily to bringing the Soviet economy to its knees and its political system to its senses.

Even today in China they occupy the country of Tibet, committing atrocities that far exceed anything that the Soviet Union ever did in Lithuania. Even today the Chinese are still engaging in relations with the Iraqis, helping them in their chemical weapons program. We cannot allow that to continue. They have had an ongoing program of cooperation with the Iraqis in the development of the Islamic nuclear bomb which could be used against all civilization, the Israelis and the American soldiers.

As the gentleman from Illinois pointed out, they have continued to repress their country, executing over 500 people just in the last year for political purposes.

This is not liberal-conservative, it is not Democratic-Republican. The gentleman from New York [Mr. SOLOMON] is correct, and he should deserve and receive our support on the floor today.

Mr. GIBBONS. Mr. Chairman, I intend to close on our side and I reserve the balance of my time to close debate.

Mr. SOLOMON. Mr. Chairman, I yield such time as he may consume to

the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Chairman, I rise in strong support of House Joint Resolution 647.

Over two centuries ago, Patrick Henry uttered the phrase for which he is most famous, "Give me Liberty or give me Death." In June 1989, thousands of Chinese students asked for liberty. The Communists gave them death.

Since that time, the Chinese Government has made a show of complying with international pressure to correct its system of human rights violations. The release of Fang Lizi, the Government's cooperation with and support of United Nations sanctions against Iraq, and the release of some prisoners have been calculated efforts at convincing the international community to return to business as usual with China.

But it is precisely because China has returned to business as usual in its internal affairs that it should not be allowed to return to business as usual in its international affairs. Just last month, a total of 1,508 suspects were rounded up by Beijing public security personnel under the pretext that they were trying to sabotage the Asian games. Of these, 250 were college students. Additionally, large numbers of public security personnel were sent onto Beijing University and Qinghua University to report on student activity.

Beijing is trying to appease Western opinion by meting out lenient treatment to well-known intellectuals, but its basic policy of using strong-armed tactics to snuff out dissent remains intact.

Until the current Chinese leadership can show that it is improving its record of gross human rights violations, I do not believe they deserve most-favored-nation trade privileges. I urge support for H.R. 647.

Mr. SOLOMON. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from New York [Mr. SOLOMON] is recognized for 1½ minutes.

Mr. SOLOMON. Mr. Chairman, let me just say that China enjoys a $6 billion trade surplus with this country, which will move to $10 billion before next year is out. Revoking MFN status to China does not stop trade with this country. It simply reduces the favored treatment that they get.

Do Members know who enjoys favored-nation treatment with the United States of America? Iraq. I have a bill in now, would you believe it?, to revoke favored-nation status for Iraq.

We have an obligation to uphold the law of this land, which is the Jackson-Vanik amendment, and by voting yes for this resolution we are simply delaying most-favored-nation status to China for 6 or 8 months. If we do not think that will get their attention, Mr. Chairman, nothing will.

I would just like to say to the gentlewoman from California [Ms. PELOSI], that she was a tremendous help in getting this legislation to the floor, and we should pay special tribute to her and to the gentleman from Pennsylvania [Mr. SCHULZE] and certainly my good friend, the gentleman from Massachusetts, [Mr. MARKEY], who has been so active in support of human rights all of these years.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding and congratulate him.

This is something that the Members of the House should be able to support on a bipartisan, nonpartisan basis, continuing along with the Jackson-Vanik tradition that has worked so well in the Soviet Union. Now it is time for us to turn attention to China.

Mr. SOLOMON. I thank the gentleman for his statement, and I urge bipartisan support for this resolution.

Mr. GIBBONS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in the time I have remaining, it is not possible to refute all of the things that have been said here on the floor, but they need refuting.

First, on human rights, I take my hat off to no one in this room, in this Congress, or within the sound of my voice on human rights. I am just as prohuman rights as they are. And while most of them were making speeches, I have put my life on the line numerous times for human rights. Let us dismiss that argument.

The whole question is what is best for America and what is best for the world. We cannot expect anybody to improve if we do not ask them to improve.

If we pass the Solomon resolution, all we will do is walk out of China, and there will be no one there to ask them to improve, not a soul. No other Western nation on Earth puts any kind of human rights condition on their trade policy.

As to Jackson-Vanik, I was a Member of Congress, I was a member of the subcommittee that met over there in room 208 with Mr. Vanik when we put Jackson-Vanik together. As recently as 2 days ago, I discussed again with Mr. Vanik what was the intention of his amendment. His amendment dealt entirely with immigration. If Members do not believe me, ask him. He does not support this approach.

I plead with Members to support the President in this stand. The President has said that it is in the best interests of America to waive the Jackson-Vanik provision. Mr. Vanik says that too.

We should move ahead, continue our pressure upon the Chinese, because no one else does and we do. We are severely limiting now all international loans to them. We have strict embargoes on many sensitive products for them. We have quotas on many of the other products, and we are putting pressure on them—economic, financial, and social pressure. The Chinese are responding. They have supported every move that we have made in the United Nations in the Iraqi situation.

There is no evidence at all, and I challenge anybody to say to the contrary, there is no evidence at all that the Chinese are helping the Iraqis.

Mr. AUCOIN. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I am happy to yield to the gentleman from Oregon.

Mr. AUCOIN. Mr. Chairman, is it not true that Human Rights Watch and Asia Watch, the two human rights organizations, oppose the Solomon amendment and support the Pease bill? Is that not correct?

Mr. GIBBONS. The gentleman is correct.

Mr. AUCOIN. I thank the gentleman.

Mr. GIBBONS. We have the interests of America at heart—what is best for human rights, what is best for America. The action of the President I think is best. China does not measure up to any of our standards.

□ 1200

But unfortunately China's history has been a tragic one. For more than 6,000 years they have never had human rights. Most of them do not know what it is. They can only learn it from us, because we are the only Western power that insists upon better human rights, and if we pass Solomon today and it becomes law, then Americans will be thrown out of China. There will be no migration of students from China to this country.

The American Government will tell you, if you ask them, that every Chinese student who can come in under our own quota has been admitted to this country. There is no diminution of their ability to come to this country and to study and to learn and to emigrate.

I was with Mr. Vanik when he talked with the Chinese leaders about his amendment, and they did not say anything other than, "Mr. Vanik, how many Chinese will you take?" The reason why we cannot get Chinese into this country is not because of the Chinese Government, it is because of our own national policy that prohibits them from coming in here.

Vote "no".

Mr. SOLOMON. Mr. Chairman, I yield such time as he may consume to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, I rise in support of the resolution. I always remember those kids in that square, and I hope everybody else does.

Mrs. LLOYD. Madam Chairman, I rise in support of House Joint Resolution 647 which disapproved the extension of most-favored-nation status to China.

Since the Tiananmen Square massacre, the administration has sought to avoid confronta-

tion with China. China should not be isolated, the administration has argued, by rash actions on the part of the United States. An isolated China would only make matters worse. The administration adopted a policy which sought to softly coax the Chinese Government away from the harsh, repressive policies adopted in the aftermath of Tiananmen Square. The United States has spoken softly for over a year now and little has changed in China; it is time to brandish a stick.

The Chinese Government continues its war against those who sought greater democracy and freedom in China. Political education camps established by the Chinese authorities to reeducate the protesting students remain in place. Thousands of people remain imprisoned without charges. Chinese students living in the United States are still being harassed. The pattern of gross violations of human rights that began following the Tiananmen Square massacre has not ended.

Unfortunately, rather than recognize that real change is not occuring in China, the administration has pointed to cosmetic changes to suggest that United States policy is achieving results. For example, in December 1989, the Chinese Goverment announced that it would permit a new Voice of America correspondent to replace the one expelled earlier in the year. The administration followed this important reversal in Chinese policy with a decision to waive sanctions that prohibited Export-Import Bank lending to China. One month later, the Chinese Government imposed new and tighter restrictions on foreign journalists. What is the significance of permitting a Voice of America reporter to enter China if the reporter is prohibited from doing his job?

This pattern of one step forward and two steps back continues to this day. Clearly, the Chinese Government is not responding to the gentle persuasion of the present United States policy. It is time to get tough with China. A clear, unequivocal message must be sent to the Chinese Government that the United States will not tolerate continued human rights abuses in China and that the repression of those who seek greater democracy and freedom in China must come to an end. Refusing to grant China the privilege of most-favored-nation status will send just this type of signal. Just as importantly, refusing to grant China most-favored-nation status will signal to the people of China that the United States strongly supports their struggle for democracy and freedom and opposes those who seek to deny the Chinese people these basic rights.

Madam Chairman, the time for gentle persuasion and a soft voice is over. Repression in China continues. By refusing to grant China most-favored-nation status, we would be sending the Chinese Government a message that we will no longer tolerate its intolerable behavior.

Madam Chairman, it is time to brandish a stick. I urge my colleagues to support House Joint Resolution 647.

Mr. LANTOS. Madam Chairman, I rise today in very strong support of House Joint Resolution 647, which disapproves the President's waiver of existing freedom of emigration requirements for 1990 and thus grants most-favored-nation [MFN] trade status to the People's Republic of China beginning in July 1991. The effect of adopting this legislation will be to deny MFN trade status to China.

Madam Chairman, I would like to acknowledge the efforts of our colleague from New York [Mr. SOLOMON] in introducing this legislation and working for its passage in the House. My distinguished colleague from Illinois, Congressman JOHN PORTER, who is cochairman with me on the Congressional Human Rights Caucus, introduced other variations on this same legislation to disapprove the President's extension of MFN status to China. I am delighted that the House today will have the opportunity to vote to disapprove the President's decision.

Madam Chairman, President Bush's decision to extend MFN status to Chinese exports was unfortunate and it was wrong. In view of the repeated, willful, and egregious violations of human rights by the octogenarian oligarchy in Beijing, granting MFN to China is contrary to our own democratic principles and will discourage democratic reform in China.

Our Government revoked MFN status for Poland in 1980 for infinitely less serious human rights violations than what were perpetrated in China since the Tiananmen massacre in June 1989. The results of our principled policy toward Poland are obvious now as we see the dramatic democratic change that has taken place there and throughout Eastern Europe.

By extending MFN trade status to China, we are not supporting the Lech Walesas and Vaclav Havels of China. We are not supporting the freedom-loving people who share our democratic values. We are only legitimizing the bankrupt and repressive butchers of Beijing. At a time that freedom and democracy are in the ascendance in Eastern Europe, we are hitching our wagon to a failing star by granting MFN to China.

Madam Chairman, I urge my colleagues to join me in supporting this important resolution. The democratic forces in China must know of our strong and steadfast support for their struggle to bring freedom to their country.

Mr. LEVINE of California. Madam Chairman, I rise in strong support of the resolution of my colleague from New York, Mr. SOLOMON, to deny most-favored-nation status to the People's Republic of China.

President Bush's kow-towing to the Chinese leadership has failed to deliver any meaningful improvements in the People's Republic of China. The human rights climate has grown worse, not better.

Its been well over a year since the Tiananmen massacre and still there has been no meaningful improvement in the human rights situation in China. If anything, the situation continues to deteriorate. Untold thousands who participated in the democracy movement remain in prison. Asia Watch reports as many as 10,000 to 30,000 are still jailed, under appalling conditions, for their role in the demonstrations. All reformist government officials have been purged, and a national campaign of repression continues unabated.

The latest outrage was reports that the Chinese just recently sold Iraq large quantities of a chemical used in the manufacture of nuclear weapons and missile fuel. This sale went through in September, in violation of the United Nations sanctions against Bagdad. So much for the vaunted Chinese support for our policy against Saddam Hussein.

Obviously, the so-called sanctions implemented by the President after Tiananmen Square have done nothing, absolutely nothing, to encourage the hard-line Chinese government to change its ways or to make it pay for using lethal force to squelch the democracy movement. All the evidence is in now, and it's clear that the soft touch, conciliatory approach won't work, that it has no change of fostering moderation in the People's Republic. The Chinese have responded to the President's mild response with utmost contempt. I urge my colleagues to recall the words of Jiang Zemin in an interview with Barbara Walters last May: He described the massacre of thousands of demonstrators in Tiananmen Square as "much ado about nothing."

What's more, even the very limited sanctions in place have since been substantially loosened by Presidential waivers to permit Exim financing to China, to allow the export of three telecommunications satellites, and to proceed with the sale of Boeing Jets and even to permit continued work on an upgrade system for Chinese fighter aircraft. The President has also resumed support for World Bank loans and vetoed legislation to protect Chinese students in the United States.

And then, just in case the Beijing leadership didn't get the message that the United States would ignore the killings, repression, and continued persecution of dissenters, the administration called for a renewal of most-favored-nation status for the People's Republic of China in June.

Section 402 of the Trade Act, also known as the Jackson-Vanik amendment, permits the extension of MFN only to nonmarket economies that do not restrict emigration. Clearly, China does not meet that test. Emigration and travel outside of China have always been tightly restricted by the Chinese authorities, and have become substantially more restrictive since the crackdown last year. Passports and exit permits are routinely denied, particularly if there is any evidence, even a false confession extracted under duress, of participation in the democracy movement. Students must now work for 5 years before they may gain permission to study abroad. Anyone caught trying to leave the country may be sentenced to a reeducation camp.

In view of the lack of progress on human rights in China over the past 1½ years, it is also difficult for the administration to argue that a waiver of the Jackson-Vanik emigration requirement will lead to the achievement of freedom of emigration objectives. We've already tried this approach, and it has failed.

We should not permit privileged trading status for the People's Republic of China until the thousands of political prisoners are unconditionally released, freedom of emigration is granted, forced labor is halted, the de facto martial law in Tibet is lifted, and religious and political persecution is stopped.

To do any less would be to condone the continued egregious human rights violations in China, and to further delay any progress

toward reform, liberalization, freedom, and democracy for the people of that country.

Mr. LANTOS. Madam Chairman, I rise today in very strong support of H.R. 4939, which requires the President to take into consideration new human rights objectives in deciding whether or not to grant most-favored-nation [MFN] trade status to the People's Republic of China beginning in July 1991.

First, I would like to pay tribute to several of our colleagues in the House who have played a key role in this legislation. The distinguished gentleman from Ohio, Mr. PEASE, has provided excellent leadership on this important issue, and I welcome his approach of establishing in law the human rights conditions that China must meet in order to receive MFN next year.

I would also like to pay tribute to others of our colleagues who have proposed amendments, which I support, that improve and strengthen this bill:

My good friend and neighbor from San Francisco, Ms. PELOSI, who is an executive committee member of the Congressional Human Rights Caucus. Her excellent amendment makes an important contribution in strengthening the human rights conditions of H.R. 4939.

Our colleague from Virginia, Mr. WOLF, who is an executive committee member of the Congressional Human Rights Caucus, whose amendment requires progress toward ending religious persecution in China before MFN can be extended.

My distinguished friend and colleague from Illinois, JOHN PORTER, who is the cochairman with me of the Congressional Human Rights Caucus, has introduced an amendment to assure that democracy and the observance of human rights are conditions that are observed by the People's Republic of China relative to Hong Kong.

And our colleague from the State of Washington, Mr. MILLER, who is also a member of the executive committee of the Congressional Human Rights Caucus, has introduced an amendment providing a list of human rights principles for United States businesses operating in China.

Madam Chairman, I urge the adoption of this significant legislation and adoption of all of these important amendments.

Madam Chairman, the entire world was outraged by the appalling and tragic events that took place in the People's Republic of China last year. The callous disregard of elementary human rights as well as the brutal and vicious attacks against unarmed students has dismayed friends of freedom and democracy around the globe. Furthermore, human rights abuses are rampant in Tibet. Not only does torture and execution of political prisoners continue, but also freedom of the press, free speech, the right of assembly, and freedom of religion are nonexistent.

Existing legislation provides that any Communist country which received most-favored-nation [MFN] status for its trade with the United States must permit its citizens the right or opportunity to emigrate. It is clear, Mr. Chairman, that much more than this ought to be required.

Trade with the United States at the most-favorable-tariff rates is not a right that a country ought to receive simply because it wants to trade. It is a privilege that should be given only to countries who observe the minimum levels of decency and respect for the international community. Chinese actions since June 1989 have clearly placed China and its current leadership outside the pale of civilized, law-abiding nations.

There is no evidence that the Chinese are improving their human rights record. In fact, there is strong evidence that the opposite is taking place. The Chinese only undertook a bit of window-dressing last May and June, on the eve of the President's decision to grant China MNF status for another year.

It is essential that the leaders of China understand our Nation's commitment to human rights, and the adoption of this legislation will make this clear. There must be no confusion or misunderstanding on the part of the Chinese—or our own executive branch—about where the Congress stands on this issue of the observance of human rights.

Madam Chairman, I urge my colleagues to support the amendments that are being offered to this bill, and I urge my colleagues to vote for this critical legislation.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the joint resolution is considered as read for amendment under the 5-minute rule.

The text of the joint resolution is as follows:

H.J. RES. 647

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on May 24, 1990, with respect to the People's Republic of China.

The CHAIRMAN. Pursuant to section 152(D) of the Trade Act of 1974, no amendment to the joint resolution is in order.

Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WHEAT) having assumed the Chair, Mr. MCNULTY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H.J. Res. 647) disapproving the recommendation of the President to extend nondiscriminatory treatment—most-favored-nation treatment—to the products of the People's Republic of China, pursuant to House Resolution 485, he reported the joint resolution back to the House.

The SPEAKER pro tempore (Mr. WHEAT). Under the rule, the previous question is ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 247, nays 174, not voting 12, as follows:

[Roll No. 483]

YEAS—247

Annunzio	Gilman	Mink
Applegate	Gonzalez	Moakley
Atkins	Goodling	Molinari
Ballenger	Gordon	Mollohan
Barnard	Grant	Morella
Bartlett	Gray	Neal (MA)
Barton	Gunderson	Neal (NC)
Bates	Hall (OH)	Nelson
Beilenson	Hancock	Oakar
Bennett	Harris	Oberstar
Bentley	Hatcher	Obey
Berman	Hayes (IL)	Ortiz
Bevill	Hayes (LA)	Owens (NY)
Bilbray	Hefley	Owens (UT)
Boehlert	Hefner	Pallone
Bonior	Henry	Patterson
Borski	Herger	Paxon
Boucher	Hertel	Payne (NJ)
Boxer	Hiler	Pelosi
Browder	Hochbrueckner	Perkins
Brown (CO)	Hopkins	Porter
Bruce	Horton	Poshard
Bryant	Hoyer	Price
Bunning	Hubbard	Pursell
Burton	Huckaby	Rahall
Bustamante	Hunter	Rangel
Callahan	Hutto	Ravenel
Cardin	Hyde	Regula
Carper	Inhofe	Richardson
Carr	Jenkins	Ridge
Clay	Jones (GA)	Ritter
Coble	Jontz	Rogers
Coleman (MO)	Kanjorski	Rohrabacher
Coleman (TX)	Kaptur	Ros-Lehtinen
Collins	Kasich	Rose
Condit	Kennedy	Rowland (GA)
Conte	Kennelly	Russo
Conyers	Kildee	Sabo
Costello	Kleczka	Sangmeister
Courter	Kolbe	Savage
Dannemeyer	Kolter	Sawyer
Darden	Kostmayer	Schaefer
Davis	Kyl	Scheuer
de la Garza	LaFalce	Schiff
Dellums	Lagomarsino	Schroeder
Derrick	Lancaster	Schulze
Dickinson	Lantos	Schumer
Dingell	Lehman (CA)	Sensenbrenner
Donnelly	Lent	Serrano
Dorgan (ND)	Levin (MI)	Sikorski
Dornan (CA)	Levine (CA)	Sisisky
Douglas	Lewis (CA)	Skaggs
Downey	Lewis (FL)	Skeen
Duncan	Lewis (GA)	Slaughter (NY)
Durbin	Lightfoot	Smith (FL)
Dwyer	Lipinski	Smith (NJ)
Dyson	Lloyd	Smith, Robert (NH)
Early	Lowey (NY)	Snowe
Eckart	Machtley	Solomon
Edwards (CA)	Manton	Spence
Edwards (OK)	Markey	Spratt
Emerson	Mavroules	Staggers
Engel	McCandless	Stark
Erdreich	McCloskey	Stearns
Espy	McCollum	Stokes
Evans	McCurdy	Studds
Fascell	McGrath	Synar
Fish	McHugh	Tallon
Flake	McMillan (NC)	Tauke
Flippo	McMillen (MD)	Tauzin
Foglietta	McNulty	Taylor
Ford (TN)	Mfume	Torricelli
Frank	Miller (CA)	Towns
Frost	Miller (OH)	Traficant
Gejdenson	Miller (WA)	Traxler
Gephardt	Mineta	

Udall	Walgren	Wheat
Upton	Walker	Wise
Valentine	Walsh	Wolf
Vento	Washington	Wolpe
Visclosky	Waxman	Yates
Volkmer	Weiss	Yatron
Vucanovich	Weldon	

NAYS—174

Alexander	Green	Pease
Anderson	Guarini	Penny
Andrews	Hall (TX)	Petri
Anthony	Hamilton	Pickett
Archer	Hammerschmidt	Pickle
Armey	Hansen	Quillen
Aspin	Hastert	Ray
AuCoin	Hoagland	Rhodes
Baker	Holloway	Rinaldo
Bateman	Houghton	Roberts
Bereuter	Hughes	Robinson
Bilirakis	Ireland	Roe
Bliley	Jacobs	Rostenkowski
Boggs	James	Roth
Bosco	Johnson (CT)	Roukema
Broomfield	Johnson (SD)	Roybal
Brown (CA)	Johnston	Saiki
Buechner	Jones (NC)	Sarpalius
Byron	Kastenmeier	Saxton
Campbell (CA)	Laughlin	Schneider
Campbell (CO)	Leach (IA)	Sharp
Chandler	Lehman (FL)	Shaw
Chapman	Livingston	Shays
Clarke	Long	Shumway
Clement	Lowery (CA)	Shuster
Clinger	Luken, Thomas	Skelton
Combest	Lukens, Donald	Slattery
Cooper	Madigan	Slaughter (VA)
Coughlin	Marlenee	Smith (IA)
Cox	Martin (NY)	Smith (NE)
Coyne	Martinez	Smith (TX)
Craig	Matsui	Smith, Denny (OR)
Crane	Mazzoli	Smith, Robert (OR)
Crockett	McCrery	Solarz
DeFazio	McDade	Stallings
DeLay	McDermott	Stangeland
Dicks	McEwen	Stenholm
Dixon	Meyers	Stump
Dreier	Michel	Sundquist
Dymally	Montgomery	Swift
English	Moody	Tanner
Fawell	Moorhead	Thomas (CA)
Fazio	Morrison (WA)	Thomas (GA)
Feighan	Mrazek	Thomas (WY)
Fields	Murphy	Torres
Ford (MI)	Murtha	Unsoeld
Frenzel	Myers	Vander Jagt
Gallegly	Nagle	Watkins
Gallo	Natcher	Weber
Gaydos	Nielson	Whittaker
Gekas	Nowak	Whitten
Geren	Olin	Williams
Gibbons	Oxley	Wyden
Gillmor	Packard	Wylie
Gingrich	Panetta	Young (AK)
Glickman	Parker	Young (FL)
Goss	Parris	
Gradison	Pashayan	
Grandy	Payne (VA)	

NOT VOTING—12

Ackerman	Hawkins	Rowland (CT)
Brennan	Leath (TX)	Schuette
Brooks	Martin (IL)	Smith (VT)
DeWine	Morrison (CT)	Wilson

□ 1225

Messrs. GAYDOS, MATSUI, ROSTENKOWSKI, DELAY, and KASTENMEIER changed their vote from "yea" to "nay."

Mr. DORNAN of California, Mrs. LLOYD, and Messrs. HAYES of Illinois, BARNARD, SCHAEFER, LEHMAN of California, McCOLLUM, PERKINS, TAYLOR, HUCKABY, BOEHLERT, McMILLEN of Maryland, RICHARDSON, and TORRICELLI changed their vote from "nay" to "yea."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. COX. Mr. Speaker, on the last recorded vote, roll No. 483, I was mistakingly recorded as having voted "No." Because I intended to vote against the extension of most-favored-nation treatment to the People's Republic of China, my vote should have been entered as "aye."

PERSONAL EXPLANATION

Mr. LAFALCE. Mr. Speaker, I ask that the RECORD reflect that I intended to vote "no" on the final passage of House Joint Resolution 647, to disapprove MFN for China in 1990, and that I had inadvertently registered a "yes" vote on the mechanical device.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 5158, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1991

Mr. TRAXLER. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, October 18, 1990, to file a conference report on the bill (H.R. 5158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices of the fiscal year ending September 30, 1991, and/or other purposes.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Michigan?

There was no objection.

GENERAL LEAVE

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 647, the joint resolution previously passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CONFERENCE REPORT ON H.R. 5311, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1991

Mr. DIXON submitted the following conference report and statement on the bill (H.R. 5311) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenue of said District for the fiscal year ending September 30, 1991, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-897)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5311) "making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenue of said District for the fiscal year ending September 30, 1991, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 9, 10, 14, 17, 20, 23, 24, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 52, 55, 57, 58, 59, and 62.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 4, 7, 11, 15, 18, 22, and 53 and agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$920,464,000*; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$529,764,000*; and the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows: *: Provided further, That the Hurt Home located at 3050 R Street, Northwest, in the District of Columbia, shall not be occupied by residential or day patients or used as a residential treatment facility until a final decision is rendered by the District of Columbia Court of Appeals in Speyer v. Barry, Appeal No. 88-958*; and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *39,262*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 5, 6, 8, 13, 19, 51, 54, 56, 60, and 61.

JULIAN C. DIXON,
WILLIAM H. NATCHER,
LOUIS STOKES,
LES AUCOIN,
BERNARD J. DWYER,
STENY H. HOYER,
JAMIE L. WHITTEN,
DEAN A. GALLO,
BILL GREEN,
RALPH REGULA,
SILVIO O. CONTE,
Managers on the Part of the House.
BROCK ADAMS,

WYCHE FOWLER, Jr.,
J. ROBERT KERREY
(except for amendments),
ROBERT C. BYRD,
PHIL GRAMM,
PETE V. DOMENICI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5311) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1991, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the actions agreed upon by the managers and recommended in the accompanying conference report.

FEDERAL FUNDS

DEPARTMENT OF ADMINISTRATIVE SERVICES

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates a special Federal contribution of $1,000,000 to partially restore the department's budget to the fiscal year 1990 level. This department serves as the nerve center of the District government and provides essential government-wide services to all District agencies such as the Metropolitan Police Department which many times has had to wait as long as a year or more for the Department of Administrative Services to process police procurements because of a shortage of trained personnel caused by funding shortfalls. The appropriation of this $1,000,000 from the District treasury is accomplished in amendment number 11.

BOARD OF EDUCATION

Amendment No. 2: Appropriates $15,080,000 as a Federal contribution to the public school system as proposed by the Senate instead of $12,080,000 as proposed by the House. The increase of $3,000,000 above the House level is discussed in amendments numbered 3 and 5.

Amendment No. 3: Earmarks $2,000,000 for renovations to public school athletic and recreational grounds and facilities as proposed by the House instead of $1,000,000 as proposed by the Senate.

Amendment No. 4: Deletes word "and" as proposed by the Senate to accommodate amendment number 5.

Amendment No. 5: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *$1,000,000 shall be for expansion of the early childhood program, $1,000,000 shall be for teacher pay raises, and $1,000,000 shall be for the Anacostia Project in Southeast Washington.*

FIRE DEPARTMENT

For a Federal contribution to the District of Columbia for the Fire Department, $1,141,000

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Public schools.—The conference agreement earmarks $1,000,000 to expand the early childhood program, $1,000,000 for teacher pay raises, and $1,000,000 for the Anacostia Project in Southeast Washington instead of $1,000,000 to expand the early childhood program and $3,000,000 for teacher pay raises as proposed by the Senate. The reduction of $2,000,000 in the allocation for teacher pay raises is reallocated to amendment number 3 for renovations to public school athletic and recreational grounds and facilities ($1,000,000), and in amendment number 5 for the Anacostia Project ($1,000,000). Negotiations are under way on a new contract for teachers which will include pay raises that may exceed $30,000,000. While the conferees do not want to presuppose what those negotiations may conclude, they agree that the level of pay for the District's public school teachers is a priority and note that the Council of the District of Columbia has stated that it is "committed to fully fund pay raises that are negotiated by the Board of Education. . .".

Fire Department.—The conference action also inserts a new heading for the Fire Department and appropriates $1,141,000 to fund the administrative assistants to eight Battalion Fire Chiefs in the Firefighting Division on a 24-hour basis, 365 days a year. According to reports received by the conferees, the Administrative Assistants (Aides) perform duties that are essential to the orderly and efficient operations of their respective battalions, and in addition, are an integral part of the fireground command structure.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: , *of which $80,000 shall be available to the Social Services Division of the Superior Court of the District of Columbia for other youth screening and diversion programs*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $160,000 for the After School Kids Program as proposed by the House instead of $160,000 for the After School Kids Program, $860,000 for the Social Services Division and $400,000 for counsel for Child Abuse and Neglect Program fees as proposed by the Senate. The conference agreement also includes language that makes $80,000 (of the $160,000) available to the Social Services Division for youth screening and diversion programs other than the After School Kids Program. This language gives the Social Services Division sole discretion to determine the use of the $80,000 within its screening and diversion program. With respect to the balance of $80,000 for the After School Kids Program, the conferees believe that these funds should cover the costs for a minimum of 50 youth completing the program and that a process/impact evaluation of the program by an outside, independent evaluator or consultant certified by the National Institute for Corrections should be conducted at a cost not to exceed four percent of the appropriation. At a minimum, the evaluation should include the following:

(1) A profile of program participants such as conviction charge, prior record, educational level, family structure, etc.

(2) Frequency and type of contact with program participants.

(3) Type of problem areas for which the youths were referred.

(4) Extent to which program was implemented as planned.

(5) Measure of educational gains for each youth through use of standardized tests to assess gains in academic problem areas, school advisory grades, etc.

(6) Changes in self esteem based on pretest and posttest results.

(7) Adjustment of youths at school and at home based on such measures as school attendance, school behavior, completes assigned household chores, etc.

(8) Incidence of illicit drug use by youths during the program.

(9) Incidence of youths involvement with the criminal justice system and severity of the involvement.

(10) Any other factors relevant to process/impact evaluation.

The conferees request that the evaluation be performed in a timely manner and transmitted to the House and Senate Subcommittees on District of Columbia Appropriations by May 30, 1991.

DEPARTMENT OF PUBLIC WORKS

Amendment No. 7: Deletes heading and Federal appropriation of $100,000 for the preparation of an environmental impact statement relating to the expansion of the Lorton landfill proposed by the House and stricken by the Senate. The conferees have been advised that action was taken on September 17, 1990 by elected officials of the jurisdiction where the Lorton landfill is located mandating that an environmental impact statement be prepared prior to proceeding with expansion of the landfill. The environmental impact statement is to be completed by March 1992 and will be paid for from dumping or "tipping" fees. The conferees were further advised that the environmental impact statement required by the local officials can be implemented and completed more quickly than one mandated by Congress. Amendments number 22 and 58 relate to the Lorton landfill expansion.

DEPARTMENT OF HUMAN SERVICES

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

DEPARTMENT OF HUMAN SERVICES

For a Federal contribution to the District of Columbia, $3,041,000, of which $350,000 shall be to develop a program for boarder babies and children of substance abusers, $500,000 shall be to develop a residential aftercare program for pregnant substance abusers, $1,500,000 shall be for outpatient aftercare for pregnant substance abusers and the general recovering addict population, $500,000 shall be for a program for early detection of breast and cervical cancer to be conducted by an independent organization or institution of national prominence, and $191,000 shall be for security fences and security lighting at the Oak Hill Juvenile Detention Facility and security lighting at the Cedar Knoll Facility.

DISTRICT OF COLUMBIA INSTITUTE FOR MENTAL HEALTH

For a Federal contribution to the District of Columbia Institute for Mental Health to provide professional mental health care to low-income, underinsured, and indigent children, adults, and families in the District of Columbia, $1,000,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Department of Human Services.—The conference agreement appropriates $3,041,000 as a Federal contribution to the Department of Human Services and $1,000,000 as a Federal contribution to the District of Columbia Institute for Mental Health instead of $2,850,000 as a Federal contribution for the Department of Human Services as proposed by the Senate. The allowance recommended by the conferees will provide (1) $350,000 to develop a program for boarder babies and children of substance abusers, (2) $500,000 to develop a residential aftercare program for pregnant substance abuses, (3) $1,500,000 for outpatient aftercare for pregnant substance abusers and the general recovering addict population and, (4) $500,000 for an early detection program for breast and cervical cancer as proposed by the Senate. The conference action also provides a federal contribution of $191,000 for security fences and lighting at the Oak Hill and Cedar Knoll juvenile detention facilities. See amendment number 19 for the payment of these funds from the District Treasury.

D.C. Institute for Mental Health.—In addition, the conference action inserts a new heading for the District of Columbia Institute for Mental Health and provides a direct one-time appropriation of $1,000,000 to assist the Institute in providing low-cost professional mental health care to low-income, underinsured, and indigent children, adults and families in the District of Columbia. The conferees were advised that the greater part of the Institute's client population is severely disturbed and predominantly classified as indigent and working poor with combined family incomes of $10,000 or less and nearly 40 percent of the patient population being uninsured or underinsured. The conferees were further advised that with successful treatment, the Institute's clients often move from welfare and other forms of public assistance to gainful employment, increased educational achievement and greater self-sufficiency.

The conferees request a report by April 15, 1991, from the Institute concerning the use of these funds and the level of services provided to District residents.

CHILDREN'S NATIONAL MEDICAL CENTER

Amendment No. 9: Deletes language proposed by Senate which provided payment of this appropriation to the District of Columbia for subsequent payment to the Children's National Medical Center for a cost-shared National Child Protection Center. The conferees agree that the payment should be made directly to the Children's National Medical Center rather than through the District of Columbia government.

Amendment No. 10: Appropriates $3,000,000 as proposed by the House instead of $4,000,000 as proposed by the Senate for a direct Federal contribution to the Children's National Medical Center for a cost-shared center focused on children and substance abuse prevention, trauma emergency medical care, pediatric AIDS/HIV treatment, critical care in newborn, pediatric and adolescent patients, pediatric medical research and other related specialized programs. The center is estimated to cost $50,000,000 with most of the funds provided by private and other sources.

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

Amendment No. 11: Appropriates $113,879,000 as proposed by the Senate instead of $115,279,000 as proposed by the House. The conference allowance of $113,879,000 reflects an increase of $1,000,000 above the House allowance after adjusting the House figure of $115,279,000 as printed in the bill to reflect two reductions made on the House floor in Federal funds but not reflected in the District funds appropriation. The increase of $1,000,000 above the revised House allowance will provide the Department of Administrative Services with a total budget of $27,253,000 as proposed by the Senate instead of $27,853,000 as proposed by the House. This department serves as the nerve center of the District and the conferees are concerned with what seems to be an effort by District officials to reduce the department's budget year after year—from $30,264,000 and 493 positions in fiscal year 1987 to $28,631,000 and 448 positions in fiscal year 1990 to $26,253,000 and 439 positions requested in the fiscal year 1991 budget. The conferees believe it is unreasonable to expect the department to operate properly without adequate resources. The conferees request quarterly reports from the department on its efforts to improve operations.

PUBLIC SAFETY AND JUSTICE

Amendment No. 12: Appropriates $920,464,000 instead of $919,323,000 as proposed by the House and $920,583,000 as proposed by the Senate.

Fire Department.—The conference agreement provides $103,043,000 instead of $101,902,000 as proposed by the House and the Senate. The increase of $1,141,000 is provided to fund the administrative assistants to the department's battalion chiefs on a three-shift basis to the extent possible for the fiscal year. The conferees have been advised that the administrative assistants are essential to the orderly and efficient operations of their respective battalions and are an integral part of the fireground command structure.

Metropolitan Police Department.—The conference agreement appropriates $257,242,000 which is $7,201,000 above the fiscal year 1990 appropriation. Language carried in last year's Act is continued this year to allow $17,630,000 of the Department's funds to remain available until expended. District officials are directed not to use these carryover funds to replace part of the base in the department's fiscal year 1992 budget. Nor is the department to absorb a disproportionate share of mandatory increases, such as pay costs, than other District agencies.

The situation with crime in the District has worsened, and in order to provide police officials with maximum flexibility in managing the department in its efforts in the war on crime, the conferees once again direct that the drug emergency funds of $17,630,000 shall be available exclusively to the department with the first priority given to the hiring of new police officers to bring the level up to the authorized strength of 5,133. If not expended for personal services, the funds may be used to purchase goods and services in the non-personal object classes including support and other materials as well as capital items.

The conferees request that quarterly reports be provided to the House and Senate Committees on Appropriations showing the amounts obligated and expended and the purposes, in detail, for which funds were obligated and expended.

A summary of the number of sworn officers authorized and funded for fiscal year 1969-1991 follows:

METROPOLITAN POLICE DEPARTMENT—UNIFORMED (SWORN) POLICE OFFICERS

Fiscal year	Number authorized	Number funded
1969	4,100	3,341
1970	5,100	4,295
1971	5,100	5,013
1972	5,100	4,727
1973	5,100	4,974
1974	5,100	4,909
1975	4,750	4,700
1976	4,630	4,567
1977	4,470	4,333
1978	4,150	4,096
1979	4,120	4,120
1980	4,242	4,096
1981	4,025	3,880
1982	4,121	3,880
1983	3,958	3,880
1984	3,958	3,845
1985	3,958	3,845
1986	3,958	3,845
1987	3,958	3,855
1988	3,958	3,855
1989	4,133	4,055
1990	5,133	5,055
1991	5,133	5,055

District-wide contracting.—The conferees remain interested in the District's progress in fully implementing the District of Columbia Procurement Practices Act of 1985. Accordingly, the conferees request that the District provide quarterly reports on the following information regarding contracting by all agencies, boards, commissions, and entities, independent or otherwise that receive any funding, directly or indirectly, through this Act:

(1) progress in completing the regulations of the final four chapters of the Act;

(2) the number and dollar value of sole source contracts the District enters into;

(3) the number and dollar value of contracts being carried out with no written contract on file;

(4) the number and dollar value of contracts pending before the Department of Human Services which have been renewed outside of the competitive bidding process.

Superior Court.—The conference agreement provides $65,850,000 instead of $66,192,000 as proposed by the House and $67,110,000 as proposed by the Senate. The conference action reflects a technical adjustment transferring out eight court reporter positions and $342,000 to the Court System. The conferees have not approved the increase of $860,000 for the Social Services Division and the additional $400,000 for fees for counsel in child abuse and neglect cases proposed by the Senate. The conferees were advised that $2,966,000 is in the budget for the Guardianship and Protective Proceedings program which will not be fully operational in fiscal year 1991. As a result, possibly half of the budget may be unobligated and could be made available to other high priority programs such as the special probationary teams for child abuse cases.

D.C. Court System.—The conference action provides $22,600,000 as proposed by the Senate instead of $22,258,000 as proposed by the House and reflects a technical adjustment transferring in eight court reporter positions and $342,000 from the Superior Court.

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and

concur in the amendment of the Senate that allows the Metropolitan Police Department to make small purchases up to $500,000 without going through any other District agency including the Department of Administrative Services. The limit for the department is presently $10,000 although the limit for some agencies is up to $1,000,000. The conferees agree that the increase in purchasing authority for $10,000 up to $500,000 will insure that the Metropolitan Police Department will be able to independently and expeditiously procure the goods and services it requires to fulfill its mission. The conferees further agree that the administrative requirements for the department's increased procurement authority of up to $500,000 be those presently governing procurements made under the small purchase authority so that no new or creative bureaucratic hurdles will be imposed on the department. The Department should view this increase in direct purchasing authority as a pilot or model that will be reviewed during next year's budget hearings to determine whether the Department's procurement situation has improved.

Amendment No. 14: Delete language proposed by the Senate which would have made funds appropriated for the Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986 available until expended rather than available only during the fiscal year in which they are appropriated.

PUBLIC EDUCATION SYSTEM

Amendment No. 15: Appropriates $738,240,000 as proposed by the Senate instead of $735,240,000 as proposed by the House. The conference action reflects an increase of $4,600,000 above the House allowance after adjusting the House figure of $735,240,000 as printed in the bill to reflect the reduction of $1,600,000 made on the House floor in the allocation to the University of the District of Columbia but not reflected in the appropriation for "Public Education System". The increase of $4,600,000 above the revised House allowance will restore the $1,600,000 for the University of the District of Columbia as proposed by the Senate and will allocate the $3,000,000 in Federal funds appropriated under amendment number 2. The $3,000,000 will provide $1,000,000 for expansion of the Early Childhood Development Program as proposed by the Senate, $1,000,000 for teacher pay raises instead of $3,000,000 as proposed by the Senate, and $1,000,000 for the Anacostia project in southeast Washington which will focus on the improvement and extension of mathematics, science and technology for the District's public school system. This project is discussed under amendment number 16.

Amendment No. 16: Allocates $529,764,000 instead of $526,764,000 as proposed by the House and $530,764,000 as proposed by the Senate for the public schools of the District of Columbia. The increase of $3,000,000 above the House allowance will provide (1) an additional $1,000,000 as proposed by the Senate for expansion of the Early Childhood Development Program, (2) $1,000,000 for the Anacostia Project in Southeast Washington which is discussed later, and (3) $1,000,000 for the projected teacher pay raises instead of $3,000,000 as proposed by the Senate. Negotiations are under way on a new contract for teachers which will include pay raises that may exceed $30,000,000. While the conferees do not want to presuppose what those negotiations may conclude, they agree that the level of pay for the District's public school teachers is a priority and note that the Council of the District of Columbia has stated that it is "committed to fully fund pay raises that are negotiated by the Board of Education . . ."

Excessive administrative costs.—The conferees are deeply concerned at the pattern of spending in the District's public schools. It is not the case that the total amount per pupil being spent is low; in fact, it is among the highest in the Nation. The problem is that the funds are being misdirected with excessive funds going to administrative overhead and all too little going to the instruction of students. The conferees hope that the new administration will address the misdirection of resources.

Anacostia Project.—The conference agreement includes $1,000,000 for the development and implementation of the renewal of the Anacostia Project in Southeast Washington. In 1974, the District established Ballou High School in Southeast Washington as the mathematics and science school for the city. A renewal of this project will focus on school-based staff development, school analysis for accountability, a new curriculum integrating technology into the classroom with staff development and training in the most up-to-date teaching techniques and strategies (including Integrative Learning) which emphasize preparing students for work, college and citizenship in the 21st century by focusing on science, mathematics and technology as well as values education and multicultural heritage and legacy.

According to many businesses and government leaders, the United States must develop bolder visions and provide more aggressive leadership in at least three areas: economic revitalization, educational reform and community renewal. This project is an attempt to address these national needs as well as those of minority students who along with women will represent over 85 percent of the new work force by the year 2000. Programs such as those being developed by the National Science Center Foundation (NSCF) are attempting to address these priorities. The NSCF believes that the Nation's educational failures center on two issues, one of which is a decline in student test scores in mathematics and science and the second is the current shortage of well prepared teachers in the fields of mathematics and science for the Nation's schools. The Foundation is developing a computer-based system in an effort to make an impact on the teaching of mathematics. According to NSCF, the use of these technologies not only benefits the teaching of these subjects but is necessary if we expect to overcome the current and projected shortage of qualified mathematics and science teachers.

The conferees are encouraged by these initiatives and direct that the $1,000,000 approved for this project be used to continue the planning and development of this urban demonstration model in mathematics, science and technology for the District in Southeast Washington. These funds are to be used to upgrade and expand the Ballou Mathematics and Science School and the Friendship Educational Center, which was recently renamed the Patricia Roberts Harris Educational Center, and for additional programs focused on mathematics, science and technology. Learning Logic computer laboratories are to be installed in these two schools to serve as urban demonstration sites for the Foundation's comprehensive computer-based mathematics program for all students in algebra through calculus. Model pilot programs will be established for (1) improving mathematics, science and computer learning opportunities for students in pre-kindergarten through high school including a Tech-Prep 2+2 Program; (2) extended day and year-round programs using computers with a mathematics and science focus; and (3) parent and community support programs.

Funds are also provided to begin a year-round, school-focused, research based staff development center dedicated to improving and upgrading the teaching of mathematics, science and technology in the District's public schools. This facility is to be located in the newly named Patricia Roberts Harris Educational Center and will provide for the strengthening of the relationship and collaboration of the District's public schools with the National Science Center Foundation, Howard University, the University of the District of Columbia, the Naval Research Laboratory, and other agencies and organizations.

The conferees have been advised that the necessary first step toward the implementation of this project is to air condition the Ballou High School for a year-round mathematics and science program. Accordingly, the conferees direct that the necessary funds within the public schools capital outlay program be made available to air condition the Ballou High School and modernize and improve the necessary science laboratories at Ballou for the mathematics and science school.

The conferees request comprehensive biannual reports on the implementation and progress of the Anacostia Project. The reports are to be provided on May 1, 1991, and November 1, 1991, by the Board of Education to the House and Senate Subcommittees on District of Columbia Appropriations. A time line with goals and accomplishments should be included in the annual report.

ACCORD Program.—The ACCORD Program is a 5-year model demonstration project established to provide high school students with necessary skills to obtain entry level career employment. The program is a partnership between the business and civic communities, government agencies and the public schools with job opportunities provided in both the private and public sectors to students who receive training through seminars, on-the-job training, internships, and direct assistance from volunteer mentors. This program was first funded in fiscal year 1988 at a level of $800,000 of which $200,000 was contingent upon the receipt of $200,000 in private sector contributions for a total program level of $1,000,000.

The conferees request that detailed quarterly reports be provided within 20 days after the close of each quarter directly by the Board of Education to the House and Senate Subcommittees on District of Columbia Appropriations on the ACCORD Program setting out the progress made from the previous reporting period as well as a comparison of the program's goals and objectives with the accomplishments.

Options School.—The conferees have included $600,000 within the funds provided to the Board of Education for the Options School program. The program is an alternative full-day program for youths 12 to 15 who are functioning at least two years behind grade level and are drop-out risks. The students are given courses in basic skills, computers, science and technology. While in the program 86 percent of the students attended school 80 percent of the time, 37 percent had two or fewer absences,

and 25 percent had perfect attendance. On standardized tests 65 percent progressed two grade levels in reading and math. Students can stay in the program for up to one year. This initiative has been a success by any measure, and the conferees encourage school officials to consider expanding its use.

The conferees request that the $180,000 increase above last year's level be used to supplement the base operations and to expand the Options School by adding such programs as a summer session, performing arts, an evaluation which may be used as a basis for national replication, and enhancement of the curriculum as well as other related program development.

Amendment No. 17: Allocates $22,000,000 as proposed by the House instead of $21,000,000 as proposed by the Senate for pay-as-you-go capital projects for the public schools. The conference action provides $2,000,000 as proposed by the House instead of $1,000,000 as proposed by the Senate for renovations to athletic and recreational grounds and facilities in the public school system.

Amendment No. 18: Allocates $76,913,000 as proposed by the Senate instead of $75,313,000 as proposed by the House for the University of the District of Columbia. The conference action restores the $1,600,000 reduction that resulted from a House floor amendment offered because $1,600,000 was proposed to be borrowed on the municipal bond market by the District government to be repaid from the District's local tax revenues to renovate the Carnegie Library to exhibit "The Dinner Party" art work. This amendment was adopted by the House even though there were no funds in the bill related to the art work. The artist subsequently withdrew her offer to donate the art work to the University.

HUMAN SUPPORT SERVICES

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: *$876,431,000.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $876,431,000 instead of $873,390,000 as proposed by the House and $876,240,000 as proposed by the Senate. The increase of $3,041,000 above the House allowance includes $350,000 as proposed by the Senate to evaluate program alternatives for addressing the District's boarder babies and children of substance abusers. These funds will enable the District to evaluate the few existing alternatives, select the most promising strategies amenable to local conditions, educate and train necessary personnel, and begin implementation. The conferees intend that the District explore with national and local organizations, such as the District of Columbia Institute for Mental Health which was recently awarded a Federal grant for this purpose, various ways to combat this growing problem. The conferees have also included $500,000 as proposed by the Senate for a program to establish residential aftercare for new mothers and their newborn infants in a drug-free environment until they are self sufficient. In addition, the conference agreement includes $1,500,000 as proposed by the Senate to expand outpatient aftercare for pregnant and general population substance abusers. The need for such care is so great that existing programs are overwhelmed. Aftercare is essential if the recovered substance abuser is to maintain a drug-free lifestyle and not have a relapse.

In order to expedite the delivery of services, the conferees direct that each of these programs be handled through the issuance of contracts to groups providing the services.

The conference action also provides (1) $500,000 as proposed by the Senate for grants to nationally known independent public and private non-profit entities for the purpose of screening for breast and cervical cancer by conducting a physical examination, a mammography, and a pap smear for women who are not currently receiving such services under existing District programs, private insurance, or Federal health benefits programs; and (2) $191,000 for the Youth Services Administration for perimeter fencing and security lighting at the Oak Hill and Cedar Knoll juvenile detention facilities. See amendment number 20 for a further explanation on the use of this $191,000.

Federal funds appropriated to the District in amendment number 8 are appropriated from the District's treasury by this amendment.

Amendment No. 20: Restores language proposed by the House and stricken by the Senate earmarking not less than $191,000 of the Human Support Services appropriation for the Youth Services Administration for perimeter fencing and security lighting at the Oak Hill and Cedar Knoll juvenile detention facilities located in Laurel, Maryland. The conferees direct that these funds not be released for obligation by the department until a comprehensive plan for security improvements at Oak Hill and Cedar Knoll is transmitted to the House and Senate Subcommittees on District of Columbia Appropriations. The conferees reiterate their strong interest in the Oak Hill and Cedar Knoll facilities, especially in view of the continuing security problems. The conferees request that District officials prepare a long-term plan for resolving the outstanding security, program, staffing and other problems at the facilities and be prepared to testify during the fiscal year 1992 budget hearings on the steps the department will take to implement these plans.

Amendment No. 21: Restores language proposed by the House and stricken by the Senate which prohibits the use of the Hurt Home located at 3050 R Street, Northwest, as a treatment facility until final adjudication by the relevant courts and clarifies the proviso by citing the specific court case that was filed with the District of Columbia Court of Appeals on August 8, 1988 (*Speyer v. Barry*, Appeal No. 88-958). The conferees believe that this provision should not delay occupancy, which is scheduled for the summer of calendar year 1991, since the case should be decided soon.

The Hurt Home was purchased in 1987 and will become the city's first community-based residential center for emotionally disturbed children, youth and their families. The program is designed to serve 24 emotionally disturbed boys and girls, aged 8 to 12 years who are in need of 24 hour intensive therapeutic services in a residential setting. The facility is not intended for children and youth who present a likelihood of serious harm to others, or who have a primary diagnosis of mental retardation, developmental disability or substance abuse. Currently, more than 200 of these children are located in out-of-state treatment facilities in Colorado, Texas, Florida, and Georgia at an annual cost in excess of $24,000,000. The District government is currently renovating the facility at an estimated cost of $2.7 million which will cover work necessary to meet both programmatic and code requirements. Completion of the work is expected during the summer of 1991.

Nothing in this provision should be construed to prohibit the District from performing any activities not expressly prohibited by the order of the Superior Court of the District of Columbia dated June 23, 1988.

PUBLIC WORKS

Amendment No. 22: Deletes language proposed by the House and stricken by the Senate which would have allocated not less than $100,000 from the District treasury for an environmental impact statement for the proposed expansion of the Lorton landfill. The conferees have been advised that action was taken on September 17, 1990, by elected officials of the jurisdiction where the Lorton landfill is located mandating that an environmental impact statement be prepared prior to proceeding with expansion of the landfill. The environmental impact statement is to be completed by March 1992 and will be paid for from dumping or "tipping" fees. The conferees were further advised that the environmental impact statement required by the local officials can be implemented and completed more quickly than one mandated by Congress. Amendment numbers 7 and 58 relate to the Lorton landfill expansion.

CAPITAL OUTLAY

Amendment No. 23: Appropriates $324,322,000 as proposed by the House instead of $323,322,000 as proposed by the Senate. The increase of $1,000,000 above the Senate allowance is earmarked in amendment number 24 for the public school system.

Amendment No. 24: Provides $22,000,000 as proposed by the House instead of $21,000,000 as proposed by the Senate for pay-as-you-go maintenance improvements and emergency repairs to public school facilities. Included in the $22,000,000 allocation which will be financed from general fund operating revenues is $2,000,000 as proposed by the House instead of $1,000,000 as proposed by the Senate for renovations to public school athletic and recreational grounds and facilities.

GENERAL PROVISIONS

Amendment No. 25: Provides an employment ceiling for fiscal year 1991 of 39,262 as proposed by the Senate instead of 40,037 as proposed by the House and deletes language proposed by the Senate concerning solid waste disposal. The conferees agree that the employment ceiling of 39,262 for fiscal year 1991, which is the same as the ceiling in the fiscal year 1990 Act, applies to all departments, agencies, activities, commissions and boards funded directly or indirectly through this appropriations Act. The conferees also agree that District officials are not to use this position ceiling to restrict the hiring of personnel by the Metropolitan Police Department, the Fire Department or the Department of Corrections since the approved fiscal year 1991 level of employment in those departments was not increased above the fiscal year 1990 level.

Amendment Nos. 26 through 50: Technical renumbering of sections to provide consecutive section numbers following confer-

ence action on amendment number 25 which deleted a new section 111 proposed by the Senate. With the new section 111 deleted, the section numbers revert to those in the House-passed bill.

Amendment No. 51: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment amended to read as follows:

SEC. 136. (a) IN GENERAL.—

(1) ATTORNEYS.—Section 906 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (section 1-610.6, D.C. Code) is amended—

(A) in subsection (a), by striking "Notwithstanding" and inserting "Except as provided in subsection (c) and notwithstanding"; and

(B) by adding at the end the following new subsection:

"(c) Subsections (a) and (b) shall not apply to any person applying for or accepting any position in the Excepted Service as an attorney, and such person shall be covered by the provisions of section 801(e).".

(2) EMPLOYEES OF BOARDS AND COMMISSIONS.—Section 202(3) of such Act (section 1-602.2, D.C. Code) is amended by inserting after the second sentence the following: "Individuals serving as employees of boards and commissions shall be covered by the provisions of section 801(e).".

(3) CONFORMING AMENDMENT.—D.C. Law 3-36 is amended—

(A) in section 4(a)(4) (section 9-603 (a)(4), D.C. Code), by striking the colon at the end of the second sentence and all that follows and inserting a semicolon; and

(B) in section 11 (section 9-610, D.C. Code), by striking "titles V and XVII" and inserting "titles V and XVII and section 801(e)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of the Residency Preference Amendment Act of 1988.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action inserts language which extends the residency preference system to attorney positions and employees of all independent agencies, boards and commissions of the District of Columbia. The language proposed by the House and stricken by the Senate extended the residency preference system to attorney positions. The residency preference system for employees of the District government was enacted in Public Law 101-168 approved November 21, 1989 (103 Stat. 1276, 1277), and was intended to apply to all persons employed by the District government except those in the Excepted and Executive Services. However, attorney positions were excluded because they were exempt from the Comprehensive Merit Personnel Act which is the act that was amended by Public Law 101-168. In addition, the conferees learned that some independent agencies, boards, and commissions likewise are not subject to the Comprehensive Merit Personnel Act and therefore not subject to the residency preference system. The conference action amends the House language as well as applicable sections and provisions of D.C. law and the D.C. Code to extend the residency preference system to all independent agencies, boards, and commissions of the District of Columbia.

The conferees believe that all employment with the District government should be covered by the residency preference system with the exception of those individuals in the Excepted Service and Executive Service hired after December 31, 1979, who will continue to be required to live in the District of Columbia for the duration of their employment in the Excepted and Executive Services as required under current law.

These amendments are permanent law and as such continue beyond this fiscal year into perpetuity.

Amendment No. 52: Restores language proposed by the House and stricken by the Senate which prohibits the District of Columbia from using funds in this Act for salaries, expenses or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of D.C. Law 3-171 (sec. 1-113(d), D.C. Code).

Amendment No. 53: Deletes language proposed by the House and stricken by the Senate which would have reduced the Federal funds in this bill by 2 percent or $10,812,360. The conferees note that the total Federal funds recommended in this bill are within the revised 302(b) allocations in both budget authority and outlays. The conferees further note that the Federal payment has remained at the same level of $430,500,000 for four years and is $14,000,000 below the fiscal year 1987 appropriation when it reached $444,500,000. The reduction of $14,000,000 reflects a 3.1 percent cut in nominal dollars and a loss of 22 percent in real dollars since fiscal year 1987. During the same period, the Federal payment has fallen from a total of 18.3 percent of the District's total operating budget to 13.3 percent in this Act.

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 138. (a) The proviso under the heading "Public Works" in the Dire Emergency Supplemental Appropriation for Disaster Assistance, Food Stamps, Unemployment Compensation Administration, and Other Urgent Needs, and Transfers, and Reducing Funds Budgeted for Military Spending Act of 1990, approved May 25, 1990 (Public Law 101-302; 104 Stat. 241), shall remain in effect until September 30, 1991.

(b) Chapter IX of title II of the Dire Emergency Supplemental Appropriations for Disaster Assistance, Food Stamps, Unemployment Compensation Administration, and Other Urgent Needs, and Transfers, and Reducing Funds Budgeted for Military Spending Act of 1990, approved May 25, 1990 (Public Law 101-302; 104 Stat. 241), is amended in the item relating to "Public Safety and Justice" by striking "current operating revenues collected during fiscal year 1991 and not from".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action extends to September 30, 1991, the effectiveness of a provision in Public Law 101-302 concerning the safety barriers on the Duke Ellington Memorial Bridge as proposed by the Senate and inserts language that amends a provision in Public Law 101-302 that allows the District government to repay $10,000,000 with proceeds of borrowed funds instead of from current operating revenues since the borrowings are from construction funds for the District's new Correctional Treatment Facility and were used to pay the Federal Bureau of Prisons and various state governments for housing District of Columbia code violators. The conferees do not condone this financing arrangement and call on District officials to avoid such requests in the future.

Amendment No. 55: Deletes language proposed by the Senate prohibiting the use of funds in this or any other Act for lobbying expenses related to District of Columbia Statehood or for "shadow representatives." Amendment numbers 52 and 55 both involve the same subject matter and the conferees agreed to accept amendment number 52 and delete amendment number 55.

Amendment No. 56: Reported in disagreement.

Amendment No. 57: Deletes language proposed by the Senate which would have exempted the Perinatal Abstinence Project located at 3551 Sixteenth Street, Northwest, from the requirement to obtain a certificate of occupancy.

Amendment No. 58: Deletes language proposed by the Senate that would have prohibited the use of any funds in this Act for expansion of the Lorton sanitary landfill until completion of an environmental impact statement and agreement to a cost-sharing arrangement for payment of the study. The Senate language would have also imposed restrictions upon the transport of any output of the municipal waste system of the District. The conferees have been advised that action was taken on September 17, 1990, by the elected officials of the jurisdiction where the Lorton landfill is located mandating that an environmental impact statement be prepared prior to proceeding with expansion of the landfill. The environmental impact statement is to be completed by March 1992 and will be paid for from dumping or "tipping" fees. The conferees were further advised that the environmental impact statement required by the local officials can be implemented and completed more quickly than one mandated by Congress. Amendment numbers 7 and 22 relate to the Lorton landfill expansion.

Amendment No. 59: Deletes language proposed by the Senate which would have amended the District of Columbia Human Rights Act with respect to participation of persons in program or activities involving juveniles under 18 years of age.

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "143", insert *"140"*.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action allows for the retirement of not to exceed 75 police officers currently on extended limited duty, where the prognosis for return to full police duty is not good, and states that their retirements are to be excluded from the computation of the rate of disability retirement under subsection 145(a) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96-122). This rate of disability retirements is used to determine whether to reduce the authorized Federal payment to the Police Officers and Firefighters' Retirement Fund. A number of officers are in a limited or light duty status or on extended sick leave. The police chief has stated that it is important to replace these individuals

with able-bodied police officers who can perform on the street.

Prior to the enactment of subsection 145(a) of Public Law 96-122, there was concern that the District's retirement system was being abused with excessive disability retirements. In some years, disability retirements accounted for 99 percent of all police and fire retirements. In order to address the situation, the Congress approved subsection 145(a) as part of the District's Retirement Reform Act to provide some incentive to District managers to reduce the percentage of disability retirements. The conferees believe the District has responded favorably and has included this language which will allow these individuals to retire without reducing the authorized Federal payment to the retirement funds and will permit the Metropolitan Police Department to hire police officers, or civilians if the position is a civilian post, to fill the vacated positions. The conferees direct that these retirements, while exempt from the computation of the rate of disability retirements, be subject to all of the rules and regulations of the District's Board of Surgeons as well as the Policemen and Firemen's Retirement and Relief Board and meet all of the criteria for retirement.

The language agreed to by the conferees requires the Mayor to engage an enrolled actuary to determine the financial effects of this change on the retirement fund and to comply fully with sections 142(d) and 144(d) of Public Law 96-122. The language also requires that if any of the 75 positions that may become vacant because of retirements under subsection (a) are filled, a civilian employee or an officer or member of the Metropolitan Police Department shall be hired to fill that position. The objective of this section is to ensure that the objectives of the Mayor and the Metropolitan Police Chief to hire more able-bodied officers for street duty are carried out.

Subsection (d) states that the limited duty policy of the Metropolitan Police Department shall be that in effect prior to July 8, 1990, unless ordered by the relevant court. The conferees have been concerned about past abuses of the department's limited duty policy and encourage the Department to use the authority granted by this provision to modify its recent practice and retire those who will not be returning to full duty.

In Special Order 80-20, issued April 2, 1980, which implements a settlement that resulted from earlier court action, the Chief of Police stated that "Female members who become pregnant shall be eligible for limited duty assignments in accordance with policy set forth in this order."

The order also states that "Assignments to limited duty shall be for a specific period of time, depending on the prognosis for return to full duty set forth by the Board of Surgeons physician." The conferees believe that these provisions are clear and should be adhered to until the matter is either negotiated by the parties or adjudicated by the court.

Amendment No. 61: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

SEC. 141. Notwithstanding any other provision of law, the Task Force on Substance Abusing Pregnant Women and Infants Exposed to Maternal Substance Abuse During Pregnancy shall report no later than March 29, 1991.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action extends the reporting and termination date of the Task Force on Substance Abusing Pregnant Women and Infants Exposed to Maternal Substance Abuse During Pregnancy by four months to March 29, 1991, as proposed by the Senate. The Task Force was established in last year's appropriations Act and was to submit its report and terminate within one year after the date of enactment of the Act which was signed by the President on November 21, 1989.

Amendment No. 62: Deletes language proposed by the Senate which would have amended the District of Columbia Human Rights Act with respect to the participation of adult homosexual and bisexual persons in programs or activities involving juveniles under 18 years of age.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1991 recommended by the Committee of Conference, with comparisons to the fiscal year 1990 amount, the 1991 budget estimates, and the House and Senate bills for 1991 follow:

FEDERAL FUNDS	
New budget (obligational) authority, fiscal year 1990	$558,327,000
Budget estimates of new (obligational) authority, fiscal year 1991	519,278,000
House bill, fiscal year 1991	529,805,640
Senate bill, fiscal year 1991	549,628,000
Conference agreement, fiscal year 1991	549,700,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1990	−8,627,000
Budget estimates of new (obligational) authority, fiscal year 1991	+30,422,000
House bill, fiscal year 1991	+19,894,360
Senate bill, fiscal year 1991	+72,000
DISTRICT OF COLUMBIA FUNDS	
New budget (obligational) authority, fiscal year 1990	*$3,527,744,000*
Budget estimates of new (obligational) authority, fiscal year 1991	*3,818,652,000*
House bill, fiscal year 1991	*3,852,792,000*
Senate bill, fiscal year 1991	*3,861,502,000*
Conference agreement, fiscal year 1991	*3,862,574,000*
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1990	*+334,830,000*
Budget estimates of new (obligational) authority, fiscal year 1991	*+43,922,000*
House bill, fiscal year 1991	*+9,782,000*
Senate bill, fiscal year 1991	*+1,072,000*

JULIAN C. DIXON,
WILLIAM H. NATCHER,
LOUIS STOKES,
LES AUCOIN,
BERNARD J. DWYER,
STENY H. HOYER,
JAMIE L. WHITTEN,
DEAN A. GALLO,
BILL GREEN,
RALPH REGULA,
SILVIO O. CONTE,
Managers on the Part of the House.

BROCK ADAMS,
WYCHE FOWLER, Jr.,
J. ROBERT KERREY,
(Except for amendment 23),
ROBERT C. BYRD,
PHIL GRAMM,
PETE V. DOMENICI,
Managers on the Part of the Senate.

○

WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 5399, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1991

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 510 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 510

Resolved, That all points of order against consideration of the bill (H.R. 5399) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1991, and for other purposes, are hereby waived. During consideration of the bill, all points of order against the following provisions in the bill for failure to comply with clause 2 of rule XXI are hereby waived: beginning on page 2, lines 6 through 9; beginning on page 2, lines 24 through 26; beginning on page 4, lines 7 through 11; beginning on page 5, line 21 through page 7, line 3; beginning on page 7, line 19 through page 8, line 11; beginning on page 8, line 24 through page 10, line 4; beginning on page 11, line 3 through page 12, line 22; beginning on page 13, line 12 through page 19, line 22; beginning on page 22, lines 1 through 9; beginning on page 22, line 17 through page 23, line 12; beginning on page 23, line 20 through page 27, line 10; beginning on page 28, line 5 through page 34, line 23; and beginning on page 35, line 4 through page 41, line 10. It shall be in order to consider en bloc the amendments numbered one printed in the report to the Committee on Rules, if offered by Representative Fazio of California, or his designee. Said amendments en bloc shall be debatable for not to exceed twenty minutes equally divided and controlled by the proponent and a Member opposed thereto. Said amendments en bloc shal not be subject to amendment, or be subject to a demand for a division of the question in the House or in the Committee of the Whole. Said amendments en bloc may amend portions of the bill not yet read for amendment, and if adopted shall become original text for the purpose of further amendment under the five-minute rule. It shall be in order to consider en bloc the amendments numbered two printed in the report of the Committee on Rules, if offered by Representative Fazio, or his designee. Said amendments en bloc shall be debatable for not to exceed forty minutes, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments en bloc shall be subject to amendment, or to

a demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendments en bloc for failure to comply with the provisions of clause 2 of rule XXI are hereby waived. It shall be in order to consider the amendment numbered three printed in the report of the Committee on Rules, if offered by Representative Fazio of California, or his designee. Said amendments en bloc shall be debatable for not to exceded one hour, to be equally divided and controlled by the proponent and a Member opposed thereto. All points of order against said amendment for failure to comply with the provisions of clause 2 of rule XXI are hereby waived. Said amendment shall not be subject to amendment.

□ 1230

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN] for the purpose of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 510 waives all points of order against consideration of H.R. 5399, the legislative appropriations bill for fiscal year 1991.

The rule also waives points of order against certain provisions of the bill. clause 2 of rule XXI, the rule which prohibits consideration of unauthorized appropriations or legislative provisions in general appropriations bills, is waived against specified provisions of the bill. The precise provisions of H.R. 5399 for which these waivers are provided are detailed in the rule.

Mr. Speaker, the resolution makes it in order to consider en bloc the amendments numbered one in the report accompanying the rule, to be offered by Representative FAZIO or his designee, debatable for 20 minutes, equally divided and controlled. If adopted, the amendments en bloc will become orignal text for the purpose of further amendment under the 5-minute rule.

The resolution also makes it in order to consider the en bloc amendments numbered two in the report, to be offered by Representative FAZIO or his designee, to be debated for 40 minutes, equally divided and controlled. Clause 2, rule XXI is waived against the en bloc amendments numbered two in the report.

The en bloc amendments numbered one and two shall not be subject to amendment, or to a demand for a division of the question in the House or in the Committee of the Whole.

The resolution makes in order the amendment numbered three in the report, to be offered by Representative FAZIO or his designee, to be debated for 1 hour, equally divided and controlled. Clause 2, rule XXI is waived against said amendment. Further, said amendment shall not be subject to amendment.

Mr. Speaker, H.R. 5399 is the last of the 13 appropriations bills that the House will consider. This measure provides funding for the legislative branch, which includes congressional operations, and related agencies such as the Library of Congress, the General Accounting Office, and the Government Printing Office.

Approval of H.R. 5399 today will allow us to take a step closer toward completing the business of this Congress. I urge adoption of this rule and passage of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of the rule.

Mr. Speaker, the able gentleman from Texas has explained its provisions.

I am reminded of the frustration we went through last evening when the House spent several hours on one amendment. I do not favor an extended debate on this rule. I think it is time that this Congress got down to business, passed this rule, debated the legislative appropriations and finished our business. I do not favor taking 2 or 3 hours on anything that we bring before the House when we are in a crisis and time is short.

Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker I rise in support of this rule. I had been concerned that the rule would be closed and restrict a number of amendments which would normally be in order to appropriations measures. However, that is not the case.

The rule does protect three amendments that have been worked out with the bipartisan leadership. The first, which will be the McCandless-Synar amendment cuts $26 million from various accounts to bring our bill under the revised 302 (b) allocation.

The second amendment is a compromise that Congressman STEARNS was able to work out with Chairman FAZIO and others. This amendment would reduce the clerk hire account by $16 million—the increase for each Members staff. I am pleased that the Rules Committee saw fit to provide the House an opportunity to vote on this item and exercise fiscal restraint here in our own offices.

Finally the rule protects the Fazio-Frenzel amendment which will bring to this body the opportunity to implement real franking reform for the House of Representatives. This reform amendment is the product of months of careful negotiations by the Michel task force on franking reform and represents a compromise. Clearly it does not reflect everything Republican members would have liked in a reform amendment, however, a compromise seldom does. Without the assistance and protection of the Rules Committee this amendment would not be in order. Consequently our bill would reflect "business as usual" and we would not have enough money to pay the postage bill.

Finally, this open rule allows any other appropriations type reductions amendment be in order at the appropriate section in this bill. I am pleased that the Rules Committee provided a modified open rule and ask my colleagues to support it.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Speaker, under well-established rules of the House, it is impossible to enact legislation on an appropriations bill. This appropriation bill, however, does have in section 311 legislation on an appropriation bill. Consequently, I went to the Committee on Rules and asked if the amendment relating to compensation for Members of Congress could not be waived as legislation on an appropriation bill. In effect, I said, "You don't tell on me and I won't tell on you."

The Committee on Rules decided not to make the amendment in order. It does seem to me, in fairness, that I should be given an opportunity to amend the rule, and that is up to the fate of the rule, whether I am permitted to do that or not.

When I pointed out to my friend from California that the appropriations for the legislative branch are two-tenths of 1 percent of the Federal budget, he added that 90 percent of the rhetoric is about two-tenths of 1 percent of the budget.

Mr. Speaker, I do not characterize any procedural vote as a direct vote on the question of compensation for Members of Congress. I have no window to look into other people's motives, and there are lots of reasons for voting as people do on procedures.

I would appreciate the opportunity to offer the pay amendment because I do believe we lead best by example.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I rise in strong opposition to the rule. Tuesday, I sought to have made in order an amendment to implement a random, mandatory, drug testing policy for all Members of the House of Representatives. This rule before us today does not allow for consideration of my amendment. I therefore urge its defeat. On September 15, 1986, President Reagan issued Executive Order No. 12564 which required that all executive branch agencies develop random drug testing programs for Federal employees in sensitive posi-

tions. Agencies are currently in the process of putting these plans into operation. It is estimated that over 345,000 Federal employees will be affected by this order.

The purpose of Federal drug testing is threefold. First, it is meant to locate and hopefully rehabilitate drug abusing employees. Second, it is meant to provide an example to the Nation that drug testing is a valuable tool in our fight against drug abuse. Last, and most importantlly, drug testing is meant to be an enforcement mechanism for providing a drug-free workplace.

The same reasoning used in mandating drug testing for Federal employees in sensitive positions is applicable to drug testing for Members of the House. Members of the House are certainly in sensitive positions. Some, very few perhaps, may have drug problems that will only be addressed when they are confronted with a positive drug test result. Obviously, since the U.S. Capitol and its surrounding buildings are our workplace, and the Nation's showplace, every effort must be made to make it as drug free as possible.

The case for drug testing of representatives is stronger than for Federal employees. Congress is in a better position to set an example for the American work force. How can Congress sanction stronger drug enforcement, including drug testing in the workplace, and yet once again exempt itself? There is perhaps no other position as sensitive as a Member of the U.S. Congress. Furthermore, voters who rely on a Member for representation have a right to know if that representative is drug free.

A 1988 ABC poll found that 88 percent of Americans favor drug testing for Federal employees involved in national security. In 1987, a USA Today poll, found that 89 percent of Americans would agree to be drug tested themselves. My own district favors drug testing by 86 percent.

According to Gallop, 85 percent of Americans say drug testing deters illegal drug use. Drug testing has proven to be a valuable management tool to improve efficiency, productivity, and safety in the workplace.

The rule before makes several amendments in order by waiving House rule XVI clause 2, pertaining to germaneness. I ask for the same consideration. My amendment deserves an up or down vote. If you believe Congress should lead by example, vote against the previous question and pending that, against this rule.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I have no further requests for time, and I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1240

EXTENSION OF MOST-FAVORED-NATION TREATMENT TO THE PEOPLE'S REPUBLIC OF CHINA

Ms. SLAUGHTER of New York. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 503 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 503

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4939) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and said substitute shall be considered as having been read. No amendment to said substitute shall be in order except the amendments printed in the report of the Committee on Rules accompanying this resolution. Said amendments shall be considered in the order and manner specified in the report of the Committee on Rules, and shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report. All points of order against the amendments printed in the report are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. MURTHA). The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 503 is a modified open rule providing for the consideration of H.R. 4939 regarding the extension of most-favored-nation treatment to the products of the People's Republic of China.

The rule provides for 2 hours of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

Further, the rule makes in order the Ways and Means Committee amendment in the nature of a substitute now printed in the bill as an original bill for the purposes of amendment.

No amendments to the substitute are to be in order except those printed in the report of the Committee on Rules. The amendments are not subject to amendment except as specified in the report, and all points of order against the amendments printed in the report are waived.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, we enter into the debate on H.R. 4939 and MFN status for China because we cannot forget last year's massacre in Tiananmen Square and because thousands of Chinese citizens whose only crime was peaceful demonstration are still imprisoned in China. H.R. 4939 levies important economic pressure on the Chinese Government to ease its repressive policies. The bill makes clear that the U.S. Congress will not support continued preferential trade status to Beijing without significant improvement in that country's human rights record.

China's recent cooperation in international sanctions against Iraq and the weakening of Chinese support for the Khmer Rouge, at last bringing some hope for peace in Cambodia, are both encouraging signs. We hope that these gestures signal a real turning point in Chinese policy toward freedom and peace. Despite these steps forward, we cannot forget that thousands of innocent Chinese citizens still sit in prison facing an uncertain fate.

A September editorial in the New York Times said, "Step by step, Washington moves to give Beijing more respectability, trade and credits. Power talks; the dead do not." Today, the House decisively acts to disprove this notion that the massacred Chinese demonstrators do not matter. H.R. 4939 makes clear that U.S. foreign policy cannot be separated from economic policy. Ours is a nation which champions democracy, freedom, and human rights on all fronts.

Mr. Speaker, this rule will allow consideration of four amendments by Representatives PELOSI, WOLF, PORTER, and MILLER of Washington, or their designees, to modify and strengthen

the seven human rights conditions currently required by the bill. I ask my colleagues to support the rule so that we may proceed with consideration of the merits of this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join the gentlewoman from New York [Ms. SLAUGHTER] in supporting this rule. We have before us a modified open rule which, in my view, is slanted more toward open, rather than toward modified; and, more than that, it is agreed to by the leadership on both sides of the aisle, and that is the way it should be if we are going to have any kind of modification or anything other than a fully open rule. It will make in order consideration of all four amendments to this bill which were presented to the Committee on Rules by both Democratic and Republican Members. Mr. Speaker, the House just passed my resolution which disapproves most-favored-nation status for China, and, should that bill for some reason not make it through the Senate or be vetoed by the President, this kind of legislation, H.R. 4939, is badly needed.

Mr. Speaker, this bill would make renewal of China's most-favored-nation trade status next July conditional upon improvements by the Government of China in its respect and protection for the basic human rights of its people. Many of us feel that the conditions set forth in H.R. 4939 are not strong enough, and, accordingly, four Members will be presenting amendments to this bill.

The gentlewoman from California [Ms. PELOSI], who was so active on the previous bill that just passed, has proposed a tougher set of conditions overall, and the gentleman from Virginia [Mr. WOLF] has proposed adding the issue of religious freedom to those conditions, something which is terribly important. In addition, the gentleman from Illinois [Mr. PORTER] has an amendment concerning the future of Hong Kong and the need to respect the essential human rights of the 5½ million citizens of Hong Kong. Finally, the gentleman from Washington [Mr. MILLER] has an interesting amendment setting forth some guidelines for conduct by American businesses operating in China today.

The rule makes in order consideration of all four of those amendments. I commend all four of the Members for their amendments. They are good amendments, and adoption of the amendments will certainly make the bill something we can all support.

I also thank the Committee on Rules and the leadership of the House for opening up the process on this particular bill. Nobody is being gagged on this very, very important subject. We have four well-reasoned and worthwhile amendments to vote on.

So, I strongly support this rule, and I see no reason for a recorded vote.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentlewoman from New York [Ms. SLAUGHTER] for yielding.

I, too, want to add my support for the rule and commend the Committee on Rules for their sensitivity on this issue of importance to Members of Congress. Because of the hard work of the Committee on Rules we are able today to bring to the floor four amendments which I believe will be a vast improvement to the Pease bill. The Committee on Ways and Means worked very hard on the Pease legislation. I think it is good legislation. I think it could be better, and those of us who are not members of the Committee on Ways and Means will be today given our opportunity to present some additional strengthening amendments to the Pease bill.

Mr. Speaker, I think, when that is accomplished and the House of Representatives votes overwhelmingly in favor of the Pease bill, we will, in addition to the statement that was made earlier today, be sending forth a very good package of two options to be considered in our trade policy with China.

I know the rule is not controversial. I do not want to take up any more of the House's time, but I do thank the committee again, as far as my own amendment is concerned, and also I commend the good work of the gentleman from Virginia [Mr. WOLFE], the gentleman from Illinois [Mr. PORTER] and the gentleman from Washington [Mr. MILLER] in crafting their amendments to this bill which I believe will make a big improvement to it.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to House Resolution 503 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4939.

□ 1251

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4939) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes, with Mrs. BYRON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 1 hour, and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 1 hour. The majority time will be under the control of the gentleman from Florida [Mr. GIBBONS].

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, this is essentially a replay of the last vote we had. This is just a little different. Let me try to explain the difference.

This bill, if it becomes law, will put additional burdens upon the President in granting MFN to China next year, not this year.

In the Committee on Ways and Means and the Subcommittee on Trade, the gentleman from Ohio [Mr. PEASE], a very distinguished member of our committee, took it upon himself working with others on the committee to draft what he thought was a sensible imposition of additional human rights requirements upon the Government of China.

The administration worked with us, expressing concern all the time about making this bill so tough that no one could comply with it.

There are some real problems in China. All Members know that. I thought when we wrote the Pease bill, adopted it as a committee bill and brought it to the floor, that perhaps we had reached an agreement with the President that he would sign the bill.

Now, all Members who have been around here any time know how every President plays his power. He does not tell you point blank yes or point blank no. He prefers to play his cards as they come to him.

When I appeared before the Committee on Rules seeking a rule for this bill, I had received, and so had all Members of the Congress received, a statement from the White House about this bill.

As in all statements you get from the White House on subjects like this, you get a rather ambiguous statement. But this statement was very clear in one point. It said if this bill were

toughened, if this bill were toughened and made harsher, the President would be advised by his senior advisers to veto the legislation.

In effect, I took that to mean if it is toughened beyond what the gentleman from Ohio [Mr. PEASE] and the committee think it should be, that the bill has no chance of becoming law.

I think all Members saw from the last vote that there are not enough votes in this Chamber to override the veto of the President. I think that is in the best interest of America. China will not become free if we walk away from it, nor if we impose upon it restrictions that they cannot possibly meet.

I am no expert on China, but I have been there more than most Americans have, and I have studied their history and culture and talked to their people. When you study their history and culture, you will know that for 6,000 years of civilization they have had a violent history and a violent past.

Their past in the last 100 years has been most violent. They were oppressed by the Japanese for about 40 years, plunder, pillage, and rape. The rape of Nanking by the Japanese goes down as one of the most dastardly acts in human behavior.

Prior to that, all of the Western Powers, with the exception of the United States, carved out spheres of influence in China and tried to impose their will upon them, and even propagated the dastardly trade in narcotics, until the Chinese themselves had to take pretty severe action to cut off that trade.

So China has had a history of mistreatment from the outside, a history of mistreatment from the inside, but yet they constitute one-fifth of all the people on Earth. One-fifth of all the people on Earth are crowded in a very narrow agrarian area. Yes, China looks big on the map, but most of the territory you see is uninhabitable. It is mountainous or desert. Most of them live near the coastline, and they live in desperate conditions, conditions that really are not conducive to human rights.

So we must consider all of that as we look to the future. Yes, we need to demand a better standard. None of us in this Chamber, none within the sound of my voice, condone what happened in Tiananmen Square. It was violent, it was unacceptable, but it happened.

Since that time, the Chinese behavior has been much better. We have worked with them. We have talked with them. We do not want to cut off contact with the Chinese people.

We are the only people in the Western World, the only people on Earth, who are talking to them in a civilized manner about expanding freedom, about expanding human rights. If we walk away from China, there will be no one to talk to them. They will be taken over again by the Japanese, as they almost were during the 1940's and in the 20 years prior to that.

Let us keep America's presence in there. It is in the best interest of every American, and it is in the best interests of every Chinese citizen. We need to keep working with these people in a sensible, humane manner. Let us not in our zeal to impose our ideals and our standards upon one-fifth of the people on Earth let our zeal carry us away.

I do not measure my zeal for freedom in any lesser terms than any Member in this Chamber. I had the responsibility of risking my life for human rights. I do not think we ought to be comparing each other's patriotism or human rights zeal. We need to talk about practical ways that we can solve the problem of intolerance, of the lack of human rights by our standards in China.

Madam Chairman, I reserve the balance of my time.

Mr. FRENZEL. Madam Chairman, I yield myself 5 minutes.

Madam, Chairman, this bill is not quite as drastic as the one the House just dispatched. It seeks to modify the existing Jackson-Vanik law to provide that until the People's Republic of China does some wonderful things that we would like to have it do, they will be in jeopardy of losing MFN.

Madam Chairman, it seems to me that the resolution of disapproval was the right way for those who were interested in human rights to crack the whip over China. I thought it was wrong, but it made more sense than this bill. It would have disrupted our trading relationships for years into the future and hurt American consumers and hurt American jobs, nevertheless, that was the direct way to approach it.

This bill messes around with Jackson-Vanik. If we pass it, we will set a precedent that this House and this country and this world will come soon to regret.

□ 1300

What we will do is that we will decide that every time another country in the world is guilty of some conduct that we find offensive, we will change the Jackson-Vanik law and potentially deny them the benefits of normal trading relationships.

This House went through an interesting little game earlier this week in which we tried to decide how we were going to finance certain aspects of the arts through the National Endowment. Some of us thought certain conduct was reprehensible and unacceptable; others of us thought it was a simple exercise of freedom.

I can see in the future, if we pass the Pease bill, that the successor to it will be to penalize, by denying MFN to those countries who decide that their definition of art is different from ours. That is the direction in which the Pease bill leads us.

Trade is something that binds the countries of the world together. We need to separate our commercial relationships from our definitions of what is good conduct by other countries. When we do attempt to sever our commercial relationships and when, in fact, we do sever them, we simply lose our ability to influence those countries which we would like to influence.

As a matter of fact, since the incident in Tiananmen Square, which we will abhor and regret, and which we all criticize with the same amount of vigor, the People's Republic of China has tried to respond to the United States' initiatives. The PRC has not done nearly as well as we would have liked it to do. However, in the crisis in the Persian Gulf, the Chinese have responded in exactly the way that we would like them to do. They have joined in the embargo. They have denounced Saddam Hussein and Iraq for the unlawful occupation. And they have, although it has been denied on this floor, stopped their military shipments to Iraq.

A previous speaker on the previous resolution suggested that the Chinese were in process of sending military equipment to Iraq. There has been no proof of that, no evidence presented other than speeches on this floor.

There was another speaker here who indicated that the PRC may be helping Iraq to make nuclear weapons. The Chinese have assured us that their one contribution, the shipment of lithium hydride, has been suspended. We believe that it has.

I think we must all remember that during the Iran war lots of people sold arms to Iraq. Certainly United States arms flowed rather freely into that war on the side of Iraq as well.

What we have to determine is we are going to have either a normal commercial relationship or we are going to declare, across the board, this kind of embargo. That would be exceedingly unwise and would cost the American consumers dearly and cost American jobs. There is not a good reason to do this.

I, along with other Members of the House, do not condone the human rights violations. I hope we will see them pass, but I think we need to continue our efforts to influence the Chinese and continue our trading relationships with them.

One other speaker on an earlier bill concerned me, and that was one Member's statement that Jackson-Vanik brought the Russian economy to its knees. Madam Chairman, what brought the Russian economy to its knees was rust, and not Jackson-Vanik.

Madam Chairman, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, every Member in this Chamber knows what happened on June 4, 1989, in Tiananmen Square in China. The events of that day sharply altered the image of China's leaders in the United States and other countries. The unprovoked massacre of hundreds of peaceful demonstrators, and the jailing of many more, was an action that no civilized society can justify or excuse.

We are considering today a measure, H.R. 4939, which is intended to respond to the violent actions of the Chinese leadership last year and their failure over the past year to rescind the repression that has followed. I urge my colleagues to vote for the bill and to oppose the four amendments which will be offered.

H.R. 4939 adds seven new objectives, relating to the overall human rights situation in China, to the freedom of emigration objectives which must be taken into account when the President decides whether or not to extend China's most-favored-nation status in 1991. Among the objectives called for are a reversal of the pattern of gross violations of internationally recognized human rights dating from June 1989; an accounting for citizens detained or accused as a result of the nonviolent expression of their political beliefs; and the termination of fees or restrictions on foreign travel by students or other citizens.

This bill is not perfect. It does not go as far as some Members would like to force the President to cut off China's most-favored-nation status if China fails to adhere to each and every goal set out by the United States Congress. But the bill is a good bill. It represents a positive middle ground on a highly controversial issue. It sends a strong message to the Chinese Government that the status quo is not acceptable. It puts the President on notice that, unless tangible steps are taken by the Chinese Government to improve human rights, the Congress is not likely to approve future designation of China for MFN eligibility. Yet, it provides the President with sufficient latitude and flexibility to maximize his leverage in dealing with the Chinese Government and the human rights of its citizens.

Some of my colleagues would like to toughen the conditions of H.R. 4939. I appreciate the sincerity of the Members who would like to add additional conditions to this bill. I even support some of the concepts that are being discussed. However, I am opposed to any modifications to H.R. 4939 because I believe it is preferable to enact a meaningful bill that sends a strong message to the administration and the Chinese Government. Adoption of the amendments being proposed today in all likelihood will result in a Presidential veto of this bill. I urge my colleagues to vote for H.R. 4939 and to oppose all amendments.

Madam Chairman, I reserve the balance of my time.

Mr. SCHULZE. Madam Chairman, I yield 5 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Madam Chairman, I thank the gentleman for yielding me the time.

Madam Chairman, let me just say something to my good friend, one of the most important and effective Members of this Congress, the gentleman from Minnesota [Mr. FRENZEL], whom I have the greatest respect for. He said that there was no proof at all that China was selling chemicals to Iraq that could help make nuclear missiles, chemical weapons, et cetera. May I just for the RECORD submit two articles, one from the London Sunday Independent, and the other from the Washington Post, which discuss these sales.

The articles referred to follow:

[From the London Sunday Independent, Sept. 30, 1990]

CHINESE ARMS DEALERS FLAUNT U.N. EMBARGO—CHINA SHIPS VITAL NUCLEAR CARGO TO IRAQ

(By Tim Kelsey)

In flagrant breach of the United Nations embargo, China has sold Iraq large quantities of a rare chemical used in the manufacture of nuclear weapons and missile fuel. The Independent on Sunday has learned that, in a secret deal 10 days ago, a subsidiary of North China Industries Corporation (Norinco), a Chinese state company, agreed to supply about seven tons of lithium hydride to Baghdad.

The revelation is likely to have grave diplomatic repercussions, since it jeopardizes Peking's attempts to remove the stain of Tananmen and to improve its reputation in the West. As a permanent member of the UN Security Council, China has aligned itself with the West on a number of crucial votes, including resolution 661 in August, which banned trade with Iraq. It is possible that the central government in Peking may not have been made aware by Norinco of the deal.

Intelligence reports relating to possible sales to Iraq by Norinco have already aroused concern in Washington. Earlier this week, the US embassy in Peking advised the Chinese of US anxiety over the company's activities. It is not known if this related to the lithium hydride deal.

The sale has shocked and alarmed scientists and weapons proliferation experts. "In view of its potential nuclear applications, it is very serious indeed," said Frank Barnaby, a former Aldermaston scientist and author on military technology.

The most frightening, but in an Iraqi context least likely application of lithium hydride, is in hydrogen bombs. Only five countries, including China and Britain, have tested hydrogen bombs and scientists agree that Iraq will not have the know-how to build such a weapon for at least a decade. But defense experts say that Saddam Hussein is stockpiling components for future development of such a weapon. Lithium hydride is also of use in making the atom bomb, although alternatives are available which can perform the same functions. Intelligence sources believe Iraq may be able to build an atom bomb within five years.

It is thought most likely that Iraq wants the chemical for use in fuel for ballistic missiles. It is working on rockets capable of reaching Tel Aviv, Riyadh, and southern Europe.

Scientists are also worried that lithium hydride could be used in the manufacture of nerve gasses. "It is a precursor for lithium aluminium hydride, which is an extremely powerful reducing agent, and potentially of use in the production of nerve gasses," said Julian Perry-Robinson, an internationally-respected authority on chemical weapons. John Hassard, a weapons proliferation expert at Imperial College, London, said: "This is extremely disturbing, particularly in view of Iraq's proven use of nerve gas in the past. It is a very grave potential problem."

Lithium hydride has very few civil applications. It is used in pharmaceutical and in the computer industry, but only in minute quantities. Iraq is believed to have tried to buy the chemical in the past, but there are only three manufacturers in the West, all of whom would have been suspicious of an order even one-tenth this size.

The sale was conducted in great secrecy. Just before the UN arms embargo was imposed, sales material was sent from Peking to five arms dealers worldwide, including three in Europe and one in Latin America. The Independent on Sunday has obtained copies of some of the documents. They suggest potential uses for the chemical "in the space industry as a high energy fuel" and "as an excellent catalyst used in the organic-synthesis industry" which could include the manufacture of poison gas.

The Chinese offered 10 tons for sale, priced at around $210,000 a ton. The offer was open to any purchaser, but within days Iraq agreed to buy around seven tons, at a total cost of approximately $1.5m, according to defence sources. Delivery was to be within 20–30 days of purchase.

It is likely that the lithium hydride is still in China. Sources suspect the Chinese planned to fly it to Tehran, and then forward it as "pharmaceuticals" to Baghdad.

It was clearly intended to be a pilot sale; it was confirmed to parties approached by the Chinese that additional quantities of lithium hydride were available. This has underscored the worst fears of weapons proliferations experts in the West. "There has always been a tension between commercial expedience and their concern for international security," said one. "It's hard to imagine a more cynical deal than this one."

[From the Washington Post, Oct. 1, 1990]

CHINESE SAID TO SELL CHEMICAL TO IRAQ—BRITISH NEWSPAPER REPORTS THAT BEIJING VIOLATED U.N. EMBARGO

(By Lena H. Sun)

BEIJING, Sept. 30—China, in apparent violation of the U.N. trade embargo against Iraq, has sold Baghdad large quantities of chemical used in the manufacture of nuclear weapons and missile fuel, a British newspaper reported today.

The Independent, in a story from London, said a subsidiary of North China Industries Corp., one of China's largest defense conglomerates, agreed to supply about seven tons of lithium hydride to Baghdad for

about $1.5 million in a secret deal 10 days ago. The Independent said it had some documents relating to the sale.

The Chinese Foreign Ministry today denied that China had violated the embargo and called the Independent's report "totally groundless."

An unidentified spokesman quoted by the official New China News Agency said: "China is a responsible country. We have been holding a very serious attitude toward the implementation of Resolution 661," which was passed by the Security Council on Aug. 6 and bars U.S.N. members from trading with Iraq.

The newspaper report said the Iraqis most likely want the chemical for fuel for ballistic missiles. It said Iraqi President Saddam Hussein has previously tried to obtain lithium hydride, but that the three Western manufacturers of the chemical are suspicious of large orders.

China, a permanent member of the U.N. Security Council, has aligned itself with the West on sanctions against Iraq, imposed after Iraqi troops invaded Kuwait on Aug. 2. China is said to hope its cooperation with the West in the Persian Gulf crisis will lead to improved relations with the United States and other Western countries and to the lifting of sanctions imposed after the Chinese army crackdown on demonstrators for democracy last year.

But ever since the U.N. embargo against Iraq was approved, rumors have circulated in Beijing about possible violations by the to improved relations with the United States and other Western countries and to the lifting of sanctions imposed after the Chinese army crackdown on demonstrators for democracy last year.

plies conditions to the renewal of MFN status for China that will automatically come up next summer. So these two bills are complementary, they are not contradictory of each other. A Member can vote in good conscience for both of them, and we should.

In both cases we are sending a timely message to the Government of China about the deteriorating human rights conditions in that country, and they continue to deteriorate day after day. We are saying: Start cleaning up the mess now, and don't expect to be let off the hook next summer, China. I am convinced that it will take a constant and committed application of pressure on China before we can really expect to see any improvement at all.

Chinese leaders pride themselves on taking the long view. We have to take the long view as well, and we have to keep up the pressure on them. It is the only way we are going to get anything done.

Madam Chairman, let me make it clear that the House just passed my resolution of disapproval; the President should sign it, but if he does not, then the Pease bill here may be the only other measure that can be endone.

nation trading status beyond next June.

During floor debate today, each of us has been asked to choose between two different tactical approaches to United States trade relations with China. One approach, the Solomon resolution, would simply cut off MFN for China immediately. The House has worked its will on the Solomon amendment.

The other approach, which is my bill, condemns the brutal suppression of the prodemocracy movement in China and creates leverage and influence to promote respect for basic rights in China.

I urge the Members to support H.R. 4939 as reported from the House Committee on Ways and Means. Read it and compare it with current law. Clearly it offers valuable leverage to use in pressing the Government of China to improve its respect for basic human rights while it also definitely preserves an opening for continued United States-China trade.

H.R. 4939 sends a clear message to Beijing officials. It says that America values our political and economic ties to China enough to maintain our trade preserves an opening for continued United States-China trade.

rights to the Chinese people before MFN treatment is withdrawn.

Already the shaping of H.R. 4939 and the prospect of its enactment has borne fruit by creating uncertainty over China's MFN status. This bill has helped secure the release of a leading dissident and hundreds of other political prisoners.

In addition, the Government of China in recent months has undertaken some helpful foreign policy steps including a cutoff of Chinese arms sales to Iraq and Chinese support for the assorted United Nations resolutions isolating Iraq.

Finally, there is no disputing that H.R. 4939 has the best chance of becoming law. Just a few days ago, the White House stated that the President will veto any amendment on legislation that goes beyond H.R. 4939, as reported. According to the statement of administration policy on the China MFN issue, the administration strongly opposes enactment of H.R. 4939, that is, my bill, but the administration is not threatening to veto it. The same statement unequivocally says the President will veto the Solomon resolution.

For a more effective China policy, I urge the Members to support H.R. 4939 and oppose any amendments. Passing H.R. 4939, as reported, is the only way for Congress to reshape United States policy toward China this year.

We must act prudently and go as far as we can now to hold the Government of China directly responsible and the White House secondarily accountable for the protection of human rights inside China.

Madam Chairman, let me conclude by saying that I do not think very many of us want to cut off trade entirely with China, and isolate a nation of 1.1 billion people, one-fifth of the world's population. How much better for us to use our leverage to influence Chinese behavior rather than isolating China and losing all influence that we might have to improve the human rights conditions for Chinese citizens.

Cutting off MFN as the Solomon language would do may make us feel good and a lot of people voted for it today, but if we want to actually influence Chinese policy, it is prudent for us to pass this bill and send it to the Senate, get it passed, so that the President will sign it and we have a chance to have something influencing MFN for China on the lawbooks.

Mr. SCHULZE. Madam Chairman, I yield myself 5 minutes.

Madam Chairman, in its present form, I rise in opposition to H.R. 4939, which allows China's most-favored-nation or MFN trading status for 1990 to continue.

If the amendments as proposed are all adopted, it would certainly make it a better piece of legislation, but my preference is that measure which we did pass and the House has spoken today.

The idea of conditioning China's 1991 MFN status on whether it makes significant progress toward meeting certain human rights objectives essentially gives China that one more chance, and it is that same one more chance that it has received since 1980.

China's emigration policy, the true determinant under our law of whether a nation is entitled to MFN status, was deplorable in 1980, is deplorable in 1990, and even worsened as a result of the massacre in Tiananmen Square.

China's emigration policy was, and still is, inconsistent with the freedom of emigration requirements set forth in our law, the Jackson-Vanik law.

Enough is enough. China's MFN status should not be extended at all. That privilege must be revoked and should have been a long time ago.

The measure at hand is little more than a watered-down slap on the wrist, a slap the repressive Chinese leaders would merely laugh at and welcome with open arms.

□ 1320

That merciless regime knows that H.R. 4939 gives it the flexibility and wiggle room it needs to continue restricting the emigration of citizens and to carry out its brutal human rights abuses and religious persecution.

Am I implying that supporters of this bill condone the harsh policies of the Chinese Government, or are any less outraged than I am with that regime? No, I am not. What I am saying is that H.R. 4939 is the wrong message at the wrong time. Given the fact that the President will veto anything we submit to him, sending messages seems to be our only viable option. It does not make sense to send a feeble message such as H.R. 4939, to a brutally repressive Chinese regime that only deals in and understands extremes.

Since 1980, as permitted under Jackson-Vanik, we have granted MFN treatment in hopes of encouraging that nation to adopt emigration and human rights policies consistent with our requirements. Essentially, we chose the softer carrot approach over the tougher stick method. For 9 years, until 1989, we can say that China's emigration policy simply contradicted the Jackson-Vanik law, clearly a travesty in and of itself. Since June 1989's Tiananmen massacre, China's leadership has violated and made an absolute mockery of our law, and we have stood by and watched. We must defeat this measure unless it is radically changed because it is wrong, because China's emigration policy violates our trade laws, and because the policy of granting MFN status as an enticement has proven a failure.

Madam Chairman, we have had, and we will hear stated on the floor that the Chinese leaders have softened their approach, have changed. I would just like to read from the October 1, 1990, current edition of the Free Chinese Journal, and a story about the Communist Party President in China.

The Peking leader who allegedly ordered the Chinese Communist Army to fire on students at Tiananmen Square has been castigated by the Republic of China's official government spokesman for appearing to be just as trigger happy in regard to Taiwan. Yang Shang-Kun, Vice President of the Chinese Communist Party's powerful military commission, told the China Times that it might be necessary to invade Taiwan to keep it from becoming independent or being unduly influenced by other countries.

Does that sound to Members like the regime who says they are not sorry for what they have done? I urge a "no" vote on this resolution, and support of the amendments which will be offered.

Mr. GIBBONS. Madam Chairman, I yield 30 seconds to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Madam Chairman, I appreciate the gentleman yielding time to me.

The gentleman from Pennsylvania has made a statement about Chinese immigration that flatly, is flatly rebutted by the State Department and his own administration.

What the State Department says is that the President is explicitly required to determine if extension of MFN waiver to China would substantially promote freedom of emigration. The State Department says, in a statement I have here, that it does not believe that it would. It goes on to say, "Approximately 17,000 Chinese nationals received U.S. immigration visas to travel from the Mainland in 1989."

So the gentleman's statement is wrong, contradicted by his own administration.

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume to say that I think some things need to be refuted, because they are circulating on this floor. One individual is circulating on the floor, and I do not know who it is, an article out of the British press saying that the Chinese are shipping vital nuclear materials to Iraq. Then, the Washington Post copies the same story.

The evidence from our Government and from the Chinese Government, from the highest source in our Government, is that this article is completely fallacious; that the Chinese have been cooperating completely with the embargo; that while the contract for a sale took place some time ago of this type of material, this material has not been shipped. I think that whoever is circulating that story should withdraw it from circulation. Of course, we have under our freedom of speech the right to circulate even

material that is fallacious, but I think we should either withdraw it or come to Members and let Members explain to them that this material is incorrect.

This debate should not draw rancor, and this debate should not elicit falsehood. The best knowledge and the highest sources in our Government state that these two articles are completely fallacious. They have been denied all around.

Madam Chairman, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Madam Chairman, it ranges from amusing to sad to hear the gentleman from Washington quote the State Department statistics, when I have a letter here that I will enter into the RECORD, a letter from the State Department. It says in part:

In our view, there is no well-founded fear of persecution upon return to the People's Republic of China on the basis of race, religion, nationality, membership in a social group, or political opinion.

So, if we are using the State Department as the source, I would like to characterize the source as a not very good one when it comes to China, because if our own State Department can say there is no well-founded fear of persecution on the basis of political opinion in China, I believe that it would color any other statement that they want to make in relationship to China because they obviously have a different policy view and different standards.

DEPARTMENT OF STATE,
Washington, DC, June 25, 1990.

Mr. DAVID N. ILCHERT,
District Director, Immigration and Naturalization Service, San Francisco, CA.

DEAR MR. ILCHERT: This is in response to your letter asking for an advisory opinion on the above applicant's request for asylum in the United States.

We have carefully reviewed the application. In our view, the applicant fails to demonstrate a well-founded fear of persecution upon return to People's Republic of China on the basis of race, religion, nationality, membership in a particular social group, or political opinion.

Our opinion is based on information about country conditions and other relevant factors available to the Department of State through its conduct of foreign affairs, together with the information specific to the applicant provided in the application. We do not have independent information about this applicant.

The strength of the application may be affected by your interview or hearing, or additional information subsequently presented by the applicant. Should you believe that any such additional information warrants further consideration, we will be happy to review the file again.

I trust that this advisory opinion will be helpful to you in reaching a decision in this case.

Sincerely,

MARY VON BRIESEN,
Director, Office of Asylum Affairs, Bureau of Human Rights and Humanitarian Affairs.

Mr. SCHULZE. Madam Chairman, I yield 4 minutes to the distinguished gentleman from Illinois [Mr. CRANE], a member of the Subcommittee on Trade.

Mr. CRANE. Madam Chairman, I rise today in support of H.R. 4939 without amendment. The issue of the extension of MFN status to the People's Republic of China has been hotly debated in the United States for the past several months. The Committee on Ways and Means held extensive hearings on this issue and heard testimony from a wide range of interested parties. At the conclusion of the hearings, the consensus among the majority of the committee members was that the United States needed to develop an effective policy which would meet two objectives: First, send a strong message to the Chinese Government that the United States will not tolerate their gross violation of human rights, and, second, protect the interests of the innocent people in China and Hong Kong.

There is no doubt that withdrawing MFN from China will send an unmistakable message of condemnation to Beijing. However, if we choose to follow this avenue, the United States will relinquish every available means with which to leverage the Chinese to improve their human rights record. And while there are certainly economic and political benefits of maintaining the status quo, the United States cannot allow these factors to overshadow the more important issue, which is our commitment to those who suffer oppression at the hands of their government. H.R. 4939 is carefully crafted to provide incentive for the Chinese Government to improve its human rights record but at the same time does not severely restrict our ability to help meet the needs of the innocent Chinese people.

There are two very important provisions in H.R. 4939 which have not been given as much attention as some of the others. The first measure requires the President to take into account the potential economic and political effects that an extension of MFN may have on Hong Kong. Since 70 percent of Chinese exports to the United States are shipped through Hong Kong, the withdrawal of MFN is likely to have a devastating impact on its economy. Any threat to Hong Kong's prosperity is in effect a threat to the rights and freedoms which the Chinese people in that colony currently enjoy. The continued success of Hong Kong's economy will help ensure that the People's Republic of China will stand by its promise of "one country, two systems" when control of Hong Kong transfers from Great Britain to the People's Republic of China in 1997. The loss of economic well-being is tantamount to the loss of self-rule which may or may not be granted to Hong Kong in the years ahead. Given these realities, it is imperative that the President weigh these considerations carefully when he decides whether to extend MFN to China in 1991. This provision simply serves as a reminder to do so.

The second measure which I would like to bring to your attention calls on the President to consider the degree to which China has relaxed its opposition to the Republic of China's application to the General Agreement on Tariffs and Trade in deciding whether to extend MFN to China. Despite strong support from the Congress, the administration has not yet endorsed Taiwan's application due to the objections from the People's Republic of China. Through this provision, the Congress in effect sends two messages. One message is directed toward President Bush to let him know that Congress is serious in its support for Taiwan's application. The second, and more important message, will communicate to the People's Republic of China that the United States stands behind countries which advance freedom and democracy over nations that continue to violate basic human rights.

A May 25, 1990, Wall Street Journal editorial suggested that Congress could take actions to "help wipe the grin off Deng Xiaoping's face without hurting the Chinese people." I believe H.R. 4939 does exactly this. I urge my colleagues to support this bill.

□ 1330

Mr. GIBBONS. Madam Chairman, I yield 5 minutes to the gentlewoman from California [Ms. PELOSI], who I must say has been very active and very sincere and very effective in all her participation in this debate.

Ms. PELOSI. Madam Chairman, I thank the gentleman for yielding me this time, and I thank him for all his hard work and his attention to try to shape a bill that would send a correct message and establish a correct policy in terms of trade on China and human rights.

The gentleman knows that I have the utmost respect for his concern about human rights, his knowledge about China and his unmatched knowledge about trade matters; however, the gentleman also knows that we have a difference of opinion about the strength of the message that should be sent.

Just to clarify for the benefit of our colleagues who are not clear on the difference between the Solomon resolution that preceded this legislative action, the Solomon bill, as the gentleman explained, would cut off most-favored-nation status to China immediately.

The Pease bill which I support, and I commend the gentleman from Ohio [Mr. PEASE] also for his hard work in

putting together that legislation, the Pease bill addresses what happens next June and it puts some conditions in on which significant progress must be made before MFN can be granted or renewed for China.

My complaint about the Pease bill is that it is not strong enough. In the course of the amendment process, I will advance my own amendment and support the gentleman from Virginia [Mr. WOLF], the gentleman from California [Mr. MILLER], and the gentleman from Illinois [Mr. PORTER].

The opportunity that the gentleman from Ohio [Mr. PEASE], the gentleman from Florida [Mr. GIBBONS], and the gentleman from Illinois [Mr. ROSTENKOWSKI] give us here today is that when they bring the Ways and Means Committee work here, the committee has worked its will. It has come back with a bill that the gentleman from Illinois [Mr. ROSTENKOWSKI] has described as not perfect and a bill that the gentleman from Ohio [Mr. PEASE] has described as subtle; so in light of that, I think the bill could be vastly improved.

I think if we can merge our groups, those who supported the Solomon resolution this morning, those who support a strengthened Pease bill, we do not need a Presidential signature. We will be able to attain two-thirds for a really serious statement about China. It is a serious issue and we must make a statement that means something, and not just take the weakest line of resistance.

Madam Chairman, I want to call the attention of the House again to the lone man before the tank. It has been said that one picture is worth a thousand words. In this case, one picture is worth a thousand deaths, at least a thousand deaths.

I need not retell the tragic story of Tiananmen Square. We all know that. It is etched in the minds of everyone in this body, all champions of human rights.

I commended the body this morning in recalling our protections for the Chinese students when this body alone stood as the bastion of democracy and human rights in the world, but I do think that if we are going to send a message, we should not fool ourselves into thinking that just a nice statement discussing significant progress is the appropriate message. Later I will go into more detail about my own amendment, which addresses for the most part the prisoners who have been detained since Tiananmen Square, and that is really what we want to talk about today. We have rehashed Tiananmen Square over and over again. It is a terrible tragedy, but nothing has changed since then in terms of human rights. The release of one or two people on the basis of public opinion and some other hundreds, as I say, is small compared to the tens of thousands or maybe 10,000 who may be imprisoned because they spoke up, because they took the head of the message we sent when we spent money to send a message over the Voice of America, a message of democracy and freedom that they, just like people in other places in the world, just like people in America, had the right to democracy. They were killed for having a dream. We cannot forget the marchers of democracy.

As I say, I will go into the particulars about my amendment and look forward to supporting Congressmen WOLF, MILLER, and PORTER on their very fine amendments, which I think would make this package complete, which would unify this House of Representatives on a message that no, it does not cut off MFN unless the President decides that some significant progress has been made in the case of some conditions and that some conditions have been met when it comes to documenting and releasing the prisoners of democracy.

I understand the trade issue. My district in San Francisco is built on trade, and we have many people who do business with mainland China there. So I do not have the full support of my district when I talk about MFN for China; but the fact is that we should know that China, as I mentioned earlier, has a $6 billion trade surplus with the United States, moving on to $10 billion this year. They need our trade.

People have mentioned here that China may cut off MFN unilaterally unless we become more in keeping with their way of thinking on this issue. The fact is, they are not going to cut off a $10 billion gravy train for them when it comes to their surplus of trade with the United States.

They have said to leave it to the President, let him have the discretion. In my response to the gentleman from Oregon [Mr. AUCOIN] I mentioned that the State Department—can you imagine this, my colleagues, after all that we went through last year to protect the students, with all the assurances that the President of the United States has given us about protecting the students—that some dissidents who have applied for asylum have been told by the State Department that there is no well-founded fear of persecution in China on the basis of political opinion. How can we leave it up to them to determine?

Let us get a two-thirds vote on the Pease amendment. Let us commend the Ways and Means Committee for working its will. Let this House work its will by giving a big strong vote for the amendments which improve the package, still make it a moderate piece of legislation compared to what the gentleman from New York [Mr. SOLOMON] had such a big victory on this morning, but I believe we have an opportunity to bring us together and I think we have a responsibility to those whom we have encouraged to speak out for democracy.

Again, as I say, when the amendment process comes along we will talk about the prisoners, the religious persecution and the rest; but let us not abandon the man before the tank.

Mr. SCHULZE. Madam Chairman, I yield 3 minutes to the distinguished gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Madam Chairman, I think to reward the Communist Chinese with continued most-favored-nation status in view of what happened in Tiananmen Square and what is going on in that country is worse than a mistake. I think it is a sin. To reward godless communism for the repression that they are putting on their own people is a sin.

One of my colleagues said 1 minute ago that we need to work with them to make sure they stand by their promises regarding Hong Kong.

□ 1340

I talked to a Chinese person who fled Communist China, and he told me, "You cannot trust the Chinese Communists, you cannot trust them." So what makes us believe they will stand by their promises regarding Hong Kong in a few short years?

Let us talk about Tiananmen Square. We all saw what they did, 10,000 students crushed under those tanks.

What did we do about it? We sent our Assistant Secretary of State to Beijing along with the head of the NSC, and they toasted the Chinese Communist leaders. That is a sin, it is wrong.

In addition, in Tiananmen Square there are 20 million people, many of them political prisoners from the Tiananmen Square debacle, in those prisons that are enforced labor camps, making products that they are selling to the rest of the world and a lot to the United States of America. And we are giving most-favored-nation status for this slave labor that they are using to make products to send to this country.

It is wrong, it is dead wrong. But in addition to that, let me give you some other information. In Kwang Dong Province they are taking children from 9 to 14 years out of the school and putting them into forced factories and producing textiles that they are selling to the United States of America and the rest of the world.

Do we want to pay for that? Is that what we want, here in America? I think not. I think it is a sin.

Twenty million people, 2,000 gulags, and they are forcing these people, political prisoners among them, to make products that we buy, and we are

giving them most-favored-nation status to do it.

America is the land of the free and the home of the brave, and we believe in freedom and democracy. How can we tolerate this kind of oppression, how can we tolerate these human rights violations? It is a sin, it is a sin.

I just want to end by asking one question: What price exports, what price freedom?

Mr. GIBBONS. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I hope the gentleman who has just spoken does not think that the President is a sinner. I disagree with the President from time to time, but I hope he does not think that he is a sinner. I understand the strength of his arguments, but I do not accuse anyone of that.

Madam Chairman, I yield 5 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Madam Chairman, I rise in support of House Joint Resolution 4939 and the four amendments. They make MFN in China conditional on significant improvements in human rights in China.

I would like to congratulate the chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI], the gentleman from Ohio [Mr. PEASE], who has worked so hard and given such fine leadership; our colleague, the gentlewoman from California [Ms. PELOSI]; the gentleman from New York [Mr. SOLOMON]. All of them have made major contributions to this emerging consensus that the conduct of the Chinese Government in Tiananmen Square last June 4 and subsequently is offensive and unacceptable. It is an affront to the conscience of mankind. Nothing could better demonstrate the courage of the individual Chinese students who are thirsting and yearning for democracy than the picture of that valiant young man defying a column of tanks in the street of Beijing. That is what it is all about.

Madam Chairman, Tiananmen Square and the happenings of June 4 that we have been over and over on the floor of this House still shock us, still offend us, still traumatize us.

I feel that our Government has shown ever since then, a pusillanimous and faint-hearted response to the outrages of this small group of aging, despotic mandarins in Beijing.

Madam Chairman, I have the highest regard for our Deputy Secretary of State, Lawrence Eagleburger, and high regard for our National Security Advisor, Brent Scowcroft. But I think it was ill-advised of them, surreptitiously and secretly to make midnight visits to the Chinese mainland within a month of these outrages on June 4. I think that sent a wrong signal about America and what we stand for.

Madam Chairman, our country for 200 years has been the beacon light of liberty we have held aloft a compact between a government and its people, based on freedom, the hollowed rights of the individual a concept that government is designed to serve the people, not enslave them.

We have lit the way for other nations. We have had an enormous success in Eastern Europe and in Central Europe and in the Soviet Union in the last year. It is our example that they are following, it is our leadership that Secretary Gorbachev was following when he liberated the eastern and central countries of Europe, when he liberated the Baltic countries, when he liberated the Russian republics to move toward multiparty democracy, and when he destroyed the monopoly of the Soviet state on political power; it was our lead that he has followed.

For 200 years our leadership has been preeminent. The Chinese people care about liberty. They have demonstrated that.

Is there the slightest scintilla of evidence that the Chinese people care less about liberty than the people of Eastern and Central Europe and the people in the Soviet Union itself? There has not been any history of democracy in Eastern and Central Europe except for the Masryk regime for a very short number of years in Czechoslovakia.

In Russia they have virtually no experience with democracy. Even in the gulf coast states, those Arab sheikdoms, there are now stirrings for democracy. The people of Kuwait seem to want political reform, they do not want simply to reinstall the sheik there, and reestablish the status quo ante.

If the Arabs are looking for more democracy and if the Russians and citizens of Eastern and Central Europe cherish and yearn for democracy, what evidence is there that the Chinese people care any less about democracy, simply because they have not experienced it? They can read, they can listen to the BBC and Voice of America they know what democracy is, and above all they want in.

When the Chinese people moved to Taiwan, they lived under an autocratic state there since 1949, but in recent years they have moved Taiwan toward more democracy, more freedom of speech and more multiparty political activity.

In recent years, as the ominous date 1997 approaches signaling the end of the centuries old British rule, the Chinese people in Hong Kong have demonstrated for more democracy, more political freedom, and enhanced institutions of political activism to be left as the British legacy when they depart in 1997. The fact that they have not gotten it, that Britain has led them down the primrose path and left them little to show in the way of multiparty democracy as their British heritage, does not mean that the Chinese population of Hong Kong wanted it any the less.

Madam Chairman, I represent in Flushing, NY, one of the largest and most dynamic Chinese communities in the United States. It is a source of pleasure and pride for me to represent them, to join with them, in urging our country to stand for the traditional values that have made us admired, respected, and beloved around the world.

We must send the Chinese Government a clear, unmistakable signal that we expect them to join the 20th century, to respect the wave of liberating democracy that is peoples to express themselves in democracy, that is sweeping Eastern and Central Europe. There may be much in China, a continent of over a billion souls, that we do not understand and much that we cannot control. But we can certainly send the hard line Chinese leaders a clear signal of who we are, what we are, what our traditions and values are, what are hopes for the Chinese people are, and the strength of our abhorrence and dismay at their conduct that began on June 4, 1989, and continues today, violating every international civilized norm of human rights and government conduct.

Extending MFN is a myopic and self-defeating policy. It has far-reaching repercussions. Extending MFN would send a message of tacit approval of future human rights violations by foreign governments. It shows the students, the urban workers, the intellectuals, the peasants—the future leaders of China that we are not really interested in democracy abroad. By mouthing a few platitudes, we prove that our commitment is hypocritical at best.

Madam Chairman, that is not good enough.

Mr. SCHULZE. Madam Chairman, I yield 6 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH. Madam Chairman, I rise in strong support of this bill, H.R. 4939, which enumerates a number of conditions the United States should require prior to the extension of MFN to China in 1991. I commend the sponsor of the bill, DONALD PEASE, for his leadership in crafting this language and bringing it before the House for consideration.

The criteria which has been outlined establishes a clear mandate within our human rights and foreign policy and represents a measured response to the deplorable actions taken by the Chinese authorities in recent years. In short, this bill is an appropriate, long-overdue guideline for determining the proper United States response to many of the PRC's repressive policies. The specific objectives which are outlined within the bill are obtainable

benchmarks and the Chinese authorities would have approximately 6 months to adjust their policies and bring their actions into conformity with internationally recognized human rights.

While the current language of the measure is commendable, I do plan to support a number of amendments which I believe would strengthen the measure and address important aspects of current Chinese policies.

Madam Chairman, I believe Members should lend their support to this bill which confronts squarely the repressive character of the Communist Chinese authorities. As public policy makers we have an obligation to confront the Chinese Government's systematic arrest of dissidents, the disappearances of freedom-loving democratic activists, the arrest and harassment of religious believers, the ongoing barbaric coercive population control initiatives, and the destruction of Tibetan culture and religious heritage. Their blatant disregard for basic human rights is exemplified in a number of ways.

The massacre in Tiananmen Square was merely an outgrowth of the PRC's long history of torture, killings, coercion, and repression. We were rightfully horrified by the film footage of brave men and women being gunned down in Tiananmen. These were graphic images of a government turned against its people. Most of the other blatant human rights abuses however are not as visible, nor have they been captured on video film, but the brutal reality of the PRC's policies are just as real to the individuals who are inflicted with such repression.

Let us not forget, Madam Chairman, this is the same regime which has embarked on a systematic policy of restricting the free practice of one's religious beliefs. An October 9, 1990, report by News Network International reveals the existence of an official document which verifies "that implementation of a more repressive religious policy is not merely the whim of local Maoist cadres which is a favorite excuse used by Chinese authorities and apologists, but is being officially sanctioned." Wang Hongkui, head of the official Religious Affairs Bureau in Shanghai, calls on Communist Party officials to "divide and smash" those religious leaders who refuse to submit to control by the party, including the underground Catholics who maintain their allegiance to the Vatican.

In an effort by Wang and the Communist Party officials to control religious practice, and the Christian community in particular, the document emanating from the Religious Affairs Bureau, outlines the directives to deal with house church leaders and their congregations through political indoctrination and harassment. The document draws the link between the officially sanctioned Protestant Three-Self Patriotic Movement and the Catholic Patriotic Association, and the expectation—the mandate—by the Communist Party that these entities further the party's policies.

The pressure against the religious communities, and the Christian house churches in particular, through house searches, confiscation of bibles and other Christian literature, arrests and imprisonment has been building in the last few years. I encourage my colleagues to strongly support the amendment offered by my good friend, FRANK WOLF, which addresses the repressive policy against religious believers in China and Tibet.

My colleagues are aware of the brutally coercive policies which the Chinese Government employs—not only in the religious sphere but in family life as well. More and more evidence is pouring out of China that their coercive policies with respect to population control are on the increase. Madam Chairman, I believe this policy of coercion is one of the most egregious abuses of human rights and compassionate human rights activists must not stand by idly—or look the other way. The House of Representatives has correctly voted on at least two occasions to condemn these barbaric practices, including forced abortion and forced sterilization as crimes against humanity.

The coercive policies of Communist China's regime has been meticulously documented by authorities in the field of demographics, the United States Bureau of the Census and the United States Embassy in Beijing, and personal testimonies, and must be viewed in light of internationally recognized human rights.

Dr. John S. Aird, former senior research specialist at the United States Census Bureau's China Division, is soon releasing his definitive book entitled, "Slaughter of the Innocents: Coercive Birth Control in China." In a prepublication summary article, Dr. Aird writes his conclusion that "the Chinese family planning program relies on coercive measures to secure compliance by a largely reluctant population and that the coerciveness of the program has been escalating since 1986 [emphasis added]." Dr. Aird's conclusions are based primarily on hard, irrefutable evidence from Chinese documentary sources, including official directives and instructions, statements by Chinese leaders, and articles in the Chinese media which, of course, clear the official censors.

For the first time, the Chinese media, in 1989, printed articles acknowledging and openly calling for coercion in family planning. In April, the New China News Agency quoted an Agriculture Ministry official declaring that "only coercive measures can be effective in alleviating the problems caused by [the] population explosion * * *." The official added that "temporary coercion is actually a philanthropic and wise policy."

A Shanghai social science journal advocated in August 1989 that compulsory abortion be required for all women who were pregnant before age 25 and all other women pregnant without official permission. Declaring that compulsory abortion was "entirely in accord with the spirit of the Constitution," the author of the journal article contended that those who avoided abortion or concealed pregnancies were to be given prison terms or harsher punishments, including death sentences.

Madam Chairman, these are issues of fundamental human rights—the rights to life—and must be addressed within that rubric.

Let us not forget that China maintains an extensive prison system with as many as 20 million prisoners who contribute extensively to the overall level of production in China. As reported by AFL-CIO Asian-American Free Labor Institute, Charles D. Gray, prisons in the PRC bear two names. The official name distinguishes it within the Public Security Department and the other portrays its role as a normal business enterprise.

Those brave workers who have tried to establish free trade unions have been arrested by their government leaders and have, in many cases, been killed. In contrast, the network of the All-China Federation of Trade Unions, the party's "union," keeps close surveillance over the activities of the workers and does nothing to combat rampant child labor practices and improve the pay for workers who work excessively long hours and gain only a below-subsistence pittance in return. Madam Chairman, I plan to support the amendment being offered by my colleague, JOHN MILLER, which will establish a clear set of principles for companies conducting business in China and Tibet. First on the list of these principles is the restriction against the use of goods or products manufactured by forced labor in the PRC and Tibet.

Madam Chairman, support for this bill is absolutely essential to maintain an acceptable standard for United States-Chinese relations and approval of this bill with the perfecting amendments is the first step in correcting our trade course in response to the brutal tactics of the Peoples Republic of China. I encourage my colleagues to approve this measure and send a strong message to the regime in Beijing that we will no longer look the other way and continue business and trade as usual until substantive reforms are made.

□ 1350

Mr. PEASE. Madam Chairman, I yield 5 minutes to the distinguished gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Madam Chairman, I was surprised to hear the gentleman from Indiana [Mr. BURTON] indicate that support for H.R. 4939 is a sin. That of course means that his own President, George Bush, is a sinner. He may be a waffler when it comes to taxes, he may favor the rich, rather than the poor, but I do not think George Bush is a sinner.

Furthermore, Madam Chairman, I do not think that it is a sin to support H.R. 4939 or for my colleagues to do so. It does not mean, support of this measure does not mean, that Members are forgetting or support what happened in Tiananmen Square in the past. What it does mean is that Members here want to constructively shape what happens, not only in Tiananmen Square, but in China in the future, and what it means is that we specifically want to use MFN status as the leverage that is necessary to produce the reforms in human rights that we all understand, as demonstrated so vividly in the photograph that the gentlewoman from California [Ms. PELOSI] brought to the floor.

Madam Chairman, I was moved, and have been moved, by the eloquence of the gentlewoman from California [Ms. PELOSI] on this issue from the beginning, and she is a friend of mine, and I have a high respect for her. I do disagree with the approach that we both have, an approach to this issue. Our goals are exactly the same. I would point out to the gentlewoman, and I would point out to all of my colleagues, that, if they are concerned about human rights, pay attention to what major human rights organizations feel on the Pease legislation.

Madam Chairman, Human Rights Watch supports the Pease legislation without amendment. Asia Watch, the other stellar human rights organization, supports the Pease bill without amendment.

The Pease bill, H.R. 4939, imposes very strict, seven very strict, new human rights conditions that have to be considered by the President in deciding whether or not to extend China's most-favored-nation status in July 1991. It puts, my colleagues, China on notice that improvement in its record of repression since 1989 is necessary if Congress is to support renewal of that status in the future.

There is evidence that that sort of approach does work. We have important sanctions already in place that have resulted in significant, positive steps. This year those include the lifting of martial law, the release of almost 900 political detainees and the departure of one of the leading dissidents and his family in the country of China.

Madam Chairman, I hope my colleagues, in thinking through this legislation and the amendments that will be offered, will consider some other points as well. One of them is this: None of our allies, not one of them, none of our allies, indeed no Western country that we are aware of, conditions most-favored-nation status to China on any kind of a conditional basis, not one of them. Expanding most-favored-nation status as under the Pease bill goes further than any other Western nation. I think we play with fire by amending it any further in the provisions that are in it.

It has been pointed out that we must be careful in exercising our judgment on this legislation and not to go so far as to put in law stipulations and provisions that would hurt Hong Kong. I think that is a valid point. A large segment of the territory's economy depends on United States-China trade and investment, and, if we go too far, I think we rupture that relationship, we rupture the status of people who are very dependent upon that relationship today. Advocates of modernization and reform in China; and they are not only in Hong Kong, they are also throughout China, and I hope Members will think of them today, as well, as they use their judgment on this legislation; Chinese advocates of modernization and reform depend upon connection with the outside world and to the extent to which we can put a carrot at the end of the stick and move toward a shaping of the future by using the Pease bill as leverage for reform, it is the extent to which we make it possible for advocates of modernization and reform in China to build a better China, to build a better status and to develop the kind of connection that we had in Eastern Europe, which ultimately, in my judgment, led to the liberalization, the democratization, of those countries.

□ 1400

Mr. SCHULZE. Madam Chairman, I yield 4½ minutes to the distinguished gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. I thank the gentleman for yielding time to me.

Madam Chairman, a little over a year and a half ago, the world watched in horror as the Chinese Government unleashed its army on peaceful demonstrators in Tiananmen Square—demonstrators whose only crime was calling for democratic reform and the end to corruption in the Government.

Nations around the world reacted as one in condemnation of the brutality with sanctions against the Chinese Government. Yet we have seen little indication of real improvement in the human rights situation in that country.

Following the tragedy at Tiananmen, there were drastic country-wide crackdowns on participants, supporters, and sympathizers of the demonstrators. These continue today. There have been trials that mock the concept of justice, and summary executions.

The Chinese Government has also continued its efforts to control the news and crush any sense of reform and relaxation. Chinese newspapers once critical of the Government have been shut down. Efforts have also been made to harass foreign correspondents in Beijing and intimidate their sources. The Voice of America continues to be jammed.

Religious persecution has once again reared its ugly head. In Tibet, there have been successive crackdowns against Buddhist monks. Christians throughout China are also being persecuted with a growing volume of house arrests, confiscation of Bibles, and the imprisonment of evangelists and priests.

The Chinese Government has taken certain steps to improve its image on human rights. The Government has released several hundred political prisoners but still refuses to provide an accounting of the many who have been arrested. They have allowed the noted dissident, Fang Lizhi and his family to leave China, and they have formally lifted martial law in Beijing and Tibet. Each of these moves occurred, however, just as Congress was considering an important question about China. It is clear that these were largely efforts to manipulate U.S. policy.

Make no mistake, President Bush has led our Nation along a careful path in avoiding isolating China while making it clear that we are very serious about China's human rights record. The Chinese Government must know that we will never return to "business as usual" as long as their record does not improve.

The administration's policy recognizes the reality of China as a regional power and an important member of the United Nations. Due to this policy, China supported the U.N. resolutions condemning Iraq, and has played a constructive role in reaching an agreement on a framework for a Cambodian settlement. At the same time, the sanctions we implemented after Tiananmen create clear limits on our bilateral relations.

H.R. 4939, introduced by Congressman PEASE, would allow the President to continue this careful approach to relations with China. It would make clear how important the observance of human rights by all countries is to this Nation and to the American people. It would also provide for the continuation of China's most-favored-nation status for another year. If, however, after 1 year—2 years after the massa-

cre at Tiananmen Square—there is still no change in China's human rights record, I believe it would be appropriate to reconsider our trade relationship with China in light of the provisions contained in this bill.

Madam Chairman, this House understands the importance of China in world affairs and the importance of not pushing the Chinese Government into a corner. We also wish to avoid inflicting further suffering on the Chinese people. But our patience with human rights abuses in China is not unlimited and those abuses must be taken into account when we again review MFN next year.

Mr. PEASE. Madam Chairman, I am pleased to yield 5 minutes to the distinguished gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Madam Chairman, I rise in support, reluctantly yet, of H.R. 4939. However, I do want to take a moment just to compliment my friend, the Member from Ohio [Mr. PEASE], for bringing this issue forward. I think it is very important.

Madam Chairman, if we are to have a most-favored-nation status at all, then it should be conditioned. However, I believe that it should be stronger.

I am opposed to the MFN for China anyway. However, if we have to have it, I want to have the conditions. In that regard, I am going to support the Pelosi-Wolf-Parker-Miller amendments when they come up. We are told that if we send it to the White House in this form, the President of the United States is going to veto it.

Well, let me say this. It always seems strange to me that people, especially Republicans, will always say to the Democrats, "It is your fault for everything that is going on, because you control everything. You control the committees, you control the House, and so it is the Democrats' fault."

Yet the President of the United States has used his veto power 13 times, and he is going to use it another time on the civil rights bill. That is going to come back to the House of Representatives, which they all have, and we cannot override it.

Madam Chairman, he said that he will sign it, again, if we put in what he wants in the bill. So you say who really controls the House of Representatives and the Senate of the United States? It sure is not us.

As I say, I do oppose most-favored-nation status for China. In fact, we have to pay them to bring their goods into this country.

China has violated every deep-seated belief that we in the United States have fought and died for for 200 years, and that is freedom.

We have talked about the fact that the Chinese officials have murdered hundreds of people in Tiananmen Square. They have stilled the voices of these young people, not able now to speak out in freedom, not able to congregate. That is really all they wanted to do.

We know that they have violated the U.N. boycott of Iraq. They sent in some very rare chemicals that will help produce nuclear weapons, a poison gas, and missiles to deliver them, to kill our young men and women in the Middle East.

Madam Chairman, I heard my good friend, the gentleman from Florida [Mr. GIBBONS], say that this is fallacious. I do not know that it is. I do not know that it is. It was in the Washington Post, it was in the British press, but I have not seen any retractions to say that it is not true. Nevertheless, they have violated the U.N. boycott.

It was just recently that Taiwan wanted to give $100 million for the Mideast. The President of the United States rejected it outright because he said we do not want to offend our good friends, the Chinese. Well, with friends like that, I do not know who needs any enemies.

If foreign nations want our markets, if they want to compete freely and competitively and fairly, and if they want to recognize freedom as an inherent right of all people, then maybe we will do something. If they want our friendship, my friends, they have got to do it the old-fashioned way, they have got to earn it.

The United States opens its ports of entry freely to most foreign goods, but we are closed out, we are restricted, from most of these other ports of entry.

Yet here we are, opening another door making it easier. There are foreign lobbyists here doing their job, tagging the United States as protectionist. We are not protectionist.

If the Japanese or the Germans or the Chinese use the same methods, they are called innovative. We are called protectionist. Yet here we are.

I just wonder why Congress and the administration support benevolent trade practices to those countries of the world that are screwing the United States workers. I have many people in my district who have lost jobs to overseas. What do they have to end up taking? They have got to take a minimum-wage, no-benefit, part-time job, to sell the cheap foreign goods that come into the United States of America. I think that is absolutely and inherently wrong.

You say what is the rationale for all of this? I do not know. Sure, it helps them, but it is killing our economy. I get sick when I see grown men, coal miners. steelworkers, truck drivers, guys that are tough guys, who walk into my office and sit down in front of my desk with tears in their eyes. These are the kinds of guys I would not want to stand up against.

□ 1410

Anyway, they are very, very regretful, and so the only thing I am saying is we do not want our jobs continually taken away from us, and I ask Members to support this bill, but with the amendments that will come forth later.

Mr. PEASE. Madam Chairman, I yield 30 seconds to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Madam Chairman, I appreciate the gentleman yielding the time.

Madam Chairman, I just want to compliment my colleague from Ohio. At a time in this House when we are so divided, unfortunately, sometimes along partisan lines, I wanted to compliment the gentleman from Ohio [Mr. APPLEGATE] because he is a voice of consistency in this House, and he is a voice of great principle. His words mean a lot to me, because I think his consistency throughout all the foreign policy debates add a great amount of legitimacy to what he has to say on this particular issue, And I want to compliment him.

Mr. APPLEGATE. I thank the gentleman very much.

Mr. SCHULZE. Madam Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. GREEN].

Mr. GREEN of New York. Madam Chairman, I think all of us in this House are united in the horror with which we remember the events in Tiananmen Square and the wave of repression that has swept through China since that terrible day.

What I think does divide us, and there are legitimate reasons for looking at the question in different ways, is what we as the United States can do to try to improve the situation in China. I rise because I think the bill before us represents the best way for this country to proceed to try to achieve that improvement.

It seems to me that if we are simply going to cutoff trade at this point, we are not likely to work an improvement in China. The fact of the matter is that those elements in China which are likely to be the most reformist are in fact those elements that through trade have the most exposure to the world at large, those elements that are forced to compete in the world economy. If we are going to cut ourselves off from those forces, then it seems to me we do a disservice rather than a service to the cause of reform within Communist China.

For that reason I believe this legislation, which offers a carrot to the Chinese Government, as well as keeping a big stick available if need be, is the right way to go. I think with it we have some hope at least that those forces that seek reform within Com-

munist China will be given some leverage and can ultimately prevail.

For that reason, I urge my colleagues to support this legislation, which will send a very strong message to the Government of Communist China, but will at the same time help those forces within China who are on our side on the human rights issue.

Mr. PEASE. Madam Chairman, I am pleased to yield 6 minutes to the very distinguished gentleman from New York [Mr. SOLARZ], chairman of the Subcommittee on Asian and Pacific Affairs of the Committee on Foreign Affairs.

Mr. SOLARZ. Madam Chairman, a short while ago the House voted in favor of the Solomon resolution which would terminate most-favored-nation tariff status for the People's Republic of China. For better or worse, however, the President has made it absolutely and unmistakably clear that he intends to veto that resolution. We have to choose, therefore, between continuing MFN for China as if nothing has happened since the brutal crackdown in Tiananmen Square in June of 1989, or establishing conditions requiring an improvement in the human rights situation in the People's Republic of China in order for MFN to be renewed in the future.

To do so, in my judgment, would be most unfortunate. It would send a signal to the leaders of China that because of democracy and human rights the People's Republic of China is a secondary concern of our own country. It would demoralize the students, the intellectuals and other Chinese who were willing to put their lives on the line for a freer China 1½ years ago, and it would send a signal to the hardliners in the Chinese leadership that they can have their cake and eat it too in the sense that they can continue the repression in China while at the same time getting the benefits of a profitable trading relationship with the United States.

It seems to me, therefore, it would be a very serious mistake for us to do absolutely nothing. The real choice that confronts us is what conditions to impose on the renewal of most-favored-nation tariff status for China, those contained in the Pease bill which is now before us, or those contained in the Pelosi amendment which will be offered to it.

Under the Pease bill, China would be obligated to make progress toward the achievement of a whole series of important human rights objectives as a condition for the renewal of MFN. The Pelosi amendment, on the other hand, would require not simply progress toward the release of political prisoners and a free press in China, but would require the release of all political prisoners and the establishment of a completely free press in the PRC.

I have the highest regard for the gentlewoman from California who has played a vigorous and valiant role in putting the cause of human rights in China high up on the congressional agenda and on the agenda of the administration as well. And if I thought for a minute that the enactment of her conditions would in fact lead to the release of all political prisoners, to the establishment of a totally free press, and to the fundamental transformation of the human rights situation in China, I would strongly speak for it, and I would certainly vote for it. But the truth of the matter is that it is exceedingly unlikely that it will achieve those results. In fact, I would submit that it is virtually inconceivable, even threatened with the loss of MFN status, that the leadership of China is going to release every political prisoner and permit a completely free press. Perhaps the day will come when that happens in China, but not with the current leadership that is still in power.

I am reminded of a colloquy from a Shakespeare play, I think it was King Henry IV, in which Hotspur said to Glendower, "I can summon spirits from the vast and murky deep."

"Why, so can I, so can any man," replies Glendower, "but will they come when you dost call them?"

So it is easy to say that China has to fundamentally transform itself. It is another question entirely to figure out how to best go about achieving it.

But even if one thought the Pelosi amendment could achieve these results, the fact of the matter is that the President will veto legislation that includes the Pelosi amendment, and we do not have the votes to override that veto. So the consequence would be that we would end up with nothing, with no conditions whatsoever on the renewal of MFN, and that would have entirely counterproductive consequences.

If somehow or other we could override the veto, and if China did not meet the conditions after we overrode the Presidential veto, MFN would have to be cutoff, and I ask Members to consider whether we want to totally alienate China at a time when with 200,000 Americans in the gulf we need their cooperation in the Security Council to achieve our objectives in that part of the world.

□ 1420

We also need the cooperation of China to get a successful conclusion to the conflict in Cambodia that will prevent the Khmer Rouge from returning to power in that country.

I urge the Members, do not make the perfect the enemy of the good. Vote against the Pelosi amendment, however well-intentioned it may be, and then vote for the Pease bill so we can send a clear message to China that if they want a renewal of MFN status, real progress will have to be made on human rights.

Mr. FRENZEL. Madam Chairman, I yield 4 minutes to the distinguished gentleman from Washington [Mr. MILLER].

Ms. PELOSI. Madam Chairman, will the gentleman yield?

Mr. MILLER of Washington. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Chairman, I thank the gentleman from Washington for yielding to me.

To the gentleman from New York [Mr. SOLARZ], I appreciate his comments. However, his characterization of my amendment is incorrect.

The language regarding the freedom of the press is in the Pease bill, and it says that we must make significant progress toward freedom of the press. That is language that is in the Pease bill and which I support.

Absolute condition is on the release of prisoners, the gentleman is correct in that characterization, but when it comes to freedom of the press which is an intangible, which does not exist in many countries of the world completely as the gentleman from Florida [Mr. GIBBONS] always points out to me, the language I support on freedom of the press is the same language that the gentleman from Ohio [Mr. PEASE] has in his bill.

Just for the sake of clarity, I wanted to make sure that was not misunderstood by our colleagues.

Mr. SOLARZ. Madam Chairman, will the gentleman yield?

Mr. MILLER of Washington. I yield to the gentleman from New York.

Mr. SOLARZ. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, I take the gentlewomans point.

I would simply say, however, once again, that if her amendment could achieve the release of all political prisoners, I would certainly support it. I fear it would not, and that would, in turn, require us to terminate MFN with other counterproductive consequences, whereas, under the Pease bill, I think we can achieve the release of many, if not all, political prisoners.

Mr. MILLER of Washington. Madam Chairman, reclaiming my time, we will discuss further the amendments and have an opportunity to respond to the distinguished Congressman from New York.

Madam Speaker, I rise in support of this important bill. This bill, which adds human-rights conditions to the emigration conditions that already exist for the extending of MFN status, is vitally important to improving human rights.

It is my hope that this goal will be strengthened by the House adopting four amendments to this bill, those offered by the gentleman from Virginia

[Mr. WOLF], a religious-liberty condition to extending most-favored-nation trade status; the gentleman from Illinois [Mr. PORTER] requiring China to live up to its promises of democracy and free enterprise when Hong Kong reverts to Chinese control; the gentlewoman from California [Ms. PELOSI] addressing the issue of those Chinese imprisoned and executed after Tiananmen Square; and my amendment which establishes a set of human-rights principles for United States businesses operating in China.

All of these amendments substantially improve this bill. If the administration would accept this bill with these amendments, it would make unnecessary the resolution of disapproval that we adopted.

This bill with these amendments is a far more balanced approach than just extending MFN or denying MFN to China.

To those arguing that the administration will veto this bill or veto the bill if there are amendments, I say, let the legislative process work. If we amend and then pass H.R. 4939 we must still conference with the Senate, and then we can negotiate with the President to address his concerns. This is the way the process works, and this is how we should proceed.

In the past Congress has been a strong and loud voice in support of human rights in China. The Chinese Government continues to try to brutally silence its own citizens. In light of this, Congress cannot allow itself to be silenced.

I urge my colleagues to support these amendments and to support this bill.

Mr. GIBBONS. Madam Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Madam Chairman, I rise in strong support of H.R. 4939 and also of the strengthening amendments to the base bill which will be offered by the gentlewoman from California [Ms. PELOSI], the gentleman from Virginia [Mr. WOLF], the gentleman from Illinois [Mr. PORTER], and the gentleman from Washington [Mr. MILLER].

Madam Chairman, we have had too much vagueness and too much ambiguity in the messages that we have been sending to China. That vagueness and that ambiguity must come to an end.

I am sure all of us in this body remember sitting glued in front of our television sets that June watching the struggle for freedom in China. We marveled at the stirring sight of millions of people taking to the streets in peaceful protest. They were not throwing rocks. They were not throwing Molotov cocktails. They carried no weapons. They were armed with the most powerful message of all: That the yearning for freedom is universal and ultimately irresistible.

The signals sent by the demonstrators were too powerful for the Chinese leadership to tolerate. Out of weakness, the Chinese regime engaged in one of the harshest, most violent crackdowns that the world has seen in many years.

Thousands of people were gunned down in cold blood in Tiananmen Square. We were all witnesses to that event. We saw the tanks and troops, and we saw the courage of one simple man who resolutely stood before a column of advancing tanks and refused to let them pass. We saw the bloody square.

Today many months later, thousands still remain in prison. Execution and torture is still not uncommon.

How ironic and sad it is that the movement which inspired so many others around the world has not yet tasted freedom for itself. And so today we must send a clear and unambiguous message, a message of sympathy to the families of those who died in Tiananmen Square, a message of solidarity for those who were courageous enough to risk their lives on behalf of freedom in China, and a message to the Chinese Government that if it does not improve its human rights record and its treatment of dissidents with utmost haste, that most-favored-nation status for China will be gone.

The legislation before us sends precisely that message. Let us remain committed to that great cause for democracy for which this country stands. Let us remain steadfast in our commitment to the Chinese people in their thirst for freedom.

I urge passage of this legislation with the amendments that will strengthen the bill and remove the kind of ambiguity and vagueness that I think has compromised our own tradition in this country.

Mr. FRENZEL. Madam Chairman, I yield 2 minutes to the chairman of the Republican policy committee, the distinguished gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Madam Chairman, our colleague, the gentleman from Indiana [Mr. BURTON] earlier asked the basic question before us when he said, "What price trade?" How much of our heritage would we surrender in pursuit of another dollar or two? This is an issue which transcends trade. It is a matter of fundamental human rights.

A nation which sends thousands of its young men and women to the deserts of Saudi Arabia to defend human liberty cannot ignore the massacre of young students whose only crime was to copy our own Statue of Liberty and ask for the freedoms Americans have fought for and died for for more than 200 years.

The crimes of Tiananmen Square did not end there. The Chinese Government, which dares to call itself a people's government, continues to oppress the Chinese people.

Let us stand today for principle, not by rewarding murder and repression, but by enunciating again the principles to which the Chinas of the world must adhere to receive the support and embrace of a nation which is founded on human liberty.

I support this bill, but these amendments, too, are necessary, and I urge my colleagues to support them.

Mr. GIBBONS. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Madam Chairman, today I sent a letter of inquiry to the Chinese Ambassador. It concerns Qin Weidong, a Chinese student leader from Beijing Medical University. He was arrested after the massacre in Tiananmen Square and is being held somewhere in Beijing. Nothing else is known about his fate.

This young man's story, like thousands, perhaps tens of thousands of others illustrates the Chinese Government's continuing disregard for human rights. That government's abuses have continued during the crackdown which followed Tiananmen Square. In its attempt to crush the pro-democracy movement, the Chinese Government has gone far beyond incarcerating a few individuals who led the demonstrations. Factory workers, railroad workers, writers, intellectuals, teachers, government officials, and university students have disappeared. Despite the fact that the Chinese Government has steadfastly refused to release the names of the arrested, the human rights group Asia which has been able to compile a list of 867 people who have been jailed. The true number can only be estimated.

Our Government must send a clear signal to the Chinese Government that a continuation of the tragedy it caused in Tiananmen Square will not be tolerated. The Pease bill, H.R. 4939, of which I am a cosponsor, will send such a signal.

Careful consideration was given in crafting this legislation, to its impact on the pro-democracy movement in China. It adds strong new human rights requirements which China must meet. Yet it will not slam the door on China so completely as to harm the very freedom movement we want to keep alive. I urge each of my colleagues in the House to vote for the Pease bill.

□ 1430

Mr. FRENZEL. Madam Chairman, I yield 5 minutes to the distinguished gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Chairman, I will take a back seat to no one in this House in decrying the out-

rageous human rights violations that have taken place in China.

On June 4, 1989, I had the privilege of being an observer of the election that was taking place in Poland. We all remember the first free and fair election in over four decades. I sat in a hotel room in Krakow in southern Poland, observing the Tiananmen Square massacre. It was horrible. It was an awful experience, and I shall never forget it.

Madam Chairman, I also had an opportunity to join with many of my colleagues in marching in the pouring rain from this Capitol to the Chinese Embassy to meet with Hang Tzu the then Chinese Ambassador to the United States. I have consistently been one who has said that we cannot have a double standard when it comes to dealing with the issue of human rights. Madam Chairman, I had an opportunity on July 21 of this year to have an incredible meeting. I met in London with Chinese physicist Fang Lizhi. Members will remember that Fang was without a doubt the most outspoken, hard-working, dedicated dissident in all of China. He, for the last year, had been holed up in our embassy in Beijing. Members will recall that he was invited to attend President Bush's party last year in Beijing, but the Chinese Government refused to allow him to attend that party. When I met with Fang Lizhi in London, we were participating together on a television program which is carried throughout Great Britain, and I decided that as the first Member of Congress who would have an opportunity to meet with Dr. Fang, following his release, I would ask him some of the incisive questions which have been raised here. I questioned him about human rights violations. I asked about the situation in China. In his broken English he said to me that he was not too crazy about President Bush's policy in 1989, but he believes that the policy of 1990 is right on target. He said to me, "Constantly raise the issue of human rights. Make sure that you mention the names of famous dissidents in China who are still imprisoned. Names like Wang Ruowang, Liu Binyan, and Wang Dan. Please mention these people." "However," he said, "Deng Chou Peng is not long for this world. The world is changing dramatically." He said to me, "It is very important, Congressman, that the United States of America continue to grant most-favored-nation status to China." He said that he believed that would play a very important role in encouraging the kind of changes which are going to take place. He said, "When Deng Chou Peng is out of the scene and there are new leaders, do we want them to have a devastated economy in China?" Absolutely not.

I decry the human rights violations, as I have said. However, I do believe we have to recognize that there are 1 billion people in China. We cannot simply turn our backs on those 1 billion people. Should we be penalizing the people of China who have been victimized by this repressive leadership? Absolutely not. I think it is essential, Madam Chairman, that we do everything that we can to move ahead with this responsible approach.

President Nixon boldly opened the door to China nearly 20 years ago. Their standard of living today dramatically transcends that of the Soviet people.

China joined with the United States in decrying Saddam Hussein's invasion of Kuwait. Do we want to jeopardize that support? I say no. I believe that we do recognize human rights. President Bush has done that. We in this Congress have done it, and we are not turning our backs on those very proud and courageous young people who erected that Goddess of Liberty in Tiananmen Square. We can do the very best thing for them, by moving ahead with MFN status.

Mr. GIBBONS. Madam Chairman, I yield 3 minutes to the very distinguished gentleman from New York [Mr. WEISS].

(Mr. WEISS asked and was given permission to revise and extend his remarks.)

Mr. WEISS. Madam Chairman, I rise today in support of this legislation to ensure that the Chinese Government has met certain human rights conditions before MFN trade benefits may be renewed next year.

The leaders of China are quietly attempting to spruce up their nation's tarnished image. Only 15 months have passed since they ordered the massacre of hundreds of demonstrators in Beijing, yet they are actively courting international approval. They are cooperating with the United States in the Persian Gulf and Cambodia and, just a few weeks ago, they played host to the Asian Games in Beijing.

We may commend these steps toward reconciliation with the international community, but we must not forget the human rights tragedy that continues to unfold in China and the brave young people sympbolized by the picture of the man in front of the tanks.

The Chinese leadership has launched a nation-wide anticrime campaign to stem political unrest, and Chinese prisoners are being executed by the hundreds without adequate judicial procedures.

The human rights organization Asia Watch estimates that as many as 1,000 people remain in prison in China for political and religious activities. The vast majority of these prisoners are being held without proper charges or trials. Most have been detained for nothing more than peaceful political expression.

The fate of these prisoners remains shrouded in secrecy. The Chinese Government claims that 881 people have been released since January of this year, yet the names of these prisoners have not been released.

Representative JOHN MILLER and I have initiated a congressional project in conjunction with Asia Watch to support these prisoners of conscience in China. The Chinese Political Prisoner Adoption Program is designed to ensure that the courageous men and women who remain imprisoned for their outspoken defense of freedom are not forgotten here in the United States.

So far, we have had an impressive response. Over 70 Members of the House—both Democrats and Republicans—are already participating in the program. But with so many still imprisoned in China, there is much work to be done. For those of our colleagues who are not yet involved in the project, we invite you to join us.

We must let the Chinese Government know that we have not forgotten—and will not forget—the courageous people who continue to suffer because of their commitment to democratic reform in China.

I rise today in strong support of the Pease legislation, and also of the efforts of several of our colleagues to make improvements in the bill through a series of excellent amendments. I especially want to commend the amendment offered by Congresswoman PELOSI, which draws attention to the plight of political prisoners in China. Her amendment would require that, before MFN status may be renewed for China, the President must certify that the Chinese Government has fully accounted for, and released, political prisoners associated with last year's prodemocracy movement.

I strongly support the amendments offered by Ms. PELOSI, Mr. WOLF, Mr. PORTER, and Mr. MILLER of Washington. These amendments, together with the excellent legislation offered by Mr. PEASE, will send a strong signal to the leaders of China.

□ 1440

Mr. WOLF. Madam Chairman, I yield myself 5 minutes.

Madam Chairman, I rise in strong support of this bill and especially the amendment of the gentlewoman from California [Ms. PELOSI] and the amendment that I will offer with regard to religious freedom and the amendment that the gentleman from Illinois [Mr. PORTER] will offer and the amendment that the gentleman from California [Mr. MILLER] will offer.

Let me focus on those vexing issues of religious freedom. Did you know that at least 50 Catholic bishops and priests and lay people in China have been arrested because of their ties to

the Vatican? So when you vote for these four amendments, keep that in mind, I say to my colleagues back in their offices.

Second, over 450 Buddhists were massacred in Tibet for demonstrating for political and religious freedom, so when you get a chance to vote on the Wolf amendment and the Pelosi amendment, you are going to be able to take care of this problem.

There was a 1,000-member Protestant church in Canton which was closed by the Chinese Government in July, and its members were harassed. We can deal with that problem when we support these amendments.

A Protestant evangelist and her daughter were tortured to death in a Chinese jail just recently, so when we vote for religious freedom we send a message to the Chinese Government that religious freedom is absolutely important.

Every day, Madam Chairman, 20 million to 60 million Chinese people listen to the Voice of America. When they listen tomorrow and they tune in to that little crystal set that they have out in the provinces and in Beijing and other places, will they hear that the people's body, the United States Congress, stood with the Chinese people, stood for religious freedom, stood for these important things, or will they, God forbid, hear that when given an opportunity to stand firm for religious freedom, we turned away.

I have a letter, Madam Chairman, from the Department of Social Development and World Peace of the Catholic Conference. It says:

Mr. President, we have evidence that as many as 50 Roman Catholic bishops and priests may be under house arrest and under various forms of detention in China today.

In addition, there are many hundreds of Chinese students and workers who are still being held without charges or trial in the aftermath of the crushing in a popular city for justice in Tiananmen Square. We believe that the annual renewal of China's Most Favored Nation status which requires your certification provides an opportunity which should not be missed of ensuring China's leaders understand that their continuing denial of human and religious rights has a price.

The closing comment is this. Years ago when we brought up on the floor of the Congress an amendment to strike the most-favored-nation status for Romania, we heard the same arguments against it:

Well, they are making progress. You are going to hurt business. Oh, it is just not going to be good. Oh, the Reagan administration is going to oppose it. Oh, the professionals at the State Department, they oppose this. You know, they are the China experts.

Well, thank goodness the Congress and the House particularly, I am proud to say, in its wisdom when given the opprotunity stood bold and voted to take away MFN for the barbaric man, Ceausescu.

Now, we all know the legacy, AIDS babies, 100,000 orphans and the Securitate reigning supreme today.

Had the Congress not acted, had we not had the courage to act against the Reagan administration and against the State Department, Ceausescu may very well be there today.

When this thing opens up and some day China is free, and let me just say the Voice of America is covering this debate. China will be free. When China is free, this act that we take today on the Pease bill with these four amendments, the Pelosi amendment, my amendment, the Wolf amendment, the Porter amendment, and the Miller amendment, we will be part of that process. So when the Chinese peasant and the Chinese individual in the cities and provinces of China tomorrow morning, because of the time change, tune in to their little shortwave radio, I want them to know as we did in 1987, we stood with the Romanian people.

This year in 1990, in spite of what the Bush administration says, in spite of what the State Department says, that we when given an opportunity are going to stand with the Chinese people.

Madam Chairman, I support the Pease bill. It is a good bill. I thank the gentlewoman from California [Ms. PELOSI] who has taken the leadership, and Congressman MILLER and Congressman PORTER. Please perfect this bill by supporting these four amendments.

Mr. FRENZEL. Madam Chairman, I yield 5 minutes the distinguished gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Madam Chairman, I thank the gentleman for yielding me this time.

Let me first of all call to the attention of our colleagues that this may be the last trade bill that our great friend and great Congressman, the gentleman from Minnesota [Mr. Frenzel] ever carries on the floor of this House. He is a 20-year Member who is retiring this year. We surely are going to miss the gentleman in more ways than one. He has done such a great job over the years.

Mr. GIBBONS. Madam Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Florida.

Mr. GIBBONS. Madam Chairman, I am so glad the gentleman from New York raised this point about the gentleman from Minnesota at this time. I rise to praise the gentleman from Minnesota [Mr. FRENZEL]. He is a great American who has served his country well, has served this Congress well. He has been a conscience, and a wise conscience for all of us. He is a great friend of all of us. We are going to miss him and miss his service.

Mr. SOLOMON. We certainly are, and I thank the gentleman for that sage observation.

Madam Chairman, we free people in the United States of America are the beacon of hope for the world. That never was brought home to me so much as about four years ago when I led a congressional delegation to a place called Hanoi in a country called Vietnam. We had to sit across the table from a philosophy called communism and negotiate, almost get down on our hands and knees and beg those Communists to give us the remains of fallen American soldiers. Communism is the only philosophy in the world that has ever withheld the remains of fallen soldiers after the war was over.

When we left that meeting and I was out on the streets of Hanoi and I looked around, I looked at the faces of those people, even the Communists, and there was absolutely no hope at all on their faces. There was no economy, no jobs, no anything.

We left there and we went back to Thailand. We had an opportunity to go into a refugee camp where there were 125,000 Cambodian people driven from their country. As we drove in, on an old truck, over 50 miles of dirt road, there began to be people along the way. First they were in tens and fifties and hundreds, and pretty soon there were 10,000 people lining the edge of a dirt road in the middle of nowhere. They were carrying signs, and those signs were not the ones you see portrayed sometimes on nightly television that say "Yankee imperialist dog, we hate you."

Those signs said, "America, we love you. America, you are number one." One sign as long as this room, carried by 50 children, said, "America, please take us home." At first I thought that sign meant take us home to America, but when I got out of the truck and I started talking with some of those people. I realized what they wanted was for the United States of America to make it possible for them to go home to their country. We were their hope.

You know, I said to myself, my God, how proud I am of the United States of America and how much I love my country, because we are the beacon of hope for all those people throughout the world who are not only oppressed by communism, but any other kind of dictatorship. That is what the Jackson-Vanik amendment is all about. That is what our debate here today is all about, the right for free people to live where they want to live, to work where they want to work, to emigrate. And for those countries that do not allow these rights, we do not have to provide most-favored-nation treatment.

With the Chinese Government enjoying a $6 billion trade surplus against us today, if we take away most-favored-nation treatment, it simply means that Chinese goods will cost a little bit more in this country. They will not be quite as favored as they are now. What is wrong with that? We would send a message to them that we Americans support a foreign policy of self-determination for all people and human rights for all people. Human decency, that is what we are talking about here. That is why we need to support the Pelosi amendment that is coming up in a few minutes, the Wolf amendment, the Porter amendment, and the Miller amendment, the four amendments made in order by this rule. If we do, they will strengthen this bill. That means that the Chinese people will get the message.

You know, I have known the orientals for many years, and I love those people, but they are shrewd. Do not ever underestimate them. They will smile at you and shake your hand and give you nothing, unless you hold their feet to the fire. That is what we need to do with the Chinese Government, and 6 months from now the Chinese people will be so much better off. It will be because people of this Congress made it possible.

Please support the Pelosi amendment and the other amendments, and then vote for this bill and we will be sending that message.

Mr. FRENZEL. Madam Chairman, I have no more requests for time, and I yield back my remaining time.

□ 1450

Mr. GIBBONS. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, this is a very serious matter. We are talking not only about the welfare of this country but the welfare of one-fifth of all the people on Earth, in China. No one yearns more to see them free, to have freedom of association, to have freedom of emigration, to have freedom of religion and all those things, than I do.

One of the reasons that they cannot have freedom of emigration is we do not have any more quotas for them. There is no place for them to go except tread water out in the middle of the ocean. We already bring in all that our immigration laws will allow us.

As Deng Xiaoping told Mr. Vanik, "Mr. Vanik, I know about your amendment. I accept it. Now tell me, Mr. Vanik, how many Chinese will you take?"

Well, "we will take about 18,000," I guess, was the answer that we gave them.

There are hundreds of thousands over there that would like to be free. But we do not offer them the opportunity to be free. I am not advocating we change our immigration laws. But that argument that there is not freedom of emigration—certainly there is not freedom of emigration, because there is no place to go if you are Chinese.

Our Government tells us that every Chinese person that we have admitted has been released before they were able to emigrate. In other words, we decided who we accepted out of all the applicants, and the Chinese Government released all of those people to us as immigrants.

The freedom of the students to come here is still in existence, not as wide open as it once was. I hope it will return to a more open status. But if we should cut off MFN, whether intentionally or accidentally—and I am afraid if this bill gets loaded up as it apparently is going to be loaded up here today, that while it will not kill MFN this year, I think it is pretty sure that that will not happen—but it just amounts to an American business closing notice in China.

The people who have their money invested over there are going to get out and bring what they can with them if we are going to cut off MFN.

Now, MFN is talked about as if it was the elixir that cures all ills. All MFN does in this case is take away, as a barrier to trade, those horrendous Smoot-Hawley tariffs that were imposed disastrously here in the early 1930's.

Those tariff rates are so high that as one speaker, I think it was the gentleman from New York, said, "What is wrong with that?" Well, all they mean, if you impose those tariff rates, is there is just no way to get goods in here.

Those tariff rates are sometimes more than 100 percent. And no one in this competitive world can jump over those kinds of tariffs.

So I urge you, let us not load up this bill. It will not become law if it is loaded up. The President has told us that. Let us pass the bill that came from the Committee on Ways and Means, not because there is any pride of authorship there. It was really authored by Mr. PEASE. Let us pass that bill, send it to the President, and give us a chance to move forward.

In our zeal to push forth freedom, let us not kill every opportunity for it.

Mr. LAFALCE. Madam Chairman, I share the valid concerns of my colleagues that extension of MFN trading status may be construed as evidence of American indifference to human rights in China. However, a number of other important factors must be considered in dealing with this issue. While revoking China's MFN status would be the strongest rebuke to date, this action would have serious negative consequences as well. The students, entrepreneurs, and business people as well as those in the coastal areas and big cities who are most committed to reform and outside contact would be the most severely affected by a failing economy.

Further, China's MFN status is essential to the health of Hong Kong's economy and has added significance as the 1997 deadline for reversion to China approaches. In the areas of China where the most ambitious economic reform has occurred, reformers would suffer a significant setback. I am also concerned that revoking MFN status at this time is extremely unlikely to achieve short term human rights advances and would likely lead only to further isolation of China.

Placing conditions on the continued MFN status in 1991 helps to restore some integrity to U.S. policy. The conditions in H.R. 4939, as drafted by the Ways and Means Committee, do have the limited practical effect of placing President Bush and the Chinese Government in the spotlight and encourage favorable policy shifts in both the United States and China.

H.R. 4939 was drafted by the Ways and Means Committee in close consultation with the Foreign Affairs Committee, and the administration has indicated that unamended the President will not veto the bill. While H.R. 4939 is not the best on substantive merits, it is the best that can be enacted at this time. Considering the grave failures in recent United States policy to China and the President's position on the current legislation, passing H.R. 4939, without amendment, and having it signed into law, sends as clear a message as possible.

Mr. PAYNE of Virginia. Madam Chairman, I rise in opposition to the resolution and all of the amendments which would restrict the granting by the President of most-favored-nation status for the People's Republic of China.

Dr. William F. Dorrill, president of Longwood College in my district, has stated the basis for this position much more eloquently than I could. Dr. Dorrill holds a doctorate in political science from Harvard and a masters in foreign affairs from the University of Virginia.

More importantly, Dr. Dorrill's research has focused on contemporary China and East Asia. He has completed five lecture tours of major Chinese universities, including one last year just prior to the Tienanmen Square tragedy. As everyone knows, the universities were the center of the democratic uprising in China; therefore, I feel Dr. Dorrill is particularly knowledgeable about the immediate events giving rise to this legislation. Of great importance to me, however, he is able to put the events in perspective in describing a long-range policy in the best interests of the United States and China.

Madam Chairman, I am submitting the text of Dr. Dorrill's thoughts on this issue for the RECORD and I adopt these remarks as reflecting my own views. I urge my colleagues in the House to vote against the resolution disapproving MFN status for China and to vote against all amendments which would change present law on China's MFN status.

SOME THOUGHTS ON MOST-FAVORED-NATION STATUS FOR THE PEOPLE'S REPUBLIC OF CHINA

(By William F. Dorrill)

Along with most Americans, I was disappointed and angered at the PRC's ruthless

resort to violent repression of the Democracy protest in Tienanmen Square in June of 1989—all the more so because of my long association with China, which had fostered high hopes for a peaceful evolution toward democracy. These feelings were reinforced during a visit to China a few weeks after the tragic incident. However, I believe that US policy should not be based primarily on our sense of moral outrage or even our impatience with the regime's backsliding from reform. As George Kennan pointed out a generation ago in his masterful study of US diplomacy, Americans have historically had difficulty accepting the limits of our ability to effect desired changes in other countries through our foreign policy. This has been particularly true in our relations with China where rigid attachments to lofty moral and legal positions have on more than one occasion doomed our policies to failure.

The issue presently before the Congress of extending or withdrawing most-favored-nation status for the PRC in our trade policy offers the potential for yet another example of failure in our best meant policies toward China. To withdraw most-favored-nation status for the PRC at this time would, in my opinion, have several undesirable consequences. Among other things, it would have the following results:

It would worsen US-PRC relations unnecessarily. (Such a move would cause a tremendous reaction in China which would make it difficult to restore normal relations for along time to come.)

It would reinforce the position of regime hard-liners who would start an anti-American campaign to blame the US for China's hardships, thereby further delaying the emergence of moderate new leadership.

It would hurt the Chinese people (e.g., workers, emerging entrepreneurs, farmers) more than the regime.

It would almost certainly hinder US business operations in China, making it more difficult through additional regulation for Americans to do business in the country.

It would tend to leave an opening for Japan to become the dominant economic power in the PRC.

It would lose for the US important cultural, educational, and business contacts which are essential for the promotion of American interests in China and the development of democratic reforms.

While China may not now be as important to US strategic interests as it was before the recent changes in the USSR and Eastern Europe, we must recognize that the PRC will still play a vital role in many regional and global issues. From the regional perspective of Asia, China will continue to play an important role with regard to Cambodia, Taiwan, Korea and even Pakistan. Likewise, on global issues such as the environment, drugs, arms control and sales, China will continue to exercise an important influence.

When the present elderly leadership passes from the scene, as may well be the case in the near future, it will be important for both China and US interests in China and around the world that America enjoys a position of friendship and influence. I believe this can be facilitated by not changing most-favored nation status for China in US trade policy.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute is considered as an original bill for the purpose of amendment and is considered as read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 4939

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL OBJECTIVES WHICH THE GOVERNMENT OF CHINA MUST MEET IN ORDER TO RECEIVE NONDISCRIMINATORY TREATMENT.

(a) IN GENERAL.—If the President proposes that the waiver authority granted by subsection (c) of section 402 of the Trade Act of 1974 be extended in 1991 for a 12-month period, then for purposes of applying subsection (d) of such section 402 with regard to the continuation of a waiver for the People's Republic of China, the objectives of such section 402 shall include, in addition to the freedom of emigration, significant progress by the Government of the People's Republic of China in implementing the following measures:

(1) Reversal of the pattern within the People's Republic of China of gross violations of internationally recognized human rights dating from June 3, 1989.

(2) The termination of material law throughout the People's Republic of China, including Tibet.

(3) In regard to the events that led up to, and occurred during and after, the violent repression of dissent in Tiananmen Square on June 3, 1989—

(A) an accounting for those citizens who were detained or accused as a result of the nonviolent expression of their political beliefs during those events; and

(B) the release of such of those citizens who were imprisoned after detention or accusation.

(4) The easing of the restrictions in the People's Republic of China on freedom of the press and on broadcasts by the Voice of America.

(5) The termination of acts of intimidation and harassment of Chinese citizens in the United States.

(6) The termination of any fee, reimbursement, or other charge or restriction not in effect prior to June 3, 1989, on the travel to a foreign country by students or other citizens for the purpose of study, tourism, or professional development.

(7) The taking of other appropriate action to promote substantial improvement in the observance of internationally recognized human rights in the People's Republic of China and greater opportunities for freedom and democracy in that country.

(b) CONSIDERATIONS AFFECTING WAIVER EXTENSION.—In deciding whether or not to recommended in 1991 the extension of the waiver authority referred to in subsection (a) to the People's Republic of China, the President shall take into account—

(1) the potential economic and political effects that such an extension, or the absence of such an extension, may have on Hong Kong; and

(2) the extent to which the Government of the People's Republic of China has moderated its position regarding the accession of the Republic of China (Taiwan) to the General Agreement on Tariffs and Trade.

SEC. 2. REPORT BY THE PRESIDENT.

If the President recommends in 1991 that the waiver authority referred to in section 1 be extended to the People's Republic of China, the President shall include in the document required to be submitted to the Congress by section 402(d) of the Trade Act of 1974 a report on the extent to which the Government of the People's Republic of China has, during the period covered by the report, implemented the measures listed in section 1(a).

The CHAIRMAN. No amendment to the substitute shall be in order except those amendments printed in House Report 101-851. Such amendments shall be considered in the order and manner specified in the report and shall not be subject to amendment except as specified.

It is now in order to consider amendment No. 1 printed in House Report 101-851.

For what purpose does the gentlewoman from California rise?

AMENDMENT OFFERED BY MS. PELOSI

Ms. PELOSI. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. PELOSI: Page 3, strike out line 19 and all that follows down through line 7 on page 5 and insert the following:

(a) IN GENERAL.—The President may not recommend the continuation of a waiver in 1991 for a 12-month period under subsection (d) of section 402 of the Trade Act of 1974 for the People's Republic of China unless the President reports in the document required to be submitted by such subsection, that the government of that country—

(1) has, in regard to the events that led up to, and occurred during and after, the violent repression of dissent in Tiananmen Square on June 3, 1989—

(A) accounted for those citizens who were detained or accused as a result of the nonviolent expression of their political beliefs during those events, and

(B) released citizens who were imprisoned after detention or accusation,

(2) has made significant progress in—

(A) reversing the pattern within the People's Republic of China of gross violations of internationally recognized human rights dating from June 3, 1989,

(B) terminating martial law throughout the People's Republic of China, including Tibet,

(C) easing the restrictions in the People's Republic of China on freedom of the press and on broadcasts by the Voice of America,

(D) terminating the acts of intimidation and harassment of Chinese citizens in the United States,

(E) Removing obstacles to study and travel abroad for students and other citizens,

(F) taking other appropriate action to promote substantial improvement in the observance of internationally recognized human rights in the People's Republic of China and greater opportunities for freedom and democracy in that country.

Page 5, between lines 20 and 21, insert the following:

(c) DEFINITIONS.—For the purposes of subsection (a)—

(1) The term "acts of intimidation and harassment" in paragraph (3)(D) means actions taken by the Government of the People's Republic of China that are intended to deter or interfere with, or to be in retaliation for, the nonviolent expression of political beliefs by Chinese citizens within the United States.

(2) The term "gross violations of human rights" in paragraph (3)(A) includes, but it is not limited to, torture or cruel, inhuman or degrading treatment or punishment, pro-

longed detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, and other flagrant denial of the right to life, liberty, or the security of person.

(3) The term "significant process" in paragraph (3) means the implementation and faithful execution of measures that terminate the repressive practices identified in subparagraphs (A) through (F) of that paragraph.

Ms. PELOSI (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from California?

There was no objection.

The CHAIRMAN. Pursuant to the rule, the gentlewoman from California [Ms. PELOSI] will be recognized for 15 minutes and a Member opposed will be recognized for 15 minutes.

Mr. FRENZEL. Madam Chairman, may I be recognized in opposition?

The CHAIRMAN. The gentleman from Minnesota [Mr. FRENZEL] will be recognized for 15 minutes in opposition.

The Chair recognizes the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. I thank the Chairman.

Madam Chairman, earlier in the debate we saw the picture of the man before the tank, a true heir, a legitimate heir to Thomas Jefferson and the other Founding Fathers of our own Republic, a person who had a dream about democracy and he demonstrated his courage by being a lone man before the tank.

When that happened, we said in this House that we would stand with him. The Pease bill today gives us the opportunity to send a good message to the Chinese authorities. But I think the message can be a better one.

I appreciate the fine work of the Committee on Ways and Means, the leaderhip of the gentleman from Florida [Mr. GIBBONS], the leadership of the gentleman from Ohio [Mr. PEASE], and the leadership of the gentleman from Illinois [Mr. ROSTENKOWSKI], in shaping the Pease bill.

I believe it is their best effort in terms of human rights and trade. But I believe that this House of Representatives has a sentiment for a stronger message to be sent, one that I believe can attain the two-thirds.

There are a couple of ways to get legislation to be law; that is, one is it is signed by the President, and the other is that the two Houses of Congress override the President's veto.

However we proceed, I believe that we must stand up with the man beside the tank and send a reasonable message that gives us leverage in human rights and promotes democracy.

Madam Chairman, I am going to concentrate on my amendment because I have taken the time to speak generally about our policy with China and just address the specifics of my amendment.

Madam Chairman, it does not require a flashback to Tiananmen Square to know that in China today repression continues. Amnesty International, the human rights organization referred to by President Bush the other day for its accurate reporting of Iraqi atrocities in Kuwait, that very same organization reported on September 13 that over 600 people have been executed in China this year. Many of those were those who protested for democracy in Tiananmen Square.

The report states that human rights violations in China continue to be a major concern. Torture, unfair trials and execution after summary trials continue.

Since January 1990 there has been a dramatic rise in the number of executions in China. Some prisoners are executed only 2 weeks after their arrest.

Also, in September Asia Watch released this report detailing the continued imprisonment or execution of a thousand prisoners arrested for their involvement in political dissent.

On October 1, 1990, the Hong Kong Journal Chang Ming reported that 1,508 suspects were arrested on September 22, the opening day of the Asian Games.

Large numbers of security personnel were sent into Beijing University to report on student activities and 250 students were taken in.

Madam Chairman, it seems that everyone is aware that the Beijing regime continues to arresat, imprison, and kill people who dare to speak out for democracy.

I again want to reference a letter that I mentioned earlier in response to Mr. AUCOIN, the gentleman from the State of Washington, in talking about a State Department opinion on immigration. I do want to refer to why I think this amendment is necessary, because if we just leave it up to the administration, their view is that there is no well-founded fear of persecution in China on the basis of political opinion.

I would hope to be able to submit for the RECORD, without objection, the letter from the State Department stating that.

That is why I believe it is necessary for us to have this amendment, which says there is well-founded fear of persecution. We know that the people are imprisoned. Sadly, it appears that this House must once again send the important message that the systematic arrest, imprisonment, and murder of people who dare to speak out for freedom is taken seriously by the United States of America.

What my amendment would do would be to require the President to report that the Chinese Government has accounted for and released pro-democracy demonstrators before he can extend most-favored-nation status for another year.

□ 1500

It is a serious response to a serious situation. The amendment will take effect beginning next year. It would give the Chinese Government more than enough time to comply with its provisions. The amendment also sends the message to Beijing that the United States Congress stands firm when it comes to the safety of people who have spoken out for change.

Madam Chairman, I would like to also just refer to another reason why I believe this amendment is necessary. Anyone who has ever been a political prisoner or has any experience working with those who have been in prison as prisoners of conscience knows one of the most severe forms of torture that can be exacted upon them is when they are told that they are in prison for speaking out, but in the outside world no one knows they are there, and no one cares about them. It is a form of torture and imprisonment that goes beyond incarceration.

I believe that we know that Voice of America is covering this debate today, that it is important for those prisoners to know that, when we realize they spoke out for democracy, that they responded to our message on Voice of America, a prodemocracy message, that they were arrested for doing that, but that they had not been forgotten and that, in order to renew most-favored-nation status for China, it is necessary for China to release the political prisoners arrested in the aftermath of Tiananmen Square.

Madam Chairman, I reserve the balance of my time.

Mr. FRENZEL. Madam Chairman, I yield 3 minutes to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Madam Chairman, we all zealously support greater freedom for all Chinese people, particularly those who find themselves, unfortunately, within the boundaries of the People's Republic of China. That is beyond the question. The real question before us is how can we best proceed.

Working with all of the people who wanted that kind of freedom in the Committee on Ways and Means, and particularly under the leadership of the gentleman from Ohio [Mr. PEASE], we crafted a bill and worked in the crafting of that with the administration. We think we know pretty well what the President will accept, and he has told us what he will reject. He has told us that, if we toughen the bill that came from the Committee on Ways and Means, it will be rejected.

Many of the forces outside of Congress who are very interested in this

also support the bill of the Committee on Ways and Means. They do not want to have a Pyrrhic victory by having a real tough bill, but no action flow from it. They are afraid, as I am, that, if the bill is vetoed by the President, the leaders of China will feel that they have a license to carry out whatever they want to do with their people. I do not want to see that happen. I have seen it happen before when the Congress has tried to do things that were impossible.

Now bringing freedom in China is not impossible, but, when one talks of some of the lofty goals that we have here, realizing the realities of what is presently existing in China and what has always existed in China for the 6,000 years of its sometime very tragic history, our goals are just not attainable. If we isolate ourselves from China, there will be no input for freedom, there will be no one urging, and pushing and cajoling that we have greater freedom.

I am a participant. I want to get in there and participate. I have been doing that, and I will continue to do so.

Do not cut off the President's opportunity, the American Government's opportunity, by adopting something that will in effect say, "Oh, yes, you've got MFN for this year, but next year we're going to cut it all off," because the Americans will begin to withdraw. Support the committee bill, and reject the other amendment.

Ms. PELOSI. Madam Chairman, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Madam Chairman, I rise in strong support of the amendment offered by the gentlewoman from California [Ms. PELOIS]. And I want to commend her for her continuous outstanding leadership in calling attention to the atrocities in the People's Republic of China and Tibet.

H.R. 4939 calls for significant progress in ending gross violations of human rights by the Government of the People's Republic of China [PRC] in the PRC. It does not elaborate on what exactly is "significant progress" or "gross violations." The amendment offered by the gentleman from California would close that loophole and prevent business as usual.

The amendment would require that the President, first, before MFN is extended, submit to the Congress a report showing that the Government of the PRC has taken certain, specific actions regarding human rights in the PRC and occupied Tibet. I don't think that is too much to ask considering the dreadful reports of human rights violations coming out of both countries. In addition, we have a $6 billion trade deficit with the People's Republic of China. The leaders of the People's Republic of China are not exactly our allies either. According to recent reports only recently did they attempt a secret deal to sell Saddam Hussein a chemical that would have helped him to produce atom and hydrogen bombs, poison gas, and fuel for ballistic missiles. It is obviously more in their favor than ours to continue this unbalanced trade relationship.

Let me also say that it is makes little sense to say that MFN leads to economic liberalization of the People's Republic of China's economy. According to United States Government sources, the Wall Street Journal, the New York Times, Business Week, the Far Eastern Economic Review, and the Washington Post, authorities in Beijing have recentralized banking, credit, production planning, material allocation, foreign trade and other important elements in the economy.

To sum up. Why in the world do we want to continue giving a significant trade benefit to a country which enjoys a huge trade deficit with us, has recentralized its economy, slaughters its own people who have democratic aspirations, continues a policy of merciless repression in occupied Tibet, and attempts to make a secret deal with the butcher of Baghdad to assist him against our troops in Saudi Arabia?

I urge my colleagues to support the Pelosi amendment.

Mr. FRENZEL. Madam Chairman, I yield 1 minute to the distinguished gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Madam Chairman, for the gentleman from New York [Mr. GILMAN] I just want to repeat what I said in direct debate a little earlier.

Madam Chairman, there is no evidence collected by our Government at all that there has been any sale or transfer of the types of things that were reported in the Washington Post and in some British newpaper whose name I have forgotten. We have run down that rumor. Our Government at the highest level says it never happened, that the contact for sale took place, but the goods were never shipped and that the Chinese have been cooperating with us 100 percent on all of the sanctions that were put on to protect our people.

Mr. FRENZEL. Madam Chairman, I yield 3 minutes to the distinguished gentleman from Ohio [Mr. PEASE], the author of the bill.

Mr. PEASE. Madam Chairman, I rise in opposition to the Pelosi amendment. In so doing I would like to make it clear that my opposition comes despite my great admiration for the gentlewoman from California [Ms. PELOSI]. She has pursued her amendment with intelligence, with vigor, with sincerity, and I take nothing away from her at all.

However, Madam Chairman, I am forced to stand and oppose this amendment. I agree with the gentlewoman from California [Ms. PELOSI] that the human rights situation is deplorable. The heart of this debate is to figure out how to use United States influence to change that deplorable human rights situation in China.

Some people have suggested that H.R. 4939, as reported, is not strong enough, that it is somehow a weak, empty vessel. That is far from the truth. H.R. 4939 is unprecedented in the scope of human rights linkage which it establishes with U.S. trade policy.

Not until this debate on this bill in Congress have we seriously proposed weaving respect for basic human rights into the very fabric of extension of MFN status for any country. Even more, H.R. 4939, as it stands, establishes seven explicit human rights conditions which the Chinese Government must make significant progress between now and next summer on if they want to retain MFN status.

□ 1510

I would like to point out some problems with the Pelosi amendment. In the definitions section, the meaning of the words "insignificant progress" is spelled out in a way that makes it inflexible. In effect, "insignificant progress" is defined to mean that the Chinese Government by next June must terminate, each of the repressive practices cited in all of the human rights conditions spelled out by the bill. This does not provide the Chinese with any flexibility.

Additionally, the Pelosi amendment says citizens must be released, but it does not say how many citizens, whether it is 1 or 2, of 1,000 or 10,000.

Two respected human rights organizations that care a lot about human rights in China, Asia Watch and Human Rights Watch, have both urged that this bill be adopted without amendment.

There are two practical reasons why we must proceed with this bill without amendment, two practical reasons. One is we need a law. We do not need a bill, we need a law, and that requires the signature of the President. He has said if this bill is amended he will not sign the bill.

Second, we need to impose conditions on the Chinese which the Chinese can meet with reasonable efforts. Our object is not to cut off trade with China, our object is to use our trade leverage to influence China to improve its human rights situation. Cutting off trade does not achieve that end.

H.R. 4939 as introduced and reported by the committee does meet that end. I urge Members to support the bill itself, and to oppose the Pelosi amendment and other amendments.

Ms. PELOSI. Madam Chairman, I yield 2 minutes to the gentleman from California [Mr. Cox].

Mr. COX. Madam Chairman, I rise today in support of this amendment, which will put some teeth into this legislation and will put the United States once and for all firmly on the side of human rights.

We all know that our efforts at conciliation and appeasement with the PRC Government since the massacre last June have not worked. The prodemocracy leaders are still being hunted down, arrested, and tortured. In fact, the PRC Government has quite persistently sought to root out all vestiges of the prodemocracy government.

Amnesty International reported no significant improvement in human rights since August 1989. Amnesty International has also reported continued crackdowns on individuals involved in the uprising last June.

Since June 1989 we have witnessed the dissolution of Communist hegemony in the Eastern Bloc and significant cracks in the edifice of the greatest Communist power, the Soviet Union. Still, the winds of change have not reached Beijing. The Communist government there continues its ruthless assault on freedom and democracy.

The extension of MFN with virtually no conditions is supposed to give us leverage and influence. Obviously, it will give us neither. Our outreach program to the Chinese Government has not worked. Instead, let us send a message that America puts its money where its mouth is, and that is where the forces of freedom and democracy are.

Madam Chairman, this amendment gives to President Bush the tools he needs to make our China policy work. It gives the President the authority to make the necessary determinations that progress in human rights is being made. At best, extension of MFN without conditions will allow a few huge multinational companies to gain a few contracts in China. Real freedom, real democracy, and authentic free enterprise in the PRC will mean an open market for all and it will permit China to become a full member of the economic community of the world. That is worth waiting for. Let us support the Pelosi amendment.

Mr. FRENZEL. Madam Chairman, I yield myself 3½ minutes.

Madam Chairman, if you look at the Pelosi amendment as printed, you will note that it stiffens the conditions of the original Pease bill by demanding an accounting before MFN could be recommended to be extended, and by demanding an accounting of the citizens who were detained or accused. I do not know who has the list of how many citizens have been accused.

It demands that citizens be released who were imprisoned after detention or accusations. That is mandatory.

Then it says they have to make significant progress in reversing the pattern of gross violations of internationally recognized human rights. Again, we have a little trouble with that definition. The gentleman from Ohio [Mr. Pease] has had some trouble with it over the years.

Madam Chairman, I think we all have definitions of human rights. We have yet to have an international convention on it.

There are a number of other things that we are told that significant progress must be made on. However, then we define significant progress as the implementation and fruitful execution, which means that those are mandatory as well.

If Members believe in the Pelosi amendment, they should have voted for the motion to disapprove the President's request that it be extended for this year. If Members believe in putting pressure on the Chinese Government, they should support the Pease bill as it is written, and discard the Pelosi amendment.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the distinguished gentleman from Arkansas.

Mr. ALEXANDER. Madam Chairman, I thank the gentleman for yielding.

I spoke earlier to express my opportunity to the Solomon resolution to disapprove most-favored-nation treatment to China. I will not repeat the points that I stated earlier. I rise now in opposition to the Pelosi amendment and in support of the resolution to extend most-favored-nation treatment to China.

I would add to my remarks stated earlier that I traveled to the People's Republic of China on four separate occasions in the 1978 through 1980 era. During that time I helped organize a regional international trade center for my State to do business with China. We made substantial progress in trade during that period. It is tragic that the civil protest in Beijing that occurred last year resulted in repossession and carnage. All believers in democracy and in human rights and in freedom were repulsed by the brutality of the Chinese regime.

And, I understand the emotional support for the Pelosi amendment. It is the natural American response to a brutal government in suppressing human rights. But, politically, I think the President is correct in his policy of leaving the door open. We must deal with China over a longer period of time.

We Americans simply do not understand the Oriental minds. Mark Twain was right. East is East, and West is West, and the twain shall never meet. I do not pretend after only four visits over a 3-year period that I understand the Orientals, but I understand them more than Americans who have not visited China.

Madam Chairman, if we are to deal with China, we must recognize that it will inevitably become a regional power in Asia. We must recognize and deal with that power; give China time to develop its political ideology the same as it developed its economic ideology, and in time I believe that ideology will become more politically compatible with our ideals here in the United States and the Western World.

Ms. PELOSI. Madam Chairman, I yield myself such time as I may consume.

There is not enough time for me to respond point by point to the gentleman from Minnesota [Mr. FRENZEL], but I would like to say one thing absolutely, and that is there are definitions of human rights. There is the Universal Declaration of Human Rights, which celebrated its 40th anniversary a couple of years ago, in the United Nations. Then the Convention on Civil and Political Rights, and the Convention on Torture. So we are not talking about an ephemeral notion. We are talking about a definitive term.

Madam Chairman, I yield 1 minute to the gentleman from California [Mr. BATES].

Mr. BATES. Madam Chairman, I rise to support the Pelosi amendment and commend the gentlewoman from California for offering this amendment and for her strong words of support.

□ 1520

I want to associate myself with the gentlewoman's remarks.

I think this amendment is a matter of principle. I think it is clear that it is the human rights violations that we are standing up for, and I think there is no one else to stand up for those who suffered at Tiananmen Square.

I think we must support the Pelosi amendment. If not us, who? If not now, when?

Let us support this amendment now.

It was Rudyard Kipling who said East is East and West is West.

Mr. FRENZEL. Madam Chairman, I reserve the balance of my time.

Ms. PELOSI. Madam Chairman, I yield 1 minute to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Madam Chairman, I thank the gentlewoman for yielding the time. I have spoken enough on this issue, but let me point out that today is October 18. It is 18 days from election day, and God willing we will be home and maybe have 3 days to campaign after we get out of here.

But let me point out a practical dilemma. The tougher Solomon bill that passed earlier today will probably

work its way to the President 3 or 4 days from now, and we all know that bill will probably lie there as a pocket veto. That is why it is so imperative that we support right now the Pelosi amendment.

We have to play the good cop-bad cop routine. The President needs a tough bill before him so that he can say to the Chinese Government that he works so diplomatically well with that, the Congress is tough; they sent him a tough bill and they mean business. We must support the Pelosi amendment in order to send a tough bill to the White House, and I urge every Member on both sides of the aisle to do that.

I congratulate the gentlewoman on a wonderful amendment.

Ms. PELOSI. I thank the gentleman.

Mr. FRENZEL. Madam Chairman, I yield 1½ minutes to the distinguished gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Madam Chairman, I rise in support of the Pelosi amendment.

I have never been to China, but I have met a few bullies in my time, and the way to deal with a bully is from a position of strength.

The Chinese Government has been bullying its people, and the Pelosi amendment will put some meat into the Pease bill in terms of the definitions.

I have with me an itemization from Asis Watch of political prisoners in China that have been detained as a result of Tiananmen Square. There are a total of 646 named prisoners, a total of 1,342 unnamed prisoners that are still being held without trial, a total of 142 who have been brought to trial by name, and 406 have been brought to trial but not even named.

The Pelosi amendment would make this impossible to do. The Pelosi amendment also defines gross violations of human rights as including, but not limited to torture or cruel, inhuman or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, and other flagrant denial of the right to life, liberty, or the security of person.

The Pelosi amendment is a worthwhile, commonsense amendment and it should be adopted. I urge its adoption.

Mr. FRENZEL. Madam Chairman, I yield 1 minute to the distinguished gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Madam Chairman, before the gentleman leaves the well, I wanted to ask does he realize that Asia Watch supports the Pease bill unamended. The gentleman has been quoting Asia Watch here so freely, does he realize that it supports the Pease bill, the bill that came out of the committee?

I have a letter here, and does the gentleman understand? He made all of these statements about Asia Watch, and I am just asking does he understand that Asia Watch supports the Pease bill? His agreement is all based on Asia Watch material. Does the gentleman realize that Asia Watch supports the bill unamended?

Mr. BARTON of Texas. If the gentleman will yield, does the gentleman from Florida dispute these figures?

Mr. GIBBONS. No, but Asia Watch knows what they are doing. They support the bill unamended. They do not take the position the gentleman takes.

Mr. BARTON of Texas. The facts speak for themselves.

Mr. GIBBONS. The facts do speak for themselves, and Asia Watch does not support the gentleman's position.

Ms. PELOSI. Madam Chairman, before yielding to the gentleman from Illinois, I would like to address the last subject which was brought up by the chairman of the subcommittee.

The fact is that we all support the Pease bill, or many of us support the Pease bill unamended if that is the only option before us, and if these groups believe that there is no bill if there is an amendment, then they would agree and I would agree that we have to go forward with the Pease bill, unamended.

But I believe that there is a will in this House to do something more, and that we will get two-thirds for it, and as the gentleman from Texas [Mr. BARTON] said, the figures speak for themselves.

Madam Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. RUSSO].

Mr. RUSSO. Madam Chairman, the difference between the Pelosi amendment and what is contained in the Pease bill is very significant. In the Pelosi amendment the President must certify that conditions in her amendment are met in their totality before he can grant MFN status. In the Pease approach, the President must consider those conditions, but he can waive them and grant MFN regardless of whether or not those conditions are met. That is the difference.

If Members are concerned about making sure that the Chinese Government meets the conditions of the Pelosi amendment and the Pease amendment, then it is important that the President certify on the front end that they have met them.

Let me tell Members about my major criticism of my good friend from Ohio, who I have a great deal of respect for when it comes to trade matters. The definition of the words "significant progress" by the Government of the People's Republic of China in employing the following measures, what does significant progress mean? There are 10,000 political prisoners in Chinese jails. Does that mean if we only have 8,000 it is significant progress? I would consider a 20-percent reduction significant progress, but is it helping the 8,000 who are still in jail?

Does it mean that when you kill hundreds in Tiananmen Square, if you only kill 100, which is a 50-percent reduction, that that is significant progress? Or if we have 1,000 tanks in Tiananmen Square, but now we only have 500 tanks in Tiananmen Square, is that significant progress?

It could be, and the President can say they made significant progress, however, and he can waive it anyway.

Let us look at this picture. Let me tell Members my definition of significant progress. There are four tanks ready to run over this one Chinese student. Let us run two tanks over him, and that certainly is significant progress. He still is as dead as anybody can be if the first tank runs over him.

It is a setup to make us the scapegoat, and I do not think we want to do that, and I hope my colleagues will support the Pelosi amendment.

Mr. FRENZEL. Mr. Chairman, I yield myself my remaining 1 minute to close the debate.

Madam Chairman, I need to say once again that the gentleman from Ohio's bill provides for maximum pressure to be put on the Chinese Government to make the kinds of changes that all the Members of this House would like to have made.

The amendment of the gentlewoman from California, on the other hand, makes it absolutely mandatory that the Chinese must achieve 100 percent of everything that we would desire of them. If they do not, as seems likely, because they, and me, are human, the President is not allowed to declare most-favored-nation status or to recommend an extension.

Obviously if we want to put some pressure on the People's Republic of China, we should reject the gentlewoman's amendment and support the Pease bill.

A final point, and it is one that the distinguished chairman of the Trade Subcommittee has already made, which is that although China has been guilty of abhorrent conduct, it should not be accused of doing that which it has not done. The People's Republic of China has supported us in the Persian Gulf, and it has faithfully carried out its promises with respect to the embargo and with respect to the U.N. resolution.

Mr. ROSE. Mr. Chairman, I rise in support of this amendment. Although I commend the members of the Ways and Means Committee for their work on legislation to place conditions on the renewal of most-favored-nation

status for the People's Republic of China, I remind my colleagues that beginning in 1987 the United States Congress has requested, on many occasions, that the administration pressure the Chinese on several human rights issues, particularly in regards to the Chinese occupation of Tibet. Even after the Chinese forces in Tibet had gunned down unarmed Tibetan independence demonstrators in at least six instances during 1987, 1988, and 1989, the administration's response has been muted and overly subservient to saving the faces of ruthless tyrants in Beijing.

The administration was, and has consistently been, reluctant to enforce modest sanctions against the Government of the People's Republic of China even when Congress called for punitive actions against the Chinese for their 1987 and 1988 massacres in Tibet. I say to my colleagues today that if the administration had been more aggressive in pushing a human rights agenda with the People's Republic of China, we may not have witnessed the horrible tragedy that occurred in Tiananmen Square.

Recent history tells us that unless we are very specific about a human rights policy toward China, the administration will kowtow. We need a human rights policy toward China, much like our reasonably successful approach to the Soviet Union and Eastern Europe. This amendment provides a conscientious blueprint for a substantive human rights policy toward the People's Republic of China.

□ 1530

AMENDMENT OFFERED BY MR. WOLF TO THE AMENDMENT OFFERED BY MS. PELOSI

Mr. WOLF. Madam Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. WOLF to the amendment offered by Ms. PELOSI: At the end of section 1(a) add the following:

( ) Make significant progress toward ending religious persecution in the People's Republic of China and Tibet, and progress toward the release of the leaders and members of all religious groups detained, incarcerated or under house arrest for the expression of their religious beliefs.

The CHAIRMAN. Pursuant to the rule, the gentleman from Virginia [Mr. WOLF] will be recognized for 7½ minutes, and a Member opposed will be recognized for 7½ minutes.

The Chair recognizes the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Madam Chairman, I yield 2 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Madam Chairman, I rise in support of this amendment and I thank Mr. WOLF for bringing this important matter to the floor of the House of Representatives. Here in the United States we often take for granted our freedom to worship as we choose. The citizens of the People's Republic of China have no such luxury. Despite an offical Government policy of religious toleration, repression of religious freedom has grown along side the crackdown on political dissent.

Article 18 of the U.N. Universal Declaration of Human Rights states that freedom of conscience and religion are fundamental human rights. In spite of the fact that China plays an important role in that body, they have shown nothing but disdain for the ideals that it espouses. Christians in China and Buddists in Tibet are constantly harassed, jailed, and persecuted for practicing their religious beliefs, and the situation is only getting worse.

We in the United States must press for the release of all prisoners of conscience, those being held for their religious beliefs as well as those held for their political beliefs. We must support the rights of all people to express their beliefs without fear. It is time for this body to take a firm stand against religious repression and for human rights in China. I urge my colleagues to support this amendment.

The President may veto this bill with these amendments. If the President cannot hear the people of the United States, the People's Republic of China must hear us speak.

Mr. GIBBONS. Madam Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Florida [Mr. GIBBONS] will be recognized in opposition for 7½ minutes.

Mr. GIBBONS. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I certainly will not use 7½ minutes myself.

Madam Chairman, I would pain me if I thought I was here opposing freedom of religion. I cherish it and honor it as anybody does. I wish every country on Earth had the kind of freedom of religion we have in this country, the same type of freedom, but, Madam Chairman, I do not know of any nation on Earth that enjoys the kind of freedom of religion that we have here or the kind of freedom of religion that the gentleman from Virginia would seek to have the Chinese adopt.

If we stop and think about it, even our closest friend, the United Kingdom, does not have freedom of religion. We have strong allies, and allies that we are very loyal to, who have no freedom of religion. I do not see how we can ask people who have never experienced freedom of religion in their 6,000 years of history to come as far as the United States has come, particularly within 6 months from now, when we must take this subject up again.

It is completely unrealistic to think that the Chinese can so reform their chaotic system that within 6 months they can come up with complete freedom of religion as we have in the United States.

As I say, I do not know of any other nation on Earth including our best friends that has the kind of freedom of religion that this amendment seeks to impose upon the Chinese.

I do not know what the gentleman from Virginia [Mr. WOLF] intends to do. I have heard him claim credit for having liberated those 25 million Romanians. I do not think that is true. I think those people were oppressed, and they knew they were oppressed for some 40 years under different tyrants not of their choosing, and they murdered the man who was the tyrant. They had every right to do so, because of his tyrannical behavior.

But it is completely unrealistic, beyond every pale of imagination, to think that the kind of freedom of religion that Americans enjoy can be enjoyed by the Chinese in 6 months. Our closest friends, our closest allies, people that we give billions of dollars to every year in the form of foreign aid, do not even have the kind of freedom of religion that he advocates. I think it is just an attempt to make this bill so unworkable that we will cut off all contact with China and condemn one-fifth of the people of the Earth to no hope.

We are the only people, we in the United States of America, of all the people in the West, are the only people who go to China and try to work with them and talk and try to get better human rights. All the other people are there to exploit the economic opportunity. We are there to build and to build good, sound government and good, sound practices and to build freedom.

Let us not cut it off in our zeal, no matter how well-intended, but misdirected it is, to try to impose these kinds of requirements on a government that is perfectly incapable of carrying it out.

Mr. WOLF. Madam Chairman, I yield 1 minute to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Madam Chairman, although I have the greatest respect for the gentleman from Florida, I really take exception when he says that the gentleman from Virginia had nothing to do with securing religious freedom for the people in Romania. I do not think there is any Member of this House or the other House who had any more to do with that than did Mr. WOLF. I certainly take my hat off to the gentleman. His amendment to the Pelosi amendment simply says, "Make significant progress toward ending religious persecution of those people who are under house arrest for the expression of their religious beliefs."

American foreign policy encourages self-determination for all people and human rights for all people, including respect for their religious beliefs; that is why we should support this amendment.

It should be noncontroversial and made a part of the Pelosi amendment.

Mr. GIBBONS. Madam Chairman, I yield myself 30 seconds.

Madam Chairman, I know the gentleman from New York is sincere in his belief, but we would have to break off our relations with the United Kingdom and with Israel and with all other people that I can think of if we imposed on them the same kind of thing that the gentleman and the gentleman from Virginia [Mr. WOLF] want to impose upon the Chinese. It is just ridiculous.

Madam Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Madam Chairman, I thank the gentleman for yielding me this time.

Madam Chairman, I do need to point out that standing alone the Wolf amendment would direct that if we had made some progress, the President could certify a recommendation.

However, as an amendment to the Pelosi amendment, it suffers from the same definitional problems that the Pelosi amendment suffers from, and that is that the term "significant progress" means the "implementation and faithful execution of measures" that terminate these repressive practices. That means that if you can find one person among the more than 1 billion Chinese, who alleges that he or she has been a victim of religious persecution, the President could not sign off.

It is that excess of enthusiasm that makes the provision ultimately unworkable and, of course, makes the Pelosi amendment also unworkable.

Ms. PELOSI. Madam Chairman, will the gentleman yield?

Mr. FRENZEL. Madam Chairman, I only have a short amount of time, but I would be glad and will yield to the gentlewoman from California [Ms. PELOSI] if she could be laconic.

Ms. PELOSI. Madam Chairman, I just want the gentleman to say, in all fairness to the gentleman from Virginia [Mr. WOLF], that there are two different criteria on freedom of prisoners, yes, that is not significant progress, but on religion, it is his exact language attached to the Pelosi amendment, so it is to make significant progress, and it is not an absolute. It is just to move in the direction that would lead to a termination of imprisonment. We are talking about people who are imprisoned on the basis of their religious belief, so, please, do not paint him with the same brush as you paint me.

□ 1540

Mr. FRENZEL. Madam Chairman, I must say that I am not now, nor ever have been, a lawyer. However, I do know something about legislative law, and the fact that this is an addition to the Pelosi amendment means that it is going to be in the same section. The definition of "significant progress' is going to be the same as Pelosi. Therefore the Wolf amendment is flawed in the same way that the Pelosi amendment is flawed.

Mr. WOLF. Madam Chairman, I yield 1 minute to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Madam Chairman, first let me offer my apologies to the distinguished gentleman from Florida [Mr. GIBBONS] if he feels that I impugned him in any way. I do apologize for that.

I rise in support of the Wolf amendment. I think that it is a needed addition to the Pelosi amendment. It does require that significant progress be made toward religious freedoms and prisoners in China and Tibetans.

I would quote again from the Asian Watch figures that have been made available to me, that there are 55 names, Catholics and Protestants still being held without trial; 87 that are being held without trial that are not named. There are a total of 10 Tibetans being held without trial that we know who they are, and 61 that are being held without trial that we do not know who they are.

I think the Wolf amendment would help alleviate this situation.

Mr. WOLF. Madam Chairman, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Madam Chairman, I thank the gentleman for yielding time to me and for his amendment.

As the author of the Pelosi amendment, I am pleased to accept the Wolf amendment to the Pelosi amendment, and again point out that in his language we are not talking about absolute religious freedom in China being a condition for renewal of MFN, but those incarcerated for their religious beliefs be released.

Also, it addresses the fact that there is religious persecution in China. The Dalai Lama himself has said when Iraq went into Kuwait, and the world made a big fuss, but when China went to Tibet, and in the course of being there has persecuted Tibetans for their religion, no one seems to be making noise about that.

We are here today with the Wolf amendment, the persecution of Catholics, the persecution of Tibetans, for the expression of their religious belief.

I thank the gentleman for his constructive amendment, and also wish to thank the gentleman from California [Mr. COX], the gentleman from New York [Mr. GILMAN], the gentleman from Illinois [Mr. RUSSO], the gentleman from Texas [Mr. BARTON], and the gentleman from New York [Mr. SOLOMON] for their support of the Pelosi amendment.

Mr. WOLF. Madam Chairman, I yield myself the remaining 2½ minutes.

Madam Chairman, in the past 2 years the Government of China has significantly increased its persecution of Catholics, Protestants, and Buddhists in that country. Despite the lifting of some restrictions in the mid-1970's, the Government in Beijing seems intent on persecuting people for their faith. It is presently estimated that there are 400 to 500 religious prisoners in China, among them Catholic and Buddhist priests, Catholic nuns as well as Protestant house church leaders and church members. Some estimate that the total number of religious prisoners may exceed 1,000.

Torture of these and other prisoners of conscience is common. Prisoners are often beaten, sometimes severely. Sometimes they are shocked with electric batons, or suspended by the arms for long periods of time. Some die as a result. Two such victims were a Protestant minister and his daughter who both died last December as the result of torture.

The Catholic community in China seems to have been singled out for particular persecution by Chinese authorities. Because many of them refuse to sever their ties with the Vatican, they are accused of collaborating with foreigners against the Government. Over 50 Catholic priests, bishops and lay people are known to be in prison; literally hundreds more are suspected to be in jail or under house arrest.

In addition to Catholics, the Buddhist community in Tibet has been the target of vicious government attacks. In one incident last year, over 450 people were murdered while demonstrating for their political and religious liberty in Lhasa, Tibet. In addition, the Chinese Government has placed restrictions on the number of Buddhist priests who can be trained and serve in that country.

Protestants are being persecuted as well. Just this July, the largest house church in Canton of over 1,000 people was shut down. Its leaders have been detained and harassed, and no promises have been made regarding the reopening of this church. Several well known evangelists and ministers have been arrested and, as I mentioned earlier, one died along with his daughter in prison. In the latest report we have received, 23 house church evangelists were arrested in the northern Shanxi province in early September.

Madam Chairman, how long will it take us to learn that unconditionally granting most-favored-nation status does not help improve human rights conditions, it simply legitimizes those who are in power. Romania is a perfect example of this. For years I and several of my colleagues fought the Reagan administration by opposing its position that Nicholas Ceausescu's government in Romania should be

given MFN. "If we give them MFN," the argument went, "they will improve."

We all know that did not happen. The Romanian Government did not improve its behavior while getting MFN. It oppressed, used and murdered its people just as it had always done, while the United States Government turned a blind eye to Ceausescu's atrocities, and turned a deaf ear to the cries of the Romanian people.

Madam Chairman, we cannot allow this to happen again! We cannot allow the Chinese Government in Beijing to oppress, arrest and murder its people and still conduct "business as usual" with the United States. The American people expect more, and the Chinese people expect more of us than that. We must send a strong signal to the government to the People's Republic of China that they must improve their treatment of their own citizens—including the defense of their religious liberties—if they want to have most-favored-nation trading status with the United States.

To address this issue, my amendment to H.R. 4939 states that the Chinese Government must make:

• • • significant progress toward ending religious persecution in China and Tibet and progress toward the release of the leaders and members of all religious groups detained, incarcerated or under house arrest for the expression of their religious beliefs.

Madam Chairman, this is one of the most important human rights issues we will vote on in this Congress. I urge a unanimous vote for this amendment to help defend the religious liberty of the Chinese people.

Send a message to the Chinese Government that religious persecution will not be tolerated. Send a message to the Chinese people that the United States House of Representatives respects their human dignity and their right to religious freedom.

Madam Chairman, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Madam Chairman, I think this amendment is extremely important, and I urge my colleagues to support it.

Mr. GIBBONS. Madam Chairman, I yield myself the remaining 30 seconds to say that this is not a debate over freedom of religion but a debate over whether or not the President can certify that a number of very stringent conditions have been met, so that he can resubmit to this Congress, if he chooses, a waiver of the horrible Smoot-Hawley tariffs. That is all it is.

I will agree with everything these people have said. I am for freedom of religion. I do not know any person in the Chamber that is not for freedom of religion. The question is, will we, at the end of all this, still have a right to be in China, asking for free religion, asking for all of those things, or will we just be on the outside?

Mr. GILMAN. Madam Chairman, I rise in support of the Wolf amendment to H.R. 4939, regarding religious persecution in China.

H.R. 4939 calls for significant progress by the People's Republic of China in reversing gross human rights violations in the People's Republic of China and Tibet. Unfortunately, the bill does not set verifiable targets nor elaborate on what exactly significant progress is. In addition, it does not specifically mention religious rights as one of those areas it must make so-called significant progress in. The Wolf amendment adds this neglected and key human right. However, the legislation still lacks teeth.

Amnesty International, Asia Watch and many other human rights groups paint a very grim picture of freedom of religion in China. The Puebla Institute has documented the cases of 63 Christian leaders currently deprived of liberties. The institute points out in its June 1990 special report on "Religious Repression in the People's Republic of China: Persecution of Catholics and Protestants" that,

The "crimes" with which these Catholics have been charged are in many cases unclear, but they tend to involve defiance of or opposition to PCA (Patriotic Catholic Association) policies, including ordaining priests, maintaining contact with the Vatican, or simply associating with clergy known to be in contact with the Vatican. Such activities, viewed as "counter-revolutionary crimes," are often punished by reform through labor.

One "counter-revolutionary" priest, Bishop Paul Liu Shube (No. 4), was convicted for possession of two illegal sermons and for owning a typewriter. Fr. Zhu Baoyu (No. 17) is serving a 10-year term after taking Catholics on a pilgrimage to Sheshan, near Shanghai. Fr. Joseph Jin Dezhen (No. 24), a priest who objected to birth control and abortion was sentenced to 15 years, and Fr. Zhang Shentang (No. 16), a priest who printed religious literature without government authorization, received a 17-year sentence. The study also points out that since 1988. "There has been a renewed purge against Protestant activities". One example is Mai Furen who is in his late 70's. He "is one of three Protestant church leaders arrested in 1983 on charges of having illegal connections overseas; belonging to the shouters, a Protestant evangelical group; and distributing Bibles. Brought to trial in January 1986 and sentenced to 12 years' imprisonment he is now detained in a labor camp.

Madam Chairman, the religious persecution of Tibetans in occupied Tibet is well documented and is the subject of many reports, so I won't go into it here. But I would just say that Asia Watch describes the Chinese action there as merciless repression.

I urge adoption of the Wolf amendment.

Mr. ROSE. Madam Chairman, I rise in support of this amendment. Several respected human rights organizations have laboriously cataloged the Chinese Government's institutionalized system of religious persecution. Ending Chinese religious persecution is essential to any resolution of the tragic human rights situation in Tibet, a country of devout Buddhists. Before the Chinese invasion of Tibet in 1949 and the Red Army's wild destruction of Tibet's religious institutions, almost 25 percent of the Tibetan people chose to lead ascetic and nonviolent lifestyles as Buddhist monks and nuns. Today, monasteries that schooled tens of thousands of Tibetans before 1949, are now limited by the Chinese Government to only a few hundred students.

The International Campaign for Tibet recently published a report in which Tibetan refugees speak of China's continued, systematic destruction of the Buddhist religion and culture in Tibet. The Chinese Government has destroyed thousands of Tibetan temples and monasteries and to this day, strictly controls the membership, teachings and administration of Tibet's few remaining religious institutions. According to Amnesty International and Asia Watch, the expulsion, arrest, torture, and murder of Tibet monks and nuns at the hands of the Chinese is commonplace.

In order to fight China's persecution of all religious groups and its acts of cultural genocide, the United States must make the issue of religious freedom a part of its policy toward the People's Republic of China. I urge my colleagues to support the Wolf amendment.

Mr. SMITH of New Jersey. Madam Chairman, I rise in strong support of the amendment being offered by my friend, Congressman FRANK WOLF. The gentleman from Virginia [Mr. WOLF] has been a consistent champion for the protection of fundamental human rights around the globe and he has been a leader in the Congress in highlighting the cases of individuals who are incarcerated for the expression of their religious beliefs.

The amendment before us is an excellent one, highlighting the severe restrictions which are inflicted on the religious community in China and Tibet—the Catholic and Protestant Christian communities, the Tibetan Buddhists and the Muslims. Among the fundamental human rights which are inalienable, I believe the right to freedom of religious practice and the expression of one's spiritual faith is—after life itself—paramount.

Madam Chairman, Chinese and Tibetan religious adherents are incarcerated because of their religious activities and expression of their faith. In the closed Chinese society, with its secret judicial and penal systems, exact numbers of those currently in prison are elusive. We do have evidence that about 50 Catholic leaders are currently in prison or are under house arrest in China for the expression of their religious beliefs. Catholics who maintain their allegiance with the Vatican are particularly vulnerable to the whims of the Chinese Communist authorities because of restrictions against contacts with foreign entities.

We have confirmation that, in recent years, approximately 410 Protestant believers have been arrested or detained. In some cases, believers who are imprisoned or under house arrest have requested that their names not be published. In 1989 alone, the number of arrests exploded to 350, and 37 have been arrested in this year. Many remain incarcerated. As noted by a church leader based in Hong Kong whose identity must not be disclosed, "in the case of house-church Christians, the vast majority are apolitical, and willing to obey the State where it does not conflict with God's

ultimate laws." Although the official Bureau of Religious Affairs denies that a systematic crackdown on house churches is underway, in a mere 12 months, as many as 89 house churches and meeting places have been closed by public security officers and other Communist authorities.

It is clear that the regime in Communist China has had a systematic policy of repression for unregistered churches, both Catholic and Protestant. As mentioned earlier in the debate, an October 9, 1990, report by News Network International [NII] exposes an official document which verifies "that implementation of a more repressive religious policy is not merely the whim of local Maoist cadres [which is a favorite excuse used by Chinese authorities and apologists], but is being officially sanctioned." Wang Hongkui, head of the official Religious Affairs Bureau in Shanghai, calls on Communist Party officials to "divide and smash" those religious leaders who refuse to submit to control by the party, including the "underground" Catholics who maintain their allegiance to the Vatican.

Clearly, Wang and the Communist Party officials are struggling to control the effectiveness of the Christian community. This document, emanating from the Religious Affairs Bureau, outlines the directives to deal with house church leaders and their congregations through political indoctrination and harassment. The document draws the link between the officially sanctioned Protestant Three-Self Patriotic Movement and the Catholic Patriotic Association, and the expectation—the mandate—by the Communist Party that these entities further the Party's policies.

Madam Chairman, NNI reports of the arrest in recent months of several dozen loyalist Catholic bishops, priests and laymen throughout northern China and in the Fujian Province in July. In correspondence from Christians in the provinces of Henan, Anhui, Fujian, and Shanghai in the east, to Gansu in the interior, to Yunnan in the south the accounts are similar, describing an increase in house searches, confiscation of bibles and other Christian literature, arrests and imprisonment. There is a declared policy among party and state organs that the churches and house churches must be subject to tighter control. These reports corroborate with independent reports from several human rights monitoring organizations.

According to the report submitted in September 1990 by the International Campaign for Tibet, following the autumn 1987 political and cultural demonstrations in Lhasa, Tibet, the overall conditions in the monasteries around Lhasa have been abysmal and conditions in many others have worsened. In March of this year, Chinese troops surrounded all the major monasteries and the movement of the resident monks and pilgrims alike were closely monitored. Again, the Communist Party has orchestrated a system whereby Buddhist monks and nuns are forced to attend political reeducation sessions. It is estimated that as many as half of monks have left their monasteries since 1987 through expulsion, escape to India and imprisonment. The hundreds of monks and nuns who have been imprisoned for extended periods of time since 1987 have endured various gruesome forms of physical torture.

Madam Chairman, the restrictions which have been placed on religious leaders, adherents and their churches, the arrests of believers and the spate of house church closings must be protested. I urge my colleagues to support this amendment which will help focus attention on the recent increased repression of religious believers. To quote from the U.S. statement on religious intolerance at the U.N. Human Rights Commission, a person's right to pursue the profound and timeless questions revolving around the true meaning of life or other matters of a transcendent nature cannot be denied, abridged or vacated by governments. We have an obligation to stand firm in support of this paramount basic human right, the right to freedom of religious expression.

RELIGIOUS PRISONERS OF CONSCIENCE IN THE PEOPLES REPUBLIC OF CHINA

The following individuals are imprisoned, detained, or are under house arrest.

PERSECUTED CATHOLICS

1. Bishop Joseph Fan Xueyin, Hebei Province
2. Bishop Casimir Wang Milu, Gansu Province
3. Bishop John Yang Shudao, Fujian Province
4. Bishop Paul Liu Shuhe, Hebei Province
5. Bishop Julius Jai Zhiguo, Hebei Province
6. Bishop Peter Liu Guandong, Hebei Province
7. Bishop Joseph Li Side, Tianjin Province
8. Bishop Guo Wenzhi, Heilongjiang Province
9. Bishop Phiiip Yang Lipo, Gansu Province
10. Bishop Mathias Lu Zhensheng, Gansu Province
11. Bishop Paul Li Zhenrong, Hebei Province
12. Bishop Bartholemew Yu Chengdi, Shaanxi Province
13. Bishop Jiang Liren, Hohhot Province
14. Father Philip Wang Ziyang, Shandong Province
15. Father Li Fangchun, Henan Province
16. Father Zhang Shentang, Henan Province
17. Father Zhu Baoyu, Henan Province
18. Father Huo Binzhang, Hebei Province
19. Father Gabriel Chen Tianziang, Shanghai Province
20. Father Laio Haiqing, Jiangxi Province
21. Father Vincent Zhu Hongsheng, Shanghai Province
22. Father Joseph Chen Yuntang
23. Father Fu Hezhou
24. Father Joseph Jin Dezhen, Henan Province
25. Father Joseph Guo Fude, Shandong Province
26. Father Wang Yiqi, Fujian Province
27. Father Gao Yihua, Fujian Province
28. Father Feng Yongbing, Fujian Province
29. Father Pei Ronggui, Hebei Province
30. Father Xiao Shixiang
31. Father Pei Zhenping, Hebei Province
32. Father Shi Wande, Hebei Province
33. Father Anthony Zhang Kangyi, Xian Province
34. Father Xu Zhemin, Hebei Province
35. Father Wang Ruowang, Gansu Province
36. Father Wang Ruohan, Gansu Province
37. Father Yu Chengxin, Shaanxi Province
38. Father Zhang Xiaocheng, Gansu Province
39. Father Sun Ximan
40. Father Wei Jingyi, Heilongjiang Province
41. Father Pei Guojun, Hebei Province
42. Wang Jinjing, Fujian Province
43. Chen Youping, Fujian Province
44. Lin Shanming, Fujian Province
45. Lin Wenming, Fujian Province
46. Pei Jieshu, Hebei Province
47. Pei Shangchen, Hebei Province
48. Wang Tongshang, Hebei Province
49. Wang Tianzhang, Gansu Province
50. Li Yongfu, Tianjin Province

PERSECUTED PROTESTANTS

1. Liu Quinglin, Eastern Inner Mongolia
2. Mai Furen, Guangdon Province
3. Sun Ludian, Guangdon Province
4. Xu Yongze, Henan Province
5. Song Yude, Henan Province
6. Xu Guoxing, Shanghai
7. Mr. Wang, Lushan County
8. Mr. Zhang, Lushan County
9. Mr. Qin, Lushan County
10. Mr. Cui, Lushan County
11. Mr. Xue, Lushan County
12. Mr. Wang, Lushan County
13. Mr. Geng, Lushan County
14. Pei Zhongxum, Shanghai
15. Yang Rongfu, Anhui Province
16. Pastor Lin Xiangao.

At least 410 other arrests and detentions have been documented, and there is concern that many others have been arrested because of their religious convictions. Many remain incarcerated. In some cases, believers have requested that their names not be made public, fearing that this information could further endanger them or their families.

Source: Special Report on Religious Repression in the People's Republic of China published by the Puebla Institute, June 1990.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. WOLF] to the amendment offered by the gentlewoman from California [Ms. PELOSI].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California [Ms. PELOSI], as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Ms. PELOSI. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 347, noes 74, not voting 12, as follows:

[Roll No. 484]

AYES—347

Ackerman	Beilenson	Bosco
Anderson	Bennett	Boucher
Andrews	Bentley	Boxer
Annunzio	Bereuter	Browder
Anthony	Berman	Brown (CA)
Applegate	Bevill	Brown (CO)
Armey	Bilbray	Bruce
Atkins	Bilirakis	Bryant
Ballenger	Bliley	Buechner
Barnard	Boehlert	Bunning
Bartlett	Boggs	Burton
Barton	Bonior	Bustamante
Bates	Borski	Byron

Campbell (CO)	Hochbrueckner	Parker
Cardin	Holloway	Parris
Carper	Hopkins	Patterson
Carr	Horton	Paxon
Chandler	Hoyer	Payne (NJ)
Chapman	Hubbard	Pelosi
Clarke	Huckaby	Penny
Clay	Hughes	Perkins
Clinger	Hunter	Pickle
Coble	Hutto	Porter
Coleman (MO)	Hyde	Poshard
Coleman (TX)	Inhofe	Price
Collins	Ireland	Rahall
Condit	James	Rangel
Conte	Jenkins	Ravenel
Conyers	Jones (GA)	Ray
Costello	Jones (NC)	Regula
Coughlin	Jontz	Rhodes
Courter	Kanjorski	Richardson
Cox	Kaptur	Ridge
Coyne	Kasich	Rinaldo
Craig	Kennedy	Ritter
Dannemeyer	Kennelly	Roberts
Darden	Kildee	Rogers
Davis	Kleczka	Rohrabacher
de la Garza	Kolter	Ros-Lehtinen
DeLay	Kostmayer	Rose
Dellums	Kyl	Roth
Derrick	Lagomarsino	Roukema
DeWine	Lancaster	Rowland (GA)
Dickinson	Lantos	Roybal
Dicks	Laughlin	Russo
Dingell	Leach (IA)	Sabo
Dixon	Leath (TX)	Saiki
Donnelly	Lehman (CA)	Sangmeister
Dorgan (ND)	Lent	Sarpalius
Dornan (CA)	Levin (MI)	Savage
Douglas	Levine (CA)	Sawyer
Downey	Lewis (FL)	Saxton
Duncan	Lewis (GA)	Schaefer
Durbin	Lightfoot	Scheuer
Dwyer	Lipinski	Schiff
Dymally	Lloyd	Schneider
Dyson	Long	Schroeder
Early	Lowey (NY)	Schulze
Eckart	Machtley	Schumer
Edwards (CA)	Manton	Sharp
Edwards (OK)	Markey	Shaw
Emerson	Martin (NY)	Shays
Engel	Martinez	Shumway
English	Mavroules	Shuster
Erdreich	Mazzoli	Sikorski
Espy	McCandless	Sisisky
Evans	McCloskey	Skaggs
Fascell	McCollum	Skeen
Fawell	McCurdy	Skelton
Fazio	McDade	Slattery
Feighan	McDermott	Slaughter (NY)
Fish	McEwen	Slaughter (VA)
Flake	McGrath	Smith (FL)
Flippo	McHugh	Smith (NJ)
Foglietta	McMillan (NC)	Smith (TX)
Ford (MI)	McMillen (MD)	Smith, Denny (OR)
Frank	McNulty	Smith, Robert (NH)
Frost	Meyers	Smith, Robert (OR)
Gallegly	Mfume	Snowe
Gallo	Miller (CA)	Solomon
Gaydos	Miller (OH)	Spence
Gejdenson	Miller (WA)	Spratt
Geren	Mineta	Staggers
Gilman	Mink	Stallings
Gingrich	Moakley	Stangeland
Glickman	Molinari	Stark
Gonzalez	Mollohan	Stearns
Goodling	Montgomery	Stenholm
Gordon	Moody	Stokes
Grant	Moorhead	Studds
Gray	Morella	Sundquist
Green	Morrison (WA)	Swift
Guarini	Mrazek	Synar
Gunderson	Murtha	Tallon
Hall (OH)	Nagle	Tanner
Hancock	Natcher	Tauke
Hansen	Neal (MA)	Tauzin
Harris	Neal (NC)	Taylor
Hatcher	Nelson	Thomas (CA)
Hawkins	Nowak	Thomas (GA)
Hayes (IL)	Oakar	Towns
Hayes (LA)	Oberstar	Traficant
Hefley	Obey	Traxler
Hefner	Ortiz	Udall
Henry	Owens (NY)	Unsoeld
Herger	Owens (UT)	Upton
Hertel	Packard	Valentine
Hiler	Pallone	Vento
Hoagland	Panetta	Volkmer
		Vucanovich
		Walgren
		Walker
		Walsh
		Washington
		Watkins
		Waxman
		Weber
		Weiss
		Weldon
		Wheat
		Whittaker
		Whitten
		Williams
		Wise
		Wolf
		Wolpe
		Yates
		Yatron
		Young (FL)

NOES—74

Alexander	Hamilton	Olin
Archer	Hammerschmidt	Oxley
Aspin	Hastert	Pashayan
AuCoin	Houghton	Payne (VA)
Baker	Jacobs	Pease
Bateman	Johnson (CT)	Petri
Broomfield	Johnson (SD)	Pickett
Callahan	Johnston	Pursell
Campbell (CA)	Kastenmeier	Quillen
Clement	Kolbe	Robinson
Combest	LaFalce	Roe
Cooper	Lehman (FL)	Rostenkowski
Crane	Lewis (CA)	Sensenbrenner
Crockett	Livingston	Smith (IA)
DeFazio	Lowery (CA)	Smith (NE)
Dreier	Luken, Thomas	Solarz
Fields	Lukens, Donald	Stump
Frenzel	Madigan	Thomas (WY)
Gekas	Marlenee	Torres
Gibbons	Matsui	Vander Jagt
Gillmor	McCrery	Visclosky
Goss	Michel	Wyden
Gradison	Murphy	Wylie
Grandy	Myers	Young (AK)
Hall (TX)	Nielson	

NOT VOTING—12

Brennan	Martin (IL)	Serrano
Brooks	Morrison (CT)	Smith (VT)
Ford (TN)	Rowland (CT)	Torricelli
Gephardt	Schuette	Wilson

□ 1608

Mr. NIELSON of Utah changed his vote from "aye" to "no."

Messrs. PACKARD, SMITH of Texas, ROWLAND of Georgia, HYDE, CLINGER, and HOLLOWAY changed their vote from "no" to "aye."

So the amendment, as amended was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. UDALL. Madam Chairman, today during the vote on final passage on H.R. 4939, conditional most-favored-nation trade status for China in 1991, I was unavoidably detained due to committee business in my office. Had I been present, I would have spoken in favor of and indeed supported final passage of this legislation.

□ 1610

PARLIAMENTARY INQUIRY

Mr. GIBBONS. Madam Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GIBBONS. Madam Chairman, at the request of many, many Members, and in order to speed this up, may I ask unanimous consent that the next two amendments be considered en bloc and that the time for debate be limited to 10 minutes on each side? Is that all right?

Madam Chairman, we do not consider these amendments controversial. I can read the score on the scoreboard up there.

The CHAIRMAN. The gentleman from Florida [Mr. GIBBONS] can only ask unanimous consent in Committee of the Whole that one amendment when offered be modified to include the other.

Mr. GIBBONS. Then, Madam Chairman, I will do it that way.

The CHAIRMAN. Once it is offered.

Once the amendment is offered, the gentleman from Florida [Mr. GIBBONS] can ask unanimous consent that the other amendment be included as a modification.

Mr. GIBBONS. All right, Madam Chairman. I will let him offer it.

AMENDMENT OFFERED BY MR. PORTER

Mr. PORTER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PORTER: Page 5, between lines 20 and 21 insert the following:

(c) ADDITIONAL OBJECTIVE REGARDING HONG KONG.—The President may not recommend the continuation of a waiver in 1991 for a 12-month period under subsection (d) of section 402 of the Trade Act of 1974 for the People's Republic of China unless the President certifies, in the document required to be submitted by such subsection, that the government of that country is adhering to the Joint Declaration on Hong Kong that was entered into between the United Kingdom and the People's Republic of China in 1984.

Mr. GIBBONS. Madam Chairman, will the gentleman yield?

Mr. PORTER. I yield to the gentleman from Florida.

MODIFICATION OFFERED BY MR. GIBBONS TO AMENDMENT OFFERED BY MR. PORTER

Mr. GIBBONS. Madam Chairman, I ask unanimous consent that the amendment of the gentleman from Washington, [Mr. MILLER] be considered as a modification of the amendment offered by the gentleman from Illinois [Mr. PORTER].

We are prepared to accept them and to get on with the business of the House.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification offered by Mr. GIBBONS to amendment offered by Mr. PORTER: At the end of the amendment offered by the gentleman from Illinois [Mr. PORTER] and after the enabling clause insert "TITLE I".

At the end of the bill, insert "TITLE II" and the text starting with section 1:

SEC. 1. STATEMENT OF PRINCIPLES.

(a) PURPOSE.—It is the purpose of this Act to create principles governing the conduct of industrial cooperation projects of United States nationals in the People's Republic of China and Tibet.

(b) PRINCIPLES.—It is the sense of the Congress that any United States' national conducting an industrial cooperation project in the People's Republic of China or Tibet should adhere to the following principles:

(1) Suspend the use of all goods, wares, articles, and merchandise that are mined, produced, or manufactured, in whole or in part, by convict labor or forced labor if there is

reason to believe that the material or product is produced or manufactured by forced labor, and refuse to use forced labor in the industrial cooperation project.

(2) Seek to ensure that political or religious views, sex, ethnic or national background, involvement in political activities or nonviolent demonstrations, or association with suspected or known dissidents will not prohibit hiring, lead to harassment, demotion, or dismissal, or in any way affect the status or terms of employment in the industrial cooperation project. The United States national should not discriminate in terms or conditions of employment in the industrial cooperation project against persons with past records of arrests or internal exile for nonviolent protest of membership in unofficial organizations committed to nonviolance.

(3) Ensure that methods of production used in the industrial cooperation project do not pose an unnecessary physical danger to workers and neighboring populations and property and that the industrial cooperation project does not necessarily risk harm to the surrounding environment, and consult with community leaders regarding environmental protection with respect to the industrial cooperation project.

(4) Strive to use business enterprises that are not controlled by the People's Republic of China or its authorized agents and departments as potential partners in the industrial cooperation project.

(5) Prohibit any military presence on the premises of the industrial cooperation project.

(6) Undertake to promote freedom of association and assembly among the employees of the United States national. The United States national should project any infringement by the Chinese Government of these freedoms to the approriate authorities of that government and to the International Labor Organization, which has an office in Beijing.

(7) Use every possible channel of communication with the Chinese Government to urge that government to disclose publicly a complete list of all those individuals arrested since March 1989, to end incommunicado detention and torture, and to provide international observers access to all places of detention in the People Republic of China and Tibet and to trials of prisoners arrested in connection with the pro-democracy events of April through June of 1989 and the prodemocracy demonstrations which have taken place in Tibet since 1987.

(8) Discourage or undertake to prevent compulsory political indoctrination programs from taking place on the premises of the operations of the industrial cooperation project.

(9) Promote freedom of expression, including the freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers either orally, in writing or in print in the form or art, or through any media. To this end, the United States national should raise with appropriate authorities of the Chinese Government concerns about restrictions on importation of foreign publications.

(c) PROMOTION OF PRINCIPLES BY OTHER NATIONS.—The Secretary of State shall forward a copy of the principles set forth in subsection (b) to the member nations of the Organization for Economic Cooperation and Development and encourage them to promote principles similar to these principles.

SEC. 2. REGISTRATION REQUIREMENT.

(a) IN GENERAL.—Each United States national conducting an industrial cooperation project in the People's Republic of China or Tibet shall register with the Secretary of State and indicate whether the United States national agrees to implement the principles set forth in section 1(b). No fee shall be required for registration under this subsection.

(b) EFFECTIVE DATE.—The registration requirement of subsection (a) shall take effect 6 months after the date of the enactment of this Act.

SEC. 3. REPORTING REQUIREMENTS.

(a) REPORT.—Each United States national conducting an industrial cooperation project in the People's Republic of China or Tibet shall report to the Department of State describing the United States national's adherence to the principles. Such national shall submit a completed reporting form furnished by the Department of State. The first report shall be submitted not later than 1 year after the date on which the national registers under section 2 and not later than the end of each 1-year period occurring thereafter.

(b) REVIEW OF REPORT.—The Secretary of State shall review each report submitted under subsection (a) and determine whether the United States national submitting the report is adhering to the principles. The Secretary may request additional information from the United States national and other sources to verify the information submitted.

(c) ANNUAL REPORT.—The Secretary of State shall submit a report to the Congress and to the Secretariat of the Organization for Economic Cooperation and Development, describing the level of adherence to the principles by United States nationals subject to the reporting requirement of subsection (a). This report shall be submitted not later than 2 years after the date of the enactment of this act and not later than the end of each 1-year period occurring thereafter.

SEC. 4. EXPORT MARKETING SUPPORT.

(a) SUPPORT.—Departments and agencies of the United States may only intercede with a foreign government or foreign national regarding export marketing activity in the People's Republic of China or Tibet on behalf of a United States national subject to the reporting requirements of section 3(a) if that United States national adheres to the principles.

(b) TYPE OF CONTACT.—The term "intercede with a foreign government or foreign national" includes any contract by an officer or employee of the United States with officials of any foreign government or foreign national involving or contemplating any effort to assist in selling a good, service, or technology in the People's Republic of China or Tibet. Such term does not include multilateral or bilateral government-to-government trade negotiations intended to resolve trade issuses which may affect United States nationals who do not adhere to the principles.

(c) EFFECTIVE DATE.—Subsection (a) shall take effect 2 years after the date of enactment of this Act.

SEC. 6. DEFINITIONS.

For purposes of this Act—

(1) the terms "adhere to the principles", "adhering to the principles" and "adherence to the principles" mean—

(A) agreeing to implement the principles set forth in section 1(b);

(B) implementing those principles by taking good-faith measures with respect to each such principle; and

(C) reporting accurately to the Department of State on the measures taken to implement those principles;

(2) the term "industrial cooperation project" referes to a for-profit activity the business operations of which employ more than 25 individuals or have assests greater than $25,000; and

(3) the term "United States national" means—

(A) a citizen or national of the United States or a permanent resident of the United States; and

(B) a corporation, partnership, and other business association organized under the laws of the United States, any State or territory thereof, the District of Columbia, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands.

Mr. GIBBONS (during the reading). Madam Chairman, I ask unanimous consent that the modification to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Is there objection to the initial request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The modification is accepted.

The gentleman from Illinois [Mr. PORTER] will be recognized for 7½ minutes, and a Member in opposition will be recognized for 7½ minutes.

The Chair recognizes the gentleman from Illinois [Mr. PORTER].

PARLIAMENTARY INQUIRY

Mr. PORTER. Madam Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. PORTER. Madam Chairman, I believe that we have just agreed that the debate time will be limited to 10 minutes on each side.

The CHAIRMAN. The gentleman is correct.

Mr. PORTER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, in 1997, control of one of the world's greatest economic success stories, Hong Kong, will revert to the hands of the Communist Chinese regime that brought us the Tiananmen Square massacre and the ensuing program of arrests and extrajudicial killings designed to spread fear and eliminate all political dissent in the so-called People's Republic.

Many people in Hong Kong understandably dread the day their home reverts to Chinese control. They are fearful that the freedoms they have enjoyed, and which have resulted in impressive economic growth and prosperity, will come to an end. They fear that the Chinese leaders, who have shown more interest in maintaining their iron-fisted control of the people than in respecting basic human rights

and needs, will ultimately strip them of their rights and treat them with the same respect they showed the peaceful protesters in Tiananmen Square.

The people of Hong Kong have started voting with their feet and have begun to flee Hong Kong in record numbers. This year 62,000 people will emigrate from Hong Kong.

It is in the interest of those who support human rights worldwide that the rights of the people of Hong Kong be preserved after 1997, and that Hong Kong remain a working example of human and economic freedom that can set an example for the rest of China.

The global community must make it clear that preserving the freedoms of the people of Hong Kong is a priority and that the world is closely monitoring the actions of the Chinese regime as 1997 draws near.

The amendment I am offering provides these assurances by requiring the President to certify, before extending MFN to China, that the Chinese are adhering to the 1984 Joint Declaration on Hong Kong.

The joint declaration is an international agreement between the United Kingdom and the People's Republic of China, which provides an outline for provisions to be included in a basic law for use in Hong Kong after 1997. The basic law ensures that democracy, and independent judiciary and free enterprise will be maintained in Hong Kong for 50 years under Chinese rule.

Passage of this amendment will send a clear message to the Chinese Government and the people of Hong Kong that strict adherence to the joint declaration and protection of the political and economic rights of the people of Hong Kong is a serious concern of Congress.

Affirming the confidence of the people of Hong Kong will have an additional benefit for American business interests in the territory. Americans play a large role in the economic life of Hong Kong. There are presently more than 900 American firms doing business in Hong Kong employing approximately 200,000 Hong Kong nationals. But in the last year, American firms have lost 24 percent of their key employees to emigration and transfer to non-American companies of managers, executives, and highly skilled employees who were offered immigration benefits as part of their employment package. Stemming the tide of Hong Kong emigres by helping to allay their fears of Chinese control will keep key employees at work in American firms.

Madam Chairman, this amendment simply serves to remind the Chinese Government that the United States Congesss is watching them. To remind them that preferential trade status is contingent on ensuring the basic rights of their citizens and living up to their international obligations.

It is simply asking, Madam Chairman, for the Chinese to do what they have already agreed to do. For those who believe in economic freedom, for those who believe in human rights and democracy, I believe that an economically free Hong Kong, operating under the rule of law with the democratically elected government will be a difficult pill for Beijing to swallow. Even if they can, Madam Chairman, and if the principles of economic freedom and human rights flourish, then this haven of freedom within their oppressive system, I believe, will be an irresistible force for change.

It is in the interest of all the Chinese people that Hong Kong remain an example of the force of human freedom and for the United States to take cognizance of the obligations of China to maintain economic freedom and democracy within Hong Kong.

Pass this amendment and let the Chinese know that we want Hong Kong to retain essential freedoms after 1997 and that we will monitor China's adherence to the joint declaration.

Mr. GIBBONS. Madam Chairman, I have no requests for time. I can read the mood of the House. I would suggest that we adopt these amendments as quickly as possible and get this over with.

Mr. PORTER. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from Washington [Mr. MILLER] will be recognized for 5 minutes.

Mr. MILLER of Washington. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, first I want to commend the House for taking up legislation dealing with China. Because though the prodemocracy movement in China has been replaced on the front pages, the hearts, minds and souls of the Chinese prodemocracy movement are irreplaceable.

The United States has the power to influence positively events in China. This amendment does this by enlisting the powerful tool of United States businesses in the struggle for freedom and democracy in China. My amendment is based on legislation I introduced and is cosponsored by, among others, the cochairs of the Congressional Human Rights Caucus, Mr. LANTOS and Mr. PORTER, by the chairman of the Asian and Pacific Affairs Subcommittee of the Foreign Affairs Committee, Mr. SOLARZ, and by the leader in Congress of the fight for human rights in China, Ms. PELOSI.

Madam Chairman, human rights abuses continue unabated in China. Amnesty International has reported the execution of over 500 people during the current anticrime campaign. This includes dissidents who were arrested for counter-revolutionary activity. These defendants have had no opportunity to prepare a defense. In fact, some were executed only 2 weeks after their arrest.

The United States must speak with a voice which is loud and clear against the continued oppression of the Chinese people. And the United States must speak out for freedom and democracy. U.S. business can be an important part of this voice. Since the opening to China in the 1970's, there has been an increasing number of contacts between China and United States businesses. U.S. businesses have the opportunity to use this contact to further the cause of freedom and democracy.

It is in the long-term interest of United States' companies to ensure trade with China which does not deny fundamental freedoms to its people. Companies, by conducting themselves in a manner which encourages reform in China, will be securing a stable and profitable market in the future. And Madam Chairman, the companies I've spoken with about my bill are supportive. They realize the influence they can have and they want to do their part.

Briefly, the nine principles ask that U.S. companies:

First, not use goods or products manufactured by forced labor in the People's Republic of China and Tibet;

Second, safeguard Chinese and Tibetan employees prone to dismissal based upon politics, involvement in nonviolent demonstrations, past records of arrests or internal exile for nonviolent protest or membership in unofficial organizations committed to nonviolence;

Third, seek to ensure that methods of production do not unnecessarily risk harm to the surrounding environment;

Fourth, strive to use independent businesses when looking for potential partners in business in the People's Republic of China and Tibet;

Fifth, prohibit any military presence on the premises of industrial cooperation project;

Sixth, should undertake to promote freedom of association and assembly among their employees;

Seventh, should press Chinese authorities for a list of those arrested since June 4, for an end to incommunicado detention, and for access to international observers to places of detention;

Eighth, should discourage or undertake to prevent compulsory political indoctrination programs from taking place on the premises of their operations in the People's Republic of China and Tibet, and

Ninth, should promote freedom of expression. To this end, U.S. nationals should raise with appropriate authorities concerns about restrictions on importation of foreign publications.

Once again, I want to commend this body for considering legislation dealing with China. As the Persian Gulf and the budget dominate the news, it is doubly important that we do not forget human rights in China. A short attention span on human rights in China ensures a long prison term for the prodemocracy movement in China.

The message of support for human rights in China is strongest if private

industry as well as Government speaks out with one loud and clear voice. I urge my colleagues to support this amendment to H.R. 4939.

□ 1620

Madam Chairman, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding time to me.

Madam Chairman, I rise in strong support of the amendment offered by the gentleman from Washington and I congratulate him for bringing this before us. The measure would require that United States nationals engaged in commercial activities in the People's Republic of China and Tibet follow certain ethical guidelines in conducting business.

The U.S. Government should not be required to support American business people and their interests overseas unless they are expected to promote that which we as a nation take for granted here. Human rights, self-dignity, democracy, freedom of expression, and religion are not just sideshows in our culture. They are not on the periphery to our way of life. And they are not mere possibilities that Americans would hope to see promoted overseas. It is only in a global free democratic environment that the world would be truly safe for American travelers and American business.

At a time that the United Nations has imposed economic sanctions against Iraq, I doubt that a democratic country would attempt to sell Iraq a chemical that will help it to produce atom and hydrogen bombs, poison gas, and fuel for ballistic missiles.

Accordingly, I urge the adoption of the amendment.

Mr. MILLER of Washington. Madam Chairman, I yield myself such time as I may consume only to say businesses that I have talked to understand these principles and want to work to further these principles.

Madam Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Madam Chairman, I rise in strong support of the Miller-Porter amendment. One of the items of the Miller amendment requires that no forced labor shall be used in any products that are exported to the United States. I would like to read an excerpt from the Washington Post of Sunday, July 15, 1990, that is headlined "China: Most Favored Prison."

The 20 million persons now in China's prisons are more than prisoners. They are part of China's labor force, making products both for domestic and foreign consumption—everything from socks and textile goods up to machine tools and automobiles. There is no problem about constructing new jails in China—prisoners build them. One huge dam and water-power project was built by 1 million prisoners over a 10-year period. The total output of goods and services from prison labor is so large that it is routinely included in the country's GNP statistics. In fact, each prison has two names, one for its connection with the Public Security Department, such as jail No. 1 of Cheng Tao, and the other for its role as a normal business enterprise, such as Cheng Tao Machinery Factory.

The ingenuity of China's elite to exploit forced labor seems to know no bounds. Prisoners are also now available for leasing to private factories owned by foreign businessmen. In one case, a Chinese intermediary going by the name of Charles Chi offered to lease prisoners to any Western company wishing to open a factory in China.

Madam Chairman, it is for these reasons that I think we should adopt the Miller amendment.

Mr. MILLER of Washington. Madam Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Madam Chairman, I rise in strong support of the Miller amendment and the Porter amendment. I thank the gentlemen for their hard work in improving the Pease legislation we have before us today.

Mr. MILLER of Washington. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. PORTER], as modified.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. PORTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 409, noes 7, not voting 17, as follows:

[Roll No. 485]

AYES—409

Ackerman	Bruce	DeLay	Frost	Long	Ros-Lehtinen
Alexander	Bryant	Dellums	Gallegly	Lowery (CA)	Rose
Anderson	Buechner	Derrick	Gallo	Lowey (NY)	Roth
Andrews	Bunning	DeWine	Gaydos	Luken, Thomas	Roukema
Annunzio	Burton	Dickinson	Gejdenson	Lukens, Donald	Rowland (GA)
Anthony	Byron	Dicks	Gekas	Machtley	Roybal
Applegate	Callahan	Dingell	Gephardt	Madigan	Russo
Archer	Campbell (CO)	Dixon	Geren	Manton	Sabo
Armey	Cardin	Donnelly	Gillmor	Markey	Saiki
Atkins	Carper	Dorgan (ND)	Gilman	Marlenee	Sangmeister
AuCoin	Carr	Dornan (CA)	Gingrich	Martin (NY)	Sarpalius
Baker	Chandler	Downey	Glickman	Martinez	Savage
Ballenger	Chapman	Dreier	Gonzalez	Matsui	Sawyer
Barnard	Clarke	Duncan	Goodling	Mavroules	Saxton
Bartlett	Clay	Durbin	Gordon	Mazzoli	Schaefer
Barton	Clement	Dwyer	Goss	McCandless	Scheuer
Bateman	Clinger	Dymally	Gradison	McCloskey	Schiff
Bates	Coble	Dyson	Grandy	McCollum	Schneider
Beilenson	Coleman (MO)	Early	Grant	McCrery	Schroeder
Bennett	Coleman (TX)	Eckart	Gray	McCurdy	Schulze
Bentley	Collins	Edwards (CA)	Green	McDade	Schumer
Bereuter	Combest	Edwards (OK)	Guarini	McDermott	Sensenbrenner
Berman	Condit	Emerson	Gunderson	McEwen	Sharp
Bevill	Conte	English	Hall (OH)	McGrath	Shaw
Bilbray	Conyers	Erdreich	Hall (TX)	McHugh	Shays
Bilirakis	Cooper	Espy	Hamilton	McMillan (NC)	Shumway
Bliley	Costello	Evans	Hammerschmidt	McMillen (MD)	Shuster
Boehlert	Coughlin	Fascell	Hancock	McNulty	Sikorski
Boggs	Courter	Fawell	Hansen	Meyers	Sisisky
Bonior	Cox	Fazio	Harris	Mfume	Skaggs
Borski	Coyne	Feighan	Hastert	Michel	Skeen
Bosco	Craig	Fields	Hatcher	Miller (CA)	Skelton
Boucher	Crane	Fish	Hawkins	Miller (OH)	Slattery
Boxer	Dannemeyer	Flake	Hayes (IL)	Miller (WA)	Slaughter (NY)
Broomfield	Darden	Flippo	Hayes (LA)	Mineta	Slaughter (VA)
Browder	Davis	Foglietta	Hefley	Mink	Smith (FL)
Brown (CA)	de la Garza	Ford (MI)	Hefner	Moakley	Smith (IA)
Brown (CO)	DeFazio	Frank	Henry	Molinari	Smith (NE)
			Herger	Mollohan	Smith (NJ)
			Hertel	Montgomery	Smith (TX)
			Hiler	Moody	Smith, Denny (OR)
			Hoagland	Moorhead	
			Hochbrueckner	Morella	Smith, Robert (NH)
			Holloway	Morrison (WA)	
			Hopkins	Mrazek	Smith, Robert (OR)
			Horton	Murphy	
			Houghton	Murtha	Snowe
			Hoyer	Myers	Solarz
			Hubbard	Nagle	Solomon
			Huckaby	Natcher	Spence
			Hughes	Neal (MA)	Spratt
			Hunter	Neal (NC)	Staggers
			Hutto	Nelson	Stallings
			Hyde	Nielson	Stangeland
			Inhofe	Nowak	Stark
			Ireland	Oakar	Stearns
			Jacobs	Oberstar	Stenholm
			James	Obey	Stokes
			Jenkins	Ortiz	Studds
			Johnson (CT)	Owens (NY)	Stump
			Johnson (SD)	Owens (UT)	Sundquist
			Johnston	Oxley	Swift
			Jones (GA)	Packard	Synar
			Jones (NC)	Pallone	Tallon
			Jontz	Panetta	Tanner
			Kanjorski	Parker	Tauke
			Kaptur	Parris	Tauzin
			Kasich	Pashayan	Taylor
			Kastenmeier	Patterson	Thomas (CA)
			Kennedy	Paxon	Thomas (GA)
			Kennelly	Payne (NJ)	Thomas (WY)
			Kildee	Pelosi	Torres
			Kleczka	Penny	Towns
			Kolbe	Perkins	Traficant
			Kolter	Petri	Traxler
			Kostmayer	Pickett	Udall
			Kyl	Pickle	Unsoeld
			LaFalce	Porter	Upton
			Lagomarsino	Poshard	Valentine
			Lancaster	Price	Vander Jagt
			Lantos	Pursell	Vento
			Laughlin	Quillen	Visclosky
			Leach (IA)	Rahall	Volkmer
			Leath (TX)	Ravenel	Vucanovich
			Lehman (CA)	Ray	Walgren
			Lehman (FL)	Regula	Walker
			Lent	Rhodes	Walsh
			Levin (MI)	Richardson	Washington
			Levine (CA)	Ridge	Watkins
			Lewis (CA)	Rinaldo	Waxman
			Lewis (FL)	Ritter	Weber
			Lewis (GA)	Roberts	Weiss
			Lightfoot	Robinson	Weldon
			Lipinski	Roe	Wheat
			Livingston	Rogers	Whittaker
			Lloyd	Rohrabacher	Whitten

Williams	Wyden	Young (AK)
Wise	Wylie	Young (FL)
Wolf	Yates	
Wolpe	Yatron	

NOES—7

Campbell (CA)	Olin	Rostenkowski
Frenzel	Payne (VA)	
Gibbons	Pease	

NOT VOTING—17

Aspin	Engel	Schuette
Brennan	Ford (TN)	Serrano
Brooks	Martin (IL)	Smith (VT)
Bustamante	Morrison (CT)	Torricelli
Crockett	Rangel	Wilson
Douglas	Rowland (CT)	

□ 1642

Mr. PEASE changed his vote from "aye" to "no."

So the amendment, as modified, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. MOAKLEY] having assumed the chair, Mrs. BYRON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4939) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes, pursuant to House Resolution 503, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SCHULZE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 384, nays 30, not voting 19, as follows:

[Roll No. 486]

YEAS—384

Ackerman	Annunzio	AuCoin
Alexander	Anthony	Baker
Anderson	Applegate	Ballenger
Andrews	Atkins	Barnard
Bartlett	Ford (MI)	Markey
Barton	Frank	Marlenee
Bateman	Frost	Martin (NY)
Bates	Gallegly	Martinez
Beilenson	Gallo	Matsui
Bennett	Gaydos	Mavroules
Bentley	Gejdenson	Mazzoli
Bereuter	Gekas	McCandless
Berman	Gephardt	McCloskey
Bevill	Geren	McCollum
Bilbray	Gillmor	McCurdy
Bilirakis	Gilman	McDade
Bliley	Gingrich	McDermott
Boehlert	Glickman	McEwen
Boggs	Gonzalez	McGrath
Bonior	Goodling	McHugh
Borski	Grandy	McMillan (NC)
Bosco	Grant	McMillen (MD)
Boucher	Gray	McNulty
Boxer	Green	Meyers
Broomfield	Guarini	Mfume
Browder	Gunderson	Miller (CA)
Brown (CA)	Hall (OH)	Miller (OH)
Brown (CO)	Hammerschmidt	Miller (WA)
Bruce	Hansen	Mineta
Bryant	Harris	Mink
Buechner	Hastert	Moakley
Bunning	Hatcher	Molinari
Burton	Hawkins	Mollohan
Bustamante	Hayes (LA)	Montgomery
Byron	Hefley	Moody
Callahan	Hefner	Moorhead
Campbell (CO)	Henry	Morella
Cardin	Herger	Morrison (WA)
Carper	Hertel	Mrazek
Carr	Hiler	Murphy
Chandler	Hoagland	Murtha
Chapman	Hochbrueckner	Nagle
Clarke	Holloway	Natcher
Clement	Hopkins	Neal (MA)
Clinger	Horton	Neal (NC)
Coble	Houghton	Nelson
Coleman (MO)	Hoyer	Nowak
Coleman (TX)	Hubbard	Oakar
Collins	Huckaby	Oberstar
Combest	Hughes	Obey
Condit	Hunter	Ortiz
Conte	Hutto	Owens (NY)
Conyers	Hyde	Owens (UT)
Cooper	Inhofe	Oxley
Costello	Jacobs	Packard
Coughlin	James	Pallone
Courter	Jenkins	Panetta
Cox	Johnson (CT)	Parker
Coyne	Johnson (SD)	Parris
Craig	Johnston	Patterson
Dannemeyer	Jones (GA)	Paxon
Darden	Jones (NC)	Payne (NJ)
Davis	Jontz	Pease
de la Garza	Kanjorski	Pelosi
DeFazio	Kaptur	Penny
Dellums	Kasich	Perkins
Derrick	Kastenmeier	Pickett
DeWine	Kennelly	Pickle
Dickinson	Kildee	Porter
Dicks	Kleczka	Poshard
Dingell	Kolbe	Price
Dixon	Kolter	Pursell
Donnelly	Kostmayer	Quillen
Dorgan (ND)	Kyl	Rahall
Dornan (CA)	Lagomarsino	Rangel
Douglas	Lancaster	Ravenel
Downey	Lantos	Ray
Duncan	Laughlin	Regula
Durbin	Leach (IA)	Rhodes
Dwyer	Leath (TX)	Richardson
Dymally	Lehman (CA)	Ridge
Dyson	Lehman (FL)	Rinaldo
Early	Lent	Ritter
Eckart	Levin (MI)	Roberts
Edwards (CA)	Levine (CA)	Robinson
Edwards (OK)	Lewis (CA)	Rogers
Emerson	Lewis (FL)	Rohrabacher
Engel	Lewis (GA)	Ros-Lehtinen
English	Lightfoot	Rose
Erdreich	Lipinski	Roth
Espy	Livingston	Roukema
Evans	Lloyd	Rowland (GA)
Fascell	Long	Roybal
Fawell	Lowery (CA)	Russo
Fazio	Lowey (NY)	Sabo
Feighan	Luken, Thomas	Saiki
Fish	Lukens, Donald	Sangmeister
Flake	Machtley	Sarpalius
Flippo	Madigan	Savage
Foglietta	Manton	Sawyer
Saxton	Snowe	Upton
Schaefer	Solarz	Valentine
Scheuer	Solomon	Vander Jagt
Schiff	Spence	Vento
Schneider	Spratt	Visclosky
Schroeder	Staggers	Volkmer
Schulze	Stallings	Vucanovich
Schumer	Stangeland	Walgren
Sensenbrenner	Stark	Walker
Sharp	Stearns	Walsh
Shaw	Stenholm	Washington
Shays	Stokes	Watkins
Shumway	Studds	Waxman
Shuster	Sundquist	Weiss
Sikorski	Swift	Weldon
Sisisky	Synar	Wheat
Skaggs	Tallon	Whittaker
Skeen	Tanner	Whitten
Skelton	Tauke	Williams
Slattery	Tauzin	Wise
Slaughter (NY)	Taylor	Wolf
Smith (FL)	Thomas (CA)	Wolpe
Smith (NJ)	Thomas (GA)	Wyden
Smith (TX)	Thomas (WY)	Wylie
Smith, Denny (OR)	Torres	Yates
	Towns	Yatron
Smith, Robert (NH)	Traficant	Young (AK)
	Traxler	Young (FL)
Smith, Robert (OR)	Unsoeld	

NAYS—30

Archer	Goss	Myers
Armey	Gradison	Olin
Campbell (CA)	Hall (TX)	Pashayan
Clay	Hamilton	Payne (VA)
Crane	Hancock	Petri
DeLay	Hayes (IL)	Roe
Dreier	Ireland	Rostenkowski
Fields	LaFalce	Smith (IA)
Frenzel	McCrery	Smith (NE)
Gibbons	Michel	Stump

NOT VOTING—19

Aspin	Martin (IL)	Smith (VT)
Brennan	Morrison (CT)	Torricelli
Brooks	Nielson	Udall
Crockett	Rowland (CT)	Weber
Ford (TN)	Schuette	Wilson
Gordon	Serrano	
Kennedy	Slaughter (VA)	

□ 1704

Mr. McCRERY changed his vote from "yea" to "nay."

Messrs. LEWIS of Georgia, FLAKE, WHEAT, WASHINGTON, COX and McEWEN changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2582. An act to amend the Historic Sites, Buildings, and Antiquities Act, and for other purposes, and

H.R. 4323. An act to amend the Federal Water Pollution Control Act relating to water quality in the Great Lakes.

The message also announced that the Senate had passed bills, a joint resolution, and concurrent resolutions of the following titles, in which the concurrence of the House is requested.

S. 15. An act to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes;

S. 682. An act to amend chapter 33 of title 18, United States Code, to prohibit the unauthorized use of the names "Visiting Nurse Association"; "Visiting Nurse Service", "VNA", or "VNS";

S. 2804. An act to amend the Act of May 15, 1965, authorizing the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes;

S. 3215. An act to authorize the transfer by lease of a specified naval landing ship dock to the Government of Brazil;

S. 3216. An act to designate the Department of Veterans Affairs Medical Center in Charleston, South Carolina, as the "Ralph H. Johnson Department of Veterans Affairs Medical Center";

S. 3032. An act to designate the planned Department of Veterans Affairs Medical Center in Honolulu, Hawaii, as the "Spark M. Matsunaga Department of Veterans Affairs Medical Center";

S.J. Res. 356. Joint resolution designating November 4 through 11, 1990, as "National Key Club Week";

S. Con. Res. 113. Concurrent resolution expressing the sense of the Congress on international nuclear sales to South Asia; and

S. Con. Res. 141. Concurrent resolution expressing the sense of the Congress regarding the deteriorating human rights situation in Kenya.

PARLIAMENTARY INQUIRIES

Mr. HENRY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. HENRY. Mr. Speaker, a number of us are getting calls and inquiries from constituents, but also perhaps more troublesome, from the media wanting particulars relative to the budget resolution voted on Tuesday, October 16.

The CONGRESSIONAL RECORD is yet to appear and be published. The first volume came on the 17th. Today, on the 18th, we have the CONGRESSIONAL RECORD published in its entirety for the 17th, but we do not yet have a complete CONGRESSIONAL RECORD for Tuesday, the 16th.

We made a call in my office to the Government Printing Office and were advised that they did not have the materials to print. The problem was no one has the materials to print the resolution.

I think there is a concern in terms of having the ability to express either a defense for our votes, whether we voted in the affirmative or in the negative, given the seriousness of the situation, but also some concerns that the integrity of the amendment may be affected during the delay, which is now over 48 hours since the time the vote took place and lack of any publication of the amendment.

Can the Chair get some assurance to us or information as to when the amendment will be printed in the RECORD for the Members to see?

The SPEAKER pro tempore (Mr. MOAKLEY). The Clerk is making available to the Cloakrooms the full report and has notified the GPO that this is their top priority to have printed as soon as possible the bill in the CONGRESSIONAL RECORD.

Mr. HENRY. A copy of the amendment is in their office? The printer presently has a copy of the amendment?

The SPEAKER pro tempore. A copy of the report will be in the Cloakrooms.

Mr. HENRY. So copies are in the Cloakrooms for our perusal?

The SPEAKER pro tempore. That is the Chair's information.

Mr. HENRY. Does the Chair have any estimate as to when the Printing Office will finish with the RECORD?

The SPEAKER pro tempore. Well, as the Chair has said, the Clerk has notified the Printing Office that it is the top priority, as soon as possible.

Mr. HENRY. I thank the Chair.

Mr. WALKER. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Just to note, the Republican Cloakroom just reports to us that they do not have a copy at the present time, so if such copies are available, we would hope they would be made available to the minority as well as the majority.

The SPEAKER pro tempore. That is the Chair's information, that it would be available to both Cloakrooms at the same time.

Mr. WALKER. When would we expect that availability, Mr. Speaker?

The SPEAKER pro tempore. As the Chair has said, the Clerk has put it as a top priority, so as soon as possible, as soon as humanly possible.

Mr. WALKER. I thank the Chair.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 264, REPEALING THE LIMITATION ON PRESIDENTIAL TERMS

Mr. MARTIN of New York. Mr. Speaker, I ask unanimous consent to have the name of the gentlewoman from Illinois [Mrs. MARTIN] removed as a cosponsor of House Joint Resolution 264, repealing the limitation of Presidential terms.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

MAKING IN ORDER CONSIDERATION OF HOUSE JOINT RESOLUTION 677, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1991

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that it shall be in order to consider in the House the joint resolution (H.J. Res. 677) making further continuing appropriations for fiscal year 1991; that the joint resolution be debatable for not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; that all points of order against the joint resolution and against its consideration be waived; and that the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. WALKER. Reserving the right to object, Mr. Speaker, I am sorry, I did not hear the gentleman's motion. Was it just for consideration? It was not for consideration and passage?

The SPEAKER pro tempore. Consideration and a vote on passage.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

□ 1710

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution, House Joint Resolution 677, and that we may include tabular and extraneous matter.

The SPEAKER pro tempore (Mr. MOAKLEY). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1991

Mr. WHITTEN. Mr. Speaker, pursuant to the order of the House, I call up the joint resolution (H.J. Res. 677), making further continuing appropriations for the fiscal year 1991, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The text of the joint resolution is as follows:

H.J. RES. 677

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following

sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1991, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary for continuing projects or activities (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1990 and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991;

The District of Columbia Appropriations Act, 1991;

The Energy and Water Development Appropriations Act, 1991;

The Foreign Operations, E..port Financing, and Related Programs Appropriations Act, 1991, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956;

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1991;

The Military Construction Appropriations Act, 1991;

The Rural Development, Agriculture, and Related Agencies Appropriations Act, 1991;

The Department of Transportation and Related Agencies Appropriations Act, 1991;

The Treasury, Postal Service, and General Government Appropriatons Act, 1991; and

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991.

(b) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this section as passed by the House as of October 1, 1990, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1990, or at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided*, That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990.

(c) Whenever an Act listed in this section has been passed by only the House as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the current rate or the rate pemitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990: *Provided*, That where an item is funded in applicable appropriations Acts for the fiscal year 1990 and not included in the version passed by the House as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1990, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990.

SEC. 102. Such amounts as may be necessary to continue existing programs and activities (not otherwise specifically provided for in this joint resolution) which were conducted in fiscal year 1990, under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1990, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990, for which provision was made in the following Acts: The Department of the Interior and Related Agencies Appropriations Act, 1990, and the Legislative Branch Appropriations Act, 1990.

SEC. 103. Such amounts as may be necessary to continue existing programs and activities, which were conducted in fiscal year 1990, for which provision was made in the Department of Defense Appropriations Act, 1990, but such activities shall be funded at not to exceed an annual rate for new obligational authority of $265,369,000,000, and this level shall be distributed on a pro rata basis to each appropriation account utilizing the fiscal year 1991 amended budget request as the base for such distribution and shall be available under the terms and conditions provided for in the applicable appropriations Acts for fiscal year 1990, notwithstanding section 502(a)(1) of the National Security Act of 1947: *Provided*, That no appropriation or funds made available or authority granted pursuant to this section shall be used for new production of items not funded for production in fiscal year 1990 or prior years, for the increase in production rates above those sustained with fiscal year 1990 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1990, except projects, activities, operations, or organizations relating to "Operation Desert Shield": *Provided further*, That no appropriation or funds made available or authority granted pursuant to this section shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later: *Provided further*, That no appropriation or funds made available or authority granted pursuant to this section for procurement and research, development, test, and evaluation, shall be used to fund any program, project, activity, operation, or organization at a rate for operations in excess of the current rate or the rate provided for in the budget estimates for fiscal year 1991, whichever is lower, during fiscal year 1991, except programs, projects, activities, operations, or organizations relating to "Operation Desert Shield".

SEC. 104. Notwithstanding any other provision of this joint resolution, such amounts as may be necessary to continue to Aereostat Program of the United States Customs Service which was conducted in fiscal year 1990 at a rate of operations not exceeding the current rate and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1990.

SEC. 105. Appropriations made by sections 101, 102, 103, and 104 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 106. No appropriation or funds made available or authority granted pursuant to sections 101, 102, 103, and 104 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1990.

SEC. 107. No provision which is included in an appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1990, and which by its terms is applicable to more than one appropriations, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 108. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropration for any project or activity provided for in this joint resolution, or (b) the enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) October 24, 1990, whichever first occurs.

SEC. 109. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 110. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 111. No provision in any appropriations Act for the fiscal year 1991 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 108(c) of this joint resolution.

SEC. 112. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 113. (a) Any order on sequestration for fiscal year 1991 issued before, on, or after the date of enactment of this joint resolution pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is suspended and no action shall be taken to implement any such order.

(b) Subsection (a) shall cease to be effective on the date set forth in section 108(c).

SEC. 114. EXTENSION OF TEMPORARY INCREASE IN PUBLIC DEBT LIMIT.—Section 1 of Public Law 101-350 is amended by striking 'October 19, 1990' and inserting 'October 24, 1990.'

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes, and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the leadership has requested that I introduce a new continuing resolution extending that which will expire tomorrow, the 19th, through the 24th. They have been advised that the President will agree to such an extension.

House Joint Resolution 677 provides for the orderly continuation of the Government, extends the debt limit, and suspends sequestration until midnight October 24. It is an extension of what is now in place.

I'm proud of our committee. We have done our work. I have pointed out time and time again that our financial situation is not the fault of our committee. Since 1945, the total of our bills has been $173 billion below the total of the requests of the Presidents, and our progress this year has been held up, despite our readiness to act, on request of the leadership.

Of the 13 appropriations bills, four conference reports are ready for consideration by the House: Military Construction; Transportation; Energy and Water Development; and District of Columbia.

The VA-HUD report will be filed today.

The following bills are in conference with the Senate: Labor-HHS; Defense; Treasury-Postal Service; Commerce-Justice; and Rural Development/Agriculture.

The legislative bill has not yet been considered in the House.

The total in all these bills is within the totals permitted by the budget resolution.

I add, Mr. Speaker, that to finish our work by the 24th will require full cooperation of the leadership and the President, whose signature of course is essential.

It is to be hoped that the President, if necessary, will permit the Government to operate until the next payday as was the practice for many years.

The final sequester report would be in force today except for the continuing resolution. It would require a sequester of $152.5 billion in budget authority to reduce outlays by $83.3 billion. This is a 31.6-percent reduction in nondefense discretionary spending and a 34.5-percent reduction in military spending.

Reductions of one-third would be catastrophic. The existing continuing resolution expires Friday, the 19th. The budget resolution conference report adopted last week contained reconcilation instructions to the appropriate legislative committees that may result in sequestration being set aside for the year.

Mr. Speaker, we must keep the Government operating. The continuing resolution and the appropriations bills do that.

The committee will work hard to get our work done. I hope we will not see the Government held up for reasons unrelated to appropriations. Mr. Speaker, I urge adoption of the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Joint Resolution 677, to keep the Government in business for 5 more days. It is called a continuing resolution, but it would more aptly be named continuing irresolution.

I say that with no disrespect to the chairman. House Joint Resolution 677 does what it should do.

It accepts the agreement that we reached on the last CR to fund programs at the lower of the House passed bill, the Senate passed bill, or last year's level. Because of that, funding continues for the Government, but at a rate which is, in total, lower than last year. Our preliminary massaging of the Congressional Budget Office analysis shows that for domestic discretionary spending, under this CR, we are spending at an annual rate which is $28.5 billion in budget authority below the levels in the budget resolution conference report, and some $11.5 billion in outlays below those levels. So we are keeping the Government going, but at a constrained level of spending, which should keep the pressure on to finish our business.

The reason I call this bill the continuing irresolution is because of the state of affairs in Congress as a whole. Some people complain about Congress spending money as if there is no tomorrow. Well, in my view, Congress is spending time as if there is no tomorrow. We need to make up our minds once and for all that we need to finish our business, put a wrap on the 101st Congress and go home. Because if we continue to act as if time is not of the essence, if we keep piddling around here, displaying our continuing irresolution for the Nation to see and scoff at, for many of us, there may be no tomorrow.

The Office of Management and Budget has indicated the administration supports this continuing irresolution. I congratulate the Chairman for bringing forth this measure. And I urge my colleagues to support it, and to contemplate the necessity of putting aside our differences, finding our common ground, finishing our business, and going home.

Mr. Speaker, I yield such time as he may consume to my good friend, the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, I thank the gentleman from Massachusetts very much for yielding this time to me.

Mr. Speaker, I want to extend to the gentleman from Massachusetts my congratulations for his sensitivity to this problem and also to the chairman of the full committee, the gentleman from Mississippi [Mr. WHITTEN] as well and to suggest that this continuing threat to Federal employees is simply intolerable in terms of its impact on the lives and fortunes of real people with car payments and mortgage payments and children in school and all the rest.

Mr. Speaker, I thank the gentleman for his consideration of this matter and for his cooperation in the same.

For the past several weeks, Congress has been engaged, or should I say mired, in deliberations over the budget.

I know that there is plenty of finger pointing going on about who is to blame for this whole budget mess—but I know one thing for certain—it is not the American people who are to blame, and they should not have to shoulder the burden of this Government's inability to reach an agreement. No Federal employee should be furloughed or miss 1 day of work, and no American taxpayer should lose the benefit of any Government services because of the budget problem. These are not sacrifices that have to be made.

Two days ago, I, along with several of my colleagues, conveyed this message to President Bush in a letter. We asked him to do whatever is necessary to keep the Government from being shut down. If that means signing another continuing resolution that would keep funds flowing to the Government, then that is what the President should do. America cannot afford to have the Government close down just because of partisan infighting or public relations concerns.

Civil servants all across America have been held hostage by this budget process, and believe me they are mad—and they should be. Their livelihood hangs in the balance as the Congress and the administration continue to play their budget games, and let me assure you, this is not a game to our country's Federal employees. Let us not hold the budget over their heads like the Sword of Damocles—they are not the ones responsible for failing to produce a budget.

Many of my constituents have asked me why is this happening and what am I going to do to keep it from happening again. I have sponsored legislation that will provide for automatic continuing resolutions should a budget agreement not be reached. I hope that this legislation will receive favorable consideration by this Congress. This will keep the Government running, frozen at the previous year's level of spending, until the Congress and the President can come to an agreement on the budget. It will also put an end to all Americans, especially Federal employees, being the

helpless victims of the breakdown in our budget process.

I rise in support of this continuing resolution and hope that President Bush will sign it and not let the Government shut down—America is counting on us all.

Mr. CONTE. Mr. Speaker, I want to thank STAN PARRIS from the Eighth District of Virginia for his interest and cooperation in trying to keep the Government going not only in this continuing resolution, but in all the continuing resolutions. But more than that, no one, no one in the Congress has been after more in regard to getting a provision into one of these resolutions to make sure that the people, the Federal workers who were furloughed through no fault of their own, be paid during the time, the 3 days, they were furloughed. I promise the gentleman I will do everything I can on this, and I am saying to him I am sure before we go home his wishes are going to be fulfilled.

Mr. PARRIS. I thank the gentleman. This is Christmas for me.

Mr. CONTE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to the order of the House, the previous question is considered as ordered on the joint resolution.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the joint resolution.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CONTE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 379, nays 37, not voting 17, as follows:

[Roll No. 487]

YEAS—379

Ackerman	Boehlert	Clarke
Alexander	Boggs	Clay
Anderson	Bonior	Clement
Andrews	Borski	Clinger
Annunzio	Bosco	Coble
Anthony	Boucher	Coleman (MO)
Applegate	Boxer	Coleman (TX)
Archer	Broomfield	Collins
Aspin	Browder	Combest
Atkins	Brown (CA)	Condit
AuCoin	Bruce	Conte
Ballenger	Bryant	Conyers
Barnard	Buechner	Cooper
Bateman	Bunning	Costello
Beilenson	Bustamante	Coughlin
Bennett	Byron	Courter
Bentley	Callahan	Cox
Bereuter	Campbell (CA)	Coyne
Berman	Campbell (CO)	Craig
Bevill	Cardin	Darden
Bilbray	Carper	Davis
Bilirakis	Carr	de la Garza
Bliley	Chapman	DeFazio
Dellums	Jones (NC)	Pashayan
Derrick	Jontz	Patterson
DeWine	Kanjorski	Paxon
Dickinson	Kaptur	Payne (NJ)
Dicks	Kasich	Payne (VA)
Dingell	Kastenmeier	Pelosi
Dixon	Kennedy	Perkins
Donnelly	Kennelly	Pickett
Dorgan (ND)	Kildee	Pickle
Dornan (CA)	Kleczka	Poshard
Downey	Kolbe	Price
Dreier	Kolter	Quillen
Duncan	Kostmayer	Rahall
Durbin	Kyl	Rangel
Dwyer	LaFalce	Ravenel
Dymally	Lagomarsino	Ray
Dyson	Lancaster	Regula
Early	Lantos	Rhodes
Eckart	Laughlin	Richardson
Edwards (CA)	Leach (IA)	Ridge
Edwards (OK)	Lehman (CA)	Rinaldo
Emerson	Lehman (FL)	Ritter
Engel	Lent	Roberts
English	Levin (MI)	Roe
Erdreich	Levine (CA)	Rogers
Espy	Lewis (CA)	Rohrabacher
Evans	Lewis (FL)	Ros-Lehtinen
Fascell	Lewis (GA)	Rose
Fawell	Lightfoot	Rostenkowski
Fazio	Lipinski	Roth
Feighan	Livingston	Roukema
Fish	Lloyd	Rowland (GA)
Flake	Long	Russo
Flippo	Lowery (CA)	Sabo
Foglietta	Lowey (NY)	Saiki
Ford (MI)	Luken, Thomas	Sarpalius
Ford (TN)	Lukens, Donald	Savage
Frank	Machtley	Sawyer
Frost	Madigan	Saxton
Gallegly	Manton	Schaefer
Gallo	Markey	Scheuer
Gaydos	Martin (NY)	Schiff
Gejdenson	Martinez	Schneider
Gekas	Matsui	Schroeder
Gephardt	Mavroules	Schulze
Geren	Mazzoli	Schumer
Gibbons	McCandless	Sharp
Gillmor	McCloskey	Shaw
Gilman	McCollum	Shuster
Glickman	McCrery	Sikorski
Gonzalez	McCurdy	Sisisky
Goodling	McDade	Skaggs
Gordon	McDermott	Skeen
Goss	McGrath	Skelton
Gradison	McHugh	Slattery
Grandy	McMillan (NC)	Slaughter (NY)
Grant	McMillen (MD)	Slaughter (VA)
Gray	McNulty	Smith (FL)
Green	Meyers	Smith (IA)
Guarini	Mfume	Smith (NE)
Gunderson	Michel	Smith (NJ)
Hall (OH)	Miller (CA)	Smith (TX)
Hall (TX)	Miller (OH)	Snowe
Hamilton	Miller (WA)	Solarz
Hansen	Mineta	Solomon
Harris	Mink	Spence
Hastert	Moakley	Spratt
Hatcher	Molinari	Staggers
Hayes (IL)	Mollohan	Stallings
Hayes (LA)	Montgomery	Stangeland
Hefley	Moody	Stark
Hefner	Moorhead	Stenholm
Henry	Morella	Stokes
Herger	Morrison (WA)	Studds
Hertel	Mrazek	Sundquist
Hiler	Murphy	Swift
Hoagland	Murtha	Synar
Hochbrueckner	Myers	Tallon
Hopkins	Nagle	Tanner
Horton	Natcher	Tauke
Houghton	Neal (MA)	Tauzin
Hoyer	Nelson	Taylor
Hubbard	Nielson	Thomas (GA)
Huckaby	Nowak	Thomas (WY)
Hughes	Oakar	Torres
Hunter	Oberstar	Towns
Hutto	Obey	Traficant
Hyde	Olin	Traxler
Ireland	Ortiz	Udall
Jacobs	Owens (NY)	Unsoeld
James	Owens (UT)	Valentine
Jenkins	Oxley	Vander Jagt
Johnson (CT)	Packard	Vento
Johnson (SD)	Pallone	Visclosky
Johnston	Panetta	Volkmer
Jones (GA)	Parris	Vucanovich
Walgren	Weldon	Wyden
Walker	Wheat	Wylie
Walsh	Whittaker	Yates
Washington	Whitten	Yatron
Watkins	Williams	Young (AK)
Waxman	Wise	Young (FL)
Weber	Wolf	
Weiss	Wolpe	

NAYS—37

Armey	Hancock	Shays
Baker	Holloway	Shumway
Bartlett	Inhofe	Smith, Denny (OR)
Barton	Marlenee	Smith, Robert (NH)
Bates	McEwen	Smith, Robert (OR)
Brown (CO)	Parker	Stearns
Burton	Pease	Stump
Crane	Penny	Thomas (CA)
Dannemeyer	Petri	Upton
DeLay	Porter	
Douglas	Pursell	
Fields	Robinson	
Frenzel	Sangmeister	
Hammerschmidt	Sensenbrenner	

NOT VOTING—17

Brennan	Leath (TX)	Schuette
Brooks	Martin (IL)	Serrano
Chandler	Morrison (CT)	Smith (VT)
Crockett	Neal (NC)	Torricelli
Gingrich	Rowland (CT)	Wilson
Hawkins	Roybal	

□ 1739

Mr. STEARNS changed his vote from "yea" to "nay."

Mr. WOLPE changed his vote from "nay" to "yea."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. SERRANO. Mr. Speaker, I offer a personal explanation of my absence from votes. I had to travel to my district on a matter of utmost urgency. Had I been here to vote, I would have voted in the following way:

On rollcall No. 484, on agreeing to the Pelosi amendment to H.R. 4939, as amended regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, "yea",

On rollcall No. 485, on agreeing to the Porter amendment to H.R. 4939 as modified regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, "yea";

On rollcall No. 486, on passage of H.R. 4939 regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, "nay"; and

On rollcall No. 487, on passage of House Joint Resolution 677, making further continuing appropriations to the fiscal year 1991 budget, "yea".

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent for rollcall No. 484, the Pelosi amendment to H.R. 4939—conditional MFN for China in 1991; rollcall No. 485, the Porter amendment to H.R. 4939; rollcall vote No. 486, final passage of H.R. 4939; and rollcall No. 487, House Joint Resolution 667—continuing resolution.

Had I been here, I would have cast the following votes: "aye," "aye," "aye," and "aye."

AUTHORIZING THE SPEAKER TO APPOINT CONFEREES AND PROVIDING FOR MOTION TO INSTRUCT ON H.R. 5835, OMNIBUS BUDGET RECONCILIATION ACT OF 1990

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that upon receipt of a message from the Senate transmitting an amendment to H.R. 5835, insisting on the amendment, and requesting a conference thereon, the House shall be considered to have taken H.R. 5835 and the Senate amendment from the Speaker's table, disagreed with the Senate amendment, and agreed to the conference requested by the Senate; that the Speaker shall be authorized to appoint conferees in anticipation thereof and reserve the authority to modify the appointment at later times; and that the motion to instruct conferees otherwise in order at the time of their appointment shall instead be in order only if offered by the minority leader or his designee on the legislative day of Friday, October 19, 1990.

The SPEAKER pro tempore [Mr. TRAXLER]. Is there objection to the request of the gentleman from California?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I would observe under my reservation that the unanimous consent request is, in the opinion of the minority, necessary to secure expeditious process of the Congress's business.

As many of us know, the President has indicated that he will sign the continuing resolution only if we are making progress on completion of the reconciliation bill. The unanimous consent request of the distinguished Budget Committee chairman will, I hope, be one evidence that we are anxious to begin work as soon as possible.

The reservation of the motion to instruct conferees left to the minority leader for tomorrow was done at the minority's request, and we believe that that protects all of our interests.

Further reserving the right to object, Mr. Speaker, I yield to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding. As the gentleman from Minnesota knows, there has been quite a bit of concern expressed on our side of the aisle in the last couple of hours about the fact that there was not a printed document available of what the House acted upon the other evening, and so we had no idea what it was we were going to go to conference on. I understand that the gentleman from Minnesota has looked into the matter, has found that we will have copies of the document available by later on this evening, and that the problems of the Government Printing Office in getting those matters to us do not appear to have been a deliberate action to keep the Members from having the appropriate information.

I wonder if the gentleman would explain the situation as he understands it.

Mr. FRENZEL. Further reserving the right to object, Mr. Speaker, in responding to the gentleman from Pennsylvania I would say that nothing we have done around here in the last couple of weeks is normal, and the pressures on the Printing Office is one of the things that has not been normal.

The Rostenkowski amendment in the reconciliation bill was a huge document, it was complicated, glued together, had to be reviewed very carefully by the GPO. Some telephone calls had to be made to find out on a question of whether the Scotch tape was over the proper word or one that might have followed, and in my judgment the GPO is doing the best it can, that it has been given a properly enrolled bill, that there have been no changes made to the bill between enrollment and the GPO. We will have, we believe, copies of the blue edition of the reconciliation bill in this House by 9 o'clock.

Prior to that time the Ways and Means Committee minority, the budget minority, the gentleman from Pennsylvania, and I all have copies of what I believe to be true copies of the enrolled bills. So I can say to the gentleman that things are not as usual around here, but nobody is trying to put dirt into the game.

Mr. WALKER. Will the gentleman yield further?

Mr. FRENZEL. I do.

Mr. WALKER. It is the gentleman's understanding that the Xerox copy that we have before us is in fact that which is being enrolled and will show up in print later on tonight, is that correct?

Mr. FRENZEL. Further reserving the right to object, that is correct.

Mr. WALKER. I thank the gentleman.

Mr. FRENZEL. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I am not a member of the Ways and Means Committee, and I am not a member of the Budget Committee, but I think we all ought to remember that tonight is probably the last time that BILL FRENZEL will every carry a trade bill as a member of the Ways and Means Committee on the floor of this House. I do not know about the rest of my colleagues, but I think I speak for all of you when I say BILL, you are one of the greatest guys I have ever met in my life. We are going to sorely miss you on both sides of the aisle, and God bless you.

Mr. FRENZEL. Further reserving the right to object, I am grateful, and I am humble, and my only request is to name no buildings after me.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Ms. OAKAR. Reserving the right to object, Mr. Speaker, I reserve the right to object for a twofold purpose, one, to certainly add my acclamation to the gentleman from Minnesota [Mr. FRENZEL]. He was the minority leader of a committee I chaired, and I had the pleasure of working with him, and he was eminently fair and decent.

But second, I wanted to ask the distinguished Budget Committee chairman a question, if I might.

Under the unanimous consent request are we able to instruct the conferees on the House side in terms of some provisions that are omitted that some of us feel are very important?

Under my reservation, I yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, under the unanimous-consent request, the motion to instruct, as usual, would be offered by the minority leader or his designee.

Ms. OAKAR. So the gentleman is saying that we are not able to instruct? Is that not in order?

Mr. PANETTA. Pursuant to this unanimous consent request, the motion to instruct, and whatever is contained in the motion to instruct, would be left to the minority leader or his designee. That is the unanimous-consent request.

Ms. OAKAR. As a Member, although I do not have the pleasure of being in the minority, and I am a good Democrat, I would like to ask unanimous consent that there be two instructions given to the House conferees, and that would be to put on the table, if the Senate does not have this on the table, a child care package, and second to have mammography coverage as part of our conference.

Mr. WALKER. Reserving the right to object, Mr. Speaker, do I understand this is a modification?

The SPEAKER pro tempore. The Chair would advise that there is one request pending, and the Chair cannot entertain any other requests until the resolution of the pending unanimous-consent request by the gentleman from California.

Does the gentlewoman from Ohio insist on her reservation?

Ms. OAKAR. No. Mr. Speaker. I am asking if it is in order that I ask unanimous consent that these two items be part of our conference?

□ 1750

The SPEAKER pro tempore (Mr. TRAXLER). The Chair would state to the gentlewoman that the gentleman's request for unanimous consent is pending, and in order for her suggestion to be entertained, he would have to modify his unanimous-consent request.

Ms. OAKAR. Mr. Speaker, further reserving the right to object, very often, I remember voting for several instructions to conferees, and I am just trying to find the vehicle by which we might do that.

Mr. PANETTA. Mr. Speaker, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, the gentlewoman is a member of the majority party here, and, I think, would certainly be able to carry this request to the leadership. I think the leadership would be sensitive obviously. If child care is added on the other side of the bill and there is an agreement with regard to child care provisions, I think that would be something that would, indeed, be included in the conference, and if the gentlewoman is also concerned about mammography and other sections related to Medicare and those are part of the conference, I think the leadership would also be willing to defend those issues in conference, as well.

I think that would be a better approach than a motion to instruct.

Ms. OAKAR. Further reserving the right to object, I am sensitive about the leadership. I have enormous respect for the leadership.

However, it is my understanding that those two items are not part of the House's agenda, and if they are not technically part of the agenda, I would like to see that they are carried forward just because I think that this would help and assist the leadership in terms of indicating that this is a House position.

Mr. PANETTA. If the gentlewoman will yield further, I do not think that there is any question but that the two issues the gentlewoman has posed here have been issues that the majority has stood for and would stand for in a conference as well, and it would not require a motion to instruct to get Democrats to stand for that position.

Ms. OAKAR. Further reserving the right to object, if they are not part of our bill going over there in terms of that, then because it has been dropped in the past, I do not know that this would take place.

Mr. Speaker, I am going to withdraw my reservation of objection, but raising it hopefully will be instructive in some sort of way, because I think a lot of Members would not vote for a budget that did not have those two items in it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The Chair would indicate that the Speaker will name the conferees upon his return to the Chamber.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this time to proceed in order that I might inquire of the distinguished majority leader of the program for the balance of this evening, how he sees the program for tomorrow and probably this weekend.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the distinguished majority leader.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we do not intend to have any further votes this evening. We will be meeting tomorrow and will be taking up the conference reports on the appropriation bills on transportation, military construction, energy and water. We will have some rules that need to be passed for further legislation, and additional conference reports may be in order. I would hope that we could finish the business at a reasonable time tomorrow.

We will meet at 12 on Saturday. We will be having conference reports primarily at that time, perhaps some additional legislation, but primarily conference reports.

We will meet at 2 on Sunday, and we will have the legislative appropriation bill on that day.

We will be meeting on Monday, probably at noon, and continuing to work.

On any of these days we might be taking up the conference report on reconciliation, the hope being that the Senate will finish sometime this evening, the conference will begin tomorrow, and that could come to the floor at any time.

Mr. MICHEL. May I inquire of our meeting time tomorrow?

Mr. GEPHARDT. 11 o'clock. And I will ask unanimous consent in a moment to ask that we meet tomorrow at 11.

Mr. MICHEL. Again, on Sunday, the meeting time will then be what?

Mr. GEPHARDT. 2 p.m.

Mr. MICHEL. I thank the distinguished majority leader.

HOUR OF MEETING ON TOMORROW

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 11 a.m. on tomorrow, Friday, October 19, 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ELIMINATING A CERTAIN REQUIREMENT FOR MINIMUM WAGE DETERMINATION FOR AMERICAN SAMOA

Mr. MURPHY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2930) to eliminate "substantial documentary evidence" requirement for minimum wage determination for American Samoa, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. GOODLING. Mr. Speaker, I reserve the right to object.

Mr. Speaker, reserving the right to object, I reserve the right to object to have the gentleman from Pennsylvania [Mr. MURPHY] explain what the bill is all about.

Mr. MURPHY. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. Reserving the right to object, I yield to the gentleman from Pennsylvania.

Mr. MURPHY. Mr. Speaker, I will be very pleased to accommodate my colleague, the gentleman from Pennsylvania, the ranking member of the Committee on Education and Labor.

Mr. Speaker, I call this bill forth and have an amendment at the desk which would basically provide two provisions in the Fair Labor Standards Act to accommodate two separate groups of employers. It is very narrowly drafted.

The original Senate bill covers only the fishing-canning industry in the U.S. Territory of Samoa.

When we originally passed the Fair Labor Standards Act amendments last year, the intent was to continue to provide American Samoa with the right to have their minimum-wage level set by the Commission in the Department of Labor. We did not make that clear, and the Senate bill is addressing that particular matter.

The amendment which I have placed at the desk addresses the second group of employers, and that is in the computer industry where most of the employees are high-technology, high-paid, beyond minimum-wage levels, but we failed to exempt those high-technology, high-paid employees from the overtime provisions, and in order

that we can provide that industry with the right to continue and grow in our American system, we would like to have those employees exempted from the overtime provisions.

Mr. GOODLING. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for yielding. I thank the gentleman from Pennsylvania, the chairman of the subcommittee, for bringing this bill up.

I would note for the record that the gentleman would pass by unanimous consent tonight a bill which I support and that the gentleman from Pennsylvania supports, that would provide technical corrections for two of the four mistakes, drafting mistakes, that were made in the passage of the Minimum Wage Act of 1989. These are two corrections out of four that ought to be made.

I think it is worthwhile to make these two corrections. I want to describe briefly these two corrections and then the two that still remain to be made which have been included in legislation, incidentally, offered by the chairman of the subcommittee, the gentleman from Pennsylvania [Mr. MURPHY].

The first correction is to restore section 10 of the Minimum Wage Act of 1989, as drafted and as passed out of the committees of both Houses, but was deleted because of a drafting error that was discovered, I am told, on the way to the floor of the House.

Section 10, and I will just read from the committee report of it section by section. Section 10 says in the committee report, it directs the Secretary to "alter the regulations on the overtime exemption so as to permit certain professionals tc qualify as long as such professionals are compensated at a rate of six-and-one-half times the minimum wage rate."

I would note that was the intent of everyone in Congress in passing this bill, and it was only a drafting error that kept that from happening.

The second section is the bill that is on the Speaker's desk on American Samoa.

Section 4 stated very clearly, of the section by section in the committee report, "American Samoa," it says in section 4, "remains covered by these provisions," meaning by these prior-law exemptions, so it was clearly the intent of the Congress, both Houses and all Members of Congress as far as I know, to continue the American Samoa provision and to continue the protections and the exemptions of the computer professionals.

□ 1800

Those are being covered by this bill. Mr. Speaker, it is important for Members to understand that there were two other mistakes that were generally acknowledged to be mistakes that were made not by either gentleman from Pennsylvania, but were made by the drafting of the Minimum Wage Act of 1989 that are not included in this motion, but I would hope that we could include it at some point. One was in section 3.

Again, the words of the committee report in section 3, section 3 amends the enterprise test to exempt most small businesses from the FSLA. If their annual volume of sales or business done is less than $500,000. Nevertheless, the drafting of the 1989 act, drafted the small business exception which had been in effect since 1961 to totally remove the exemption from small business, not a result that anyone so far as I know had intended, and clearly not the intent of that act.

The second one was a section that the gentleman from Pennsylvania [Mr. GOODLING] brought Members, and that would be to provide the training leg to agricultural workers who are neither migrant workers nor employed by farm labor contractors. The gentleman from Pennsylvania [Mr. GOODLING] had a committed unanimously, by members of the Committee on Education and Labor to restore that exemption upon the next available vehicle. He is not choosing to offer that in this particular vehicle, but I would suggest that both, for small business exemption restoration of the 1961 law, and the training wage for agricultural workers, are two other mistakes that ought to be corrected in this session of Congress if we are going to deal with the Minimum Wage Act in an honest and forthright manner.

Mr. GOODLING. Mr. Speaker, further reserving the right to object, I agree with what has been said by both gentlemen. We are correcting a situation for Samoa. They have convinced me that it is necessary, and certainly we need to correct the situation in relationship to computers.

I want to emphasize what the gentleman from Texas said. I hope before we leave here we also will take care of the agriculture position in the small business provision.

Mr. Speaker, last year during the consideration of the Fair Labor Standards Amendments of 1989, we overlooked two technical changes to the law. First, we changed the minimum wage law of American Samoa. Under the current law, special industrial committees determine minimum wage rates for specific industries in American Samoa. In addition, industries have to provide substantial documentation that they cannot pay the Federal minimum wage. I am told by the gentleman from American Samoa that publicizing the detailed affairs of the one industry in his district—tuna canning—would hurt the industry's foreign competitiveness. For that reason, I support removing the requirement in the FLSA that industries in American Samoa must provide substantial documentary evidence that they cannot pay the Federal minimum wage.

The second provision we are considering today was dropped at the last moment from the 1989 amendments. This provision would extend the professional exemption for overtime compensation under the Fair Labor Standards Act to computer systems analysts, programmers, software engineers and similarly skilled individuals. These employees are only included in this exemption if they are paid an hourly rate of pay that is at least 6½ times greater than the current Federal minimum wage. It is my understanding that these computer consultants are currently required to be paid overtime compensation even though they commonly earn between $50 and $100 an hour. Clearly, the Fair Labor Standards Act was not enacted in 1938 for this purpose.

I am pleased to join with my colleagues from the other side of the aisle in considering these two technical amendments to the Fair Labor Standards Act.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in support of S. 2930. Section 1 of this bill will correct an inadvertent error which was made last year in the minimum wage provisions applicable to American Samoa. Because of its developing economy and lower standard of living, the Federal minimum wage does not currently apply to American Samoa. Instead, special minimum wage rates are established periodically by industry committees designated by the Department of Labor.

Among other provisions, the 1989 Fair Labor Standards amendments removed Puerto Rico and the Virgin Islands from the periodic wage review by industry committees, leaving only American Samoa subject to this procedure. In making the change, a burden of proof previously applicable to Puerto Rico and the Virgin Islands was applied to American Samoa. This change requires the mainland minimum wage to be imposed unless there is "substantial documentary evidence" that an industry is unable to pay the mainland rate.

The effect of this error is contrary to the intent of Congress. The report of the House Education and Labor Committee on the 1989 amendments specifically states that "[t]he amendments made by this bill will have no effect on the present statutory standard for minimum wages in American Samoa" (House Report No. 101-260, page 22).

This oversight was not discovered until the Department of Labor and other interested parties began to prepare for the upcoming industry committee hearing. When the error was discovered, the Governor of American Samoa requested that the Department of the Interior seek congressional relief. The Interior Department has obtained approval from the Department of Labor and the Office of Management and Budget for repeal of the "substantial documentary evidence" requirement as it was applied to American Samoa.

On July 18, 1990, the Department of the Interior sent letters to the House and Senate recommending enactment of legislation to correct the change made last year. The letters stated that enactment of the legislation would be in accord with the program of the President. The bill under consideration would im-

plement the recommendation of the administration.

The bill would not affect the long-standing statutory standard prohibiting increases in minimum wages which would result in a "substantial curtailment of employment". The bill would not require imposition of the mainland minimum wage when there is evidence that an industry is unable to pay the mainland rate due to competitive or economic conditions.

Unless this correction is enacted promptly, the industry committee hearing scheduled for January in American Samoa would depart from the historical statutory criteria for determining minimum wages in Samoa. Such a deviation could have serious adverse consequences for the territory's economy. This bill will enable industry committees to apply the broad economic criteria which have traditionally been used to determine minimum wages for American Samoa, which include maximization of employment and the ability of business in American Samoa to be competitive within the Pacific region.

Mr. Speaker, getting this legislation through two Houses of Congress has not been easy. Even though this bill must be returned to the Senate for further consideration, the addition of a provision supported by the computer industry has given this bill wide support in both Houses of Congress. With this broad support I am optimistic that there is still sufficient time for Congress to complete action on this bill.

Mr. Speaker, many of us have been working on passage of this bill and they deserve special recognition. The leadership provided by Chairman AUGUSTUS F. HAWKINS and Chairman AUSTIN J. MURPHY and their staffs have moved us a long way in a short period of time. Without their efforts, this bill would still be resting quietly in some corner of the House of Representatives. The support and assistance of Congressmen MERVYN M. DYMALLY, WILLIAM F. GOODLING, and STEVE BARTLETT have also been essential to passage. Also deserving of special recognition for their help are Senators EDWARD M. KENNEDY, JAMES A. MCCLURE, DANIEL K. INOUYE, and ORRIN G. HATCH.

The Governor of American Samoa, the Honorable Peter Tali Coleman, has also played an important role in the passage of this bill. His contacts and his work with the Republican Members of Congress have been essential.

The Secretary of Labor, the Honorable Elizabeth Dole, was kind enough to respond to requests from Members of Congress, Governor Coleman, and the tuna industry to postpone twice an industry committee hearing set for earlier this year. Without her action, our action on this bill would have been meaningless.

Finally, Mr. Speaker, there are several members of staffs and representatives of interested parties who have worked many long, hard hours to make this happen. Their professionalism deserves special recognition. From the House Committee on Education and Labor I thank Susan McGuire, James Riley, Richard Johnson, and Kristina Moore. From the Senate Committee on Labor and Human Resources, Sarah Fox. For the tuna industry, their Washington representatives Bill Cable, Marcus Sisk, and Ellen Boyle. For the American Samoa Government, Michael S. Marino, Singleton B. McAllister, and William Geoghegan. And often overlooked, from my own congressional staff, Martin Yerick, Ali'imau H. (J.R.) Scanlan, Nancy Leong, Marvin Leach, Lago Pele, Kawen Young, and Merina Sunia.

In conclusion, I rise today in support of this bill because it keeps the people of Samoa and other Americans gainfully employed, and it supports America's dwindling tuna industry. Although Samoa is a small, distant territory, the impact of this legislation will be felt throughout the United States as Americans continue to enjoy the good-tasting, nutritious tuna processed and canned by American workers in American Samoa.

Mr. GOODLING. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. TRAXLER). Is there objection to the request of the gentleman from Pennsylvania [Mr. MURPHY]?

There was no objection.

The Clerk read the Senate bill as follows:

S. 2930

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of subsection (b) of section 8 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 208(b)) is amended by striking out the semicolon and the material following the semicolon and inserting a period in lieu thereof.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MURPHY

Mr. MURPHY. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. MURPHY: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. AMERICAN SAMOA.

Section 8(b) (29 U.S.C. 208(b)) is amended by striking out "unless there is" and all that follows in that section and inserting in lieu thereof "unless there is evidence in the record which establishes that the industry, or a predominant portion thereof, is unable to pay that wage due to such economic and competitive conditions.".

SEC. 2. REGULATIONS CONCERNING CERTAIN EMPLOYEES.

Not later than 90 days after the date of enactment of this Act, the Secretary of Labor shall promulgate regulations that permit computer systems analysts, computer programmers, software engineers, and other similarly skilled professional workers as defined in such regulations to qualify as exempt executive, administrative, or professional employees under section 13(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(1)). Such regulations shall provide that if such employees are paid on an hourly basis they shall be exempt only if their hourly rate of pay is at least 6½ times greater than the applicable minimum wage rate under section 6 of such Act (29 U.S.C. 206).

Mr. MURPHY (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MURPHY. Mr. Speaker, I rise to offer an amendment which contains two technical amendments to the Fair Labor Standards Act. These revisions are narrowly drafted to deal with specific concerns of two groups of employers covered by the FLSA. Section 1 would remedy difficulties which have recently come to light regarding application of the act to employees and employers in American Samoa. Section 2 of the amendment clarifies application of the overtime exemption in section 13(a) of the FLSA to certain highly skilled professionals in the computer industry.

In American Samoa the Federal minimum wage is set by the Secretary of Labor based on the recommendation of special industry committees. This progress was previously used to set minimum wages in other U.S. territories. When H.R. 2710 was passed last year and became Public Law 101-157, the provisions in sections 5, 6, and 8 of the FLSA which relate to special minimum wages set by appointed industry committees in U.S. territories were amended to remove all references to Puerto Rico and the Virgin Islands and "American Samoa" was referenced instead. This statutory change was intended to preserve the existing system of setting wages in American Samoa (House Report 101-260).

Notwithstanding the committee's stated intent, one significant change in the way wages would be set in Samoa did occur. In the past, industries in Puerto Rico and the Virgin Islands which sought wage rates lower than the mainland rate in section 6(a)(1) of the FLSA were required to produce "substantial documentary evidence, including pertinent unabridged profit and loss statements and balance sheets" demonstrating that they were unable to pay the regular minimum wage rate. A similar requirement was not imposed on industries in American Samoa. When the Congress substituted American Samoa in lieu of references to other U.S. territories in the industry committee provisions of the FLSA requirement to open the company books was applied to industries in Samoa.

This amendment is intended to soften this additional burden for private sector employers in American Samoa. While still requiring proof of economic hardship, the language of the amendment makes it clear that the evidence necessary to justify special wage orders relates to economic and competitive conditions on the island which effect the employment situation for Samoans.

Section 2 of my amendment would clarify the way the overtime exemp-

tion in section 13(a) of the FLSA applies to highly skilled computer industry professionals. A similar provision offered by Senator DURENBERGER was adopted by the Senate last year as an amendment to the minimum wage bill, S. 4. that amendment was accepted by the House in conference committee and was approved by the whole house as part of the conference report on H.R. 2 which was subsequently vetoed by President Bush.

This provision was later incorporated into H.R. 2710 when it was introduced last year. It was included as section 10 when that bill was reported by the Education and Labor Committee (House Report 101-160). Last minute concerns about the language of the provision arose on the day H.R. 2710 was brought to the House floor, November 1, 1990. With insufficient time to properly review these concerns and revise the amendment, it was dropped from the bill before it was put to a vote.

We have had plenty of time to consult with both industry, professionals and Members of this body, and we feel that we have drafted an amendment that adequately covers all concerns. I ask that my colleagues join with me in passing this amendment.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time, and I move the previous question on the Senate bill.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Pennsylvania [Mr. MURPHY].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. MURPHY

Mr. MURPHY. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Amendment to the title offered by Mr. MURPHY: Amend the title of the Senate bill so as to read: A bill to eliminate substantial documentary evidence requirement for minimum wage determination for American Samoa, and for other purposes.

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURPHY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 2930, the Senate bill just passed.

The SPEAKER, pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was not objection.

NATIONAL FEDERATION OF THE BLIND DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 667) to designate November 16, 1990, as "National Federation of the Blind Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to yield to the sponsor of this joint resolution, my colleague and friend, the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Mr. Speaker, as the author of House Joint Resolution 667, I rise today to honor the National Federation of the Blind, the Nation's largest organization of blind persons, on the 50th anniversary of its founding in Wilkes-Barre, PA. The National Federation of the Blind has spent half a century educating both the blind and those with sight about blindness. It is dedicated to promoting the message that, with proper training and opportunity, blindness need not be an obstacle to personal success.

It is such an exceptional organization, Mr. Speaker, that, in less than a week, more than half of the House joined me in sponsoring House Joint Resolution 667, a resolution to designate November 16, 1990, as National Federation of the Blind Day. The National Federation of the Blind has over 50,000 members nationwide, present in every State of the Union and most medium and large communities.

The National Federation of the Blind was founded in 1940 by Dr. Jacobus tenBroek, later a prominent scholar of constitutional law and legal history at the University of California at Berkeley. Dr. tenBroek was a pioneer, proving the fundamental concept that blindness is a normal characteristic, and does not limit a person's accomplishments any more than thousands of other conditions.

Dr. tenBroek became a world leader of the organized blind movement, and was a significant activist for 28 years. Blind himself, Dr. tenBroek is strong testimony to the fact that the blind are well able to make valuable contributions to society.

The foremost objective of the National Federation of the Blind is to provide blind individuals with the tools necessary to become productive members of their communities. It offers a wide variety of services, including publications, scholarships, and assistance to those who have experienced discrimination or a violation of their rights.

The National Federation of the Blind recently developed an employment program in cooperation with the Department of Labor. This program helps match qualified blind people with prospective employers. It also conducts career counseling seminars for blind job seekers, and sponsors employer education workshops for those interested in hiring blind persons.

Mr. Speaker, I could speak at much greater length about all of the other impressive contributions of the National Federation of the Blind to the lives of people throughout our Nation. I will only add that it is a critical organization that provides a forum for the blind to meet, share experiences, improve their own quality of life, and add to the quality of life of those around them.

Like those with sight, blind persons have become successful lawyers, scientists, farmers, athletes, elected officials, and parents. Indeed, they have been successful in almost any occupation they have chosen to pursue.

Mr. Speaker, the President of the United States has often spoken of the "thousand points of light" that make our world a brighter and better place in which to live. The National Federation of the Blind and its members nationwide are evidence that one need not have sight to "see" these points of light, or to become one.

I am proud, Mr. Speaker, to have the opportunity to introduce this resolution to honor this great organization and to designate November 16, 1990, as National Federation of the Blind Day.

COSPONSORS OF HOUSE JOINT RESOLUTION 667

1. Ackerman, Gary (NY-7.
2. Annunzio, Frank (IL-11).
3. Applegate, Douglas (OH-18).
4. Atkins, Chester (MA-5).
5. Baker, Richard (LA-6).
6. Barnard, Doug (GA-10).
7. Bennett, Charles (FL-3).
8. Bentley, Helen Delich (MD-2).
9. Bereuter, Doug (NE-1).
10. Berman, Howard (CA-26).
11. Bilbray, James (NV-1).
12. Bilirakis, Michael (FL-9).
13. Bliley, Thomas (VA-3).
14. Boehlert, Sherwood (NY-25).
15. Broomfield, William (MI-18).
16. Brown, George (CA-36).
17. Brown, Hank (CO-4).
18. Buechner, Jack (MO-2).
19. Bunning, Jim (KY-4).
20. Burton, Dan (IN-6).
21. Bustamante, Albert (TX-23).
22. Callahan, Sonny (AL-1).
23. Cardin, Benjamin (MD-3).
24. Carr, Bob (MI-6).
25. Chandler, Rod (WA-8).
26. Clarke, James (NC-11).
27. Clement, Bob (TN-5).
28. Clinger, William (PA-23).
29. Coleman, Ronald (TX-16).
30. Collins, Cardiss (IL-7).
31. Conyers, John (MI-1).
32. Costello, Jerry (IL-21).
33. Coughlin, Lawrence (PA-13).

34. Courter, Jim (NJ-12).
35. Craig, Larry (ID-1).
36. Crockett, George (MI-13).
37. Darden, George (GA-7).
38. Davis, Robert (MI-11).
39. DeFazio, Peter (OR-4).
40. de la Garza, E. (TX-15).
41. Derrick, Butler (SC-3).
42. Dickinson, William (AL-2).
43. Dicks, Norman (WA-6).
44. Dixon, Julian (CA-28).
45. Donnelly, Brian (MA-11).
46. Durbin, Richard (IL-20).
47. Dwyer, Bernard (NJ-6).
48. Dymally, Mervyn (CA-31).
49. Emerson, Bill (MO-8).
50. Engel, Eliot (NY-19).
51. Erdreich, Ben (AL-6).
52. Espy, Mike (MS-2).
53. Evans, Lane (IL-17).
54. Fawell, Harris (IL-13).
55. Fazio, Vic (CA-4).
56. Foglietta, Thomas (PA-1).
57. Ford, Harold (TN-9).
58. Ford, William (MI-15).
59. Frank, Barney (MA-4).
60. Frenzel, Bill (MN-3).
61. Gallo, Dean (NJ-11).
62. Gejdenson, Sam (CT-2).
63. Gekas, George (PA-17).
64. Gilman, Benjamin (NY-22).
65. Goodling, William (PA-19).
66. Grandy, Fred (IA-6).
67. Grant, Bill (FL-2).
68. Gray, William (PA-2).
69. Green, Bill (NY-15).
70. Guarini, Frank (NJ-14).
71. Gunderson, Steve (WI-3).
72. Hamilton, Lee (IN-9).
73. Hammerschmidt, John Paul (AR-3).
74. Hansen, James (UT-1).
75. Harris, Claude (AL-7).
76. Hatcher, Charles (GA-2).
77. Hayes, James (LA-7).
78. Hefley, Joel (CO-5).
79. Hefner, W.G. (NC-8).
80. Hiler, John (IN-3).
81. Hoagland, Peter (NE-2).
82. Hopkins, Larry (KY-6).
83. Horton, Frank (NY-29).
84. Hubbard, Carroll (KY-1).
85. Hughes, William (NJ-2).
86. Hyde, Henry (IL-6).
87. Jacobs, Andrew (IN-10).
88. Johnson, Nancy (CT-6).
89. Johnson, Tim (SD).
90. Jones, Ben (GA-4).
91. Jones, Walter (NC-1).
92. Jontz, Jim (IN-5).
93. Kanjorski, Paul (PA-11).
94. Kaptur, Marcy (OH-9).
95. Kasich, John (OH-12).
96. Kastenmeier, Robert (WI-2).
97. Kennedy, Joseph (MA-2).
98. Kennelly, Barbara (CT-1).
99. Kildee, Dale (MI-7).
100. Kleczka, Gerald (WI-4).
101. Kolter, Joe (PA-4).
102. Lagomarsino, Robert (CA-19).
103. Lancaster, Martin (NC-3).
104. Lantos, Tom (CA-11).
105. Leach, Jim (IA-1).
106. Leath, Marvin (TX-11).
107. Lehman, William (FL-17).
108. Levine, Mel (CA-27).
109. Lewis, Tom (FL-12).
110. Lightfoot, Jim (IA-5).
111. Lipinski, William (IL-5).
112. Livingston, Bob (LA-1).
113. Long, Jill (IN-4).
114. Lukens, Donald (OH-8).
115. McCloskey, Frank (IN-8).
116. McCollum, Bill (FL-5).
117. McCrery, Jim (LA-4).
118. McDade, Joseph (PA-10).
119. McDermott, Jim (WA-7)
120. McEwen, Bob (OH-6).
121. McHugh, Matthew (NY-28).
122. McNulty, Michael (NY-23).
123. Machtley, Ronald (RI-1).
124. Madigan, Edward (IL-15).
125. Martin, Lynn (IL-16).
126. Martinez, Matthew (CA-30).
127. Matsui, Robert (CA-3).
128. Mavroules, Nicholas (MA-6).
129. Mazzoli, Romano (KY-3).
130. Mfume, Kweisi (MD-7).
131. Michel, Robert (IL-18).
132. Miller, Clarence (OH-10).
133. Miller, John (WA-1).
134. Moakley, John Joseph (MA-9).
135. Montgomery, G.V. (MS-3).
136. Moody, Jim (WI-5).
137. Moorhead, Carlos (CA-22).
138. Morrison, Bruce (CT-3).
139. Morrison, Sid (WA-4).
140. Murphy, Austin (PA-22).
141. Murtha, John (PA-12).
142. Nagle, David (IA-3).
143. Natcher, William (KY-2).
144. Neal, Richard (MA-2).
145. Neal, Stephen (NC-5).
146. Nelson, Bill (FL-11).
147. Nowak, Henry (NY-33).
148. Oakar, Mary Rose (OH-20).
149. Olin, Jim (VA-6).
150. Owens, Major (NY—12).
151 (Owens, Wayne (UT-2).
152. Pallone, Frank (NJ-3).
153. Parker, Mike (MS-4)
154. Patterson, Elizabeth (SC-4).
155. Paxon, Bill (NY-31).
156. Payne, Donald (NJ-10).
157. Payne, Lewis (VA-5).
158. Pelosi, Nancy (CA-5).
159. Perkins, Carl (KY-7).
160. Pickett, Owen (VA-2).
161. Pickle, J.J. (TX-10).
162. Porter, John Edward (IL-10).
163. Poshard, Glenn (IL-22).
164. Price, David (NC-4).
165. Rahall, Nick Joe (WV-4).
166. Rangel, Charles (NY-16).
167. Ravenel, Arthur (SC-1).
168. Rhodes, John (AZ-1).
169. Richardson, Bill (NM-3).
170. Rinaldo, Matthew (NJ-7).
171. Roberts, Pat (KS-1).
172. Robinson, Tommy (AR-2).
173. Roe, Robert (NJ-8).
174. Rogers, Harold (KY-5).
175. Rowland, John (CT-5).
176. Roybal, Edward (CA-25).
177. Sabo, Martin Olav (MN-5).
178. Saiki, Patricia (HI-1).
179. Sangmeister, George (IL-4).
180. Savage, Gus (IL-2).
181. Sawyer, Thomas (OH-14).
182. Saxton, Jim (NJ-13).
183. Schaefer, Dan (CO-6).
184. Scheuer, James (NY-8).
185. Schiff, Steven (NM-1).
186. Schuette, Bill (MI-10).
187. Schumer, Charles (NY-10).
188. Serrano, Jose (NY-18).
189. Sharp, Philip (IN-2).
190. Shumway, Norman (CA-14).
191. Sikorski, Gerry (MN-6).
192. Skelton, Ike (MO-4).
193. Slattery, Jim (KS-2).
194. Slaughter, Louise (NY-30).
195. Smith, Christopher (NJ-4).
196. Smith, Denny (OR-5).
197. Smith, Lamar (TX-21).
198. Smith, Robert (OR-2).
199. Solarz, Stephen (NY-13).
200. Spence, Floyd (SC-2).
201. Spratt, John (SC-5).
202. Staggers, Harley (WV-2).
203. Stallings, Richard (ID-2).
204. Stangeland, Arlan (MN-7).
205. Stark, Fortney Pete (CA-9).
206. Stokes, Louis (OH-21).
207. Studds, Gerry (MA-10).
208. Stump, Bob (AZ-3).
209. Tallon, Robin (SC-6).
210. Tanner, John (TN-8).
211. Tauke, Thomas (IA-2).
212. Tauzin, W.J. (LA-3).
213. Thomas, Lindsay (GA-1).
214. Thomas, William (CA-20).
215. Towns, Edolphus (NY-11).
216. Traficant, James (OH-17).
217. Traxler, Bob (MI-8).
218. Unsoeld, Jolene (WA-3).
219. Upton, Frederick (MI-4).
220. Vento, Bruce (MN-4).
221. Volkmer, Harold (MO-9).
222. Vucanovich, Barbara (NV-2).
223. Walgren, Doug (PA-18).
224. Walsh, James (NY-27).
225. Weiss, Ted (NY-17).
226. Weldon, Curt (PA-7).
227. Wheat, Alan (MO-5).
228. Wilson, Charles (TX-2).
229. Wolf, Frank (VA-10).
230. Wyden, Ron (OR-3).
231. Wylie, Chalmers (OH-15).
232. Yates, Sidney (IL-9).
233. Young, Don (AK).

Excerpts From the Federation at Fifty

(By Kenneth Jernigan)

If the engineers of 1800 had possessed complete drawings for a transistor radio (one that could be bought today for $10), they couldn't have built it, not even if they had had billions or trillions of dollars. They lacked the infrastructure—the tools, the tools to build the tools, and the tools to build those; the plastics, the machines to make the plastics, and the machines to make the machines; the skilled work force, the teachers to train the work force, and the teachers to train the teachers; the transportation network to assemble the materials, the vehicles to use the network, and the sources of supply. All of this is generally recognized, but it is far less well understood that what is true of material objects is also true of ideas and attitudes. In the absence of a supporting social infrastructure of knowledge and beliefs, a new idea simply cannot exist.

So far as I can tell, there are only three possible reasons for studying history—to get inspiration, to gain perspective, or to acquire a basis for predicting the future.

In 1965 Dr. Jacobus tenBroek, the founder and leader of our movement, spoke at our twenty-fifth banquet, reviewing the first quarter century and charting the road ahead. We were meeting in Washington, and more than a hundred members of Congress were present. I was master of ceremonies, and some of the rest of you were also there. Tonight (twenty-five years later) we celebrate our Golden Anniversary, and the time has once again come to take stock. Where are we, where have we been, and where are we going?

In a sense the history of our movement begins in the distant past—in the medieval guilds and brotherhoods of the blind in Europe, in the tentative stirrings of organization in China, and even earlier—but the National Federation of the Blind is essentially an American product. Its genesis is native. Although (as we all know) Dr. Jacobus tenBroek presided at the founding of the National Federation of the Blind in 1940

at Wilkes-Barre, Pennsylvania, he had a teacher (Dr. Newel Perry), who laid the foundations and served as precursor. And Dr. Perry, in turn, had a teacher, Warring Wilkinson.

Most of what we know about Wilkinson is contained in the eulogy which Dr. tenBroek delivered at the time of Dr. Perry's death in 1961,[1] but our knowledge is sufficient to tell us that Wilkinson was a worthy teacher of the teacher of our founder. He was the first principal of the California School for the Deaf and Blind. He served in that capacity for forty-four years, from 1865 to 1909. He not only loved his students but also did what he could to move them toward the main channels of social and economic participation. Particularly, he saw the potential in young Perry, sending him from the California School for the Blind to Berkeley High to complete his secondary education. To do this Wilkinson (who was ahead of his time both in his understanding of education and the needs of the blind) had to overcome numerous obstacles.

I was fortunate enough to know Dr. Perry, meeting him when I move to California in 1953. He was then eighty, and he spent many hours with me reminiscing about what conditions for the blind were like when he was a boy. He came to the California School for the Blind when he was ten—"penniless, blind, his father dead, his home dissolved. Two years earlier he had lost his sight and nearly his life as the result of a case of poison oak, which caused his eyeballs to swell until they burst and which help him in a coma for a month." It was at the School, of course, that he first met Warring Wilkinson.

While going to high school (from which he graduated in 1892) he lived at the California School for the Blind. He also lived there while attending the University of California from 1892 to 1896. His admission to the University (as had been the case with high school) had to be secured over strong resistance. Again, Wilkinson was the pathfinder, young Perry his willing and anxious instrument. "Wilkinson's role in Perry's life as a youth can hardly be overestimated: father, teacher, guide, supporter—in Perry's own words, 'dear Governor.' "

After graduating from the University, Dr. Perry devoted himself to further education and to the search for an academic job. "He took graduate work at the University of California, meanwhile serving successively as an unpaid teaching fellow, a paid assistant, and finally as an instructor in the department of mathematics. In 1900, following a general custom of that day, he went to Europe to continue his studies. He did this for a time at the University of Zurich in Switzerland and then at the University of Munich in Germany. From the latter he secured in 1901 the degree of Doctor of Philosophy in Mathematics, with highest honors.

"He returned to the United States in 1902, landing in New York, where he was to remain until 1912. He had about eighty dollars in capital, a first-class and highly specialized education, and all of the physical, mental, and personal prerequisites for a productive career—except one, eyesight.

"During this period he supported himself precariously as a private coach of university mathematics students. He also applied himself to the search for a university position. He displayed the most relentless energy. He employed every imaginable technique. He wrote letters in profusion. In 1905 he wrote to 500 institutions of every size and character. He distributed his dissertation and his published article on mathematics. He haunted meetings of mathematicians. He visited his friends in the profession. He enlisted the aid of his teachers. He called on everybody and anybody having the remotest connection with his goal.

"Everywhere the outcome was the same. Only the form varied. Some expressed astonishment at what he had accomplished. Some expressed interest. One of these seemed genuine—he had a blind brother-in-law, he said, who was a whiz at math. Some showed indifference, now and then masked behind polite phrases. Some said there were no vacancies. Some said his application would be filed for future reference. One said ironically: 'For what—as an encouragement to men who labor under disadvantages and who may learn from it how much may be accomplished through resolution and industry?' Some averred that he probably could succeed in teaching at somebody else's college. Many said outright that they believed a blind person could not teach mathematics.

"Many of these rejections may, of course, have been perfectly proper. Many were not. Their authors candidly gave the reason as blindness."

Dr. Perry failed not because of lack of energy or qualification but because the necessary infrastructure of attitudes and beliefs did not exist to allow it to be otherwise—so he did not find a job in a university. Perhaps it was better for the blind (for those of us gathered here tonight) that he did not—but for him what pain! What absolute desolation and misery! And he had to face it alone—no family, no supporting organization of the blind—only himself and the bleak wall of continuing rejection year after year. He might have quit in despair. He might have become embittered. But he did not. Instead, he returned to California and settled down to build for the future. If he could not have first-class treatment for himself, he was absolutely determined that at least the next generation of the blind would not be denied.

He taught at the California School for the Blind from 1912 to 1947—and day after day, month after month, season after season he exhorted and indoctrinated, preached and prepared. He was building the necessary infrastructure of ideas and beliefs. Those who were his students went on to become his colleagues, and as the number grew, the faith was kept. There would be a state-wide organization of the blind in California. It did not happend until 1934, but when it came, it was built on a solid foundation. And there would also be a National Federation of the Blind—but not yet.

Dr. Perry was to that generation what Warring Wilkinson had been to him. In the words of Jacobus tenBroek, his most brilliant student and the man who would lead the blind in the founding of their national movement: "We were his students, his family, his intimates, his comrades on a thousand battlefronts of a social movement. We slept in his house, ate at his table, learned geometry at his desk, walked the streets interminably by his side, moved forward on the strength of his optimism and confidence."

Dr. tenBroek graduated from Berkeley High School in 1930 with, as he said, "plenty of ambition but no money." He was prepared to enter the University of California but was denied state aid to the blind, a program then newly instituted as a result of Dr. Perry's efforts in sponsoring a constitutional amendment which had been adopted by the voters of California in 1928. In Dr. tenBroek's words, "The reason for the denial was not that my need was not great. It was that I intended to pursue a higher education while I was being supported by the state. That was too much for the administrative officials. Almost without discussion, Dr. Perry immediately filled the gap. "Just as Warring Wilkinson had earlier done for him," said Dr. tenBroek, "he supplied me with tuition and living expenses out of his own pocket for a semester while we all fought to reverse the decision of the state aid officials.

"It was," Dr. tenBroek said, "ever thus with Dr. Perry. The key to his great influence with blind students was, first of all, the fact that he was blind and therefore understood their problems; and second, that he believed in them and made his faith manifest. He provided the only sure foundation of true rapport: knowledge on our part that he was genuinely interested in our welfare."

So the new generation came to maturity, and Jacobus tenBroek was to be its leader. Born in 1911 on the prairies of Alberta, Canada, he was blinded by an arrow in a childhood game and moved to California to enter the school for the blind. He went on to earn five academic degrees—from the University of California at Berkeley a bachelor's in 1934, a master's in 1935, a law degree in 1938, and a Doctorate in Jurisprudence in 1940; and from the Harvard Law School a Doctorate in Jurisprudence in 1947. There is no need for me to talk to this audience about Dr. tenBroek's brilliance—his learned articles and books, his chairmanship of the California Board of Social Welfare, his scholarly pre-eminence and national acclaim, his writings on constitutional law that are still the authoritative works in the field. Rather, I would speak of the man—the warm human being who fought for acceptance, led our movement, and served as my mentor and role model—the man who was my closest friend and spiritual father.

When Dr. tenBroek was first trying to get a teaching position in the 1930s, the climate of public opinion was better than it had been a generation earlier, but he faced many of the same problems which had confronted Dr. Perry—and sometimes with identical letters from the same institutions. "It was," he said, "almost as if a secretary had been set to copying Dr. Perry's file, only changing the signatures and the name of the addressee."

Here is what Dr. tenBroek wrote to Dr. Perry in March of 1940. At the time he was studying at Harvard:

"Last November a large midwestern university was looking for a man to teach public law. Having read my published articles but knowing nothing else about me, the head of the department in question wrote a letter to the University of California inquiring whether I would be available for the position. Cal. replied that I would and accompanied the answer with a considerable collection of supporting material. However, when the department head learned that I was blind, the deal was off although none of the competing applicants had as good a paper showing.

"This incident seems to me of particular interest because, although I have been refused other jobs, this was the first instance in which blindness could be traced as the sole explanation for rejection. Of course, in other cases blindness was also the determining factor, but the fact could not be demonstrated as well."

There were other letters and other rejections—but on June 8, 1940, Dr. tenBroek was able to write to Dr. Perry:

"We have justification for hanging out the flags and ringing the bells. I have been offered and have accepted a job at Chicago University Law School. The job pays $1,800, is denominated a half-time position, and lasts for only a year. But it is a job nevertheless. And the Harvard people, who exerted no end of pressure to get it for me, regard it as an excellent opportunity. The position is designated 'tutorial fellowship' and consists in supervising the research of the first- and second-year law students. It involves no actual classroom teaching, except possibly by way of an occasional fill-in job."

This was how Dr. tenBroek (the man who fifteen years later was to win the Woodrow Wilson Award for the outstanding book of the year in political science and who was always the most sought-after professor at the University of California) was to begin his teaching career. Yet, even today there are sighted people (and also some of the blind—people who ought to know better) who tell me that the blind are not victims of discrimination. Yes, the tenBroek job search was fifty years ago, but you know and I know that we have not yet come to first-class status and equal treatment in society. The framework of ideas and beliefs to make it possible, though long in the building, is still not complete. Warring Wilkinson, Newel Perry and his students, Jacobus tenBroek and the founders of our movement, and the Federationists of succeeding decades have worked year after year to improve the climate of public acceptance and make opportunity available for the blind, but the job is not yet finished. Each generation has built on the work of the one before it. Each has fought and hoped, dreamed and drudged for the one to follow—and also for the blind then alive.

What we have done must be seen in perspective; for no act of past (no gain or denial) is irrelevant, and no present behavior of ours can be divorced from tomorrow. We are close to freedom, and we must finish the journey.

1940 was notable for something else besides Dr. tenBroek's debut at the University of Chicago. It was also the year of the founding of this organization. With the passage of the Social Security Act in 1935 the federal government had supplanted the states in providing assistance to the blind. In 1939 Congress and the Social Security Board combined to pressure the states having the most forward looking programs (chief among them California but also Pennsylvania, Missouri, and Wisconsin) to repeal their progressive laws. This supplied the immediate impetus for the formation of the Federation, but of course the momentum had been building for a generation. The event occurred at Wilkes-Barre on November 15 and 16, 1940, coincident with the convention of the Pennsylvania Federation of the Blind.

In a letter to Dr. Perry dates November 19, 1940, Dr. tenBroek said in part: "The confab at Wilkes-Barre gave birth to an organization, the National Federation of the Blind—of which you, vicariously through me, are president. The long-range aims of the organization are the promotion of the economic and social welfare of the blind, and its immediate and specific aims are the sponsorship of the principle of Senate Bill 1766 and an amendment of the Social Security Act.

"'Seven states were represented at the organizational meeting—Minnesota, Wisconsin, Illinois, Missouri, Ohio, Pennsylvania, and California. We arrived in Wilkes-Barre in the middle of Friday after-noon* * *.

"On Saturday morning, while the Pennsylvania state meeting was going on, I had several black-of-the-scenes conversations with Pennsylvania leaders* * *. In the afternoon* * *, we drew up a skeleton constitution, which we presented to a meeting of all of the delegates to the national meeting, beginning about four o'clock and ending about the same time twelve hours later* * *. The meeting was interrupted at 5:30 in the afternoon long enough to give the other delegates a chance to eat dinner, and the Pennsylvania leader (Gayle Burlingame) and me a chance to appear on the local radio, where we lambasted hell out of the Social Security Board."

On January 4, 1941, Dr. tenBroek wrote to Dr. Perry concerning the detail of getting the new organization started. "With the National Federation of the Blind not yet two months old," he said, "its permanence is definitely assured. The factor guaranteeing that permanence is the closely knit nucleus composed of Minnesota, Pennsylvania, and California. We thre have now had enough experience with each other to know that we can make a go of it* * *. We can add to this trilogy the state of Wisconsin.

"I had a letter from Minnesota yesterday to the effect that they are ready to pay their assessment but that they wish assurance that Pennsylvania and California are also ready before they mail their check. I also had a letter from Pennsylvania stating that it is ready but wishes assurance that Minnesota and California are ready. I have written to both of these states requesting them to make out their checks, payable to the Treasurer of the National Federation, and to send them to me, with the stipulation that I shall not forward them to the Treasurer until I have the dues from each of the states of California, Pennsylvania, and Minnesota, Consequently, if California is ready, I suggest that you follow the same procedure* * *".

But the new president did not limit himself to procedural matters. The Federation immediately assumed its present-day role of working to improve the quality of life for the nation's blind. In a letter to Dr. Perry dated March 5, 1941, President tenBroek described the efforts he had been making to get changes in the administration of public assistance to the blind. Here, in part, is what he said:

"After a week in Washington I have more unsocial exchange to report than specific accomplishment * * *. Gradually working our way upward, Gayle Burlingame and I first presented our case to Jane Hoey, director of the Bureau of Public Assistance, and her associate, a lawyer named Casius. Next we went to Oscar Powell, executive director of the Social Security Board; and finally to Paul V. McNutt, administrator of the Federal Security Agency. Hoey is simply another social worker of the familiar type but with a higher salary than most. Casius has lost none of his qualities since Shakespeare described him, except that his wit has been sharpened by a little legal training. Powell is a very high calibre man with a fine sense of argumentative values, a considerable store of good nature, and unusual perception. He simply is not a believer in our fundamental assumptions. McNutt, on the other hand, is a lesser Hitler by disposition and makes our California social workers look like angels by comparison.

"Hoey and Powell had argued that the new ruling of the Board did not necessarily result in a reduction of a recipient's grant by the amount of his earnings or other income. McNutt took the position that it did and, moreover, that it should. 'Are you saying to us,' I asked McNutt, 'that blind people should have their grants reduced no matter how small their private income and no matter how great their actual need?' His answer was that he was saying precisely that. I formulated the question in several other ways, only to get the same reply. I can't say that I wasn't glad to get this official declaration from McNutt since it provides us with an official declaration by the highest administrator of them all that ought to be of immense propagandistic value to us. Moreover, McNutt's conduct during the conference has provided us with the most perfect example of the arbitrary and tyrannical methods of the Board that we could hope to have.

"In the remaining week that I shall stay in Washington, we shall attempt to carry our appeal to the last administrative step. Senator Downey of California and Senator Hughes of Delaware are attempting to secure for us appointments with Mrs. and President Roosevelt.

"As things stand, the only course open to the blind of California is to urge the legislature to retain the blind aid act in its present form and tell the federal government to go to hell. Even if we can get a favorable amendment to the Social Security Act, it certainly will not be until after the California legislature adjourns."

This is what Dr. tenBroek wrote in 1941, and although we have often said in this organization that the first task which the Federation faced after its founding was to help the blind of the nation get enough money for bare survival, I sometimes wonder if we have made the point with sufficient clarity to convey the desperation of it. The report which was prepared following the 1941 convention of the Federation in Milwaukee says in part:

"Mr. Stephen Stanislevic of New York City reported as follows: 'The blind population of New York State is roughly estimated at 13,000. Of these, more than half are in New York City. A very small number of our people, a few hundred in all, are at present employed in sheltered industries, on government projects, at newsstands, or in miscellaneous enterprises. The majority depend for sustenance either upon private bounty or upon Social Security grants. The average monthly grant per individual is $27 in New York City and $23 in the up-state counties. This is the paltry pittance which the wealthiest state in our Union sees fit to dole out to those of its citizens who are blind.'

"Mr. Hugh McGuire explained that in Indiana there are approximately 2,600 blind and that between 2,200 and 2,300 are drawing assistance with the monthly average of $20."

That was forty-nine years ago, and much has happened in the interim. Not that it happened by chance, of course. Mostly we made it happen. How many times since 1940 has the National Federation of the Blind led the way in social reform in this country, not only for the blind but also for others? To mention only three examples, we pioneered exempt earnings for the recipients of public assistance; we pioneered fair hearing procedures in rehabilitation and other public programs; and we pioneered jobs for the disabled in government service.

As I have already said, our first task as an organization was to initiate programs to enable the blind get enough to eat. In 1940 and the decades immediately following, most of the blind of this country were desperately poor, and there were almost no government programs to help. When people are hungry, little else matters. Later (although many of us were still in poverty—and, for that matter, are now) we worked on rehabilitation and employment, and today we emphasize civil rights and equal participation in society. But essentially our role is what it has always been—seeing that blind people get equal treatment and a fair shake.

It is not only in basics but also in detail that our operation today is often much the same as it was in past decades. Let me give you a rather specialized example. I have made a lot of banquet speeches at these conventions, and certain key ideas are central to them all. I can sum up the essentials in a few sentences. The real problem of blindness is not the blindness itself but what the members of the general public think about it. Since the agencies doing work with the blind are part of that general public, they are likely to possess the same misconceptions that are held by the broader society. The blind, too, are part of that broader society, and if we are not careful, we will accept the public view of our limitations and thus do much to make those limitations a reality. The blind are not psychologically or mentally different from the sighted. We are neither especially blessed nor especially cursed. We need jobs, opportunity, social acceptance, and equal treatment—not pity and custody. Only those elected *by* the blind can speak *for* the blind. This is not only a prime requisite of democracy but also the only way we can ever achieve first-class status.

Mr. RIDGE. Mr. Speaker, after the eloquent remarks by that wonderful organization, "The Federation at Fifty," I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 667

Whereas the National Federation of the Blind was established in Wilkes-Barre, Pennsylvania, on November 16, 1940;

Whereas the Federation is the largest organization for blind people in the United States;

Whereas the Federation was founded to provide a sense of security, equality, and opportunity, and an outlet for self-expression for the blind;

Whereas the Federation has over 50,000 members, national chapters in every State and the District of Columbia, and local chapters in almost every community;

Whereas the founders of the Federation, who are themselves blind, have been instrumental in instilling hope and self-assurance in the blind and in improving the public image of blind people;

Whereas programs conducted by the Federation assist the blind in obtaining and performing jobs and becoming productive members of society; and

Whereas the many functions, activities, and programs of the Federation have provided significant benefits to the blind and to the Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 16, 1990, is designated as "National Federation of the Blind Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on House Joint Resolution 667, the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

□ 1810

MAINE ACADIAN CULTURE PRESERVATION ACT

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1756) to provide for the preservation and interpretation of sites associated with Acadian culture in the State of Maine, with Senate amendments to the House amendment, and to concur in Senate amendments numbered 1, 3, 5 and 6, and disagree to amendments numbered 2 and 4.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to the House amendment, as follows:

Senate amendments to House amendment:

Page 3, line 5, of the House engrossed amendment, after "history,", insert "historic preservation,".

Page 4, line 23, of the House engrossed amendment, strike out "1 year" and insert: "6 months".

Page 4, line 24, of the House engrossed amendment, strike out "Secretary, in consultation with the Commission," and insert: "Secretary".

Page 6, lines 4 and 5, of the House engrossed amendment, strike out "after completion of the study required by section 5," and insert: "after consultation with the Commission,".

Page 6, line 11, of the House engrossed amendment, strike out "develop and operate" and insert: "develop, operate, and maintain".

Page 6, line 12, of the House engrossed amendment, strike out "programs" and insert: "to develop and operate programs".

Mr. VENTO (during the reading) Mr. Speaker, I ask unanimous consent that the Senate amendments to the House amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. TRAXLER). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

Mr. LAGOMARSINO. Reserving the right to object, Mr. Speaker, I reserve the right to object only to allow the gentleman to briefly explain what this does, and I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, the Senate amended S. 1756. Several of the changes are acceptable to the House. Two are not. One amendment on which we have disagreement specifies that the study on Acadian culture would be mandated to be completed in 6 months time instead of a year. While I very much want to see the study completed as quickly as possible, I do not believe that such a deadline for the National Park Service is realistic and believe that it should be returned to 1 year.

The Senate also changed the bill so that the Acadian Culture Center would be established after consultation with the commission, instead of after completion of the study. This comprehensive study of Acadian culture in Maine is intended to survey and evaluate surviving sites and structures and to provide the basis for selection of the best location for the Maine Acadian Culture Center. For this reason, I believe that the study needs to be completed before that decision, and subsequent development of the Acadian Center, is completed.

Mr. LAGOMARSINO. Further reserving the right to object, Mr. Speaker, I want to say that this is a bill previously passed by the House with some amendments by the Senate.

I continue to have some concerns with the bill. I would note that the administration continues to oppose the bill, but I am not going to object.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the amendments to S. 1756, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 5835, OMNIBUS RECONCILIATION ACT OF 1990

The SPEAKER (Mr. GEPHARDT). Without objection, the Chair appoints the following conferees on the bill, H.R. 5835, the Omnibus Reconciliation of 1990:

From the Committee on the Budget, for consideration of the House bill, and the Senate amendment, and modifications committed to conference, and as exclusive conferees with respect to any proposal to report in total disagreement: Messrs. PANETTA, GEPHARDT, and FRENZEL.

From the Committee on Agriculture, for consideration of title I of the House bill, and title I of the Senate amendment, and modifications committed to conference: vacancies (3 conferees).

From the Committee on Banking, Finance and Urban Affairs, for consideration of title II of the House bill, and title II of the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Ms. OAKAR, and Mr. WYLIE.

From the Committee on Education and Labor, for consideration of title III of the House bill, and title X of the Senate amendment, and modifications committed to conference: Messrs. HAWKINS, FORD of Michigan, and GOODLING.

From the Committee on Energy and Commerce (health), for consideration of title IV of the House bill, and corresponding provisions of the Senate amendment, and modifications committed to conference: Messrs. DINGELL, WAXMAN, and LENT.

From the Committee on Energy and Commerce (transportation), for consideration of title IV of the House bill, and corresponding provisions of the Senate amendment, and modifications committed to conference: Messrs. DINGELL, THOMAS A. LUKEN, and LENT.

From the Committee on Energy and Commerce (energy), for consideration of title IV of the House bill, and corresponding provisions of the Senate amendment, and modifications committed to conference: Messrs. DINGELL, SHARP, and LENT.

From the Committee on Government Operations, for consideration of title XIV of the House bill, and corresponding provisions of the Senate amendment, and modifications committed to conference: Mr. CONYERS, one vacancy, and Mr. HORTON.

From the Committee on Interior and Insular Affairs, for consideration of title V of the House bill, and corresponding provisions of the Senate amendment, and modifications committed to conference: vacancies (3 conferees).

From the Committee on the Judiciary, for consideration of title VI of the House bill, and title IX of the Senate amendment, and modifications committed to conference: Messrs. BROOKS, KASTENMEIER, and MOORHEAD.

From the Committee on Merchant Marine and Fisheries, for consideration of title VII of the House bill, and corresponding provisions of the Senate amendment, and modifications committed to conference: vacancies (3 conferees).

From the Committee on Post Office and Civil Service, for consideration of title VIII of the House bill, and corresponding provisions of the Senate amendment, and modifications committed to conference: Messrs. FORD of Michigan, CLAY, and GILMAN.

From the Committee on Public Works and Transportation (aviation), for consideration of title IX of the House bill, and corresponding provisions of the Senate amendment, and modifications committed to conference: Messrs. ANDERSON, OBERSTAR, and HAMMERSCHMIDT.

From the Committee on Public Works and Transportation (surface transportation), for consideration of title IX of the House bill, and corresponding provisions of the Senate amendment, and modifications committed to conference: Messrs. ANDERSON, MINETA, and HAMMERSCHMIDT.

From the Committee on Public Works and Transportation (EPA fees), for consideration of title IX of the House bill, and corresponding provisions of the Senate amendment, and modifications committed to conference: Messrs. ANDERSON, NOWAK, and HAMMERSCHMIDT.

From the Committee on Rules, for consideration of title XIV of the House bill, and corresponding provisions of the Senate amendment, and modifications committed to conference: Messrs. MOAKLEY, DERRICK, and QUILLEN.

From the Committee on Science, Space, Technology, for consideration of title X of the House bill, and corresponding provisions of the Senate amendment, and modifications committed to conference: Mr. ROE, Mrs. LLOYD, and WALKER.

From the Committee on Veterans' Affairs, for consideration of title XI of the House bill, and title XI of the Senate amendment, and modifications committed to conference: Messrs. MONTGOMERY, APPLEGATE, and STUMP.

From the Committee on Ways and Means (revenues and debt ceiling), for consideration of title XIII of the House bill, and title VII of the Senate amendment, and modifications committed to conference: Messrs. ROSTENKOWSKI, GIBBONS, and ARCHER.

From the Committee on Ways and Means (Medicare), for consideration of title XII of the House bill, and title VI of the Senate amendment, and modifications committed to conference: Messrs. ROSTENKOWSKI, STARK, and ARCHER.

From the Committee on Ways and Means (Social Security), for consideration of title XII of the House bill, and title VI of the Senate amendment, and modifications committed to conference: Messrs. ROSTENKOWSKI, JACOBS, and ARCHER.

From the Committee on Ways and Means (child care and human resources), for consideration of title VI of the Senate amendment, and modifications committed to conference: Messrs. ROSTENKOWSKI, DOWNEY, and ARCHER.

There was no objection.

AMERICANS ARE WHAT WE ARE BECAUSE OF PEOPLE LIKE JOHN CONNORS

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, Americans are what we are because of people like John Connors. John Connors, Mr. Speaker, is a young American marine, a trained Navy SEAL, who gave his life for his country, for freedom in Panama, and to protect his fellow squad members, on the night of December 19, 1989. He was killed at the International Airport, which I have flown in and out of many times.

This article about John Connors is in the current Reader's Digest. It was sent to me by my oldest daughter, Robin. John looks so much like one of my sons, Mark, that it is stunning. A handsome young 25-year-old marine lieutenant, the prime of life, who was under medical treatment right here at Walter Reed Hospital for a viral infection that he had gotten training in Brazil, and he left the hospital to go down to Panama, even though he was ill, to fight with his men.

At his funeral at St. Agnes Church, with 1,000 people in attendance, his Navy SEAL commander said, "He fulfilled every obligation our country asked of him. We are what we are because of men like John Connors."

Mr. Speaker, I include the article for the RECORD.

MEASURE OF A MAN—AMERICANS ARE WHAT WE ARE BECAUSE OF PEOPLE LIKE JOHN CONNORS

(By Malcolm McConnell)

Lieutenants Mike Phillips and John Connors, 25, sat in the humid darkness of the beach at Howard Air Force Base on December 19, 1989, watching the distant lights of Panama City sparkle in the water. Around them, men in camouflage fatigues and jungle boots rested among rucksacks and stacked weapons. They were quiet, anxious to be under way.

Phillips noted the size of Connors's pack. He was lugging a combination rifle/grenade launcher, reserve ammunition, medical supplies and a radio. "How much does all that stuff weigh?

Connors shrugged. "About a hundred pounds, I guess."

Phillips snorted, "You planning to run with the load?"

"Try and catch me."

The two grinned. For a moment they were young athletes again, ready to compete. They had been together in the Persian Gulf and for months of jungle training in Brazil. Their growing friendship had provided a refuge from the heat, insects and pounding rain. But tonight was no exercise. They were about to go into combat.

"John," Phillips began, his voice low, "if I—if I get pinned down out there . . ."

"Yeah, Don't worry, Mike," John said quickly. "I'll cover you."

Joan Connors returned to the family's brick home in Arlington, Mass., after Christmas shopping. As she wrapped presents for her husband, Joe, and their five grown children, she felt a pang that John, their youngest, would not be home for Christmas. He had recently called from Walter Reed Army Medical Center in Washington, D.C., where he was undergoing treatment for a parasitic disease he had contracted in Brazil.

"Ma," John had said, "I don't want you and Dad getting all concerned about this." He assured her that daily intravenous medication would prevent the parasite from attacking internal organs, and he promised to send her detailed information

"Say hello to everybody," he had said. "Give Duke a hug."

Joan smiled at the living-room photo of John grinning over his puppy, Duke. That skinny kid had filled out to 170 pounds of muscle, exquisitely trained for combat.

Every photo of John showed that permanent grin of his. But there was also a restless intelligence in his blue eyes. His love of learning had resulted in a four-year scholarship to prestigious Boston College High School and a chemical engineering degree from Worcester Polytechnic Institute. He also took a scuba course and a strenuous body-building program as part of the Naval ROTC program. When he completed his duty-preference form, Connors stated: "My sole desire is to become a SEAL."

The SEALs (named for their Sea-Air-Land warfare capabilities) are the Navy's elite commandos, specializing in missions behind enemy lines. Among military special-operations units, the SEALS are considered the toughest, smartest and best disciplined.

Joan recalled evenings when John had returned from an 11-hour shift on his summer construction job. After a quick meal he somehow found energy to run ten miles and cycle another 20.

With all this preparation, the family had hoped John would do well in the SEAL training program at Coronado, Calif. But there were no guarantees. Trainees swam for hours in cold Pacific waters; they ran nightmare obstacle courses. It was a season in purgatory, designed to transform each man into a team player, performing well beyond his limits.

Joan remembered her own amazement, at John's SEAL graduation in 1988, that almost two-thirds of his class had not graduated. They had lacked John's mental toughness and drive.

These very qualities sometimes worried his mother. At least, with his medical treatment ending, John would be home for New Year's.

On Monday, December 18, at the U.S. Naval Amphibious Base near Norfolk, Va., SEAL Team Four's Commander Tom McGrath was busy assembling his forces. McGrath and several of his platoons, bone tired from a training session in Florida, had been looking forward to holidays with their families. But now they had orders.

Panama's dictator Manuel Antonio Noriega was resisting U.S. efforts for his arrest on drug-trafficking and racketeering charges. He had brutally rejected a popular election that would have toppled him. He had himself named "Maximum Leader" and proclaimed a "state of war" against America. On Saturday, his troops murdered Marine Lt. Robert Paz on the streets of Panama City, then abducted and savagely beat a Navy lieutenant and terrorized his wife. Now Noreiga's thugs were roaming the streets with Cuban-supplied weapons.

On Sunday, President Bush had ordered U.S. armed forces to execute a full-scale intervention in Panama. McGrath's men were preparing to go. Their objective: Paitilla Airfield on the seafront of Panama City, where Noriega based his private Lear Jet. Prevent Noriega's Panamanian Defense Forces (PDF) from using the airport was a tactical necessity.

As McGrath worked at his desk, an athletic young man appeared in the doorway, grinning widely. "Good morning, sir," John Connors said. "It looks like something's going down."

McGrath push his chair back. "Exactly what are you doing here?" He knew Connors had completed only half his medical treatment and had to get back to the hospital.

"I figured the team might need me," Connors said simply.

McGrath paused. He thought of the Persian Gulf, when Connors's platoon had practiced raiding Iranian positions by "fast-roping" from helicopters onto a Navy barge. The SEALs plummeted 50 feet on thick ropes, braking at the last moment with gloved hands. Connors landed hard and limped away. He didn't complain, but when it came time to climb the narrow ladder back to the hovering chopper, his leg would not support him. He had cracked a bone. So he simply hauled himself up hand-over-hand.

No question about it: Connors was one of the team's strongest officers, a leader who brought out excellence in others. Besides, he spoke fluent Spanish. But skipping treatment could be a breach of the mission's security.

Finally, McGrath spoke. "If you can get yourself cleared from the hospital without arousing suspicion, then I can use you. If you can't, I want you at Walter Reed before anyone asks where you are."

Half an hour later, Connors was back, still grinning. "I'm off medical orders, sir." He had told doctors there was a family emergency.

"Lieutenant," said McGrath, "go find your platoon."

The rubber raiding boats were secured together at a rallying point two miles off Paitilla. The SEALs gazed at the Glittering Panama City skyline. It looked like a normal night in the handsome tropical city. Yet the largest U.S. military operation since the Vietnam War was about to begin. Airborne troops from bases in America, as well as ground and helicopter forces stationed in the Canal Zone, would attack 27 targets across Panama at precisely 1 a.m.: H-Hour.

The men on the boats were somber. They knew Paitilla's runway, taxi strips and grassy margins were devoid of cover. Until they gained control of the airport, they would be badly exposed to enemy fire.

Worse, under the rules of engagement, for this operation—the most stringent ever imposed on U.S. forces—they were forbidden to use covering fire before they advanced. To avoid harming civilians, the SEALs could fire only in self-defense. They would have to rely on speed—and sheer audacity.

The command radio crackled. Panamanian forces had unexpectedly attacked U.S. troops in the Canal Zone. The task-force commander was advancing H-Hour 15 minutes, to 12:45 a.m. Immediately, the SEALs were under way.

Connor's boat ground ashore on the hard mud by the end of the runway, and his platoon sprawled in the low grass, weapons ready, searching for PDF guards. People were moving under the control tower's dome of yellow light, but the south end of the airport was deserted.

The SEALs advanced up the runway toward the hangars, maneuvering precisely. One squad crouched while another dashed ahead, their cleated boots muffled by the grass. From their left came a steady roar punctuated by the boom of tank guns and howitzers. The assault on Noriega's headquarters and the PDF barracks at Fort Amador had begun. Gaudy fountains of tracers wobbled above the city skyline. The SEALs' fire-support gunship whined overhead, unlighted—an unseen but reassuring presence.

While Connors's Bravo platoon prepared to block the runway with some of the light planes lining the taxi strip, Phillips's Golf platoon dashed toward the open PDF hangar that housed Noriega's Lear Jet.

Suddenly, Phillips heard a voice inside shout: "Pónganse en posición. Prepárense para disparar." ("Take positions. Prepare to fire.")

Just as Phillips yelled a warning, the PDF opened up. The Panamanians had timed their ambush well, hitting a squad from the Golf platoon as it sprinted from the cover of parked planes. PDF troops blasted away with AK-47s, raking the SEALs only 30 yards away. Seven of the eight-man squad fell.

Phillips rushed his men forward, firing at the PDF muzzle flashes. As he approached, he saw the extent of the devastation.

"Heavy wounded!" he shouted into his radio. "Bravo, get up here!"

He saw that the gunship could not hit PDF positions without endangering the downed men close to the hangar. Phillips' squad, together with Bravo, would have to gain fire superiority to evacuate the wounded. He spread his men and began shooting. Moments after calling for reinforcements, he heard Connors's squad pounding up. As promised, his friend was there to cover him.

Connors did not hesitate. Using hand signals, he arrayed his men in a line formation and led them directly toward the PDF. Phillips could see Connors's face. His eyes were focused with absolute determination. His intensity was controlled. He showed no fear.

Bullets struck Connors's web gear and ammunition pouches with sledgehammer force. But he regained his stride and ran toward the enemy, firing as he advanced.

The maneuver worked. By drawing attention away from the wounded, Connors and his squad had given the medics time to move in.

But now the PDF volley intensified. The hangar's cinder-block walls offered the Panamanians solid protection, and their weapons swept the parking apron, throwing up chunks of asphalt.

Lying on the tarmac, Connors saw that they were making little progress against the enemy. He had a grenade launcher, but it was difficult to use from his prone position. It was time to up the ante. Now!

Phillips saw Connors rise to one knee and level his grenade launcher at the hangar. From the rear, Phillips heard the sound of reinforcements. For an instant, the scene seemed to freeze. Then a heavy-caliber automatic weapon blasted. Connors flew backward in the darkness. He'd been hit squarely in the chest.

Phillips ran to his friend and dragged him out of the line of fire. Other SEALs helped bundle Connors to the medics' triage point. They cut away his bullet-torn pack and ripped open his shirt while a corpsman tried valiantly to resuscitate him. The SEALs watched silently as Connor's lips moved in a mumbled prayer. Then he was gone.

Behind Phillips, the sounds of combat rose and fell in echoing waves. Reluctantly, he turned away and ran back to the fighting.

SEAL squad were now pounding the hangar with rockets, grenades and machine guns. A rocket struck Noriega's Lear Jet, disabling it.

Once the perimeter was secured, Mike Phillips rushed back to the triage point. Torpedoman's Mate Second Class Ike Rodriguez lay mortally wounded. Nearby, three dead SEALs—Connors, Boatswains Mate First Class Chris Tilghman and Engineman Chief Don McFaul—lay together on the grass. In the chalky glare of aerial flares now illuminating the battlefield, the young men's faces were smooth, freed of pain, as if they were sleeping.

Two Navy officers and a priest arrived at the Connors home on Wednesday. There had to be some mistake, Joan told them. John couldn't be in Panama. He was at Walter Reed. The officers explained that John had suspended treatment to go into combat with his men. That he had exhibited bravery on the battlefield. That he had died honorably in the service of his country.

After the men left, the Connors family sat together in the kitchen. Slowly, the realization of what their son had done took hold. "That was typical of John," Joe Connors finally said. "He was there when people needed him."

The next day, neither Joe nor Joan could face all the reporters. John Sheehan, John's best friend, offered to talk to them.

Standing on the icy front porch, Sheehan verified to one newspaper reporter that John was an honor student, had studied abroad, spoke several languages. He was considered one of the finest men his town had ever produced. The young woman rapidly jotted notes. Finally, she looked up, puzzled.

"He had overseas experience, a college degree. He could have found a good job and made a lot of money . . ." Her voice trailed off. "I don't understand. Why did he want to be a SEAL?"

Sheehan was stunned by the question. Clearly, to some of the reporter's generation, money and a prestigious job were the only measures of a life. But to others, like John Connors, they were not the only measures, or even the best ones. How could he convey John Connors's values—honor, loyalty, sacrifice—to this smart reporter? He could only say, "If you have to ask, you'll never know the answer."

Over 1,000 people jammed St. Agnes Church for the funeral of John Patrick Connors, age 25, filling every pew and standing quietly in the aisles.

The night before, the Connors family had been called by Edurado Vallarino, the new Panamanian ambassador to the United Nations. He asked to attend John's funeral, as a gesture of respect from the new democracy for which John had fought.

After the psalms and the homily were read and the color guard carefully removed the flag from the coffin, Navy SEAL Lt. Cmdr. William Dempsey summarized what so many in the church felt. "He fulfilled every obligation our country asked of him," he said. "We are what we are because of men like John."

There is a postscript to this story. On the cold morning of February 7, 1990, Mike Phillips' wife, Audrey, gave birth to their first child, a boy. To honor a beloved friend, they named the baby Connor.

□ 1820

ONE DODGE AIRBAG, TWO LIVES SAVED

The SPEAKER pro tempore (Mr. GEPHARDT). Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. I thank the Speaker, and I think you are going to enjoy what I have to show here, so I hope you will take a look at it when you get back to your office after being relieved by the able chairlady Speaker who is in the chair at this moment.

Madam Speaker, I was stunned in the ongoing battle in this country between the forces of pro-abortion and pro-life that Life magazine, which was the No. 1 magazine in America when I was growing up in my youth, has centerfold, to use the term that is used in some of the soft pornography magazines. Life magazine has a centerfold that is absolutely beautiful.

First of all, you do not get a prettier cover than this month's the month of October. It is the lovely Duchess of York with her beautiful little redhaired, blue-eyed second baby or second little daughter. It looks like most of my five, all redheads with blue eyes, with one handsome blue-eyed son.

Here is the centerfold. I am sorry that the cameras cannot come in closer. I have hosted a television show for the better part of a decade. I would always call for my camera crew to bring the camera in close. I am sure they will cooperate in the first-class camera facilities that we have in the control room downstairs, one story down, and do the best they can.

But here is a picture of a very pregnant lady, lovely looking lady, her name is Susan Reed.

Believe it or not, this is an ad for Dodge automobiles. Lee Iacocca himself must have approved this ad because I have this ad from Newsweek magazine in single form and here is one from this week's Time, Newsweek. But here is the double-page centerfold.

It says, "One Dodge airbag, two lives saved." It happened on June 11, 1990, at 7:00 a.m. in the morning. Susan Reed was on her way to work in the morning when a drunk driver crashed into Susan's 1990 Dodge Spirit. Both cars were totally destroyed. But Mrs. Reed was wearing her lap-shoulder belt and the Dodge Spirit was equipped with a driver's airbag. It worked, it save her life. It also saved another life, her baby's life.

You see, Susan was 7½ months pregnant at the time of the accident. We are glad she had the Dodge airbag because on August 5, just a couple of months ago, folks, she gave birth to a 9-pound, 6-ounce healthy baby boy named Michael Joseph.

We wish them both well. There is Susan and her beautiful little son Michael.

Guess what, folks, Michael was there in that womb. He was not an abcessed tooth or an abcessed appendix. This is a human being, before birth.

We have abortion allowed in our country up through all 9 months. No doctor in 17 years, almost 18 on January 22, has ever been brought before the bar of justice for performing an abortion on a child in the mother's womb, no matter what month the mother was in.

So here is Susan in her 7th month. She has an accident. Chrysler, one of our biggest corporations—and I hope Lee Iacocca is not going to jerk the ad because Molly Yard, the Sherman tank lays seige to Chrysler headquarters and demands they take this pro-life ad out of all the magazines. But this says it all.

I would like to show you something else.

Look at the little princess, that cute little baby. As much a baby as little Michael is inside, Michael Joseph.

Now I would like to show you something else.

I was over at my aunt's house the other night, Mrs. Flo Haley, the wife of the late great Jack Haley, the Tin Man in the Wizard of Oz. I noticed something on the bed of her daughter who was staying with here because my aunt Flo had a fall recently. So her daughter Gloria Haley Parnassas was staying with her.

Gloria, like a lot of adults, likes an occasional stuffed animal. This one was particulary attractive. Guess what her nickname for him was? Michael. I would call him Snowball, myself. Look at that cute little seal.

Guess what? We protect these by law passed in the U.S. Congress. Those big Canadian guys, they cannot bop this little guy on the head. But guess what, folks, we do not protect these little fetuses in the mother's womb. One of my staffers who gave this to me called him what? Michael, after her baby Michael Walsh that was born

a couple of months ago. We protect this, and we kill this in the mother's womb.

This is an anthropomorphic model of a 3-month fetus, a 3-month fetus whose heart has been beating since day 18.

Madam Speaker, we have our priorities all screwed up in this great United States of America.

Madam Speaker, by way of illustrating just how badly our priorities are twisted upside down, please read this story about one of America's richest abortionists, that is, baby destroyers. And please check the title.

WHY ABORTIONIST EDWARD ALLRED THINKS THERE ARE TOO MANY HISPANICS IN SOUTHERN CALIFORNIA

(By Carmen Rodriguez)

LOS ANGELES.—One day two years ago, Anna Madrid, a 46-year-old mother of four in Wilmington, California, noticed something strange on the Spanish-language television station she watches. There was an almost continuous stream of commercials advertising abortion facilities, something she never saw on the "Anglo" TV stations.

The Spanish-language TV guide also featured numerous ads for abortion. And, when she thought about it, most of the major abortion clinics where police battled Operation Rescue picketers were located in predominantly Hispanic neighborhoods.

"It began to dawn on me that the abortionists are targeting the Hispanic community," said Madrid, who was born in Mexico but raised in southern California. "I never really understood just how racist the entire abortion industry is."

Madrid is part of a growing movement among Hispanics, both in California and across the U.S., that is taking a greater lead in the legal and public relations battle against abortion. Long ignored in the heated controversy, as "Anglo" lawyers and celebrities argued over abortion, Hispanics of all religious persuasions are increasingly worried that the abortion industry has specifically targeted them and other minority groups for "population control."

Hispanics are particularly enraged over the statements by Dr. Edward Campbell Allred, the Long Beach physician who runs more than a dozen abortion clinics in southern California, many of them in Hispanic neighborhoods. In a copyrighted story in the San Diego Union newspaper, Allred was frank about some of the reasons why he opened abortion clinics.

"Population control is too important to be stopped by some right-wing pro-life types." Allred told the newspaper. "Take the new influx of Hispanic immigrants. Their lack of respect for democracy and social order is frightening. I hope I can do something to stem that tide; I'd set up a clinic in Mexico for free if I could. Maybe one in Calexico would help. The survival of our society could be at stake."

Hispanic leaders believe that Allred, and other pro-abortion organizations such as Planned Parenthood, seek to use abortion for the same eugenic purposes—"improving" the species by controlling the population of "less fit" ethnic groups—conceived by Nazi doctors. The Nazis supported abortion early on as a method of "population control" against so-called non-Aryan races. The Hispanic leaders point to statements by Planned Parenthood founder Margaret Sanger, who in 1919 declared "more children from the fit, less from the unfit" as the purpose behind Planned Parenthood and used as the motto for her newsletter masthead, "To create a race of thoroughbreds."

In her day, Hispanic leaders say, Sanger, like Dr. Allred, was very concerned with the rising number of "undesirable" immigrants and their high birth rates. Sanger was particularly worried about Jews and Italians; Dr. Allred about Mexicans. In her 1922 book, *Pivot of Civilization*, Sanger wrote that U.S. organized charities were the "surest sign that our civilization has bred, is breeding and is perpetuating constantly increasing numbers of defectives, delinquents, and dependents" and emphasized that the American public should realize "the terrific cost to the community of this dead weight of human waste."

Dr. Allred shares, Hispanic leaders say, Sanger's point of view.

"The Aid to Families with Dependent Children program is the worse boondoggle ever created," he told the San Diego Union. "When a sullen black woman of 17 or 18 can decide to have a baby and get welfare and food stamps and become a burden to all of us, it's time to stop."

As a result of these and other statements Allred has made, Allred's home, in the prestigious Naples area of Long Beach, has been the frequent target for picketing by black civil rights groups and religious organizations.

Now, for the first time, Hispanics have begun to organize a political movement to oppose what they see as an organized attempt to limit the Hispanic population through widespread promotion of abortion. A coalition of Hispanic groups throughout the U.S. has formed Hispanics for Life, an organization dedicated to protesting abortion in general and particularly as a method of limiting Hispanic population growth. Another Hispanic organization. Concilio Pro-Vida de California, predicted that the substantial political clout of Hispanics in California will be felt at election time.

"A great emphasis will be the identification of pro-life voters in the Hispanic communities throughout California," said Sylvia Garcia, a spokesperson for Concilio Pro-Vida. "If we are successful in registering and turning out a large contingent of Hispanic supporters at the polls, we may be able to elect a record number of pro-life officials in California."

But Hispanics hope to have an impact beyond just the ballot box. A group of Hispanics for Life leaders picketed the U.S. Court House in San Diego May 5, to protest the use of police to brutalize nonviolent anti-abortion protesters.

Hispanic leaders add that pro-abortion groups like Planned Parenthood have a tremendous fear of a Hispanic and African-American anti-abortion movement, largely because the pro-abortion groups know that they are vulnerable to charges of elitist racism.

Pro-abortion rallies and marches are, said one Hispanic leader, "embarrassingly white and upper-class," even though the pro-abortion industry "pretends it is doing us a favor by killing our children."

A group of Hispanics for Life and other Hispanic human rights organizations in the South Bay and Inland Empire areas conducted legal pickets May 26 of two Southern California businessmen who rent office space to an Allred clinic.

"Hispanics need to know that voting for a pro-abortion candidate, even a Hispanic one, is a vote for dead Hispanic babies and fewer Hispanics in this country," said Enriquez. "The murderous racism of the abortion industry has to be exposed."

TRIBUTE TO HON. CHARLES P. FARNSLEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. MAZZOLI] is recognized for 5 minutes.

Mr. MAZZOLI. Madam Speaker, I rise today to note and celebrate the life and achievements of a former Kentucky State representative, a former mayor of Louisville—from 1948 to 1953—and a former colleague in the House—from 1965 to 1967—representing the Third District of Kentucky: Charles P. Farnsley, who died this past June 19.

The Farnsley family has deep roots in the Louisville community. Charles Farnsley's great-great-grandfather started things off, arriving in southwest Jefferson County from Pittsburgh in 1782 on a flatboat with nothing more than flour to sell. James Farnsley settled in an area known as Shively, still a thriving community in Jefferson County.

Charles himself was born in Louisville in 1907. His father, Burrel Farnsley, was an eminent attorney and later a Jefferson County ciricut court judge. Charley's mother, Anna May Peaslee, was the daughter of Charles Peaslee, founder of Peaslee-Gaulbert Paint and Varnish Co., a successful business in Jefferson County.

During Charley's education at Male High School and the University of Louisville, he displayed early on an interest in politics and public service that would serve him in his later years.

Charley began his public service in the Kentucky State Legislature during the 1930's, a time when the Nation was deep in depression and when most Kentuckians were enrolled in the university of hard knocks, not the University of Louisville, or the University of Kentucky. But, it was in Frankfort in that setting that Charley put into practice his beliefs that government exists to serve the people, not the other way around. This is a Jeffersonian concept and Jefferson was a molding force on young Charley Farnsley.

Charley studied Jefferson and exposed himself to an eclectic mixture of political scientists, historians and both western and eastern philosophy.

In 1948, Louisville's mayor, E. Leland Taylor, suddenly died in his office, and, like a super nova, Charley Farnsley emerged from a pack of candidates to win the special election. It was a most propitious decision for Louisville residents.

Madam Speaker, for Louisville, KY, and many cities across the Nation, the

period after World War II was a time of great social change. Louisville emerged from the war as a leading industrial and manufacturing city but found itself not fully prepared to address the new governmental, educational, transportation, and social needs attendant to this new status.

That is when Charles Farnsley stepped in.

Charley from the start caught the fancy of the citizens of Louisville and governmental observers across the Nation as an innovative, imaginative, progressive, and somewhat iconoclastic mayor.

For example, the November 1949 edition of Reader's Digest carried a profile of Mayor Farnsley entitled, "Here's a Mayor Who Knows How to Get Things Done".

Charley did not govern with an iron fist, but with a iron ear, so to speak.

Mayor Farnsley listened carefully to the people. He initiated beef sessions, forums at which anyone could come to Louisville City Hall and complain—or compliment—him and his city administrators.

The beef sessions were even broadcast live on local radio. Charley also conducted surveys and polls to ascertain what was on the minds of the people.

From this emerged his agenda: pave the streets and keep them in good repair; clean the gutters, get rid of abandoned autos; and, turn empty lots into vest-pocket parks. Install street lights—lots of them—lots of bright lights. Make the city look good and make it safer for all. Improve wages and working conditions for city workers, and add police and firefighters to the rolls. Place the city on a sound financial footing by adopting an occupational tax.

Charley envisioned Louisville as an intellectual and artistic center of consequence. One of Charley's great accomplishments was to create what is now known as the Greater Louisville Fund for the Arts to support the performing arts in our community. The Louisville Orchestra gained a new—and eventually a worldwide—reputation for performing contemporary musical works. In the 1950's, the orchestra played to a sellout crowd at Carnegie Hall in New York City.

Mayor Farnsley's legacy was on display here in Washington in June when the Louisville Orchestra performed at the Kennedy Center during the National Conference of the American Symphony Orchestra League.

During Charley's tenure as mayor, the Louisville Chamber of Commerce, Bellarmine College, and Louisville Magazine were all founded. These institutions continue as vital elements in Louisville today.

Charley Farnsley won his only term in Congress in 1964. He continued his efforts at the national level to promote improved street and highway lighting as a means of reducing traffic accidents and crime. He astounded and refreshed his colleagues with his scholarly approach to legislating.

After one term in Washington, Charley's real loves—family and hometown—won over his affections, and he returned to Louisville to rich and varied pursuits in civic affairs, publishing, lecturing, consulting and just plain indulgence of his lifelong love of intellectual pursuits.

Charley was a devoted family man. When he met his future wife, Nancy, in 1935, it did not take long for her to fall in love with this witty and lively and interesting young man.

Their marriage lasted 51 years and produced five accomplished and devoted children. Douglass and Burrell who live in Louisville; Alex who lives in La Jolla, CA; Sally who lives in nearby Arlington, VA; and, Ann who lives in Vevay, IN.

In conclusion, Madam Speaker, the late John F. Kennedy once said that leadership is action not position.

Charles P. Farnsley held most positions a civic and political leader could hold. However, it was his actions in government, in civic affairs, in the arts, which identify him as a leader.

Charley Farnsley will be widely mourned. We in Louisville, in Kentucky and in the Nation are diminished in many ways by the passing of this estimable, accomplished man.

□ 1830

Mr. HUBBARD. Madam Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Kentucky.

Mr. HUBBARD. Madam Speaker, I rise today to pay tribute to one of our former colleagues who did honor both to the House of Representatives and to the State he represented, Charles P. Farnsley, who passed away this past June 19 at the age of 83.

Charlie was a friend of mine who served the State of Kentucky in the State legislature in the 1930's, as mayor of Louisville, KY, from 1948 to 1953 and U.S. Representative of Kentucky's Third Congressional District from 1965 to 1967.

As mayor of Louisville, Charlie is remembered as one of the most active and accessible mayors in their history. Louisville institutions such as the Louisville Public Library and the Louisville Orchestra will long bear the imprint of this remarkable man who has had a great deal to do with their continuing success.

In his tenure as mayor, he also made Louisville a markedly more beautiful place to live by creating many new public parks, installing street lights and building new playgrounds and community centers.

But perhaps Charlie is best known for his beef sessions. These sessions were forums that he organized which allowed citizens to express their grievances with or recommendations for improving city services.

Charlie was preceded in death by his lovely wife Nancy who died in 1988. The couple's surviving children include daughters Sally and Ann, and sons Alexander, Burrell, and Douglas.

The loss of this great statesman and extraordinary human being will be felt throughout the Commonwealth of Kentucky and the Nation.

I extend my condolences to the family and friends of Charles Farnsley.

I congratulate my friend and colleague, the gentleman from Kentucky, Congressman RON MAZZOLI—for taking this 1 hour special order in honor of the late Charles P. Farnsley.

Mr. MAZZOLI. Madam Speaker, I insert for the RECORD an article from the November 1949 Reader's Digest entitled, "Here's A Mayor Who Knows How To Get Things Done" and an article from the Courier-Journal entitled, "Charles Farnsley, Colorful and Innovative Ex-Mayor Who Left Mark on City, Dies."

The above-mentioned articles follow:

[From the Reader's Digest, November 1949]

HERE'S A MAYOR WHO KNOWS HOW TO GET THINGS DONE

(By George Kent)

When Charles Peasley Farnsley was a boy his mother sat him down in the parlor one day and said that this time, rather than spank him, she was going to reason things out with him. Young Charlie retorted, "Just spank me, Ma!"

Today as Mayor of Louisville, KY, he displays the same impatience with words. "Let's just get things done," he says. And during his 20 months in office he has expedited a breath-taking total of civic improvements and innovations. Forty-two years old and a slouchy six feet two, with thinning carrot-colored hair. Charlie—everybody calls him Charlie—son of Louisville judge, took his law degree from the University of Louisville. Later he went to the State legislature. All quite orthodox—but there's nothing ordinary in either the man or his career.

You see his unconcern with the conventions in the clothes he wears: the Robert E. Lee hat, the derby sack coat and that mark of the Old South—the string tie. When he slumps into a chair he comes to rest in the middle of this back. In the words of a wag: "He sits up recumbently." After meals he stretches out on the floor at home or in his office—covers his eyes and goes to sleep.

Charles Farnsley became mayor in February 1948 by a vote of the Board of Alderman after the previous incumbent died. His first gesture was to establish something new in city government: the "Beef Session." Farnsley was disturbed over the great gulf dividing the city executive from the people.

Except for a vocal minority, the people had no way of saying what worried them, what they wanted, what they were thinking. Charlie mentioned this to Ed Edstrom, reporter for The Courier—Journal, and Edstrom replied, "That's easy, give them a time a place—and they'll tell you. They'll beef all right."

"A wonderful idea," exclaimed His Honor, and a week later all Louisville was invited to the city's first beef session. The beefers have kept coming ever since, once weekly. Everything that goes on is reported at length in the newspapers. Farnsley presides, surrounded by this department heads, who answer specific complaints. The beefer comes up and sits in a chair alongside the Mayor, sharing the microphone with him. What they say goes out over the air through a local broadcasting station.

Most of the complaints deal with traffic and street maintenance, but Charlie listens to requests which range from finding a lost cat to getting a telephone for an invalid. Where possible, the grievances are promptly taken care of; and the Mayor later checks through to see that what has been promised is done.

Charlie exhorts his department heads to read the "letters to the editor" in the newspapers and to do something about complaints that appear there. He also invites citizens to telephone him, and he is trying to get the phone company to make it possible for anyone to reach him simply by dialing m-a-y-o-r. He created the Louisville Citizens Survey, which sends expert interviewers into homes to discover what the people are thinking. Completed surveys covering such subjects as traffic, taxation, schools, and housing indicated that what the people wanted most were well-paved streets and recreation facilities for their children.

The paving problem was largely one of finances. There just wasn't enough money. Farnsley sat up nights reading reports from other cities and technical discussions of street maintenance. Finally he hit upon an unorthodox notion: instead of doing an expensive curb-to-curb job, pave only the driving portion of a street, leaving the parking lanes rough. In two months Farnsley resurfaced—"half-soled," he called it—42 miles of Louisville streets, more than had been done in 25 years. The saving was 30 percent of what a conventional job would have cost.

The same watchdog attitude toward the city pocketbook saved Louisville a million dollars when a pretentious four-lane outer drive was contemplated. Farnsley and his engineers drove slowly around the city, discovered that the old River Road, badly engineered and impeded by boulevard stops, was actually shorter in travel time than the projected highway. A few weeks later the old River road had been repaved, the stops eliminated, for $125,000—far less than the original estimate for the outer drive.

In providing recreation Farnsley opened up more than 40 play streets, took over vacant lots, distributed play paraphernalia. He plans to roll obsolete streetcars into ten of these play areas for movies and for indoor playrooms on rainy days.

Balm to the Farnsley soul was the subsequent report to the chief of police: vandalism had decreased materially in every neighborhood where a play street had been established.

To protect children against traffic accidents Charlie invited women to serve as part-time crossing police. He put 48 of them through a training course, outfitted them with uniforms, and paid them $50 a month. The women are doing an excellent job.

Louisville schools were unquestionably in poor condition, with just $600,000 available for improvements. The Mayor rounded up 20 of the town's leading architects and appealed to their pride as citizens. They cooperated by blueprinting 24 schools, outlining possible improvements and repairs. A survey of this kind would have cost $75,000. They did it for nothing. Today Louisville schools have been modernized to the limit of the money available.

Perhaps the most spectacular of all Farnsley's accomplishments are recent developments in higher education. One night, mulling over the crowding of the city's colleges, he had an idea. Although it was two in the morning he phoned Dr. John W. Taylor, president of the University of Louisville. Taylor came over and the pair worked out a scheme for Neighborhood Colleges—university classrooms in all the branch libraries. Taught by university professors, classes would be open to the general public and those attending would receive full university credit.

Charlie had classes in session within ten days. Shortly afterward he invited the educational director of the National Broadcasting Company to Louisville and offered to cooperate in NBC's project for a university of the air. The University of Louisville set up a course and NBC stars dramatized them. The university issued assignments, corrected papers, graded examinations. For the first time a person could listen to a national hookup and—if he did the supplementary work—get college credit for his effort. The program, called the University Theatre, is now broadcast over 131 stations.

In the Louisville library anyone can hear and borrow recordings of the program and other phonograph records. Special earphones enable you to listen without disturbing neighbors who are reading. The main library, nine branch libraries and several high schools are all linked by wire to a central studio which each day plays a request program of classical music and drama. A teacher, for example, who wants her class to listen to "MacBeth" has but to telephone and the play will come into her room. The library soon will be operating for the public an FM station that will accept no sponsors.

The Mayor has committed enough political suicide to inter a dozen ordinary officials. Twice he has demanded an increase in taxes on the eve of an election. To professional vote-getters this spelled sure political death. Charlie fooled them. Last November, running on the Democratic ticket to fill out the unexpired term of his predecessor, and making only two speeches, he polled a plurality of 11,500.

Shortly after taking office he announced that it was impossible for him to put his ideas into effect and at the same time sit at a desk puttering with papers. So he hired Roy Hamilton Owsley, famous as a city administrator, to take care of details. He called him a "consultant" and paid him $15,000 a year out of his own contingent fund. No one on the municipal payroll got as much money, not even the Mayor.

There was a row, of course. Who ever heard of two mayors? The politicians said that at last Farnsley had really cut his own throat. But, less than six months later the Board of Alderman approved Owsley's salary. They had found the scheme actually saved the city cash.

It was another step in Charlie Farnsley's unconventional way of getting things done.

[From the Courier-Journal, June 20, 1990]

CHARLES FARNSLEY, COLORFUL AND INNOVATIVE EX-MAYOR WHO LEFT MARK ON CITY, DIES

(By Bob Johnson and Leslie Scanlon)

Former Louisville Mayor, Charles P. Farnsley, a popular Democrat known for his energetic and innovative administration, died June 19 at Brownsboro Hills Nursing Home. He was 83.

Farnsley served as mayor from 1948 to 1953, as Louisville's Congressman from 1965 to 1967 and as a State legislator for four years in the 1930s. The enduring effects of his policies and a lifetime of civic activities can be seen in the city's finances, streets, parks, and services and in such institutions as the University of Louisville, the Louisville Free Public Library, the Louisville Orchestra, and the Louisville Fund for the Arts.

"Charlie was really one of the great planners and builders of the city" Frank Burke, Sr., a lawyer who served as Louisville's mayor from 1969 to 1973, recalled. "It's been a period of time since Charlie was in office, but those who remember and understand what he did will understand what a tremendous loss it is to the community."

Perhaps Farnsley's most admired innovation was the "beef session". Every Monday night Farnsley held court in the aldermanic chamber of city hall, inviting any citizen with a problem or complaint to present it directly to him. Quite often the mayor gave instant satisfaction by directing his aides to take immediate remedial action.

Lawyer Wilson Wyatt, who preceded Farnsley as mayor from 1941 to 1945, remembered him as "an original thinker . . . He was devoted to the arts. He loved Louisville. And he was just all in all a very intriguing character . . . The net result was excellent government for Louisville and national recognition of the city."

Wyatt said Farnsley was deemed "a unique and colorful mayor" in a 1949 Collier's magazine feature and was also the subject of favorable editorials in the former New York Herald-Tribune.

Charles Rowland Peaslee Farnsley was born in a South Third Street Mansion on March 28, 1907. His father, Burrel H. Farnsley, was an attorney later elected a circuit judge in the 1930s. His mother was Anna May Peaslee, whose father headed the Peaslee-Gaulbert Co.

His great-great-grandfather, James Farnsley, was a Revolutionary War veteran who traded a land grant in Pennsylvania for a flatboat load of flour that he brought down river and sold at the falls of the Ohio in 1782. With the proceeds he bought a farm and settled in the Shively area of Jefferson County.

Charles Farnsley attended Richmond School, Male High and the University of Louisville where he organized his college fraternity into a political machine that dominated campus activities. He was admitted to the bar in 1930 and took up politics with a flair that soon won him statewide recognition.

He ran for Congress in 1932, the year a legislative mishap in redistricting forced a statewide race of all U.S. House seats. He finished 10 in a field of 27 Democrats, but only the top nine made the November ballot. One who barely edged him for nomination was the late John Y. Brown, Sr. whose son, John Y. Brown, Jr., later became Governor of Kentucky.

In 1934, Fransley ran for Congress again. Without Democratic organization support, he was badly beaten. He publicly apologized to the voters for taking up their time. In 1935 and 1937, now backed by Michael Brennan, the Democratic organization boss, Farnsley won terms in the State House of Representatives. In 1940, he challenged U.S. Senator A.B. "Happy" Chandler in the

Democratic primary. He lost badly, receiving just 12 percent of the primary vote, but said someone had to offer an alternative to Chandler's isolationism.

He was rejected for military service in World War II for medical reasons, but returned to college for public administration and philosophy courses. He was attending the University of Kentucky in 1948 when Mayor E. Leland Taylor died in office, and the board of aldermen, which was to choose a successor, elected Farnsley as a compromise candidate when neither Louisville investment banker Tom Graham nor Ely Brown III could win a majority of the aldermen's votes.

When Courier-Journal publisher Mark Ethridge heard that Farnsley would be mayor, he reportedly groaned and said, "Now every day will be like Derby Day." It was a prophetic comment.

Farnsley, fresh from public administration courses at the University of Chicago, Columbia and Kentucky, attacked the city's problems with vigor and imagination. He began paving streets, turning empty lots into parks, installing street lights, raising city salaries, improving police and firefighters' pensions, installing wading pools, converting old schools to community centers and replacing old, stinking garbage trucks with new ones.

He was the first Louisville mayor to use occupational taxes to fund local government projects. "Charlie was one of the early people in this country to become convinced that municipal governments could no longer rely on . . . taxes on real estate, and that the revenues to support local government had to be in some way tied to the local economy," Burke said.

Since money was short, he sometimes made half-measures do. He started "half-soling" streets by paving only the driving lanes. He bolstered police patrols in crime areas by hiring 25 women to relieve police on traffic duty at school crossings.

Farnsley also set up small playgrounds across Louisville. His administration "put up basketball goals even on private property where the owners gave permission" Burke said.

To put the city on a sound fiscal basis, he annexed suburbs to boost the city's tax base and got public approval for bond issues for sewers, streets, schools and parks.

Traffic movement and parking were Farnsley's most vexing problems. He created the "poor man's expressway" by straightening out jogs and linking traffic arteries. He also tried the city's first "pinball" lights, the directional arrows on major arteries like Bardstown Road, to switch lane directions during morning and evening rush hours.

He won his single term in Congress in 1964, defeating republican U.S. Rep. M.G. "Gene" Snyder in Lyndon B. Johnson's Democratic landslide. It was Snyder's only loss in his political career. Farnsley, who said his desire to have access to the Library of Congress was a major reason for running, retired after one term.

Farnsley admired Jefferson, the philosophers of the French Enlightenment and Chinese philosopher-statesman Confucius and their conviction that the people's welfare must be government's sole purpose. Although he fostered a southern planter image in his early years, Farnsley was sensitive to racial injustices in Louisville.

An arts lover, he was a founder of what has become the Louisville Fund for the Arts and was responsible for the Louisville Orchestra's program of commissioning and premiering original works of nationally renown artists.

Farnsley, also a history buff, went through a "Confederate period" in the 1930s when his normal dress was a broad planter hat, a swallow-tail coat, a brocaded vest and a black string tie. He published books under the Lost Cause Press label and bottled whimsically-named brands of whiskey like "Rebel Yell." He tried to name another brand "Damyankee", but it was rejected by the Copyright Office as in bad taste. He submitted a new brand name, "Bad Taste."

He abandoned Confederate garb in later years, save the string tie, which became his trademark. But he frequently carried a carpetbag when he traveled to northern cities.

His wife, the former Nancy Carter, died in 1988. He is survived by two daughters, Sally Bird of Arlington, VA, and Ann Farnsley of Vevay, Indiana; three sons, Alexander Farnsley of La Jolla, California, and Burrel and Douglass Farnsley, both of Louisville; a sister, Eleanora Hagan of Louisville; and six grandchildren.

ONE OF A KIND

Charles Farnsley was one of a kind. He loved Louisville the way a father loves a child. And he gave it remarkably visionary and, some said, eccentric leadership—as a State representative, U.S. Congressman, but most of all as one of its finest mayors.

Mr. Farnsley, who died at 83, encouraged the city to think more of itself than it had, and in doing so, he fostered accomplishments the likes of which Louisville had rarely seen.

Indeed, in the late 1940s, his administration at city hall was cited as perhaps the most progressive in America, and Collier's magazine called him "Confucius in Louisville". His personal hero was Thomas Jefferson. Both models taught him a simple lesson: Government should serve the people.

And he felt that meant all the people. During his time at city hall, the Louisville Free Public Library and the University of Louisville were integrated. He also opened up city hall, with a weekly series of "Beef Sessions" at which anybody could come and complain about a street light or a pothole.

TV came to Louisville while he was mayor. So he bought sets for public libraries since few had them at home. "People might as well look in a library as in a bar. It makes business for the bar; why can't it make business for the library?" he asked. And he was right; book circulation skyrocketed. He pumped money into the libraries and helped create two public radio stations, WFPL and WFPK more popular now than ever.

He launched massive street repaving projects and helped save the Louisville Orchestra by creating what has evolved into the Greater Lousiville Fund for the Arts.

Louisville's strongest suit today may be that it is a fine place to live. Few have done more than Charles Farnsley to make it that way.

Mr. NATCHER. Mr. Speaker, it was with profound sorrow that I learned of the passing of my friend Charles P. Farnsley.

Mr. Farnsley was born in Louisville, Jefferson County, KY, on March 28, 1907 and attended the local schools and the University of Louisville. He obtained his A.B. degree and LL.B. degree from the University of Louisville and was admitted to the bar in 1930. He was elected as a Demoncrat to the 89th Congress and served from January 3, 1965 until January 3, 1967. He was not a candidate for reelection in 1966.

During my tenure as a Member of Congress, I have had the honor to serve with my friend, ROMANO L. MAZZOLI, the Representative of the Third Congressional District, as well as with my friend, Charlie Farnsley. During his tenure as a Member of Congress, Charlie Farnsley served with distinction and really enjoyed his assignment. He was concerned about the people in this country and especially those in need of assistance. He believed that our children are our greatest asset and that they must be educated. During his service as mayor of the city of Louisville and also during his service in the Congress, he was very much concerned about law enforcement. On several occasions he said to me that a well-lighted city and foot patrolmen on the streets, where the people could see them, was a good deterrent as far as crime is concerned.

On many occasions, I had an opportunity to talk with Mr. Farnsley about Thomas Jefferson. In addition to being a history buff, he was an art lover. He was one of the founders of what has now become the Louisville Fund for the Arts, and was responsible for the Louisville Orchestra's program of commissioning and premiering original works of nationally renown artists. As a history buff, Charlie Farnsley not only liked to discuss that period of our history during the Confederate period, but also dressed the part. In his normal dress for a number of years he wore a broad planter hat, a swallowtail coat, a brocaded vest, and a black string tie. He was always in good humor and interested, and he was a great family man. He is survived by two daughters and three sons.

Although he only served a short time in the House of Representatives, he soon learned the names of all of the Members and was well liked. His service as a public official and as a private citizen will long be remembered. He was a man of high integrity, a man of compassion, and a man with determination and fairness. He was a gifted man, and he possessed the necessary kind of courage that assisted him at all times in establishing a good record as a public official.

Mr. Speaker, it was a great pleasure and a high honor to have been the friend of Charlie Farnsley. To the members of his family, I extend my deepest sympathy.

Mr. ROGERS. Mr. Speaker, when great men armed with ageless principles take the reins of power, they can accomplish great things. My fellow Kentuckian, Charles P. Farnsley, was such a man, and it is with a heavy heart that I mourn his passing this past June 19.

Charles left us with a remarkable and colorful legacy, first as a Kentucky State legislator, then as mayor of the great city of Louisville, KY, then as a Member of this House representing the people of Louisville in government once again. As a bright star in our Nation, perhaps he sparkled brightest during his service as mayor of Louisville from 1948 to 1953.

The accolades Charles Farnsley earned for his service there are considerable indeed. Collier's magazine dubbed him "Confucius in Louisville," and for no small reason.

When presented with a difficulty or a challenge, Mayor Farnsley's instinct was to reach

for the creative solution. Between raw intelligence, political savvy, and his innate feel of how the people wanted things done, Mayor Farnsley always found a way to make the fine city of Louisville work a little better.

Many of his urban planning innovations are commonplace today. He created the poor man's expressway by straightening crooked streets and linking traffic arteries. He installed so-called pin-ball lights which opened additional lanes for rush-hour traffic.

Among his many brilliant ideas, Mayor Farnsley also made a grand contribution which has helped make the State of Kentucky the home of the finest basketball players in the Union, by installing basketball hoops on playgrounds, and, with consent, even on private property, all over the city of Louisville.

Even back then, money got short sometimes. And when the money became scarce, Mayor Farnsley found imaginative ways to make his existing funds last twice as long. He half-soled streets by paving just the traffic lanes, and boosted the crime patrol by hiring women as crossing guards—a real breakthrough in the early 1950's.

He was best known, perhaps, for beef sessions, where he opened city hall so that the people of Louisville presented their problems directly to him. Needless to say, a visit to a beef session got results and they were a magnificent success.

I could go on and on about his accomplishments.

Greater than his accomplishments, though, when he was mayor and then Congressman, were his principles.

He sought in public life to emulate the philosopher of America's Founding Fathers, Thomas Jefferson. He read his writings, his maxims, and his one work which has had the most profound impact on all Americans, the Constitution, the bedrock of our laws.

By reading Jefferson, Charles Farnsley learned that the Government exists for one purpose only: to serve the people.

He, like Jefferson, searched for ways to broaden the minds of the people he served. And it is in public service where Charles Farnsley spread his love for culture and the arts to the people of Louisville and all of Kentucky. He founded the Greater Louisville Fund for the Arts, which still undergirds the arts in metropolitan Louisville today.

The Honorable Charles Farnsley will be long remembered for his exemplary public service.

The father, brother, uncle, and cousin Charles Farnsley will be long cherished as well, for he was generous, caring, and compassionate. Through his children, Sally Farnsley Bird, Ann Farnsley, and sons Douglas, Alexander, and Burrel, the honorable name of Charles Farnsley, a name which stands for integrity and wisdom and all the values Jefferson himself stood for, will persevere for generations.

May Almighty God rest his soul. And may our Lord smile on the family of Charles Farnsley, and his colleagues, and all the people he touched, by keeping his legacy and his mighty principles foremost in our minds.

Mr. HORTON. Mr. Speaker, I rise today with my colleagues in remembering our former colleague in the 89th Congress, Representative Charles P. Farnsley, who, at the age of 83, passed away on June 19.

As a Kentucky State representative, mayor of Louisville, and U.S. Congressman, Charlie always demonstrated his belief that a good government should serve the people. Nowhere is this Jeffersonian principle more evident than in Charlie's accomplishments as mayor of Louisville from 1948 to 1953. Often viewed as one of the most progressive mayors of his time, Charlie sought to give the citizens of Louisville what they and their city needed—improved infrastructure, improved Civil servant salaries, and improved education.

But make no mistake, Charles Farnsley was more than a simple pragmatist, who merely sought to capitulate to each and every want and desire of his constituents. He was a progressive groundbreaker. When old solutions proved ineffective or obsolete, Charlie developed new methods and new resolutions. For instance, when the police force needed to be reinforced to concentrate on high crime areas, Charlie took the bold step of becoming one of the first mayors to employ women as crossing guards. Similarly, when Charlie became convinced that real estate taxes alone could no longer support an effective local government, he became the first Louisville mayor to use occupational taxes to fund local government projects. And when television came to Louisville, only the wealthy could afford to have a set in their home. So, what did Charlie do? He purchased TV's and placed them in Louisville's public libraries; and what was the result? Book circulation in the city soared. Yes, Charlie was "an original thinker," as his predecessor as mayor of Louisville, Lawyer Wilson Wyatt, recently recollected.

Perhaps one of Charlie's most celebrated achievements was his introduction of beef sessions—a weekly open meeting at which citizens of Louisville could voice their opinions directly to Mayor Farnsley himself. Little did Charlie suspect that some 40 years later this practice would live on. Periodically, I hold office hours to give my constituents an opportunity to establish a direct, personal dialog with me. Over the years, these meetings have proved very beneficial and enjoyable; now, however, they will always have an additional meaning.

Following his tenure as mayor of Louisville, Charlie was elected to the 89th Congress. Serving on the House Interstate and Foreign Commerce Committee, Charlie represented the citizens of Kentucky's third district with distinction from 1965 to 1967. Charlie was a friend and an exceptional colleague.

The death of a statesman such as Charles P. Farnsley, who combined innovative thought with a Jeffersonian ideal, is a loss to Louisville, to Kentucky, and to the United States. He will be missed by his colleagues, family and friends.

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members may have 5 days to revise and extend their remarks on the subject of my special order.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

LIMITING THE COST OF CONGRESS

The SPEAKER (Ms. KAPTUR). Under a previous order of the House, the gentleman from Mississippi [Mr. TAYLOR] is recognized for 5 minutes.

Mr. TAYLOR. Madam Speaker, in a time of severe budget restraints, I applaud the efforts that are being made to limit overall spending and especially the efforts to have those spending cuts start in our House. I intent to support every effort to limit the cost of Congress. But the leadership in this matter must come from both the Congress and White House.

On Sunday, when the appropriations for the legislative branch is brought before this body, I will be offering a sense of Congress amendment that t(e overall budget for the White House be reduced by the same percentage as budget reductions enacted by the House and Senate. This morning I obtained the following information about the overall budget for the White House from the Subcommittee on Treasury, Postal Service and General Government Appropriations.

The President's fiscal year 1991 budget request for the 13 Executive Offices of the President accounts total $329,973,000, which is $59,155,000 above the total for fiscal year 1990 appropriations level. The White House budget is divided into several subcategories, some of which include:

Compensation of the President	$250,000
Office of Administration	24,900,000 (H)
(salaries and expenses)	25,400,000(S)
The White House office	32,000,000
(salaries and expenses)	
Executive residence at the White House	8,400,000
(operating expenses)	
Council of Economic Advisers	3,000,000
(salaries and expenses)	
Office of Policy Development	3,400,000
(salaries and expenses)	
National Security Council	5,800,000
(salaries and expenses)	
Office of Management and Budget	48,300,000
Air Force One	(Classified)
President's Secret Service	(Classified)

Obviously, programs like the drug czar's office and the National Security Council are more important than other programs. That's why the sense of Congress calls for a reduction in total amount and allows the President and his staff to target the programs and areas in which to reduce appropriations.

In the Congress, we will prove that we are willing to get our own house in order and take the necessary steps to

live within our means. Madam Speaker, I hope you will join me in supporting an amendment that will ask the President to set the same example.

Mr. HARRIS. Madam Speaker, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Alabama.

Mr. HARRIS. Madam Speaker, I just want to commend the gentleman from Mississippi [Mr. TAYLOR] for bringing this information to the attention, not only of the Congress, but of the American people.

Madam Speaker, I am really shocked. Did I understand the gentleman to say that the President's budget request for 1991 is almost $60 million over 1990?

Mr. TAYLOR. Madam Speaker, the President's budget request for 1991 was $59,100,000 more than the budget he was given the previous year.

Mr. HARRIS. And do I understand further that the gentleman is saying that he was not able to find out the cost of operating Air Force One as it moves around the country?

Mr. TAYLOR. Madam Speaker, I had some calls from constituents who were concerned about the cost of the President as he went around the Nation campaigning for different candidates, and they were curious as to the total cost. One cannot get that cost. The gentleman from Alabama [Mr. HARRIS] and I, as Members of Congress, can never get that amount of money that it costs the President to fly around. That is classified.

Mr. HARRIS. Madam Speaker, I just wanted to offer my support for the initiative of the gentleman from Mississippi [Mr. TAYLOR], and I certainly hope that this body and the other body will support us in the effort to reduce the cost across the board as we tighten our belts, and I think it is fair to ask the President, in the cost of his operation, to tighten his belt also.

Mr. TAYLOR. Madam Speaker, I thank the gentleman from Alabama [Mr. HARRIS] for his comments.

Just for his information, the $8.4 million cost is just operating the White House. That is not salary and expenses, and that is more money than the cost of operating my hometown of 10,000 people per year. That is only $5 million. The cost of salaries at the White House is $32 million, and that is higher than the cost of operating any city in my district, and that is what we have to do to get the cost of Government back in order.

Mrs. BENTLEY. Madam Speaker, will the gentleman yield?

Mr. TAYLOR. I yield to the gentlewoman from Maryland.

Mrs. BENTLEY. Madam Speaker, I appreciate what the gentleman from Mississippi [Mr. TAYLOR] is pointing out, but I would like to make one point also. That is, namely, that, when the President flies on campaigns, the campaign pays for all the expenses involved, and the gentleman can rest assured; I want to tell him this, and he can ask any of the Members for whom the President has gone to campaign for, how much it costs out of that fundraising to get the President there, and they will tell the gentleman exactly that it is a very big bill.

Mr. TAYLOR. Madam Speaker, I appreciate the remarks of the gentlewoman from Maryland [Mrs. BENTLEY].

However, Madam Speaker, I would be much more comfortable if we were given that cost from the General Accounting Office, from the Office of Management and Budget, so we could truly tell if the cost that is reimbursed by the campaign is the true cost to the Government, but I certainly appreciate her remarks.

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REMEMBERING THE VOLUNTEERS WHO HELP OUT IN OUR VETERANS HOSPITALS

The SPEAKER pro tempore (Ms. KAPTUR). Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Madam Speaker, in this time of chronic budget problems, I am proud to pay tribute to those who volunteer in the VA medical centers.

We know about the service organizations, but we sometimes overlook groups like the Elks, one of the Nation's oldest and largest fraternal groups. Forty-four years ago, their members took this pledge: "So long as there are veterans in our hospitals, the Benevolent and Protective Order of Elks will never forget them."

James Damon of Mt. Vernon, OR, national president of the BPOE, recently visited with me and reminded me of this commitment by his organization. And he gave me some numbers which I would like to share with my colleagues:

Last year, the Elks and their families drove 187,400 miles and volunteered 228,028 hours in providing companionship and entertainment to hospitalized veterans. Members of the Elks generated more than $2 million to buy simple things like toothpaste and playing cards and big items like wheelchair-equipped vans and TV sets. Last spring, the Elks lodge in Alexandria, LA, even built an artificial lake near the VA medical center. Stocked with fish and a great source of recreational therapy, the lake covers 7 acres and is officially known as Elks Pond.

Such gifts—large and small—make life a little easier for thousands of patients.

Volunteers are an invaluable manpower resource for our veterans' medical facilities. Frankly, we just couldn't run our hospitals without them. In the 44-year history of the department of veterans affairs voluntary service, hundreds of thousands of individuals representing themselves and more than 350 organizations have donated more than 335 million hours of volunteer service to the compassionate care and comfort of hospitalized veterans and their visiting family members.

No action by the Congress can equal the companionship therapy of dedicated volunteers, that personal contact with patients who are suffering physical or mental wounds of war and who are fighting the ravages of alcohol, drug abuse or diseases of aging.

I am particularly impressed with the Elks' unique Adopt A Veteran Program. Last year, various Elks' lodges adopted 50,000 veterans. Elks in all 50 States got to know a patient at a nearby VA medical center. They remembered those people on their birthdays and other special occasions. They took these patients on outings—to baseball games, on fishing trips, shopping. They brought them to the local Elks lodge for dinner or a special program. They invited them into their homes for Christmas or Thanksgiving dinner.

During wartime, there is patriotic fervor, and we make promises of everlasting gratitude to those who serve. Sometimes those promises tend to fade from public memory.

I am proud to salute the Elks and other fine volunteer groups who have not forgotten those who are confined to hospitals, nursing homes, domiciliaries, and residences.

TRIBUTE TO CHIEF JUDGE ROBINSON O. EVERETT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. JONES] is recognized for 5 minutes.

Mr. JONES of North Carolina. Madam Speaker, on September 30, 1990, Robinson O. Everett of Durham, NC, retired after serving for more than a decade as chief judge of the U.S. Court of Military Appeals. Under his brilliant and charismatic leadership, the Court of Military Appeals has evolved into one of the most respected and innovative courts in America. The indefatigable, personal effort he exerted toward realizing this goal represents one of the most remarkable examples of judicial commitment and dedication that could be displayed.

His ceaseless concern has always been to reconcile the demands of highest justice with the requirements of military discipline. He has written hundreds of judicial opinions, many of which have resolved some of the most difficult questions in military and constitutional law. His many landmark decisions will surely have a lasting influence on military jurisprudence for decades to come.

Chief Judge Everett's other major accomplishments are equally stupendous. Within a year after his arrival at the court, he converted the court's docketing system to a completely electronic computerized system, which resulted in a great reduction in the cost of managing and retaining the court's recorded docket entries on all cases. This electronic capability also gave the court instantaneous access to all the court's docketing records. Furthermore, during his first year as chief judge, the court accomplished an astonishing 82 percent increase in the court's final dispositions on the master docket over the previous year, cutting in half the number of cases pending on the

master docket. In recent years, the year-end pending cases have been reduced to a record low, and the time required to process cases before the court has also been dramatically reduced.

Judge Everett has been a model educator who has relentlessly sought to improve the professional skills of both military and civilian practitioners. In 1983, he reshaped the court's annual Homer Ferguson Conference and redesigned it not only to give military lawyers—but civilian lawyers as well—an opportunity to develop and maintain excellent skills required for appellate court practice within the military justice system and elsewhere. To make these training programs readily available to all lawyers, he had the conferences videotaped and made special arrangements to have portions of the conferences televised on C–SPAN. He also conceived and developed a documentary videotaped program produced for use by military lawyers and military educational institutions, as well as distribution and use by civilian law schools and community education programs both in the United States and overseas. This video, the first of its kind, explained the entire process of trial and appellate procedures in a military court-martial case with particular emphasis on the appellate judicial responsibilities of the civilian U.S. Court of Military Appeals.

The judge has been exceptionally devoted to promoting public awareness of the fairness and progressiveness of military justice. He has never been too busy to say no, and addressed military and civilian conferences, seminars, training workshops, meetings of various bar associations, and law schools throughout the country. These judicial visitations and speeches have kept the military and civilian communities fully apprised of the court's responsibility in the administration of military justice; have improved the professional and legal education of military and civilian lawyers; have provided an interchange of ideas beneficial to the military community in general; have provided the court an opportunity to ascertain the impact of its decisions on the administration of military justice; and have helped to develop a better appreciation of the operational problems in the various services.

One of Chief Judge Everett's most innovative programs was reaching out and taking the court to the people. For the first time in the court's history, the judges traveled outside their own courthouse to hear oral arguments in several actual appeal cases. Some of the cases were held at various law schools and at the West Point Military Academy. These convenient hearings provided an excellent opportunity for members of the academic community, military, civilian judges, lawyers, law students, and future military leaders of the U.S. military academies to meet with the judges and view how court-martial cases are presented by appellate advocates for decision by the court.

The court also had televised an actual hearing conducted in the courthouse, which was later televised nationwide on the C–SPAN Television Network as a part of a 3-hour special program on military justice and the appellate review of court-martial cases under the Uniform Code of Military Justice. The project exemplified great visionary and very creative leadership on Judge Everett's part. The military community, the legal profession, and the general public have become more aware and appreciative of military justice and the Court of Military Appeals, as they have never before, by seeing on television how efficiently and well it works. The court's remarkable success in allowing the first telecast of an actual Federal court proceeding may have been the catalyst of the recent decision of the Judicial Conference of the United States to reverse a ban in effect for decades in this country to allow televisions in some of the article III courts in a 3-year experimental program.

Actually, during the last decade, under the consummate leadership of Chief Judge Everett, the U.S. Court of Military Appeals has become one of the most public and most utilized courts in the Nation today. There have been various moot court competitions held in the court; various law school alumni meetings and functions; meetings and receptions held by different voluntary bar associations; and the court was recently the site of the historic administering of the first national junior high school bar examination. Furthermore, students—from preschool to college—are always visiting the court and meeting with the judges. Cadets from the military academies have worked on special projects at the court, and law schools students also have done summer interns there. Even weddings and marriages have been performed in the courtroom for the first time. It is clear that the U.S. Court of Military Appeals has now become one of the most accessible and most utilized public courthouses in America.

Perhaps, there are few judges who have so enthusiastically and relentlessly devoted so much time at promoting better understanding of the American legal system by the youth of our country than Judge Everett has. In 1987, Judge Everett directed the national student law day project, which has been described as "one of the truly most ambitious and most successful projects ever undertaken" in an effort to celebrate the Bicentennial of the United States Constitutuion. The project won first-place award in the American Bar Association's 1987 Law Day USA competition. Over 1,000 students, 30 different courts, and over 61 judges across the country participated in the project; and the project extended from Puerto Rico to Guam, and from Boston to San Francisco. Through Chief Judge Everett's magnificent leadership, a major goal was accomplished of encouraging and coordinating the nationwide cooperation of judges and court officials to sponsor courthouse visits and informal meetings with trial and appellate judges and court staffs by school students throughout the country. His impact and influence have had no limits.

Chief Judge Everett was exceptionally well-prepared for his judicial service. Earlier he had served as a commissioner on the court. He has been a law professor at Duke University for almost 35 years. Also, he has practiced law in North Carolina as well as in the District of Columbia and has held many positions in the organized bar. In fact, he was the chairman of the American Bar Association Committee on Military Law from 1977–79. During the early 1960's, he served as a special counsel to Senator Sam Ervin's Subcommittee on Constitutional Rights in conducting the hearings and studies which led to the Military Justice Act of 1968. He has written a book "Military Justice in the Armed Forces of the United States" and numerous articles on military law, criminal procedure, and evidence. Prior to his retirement in 1978 as a colonel in the Air Force Reserve, Judge Everett had acquired many years experience as a judge advocate. Moreover, during his tenure as the chief judge, he served as the first chairman of the Federal Bar Association's Judiciary Committee and the chairman of the FBA's Administration of Justice Section.

Judge Everett has been honored and has received various recognition across the country for his brilliant accomplishments as the head of the U.S. Court of Military Appeals. Recently, the Judge Advocates Association sponsored a special testimonial banquet in his honor where many, including all the judge advocates general of the various services, bestowed upon him abundant praise. A number of bar associations across the country have also recognized his unparalleled accomplishments during the last decade. This ubiquitous praise and recognition appear to be shared by everyone.

Chief Judge Everett will be returning to the Duke Law School, where he has been a tenured professor for many years. Fortunately, as a senior judge, he still will be available to assist the Court of Military Appeals from time to time. We wish to express our gratitude to this very distinguished jurist from our home State of North Carolina for his extraordinary service and dedication to his country. We extend to him our best wishes for the future.

1 YEAR LATER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Madam Speaker, I rise today on the 1-year anniversary of the Loma Prieta earthquake to let my colleagues know how the communities in the 16th District of California have been able to recover after the devastation of last year's earthquake. As you may know, the epicenter of the earthquake was located 4 miles north of Aptos, CA. It wreaked havoc in the communities of Santa Cruz, Watsonville, and Hollister. Billions of dollars' worth of damage was caused by the earthquake. While many families and businesses have recovered from damage and have moved on, many others are still trying to deal with the economic and psychological damage of October 17.

As many of you know, the downtown area of Santa Cruz, specifically the Pacific Garden Mall, was virtually destroyed. Before the earthquake there were 600 businesses in the downtown area; 206 of these businesses were destroyed or dislocated because of the earthquake. The city estimates that 1,400 jobs were lost because of the earthquake.

Some good news in the rebuilding process was the awarding of an economic development grant for the development of the jailhouse project in Santa Cruz. This project involves the development of an old jailhouse in

Santa Cruz to house retail stores and an arts center. In addition, EDA has awarded a grant to build a downtown parking facility in Santa Cruz to help stimulate business in the downtown area. Both of these grants will provide much needed economic stimulus to revitalize the business community. In addition, the Santa Cruz Harbor received an EDA grant to repair and expand the harbor.

The city of Santa Cruz reports that 34 commercial buildings with a total area of 347,326 square feet have been demolished. A total of 375,587 square feet of commercial property has been damaged and remains unrepaired. Nine replacement commercial buildings are under construction or are in the permit process and five commercial buildings are being rehabilitated.

Another area that was badly hit by the earthquake was the city of Watsonville. The city reports that 550 residences were damaged and 406 residences received major damage. Watsonville reports that 10 percent to 15 percent of destroyed houses have been replaced and are now liveable and another 20 percent are in the process of getting necessary permits; 22 commercial buildings were demolished and 52 residential buildings have been demolished. In addition, the local airport suffered damage and water and sewer lines were damaged.

Watsonville is home to some of the largest food processors in the country. Much of the frozen food at these plants was destroyed in the earthquake and many of the canned items were damaged. While some of the companies were able to sell their product, many others have suffered economic losses that have resulted in the shutting down of at least one processing plant. This shutdown has resulted in the loss of more than 100 jobs in Watsonville.

I am pleased to report that Watsonville has also received two EDA grants. One is to build a parking structure in downtown Watsonville and the other is an economic planning grant for long-term economic development.

Another hard hit area is the small community of Hollister in San Benito County; 68 homes were destroyed and 400 damaged. Mobile homes in the area sustained extensive damage. Businesses in Hollister sustained damage as well. It will take years to rebuild these communities.

Nearly 100 families are still living in FEMA provided mobile homes. These families have been unable to find affordable housing in the area during the past year. It is my hope that these families will be able to find permanent housing within the next 6 months. However, if they should not be able to find housing, I will strongly urge FEMA to extend the April 1, 1991, deadline for this assistance.

I believe that the greatest lesson of the Loma Prieta earthquake is the great need for changes in Federal disaster assistance programs. My district has sustained a number of federally declared disasters over my years in office. Each time it seems that FEMA comes promising help and assistance and delivering frustration and disappointment. I believe that Congress must act to improve disaster assistance before another massive natural disaster affects more communities.

One of the most prevalent problems was the seeming indifference of FEMA officials toward the problems facing the victims of the disaster. In many instances, I felt that I had to exert great pressure on these officials to have them provide services that should have been provided without my intervention. This is illustrated by the nearly 900 cases handled by my staff following the earthquake. This should not be the case. FEMA should have the capability to move into a disaster area and coordinate immediately with Federal, State, and local agencies and provide needed assistance. The system is not working correctly if a Member of Congress has to make a phone call to have assistance provided.

This points to larger problems associated with Federal disaster assistance, which is the length of time and the complexity of the decisionmaking process at FEMA. I have had many years of experience with the Federal bureaucracy. I know that a bureaucracy is by nature very slow to react. However, FEMA should not fall into the category of bureaucracies. It is vitally important that assistance be provided to victims of a disaster immediately.

Following the earthquake, I organized weekly earthquake task force meetings in my district. At these meetings we would have representatives from each relevant agency present to answer questions concerning disaster assistance. This seemed to be the only way to provide complete and accurate information to my constituents. While this provided a good forum for people to get information, it should not have been necessary. FEMA should have the ability to pull these people together without outside involvement.

The application process needs to be simplified and accelerated. The most needy victims usually had to wait the longest to have their applications processed. This is certainly not the way assistance should be provided. Many of my constituents complained about the complexity of the assistance applications and many were discouraged from applying.

Earthquakes present some unique problems to FEMA. Because they cannot be accurately predicted, FEMA does not have any warning. In the case of a hurricane, FEMA can prepare while tracking the storm. It is my hope that the lessons of the Loma Prieta earthquake will lead to improvements of Federal disaster programs. For now, I will continue to work with my constituents to continue our rebuilding effort. I hope that at this time next year that I will be able to report to you that everything is back to normal in the 16th District. In addition, I hope that at this time next year that Congress will have taken a decisive step toward improving Federal disaster programs.

AN UNSUNG HERO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Dakota [Mr. DORGAN] is recognized for 5 minutes.

Mr. DORGAN of North Dakota. Madam Speaker, Archie Bach died last week. He was my uncle.

Not a lot of people outside of his community and family would have known Archie. He stayed pretty close to home.

He worked hard, took care of his family, and like most Americans, he loved his country.

Although Archie was born in a small town and lived most of his life within 25 miles of where he was born, he did travel around the world to fight for his country.

During the Second World War, Archie Bach was involved in extensive combat in Africa and Europe. He served in an Army division that was called on for an almost unprecedented amount of time in frontline combat. Archie risked his life and served his country fighting for freedom halfway around the world.

He then returned to live in his hometown and like most Americans who fought in World War II, never talked much about it and never made a big deal of it. Yet, in many ways, Archie Bach and the countless others like him who fought for this country are America's real heroes.

In those countless acts of courage by unsung heroes, often unrecorded and unknown, lives now America's freedom.

Archie Bach, we'll miss you. But we know that because you lived, the world is a better place.

WHAT HAPPENED TO OUR FINANCIAL SYSTEM?

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Madam Speaker, for sometime I have been reading stories and speaking about the problems of American business and some of the financial tactics which have helped to exacerbate the problems of our country.

Recently I had an opportunity to review a paper which summarizes one segment of these serious problems we find in the financial sector. It points out what many of us have forgotten—that the roots of our excesses are not new, and they stem from the 1950's and 1960's. I think this information is appropriate given the recent headlines in the papers about our savings and loans, the banks, and the FDIC.

The paper by Dr. Rolf Wubbells, Professor of Finance at New York University Graduate School of Business is titled, "Currents in U.S. Financial Affairs. It states:

For centuries the United States has been the attractive lodestone for people throughout the world seeking freedom and opportunity. We were envied and respected for American economic and moral leadership and, for the American lifestyle.

In recent years we have slipped from this preeminent position of respect. A dramatic change took place in the country, both ethically and financially as we shifted from being the largest creditor nation in the world, to the largest debtor nation. The prime objective became instant gratification rather than building a stronger, better and more productive society for future generations. To better understand this shift we shall examine some of the financial currents

fueling the far reaching problems in the United States today.

What happened was described almost 150 years ago by Charles Makay in his classic "Extra-ordinary Popular Delusions and the Madness of Crowds." He wrote every age has its peculiar folly; some scheme, project, or phantasy into which it plunges, spurred on either by the love of gain, the necessity of excitement, or the mere force of imitation. This period we are in now has a little of all of Mackay's ingredients.

Hardly a day passes without more depressing news of our increasing financial problems. Debt, which is a claim against future earnings, has sky-rocketed at every level: federal, state, municipal, business, mortgage and personal. Debt which increases productivity and earnings may be constructive and sound. We have, however, been mortgaging our future with small and sometimes negative increases in productivity. This has to lead to economic catastrophe.

Evidence of a potential catastrophe are the savings and loan failures, the junk bond market collapse, the short-fall in pension funds, insurance companies in serious financial straights, commercial bank failures, and with time the list continues to grow.

There are a myriad of specific causes for our plight, but the core of the problem is: insatiable greed fueled by a frenzied mass histeria, neither looking to the long term future of our society or national well being.

The present savings and loan fiasco is vivid evidence of Makay's 1841 wisdom that "Every age has its peculiar folly." This peculiar age of the 1980's is one of either "insatiable greed" or "arrogance" or a combination of both thinking the bills would never come due.

The monumental losses of the savings and loans were primarily caused by the unsound, and in some cases, fraudulent mortgage loans. The secondary cause was the high yield bonds (junk) which played a significant role in relatively few savings and loans. However, with a historical view, we will be able to demonstrate how greed and avarice can cause some rational individuals to lose their perspective.

The paper further states:

The general public is still unaware of the full impact of the collapse of the junk bond market on commercial banks and insurance companies. During the period from 1980 to 1989 approximately $276 billion of high yield junk bonds were sold. Mutual funds hold about 30 percent, insurance companies 30 percent, pension funds 15 percent and savings and loans eight percent.

I would like to interject here that I recently read an article in the Wall Street Journal about junk bonds and the Resolution Trust Corporation which is handling the disposition of our dying savings and loan institutions.

That article by George Anders and Paul Duke, Jr., pointed out that the "government holds 483 different issues of high-yield junk bonds, all acquired as part of its rescue operations for insolvent thrift institutions." It stated that "these junk-bond holdings include some valued at just three cents on the dollar, as well as other valued at 80 percent to 90 percent of the initial issues price." Three cents on the dollar means the taxpayer is picking up the lion's share of the cost on some very bad financial deals. The paper also reported "the default rate on junk bonds at 34 percent."

That certainly seems to be an example of greed and underscores what Dr. Wubbels states next:

As a result of the greed we are well on the way to the greatest financial catastrophe in our history. Treasury Secretary Nicholas F. Brady estimates more than 1,000 savings and loans, which represents 40 percent of the industry, might have to be seized by the government. The cost for those seized last year might be as high as $130 billion. The General Accounting Office estimates the cost plus interest on the bonds issued to finance the bailout could exceed $250 billion in the next ten years and over $500 billion over 30 years.

Unofficial estimates by knowledgeable individuals estimate the cost even higher at $1 trillion. How this happened is a complex story. The basic cause is the insatiable greed of a relatively small number of people who managed to misguide the public with the hope of riches without producing true wealth.

What happened is not new, but the scope of the problem and amount of greed is. Previous financial follies did not have the potential to radically alter our leadership position in the world. Insider trading and confident men have been with us throughout our history.

George Washington, in 1789, took the Oath of Office as President on Wall Street in New York City. He appointed Alexander Hamilton as Secretary of the Treasury. Hamilton issued his report for the redemption of the scrip the soldiers were paid with during the Revolutionary War. At least three syndicates began buying the scrip for pennies on the dollar from the soldiers who had fought, suffered and died for our freedom and the heirs of those who were killed in battle.

One syndicate was headed by Robert Morris, a signer of the Declaration of Independence and a close associate of Hamilton. Another syndicate was headed by Jeremiah Wadsworth, a member of Congress from Connecticut and a friend of Hamilton.

When the New York Stock Exchange was formed on May 17, 1792, the bonds issued to redeem the soldier's scrip at full face value were the first issue of securities traded publicly. Just as what has happened in today's financial climate, the average man in 1792 was a loser to the insider trader. Big is better and bribery, deceit and payoffs were always part of the financial scene.

The 1950's and '60's were the era of the conglomerate and the buzzword "synergism" which meant the whole is worth more than the parts. The merger-mania of the 1950's were driven by greed and avarice as were the leveraged buyouts of the 1980's. The LBO's had their genesis in the financial techniques used in the era of the conglomerate.

The 1950's was the time of Roy Ash's Litton Industries, David Karr's Penn-Texas, Louis E. Wolfson's Merrit, Chapman and Scott, Nicholas Salgo of Bangor Prenta, etc.

The object was to buy up as many companies as possible, pay for them with debt secured by either the assets of the company being bought and/or by the parent company.

It was the era of the subordinated debentures usually convertible into the stock of the conglomerate. Again, it was a period of Makay's 1841 piece "Extraordinary Popular Delusions and Madness of Crowds." A company made everything. For example, Textron, a New England textile company became a purveyor of zippers, pens, snowmobiles, eyeglass frames, silverware, golf carts, metal working machinery, helicopters, rocket engines, ball bearings and gas meters.

The 1960's were the Go-Go years. New issues of stock of companies with little in the way of assets, limited or no earning power, were eagerly bought by unsophisticated investors and sent soaring.

It was a period of paying for real assets with worthless papers, with securities of little inherent value, creative accounting and emphasis on the last quarter's earnings. For many managers, long-term planning meant the next quarter.

The total mergers of American businesses totaled 2,975 in 1967, 4,462 in 1968 and 6,132 in 1969. The number dropped off in 1970 and became much less significant during the financial crisis of 1969-1970 although it was actually more severe than the one of 1919-1932. Let me explain.

In the period from September to November 1919 there were four to five million stockholders with a loss of $30 billion dollars. In 1969-1970 there were 31 million stockholders who lost $300 billion in stock listed on the New York Stock Exchange, the American Stock Exchange and traded Over-the-Counter. While the loss was ten times that of 1929, the effects were less severe.

The country was richer, the loss was spread over more people and the high margin requirements (80 percent) made it unlikely an individual would be completely wiped out.

The lure of making a large profit while risking little of one's capital soon sets in after the acute pain of a financial crisis fades. At that time, new adaptations of old ways to "make a quick buck" soon surfaced. Understanding this "crisis-quick-buck" syndrome would simplify our problems if we would distinguish between money and wealth.

Money is any generally accepted medium of exchange. In the United States, it is the dollar. One measure of the value of money is its purchasing power; another measure is its worth versus other currencies.

Wealth consists of scarce transferable goods that satisfy a human want and is created by combining raw materials (land), a productive labor, productive facilities (capital) and management expertise. The true strength of a nation lies in its ability to create wealth.

I would like to add that I agree with this, as does Akio Morita, the chairman of Sony. A year ago I did a speech and stated I agree with you Mr. Morita, where we differ is the effects of foreign investment. Well, Dr. Wubbells, Akio Morita, and I all agree on the need for value-added manufacturing to create true wealth for the country.

The paper then states:

Japan, a nation with little raw materials, has become an economic powerhouse through the utilization of extremely productive labor, excellent management employing the most efficient productive manufacturing facilities available.

How we lost our economic advantage with so much natural wealth is not difficult to understand. We are all aware of the fact the United States came out of World War II as the greatest economic powerhouse the

world had ever known. We were able to supply not only our own needs but those of our allies and vanquished foes.

What happened? The basic American thought was that big was better; synergism, the whole is worth more than the parts. The hope was the conglomerate's stock would sell at a higher price-earnings-ratio.

These earlier financial techniques were refined and flourished in the frenzied 1980's era of LBO's. Many of our companies were left deeply in debt. Earnings were used to serve debt rather than for needed research and development, new productive facilities and marketing, which are true wealth creating activities.

Our competitor, Japan, has for four years in a row spent more than the U.S. for new plants, equipment, and research and development. It has widened the gap between them and the U.S. at an ever increasing rate. Last year Japan invested more than $750 billion or about 24 percent of its GNP although its economy is about 60 percent the size of the U.S. The US spent $500 billion or about 10 percent of our GNP.

One advantage the Japanese companies have over American companies is they can accumulate large amounts of cash for future opportunities without fear of a corporate raider.

Who benefits from an LBO? Obviously the raider, with a small network of his own who may become the owner of a major company; the stockholders at the time of the takeover who get an amount in excess of the earlier market price; the investment bankers; the lawyers; the suppliers of the bridge loans (the money to support the raider's takeover until the junk bonds can be sold to the public.

Who loses? The biggest loser is the nation as a whole, the American people. Money that should have been used in creating wealth by investing in new plants, equipment, marketing and research and development is shifted to repay debts.

Others who are losers are in most cases the buyers of the junk bonds along with those employees that are terminated, the people who would have been employed in productive purposes, and the suppliers of plant and equipment.

The leveraged buy out objective was to invest a small amount with the hope of a huge profit. It was based on finding a company whose assets were worth much more than the financial statements indicated and that had sufficient earning power to be capable of servicing a large increased debt after the take-over: subsidiaries that might be sold profitably, a pension fund that could be looted, a company whose stock was selling substantially below break-up value and where management's holdings of stock were minor.

The raider quietly accumulates up to 5 percent of the stock at which point the Securities and Exchange Commission would have to be notified of the holding. It was a safe assumption that most of the public stockholders would agree to a quick short-term profit and not worry about the long term effects on the employees or on the nation when the buy-out offer was made public.

How does a raider discover vulnerable companies and the source of funds available? Financial statements have become so complicated that they need to be interpreted by specialists. They are not only the province of raiders, security analysts, and investment bankers, but also of specialized new letters published by financial industry personalities.

Despite the voluminous financial information disseminated by American corporations, it can be misleading unless it is correctly interpreted. Accounting is an art, not a science. There is a great deal of freedom in preparing financial statements while abiding by the established rules of the Financial Accounting Standards Board.

Land and buildings are examples of how individual items on a financial statement can be misleading. Land is carried on the books at cost. This is particularly advantageous for a major lumber company that owns thousands of acres of land, most of its purchased for a few dollars an acre. Now that land may be worth hundreds—or hundreds of thousands of dollars an acre. Buildings are carried at cost minus depreciation. There are different ways to charge depreciation. A fully depreciated building may be worth millions.

The liquidation of excess inventories may be another source of funds for the raider. Still another is the sale of advantageous long-term leases. The assignment of the leases may generate millions of dollars. The main source of funds in recent years was the sale of high risk (junk) bonds.

The most diabolical source of money for the raider which made him literally a true modern pirate, is the over-funded pension plans. He literally could use the money in the fund to pay for his take-over of the company.

This worked because a guaranteed benefits pension plan had funds accumulated over the years that developed an amount of dollars greater than needed to meet the defined payments obligations.

Our courts have held that those assets in excess of the amount needed to meet a defined benefit pension plan belongs to the corporation, not the employees. Once the raider had taken over a corporation, the pension plan was terminated, annuities were purchased for the employees to meet the pension fund's contractual obligations, and the excess was used to pay off the obligation incurred by the raider. In many cases, the raider purchased the annuities from the lowest premium cost insurance with, possibly, the least safety.

Translated, that means the most risk for the retirees and the fund.

Some of the companies whose excess pension funds were seized are Bulova Watch Co., Revlon Cosmetics, McCrory Corp., National Forge, Pacific Lumber Co., Standard Gravuire, etc.

The general belief by most employees is their pensions are protected by the government which is not strictly correct. The government's Pension Benefit Guarantee Corp. does not accept responsibility for pensions that have been exchanged for annuities offered by insurance companies. If the insurance company goes broke then the pensions of the annuity holders (the employees) are gone. In turn, the junk bonds in the portfolios of some insurance companies pose tremendous risk to hundreds of thousands of workers.

One insurance company and its subsidiary has been in the news for months. Should the subsidiary go out of business, 70,000 workers who have their annuities with the company will have lost their pensions.

In some cases when management becomes aware of a raider's intentions, they offer to buy the stock he held at a premium. The effect was to enrich the raider and impoverish the corporation. In this case, blackmail by the raider is euphemistically called "green mail.

Management having bought off one raider often encountered another. You can't win paying blackmail. We should learn with raiders, just as governments have that you cannot pay blackmail to a terrorist. To many a corporate raider is the equivalent of an economic terrorist.

We need to sweep away the excess of the last few years if we want a growing, prosperous free America. We must begin to emphasize the lone-term growth of productivity.

We need to increase our research and development, modernize our plants, improve our worker's morale and once again lead the world in producing the best products at the lowest price. Every major business decision should consider what it does for the future of the U.S., not in terms of the quick buck.

The savings and loan fiasco is estimated to cost each U.S. household $5,000 and it will not contribute one smidgen to productivity. Instead of this and other "quick-buck" financial gimmicks, we must make an effort to utilize the small and medium sized businesses which are the secret of the entrepreneurial spirit of America.

Let's do it right in the future and become the envy of even the prosperous Germans and Japanese.

I want to add that I agree that every major business decision should consider what it does for the future of the United States. At our economic leadership luncheon last year, Robert Galvin, the former chairman of Motorola made a similar statement.

He said he had a piece of legislation in his files which he would like to see passed as a policy statement. It said simply "that every businessman must be an American first in his business dealings."

That could help solve our problems quickly.

To restate the ending of Dr. Wubbell's paper—"Let's do it right in the future and become the envy of even the prosperous Germans and Japanese."

We have the ability and the ingenuity to surprise them all. The American people have the strategic sense to come out winners if they do not let avarice control them.

□ 1900

THERE ARE STRANGE THINGS HAPPENING HERE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS of New York. Madam Speaker, I would like to begin by saluting the previous speaker, the gentlewoman from Maryland. I agree with her 100 percent. She gave a good, solid foundation for the remarks that I would like to make.

Ultimately I want to move back to the subject of the savings and loan associations, but first, I would like to point out that we are in the throes of a budget preparation scenario, a scenario which is involved in the cutting of many worthwhile programs, a sce-

nario which is involved with the proposal of additional taxes on the American people.

I think it is important for the American people to watch this process closely, watch it very closely. There are strange things happening here in the middle of this budget-development process.

One of the strangest occurrences is the fact that no one is discussing the savings and loans bailout and what that will cost the American people. That has not appeared in the budget prepared by the House of Representatives except briefly there was a note from the budget summit saying that it was a nonnegotiable item and that they must have $74.3 billion in there over the first 3 years, and the last 2 years they will begin to recoup some of the money so they gain some of it back. But that document that was circulated surreptitiously seems to have sort of disappeared and has never appeared formally in any discussions on the floor of the House. So it evidently, we hope, has been dropped.

□ 1910

We almost know it can drop because I have learned just today that last week, a few days ago, the other body, the Senate, by voice vote, voted to provide $57 billion for the savings and loans. It was approved by voice vote. There was so little discussion that it did not register in the media to an extent to get our attention; $57 billion had been approved by voice vote in the other body.

I understand the request is now before the House committee responsible for this item, the Committee on Banking, Finance and Urban Affairs. My colleague, the gentleman from Texas [Mr. GONZALEZ] who heads that committee I believe has asked that there be a little discussion about the $57 billion. I am told that he has requested the administration to come in and explain the request. That is the least that could happen.

Taxpayers beware. Taxpayers, listen. While taxpayers are being taxed additional money, while programs are being cut, like child care, the Student Loan Program, and Members know about the great cuts proposed for Medicare, that has been widely publicized, while these things are taking place by voice vote, we approved $57 billion additional. We are asked to approve $57 additional billion for savings and loan bailout.

Strange things are happening here. Some of those strange things add up to a bit of dishonesty. The sins of omission, just omitting to say certain things is criminal. Omitting to discuss multi-billion-dollar items while we are imposing a budget on the American people which requires additional taxes, as well as cuts in some vital programs is unconscionable. We should not tolerate it. Taxpayers, watch it closely.

We also discovered in the last few days there has been a confirmation of what I charged several months ago, a confirmation of the fact that a large percentage of the taxpayers' dollars that are going to bail out the savings and loan associations, are taxpayer dollars that are used to fill up the gap that has been created by the fact that the money the people deposited and the money that was insured by taxpayers by the Government, that money that we are being forced to replace, I said a large proportion of it was not legally our responsibility. In the scheme of this old boys' network works conspiracy and the scheme of the regulators and the administrators moving to cover up and placate, and hold the hands of the criminals, those who are outright criminals, and those who were incompetent. In an attempt to cover up for them, they are giving away the taxpayers' money to people who legally we are not responsible for today. The gentleman from Ohio [Mr. REGULA] indicated that he had introduced a bill which prohibits the payment of any money to people who are not covered by the Federal regulations which say that up to $100,000 is all we are responsible for. That is quite a lot. No other country in the world covers that much in guaranteed deposits.

I assure Members, in West Germany, very prosperous West Germany, not a single dime is covered by the Government when depositors put their money in the bank in West Germany. A small percentage is covered in England, up to about $14,000 in England. Japan covers about half as much as we cover, a little less than half as much. So we are very generous as taxpayers. It has worked quite well. We do have guaranteed deposits. We are in partnership with our banks. The banks do not admit that, but we the people are in partnership with the banks because we cover their deposits. We cover them up to $100,000.

It is grossly unfair and of questionable legality to find that beyond $100,00 we are covering depositors. The gentleman from Ohio [Mr. REGULA] has proposed on the basis of his findings, he found that 20 percent, and I knew it was a large number but I never had a figure, 20 percent of the taxpayers covered, the money the taxpayers are covering in these failed savings and loans is money above $100,000. Mr. REGULA has introduced a bill which will prohibit the use of taxpayers' money to cover those depositors in these banks above $100,000.

I have also said that most of them are very wealthy people, foreigners, Arab sheikhs, Japanese bankers. We will find those are a lot of the people we are covering, and we do not want to offend them by not covering them also, because they may pull their money out of other banks.

I do not have the direct quote from Mr. Seidman, but Mr. Seidman who heads this whole RTC [Resolution Trust Corporation] operation has said as much that we are scared to offend foreign investers, we are scared to offend these people by not covering their deposits also. They may pull out their money from other banks. Despite his fears, I do not know whether we are legally able to do what is being done, but according to Mr. REGULA, the situation is so bad that 20 percent of the money we are spending to bail out the S&L's is going to people who are above the $100,000 limit.

So it is another strange occurrence in the midst of all this budget development, the taxpayer beware, the taxpayers are watching very closely. I thoroughly agree with the statement by the gentlewoman from Maryland [Mrs. BENTLEY] that at least $500 billion is what the tab is going to be for the taxpayers. At least $500 billion to bail this whole situation out.

There are some scholars, and Stanford University is one of the places, they are estimating it will be as much as $1 trillion—$1 trillion, double the conservative estimate of $500 billion. Taxpayers will pay for it. The least the taxpayers deserve is a full discussion on the floor of the House, a full discussion in the public domain by the President, by all persons in Washington, of all the commitments that we are making, all the sacrifices we will have to make to deal with those commitments.

In this strange atmosphere, there is no discussion of this huge obligation that we are always forced to assume. There are some other strange things that are happening. While we are searching for pennies everywhere we possibly can in every committee, being forced and squeezed and closely looking at school loan programs, and at one point the Child Nutrition Program, the Free Lunch Program was discussed in one committee. That is outrageous. Put it on the table and discuss it, because we got that exempted under Gramm-Rudman. Even Gramm-Rudman is not so heartless as to go after free school lunches. It has gotten that bad, but in the same atmosphere, because we know defense is still a sacred cow, they refuse to look at the situation with respect to the bases that we are continuing to maintain in places like Germany, Japan. There is no real discussion of that. They skirt the issue in every instance where that debate is on the floor. They refuse to really look at it in an intelligent way. Taxpayers will have to press forward and say we want the bases in Germany closed. We want the bases in Japan closed. It is about time they paid for their own defense, and

they still need one. They are more prosperous than we are. Their standard of living is rising while ours is declining, and on and on it goes. There are many reasons why it makes sense. It is good, common sense. Any sophomore in high school could give a good reason why we should no longer maintain bases in Germany and Japan. Why should we maintain a defense budget at such a high level? We are not discussing the budget that is necessary to take care of Operation Desert Shield. Operation Desert Shield will be a separate budget.

After we get through with all the other budgets, we still have to deal with Operation Desert Shield. We know, in fact, that the Government of Saudi Arabia is earning enough money on the extra amount of dollars they get for the high price of oil to pay for the whole war. I do not know why we do not give the bill and ask them to give citizens a rebate, so that those elderly people in America who are going to have to pay more money for fuel bills this winter can also be able to benefit from the windfall that the Government of Saudi Arabia is getting. They are reaping enough money due to the increase in the price of oil. Saudi Arabia is making enough money to pay for the war and still have a lot left over, just from the extra money that they are making above where the price of oil was when the Desert Shield started and where the price of oil is now.

□ 1920

That gives then enough, I do not have the figures right here, but it is so many billions of dollars per week they are taking in above what they have already taken in, that could easily pay for the war, pay for the nonwar, pay for the protection that they are getting in Operation Desert Shield.

Then they could have some left over to also pay for the extra price of gasoline and fuel oil that we have to pay here in this country.

I do not think it is outrageous to propose that. I think it is outrageous to have them profiting from a situation where, because the world has rushed to their defense, the price has gone up and their profits have gone up; so that still is another dabate. We look forward and hope for a truthful and honest and open debate on the supplemental budget for Operation Desert Shield when it comes forward.

But another strange thing that has happened relates to our intelligence budget. We just finished discussing that yesterday. It was a long debate. The whole afternoon was taken up debating an amendment by the gentleman from California [Mr. DELLUMS]. The amendment called for a humanitarian action to be taken which at the same time would save us money. The American people would be saved about $60 million, at least $60 million would be saved if we stopped giving aid to Jonas Savimbi in Angola.

Now, there were Members of the House who brought the case and made it very forcefully, they brought photographs of children in Angola, amputees. Angola has the highest percentage of children whose legs have been blown off and who have no arms, no hands, who have been damaged by land mines and various other devices. They have the highest percentage of amputees in the whole world that is in Angola as a result of this war waged by an American-backed guerilla outfit called UNITA.

Now, we say we must maintain UNITA because UNITA is noble, UNITA is an improvement and far to be desired over the Government of Angola. Whatever you may say, the official Government of Angola is the government that we are funding to fight against. The Government of Angola, they say, is Communist and we cannot allow those Communists to win. I think we have just seen the situation do a flip-flop in the past year where the President of the United States is calling the head of the Communist government in the Soviet Union by a nickname. President Bush calls President Gorbachev "Gorby." They are good friends. We are united in the United Nations against Iraq in Operation Desert Shield.

Communism is sending students to study how we do our Wall Street, which they once criticized as being the monster of the modern world. Wall Street is now being studied by students from the Soviet Union. A whole lot of things are happening.

If Angola was ever a menace to the United States, if Angola ever was worthy of our concern, it would have been via the Soviet Union, that Angola would be another place the Soviet Union could establish bases as a way to threaten the security of our Nation. That seems to me to be a viable, a credible concern, that we could justify being involved in Angola to stop the Soviet Union from expanding its bases throughout the world, and we have to get involved even to the point of supporting a character like Jonas Savimbi. Great nations have to make these decisions, and sometimes you end up supporting people who are questionable. Mr. Savimbi is one of the most questionable recipients of United States aid that you find anywhere in the world. Savimbi, who went to Moscow and asked the Soviet Union, those horrible Communists, asked them for aid. He was a Communist when he thought he could get money from them.

Then Mr. Savimbi later, when he could not get money from the Soviet Union and the Russian Communists, he went to the Chinese Communists and tried to get money from them.

The Chinese Communists, in their particular extreme ideology, more extreme than Soviet communism, but they would not give him enough money, so he ended up coming to the United States and there he got the money he needed, so now he is a capitalist. He is our noble advocate in Angola.

Jonas Savimbi obviously is an opportunist. Jonas Savimbi, if he lived in my district, would probably be a drug dealer. Since he goes where the money goes, that is where the money is in the urban cities, so Jonas Savimbi probably would be a drug dealer.

When Jonas Savimbi comes to this country, he hobnobs with a lot of opportunists and parasites of his same ilk. I can think of nobody worse than Jonas Savimbi for taxpayers to be financing. We are financing Jonas Savimbi to the tune of at least $60 million a year.

What the gentleman from California [Mr. DELLUMS] was saying on the floor was that you can take away that $60 million and save it, at the same time you will save the children of Angola. You will do a humanitarian thing and save money at the same time.

Now, American taxpayers, why did so many people stand up on the floor and argue for hours that it was necessary in this day and age to prevent a takeover in Angola by communism, so therefore we must give $60 million to Jonas Savimbi? We must insist that he continues to take our $60 million.

Taxpayers, beware. Strange, weird, sick kinds of things are happening. That is a very sick development, that we are insisting that in order to stop the Russians from getting a foothold in Angola, or maybe to stop communism in general. It is not clear what they want to accomplish, because I suspect all Mr. Savimbi will do when it is all over is take off to some secluded place to use the money that he has deposited in some Swiss bank account to live well the rest of his life.

The man has no firm ideological base. There are no principles that we are able to discern. He has moved through so many spheres of ideology until one thing is certain. He is not worthy of the support of American taxpayers.

How many more sick situations like that are we still financing? How many more rogues are we still financing through the intelligence budget? We cannot tell you as Members of Congress. We do not know. I estimate $60 million. Most newspapers and people knowledgeable about the situation in Angola estimate that Jonas Savimbi is receiving at least $60 million, probably more, but we do not know because the intelligence budget is not a public budget. You cannot openly talk about it. As a Member of Congress, you do have the privilege of going to the little

room where they keep the budget and you can look at it there, but then you are bound forever to secrecy. You cannot say anything about it, so I choose not to go to get handcuffs and to have my lips sealed. I will take the newspaper estimates and I will take the estimates of the experts. At least $60 million of the money of the American people is being forced into the situation in Angola and into the pockets of Jonas Savimbi and his gang.

Why, when we are being asked to pay higher taxes, when we are squeezing worthy programs, are we still doing things like that, Why do we have an intelligence budget which is still probably at the same level it was before? Again, I do not know. It is estimated to be between $8 and $10 billion.

As I said before, this is one place where I agree with the people of Russia. The Soviet Union citizens are demanding that the KGB be stripped and the budget of the KGB be cut down to very little. The KGB and the CIA are roughly equivalent, and there is no longer a need to spend as much money on cloak-and-dagger operations which primarily were set up by the two superpowers to deal with each other.

So why can we not take those billions and use them to take care of some of these other situations, like Medicare commitments and student loan commitments and child care commitments? Why can we not?

The savings and loan issue, as I said before, may be discussed in a lame duck session. I do not know. I have not heard anything like that. The savings and loan association issue may be brought to us at midnight or 1 or 2 o'clock in the morning and with everybody tired and bleary-eyed, we will vote on it, no matter what it looks like, but I think when you are talking about $57 billion, as the latest amount of money that they need, we are doing a great disservice to the American people who are being asked to bear new burdens and to accept less service and cuts which hurt.

□ 1930

But the savings and loan situation is still one that this administration will not face up to.

I have said before that it is an old-boys network, it is a group of people who feel that they have the privilege of not being held accountable.

Our Justice Department has moved in a way which shows at least to me that there is a damage control strategy. And the kingpin of the damage control strategy is the Justice Department determination not to move zealously, not to move with the kind of intensity it ought to have in prosecuting savings-and-loan crooks. If you do not move to prosecute them and you do not move with dispatch, you do not go after the big ones, then the magnitude of the scandal, the kind of fingers that it has reaching into the reputable, respectable world will never be revealed.

That is the reason damage control is being practiced. It is the reason that the Attorney General, Richard Thornburgh, has made repeated statements that much of this money can never be recovered. Mr. Thornburgh, along with the FBI agents, keep insisting most of this crime is too complicated, too complicated to deal with. We cannot deal with it, it is too complicated.

We can deal with a couple of thugs robbing a grocery store and put them away, but when billions are taken, our hand are tied.

That is the message that we are getting from our Justice Department, that it is too complicated.

Now, they have a number of convictions that they can hand you or cite when you press them to see how many people have been investigated, how many people have been indicted, how many people have been convicted.

We are talking about losses which are mounting into hundreds of billions of dollars, so it seems to me there ought to be correlation between the amount of convictions and the amount of money involved or, in addition to convictions, how much money have we recovered?

In many cases, they give a defendant a number of years in jail plus they order him to pay back some of the money. How much money have they recovered? What efforts have been made to press for the recovery of the money?

Mr. Charles Keating is in jail. I think they might have let him out today. There was a news article which said that they had reduced his bail from $5 million in Los Angeles to $300,000.

Mr. Keating is in jail claiming he has no money, yet his Lincoln Savings & Loan Association is one of the biggest among the savings and loans that swindled the American people.

Mr. Keating is in jail today not because the Federal Government put him there, not because Mr. Thornburgh took action, but because of a local prosecutor.

The Los Angeles prosecutor moved to indict Mr. Keating, put him in jail on the basis of the fact that more than 21,000 people had been sold junk bonds in the lobbies of the banks under Lincoln Savings & Loan's control. They were sold junk bonds and made to believe they were guaranteed by Federal deposit. So the local prosecutors moved.

The only thing that Thornburgh and the FBI and the operators of the Federal Government have done to Mr. Keating to date is to sue him. He has been sued.

Now, Slick Willie Sutton was a notorious bank robber, and there are a lot of romantic stories told about him. He is legendary. But he was really a pathetic creature when you consider the fact that Willie Sutton throughout his bank robbing career, if you add up all the money that he stole and got away with it, with the amount of money that he was trying to get, it was less than $1 million. He was in and out of jail, being caught and escaping and being caught again all the time.

Less than $1 million. Now, we did not sue Slick Willie Sutton. We put him in jail. Now, these are bank robbers who sit in their offices and rob, and we cannot even find our way to indict him. We cannot indict him. We sued him instead.

I have a letter from a constituent in my district, a former judge who is retired. Years ago, when he ran for office the first time, he was an inspiration to many of us younger politicians. He is retired now, one of the few people in my district that I know who read the CONGRESSIONAL RECORD.

So in commenting on something that I said in the CONGRESSIONAL RECORD, he wrote to comment on what it means to have all of this money that the savings and loan associations have taken not be available to do things. He cites the fact that a giveback of only $2 billion of the money that has been stolen by S&L directors, attorneys, accountants, et cetera, a giveback would completely rebuild two of the poorest communities in Brooklyn, Brownsville, and Bedford-Stuyvesant. It would furnish decent and affordable housing for the homeless people and the poor in that total community. Even a $1 billion disaster area grant from the Federal Government would save the health and sanity of thousands of homeless families who are now being recommitted to welfare hotels by the mayor because we cannot find housing for them. And there are numerous examples of what one could do with $500 billion.

I think the best graphic illustration of what it means to have this savings and loan debacle inflicted upon us can be found in this November 5, 1990, issue of Fortune magazine. It may not be out on the newsstands yet, but we have it already.

They have a whole section called the "S&L Felons." I am going to read some sections from this because there have been many people who have contacted my office and asked how can it be true? We could not have lost that much money. Where did it go? Surely the Federal Government, with the FBI and Treasury Department and the Internal Revenue Service, can go out and get the money back. They could not have gotten away with that much money. How can it be? Let me

read to you some sections from Fortune magazine.

They are talking mainly about the felons, but as they discuss and give the photo and a brief summary of each person who has been convicted, you get some idea of what is going on.

Three hundred and thirty-one felons have been convicted over 2 years. Many others are awaiting trial. I think 331 convicted is a very small percentage when you consider the amount of money involved and the number of institutions involved.

That is a very poor record. But that is a fact that we will take.

They have a graphic illustration here of one of the biggest felons, a wanted poster, "Person Wanted by U.S. Marshalls." His name is Tom Billman. He is wanted for racketeering, mail fraud, wire fraud, and conspiracy.

He is said to have gotten away with $22 million, after he was on the observation list. After he realized he was about to be caught, he wired $22 million to Europe.

Mr. Billman has still not been caught. He is still out there spending his $22 million.

Fortune magazine reads as follows:

When you are looking at the first graduating class of these felons, these cheats, these 282 men and 49 women, they have set a standard which later classes will be praying to match. They victimized 368 institutions, they caused $3.5 billion in direct losses, and while courts have imposed $4.3 million in fines on them and the courts have demanded another $208 million in restitution, they have paid but pennies on the dollar.

Most of them claim they are bankrupt.

Now, listen carefully. "Of the 331 who have been caught, part of their sentence has called for restitution." The 331 who have been caught are estimated to be responsible for losses totaling $3.5 billion, but the courts have only imposed fines on them of $4.3 million. Listen to the millions and the billions.

They are responsible for losses totaling $3.5 billion, and the courts have fined them $4.3 million. That is a good deal.

□ 1940

Madame Speaker, the courts have demanded another $280 million in restitution, but the record shows that most of this has not been paid back. None of them had paid a substantial amount of what they were asked to pay. Most of the money is still missing.

By Justice Department standards, to quote Fortune magazine again, each felon here described was the subject of a major prosecution.

Now the people who are among these 331 are supposed to have been the subjects of a major prosecution. A major prosecution is defined as: First, a case where the amount of fraud or loss was a hundred thousand dollars or more; second, the fraud involved several borrowers in the same thrift; or, third, the guilty party was an officer, director, owner, or shareholder of the institution. Chief executive officers, chairmen, presidents, account for 15 percent of the convictions. Another 28 percent were directors or other officers among those who were convicted.

Madame Speaker, I read this. I went through the whole article. I do not agree. I think there are a lot of small fish included in these 313. I think two-thirds of the 331 are very small fish, people who were observing day in and day out the people at the top, the boards of directors, the CEO's, people underneath them in the middle management who, upon observing their stealing began stealing themselves in ways that were less exotic and easier to understand. So, they have been caught in greater numbers. Two-thirds of these numbers are just small fish, and the real culprits, the billion-dollar culprits, have still not been apprehended in any great numbers.

To quote Fortune magazine again:

Historians already have begun to speak of these frauds as rivaling in aggregate those of the Gilded Age, but the most luminous bubble of that time, of the Gilded Age, a railroad kickback scheme known as Credit Mobillaire, netted its perpetrators only $243 million in current dollars. Teapot Dome was small stuff, $3 million. Ponzi, $87 million. Billie Saul Estes, the great swindler during the Kennedy Camelot era made off with just $102 million.

Fortune magazine does us another favor by explaining what some of the favorite gimmicks of the felons were, and people have asked, "How can you do that? How could you possibly get away with that much money? How is it possible?"

Madame Speaker, the background is too complicated to go into now. We have the era of Ronald Reagan, Reaganomics, which said, "If you give rich people a chance to make more money, then all of us will benefit from that. So, therefore, take the regulations away, and let rich people do what they want to do." And they even guaranteed that with taxpayers' money, that we will have a great economy. That is the background.

Madam Speaker, we pulled away the regulators at the same time we made available more opportunities for people to steal. But in more detail Fortune magazine cites several ways in which it was done. Misapplication of funds is one, obtaining loans for a given purpose, then using them for another purpose, which is not sanctioned by the lender. Borrower A, who is lent $100,000 to build an apartment complex uses the money instead to pay defaulted interest on some other loan. That was one example.

Another way the felons operate was through land flips. Land flips: The fraudulent inflation of property's value through multiple sales. This is a favorite gimmick of the S&L crooks because, when they are caught, it looks all legal, and it is hard to prove conspiracy, especially if they are part of the old boys network, and one really does not want to prove it. Party A buys a property for $100,000. Then he sells it to confederate B for $400,000. B sells to confederate C for $700,000. Confederate D then goes to the S&L association and says he wants to buy the much sought after property for its most recent price. The savings and loan approves it, they all get together, and they divide up the proceeds because, after all, it was only worth $100,000, so they made a $600,000 profit. The lender and the appraiser in many cases may not know what is going on in this deal, but, after a while, everyone caught on, and every one of the thrifts must be held responsible for knowing these kinds of things were going on, and many of them cut themselves in on the deals. In the Silverado Bank deal a department store in Denver, CO, sold for $26 million. It was worth only $13 million. Everybody knew it was worth only $13 million. Silverado board of directors, Silverado officers, made a deal with the purchasers to give, to deposit, $13 million back into their bank. They approved the deal on condition that they would put $13 million back in the bank, so that is a clear conspiracy.

There is another deal down in Florida with one of the banks. I think a person named Jeb Bush is involved in this one where a building was worth $6.9 million. Six point nine million dollars. It was sold for $9 million. Sold for $9 million. In addition to selling it for $9 million and going to the bank to get a loan, they got an additional loan of $4 million. The total loan, plus mortgage, was $11 million for a building worth $6 million.

Madame Speaker, the taxpayers are being asked to pay for a worthless building, overvalued building. It is not worth more than $6 million, and yet the commitment of the savings and loan is $11 million, and taxpayers have at least put in $4 million already to help bail everyone out. That was a land flip, sophisticated land flip.

Another way the S&L felons operate is through nominee loans. By law, an S&L can lend no more than 15 percent of its capital to one borrower. Party A borrows the maximum, then tells shill D to borrow an equal amount from the same institution. B gives his money to A. The bankers sometimes play along as a way of circumventing the lending cap. The term also applies when bankers use shills to borrow for their own accounts.

Madame Speaker, there are many situations where bankers recruited people to do this, so they would ride in on the whole violation.

Check kiting is another technique used in S&L felonies. The classic origi-

nal white collar con has been around for a long time. The perpetrator, with $10,000 in account X, he draws a check for $20,000, deposits it in account Y, whose balance previously was zero. He then draws a check on Y for $10,000, depositing that amount in account X. Float, the time required for checks to clear, makes the game possible, so long as the money keeps moving.

However, Madame Speaker, instead of $10,000, our S&L crooks were playing with $10 million, $20 million, and it all added up.

Kickbacks are another obvious tool that the felons use. Payment of anything of value to a person in exchange for a service. Party A seeks a $100,000 loan. Banker B reviews A's application and says, "You must be kidding. You don't have the collateral. You're not qualified for this loan." But then A shows just how serious he is by offering the banker 10 percent of the loan as a kickback, and they call that a consulting fee, or servicing fee, or something else that sounds legal.

So, for those people who ask the question: "How could they do it? How could they get away with this much money without being caught? How could it go on for years and years? How could it total billions of dollars?" They can get some idea of how, under the cloak of legality, all these things could take place if they have collusion from the people at the top in the bank, the directors, the CEO's and others.

Madame Speaker, before I quote again from Fortune magazine, I would like to say that I like quoting from Fortune magazine. As my colleagues know, this is a bastion of our capitalist economy, and, as my colleagues know, we have every reason to believe that Fortune magazine dug for the truth and would not distort the truth in any way on matters relating to business. So, Fortune magazine, I salute you.

"They deserve blame, too, for opportunity costs the United States must pay."

1950

Continuing to quote Fortune magazine:

Take competitiveness. Depending on whose estimate you accept, Germany will invest from 500 billion to 100 trillion deutsche marks over the next 5 years in what used to be East Germany. At current exchange rates, the higher number would be about $660 billion. That 1 trillion deutsche marks would equal about 660 billion U.S. dollars, or slightly more than what the United States might have to spend to fix its savings and loans. The estimated cost for the United States S&L's would cost us about $500 billion, at least.

In exchange for its investment, however, Germany will gain 16 million new consumers, 8.5 million workers, a modern infrastructure of roads and communications that will last for decades, and a gross national product at least 10 percent larger than they had before. That is what the Germans will gain for spending the same amount of money we are going to spend on bailing out the savings and loans.

Our money is down the drain. We will have nothing to show for it.

Let us take a few examples, as I close, of some of the individuals involved in these cases cited by Fortune magazine.

Robert Mikkelsen, 53, executive vice president of Baldwin County Savings & Loan in Robertsdale, AL.

Most of the savings and loan failures were in Texas. Close to 70 percent of the institutions were in Texas. Florida and California ranked second, and then you find them all over the country after that.

Robertsdale, AL. Mr. Mikkelsen pushed through a $1.5 million loan for three business associates, supposedly to develop a marina on a piece of swamp known as the Quarantine property. As Mikkelsen knew, this boggy swamp, where turn-of-the-century passenger ships let off people with infectious diseases, was worthless. The loan went bust.

The three partners that he had were acquitted. He got 1 year probation.

He got away with $1.5 million, and all he got was 1 year probation.

John Steven Bracy, 44, president of Unifirst Federal in Trumann, AR, loaned two business associates $500,000 more than they needed, and got it back. All $500,000 got back in his pocket. He got 3 years.

Otha B. Chandler, 50, a senior loan officer at Savers Federal in Little Rock, AR, ignored the regulations that capped loans to a single borrower and handed out $20 million, 55 percent of the portfolio of that savings and loan association. He handed it out to just two Little Rock developers.

The loans, which financed a failed Mississippi condo project and the purchase of a private jet, among other things, all went bust. They could not pay it back. So Mr. Chandler got 4 years.

Janet McKinzie, and these are all little people, relatively speaking, an executive assistant to the chairman of North America Savings & Loan of Santa Ana, CA, was the ringleader of a scam that cost her savings and loan association $16 million.

Working with David Morgan, 53, a real estate investor, she set up a fake escrow account and submitted phony invoices to get funds for her own use.

Secretaries Victoria Walker, 48, and Kathleen Taormina, 33, provided the paper trail.

When caught, McKinzie was ordered to pay back $13 million, which matched the $10 million plus the interest she collected from the insurance policy of another person in on it, but had died, and she got 20 years.

McKinzie got 20 years in prison. Her cohorts got 90 days. One got 90 days, and the other community service and a $5,000 fine.

Just as an aside, I think Ms. McKinzie got a raw deal. Nobody else got a sentence of 20 years. There were many deals much more diabolic and outrageous than this one.

Roderick D. Reed, 42, president of FirstSouth Savings in Pine Bluff, AR, got 2½ years for embezzling $8.5 million.

Richard J. Mariucci, 32, branch manager of Gibraltar Federal in San Francisco, oversaw some very large deposits. He used his position at the branch to help himself to $3.3 million, which he spent on gambling and racehorses.

He got 27 months. Maybe that was not such a bad deal.

Daniel Burkhart, a stock broker, and Gina Loren, an investment manager, and Charles Lusin, an attorney, conned California thrifts, individuals, and an order of nuns out of $4.1 million. Ms. Loren got 6 years in prison.

John L. Molinaro and Donald T. Mangano, Molinaro was the chairman of Ramona Savings & Loan in Organe, CA, and Mangano was ex-business manager of singer Jose Feliciano, used 25 percent of the savings and loan's assets to build a 180-unit condo in Palm Springs. When only 7 units sold, they found strawmen to borrow $30 million to buy the condos and sign them over to Mangano.

The bank lost all of the $30 million. Both men are responsible for restoring $6.7 million. Molinaro was given 12 years in prison, and Mangano, 15 years.

Jay and Leif Soderling are a unique case. Both of these were former top officers of Golden Pacific Savings & Loan in Santa Rosa, CA. They pleaded guilty in 1987 to misapplying the funds of their failed thrift, and were ordered to pay several million in restitution. They were given 1 year in prison, 1 year's probation, and all the punishment was was to pay restitution.

After the year in prison, they used funds gained illegally from a promissory note that had come due on a $500,000 spending spree. The second time around, the judge slapped them with 6 years in prison each.

On and on it goes. I do not want to bore you. If you are interested in knowing how it is done, get the Fortune magazine for November 5 and you will find out how it is done.

As I said, many of these are small-time operators. Let me conclude with a big-time example, the Vernon Savings & Loan Association.

Vernon's owner, it was owned by a man named Don Dixon. He has only recently been indicted. The owner, the top dog, the person overseeing the entire operation, he has only recently been indicted. But a number of people

under him have already been indicted and tried and convicted.

There is a problem in all of these people who have not been indicted yet in places like Texas and a few others. You should check the statute of limitations. The statute of limitations is running. In some cases, some of the criminals will walk off scot-free because the statute of limitations will run out.

In the case of Vernon Savings & Loan, a man named Woody Lemons was the chairman of the now legendary Vernon Savings & Loan Association. He earned the spotlight the hard way: he stole it. He led his band of thieves on a merry chase that few will ever match for stupidity, and I am taking from Fortune.

When Vernon finally failed in March 1987, it held a portfolio of loans that were 96 percent delinquent. Ninety-six percent of all the loans they had were delinquent.

Lemons was nailed for arranging an inflated loan to buy and develop property in Arlington, TX. Half of the $3.5 million loan was slated to make its way back into his pockets.

Another colleague of Mr. Lemons, Patrick G. King, conspired with Pat Malone, president of Vernon's Dallas division, to reimburse all of his offices for $55,000 in political campaign contributions made with Vernon funds. Before he joined in Vernon in 1983, Mr. King had been director of regulatory supervision for Texas savings and loan associations.

He got 3 years probation and was ordered to repay the $55,000.

It is important to note that in Texas, where the greatest percentage of the failed savings and loan associations are located, all of the savings and loan associations were regulated by a State organization, a State agency.

□ 2000

The U.S. taxpayer, you and I, the U.S. Government, guaranteed the deposits in this Texas savings and loan, but they were regulated under the State charter by a State regulatory agency.

To get back to Vernon:

Then there are Vernon's slippery customers. Jack D. Atkinson, 54, a Dallas real estate developer, failed to mention when he applied for a loan that part of the money would go to pay rent on a beach house in Solana Beach, California, which was frequented by a senior Vernon official. Over 3 years Atkinson paid rent of some $600,000

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Laurence B. Vineyard, Jr., 41, a local businessman, had been paying other debts and expenses with a $12.7 million loan from Vernon since 1984. In June 1986 he used $2.6 million to pay $1.4 million in cash for a house in Dallas, to set up a trust for his kids, and for other personal expenses. Vineyard, who claimed the loan was for a stock purchase, was convicted for misusing the $2.6 million, ordered to pay it back, and sentenced to 5 years in prison. He is also serving a consecutive 5-year sentence for a 1987 fraud conviction involving Key Savings and Loan of Englewood, Colorado.

And it goes on. I urge Members, if they want to really know how it was done, if they want to really know how the best and the brightest minds in the financial world of America were involved in this $500-billion-plus swindle, it will be worth it to get a copy of Fortune magazine and just read these little capsule biographies of the people who did it.

The point here is that the American people have been taken, they have been swindled unlike any group of people ever in the history of the world, probably, not just the United States, but the entire world. We will probably not find ever a swindle like this, and yet there is no discussion of it here in Washington on the scale which equals the magnitude of the crime.

The American people will pay very dearly in many ways, and yet the leaders of the American people are not ready to openly discuss the problem with them.

The Justice Department of the United States which is responsible for prosecuting insists that this problem is too complicated, this problem is a lost cause, we cannot really recover the money. They want to minimize the involvement in investigations, prosecutions, and convictions.

A gross injustice is being done, and we should all remember the lines of Shakespeare, King Lear, "Fool me not so much to bear it tamely; touch me with noble anger."

There is a time to get angry, and when you look at your tax bill, and when you look at the cuts that are being made in services, I do not have to explain that this is now a time to get angry, and make Washington feel your wrath.

I yield back the balance of my time.

THE CIVIL RIGHTS ACT OF 1990

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. WASHINGTON] is recognized for 30 minutes.

Mr. WASHINGTON. Madam Speaker, I would like to change the subject just a bit, but first commend my colleague from New York for his studious dissertation on other aspects of the many problems that we face. I would like to turn our attention back very briefly, for not more than perhaps 10 to 15 minutes, to the question of the civil rights bill of 1990 that now sits on the President's desk for a decision to be made by him as to whether he will exercise his constitutional authority to sign that legislation, or whether, as he has threatened to do on so many occasions, he will exercise his constitutional prerogative to veto that legislation.

I hope with all my heart that the President signs the bill, because he is the leader of our country, and I do not think it presents a very healthy picture for our country to have the President of the United States against civil rights, particularly in 1990.

I come to the well this evening, Madam Speaker, to address what has been the central criticism aimed at this legislation. I have heard from the time that the bill was introduced that first of all it was a quota bill, and then when those arguments could not stand up the argument was changed and the defense was that it would create quotas, and then finally that it would lead to quotas. I believe I read in the Washington Post today the statement by Mr. Marlin Fitzwater, who is the President's press person and his principal spokesman to the American people, that the inception of the bill being signed into law would result in employers using the defense mechanism of assigning jobs by quotas in order to avoid the implications of the bill.

Unfortunately, Madam Speaker, I have arrived at the sad conclusion that the use of the word "quotas" is nothing more than a code word for what was in 1954 "all deliberate speed" for those who are actually opposed to civil rights, but are afraid and do not have the courage to stand up and say I am opposed to civil rights.

This is not a quota bill. I have been attempting to engage some of my colleagues who suggest that it is a quota bill in debate since the term has been used, at every opportunity, both in the Committee on Education and Labor, upon which I am privileged to serve, and in the Committee on the Judiciary, on which I am also privileged to serve. From that day, that is the day that the bill was introduced in March to this day, no one has dared come forward and entered into a serious discussion or debate to attempt to prove that this is a quota bill.

Under our law, Madam Speaker, anyone who makes a claim is required to prove that claim in a court of law. So if a person says that another person ran over them in an automobile, and that they were negligent, or the person was at fault in a divorce, in any kind of a civil proceeding, or a person's will was not properly contested, the person who makes the accusation is the person who has to prove it, and for the last 6 months I have been attempting to disprove something that never was fully thought out in their minds at all. I have attempted to disprove to my colleagues that the civil rights bill of 1990 is a quota bill, when nothing could be further from the truth.

It is my sad duty to report that the conclusion that I have reached is that the use of the word "quotas" is just a

place to hide for people who are not honest enough to come forward and say that they are opposed to a civil rights bill. The reason for this conclusion is I finally had time to go back and look at the CONGRESSIONAL RECORD, which I guess I should have done at the beginning, at the time this bill was introduced, and sadly I found that those who were opposed to the civil rights bill in 1964, you guessed it, said that that was a quota bill. They attempted to hide behind the allegation that the 1964 civil rights bill was a quota bill, because no one wants to be against civil rights. No one wants to stand up and face the American people and say I am not in favor of civil rights for women, and for Asians, and for blacks, and for disabled people, and for Hispanic people, and all of the people who have been left out of the fiber and content of our society. No one is willing to come forward and say I oppose civil rights, so they say I am for civil rights; but I am not for this bill because it is a quota bill.

□ 2010

In 1964 on January 31, in a discussion in the very House of Representatives where I now stand, which is found in the CONGRESSIONAL RECORD on page 1517 of that date, the following conversation was had, and I quote in part, and I will insert the entire excerpt in the RECORD.

Much unfair and unreasonable criticism has been leveled at the civil rights bill of 1964. This criticism falls into three main categories, and we heard some of that criticism just a few moments ago from the very distinguished and eminent Member of the House, the gentleman from Mississippi. Opponents cry with alarm about what they claim are infringements of the rights of nonminority American citizens. They invoke the baleful specter of Federal inspectors wielding unlimited power over the innocent victims of governmental tyranny. Finally, they attack the constitutionality of the proposed legislation. No one can object to legitimate criticism of any bill, no matter how worthy its objectives. What is objectionable about much of the criticism directed against the civil rights bill * * *

And I remind you parenthetically that we are not talking about the present bill, we are talking about 25 years ago.

* * * what is objectionable about much of the criticism directed against the civil rights bill is that it seriously misrepresents what the bill would do and grossly distorts its effects. The bill seeks simply to protect the rights of American citizens to be free from racial and religious discrimination and to guarantee to them the full enjoyment of the rights of citizenship. It is a constitutionally and morally justified exercise of the obligations and authority of the Federal Government. Let me cite some specifics. It has been claimed that the bill would deprive employers, workers and union members of the right to be free to control their business affairs and their membership. Specifically the charges have been made that the Equal Employment Opportunity Commission to be established by title VII of the bill would have the power to prevent a business from employing and promoting the people it wished and that the "Federal inspector" could then order the hiring and promotion of employees of certain races or religious groups, in other words, quotas. This description of the bill is entirely wrong. The Equal Employment Opportunity Commission would be empowered merely to investigate specific charges of discrimination and to attempt to mediate and conciliate the disputes. It would have no authority to issue any orders to anyone. In the event that wholly voluntary settlements proved to be impossible, the Commission could seek redress in the Federal courts, but it would be required to prove in the court that the particular employer had in fact discriminated against one or more of his employees because of race, religion, or national origin. The employer would have ample opportunity to disprove any of the charges involved and would be the benefit the protection of all the usual judicial procedures.

Further on, on page 1518,

It is likewise not true that the Equal Employment Opportunity Commission would have power to rectify existing "racial or religious imbalance" in employment by requiring the hiring of certain people without regard to their qualifications simply because they are of a given race or religion.

Again, the question of quotas comes up. The answer then was, and is now, only actual discrimination could be stopped, and there is, of course, no provision whatever for depriving unions of the rights and benefits under existing law.

This is a colloquy by Representative Emanual Celler of New York made on January 31, 1964, in response to the same spurious argument that is now being made over and over again about the civil rights bill of 1990. Then, on February 8, 1964, Madam Speaker, in the very House of Representatives in which we now stand, the following colloquy took place between Mr. Gross of Iowa and Mr. Roosevelt of California: "Mr. Chairman," and this is Mr. Gross:

I would like to ask the chairman of the committee a question. I have in the district which I have the honor to represent a fine insurance company known as the Lutheran Mutual Life Insurance Co. How would this bill affect the hiring practices of the Lutheran Mutual Life Insurance Co.?

Mr. ROOSEVELT. Mr. Chairman, will the gentleman yield to me?

Yes, I yield.

Here is Mr. Roosevelt of California giving the answer:

It would affect it only in this manner, that whenever there was a proper, bona fide reason why Lutheran Insurance Co. should have a Lutheran to do a particular job, he would be allowed to do so, but let me give you an example, being a little bit in the insurance business, they would not be able to do, if they would be hiring an actuary, they would not be able to say that it would have to be a Lutheran actuary, because that obviously would not be a bona fide skill necessary to the job, no quotas.

Further in the conversation, the colloquy between Mr. Gross, again, and Mr. Rivers of South Carolina:

Mr. Chairman, I ask the gentleman to yield to me to ask a pertinent question, and this is very pertinent. We have many thousands of ships coming into the harbor of Charleston, South Carolina, and we also have a very large naval base. Our only longshoreman's union is exclusively colored. Would this affect that union? If it does, my port is out of business.

"Mr. Roosevelt of California," in response, "I would simply have to say to the gentleman that if there was a bona fide reason why only Negroes should be longshoremen, then, of course, they would have to prove it. I could not myself understand such a justification."

Then later in the U.S. Senate on April 23, 1964, during the Senate debate, Senator Williams of New York replied to charges that the measure would require quota hiring on a racial basis, and he stated that. "Quota hiring would be just as unlawful as other forms of discrimination."

April 23, 1964, in the U.S. Senate, in the CONGRESSIONAL RECORD at page 8921, "Mr. President, it is charged," quoting Mr. Williams:

Mr. President, it is also charged that employers including farmers would have to hire employees according to race to establish racial balance in every job classification, and it is said that quotas will be imposed forcing businessmen to hire incompetent and unqualified personnel. Now, turn to the facts. For some reason, the fact that there is nothing whatever in the bill that provides for racial balances or quotas in employment has not been understood by those opposed to civil-rights legislation. They persist in opposing a provision which is not only not contained in the bill but is specifically excluded from it.

Funny how the more, parenthetically, things change, the more they stay the same. Twenty-five years ago people opposed to civil rights made the same argument that people who are afraid and disingenuous enough not to say that they are opposed to civil rights make today. They persist in opposing a provision which is not only not in the law but not contained in the bill.

Those opposed to H.R. 7152 should realize that to hire a Negro solely because he is a Negro is racial discrimination just as much as a white-only employment policy. Both forms of discrimination are prohibited by Title VII of this bill.

Further in the debate, and the reason that I am putting all of this in the RECORD, if I may pause parenthetically, Madam Speaker, and Members, is because I genuinely believe that it is the responsibility of Members of Congress to be serious about the work that we do. I genuinely believe that we have not the responsibility to tell something to the American people unless we truly believe it.

I genuinely believe that one of the problems we have with politics in this country is we have too many politicians who do not say the truth, who say anything and everything to people

that they think that people think that they want to hear and do not come forward and be honest and straightforward with the American people.

I want the record forever to reflect whether the President signs this bill or whether the President vetoes this bill, Madam Speaker, that there is not a cold record, that there is an answer even though no one Democrat or Republican who opposed this bill would have the decency to stand up and debate me on many occasions here on the House floor when I asked for persons who allege this to be a quota bill to yield so that we enter into a discussion, not an argument, but a discussion, because if they could prove they were right, the bill ought not pass.

They would not even yield to give me an opportunity to engage in discussion, and that I find to be disingenous. It is disingenuous, because you cannot hide behind the word quotas when we are talking about something as fundamental in our society as the rights of people, because the sooner we put the matter of race and gender and ethnicity and religion behind us, the sooner we can get on to solving the real problems that exist in this country.

So I make this record, not because I think that it will change the President's mind, Madam Speaker, but so that the American people will know and so the that there will be a permanent record in the CONGRESSIONAL RECORD that at least there was one voice crying in the wilderness who was able to prove not only that this is not a quota bill but that they know this is not a quota bill.

I cannot believe that anybody who has been licensed to practice law as long as the Attorney General and the White House counsel in the person of Mr. Thornburgh and Mr. Boyden Gray with 61 years of experience in the practice of law between them, could not come up with three or four sentences that explained to the American people the facts.

You see, asserting that it is a quota bill is a conclusion.

□ 1820

That is like saying that this Chamber is square. The proof of the pudding is in the eating. If we prove it is a square by giving the dimensions because it may be rectangular and not square, the American people, if they are going to believe their President, if he vetoes this bill, are entitled to have a straightforward answer from him. A straightforward answer is not that I am in favor of civil rights in this country, but I veto this bill because it is a quota bill. Explain. I wish the President would explain to the American people. Not in legal mumbo-jumbo, but with 3,000 lawyers that we pay for, working for the Justice Department, and with an Attorney General and a White House counsel and lots of other lawyers, I know that those people are smart enough to come up with three or four sentences to just explain in clear, precise language that this is a quota bill because look on page so and so, and it does this. Look on page so and so and it does this. If we put these things together, that will mean that employers will be hiring unqualified people. Members see my point is that no one is in favor of quotas. Everyone is looking for an opportunity in this country. No one is trying to force any person to hire an unqualified worker.

What we are trying to do is force people to stop discriminating against qualified workers because there have been too many women, and too many Asians, and too many blacks, and too many whites males as a matter of fact, too many Hispanics, too many disabled people, people not part of the good old boy network who do not have an uncle who works for the company, and who do not know when job opportunities come up. These are the people who suffer because they do not have an opportunity to serve, the people who train, the people who become their supervisers, because they happen to know somebody. We need to end all forms of discrimination. We need to end it now.

I am making this record in order to ensure that perhaps one day someone will look back and say, here is a cold record that clearly demonstrates not only was there a discussion that this was not a quota bill now, but how could it be in 1964? We see the same argument was made. It is nothing but a guest in an evening gown. It is a guess that this is a quota bill, but we can wrap it up and put it up, but if we put earrings on a hog, it is still a hog. That is all they are trying to say is it is a quota bill. They do not change the fact that it is not a quota bill. They do not want to be generous enough to come forward and give the American people intelligent reasons why they suggested it is a quota bill, because they cannot. They can never explain to the American people straightforward and directly that this is a quota bill because of one, two, three. Before the President of the United States, Madam Speaker, takes this consitutional responsibility to veto a civil rights bill, I think the American people are entitled to an explanation.

Back on May 4 1964 Senator Allott of Colorado introduced an amendment making clear that Congress in an act entitled seven, did not intend to impose a quota system on employers and in unions, and did not intend to force them to overcome racial imbalance. The sense of this amendment was incorporated in a Dixon-Manson compromise and appears in section 703(j) of the Civil Rights Act of 1964 at pages 9881 and 9882 of the CONGRESSIONAL RECORD of the Senate of the United States, of the day of May 4, 1964. The following is found:

Mr. ALLOTT. Mr. President, I have heard over and over again in the last few weeks the charge that title VII, the Equal Employment Opportunity section, would impose a quota system on employers and labor unions. There are 2 variations of the argument. One is that because title VI specifically says that "desegregation" shall not mean assignment of students to public schools in order to overcome racial imbalance, and title VII contains no such disclaimer in relation to employment practices, then it follows that title VII is intended to require hiring to overcome racial imbalance in the work force.

The other variation is that employers will hire members of minority groups regardless of their qualifications, to avoid having any problems with the Equal Employment Opportunity Commission.

Parenthetically, I heard those words as late as yesterday, Madam Speaker, and it chills me that people could make the same argument 25 years ago and not have anything to stand on except a bare allegation, because we have 24 years of history, is the point I am trying to make when I drive to my conclusion. They were wrong then, and they are wrong now because we have had 25 years of history, and no employer has been to this Congress asking Congress to repeal title VII of the Civil Rights Act, and been able to demonstrate that we have any quotas. We do not have any quotas in this country.

Back to the text, I get a little swept away sometimes.

The result, either way, so the argument goes, is that a quota system will be imposed with employers hiring in unions except members on the basis of the percentage of population represented by each specific minority group.

Of course, we know that is not true, or I would not be standing in the well today. Others would be standing in the well, and I would be standing with them to abolish the Civil Rights Act because the people who have been discriminated against do not want to end up discriminating against other people. That is not what we are here for. Back to the text.

I do not agree with the argument. The junior Senator from Florida, Mr. Smathers and I discussed this for the RECORD one evening here on the Senate floor. I believe I made it clear at that time that I do not believe title VII would result in imposition of a quota system. Further, I believe that a quota system of hiring would be a terrible mistake not only from the viewpoint of the employer, but from the viewpoint of the employee. From the viewpoint of the minority, as well as the majority. Basically, I believe that the color of a man's skin or the faith to which he adheres should be completely extraneous considerations when an employer hires, or labor union admits to membership, just as it should be estraneous in granting the right to vote and assigning him to a school. But the argument has been made, and I am, that employers are also concerned with the argument. I have, therefore, pre-

pared an amendment which I believe makes it clear that no quota system will be imposed if title VII becomes law. Very briefly it provides that no finding on unlawful employment practices may be made solely on the basis of racial imbalance.

That provision is not only in existing law of title 703(j), but is again written out in boxcar letters in the civil rights bill of 1990.

My point is this, over and over again, the argument is made that this is a quota bill. That is the only defense that the President has put forward against signing this legislation. That is the only defense that those who proclaim to be great saviors of liberty and justice for all people have put forward as a reason for voting against the civil rights bill.

The second argument is that this is a lawyers' bonanza. I happen to be a lawyer, and I think quite a bit of lawyers, not because I am one, but because I have eyes and ears, and I can look around and see it is easy to jump on lawyers because they are not very popular. They are, I think, next to used car salesmen, the most distrusted people in the hierarchy of professions in our society. However, some lawyers do do good work. We would not have the bill that advises a person that a garbage truck or dump truck is about to back over someone, like a worker down in a ditch digging, except for lawyers. We would not have the warning that is on toys and on plastic bags that keep people from suffocating their children, except for lawyers. We would not have the warnings and the Product Safety Commission to make sure the devices are tested and manufacturers would have the incentive to make sure that products are safe. Automobiles, airbags, seatbelts, except for lawyers, because lawyers brought cases showing that it was cheaper to do those things than it was to injure people. All Members remember that case in a 1964 Pinto automobile, we cannot leave manufacturers free to make decisions about our safety. We cannot leave manufacturers free to make decisions about job discrimination because the same manufacturers, Ford Motor Co., 1964, knew from tests that they had run that the gasoline tank on a 1964 Comet automobile would cause statistically a certain number of automobile accidents, and they knew that if a rear-end collision occurred, that because of the way that this faulty construction of the gas tank, that a certain number of those cars would burst into flames.

□ 2030

They knew that based upon the number of those cars on the highway, they could statistically tell approximately the number of people who would burn to death in these cars, but it was cheaper for them to pay the families of those people who got burned up in the cars than it was to recall all the cars and replace it with a $15 collar to prevent that gasoline tank from exploding and burning these people alive. It was called cost-benefit analysis.

I do not want that kind of company making that kind of decision about who goes to work on their jobs. We need Government regulations, and the reason we have it is because lawyers sued them and they should have.

Whenever you hear people talking ill about lawyers, first consider the source and them consider that lawyers are not prefect. They are good and bad and indifferent just like the rest of the people in our socieity; but once in a while they do good work.

This is not a lawyers' bonanza. First of all, discrimination cases come in two categories, people who do not get hired at all on the job or people who get fired on the job. Most people, especially women, suffer the indignities of the discrimination if they get the job, because jobs are hard to get in our society. There is nothing magic about my saying that. Everybody here knows that. Everybody within the sound of my voice knows that jobs are hard to get.

So then if a woman, say, is working on a job and she is victimized by sexual harassment or otherwise discriminated against, 9 times out of 10 she is going to stay on the job and suffer the indignities and keep the job, so she never ends up in a lawyer's office. It is the person who does not get hired at all, who gets fired, or the woman who gets sick and tired of it and finally leaves the job, who ends up in a lawyer's office.

Now, this person is on unemployment compensation, if they are lucky enough to get that. Those who would say this is a lawyer's bonanza because some lawyer is willing to take that case after the person has gone through the EEOC, they forget about the EEOC that they also argued against in 1964. Oh, they said it was going to be the most horrible thing that ever happened.

The EEOC has been a great savior for the over-litigious in our society. It kept a lot of cases out of litigation, because the EEOC acts as a sieve. Cases have to be filed with the EEOC. The average lawyer, before he or she invests $25,000 or $35,000 of their money in one of these cases, because that is about what you have tc invest, and most lawyers are not that wealthy, so first you have to make the money on another EEOC case or an automobile accident case or a lot of divorce cases or criminal cases. You have to earn the $25,000 that you invest in this civil rights case to begin with. You have to earn that money first, pay taxes on it, then invest in it this lawsuit. Then if you get to court, most lawyers before they will invest that kind on money, and it costs that kind of money because, guess what, the manufacturer or the company hires the most expensive, most prestigious, largest law firm in Duluth, MN, in Podunk, TX, in San Diego, CA. They get the big law firm. The injured worker, the alleged injured worker, injured by way of discrimination, gets the individual practitioner. I am not trying to put them down, but it is usually a David against Goliath situation to begin with.

Their lawyers charge $500 per hour. When I practiced title VII law, I had one standing request on the few occasions when I was able to win one of these cases, because you have to persuade the judge, who is the trier of the facts in most cases, that the person has geen discriminated against. Most title VII lawsuits, most title VII claims are filtered out by the EEOC. Probably somewhere between 10 and 15 percent ever get beyond the EEOC, so 85 percent of the cases never get to the court for the lawyer's bonanza to begin with. Of the 15 percent that end up in court, fully 65 percent or those get settled short of trial; of the 35 percent or the 15 percent that end up going to trial, the claimant loses in at least 75 percent of the cases.

Now, if you can get to the point where you get the judge who tries the cases to decide that your client has been discriminated against, then you come to the amount of money that the person is owed for the wages that they lost, because most of the time people who have been discriminated against only get back wages, so the employer gets to fire them, keep them off the job, unconstitutionally and against their rights for 5 years, and then gives them what they would have earned had they worked for that 5 years, with interest back. That is the ways it works.

So if you want to discriminate against a woman, just go ahead and fire her and you put her salary aside, and at the end of 5 years, if you end up paying that, you probably would end up paying 50 cents on the dollar anyway.

This is not a bonanza for lawyers, but while we are on the subject of lawyers, when you hear those, Madam Speaker, speak of the fact that this is a lawyers' bonanza, they leave out one important fact. They are afraid of juries, because the civil rights bill of 1990 provides for compensatory damages or punitive damages. Compensatory damages would be the amount of money that a jury would find would fairly and reasonably compensate the person for the harm done to them above the wages that they lost. In other words, if they have a nervous breakdown or if they feel less of themselves as a human being or they are not able to find other employment or the usual case that they get fired from the job because they are discriminated

against and then they end up and cannot find another job because they are blackballed, so they end up losing their house and they end up losing their car. That is compensation the jury may be able to award them to make up for what they lost over and above the salary that they lost.

Madam Speaker, I will wrap this up briefly. The point I wanted to make about jury trials is that I am fearful of people who are afraid of jury trials, because it is voters who serve on juries. Voters serve on juries, the same people who are smart enough to elect the President and all the Members of Congress, they say the people who do not want jury trials say that you are not smart enough to decide whether a person has been discriminated against, and if so, how much money they should get. They are not going to make that argument to you, though, but the next time you hear some Member of Congress say they are opposed to jury trials in discrimination cases, ask them, "Do you not think that if I am smart enough to elect you, that I am smart enough to sit on a jury and decide whether a person has been discriminated against?"

I guess they think that lawyers are going to pull the wool over your eyes.

For myself, I trust juries and I think that those who do not smack of elitism when they do not trust juries.

I hope the President signs this bill, not for me, because by the grace of God I have got to the point in my life where I can fend off discrimination in any form, but most people never have the great privileges that God has given me. He has given me the opportunity not just to be here as a Member of Congress, but he has given me the opportunity to have many things in my life. And it is not for my children. The President does not need to sign the civil rights bill for my children, because as long as I have breath, I promise them that I will ensure all five of them that they will never be the victims of discrimination of any kind or character.

But I would like personally for the President to sign this civil rights bill, Madam Speaker, for my father, because my father was subjected to discrimination. There is nothing he can do about it, except that he is still alive. I think that somehow in some small way all of the indignities that he suffered, all the ditches that he dug when he was much more qualified, when he worked at a Sinclair Oil refinery in Houston, TX, all the toiling that he did with his hands because they not only had segregated jobs there, but they had segregated washrooms where people showered. I think that the indignities that he suffered and the pride that he has in his son because he was able to get me an education would be made whole if we did not have to fight for civil rights any more.

Behind me on this beautiful wood there are five words written, and I wonder how often the Members of this House really look back there to see them. I really wonder how often the Members of this House listen to the prayer every morning. The Chaplain prayed this morning that we have the wisdom to do what is right and the courage to do it in God's name.

Those words behind me are "Union, Justice, Tolerance, Liberty and Peace." I think that is what we ought to be here for.

□ 2040

Sometimes we cannot see the forest for the trees. We have many problems to solve in this country, much more important than fighting a fight for civil rights in 1990.

There are some of us who have talent, Madam Speaker, there are some of us who have gifts that God gave us. But as long as we have to stand here and watch the gate so that women and Asians and blacks and Hispanics and Jewish people and disabled people and people do not step on each other just because something about our nature as human beings make us feel a little bit better if we are able to step on somebody. That is what discrimination is. If we could just pass enough laws to stop that from happening and if the President would sign this bill, then we could turn our talents away from that. I am not saying I have any talents, but I promise, instead of attempting to pass civil rights legislation for the next 20 years that I am in Congress, we can solve problems like homelessness, because this a country where we should not have people sleeping on benches, sleeping in parks, on bridges, with no places to sleep at night.

This is America.

Hunger, we throw away enough food in restaurants every night to feed the hungry people in this country. We have grain sitting in silos spoiling, Madam Speaker, because we do not have a distribution system to feed our people. This is not India, this is America. We need housing for our people, for all of our people, decent housing for our people. We need to educate our people. It costs $42,000 to send one of them to prison for a year. It costs $42,000 to send one of them to Harvard University for a year. Something is wrong. Those of us who have committed our lives to fighting to civil rights ought to be able to put that sword down and pick up the plowshare to fight for education and housing and health care.

We have 37 million working Americans who do not have any kind of insurance. If they got sick tonight, they would have to go to the charity hospital in whatever town they live in.

Let me put down my sword fighting for civil rights; I did not come to Congress to fight for civil rights. I came to Congress to fight for all people, to do something about crime. There is nothing magic about the fact that 98 percent of the people in prison have an 8th grade education. We are failing them in our educational system.

Let us stop fighting for civil rights and pick up the plowshare of fighting together so that we may have no more crime, no more hunger. People with skills and jobs, education, housing, and health care.

In Second Corinthians it says, "If my people who are called by my name will humble themselves and pray and seek my faith and turn from their wicked ways, then will I hear from heaven and heal their land."

Our land needs healing.

Mr. President, I cannot address you; Madam Speaker, I can address you. He really ought to sign this civil rights bill. He ought to let us as Americans together go down the road as one people. We ought to stop looking at each other being tall, short, old, young, rich, poor, black, white; we ought to start looking at each other as Americans.

We all got here in one boat or another, and it does not matter what boat we got here in, we are in the same boat now. And we have problems.

Too many of us have to spend our lives and our liberty and our fortune fighting for something that was guaranteed to us in the Bill of Rights.

Sign this bill, Mr. President, and let us move on to the challenges of America. God bless you.

CONFERENCE REPORT ON H.R. 5158

Mr. TRAXLER submitted the following conference report and statement on the bill (H.R. 5158) making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-900)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5158) "making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 4, 9, 10, 15, 20, 28, 32, 35, 53, 55, 57, 59, 64, 66, 69, 70, 71, 72, 74, 96, 103, 114, and 121.

That the House recede from its disagreement to the amendments of the Senate numbered 8, 12, 14, 16, 22, 26, 27, 29, 31, 33, 34, 36, 38, 39, 40, 43, 45, 46, 49, 50, 81, 84, 88, 89, 91, 92, 97, 98, 104, 106, 107, 109, 110, 111, 115, and 117, and agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum proposed in said amendment insert: *$7,870,000,000*; and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$41,434,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

: Provided further, That to the extent the amount in this paragraph is insufficient, the Secretary may, from the Annual Contributions for Assisted Housing paragraph, transfer to, add to, and merge with the amounts appropriated under this paragraph up to $150,000,000 to fund such insufficiency, and the $1,810,442,000 earmarked for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, in the Annual Contributions for Assisted Housing paragraph, shall be reduced by an amount equal to the amount transferred; and the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$9,500,000*; and the Senate agrees to the same.

Amendment numbered 44:

That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows; In lieu of the sum proposed by said amendment insert: *$28,500,000*; and the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$7,481,000*; and the Senate agree to the same.

Amendment numbered 68:

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$974,700,000*; and the Senate agree to the same.

Amendment numbered 79:

That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$48,500,000*; and the Senate agree to the same.

Amendment numbered 87:

That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,873,000*; and the Senate agree to the same.

Amendment numbered 93:

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$3,351,000*; and the Senate agree to the same.

Amendment numbered 99:

That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and the matter inserted by said amendment insert the following:

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; $6,023,600,000, to remain available until September 30, 1992.

And the Senate agreed to the same.

The committee of conference report in disagreement amendments numbered 1, 5, 6, 11, 13, 17, 18, 19, 23, 25, 30, 37, 41, 42, 47, 48, 51, 52, 54, 56, 58, 60, 61, 62, 63, 65, 73, 75, 76, 77, 78, 80, 82, 83, 85, 86, 90, 94, 95, 100, 101, 102, 105, 108, 112, 113, 116, 118, 119, and 120.

BOB TRAXLER,
LOUIS STOKES,
LINDY BOGGS,
ALAN MOLLOHAN,
JIM CHAPMAN,
CHET ATKINS,
JAMIE L. WHITTEN,
BILL GREEN,
LARRY COUGHLIN,
JERRY LEWIS,
SILVIO O. CONTE,
Managers on the Part of the House.

BARBARA A. MIKULSKI,
PAT LEAHY,
J. BENNETT JOHNSTON,
FRANK R. LAUTENBERG,
WYCHE FOWLER, Jr.,
J. ROBERT KERREY,
ROBERT C. BYRD,
JAKE GARN,
ALFONSE M. D'AMATO,
CHUCK GRASSLEY,
DON NICKLES,
PHIL GRAMM,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying report.

TITLE I—DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate allowing the use of readjustment benefits funds to pay for any court order, court award, or compromise settlement arising from litigation involving the vocational training program.

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

Amendment No. 2: Appropriates $12,310,490,000 for medical care as proposed by the House, instead of $12,227,066,000 as proposed by the Senate.

The conference agreement reflects the following changes from the budget estimate:

+$15,700,000 for special pay for nurses.

+$40,000,000 for special pay for doctors and dentists.

+$15.000,000 for increased benefit costs. This amount, together with the additional $55,700,000 for special pay, will ensure funds to support the requested staffing level of 194,638.

+$500,000 to establish an outreach clinic in Floyd County, Kentucky, and to expand mobile clinic services in Eastern Kentucky.

+$6,000,000 above the budget request for salary and other costs at long-term psychiatric care hospitals.

−$9,676,000 from the increases requested for equipment, supplies and materials, and other services.

+$8,400,000 above the budget request for three new geriatric research, education, and clinical centers.

+$5,000,000 above the budget request for post-traumatic stress disorder (PTSD) treatment, including the establishment of new PTSD clinical treatment teams and new inpatient PTSD units.

+$1,500,000 above the budget request for the minority PTSD study outlined in the Senate report.

+$1,000,000 above the budget request for the readjustment counseling program.

This total amount of funding is specifically intended to support 194,638 full-time equivalent employees (FTE) with the understanding that, in accordance with established congressional practice, any additional pay costs necessary to support that FTE level will be borne by the VA, using funds made available by this measure, funds made available by enactment of supplemental appropriations, or through absorption of the costs, or some combination thereof.

Amendment No. 3: Restores language proposed by the House and stricken by the Senate earmarking $7,904,000,000 for personnel and compensation benefits costs, amended to earmark $7,870,000,000.

Amendment No. 4: Appropriates $216,795,000 for medical and prosthetic research as proposed by the House, instead of $226,537,000 as proposed by the Senate.

The conferees agree that the distribution of the $18,258,000 increase above the budget estimate is as follows:

+$2,500,000 for prosthetic research.

+$5,000,000 for health services research.

+$1,000,000 for a survey and evaluation of the scientific evidence relating to dioxin and other toxic herbicides used in Vietnam.

+$9,758,000 for medical research with a portion of the increase for AIDS research.

Amendment No. 5: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate earmarking $1,000,000 for a survey and evaluation of the scientific evidence relating to dioxin and other toxic herbicides used in Vietnam.

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

Health Professional Scholarship Program For Payment of Health Professional Scholarship Program grants, as authorized by law, to students who agree to a service obligation with the Department of Veterans Affairs at one of its medical facilities, $10,113,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to establish a new appropriation account for the health professional scholarship program as proposed by the Senate, but have retained the $493,000 requested for nine FTE and other administrative costs in the medical administration and miscellaneous operating expenses account.

Amendment No. 7: Appropriates $41,434,000 for medical administration and miscellaneous operating expenses, instead of $52,047,000 as proposed by the House and $37,123,000 as proposed by the Senate.

The conferees agree with the following changes from the budget estimate:

+$2,818,000 above the budget request for the Commission on the Future Structure of Veterans Health Care. The total employee travel limitation in the medical administration and miscellaneous operating expenses appropriation is revised to $950,000 to include travel of $323,000 for the Commission.

−$9,113,000 from the request of $9,606,000 for the health professional scholarship program. Grants for the scholarship program are provided in a new separate account but administrative expenses have been retained in this account.

DEPARTMENTAL ADMINISTRATION

Amendment No. 8: Limits official reception and representation expenses in the general operating expenses appropriation to $25,000 as proposed by the Senate, instead of $7,000 as proposed by the House.

Amendment No. 9: Appropriates $902,514,000 for general operating expenses as proposed by the House, instead of $865,415,000 as proposed by the Senate.

The committee of conference is in agreement with the following changes from the budget estimate:

+$8,000,000 for 216 FTE to increase the 11,610 field staffing requested for the Veterans Benefits Administration. The conferees agree that *not less than* $1,000,000 is for 22 FTE in the vocational rehabilitation and counseling program, with the balance of staffing to be distributed at the discretion of the VA to loan guaranty and adjudication.

+$250,000 for five FTE to restore the Board of Veterans Appeals staffing to the 427 level.

+6,400,000 for phase II of the loan production system.

−$3,000,000 from the $16,609,000 requested for central office renovation.

−$3,000,000 from the $26,339,000 increase requested for other than salary costs in the Veterans Benefits Administration.

−$8,650,000 from the $47,132,000 increase requested for the National Cemetery System and general administration. This decrease is to be applied at the VA's discretion to offices other than the Board of Veterans Appeals or the Board of Contract Appeals, and any staffing reductions in other offices are to be applied to the central office only.

Amendment No. 10: Restores language proposed by the House and stricken by the Senate earmarking $616,658,000 and not less than 12,550 FTE for the Veterans Benefits Administration.

Amendment No. 11: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

: Provided that funds shall be available, and authority granted, to enable the Secretary to enter into enhanced-use agreements under the terms and conditions of section 704 of S. 2100 (101st Cong., 2d sess. (1990)), as reported by the Senate Committee on Veterans Affairs, with respect to facilities located at the Department of Veterans Affairs Medical Center, Baltimore, Maryland (Loch Raven)

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 12: Appropriates $24,859,000 for the Office of Inspector General as proposed by the Senate, instead of $26,859,000 as proposed by the House.

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following:

$580,000,000

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the following changes from the budget estimate:

+$7,000,000 which, together with $240,077,000 in the budget request, will provide for a new hospital at Detroit. The additional funds will ultimately permit the hospital to accommodate 503 beds.

+$8,900,000 for a 120-bed nursing home care unit at the Lake City, Florida, VA Medical Center.

+$3,400,000 for a laundry and warehouse project at the Mountain Home, Tennessee, VA Medical Center.

+$8,000,000 for a clinical, outpatient, research, parking, and central air-conditioning project at the Ann Arbor Va Medical Center. Of this amount, $5,000,000 is for planning and $3,000,000 is for roadway relocation and site utilities.

+$800,000 for the advanced planning of a modernization project at the Wilkes-Barre VA Medical Center.

−$4,630,000 from the budget request of $14,170,000 for the advanced planning fund.

−$3,500,000 from the budget request of $9,350,000 for the design fund.

+$4,800,000 for the contract documents of a replacement for the ambulatory care facility on the grounds of the William Beaumont Army Medical Center at El Paso.

+$3,100,000 for the design of a psychiatric and outpatient facilities modernization project at the Northport VA Medical Center.

+$3,200,000 for the design and site preparation of a clinical addition project at the Wilmington Va Medical Center.

+$25,000 for an environmental assessment for an expansion of the national cemetery at Alexandria, Louisiana.

+$1,450,000 for planning and site acquisition for a new national cemetery at Albany, New York.

+$1,506,000 for planning and site acquisition for a new national cemetery in the Chicago area.

+$1,690,000 for planning and site acquisition for a new national cemetery in the Cleveland area.

+$2,385,000 for planning and site acquisition for a new national cemetery in the Seattle/Tacoma area.

+$624,000 for the design of the renovation of the nursing home care unit at the Tuskegee VA Medical Center.

+$8,000,000 to complete the pedestrian bridge at the Portland VA Medical Center.

+$250,000 for the advanced planning and an environmental impact statement for a new national cemetery in the Oklahoma City-Lawton, Oklahoma, area.

+$250,000 for an environmental impact statement for a new national cemetery in the Pittsburgh area.

+$250,000 in advanced planning funds for the research addition at the Huntington VA Medical Center.

+$2,500,000 for the purchase of land adjacent to the Providence, Rhode Island, VA Medical Center. It is anticipated that construction funding of approximately $12,000,000 will be requested in the future.

Amendment No. 14: Appropriates $130,640,000 for construction, minor projects as proposed by the Senate, instead of $146,140,000 as proposed by the House.

The conferees agree with the following changes from the budget estimate:

+$500,000 for a compensation work therapy program at the Northampton VA Medical Center.

−$15,500,000 from the budget request for minor construction projects.

The committee of conference directs the VA to provide $1,000,000 from within available resources to construct a pedestrian bridge to connect the University of Arkansas Medical Services clinical building and the John L. McClellan Memorial Veterans Hospital.

The conferees direct the VA to construct from within available resources a heating and air-conditioning plant at the Muskogee, Oklahoma, VA Medical Center.

The conferees also direct the VA to provide $40,000 from within available resources to construct an addition to the Fort McPherson National Cemetery in Maxwell, Nebraska.

Amendment No. 15: Appropriates $28,900,000 for the parking garage revolving fund as proposed by the House, instead of $18,900,000 as proposed by the Senate. The conferees agree that the $10,000,000 above the budget request is for the parking garage component of the major construction project at the Ann Arbor VA Medical Center.

Amendment No. 16: Appropriates $70,000,000 for grants for construction of state extended care facilities as proposed by the Senate, instead of $65,000,000 as proposed by the House.

Amendment No. 17: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

Appropriations accounts available to the Department of Veterans Affairs for fiscal year 1991 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100-86, 1987, except that if such obligations are from trust fund accounts they shall be payable from "Compensation and pensions".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

TITLE II—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

For asssistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $9,525,000,000, to remain available until expended: Provided, That of the new budget authority provided herein, $233,361,000 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb); $733,760,000 shall be for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, other than for Indian families; $2,500,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 14371), including funds for the comprehensive testing, abatement, and risk assessment of lead, of which $5,000,000 shall be for technical assistance and training under section 20 of the Act (42 U.S.C. 1437r); $1,073,202,000 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f), including project-based section 8 assistance to help implement plans of action approved under title II of the Housing and Community Development Act of 1987, of which $65,150,000 shall be for eligible tenants affected by the demolition or disposition of public housing units (including units occupied by Indian families) and $48,863,000 shall be for certificates to be used as replacement for units of public housing (including those for Indian families) lost through demolition or disposition; $811,898,000 shall be available for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437(o)); $1,810,442,000 for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended; up to $283,125,000 shall be available for section 8 assistance for property disposition; $440,600,000 shall be for loan management, of which $200,000,000 may be used for housing preservation assistance, incentives, and grants upon enactment into law of authorizing legislation; and any amounts of budget authority provided herein that are used for loan management activities under section 8(b)(1) (42 U.S.C. 1437f(b)(1)) shall not be obligated for a contract term that is less than five years: Provided further, That of that portion of such budget authority under section 8(o) to be used to achieve a net increase in the number of dwelling units for assisted families, highest priority shall be given to assisting families, who as a result of rental rehabilitation action are involuntarily displaced or who are or would be displaced in consequence of increased rents (wherever the level of such rents exceeds 35 per centum of the adjusted income of such families, as defined in regulations promulgated by the Department of Housing and Urban Development): Provided further, That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under section 8(b) and 8(o), respectively, shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: Provided further, That of the $9,525,000,000 provided herein, $35,000,000 shall be for assistance under the Nehemiah housing opportunity program pursuant to section 612 of the Housing and Community Development Act of 1987 (Public Law 100-242), but such amount shall be obligated under title VI of the Housing and Community Development Act of 1987, notwithstanding the sunset provision in section 613 thereof, and, notwithstanding the language preceding the first proviso of this paragraph, $54,250,000 shall be used for special purpose grants in accordance with the terms and conditions specified for such grants in the committee of conference report and statement of managers accompanying this Act: Provided further, That, notwithstanding any other provision of law, of the funds available under the "Community development grants" appropriation in Public Law 101-144, as amended, for grants under section 106 of the Housing and Community Development Act of 1974, $14,000,000 may be made available under section 107 of such Act: Provided further, That amounts equal to all amounts of budget authority (and contract authority) reserved or obligated for the development or acquisition costs of public housing (including public housing for Indian families), for modernization of existing public housing projects (including such projects for Indian families), and except as hereinafter provided for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1991, shall be rescinded: Provided further, That 50 per centum of the amounts of budget authority, or in lieu thereof 50 per centum of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628, 102 Stat. 3224, 3268) shall not be rescinded, or in case of cash, shall not be remitted to the Treasury, and such amounts of budget authority or cash shall be used by State housing finance agencies in accordance with such section: Provided further, That notwithstanding the 20 per centum limitation under section 5(j)(2) of the Act, any part of the new budget authority for the development or acquisition costs of public housing other than for Indian families may, in the discretion of the Secretary, based on applications submitted by public housing authorities, be used for new construction or major reconstruction of obsolete public housing projects other than for Indian families: Provided further, That, notwithstanding any other provision of law, not to exceed 750 units of public housing may be sold or transferred during fiscal year 1991: Provided further, That the paragraph under the Administrative Provisions head in title II of Public Law 101-144 (approved November 9, 1989) (103 Stat. 839, 852-854), setting aside amounts for indemnification with respect to all or parts of claims arising from lead-based paint testing or abatement, is hereby amended by striking out "1992" and inserting "1998".

Of the $9,525,000,000 provided under this head, $610,115,000 shall be used for capital advances for supportive housing for the elderly under section 202 of the Housing Act of 1959 (as amended by section 801 of S. 566 (101st Cong., 2d Sess.), the National Affordable Housing Act (the "bill" in this paragraph)), which provision, and other provisions of the bill cited in this paragraph and the three paragraphs that follow are deemed as enacted as of the enactment date of this Appropriations Act, of which $60,000,000 shall be for amendments for contracts for projects previously reserved under section 202 (as it existed before the date on which the bill was deemed enacted), including under section 801(d) of the bill, to remain available until expended: Provided, That to the extent such funds include an amount for a project that does not covert under section 801(c)(1) of the bill to assistance under section 202 (as amended by section 801 of the bill), such amounts shall be transferred to the section 202 Direct Loan Account for obligation for such project; and such account shall be maintained as authorized under section 202(a)(4) of the Housing Act of 1959, as it existed before the date on which the bill was deemed enacted: Provided further, That to the extent that any funds remain after allocations under section 202(e), (as amended by section 801 of the bill), the Secretary shall make grants for retrofitting housing for the elderly in accordance with section 802 of the bill: Provided further, That the Secretary may transfer for use under this paragraph any funds reserved under section 202 (as it existed before the date on which the bill was deemed enacted) for which no loan has been executed and recorded, to which the Secretary applies section 202 (as amended by section 801 of the bill), as provided by section 801(c) of the bill, and any funds so transferred shall be added to and merged with the amounts otherwise available under this paragraph: Provided further, That at the election of a sponsor of a project under section 202 (as it existed before the date on which the bill was deemed enacted), the Secretary shall provide funding for amendments either under section 202 (as it existed before or after the date on which the bill was deemed enacted) or under section 801(c)(1), and any amount for amendments to be provided under section 202 (as it existed before the date on which the bill was deemed enacted) shall be transferred to the section 202 Direct Loan Account for obligation for such project: Provided further, That of the amounts available under this paragraph, up to $5,000,000 shall be available for contracts for technical assistance in accordance with section 202(k)(1) (as amended by section 801 of the bill).

Of the amounts made available under this head, $449,619,000 shall be used for project rental assistance for supportive housing for the elderly under section 202 of the Housing Act of 1959, as amended by section 801 of S. 566 (101st Cong., 2d Sess.), the National Affordable Housing Act (the "bill" in this paragraph), of which $186,000,000 shall be for amendments for contracts for projects for the elderly previously reserved under section 202 (as it existed before the date on which the bill was deemed enacted), to remain available until expended: Provided, That to the extent such funds include an amount for a project that does not covert to assistance under section 202 (as amended by

section 801 of the bill), such amount shall be for obligation for such project as authorized under section 8 of the United States Housing Act of 1937 (as it existed before the date on which the bill was deemed enacted): Provided further, That the Secretary may transfer for use under this paragraph any funds previously reserved under section 8 of the United States Housing Act of 1937 for assistance for projects for the elderly under section 202 (as it existed before the date on which the bill was deemed enacted), for which no loan has been executed and recorded, to which the Secretary applies section 202 (as amended by section 801 of the bill) as provided by section 801(c) of the bill, and any funds so transferred shall be added to and merged with the amounts otherwise available under this paragraph: Provided further, That following the election under section 801(c)(2) of a sponsor of a project under section 202 (as it existed before the date on which the bill was deemed enacted), as to whether the Secretary shall provide funding either under section 202, as it existed before or after the date on which the bill was deemed enacted, any theretofore reserved section 8 amounts that remain available shall be transferred and merged with any other amounts available under this paragraph, and made available for other supportive housing for the elderly under section 202 (as amended by the bill).

Of the $9,525,000,000 provided under this head, $121,709,000 shall be used for capital advances under section 811 of S. 566 (101st Cong., 2nd Sess.), the National Affordable Housing Act (the "bill" in this paragraph) for supportive housing for persons with disabilities (including 500 units for persons disabled as a result of infection with the human acquired immunodeficiency virus), of which $15,000,000 shall be for amendments for contracts for projects for the handicapped previously reserved under section 202(h) of the Housing Act of 1959 (as it existed before the date on which the bill was deemed enacted), to remain available until expended: Provided, That to the extent such funds include an amount for a project that does not convert under section 811(m)(1) of the bill to assistance under section 811 of the bill, such amount shall be transferred to the section 202 Direct Loan account for obligation for such project; and such amount shall be maintained as authorized under section 202(a)(4) of the Housing Act of 1959 (as it existed before the date on which the bill was deemed enacted): Provided further, That the Secretary may transfer for use under this paragraph any funds reserved under section 202 or 202(h) (as it existed before the date on which the bill was deemed enacted) for which no loan has been executed and recorded, to which the Secretary applies section 811 of the bill, as provided in section 811(m) of the bill, and any funds so transferred shall be added to and merged with the amounts otherwise made available under this paragraph: Provided further, That at the election of a sponsor of a project for housing for the handicapped under section 202 or 202(h) (as it existed before the date on which the bill was deemed enacted), the Secretary shall provide funding for amendments either under section 202 (as it existed before or after the date on which the bill was deemed enacted) or under section 811, and any amount for amendments to be provided under section 202 (as it existed before the date on which the bill was deemed enacted) shall be transferred to the section 202 Direct Loan account for obligation for such project: Provided further, That of the amounts available under this head, up to $5,000,000 shall be available for contracts for technical assistance in accordance with section 811(j)(1) of the bill.

Of the amounts provided under this head, $156,000,000 shall be used for project rental assistance for supportive housing under section 811 of S. 566 (101st Cong., 2d Sess.), the National Affordable Housing Act (the "bill" in this paragraph) for persons with disabilities (including 500 units of housing for persons disabled as a result of infection with the human acquired immunodeficiency virus), of which $52,000,000 shall be for amendments for contracts for projects previously reserved under section 202(h) of the Housing Act of 1959 (as it existed before the date on which the bill was deemed enacted), to remain available until expended: Provided, That to the extent such funds include an amount for a project for housing for the handicapped that does not convert to assistance under section 811 of the bill, such amount shall be for obligation for such project as authorized under section 8 of the United States Housing Act of 1937 and section 202(h) of the Housing Act of 1959 (as such sections existed before the date on which the bill was deemed enacted): Provided further, That the Secretary may transfer for use under this paragraph any funds previously reserved under section 8 of the United States Housing Act of 1937 and section 202(h) of the Housing Act of 1959 for which no loan has been executed and recorded, to which the Secretary applies section 811 of the bill, as provided by 811(m) of the bill, and any funds so transferred shall be added to and merged with amounts otherwise available under this paragraph: Provided further, That following the election under section 811(m)(2) of a sponsor of a project for the handicapped under section 202 (as it existed before the date on which the bill was deemed enacted) as to whether the Secretary shall provide funding either under section 202, as it existed before or after the date on which the bill was deemed enacted, any theretofore reserved amounts under section 8 and section 202(h), (as such sections existed before the date on which the bill was deemed enacted) that remain shall be transferred and merged with any other amounts available for use under this paragraph, and made available for other housing under section 202, as amended by the bill.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees expect the Department and the Office of Management and Budget to adhere to the 1991 program detailed in the following table:

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING FY 1991—GROSS RESERVATIONS

	Units	Cost	Term	Budget authority
Recaptures	NA	NA	NA	$236,375,000
Rescission of Recaptures	NA	NA	NA	(236,375,000)
New Authority	NA	NA	NA	9,525,000,000
Total Available	NA	NA	NA	9,525,000,000
Public/Indian Housing:				
Public Housing [1]	10,000	$73,376	NA	733,760,000
Indian Housing [1]	3,000	77,787	NA	233,361,000
Amendments	49,125	NA	NA	164,030,000
Lease Adjustments	23,000	NA	NA	25,100,000

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING FY 1991—GROSS RESERVATIONS—Continued

	Units	Cost	Term	Budget authority
Modernization	NA	NA	NA	2,500,000,000
Subtotal, Public/Indian	85,125			3,656,251,000
Section 8 and Other Programs:				
Elderly:				
Capital Grants	[10,000]	55,012	NA	550,115,000
Rental Assistance [1]	10,000	1,318	20	263,619,000
Amendments	14,224	NA	NA	246,000,000
Handicapped:				
Capital Grants	[2,000]	53,355	NA	106,709,000
Rental Assistance [1]	2,000	2,600	20	104,000,000
Amendments	3,977	NA	NA	67,000,000
Subtotal, Elderly/Handicapped	30,201			1,337,443,000
Vouchers:				
Incremental [1]	25,850	5,831	5	753,648,000
Public Housing Relocation	1,000	5,825	5	29,125,000
Opt-outs	1,000	5,825	5	29,125,000
Subtotal, Vouchers	27,850			811,898,000
Property Disposition	2,706	6,975	15	283,125,000
Certificates:				
Incremental Certificates [1]	30,997	6,189	5	959,189,000
P. H. Demolition/Disposition	2,000	6,515	15	65,150,000
Replacement Certificates	500	6,515	15	48,863,000
Subtotal, Certificates	33,497			1,073,202,000
Moderate Rehabilitation:				
Single Room Occupancy [1 2]	[2,763]	3,799	10	[105,000,000]
Loan Management:				
Incremental [1]	13,200	5,341	5	352,480,000
Non-Incremental	3,300	5,341	5	88,120,000
Subtotal, Loan Management	16,500			440,600,000
Section 23 Conversions	1,300	3,506	5	22,789,000
Contract Renewals [2]	[294,495]	NA	NA	[7,734,985,400]
Amendments:				
Existing Housing	232,789	NA	5	768,000,000
Ranier View Requirements	22,000	NA	7	70,000,000
Project Reserves	124,450	NA	7	889,942,000
Moderate Rehab	1,797	NA	10	62,000,000
Property Disposition	231	NA	15	2C,500,000
Subtotal, Amendments	381,267			1,810,442,000
Subtotal, Section 8 and Other	493,321	NA	NA	5,779,499,000
Total, Sec. 8, 202(h) and Public and Indian programs	578,446	NA	NA	9,435,750,000
Nehemiah Grants	NA	NA	NA	35,000,000
Special Purpose Grants	NA	NA	NA	54,250,000

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING FY 1991—GROSS RESERVATIONS—Continued

	Units	Cost	Term	Budget authority
Total, All programs	578,446	NA	NA	9,525,000
Incremental Units:				
Annual contributions programs	95,047			
Homeless units	2,763			
Subtotal, Incremental	97,810			
Non-Incremental:				
Annual contributions programs	483,399			
Contract Renewals	294,495			
	777,894			
Total, All Units	875,704			

[1] Represents incremental units.
[2] Numbers in brackets represent units/amounts funded in a separate account.

The conference agreement includes $1,337,443,000 for a restructured section 202 housing for the elderly or handicapped program. This funding level will provide for a fiscal year 1991 program of 12,000 incremental units for elderly and handicapped persons, 5,033 units more than proposed in the budget request. Of the 12,000 units provided for, 10,000 are for elderly and 2,000 are for handicapped, with 500 of the handicapped units to be allocated for individuals suffering from acquired immune deficiency syndrome.

The conference agreement includes $440,600,000 for 16,500 section 8 loan management set asides to address the prepayment issue. This is the same amount recommended by both the House and Senate. The conferees have also agreed to include language permitting up to $200,000,000 of the loan management funds to be available for the new preservation activities as provided for in the conference agreement on the housing authorization bill. The conferees urge the Department to give a high priority to implementing the prepayment provisions of the housing authorization bill when it is enacted into law.

The conference agreement includes $54,250,000 for special grants to be used in accordance with the terms and conditions specified in this report. The conference agreement also includes language making $14,000,000 of fiscal year 1990 community development grant funds available for technical assistance grants for economic development-type projects. The conferees understand that this $14,000,000 is no longer needed to replenish the basic community development grants account as urban development action grant recaptures are sufficient to cover basic program needs.

The conferees are in agreement with the following special purpose grants:

+$5,900,000 for the conversion of 200 units of public housing to resident homeownership at the Carr Square Village project in St. Louis, Missouri.

+$1,500,000 for low-income housing and economic development, to be applied in equal amounts to the Hilltop neighborhood in Tacoma, Washington, and the Central Area neighborhood in Seattle, Washington.

+$1,500,000 for a senior citizen employment and social services center connected to the Krueger Mansion in Newark, New Jersey.

+$500,000 for the Success Through Academic and Recreational Support (STARS) program run by the Fort Myers, Florida, public housing authority for the protection of at-risk children in public housing.

+$2,500,000 for the removal of asbestos and site clearing activities at the Rath Packing Plant in Waterloo, Iowa.

+$500,000 for drug elimination activities at the Vernon Manor and Morning Star housing projects in Tulsa, Oklahoma.

+$1,200,000 for Hawaiian homeland infrastructure development.

+$500,000 for development of a National Center for the Revitalization of Central Cities at the University of New Orleans in New Orleans, Louisiana.

+$200,000 for the completion of the paralyzed veterans center in Omaha, Nebraska.

+$2,000,000 for completing the demolition of the Old Morrell site in Ottumwa, Iowa.

+$500,000 to help low-income tenants of the Highgate Apartments in Barre, Vermont, to avoid the loss of their units for low-income housing.

+$50,000 for drug elimination activities at the Newport Apartments project in Mount Clemens, Michigan.

+$250,000 for the construction of a youth and community facility at New Haven, West Virginia.

+$2,000,000 for site work connected with economic redevelopment of Sioux City, Iowa.

+$200,000 for the Marshall County Senior Citizens Center in Marshall County, Tennessee, to convert an existing school building for use to provide citizen services.

+$1,300,000 to assist in job retention for agricultural workers at Hamakua coast sugar cane mills in Hawaii that are suffering continued economic hardship.

+$2,000,000 for the Teen Education, Achievement and Management Program in New Orleans, Louisiana, that targets teenage parents in public housing.

+$500,000 to the County of Hawaii for an environmental impact statement for the development of a water resource system for the community of Kohala.

+$500,000 for infrastructure development in West Valley, Utah.

+$3,150,000 for neighborhood economic improvement for the city of New Orleans, Louisiana.

+$1,000,000 for a rural, community-based health insurance program in two communities in the Mississippi River Delta region of Arkansas.

+$700,000 for infrastructure improvements for the town of Clinton, Tennessee.

+$500,000 for housing rehabilitation in Ogden, Utah.

+$1,110,000 for the expansion of the Charles Drew Health Center in Omaha, Nebraska, to provide additional space for health facilities and an early childhood program.

+$250,000 for a Utah revolving loan fund pilot program.

+$500,000 for elderly housing activities in Salt Lake City, Utah.

+$250,000 for a rural, community-based health care project in Nebraska.

+$30,000 for a water system study in Forest Heights, Illinois.

+$1,000,000 for relocation of the St. Mary's food kitchen in Kansas City, Kansas.

+$175,000 for expansion of the Paulter Senior Center in Clarkston, Washington.

+$120,000 for construction of handicapped access facilities for the Northeast Tri-County Health District's new clinic at Colville, Washington.

+$640,000 for the Spokane Housing Authority to establish a Housing Capital Needs, Infrastructure and Non-Profit Capacity-Building program to address the city's low-income housing crisis.

+$3,000,000 for the relocation of residents from the Southtown area of Peoria.

+$667,000 for the City of Chicago to assist the Ashland II Redevelopment Project.

+$520,000 for building facilities and infrastructure of a regional equipment center in Nanticoke City, Pennsylvania.

+$526,000 for a transitional housing and handicapped sheltering project of the Berkshire Community Action Council.

+$1,350,000 for the Bickerdike Redevelopment Corporation for the rehabilitation of 70 units in three buildings, for rental to low-income tenants in the City of Chicago.

+$1,000,000 for the Bedford Stuyvesant Restoration Corporation for capital repair, development of a wholly-owned housing management company, community planning and program review.

+$500,000 for the City of Fairmont, West Virginia, to refurbish and renovate a community humanities and cultural center.

+$795,000 to rehabilitate the Old Post Office Building in Lynn, Massachusetts.

+$275,000 for the Twin Pines Ranch Residential Treatment Program expansion for high risk juvenile offenders in Riverside, California.

+$250,000 to provide residential treatment for chemically addicted battered women and children at Tabor House in San Bernardino County, California.

+$350,000 for land for an alcohol treatment center in Tulare County, California.

+$150,000 for renovation of a rehabilitation center in Kings County, California.

+$995,000 for a performing art and cultural center in North Miami Beach, Florida.

+$950,000 for housing, community and economic development activities through the Ark-Tex Council of Governments, located in Bowie County, Texas.

+$195,000 for the Helen Brown Senior Center in Cleveland, Ohio.

+$197,000 for the Murtis Taylor Center Substance Abuse program in Cleveland, Ohio.

+$205,000 for the Karamu Theater Project in Cleveland, Ohio.

+$300,000 for infrastructure development in Lake Catherine, Louisiana.

+$660,000 for the Marabeau Apartments and Learing Center in New Orleans, Louisiana.

+$600,000 for elderly housing rehabilitation in New Orleans, Louisiana.

+$500,000 for the Conshohocken Urban Renweal Project in Pennsylvania.

+$1,500,000 to address ground subsidence problems in the Roxborough/Logan areas of Philadelphia, Pennsylvania.

+$975,000 for the Philadelphia Development Partnership.

+$1,950,000 for revitalization of the New Freedom Theater in Philadelphia, Pennsylvania.

+$600,000 for the Windber Recreation Park in Windber, Pennsylvania.

+$71,000 for the Barnes Memorial Park in Barnesboro, Pennsylvania.

+$585,000 for public safety equipment in Lawrence, Massachusetts.

+$790,000 for park improvements and shoreline protection in Saginaw, Michigan.

+$769,000 for Riverwalk, Bigelow Park, bridge lighting, and other improvements in Bay City, Michigan.

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing that of the funds appropriated for contract renewals $3,654,519,750 shall be for existing certificates, $3,102,872,600 shall be for housing vouchers, and $977,593,050 shall be for loan management units.

Amendments No. 20: Deletes language proposed by the Senate that will permit the Department to renew units for less than a five-year period in the event of sequestration.

Amendment No. 21: Restores language proposed by the House and stricken by the Senate permitting the transfer of up to $300,000,000 from amendment funds in the annual contributions for assisted housing account to meet any shortfalls in funds for section 8 renewals, amended to permit the transfer of up to $150,000,000.

The conferees direct that the Department request any additional funds necessary due to shortfalls in the estimate or as a result of sequestration in a 1991 supplemental or in the 1992 budget.

Amendment No. 22: Appropriates $70,000,000 for rental rehabilitation grants as proposed by the Senate, instead of $135,000,000 as proposed by the House.

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate deleting the House language appropriating $491,570,000 for 8,035 section 202 units and including language providing in 1991 for the use of funds transferred from the annual contributions for assisted housing account and limiting the interest rate on direct loans to 9.25 percent, including an allowance adequate to cover administrative costs and probable losses.

The conferees have agreed to delete the House language regarding the section 202 program due to the restructuring of this program and the inclusion of $1,337,443,000 for 12,000 section 202 units in the annual contributions for assisted housing account.

The preparation and submission of applications for the section 202 program require the investment of substantial time and money by the applicants. Moreover, they often involve the negotiation of commitments from churches, foundations and local governments. An application that is rejected on technical grounds because of a mistake of fact or interpretation by the Department of Housing and Urban Development is a loss to the program, to the applicant, and to the elderly residents that the project would have served. The committee of conference is informed that during its fiscal year 1990 rounds, HUD caused an undue hardship to United Church Homes by rejecting its application on technical grounds, without giving notice of the rejection, and not affording the applicant a reasonable and timely opportunity to respond. For these reasons, the conferees hereby urge the Secretary to give a priority in the fiscal year 1991 section 202 allocations to any of the United Church Homes projects determined qualified, but which were not funded from amounts available in fiscal year 1990.

Amendments No. 24: Appropriates $9,500,000 for congregate services, instead of $7,000,000 as proposed by the House and $12,000,000 as proposed by the Senate.

Amendment No. 25: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

$2,100,000,000: Provided, That of the funds made available under this heading, $125,000,000 shall not become available for obligation until September 20, 1991, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: Provided further, That the Secretary of Housing and Urban Development shall report to the Committees on Appropriations by February 1, 1991, as to whether or not funds provided under this heading are sufficient to satisfy 100 percent of the performance funding system for fiscal year 1991, unadjusted by unrealized or estimated savings

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 26: Appropriates $8,000,000 for housing counseling assistance as proposed by the Senate, instead of $5,000,000 as proposed by the House.

Amendment No. 27: Deletes language proposed by the House and stricken by the Senate that referenced $70,000,000 of excess rental receipts that were to be transferred to the annual contributions for assisted housing account. The conference agreement in the annual contributions for assisted housing account does not include the transfer of $70,000,000 as proposed by the House.

Amendment No. 28: Restores language proposed by the House and stricken by the Senate establishing a limitation of $1,100,000 for nonprofit sponsored assistance loans in fiscal year 1991.

Amendment No. 29: Appropriates $150,000,000 for drug elimination grants for low-income housing as proposed by the Senate, instead of $100,000,000 as proposed by the House.

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate delaying the availability of funds, except for the $1,000,000 for contracts, technical assistance, and training, until September 1, 1991.

HOMELESS ASSISTANCE

Amendment No. 31: Appropriates $73,164,000 for the emergency shelter grants program as proposed by the Senate, instead of $75,000,000 as proposed by the House.

Amendment No. 32: Appropriates $150,000,000 for the transitional and supportive housing demonstration program as proposed by the House, instead of $143,592,000 as proposed by the Senate.

Amendment No. 33: Appropriates $11,263,000 for supplemental assistance for facilities to assist the homeless as proposed by the Senate, instead of $15,000,000 as proposed by the House.

Amendment No. 34: Appropriates $105,000,000 for section 8 moderate rehabilitation single room occupancy as proposed by the Senate, instead of $100,000,000 as proposed by the House.

SOLAR ENERGY AND ENERGY CONSERVATION BANK

Amendment No. 35: Restores language proposed by the House and stricken by the Senate withdrawing any recaptured funds in the assistance for solar and conservation improvements account. The conferees have agreed to this action because the amounts estimated to be withdrawn are too small to effectively continue the program. The conferees direct the Secretary to undertake a comprehensive review of actions which could be taken to improve energy conservation and efficiency in single and multifamily housing in light of the growing price of oil caused by potential oil shortages. The report should be submitted by November 1, 1991.

COMMUNITY PLANNING AND DEVELOPMENT

Amendment No. 36: Appropriates $3,200,000,000 for community development grants as proposed by the Senate, instead of $3,000,000,000 as proposed by the House.

Amendment No. 37: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate earmarking $31,930,000 for grants to Indian tribes.

Amendment Nos. 38, 39 and 40: Inserts conforming technical changes to language as proposed by the Senate.

Amendment No. 41: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate earmarking $2,000,000 for a neighborhood development demonstration program.

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate raising the limitation on guaranteed loans under section 108 to $250,000,000, instead of $140,000,000 as proposed by the House.

Amendment No. 43: Appropriates $13,000,000 for urban homesteading as proposed by the Senate, instead of $15,000,000 as proposed by the House.

POLICY DEVELOPMENT AND RESEARCH

Amendment No. 44: Appropriates $28,500,000 for research and technology, instead of $30,000,000 as proposed by the House and $27,000,000 as proposed by the Senate.

The conferees are in agreement on the following changes to the budget request:

+$8,000,000 for program evaluation and monitoring activities. This amount, together with a $2,160,000 increase in the salaries and expenses account and a $1,443,000 increase in the Office of Inspector General, will permit a total of $11,603,000 for evaluation and monitoring activities.

−$3,375,000 as a general reduction to be applied at the discretion of the Department, except that none of the reduction is to be applied to the annual housing survey.

+$125,000 to determine the literacy and education needs in public and Indian housing projects throughout the Nation.

+$250,000 for research and technical assistance projects specifically related to persons with disabilities.

+$250,000 for lead paint research. This amount is in addition to the $250,000 requested in the budget.

+$250,000 for joint labor-management training programs to specifically address lead paint worker protection.

The 1990 conference agreement added $500,000 above the budget request for housing technology research. The committee of conference expects that HUD will continue this important research.

FAIR HOUSING AND EQUAL OPPORTUNITY

Amendment No. 45: Appropriates $12,410,000 for fair housing activities as pro-

posed by the Senate, instead of $12,200,000 as proposed by the House.

Amendment No. 46: Earmarks $5,810,000 for the fair housing initiatives as proposed by the Senate, instead of $5,600,000 as proposed by the House.

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate extending the Fair Housing Initiatives Demonstration Program under section 561(e) until September 30, 1991.

MANAGEMENT AND ADMINISTRATION

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, $825,500,000, of which $396,000,000 shall be provided from the various funds of the Federal Housing Administration: Provided, That during fiscal year 1991, notwithstanding any other provision of law, the Department of Housing and Urban Development shall maintain an average employment of at least 1,411 for public and Indian housing programs and an average field employment of at least 1,950 staff years for multifamily insured mortgage programs and activities.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are in agreement with the following changes from the budget estimate:

+$10,800,000 for 200 staff years in the Federal Housing Administration. The conferees agree that these additional staff years are to be allocated only to field offices.

+$1,400,000 for the Housing Assistance Council.

+$2,160,000 for 40 staff years to increase HUD's in-house program evaluation and monitoring activities. The conferees agree that of the increased staff years, 20 are for the Office of Policy Development and Research, 10 are for the Office of Housing, 5 are for the Office of Public and Indian Housing, 3 are for the Office of Community Planning and Development, and 2 are for the Office of Fair Housing and Equal Opportunity.

+$1,750,000 for 35 field staff years in the public and Indian housing programs, to be allocated only to field offices.

+$486,000 for 9 staff years to support the Office of Drug-Free Neighborhoods, which is being transferred from the Office of General Counsel.

−$486,000 for 9 staff years to support the Office of Drug-Free Neighborhoods. This office is being transferred to the Office of Public and Indian Housing.

+$2,057,000 for 38 staff years in the Office of General Counsel. This decrease is offset by an addition of 40 staff years for HUD's field legal services.

+$1,350,000 for 25 staff years for data management improvement and preservation activities in the Washington Office of Housing.

−$270,000 for five staff years in the Office of Policy Development and Research.

+$270,000 for five FTE for field activities in the Office of Fair Housing and Equal Opportunity.

−$486,000 for 9 staff years from the Office of Public Affairs. The conferees agree that none of the reduction shall be applied to career civil servants.

+$2,160,000 for 40 staff years for HUD's field legal services.

+$660,000 for 12 staff years in administration and staff services.

+$1,297,000 for 24 staff years for field administration.

The appropriations Acts for the past five years have contained language establishing minimum staffing levels for the public and Indian housing programs. This language was included to begin rebuilding the public and Indian housing programs. To continue this effort, the Act contains language requiring a minimum staffing level of 1,411 for public and Indian housing programs in fiscal year 1991. The Act also contains language requiring a minimum field staffing level of 1,950 staff years for multifamily insured mortgage programs and activities.

The conferees expect the staffing changes to be allocated as shown in the following table:

STAFF YEARS (INCLUDES TERMINAL LEAVE)

	Fiscal year 1991					
	Estimate fiscal year 1990	Budget	House bill	Senate bill	Conference	Conference versus budget
Housing Programs:						
Washington	983	1,117	1,117	1,142	[a][b] 1,152	35
Field	5,592	5,918	6,118	6,118	[c] 6,118	200
Total	6,576	7,035	7,235	7,260	7,270	235
Public and Indian Housing:						
Washington	150	148	148	157	[a][d] 162	14
Field	1,200	1,219	1,254	1,239	1,254	35
Total	1,350	1,367	1,402	1,396	1,416	49
Govt National Mtge Assn:						
Washington	60	61	61	61	61	0
Coss Planning & Development:						
Washington	280	271	271	271	[a] 274	3
Field	826	861	861	891	861	0
Total	1,106	1,132	1,132	1,162	1,135	3
Policy Development & Research:						
Washington	137	147	147	137	[a] 162	15
Fair Housing and Equal Opp:						
Washington	157	170	170	170	[a] 172	2
Field	539	592	592	612	597	5
Total	696	762	762	782	769	7
Departmental Management:						
Washington	131	149	149	134	[a] 140	(9)
Office of General Counsel:						
Washington	238	271	238	224	[d] 224	(47)
Field Legal Services:						
Field	277	299	299	339	339	40
Administration:						
Washington:						
A&SS (S&E)	765	707	707	725	719	12
Working Capital Fund	284	284	284	284	284	0
Total	1,049	991	991	1,009	1,003	12
Field Direction & Oper Support:						
Field	494	534	534	534	534	0
Field Administration:						
Field	884	920	920	960	944	24
Subtotal Staff-Years	12,998	13,667	13,869	13,998	13,996	329

STAFF YEARS (INCLUDES TERMINAL LEAVE)—Continued

	Estimate fiscal year 1990	Fiscal year 1991				
		Budget	House bill	Senate bill	Conference	Conference versus budget
Office of Inspector General:						
Washington	105	119	119	119	119	0
Field	390	431	431	451	451	20
Total	495	550	550	570	570	20
Total Staff-years	13,493	14,218	14,420	14,569	14,567	349
Recapitulation:						
Washington	3,290	3,444	3,411	3,424	3,469	25
Field:						
Regions	9,813	10,343	10,578	10,694	10,647	304
Other	390	431	431	451	451	20
Subtotal, Field	10,203	10,774	11,009	11,145	11,098	324
Total Staff-Years	13,493	14,218	14,420	14,569	14,567	349

Notes: All columns include 90 staff-years for terminal leave. Columns may not add due to rounding.
[a] Evaluation and monitoring staff is distributed as follows: Housing 10 staff-years; PIH 5 staff-years; CPD 3 staff-years; PD&R 20 staff-years; and FHEO 2 staff-years. All staff-years are in Headquarters.
[b] Includes 25 staff-years for data management reform and Preservation activities.
[c] Includes minimum of 1,950 staff-years for FHA multifamily programs.
[d] Reflects shift of 9 staff-years from the Office of General Counsel to Public and Indian Housing consistent with the functional transfer of the Office of Drug-Free Neighborhoods.
[e] Reflects a reduction of 9 staff-years in the Office of Public Affairs.

Amendment No. 49: Appropriates $39,283,000 for the Office of Inspector General as proposed by the Senate, instead of $37,840,000 as proposed by the House. The conferees agree that the increase of $1,443,000 above the budget request is for 20 staff years to meet increased workload and augment program evaluation and monitoring activities.

Amendment No. 50: Transfers $10,000,000 from the various funds of the Federal Housing Administration to the Office of Inspector General as proposed by the Senate, instead of $8,557,000 as proposed by the House.

Amendment No. 51: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

Notwithstanding any other provision of law or other requirement, the City of Lebanon, in the Commonwealth of Pennsylvania, is authorized to retain any land disposition proceeds from the financially closed-out Southside Urban Renewal Project (R-635 (C)) not paid to the Department of Housing and Urban Development and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Lebanon shall retain such proceeds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such proceeds, including any interest.

Notwithstanding any other provision of law or other requirement, the City of Lawrence, Massachusetts, is authorized to retain any land disposition proceeds or urban renewal grant funds that remain after the financial close out of the Theater Row Urban Renewal Project, and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Lawrence shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such funds, including any interest.

The Secretary of Housing and Urban Development shall cancel the indebtedness of the Eastern New Mexico Natural Gas Association, Inc., a non-profit organization, relating to the public facilities loan (Project No. NM-29-PFL0025), dated June 1, 1967, under title II of the Housing Amendments of 1955. The Eastern New Mexico Natural Gas Association, Inc., is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection with such loan.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 52: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate forgiving the Hunter/Rousseau household of Philadelphia for repayment of a section 312 loan.

Amendment No. 53: Restores language proposed by the House and stricken by the Senate permitting the City of Pittsfield, Massachusetts, to retain certain proceeds from certain urban renewal land disposition sales for use consistent with the community development block grant program.

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate reappropriating funds previously rescinded for a housing development grant for the East Dunes Housing project in Albany, Georgia.

Amendment No. 55: Deletes language proposed by the Senate transferring the Roosevelt Homes project in Davenport, Iowa, to a nonprofit organization.

Amendment No. 56: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate permitting the City of New Haven, Connecticut, to retain certain proceeds from urban renewal land disposition sales for use consistent with the community development block grant program.

Amendment No. 57: Restores language proposed by the House and stricken by the Senate permitting the Borough of East Stroudsbourg, Pennsylvania, to retain certain proceeds from urban renewal land disposition sales for use consistent with the community development block grant program.

Amendment No. 58: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate permitting the City of Roanoke, Virginia, to retain certain proceeds from urban renewal land disposition sales for use consistent with the community development block grant program.

Amendment No. 59: Restores language proposed by the House and stricken by the Senate restoring funds in a housing development action grant to the City of Santa Cruz, California, for the construction of low-income housing at the site known as the Alborada project.

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate exempting the City of West Hollywood, California, and the State of Maryland from certain restrictions on the use of rental rehabilitation funds.

Amendment No. 61: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

During fiscal year 1991, notwithstanding any other provision of law, average employment in the headquarter's offices of the Department of Housing and Urban Development shall not exceed: (1) 28 staff years for the Immediate Office of the Secretary/Under Secretary, (2) 18 staff years for the Deputy Under Secretary for Field Coordination, (3) 20 staff years for the Office of Public Affairs, (4) 28 staff years for the Office of Legislation and Congressional Relations, (5) 1,152 staff years for the Assistant Secretary for Housing—Federal Housing Commissioner, of which 25 staff years shall be for data management reform and preservation activities only, (6) 162 staff years for the Assistant Secretary for Public and Indian Housing, (7) 274 staff years for the Assistant Secretary for Community Planning and Development, (8) 162 staff years for the Assistant Secretary for Policy Development and Research, (9) 172 staff years for the Assistant Secretary for Fair Housing and Equal Opportunity, and (10) 224 staff years for the Office of General Counsel, of which not more that 15 staff years shall be for the Im-

mediate Office of the General Counsel: Provided, That the Office of Drug-Free Neighborhoods shall be transferred from the Office of General Counsel to the Assistant Secretary for Public and Indian Housing and included within the staff years provided herein therefor: Provided further, That no funds may be used from any amounts provided in this or any other Act for details of employees from any organization in the Department of Housing and Urban Development to any organization included under the budget activity "Departmental Management".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

Notwithstanding any other provision of law, regulation or other requirement, the Secretary shall not require any public housing agency or Indian housing authority to seek competitive bids for the procurement of any line of insurance when such public housing agency or Indian housing authority purchases such line of insurance from a nonprofit insurance entity, owned and controlled by public housing agencies or Indian housing authorities, and approved by the Secretary. In establishing standards for approval of such nonprofit insurance entities, the Secretary shall be assured that such entities have sufficient surplus capital to meet reasonably expected losses, reliable accounting systems, sound actuarial projections, and employees experienced in the insurance industry. The Secretary shall not place restrictions on the investment of funds of any such entity that is regulated by the insurance department of any State that describes the types of investments insurance companies licensed in such State may make. With regard to such entities that are not so regulated, the Secretary may establish investment guidelines that are comparable to State law regulating the investments of insurance companies.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

In the mid-1980's, many public housing authorities were unable to obtain liability or property insurance or were required to pay very large premiums to obtain minimal coverage. In response to that crisis, a number of public housing authorities banded together and formed nonprofit insurance pools and risk retention groups under State intragovernmental cooperation laws or the Federal Risk Retention Act of 1986. All of these groups were formed at the encouragement, and in many instances, with the assistance of the Department of Housing and Urban Development. When HUD approved the formation and operating plans of these groups, it granted a waiver from the requirement that insurance be procured only by competitive bidding to public housing authorities that joined such groups. These groups have been extremely successful in providing low cost insurance to public and Indian housing authorities. The Department has proposed regulations that would revoke the waiver. The committee of conference agrees that the waiver should be continued and has included language to permit that. Housing authorities will still be able to make the decision from which company they wish to obtain insurance coverage.

Amendment No. 63: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate revising the community development grant allocation formula for cities and counties affected by annexation.

TITLE III—INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

Amendment No. 64: Appropriates $15,900,000 as proposed by the House for salaries and expenses, instead of $15,402,000 as proposed by the Senate.

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

Amendment No. 65: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

SALARIES AND EXPENSES

For use in establishing and paying the salaries and expenses of the Commission on National and Community Service under subtitle G of title I of the National and Community Service Act of 1990 (S. 1430, as passed by the Senate on October 16, 1990), $2,000,000.

PROGRAMS AND ACTIVITIES

For use in carrying out the programs, activities and initiatives under subtitles B through F of title I of the National and Community Service Act of 1990 (S. 1430, as passed by the Senate on October 16, 1990), $55,000,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conferees agree on the allocation of funds as follows:

$2,000,000 for salaries and expenses of the Commission on National and Community Service,

$16,500,000 for school-based and community-based programs for students and out-of-school youth,

$16,500,000 for the Youth Services Corps,

$22,000,000 for the National Service full-time and part-time program.

CONSUMER PRODUCT SAFETY COMMISSION

Amendment No. 66: Appropriates $37,109,000 for salaries and expenses of the Consumer Product Safety Commission as proposed by the House instead of $36,709,000 as proposed by the Senate.

The conferees are in agreement on the following changes to the budget request:

+$1,000,000 for the Technical Study Group on Cigarettes and Little Cigar Safety. Of the $1,000,000 the CPSC shall transfer $600,000 to the National Institute of Standards and Technology for designing and implementing the further technical work and studies that are mandated by the Fire Safe Cigarette Act (P.L. 101-352). Of the remaining $400,000, $50,000 shall be designated for travel purposes relating to the study. The remaining $350,000 shall be used by the CPSC to carry out the certain functions specified in the Fire Safe Cigarette Act.

+$450,000 for hazard contracts.

+$50,000 for ATV monitoring.

COURT OF VETERANS APPEALS

Amendment No. 67: Appropriates $7,481,000 for salaries and expenses, instead of $9,560,000 as proposed by the House and $4,127,000 as proposed by the Senate.

ENVIRONMENTAL PROTECTION AGENCY

Amendment No. 68: Appropriates $974,700,000 for salaries and expenses, instead of $995,000,000 as proposed by the House and $949,700,000 as proposed by the Senate.

The committee of conference is in agreement on the following changes to the budget request:

+$1,250,000 and 17.5 workyears for title III, Community-Right-to-Know, including 7 workyears for emergency planning, 7 workyears for emissions inventory, and 3.5 workyears for enforcement,

+$150,000 and 3 workyears for lead activities,

+$4,500,000 for scientific personnel in the Office of Pesticide Programs,

−$24,000,000 from the research and development program, from the following activities: laboratory program support, supplies and materials, equipment, automated data processing services, interagency support agreements, human resources development training, operation of facilities, and other support services, and printing and reproduction. Bill language is included in research and development allowing EPA to pay for these activities out of that account,

−$5,000,000 from travel and transportation of persons,

−$1,500,000 from the Office of Policy, Planning and Evaluation,

−$400,000 from the Office of Administration and Resources Management.

The Committee of conference agrees with the underlying concern expressed in the Senate Committee Report regarding the Office of Pollution Prevention. However, the conferees will not require the Office of Pollution Prevention to move to the Office of the Administrator as directed by the Senate. Rather, the Environmental Protection Agency will be provided with one additional fiscal year to develop a credible waste reduction, or pollution prevention, program. If, based upon the criteria stated below, the agency is unable to demonstrate that it has developed a program to minimize the production of waste that enters the Nation's air, land, and water other than through treatment, storage, or disposal of waste already generated, EPA can expect that the Office of Pollution Prevention will be moved to the Office of the Administrator.

The conferees intend to evaluate EPA's pollution prevention commitment based on the following:

1. Development and implementation of a pollution prevention strategy that addresses the full range of environmental problems including agriculture, energy, and Federal agency activity, as well as from industrial point sources.

2. Development of analytical tools that can be used by both the Federal government and the private sector to identify the economic benefits of pollution prevention.

3. Development of a strategy that articulates how the agency's strategic planning process and other management systems will be utilized to promote pollution prevention.

4. Development and support for an aggressive outreach program that involves business and industry, citizen and consumer organizations, and all levels of government in promoting the Nation's pollution prevention efforts.

5. Development of a process that assures full and explicit consideration of pollution prevention opportunities in the agency's development of regulations, and

6. Development of a program for promoting pollution prevention by providing information to the public on the environmental implications of consumer products.

Amendment No. 69: Appropriates $37,000,000 for the office of the inspector general as proposed by the House, instead of $33,709,000 as proposed by the Senate.

Amendment No. 70: Allows $13,107,000 of the appropriation for the office of inspector general to be derived from the Hazardous Substance Superfund trust fund as proposed by the House, instead of $11,941,000 as proposed by the Senate.

Amendment No. 71: Allows $575,000 of the appropriation for the office of the inspector general to be derived from the Leaking Underground storage Tank Trust Fund as proposed by the House, instead of $524,000 as proposed by the Senate.

Amendment No. 72: Appropriates $254,900,000 for research and development as proposed by the House, instead of $249,000,000 as proposed by the Senate.

The committee of the conference is in agreement on the following changes to the budget request:

+$3,150,000 for the Center for Environmental Management,

+$1,150,000 to establish solar and renewable energy costshared commercialization projects,

+$250,000 for research on control of the Zebra mussel,

−$4,250,000 from global warming research to offset increases for climate policy studies under the abatement, control, and compliance account,

+$400,000 for a demonstration pilot program in cooperation with National Resources Institute's Minerals Research Laboratory,

+$3,150,000 to support the existing university portion of the southern oxidants study,

+$2,650,000 for a pollution prevention demonstration to reduce coke over emissions,

+$1,900,000 for an analysis of possible solutions to the air, water, and hazardous waste problems at the U.S./Mexican border,

+$500,000 for a Denver water re-use demonstration plant,

+$250,000 for the siting and permitting for a test facility for a demonstration of a sludge-to-oil reactor system,

+$1,000,000 for an experimental program to stimulate competitive research (EPSCoR),

+400,000 for a National Academy of Sciences study on the feasibility of the National Institutes of Environmental Research,

+$400,000 for the Institute for Environmental Issues and Policy Assessment at Southern University of Louisiana,

+$200,000 for a research project on the Formosan subterranean termite at Louisiana State University,

−$7,000,000 from the Exploratory Grants Program,

+$750,000 for electric and magnetic field research,

+$2,000,000 for oil spill research,

−$1,000,000 from supplies, equipment, and other operating expenses.

Amendment No. 73: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate limiting to $35,600,000 the amount available for laboratory equipment, supplies, and other operating expenses in support of research and development instead of $11,600,000 as proposed by the House. The limitation includes supplies and other operating expenses, which was not included by the House.

Amendment No. 74: Appropriates $1,006,525,000 for abatement, control, and compliance as proposed by the House, instead of $985,300,000 as proposed by the Senate.

The conferees are in agreement on the following changes to the budget request:

+$500,000 for the Water Conservation Task Force,

+$1,000,000 for the Small Flows Clearinghouse at West Virginia University,

+$600,000 for a pollution study in the Baton Rouge/New Orleans corridor,

+$5,000,000 for global climate change policy studies,

+$275,000 for a Lake Pontchartrain new wetlands creation demonstration project,

+$1,000,000 for the National Training Center at West Virginia University,

+$250,000 for Northeast interstate ozone nonattainment and visibility problems,

+$100,000 to train minority and women contractors in radon mitigation,

+$100,000 to upgrade shoreside facilities for the new Great Lakes research vessel,

+$9,700,000 of which $8,700,000 is for the lease/purchase of a high performance supercomputer to support the regional acid deposition monitoring program and $1,000,000 is for planning and site acquisition for a new EPA Center for Ecology Research and Training in Bay City, Michigan,

+$1,000,000 for controlling erosion and sedimentation in the Great Lakes Basin,

+$3,500,000 for the Great Lakes National Program, of which $2,500,000 is for innovative initiatives in the program office, including efforts to mitigate the zebra mussel problem and $1,000,000 is for the large lakes laboratories in Duluth, Minnesota and Grosse Ile, Michigan,

+$1,000,000 for the National Rural Water Association's Groundwater Protection Program,

+$2,700,000 for the National Rural Water Association,

+$7,000,000 for the clean lakes program,

+$1,000,000 for academic training,

+$51,500,000 for asbestos in schools loans and grants, of which $2,800,000 is earmarked in the bill for worker and contractor training and certification,

+$36,000,000 for non-point source grants under section 319 of the Clean Water Act, of which $750,000 is for a nonpoint source management program for the Illinois River basin; $1,250,000 is to assess the influence of rural nonpoint source pollution in the Kansas/Nebraska/Iowa region; and $1,000,000 is for a Rouge River basin nonpoint source control demonstration,

+$4,000,000 for lead-based paint studies and support, of which $1,500,000 is for worker training,

+$1,500,000 for the Northwest Indian Tribes for coordinated and cooperative environmental protection approaches,

+$500,000 for a San Francisco Bay area oceans disposal site,

+$700,000 for the Rural Community Assistance Program,

+$2,750,000 for the Chicago Air quality model,

+$1,225,000 for the Spokane aquifer,

+$1,250,000 for wastewater treatment operator training,

+$575,000 for a waste management testing training program at St. Vincent College in Latrobe, Pennsylvania,

+$250,000 for identifying, monitoring and protecting the Canaan Valley, West Virginia wetlands complex,

+$125,000 for a pesticide/herbicide identification and warning pilot program in conjunction with Michigan State University,

+$75,000 to complete the Sacramento Air Quality Modeling Study,

+$600,000 for clean up of the Buffalo River,

+$200,000 for a Southwest Arkansas/Southeast Oklahoma Millwood Basin Water Quality Study,

+$250,000 for the South Coast Air Quality Management District's alternative fuel options demonstration project,

+$800,000 for the Chesapeake Bay program office,

+$2,000,000 for toxics research in the Chesapeake Bay,

+$2,000,000 for the Lake Champlain management conference,

+$2,000,000 for research to control methane,

+$4,000,000 for the Montreal Protocol Facilitation Fund,

+$3,500,000 for implementation of revisions to the Montreal Protocol,

+$500,000 for the Office of International Activities,

+$1,250,000 for a stormwater management demonstration with the Patuxent River,

+$250,000 for the National Environmental Training Association and the Coalition of Environmental Training Centers,

+$450,000 for New Jersey lake water quality activities,

+$500,000 for a comprehensive management plan for the restoration and clean up of Lake Pontchartrain,

+$83,000 for Lake Alcyon, New Jersey, under the Clean Lakes program,

+$4,000,000 for pollution prevention grants,

+$250,000 for State of New Jersey recycling demonstration projects, studies, and analyses,

+$1,250,000 for the Lake Onondaga management conference,

+$3,000,000 for the title III, Community Right-to-Know program,

+$2,500,000 for a pollution tracer study at the Mohave Powerplant,

+$1,000,000 for a scrap tire recycling demonstration program in New Jersey,

+$200,000 for a water quality study by the National Academy of Sciences,

−$16,500,000 from the Water Quality Cooperative Agreement Program. The funding for this program is provided for in the construction grants account,

−$4,000,000 from pesticides transportation, storage, and disposal,

+$500,000 for a grant to demonstrate the feasibility of expanding an existing non-governmental computerized waste exchange network that will encourage pollution prevention,

+$500,000 for the Water Pollution Control Federation Research Foundation,

+$5,033,000 from the Hazardous Waste Management Financial Assistance grants.

The committee of conference directs EPA to provide $150,000 under the section 105 program to continue Colorado's high-altitude emission testing program.

The conferees also direct EPA to continue its outstanding cooperation with the State of Michigan by providing technical assistance and advice pertaining to possible future designation of Saginaw Bay as a National Estuary.

Amendment No. 75: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and

concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

: Provided further, That notwithstanding any other provision of law, the lease or purchase of a computer, from funds appropriated under this paragraph, to support the regional acid deposition monitoring program, and the planning and site acquisition for a new DPA Center for Ecology Research and Training, shall be established in the Bay City, Michigan, vicinity: Provided further, That notwithstanding any other provisions of law, from funds appropriated under this heading, the Administrator is authorized to make grants to "Federally recognized Indian tribes" on such terms and conditions as he deems appropriate for the development of multimedia environmental programs.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conferees agree to the siting and acquisition of the computer for acid rain deposition monitoring in the Bay City, Michigan, vicinity. The conferees agree to insert language permitting multimedia environmental demonstration grants for Indian tribes. This language will assist Indian tribes in developing the capacity to manage their own environmental program by providing a less cumbersome means for the tribes to receive Federal assistance.

Amendment No. 76: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: *$40,000,000.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conferees agree to the following changes from the budget request:

+$21,000,000 for the Ann Arbor Mobile Vehicle Emissions Laboratory and facilities,

+$6,000,000 for the Christopher Columbus Center of Marine Research and Exploration,

+$500,000 for the Robert S. Kerr Environmental Research Laboratory in Ada, Oklahoma,

−$500,000 as a general reduction to be applied at the Administrator's discretion.

Amendment No. 77: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

: Provided, That none of the funds previously appropriated for the design and renovation of a Superfund laboratory at Edison, New Jersey to test and evaluate innovative technologies, except for those funds necessary for education outreach or permit applications, including design work essential to such applications, shall be spent in fiscal year 1991.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The committee of conference supports research and development of innovative hazardous waste treatment technologies. The Congress appropriated $5,600,000 in fiscal year 1988 for the design and renovation of a Superfund laboratory at Edison, New Jersey, to test and evaluate innovative technologies. Recently, representatives of the regional office of the EPA have suggested that an additional $8,000,000 is required to construct and complete the project. No formal Administration request has been made. This raises serious questions about the overall scope and design of the project. Moreover, the EPA has failed to satisfy environmental concerns of local officials and to secure the support of the State. Until such time as the agency prepares a formal plan for the project and secures local and state cooperation, the committee of conference has serious reservations about proceeding with the expenditure of the funds previously appropriated for design, renovation, or acquisition of equipment for the proposed facility. Consequently, the committee of conference has restricted the expenditure of such for the project, while allowing EPA to proceed to engage in community education and outreach efforts and to proceed with the permitting process, including design work essential to those applications.

Amendment No. 78: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate inserting language appropriating $1,616,228,000 for the hazardous substance superfund, instead of $1,610,200,000 as proposed by the House. The amendment offered by the Senate provides that $860,900,000 is derived from general revenues with the balance derived from the trust fund.

The conferees are in agreement on the following changes to the budget request:

+$5,000,000 for Koppers Texarkana Superfund site relocation,

+$10,000,000 for the National Institute for Environmental Health Sciences (NIEHS) university based research and education program,

+$300,000 for small, minority, and women contractor clean up training grants,

+$10,000,000 for NIEHS worker training,

+$400,000 for a NOAA study at the dump site off the Farallon Islands,

+$2,000,000 for Superfund research at Clark Atlanta University,

+$3,500,000 to establish a pilot program for treating mining wastes in Butte, Montana,

+$100,000 for technical assistance to local governments named as potentially responsible parties in Vermont,

+$495,000 for the Energy and Environmental Research Center at the University of North Dakota,

+$2,500,000 for the Gulf Coast Hazardous Substance Research Center in Beaumont, Texas,

+$4,000,000 for the Agency for Toxic Substances and Disease Registry.

−$162,067,000 as a general reduction to be applied at the Administrator's discretion.

The House report stated that EPA should track measures of Superfund program success that focus on achievements, or outputs. The Committee directed the agency to establish a baseline of these outputs and provide the Committees on Appropriations this information. While the information received was a step in the right direction, there are several further steps needed to enable EPA to better present its achievements to the public.

The conferees direct EPA to supplementing and expand the information they are currently collecting to present a better overall picture of Superfund achievements. The agency should consider supplement its information by tracking site management on a site-by-site basis; developing a site history including a list of community contacts involved in the site; providing more comprehensive information on the potentially responsible parties (PRP) and the PRP search; demonstrating how major health threats have been identified and dealt with at each site; tracking the amount of money recovered by the Agency as compared to its cost expended on a site; tracking the time from National Priorities List listing to the first actual removal; and finally, reviewing the results of the application of the technologies employed at the various sites. The conferees, therefore, direct EPA to develop a plan to incorporate the above suggestions into their current work measuring Superfund outputs. This plan should be submitted to the Committees by December 31, 1990.

Amendment No. 79: Limits funds available to the Agency for Toxic Substances and Disease Registry to $48,500,000, instead of $47,500,000 as proposed by the House and $50,000,000 as proposed by the Senate.

Amendment No. 80: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate permitting $7,000 in interest payments to be paid to the City of New Brighton, Minnesota.

Amendment No. 81: Appropriates $65,000,000 for the Leaking Underground Storage Tank Trust fund as proposed by the Senate, instead of $75,000,000 as proposed by the House.

Amendment No. 82: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

For necessary expenses to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, $2,100,000,000, to remain available until expended, of which $2,047,800,000 shall be for title VI of the Federal Water Pollution Control Act, as amended; and $16,500,000 shall be for making grants authorized under section 104(b)(3) of the Federal Water Pollution Control Act, as amended; and $35,700,000 shall be for title V of the Water Quality Act of 1987, consisting of $15,700,000 for section 510 and $20,000,000 for section 513: Provided, That notwithstanding any other provision of law, the $15,700,000 for section 510 and all funds that have been or will be appropriated under Section 510 or Public Law 98-386, as amended by Public Law 99-88, shall be used to construct an international sewage treatment plant and related facilities in San Diego to treat Tijuana wastewater, and to carry out all activities, including planning, design, right-of-way acquisition, and building, which are necessary to complete that construction: Provided further, That, notwithstanding sections 602(b)(6) or 201(g)(1) of the Federal Water Pollution Control Act, as amended, of the funds appropriated in this paragraph, amounts awarded in a capitalization grant to an agency of any State, including funds transferred pursuant to section 205(m), shall be available for providing assistance in that State for the construction of publicly owned treatment works as defined in section 212 of that Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conferees direct EPA to administratively restore $4,272,877 in wastewater construc-

tion grant funding previously awarded to the City of Watsonville, California, EPA Grant No. C-06-1128-120. This grant is for eligible and allowable cost increases.

Amendment No. 83: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate adding grants and loans to the provision requiring the Administrator to annually establish a goal of at least 8 percent of total contracts awarded to minority- and women-owned businesses.

Amendment No. 84: A comma will be inserted after the word "grants" as proposed by the Senate, instead of without the comma as proposed by the House.

Amendment No. 85: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

During fiscal year 1991, notwithstanding any other provision of law, average employment in the headquarter's offices of the Environmental Protection Agency shall not exceed: (1) 45 workyears for the Immediate Office of the Administrator, including 1 to support the Superfund program; (2) 52 workyears for the Office of Congressional and Legislative Affairs, including 2 to support the Superfund program; (3) 66 workyears for the Office of Communications and Public Affairs, including 3 to support the Superfund program; (4) 169 workyears for the Office of General Counsel, including 12 to support the Superfund program, 11 to support program management, 1 to support the Leaking Underground Storage Tank Trust Fund program, and 1 to support the implementaton of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988; (5) 52 workyears for the Office of International Activities; (6) 35 workyears for the Office of Federal Activities; (7) 270 workyears for the Office of Policy, Planning, and Evaluation, including 13 to support the Superfund program and 1 to support the Leaking Underground Storage Tank Trust Fund program; (8) 1,367 workyears for the Office of Administration and Resources Management, including 263 to support the Superfund program, 9 to support the Leaking Underground Storage Tank Trust Fund program, and 13 to support to the implementation of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 86: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate directing EPA to issue a final decision on the Sanitation Districts of Los Angeles County's pending 301(h) application.

EXECUTIVE OFFICE OF THE PRESIDENT

Amendment No. 87: Appropriates $1,873,000 for the Council on Environmental Quality, instead of $2,780,000 as proposed by the House and $1,465,000 as proposed by the Senate.

Amendment No. 88: Appropriates $1,363,000 for the National Space Council as proposed by the Senate, instead of $1,000,000 as proposed by the House.

Amendment No. 89: Appropriates $3,560,000 for the Office of Science and Technology Policy as proposed by the Senate, instead of $3,300,000 as proposed by the House.

Amendment No. 90: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

POINTS OF LIGHT FOUNDATION

For necessary expenses of the President in carrying out title III of the National and Community Service Act of 1990 (S. 1430, as passed by the Senate on October 16, 1990), relating to the Points of Light Foundation's promotion of local problem solving through voluntary community service, $5,000,000: Provided, That not later than 6 months after the date of enactment of this Act the President shall prepare and submit to the appropriate committees of Congress a report describing the use of funds made available by this appropriation.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This new foundation is a government, nonprofit corporation within the Executive Office of the President which encourages individuals to volunteer their time and services to community service projects.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Amendment No. 91: Appropriates no funds for disaster relief as proposed by the Senate, instead of $100,000,000 as proposed by the House. The committee of conference notes that FEMA's carryover of unobligated funds from fiscal year 1990, plus its anticipated recaptures of prior years' funds will be approximately $280,000,000, which is $10,000,000 more than the amount requested for fiscal year 1991.

The conferees urge the Federal Emergency Management Agency to give consideration to providing funds for the restoration of buildings damaged in national disasters so as to restore them to their original, historic integrity and/or to restore older historic structures to a standard consistent with and/or required by local safety codes as of the time of the reconstruction, including any mitigation of future risks deemed appropriate.

Amendment No. 92: Appropriates $143,000,000 for salaries and expenses as proposed by the Senate, instead of $143,459,000 as proposed by the House.

The committee of conference is in agreement on the following changes to the budget request:

+$125,000 and 3 FTE for management of section 305(a) grants authorized by the Superfund Amendments and Reauthorization Act,

+$125,000 for personnel salaries and travel expenses at the U.S. Fire Administration,

+$200,000 and 2 FTE for the National Fire Academy,

−$784,000 as a general reduction to be applied at the Director's discretion.

Amendment No. 93: Appropriates $3,351,000 for the office of inspector general, instead of $3,905,000 as proposed by the House and $2,751,000 as proposed by the Senate.

Amendment No. 94: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: *$282,624,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conferees agree to the following changes from the budget request:

+$3,000,000 for emergency assistance grants,

+$252,000 for training and education, instructional programs and materials and training field deployment systems to restore programs to 1990 levels,

+$5,000,000 for section 305(a) grants authorized by Superfund Amendments and Reauthorization Act, title III,

+$147,000 for training and fire, in the Emergency Management Institute's instructional programs and materials and the resident program to restore these activities to the 1990 levels,

+$134,000 for training and fire, in the National Fire Academy's training field deployment systems to restore the program to the 1990 level,

−$10,000,000 from federal preparedness, government preparedness program,

+$4,600,000 to correct fire and safety code violations at the National Emergency Training Center in Emmitsburg, Maryland,

+$70,000 to monitor and replace leaking emergency broadcast system diesel fuel storage tanks in Vermont,

+$750,000 to augment the Earthquake Hazards Reduction Program,

+$750,000 to augment State and private funds to construct an earthquake engineering center at the University of Nevada, Reno,

+$170,000 to provide matching Federal funds to complete a firefighters' hazardous materials training facility in Vermont,

+$250,000 to help the Navajo Nation establish hazardous materials response teams,

+$2,078,000 for state and local control and warning, emergency operating centers,

−$1,619,000 as a general reduction to be taken at the Director's discretion.

The conferees recognize the threat that significant seismic activities pose to the central United States. This area includes the States of Arkansas, Illinois, Indiana, Kentucky, Mississippi, Missouri, and Tennessee and is the most active seismic region east of the Rocky Mountains. The conferees encourage cooperative efforts between universities and federal, state, and local emergency management agencies designed to address the potential hazard in this region of the country. In particular, the conferees acknowledge and view favorably the cooperative emergency management/research project presently being considered at Memphis State University.

EMERGENCY FOOD AND SHELTER

The committee of conference is concerned with the distribution formula used in the emergency food and shelter program. It strongly urges FEMA to review the alternatives included in the December 11, 1989, report to Congress and to take such administrative steps as are necessary to implement either one or a combination of alternatives so the program will accurately reflect homeless statistics.

Amendment No. 95: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate transferring all authority including funding and program responsibilities over the National Fire Academy to the U.S. Fire Administration.

Amendment No. 96: Deletes language inserted by the Senate allowing the temporary hire of Federal and military retirees to aid in disaster response.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

Amendment No. 97: Appropriates $1,964,000 for the Office of Consumer Affairs as proposed by the Senate, instead of $1,889,000 as proposed by the House.

INTERAGENCY COUNCIL ON THE HOMELESS

Amendment No. 98: Appropriates $1,083,000 for the Interagency Council on the Homeless as proposed by the Senate, instead of $1,214,000 as proposed by the House.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Amendment No. 99: Inserts language appropriating $6,023,600,000 for research and development, instead of language appropriating $7,027,994,000 as proposed by the House and language appropriating $5,600,000,000 as proposed by the Senate.

The conferees agree to the following changes from the budget request:

—$551,000,000 from the $2,451,000,000 requested for space station.

The committee of conference has included an appropriation of $1,900,000,000 for the space station program. This amount is a reduction of $551,000,000 below the budget request. Included within the amount is $106,300,000—the budget request for the flight telerobotic servicer. The conferees also agree that $10,000,000 is included for solar dynamic power research within the total available for the space station program.

The conferees have recommended this reduction as a direct result of a 302(b) allocation that is nearly $1,000,000,000 in budget outlays less than that requested by the President for the VA, HUD, and Independent Agencies Appropriations bill.

While the committee of conference has reluctantly taken this action—it should not have come as a surprise. The Committees on Appropriations have warned since the outset of this program that future budget constraints would render it virtually impossible to design, test, and build the space station envisioned in 1984. Each year the Committees have found it increasingly difficult to provide sufficient funding to support the then current space station design.

In the past, the Committees on Appropriations have suggested that NASA should examine the possibility of an incremental approach. In short, the space station should be developed in useful phases—beginning with a man tended capability—followed by a manned capability and concluding with a permanently manned space station. The conferees believe that concept or a similar approach should be implemented now—if any station is to survive.

In that context, it is essential that the agency recognize that the budget crisis is only beginning. The five-year budget agreement assumes an annual growth rate in domestic discretionary spending, and therefore in the VA, HUD, and Independent Agencies Appropriations bill, of approximately five to seven percent. That fact suggests that the *maximum* annual growth in NASA's budget cannot exceed eight to 10 percent.

In view of that, the conferees direct NASA to immediately implement a revised space station design and assembly sequence which reflects an incremental approach—and which assumes an outyear growth in the station funding profile of approximately 10 percent per year with a peak year funding level of from $2.5 to $2.6 billion. The conferees believe that this approach is workable and could yield a man-tended capability on orbit as early as flight three or four of the assembly sequence.

The committee of conference directs NASA to make its recommendations within 90 days of the enactment of this bill. It is expected that the new approach be based on an "incremental concept" which permits each phase to be discrete and independent of the next phase. In the interim the conferees have agreed to "cap" the space station program at $640,000,000—or approximately $160,000,000 per month—in accordance with the agreement as outlined in the letter from NASA to the Committees dated August 9, 1984. Should circumstances require, the Committees on Appropriations will give consideration to an extension of time and an increase in the above "cap".

The Committees believe that if the funding profile outlined above is appropriated, the first phase should be devoted to a microgravity function, followed by a life science function and permanent manned capability. However, the committee on conference also expects that each phase be sufficiently independent to achieve on orbit operation of that phase should new funding threats evolve.

The conferees also note that it is doubtful if today's space station design could be supported by the current shuttle launch system. The existing design requires approximately 30 shuttle flights to complete. When utilization flights are factored into the launch schedule, the station may require up to eight flights per year. Recent experience suggests that it is unlikely that the shuttle system will support that or even a lower launch rate that is exclusively dedicated to station. The conferees, therefore, suggest that any rescoping should consider a realistic shuttle launch rate.

Also, as part of the 90-day study, the conferees direct that the essential principles previously committed to the Committees by NASA be retained. In summary these are:

A. A fully equipped U.S. micro-gravity laboratory (consistent with the availability of user payloads) before the launch of any habitat.

B. A requisite number of utilization flights per annum following the launch of the U.S. micro-gravity laboratory (during the man-tended phase).

C. Life science, centrifuge, and related support equipment shall be placed in an area other than the U.S. micro-gravity laboratory (such as a second laboratory, a node, an international partners module, etc.).

D. A total of 75 kw of power (if all phases of the station are developed)—with at least 30 kw of power available to the users and with power and modules added in increments that will ensure that user power will not be seriously degraded.

Finally, the conferees again want to stress that the existent space station design cannot be supported within the context of the fiscal year 1991 and outyear allocations to the VA, HUD, and Independent Agencies Subcommittees. Therefore, it is essential that NASA redirect its efforts to designing a space station that incorporates an early manned capability and can be accommodated within the anticipated outyear funding available in the domestic discretionary spending arena.

—$16,000,000 from the assured crew rescue vehicle.

—$30,000,000 from the $53,900,000 requested for advanced transportation technology. Within the $23,900,000 provided, the conferees agree that $10,500,000 shall be allocated for shuttle "C." The balance is available for the advanced launch systems program.

—$85,400,000 from the orbital maneuvering vehicle (OMV).

—$25,000,000 from life sciences. The conferees agree that within the balance of funds available in this activity, $12,100,000 shall be allocated to the search for extraterrestrial intelligence and $2,000,000 for Lifesat.

—$15,000,000 from the $15,000,000 requested for the Mars Observer mission enhancements supporting the Moon-Mars program.

—$44,000,000 from the $132,000,000 requested for the earth observing system (EOS) polar platform.

—$36,000,000 from the $103,000,000 requested for the Earth Observing System (EOS) to be transferred as an addition of $36,000,000 to a new line in the Earth Sciences and Applications budget, designated for the EOS Data Information System (EOSDIS).

+$36,000,000 for the EOS Data Information System (EOSDIS) as a new line in the Earth Sciences and Application budget.

+$8,000,000 for continued work on requirements definitions for the EOS consortium for international earth science information networks (CIESIN) program.

+$31,000,000 to the $25,000,000 requested for the earth probes, to be allocated in accordance with the Senate report. In connection with the $5,000,000 provided for the sea-wide field sensor (SeaWiFs) the conferees understand that a substantial amount of preliminary work has been done on this project and direct NASA to proceed as expeditiously as possible consistent with sound procurement practices. The conferees also direct that if any additional funds are necessary to proceed with this program, a reprogramming request shall be forwarded to the Committees on Appropriations. The conferees note the inability to provide funds for the Synthetic Aperture Radar. However, the conferees recognize the critical importance of the project to Mission to Planet Earth and encourage NASA to use existing funds to the extent available during FY 1991 for continuing studies and preliminary work on this important program.

+$5,000,000 to the $97,300,000 requested for materials processing.

—$3,000,000 from the $148,000,000 requested for the Comet Rendezvous Asteroid Fly-by (CRAF/Cassini) mission.

+3,000,000 to the $68,000,000 requested for the Ocean Topography Experiment (TOPEX).

+$10,000,000 to the $2,400,000 requested for interdisciplinary research activities.

+$5,000,000 to the $41,300,000 requested for modeling and data analysis to be used to improve the predictive capabilities of general circulation models.

—$11,000,000 from the $46,700,000 requested for the shuttle test of relativity experiment (Gravity Probe B), and Phase B activities on the Orbiting Solar Laboratory (OSL), and the Space Infra-red Telescope Facility (SRITF). In applying the reduction, the conferees direct that priority be given to protecting the funding required for the Gravity Probe B mission.

+$30,000,000 to the $293,900,000 requested for mission operations and data analysis for upgrading of the instruments and related activities of the Hubble Space Telescope project.

+$22,000,000 for continued development costs of the Gamma Ray Observatory (GRO).

−$12,000,000 from the $15,000,000 requested for Space Station Integrated and Attached Payload activities.

−$5,000,000 from the $130,700,000 requested for Space Lab.

−$31,000,000 from engineering and technical base and payload operations and support equipment to be allocated at the agency's discretion.

−$37,000,000 from exploration missions studies. The conferees have deferred consideration of the proposed Space Exploration Initiative (SEI) due to severe budgetary constraints which limit the agency's ability to maintain previously authorized projects and activities. It is implicit in the conduct of the Nation's civil space program that such human exploration of our solar system is inevitable. Although initiation of a focused program is not possible at this time, the conferees recognize that relevant research and technology development activities should be continued by NASA and that preliminary conceptual design studies will be considered if appropriate resources are identified or made available.

−$210,000,000 from Space Research and Technology. This will provide for an appropriation of $285,900,000, the same level as the 1990 amount. The reduction is associated with and should be taken from the increase requested for activities for the Space Exploration Initiative (SEI).

+$5,000,000 to the $50,100,000 requested for academic programs.

+$(2,000,000) for the Advanced Communication Technology Satellite (ACTS) program for user community experimentors.

−$15,000,000 from the $101,000,000 requested for commercial programs. Within the commercial program office, the conferees agree to the following changes:

−$3,000,000 for the construction of the wake shield facility, which has been transferred to the "Construction of Facilities" account.

−$13,625,000 as a general reduction, to be taken at the agency's discretion, subject to the normal reprogramming requirements.

+$1,000,000 to the $3,000,000 requested for the AdaNET program.

−$24,000,000 from the $119,000,000 requested for the National Aerospace Plane (NASP).

−$15,000,000 as a general reduction to be taken at the agency's discretion, subject to the normal reprogramming requirements, from the request of $512,000,000 for Aeronautics and Space Technology.

+$15,000,000 for high performance computing and activities consistent with NASA's role in the Federal high performance computer program.

Finally, the conferees have agreed to a general reduction of $40,000,000 in the Office of Space, Science and Applications. The reduction may be taken at the agency's discretion, subject to the normal reprogramming guidelines, to all science programs not otherwise specified for increases, reductions, or earmarks in this report.

Amendment No. 100: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

For necessary expenses, not otherwise provided for; in support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance and operation of other than administrative aircraft; $6,334,132,000, to remain available until September 30, 1992, of which $1,209,732,000 shall be used only for the purpose of payment, to the Federal Financing Bank, for the Tracking and Data Relay Satellite System (TDRSS) loan: Provided, That such payment shall constitute settlement of all amounts owed on said loan: Provided further, That of the amounts provided herein for development and production of the advanced solid rocket motor (ASRM), $15,000,000 shall be available without fiscal year limitation for the competitive award of a contract to develop either (1) a second domestic source for the development and production of the ASRM carbon/carbon integral throat entrance (ITE) or (2) a second domestic source for the production of the ASRM carbon/carbon ITE unless the Administrator of NASA certifies to the Congress by February 1, 1991, that such application of funds is not in the best interest of the United States space program on the basis of cost, added assurance of reliable supply, expanded technology base, and technical risk reduction.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to the following changes from the budget request:

−$125,000,000 from the $4,420,600,000 requested for shuttle production and operations. The reduction shall be subject to the normal review in the proposed operating plan and the normal reprogramming guidelines.

−$40,000,000 from the $868,000,000 requested for tracking and data acquisition activities.

In addition, the conferees have agreed to accept the Senate bill language, with a technical change, requested by the President in the amount of $1,209,732,000 to eliminate NASA's outstanding debt to the Federal Financing Bank. None of these funds may be used by NASA for any agency programs or activities.

The committee on conference has also included bill language concerning the potential second sourcing of the advanced solid rocket motor carbon/carbon integral throat entrance (ITE).

Amendment No. 101: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following:

and, notwithstanding the limitations on the availability of funds appropriated under this heading by this appropriations Act, an amount of $10,000,000 appropriated hereunder is to remain available without fiscal year limitation and is appropriated for the operation and maintenance of a new visitor center on the Lyndon B. Johnson Space Center to be constructed solely through the use of nonappropriated funds and for the provision of ancillary features such as roads, parking lots, utility services, and exhibits, and without regard to 31 USC 3302, such amount or portions thereof may be invested in securities of the United States Government and the interest earned thereon may be retained and used for the aforesaid purposes, except that these appropriated funds and interest earned thereon shall not be used to construct the new visitor center building nor for the payment, directly and indirectly, of principal or interest on any debt obligation incurred with respect to the new visitor center building, $497,900,000

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to the following changes from the budget request:

−$15,000,000 from the $15,000,000 requested for the Neutral Buoyancy Laboratory for Space Station.

+$20,000,000 for the initiation of deferred rehabilitation and major maintenance activities at NASA's field centers.

+$3,000,000 for construction of the Wake Shield Facility, consistent with prior year construction activity in the commercial program office.

+$4,000,000 for construction associated with the Classroom of the Future software program in Space Science Education.

+$1,000,000 to begin preliminary planning for facilities for the Consortium for International Earth Science Information Networks (CIESIN) in connection with its designation by NASA as an affiliated data archives center.

+$10,000,000 for the purpose of acquiring, operating, and maintaining a new Johnson Space Center visitor center.

−$23,000,000 as a general reduction to be taken at the agency's discretion, subject to the normal reprogramming guidelines.

Amendment No. 102: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

For necessary expenses of research in Government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not otherwise provided for, including uniforms or allowances therefore, as authorized by law (5 USC 5901-5902); awards, lease, hire, maintenance and operation of administrative aircraft; purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; and maintenance and repair of real and personal property, and not in excess of $200,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; $2,219,400,000: Provided, That contracts may be entered into under this appropriation for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: Provided further, That not to exceed $35,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to the following changes from the budget request:

−$2,300,000 and 46 FTEs (full-time equivalents) from the Space Station level II office (Reston).

−$2,000,000 from the $54,056,000 requested for travel.

—$13,780,000 from operation of installations funds designated in the budget for an additional NASA administrative aircraft.

—$21,920,000 as a general reduction, subject to the normal reprogramming requirements. While the conferees have not specifically identified where these reductions should be made, they expect that the overwhelming majority of them will be made in NASA's headquarters operations.

+$6,500,000 for additional health and retirement benefit costs at NASA's field centers.

Amendment No. 103: Appropriates $10,500,000 for the Office of Inspector General as proposed by the House, instead of $11,000,000 as proposed by the Senate.

Amendment No. 104: Changes center heading as proposed by the Senate.

Amendment No. 105: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

During fiscal year 1991, notwithstanding any other provision of law, average employment in the headquarter's offices of the National Aeronautics and Space Administration shall not exceed: (1) 48 staff years for the Office of the Administrator; (2) 184 staff years for the Headquarters Operations; (3) 44 staff years for the Office of Commercial Programs; (4) 10 staff years for the Office of Explorations; (5) 40 staff years for the Office of General Counsel; (6) 189 staff years for Agency Management; (7) 75 staff years for the Office of External Relations; (8) 29 staff years for the Office of Legislative Affairs; (9) 229 staff years for the Office of Space Science and Applications; (10) 144 staff years for the Office of Aeronautics and Space Technology; (11) 482 staff years for the Office of Space Flight, including Level I and Level II activities for the Space Station; (12) 61 staff years for the Office of Space Operations; (13) 111 staff years for the Office of the Comptroller: Provided, That no funds may be used from amounts provided in this or any other Act for details of employees from any organization in the National Aeronautics and Space Administration to any organization included under the budget activity "Research and program management", except those details which involve developmental or critical short-term staffing assignments.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

NATIONAL INSTITUTE OF BUILDING SCIENCES

Amendment No. 106: Appropriates no funds for the National Institute of Building Sciences as proposed by the Senate, instead of $250,000 as proposed by the House.

NATIONAL SCIENCE FOUNDATION

Amendment No. 107: Deletes language proposed by the House and stricken by the Senate in connection with salaries and expense activities and addresses this function in a new account.

Amendment No. 108: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$1,734,200,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are in agreement with the following changes to the budget request:

—$47,000,000 from the $47,000,000 requested for the Laser Interferometer Gravitational Wave Observatory (LIGO).

+$500,000 for LIGO activities within the Mathematics and Physical Sciences Directorate for continued engineering and design work. The conferees direct that none of these or any other funds may be used to initiate a new start for this project.

—$5,500,000 from the $5,500,000 requested for the National Science Foundation's agency relocation. The conferees agree that if the National Science Foundation and the General Services Administration reach an agreement on the NSF relocation issue, the Committees on Appropriations will consider a reprogramming of funds.

—$20,000,000 from academic facilities. This activity is provided for in a separate account.

—$102,500,000 from program development and management. This activity is included in a separate account at the level of $101,000,000.

+$1,200,000 for the experimental program to stimulate competitive research (EPSCoR) program. In connection with this activity, the conferees direct the NSF to expedite as soon as possible the award of the fiscal yar 1991 EPSCoR grants.

—$22,350,000 from programs transferred from the Scientific, Technological International Affairs Directorate to the Education and Human Resources activities account.

+$1,000,000 for advanced planning for a space communications station at the Green Bank, West Virginia Radio Observatory.

—$25,150,000 as a general reduction, to be taken at the agency's discretion, but subject to the normal reprogramming guidelines.

The conferees have included $4,000,000 requested for engineering design studies and the purchase of glass for two new eight meter optical telescopes. The conferees expect that the U.S. share of this project will not exceed $88,000,000—or one-half of the cost of the project as estimated by the NSF. The conferees direct the NSF to obligate fiscal year 1991 funds solely for work on the U.S. eight meter telescope until a firm, fixed, cost-sharing arrangement has been concluded with all foreign partners. If no foreign participation is ultimately agreed to, the cost of a single telescope may not exceed $88,000,000.

Finally, the conferees are concerned that the criteria for selecting major grant or contract recipients at the National Science Foundation are not widely understood. Therefore, the conferees direct the NSF to arrange with the National Academy of Sciences a study by the Academy of the elements weighed by the NSF in awarding research grants and contracts. The conferees ask, in particular, that the Academy assess the role in the decision process of merit review by outside scientists and executive agency staff.

Amendment No. 109: Deletes language proposed by the House and stricken by the Senate concerning salaries and expense functions which are addressed in a new separate account.

Amendment No. 110: Appropriates $20,478,000 for academic research facilities as proposed by the Senate, instead of $20,000,000 as proposed by the House.

Amendment No. 111: Makes a technical change in the availability of academic research facilities funds.

Amendment No. 112; Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Insert language proposed by said amendment, amended to change the second dollar amount to $101,000,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 113: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $322,350,000 as proposed by the Senate instead of $285,000,000 as proposed by the House and changing the title of the Science Education Activities account to the Education and Human Resources Activities account.

The conferees have agreed on the following changes from the budget requst:

+$30,000,000 for teacher preparation and enhancement.

+$6,000,000 for informal science education.

+$4,000,000 for research career development.

+$5,000,000 for science and mathematics education networks.

+$4,000,000 for studies and program assessment.

+$22,350,000 for programs transferred from the Scientific, Technological and International Affairs Directorate.

Amendment No. 114: Appropriates $3,000,000 for the Office of Inspector General as proposed by the House, instead of $2,714,000 as proposed by the Senate.

NEIGHBORHOOD REINVESTMENT CORPORATION

Amendment No. 115: Appropriates $25,554,000 for payment to the Neighborhood Reinvestment Corporation as proposed by the Senate, instead of $24,500,000 as proposed by the House.

TITLE IV—CORPORATIONS

Amendment No. 116: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

$22,000,000,000

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The budget requested an indefinite appropriation to liquidate remaining obligations of the former Federal Savings and Loan Insurance Corporation. The estimated cost at that time was $2,915,744,000. The House provided the requested language. The Senate provided a specific appropriation of $4,398,000,000 which was based on the Administration's best estimate at that time. On October 11, 1990, the House Subcommittee on VA, HUD, and Independent Agencies held a hearing with representatives from the Federal Deposit Insurance Corporation and the Resolution Trust Corporation. The witnesses testified that a definite appropriation of $4,398,000,000 would not be sufficient to cover necessary costs in fiscal year 1991. The Senate based its recommendation on the current best estimate, but that estimate had been revised to approximately $4,800,000,000.

The witnesses also indicated the potential need for additional funds if estimated savings of approximately $2,000,000,000 were to be achieved. The conferees have agreed to an appropriation of $22,000,000,000 for the FSLIC Resolution Fund in fiscal year 1991.

This will permit the payment of basic obligations. In addition, it will provide sufficient funds to permit the prepayment of certain higher interest rate obligations and thus realize a savings of approximately $2,000,000,000.

TITLE V—GENERAL PROVISIONS

Amendment No. 117: Deletes language proposed by the House and stricken by the Senate which denies community development grant funds to municipalities that permit the use of excessive force against non-violent civil rights demonstrators. The conferees have agreed to delete such language as the matter is being addressed in the conference on the housing authorization bill.

Amendment No. 118: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate limiting the number of non-career senior executive service appointees at the Department of Housing and Urban Development.

Amendment No. 119: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

Sec. 517. None of the funds appropriated under title II of this Act, or otherwise available to the Department of Housing and Urban Development, shall be used for first class travel of any Department official or employee unless required by medical necessity or on airplane flights longer than seven hours.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 120: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

Sec. 518. None of the funds appropriated in title I of this Act shall be used to enter into any new lease of real property if the estimated annual rental is more than $300,000, unless the Secretary submits, in writing, a report to the Committees on Appropriations of the Congress and a period of 30 days has expired following the date on which the report is received by the Committees on Appropriations.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have modified the Senate proposal to prohibit the VA from entering into long-term leases that exceed $300,000. The conferees do not wish to restrict the use of leases when it is deemed necessary, but are concerned that at times this method has been used to circumvent the normal construction appropriations process.

Amendment No. 121: Deletes language proposed by the Senate codifying all aspects of the Committees' reports with respect to HUD.

The conferees have deleted a provision, proposed by the Senate, that would have incorporated into the fiscal year 1991 VA, HUD and Independent Agencies Appropriations Act, all report language related to the Department of Housing and Urban Development included in House Report 101-556 and Senate Report 101-474. The Senate reluctantly included this provision after a decision by the Department earlier this year to reverse its longstanding agreement with the Committees on Appropriations to seek prior notification and concurrence on all reprogramming actions involving amounts equal to, or greater than, $250,000.

Since fiscal year 1977, the Senate Committee on Appropriations has included language in the VA, HUD and Independent Agencies Appropriations report that requires agencies, commissions and departments funded through that bill to comply with these guidelines, which also apply to any substantial reorganization of offices, programs or activities prior to the implementation of such reorganizations. These reprogramming guidelines, which have been required by the House Committee on Appropriations as well, have served both the executive and legislative branches well in balancing their respective roles under the Constitution. These guidelines permit federal agencies and departments to retain the maximum executive branch flexibility in administering programs and managing personnel, while permitting the Congress to exercise the oversight responsibilities entrusted to it by the American taxpayer.

In deleting the Senate provision, the conferees note that the letter of October 11, 1990 from the Secretary of Housing and Urban Development to the Committees on Appropriations restates the Department's commitment to fully abide by the Committee's reprogramming guidelines: to obtain the concurrence of the Appropriations Committees before proceeding with any reprogramming action, or before expending funds over the ceilings identified in the conference report for each HUD program. The conferees therefore accept the Secretary's, and the Department's, commitment to comply with these guidelines, and have therefore deleted the far more restrictive and less flexible statutory language proposed by the Senate.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for fiscal year 1991 recommended by the Committee of Conference, with comparisons to the fiscal year 1990 amount, the 1991 budget estimates, and the House and Senate bills for 1991 follow:

	Amount
New budget (obligational authority, fiscal year 1990	Amount $66,318,628,000
Budget estimates of new (obligational) authority, fiscal year 1991	76,177,418,000
House bill, fiscal year 1991	80,659,240,400
Senate bill, fiscal year 1991	78,587,029,400
Conference agreement, fiscal year 1991	78,056,471,400
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1990	+11,737,843,400
Budget estimates of new (obligational) authority, fiscal year 1991	+1,879,053,400
House bill, fiscal year 1991	−2,602,769,000
Senate bill, fiscal year 1991	−530,558,000

BOB TRAXLER,
LOUIS STOKES,
LINDY BOGGS,
ALAN MOLLOHAN,
JIM CHAPMAN,
CHET ATKINS,
JAMIE L. WHITTEN,
BILL GREEN,
LARRY COUGHLIN,
JERRY LEWIS,
SILVIO O. CONTE,
Managers on the Part of the House.

BARBARA A. MIKULSKI,
PAT LEAHY,
J. BENNETT JOHNSTON,
FRANK R. LAUTENBERG,
WYCHE FOWLER, Jr.,
J. ROBERT KERREY,
ROBERT C. BYRD,
JAKE GARN,
ALFONSE M. D'AMATO,
CHUCK GRASSLEY,
DON NICKLES,
PHIL GRAMM,
MARK O. HATFIELD,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DYMALLY (at the request of Mr. GEPHARDT), for Friday, October 19, 1990, on account of medical reason.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LAGOMARSINO) to revise and extend their remarks and include extraneous material:)

Mr. CRANE, for 60 minutes each day, including Sundays, on October 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27.

Mr. DELAY, for 60 minutes each day, including Sundays, on October 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27.

Mr. MCEWEN, for 60 minutes each day, including Sundays, on October 18, 19, 20, 21, 22, 23, and 24.

Mr. HANCOCK, for 60 minutes each day, including Sundays, on October 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27.

Mrs. VUCANOVICH, for 60 minutes each day, including Sundays, on October 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27.

Mr. DORNAN of California, for 60 minutes each day, including Saturdays and Sundays, on October 19, 20, 21, 22, 23, 24, 25, 26, 27, and 28.

(The following Members (at the request of Mr. MAZZOLI) to revise and extend their remarks and include extraneous material:)

Mr. BENNETT, for 5 minutes, today.

Mr. MAZZOLI, for 5 minutes, today.

Mr. TAYLOR, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. DORGAN of North Dakota, for 5 minutes, today.

Mr. WASHINGTON, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LAGOMARSINO) and to include extraneous matter:)

Mr. RHODES in two instances.
Mr. BROOMFIELD.
Mr. SHUSTER.
Mr. HORTON.
Mr. GREEN of New York.
Mr. DORNAN of California in two instances.
Mrs. MORELLA.
Mr. MCCANDLESS.
Mr. MICHEL.
Mr. CONTE.
Mr. SCHULZE.
Mr. BOEHLERT.
Mr. FIELDS.

(The following Members (at the request of Mr. MAZZOLI) and to include extraneous matter:)

Mr. HAMILTON.
Mr. MONTGOMERY.
Mr. STARK.
Mr. HUBBARD in two instances.
Mr. GUARINI.
Mr. UDALL.
Mr. KANJORSKI.
Mr. DINGELL.
Mr. VISCLOSKY in two instances.
Mr. MORRISON of Connecticut.
Mr. DIXON.
Mr. MURTHA.
Ms. KAPTUR.
Mr. HERTEL.
Mr. COLEMAN of Texas.
Mr. RANGEL.
Mr. WILLIAMS.
Mr. HOYER.
Mr. TRAFICANT.

SENATE BILLS, JOINT RESOLUTIONS, AND CONCURRENT RESOLUTIONS REFERRED

Bills, joint resolutions, and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 682. An act to amend chapter 33 of title 18, United States Code, to prohibit the unauthorized use of the names "Visiting Nurse Association", "Visiting Nurse Service", "VNA", or VNS", to the Committee on the Judiciary.

S. 2804. An act to amend the Act of May 15, 1965, authorizing the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 3215. An act to authorize the transfer by lease of a specified naval landing ship dock to the Government of Brazil, to the Committee on Foreign Affairs.

S.J. Res. 154. Joint resolution to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920; to the Committee on Interior and Insular Affairs.

S.J. Res. 356. Joint resolution designating November 4 through 11, 1990, as "National Key Club Week," to the Committee on Post Office and Civil Service.

S. Con. Res. 113. Concurrent resolution expressing the sense of the Congress on international nuclear sales to South Asia; to the Committee on Foreign Affairs.

S. Con. Res. 141. Concurrent resolution expressing the sense of the Congress regarding the deteriorating human rights situation in Kenya; to the Committee on Foreign Affairs.

ADJOURNMENT

Mr. WASHINGTON. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 45 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, October 19, 1990, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4059. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report with respect to the following transaction involving a working capital guarantee to support United States exports to the Republic of Korea, pursuant to section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

4060. A letter from the Assistant General Counsel, Department of Energy, transmitting notice of meetings related to the International Energy Program; to the Committee on Energy and Commerce.

4061. A letter from the Federal Trade Commission, transmitting the 1988 annual report on the current practices and methods of cigarette advertising and promotion, pursuant to 15 U.S.C. 1337 et seq.; to the Committee on Energry and Commerce.

4062. A letter from the Secretary of Energy, transmitting a progress report on the implementation of the strategic petroleum reserve [SPR] test sale currently under way; to the Committee on Energy and Commerce.

4063. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to Switzerland (Transmittal No. 1-91), pursuant to 22 U.S.C. 279a(a); to the Committee on Foreign Affairs.

4064. A letter from the the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army dated April 8, 1987, submitting a report together with accompanying papers and illustrations (H. Doc. 101-250); to the Committee on Public Works and Transportation and ordered to be printed.

4065. A letter from the Secretary of Housing and Urban Development, transmitting the 1989 annual civil rights data report on applicants and beneficiaries of HUD programs; jointly, to the Committee on Banking, Finance and Urban Affairs and the Judiciary.

4066. A letter from the Secretaries of Agriculture and the Interior, transmitting the eight report on the administration of the Wild and free-Roaming Horses and Burros on Public Lands Act, pursuant to 16 U.S.C. 1340; jointly, to the Committee on Interior and Insular Affairs and Merchant Marine and Fisheries.

4067. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to repeal the Federal Employers' Liability Act, to provide for coverage of railroad employees' injury claims under individual State workers' compensation programs, and for other purposes; jointly, to the Committees on the Judiciary and Energy and Commerce.

4068. A letter from the Secretary of Health and Human Services, transmitting a copy of a report entitled "Cost-Effectiveness Demonstration of Medicare Coverage of Influenza Vaccine"; jointly, to the Committees on Ways and Means and Energy and Commerce.

4069. A letter from the Secretary of Energy, transmitting a report of a project entitled, "Arvah B. Hopkins Circulating Fluidized-Bed Repowering Projects," proposed by the city of Tallahassee; jointly, to the Committees on Appropriations; Energy and Commerce; and Science, Space, and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 4333. A bill to establish the Clean Coastal Beaches Council to develop a program for monitoring coastal zone recreation waters; with amendments (Rept. 10-844, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIXON: Committee of Conference. Conference report on H.R. 5311 (Rept. 101-897). Ordered to be printed.

Mr. CONYERS: Committee on Government Operations. H.R. 5645. A bill to amend title 31, United States Code, to reform procedures for closing appropriation accounts, and for other purposes; with amendments (Rept. 101-898, Pt. 1). Ordered to be printed.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5828. A bill to make miscellaneous and technical amendments to the Social Security Act; with an amendment (Rept. 101-899, Pt. 1). Ordered to be printed.

Mr. TRAXLER: Committee of conference. Conference report on H.R. 5158 (Rept. 101-900). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 2647. Referral to the Committee on Ways and Means extended for a period ending not later than October 19, 1990.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolu-

tions were introduced and severally referred as follows:

By Mr. FASCELL (for himself, Mr. BROOMFIELD, Mr. CROCKETT, Mr. LAGOMARSINO, Mr. KOSTMAYER, Mr. GEJDENSON, Mr. FUSTER, Mr. JOHNSON of Florida, Mr. BEREUTER, Mr. Goss and Mr. LEACH of Iowa):

H.R. 5855. A bill to provide for the implementation of the foreign assistance provisions of the Enterprise for the Americas Initiative, and for other purposes; to the Committee on Foreign Affairs.

By Mr. CAMPBELL of California:

H.R. 5856. A bill to provide the President with the authority to maintain the essential domestic services of the Government while a sequestration order is in effect; to the Committee on Government Operations.

By Mr. CRAIG (for himself, Mr. MARLENEE, and Mr. THOMAS of Wyoming):

H.R. 5857. A bill to reimburse cattle owners in Montana, Wyoming, Idaho, and North Dakota and the governments of those States for expenses incurred to test cattle for brucellosis organisms carried outside certain units of the National Park System by elk and bison, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DYSON (for himself, Mr. HOYER, Mrs. BYRON, Mr. CARDIN, Mrs. BENTLEY, Mr. MCMILLEN of Maryland, Mr. MFUME, Mrs. MORELLA, Mr. BATEMAN. Mr. BLILEY, Mr. PAYNE of Virginia, Mr. SLAUGHTER of Virginia, Mr. BOUCHER, Mr. PICKETT, Mr. SISISKY, Mr. OLIN, Mr. PARRIS, Mr. WOLF, Mr. MURPHY, Mr. FOGLIETTA, Mr. WALGREN, Mr. WELDON, Mr. CARPER, and Mr. FAUNTROY):

H.R. 5858. A bill to assist in the restoration of the Chesapeake Bay, and for other purposes; jointly, to the Committees on Public Works and Transportation and Merchant Marine and Fisheries.

By Mr. FORD of Tennessee (for himself, Mr. GORDON, Mr. TOWNS, Mr. WASHINGTON, Mr. MILLER of California, Mr. OWENS of New York, Mrs. COLLINS, Mr. SCHEUER, Mr. EVANS, Mr. MCDERMOTT, Mr. RANGEL, Mr. MURPHY, Mr. BARNARD, Mr. SAVAGE, Mr. FISH, and Ms. LONG):

H.R. 5859. A bill to establish a program to guarantee students from selected high schools a chance to go to college, and for other purposes; to the Committee on Education and Labor.

By Mr. FORD of Tennessee (for himself, Mr. GORDON, Mr. FUSTER, Mr. TOWNS, Mr. HAYES of Illinois, Mr. ESPY, and Mr. FAUNTROY):

H.R. 5860. A bill to authorize up to five States to conduct 2-year demonstration projects to test the effectiveness of alternative methods for delivering services and activities under the Jobs Program to families at risk of entering the AFDC Program, and to amend part A of title IV of the Social Security Act to provide for the permanent use of such alternative methods beginning in fiscal year 1994; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. GUARINI (for himself, Ms. KAPTUR, Mr. JACOBS, Mr. BILBRAY, Mr. FLIPPO, Mr. SMITH of Florida, Mr. BRYANT, Mr. RANGEL, Mr. SAVAGE, Mr. DWYER of New Jersey, Mr. REGULA, Mr. FAUNTROY, Mr. CAMPBELL of Colorado, Mr. HUGHES, Mr. POSHARD, Mr. DYSON, Mr. JENKINS, Mr. PANETTA, Mr. OWENS of New York, Mr. STUDDS, Mr. CROCKETT, Mr. ROE, Mr. ECKART, Mr. WOLPE, Mr. VENTO, Mr. DEFAZIO, Mr. BONIOR, Mr. BATES, Mr. FORD of Tennessee, Mr. KOLTER, Mr. LEHMAN of Florida, Mr. GILLMOR, Mr. FROST, Mr. PALLONE, and Ms. SCHNEIDER):

H.R. 5861. A bill to amend the Federal Election Campaign Act of 1971 to prohibit contributions and expenditures by multicandidate political committees controlled by foreign-owned corporations, and for other purposes; jointly, to the Committees on House Administration and the Judiciary.

By Mr. HORTON:

H.R. 5862. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize funds received by States and units of local government to be expended to acquire laboratory equipment and computer software to improve the quality and accessibility of DNA analyses; and for other purposes; to the Committee on the Judiciary.

By Mr. MCCANDLESS:

H.R. 5863. A bill to provide for leases by the Cahuilla Band of Indians of greater than 25 years in duration; to the Committee on Interior and Insular Affairs.

By Mr. MARTINEZ (for himself and Mr. SIKORSKI):

H.R. 5864. A bill to amend title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967 to improve the effectiveness of administrative review of employment discrimination claims made by Federal employees; and for other purposes; jointly, to the Committees on Education and Labor and Post Office and Civil Service.

By Mr. OWENS of Utah (for himself and Mr. STALLINGS):

H.R. 5865. A bill to amend the Ethics Reform Act of 1989 to delay the 25 percent pay increase for Members of Congress and other officials until the Gramm-Rudman-Hollings deficit reduction target for fiscal year 1992 is met; jointly, to the Committees on Post Office and Civil Service and House Administration.

By Mr. PACKARD (for himself, Mr. MINETA, Mr. HAMMERSCHMIDT, Mr. ROE, Mr. CLINGER, Mr. STANGELAND, Mr. MCEWEN, Mr. EMERSON, Mr. PAYNE of Virginia, Mr. RAHALL, Mr. DE LUGO, Mr. HANCOCK, Mr. COX, Mr. HAYES of Illinois, Mr. HORTON, Mr. MANTON, Mr. OLIN, Mr. BEVILL, Mr. INHOFE, and Mr. COSTELLO):

H.R. 5866. A bill to establish a program for airport system planning in the United States; to the Committee on Public Works and Transportation.

By Mr. REGULA:

H.R. 5867. A bill to require the lowest possible cost resolution with respect to any insured depository institution and the implementation of limits on reimbursement for loss to uninsured portions of deposits; to the Committee on Banking, Finance and Urban Affairs.

By Mr. VISCLOSKY:

H.R. 5868. A bill to authorize the Secretary of Transportation to release the restrictions, requirements, and conditions imposed in connection with the conveyance of certain lands to the city of Gary, IN; to the Committee on Public Works and Transportation.

By Mr. GEPHARDT:

H.J. Res. 676. Joint resolution waiving certain enrollment requirements with respect to any reconciliation bill or continuing resolution for the remainder of the One Hundred First Congress; considered and passed.

By Mr. WHITTEN:

H.J. Res. 677. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes; jointly to the Committees on Appropriations and Ways and Means

By Mr. FORD of Michigan:

H. Res. 515. Resolution authorizing printing of the transcript of the proceedings of the Committee on Education and Labor incident to the presentation of a portrait of the Honorable Augustus F. Hawkins; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. COLEMAN of Texas introduced a bill (H.R. 5869) for the relief of Marcelino Serna, which was referred to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 5: Mr. BROWN of California.
H.R. 70: Mr. GRANDY.
H.R. 517: Mr. SMITH of New Hampshire.
H.R. 1400: Mr. BROWN of Colorado.
H.R. 1693: Mr. TORRES and Mr. WILSON.
H.R. 1730: Mr. MCCANDLESS.
H.R. 1873: Mr. GRANDY.
H.R. 3243: Mr. GRANDY and Mr. BALLENGER.
H.R. 3690: Mr. ENGEL.
H.R. 3768: Mr. PENNY.
H.R. 3855: Mrs. BYRON.
H.R. 4424: Mr. PICKETT.
H.R. 4864: Mr. ENGEL.
H.R. 4865: Mr. ENGEL.
H.R. 4894: Mrs. SAIKI.
H.R. 4958: Mr. CROCKETT.
H.R. 5225: Mr. MARKEY.
H.R. 5290: Mrs. LOWEY of New York.
H.R. 5359: Mr. DELLUMS.
H.R. 5411: Mr. ENGEL.
H.R. 5475: Mr. FAZIO and Mr. ENGEL.
H.R. 5481: Mr. STUDDS and Mr. VISCLOSKY.
H.R. 5531: Mr. JONTZ.
H.R. 5562: Mr. FROST.
H.R. 5565: Mr. RANGEL, Mr. BEILENSON, Mrs. BOXER, Ms. KAPTUR, and Mr. DELLUMS.
H.R. 5569: Mr. HAMMERSCHMIDT, Mr. ANDERSON, and Mr. SPENCE.
H.R. 5585: Mr. NIELSON of Utah.
H.R. 5622: Ms. KAPTUR and Mr. AUCOIN.
H.R. 5734: Mr. MCNULTY, Mrs. BYRON, Mr. SOLOMON, and Mr. HOAGLAND.
H.R. 5806: Ms. KAPTUR, Mr. KILDEE, Ms. ROS-LEHTINEN, Mr. WHEAT, and Mr. FASCELL.
H.J. Res. 667: Mr. TANNER, Mr. SCHIFF, Mr. PICKETT, Mr. WHEAT, Mr. GALLO, Mr. PAYNE of Virginia, Mr. BEREUTER, Mr. EVANS, Mr. SAWYER, Mr. VENTO, Mr. GRAY, Mr. SPENCE, Mr. RHODES, Mr. GREEN, Mr. CARR, Mr. FOGLIETTA, Mr. GRANT, Mr. JONES of Georgia, Ms. SLAUGHTER of New York, Mr. LANTOS, Mr. MORRISON of Washington, Mrs. JOHN-

SON of Connecticut, Mr. WILSON, Mr. DONALD E. LUKENS, Mr. PARKER, Mr. COSTELLO, Mr. SMITH of New Jersey, Mr. MURPHY, Mr. CLARKE, Mr. DAVIS, Mr. BOEHLERT, Mr. MICHEL, Mr. CHANDLER, Mr. HANSEN, Mr. GOODLING, Mr. BAKER, Mr. GEKAS, Mr. KOLTER, Mr. SHUMWAY, Mr. ERDREICH, Mr. HEFLEY, Mr. COLEMAN of Texas, and Mr. NOWAK.

H.J. Res. 671: Mr. HOCHBRUECKNER, Mr. DYMALLY, Mr. SWIFT, Mr. WHEAT, Mr. LEHMAN of California, Mr. PICKETT, Mr. FRANK, and Mr. EVANS.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res. 264: Mrs. MARTIN of Illinois.

PETITIONS, ETC.

Under clause 1 of rule XXII,

250. The SPEAKER presented a petition of the Rock Point Community School, Rock Point, AZ, relative to requesting Congress to exempt elementary and secondary school programs from the proposed 32.4 percent sequestration; which was referred jointly to the Committees on Government Operations and Education and Labor.

EXTENSIONS OF REMARKS

IN MEMORY OF ELEANOR FITZSIMONS

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. GREEN of New York. Mr. Speaker, I rise today to commemorate the memory of Eleanor FitzSimons, a distinguished woman who resided in my congressional district until her death on August 24, 1990.

Eleanor FitzSimons had a résumé filled with accomplishments and achievements, each demonstrating her dedication to public service. Ms. FitzSimons served as vice chairman of the Bowling Green Association, and was on the board of directors of the Citizens Budget Commission, the Talbot Perkins Children's Services Association, The Friends of THIRTEEN, Inc., and the Advertising Women of New York. Among other awards, Eleanor received the Citation for Meritorious Service by the President's Committee on Employment of the Handicapped, and the Distinguished Service Citation by the New York Foreign Press Association.

Secretary of the Treasury Nicholas Brady and his wife paid their respects by issuing a statement in Eleanor's honor which was read by Louis Weintraub, her friend and partner in the public relations firm they founded jointly, at her memorial service. In addition to Eleanor's family, that event was attended by several hundreds of her friends and associates.

At this time, I should like to request that my colleagues join me in honoring Eleanor FitzSimons, a remarkable woman whose memory will linger forever in the hearts of all those who knew her. I should also like to offer my best regards to Eleanor's daughter, Leslie and grandsons, Brandon and Douglas.

TRIBUTE TO LANA JOYCE DUKE

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. HUBBARD. Mr. Speaker, on January 13 of this year my home county—Graves County, KY—lost one of our finest citizens when Lana Joyce Duke died at age 48.

Lana Duke, of Wingo, Route 1, was admired and liked by the many who knew her.

Lana Duke was a proud Kentuckian who was a dedicated Christian, wife, and mother.

Lana Duke was a beautiful, talented, and personable lady whose death was so untimely and so saddening to those of us who continue to miss her.

Lana Duke is survived by her husband, Billy Joe Duke; two sons, Monty Duke of Eureka, MO, and Chet Duke of Wingo; her mother, Lillie Mae Richmond of Wingo; a sister, Linda Nunley of Paducah, KY, and three grandchildren.

Her father, James Richmond, and a brother, James Watts Richmond, preceded her in death.

My wife Carol and I again extend to Lana's family our sympathy.

THE MILOSEVICH'S CELEBRATE GOLDEN WEDDING ANNIVERSARY

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. VISCLOSKY. Mr. Speaker, I rise today to note the 50th wedding anniversary of Fred and Doris Milosevich, longtime residents of the First District of Indiana and a couple that I admire and respect. Married on October 20, 1940, the Milosevich's are an inspiration to their family and friends.

Fred's roots trace back to Hibbing, MN, where he was born and raised. In 1933, the Milosevich family moved to Gary, IN, where Fred completed his education at Emerson High School. Doris Komenich, his future bride, is a native of Gary and graduated from Lew Wallace High School. Fred, being quite an athlete, went on to play minor league baseball for the Chicago White Sox and was well on his way to playing in the major leagues, but instead chose to marry Doris and begin a less tumultuous life together.

Fred and Doris were both employed at United States Steel-Gary Works for a number of years before Fred left to manage his own Standard service station. Today, Fred remains an active member in the Knights of Columbus, CFU Lodge, and the CCU. He also continues his love of sports by golfing all summer and bowling in the winter.

Fred and Doris can be proud that they have a family rich in excellence. Doris' brother, Milo, was an all-American while playing basketball at the University of Wyoming. Doris' nephew, Kim Komenich, received a Pulitzer Prize in 1987 for journalism in news photography. Fred is related to Kevin McHale, an all-star basketball player for the Boston Celtics and his niece, Dr. Judith Murovic, is a practicing neurosurgeon in New York City.

Fred and Doris are fortunate to be blessed with each other. In this era in which divorce rates are high, it is truly special to see this couple reach their golden anniversary. That is why, Mr. Speaker, I know that you and our colleagues will join me in congratulating Fred and Doris Milosevich on this momentous occasion.

COMPLAINT FILED AGAINST PRO-ISRAEL GROUPS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. TRAFICANT. Mr. Speaker, I include this article into the CONGRESSIONAL RECORD.

COMPLAINT FILED AGAINST PRO-ISRAEL GROUPS

WASHINGTON.—A group of prominent Americans is filing a complaint today against 54 pro-Israel lobbying and political action committees charging them with violating federal election laws.

Among the complainants are James E. Akins, formerly ambassador to Saudi Arabia; George Ball, who served as undersecretary of state in the Kennedy and Johnson administrations; Paul Findley, a former Illinois congressman who contends he was defeated in 1982 because of a campaign by the pro-Israeli lobby; and Retired Adm. Robert J. Hanks, who headed the Navy's Middle East Task Force.

The petition to the Federal Election Commission focuses primarily on the activities of an influential pro-Israel lobby called the American Israel Public Affairs Committee. It contends AIPAC violated the law by failing to register as a political action committee even though it allegedly targets political candidates for support and contributes to their campaigns.

The plaintiffs are demanding that AIPAC be forced to register as a PAC bound by laws of disclosure of its activities—a move that would greatly limit its effectiveness as a behind-the-scenes lobbyist.

The plaintiffs have long contended that AIPAC exercises undue influence over legislators and administration officials, skewing U.S. policy in favor of Israel and against Arab states.

"The work of AIPAC is so effective that it creates a broad level of intimidation which is very harmful for our foreign policy interests," Findley said. Excerpts from his 1985 book "They Dare To Speak Out," which chronicles his defeat, are included among the exhibits.

The complaint, supported by more than 100 pages of exhibits, also charges that 53 pro-Israel PACs made excessive contributions to candidates in the 1984, 1986 and 1988 election cycles.

VISIT OF UKRAINIAN OPPOSITION LEADER MYKHAILO HORYN

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. HOYER. Mr. Speaker, Ukrainian opposition leader Mykhailo Horyn visited Washington

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

recently to focus attention on the dramatic developments taking place in Ukraine today. His meetings in Washington were arranged by the Washington office of the Ukrainian National Association and Ukraine 2000—the Washington Committee in Support of Ukraine.

As the Chairman of the Secretariat of the Popular Movement of Ukraine [Rukh], and a member of the Ukrainian Parliament, Mykhailo Horyn has been in the forefront in promoting democratic changes in Ukraine. His role is especially crucial in the context of Ukraine's rapid moves in the direction of independence, as illustrated by the Ukrainian Supreme Soviet's July 16 declaration of sovereignty. This declaration, which passed by a 355-to-4 vote, asserted the supremacy of Ukrainian law over Soviet law, Ukraine's right to its own army, currency and banking system, and declared Ukraine a neutral, nuclear-free state.

Mr. Speaker, Mykhailo Horyn has been no stranger to the Helsinki Commission, which I cochair. During the 12 years in Soviet labor camps until his release in 1987, the Helsinki Commission pressed for his release and for the release of his fellow imprisoned Ukrainian human and national rights activists. A number of these former political prisoners—on whose behalf many of our colleagues in the House also worked tirelessly over the last decade—are now elected representatives in the Ukrainian Parliament and leaders of the democratic opposition.

In view of rapidly changing events in the Soviet Union and the implications this has on United States policy, it is essential that we understand the forces shaping events in its largest non-Russian republic. In that regard, Mr. Speaker, I would like to share with my colleagues a few of the key issues raised by Mr. Horyn during his various Washington meetings as provided to me recently by Ukraine 2000:

SUMMARY OF MYKHAILO HORYN'S COMMENTS DURING WASHINGTON MEETINGS

Over a very short period of time Ukraine has had an extraordinary rebirth of national consciousness * * *. Nevertheless we are experiencing an unusually rapid national rebirth and this national rebirth goes hand in hand with the construction of a Ukrainian national state. We are building a Ukrainian state, and that state will be democratic. Ukrainian society will be a civil society founded upon international law and the principles of individual human rights.

Ukraine's population is very diverse in its composition. Out of a total population of 52 million people, there are 11 million ethnic Russians within Ukraine. There are Poles, Jews, Byelorussians and others. Thus the nationalities policy we pursue will determine our success in cosntructing our nation. We proceed from the basis that individuals from all ethnic groups have equal rights under the law. This democratic principle is fundamental to the beliefs and the approach of Rukh and this is incorporated into the very structure of Rukh * * *.

Every citizen suffers in the aftermath of Chernobyl. The people of Ukraine know what Chernobyl was the result of the imperial policies of Moscow. No one in Ukraine believes that Moscow is capable of protecting them from new Chernobyls. A common line in Ukraine is: "We all, regardless of national background, cultivate the same poisoned land, breathe the same poisoned air, drink the same poisoned water, eat the same poisoned food and, therefore, our future can only be seen in light of the creation of an independent state." The common goal is a democratic nation where the people can express themselves and influence the policies that effect their lives.

The Supreme Soviet of the Ukrainian SSR is our parliament. For the first time ever we have a parliament with opposition. Although the opposition Democratic Bloc's deputies are a minority, since July we have been able to pass three very important laws. They are the Declaration of Sovereignty of Ukraine, The Law on Economic Independence of Ukraine, and the resolution that all Ukrainians serving in the Soviet Army be stationed in the territory of the Ukrainian Republic * * *.

The Democratic Bloc's deputies in the parliament believe in rapid evolutionary change toward an independent Ukraine. With each legislative win we move forward on the road to independence. We have won great victories in the parliament but we face the difficult task of implementation. The ministries still are all controlled by the Party * * *. By taking the evolutionary and parliamentary path, we hope to achieve success along the line of the Czechoslovakian model, and not the Romanian one. We are making every effort to assure that our road to independence will not create economic or social anarchy. Our nationalities policies and our objectives continue to solidify the people behind our efforts. We have sent groups of Democratic deputies to the other republics charging them with the responsibility of negotiating and establishing horizontal economic and trade agreements between our republics, avoiding the vertical controls of Gorbachev and the center * * *.

In July a poll conducted by the National Academy of Science in Moscow surveyed the views of the people of Kiev. Only 2 percent of the population opposed the Declaration of Sovereignty and over 50 percent favored secession.

Churches are being opened and church property returned. Yet, while this is being done there are complications including diferences between the members of the different churches who express claims to the churches their forefathers helped build. The Democratic Bloc believes in separation of Church and State but efforts are underway to mediate differences. Rukh espouses tolerance and believes that acceptable resolutions will be achieved.

What about federalism? Rukh supports an independent Russia but that is different than subscribing to a Russian-based federation. Ukraine must recognize that Russia does not have a democratic history. Rukh and the People's Council must preserve the democratic identity of the people of Ukraine. Losing the identity of the people of Ukraine can not be risked. It is better that we enter the European house where we belong.

Rukh is completely committed to human rights for all of the people of Ukraine. Ukrainians, Russians, Jews, Poles, Byelorussians, are all to share equal protections and freedoms under a democratic civil society. Persecution against anyone is persecution against all.

While the 500 day economic plan may have some elements that could be utilized in Ukraine, it contemplates the continuation of the center and thus runs against the objectives of the center and thus runs against the objectives of Rukh.

Ukraine has declared itself a nuclear weapons free nation. It does not want nuclear weapons on its soil. Ukraine, however, does not want Soviet nuclear weapons to fall into the hands of other nations and must design a plan for their destruction and/or disposal.

TRIBUTE TO THE HOY SUN NING YUNG BENEVOLENT ASSOCIATION

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. GREEN of New York. Mr. Speaker, I should like to take this opportunity to bring to the attention of my colleagues the efforts of the Hoy Sun Ning Yung Benevolent Association, a constituent organization in my congressional district, which is celebrating its 138th anniversary this year.

The Hoy Sun Association was established in 1852, and has been representing Chinese-Americans of Toi-Shan—Hoy Sun—descent in Metropolitan New York since that time. The Toi-Shan descendants were one of the first groups of Chinese immigrants to come to the United States, and have subsequently made tremendous contributions to this country. The anniversary celebration will include the publication of a historical book documenting all of the activities of the organization, with specific attention to Chinese-Americans who have distinguished themselves in the United States.

I should like to congratulate the Hoy Sun Ning Yung Benevolent Association for all of its fine accomplishments and to wish the organization all the best for a successful anniversary celebration.

A TRIBUTE TO FARLAND ROBBINS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. HUBBARD. Mr. Speaker, a longtime friend and neighbor of mine, Ewing Farland Robbins, died at age 78 on June 9 this year at Community Hospital in Mayfield, KY.

Farland Robbins was an outstanding Kentuckian.

When I began a law practice in Mayfield in 1962, one of my first friends was Farland Robbins. He was instrumental in my joining the Mayfield Rotary Club.

It was my honor to date his beautiful daughter, Adelaide Robbins, on several occasions.

Farland robbins was a terrific lawyer and was known for his being always prepared in the courtroom. He would arrive at this office sometimes at mid-morning but many nights the office lights of Farland Robbins were burning late, late upstairs at 127 South Seventh Street in Mayfield.

Farland Robbins successfully practiced law in Mayfield for over 53 years. He and his lovely wife, Elwyn Lyon Robbins, loved to travel. And Farland Robbins' favorite "hobby" was a successful travel agency he owned in

Mayfield, named—appropriately—Far Lands Travel Agency.

A former Graves County attorney first elected in 1945, Farland Robbins was understandably proud when his oldest son, Gayle B. Robbins, was elected Graves County attorney in 1981. Gayle Robbins has served as Graves County attorney from 1982 until now, this being his third 4-year term.

Farland Robbins was awarded the American Bar Association's 50-year award. He was an elder, deacon, and trustee at Mayfield's First Presbyterian Church and served as president of the Mayfield Kiwanis and Rotary Clubs.

He was a graduate of Vanderbilt University and its College of Law and was a World War II Navy veteran.

The last time I visited with my friend Farland Robbins was on May 16 this year here on Capitol Hill. Farland and I enjoyed breakfast together in room G-50 in the Dirksen Senate Office Building. It was the annual congressional breakfast hosted by the Kentucky Association of Electric Cooperatives, which Farland had attended many times. Farland Robbins was for 52 years the attorney/counsel for West Kentucky Rural Electric Cooperative Corp. in Mayfield. He actually drew up the articles of incorporation for his hometown electric cooperative corporation. The first meeting of the board of directors of the Mayfield-based electric cooperative was held in Farland Robbins' law office on April 23, 1938.

After the May 16 breakfast, Michael Alderice, manager of West Kentucky R.E.C.C., and board of directors members Carolyn Wood, Jewell Conner, and Paul Burd joined Farland Robbins and me in walking over from the Dirksen Building to the House steps of the U.S. Capitol for our annual picture-taking and discussion of issues currently before Congress. None of us knew that 24 days later our friend Farland Robbins would no longer be with us.

Survivors of Farland Robbins other than his wife Elwyn, son Gayle, and daughter Adelaide—Mrs. Roger Schoenfeldt of Murray, Ky.—are another talented son, Kent Marshall Robbins, of Hendersonville, TN, a sister, Mrs. Kirk Byrn, Jr., of Mayfield, and six grandchildren.

My wife Carol and I extend to the family of Farland Robbins our sympathy.

GARY REGIONAL AIRPORT TO EXPAND

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. VISCLOSKY. Mr. Speaker, today, I have introduced legislation that will permit further development of the Gary Regional Airport.

The last decade was very hard on northwest Indiana and the city of Gary particularly. The recession in the early 1980's and the dramatic restructing of the steel industry, the region's primary employer, resulted in unemployment rates that were the highest in the State. Thousands of families were forced to move to seek other opportunities.

However, as we enter the new decade, there are indications that we have turned the corner and I am optimistic about the future. In Gary, the airport is one of the cornerstones that can be utilized to revitalize the city and help enhance the economic growth of the entire region. Since being elected to serve in Congress, I have worked with local, State and Federal officials to assist the development of the Gary Regional Airport.

My legislation is necessary to allow the airport to utilize several of its land parcels as part of its efforts to establish a U.S. foreign trade zone at the facility. It was recently brought to my attention that restrictions were placed upon the parcels in the 1940's when they were transferred to the city by the War Assets Administration.

Today, all agree that these restrictions are dated and removing them will improve the ability of the airport to progress. They Gary Regional Airport has made significant strides in recent years and I commend them on their efforts. My legislation will allow the airport to proceed as it prepares to meet the challenges of the 21st century.

ROSTY'S BALLAD OF CAPITAL GAINS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. RANGEL. Mr. Speaker, I rise to pay tribute to my chairman, the Honorable DAN ROSTENKOWSKI of the Committee on Ways and Means. Under his leadership the committee has formulated the crucial revenue provisions of the Democratic alternative budget that has been approved by the House of Representatives. The House may take pride in its action, for the budget is based on long-held principles of fairness and tax progressivity.

While successfully addressing the critical issue of deficit reduction, the Democratic alternative budget is tempered by the realization that the burden of spending cuts must not unduly hurt the poor, and that those who can afford it must pay their fair share. And I might add, where there are opportunities for incentives, this budget successfully spreads the benefits across the income spectrum, rather than limiting them to the rich.

Mr. Speaker, for the benefit of my colleagues, I would like to introduce for the RECORD the following newspaper commentary on the historic budget writing performance by chairman DAN ROSTENKOWSKI. The article was written by Christopher Matthews and appeared in the Washington Times.

BALLAD OF CAPITAL GAINS

Like Gen. Douglas MacArthur at Inchon, Democrat Dan Rostenkowski of Illinois has outflanked President Bush and amputated his supply lines.

The issue is capital-gains taxation. For the first time on record, Mr. Rostenkowski has seized this political prize from the country's financial elite and presented it, gift-wrapped, to the great American middle class.

Consider the deal that the 61-year-old Ways and Means chairman is offering us as the budget standoff reaches its final days!

Under Rosty's plan, included in the House-approved budget bill, every U.S. citizen can sell any item of property—a plot of land, a summer home, a boat, an antique, a vintage car, anything that's increased in value—and get a 50 percent tax cut on the profits.

As you might expect in these times of budget crunch, there's a limit to this bonanza. To ensure that everyone gets a piece of the action and the U.S. Treasury doesn't suffer another leak, Rosty's national garage sale would be limited to $200,000 a taxpayer.

While this $200,000, once-in-a-lifetime opportunity may not arouse much interest in some mahogany-rich boardroom, it's a jackpot to folks who figure their financial future on the kitchen table.

What effect will the Democratic plan have on next month's congressional elections?

A stampede is one possibility, and not in the direction of Mr. Bush's Republicans.

Consider the two parties' relative field positions as the budget story reaches its suspenseful climax. Just two weeks ago, Mr. Bush was the guy pitching a cut in capital gains. He was the fellow on the side of economic growth, the leader pushing tax incentives to stimulate the economy and avert full-scale recession.

Now, hardly two weeks before elections, the debate is totally different. Due to the Ways and Means chairman's maneuver, the question is no longer whether Congress should support Mr. Bush's plan to help the elite but whether Mr. Bush himself should obstruct Mr. Rostenkowski's plan to share the capital-gains windfall among the country's struggling class, those tens of millions in the economic middle.

This puts all the political cards in the opposition's hand. The Democrats, not Mr. Bush, are the folks pushing a cap-gains tax break on the evening of the election. They, not Mr. Bush, are the party of "fairness"—a buzzword which gains new, emergency voltage as more and more sectors of the American economy switch from "on" to "off."

Mr. Rostenkowski's plan isn't perfect. It denies taxpayers credit for inflation, for example, while failing to slap an energy-conserving tax on gasoline. It is the best vehicle the Democrats have rushed to market since New Frontier days.

Rosty's tax plan is also a personal milestone. It is a prime-time argument against moves such as California's Proposition 140 to limit the terms of legislators. Mr. Rostenkowski came to Congress in 1958 as a captain in Chicago's Daley machine. Today, he's a legislative MacArthur.

Anyone who doubts Rosty's tactical success on the capital gains issue should watch the lips and hips of the man he beat.

After spending two years serenading Chamber of Commerce and Rotary luncheons with his high-C call for capital gains, the ex-booster in the Oval Office no longer wants to hear about it.

While Mr. Rostenkowski shows the value of having a grown-up around the house, Mr. Bush is like the little rich kid who, seeing the other side about to score, wants to stop the game and close the government.

"It's my ball," he says, "and I want to go home!"

SOLVE THE BUDGET PROBLEM

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. BURTON of Indiana. Mr. Speaker, the majority of the American people want the budget problem solved, and they want it solved now. I believe that the people want this problem solved in such a way that they won't have to pay a great deal of additional taxes. I believe that they want to see a solution that focuses on spending cuts instead of tax increases on an already overburdened populace.

Mr. Speaker, I have here a letter from the students of Elwood Community High School that demonstrates the concern that the people of the Sixth District of Indiana have about this problem. I think the students of Elwood High School express very well not only the sentiments of the people of the Sixth District, but the sentiments of all Americans. These students and their teachers should be commended.

I insert the text of this letter at this point in the RECORD:

ELWOOD COMMUNITY HIGH SCHOOL,
Elwood, IN, October 18, 1990.

DEAR CONGRESSMAN BURTON: We are members of Mr. Bomholt's economic class at Elwood Community High School. With the help and guidance of Junior Achievement we have formed a student company known as Three B Enterprises. Along with learning how to start and operate a business, our class has also been studying the national government debt and deficit problems.

While the President and the Congress continue to procrastinate and play politics, we would like to express our concern about the tough choices that have to be made in this matter. We must get deficit spending and the debt under control!

Three B Enterprises would like to take this opportunity to illustrate just how concerned we are about all of this. This student operated company would like to take a portion of our after tax profits and make a contribution to the United States Treasury toward the reduction of our national debt. Although this donation is a small token, it represents a very large concern. We hope this action will help to encourage the President and Congress to put politics aside and do what is necessary to put a plan into action to reduce the deficit.

Sincerely yours,

MICHELE STONE,
President, Three B Enterprises.

FOOLING AROUND WITH TAXES

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. FRENZEL. Mr. Speaker, yesterday's New York Times' lead editorial was titled "Fooling Around With Taxes." It was not flattering to the Republican deficit plan, but its denunciation of the Democrat plan was even more vigorous.

The House Democrat tax plan was described as reverberating with ignorance—or cynicism. It was described as "demagogy."

The Times says Congress is "fooling around with taxes." That's the way it looks to the American people, too.

The editorial follows:

FOOLING AROUND WITH TAXES

The House is on the verge of passing a $500 billion deficit reduction package. But it is hard to take the bill seriously. It includes amendments imposing stiff tax increases, aimed at the rich, that are unlikely to pass the Senate and that President Bush is sure to veto.

The principle of taxing the rich more than the poor to pay for deficit reduction might be noble. But the amendments amount to demagogy. They would eliminate an increase in the gas tax, undermining energy conservation. They would postpone correction of the income tax code for inflation, leaving an invisible tax on the middle class. They would lower the capital gains tax for exactly the wrong kinds of investments.

The House plan was well designed to embarrass Republicans into voting against a package weighted in favor of the poor. The Republicans responded with some demagogy of their own, proposing a deficit reduction package that pretended to cut the deficit without raising taxes. Congress owes the country a responsible deficit reduction package. Three days before the deadline for closing down the Government again, the country is still waiting.

Last month's budget summit produced a plan to cut the deficit by $500 billion over five years. But it would have raised taxes on the poorest families three times as much as on the richest. That was the main reason the House rejected the package.

The alternative plan approved last week by the House Ways and Means Committee, similar to one before the Senate Finance Committee, would have increased taxes on gasoline, alcohol, cigarettes and several luxury items. It would also have reduced the total amount of deductions for rich families and expanded tax credits for the working poor. Roughly speaking, it would have affected most income groups proportionately.

The plan voted in the House yesterday drops the tax hike on gasoline and postpones for a year the indexing of tax rates and personal exemptions for inflation. That's a cynical way to hit the middle class with an invisible rather than a visible tax. And it would undo a boost for energy conservation.

The House plan would also raise the tax rate on the highest incomes to 33 percent from 28, and raise the tax on wealthy families that take advantage of enormous amounts of deductions and exemptions. But the Democrats surely know that Mr. Bush would veto any package that raised income taxes unless it also capitulated to his obsessive quest for a capital gains tax cut.

It is precisely on capital gains that the House plan reverberates with ignorance—or cynicism. It would allow individuals $100,000 of capital gains free of income tax over a lifetime—but only on the sale of real estate, farms, businesses and timber, not stocks. The tax code already heavily favors investments in real estate and timber. To direct more precious resources their way is shameless.

The budget clock is still tickling. Congress is still fooling around.

ETHICS IN FOREIGN LOBBYING ACT

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Ms. KAPTUR. Mr. Speaker, every year foreign interests spend millions of dollars to influence the U.S. political process. More and more of this money is spent in U.S. elections by PAC contributions from foreign controlled corporations or trade associations. This system of campaign financing threatens to make our political system vulnerable to the concerns of foreign interests. It is essential that foreign lobbies clearly understand that the Congress of the United States is not for sale. We do not permit foreign citizens to contribute to U.S. campaigns, why should we permit foreign companies or their trade associations.

At the present time, the political contributions data collection system is disjointed and incomplete, providing a veil of secrecy for foreign lobbying. For example, business entities organized under U.S. laws maintaining their principle place of business in the United States, are not classified as foreign principals.

Today, I introduce with Congressman FRANK GUARINI and 33 original cosponsors, the Ethics in Foreign Lobbying Act which has three important components:

First, it establishes a clearinghouse, within the Federal Election Commission, for the collection and disclosure of information regarding the lobbying activities of foreign nationals, foreign controlled corporations, and individuals representing foreign principals.

Second, it amends the Federal Election Campaign Act of 1971 to prohibit contributions from political action committees controlled by corporations that are at least 50 percent owned by persons other than U.S. citizens.

Third, it bans trade associations which derive more than 50 percent of their budgets from foreign-owned corporations from making political contributions.

The Federal Election Commission prohibits contributions from foreign nationals to U.S. political campaigns, but foreign companies and trade associations have been allowed to contribute and influence the campaign process through the establishment of PAC's. In fact, the last election cycle foreign-controlled PAC's contributed $2.7 million. The Ethics in Foreign Lobbying Act will eliminate foreign-controlled PAC contributions and allow Americans to retain our sovereignty in the election process.

Campaign reform must become a reality. Establishing a clearinghouse to monitor foreign lobbying efforts and banning contributions from foreign-controlled corporations and trade associations should be an integral part of that reform. I strongly urge my colleagues to support the Ethics in Foreign Lobbying Act. Attached is a summary of the bill.

ETHICS IN FOREIGN LOBBYING ACT OF 1990

SUMMARY

(1) The Act establishes a clearinghouse of existing lobbying activities information within the Federal Election Commission

(FEC) to facilitate the disclosure of public information regarding the political and lobbying activities of "foreign principals", "foreign agents" (as defined by the Foreign Agents Registration Act), foreign controlled corporations and associations and other persons representing foreign interests.

(2) The Act prohibits contributions and expenditures from political action committees (PACs) controlled by corporations that are at least 50% owned by persons other than U.S. citizens.

The Act requires each multicandidate political committee or separate segregated fund of a corporation to include in the statement of organization of the multicandidate political committee or separate segregated fund a statement of the percentage of ownership interest in the corporation that is controlled by persons other than citizens or nationals of the United States.

(3) The Act prohibits contributions and expenditures from political action committees sponsored by trade associations which derive more than 50% of their operating funds from foreign-owned corporations.

The Act requires each trade associate to include in its statement of organization of the multicandidate political committee or separate segregated fund the percentage of its operating fund that is derived from foreign-owned corporations and foreign nationals.

(4) The Act codifies Federal Election Commission regulations prohibiting election-related activities of foreign nationals.

The clearinghouse shall include and be limited to the following:

a. existing publicly disclosed registrations and quarterly reports required by the Federal Regulation of Lobbying Act

b. existing publicly disclosed registrations and quarterly reports required by the Federal Agents Registration Act

c. the catalog of public hearings, hearing witnesses and witness affiliations as printed in the Congressional Record;

d. existing public information disclosed pursuant to House and Senate rules regarding honoraria, the receipt of gifts, travel, earned and unearned income, post-congressional employment and conflict of interest regulations;

e. existing public information pursuant to the requirements of the Federal Election Campaign Act

f. a director shall administer and manage the responsibilities and all activities of the Clearinghouse

1. the director shall be appointed by the Federal Election Commission and shall serve a term of five years.

2. there shall be authorized such sums as necessary to conduct activities of the clearinghouse.

(5) The duties and responsibilities of the director of the clearinghouse requires him to:

1. Develop a cross-indexed filing system to include all registrations, reports and public disclosures filed under this Act.

2. Make copies available to the public.

3. Compile and summarize for each calendar quarter this information in a manner which facilitates the disclosure of political activities including:

a. all political activities pertaining to each issue before Congress;

b. the total political activities of individuals, organizations, foreign principals, and foreign agents who share an economic, business, or other common interest.

4. Make information available to the public within 30 days after the close of each quarterly period and publish information in the Federal Register.

5. Not later than 150 days after the enactment of this Act and at any time thereafter, to prescribe, in consultation with the Comptroller General of the United States, rules, regulations and forms necessary to carry out the provisions of the Act.

6. Prepare a special study or report from publicly disclosed information relating to the political activities of any person at the request of any Member of the Senate or the House of Representatives.

7. Require accurate, timely and complete transfer of information stated under Section 1 of this Act from the statutorily or otherwise responsible office to the Clearinghouse.

8. Refer to the Comptroller General for investigation any instances where registrations, reports, and political information stated in section 1 of this Act are not forwarded to the clearinghouse in an accurate, timely and complete fashion.

(6) The Act amends the Foreign Agents Registration Act of 1938, as amended.

a. The Act changes the reporting period from 6 months to calendar quarters.

b. The Act amends the attorney exemption clause to require most all registrants and potential registrants to file an affirmative request for exemption.

c. Requires that any person who is determined to have

a. failed to file a registration statement

b. omitted a material fact required to be stated

c. made a false statement

shall be required to pay a civil penalty of not less than $2,000 or more than $5,000 for each violation committed, depending on the nature and duration of the violation, to be determined by the Attorney General.

(2)a. In conducting investigations and hearings, administrative law judges may, if necessary, compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing.

b. In case of refusal to obey a subpoena lawfully issued under this paragraph and, upon application by the Attorney General, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and failure to obey it may be considered contempt of court.

A TIDE OF COCAINE RISES IN PANAMA

HON. FORTNEY (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. STARK. Mr. Speaker, a mere 10 months after Operation Just Cause and the removal of Panamanian dictator Manuel Noriega, apparently little has changed on the reason given for the American invasion: Drug trafficking to feed the insatiable appetite for illicit narcotics in the United States.

An article from the Christian Science Monitor of last week detailed how drug trafficking continues in Panama, "flush with cocaine bound for the United States."

Operation Just Cause was a wash. The problem of Panamanian drug trafficking originates here at home. As Attorney General Richard Thornburgh has stated repeatedly, "if you want to lose the 'war on drugs', leave it just to law enforcement." Interdiction alone will do nothing long-term to help solve this problem. As President Bush said in his first address to Congress, "We will win the 'war on drugs' when we reduce the demand for drugs."

The United States has 5 percent of the world's population, but consumes an estimated 65 percent of the world's cocaine. Demand is driving supply. Period.

The conditions in Panama are shameful, and the root cause of their dilemma begins within our borders. Unfortunately, despite Operation Just Cause, with all its lost lives, bloodshed, and Pentagon expense, little has changed.

The following article is recommended:

[From the Christian Science Monitor]

A TIDE OF COCAINE RISES IN PANAMA—VULNERABLE COAST, NORIEGA LEGACY, LITTLE ANTIDRUG MONEY MAKE COUNTRY A HAVEN FOR TRAFFICKERS

(By Laura Brooks)

Panama is flush with cocaine bound for the United States.

With its sprawling and unguarded coastline, Panama is luring smugglers from neighboring Colombia, where drug lords are on the run. Panamanian officials have seized tons of cocaine in recent months, but say they are only skimming the surface.

"There's still a lot of drugs going through Panama," says Deane Hinton, U.S. Ambassador to Panama. "If you are seizing this much with a . . . small, untrained narcotics force, the conclusion's got to be there's probably a lot that nobody's getting."

When the U.S. invaded Panama last December and arrested Gen. Manuel Noriega on drug charges, it was hailed as a major blow against drug trafficking. Under Noriega's corrupt regime, Panama's drug flow went from a gurgle to a gush. Drug enforcement, meanwhile, was "selective."

"The only drugs captured were from traffickers who didn't pay off [the regime,]" says Rodrigo Arosemena, Panama's customs director.

But with Noriega gone, many hoped Colombia's drug cartels would be shut out. Instead, traffickers appear to be moving in.

Police say it is "likely" the cartels have set up a cocaine factory in Darien, a jungle province bordering Colombia. The U.S. is planning an aerial survey to detect labs and airstrips, U.S. officials say.

Panama's rambling Atlantic and Pacific coasts are a smuggler's dream, with nearly wide-open access. South American smugglers spirit U.S.-bound cocaine by boat to remote Panamanian ports, then through a tangle of smuggling trails. Traffickers rarely run afoul of Panama's tiny Coast Guard fleet: just two fishing skiffs and a patrol boat that guard 1,250 miles of shoreline.

On land, police agens armed with revolvers and Taiwanese rifles raid suspecting drug dens in a low-budget version of Miami Vice.

So far this year agents have seized about four tons of cocaine, one ton more than last year's catch. Last month, police captured a $52 million shipment.

But the rest slips through—by air, sea, and land—to the U.S., Europe and to Panama. "One would presume it's a lot, based on the seizures," a U.S. official says.

Still, some reject the idea that when more cocaine is seized, more cocaine is being shipped.

"There is the sense that the movement is greater," says Ramiro Jarvis, Chief of Panama's 50-man anti-narcotics force. "But I think its based more than anything on police and customs efforts to do a professional job."

Some also say the cocaine pipeline is clogged with old shipments, not fresh arrivals. "There still may be drugs in Panama from the previous government," says Mr. Arosemena. "Maybe because [traffickers] haven't been able to totally get rid of them."

Colombia's year-long crack-down on drug lords has complicated Panama's problems. With Colombian police striking at traffickers, the cartels are seeking relief. Given its lax enforcement and shared border with Colombia, Panama is a natural refuge.

"They think its safer to put [drugs] in Panama, where they know there's a reorganization process, than in Colombia where there's a fight against drug trafficking." Mr. Jarvis says.

Panama's customs service works with police to detect drugs. At airports, drug-sniffing dogs poke at baggage while inspectors spot-check cargo.

Yet, customs and police sometime seem to be battling each other instead of traffickers. Police complain customs has squeezed them out of airports; customs agents say police need to be watched.

Poorly paid government workers still are ripe for smugglers' bribes. "We have a couple of fellows about whom we have some doubt," says Mr. Hinton, referring to unidentified lower- and middle-level officials. "The payoff is so great for badly paid people that they do these things."

The U.S. ambassador praises Panama's cooperation on drug matters, but is also "disturbed" by delays in letting the U.S. Coast Guard start joint sea partols. Panama says the partols may violate its territorial soverignty.

"We've lost a lot of time and a lot of drugs have come in," says Hinton, adding that both sides are close to agreement.

Meanwhile, Washington is pumping half a million dollars into training and equipment for drug agents.

But Panama's economic crisis has pinched drug control funds. Agents need everything from cars to guns and money for informants.

On a recent night raid in Panama City's Predregal neighborhood, police failed to chase a suspected smuggler. Agents had no flashlights to guide them up a dark passage where he fled.

Hinton admits U.S. money may not go very far. "When the allocations were originally made, we thought that maybe [trafficking] wouldn't be as bad as it turned out to be," he says.

BALLISTIC MISSILE DEFENSE IN A CHANGING WORLD

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. DORNAN of California. Mr. Speaker, more and more Members are becoming aware that the policy of assured destruction is anachronistic. This is especially true as more nations join the ballistic missile club and the chemical-biological-terror weapons—the so-called poor man's A-bombs—club.

The days of immoral reliance on mutual assured destruction, aptly referred to as MAD, are gone. This doctrine was premised on the concept of keeping the civilian populations of both the United States and the Soviet Union hostage to the threat of nuclear annihilation. Former Secretary of Defense, Robert Strange McNamara, foisted this doctrine on the U.S. military in the late 1960's and forswore deployment of missile defenses. His only worry was the rationality of the Soviet and Chinese leadership—rationality that offensive stalemate would assuage a crisis before it reached the nuclear threshold. Two decades later the spread of ballistic missile technology and weapons of mass destruction to Third World nations has changed that situation. With the invasion of Kuwait by the madman Saddam Hussein, the likelihood of the United States or its allies being threatened by a third country is no longer a theoretical probability but a problematical reality.

The superpowers can no longer broker a deal among themselves. Instead of only a few leaders with nuclear guns pointed at each other's civilians, there will be nearly two dozen. William Webster, the Director of Central Intelligence, testified that by the turn of the century as many as 20 developing nations will have ballistic missile launch capability. Imagine some of the members of the international community whose judgment and stability are oftimes questionable—Iran, Iraq, Syria, and Libya—with the ability to aim nuclear and/or chemical guns at one another or at the United States and its allies. Rationalism within this diverse group cannot be presumed. The knowledge of assured retaliation did not prevent Iran and Iraq from unleashing chemical weapons and long-range cruise missiles on one another's civilian populations. With pariah regimes, as with terrorists, the end always justify the means.

Mr. Speaker, I would like to share with my colleagues an excellent, succinct and thought-provoking essay by Julie Horn. Ms. Horn discusses the exigency of theater ballistic missile defense as the dynamics of international relations move forward and demonstrates clearly that ballistic missile defense makes more sense than ever before. I urge my colleagues to read this timely article and ponder the implications for our national security.

THEATER MISSILE DEFENSE IN THE CHANGING GEOPOLITICAL ENVIRONMENT

(Iraq launches a military takeover of Kuwait, installs a puppet leadership, promises to leave, and stays. Soldiers detain a number of Western citizens for an undetermined period of time and the world's oil market is threatened. Troops are sent into the 100-plus degree weather in head-to-toe chemical protective suits, fearful that Saddam Hussein will once again choose to use chemical tipped theater ballistic missile weaponry against his opposition.)

Although the threat of an all out nuclear conflict between the Soviet Union and the United States has diminished, smaller scale regional conflicts have the potential for tremendous political and economic disruption with global effects. The recent Persian Gulf crisis brings this clearly into view. The potential for introduction of chemical and unclear warheads into these conflicts is also increasing. In addition to warhead development, many countries have acquired theater-range ballistic missile delivery capabilities, either through purchase or internal development. Perhaps the greatest threat in a regional conflict will be the use of ballistic missiles to strike targets at ranges of 500-2000 km with little or no warning. Advanced layered air defense will be needed to effectively defend from this type of attack. It is likely that an Active Theater Missile Defense (ATMD) would provide the needed top layer to existing air defense systems, enhance deterrence, and defend against military aggression in theaters worldwide.

THE CHANGING GEOPOLITICAL ENVIRONMENT

Changes in the relationship between the two superpowers, the United States and Soviet Union, combined with the rise of new economic and geopolitical powers, is likely to result in a multi-polar world power structure by the early 21st century. National "power" may be measured by combinations of economic, technological, military, and political power that may vary considerably and be subject to frequent change. As a result, alliance structures are likely to become equally changeable, less predictable, and less enduring.

Arms control between the U.S. and the Soviet Union has advanced in recent years with the Intermediate Nuclear Force (INF) Treaty, the ongoing Strategic Arms Reduction (START) talks; and, the Conventional Armed Forces in Europe (CFE) talks. However, verification still pervades arms reduction talks. Measures such as on-site inspections and overhead surveillance improve confidence between participants, but are far from fool-proof. More germane to the theater-level condition is the fact that while these agreements have had some effect on theater-range ballistic missiles, most theater level engagements limited in these arms agreements could be achieved with modernized forces that have not been effected.

Changes in other traditional international relationships are contributing to the situation as well: The face of NATO is changing, but it is unknown at this time what its fate, or affect on Western alliances will be. The United States is facing forced reductions in defense spending while maintaining commitments worldwide. German reunification is affecting alliance East and West, and European Communities 1992 will open up market opportunities in Europe to enable easier international trade and technology transfer.

Outside the superpower arena, meaningful arms control agreements are even less likely to provide a means to reducing military tension, and may become more difficult to obtain as alliance become more subject to change and less defined. In fact, the development of missile technology and warhead capabilities could be viewed as a means for some military-advancing countries to gain access and climb the "world power" ladder. Changing world power structure, and eagerness of some countries to gain access to the world power ladder through military build-up contribute to lessening theater stability worldwide.

MISSILE AND WARHEAD PROLIFERATION

In view of global changes in economies and military power, it is likely that the production and proliferation of ballistic and other theater-level missiles will increase. The Soviet Union has indicated to the West that they are committed to reducing their conventional military forces. Yet they still maintain a strong strategic nuclear force,

even under START. The Soviets have not only continued deployment of MIRVed ICBMs, but have enhanced their strategic posture through deployment of MIRVed SLBMs. And, while the Soviets began eliminating some theater nuclear missiles in 1988, such as the SS-20, that were subject to the INF Treaty, many of the potential theater-level targets can still be covered by modernized ICBMs, SLBMs, and bombers with cruise missles. Weakness in the Soviet economy, further stressed by Eastern European countries' moves toward independence, maintains the likelihood that the Soviets will continue selling ballistic missile techology to lesser powers. The possibility also exists that existing delivery systems or fissile material could be transferred to an emerging power in the event of an uprising or conflict.

Proliferation is not limited to export from the Soviet Union. Western missile technologies which in the past have only been available to the military are becoming increasingly available on the Western commercial market. High quality inertial measurement units, global positioning systems, high capacity computers and booster technologies are easily attainable and will become even more available as trade barriers fall in Europe.

Furthering the proliferation of theater-range ballistic missiles is the increasing number of missile producers and exporters. It is expected that by the year 2000, as least 15 countries will be producing their own ballistic missles. China has sold and transferred ballistic missile technology to countries such as Iran and Saudi Arabia, and is developing a new family of ballistic missiles, starting with the mobile 650-kilometer M-9, with interest from Iran, Libya, Pakistan and Syria. Brazil is developing five ballistic missiles, with the SS-1000 potentially the most destablizing. India has also recently tested two ballistic missiles, including the highly-accurate 2500 kilometer Agni. Roughly 20 countries currently possess ballistic missile capabilities, shown in Figure 1, and a significant number of those are aggressive pursuing a production and export capability.

In the Iran/Iraq War, employment of chemical tipped ballistic missiles effectively ended the war. Over 500 ballistic missiles were fired between the two countries in less than two months beginning in February 1988. While economic factors also contributed to Iran's initiation of the cease fire, Iraq's use of a chemical weapon posed the threat that forced the end of the conflict. Considering the demonstrated effectiveness, availability, and affordability of ballistic missiles, acquisition and advancement of missile technology will likely become more desirable to emerging powers and increases the likelihood of use in regional conflicts.

ADDRESSING THE SITUATION

The threat of military retaliation may no longer be enough to dissuade attack from an emerging power. This approach is only useful if the aggressor is concerned about the effects of retaliation. Reducing the aggressors probability of success may be a greater deterrent than threat of retaliation. Lowering the probability of success can be achieved somewhat in a tactical scenario with mobile offensive forces, but can be maximized with the use of a layered ATMD defense. An area with a deployed ATMD system would be less intimidated and less susceptible to terrorist missile threats and bullying. If deterrence failed, a deployed ATMD system would enhance offensive force survivability and allow an effective response to attack. When mixed with a mobile offensive force an ATMD defense would increase the survivability of retaliatory forces and increase the cost of launching an attack.

THE ANTITHEATER BALLISTIC MISSILE ALTERNATIVE

The increasing risk of theater ballistic missile use in regional conflicts provides the rationale for deployment of ATMD systems worldwide. The formidable array of missiles held by closely situated countries and the increasing likelihood of ballistic missile use in regional "hot spots" increases the need for ATMD deployments. Regions that cannot be adequately defended by an air defense systems alone should be augmented by a transportable and dormant ATMD system.

Currently deployed air defense systems, such as Patriot and Hawk, are not able to defend some critical areas in the "hot spots" that have emerged. An ATMD system would provide defense to the vertical battlespace at extended ranges and higher altitudes.

The vertical battlespace ATMD concept evolves from the convergence of several technologies. While Hawk and Patriot systems provide point defense, advanced interceptor technologies developed for exoatmospheric use will inevitably contribute to the development of cost-effective, producible ATMD systems capable of defending large regions. Advancements in several technological arenas have already taken place:

THIRD WORLD BALLISTIC MISSILES

Country	Missile	Range (km)	Warhead (lbs)	Status
Argentina	Condor I	100	880	In development.
	Condor II	900	1,000	Do.
Brazil	MB/EE-150	150	1,100	In testing.
	SS-300	300	2,200	Do.
	SS-1000	1,200	2,200	R&D.
	MB/EE-350	350	N/A	R&D.
	MB/EE-600	600	N/A	R&D.
Egypt	Frog-7	70	1,000	Used in 1973 Arab-Israel-war.
	Scud-B	300	1,100	Deployed.
	Saqr-80	80	450	Deployed, replacing Frog-7.
	Improved Scud	300	2,200	Production planned.
	Badr 2000	900	1,000	Under development.
India	Prithvi	150–300	1,100–2,200	Test-fired 1988.
	Agni	2,500	2,000	Test-fired 1989.
Iran	Frog-7	70	1,000	Used against Iraq.
	Scud-B	300	1,100	Do.
	Oghab	40	1,660	Do.
	Iran-130	120	N/A	Against Iraq 1988.
Iraq	Frog-7	70	1,000	Used against Iran.
	Scud-B	300	1,100	Do.
	Al-Husayn	600	420	Used against Iran 1988.
	Al-Abbas	900	N/A	Test-fired 1988.
	Condor II	900	1,000	In development.
	Fahd	250–500	1,000	R&D.
	3-stage pocket	1,800	N/A	Test-fired 12/89.
Israel	Lance	110	600	Deployed.
	Jericho I	500	680	Do.
	Jericho II	1,450	N/A	Test-fired 1987.
Libya	Forg-7	70	1,000	Deployed.
	Scud-B	300	1,100	Used against Lampedusa 1986.
	Otrag	490	N/A	In development.
North Korea	Frog-7	70	1,000	Deployed.
	Scud-B	300	1,100	Deployed (Made in N. Korea).
South Korea	Korean SSM	180–250	N/A	Deployed.
Kuwait	Frog-7	70	1,000	Do.
Pakistan	HATF I	80	1,100	Test-fired 1989.
	HATF II	300	1,100	Do.
Saudia-Arabia	CSS-2	2,200	4,500	Deployed.
South Africa	Unknown	N/A	N/A	Test-fired 7/89.
Syria	Frog-7	70	1,000	Used against Israel 1973.
	Scud-B	300	1,100	Deployed.
	SS-21	120	1,000	Do.
Taiwan	Ching Feng	120	N/A	Do.
	Sky Horse	960	N/A	R&D.
North Yemen	SS-21	120	1,100	Deployed.
South Yemen	Frog-7	70	1,000	Do.
	Scud-B	300	1,100	Do.
	SS-21	120	1,000	Do.

Sources: "Congressional Research Service Report for Congress," "Feb. 9, "The Military Balance 1988–1989" of the Int'l Institute for Strategic Studies; "World Military Exports and Arms Transfers 1988" of the U.S. Arms Control and Disarmament Agency; testimony before Congress and 1989 press reports.

Sensors—Production of low-cost infrared focal plane arrays, fast and reliable cyrogenic coolers, faster signal processing, compact and lightweight antenna designs, and high density data fusion have all contributed to improving the effectiveness and cost reduction of infrared and millimeter wave/sensors required to engage ATMD targets.

Materials—Lightweight materials, capable of withstanding high launch loads and extreme aerodynamic heating loads, are developing at a fast pace. Within the next decade, continued advancement in material science and applications across the aerospace community will contribute substantially to the production of ATMD systems.

Miniaturization—Miniaturized electronic systems, such as those used in guidance and control, signal processing, data processing and data fusion systems will continue to mature as the demands from both the commercial and military sectors increase. Miniaturized components for lighter-weight, less expensive ATMD systems are already available, and the rapid pace of development is staggering.

While today's ballistic missile threats are medium range, several countries have longer-range missiles under development. Over the next few years, ballistic missiles with ranges greater than 2,000 kilometers will probably emerge that will increase the need for theater-strategic ballistic missile defense. A layered defense could provide defense against both medium and long range missiles. Sample ballistic missile footprints are shown in Figure 5. A ground-based endoatmospheric interceptor could defend against the short to medium range missiles and an exoatmospheric interceptor could defend against the longer range missiles.

A critical factor in the deployment of an ATMD system is its cost. Low life-cycle cost can be achieved by maximizing automation and mobile dormant deployment. Automation systems from component manufacturing through system operation, is critical to minimal life-cycle cost. Modular components that can be manufactured using automated systems ensure consistency of performance. Similarly, an automated ATMD system can be quickly fielded and readied for operation. A deployed defense could lie dormant for several years with minimal maintenance while operational readiness is maintained. The use of standardized military containers and launch systems would not only enhance mobility, but encourage the use of readily available off-the-shelf components.

CONCLUSIONS

In the quickly changing geopolitical environment, smaller scale regional conflicts are more likely than an all out nuclear exchange between superpowers. The threat of military retaliation may no longer be enough to deter an aggressive attack by an emerging power, and technologies could be utilized that would enhance deterrence and stability. In a time when nuclear and chemical theater missile technology is proliferating quickly, and the likelihood of their use is increasing, ATMD defenses could be deployed with existing air defenses in regions worldwide to enhance deterrence against attack, enhance survivability of offensive forces in the event of attack, and provide defense in an escalated conflict.

ON THE CONGRESSIONAL AND EXECUTIVE PAY RAISE AND DEFICIT REDUCTION

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. OWENS of Utah. Mr. Speaker, lost in the lingo of budget summits and sequestration is the notion that the decisions we make on spending and taxation will affect the lives of every American. And lost in the crisis days of this new fiscal year is the idea that we should each bear the burden equally.

I rise to introduce a bill which will correct the most glaring inequity in the budget reconciliation which recently passed the House, and each of the proposals which preceded it. Lower and middle-income groups bore the brunt of budget summit agreement, and those with gross incomes of more than $200,000 were hard hit by the democratic alternative. The one group that remarkably remained unscathed by an budget proposal are Members of Congress and high officials in the executive branch, precisely those who engineered this budget fiasco.

My bill delays the 25-percent pay raise that Congress voted itself and officials in the executive schedule until deficit reduction gets back on track. If this exercise in budget gridlock is repeated next year and the deficit exceeds the Gramm-Rudman target for 1992, then no pay raise. Period. This not only makes high ranking members of Government responsible for a situation they created, it encourages a more responsible process next year.

Mr. Speaker, the fiscal irresponsibility of the past decade is matched only by the paralysis of Congress in an elected year. According to a DSG study, middle-income families were not better off at the beginning of the decade than at the end. This is true despite the fact that a great many mothers entered the work force to shore up family earnings.

The Congressional Budget Office reports that from 1977 to 1990, real family income grew by $1.2 trillion. But when this figure is corrected for the increase in the number of families, real income growth amounted to only $418 billion; $273 billion of that 65 percent went to that 1 percent families with the highest income in the country. The remaining 35 percent of this family income growth went entirely to families in the top 10 percent. The lower 90 percent of American families got none of the growth. This means that on average, families in the lower 90 percent had less income in 1990 than they had in 1977.

The Democratic budget which passed this House is far more equitable than the one which preceded it. Among other things, it eliminated the income tax bubble, which enabled tax rates to drop from 33 to 28 percent as incomes rose above $260,000. It placed a 10-percent surtax on incomes over $1 million. It provided a 50-percent exclusion for income of up to $420,000 during a taxpayer's lifetime derived from capital gains. It is a step in the right direction.

However, it is appalling that these measures were necessary at all. Since the country first questioned the borrow and spend budgets of past decades, the trick has been to repay loans ahead of schedule, shift Federal paydays from fiscal year to fiscal year, lease instead of buy, and if it costs too much, take it off the ledger.

Even more appalling is the notion that the officers of Government responsible for this fiscal paralysis and ineptitude are getting a pay raise in January. This is unconscionable. I cannot see how Congress and the administration can prescribe pain for the Nation without sharing in the burden.

Unlike the 40 percent of senior citizens who have incomes less than $12,000, those eligible for the congressional pay raise will not feel the bite of increased Medicare premiums and deductibles. Nor will they take much notice of most of the tax provisions which will emerge in a final budget reconciliation.

For the people of my home State, this budget process rightly represents the failure of Government. Plain and simple. A 25-percent pay raise this January is a slap in the face of every American who has watched the paralysis of their elected Representatives in disgust. It adds insult to grievous injury that will get worse long before it gets better.

Mr. Speaker, this bill is a pay cut. It revokes the pay raise Congress provided itself in January, yet it maintains the ban on honoraria, limitations on outside earned income, and other important ethics reform provisions.

This bill adds our names to the long list of Americans who must pay the price for the spending spree of the last decade. I strongly urge your support.

COMPENSATION FOR VICTIMS OF OCCUPATIONAL DISEASE

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. WILLIAMS. Mr. Speaker, we have been grappling in this body for many years with the economic disaster that befalls workers in our society who have fallen victim to diseases from exposure to toxic substances and processes in the workplace. The record of the Committee on Education and Labor is replete with evidence of the failure of our State workers' compensation systems to deal with occupational illness, and for more than two decades the Congress has explored initiatives to assist the victims of our industrial process. These efforts have included proposals to reform the workers' compensation system and my own proposal of 1985 to provide a Federal occupational disease compensation program. In the last Congress, the House passed, the High Risk Notification Act to attempt to provide assistance and medical surveillance to populations of workers who had been exposed to toxic substances and processes. Our major success has been limited to the now

20-year-old program to assist victims of coal mines in the black lung benefits program.

Every bit as horrible as the situation with coal miners' pneumoconiosis, is the scourge of asbestos related disease. In the last 15 years we have witnessed an enormous increase in the numbers of individuals afflicted with asbestos related disease, including thousands of deaths from cancer and respiratory illnesses. The estimates are that more than 18 million American workers suffered exposure to this deadly substance before, during and after World War II in industry and shipbuilding, and millions more in construction. While asbestos as a building product has been banned in this country for more than 15 years, there still will be more victims from those who are now dealing with the difficult process of removing the already installed asbestos, as well as those working in areas where they are exposed to damaged asbestos.

Hundreds of thousands of these workers have already suffered the consequences of the exposure to this deadly substance, and we know that in the next 20 to 25 years we will see hundreds of thousands of additional victims. As with many other occupational exposures, asbestos takes a long time to do its damage—20 to 40 years after exposure in many cases.

The cost of a lengthy disease and disability—and ultimately of death—to the workers and their families is crippling. Private costs for a worker who develops an asbestos-related disease is well over $100,000, and the medical costs for many of the cancer victims is substantially higher. The long latency of the disease, the difficulties with statutes of limitations, proof of causation and other barriers, as well as the pitifully low benefits of many State systems, has made the workers' compensation system largely ineffective in dealing with the consequences of this industrial disaster.

The now well documented record of the deadly nature of exposure to asbestos and the inability of asbestos victims to receive assistance from the compensation system has led to the filing of claims against manufacturers for restitution.

We are now confronted with a judicial, financial, and social problem of incredible dimensions because neither the administrative nor judicial systems are capable of handling the volume of pending and prospective claims, nor are some of the product manufacturers likely able to financially handle the present and future claims for compensation at a level that will assure fair benefits for the victims. A brief review of the current situation with the personal injury claims process is in order.

The thousands of claims against Johns-Manville led to its filing for bankruptcy in 1982 and the subsequent creation in 1986 of the Manville Trust to provide compensation for the existing and future asbestos victims. This Trust was to provide approximately $2.5 billion to claimants over a 25-year period. However, the Manville Trust has returned to court to declare it has run out of money. Having spent $974 million to settle the first 22,386 asbestos claims, the trust is now without adequate funds to compensate the remaining claims, estimated at well over 100,000, thus demonstrating that this extraordinary effort to assist the Manville Corp. meet its obligations to asbestos victims while remaining a viable business has failed. Not incidentally, of the $974 million that Manville has spent so far, $389 million or 40 percent has been spent on attorneys' fees.

Yet, Manville victims may soon be forced to take smaller settlements on their claims. The average settlement against the world's former largest asbestos manufacturer under the trust was approximately $40,000. Even with a new infusion of over a half billion dollars, the trust will now likely have to pay less per claim, or prioritize claims, in order to pay even a fraction of the pending suits. This does not seem to me a fulfillment of the victims needs promised by the initial Manville bankruptcy reorganization plan.

Over and apart from Manville, in the last 5 years the United States has witnessed a true epidemic of asbestos litigation as the disease has struck more and more victims. Yet, many workers exposed to asbestos have seen little in the way of relief because the more than 100,000 claims filed in the Federal and State courts have created a nightmare for our judicial system that has found itself unable to handle the crush of cases under the present tort system. The litigation explosion has created problems for the Federal and State court systems of this country. This legal logjam that has effectively blocked the resolution of nearly 100,000 asbestos-related personal-injury cases has not escaped the notice of judges and legal scholars. Various methods of handling the crush of cases have been tried during recent years, including extensive use of special masters, mass settlement procedures, expedited calendars, and various other devices. All appear to have largely been unsuccessful. This summer matters appear to have come to a head with respect to the cases pending in the courts.

During July and August of this year, a group of 10 Federal judges created an ad hoc national coordinating committee to deal with those asbestos cases pending in the Federal courts through a multicourt cooperative effort.

On August 10, 1990, these judges approved an order which attempted to consolidate asbestos cases pending in different district courts, and certify them as national class actions in which the court would apply and declare Federal common law. The written findings that accompanied the judges' order are noteworthy:

Many districts are highly impacted with this litigation, and the various case management techniques utilized by the federal courts over the last ten years have proved to be ineffective. The transaction costs are unacceptable. Thousands of claimants die before they can get their cases resolved. Trials have become repetitive, with the same issues and the same products being litigated time after time. The asbestos litigation has become the classic example of civil cases that cost too much and take too long.

However, some legal experts questioned whether an informal group of judges had the authority to take such action—particularly in combining Federal court cases with those filed in State courts and then only applying Federal common law. The judicial action was challenged in the U.S. Court of Appeals for the Sixth Circuit, which reversed part of the plan stating that it was "unable to find any congressional authority for an ad hoc national coordinating committee to issue orders as an article III court."

This action of the court of appeals was not the final word however.

On September 27, 1990, Chief Justice William Rehnquist appointed a six judge Ad Hoc Committee on Asbestos Litigation of the U.S. Judicial conference to address the complex issues involved with asbestos litigation. Consequently, the situation in the Federal judiciary remains in turmoil. The recent experience with agent orange and the Dalkon Shield give us a realistic sense of the likely results—years of motions and appeals challenging these efforts; more delay for asbestos victims.

Injured asbestos workers will bear the brunt of this delay, for although they are the plaintiffs in these suits, they are the true victims of the current state of asbestos litigation. These plaintiffs already face enormous delays in receiving compensation. Frequently, injured workers die before their suits reach trial or are settled. Many leave widows and dependent families who suffer true economic hardships before the extended process of disability or death claims are completed by settlement or verdict. Under the current Manville plan, many claimants will not receive payment for another 20 years from now, having had their last exposure to asbestos 25 years ago—almost a half century delay. Right now no Manville Trust payments are being made and settlements may have to be suspended soon. It will likely take at least 2 years for payments to resume even on claims already settled.

Moreover, legal fees are consuming huge amounts of any awards that plaintiffs do receive because these claims must be processed in an adversary proceeding. Most plaintiffs' attorneys in asbestos cases take one-third of their clients ultimate awards. Studies, like one done by the Rand Corp., indicate that as much as 65 percent of the total awards intended for asbestos victims goes to transactions costs, which in plain English means fees to plaintiffs' lawyers, defense lawyers, experts, and administrative personnel.

Injured asbestos workers who pursue their claims in the civil justice system face other obstacles as well. First, asbestos litigation is spread widely among a large number of Federal and State courts. Accordingly, an asbestos claim is truly a role of the dice—plaintiffs in different jurisdictions receive often vastly differing awards. Second, because of strict rules governing the statute of limitations in most jurisdictions, many exposed workers have no choice but to file lawsuits simply to preserve their claims, even though they have no manifest signs of disease, or impairment. These suits, prematurely compelled by the perverse incentives of State limitations statutes, compound the crowding in the courts, thus further delaying compensation to plaintiffs who are seriously ill.

There is also the question of where the money will come from to compensate these victims. Asbestos litigation is taxing the resources of the companies that must pay claims or defend against these suits, thus far costing asbestos defendants several billion dollars. Under some estimations of average tort claim payments extrapolated to hundreds

of thousands of future claims, would total additional tens of billions of dollars. Other companies besides Manville have sought protection of the bankruptcy courts as a result of their liability to asbestos victims. Documented evidence of asbestos manufacturers' culpability led to thousands of claims for punitive damages, thereby increasing the costs of litigation substantially. Some of these companies have made efforts to deal with this problem creatively, attempting everything from establishing claims facilities, attempting alternative dispute resolution, and in some cases wholesale corporate reorganization. It is clear that these efforts are simply not sufficient, nor are they all appropriate.

I believe that we have a dilemma in dealing with industry's liability and responsibility for this social disaster. Clearly some of these companies are responsible for the terrible suffering of these asbestos victims and their families; it is unclear to that economic destruction of these businesses will serve anyone's interests. Particularly in this period of economic downturn, we must find a comprehensive solution to the asbestos problem in order to help American companies move forward, thereby protecting their current employees from losing their jobs, while at the same time providing just and timely restitution to victims of asbestos disease. What form that resolution will take is not clear at this time. That the manufacturers will have the resources to bear the entire cost of compensating victims seems unlikely to me. What other sources can be brought to bear, including some level of Federal contribution or employer funding, is still to be explored.

During the years, Congress has attempted to resolve the asbestos compensation problem without success. In the 1980's the Subcommittee on Labor Standards held numerous hearings on the problem in an attempt to build the record for congressional intervention. In 1985, I introduced the Federal Occupational Disease Compensation Act, and in concert with the subcommittee chairman. Mr. MURPHY, engaged in an extensive effort with representatives of industry and labor to reach a legislated solution that would deal with asbestos as well as victims of other toxic exposures. We were not successful in that effort, but I believe that we were successful in identifying the issues of benefit levels, funding sources, administrative procedures and medical standards that are the framework for many of the subsequent discussions about alternative ways of handling the compensation problems for asbestos victims.

Earlier this year, the Congress established a radiation exposure compensation trust fund for individuals who lived in affected areas of Nevada, Utah, and Arizona, as well as uranimum miners whose health was put at risk while serving our national security interests.

By establishing this fund, the Congress remedied the inequity of sovereign immunity when it comes to people who have been harmed as result of action by the U.S. Government. This principle might be extended in parallel fashion to the asbestos workers who worked in Government shipyards during World War II when the United States took over both the asbestos industry and the shipyards. These workers also had their health put at risk to serve our national security interests.

An April 1988 GAO report No. HRD 88-53 cited that by the end of fiscal year 1987 there were 2,901 cases with 91,186 claimants and $13.6 billion in claims against the U.S. Government. An earlier GAO report No. GGD 85-80 cited that by the end of fiscal year 1984 there were 2,744 cases with 88,726 claimants and $25.4 billion in claims against the U.S. Government. When the Manville claims were dismissed in August 1987, the dollar volume of these claims dropped by 46 percent, a percentage similar to their share of the asbestos industry.

In the 99th Congress, I introduced H.R. 3090 to provide for the compensation of individuals who are disabled as a result of occupational exposure to toxic substances and to regularize the fair, adequate, and equitable compensation of certain occupational disease victims. This legislation also recognized the equity of and neec for a Federal contribution to the fund established in this legislation to compensation workers who also served our national security interests during World War II.

I have followed with interest the efforts of the Committee for Equitable Compensation [CEC], a group of former manufacturers of asbestos and asbestos containing products that has spent 3 years of effort to develop a comprehensive administrative system to compensate asbestos victims. The CEC has consulted with the labor movement and with other representatives of the individuals who have contracted asbestos-related diseases. Other efforts to create an alternative to the present litigation-based claims may also be under discussion. It is encouraging that progress toward a consensus on the elements of a comprehensive solution to the asbestos problem may be possible. We should also recognize that asbestos, while clearly the most significant of toxic substances, is not the only substance that has crippled workers. Whatever the comprehensive solution, it will likely be a model of how to deal with the ever growing number of victims of occupational disease in our industrial world.

It is also clear that Congress must take a more aggressive interest in the various activities now underway to deal with the problems of asbestos victims. The continued breakdown of the asbestos litigation process in the courts confirms my judgment that a comprehensive solution to the asbestos problem is required, and it is not clear to me that the courts will be able to resolve this situation without congressional assistance of some kind.

Mr. Speaker, we need to seize this momentum, and give the highest priority to the asbestos issue in the new year. A real opportunity exists for action that will avoid the disaster toward which we are now heading—a paralyzed judicial system, thousands of victims without compensation for years, and an ongoing threat to the viable manufacturing enterprises that must continue to generate income for compensating victims, as well as a real opportunity to provide jobs and to boost American competitiveness in the world.

THE ABA AND ASSAULT WEAPONS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. DINGELL. Mr. Speaker, in the May 1990 issue of the American Bar Association Journal, ABA President L. Stanley Chauvin, Jr., wrote an editorial entitled, "Time to Assault Weapons," in which he states without qualification that, "* * * the sole purpose for the supply and demand for these [assault] weapons is the destruction of human life." Mr. Chauvin also asserts that the second amendment to the U.S. Constitution does not protect the individual right to keep and bear arms. Unfortunately, Mr. Chauvin, in the text of his editorial, exhibits a limited knowledge of what a so-called assault weapon actually is, and how the second amendment has been, or should be, interpreted.

A Fairfax, VA, attorney, George S. Knight, who is a recognized expert on firearms and the history of regulating firearms, responded to the article with a letter in June to the editor expressing sound criticism of Mr. Chauvin's use of data and general line-of-reasoning. Regrettably, the American Bar Association Journal refused to print his letter—which I believe raises pertinent and well-reasoned criticisms of Mr. Chauvin's editorial.

Since the content of the ABA Journal article—and particularly Mr. Knight's letter to the editor—are relevant to debate on legislation to be considered by this body, I insert the materials for the edification of my colleagues.

The article and letter follow.

ALEXANDRIA, VA, *June 7, 1990.*

The Editor of the American Bar Association Journal.

DEAR SIR: The "message" re: assault weapons of the President of the ABA L.S. Chauvin in the May 1990 Journal only serves to show that he sadly failed to do his homework on the meaning of the second amendment to the Constitution which reads as follows:

"A well-regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed."

First of all, the president says federal laws on guns did not exist until the 1930's. While not too important, actually the first federal laws were in 1927 on the mailing of handguns.

Secondly, he concludes that the second amendment, "* * * does not confer an individual right" since it refers only to the militia. A directly opposite conclusion is taken in a report of the Subcommittee on the Constitution of the Committee on the Judiciary United States Senate, 97th Congress, page 11, after considering U.S. v. Miller (307 U.S. 177) and states "the second amendment right to keep and bear arms therefore, is a right of the individual citizen to privately possess and carry in a peaceful manner firearms and similar arms." (See also Handbook, "That Every Man be Armed the Evolution for Constitutional Right", p. 155 et seq and Hardy "Origins and Development of the Second Amendment", page 90 et seq. See also Kopel writing for Cato Policy No. 109 of July 11, 1988 entitled "Trust the

People: The Case Against Gun Control". The last three citations, after much scholarly research by the authors, refute the conclusion that the second amendment only applies to the militia and emphatically state that the language confers an individual right on all citizens.

Thirdly, it is interesting to note the terminology used by Pres. Chauvin. He refers to "these people killing weapons * * *" (Here goes the anti-gunner blaming the intangible pieces of metal making up a gun.) The Florida legislature recently convened a commission to assess the extent of the problem, if any, of semi-automatic firearms.

"Survey results for 1989 confirmed what firearms owners nationwide already know—that there is no dramatic increase in the degree of involvement of semi-automatic firearms in crime. Instead, only 17 of the listed firearms were found in 1989, out of more than 7,552 reported crimes involving firearms. This meager 0.9225% is hardly the 'alarming' number that the anti-gun crowd has proclaimed." (American Hunter magazine 1990, page 48)

Referring again to the Senate subcommittee report of the Judiciary (supra) page 7, the following observation on the second amendment taken from William Rawles "View of the Constitution" published in 1825, states:

"The prohibition is general. No clause in the Constitution could by a rule of construction be conceived to give to Congress a power to disarm the people. Such a flagitious attempt could only be made under some general pretense by state legislature. But if in blind pursuit of inordinate power, either should attempt it, this amendment may be appealed to as a restraint on both."

Rawles was a contemporary of the Constitution's drafters and corresponded with Thomas Jefferson who shared the same ideas. (idem)

Lastly, Mr. Chauvin states that "as lawyers, we must counteract the propaganda and disinformation that is being used by the gun lobby based on the second amendment." In all respect to Mr. Chauvin, I leave it to the reader as to who is spreading "propaganda and disinformation."

These shoot-from-the-hips inaccuracies of President Chauvin only reflect a long standing position of the officers of the ABA and is the main reason why I along with numerous friends gave up membership in the association.

The timing of this ABA writing coincides (good planning) with a big push in Congress to enact restrictive gun legislation of the type espoused by President Chauvin. One could well conclude that the gun grabbers are acting in concert with the ABA to emasculate the second amendment.

I would like to give the ABAJ a first amendment challenge to publish my documented views in opposition to your learned president.

Kindest regards.

GEORGE S. KNIGHT,
Attorney at Law.

TIME TO ASSAULT ASSAULT WEAPONS

(By L. Stanley Chauvin, Jr.

The time has long since come to regulate the manufacture, sale and use of assault weapons. We must face the fact that the sole purpose for the supply and demand for these weapons is the destruction of human life.

Why these weapons have stayed with us this long can only be attributed to blind acceptance of a Second Amendment rationale that has no basis. Those opposing regulation of assault weapons commonly wave as their banner the language of the Second Amendment:

A well-regulated Militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

Actually, federal laws on guns did not exist until the 1930s. Before then, however, the U.S. Supreme Court had several occasions to review state regulation of firearms in the context of the Second Amendment. A review of these cases reveals the courts have uniformly held that the Second Amendment relates merely, solely, totally and only to the unhampered regulation of a state militia [1] It does not confer an individual right.

If the framers of the Constitution had intended the arms language to be a personal right, we might rhetorically ask why they did not list it with the others in the First Amendment. the answer is simple: The framers did not want it there, and did not intend for it to be there.

In 1968, Congress enacted the Gun Control Act requiring that imported firearms be suitable for "sporting purposes." Then, the weapon of choice for criminals was the "Saturday Night Special." Today, it is the assault weapon. Last year the Bureau of Alcohol, Tobacco and Firearms (ATF) banned 43 types of imported semi-automatic assault rifles because they had no generally recognized sporting purpose.

This was a step in the right direction, but not enough. The ban on assault rifles excluded automatic pistols, which are now commonplace crime weapons. These pistols represent a loophole in the law.

There is another loophole. The domestic manufacturing and sale of assault rifles has not been regulated. These people-killing weapons are easier to buy in some places than it is to get a driver's license or a marriage certificate.

We know that an assault gun is 20 times more likely to be used in crime than a conventional firearm. We know that as recently as two years ago, the use of assault weapons in crime jumped 78 percent, and, sadly enough, "we know that two-thirds of assault guns traced to crime are produced domestically.

Drug sweeps in Mexico, the Philippines, Jamaica, South and Central America have turned up weapons originally purchased in the United States. Last year an ATF study found that 87 percent of the weapons seized from drug traffickers in Colombia over an 18-month period were U.S.-made. In addition, the number of semi-automatic weapons traced to criminal activity in the United States increased by 57 percent between 1986 and 1987.

At the federal level today we have important opportunities to improve the assault weapon situation. Two bills, H.R. 1190 and S. 747, the Anti-Drug, Assault Weapons Limitation Act, would ban the future manufacture and importation of the most commonly used semi-automatic assault weapons. Current owners would keep their guns. The legislation would apply only to specifically named semi-automatic assault weapons, which comprise only a tiny fraction of all firearms currently in circulation. Both bills exclude hunting firearms.

Another bill, H.R. 2225, would ban the possession, sale and export of any U.S.-made semi-automatic weapon that has no "sporting purpose" as determined by ATF. H.R. 2225 also would provide mandatory minimum prison sentences for use of assault weapons in commission of a crime.

I have remarked to friends from Wisconsin to Louisiana, let's face it, if the hunter uses an Uzi to kill a rabbit, you have to feel for the rabbit.

Reasonable regulation of firearms is both constitutionally permissible and increasingly necessary so that other fundamental, constitutional rights may be enjoyed.

As lawyers, we must counteract the propaganda and disinformation that is being used by the gun lobby based on the Second Amendment. And we need to do it now.

Today, not tomorrow, we must insist on a correct reading of the Second Amendment. Today, not tomorrow, we must demand reasonable laws on assault weapons for the safety of us all.

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[1] (See United States v. Crukshank, 92 U.S. 542, 553 [1885[Presser v. Illinois, 116 U.S. 252, 265 [1886[, Miller v. Texas, 153 U.S. 535, 538 [1894], and United States v. Miller, 307 U.S. 174. [1939].)

EUROPEAN CONTRIBUTIONS TO THE GULF CRISIS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues a table from the Department of State which details the military and economic contributions of European States, Japan, and Australia to the international effort in the Gulf following Iraq's August 2, 1990, invasion and occupation of Kuwait. The table also lists countries which continue to maintain embassies open in Kuwait. The list is not exhaustive, as pledges change daily and the Department of State notes that some countries have asked to keep certain contributions confidential. The table is current as of October 11, 1990.

The table follows:

ESTIMATED GULF CONTRIBUTIONS—NATO AND EC

Counry and military assistance	Kuwait Embassy	Economic assistance—Bilateral	EC mn
Belgium: 4 ships	Open	Refugees—6 C–130s	TBD
Canada: 3 ships, CBW gear to Gulf states, 1 CF–18 squadron.	Open	Frontline—$63 mn Refugees—$16 mn.	N/A
Denmark: 1 ship, Lift: 2 ships, free.	Open (no staff).	Refugees—$4.1 mn	TBD
France: 4,400 ground troops, 14 ships, 30 aircraft—Lift: 4 ships, charter.	Open	Refugees—$12 mn and supplies Egypt—$115 mn.	TBD
FRG: 17 ships (E Med), Lift: $256 mn, Material: $640 mn, 60 chem detection vehicles worth $130 mn.	Open	Egypt—$630 mn, Jordan—$130 mn, Turkey—$71 mn.	270
Greece: 1 ship—Lift: 4 ships, charter.	Open (no staff).	None	TBD
Iceland: None	None	Refugees—pending	
Ireland: None	None	Refugees—$127,000	TBD
Italy: 3 ships, 8 Tornados, Lift: $4.3 mn.	Open	Frontline—$160 mn	TBD
Luxembourg: Transits—$3.13 mn for WEU.	None	Egypt—$390,000, Jordan—$392,000, Bangladesh—$314,000, Turkey—$314,000.	1
Netherland: 2 ships, 50,000 CBW suits.	Open	Refugees—$2.8 mn	TBD
Norway: 1 ship (Gulf), 3 ships (E Med), Lift: space, fuel.	Open (no staff).	$22.6 mn	N/A

ESTIMATED GULF CONTRIBUTIONS—NATO AND EC—Continued

Counry and military assistance	Kuwait Embassy	Economic assistance—Bilateral	EC mn
Portugal: 1 ship offered, Lift: 2 ships, charter.	None	Refugees—1 C–130, medical team, supplies, field hospital.	TBD
Spain: 4 ships, airlifted U.S. forces to Turkey.	Open (no staff).	Jordan—$23 mn	TBD
Turkey: Shut off pipeline, increased troop alert posture.	Open (no staff).	Refugees—$300,000 (supplies)—1 C–130. None	N/A
United Kingdom: 15,000 Personnel: ground troops, 12 ships, 54 fighters, plus other aircraft, Lift: 2 ships, free.	Open	Refugees—$6.6 mn	$4.2

ESTIMATED GULF CONTRIBUTIONS—OTHER EUROPEAN

Country and military assistance	Kuwait Embassy	Economic assistance
Albania: None	None	None.
Austria: Overflights	Open (no staff)	Refugees—$1 mn.
Bulgaria: Offered military sapper unit, offered transport.	Open	Offered transport, medical aid to refugees.
Cyprus: Transits, aircraft beddown.	None	None.
Czechoslovakia: Offered Anti–CW medical unit, CW detection equipment (for sale to U.S. and Gulf states).	Open (no staff)	None.
Finland: None	Open (no staff)	Refugees—$5.7 mn.
Hungary: None	Open (no staff)	Airlifted 40 tons of medical supplies to refugees in Jordan.
Poland: Offered 2 ships (1 hospital and 1 support); and 1 field hospital.	Open	None.
Romania: Offered medical aid, water, oil refining, R&R for U.S. troops.	Open (no staff)	None.
Sweden: None	Open (no staff)	Refugees—$17.5 mn. Egypt—pending.
Switzerland: None	Open (no staff)	Refugees—$8.8 mn (primarily Jordan).
U.S.S.R.: None	Open (no staff)	None.
Yugoslavia: None	Open (no staff)	None.
Japan N/A: $2 billion for MNF 1 medical team	Closed	Frontline—$2 billion. Refugees—$22 mn.
Australia: 3 ships, 2 medical teams.	None	Refugees—$1.6 mn

REGARDING SYNAR AMENDMENT GRAZING FEE AMENDMENT TO H.R. 5769—INTERIOR APPROPRIATIONS FOR FISCAL YEAR 1991

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. RHODES. Mr. Speaker, among the many misrepresentations and misstatement of facts expressed by our colleague, Representative MIKE SYNAR on the floor of the House on October 15, 1990, was a factually incorrect citation of grazing fees charged on State lands in Arizona.

In support of Mr. SYNAR's amendment to increase by 500 percent the grazing fees charged for livestock grazing permits on Federal public lands, Congressman SYNAR said the fee charged for grazing leases on State lands in Arizona is $5.99 per animal unit month [AUM]. That is what has become know as a factoid. A factoid is an assertion, regardless of its truth, that becomes fact simply because is often repeated. Many of Congressman SYNAR's allegations about public land grazing fees are factoids.

I want to insert in the CONGRESSIONAL RECORD, the following October 17, 1990, memorandum from the Arizona State Land Commissioner, Mr. M.J. Hassell, and an October 17, 1990 letter to the Arizona Congressional Delegation from the Arizona Cattlemen's Association. Both documents affirm that the 1990 grazing fee for State lands in Arizona is $1.39 per AUM. The fact is, the highest grazing fee for State lands in Arizona since 1950 was $1.43 per AUM, and that occurred in 1982 and 1989.

I appreciate this opportunity to set the record straight, based on facts rather that factoids.

ARIZONA STATE LAND DEPARTMENT,

MEMORANDUM

Phoenix, AZ, October 17, 1990.

To: Sandy Naughton, Executive Secretary, Arizona Cattlegrowers.
From: M.J. Hassell, Land Commissioner.
Subject: Arizona State Grazing Fees.

According to the information you gave me in our phone conversation of this date, Congressman Synar has stated that the State of Arizona charges $5.99 per animal unit month for grazing leases on State Trust lands. This is emphatically not true. For your information, the last 10 years of grazing fees charged by the State of Arizona are listed below:

1990	$1.3965
1989	1.4345
1988	1.1875
1987	.6555
1986	.7315
1985	1.0450
1984	1.0545
1983	1.0735

ARIZONA CATTLEMEN'S ASSOCIATION,

October 17, 1990.

Memo to: Arizona Congressional Delegation.
From: Sandy Naughton, Executive Vice President.
Subject: Grazing Fee Statement by Congressman Mike Synar (D-Okla).

Through information acquired from the National Cattlemen's Association we are of the understanding that Congressman Mike Synar of Oklahoma made a statement on the floor of the House regarding Western states grazing fees.

According to the Congressional Record of October 15, 1990, Congressman Synar stated "I would direct those Members to look to their own States because as we look at the States and what they charge, as average on their public grazing in their lands, we find" and continues to quote state grazing fees for many of the western states, Congressman Synar states that Arizona pays "$5.99". In all actuality, Arizona's cattle ranchers pay an Arizona State Lands grazing fee of $1.3965 (rounded to $1.40).

To further solidify this I have attached a memo, FAXed to the Arizona Cattle Growers' Association, from Gene Hassel, Director, Arizona State Land Department.

On behalf of the Arizona Cattlemen's Association, I urge you to correct this statement by publically informing your fellow members of Congress of the facts.

Thank you for your consideration of our request and if you need further information on this please contact me immediately.

GENERAL MIGUEL MAZA MARQUEZ, A HERO IN COLOMBIA'S WAR ON DRUGS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. BROOMFIELD. Mr. Speaker, there will never be victory in the war on drugs unless there are brave soldiers to carry out that battle. In the bloody war against drug trafficking in Colombia, Gen. Miguel Maza Marquez is a hero in their historic struggle against the drug lords and the narcoterrorism that they have been conducting in that country.

In the past few years, thousands of Colombians have died in drug related violence. In their campaign against the Colombian Government's strong counternarcotics policy, the drug cartels and their hired guns have murdered soldiers, policemen, government officials, journalists and ordinary citizens. In the past year alone, over 500 Colombians have been killed in the terrible drug-related violence in that country.

General Maza is leading the charge against the Colombian drug trafficking organizations and can take credit for many of the successes against those groups. Already, the Medellin cartel has been badly weakened by the disruption of its distribution networks. Many of its leaders have been killed or jailed. As the Cali cartel began to take over some of the Medellin cartel's drug trade, a bloody feud erupted between the two groups.

The General has paid a high price for his relentless pursuit of Pablo Escobar, the leader of the Medellin cartel, and his energetic commitment to the war on drugs. He has survived numerous assassination attempts, including a cartel-backed dynamite attack on his office building last year that left 65 people dead and 600 wounded.

Despite continuing threats, General Maza continues his struggle to rid Colombia of some of the world's most infamous drug cartels. I salute this braveman for his commitment and for his successes. While he and his fellow Colombians are paying a high price in the bloody war against the traffickers, we in America must do our part by ending our demand for cocaine and other illicit substances.

I recommend the following Wall Street Journal article to my colleagues in the Congress.

[From the Wall Street Journal, Oct. 2, 1990]

IS A TOUGH TARGET—OTHER PASSENGERS FLEE PLANE WHEN THE GENERAL BOARDS; A $1.9 MILLION "CONTRACT"

(By Jose de Cordoba)

BOGOTA, COLOMBIA.—When Gen. Miguel Maza Marquez boarded a flight to his coastal hometown of Santa Marta not long ago, 17 fellow passengers abandoned the airplane and the pilot refused to take off. On a second flight, the flight engineer balked.

The reason for the skittishness: The general is the good guy, head of Colombia's equivalent of the Federal Bureau of Investigation—and No. 1 on the Medellin drug cartel's hit list. Few care to be nearby when somebody tries again to collect the cartel's $1.9 million bounty for killing him; too

many bystanders already have perished in attempts on his life.

"It's traumatizing," says Gen. Maza Marquez, a distant cousin of Nobel Prize winning novelist Gabriel Garcia Marquez. "But it's part of the struggle."

ONE ON ONE

The struggle between Colombia's government and drug lords in some ways has become a personal war between Gen. Maza Marquez and two of the most violent bosses of the cartel.

The general has survived three assassination attempts in the past year and a half. He has outlined one of his chief antagonists, Jose Rodriguez Gacha, a former emerald smuggler known as "the Mexican," who was killed in a police ambush last December. The general's other main foe, Pablo Escobar, the beefy former car thief and hired gun who now leads the cartel, is at large.

Few people doubt that this mano a mano (literally, "hand to hand") is to the death. "Escobar and the Mexican swore that they would finish me off," Gen. Maza Marquez says, pointing through the inchthick bullet-proof window of his fortified office to a debris-filled bomb crater, evidence of one assassination attempt. "But luck has been on my side."

Drug dealers, according to reports the general says he has received, now are trying to recruit a "human bomb," a pilot with a terminal illness willing to crash an explosive-crammed plane into the Departamento Administrativo de Seguridad (DAS, the Administrative Department of Security) that houses the general's office.

"With a price on my head of one billion pesos, anything can happen," the general says, holding in his hand a letter from Mr. Escobar threatening to exterminate the general's family should any harm come to Mr. Escobar's brother, who the general had accused of working for the drug lord. "But I always see the positive side—I'm alive."

More than 500 people have died in Colombia's drug war in the past year. Gen. Maza Marquez, 51, a short, serene, powerfully built but pot-bellied policeman, has been lucky to survive. Sixty-five people died and more than 600 were wounded last December when cartel hit men exploded an estimated 1,200 pounds of dynamite just outside the stark cement high-rise that houses the DAS. "It was like an atomic bomb," says the general.

A few months later, police found about 1,500 pounds of dynamite set to explode in a truck near his Bogota apartment. Last year, he also eluded a bomb in a parked car that blew up as he drove by on the way to work, killing seven bystanders and wounding 50 other people, including the general's bodyguards.

For the past two months drug-war violence has waned here under a unilateral truce declared by the cartel. But there are signs that the truce could be ending. Two weeks ago, a spokesman for the "Extraditables," as the cartel signs itself, announced that it had kidnapped eight people, including Marine Montoya de Perez, the sister of former President Virgilio Barco's chief of staff; Diana Turbay, the daughter of another former president, and Francisco Santos, a scion of Colombia's most important newspaper family. Colombians believe the cartel is holding them prisoner to force the government to extend to them the same kind of olive branch it has shown the country's leftist guerrillas.

If the general is hated by the cartel's "narcos," he is also detested by many Colombian armed forces officers. The narcos and some in the military had forged an alliance to fight a "dirty" war against a common foe, the guerrillas. Gen. Maza Marquez exposed the alliance.

"Maza has dedicated himself to persuading the army and helping subversives," fumes a retired general, sitting in a book-lined study decorated with busts of Napoleon and Simon Bolivar. "The armed forces have been hit hard, and he is hated."

Others think the general saved his country from an unholy tyranny. "At the time, the army was allied to the mafia," says Carlos Ossa, the former head of Colombia's agrarian reform institute. "If Gen. Maza Marquez hadn't denounced the connections between the military and the narcos, we would be kneeling today in front of the mafia. We wouldn't have a democracy today."

In the mid-1980s, the narcos bought up hundreds of thousands of acres in Colombia's countryside and became some of the country's biggest landlords. Their presence in rural Colombia brought them face to face with the guerrillas, who for years had engaged in the kidnapping and extortion of landowners. The narcos refused to negotiate with the guerrillas and entered into a pact, sweetened by money, with the military. The result was the birth of paramilitary groups of killers financed by narcos and trained by military officers as well as Israeli and British mercenaries.

A FIGHT TO WALK

These groups waged a war of extermination against leftist guerrillas and their real or alleged sympathizers. In 1988 more than 600 people, most of them *campesinos*, or country folk, died in 82 massacres of more than four people each. As a result of the DAS investigation Mr. Escobar, Mr. Rodriguez Gacha, three military officers, a police lieutenant and 11 civilians were indicted for one of the massacres.

Shortly afterward came an assassination attempt against Gen. Maza Marquez.

The general walks with a slight limp—the result of an automobile accident that left him in a wheelchair for two years. Doctors said he would never walk again, and one told the general that he felt pity for him. That, the general couldn't tolerate. "I went home and tried to get up," he says. "Friday and Saturday my legs wouldn't work. On Sunday, I began to take small steps. My life," he adds, "is full of miracles."

On his office wall hangs a large metal crucifix, and on his desk sits a copy of the New Testament. "Pablo Escobar says I an a religious fanatic," he says, fingering the book. "I have entrusted myself to that current which no one sees, but which moves us all—the Divine Child," he says.

Did Jesus Christ save the general's life? "I have no other answer," he responds. But he does have a lot of security. After President Cesar Gaviria, he is the most closely guarded man in Colombia. He lives a rigidly circumscribed life, with travel from his high-rise apartment largely confined to the presidential palace and his office. "I don't go anywhere," he says.

Neighbors wish he would leave. In a letter published in Bogota newspapers after police found the 1,500 pounds of dynamite, they petitioned him to leave, saying his presence endangered a nearby school.

UNWINDING AT LUNCH

Son of an accountant, Gen. Maza Marquez trained to become a professional policeman, having entering the police academy in 1957. In his dual position as a police general and as head of the DAS, he earns salaries totaling about $20,000 a year. As serene as he appears, the general suffers from high blood pressure that a doctor checks every day. Friends are still astonished by his composure. "He is totally calm," says Ramiro de la Espriella, a close friend and columnist for El Espectador, a newspaper whose offices were heavily damaged by a narco bomb last year. "And very firm in his convictions," Mr. de la Espriella adds.

To unwind, Gen. Maza Marquez is host to one or two lunches a month at his office bunker for about a dozen of his friends from Colombia's coast. The food is Caribbean—turtle, red snapper, coconut rice. The drink is Old Parr, a Scotch. On a typical day, the guests include four Supreme Court justices. They spend hours dissecting the events of the day and listening to romantic ballads.

The general's kinsman, novelist Garcia Marquez, has attended two of these affairs. During one, the general says, Mr. Garcia Marquez congratulated him on surviving.

Acquaintances say the general is a product of his birthplace, the mystical and superstitious part of coastal Colombia that Mr. Garcia Marquez has celebrated in his novels. Some credit the general with a sixth sense. "He would say, 'It feels like bombs are going to explode today,'" says Monica de Grieff, a former justice minister. "And they would explode."

With his vast store of dossiers and inside information Gen. Maza Marquez is as feared by some Colombians as much as J. Edgar Hoover was by some Americans. A politician being interviewed in his Bogota home says, "Maza has both my lines tapped. He knows you are here." Told of such talk, the general laughs. "Hoover?" he says, "What is true is that I am a very well-informed Colombian."

American officials with anti-narcotics experience have nothing but praise for him. "I have an enormous amount of respect for the guy," says one.

As the general waits for his deadly duel with Mr. Escobar to resume, he draws some comfort from reports that Mr. Rodriguez Gacha—"the Mexican"—in his last, hunted days, cursed his name. "The Mexican died a lonely man," the general says with satisfaction. As for the future, he is optimistic. "Come see me when you return to Colombia," he tells a visitor. "I should be alive." Then he disappears behind the heavy bullet-proof metal doors of his office.

FORT SUMTER

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. SPRATT. Mr. Speaker, Shaw Air Force Base, SC, is the headquarters of the 9th Air Force, the Air Force component of Central Command. Shaw is home to the 363d Tactical Fighter Wing and the 507th Tactical Air Control Wing. Both have large deployments in the Persian Gulf.

Those deployed there have named their base Fort Sumter. Staff Sgt. Detroit Whiteside, a member of the 363d Tactical Fighter Wing's public affairs staff, sent the following story to the Sumter Item this week. I offer it for entry in the CONGRESSIONAL RECORD, because I

found it a readable, firsthand account that many others may find informative, as I did.

[From the Sumter (SC) Item, Oct. 11, 1990]

VIRUS, BOREDOM INITIAL ENEMIES OF FORT SUMTER

(Staff Sgt. Detroit Whiteside, a member of the 363rd Tactical Fighter Wing's public affairs staff, sent the following story from "Fort Sumter," the tent headquarters of Shaw's Operation Desert Shield forces in Saudi Arabia. The first Shaw report cleared through military channels for publication, it will appear in this week's edition of The Spirit, the base newspaper.)

(By Staff Sgt. Detroit Whiteside)

The 363rd Tactical Fighter Wing has been practicing for this type of deployment for years. Now, at long last, here we are, Operation Desert Shield '90.

The arrival of the 363rd here did not go off without a hitch. Upon disembarking from the DC-10, the lives of the men and women of the 363rd were turned inside out.

Most service members will tell you that the possibility of armed conflict is always a thought in the back of their mind. But the United States has been a superpower at relative peace for more than 15 years while other countries played catch-up. Most of the men and women who came, many at a moment's notice, have no comparable experience upon which to rely.

The arrival of the 363rd here was not announced. The hosts had no facilities ready for the arrival of troops. The first night, members of the 363rd slept on the dirty, grimy floor of an aircraft hangar—well, they slept as well as one can sleep in a 100-plus-degree sardine can.

They slept as well as they could, wondering what Saddam Hussein's next move would be, how long they would be here—and how many of the long faces that surrounded them now would surround them on the journey home.

The following morning was different. The sardine can was now closer to 120 degrees, but the troops were somewhat rested. Now the real work began. The first order of business was survival. The troops set up Tent City. As more than 20 people had fainted from heat exhaustion, the 363rd learned its first lession in the desert: Stay out of the heat! At least between noon and 5 p.m.

Meals Ready to Eat and water were plentiful. And inside of a week, the tent city was ready for boarders, complete with showers, latrines and a field kitchen. The kitchen provided welcome relief from the dreaded MREs by providing two hot meals a day, in addition to a special Friday meal from downtown every week.

Everyone was busy at their respective jobs, although in make-shift office spaces. But there was still a great obstacle to overcome—boredom!

Most people worked 12-hour shifts (or more), readying for Saddam Hussein's next move. Another tent city went under immediate construction, and taped movies were the rage in Shaw's tent city.

Those who weren't watching the movies were writing letters home. Letters did go out every few days, but initially there was no address for incoming mail. With advent of an address, morale took a gigantic leap upward, both here and at home.

Finally established, the units here are a cohesive, effective military machine whose purpose is clear. The men and women here understand the crisis, and there has been no question as to whether or not the action of this military machine is right or wrong. There were, however, questions as to whether or not this machine had the support of those at home.

This tent city has received thousands of letters and post cards, full of love and "Kool-Aid." The letters touch the hearts of all who read them and drove from those airmen any doubt of support at home.

The "Kool-Aid" helps quench that thirst for a "taste" of home. Only one large problem seemed to infiltrate the camp: diarrhea. But Tent City survived the viral onslaught and the troops are back in action.

Still, no one knows how long they will be here. Most are anxious to return to home soil and their loved ones. But all understand the necessity of their presence here.

WHO'S AFRAID OF INDUSTRIAL POLICY

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. SCHULZE. Mr. Speaker, Prof. Chalmers Johnson, of the Univerisity of California's Gruaduate School of International Relations and Pacific Studies at San Diego, has recently written an extremely perceptive and important article on Japan's industrial policy and how it has given that nation a tremendous advantage over the United States and other Western economies.

Professor Johnson also notes how Japan is doing what it takes to win in today's unforgiving global economy, while the United States just sits idly by and watches.

This article deserves the attention of all those who follow the tortuous course of United States-Japan trade and economic relations, and for that reason, I request that it be inserted into the CONGRESSIONAL RECORD.

[From the New York Times, Sept. 16, 1990]

WHO'S AFRAID OF INDUSTRIAL POLICY?

(By Chalmers Johnson)

It is not news that the United States and Japan are on a collision course. In fact, a book entitled "Nichi-bei Shototsu e no Michi," which is roughly translated as "The Japanese-American Collision Course," is a best seller in Tokyo. What is news is that intellectual vested interests stand in the way of clearly recognizing the differences between the two counries and prevent either side from taking appropriate measures to change course.

On the one hand, professional neo-classical economists and an array of lobbyists, apologists, and public-relations specialists claim that the Japanese economy is just like any other capitalist economy. Although they usually do not read a word of Japanese and have made no empirical study of the Japanese economy, they claim that the Japanese just get up earlier, work harder, and save and invest more than their competitors. This school is often known as the "chrysanthemum club."

On the other hand, scholars of the Japanese state bureaucracy—myself included—some American trade negotiators and many American manufacturers who have competed successfully everywhere else except Japan argue that the Japanese economy is different from that described in American economic models. It is what we term a "capitalist developmental state." This school has been dubbed the "revisionists" because its members are attemping to revise orthodox American policy by calling for specific trade measures tailor-made for Japan.

This latter group is beginning to achieve a small measure of success, as seen, for example, in the Bush Administration's Structural Impediments Initiative to open the Japanese market. However, any success by this group is proving extremely painful to the devotees of Adam Smith.

Everyone agrees that many factors have contributed to the collision course between the United States aand Japan and that to single out any one of them as central is a source of error. Both sides stipulate that the United States must soon resume financing its own government, provide incentives for its people to save instead of consume, reorient its engineering from military to commercial products and get serious about educating its labor force. But there is one cause of the trade deficit that the classical economists cannot acknowledge, because it tends to undercut everything they have stood for and might even require that some of them give back their Nobel prizes in economics. That is Japan's industrial policy.

Industrial policy is to English-speaking economists something akin to sin. It means governmental affirmative action on behalf of domestic industry to foster the orderly retreat of declining industries and to build the high-value-added industries of the future. It works on the supply side and takes as its criterion the number of truly valuable jobs held by a nation's workers. It favors computer chips over potato chips.

The Japanese are past masters at industrial policy. The most important command post within their economic general staff, the Ministry of International Trade and Industry, is called the Industrial Policy Bureau.

The prime tools of industrial policy are export incentives, trade barriers to protect the home market, low-cost credit, pro-business environmental and educational policies and unorthodox accounting practices. For private companies going into government-approved industries, there are other incentives, like foreign commercial intelligence services, nationalistic patent policies and a host of other forms of economic covert action. Public subsidies are not very important.

Western economists do not like industrial policy because it interferes with their mathematical models. And in Japan, economic policy is made not by economists but by highly nationalistic state bureaucrats trained at the University of Tokyo Law School.

American politicians do not like industrial policy because it draws attention to one of the most important asymmetries between Japan and the United States: the effectiveness of the Japanese Government in economic affairs as compared with the blundering of Washington. Needless to say, Japanese leaders are not about to draw attention to industrial policy; it is more effective if their competitors do not know what is going on. The Japanese Government thus engages in extensive disinformation on this subject aimed especially at people who do not read Japanese.

Today's challenge goes well beyond the old shibboleths of level playing fields, competitiveness and protectionism. In fact, industrial policy is the antidote to protectionism of important but weak industries like machine tools and robotics.

The idea of a level playing field means that people should play by the same rules. But since the Japanese play by different rules, and since we seem to have had little success in agreeing on what a new set of common rules might look like, we must learn to match rather than imitate them.

The idea currently popular in some American business schools is that American companies lack "competitiveness." Actually, American companies are merely the products of—and are responding to—the short-term incentives and signals sent out by the American political and financial systems. Until these are changed there is no such thing as a company-level solution to the problem of competitiveness.

Japan differs almost completely from the United States in its history of industrialization, the role of the state in it, and the place of economic affairs in national security. Japan is not, however, unique. It is similar to that other great late developer, Germany. Both began intentionally to catch up with the original beneficiaries of the industrial revolution at about the same time, 1868 for Japan and 1870 for Germany. Both have experimented for more than a century with corporate forms of social goal-setting, while retaining the efficiencies of the market. The challenge for American national and corporate economic policy is to recognize this country's difference from Japan and to begin to formulate strategies for managing them. It is also the indispensable first step toward avoiding another national collision.

DOCTOR'S WORK THE BEST MEDICINE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. MICHEL. Mr. Speaker, often it is those people who receive little public attention, who embody true heroism. Dr. Maude Sanders, Peoria's first black woman doctor, is one of those people. During the last 48 years, she has served the Peoria community with thoughtfulness, caring and dedication, overcoming obstacles that would have deterred others. Dr. Sanders has treated those less fortunate, often without recompense and has taught us all to care more deeply about others. Although she is retiring, her presence will still be felt in our community. I join with Major Jim Maloof and the Peoria community in congratulating Dr. Sanders for her strength, perseverance and her commendable career, and extend to her my best wishes as she enters yet another chapter in her remarkable life.

At this point in the RECORD, I wish to insert "Doctor's Work The Best Medicine" which appeared in the Peoria Journal Star on October 14, 1990.

[From the Peoria (IL) Journal Star, Oct. 14, 1990]

DOCTOR'S WORK THE BEST MEDICINE—PEORIA'S FIRST BLACK WOMAN DOCTOR FOUGHT PREJUDICE TO WIN RESPECT

(By Dean Olsen)

Maude Sanders saw the best and worst in people as Peoria's first black woman doctor.

The best came in the form of friendships with patients, office staff, other doctors and residents of the community.

The worst came in the prejudices she faced in the 1940s and still sees today.

The work, the frustrations, the intricacies of medicine—they consumed her for those 48 years in Peoria. Now, at age 79, after retiring and closing her South Side office last week, she doesn't know how to react without a daily dose of the medical profession's stresses and pleasures.

"I have mixed feelings about it," she said, smiling. "I sometimes feel there's nothing else."

Most of her clients were black. Most of them were poor. She and they faced prejudice together.

Peoria's three hospitals were segregated when she arrived here in 1942, she said, and she often had problems getting her patients admitted because hospitals allotted only a certain number of beds for blacks.

"We resented it," said said. "We fought it for years. They were reluctant to put whites next to blacks. I had patients die before they could get in. They may have died anyway, but they would have been more comfortable."

As a result, she did many procedures in her office that would have been accomplished more easily in a hospital.

In the beginning of her career, she also had problems getting companies to accept the statements she wrote for her patients to certify that they were ill. When her patients obtained statements from white doctors, the notes would be accepted with no questions, she said.

As a matter of personal policy, she never has attended meetings of the Peoria Medical Society. Soon after she arrived in Peoria, she tried to attend meetings but was barred from the Jefferson Hotel, where the society met. She said she was kept out by hotel officials because she was black. She never has forgotten the experience.

Individual doctors, however, have treated her well, she said.

Dr. Irving Favus, a retired physician now acting as a consultant for Methodist Medical Center, is a contemporary of Sanders.

"She was well-respected in the medical community," he said. "She worked long, hard hours. She really took care of the needy and the poor in the city more than anybody else."

Sanders, now a widow living in rural Spring Bay, has had a variety of well-known patients and delivered thousands of babies, among them John Stenson, now a Peoria police captain, and Christopher Duncan, a Peoria County board member and former Peoria police sergeant.

She also cared for Pam Miller, a prominent operator of houses of prostitution in Peoria in the 1960s.

Sanders grew up in New Orleans, where she was born in 1911, the youngest of 10 children. Her father was a carpenter; her mother was a housekeeper and took in laundry at home.

The family was poor, but her father was a good manager of money and the family was self-sufficient, she said. She remembers the family using a huge garden to make sure there was enough food for meals.

Prejudice toward blacks was everywhere, and blacks attended segregated schools and colleges. She was an above-average student but didn't consider medicine as a career when she was young. Being black and a woman, "the odds were really so great that it never really occurred to me," she said. "We really had no role models. The only role models we had were our parents."

The options for women in the working world were extremely limited then. She tried one of the standards—teaching. She attended college and taught for a year in a rural Louisiana school, but left when she was frustrated by the ignorance of the students.

About that time, she divorced the man she had married a year earlier, and took a job in a tailor shop, using the sewing skills she developed as a girl. It was one of her sisters, Naomi, who encouraged her to return to college and pursue medicine. Naomi, now dead, became the wife of Romeo B. Garrett, professor emeritus at Bradley University.

Sanders, who has a keen sense of humor, chuckled and said, "I was interested in the sick," whether they were human or not. From her childhood she remembers putting a splint on a dog's broken leg and nursing a chicken back to health after it swallowed a fishing hook.

She was one of only two women in Meharry College School of Medicine's class of 1939 in Nashville, Tenn. When the women graduated from the black college, they had a hard time finding internships because most programs wouldn't take women.

They both eventually found internships at City Hospital, an all-black hospital in St. Louis. It was the first time the hospital accepted women in internships.

"They really wanted to make it hard for both of us," she said of the hospital officials. "I had no problem being black at a segregated school or institution, but being a woman. . . . I've learned a lot about the male ego."

She wanted an internship in surgery, but the only one available was in urology, so she took it. She said many men on the staff delighted in the embarrassment she felt having to examine men's genitals and treat patients with venereal diseases. But she developed a technique to help male patients and herself avoid embarrassment: she made eye contact with the men only briefly.

Sanders came to Peoria in 1942 by chance. She knew of a black doctor in Peoria who had recently moved to Cairo because his practice wasn't successful. He discouraged her from locating here.

"At that time, the black population in Peoria was small," she said. "The financial situation for blacks was very bad. He advised me not to come here, but I felt like I had to start somewhere."

She opened her first private practice in family medicine at 407½ SW Adams St. above an auto parts store. She later would meet and marry Peoria real estate agent LaVerne Caldwell, with whom she raised an adopted daughter. Caldwell died in 1984.

Sanders often accepted Medicaid patients who wouldn't be accepted by other doctors because Medicaid didn't pay enough. Her income hasn't been as healthy as some doctors' as a result, but she has earned a comfortable living, she said.

Blacks still have unequal access to health care, she believes, because of financial constraints, but she doesn't know any easy answers. Their struggles will continue, just as her struggles continued for 48 years, she said.

But the frustration didn't keep her from enjoying the work and cherishing the memories.

In retirement, Sanders will tend her flower garden, sew, read, and remember.

"I have a lot of friends," she said.

DR. SANDERS DAY WILL BE WEDNESDAY

Wednesday will be Maude Sanders' day—literally.

Sanders, 79, Peoria's first black woman doctor who retired recently, will be honored during a reception at Methodist Medical Center that will include Mayor Jim Maloof, Methodist Vice President Roger Monroe said.

Maloof is expected to issue a proclamation declaring Oct. 17 "Maude Sanders Day" in Peoria, Monroe said. The mayor will join doctors, hospital administrators, community dignitaries and former patients in honoring Sanders for 48 years of service to the community.

"She's been a legend," Monroe said. "She's an institution, and a really nice gal."

The reception, which is open to the public, will be from 1 to 3 p.m. Wednesday in Methodist's board room.

CHILDREN'S TELEVISION ACT OF 1990

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. MARKEY. Mr. Speaker, during the 14 years that I have served in Congress, the status of children's television has been a recurring issue of concern. Advocates for children assert, and many studies confirm, that deregulation of children's television has caused an overall increase in the commercialization of children's television and a decline in educational and informational programming for children. For these reasons I am very pleased that after 4 years of hard work by numerous groups including the national television networks, the National Association of Broadcasters, the Association of Independent Television Stations, numerous public interest groups and, in particular, Action for Children's Television, children's television legislation has become law. H.R. 1677, the Children's Television Act of 1990 reinstates commercial time guidelines during children's programming and provides congressional recognition for the first time that broadcasters have a responsibility to provide programming that serves the real needs of children.

Early this month, world leaders met at the United Nations to discuss the plight of children around the world. The World Summit for Children was an opportunity to discuss the hardships faced by the world's young people and to offer hope and encouragement for their future. In the wake of this important summit for children, it is important and appropriate that the Congress take meaningful steps to harness and utilize the potential of television as an educational tool.

The Children's Television Act of 1990 will provide broadcasters and children's program producers the necessary incentives to educate our Nation's children creatively, rather than to exploit them economically. Television offers a uniquely appropriate medium to assist our Nation's schools and teachers in improving the scholastic achievement of our children. It clearly has been demonstrated that television, used properly, can challenge a child's imagination and intellect, while also providing entertainment.

Recently, two Boston area broadcast stations won awards for creative efforts that used television to educate children about the world in which they live. Earlier this month the National Association of Broadcasters announced the winners of the Service to Children's Television awards, which pay tribute to local television stations for exceptional achievement in children's programming and outreach activities. WCVB-TV Boston received a Best of the Best Award this year for "A Likely Story," judged the best regularly scheduled program. WCVB-TV's winning program introduces children to adventures through a "Magic Book." Children are encouraged to use their own imagination through this program that provides exotic locations, storytellers, singers, and puppet performers.

WHDH-TV, Boston also was honored by the National Association of Broadcasters Children's Television Committee as a winner of a Best of The Best Award for the best public service campaign. "The Ready to Go!" Kids Campaign for Human Rights was a program created in conjunction with Amnesty International. Boston area youth adopted an 18-year-old Yugoslavian student who was jailed after a demonstration over school curriculum. After these children and others wrote 3,500 letters to the Yugoslavian Government urging her release, the young woman was freed.

We must help children create dreams, and we must empower them with the ability and the means to fulfill them. The commitment to the education of our children demonstrated by WCVB-TV and WHDH-TV, Boston, is laudable. I extend my sincere congratulations to both stations, as well as to all the recipients of the "Service to Children's Television" awards, for their commitment to the next generation of American leaders. The children of Boston historically have been well served by Boston area broadcasters. The enactment into law of the Children's Television Act of 1990 will help to ensure that all of America's children are equally well served by their local television stations.

HOW MUCH ABUSE CAN THE CONSTITUTION TAKE?

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. RANGEL. Mr. Speaker, President Bush's decision to face down Iraqi aggression against Kuwait has won the wholehearted support of the United Nations. The United States Congress and the American people, too, have rightfully supported the President's decision to say no to the Iraqi dictator Saddam Hussein. I expected no less. The American people traditionally rally behind the flag and the President when it comes to defending our interest overseas.

But how much better would it have been—and how much more secure would the American people and Congress be in our decision to support the President—if he had come to us with a full explanation of his actions? And would we all not feel a lot more comfortable if the President had taken the trouble to get the Congress' approval before shipping off more than 200,000 of our young people to wait on the sands of Saudi Arabia for a war that hardly anyone wants?

In my view, and that of a growing number of Americans, the use of force must be avoided. A diplomatic solution must be found.

Now that our troops are there, I understand the President is trying to forestall the fire storm of protests from Congress that would probably be unleashed if he chose to take unilateral military action in the gulf. According to reports in the press, the President has been briefing selected Members of Congress on the possible use of force after the Congress adjourns for elections.

The President is correct in his anticipation of a congressional outcry; I for one would protest loud if the Chief Executive opted to initiate another military adventure while no one was minding the store. That is why I have joined with other Members of Congress in asking speaker THOMAS FOLEY to immediately reconvene the House in the event of the outbreak of conflict during the election recess. With thousands of young lives at stake, responsible Government demands Congress' constitutional checks and balances.

The President has twice spirited American military men and women thousands of miles from our shores; each time without the benefit of official prior notification of Congress. Last December during the Christmas holidays, we invaded Panama; and the last August, during the summer vacation, our troops were dispatched to the Persian Gulf. Neither time did the President officially inform the Congress of his full intentions or sought its approval, as required under the War Powers Act.

The War Powers Act of 1974 requires a president who commits U.S. forces to imminent hostility to inform Congress of his actions and get congressional approval within 60 days. In the case of the Persian Gulf, congressional notification would be required this month since our deployment of troops to the Persian Gulf began in August. But if the President repeats his performance in the Panama invasion, we in the Congress would not be made privy to impending war in the Persian Gulf—much less asked for approval. I had not the slightest inkling that 25,000 American troops had landed in Panama until I heard about it on CNN. The President has yet to consult or to inform the Congress officially under War Powers.

My concern about the War Powers Act is far from academic. Following the calamity of Vietnam, the law represents our only protection against unilateral, and potentially disastrous military adventures by the executive branch. The War Powers Act was put in place by the Congress to prevent another tragedy of the kind witnessed in Vietnam.

The law is meant, not to put unreasonable restraints on the President, but to ensure that the entire nation—through the Congress—is informed and consulted first in the event of dire action in the national interest. It was meant to prevent the ruinous political fracturing of the Nation such as occurred over Vietnam, by making sure the Congress—and thus the people—were fully behind the actions of the Commander in Chief.

Sadly, since its passage, the War Powers Act has been ignored by every president who

could have used it to his advantage. Instead of abiding by the law to rally official congressional approval for controversial actions, they dodged; each time leaving our foreign policy open to charges of domestic as well as international lawlessness. So far, President Bush seems to be continuing in that tradition.

Such was the case in Nicaragua, where the CIA mined the harbor of Managua in support of the Contras who were then at war with the government. The World Court judged that action to be in violation of international law. Because the War Powers Act was not adhered to in that case, we will never know whether Congress might have advised against that secret action, and thus saved the United States the embarrassment of being branded an international outlaw.

Likewise, the Congress was not consulted in the bombing of Libya, an action that was politically popular but illegal because it violated our own restrictions against covert acts of war by the CIA. That was followed by the equally popular invasion of Grenada, an adventure which cost American lives and was clearly illegal because Congress never gave its approval for that blatant act of war.

And most recently Panama. The greatest deployment of American troops and military hardware since Vietnam and before the Persian Gulf, the Panama invasion cost at least 23 American lives and thousands of Panamanian casualties. Twenty-three lives are twenty-three too many. But that is a small figure compared to the deaths that will result from a clash in the desert, where 24 Americans have already been lost in accidents. The United Nations and the Organization of American States condemned our invasion of Panama as illegal. But it too will go down in the books as something less than war because Congress was never consulted and never approved.

There is no arguing the fact that each of these adventures made the American people feel good, and so they were popular politically and in the polls. But what did they do for our moral and legal standards, for the Constitution that is the sole and strongest protector of our Democracy? I dare say they weakened them, and brought us closer to that place where we have no moral ground to stand on and no Constitution to protect us.

What good does it do us as a nation to break our own laws while claiming to defend the sovereignty of Kuwait? How do we support American standards of justice and morality if, in defending the rest of the world, we offend the very Constitution that protects us at home?

After all, how much abuse can the Constitution take?

ETHICS IN FOREIGN LOBBYING ACT

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. GUARINI. Mr. Speaker, every year foreign nationals spend hundreds of millions of dollars on lawyers, lobbyists, and consultants to press their interests in Washington, yet we have no way to track and analyze the flow of money into our political system.

The Ethics in Foreign Lobbying Act which I am introducing today will remedy this situation by establishing a clearinghouse for information on foreign lobbying activities. Moreover, it will ensure that foreign-controlled corporations and trade associations do not have undue influence in the Federal elections process.

The legislation has three important components:

First, it establishes a clearinghouse, within the Federal Elections Commission, for the collection and disclosure of information regarding the lobbying activities of foreign nationals, foreign-controlled corporations, and individuals representing foreign principals;

Second, it amends the Federal Elections Campaign Act of 1971 to prohibit contributions from political action committees controlled by corporations that are at least 50 percent owned by persons other than U.S. citizens; and

Third, it bans trade associations which derive more than 50 percent of their budgets from foreign-owned corporations from making political contributions.

In establishing this clearinghouse, we are creating a greatly needed central point for collecting information regarding foreign lobbying activities. Most of the information we are seeking is already being collected by the Department of Justice, the Bureau of Economic Analysis, Federal Election Commission, the Clerk of the House and the Secretary of the Senate. However, it is housed in a myraid of Federal agencies and offices. Moreover, the information is not available in a form that allows it to be easily analyzed. A clearinghouse for the collection and disclosure of foreign lobbying information is critical to monitoring and tracking the flow of foreign funds into the political process.

In amending the Federal Elections Campaign Act, we are updating and clarifying our current campaign laws. Since 1975, the Federal Election Commission has sought guidance and clarification from the Congress regarding the participation of foreign nationals in the Federal elections process. The current law is open to conflicting interpretations that have led to the establishment of PAC's by a Panamanian pharmaceutical company, a Japanese business association in California and a Philippine sugar company owned by a close friend of Ferdinand Marcos.

This is clearly contrary to the intent of the Congress when it prohibited the participation of foreign nationals in the election process. However, due to the ambiguity of our current laws, foreign-controlled corporations or trade associations can legally solicit voluntary contributions from their membership or employees for political purposes. The principle restriction on their solicitation is that they can only solicit funds from U.S. citizens and only U.S. citizens can operate the PAC's.

It would be extremely naive to believe that in a corporation where more than 50 percent of the ownership is comprised of non-U.S. citizens or in a trade association where more than 50 percent of the operating fund is derived from foreign-controlled corporations, that there does not exist the clear potential for influence and subtle coercion from non-U.S. citizens regarding the disposition of funds used in American elections.

This legislation will put an end to undue foreign influence and coercion. It will make it clear that subsidiaries of foreign corporations whose foreign ownership exceeds 50 percent, and trade associations which derive more than 50 percent of their operating budgets from foreign-controlled corporations are not welcome to participate in the campaign process.

Campaign reform is vital to maintaining the integrity of our political process. Establishing a clearinghouse to monitor foreign lobbying efforts and banning contributions from foreign-controlled corporations and trade associations are integral parts of that reform. For these reasons, I strongly urge my colleagues to support the Ethics in Foreign Lobbying Act.

KINGWOOD PRINCIPAL DIANE LAZARINE HONORED

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. FIELDS. Mr. Speaker, Diane Lazarine, principal of the Woodland Hills Elementary School in Kingwood, TX, was in Washington today to receive the Department of Education's 1990 Distinguished Principals Award. Diane is one of just 60 elementary and middle school principals to be honored by the Department of Education.

While the selection process varies from State to State, the Department of Education provides general criteria that the States use to select recipients of the award.

The award recognizes outstanding public and private elementary and middle school principals with at least 5 years experience whose commitment to excellence in education is superior. The award was conceived in 1984 by the National Association of Elementary School Principals as a means of recognizing outstanding principals whose performance and dedication were exceptional.

Diane is fully deserving of the recognition which has been accorded her, and I congratulate her on winning this award.

Mr. Speaker, in this time when more and more Americans are coming to understand this importance of quality schools, it is important for all of us to remember that quality schools are impossible without dedicated, highly motivated and enthusiastic school principals. While individual classroom teachers are the front line in the effort to educate our children, it's all too easy to forget that teachers themselves need guidance and reinforcement—and that's where our principals can really make a difference in determining the quality of an individual school.

Diane has made Woodland Hills Elementary School a place where teachers and students are equally enthusiastic, in which learning is fun and in which classroom teachers are challenged to find new and innovative ways to impart knowledge to their students. Her leadership promises to have a positive influence on thousands of students for many years to come, and for that Diane deserves our thanks.

Mr. Speaker, I know that you join with me in wishing Diane Lazarine, this year's other 59 winners of the National Distinguished Principals Award, and all our Nation's principals the very best now and in the future.

INTERNATIONAL CREDIT UNION DAY

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. SHUSTER. Mr. Speaker, I would like to, at this time, address the House with reference to Letterkenny Federal Credit Union.

Letterkenny Army Depot is the largest employer in Franklin County, PA, its growth has meant a great deal to the economic health of the Chambersburg, PA, area and the depot has played a part in America's victory in the cold war. While this facility has supported the country since World War II, it was not until 1965 that employees at the facility banded together to support themselves and their own futures by successfully establishing a credit union at the depot.

In the midsixties, the 15 founders of the credit union contributed the $40 necessary to get their charter from the Bureau of Federal Credit Unions. On January 4, 1965, charter No. 16574 was granted to establish Letterkenny Federal Credit Union. The newly formed credit union boasted 32 members and assets of $3,317 and a potential membership of about 5,000 including employees of the depot, major item data agency and the post restraurant.

After 1 month, membership in the credit union had grown to 477 with assets of $17,463. By June of the same year the credit union membership had grown to over 1,000. Much of this phenomenal growth was handled by volunteers dedicated to the development of the credit union and embodying the spirit of the credit union movement, "not for profit, not for charity, but for service."

It was at the suggestion of members the Letterkenny Federal Credit Union that the Cumberland Chapter of Credit Unions was established to promote credit union development in the beautiful Cumberland Valley. Letterkenny Federal Credit Union began the 1970's with $1 million in deposits and a dream of $5 million by 1975, they surpassed that goal by $1 million and have continued to grow ever since.

Letterkenny Federal Credit Union has always put the customer first. They began their service by offering only interest bearing savings accounts and signature loans. Over the years they added share-draft checking, auto loans and first mortgages. They have moved from a single cubical and an Army field safe to a multibranch credit union with automatic teller machines and credit card services. This credit union has grown over the past 25 years from a handful of members to well over 30,000, all of this has been possible because a small group of volunteers banded together to improve the effectiveness, morale, stability, and efficiency of the depot personnel.

Mr. Speaker, I wanted to attend a gathering with Letterkenny Federal Credit Union today, in celebration of International Credit Union Day, but my congressional duties keep me here in Washington. I would like to, at this time, thank not only past and present credit union employees but also all of the other enterprising souls who have worked diligently to improve the economic stability of Pennsylvania's Ninth Congressional District.

TRIBUTE TO DR. VINCENT E. REED

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. DIXON. Mr. Speaker, it is with great pleasure that I join the Los Angeles Chapter of the West Virginia State College Alumni Association in paying special tribute to the outstanding accomplishments of Dr. Vincent E. Reed. This is a well-deserved commendation for an individual who has dedicated his talent and commitment to educational excellence and community service.

An innovative and productive educator and administrator, Vincent Reed's selfless dedication to educational achievement enabled him to build a long and illustrious career. In 1956, he began his career with the District of Columbia Public School System and served as a teacher, assistant director of the Manpower Development Training Program, assistant principal of Dunbar High School, assistant principal and principal of Woodrow Wilson High School, assistant superintendent of personnel, and executive assistant superintendent in charge of all secondary schools. Because of his superior organizational and administrative skills, he was called upon to organize and head the first Security Office for the D.C. school system and the newly created Office of State Administration where he served as associate superintendent. In 1976, Dr. Reed was appointed Superintendent of the D.C. public school system.

Vincent is a versatile, competent, and well respected administrator who has continuously demonstrated his unflagging commitment toward improving the quality of education in this country. These qualities were particularly recognized in March 1981 when Dr. Reed was appointed by President Reagan to serve as assistant secretary of Elementary and Secondary Education. In 1982, he joined the Washington Post as vice president for communications where he has continued his involvement in community service and charitable events.

Born in St. Louis, MO, Vincent was educated in the St. Louis public schools, Iowa University, West Virginia State College, Howard University, Wharton School of Finance and Commerce of the University of Pennsylvania, Virginia State College, and the University of Massachusetts.

Vincent Reed's genuine commitment and dedication to educational achievement have not gone unnoticed. He has received many public service and education awards. Among the awards and commendations he has received for his distinguished contributions are the honorary degrees of doctor of public administration by Southeastern University, doctor of humanities by West Virginia State College, doctor of humane letters by Georgetown University, doctor of humane letters by Strayer College, doctor of laws by the University of the District of Columbia, and doctor of humane letters by Harris-Stowe University. To complement his outstanding achievements, he has published articles on educational topics, is an accomplished public speaker, and serves on the board of trustees of a number of colleges and universities. He is affiliated with many education and community service organizations and is also listed in Who's Who in America.

Dr. Vincent Reed is a living example that diligence and a commitment to excellence can indeed be rewarding. He is a man well respected and admired in the District of Columbia and around the Nation. He has accomplished a remarkable career of public service and is truly deserving of the honor bestowed on him by the West Virginia State College Alumni Association of Los Angeles. I salute his distinguished contributions and wish him continued success in his future endeavors.

UNITED STATES-MEXICO BORDER HEALTH AND ENVIRONMENT ACT

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. UDALL. Mr. Speaker, I rise today in support of H.R. 5363, the United States-Mexico Border Health and Environment Act. This legislation, introduced by Representative RON COLEMAN, would establish an organizational unit within the State Department to plan, develop, finance, and implement programs that address health and environmental problems along the border of the United States and Mexico.

The environmental health concerns along the United States-Mexico border are not new to me or the Second Congressional District of Arizona, and unfortunately the problem continues to worsen. Earlier this month Santa Cruz County passed a resolution declaring a state of emergency in their county due to raw sewage contamination of the Nogales Wash that flows across the border from Nogales, Sonora, Mexico into the city of Nogales, AZ.

The situation in Nogales is serious. The Arizona Department of Environmental Quality has been monitoring the water quality by testing for fecal coliform on a routine basis. The results this summer reached alarmingly high levels. As an example, a water sample taken from the Nogales Wash on August 15 showed a fecal coliform count of greater than 1,600,000 (CFU/100ml). Arizona's limit of fecal coliform is 4,000 (CFU/100ml).

Across-the-border sanitation problems are currently within the jurisdiction of the International Boundary Water Commission [IBWC]. They are well aware of the situation in Nogales and, in fact, will be meeting with me next week in that regard.

Nonetheless, Mr. COLEMAN'S legislation is of critical importance to further address the

personal and public health hazards related to these squalid environmental conditions. A recent article in the Journal of American Medical Association had this to say:

The American Medical Association finds the environmental health problems of the U.S.-Mexico border to be of major magnitude; the American Medical Association advises Congress that a permanent U.S.-Mexico border environmental health commission is essential for the necessary concerted actions to deal with this major threat to the health of both nations.

Mr. Speaker, H.R. 5363 would accomplish this task. It would establish a commission to be headed by a coordinator appointed by the President. Additionally, the bill would call for the Secretary of State to negotiate with Mexico so that they would appoint a coordinator with the same responsibilities. In this way we could develop joint solutions to the various environmental and subsequent health problems that exist along the border. I urge my colleagues to join me in support of this legislation.

TRIBUTE TO BETTY HAUPT

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. MURTHA. Mr. Speaker, I was very sorry to learn that last Tuesday, October 9, Mrs. Betty Haupt of Somerset, PA, passed away. She was a remarkable and dedicated person who took great pride in her community.

Approximately 35 years ago, Betty and her late husband, Dr. Earl Haupt, bought a log cabin, maple sugar camp, and building and moved these nearby their property to serve as a museum. Mrs. Haupt devoted her life to encouraging broad public participation in the historical and cultural heritage of Somerset County.

Mrs. Haupt served as program director of the Somerset Historical Center for several years. She and her late husband donated land and artifacts to the Commonwealth of Pennsylvania to develop this center. Betty worked for the center on a volunteer basis and sometimes worked up to 80 hours a week volunteering her time for the center.

Betty spent a good portion of her time working with both old and young to stimulate their interest in the history of our region. She received honors for her work with educational programs and designed a course "Teaching Local History in the Classroom." Mrs. Haupt founded Mountain Craft Days 10 years ago which has become a major Somerset County attraction.

Betty has been very active over the last several years with America's Industrial Heritage Commission—our nine county commission which focuses on the development and interpretation of the iron, steel, coal, and transportation themes within our region. She was the Somerset County representative and served on the cultural resources and tourism and marketing committees of the Industrial Heritage Project. She was also the head of the Somerset County Industrial Heritage Committee, Somerset County's local committee which identifies important Somerset County projects for the regional commission.

Mrs. Haupt was involved with the State heritage parks program which highlights regions of the State with exemplary cultural, historic, and recreational resources. She also served as a technical advisor for many small groups within the region giving them guidance and direction.

Mrs. Haupt also served on the Somerset County Chamber of Commerce, was the chairperson of the Somerset County Tourism Committee, was active with the Somerset County Planning Commission, a representative for Somerset Council on the Travel Council of Southern Alleghenies Commission, and director of education for the Historical and Geneological Society of Somerset County.

In 1974, Betty received the Outstanding Person of the Year Award presented by the Somerset County Chamber of Commerce. In 1980, she was given a Public Service Award by the Somerset County Grange. She also received the Southern Alleghenies Planning and Development Commission Travel Award in 1987.

As you can see, Betty's accomplishments and determination was endless. Betty will be dearly missed by all of us who had the pleasure to know and work with her. Her integrity and leadership was in the highest tradition of public service. Her commitment and sincerity was commendable. Our area will never be the same without her.

HONORING THE 50TH ANNIVERSARY OF THE WILLIAMSTOWN, MA, LIONS CLUB

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. CONTE. Mr. Speaker, I rise today to pay tribute to one of the finest chapters in the world of Lions International. I am very pleased and proud to announce that on October 20 the Williamstown Lions Club of Williamstown, MA, will celebrate the 50th anniversary of its charter.

Throughout its five decades, the Williamtown Lions Club has established a history of good will. This chapter has continued to provide very important services to its community through their time and generosity. The services are not only needed but, I daresay, they are vital to the northwestern corner of Massachusetts. The Williamstown Lions Club provides services to the young and the old, to the sick and the poor, and does so indiscriminately.

I believe that the Lions Club can potentially walk hand-in-hand with someone right through life. It can be said that the Lions Club of Williamstown can help guide a youngster through his or her formative years and then help that same person enjoy the golden years of life, or in some cases, make those years pass more peaceably.

Mr. Speaker, there are many examples that I could expound upon to you and to my colleagues here on the House floor but let me give you just a few. The Williamstown Lions have sponsored youth basketball and Little Leagues. Recently, the Lions have initiated programs in the schools dealing with drug abuse. They have donated their time to YMCA camps and since 1940 they have sponsored a July 4th celebration. Most importantly, the Williamstown Lions have been charitable benefactors of eye research, leaders in the eye donor program and charitable to local people in need of eye care.

Mr. Speaker, the Williamstown Lions Club has gone above and beyond the call of duty. Their civicmindedness has been nothing short of outstanding. I want to take this opportunity to salute the past and present members of the Lions Club for their half-century of service and fraternity. I wish the Williamstown Lions Club many more years of continued success.

THE 100TH ANNIVERSARY OF ST. CONRAD'S SOCIETY OF WILKES-BARRE, PA

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to the St. Conrad's Society on its 100th anniversary.

It was in a wooden, German Catholic Church in November 1890 that 29 men joined together and founded St. Konrad's Verein, named in honor of St. Conrad of Bavaria. Years later the name would be angloized to Saint Conrad's Y.M. Society and the society would relocate to the opposite side of the street to its present location.

The society was and is very active in the community. Members participate in a variety of activities, represent the society in an array of competitions and every year join together at many social events.

However, more importantly, the members of the St. Conrad's Society really show their community spirit in times of need. In 1972, after the Agnes flood devastated the Wilkes-Barre community, the society banded together. They came to the aid of their friends and neighbors, helping to clean up and restore the area.

In addition, the society participates in a priority project it developed which contributes financial support to God's Special Children, children who receive religious education instructions at nearby St. Nicholas Church.

Mr. Speaker, it is easy to see why the St. Conrad's Society has been around for 100 years, and with the continuation of the community spirit and traditional sense of neighborliness, I am sure it will be around for at least 100 more.

SAFETY OF IMPORTED MEAT

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. DORGAN of North Dakota. Mr. Speaker, I am pleased today to join Representative PAT

WILLIAMS in introducing legislation tightening the inspection system for imported meat and poultry. The bill will require that U.S. personnel inspect meat and poultry products offered for import into the United States. It will ensure the integrity of and consumer confidence in the U.S. food supply.

This action has been made necessary by the apparent determination of the USDA to abandon food safety laws and its responsibility to the public in its zeal for the Free Trade Agreement. The USDA says that the current statute allows the Secretary to designate responsibility of inspection to anyone, including a foreign government. It maintains that U.S. inspectors aren't necessary to assure the safety and wholesomeness of imported meat.

The USDA is ready to allow meat under the regulatory jurisdiction of a foreign government to enter any State in the United States without reinspection. Currently, the USDA doesn't even allow meat products inspected by State agencies to cross State lines without Federal inspection.

Surely it was Congress' intent when it enacted the Federal Meat Inspection Act [FMIA] that imported meat undergo Federal inspection. Historically, the U.S. regulatory system has provided uniform inspections for United States and imported products, protecting the health and welfare of U.S. consumers, and assuring a level playing field among competitors. The meat inspectors are trained by the U.S. Government and work for it. They answer to the American public. But the USDA has decided that because of a loophole in the FMIA, it can change all that.

Border inspections are not detrimental to trade. On the contrary, they give American consumers confidence in their food supply and thereby benefit producers. They provide a critical backup when the inspection system of a trading partner fails, as happened recently when a single shipment of contaminated Canadian meat was refused three times by United States inspectors. Without our inspection requirements, this meat would have contaminated our food supply.

We need to make sure that the integrity of the U.S. meat supply remains intact. I urge my colleagues to reaffirm their commitment to safe food supplies and support this legislation.

RELIEF OF MARCELINO SERNA

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. COLEMAN of Texas. Mr. Speaker, today I am introducing legislation for the relief of Mr. Marcelino Serna of El Paso, TX. My bill would make Mr. Serna eligible for the award from the Army of the Congressional Medal of Honor by stipulating that the regulation which says that a nomination for that award must be filed within 2 years of the acts "above and beyond the call of duty" should be waived in this case. In my judgment, Mr. Serna deserves that medal just as surely as anyone who has ever been so honored.

Marcelino Serna served in the U.S. Army from 1917 to 1919. He was born in Chihuahua City, in the Mexican state of Chihuahua, in 1896. He is now 94 years old and has held U.S. citizenship since 1924. Seventy-one years ago, Mr. Serna was awarded the Army's second highest award for valor in combat, the Distinguished Service Cross. He was decorated with the highest military medals of Italy and France. The descriptions of his exploits on the battlefields of Belgium and France read like casebooks of heroism. In recovering from wounds suffered toward the end of the war, he was personally decorated by Gen. John "Black Jack" Pershing.

Some have speculated that Mr. Serna was not award the Medal of Honor either because he was a buck private for most of the war, because he was not a citizen of this country at the time, or because he could not speak English well. I hope that none of these reasons was ever given by anyone in a position of authority in these matters. They are insulting and they have no basis in law.

This bill, once enacted, would begin to right a wrong—and to correct an oversight. I urge the committee of jurisdiction to take up the legislation as rapidly as possible so that the Army may look at the merits of this case.

AN INTERESTING AND PROMISING RECYCLING INITIATIVE

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. HORTON. Mr. Speaker, I rise today to call attention to an interesting and promising recycling initiative undertaken by the Green Bay Packaging Co., the Xerox Corp., and IBM. These three companies have developed a practical use for recycled waste office paper.

The product is called Eco-White and it is used in the manufacturing of cardboard boxes. At the request of Xerox and IBM, the Green Bay Packaging Co. developed a process to convert used office paper into the white linerboard material used as the outer surface layer of corrugated shipping containers.

American companies throw away an estimated 4.5 million tons of office waste paper each year. Eco-White could put a substantial dent in that figure. It draws its supplies from a market which has only been minimally tapped since only 5 percent of offices in this country are currently involved in recycling programs. One hurdle preventing more firms from participating is the lack of demand for recycled fibers. Eco-White will create that demand.

Furthermore, the repulping process used to turn copier paper into Eco-White is better for the environment. By avoiding de-inking, the process saves 25 percent of energy and water use and results in a 200-percent reduction in solid waste.

Perhaps the most important aspect of the Eco-White process is that it is private-sector driven. Eco-White is an example of what can be accomplished by the private sector when left to find their own solutions to a burgeoning problem.

I would like to salute the three corporations responsible for this product: Xerox, IBM, and the Green Bay Packaging Co. By working together to address the solid waste problem which confronts not just them, but all Americans, these three have performed a valuable public service.

It is not surprising that two of these companies, Xerox and IBM, are winners of the Malcolm Baldridge Quality Award. Both firms needed to demonstrate an exceptional commitment to quality in order to win this distinguish award. With the development of Eco-White, it is apparent that both are as committed to public service and the environment as they are to quality.

BETTY T. EGAN

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. RICHARDSON. Mr. Speaker, on the occasion of National Business Women's Week, I would like my colleagues to join me in congratulating Betty T. Egan, who was recently chosen Santa Fe Business Woman of the Year by the Capital City Business and Professional Women.

Widowed as a young mother, she followed her dream of life in the West to Santa Fe, where she founded Rancho Encantado in Tesuque north of the city. It has grown into one of the major resorts in the Southwest

Mrs. Eagan was the first woman fire chief in the country as head of the Tesuque Volunteer Fire Department. A grandmother for many years, she is credited with fostering the growth and continued educational excellence at Tesuque Elementary School.

She is an active member of the American Red Cross, and is one of only two women to serve on the American Hotel and Motel Association resort committee. She has become a familiar figure in the Santa Fe community, and is an inspiration to many of our young businesswomen and working mothers.

Mr. Speaker, as we salute working women this week, I suggest to my colleagues that Betty Egan is a superior example of success and grace in adversity.

DAWN GOERING A SUPERWOMAN

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. BOEHLERT. Mr. Speaker, ask the average person what his image of a hero is and you would probably get a pretty typical response: "Faster than a speeding bullet, more powerful than a locomotive, able to leap tall buildings in a single bound."

Mrs. Dawn Goering of Rome, NY is such a woman. Energy and enthusiasm faster than a speeding bullet; a desire to succeed more powerful than a locomotive; and through her enthusiasm and teachings, she lifts those around her higher than the tallest building. Sure she's a superwoman, and what's more

amazing is Mrs. Goering has multiple sclerosis.

Recently, Dawn Goering was featured in Airman magazine's special issue featuring the "Unsung Heroes" of family members and personnel in the Air Force. Dawn is the wife of Col. Robert G. Goering, who is stationed at Griffiss Air Force Base, located in an area of Central New York I am proud to represent.

Diagnosed with multiple sclerosis in 1987, Mrs. Goering refused to allow a debilitating disease to stop her from doing what she loves—teaching. Today, as a literacy volunteer she continues to work to improve her community. A tireless volunteer for noble causes, she often can be found visiting local nursing homes, or helping out at blood drives at the base. Her body may be weakening, yet her spirit can never be broken.

Multiple sclerosis afflicts more than a quarter-million Americans, mostly women starting in their 20s and 30s. While rarely life-threatening and not contagious, it is debilitating. Slurred speech, blurred or double vision and muscle weakness are a few of the symptoms. On top of Dawn Goering's hectic schedule of community service, she exercises each morning and undergoes physical therapy each week to slow the disease's effects.

We can all learn a lot from Dawn Goering. She has overcome obstacles in her way not just for herself, but for the good of everyone she touches. Mrs. Goering said it best, "I concentrate on what I can do, not what I can't," she added, "I must admit, though, I wish I could remember what it feels like to run."

Keep up the great work Dawn Goering. I don't think you have forgotten how to run. How else could you have gotten so far ahead of all of us.

AUTHORIZING THE CAHUILLA BAND OF INDIANS TO LEASE LANDS FOR UP TO 99 YEARS

HON. ALFRED A. (AL) McCANDLESS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. McCANDLESS. Mr. Speaker, today I am introducing legislation which will allow the Cahuilla Band of Indians in my district to lease the land held in their trust for up to 99 years. This is an important step in allowing the Cahuillas to exercise a greater degree of self-determination for the benefit of their members and future generations.

At the present time, Indian lands may be leased with the approval of the Secretary of the Interior, for public, religious, educational, recreational, residential or business purposes. Unfortunately, for the Cahuillas, the length of leases may extend only 25 years, with an option to renew for an additional 25 years, again with the approval of the Secretary, Even with the option of a 50-year lease, the Cahuillas are precluded from obtaining the most favorable terms of financing and thus are at a disadvantage in fully benefitting from development possibilities.

The Cahuilla Band of Mission Indians are located in Southrwestern Riverside County. Their net acreage is a little over 18,000 acres. Congress has already allowed nearly 30 other tribes to have the option of leasing their land up to the 99 year limit. This is a natural progression and evolution for tribes which desire increases self-sufficiency that results from the ability to obtain better financing terms.

In the words of the Cahuillas, "in order for the Tribe and its members to achieve the highest and best use of their land and the maximum economic return, financing of long-term, large scale commercial development will require leases of approximately 65 years."

The expansion of home and communities in Riverside County has exploded in recent years. In anticipation of the need to plan their future, the Cahuilla Indians have organized workshops and meetings with neighboring Indian tribes and the Bureau of Indian Affairs. These activities have been going on for the past 2 years in preparation for a comprehensive development plan. Such a development plan is now in the process of being formulated as is an overall economic development plan for the Cahuilla Band of Mission Indians. I am convinced that this tribe is well prepared to grapple with the complex issue of expanding the use of their lands.

I am proud, Mr. Speaker to introduce this bill on behalf for Cahuillas. The extension of the terms of leasing these tribal lands in vitally important and well deserved by the Cahuilla Indians.

SAN BERNARD ELECTRIC COOPERATIVE ACHIEVES A RECORD OF 1 MILLION HOURS WORKED WITHOUT LOST TIME BECAUSE OF INJURIES

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. LAUGHLIN. Mr. Speaker, it is with great pride that I recognize the employees of the San Bernard Electric Cooperative, incorporated in Bellville, TX, for setting a record they worked 5 years to achieve. From November 6, 1985, to September 30, 1990, these fine people have worked more than 1 million hours without lost time because of injuries.

This impressive achievement reflects the commitment these people have to the safety of their peers and the reputation of the cooperative. The team spirit the cooperative's employees have in their daily work is exemplary and enviable to all who strive to maintain a successful working relationship between business operators and the consumers they service.

The San Bernard Electric Cooperative employees have worked harmoniously for many years servicing the residents of Austin, CO, Lavaca, Waller, and parts of Grimes and Montgomery Counties. I am extremely proud to recognize the commitment to safety these people have pledged to each other and the cooperative, and I am especially proud of the fact that they are residents of the 14th District of Texas.

TRIBUTE TO CAROL RESCHKE

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 18, 1990

Mr. HERTEL. Mr. Speaker, it is with great esteen that I rise today to honor Carol Reschke who, on October 25, will be recognized as the distinguished citizen of the year of Troy, MI.

Carol is receiving this honor on account of her exemplary spirit of voluntarism. She is currently a member of the board of directors of the Boy's and Girl's Club of Troy. Some years ago, Carol served as president of this organization. In addition, Carol was previously the president of the Michigan Child Study Association and she now serves as the president of the local chapter.

Not only is Carol a committed volunteer, but she is also a strong member of her church, a loving mother, and a responsible employee. She is parishioner of St. Anastasia and chair of the Mission Commission. This group is responsible for choosing the activities and projects with which St. Anastasia's will be involved.

Carol and her husband, Ernest Reschke, are the parents of five children, Chip, Jayne, Matt, Susan, and Beth. Her children are all grown up now, but that does not stop them from being a big part of their mother's life. Carol is as devoted to her family now as she was when they were all little children.

Carol is employed by the Evergreen Counseling Center in Birmingham, MI. She aptly fulfills the duties of the office manager for this organization. There is no doubt that Carol is as good a worker as she is a volunteer and a mother.

Carol Reschke has served the Troy community for a long time and now it is time to thank her. The honor bestowed on her, Troy's Distinguished Citizen of the Year for 1990, is greatly deserved. My dear colleagues, I ask you to join me in extending sincere congratulations and gratitude, to a person who has given so much to so many.